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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 98–044–2]

Animal Welfare; Solid Resting Surfaces for Dogs and Cats

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations under the Animal Welfare Act pertaining to primary enclosures for dogs and cats by removing the requirement that primary enclosures with flooring made of mesh or slatted construction include a solid resting surface. The interim rule became effective on July 14, 1998. The requirement we removed was erroneously added in a final rule that amended the requirements for primary enclosures for dogs and cats to prohibit bare wire flooring in such enclosures. As stated in the subsequent interim rule, we do not believe that it is necessary for primary enclosures with acceptable flooring of mesh or slatted construction to include a solid resting surface. Therefore, this action finalizes the removal of an unnecessary and unintended requirement.

EFFECTIVE DATE: This final rule, which makes no changes to the July 14, 1998, interim rule, is effective May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Smith, Staff Animal Health Technician, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–4972.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on July 13, 1998 (63 FR 37480–37482, Docket No. 98–044–1), and effective July 14, 1998, we amended the Animal Welfare Act (AWA) regulations in 9 CFR part 3 (referred to below as the regulations) pertaining to primary enclosures for dogs and cats by removing the requirement that primary enclosures with suspended flooring made of mesh or slatted construction include a solid resting surface. This requirement was erroneously added in a final rule published on January 21, 1998 (63 FR 3017–3023, Docket No. 95–100–2, effective February 20, 1998). That final rule amended the requirements for primary enclosures for dogs and cats to prohibit flooring made of wire (i.e., uncoated metal strands 1/8 of an inch or less in diameter). The January 21 final rule also added a requirement that the suspended floor of any primary enclosure for a dog or cat must be strong enough so that the floor does not sag or bend.

Prior to the effective date of the January 21 final rule, primary enclosures for dogs and cats with suspended flooring made of wire were required to include a solid resting surface, and primary enclosures with suspended flooring of mesh or slatted construction using materials other than wire were not. As a result of an error in the final rule, all primary enclosures for dogs and cats with suspended flooring of mesh or slatted construction were required to include a solid resting surface. One of the purposes of requiring a solid resting surface in enclosures with suspended flooring made of wire was to provide a relatively level resting surface for the animals because suspended wire floors tend to sag and bend. We did not believe that it was necessary for primary enclosures of mesh or slatted construction not made of wire to include a solid resting surface. Therefore, we published the interim rule to remove the requirement that primary enclosures with suspended flooring of mesh or slatted construction include a solid resting surface.

Comments on the interim rule were required to be received on or before September 11, 1998. We received 17 comments by that date. They were from dog breeders, members of the public, and animal welfare organizations. The comments were split evenly in support of or opposition to the interim rule and are discussed below.

Several commenters expressed the general opinion that it is inhumane to have an animal living on mesh or slatted flooring because such flooring is uncomfortable for the animals. The commenters stated that the openings in the floor can cause sores on the animals' paws and that the claws can get caught. One commenter stated that a solid resting surface in such enclosures benefits the animals by adding to their physical comfort and enhancing their psychological well-being by reducing stress. One commenter stated that solid resting surfaces are especially beneficial to breeding females and their litters to provide a place for the pups to nurse and sleep as a group and an area where they can walk "without any worry that their feet will slide through or their toes will catch." Two commenters expressed the opinion that toy breed dogs housed on mesh or slatted floors should have resting boards, as the size of these dogs puts them in particular danger of catching a foot in the mesh or slats of the floor. Another commenter stated that large breeds of dogs housed on mesh or slatted flooring should have a solid resting surface, but the commenter did not provide a reason. One commenter stated that, before finalizing the interim rule, research should be done to determine how comfortable flooring of mesh or slatted construction is for dogs and cats, perhaps by providing dogs and cats kept on such floors with access to a solid resting surface and observing where they choose to rest. The commenter further stated that, before the public can provide meaningful comments, our agency needs to describe the types of mesh and slats that are allowed and how much of a gap may separate each strand or slat.

In response to the comments about the degree of comfort provided by solid resting surfaces and the need for research on this issue, we are unaware of any relevant scientific data. Our Agency bases our regulations on scientific data whenever possible. However, in promulgating regulations under the AWA, scientific data is often not available, and we must rely on the knowledge we have gained from our considerable experience in AWA enforcement. We know from more than 30 years of administering the AWA that dogs and cats raised in enclosures with suspended floors of mesh or slatted

construction can be healthy and show no ill effects. Our experience has also shown that, in warm weather, many dogs and cats seem to prefer to rest on mesh and slatted flooring rather than on a solid resting surface, presumably because of the additional airflow that mesh and slatted flooring allows.

In regard to the comments about injuries to the feet of dogs and cats housed in primary enclosures with suspended flooring of mesh or slatted construction, we believe that the current regulations pertaining to primary enclosures for dogs and cats adequately address this issue. In § 3.6, paragraph (a)(2)(x) states that, among other things, the enclosures must "(h)ave floors that are constructed in a manner that protects the dogs' and cats' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor." We believe that these performance-based regulations adequately describe the types of mesh or slats and sizes of gaps in suspended floors of mesh or slatted construction that are acceptable to us. We further believe that these regulations are specific enough to prohibit the use of flooring materials that could cause foot and leg injuries. Our inspectors report that most AWA-licensed dog and cat breeders use high-quality coated wire or galvanized expanded metal in primary enclosures with suspended flooring.

In regard to the comment concerning the use of solid resting surfaces in primary enclosures containing breeding females and their litters, the requirements just cited in § 3.6 (a)(2)(x) apply to puppies and kittens as well. Moreover, our inspectors have found that many dog breeders place a tublike container in these enclosures to contain the puppies but allow the mother to exit and enter.

One commenter urged that the use of resting surfaces made of wood be prohibited because, being porous, they become damp and hard to disinfect and dogs chew on them, which can cause injury.

We believe that the current regulations pertaining to primary enclosures for dogs and cats are adequate to ensure that wooden resting surfaces do not become a source of injury or pose a sanitation hazard for dogs and cats. In § 3.6, paragraph (a)(1) states that primary enclosures must be designed and constructed of suitable materials so that they are structurally sound and that primary enclosures must be kept in good repair. Paragraph (a)(2) of § 3.6 states that primary enclosures must be constructed and maintained so that they (1) have no sharp points or edges that could injure the dogs and cats, (2) protect the dogs and cats from injury, and (3) enable all surfaces in contact with the dogs and cats to be readily cleaned and sanitized or be replaced when worn or soiled.

Many commenters in support of the interim rule stated that solid resting surfaces affect the health of puppies and kittens by creating a dirtier environment for them as a result of the accumulation of fecal matter. One commenter stated that, in the commenter's experience, most dogs in primary enclosures with suspended flooring of mesh or slatted construction that include a solid resting surface will defecate on the resting surface, thereby defeating the purpose of using mesh or slatted flooring. (However, one commenter in opposition to the interim rule stated that, in the commenters experience, most caged animals will not defecate on their resting surfaces because the surfaces usually serve as their sleeping areas.) One commenter stated that the requirement for a solid resting surface created an unnecessary and unusual burden on animal caretakers by making it necessary to clean the solid surfaces continually to avoid any potential for bacterial infections. A commenter in support of the interim rule suggested to regulated entities concerned about keeping solid resting surfaces clean and sanitary because of problems associated with the animals' waste that "allowing animals sufficient exercise time outside of their cages would reduce the amount of waste an animal would pass in its cage."

In our experience with AWA enforcement, we have found that solid resting surfaces in primary enclosures with suspended flooring for dogs and cats often become areas where excreta collects. In the AWA regulations pertaining to the care of dogs and cats, 3.11(a) requires that "[e]xcreta and food waste must be removed from primary enclosures for dogs and cats daily and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste, to prevent soiling of the dogs or cats contained in the primary enclosures, and to reduce disease hazards, insects, pests and odors." Even regulated entities who comply with the regulations and clean their dog and cat primary enclosures daily cannot ensure that solid resting surfaces are clean at all times. When excreta collect on solid resting surfaces, they become breeding grounds for bacteria and viruses that can cause serious infections and diseases in dogs and cats. In regard to the suggestion of allowing animals sufficient exercise time outside the primary enclosures, § 3.8 of the regulations requires that regulated entities develop, document, and follow a plan to provide dogs with the opportunity to exercise. While we certainly encourage regulated parties to provide their dogs with as much exercise time as possible, regulated parties would still have to deal with removal of animal waste because § 3.11 of the regulations requires removal of waste from outside runs and pens as well as the entire premises.

Several commenters expressed concern that the interim rule was promulgated solely to save regulated entities the time and money involved in cleaning the solid resting surfaces. Some commenters stated that the requirement for a clean solid resting surface is not overly burdensome and that the cost estimates provided in the interim rule for cleaning such surfaces are too high. One commenter further stated that flooring of mesh or slatted construction allows only some animal waste to fall through, so regulated entities are already making an investment in regularly cleaning the cages, and another commenter stated that the additional cost of cleaning solid resting surfaces would be minimal.

In accordance with Federal law, our agency analyzed the potential economic effects of our rule on small entities. We created the cost estimate in the interim rule for cleaning solid resting surfaces based on certain assumptions. We believe that it is not unrealistic to assume that it takes 5 minutes to clean each solid resting surface, that labor is paid at a rate of $6 per hour, and that each resting surface is cleaned once per day. Based on these assumptions, we estimated that a dog breeder with 120 enclosures would incur an annual cost of $21,900 for cleaning solid resting surfaces. The commenter did not provide any specific basis for any revisions to this analysis. In the absence of any clear evidence that solid resting surfaces in primary enclosures with suspended flooring of mesh or slatted construction are necessary for the protection of dogs and cats covered by the AWA, we do not believe the costs associated with purchasing and cleaning the solid resting surfaces would be justified.

Many commenters expressed the opinion that the decision to include a solid resting surface in primary enclosures for dogs and cats should be left up to the person responsible for caring for the dogs and cats because professional animal caretakers know what is best for their animals and will provide for their needs.

In keeping with Federal regulatory reform initiatives, we strive to promulgate performance-based rather than engineering-based requirements whenever possible and to work with regulated entities to help them gain and maintain compliance with the AWA. We believe that the decision of whether to include solid resting surfaces in the primary enclosures of dogs and cats can best be determined by the AWA licensees themselves.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule removes a requirement under the Animal Welfare Act (AWA) regulations that primary enclosures used for dogs and cats and having suspended flooring of mesh or slatted construction include solid resting surfaces. Promulgated in error, this requirement has placed an unnecessary and unintentional burden on regulated entities. As explained below, this rule will benefit entities who house dogs and cats in primary enclosures that have suspended flooring of mesh or slatted construction. These regulated entities will avoid the cost of purchasing the resting surfaces, as well as the cost of cleaning those surfaces following installation. However, the rule does not preclude regulated entities who wish to provide such surfaces for their animals from doing so.

The Regulatory Flexibility Act requires that agencies consider the economic impact of rules on small entities. This rule will primarily affect animal dealers and research facilities licensed or registered under the AWA. The exact number of entities affected by the rule is unknown because the number of AWA licensees and registrants who house dogs and cats in primary enclosures that have suspended floors of mesh or slatted construction is unknown. However, it is estimated that roughly half of the 4,265 licensed dealers and many of the 2,506 registered research facilities will be affected.[1] The rule's impact on regulated exhibitors is insignificant because most do not exhibit dogs and cats. Registered carriers and intermediate handlers are also largely unaffected because they only transport animals so they do not maintain "primary" enclosures for regulated animals.

The number of dealers and research facilities that are considered small entities under U.S. Small Business Administration (SBA) standards is unknown because information as to their size (in terms of gross receipts or number of employees) is not available. However, it is reasonable to assume that most are small in size, based on composite data for providers of the same and similar services in the United States. In 1992, the per-firm average gross receipts for all 6,804 firms in SIC (Standard Industrial Classification) 0752, which includes dog and cat breeders, was $115,290, well below the SBA's small entity threshold of $5 million. Similarly, the 1992 per-establishment average employment for all 3,826 U.S. establishments in SIC 8731, which includes research facilities, was 29, well below the SBA's small entity threshold of 500 employees. It is very likely, therefore, that small entities will be the principal beneficiaries of the rule.

Solid resting surfaces used in dog and cat primary enclosures are made of a variety of materials, including fiberglass, galvanized metal, or wood, but the most common material used is rubber matting. The average cost of such surfaces is minimal—about $5 per enclosure. The resting surfaces are usually not affixed to the enclosures; they are simply placed on top of the suspended flooring, so as to allow for easy removal and cleaning. For that reason, there is virtually no labor cost associated with the installation of such surfaces. Thus, if a breeder had to install resting surfaces in 120 enclosures, the total cost would be about $600. However, solid resting surfaces have to be replaced over time. The replacement rate is unknown and depends on the type of material used. Those resting surfaces made of fiberglass or galvanized metal, for example, have to be replaced less frequently than those made of wood. As a result of the rule, affected entities will avoid this ongoing replacement cost.

Resting surfaces are usually cleaned by hosing them down. They are cleaned outside the enclosures, to prevent the animals from getting wet. Cleaning resting surfaces can be a costly undertaking, largely because it is labor intensive. For a dog breeder with 120 enclosures, for example, the annual cost is conservatively estimated at $21,900 per year. This estimate assumes that: (1) Each resting surface is cleaned once each day; (2) it takes 5 minutes to clean each resting surface; and (3) labor is paid at a rate of $6 per hour.

The impact of the rule on individual entities will vary, depending on the number of enclosures maintained. However, the impact of the rule on all regulated entities will be beneficial.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 3

Animal welfare, Marine mammals, Pets, Reporting and recordkeeping requirements, Research, Transportation.

PART 3—STANDARDS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 3 and that was published at 63 FR 37480–37482 on July 13, 1998.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(d).

[1] In FY96, 10,366 facilities were licensed or registered under the AWA. Of those facilities, 4,265 were licensed dealers, 2,422 were licensed exhibitors, and 3,679 were registrants. The dealers are subdivided into two classes. Class A dealers (3,043) breed animals, and Class B dealers (1,222) serve as animal brokers. The registrants comprise research facilities (2,506), carriers and intermediate handlers (1,142), and exhibitors (31). As used here, the term "facilities" represents sites, the physical location where animals are housed. Some licensees and registrants have more than one site.

Done in Washington, DC, this 15th day of April 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–9847 Filed 4–19–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–48–AD; Amendment 39–11137; AD 99–09–05]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 230 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to BHTC Model 230 helicopters. This action requires initial and repetitive visual inspections and verification of the torque of the bolts on the main rotor hub. This amendment is prompted by a report of fatigue cracks around the bolt holes of the main rotor pitch horn (pitch horn) and a cracked main rotor flapping bearing assembly (flapping bearing assembly) on a similar model helicopter. This condition, if not corrected, could result in fretting-induced fatigue cracking of the flapping bearing assembly and around the bolt holes of the pitch horn, loss of the rotor system, and subsequent loss of control of the helicopter.

DATES: Effective May 5, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–48–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Harry Edmiston, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5158, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION: Transport Canada, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on BHTC Model 230 helicopters. Transport Canada advises that fatigue cracks at the bolt holes of the pitch horn and in the flapping bearing assembly can lead to loss of control of the helicopter.

BHTC issued Alert Service Bulletin No. 230–98–13, dated April 23, 1998 (ASB), which specifies inspecting the main rotor hub in the areas between the pitch horn and main rotor grip tangs (grip tangs) and between the flapping bearing assembly and the main rotor yoke assembly for fretting. The ASB also specifies torque verification procedures for the main rotor grip retaining bolts and the flapping bearing assembly retaining bolts. Transport Canada classified this ASB as mandatory and issued Transport Canada AD CF–98–17, dated July 15, 1998, to ensure the continued airworthiness of these helicopters in Canada.

This helicopter model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

The FAA estimates that 17 helicopters will be affected by this AD, that it will take approximately 1 work hour to accomplish the inspection and retorque of bolts, if necessary, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,060 per year, assuming three inspections and retorques per year and assuming that no parts will need to be replaced.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 230 helicopters of the same type design registered in the United States, this AD is being issued to prevent fretting induced fatigue cracking of the flapping bearing assembly and around the bolt holes of the pitch horn, loss of the rotor system, and subsequent loss of control of the helicopter. This AD requires recurring inspections of the main rotor hub in the areas between the pitch horn and grip tangs and between the flapping bearing assembly and the main rotor yoke assembly for fretting. If fretting is found on any part, replacing that part with an airworthy part is required. This AD also requires verifying the torque on the main rotor grip retaining bolts and the flapping bearing assembly retaining bolts. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, a visual inspection of the main rotor hub between the pitch horn and grip tangs and the flapping bearing assembly and the main rotor yoke assembly for fretting is required. A torque check of the main rotor grip retaining bolts and the flapping bearing assembly retaining bolts is also required. These actions are required within 10 hours TIS and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped

postcard on which the following statement is made: "Comments to Docket No. 98–SW–48–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–09–05 Bell Helicopter Textron Canada: Amendment 39–11137. Docket No. 98–SW–48–AD.

Applicability: Model 230 helicopters, serial numbers 23001 through 23038, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fretting induced fatigue cracking of the main rotor flapping bearing assembly (flapping bearing assembly) and around the bolt holes of the main rotor pitch horn (pitch horn), loss of the rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), and thereafter at intervals not to exceed 150 hours TIS:

(1) Perform a visual inspection of the main rotor hub for fretting between the pitch horn and main rotor grip tangs (grip tangs) and between the flapping bearing assembly and the main rotor yoke assembly. If fretting is found on any part, replace it with an airworthy part.

(2) Verify the torque of the main rotor grip retaining bolts and the flapping bearing assembly bolts in the tightening direction, minimum 100 foot-pounds. If 100 foot-pounds torque is reached without movement of the bolts, torque bolts to 125 foot-pounds.

(3) If any bolt moves before 100 foot-pounds torque is reached, remove the pitch horn or the flapping bearing assembly, as applicable, from the main rotor hub assembly for further inspection. Inspect the pitch horn or flapping bearing assembly, as applicable, and all faying surfaces of the pitch horn, flapping bearing assembly, buffers, main rotor yoke assembly, and the grip tangs for fretting. If fretting is found on any part, replace it with an airworthy part.

(4) Apply corrosion preventive compound to the exposed portions of the bolts and nuts.

Note 2: Bell Helicopter Textron Alert Service Bulletin No. 230–98–13, dated April 23, 1998, pertains to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on May 5, 1999.

Note 4: The subject of this AD is addressed in Transport Canada (Canada) AD CF–98–17, dated July 15, 1998.

Issued in Fort Worth, Texas, on April 13, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–9825 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–1]

Revision of Class D Airspace; Fairbanks, Eielson Air Force Base (AFB), AK; Revision and Establishment of Class E Airspace; Fairbanks, Eielson AFB, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class D airspace operational times, revises and revokes current Class E airspace, and establishes additional Class E airspace at Eielson AFB, AK. The United States Air Force (USAF) requested this action in response to (1) a critical Air Traffic Control (ATC) controller shortage throughout the USAF and (2) an airspace review after redesigning their instrument approaches. Adoption of this proposal would result in the provision of a part time operation of the Class D airspace; revision of the current Class E airspace; and when the tower is closed, establishment of additional Class E airspace for Instrument Flight Rules (IFR) and Special Visual Flight Rules (VFR) operations at Eielson AFB, AK.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Derril Bergt, Operations Branch, AAL–535, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–2796; fax: (907) 271–2850; email: Derril.Bergt@faa.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

On February 1, 1999, a proposal to amend part 71 of the Federal Aviation

Regulations (14 CFR part 71) to allow the USAF to revise Class D airspace operational times, modify existing Class E airspace, and establish additional Class E airspace for IFR and Special VFR operations when the Class D airspace is inactive at Eilson AFB, AK was published in the **Federal Register** (64 FR 4793). This rule is necessary due to a critical ATC controller shortage and a redesign of the required airspace for IFR operations. This action decreases the physical dimensions of the Class D airspace from a 5.2 mile radius to a 4.7 mile radius. The following phraseology will be added to the end of the Class D airspace description: "This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory." This action allows part time operation of the Airport Traffic Control Tower (ATCT) at Eielson AFB, AK. The USAF plans for the Eielson AFB tower to be closed between 2300 and 0700 (local times). During this closure, the Class D airspace will convert to Class E airspace which this rule is establishing for IFR and Special VFR operations. The existing Class E airspace is revised to eliminate extensions and the result is a single 7.2 mile radius circle of Eielson AFB.

The Eielson AFB mission has changed in recent years. Present flight operations rarely exceed 16 hours per day, and quiet hours are in effect from 2200 to 0700 local times. Less than one percent of annual flight traffic occurs during the planned closure times. Eielson AFB base operations and the runway will remain a 24-hour facility. Eielson Tower will retain sufficient personnel to revert to 24-hour operations in the event of a contingency. Air traffic controllers will be on a standby schedule to provide on-call services to North American Defense (NORAD) missions, approved arrivals and departures, and emergency diverts. The USAF intends to meet all criteria to remain a viable alternate airport.

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. No public comments to the proposal were received. However, while stating the extensions will be eliminated, the reference for the Eielson AFB Class E airspace extensions was inadvertently omitted. The following verbiage has been added to the rule, "Class E airspace areas extending upward from the surface designated as an extension to a Class D or Class E surface area are published in paragraph 6004," and "AAL AK E4 Fairbanks, Eielson AFB, AK [Revoked]." Additionally, the verbiage "This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory" was inadvertently omitted from the Class E airspace description. This verbiage is required because the time of activation is not continuous, 24 hours a day. The Federal Aviation Administration has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as written.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class D airspace areas are published in paragraph 5000, Class E airspace areas designated as a surface area are published in paragraph 6002, Class E airspace areas extending upward from the surface designated as an extension to a Class D or Class E surface area are published in paragraph 6004, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 in FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class D and Class E airspace listed in this document will be revised, revoked, and published in the Order.

The Rule

This amendment to 14 CFR part 71 allows the USAF to revise the Class D airspace operational times at Eielson AFB, AK, revokes Class E surface area extensions, revises the existing Class E airspace, and establishes Class E airspace for IFR and Special VFR operations when the Class D airspace is inactive. The intended effect of this action is to provide the USAF the flexibility to adjust the operational time of the Eielson AFB Tower and make revisions to the Class E airspace at Eielson AFB, AK.

The FAA has determined that these actions only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AAL AK D Fairbanks, Eielson AFB, AK [Revised]

Fairbanks, Eielson AFB, AK
(Lat. 64°39′56″ N, long. 147°06′05″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.7-mile radius of Eielson AFB. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

AAL AK E2 Fairbanks, Eielson AFB, AK [New]

Fairbanks, Eielson AFB, AK
(Lat. 64°39′56″ N, long. 147°06′05″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.7-mile radius of Eielson AFB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective

date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E airspace areas extending upward from the surface designated as an extension to a Class D or Class E surface area.

* * * * *

AAL AK E4 Fairbanks, Eielson AFB, AK [Revoked]

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Fairbanks, Eielson AFB, AK [Revised]

Fairbanks, Eielson AFB, AK
(Lat. 64°39'56" N, long. 147°06'05" W)
That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of Eielson AFB.

* * * * *

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9780 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–25]

Revision of Class E Airspace; Port Heiden, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule modifies Class E airspace at Port Heiden, AK. The establishment of a new Micowave Landing System (MLS) instrument approaches to runway (RWY) 05 at Port Heiden, AK, made this action necessary. Adoption of this proposal will provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Port Heiden, AK.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.gov. Internet address: http://162.58.28.41/at or at address http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On February 1, 1999, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Port Heiden, AK, was published in the **Federal Register** (64 FR 4800). The proposal was necessary due to the establishment of MLS instrument approaches to RWY 05.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, however the coordinates for Port Heiden Airport were published with errors. The latitude coordinates are corrected to read: Lat. 56°57'34" and the longitude coordinates are corrected to read: long. 158°37'55". The Federal Aviation Administration has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at Port Heiden, AK, due to the establishment of MLS instrument approaches to RWY 05. The intended effect of this action is to provide adequate controlled airspace for IFR operations at Port Heiden, AK.

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Port Heiden, AK [Revised]

Port Heiden Airport, AK
(Lat. 56°57'34" N., long. 158°37'55" W.)
Port Heiden NDB
(Lat. 56°57'15" N., long. 158°38'56" W.)
Turnbull VOR/DME
(Lat. 56°57'04" N., long. 158°38'27" W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Port Heiden Airport, and within 4 miles north and 8 miles south of the Port Heiden NDB 248° bearing extending from the NDB to 20 miles west, and within 8 miles west and 4 miles east of the Port Heiden NDB 339° bearing extending from the NDB to 20 miles northwest; and that airspace extending upward from 1200 feet above the surface within 13 miles west and 4 miles east of the Port Heiden NDB 339° bearing extending from the NDB to 25 miles north, and within 17 miles of the Turnbull VOR/DME extending clockwise from the 213° radial to the 074° radial, and within 9 miles north of the Port Heiden NDB 248° bearing extending from the NDB to 24 miles west.

* * * * *

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9779 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–20]

Revision of Class E Airspace; Gambell, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule modifies Class E airspace at Gambell, AK. The establishment of Global Positioning System (GPS) instrument approaches to runway (RWY) 16 and RWY 34 at Gambell, AK, made this action necessary. Adoption of this proposal will provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Gambell, AK.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.gov. Internet address: http://162.58.28.41/at or at address http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On February 1, 1999, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Gambell, AK, was published in the **Federal Register** (64 FR 4799). The proposal was necessary due to the establishment of GPS instrument approaches to RWY 16 and RWY 34.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, thus the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at Gambell, AK, due to the establishment of GPS instrument approaches to RWY 16 and RWY 34. The intended effect of this action is to provide adequate controlled airspace for IFR operations at Gambell, AK.

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Gambell, AK [Revised]

Gambell Airport, AK

(Lat. 63°46′00″ N., long. 171°43′58″ W.)

Gambell NDB/DME

(Lat. 63°46′55″ N., long. 171°44′12″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Gambell Airport and within 4 miles each side of the 174° bearing of the Gambell NDB/DME extending from the NDB/DME to 23 miles south of the NDB/DME and within 4 miles each side of the Gambell NDB/DME 354° bearing extending from the 6.4-mile radius to 10.6 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within 8 miles west and 4 miles east of the 354° bearing of the Gambell NDB/DME extending from the NDB/DME to 16 miles north of the NDB/DME and within 25 miles of the NDB/DME clockwise between the 006° and 227° bearings of the NDB/DME.

* * * * *

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9775 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–21]

Establishment of Class E Airspace; Barter Island, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Barter Island, AK. The establishment of Global Positioning System (GPS) and Nondirectional Radion Beacon (NDB) instrument approaches to runway (RWY) 06 and RWY 24 at Barter Island, AK, have made this action necessary. Adoption of this proposal will provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Barter Island, AK.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number: (907) 271–5863; email: Robert.van.Haastert@faa.gov; Internet: http://www.alaska.faa.gov/at or at http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

On December 16, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Barter Island, AK, was published in the **Federal Register** (63 FR 69230). The proposal was necessary to due to the establishment of GPS instrument approaches to RWY 06 and RWY 24. The effect of this proposal is to provide adequate controlled airspace for IFR operations at Barter Island, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, thus the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as a 700/1200 foot transition area, are published in paragraph 6005 in FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace listed in this document will be published in the Order.

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Barter Island, AK [New]

Barter Island Airport, AK
(Lat. 70°08′02″ N., long. 143°34′55″ W.)
Barter Island NDB
(Lat. 70°07′50″ N., long. 143°38′38″ W.)

That airspace extending upward from 700 feet above the surface within a 4.7 mile radius of the Barter Island Airport; and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at lat. 70°17′07″ N., long. 142°47′30″ W. to lat. 69°59′40″ N., long. 142°55′45″ W. to lat. 69°41′50″ N., long. 143°39′55″ W. to lat. 69°42′25″ N., long. 144°03′50″ W. to lat. 70°05′20″ N., long. 144°30′00″ W. to lat. 70°14′31″ N., long. 144°35′00″ W., thence east 12 miles away and parallel to the shoreline to the point of beginning.

* * * * *

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9773 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–22]

Revision of Class E Airspace; Soldotna, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Soldotna, AK. The establishment of Global Positioning System (GPS) instrument approaches to runway (RWY) 07 and RWY 25 at Soldotna, AK, have made this action necessary. Adoption of this proposal will provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Soldotna, AK.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number: (907) 271–5863; email: Robert.van.Haastert@faa.gov; Internet: http://www.alaska.faa.gov/at or at http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

On December 16, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Soldotna, AK, was published in the **Federal Register** (63 FR 69231). The proposal was necessary due to the establishment of GPS instrument approaches to RWY 07 and RWY 25. The effect of this proposal is to provide adequate controlled airspace for IFR operations at Soldotna, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, thus the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as a 700/1200 foot transition area, are published in paragraph 6005 in FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace listed in this document will be revised and published in the Order.

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a

routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Soldotna, AK

Soldotna Airport, AK
(Lat. 60°28′34″ N., long. 151°01′57″ W.)
Kenai VOR/DME
(Lat. 60°36′53″ N., long. 151°11′43″ W.)
Soldotna NDB
(Lat. 60°28′30″ N., long. 150°52′44″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Soldotna Airport and within 4 miles each side of the 150° and 330° radial of the Kenai VOR/DME extending from the 6.4-mile radius airport to 10 miles west of the airport and within 4 miles either side of the 270° bearing from the Soldotna NDB extending from the 6.4-mile radius to 21 miles west of the airport and within 4.6 miles north and 4 miles south of the 090° bearing from the Soldotna NDB extending from the 6.4-mile radius to 14.3 miles east of the airport.

* * * * *

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9772 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–3]

Amendment to Class E Airspace; Newton, KS

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Newton, KS.

DATES: The direct final rule published at 64 FR 8502 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 22, 1999 (64 FR 8502). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct rule will become effective on that date.

Issued in Kansas City, MO on April 2, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–9794 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–8]

Amendment to Class E Airspace, Springfield, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Springfield, MO.

DATES: The direct final rule published at 64 FR 8504 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 22, 1999 (64 FR 8504). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advise the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on April 2, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–9793 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–9]

Amendment to Class E Airspace; Kirksville, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of direct final rule which revises Class E airspace at Kirksville, MO.

DATES: The direct final rule published at 64 FR 8505 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division,

Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 425–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 22, 1999 (64 FR 8505). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on April 2, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–9792 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–12]

Amendment to Class E Airspace; West Union, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at George L. Scott Municipal Airport, West Union, IA. The FAA has developed Global Positioning System (GPS) Runway (RWY) 17 and GPS RWY 35, Standard Instrument Approach Procedures (SIAPs) to serve George L. Scott Municipal Airport, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 17 and GPS RWY 35 SIAPs in controlled airspace.

In addition, a minor revision to Airport Reference Point (ARP) is included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the GPS RWY 17 and GPS RWY 35 SIAPs, amend the ARP, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, July 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 20, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–12, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 17 and GPS RWY 35 SIAPs to serve the George L. Scott Municipal Airport, West Union, IA.

The amendment to Class E airspace at West Union, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The ARP is amended and included in this document. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are ivnited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket No. 99–ACE–12." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adoipted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlilkely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, with not have a significant economic impact, postive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, as amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E West Union, IA [Revised]

West Union, George L. Scott Municipal Airport, IA
(Lat. 42°59′06″ N., long. 91°47′26″ W.)
West Union NDB
(Lat. 42°56′38″ N., long 91°46′57″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Geoerge L. Scoot Municipal Airport and within 2.6 miles each side of the 172° bearing from the west union NDB extending from the 6.4.-mile radius to 9.2 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on March 24, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Office Regulations.

[FR Doc. 99–9791 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–13]

Amendment to Class E Airspace; Cresco, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Ellen Church Field, Cresco, IA. The FAA has developed Global Positioning System (GPS) Runway (RWY) 15 and GPS RWY 33, Standard Instrument Approach Procedures (SIAPs) to serve Ellen Church Field, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 15 and GPS RWY 33 SIAPs in controlled airspace.

In addition, minor revision to Airport Reference Point (ARP) is included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the GPS RWY 15 and GPS RWY 33 SIAPs, amend the ARP, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, July 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 20, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–13, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 15 and GPS RWY 33 SIAPs to serve the Ellen Church Field, Cresco, IA.

The amendment to Class E airspace at Cresco, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument flight Rules. The ARP is amended and included in this document. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received with the comment period, the regulation

will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–ACE–13." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Cresco, IA [Revised]

Cresco, Ellen Church Field, IA
(Lat. 43°21'55" N., long. 92°07'59" W.)
Cresco NDB
(Lat. 43°21'58" N., long. 92°07'52" W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Ellen Church Field and within 2.6 miles each side of the 162° bearing from the Cresco NDB extending from the 6.3-mile radius to 7.4 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on March 24, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–9790 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–15]

Amendment to Class E Airspace; Rock Rapids, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Rock Rapids Municipal Airport, Rock Rapids, IA. The FAA has developed Global Positioning System (GPS) Runway (RWY) 16 and GPS RWY 34 Standard Instrument Approach Procedures (SIAPs) to serve Rock Rapids Municipal Airport, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 16 and GPS RWY 34 SIAPs in controlled airspace.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing GPS RWY 16 and GPS RWY 34 SIAPs, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, July 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 26, 1999

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–15, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours

in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 16 and GPS RWY 34 SIAPs to serve the Rock Rapids Airport, Rock Rapids, IA. The amendment to Class E airspace at Rock Rapids, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules.

The amendment at Rock Rapids Municipal Airport, IA, will provide additional controlled airspace for aircraft operating under IFR. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 19998, and effective September 16, 1998, which is incorporated by reference in 14 CFR.71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous action of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–ACE–15." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in advance or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p.389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Rock Rapids, IA [Revised]

Rock Rapids Municipal Airport, IA
(Lat. 43°27′08″ N., long. 96°10′47″ W.)
Rock Rapids NDB
(Lat. 43°27′04″ N., long. 96°10′41″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Rock Rapids Municipal Airport and within 2.6 miles each side of the 347° bearing from the Rock Rapids NDB extending from the 6.3-mile radius to 7.4 miles northwest of the airport.

* * * * *

Issued in Kansas City, MO, on March 26, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–9789 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–16]

Amendment to Class E Airspace; Shenandoah, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class E airspace area at Shenandoah Municipal Airport, Shenandoah, IA. A review of the Class E airspace area for Shenandoah Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace has been enlarged to conform to the criteria of FAA Order 7400.2D.

In addition, the Airport Reference Point (ARP) is amended and is included in this document.

The intended effect of this rule is to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR), amend the ARP, and comply with the criteria of FAA Order 7400.2D.

DATES: Effective date: 0901 UTC, July 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 10, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–16, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m, Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Shenandoah, IA. A review of the Class E airspace for Shenandoah Municipal Airport indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at Shenandoah Municipal Airport, IA, will provide additional controlled airspace for aircraft operating under IFR, amend the ARP, and comply with the criteria of FAA Order 7400.2D. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–ACE–16." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result to adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory

Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administrations amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS: ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Shenandoah, IA [Revised]

Shenandoah Municipal Airport, IA
(Lat. 40°45′05″ N., long. 95°24′48″ W.)
Shenandoah NDB
(Lat. 40°45′25″ N., long. 95°24′57″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Shenandoah Municipal Airport and within 2.6 miles each side of the 140° bearing from the Shenandoah NDB extending from the 6.4-mile radius to 7.4 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on March 23, 1999.

Christopher R. Blum,

Acting, Manager, Air Traffic Division, Central Region.

[FR Doc. 99–9788 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–17]

Amendment to Class E Airspace; Clarinda, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class E airspace area at Clarinda, Schenck Field, IA. A review of the Class E airspace area for Clarinda, IA, indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace has been enlarged to conform to the criteria of FAA Order 7400.2D.

The intended effect of this rule is to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR), and comply with the criteria of FAA Order 7400.2D.

DATES: Effective date: 0901 UTC, July 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 26, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–17, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace area at Clarinda, IA. A review of the Class E airspace for Schenck Field, IA, indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at Clarinda, IA, will provide additional controlled airspace for aircraft operating under IFR, and comply with the criteria of FAA Order 7400.2D. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipated that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designation an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicting that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting

such written data, views, or arguments as they may desire. Communications should identity the Rule Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determing whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–ACE–17." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Clarinda, IA [Revised]

Clarinda, Schenck Field, IA
(Lat. 40°43'22" N., long. 95°01'34" W.)
Clarinda NDB
(Lat. 40°43'36" N., long. 95°01'39" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Schenck Field and within 2.6 miles each side of the 170° bearing from the Clarinda NDB extending from the 6.5-mile radius to 7 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on March 30, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–9787 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–20]

Amendment to Class E Airspace; Macon, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class E airspace area at Macon-Fowe Municipal Airport, Macon, MO. A review of the Class E airspace area for Macon-Fower Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace has been enlarged to conform to the criteria of FAA Order 7400.2D. The intended effect of this rule is to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR), and comply with the criteria of FAA Order 7400.2D.

DATES: Effective date: 0901 UTC, July 15, 1999. Comments for inclusion in the Rules Docket must be received on or before May 24, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–20, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Macon, Mo. A review of the Class E airspace for Macon-Fower Municipal Airport indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at Macon-Fower Municipal Airport, MO, will provide additional controlled airspace for aircraft operating under IFR, and comply with the criteria of FAA Order 7400.2D. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the

surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–ACE–20." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Macon, MO [Revised]

Macon-Fower Municipal Airport, MO
(Lat. 39°43′40″ N., long. 92°27′26″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Macon-Fower Municipal Airport.

* * * * *

Issued in Kansas City, MO, on March 22, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–9786 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASW–04]

Revision of Class E Airspace; Lake Charles, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; correction.

SUMMARY: This action corrects an error in the legal description of a direct final rule that was published in the **Federal Register** on April 1, 1999 (64 FR 15676) and revised the Class E Airspace at Lake Charles, LA.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 99–8018, Airspace Docket No. 99–ASW–04, published on April 1, 1999 (64 FR 15676), revised the description of the Class E airspace area at Lake Charles,

LA. However, an error was made in the legal description for the Lake Charles, LA Class E airspace area. The location of the Sulphy nondirectional radio beacon (NDB) and the legal description of the Class E airspace area relating to the Sulphy NDB were omitted. This action corrects these errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal description of the Class E airspace area at Lake Charles, LA, as published in the **Federal Register** on April 1, 1999 (64 FR 15676), is corrected as follows:

§ 71.1 [Corrected]

* * * * *

ASW LA E5 Lake Charles, LA [Corrected]

Lake Charles Regional Airport, LA
(Lat. 30°07′34″N., long. 93°13′24″W.)
Lake Charles, Chennault International Airport, LA
(Lat. 30°12′25″N., long. 93°08′37″W.)
Sulphur, Southland Field, LA
(Lat. 30°07′53″N., long. 93°22′34″W.)
Sulphy NDB
(Lat. 30°11′55″N., long. 93°25′14″W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Lake Charles Regional Airport and within a 7-mile radius of Chennault International Airport and within 3.5 miles each side of the 155° bearing from the airport extending from the 7-mile radius to 16.7 miles southeast of the airport and within a 6.5-mile radius of Southland Field and within 2.5 miles each side of the 326° bearing from the Sulphy NDB extending from the 6.5-mile radius to 7.5 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX on April 13, 1999.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 99–9883 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 312

[Docket No. 98N–0979]

RIN 0910–AA84

Investigational New Drug Applications; Clinical Holds; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) published in the **Federal Register** of December 14, 1998 (63 FR 68676), a direct final rule. The direct final rule amends FDA's regulations governing investigational new drug applications (IND's) for human drug and biological products. This action amends the IND clinical hold requirements to state that the agency will respond in writing to a sponsor's request that a clinical hold be removed from an investigation within 30-calendar days of the agency's receipt of the request and the sponsor's complete response to the issue(s) that led to the clinical hold. This document confirms the effective date of the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule published at 63 FR 68676 is confirmed as April 28, 1999.

FOR FURTHER INFORMATION CONTACT:

Murray M. Lumpkin, Center for Drug Evaluation and Research (HFD–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400, or

Rebecca A. Devine, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0373.

SUPPLEMENTARY INFORMATION: FDA solicited comments concerning the direct final rule for a 75-day period ending March 1, 1999. FDA stated that the effective date of the direct final rule would be on April 28, 1999, 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, notice is given that no objections were filed in response to the December 14, 1998, final rule. Accordingly, the amendments issued thereby are effective April 28, 1999.

Dated: April 13, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–9768 Filed 4–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1327

[Docket No. NHTSA–98–5084]

RIN 2127–AH54

Procedures for Participating in and Receiving Data From the National Driver Register Problem Driver Pointer System

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule announces that changes made to NHTSA's National Driver Register (NDR) regulations, through an interim final rule implementing a recent amendment to the National Driver Register Act of 1982 (the Act), are adopted as final with some changes described below. The amendment to the Act authorized the Commandant of the United States Coast Guard to request and receive information from the NDR regarding the motor vehicle driving records of any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing, and any member of a uniformed service who is assigned to the Coast Guard). NHTSA's interim final rule established the procedures for such individuals to request, and for the Commandant to receive, NDR information. This final rule also puts in place technical amendments affecting the National Driver Register Act of 1982 contained in the Transportation Equity Act for the 21st Century (TEA–21).

DATES: This final rule becomes effective May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. William Holden, Chief, Traffic Records and Driver Register Division, NTS–32. National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366–4800 or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, NCC–30, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION:

Background

The NDR is a central file of information on individuals whose license to operate a motor vehicle has been denied, revoked, suspended or canceled, for cause, or who have been

convicted of certain serious traffic-related violations such as racing on the highways or driving while impaired by alcohol or other drugs.

The NDR Act of 1982, 49 U.S.C. 30301 *et seq.*, authorizes State chief driver licensing officials to request and receive information from the NDR for driver licensing and driver improvement purposes. When an individual applies for a driver's license, for example, the Act authorizes the chief driver licensing official in the State to request and receive NDR information in order to determine whether the applicant's driver's license has been withdrawn for cause in any other State. Because the NDR is a national database, State chief driver licensing officials need to submit only a single inquiry to obtain this information.

The Act also authorizes State chief driver licensing officials to request NDR information on behalf of other NDR users for transportation safety purposes. Until October 1996, the Act authorized the following entities to receive NDR information through requests to State chief driver licensing officials for the limited purpose of transportation safety: the National Transportation Safety Board (NTSB) and the Federal Highway Administration (FHWA) for accident investigations; employers and prospective employers of motor vehicle operators; the Federal Aviation Administration (FAA) regarding any individual who holds or has applied for an Airman's Certificate; air carriers regarding individuals who are seeking employment with the air carrier; the Federal Railroad Administration (FRA) and employers or prospective employers of locomotive operators; and the U.S. Coast Guard regarding any individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document. The Act also provided that the U.S. Coast Guard could not obtain NDR information that was entered in the register more than three years before the date of the request. In addition, the Act allowed individuals to learn whether information about themselves was in the NDR file and to receive any such information.

Expanded Access to the Coast Guard

On October 19, 1996, Public Law 104–324 was enacted. Section 207 of that law contained an amendment to the Act authorizing the Commandant of the Coast Guard to request and receive NDR information regarding any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing, and any member of a uniformed service who is assigned to the Coast Guard).

On December 2, 1997 (62 FR 63655), NHTSA published an interim final rule in the **Federal Register** amending the regulations that implement the Act. The interim final rule provided that the procedures that the Commandant of the Coast Guard would use to receive NDR information on Coast Guard personnel would be the same as those previously used by the Coast Guard to receive information regarding individuals who hold or who have applied for a license, certificate of registry, or a merchant mariner's document.

The interim final rule explained that the Commandant of the Coast Guard may not initiate a request for NDR information. Rather, the individual member or applicant must do so. The interim final rule stated that to initiate a request, the individual must either complete, sign, and submit a request for an NDR file search, or the individual must authorize the Commandant of the Coast Guard to request the NDR file search by completing and signing a written consent. The request or written consent must explain that NDR records are being requested; state specifically who is authorized to receive the records; be dated and signed by the individual (the member or applicant); and specifically state that the authorization is valid for only one search of the NDR. The consent also must state specifically that the NDR identifies "probable" matches that require further inquiry for verification, that it is recommended (but not required) that the Commandant of the Coast Guard verify matches with the State of record, and the consent must explain that individuals have the right to request their own NDR records in order to verify the accuracy of that information.

The interim final rule indicated that the Commandant of the Coast Guard may receive such information and shall make the information available to the individual. The interim final rule provided that the Commandant will not receive any information that was entered in the Register more than three years before the date of the request, unless the information relates to a revocation or suspension still in effect on the date of the request.

The interim final rule stated, in accordance with Public Law 104–324, that requests to transmit NDR information to the Commandant were to be submitted through a State chief driver licensing official.

The interim rule explained that the NDR response would be sent to the chief driver licensing official who would provide it to the Commandant and would indicate whether a match (probable identification) was found and, if so, the response would identify the State in which the full substantive record can be found (the State of record). The interim final rule encouraged the Commandant to obtain the substantive data relating to the match from the State of record to determine whether the person described in the record is in fact the subject individual before taking further action.

Request for Comments

NHTSA requested comments from interested persons on the procedures put in place by the interim final rule published in the **Federal Register** on December 2, 1997. Those comments were due no later than February 2, 1998. The interim final rule explained that the agency would consider and respond to all comments and, if appropriate, would make further amendments to the applicable provisions of 23 CFR Part 1327. Since NHTSA received no comments on the interim final rule, this final rule adopts the interim final rule subject to the changes described below, which NHTSA is adopting in conformance with the amendments to the Act contained in TEA–21.

TEA–21 Amendments

The Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, was signed into law on June 9, 1998. Section 2006 of the law contained amendments to the access provisions of the NDR Act of 1982, as amended, 49 U.S.C. 30305(b).

Federal Transportation Licensing Officials

TEA–21 amended the NDR Act of 1982 to permit the head of a Federal department or agency that issues motor vehicle operator's licenses, such as the State Department, to receive NDR information. This final rule puts in place this change to the NDR procedures.

Other Federal Entities Can Directly Request NDR Information for Limited Transportation Safety Purposes

The TEA–21 amendments also provide that any Federal department or agency authorized to receive NDR information may request NDR information directly from the NDR, rather than requesting the information through State chief driver licensing officials. These Federal departments and agencies now include: the Chairman of the National Transportation Safety Board (NTSB) and the Administrator of the Federal Highway Administration

(FHWA) regarding an individual who is the subject of an accident investigation conducted by the Board or Administrator; the Federal Aviation Administration (FAA) regarding an individual who has received or applied for an Airman's Certificate; the Federal Railroad Administration (FRA) regarding a locomotive operator; the Commandant of the United States Coast Guard regarding an individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document, and also regarding any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing, and any member of a uniformed service who is assigned to the Coast Guard); and the head of a Federal department or agency that issues motor vehicle operator's licenses regarding an applicant for a motor vehicle operator's license from such department or agency.

As a result of this change, these Federal departments and agencies have a choice between continuing to request NDR information through State driver licensing officials or, alternatively, requesting the NDR information themselves, directly from the NDR.

This final rule incorporates this change into the NDR implementing regulations. The change is expected to reduce administrative burdens on both these Federal entities and the participating States with respect to requests for and the receipt of NDR information.

Suspensions or Revocations Still in Effect

Prior to the enactment of TEA–21, the Act provided that employers or prospective employers of motor vehicle operators could not receive NDR information that was entered into the Register more than three years before the date of the request. Other requesters, such as the Commandant of the U.S. Coast Guard, were subject to the same restraints, except that these entities could receive NDR information received more than three years prior to the date of the request if the information concerned a suspension or revocation still in effect on the date of the request.

TEA–21 amended the Act to apply this exception to employers and prospective employers of motor vehicle operators. This final rule effects this change to the NDR implementing regulations.

Other Changes

This final rule also amends the NDR regulations with non-substantive changes designed to simplify the regulations, reduce redundancies, and make the regulations easier to follow.

Regulatory Analyses and Notice

Executive Order 12778 (Civil Justice Reform)

This final rule will not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agency has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or Department of Transportation Regulatory Policies and Procedures. The changes in this interim final rule merely reflect amendments contained in Public Law 104–324. Accordingly, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Public Law 96–354, 5 U.S.C. 601–612), the agency has evaluated the effects of this action on small entities. Based on the evaluation, we certify that this action will not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

There are reporting requirements contained in the regulation that this rule is amending that are considered to be "collection of information" requirements, as defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these requirements have been submitted previously to and approved by OMB, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). These requirements have been approved through September 30, 2000, under OMB No. 2127–0001.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it will not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

List of Subjects in 23 CFR Part 1327

Highway safety, Intergovernmental relations, National Driver Register, Reporting and recordkeeping requirements, Transportation safety.

In consideration of the foregoing, the interim final rule published in the **Federal Register** of December 2, 1997, 62 CFR 63655, amending 23 CFR Part 1327, is adopted as final, with the following changes:

PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

1. The authority citation for part 1327 continues to read as follows:

Authority: Pub. L. 97–364, 96 Stat. 1740, as amended (49 U.S.C. 30301 *et seq.*); delegation of authority at 49 CFR 1.50.

§ 1327.5 [Amended]

2. Amend § 1327.5 as follows:

a. Paragraph (a)(1)(ii) is amended by revising "ii)" to read "(ii)";

b. Paragraph (c)(2) introductory text is amended by adding a sentence at the end to read as set forth below; and

c. Redesignating paragraph (c)(3) as paragraph (c)(4) and by adding a new paragraph (c)(3) to read as follows:

§ 1327.5 Conditions for becoming a participating State.

* * * * *

(c) * * *

(2) * * * Information may not be obtained from the National Driver Register under this paragraph (c) if the information was entered in the Register more than three years before the date of the request unless the information is about a revocation or suspension still in effect on the date of the request.

* * * * *

(3) The head of a Federal department or agency that issues motor vehicle operator's licenses about an individual applicant for a motor vehicle operator's license from such department or agency. The head of the department or agency may request NDR information through the chief driver licensing official of a State and may receive the information, provided the requesting Federal department or agency participates in the NDR as a reporting agency.

(i) A reporting agency is an agency that transmits to the NDR a report regarding any individual who has been denied a motor vehicle operator's license for cause; whose motor vehicle operator's license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle related offenses listed in paragraph (a)(1)(iii) of this section and Appendix A to this part and over whom the department or agency has licensing authority.

(ii) All reports transmitted by a reporting agency shall contain the following data:

(A) The legal name, date of birth (including day, month, and year), sex, and, if available to the agency, height, weight, and eye color;

(B) The name of the agency transmitting such information; and

(C) The social security account number, if used by the reporting agency for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number); except that

(D) Any report concerning an occurrence identified in paragraph (c)(3)(i) of this section which occurs during the two-year period preceding the date on which the agency becomes a participating agency shall be sufficient if it contains all such information as is available to the agency on such date.

* * * * *

3. Section 1327.6 is amended by redesignating paragraphs (g) and (h) as paragraphs (h) and (i), by revising paragraphs (a) through (f), and by adding a new paragraph (g) to read as follows:

§ 1327.6 Conditions and procedures for other authorized users of the NDR.

(a) *NTSB and FHWA.* To initiate an NDR file check before a fully electronic Register system has been established, the National Transportation Safety Board or the Federal Highway Administration (Office of Motor Carriers) shall submit a request for such check to the State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. To initiate an NDR file check once a fully electronic Register system has been established, the NTSB or FHWA shall submit a request for such check to the participating State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. The NTSB or FHWA may also submit a request for an NDR file check to the NDR directly.

(b) *Federal departments or agencies that issue motor vehicle operator's licenses.* To initiate an NDR file check, a Federal department or agency that issues motor vehicle operator's licenses shall submit a request for such check to a participating State, in accordance with procedures established by that State for this purpose. The Federal department or agency that issues motor vehicle operator's licenses may also submit a request for an NDR file check to the NDR directly, in accordance with procedures established by the NDR for that purpose.

(c) *Employers or prospective employers of motor vehicle operators (including Federal Agencies).* (1) To initiate an NDR file check, the individual who is employed or seeking employment as a motor vehicle operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the employer/prospective employer shall make the information available to the employee/prospective employee.

(3) In the case of a match (probable identification), the employer/prospective employer should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the employee/prospective employee before using the information as the basis for any action against the individual.

(d) *Federal Aviation Administration.* (1) To initiate an NDR file check, the individual who has applied for or received an airman's certificate shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FAA shall make the information available to the airman for review and written comment.

(3) In the case of a match (probable identification), the FAA should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the airman concerned before using the information as the basis of any action against the individual.

(e) *Federal Railroad Administration and/or employers or prospective employers of railroad locomotive operators.* (1) To initiate an NDR file check, the individual employed or seeking employment as a locomotive operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FRA or the employer/prospective employer, as applicable, shall make the information available to the individual.

(3) In the case of a match (probable identification), the FRA or the employer/prospective employer, as applicable, should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(f) *U.S. Coast Guard.* (1) To initiate an NDR file check, the individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document or the officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the U.S. Coast Guard shall make the information available to the individual for review and written comment before denying, suspending or revoking the license, certificate of registry, or merchant mariner's document of the individual based on that information and before using that information in any action taken under chapter 77 of title 46, U.S. Code.

(3) In the case of a match (probable identification), the U.S. Coast Guard should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(g) *Air carriers.* (1) To initiate an NDR file check, the individual seeking employment as a pilot with an air carrier shall follow the procedures specified in § 1327.7 and also must specifically state that, pursuant to Section 502 of the Pilot Records Improvement Act of 1996, Public Law 104–264, 110 Stat. 3259 (49 U.S.C. 30305), the request (or written consent) serves as notice of a request for NDR information concerning the individual's motor vehicle driving record and of the individual's right to receive a copy of such information.

(2) Air carriers that maintain, or request and receive NDR information about an individual must provide the individual a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(3) In the case of a match (probable identification), the air carrier should obtain the substantive data relating to the record from the State of Record and

verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

* * * * *

4. Add a new section, 1327.7, to read as follows:

§ 1327.7 Procedures for NDR information requests.

(a) To initiate an NDR file check, an individual who is employed or seeking employment as a motor vehicle operator; who has applied for or received an airman's certificate; who is employed or seeking employment as a locomotive operator; who holds or has applied for a license, certificate of registry, or a merchant mariner's document or is an officer, chief warrant officer, or enlisted member of the U.S. Coast Guard or Coast Guard Reserve; or who is seeking employment as a pilot with an air carrier; shall either:

(1) Complete, sign and submit a request for an NDR file check directly to the chief driver licensing official of a participating State in accordance with procedures established by that State for this purpose; or

(2) Authorize, by completing and signing a written consent, the authorized NDR user to request a file check through the chief driver licensing official of a participating State in accordance with the procedures established by that State for this purpose.

(b) If the authorized NDR user is an employer or prospective employer of a motor vehicle operator, the request for an NDR file check must be submitted through the chief driver licensing official of the State in which the individual is licensed to operate a motor vehicle.

(c) If the authorized NDR user is the head of a Federal department or agency, the request for an NDR file check may be submitted instead directly to the NDR in accordance with procedures established by the NDR for this purpose.

(d) The request for an NDR file check or the written consent, whichever is used, must:

(1) State that the NDR records are to be released;

(2) State as specifically as possible who is authorized to receive the records;

(3) Be signed and dated by the individual (or the individual's legal representative as appropriate);

(4) Specifically state that the authorization is valid for only one search of the NDR; and

(5) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the employer/prospective employer verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

Issued on: April 13, 1999.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 99–9653 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF JUSTICE

28 CFR Part 77

[AG Order No. 2216–99]

Ethical Standards for Attorneys for the Government

AGENCY: Department of Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule supersedes the Department of Justice regulations relating to Communications with Represented Persons and implements 28 U.S.C. 530B pertaining to ethical standards for attorneys for the government. Under that provision, an attorney for the Government shall be subject to State laws and rules, and local federal court rules governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State. This rule fulfills the Attorney General's obligation under section 530B and provides guidance to all Department of Justice employees who are subject to section 530B regarding their obligations and responsibilities under this new provision.

DATES: *Effective Date:* This interim rule is effective April 19, 1999.

Comment Date: Written comments must be submitted on or before June 21, 1999.

ADDRESSES: Please submit written comments, in triplicate, to Department of Justice, Justice Management Division, 950 Pennsylvania Ave., NW., Room 1110, Washington, DC 20530–0001 Attn: Juliet A. Eurich. To ensure proper handling, please refer to 28 U.S.C. 530B on your correspondence. Comments are available for public inspection at the above address by calling 202–353–7300 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Juliet A. Eurich, Justice Management Division, Department of Justice, 202–353–7300.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1998, the President signed the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105–277. Division A, section 801 of that Act enacted into law 28 U.S.C. 530B, entitled "Ethical Standards for Federal Prosecutors." That statute provides as follows:

"(a) An attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State.

(b) The Attorney General shall make and amend rules of the Department of Justice to assure compliance with this section.

(c) As used in this section, the term "attorney for the Government" includes any attorney described in § 77.2(a) of part 77 of title 28 of the Code of Federal Regulations and also includes any independent counsel, or employees of such a counsel, appointed under chapter 40."

Absent further congressional action, 28 U.S.C. 530B will become effective on April 19, 1999.

The Department is publishing this interim rule to meet the requirement of section 530B(b) that the Attorney General "make and amend rules * * * to assure compliance" with the legislation. Section 530B adopts the definition of the "attorney for the government" that was contained in § 77.2(a) of part 77 (now replaced), with the exception that the scope of the definition has been expanded to include an independent counsel, or employee of such counsel, appointed pursuant to chapter 40 of title 28, United States Code. As made clear by this definition, section 530B applies only to Department of Justice attorneys and attorneys acting pursuant to Department authorization. It does not apply to investigative agents (even if they are attorneys), although, under the regulations, agents operating under the direction of a covered attorney will be required to conform their conduct if so required by the ethical rules that apply to the attorney. Section 530B also does not apply to attorneys in other federal government agencies, unless they are appointed as Special Assistant United States Attorneys.

The Department has concluded that the text, title, and legislative history demonstrate that Section 530B applies only to rules of ethical conduct, such as codes of professional responsibility

adopted by states or federal courts. Neither the Act nor its legislative history suggests that Section 530B should be interpreted to provide that state rules of evidence or procedure or state substantive law will supersede the Federal Rules of Evidence, the Federal Rules of Civil, Criminal, and Appellate Procedure, or the provisions of federal substantive law. *See United States* v. *Lowery,* 166 F.3d 1119 (11th Cir. 1999) (interpreting Section 530B, prior to its effective date, and rejecting the argument that, under Section 530B, state rules of professional responsibility govern admission of evidence in federal court). Accordingly, Department attorneys who are conducting investigations under federal law or litigation in the federal courts are not required to comply with state rules of evidence or procedure or state substantive law. Similarly, the Department has also concluded that section 530B does not provide authority for state bars or federal courts to enact substantive or procedural rules in the guise of ethics rules or to exceed otherwise applicable regulatory, statutory, or constitutional limits on their ability to promulgate rules.

Under various federal statutes, the Attorney General has the authority to assign any officer of the Justice Department to appear on behalf of the United States in any case in any court in the United States, so long as that attorney is duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia. See 28 U.S.C. 509, 510, 515(a), 516, 517, 519, 533, 547; Pub. L. 96–132, 93 Stat. 1040, 1044 (1979); and Pub. L. 105–277, section 102 of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 1999. Section 530B does not alter, amend, or supersede those statutes, or in any way interfere with the Attorney General's authority to determine who may represent the United States in any proceeding.

Section 530B directs Department attorneys to comply with rules of ethical conduct, but is silent on enforcement mechanisms. For this reason, section 530B does not change the enforcement authority of the Department of Justice's Office of Professional Responsibility, state authorities, or the federal courts. Furthermore, the Department has determined that Section 530B does not create new enforceable rights for litigants against the federal government. This comports with the long line of judicial authority holding that violations of rules of professional responsibility do not create private rights. *See United States* v. *Lowery,* 166 F.3d 1119, 1124 (11th Cir. 1999) (section 530B does not change pre-existing principle that "state rule[s] of professional conduct cannot provide an adequate basis for a federal court to suppress evidence that is otherwise admissible"); *United States* v. *Balter,* 91 F.3d 427, 436 n.7 (3rd Cir.) (noting that even if Rule 4.2 applied to preindictment contracts, suppression would not be appropriate), *cert. denied,* 117 S.Ct. 517 (1996); *United States* v. *Heinz,* 983 F.2d 609, 613–14 (5th Cir. 1993) (rejecting proposition that suppression would be an appropriate remedy for violation of Rule 4.2); *Zambrano* v. *City of Tustin,* 885 F.2d 1473, 1475 n.4 (9th Cir. 1989) (district court should not have declared mistrial based on ethical lapses of attorneys); *United States* v. *Dennis,* 843 F.2d 652, 657 (2nd Cir. 1988) (sanction for ethical violations "should be disciplinary action," not adverse consequences in criminal litigation); *Johnson* v. *Cadillac Plastic Group, Inc.,* 930 F.Supp. 1437, 1442 (D.Colo. 1996) (exclusion of evidence in a civil case is "an inappropriate remedy" for alleged violation of Rule 4.2).

Section 530B(a) directs Department attorneys to comply with rules of ethical conduct "in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State." The Department has concluded that section 530B does not authorize state authorities to impose stricter rules on Department attorneys than on other attorneys and in no way alters prevailing state and federal court rules of ethical conduct that provide exceptions for the conduct of government attorneys.

Department attorneys represent the United States in courts throughout the country, and also supervise or otherwise participate in investigations that cross state lines. Determining what rules apply to particular conduct presents the most complex issues from both an interpretation and an application standpoint, especially in instances involving Department attorneys stationed in litigating components of the Department of Justice in Washington, DC who investigate and litigate cases in numerous jurisdictions around the country and in cases where Department attorneys are licensed in one state and are stationed or conducting litigation in another jurisdiction. As has frequently been recognized, "existing authority as to (the) choice of law in the area of ethics rules is unclear and inconsistent." ABA Committee Report Explaining 1993 Amendment to Rule 8.5.

In crafting implementing regulations, the Department sought to be consistent with the statute's language and its legislative history by attempting to ensure that Department attorneys face obligations similar to, but not greater than, those faced by non-Department attorneys. The regulations thus recognize that attorneys are principally subject to discipline by their state of licensure and the courts before which they practice. Thus, although Department attorneys are also subject to discipline by the Office of Professional Responsibility, the regulations generally direct Department attorneys to look, according to the circumstances, to the rules of the court before which they are appearing and the rules of their licensing jurisdiction.

Consequently, the Department crafted regulations that (1) seek to define the statutory language in a reasonable way, consistent with settled principles of statutory construction and the legislative history of section 530B, and (2) identify issues that Department attorneys should examine when faced with a question about what state's rule applies. The Department has concluded that the regulations comply with section 530B's statutory directive to make regulations that will assure compliance with the statute and, at the same time, provide reasonable protection for any Department attorney who makes a good faith attempt to determine what state's ethics rules apply and to comply with those ethics rules. The decision to replace the Department's regulation on contacts with represented parties does not constitute a determination that any of the conduct previously authorized by those regulations is impermissible.

The regulations generally direct Department attorneys to comply with the rule of the court before which they are litigating. The Department believes that this should generally be sufficient, but Department attorneys should also consider whether their state of licensure would apply a different rule to their conduct. If there is no pending case, the regulations direct Department attorneys to comply with the rules of their state of licensure, but to consider whether application of choice of law principles would direct the attorney to comply with a different rule.

Finally, the regulations recognize the importance of consultation concerning an attorney's ethical responsibilities. The Department strongly believes that attorneys should be encouraged to consult concerning their ethical obligations and that agents should be encouraged to seek legal advice where

appropriate. The regulations prohibit supervisory attorneys from directing attorneys or agents to engage in conduct if that would violate relevant ethics rules, but also recognize that an attorney who, in good faith, provides legal advice or guidance to an agent (without otherwise controlling the agent's actions) or gives guidance to an attorney about that attorney's ethical obligations should not be deemed to violate these rules.

Administrative Procedures Act 5 U.S.C. 553: Good Cause Exception

The Department is implementing this interim final rule to provide an interpretation of Section 530B that those affected by that statute can use as a guide in carrying out their duties. The Department began the work needed to determine the rules and procedures required to best comply with section 530B promptly after that statute was enacted into law in 1998, but found that it was not possible to develop a workable rule, complete the inter-departmental review process needed to ensure that the rule adequately responded to the requirements of the statute and the practical concerns faced by Department attorneys on a daily basis, and provide a meaningful period of notice and comment before the statute takes effect on April 19, 1999. It is imperative that Department attorneys affected by section 530B have some early guidance concerning the standards of ethical conduct to which they will be held when that statute goes into effect. Unless guidance is promptly provided, attorneys for the Department will be left with substantial uncertainty regarding what rules they must follow in performing their duties and supervising others. Such uncertainty would run counter to the purpose of the Act and would likely chill prosecutors in the discharge of their critical duties. After completing the long and difficult process of developing regulations that interpret and adequately respond to the requirements of Section 530B, the Department is of the view that there is a significant benefit in its receiving public comments after the interim final rule has been issued. Accordingly, the Department will provide a sixty day period of comment, commencing upon the publication of its rule. However, in the unique circumstances presented, the Department has determined that, in the interim, the guidance should nonetheless take effect. To the extent necessary in these circumstances, the Department has determined that "good cause" exists for issuing its rule without prior notice and comment.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities because these regulations provide guidance to those affected by 28 U.S.C. 530B regarding their obligations under the statute.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 1988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal government, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Robert Hinchman, Department of Justice, Office of Policy Development, 950 Pennsylvania Avenue, NW., Room 4258, Washington, DC 20530–0001, 201–514–8059.

List of Subjects in 28 CFR Part 77

Government employees, Investigations, Law Enforcement, Lawyers.

Accordingly, part 77 of chapter I of title 28 of the Code of Federal Regulations is revised to read as follows:

PART 77—ETHICAL STANDARDS FOR ATTORNEYS FOR THE GOVERNMENT

Sec.

77.1 Purpose and authority.
77.2 Definitions.
77.3 Application of 28 U.S.C. 530B.
77.4 Guidance.
77.5 No private remedies.

Authority: 28 U.S.C. 530B.

§ 77.1 Purpose and authority.

(a) The Department of Justice is committed to ensuring that its attorneys perform their duties in accordance with the highest ethical standards. The purpose of this part is to implement 28 U.S.C. 530B and to provide guidance to attorneys concerning the requirements imposed on Department attorneys by 28 U.S.C. 530B.

(b) Section 530B requires Department attorneys to comply with state and local federal court rules of professional responsibility, but should not be construed in any way to alter federal substantive, procedural, or evidentiary law or to interfere with the Attorney General's authority to send Department attorneys into any court in the United States.

(c) Section 530B imposes on Department attorneys the same rules of professional responsibility that apply to non-Department attorneys, but should not be construed to impose greater burdens on Department attorneys than those on non-Department attorneys or to alter rules of professional responsibility that expressly exempt government attorneys from their application.

(d) The regulations set forth in this part seek to provide guidance to Department attorneys in determining

the rules with which such attorneys should comply.

§ 77.2 Definitions.

As used in this part, the following terms shall have the following meanings, unless the context indicates otherwise:

(a) The phrase *attorney for the government* means the Attorney General; the Deputy Attorney General; the Solicitor General; the Assistant Attorneys General for, and any attorney employed in, the Antitrust Division, Civil Division, Civil Rights Division, Criminal Division, Environment and Natural Resources Division, and Tax Division; the Chief Counsel for the DEA and any attorney employed in that office; the General Counsel of the FBI and any attorney employed in that office or in the (Office of General Counsel) of the FBI; any attorney employed in, or head of, any other legal office in a Department of Justice agency; any United States Attorney; any Assistant United States Attorney; any Special Assistant to the Attorney General or Special Attorney duly appointed pursuant to 28 U.S.C. 515; any Special Assistant United States Attorney duly appointed pursuant to 28 U.S.C. 543 who is authorized to conduct criminal or civil law enforcement investigations or proceedings on behalf of the United States; and any other attorney employed by the Department of Justice who is authorized to conduct criminal or civil law enforcement proceedings on behalf of the United States. The phrase *attorney for the government* also includes any independent counsel, or employee of such counsel, appointed under chapter 40 of title 28, United States Code.

The phrase *attorney for the government* does not include attorneys employed as investigators or other law enforcement agents by the Department of Justice who are not authorized to represent the United States in criminal or civil law enforcement litigation or to supervise such proceedings.

(b) The term *case* means any proceeding over which a state or federal court has jurisdiction, including criminal prosecutions and civil actions. This term also includes grand jury investigations and related proceedings (such as motions to quash grand jury subpoenas and motions to compel testimony), applications for search warrants, and applications for electronic surveillance.

(c) The phrase *civil law enforcement investigation* means an investigation of possible civil violations of, or claims under, federal law that may form the basis for a civil law enforcement proceeding.

(d) The phrase *civil law enforcement proceeding* means a civil action or proceeding before any court or other tribunal brought by the Department of Justice under the authority of the United States to enforce federal laws or regulations, and includes proceedings related to the enforcement of an administrative subpoena or summons or civil investigative demand.

(e) The terms *conduct* and *activity* means any act performed by a Department attorney that implicates a rule governing attorneys, as that term is defined in paragraph (h) of this section.

(f) The phrase *Department attorney[s]* is synonymous with the phrase "attorney[s] for the government" as defined in this section.

(g) The term *person* means any individual or organization.

(h) The phrase *state laws and rules and local federal court rules governing attorneys* means rules enacted or adopted by any State or Territory of the United States or the District of Columbia or by any federal court, that prescribe ethical conduct for attorneys *and* that would subject an attorney, whether or not a Department attorney, to professional discipline, such as a code of professional responsibility. The phrase does not include:

(1) Any statute, rule, or regulation which does not govern ethical conduct, such as rules of procedure, evidence, or substantive law, whether or not such rule is included in a code of professional responsibility for attorneys;

(2) Any statute, rule, or regulation that purports to govern the conduct of any class of persons other than attorneys, such as rules that govern the conduct of all litigants and judges, as well as attorneys; or

(3) A statute, rule, or regulation requiring licensure or membership in a particular state bar.

(i) The phrase *state of licensure* means the District of Columbia or any State or Territory where a Department attorney is duly licensed and authorized to practice as an attorney. This term shall be construed in the same manner as it has been construed pursuant to the provisions of Pub. L. 96–132, 93 Stat. 1040, 1044 (1979), and Sec. 102 of the Departments of Commerce, Justice and State, the Judiciary, and Related Agency Appropriations Act, 1999, Pub. L. 105–277.

(j)(1) The phrase *where such attorney engages in that attorney's duties* identifies which rules of ethical conduct a Department attorney should comply with, and means, with respect to particular conduct:

(i) If there is a case pending, the rules of ethical conduct adopted by the local federal court or state court before which the case is pending; or

(ii) If there is no case pending, the rules of ethical conduct that would be applied by the attorney's state of licensure.

(2) A Department attorney does not "engage[] in that attorney's duties" in any states in which the attorney's conduct is not substantial and continuous, such as a jurisdiction in which an attorney takes a deposition (related to a case pending in another court) or directs a contact to be made by an investigative agent, or responds to an inquiry by an investigative agent. Nor does the phrase include any jurisdiction that would not ordinarily apply its rules of ethical conduct to particular conduct or activity by the attorney.

(k) The phrase *to the same extent and in the same manner as other attorneys* means that Department attorneys shall only be subject to laws and rules of ethical conduct governing attorneys in the same manner as such rules apply to non-Department attorneys. The phrase does not, however, purport to eliminate or otherwise alter state or federal laws and rules and federal court rules that expressly exclude some or all government attorneys from particular limitations or prohibitions.

§ 77.3 Application of 28 U.S.C. 530B.

In all criminal investigations and prosecutions, in all civil investigations and litigation (affirmative and defensive), and in all civil law enforcement investigations and proceedings, attorneys for the government shall conform their conduct and activities to the state rules and laws, and federal local court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State, as these terms are defined in § 77.2 of this part.

§ 77.4 Guidance.

(a) *Rules of the court before which a case is pending.* A government attorney shall, in all cases, comply with the rules of ethical conduct of the court before which a particular case is pending.

(b) *Inconsistent rules where there is a pending case.*

(1) If the rule of the attorney's state of licensure would prohibit an action that is permissible under the rules of the court before which a case is pending, the attorney should consider:

(i) Whether the attorney's state of licensure would apply the rule of the court before which the case is pending,

rather than the rule of the state of licensure;

(ii) Whether the local federal court rule preempts contrary state rules; and

(iii) Whether application of traditional choice-of-law principles directs the attorney to comply with a particular rule.

(2) In the process of considering the factors described in paragraph (b)(1) of this section, the attorney is encouraged to consult with a supervisor or Professional Responsibility Officer to determine the best course of conduct.

(c) *Choice of rules where there is no pending case.*

(1) Where no case is pending, the attorney should generally comply with the ethical rules of the attorney's state of licensure, unless application of traditional choice-of-law principles directs the attorney to comply with the ethical rule of another jurisdiction or court, such as the ethical rule adopted by the court in which the case is likely to be brought.

(2) In the process of considering the factors described in paragraph (c)(1) of this section, the attorney is encouraged to consult with a supervisor or Professional Responsibility Officer to determine the best course of conduct.

(d) *Rules that impose an irreconcilable conflict.* If, after consideration of traditional choice-of-law principles, the attorney concludes that multiple rules may apply to particular conduct and that such rules impose irreconcilable obligations on the attorney, the attorney should consult with a supervisor or Professional Responsibility Officer to determine the best course of conduct.

(e) *Supervisory attorneys.* Each attorney, including supervisory attorneys, must assess his or her ethical obligations with respect to particular conduct. Department attorneys shall not direct any attorney to engage in conduct that violates section 530B. A supervisor or other Department attorney who, in good faith, gives advice or guidance to another Department attorney about the other attorney's ethical obligations should not be deemed to violate these rules.

(f) *Investigative Agents.* A Department attorney shall not direct an investigative agent acting under the attorney's supervision to engage in conduct under circumstances that would violate the attorney's obligations under section 530B. A Department attorney who in good faith provides legal advice or guidance upon request to an investigative agent should not be deemed to violate these rules.

§ 77.5 No private remedies.

The principles set forth herein, and internal office procedures adopted pursuant hereto, are intended solely for the guidance of attorneys for the government. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party to litigation with the United States, including criminal defendants, targets or subjects of criminal investigations, witnesses in criminal or civil cases (including civil law enforcement proceedings), or plaintiffs or defendants in civil investigations or litigation; or any other person, whether or not a party to litigation with the United States, or their counsel; and shall not be a basis for dismissing criminal or civil charges or proceedings or for excluding relevant evidence in any judicial or administrative proceeding. Nor are any limitations placed on otherwise lawful litigative prerogatives of the Department of Justice as a result of this part.

Dated: April 14, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–9845 Filed 4–19–99; 8:45 am]

BILLING CODE 4410–19–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 164–0112a; FRL–6324–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District (SMAQMD), Mojave Desert Air Quality Management District (MDAQMD), and the Ventura County Air Pollution Control District (VCAPCD) as Revisions to the California State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rules.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). The revisions concern rules from Sacramento Metropolitan Air Quality Management District (SMAQMD), Mojave Desert Air Quality Management District (MDAQMD), and the Ventura County Air Pollution Control District (VCAPCD) as revisions to the California State Implementation Plan (SIP). SMAQMD's Rule 414 controls emissions of oxides of nitrogen from natural gas-fired water heaters; MDAQMD's Rule 1157 controls emissions from boilers and process heaters; and VCAPCD's Rule 74.16 controls emissions of oxides of nitrogen from oilfield drilling operations. This approval action will incorporate these rules into the Federally approved SIP. The intended effect of approving of these rules is to regulate emissions of oxides of nitrogen (NO_X) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

DATES: These rules are effective on June 21, 1999 without further notice, unless EPA receives adverse comments by May 20, 1999. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that these rules will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW, Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Sacramento Metropolitan Air Quality Management District (SMAQMD), 8475 Jackson Rd., Suite 200, Sacramento, CA 95826–3904.

Mojave Desert Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

Ventura County Air Pollution Control District (VCAPCD), 800 South Victoria Avenue, Ventura, CA 93009.

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: SMAQMD's Rule 414, Natural Gas-fired Water Heaters; MDAQMD's Rule 1157, Boilers and Process Heaters; and VCAPCD's Rule 74.16, Oilfield Drilling Operations. SMAQMD's Rule 414 was submitted by the State of California to EPA on March 10, 1998, MDAQMD's Rule 1157 on August 1, 1997 and VCAPCD Rule 74.16 on April 5, 1991.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of NO_X emissions through reasonably available control technology (RACT) are set out in section 182(f) of the Clean Air Act.

On November 25, 1992, EPA published a proposed rule entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_X Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, action should be referred to for further information on the NO_X requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X ("major" as defined in section 302 and sections 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. Sacramento Metropolitan Air Quality Management District (SMAQMD), Mojave Desert Air Quality Management District (MDAQMD), and the Ventura County Air Pollution Control District (VCAPCD) are classified as serious or above;[1] therefore these areas are subject to the RACT requirements of section 182(b)(2) cited below and the November 15, 1992 deadline.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_X) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_X CTGs issued before enactment and EPA has not issued a CTG document for any NO_X sources since enactment of the CAA. The RACT rules covering NO_X sources and submitted as SIP revisions are expected to require final installation of the actual NO_X controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's direct final action for SMAQMD's Rule 414, Natural Gas-fired Water Heaters; MDAQMD's Rule 1157, Boilers and Process Heaters; and VCAPCD's Rule 74.16, Oilfield Drilling Operations.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on March 10, 1998, including SMAQMD's Rule 414. MDAQMD's Rule 1157 was submitted on August 1, 1997 and VCAPCD's Rule 74.16 on April 5, 1991. Rule 414 was found to be complete on May 21, 1998, Rule 1157 on September 30, 1997, and Rule 74.16 on May 21, 1991; pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V[2] and are being finalized for approval into the SIP.

NO_X emissions contribute to the production of ground level ozone and smog. SMAQMD's Rule 414 controls emissions of oxides of nitrogen from natural gas-fired water heaters; MDAQMD's Rule 1157 controls emissions from boilers and process heaters; and VCAPCD's Rule 74.16 controls emissions of oxides of nitrogen from oilfield drilling operations. These rules were originally adopted as part of Districts' efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Proposed Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the NO_X Supplement (57 FR 55620) and various other EPA policy guidance documents.[3] Among those provisions is the requirement that a NO_X rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_X emissions.

For the purposes of assisting State and local agencies in developing NO_X RACT rules, EPA prepared the NO_X Supplement to the General Preamble. In the NO_X Supplement, EPA provides preliminary guidance on how RACT will be determined for stationary sources of NO_X emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_X (see section 4.5 of the NO_X Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO_X. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_X. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_X. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_X RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

The California Air Resources Board (CARB) has developed guidance documents determining Reasonably Available Control Technology and Best Available Retrofit Control Technology. EPA has used CARB's guidance documents in evaluating Sacramento Rule MDAQMD 1157, Emissions from Boilers and Process Heaters; and VCAPCD's Rule 74.16, Oilfield Drilling Operations for consistency with the CAA's RACT requirements.

There is currently no version of SMAQMD's Rule 414, Natural Gas-fired Water Heaters, in the SIP. SMAQMD's Rule 414, Natural Gas-fired Water Heaters, establishes nitrogen oxide emissions for natural gas-fired water heaters with rated heat input of less than 75,000 Btu/hr.

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[1] MDAQMD AND VCAPCD areas retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991). The Sacramento Metro Area was reclassified from serious to severe on June 1, 1995. See 60 FR 20237 (April 25, 1995).

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

There is currently no version of MDAQMD's Rule 1157, Boilers and Process Heaters, in the SIP. MDAQMD's Rule 1157, Boilers and Process Heaters, establishes RACT emission requirements for oxides of nitrogen (NO_X) and carbon monoxide (CO) emissions for all new and existing institutional and industrial boilers, steam generators and process heaters with rated heat inputs of greater than or equal to five million Btu per hour (MMBtu/hr), located within the Federal Ozone Non-attainment Area of San Bernardino County. The Rule also establishes Best Available Retrofit Control Technologies (BARCT) emission requirements for any existing unit currently permitted to emit more than five (5) tons per day, or more than 250 tons per year of oxides of nitrogen (NO_X).

There is currently no version of VCAPCD's Rule 74.16, Oilfield Drilling Operations, in the SIP. VCAPCD's Rule 74.16, Oilfield Drilling Operations, establishes nitrogen oxide emissions limits for stationary internal combustion engines of 50 HP and larger oilfield drilling operations. The rule will require drilling rigs to be electrically powered unless the installation of utility electricity is not cost effective based upon Best Available Control Technology (BACT) Guidelines.

The submitted rules include the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO_X).
- Compliance and monitoring requirements including compliance schedule, reporting requirements, monitoring and record keeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, record keeping, and compliance testing in addition to RACT guidance regarding emission limits. SMAQMD's Rule 414, MDAQMD's Rule 1157 and VCAPCD's Rule 74.16 strengthen the SIP through the addition of enforceable measures such as record keeping, test methods, definitions, and more stringent and achievable emissions limits. Incorporation of the amended Rules, SMAQMD's Rule 414, MDAQMD's Rule 1157 and VCAPCD's Rule 74.16, into the SIP would decrease the NO_X emissions allowed by the SIP.

In evaluating the rules, EPA must also determine whether the section 182(b) requirement for RACT implementation by May 31, 1995 is met. Under certain circumstances, the determination of what constitutes RACT can include consideration of advanced control technologies such as CARB BARCT requirements. The submitted rules, SMAQMD Rule 414, MDAQMD Rule 1157 and VCAPCD Rule 74.16, conform with the CARB Determination of Reasonably Available Control Technology (RACT) and Best Available Retrofit Control Technology (BARCT) for Control of Oxides of Nitrogen and they conform with Section 182(b).

A detailed discussion of the sources controlled, the controls required, and justification for why these controls represent RACT can be found in the Technical Support Documents (TSDs) for SMAQMD's Rule 414, MDAQMD's Rule 1157 and VCAPCD's Rule 74.16, dated November 6, 1998 which are available from the U.S. EPA Region IX office.

EPA has evaluated the submitted rules and has determined them consistent with the CAA, EPA regulations and EPA policy. Therefore, SMAQMD's Rule 414, Emissions of Oxides of Nitrogen from Natural Gas-fired Water Heaters; MDAQMD's Rule 1157, Boilers and Process Heaters; and VCAPCD's Rule 74.16, Oilfield Drilling Operations are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_X Supplement to the General Preamble.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 21, 1999 without further notice unless the Agency receives adverse comments by May 20, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 21, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rules do not create a mandate on State, local or tribal governments. The rules do not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to these rules.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rules on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. These rules do not subject to E.O. 13045 because

they do not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rules do not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to these rules.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. These final rules will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these rules and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rules in the **Federal Register**. These rules are not "major" rules as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 21, 1999. Filing a petition for reconsideration by the Administrator of these final rules does not affect the finality of these rules for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rules or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen Ozone, Reporting and record keeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: April 1, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(183)(i)(B)(*4*), (248)(i)(D), and (254)(i)(I), to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(183) * * *

(i) * * *

(B) * * *

(*4*) Rule 74.16, adopted January 8, 1991.

* * * * *

(248) * * *

(i) * * *

(D) Mojave Desert Air Quality Management District.

(*1*) Rule 1157, amended May 19, 1997.

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(254) * * *

(i) * * *

(I) Sacramento Metropolitan Air Quality Management District.

(1) Rule 414, adopted August 1, 1996.

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[FR Doc. 99–9712 Filed 4–19–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–204–1–9913a; FRL–6326–9]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Memphis Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Memphis and Shelby County Health Department (MSCHD) ozone (O_3) maintenance plan. The revisions were submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on September 18, 1997, with supplemental information submitted on June 30, 1998. The MSCHD revised their O_3 maintenance plan by adding new tables which correct errors made in the original base year inventory and maintenance plan. These corrections impact the transportation conformity budget for the greater Memphis Metropolitan Statistical Area.

DATES: This direct final rule is effective on June 21, 1999, without further notice, unless EPA receives significant, material, and adverse comment by May 20, 1999. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address comments on this action to Steven M. Scofield at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Copies of documents related to this action are available for the public to review during normal business hours at the locations below. If you would like to review these documents, please make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN 204–1–9913a. The Region 4 office may have additional documents not available at the other locations.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303. Steven M. Scofield, 404/562–9034.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L&C Annex, 401 Church Street, Nashville, Tennessee 37243–1531. 615/532–0554.

Memphis and Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105. 901/576–7600.

FOR FURTHER INFORMATION CONTACT: Steven M. Scofield at 404/562–9034.

SUPPLEMENTARY INFORMATION:

I. Background

On November 12, 1992, Tennessee submitted a maintenance plan and a request to redesignate the Memphis and Shelby County area from nonattainment to attainment for O_3. In a **Federal Register** notice dated January 17, 1995 (60 FR 3352), EPA approved the Memphis and Shelby County O_3 maintenance plan, including the 1990 base year inventory.

II. Analysis of State's Submittal

The revisions to the Memphis and Shelby County O_3 maintenance plan were submitted on September 18, 1997, with supplemental information submitted on June 30, 1998. The MSCHD revised their O_3 maintenance plan by adding new tables which correct errors made in the original 1990 base year inventory and maintenance plan. The submittal included corrected nitrogen oxide (NO_X) tables and graphs and three new tables for volatile organic compounds (VOCs), carbon monoxide (CO), and NO_X.

The purpose of the 1990 base year adjustment is to better account for emissions from NO_X sources. The error correction affects the 2004 emission budget in that additional NO_X emissions are available in the safety margin. MSCHD has chosen to allocate the additional safety margin to the mobile source sector. These corrections impact the transportation conformity budget for the greater Memphis Metropolitan Statistical Area.

	1990	1993	1996	1999	2002	2004
VOC Emission Inventory Summary (Tons per day)						
Point	74.6	30.3	31.4	32.5	33.5	34.2
Area	79.3	53.3	54.3	55.2	56.2	56.9
Non-Road	31.3	31.9	32.5	33.1	33.7	34.1
Mobile	72.1	46.9	44.8	44.3	43.7	43.1
Mobile Budget	72.1	112.1	107.5	104.6	101.8	144.5
Biogenics	132.6	100.8	100.8	100.8	100.8	100.8
Total	390.0	263.2	263.7	265.9	267.9	269.1
NO_X Emission Inventory Summary (Tons per day)						
Point	113.5	119.4	102.0	100.4	72.9	72.0
Area	4.2	4.5	4.6	4.7	4.8	4.8
Non-Road	80.8	82.3	83.8	85.3	86.8	87.9
Mobile	62.9	56.1	54.6	54.8	54.6	54.3
Mobile Budget	62.9	56.1	59.5	59.7	71.7	94.3
Biogenics	1.6	1.4	1.4	1.4	1.4	1.4
Total	263.0	263.7	246.3	246.5	220.5	220.3
CO Emission Inventory Summary (Tons per day)						
Point	22.8	18.6	19.3	19.9	20.5	21.0
Area	82.6	107.9	109.9	111.8	113.9	115.2
Non-Road	109.8	111.8	113.8	115.9	118.0	119.4

	1990	1993	1996	1999	2002	2004
Mobile	455.1	420.1	418.5	417.3	416.5	414.6
Mobile Budget	455.1	431.5	426.9	422.4	417.8	414.6
Total	670.13	658.4	661.4	664.9	668.9	670.3

III. Final Action

EPA is approving the revisions to the Memphis and Shelby County Health Department O_3 maintenance plan and 1990 base year inventory.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 21, 1999, without further notice unless the Agency receives adverse comments by May 20, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 21, 1999, and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995

("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 21, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone.

Dated: March 25, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52 [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et. seq.*

Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(165) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(165) The revisions to the maintenance plan and emission inventory for the Memphis and Shelby County Area which includes Shelby County and the City of Memphis submitted by the Tennessee Department of Environment and Conservation on September 18, 1997, and June 30, 1998, as part of the Tennessee SIP.

(i) Incorporation by reference. Non-Regulatory SIP Submittal Including I. The 1993 Ozone, Nitrogen Oxides, and Carbon Monoxide Triennial Emission Inventory; II. Revisions to the 1990 Base Year Inventory; III. Amendments to the CO and O_3 Maintenance Plans to Specify Conformity Emission Budgets adopted on September 10, 1997.

(A) Mobile and point source emission budgets volatile organic compounds summer season tons per day (PJVCTD3.WK1)

(B) Mobile and point source emission budgets nitrogen oxides summer season tons per day (PJNXTD3.WK1)

(C) Mobile and point source emission budgets carbon monoxide winter season tons per day (PJCOTD3.WK1)

(D) Mobile and point source emission budgets volatile organic compounds summer season tons per day

(E) Mobile and point source emission budgets nitrogen oxides summer season tons per day

(F) Mobile and point source emission budgets carbon monoxide winter season tons per day.

(ii) Other material. None.

[FR Doc. 99–9714 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX 109–1–7412a; FRL–6329–2]

Rescission of the Conditional Section 182(f) Exemption to the Nitrogen Oxides (NO_X) Control Requirements for the Dallas/Fort Worth Ozone Nonattainment Area; TX

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this direct final action, we, the EPA, are rescinding the conditional nitrogen oxides (NO_X) exemption for the Dallas/Fort Worth (DFW) ozone nonattainment area. We granted the conditional exemption under the Federal Clean Air Act (Act) on November 21, 1994, conditioned on our approval of initial modeling showing that NO_X controls were not needed in the DFW area to reach attainment. However, the DFW area failed to attain EPA's National Ambient Air Quality Standard (NAAQS) for ozone by its moderate ozone deadline of November 15, 1996, and we reclassified the area to "serious" ozone nonattainment on February 18, 1998. The modeling conducted for this serious area State Implementation Plan shows control of NO_X sources will help the area attain the ozone. The State of Texas requested the rescission of the conditional NO_X exemption based on this new photochemical modeling. We agree with the need for future NO_X controls and are rescinding the conditional exemption. The State must now implement NO_X control rules and conformity determinations will have to consider NO_X in the DFW area.

DATES: This direct final rule is effective on June 21, 1999, unless we receive adverse comments by May 20, 1999. If we receive such comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following

locations. If you want to examine these documents you should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section, (6PD–L), Multimedia Planning and Permitting Division, 1445 Ross Ave, Dallas, TX 75202–2733, telephone: (214) 665–7214.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753

FOR FURTHER INFORMATION CONTACT: Mr. Herbert R. Sherrow, Jr., Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone: 214–665–7237.

SUPPLEMENTARY INFORMATION:

What Action is EPA Taking?

At the request of the State of Texas, we are rescinding the conditional exemption from the NO_X control requirements for the DFW ozone nonattainment area. We are not taking any action on the El Paso NO_X exemption. Rescission of the section 182(f) NO_X exemption means the DFW ozone nonattainment area is removed from Federal exempt status and the State is required to immediately implement its existing NO_X Reasonably Available Control Technology (RACT), New Source Review (NSR), vehicle Inspection and Maintenance (I/M) program, and general and transportation conformity requirements.

However, because of the lead time needed for sources to be able to comply, we are also setting a final compliance date for implementation of the NO_X RACT controls. Final NO_X RACT compliance is required as expeditiously as practicable, but no later than March 31, 2001. The NO_X RACT final compliance date is consistent with the State's rule.

What is a NO_X Exemption?

The Act states, in section 182(f), that an exemption from NO_X controls may be given to an ozone nonattainment area if the Administrator determines that NO_X controls would not help the area attain the ozone NAAQS. Texas sent us modeling which showed that the DFW area could attain the NAAQS by additional controls for Volatile Organic Compounds only; therefore, new NO_X controls would not be needed. The State requested a NO_X exemption for the DFW area and we granted a conditional exemption effective November 21, 1994. In our **Federal Register** notice approving the exemption we said that if we later determine that NO_X reductions are beneficial, based on new photochemical modeling, the area would be removed from exempt status.

Why is EPA Taking This Action?

We are taking this action because the State requested the rescission, because the condition for the exemption has not been met, and because the area's modeling now shows the need for NO_X reductions to achieve attainment.

The Texas Natural Resource Conservation Commission (TNRCC) sent a letter, dated November 13, 1998, from Mr. Barry McBee, Chairman of the TNRCC at the time of the letter, to Mr. Gregg Cooke, EPA Region 6, Regional Administrator, requesting the rescission.

The State conducted new photochemical modeling which shows NO_X controls are now needed for the DFW area to attain the ozone NAAQS. We reviewed the new modeling and find it supports the need for NO_X controls.

We also conditioned the exemption on our approving initial modeling showing that NO_X was not needed. Before we could act on the initial modeling, monitoring data showed the area did not attain the NAAQS by November 15, 1996, which was the attainment date for moderate ozone areas. Section 181(b)(2)(A) requires us to reclassify ozone areas to the next higher nonattainment classification within six months after the applicable attainment deadline if we find the area has not attained the ozone standard by that date. Therefore, instead of acting on the initial modeling, we reclassified the area from "moderate" to "serious" nonattainment on February 19, 1998, and the state initiated new modeling. The condition for receiving full approval of the exemption has never been and cannot now be met by Texas.

What Actions has the State Taken?

The State adopted its NO_X RACT and New Source Review (NSR) rules on February 24, 1999, and they became effective on March 21, 1999.

The state's approved Inspection and Maintenance (I/M) program for the DFW area does not allow NO_X increases. For a discussion of the State's vehicle I/M program, please refer to the conditional interim approval in 62 FR 3718. Therefore, the State does not need to revise its DFW I/M rule as a result of this action.

Who do the NO_X RACT and NSR rules apply to?

The NO_X RACT rules will apply to you if you own or operate a major source of NO_X emissions. A major source is defined as any stationary source, or group of sources, located in a contiguous area and under common control that emits, or has the potential to emit, at least 50 tons of NO_X a year. Please see TNRCC rules, Chapter 117—Control of Air Pollution from Nitrogen Compounds for additional information.

The NSR rules apply to you if you are an owner or operator planning to construct or modify a source that has the potential to emit at least 50 tons of NO_X a year. Please see TNRCC rules, Chapter 116—Control of Air Pollution By Permits for New Construction or Modification, Subchapter B: New Source Review Permits, Division 5: Nonattainment New Source Review for additional information.

When do I Have To Comply With the NO_X RACT and NSR Rules?

The NO_X RACT final compliance date is as expeditiously as practicable but not later than March 31, 2001; and the NSR compliance date is March 21, 1999. Under the State's NSR rule, permit applications determined to be complete prior to March 21, 1999, are not subject to the new NO_X requirements.

What is the Effect of Rescinding the NO_X Exemption on Conformity?

The NO_X waiver for transportation and general conformity determinations no longer applies after the effective date of this rule.

The NO_X waiver exempted the North Central Texas Council of Governments (NCTCOG) from the transportation conformity rule's "build-no build" test for NO_X emissions. After the effective date of this notice, the NCTCOG must observe the NO_X requirements in future transportation conformity determinations on transportation improvement programs, transportation plans, and projects. *See* the State Transportation Conformity Rule, 30 Texas Administrative Code (TAC) Chapter 114, and 40 CFR part 93 subpart A for more information. The State does not need to revise its transportation conformity rule as a result of this action.

The NO_X requirements also apply in future general conformity determinations. The NO_X waiver exempted Federal projects from general conformity determinations regarding NO_X. Federal agencies that must make a conformity determination for Federal actions in the DFW area according to the State's General Conformity Rule are now subject to the NO_X requirements. *See* the State General Conformity Rule, 30 TAC Section 101.30, and CFR part 51 subpart W for more information. The State does not need to revise its General

Conformity Rules as a result of this action.

Existing conformity determinations will not be affected by this rescission of the NO_X exemption and will continue to be valid to the same extent as generally allowed under the rules, but new conformity determinations will have to observe the NO_X requirements.

Where Can I Get Background Information on the Exemption?

We approved the exemption on November 21, 1994, and published the approval in a **Federal Register** notice, 59 FR 60709, November 28, 1994. We proposed approval of the exemption in a **Federal Register** notice, 59 FR 44386, August 29, 1994.

What Further Action Must EPA Take?

We plan to review the State's RACT and NSR NO_X submissions for approval in separate rulemaking actions because those submissions will be contained in a broader SIP that also includes Volatile Organic Compounds controls, modeling, and rate of progress requirements. The State submitted this SIP March 18, 1999.

What is the Process for EPA Approval of This Action?

We are publishing this rule without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the action if adverse comments are filed. This rule will be effective on June 21, 1999, without further notice unless we receive adverse comment by May 20, 1999. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** telling the public that the rule will not take effect. If this happens, we will address all public comments in a subsequent final rule based on the proposed rule. We will not initiate a second comment period on this action. Any parties interested in commenting must do so at this time.

Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Removal of the NOx exemption under section 182(f) of the Act is an action that affects the status of a geographical area and does not directly regulate any entities. *See Mid-Tex Electric Cooperative Inc.* v. *FERC*, 773 F.2nd 327 (D.C. 1985) (Agency's certification need only consider the rule's impact on entities subject to the requirements of the rule. To the extent that the area must adopt new regulations, we will review the effect of those actions at the time the State submits those regulations. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, Local, or Tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the rescission action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Statutory requirements that previously were waived for the DFW area are now applicable. To the extent that the State must adopt new regulations, we will review the effect of these actions at the time the State submits the regulations.

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective June 21, 1999.

E. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, Local, or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, Local and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, Local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule implements statutory provisions but would not impose a mandate on State, Local, or Tribal governments. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

F. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If the EPA complies by consulting, E.O. 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O.

13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule implements requirements specifically set forth by the Congress in the Federal Clean Air Act without the exercise of any discretion by EPA. However, today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any new requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

G. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the order has the potential to influence the regulation.

This rule is not subject to E.O. 13045 because it implements a previously promulgated health or safety-based Federal standard.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 21, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental Relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: April 14, 1999.

Carol M. Browner,

Administrator.

Part 52, chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

2. Section 52.2308 is amended by adding paragraph (g) to read as follows:

§ 52.2308 Area-wide nitrogen oxides (NO_x) exemptions.

* * * * *

(g) The Texas Natural Resource Conservation Commission submitted a letter to EPA requesting rescission of the previously-granted conditional exemption from the NO_x control requirements of section 182(f) of the Act for the Dallas/Fort Worth ozone nonattainment area. The letter was sent on November 13, 1998. The conditional exemption was granted on November 21, 1994, conditioned upon EPA approving the modeling portion of the DFW attainment demonstration SIP. The conditional exemption was also approved on a contingent basis. The modeling-based exemption would last only as long as the area's modeling continued to demonstrate attainment without the additional NO_x reductions required by section 182(f). The State's request is based on new photochemical modeling which shows the need for NO_x controls to help the area attain the ozone National Ambient Air Quality Standards. Furthermore, EPA would not and could not approve the earlier attainment demonstration SIP modeling upon which the condition was based.

(1) On June 21, 1999, the conditional NO_x exemption for the DFW area granted on November 21, 1994 is rescinded. Upon rescission, the Federal requirements pertaining to NO_x Reasonably Available Control Technology (RACT), New Source Review, vehicle Inspection/Maintenance, general and transportation conformity now apply.

(2) The NO_x RACT final compliance date must be implemented as expeditiously as practicable, but no later than March 31, 2001.

[FR Doc. 99–9868 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH 122–1a; FRL–6328–6]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving a March 18, 1999 request from Ohio for a State Implementation Plan (SIP) revision of the Stark County (Canton, Ohio) ozone maintenance plan. The maintenance plan revision establishes new transportation conformity mobile source emissions budgets for the year 2005. We are approving the allocation of a portion of the safety margin for volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) to the area's 2005 mobile source emissions budgets for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations.

DATES: This rule is effective on June 21, 1999, unless EPA receives adverse written comments by May 20, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Patricia Morris at (312) 353–8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency,

Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

What action is EPA taking today?
Who is affected by this action?
How did the State support its request?
What is transportation conformity?
What is an emissions budget?
What is a safety margin?
How does this action change the Stark County maintenance plan?
Why is the request approvable?

What Action is EPA Taking Today?

In this action, we are approving a revision to the maintenance plan for Stark County, Ohio. The revision will change the mobile source emission budget that is used for transportation conformity purposes. The revision will keep the total emissions for the area at or below the attainment level required by law. This action will allow State or local agencies to maintain air quality while providing for transportation growth.

Who is Affected by This Action?

Primarily, the transportation sector represented by Ohio Department of Transportation and the Stark County metropolitan planning organization will benefit from this revision. Although, the long range transportation plan for the Stark County area projects higher emissions than currently allowed in the maintenance plan, the conformity rule provides that if a "safety margin" exists in the maintenance plan, then the safety margin can be allocated to the transportation sector via the mobile source budget.

How Did the State Support This Request?

On March 18, 1999, Ohio submitted to EPA a SIP revision request for the Stark County ozone maintenance area. A public hearing on this proposal was held on February 18, 1999. No one from the public commented on the proposed revisions.

In the submittal, Ohio requested to establish new 2005 mobile source emissions budgets for both VOC and NO_X for the Stark County, Ohio, ozone maintenance area. The State requested that 2 tons per day of VOC and 1 ton per day of NO_X be allocated from the maintenance plan's safety margin. The mobile source budgets are used for transportation conformity purposes.

What is Transportation Conformity?

Transportation conformity means that the level of emissions from the transportation sector (cars, trucks and buses) must be consistent with the requirements in the SIP to attain and maintain the air quality standards. The Clean Air Act, in section 176(c), requires conformity of transportation plans, programs and projects to an implementation plan's purpose of attaining and maintaining the National Ambient Air Quality Standards. On November 24, 1993, EPA published a final rule establishing criteria and procedures for determining if transportation plans, programs and projects funded or approved under Title 23 U.S.C. or the Federal Transit Act conform to the SIP.

The transportation conformity rules require an ozone maintenance area, such as Stark County, to compare the actual projected emissions from cars, trucks and buses on the highway network, to the mobile source emissions budget established by a maintenance plan. The Stark County area has an approved maintenance plan. Our approval of the maintenance plan established the mobile source emissions budgets for transportation conformity purposes.

What is an Emissions Budget?

An emissions budget is the projected level of controlled emissions from the transportation sector (mobile sources) that is estimated in the SIP. The SIP controls emissions through regulations, for example, on fuels and exhaust levels for cars. The emissions budget concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the mobile source emissions budget in the SIP and how to revise the emissions budget. The transportation conformity rule allows the mobile source emissions budget to be changed as long as the total level of emissions from all sources remains below the attainment level.

What is a Safety Margin?

A "safety margin" is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the air quality health standard. For example: Stark County attained the one hour ozone standard during the 1989–1991 time period. The State uses 1990 as the attainment level of emissions for Stark County. The emissions from point, area and mobile sources in 1990 equaled 86.67 tons per day of VOC and 39.81 tons per day of NO_X. The Ohio Environmental Protection Agency projected emissions out to the year 2005 and projected a total of 73.61 tons per day of VOC and 37.64 tons per day of NO_X from all sources in Stark County. The safety margin for Stark County is calculated to be the difference between these amounts or 13.06 tons per day of VOC and 2.17 tons per day of NO_X. Table 1 gives detailed information on the estimated emissions from each source category and the safety margin calculation.

The 2005 emission projections reflect the point, area and mobile source reductions and are illustrated in Table 1.

TABLE 1.—NO_X AND VOC EMISSIONS BUDGET; AND SAFETY MARGIN DETERMINATIONS, STARK COUNTY

[tons/day]

Source category	VOC emissions	
	1990	2005
Point	12.36	14.07
Mobile (on-road)	31.66	15.34
Area	42.65	44.20
Totals	86.67	73.61

Safety Margin = 1990 total emissions—2005 total emissions = 13.06 tons/day VOC

Source category	NO_X emissions	
	1990	2005
Point	6.74	7.96
Mobile (on-road)	16.20	12.00
Area	16.87	17.68
Totals	39.81	37.64

Safety Margin = 1990 total emissions—2005 total emissions = 2.17 tons/day NO_X

The emissions are projected to maintain the area's air quality consistent. with the air quality health standard. The safety margin credit can be allocated to the transportation sector. The total emission level, even with this allocation will be below the attainment level or safety level and thus is acceptable. The safety margin is the extra safety [points] that can be allocated as long as the total level is maintained.

How Does This Action Change the Stark County Maintenance Plan?

It raises the budget for mobile sources. The maintenance plan is designed to provide for future growth while still maintaining the ozone air quality standard. Growth in industries, population, and traffic is offset with

reductions from cleaner cars and other emission reduction programs. Through the maintenance plan the State and local agencies can manage and maintain air quality while providing for growth.

In the submittal, Ohio requested to allocate part of the area's safety margin to the mobile source emissions budget. The Stark County area's safety margin is the difference between the 1990 attainment inventory year and the 2005 projected emissions inventory (13.06 tons/day VOC safety margin, and 2.17 tons/day NO_X safety margin) as shown in Table 1. The SIP revision requests the allocation of 2 tons/day VOC, and 1 ton/day NO_X, into the area's mobile source emissions budgets from the safety margin. The 2005 mobile source emissions budgets showing the safety margin allocations are outlined in Table 2. The mobile source emissions budget in Table 2 will be used for transportation conformity purposes.

Table 2 below illustrates that the requested portion of the safety margins can be allocated to the 2005 mobile source budget and that total emissions will still remain at or below the 1990 attainment level of total emissions for the Stark County maintenance area. Since the area would still be at or below the 1990 attainment level for the total emissions, this allocation is allowed by the conformity rule.

TABLE 2.—ALLOCATION OF SAFETY MARGIN TO THE 2005 MOBILE SOURCE EMISSIONS BUDGET, STARK COUNTY

[tons/day]

Source category	VOC emissions	
	1990	2005
Point	12.36	14.07
Mobile (on-road)	31.66	17.34
Area	42.65	44.20
Totals	86.67	75.61

Remaining Safety Margin = 1990 total emissions—2005 total emissions = 11.06 tons/day VOC.

Source category	NO_X emissions	
	1990	2005
Point	6.74	7.96
Mobile (on-road)	16.20	13.00
Area	16.87	17.68
Totals	39.81	38.64

Remaining Safety Margin = 1990 total emissions—2005 total emissions = 1.17 tons/day NO_X

Why is the Request Approvable?

After review of the SIP revision request, EPA finds that the requested allocation of the safety margin for the Stark County (Canton) area is approvable because the new mobile source emissions budgets for NO_X and VOCs maintain the total emissions for the area at or below the attainment year inventory level as required by the transportation conformity regulations. This allocation is allowed by the conformity rule since the area would still be at or below the 1990 attainment level for the total emissions.

EPA Action

EPA is approving the requested allocation of the safety margin to the mobile source budget for the Stark County (Canton) ozone maintenance area.

EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by May 20, 1999. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 21, 1999.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation.

This action is not subject to E.O. 13045 because it approves a state rule implementing a previously promulgated health or safety-based Federal standard, and preserves the existing level of pollution control for the affected areas.

D. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation

with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." This rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Paperwork Reduction Act

This action does not contain any information collection requirements which requires OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

I. Executive Order 12898: Environmental Justice

Under E.O. 12898 each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. Today's action (revising the emissions budgets in Ohio's maintenance plan for Stark County) does not adversely affect minorities and low-income populations because the new, more stringent 8-hour ozone standard is in effect and provides increased protection to the public, especially children and other at-risk populations.

J. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

K. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 21, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Nitrogen oxides, Transportation conformity.

Dated: April 8, 1999.

David A. Ullrich,

Acting Regional Administrator, Region 5.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart KK—Ohio

2. Section 52.1885 is amended by adding paragraph (a)(11) to read as follows:

§ 52.1885 Control Strategy: Ozone

(a) * * *

(11) Approval—On March 18, 1999, Ohio submitted a revision to the

maintenance plan for the Stark County (Canton) area. The revision consists of allocating a portion of the Stark County area's safety margins to the transportation conformity mobile source emissions budgets. The mobile source budgets for transportation conformity purposes for the Stark County area are now: 17.34 tons per day of volatile organic compound emissions for the year 2005 and 13.00 tons per day of oxides of nitrogen emissions for the year 2005.

[FR Doc. 99–9866 Filed 4–19–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[KY111–9914a; FRL–6326–1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Section 111(d) Plan submitted by the Kentucky Division for Air Quality (DAQ) for the Commonwealth of Kentucky on December 3, 1998, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Solid Waste (MSW) Landfills.

DATES: This direct final rule is effective on June 21, 1999 without further notice, unless EPA receives significant, material, and adverse comment by May 20, 1999. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Karla McCorkle, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of materials submitted to EPA may be examined during normal business hours at the following locations: EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; and at the Kentucky Division for Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Karla McCorkle at (404) 562–9043 or Scott Davis at (404) 562–9127.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Clean Air Act (Act), EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111, but which are not "criteria pollutants" (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, EPA establishes EG in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State, local, or tribal agency's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B.

On March 12, 1996, EPA published EG for existing MSW landfills at 40 CFR part 60, subpart Cc (40 CFR 60.30c through 60.36c) and NSPS for new MSW Landfills at 40 CFR part 60, subpart WWW (40 CFR 60.750 through 60.759). (*See* 61 FR 9905–9944.) The pollutants regulated by the NSPS and EG are MSW landfill emissions, which contain a mixture of volatile organic compounds (VOCs), other organic compounds, methane, and HAPs. VOC emissions can contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOCs) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.32c) for which construction, reconstruction or modification was commenced before May 30, 1991.

Pursuant to 40 CFR 60.23(a), States were required to either: (1) submit a plan for the control of the designated pollutant to which the EG applies; or (2) submit a negative declaration if there were no designated facilities in the State within nine months after publication of the EG (by December 12, 1996).

EPA has been involved in litigation over the requirements of the MSW landfill EG and NSPS since the summer of 1996. On November 13, 1997, EPA issued a notice of proposed settlement in *National Solid Wastes Management Association* v. *Browner, et al.*, No. 96–1152 (D.C. Cir), in accordance with section 113(g) of the Act. *See* 62 FR 60898. It is important to note that the proposed settlement does not vacate or void the existing MSW landfill EG or NSPS. Pursuant to the proposed settlement agreement, EPA published a direct final rulemaking on June 16, 1998, in which EPA is amending 40 CFR part 60, subparts Cc and WWW, to add clarifying language, make editorial amendments, and to correct typographical errors. *See* 63 FR 32743–32753, 32783–32784. EPA regulations at 40 CFR 60.23(a)(2) provide that a State has nine months to adopt and submit any necessary State Plan revisions after publication of a final revised emission guideline document. Thus, States are not yet required to submit State Plan revisions to address the June 16, 1998, direct final amendments to the EG. In addition, as stated in the June 16, 1998, preamble, the changes to 40 CFR part 60, subparts Cc and WWW, do not significantly modify the requirements of those subparts. *See* 63 FR 32744. Accordingly, the MSW landfill EG published on March 12, 1996, was used as a basis by EPA for review of section 111(d) Plan submittals.

This action approves the section 111(d) Plan submitted by the Kentucky DAQ for the Commonwealth of Kentucky to implement and enforce Subpart Cc.

II. Discussion

The Kentucky DAQ submitted to EPA on December 3, 1998, the following in their section 111(d) Plan for implementing and enforcing the emission guidelines for existing MSW landfills in the Commonwealth of Kentucky: Statutory and Legal Authority; Enforceable Mechanisms; MSW Landfill Source and Emissions Inventory; Emission Limitations; Process for Review and Approval of Collection and Control System Design

Plans; Testing, Monitoring, Recordkeeping, and Reporting; Compliance Schedule; Demonstration That the Public Had Adequate Notice and Public Hearing Record; Submittal of Progress Reports to EPA; Quality Assurance; and applicable Commonwealth of Kentucky statutes and Kentucky DAQ rules.

The approval of the Kentucky State Plan is based on finding that: (1) the Kentucky DAQ provided adequate public notice of public hearings for the proposed rulemaking and State Plan which allows the Kentucky DAQ to implement and enforce the EG for MSW landfills; and (2) the Kentucky DAQ also demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require recordkeeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

In the Plan, the Kentucky DAQ cites the following references for the legal authority: Kentucky Revised Statute (KRS) 224.10–100; KRS 224.20–100; KRS 224.20–110; and KRS 224.20–120. On the basis of these statutes of the Commonwealth of Kentucky, the State Plan is approved as being at least as protective as the Federal requirements for existing MSW landfills.

In the Plan, the Kentucky DAQ cites the enforceable mechanism for implementing the EG for existing MSW landfills. The enforceable mechanisms are the Commonwealth regulations adopted by the Commonwealth of Kentucky in 401 Kentucky Administrative Regulation (KAR) 61:036 "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills" and 401 KAR 60:750 "Standards of Performance for Municipal Solid Waste Landfills." The State's regulations meet the Federal requirements for an enforceable mechanism and are approved as being at least as protective as the Federal requirements contained in Subpart Cc for existing MSW landfills.

In the Plan, the Kentucky DAQ cites all emission limitations for the major pollutant categories related to the designated sites and facilities. These limitations in 401 KAR 61:036 are approved as being at least as protective as the Federal requirements contained in Subpart Cc for existing MSW landfills.

The Plan describes the process the Kentucky DAQ will utilize for the review of site-specific design plans for gas collection and control systems. The process outlined in the Plan meets the Federal requirements contained in Subpart Cc for existing MSW landfills.

In the Plan, the Kentucky DAQ cites the compliance schedules adopted in 401 KAR 61:036 for each existing MSW landfill to be in compliance within 30 months of the effective date of their state plan. These compliance times for affected MSW landfills address the required compliance time lines of the EG. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

In Table 1 and Appendix A of the Plan, the Kentucky DAQ submitted a source and emission inventory of all designated pollutants for each MSW landfill in the Commonwealth of Kentucky. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing MSW landfills.

The Plan includes its legal authority to require owners and operators of designated facilities to maintain records and report to their agency the nature and amount of emissions and any other information that may be necessary to enable their agency to judge the compliance status of the facilities. The Kentucky DAQ also cites its legal authority to provide for periodic inspection and testing and provisions for making reports of MSW landfill emissions data, correlated with emission standards that apply, available to the general public. 401 KAR 61:036 and 401 KAR 60:750 support the requirements of monitoring, recordkeeping, reporting, and compliance assurance. These Kentucky regulations have been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

The Plan outlines how the Kentucky DAQ will provide progress reports of Plan implementation updates to the EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B. This portion of the Plan has been reviewed and approved as meeting the Federal requirement for Plan reporting.

Consequently, EPA finds that the Kentucky State Plan meets all of the requirements applicable to such plans in 40 CFR part 60, subparts B and Cc. The Kentucky DAQ did not, however, submit evidence of authority to regulate existing MSW landfills in Indian Country. Therefore, EPA is not approving this Plan as it relates to those sources.

III. Final Action

Based on the rationale discussed above, EPA is approving the Commonwealth of Kentucky section 111(d) Plan, as submitted on December 3, 1998, for the control of landfill gas from existing MSW landfills. As provided by 40 CFR 60.28(c), any revisions to the Kentucky State Plan or associated regulations will not be considered part of the applicable plan until submitted by the Kentucky DAQ in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the revision should significant, material, and adverse comments be filed. This action will be effective June 21, 1999 unless by May 20, 1999, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective June 21, 1999.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any section 111(d) plan. Each request for revision to the section 111(d) plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government,

unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Disclaimer Language Approving SIP Revisions in Audit Law States

Nothing in this action should be construed as making any determination or expressing any position regarding Kentucky's audit privilege and penalty immunity law, Kentucky KRS 224.01–040 or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Kentucky's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

H. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 21, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: March 24, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR Part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart S—Kentucky

2. Section 62.4350 is amended by adding paragraphs (b)(2) and (c)(4) to read as follows:

§ 62.4350 Identification of plan.

* * * * *

(b) * * *

(2) Commonwealth of Kentucky's Section 111(d) Plan For Existing Municipal Solid Waste Landfills, submitted on December 3, 1998, by the Kentucky Division for Air Quality.

(c) * * *

(4) Existing municipal solid waste landfills.

3. Subpart S is amended by adding a new § 62.4355 and a new undesignated center heading to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.4355 Identification of sources.

The plan applies to existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991, that accepted waste at any time since November 8, 1987, or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

[FR Doc. 99–9595 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 1224 and 2508

RIN 3045–AA22

Implementation of the Privacy Act of 1974

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation") has revised its regulations under the Privacy Act. The Corporation redesignated the existing regulations under former ACTION's CFR chapter as updated regulations under the Corporation's CFR chapter. The Corporation expects this rule will promote consistency in its processing of Privacy Act requests by setting forth the basic policies of the Corporation governing the maintenance of its system of records which contains the personal information of its employees.

DATES: This final rule is effective May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Bill Hudson, Corporation Freedom of Information Act/Privacy Act Officer, at (202) 606–5000, ext. 265.

SUPPLEMENTARY INFORMATION: The Corporation published a notice of proposed rulemaking on March 5, 1999 (64 FR 10872) announcing its intention to redesignate the existing regulations under former ACTION's CFR chapter as updated regulations under the Corporation's CFR chapter. The Corporation did not receive any comments on this proposed rule. The Corporation is a wholly-owned government corporation created by Congress to administer programs established under the national service laws. The Corporation operates under two statutes, the National and Community Service Act of 1990, as amended, 42 U.S.C. 12501 *et seq.*, and the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 *et seq.*

The functions of the ACTION agency were transferred to the Corporation on April 4, 1994. This final rule redesignates ACTION's policy at 45 CFR Chapter XII, part 1224, to be revised as 45 CFR Chapter XXV, part 2508, and governs the Corporation as a whole. The Distribution Table in the Preamble compares the earlier version of CFR part numbers under 45 Chapter XII, part 1224, with the new CFR part numbers assigned under 45 Chapter XXV, part 2508. The subjects listed in 45 CFR Chapter XII, part 1224, are revised and redesignated under 45 CFR Chapter XXV, part 2508, to reflect the new subject listings. The redesignated subpart numbers under 45 CFR Chapter XXV, part 2508, are written in a plain language format as questions/answers to provide for a better understanding of the Corporation's revised Privacy Act regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866. The Office of Management and Budget has reviewed this rule and has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review.

Paperwork Reduction Act

I certify that this regulation does not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of

$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Submission to Congress and the Office of Management and Budget

This rule is hereby submitted pursuant to 5 U.S.C. 552a(f) for printing in the **Federal Register**. A copy has been sent to the Chairman of the Committee on Government Reform and Oversight of the House of Representatives; the Chairman of the Committee on Governmental Affairs of the Senate; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, in accordance with 5 U.S.C. 552a(e)(4) and (a)(r).

DISTRIBUTION TABLE

Old 45 CFR part 1224	New 45 CFR part 2508
1224.1–1	2508.2
1224.1–2	2508.3
1224.1–3	2508.1
1224.1–4	2508.4
1224.1–5	2508.5
1224.1–5a	2505.6
1224.1–6	2508.7
1224.1–7	None
1224.1–8	2508.8
1224.1–9	2508.9
1224.1–10	2508.10
1224.1–11	2508.11
1224.1–12	2508.12
1224.1–13	2508.13
1224.1–14	2508.19
1224.1–15	2508.14
1224.1–16	2508.15
1224.1–17	2508.16
1224.1–18	2508.17
1224.1–19	None
None	2508.18
None	2508.20

List of Subjects in 45 CFR Parts 1224 and 2508

Privacy.

Accordingly, and under the authority of 42 U.S.C. 12501 *et seq.*, and 42 U.S.C. 4950 *et seq.*, the Corporation amends 45 CFR chapters XII and XXV as follows:

PART 1224—[REDESIGNATED AS PART 2508]

1. Part 1224 in 45 CFR chapter XII is redesignated as part 2508 in 45 CFR chapter XXV and is revised to read as follows:

PART 2508—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

2508.1 Definitions.
2508.2 What is the purpose of this part?
2508.3 What is the Corporation's Privacy Act policy?
2508.4 When can Corporation records be disclosed?
2508.5 When does the Corporation publish its notice of its system of records?
2508.6 When will the Corporation publish a notice for new routine uses of information in its system of records?
2508.7 To whom does the Corporation provide reports to regarding changes in its system of records?
2508.8 Who is responsible for establishing the Corporation's rules of conduct for Privacy Act compliance?
2508.9 What officials are responsible for the security, management and control of Corporation record keeping systems?
2508.10 Who has the responsibility for maintaining adequate technical, physical, and security safeguards to prevent unauthorized disclosure or destruction of manual and automatic record systems?
2508.11 How shall offices maintaining a system of records be accountable for those records to prevent unauthorized disclosure of information?
2508.12 What are the contents of the systems of records that are to be maintained by the Corporation?
2508.13 What are the procedures for acquiring access to Corporation records by an individual about whom a record is maintained?
2508.14 What are the identification requirements for individuals who request access to records?
2508.15 What are the procedures for requesting inspection of, amendment or correction to, or appeal of an individual's records maintained by the Corporation other than that individual's official personnel file?
2508.16 What are the procedures for filing an appeal for refusal to amend or correct records?
2508.17 When shall fees be charged and at what rate?
2508.18 What are the penalties for obtaining a record under false pretenses?
2508.19 What Privacy Act exemptions or control of systems of records are exempt from disclosure?
2508.20 What are the restrictions regarding the release of mailing lists?

Authority: 5 U.S.C. 552a; 42 U.S.C. 12501 *et seq.*; 42 U.S.C. 4950 *et seq.*

§ 2508.1 Definitions.

(a) *Amend* means to make a correction to, or expunge any portion of, a record about an individual which that individual believes is not accurate, relevant, timely, or complete.

(b) *Appeal Officer* means the individual delegated the responsibility to act on all appeals filed under the Privacy Act.

(c) *Chief Executive Officer* means the Head of the Corporation.

(d) *Corporation* means the Corporation for National and Community Service.

(e) *Individual* means any citizen of the United States or an alien lawfully admitted for permanent residence.

(f) *Maintain* means to collect, use, store, disseminate or any combination of these recordkeeping functions; exercise of control over and therefore, responsibility and accountability for, systems of records.

(g) *Personnel record* means any information about an individual that is maintained in a system of records by the Corporation that is needed for personnel management or processes such as staffing, employment development, retirement, grievances, and appeals.

(h) *Privacy Act Officer* means the individual delegated the authority to allow access to, the release of, or the withholding of records pursuant to an official Privacy Act request. The Privacy Act Officer is further delegated the authority to make the initial determination on all requests to amend records.

(i) *Record* means any document or other information about an individual maintained by the agency whether collected or grouped, and including, but not limited to, information regarding education, financial transactions, medical history, criminal or employment history, or any other personal information that contains the name or other personal identification number, symbol, etc. assigned to such individual.

(j) *Routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(k) *System of records* means a group of any records under the maintenance and control of the Corporation from which information is retrieved by use of the name of an individual or by some personal identifier of the individual.

§ 2508.2 What is the purpose of this part?

The purpose of this part is to set forth the basic policies of the Corporation governing the maintenance of its system of records which contains personal information concerning its employees as defined in the Privacy Act (5 U.S.C. 552a). Records included in this part are those described in aforesaid act and maintained by the Corporation and/or any component thereof.

§ 2508.3 What is the Corporation's Privacy Act policy?

It is the policy of the Corporation to protect, preserve, and defend the right

of privacy of any individual about whom the Corporation maintains personal information in any system of records and to provide appropriate and complete access to such records including adequate opportunity to correct any errors in said records. Further, it is the policy of the Corporation to maintain its records in such a manner that the information contained therein is, and remains material and relevant to the purposes for which it is received in order to maintain its records with fairness to the individuals who are the subjects of such records.

§ 2508.4 When can Corporation records be disclosed?

(a) (1) The Corporation will not disclose any record that is contained in its system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains, unless disclosure of the record would be:

(i) To employees of the Corporation who maintain the record and who have a need for the record in the performance of their official duties;

(ii) When required under the provisions of the Freedom of Information Act (5 U.S.C. 552);

(iii) For routine uses as appropriately published in the annual notice of the **Federal Register**;

(iv) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(v) To a recipient who has provided the Corporation with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(vi) To the National Archives and Records Administration of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Corporation for such records specifying the particular portion desired and the law enforcement activity for which the record is sought. Such a record may also be disclosed by the Corporation to the law enforcement agency on its own initiative in situations in which criminal conduct is suspected provided that such disclosure has been established as a routine use or in situations in which the misconduct is directly related to the purpose for which the record is maintained;

(viii) To a person pursuant to a showing of compelling circumstances affecting the health or safety of any individual if, upon such disclosure, notification is transmitted to the last known address of such individual;

(ix) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(x) To the Comptroller General or any of his or her authorized representatives, in the course of the performance of official duties in the General Accounting Office;

(xi) Pursuant to an order of a court of competent jurisdiction served upon the Corporation pursuant to 45 CFR 1201.3, and provided that if any such record is disclosed under such compulsory legal process and subsequently made public by the court which issued it, the Corporation must make a reasonable effort to notify the individual to whom the record pertains of such disclosure;

(xii) To a contractor, expert, or consultant of the Corporation (or an office within the Corporation) when the purpose of the release to perform a survey, audit, or other review of the Corporation's procedures and operations; and

(xiii) To a consumer reporting agency in accordance with section 3711(f) of title 31.

§ 2508.5 When does the Corporation publish its notice of its system of records?

The Corporation shall publish annually a notice of its system of records maintained by it as defined herein in the format prescribed by the General Services Administration in the **Federal Register**; provided, however, that such publication shall not be made for those systems of records maintained by other agencies while in the temporary custody of the Corporation.

§ 2508.6 When will the Corporation publish a notice for new routine uses of information in its system of records?

At least 30 days prior to publication of information under the preceding section, the Corporation shall publish in the **Federal Register** a notice of its intention to establish any new routine use of any system of records maintained by it with an opportunity for public comments on such use. Such notice shall contain the following:

(a) The name of the system of records for which the routine use is to be established.

(b) The authority for the system.

(c) The purpose for which the record is to be maintained.

(d) The proposed routine use(s).

(e) The purpose of the routine use(s).

(f) The categories of recipients of such use. In the event of any request for an addition to the routine uses of the systems which the Corporation maintains, such request may be sent to the following office: Corporation for National and Community Service, Director, Administration and Management Services, Room 6100, 1201 New York Avenue, NW, Washington, DC 20525.

§ 2508.7 To whom does the Corporation provide reports regarding changes in its system of records?

The Corporation shall provide to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, advance notice of any proposal to establish or alter any system of records as defined herein. This report will be submitted in accordance with guidelines provided by the Office of Management and Budget.

§ 2508.8 Who is responsible for establishing the Corporation's rules of conduct for Privacy Act compliance?

(a) The Chief Executive Officer shall ensure that all persons involved in the design, development, operation or maintenance of any system of records as defined herein are informed of all requirements necessary to protect the privacy of individuals who are the subject of such records. All employees shall be informed of all implications of the Act in this area including the civil remedies provided under 5 U.S.C. 552a(g)(1) and the fact that the Corporation may be subject to civil remedies for failure to comply with the provisions of the Privacy Act and this regulation.

(b) The Chief Executive Officer shall also ensure that all personnel having access to records receive adequate training in the protection of the security of personal records, and that adequate and proper storage is provided for all such records with sufficient security to assure the privacy of such records.

§ 2508.9 What officials are responsible for the security, management and control of Corporation record keeping systems?

(a) The Director of Administration and Management Services shall have overall control and supervision of the security of all systems of records and shall be responsible for monitoring the security standards set forth in this regulation.

(b) A designated official (System Manager) shall be named who shall have management responsibility for each record system maintained by the Corporation and who shall be responsible for providing protection and accountability for such records at all times and for insuring that such records are secured in appropriate containers whenever not in use or in the direct control of authorized personnel.

§ 2508.10 Who has the responsibility for maintaining adequate technical, physical, and security safeguards to prevent unauthorized disclosure or destruction of manual and automatic record systems?

The Chief Executive Officer has the responsibility of maintaining adequate technical, physical, and security safeguards to prevent unauthorized disclosure or destruction of manual and automatic record systems. These security safeguards shall apply to all systems in which identifiable personal data are processed or maintained, including all reports and outputs from such systems that contain identifiable personal information. Such safeguards must be sufficient to prevent negligent, accidental, or unintentional disclosure, modification or destruction of any personal records or data, and must furthermore minimize, to the extent practicable, the risk that skilled technicians or knowledgeable persons could improperly obtain access to modify or destroy such records or data and shall further insure against such casual entry by unskilled persons without official reasons for access to such records or data.

(a) *Manual systems.* (1) Records contained in a system of records as defined herein may be used, held or stored only where facilities are adequate to prevent unauthorized access by persons within or outside the Corporation.

(2) All records, when not under the personal control of the employees authorized to use the records, must be stored in a locked metal filing cabinet. Some systems of records are not of such confidential nature that their disclosure would constitute a harm to an individual who is the subject of such record. However, records in this category shall also be maintained in locked metal filing cabinets or maintained in a secured room with a locking door.

(3) Access to and use of a system of records shall be permitted only to persons whose duties require such access within the Corporation, for routine uses as defined in § 2508.4 as to any given system, or for such other uses as may be provided herein.

(4) Other than for access within the Corporation to persons needing such records in the performance of their official duties or routine uses as defined in § 2508.4, or such other uses as provided herein, access to records within a system of records shall be permitted only to the individual to whom the record pertains or upon his or her written request to the Director, Administration and Management Services.

(5) Access to areas where a system of records is stored will be limited to those persons whose duties require work in such areas. There shall be an accounting of the removal of any records from such storage areas utilizing a written log, as directed by the Director, Administration and Management Services. The written log shall be maintained at all times.

(6) The Corporation shall ensure that all persons whose duties require access to and use of records contained in a system of records are adequately trained to protect the security and privacy of such records.

(7) The disposal and destruction of records within a system of records shall be in accordance with rules promulgated by the General Services Administration.

(b) *Automated systems.* (1) Identifiable personal information may be processed, stored or maintained by automated data systems only where facilities or conditions are adequate to prevent unauthorized access to such systems in any form. Whenever such data, whether contained in punch cards, magnetic tapes or discs, are not under the personal control of an authorized person, such information must be stored in a locked or secured room, or in such other facility having greater safeguards than those provided for herein.

(2) Access to and use of identifiable personal data associated with automated data systems shall be limited to those persons whose duties require such access. Proper control of personal data in any form associated with automated data systems shall be maintained at all times, including maintenance of accountability records showing disposition of input and output documents.

(3) All persons whose duties require access to processing and maintenance of identifiable personal data and automated systems shall be adequately trained in the security and privacy of personal data.

(4) The disposal and disposition of identifiable personal data and automated systems shall be done by shredding, burning or in the case of tapes or discs, degaussing, in accordance with any regulations now or hereafter proposed by the General Services Administration or other appropriate authority.

§ 2508.11 How shall offices maintaining a system of records be accountable for those records to prevent unauthorized disclosure of information?

(a) Each office maintaining a system of records shall account for all records within such system by maintaining a written log in the form prescribed by the Director, Administration and Management Services, containing the following information:

(1) The date, nature, and purpose of each disclosure of a record to any person or to another agency. Disclosures made to employees of the Corporation in the normal course of their duties, or pursuant to the provisions of the Freedom of Information Act, need not be accounted for.

(2) Such accounting shall contain the name and address of the person or agency to whom the disclosure was made.

(3) The accounting shall be maintained in accordance with a system of records approved by the Director, Administration and Management Services, as sufficient for the purpose but in any event sufficient to permit the construction of a listing of all disclosures at appropriate periodic intervals.

(4) The accounting shall reference any justification or basis upon which any release was made including any written documentation required when records are released for statistical or law enforcement purposes under the provisions of subsection (b) of the Privacy Act of 1974 (5 U.S.C. 552a).

(5) For the purpose of this part, the system of accounting for disclosures is not a system of records under the definitions hereof, and need not be maintained within a system of records.

(6) Any subject individual may request access to an accounting of disclosures of a record. The subject individual shall make a request for access to an accounting in accordance with § 2508.13. An individual will be granted access to an accounting of the disclosures of a record in accordance with the procedures of this subpart which govern access to the related

record. Access to an accounting of a disclosure of a record made under § 2508.13 may be granted at the discretion of the Director, Administration and Management Services.

§ 2508.12 What are the contents of the systems of record that are to be maintained by the Corporation?

(a) The Corporation shall maintain all records that are used in making determinations about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(b) In situations in which the information may result in adverse determinations about such individual's rights, benefits and privileges under any Federal program, all information placed in a system of records shall, to the greatest extent practicable, be collected from the individual to whom the record pertains.

(c) Each form or other document that an individual is expected to complete in order to provide information for any system of records shall have appended thereto, or in the body of the document:

(1) An indication of the authority authorizing the solicitation of the information and whether the provision of the information is mandatory or voluntary.

(2) The purpose or purposes for which the information is intended to be used.

(3) Routine uses which may be made of the information and published pursuant to § 2508.6.

(4) The effect on the individual, if any, of not providing all or part of the required or requested information.

(d) Records maintained in any system of records used by the Corporation to make any determination about any individual shall be maintained with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the making of any determination about such individual, provided, however, that the Corporation shall not be required to update or keep current retired records.

(e) Before disseminating any record about any individual to any person other than an employee in the Corporation, unless the dissemination is made pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), the Corporation shall make reasonable efforts to ensure that such records are, or were at the time they were collected, accurate, complete, timely and relevant for Corporation purposes.

(f) Under no circumstances shall the Corporation maintain any record about any individual with respect to or describing how such individual exercises rights guaranteed by the First Amendment of the Constitution of the United States, unless expressly authorized by statute or by the individual about whom the record is maintained, or unless pertinent to and within the scope of an authorized law enforcement activity.

(g) In the event any record is disclosed as a result of the order of a court of appropriate jurisdiction, the Corporation shall make reasonable efforts to notify the individual whose record was so disclosed after the process becomes a matter of public record.

§ 2508.13 What are the procedures for acquiring access to Corporation records by an individual about whom a record is maintained?

(a) Any request for access to records from any individual about whom a record is maintained will be addressed to the Corporation for National and Community Service, Office of the General Counsel, Attn: Privacy Act Officer, Room 8200, 1201 New York Avenue, NW, Washington, DC 20525, or delivered in person during regular business hours, whereupon access to his or her record, or to any information contained therein, if determined to be releasable, shall be provided.

(b) If the request is made in person, such individual may, upon his or her request, be accompanied by a person of his or her choosing to review the record and shall be provided an opportunity to have a copy made of any record about such individual.

(c) A record may be disclosed to a representative chosen by the individual as to whom a record is maintained upon the proper written consent of such individual.

(d) A request made in person will be promptly complied with if the records sought are in the immediate custody of the Corporation. Mailed requests or personal requests for documents in storage or otherwise not immediately available, will be acknowledged within 10 working days, and the information requested will be promptly provided thereafter.

(e) With regard to any request for disclosure of a record, the following procedures shall apply:

(1) Medical or psychological records shall be disclosed to an individual unless, in the judgment of the Corporation, access to such records might have an adverse effect upon such individual. When such determination has been made, the Corporation may require that the information be disclosed only to a physician chosen by the requesting individual. Such physician shall have full authority to disclose all or any portion of such record to the requesting individual in the exercise of his or her professional judgment.

(2) Test material and copies of certificates or other lists of eligibles or any other listing, the disclosure of which would violate the privacy of any other individual, or be otherwise exempted by the provisions of the Privacy Act, shall be removed from the record before disclosure to any individual to whom the record pertains.

§ 2508.14 What are the identification requirements for individuals who request access to records?

The Corporation shall require reasonable identification of all individuals who request access to records to ensure that records are disclosed to the proper person.

(a) In the event an individual requests disclosure in person, such individual shall be required to show an identification card such as a drivers license, etc., containing a photo and a sample signature of such individual. Such individual may also be required to sign a statement under oath as to his or her identity, acknowledging that he or she is aware of the penalties for improper disclosure under the provisions of the Privacy Act.

(b) In the event that disclosure is requested by mail, the Corporation may request such information as may be necessary to reasonably ensure that the individual making such request is properly identified. In certain cases, the Corporation may require that a mail request be notarized with an indication that the notary received an acknowledgment of identity from the individual making such request.

(c) In the event an individual is unable to provide suitable documentation or identification, the Corporation may require a signed notarized statement asserting the identity of the individual and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000.

(d) In the event a requestor wishes to be accompanied by another person while reviewing his or her records, the Corporation may require a written statement authorizing discussion of his or her records in the presence of the accompanying representative or other persons.

§ 2508.15 What are the procedures for requesting inspection of, amendment or correction to, or appeal of an individual's records maintained by the Corporation other than that individual's official personnel file?

(a) A request for inspection of any record shall be made to the Director, Administration and Management Services. Such request may be made by mail or in person provided, however, that requests made in person may be required to be made upon a form provided by the Director of Administration and Management Services who shall keep a current list of all systems of records maintained by the Corporation and published in accordance with the provisions of this regulation. However, the request need not be in writing if the individual makes his or her request in person. The requesting individual may request that the Corporation compile all records pertaining to such individual at any named Service Center/State Office, AmeriCorps*NCCC Campus, or at Corporation Headquarters in Washington, DC, for the individual's inspection and/or copying. In the event an individual makes such request for a compilation of all records pertaining to him or her in various locations, appropriate time for such compilation shall be provided as may be necessary to promptly comply with such requests.

(b) Any such requests should contain, at a minimum, identifying information needed to locate any given record and a brief description of the item or items of information required in the event the individual wishes to see less than all records maintained about him or her.

(1) In the event an individual, after examination of his or her record, desires to request an amendment or correction of such records, the request must be submitted in writing and addressed to the Corporation for National and Community Service, Office of the General Counsel, Attn: Privacy Act Officer, Room 8200, 1201 New York Avenue, NW, Washington, DC 20525. In his or her written request, the individual shall specify:

(i) The system of records from which the record is retrieved;

(ii) The particular record that he or she is seeking to amend or correct;

(iii) Whether he or she is seeking an addition to or a deletion or substitution of the record; and,

(iv) His or her reasons for requesting amendment or correction of the record.

(2) A request for amendment or correction of a record will be acknowledged within 10 working days of its receipt unless the request can be processed and the individual informed of the Privacy Act Officer's decision on the request within that 10 day period.

(3) If the Privacy Act Officer agrees that the record is not accurate, timely, or complete, based on a preponderance of the evidence, the record will be corrected or amended. The record will be deleted without regard to its accuracy, if the record is not relevant or necessary to accomplish the Corporation's function for which the record was provided or is maintained. In either case, the individual will be informed in writing of the amendment, correction, or deletion and, if accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(4) If the Privacy Act Officer does not agree that the record should be amended or corrected, the individual will be informed in writing of the refusal to amend or correct the record. He or she will also be informed that he or she may appeal the refusal to amend or correct his or her record in accordance with § 2508.17.

(5) Requests to amend or correct a record governed by the regulation of another government agency will be forwarded to such government agency for processing and the individual will be informed in writing of the referral.

(c) In the event an individual disagrees with the Privacy Act Officer's initial determination, he or she may appeal such determination to the Appeal Officer in accordance with § 2508.17. Such request for review must be made within 30 days after receipt by the requestor of the initial refusal to amend.

§ 2508.16 What are the procedures for filing an appeal for refusal to amend or correct records?

(a) In the event an individual desires to appeal any refusal to correct or amend records, he or she may do so by addressing, in writing, such appeal to the Corporation for National and Community Service, Office of the Chief Operating Officer, Attn: Appeal Officer, 1201 New York Avenue NW, Washington, DC 20525. Although there is no time limit for such appeals, the Corporation shall be under no obligation to maintain copies of original requests or responses thereto beyond 180 days from the date of the original request..

(b) An appeal will be completed within 30 working days from its receipt by the Appeal Officer; except that, the appeal authority may, for good cause, extend this period for an additional 30 days. Should the appeal period be extended, the individual appealing the original refusal will be informed in writing of the extension and the circumstances of the delay. The individual's request for access to or to amend or correct the record, the Privacy Act Officer's refusal to amend or correct the record, and any other pertinent material relating to the appeal will be reviewed. No hearing will be held.

(c) If the Appeal Officer determines that the record that is the subject of the appeal should be amended or corrected, the record will be amended or corrected and the individual will be informed in writing of the amendment or correction. Where an accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(d) If the appeal is denied, the subject individual will be informed in writing:

(1) Of the denial and reasons for the denial;

(2) That he or she has a right to seek judicial review of the denial; and

(3) That he or she may submit to the Appeal Officer a concise statement of disagreement to be associated with the disputed record and disclosed whenever the record is disclosed.

(e) Whenever an individual submits a statement of disagreement to the Appeal Officer in accordance with paragraph (d)(3) of this section, the record will be annotated to indicate that it is disputed. In any subsequent disclosure, a copy of the subject individual's statement of disagreement will be disclosed with the record. If the appeal authority deems it appropriate, a concise statement of the Appeal Officer's reasons for denying the individual's appeal may also be disclosed with the record. While the individual will have access to this statement of reasons, such statement will not be subject to correction or amendment. Where an accounting was made of prior disclosures of the record, all previous recipients of the record will be provided a copy of the individual's statement of disagreement, as well as the statement, if any, of the Appeal Officer's reasons for denying the individual's appeal.

§ 2508.17 When shall fees be charged and at what rate?

(a) No fees shall be charged for search time or for any other time expended by the Corporation to review or produce a record except where an individual requests that a copy be made of the record to which he or she is granted access. Where a copy of the record must be made in order to provide access to the record (e.g., computer printout where no screen reading is available), the copy will be made available to the individual without cost.

(b) The applicable fee schedule is as follows:

(1) Each copy of each page, up to 8½"×14", made by photocopy or similar process is $0.10 per page.

(2) Each copy of each microform frame printed on paper is $0.25.

(3) Each aperture card is $0.25.

(4) Each 105-mm fiche is $0.25.

(5) Each 100' foot role of 35-mm microfilm is $7.00.

(6) Each 100' foot role of 16-mm microfilm is $6.00.

(7) Each page of computer printout without regard to the number of carbon copies concurrently printed is $0.20.

(8) Copying records not susceptible to photocopying (e.g., punch cards or magnetic tapes), at actual cost to be determined on a case-by-case basis.

(9) Other copying forms (e.g., typing or printing) will be charged at direct costs, including personnel and equipment costs.

(c) All copying fees shall be paid by the individual before the copying will be undertaken. Payments shall be made by check or money order payable to the "Corporation for National and Community Service," and provided to the Privacy Act Officer processing the request.

(d) A copying fee shall not be charged or collected, or alternatively, it may be reduced, when it is determined by the Privacy Act Officer, based on a petition, that the petitioning individual is indigent and that the Corporation's resources permit a waiver of all or part of the fee. An individual is deemed to be indigent when he or she is without income or lacks the resources sufficient to pay the fees.

(e) Special and additional services provided at the request of the individual, such as certification or authentication, postal insurance and special mailing arrangement costs, will be charged to the individual.

(f) A copying fee totaling $5.00 or less shall be waived, but the copying fees for contemporaneous requests by the same individual shall be aggregated to determine the total fee.

§ 2508.18 What are the penalties for obtaining a record under false pretenses?

The Privacy Act provides, in pertinent part that:

(a) Any person who knowingly and willfully requests to obtain any record concerning an individual from the Corporation under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000 (5 U.S.C. 552a(I)(3)).

(b) A person who falsely or fraudulently attempts to obtain records under the Privacy Act also may be subject to prosecution under such other criminal statutes as 18 U.S.C. 494, 495 and 1001.

§ 2508.19 What Privacy Act exemptions or control of systems of records are exempt from disclosure?

(a) Certain systems of records that are maintained by the Corporation are exempted from provisions of the Privacy Act in accordance with exemptions (j) and (k) of 5 U.S.C. 552a.

(1) Exemption of Inspector General system of records. Pursuant to, and limited by 5 U.S.C. 552a(j)(2), the system of records maintained by the Office of the Inspector General that contains the Investigative Files shall be exempted from the provisions of 5 U.S.C. 552a, except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e)(6)(7), (9), (10), and (11), and (I), and 45 CFR 2508.11, 2508.12, 2508.13, 2508.14, 2508.15, 2508.16, and 2508.17, insofar as the system contains information pertaining to criminal law enforcement investigations.

(2) Pursuant to, and limited by 5 U.S.C. 552a(k)(2), the system of records maintained by the Office of the Inspector General that contains the Investigative Files shall be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f), and 45 CFR 2508.11, 2508.12, 2508.13, 2508.14, 2508.15, 2508.16, and 2508.17, insofar as the system contains investigatory materials compiled for law enforcement purposes.

(b) Exemptions to the General Counsel system of records. Pursuant to, and limited by 5 U.S.C. 552a(d)(5), the system of records maintained by the Office of the General Counsel that contains the Legal Office Litigation/ Correspondence Files shall be exempted from the provisions of 5 U.S.C. 552a(d)(5), and 45 CFR 2508.4, insofar as the system contains information compiled in reasonable anticipation of a civil action or proceeding.

§ 2508.20 What are the restrictions regarding the release of mailing lists?

An individual's name and address may not be sold or rented by the Corporation unless such action is specifically authorized by law. This section does not require the withholding of names and addresses otherwise permitted to be made public.

Dated: April 15, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–9857 Filed 4–19–99; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–227; RM–9159; RM–9229; RM–9230]

Radio Broadcasting Services; Wasilla and Sterling, AK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 265C2 to Wasilla, Alaska, in lieu of previously proposed Channel 273C2, as that community's second local FM transmission service, in response to a petition for rule making filed on behalf of KMBQ Corporation (RM–9159). *See* 62 FR 61719, November 19, 1997. Additionally, in response to a counterproposal (RM–9229), the licensee issued to Morris Communications Corporation for Station KMXS(FM), Anchorage, is modified to specify operation on Channel 276C1 at coordinates 61–08–13 NL and 149–50–06 WL. (*See* Supplementary Information, *infra.*) Also, Channel 231C2 is allotted to Sterling, Alaska, as that community's first local aural transmission service, in response to a counterproposal filed on behalf of Chester P. Coleman (RM–9230). Coordinates used for Channel 265C2 at Wasilla, Alaska, are 61–38–05 NL and 149–22–14 WL. Coordinates used for Channel 231C2 at Sterling, Alaska, are 60–32–18 NL and 150–45–30 WL. With this action, the proceeding is terminated.

DATES: Effective May 24, 1999. A filing window for Channel 265C2 at Wasilla, Alaska, and for Channel 231C2 at Sterling, Alaska, will not be opened at this time. Instead, the issue of opening a filing window for those channels will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application filing process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–227, adopted March 31, 1999, and released April 9, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased

from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

We wish to clarify that although Channel 276C1 currently appears in the FM Table of Allotments at Anchorage, it was downgraded to Channel 276C2 on August 26, 1994, at the request of the former licensee of Station KMXS(FM) (see File No. BPH–931229IA). An editorial amendment to the Table of Allotments was never made to reflect the change at Anchorage. Therefore, it is not necessary to amend the Table of Allotments with respect to that community. However, Morris Communications Corporation is expected to abide by the requirements of Section 1.1104(3)(1) of the Commission's Rules when filing its application to implement the upgrade for Station KMXS(FM) at Anchorage.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alaska, is amended by adding Sterling, Channel 231C2.

3. Section 73.202(b), the Table of FM Allotments under Alaska, is amended by adding Channel 265C2 at Wasilla.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–9766 Filed 4–19–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF59

Endangered and Threatened Wildlife and Plants; Emergency Rule To List the Sierra Nevada Distinct Population Segment of California Bighorn Sheep as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), exercise our authority to emergency list the Sierra Nevada distinct population segment of California bighorn sheep (*Ovis canadensis californiana*), occupying the Sierra Nevada of California, as endangered under the Endangered Species Act of 1973, as amended (Act). The Sierra Nevada bighorn sheep is known from five disjunct subpopulations along the eastern escarpment of the Sierra Nevada totaling about 100 animals.

All five subpopulations are very small and are imminently threatened by mountain lion (*Puma concolor*) predation and disease. Because these threats constitute an emergency posing a significant risk to the well-being of the Sierra Nevada bighorn sheep, we find that emergency listing is necessary. This emergency rule provides Federal protection pursuant to the Act for this species for a period of 240 days. A proposed rule to list the Sierra Nevada bighorn sheep as endangered is published concurrently with this emergency rule in this same issue of the **Federal Register** in the proposed rule section.

DATES: This emergency rule becomes effective immediately upon publication and expires December 16, 1999.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Rd. Suite B, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Carl Benz, at the address listed above (telephone 805/644–1766; facsimile 805/644–3958).

Background

The bighorn sheep (*Ovis canadensis*) is a large mammal (family Bovidae) originally described by Shaw in 1804 (Wilson and Reeder 1993). Several subspecies of bighorn sheep have been recognized on the basis of geography and differences in skull measurements (Cowan 1940; Buechner 1960). These subspecies of bighorn sheep, as described in these early works, include *O. c. cremnobates* (Peninsular bighorn sheep), *O. c. nelsoni* (Nelson bighorn sheep), *O. c. mexicana* (Mexican bighorn sheep), *O. c. weemsi* (Weems bighorn sheep), *O. c. californiana* (California bighorn sheep), and *O. c. canadensis* (Rocky Mountain bighorn sheep). However, recent genetic studies question the validity of some of these subspecies and suggest a need to re-evaluate overall bighorn sheep taxonomy. For example, Sierra Nevada bighorn sheep appear to be more closely related to desert bighorn sheep than the *O. c. californiana* found in British Columbia (Ramey 1991, 1993). Regardless, the Sierra Nevada bighorn sheep meets our criteria for consideration as a distinct vertebrate population segment (as discussed below) and is treated as such in this emergency rule.

The historical range of the Sierra Nevada bighorn sheep (*Ovis canadensis californiana*) includes the eastern slope of the Sierra Nevada, and, for at least one subpopulation, a portion of the western slope, from Sonora Pass in Mono County south to Walker Pass in Kern County, a total distance of about 346 kilometers (km) (215 miles (mi)) (Jones 1950; Wehausen 1979, 1980). By the turn of the century, about 10 out of 20 historical subpopulations survived. The number dropped to five subpopulations at mid-century, and down to two subpopulations in the 1970s, near Mount Baxter and Mount Williamson in Inyo County (Wehauser 1979). Currently, five subpopulations of Sierra Nevada bighorn sheep occur at Lee Vining Canyon, Wheeler Crest, Mount Baxter, Mount Williamson, and Mount Langley in Mono and Inyo counties, three of which are reintroduced subpopulations established from sheep obtained from the Mount Baxter subpopulation from 1979 to 1986 (Wehausen *et al.* 1987).

The Sierra Nevada bighorn sheep is similar in appearance to other desert associated bighorn sheep. The species' pelage shows a great deal of color variation, ranging from almost white to dark brown, with a white rump. Males and females have permanent horns; the horns are massive and coiled in males, and are smaller and not coiled in females (Jones 1950; Buechner 1960). As the animals age, their horns become rough and scarred with age, and will vary in color from yellowish-brown to dark brown. In comparison to many other desert bighorn sheep, the horns of the Sierra Nevada bighorn sheep are generally more divergent as they coil out from the base (Wehausen 1983). Adult male sheep stand up to a meter (m) (3 feet (ft)) tall at the shoulder; males weigh up to 99 kilograms (kg) (220 pounds (lbs)) and females 63 kg (140 lbs) (Buechner 1960).

The current and historical habitat of the Sierra Nevada bighorn sheep is almost entirely on public land managed by the U.S. Forest Service (USFS), Bureau of Land Management (BLM), and National Park Service (NPS). The Sierra Nevada is located along the eastern boundary of California, and peaks vary

in elevation from 1825 to 2425 (m) (6000 to 8000 ft) in the north, to over 4300 m (14,000 ft) in the south adjacent to Owens Valley, and then drop rapidly in elevation in the southern extreme end of the range (Wehausen 1980). Most precipitation, in the form of snow, occurs from October through April (Wehausen 1980).

Sierra Nevada bighorn sheep inhabit the alpine and subalpine zones during the summer, using open slopes where the land is rough, rocky, sparsely vegetated and characterized by steep slopes and canyons (Wehausen 1980: Sierra Nevada Bighorn Sheep Interagency Advisory Group (Advisory Group) 1997). Most of these sheep live between 3,050 and 4,270 m (10,000 and 14,000 ft) in elevation in summer (John Wehausen, University of California, White Mountain Research Station, pers. comm. 1999). In winter, they occupy high, windswept ridges, or migrate to the lower elevation sagebrush-steppe habitat as low as 1,460 m (4,800 ft) to escape deep winter snows and find more nutritious forage. Bighorn sheep tend to exhibit a preference for south-facing slopes in the winter (Wehausen 1980). Lambing areas are on safe steep, rocky slopes. They prefer open terrain where they are better able to see predators. For these reasons, they usually avoid forests and thick brush if possible (J. Wehausen, pers. comm. 1999).

Bighorn sheep are primarily diurnal, and their daily activity show some predictable patterns that consists of feeding and resting periods (Jones 1950). Bighorn sheep are primarily grazers, however, they may browse woody vegetation when it is growing and very nutritious. They are opportunistic feeders selecting the most nutritious diet from what is available. Plants consumed include varying mixtures of graminoids (grasses), browse (shoots, twigs, and leaves of trees and shrubs), and herbaceous plants depending on season and location (Wehausen 1980). In a study of the Mount Baxter and Mount Williamson subpopulations, Wehausen (1980) found that grass, mainly *Stipa speciosa* (perennial needlegrass), is the primary diet item in winter. As spring green-up progresses, the bighorn sheep shift from grass to a more varied browse diet, which includes *Ephedra viridis* (Mormon tea), *Eriogonum fasciculatum* (California buckwheat), and *Purshia* species (bitterbrush).

Sierra Nevada bighorn sheep are gregarious, with group size and composition varying with gender and from season to season. Spatial segregation of males and females occurs outside the mating season, with males more than 2 years old living apart from females and younger males for most of the year (Jones 1950; Cowan and Geist 1971; Wehausen 1980). Ewes generally remain all their lives in the same band into which they were born (Cowan and Geist 1971). During the winter, Sierra Nevada bighorn sheep concentrate in those areas suitable for wintering, preferably Great Basin habitat (sagebrush steppe) at the very base of the eastern escarpment. Subpopulation size can number more than 100 sheep, including rams (this was observed at a time when the population size was larger than it is currently) (J. Wehausen, pers. comm. 1999). By summer, these subpopulations decrease in size as more habitat becomes available. Breeding takes place in the fall, generally in November (Cowan and Geist 1971). Single births are the norm for North American wild sheep, but twinning is known to occur (Wehausen 1980). Gestation is about 6 months (Cowan and Geist 1971).

Lambing occurs between late April to early July, with most lambs born in May or June (Wehausen 1980, 1996). Ewes with newborn lambs live solitarily for a short period before joining nursery groups that average about six sheep. Ewes and lambs frequently occupy steep terrain that provides a diversity of slopes and exposures for escape cover. Lambs are precocious, and within a day or so, climb almost as well as the ewes. Lambs are able to eat vegetation within 2 weeks of their birth and are weaned between 1 and 7 months of age. By their second spring, they are independent of their mothers. Female lambs stay with ewes indefinitely and may attain sexual maturity during the second year of life. Male lambs, depending upon physical condition, may also attain sexual maturity during the second year of life (Cowan and Geist 1971). Average lifespan is 9 to 11 years in both sexes, though some rams are known to have lived 12 to 14 years (Cowan and Geist 1971; Wehausen 1980).

Distinct Vertebrate Population Segment

Recent analyses of bighorn sheep genetics and morphometrics (size and shape of body parts) suggest reevaluation of the taxonomy of Sierra Nevada bighorn sheep (*Ovis canadensis californiana*) is necessary (Ramey 1991, 1993,1995; Wehausen and Ramey 1993, 1998). A recent analysis of the taxonomy of bighorn sheep using morphometrics (e.g., size and shape of skull components) failed to support the current taxonomy (Wehausen and Ramey 1993). However, this and other research (Ramey 1993) support taxonomic distinction of the Sierra Nevada bighorn sheep relative to other nearby regions.

The biological evidence supports recognition of Sierra Nevada bighorn sheep as a distinct vertebrate population segment for purposes of listing, as defined in our February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722). The definition of "species" in section 3(16) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) includes "any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." For a population to be listed under the Act as a distinct vertebrate population segment, three elements are considered—(1) the discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (i.e., is the population segment endangered or threatened?) (61 FR 4722).

The distinct population segment (DPS) of bighorn sheep in the Sierra Nevada is discrete in relation to the remainder of the species as a whole. This DPS is geographically isolated and separate from other California bighorn sheep. There is no mixing of this population with other bighorn sheep, and this is supported by evaluation of the population's genetic variability and morphometric analysis of skull and horn variation (Ramey 1993, 1995; Wehausen and Ramey 1993, 1994; Wehausen and Ramey 1999 (in review)). Researchers suggest that all other populations of *O. c. californiana* be reassigned to other subspecies, leaving *O. c. californiana* (i.e., the DPS that is the subject of this rule) only in the central and southern Sierra Nevada (Ramey 1993, 1995; Wehausen and Ramey 1993, 1994; Wehausen and Ramey 1999 (in review)).

Sierra Nevada bighorn sheep DPS is biologically and ecologically significant to the species to which it belongs in that it constitutes the only population of California bighorn sheep inhabiting the Sierra Nevada. This DPS extends from Sonora Pass to Walker Pass, and spans approximately 346 km (215 mi) of contiguous suitable habitat in the United States. The loss of Sierra Nevada bighorn sheep would result in the total extirpation of bighorn sheep from the Sierra Nevada in California.

Status and Distribution

Historically, bighorn sheep populations occurred along and east of the Sierra Nevada crest from Sonora Pass (Mono County) south to Walker Pass (Olancha Peak) (Kern County) (Jones 1950; Wehausen 1979). Sheep apparently occurred wherever appropriate rocky terrain and winter range existed. With some exception, most of the populations wintered on the east side of the Sierra Nevada and spent summers near the crest (Wehausen 1979).

Subpopulations of Sierra Nevada bighorn sheep probably began declining with the influx of gold miners to the Sierra Nevada in the mid-1880s, and those losses have continued through the 1900s (Wehausen 1988). By the 1970s, only 2 subpopulations of Sierra Nevada bighorn sheep, those near Mount Baxter and Mount Williamson in Inyo County, are known to have survived (Wehausen 1979). Specific causes for the declines are unknown. Market hunting may have been a contributing factor as evidenced by menus from historic mining towns such as Bodie, which included bighorn sheep (Advisory Group 1997). However, with the introduction of domestic sheep in the 1860s and 1870s, wild sheep are known to have died in large numbers in several areas from disease contracted from domestic livestock (Jones 1950; Buechner 1960). Large numbers of domestic sheep were grazed seasonally in the Owens Valley and Sierra Nevada prior to the turn of the century (Wehausen 1988), and disease is believed to be the factor most responsible for the disappearance of bighorn sheep subpopulations in the Sierra Nevada. Jones (1950) suggested that scabies was responsible for a die-off in the 1870s on the Great Western Divide. Experiments have confirmed that bacterial pneumonia (*Pasteurella* species), carried normally by domestic sheep, can be fatal to bighorn sheep (Foreyt and Jessup 1982).

By 1979, only 220 sheep were known to exist in the Mount Baxter subpopulation, and 30 in the Mount Williamson subpopulation (Wehausen 1979). Conservation efforts by several Federal and State agencies from 1970 to 1988 were aimed at expanding the distribution of Sierra Nevada bighorn sheep by translocating sheep back into historical habitat. Sheep were obtained from the Mount Baxter subpopulation and transplanted to three historic locations. Consequently, Sierra Nevada bighorn sheep now occur in five subpopulations in Mono and Inyo counties: Lee Vining Canyon, Wheeler Crest, Mount Baxter, Mount Williamson, and Mount Langley. The Sierra Nevada bighorn sheep population reached a high of about 310 in 1985–86. Subsequently, population surveys have documented a declining trend (J. Wehausen, pers. comm. 1999).

The following table best represents the total Sierra Nevada bighorn sheep population over various time periods. These totals represent the numbers of sheep emerging from winter in each of these years, and best document the status of the population by incorporating winter mortality, especially of lambs born the previous year. These totals are not absolute values; numbers have been rounded to the nearest five (J. Wehausen, pers. comm. 1999). The continuing decline of the Sierra Nevada bighorn sheep has been attributed to a combination of the direct and indirect effects of predation (Wehausen 1996).

TABLE 1. SIERRA NEVADA BIGHORN SHEEP POPULATION NUMBERS, BY YEAR (J. WEHAUSEN, PERS. COMM. 1999)

Year	Number of populations	Total sheep
1978	2	250
1985	4	310
1995	5	100
1996	5	110
1997	5	130
1998	5	100

Previous Federal Action

In our September 18, 1985, Notice of Review, we designated the Sierra Nevada bighorn sheep as a category 2 candidate and solicited status information (50 FR 37958). Category 2 candidates were those taxa for which we had information indicating that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support a proposed rule. Category 1 taxa were those taxa for which we had sufficient information on file to support issuance of proposed listing rules. In our January 6, 1989 (54 FR 554), and November 21, 1991 (56 FR 58804), Notices of Review, we retained the Sierra Nevada bighorn sheep in category 2. Beginning with our February 28, 1996, Notice of Review (61 FR 235), we discontinued the designation of multiple categories of candidates, and we now consider only taxa that meet the definition of former category 1 as candidates for listing. At this point, the Sierra Nevada bighorn sheep was identified as a species of concern.

The processing of this emergency rule conforms with our listing priority guidance published in the **Federal Register** on May 8, 1998 (63 FR 25502). This guidance clarifies the order in which we will process rulemakings giving highest priority (Tier 1) to processing emergency listings and second highest priority (Tier 2) to resolving the listing status of outstanding proposed listings, resolving the conservation status of candidate species, processing administrative findings on petitions to add species to the lists or reclassify species from threatened to endangered status, and delisting or reclassifying actions. The lowest priority actions, processing critical habitat designations, are in Tier 3. This emergency rule constitutes a Tier 1 action.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, we have determined that the Sierra Nevada bighorn sheep warrants classification as an endangered distinct population segment. We followed procedures found at section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act. We may determine a species to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors, and their application to the Sierra Nevada bighorn sheep distinct population segment (*Ovis canadensis californiana*), are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat throughout the historic range of Sierra Nevada bighorn sheep remains essentially intact; the habitat is neither fragmented nor degraded. However, by 1900, about half of the Sierra Nevada bighorn sheep populations were lost, most likely because of introduction of diseases by domestic livestock, and illegal hunting (Advisory Group 1997). Beginning in 1979, animals from the Mount Baxter subpopulation were translocated to reestablish subpopulations in Lee Vining Canyon, Wheeler Crest, and Mount Langley in Mono and Inyo counties (Advisory Group 1997). Currently, Sierra Nevada bighorn sheep are limited to five subpopulations. Almost all of the historical and current habitat is administered by either the USFS, BLM, or NPS. Some small parcels of inholdings within the species' range are owned by the Los Angeles Department

of Water and Power. Also, there are some patented mining claims in bighorn sheep habitat, but the total acreage is small.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* During the period of the California gold rush (starting about 1849), hunting to supply food for mining towns may have played a role in the decline of the population (Wehausen 1988). Besides being sought as food, Sierra Nevada bighorn sheep were also killed by sheepmen who considered wild sheep as competitors for forage with domestic sheep. The decimation of several wildlife species in the late 1800s prompted California to pass legislation providing protection to deer, elk, pronghorn antelope, and bighorn sheep (Jones 1950; Wehausen 1979).

Commercial and recreational hunting of Sierra Nevada bighorn sheep is not permitted under State law. There is no evidence that other commercial, recreational, scientific, or educational activities are currently a threat. Poaching does not appear to be a problem at this time.

C. *Disease or predation.* Disease is believed to have been the major contributing factor responsible for the precipitous decline of Sierra Nevada bighorn sheep starting in the late 1800s (Foreyt and Jessup 1982).

Bighorn sheep are host to a number of internal and external parasites, including ticks, lice, mites, tapeworms, roundworms, and lungworms. Most of the time, parasites are present in relatively low numbers and have little effect on individual sheep and populations (Cowan and Geist 1971).

Cattle were first introduced into the Sierra Nevada in 1860s but were replaced with domestic sheep that could graze more extensively over the rugged terrain (Wehausen *et al.* 1987; Wehausen 1988). Large numbers of domestic sheep were grazed seasonally in the Sierra Nevada prior to the turn of the century, and the domestic sheep would use the same ranges as the wild sheep, occasionally coming into direct contact with them. Both domestic sheep and cattle can act as disease reservoirs. Scabies, most likely contracted from domestic sheep, caused a major decline of bighorn sheep in California in the 1870s to the 1890s and caused catastrophic die-offs in other parts of their range (Buechner 1960). A die-off of bighorn sheep in the 1870s on the Great Western Divide (Mineral King area of Sequoia National Park) was attributed to scabies, presumably contracted from domestic sheep (Jones 1950).

Die-offs from pneumonia contracted from domestic sheep is another important cause of losses. In 1988, a strain of pneumonia, apparently contracted from domestic sheep, wiped out a reintroduced herd of bighorn sheep in Modoc County. Native bighorn sheep cannot tolerate strains of respiratory bacteria, such as *Pasteurella* species, carried normally by domestic sheep and close contact with domestic animals results in transmission of disease and subsequent deaths of the exposed animals (Foreyt and Jessup 1982). Bighorn sheep can also develop pneumonia independent of contact with domestic sheep. Lungworms of the genus *Protostrongylus* are often an important contributor to the pneumonia disease process in some situations (J. Wehausen, pers. comm. 1999). Lungworms are carried by an intermediate host snail, which is ingested by a sheep as it is grazing. Lungworm often exists in a population, but usually doesn't cause a problem. However, if the sheep are stressed in some way, they may develop bacterial pneumonia, which is complicated by lungworm infestation. Bacterial pneumonia is usually a sign of weakness caused by some other agent such as a virus, parasite, poor nutrition, predation, human disturbance, or environmental or behavioral stress that lowers the animal's resistance to disease (Wehausen 1979; Foreyt and Jessup 1982). Bighorn sheep in the Sierra Nevada carry *Protostrongylus* species (lungworms), but the parasite loads have been low, and there has been no evidence of any clinical signs of disease or disease transmission (Wehausen 1979; Richard Perloff, Inyo National Forest, pers. comm. 1999).

Currently, domestic sheep grazing allotments are permitted by the U.S. Forest Service in areas adjacent to Sierra Nevada bighorn sheep subpopulations. Domestic sheep occasionally escape the allotments and wander into bighorn sheep areas, sometimes coming into direct contact with bighorn sheep (Advisory Group 1997). For example, in 1995, 22 domestic sheep that were permitted on USFS land wandered away from the main band and were later found in Yosemite National Park, after crossing through occupied bighorn sheep habitat (Advisory Group 1997; Bonny Pritchard, Inyo National Forest, pers. comm. 1999; R. Perloff, pers. comm. 1999). Other stray domestic sheep, in smaller numbers, have been known to wander up the road in Lee Vining Canyon into bighorn sheep habitat (B. Pritchard, pers. comm. 1999). Based on available information, and given the susceptibility of bighorn sheep to introduced pathogens, disease will continue to pose a significant and underlying threat to the survival of Sierra Nevada bighorn sheep until the potential for contact with domestic sheep is eliminated.

Predators such as coyote (*Canis latrans*), bobcat (*Lynx rufus*), mountain lion, gray fox (*Urocyon cinereoargenteus*), golden eagle (*Aquila chrysaetos*), and free-roaming domestic dogs prey upon bighorn sheep (Jones 1950; Cowan and Geist 1971). Predation generally has an insignificant effect except on small populations such as the Sierra Nevada bighorn sheep. Coyotes are the most abundant large predator sympatric (occurring in the same area) with bighorn sheep populations (Bleich 1999) and are known to have killed young Sierra Nevada bighorn sheep (Vernon Bleich, California Department of Fish and Game, pers. comm. 1999). In the late 1980s, mountain lion predation of Sierra Nevada bighorn sheep increased throughout their range (Wehausen 1996). This trend has continued into the 1990s, as evidenced by Table 1.

Predation by mountain lion probably was a natural occurrence and part of the natural balance of this ecosystem. From 1907 to 1963, the State provided a bounty on mountain lions; the State also hired professional lion hunters for many years. The bounty most likely kept the mountain lion population reduced such that bighorn sheep predation was rare and insignificant. Between 1963 and 1968, mountain lions were managed as a nongame and nonprotected mammal, and take was not regulated. From 1969 to 1972, lions were re-classified as game animals. A moratorium on mountain lion hunting began in 1972 and lion numbers likely increased. In 1986, the species was again classified as a game animal, but the California Department of Fish and Game (CDFG) hunting recommendations were challenged in court in 1987 and 1988 (Torres *et al.* 1996). In 1990, a State-wide ballot initiative (Proposition 117) passed into law prohibiting the killing of mountain lions except if humans or their pets or livestock are threatened. Another ballot measure, Proposition 197, which would have modified current law regarding mountain lion management failed to pass in 1996, largely because of the public's concern that the change may allow mountain lion hunting (Torres *et al.* 1996). With the removal of the ability to control the mountain lion population, lion predation has become a significant limiting factor for the Sierra Nevada bighorn sheep.

The increased presence of mountain lions appears to have changed Sierra Nevada bighorn sheep winter habitat use patterns. Wehausen (1996) looked at mountain lion predation in two bighorn sheep subpopulations, one in the Granite Mountains of the eastern Mojave Desert, and the other was the Mount Baxter subpopulation in the Sierra Nevada. He found that the lions reduced the subpopulation in the Granite Mountains to eight ewes between 1989 and 1991, and held it at that level for 3 years, after which lion predation decreased and the bighorn sheep subpopulation increased at 15 percent per year for 3 years. All the mortality in that subpopulation was attributed to mountain lion predation. The Mount Baxter bighorn sheep subpopulation abandoned its winter ranges, presumably due to mountain lion predation. Forty-nine sheep were killed by lions on their winter range between 1976 and 1988 out of an average subpopulation size of 127 sheep. These mortalities from mountain lion predation represented 80 percent of all mortality on the winter range, and 71 percent for all ranges used. There is also evidence that many of the bighorn sheep killed were prime-aged animals (J. Wehausen, pers. comm. 1999).

The bighorn sheep on Mount Baxter moved to higher elevations possibly to evade lions. By avoiding the lower terrain and higher quality forage present during the spring, sheep emerge from the winter months in poorer condition. Consequences from the change in habitat use resulted in a decline in the Mount Baxter subpopulation due to decreased lamb survival, because lambs were born later and died in higher elevations during the winter. This may have also been the case with the Lee Vining subpopulation decline, when the bighorn sheep ran out of fat reserves at a time when they should have been replenishing their reserves with highly nutritious forage from low elevation winter ranges. Because of the winter habitat shift by the bighorn sheep, the Mount Baxter subpopulation has declined significantly. With the large decline of bighorn sheep on Mount Baxter, the total population of Sierra Nevada bighorn sheep has now dropped below what existed when the restoration program began in 1979 (Wehausen 1996; Advisory Group 1997). In a 1996 survey on Mount Williamson, there was no evidence of groups of sheep, and this subpopulation was the last one found using its low-elevation winter range in 1986. Mountain lion predation may have led to the extirpation of this subpopulation, one of the last two native subpopulations of Sierra Nevada bighorn sheep (Wehausen 1996; J. Wehausen, pers. comm. 1999).

The Sierra Nevada bighorn sheep restoration program used the Mount Baxter subpopulation as the source of reintroduction stock from 1979 to 1988. The three reintroduced subpopulations at Lee Vining Canyon, Wheeler Mountain, and Mount Langley all suffered from mountain lion predation shortly after translocation of sheep (Wehausen 1996). The Lee Vining Canyon subpopulation lost a number of sheep to mountain lion predation, threatening the success of the reintroduction effort (Chow 1991, cited by Wehausen (1996)). The subpopulation was supplemented with additional sheep and the State removed one mountain lion each year for 3 years, which helped reverse the decline of this subpopulation (Bleich *et al.* 1991 and Chow 1991, cited by Wehausen (1996)). Also, because domestic sheep are preyed upon by mountain lions, livestock operators who have a Federal permit to graze their sheep on USFS land can get a depredation permit from the State, and have the U.S. Department of Agriculture, Wildlife Services, remove the mountain lion. The Lee Vining Canyon subpopulation occurs in the general area where domestic sheep are permitted, and has benefitted for the last 4 or 5 years from the removal of two to three mountain lions per year that were preying on domestic sheep (B. Pritchard, pers. comm. 1999).

D. *The inadequacy of existing regulatory mechanisms.* In response to a very rapid decline in population numbers, in 1876, the State legislature amended a 1872 law that provided seasonal protection for elk, deer and pronghorn to include all bighorn sheep. Two years later, this law was amended, establishing a 4-year moratorium on the taking of any pronghorn, elk, mountain sheep or female deer. In 1882, this moratorium was extended indefinitely for bighorn sheep (Wehausen *et al.* 1987; Wehausen *et al.* 1988). In 1971, California listed the California bighorn sheep as "rare." The designation was changed to "threatened" in 1984 to standardize the terminology of the amended California Endangered Species Act (Advisory Group 1997), and upgraded the species to "endangered" in 1999 (San Francisco Chronicle 1999). Pursuant to the California Fish and Game Code and the California Endangered Species Act, it is unlawful to import or export, take, possess, purchase, or sell any species or part or product of any species listed as endangered or threatened. Permits may be authorized for certain scientific, educational, or management purposes. The California Endangered Species Act requires that State agencies consult with the CDFG to ensure that actions carried out are not likely to jeopardize the continued existence of listed species.

The California Fish and Game Code provides for management and maintenance of bighorn sheep. The policy of the State is to encourage the preservation, restoration, and management of California's bighorn sheep. The CDFG supports the concept of separating livestock from bighorn sheep, by creating buffers, to decrease the potential for disease transmission. Such separation would require the purchase and elimination of livestock allotments. However, the State does not have authority to regulate grazing practices on Federal lands. State listing has not prompted the BLM or USFS to effectively address disease transmission associated with Federal livestock grazing programs.

Since the Sierra Nevada bighorn sheep was listed by the State of California in 1971, the CDFG has undertaken numerous efforts for the conservation of the sheep, including but not limited to—(1) intensive field studies; (2) reestablishment of three additional subpopulations in historical habitat; (3) creation, in 1981, of the Sierra Nevada Bighorn Sheep Interagency Advisory Group, including representatives from Federal, State, and local resource management agencies which has produced the Sierra Nevada Bighorn Sheep Recovery and Conservation Plan (1984) and a Conservation Strategy for Sierra Nevada Bighorn Sheep (1997); and (4) culling four mountain lions that were taking Sierra Nevada bighorn sheep, which played a significant role in the efforts to reestablish one subpopulation (Chow 1991, cited by Wehausen (1996)).

Mountain lion hunting has not occurred in California since 1972 (Torres *et al.* 1996). As a result of passage of Proposition 117 in 1990 prohibiting the hunting or control of mountain lions, the CDFG does not have the authority to remove mountain lions to protect the Sierra Nevada bighorn sheep and secure their survival.

Federal agencies have adequate authority to manage the land and activities under their administration to benefit the welfare of the bighorn sheep. Steps are being taken to enhance habitat through prescribed burning to improve forage and maintain open habitat, and to retire domestic sheep allotments that run adjacent to bighorn sheep habitat. For example, 650 acres were burned in 1997 in Lee Vining Canyon to reduce mountain lion hiding cover, and there

are plans to do more burns in other areas on USFS land (R. Perloff, pers. comm. 1999). However, in some cases, because of conflicting management concerns, conservation efforts are not proceeding as quickly as necessary. Although efforts have been underway for many years, the USFS has been unable to eliminate the known threat of contact between domestic sheep and the Sierra Nevada bighorn sheep by either eliminating adjacent grazing allotments, or modifying allotments such that a sufficient buffer zone exists that would prevent contact between wild and domestic sheep.

In 1971, the State, in cooperation with the USFS, established a sanctuary for the Mount Baxter and Mount Williamson subpopulation of Sierra Nevada bighorn sheep and called it the California Bighorn Sheep Zoological Area (Zoological Area) (Wehausen 1979; Inyo National Forest Land Management Plan (LMP) 1988). About 16,564 hectares (41,000 acres) of USFS land was set aside for these two subpopulations. At the time, it was felt that the reason for the species' decline was related to human disturbance. The sanctuary was designed to regulate human use in some areas, and reduce domestic sheep/wild sheep interaction by constructing a fence below the winter range of the Mount Baxter subpopulation along the USFS boundary (Wehausen 1979). Adjacent summer range on NPS land was also given a restrictive designation to reduce human disturbance (Wehausen 1979). The Zoological Area continues to receive special management by the USFS; it encompasses land designated as wilderness and mountain sheep habitat (LMP 1988; R. Perloff, pers. comm. 1999).

E. *Other natural or manmade factors affecting its continued existence.* The Sierra Nevada bighorn sheep population is critically small with a total of only about 100 sheep known from five subpopulations. There is no known interaction between the separate subpopulations. The Sierra Nevada bighorn sheep currently is highly vulnerable to extinction from threats associated with small population size and random environmental events.

Although inbreeding depression has not been demonstrated in the Sierra Nevada bighorn sheep, the number of sheep occupying all areas is critically low. The minimum size at which an isolated group of this species can be expected to maintain itself without the deleterious effects of inbreeding is not known. Researchers have suggested that a minimum effective population size of 50 is necessary to avoid short-term inbreeding depression, and 500 to maintain genetic variability for long-term adaptation (Franklin 1980). Small populations are extremely susceptible to demographic and genetic problems (Caughley and Gunn 1996). Small populations suffer higher extinction probabilities from chance events such as skewed sex ratio of offspring, (e.g., fewer females being born than males). For example, the Mount Langley subpopulation has been declining. In 1996–97, out of a subpopulation of 4 ewes and 10 rams, 5 lambs were born, of which 4 were female. Although a positive event for this subpopulation, it could have been devastating if the female:male ratio of offspring had been reversed (J. Wehausen, pers. comm. 1999).

Small, isolated groups are also subject to extirpation by naturally occurring random environmental events, e.g., prolonged or particularly heavy winters and avalanches. In 1995, for example, a dozen sheep died in a single avalanche at Wheeler Ridge (J. Wehauser, pers. comm. 1999). Such threats are highly significant because currently the subpopulations are small and it is also common in bighorn sheep for all members of one sex to occur in a single group. During the very heavy winters in the late 1970s and early 1980s, there was no notable mortality in the subpopulations because they were using low elevation winter ranges (J. Wehausen, pers. comm. 1999).

Competition for critical winter range resources can occur between bighorn sheep and elk and/or deer (Cowan and Geist 1971). However, competition between these species does not appear significant since deer and bighorn sheep readily mix on winter range, and the habitat overlap between elk and bighorn sheep is slight (Wehausen 1979).

In addition to disease, mountain lion predation, and random natural events, other factors may contribute to bighorn sheep mortality. For example, two subpopulations (Wheeler Ridge and Lee Vining) have ranges adjacent to paved roadways exposing individuals from those subpopulations to potential hazards. Bighorn sheep have been killed by vehicles in Lee Vining Canyon on several occasions (V. Bleich, pers. comm. 1999).

Reason for Emergency Determination

Under section 4(b)(7) of the Act and regulations at 50 CFR 424.20, we may emergency list a species if the threats to the species constitute an emergency posing a significant risk to its well-being. Such an emergency listing expires 240 days following publication in the **Federal Register** unless, during this 240-day period, we list the species following the normal listing procedures. We discuss the reasons why emergency listing the Sierra Nevada bighorn sheep as endangered is necessary below. In accordance with the Act, if at any time after we publish this emergency rule, we determine that substantial evidence does not exist to warrant such a rule, we will withdraw it.

Historically, the Sierra Nevada bighorn sheep ranged throughout central and southern Sierra Nevada. The historical habitat of the Sierra Nevada bighorn sheep remains intact. However, the entire range of the species has been reduced to five subpopulations—the Mount Williamson and Mount Baxter subpopulations, which are composed of native sheep, and the Lee Vining Canyon, Wheeler Ridge, and Mount Langley subpopulations, which are descended from sheep taken from the Mount Baxter subpopulation and translocated to historical habitat. These subpopulations have decreased in numbers significantly in the last several years (see Table 1). As discussed under factors C, D, and E in the Summary of Factors Affecting the Species section above, the immediacy of threats to the Sierra Nevada bighorn sheep is so great to a significant proportion of the total population that the routine regular listing process is not sufficient to prevent losses that may result in extinction or loss of significant recovery potential. An emergency posing a significant risk to the well-being and continued survival of the Sierra Nevada bighorn sheep exists as the result of the continual exposure to predation (primarily mountain lion), and the effects of avoidance by bighorn sheep of areas in which they are particularly vulnerable to predation by mountain lions. The Sierra Nevada bighorn sheep is also threatened by the potential increase of contact with domestic sheep in the spring and summer and the transmission of disease. The factors creating an extreme situation are discussed in detail below.

Because Sierra Nevada bighorn sheep exist only as a series of very small subpopulations vulnerable to extinction, the survival of Sierra Nevada bighorn sheep now depends on the most rapid possible increase in as many subpopulations as possible. These small subpopulations are vulnerable to extinction from chance demographic events and the continual loss of genetic variation if they remain small.

Vulnerability to Demographic Problems

Five subpopulations remain that include a total of nine female demes (i.e., local populations) (Mount Langley—eight ewes, Mount Williamson—three ewes, Black Mountain—five ewes, Sand Mountain—five ewes, Sawmill Canyon—two ewes, Wheeler Ridge—17 ewes, Mount Gibbs—two ewes, Tioga Crest—one ewe, Mount Warren—five ewes) (J. Wehausen, pers. comm. 1999). These demes are defined by separate geographic home range patterns of the females. Of these, the Mount Williamson, Black Mountain, and Tioga Crest demes appear not to use low elevation winter ranges at all, and they will probably go extinct as a result (J. Wehausen, pers. comm. 1999). The Black Mountain deme was previously part of the Sand Mountain deme (part of the Mount Baxter subpopulation) and became a separate deme after winter range abandonment occurred in the late 1980s. The five remaining ewes in this deme appear not to know of the Sand Mountain winter range, which lies considerably north of their home range. They were almost certainly all born after winter range abandonment on Sand Mountain. This deme has shown a steady decline in size (J. Wehausen, pers comm. 1999).

There are six female demes that may persist, but all are still very vulnerable to extinction due to small size. Of the two ewes and lamb that spent February, 1998, at the mouth of Sawmill Canyon (another Mount Baxter subpopulation deme), only a ewe and a lamb remained when last seen there in 1998. Shortly after they were last seen, evidence of a mountain lion was found on the rocks where they had been weathering a month of severe winter storms. When the normal summer range of this deme of females was investigated twice last summer, it was difficult to find evidence of any sheep remaining. This deme may contain only a single remaining ewe, or none (J. Wehausen, pers. comm. 1999).

The Sand Mountain deme has had only four ewes in it for almost this entire decade. During the summer of 1998, Dr. John Wehausen finally documented a yearling female with them, thus the total of five ewes listed above. However, the four adult ewes must now be approaching the ends of their lives, making this deme also very vulnerable to extinction, even if they have been showing some increased winter range use. Without successful births and recruitment of female lambs into this deme quickly, this deme will experience a decline.

Currently, there is a large lion occupying the winter range areas used by members of the Mount Langley deme. These ewes have been using that winter range enough over the past three winters to be showing a subpopulation increase (recruitment of five lambs for four ewes in the past 2 years). This lion could easily reverse that trend by killing multiple members of this deme and discouraging them from using this winter range. These ewes can be expected to begin appearing on this winter range any day (J. Wehausen pers. comm. 1999).

The Mount Warren deme that uses Lee Vining Canyon as a winter range continues to decline. Besides the loss of numerous ewes last winter or spring to unknown causes, one of two telemetered (radio-collared) ewes was lost to a lion on the winter range in April, 1998. The collar of the other ewe was recently dug out of a snow bank at 3050 m (10,000 ft) in Deer Creek, but biologists will be unable to investigate her cause of death until the summer of 1999 when the snow melts, allowing her carcass to be found. She was last documented alive in late October 1998, but was not with a group of 13 sheep seen in mid-December, thus she may have died in November. This leaves only five ewes in this deme. If the lion that killed at least one ewe in April 1998 returns this spring, it might seriously compromise the future of this deme (J. Wehausen, pers. comm. 1999).

With the likely extinction of some of the existing demes, the remaining demes become all the more important to the persistence of this distinct population segment. We do not know which demes may survive and which may die out. All population dynamics over the past 15 years have been unanticipated (J. Wehausen, pers. comm. 1999). In short, it is not possible to predict population trajectories. Individual mountain lions can do enormous damage to any of these small demes, as can catastrophic events such as snow avalanches. The current larger size of the Wheeler Ridge deme does not preclude it from experiencing a sudden decline, as the Mount Warren deme experienced last winter (J. Wehausen, pers. comm. 1999).

Every deme is critical to the survival of the DPS at this point. We do not know which ewes in each deme may prove to be the ones critical to persistence of those demes. Thus, every remaining female in every deme is critically important to the persistence of their demes.

Lastly, the potential for contact with domestic sheep and the transmission of disease could, by itself, eliminate an entire deme. Domestic sheep continue to stray into Sierra Nevada bighorn sheep habitat. Recently, domestic sheep have come in close proximity to the resident bighorn sheep on numerous occasions, but, by good fortune, domestic sheep have not come into contact with bighorn sheep during these events.

Vulnerability to demographic problems must be viewed as a combination of immediate threats of predation, changed habitat use due to the presence of mountain lions, the resultant decline in ewe nutrition and lamb survivorship, exposure to environmental catastrophes, and the transmission of disease from domestic sheep.

Vulnerability to Genetic Problems

Also unknown is the current distribution of genetic variation among all of these subpopulations. It will be at least a year before fecal DNA research will shed some light on this question (J. Wehausen, pers comm. 1999). It is likely that each subpopulation has lost some genetic variability thereby reducing its ability for long-term adaptation. The ultimate goal of conserving this DPS must be to preserve as much of its genetic variation as possible. It is likely that all or some of the existing demes now contain some variation not represented in others. Once some measure of this distribution is known through DNA analysis, a possible goal will be to attempt to distribute that variation among as many subpopulations as possible. Until some measure of the distribution of genetic variation exists, every deme should be considered a significant portion of the overall population, just as they should from a demographic perspective. Maintenance of genetic variability requires preservation of rams in addition to ewes.

In summary, it is now necessary to consider that every individual is currently a significant portion of the overall population of Sierra Nevada bighorn sheep because of the small number of sheep remaining and extreme vulnerability of every deme to extinction. Losses from predation and the potential for disease transmission through contact with domestic sheep are threats posing a significant risk to the well-being of the DPS. For these

reasons, we find that the Sierra Nevada bighorn sheep is in imminent danger of extinction throughout all or a significant portion of its range and warrants immediate protection under the Act.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific area within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)) state that critical habitat is not determinable if information sufficient to perform required analysis of impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the Act requires us to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the conservation benefits, unless to do such would result in the extinction of the species.

We find that designation of critical habitat for the Sierra Nevada bighorn sheep is not determinable at this time. We have determined that information sufficient to perform required analysis of impacts of the designation is lacking. We specifically solicit this information in the proposed rule (see "Public Comments Solicited" section) published in this same issue of the **Federal Register**. When a "not determinable" finding is made, we must, within 2 years of the publication date of the original proposed rule, designate critical habitat, unless the designation is found to be not prudent. We will protect Sierra Nevada bighorn sheep habitat through section 7 consultations to determine whether Federal actions are likely to jeopardize the continued existence of the species, through the recovery process, through enforcement of take prohibitions under section 9 of the Act, and through the section 10 process for activities on non-Federal lands with no Federal nexus.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. We discuss the protection required of Federal agencies and the prohibitions against taking and harm, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal agency action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. Federal agency actions that may require conference and/or consultation include those within the jurisdiction of the USFS, BLM, and NPS.

We believe that protection of the Sierra Nevada bighorn sheep requires reduction of the threat of mountain lion predation, particularly during the months of April and May 1999 when bighorn sheep attempt to use low elevation winter ranges to obtain necessary nutrition after lambing, and ewes and lambs are most vulnerable to lion predation. Emergency listing will allow the Service to remove mountain lions that threaten Sierra Nevada bighorn sheep. Removal of mountain lions may not necessarily involve lethal techniques.

We believe that protection of the Sierra Nevada bighorn sheep also requires reduction of the threat of disease transmission from domestic sheep by preventing domestic sheep from coming into contact with bighorn sheep. We will work with the USFS to reduce the threat of disease transmission by domestic sheep. Reduction of this threat may involve elimination of grazing allotments adjacent to bighorn sheep habitat, or modifying allotments to create a sufficient buffer zone that would prevent contact between domestic sheep and bighorn sheep.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions, as codified at 50 CFR 17.21, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to our agents and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. For endangered species, such permits are available for scientific purposes, to enhance the propagation or survival of the species, or for incidental take in connection with otherwise lawful activities.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practical at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within a species' range. Activities that we believe could potentially result in take include, but are not limited to:

(1) Unauthorized trapping, capturing, handling or collecting of Sierra Nevada bighorn sheep. Research activities involving trapping or capturing Sierra Nevada bighorn sheep will require a permit under section 10(a)(1)(A) of the Act.

(2) Unauthorized livestock grazing that results in transmission of disease or habitat destruction by the accidental or intentional escape of livestock.

Activities that we believe are unlikely to result in a violation of section 9 are:

(1) Possession, delivery, or movement, including interstate transport and import into or export from the United States, involving no commercial activity, of dead specimens of Sierra Nevada bighorn sheep that were collected prior to the date of publication of this emergency listing rule in the **Federal Register**;

(2) Unintentional vehicle collisions resulting in death or injury to Sierra Nevada bighorn sheep, when complying with applicable laws and regulations; and

(3) Normal, authorized recreational activities in designated campsites or recreational use areas and on authorized trails.

Questions regarding any specific activities should be directed to our Ventura Fish and Wildlife Office (see **ADDRESSES** section). Requests for copies of the regulations regarding listed wildlife and about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 Northeast 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined in the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.21 and 17.22.

References Cited

A complete list of references cited in this rule is available upon request from the Ventura Fish and Wildlife Office of the U.S. Fish and Wildlife Service (see **ADDRESSES** section).

Author

The primary author of this emergency rule is Carl Benz of the Ventura Fish and Wildlife Office of the U.S. Fish and Wildlife Service (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. In § 17.11(h) add the following to the List of Endangered and Threatened Wildlife in alphabetical order under MAMMALS:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

SPECIES		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*	*	*
Sheep, Sierra Nevada bighorn.	*Obis canadensis californiana.*	U.S.A. (western conterminous states), Canada (southwest), Mexico (north).	U.S.A. (CA-Sierra Nevada).	E	660	NA	NA
*	*	*	*	*	*	*	

Dated: April 14, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 99–9935 Filed 4–19–99; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 64, No. 75
Tuesday, April 20, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–6]

Proposed Revision of Class D Airspace; Lake Hood, Elmendorf AFB, and Merrill Field, AK; Proposed Revision of Class E Airspace; Elmendorf AFB and Merrill Field, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action would revise the Class D airspace at Lake Hood, Elmendorf Air Force Base (AFB), and Merrill Field, AK, as well as the Class E airspace (designated as surface areas) at Elmendorf AFB and Merrill Field, AK. The revision of the Anchorage, Alaska, Terminal Airspace Area segment boundaries affecting Lake Hood, Elmendorf AFB, and Merrill Field, AK, has made this action necessary. Adoption of this proposal would result in the alignment of Class D airspace to coincide with the revised Anchorage Terminal Airspace segment boundaries, eliminating chart clutter and confusion between segment, Class D boundaries, and Class E boundaries. The adoption of this proposal would also align the Elmendorf AFB and Merrill Field, AK, Class E airspace areas (designated as surface areas) with the Class D boundaries.

DATES: Comments must be received on or before June 4, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 99–AAL–6, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.gov. Internet address: http://www,alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AAL–6." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the **Federal Register**'s web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

Background

On October 1, 1997, the FAA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (62 FR 190) to revise the Anchorage, Alaska, Terminal Area (Docket No. 29029, Notice No. 97–14). In this rulemaking, the boundaries for the Merrill, Lake Hood, and Elmendorf AFB segments were revised. On March 29, 1999, the FAA published the final rule in the **Federal Register** (62 FR 14971) for the Anchorage, Alaska, Terminal Area, revising boundaries and descriptions for each segment and listed the effective date as June 17, 1999. The Anchorage, Alaska, Terminal Area revisions and a graphic can be viewed at Alaskan Region's Internet homepage site located at Uniform Resource Locator (URL) http://www.alaska.faa.gov/at.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising the Class D airspace at Lake Hood, Elmendorf AFB, and Merrill Field, AK, due to the revision of the Anchorage, Alaska, Terminal Airspace Area. The segment boundaries descriptions for Elmendorf AFB, Lake Hood, and Merrill, AK, have been revised in the Anchorage, Alaska,

Terminal Airspace update. Currently, the segment boundaries, the Class D airspace boundaries, and the Class E airspace (designated as surface area) boundaries do not coincide, which clutters the aeronautical charts and could cause confusion delineating between the segment, Class D, and Class E airspace boundaries. The intended effect of this proposal is to align the Class D airspace boundaries at Lake Hood, Elmendorf AFB, and Merrill Field, AK, to match the revised Anchorage, Alaska, Terminal Area segment boundaries and align the Class E airspace areas at Elmendorf AFB and Merrill Field, AK, to match the Class D boundaries.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class D airspace areas are published in paragraph 5000 and the Class E airspace designated as surface areas are published in paragraph 6002 in FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (1 (63 FR 50139; September 21, 1998). The Class D and Class E airspace designations listed in this document would be revised and published subsequently in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is to be amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AAL AK D Anchorage, Elmendorf AFB Airport, AK [Revised]

Anchorage, Elmendorf AFB Airport, AK
(Lat. 61° 15′ 11″ N., long. 149° 47′ 38″ W.)
Point Noname
(Lat. 61° 15′ 38″ N., long. 149° 55′ 38″ W.)
Ship Creek
(Lat. 61° 13′ 32″ N., long. 149° 58′ 44″ W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a line beginning at Point Noname; thence via the north bank of the Knik Arm to the intersection of the 4.7-mile radius of Elmendorf AFB Airport; thence clockwise along the 4.7-mile arc of Elmendorf AFB to long. 149° 46′ 44″ W., thence south along long. 149° 46′ 44″ W. to lat. 61° 19′ 10″ N., thence to lat. 61° 17′ 58″ N. long. 149° 44′ 08″ W., thence to lat. 61° 17′ 30″ N. long. 149° 43′ 08″ W., thence south along long. 149° 43° 08″ W. to the Glenn Highway, thence south and west along the Glenn Highway to Muldoon Road, thence direct to the mouth of Ship Creek, thence direct to the point of beginning; excluding that airspace within the Anchorage International Airport, AK, Class C airspace. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AAL AK D Anchorage, Lake Hood, AK [Revised]

Anchorage, Lake Hood, AK
(Lat. 61° 10′ 48″ N., long. 149° 58′ 19″ W.)
Anchorage Air Traffic Control Tower
(Lat. 61° 10′ 36″ N., long. 149° 58′ 59″ W.)
Point MacKenzie
(Lat. 61° 14′ 14″ N., long. 149° 59′ 12″ W.)
West Anchorage High School
(Lat. 61° 12′ 13″ N., long. 149° 55′ 22″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a line beginning at Point Mackenzie, thence direct to West Anchorage High School, thence direct to the intersection of Tudor Road and the New Seward Highway, thence south along the New Seward Highway to the 090° bearing from the Anchorage Air Traffic Control Tower, thence west direct to the Anchorage Air Traffic Control Tower, thence north along the 350° bearing from the Anchorage Air Traffic Control Tower to the north bank of Knik Arm, thence via the north bank of Knik Arm to the point of beginning; excluding that airspace within the Anchorage International Airport, AK, Class C airspace.

* * * * *

AAL AK D Anchorage, Merrill Field, AK [Revised]

Anchorage, Merrill Field, AK
(Lat. 61° 12′ 52″ N., long. 149° 50′ 46″ W.)
Point Noname
(Lat. 61° 15′ 38″ N., long. 149° 55′ 38″ W.)
Point MacKenzie
(Lat. 61° 14′ 14″ N., long. 149° 59′ 12″ W.)
Ship Creek
(Lat. 61° 13′ 32″ N., long. 149° 5′ 44″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a line beginning at Point Noname, thence direct to the mouth of Ship Creek, thence direct to the intersection of the Glenn Highway and Muldoon Road, thence south along Muldoon Road to Tudor Road, thence west along Tudor Road to the New Seward Highway, thence direct to West Anchorage High School, thence direct to Point MacKenzie, thence via the north bank of Knik Arm to the point of beginning; excluding that airspace within the Anchorage International Airport, AK, Class C airspace. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace designated as surface areas

* * * * *

AAL AK E2 Anchorage, Elmendorf AFB Airport, AK [Revised]

Anchorage, Elmendorf AFB Airport, AK
(Lat. 61° 15′ 11″ N., long. 149° 47′ 38″ W.)
Point Noname
(Lat. 61° 15′ 38″ N., long. 149° 55′ 38″ W.)
Ship Creek
(Lat. 61° 13′ 32″ N., long. 149° 58′ 44″ W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a line beginning at Point Noname; thence via the north bank of the Knik Arm to the intersection of the 4.7-mile radius of Elmendorf AFB Airport; thence clockwise along the 4.7-mile arc of Elmendorf AFB to long. 149° 46′ 44″ W., thence south along long. 149° 46′ 44″ W. to lat. 61° 19′ 10″ N., thence to lat. 61° 17′ 58″ N. long. 149° 44′ 08″ W., thence to lat. 61° 17′ 30″ N. long. 149° 43′ 08″ W., thence south along long. 149° 43′ 08″ W. to the Glenn Highway, thence south and west along the Glenn Highway to Muldoon Road, thence direct to the mouth of Ship Creek, thence direct to the point of beginning; excluding that airspace within the Anchorage International Airport, AK, Class C airspace. This Class E airspace area is effective during the specific dates and

times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AAL AK E2 Anchorage, Merrill Field, AK [Revised]

Anchorage, Merrill Field, AK
(Lat. 61° 12′ 52″ N., long. 149° 50′ 46″ W.)
Point Noname
(Lat. 61° 13′ 38″ N., long. 149° 55′ 38″ W.)
Point MacKenzie
(Lat. 61° 14′ 14″ N., long. 149° 59′ 12″ W.)
Ship Creek
(Lat. 61° 13′ 32″ N., long. 149° 58′ 44″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a line beginning at Point Noname, thence direct to the mouth of Ship Creek, thence direct to the intersection of the Glenn Highway and Muldoon Road, thence south along Muldoon Road to Tudor Road, thence west along Tudor Road to the New Seward Highway, thence direct to West Anchorage High School, thence direct to Point MacKenzie, thence via the north bank of Knik Arm to the point of beginning; excluding that airspace within the Anchorage International Airport, AK, Class C airspace. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9781 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–2]

Proposed Revision of Class E Airspace; Yakutat, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Yakutat, AK. The establishment of three Standard Instrument Approach Procedures (SIAP) to runway (RWY) 02, RWY 11, and RWY 29 at Yakutat, AK, have made this action necessary. Adoption of this proposal would result in the provision of adequate controlled airspace for Instrument Flight Rules (IFR) operations at Yakutat, AK.

DATES: Comments must be received on or before June 4, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 99–AAL–2, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AAL–2." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the **Federal Register**'s web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising the Class E airspace at Yakutat, AK, through the establishment of three very high frequency (VHF) omni-directional radio range (VOR) instrument approaches to RWY 02, RWY 11, and RWY 29. The area would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Yakutat, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as airport surface areas are published in paragraph 6002 and the Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document would be revised and published subsequently in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and

routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is to be amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AAL AK E2 Yakutat, AK [Revised]

That airspace extending upward from the surface within the area bounded by 59° 41′ 01″ N. 139° 46′ 55″ W. to 59° 31′ 00″ N. 139° 29′ 21″ W. to 59° 24′ 35″ N. 139° 27′ 13″ W. to 59° 20′ 14″ N. 139° 36′ 38″ W. to 59° 34′ 20″ N. 140° 01′ 32″ W. to the point of beginning.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Yakutat, AK [Revised]

Yakutat VORTAC
(Lat. 59° 30′ 39″ N., long. 139° 38′ 53″ W.)

That airspace extending upward from 700 feet above the surface within the area bounded by 59° 47′ 42″ N 139° 58′ 48″ W to 59° 37′ 33″ N 139° 40′ 53″ W then along the 7-mile radius of the Yakutat VORTAC clockwise to 59° 28′ 54″ N 139° 25′ 35″ W to 59° 20′ 16″ N 139° 10′ 20″ W to 59° 02′ 49″ N 139° 47′ 45″ W to 59° 30′ 15″ N 140° 36′ 43″ W to the point of beginning; and that airspace extending upward from 1,200 feet above the surface within the area bounded by 59° 53′ 20″ N 139° 58′ 13″ W to Yakutat VORTAC 118° radial 23 DME then along the Yakutat VORTAC 118° radial to 41 DME then clockwise along the 41 mile radius of the Yakutat VORTAC to the Yakutat VORTAC 298° radial then east along the 298° radial to the Yakutat VORTAC 298° radial 25 DME to the point of beginning, and within 5.6 miles each side of the Yakutat VORTAC 118° radial to 65 miles east of the VORTAC excluding Control 1487L and the Gulf of Alaska Low Class E airspace areas.

* * * * *

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9782 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–3]

Proposed Revision of Class E Airspace; Atqasuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Atqasuk, AK. The establishment of two Standard Instrument Approach Procedures (SIAP) to runway (RWY) 06 and RWY 24 at Atqasuk, AK, have made this action necessary. Adoption of this proposal would result in the provision of adequate controlled airspace for Instrument Flight Rules (IFR) operations at Atqasuk, AK.

DATES: Comments must be received on or before June 4, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 99–AAL–3, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AAL–3." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or

the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the **Federal Register**'s web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising the Class E airspace at Atqasuk, AK, through the establishment of two very high frequency (VHF) omni-directional radio range (VOR) instrument approaches to RWY 06 and RWY 24. The area would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Atqasuk, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as airport surface areas are published in paragraph 6002 and the Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document would be revised and published subsequently in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Atqasuk, AK [Revised]

Atqasuk Airport
(Lat. 70° 28′ 02″ N., long. 157° 26′ 09″ W.)

That airspace extending upward from 700 feet above the surface within a 7 mile radius of the Atqasuk Airport.

* * * * *

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9778 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–9]

Proposed Revision of Class E Airspace; Adak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action would revise the Class E airspace at Adak, AK. The upcoming decommission of the military Nondirectional Beacon (NDB) and commission of the new NDB/Distance Measuring Equipment (DME), along with the establishment of Global Positioning System (GPS) and NDB/DME instrument approaches at Adak, AK, have made this action necessary. Additionally, the Class E airspace descriptions at Adak, AK, have been consolidated into one description. Adoption of this proposal would result in an update of the airspace descriptions and provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Adak, AK.

DATES: Comments must be received on or before June 4, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 98–AAL–9, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

The Naval Air Facility (NAF) Adak ceased active military airfield operations on March 31, 1997. The military tower closed and the airfield converted to an uncontrolled airport. Consequently, the airspace around Adak, AK, has been modified to reflect remaining navigational aids and new requirements. The Adak military NDB and military Tactical Air Navigational Aid (TACAN) will be decommissioned. A new FAA NDB/DME (Mount Moffett NDB/DME) will be commissioned. Two new instrument approach procedures, NDB/DME and GPS, have been developed for runway (RWY) 23. These

actions have been coordinated with the U.S. Navy and the Adak Reuse Corporation. The Adak Reuse Corporation has been established under federal and State of Alaska oversight to plan and implement the reuse of former NAF Adak. The Adak Reuse Corporation has been designated the Local Reuse Authority under Base Realignment and Closure Act (BRAC) law to be the responsible party to plan airport operations until a new city is approved on the island.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AAL–9." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

Internet users may reach the **Federal Register**'s web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces 140.html.

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulleting board service (telephone: 202–512–1661).

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising the Class E airspace at Adak, AK, due to the establishment of GPS and NDB/DME instrument approach procedures to RWY 23 at Adak, AK. Additionally, the Class E airspace descriptions will be consolidated into one description. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations and revise the airspace descriptions at Adak, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as a surface area for an airport are published in paragraph 6002 in FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace areas designated as an extension to a Class D or Class E surface area are published in FAA Order 7400.9F, paragraph 6004, and paragraph 6005 lists the Class E airspace areas designated as an 700/1200 foot transition area. The Class E airspace listed in this document as a surface area or extension to a surface area will be revoked and subsequently removed in the Order. The Class E airspace designations listed in this document as 700/1200 foot transition areas will be revised and published in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is to be amended as follows:

Paragraph 6002 Class E airspace areas designated as surface areas for an airport

* * * * *

AAL AK E2 Adak, AK [Revoked]

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area.

* * * * *

AAL AK E4 Adak, AK [Revoked]

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Adak, AK [Revised]

Adak Airport, AK
(Lat. 51° 52′ 41″ N., long. 176° 38′ 45″ W.)
Mount Moffett NDB
(Lat. 51° 52′ 19″ N., long. 176° 40′ 34″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Adak Airport and within 5.2 miles northwest and 4.2 miles southeast of the 061°

bearing of the Mount Moffett NDB extending from the 7-mile radius to 11.5 miles northeast of the Adak Airport; and that airspace extending upward from 1,200 feet above the surface within 11-mile radius of the Adak Airport, and within 16 miles of the Adak Airport extending clockwise from the 033° bearing to the 081° bearing of the Mount Moffett NDB.

* * * * *

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9777 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–5]

Proposed Establishment of Class E Airspace; Palmer, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Palmer, AK. The establishment of Global Positioning System (GPS) instrument approach at the Palmer Municipal Airport has made this action necessary. The Palmer Municipal Airport status will change from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). Adoption of this proposal would result of adequate controlled airspace for Instrument Flight Rules (IFR) operations at Palmer, AK.

DATES: Comments must be received on or before June 4, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 99–AAL–5, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Robert Durand, Operations Branch, AAL–531, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AAL–5." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

Internet users may reach the Federal Register's web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces140.html.

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulleting board service (telephone: 202–512–1661).

The Proposal

The FAA proposes to amend 14 CFR part 71 by establishing Class E airspace at Palmer, AK, due the to establishment of a GPS instrument approach procedure at Palmer, AK. The Palmer Airport status will be upgraded from VFR to IFR. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Palmer, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace listed in this document would be published in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration

proposes to amend 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is to be amended as follows:

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Palmer, AK [New]

Palmer Municipal Airport, AK
(Lat. 61°35′41″ N., long. 149°05′20″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Palmer Municipal Airport.

* * * * *

Issued in Anchorage, AK, on April 9, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–9776 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–19]

Amendment of Class E Airspace; Decorah, IA

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace area at Decorah, IA. A Global Positioning System (GPS), COPTER GPS 339° point in space, Standard Instrument Approach Procedure (SIAP) has been developed to serve Winneshiek County Memorial Hospital Heliport, Decorah, IA. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate aircraft executing the SIAP.

In addition, the Class E airspace for Decorah, IA, has been enlarged to conform to the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D.

The intended effect of this rule is to provide additional controlled airspace for aircraft operating under Instrument Flight Rules (IFR) and comply with the criteria of FAA Order 7400.2D.

DATES: Comments must be received on or before May 17, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ACE–520, Federal Aviation Administration, Docket No. 99–ACE–19, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An information docket may also be examined during normal business hours in the office of the Manager, Airspace Branch, Air Traffic Division, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–ACE–19." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to revises the Class E airspace at Decorah, IA. A COPTER GPS 339° SIAP has been developed to serve the Winneshiek County Memorial Hospital Heliport, Decorah, IA. Controlled airspace extending upward from 700 feet AGL is needed to contain aircraft executing this SIAP. In addition, a review of the Class E airspace area for Decorah, IA, indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile.

The intended effect of this action is to provide segregation of aircraft operating under Instrument Flight Rules (IFR) from aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Revised]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Decorah, IA [Revised

Decorah Municipal Airport, IA
(Lat. 43°16′32″ N., long. 91°44′22″ W.)
Waukon VORTAC
(Lat. 43°16′48″ N., long. 91°32′15″ W.)
Decorah NDB
(Lat. 43°16′32″ N., long. 91°44′11″ W.)
Winneshiek County Memorial Hospital, IA
Point in Space Coordinates
(Lat. 43°16′57″ N., long. 91°45′56″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Decorah Municipal Airport and within 2.0 miles each side of the 267° radial of the Waukon VORTAC extending from the 6.4-mile radius to the VORTAC and within 2.6 miles each side of the 122° bearing from the Decorah NDB extending from the 6.4-mile radius to 7.0 miles southeast of the airport, and within a 6.0-mile radius of the point in space serving Winneshiek County Memorial Hospital.

* * * * *

Issued in Kansas City, MO, on March 18, 1999.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 99–9795 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC41

Training of Lessee and Contractor Employees Engaged in Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend our regulations governing training of lessee employees engaged in oil and gas and sulphur operations in the OCS. We are proposing to establish a performance-based training system that would:

- Lead to safer and cleaner OCS operations;
- Allow the development of new and innovative training techniques;
- Impose fewer prescriptive requirements on the oil and gas industry; and
- Provide increased training flexibility.

DATES: We will consider all comments received by July 19, 1999. We will begin reviewing comments then and may not fully consider comments we receive after July 19, 1999.

ADDRESSES: If you wish to comment, you may mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Wilbon Rhome, Industrial Specialist, or Joseph Levine, Chief, Operations Analysis Branch, at (703) 787–1600 or FAX (703) 787–1093.

SUPPLEMENTARY INFORMATION: On February 5, 1997, we published a final rule in the **Federal Register** (62 FR 5320) concerning the training of lessee and contractor employees engaged in drilling, well completion, well workover, well servicing, or production safety system operations in the OCS. The final rule streamlined the regulations by 80 percent, provided the flexibility to use alternative training methods, and simplified the training options at 30 CFR Part 250, Subpart O—Training.

The February 5, 1997, final rule did not sufficiently address developing a performance-based training system. This proposed rule retains some elements of our existing training program related to identifying minimum required training elements and affords lessees the flexibility to design a performance-based training plan and to ensure that their contractors are in compliance with such a plan.

On June 10, 1997, we conducted a public workshop in Houston, Texas, to get information pertinent to a revision of the February 5, 1997, Subpart O—Training regulation. The purpose of this workshop was to discuss the development of a performance-based training system for OCS oil and gas activities. In the April 4, 1997, **Federal Register** notice (62 FR 18070) announcing the workshop, we stated that the goal of the meeting was to develop a procedure which ensures that lessee and contractor employees are trained in well control or production safety system operations by creating a less prescriptive training program focusing on results and not on processes.

To improve the regulations at 30 CFR Part 250, Subpart O—Training, the

workshop notice asked attendees to be prepared to present and discuss comments on the following four performance measures and indicators which could be used as part of a performance-based program:

- *MMS Written Test:* We may test lessee or contractor employees. We may give announced or unannounced written tests at a training site, office, or work location.
- *MMS Simulator and Hands-On Testing:* We may conduct production safety system equipment hands-on testing or well-control simulator testing of lessee or contractor employees. We may give announced or unannounced tests at a training site, office, or work location.
- *Audits, Interviews or Cooperative Reviews:* We may meet with lessee or contractor employees periodically to determine the effectiveness of their training program. These announced or unannounced meetings may include an evaluation of training documents, procedures, or interviews of key personnel.
- *Incident of Noncompliance (INC), Civil Penalty, and Event Data:* We may analyze the performance of a lessee by evaluation of INC, civil penalty, and event data. Event data includes information dealing with spills, fires, explosions, blowouts, fatalities, collisions, and injuries. As part of this evaluation, we may analyze the data in relation to the following:

—Number of facilities (platform/rig) operated by a company;
—Production volumes of an operator;
—Location of activity; or
—Frequency of events.

The notice also encouraged the public to suggest other viable performance measures or indicators for us to consider for a performance-based training program. Workshop participants suggested no new measures or indicators.

Approximately 150 people attended the workshop, representing a diverse cross section of the oil and gas industry. Most of the attendees were associated with major and independent oil and gas producing companies. There was no significant participation from contractors. Representatives from 12 of the 55 MMS-accredited training schools attended the workshop.

We discussed industry views concerning a performance-based training program and gathered comments. Some commenters favored the development of a performance-based training system while others suggested that the current system be modified to provide added flexibility. Another group of commenters favored the development of a dual training system incorporating elements from both a performance-based program and MMS's current system. This proposal would allow individual companies to collect performance measures data, and to petition us for alternative compliance to Subpart O. The petition would include a company's individual performance measures versus industry averages and ranges, and information on a company's individual training program. If we approved a company's petition, then it would implement its own program instead of complying with existing Subpart O requirements. Companies that do not petition us to use alternative compliance methods, or have their petition denied, would continue implementing current Subpart O regulations.

We believe that the proposed rule retains critical safety elements from the current system and provides added flexibility by allowing lessees to develop training programs in a performance-based environment. Under the proposal, lessees, not MMS, will be responsible for ensuring that personnel employed at their facilities are trained and competent. We intend to focus our resources on evaluating lessee performance, not on accrediting schools. Lessees wishing to continue using an existing school program or develop a new school program to train their employees may do so as long as the program meets the minimum requirements included in the proposed rule.

Another issue raised by segments of the oil and gas industry in attendance at the workshop was the potential for certain companies to neglect training under a performance-based regime. As part of the proposed rule, lessees will be required to develop a training plan defining their program. Minimum information to be included in the plan is listed in this proposed rule. We will monitor company training programs to determine their effectiveness. Those lessees performing satisfactorily will receive less oversight by the agency, allowing us to concentrate on those companies achieving less than satisfactory results. Under such a system, companies will not be able to neglect training.

Another issue highlighted at the workshop dealt with a recommendation for MMS to use caution when changing from the current prescriptive training system to a performance-based system. Workshop participants questioned why we were willing to abandon the current system, which has been successful, and implement a new program. We believe that this proposed training regulation provides companies the opportunity to develop their own individual program, tailored to the needs of their employees. This flexibility will contribute to the development of new and innovative training techniques. We encourage such diversity because we feel that its ultimate result is safer and cleaner OCS operations.

Workshop participants also commented on the type of performance measures and indicators that we are considering. The participants felt that an unannounced written test could cause employees stress that would lead to poor performance on the exams. We do not feel that this is a valid concern. Although a testing situation may be stressful, the employee should be able to answer fundamental questions about production safety systems or well control operations. This same employee would be expected to respond positively in an actual situation where the risks to personnel health, safety, and environmental damage are great. We realize that the results of written tests are not always indicative of an individual's performance. For that reason, we propose to use a variety of performance measures to assess employees' skill and safety knowledge relative to their job.

Certain commenters stated that hands-on simulator testing was an excellent and realistic means of gauging performance, while others felt that we do not have the necessary expertise or equipment to conduct simulator tests. We agree that hands-on testing, using either well-control simulator technology, interactive computer systems, live well testing, or hands-on production safety system testing is an excellent means of evaluating an individual's performance. We also agree that we do not have the equipment or the expertise to conduct simulator testing. For that reason, the proposed rule includes a provision that either we or our authorized representative would administer or witness the testing if we find it necessary.

Other commenters stressed the point that all hands-on testing should be conducted at onshore facilities and not in an offshore environment so it does not interfere with offshore operations. Whenever possible, we will try to accommodate this concern. However, under certain circumstances it may be appropriate to conduct hands-on testing in an offshore environment. Therefore, either onshore or offshore testing are viable options for MMS to use in evaluating the performance of OCS employees.

Other commenters at the workshop stated that many offshore workers have difficulty reading regulations or company operating manuals. We believe this is a significant issue that should be addressed by individual lessees. We also feel that lessees are responsible for hiring well qualified and competent workers who should possess the ability to read appropriate and necessary information.

A commenter asked how we would react to a company that does not train its employees but has a good safety record as measured by appropriate performance measures. The proposed rule requires a company to develop a training plan and provide its employees with the necessary skills to perform their job. We will periodically evaluate the performance of companies relative to their plan to see how well employees are being trained. Regardless a of company's safety record, if we determine that the company is not training its employees, we will initiate appropriate enforcement actions as discussed in the rule.

Another commenter said that although there is an increase in OCS activity, there appears to be a shortage of trained and experienced workers. The commenter thought that this is not the right time to move towards a performance-based training system. We agree that we are seeing a significant upturn in OCS activity and an associated increase in the use of inexperienced personnel. However, the proposed changes are expected to improve company training programs by holding lessees accountable for the competency of their employees. We believe that a performance-based system that focuses on results and the ability of employees to demonstrate their job skills is preferable to the current school certification system.

To implement this rule, we will periodically assess company performance to determine how well its employees are trained. This assessment will include implementation of one or more of the following techniques: training system audits, employee interviews, written testing, and equipment-based hands-on testing. We are seeking input on what situations and threshold levels we should use as part of our assessment of your training program to trigger the different enforcement actions included in this rule. Some specific issues to address in your comments should include the following:

—Is there a specific written test score (re: threshold level) we should use to signify the competency of an individual?
—If an individual or group of individuals receives a written test score below a level determined to signify competency, should we issue an INC, conduct a retest, or initiate some other type of enforcement action?
—What issues should we focus on when conducting employee interviews? How often should these interviews be conducted? What situation(s) should trigger MMS to conduct an interview?
—What type of enforcement action should we initiate if during an employee interview an employee exhibits only a minimal understanding of the employer's training program?
—Are there any situations where we should not allow an employee to continue working on the OCS?
—Under what circumstances should we initiate hands-on testing of employees?

We intend to conduct at least one workshop on this proposed training rule during the comment period. We will notify you in a separate document.

Procedural Matters

Federalism (Executive Order (E.O.) 12612

In accordance with E.O. 12612, the rule does not have significant Federalism implications. A Federalism assessment is not required.

Takings Implications Assessment (E.O. 12630)

In accordance with E.O. 12630, the rule does not have significant Takings Implications. A Takings Implication Assessment is not required.

Regulatory Planning and Review (E.O. 12866)

This document is a significant rule and is subject to review by the Office of Management and Budget (OMB) under E.O. 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The estimated yearly gross cost to the oil and gas industry to train its employees at MMS accredited schools is $5,955,000. We feel that the cost of complying with the proposed rule would be somewhat less than this amount. Under the proposed rule, the oil and gas industry would have flexibility to tailor its training program to the specific needs of each company, resulting in lower training costs. The rule does not add any new cost to the oil and gas industry and it will not reduce the level of safety to personnel or the environment.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does raise novel legal or policy issues. This is a performance-based rule.

Clarity of This Regulation

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interfere with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the "Supplementary Information" section of this preamble helpful in understanding the rule? What else can we do to make the rule easier to understand?

Send a copy of any comments on how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Paperwork Reduction Act (PRA) of 1995

The proposed rule contains a collection of information which has

been submitted to OMB for review and approval under section 3507(d) of the PRA. As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of the reporting and recordkeeping burden. Submit your comments to the Office of Information and Regulatory Affairs; OMB; Attention: Desk Officer for the Department of the Interior (OMB control number 1010–NEW); 725 17th Street, NW, Washington, DC 20503. Send a copy of your comments to the Rules Processing Team, Attn: Comments; Mail Stop 4024; Minerals Management Service; 381 Elden Street; Herndon, Virginia 20170–4817. You may obtain a copy of the supporting statement for the new collection of information by contacting the Bureau's Information Collection Clearance Officer at (202) 208–7744.

The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it by May 20, 1999. This does not affect the deadline for the public to comment to MMS on the proposed regulations.

The title of the collection of information for this proposed rule is "Proposed Rulemaking, 30 CFR 250, Subpart O—Training" (OMB control number 1010-NEW). Respondents are approximately 130 Federal OCS oil and gas or sulphur lessees. The frequency of response is primarily "on occasion." Responses to this collection of information are mandatory. We will protect proprietary information in accordance with the Freedom of Information Act and 30 CFR 250.118, "Data and information to be made available to the public."

The proposed rule contains the following information collection requirements and estimated burdens:

1. Develop and maintain training plans (average 2.2 hours per plan). The burden will be greater during the first year when some companies will need to develop plans, but will decrease in subsequent years when companies will only have to maintain plans. The burden per plan is annualized over a three-year period.

2. Maintain documentation of employee training activities (average 5 minutes per training record).

3. Employee responses to oral interviews conducted by MMS to evaluate the effectiveness of the company's training program (10 minutes per interview).

4. Revise and submit training plans to correct deficiencies identified by MMS (4 hours per revised plan).

We estimate the total annual reporting and recordkeeping "hour" burden for the proposed rule to be 2,044 hours. This will reflect a decrease of 917 hours when it replaces the collection of information approved for the current requirements in 30 CFR 250, Subpart O (1010–0078).

We will summarize written responses to this notice and address them in the final rule preamble. All comments will become a matter of public record.

1. We specifically solicit comments on the following questions:

(a) Is the proposed collection of information necessary for MMS to properly perform its functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

2. In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping "cost" burden resulting from the collection of information. We have not identified any and solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (a) total capital and startup cost component, and (b) annual operation, maintenance, and purchase of services component. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: before October 1, 1995; to comply with requirements not associated with the information collection; for reasons other than to provide information or keep records for the Government; or as part of customary and usual business or private practices.

Regulatory Flexibility Act

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Currently there are 55 MMS accredited training schools: we have approved 24 schools to teach production safety courses, 26 schools to teach well control courses, and 5 schools to teach both well control and production courses. The training companies best fit under the SIC 8249 and the criteria for small businesses is $5 million in revenue. Based on that criteria, 25 training companies will fall into the small business category.

Although we would no longer be accrediting schools, lessee personnel and those hired by the lessee will have to be trained and competent in the duties associated with their particular job.

The training schools that teach a broad range of vocational courses in addition to MMS accreditation courses will not be significantly affected. Also, schools that teach only MMS accreditation courses and provide quality training at a competitive price will continue to compete effectively for customers. Based on our experience, the failure rate of the schools in the offshore training industry should not change significantly under a performance-based program. Under the current regulations we maintain a database that tracks training schools approved by the agency. Based on information from this database less than 2 percent of the training schools approved by MMS go out of business each year; under the new rule we expect this to remain the same. MMS experience has shown that because of lower overhead and competitive pricing, small training schools are just as capable as the larger schools at adapting to change. Under this proposal schools will have the flexibility to tailor their training programs to accommodate the needs of the oil and gas industry. The training industry has been requesting this flexibility for years, and this performance-based training rule will make that possible.

We believe these changes will make it easier for small schools to market their program at a competitive rate to small contractors who may have special needs working in the oil and gas industry. We

view this is as a positive impact for the training industry.

Under the proposed rule we will monitor the lessees and hold them responsible for ensuring that their employees are trained in a timely manner. We believe this will encourage lessees to provide their employees training in a more consistent and timely manner, thus increasing student enrollment resulting in financial benefits to both large and small training schools.

The oil and gas companies that operate on the OCS are predominately in SIC 1311, crude petroleum and natural gas. Under the SIC 1311, companies with less than 500 employees are considered small businesses and we estimate that 70 percent of the 130 OCS operating companies fall into the small business category. Although, these companies may be technically "small," they have to be financially strong to operate in the marine environment.

A positive effect for both small and large companies is that they will have increased options concerning where to get their training. This will change how a company does business. Small businesses operating on the OCS will continue to have the option of using a third-party training organization to train their employees, the same as under the current system. These businesses will not be subject to any additional training costs or economic burdens as a result of the proposed rule.

Under the proposed rule, the oil and gas industry would have the flexibility to tailor its training program to the specific needs of each company. Small businesses that operate on the OCS will be positively impacted by this proposal. They will be given the added flexibility to determine the type of training, methodology (classroom, computer, team, on-the-job), length of training, frequency and subject matter content for their training program. Since this rule will not have a significant effect on small training schools, or small lessees working on the OCS, the Department has certified that this rule will not have a significant effect on a substantial number of small entities.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on any enforcement actions, call toll-free at (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under (5 U.S.C. 804(2)), SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more,

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act of 1995

DOI has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any given year on State, local, and tribal governments, or the private sector.

List of Subjects in 30 CFR Part 250

Reporting and record-keeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: December 23, 1998.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

2. Subpart O is revised to read as follows:

Subpart O—Training

Sec.

250.1500 Definitions.
250.1501 What is the goal of my training program?
250.1502 What are my general responsibilities for training?
250.1503 What job skills and safety knowledge elements must my training cover for well control, production safety systems, and other types of training?
250.1504 What well control training must my employees receive?
250.1505 What training must my production safety system employees receive?
250.1506 What other types of training must my employees receive?
250.1507 May I use alternative training methods?
250.1508 Where may I get training for my employees?
250.1509 How often must I train my employees?
250.1510 How will MMS measure training results?
250.1511 What must I do when MMS administers written tests?
250.1512 What must I do when MMS administers hands-on, simulator, or other types of testing?
250.1513 What will MMS do if my employees are not properly trained?

§ 250.1500 Definitions.

Terms used in this subpart have the following meaning:

Employee means lessee or contractor employees.

Floorhand means rotary helpers, derrick-men, or their equivalent.

I or *you* means the lessee engaged in oil, gas, or sulphur operations in the Outer Continental Shelf (OCS).

Lessee means a person who has entered into a lease with the United States to explore for, develop, and produce the leased minerals. The term *lessee* also includes an owner of operating rights for that lease and the MMS-approved assignee of that lease.

Production safety system employee means employees who install, repair, test, maintain, or operate surface or subsurface safety devices, as well as the platform employee who oversees production operations.

Supervisor means the driller, tool-pusher, operator's representative, or their equivalent.

Training school means a party who has developed a course to teach well-control for drilling, well completion and well workover, well servicing, or production safety systems.

Well completion/well workover means those operations following the drilling of a well that are intended to establish production or to restore production to a well. For the purpose of this subpart, well completion/well workover includes small tubing operations but does not include those operations defined as well servicing.

Well servicing means snubbing and coil tubing operations.

§ 250.1501 What is the goal of my training program?

The goal of your training program is safe and clean OCS operations. To accomplish this goal, you must ensure that your employees are experienced and competent in their respective work assignments.

§ 250.1502 What are my general responsibilities for training?

(a) You must ensure that your employees are properly trained in the

job skills and safety knowledge elements for their positions. We regard the job skills and safety knowledge elements in this subpart as the minimum qualifications OCS workers must have to complete their assigned duties safely and in a manner which protects the environment. You may expand the knowledge elements as appropriate for particular operations. Because you are accountable for the performance of your employees, you must focus on training results, regardless of the method or process used to train them.

(b) You must have a training plan which specifies the type, method, length, frequency, and content of the training. This plan must include at least the following information:

(1) Training in operating procedures, welding, burning, hot tapping practices, safe work practices, emergency response and control measures.

(2) Training and job qualification requirements for each employee's position.

(3) Procedures for maintaining and enhancing job skill requirements, including the latest technological advancements.

(4) Procedures for evaluating contractor personnel.

(5) Procedures for verifying the skills of employees on a periodic basis.

(6) Recordkeeping and documentation procedures.

(7) Audit procedures for your training plan.

(c) You must keep copies of your training plan and documentation for each employee for 5 years at the lessee's or contractor's field office, Headquarters office, or at another location conveniently available to the MMS Regional Supervisor, Field Operations.

§ 250.1503 What job skills and safety knowledge elements must my training cover for well control, production safety systems, and other types of training?

(a) Employees must receive enough training to ensure competency in their assigned duties.

(b) Employees must receive training in basic safety and environmental issues and procedures.

(c) Employees must receive training in the use of each safety device that they will encounter in their normal duties.

(d) Employees must receive additional training as required by §§ 250.1504 through 250.1506.

§ 250.1504 What well control training must my employees receive?

Employees must receive training in well control knowledge and skills as indicated in the following table:

Safety knowledge and skill elements	Drilling		WC/WO[3]		WS[4]
	Super[1]	Floor[2]	Super	Floor	
(a) Hands-on training in:					
(1) Choke manifold operation		√		√	
(2) Stand pipe operation		√		√	
(3) Mud room valves operation		√			
(b) Care, handling & characteristics of drilling and well completion/well workover fluids	√	√			√
(c) Care, handling & characteristics of well completion/well workover fluids & packer fluids			√	√	√
(d) Major causes of uncontrolled fluids from a well including:					
(1) Failure to keep the hole full	√		√		
(2) Swabbing effect	√		√		
(3) Loss of circulation	√		√		
(4) Insufficient drilling fluid density	√		√		
(5) Abnormally pressured formations	√		√		
(6) Effect of too rapidly lowering the pipe in the hole	√		√		
(e) Importance of & instructions on measuring the volume of fluid to fill the hole during trips	√		√		
(f) The importance of filling the hole as it relates to shallow gas conditions	√				
(g) Filling the tubing & casing with fluid to control bottomhole pressure				√	
(h) Warning signals that indicate a kick & conditions that can lead to a kick	√	√	√	√	
(i) Controlling shallow gas kicks and using diverters	√				
(j) At least one bottomhole pressure well control method including conditions unique to a surface or subsea BOP stack	√		√		
(k) Installing, operating, maintaining & testing BOP & diverter systems	√	√			
(l) Installing, operating, maintaining & testing BOP systems			√	√	
(m) Government regulations on:					
(1) Emergency shutdown systems					√
(2) Production safety systems					√
(3) Drilling procedures	√				
(4) Wellbore plugging & abandonment	√		√		
(5) Pollution prevention & waste management	√	√	√	√	√
(6) Well completion & well workover requirements (Subparts E & F of 30 CFR part 250)			√		√
(n) Procedures & sequential steps used on the following pieces of equipment when shutting in a well:					
(1) BOP system	√		√		√
(2) Surface/subsurface safety system					√
(3) Choke manifold	√		√		
(o) Well control exercises with a simulator, interactive computer system or live well suitable for modeling well completion/well workover operations			√		
(p) Well control exercises with a simulator, interactive computer system or live well suitable for modeling drilling operations	√				
(q) Instructions & simulator or live well experience on organizing & directing a well killing operation	√		√		

Safety knowledge and skill elements	Drilling		WC/WO[3]		WS[4]
	Super[1]	Floor[2]	Super	Floor	
(r) At least two simulator practice problems rotating trainees using teams of three or less members	√		√		
(s) Care, operation, purpose, and installation of well control equipment	√	√	√	√	
(t) Limitations of the equipment that may wear or be subjected to pressure	√		√		√
(u) Instructions in well control equipment, including:					
(1) Surface equipment	√		√		√
(2) Well completion/well workover, BOP & tree equipment	√		√		√
(3) Downhole tools & tubulars	√		√		√
(4) Tubing hanger, back pressure valve (threaded/profile), landing nipples, lock mandrels for corresponding nipples & operational procedures for each, gas lift equipment & running & pulling tools operation	√				√
(5) Packers	√		√		√
(v) Instructions in special tools & systems, such as:					
(1) Automatic shutdown systems (control points, activator pilots, monitor pilots, control manifolds & subsurface systems)					√
(2) Flow string systems (tubing, mandrels & nipples, flow couplings, blast joints, & sliding sleeves)					√
(3) Pumpdown equipment (purpose, applications, requirements, surface circulating systems, entry loops and tree connection/flange)					√
(w) Instructions for detecting entry into abnormally pressured formations & warning signals	√				
(x) Instructions on well completion/ well control problems	√				
(y) Well control problems during well completion/well workover operations including:					
(1) Killing a flow			√		
(2) Simultaneous drilling & well completion & well workover operations on the same platform			√		
(3) Killing a producing well			√		
(4) Removing the tree			√		
(z) Calculations on the following:					
(1) Fluid density increases that controls fluid flow into the wellbore	√		√		
(2) Fluid density to pressure conversion & the danger of formation breakdown under the pressure caused by a fluid column, especially when setting casing in shallow formations	√				
(3) Fluid density to pressure conversion & the danger of formation breakdown under the pressure caused by a fluid column			√		
(4) Equivalent pressures at the casing seat depth	√				
(5) Drop in pump pressure as fluid density increases & the relationship between pump pressure, pump rate, & fluid density	√		√		
(6) Pressure limitations on casings	√		√		
(7) Hydrostatic pressure & pressure gradients	√		√		√
(aa) Unusual well control situations, including the following:					
(1) Drill pipe is off bottom or out of the hole. Work string is off bottom or out of the hole	√		√		
(2) Lost circulation occurs	√		√		
(3) Drill pipe is plugged. Work string is plugged	√		√		
(4) Excessive casing pressure	√		√		
(5) There is a hole in drill pipe. Hole in the work string. Hole in the casing string	√		√		
(6) Multiple well completion			√		
(bb) Special well control problems while drilling with a subsea stack including:					
(1) Choke line friction pressure determinations	√		√		
(2) Use of marine risers	√		√		
(3) Riser collapse	√		√		
(4) Removing trapped gas from the BOP stack after controlling a well kick	√		√		
(5) "U" tube effect as gas hits the choke line	√		√		
(cc) Mechanics of various well controlled situations, including:					
(1) Gas bubble migration & expansion	√		√		
(2) Bleeding volume from a shut-in well during gas migration	√		√		
(3) Excessive annular surface pressure	√		√		
(4) Differences between a gas kick, a salt water and/or oil kick	√		√		
(5) Special well control techniques (such as, but not limited to, barite plugs & cement plugs)	√		√		
(6) Procedures & problems involved when experiencing lost circulation	√		√		
(7) Procedures & problems involved when experiencing a kick while working over or completing a well including conducting small tubing operations in a hydrogen sulfide (H_2S) environment			√		
(8) Procedures & problems involved when experiencing a kick while drilling in a H_2S environment	√				
(9) Procedures & problems involved when experiencing a kick while servicing a well including snubbing, coil-tubing, and stripping & snubbing operations with work string					√

Safety knowledge and skill elements	Drilling		WC/WO[3]		WS[4]
	Super[1]	Floor[2]	Super	Floor	
(dd) Reasons for well completion/well workover, including:					
(1) Reworking a reservoir to control production			√		√
(2) Water coning			√		
(3) Completing a new reservoir			√		√
(4) Completing multiple reservoirs			√		√
(5) Stimulating a reservoir to increase production			√		√
(6) Repairing mechanical failure			√		√
(ee) Methods of preparing a well for entry:					
(1) Using back pressure valves			√		
(2) Using surface & subsurface safety systems			√		√
(3) Removing the tree & tubing hanger			√	√	√
(4) Installing & testing BOP & wellhead prior to removing back pressure valves & tubing plugs			√		√
(ff) Instructions in small tubing units:					
(1) Applications (stimulation operations, cleaning out tubing obstructions, plugback, and squeeze cementing)			√		
(2) Equipment description (derrick & drawworks, small tubing, pumps, weighted fluid facilities, and weighted fluids)			√		
(3) BOP equipment (rams, wellhead connection, & check valve)			√		
(gg) Methods for killing a producing well, including:					
(1) Bullheading			√		√
(2) Lubricating & bleeding			√		√
(3) Coil tubing			√		√
(4) Equipment description (coil tubing, reel, injection head, control assembly & injector hoist)					√
(5) BOP equipment (tree connection or flange, rams, injector assembly & circulating system)					√
(6) Snubbing			√		√
(7) Types (rig assist & stand alone)					√
(8) Applications (running & pulling production or kill strings, resetting weight on packers, fishing for lost wireline tools or parted kill strings, circulating cement or fluid initiating, flow and cleaning out sand in tubing.)					√
(9) Equipment (operating mechanism, power supply, control assembly & basket, slip assembly, mast & counterbalance winch & access window)					√
(10) BOP equipment (tree connection or flange, rams, spool, traveling slips, manifolds, auxiliary—full opening safety valve inside BOP, maintenance & testing)					√
(hh) The purpose & use of BOP closing units, including the following:					
(1) Charging procedures include precharge & operating pressure	√		√		
(2) Fluid volumes (usable & required)	√		√		
(3) Fluid pumps	√		√		
(4) Maintenance that includes charging fluid & inspection procedures	√		√		
(ii) Instructions on stripping & snubbing operations & using the BOP system for working pipe in or out of a wellbore under pressure	√				

Footnotes:
[1] Super = Supervisor.
[2] Floor = Floorhand.
[3] WC/WO = Well Completion and Well Workover.
[4] WS = Well Servicing.

§ 250.1505 What training must my production safety system employees receive?

You must ensure that your employees receive all of the training specified in this section.

(a) You must ensure that your employees understand Government regulations related to:

(1) Pollution prevention and waste management; and

(2) Requirements for well completion and well workover operations.

(b) You must give your employees instruction in the following (contained in, but not limited to, API RP 14C):

(1) Failures or malfunctions in systems that cause abnormal conditions and the detection of abnormal conditions;

(2) Primary and secondary protection devices and procedures;

(3) Safety devices that control undesirable events;

(4) Safety analysis concepts;

(5) Safety analysis of each basic production process component; and

(6) Protection concepts.

(c) You must give your employees hands-on training on covering, installing, operating, repairing, or maintaining the following equipment:

(1) High-low pressure sensors;

(2) High-low level sensors;

(3) Combustible gas detectors;

(4) Pressure relief devices;

(5) Flowline check valves;

(6) Surface safety valves;

(7) Shutdown valves;

(8) Fire (flame, heat, or smoke) detectors;

(9) Auxiliary devices (3-way block and bleed valves, time relays, 3-way snap acting valves, etc.);

(10) Surface-controlled subsurface safety valves and surface-control equipment; and

(11) Subsurface-controlled subsurface safety valves.

(d) You must give your employees instructions on inspecting, testing and maintaining surface and subsurface devices and surface control systems for subsurface safety valves.

(e) You must give your employees instructions in at least one safety device

that illustrates the primary operation principle in each class for safety devices:

(1) Basic operational principles;

(2) Limits affecting application;

(3) Problems causing equipment malfunction and how to correct these problems;

(4) A test for proper actuation point and operations;

(5) Adjustments or calibrations;

(6) Recording inspection results and malfunctions; and

(7) Special techniques for installing safety devices.

(f) You must give your employees instructions on the following basic principles and on the logic of the emergency support system:

(1) Combustible and toxic gas detection system;

(2) Liquid containment system;

(3) Fire loop system;

(4) Other fire detection systems;

(5) Emergency shutdown system; and

(6) Subsurface safety valves.

§ 250.1506 What other types of training must my employees receive?

Your employees must receive other training as shown in the following table.

Training elements	Where can you find information on these training elements?
Operational Hazards	MMS approved plans or permits.
Hydrogen Sulfide	30 CFR 250.417(g)(1) through (5) Subpart D.
Crane Operation	30 CFR 250.101 (API RP 2D).
Environmental	Lease stipulations and NTLs.
Pollution	30 CFR 254.29(b) and 254.41(c).
Cultural	Lease stipulations and NTLs.
Electrical	30 CFR 250.403(d).

§ 250.1507 May I use alternative training methods?

You may use alternative training methods. These methods may include team, self-paced, hands-on, on-the-job, or computer-based learning.

§ 250.1508 Where may I get training for my employees?

You may get training from any source that meets your employee's job qualification requirements. These may include your own training programs, private vendors, universities, or government institutions.

§ 250.1509 How often must I train my employees?

You determine the frequency of the training you provide your skilled employees. You must train them as often and as much as necessary to maintain their job and knowledge qualifications, and to keep them current in the latest technological advances and regulatory changes.

§ 250.1510 How will MMS measure training results?

(a) MMS may periodically assess your training program to see how well your employees are trained.

(b) To assess your program, MMS may use one of the following evaluation methods:

(1) *Training system audit.*

A training system audit may be conducted by MMS personnel and/or its authorized representative at your office. You will be asked to explain your overall training program. This review may include an evaluation of your training plans and/or records.

(2) *Employee interviews.*

MMS may conduct interviews at either onshore or offshore locations to determine what type of training your employees have had, when and where this training was conducted, and an employee's evaluation of the training in relation to his/her specific job.

(3) *Written test.*

MMS personnel and/or its authorized representative may conduct testing at either onshore or offshore locations for the purpose of evaluating an individual's knowledge of the training elements specified in this subpart. Your performance will be evaluated on how your employees perform relative to past written tests or compared to the written test scores of other companies.

(4) *Hands-on production safety, simulator, or live well testing.*

MMS personnel and/or its authorized representative may conduct tests at either onshore or offshore locations. Tests will be designed to evaluate the performance of employees in the job skills and safety knowledge elements identified in this subpart. You are responsible for the costs associated with this testing.

§ 250.1511 What must I do when MMS administers written tests?

If MMS tests your employees at either your worksite or an onshore location, you must:

(a) Allow MMS and/or its authorized representative to administer written tests to your employees.

(b) Identify your employees by current position, years of experience in present position, years of total oil field experience, and employer's name (e.g., operator, contractor, or sub-contractor company name).

§ 250.1512 What must I do when MMS requires hands-on, simulator, or other types of testing?

If MMS conducts or requires you to conduct hands-on, simulator, or other types of testing, you must:

(a) Allow MMS and/or its authorized representative to administer or witness the testing.

(b) Identify your employees by current position, years of experience in present position, years of total oil field experience, and employer's name (e.g., operator, contractor, or sub-contractor company name).

(c) Pay for all costs associated with the testing.

§ 250.1513 What will MMS do if my employees are not properly trained?

If MMS determines that you are not training your employees to perform their jobs effectively, we may initiate one or more of the following enforcement actions:

(a) Issue an Incident of Noncompliance;

(b) Require you to revise and submit to MMS your training plan to address identified deficiencies;

(c) Assess civil/criminal penalties; or

(d) Initiate disqualification procedures.

[FR Doc. 99–9683 Filed 4–19–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–081–FOR]

West Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment revises the West Virginia Code to create the Office of Explosives and Blasting, and adds and amends sections of the West Virginia Code concerning blasting. The amendment is intended to improve the operational efficiency of the State program.

DATES: Written comments must be received on or before 4:00 p.m. on May 20, 1999. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on May 17, 1999. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on May 5, 1999.

ADDRESSES: Your written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

Copies of the proposed amendment, the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the addresses below, during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting the OSM Charleston Field Office.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301 Telephone: (304) 347–7158

West Virginia Division of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0515

In addition, copies of the proposed amendment are available for inspection during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291–4004

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office,323 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255–5265

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. Background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval can be found in the January 21, 1981, **Federal Register** (46 FR 5915–5956). Subsequent actions concerning the West Virginia program and previous amendments are codified at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Discussion of the Proposed Amendment

By letter dated March 25, 1999 (Administrative Record Number WV–1119), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to the West Virginia program pursuant to 30 CFR 732.17. The amendment concerns changes to Chapter 22 Article 3 (§ 22–3) and § 22–1 of the West Virginia Code as contained in West Virginia Senate Bill (SB) 681. The amendment creates the Office of Explosives and Blasting within the WVDEP, and adds and amends sections of the West Virginia Code concerning blasting. By letter dated April 1, 1999 (Administrative Record Number WV–1121), the WVDEP notified us that the West Virginia Governor signed SB–681, and provided a copy of the signed bill.

The amendments submitted by the WVDEP are identified below. Minor wording changes and other non-substantive changes are not identified.

1. 22–1–7 Offices Within the Division; Continuation of the Office of Water Resources

New section 22–1–7(a)(7) is added to provide that the director shall maintain the office of explosives and blasting, which is charged, at a minimum, with administering and enforcing, under the supervision of the director, the provisions of 22–3A, concerning the office of explosives and blasting.

2. 22–3–13 General Environmental Protection Performance Standards for Surface Mining; Variances

Section 22–3–13(a) is amended to change the phrase "* * * and other requirements as the director promulgates" to read "* * * and other requirements set forth in legislative rules proposed by the director."

Section 22–3–13(b)(3) is amended to change a proviso statement concerning backfilling and grading requirements from, "Provided further, That the director shall promulgate rules governing variances * * *" to read, "Provided further, That the director shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code. * * *"

Section 22–3–13(b)(15) concerning explosives is amended by deleting paragraphs (A), (C), and (E), and relettering the remaining paragraphs. Paragraph (D) concerning blaster certification, now relettered as paragraph (B), is amended by deleting the word "director" and adding in its place the words "office of explosives and blasting."

Section 22–3–13(e) concerning variances from approximate original contour is amended from the words, "The director may promulgate rules that permit variances * * *" to read "The director may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, that permit variances. * * *"

Section 22–3–13(f) concerning coal mine waste piles is also amended to provide that the director may propose rules for legislative approval, rather than promulgate rules.

3. 22–3–13a Pre-Blast Survey Requirements

This section is all new. Section 22–3–13a(a) provides that at least 30 days before blasting, the following notifications shall be made in writing to all owners and occupants of man-made dwellings or structures that the operator or designee will perform pre-blast surveys: (1) For operations less than 200 acres in a single permitted area or less than 300 acres of contiguous or nearly contiguous area of two or more permitted areas, the notifications shall be to all owners and occupants within five tenths of a mile of the permitted area or areas; (2) for all other surface mining operations, the required notifications shall be to all owners or occupants within five tenths of a mile of the permitted area or areas, or seven

tenths of a mile of the proposed blasting site, whichever is greater.

Section 22–3–13a(b) adds a requirement that operators who have already made pre-blast surveys, and if Section 22–3–13a(a)(2) applies, shall notify owners and occupants within seven tenths of a mile of the blasting site, unless a written waiver is executed in accordance with Section 22–3–13(c).

Section 22–3–13a(c) provides for the waiver of the right to a pre-blast survey. This provision also provides that if access to conduct a pre-blast survey is denied and a waiver is not provided, or to the extent that access to any portion of the structure, underground water supply or well is impossible or impractical under the circumstances, the pre-blast survey shall indicate that access was refused, impossible or impractical. The operator or designee shall execute a sworn affidavit explaining the reasons and circumstances surrounding the refusals. The office of explosives and blasting shall not determine the pre-blast survey to be incomplete because it indicates that access was refused, impossible, or impractical. The operator shall send copies of all written waivers and affidavits to the office of explosives and blasting.

Section 22–3–13a(d) provides that if a pre-blast survey was waived by the owner and the property sold, the new owner may request a pre-blast survey from the operator.

Section 22–3–13a(e) provides that an owner may request from the operator a pre-blast survey on structures conducted after the original pre-blast survey.

Section 22–3–13a(f) provides for the information that a pre-blast survey must contain. Such information includes a general description of the structure and the survey methods; written documentation and drawings, videos or photos of the pre-blast defects, other physical conditions, and unusual or substandard construction of all structures, appurtenances and water sources which could be affected by blasting; written documentation of the water supply; a description of any portion of the structure and appurtenances not documented or photographed and the reasons; signature of the person performing the survey; and any other information required by rule.

Section 22–3–13a(g) provides that pre-blast surveys shall be submitted to the office of explosives and blasting at least 15 days prior to the start of blasting. The office shall review each survey for completeness only, and notify the operator of any deficiencies. The office shall notify the owner and occupant of the location and availability of the pre-blast survey, and provide a copy upon request.

Section 22–3–13a(h) provides that the operator shall file notice of the pre-blast survey or waiver in the office of the county clerk of the county commission of the county where the man-made dwelling or structure is located. The office of explosives and blasting shall prescribe the form to be used.

Section 22–3–13a(i) provides that the chief of the office of explosives and blasting shall propose rules for legislative approval in accordance with Article 29A–3 of the State Code, dealing with pre-blast survey requirements and setting the qualifications for individuals and firms performing pre-blast surveys.

Section 22–3–13a(j) provides that the provisions of Section 22–3–13a shall not apply to underground coal mining operations, and the extraction of minerals by underground mining methods or the surface impacts of the underground mining methods.

4. 22–3–22a Blasting Restrictions; Site Specific Blasting Design Requirement

This is a new section. Section 22–3–22a(a) provides that for this section, the term "production blasting" means blasting that removes the overburden to expose underlying coal seams and shall not include construction blasting.

Section 22–3–22a(b) provides that for this section, the term "construction blasting" means blasting to develop haul roads, mine access roads, coal preparation plants, drainage structures, or underground coal mine sites and shall not include production blasting.

Section 22–3–22a(c) provides that for this section, the term "protected structure" means any of the following that are outside the permit area: an occupied dwelling, a temporarily unoccupied dwelling which has been occupied within the past ninety days, a public building, a structure for commercial purposes, a school, a church, a community or institutional building, a public park or a water well.

Section 22–3–22a(d) provides that production blasting is prohibited within 300 feet of a protected structure or within 100 feet of a cemetery.

Section 22–3–22a(e) provides that blasting within 1000 feet of a protected structure shall have a site specific blast design approved by the office of explosives and blasting. The design shall limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts to do the following: (1) Prevent injury to persons; (2) prevent damage to property outside the permit area; (3) prevent adverse impacts on any underground mine; (4) prevent change in the course, channel or availability of ground or surface water outside the permit area; and (5) reduce dust outside the permit area. This provision also provides that in developing the blasting plan, consideration be given to such items as the physical condition, type and quality of construction of the protected structure, current use of the protected structure, and the concerns of the owner or occupant.

Section 22–3–22a(f) provides for the waiver in writing of the blasting prohibition within 300 feet, or the site specific restriction within 1000 feet. The operator shall send copies of all waivers to the office of explosives and blasting. Waivers shall be valid during the life of the permit and renewals, and shall be enforceable against any subsequent owners or occupants of the protected structure.

Section 22–3–22a(g) provides that this section does not apply to underground coal mining operations and the surface operations and impacts incident to underground coal operations, or to the extraction of minerals by underground mining methods or the surface impacts of the underground mining methods. Nothing in this section shall exempt any coal mining operation from the general performance standards contained in Section 22–3–13 and any implementing rules.

5. 22–3–23(c) Release of Bond or Deposits

Subsection 22–3–22(c)(3) concerning final bond release is amended to add a paragraph which provides that notwithstanding the bond release scheduling provisions of subdivisions (1), (2) and (3) of this subsection, if the operator completes the backfilling and reclamation in accordance with an approved post-mining land use plan that has been approved by the division of environmental protection and accepted by a local or regional economic development or planning agency for the county or region in which the operation is located, provisions for sound future maintenance are assured by the local or regional economic development or planning agency, and the quality of any untreated postmining water discharge complies with applicable water quality criteria for bond release, the director may release the entire amount of said bond or deposit. The director shall propose rules for legislative approval in accordance with the provisions of article 29a–3 of this code, to govern a bond release pursuant to the terms of this paragraph.

6. 22–3–24 Water Rights and Replacement; Waiver of Replacement

This Section is being amended to add new subsections (c), (d), (e), and (f). New subsection (c) provides that there is a rebuttable presumption that a mining operation caused damage to an owner's underground water supply if the inspector determines the following: (1) Contamination, diminution or damage to an owner's underground water supply exists; and (2) a pre-blast survey was performed, consistent with the provisions of section 22–3–13a, on the owner's property including the underground water supply that indicated that contamination, diminution or damage to the underground water supply did not exist prior to the mining conducted at the mining operation. The operator conducting the mining operation shall: (1) Provide an emergency drinking water supply within 24-hours; (2) provide a temporary water supply within 72-hours; (3) provide a permanent water supply within 30 days; and (4) pay all reasonable costs incurred by the owner in securing a water supply.

New subsection 22–3–24(d) provides that an owner aggrieved under the provisions of subsections (b) or (c) of this section, may seek relief in court or pursuant to the provisions of 22–3b–6.

New subsection 22–3–24(e) provides that the director shall propose rules for legislative approval to implement the requirements of this section.

New subsection 22–3–24(f) provides that the provisions of 22–3–24(c) shall not apply to underground coal mining operations, the surface operations and impacts incident to an underground coal mine, and the extraction of minerals by underground mining methods or the surface impacts of the underground mining methods.

7. 22–3–30a Blasting Requirements; Liability and Civil Penalties in the Event of Property Damage

This section is new. Subsection 22–3–30a(a) provides that blasting of overburden and coal shall be conducted in accordance with the rules and laws established to regulate blasting.

Subsection 22–3–30a(b) provides the penalties to be imposed for each permit area or contiguous permit areas where blasting was out of compliance and resulted in property damage to a protected structure as defined in 22–3–22a.

Subsection 22–3–30a(c) provides that the division of environmental protection may not impose penalties on an operator for the violation of any rule identified in 22–3–30a that is merely administrative in nature.

Subsection 22–3–30a(d) provides that the remedies provided in this section are not exclusive and shall not bar an owner or occupant from any other remedy accorded by law.

Subsection 22–3–30a(e) provides that the monetary penalties and revocation set out at 22–3–30(b) apply if the division of environmental protection establishes that production blasting was conducted within the 300 feet, or the 1000 feet standards set out at 22–3–22a, or was within 100 feet of a cemetery.

Subsection 22–3–30(f) provides that all penalties and liabilities set forth in this section shall be assessed and collected by the director, and deposited with the treasurer of the State of West Virginia in the "general school fund."

Subsection 22–3–30(g) provides that the director shall propose rules for the implementation of this section.

Subsection 22–3–30(h) provides that the provisions of this section shall not apply to underground coal mining operations and the surface operations and impacts incident to underground coal operations, or to the extraction of minerals by underground mining methods or the surface impacts of the underground mining methods. Nothing in this section shall exempt any coal mining operation from the general performance standards contained in Section 22–3–13 and any implementing rules.

8. 22–3A Office of Explosives and Blasting

Article 3A is new . Section 22–3A–1 provides for legislative findings, and policies and purposes. Section 22–3A–1 declares that establishment of the office of explosives and blasting is in the public interest, and that this office will be vested with authority to enforce the rules and laws established to regulate blasting.

Section 22–3A–2 creates the office of explosives and blasting, provides that the director shall appoint a chief to administer the office, and provides that the office shall assume responsibility for the enforcement of all the rules and laws established to regulate blasting.

Section 22–3A–3 establishes the powers and duties of the office of explosives and blasting.

Section 22–3A–4 provides that the office shall propose rules for the purpose of implementing Article 22–3A. The rules shall include, but not be limited to: procedures for the review, modification and approval of blasting plans, inspection and monitoring of blasting; minimum requirements for pre-blast surveys; procedures for the use of seismographs; a procedure to warn of impending blasting; a procedure to limit the type of explosives and detonating equipment, the size, timing, and frequency of blasts based on the physical conditions at the site to prevent injury, damage, and adverse impacts; publication of blasting schedules; and written notice of blasting schedules. The office shall also propose rules for blaster certification, and for disciplinary procedures for blasters.

Section 22–3A–5 provides that the office shall establish and manage a claims process related to blasting, and shall propose rules concerning blasting claims and arbitration. The section also provides that participation in the claims process is voluntary, but that claim determinations are intended to be final, if not taken to arbitration. The section provides for written notice, the payment of claims for which an operator is adjudged liable, and for the issuance of cessation orders. The section also provides that no permit shall be granted unless the applicant agrees to be subject to the terms of this section. The section also authorizes the office to retain the services of inspectors, experts and other persons or firms as necessary to fulfill its responsibilities under this section.

Section 22–3A–6 provides that rules, orders and permits already issued will remain in effect until modified, terminated, superseded, set aside or revoked by a court, and that proceedings pending before the division are not effected by this enactment.

Section 22–3A–7 concerns funding. It provides that the office shall assess each operator a fee on each quantity of explosive material used on the surface mining operations. The office shall propose rules establishing the fees, and the office shall deposit all monies received into a special fund called the "mountaintop removal fund" to be spent by the offices in conducting their duties. The legislature shall appropriate the funds for expenditure.

Section 22–3A–8 concerns the transfer of personnel and assets currently used to perform the duties of Article 22–3A to the office of explosives and blasting

Section 22–3A–9 sets forth the limitations of Article 22–3A. Except for sections five and seven of this article, all provisions of this article are also applicable to surface blasting activities related to underground mining operations.

Section 22–3A–10 provides that the office of explosives and blasting shall conduct or participate in studies or research to develop scientifically based data and recommendations related to various aspects of blasting. The office

shall report the data and recommendations to the joint committee on government and finance on or before January 1, 2001, and annually thereafter or as otherwise requested.

Section 22–3A–11 provides that the office of explosives and blasting is continued until July 1, 2002.

III. Public Comment Procedures

We are seeking comments, in accordance with the provisions of 30 CFR 732.17(h), on the proposed amendment submitted by the State of West Virginia by letter dated March 25, 1999. Your comments should address whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the West Virginia program.

Written Comments

Your written comments should be specific, pertain only to the issues proposed in this notice and include explanations in support of your recommendations. Comments received after the time indicated under **DATES** or at locations other than the OSM Charleston Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

If you wish to comment at the public hearing, you should contact the person listed above at **FOR FURTHER INFORMATION CONTACT** by close of business on May 5, 1999. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

If you file a written statement at the same time that you request a hearing, the statement will greatly assist the person who will make a transcript of the hearing.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with us to discuss the proposed amendments, may request a meeting at the Charleston Field Office by contacting the person listed above at **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed above at **ADDRESSES**. A written summary of each public meeting will be made part of the Administrative Record.

If you are disabled and have need for a special accommodation to attend a public hearing, please contact the person listed above at **FOR FURTHER INFORMATION CONTACT**.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 13, 1999.

H. Vann Weaver,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 99–9887 Filed 4–19–99; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 164–0112b; FRL–6324–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District (SMAQMD), Mojave Desert Air Quality Management District (MDAQMD), and the Ventura County Air Pollution Control District (VCAPCD) as Revisions to the California State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of oxides of nitrogen (NO_X) emissions from rules from Sacramento Metropolitan Air Quality Management District (SMAQMD), Mojave Desert Air Quality Management

District (MDAQMD), and the Ventura County Air Pollution Control District (VCAPCD) as revisions to the California State Implementation Plan (SIP). SMAQMD's Rule 414 controls emissions of oxides of nitrogen from natural gas-fired water heaters; MDAQMD's Rule 1157 controls emissions from boilers and process heaters; and VCAPCD's Rule 74.16 controls emissions of oxides of nitrogen from oilfield drilling operations.

The intended effect of proposing approval of these rules is to regulate NO_X emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the final rules Section of this **Federal Register**, the EPA is approving the state's SIP submittal as direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by May 20, 1999.

ADDRESSES: Comments should be addressed to: Andrew Steckel, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation reports of the rules are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Sacramento Metropolitan Air Quality Management District (SMAQMD), 8475 Jackson Rd., Suite 200, Sacramento, CA 95826–3904.

Mojave Desert Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

Ventura County Air Pollution Control District (VCAPCD), 800 South Victoria Avenue, Ventura, CA 93009.

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1160.

SUPPLEMENTARY INFORMATION: This document concerns SMAQMD's Rule 414, Natural Gas-fired Water Heaters; MDAQMD's Rule 1157, Boilers and Process Heaters; and VCAPCD's Rule 74.16, Oilfield Drilling Operations. The California Air Resources Board submitted SMAQMD's Rule 414 to EPA for incorporation into its SIP on March 10, 1998. MDAQMD's Rule 1157 was submitted on August 1, 1997 and VCAPCD's Rule 74.16 on April 5, 1991.

For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Authority: 2 U.S.C. 7401 *et seq.*

Dated: April 1, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 99–9713 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–204–1–9913b; FRL–6326–8]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Memphis Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revisions to the Memphis and Shelby County Health Department (MSCHD) ozone (O_3) maintenance plan submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on September 18, 1997, with supplemental information submitted on June 30, 1998. The MSCHD revised their O_3 maintenance plan by adding new tables which correct errors made in the original base year inventory and maintenance plan. These corrections impact the transportation conformity budget for the greater Memphis Metropolitan Statistical Area. In the Final rules section of this **Federal Register**, the EPA is approving the Tennessee SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before May 20, 1999.

ADDRESSES: You should address comments on this action to Steven M. Scofield at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of documents related to this action are available for the public to review during normal business hours at the locations below. If you would like to review these documents, please make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN 204–1–9913a. The Region 4 office may have additional documents not available at the other locations.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Steven M. Scofield, 404/562–9034

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531. 615/532–0554

Memphis and Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105. 901/576–7600

FOR FURTHER INFORMATION CONTACT: Steven M. Scofield at 404/562–9034.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: March 25, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–9715 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX 109–1–7412b; FRL–6329–1]

Rescission of the Conditional Section 182(f) Exemption to the Nitrogen Oxides (NO_X) Control Requirements for the Dallas/Fort Worth Ozone Nonattainment Area; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing direct final rescission of the conditional section 182(f) exemption to the NO_X control requirements for the Dallas/Fort Worth ozone nonattainment area.

In the "Rules and Regulations" section of this **Federal Register**, we are rescinding the exemption as a direct final rule without prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this rescission in the preamble to the direct final rule. If we receive no relevant adverse comments, we will not take further action on this proposed rule. If we receive relevant adverse comments, we will withdraw the direct final rule and it will not take effect. We will address all relevant public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Written comments must be received by May 20, 1999.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone: (214) 665–7214.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert R. Sherrow, Jr., Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone: (214) 665–7237.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action of the same title that is located in the "Rules and Regulations" section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 14, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–9869 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH 122–1b; FRL–6328–7]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to approve a March 18, 1999, request from Ohio for a State Implementation Plan (SIP) revision of the Stark County (Canton, Ohio) ozone maintenance plan. The maintenance plan revision establishes new transportation conformity mobile source emissions budgets for the year 2005. We are approving the allocation of a portion of the safety margin for volatile organic compounds (VOCs) and oxides of nitrogen (NO_X) to the area's 2005 mobile source emissions budgets for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule we plan to take no further activity in relation to this proposed rule. If EPA receives significant adverse comments, in writing, which have not been addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: We must receive comments on this proposed rule by May 20, 1999.

ADDRESSES: Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Patricia Morris at (312) 353–8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

What action is EPA taking today?

Where can I find more information about this proposal and the corresponding direct final rule?

What Action Is EPA Taking Today?

In this action, we are proposing to approve a revision to the maintenance plan for Stark County, Ohio. The revision will change the mobile source emission budget that is used for transportation conformity purposes. The revision will keep the total emissions for the area at or below the attainment level required by law. This action will allow State or local agencies to maintain air quality while providing for transportation growth.

Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: April 8, 1999.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 99–9867 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[KY 111–9914b; FRL–6325–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the Section 111(d) Plan submitted by the Kentucky Division for Air Quality (DAQ) for the Commonwealth of Kentucky on December 3, 1998, for implementing and enforcing the Emissions Guidelines applicable to existing Municipal Solid Waste Landfills. The Plan was submitted by the Kentucky DAQ to satisfy certain Federal Clean Air Act requirements. In the Final Rules Section of this **Federal Register**, EPA is approving the Kentucky State Plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments must be received in writing by May 20, 1999.

ADDRESSES: Written comments should be addressed to Karla McCorkle at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Division for Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Karla McCorkle at (404) 562–9043 or Scott Davis at (404) 562–9127.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: March 24, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–9596 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF59

Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Sierra Nevada Distinct Population Segment of California Bighorn Sheep as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to make permanent the provisions of the emergency rule listing the Sierra Nevada distinct population segment of California bighorn sheep (*Ovis canadensis californiana*) as an endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). The emergency rule listing the population is published concurrently in this issue of the **Federal Register**. The population historically occurred only in the Sierra Nevada in California from Sonora Pass, Mono County south to Walker Pass, Kern County. Currently, the Sierra Nevada bighorn sheep is known from five disjunct subpopulations along the eastern escarpment of the Sierra Nevada in Mono and Inyo counties, California. A total of about 100 animals are known to exist. All five subpopulations are imminently threatened by mountain lion predation and disease. We solicit additional data and information that may assist us in making a final decision on this proposed action.

DATES: Comments from all interested parties must be received by June 21, 1999. Public hearing requests must be received by June 4, 1999.

ADDRESSES: Submit comments and materials concerning this proposal to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Rd., Suite B, Ventura, California 93003. Comments and materials received will be available for public inspection by appointment during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Carl Benz, Assistant Field Supervisor, Ventura Fish and Wildlife Office, at the address listed above (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

For a discussion of biological background information, previous Federal action, factors affecting the species, critical habitat, and conservation measures available to listed and proposed species, consult the emergency rule for the Sierra Nevada distinct population segment of California bighorn sheep published concurrently in this issue of the **Federal Register**.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

In making any final decision on this proposal we will take into consideration the comments and any additional information we receive, and such communications may lead to a final regulation that differs from this proposal.

The Act requires that a public hearing be held if requested within 45 days of the date of publication of a proposed rule.

National Environmental Policy Act

We have determined that an Environmental Assessment or Environmental Impact State, as defined under the authority of the National Environmental Policy Act of 1969, need

not be prepared in connection with regulations adopted pursuant to section (4)(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.21 and 17.22.

Author

The primary author of this proposed rule is Carl Benz of the Ventura Fish and Wildlife Office (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons given in the preamble to the emergency rule listing the Sierra Nevada distinct population segment of California bighorn sheep as endangered, published concurrently in the issue of the **Federal Register**, we propose to amend 50 CFR part 17 as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625. 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h) add the following to the List of Endangered and Threatened Wildlife in alphabetical order under MAMMALS:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Mammals:							
*	*	*	*	*	*	*	*
Sheep, Sierra Nevada bighorn.	*Ovis canadensis californiana.*	U.S.A. (western conterminous states), Canada (southwest), Mexico (north).	U.S.A. (CA—Sierra Nevada).	E		NA	NA
*	*	*	*	*	*	*	*

Dated: April 14, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 99–9936 Filed 4–19–99; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 64, No. 75
Tuesday, April 20, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–007–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the Horse Protection Program.

DATES: We invite you to comment. We will consider all comments that we receive by June 21, 1999.

ADDRESSES: Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as through the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 99–007–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please send an original and three copies, and state that your comments refer to Docket No. 99–007–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: For information regarding the Horse Protection Program, contact Dr. Richard Watkins, Initiatives Coordinator, Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737–1234, (301) 734–7833; or e-mail: richard.h.watkins@usda.gov. For copies of more detailed information on the information collection, contact Ms. Cheryl Groves, Agency Support Services Specialist, at (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Title: Horse Protection.

OMB Number: 0579–0056.

Expiration Date of Approval: September 30, 1999.

Type of Request: Extension of approval of an information collection.

Abstract: The practice known as "soring" is the causing of pain in Tennessee Walking horses and other gaited horses in order to affect their performance. The Horse Protection Act (HPA) (15 U.S.C. 1821 *et seq.*) was enacted to eliminate soring by prohibiting the showing, exhibition, transport, or sale of sore horses. Exercising its rulemaking and enforcement authority under the HPA, the Animal and Plant Health Inspection Service (APHIS) issues and enforces regulations regarding horse protection.

In 1979, in response to an amendment to the HPA, APHIS issued regulations under which horse show management must hire individuals to conduct preshow inspections, in order to avoid liability under the HPA if sore horses are shown or exhibited. These individuals are referred to as designated qualified persons (DQPs). DQPs are trained and licensed only under industry-sponsored DQP programs that APHIS certifies and monitors, and that are currently run by horse industry organizations.

Enforcement of the HPA and its related regulations depends on inspections of horses by DQPs and by APHIS officials. In order for APHIS to monitor whether enforcement by DQPs and Department-certified DQP programs is effective, it is necessary that DQPs, DQP programs, and horse show management maintain or submit to APHIS records related to inspections at horse shows, as well as information regarding the certified programs.

No official government form is necessary for the reporting and recordkeeping required.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning such information collection. These comments are invited to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, or other collection technologies e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average .177 hours per response.

Respondents: Horse industry organizations, DQP programs, and horse show management.

Estimated annual number of respondents: 650.

Estimated annual number of responses for respondent: 11.07.

Estimated total annual burden on respondents: 7,195 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

All responses to this notice will be summarized and include in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 15th day of April 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–9848 Filed 4–19–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–020N]

National Advisory Committee on Meat and Poultry Inspection; Public Meeting

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service(FSIS)is announcing that the National Advisory Committee on Meat and Poultry Inspection will be meeting to discuss five new issues: (1) Qualifications of government and industry personnel in establishments which have implemented the Hazard Analysis and Critical Control Point (HACCP) system; (2) Using *Campylobacter* as a performance standard; (3) Elimination of all exemptions from Federal inspection; (4) Mandatory inspection of all animal flesh foods; and (5) Conceptual framework for producing food that is risk free. All interested persons are welcome to attend the public meeting and to submit written comments and suggestions on these and other issues the Committee might consider.

DATES: The meeting will be held on May 5 and 6, 1999. The full Committee will meet from 8:30 a.m. to 5:15 p.m. on May 5 and 6. Subcommittees will meet from 7:00 p.m. to 9:00 p.m. on May 5 to continue work on issues discussed during the full Committee meeting.

ADDRESSES: The meeting will be held at the Quality Hotel & Suites, Courthouse Plaza, 1200 North Courthouse Road, Arlington, VA 22201; telephone (703) 524–4000. The full Committee will meet in the Jefferson Room; subcommittees will meet in the Conference Center rooms. Submit written comments on the discussion topics to the FSIS Docket Clerk, Docket No. 99–020N, Room 102, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700. The comments and official transcript of the meeting will be kept in the Docket Clerk's office when they become available, and the Docket Clerk's office will be open between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Micchelli at (202) 720–6269, by FAX at (202) 690–1030, or E-mail to Michael.Micchelli@usda.gov. A schedule of events is available on the FSIS Homepage at *http://www.fsis.usda.gov*. Persons needing sign language interpreters or other special accommodations should contact Mr. Micchelli's office no later than April 29, 1999.

SUPPLEMENTARY INFORMATION:

On March 22, 1999, the Secretary of Agriculture renewed the charter for the National Advisory Committee on Meat and Poultry Inspection. The Committee provides advice and recommendations to the Secretary on Federal and State meat and poultry programs pursuant to sections 7(c), 24, 205, and 301(c) of the Federal Meat Inspection Act and sections 5(a)(3), 5(c), 8(b), and 11(e) of the Poultry Products Inspection Act. The FSIS Administrator is the Committee Chair. Committee membership is drawn from representatives of consumer groups, producers, processors, academia, and marketers from the meat and poultry industry and State government officials. The newly appointed members of the Committee are:

Terry Burkhardt, Wisconsin Bureau of Meat Safety and Inspection

Dr. James Denton, University of Arkansas

Caroline Smith-DeWaal, Center for Science in the Public Interest

Nancy Donley, Safe Tables Our Priority

Dr. Cheryl Hall, Zacky Farms, Inc.

Dr. Daniel E. LaFontaine, South Carolina Meat-Poultry Inspection Department

Rosemary Mucklow, National Meat Association

Dr. Dale Morse, New York Office of Public Health

Carol Tucker Foreman, Safe Food Coalition

Kathleen L. Hanigan, Farmland Foods, Inc.

Collette Schultz Kaster, Premium Standard Farms

Dr. Gary Weber, National Cattleman's Beef Association

Dr. Alice Hurlbert Johnson, National Turkey Federation

Michael M. Mamminga, Iowa Department of Agriculture and Land Stewardship

Dr. Lee C. Jan, Texas Department of Health

Walter E. Juzenas, American Public Health Association

The Committee deliberates on specific issues and makes recommendations to the whole Committee and the Secretary of Agriculture. The meeting is open to the public on a space-available, first-come basis. Registration is required and will take place at the meeting. Pre-registration is not required. Interested persons will have an opportunity to discuss issues relating to the activities of the Committee and may file comments as discussed above in **ADDRESSES.**

Done at Washington, DC, on: April 14, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–9959 Filed 4–19–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Blue Mountains Natural Resources Institute, Board of Directors, Pacific Northwest Research Station, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Blue Mountain Natural Resources Institute (BMNRI) Board of Directors will meet on June 1, 1999, at Agriculture Service Center Conference Room, 10507 N. McAlister Road, La Grande, Oregon. The meeting will begin at 9 a.m. and continue until 3:30 p.m. Agenda items to be covered will include: (1) Subcommittee presentation on new Institute direction (and discussion and decision), and (2) public comments. All BMNRI Board Meetings are open to the public. Interested citizens are encouraged to attend. Members of the public who wish to make a brief oral presentation at the meeting, should contact Larry Hartmann, BMNRI, 1401 Gekeler Lane, La Grande, Oregon 97850, 541–962–6537, no later than 5:00 p.m. May 28, 1999, to have time reserved on the agenda.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Larry Hartmann, Manager, BMNRI, 1401 Gekeler Lane, La Grande, Oregon 97850, 541–962–6537.

Dated: April 6, 1999.

Lawrence A. Hartmann,

Manager.

[FR Doc. 99–9771 Filed 4–19–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Khaled Khalil El-Awar; Order Denying Permission To Apply For or Use Export Licenses

On August 5, 1995 Khaled Khalil El-Awar (Khaled El-Awar) was convicted in the United States District Court for the Southern District of Texas, Houston Division, on one count of violating the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991 & Supp. 1998)) (IEEPA). Specifically, Khaled El-Awar was convicted of knowingly and willfully exporting and causing to be exported from the United States to Rotterdam, Holland, for transshipment to Libya, steel pipe and oil field accessories.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the IEEPA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (1998)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the IEEPA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Khaled El-Awar's conviction for violating the IEEPA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Khaled El-Awar permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of eight years from the date of his conviction. The eight-year period ends on August 5, 2003. I have also decided to revoke all licenses issued pursuant to the Act in which Khaled El-Awar had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until August 5, 2003, Khaled Khalil El-Awar, 8000 Cook Road, Apartment #314, Houston, Texas 77072, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may do, directly or indirectly, any of the following:

A . Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or in intended to be, exported from the United States; or

E. Engage in any transaction to serve any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, serving means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Khaled El-Awar by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until August 5, 2003.

VI. A copy of this Order shall be delivered to Khaled El-Awar. This Order shall be published in the **Federal Register**.

Dated: April 12, 1999.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 99–9889 Filed 4–19–99; 8:45 am]

BILLING CODE 3510–DT–M

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. (1997)), August 13, 1997 (3 CFR, 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 4412, August 17, 1998), continued the Export Administration Regulations in effect under the IEEPA.

[2] Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consolation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–805]

Extruded Rubber Thread From Malaysia; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Irina Itkin, AD/CVD Enforcement Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1776 or (202) 482–0656, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (1998).

Amendment to Final Results

In accordance with section 751(a) of the Act, on March 16, 1999, the Department published the final results of the 1996–1997 administrative review on extruded rubber thread from Malaysia, in which we determined that sales of extruded rubber thread from Malaysia were made at less than normal value (64 FR 12967). Also on March 16, 1999, we received allegations, timely filed pursuant to 19 CFR 351.224(c)(2), from Filati Lastex Sdn. Bhd. (Filati) and Heveafil Sdn. Bhd./Filmax Sdn. Bhd. (Heveafil) that the Department made two ministerial errors in its final results. We did not receive comments from Rubberflex Sdn. Bhd. (Rubberflex), Rubfil Sdn. Bhd. (Rubfil), or the petitioner.

After analyzing the submissions, we have determined, in accordance with 19 CFR 351.224, that a ministerial error was made in our final margin calculation for Heveafil. Specifically, we find that we failed to incorporate in our calculation a revision to U.S. insurance expenses for purposes of the final results. Regarding the other error alleged by Filati and Heveafil, however, we determined that the allegation actually questioned the Department's methodology underlying the calculation of uncollected duties. Consequently, we have determined that this allegation does not constitute a ministerial error as defined in 19 CFR 351.224(g). For a detailed discussion of the ministerial error allegations and the Department's analysis, see the memorandum to Louis Apple from the Team, dated April 12, 1999.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final results of the 1996–1997 antidumping duty administrative review on extruded rubber thread from Malaysia.

The revised weight-averaged dumping margins are as follows:

Exporter/manufacturer	Original final margin percentage	Revised final margin percentage
Filati	2.07	2.07
Heveafil	4.78	4.77
Rubberflex	1.22	1.22
Rubfil	54.31	54.31

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classifiable under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this review is dispositive.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), section 777(i) of the Act (19 U.S.C. 1677f(i)), and 19 CFR 351.210(c).

Dated: April 14, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–9878 Filed 4–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–835–802, A–844–802]

Agreement Suspending the Antidumping Investigation on Uranium from Kyrgyzstan and Uzbekistan

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of price determination on uranium from Kyrgyzstan and Uzbekistan.

SUMMARY: Pursuant to Section IV.C.1. of the agreements suspending the antidumping investigation on uranium from Kyrgyzstan and Uzbekistan, as amended, (antidumping suspension agreement on uranium from Kyrgyzstan and Uzbekistan), the Department of Commerce (the Department) calculated a price for uranium of $10.05/pound of U_3O_8 for the relevant period, as appropriate. This price will be used, as appropriate, according to Section IV.A. of the Uzbek agreement.

EFFECTIVE DATE: April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Letitia Kress, Office of Antidumping Countervailing Duty Enforcement—Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–6412.

Price Calculation

Background

Sections IV.C.1. of the antidumping suspension agreements on uranium from Kyrgyzstan and Uzbekistan prescribe that the Department issue its determined market price on April 1, 1999, and use it to determine the quota applicable to Uzbekistan during the period of October 13, 1998 to October 12, 1999. Consistent with the February 22, 1993 letter of interpretation, the Department provided interested parties with the applicable preliminary price determination on March 26, 1999. No interested party submited comments.

Calculation Summary

Sections IV.C.1. of these agreements specify how the components of the market price are to be determined. In order to determine the spot market price, the Department utilized the monthly average of the Uranium Price Information System Spot Price Indicator (UPIS SPI) and the weekly average of the Uranium Exchange Spot Price (Ux Spot). In order to determine the long-term market price, the Department utilized the weighted-average long-term price as determined by the Department on the basis of information provided by market participants and a simple average of the UPIS U.S. Base Price for the months in which there were new contracts reported.

The Department's letters to market participants provided a contract summary sheet and directions requesting the submitter to report his/her best estimate of the future price of merchandise to be delivered in accordance with the contract delivery schedules (in U.S. dollars per pound U_3O_8 equivalent). Using the information reported in the proprietary summary sheets, the Department calculated the present value of the prices reported for any future deliveries assuming an annual inflation rate of 1.51 percent, which was derived from a rolling average of the annual Gross Domestic Product Implicit Price Deflator index from the past four years. The Department then calculated weight-averaged annual prices according to the specified nominal delivery volumes for each year to arrive at the long-term contract price. The Department then calculated a simple average of the UPIS U.S. Base Price and the long-term contract price as determined by the Department.

Weighting

The Department used the average spot and long-term volumes of U.S. utility and domestic supplier purchases, as reported by the Energy Information Administration (EIA) to weight the spot and long-term components of the observed price. In this instance, we have used the purchase data from the period 1994–1997 since the EIA information for 1998 is not available. During this

period, the spot market accounted for 77.66 percent of total purchases, and the long-term market for 22.34 percent.

As in previous determinations, the Department used the EIA's *Uranium Industry Annual* to determine the available average spot-and long-term volumes of U.S. utility purchases. We have updated the data to reflect the period 1994 through 1997. The EIA has withheld certain business proprietary contract data from the public versions of the *Uranium Industry Annual 1994, Uranium Industry Annual 1995, Uranium Industry Annual 1996* and the *Uranium Industry Annual 1997*. The EIA, however, provided all business proprietary data to the Department and the Department has used it to update its weighting calculation.

Calculation Announcement

The Department determined, using the methodology and information described above, that the observed market price is $10.05. This reflects an average spot market price of $9.58, weighted at 77.66 percent, and an average long-term contract price of $11.72, weighted at 22.34 percent. This price will be used, as appropriate, to determine quota availability for purposes of Section IV.A. of the Uzbek agreement.

Dated: April 1, 1999.

Roland L. MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–9879 Filed 4–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041399B]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in May, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between May 4 and May 5, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Danvers, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus,MA 01906–1036; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, May 4, 1999, 9:30 a.m.—Interspecies Committee Meeting

Location: Kings Grant Inn, Trask Road (Route 128 North), Danvers, MA 01923; telephone: (978) 774–6800; fax: (978) 774–6502.

The committee will discuss the issues of managing capacity and latent effort in New England fisheries; ranking of committee priorities; changing the start of the fishing year for various fisheries and review and discuss unresolved issues from the vessel permit consistency amendment.

Wednesday, May 5, 1999, 9:30 a.m.—Joint Habitat Advisors and Committee Meeting

Location: Kings Grant Inn, Trask Road (Route 128 North), Danvers, MA 01923; telephone: (978) 774–6800; fax: (978) 774–6502.

Review of 1999 Habitat Annual Review Report; consideration of additional Habitat Area of Particular Concern designations and measures to protect essential fish habitat; identification of habitat-related issues to be addressed during development of the next groundfish and sea scallop amendments.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: April 14, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–9863 Filed 4–19–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041499D]

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council's (Council) Marine Reserves Advisory Panel (AP) and Marine Reserves Committee (Committee), will hold a public meeting.

DATES: The meeting will be held on Monday, May 3, 1999, from 1:00 p.m. until 5:30 p.m.; Tuesday, May 4, 1999, from 8:30 a.m. until 5:30 p.m., and Wednesday, May 5, 1999, from 8:30 a.m. until 12:00 noon.

ADDRESSES: The meeting will be held at the Town and Country Inn, 2001 Savannah Highway, Charleston, SC; telephone: 843–571–1000.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (843)571–4366; fax: (843)769–4520; email: susan.buchanan@noaa.gov.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review the Council's objectives and approach regarding possible utilization of reserves in the south Atlantic region, as well as hear presentations on Gray's Reef and the Florida Keys National Marine Sanctuary/Tortugas 2000. The AP and Committee will discuss the role of the AP, as well as the Council's paper on "Use of Marine Reserves in the South Atlantic Council's Area of Authority", including the goal, criteria, law enforcement, outreach, and development approach for marine reserves. The AP and Committee also will make recommendations to the Council regarding these issues.

Although other issues not contained in this agenda may come before the AP and Committee for discussion, in

accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 15, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–9864 Filed 4–19–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

[OMB Control No. 9000–0069]

Submission for OMB Review; Comment Request Entitled Indirect Cost Rates

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Indirect Cost Rates. A request for public comments was published at 64 FR 6055, February 8, 1999. No comments were received.

DATES: Comments may be submitted on or before May 20, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW., Room 4035, Washington, DC 20405.

Please cite OMB Control No. 9000–0069, Indirect Cost Rates, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

The contractor's proposal of final indirect cost rates is necessary for the establishment of rates used to reimburse the contractor for the costs of performing under the contract. The supporting cost data are the cost accounting information normally prepared by organizations under sound management and accounting practices.

The proposal and supporting data is used by the contracting official and auditor to verify and analyze the indirect costs and to determine the final indirect cost rates or to prepare the Government negotiating position if negotiation of the rates is required under the contract terms.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 1 hour per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *2,469;* responses per respondent, *1;* total annual responses, *2,469;* preparation hours per response, *1;* and total response burden hours, *2,469.*

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0069, Indirect Cost Rates, in all correspondence.

Dated: April 15, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–9840 Filed 4–19–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The agenda will include a discussion of an initiative to examine labor relations training, and labor-management partnership affecting the Department's civilian workforce and other topics related to the enhancement of Labor-Management partnerships throughout DoD and other related Partnership topics.

DATE: The meeting is to be held May 19, 1999, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by May 12, 1999, in order to be considered at the May 19 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-serve basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd, Suite B–200, Arlington, VA 22209–5144, (703) 696–6301, ext. 704.

Dated: April 14, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–9836 Filed 4–19–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 206. This bulletin lists

revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 206 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: April 1, 1999.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in the per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 205. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about the per diem rates, please contact your local travel office. The text of the Bulletin follows:

BILLING CODE 5001–10–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:						
ANCHORAGE [INCL NAV RES]						
05/01 - 09/30	161		63		224	03/01/99
10/01 - 04/30	89		56		145	03/01/99
BARROW	115		73		188	03/01/99
BETHEL	105		60		165	03/01/99
COLD BAY	110		68		178	03/01/99
CORDOVA	85		62		147	03/01/98
CRAIG						
05/01 -- 08/31	95		66		161	05/01/97
09/01 -- 04/30	79		64		143	05/01/97
DEADHORSE	80		67		147	03/01/99
DENALI NATIONAL PARK						
06/01 -- 08/31	115		52		167	03/01/98
09/01 -- 05/31	90		50		140	03/01/98
DILLINGHAM	95		59		154	08/01/98
DUTCH HARBOR-UNALASKA	110		71		181	03/01/99
EARECKSON AIR STATION	80		57		137	03/01/99
EIELSON AFB						
05/15 -- 09/15	118		58		176	03/01/99
09/16 -- 05/14	81		54		135	03/01/99
ELMENDORF AFB						
05/01 - 09/30	161		63		224	03/01/99
10/01 - 04/30	89		56		145	03/01/99
FAIRBANKS						
05/15 -- 09/15	118		58		176	03/01/99
09/16 -- 05/14	81		54		135	03/01/99
FT. RICHARDSON						
05/01 - 09/30	161		63		224	03/01/99
10/01 - 04/30	89		56		145	03/01/99
FT. WAINWRIGHT						
05/15 -- 09/15	118		58		176	03/01/99
09/16 -- 05/14	81		54		135	03/01/99
GLENNALLEN	90		52		142	10/01/98
HEALY						
06/01 -- 08/31	115		52		167	03/01/98
09/01 -- 05/31	90		50		140	03/01/98
HOMER						
05/15 -- 09/15	115		58		173	03/01/99
09/16 -- 05/14	98		57		155	03/01/99
JUNEAU	105		68		173	03/01/99
KAKTOVIK	175		74		249	03/01/99
KAVIK CAMP	125		69		194	03/01/99
KENAI-SOLDOTNA						
05/01 -- 09/30	114		63		177	03/01/99
10/01 -- 04/30	76		59		135	03/01/99
KENNICOTT	149		68		217	10/01/98
KETCHIKAN						

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LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/01 -- 09/30	110		74		184	03/01/99
10/01 -- 04/30	88		73		161	03/01/99
KING SALMON	101		70		171	03/01/99
KLAWOCK						
05/01 -- 08/31	95		66		161	05/01/97
09/01 -- 04/30	79		64		143	05/01/97
KODIAK	99		67		166	03/01/99
KOTZEBUE						
05/01 -- 08/31	137		75		212	03/01/99
09/01 -- 04/30	73		61		134	03/01/99
KULIS AGS						
05/01 - 09/30	161		63		224	03/01/99
10/01 - 04/30	89		56		145	03/01/99
MCCARTHY	149		68		217	10/01/98
METLAKATLA						
05/30 - 10/01	85		52		137	03/01/99
10/02 - 05/29	78		51		129	03/01/99
MURPHY DOME						
05/15 -- 09/15	118		58		176	03/01/99
09/16 -- 05/14	81		54		135	03/01/99
NOME						
03/01 - 03/31	117		58		175	03/01/99
04/01 - 02/29	92		56		148	03/01/99
NUIQSUT	120		69		189	03/01/99
PETERSBURG	87		57		144	03/01/99
POINT HOPE	130		70		200	03/01/99
POINT LAY	105		67		172	03/01/99
PRUDHOE BAY	80		67		147	03/01/99
SEWARD						
05/01 -- 09/30	122		65		187	03/01/99
10/01 -- 04/30	86		61		147	03/01/99
SITKA-MT. EDGECOMBE						
04/01 -- 09/04	101		60		161	03/01/98
09/05 -- 03/31	83		59		142	03/01/98
SKAGWAY						
05/01 -- 09/30	110		74		184	03/01/99
10/01 -- 04/30	88		73		161	03/01/99
SPRUCE CAPE	99		67		166	03/01/99
TANANA						
03/01 - 03/31	117		58		175	03/01/99
04/01 - 02/29	92		56		148	03/01/99
UMIAT	107		33		140	03/01/99
VALDEZ						
05/15 -- 10/01	110		63		173	03/01/99
10/02 -- 05/14	84		60		144	03/01/99
WAINWRIGHT	127		82		209	03/01/99
WRANGELL						
05/01 -- 09/30	110		74		184	03/01/99
10/01 -- 04/30	88		73		161	03/01/99

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
YAKUTAT	110		68		178	03/01/99
[OTHER]	80		57		137	03/01/99
AMERICAN SAMOA:						
AMERICAN SAMOA	73		53		126	03/01/97
GUAM:						
GUAM (INCL ALL MIL INSTAL)	150		79		229	05/01/98
HAWAII:						
CAMP H M SMITH	110		61		171	07/01/97
EASTPAC NAVAL COMP TELE AREA	110		61		171	07/01/97
FT. DERUSSEY	110		61		171	07/01/97
FT. SHAFTER	110		61		171	07/01/97
HICKAM AFB	110		61		171	07/01/97
HONOLULU NAVAL & MC RES CTR	110		61		171	07/01/97
ISLE OF HAWAII: HILO	80		52		132	06/01/98
ISLE OF HAWAII: OTHER	100		54		154	06/01/98
ISLE OF KAUAI						
05/01 -- 11/30	115		62		177	06/01/98
12/01 -- 04/30	136		64		200	06/01/98
ISLE OF KURE	60		41		101	07/01/97
ISLE OF MAUI	112		64		176	06/01/98
ISLE OF OAHU	110		61		171	07/01/97
KANEOHE BAY MC BASE	110		61		171	07/01/97
KEKAHA PACIFIC MISSILE RANGE FAC						
05/01 -- 11/30	115		62		177	06/01/98
12/01 -- 04/30	136		64		200	06/01/98
KILAUEA MILITARY CAMP	80		52		132	06/01/98
LULUALEI NAVAL MAGAZINE	110		61		171	07/01/97
NAS BARBERS POINT	110		61		171	07/01/97
PEARL HARBOR [INCL ALL MILITARY]	110		61		171	07/01/97
SCHOFIELD BARRACKS	110		61		171	07/01/97
WHEELER ARMY AIRFIELD	110		61		171	07/01/97
[OTHER]	79		62		141	06/01/93
JOHNSTON ATOLL:						
JOHNSTON ATOLL	13		9		22	07/01/97
MIDWAY ISLANDS:						
MIDWAY ISLANDS [INCL ALL MIL]	60		41		101	07/01/97
NORTHERN MARIANA ISLANDS:						
ROTA	105		71		176	05/01/97
SAIPAN	170		78		248	05/01/97
[OTHER]	61		53		114	05/01/97
PUERTO RICO:						
BAYAMON						
04/16 -- 11/14	150		70		220	04/01/99
11/15 -- 04/15	167		72		239	04/01/99
CAROLINA						
04/16 -- 11/14	150		70		220	04/01/99
11/15 -- 04/15	167		72		239	04/01/99
FAJARDO [INCL CEIBA, LUQUILLO & HUMACAO]						

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LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
	82		60		142	03/01/98
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]						
04/16 -- 11/14	150		70		220	04/01/99
11/15 -- 04/15	167		72		239	04/01/99
LUIS MUNOZ MARIN IAP AGS						
04/16 -- 11/14	150		70		220	04/01/99
11/15 -- 04/15	167		72		239	04/01/99
MAYAGUEZ	94		60		154	06/01/98
PONCE	101		67		168	09/01/98
ROOSEVELT ROADS & NAV STA	82		60		142	03/01/98
SABANA SECA [INCL ALL MILITARY]						
04/16 -- 11/14	150		70		220	04/01/99
11/15 -- 04/15	167		72		239	04/01/99
SAN JUAN & NAV RES STA						
04/16 -- 11/14	150		70		220	04/01/99
11/15 -- 04/15	167		72		239	04/01/99
[OTHER]	66		57		123	09/01/98
VIRGIN ISLANDS (U.S.):						
ST. CROIX						
04/15 -- 12/14	107		75		182	08/01/98
12/15 -- 04/14	131		78		209	08/01/98
ST. JOHN						
04/15 -- 12/14	286		89		375	08/01/98
12/15 -- 04/14	413		102		515	08/01/98
ST. THOMAS						
04/15 -- 12/14	171		75		246	08/01/98
12/15 -- 04/14	285		87		372	08/01/98
WAKE ISLAND:						
WAKE ISLAND	60		32		92	09/01/98

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[FR Doc. 99-9837 Filed 4-19-99; 8:45 am]
BILLING CODE 5001-10-C

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board (AFEB)

AGENCY: Office of the Surgeon General, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of Pub. L. 92–463, The Federal Advisory Committee Act, this announces the forthcoming AFEB meeting. This Board will meet from 0730–1630 on Monday, 24 May 1999. The purpose of the meeting is to address classified issues pertaining to the current DoD 1999 Biological Warfare Threat List. The meeting location will be at the Institute for Defense Analysis, Alexandria, Virginia. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof and Title 5, U.S.C., appendix 1, subsection 10(d).

FOR FURTHER INFORMATION CONTACT: COL Benedict Diniega, AFEB Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258, (703) 681–8012/4.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–9818 Filed 4–19–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Integrated Feasibility Report/Environmental Impact Statement for Environmental Restoration and Flood Control in the Sand Creek Watershed Near Wahoo, NE

AGENCY: Army Corps of Engineers, DoD.

ACTION: Correction.

SUMMARY: In previous **Federal Register** notice (Vol. 64, No. 67, pages 17148–17149), Thursday, April 8, 1999, make the following correction:

On page 17149 in column one, line 18, the e-mail address indicating "Candice" is incorrect. Please note the correct e-mail address is: Candace.M.Thomas@usace.army.mil

FOR FURTHER INFORMATION CONTACT: For further information, please refer to the remaining material contained in the point of contact caption of the original notice.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–9819 Filed 4–19–99; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearing and Availability of the Draft Environmental Impact Statement (DEIS) for Disposal and Reuse of Naval Air Station (NAS) Agana, Guam

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a DEIS for disposal and reuse of NAS Agana, Guam. A public hearing will be held for the purpose of receiving oral and written comments on the DEIS. Federal, Government of Guam agencies, and interested individuals are invited to be present at the hearing.

DATES: The meeting will be held on May 13, 1999, at 7:00 p.m.

ADDRESSES: San Vicente/San Roke Catholic Church, 229 San Roke Street, Barrigada, Guam 96913.

FOR FURTHER INFORMATION CONTACT: Mr. John Bigay (PLN231JB), Pacific Division, Naval Facilities Engineering Command, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134, telephone (808) 471–9338, facsimile (808) 474–5909.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy (Navy) and its cooperating agency, the Federal Aviation Administration (FAA), have prepared and filed with the U.S. Environmental Protection Agency (EPA) the DEIS for Disposal and Reuse of NAS Agana, Guam. A public hearing will be held for the purpose of receiving oral and written comments on the DEIS. Federal and Government of Guam agencies, as well as interested individuals and organizations are invited to be present or represented at the hearing.

A Notice of Intent (NOI) to prepare the DEIS was published in the **Federal Register** on January 22, 1996 (61 FR 14). A public scoping meeting announcement was published on January 9, 10, and 11, 1996 in the Pacific Daily News on Guam. Two public scoping meetings were held on January 24, 1996 at the Governor of Guam Cabinet Conference Room, Executive Building, Adelup, Guam. The proposed action is the disposal of surplus Navy property for subsequent reuse and redevelopment, in accordance with the 1990 Defense Base Closure and Realignment Act, and the 1993 Base Closure and Realignment Commission recommendations. 1,933 acres (782.9 hectares) have been declared surplus and are the focus of this DEIS. NAS Agana, now known as Tiyan, was operationally closed on March 31, 1995. Approximately 6.6 acres (2.7 hectares) of the total 2,031.6 acres (822.2 hectares) of land at NAS Agana are being transferred to other federal agencies. The former officer housing site consisting of 92 acres (37.3 hectares) was not included in the 1993 base closure for NAS Agana, however it was later included as part of a 1995 base closure action and is proposed for disposal under a separate disposal action.

The DEIS evaluates four reuse alternatives, each emphasizing various types of development, e.g., commercial, industrial, open space/recreation, etc. All four reuse alternatives incorporate a master plan for expansion of the A. B. Won Pat Guam International Airport, which occupies most of the station. The reuse alternatives also include roadway improvements, provision of a site for use by the homeless, and transfer of easements to the Guam International Airport Authority. A fifth alternative, no action, assumes no disposal of property and retention of the station by Navy in caretaker status. Under the No Action alternative, civilian airport operations would continue under a joint use agreement, but there would be no airport expansion and no onsite roadway improvements. Current leases of other property on the station to the Government of Guam would continue until their expiration.

The base reuse plan recommended by the Komitea Para Tiyan, a committee appointed by the Local Redevelopment Authority, was approved by the Governor of Guam. It includes the preferred reuse alternative of the Government of Guam and Navy. This plan consists of the following major elements: airport expansion including runway and taxiway extensions with an additional full-length parallel taxiway, and development of cargo, maintenance, and other facilities; onsite roadways to provide access to new developments and improve regional circulation; and redevelopment of land not used for airport operations that emphasizes

commercial and industrial uses. No decision on the proposed action will be made until the NEPA process has been completed. Potential impacts evaluated in the DEIS include, but are not limited to: water quality; terrestrial biota and habitats; aircraft noise; land use compatibility; traffic, infrastructure; air quality; socioeconomics; public health and safety; cultural resources; and environmental contamination. With two exceptions, all potentially significant impacts under all of the reuse alternatives can be mitigated to nonsignificant levels. Potentially significant but mitigable impacts include: future aircraft noise impacts on certain residential areas; inadequate infrastructure to support redevelopment; possible future impacts due to aircraft emissions; increase in demand for police and fire protection; and effects on an archaeological site eligible for listing on the National Register of Historic Places. The two exceptions are aircraft noise impacts on proposed housing in reuse areas north of the airport under one alternative (not the preferred alternative) and traffic impacts at two key intersections. For the noise impacts, no mitigation is available except to revise the land use plan. Predicted traffic volumes at the two intersections would exceed capacity even with mitigation.

The DEIS has been distributed to affected federal and Government of Guam agencies and other interested parties. In addition, copies of the DEIS are available for review at the Guam Public Library branches in the communities of Agana, Barrigada and Dededo.

A public hearing will be held to inform the public of the DEIS findings and to solicit and receive oral and written comments. The hearing will be held at 7:00 p.m. on May 13, 1999, at San Vicente/San Roke Catholic Church Social Hall, 229 San Roke Street, Barrigada, Guam. Government agencies and interested parties are invited to be present at the hearing. Oral comments will be heard and transcribed by a court recorder; written comments are also requested to ensure accuracy of the record. All comments, both oral and written, will become part of the official record. In the interest of available time, each speaker will be asked to limit oral comments to three minutes. Longer comments should be summarized at the public hearing and submitted in writing either at the hearing or mailed to Mr. John Bigay at the address given above. Written comments are requested not later than May 24, 1999.

Dated: April 19, 1999.

Ralph W. Corey,

Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Liaison Officer.

[FR Doc. 99–9891 Filed 4–19–99; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education—Safe and Drug-Free Schools and Communities National Programs—Federal Activities—State and Regional Coalition Grant Competition To Prevent High-Risk Drinking Among College Students

AGENCY: Department of Education.

ACTION: Notice of proposed priority, eligible applicants, and selection criteria for fiscal year 1999 and subsequent years.

SUMMARY: The Secretary announces a proposed priority, eligible applicants, and selection criteria for fiscal year (FY) 1999 and, at the discretion of the Secretary, for subsequent years under the Safe and Drug-Free Schools and Communities National Programs—Federal Activities— State and Regional Coalition Grant Competition to Prevent High-Risk Drinking Among College Students. The Secretary takes this action to focus Federal financial assistance on an identified national need. This competition seeks to reduce and prevent high-risk drinking among college students by funding State or regional coalitions for a two-year period to bring together institutions of higher education (IHEs) to share ideas and develop, implement, and evaluate collaborative strategies.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding this proposed priority. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3E222, 400 Maryland Avenue, SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability that needs assistance to review the comments. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

DATES: Comments must be received by the Department on or before May 20, 1999.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Kimberly Light, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3E222, Washington, DC 20202–6123. Comments may be sent through the Internet: *comments@ed.gov* You must include the term "Alcohol, Other Drug, and Violence Prevention for IHEs" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Kimberly Light, (202) 260–2647. Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339. Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

Note: This notice of proposed priorities does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the publication of the notice of final priorities.

SUPPLEMENTARY INFORMATION: High-risk drinking, including "binge" drinking, continues to affect the health, learning, and safety of college students. Excessive use of alcohol has resulted in deaths, serious injuries, vandalism, and sexual assault on college campuses. There is strong evidence that environmental factors, including alcohol availability, high-risk alcohol use norms, and the restrictiveness of State drunk driving laws, play a major role in student alcohol use. Different IHEs may have high-risk drinking problems that are affected by similar environmental concerns; therefore, developing partnerships with other IHEs can provide a forum to develop common solutions as well as a mechanism to create the "critical mass" of concerned stakeholders needed to influence broader environmental changes. The recent development of a number of IHE coalitions across the country suggests that such partnerships may be an effective method for IHEs with common environmental concerns to build local capacity to address high-risk drinking within their campus-communities. In addition, these efforts can have an impact within a larger community context, such as geographic regions within States (e.g., a large metropolitan area), similar institutions within States (e.g., all public universities), or institutions in States that share common borders. This competition seeks to

encourage these collaborative efforts and evaluate their effectiveness so that other IHEs may adopt effective strategies.

Absolute Priority: Under 34 CFR 75.105(c)(3) and the Safe and Drug-Free Schools and Communities Act of 1994, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition *only* applications that meet the following absolute priority:

Implement and Evaluate the Impact of a State or Regional Coalition to Develop Strategies for Reducing and Preventing High-Risk Drinking Among College Students

Applicants proposing a project under this priority must:

(1) Propose to expand an existing or establish a new State or regional coalition of IHEs and other relevant organizations that includes key stakeholders who will have an impact on the development and implementation of State, local, and campus policies and programs to reduce and prevent high-risk drinking;

(2) Explain how coalition members will work together on a regular basis, including meeting to discuss common problems and share effective strategies;

(3) Use community collaboration prevention approaches, including involvement of students, that research or evaluation has shown to be effective in preventing or reducing high-risk drinking;

(4) Use a qualified evaluator to design and implement an evaluation of the project using outcomes-based (summative) performance indicators in addition to process (formative) measures that documents strategies used and measures the effectiveness of the coalition;

(5) Demonstrate the ability to start the project within 60 days after receiving Federal funding in order to maximize the time available to show impact within the grant period; and (6) Share information about their projects with the Department of Education or its agents.

Eligible Applicants

Eligible applicants under this competition are IHEs and consortia of IHEs, and other public and private nonprofit organizations.

Selection Criteria

The following selection criteria will be used to evaluate applications for new grants under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion or factor under that criterion is indicated in parentheses.

(1) *Need for project* (15 points).

In determining the need for the proposed project, the following factors are considered:

(a) The magnitude or severity of the problem to be addressed by the proposed project. (10 points)

(b) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses. (5 points)

(2) *Significance* (14 points).

In determining the significance of the proposed project, the following factors are considered:

(a) The likelihood that the proposed project will result in system change or improvement. (10 points)

(b) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings. (4 points)

(3) *Quality of the project design* (15 points).

In determining the quality of the design of the proposed project, the following factors are considered:

(a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (4 points)

(b) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice. (6 points)

(c) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance. (5 points)

(4) *Quality of the project personnel* (15 points).

In determining the quality of project personnel, the following factors are considered:

(a) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (3 points)

(b) The qualifications, including relevant training and experience, of key project personnel. (12 points)

(5) *Adequacy of resources* (16 points).

In determining the adequacy of resources for the proposed project, the following factors are considered:

(a) The relevance and demonstrated commitment of each partner in the proposed project the implementation and success of the project. (8 points)

(b) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits. (4 points)

(c) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support. (4 points)

(6) *Quality of the management plan* (14 points).

In determining the quality of the management plan for the proposed project, the following factors are considered:

(a) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of students, faculty, parents, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate. (10 points)

(b) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (4 points)

(7) *Quality of the project evaluation* (11 points).

In determining the quality of the evaluation, the following factors are considered:

(a) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives and outcomes of the proposed project. (4 points)

(b) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (3 points)

(c) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (4 points)

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which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing officer toll free at 1–888–293–6498.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 7131.

Dated: April 16, 1999.

(Catalog of Federal Domestic Assistance Number 84.184H Office of Elementary and Secondary Education—Safe and Drug-Free Schools and Communities National Programs—Federal Activities —State and Regional Coalition Grant Competition to Prevent High-Risk Drinking Among College Students)

Judith Johnson,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 99–10025 Filed 4–19–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Delivery of the Canadian Entitlement

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: The Administrator and Chief Executive Officer of BPA, acting for BPA, and, as Chair of the United States Entity (which is the Administrator of BPA and the Division Engineer, North Pacific Division of the United States Army Corps of Engineers), acting for the United States Entity, has decided to supplement an earlier decision regarding the Canadian Entitlement. The decision is to enter into an agreement to enable disposal of the Canadian Entitlement directly in the United States. The Canadian Entitlement, established in the Columbia River Treaty of 1964, is the portion (one-half) of the downstream power benefits from three storage dams in Canada that is owed to Canada.

ADDRESSES: Copies of the documents discussed below are available from BPA's Public Information Office, P.O. Box 12999, Portland, Oregon 97212. They may also be obtained by calling BPA's toll-free document request line: 1–800–622–4520. The documents are: Delivery of the Canadian Entitlement Environmental Impact Statement (EIS) of January 1996, the March 1996 ROD, the November 1996 ROD, and the Supplement to the November 1996 ROD described in this notice.

SUPPLEMENTARY INFORMATION: The United States Entity (which is responsible for representing United States interests pursuant to the Columbia River Treaty) issued a Delivery of the Canadian Entitlement ROD on November 8, 1996. The ROD was based on the Delivery of the Canadian Entitlement EIS (DOE/EIS–0197, issued in January 1996). The November 1996 ROD announced the United States Entity decision to fulfill its obligation under the Columbia River Treaty between Canada and the United States of America by delivering the full Canadian Entitlement at existing transmission interconnections between the United States and Canada near Blaine, Washington, and Nelway, British Columbia. The November 1996 ROD also replaced an earlier March 12, 1996, ROD.

The November 1996 ROD did not address delivery of the Canadian Entitlement in the United States. It did, however, note that: "If the United States and Canadian Entities propose delivery in the United States, the United States Entity will review the Delivery of the Canadian Entitlement EIS to ensure that the impacts are adequately analyzed. A decision to dispose of the Entitlement in the United States would be the subject of an additional United States Entity ROD."

The Federal governments of Canada and the United States have exchanged diplomatic notes, as provided in the Columbia River Treaty, to permit disposal of all or part of the Canadian Entitlement directly in the United States. BPA and the Province of British Columbia have reached agreement on the terms and conditions of the disposal. The Administrator and Chief Executive Officer of BPA, as Administrator and also as Chair of the United States Entity, has decided to enter into an agreement to enable disposal of the Canadian Entitlement directly in the United States. As a result, the United States Entity is supplementing the November 1996 ROD to recognize the decision to enable disposal of the Canadian Entitlement in the United States through September 15, 2024, as well as delivery at Blaine and Nelway.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Semple Pierce—KECP, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–3962, fax number (503) 230–4089.

Issued in Portland, Oregon, on March 31, 1999.

Judith A. Johansen,

Administrator and Chief Executive Officer, Bonneville Power Administration, and Chair, United States Entity.

[FR Doc. 99–9886 Filed 4–19–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–262–001]

Algonquin Gas Transmission Company; Notice of Compliance Filing

April 14, 1999.

Take notice that on April 9, 1999, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets to become effective May 1, 1999:

Fourth Revised Volume No. 1

First Revised Sheet No. 102
Fourth Revised Sheet No. 103
First Revised Sheet No. 116
Fourth Revised Sheet No. 118
First Revised Sheet No. 136
Fourth Revised Sheet No. 137
First Revised Sheet No. 153
Fourth Revised Sheet No. 154

Original Volume No. 2

Twelfth Revised Sheet No. 343

Algonquin asserts that the purpose of this filing is to comply with the Joint Stipulation and Agreement filed on March 4, 1999 in Docket No. RP99–262–000 and approved by the Commission's letter order issued April 1, 1999.

Algonquin states that the filing revises its FERC Gas Tariff to implement Article II of the Joint Stipulation and Agreement regarding expanded secondary MATQ rights and to fulfill the commitment made in its Initial Comments on the Joint Stipulation and Agreement filed on March 12, 1999 to reduce rates for Rate Schedule X–37 as of May 1, 1999.

Algonquin states that copies of the filing were mailed to all parties on the service list in this proceeding and all other affected customers of Algonquin and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests

will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9809 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–005]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

April 14, 1999.

Take notice that on April 9, 1999, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to the Federal Energy Regulatory Commission (Commission) the following contract for disclosure of a recently negotiated rate transaction:

FTS–2 Service Agreement No. 63490 between Columbia Gulf Transmission Company and Entergy Louisiana Inc., dated April 6, 1999.

Columbia Gulf requests an effective date of June 1, 1999 for this negotiated rate agreement.

Columbia Gulf states that copies of the filing have been served on all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9808 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR99–5–000]

Dow Pipeline Company; Notice of Petition for Rate Approval

April 14, 1999.

Take notice that on December 1, 1998, Dow Pipeline Company (Dow Pipeline) filed, pursuant to Section 284.123(b)(2) of the Commission's Regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.048 per MMBtu, plus 0.7% in-kind fuel reimbursement, for interruptible transportation services performed under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA). Dow Pipeline's mailing address is P.O. Box 4286, Houston, Texas 77210.

Dow Pipeline's petition states it is an intrastate pipeline within the meaning of Section 2(16) of the NGPA. Dow Pipeline provides interruptible transportation service pursuant to Section 311(a)(2) of the NGPA through its facilities located in Wharton, Fort Bend, Brazoria, Whaller, and Matagorda Counties, Texas. This petition is intended to establish a new system-wide maximum transportation rate for Section 311(a)(2) service, and is filed pursuant to the terms of the Stipulation and Agreement of Settlement filed June 27, 1996, in Docket No. PR96–5–000, which required Dow Pipeline to file an application on or before December 1, 1998, to justify its current rate or to establish a new system-wide rate. Dow Pipeline proposes an effective date of December 1, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426 in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions and protests should be filed on or before April 20, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9807 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–295–000]

Iroquois Gas Transmission System, L.P.; Notice of Request Under Blanket Authorization

April 14, 1999.

Take notice that on April 9, 1999, Iroquois Gas Transmission System, L.P. (Iroquois) One Corporate Drive, Suite 600, Shelton, Connecticut 06484, filed in Docket No. CP99–295–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a new sales tap on its system on behalf of Niagara Mohawk Power Corporation (NiMo), under Iroquois blanket certificate issued in Docket No. CP98–634–000, et al., pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Iroquois proposes to construct and operate a sales tap at the request of NiMo, a local distribution company located in New York State. Iroquois states the proposed in-service date of the sales tap is November 1, 1999. Iroquois states the sales tap would be located at Mile Post 106.46, in the Town of Boonville, New York and would be used to provide NiMo with a new primary delivery point. Iroquois states that Iroquois and NiMo have entered into an amendment of their existing firm transportation agreement providing that Boonville will become the primary delivery point for 835 Dth/day of firm service as of November 1, 1999. Iroquois states that this amount will increase to 2,500 Dth/day of firm service by November 1, 2002, and that there will be no change in the amount of NiMo's current firm contract quantity. Iroquois states the cost of Iroquois' facilities is estimated to be not greater than $150,000, and that those costs will be reimbursed to Iroquois by NiMo.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9805 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–294–000]

Panhandle Eastern Pipe Line Company; Notice of Request Under Blanket Authorization

April 14, 1999.

Take notice that on April 9, 1999, Panhandle Eastern Pipe Line Company (Panhandle) P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP99–294–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212). Panhandle filed for authorization to modify the Illinois Power Company Mt. Auburn M&R Station, an existing delivery point located in Christian County, Illinois, to permit increased deliveries, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Panhandle asserts that the upgrade is relatively minor and will increase the maximum design capacity of the Mt. Auburn meter station from approximately 7,000 Dt per day to approximately 12,000 Dt per day. Panhandle estimates the cost of the upgrade to be $130,700, of which amount, Illinois Power will reimburse Panhandle 100%.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–9812 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–296–000]

Reliant Energy Gas Transmission Company; Notice of Request Under Blanket Authorization

April 14, 1999.

Take notice that on April 12, 1999, Reliant Energy Gas Transmission Company (REGT), 1111 Louisiana, Houston, Texas 77002–5231, filed in Docket No. CP99–296–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon certain facilities in Oklahoma under REGT's blanket certificate issued in Docket No. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

REGT specifically proposes to abandon an inactive 1-inch delivery tap and 1-inch U-shape meter station on REGT's Line 2–H in Section 9, Township 18 North, Range 12 West, Blaine County, Oklahoma formerly serving Reliant Energy, Arkla, a distribution division of Reliant Energy Incorporated (Arkla). Arkla has agreed to the abandonment of this tap formerly serving its Rural Extension 988. The tap will be abandoned in place and the metering facilities will be removed. All construction will occur above ground.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–9813 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–293–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

April 14, 1999.

Take notice that on April 9, 1999, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP99–293–000 a request pursuant to sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct, own, and operate a delivery point in Hidalgo County, Texas so that Texas Eastern may provide natural gas deliveries to National Energy & Trade, L.L.C. (National Energy) under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Texas Eastern proposes to construct and install an 8-inch side valve and 8-inch insulating flange (Tap), at approximately Mile Post 3.87 in Hidalgo County, Texas. Texas Eastern states that

National Energy will install, or cause to be installed a single 8-inch orifice meter run plus associated piping (Meter Station), approximately 25 feet of 8-inch pipeline which will extend from the meter station to the tap (Connecting Pipe), and electronic gas measurement equipment (EGM).

Texas Eastern states that the transportation service to be rendered through the delivery point will have no effect on Texas Eastern's peak day or annual deliveries and that its proposal will be accomplished without detriment or disadvantage to Texas Eastern's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–9811 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–7–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 14, 1999.

Take notice that on April 8, 1999, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets on Appendix A attached to the filing.

Transco states that the purpose of the instant filing is to track (1) rate and fuel changes attributable to transportation service purchased from CNG Transmission Corporation (CNG) under its Rate Schedule X–74 the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT, and (2) rate changes attributable to storage service purchased from CNG under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedules GSS and LSS. The filing is being made pursuant to tracking provisions under Sections 4 of Transco's Rate Schedules FT–NT and LSS, and Section 3 of Transco's Rate Schedule GSS.

Transco states that included in Appendices B and C attached to the filing are the explanations of the rate and fuel changes and details regarding the computation of the revised Rate Schedule FT–NT, GSS and LSS rates and fuel percentages.

Transco states that copies of the filing are being mailed to each of its FT–NT, GSS and LSS customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9810 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4515–014]

Eric R. Jacobson; Notice of Availability of Draft Environmental Assessment and Soliciting Comments

April 14, 1999.

A draft environmental assessment (DEA) is available for public review. The DEA is for an amendment of license for the unconstructed Jacobson Hydro No. 1 Project (FERC No. 4515). Specifically, the licensee proposes to move the project's powerhouse upstream to the project dam and reduce the project's installed generating capacity. The DEA finds that the proposed revocation would not constitute a major federal action significantly affecting the quality of the human environment. The Jacobson Hydro No. 1 Project is located on the Colorado River near the City of Palisade, Mesa County, Colorado.

The DEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA can be viewed at the Commission's Public Reference Room, Room 2A, 888 First Street, NE, Washington, DC 20426. Copies can also be obtained by calling the project manager, Bob Fletcher at (202) 219–1206 or viewed on the web at http://www.ferc.fed.us/online/rims.htm. Please call (202) 208–2222 for assistance.

Please submit any comments on the DEA within 60 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation. Comments should be addressed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Please affix Project No. 4515–014 to all comments.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9806 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL99–2–000]

Anticipated Demand for Natural Gas in the Northeastern United States; Notice of Public Conference

April 14, 1999.

Take notice that the Federal Energy Regulatory Commission will convene a public conference on June 7, 1999, to conduct an inquiry into anticipated natural gas demand projections in the northeastern United States over the next 10 to 20 years.[1]

Currently, there are numerous, varying projections concerning the growth of natural gas markets in the Eastern United States. These projections, however, do not shed light on the impact this potential growth will

[1] For purposes of the conference, this includes those States lying east of the Mississippi River and north of Tennessee and North Carolina.

have on existing pipelines. Thus, the Commission believes that it is important to examine these projections and to understand more about the assumptions, data sources, and perspectives upon which these growth forecasts are based.

To this end, the Commission is interested in hearing all views concerning growth projections in natural gas markets in the northeastern United States over the next one to two decades and how these projections correlate to existing pipeline capacity. The Commission is also interested in learning when this increase in demand will occur. Will growth occur at varying rates over the next five, ten, or twenty years? Will the projected demand occur during a certain time of the year, *e.g.*, during the winter when pipeline use is at its peak (mainly heating); off peak periods when capacity is more readily available (mainly air conditioning); or year-round? The Commission would like to explore the assumptions that underlie these projections.

In addition, the Commission is interested in hearing forecasts concerning the type of growth that is anticipated. Specifically, the Commission is interested in determining if the contemplated growth will serve electric generation facilities, residential customers, industrial concerns, other consumers, or some combination thereof.

As a secondary matter, the Commission wishes to be informed about the effect projected growth will have on existing capacity. For example, where, when, and how much existing capacity is currently available? If the projected growth takes place as forecast, where will excess capacity exist in the future? How often will existing facilities be constrained? Are existing pipeline systems being effectively used? Is it possible to increase the utilization of existing systems? Will the projected growth materialize in the form of firm or interruptible demand for capacity? How much capacity will be available through releases? How much capacity will be available through turn backs? What conclusions can be reached concerning how much new capacity may be required, within what time frame, and in what regions?

The conference will be held at the offices of the Federal Energy Regulatory Commission, in the Commission Meeting Room, 888 First Street, NE, Washington, DC 20426.

The Commission seeks the views of the public and all segments of the energy industry. Any person who wishes to participate in the conference should submit a written request to the Secretary of the Commission by May 10, 1999. The request should indicate the scope of the participants' planned remarks. Speakers that have audio/visual requirements should contact Wanda Washington at (202) 208–1460.

Any written comments may be filed within 15 days after the conference.

The Capitol Connection will broadcast live the audio from the public conference on its wireless cable system in the Washington, DC area. If there is sufficient interest from those outside the Washington, DC metropolitan area, the Capitol Connection may broadcast the conference live via satellite for a fee. Persons interested in receiving the audio broadcast, or who need more information, should contact Shirley Al-Jarnai or Julia Morelli at the Capitol Connection at (703) 993–3100, no later than May 22, 1999.

In addition, National Narrowcast Networks' Hearing-On-The-Line service covers all FERC meetings live by telephone. Call (202) 966–2211 for details. Billing is based on time on-line.

All questions concerning the format of the conference should be directed to: Joel Arneson, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, (202) 208–2169.

By direction of the Commission. Commissioner Breathitt concurred with a separate statement attached.

David P. Boergers,

Secretary.

Breathitt, Commissioner, Concurring

I agree with the majority that an inquiry into the anticipated demand for natural gas will provide valuable insight into the development of a rational certificates policy. As the notice highlights, there are numerous, varying projections concerning the growth of natural gas markets. An exploration of the assumptions underlying these projections will add clarity to the Commission's analyses. I also believe the questions posed in the notice will elicit an informative discussion about natural gas markets. While I support the idea of an inquiry into demand for natural gas, I wish to make several points with respect to my views about the conference.

First, I would have preferred that the scope of the conference be much broader. I believe that limiting the conference to the Northeast fails to recognize a fundamental change that is taking place in the natural gas industry as a result of the issuance of Order No. 636 in 1992. One of the primary goals of pipeline restructuring was to promote policies supporting the creation of a national natural gas pipeline grid. The Commission's efforts in that regard continue to be successful, not in small part due to our capacity release rules, and due to the participation of marketers as holders of interstate pipeline capacity.

For us to restrict this conference to the Northeast does not recognize the fact that in today's dynamic natural gas market, changes in capacity serving one region may affect pipeline operations in another region of the country. New pipeline capacity in the Northeast could result in changes in the utilization of the systems that now feed that region—pipelines, say, that originate in the Gulf Coast. For example, capacity utilization of those pipelines could be reduced as a result of such expansions. The value and use of capacity release also could be affected. I believe that broadening the scope of the conference would have enabled the Commission to look at any "ripple effect" that expansion of the grid anywhere—not just in the Northeast—could cause in today's marketplace.

Furthermore, I believe that the majority's approach of limiting the scope of the conference to the Northeast fails to recognize the fact that other regions of the country are also expected to experience substantial growth in the demand for natural gas. Certificate filings that are pending before the Commission and reports in the trade press indicate to me that projected demand for natural gas in the Mid-Atlantic and Southeast regions warrant an equal examination by the Commission.

Finally, I question the timing and the forum that have been chosen for this inquiry. I do not believe that the Commission has reached a consensus concerning the ultimate goals of this conference. Before establishing a public conference, I would have preferred the Commission to have had a meeting of the minds on our specific objectives for building a record, and a mutual understanding of how we would want such a record to be used. I don't believe the Commission has a unified sense of how this conference fits in with other generic and case-specific proceedings currently before us. However, I am supporting this inquiry to the extent it will provide at least a piece of the puzzle about the future demand for natural gas.

Linda K. Breathitt,

Commissioner.

[FR Doc. 99–9846 Filed 4–19–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6328–5]

Agency Information Collection Activities: Continuing Collection; Comment Request, EPA's Transportation Partners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB):

EPA's Transportation Partners Program, EPA ICR No. 1818.01, OMB Control No. 2010–0028, expiration date 8/31/99. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 21, 1999.

ADDRESSES: Transportation Partners, US Environmental Protection Agency, 401 M Street SW, Mailcode 2126, Washington, DC 20460. Interested persons may obtain a copy of the ICR without charge by calling 202–260–5447 or via the internet at http://www.epa.gov/tp/tpicr.pdf.

FOR FURTHER INFORMATION CONTACT: Catherine Preston. Telephone: 202–260–5447. Fax: 202–260–0512. Email: preston.catherine@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action may include local and suburban transit providers, business associations, civic organizations, air and water resource and solid waste management agencies, local and regional government agencies and other transportation-related organizations. Additionally, EPA expects to enroll private businesses from a wide range of industries in the Transportation Partners program.

Title: EPA's Transportation Partners Program (OMB Control No. 2010–0028, EPA ICR No. 1818.01) expiring 8/31/99.

Abstract: The Transportation Partners program is a new, cooperative, voluntary program that seeks to reduce the growth of vehicle miles traveled (VMT) through the adoption of measures that provide or promote the use of non-single occupancy vehicle transportation choices for citizens. As part of the Climate Change Action Plan, Transportation Partners will play an important role in the nation's commitment to reduce U.S. greenhouse gas emissions.

The Transportation Partners program is designed to work around two types of members: Principal Partners and Project Partners. Principal Partners have substantive areas of expertise and will provide direct assistance to VMT-reducing projects across the country. Project Partners, on the other hand, administer the individual programs and actions designed to reduce VMT. Local governments, regional governments, local non-governmental organizations, and private businesses may become Project Partners.

As voluntary participants in the Transportation Partners program, Project Partners may be asked to complete an annual Partner Profile that requests general project information. Project-related information requested may include background data about the sponsoring entity, a description (and, to the extent possible, quantification) of project effects on travel, other project effects, and comments regarding program participation and technical assistance. As EPA may request additional information from the Project Partners about their projects, organizations may be requested to periodically submit supplementary information to the Agency.

In addition, EPA sponsors the Way to Go! Awards, which honor local innovators who are enhancing their communities and the environment through transportation improvements. Project Partners will receive an application for the Way to Go! awards. Some Project Partners may choose to complete and submit the application to EPA. The application asks for the following information: the name and focus of the project; a description of project management; a description of the end user(s) of the project; and a project summary and narrative.

Principal Partners have a number of responsibilities, which include: First, they will provide EPA with contact lists of prospective Project Partners. Second, they will disseminate information to partners. Third, Principal Partners will review, sign, and forward Project Partner agreements to EPA. Fourth, Principal Partners will assist EPA in reviewing and compiling Partner Profiles and supplemental information from Project Partners.

Participation in the Transportation Partners program is voluntary. If requested, EPA will treat information as confidential business information and will not make the partner-specific information collected under the program available to the general public, unless the partner's approval is obtained.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 11.7 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Michael Shelby,

Director, Energy and Transportation Sectors Division.

[FR Doc. 99–9870 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–60–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6329–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Information Collection Request for the Water Quality Standards Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Information Collection Request for the Water Quality Standards Regulation, EPA ICR # 988.07; OMB Control #2040–0049; Expiration Date: June 30, 1999. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 988.07.

SUPPLEMENTARY INFORMATION:

Title: Information Collection Request for the Water Quality Standards Regulation, OMB Control #2040–0049; EPA ICR No. 988.07; expiring on June 30, 1999. This is a request for extension of a currently approved collection.

Abstract: Water Quality Standards (WQS) are provisions of State, Tribal, and Federal law which consist of designated uses for waters of the United States, numeric or narrative water quality criteria to protect the designated uses, and an antidegradation policy to protect existing uses and high quality waters. States are required by Federal law to establish water quality standards. Clean Water Act Section 303(c) requires States and certain Indian Tribes (those Tribes that have received EPA authorization to administer the water quality standards program and have had their water quality standards approved by EPA) to review and, if appropriate, revise their water quality standards regulations once every three years and to submit to EPA the results of the review. EPA then reviews each State and Tribal submission for approval or disapproval.

The WQS Regulation (40 CFR part 131) is the EPA regulation governing the implementation of the water quality standards program. The WQS Regulation describes requirements and procedures for the States and Tribes to develop, review, and revise their water quality standards, and EPA procedures for reviewing and approving the water quality standards. Additionally, the regulation specifies information that an Indian Tribe must submit to EPA in order to determine whether a Tribe is qualified to administer the WQS Program. Finally, the WQS Regulation describes a dispute resolution mechanism that will assist in resolving disputes that arise between States and Tribes over water quality standards on common waterbodies.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 11/30/98 (63 FR 65776); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2293 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State and Tribal governments.

Estimated Number of Respondents: 83.

Frequency of Response: once every three years for water quality standards submittal to EPA; once per Tribal application for the water quality standards program; once per dispute resolution request.

Estimated Total Annual Hour Burden: 190,336 hours.

Estimated Total Annualized Cost Burden (O&M and capital/startup costs only): $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 988.07 and OMB Control No. 2040–0049 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: April 14, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–9873 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6328–9]

Effluent Guidelines Task Force Open Meeting

AGENCY: Environmental Protection Agency.

ACTION: Correction, announcement of meeting.

SUMMARY: The Effluent Guidelines Task Force public meeting notice was published on April 5, 1999, at 64 FR 16449. Today's notice changes the meeting location to the DoubleTree Hotel—National Airport, 300 Army Navy Drive, Arlington, Virginia. The meeting is open to the public.

DATES: The meeting will be held on Tuesday, May 4, 1999 from 9:00 a.m. to 5:00 p.m., and Wednesday, May 5, 1999 from 8:30 a.m. to 3:00 p.m.

ADDRESSES: The meeting will take place at the DoubleTree Hotel—National Airport, 300 Army Navy Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Beverly Randolph, Office of Water (4303), 401 M Street, SW, Washington, D.C. 20460; telephone (202) 260–5373; fax (202) 260–7185.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act

(Pub. L. 92–463), the Environmental Protection Agency gives notice of a meeting of the Effluent Guidelines Task Force (EGTF). The EGTF is a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory board to the Administrator of EPA.

The EGTF was established in July of 1992 to advise EPA on the Effluent Guidelines Program, which develops regulations for dischargers of industrial wastewater pursuant to Title III of the Clean Water Act (33 U.S.C. 1251 *et seq.*). The Task Force consists of members appointed by EPA from industry, citizen groups, state and local government, the academic and scientific communities, and EPA regional offices. The Task Force was created to offer advice to the Administrator on the long-term strategy for the effluent guidelines program, and particularly to provide recommendations on a process for expediting the promulgation of effluent guidelines. The Task Force generally does not discuss specific effluent guideline regulations currently under development.

The meeting is open to the public, and limited seating for the public is available on a first-come, first-served basis. The public may submit written comments to the Task Force regarding improvements to the Effluent Guidelines program. Comments should be sent to Beverly Randolph at the above address. Comments submitted by April 23, 1999 will be considered by the Task Force at or subsequent to the meeting.

Dated: April 14, 1999.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 99–9871 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30475; FRL–6072–9]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by May 20, 1999.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30475] and the file symbols to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), listed in the table below:

Regulatory Action Leader	Office location/telephone number	Address
Judy Loranger	Rm. 910W24, CM #2, 703–308–8056, e-mail: loranger.judy@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Shanaz Bacchus	Rm. 902W34, CM #2, 703–308–8097, e-mail: bacchus.shanaz@epamail.epa.gov.	Do.
Willie Nelson	Rm. 942W42, CM #2, 703–308–8682, e-mail: nelson.willie@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 72098–U. Applicant: Taensa, Inc., 26 Sherman Court, P.O. Box 764, Fairfield, CT 06430. Product Name: BeetleBall Technical. Insecticide. Active ingredient: 4-Allyl anisole (Estragole) at 98%. Proposed classification/Use: None. For manufacturing purposes only. (J. Loranger)

2. File Symbol: 72098–E. Applicant: Taensa, Inc. Product Name: BeetleBall MP. Insecticide. Active ingredient: 4-Allyl anisole (Estragole) at 47.0%. Proposed classification/Use: None. For manufacturing purposes only. (J. Loranger)

3. File Symbol: 72098–G. Applicant: Taensa, Inc. Product Name: BeetleBall PaintBall. Insecticide. Active ingredient: 4-Allyl anisole (Estragole) at 39.1%. Proposed classification/Use: None. For management and prevention of Southern Pine Beetle infestations. (J. Loranger)

4. File Symbol: 72098–R. Applicant: Taensa, Inc. Product Name: BeetleBall Microencap. Insecticide. Active ingredient: 4-Allyl anisole (Estragole) at 20.0%. Proposed classification/Use: None. For management and prevention of Southern Pine Beetle infestations. (J. Loranger)

5. File Symbol: 11678–LA. Applicant: Makhteshim-Agan of North America, Inc., 551 Fifth Ave., Suite 1100, New York, NY 10176. Product Name: Trichodex. Fungicide. Active ingredient: *Trichoderma harzianum* strain T-39. Proposed classification/Use: None. For use on all agricultural crops. (S. Bacchus)

6. File Symbol: 56261–E. Applicant: Phero Tech Inc., 7572 Progress Way, Delta, B.C. V4G 1E9 Canada. Product Name: MCH Bubble Cap. Repellent pheromone. Active ingredient: 3-Methyl-2-cyclohexene-1-one at 2.1.%. Proposed classification/Use: None. For use to prevent infestations of the Douglas-Fir and the Spruce by the

Douglas-Fir Beetle and by the Spruce Beetle respectively. (W. Nelson)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30475] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30475]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: April 1, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–9865 Filed 4–19–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Submitted to OMB for Review and Approval

April 13, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 20, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Part 76, Cable Television Service Pleading and Complaint Rules.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business and other for-profit entities; Individuals or households.

Number of Respondents: 400.

Estimated Time Per Response: 4 to 40 hours.

Frequency of Response: On occasion reporting requirements; Third Party disclosure.

Total Annual Burden: 8,800 hours.

Total Annual Costs: $1,204,000.

Needs and Uses: The procedural requirements set forth in this proceeding describe the process for filing petitions and complaints under Part 76 of the Commission's rules. This information contained in the petitions and complaints is part of the record used by the Commission in its decision-making. Without the information, the Commission would be unable to enforce its rules and would be unresponsive to entities regulated by the Commission.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–9835 Filed 4–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

FCC Closes on April 23, 1999

Released: April 12, 1999.

The U.S. Office of Personnel Management has issued guidance for the closing of certain federal agencies on Friday, April 23, 1999, as a result of the planned activities associated with the 50th Anniversary NATO Summit. In accordance with this guidance, the FCC will be closed on Friday, April 23, 1999. All filings, paper and electronic, due on April 23, 1999, will be accepted as timely on the next official work day.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–9833 Filed 4–19–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2325]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

April 13, 1999.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW, Washington, DC or may be purchased from the Commission's

copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by May 5, 1999. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Policies and Rules for Alternative Incentive Based Regulation of Comsat Corporation (IB Docket No. 98–60).

Number of Petitions Filed: 1.

Subject: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (CC Docket No. 96–128).

Number of Petitions Filed: 1.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc 99–9834 Filed 4–19–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of Certain Receiverships by the FDIC in the Second Quarter of 1999

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: Notice is hereby given that the FDIC, for itself or as successor in interest to the Resolution Trust Corporation, in its capacity as Receiver for the Institutions set forth below (the "Receiver") intends to terminate these receiverships during the second calendar quarter of 1999.

FOR FURTHER INFORMATION CONTACT: Division of Resolutions and Receiverships, Terminations Section, 1–800–568–9161.

SUPPLEMENTARY INFORMATION:

Receivership No.	Financial institution name	City	State
1249	Life Federal Savings Bank	Clearwater	FL
1252	Advanced Savings Bank, FSB	Northridge	CA
1254	Irving Federal Bank for Savings, FSB	Chicago	IL
1264	Goldome Savings Bank, FSB	St. Petersburg	FL
1305	Home Federal Savings Bank	Norfolk	VA
2110	Southeastern Savings Bank, Incorporated	Charlotte	NC
2202	Home Savings Association of Kansas City	Kansas City	MO
2536	Park Bank of Florida	St. Petersburg	FL
4211	Home National Bank of Milford	Milford	MA
4215	NBC Bank-Houston, N.A.	Houston	TX
4244	Capital National Bank	Bronx	NY
4254	American Bank & Trust Company	Baton Rouge	LA
4298	First National Bank of Rowlett	Rowlett	TX
4332	Coolidge Corner Co-Operative Bank	Brookline	MA
4362	University Bank, N.A.	Newton	MA
4382	Citytrust	Bridgeport	CT
4395	Suffield Bank	Suffield	CT
4398	Bank Five for Savings	Arlington	MA
4423	Community National Bank & Trust Co.	New York City	NY
4432	Merchants National Bank	Leominster	MA
4459	Broadway Bank & Trust Co.	Paterson	NJ
4475	Southstate Bank for Savings	Brockton	MA
4492	Workingmen's Co-Operative Bank	Boston	MA
4551	Burritt Interfinancial Bancorporation	New Britain	CT
4565	Jefferson National Bank	Watertown	NY
4571	College Boulevard National Bank	Overland Park	KS
4583	Capital Bank of California	Los Angeles	CA
4614	Commerce Bank	Newport Beach	CA
4618	Ludlow Savings Bank	Ludlow	MA
4623	Founders Bank	New Haven	CT
4626	Peoples Bank and Trust	Borger	TX
4628	Fairfield First Bank & Trust Co.	Southport	CT
5963	First Service Bank for Savings	Leominster	MA
6543	Citizens State Bank of Fulda	Fulda	MN
6928	Acadia Savings and Loan Association, FSA	Crowley	LA
7024	Durand Federal Savings and Loan Association	Durand	WI
7054	American Savings, a Federal Savings and Loan Association	Salt Lake City	UT
7067	First Savings and Loan Association, FA	Waco	TX
7071	Bexar Savings Association	San Antonio	TX
7180	Heritage Federal Savings & Loan Association	Monroe	NC
7268	General Federal Savings Bank	Miami	FL
7323	Jasper Federal Savings & Loan Association	Jasper	TX
7325	Southwestern Federal Savings Association	El Paso	TX
7353	First South Savings Association	Port Neches	TX
7374	Germania Bank, FSB	Alton	IL
7579	Victor Savings and Loan Association a Federal Savings and Loan Association	Muskogee	OK

The liquidation of the assets of these receiverships is expected to be completed no later than June 30, 1999. To the extent permitted by available funds and in accordance with law, the Receiver for these institutions will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of such receiverships will serve no useful purpose. Consequently, notice is given that the receiverships will be terminated, as soon as practicable but no sooner than thirty (30) days after the date of this Notice.

If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Terminations Department, 1910 Pacific Avenue, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: April 15, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–9844 Filed 4–19–99; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1269–DR]

Louisiana; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana, (FEMA–1269–DR), dated April 9, 1999, and related determinations.

EFFECTIVE DATE: April 12, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Louisiana is hereby amended to include Individual Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 9, 1999:

Bossier Parish for Individual Assistance (already designated for Public Assistance).

Caddo Parish for Individual and Public Assistance.

Claiborne Parish for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–9852 Filed 4–19–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3130–EM]

Commonwealth of Puerto Rico; Amendment No. 4 to Notice of an Emergency

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the Commonwealth of Puerto Rico, (FEMA–3130–EM), dated September 21, 1998, and related determinations.

EFFECTIVE DATE: September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective September 30, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–9853 Filed 4–19–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 202–011346–009
Title: Israel Trade Conference
Parties:
Farrell Lines Incorporated
Zim Israel Navigation Co., Ltd.
Synopsis: The proposed modification deletes any reference to loyalty contracts; provides for the right of independent action for freight forwarder compensation; permits conference members to enter into individual service contracts, to exchange information, and to implement voluntary service contract guidelines; and makes other administrative changes as well as restating the agreement. The parties have requested expedited review.

Dated: April 15, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–9854 Filed 4–19–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Fact Finding Investigation No. 23—Ocean Common Carrier Practices in the Transpacific Trades; Amended Order of Investigation

On September 21, 1998, pursuant to the Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.* ("Act"), the Federal Maritime Commission ("Commission") commenced this nonadjudicatory fact finding proceeding to investigate allegations that ocean common carriers in the eastbound Transpacific trades were engaging in activities that may be in violation of certain provisions of the Act. Commissioner Delmond J.H. Won was appointed as Investigative Officer and was authorized to hold hearings and to utilize compulsory processes, including subpoenas, to obtain relevant testimony and documents. Commissioner Won conducted an

expedited investigation and submitted a confidential Report and Recommendations ("Report") to the Commission on January 5, 1999.

A summary of Commissioner Won's Report was released to the public on March 12, 1999. Generally, as indicated by the summary, evidence cited in the Report corroborates allegations that carriers in the eastbound Transpacific trades, faced with shortages of space during the peak 1998 holiday shipping season, refused to carry low rated cargo at applicable rates, targeted the cargo of non-vessel-operating common carriers ("NVOCCs") for rate and space discrimination, and imposed significant and sudden increases in rates and charges. Among other things, the Report indicates that space was allocated in many instances on the basis of profit to the carrier; and that bookings were often rejected unless the shipper agreed to significantly increased rates or charges. Large, reliable contract shippers were said generally to have received preferential space allocations.

The Commission has determined to pursue certain of the Report's findings through further investigation and enforcement action under sections 8, 10 and 11 of the Act, as appropriate. To facilitate such further investigation, the Commission is continuing this proceeding to assist in developing additional evidence concerning the activities of ocean common carriers listed in Appendix A hereto during the period July 1, 1998 to November 1, 1998 in the eastbound Transpacific trades, and related to the following issues:

1. Refusing to provide vessel space or equipment to shippers under existing service contract rates;
2. Demanding or charging rates higher than those set forth in applicable tariffs or service contracts;
3. Subjecting any particular non-vessel-operating common carrier ("NVOCC") or NVOCC traffic generally, to any unreasonable refusal to deal, to any undue or unreasonable prejudice or disadvantage, or to unjustly discriminatory rates or charges; and
4. Transporting cargo for, or soliciting service contracts from, individual members of shippers' associations at rates higher than those found in existing contracts of the applicable associations.

In addition, the Commission is designating Vern W. Hill, Director, Bureau of Enforcement, as the Investigative Officer for the continued phase of this proceeding. Mr. Hill will have all of the powers formerly delegated to Commissioner Delmond Won to pursue the issues set forth above.

Interested persons are invited and encouraged to contact the Investigative Officer named herein, at (202) 523–5783 (Phone) or (202) 523–5785 (Fax), should they wish to provide testimony or evidence, or to contribute in any other manner to the development of a complete factual record in this proceeding.

Therefore, it is ordered, That pursuant to sections 8, 10, 11, 12 and 15 of the Shipping Act of 1984, 46 U.S.C. app. 1707, 1709, 1710, 1711 and 1714, and part 502, Subpart R of Title 46 of the Code of Federal Regulations, 46 CFR 502.281, *et seq.*, this nonadjudicatory investigation into practices of ocean common carriers in the Transpacific trades is continued in order to develop the issues set forth above and to provide a basis for any subsequent regulatory, adjudicatory or injunctive action by the Commission.

It is further ordered, That the Investigative Officer shall be Vern W. Hill, Esq., Director, Bureau of Enforcement, of the Commission. The Investigative Officer shall be assisted by staff members as may be assigned by the Commission's Managing Director and shall have full authority to hold public or non-public sessions, to resort to all compulsory process authorized by law (including the issuance of subpoenas *ad testificandum* and *duces tecum*), to administer oaths, to require reports, and to perform such other duties as may be necessary in accordance with the laws of the United States and the regulations of the Commission;

It is further ordered, That the Investigative Officer shall issue a report of findings and recommendations no later than 180 days after publication of this Order in the Federal Register, and interim reports if it appears that more immediate Commission action is necessary, such reports to remain confidential unless and until the Commission provides otherwise;

It is further ordered, That this proceeding shall be discontinued upon acceptance of the final report of findings and recommendations by the Commission, unless otherwise ordered by the Commission; and

It is further ordered, That notice of this Order be published in the **Federal Register.**

By the Commission.

Bryant L. VanBrakle,

Secretary.

Appendix A

Ocean Common Carriers

APL Co. PTE, Ltd. ("APL")
American President Lines, Ltd. ("APL")
A.P. Moller-Maersk Line ("Maersk")
COSCO Container Lines, Ltd. ("COSCO")
Evergreen Marine Corp. (Taiwan) Ltd. ("Evergreen")
Hanjin Shipping Co., Ltd. ("Hanjin")
Hapag-Lloyd Container Linie GmbH ("Hapag-Lloyd")
Hyundai Merchant Marine Co., Ltd. ("Hyundai")
Kawasaki Kisen Kaisha, Ltd. ("K-Line")
Mitsui O.S.K. Lines, Ltd. ("MOL")
Nippon Yusen Kaisha ("NYK")
Orient Overseas Container Line, Inc. ("OOCL")
P&O Nedlloyd B.V. ("P&O Nedlloyd")
P&O Nedlloyd Ltd. ("P&O Nedlloyd")
Sea-Land Service, Inc. ("Sea-Land")
Yangming Marine Line ("Yangming")

[FR Doc. 99–9855 Filed 4–19–99; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 99–05]

Anera and Its Members-Opting Out of Service Contracts; Order To Show Cause

On September 21, 1998, the Commission instituted Fact Finding Investigation No. 23—*Ocean Common Carrier Practices in the Trans-Pacific Trades,* for the purpose of conducting an inquiry into allegations that ocean common carriers in the eastbound Transpacific trades have engaged in activities in violation of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1701, *et seq.* 28 S.R.R. 445 (1998). The alleged violations included various forms of refusals to provide space for cargo during the 1998 peak holiday shipping season unless the shipper agreed to significantly increased rates or charges, and the widespread practice of allocating space on the basis of revenue or profit to be achieved by the carrier. The Commission's Order of Investigation ("Order") delegated authority to the Investigative Officer to hold hearings, and to issue subpoenas for the attendance of witnesses and the production of documents.

As directed in the Order, the Investigative Officer issued a report and recommendations to the Commission on January 5, 1999. Included in that report were information and evidence concerning a practice engaged in by the Asia North America Eastbound Rate Agreement ("ANERA") and its members referred to as "opting out" of conference service contracts. This term is used to describe a method of participation in ANERA contracts whereby a participating carrier may charge a rate other than that agreed to by the shipper in the contract. Thus, the "opting out" carrier agrees to carry cargo under the contract, but "opts out" of the contract rates. As discussed below, the rates

charged by the "opting out" carrier may be the tariff rates found in ANERA's tariff applicable to that particular carrier (i.e., the rate may be a common tariff rate or an independent action rate). However, the cargo carried under those higher tariff rates would count toward the minimum quantity set forth in the contract and, conversely, the conference's exposure to liquidated damages for failure to make sufficient space available under the contract could be diminished by offers from the "opting out" carrier to carry cargo at tariff rates.

This device is new to ANERA contracts in 1998–1999, and has been used primarily by Sea-Land Service, Inc. ("Sea-Land"), according to evidence developed in the fact finding investigation. Commission records reflect that Sea-Land "opted out" of at least 183 ANERA service contracts which were still in effect as of March 29, 1999.[1] As space became tight during the 1998 peak shipping season, Sea-Land appears to have utilized this device extensively to obtain greater revenue from contract shippers which could not find space on other carriers. A review of active ANERA service contracts in the Commission's files as of March 29, 1999, also indicates that the following additional carriers "opted out" of ANERA service contracts: A.P. Moller-Maersk Line (13 contracts); American President Lines, Ltd. (3 contracts); Hapag-Lloyd Container Line GmbH (8 contracts); Kawaski Kisen Kaisha, Ltd. (12 contracts); Mitsui O.S.K. Lines, Ltd. (1 contract); and P&O Nedlloyd Ltd./B.V. (1 contract). Appendix A hereto is a list of 198 active ANERA service contracts as of March 29, 1999, from which one or more of the above-named carriers "opted out."

One contract shipper which was charged tariff rates during peak season complained to ANERA that Sea-Land had charged an excessive rate and sought a refund of the difference between the rate charged and the contract rate. ANERA replied that Sea-land had charged the correct rate under the terms of the contract, explaining:

> All ANERA carriers can carry cargo under your contract and all must charge the contract rates except for Sea-Land, which must charge the general tariff rate at the time of shipment. Sea-Land liftings shall be counted towards the MQC [Minimum Quantity of Cargo] in your contract, although the rate is different than other carriers.

[1] Sea-Land produced statistics in the fact finding investigation indicating a total of 215 service contracts from which that carrier had "opted out" as of October 31, 1998. Apparently, some of those contracts are no longer in effect.

ANERA document No. 106690. The contract to which this correspondence refers, SC No. 7490/98, lists all of the ANERA carriers as participants. Article 6 of that contract, and its essential terms publication sets forth the contract rates. Note 3 to Article 6, which appears to be "boilerplate" language in ANERA contracts containing an "opt out" clause, states:

> The following participating carrier(s) has opted out of the following Contract rates pursuant to Rule 101.H of the ET tariff:
> Line: Sea-Land Service Inc.
> Commodity: All
> Port Pair: All
>
> Pursuant to Rule 101.H, certain shipments at the tariff rates applicable to the above carrier and port pair(s) may apply under this Contract. (Emphasis supplied)

Rule 101.H of ANERA's Essential Terms tariff is as follows:

> H. Any participating carrier may opt out of any of the rates in this Contract. Notice of any such opt-out shall be given prior to the effective date of this Contract and shall be shown in Appendix A hereto. The participating carrier may revoke the opt-out at any time during the term of this Contract by written notice to ANERA and the Shipper, after which it would be fully a party to the Contract for the remainder of its term and may not opt out further. Cargo carried by such participating carrier during any opt out period shall count toward the Quantity Commitments of this Contract, provided that the rate shall be the governing tariff rate (either common or I/A) applicable to that participating carrier at time of shipment, and provided further that such cargo may count under the Contract only if the applicable tariff rate is higher than the corresponding rate set forth in Appendix A of this Contract. All rules, extra charges, and other terms and conditions of the Contract shall apply per the Contract.

Section 8(c) of the Shipping Act of 1984 ("1984 Act") requires that an ocean common carrier file with the Commission and make available to the general public in tariff format, a concise statement of the essential terms of a service contract, including the line-haul rate. The Commission's rules at 46 CFR 514.17(c)(2) provide that essential terms may not "(i) [b]e uncertain, vague or ambiguous; or (ii) [c]ontain any provision permitting modification by the parties other than in full compliance with this part." The essential terms quoted above appear to be uncertain, vague and ambiguous in that neither the shipper nor the Commission nor the public knows which rates will apply to any particular shipment. In addition, the rate can be modified by the conference, or by the individual carrier, at any time, without the shipper's consent. Thus, the "opt out" provisions found in the ANERA contracts listed in Appendix A to this order appear to be in violation of section 8(c) of the 1984 Act and the Commission's regulations.

Section 10(d)(1) of the 1984 Act states that, "No common carrier * * * may fail to establish, observe and enforce just and reasonable regulations and practices relating to or connected with receiving * * * or delivering property." The practices of ANERA and its members in agreeing upon and implementing "opt out" provisions in 1998–1999 service contracts appear to be unjust and unreasonable in that "opting out" carriers refuse to accept bookings, and, thus, to receive, transport, or deliver cargo, under the rate for which a shipper has bargained in a service contract. Moreover, this refusal by "opting out" carriers may result in a shipper being penalized for failure to meet its minimum cargo requirements under the contract if it chooses not to ship at higher rates with an "opting out" carrier.[2] Therefore, these practices appear to violate section 10(d)(1) of the 1984 Act.

Now, therefore, it is ordered That pursuant to section 11 of the Shipping Act of 1984, 46 U.S.C. app. 1710, ANERA and its members are directed to show cause why they should not be found to have violated section 8(c) of the Shipping Act of 1984 by failing to file with the Commission and make available to the general public in tariff format, a concise statement of the essential terms, including the line haul rate, of at least 198 service contracts in which one or more members have "opted out."

It is further ordered That ANERA and its members are directed to show cause why they should not be found in violation of Commission rules at 46 CFR 514.17(c)(2) for filing essential terms for at least 198 service contracts that are uncertain, vague and ambiguous and/or

[2] Rule 107(A) of ANERA's Essential Terms tariff appears to provide the shipper with the freedom to choose the participating carrier who will transport the shipper's cargo during the duration of the service contract. However, space on any specific vessel is not guaranteed to the shipper. Therefore, according to Rule 107(B), if the shipper "is unable to secure space on any particular vessel of a participating carrier, [s]hipper agrees to contact all of the other participating carriers successively until appropriate substitute space has been found." Under these contractual conditions, if the only participating carrier that is able to provide space to the shipper is also one that has "opted out" of the service contract rates, then the shipper may be faced with the unattractive choice of either paying the higher tariff rates for the transportation of its cargo, or of breaching the contract by failing to meet its Minimum Quantity Commitment, thereby exposing itself to liability and penalties in the form of liquidated damages, as specified in Article 9 of the contract.

can be modified at any time without the shipper's consent.

It is further ordered That ANERA and its members are directed to show cause why they should not be found in violation of section 10(d)(1) of the 1984 Act for failure to establish, observe and enforce just and reasonable regulations and practices relating to or connected with receiving or delivering property under service contracts containing "opt out" clauses.

It is further ordered That this proceeding is limited to the submission of affidavits of fact and memoranda of law.

It is further ordered That any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact, if any, and shall be filed no later than the day fixed below;

It is further ordered That ANERA and its members as set forth in Appendix B hereto are named as Respondents in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondents and any intervenors in support of Respondents no later than May 14, 1999.

It is further ordered That the Commission's Bureau of Enforcement is made a party to this proceeding;

It is further ordered That reply affidavits and memoranda of law shall be filed by the Bureau of Enforcement and any intervenors in opposition to Respondents no later than June 3, 1999.

It is further ordered That rebuttal affidavits and memoranda of law shall be filed by Respondents and intervenors in support no later than June 18, 1999.

It is further ordered That;

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such hearing, together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in this proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit;

(b) Should any party believe that an oral argument is required, that party must submit a request specifying the reasons therefore and why argument by memorandum is inadequate to present the party's case; and

(c) Any request for evidentiary hearing or oral argument shall be filed no later than June 18, 1999.

It is further ordered That, if violations are found by the Commission, such violations be referred to an Administrative Law Judge for assessment of civil penalties as appropriate, under section 13 of the Shipping Act of 1984, 46 U.S.C. app. 1712.

It is further ordered That notice of this Order to Show Cause be published in the **Federal Register**, and that a copy thereof be served by express delivery upon Respondents;

It is further ordered That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, as well as being mailed directly to all parties of record;

Finally, it is ordered That pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the final decision of the Commission in this proceeding shall be issued by September 1, 1999.

By the Commission.

Bryant L. VanBrakle,

Secretary.

APPENDIX A.—ANERA SERVICE CONTRACTS IN WHICH ONE OR MORE MEMBERS HAVE "OPTED OUT"

Name of carrier	Total number of "OPT outs"	Service contracts with "OPT outs"
Sea-Land Service, Inc.	183	7135, 7143, 7190, 7218, 7231, 7256, 7257, 7258, 7259, 7260, 7261, 7262, 7263, 7266, 7267, 7270, 7271, 7272, 7274, 7275, 7277, 7278, 7280, 7282, 7283, 7284, 7285, 7287, 7288, 7289, 7290, 7292, 7294, 7295, 7298, 7299, 7300, 7301, 7303, 7306, 7308, 7309, 7310, 7311, 7312, 7314, 7315, 7317, 7318, 7319, 7320, 7321, 7322, 7323, 7324, 7325, 7329, 7331, 7334, 7335, 7336, 7337, 7338, 7339, 7340, 7341, 7344, 7345, 7347, 7349, 7352, 7354, 7355, 7357, 7358, 7359, 7362, 7363, 7364, 7365, 7366, 7367, 7368, 7371, 7372, 7373, 7374, 7376, 7377, 7378, 7380, 7381, 7382, 7383, 7384, 7385, 7386, 7388, 7389, 7391, 7393, 7394, 7395, 7396, 7397, 7398, 7399, 7400, 7402, 7403, 7404, 7405, 7406, 7409, 7410, 7411, 7412, 7413, 7415, 7418, 7419, 7421, 7423, 7424, 7427, 7429, 7430, 7431, 7435, 7436, 7438, 7440, 7442, 7443, 7444, 7445, 7446, 7448, 7449, 7450, 7451, 7452, 7453, 7455, 7456, 7457, 7458, 7459, 7460, 7461, 7464, 7466, 7467, 7468, 7470, 7471, 7472, 7473, 7474, 7477, 7479, 7480, 7481, 7482, 7485, 7487, 7489, 7490, 7491, 7492, 7493, 7494, 7495, 7496, 7497, 7500, 7501, 7502, 7504, 7505, 7510, 7511, 7627.
A.P. Moller-Maersk Line	13	6918, 7191, 7229, 7230, 7256, 7274, 7298, 7321, 7340, 7341, 7368, 7416, 7627.
Kawasaki Kisen Kaisha, Ltd ("K" Line)	12	7265, 7277, 7294, 7300, 7308, 7329, 7334, 7368, 7374, 7415, 7417, 7419.
Hapag-Lloyd Container Linie GmbH	8	7368, 7675, 7679, 7682, 7683, 7685, 7686, 7687.
American President Lines Ltd.	3	7406, 7478, 7679.
P&O Nedlloyd Ltd./B.V.	1	7334.
Mitsui O.S.K. Lines Ltd.	1	7368.

Source: AFFI Essential Terms Publication as of March 29, 1999.

Appendix B

Members of the Asia North America Eastbound Rate Agreement

APL Co. PTE Ltd. ("APL")
American President Lines, Ltd. ("APL")
A.P. Moller-Maersk Line ("Maersk")
Hapag-Lloyd Container Linie GmbH ("Hapag-Lloyd")
Kawasaki Kisen Kaisha, Ltd. ("K-Line")
Mitsui O.S.K. Lines, Ltd. ("MOL")
Nippon Yusen Kaisha Line ("NYK")
Orient Overseas Container Line, Ltd. ("OOCL")
P&O Nedlloyd B.V. ("P&O Nedlloyd")
P&O Nedlloyd Ltd. ("P&O Nedlloyd")
Sea-Land Service, Inc. ("Sea-Land")

[FR Doc. 99–9856 Filed 4–19–99; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 14, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. The Bancorp, Inc., Cedarburg, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Elcho Bancorporation, Inc., Elcho, Wisconsin, and thereby indirectly acquire Northwoods State Bank, Elcho, Wisconsin.

Board of Governors of the Federal Reserve System, April 14, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–9800 Filed 4–19–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 4, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Credit Suisse Group and Credit Suisse First Boston, both of Zurich, Switzerland; to acquire Warburg, Pincus Asset Management Holdings, Inc., New York, New York, and thereby engage in financial and investment advisory activities, pursuant to § 225.28(b)(6) of Regulation Y; securities brokerage activities, pursuant to § 225.28(b)(7)(i) of Regulation Y; riskless-principal activities, pursuant to § 225.28(b)(7)(ii) of Regulation Y; private placement activities, pursuant to § 225.28(b)(7)(iii) of Regulation Y; other transactional activities, pursuant to § 225.28(b)(7)(v) of Regulation Y; investing and trading activities, pursuant to § 225.28(b)(8)(ii) of Regulation Y; data processing services, pursuant to § 225.28(b)(14) of Regulation Y; serving as investment advisor to and the general partner of (including, as appropriate, as commodity pool operator for) and holding and placing equity interests in, certain private investment funds which invest only in securities and other instruments that Applicants would be permitted to hold directly under the Bank Holding Company Act, previously found to be permissible by Board Order. See, *Key Corp, 84 Fed. Res. Bull. 1075 (1998)*; providing administrative services to open-end and closed-end investment companies, previously found to be permissible by Board Order. See, *Key Corp, 84 Fed. Res. Bull. 1075 (1998)*; providing certain Internet-related services, previously found to be permissible by Board Order. See, *Royal Bank of Canada, 84 Fed. Res. Bull. 855 (1998)*.

Board of Governors of the Federal Reserve System, April 14, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–9799 Filed 4–19–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, April 26, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 16, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–10007 Filed 4–16–99; 3:44 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Community/Tribal Subcommittee and the Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following subcommittee and committee meetings.

Name: Community/Tribal Subcommittee.

Times and Dates: 8:30 a.m.–5 p.m., May 4, 1999; 8:30 a.m.–5 p.m., May 5, 1999.

Place: The Westin Peachtree Plaza Hotel, 210 Peachtree Street, N.W., Atlanta, Georgia 30303.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 60 people.

Purpose: This subcommittee will bring to the Board of Scintific Counselors advice and citizen input, as well as recommendations on community and tribal programs, practices, and policies of the Agency. The subcommittee will report directly to the Board of Scientific Counselors.

Matters To Be Discussed: Issues and concerns of the Community/Tribal Subcommittee relates to ATSDR's community and tribal programs. ATSDR will present issues and concerns on which it wishes community/tribal input. Policies and activities will be identified and recommendations for the Agency will be developed. The subcommittee will discuss CTS procedures; ways and means of outreaching to communities affected by hazardous substances in the environment; possibilities for providing funding to communities to obtain their own health study expertise; the specific problems with Federal facilities and community access to health services. A report will be prepared and presented to the Board of Scientific Counselors.

Name: Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry.

Times and Dates: 8:30 a.m.–5:30 p.m., May 6, 1999, 8:30 a.m.–2:00 p.m., May 7, 1999.

Place: The Westin Peachtree Plaza Hotel, 210 Peachtree Street, N.W., Atlanta, Georgia 30303.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 60 people.

Purpose: The Board of Scientific Counselors, ATSDR, advises the Secretary; the Assistant Secretary for Health; and the Administrator, ATSDR, on ATSDR programs to ensure scientific quality, timeliness, utility, and dissemination of results. Specifically, the Board advises on the adequacy of the science in ATSDR-supported research, emerging problems that require scientific investigation, accuracy and currency of the science in ATSDR reports, and program areas to emphasize and/or to de-emphasize. In addition, the Board recommends research programs and conference support for which the Agency seeks to make grants to universities, colleges, research institutions, hospitals, and other public and private organizations.

Matters To Be Discussed: Agenda items will include an overview and panel discussions of ATSDR's plans, approaches, and time schedule for developing, with BSC collaboration and input, a five-year environmental public health research agenda; a report to the Board of Scientific Counselors from the Community/Tribal Subcommittee on issues and concerns related to hazardous waste sites; a presentation on an ATSDR/Department of Energy (DOE) coordinated research and public health activities plan for selected DOE sites; and brief ATSDR presentations on translating science to service, counter-terrorism activities, and international health.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Agenda items are subject to change as priorities dictate.

Due to administrative delays, this notice has not been published fifteen days prior to the start of the meeting.

Contact Person for More Information: Robert F. Spengler, Sc.D., Executive Secretary, BSC, ATSDR, M/S E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0708.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: April 13, 1999.

Carolyn J. Russell

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–9823 Filed 4–19–99; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99070]

Pregnancy Risk Assessment Monitoring System; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for a Pregnancy Risk Assessment Monitoring System (PRAMS) program. This program addresses the "Healthy People 2000 Objectives" priority area of Maternal and Infant Health. The purpose of the program is to assist State public health agencies to: (1) Establish and maintain State-specific, population-based surveillance of selected maternal behaviors and experiences that occur around the time of pregnancy and early infancy, and (2) to generate State-specific data for informing perinatal health programs and policies.

B. Eligible Applicants

Assistance will be provided only to the official State and territorial public health agencies designated as registration areas for vital statistics, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

The following are excluded:

1. States funded in September 1996, under Program Announcement 659, entitled " Pregnancy Risk Assessment Monitoring System": Alabama, Alaska, Arkansas, Colorado, Florida, Georgia, Illinois, Maine, New Mexico, New York, North Carolina, Oklahoma, South Carolina, Washington, and West Virginia.

2. District and States which have previously received funds from CDC for PRAMS: District of Columbia, Indiana, and Michigan.

In addition, all applicants must provide the following evidence of support:

1. Written assurance, signed by the head of the State's Vital Statistics unit, that the recipient PRAMS program will have timely (i.e., able to draw a sample from birth certificates within 2 to 4 months after delivery) access to edited birth certificate information needed for sampling and data collection. In addition, written assurance that a final birth tape will be available to CDC by December 1 of the following data year for the purpose of weighting the annual dataset.

2. A letter of commitment from the Directors of the Maternal and Child Health (MCH), the Vital Statistics, the Data Processing units, that they will work collaboratively to support the PRAMS program.

Applicants who do not provide these assurances and letters of commitment will not be eligible for funding, and their applications will be returned.

C. Availability of Funds

Approximately $600,000 is available in FY 1999 to fund approximately 5 awards. It is expected that the average award will be $100,000 ranging from $60,000 to $120,000. It is expected that

the awards will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to 2 years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and on the availability of funds.

Use of Funds

Supplantation of existing program efforts funded through other Federal or non-Federal sources is not allowable.

Recipient Financial Participation

CDC funding usually is sufficient to cover some operational costs for PRAMS, but it is not intended to fully support all aspects of the program. States currently receiving cooperative agreement funds contribute their own resources to PRAMS—mostly in the form of operational resources and in-kind staff support. Recipients of awards under this announcement are expected to commit a minimum of two full-time staff to the project.

Funding Preferences

Funding preferences will be given to states which have not implemented PRAMS through a Memorandum of Understanding with CDC.

D. Program Requirements

Recipients must identify and obtain review and approval from a NIH-approved Institutional Review Board (IRB). No data collection may begin until the provisions of 45 CFR 46, Protection of Human Subjects, have been met (See "Other Requirements" section below).

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for conducting activities under 2. (CDC Activities).

1. Recipient Activities

a. Adopt the standard PRAMS written protocol.

b. Identify, at a minimum, a program coordinator and a data manager dedicated to overall coordination and operations of PRAMS.

c. Form a Steering Committee consisting of representatives from the organizational units housing and collaborating on PRAMS, as well as other public and private health community representatives. The committee should provide oversight and set directions for the program and, at a minimum, meet at least once per year.

d. Assure active cooperation and collaboration among the participating organizational units such as MCH, Vital Records, and Data Processing units.

e. Design a State-wide PRAMS program that assures access to needed vital record information. Timely (i.e., able to draw a sample from birth certificates within 2 to 4 months after delivery) access to birth certificates is essential.

f. Prepare State-specific questions and their rationale and pretest, if needed, the questionnaire. With other participating States, revise the common questions at agreed upon intervals.

g. Define the study population and design and maintain a representative PRAMS sample.

h. Develop a cycle of sampling and data collection in accordance with the protocol and CDC developed PRAMS software.

i. Individual interviewers used by the State to conduct telephone interviewing must follow the standard PRAMS protocol and should be trained in accordance with PRAMS standards for phone interviewing.

j. Develop, maintain, and make available to CDC, using the standardized PRAMS protocol, electronic files on birth certificate information of the sampling frame, and of sampled women, data collection activities, and questionnaire data on a timely basis for data management (i.e., sampling, cleaning, and weighting).

k. Monitor, at least, monthly the quality of data collected and its management (i.e., through verification and validation efforts).

l. Develop and implement an analysis plan.

m. Collaborate with CDC on multi-State analyses combining or comparing data across PRAMS States.

n. Disseminate PRAMS findings through presentations and publications to health departments, professional societies, voluntary agencies, universities, other PRAMS States, and other interested individuals and organizations.

o. Participate with other States in training, workshops, and meetings at least once per year.

p. Assure that CDC has a final birth tape by December 1 of the following data year. The birth tape is needed by CDC for the weighting of the annual dataset which is returned to the State for analyses.

2. CDC Activities

a. Provide model protocol and assist with development of State-specific written protocols.

b. Assist the recipient agencies with development and revisions of State-specific questions and core questions for new States.

c. Provide program software, training, and ongoing technical support for operations management, questionnaire data entry, and development of the PRAMS analysis database.

d. Assist with the specification of variable descriptions and format layouts of all data files.

e. Provide technical assistance for data editing.

f. Assist with the development of computer programs for sampling.

g. Provide technical assistance to resolve problems regarding data collection procedures, response rates, sampling procedures (unbiased sampling and estimate omissions), and database files (completeness).

h. Assist in the development of annual weighted analysis datasets for recipient agencies, including developing statistical weights.

i Assist recipient agency staff in obtaining training in sample survey analysis software.

j. Provide recipients with epidemiological and statistical technical assistance.

k. Conduct multi-State and single-State analyses, in collaboration with the State, and facilitate dissemination and translation of findings.

l. Participate with recipient agencies in workshops, training, and meetings to exchange information among States.

m. Conduct site visits to monitor the program operations and to provide technical assistance as needed.

n. Assist in the development of a research protocol for IRB review by all cooperating institutions participating in the research project.

o. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

The applicant must submit the following:

1. Background and Need

a. Describe the rates of low birth weight and infant mortality on a Statewide basis and for high-risk sub-populations and geographical areas of

special interest and describe their relationship to relevant national rates for the "Healthy People 2000 Objectives".

b. Identify gaps in needed information concerning adverse pregnancy and infant outcomes, pregnancy and infant risk factors, and provide a description of how PRAMS data may be used to fill these gaps.

c. Describe pregnancy-related information that State programs need to develop and direct intervention policies and activities; and identify priorities for information on risk factors.

d. Describe how analyses of linked birth and infant death certificates have been used to identify infant health problems. The applicant should describe how data from PRAMS will complement the analyses of vital records by increasing understanding of previously identified infant health problems and identifying new problems.

2. Profile of State Birth Registration Process

a. Describe, in detail, State process for registering births, to include each step from collection of information at the birth site, having an initial computerized file (the sampling frame from which the PRAMS sample will be drawn), and having a clean, edited file from which other information can be drawn. Documentation should be provided that the sample could be drawn from birth certificate information within 2 to 4 months after the date of birth. The description should indicate whether development of the file requires linkage of medical and legal portions of the birth certificate. If so, this process should be described, along with the length of time needed to complete the linkage.

b. Describe the schedule on which vital records information (frame files and end-of-year birth files, such as NCHS standard birth files) will be available to CDC. CDC uses these files for assisting the state with evaluation of the sample and weighting the data.

c. Describe the current methods of processing birth certificates in the State: whether electronic birth certificate (EBC) registration is in place, and if so, for how long; if not, how long the current system has been in place; and any anticipated changes to the process.

d. Describe the extent to which applicant can link birth certificate data to other data sources (e.g., infant deaths, Supplemental Nutrition Program for Women, Infants, and Children (WIC), Medicaid).

3. Plan of Operation

a. Describe how and when the major project components (such as sampling, mail and telephone operations, data analysis, staffing plan, protocol development, steering committee) will be developed and implemented.

b. Provide any available data that describe the extent to which the data collection approach is likely to produce adequate response rates among the sampled population, including high-risk sub-populations. Applicant should provide examples of previous surveys, including past experiences with PRAMS and other data collection activities, and their response rates in the proposed populations. Describe and provide for the inclusion of women, racial and ethnic minority populations in the proposed research to include:

i. The proposed plan for the inclusion of women, racial and ethnic minority populations for appropriate representations.

ii. The proposed justification when representation is limited or absent.

iii. A statement whether the design of the study is adequate to measure differences when warranted.

iv. A statement whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

c. Describe the roles, responsibilities, and supervision of key personnel who will be contributing to the PRAMS program during the next budget period.

d. Document the relevant expertise and experience of proposed personnel involved in PRAMS program direction, operational management, and data analysis and dissemination, and their placement within the organization. It is strongly recommended that a minimum of two full-time equivalents at the State level be committed to working on daily operations and coordination of PRAMS.

e. Thoroughly describe the specific roles and responsibilities of participating organizational units, such as MCH, vital records, and data processing units.

f. Describe a plan for data analysis and dissemination of findings through various channels, including steering committee members, health policy makers, and health providers. Applicant should provide a description of existing partnerships and how findings from previous studies have been disseminated.

g. Provide an organizational chart that shows the proposed location of units that participate in PRAMS.

4. Timetable

Provide a general time-line of major milestones for the project period and a schedule of activities for the first 12 months of the project period.

5. Budget

Provide a detailed budget and line-item justification of all operating expenses that is consistent with the planned activities of the project. The budget should also address funds requested, as well as the applicant's in-kind or direct support. The budget should indicate if funds are already committed to PRAMS and the amount requested under this announcement should be adjusted accordingly.

F. Submission and Deadline

Application

Submit the original and two copies of CDC Form 0.1246(E). Forms are in the application kit. On or before June 18, 1999, submit the application to: Mildred S. Garner, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Announcement 99070, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received prior to submission to the review panel. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (30 Points)

a. The extent to which problems of poor pregnancy outcome exist, their severity, and whether they exist on a Statewide basis, within high-risk sub-populations, or defined geographical areas, and may be assessed in relationship to relevant national rates, the "Healthy People 2000 Objectives", and the Maternal and Child Health Bureau MCH indicators (5 points).

b. The programmatic relevance of the maternal and infant health program priorities (5 points).

c. The extent to which the applicant describes the surveillance information needed and how it may be used for health program planning and resource allocation (10 points).

d. The extent to which the applicant has used vital records data or other data sources, (e.g., infant deaths, WIC, Medicaid, or PRAMS) to identify and analyze infant health problems (10 points).

2. Profile of State Birth Registration Process (25 Points)

a. The extent to which the process is thorough; birth certificate information is computerized, edited, and available for sampling within 2 to 4 months after date of birth; and vital records information schedule provides timely access to CDC for sample evaluation and weighting (10 points).

b. The extent to which electronic birth certificate registration (EBC) or other methods for processing birth certificates are used, and whether any changes in the current process are anticipated along with a time frame for these changes (10 points).

c. The extent to which the applicant can link to other data sources (e.g., infant deaths, WIC, Medicaid) (5 points).

3. Plan of Operation (40 Points)

a. The extent to which the sampling method appears appropriate and likely to produce adequate response rates among the sampled populations. Applicants should provide evidence of previous experiences, including PRAMS, with the sampled populations (10 points).

b. The adequacy of the plan and timeline to carry out major project components (i.e., sampling, mail and telephone operations, data analysis)(5 points).

c. The extent to which the roles and responsibilities for organizational units, such as MCH, vital records, and data processing units; and key personnel and their expertise and experience, are documented and appear reasonable and appropriate; and whether two full-time equivalents are committed to working on PRAMS (10 points).

d. The extent to which the plan for data analysis assures dissemination of findings through multiple channels, to include steering committee members, health policy makers, and health providers and the extent to which previous study findings have been disseminated (10 points).

e. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research (5 points). This includes:

i. The proposed plan for the inclusion of women racial and ethnic minority populations for appropriate representation.

ii. The proposed justification when representation is limited or absent.

iii. A statement as to whether the design of the study is adequate to measure differences when warranted.

iv. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

4. Timetable (5 Points)

The extent to which the timetable incorporates major PRAMS activities and milestones and is specific, measurable, and realistic.

5. Budget (Not Scored)

The extent to which the budget is detailed, clear, justified, provides in-kind or direct project support, and is consistent with the proposed program activities.

6. Human Subjects: (Not Scored)

Does the application include a plan to adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects (see AR–1 below)?

____Yes____No

Comments: _____

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. progress report, no more that 90 days after the end of the budget period;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Mildred S. Garner, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR98–1 Human Subjects Requirements

AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR98–5 HIV Program Review Panel Requirements

AR98–7 Executive Order 12372 Review

AR98–9 Paperwork Reduction Act Requirements

AR98–10 Smoke-Free Workplace Requirements

AR98–11 Healthy People 2000

AR98–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(k)of the Public Health Service Act, [42 U.S.C. sections 241(a) and 247b(k) respectively], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

To obtain additional information, contact: Robert Hancock, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99070, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146 telephone (770) 488–2746, E-mail: RNH2@CDC.GOV.

See also the CDC home page on the Internet to obtain a copy of this announcement: http://www.cdc.gov

For program technical assistance, contact: Mary M. Rogers, Dr.P.H., Project Officer, PRAMS, Program Services and Development Branch, Division of Reproductive Health, NCCDPHP 4770 Buford Highway, N.E., MS K–22, Atlanta, Georgia 31341, Phone: (770) 488–5220, E-Mail: MJR3@CDC.GOV.

Dated: April 14, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–9824 Filed 4–19–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease

Control and Prevention (CDC) announces the following committee meeting.

Name: Breast and Cervical Cancer Early Detection and Control Advisory Committee (BCCEDCAC).

Times and Dates: 9 a.m.–5 p.m., May 17, 1999; 9 a.m.–4:30 p.m., May 18, 1999.

Place: The Holiday Inn Select—Decatur, 130 Clairemont Avenue, Decatur, Georgia 30030, telephone 404/371–0204, fax 404/377–2726.

Status: Open to the public, limited only by the space available.

Purpose: The Breast and Cervical Cancer Early Detection and Control Advisory Committee is charged with providing advice and guidance to the Secretary, the Assistant Secretary for Health, and the Director of CDC, regarding the early detection and control of breast and cervical cancer and to evaluate the Department's current breast and cervical cancer early detection and control activities.

Matters To Be Discussed: The discussion will focus on two new policies for the National Breast and Cervical Cancer Early Detection Program: case management and cervical cancer. Draft definitions will be provided and impact on the Program's operations will be discussed. Persons wishing to make oral presentations at the meeting should contact Ms. Rebecca Wolf 770/488–3012 or Ms. Madeline Cutler 770/488–4751 by 4 p.m., May 1, 1999. All requests will be limited to five minutes and should contain the name of the presenter and an outline of the meeting should be given to Ms. Cutler prior to the meeting.

Contact Person for Additional Information: Rebecca B. Wolf, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, NE, M/S K–64, Atlanta, Georgia 30341–3717, telephone 770/488–4751.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: April 14, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–9821 Filed 4–19–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC); Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meetings.

Name: Clinical Laboratory Improvement Advisory Committee (CLIAC).

Times and Dates: 8:30 a.m.–5 p.m., May 12, 1999; 8:30 a.m.–3:30 p.m., May 13, 1999.

Place: CDC, Koger Center, Williams Building, Conference Rooms 1802 and 1805, 2877 Brandywine Road, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting rooms accommodate approximately 85 people.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters To Be Discussed: The morning session of the first day will be devoted to orientation of new members. The orientation is background and process for new committee members. Although members of the public may attend, the orientation is not part of the public meeting. The agenda will include an update on CLIA implementation; update on transfer of test categorization and review of tests for waived status to the FDA; CLIA requirements and laboratory test results of public health importance; and remaining gaps in laboratory Y2K preparedness.

The Committee solicits oral and written testimony on the application of CLIA regulations and laboratory test results of public health importance. Requests to make an oral presentation should be submitted in writing to the contact person listed below by close of business, May 7, 1999. All requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Written comments should not exceed five single-spaced typed pages in length and should be received by the contact person listed below by close of business, May 7, 1999.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: John C. Ridderhof, Dr.P.H., Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, M/S G–25, Atlanta, Georgia 30341–3724, telephone 770/488–8076, fax 770/488–8282.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: April 13, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–9822 Filed 4–19–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Temporary Assistance for Needy Families Financial Reporting Form, ACF–196.

OMB No.: 0970–0165.

Description: The form provides specific data regarding claims and provides a mechanism for states to request grant awards and certify the availability of state matching funds. Failure to collect this data would seriously compromise ACF's ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress. The following citations should be noted in regards to this collection: 405(1); 409(a)(7); and 409(a)(1).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–196	54	4	8	1,728

Estimated Total Annual Burden Hours: 1,728.

Additional Information

ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by April 30, 1999. A copy of this information collection,

with applicable supporting documentation, maybe obtained by calling the Administration for Children and Families, Reports Clearance Officer, Bob Sargis at (202) 690–7275.

Comments and questions about the information collection described above should be directed to the following address by April 30, 1999: Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paper Reduction Project, 725 17th Street, NW, Washington, DC 20503, (202) 395–7316.

Dated: April 14, 1999.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 99–9801 Filed 4–19–99 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93631–99–02]

Developmental Disabilities: Request for Public Comments on Proposed Developmental Disabilities Funding Priorities for Projects of National Significance for Fiscal Year 1999

AGENCY: Administration on Developmental Disabilities (ADD), ACF, DHHS.

ACTION: Notice of request for public comments on developmental disabilities tentative funding priorities for Projects of National Significance for Fiscal Year 1999.

SUMMARY: The Administration on Developmental Disabilities (ADD) announced that public comments are being requested on tentative funding priorities for Fiscal Year 1999 Projects of National Significance prior to being announced in its final form.

We welcome comments and suggestions on this proposed announcement and funding priorities that will assist in bringing about the increased independence, productivity, integration, and inclusion into the community of individuals with developmental disabilities.

DATES: The closing date for submission of applications is June 21, 1999.

ADDRESSES: Comments should be sent to: Sue Swenson, Commissioner, Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Room 300F, Washington, D.C., 20447.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families (ACF), Pat Laird, 370 L'Enfant Promenade, S.W., Room 300F, Washington, D.C., 20447, 202/690–7447.

SUPPLEMENTARY INFORMATION: This announcement consists of two parts:

Part I

Background

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities is located within the Administration for Children and Families, Department of Health and Human Services (DHHS). Although different from the other ACF program administrations in the specific constituency it serves, ADD shares a common set of goals that promote the economic and social well being of families, children, individuals and communities. Through national leadership, we see:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access; and
- A strong commitment to working with Native Americans, individuals with developmental disabilities, refugees and migrants to address their needs, strengths and abilities.

Emphasis on these goals and progress toward them will help more individuals, including those with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance Program is one means through which ADD promotes the achievement of these goals.

Two issues are of particular concern with these projects. First, there is a pressing need for networking and cooperation among specialized and categorical programs, particularly at the service delivery level, to ensure continuation of coordinated services to people with developmental disabilities. Second, project findings and successful innovative models of projects need to be made available nationally to policy makers as well as to direct service providers.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities is the lead agency within ACF and DHHS responsible for planning and administering programs that promote the self-sufficiency and protect the rights of individuals with developmental disabilities.

The 1996 Amendments (Public Law 104–183) to the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.6000 *et seq.*) (the Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity and integration and inclusion into the community.

The Act points out that:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity and inclusion into the community;
- Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;
- Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

The Act further finds that:

- Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve such;
- Individuals with developmental disabilities have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;
- Individuals with developmental disabilities and their families are the

primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and programs that affect the lives of such individuals and their families; and

• It is in the nation's interest for individuals with developmental disabilities to be employed, and to live conventional and independent lives as a part of families and communities.

Toward these ends, ADD seeks to enhance the capabilities of families in assisting individuals with developmental disabilities to achieve their maximum potential, to support the increasing ability of individuals with developmental disabilities to exercise greater choice and self-determination, to engage in leadership activities in their communities, as well as to ensure the protection of their legal and human rights.

Programs funded under the Act are:

• Federal assistance to State developmental disabilities councils;

• State system for the protection and advocacy of individual's rights;

• Grants to university affiliated programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and

• Grants for Projects of National Significance.

C. Description of Projects of National Significance

Under Part E of the Act, demonstration grants and contracts are awarded for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through:

• Data collection and analysis;

• Technical assistance to enhance the quality of State developmental disabilities councils, protection and advocacy systems, and university affiliated programs; and

• Other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including:

—Technical assistance for the development of information and referral systems;
—Educating policy makers;
—Federal interagency initiatives;
—The enhancement of participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;
—Transition of youth with developmental disabilities from school to adult life.

Section 162(d) of the Act requires that ADD publish in the **Federal Register** proposed priorities for grants and contracts to carry out Projects of National Significance. The Act also requires a period of 60 days for public comment concerning such proposed priorities. After analyzing and considering such comments, ADD must publish in the **Federal Register** final priorities for such grants and contracts, and solicit applications for funding based on the final priorities selected.

The following section presents the proposed priority areas for Fiscal Year 1999 Projects of National Significance. We welcome specific comments and suggestions. We would also like to receive suggestions on topics which are timely and relate to specific needs in the developmental disabilities field.

Please be aware that the development of the final funding priority is based on the public comment response to this notice, current agency and Departmental priorities, needs in the field of developmental disabilities and the developmental disabilities network, etc., as well as the availability of funds for this fiscal year.

Part II

Fiscal Year 1999 Proposed Priority Areas for Projects of National Significance

ADD is interested in all comments and recommendations which address areas of existing or evolving national significance related to the field of developmental disabilities.

ADD also solicits recommendations for project activities which will advocate for public policy change and community acceptance of all individuals with developmental disabilities and families so that such individuals receive the culturally competent services, supports, and other assistance and opportunities necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community.

ADD is also interested in activities which promote the inclusion of all individuals with developmental disabilities, including individuals with the most severe disabilities, in community life; which promote the interdependent activity of people with developmental disabilities and people without disabilities; and which recognize the contributions of these people (whether they have a disability or not), who share their talents at home, school, and work, and in recreation and leisure time.

No proposals, concept papers or other forms of applications should be submitted at this time. Any such submission will be discarded.

ADD will not respond to individual comment letters. However, all comments will be considered in preparing the final funding solicitation announcement and will be acknowledged and addressed in that announcement.

Please be reminded that, because of possible funding limitations, the proposed priority areas listed below may not be published in a final funding solicitation for this fiscal year.

Comments should be addressed to: Sue Swenson, Commissioner, Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Room 300F, Washington, D.C. 20447.

Proposed Fiscal Year 1999 Priority Area 1: Ongoing Data Collection and Information Dissemination

The purpose of this priority area is to fund projects through a cooperative agreement to collect data on public expenditures, employment and economic status, residential services, and other factors as they impact on the independence, productivity, integration and inclusion into the community of persons with developmental disabilities. ADD is particularly interested in the maximum use of already existing databases and in fostering the broadest dissemination to and use of the data by consumers, families and advocacy audiences.

Recently both public and private organizations have focused on data regarding people with disabilities. In 1998 the National Organization on Disability sponsored a Louis Harris survey on employment of adults with disabilities in the United States to determine whether their quality of life had improved since the passage of the Americans with Disabilities Act (ADA). In 1994 and 1995 a Disability Supplement was included in the National Health Interview Survey (NHIS). The NHIS is a household survey that has been conducted by the U.S. Bureau of the Census annually since 1957 and is supported by the National Center for Health Statistics. The NHIS focuses on the civilian, non-institutionalized population in the United States. Each year the NHIS randomly samples approximately 46,000 households with 116,000 members. The Disability Supplement

was included in this survey to identify a range of items necessary for gathering baseline data on disability, including developmental disabilities in this country. Other organizations are attempting to develop usable data on particular aspects of the lives of people with disabilities as well as include disability as a demographic factor in general surveys.

In December 1998 the ADD hosted a roundtable on data. This was a two-day discussion by representatives from Federal agencies, non-profit organizations, and universities involved with generating and synthesizing data about people with developmental and other disabilities. This roundtable addressed programmatic issues such as waiting lists, aging and disability, and employment as well as concrete data and information issues. Data issues included the quality of data states maintain, the focus of information collected on people in institutions and group homes, and who is and should be included in the developmental disabilities population.

ADD has funded successful projects on data and information, including:

- University of Minnesota: National Recurring Data Set Project on Residential Services—Ongoing National and State-by-State Data Collection and Policy/Impact Analysis on Residential Services for Persons with Developmental Disabilities (Charles Lakin: 612/624–5005)
- University of Illinois at Chicago: Sixth National Study of Public Mental Retardation/Developmental Disabilities Spending (David Braddock: 312/413–1647)
- Boston Children's Hospital: Access to Integrated Employment: National Data Collection on Day and Employment Services for Citizens with Developmental Disabilities (William Kiernan: 617/355–6506)

Prevalent throughout the Roundtable discussion was the expanding role of states in the delivery of human services and the differences in what human services they deliver and the substance and extent of such services. For this reason ADD is interested in funding a special study as a part of the public expenditure project. This study would focus on state funding of human services programs for people with disabilities and, in particular, people with developmental disabilities.

ADD anticipates that this additional study will be a 12-month comprehensive investigation and analysis of expenditures at the state level on supports and services for people who have disabilities and, within this population, people who have developmental disabilities. Such an analysis could be a nation-wide comparison of states or involve a selection of states. The study would not involve income maintenance programs, but would include state expenditures for supports and services relating to housing, medical care, employment or vocational training, transportation, education, including efforts to enhance inclusive education, and personal assistance and other supports for independent living.

ADD's interest in such a study is also based on the devolution of the authorities for human services programs to state governments. The study should demonstrate how states are using their resources to provide supports and services for all people with disabilities and specifically for people with developmental disabilities.

Possible areas of focus for the special study include:

- Describing how services, supports, and assistance available at the state-level ensure accessibility, provide reasonable accommodations and in other ways create community environments to ensure the success of the ADA.
- Comparing states (or selected states) regarding types and comprehensiveness of services and supports.
- Listing services available in some states for replication by other states.

The Roundtable discussion reinforced the significant role the states play in the delivery of human services especially since welfare reform. With its passage has come an increased attention to the employment status of people with disabilities. There is much that still needs to be known about the employment issues impacting on individuals with developmental disabilities. As part of the data project on employment, ADD is proposing information collection and analysis by state on these issues including services and follow-up from state vocational rehabilitation agencies, subsequent long-term employment, and impediments to long-term employment. The use of existing databases funded or maintained by U.S. Department of Education and Labor and others should be utilized in this effort.

The data collection projects on public expenditures, employment, and residential services, should consider including activities which would:

- Identify, collect and disseminate new databases.
- Modify, expand and/or reformulate existing databases.
- Project and model the cost-benefit impact of alternative future decisions based on the analysis of discrete programmatic options in the areas of residential services and employment.
- Connect, integrate or analyze available databases.

ADD is considering the addition of a data collection project to measure and track the participation of children with developmental disabilities in general education curricula and settings, and spending associated with such inclusion. The project would use existing state and local databases to analyze the relationships between student and family outcomes, program designs and fiscal commitments. Such a project would be intended to help legislatures, advocates, states, local school districts, and school boards understand relationships between program designs and costs so that they can identify the most cost-effective models of program design and delivery of IDEA-funded and locally-funded supports. The goal would be to provide reliable and useful information to support the full inclusion of children with developmental disabilities in American public schools.

Proposed Fiscal Year 1999 Priority Area 2: Breaking Through the Glass Ceiling to Attain First Class Citizenship

"The right to enjoying the privileges of membership or citizenship touches all parts of the American Dream and the equality of opportunity envisioned by our founders. The importance of these dreams continues for today's multicultural society: having a home, family and friends; going to school; being a part of the community; and, critically, having a job." (Presidential Task Force on the Employment of Adults with Disabilities, Re-charting the Course, November 1998)

The May 1998 publication of the "Disability Statistics Abstract" reports that the 1994 Harris poll of Americans with Disabilities indicated that 63 per cent of respondents said their quality of life had improved during the previous four years. However, trend data show only slow improvements in the lives of people with disabilities as measured by such things as more opportunities for employment and improved economic status, greater freedom of movement and ease of access, and increased levels of social integration.

In the release of its 1998 progress report on the status of disability policy, the National Council on Disability stated that "The country continues to move forward, however the rate of progress is slower and less steady than many in the disability community had hoped when the Americans with Disabilities Act (ADA) was enacted in 1990. Federal policy remains rife with

inconsistent messages and unrealistic requirements for people with disabilities who rely on federal programs like Social Security disability benefits, vocational rehabilitation, Medicaid, Medicare, special education, and Temporary Assistance for Needy Families (TANF). In addition, the backlash against civil rights for children and adults with disabilities continues to motivate attempts to weaken laws such as the Individuals with Disabilities Education Act (IDEA) and ADA."

Through Projects of National Significance, in particular, ADD has assisted its grantees in developing and replicating a variety of innovative and successful approaches to increased leadership development and self-determination among people with significant disabilities and their families. Most notably, this has taken the form of early and formative support of such endeavors as Partners in Policymaking, the active participation of families of children with disabilities in the design and implementation of State family support policies and programs, the Home of Your Own initiative, personal assistance system change projects and targeted leadership efforts among people of color who have developmental disabilities.

ADD's programs are State-based, and so are systems that serve Americans with developmental disabilities. In fact, data measuring the delivery of services and supports to people with developmental disabilities and their families show little comparability from State to State. To respond to State flexibility, devolution, and States' ongoing needs for input from stakeholders, DD network programs in most States provide some form of training or leadership development to people with developmental disabilities and their families. Many people have been trained to interact effectively on their own behalf with State systems designed to serve them, and with State policymakers.

However, some issues, problems, programs and systems are inherently national (such as civil rights) or are national in scope (such as the design of federal systems including entitlements). ADD believes that devolution will increase, not decrease the demand for national stakeholders. In order to address the growing need for advocates who have the skills and experience to function in national arenas, ADD proposes to deliver skills-based training to people who have distinguished themselves as graduates of State-based training programs. Although ADD recognizes that many State leaders have developed tremendous skills on their own over the years, we are particularly interested in providing further training to people who have become experienced, thoughtful, and responsible advocates as a result of State-based training programs.

To address this set of challenges and opportunities, ADD proposes to fund a national policy training academy. The purpose of such an academy would be to provide opportunities for experienced state leaders who are adults with developmental disabilities and families of children with developmental disabilities gain the necessary knowledge and skills to shape and guide the implementation of policies, practices and approaches which enhance their own self determination.

Specifically, the Academy would seek to strengthen and expand national leadership for the 21st Century by and for people with developmental disabilities and families of children with disabilities through:

- Building a network of individual and family leaders in disability.
- Developing systemic strategies for identifying and involving grassroots disability leaders.
- Disseminating best practices, curricula, guides, and informational materials on self-determination and leadership development.
- Providing experiential learning opportunities that will enable individuals to acquire and deepen their knowledge and skills in the areas of: the operations of the legislative and executive branches; the programs and processes of significant federal agencies; the capacity of computer technology; the resources of national advocacy organizations; grant writing and reviewing; and the development of non-profit organizations.

It is envisioned that the main activities of the Academy will occur in Washington, DC over segments of time to gain the most benefit from national resources. Therefore, ADD is interested in knowing whether DD Councils, UAPs, P&As or other agencies would be willing to provide travel stipends to support participation of local people in this Academy.

Proposed Fiscal Year 1999 Priority Area 3: Reinventing Quality: Ensuring and Enhancing That Community Living Settings and Services Are Responsive to People With Developmental Disabilities

- In 1993, the Federal government presented its response to improving how it does business—The National Performance Review, the Federal government's "reinvention" project. When the Review asked Americans what they expect from government services this is what they heard:
  - "Ask us what we want."
  - "Don't tell us, 'That's not my department.'"
  - "Treat us with courtesy, respect, and enthusiasm."
  - "Make it easy."
  - "Provide reliable, timely help."

This is the same thing that Americans with disabilities and their families expect from all levels of government. According to a publication issued by the American Association on Mental Retardation (AAMR), "Shaping Our Destiny—A Provider's Guide to Quality Community Services", people with developmental disabilities and their families "should have an equal right to quality services and supports—including clear, relevant service standards, and reliable, timely help." This guide further states that, "Merely delivering services in the community doesn't make them quality services. Community services are quality services when they are flexible, reliable, and complete enough to meet an individual's needs." The guide explains that the old system of service delivery is not based on individually-designed services; that new service standards must be developed that ensure that everybody understands how community services and supports are supposed to work and that the new standards focus on results or outcomes that are meaningful to the people who use the supports. Most importantly, the guide emphasizes that these new service standards do not come from the Federal government, but are the products of each organization's interactions with its customers. Contained in the guide are examples of quality projects and ways to interact with stakeholders by service providers.

The "quality revolution" described in the AAMR publication reflects a trend in the States toward outcome-focused quality assurance systems in residential services for individuals with developmental disabilities. The status of the States' activities toward implementing an outcome-based approach was the subject of a 1996 report "Compendium of State Outcome-Focused Quality Assurance Systems" by the Human Services Research Institute (HSRI). It found that there was a general sense in the States "that traditional quality assurance, in particular comprehensive licensure and certification surveys, focuses too heavily on environment and process and not enough on outcomes for the individual (consumer) or on 'quality of life' issues. Across the States there appears to be a relationship between the evolution of

the State's mental retardation/developmental disabilities service system and the degree of quality assurance reform toward an outcome-focused system."

"Reinventing Quality—The 1998 Sourcebook of Innovative Programs for the Quality Assurance and Quality Improvement of Community Services", Institute on Community Integration/University of Minnesota, reaffirms this trend in the States as reported by HSRI and reasserts the need to change the service standards to reflect the evolution to community-based, individual needs. In the background section of this book, it states "Recent years have seen a shift in long-term care for persons with developmental disabilities from large institutions to community settings. But people receiving community services can fully realize the potential for improved quality of life afforded by this movement only if quality assurance expectations and activities are changed significantly from those originally developed for institutional care." Efforts to improve the quality of community services have demonstrated many innovative and comprehensive quality assessment and enhancement practices that are contained in the Sourcebook. It is these efforts that "may help others to fashion their own responses that not only protect the basic safety and well-being of individuals, but also encourage and support their preferred choices, personal growth, and individual lifestyles." One set of efforts described is consumer and family monitoring initiatives. Eight programs are profiled outlining their attempts at gaining insight into the quality of life of residents at group homes and other smaller facilities and providing feedback for quality enhancement.

It is obvious that "monitoring" in the traditional sense of the word is no longer an acceptable method for determining the quality of services and supports to people with developmental disabilities and their families. Thus, ADD is very interested in supporting models that demonstrate the effectiveness and cost efficiency of using volunteer surveyors of community residencies to gather objective information on the quality of life or outcomes experienced by their residents. The purpose of these projects would be to assist in the development of quality assurance improvements in their states. Projects should consider how their activities could contribute to an integrated service system based on person-centered outcomes. Any tools or instruments of measurement used should have as their focus the needs of the individual. These tools or instruments should be tested for reliability or validity and be standardized. Also, any tools/instruments should offer interpretive guidelines for those expected to use them. These projects would be expected to include in their community surveying multiple community settings (rural and urban), different types of housing (group homes, supported living, ownership) and all ranges of disability from mild to severe, especially those with limited communication skills. Projects should address cultural and geographic issues in their surveying as well. Consideration should be given to any issues regarding liability and insurance that may effect the implementation of the project. Models that ADD would seriously consider for funding should incorporate recruitment of consumers and family members and advocates, training of prospective surveyors, and direct observation and contact of residents.

(Federal Catalog of Domestic Assistance Number 93.631—Developmental Disabilities—Projects of National Significance)

Dated: April 14, 1999.

Sue Swenson,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 99–9862 Filed 4–19–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Head Start Bureau; Advisory Committee on Head Start Research and Evaluation; Notice of Meeting; Correction

AGENCY: Administration on Children, Youth and Families, ACF, DHHS.

ACTION: Correction.

SUMMARY: On Monday, April 5, 1999, a Notice was published in the **Federal Register**, document 99–8316, page 16470 announcing the Advisory Committee on Head Start Research and Evaluation meeting to be held on April 26–27, 1999 at Georgetown University. The Head Start Web site was incorrectly cited as http://www/dhhs.gov/programs/hsb. The correct web site is http://www2.acf.dhhs.gov/programs/hsb. For further information contact Deborah Roderick Stark at 301/889–0430.

Dated: April 12, 1999.

Patricia Montoya,

Commissioner, Administration on Children, Youth, and Families.

[FR Doc. 99–9861 Filed 4–19–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N–0240; DESI 1786]

Certain Single–Entity Coronary Vasodilators Containing Controlled–Release Nitroglycerin; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is proposing to withdraw approval of 23 new drug applications (NDA's) and abbreviated new drug applications (ANDA's) for certain single-entity coronary vasodilator drug products containing controlled-release nitroglycerin. FDA is offering the holders of the applications an opportunity for a hearing on the proposal. The basis for the proposal is that the sponsors of these products have failed to submit acceptable data on bioavailability and bioequivalence.

DATES: Hearing requests are due by May 20, 1999; data and information in support of hearing requests are due by June 21, 1999.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 1786, and directed to the attention of the appropriate office named as follows:

A request for a hearing, supporting data, and other comments are to be identified with Docket No. 77N–0240 and submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

A request for applicability of this notice to a specific product should be directed to the Division of Prescription Drug Compliance and Surveillance (HFD–330), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers

Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice (DESI 1786) published in the **Federal Register** of February 25, 1972 (37 FR 4001), FDA announced its evaluation of reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study group, on certain coronary vasodilator drugs. FDA classified controlled-release tablets of nitroglycerin as possibly effective for indications relating to the management, prophylaxis, or treatment of anginal attacks.

Notices published in the **Federal Register** of August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), amended earlier notices (37 FR 26623, December 14, 1972; and 38 FR 18477, July 11, 1973) by temporarily exempting nitroglycerin in controlled-release forms from the time limits established for the Drug Efficacy Study Implementation (DESI) program. The notices established conditions for marketing these products and identical, similar, or related products § 310.6 (21 CFR 310.6), whether or not they had been marketed and whether or not they were subjects of approved NDA's. FDA required distributors and manufacturers to have ANDA's (conditionally approved, pending the results of ongoing studies) to market controlled-release nitroglycerin products not the subject of NDA's. If at least one drug sponsor was conducting clinical studies on a chemical entity, FDA permitted the marketing of all firms' products containing the same chemical entity in a similar dosage form, provided each product met the other conditions estatblished in the notices. Not all sponsors, therefore, were required to conduct clinical studies. Because bioavailability is specific for an individual product, however, FDA required each firm to conduct a bioavailability study on its own product.

In a notice published in the **Federal Register** of September 7, 1984 (49 FR 35428), after completing its review of the clinical studies submitted for single-entity controlled-release nitroglycerin capsules and tablets, FDA announced that it had concluded that these drugs are effective for prevention for angina pectoris. The notice set forth the marketing and labeling conditions for the products. It required sponsors of these products seeking full approval to submit supplements providing acceptable in vitro dissolution tests and in vivo bioavailability/bioequivalence studies. The September 1984 notice stated that applications not fully approved within 1 year would be subject to proceedings to withdraw the previous approval and to remove the products from the market. This deadline was extended to June 26, 1987, in a notice published in the **Federal Register** of December 26, 1985 (50 FR 52856).

The sponsors of the drug products listed in section II of this document are not in compliance with the notices of September 7, 1984, and December 26, 1985, in that they either have not submitted any bioavailability/bioequivalence data or have not submitted additional data on incomplete or inadequate studies. Accordingly, this notice reclassifies these products as lacking substantial evidence of effectiveness, proposes to withdraw approval of their applications, and offers an opportunity for a hearing on the proposal.

II. NDA's and ANDA's Known by FDA to be Subject to This Notice

1. NDA 16–447; Nitrospan (controlled-release) Capsules containing 2.5 milligrams (mg) nitroglycerin per capsule; Rhone–Poulenc Rorer Pharmaceutical, Inc. (formerly held by USV Laboratories), 500 Arcola Rd., Collegeville, PA 19426–0107.

2. NDA 16–518; Nitro–Bid (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; Hoechst Marion Roussel (formerly held by Marion Laboratories, Inc.), 10236 Marion Park Dr., Kansas City, MO 64137.

3. NDA 16–975; Nitro–Bid (controlled-release) Capsules containing 6.5 mg nitroglycerin per capsule; Hoechst Marion Roussel.

4. NDA 17–384; Nitrong (controlled-release) Tablets containing 2.6 mg nitroglycerin per tablet; Wharton Laboratories, Inc., Division of U.S. Ethicals, Inc., 37–02 48th Ave., Long Island City, NY 11101.

5. ANDA 86–126; Nitrong (controlled-release) Tablets containing 6.5 mg nitroglycerin per tablet; Wharton Laboratories.

6. ANDA 86–138; Nitrong (controlled-release) Tablets containing 2.6 mg nitroglycerin per tablet; Wharton Laboratories.

7. ANDA 86–214; Nitrospan (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; Rhone–Poulenc Rorer.

8. ANDA 86–426; Nitro–Bid (controlled-release) Capsules containing 13 mg nitroglycerin per capsule; Hoechst Marion Roussel.

9. ANDA 86–537; Nitroglycerin Controlled–Release Capsules containing 6.5 mg of the drug per capsule; KV Pharmaceutical Co., 2503 South Hanley Rd., St. Louis, MO 63144–2555.

10. ANDA 86–787; Sustac (controlled-release) Tablets containing 10 mg nitroglycerin per tablet; Forest Laboratories, 909 Third Ave., New York, NY 10022–4731.

11. ANDA 86–869; Nitrospan (controlled-release) Capsules containing 6.5 mg of nitroglycerin per capsule; Rhone–Poulenc Rorer.

12. ANDA 87–229; Nitrobon (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; Inwood Laboratories, Inc., Division of Forest Laboratories, Inc., 909 Third Ave., New York, NY 10022–4731.

13. ANDA 87–544; Nitrobon (controlled-release) Capsules containing 6.5 mg nitroglycerin per capsule; Inwood Laboratories (formerly held by Ascot Hospital Pharmaceuticals, Inc.).

14. ANDA 87–715; Nitrong (controlled-release) Tablets containing 9 mg nitroglycerin per tablet; Wharton Laboratories.

15. ANDA 87–814; Nitro–Time (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; Time–Cap Laboratories, 7 Michael Ave., Farmingdale, NY 11735.

16. ANDA 87–815; Nitro–Time (controlled-release) Capsules containing 6.5 mg nitroglycerin per capsule; Time–Cap Laboratories.

17. ANDA 87–816; Nitro–Time (controlled-release) Capsules containing 9 mg nitroglycerin per capsule; Time–Cap Laboratories.

18. ANDA 87–975; Nitroglycerin Controlled–Release Capsules containing 2.5 mg of the drug per capsule; Eon Labs Manufacturing, Inc. (formerly held by The Vitarine Co.), 227–15 North Conduit Ave., Laurelton, NY 11413.

19. ANDA 87–976; Nitroglycerin Controlled–Release Capsules containing 6.5 mg of the drug per capsule; Eon Labs Manufacturing.

20. ANDA 88–435; Nitrocardin Sustained Action Capsules containing 2.5 mg nitroglycerin per capsule; Sidmak Laboratories, Inc., P.O. Box 371, East Hanover, NJ 07936.

21. ANDA 88–436; Nitrocardin Sustained Action Capsules containing 6.5 mg nitroglycerin per capsule; Sidmak Laboratories.

22. ANDA 88–437; Nitrocardin Sustained Action Capsules containing 9 mg nitroglycerin per capsule; Sidmak Laboratories.

23. ANDA 88–509; Nitroglycerin Controlled–Release Capsules containing 9 mg of the drug per capsule; Eon Labs Manufacturing (formerly held by Phoenix Pharmaceutical, Inc.).

III. Notice of Opportunity for a Hearing

On the basis of all the data and information available to her, the Director of the Center for Drug Evaluation and Research is unaware of any adequate and well-controlled clinical investigation, conducted by experts who are qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355), 21 CFR 314.126, and 21 CFR part 320 that demonstrates effectiveness (i.e., bioavailability/bioequivalence) of the drugs listed in section II of this document and that is in compliance with the conditions established in the September 7, 1984, and December 26, 1985, notices for continued marketing.

Therefore, notice is given to the holders of the NDA's and ANDA's listed in section II of this document and to all other interested persons that the Director of the Center for Drug Evaluation and Research proposes to issue an order under section 505(e) of the act withdrawing approval of the applications and all amendments and supplements thereto on the ground that new information before her with respect to the drug products, evaluated together with the evidence available to her when the applications were approved, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holders of the applications specifically named previously, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product, not the subject of an approved application, that is identical, related, or similar to a drug product named in section II of this document, as defined in § 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that they manufacture or distribute. Such manufacturers or distributors may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Prescription Drug Compliance and Surveillance (address above).

This notice of opportunity for a hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act (21 U.S.C. 3241(p)) or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act and the regulations issued under it (parts 310 and 314 (21 CFR parts 310 and 314)), an applicant and all other persons subject to this notice are hereby given an opportunity for hearing to show why approval of the applications should not be withdrawn.

An applicant or any other person subject to this notice who decides to seek a hearing shall file: (1) On or before May 20, 1999, a written notice of appearance and request for hearing, and (2) on or before June 21, 1999, the data, information, and analyses relied on to demonstrate that there is a genuine issue of material fact to justify a hearing, as specified in § 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, a notice of appearance and request for a hearing, information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in §§ 314.150, 314.151, and 314.200 and in 21 CFR part 12.

The failure of an applicant or any other person subject to this notice to file a timely written notice of appearance and request for hearing, as required by § 314.200, constitutes an election by that person not to use the opportunity for a hearing concerning the action proposed and a waiver of any contentions concerning the legal status of that person's drug product(s). Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions under this notice of opportunity for a hearing are to be filed in four copies. Except for data and information prohibited from public disclosure under section 301 of the act (21 U.S.C. 331(j)) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 505 of the act and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82).

Dated: April 13, 1999.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 99–9770 Filed 4–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–70]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Information Collection Requirements in HSQ–110, Acquisition, Protection and Disclosure of Peer Review Organization Information and Supporting Regulations in 42 CFR, 476.104, 476.105, 476.116, and 476.134;

Form No.: HCFA–R–70 (OMB# 0938–0426);

Use: "Medicare Disclosure Information, Regulatory" The Peer Review Improvement Act of 1982 authorizes PRO's to acquire information necessary to fulfill their duties and functions and places limits on disclosure of the information. These requirements are on the PRO to provide notices to the affected parties when disclosing information about them. These requirements serve to protect the rights of the affected parties;

Frequency: On occasion;

Affected Public: Business or other for-profit, Individuals or Households, and Not-for-profit institutions;

Number of Respondents: 53;

Total Annual Responses: 53;

Total Annual Hours: 30,789.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 12, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–9804 Filed 4–19–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2029–FN]

RIN 0938–AJ42

Medicare Program; Recognition of the Community Health Accreditation Program, Inc. (CHAP) for Hospices

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice recognizes the Community Health Accreditation Program, Inc. (CHAP) as a national accreditation organization for hospices that request participation in the Medicare program. We believe that accreditation of hospices by CHAP demonstrates that all Medicare hospice conditions of participation are met or exceeded. Thus, we grant deemed status to those hospices accredited by CHAP. The proposed notice included the application from the Joint Commission for Accreditation of Healthcare Organizations (JCAHO). We have separated the final notices to appropriately process each application and will issue a separate final notice containing the decision for JCAHO under HCFA–2039–FN.

EFFECTIVE DATE: This final notice is effective April 20, 1999 through November 20, 2003.

FOR FURTHER INFORMATION CONTACT: Joan C. Berry, (410) 786–7233.

SUPPLEMENTARY INFORMATION:

I. Background

A. Laws and Regulations

Under the Medicare program, eligible beneficiaries may receive covered palliative services in a hospice provided certain requirements are met. The regulations specifying the Medicare conditions of participation for hospice care are located in 42 CFR part 418. These conditions implement section 1861(dd) of the Social Security Act (the Act), which specifies services covered as hospice care and the conditions that a hospice program must meet in order to participate in the Medicare program.

Generally, in order to enter into an agreement with Medicare, a hospice must first be certified by a State survey agency as complying with the conditions or standards set forth in part 418 of the regulations. Then, the hospice is subject to routine surveys by a State survey agency to determine whether it continues to meet Medicare requirements. There is an alternative, however, to surveys by State agencies.

Current section 1865(b)(1) of the Act permits "accredited" hospices to be exempt from routine surveys by State survey agencies to determine compliance with Medicare conditions of participation. Accreditation by an accreditation organization is voluntary and is not required for Medicare certification. Section 1865(b)(1) of the Act provides that, if a provider is accredited by a national accreditation body that has standards that meet or exceed the Medicare conditions, the Secretary can "deem" that hospice as having met the Medicare requirements.

We have rules at part 488 that set forth the procedure we use to review applications submitted by national accreditation organizations requesting our approval. A national accreditation organization applying for approval must furnish to us information and materials listed in the regulations at § 488.4. The regulations at § 488.8 ("Federal review of accreditation organizations") detail the Federal review and approval process of applications for recognition as an accrediting organization. On April 26, 1996, however, new legislation entitled "Omnibus Consolidated Rescissions and Appropriations Act of 1996" (Pub. L. 104–134) was enacted.

Section 1865(b)(3)(A) of the Act, as amended by section 516 of Pub. L. 104–134, requires us to publish a notice in the **Federal Register** within 60 days after receiving an accreditation organization's written request that we make a determination regarding whether its accreditation requirements meet or exceed Medicare requirements. Section 1865(b)(3)(A) of the Act also requires that we identify in the notice the organization and the nature of the request and allow a 30-day comment period. This section further requires that we publish a notice of our approval or disapproval within 210 days after we receive a complete package of information and the organization's application.

B. Proposed Notice

On September 11, 1998, we published a proposed notice (63 FR 48735) announcing the requests of CHAP and JCAHO for our approval as national accreditation organizations for hospices. In the notice, we detailed the factors on which we would base our evaluation. (We inadvertently gave the citation for the regulations governing our evaluation as § 488.8, "Federal review of accreditation organizations," rather than as § 488.4, "Application and reapplication procedures for accreditation organizations.") Under section 1865(b)(2) of the Act and our regulations at § 488.4, our review and evaluation of the CHAP application were conducted in accordance with the following factors:

- A determination that CHAP is a national accreditation body, as required by the Act.
- A determination of the equivalency of CHAP's requirements for a hospice to our comparable hospice requirements.
- A review of CHAP's survey processes to determine the following:

—The comparability of CHAP's processes to those of State agencies, including survey frequency; its ability to investigate and respond

appropriately to complaints against accredited facilities; whether surveys are announced or unannounced; and the survey review and decision-making process for accreditation.
—The adequacy of the guidance and instructions and survey forms CHAP provides to surveyors.
—CHAP's procedures for monitoring providers or suppliers found to be out of compliance with program requirements. (These procedures are used only when CHAP identifies noncompliance.)

• The composition of CHAP's survey team, surveyor qualifications, the content and frequency of the in-service training provided, the evaluation systems used to assess the performance of surveyors, and potential conflict-of-interest policies and procedures.

• CHAP's data management system and reports used to assess its surveys and accreditation decisions, and its ability to provide us with electronic data.

• CHAP's procedures for responding to complaints and for coordinating these activities with appropriate licensing bodies and ombudsmen programs.

• CHAP's policies and procedures for withholding or removing accreditation from a facility that fails to meet its standards or requirements.

• A review of all types of accreditation status CHAP offers and an assessment of the appropriateness of those for which CHAP seeks deemed status.

• A review of the pattern of CHAP's deemed facilities (that is, types and duration of accreditation and its schedule of all planned full and partial surveys).

• The adequacy of CHAP's staff and other resources to perform the surveys, and its financial viability.

• CHAP's written agreement to—
—Meet our requirements to provide to all relevant parties timely notifications of changes to accreditation status or ownership, to report to all relevant parties remedial actions or immediate jeopardy, and to conform its requirements to changes in Medicare requirements; and
—Permit its surveyors to serve as witnesses for us in adverse actions against its accredited facilities.

We received no comments on our proposed notice.

II. Review and Evaluation

Our review and evaluation of the CHAP application, which were conducted as detailed above, yielded the following information.

Differences between the Community Health Care Program, Inc. (CHAP) and Medicare Conditions and Survey Requirements

We compared the standards contained in the CHAP 1997 "Standards of Excellence for Hospice Organizations" with CHAP's survey process outlined in its training materials and "Hospice Surveyor Operations Manual," which incorporates our 1994 guidelines to the Medicare hospice conditions and survey procedures. In 13 areas CHAP has made the following revisions or clarifications:

• *No surveys prior to enrollment form verification.* State survey agencies do not conduct health and safety inspections until a hospice has submitted a "Medicare and Other Federal Health Care Program General Enrollment Health Care Provider/ Supplier Application" (Form HCFA–855) that the servicing fiscal intermediary has reviewed and approved. CHAP has provided written assurance that "It is CHAP's policy not to conduct a deemed status accreditation survey until an organization is properly enrolled in the Medicare program." In addition, CHAP has added a blanket statement that an organization must meet not only "All state licensure laws, Certificate of Need (CON) requirements or other state regulations and standards," but "Federal requirements" as well.

• *Unannounced surveys (Reference § 488.4(a)(3)(v)).* Current CHAP procedures contain the following statement regarding unannounced surveys for Medicare-certified home health agencies: "All visits to Medicare home health agencies will be unannounced. The specific timing of the visit is determined by the CHAP's Board of Review and no one from the applicant organization will be informed of the dates." We expect that a similar statement will be added for Medicare-certified hospices that elect the deemed status option. CHAP has agreed to add this language to its hospice procedures.

• *Core services.* Medicare requires that substantially all core services (nursing, medical social services, and counseling services) be provided directly by hospice employees, the only exception being during times of peak patient loads or under extraordinary circumstances. CHAP responded by revising its standards to require that a hospice program employ sufficient staff to provide all core services or provide documentation describing unusual or extraordinary circumstances necessitating the use of contracted staff for these services.

• *Notification when required services are not provided.* Medicare-certified hospices are required by section 1861(dd)(1) of the Act to provide routinely the following services: nursing care, medical social services, and counseling. CHAP has agreed that when it becomes aware that any Medicare-certified hospice is not providing one or more of these core services, we shall be promptly notified.

• *Change of status notification.* We require prompt notification from the accreditation organizations regarding hospice changes of ownership, hospice mergers, hospice site expansions, withdrawals from accreditation, and involuntary terminations from accreditation by the accreditation organization, because those actions require certification and enrollment actions by us, the fiscal intermediary, or the State survey agency. CHAP has stipulated in writing that its "home care policy and practice to provide prompt notification to HCFA of changes in ownership, mergers, site expansion, withdrawals or involuntary termination" will be applied to the hospice program.

• *Accreditation survey review and decision-making process (Reference § 488.4(a)(3)(iii)).* CHAP has responded to two requests we made for clarification regarding current CHAP terminology in its accreditation application under the heading, "CHAP Accreditation Policies and Procedures":

—*Deferral of action.* CHAP has confirmed that facilities in deferral are not considered accredited.

—*Warnings.* CHAP has confirmed that it issues a warning to an accredited entity that "has made limited progress regarding required actions and recommendations or has demonstrated a decline in meeting CHAP standards since the last appraisal based on a site visit or progress report." We have also received assurance that the time frames for reaching a decision on whether or not to withdraw accreditation for these entities are comparable to those we use for State-surveyed facilities.

• *Contracted services.*
—Some of the requirements in § 418.56 did not appear to be included in CHAP standards. CHAP provided clarifying cross references and revised pages, demonstrating that its standards do incorporate all of the requested requirements.
—The requirement for retaining fiscal responsibility needed to be included for all contracted services, not just inpatient care contracts. CHAP revised its standard to read, "the hospice program retains professional

management and fiscal responsibilities for patient care when services are provided under arrangement with contractors."

• *Millennium updates.* CHAP has provided us with its plans to ensure that deemed hospices maintain equipment and systems to sustain the quality of patient care through the millennium updates.

• *Data exchange.* CHAP has assured us that it has the ability to provide us with timely electronic survey data and validation of survey findings for all Medicare-certified hospices that have elected the deemed status option.

• *Qualified social worker.* Medicare requires that medical social services be provided by a qualified social worker under the direction of a physician. Medicare defines a hospice social worker at § 418.3 as "a person who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education." CHAP's standard required that social work services be provided by a qualified social worker or social worker assistant. CHAP has provided revised language for its related standard to require that "social work services are provided under the direction of a physician by a person who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education" and that the services are in agreement with the patient's plan of care.

• *Home health aide supervision.* Medicare requires at § 418.94(a) that a registered nurse visit the home site at least every 2 weeks when aide services are being provided and that the visit include an assessment of the aide services. In addition, Medicare requires that a registered nurse provide written instructions for patient care. CHAP's standard required that nursing and home health aide services always be provided under the supervision of a qualified registered nurse, available at all times, but made no reference to biweekly, direct (in-person) supervision and assessment. CHAP responded by clarifying how these requirements were covered at HIII.1d4(c) in its "Standards of Excellence for Hospice Organizations": "Written instructions prepared by an RN are provided to paraprofessional staff for care plan compliance." CHAP further stipulates at HIII.1d4(b) that a home health aide's performance is evaluated by a registered nurse every 2 weeks.

• *Inpatient care.*

—The Medicare standard requires at § 418.98(c) that the total number of inpatient care days used by Medicare beneficiaries not exceed 20 percent of the total number of hospice days for this group of beneficiaries in any 12-month period preceding a certification survey. We could not find this standard in the application. CHAP responded by clarifying how this requirement was covered at HII6.a1 in its "Standards for Excellence for Hospice Organizations": "The hospice program reviews total inpatient days routinely in any 12 month period to prevent Medicare clients from exceeding 20% of the total number of hospice days."

—Another Medicare standard requires at § 418.100(a) that hospices providing inpatient care directly provide 24-hour nursing services that are sufficient to meet total nursing needs and that are in accordance with the patient's plan of skilled care. We asked CHAP to provide evidence that this standard was included in its requirements. CHAP responded by clarifying how this requirement was covered at Item 17 of HIII.1i in its "Standards for Excellence for Hospice Organizations": "Inpatient facilities provide 24 hour nursing services, including a registered nurse on each shift, which are sufficient to meet total nursing needs and which are in accordance with the patient plan of care."

• *Storage of drugs.* Medicare standards require at § 418.100(k)(6) that separately locked compartments be provided for storage of Schedule II drugs and other drugs subject to abuse. CHAP's standard did not include "other drugs subject to abuse" in the list of drugs to be stored in separately locked compartments. CHAP revised its standard by adding "Separately locked compartment for Schedule II drugs and other drugs subject to abuse (multidose containers)" at H.III.4 in CHAP's "Standards of Excellence for Hospice Organizations."

In addition to these changes, CHAP provided a revised crosswalk (table showing the match between CHAP's standards and ours) incorporating all the changes necessitated by our requests.

III. Results of Evaluation

We completed a standard-by-standard comparison of CHAP's conditions or requirements for hospices to determine whether they met or exceeded Medicare requirements. We found that, after requested revisions were made, CHAP's requirements for hospices did meet or exceed our requirements. In addition, we visited the corporate headquarters of CHAP to validate the information it submitted and to verify that its administrative systems could adequately monitor compliance with its standards and survey processes and that its decision-making documentation and processes met our standards. We also observed a survey in real time to see that it met or exceeded our standards. As a result of our review of the documents and observations, we requested certain clarifications to CHAP's survey and communications processes. These clarifications were provided as indicated above, and changes were made to the documentation in the applications. Therefore, we recognize CHAP as a national accreditation organization for hospices that request participation in the Medicare program, effective April 20, 1999 through November 20, 2003.

IV. Paperwork Reduction Act

This document does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with granting and withdrawal of deeming authority to national accreditation, codified in part 488, "Survey, Certification, and Enforcement Procedures," are currently approved by OMB under OMB approval number 0938–0690, with an expiration date of August 31, 1999.

V. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (P.L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of

a Metropolitan Statistical Area and has fewer than 50 beds.

This notice merely recognizes CHAP as a national accreditation organization for hospices that request participation in the Medicare program. As evidenced by the following data for the cost of surveys, there are neither significant costs nor savings for the program and administrative budgets of Medicare. Therefore, this notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

Therefore, we have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

In fiscal year 1996, there were 2,148 certified hospices participating in the Medicare program. We conducted 258 initial surveys, 322 recertification surveys (both at a cost of $634,904), and 145 complaint surveys.

In fiscal year 1997, there were 2,270 certified hospices. This was an increase of 122 facilities. We conducted 180 initial surveys, 354 recertification surveys (both at a cost of $330,686), and 237 complaint surveys.

In fiscal year 1998, there were 2,290 certified hospices. This was an increase of 20 facilities. We conducted 126 initial surveys, 196 recertification surveys (both at a cost of $360,783), and 201 complaint surveys.

As the data above indicate, the number of hospices and the cost for conducting hospice surveys by State agencies are increasing. There was a 6.6 percent increase in hospices within 3 years (fiscal years 1996 through 1998). The fiscal year 1999 appropriation for hospice survey activities was not increased, and these surveys were included within the lowest priority category. This appropriation does not allow sufficient resources for some regions to meet the survey demand, especially for resurvey activity, which remains a small proportion of eligible facilities (less than 9 percent for a maximum resurvey once every 12 years). Hospices accredited by CHAP would be surveyed every 3 years. The numbers of participating providers continue to increase. In an effort to better assure the health, safety, and services of beneficiaries in hospices already certified, as well as to provide relief to State budgets in this time of tight fiscal constraints, we deem hospices accredited by CHAP as meeting our Medicare requirements. Thus, we continue our focus on assuring the health and safety of services by providers and suppliers already certified for participation in a cost-effective manner.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by OMB.

Authority: Section 1865(b)(3)(A) of the Social Security Act (42 U.S.C. 1395bb(b)(3)(A)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: March 1, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99–9802 Filed 4–19–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–21]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: May 20, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 15, 1999.

David S. Cristy,

Director, ISP and Management.

Title of Proposal: Consolidated Plan.

Office: Community Planning and Development.

OMB Approval Number: 2506–0117.

Description of the Need for the Information and its Proposed Use: Based on 24 CFR Parts 91 et. al. each jurisdiction receiving formula allocated funds under the Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME) Program, the Emergency Shelter Grants (ESG), or Housing Opportunities for Persons with HIV/AIDS (HOPWA) program, must submit a Consolidated Plan establishing an overall three- to five-year strategy for use of these funds and a one year action plan detailing individual projects. The information collection includes narrative requirements such as statements of goals, objectives, and priorities for funds, and tabular information describing priorities for funds, and tabular information describing priority housing, homeless and community development needs. Information is also collected regarding programmatic accomplishments and annual performance of States and localities receiving formula allocated funds under these programs in accordance with statutory and regulatory requirements found in Title I of the HCDA of 1974,

NAHA of 1992, and in CFR 24 Part 91.520.

Form Number: 40090 and 20091.

Respondents: State, Local, or Tribal Government.

Frequency of Submission: Annually and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Consolidated Plan:							
Localities	1,000		1		332		332,025
States	50		1		978		48,900
Performance Report:							
Localities	1,000		1		150		150,000
States	50		1		240		12,000
Abbreviated Strategy	100		1		70		7,000

Total Estimated Burden Hours: 549,925.

Status: Reinstatement with changes.

Contact: Sal Sclafani, HUD, (202) 708–1283 x4364, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 15, 1999.

[FR Doc. 99–9859 Filed 4–19–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; As Amended; Revisions to an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended(5 U.S.C. 552a), the Office of the Secretary (OS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, OS–72, "FECA Chargeback Case File." The revisions will update the number of the system, the retrievability statement, and the address of the system locations and system managers.

EFFECTIVE DATE: These actions will be effective April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Department of the Interior is proposing to amend the system notice for OS–72, "FECA Chargeback Case File," to update the number of the system to more accurately reflect its Department-wide scope, the retrievability statement and the addresses of the system locations and system managers to reflect changes that have occurred since the notice was last published. Accordingly, the Department of the Interior proposes to amend the "FECA Chargeback Case File," OS–72, system notice in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary, Privacy Act Officer, National Business Center.

INTERIOR/DOI–72

SYSTEM NAME:

FECA Chargeback Case Files—Interior, DOI–72.

SYSTEM LOCATION:

(1) Employee and Labor Relations Group, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue, NW, Washington, DC 20245.

(3) U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(4) U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(5) Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(6) Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(7) National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(8) Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(9) Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Departmental employees and dependents receiving compensation payments through the Federal Employees' Compensation Act (FECA) which are being charged back to the Department of the Interior.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and Social Security account number of individual being compensated, date of injury and/or death, last payment date, type of payment (whether medical bills or compensation), occupation code at time of injury, grand total of amount paid. Records appear on lists which result from a computer match of the Department of the Interior's "Safety Management Information System," DOI–60, files with the Department of Labor, Office of Workers' Compensation Program's "Federal Employees Compensation Act Chargeback File," DOL/ESA–15, files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 5 U.S.C. 8147, 31 U.S.C. 66a, and E.O. 11807.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The primary purpose of the system is to determine the validity of Federal Employees Compensation Act chargebacks to the Department of the Interior.

Note: Records are generated in a computer matching process. When no match occurs, records are furnished to bureaus to determine why no match occurred. Resolution of the investigation of why no match occurred may include a request to the Department of Labor, Office of Workers' Compensation Programs, that future charges be referred to another agency or that the Department of Labor discontinue payments and possibly initiate civil or criminal prosecution proceedings against the claimant.

Disclosures outside the Department of the Interior may be made:

(1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body with jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the

Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled.

(2) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license, when the disclosing agency becomes aware of a violation or potential violation of a statute, rule, regulation, order or license.

(3) To a congressional office in response to an inquiry an individual has made to the congressional office.

(4) To another Federal, State or local agency for the purpose of obtaining information regarding payments being made to claimants.

(5) To the Department of Labor, as necessary, to transmit information on results of investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Quarterly, computer-generated, lists are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name of individual and bureau of employment.

SAFEGUARDS:

Access to records is limited to authorized personnel. Records are maintained in locked metal filing cabinets.

RETENTION AND DISPOSAL:

Records are destroyed 5 years after close of investigations.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Team Leader, Employee and Labor Relations Group, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Personnel Officer, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue, NW, Washington, DC 20245.

(3) Personnel Officer, U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(4) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(5) Labor Relations Officer, Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(6) Personnel Officer, Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(7) Personnel Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(8) Personnel Officer, Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(9) Personnel Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, include the current and all former names by which the individual has been known, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requester, include the current and all former names by which the individual has been known, along with the Social Security account number of the individual, and comply with the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, include the current and all former names by which the individual has been known, along with the Social Security account number of the individual, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Records in this system are generated whenever a case listed in the Department of Labor, Office of Workers' Compensation Program's "Federal Employees" Compensation Act Chargeback File," DOL/ESA–15, files does not match a case in the Department of the Interior's "Safety Management Information System, " DOI–60, files.

[FR Doc. 99–9826 Filed 4–19–99; 8:45 am]

BILLING CODE 4310–RJ–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; As Amended; Deletion of an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed deletion of an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to delete an existing Privacy Act system of records notice, OS–65, "Biography File."

EFFECTIVE DATE: This action will be effective on April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Communications, MS–6013 MIB, 1849 C Street NW, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: In this notice, the Department of the Interior is deleting OS–65, "Biography File," because a system of records, accessible by the names of senior agency officials, is no longer being maintained by the Office of Communications.

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/OS–65

SYSTEM NAME:

Biography File—Interior, OS–65.

ORIGINAL FEDERAL REGISTER PUBLICATION CITATION:

51 FR 28628, August 8, 1986.

REASON FOR DELETION:

The Office of Communications no longer maintains a file of biographical sketches of senior agency officials.

DISPOSITION OF RECORDS:

All records have been disposed of, in accordance with General Records Schedule No. 14, Item 6.

[FR Doc. 99–9827 Filed 4–19–99; 8:45 am]

BILLING CODE 4310–RV–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; As Amended; Revisions to an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to modify an existing Privacy Act system of records notice, OS–74, "Grievance Records." The revisions will update the number of the system, the authority statement and the addresses of the system locations and system managers.

EFFECTIVE DATE: These actions will be effective on April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Department of the Interior is proposing to amend the system notice for OS–74, "Grievance Records," to update the number of the system to more accurately reflect its Department-wide scope, the authority for maintenance of the system statement and the addresses of the system locations and system managers to reflect changes that have occurred since the notice was last published. Accordingly, the Department of the Interior proposes to amend the "Grievance Records," OS–74, system notice in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/DOI–74

SYSTEM NAME:

Grievance Records—Interior, DOI–74.

SYSTEM LOCATION:

(1) Departmental office: Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Bureau personnel offices:

(a) Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW, Washington, DC 20245.

(b) U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(c) U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(d) Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(e) Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(f) National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(g) Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(h) Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

(3) Administrative components of the offices (within the bureaus listed above) in which the grievances were filed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Departmental employees filing grievances in accordance with 370 DM 771.

CATEGORIES OF RECORDS IN THE SYSTEM:

All documents related to internal grievances filed with any part of the Department, including, but not limited to: Statements of witnesses, reports of interviews and hearings, examiners' findings and recommendations, correspondence and exhibits, and (a copy of) the original and final decisions on the grievances filed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302; E.O. 10577; 3 CFR 1958 Comp. p. 218.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The primary purpose of the system is to adjudicate internal grievances.

Disclosures outside the Department of the Interior may be made:

(1) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license, when the disclosing agency becomes aware of a violation or potential violation of a statute, rule, regulation, order or license.

(2) To any individual (in the course of processing a grievance) from whom the agency is seeking information relevant to the adjudication of the grievance, to the extent necessary to inform the individual of the purpose of the request for information and to identify the type of information requested.

(3) To a Federal agency which has requested information relevant or necessary to the hiring or retention of an employee, the conducting of a security clearance or suitability investigation, the classifying of a job, the letting of a contract, or the issuing of a license, grant or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(4) To a congressional office in response to an inquiry an individual has made to the congressional office.

(5) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body with jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled.

(6) To the National Archives and Records Adminstration for records management inspections conducted under authority of 44 U.S.C. 2904 and 2908.

(7) To any individual in the form of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. (Note: While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individuality identifiable by inference.)

(8) To the Office of Personnel Management, the Merit Systems Protection Board (and its Office of the Special Counsel), the Federal Labor Relations Authority (and its General Counsel), or the Equal Employment Opportunity Commission when requested in performance of their authorized functions.

(9) To officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to allow them to perform their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are retrieved by the names of individuals filing internal grievances.

SAFEGUARDS:

Access to records is limited to authorized personnel. Record are maintained in locked metal filing cabinets.

RETENTION AND DISPOSAL:

Records compiled under 370 DM 771 are destroyed 3 years after the date of final closing of the case. Records compiled under a negotiated procedure are disposed of in accordance with approved records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Departmental office: Director, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Bureau personnel offices:

(a) Director of Administration, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW, Washington, DC 20245.

(b) Personnel Officer, U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(c) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(d) Labor Relations Officer, Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(e) Personnel Officer, Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(f) Personnel Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(g) Personnel Officer, Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(h) Personnel Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

(3) Administrative officers of the offices (within the bureaus listed above) in which the grievances were filed. (Contact the appropriate bureau system manager to obtain the address of the office system manager.)

NOTIFICATION PROCEDURES:

Individuals filing grievances with the Department are given a copy of their records as a part of the official grievance process. If, however, at any later time an individual also wishes to request notification of the existence of records on him or her, he or she should address his or her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and contain the following information: name and birth date of requestor, approximate date of closing of the case, type of action taken, and agency component involved. (See 43 CFR 2.60.)

RECORD ACCESS PROCEDURES:

Individuals filing grievances with the Department are given a copy of their records as a part of the official grievance process. If, however, at any later time an individual also wishes to request a copy of records maintained on him or her, he or she should address his or her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and contain the following information: name and birth date of requestor, approximate date of closing of the case, type of action taken, and agency component involved. (See 43 CFR 2.63.)

CONTESTING RECORD PROCEDURES:

If an individual who has filed a grievance with the Department wishes to request amendment of his/her records, to correct factual errors, he or she should address his or her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and contain the following information: name and birth date of requestor, approximate date of closing of the case, type of action taken, and agency component involved. (See 43 CFR 2.71.)

Note: Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of these requests will be restricted to determining if the record accurately documents the action of the agency ruling on the case and will not include a review of the merits of the action, determination, or finding.

RECORD SOURCE CATEGORIES:

Individuals filing grievances, witnesses providing testimony, organizations or persons providing information via correspondence, agency officials, and grievance examiners and/or arbitrators.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–9828 Filed 4–19–99; 8:45 am]

BILLING CODE 4310–RJ–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; As Amended; Revisions to an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to modify an existing Privacy Act system of records notice, OS–78, "Negotiated Grievance Procedure Files." The revisions will update the number of the system, the authorities, storage, retrievability, safeguards, and retention and disposition statements, and the addresses of the system locations and system managers.

EFFECTIVE DATE: These actions will be effective on April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Team Leader, Employee and Labor Relations Group, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW., MS–5221 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Department of the Interior is proposing to amend the system notice for OS–78, "Negotiated Grievance Procedure Files," to update the number of the system to more accurately reflect its Department-wide scope, the authority for maintenance of the system, storage, retrievability, safeguards, and retention and disposition statements, and the addresses of the system locations and system managers to reflect changes that have occurred since the notice was last published. Accordingly, the Department of the Interior proposes to amend the "Negotiated Grievance Procedure Files," OS–78, in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/DOI–78

SYSTEM NAME:

Negotiated Grievance Procedures Files—Interior, DOI–78.

SYSTEM LOCATION:

(1) Employee and Labor Relations Group, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW., MS–5221 MIB, Washington, DC 20240.

(2) Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW., Washington, DC 20245.

(3) U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(4) U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW., Washington, DC 20240.

(5) Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(6) Bureau of Land Management, Division of Personnel (530), 1849 C Street NW., Washington, DC 20240.

(7) National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW., Washington, DC 20240.

(8) Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(9) Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW., Washington, DC 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Departmental employees filing grievances/complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal grievances and complaints; name, address, and other personal information about individuals filing grievances and complaints; transcripts of hearings (if held); and relevant information about other individuals in complainants' work units.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7100.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the system is to adjudicate grievances and complaints.

Disclosures outside the Department of the Interior may be made:

(1) To the Federal Labor Relations Authority.

(2) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body with jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled.

(3) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license, when the disclosing agency becomes aware of a violation or potential violation of a statute, rule, regulation, order or license.

(4) To a congressional office in response to an inquiry an individual has made to the congressional office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in both manual and electronic format.

RETRIEVABILITY:

Records are retrieved by name of individual filing grievance or complaint and Docket or Case Number.

SAFEGUARDS:

Access to records is limited to authorized personnel. Manual records are stored in locked metal file cabinets or in metal file cabinets in secured premises. Electronic records are maintained with access controls meeting the requirements of 43 CFR 2.51

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with General Records Schedule No. 1, Item 30.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Team Leader, Employee and Labor Relations Group, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW., MS–5221 MIB, Washington, DC 20240.

(2) Director of Administration, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW., Washington, DC 20245.

(3) Personnel Officer, U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(4) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW., Washington, DC 20240.

(5) Labor Relations Officer, Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(6) Personnel Officer, Bureau of Land Management, Division of Personnel (530), 1849 C Street NW., Washington, DC 20240.

(7) Personnel Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW., Washington, DC 20240.

(8) Personnel Officer, Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(9) Personnel Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW., Washington, DC 20245. .

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals filing grievances and complaints, colleagues and supervisors of complainants, and management officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–9829 Filed 4–19–99; 8:45 am]

BILLING CODE 4310–RJ–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; As Amended; Revisions to an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.–

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5. U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to modify an existing Privacy Act system of records notice, OS–58, "Administrative Operations Records on Employees." The revisions will update the system name and number and the system location and system manager and address statements.

EFFECTIVE DATE: These actions will be effective on April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Department of the Interior is proposing to amend the system notice for OS–58, "Administrative Operations Records on Employees," to update the name and number of the system to more accurately reflect its Department-wide scope, and to update the system location and system manager and address statements to provide a current list of specific locations and system managers rather than a generic reference to the Department's organizational structure. Accordingly, the Department of the

Interior proposes to amend the "Administrative Operations records on Employees," OS–58, system notice in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/DOI–58

SYSTEM NAME:

Employee Administrative Records—Interior, DOI–58.

SYSTEM LOCATION:

(1) Departmental personnel office: Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Bureau personnel offices:

(a) Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW, Washington, DC 20245.

(b) U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(c) U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(d) Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(e) Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(f) National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(g) Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(h) Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

(3) Administrative components of the offices (within the bureaus listed above) in which individuals covered by the system are employed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Employees of the Department of the Interior.

(2) Employees of independent agencies, councils and commissions (which are supported, administratively, by the Office of the Secretary).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records involving the administrative or operational relationships between the employee and the office in which the employee works, including, but not limited to, the following types of records: Workload and productivity records for scheduling purposes; travel activity records; employee time and attendance records; budget records; accident and safety records, property accountability records; study and special project records; committee and detail assignments; locator indexes; parking space assignments; mailing lists; and similar records. These records may contain one or more of the following (or similar) data elements: Name and Social Security number of employee, office telephone number, organizational location, occupational series and grade, position title, organizational title assigned for program management purposes, home address and home telephone number (for emergency contact purposes only).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 5105–5115, 5501–5516, 5701–5709; 31 U.S.C. 66a, 240–243; 40 U.S.C. 483(b); 43 U.S.C. 1467; 44 U.S.C. 3101; Executive Order 11807.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The primary purpose of the system is to support the administration and operation of the offices in which individuals covered by the system are employed. Disclosures outside the Department of the Interior may be made:

(1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body with jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled.

(2) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license, when the disclosing agency becomes aware of a violation or potential violation of a statute, rule, regulation, order or license.

(3) To a congressional office in response to an inquiry an individual has made to the congressional office.

(4) To another Federal agency for related program management purposes when the Department determines that the disclosure is compatible with the purpose for which the records were compiled.

(5) To the public in the form of agency directories of office telephone numbers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper format, in file folders in locked cabinets, and in electronic format, on disk or tape.

RETRIEVABILITY:

Records are retrieved by name of employee or control number assigned to employee.

SAFEGUARDS:

Access to records is limited to authorized personnel. Records are maintained in locked filing cabinets or secure electronic systems.

RETENTION AND DISPOSAL:

Records are retained until completion of the assignment or activity to which they pertain, or until separation of covered employees, at which time they are disposed of in accordance with appropriate records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Departmental office: Director, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Bureau personnel offices:

(a) Director of Administration, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW, Washington, DC 20245.

(b) Personnel Officer, U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(c) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(d) Labor Relations Officer, Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(e) Personnel Officer, Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(f) Personnel Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(g) Personnel Officer, Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(h) Personnel Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

(3) Administrative officers of the offices (within the bureaus listed above) in which individuals covered by the system are employed. (Contact the appropriate bureau system manager to

obtain the address of the office system manager.)

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals covered by the system, agency officials, and agency records or documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–9830 Filed 4–19–99; 8:45 am]
BILLING CODE 4310–RJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–950–5700–77; AZA 25613]

Public Land Order No. 7384; Withdrawal of Public Lands for Expansion of Lake Pleasant; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 1,988.27 acres of public lands from surface entry and mining for a period of 20 years to protect the Bureau of Reclamation's Lake Pleasant expansion area. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Jim Andersen, BLM Phoenix Field Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027, 602–580–5570.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, to protect the Bureau of Reclamation's Lake Pleasant expansion area:

Gila and Salt River Meridian

T. 7 N., R. 1 E.,
  Sec. 12, a portion of the N½NW¼ of lot 2 (C.A.P. Tract No. NW–1–1c).
T. 6 N., R. 1 E.,
  Sec. 3, W½ of lot 10;
  Sec. 10, S½NW¼;
  Sec. 15, SW¼NE¼.
T. 6 N., R. 1 W.,
  Sec. 1, lots 1, 2, 3, 5, 6, and 7, SW¼NE¼, and E½W½SE¼;
  Sec. 12, lot 1 and E½NW¼NE¼;
  Sec. 13, E½ and that portion of the W½ lying east of the east right-of-way boundary of the Castle Hot Springs Road.
T. 7 N., R. 1 W.,
  Sec. 13, W½SW¼SE¼ and SW¼NW¼SE¼;
  Sec. 23, E½NE¼, E½W½NE¼, NE¼SE¼, E½NW¼SE¼, SE¼SE¼, and SW¼SE¼;
  Sec. 24, NW¼ and W½W½NE¼;
  Sec. 25, W½ and NE¼.

The areas described aggregate 1,988.27 acres in Maricopa and Yavapai Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: March 29, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–9890 Filed 4–19–99; 8:45 am]
BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–931–1430–01; MIES–0629]

Public Land Order No. 7385; Revocation of Executive Order Dated June 14, 1839, and Transfer of Jurisdiction; Michigan

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order in its entirety as to10.15 acres of public land withdrawn for the use by the United States Coast Guard for lighthouse purposes. The land is no longer needed for lighthouse purposes. In accordance with Public Law 91–479, this order also transfers jurisdiction to the National Park Service for inclusion in the Sleeping Bear Dunes National Lakeshore.

EFFECTIVE DATE: April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Ed Ruda, Bureau of Land Management, Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153, 703–440–1663.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated June 14, 1839, which withdrew land for lighthouse purposes, is hereby revoked insofar as it affects the following described land:

South Manitou Island Light Station

Michigan Meridian

T. 30 N., R. 15 W.,
  Sec. 10, part of lot 1.

The area described contains 10.15 acres plus accretions in Leelanau County.

2. In accordance with Public Law 91–479, subject to valid existing rights, the administrative jurisdiction of the above described land is hereby transferred from the United States Coast Guard to the National Park Service to be managed as part of the Sleeping Bear Dunes National Lakeshore and shall thereafter be subject to all laws and regulations applicable thereto.

Dated: March 29, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–9888 Filed 4–19–99; 8:45 am]
BILLING CODE 4310–GJ–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 22, 1999 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none
2. Minutes
3. Ratification List
4. Inv. Nos. 701–TA–376–377 and 379 and 731–TA–788–793 (Final)(Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan)—briefing and vote.
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 15, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–9961 Filed 4–16–99; 2:20 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 26, 1999 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none
2. Minutes
3. Ratification List
4. Inv. Nos. 731–TA–787 (Final)(Extruded Rubber Thread from Indonesia)—briefing and vote.
5. Outstanding action jackets:
   (1) Document No. GC–99–025: Approval of whether to review a final initial determination in Inv. No. 337–TA–406 (Certain Lens-Fitted Film Packages).
   (2) Document No. INV–99–059: Approval of institution of five-year reviews on Certain Pipe and Tube, Granular Polytetrafluoroethylene Resin, Carbon Steel Butt-weld Pipe Fittings, 3.5" Microdisks, and Electrolytic Manganese Dioxide.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 15, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–9962 Filed 4–16–99; 2:20 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 29, 1999 at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–653 (Review)(Sebacic Acid from China)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on May 10, 1999.)
5. Inv. Nos. 731–TA–794–796 (Final) (Certain Emulsion Styrene-Butadiene Rubber from Brazil, Korea, and Mexico)—briefing and vote.
6. Outstanding action jackets:
   (1) Document No. GC–99–025: Approval of whether to review a final initial determination in Inv. No. 337–TA–406 (Certain Lens-Fitted Film Packages).
   (2) Document No. GC–99–026: Approval of initial determination terminating the investigation based on withdrawal of the complaint without prejudice in Inv. No. 337–TA–418 (Certain Rodent Bait Stations and Components Thereof).
   (3) Document No. INV–99–059: Approval of institution of five-year reviews on Certain Pipe and Tube, Granular Polytetrafluoroethylene Resin, Carbon Steel Butt-weld Pipe Fittings, 3.5" Microdisks, and Electrolytic Manganese Dioxide.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 15, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–9963 Filed 4–16–99; 2:20 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

April 14, 1999.

The Department of Labor has submitted an emergency processing public information collection request (ICR) for the Welfare to Work (WtW) Participant Data Collection and Reporting Requirements, not covered under 45 CFR Part 276, Interim Final Rule, dated October 29, 1998, for States, Indian tribes, and competitive grantees receiving funding under the WtW program, to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This ICR includes data collection and reporting requirements for all individuals enrolled in the WtW competitive grant program, complementary to those specified for States and Indian tribes at 45 CFR Part 276. This ICR also includes eligibility and targeting requirements to ensure compliance with section 403(a)(5)(C)(ii) of the Social Security Act, and disaggregate follow-up data collection elements pursuant to sections 403(a)(5)(E), 411(a)(7), and 411(a)(1)(A)(xvii)(IV) of the Act. OMB approval has been requested by April 30, 1999. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Clearance Officer, Pauline Perrow at (202) 219–5095, X 165.

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316. The Office of Management and budget is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., electronic submission of responses. Agency: Employment and Training Administration

Title: Welfare to Work Disaggregate Participant Eligibility, Targeting, and Follow-up Data Collection and Reporting Requirements for States, Indian Tribes, and Competitive Grantees; and Data Collection and Reporting Requirements for Competitive Grantees Complementary to Those Contained at 45 CFR Part 276, dated October 29, 1998, for States and Indian Tribes.

OMB Number: 1205–0NEW.

Frequency: Quarterly.

Affected Public: (1) WtW Formula Grants: States, local governments, and Private Industry Councils (2) WtW Competitive Grants: Eligible applicants from business and/or other for profit and non-profit institutions; and (3) Indian Tribes.

Reporting Burden: See the attached tables for Reporting Burden and Cost Estimates for Required Data Collection.

Description: The proposed ICR incorporates all participant data collection and reporting requirements set forth in section 411 of Title IV, Part A, of the Social Security Act, 42 U.S.C. 611, which are applicable to participants receiving services under WtW competitive grants, complementary to those required for States and Indian tribes as implemented in 45 CFR Part 276. Further, the ICR implements disaggregate targeting and eligibility data collection and reporting requirements for States, Indian tribes and competitive grantees which have individuals and families participating in the WtW programs, as well as disaggregate follow-up data collection and reporting requirements.

The WtW program is a new program designed to assist States and local communities in providing transitional employment assistance to move hard-to-employ recipients of Temporary Assistance for Needy Families (TANF) into unsubsidized jobs. The data collection and reporting requirements requested by the Employment and Training Administration are necessary to effectively manage and evaluate the WtW program, to measure regulatory compliance, to prepare statutorily required reports to Congress and for audit purposes. Transmittal of the requested data will occur electronically on a quarterly basis, via software provided to the grantees. The States will report this required information for formula grants to the State welfare agencies, based on format specifications which will be provided by the Department of Health and Human Services. Competitive grantees and Indian tribes will report this required data directly to the Department of Labor, based on format specifications to be provided to the grantees.

Pauline Perrow,

Acting Departmental Clearance Officer.

DOL–ETA Reporting Burden for WtW Formula and Tribal Grants (Including Bonus) Participant Data Collection

Requirements	FY 1998	FY 1999	FY 2000 (bonus)	FY 2001
Number of Reports Per Entity Per Quarter	1	1	1	1
Total Number of Reports Per Entity Per Year	2	4	4	4
Number of Hours Required for Reporting Hours Per Quarter Per Report	1	1	1	1
Total Number of Hours Required for Reporting Hours Per Entity Per Year	2	4	4	4
Number of Entities Reporting	55	55	55	55
Total Number of Hours Required for Reporting Burden Per Year	110	220	220	220
Total Burden Cost @ $23.45 per hour	$2,580	$5,159	$5,159	$5,159

Note: This reporting Burden Estimate is exclusive of the Reporting Burden estimate contained in 45 CFR Part 276. This Reporting Burden includes estimated time and dollars to report eligibility, targeting, and follow-up disaggregate participant data.

DOL–ETA Reporting Burden for WtW Competitive Grants Participant Data Collection

Requirements	FY 1998	FY 1999	FY 2000
Number of Reports Per Entity Per Quarter	1	1	1.
Total Number of Reports Per Entity Per Year	2	4	4.
Number of Hours Required for Reporting Per Quarter Per Report	90 minutes	90 minutes	90 minutes.
Total Number of Hours Required for Reporting Hours Per Entity Per Year.	3	6	6.
Estimated Number of Entities Reporting	76	76	50.
Total Number of Hours Required for Reporting Burden Per Year	228	456	300.
Total Burden Cost @ $23.45 per hour	$5,347	$10,693	$7,035.

[FR Doc. 99–9874 Filed 4–19–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of an Extended Benefit (EB) Period for Alaska

This notice announces a change in benefit period eligibility under the EB Program for Alaska.

Summary

The following change has occurred since the publication of the last notice regarding the State's EB status:

• Febraury 21, 1999 Alaska triggered "on" EB. Alaska's 13-week insured unemployment rate rose above the 6.0 percent threshold necessary to be triggered "on" to EB for the week ending February 6, 1999.

Information for Claimants

The duration of benefits payable in the EB Program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the States by the U.S. Department of Labor. In the case of a State beginning an EB period, the State employment security agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13(c)(1)).

Persons who believe they may be entitled to EB, or who wish to inquire about their rights under the program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on April 12, 1999.

Raymond Bramucci,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 99–9875 Filed 4–19–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of an Extended Benefit (EB) Period for Puerto Rico

This notice announces a change in benefit period eligibility under the EB Program for Puerto Rico.

Summary

The following change has occurred since the publication of the last notice regarding the State's EB status:

• January 30, 1999—Puerto Rico's 13-week insured unemployment rate for the week ending January 9, 1999 fell below 6.0 percent and was less than 120 percent of the average for the corresponding period for the prior two years, causing Puerto Rico to trigger "off" EB effective January 30, 1999.

Information for Claimants

The duration of benefits payable in the EB Program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the States by the U.S. Department of Labor. In the case of a State ending an EB period, the State employment security agency will furnish a written notice to each individual who is currently filing a claim for EB of the forthcoming end of the EB period and its effect on the individual's rights to EB (20 CFR 615.13(c)(4)).

Persons who believe they may be entitled to EB, or who wish to inquire about their rights under the programs, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on April 12, 1999.

Raymond Bramucci,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 99–9876 Filed 4–19–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement, with change, of the "Veterans Supplement to the Current Population Survey (CPS)."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 21, 1999.

The Bureau of Labor Statistics is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Current Population Survey (CPS) has been the principal source of the

official government statistics on employment and unemployment for over 50 years. Collection of labor force data through the CPS is necessary to meet requirements in Title 29, United States Code, Section 1 through 9. The Veterans Supplement meets the demands of Public Law 100–323, Section 9 (38 U.S.C. 2010A), as amended by Public Law 103–446, Section 701c, which mandates the Department of Labor to report on the labor force status of disabled veterans, Veirnam-theater veterans, and recently discharged veterans.

The Veterans Supplement provides information on the number and characteristics of disabled veterans, veterans who served in the Vietnam war theater, and recently separated veterans, including their employment status. The supplement provides data on veterans' participation in various employment training programs.

These data will be used by the Veterans Employment and Training Service and the Department of Veterans Affairs to determine policies that better meet the needs of our Nation's veteran population.

II. Current Actions

There are no substantial new actions in the September 1999 collection of the Veterans Supplement.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: September 1999 CPS Veterans Supplement.

OMB Number: 1220–0102.

Affected Public: Individuals or households.

Total Respondents: 12,000.

Frequency: Biennially.

Total Responses: 12,000.

Average Time Per Response: 1 minute.

Estimated Total Burden Hours: 200 hours.

Estimated Total Burden Hours: 200 hours.

Total Burden Cost (Capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 15th day of April 1999.

W. Stuart Rust, Jr.,

Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–9877 Filed 4–19–99; 8:45 am]

BILLING CODE 4510–24–M

MERIT SYSTEMS PROTECTION BOARD

Announcement of Headquarters Closing on April 23, 1999

SUMMARY: In accordance with the Office of Personnel Management's recently announced guidelines for minimizing traffic in conjunction with the 50th Anniversary NATO Summit to be held in Washington, D.C., on April 23–25, 1999, the U.S. Merit Systems Protection Board (MSPB) office located at 1120 Vermont Avenue, N.W., Washington, D.C., will be closed on April 23, 1999. Documents that are due to be filed by April 23, 1999, with the Office of the Clerk or with the Office of the Administrative Law Judge will be accepted as timely if they are received or postmarked by April 26, 1999. Documents that are due to be filed with all other MSPB offices, including the Washington Regional Office, must be received or postmarked by April 23, 1999.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Shannon McCarthy or Matthew Shannon, Office of the Clerk of the Board, (202) 653–7200.

Dated: April 15, 1999.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 99–9851 Filed 4–19–99; 8:45 am]

BILLING CODE 7400–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on May 5–8, 1999, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Wednesday, November 18, 1998 (63 FR 64105).

Wednesday, May 5, 1999

1:00 P.M.–1:15 P.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

1:15 P.M.–1:45 P.M.: Electric Power Research Institute (EPRI) Application of Risk-Informed Methods to Inservice Inspection of Piping (Open)—The Committee will hear presentations by and hold discussions with representatives of EPRI and the NRC staff on the proposed application of risk-informed methods to inservice inspection of piping.

1:45 P.M.–2:45 P.M.: Proposed Final Revision to 10 CFR 50.59 (Changes, Test and Experiments) (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's proposed final revision to 10 CFR 50.59.

3:00 P.M.–4:30 P.M.: Safety Evaluation for the Calvert Cliffs Nuclear Power Plant (CCNPP) License Renewal Application (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and of the Calvert Cliffs licensee on the CCNPP license renewal application.

4:30 P.M.–7:00 P.M.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports, including a proposed report on the EPRI Proposed Application of Risk-Informed ISI of Piping, NRC Safety Research Program, proposed final revisions to 10 CFR 50.59, and Impact of high burnup or mixed oxide fuel on the revised source term.

Thursday, May 6, 1999

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–9:15 A.M.: Proposed Resolution of Generic Safety Issue (GSI) 158, "Performance of Safety Related Power-Operated Valves Under Design Bases Conditions" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed resolution of GSI 158.

9:15 A.M.–10:00 A.M.: Proposed Resolution of Generic Safety Issues (GSI) 165, "Spring-Actuated Safety Relief Valve Reliability" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed resolution of GSI 165.

10:15 A.M.–11:45 A.M.: Fire Protection Functional Inspection Program (Open)—The Committee will

hear presentations by and hold discussions with representatives of the NRC staff regarding the staff work on the fire protection functional inspection program.

12:45 P.M.–2:15 P.M.: Westinghouse Owners Group (WOG) Proposal for Modification of Core Damage Assessment Guidelines (CDAG) and Post-Accident Sampling System (PASS) Requirements (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the WOG to discuss the WOG proposal to modify the CDAG and PASS requirements.

Note: A portion of this session may be closed to discuss Westinghouse Electric Company proprietary information.

2:15 P.M.–6:30 P.M.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Friday, May 7, 1999

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–9:30A.M.: Tutorial on Instrument Setpoints (Open)—ACRS member, Dr. D. Miller, will provide a tutorial for the Committee on the issues and concerns associated with instrument setpoints for safety systems at nuclear power plants.

9:30 A.M.–9:45 A.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be provided to the ACRS prior to the meeting.

9:45 A.M.–10:15 A.M.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS. [Note: A portion of this session may be closed to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of this Advisory Committee, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

10:30 A.M.–11:00 A.M.: Future ACRS Activities (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings.

11:00 A.M.–7:30 P.M.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

Saturday, May 8, 1999

8:30 A.M.–2:00 P.M.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

2:00 P.M.–2:30 P.M. : Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 29, 1998 (63 FR 51968). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Dr. Richard P. Savio, Associate Director for Technical Support, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Associate Director for Technical Support prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Associate Director for Technical Support if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss matters that relate solely to the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), to discuss Westinghouse proprietary information per 5 U.S.C. 552b(c)(4), and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting Dr. Richard P. Savio, Associate Director for Technical Support (telephone 301/415–7363), between 7:30 a.m. and 4:15 p.m. EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. EDT at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Date: April 15, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–9838 Filed 4–19–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–3, SEC File No. 270–27, OMB Control No. 3235–0035

Rule 11Ab2–1 and Form SIP, SEC File No. 270–23, OMB Control No. 3235–0043

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (Commission) has submitted to the Office of Management and Budget (OMB) a request for the extension of the previously approved collections of information on the following:

Rule 17a–13(b) generally requires that at least once each calendar quarter, all registered brokers and dealers physically examine and count all

securities held and account for all other securities not in their possession, but subject to the broker-dealer's control or direction. Any discrepancies between the broker-dealer's securities count and the firm's records must be noted and, within seven days, the unaccounted for difference must be recorded in the firm's records. Rule 17a–13(c) provides that under specified conditions, the securities count, examination and verification of the broker-dealer's entire list of securities may be conducted on a cyclical basis rather than on a certain date. Although Rule 17a–13 does not require filing a report with the Commission, the discrepancies must be reported on Form X–17a–5 as required by Rule 17a–5. Rule 17a–13 exempts broker-dealers that limit their business to the sale and redemption of securities of registered investment companies and interests or participation in an insurance company separate account and those who solicit accounts for federally insured savings and loan associations, provided that such persons promptly transmit all funds and securities and hold no customer funds and securities.

The information obtained from Rule 17a–13 is used as an inventory control device to monitor a broker-dealer's ability to account for all securities held, in transfer, in transit, pledged, loaned, borrowed, deposited or otherwise subject to the firm's control or direction. Discrepancies between the securities counts and the broker-dealer's records alert the Commission and the Self Regulatory Organizations (SROs) to those firms having problems in their back offices.

Because of the many variations in the amount of securities that broker-dealers are accountable for, it is difficult to develop a meaningful figure for the cost of compliance with Rule 17a–13. Approximately 92% of all registered broker-dealers are subject to Rule 17a–13. Accordingly, approximately 7,156 broker-dealers have obligations under the Rule, and the average time it would take each broker-dealer to comply with the Rule is 100 hours per year, for a total estimated annualized burden of 715,600 hours. It should be noted that a significant number of firms subject to Rule 17a–13 have minimal obligations under the Rule because they do not hold securities. It should further be noted that most broker-dealers would engage in the activities required by Rule 17a–13 even if they were not required to do so.

Security counts under Rule 17a–13 are mandatory for broker-dealers. If a broker-dealer has security discrepancies that must be recorded in its records, such records must be preserved for a period of no less than three years pursuant to Rule 17a–4(b)(1). Rule 17a–13 does not assure confidentiality for security discrepancy records and reports on Form X–17a–5.[1]

Rule 11Ab2–1 and Form SIP establish the procedures by which a Securities Information Processor (SIP) files and amends its SIP registration form. The information filed with the Commission pursuant to Rule 11Ab2–1 and Form SIP is designed to provide the Commission with the information necessary to make the required findings under the Securities Exchange Act of 1934 (Act) before granting the SIP's application for registration. In addition, the requirement that a SIP file an amendment to correct any inaccurate information is designed to assure that the Commission has current, accurate information with respect to the SIP. This information is also made available to members of the public.

Only exclusive SIP's are required to register with the Commission. An exclusive SIP is a SIP that engages on an exclusive basis on behalf of any national securities exchange or registered securities association, or any national securities exchange or registered securities association which engages on an exclusive basis on its own behalf, in collecting, processing, or preparing for distribution or publication, any information with respect to (i) transactions or quotations on or effected or made by means of any facility of such exchange or (ii) quotations distributed or published by means of any electronic quotation system operated by such association. The federal securities laws require that before the Commission may approve the registration of an exclusive SIP, it must make certain mandatory findings. It takes a SIP applicant approximately 400 hours to prepare documents which include sufficient information to enable the Commission to make those findings. Currently, there are only two exclusive SIPs registered with the Commission; The Securities Information Automation Corporation (SIAC) and The Nasdaq Stock Market, Inc. (Nasdaq). SIAC and Nasdaq are required to keep the information on file with the Commission current, which entails filing a form SIP annually to update information. Accordingly, the annual reporting and recordkeeping burden for Rule 11Ab2–1 and Form SIP is 400 hours. This annual reporting and recordkeeping burden does not include the burden hours or cost of amending a Form SIP because the Commission has already overstated the compliance burdens by assuming that the Commission will receive one initial registration pursuant to Rule 11Ab2–1 on Form SIP a year.

Rule 11Ab2–1 and Form SIP do not impose a retention period for any recordkeeping requirements. Completing and filing Form SIP is mandatory before an entity may become an exclusive SIP. Except in cases where confidential treatment is requested by an applicant and granted by the Commission pursuant to the Freedom of Information Act and the rules of the Commission thereunder, information provided in the Form SIP will be routinely available for public inspection.

Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written Comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities And Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 12, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9817 Filed 4–19–99; 8:45 am]

BILLING CODE 8010–01–M

[1] The records required by Rule 17a–13 are available only to the examination of the Commission staff, state securities authorities and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522, and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41276; File No SR–Amex–99–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to an Amendment to Amex Rule 901C

April 12, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 901C to add modified equal-dollar weighting and modified capitalization weighting as acceptable weighting calculation methodologies for the construction of narrow-based index options.[3] [Bracketing] indicates text to be deleted, and *italics* indicates text to be added. The text of the proposed rule change is as follows:

* * * * *

Designation of Stock Index Options

Rule 901C. (a)–(c) No Change.

Commentary

.01 No change.
.02 No change.
(a) No change.
(b) Index Calculation—(*i*) The index will be calculated based on either the capitalization, [weighting,] *modified capitalization*, price, [weighting or] equal-dollar, [weighting] *or modified equal-dollar weighting* methodology. (*ii*) Indexes based upon the equal-dollar or *modified equal-dollar* weighting method will be rebalanced at least quarterly. (*iii*) If the index is maintained by a broker-dealer, the broker-dealer shall erect a "[chinese] *fire*wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer. (*iv*) The current index value will be disseminated every 15 seconds over the Consolidated Tape Association's Network B.
(c) No change.
(d) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis For, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Commentary .02 to Amex Rule 901C to include modified capitalization and modified equal-dollar weighting in the group of index calculation methodologies used for calculating stock industry index groups.[4] Commentary .02 to Amex Rule 901C permits the Exchange to list options on stock industry index groups if the index meets certain criteria. Presently, the criteria require the index to be calculated using either the capitalization, price, or equal-dollar weighting methodologies. The Exchange proposes to include modified capitalization and modified equal-dollar weighting calculation methodologies in Commentary .02 to Amex Rule 901C to (i) better meet the needs of index option users; (ii) increase flexibility in index construction; and (iii) more accurately reflect the industry represented by the index.

Use of the capitalization weighting calculation methodology to determine an index value is accomplished by multiplying the primary exchange regular way last sale price of each component security by its number of shares outstanding, adding the products, and dividing by the current index divisor. Determining an index value for modified capitalization weighted indexes is calculated in a similar manner. However, instead of using the number of shares outstanding, the methodology uses an adjusted number of shares outstanding in the multiplication (adding the products and then dividing by the current index divisor). The modified capitalization weighting methodology uses an adjusted number of shares outstanding to prevent components with relatively large market capitalizations from representing an excessive portion of an index's value. For example, inclusion of a large capitalization company in an index along with a number of smaller capitalization companies can result in the larger capitalization company's representation in the index exceeding 25% of the index's value, which violates the requirements of Amex Rule 901C, Commentary .02(a)(7). However, use of the modified capitalization index calculation methodology would permit a reduction in the large capitalization company's representation in the index to an amount less than 25% of the index's value, thereby permitting the index to satisfy the requirements of Commentary .02(a)(7). The Exchange represents that, as a part of their due diligence, the component weighting will be reviewed quarterly, and if necessary, adjusted to ensure the index continues to meet the weighting guidelines. Adjustments will be made on an intra-quarterly basis to reflect corporate actions, share issuances and repurchases, etc.

Use of the equal-dollar weighting calculation methodology to determine an index value initially is accomplished by establishing an initial dollar representation (for example $100,000), determining the number of shares of each component representing this amount and then multiplying the primary exchange regular way last sale price of each component security by its predetermined fixed number of shares. The equal-dollar weighted methodology results in equal representation of each component in the index. The modified equal-dollar weighting methodology can be used to distinguish between larger and smaller capitalized companies, permitting larger capitalized companies to represent a larger portion of an index's value. This methodology can enhance an index's use as an accurate measure for a particular industry sector and thus its utility to market participants.

In effect, the modified equal-dollar weighting methodology is the mirror image of the modified capitalization weighting methodology. While the modified capitalization weighting

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange refers to narrow-based index options as "stock industry index options." *See* Amex Rule 900C(b)(1).

[4] A stock index industry group is defined in the Amex Rule as a group of stocks representing a particular industry or related industries. *Id.*

methodology prevents companies with the largest capitalization from skewing an index, the modified equal-dollar weighting methodology guards against the smaller capitalized companies doing so. Determining an initial index value for modified equal-dollar weighted indexes uses two or more fixed dollar values for different groups of the index components instead of using the same fixed dollar value for each component. In this way, the modified equal-dollar weighted method allows for similar component stocks to be weighted similarly, while differentiating among dissimilar groups (*e.g.*, high capitalization stocks versus lower capitalization stocks). For example, given a ten stock index, five components with capitalizations of approximately $1 billion (or $5 billion in aggregate) and five with capitalizations of approximately $500 million (or $2.5 billion in aggregate), rather than each component accounting for 10% of the index (as would be the case in a pure equal-dollar weighted index), the modified equal-dollar weighting methodology would permit the larger capitalization components to account for twice the amount of the smaller capitalized companies. This permits a more accurate representation of the actual market capitalization composition of the industry for which the index is designed to measure.

The number of shares of each component security in an index calculated under the modified equal-dollar weighting methodology will be adjusted quarterly, so that the members of each weighting group are again set to the appropriate index weight. The number of shares of each component stock in the index portfolio will remain fixed between quarterly reviews, except in the event of certain types of corporate actions (such as the payment of a dividend other than an ordinary cash dividend, stock distribution, reorganization, recapitalization, or similar event with respect to the component stocks). In a merger or consolidation of an issuer of a component stock, if the stock remains in the index, the number of shares of that security in the portfolio may be adjusted to the nearest whole share, to maintain the component's relative weight in the index at the level immediately prior to the corporate action. In the event of a stock addition or replacement, the average dollar value of the remaining components in the same weighting group will be calculated, and that amount invested in the stock of the new component to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure index continuity.

The Exchange notes that the Inter@ctive Week Internet Index, the Nasdaq-100 Index, and the Amex Eurotop 100 Index are currently calculated using modified capitalization weighting methodologies, and have been approved as indexes that may underlie index options. Additionally, the Amex Mexico Index and the Amex Networking Index currently use modified equal-dollar weighting index calculation methodologies, and have been approved as indexes that may underlie index options.

Increasingly, the Exchange receives requests to construct new stock industry indexes using the modified capitalization or modified equal-dollar weighting methodologies, in many cases to enable the proposed indexes to meet the generic criteria for narrow-based indexes, or to provide for the timely trading of options on the newly proposed indexes. As a result, the Exchange proposes to add the modified capitalization and modified equal-dollar weighted calculation methodologies to the existing narrow-based criteria set forth in Amex Rule 901C that are currently subject to filing pursuant to Rule 19b–4(e) under the Act.[5] In doing so, use of the modified capitalization and modified equal-dollar weighted calculation methodologies will be limited to those narrow-based indexes meeting the generic index criteria set forth in Commentary .02 to Amex Rule 901C. In the event a proposed index does not meet the criteria set forth in Commentary .02, the Exchange will submit the terms of the proposed index to the Commission for review pursuant to section 19(b)(2) of the Act.[6]

The Exchange represents that the terms of any modified capitalization or modified equal-dollar weighting calculation methodology will be clearly defined, and consist of objective standards that will permit any newly developed narrow-based index initially to meet, and subsequently, to continue to be maintained, in accordance with the generic criteria set forth in Commentary .02 to Amex Rule 901C. Further, the Exchange represents that these terms will be discussed in marketing materials describing the index and in the Information Circulars distributed to members upon the launch of the new index options.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of section 6(b)(5) of the Act[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[5] 17 CFR 240.19b–4(e).
[6] 15 U.S.C. 78s(b)(2).
[7] 15 U.S.C. 78f(b).
[8] 15 U.S.C. 78f(b)(5).

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-99-09 and should be submitted by May 11, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 99-9814 Filed 4-19-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41270; File No. SR-CBOE-99-08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Exchange Fees

April 9, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 [1] ("Act"), and Rule 19b-4 thereunder,[2] notice is hereby given that on February 25, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On March 26, 1999, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend certain fees,[4] and to amend its Prospective Fee Reduction Program and Customer "Large" Trade Discount Program. The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to make certain fee changes and to amend the Exchange's Prospective Fee Reduction Program and Customer "Large" Trade Discount Program. The foregoing fee changes are being implemented by the Exchange pursuant to CBOE Rule 2.22 and took effect on March 1, 1999.

The Exchange is amending the following fees: (1) Equity Customer Transaction Fees are reduced from $.15/.30 to a flat $.09 per contract side,[5] Trade Match and Floor Brokerage Fees will remain at $.05 and $.03, respectively; (2) Marketable Equity Customer orders of thirty contracts or less will not be billed the reduced customer transaction fee noted above if those orders reach CBOE's trading posts through the automated Order Routing System ("ORS"); (3) Equity Order Book Official ("OBO") Execution Fees are reduced from $.45 per contract with free execution at the opening, to $.20 for all contracts, regardless of when they are executed; (4) Equity Market Maker Fees are increased to $.19 per contract side from $.05 per contract side; (5) OEX Market Maker Fees are increased to $.15 per contract side from $.07 per contract side; (7) Equity Member Firm Proprietary Fees are increased from $.06 to $.19 per contract side to match market maker rates; (8) OEX Member Firm Proprietary Fees are increased from $.06 to $.15 per contract side to match Index market maker rates; and (9) Member Firm Proprietary Fees for SPX, DJX and all other Indexes are increased from $.10 to $.15 per contract side to match Index market maker rates. Trade Match fees remain at $.05 per contract side. Member Firm proprietary rates remain unchanged when the firm is facilitating its own customer order. Index Customer Transaction Fees are unchanged.

Previously, it has been CBOE's policy to assign the customer rate to option orders from broker-dealers. Under the revised fee schedule, broker-dealer marketable equity option orders of thirty contracts or less that are routed through ORS will not be assessed any transaction fee. However, non-marketable broker-dealer equity option orders for more than thirty contracts will be charged the new higher market maker/firm rate of $.19 instead of the new lower customer rate of $.09.

The Exchange's Prospective Fee Reduction Program for Trade Match Fees and Member Dues currently provides that if at the end of any quarter of the Exchange's fiscal year, the Exchange's average contract volume per day on a fiscal year-to-date basis exceeds one of certain predetermined volume thresholds, the Exchange's Trade Match Fees and Member Dues will be reduced in the following fiscal quarter in accordance with a fee reduction schedule. Effective March 1, 1999 the Program proposed to be is suspended for the remainder of Fiscal Year 1999 ("FY99").[6]

The Exchange's Customer "Large" Trade Discount Program currently provides for discounts on the transaction fees that CBOE customers are assessed with respect to public customer orders for 500 or more contracts. Specifically, for any month during which the Exchange's average contract volume per day exceeds one of certain predetermined volume thresholds, the transaction fees that are assessed by the Exchange in that month with respect to public customer orders for 500 or more contracts are subject to a discount in accordance with a discount schedule. The Program is proposed to be suspended for equity option orders only for the remainder of FY99, effective March 1, 1999.

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[9] 17 CFR 200.30-3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] Letter from Debora E. Barnes, Senior Attorney, CBOE, to David Sieradzki, Special Counsel, Division of Market Regulation ("Division"), Commission, dated March 25, 1999 ("Amendment No. 1"). Amendment No. 1 is a technical amendment to add the Exchange's statement on burden on competition, which was inadvertently omitted.

[4] The Exchange represents that, although some of the fees in this filing are referred to as customer fees, they are charged to members. As a result, the Commission notes that, as this filing relates exclusively to member fees, this proposed rule change is properly filed under section 19(b)(3)(A)(ii) of the Act. 15 U.S.C. 78s(b)(3)(A)(ii). Telephone conversation between Timothy Thompson, Director, Regulatory Affairs, CBOE, and Joseph P. Morra, Attorney, Division, Commission, on March 3, 1999.

[5] A rate differential will no longer exist based on the dollar amount of the premium paid.

[6] CBOE's FY99 terminates on June 30, 1999.

The proposed amendments are the result of a recommendation made by the Exchange's Financial Planning Committee to the Board of Directors. The amendments are structured to fairly allocate the costs of operating the Exchange in light of competitive concerns.

The proposed rule change is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(4) of the Act[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective[9] pursuant to section 19(b)(3)(A) of the Act[10] and subparagraph(f) of Rule 19b–4 thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection an copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to file number SR–CBOE–99–08, and should be submitted by May 11, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9816 Filed 4–19–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41277; File No. SR–Phlx–99–02]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Change the Required Minimum Value Size for an Opening Transaction in FLEX Equity Options

April 13, 1999.

I. Introduction

On January 19, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to reduce the required minimum value size for an opening transaction in FLEX Equity Options. The **Federal Register** published the proposed rule change for comment on March 11, 1999.[3] The Commission received no comments on the proposal. This order approves the proposal.

II. Description of Proposal

The Exchange is proposing to change the minimum value size for opening transactions, other than FLEX Quotes responsive to a FLEX Request for Quotes, in any FLEX equity option series in which there is no open interest at the time the Request for Quotes is submitted. Currently, under Exchange Rule 1079 the minimum value size for these opening transactions is 250 contracts. The Exchange is proposing to change the minimum value size for these transactions to the lesser of 250 contracts or the number of contracts overlying $1 million of the underlying securities.

The Exchange is proposing this change because it believes the current rule is unduly restrictive. The rule was originally put in place to limit participation in FLEX equity options to sophisticated, high net worth individuals.[4] The Exchange believes, however, that limiting participation in FLEX equity options based solely on the number of contracts purchased may diminish liquidity and trading interest in FLEX equity options on higher priced equities. The Exchange believes the value of the securities underlying the FLEX equity options is an equally valid restraint as the number of contracts and, if set at the appropriate limit, can also prevent the participation of investors who do not have adequate resources. In fact, the limitation on the minimum value size for opening transactions in FLEX market index options and FLEX industry index options is tied to the same type of standard—the underlying equivalent value.[5] The Exchange believes the number of contracts overlying $1 million in underlying securities is adequate to provide the requisite amount of investor protection. An opening transaction in a FLEX equity option series on a stock priced at $40.01 or more would reach this $1 million limit before it would reach the contract size limit, *i.e.*, 250 contracts times the multiplier (100) times the stock price ($40.01) totals $1,000,250 in underlying value.

Currently, an investor can purchase 250 contracts in a FLEX equity series on lower priced stocks, meeting the minimum requirement without reaching an underlying equivalent value of $1 million. For example, a purchase of FLEX equity options overlying a $10 stock is permitted although the underlying value for the options would be $250,000, *i.e.*, 250 contracts times the multiplier (100) times the stock price ($10). Conversely, under the proposed amendment, a participant could open a new FLEX equity option series overlying a $110 stock with a trade of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 41136 (March 3, 1999), 64 FR 12203 (March 11, 1999).

[4] Exchange Act Release No. 37691 (September 17, 1996), 61 FR 50060 (September, 24, 1996) (adopting SR–Phlx–96–38).

[5] *See* Exchange Rule 1079(a)(8)(A)(i).

91 contracts or more since the underlying equivalent value would be $1,001,000.

III. Discussion

The Commission finds that the proposed rule change is consistent with the objectives of section 6(b) of the Act.[6] In particular, the Commission finds that the proposed rule change furthers the objectives of section 6(b)(5)[7] which requires an exchange's rules to be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.[8] Specifically, the Commission believes that the proposed rule change will increase liquidity and trading interest in FLEX equity options on higher priced securities. The Commission also believes that limiting the minimum value size for opening transactions in FLEX equity options to the lesser of 250 contracts or $1 million of underlying equivalent value is an appropriate level to prevent investors who do not have adequate resources from trading such options.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–PHLX–99–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9815 Filed 4–19–99; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

This statement amends part T of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration. Notice is given that chapter TA for the Office of the Deputy Commissioner, Disability and Income Security Programs (ODCDISP) is being amended to reflect the establishment of the Office of Employment Support Programs (TAT). Further notice is given that Subchapter TAE, the Office of Disability is being amended to delete functions being transferred to OESP and to abolish the related Division of Employment and Rehabilitation Programs (TAEJ). Notice is also being given that Subchapter TAP, the Office of Program Benefits, is being amended to reflect a title change and changes in responsibilities. The changes are as follows:

Section TA.10 The Office of the Deputy Commissioner, Disability and Income Security Programs—(Organization)

Establish:

I. The Office of Employment Support Programs (TAT).

Section TA.20 The Office of the Deputy Commissioner, Disability and Income Security Programs—(Functions)

Establish:

I. The Office of Employment Support Programs (TAT) plans, develops, evaluates, issues and administers operational policies that implement provisions in the Social Security Act and related statutes promoting or otherwise facilitating the employment of Disability Insurance and Supplemental Security Income Program beneficiaries with disabilities. Plans and directs a program to assess and evaluate beneficiary needs in the areas of rehabilitation and employment support. Provides operational advice, technical support and direction to central office, regional office and field components in the administration of employment support programs. Evaluates the effects of proposed legislation, policy and regulatory changes to determine the operational impact on employment support programs. Provides assistance in educating the public about disability program work incentives, rehabilitation and other forms of employment support. Establishes and maintains relationships with parties interested in the employment of persons with disabilities. Engages in broad-based efforts in partnership with other public and private entities to remove employment obstacles encountered by disability beneficiaries. Promotes process innovation and cooperation among its partners and stakeholders.

Section TAE.10 The Office of Disability—(Organization)

Abolish:

I. The Division of Employment and Rehabilitation Programs (TAEJ).

Section TAE.20 The Office of Disability—(Functions)

Abolish in its entirety:

I. The Division of Employment and Rehabilitation Programs (TAEJ).

Section TAP.10 The Office of Program Benefits—(Organization)

Retitle:

E. The Division of Eligibility and Enumeration (TAPJ) to the Division of Eligibility and Enumeration Policy (TAPJ).

Section TAP.20 The Office of Program Benefits—(Functions)

Retitle:

E. The Division of Eligibility and Enumeration (TAPJ) to the Division of Eligibility and Enumeration Policy (TAPJ).

Amend as follows:

2. Develops and issues guidelines, directives, instructions, and operating procedures for such eligibility and enumeration subject areas as applications, alien issues, evidence, relationships, insured status, income and resources, living arrangements, in-kind support and maintenance, applications for Social Security numbers, and interprogram relationships with food stamps.

F. The Division of Representative Payment and Evaluation (TAPK).

Amend as follows:

2. Develops and issues guidelines, directives, instructions and operating procedures for such representative payment subject areas as (in) capability assessment, investigation and selection of payees, use and conservation of benefits, misuse of benefits, payment for payee services and payee oversight, and for interprogram relationships with Medicaid and Medicare.

Add Subchapter:

Subchapter TAT
Office of Employment Support Programs
TAT.00 Mission
TAT.10 Organization
TAT.20 Functions

Section TAT.00 The Office of Employment Support Programs—(Mission)

The Office of Employment Support Programs (OESP) plans, develops, evaluates, issues and administers operational policies that implement provisions in the Social Security Act and related statutes promoting or

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[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

otherwise facilitating the employment of Disability Insurance and Supplemental Security Income Program beneficiaries with disabilities. Plans and directs a program to assess and evaluate beneficiary needs in the areas of rehabilitation and employment support. Provides operational advice, technical support and direction to central office, regional office and field components in the administration of employment support programs. Evaluates the effects of proposed legislation, policy and regulatory changes to determine the operational impact on employment support programs. Provides assistance in educating the public about disability program work incentives, rehabilitation, other forms of employment support and proposed program changes. Establishes and maintains relationships with parties interested in the employment of persons with disabilities. Engages in broad-based efforts in partnership with other public and private entities to remove employment obstacles encountered by disability program beneficiaries. Promotes process innovation and cooperation among its partners and stakeholders.

Section TAT.10 The Office of Employment Support Programs—(Organization)

The Office of Employment Support Programs (TAT) under the leadership of the Associate Commissioner for Employment Support Programs, includes:

A. The Associate Commissioner for Employment Support Programs (TAT).

B. The Deputy Associate Commissioner for Employment Support Programs (TAT).

C. The Immediate Office of the Associate Commissioner for Employment Support Programs (TATA).

D. The Division of Employment Policy (TATB).

E. The Division of Employment Support and Program Acquisitions (TATC).

Section TAT.20 The Office of Employment Support Programs—(Functions)

A. The Associate Commissioner for Employment Support Programs (TAT) is directly responsible to the Deputy Commissioner, Disability and Income Security Programs for carrying out OESP's mission, and provides general supervision to the major components of OESP.

B. The Deputy Associate Commissioner for Employment Security Programs (TAT) assists the Associate Commissioner in carrying out his/her responsibilities, and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Employment Security Programs (TATA) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities and helps coordinate the activities of the OESP components. This includes coordinating activities involving relations with customers, stakeholders and other parties.

D. The Division of Employment Policy (TATB).

1. Develops, evaluates, implements and maintains program policy on DI and SSI work incentives, and related areas, including areas of intercomponent concern such as substantial gainful activity. Drafts regulations and prepares operating policies and related instructional materials.

2. Develops, in conjunction with the Office of the Deputy Commissioner for Communications, informational materials to increase public understanding and use of work incentives and to support the employment efforts of Social Security beneficiaries with disabilities.

3. Develops proposals and plans for new work incentives and other policy changes.

4. Develops specifications for and administers grants, cooperative agreements and Federal interagency agreements in support of program activities.

E. The Division of Employment Support and Program Acquisitions (TATC).

1. Implements the provisions of the Social Security Act which call for referral of disability beneficiaries for rehabilitation and other forms of employment support services. Evaluates the performance of service providers in the public and private sectors. Certifies payment to service providers and ensures that beneficiary participation in the program is appropriate.

2. Develops, implements, evaluates and maintains regulations, program operating policies, and instructional and other materials on employment services and service provider operations. Interfaces with the vocational rehabilitation programs administered under the Rehabilitation Act.

3. Develops proposals and plans for new employment support services and other related program changes.

Dated: March 16, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

[FR Doc. 99–9767 Filed 4–19–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice 3030]

Bureau of European Affairs; U.S. Bilateral Assistance to Bosnia and Serbia

The Acting Secretary of State issued on April 12, 1999, a waiver under Section 570 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, authorizing a U.S. vote in favor of a World Bank credit to Bosnia, including the Republika Srpska (RS). Presented hereunder are the Determination and accompanying Memorandum of Justification.

FOR FURTHER INFORMATION CONTACT: Office of the SEED Coordinator, Larry C. Napper, Department of State, 2101 C St NW, Washington, DC 20521 (202–647–0853).

Determination on U.S. Position on Proposed World Bank Program for Bosnia and Herzegovina

Pursuant to the authority vested in me by section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, as enacted in P.L. 105–277 ("FOAA"), I hereby waive the application of Section 570 of the FOAA with regard to the U.S. position on the proposed program of the World Bank to establish a Local Development Fund (LDF) in Bosnia and Herzegovina.

The U.S. representative may vote in favor of the proposed LDF program.

I hereby determine that this program would directly support the implementation of the Dayton Agreement and its Annexes.

This Determination shall be published in the **Federal Register**.

Dated: April 12, 1999.

Strobe Talbot,

Acting Secretary of State.

Memorandum of Justification Under Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, to Approve Local Development Fund Program in the Republika Srpska

Beginning with the formation in January 1998 of the Milorad Dodik government, the international community has continued efforts to strengthen moderate forces in the Republika Srpska (RS). The effort to

steer RS politics into a moderate course is now at a critical phase. Hardliners are using recent events—the Brcko arbitral award, the dismissal of hardline nationalist RS President Poplasen, and the NATO action against the Federal Republic of Yugoslavia—to try to derail the Dodik government and whip up public feeling against the international community.

The United States has made clear repeatedly at RS and municipality levels that all assistance is contingent on continued progress in implementing the Dayton accords and announced its readiness to terminate any projects if the situation warrants. The U.S. has also encouraged other donors to deliver the same message. Progress toward full implementation of the Dayton accords includes progress on arresting indicted war criminals, formation of a broad-based moderate government in the RS, and other key Dayton goals.

Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, imposes restrictions on assistance to states or entities that fail to "take necessary and significant steps to apprehend and transfer" to the International Criminal Tribunal for the Former Yugoslavia all persons who have been publicly indicted by the Tribunal. The Secretary of State determined in November 1998 that Serbia and the Republika Srpska were subject to this restriction. However, Section 570 also provides for a selective use of the waiver authority.

An upcoming decision by the World Bank to establish a Local Development Fund (LDF), to lend to municipalities for infrastructure reconstruction, fits the criteria for a waiver. The LDF, which would commit a total of $15 million, is a longer-term (four years) effort to upgrade lending expertise of local banks and debt management capabilities of municipal governments.

The U.S. has made clear to the World Bank that it expects strict controls to ensure that no persons publicly indicted of war crimes should benefit from the program, and that no municipalities openly harboring such persons should benefit. The World Bank will institute strong control and audit mechanisms. International banks and consultants responsible to the World Bank will be involved in the selection of participating banks and eligible municipalities. The World Bank is fully aware of the need to avoid a situation where its funds could benefit persons publicly indicted for war crimes, or municipalities responsible for harboring such persons. It will consult regularly with the Office of the High Representative in Sarajevo on the administration of this program.

Our record on war criminals remains strong and unequivocal. U.S. encouragement of moderate elements in the RS has helped improve the climate for bringing indicted war criminals to justice. To date, there have been ten forcible detentions and six voluntary surrenders in the RS. Of these, there were seven forcible detentions by SFOR and five voluntary surrenders during 1998. Since April of 1997, the number of war criminals brought before the Tribunal has increased from 7 to 35, due in large measure to the persistent pressure applied by the U.S. Government.

The fact that the detentions occurred without major incident, and that there is a relatively high proportion of voluntary surrenders, reflects directly on the climate created by the cooperative relationship with the international community of the Dodik government. We believe that by strengthening moderate and democratic forces in the Republika Srpska, we have strengthened institutions, capabilities, and resolve that will lead to the fulfillment of the Dayton objective of seeing those war criminals who remain at large detained and brought to justice.

The international community has repeatedly warned that obstructionism will lead to serious repercussions, including the curtailment of economic assistance. However, positive signals are also needed. The currently volatile climate in the RS should not sway the international community from a long-term policy that strengthens moderates and rewards those who cooperate with Dayton implementation.

[FR Doc. 99–9894 Filed 4–19–99; 8:45 am]

BILLING CODE 4710–23–P

DEPARTMENT OF STATE

[Public Notice Number 3008]

The Interagency Working Group on Anti-fouling Paints for Ships; Notice of Public Meeting

The Federal Interagency Working Group on Anti-fouling Paints for Ships will conduct an open meeting on Wednesday, May 5, 1999, from 10:00 a.m. to 12:00 p.m., in Room 3328, Department of Transportation, 407 7th Street, S.W., Washington, D.C. 20590.

The purpose of this meeting is to discuss and prepare the U.S. position for treaty negotiations relating to international regulations relating to the harmful effects of the use of anti-fouling paints for ships. These negotiations will be conducted at the 43rd session of the Marine Environment Protection Committee (MEPC 43) of the International Maritime Organization. MEPC 43 will be held from June 28, to July 2, 1999 in London, United Kingdom.

Members of the public may attend this meeting up to the seating capacity of the room. Information requests and comments may be submitted electronically to cboes@comdt.uscg.mil. For further information pertaining to this meeting, contact Lieutenant Junior Grade Christopher Boes, U.S. Coast Guard Headquarters (G–MSO–4), 2100 Second Street, SW, Washington, DC 20593–0001; Telephone: (202) 267–0713.

Dated: April 14, 1999.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 99–9893 Filed 4–19–99; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice Number 3007]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Dangerous Goods, Solid Cargoes and Containers; Meeting Notice

The Working Group on Dangerous Goods, Solid Cargoes and Containers (DSC) of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 10:00 a.m. on Tuesday, May 11, 1999, in Room 6332, at the Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590. The purpose of the meeting is to discuss the outcome of the Fourth Session of the DSC Subcommittee of the International Maritime Organization (IMO) which was held February 22–26, 1999, at the IMO Headquarters in London. In addition, initial plans and preparations for the upcoming meeting of the DSC Subcommittee's Editorial and Technical Group and other topics of interest will be addressed.

The agenda items of particular interest are:

a. Amendment 30 to the International Maritime Dangerous Goods (IMDG) Code, its Annexes and Supplements including harmonization of the IMDG Code with the United Nations Recommendations on the Transport of Dangerous Goods, reformatting of the IMDG Code, and revision of the format of the Emergency Schedules (EmS).

b. Implementation of Annex III of the Marine Pollution Convention (MARPOL 73/78), as amended.

c. Review of the Code of Safe Practice for Solid Bulk Cargoes (BC Code).

d. Amendments to SOLAS chapters VI and VII to make the IMDG Code mandatory.

e. Mandatory application of the Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High Level Radioactive Wastes in Flasks on Board Ships (INF Code).

f. Implementation of IMO instruments and training requirements for cargo-related matters, including revision of resolution A.537(13) and development of multimodal training requirements.

g. Reports on incidents involving dangerous goods or marine pollutants in packaged form on board ships or in port areas.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. E. P. Pfersich, U.S. Coast Guard (G–MSO–3), 2100 Second Street, S.W., Washington, DC 20593–0001 or by calling (202) 267–1577.

Dated: April 14, 1999.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 99–9892 Filed 4–19–99; 8:45 am]

BILLING CODE 4710–07–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1513).

TIME AND DATE: 9 a.m. (CDT), April 21, 1999.

PLACE: Murray State University, Curris Center Mississippi Room, Chestnut Street, Murray, Kentucky.

STATUS: Open.

Agenda

Approval of minutes of meeting held on March 3, 1999.

New Business

Unclassified

F1. Shoreline Management Policy.

F2. Boone Reservoir Land Management Plan, Sullivan and Washington Counties, Tennessee.

F3. Melton Hill Reservoir Land Management Plan, Anderson, Knox, Roane, and Loudon Counties, Tennessee.

F4. TVA Policy and Principles on the Environment.

Information Items

1. Filing of condemnation cases to acquire easements and rights-of-way affecting the following transmission lines: Great Falls-Murfreesboro-South Nashville, Rutherford County, Tennessee; Oneida-McCreary, Scott County, Tennessee; Oneida-McCreary, McCreary County, Kentucky; Pinhook-Smyrna, Davidson County, Tennessee; and Red Hills-Sturgis, Choctaw, Mississippi.

2. Filing of condemnation cases to acquire easements and rights-of-way for transmission lines affecting Pinhook-Smyrna, Rutherford County, Tennessee; and Sequoyah-Concord Tap to Apison, Hamilton County, Tennessee.

3. Relocation of a portion of the Mayfield-Murray Transmission Line affecting approximately 3.2 acres of land in Graves County, Kentucky (Tract No. MMR–17).

4. Abandonment of easement rights over a portion of the Waterville-Kingsport Nolichucky Tap transmission Line right-of-way in Greene County, Tennessee (Tracts No. NOLT–17, –18, and –19).

5. Abandonment of easement rights affecting approximately 11.77 acres of TVA's Bowling Green-Franklin No. 3 and Bowling Green-Franklin 69–kV transmission line in Warren County, Kentucky (Tracts No. BGFN–20, –21, and BOGF–45, –46).

6. Grant of a 10-year easement, with options to renew for up to four additional 10-year terms, exclusively for the production of fused silica and such other products as TVA may agree to in writing, affecting approximately 15.24 acres of Muscle Shoals Reservation land in Colbert County, Alabama, together with associated nonexclusive access rights.

7. Cessation of efforts to pursue the development of the Little Cedar Mountain project on Nickajack Lake and cessation of consideration of a proposal by a private company to develop approximately 850 acres of TVA land on Tellico Reservoir.

8. Revisions to the Industrial Service Policy as set out in TVA's wholesale power contracts.

9. Approval of the offering of a forward supported power (FSP) option as an enhancement of economy surplus power (ESP) arrangements.

10. Approval to enter into agreements with hotels and motels in the Tennessee Valley region and other select locations.

11. Supplement to contract with General Electric Company for the manufacture and turnkey installation of four simple cycle dual fuel combustion turbine units and to proceed with plant site acquisition activities.

12. Delegation of authority to the Chief Administrative Officer to enter into cooperative partnership agreements, with up to $10 million funding from TVA, with selected land grant colleges and universities in the seven-state Tennessee Valley region to cooperatively conduct studies and experiments for power development, environmental research, and economic development.

13. Appointment of TVA's Designated Agency Safety and Health Official.

14. Recommendation resulting from negotiations with Local 544, Service Employees International Union, AFL–CIO, over compensation for TVA annual and hourly employees.

15. Authorization, for planning purposes, of the use of a calculated annual real rate of return of 5 percent in connection with TVA's Nuclear Decommissioning Fund.

16. Approval to issue TVA Power Bonds and execution of currency swap arrangement.

17. Approval of the sale of TVA Power Bonds.

18. Appointments to the Land Between the Lakes Advisory Committee.

For more information: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: April 14, 1999.

William L. Osteen,

Associate General Counsel and Assistant Secretary.

[FR Doc. 99–9919 Filed 4–15–99; 4:20 pm]

BILLING CODE 8120–08–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Trade and Environment Policy Advisory Committee (TEPAC)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the April 29, 1999, meeting of the Trade and Environment Policy Advisory Committee will be held from 1:00 p.m. to 5:00 p.m. The meeting will be closed to the public from 1:00 p.m. to 4:30 p.m. and open to the public from 4:30 p.m. to 5:00 p.m.

SUMMARY: The Trade and Environment Policy Advisory Committee will hold a meeting on April 29, 1999 from 1:00 p.m. to 5:00 p.m. The meeting will be closed to the public from 1:00 p.m. to 4:30 p.m. The meeting will include a review and discussion of current issues with influence U.S. trade policy. Pursuant to section 2155(f)(2) of Title 19

of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meeting will be open to the public and press from 4:30 p.m. to 5:00 p.m. when trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

DATES: The meeting is scheduled for April 29, 1999, unless otherwise notified.

ADDRESSES: The meeting will be held at the USTR ANNEX Building in Conference Rooms 1 and 2, located at 1724 F Street, NW, Washington, DC, unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Christina Sevilla, Office of the United States Trade Representative, (202) 395–6120.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 99–9832 Filed 4–19–99; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5526]

Chemical Transportation Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Chemical Transportation Advisory Committee (CTAC). CTAC provides advice and makes recommendations to the Coast Guard on matters relating to the safe transportation and handling of hazardous materials in bulk on U.S.-flag vessels and barges in U.S. ports and waterways.

DATES: Applications must reach the Coast Guard on or before July 16, 1999.

ADDRESSES: You may request an application form by writing to Commandant (G–MSO–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling (202) 267–1217–0081; or by faxing (202) 267–4570. Submit application forms to the same address. This notice and the application form are available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Commander Robert F. Corbin, Executive Director of CTAC, or Ms. Sara S. Ju, Assistant to the Executive Director, telephone (202) 267–1217–0081, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: The Chemical Transportation Advisory Committee (CTAC) is a Federal advisory committee constituted under 5 U.S.C. App. 2. It provides advice and makes recommendations to the Assistant Commandant for Marine Safety and Environmental Protection on matters relating to the safe transportation and handling of hazardous materials in bulk on U.S.-flag vessels and barges in U.S. ports and waterways. The advice and recommendations of CTAC also assist the U.S. Coast Guard in formulating the position of the United States on hazardous material transportation issues prior to meetings of the International Maritime Organization.

CTAC meets at least once a year at Coast Guard Headquarters in Washington, DC. It may also meet more often than once a year for extraordinary purposes. CTAC's subcommittees and working groups may meet to consider specific problems as required.

The Coast Guard will consider applications for seven positions that expire or become vacant in September 1999. To be eligible, applicants should have experience in chemical manufacturing, marine transportation of chemicals, occupational safety and health, or environmental protection issues associated with chemical transportation. Each member serves for a term of three years. Some members may serve consecutive terms. However, not more than 50 percent of the members with expiring terms may be re-appointed. All members serve at their own expense, and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the policy of the Department of Transportation on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Applicants selected may be required to complete a Confidential Financial Disclosure Report (OGE Form 450). Neither the report nor the information it contains may be released to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: April 13, 1999.

Howard L. Hime,

Director of Standards (Acting); Marine Safety and Environmental Protection.

[FR Doc. 99–9880 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Austin-Bergstrom International Airport; Austin, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Austin, Texas, for Austin-Bergstrom International Airport under the provisions of Title 49, U.S.C. Chapter 475 (hereinafter referred to as "Title 49") and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Mike Nicely, Department of Transportation, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, Texas, 76137, (817) 222–5606.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Austin-Bergstrom International Airport are in compliance with applicable requirements of part 150, effective April 5, 1999. Under Title 49, an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. Title 49 requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title 49, may submit a noise compatibility program for FAA approval which sets forth the

measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The City of Austin, Texas, submitted to the FAA on March 22, 1999, noise exposure maps, descriptions and other documentation which were produced during August 1998 and March 1999. It was requested that the FAA review this material as the noise exposure maps, as described in Title 49.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the City of Austin, Texas. The specific maps under consideration are 1999 Opening Day Existing Condition Noise Exposure Map, Figure 3.7 and 2004 Future Condition Noise Exposure Map, Figure 4.6 in the submission. The FAA has determined that these maps for Austin-Bergstrom International Airport are in compliance with applicable requirements. This determination is effective on April 5, 1999. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information, or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Title 49, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Title 49. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Title 49. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Airports Division, 2601 Meacham Boulevard, Fort Worth, Texas 76137.

City of Austin, Department of Aviation, 2716 Spirit of Texas Drive, Austin, Texas 78719.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, April 5, 1999.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 99–9797 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–09]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 11, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on April 15, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 23771.
Petitioner: Cessna Aircraft Company.
Section of the FAR Affected: 14 CFR 91.9(a) and 91.531(a)(1) & (2).
Description of Relief Sought: To permit Cessna Aircraft operators of the Cessna Citation Excel Model 560XL, that otherwise meets the minimum crew requirements of 25.1523 with a single pilot, to operate those airplanes without a second in command.

Docket No.: 28768.
Petitioner: Franklin Products Company.
Section of the FAR Affected: 14 CFR 25.853(a).
Description of Relief Sought: To allow a two year time for Exemption No. 6634 for testing and interim use of certain water-based adhesives which do not fully comply with the requirements of 25.853(a) in the manufacture of seat cushions.

Docket No.: 29458.
Petitioner: National Business Aviation Associates, Inc.
Section of the FAR Affected: 14 CFR 61.57(b)(1)(ii).
Description of Relief Sought: To permit NBAA to operate turbine powered airplanes where the PIC does not have to meet the night takeoff and landing currency requirements of 61.57(b)(1)(ii) if the PIC's night landing currency has been maintained or reestablished.

Docket No.: 29460.
Petitioner: Dornier Luftfahrt GMBH.
Section of the FAR Affected: 14 CFR 121.358(a) Amendment 121–270.

Description of Relief Sought: To permit Dornier to operate Dornier 328–300 without an approved Flight Guidance System for a period of six months.

Docket No.: 29530.
Petitioner: Dornier Luftfahrt BmgM.
Section of the FAR Affected: 14 CFR 25.1435(b)(1).
Description of Relief Sought: In lieu of the requirements of 14 CFR 25.1435(b)(1) for a complete hydraulic system static proof pressure test on the airplane, Dornier proposes to conduct a range of motion test on the airplane at the system relief pressure, 3580 psig, and component qualification testing at 1.5 times operating pressure (4500 psig) per 25.1435(a)(2), for the hydraulic system on the Dornier Model 328–300 airplane.

Docket No.: 29531.
Petitioner: Dornier Luftfahrt BmbH.
Section of the FAR Affected: 25.841(a)(2) and (3).
Description of Relief Sought: Dornier Luftfahrt BmbH requests relief from the requirements of 14 CFR § 25.841(a)(2) and (3) at amendment 25–87 from the cabin decompression requirements in determination of the certification basis for the Dornier Model 328–300 airplane.

Disposition of Petitions

Docket No.: 10633.
Petitioner: FAA Technical Center.
Sections of the FAR Affected: 14 CFR 91.117(a), 91.119(c), 91.159(a) and 91.303(e).
Description of Relief Sought/ Disposition: To allow the FAA Technical Center to conduct certain Flight OPS in support of its R&D projects without meeting certain FAA Regulations governing: (1) aircraft speed, (2) minimum safe altitudes, (3) cruising altitudes for flights conducted under visual flight rules, and (4) aerobatic flight.
Grant, 4/7/99, Exemption No. 6883.

Docket No.: 23147.
Petitioner: The Boeing Company.
Sections of the FAR Affected: 14 CFR 91.515(a)(1).
Description of Relief Sought/ Disposition: To permit Boeing to conduct noise measurement tests, Ground Proximity Warning System research and development, and aircraft certification tests at altitudes less than 1,000 feet above the surface or 1,000 feet from any mountain, hill, or other obstruction to flight.
Grant, 3/29/99, Exemption No. 4783F.

Docket No.: 23805.
Petitioner: U.S. Department of the Interior, Fish and Wildlife Service.
Sections of the FAR Affected: 14 CFR 91.119(b) and (c).
Description of Relief Sought/ Disposition: To allow FWS to conduct Federal game and trespass regulation enforcement operations no closer than 200 feet from the suspect and no closer than 500 feet from any other persons, vessels, vehicles, and structures in other than congested areas and sparsely populated areas.
Partial Grant, 3/17/99, Exemption No. 6872.

Docket No.: 25862.
Petitioner: Cessna Aircraft Company.
Sections of the FAR Affected: 14 CFR 47.69(b).
Description of Relief Sought/ Disposition: To permit the Cessna Aircraft Company to use its dealer certificate for the operation and demonstration of aircraft outside the United States.
Grant, 4/2/99, Exemption No. 5043E.

Docket No.: 26474.
Petitioner: Deere & Company.
Sections of the FAR Affected: 14 CFR 21.197(a)(1).
Description of Relief Sought/ Disposition: To permit Deere & Company to operate two CESSNA Model CE–650 aircraft [Registration Nos. N600JD and N900JD, Serial Nos. 650–0236 and 650–0213, respectively) without obtaining a special flight permit when the aircraft flaps fail in the "up" position.
Grant, 3/31/99, Exemption No. 6581A.

Docket No.: 27690.
Petitioner: M. Shannon & Associates.
Sections of the FAR Affected: 14 CFR 91.9(a) and 91.531(a)(1) and (2).
Description of Relief Sought/ Disposition: To permit Shannon and certain operators of Cessna Citation 500, 550, AND S550 aircraft to operate those aircraft without a pilot designated as second in command (SIC).
Grant, 3/29/99, Exemption No. 6480B.

Docket No.: 27999.
Petitioner: Alaska Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.433(c)(1)(iii), 121.440(a), 121.441(a)(1) and (b)(1), and Appendix F.
Description of Relief Sought/ Disposition: To permit ALA to combine recurrent flight and ground training and proficiency checks to ALA's flight crewmembers in a Single Visit Training Program.
Grant, 3/29/99, Exemption No. 6043B.

Docket No.: 28672.
Petitioner: Alaska Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.709(b)(3).
Description of Relief Sought/ Disposition: To permit ALA's certificated A&P mechanics to train flight operations instructors in the installation and removal procedures for medevac stretchers in ALA's aircraft during ground and flight training, subject to certain conditions.
Grant, 3/12/99, Exemption No. 6603A.

Docket No.: 28742.
Petitioner: Aerolineas Argentinas, S.A.
Section of the FAR Affected: 14 CFR 145.47(b).
Description of Relief Sought/ Disposition: To allow Aerolineas Argentinas, S.A. to use Instituto Nacional de Tecnologia Industrial standards of Argentina for calibration in lieu of the calibration standards of NIST to test its inspection and test equipment.
Grant, 3/12/99, Exemption No. 6584A.

Docket No.: 28820.
Petitioner: Northern Air Cargo, Inc.
Section of the FAR Affected: 14 CFR 119.67(a)(1).
Description of Relief Sought/ Disposition: To permit Mr. Leonard F. Kirk to continue to serve as director of operations for Northern Air Cargo, Inc., without him holding an ATP certificate.
Grant, 3/31/99, Exemption No. 6592A.

Docket No.: 28828.
Petitioner: North American Airlines, Inc.
Section of the FAR Affected: 14 CFR 119.67(a)(1).
Description of Relief Sought/ Disposition: To permit Mr. Edward E. Dascoli to continue to serve as director of operations for North American Airlines without him holding an ATP certificate.
Grant, 3/31/99, Exemption No. 6593A.

Docket No.: 29282.
Petitioner: The Boeing Company.
Section of the FAR Affected: 14 CFR 25.785(d), 25.807(c)(1), 25.857(e) and 25.1447(c)(1).
Description of Relief Sought/ Disposition: To permit type certification of the MD–10 freighter airplanes equipped with a Class E cargo compartment, with accommodations for either (1) up to four supernumeraries in one configuration or (2) up to two supernumeraries in another configuration, to have either configuration immediately aft of the cockpit as proposed.
Partial Grant, 3/23/99, Exemption No. 6873.

Docket No.: 29302.
Petitioner: Raytheon E-Systems.
Section of the FAR Affected: 14 CFR 25.365(e)(2), 25.562(c)(2) through (4) and (6), 25.785(b), 25.785(h)(2), 25.813(e), and 25.853(d).
Description of Relief Sought/ Disposition: To allow the installation of flight attendant seats that do not provide a direct view of the cabin, to allow the installation of interior doors, and to

install interior materials that do not comply with heat release and smoke emission requirements on a Boeing 777 airplane.

Partial Grant, 4/1/99, Exemption No. 6881.

Docket No.: 29377.

Petitioner: GTA Air, Inc.

Section of the FAR Affected: 14 CFR 135.143(c).

Description of Relief Sought/ Disposition: To permit GTA Air to operate certain aircraft under Part 135 without a Mode S Transponder installed in each aircraft.

Grant, 3/22/99, Exemption No. 6879.

Docket No.: 29405.

Petitioner: North Star Air Cargo, Inc.

Section of the FAR Affected: 13 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit North Star Air Cargo to operate seven twin-engine aircraft under Part 135 without a Mode S Transponder installed in each aircraft.

Grant, 3/22/99, Exemption No. 6878.

Docket No.: 29472.

Petitioner: Blessing, Davis A.

Section of the FAR Affected: 14 CFR 121.383(c).

Description of Relief Sought/ Disposition: To permit Mr. Blessing to act as pilot in operations under Part 121 after reaching his 60th birthday.

Grant, 3/31/99, Exemption No. 6880.

Docket No.: 29473.

Petitioner: New Air Helicopters.

Description of Relief Sought/ Disposition: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit New Air Helicopters to operate its Bell helicopter (Registration No. N5754K, Serial No. 3126) under Part 135 without a Mode S Transponder installed in the aircraft.

Grant, 4/8/99, Exemption No. 6884.

Docket No.: 29524.

Petitioner: Tower Air, Inc.

Section of the FAR Affected: 14 CFR 91 SFAR 82.

Description of Relief Sought/ Disposition: To permit Tower Air, Inc. and its pilots in command to conduct up to a maximum of four flights within the territory and airspace of Sudan.

Grant, 4/2/99, Exemption No. 6882.

[FR Doc. 99–9881 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In March 1999, there were seven applications approved. This notice also includes information on three applications, approved in February 1999, inadvertently left off the February 1999 notice. Additionally, three approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: County of Brown, Green Bay, Wisconsin.

Application Number: 99–02–C–GRB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $2,768.496.

Earliest Charge Effective Date: May 1, 1999.

Estimated Charge Expiration Date: August 1, 2002.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Purchase aircraft rescue and firefighting (ARFF) vehicle. Acquire snow removal equipment. Partial rehabilitation of airfield pavements and security fencing; Expand air carrier apron; PFC administration costs; Terminal entrance road reconstruction.

Decision Date: February 22, 1999.

For Further Information Contact: Daniel J. Millenacker, Minneapolis Aircrafts District Office, (612) 713–4350.

Public Agency: Melbourne Airport Authority, Melbourne, Florida.

Application Number: 99–03–C–00–MLB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $687,088.

Earliest Charge Effective Date: July 1, 1999.

Estimated Charge Expiration Date: July 1, 2000.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Melbourne International Airport.

Brief Description of Projects Approved for Collection and Use: Master plan update, phase 2; Proximity suits for firefighters; ARFF vehicle; Wetland mitigation land acquisition; Construct safety area/wetland mitigation; Emergency generators for terminal; Runway power sweeper.

Decision Date: February 24, 1999.

For Further Information Contact: Ilia A. Quinones, Orlando Airports District Office, (407) 812–6331, extension 33.

Public Agency: City of Modesto, California.

Application Number: 99–05–C–00–MOD.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $154,750.

Earliest Charge Effective Date: May 1, 1999.

Estimated Charge Expiration Date: September 1, 2001.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Modesto City-County Airport—Harry Sham Field.

Brief Description of Projects Approved for Collection and Use: ARFF improvements; General aviation entrance road phase 1—design; Relocate airfield regulators; Resurface taxiways A and B, phase 1—design engineering and phase 2—construction.

Decision Date: February 26, 1999.

For Further Information Contact: Marlys Vanvervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: Kansas City Aviation Department, Kansas City, Missouri.

Application Number: 99–02–C–00–MCI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $28,723,139.

Earlist Charge Effective Date: January 1, 2005.

Estimated Charge Expiration Date: May 1, 2006.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800.31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has

determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Kansas City International Airport.

Brief Description of Projects Approved for Collection and Use: Airfield storm drainage; Construction of hold apron west of terminal B; new automated access control system; Reconstruct taxiway D.

Brief Description of Project Partially Approved for Collection and Use: PFC development and administration.

Determination: Partially approved. The FAA notes that public agencies may choose to accomplish the PFC administration tasks by contracting through a consultant, internal personnel, or a combination of the two. The FAA notes that the public agency plans to sue a portion of the approved PFC revenue to fund a full time position for the administration of the PFC program. As a condition for the FAA's approval of this project, the FAA requires that the public agency provide to the FAA each year of the PFC and/or use/from the date of issue of this decision) a letter certifying that the funds expended for the full time position are directly and exclusively used for PFC administrative tasks during the preceding year, along with a record of the hours spent on each PFC related task listed in the description of this project during that year. The allowable portion of the public agency's costly of administrating its PFC program does not include costs associated with operations and maintenance, general purpose equipment such as computer hardware, nor benefits including, but not limited to, leave, retirement, or overhead. It also does not include project management activities.

Brief Description of Projects Approved for Use: Overlay runway 9/27 and taxiway C (between C1 and C9; Construct Federal Inspection Services facility; Taxiway B rehabilitation; Terminal improvements.

Brief Description of Project Partially Approved for Use: Expand general aviation apron.

Determination: Partially approved. The FAA has determined that the taxiway connector was not included in the impose only project description and therefore did not have impose authority.

Decision Date: March 1, 1999.

For Further Information Contact: Lorna Sandridge, Central Region Airports Division, (816) 426–4730.

Public Agency: City of Oklahoma City, Oklahoma.

Application Number: 99–02–C–00–OKC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $7,465,206.

Earlist Charge Effective Date: June 1, 1999.

Estimated Charge Expiration Date: November 1, 2000.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Will Rogers World Airport.

Brief Description of Projects Approved for Collection and Use: Construct ARFF facility; Construct southwest stormwater detention facility; Construct snow removal equipment facility; Aircraft pavement rejuvenation; Emergency access road reconstruction.

Decision Date: March 1, 1999.

For Further Information Contact: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: City of Billings, Montana.

Application Number: 99–02–U–00–BIL.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $2,756,042.

Charge Effective Date: April 1, 1994.

Estimated Charge Expiration Date: February 1, 2001.

Class of Air Carriers Not Required to Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use: Relocate and upsize sanitary sewer; Extend and upgrade waterlines.

Decision Date: March 18, 1999.

For Further Information Contact: David P. Gabbert, Helena Airports District Office, (406) 449–5271

Public Agency: State of Connecticut, Department of Transportation, Bureau of Aviation and Ports, Windsor Locks, Connecticut.

Application Number: 99–08–U–00–BDL.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $14,360,000.

Charge Effective Date: September 1, 1997.

Estimated Charge Expiration Date: November 1, 1999.

Class of Air Carriers Not Required to Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use: Construct new fire station #1; Construct glycol collection facility.

Decision Date: March 26, 1999.

For Further Information Contact: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: City of Saint Louis Airport Authority, Saint Louis, Missouri.

Application Number: 99–05–U–00–STL.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to Be Used in This Decision: $155,000,000.

Charge Effective Date: June 1, 1998.

Estimated Charge Expiration Date: January 1, 2002.

Class of Air Carriers Not Required to Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use: Property and business acquisition for Natural Bridge Road relocation (phase I);

Land acquisition for Natural Bridge Road relocation (phase II); Land acquisition for new runway 12R/30L site preparation work; Early road work; Design fees for roads and runway (including program management consultant/airport development program consultant fees.

Decision Date: March 30, 1999.

For Further Information Contact: Lorna Sandridge, Central Region Airports Division, (816) 426–4730.

Public Agency: City of Pensacola, Florida

Application Number: 99–04–C–00–PNS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $19,400,000.

Earliest Charge Effective Date: June 1, 1999.

Estimated Charge Expiration Date: June 1, 2009.

Class of Air Carriers Not Required to Collect PFC's: Part 135 air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Pensacola Regional Airport.

Brief Description of Project Approved for Collection and Use: Runway 8/26 rehabilitation.

Brief Description of Project Approved for Collection: Runway 8/26 extension.

Decision Date: March 31, 1999.

For Further Information Contact: Bud Jackman, Orlando Airports District Office, (407) 812–6331, extension 22.

Public Agency: Albany-Doughtery County Aviation Commission, Albany, Georgia.

Application Number: 98–02–C–00–ABY.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $629,049.

Earliest Charge Effective Date: June 1, 1999.

Estimated Charge Expiration Date: December 1, 2004.

Class of Air Carriers Not Required to Collect PFC's: Part 135 air taxi/commercial operators.

Determination: Approved. Based on information contained the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Southeast Georgia Regional Airport.

Brief Description of Projects Approved for Collection and Use: ANTN digital training system, Airfield perimeter fencing; Perimeter fencing—road widening project; Telecommunication device for the deaf; Americans with Disabilities Act signage—terminal building; Commuter passenger boarding bridge; Lighting vault; ARFF maintenance facility; Rehabilitate taxiway lights (taxiway A); Replace ARFF vehicle; Rehabilitate runway lights (runway 4/22); Rehabilitate taxiway A (phase I); Airfield signage; Rehabilitate beacon;

Rehabilitate taxiway A (Phase II) and taxiway C.

Rehabilitate runway 16/34 lights.

Rehabilitate taxiways B, C, and E lighting.

Expand and rehabilitate apron (design only).

Rehabilitate taxiways D and E (design only).

Master plan update.

Rehabilitate runway 4/22 (design only).

Rehabilitate runway 4/22.

Rehabilitate runway 16/34.

Brief Description of Project Approved for Use: Rehabilitate general aviation apron.

Brief Description of Project Disapproved: Bunker gear for ARFF personnel.

Determination: Disapproved. The eligibility of protective clothing for ARFF personnel is limited to one suite for each firefighter employed full-time to fight aircraft fires; and one suit for each position of a less than full-time unit, subject to the limitation that the total number of suits does not exceed two for lightweight vehicles and five for large-type vehicles. Based on this criteria, this location is eligible for 10 suits. Ten proximity suits, which provide more protection for ARFF personnel than do bunker gear suits, were purchased under a previous PFC application; therefore, the bunker gear suits are not eligible.

Decision Date: March 31, 1999.

For Further Information Contact: Larry Clark, Atlanta Airports District Office, (404) 305–7144.

Amendments to PFC Approvals

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
93–01–C–03–MRY Monterey, CA.	03/03/99	$5,294,407	$4,032,754	07/01/02	07/01/02
97–02–C–01–TYR Tyler, TX.	03/08/99	976,449	1,166,292	01/01/03	01/01/03
96–04–C–04–MCO Orlando, FL	03/10/99	101,154,000	103,127,000	06/01/98	07/01/98

Issued in Washington, DC. on April 12, 1999.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 99–9784 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of intent to rule on application (99–02–C–00–UNV) to Impose and Use the Revenue From a Passenger Facility Charge at University Park Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at University Park Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 20, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Ms. Roxane Wren, Harrisburg Airports District Office, 3911 Hartzdale Dr., Suite 1100, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David E. Branigan, Associate Treasurer for the Pennsylvania State University at the following address:

The Pennsylvania State University, 106 Physical Plant Building, University Park, PA 16802.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Pennsylvania State University under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Roxane Wren, Harrisburg Airports District Office, 3911 Hartzdale Dr., Suite 1100, Camp Hill, PA 17011. 717–730–2831. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use revenue from a PFC at University Park Airport under the provisions of the Aviation Safety and Capacity Expansion act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 26, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Pennsylvania State University was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 6, 1999.

The following is a brief overview of the application.

Application number: 99–02–C–00–UNV
Level of the proposed PFC: $3.00
Proposed charge effective date:
September 1, 1999
Proposed charge expiration date:
October 1, 2004
Total estimated PFC revenue:
$1,449,859
Brief description of proposed projects:
—ARFF Vehicle Modification
—ARFF Equipment
—Snow Removal Equipment Storage Building

—Acquire Snow Removal Vehicles
—Design & Construction of Runway 6–24 Extension & Stormwater Management
—Environmental Assessment Study Cost Overrun
—Phase I Historical/Archaeological Study
—Security Control & Access Improvements
—Handicapped Access Lift
—Connect to Municipal Water
—T/W Extension for Hangar Access
—Interior Roads
—Part 150 Study
—Obstruction Removal
—Highway Access Improvements (Deceleration Lanes)
—AWOS/ASOS
—Property Acquisition (Spearly), Phase I–R/W 6 Approach
—Expand Airline Terminal Apron
—Master Plan Update
—ARFF Vehicle
—Snow Removal Vehicle—Blower
—Construct Aircraft Parking Apron
—Extend Taxiways to T Hangers
—Property Acquisition (Spearly), Phase II—R/W 6 Approach

Class or classes or air carriers which the public agency has requested not be required to collect PFCs: Charter Carriers and Air Taxi.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Pennsylvania State University.

Issued in Jamaica, New York on April 12, 1999.

Thomas Felix,

Manager, Planning & Programming Branch, Airports Division, Eastern Region.

[FR Doc. 99–9785 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Announcement of the April 1999 Change 11 of the Standard Clauses

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: Federal Aviation Administration (FAA) announces the availability of the April 1999 Change 11 of the standard clauses used in FAA procurement contracts and Screening Information Requests (SIR).

ADDRESSES: The complete text of Change 11 of the standard clauses and the latest versions of the contracting clauses are available on the Internet at http://fast.faa.gov/. Use of the Internet World Wide Web Site is strongly encouraged for access to copies of the current clauses. If Internet service is not available, requests for copies of these documents may be made to the following address:

FAA Acquisition Reform, ASU–100, Rm. 435, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Yvonne Joseph, Procurement Management Branch, Federal Aviation Administration, Rm. 435, 800 Independence Avenue, SW, Washington, DC 20591, (202) 267–8638.

SUPPLEMENTARY INFORMATION: On October 31, 1995, Congress passed an Act Making Appropriations for the Department of Transportation and Related Agencies, for the Fiscal Year Ending September 30, 1996, and for Other Purposes (The 1996 DOT Appropriations Acts). On November 15, 1995, the President signed this bill into law. In Section 348 of this law, Congress directed the Administrator of the FAA to develop and implement a new acquisition management system that addresses the unique needs of the agency. The new FAA Acquisition Management System went into effect on April 1, 1996.

(See Notice of Availability at 61 FR 15155 (April 4, 1996))

The Air Traffic Management System Performance Improvement Act of 1996, title II of the Federal Aviation Reauthorization Act of 1996, Public Law 104–264, October 9, 1996, expanded the procurement reforms previously authorized by the 1996 DOT Appropriations Act. Amendment 01 implements title II and makes other necessary changes to, and clarifications of, the FAA Acquisition Management System.

Issued in Washington, DC, on April 9, 1999.

Gilbert B. Devey, Jr.,

Director of Acquisitions, ASU–1.

[FR Doc. 99–9882 Filed 4–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33407]

Dakota, Minnesota & Eastern Railroad Corporation Construction Into The Powder River Basin

AGENCIES: Lead: Surface Transportation Board.

Cooperating:
U.S.D.A. Forest Service.
U.S.D.I. Bureau of Land Management.
U.S. Army Corps of Engineers.

ACTION: Notice to the parties providing an extension of time to submit comments on alternatives and reply comments.

On March 10, 1999, the Final Scope of Study for the Environmental Impact Statement (EIS) and Request for Comments on 1) the Modified Proposed Action, referred to as Alternative C, and 2) the City of Rochester, Minnesota's South Bypass Proposal was issued in this proceeding. The Final Scope provided a 30 day comment period for interested parties to submit comments on the two new proposed alternatives listed above, while making it clear that the 30 day comment period, which was due to expire on April 10, 1999, was in addition to, not a substitute for, the comment period that will be provided on all aspects of the Draft Environmental Impact Statement (DEIS) when that document is made available.

The Board and cooperating agencies have received requests to extend the April 10, 1999 comment date. Some of the requests seek an extension in which to comment on a number of potential environmental impacts and others seek additional time to permit development of bypass alternative proposals.

As discussed below, we will provide a limited additional comment period for interested communities to develop bypass proposals. As we stated in the Final Scope, we are mindful of our obligations under the National Environmental Policy Act, 16 U.S.C. 4321–4335 (NEPA) to explore and evaluate in the EIS a reasonable range of alternatives designed to meet the purpose and need of the applicant's proposal. *Citizens Against Burlington, Inc.* v. *Busey*, 938 F.2d 190 (D.C. Cir. 1991). At the same time, we are aware that we cannot let the environmental review process indefinitely delay the Board's final decision on this matter.

In the Final Scope, we made a preliminary determination, based on the City of Rochester's engineering study and cost estimates, that the City had met an initial burden of showing that its

proposed south bypass may be a feasible routing alternative. Accordingly, we requested comments from the railroad and other concerned parties on whether the south bypass proposal was feasible, or would simply shift the potential environmental consequences of the applicant's proposal to different communities and populations. Having provided this opportunity in Rochester, we believe that we should afford other interested communities the same opportunity to submit specific bypass designs.

Therefore, we will extend the comment period established in the Final Scope for an additional 60 days, or until June 10, 1999, to provide time for any other interested community to submit a bypass proposal. Dakota, Minnesota & Eastern Railroad or any interested party or person who may be affected by a proposed bypass would then have 30 days, or until July 12, 1999, to respond. In addition, parties may use the additional time to submit comments on other alternatives described in the Final Scope.

We note that the information we receive from any community regarding a bypass must be detailed enough for us to determine whether a specific bypass proposal constitutes a reasonable and feasible alternative to the applicant's proposal or merely relocates the potential environmental consequences of the applicant's proposed action. To that end, any bypass proposal submitted by a community must, at a minimum, contain the following information: detailed maps showing where the route would be located; quantified impacts to wetlands; cut and fill requirements to permit design and operation of a railroad; roads that would be crossed and their average daily traffic levels; proximity of the bypass any sensitive structures (for example, schools, libraries, hospitals, residences, retirement communities, and nursing homes); and impacts to landowners and farmlands.

Also, in considering bypass proposals that may be submitted to the Board and determining whether they constitute reasonable, feasible alternatives, we will take into account the applicant's goal to create a more efficient route by which to transport coal. A circuitous route that bypasses numerous communities could add so many additional miles that it would be unlikely to allow applicant to achieve its goal of providing efficient rail transportation. However, before arriving at a final decision on the range of alternatives to be addressed in the DEIS, we will carefully consider any specific bypass proposal and all responses to such a proposal.

Finally, we must balance our responsibility to analyze a reasonable range of alternatives with the need to move the environmental review process forward without undue delay. To allow us to issue the DEIS in a timely manner, we will not grant further extensions of time.

The requests for additional time to provide comments on potential environmental impacts will be denied. As the Board and its cooperating agencies stated in the Final Scope, we are in the process of preparing a DEIS analyzing all potential environmental effects discovered during the course of the environmental review process, including concerns identified during scoping. The DEIS will be made available upon its completion for public review and comment. Accordingly, there is no need to provide an additional comment period on potential environmental impacts at this point.

Bypass proposals and comments on alternatives described in the Final Scope must be submitted to the Board by June 10, 1999. Replies or responses must be submitted by July 12, 1999. Comments should be sent to: Office of the Secretary, Case Control Unit, STB Finance Docket No. 33407, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001.

To ensure proper handling of your comments, you must mark your submission:

Attention: Elaine K. Kaiser, Chief, Section of Environmental Analysis, Environmental Filing.

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 99–9860 Filed 4–19–99; 8:45 am]

BILLING CODE 4915–00–P

federal register

Tuesday
April 20, 1999

Part II

Department of Education

Bilingual Education: Field-Initiated Research Program; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.292B]

Bilingual Education: Field-Initiated Research Program

ACTION: Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999.

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this program. The statutory authorization for this program is contained in section 7132 of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. 7452, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382 (October 20, 1994).

Purpose of Program: The purpose of this program is to provide grants for field-initiated research activities related to the improvement of bilingual education and special alternative instructional programs for limited English proficient (LEP) children and youth.

Eligible Applicants: Institutions of higher education, nonprofit organizations, State educational agencies, and local educational agencies that have received grants under subparts 1 or 2 of Part A (or Part A or Part B, as in effect prior to October 20, 1994) of Title VII of the ESEA within the previous five years.

Deadline for Transmittal of Applications: May 20, 1999.

Deadline for Intergovernmental Review: July 19, 1999.

Available Funds: $170,000.

Estimated Range of Awards: $50,000–$70,000.

Estimated Average Size of Awards: $60,000.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86, and the regulations in 34 CFR part 299, General Provisions, ESEA.

Description of Program: Funds under this program are available to carry out field-initiated research conducted by current or recent recipients of grants under subparts 1 or 2 who have received those grants within the previous five years. Research under this program may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of those students from entry in bilingual education through secondary school completion.

Priority

Invitational Priority

The Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)):

Applications that propose to focus on research that leads to answering significant questions on the assessment of academic achievement for LEP students.

Note: For further information on assessment issues, see "High Stakes Assessment: A Research Agenda for English Language Learners," which is available from the National Clearinghouse for Bilingual Education, telephone—1–800–321–6223 or website at http://www.ncbe.gwu.edu.

Selection Criteria

The Secretary uses the following selection criteria in 34 CFR 75.210 to evaluate applications for new grants under this competition.

The maximum score for all of these criteria is 100 points.

The maximum score for each criterion is indicated in parentheses.

(a) *Need for project* (5 points). (1) The Secretary considers the need for the proposed project. (2) In determining the need for the proposed project, the Secretary considers the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Significance* (10 points). (1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The significance of the problem or issue to be addressed by the proposed project.

(ii) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(iii) The likelihood that the proposed project will result in system change or improvement.

(iv) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(c) *Quality of the project design* (50 points). (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the proposed project is based upon a specific research design, and the quality and appropriateness of that design, including the scientific rigor of the studies involved.

(iii) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

(iv) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(d) *Quality of project personnel* (20 points). (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(e) *Adequacy of resources* (5 points). (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The extent to which the budget is adequate to support the proposed project.

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(f) *Quality of the management plan* (10 points). (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on November 3, 1998 (63 FR 59452 through 59455).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department. Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.292B, U.S. Department of Education, Washington, D.C. 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (EST) on the date indicated in this Notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions For Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention (CFDA# 84.292B), Washington, D.C. 20202–4725 or

(2) Hand-deliver the original and two copies of the application by 4:30 p.m. (EST) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.292B), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice contains the following forms and instructions, plus a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), a checklist for applicants, various assurances, certifications, and required documentation:

a. Instructions for the Application Narrative.

b. Additional Guidance.

c. Estimated Public Reporting Burden Statement.

d. Notice to All Applicants.

e. Checklist for Applicants.

f. Application for Federal Assistance (Standard Form 424) and instructions.

g. Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

h. Eligibility Certification.

i. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.

j. Certifications Regarding: Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

k. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

(Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

l. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application. Please mark each application as "original" or "copy." No grant may be awarded unless a completed application has been received.

FOR FURTHER INFORMATION CONTACT: Milagros Lanauze, U.S. Department of Education, 400 Maryland Ave., SW., Room 5086, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–9475. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal

Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll-free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 7452.

Dated: April 14, 1999.

Delia Pompa,

Director, Office of Bilingual Education and Minority Languages Affairs.

Estimated Public Reporting Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1885–0547 (Exp. 04/30/2002). The time required to complete this information collection is estimated to average 145 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5086, Switzer Building, Washington, D.C. 20202–6510.

Instructions for the Application Narrative

Mandatory Page Limit for the Application Narrative

The narrative portion of the application must not exceed 50 pages. These pages must be double-spaced and printed on one side only. A legible font size and adequate margins should be used. The narrative section must be paginated and should include a one-page abstract. The 50-page limit applies to the abstract, proposal narrative, charts, graphs, tables, graphics, budget narrative, position descriptions (and resumes, if included), and any appendices. The page limit does not apply to application forms, attachments to those forms, assurances, certifications, and the table of contents. The page limit applies only to item 11 and not to the other items in the Checklist for Applicants. Applications with a narrative section that exceeds the page limit will not be considered for funding. The narrative section should begin with an abstract that includes a short description of the population to be served by the project, project objectives, and planned project activities.

Selection Criteria

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Do not include resumes or curriculum vitae for project personnel; provide position descriptions instead.

Additional Guidance

Table of Contents

The application should include a table of contents listing the sections in the order required.

Budget

Budget line items must support the goals and objectives of the proposed project and must be directly related to the instructional design and all other project components.

Final Application Preparation

Use the Checklist for Applicants to verify that your application is complete. Submit three copies of the application, including an original copy containing an original signature for each form requiring the signature of the authorized representative. Do not use elaborate bindings or covers. The application package must be mailed or hand-delivered to the Application Control Center (ACC) and postmarked by the deadline date.

Submission of Application to State Educational Agency

Section 7116(a)(2) of the ESEA, 20 U.S.C. 7426(a)(2), requires all applicants except schools funded by the Bureau of Indian Affairs to submit a copy of their application to their State educational agency (SEA) for review and comment. Section 75.156 of EDGAR requires these applicants to submit their application to the SEA on or before the deadline date for submitting their application to the Department of Education. This section of EDGAR also requires applicants to attach to their application a copy of their letter that requests the SEA to comment on the application (34 CFR 75.156). A copy of this letter should be attached to the Project Documentation Form contained in this application package. Applicants that do not submit a copy of their application to their state educational agency in accordance with these statutory and regulatory requirements will not be considered for funding.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance Form (OMB No. 1875–0106).

2. Budget Information Form (ED Form No. 524).

3. Itemized budget for each year.

4. Assurances—Non-Construction Programs Form (SF 424B).

5. Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements Form (ED 80–0013).

6. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions Form (ED 80–0014) (if applicable).

7. Disclosure of Lobbying Activities Form (SF–LLL).

8. Copy of letter requesting SEA comment on the application.

9. Form on General Education Provisions Act (GEPA) Requirement (See section entitled NOTICE TO ALL APPLICANTS (OMB No. 1801–0004)).

10. Table of Contents.

11. Application narrative, including abstract (not to exceed 50 pages).

12. One original and two copies of the application for transmittal to the Education Department's Application Control Center.

BILLING CODE 4000–01–U

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address

Legal Name: _____

Address: _____

_____

_____ City _____ State _____ County _____ ZIP Code + 4 _____ - _____

Organizational Unit

2. Applicant's D-U-N-S Number

3. Catalog of Federal Domestic Assistance #: 8 4 . 2 9 2 B → Title: Bilingual Education: Field Initiated Research Program

4. Project Director: _____

Address: _____

_____ City _____ State _____ ZIP Code + 4 _____ - _____

Tel. #: ( ) _____ - _____ Fax #: ( ) _____ - _____

E-Mail Address: _____

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)* ☐

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*: _____

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?

☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____

☐ No *(If "No," check appropriate box below.)*

☐ Program is not covered by E.O. 12372.

☐ Program has not been selected by State for review.

10. Proposed Project Dates:

Start Date:	End Date:
___/___/_____	___/___/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #: _____ *OR* b. Assurance of Compliance #: _____

c. IRB approval date: _____ ☐ Full IRB or ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) _____ - _____ Fax #: ( ) _____ - _____

d. E-Mail Address:

e. Signature of Authorized Representative — Date: ___/___/_____

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbia/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106.** The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of *exemptions* are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. *If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.* [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION
BUDGET INFORMATION
NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12 Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application ____ b. initial award c. post-award	**3. Report Type:** a. initial filing ____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: ____ Prime ____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**	
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

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federal register

Tuesday
April 20, 1999

Part III

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Request for Proposals: Community Food Projects Competitive Grants Program; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Request for Proposals: Community Food Projects Competitive Grants Program

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Announcement of availability of grant funds and request for proposals (RFP) for the Community Food Projects Competitive Grants Program.

SUMMARY: The Federal Agriculture Improvement and Reform Act of 1996 established new authority for a program of Federal grants to support the development of community food projects designed to meet the food needs of low-income people; increase the self-reliance of communities in providing for their own food needs; and promote comprehensive responses to local food, farm, and nutrition issues.

This RFP sets out the objectives for these projects, the eligibility criteria for projects and applicants, and the application procedures. Proposals are requested for projects designed to increase food security in a community (termed Community Food Projects).

This RFP contains the entire set of instructions needed to apply for a Fiscal Year (FY) 1999 Community Food Projects Competitive Grants Program (CFPCGP) grant.

DATES: APPLICATIONS MUST BE RECEIVED ON OR BEFORE June 4, 1999. (See PART IV—SUBMISSION OF A PROPOSAL below for information on where and when to submit an application.) Proposals received after June 4, 1999 will be returned without review.

FOR FURTHER INFORMATION CONTACT: Dr. Mark R. Bailey, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2241, 1400 Independence Avenue, SW., Washington, DC 20250–2241; telephone: (202) 401–1898; Internet: mbailey@reeusda.gov., or Dr. Elizabeth Tuckermanty, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2240, 1400 Independence Avenue, SW., Washington, DC 20250–2240, telephone: (202) 205–0241; Internet: etuckermanty@reeusda.gov

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Part I—General Information

A. Legislative Authority

Section 25 of the Food Stamp Act of 1977, as amended by Section 401(h) of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) (7 U.S.C. 2034), authorized a new program of Federal grants to support the development of community food projects; $16 million is authorized over seven years (1996–2002). For FY 1999, approximately $2.5 million is available ($2.5 million has been authorized in each subsequent year through fiscal year 2002). These grants are intended to assist eligible private nonprofit entities that need a one-time infusion of Federal dollars to establish and sustain a multi-purpose community food project.

B. Definitions

For the purpose of awarding grants under this program, the following definitions are applicable:

(1) *Administrator* means the Administrator of the Cooperative State Research, Education, and Extension Service and any other officer or employee of the Department to whom the authority involved may be delegated.

(2) *Authorized departmental officer* means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(3) *Authorized organizational representative* means the president, director, or chief executive officer of the applicant organization or the official, designated by the president, director, or chief executive officer of the applicant organization, who has the authority to commit the resources of the organization.

(4) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(5) *Cash contributions* means the applicant's cash outlay, including the outlay of money contributed to the applicant by non-Federal third parties.

(6) *Community Food Project* is a project that requires a one-time infusion of Federal assistance to become self-sustaining and is designed to: (i) Meet the food needs of low-income people; (ii) increase the self-reliance of communities in providing for their own food needs; and (iii) promote comprehensive responses to local food, farm, and nutrition issues. These activities help to increase food security in a community.

(7) *Department* or *USDA* means the United States Department of Agriculture.

(8) *Grant* means the award by the Secretary of funds to a private, non-profit entity to assist in meeting the costs of conducting, for the benefit of the public, an identified Community Food Project which is intended and designed to accomplish the purpose of the program as identified in these guidelines.

(9) *Grantee* means the organization designated in the grant award document as the responsible legal entity to which a grant is awarded.

(10) *Matching* means that portion of project costs not borne by the Federal Government, including the value of third party in-kind contributions.

(11) *Prior approval* means written approval evidencing prior consent by an authorized departmental officer as defined in (2) above.

(12) *Private non-profit entity* means any corporation, trust, association, cooperative or other organization which (i) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (ii) is not organized primarily for profit; and (iii) uses its net proceeds to maintain, improve, and/or expand its operations. For this program, the term private nonprofit organization excludes public entities, including State, local, and Federally recognized Indian tribal governments.

(13) *Project* means the particular activity within the scope of the program supported by a grant award.

(14) *Project director* means the single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the direction and management of the project.

(15) *Project period* means the period, as stated in the award document and modifications thereto, if any, during which Federal sponsorship begins and ends.

(16) *Review experts* means a group of experts qualified by training and experience in particular fields to give expert advice on the merit of grant applications in such fields, and who evaluate eligible proposals submitted to this program in their personal and professional area(s) of expertise.

(17) *Secretary* means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved may be delegated.

(18) *Third Party in-kind contributions* means non-cash contributions of property or services provided by non-Federal third parties, including real property, equipment, supplies and other expendable property, directly benefitting and specifically identifiable to a funded project or program.

C. Eligibility

Grantees under the CFPCGP are statutorily limited to private, nonprofit entities. Because proposals for Community Food Projects must promote comprehensive responses to local food, farm, and nutrition issues, applicants are encouraged to seek and create partnerships with public, private nonprofit, and private for-profit entities. However, no more than one-third of an award for a Community Food Project may be subawarded to a for-profit organization or firm.

To be eligible for a Community Food Project grant, a private nonprofit applicant must meet three requirements:

(1) Have experience in the area of:

(a) Community food work that involves the provision of food to low-income people and familiarity with developing new markets in low-income communities to enhance their access to fresher, more nutritious foods; and/or

(b) Job training and business development activities for food-related activities in low-income communities to increase the potential for long-term sustainability in the food security project being proposed;

(2) Demonstrate competency to implement a project, provide fiscal accountability and oversight, collect data, and prepare reports and other appropriate documentation; and

(3) Demonstrate a commitment and willingness to share information with researchers, evaluators, practitioners, and other interested parties.

Successful applicants will be required to attend an evaluation training meeting and should include in their budget request funding for travel to Washington, D.C. for two persons to attend a two to three day meeting. More information will be provided once successful applicants are identified.

The intent of the CFPCGP is to encourage and support community-based, grass-roots efforts that enhance food security. Applicants are strongly encouraged to link with academic and/or other appropriate professionals, and to involve other relevant community-based organizations and local government entities, as they plan for and then develop proposals that serve the mutual interests that support community food security projects.

Part II—Program Description

A. Purpose and Scope of the Program

Proposals are invited for competitive grant awards under the CFPCGP for FY 1999. This program is administered by the Cooperative State Research, Education, and Extension Service (CSREES) of the U.S. Department of Agriculture (USDA). The purpose of this program is to support the development of Community Food Projects with a one-time infusion of Federal dollars to make such projects self-sustaining. Community Food Projects should be designed to: (i) Meet the food needs of low-income people; (ii) increase the self-reliance of communities in providing for their own food needs; and (iii) promote comprehensive responses to local food, farm, and nutrition issues.

Community Food Projects are intended to take a comprehensive approach to developing long-term solutions to an identified community food need that help to ensure food security in communities by linking the food production and processing sectors to community development, economic opportunity, and environmental enhancement. Comprehensive solutions may include elements such as: (i) Improved access to high quality, affordable food among low-income households; (ii) expanded economic opportunities for community residents through local businesses or other economic development, improved employment opportunities, job training, youth apprenticeship, school-to-work transition, and the like, and (iii) support for local food systems, from urban gardening to local farms that provide high quality fresh foods, ideally with minimal adverse environmental impact. Any solution proposed must tie into community food needs.

Project goals should integrate multiple objectives into their design. Proposed projects should seek to address impacts beyond a specific goal such as increasing food produced or available for a specific group. Goals and objectives should integrate economic, social, and environmental impacts such as job training, employment opportunities, small business expansion, neighborhood revitalization, open space development, transportation assistance or other community enhancements.

B. Available Funds and Award Limitations

The amount of funds available in FY 1999 for support of grant awards under this program is approximately $2,400,000. Applicants should request a budget commensurate with the project proposed. However, due to the effort required to properly evaluate proposals, USDA strongly urges that the Federal funds requested for a Community Food Project not be less than $10,000.

The spirit of the authorizing legislation is that no one grant should command a significant portion of the total funds available and that many grants be awarded each year. Therefore, USDA has concluded that no single grant shall exceed $100,000 in any single year or more than $250,000 over the life of the project.

Applicants may request one, two, or three years of funding, but in all cases, the grant term may not exceed three years for any one project. A Community Food Project may be supported by only a single grant under this program.

Awards will be made based on the merit of the proposed project with budgets considered only after the merits of the project have been determined. USDA reserves the right to negotiate final budgets with successful applicants. It is intended that the grantee will perform the substantive effort on the project. No more than one-third of the award, as determined by budget expenditures, may be subawarded to for-profit organizations. For purposes of obtaining additional knowledge or expertise that is not currently within the applicant organization, funds for expert consultation may be included in the All Other Direct Costs section of the proposed budget.

C. Matching Funds Requirement

Federal funds requested must be matched, at a minimum, on a dollar-for-dollar basis.

Successful applicants must provide matching funds, either in cash and/or third party in-kind, amounting to at least 50 percent of the total cost of the project (i.e., an amount equal to or greater than the amount of Federal funds being requested) during the term of the grant award as provided by

section 25(e) of the Food Stamp Act of 1977. The Federal share of the project costs can be no more than 50 percent of the total.

Grantees may provide for the non-Federal share through cash and/or third party in-kind contributions, fairly evaluated, including facilities, equipment, and services. A grantee may provide for the non-Federal share of the funding through State government, local government, or private sources. Examples of matching funds include direct costs such as: Rent for office space used exclusively for the funded project; duplication or postage costs; and staff time from an entity other than the applicant for job training or nutrition education.

Part III—Preparation of a Proposal

A. Program Application Materials

Program application materials will be made available to interested entities upon request. These materials include information about the purpose of the program, how the program will be conducted, and the required contents of a proposal, as well as the forms needed to prepare and submit grant applications under the program. To obtain program application materials, please contact the Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW; Washington, DC 20250–2245; Telephone: (202) 401–5048. When contacting the Proposal Services Unit, please indicate that you are requesting application materials for the FY 1999 Community Food Projects Competitive Grants Program.

Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the application materials for the FY 1999 Community Food Projects Competitive Grants Program. The materials will then be mailed to you (not e-mailed) as quickly as possible. You may also download this RFP and the application forms by contacting the agency home page at www.reeusda.gov, and clicking on "Funding Opportunities," that brings up "All Funding Opportunities," and then click on "Community Food Projects Program."

B. Content of a Proposal

(1) General

The proposal should follow these guidelines, enabling reviewers to more easily evaluate the merits of each proposal in a systematic, consistent fashion:

(a) The proposal should be prepared on only one side of the page using standard size (8½" x 11") white paper, one inch margins, typed or word processed using no type smaller than 12 point font regardless of whether it is single or double spaced. Use an easily readable font face (e.g., Geneva, Helvetica, CG Times). Once accepted for review, your proposal will be read by at least three expert reviewers. Thus it is to your advantage to ensure that your proposal is not difficult to read.

(b) Each page of the proposal, including the Project Summary, budget pages, required forms, and appendices, should be numbered sequentially in the top right corner.

(c) The proposal should be stapled in the upper left-hand corner. Do not bind. An original and 9 copies (10 total) must be submitted in one package, along with 20 copies of the "Project Summary" as a separate attachment.

(2) Cover Page

Complete Form CSREES–661, Application for Funding, in its entirety. This form is to be utilized as the Cover Page. In Block 14., note the total amount of Federal dollars being requested.

(a) Blocks 7., 13., 18., 19., 20., and 21., have been completed for you.

(b) In Block 8., enter "Community Food Project". Ignore all references to a program number.

(c) Note that providing a Social Security Number is voluntary, but is an integral part of the CSREES information system and will assist in the processing of the proposal.

(d) The original copy of the Application for Funding form must contain the pen-and-ink signatures of the project director(s) and authorized organizational representative for the applicant organization.

(e) Note that by signing the Application for Funding form, the applicant is providing the required certifications set forth in 7 CFR part 3017 regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR part 3018, regarding Lobbying. The three certification forms are included in this application package for informational purposes only. It is not necessary to sign and submit the forms to USDA as part of the proposal.

(3) Table of Contents

For ease in locating information, each proposal must contain a detailed table of contents just after the Cover Page. The Table of Contents should include page numbers for each component of the proposal. Page numbers, shown in the top right corner, should begin with the first page of the project summary.

(4) Project Summary

The proposal must contain a project summary of 250 words or less on a separate page. The summary must be self-contained and describe the overall goals and relevance of the project. The summary should also contain a listing of the major organizations participating in the project. The Project Summary should immediately follow the Table of Contents. In addition to the summary, this page must include the title of the project, the name of the applicant organization, the authorized organizational representative, and the project director(s), followed by the summary.

(5) Project Narrative

PLEASE NOTE: The Project Narrative shall not exceed 10 pages. This maximum has been established to ensure fair and equitable competition. Reviewers are instructed that they need to read only the first 10 pages of the Project Narrative and to ignore information on additional pages. The Project Narrative must repeat and answer each of the following eight questions ((a) through (h) below):

(a) What is the community and the need(s) to be served by the proposed project? This part of the narrative lays the foundation as to the significance of the proposed project.

Succinctly describe critical elements of the local food economy or food system, demographics, income, and geographic characteristics of the area to be served and any other pertinent information, such as the community's assets and needs.

(b) What organizations will be involved in carrying out the proposed project and which segments of the local food economy or system do they link? This information will inform the reviewers on the extent to which the community is involved.

Include a description of the relevant experience of the organizations, including the applicant organization, that will be involved, and any project history. Letters from the organizations involved acknowledging their support and contributions must be provided in an appendix to the proposal. Letters specifying the type and amount of support, where appropriate, are strongly encouraged, for this provides evidence of community involvement. Proposals should demonstrate extensive community linkages and coalitions.

(c) What are the goals or purposes to be achieved by the proposed project?

List these goals and/or purposes of the project and a justification for the goals in terms of the needs stated above.

(d) How will the goals be achieved?

Provide a systematic description of the approach by which the goals will be accomplished.

(e) What are the major milestones that will indicate progress toward achieving the project goals?

Provide a time line or description for accomplishing major project objectives.

(f) The legislation outlines three major objectives of the CFPCGP: (i) Meet the food needs of low-income people;

(ii) increase the self-reliance of communities in providing for their own food needs; and

(iii) promote comprehensive responses to local food, farm and nutrition issues.

What measures will be used to assess project progress toward each of these three objectives? How will you assess whether or to what degree the project achieves these outcomes?

For example, an applicant may propose to develop a farmers' market in a low-income urban area, selling produce grown by farmers in the surrounding area, and employing staff from both the urban and rural communities. The goals may be to increase access to fresh produce by community residents (addresses objective (i), increase employment and the income of farmers (addresses objective (ii), and reduce the extent of poor nutrition among low-income residents (addresses objective (iii). Possible outcome measures are the change in the consumption of produce by customers, the number of jobs created by the market, and the change in income experienced by the farmers supplying the market.

Community Food Project proposals should contain a strong evaluation component. Innovative evaluation strategies are especially encouraged. Evaluations should focus on the measurement of success in meeting the major objectives of the CFPCGP. As required by the statute, a national evaluation of the CFPCGP is being planned. Additional information on how the evaluation process will affect projects funded under the program will be provided in the future.

Through CFPCGP project operations and an evaluation of them, USDA also hopes to learn more about what happens to make such projects succeed, partially succeed, or fail. Therefore, proposals are encouraged that include both process evaluations (developing and monitoring indicators of progress towards the objectives) and outcome evaluations (to determine whether the objectives were met). Applicants should seek the help of experts in evaluation design and implementation as appropriate.

(g) How does the proposed project address each of the following issues: (i) Development of innovative linkages and coalitions between two or more sectors of the food system;

(ii) support for entrepreneurial and job-training projects; and

(iii) encouragement of both short-term and long-term planning activities that encompass many agencies and organizations with different food security interests and missions in order to promote multi-system, interagency approaches?

Provide a description of how each of these issues, as appropriate, will be addressed. Entrepreneurial projects should provide evidence (e.g., in the form of a market analysis or the outline of a business plan) to demonstrate that it is likely to become self-sustaining and provide employees with important job skills.

(h) What are the plans for achieving self-sustainability?

Describe why a one-time infusion of Federal funds will be sufficient for the proposed Community Food Project to advance local capacity-building and deliver sustainability.

(6) Supplementary Considerations

In drafting the project narrative, applicants should keep in mind the intent of the program. Proposed projects should seek solutions rather than be focused on short-term food relief. They should seek comprehensive solutions to problems across all levels of the food system from producer to consumer. This point is emphasized because many proposals submitted previously were primarily for expanding applicant efforts in food relief and assistance, or for connecting established or partially established programs (such as community gardens and farmers' markets) with little evidence of strategic planning and participation by stakeholders in the proposed project design. Proposals must emphasize a food system and/or food security approach (i.e., an applicant must describe the large food-related picture in the community and the place of the proposed project within it). They must also show evidence of information sharing, coalition building, and substantial community linkages.

Applicants should be aware of several USDA policy themes and initiatives that have the potential to strengthen the impact and success of some community food projects. These include food recovery and gleaning efforts; connecting the low-income urban consumer with the rural food producer; aiding citizens in leaving public assistance and achieving self-sufficiency; and utilizing micro enterprise and/or development projects related to community food needs. Relevant ongoing USDA and other Federal initiatives include farmers' markets; USDA's Office of Sustainable Development and Small Farms; USDA and U.S. Department of Housing and Urban Development designated Empowerment Zones, Enterprise Communities; and the AmeriCorps National Service Program (a potential source of staff support for Community Food Projects).

Applicants should also recognize the role played by food and nutrition assistance programs administered by USDA and may want to discuss in their proposals the utilization of these programs by the community and the connection to the proposed Community Food Project. These programs include: the Food Stamp Program; child nutrition programs such as the School Lunch, School Breakfast, Women, Infants, and Children (WIC) Supplemental Nutrition, Child and Adult Care Food, and Summer Food Service Programs; and commodity distribution programs.

Applicants also should be cognizant of resources available from other Federal programs with similar or related goals, such as the Community Food and Nutrition Program (CFNP) and Job Opportunities for Low-Income Individuals (JOLI) program administered by the Office of Community Services within the U.S. Department of Health and Human Services.

Some solutions to food access problems may come from beyond a community's own boundaries, since most food also comes from outside. However, wherever possible, Community Food Projects should support food systems based on strategies that improve the availability of high-quality locally or regionally produced foods to low-income people.

Community Food Projects are intended to bring together stakeholders from the distinct parts of the food system. Solutions to hunger and access to food should reflect a process that involves partnership building among the public, private nonprofit, and private for-profit sectors. Together, these parties can address issues such as: the capacity of the community to produce food and support local growers; the need for, and location of, grocery stores that market affordable, high quality food; transportation constraints; economic opportunities for residents to

increase income, thereby increasing access to high quality nutritious food; community development issues; the environment; and so on.

Community Food Projects should not be designed to merely support individual food pantries, farmers' markets, community gardens or other established projects. Rather, proposed Community Food Projects should build on these experiences and encourage innovative long-term efforts. A project should be designed to endure and outlive the one-time infusion of government and other matching funds. Community Food Projects should be intended to become self-supporting (or have a sustainable funding source) and expand or prove to be a replicable model.

The primary objectives of the CFPCGP are to increase the food self-reliance of communities; promote comprehensive responses to local food, farm and nutrition issues; develop innovative linkages between the public, for-profit, and nonprofit food sectors; and encourage long-term planning activities and multi-system inter-agency approaches. The following are some examples of these objectives in practice:

- Developing a working link between a food bank and area farmers to market fresh produce to a community through community-supported agriculture. Community members provide the financial support while the project develops links to institutions such as restaurants, food pantries, schools, and other institutions. The process increases community awareness and commitment to local agriculture, while providing farmers a local market for their goods, thereby expanding the supply of and access to high-quality food.
- Implementing a comprehensive strategic plan for a lower-income neighborhood to increase residents' access to high-quality, affordable food through farmers' markets, community gardens, supermarkets, and other food programs. Such a plan should include transportation assistance, business development, and/or neighborhood improvement. As with other sector planning, the community participates in identifying its food-related priorities and works with institutions through a collaborative interagency process to meet its objectives.
- Developing a system of community farm stands sponsored by neighborhood organizations and managed by youth that sell locally grown produce in low-income communities. The project provides skills training and/or jobs and aims to become self-supporting within a reasonable time. It increases participants' understanding of the food system, including food production and distribution, expands interest in good nutrition, and provides entrepreneurial training opportunities for young people.
- A local food policy council may develop and implement a plan that creates several new food ventures, including a new supermarket in a low-income neighborhood. The council serves as the planning and coordinating entity that brings together local farmers, for-profit food operators such as restaurants, processors, and retailers with low-income neighborhood development organizations and job training groups, emergency food providers, city hall, and other community service entities.
- Developing a comprehensive community response to job and food needs by creating job opportunities in food-related activities that respond to the needs of local businesses, building technical expertise that leads to well-paid jobs. It will be necessary to bring together resources that facilitate the development of work skills, work ethics, education completion and that respond to community food and nutrition needs.

(7) Key Personnel

Identify the key personnel to be involved in the project, including the project director, if known. (An organizational chart may be included if available.) What is their relevant experience? Include resumes or vitae that provide adequate information for proposal reviewers to make an informed judgment as to the capabilities and experience of the key personnel. For new positions in the project or for positions that are currently unfilled, a job description should be provided.

(8) Budget

(a) Budget Form: Prepare the budget form in accordance with instructions provided with the form. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. (For example, for a three-year project, the proposal would include four budget forms; one for each of the three years of the project and one cumulative budget for the full three years.) A detailed line-item breakdown of matching contributions should be submitted on separate pages following each yearly budget and the cumulative budget. The budget form may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable Federal cost principles, and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project. Applicants must also include a budget narrative or explanation sheet to explain and justify their budgets.

The relative merits of each proposal are judged without initially considering proposed budgets. Once proposals are ranked based on the evaluation criteria, then budgets are closely examined. Thus, applicants should attach an explanation for all budget items to the budget form. Such information is useful to the reviewers and CSREES staff in making final budget recommendations to the Administrator.

(b) Matching Funds. (1) Proposals should include written verification of commitments of matching support (including both cash and in-kind contributions) from third parties. Written verification means:

(i) For any third party cash contributions, a separate pledge agreement for each donation, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (a) The name, address, and telephone number of the donor; (b) the name of the applicant organization; (c) the title of the project for which the donation is made; (d) the dollar amount of the cash donation; and (e) a statement that the donor will pay the cash contribution during the grant period; and

(ii) For any third party in-kind contributions, a separate pledge agreement for each contribution, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (a) The name, address, and telephone number of the donor; (b) the name of the applicant organization; (c) the title of the project for which the donation is made; (d) a good faith estimate of the current fair market value of the third party in-kind contribution; and (e) a statement that the donor will make the contribution during the grant period.

(2) The sources and amount of all matching support from outside the applicant institution should be summarized on a separate page and placed in the proposal immediately following the budget form. All pledge agreements must be placed in the proposal immediately following the summary of matching support.

(3) The value of applicant contributions to the project shall be established in accordance with applicable cost principles. Applicants should refer to OMB Circulars A–110,

Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals and Other Non-profit Organizations, and A–122, Cost Principles for Non-Profit Organizations, for further guidance and other requirements relating to matching and allowable costs.

(9) Current and Pending Support

All proposals must list any other current public or private support (including in-house support) to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA programs or agencies. Concurrent submission of identical or similar proposals to other possible sponsors will not prejudice proposal review or evaluation by the Administrator for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program. The application material includes Form CSREES–663, Current and Pending Support, which is suitable for listing current and pending support. Note that the project being proposed should be included in the proposed section of the form.

(10) Compliance With the National Environmental Policy Act (NEPA)

As outlined in 7 CFR part 3407 (the Cooperative State Research, Education, and Extension Service regulations implementing NEPA), the environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. In most cases, based on previously funded projects, the preparation of environmental data is not usually required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSREES–1234, NEPA Exclusions Form, must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefor. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion must be identified. Form CSREES–1234 and supporting documentation should be the last page of the proposal.

Even though a project may fall within the categorical exclusions, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity. This will be the case if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect. However, this rarely occurs.

Part IV—Submission of a Proposal

A. What To Submit

An original and nine copies of the complete proposal must be submitted. Each copy of the proposal must be stapled in the upper left-hand corner. DO NOT BIND. In addition, submit 20 copies of the proposal's Project Summary. All copies of the proposal and Project Summary must be submitted in one package.

B. Where and When To Submit

Proposals must be received by June 4, 1999. Proposals that are hand-delivered, delivered by courier, or sent via overnight delivery services must be sent or delivered to:

Community Food Projects Competitive Grants Program c/o Proposal Services Unit,
Office of Extramural Programs, USDA/CSREES, Room 303, Aerospace Center, 901 D Street, SW, Washington, DC 20024, Telephone: (202) 401–5048.

Note: Applicants are strongly encouraged to submit their completed proposals via overnight mail or delivery services to ensure timely receipt by the USDA.

Proposals sent via the U.S. Postal Service must be sent to the following address: Community Food Projects Competitive Grants Program, c/o Proposal Services Unit, Office of Extramural Programs, USDA/CSREES, STOP 2245, 1400 Independence Avenue, SW, Washington, DC 20250–2245, Telephone: (202) 401–5048.

C. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged in writing and by e-mail, therefore applicants are encouraged to provide e-mail addresses, where designated, on the Form CSREES–661. The acknowledgment will contain an identifying proposal number. Once your proposal has been assigned an identification number, please cite that number in future correspondence.

Part V—Selection Process and Evaluation Criteria

A. Selection Process

Proposals must be received on or before June 4, 1999. Since the award process must be completed by September 30, 1999, applicants should submit fully developed proposals that meet all the requirements set forth in this RFP and have fully developed budgets as well. However, USDA does retain the right to conduct discussions with applicants to resolve technical and/or budget issues as it deems necessary.

Each proposal will be evaluated in a two-part process. First, each proposal will be screened to ensure it meets the basic eligibility requirements as set forth in this RFP. Proposals not meeting the requirements as set forth in this RFP will be returned without review. Second, each proposal that meets the eligibility requirements will be evaluated and judged on its merits by expert reviewers.

A number of individual experts will review and evaluate each proposal that is accepted for review basing their evaluation on the stated criteria. The reviewers will be selected from among those recognized as uniquely qualified by training and experience in their respective fields to render expert advice on the merit of proposals being reviewed. These reviewers will be drawn from a number of areas, among them government, universities, and other pertinent entities involved primarily in community food security organizations or activities. The views of the individual reviewers will be used by CSREES to determine which proposals will be recommended to the Administrator for funding.

Proposals will be ranked relative to all those received, and ranking will be based on how well the applicant answered the eight questions in the Project Narrative, the potential for achieving project goals and objectives, the extent to which appropriate community organizations are involved, and whether, in the judgment of the reviewers, the project will become self-sustaining. Final approval for those proposals recommended for an award will be made by the agency Administrator (or designee).

There is no commitment by USDA to fund any particular proposal or to make a specific number of awards. Care will be taken to avoid actual, potential, and/or the appearance of conflicts of interest among reviewers. Evaluations will be

confidential to USDA staff members, expert reviewers, and the project director(s), to the extent permitted by law.

B. Evaluation Criteria

The evaluation of proposals will be based on the following criteria, weighted relative to each other, and assigned a point value, as noted in the parentheses following each criteria discussion.

(1) The degree to which the proposed project addresses the three statutory objectives of the CFPCGP, namely (i) meet the food needs of low-income people; (ii) increase the self-reliance of communities in providing for their own food needs; and (iii) promote comprehensive responses to local food, farm, and nutrition issues (25 points);

(2) The food security problem(s) being discussed, including an informative description of the community, its characteristics, assets, and needs (10 points);

(3) The goals and purposes of the project and how these goals will be achieved. The Secretary, in accordance with the legislation authorizing this program, will give preference to proposed projects that include one or more of the following goals, which will be given equal weight: (i) Developing linkages between two or more sectors of the food system; (ii) supporting the development of entrepreneurial activities as part of the proposed project; (iii) developing innovative linkages between the for-profit and nonprofit food sectors; and (iv) encouraging long-term planning activities and multi-system, interagency approaches (25 points);

(4) A discussion of the organizations, including the applicant entity, to be involved in the proposed project, highlighting their relevant experience and extent of support. The extent to which an applicant private, nonprofit organization can demonstrate a history of commitment to and direct involvement in food security projects in low income communities or in communities with low income groups is an important evaluation element. The qualifications of staff involved with the proposed project and/or organizational leadership should reflect the expertise necessary to carry out the proposed activities or similar types of activities. Experience in and connections with the community will be considered as important as academic or professional credentials in this regard (15 points);

(5) The viability of plans for achieving self-sufficiency with a one-time infusion of federal funds (15 points);

(6) The strength of the proposed project's evaluation component (8 points); and

(7) The time line for accomplishing project goals and objectives (2 points).

Part VI—Supplementary Information

A. Access To Review Information

Copies of summary reviews will be sent to all applicant project directors automatically, as soon as possible after the review process has been completed. The identity of the individual expert reviewers will not be provided.

B. Grant Awards

(1) General

Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious under the procedures set forth in this request for proposals. The date specified by the Administrator as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds granted by CSREES under this request for proposals shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (parts 3015, 3016, and 3019 of 7 CFR).

(2) Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant identified under this part if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. Copies of forms recommended for use in fulfilling the requirements contained in this section will be provided by the sponsoring agency as part of the preaward process.

(3) Grant Award Document and Notice of Grant Award

The grant award document shall include at a minimum the following:

(a) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this request for proposals;

(b) Title of project;

(c) Name(s) and address(es) of project director(s) chosen to direct and control approved activities;

(d) Identifying grant number assigned by the Department;

(e) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(f) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(g) Legal authority(ies) under which the grant is awarded;

(h) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(i) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

CSREES will award standard grants to carry out this program. A standard grant is a funding mechanism whereby CSREES agrees to support a specified level of effort for a predetermined time period without additional support at a future date.

C. Use of Funds; Changes

(1) Delegation of Fiscal Responsibility

The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(2) Performance Reporting Requirements

The grantee must prepare an annual report that details all significant activities towards achieving the goals and objectives of the project. The narrative should be succinct and be no longer than five pages, using 12-point, single-spaced type.

(3) Changes in Project Plans

(a) The permissible changes by the grantee, project director(s), or other key project personnel in the approved project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the project

director(s) are uncertain as to whether a change complies with this provision, the question must be referred to the Authorized Departmental Officer (ADO) for a final determination.

(b) Changes in approved goals or objectives shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(c) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSREES prior to effecting such changes.

(d) Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles or the Departmental regulations, unless prescribed otherwise in the terms and conditions of a grant.

D. Other Federal Statutes and Regulations that Apply

Several other Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include but are not limited to:

7 CFR part 1—USDA implementation of the Freedom of Information Act.

7 CFR part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR part 3016—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

7 CFR part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Non-profit Organizations.

7 CFR part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR part 15B (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

E. Confidential Aspects of Proposals and Awards

When a proposal results in a grant, it becomes a part of the record of the Agency's transactions, available to the public upon specific request. Information that the Secretary determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal. The original copy of a proposal that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

F. Evaluation of Program

Section 25(h) of the Food Stamp Act of 1977, as amended, requires USDA to provide for an evaluation of the success of community food projects supported under this authority. All grantees shall be expected to assist USDA by providing relevant information on their respective projects.

Applicants need to plan for their own internal self-assessments and evaluations to measure the effectiveness of each project.

G. Stakeholder Input

CSREES has determined that this program is not an agricultural research, extension, or education program for the purposes of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 ("1998 Act"), 7 U.S.C. 7613(c)(2). Therefore, CSREES is not required by statute to solicit stakeholder input regarding this RFP. CSREES, however, always welcomes constructive comments from interested parties regarding an RFP or particular program. Such comments for this program may be sent to the contact listed in the preamble of this notice.

Done at Washington, DC, this 14th day of April 1999.

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 99–9820 Filed 4–19–99; 8:45 am]

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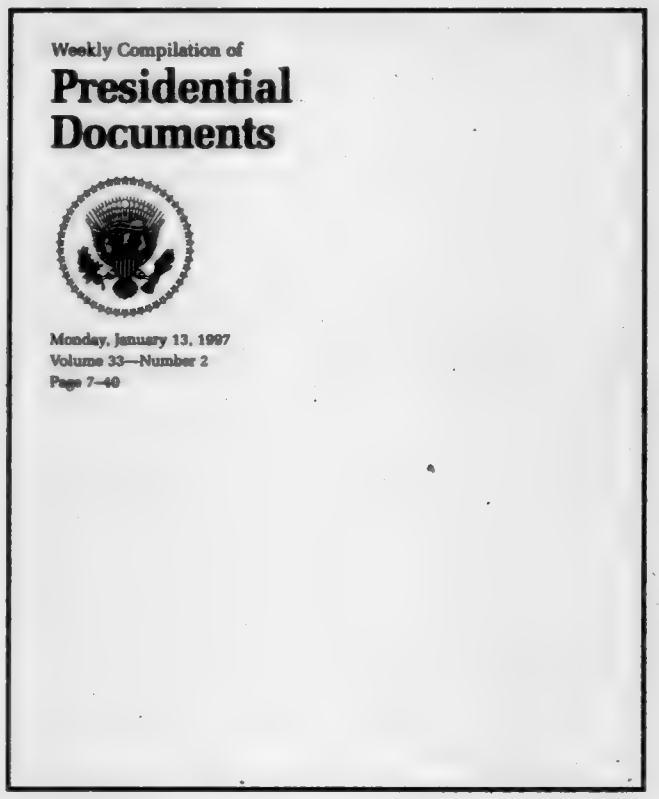

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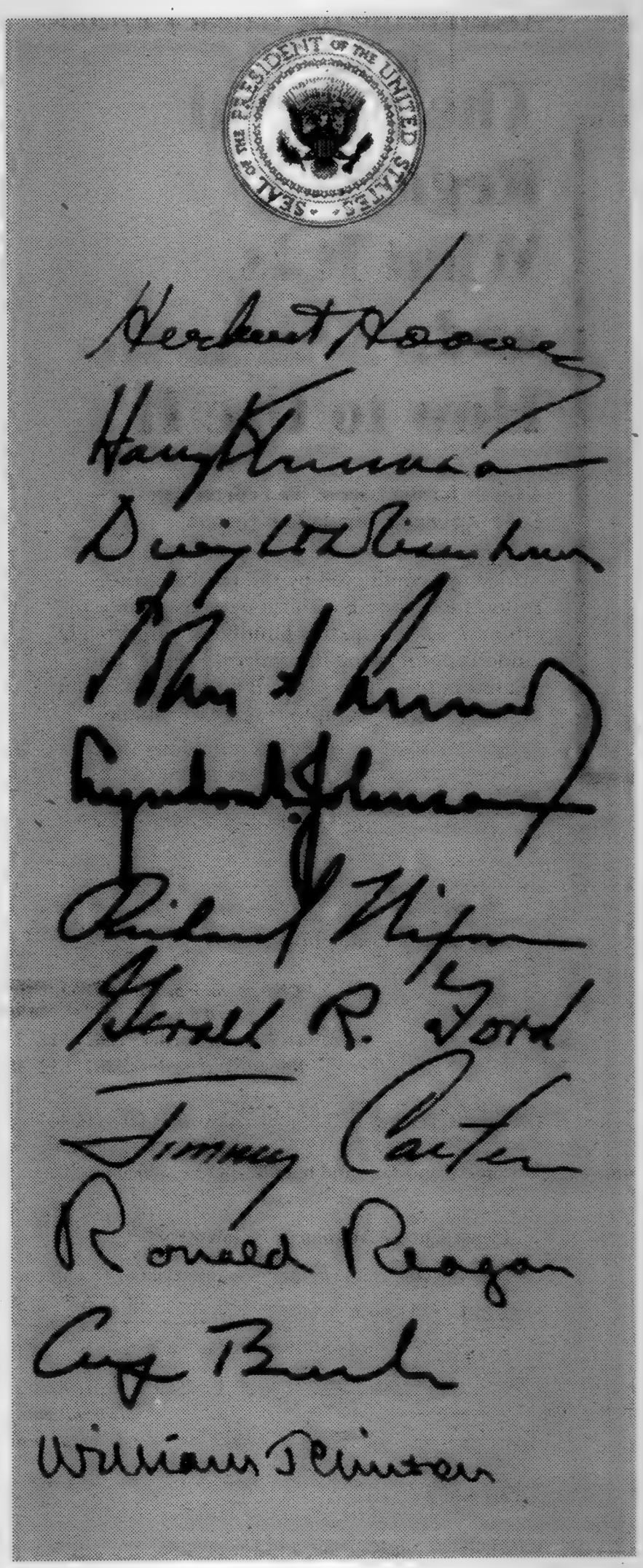

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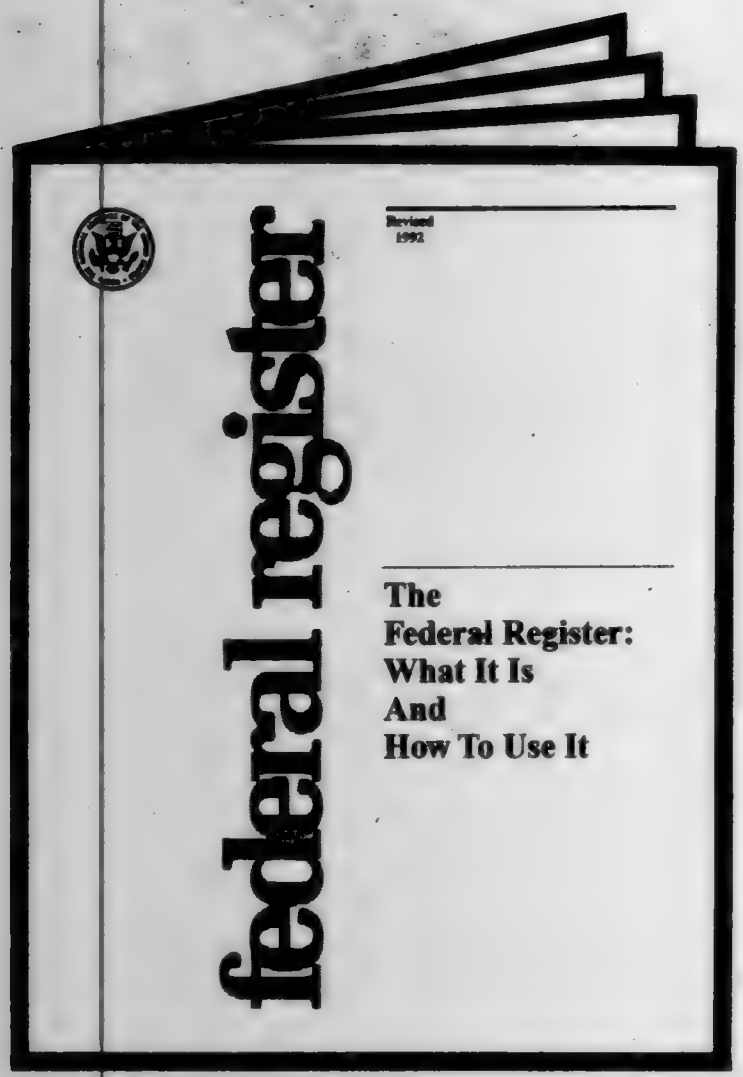

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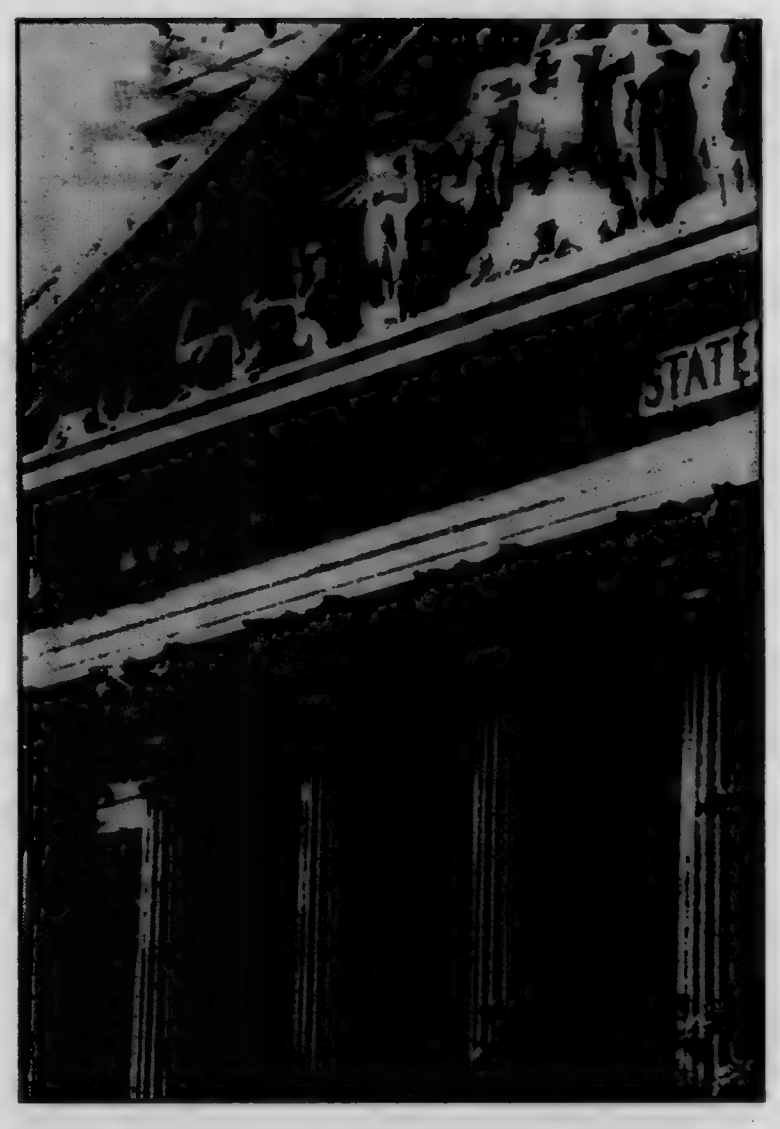

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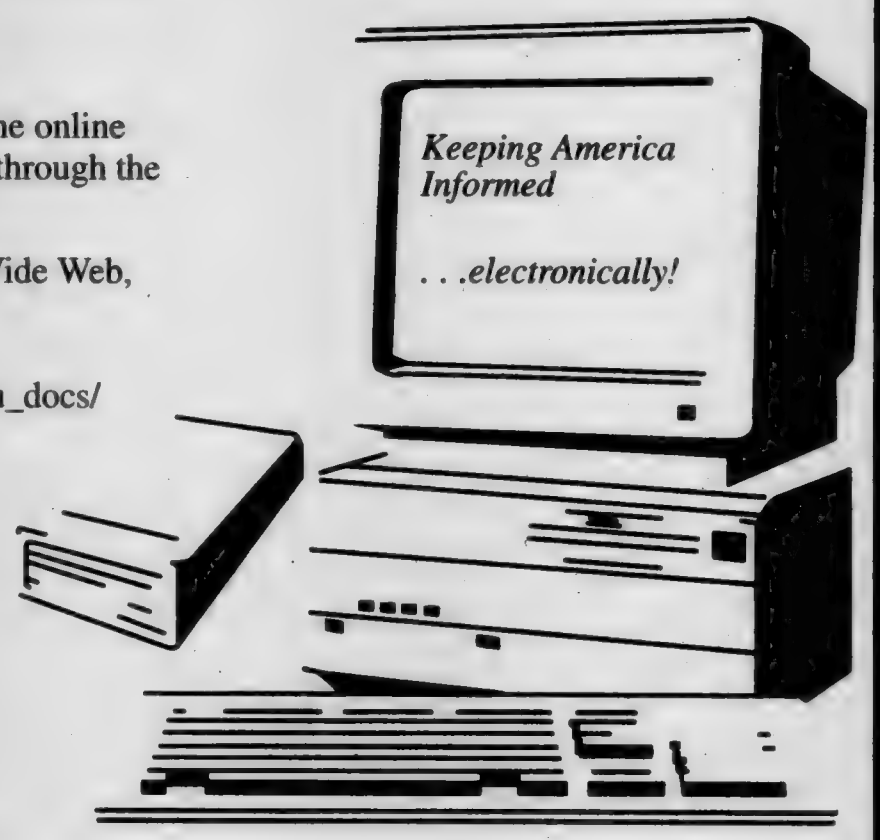

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Wednesday
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Presidential Documents

Title 3—

The President

Proclamation 7184 of April 15, 1999

National Park Week, 1999

By the President of the United States of America

A Proclamation

America's national parks are truly America's national treasures. Within their borders lie much of what is most precious to us: the breathtaking beauty of mountains, rivers, forests, and valleys; the extraordinary richness and variety of plants and animals; the places and artifacts of the special people and events that have shaped both our history and our destiny.

This week we remember with gratitude one of those special people who played a pivotal role in the creation of our country's National Park System. Conservationist John Muir emigrated to the United States as a child 150 years ago this year. As a young man, he experienced for the first time the high country of California's Sierra Nevada and Yosemite, and for the rest of his life he championed America's wild places. "Everybody needs beauty as well as bread," he wrote, "places to play in and pray in, where nature may heal and cheer and give strength to body and soul alike." He became the driving force behind the creation of such national parks as Yosemite, Sequoia, Mount Rainier, Petrified Forest, and Grand Canyon, and was an early advocate of an agency to manage them in a consistent manner. Although he died two years before the establishment of the National Park Service in 1916, many still regard John Muir as the "Father of our National Park System."

Visitors to our Nation's wondrous national treasures can still experience the scenic grandeur that so inspired John Muir. In Washington State's Mount Rainier National Park, glaciers radiate from the summit and slopes of an ancient volcano, rising above dense green forests and brilliantly flowered meadows. This year, we celebrate the centennial anniversary of this cherished national park, preserved because of the vision and efforts of a coalition of mountaineers, geologists, and conservationists, including John Muir.

Today, the National Park System has grown to 378 sites visited by more than 285 million people each year. Each of these sites is interwoven with America's richly diverse natural and cultural heritage to make up the pattern of our past, the fabric of our present, and the promise of our future. The two newest additions to our park system reflect this grand tradition. Little Rock Central High School National Historic Site in Arkansas pays tribute to the courage and quiet dignity of nine young African Americans who crossed the color line and changed American society forever. Alabama's Tuskegee Airmen National Historic Site celebrates the World War II exploits of the all-black Army Air Corps unit whose members prevailed over prejudice and discrimination in the U.S. Armed Forces to compile a distinguished combat record in defense of freedom.

At these and so many other parks and historic sites across the country, the dedicated men and women of the National Park Service preserve America's heritage and teach a new generation the importance of informed and careful stewardship of our Nation's treasured places. During National Park Week, let us give thanks for the wisdom of all those who established our national parks and for the hard work and generous spirit of all those who continue to preserve them for our benefit. Because of their efforts, Americans

will always find in our national parks the beauty, inspiration, knowledge, and renewal of spirit that have blessed our national journey for so long.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 19 through April 25, 1999, as National Park Week.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of April, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

[FR Doc. 99–10128
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Rules and Regulations

Federal Register
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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is issuing a final rule that incorporates into its regulations the agency's longstanding interpretation that federal credit unions (FCUs) are authorized, within limits, to make charitable contributions and donations. NCUA seeks to increase regulatory effectiveness by making it easier for FCUs to locate applicable rules regarding the making of charitable contributions and donations.

DATES: This rule is effective May 21, 1999.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

On October 29, 1998, the NCUA Board requested comments on a proposed rule to incorporate into NCUA regulations the requirements of Interpretive Ruling and Policy Statement 79–6, Donations/ Contributions (IRPS 79–6). 63 FR 57942, October 29, 1998. Tracking IRPS 79–6, the proposed rule permitted an FCU to make charitable contributions to a recipient that is a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code (501(c)(3) organization) and located in or conducting its activities in a community in which the FCU has a principal place of business. 26 U.S.C. 501(c)(3) (1998). The proposed rule also permitted FCUs to make charitable contributions to a 501(c)(3) organization that operates primarily to promote and develop credit unions. Finally, the proposed rule provided that an FCU's board of directors must approve charitable contributions based on a determination that the contributions are in the best interests of the credit union and are reasonable given the financial condition of the credit union.

Summary of Comments

The NCUA Board received thirty-four comment letters regarding the proposal: three from national trade associations; seven from credit union leagues; twenty-three from FCUs; and one from a state-chartered credit union.

Comments on Proposed Section 701.25(a)

Twenty-six commenters stated that limiting donation recipients to 501(c)(3) organizations is too restrictive and could exclude organizations and causes that are otherwise worthy of receiving donations from FCUs. One commenter suggested broadening the 501(c)(3) restriction by defining eligible recipients as "organizations that primarily serve either a charitable, social, welfare, or educational purpose, or are exempt from taxation pursuant to section 501(c)(3) of the internal revenue code." Revised Code of Washington 31.12.402(20). We note that, while Washington state law does not require that recipients are tax exempt organizations under 501(c)(3), it requires credit unions to work with community leaders and limits donations to "efforts to improve areas where their [credit union] members reside."

Since issuance of IRPS 79–6, the NCUA has viewed the legal authority for FCUs to make contributions as "an activity incidental to an FCU's business" under the provision of the FCU Act that authorizes FCUs "to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated." 44 FR 56691 (Oct. 2 1979); 12 U.S.C. 1757(17). An FCU's purpose, as a nonpropfit cooperative, is to benefit its members by "promoting thrift among its members and creating a source of credit for provident or productive purposes." 12 U.S.C. 1752(1). Prior to issuance of IRPS 79–6, the NCUA had permitted FCUs to make donations only where the FCU would derive a direct benefit. While IRPS 79–6 broadened an FCU's ability to make contributions by permitting contributions for "diverse, charitable, recreational and educational needs of the public," it limited permissible donations to 501(c)(3) organizations. The discussion accompanying IRPS 79–6 specifically prohibited contributions for candidates to league or trade association positions or for political office and cautioned FCUs about the applicability of the conflict of interest provisions of the FCU bylaws.

The range of organizations that qualify as 501(c)(3) organizations is very broad, permitting donations to community chests and religious, charitable, scientific, and educational organizations, institutions and foundations. In addition, the 501(c)(3) designation insures a degree of credibility and independence in the exercise of the board of directors' decision as fiduciaries for member funds. These factors are important given that the funds an FCU will use for contributions would otherwise be available for dividends to members who, in turn, could use their dividends to make their own decisions about charitable giving.

NCUA acknowledges that there may be cases where an FCU may want to contribute to a worthy cause or activity that is not part of or sponsored by a 501(c)(3) organization and that boards of directors should have the discretion to do so. Examples that appear appropriate would be good will, scholarships, not for profit projects as contributing to a community sports team, local clean-up projects, or community festivals or fairs. Accordingly, the final rule permits FCUs to make donations to recipients without regard to their status as 501(c)(3) organizations. The reasonableness of a donation will depend on the size and financial condition of the FCU. Finally, FCUs should be aware that, while the final regulation does not require that recipients be 501(c)(3) organizations, the regulation is not authority for contributions to candidates for a trade association or credit union league office or for other political contributions which, as noted in the preamble to the proposed regulation, are governed by the Federal Election Campaign Act (2 U.S.C. 441b).

Twenty-one commenters stated that limiting donation recipients to

organizations that are located in or conduct their activities in a community in which the FCU has a principal place of business is too restrictive and could exclude organizations and causes that are otherwise worthy of receiving donations from FCUs. The typical examples noted by commenters were organizations serving victims of distant natural disasters such as hurricanes or earthquakes and well-known national organizations that may not have a local office near the FCU. Most of these commenters favored removing the restriction from the regulation while others only suggested that it be broadened to include donation recipients located or conducting activities anywhere the FCU has members. The final rule, consistent with IRPS 79–6 and the proposed rule, permits contributions to national charitable organizations such as the Red Cross which, as needed, conduct activities in the community where the credit union is located and, therefore, would qualify as permissible recipients.

One commenter noted that the proximity requirement is particularly restrictive for some community chartered credit unions, especially those in rural areas. NCUA believes that any organization located or conducting activities within the geographic boundaries of a community chartered credit union is, by definition, located in the community in which the FCU has a principal place of business and would be eligible to receive contributions under the final regulation. To provide additional flexibility and avoid questions that could arise about whether a particular office or branch of an FCU is a "principal" place of business, the Board has decided to delete the word "principal" from this description in the final rule. By stating in the final regulation that a recipient be located or conduct activities in a community where the FCU has a place of business, the Board means a branch or office of the FCU. Place of business would not, however, include an ATM location.

Another commenter noted that members of some multiple group FCUs are spread over large geographic areas and contended that there may be members located far from any of the FCU's principal places of business. Credit unions generally locate their places of business where a relatively significant number of their members will have access to services. NCUA recognizes an FCU's interest in serving communities where its members reside or carry on their activities through charitable donations and believes there should be flexibility in construing the term "community." Donating to recipients in areas where relatively few members are located, however, would not serve the needs of the FCU's community. NCUA believes that limiting donation recipients to organizations located in or conducting activities in a community in which the FCU has a place of business helps to ensure that the FCU's charitable donations will be used to serve the needs of communities where its members are located.

Finally, without regard to the location of the organization, NCUA has maintained in the final regulation the provision from the proposed rule that permits FCUs to make charitable donations to organizations that operate primarily to promote and develop credit unions even if the organization is not located or does not conduct activities in a community where the FCU has a place of business. For these contributions to be permissible, the final rule retains the requirement that these organizations be 501(c)(3) organizations.

Comments on Proposed Section 701.25(b)

Twelve commenters suggested that an FCU's board of directors should be permitted to approve a budget for charitable donations and delegate authority to other FCU officials to allocate these funds. The preamble to the proposed rule stated that this would be an appropriate approach. Some commenters suggested including this in the regulation and the final rule incorporates this provision. Seven other commenters suggested that an FCU's board of directors should be permitted to delegate authority to make charitable donations to other FCU officials, including complete discretion to determine donation amounts without the board approving a budget for this purpose. While delegation of the approval of the recipients of charitable donations within an FCU board-approved budget category is permitted, the NCUA Board has rejected complete delegation without a budget item being approved by the FCU's board because it believes that an FCU's decision as to the amount of donations is a significant one that warrants the consideration of its board of directors.

Other Comments

Ten commenters stated that NCUA oversight of contributions and donations is more appropriately accomplished through guidelines, as opposed to regulations. Four commenters stated that charitable giving should not be the subject of NCUA oversight at all. The NCUA Board notes that FCUs do not have the express authority to make contributions or donations. IRPS 79–6 was a formal ruling by the NCUA Board regarding the incidental power of FCUs that has permitted them to make donations and contributions. As noted in the preamble to the proposed rule, NCUA's foremost intention in incorporating IRPS 79–6 into its regulations is to increase regulatory effectiveness by making it easier for FCUs to locate applicable rules regarding the making of charitable contributions and donations.

The NCUA notes that this final rule provides broad discretion and flexibility for FCUs in determining the amount, the administration, and recipients for contributions but the incidental power to make contributions is not unlimited. The NCUA believes that contributions and donations may raise safety and soundness concerns and deserve regulatory oversight. The limitations and requirements in the final rule balance the interests of FCU members with the responsibility of FCU boards of directors to exercise their fiduciary responsibility to make independent and prudent decisions about contributions and donations.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under $1 million in assets). The NCUA has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the final rule does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The final rule only applies to federal credit unions. NCUA has determined that the proposed amendment does not constitute a significant regulatory action for purposes of Executive Order 12612.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule does not constitute a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 701

Charitable contributions, Credit unions.

By the National Credit Union Administration Board on April 15, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set forth above, NCUA amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Part 701 is amended by adding § 701.25 to read as follows:

§ 701.25 Charitable contributions and donations.

(a) A federal credit union may make charitable contributions and/or donate funds to recipients not organized for profit that are located in or conduct activities in a community in which the federal credit union has a place of business or to organizations that are tax exempt organizations under Section 501(c)(3) of the Internal Revenue Code and operate primarily to promote and develop credit unions.

(b) The board of directors must approve charitable contributions and/or donations, and the approval must be based on a determination by the board of directors that the contributions and/or donations are in the best interests of the federal credit union and are reasonable given the size and financial condition of the federal credit union. The board of directors, if it chooses, may establish a budget for charitable contributions and/or donations and authorize appropriate officials of the federal credit union to select recipients and disburse budgeted funds among those recipients.

[FR Doc. 99–9931 Filed 4–20–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

Federal Aviation Administration Policy on Enforcement of the Hazardous Materials Regulations: Penalty Guidelines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: General statement of policy.

SUMMARY: This document states that FAA policy on determining the sanction amounts in FAA enforcement actions addressing violations of the Department of Transportation Hazardous Material Regulations (HMR). This policy statement provides guidance for agency personnel in the exercise of the FAA's prosecutorial discretion in enforcement cases concerning transportation of hazardous materials by air. The guidance should aid in analysis of the facts and circumstances of each case so as to arrive at an appropriate sanction in light of the statutorily defined penalty considerations. The analytical framework should also promote a relative consistency in determining civil penalties for violations of the HMR.

EFFECTIVE DATE: April 14, 1999.

FOR FURTHER INFORMATION CONTACT: Bill Wilkening, Office of Civil Aviation Security, Dangerous Goods and Cargo Security Division, telephone: (202) 267–9864, facsimile (202) 267–5760, email: Bill.Wilkening@faa.gov, mailing address: ACO–800, 800 Independence Avenue, S.W., Washington, D.C. 20591, or Allan H. Horowitz, Enforcement Division, Office of the Chief Counsel, telephone (202) 267–3137, facsimile (202) 267–5106, email: *Allan.Horowitz@faa.gov*, mailing address: AGC–300, 800 Independence Avenue, S.W., Washington, D.C. 20591.

SUPPLEMENTARY INFORMATION:

Background

Congress determined that the unregulated transportation of hazardous materials constitutes a threat to public safety in all forms of transportation. Congress addressed that threat in 1974 by enacting the Hazardous Materials Transportation Act (HMTA). By 1990, Congress determined that effective enforcement of the HMTA required more severe action, and enacted the Hazardous Materials Transportation Uniform Safety Act of 1990, Public Law No. 101–615, 1990 U.S. Code Congress. & Admin. News 104 Stat. 4605. The primary effect of this 1990 revision of the HMTA was to raise the maximum civil penalty for violation of any regulation enacted under the HMTA to $25,000, and, for the first time, to require a $250 minimum penalty for any such violation. The HMTA was recodified in 1994 and is now referred to as the "Federal hazardous material transportation law," 1994 U.S. Code Congress. & Admin. News 108 Stat. 759, codified at 49 U.S.C. 5101–5127. In the 1994 recodification, Congress specifically stated that the recodification created no substantive change to the earlier form of the statute.

The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 (note), as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, April 26, 1996, provides a mechanism for adjustments for monetary civil penalties for inflation in order to maintain the deterrent effect of monetary civil penalties and promote compliance with the law. Under the statute, the new civil penalty maximums cannot be applied unless they are implemented by regulation. On December 20, 1996, the FAA published a final rule (61 FR 6744), implementing the statute for each civil penalty subject to the FAA's jurisdiction. On January 21, 1997, the FAA published a correction to the final rule (62 FR 4134). The final rule is codified at 14 CFR Part 13, Subpart H. Pursuant to 14 CFR 13.305(d), the maximum civil penalty that may be assessed for a violation of the Federal hazardous material law or a hazardous material regulation is now $27,500.

Congress assigned the responsibility for the enforcement of the Federal hazardous material transportation law to the Secretary of Transportation. Within the Department of Transportation, the Research and Special Programs Administration (RSPA) adopts the Hazardous Materials Regulations (HMR), 49 CFR parts 171 through 178, which govern the transportation of hazardous materials (Hazmat). Although RSPA has some enforcement responsibilities, the responsibility for enforcing the HMR with respect to civil aviation is delegated by the Secretary of Transportation to the FAA. 49 CFR 1.47(k).

The HMR set forth regulations for the transportation of Hazmat. A knowing violation of the statute or of the HMR can support the assessment of a civil

penalty between $250 and $27,500. A person acts knowingly when the person has actual knowledge of the facts giving rise to the violation; or a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge. 49 U.S.C. 5123(a)(1)(A). The civil penalties authorized under the statute apply to EACH violation of any regulation set forth in the HMR. Moreover, under the statute, each continuing violation of the HMR can constitute a separate violation for each day a violation continues. In section 5124 of the statute, Congress prescribed criminal penalties for a willful violation of the Federal hazardous material transportation law or the HMR; willful violations require evidence of both knowledge of the laws and regulations and intent to violate them.

Part 13 of the Federal Aviation Regulations—Investigative and Enforcement Procedures (14 CFR Part 13) governs the procedures applicable to enforcement of the HMR by the FAA. Hazmat violations occurring on or after August 2, 1990, may be dismissed by an administrative law judge (ALJ) if a Notice of Proposed Civil Penalty has not been issued within 2 years of the violation, unless good cause for delay has been shown. 14 CFR 13.208(d).

Consideration of Statutory Criteria

In determining the sanction to be assessed, penalty criteria set forth in 49 U.S.C. 5123 must be considered. These criteria are the nature, circumstances, extent, and gravity of the violation, the degree of culpability of the violator, any history of past violations, the ability to pay, any effect on the ability to continue to do business, and other matters as justice requires. Some of these considerations already are factored to some extent into the categories in the Hazardous Material Sanction Guidance Matrix. The statutory factors are further considered under the weighting analysis that is performed to indicate the amount of civil penalty within the appropriate range, i.e., at the minimum, moderate, or maximum portion of the sanction range. To comply with the underlying purposes of the Federal hazardous material transportation law and HMR, a sanction should be imposed that is sufficiently deterrent but not excessive.

The Hazardous Materials Sanction Guidance is designed to promote better consistency so that similar penalties are imposed in similar cases. The Matrix ranges are intended to reflect the nature, circumstances, extent, and gravity of the case as compared with other types of cases. Each case, however, must be evaluated on its own facts. A sanction may differ from the Matrix ranges when the facts and circumstances of a case support either a greater or lesser penalty. When a special agent believes that a penalty should exceed the Matrix ranges, the agent should consult with legal counsel before further processing of the Enforcement Investigative Report (EIR). This consultation is not necessary in the case of a recommended penalty that is less than that provided in the Matrix. In either situation, the basis for the decision to go outside the ranges should be explained in detail.

Violations of Part 175 of the HMR, which establish particular requirements for air carriers and other aircraft operators, are contained in a separate matrix. However, such operators often offer hazardous materials for air transportation, as well as accept and transport them. For this reason, such operators may be liable for violations both as a business entity within the Hazardous Materials Sanction Guidance Matrix, as well as specific air carrier violations.

Use of the Sanction Guidance

This guidance provides agency personnel with a systematic way to evaluate a case and arrive at an appropriate penalty, considering all the relevant statutory criteria including any mitigating and aggravating circumstances. Statutory considerations have been factored into the various ranges within the Sanction Guidance Matrix. Determination of where a sanction lies within these ranges is aided by a series of weighting questions that probe the various aggravating and mitigating factors that may exist in a case.

First, the weighting analysis is performed. Agency personnel respond to a series of questions to determine the aggregate weight of the case. The aggregate weight of the case helps determine the sanction amount of each violation group within the established ranges of the Matrix.

It is important to note that determination of where the sanction lies within the Matrix is not the result of a mathematical computation. Evaluation of the case is based on the totality of the facts and circumstances. Generally, if the answer to a particular question represents a more significant aspect of a case, greater consideration should be given to that answer. For example, violations involving an extremely dangerous substance, even in minute quantities, might warrant a penalty at the maximum end of the range or even a penalty exceeding the Matrix ranges.

Under the Sanction Guidance Matrix, agency personnel determine the category of violator the person falls within (e.g., business entity that regularly offers, accepts, or transports Hazmat) and the offense category (e.g., undeclared shipment within Hazmat quantity limitations). The sanction ranges under the various violator categories take into account the relative culpability of the violator. Similarly, the offense categories address the nature, circumstances, and gravity of the particular offense. After determining the appropriate categories and intersecting box of the Matrix, agency personnel then determine which subcategories of offenses (e.g., shipping papers) are alleged to have been violated. Based on the weighting analysis performed in Section I, an appropriate penalty is assigned for each of the applicable violation groups. The penalty amount for each relevant violation group is added together to reach the recommended sanction.

Under Section III of the Guidance, the special agent then considers other relevant factors, including evidence of corrective action. A recommended sanction may be reduced prior to the issuance of a Notice of Proposed Civil Penalty when there is adequate reliable information concerning the corrective actions taken by a respondent. Corrective actions that justify reduction of the recommended penalty must exceed the minimum legal requirements. The special agent also attempts to provide information concerning the alleged violator's size, financial condition, and ability to pay a recommended sanction.

When an EIR is forwarded to legal counsel for enforcement action, counsel with give appropriate consideration to the recommended sanction. FAA legal counsel will also review the factors, analysis, and determinations under the Hazardous Materials Sanction Guidance. Any basis for deviating from the recommend sanction is ordinarily explained to, and discussed with, the investigating special agent. Final determination of the sanction amount proposed in the Notice of Proposed Civil Penalty is ordinarily a product of joint decisonmaking and approval of the investigating agent and the legal office.

Federal Aviation Administration Hazardous Materials Sanction Guidance

This Sanction Guidance is divided into three sections:

I. Case Analysis,
II. Utilization of the Sanction Guidance Matrix (Matrix), and
III. Consideration of other Statutory Factors.

The Sanction Guidance Matrix is contained in Figure 1 and the Risk Categories are contained in Figure 2.

I. Case Analysis (Evaluation of Statutory Assessment Factors)

This section contains a series of questions designed to assist special agents and attorneys in evaluating a particular case. The question review factors involving the nature, circumstances, extent and gravity of the violation, the violator's degree of culpability, and the violator's history of prior violations. Some of these factors are already considered to some extent within the various categories of the Sanction Guidance Matrix. The questions in this section provide additional consideration of the statutory factors and examine the existence of aggravating and mitigating factors in a case.

The agent/attorney answers each question in Section I and determines if a relative weight of minimum, moderate, or maximum should be assigned based on the response to the question. With the exception of Question A.1., not all questions will apply to a given fact situation. Question A.1., which addresses the nature of the hazardous material(s) involved, is the only question that always receives a "yes" answer to one of its subquestions and is considered in every case. The aggravating or mitigating factors addressed in the questions only apply to the case when the question receives a "yes" response. Questions receiving a "no" response do not affect the weighting of the case and are not considered. For example, if the violation resulted in harm to persons or property, that may be an aggravating factor in the case. However, the fact that the violation did not result in injury or damage, is *not* a mitigating factor and should not result in penalty mitigation. In many instances, the answers to most or all of the questions will be "no" and the only relevant weighting factor in this section will be the risk category of the material identified in Question A.1.

In determining the final aggregate weight of the case, the responses to each of the questions do not have to be equally considered. Determination of whether the overall case should have a minimum, moderate, or maximum weight cannot be determined with mathematical certainty. Generally, if the answer to a question demonstrates that the factor at issue represents a more significant aspect of the case, greater consideration is given to that factor. The final aggregate weight is based on the totality of the facts and circumstances of the case. Once determined, the final aggregate weight is then utilized to arrive at the recommended sanction for each applicable violation group on the Sanction Guidance Matrix (Fig. 1).

A. The Nature, Circumstances, Extent, and Gravity of the Violation

(Factors Concerning the Shipment)

1. What Material(s) Was Offered, Transported, or Accepted for Air Transportation?

(Figure 2 divides hazardous materials of particular classes, divisions, and packing groups into three risk categories: Category A, Category B, and Category C. Find the material(s) at issue in Figure 2 and answer the questions below.)

a. Is the material(s) offered, transported, or accepted in Category A?
If yes, assign a Maximum weight.

b. Is the material(s) offered, transported, or accepted in Category B?
If yes, assign a Moderate weight.

c. Is the material(s) offered, transported, or accepted in Category C?
If yes, assign a Minimum weight.

Guidance Note: The categories in Figure 2 represent the inherent risk of danger to air transportation posed by the material. If there is more than one type of hazardous material involved in the shipment, answer this question using the hazardous material in the highest risk category.

2. What Quantity of the Material(s) Was Offered, Transported, or Accepted for Air Transportation?

a. Did the package(s) exceed the authorized quantity limitations by a *significant* amount?
If yes, consider a Moderate or Maximum weight depending on the degree to which the limitation was exceeded.

Guidance Note: The Matrix, discussed in Section III, takes into account the factual situations where the quantity limitations for the material are exceeded. This part of the analysis is intended to determine whether further aggravating circumstances exist where quantity limitations are exceeded by a significant amount. Whether this factor is assigned a moderate or maximum weight will depend on the degree by which the quantity limitation was exceeded.

Example: The quantity limitation for gasoline on a passenger plane is 5 liters per package. If a violator offers 30 liters in a single package on a passenger plane, this may result in a maximum weight for this factor.

b. Were there multiple packages in the shipment?
If yes, consider a Moderate or Maximum weight, depending on the number of packages and total amount of hazardous material being transported in violation.

Guidance Note: A package means a packaging plus its contents. There may be multiple packages in one shipment or overpack. Multiple packages often represent multiple violations. Under the Sanction Guidance, this fact is considered an aggravating circumstance rather than a direct multiplier of the sanction for each violation. Each case, however, must be evaluated on its particular facts. A very large number of packages may result in such an egregious case that the overall weight of the case is so high that a penalty beyond the maximum point in the range is warranted.

An investigation will occasionally reveal several shipments from the same offeror over a period of several days, all of which involve violations of the HMR. These independent acts of offering usually are consolidated into one EIR and addressed in one Note of Proposed Civil Penalty. However, for purposes of determining the appropriate sanction, each separate shipment with a separate air waybill or shipping papers, separate destination, and/or any other evidence establishing it as a separate shipment is ordinarily considered as a separate incident for purposes of applying the sanction guidance analysis. It is suggested that the separate shipments be treated as individual counts in the EIR and the Notice of Proposed Civil Penalty, with each count having its own sanction derived from application of this guidance. Note, there must be sufficient evidence to support each count.

3. Did the Shipment Cause Damage or Harm to Persons or Property, or Interfere With Commerce?

If yes, consider a Moderate or Maximum weight.

Guidance Note: The fact that no damage occurred as a result of the shipment is not a mitigating factor. However, damage or harm may aggravate the nature, circumstances, extent, and gravity of the violation. Depending on the degree of damage caused by the shipment and/or the existence of other aggravating factors, departure from the ranges may be justified.

B. Violator's Degree of Culpability

(The Matrix, Figure 1, considers the relative culpability of the violator. This section of the analysis further evaluates the degree of culpability of the violator.)

1. Is the Violator the Manufacturer of the Hazardous Material?

If yes, consider a Maximum weight.

Guidance Note: A manufacturer of a hazardous material is expected to have complete knowledge of the nature of the hazardous material and thus, a high degree of culpability will ordinarily be imputed to it.

2. Did Someone Other Than the Violator Prepare the Shipment for Transportation?

If yes, consider a Minimum or Moderate weight.

Guidance Note: Facts supporting an affirmative answer to this question may be cause to mitigate culpability and/or pursue a

separate enforcement action against other responsible parties who handled the shipment. A shipper that reships materials received from another person in the same packaging is independently responsible for ensuring the shipment complies with the HMR. Nevertheless, the reshipper is generally considered to have a lesser degree of culpability for compliance of the package as received. However, if the reshipper unpacks and/or repackages the shipment, the reshipper remains as culpable as the original shipper and generally is not accorded mitigation under this weighting factor. (For purposes of this section, a "reshipper" refers to a person, other than the original offeror, who offers a shipment of hazardous material for transportation.)

3. Did the Violator Reasonably Rely on Incorrect Information From Another Source?

If yes, consider a Minimum weight.

Guidance Note: Detrimental or reasonable reliance on another party may be a mitigating factor when considering the violator's degree of culpability. For example, reliance on an inaccurate Material Safety Data Sheet (MSDS) may be mitigating.

4. Does the Violator Have a History of Previous HMR Violations?

If yes, consider a Moderate or Maximum weight.

Guidance Note: To establish a violation history, a prior violation must be an actual finding of violation pursuant to a legal enforcement action. Special agents should attempt to determine the corporate structure of the violator and whether other business entities or names are or have been used by the entity in order to obtain a complete violation history. The number and age of violations should be considered. Ordinarily, findings of violation more than 5 years old carry less weight, unless a continuing pattern of violation exists.

C. Other Factors

Each case must be evaluated on its particular facts. As such, many cases may present unique scenarios and aggravating or mitigating factors that are not routinely seen. If an aggravating or mitigating circumstance exists that is not adequately addressed elsewhere in the sanction guidance, it may be included and assigned a weight under this section. The factor should be clearly identified and explained in the analysis portion of the EIR and carefully scrutinized by legal counsel.

Guidance Note: For example, a shipment of a single package containing several different hazardous materials may present an aggravating factor. The degree of seriousness of this factor will increase if the hazardous materials are incompatible with each other and, therefore, create an increased risk.

Mitigating factors may also exist that have not been adequately considered. For example, a shipment containing a *de minimis* quantity of material or an amount that would have qualified under the small quantity exception of § 173.4 may present a mitigating factor if as a result there was a reduced risk to safety in transportation.

D. Determine the Final Aggregate Weight of the Case

All the responses/weights are evaluated to determine a final aggregate weight of the case (Minimum, Moderate, and Maximum). Questions receiving a "no" response will not be included in this evaluation. To determine the final aggregate weight, the agent/attorney must exercise his/her discretion in light of the statutory factors and knowledge of the particular facts of the case. The facts of the particular case will dictate the relative importance of each of the weighting factors in reaching a final aggregate weight. The final aggregate weight should be decided as a result of careful analysis, not a mathematical averaging. It is possible that a single weighting factor may outweigh all others. The agent/attorney's analysis should always be explained in this regard.

Example: A case involving a hazardous material in the lowest risk category may be evaluated to have a maximum weight because of the large quantity shipped or the damage resulting from the shipment.

II. Utilize the Matrix (Figure 1)

The sanction ranges under the offeror and offense categories of the Sanction Guidance Matrix reflect the relative culpability of the violator and the nature, circumstances, extent, and gravity of the case. Consideration of these particular statutory factors under the Federal hazardous material transportation law is built into the Matrix. Further analysis of the statutory factors is required to determine the appropriate sanction within the ranges established under the Matrix. This analysis is performed in Section 1. After determining the final aggregate weight of the case under the Section 1 analysis, that weight is applied to the appropriate matrix range to identify the recommended sanction amount for each of the relevant violation groups and for the case as a whole. Although the Notice of Proposed Civil Penalty may cite numerous violations of a particular part or subpart of the HMR, unless upward departure is justified, a single penalty amount for each violation group is ordinarily used to reach the full sanction.

A. Instructions

1. Identify the appropriate category for the type of entity and the nature of the offense involved in the case. Refer to the Definitions Section that follows the Matrix in Figure 1 for guidance. Go to the intersecting box and identify the applicable sanction range for each violation group.

2. Apply the conclusion reached in the Section I weighting analysis to assign a sanction amount within the minimum, moderate, or maximum portion of the sanction range for each relevant violation group. The recommended civil penalty at this stage is the sum of the sanctions for each of the applicable violation groups. A sanction should not be assessed for a violation group if there have been no violations of that part or subpart of the HMR. The sanction amount for each violation group need not be identical but ordinarily is within the portion of the particular sanction range that represents the overall weight of the case.

3. Departure from the Matrix ranges—The Matrix is designed to cover the majority of cases involving violations of the HMR. The facts and circumstances of a particular case, however, may justify either an upward or downward departure from the Matrix ranges. This sanction guidance anticipates and encourages departure from the Matrix ranges when justified. A case involving violations in which the nature, circumstances, extent, and gravity of the incident are particularly severe or egregious, may justify upward departure from the Matrix. If the investigating agent believes, based upon the facts of a case, that a penalty should exceed the Matrix ranges, the agent should consult with legal counsel before further processing of the EIR. Conversely, the investigating agent may believe that mitigating factors justify a downward departure from the Matrix range. Consultation with legal counsel is not necessary in the case of a recommended penalty that is less than that provided in the Matrix. In either situation, however, the agent is to provide a detailed explanation of the basis for the decision to go outside the ranges.

4. Violations of Part 175 regulations, which establish particular requirements for air carriers and other aircraft operators, are contained in a separate matrix. However, such operators often *offer* Hazmat for air transportation as well as accept and transport it. As such, the operator may be liable for violations as a business entity within the main Matrix as well as for the specific Part 175 violations.

III. Impact of Other Statutory Factors

The Federal hazardous material transportation law also requires consideration of a violator's ability to pay a civil penalty, the impact of the civil penalty on the violator's ability to

continue to do business, and other matters that justice requires. Consideration of these factors may result in adjustment of the recommended civil penalty calculated in Section II. In situations where the agent or attorney is in possession of mitigating information, such as inability to pay the recommended civil penalty or corrective action taken, reduction of the recommended penalty may be appropriate. Mitigating information should be sufficiently reliable, uncontroverted, and documented in order to support reduction of the recommended civil penalty prior to issuing the Notice of Proposed Civil Penalty.

A. Ability To Pay/Continue in Business

Historically, the FAA has considered these factors after the issuance of the Notice of Proposed Civil Penalty due to the absence of reliable financial information on which to base a reduction prior to the issuance of a Notice. This Sanction Guidance recommends that the special agent make efforts to obtain reliable information regarding the violator's size and financial condition for review prior to the issuance of a Notice. This information will be transmitted to the legal office for consideration. It is recognized that it may not always be possible for the special agent and/or attorney to obtain reliable financial information on a particular respondent, that financial circumstances change and that information may be provided after the issuance of the Notice that may warrant further consideration of a respondent's ability to pay.

1. The investigating agent will attempt to include financial information as an exhibit in the EIR. It is anticipated that this information, if available, will be obtained from reliable financial data bases. Financial documentation should include, but need not be limited to, information concerning the violator's corporate structure, business address, officers, number of employees, and gross revenues.

2. The investigating agent provides a statement or comment with respect to the financial information obtained but ordinarily does not evaluate the financial condition of a respondent with respect to its ability to pay a proposed civil penalty. The investigating agent's statement should encompass areas such as the number of employees, gross revenues, and nature of business of the violator.

3. FAA legal counsel reviews the financial information provided in the EIR and evaluates its sufficiency and relevance to the recommended civil penalty. Legal counsel may determine if more current information exists concerning the financial condition of a respondent and if that information substantially differs from the information available at the time of preparation of the EIR. If there is a basis for determining that the recommended sanction is inappropriate based upon the financial information provided in the EIR, the recommended sanction is adjusted prior to issuance of the Notice of Proposed Civil Penalty. This is a preliminary consideration of a company's ability to pay. As such, pre-Notice adjustment of a recommended civil penalty does not preclude further consideration of a respondent's financial claims after issuance of the Notice.

4. If legal counsel determines that a respondent qualifies as a small business entity, counsel may consider that status under the Small Business Regulatory Enforcement Fairness Act (SBREFA) with respect to the appropriateness of the recommended civil penalty. A respondent's status as a small business entity may be considered in conjunction with analysis of the statutory factors.

B. Corrective Action

The most common "other matter" that the FAA takes into consideration is corrective action. Corrective action that results in mitigation is remedial action that exceeds the minimum legal requirements. The primary factors in determining the appropriate amount of penalty reduction are the extent and timing of the corrective action. In other words, mitigation is determined on the basis of how much corrective action was taken and how quickly the action was taken. Systemic change intended to prevent future violations should be given greater consideration. Similarly, corrective action that commences upon the violator's first notice of the violation ordinarily is given greater credit than corrective action that commences only after the Notice of Proposed Civil Penalty has been issued.

Mitigation of a recommended civil penalty based upon corrective action should be referenced in the Notice of Proposed Civil Penalty so that the respondent is on notice that credit already has been given for said action.

MATRIX AND DEFINITIONS

[Figure 1]

Offense categories	A. Individual	B. Business entity	C. Business entity that uses or handles Hazmat in the course of business	D. Business entity that regularly offers, accepts, or transports Hazmat
I. Declared Shipment:				
1. Shipping Papers	250–500	250–1,000	500–2,000	1,000–5,000
2. Labels	250–500	250–1,000	500–2,000	1,000–5,000
3. Markings	250–500	250–1,000	500–2,000	1,000–5,000
4. Packaging	250–500	250–1,000	500–2,000	1,000–5,000
5. Training	.....	250–1,000	500–2,000	1,000–5,000
6. Emerg. Response	250–500	250–1,000	500–2,000	1,000–5,000
7. Release into Environ	250–500	250–1,000	500–2,000	1,000–5,000
8. Other	250–500	250–1,000	500–2,000	1,000–5,000
II. Undeclared Shipment Within Hazmat Quantity Limitations:				
1. Shipping Papers	250–1,000	1,500–7,500	2,500–10,000	5,000–12,000
2. Labels	250–1,000	1,500–7,500	2,500–10,000	5,000–12,000
3. Markings	250–1,000	1,500–7,500	2,500–10,000	5,000–12,000
4. Packaging	250–1,000	1,500–7,500	2,500–10,000	5,000–12,000
5. Training	.....	1,500–7,500	2,500–10,000	5,000–12,000
6. Emerg. Response	250–1,000	1,500–7,500	2,500–10,000	5,000–12,000
7. Release into Environ	250–1,000	1,500–7,500	2,500–10,000	5,000–12,000
8. Other	250–1,000	1,500–7,500	2,500–10,000	5,000–12,000

MATRIX AND DEFINITIONS—Continued

[Figure 1]

Offense categories	A. Individual	B. Business entity	C. Business entity that uses or handles Hazmat in the course of business	D. Business entity that regularly offers, accepts, or transports Hazmat
III. Undeclared Shipment Hazmat Forbidden on, or exceeds qty limits for, Passenger Aircraft:				
1. Shipping Papers	500–5,000	5,000–15,000	7,500–20,000	10,000–27,500
2. Labels	500–5,000	5,000–15,000	7,500–20,000	10,000–27,500
3. Markings	500–5,000	5,000–15,000	7,500–20,000	10,000–27,500
4. Packaging	500–5,000	5,000–15,000	7,500–20,000	10,000–27,500
5. Training	.....	5,000–15,000	7,500–20,000	10,000–27,500
6. Emerg. Response	500–5,000	5,000–15,000	7,500–20,000	10,000–27,500
7. Release into Environ	500–5,000	5,000–15,000	7,500–20,000	10,000–27,500
8. Other	500–5,000	5,000–15,000	7,500–20,000	10,000–27,500
IV. Undeclared Shipment Forbidden on, or exceeds qty limits for, All Aircraft:				
1. Shipping Papers	500–27,500	7,500–27,500	10,000–27,500	15,000–27,500
2. Labels	500–27,500	7,500–27,500	10,000–27,500	15,000–27,500
3. Markings	500–27,500	7,500–27,500	10,000–27,500	15,000–27,500
4. Packaging	500–27,500	7,500–27,500	10,000–27,500	15,000–27,500
5. Training	.....	7,500–27,500	10,000–27,500	15,000–27,500
6. Emerg. Response	500–27,500	7,500–27,500	10,000–27,500	15,000–27,500
7. Release into Environ	500–27,500	7,500–27,500	10,000–27,500	15,000–27,500
8. Other	500–27,500	7,500–27,500	10,000–27,500	15,000–27,500
V. Intentional or Deliberate Violation	Consult Legal	Consult Legal	Consult Legal	Consult Legal

Air carrier and other aircraft operator violations	E. Group I & II air carriers and other aircraft operators	F. Group III & IV air carriers and other aircraft operators
Failure to comply with Parts 171, 172, or 173 requirements of the HMR as an offeror of Hazmat	[1]	[1]
Improper acceptance of Hazmat for air transportation (i.e., quantity, labeling, marking, packaging, and shipping papers) See 49 CFR 175.30(a) (1)–(4)	5,000–27,500	2,500–15,000
Failure to inspect Hazmat shipment properly. See 49 CFR 175.30 (b), (c), (d), (e)	10,000–27,500	5,000–15,000
Improper storage/securing of Hazmat aboard aircraft	10,000–27,500	5,000–15,000
Failure to provide Hazmat training, maintain records of training, or meet minimum requirements for Hazmat training	10,000–27,500	5,000–15,000
Failure to notify FAA properly of incident/discrepancies in Hazmat shipment	5,000–15,000	1,000–5,000
Failure to provide notice to the pilot-in-command	5,000–15,000	1,000–5,000
Other Part 175 violations	5,000–15,000	1,000–5,000

[1] Use main Matrix.

Definitions

(a) *Air Carrier and Other Aircraft Operator Groups (I, II, III, IV)*—Air carriers and other aircraft operators are divided into two categories for purposes of determining an appropriate sanction. These categories track the air carrier groups established in FAA Order No. 2150.3A, Appendix 1, Compliance/Enforcement Bulletin 92–1, but also includes any operator of an aircraft that is operated "in commerce" as defined in the Federal hazardous materials law, including Part 129 Foreign Air Carriers, Part 125 Operators, and Part 91 Operators. Group I is comprised of air carriers and other aircraft operators with annual operating revenue of $100,000,000 or more. Group II is comprised of air carriers and other aircraft operators that hold Part 121 certificates or have 50 or more pilots or operate 25 or more aircraft, with annual operating revenue of less than $100,000,000. Group III is comprised of air carriers and other aircraft operators that do not meet the criteria for Group II with (1) 6 to 49 pilots, or (2) 6 to 24 aircraft. Group IV is comprised of all other air carriers or aircraft operators not meeting the criteria for Groups I, II, or III.

(b) *Business Entity*—The violator is a business, corporation, partnership, Sub-S Corporation, sole proprietor, association, or any type of commercial entity. An individual who offers a hazmat shipment in air transportation in the course of his/her self-owned business falls into this category. Includes all entities defined under the HMR's definition of "person," (49 CFR 171.8) with the exception of an individual as defined herein.

(c) *Business Entity that Regularly Offers, Accepts, or Transports Hazardous Materials in the Course of its Business.*—A manufacturer or distributor of Hazmat falls into this category. A freight forwarder would also fall into this category. The aspect of "regularly" offering covers a business entity that offers Hazmat with some anticipated frequency or purports to do so, e.g., a catalogue company that offers hazardous material to its customers would fall into this category, even though its actual sale or transportation of the Hazmat is infrequent or limited.

(d) *Business Entity that Uses, Handles Hazmat in the Course of Its Business*—This category encompasses the business that utilizes Hazmat in its business but does *not* offer it for transportation on a regular basis, as described above. For example, a manufacturer of a non-Hazmat product that uses Hazmat in the manufacturing process could fall into this category. It must be established that

the company ordinarily does not offer the Hazmat it utilizes for transportation, and the shipment in this instance represents an isolated incident. This type of business is held to a higher standard than the business entity that has no regular involvement with Hazmat. The described business entity receives the subject hazardous material in transportation and uses it in its business; thus, it is clearly on notice of the hazardous nature of the material and the regulatory requirements to which the Hazmat is subject.

(e) *Declared Shipment*—A declared shipment, for purposes of this matrix only, is one that complies with one or more of the communicative requirements of the HMR, i.e., it has markings, labels, and/or partially-correct shipping papers. A package that has shipping papers that declare the contents as hazardous material but is otherwise not marked or labeled falls into this category. Similarly, a properly marked and labeled package that lacks shipping papers also falls into this category. A case falls into this category where there is clear indication that the offeror made some attempt to give notice of the hazardous nature of the shipment.

(f) *Forbidden or Exceeds Quantity Limits for Passenger Aircraft*—A shipment falls into this category if the quantity of Hazmat per package exceeds the quantity limitations for passenger-carrying aircraft or if the particular hazardous material is forbidden in air transportation on passenger aircraft.

(g) *Forbidden on or Exceeds Quantity Limits for All Aircraft*—A shipment will fall into this category if the quantity of hazardous material per package exceeds the allowable amount for both passenger and cargo aircraft or the Hazmat is absolutely forbidden in air transportation.

(h) *Hazmat*—A "hazardous material," as defined in 49 CFR 171.8, includes and is interchangeable with the term "dangerous goods, " as used in the International Civil Aviation Organization (ICAO) Technical Instructions.

(i) *Individual*—An individual who offers a shipment of hazardous material in his/her personal capacity without any business purpose or as part of a commercial enterprise on the part of the individual.

(j) *Intentional or Deliberate Violation*—A shipment falls into this category when there is evidence that the offeror, acceptor, air carrier, or aircraft operator had knowledge of the requirements of the HMR and willfully circumvented or attempted to circumvent those requirements. For example, an offeror who places a properly marked and labeled Hazmat shipment along with properly completed shipping papers, into an overpack marked as "printed material," has committed an intentional or deliberate violation. In this type of case, the investigating agent shall consult with FAA legal counsel and follow agency guidance for potential criminal violations of the HMR.

(k) *Undeclared Shipment*—This is a shipment that has no indication of its hazardous material contents and/or no indication that the offeror communicated the hazardous nature of the shipment's contents to persons who accept or transport.

(l) *Within Hazmat Quantity Limitations*—The amount of hazardous material is within the quantity limitations per package as established in the § 172.101 Table (49 CFR 172.101) for the type of aircraft on which the shipment traveled. For example, if the shipment was offered for transportation on a passenger aircraft, the quantity of hazardous material was within the established limit for transportation by passenger aircraft. If the shipment was offered for transportation on a cargo aircraft, the quantity limitations for cargo aircraft apply.

RISK CATEGORIES

[Figure 2]

Category "A" (Maximum Weight)

Category "A" materials are materials that when released in the confines of an aircraft can potentially have a catastrophic effect on an aircraft's ability to continue safe flight, resulting in a crash or emergency landing causing injury or death to passengers and flightcrew, as well as persons on the ground.

Class 1	Explosives: Division 1.1, 1.2, 1.3.
Class 2	Compressed Gases All 2.1, 2.2 with Subsidiary Risk 5.1 and All 2.3 PIH Zones A–D.
Class 3	Flammable Liquids PG I, II, and (PIH).
Class 4	Division 4.1 Flammable Solids PG I, & (Matches).
	Division 4.2 Spontaneously Combustible Materials PG I (Pyrophoric).
	Division 4.3 Dangerous When Wet PG I.
Class 5	Division 5.1 Oxidizing Liquids and Solids PG I, II, e.g., "Chemical Oxygen Generators".
	Division 5.2 Organic Peroxides PG II (Type A, B, C, or D).
Class 6	Division 6.1 Poisonous Liquids PG I (PIH).
Class 7	Cargo Aircraft Only Quantities on Passenger Aircraft.
Class 8	Corrosive Material Liquid PG I and (PIH).

Forbidden Materials (See 49 CFR 173.21 & ICAO Technical Instructions).
Forbidden Hazmat listed in Dangerous Goods Table 49 CFR 172.101.

Category "B" (Moderate Weight)

The materials listed in Category "B" are materials that may not pose an immediate threat to the safety of a flight, but can cause death or injury to persons due to unintended releases in aircraft cabin areas, and potential damage to aircraft structures over a longer period of time due to undiscovered releases on aircraft structural components.

Class 1	Division 1.4, 1.5, 1.6, All Compatibility Groups.
Class 3	PG III Flammable Liquids.
Class 4	Division 4.1 Flammable Solids PG II, III.
	Division 4.2 Spontaneously Combustible Materials PG III.
	Division 4.3 Dangerous When Wet PG II, III.
Class 5	Division 5.1 Oxidizing Liquids or Solids PG III.
	Division 5.2 Organic Peroxides (Type E, F, G).
Class 6	Division 6.1 Poisonous Liquids PG I, II (NON–PIH).
	Division 6.2 Infectious Substances.

RISK CATEGORIES—Continued

[Figure 2]

Class 7	Radioactive Materials, yellow label III, yellow label II, and white label I.
Class 8	Liquids PG II, III Solids PG I, II, III.

Category "C" (Minimum Weight)

The materials listed in Category "C" are materials that present the least amount of risk to the transportation system.

Class 2	2.2 Nonflammable Gas.
Class 6	Division 6.1 Packing Group III.
Class 7	All other RAM (LSA, LTD QTY, Instruments and Articles).
Class 9	Miscellaneous Dangerous Goods (ORM–D and Consumer Commodity).

Note: This guidance is not intended to replace the experienced judgment to a special agent who is convinced, based on the evidence and facts of a case, that the failure of an air carrier, shipper, freight forwarder, or passenger to follow established regulations has posed a risk to aviation safety.

Issued in Washington, DC on April 14, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–9983 Filed 4–20–99; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 202, 240, 242 and 249

[Release No. 34–41297; File No. S7–12–98]

RIN 3235–AH41

Regulation of Alternative Trading Systems; Technical Amendment

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; technical amendment and revised compliance date.

SUMMARY: The Securities and Exchange Commission is modifying the compliance dates for Rule 301(b)(3) and making a technical change to Rule 202.3. These and other rules and rule amendments relate to the regulation of alternative trading systems and exchanges and were published on December 22, 1998 (63 FR 70844). The effective date for the other rules and amendments published in 63 FR 70844 remains April 21, 1999, except for the effective date for §§ 242.301(b)(5)(i)(D) and (E) and §§ 242.301(b)(6)(i)(D) and (E), which remains April 1, 2000.

DATES: Effective Date: April 21, 1999 for amendment to § 202.3.

Compliance Date: Alternative trading systems must comply with § 242.301(b)(3) with respect to the 50 securities listed in Schedule A by August 23, 1999; with respect to the securities listed on Schedules A and B by September 28, 1999; with respect to the securities listed on Schedules A, B and C by April 25, 2000; and with respect to all securities by June 20, 2000.

FOR FURTHER INFORMATION CONTACT: Elizabeth King, Senior Special Counsel, at (202) 942–0140, Constance Kiggins, Special Counsel, at (202) 942–0059, and Kevin Ehrlich, Attorney, at (202) 942–0778, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–1001.

SUPPLEMENTARY INFORMATION:

I. Background

On December 8, 1998, the Securities and Exchange Commission ("Commission") adopted new rules and rule amendments to allow alternative trading systems to choose whether to register as national securities exchanges, or to register as broker-dealers and comply with additional requirements under Regulation ATS, depending on their activities and trading volume.[1] The effective date for most of these new rules and rule amendments is April 21, 1999. The Commission stated in the adopting release that, prior to April 21, 1999, it would publish a list of those securities with respect to which alternative trading systems must comply with Rule 301(b)(3) on April 21, 1999 and those securities with respect to which alternative trading systems must comply with Rule 301(b)(3) on August 30, 1999. Rule 301(b)(3) requires an alternative trading system to provide to a national securities exchange or national securities association, for inclusion in the public quotation system, the prices and sizes of its best priced buy and sell orders, that are displayed to more than one person, in each covered security in which the alternative trading system represents 5% or more of the total trading volume.[2]

[1] Securities Exchange Act Release No. 40760 (Dec. 8, 1998), 63 FR 70844 (Dec. 22, 1998).

[2] 17 CFR 242.301(b)(3). For purposes of Regulations ATS, a "covered security" includes all exchange-listed, Nasdaq NM securities, and Nasdaq Small Cap securities, other than debt and convertible securities. *See* Rule 11Ac1–1(a)(6), 17 CFR 240.11Ac1–1(a)(6); Rule 300(g), 17 CFR 242.300(g).

II. Delay of the Compliance Dates for Rule 301(b)(3)

One major alternative trading system has indicated that it will be unable to comply with the requirements of Rule 301(b)(3) by the original compliance dates without putting the operation of its system at serious risk of failure. The operational failure of a major alternative trading system could interfere with the markets as a whole. Accordingly, the Commission believes it necessary to adjust the compliance dates for Rule 301(b)(3) as follows:

August 23, 1999: Compliance with Rule 301(b)(3) with respect to the 50 Nasdaq securities listed on Schedule A, attached in the appendix.

September 28, 1999: Compliance with Rule 301(b)(3) for the 50% of Nasdaq securities listed on Schedules A and B, attached in the appendix.

April 25, 2000: Compliance with Rule 301(b)(3) for the 75% of Nasdaq securities listed on Schedules A, B, and C, attached in the appendix.

June 20, 2000: Compliance with Rule 301(b)(3) for all Nasdaq securities.

Schedules A, B, and C were created by ranking all covered securities traded on Nasdaq by their January 1999 volume, and including an equal number of securities from each decile. Some securities that were not traded on Nasdaq in January 1999 may commence trading on Nasdaq subsequently. Alternative trading systems may wait until June 20, 2000 to comply with Rule 301(b)(3) with respect to these securities.

All other compliance dates for the rules and rule amendments adopted last December remain the same. The Commission encourages those alternative trading systems that are able to comply with Rule 301(b)(3) on April 21, 1999 to do so.

Alternative trading systems are reminded that Rule 301(b)(3) only requires alternative trading systems to "provide to a national securities exchange or national securities association" their best priced orders in covered securities in which they represent 5% or more of all trading volume.[3] Accordingly, in the absence of a mechanism for publicly displaying those alternative trading systems' orders in exchange-listed securities, alternative trading systems will not be violating Rule 301(b)(3) if alternative trading systems' best priced orders in those securities in which they trade 5% or more of the volume are not publicly displayed. When a mechanism is developed to display alternative trading systems' orders in exchange-listed securities, Rule 301(b)(3) requires them to cooperate in linking with the market or markets providing that mechanism. Under Section 553(d) of the Administrative Procedure Act,[4] publication of a substantive rule not less than 30 days before its effective date is required except as otherwise provided by the agency for good cause. Because the change extends compliance dates, the Commission finds that there is good cause for doing so.

III. Rule of Practice 202.3

On December 8, 1998, the Commission adopted changes to Rule of Practice 202.3(b)(2) regarding the processing of exchanges' applications for registration as national securities exchanges or exemption from registration based on such exchanges' limited volume of transactions. These amendments require the Commission to grant registration or institute proceedings to determine whether registration should be denied within 90 days of the date of filing of an application. Section 19(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act"), however, requires the Commission to grant an exchange's application for registration as a national securities exchange, or institute proceedings to determine whether registration should be denied, within 90 days of the date of publishing notice of the exchange's filing of such application. Consequently, the Commission is making a technical correction to Rule 202.3(b)(2) to conform to the time periods in the statute. The Commission finds, in accordance with Section 553(b)(3)(A) of the Administrative Procedure Act,[5] that the amendment to Rule 202.3 relates solely to agency organization, procedures, or practice, and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, and publication of the amendment 30 days before its effective date of April 21, 1999 is also unnecessary.

IV. Findings

Section 23(a)(2) of the Exchange Act[6] requires the Commission to consider the anti-competitive effects of any rules it adopts, and to balance these effects against the benefits that further the purposes of the Exchange Act. Further, Section 2 of the Securities Act of 1933[7] and Section 3 of the Exchange Act,[8] as amended by the recently enacted National Securities Markets Improvements Act of 1996,[9] provide that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the act will promote efficiency, competition, and capital formation. Because the amendments take steps to assure the fair and orderly activities of the national securities markets and make a conforming correction to a procedural rule, they do not have any anti-competitive effects and they serve to promote efficiency, competition, and capital formation, and are therefore in the public interest.

List of Subjects in 17 CFR Part 202

Administrative practice and procedure, Securities.

Text of Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 202—INFORMAL AND OTHER PROCEDURES

1. The authority citation for Part 202 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 77t, 78d–1, 78u, 78w, 78*ll*(d), 79r, 79t, 77sss, 77uuu, 80a–37, 80a–41, 80b–9, and 80b–11, unless otherwise noted.

* * * * *

2. The last sentence of paragraph (b)(2) of § 202.3 is revised to read as follows:

§ 202.3 Processing of filings.

* * * * *

(b) * * *

(2) * * * Within 90 days of the date of publication of a notice of the filing of an application for registration as a national securities exchange, or exemption from registration by reason of such exchanges' limited volume of transactions (or within such longer period as to which the applicant consents), the Commission shall by order grant registration, or institute proceedings to determine whether registration should be denied as provided in § 240.19(a)(1) of this chapter.

Dated: April 16, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

Note: The appendix will not appear in the Code of Federal Regulations.

Appendix

Schedule A

AERTA
AMXX
ASFI
ATEST
BARZ
BCGI
BGMR
BJCT
BPTM
BRIOF
BWCF
CFFC
CINRF
CLHB
CRTQ
EXAR
FRSH
FSFT
FUJIY
GBNK
GCTY
GILD
IMNX
INTC
JAGI
JBOH
JXSB
KASP
LAKE
LCAV
LVEN
LVMHY
MCSC
MILB
MPTBS
NETTW
PAWN
PCBC
PIXR
POSIF
PRTK
SBGI
SPCH
SSRIF
STNRF
TBCC

[3] 17 CFR 272.301(b)(3).
[4] 5 U.S.C. 553(d).
[5] 5 U.S.C. 553(B)(3)(A).
[6] 15 U.S.C. 78w(a)(2).
[7] 15 U.S.C. 77b.
[8] 15 U.S.C. 78c.
[9] Pub. L. No. 104–290, 106, 110 Stat. 3416 (1996).

TRID
UHCO
VRLN
WNMP

Schedule B

AAABB
AABC
AACE
AALA
AAON
AASI
AATT
ABAG
ABAN
ABAX
ABBBY
ABCO
ABCW
ABDR
ABERF
ABFI
ABOV
ABPCA
ABRI
ABRX
ABSC
ABTC
ABTE
ABTI
ABTX
ACAI
ACAM
ACAS
ACCOB
ACEC
ACEI
ACEIW
ACEL
ACEP
ACES
ACHI
ACLNF
ACLY
ACMI
ACNAF
ACRG
ACRN
ACRO
ACSEF
ACTM
ACTN
ACTU
ACVC
ACYT
ADACE
ADAM
ADAX
ADBE
ADCCW
ADDM
ADECY
ADMS
ADPT
ADRN
ADSK
ADTK
ADTN
ADVH
ADVNA
ADVS
AEGGF
AEHR
AEOS
AEPI
AERL
AERN
AERS
AESPW
AFBC
AFCO
AFCX
AFIC
AFLX
AFSC
AFTXZ
AFWY
AGAI
AGAM
AGBGC
AGCH
AGNU
AGRPA
AGRPB
AHAA
AHEPZ
AHWYW
AICX
AIFC
AIND
AINN
AIPN
AIRT
AKLM
AKSY
AKZOY
ALCO
ALDA
ALDNF
ALDV
ALFA
ALGSF
ALGX
ALHY
ALHYC
ALIF
ALLB
ALLC
ALLIF
ALLP
ALLR
ALNT
ALOG
ALPH
ALRC
ALREF
ALSC
ALTIF
ALTR
ALXN
ALYD
AMAC
AMAR
AMBC
AMBI
AMCN
AMCRY
AMCT
AMCV
AMEN
AMENW
AMEP
AMEPW
AMES
AMESW
AMFM
AMLJ
AMLN
AMMB
AMPBB
AMPD
AMPDW
AMPI
AMRN
AMSC
AMSGB
AMSO
AMTA
AMTD
AMVP
AMVPW
AMWD
AMXI
AMZN
ANCO
ANDB
ANDW
ANGN
ANIK
ANLG
ANSR
ANSS
ANST
ANTC
ANTP
AORGB
APAC
APAGF
APAT
APCC
APCFY
APFC
APGR
APLX
APMC
APOG
APOL
APPB
APQCF
AQCR
ARCAF
ARGAC
ARGCD
ARIAW
ARLCF
ARMHY
ARMXF
AROW
ARSD
ARTE
ARTI
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[FR Doc. 99–10008 Filed 4–16–99; 4:48 pm]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232, 270 and 274

[Release No. IC–23786; File No. S7–31–98]

RIN 3235–AG29

Deregistration of Certain Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting amendments to the rule and form under the Investment Company Act of 1940 that govern the deregistration of registered investment companies. The Commission also is adopting amendments that require investment companies to file the form electronically through the Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system. The amendments are designed to expedite the process for deregistering investment companies.

EFFECTIVE DATE: The rule amendments will become effective June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Robin Gross Lehv, Staff Attorney, or Penelope Saltzman, Senior Counsel, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, N.W.,

Washington, D.C. 20549–0506. For additional information, including questions about filing Form N–8F, contact the Office of Investment Company Regulation, Division of Investment Management, at (202) 942–0564, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549–0506.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to rule 8f–1 [17 CFR 270.8f–1] and Form N–8F [17 CFR 274.218] under the Investment Company Act of 1940 [15 U.S.C. 80a] (the "Investment Company Act" or "Act"), and to rule 101 of the Commission's Regulation S–T [17 CFR 232.101].

I. Discussion

Under section 8(f) of the Investment Company Act, the Commission may deregister a registered investment company ("fund") if it determines the fund is no longer an "investment company."[1] In order to expedite the deregistration process and assist funds in preparing their applications, in 1978 the Commission adopted rule 8f–1 and Form N–8F.[2] Rule 8f–1 describes the circumstances in which funds may use Form N–8F to apply for a deregistration order, and Form N–8F specifies the information that a fund must provide.

In December 1998, the Commission proposed to revise Form N–8F to simplify the form, eliminate unnecessary items, and refocus the questions to better elicit the information we need to make the finding under section 8(f) to deregister a fund.[3] We also proposed to amend rule 8f–1 to expand the types of circumstances in which a fund may use Form N–8F to apply for a deregistration order.[4] Finally, we proposed to require that Form N–8F, like most other documents filed by funds, be submitted electronically through the Commission's EDGAR system.

The Commission received one comment letter, which supported the proposed amendments and urged their prompt adoption.[5] The commenter agreed that the amendments would facilitate completion of the form and expedite the deregistration process. We are adopting the amendments substantially as proposed, with minor technical modifications[6] in response to issues raised by the commenter.[7]

II. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits that result from its rules. The rule and form amendments are designed to decrease the regulatory burdens for funds that apply for a deregistration order. The amendments (i) revise the content and format of Form N–8F, making it easier to understand and complete, (ii) expand the circumstances under which funds may use the form to apply to deregister, and (iii) require the form to be filed electronically.

As explained in greater detail in the cost-benefit analysis of the Proposing Release, the Commission believes these changes will result in cost and time savings for registered investment companies. Specifically, we estimated that the amendments will reduce the average time that it takes to complete the form by about 50 percent, and will similarly reduce the number of applications that require the applicant to provide additional or clarifying information.[8] The one comment letter we received agreed that the proposed amendments would expedite the registration process, but did not provide specific estimates of any costs or benefits of the amendments.

III. Paperwork Reduction Act

Certain provisions of the amendments to rule 8f–1 and Form N–8F constitute a "collection of information" requirement within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520]. The Commission solicited, but did not receive, comments on the collection of information requirements in the Proposing Release. The Commission submitted the proposed amendments to the Office of Management and Budget ("OMB") pursuant to 44 U.S.C. 3507(d) and received approval of the amendments" collection of information requirements (OMB control number 3235–0157).[9] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The collection of information is not mandatory but is recommended for all funds that seek to deregister under the circumstances described in rule 8f–1. The amended rule does not require that the collection of information be made public or kept confidential by the parties.

IV. Summary of Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis ("FRFA") concerning rule 8f–1 and Form N–8F has been prepared in accordance with 5 U.S.C. 604. An Initial Regulatory Flexibility Analysis ("IRFA") was prepared in accordance with 5 U.S.C. 603, and a summary of the IRFA was included in the Proposing Release. The Commission received no comments on the IRFA.

The FRFA notes that the amendments are intended to improve the quality of information provided on the form and to reduce the time and effort required to complete the form. The amendments do not impose new burdens on respondents other than the requirement that the form be filed through the EDGAR system. The amendments will not impose any new reporting or recordkeeping requirements.

As discussed more fully in the FRFA, the amendments will affect small

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[1] 15 U.S.C. 80a–8(f).

[2] *See* Deregistration of Certain Investment Companies and Quarterly Reports of Management Investment Companies, Investment Company Act Release No. 10237 (May 11, 1978) [43 FR 21664 (May 19, 1978)].

[3] *See* Deregistration of Certain Registered Investment Companies, Investment Company Act Release No. 23588 (Dec. 4, 1998) [63 FR 69236 (Dec. 16, 1998)] ("Proposing Release").

[4] Under the proposed amendments, a fund could use the form if it (i) has sold substantially all of its assets to another fund or merged into or consolidated with another fund, (ii) has distributed substantially all of its assets to its shareholders and completed, or is in the process of, winding up its affairs, (iii) qualifies for an exclusion from the definition of investment company under section 3(c)(1) or section 3(c)(7) of the Act, or (iv) has decided to become a business development company.

[5] *See* Letter from Investment Company Institute (Feb. 5, 1999) (placed in File No. S7–31–98).

[6] Among other technical changes, we deleted the question requesting the date that the fund filed a notice of registration, because that information is not necessary to our determination under section 8(f) if the fund provides its registration number, as requested by the form. *See* Proposed Form N–8F, item 10; Amended Form N–8F, item 3.

[7] Form N–8F contains a reminder, but not a requirement, that a deregistering fund must file a final Form N–SAR [17 CFR 274.101] in accordance with other rules under the Act. *See* Amended Form N–8F, instruction 6. The commenter suggested that the Commission eliminate the obligation to file a final Form N–SAR in certain circumstances. We are considering amendments to Form N–SAR, and will consider the commenter's suggestion in the context of that rulemaking.

[8] The Commission believes the form typically is completed by support staff. Based on an estimated cost of $15 per hour for a clerical worker to complete Form N–8F and an estimate of 130 applications filed each year, the Commission estimates the current total annual cost of filing the form is $11,700 (130 × $15 x 6 hrs.), while the total annual cost of filing the amended form would be $5,850 (130 × $15 ×3 hrs.).

[9] As stated in the Proposing Release, the Commission estimates that the amendments will reduce the reporting and recordkeeping burden of the rule and form to 3 hours per respondent. Based on past experience, we estimate that each year approximately 130 funds will apply to deregister, and that each applicant will apply only once. Therefore, we estimate that the annual reporting and recordkeeping burden for the amended form will be 3 hours per applicant, and 390 hours total for all applicants.

businesses or small organizations (collectively, "small entities"), as defined by the Commission's rules, in the same manner as all other entities who use Form N–8F to deregister. The Commission believes the amendments will decrease burdens on all funds by facilitating and expediting the deregistration process, saving them time and money.

The FRFA states that for purposes of the Investment Company Act and the Regulatory Flexibility Act, a small entity is a fund that, together with other funds in the same group of related funds, has net assets of $50 million or less as of the end of its most recent fiscal year.[10] Of approximately 3900 active funds (including business development companies), 339 funds are small entities. Any of these 339 funds that applies to deregister under circumstances described in amended rule 8f–1 could use Form N–8F.

Finally, the FRFA notes that the Commission considered various alternatives that might minimize the economic impact of the amendments on small entities. These include: (i) The establishment of differing compliance requirements that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance requirements under the rule for small entities; (iii) the use of performance rather than design standards; and (iv) an exemption from coverage of the rule, or any part thereof, for small entities. The FRFA concludes that alternative requirements or simplification or consolidation of the requirements is unnecessary because the amendments are designed to reduce the compliance burdens for all funds, including small entities. In addition, an exemption from any of the requirements for small entities would increase their regulatory burden rather than decrease it.

A copy of the FRFA may be obtained by contacting Robin Gross Lehv, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549–0506.

V. Statutory Authority

The Commission is amending rule 8f–1 and Form N–8F pursuant to the authority set forth in section 38(a) [15 U.S.C. 80a–37(a)] of the Investment Company Act.

[10] Rule 0–10 under the Investment Company Act [17 CFR 270.0–10].

List of Subjects

17 CFR Part 232

Reporting and recordkeeping requirements.

17 CFR Part 270

Investment companies, Securities.

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements.

Text of Rule and Form Amendments

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80–30 and 80a–37.

§ 232.101 [Amended]

2. Section 232.101 is amended in paragraph (a)(1)(iv) by removing the phrase ", 8(f)" and by removing the phrase ", 80a–8(f)".

3. Section 232.101 is amended in paragraph (c)(11) by removing the phrase "8(f)," and by removing the phrase "80a–8(f),".

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

4. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–34(d), 80a–37, 80a–39 unless otherwise noted;

* * * * *

5. Section 270.8f–1 is revised to read as follows:

§ 270.8f–1 Deregistration of certain registered investment companies.

A registered investment company that seeks a Commission order declaring that it is no longer an investment company may file an application with the Commission on Form N–8F (17 CFR 274.218) if the investment company:

(a) Has sold substantially all of its assets to another registered investment company or merged into or consolidated with another registered investment company;

(b) Has distributed substantially all of its assets to its shareholders and has completed, or is in the process of, winding up its affairs;

(c) Qualifies for an exclusion from the definition of "investment company" under section 3(c)(1) (15 U.S.C. 80a–3(c)(1)) or section 3(c)(7) (15 U.S.C. 80a–3(c)(7)) of the Act; or

(d) Has become a business development company.

Note to § 270.8f–1: Applicants who are not eligible to use Form N–8F to file an application to deregister may follow the general guidance for filing applications under rule 0–2 (17 CFR 270.0–2) of this chapter.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

6. The authority citation for part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, and 80a–29, unless otherwise noted.

7. Section 274.218 and Form N–8F are revised to read as follows:

§ 274.218 Form N–8F, application for deregistration of certain registered investment companies.

This form must be used as the application for an order of the Commission in cases in which the applicant is a registered investment company that:

(a) Has sold substantially all of its assets to another registered investment company or merged into or consolidated with another registered investment company;

(b) Has distributed substantially all of its assets to its shareholders and has completed, or is in the process of, winding up its affairs;

(c) Qualifies for an exclusion from the definition of "investment company" under section 3(c)(1) (15 U.S.C. 80a–3(c)(1)) or section 3(c)(7) (15 U.S.C. 80a–3(c)(7)) of the Act; or

(d) Has become a business development company.

Note: Form N–8F does not, and the amendments will not, appear in the Code of Federal Regulations. A copy of Form N–8F is attached as an Appendix to this document.

Dated: April 15, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

BILLING CODE 5010–01–P

OMB APPROVAL
OMB Number: 3235-0157
Expires: March 31, 2002
Estimated average burden hours per response.....3

APPENDIX

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form N-8F

Application for Deregistration of Certain Registered Investment Companies.

Instructions for using Form N- 8F

This form may be filed by an investment company ("fund") that is currently registered with the Securities and Exchange Commission under the Investment Company Act of 1940 ("Act"), is seeking to deregister, and is in one of the four categories in Instruction 1 below.

1. To use this form, the fund must be seeking to deregister under one of the following circumstances identified in rule 8f-1 [17 CFR 270.8f-1]:

   (a) The fund has (i) sold substantially all of its assets to another registered fund or (ii) merged into or consolidated with another registered fund (**"Merger"**);

   (b) The fund has distributed substantially all of its assets to its shareholders and has completed, or is in the process of, winding up its affairs (**"Liquidation"**);

   (c) The fund qualifies for an exclusion from the definition of "investment company" under section 3(c)(1) or section 3(c)(7) of the Act (**"Abandonment of Registration"**); or

   (d) The fund has become a business development company (**"Business Development Company"**).

2. If the fund is not eligible to use this form, refer to rule 0-2 under the Act [17 CFR 270.0-2] for general instructions on filing an application with the Commission. Applications for deregistration pursuant to rule 0-2 must be submitted electronically in accordance with rule 101(a)(1)(iv) of Regulation S-T [17 CFR 232.101(a)(1)(iv)] and the EDGAR Filer Manual.

3. This form and all exhibits must be submitted electronically to the Commission in accordance with rule 101(a)(1)(iv) of Regulation S-T [17 CFR 232.101(a)(1)(iv)] and the EDGAR Filer Manual.

4. Amendments to this form also must be filed electronically (see Instruction 3 above), and must include a verification identical to the one that appears at the end of this form.

5. No fee is required to submit this form or any amendments.

6. Funds are reminded of the requirement to timely file a final Form N-SAR with the Commission. See rule 30b1-1 under the Act [17 CFR 270.30b1-1]; Form N-SAR [17 CFR 274.101].

SEC's Collection of Information

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. A fund that wishes to deregister and is in one of the four categories in Instruction 1 may use this form. The principal purpose of this collection of information is to enable the Commission to determine that a registered investment company has ceased to be an investment company as defined by the Act or is a business development company. The Commission estimates that the burden for completing this form will be approximately 3 hours per filing. Any member of the public may direct to the Commission any comments concerning the accuracy of the burden estimate of this form, and any suggestions for reducing this burden. This collection of information has been reviewed by the Office of Management and Budget in accordance with the clearance requirements of 44 U.S.C. § 3507. Responses to this collection of information will not be kept confidential.

TEXT OF THE FORM BEGINS ON THE NEXT PAGE

I. General Identifying Information

1. Reason fund is applying to deregister (check only one; for descriptions, see Instruction 1 above):

[ ] **Merger**

[ ] **Liquidation**

[ ] **Abandonment of Registration**
(Note: Abandonments of Registration answer only questions 1 through 15, 24 and 25 of this form and complete verification at the end of the form.)

[ ] Election of status as a **Business Development Company**
(Note: Business Development Companies answer only questions 1 through 10 of this form and complete verification at the end of the form.)

2. Name of fund:

3. Securities and Exchange Commission File No.: 811-_____

4. Is this an initial Form N-8F or an amendment to a previously filed Form N-8F?

[ ] Initial Application [ ] Amendment

5. Address of Principal Executive Office (include No. & Street, City, State, Zip Code):

6. Name, address and telephone number of individual the Commission staff should contact with any questions regarding this form:

7. Name, address and telephone number of individual or entity responsible for maintenance and preservation of fund records in accordance with rules 31a-1 and 31a-2 under the Act [17 CFR 270.31a-1, .31a-2]:

NOTE: Once deregistered, a fund is still required to maintain and preserve the records described in rules 31a-1 and 31a-2 for the periods specified in those rules.

8. Classification of fund (check only one):

[ ] Management company;

[ ] Unit investment trust; or

[ ] Face-amount certificate company.

9. Subclassification if the fund is a management company (check only one):

[ ] Open-end [ ] Closed-end

10. State law under which the fund was organized or formed (e.g., Delaware, Massachusetts):

11. Provide the name and address of each investment adviser of the fund (including sub-advisers) during the last five years, even if the fund's contracts with those advisers have been terminated:

12. Provide the name and address of each principal underwriter of the fund during the last five years, even if the fund's contracts with those underwriters have been terminated:

13. If the fund is a unit investment trust ("UIT") provide:

(a) Depositor's name(s) and address(es):

(b) Trustee's name(s) and address(es):

14. Is there a UIT registered under the Act that served as a vehicle for investment in the fund (e.g., an insurance company separate account)?

[ ] Yes [ ] No

If Yes, for each UIT state:
Name(s):

File No.: 811-_____

Business Address:

15. (a) Did the fund obtain approval from the board of directors concerning the decision to engage in a Merger, Liquidation or Abandonment of Registration?

[ ] Yes [ ] No

If Yes, state the date on which the board vote took place:

If No, explain:

(b) Did the fund obtain approval from the shareholders concerning the decision to engage in a Merger, Liquidation or Abandonment of Registration?

[ ] Yes [ ] No

If Yes, state the date on which the shareholder vote took place:

If No, explain:

II. Distributions to Shareholders

16. Has the fund distributed any assets to its shareholders in connection with the Merger or Liquidation?

[ ] Yes [ ] No

(a) If Yes, list the date(s) on which the fund made those distributions:

(b) Were the distributions made on the basis of net assets?

[ ] Yes [ ] No

(c) Were the distributions made pro rata based on share ownership?

[ ] Yes [ ] No

(d) If No to (b) or (c) above, describe the method of distributions to shareholders. For Mergers, provide the exchange ratio(s) used and explain how it was calculated:

(e) Liquidations only:
Were any distributions to shareholders made in kind?

[ ] Yes [ ] No

If Yes, indicate the percentage of fund shares owned by affiliates, or any other affiliation of shareholders:

17. Closed-end funds only:
Has the fund issued senior securities?

[ ] Yes [ ] No

If Yes, describe the method of calculating payments to senior securityholders and distributions to other shareholders:

18. Has the fund distributed all of its assets to the fund's shareholders?

[ ] Yes [ ] No

If No,
(a) How many shareholders does the fund have as of the date this form is filed?

(b) Describe the relationship of each remaining shareholder to the fund:

19. Are there any shareholders who have not yet received distributions in complete liquidation of their interests?

[ ] Yes [ ] No

If Yes, describe briefly the plans (if any) for distributing to, or preserving the interests of, those shareholders:

III. Assets and Liabilities

20. Does the fund have any assets as of the date this form is filed? (See question 18 above)

[ ] Yes [ ] No

If Yes,
(a) Describe the type and amount of each asset retained by the fund as of the date this form is filed:

(b) Why has the fund retained the remaining assets?

(c) Will the remaining assets be invested in securities?

[ ] Yes [ ] No

21. Does the fund have any outstanding debts (other than face-amount certificates if the fund is a face-amount certificate company) or any other liabilities?

[ ] Yes [ ] No

If Yes,
(a) Describe the type and amount of each debt or other liability:

(b) How does the fund intend to pay these outstanding debts or other liabilities?

IV. Information About Event(s) Leading to Request For Deregistration

22. (a) List the expenses incurred in connection with the Merger or Liquidation:

(i) Legal expenses:

(ii) Accounting expenses:

(iii) Other expenses (list and identify separately):

(iv) Total expenses (sum of lines (i)-(iii) above):

(b) How were those expenses allocated?

(c) Who paid those expenses?

(d) How did the fund pay for unamortized expenses (if any)?

23. Has the fund previously filed an application for an order of the Commission regarding the Merger or Liquidation?

[ ] Yes [ ] No

If Yes, cite the release numbers of the Commission's notice and order or, if no notice or order has been issued, the file number and date the application was filed:

V. Conclusion of Fund Business

24. Is the fund a party to any litigation or administrative proceeding?

[ ] Yes [ ] No

If Yes, describe the nature of any litigation or proceeding and the position taken by the fund in that litigation:

25. Is the fund now engaged, or intending to engage, in any business activities other than those necessary for winding up its affairs?

[ ] Yes [ ] No

If Yes, describe the nature and extent of those activities:

VI. Mergers Only

26. (a) State the name of the fund surviving the Merger:

(b) State the Investment Company Act file number of the fund surviving the Merger: 811-_____

(c) If the merger or reorganization agreement has been filed with the Commission, state the file number(s), form type used and date the agreement was filed:

(d) If the merger or reorganization agreement has **not** been filed with the Commission, provide a copy of the agreement as an exhibit to this form.

VERIFICATION

The undersigned states that (i) he or she has executed this Form N-8F application for an order under section 8(f) of the Investment Company Act of 1940 on behalf of _____, (Name of Fund) (ii) he or she is the _____ (Title) of _____ (Name of Fund), and (iii) all actions by shareholders, directors, and any other body necessary to authorize the undersigned to execute and file this Form N-8F application have been taken. The undersigned also states that the facts set forth in this Form N-8F application are true to the best of his or her knowledge, information and belief.

(Signature)

_____

[FR Doc. 99–9942 Filed 4–20–99; 8:45 am]
BILLING CODE 8010–01–C

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC66

Kaloko-Honokohau National Historical Park, Hawaii; Public Nudity

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is issuing this final rule to prohibit public nudity within the boundaries of Kaloko-Honokohau National Historical Park, Hawaii. Public nudity is in conflict with the enabling legislation of the park and the traditional values of native Hawaiian culture, which the park was created to perpetuate and preserve.

EFFECTIVE DATE: This rule becomes effective on May 21, 1999.

FOR FURTHER INFORMATION CONTACT: Bryan Harry, Superintendent, National Park Service, Pacific Islands Support Office, 300 Ala Moana Blvd., Suite 6–226, P.O. Box 50165, Honolulu, Hawaii 96850. Telephone 808–541–2693.

SUPPLEMENTARY INFORMATION:

Background

Public Law 95–625 (16 U.S.C. 396d) established Kaloko-Honokohau National Historical Park on November 10, 1978 "to provide a center for the preservation, interpretation and perpetuation of traditional native Hawaiian activities and culture, and to demonstrate historic land use patterns as well as to provide needed resources for the education, enjoyment and appreciation of such traditional native Hawaiian activities and culture by local residents and visitors * * *" Public nudity, an activity that can be construed as contemptuous and insulting in traditional native Hawaiian culture, is in conflict with the above stated purpose for which this park was established. Continued use of the park in this manner derogates resources that are used traditionally and creates a condition that is in conflict with related traditional native Hawaiian practices.

In traditional Hawaiian culture, public nudity had strong social connotations. The following excerpts, pertaining to nudity, document the traditional viewpoint of Hawaiians. Nudity and public display of genitals was very strictly regulated within a defined traditional social context.

Mourning: * * * displaying genitals was neither common nor approved, Mrs. Pukui explains. Such actions were excusable only because the mourner was considered pupule (crazy) from grief. (Kamakau 1919–20:2–45; Campbell 1967:101; Pukui, Haertig, and Lee, 1972 Vol. I: 124,133; 1972 Vol. II:183; Valeri 1985:261, 308).

Sorcery: As nudity is excused during mourning, nudity in the ceremony of anewanewa, was excused due to fear of sorcery. These two circumstances were probably the only time Hawaiians of both sexes were ever nude in public. Exposure of the genitals was not approved. (Pukui, Haertig, and Lee, 1972:124).

Nudity, general: Hawaiian tradition, for those following the kapu exposing the buttocks (hoopohopoho) was a gesture of complete contempt * * * and a grave insult to the beholder and for this reason even the slit-in-the-back hospital gown thus becomes a threat to ordinary courtesy. (Pukui, Haertig, and Lee, 1972:91).

Today, the reaction of Hawaiian cultural experts to public nudity echoes the past pre-missionary view towards nakedness (personal communication with Pat Bacon, who is Mary Kawena Pukui's daughter). Specifically, she was asked as to what circumstances in the Hawaiian culture would nudity be acceptable. Ms. Bacon stated that traditionally, children were allowed to go naked until they were about 10 years old, and that adult, female or male, nudity was not acceptable, and that men were nude only for rituals.

The park initially attempted to encourage voluntary compliance to prohibit public nudity. When this failed, the park enacted a temporary restriction of public nudity through the Superintendent's Compendium (36 CFR 1.5(a)(2)). This temporary prohibition is currently in place.

A proposed rule was published in the **Federal Register** April 20, 1998 (63 FR 19436). The public comment period for the proposed rule was open for 60 days.

Summary of Comments

We received a total of 1,355 letters and five petitions with comments on the proposed rule during the public comment period ending June 19, 1998. We have carefully considered all comments received. The legitimate concerns of both Hawaiian residents and of individuals from areas outside Hawaii were given consideration in the review process. In addition, we completed a critical review of the content and format of the final regulation. A summary of comments and our response to these comments follows.

A total of 468 letters opposed the proposed rule to ban public nudity at Kaloko-Honokohau. Of the 468 letters opposing the proposed rule, 47 were from the State of Hawaii and 375 were from out-of-state. Twenty-eight of the 47 Hawaii addresses were from the island of Hawaii where this national historical park is located. The addresses of origin of 46 of the letters opposing the rule could not be determined.

A total of 887 letters and the five petitions, containing a total of 74 signatures, were in support of the proposed rule and against public nudity at Kaloko-Honokohau. Of the 887 letters supporting the rule, 849 had addresses from the State of Hawaii and eight had out-of-state addresses. A total of 815 of the 887 Hawaii addresses were from the island of Hawaii where this national historical park is located. The addresses of origin of 30 letters could not be determined.

More than three hundred letters of comment opposing the rule appeared to come from members of the Naturist Society and the American Association for Nude Recreation (AANR). These letters contained statements similar to those found in advisory alerts forwarded to members by the Naturist Action Committee and contained in the AANR's monthly publication, *The Bulletin*. Members were asked to submit individual letters and were provided with the following suggested points to make in those letters:

1. State that you are a federal taxpayer objecting to the proposed rule against Nudity at Honokohau National Park.

2. You can also mention: That, as a federal taxpayer, you believe national parks are for everyone; that, with the right planning, nude recreation and other uses such as educational tours of the historic park can be accommodated; and that the availability of nude beaches is a factor in your decision-making about where you and your family choose to spend vacation dollars.

A total of 317 letters opposing the proposed rule contained references to the above points.

A total of 173 of the letters opposing the proposed rule disputed or disagreed that public nudity could be construed as contemptuous and insulting in traditional native Hawaiian culture and in conflict with the stated purpose of the Kaloko-Honokohau National Historical Park. These letters contained statements that native Hawaiians swam nude at Honokohau beach for centuries and that nude use was not in conflict with traditional practices by native Hawaiians, and that nude use of Honokohau beach is not offensive to native Hawaiians.

Letters were received from members of Hawaii's Congressional Delegation, a member of the State Legislature, the

Office of Hawaiian Affairs, the Kaloko-Honokohau Advisory Commission, the Naturist Society, the Naturist Action Committee, the American Association of Nude Recreation, the Western Sunbathing Association, and organizations and foundations representing Native Hawaiians. The content of these letters is summarized below.

Hawaii Senator Daniel K. Inouye stated he was pleased to learn that a proposed rule had appeared in the April 20, 1998 **Federal Register** to prohibit nude sunbathing at Kaloko-Honokohau National Historical Park. Senator Inouye requested that the proposed rule be approved and ratified. The letter closed with the following: "I am convinced that this rule is essential to the proper management of the national park, and as a means of demonstrating federal sensitivity to native Hawaiian cultural practices and historic sites."

Hawaii Senator Daniel Akaka expressed full support for the proposed rule to prohibit public nudity within the boundaries of Kaloko-Honokohau National Historical Park. The senator added that "[p]ublic nudity was never intended to be permitted on park premises when Congress considered the establishment of the park."

U.S. Congresswoman Patsy T. Mink, within whose district the national historical park is located, wrote, "to urge the adoption of the proposed rule to prohibit nude sunbathing at Kaloko-Honokohau National Historical Park." Congresswoman Mink further stated that as the sponsor of legislation to establish Kaloko-Honokohau as a national park, "it was not my intention nor the intention of Congress to allow public nudity at this significant Native Hawaiian site."

State of Hawaii Representative Paul Whalen, whose legislative district contains Kaloko-Honokohau, supported including the proposed rule in the Code of Federal Regulations. Representative Whalen's letter stated "[g]iven the stated purpose of the park and the native Hawaiian view of public nudity, nude sunbathing at the park site is both inappropriate for such a learning center and culturally insensitive."

The Hawaii Island Trustee of the Office of Hawaiian Affairs supported the proposed regulation prohibiting public nudity at Kaloko-Honokohau National Historical Park. The Trustee stated that public nudity runs counter to the purpose of the park which is for reorientation to things Hawaiian. The Office of Hawaiian Affairs was established by the Hawaii Legislature as a self-governing, corporate body whose purpose is the betterment of conditions for all Hawaiians.

A letter was received from the Chairman of the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission established by Congress to advise NPS "with respect to the historical, archeological, cultural, and interpretive programs of the park." The letter stated that at the Commission's December 13, 1997 meeting the members present voted unanimously in favor of an amended motion to ban all nudity in the park. The letter further stated that at their March 28, 1998 meeting, the Commission reiterated its position that nudity at the park be prohibited.

The Founder and President of the Naturist Society (TNS) requested that the proposed rule be discarded and in its place a Special Regulation be formulated to provide for the management of nude recreation at Honokohau Beach. TNS has been actively engaged for nearly two decades in promoting nude recreation on appropriate public lands.

The American Association of Nude Recreation (AANR), on behalf of its more than 50,000 members wrote to request that the proposed rule be delayed and ultimately rescinded. The AANR based its request on pending cases related to the current ban on nudity at Kaloko-Honokohau and their awareness of a forthcoming lawsuit challenging both the current ban and the proposed rule. Further, AANR's letter presented the view that informational signs could be posted in the park to manage conflicting uses.

The Naturist Action Committee (NAC), affiliated with the Naturist Society, expressed opposition to the proposal to prohibit public nudity at Honokohau Beach. The letter asked that the proposed rule be abandoned and a Special Regulation be established to express a more positive attitude toward nude recreation at Kaloko-Honokohau. NAC's stated objectives focus on perpetuating nude recreational activities that have existed on federal and state-managed recreational lands for many generations.

A letter was received from Ms. Mililani Trask on behalf of Ka Lahui Hawaii, a native Hawaiian organization claiming membership of 23,000 individuals of Hawaiian heritage. The letter, in part, states:

> Nudity in our Hawaiian culture *was not* and *is not* culturally appropriate. In our culture, public nudity was considered insulting and contemptuous and where it occurred in relation to sacred sites (wahi pana), it was considered an act of desecration. The only exceptions to this rule are religious ritual and mourning. These exceptions do not apply to Pu'uoina Heiau [a sacred Hawaiian temple near Honokohau beach]. Our cultural practices regarding nudity have been well documented by Ms. Mary Kawena Pukui, a renowned and often cited cultural expert.

The Edith Kanaka'ole Foundation, a private non-profit organization established to uphold and practice the indigenous Hawaiian culture, opposed naked sunbathing in the National Park of Kaloko-Honokohau. The letter states why nudity in general and naked sunbathing in particular was not and is not a traditional Hawaiian cultural practice.

The President of the Western Sunbathing Association, an affiliate of AANR, wrote to oppose the proposed ban on nudity at Honokohau Beach. The letter stated that until the enactment of the temporary ban on nudity effective January 1, 1997, nudists had peacefully coexisted with other beach users for many years. The association has over 8,000 members and is affiliated with the Kona Sun Club.

The chairperson of Na Kokua Kaloko-Honokohau, a non-profit organization established to assist NPS at Kaloko-Honokohau, wrote in opposition to nude sunbathing in Kaloko-Honokohau National Historical Park and in support of the proposed rule.

A letter and a petition containing 25 signatures were received from the Waimea Hawaiian Civic Club. These civic organizations were formed throughout the State of Hawaii to promote the interests of native Hawaiians. The purpose of the Waimea Hawaiian Civic Club's letter was to inform NPS of their stand banning nudity in public places in Hawaii, particularly at Kaloko-Honokohau.

None of the letters of comment supporting the proposed rule included suggestions or recommendations for any modification in content or format. Therefore, we have not prepared responses to comment letters supporting the proposed rule.

The following are responses to statements and suggestions made in several hundred comment letters opposing the proposed rule:

Comment: With the right planning, nude recreation can be accommodated at the park.

Response: The practice of nude sunbathing at Kaloko-Honokohau is a recreational activity that has been the cause of many complaints over the past decade from visitors and is therefore considered to be disruptive to orderly management of the park. Restricting this activity to certain locations within the park and/or to certain times has been eliminated as a management option because Honokohau beach is a small area and cultural practices take place throughout the park at different times. More important, nude sunbathing is a recreational activity that is in conflict with the purpose for which this national historical park was established. Therefore, anything less than a prohibition of public nudity at Kaloko-Honokohau is judged to be not feasible.

Comment: Public nudity is consistent with native Hawaiian culture and the stated purpose of the park and is not offensive to the native Hawaiians.

Response: The published cultural and historical record and the views of contemporary cultural experts, including native Hawaiians, do not support this view. Historically, in Hawaii, nudity has a wide range of strong social connotations from submission to spiritual ties to the aina, or earth. When done without purpose,

the exposure of the buttocks and anal area could be construed as a supreme gesture of contempt. Displaying genitals was neither common nor approved. Such actions were excusable during mourning only because the mourner was considered pupule (crazy) from grief. In general, adult nudity, outside of the family and without a reason for it, was disapproved. Today, the reaction of contemporary cultural experts to public nudity is consistent with the Hawaiian pre-missionary view of nakedness.

The stated purpose of the park is to "provide a center for the preservation, interpretation, and perpetuation of the traditional native Hawaiian activities and culture* * *" Public nudity, an activity that can be construed as contemptuous and insulting to traditional native Hawaiian culture, is in direct conflict with the above stated purpose.

Letters of comment received from contemporary native Hawaiian individuals and organizations consistently maintain that they regard public nudity is regarded by them to be offensive.

Comment: Rescind the proposed rule because of the pending criminal case involving the nudity prohibition in the superintendent's compendium. Because the case raises several Constitutional issues, its outcome could well conflict with the proposed rule.

Response: The defendants in that case withdrew their constitutional challenge to the compendium closure. Therefore, the ruling on this case will not conflict with this rulemaking.

Comment: The proposed rule should be rescinded because the AANR is aware of a civil lawsuit about to be filed in federal court, which poses similar concerns.

Response: The possibility of future lawsuits is not a sufficient basis for NPS to rescind this rulemaking.

Comment: A preferable way to prevent conflict among users of Honokohau is with informational signs providing notice of areas where clothes-free swimming and sunbathing occur.

Response: Informational signs would not prevent the conflicts between users engaged in public nudity and the traditional Hawaiian cultural purposes for which the park was established.

Comment: Formulate a new Special Regulation that provides FOR the management of nude recreation.

Response: Such a rule would be inconsistent with the park's enabling legislation and would derogate the values and purposes for which the park was established. The purpose of the proposed rule is to create an ambience and setting that fosters rather than inhibits the preservation and perpetuation of the traditional Hawaiian culture.

Comment: Until the enactment of the temporary ban on nudity effective January 1, 1997, nudists had peacefully coexisted with other beach users for many years.

Response: Since acquiring the property on which nude sunbathing is occurring, NPS has regularly received complaints from visitors—cultural education groups, the native Hawaiian community, school groups, and segments of the general public—regarding the presence of nude sunbathers in the park. Park rangers, in a lengthy series of case incident reports, document all these complaints. Some visitors stated they would choose to stay away rather than to visit the park where this kind of recreational activity was taking place.

Comment: Nude recreation is a legal activity on federal property, a point well established by NPS's own Special Directive 91–3 (Information on Public Nudity) dated May 29, 1991.

Response: This Special Directive, which Kaloko-Honokohau has followed, provides the following information on NPS policy regarding recreational activities:

> The National Park Service will encourage recreational activities that are consistent with applicable legislation, and that are compatible with other visitor uses.
>
> Unless the activity is mandated by statute, the National Park Service will not allow a recreational activity in a park or in certain locations within a park if it would involve or result in * * * unacceptable impacts on visitor enjoyment due to interference with or conflict with other visitor use activities, among other things.
>
> When unacceptable visitor conflicts occur, as a result of public nudity, a resolution of the situation should be attempted informally, if appropriate, with the persons who are the subjects of the complaint. If informal attempts fail to resolve the conflict and enforcement action becomes necessary, the option may exist of either applying NPS regulations, or State or local laws that specifically prohibit public nudity. The latter method has the advantage of providing consistency in enforcement on both Federal lands and adjacent areas.
>
> Park areas experiencing a particularly difficult situation that cannot be solved by the above methods may wish to propose park specific rulemaking that will address these problems.

Notwithstanding that nude sunbathing is inconsistent with the park's enabling legislation and that the park received many complaints from visitors about this recreational activity, the NPS, over a period of several years, attempted to resolve the situation informally with the persons who were the subjects of the complaint. In addition, attempts were made to apply State or county laws that prohibit public nudity. None of these attempts succeeded in resolving the situation and the Superintendent subsequently chose to propose park specific rulemaking to address this problem.

Comment: Naturist individuals and organizations in Hawaii were unable to gain a place at the table in the discussion of management options at Kaloko-Honokohau National Historical Park.

Response: The proponents of recreational nudity, including naturists, stated their views in substantial numbers at the public scoping meetings held in 1991 on the proposed general management plan. At these meetings and during the open public comment period that followed, the NPS was asked to designate Honokohau beach as clothing optional. In 1992, during the public meetings on the draft general management plan and during the open public comment period that followed, proponents of public nudity at Honokohau beach again asked that Honokohau beach be designated clothing optional. The NPS carefully weighed the feasibility of these requests against the park's enabling legislation and other public comments received during the development of the general management plan. Approved in 1994, the plan, while recognizing the use of Honokohau beach by nude sunbathers, states that this use will be prohibited in the future as the park is developed. Moreover, during the 60-day comment period on the proposed rule, naturists were able to express their views regarding recreational nudity at Kaloko-Honokohau. Over the past several years, there have been many opportunities for naturists to discuss the future of recreational nudity at Kaloko-Honokohau with the NPS.

After careful review and analysis of the comments received during the public review period, NPS finds that the proposed rule is in accord with the congressionally established purpose of this national historical park. Specifically, the NPS judges the proposed rule to be consistent with Section 505(a) of Public Law 95–625 which states the purpose of Kaloko-Honokohau National Historical Park to be "the preservation, interpretation, and perpetuation of traditional native Hawaiian activities and culture.* * *" Further, the NPS finds the proposed rule to be consistent with what past and contemporary cultural experts inform the Park Superintendent is Hawaiian tradition. Finally, the letters of comment contained no information that would

cause the NPS to modify either the content or format of the proposed rule.

Drafting information. The principal authors of this final rule are James Martin, Superintendent, Hawaii Volcanoes National Park; Bryan Harry, Superintendent, National Park Service, Pacific Islands Support Office; Laura Carter-Schuster, Resource Manager, Kaloko-Honokohau National Historical Park; Dennis Burnett and Chip Davis, Washington Office of Ranger Activities, National Park Service.

Compliance With Other Laws

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule is local in nature and only impacts visitors to the Kaloko-Honokohau National Historical Park. Visitor conflicts will be reduced, enhancing the enjoyment of the area for the vast majority of visitors, who were previously offended by public nudity.

This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The rule will not adversely impact public visitation or perpetuation and observance of traditional Native Hawaiian cultural practices for which the park was established.

This rule does raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Does not represent a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State local or tribal governments or the private sector.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. No property acquisition or impacts on private property owners are expected due to the administrative nature of the rule.

Federalism (E.O. 12612)

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. State Representatives and organizations expressed support for the rule.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and submissions under the Paperwork Reduction Act or OMB form 83–I are not required. The visitor use management aspect of this rule does not require information collection.

National Environmental Policy Act

The NPS has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce incompatible uses that compromise the nature and characteristics of the area or cause physical damage to it;

(c) Conflict with adjacent ownership or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based upon this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared specifically for this regulation. However, a Final EIS and Record of Decision were issued in 1994 along with the General Management Plan for the management and development of Kaloko-Honokohau National Historical Park under the provisions of NEPA.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. New § 7.87 is added to read as follows:

§ 7.87 Kaloko-Honokohau National Historical Park.

(a) *Is public nudity prohibited at Kaloko-Honokohau National Historical Park?* Yes. Public nudity, including nude bathing, by any person on Federal land or water within the boundaries of Kaloko-Honokohau National Historical Park is prohibited. This section does not apply to a person under 10 years of age.

(b) *What is public nudity?* Public nudity is a person's failure, when in a public place, to cover with a fully opaque covering that person's genitals, pubic areas, rectal area or female breast below a point immediately above the top of the areola.

(c) *What is a public place?* A public place is any area of Federal land or water subject to Federal jurisdiction within the boundaries of Kaloko-Honokohau National Historical Park, except the enclosed portions of restrooms or other structures designed for privacy or similar purposes.

Dated: April 7, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–9958 Filed 4–20–99; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300832; FRL–6073–1]

RIN 2070–AB78

Fludioxonil; Pesticide Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of fludioxonil in or on strawberries. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on strawberries. This regulation establishes a maximum permissible level for residues of fludioxonil in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on May 31, 2000.

DATES: This regulation is effective April 21, 1999. Objections and requests for hearings must be received by EPA on or before June 21, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300832], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300832], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300832]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 271, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9362, schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to sections 408 and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), is establishing a tolerance for residues of the fungicide fludioxonil, in or on strawberries at 2.0 part per million (ppm). This tolerance will expire and is revoked on May 31, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Findings

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described in this preeamble and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Fludioxonil on Strawberries and FFDCA Tolerances

According to the Applicant, gray mold caused by *Botrytis cinerea* is one of the most severe problems limiting strawberry production in Florida. Gray mold affects both flowers and fruit, resulting in marketable yield losses. Historically, gray mold has been controlled with bloom sprays of Rovral (iprodione) then weekly applications of captan until harvest. This schedule has provided good control of gray mold, especially for relatively resistant varieties, such as Oso Grande.

However, a shift toward the usage of certain varieties of strawberries which have specific desirable attributes (i.e.,

production, pest resistance or tolerance, etc.) but are more susceptible to gray mold, the development of gray mold strains with resistance to iprodione, and limitation of iprodione use on strawberries recently instituted as part of the iprodione reregistration has resulted in a situation where growers expect heavy losses without the requested product, Switch (which contains the active ingredients cyprodinil and fludioxonil). EPA has authorized under FIFRA section 18 the use of fludioxonil on strawberries for control of gray mold in Florida. After having reviewed the submission, EPA concurs that emergency conditions exist for this state.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fludioxonil in or on strawberries. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on May 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on strawberries after that date will not be unlawful, provided the pesticide is applied at a time and in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether fludioxonil meets EPA's registration requirements for use on strawberries or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of fludioxonil by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Florida to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fludioxonil, contact the Agency's Registration Division at the address provided under the "ADDRESSES" section.

III. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of fludioxonil and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of fludioxonil on strawberries at 2.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fludioxonil are discussed in this unit.

B. Toxicological Endpoint

1. *Acute toxicity.* No endpoint was identified for acute dietary exposure. The Agency has concluded that the toxicology database does not suggest the need for this assessment.

2. *Short- and intermediate-term toxicity.* No toxicological endpoints of concern were identified for acute oral exposure, short-term dermal exposure or inhalation exposure for all time periods. Risk assessments for these exposure scenarios were not conducted.

3. *Chronic toxicity.* EPA has established the Reference Dose (RfD) for fludioxonil at 0.03 milligrams/kilogram/day (mg/kg/day). This RfD is based on a no observed adverse effects level (NOAEL) of 3.3 mg/kg/day, taken from a chronic feeding study in dogs, and an uncertainty factor of 100. The effect observed at the lowest effect level (LEL) of 35.5 mg/kg/day was decreased body weight gain in females.

4. *Carcinogenicity.* Fludioxonil has been classified as a Group D- not classifiable as to human carcinogenicity-chemical by the Cancer Peer Review Committee. The Group D classification was based on the statistically significant increase in liver tumors in female rats for combined adenoma/carcinoma only, the lack of a tumorigenic response in male rats or in either sex of the mouse, and the need for additional mutagenicity studies.

C. Exposures and Risks

1. *From food and feed uses.* A tolerance has been established (40 CFR 180.516) for the residues of fludioxonil, in or on potatoes at 0.02 ppm. Fludioxonil is currently registered for use as a seed treatment on potatoes, popcorn, field and sweet corn, and sorghum, as well as for use in greenhouses on nonfood crops. Additionally, time-limited tolerances have been established for residues of fludioxonil on apricots, nectarines, peaches and plums. Risk assessments were conducted by EPA to assess dietary exposures and risks from fludioxonil as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. In reviewing the toxicity data base, no toxicological endpoints were identified which could be attributable to a single dietary exposure. Therefore a risk assessment for this exposure scenario is not required.

ii. *Chronic exposure and risk.* Tolerance level residues and 100% crop treated were assumed to calculate theoretical maximum residue contribution (TMRCs) for the United States (U.S.) population and population subgroups from residues on published and proposed uses. Chronic exposure from food uses of fludioxonil represents 4% of the RfD for the U.S. population and 22% of the RfD for non-nursing infants (<1yr), the subgroup most highly exposed.

2. *From drinking water.* Fludioxonil is not expected to impact ground or surface water resources. Available data suggest fludioxonil has a relatively low potential to leach to groundwater and move in runoff to aquatic environments. There is no established Maximum Contaminant Level (MCL) for residues of fludioxonil in drinking water. No

health advisory levels for fludioxonil in drinking water have been established.

The Agency has calculated drinking water levels of comparison (DWLOCs) for chronic exposure to fludioxonil in surface and groundwater. The DWLOCs are calculated by subtracting from the RfD the respective chronic dietary exposure attributable to food to obtain the acceptable exposure to fludioxonil in drinking water. Default body weight (70 kg for males, 60 kg for females, and 10 kg for non-nursing infants < 1 year old) and default drinking water consumption estimates (2 L/day for adults, 1 L/day for non-nursing infants) are then used to calculate the actual DWLOCs. The DWLOC represents the concentration level in surface water or groundwater at which aggregate exposure to the chemical is not of concern.

Using Generic expected environmental concentration (GENEEC) (surface water) and Screening Concentration in GROund Water(SCI-GROW) (groundwater) models, the Agency has calculated chronic Tier I Estimated Environmental Concentrations (EECs) for fludioxonil for use in human health risk assessments. These values represent the upper bound estimates of the concentrations of fludioxonil that might be found in surface and ground water assuming the maximum application rate allowed on the label of the highest use pattern. The EECs from these models are compared to the DWLOCs to make the safety determination.

i. *Acute exposure and risk.* In reviewing the toxicity data base, no toxicological endpoints were identified which could be attributable to a single dietary exposure. Therefore a risk assessment for this exposure scenario was not conducted.

ii. *Chronic exposure and risk.* Using the SCI-GROW model, the maximum long-term estimated concentration in groundwater is not expected to exceed 0.08 parts per billion (ppb). The chronic estimated concentration in surface water, using the GENEEC model, is 7.8 ppb. The DWLOC for the most sensitive adult subgroup, non-Hispanic females other than black or white was calculated to be 850 ppb; DWLOCs for all other adult population groups are even higher. As even the upper bound concentrations of fludioxonil in groundwater and surface water are not expected to exceed the calculated DWLOC, the Agency concludes with reasonable certainty that chronic exposure to fludioxonil in drinking water is not of concern.

3. *From non-dietary exposure.* Fludioxonil is currently not registered for use on non-food sites that would result in non-occupational, non-dietary exposure; therefore, no such exposure is expected.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether fludioxonil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fludioxonil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fludioxonil has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* In reviewing the toxicity data base, no toxicological endpoints were identified which could be attributable to a single dietary exposure. Therefore a risk assessment for this exposure scenario was not conducted.

2. *Chronic risk.* Using the TMRC exposure assumptions described in this unit, EPA has concluded that aggregate exposure to fludioxonil from food will utilize 4% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants less than 1 year in age (discussed below). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Estimated chronic environmental concentrations of fludioxonil in surface water and groundwater do not exceed chronic DWLOCs calculated by the Agency. EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

No toxicological endpoints of concern were identified for acute oral exposure, short-term dermal exposure or inhalation exposure for all time periods. Risk assessments for these exposure scenarios were not conducted.

4. *Aggregate cancer risk for U.S. population.* Fludioxonil has been classified as a Group D- not classifiable as to human carcinogenicity- chemical by the Cancer Peer Review Committee. The Group D classification was based on the statistically significant increase in liver tumors in female rats for combined adenoma/carcinoma only, the lack of a tumorigenic response in male rats or in either sex of the mouse, and the need for additional mutagenicity studies.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to fludioxonil residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children —*i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of fludioxonil, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the

additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* In the rat developmental study, the maternal (systemic) NOAEL was 100 mg/kg/day, based on reduction in mean body weight gain in dams during gestation period at the lowest observed effects level (LOEL) of 1,000 mg/kg/day. The developmental (fetal) NOAEL was 100 mg/kg/day, based on increased fetal and litter incidence of dilated renal pelvis and dilated ureter at the LOEL of 1,000 mg/kg/day. In the rabbit developmental toxicity study, the maternal (systemic) NOAEL was 10 mg/kg/day, based on decreased body weight gains and food efficiency at the LOEL of 100 mg/kg/day. The developmental (pup) NOAEL was 300 mg/kg/day, the highest dose tested.

iii. *Reproductive toxicity study.* In the 2–generation reproductive toxicity study in rats, the parental (systemic) NOAEL was 22.13 mg/kg/day (males) and 24.24 mg/kg/day (females), based on clinical signs and decreased body weight, body weight gain and food consumption at the LOEL of 221.6 mg/kg/day (males) and 249.7 mg/kg/day (females). The reproductive/developmental (pup) NOAEL was 22.13 mg/kg/day (males) and 24.24 mg/kg/day (females), based on reduced pup weights at the LOEL of 221.6 mg/kg/day (males) and 249.7 mg/kg/day (females).

iv. *Pre- and post-natal sensitivity.* The toxicological data base for evaluating pre- and post-natal toxicity for fludioxonil is complete with respect to current data requirements. There are no pre- or post-natal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 2–generation rat reproductive toxicity study.

v. *Conclusion.* There is a complete toxicity database for fludioxonil and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures.

2. *Acute risk.* In reviewing the toxicity data base, no toxicological endpoints were identified which could be attributable to a single dietary exposure. Therefore a risk assessment for this exposure scenario was not conducted.

3. *Chronic risk.* Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to fludioxonil from food will utilize 22% of the RfD for non-nursing infants less than one, the subgroups most highly exposed. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Because the chronic DWLOCs are not exceeded by estimated chronic environmental concentrations in groundwater or surface water, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

No toxicological endpoints of concern were identified for acute oral exposure, short-term dermal exposure or inhalation exposure for all time periods. Risk assessments for these exposure scenarios were not conducted.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to fludioxonil residues.

IV. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants is adequately understood based on a metabolism study submitted for seed treatment use on potatoes. The residue of concern is the parent compound, fludioxonil, only. There are no livestock feed items associated with the proposed use on strawberries. Therefore, the nature of the residue in animals is not germane to these section 18 requests or to the establishment of this tolerance.

B. Analytical Enforcement Methodology

Adequate enforcement methodology (GC/NPD) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5229.

C. Magnitude of Residues

Residues of fludioxonil are not expected to exceed 2.0 ppm in/on strawberries as a result of the proposed section 18 use. Secondary residues are not expected in animal commodities as there are no feed items associated with the strawberry use.

D. International Residue Limits

There are no Codex residue limits established for fludioxonil, and no Canadian or Mexican residue limits for fludioxonil use on strawberries.

E. Rotational Crop Restrictions

No crops may be planted for at least 30 days following the last application of fludioxonil. The crop rotation restriction for cyprodinil, the other active ingredient in Switch 62.5 WG, prohibits planting any crop other than strawberries.

V. Conclusion

Therefore, the tolerance is established for residues of fludioxonil in strawberries at 2.0 ppm.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 21, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov.

Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VII. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300832] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at: opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

VIII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on

matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 2, 1999.

Donald Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a), and 371.

2. Section 180.516, is amended by alphabetically adding the following commodity to the table in paragraph (b) to read as follows:

§ 180.516 Fludioxonil; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ revocation date
* *	* * *	
Strawberry	2.0	5/31/00

* * * * *

[FR Doc. 99–9709 Filed 4–20–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 185

[OPP–300836; FRL–6074–4]

RIN 2070–AB78

Dimethyl phosphate of 3-hydroxy-N-methyl-cis-crotonamide (monocrotophos) Final rule; Tolerance Revocations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule announces the revocation of tolerances for Dimethyl phosphate of 3-hydroxy-*N*-methyl-*cis*-crotonamide (monocrotophos) for residues of sugarcane, potatoes, cotton seed, peanuts, peanut hulls, and tomatoes. The regulatory actions in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA).

By law, EPA is required to reassess 33% of the tolerances in existence on August 2, 1996, by August 1999, or about 3,200 tolerances. The regulatory actions indicated in this document pertain to the final revocation of tolerances and/or exemptions, which count toward the August, 1999, review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation becomes effective April 21, 1999. Objections and requests for hearings must be received on or before July 20, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IV of the SUPPLEMENTARY INFORMATION section of this notice. Be sure to identify the appropriate docket number [OPP–300836], which is an addendum to a previous docket.

FOR FURTHER INFORMATION CONTACT: For technical information contact: Jamil Mixon, Reregistration Branch I, mail code (7508C), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Reregistration Branch I, CM #2, 6th floor, 1921 Jefferson Davis Hwy., Arlington, VA. Telephone: (703) 308–8032; e-mail: mixon.jamil @epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

You may be affected by this notice if you sell, distribute, manufacture, or use pesticides for agricultural applications, process food, distribute or sell food, or implement governmental pesticide regulations. Pesticide reregistration and other actions [see FIFRA section 4(g)(2)] include tolerance and exemption reassessment under FFDCA section 408. In this notice, the tolerance actions are proposed in coordination with the cancellation of associated registrations. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of Potentially Affected Entities
Agricultural Stakeholders.	Growers/Agricultural Workers Contractors [Certified/ Commercial Applicators, Handlers, Advisors, etc.] Commercial Processors Pesticide Manufacturers User Groups Food Consumers
Food Distributors	Wholesale Contractors Retail Vendors Commercial Traders/Importers
Intergovernmental Stakeholders.	State, Local, and/or Tribal Government Agencies
Foreign Entities	Governments, Growers, Trade Groups

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. If you have any questions regarding the applicability of this action to a particular entity, you can consult with the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

II. How Can I Get Additional Information or Copies of this or Other Support Documents?

A. Electronically

You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations" and then look up the entry for this document under "**Federal Register** - Environmental Documents." You can also go directly to the "**Federal Register**" listings at http://www.epa.gov/homepage/fedrgstr/.

B. In Person or by Phone

If you have any questions or need additional information about this action, please contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this notice, including the public version, has been established under docket control number [OPP–300836], (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Room 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is 703–305–5805.

III. Can I Challenge the Agency's Final Decision Presented in this Document?

Yes. You can file a written objection or request a hearing by June 21, 1999 in the following manner:

A. By Paper

Written objections and hearing requests, identified by the document control number [OPP–300836], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, room M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to room 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

B. Electronically

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending e-mail to opp-docket@epamail.epa.gov, per the instructions given in "By Paper" above. Electronic copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 or 6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP–300836]. Do not submit CBI through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository libraries.

IV. Why Is EPA Revoking the Tolerances Discussed below?

On June 13, 1988, the producer of monocrotophos requested voluntary cancellation of all registrations with a recall of all products in the channels of trade that would not be used by September 30, 1989. The last registered uses for monocrotophos were cancelled on January 22, 1991, for nonpayment of the March 1, 1990, maintenance fees. On June 9, 1993, the Agency's proposed revocation of tolerances for monocrotophos was published in the **Federal Register** (FRL–4183–6). Comments were received from Ciba-Geigy Corporation, now Novartis Crop Protection, Inc. and Biologic Research & Development Inc., a U.S. regulatory consultant for the Shell International Chemical Company, expressing strong interest in maintaining tolerance on commodities imported into the United States. As a result, the Agency allowed tolerances to remain on peanut hulls, cottonseed, potatoes, sugarcane, and tomatoes.

On January 22, 1999, Novartis Crop Protection Inc. the sole producer of monocrotophos, informed EPA that it no longer intended to support monocrotophos tolerances for import purposes. Novartis indicates that sale of monocrotophos will end in 1999, and has requested that tolerances for import purposes be retained until December 31, 2000, in order to fully utilize their existing stock. As Novartis is the sole producer of monocrotophos, EPA believes that there is no one else who will support tolerances for monocrotophos for import commodities. Therefore, EPA is revoking these tolerances for monocrotophos in or on peanuts, peanut hulls, tomatoes, cottonseed, potatoes and sugarcane (§ 180.296) and in concentrated tomato products (§ 185.2250).

V. What Action Is Being Taken?

This final rule revokes the FFDCA tolerances for residues of certain specified pesticides in or on certain specified commodities. EPA is revoking these tolerances because they are not necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. These pesticides are no longer used on commodities within the United States and no person has provided comment identifying a need for EPA to retain the tolerances to cover residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. Thus it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person in comments on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

EPA is not issuing today a final rule to revoke those tolerances for which EPA received comments demonstrating a need for the tolerance to be retained. Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed above only if, prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained or EPA independently verifies that the tolerance is no longer needed.

In the **Federal Register** of June 9, 1993, (OPP–300836) (FRL 4183–6), EPA issued a proposed rule for specific pesticides announcing the proposed revocation of tolerances for canceled food uses and inviting public comment for consideration and for support of tolerance retention under FFDCA standards. The following comments were received by the agency in response

to the document published in the **Federal Register**:

1. Comments from a letter received from Ciba-Geigy Corporation July 27, 1993, stated that, " Monocrotophos is used extensively in many countries around the world. The major uses in these countries are on crops such as sugarcane, potatoes and cottonseed." In addition Ciba-Geigy requested that, "the Agency withhold preceding to revoke residue tolerances for monocrotophos on cottonseed, potatoes and sugarcane at this time. Revoking these tolerances could create a non tariff trade barrier and should therefore be avoided to the extent possible. Ciba's proposal is to convert these domestic tolerances " to import tolerances which will help facilitate free trade."

Agency Response. The Agency allowed tolerances to remain on peanut hulls, tomatoes, cottonseed, potatoes and sugarcane (§ 180.296) and in concentrated tomato products (§ 185.2250).

2. Comments from correspondence received August 4, 1993, from Biologic Research & Development Inc., than a U.S. regulatory consultant for the Shell International Chemical Company, requested that EPA reconsider its proposal to revoke the existing U.S. tolerances for monocrotophos, but rather allow for a review of those tolerances in recognition of on going international uses of this compound and those residues likely to occur in commodities imported into the U.S.

Agency Response. The Agency allowed tolerances to remain on peanuts, peanut hulls, tomatoes, cottonseed, potatoes and sugarcane (§ 180.296) and in concentrated tomato products (§ 185.2250).

VI. When do These Actions become Effective?

Tolerance revocation for monocrotophos becomes effective December 31, 2000, per the manufacturer's request to fully utilize its remaining existing stock. If you have comments regarding existing stocks, please submit comments as described in Unit IV of the SUPPLEMENTARY INFORMATION section of this notice.

Section	Commodity	Parts per million	Expiration/Revocation Date
180.296	Peanuts hulls	0.5	12/31/2000
.....	Tomatoes	0.5	12/31/2000
.....	Cottonseed	0.1	12/31/2000
.....	Potatoes	0.1	12/31/2000
.....	Sugarcane	0.1	12/31/2000
.....	Peanuts	0.05	12/31/2000
185.2250	Tomato concentrated products	2.0	12/31/2000

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this notice, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by the Food Quality Protection Act (FQPA). Under this section, any residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

VII. How do the regulatory assessment requirements apply to this action?

A. Is this a "Significant Regulatory Action"?

No. Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action." The Office of Management and Budget (OMB) has determined that tolerance actions, in general, are not "significant" unless the action involves the revocation of a tolerance that may result in a substantial adverse and material affect on the economy. In addition, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this action is not an economically significant regulatory action as defined by Executive Order 12866. Nonetheless, environmental health and safety risks to children are considered by the Agency when determining appropriate tolerances. Under FQPA, EPA is required to apply an additional 10-fold safety factor to risk assessments in order to ensure the protection of infants and children unless reliable data supports a different safety factor.

B. Does this Action Contain Any Reporting or Recordkeeping Requirements?

No. This action does not impose any information collection requirements subject to OMB review or approval pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

C. Does this Action Involve Any "Unfunded Mandates"?

No. This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

D. Do Executive Orders 12875 and 13084 Require EPA to Consult with States and Indian Tribal Governments Prior to Taking the Action in this Document?

No. Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of

regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Does Executive Order 12898 Apply to this Action?

No. This final rule does not involve special considerations of environmental-justice related issues pursuant to Executive Order 12898, entitled *"Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"* (59 FR 7629, February 16, 1994).

F. Does this Action Have a Potentially Significant Impact on a Substantial Number of Small Entities?

No. The Agency has certified that tolerance actions, including the tolerance actions in this document, are not likely to result in a significant adverse economic impact on a substantial number of small entities. The factual basis for the Agency's determination, along with its generic certification under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), appears at 63 FR 55565, October 16, 1998 (FRL–6035–7). This generic certification has been provided to the Chief Counsel for Advocacy of the Small Business Administration.

G. Does this Action Involve Technical Standards?

No. This tolerance action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

H. Are There Any International Trade Issues Raised by this Action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. EPA is developing a guidance concerning submissions for import tolerance support. This guidance will be made available to interested stakeholders.

I. Is this Action Subject to Review under the Congressional Review Act?

Yes. The Congressional Review Act, 5 U.S.C. Sec. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

40 CFR Part 185

Environmental protection, Food additive, Pesticides and pest.

Dated: April 12, 1999.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, 40 CFR parts 180 and 185 are amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 is amended to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

b. By revising § 180.296 to read as follows:

§ 180.296 Dimethyl phosphate of 3-hydroxy-N-methyl-cis-crotonamide; tolerance for residues.

(a) *General.* Tolerances are established for residues of the insecticide Dimethyl phosphate of 3-hydroxy-*N*-methyl-*cis*-crotonamide in or on the following raw agricultural commodities:

Commodity	Parts per million	Expiration/ Revocation date
Cottonseed	0.1	12/31/00
Peanuts	0.05	12/31/00

Commodity	Parts per million	Expiration/ Revocation date
Potatoes	0.1	12/31/00
Sugarcane	0.1	12/31/00
Tomato	0.5	12/31/00
Tomato, concentrated products	2.0	12/31/00

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

2. In part 185:

PART 185— [AMENDED]

a. The authority citation for part 185 is revised to read as follows:

Authority: 21 U.S.C. 346(a) and 348.

§ 185.2250 [Removed]

b. By removing § 185.2250 *Dimethyl phosphate of 3-hydroxy-N-*methyl-*cis-crotonamide; tolerance for residues.*

[FR Doc. 99–10006 Filed 4–20–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[OPP–300719A; FRL–6075–7]

RIN 2070–AB78

Mepiquat Chloride; Pesticide Tolerances for Emergency Exemptions, Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, correction.

SUMMARY: This document corrects a tolerance regulation which established time-limited tolerances for residues of mepiquat chloride, (*N,N*-dimethylpiperidinium chloride) in or on grapes and raisins.

DATES: This correction is effective September 29, 1998.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9367, e-mail: ertman.andrew@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action is EPA Taking?

EPA is making a minor correction to a tolerance regulation that it issued in the **Federal Register** on September 29, 1998 (63 FR 51841; FRL–6032–6). The tolerance regulation established time-limited tolerances for residues of mepiquat chloride (*N,N*-dimethylpiperidinium chloride) in or on grapes at 1.0 part per million (ppm) and raisins at 6.0 ppm. The regulation amended 40 CFR 180.384 and 186.2275. EPA established this time-limited tolerance on its own initiative pursuant to sections 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6).

This document corrects the amendatory instructions that were provided for § 186.2275 in the September 29, 1998 **Federal Register** document. Specifically, on page 51848, in the first column, under part 186, the amendatory instruction "b" is corrected to read as follows:

"b. In § 186.2275, by transferring the entry for 'cottonseed meal' from the table and adding it alphabetically to the table in newly designated paragraph (a) of § 180.384, and by removing the remainder of § 186.2275."

II. Why Is this Technical Correction Issued as a Final Rule?

EPA is publishing this action as a final rule without prior notice and opportunity to comment because the Agency believes that providing notice and an opportunity to comment is unnecessary and would be contrary to the public interest. As explained above, the corrections contained in this action will simply correct the erroneous instructions for amending § 186.2275 contained in the September 29, 1998 **Federal Register** document. These instructions do not in any way impact the action presented in the September 29, 1998 **Federal Register** document. EPA therefore finds that there is "good cause" under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to make this amendment without prior notice and comment.

III. Do Any of the Regulatory Assessment Requirements Apply to this Action?

No. This final rule does not impose any new requirements. It only implements a technical correction to the Code of Federal Regulations (CFR). As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note). In addition, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act (APA) or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

EPA's compliance with these statutes and Executive Orders for the issuance of the underlying rule is discussed in the preamble for that rule (63 FR 51841, September 29, 1998).

IV. Will EPA Submit this Final Rule to Congress and the Comptroller General?

Yes. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). EPA has made such a good cause finding for this final rule, and established an effective date of September 29, 1998. Pursuant to 5 U.S.C 808(2), this determination is

supported by the brief statement in Unit II. of this preamble. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

V. Correction

In FR Doc. 98–25984, in the September 29, 1998 issue of the **Federal Register**, on page 51848, in the first column, under part 186, correct amendatory instruction "b." to read as follows:

"b. In § 186.2275 by transferring the entry for 'cottonseed meal' from the table and adding it alphabetically to the table in newly designated paragraph (a) of § 180.384, and by removing the remainder of § 186.2275."

List of Subjects 40 CFR Parts 180 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 2, 1999.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–10005 Filed 4–20–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[SW–FRL–6319–5]

Texas; Final Full Program Adequacy Determination of State Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination of full program adequacy for the State of Texas.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive household hazardous waste or conditionally exempt small quantity generator waste, comply with the revised Federal MSWLF Criteria (40 CFR part 258). Section 4005(c)(1)(C) of RCRA requires the EPA to determine whether States have "adequate" permit programs for MSWLFs, but does not mandate issuance of a rule for such determinations.

Texas applied for a determination of adequacy under section 4005 of RCRA. The EPA reviewed Texas' application and made a tentative determination that Texas' MSWLF permit program is adequate to ensure compliance with the revised MSWLF criteria. After allowing for public comment, EPA today is granting final approval to Texas' full solid waste program.

EFFECTIVE DATE: The determination of the adequacy of the Texas program shall be effective on April 21, 1999.

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, UST/Solid Waste Section (6PD–U), EPA Region 6, 1445 Ross Ave, Dallas, Texas 75202–2733, phone 214/665–6454.

SUPPLEMENTARY INFORMATON:

A. Background

On October 9, 1991, EPA promulgated revised criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the HSWA of 1984, requires States to develop permitting programs to ensure that facilities comply with the Federal criteria in 40 CFR part 258. Subtitle D also requires, in section 4005, that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal criteria at 40 CFR part 258. As the first step to fulfill this requirement, the Agency drafted a State/Tribal Implementation Rule (STIR), in 1991, and published in 1996 (61 FR 2584, Jan. 26, 1996), which States used to apply for a determination of program adequacy and which EPA would use to approve, partially approve, or disapprove State landfill permit programs. Since 1992, the Agency has approved adequate State MSWLF permit programs as applications are submitted. Approved State permit programs provide interaction between the State and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State permit program allows such flexibility. The EPA notes that regardless of the approval status of a State and the permit status of any facility, the Federal criteria will apply to all permitted and unpermitted MSWLFs. Due to a recent decision by the U.S. Court of Appeals for the District of Columbia Circuit (*Backcountry Against Dumps* versus *EPA*, 100 F.3d 147 (DC Cir. 1996)), tribes are viewed as municipalities rather than as states under RCRA and therefore, the Agency cannot approve tribal landfill permitting programs. To reflect the court decision, references to tribes have been deleted from the final rule. Thus, although the proposed rule was titled STIR we refer to the final rule as the State Implementation Rule (SIR). On October 23, 1998, EPA published SIR (63 FR 57025) that provides procedures by which EPA will approve, partially approve, or disapprove State landfill permit programs.

Part 40 CFR 239 (63 *FR* 57040) outlines several minimum requirements for "adequate" permit programs. These requirements include that states must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Additionally, the State must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, the State must show it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

The EPA Regions will determine whether a State has submitted an "adequate" program based on the interpretation outlined above. The EPA has provided specific criteria for this evaluation in the SIR. The EPA expects States to meet all of these requirements for all elements of an MSWLF program before it gives full approval to an MSWLF program.

On September 27, 1993, the EPA Administrator signed the final rule extending the effective date of the landfill criteria for certain classifications of landfills (proposed rule 58 *FR* 40568, July 28, 1993). Thus, for certain small landfills that fit the small landfill exemption as defined in 40 CFR part 258.1(f), the Federal criteria were effective on October 9, 1995, rather than on October 9, 1993. The final rule on the effective date extension was published in the **Federal Register** October 1, 1993 (58 *FR* 51536).

On August 10, 1995, the EPA published a proposed rule to solicit comments on a two-year delay, until October 9, 1997, of the general compliance date of the MSWLF criteria for qualifying small MSWLFs (60 *FR* 40799). This allowed EPA time to finalize the proposed alternatives. The final rule granting the delay of the

compliance date was published in the **Federal Register** on October 6, 1995 (60 *FR* 52337).

B. State of Texas

On August 4, 1993, Texas submitted an application for a full adequacy determination for the State's MSWLF permit program. On December 17, 1993, EPA published a final determination of partial program adequacy for Texas' program. Further background on the final determination of partial program adequacy appears in 58 *FR* 65986 (December 17, 1993) and in 58 *FR* 44821 (August 25, 1993). In those actions, EPA approved all portions of the State's MSWLF permit program except Texas' regulations exempting certain small landfills in arid regions from ground water monitoring requirements. On May 7, 1993 the U.S. Court of Appeals for the District of Columbia Circuit Court (*Sierra Club* v. *EPA*, 992F.2d 337 (D.C.Cir. 1993)) directed EPA to eliminate an exemption from ground water monitoring for small landfills in arid and remote locations (40 CFR 258.1 (f)(1)).

The court held that "* * * the Agency must revise its final rule to require groundwater monitoring, as necessary to detect contamination, at all landfills. While such factors as size, location and climate may affect the extent or kind of monitoring necessary to detect contamination at a specific facility, they cannot justify exemption from the statutory monitoring requirement." Thus, the Court vacated the small landfill exemption as it pertains to ground water monitoring, directing the Agency to "* * * revise its rule to require groundwater monitoring at all landfills." For that reason, EPA directed Texas to remove the exemption for certain small landfills in arid regions from ground water monitoring. However, with EPA's concurrence, Texas deferred repealing the exemption until EPA adopted a new standard.

On March 26, 1996, the Land Disposal Program Flexibility Act of 1996 was passed (P.L. 104–119, March 26, 1996) providing explicit authority for the ground water monitoring exemption, whereupon EPA reestablished the ground water monitoring exemption (61 *FR* 50410 September 25, 1996) that had been vacated by the Court. Therefore, on September 23, 1997, Texas applied for a determination of full program adequacy, since it had retained the ground water monitoring exemption in its rules and was now in conformity with the revised Federal criteria.

The EPA has reviewed Texas' application and has determined that all portions of the State's application are consistent with the revised Federal criteria. In its application, Texas demonstrated that the State's permit program adequately meets the location restrictions, operating criteria, design criteria, groundwater monitoring and corrective action requirements, closure and post-closure care requirements, and financial assurance criteria in the revised Federal criteria. In addition, the State of Texas also demonstrated that its MSWLF permit program contains specific provisions for public participation, compliance monitoring, and enforcement.

C. Public Comments

The public comment period on EPA's tentative determination began on September 16, 1998, and closed on October 16, 1998. No public comments were received.

Texas does not claim jurisdiction over Indian lands.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any state enforcement program. As EPA explained in the preamble to the MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State program approved by EPA to be in compliance with the Federal criteria. *See* 56 *FR* 50978, 50995 (October 9, 1991).

D. Decision

After allowing for the public comment, EPA concludes that Texas' application for a full program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted a determination of full program adequacy for all areas of its municipal solid waste permit program.

This action takes effect on the date of publication. The EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's program are already in effect as a matter of State law. The EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as Federal law. Consequently, EPA finds that it does not need to delay the effective date.

Children's Health Protection

Under Executive Order (E.O.) 13045, for all significant regulatory actions as defined by E.O.13045, EPA must provide an evaluation of the environmental health or safety effect of a proposed rule on children and an explanation of why the proposed rule is preferable to other potentially effective and reasonably feasible alternatives considered by EPA. This is not a significant regulatory action and is exempt from E.O. 13045.

Compliance With Executive Order 12866

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 6 of E.O. 12866.

Enhancing Intergovernmental Partnerships

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of the affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's action implements requirements specifically set forth by the Congress in sections 4005(c)(1)(B) and (c)(1)(C) of Subtitle D of RCRA, as amended, without the exercise of any discretion by EPA. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to today's action.

Compliance With Executive Order 13084

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal

governments. If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to today's action, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's action implements requirements specifically set forth by the Congress in sections 4005(c)(1)(B) and (c)(1)(C) of Subtitle D of RCRA, as amended, without the exercise of any discretion by EPA. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to today's action.

Certification Under the Regulatory Flexibility Act

The EPA has determined that this authorization will not have a significant adverse economic impact on a substantial number of small entities. By approving State municipal solid waste permitting programs, owners and operators of municipal solid waste landfills who are also small entities will be eligible to use the site-specific flexibility provided by part 258 to the extent the State permit program allows such flexibility. However, since such small entities which own and/or operate municipal solid waste landfills are already subject to the requirements in 40 CFR part 258 or are exempted from certain of these requirements, such as the groundwater monitoring and design provisions, this approval does not impose any additional burdens on these small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant adverse economic impact on a substantial number of small entities. It does not impose any new burdens on small entities; rather this approval creates flexibility for small entities in complying with the 40 CFR part 258 requirements. Today's action, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing today's document and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of today's action in the **Federal Register**. Today's action is not a "major rule" as defined by section 804(2) of the APA as amended.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the EPA must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year.

Today's action contains no Federal mandates (under the regulatory provisions of Title of the UMRA) for State, local, or tribal governments or the private sector. Today's action would merely acknowledge the adequacy of a portion of an existing State program. The EPA has determined that this action would not contain any Federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate or the private sector in any one year. Therefore, today's action is not subject to the requirements of section 202 of the UMRA.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This action is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: March 10, 1999.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

[FR Doc. 99–8337 Filed 4–20–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AC72

Disaster Assistance; Cost-share Adjustment

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule accomplishes three objectives. First, it establishes the financial criteria under which we, FEMA, recommend to the President a cost-share adjustment for permanent restorative work and for emergency work under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act). Second, the rule states that we recommend capping the Federal share of assistance at ninety percent (90%.) Third, we raise the $64 statewide per capita threshold that we have used since 1985 for recommending cost-share adjustments to current dollars, and will adjust that threshold annually in future years. The new threshold is phased in over a gradual period. The rule in no way affects the current process under which the President sometimes grants one hundred percent (100%) Federal funding for emergency work, including direct Federal assistance, for limited periods following disaster declarations when the emergency needs warrant it.

EFFECTIVE DATE: This rule is effective May 21, 1999.

FOR FURTHER INFORMATION CONTACT: Patricia Stahlschmidt, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202–646–4066, (facsimile) 202–646–4060, or (email) patricia.stahlschmidt@fema.gov.

SUPPLEMENTARY INFORMATION:

Background

On March 5, 1998, we published a proposed rule on cost-share adjustment under the Stafford Act, 42 U.S.C. 5121 *et seq.* in the **Federal Register** at 63 FR 10816. We invited comments for 60 days ending on May 4, 1998. We received nine sets of comments: two from State and local government organizations; six from States; and one from a local government. Three commenters generally supported placing the criteria in regulation and annually adjusting the threshold for inflation, and one commenter agreed with the ninety percent (90%) cap on the Federal share of assistance. Most commenters objected to various aspects

of the rule. Following is a summary of the comments and our responses.

Evaluation of Cost-share Adjustments

One of the most frequent comments was that there was no evaluation or analysis of the original threshold for recommending cost-share adjustments, and therefore there is no basis for raising this threshold to current dollars. Further comments along this line argued that the proposed threshold fails to consider State capability and does not provide an incentive for mitigation. We acknowledge that there was no analysis of the original $64 per capita threshold for recommending cost-share adjustments. However, that threshold is widely recognized and we have used it consistently since 1985 when we recommended the first cost-share adjustment. We do not intend, and never intended, to measure State capability or to provide an incentive for mitigation through this rule. Rather, the $64 threshold is simply a yardstick to determine when the economic impact of a disaster is of such severity that it warrants recommendation for a cost-share adjustment. We are quite willing to work with our State partners to identify capability or mitigation measures that might justify consideration of a cost-share adjustment. However, we view that as a longer-term effort separate from this rule. With respect to measuring economic impact, no commenters offered alternatives to the use of a per capita impact although two did suggest that we lower the threshold to $50 per capita. We believe instead that the 1985 threshold should be brought up to current dollars and adjusted annually using the Consumer Price Index for All Urban Consumers, since that is the legislative basis for annually adjusting the small project grants under the Public Assistance Program and grants under the Individual and Family Grant Program.

Presidential Discretion for Cost-share Adjustments

Several commenters noted that the threshold for granting cost-share adjustments unwisely limits Presidential discretion, and fails to account for the unique circumstances of a disaster. We believe that the rule adequately allows for Presidential discretion. First, the wording of the rule has been revised to state that we would *recommend* to the President when a cost-share adjustment is warranted in recognition of the fact that the President retains the authority for actually granting cost-share adjustments. Secondly, the rule clearly recognizes that, irrespective of the economic threshold established here, the President may continue the practice of granting up to one hundred percent (100%) Federal funding for emergency work when he believes such action is warranted in the early days of the disaster.

Multiple Disasters

Several commenters noted that the rule contains no provision for multiple disasters within a State. We agree, and have revised the rule to state that we will consider the effect of major disaster declarations in a State within the preceding twelve months. The final rule does not specifically indicate how we will consider multiple disasters because that would depend on the circumstances. We need to consider the timing of the disasters, the size, and the location when we review the impact of multiple disasters. For example, two very large disasters that strike the same area of a State might have a much greater economic impact than widely disbursed small disasters in the State even though the cumulative per capita impact might be similar.

Statewide Population Factors

A number of other commenters noted that the per capita threshold should consider the relative densities within a State, or should be based on the county and not on statewide population. We will continue to base the threshold on the statewide population to reflect the supplemental nature of Federal disaster assistance and the State's preeminent role in this partnership. The declaration process itself analyzes the localized impacts of the disaster when we recommend which counties should be granted Federal disaster assistance. If a State wishes to adjust the nonfederal cost-share burden in certain areas of the State it can do so through the State/applicant split of the nonfederal cost-share.

Actual Stafford Act Obligations To Measure per Capita Impact

Several commenters noted that the nonfederal share and State administrative costs should be included in the calculation of statewide per capita impact, and that the threshold should be based on estimates. We currently consider only actual obligations when determining the per capita impact of a disaster and will continue that practice. Actual obligations provide a better and more consistent measure of the impact of a disaster than do estimates, which can vary widely from disaster to disaster and can change dramatically over the course of the disaster. In order to be consistent in our method of measuring the per capita impact we will also continue our practice of measuring Stafford Act obligations only. State administrative costs have been and will continue to be considered when we measure per capita costs though we do not include our administrative costs in the calculation.

Limitation on Use of Sliding Scales

Three commenters noted that § 320 of the Stafford Act precludes any geographic area from receiving assistance under the Act solely by virtue of an arithmetic formula or sliding scale based on income or population. We are well aware of this provision of the Act but do not violate it because the rule does not prohibit any geographic area from receiving assistance under the Act. The rule merely determines when a more favorable cost-share adjustment may be recommended.

Gross Domestic Product as a Measure of Impact

One commenter noted that in the 1993 floods that affected nine Midwestern States the President used 0.1 percent of the gross domestic product (GDP) as the measure to determine that a cost-share adjustment would be recommended for all nine States. That GDP measurement was not mentioned in the proposed rule because it has come to be a one-time-only measurement. In more recent multi-state flood disasters in the Upper Midwest and Ohio River basins we considered only the per capita threshold as the basis for recommending a cost-share adjustment.

Timeframe for Implementation

One commenter noted that the proposed timeframe for implementation is no longer relevant. We recognize that it is no longer relevant. Due to the length of time for publication, comment and review of comments, the timeframe for implementation of the new threshold will now begin in calendar year 1999 on May 21, 1999 and not in fiscal year 1998. The phase-in period to bring the threshold up to current dollars has also been extended to address concerns about the increase in the threshold.

National Environmental Policy Act

44 CFR part 10 categorically excludes this rule from its requirements. We have not prepared an environmental assessment.

Executive Order 12866, Regulatory Planning and Review

This rule is not a significant regulatory action within the meaning of section 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, but attempts to adhere to the regulatory principles set forth in E.O. 12866. The Office of Management and Budget has not reviewed this rule under E.O. 12866.

Paperwork Reduction Act

This rule does not contain a collection of information and therefore is not subject to the provisions of the Paperwork Reduction Act of 1995.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under E.O. 12612, Federalism, dated October 16, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of E.O. 12778.

Congressional Review of Agency Rulemaking

We have sent this final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, Pub. L. 104–121. The rule is not a "major rule" within the meaning of that Act. It is an administrative action in support of normal day-to-day activities. It establishes the financial criteria under which we would recommend a cost-share adjustment for permanent restorative work and for emergency work, and recommends capping the Federal cost-share for permanent restorative work at ninety percent (90%). The rule does not result in nor is it likely to result in an annual effect on the economy of $100,000,000 or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have "significant adverse effects" on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

This final rule is exempt (1) from the requirements of the Regulatory Flexibility Act, and (2) from the Paperwork Reduction Act. The rule is not an unfunded Federal mandate within the meaning of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4. It does not meet the $100,000,000 threshold of that Act, and any enforceable duties are imposed as a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Disaster assistance, Intergovernmental relations, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 206 is amended as follows:

PART 206 SUBPART B—THE DECLARATION PROCESS

1. The authority citation for part 206 continues to read as follows:

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. We are adding § 206.47 to read as follows.

§ 206.47 Cost-share adjustments.

(a) We pay seventy-five percent (75%) of the eligible cost of permanent restorative work under section 406 of the Stafford Act and for emergency work under section 403 and section 407 of the Stafford Act, unless the Federal share is increased under this section.

(b) We recommend an increase in the Federal cost share from seventy-five percent (75%) to not more than ninety percent (90%) of the eligible cost of permanent work under section 406 and of emergency work under section 403 and section 407 whenever a disaster is so extraordinary that actual Federal obligations under the Stafford Act, excluding FEMA administrative cost, meet or exceed a qualifying threshold of:

(1) Beginning in 1999 and effective for disasters declared on or after May 21, 1999, $75 per capita of State population;

(2) Effective for disasters declared after January 1, 2000, and through December 31, 2000, $85 per capita of State population;

(3) Effective for disasters declared after January 1, 2001, $100 per capita of State population; and,

(4) Effective for disasters declared after January 1, 2002 and for later years, $100 per capita of State population, adjusted annually for inflation using the Consumer Price Index for All Urban Consumers published annually by the Department of Labor.

(c) When we determine whether to recommend a cost-share adjustment we consider the impact of major disaster declarations in the State during the preceding twelve-month period.

(d) If warranted by the needs of the disaster, we recommend up to one hundred percent (100%) Federal funding for emergency work under section 403 and section 407, including direct Federal assistance, for a limited period in the initial days of the disaster irrespective of the per capita impact.

Dated: April 14, 1999.

James L. Witt,

Director.

[FR Doc. 99–9934 Filed 4–20–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MM Docket No. 98–93; FCC 99–55]

1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Report and Order, the Commission modifies its rules to extend first come/first served processing to applications for minor changes to AM, reserved frequency noncommercial educational FM ("NCE FM") and FM translator facilities. The Commission also expands the definition of "minor change" in these services to conform more closely to the commercial FM definition, which includes all changes except changes in community of license and certain changes in frequency and/or class. Finally, we amend the contingent application rule to permit the filing of up to four related and simultaneously-filed minor change FM station construction permit applications. These modifications were proposed as part of a broad-based initiative, undertaken in conjunction with the Commission's 1998 biennial regulatory review, to streamline Mass Media Bureau radio technical rules.

EFFECTIVE DATE: May 21, 1999.

FOR FURTHER INFORMATION CONTACT: Peter H. Doyle, Audio Services Division, Mass Media Bureau (202) 418–2700 or William J. Scher, Audio Services Division, Mass Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order in MM Docket 98–93, adopted March 23, 1999, and released March 30, 1999. The complete text of this Report and Order is available for

inspection and copying during normal business hours in the FCC Reference Center, and may also be purchased from the Commission's copy contractor, International Transcription Service (ITS), (202) 857–3800 (phone), (202) 857–3805 (facsimile), 1231 20th Street, N.W., Washington, D.C. 20036.

Synopsis of Report and Order

I. Introduction

1. With this Report and Order, we extend first come/first served processing to AM, NCE FM and FM translator minor change applications. Furthermore, we expand the definition of "minor change" for these services to conform more closely to the commercial FM definition. Under these modified rules, non-expanded band AM, NCE FM and FM translator licensees and permittees may propose frequency changes to adjacent channels, and, in addition, FM translators may propose such changes to intermediate frequencies ("IF"), by filing minor change applications. Proposed changes in power, antenna height and/or antenna location for stations in these services also are classified as minor changes, provided that NCE FM and FM translator stations proposing antenna location changes would continue to provide 1 mV/m service to some portion of their authorized 1 mV/m service areas. In addition, AM stations may propose changes in authorized hours of operation by filing minor change applications. Proposed AM and NCE FM facility changes that would result in station class changes are classified as minor changes provided that they meet the standards. Amendments to applications also will be classified as minor in accordance with these standards. The measures that we are adopting make the commercial FM application process simpler, faster and more efficient, without undermining the administration of any Commission rule or policy. We anticipate that they will prove to be similarly beneficial in the AM, NCE FM and FM translator services, thereby encouraging potential applicants to file for improved facilities and speeding the introduction of improved services to the public.

II. Discussion

A. Extending First Come/First Served Processing to AM, NCE FM and FM Translator Minor Change Applications; Revising the Definition of "Minor" Change in These Services

Continuity of Service Requirement

2. We believe it is necessary to impose a continuity of service requirement on both NCE FM and FM translator stations proposing facility modifications. Unlike commercial AM and FM stations, our rules have not required NCE FM and FM translator stations to provide any level of service to their communities of license. Our approach here provides NCE FM and FM translator stations with maximum flexibility in proposing facility changes, while preventing such stations from completely abandoning their present service areas. We note that our proposal in the *1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, Notice of Proposed Rule Making* ("Notice") to require NCE FM stations to maintain 1 mV/m contours over at least a portion of their communities of license would impose an additional restriction on NCE FM station antenna location changes. As an interim measure until the Commission acts on that proposal, we shall process proposed NCE FM antenna location changes as minor changes only if the proposed changes do not diminish the stations' present 1 mV/m service to their communities of license.

AM and NCE FM Community of License Changes

3. We decline to adopt the suggestion of several commenters that we treat community of license changes in the AM and NCE FM services as minor changes. Unlike the proposed technical facility changes that we are reclassifying as minor changes, proposed AM or NCE FM community of license changes are not fundamentally technical in nature; rather, they raise important statutory and policy issues under Section 307(b) of the Communications Act, issues that require substantive legal analysis.

"Warehousing" Concerns

4. With regard to the spectrum "warehousing" concerns expressed by some commenters, we are not persuaded that additional safeguards are necessary. Mechanisms for preventing abuse will continue to exist under the new rules, in the form of careful staff review of applications, the opportunity to file informal objections and seek reconsideration and review of staff actions, and strict time limits on authorized construction periods. In addition, the enhancements that an applicant may request are necessarily limited by the operation of stations on adjacent and co-channel frequencies in neighboring communities and the applicant's city grade coverage requirements.

B. Agreements Involving Applications for Coordinated FM Station Changes

5. Section 73.3517 of the Commission's rules prohibits the filing of contingent new station and modification applications in the broadcast services. The Commission first announced this policy in a 1961 Public Notice and subsequently codified the restriction. It was adopted to bring greater administrative orderliness to the broadcast licensing process. The Commission found that it was frequently holding applications in pending status that were contingent on the grant of other applications involved in lengthy hearings. An application is "contingent" when it cannot be granted unless and until a second application, also pending before the Commission, is granted. In the FM service, Section 73.208 requires an applicant to protect all outstanding construction permits and licenses. Thus, when an FM application is contingent on the effectuation of a second station's facility modification application, in most instances the first station must wait for the grant of the second station's covering license application before filing a construction permit application. This rule effectively requires stations to undertake "coordinated" facility improvements through a series of application and construction cycles, a risky, lengthy and sometimes infeasible procedure, particularly where a station downgrade or facility relocation is required to permit expanded service by a second station.

6. Based on the record developed in this proceeding, we adopt rule changes to permit applicants to file up to four related, simultaneously-filed and cross-referenced minor change FM station construction permit applications. We believe that it is prudent to limit the scope of these new procedures, both to limit the potential for significant service losses and/or disruptions and to ensure that there is sufficient staff to complete review of interrelated proposals expeditiously. Thus, we exclude major change applications. Proposals may include one-step upgrade and downgrade applications. Applicants will be required to submit a copy of the agreement to undertake the coordinated facility changes with each application. Applications will be processed together and, if grantable, will be granted simultaneously. Granted applications will contain conditions, as necessary, to prevent interference during the construction period leading to full implementation of all related facility modifications. If one or more applications is unacceptable, all related

applications will be dismissed. Thus, the staff will dismiss an otherwise grantable non-contingent "lead" application if a related contingent application is found to be unacceptable.

7. We believe a strict dismissal policy is warranted. The plain *quid pro quo* for creating this greater technical flexibility for broadcasters is that applicants bear sole responsibility for developing proposals that fully comply with the Commission's rules. However, we wish to correct a commenter's erroneous assumption that applicants would be prohibited from filing curative amendments. Our current commercial and NCE FM amendment procedures will apply to contingent applications. The one processing policy change is that the staff will dismiss *all* related applications if one application remains unacceptable after the opportunity for filing curative amendments has closed.

8. Finally, with regard to contingent NCE FM applications, we permit proposals that include station cancellations except those that would create gray or white areas, *i.e.*, areas that receive service from one or no NCE FM stations, respectively. Although we decline to establish other full-time NCE FM service floor guidelines, any proposal to cancel a community's sole NCE FM station license, *i.e.*, its sole transmission service, will be treated as *prima facie* inconsistent with the public interest and must include a public interest justification. We will consider a commenter's proposal to permit alternative signal propagation methodologies to measure NCE FM service levels in a subsequent order in this proceeding in connection with our evaluation of the supplemental point-to-point ("PTP") signal propagation model.

C. Procedural Matters

9. In order to ensure a smooth transition to the new procedures, we wish to clarify our procedures for processing applications filed prior to the effective date that are subject to this Order. First, with regard to applications originally filed as minor changes, as of the effective date they will be accorded cut-off protection based on their actual filing dates, provided that they are not mutually exclusive with any other applications filed prior to the effective date. Mutually exclusive applications will be handled under our existing procedures. Second, with regard to major change applications subject to reclassification as minor changes, as of the effective date such applications will be reclassified automatically as minor changes, provided that: (1) They are not mutually exclusive with any other applications filed prior to the effective date; and (2) no petition to deny was filed against them in accordance with the requirements of Section 309(d) of the Communications Act prior to the effective date. Applications that fail to satisfy these two conditions will be handled under our existing application processing procedures. AM and FM translator applicants with major change applications on file that seek waiver of the Commission's interim policy concerning processing of such applications may request dismissal of their applications and resubmit minor change applications as of the effective date of the Order. Finally, applications pending as of the adoption date of the Order and seeking waivers of section 73.3517 will be considered on a case-by-case basis. Contingent applications filed between the adoption and effective dates of the Order shall be returned.

III. Administrative Matters

10. The complete text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, and may also be purchased from the Commission's copy contractor, International Transcription Service (ITS), (202) 857–3800 (phone), (202) 857–3805 (facsimile), 1231 20th Street, N.W., Washington, D.C. 20036.

11. Paperwork Reduction Act of 1995 Analysis. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act. The new or modified paperwork requirements contained in this Report and Order (which are subject to approval by the Office of Management and Budget) will go into effect upon OMB approval.

Final Regulatory Flexibility Analysis (FRFA)

12. As required by the Regulatory Flexibility Act ("RFA"), 5 U.S.C 603, an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in the Notice of Proposed Rulemaking for the docket in this proceeding. The Commission sought written public comments on the proposals set forth in the Notice, including comment on the IRFA. The Commission's Final Regulatory Flexibility Analysis ("FRFA") in this Report and Order conforms to the RFA.

Need For and Objectives of Action

13. Specifically, this Order (1) amends the Commission's rules to extend first come/first served processing to applications for minor changes to existing AM, NCE FM, and FM translator facilities; (2) expands the definition of minor change in these services to conform more closely to the commercial FM definition of "minor change;" and (3) amends the contingent application rule to permit the filing of up to four related and simultaneously-filed FM station construction permit applications. By this Order, the Commission eliminates the present inconsistent treatment of certain proposed facilities changes for AM, NCE FM and FM translator services, and provides greater flexibility for permittees and licensees to propose service improvements.

Significant Issues Raised by Public Comments in Response to the IRFAs

14. No comments were received specifically in response to the IRFA in MM Docket No. 98–93. However, four commenters expressed concern about an issue that may affect, but is not limited to, small business issues. These commenters were concerned that the new procedures could facilitate abuses by applicants resulting in the warehousing of spectrum.

Description and Estimate of the Number of Small Entities to Which Rules Will Apply

15. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA"). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term that are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**. We received no comment in response to either IRFA on how to define radio and television broadcast "small businesses." Therefore, we will

continue to utilize SBA's definitions for the purpose of this FRFA.

16. The SBA defines a radio broadcasting station that has no more than $5 million in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial religious, educational, and other radio stations. Radio broadcasting stations that primarily are engaged in radio broadcasting and that produce radio program materials are similarly included. As of November 30, 1998, Commission records indicate that 12,458 radio stations were operating, of which 11,960 were small businesses. The rules adopted herein are limited to AM, NCE FM and FM translator facilities. Thus, the measures adopted here will affect 9957 such entities, 9559 of which are considered small businesses.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

17. The measures adopted in the Order are anticipated to reduce the overall administrative burden of the Commission's application processes on applicants and the Commission. Extending first come/first served processing to AM, NCE FM and FM translator minor change applications will eliminate the uncertainty, delay and expense associated with the indefinite exposure to competing applications that occurs under the current processing system. Expansion of the minor change definition in these services to conform more closely to the commercial FM definition will eliminate unnecessarily burdensome administrative procedures, as well as minimizing the resources expended by applicants and the Commission in resolving conflicts between minor change applications. Permitting applications for coordinated FM station changes will eliminate the need to undertake coordinated improvements through a series of application and construction cycles, a risky, lengthy and sometimes infeasible procedure. No additional professional services are required by applicants filing minor change applications under these revised processing rules. Further, the cost of compliance will not vary between large and small entities.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

18. This Order sets forth the Commission's new streamlined application processing changes that are intended to eliminate unnecessary administrative burdens and shorten processing time frames for certain applications. All significant alternatives presented in the comments were considered. As noted in the Order, we extend the application of first come/first served processing to AM, NCE FM, and FM translator stations. These processing changes will remedy the uncertainty and delay previously associated with AM, NCE FM and FM translator minor change applications. We also expand the definition of minor change for these services to conform more closely to the commercial FM "minor change" definition. This change will eliminate the inconsistent treatment of proposed facility increases for different radio services without undermining the administration of any Commission rule or policy. Finally, this Order adopts rule changes to permit applicants to file up to four related, simultaneously-filed and cross-referenced minor change construction permit applications. This change will encourage licensees and permittees to propose service improvements by making the process more efficient.

Report to Congress

19. The Commission will send a copy of the *1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order, including this FRFA, (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b). In addition, the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

20. Authority for issuance of the Report and Order is contained in sections 4, 301, 303, 307, 308 and 309 of the Communications Act of 1934, as amended, 47 U.S.C 154, 301, 303, 307, 308 and 309. Sections 73.3517, 73.3571, 73.3573 and 74.1233.

21. It is ordered that the proceeding in MM Docket 98–93 is terminated.

List of Subjects in 47 CFR Parts 73 and 74

Auxiliary broadcasting, Radio broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Parts 73 and 74 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

2. Section 73.3517 is amended by adding paragraph (e) to read as follows:

§ 73.3517 Contingent applications.

* * * * *

(e) The Commission will accept up to four contingently related applications filed by FM licensees and/or permittees for minor modification of facilities. Two applications are related if the grant of one is necessary to permit the grant of the second application. Each application must state that it is filed as part of a related group of applications to make changes in facilities, must cross-reference each of the related applications, and must include a copy of the agreement to undertake the coordinated facility modifications. All applications must be filed on the same date. Any coordinated facility modification filing that proposes the cancellation of a community's sole noncommercial educational FM station license also must include a public interest justification. Dismissal of any one of the related applications as unacceptable will result in the dismissal of all the related applications.

3. Section 73.3571 is amended by revising paragraphs (a)(1) and (f) to read as follows:

§ 73.3571 Processing of AM broadcast station applications.

(a) * * *

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. A major change for an AM station authorized under this part is any change in community of license or in frequency, except frequency changes to non-expanded band first, second or third adjacent channels. A major change in ownership is a situation where the original party or parties to the application do not retain more than

50% ownership interest in the application as originally filed. All other changes will be considered minor.

* * * * *

(f) Applications for minor modifications for AM broadcast stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a "first come/first served" basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applicants. The FCC will periodically release a Public Notice listing those applications accepted for filing. Applications received on the same day will be treated as simultaneously filed and, if they are found to be mutually exclusive, must be resolved through settlement or technical amendment. Conflicting applications received after the filing of a first acceptable application will be grouped, according to filing date, behind the lead application in a queue. The priority rights of the lead applicant, against all other applicants, are determined by the date of filing, but the filing date for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

* * * * *

4. Section 73.3573 is amended by revising paragraphs (a)(1) and (e) to read as follows:

§ 73.3573 Processing FM broadcast station applications.

(a) * * *

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. A major change for an FM station authorized under this part is any change in frequency or community of license which is in accord with a present allotment contained in the Table of Allotments (§ 73.202(b)) of this part. A licensee or permittee may seek the higher or lower class adjacent channel, intermediate frequency or co-channel or the same class adjacent channel of its existing FM broadcast station authorization by filing a minor change application. Other requests for change in frequency or community of license for FM stations must first be submitted in the form of a petition for rule making to amend the Table of Allotments. Long-form applications submitted pursuant to § 73.5005 of this part for a new FM broadcast service may propose a higher or lower class adjacent channel, intermediate frequency or co-channel. For reserved frequency noncommercial educational and Class D FM stations, a major change is any change in community of license, any change in frequency except changes to first, second or third adjacent channels, and any change in antenna location where the station would not continue to provide 1 mV/m service to some portion of its previously authorized 1 mV/m service area. A major change in ownership is a situation where the original party or parties to the application do not retain more than 50% ownership interest in the application as originally filed.

* * * * *

(e) Applications for new reserved frequency noncommercial educational FM stations and for major modifications in the facilities of authorized reserved frequency noncommercial educational and Class D FM broadcast stations will be processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and will be drawn by the staff for study, the lowest file number first. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed application is begun, the FCC will periodically release a Public Notice listing applications which have been accepted for filing and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all mutually exclusive applications and/or petitions to deny the listed applications must be filed. Applications for minor modifications for reserved frequency noncommercial educational and Class D FM broadcast stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a "first come/first served" basis, with the first acceptable application cutting off the filing rights of subsequent, competing applicants. The FCC will periodically release a Public Notice listing those applications accepted for filing. Conflicting applications received on the same day will be treated as simultaneously filed and mutually exclusive. Conflicting applications received after the filing of a first acceptable application will be grouped, according to filing date, behind the lead application in a queue. The priority rights of the lead applicant, against all other applicants, are determined by the date of filing, but the filing date for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTION SERVICES

5. The authority citation for Part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307 and 554.

6. Section 74.1233 is amended by revising paragraphs (a)(1), (b) and (d)(1) to read as follows:

§ 74.1233 Processing FM translator and booster station applications.

(a) * * *

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. For FM translator stations, a major change is any change in frequency (output channel) except changes to first, second or third adjacent channels, or intermediate frequency channels, and any change in antenna location where the station would not continue to provide 1 mV/m service to some portion of its previously authorized 1 mV/m service area. All other changes will be considered minor. All major changes are subject to the provisions of §§ 73.3580 and 1.1104 of this chapter pertaining to major changes.

* * * * *

(b) Processing booster and reserved band FM translator applications.

(1) Applications for minor modifications for reserved band FM translator stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a "first come/first served" basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applicants. The FCC will periodically release a Public Notice listing those applications accepted for filing. Conflicting applications received on the same day will be treated as simultaneously filed and mutually exclusive. Conflicting applications received after the filing of a first acceptable application will be grouped, according to filing date, behind the lead

application in a queue. The priority rights of the lead applicant, against all other applicants, are determined by the date of filing, but the filing date for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

(2) All other applications for booster stations and reserved band FM translator stations will be processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and will be drawn by the staff for study, the lowest file number first. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed application is begun, the FCC will periodically release a Public Notice listing reserved band applications that have been accepted for filing and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all mutually exclusive applications and/or petitions to deny the listed applications must be filed.

* * * * *

(d) * * *

(1) Applications for minor modifications for non-reserved band FM translator stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a "first come/first served" basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applicants. The FCC will periodically release a Public Notice listing those applications accepted for filing. Applications received on the same day will be treated as simultaneously filed and, if they are found to be mutually exclusive, must be resolved through settlement or technical amendment. Conflicting applications received after the filing of a first acceptable application will be grouped, according to filing date, behind the lead application in a queue. The priority rights of the lead applicant, against all other applicants, are determined by the date of filing, but the filing date for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

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[FR Doc. 99–9951 Filed 4–20–99; 8:45 am]

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DEPARTMENT OF COMMERCE

50 CFR Part 648

National Oceanic and Atmospheric Administration

[I.D. 111998B]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery, Atlantic Sea Scallop Fishery, and Atlantic Salmon Fishery; Fishery Management Plan (FMP) Amendments to Designate Essential Fish Habitat (EFH), Atlantic Salmon Overfishing Definition, and Aquaculture Framework Specification Process

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Approval of amendments to FMPs.

SUMMARY: NMFS announces that the Secretary of Commerce (Secretary) has approved Amendment 11 to the Northeast Multispecies FMP, Amendment 9 to the Atlantic Sea Scallop FMP, and Amendment 1 to the Atlantic Salmon FMP. These amendments were prepared by the New England Fishery Management Council (NEFMC) to implement the requirements of section 303(a)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The amendments describe and identify EFH for the specified fisheries, discuss measures to address the effects of fishing on EFH, and identify other actions for the conservation and enhancement of EFH. Atlantic Salmon Amendment 1 also discusses a definition for overfishing and establishes an aquaculture framework adjustment process for Atlantic salmon.

The amendments are included in an omnibus amendment that also includes Amendment 1 to the Monkfish FMP prepared jointly by NEFMC and the Mid-Atlantic Fishery Management Council (MAFMC). Because of additional time required for coordination with MAFMC, the monkfish FMP amendment is being considered for Secretarial approval in a separate action. Finally, the omnibus amendment includes the EFH components of the Atlantic Herring FMP that are being developed by the NEFMC. The EFH information for Atlantic Herring will be incorporated by reference into the Atlantic Herring FMP when that FMP is submitted for Secretarial approval.

DATES: The amendments were approved on March 3, 1999.

ADDRESSES: Copies of the amendments and the Environmental Assessment (EA) are available from the Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036.

FOR FURTHER INFORMATION CONTACT: Jonathan M. Kurland, Assistant Habitat Program Coordinator, 978–281–9204 or Jon.Kurland@NOAA.gov.

SUPPLEMENTARY INFORMATION:

Background

The omnibus EFH amendment was prepared by NEFMC to satisfy the EFH mandates of the Magnuson-Stevens Act. The omnibus amendment includes an Environmental Assessment (EA), which describes the background, purpose and need for the action, the management action alternatives, and the environmental, social and economic impacts of the alternatives. A copy of the EA can be obtained from the NEFMC (see **ADDRESSES**).

A notice of availability (NOA) for Amendment 11 to the Northeast Multispecies FMP, Amendment 9 to the Atlantic Sea Scallop FMP, and Amendment 1 to the Atlantic Salmon FMP was published on December 1, 1998 (63 FR 66110). The comment period ended on February 1, 1999. An amendment to the NOA was issued on December 7, 1998 (63 FR 67450) to clarify that Atlantic Salmon Amendment 1 also discusses an overfishing definition and establishes a framework process to add or adjust Atlantic salmon aquaculture management measures, if necessary, to meet the goals and objectives of the Atlantic Salmon FMP. A second amendment to the NOA, issued January 6, 1999 (64 FR 823), clarified that there would be implementing regulations to allow for Atlantic salmon aquaculture through a framework adjustment process. The proposed rule for these regulations was published on February 5, 1999 (64 FR 5754). The comment period closed on March 22, 1999.

The omnibus EFH amendment designates EFH in waters of the United States for 14 species of groundfish, as

well as Atlantic sea scallops and Atlantic salmon. The omnibus amendment designates Habitat Areas of Particular Concern (HAPC) for Atlantic salmon and juvenile Atlantic cod in accordance with 50 CFR 600.815(a)(9). Although no new management measures are proposed for these HAPC, the Atlantic cod HAPC would be protected from potential adverse effects from fishing by maintaining the existing restrictions on fishing for the region known as Closed Area II on Georges Bank, pursuant to 50 CFR 648.81(b). In addition to the original rationale for implementing Closed Area II in 1994 (reducing overfishing of severely depleted groundfish stocks, as noted in the preamble to the emergency interim rule published in the **Federal Register** 59 FR 63926, December 12, 1994), under the omnibus amendment these management measures would be retained for habitat protection reasons.

In addition to the amendments for the Northeast Multispecies, Atlantic Sea Scallops, and Atlantic Salmon FMPs, the omnibus amendment also includes Amendment 1 to the Monkfish FMP and the EFH components of the Atlantic Herring FMP that is being developed by NEFMC. Monkfish Amendment 1 was submitted for Secretarial review under separate action on January 22, 1999 (64 FR 3480), and the comment period closed on March 23, 1999. The EFH information for herring will be incorporated by reference into the Atlantic Herring FMP when that FMP is submitted for Secretarial review, and an NOA will be published in the **Federal Register**.

Amendment 1 to the Atlantic Salmon FMP also includes an aquaculture framework process and information on an overfishing definition for Atlantic salmon. The overfishing definition is based on the assumption that the number of spawning salmon corresponding to maximum sustainable yield is 54,000 (a proxy for B_{msy}) and that fishing mortality on the current stock of 200 fish should be zero. No biomass threshold is given that describes when fishing mortality can be greater than zero. However, overfishing is not occurring in this fishery since fishing mortality in the exclusive economic zone has been reduced to zero and is expected to stay at zero for the foreseeable future. NMFS informed the Council that should the status of the resource change, it would need to revisit the overfishing definition to clarify what level of fishing mortality is appropriate to rebuild the resource to a sustainable level. In the interim, the omnibus amendment is providing maximum protection to conserve Atlantic salmon habitat and may offer solutions to enhance Atlantic salmon spawning habitat.

Amendment 1 to the Atlantic Salmon FMP also contains an aquaculture framework process to allow the Council to initiate action to implement, add or adjust Atlantic salmon management measures, provided that such an action is consistent with the goals and objectives of the Atlantic Salmon FMP. The proposed rule to implement the aquaculture framework process was published on February 5, 1999 (64 FR 5754). NMFS anticipates that a final rule will be published within the next few weeks.

NMFS determined that Amendment 11 to the Northeast Multispecies FMP, Amendment 9 to the Atlantic Sea Scallop FMP, and Amendment 1 to the Atlantic Salmon FMP are consistent with the Magnuson-Stevens Act and other applicable laws, and approved these amendments on March 3, 1999. Additional information on this action is contained in the NOA published on December 1, 1998 (63 FR 66110).

Upon initial consideration, it appeared that regulations to implement the EFH provisions of the amendments were not required. However, NMFS subsequently determined that implementing regulations are required to add the framework specification process for designating EFH and HAPC to existing regulations for the Northeast Multispecies FMP, the Atlantic Sea Scallop FMP, and the Atlantic Salmon FMP. NMFS will initiate these rulemaking actions in the near future.

Comments and Responses

Eight letters were received during the comment period, including four from environmental organizations (two from the American Oceans Campaign and one each from Marine Fish Conservation Network and Conservation Law Foundation), two from the fishing industry (Cape Cod Commercial Hook Fisherman's Association and Fisheries Survival Fund), one from the U.S. Department of State, and a joint letter from Maine Pulp and Paper Association and Maine Forest Products Council.

Comments on Identification and Description of EFH

Comment: One commenter stated that the EFH designations were overly broad and exceeded the intent of Congress. The commenter cited specific concerns about the designation for Atlantic salmon extending into state waters, including inland rivers upstream of manmade barriers, which will affect non-fishing interests and activities in adjacent upland areas. Other commenters noted that the Council had done a good job at using the precautionary approach to EFH identification.

Response: The Magnuson-Stevens Act defines EFH as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. Therefore, the geographic scope of EFH may be sufficiently broad to encompass the biological requirements of the species. The information that the Council used for EFH designation was primarily species distribution and relative abundance data, which would be classified as "level 2" information under the EFH regulations (50 CFR 600.815). Since the information available was not more specific (e.g., did not show species production by habitat type), the precautionary approach prescribed by the regulations led to fairly broad EFH designations. The EFH regulations at 50 CFR 600.10 interpret the definition of EFH to include aquatic areas that are used by fish, including historically used areas, where appropriate, to support a sustainable fishery and the managed species' contribution to a healthy ecosystem, provided that restoration is technologically and economically feasible. The Council's EFH designation for Atlantic salmon is consistent with these requirements.

Comment: An environmental organization commented that biological attributes such as epiflora and epifauna should have been included in the EFH text descriptions.

Response: The information that was available for EFH designation by the Council consisted primarily of regional species abundance and distribution. Although some species- specific information exists that indicates species associations with more complex habitat such as that including epiflora and/or epifauna, it is unclear whether or to what degree these habitat attributes are actually essential.

Comment: One environmental organization commended the Council's designating the HAPC for juvenile cod and its adding protection of EFH as a reason for the basis of the current closure to fishing in the area. Another environmental organization stated that HAPCs should be designated for all species under management.

Response: The EFH regulations (50 CFR 600.815(a)(9)) suggest the designation of HAPCs, which are defined as areas that are ecologically important, sensitive to human-induced degradation, impacted by development activities, or rare. It is conceivable that many areas of Council-designated EFH could satisfy these criteria. The Council

has designated HAPCs for both juvenile cod and Atlantic salmon based on readily available information and has committed in its strategic plan to continue to evaluate further HAPC designations.

Comments on Impacts to EFH from Fishing Gear

The majority of comments from the environmental organizations and one fishing industry association addressed the section of the amendments that evaluated the impacts of fishing gears on EFH, and measures to minimize any such impacts.

Comment: Two commenters stated that the amendments did not adequately evaluate the impacts of fishing gear on EFH. The commenters found that the evaluation of impacts in the amendments was cursory and did not specifically evaluate the impacts of each fishing gear on each type of EFH. One of the commenters pointed out that the Council did not follow the recommendations of the NMFS EFH technical guidance in addressing this topic and stated that a lack of sufficient detail in the discussion of fishing gear impacts was an impediment to public involvement, since it was difficult for the public to ascertain the reasoning behind the conclusions. The commenter also identified that cumulative impacts from fishing gears were not assessed.

Response: The Council approached the evaluation of impacts from fishing gears methodically. It identified the major gears used in the region based on landings; described the major gears; identified that otter trawls and scallop dredges were the most likely to have adverse impacts on habitat; appended a summary of the literature on fishing gear impacts to habitat; and described other impacts from fishing activities such as the impacts of fishing-related marine debris and lost gear, impacts of aquaculture, and impacts of at-sea fish processing. The Council also evaluated fisheries management measures currently in place, and determined their impact on EFH. Finally, the Council identified a number of areas that required further research in order to provide a better basis for determining fishing gear impacts, such as the spatial distribution and extent of fishing effort for gear types; the effects of specific gear types along a gradient of effort on specific habitat types; and recovery rates of various habitat types following fishing activity. The information in the document could have been presented in a more convenient manner (e.g., rather than the fishing impacts summary being appended it could have been synthesized into the document). This would have addressed the comment regarding the need for a thorough discussion of the Council's deliberations on fishing gear impacts, which is duly noted. However, based on the information available, the Council satisfied the requirements of the EFH regulations (50 CFR 600.815(a)(3)) regarding the assessment of fishing gear impacts.

The Council was not required to implement the recommendations of the draft NMFS EFH Technical Guidance (NMFS 1998); nor was it required to address cumulative impacts, absent adequate information.

Comment: The majority of environmental organizations and one fishing industry association stated that the amendments did not satisfy the Magnuson-Stevens Act requirements to minimize impacts from fishing gears to EFH, to the extent practicable, and the commenters thought that the amendments should be disapproved, or section 4 of the document should be disapproved. One commenter requested that the amendments be disapproved, and/or that the Secretary prepare a separate EFH amendment, or promulgate emergency regulations, or pursue negotiated conservation and management measures. One of the commenters suggested that the legal basis for existing management measures should be changed to include protection of EFH, since the Council relied on these measures to provide such protection. One commenter stated that the Council did not request public input on this issue.

Response: The EFH regulations at 50 CFR 600.815(a)(3)(iv) require that the Council consider a number of factors when evaluating whether it is practicable to minimize an adverse effect from fishing. These factors include (1) whether and to what extent the fishing activity is adversely impacting EFH including the fishery; (2) the nature and extent of the adverse effect on EFH; (3) whether management measures are practicable, taking into consideration the long and short-term costs and benefits to the fishery and its EFH; and (4) any other appropriate factors.

In the amendments, the Council concludes and NMFS concurs that no additional fishing restrictions to protect EFH are practicable at this time. It bases this conclusion on a number of findings relative to the factors outlined in the EFH regulations. The Council has determined that otter trawls and scallop dredges are the New England fishery gear types most likely to have an impact on EFH. The amendments cite an appended document by Auster and Langton (1998), which describes the impacts of such bottom tending mobile fishing gears on different habitat types in general. Auster and Langton state that the direction and type of impact of these gears can be determined; however, information that is required for a complete analysis of impacts is currently unavailable. The impact rate in relationship to the effort for each gear type is required in order to evaluate the effects of fishing on different habitat types. In order to determine these relationships, effort- specific rates of impacts for different gear types would need to be determined experimentally. Auster and Langton also found that information on distribution of fishing effort is lacking. Additionally, a detailed review of the habitat types and their locations is necessary. These information needs are identified in the amendments under the section of research needs. Without this information, the Council is unable to perform a complete analysis of fishing gear impacts.

In considering whether further management measures were practicable based on impacts to the fishery and its EFH, the Council, first, reviewed current and proposed fishery management measures that could protect EFH and had already been established as "practicable" under the Magnuson-Stevens Act. The Council found that many potential adverse effects to EFH from fishing are already minimized because of some of the current fishery management measures under the FMPs for the Atlantic Sea Scallop Fishery and the Northeast Multispecies Fishery. Such measures include Closed Areas I and II on Georges Bank (4,150 sq. nautical miles), which prohibits all gear capable of taking groundfish (including groundfish bottom trawls and scallop dredge gear), and the Hudson Canyon South and Virginia Beach closed areas (2,300 sq. nautical miles), which prohibit the use of scallop dredges. The Council also found that other effort reduction measures, such as days-at-sea allocations and vessel size/power limits, limit impacts to EFH as well. Second, the Council determined that some management measures contained in Amendment 7 to the Atlantic Sea Scallop FMP and Amendment 9 to the Northeast Multispecies FMP, designed to fulfill requirements of the Sustainable Fisheries Act, other than EFH, will also reduce adverse impacts to EFH. These new measures include the prohibition of streetsweeper gear and, beginning in year 2 of the Atlantic sea scallop rebuilding plan, a reduction in sea scallop fishing effort by more than 50

percent. Third, the Council approved the designation of a HAPC for juvenile Atlantic cod, and stated that the current Closed Area II restrictions, pursuant to 50 CFR 648.81(b) will be maintained in the HAPC portion, for habitat protection reasons. All of these current and proposed measures are consistent with those identified in the EFH regulations for controlling fishing gear impacts to EFH. The EFH regulations at 50 CFR 600.815(a)(4) specifically list fishing equipment restrictions, time/area closures, and harvest limits as methods to control fishing gear impacts to EFH. In addition, the measures currently in place and under review for other amendments under development have been determined to be practicable for New England fisheries, have addressed socio-economic impacts, including long and short-term benefits to the fishery, and are consistent with the national standards. Neither the Magnuson-Stevens Act, nor the EFH regulations, require that fishing impacts be controlled by newly proposed management measures.

The Council found that further information is necessary before it can responsibly determine what additional practicable measures may be necessary specifically for the protection of EFH from fishing impacts. For example, information on the net effects of using one particular gear design over another, as well as the effects of effort displacement that may be associated with additional closed areas or reductions to days-at-sea, is needed. To illustrate this point, the Council considers that reductions to scallop or groundfish days-at-sea programs may have the unintended effect of forcing fisheries to be concentrated in small areas near shore, which may also be EFH. The Council points out that any additional measures that might be imposed would likely be similar to those measures currently in place to control fishing effort. In FMP amendments and framework actions to address overfishing in the New England region, fishing has already been substantially reduced. Any additional EFH protection measures would impose additional socio-economic impacts to an already stressed industry. In the amendments, the Council determines that the uncertainty associated with the actual benefits predicted from additional management measures designed to mitigate habitat impacts impedes it from concluding that the additional short- and long-term costs to the fishing industry associated with those measures would be justifiable. Based on the fisheries management measures proposed and in place that will serve to protect habitat, the economically depressed status of the fisheries, and the Council's expressed intent to continue to move forward on EFH conservation, the amendments meet the requirement of the Act to minimize fishing gear impacts on EFH to the extent practicable.

The Council added habitat protection as one of the reasons for the current closure to the juvenile cod HAPC in Closed Area II; however, the reasons for implementation of the other fishery management measures that the Council found to protect EFH were not modified to include habitat. Although this issue does not affect approvability of the amendments, NMFS agrees with the comment that the Council should identify habitat protection as a reason for any management measures it has identified as providing for the protection of EFH. Council acknowledgment of its intent to protect EFH with the fishery management measures currently in place would clarify that the habitat benefits of measures originally developed for other purposes should be considered expressly whenever future management actions are contemplated. It is noted that, under the Magnuson-Stevens Act, fishery management councils are required to evaluate the impact of management measures on EFH, regardless of the management measure's purpose.

The Council provided opportunity for public input on these amendments as required by the Magnuson-Stevens Act.

Comment: One fishing industry group opposed the permanent closure of any areas to scallop gear. One environmental organization opposed access of scallop dredges or otter trawls to currently closed areas.

Response: Since the Council retains the ability to re-open any closed area, any future closures could be reconsidered by the Council, and would not in fact be "permanent." Potential scallop fishery access to existing closed areas is the subject of proposed Framework Adjustment 11 to the Atlantic Sea Scallop FMP and Framework Adjustment 29 to the Northeast Multispecies FMP, and will be addressed during the review of those actions.

Comment: One commenter suggested that all complex cobble-bottom should be protected.

Response: Further research is needed to identify all areas of this habitat type. Adoption of additional HAPCs in areas of cobble-bottom through the framework adjustment provision is a vehicle for identifying complex cobble-bottoms and/or other habitat types as particularly important. The Council has identified the designation of additional HAPCs as one of its objectives in the strategic plan portion of the amendments.

Comments on Framework Provisions

Comment: A fishing industry organization opposed the framework provision for designation of EFH, and stated that permanent closures should be subjected to the process of an amendment.

Response: The framework adjustment process for EFH designation will allow the Council to respond quickly when additional information becomes available regarding important habitats that should be classified as EFH while still allowing the opportunity for public participation. Nevertheless, the Council could decide to invoke the full amendment process if circumstances warranted. Moreover, the issue of area closures as adjustments that may be made under the framework procedures has already been addressed, and area closures have been approved under the Multispecies FMP and Sea Scallop FMP as fishery management measures that may be implemented under the framework procedures.

Comments on EFH Consultations

Comment: A commenter suggested that the consultation and conservation recommendation provisions of the Act will be burdensome and unworkable, citing that every Federal and state action, including all permitting actions that occur near coastal or inland waters, would trigger an EFH consultation. The commenter also indicated concern that the process would add little in the way of environmental benefit to fish or EFH.

Response: The Magnuson-Stevens Act requires Federal action agencies to consult with NMFS on activities that may adversely impact EFH. The EFH consultation requirements will be consolidated with other existing consultation and environmental review procedures wherever appropriate. This approach will ensure that EFH consultations do not duplicate other environmental reviews, yet still fulfill the statutory requirement for Federal actions to consider potential effects on EFH.

Comments on Atlantic Salmon Amendment 1

Comment: The commenter is concerned with how EFH and HAPC designations will impact ongoing salmon conservation efforts being implemented by Maine.

Response: NMFS is committed to ensure that EFH consultations and EFH

conservation recommendations in areas designated as EFH for Atlantic salmon will complement the goals set by the Maine Atlantic Salmon Conservation Plan. NMFS will be working closely with the State of Maine and other interested parties on this issue.

Comments on Other Issues

Comment: One fishing industry group commented that continued closure of HAPC will be a significant impact under the Regulatory Flexibility Act.

Response: NMFS does not believe that supplementing the basis for the current closure as a measure to protect juvenile cod HAPC and continuing this closure as a part of Closed Area II have any bearing on the Regulatory Flexibility Act because no additional regulatory impacts occur.

Comment: A commenter suggested that the Council establish and implement a plan for satisfying information needs with specific time frames for when objectives will be met and when notice will be provided to the public.

Response: The Council included a strategic plan in the amendments that addresses the refinement of EFH designations, designation of additional HAPCs, and improving understanding of fishing gear impacts, among other things. Since the Council is not a research body, it cannot schedule research activities to complement EFH conservation efforts. However, in its plan, the Council has committed to annual reviews of its EFH conservation program, which specifically includes identification and incorporation of ongoing and future studies as the results become available. Information on these efforts will be available to the public through the Council process.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 14, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–9990 Filed 4–20–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 041599A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod for Vessels Using Hook-and-line and Pot Gear in the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific cod by vessels using hook-and-line and pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal allowance of the 1999 total allowable catch (TAC) of Pacific cod allocated for vessels using hook-and-line and pot gear in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 17, 1999, until 1200 hrs, A.l.t., May 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999) established the first seasonal allowance of the TAC of Pacific cod allocated to vessels using hook-and-line and pot gear in the BSAI during the time period January 1 to April 30 as 60,000 metric tons (mt). See § 679.20(c)(3)(iii) and § 679.20(a)(7)(i)(A).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal allowance of the TAC of Pacific cod allocated to vessels using hook-and-line and pot gear in the BSAI has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 59,900 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is closing directed fishing for Pacific cod for vessels using hook-and-line and pot gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the first seasonal allowance of the 1999 TAC of Pacific cod allocated to vessels using hook-and-line and pot gear in the BSAI. A delay in the effective date is impracticable and contrary to the public interest. The Pacific cod directed fishing first seasonal allowance established for vessels using hook-and-line and pot gear has been reached. Further delay would only result in overharvest which would disrupt the FMP's objective of providing sufficient Pacific cod to support bycatch needs in other anticipated groundfish fisheries throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 15, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–9960 Filed 4–16–99; 4:30 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 76
Wednesday, April 21, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4 and 159

RIN 1515–AC30

Foreign Repairs to American Vessels

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise the Customs Regulations regarding the declaration, entry, assessment of duty and processing of petitions for relief from duty for vessels of the United States which undergo foreign shipyard operations. It is intended that the Customs Regulations regarding this subject accurately reflect the amended underlying statutory authority, as well as legal and policy determinations made as a result of judicial decisions and administrative enforcement experience.

DATES: Comments must be received on or before June 21, 1999.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: *Operational aspects:* Glenn Seale, Supervisory Customs Liquidator, 504–670–2137. *Legal aspects:* Larry L. Burton, Office of Regulations and Rulings, 202–927–1287.

SUPPLEMENTARY INFORMATION:

Background

The genesis of the modern vessel repair statute, 19 U.S.C. 1466, is found in the Act of July 18, 1866, Chapter 24, section 23 (14 Stat. 183). A 50 percent *ad valorem* duty was imposed on the foreign cost of repairs to United States vessels documented to engage in the foreign or coastwise trade on the northern, northeastern, and northwestern frontiers (practically speaking, Great Lakes, Atlantic, and Pacific Coast trade with Canada). The statute also provided for remission or refund of duties where it was established by sufficient evidence that the vessel had been compelled to seek foreign repairs due to a weather-related or other casualty. The statute was recodified in the Revised Statutes of the United States in 1874 (R.S. 3114 and 3115), but was left largely unamended until the Act of September 21, 1922, at which time the area of consideration for dutiable repairs was expanded to include repairs to all vessels documented under U.S. law to engage in the foreign or coastwise trade, as well as those intended to be so employed.

The statute has undergone amendment several times since 1922 and has been the subject of considerable judicial interpretation over the years as well. Recently, however, the statute has been amended in significant ways and a court case with broad impact on the administration of the law has also been decided.

On August 20, 1990, the President signed into law the Customs and Trade Act of 1990 (Pub. L. 101–382), section 484E of which amended the vessel repair statute by adding a new subsection (h). Subsection (h), which by its terms expired on December 31, 1992, included two elements. These concerned the exclusion from vessel repair duty of Lighter Aboard Ship (LASH) barges, and of spare parts and materials for use in vessel repairs abroad which had previously been imported and duty paid at the appropriate rate under the Harmonized Tariff Schedule of the United States (HTSUS). Two years after the expiration of that legislation the Congress enacted section 112 of Pub. L. 103–465 which became effective on January 1, 1995. That provision permanently reenacted the previously expired 19 U.S.C. 1466(h) (1) and (2), as discussed above, and also added a new subsection (h)(3) which, as administered by Customs, provides that vessel repair duties will be assessed at the applicable HTSUS rate for spare parts which are necessarily installed on vessels overseas prior to those spare parts ever having been entered into the United States for entry and consumption, such as is necessary under the (h)(2) provision.

The most basic issue to be determined in applying the vessel repair statute to a factual situation is, of course, whether a repair has taken place within the meaning of 19 U.S.C. 1466(a). Courts have ruled extensively on the "repair" cost issue and the result is a continually narrowing field of dutiable repair. One early case (*United States* v. *George Hall Coal Co.*, 134 F. 1003 (1905)), was the first to find any of various types of expenses associated with repairs to be classifiable as not subject to the assessment of vessel repair duties. The case established that the expense of drydocking a vessel (regardless of the underlying need to drydock) is not an element of dutiable value in foreign repair costs. Drydocking is a major, but not isolated, expense in general ship repair operations. Many other associated expenses and services are necessary adjuncts to drydocking and are logically inseparable from the drydocking rule. These include such items as drydock block arrangement, sea water supply (for firefighting equipment), hose hook-up and disconnection charges, fire watch services, the services of a crane for drydocking-related operations, the provision of compressed air, cleaning of the drydock following repairs, among numerous others. These necessary services are costly, are supplied at nearly each drydocking, and had until recently been considered to be classifiable as duty-free.

On December 29, 1994, the United States Court of Appeals for the Federal Circuit decided the case of *Texaco Marine Services, Inc., and Texaco Refining and Marketing, Inc.* v. *United States*, 44 F.3d 1539. While this case was submitted on appeal regarding the dutiability of specific foreign shipyard operations, the Court went much further by considering the propriety of several long-standing court cases, including the opinion in *George Hall, supra*. In so doing, a whole range of charges are subjected to duty consideration which had been insulated from such treatment since 1905.

The recent upheaval in terms of both statutory amendment and judicial interpretation has resulted in the need to update the regulatory provisions which implement the vessel repair statute. This has led to the proposed revisions contained within this document, which are presented in a more streamlined and simpler format, all in conformance with the recent changes. Most significantly in this connection, the proposed amendments

eliminate the Petition for Review process, currently the second of two pre-protest appeals for relief from duty, and vest in the Vessel Repair Units full authority to process and decide Applications for Relief without restrictions as to the amount of potential duty refund or remission.

Additionally, it is proposed that the Customs Regulations in part 159 be amended to recognize that vessel repair entries are not considered to be subject to liquidation, and that any duties paid pursuant to a vessel repair entry will henceforth be considered to be charges or exactions within the meaning of subsection (a)(3) of section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), the statute under which decisions of the Customs Service are protested. As such, duty determinations on vessel repair entries will be protestable but will not be subject to voluntary reliquidation or deemed liquidation procedures. This distinction will serve to recognize elements which are unique to the vessel repair entry process such as potential protracted delays in supplying cost information due to difficulty in obtaining proof of foreign expenses from shipyards in a timely fashion.

Comments

Before adopting this proposal, consideration will be given to any written comments which are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C.

Regulatory Flexibility Act and Executive Order 12866

The proposed amendments would revise the Customs Regulations concerning the declaration, entry, assessment of duty and processing of petitions for relief from duty, for subject vessels under the vessel repair statute. The proposed amendments are intended to accurately reflect the existing statutory authority, as well as legal and policy determinations made in this regard as the result of judicial decisions and administrative enforcement experience. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nor does this document meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has previously been reviewed and approved by the Office of Management and Budget (OMB) under OMB control number 1515–0082. This rule does not propose any substantive changes to the existing approved information collection.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Drafting Information. The principal author of this document was Larry L. Burton, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 4

Customs duties and inspection, Declarations, Entry, Repairs, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 159

Customs duties and inspection, Entry procedures.

Proposed Amendments to the Regulations

It is proposed to amend parts 4 and 159, Customs Regulations (19 CFR parts 4 and 159), as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4, and the specific authority citation for § 4.14, would continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91;
* * * * *

Section 4.14 also issued under 19 U.S.C. 1466, 1498;
* * * * *

2. It is proposed to revise § 4.14 to read as follows:

§ 4.14 Equipment purchases by, and repairs to, American vessels.

(a) *General provisions and applicability.* Under section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), purchases for or repairs made to certain vessels while they are outside the United States, including repairs made while those vessels are on the high seas, are subject to declaration, entry and payment of ad valorem duty. These requirements are effective upon the first arrival of affected vessels in the United States or Puerto Rico. The vessels subject to these requirements include those documented under U.S. law for the foreign or coastwise trades, as well as those which, although not documented under U.S. law, exhibit an intent to engage in those trades under Customs interpretations. Duty is based on actual foreign cost. This includes the original foreign purchase price of articles which have been imported into the United States and are later sent abroad for use. For the purposes of this section, expenditures made in American Samoa, the Guantanamo Bay Naval Station, Guam, Puerto Rico, or the U.S. Virgin Islands are considered to have been made in the United States, and are not subject to declaration, entry or duty. Under separate provisions of law, the cost of labor performed, and of parts and materials produced and purchased in Israel are not subject to duty under the vessel repair statute. Additionally, expenditures made in Canada or in Mexico are no longer subject to any vessel repair duties. Even in the absence of any liability for duty, it is still required that all repairs and purchases, including those made in Canada, Mexico, and Israel, be declared and entered.

(b) *Applicability to specific types of vessels.*—(1) *Fishing vessels.* As provided in § 4.15, vessels documented under U.S. law with a fishery endorsement are subject to vessel repair duties and must file a declaration and entry, or their electronic equivalent, for covered foreign expenditures upon their first post-expenditure arrival in the United States. Undocumented American fishing vessels which are repaired, or for which parts, nets or equipment are purchased outside the U.S., must also file and pay duty.

(2) *Government-owned or chartered vessels.* Vessels normally subject to the vessel repair statute because of documentation or intended use are not excused from duty liability merely because they are either owned or chartered by the U.S. Government.

(3) *Vessels away continuously for two years or longer.* Vessels normally subject to the vessel repair statute, which remain continuously outside the U.S. for two years or longer, are liable for duty on any fish nets and netting purchased at any time during the entire

absence. Other than for nets and netting, such vessels are liable for duty only on those expenditures which are made during the first six months of a continuous absence of two years or more from the United States. The single exception to this rule applies to vessels designed and used primarily for transporting passengers and merchandise which specifically depart the United States in order to obtain repairs or to purchase equipment. These vessels remain fully liable for duty regardless of the duration of their absence from the United States. Even though some costs may not be dutiable, all repairs, materials, parts and equipment-related expenditures must be declared and entered.

(c) *Estimated duty deposit and bond requirements.* Generally, the person authorized to submit a vessel repair declaration and entry must either deposit or transmit estimated duties or file a bond on Customs Form 301 at the first United States port of arrival before the vessel will be permitted to depart from that port. A bond of sufficient value to cover all potential duty on the foreign repairs and purchases which must be submitted at the port of arrival shall be forwarded by Customs at that port to the appropriate VRU port of entry, as defined in paragraph (g) of this section. The amount of the bond is within the discretion of Customs at the port of arrival since claims for reduction in duty liability are subject to the consideration of evidence by Customs. Customs officials at the port of arrival may consult the appropriate VRU port of entry or the staff of the Entry Procedures and Carriers Branch in Customs Headquarters in setting sufficient bond amounts. These duty, deposit, and bond requirements do not apply to vessels which are owned or chartered by the United States Government and are actually being operated by employees of an agency of the Government. If operated by a private party for a Federal agency under terms whereby the agency remains liable under the contract for payment of the duty, there must be a deposit or a bond filed in an amount adequate to cover the estimated duty.

(d) *Declaration required.* When a vessel subject to this section first arrives in the United States following a foreign voyage, the owner, master, or authorized agent must submit a vessel repair declaration on Customs Form 226, a dual-use form used both for declaration and entry purposes, or must transmit its electronic equivalent. The declaration must be ready for presentation in the event that a Customs officer boards the vessel. If no foreign repair-related expenses were incurred, that fact must be reported either on the declaration form or by approved electronic means. The Customs port of arrival receiving either a positive or negative vessel repair declaration or electronic equivalent shall immediately forward it to the appropriate VRU port of entry.

(e) *Entry required.* The owner, master, or authorized representative of the owner of any vessel subject to this section for which a positive declaration has been filed must submit a vessel repair entry on Customs Form 226 or transmit its electronic equivalent. The entry must show all foreign voyage expenditures for equipment, parts of equipment, repair parts, materials and labor. The entry submission must indicate whether it provides a complete or incomplete account of covered expenditures. The entry must be presented or electronically transmitted by the vessel operator to the appropriate VRU port of entry as identified in paragraph (g) of this section, so that it is received within ten calendar days after arrival of the vessel. Duty refund or remission claims should be made generally as part of the initial submission, and evidence must later be provided to support those claims. Failure to submit full supporting evidence of cost within stated time limits, including any extensions granted under this section, is considered to be a failure to enter.

(f) *Time limit for submitting evidence of cost.* A complete vessel repair entry must be supported by evidence showing the cost of each item entered. If the entry is incomplete when submitted, evidence to make it complete must be received by the appropriate VRU port of entry within 90 calendar days from the date of vessel arrival. That evidence must include either the final cost of repairs or, if the operator submits acceptable evidence that final cost information is not yet available, initial or interim cost estimates given prior to or after the work was authorized by the operator. The proper VRU port of entry may grant one 30-day extension of time to submit final cost evidence if a satisfactory written explanation of the need for an extension is received before the expiration of the original 90-day submission period. All extensions will be issued in writing. Inadequate, vague, or open-ended requests will not be granted. Questions as to whether an extension should be granted may be referred to the Entry Procedures and Carriers Branch in Customs Headquarters by the VRU ports of entry. Any request for an extension beyond a 30-day grant issued by a VRU must be submitted through that unit to the Entry Procedures and Carriers Branch, Customs Headquarters. In the event that all cost evidence is not furnished within the specified time limit, or is of doubtful authenticity, the VRU may refer the matter to the Customs Office of Investigations to begin procedures to obtain the needed evidence. That office may also investigate the reason for a failure to file or for an untimely submission. Unexplained or unjustified delays in providing Customs with sufficient information to properly determine duty may result in penalty action as specified in paragraph (j) of this section.

(g) *Location and jurisdiction of vessel repair unit ports of entry.* Vessel Repair Units (VRUs) are considered to be the ports of entry for vessel repair declarations and entries, and are located in New York, New York; New Orleans, Louisiana; and San Francisco, California. The New York unit processes vessel repair entries received from ports of arrival on the Great Lakes and the Atlantic Coast of the United States, north of, but not including, Norfolk, Virginia. The New Orleans unit processes vessel repair entries received from ports of arrival on the Atlantic Coast from Norfolk, Virginia, southward, and from all United States ports of arrival on the Gulf of Mexico including ports in Puerto Rico. The San Francisco unit processes vessel repair entries received from all ports of entry on the Pacific Coast including those in Alaska and Hawaii.

(h) *Justifications for refund or remission of duty.* Vessel repair duties may be refunded or remitted. Refunds relate to claims made under paragraph (a) of the vessel repair statute (19 U.S.C. 1466(a)), and remissions relate to claims made under paragraphs (d), (e) and (h) of the vessel repair statute (19 U.S.C. 1466(d), (e) and (h)).

(1) *Refund of duty.* Duty is refunded when it is determined that a foreign shipyard operation or expenditure is not considered to be a repair or purchase within the terms of the vessel repair statute, or as determined under judicial or administrative interpretations.

(2) *Remission of duty.* Duty is remitted under paragraph (d) of the vessel repair statute (19 U.S.C. 1466(d)) when it is determined that a foreign shipyard operation or expenditure involves any of the following:

(i) *Stress of weather or other casualty.* Duty will be remitted if good and sufficient evidence supports a finding that the vessel, while in the regular course of its voyage, was forced by stress of weather or other casualty, while outside the United States, to purchase equipment or make repairs

necessary to secure the safety and seaworthiness of the vessel in order to enable it to reach its port of destination in the United States. Only duty on the cost of the minimal repairs needed for safety and seaworthiness is subject to remission. For the purposes of this section, a "casualty" does not include any purchase or repair made necessary by ordinary wear and tear, but does include the failure of a part to function if it is proven that the specific part was repaired, serviced, or replaced in the United States immediately before the start of the voyage in question, and then failed within six months of that date.

(ii) *U.S. parts installed by regular crew or residents.* Duty will be remitted if equipment, parts of equipment, repair parts, or materials used on a vessel were manufactured or produced domestically and were purchased in the United States by the owner of the vessel. It is also required under the statute that residents of the United States or members of the regular crew of the vessel perform any necessary labor in connection with such installation.

(iii) *Dunnage.* Duty will be remitted if any equipment, equipment parts, materials, or labor were used for the purpose of providing dunnage for the packing or shoring of cargo, for erecting temporary bulkheads or other similar devices for the control of bulk cargo, or for temporarily preparing tanks for carrying liquid cargoes.

(i) *General procedures for seeking refund or remission.*—(1) *Applications for relief.* Vessel repair duty will not be refunded or remitted unless an Application for Relief is filed with Customs; duty will not be refunded or remitted based merely on a duty refund or remission claim made at time of entry pursuant to paragraph (e) of this section. An Application for Relief is not required to be presented in any particular format, but if filed it must clearly present justification for granting relief. An Application must also state that all repair operations performed aboard a vessel during the one-year period prior to the current submission have been declared and entered. A valid Application is required to be supported by complete evidence as detailed in this section. The deadline for receipt of an Application and supporting evidence is 90 days from the date that the vessel first arrived in the United States following foreign operations. Applications must be addressed and submitted by the vessel operator to the appropriate VRU port of entry and will be decided in that unit. The VRUs may seek the advice of the Entry Procedures and Carriers Branch in Customs Headquarters with regard to any specific item or issue which has not been addressed by clear precedent. If no Application is filed or if a submission which does not meet the minimal standards of an Application for Relief is received, the duty amount will be determined without regard to issues of refund or remission. Each Application for Relief must include copies of:

(i) Itemized bills, receipts, and invoices for items shown in paragraph (e) of this section. The cost of items for which refund or remission is being sought must be segregated from the cost of the other items listed in the vessel repair entry;

(ii) Photocopies of relevant parts of vessel logs, as well as of any classification society reports which detail damage and remedies;

(iii) A certification by the senior officer with personal knowledge of all relevant circumstances relating to casualty damage (time, place, cause, and nature of damage);

(iv) A certification by the senior officer with personal knowledge of all relevant circumstances relating to foreign repair expenditures (time, place, and nature of purchases and work performed);

(v) A certification by the master that casualty-related expenditures were the minimum necessary to ensure the safety and seaworthiness of the vessel in reaching its United States port of destination; and

(vi) Any permits or other documents filed with or issued by any other United States Government Agency regarding the operation of the vessel.

(2) *Additional evidence.* In addition, copies of any other evidence and documents the applicant may wish to provide as evidentiary support may be submitted. Elements of applications which are not supported by required evidentiary elements will be considered fully dutiable. All documents submitted must be certified by the master, owner, or authorized corporate officer to be originals or copies of originals, and if in a foreign language they must be accompanied by an English translation, certified by the translator to be accurate. Upon receipt of an Application for Relief by the VRU within the prescribed time limits, a determination of duties owed will be made. After a decision is made on an Application for Relief by a VRU, the Applicant will be notified of the right to protest any perceived excessive charge or exaction.

(3) *Administrative protest.* Following the determination of duty owing on a vessel repair entry, a protest may be filed as the only and final administrative appeal. The procedures and time limits applicable to protests filed in connection with vessel repair entries are the same as those provided in part 174 of this chapter.

(j) *Penalties.*—(1) *Failure to report, enter, or pay duty.* It is a violation of the vessel repair statute if the owner or master of a vessel subject to this section willfully or knowingly neglects or fails to report, make entry, and pay duties as required; makes any false statements regarding purchases or repairs described in this section without reasonable cause to believe the truth of the statements; or aids or procures any false statements regarding any material matter without reasonable cause to believe the truth of the statement. If a violation occurs, the vessel, its tackle, apparel, and furniture, or a monetary amount up to their value as determined by Customs, is subject to seizure and forfeiture and is recoverable from the owner (see § 162.72 of this chapter).

(2) *False declaration.* If any person required to file a vessel repair declaration or entry under this section, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement, that person shall be subject to the criminal penalties provided for in 18 U.S.C. 1001.

PART 159—LIQUIDATION OF DUTIES

1. The authority citation for part 159 is revised to read as follows:

Authority: 19 U.S.C. 66, 1500, 1504, 1624. Subpart C also issued under 31 U.S.C. 5151.

Sections 159.4, 159.5, and 159.21 also issued under 19 U.S.C. 1315;

Section 159.6 also issued under 19 U.S.C. 1321, 1505;

Section 159.7 also issued under 19 U.S.C. 1557;

Section 159.22 also issued under 19 U.S.C. 1507;

Section 159.44 also issued under 15 U.S.C. 73, 74;

Section 159.46 also issued under 19 U.S.C. 1304;

Section 159.55 also issued under 19 U.S.C. 1558;

Section 159.57 also issued under 19 U.S.C. 1516.

§ 159.11 [Amended]

2. It is proposed to amend § 159.11(b) by removing the phrase, "vessel repair entries or".

Approved: March 12, 1999.
Raymond W. Kelly,
Commissioner of Customs.
John P. Simpson,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 99–9946 Filed 4–20–99; 8:45 am]
BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 244

[FRA Docket No. 1999–4985, Notice No. 3]

Surface Transportation Board

49 CFR Part 1106

[STB Ex Parte No. 574]

RIN 2130–AB24

Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control, and Start Up Operations; and Procedures for Surface Transportation Board Consideration of Safety Integration Plans in Cases Involving Railroad Consolidations, Mergers, and Acquisitions of Control

AGENCIES: Federal Railroad Administration, DOT, Surface Transportation Board.

ACTION: Notice of proposed rulemaking; date and location of public hearing; extension of comment period.

SUMMARY: By notice of proposed rulemaking (NPRM) published on December 31, 1998 (63 FR 72225), the Federal Railroad Administration (FRA) and the Surface Transportation Board (STB or Board) proposed a joint rule establishing procedures for developing and implementing safety integration plans by railroads proposing to engage in certain specified merger, consolidation, or acquisition of control transactions with another railroad. In that notice, the agencies announced that they did not intend to convene a public hearing on the rulemaking action, but invited interested persons to request a public hearing to enable them to comment on issues addressed in the NPRM. One commenter timely filed a request for a public hearing, and pursuant to that request, FRA and the Board have agreed to convene a public hearing as an opportunity for oral comment. Consistent with this decision, FRA and the STB also will extend the comment period to the date of the public hearing to solicit additional written comments on the respective proposed rules. The agencies request interested persons not to re-submit comments or arguments advanced during the first comment period.

DATES: Comments: Submit written comments on or before May 4, 1999.

Public Hearing: The public hearing will be held on Tuesday, May 4, 1999, beginning at 9:00 a.m., in Washington, DC Any person wishing to participate in the public hearing should notify *both* the FRA Docket Clerk ((202) 493–6030 or by mail) and the STB Secretary ((202) 565–1650 or by mail) at least five working days before the date of the hearing, and submit 10 copies of the oral statement that he or she intends to make at the hearing. The notification should identify the party the person represents and the particular subject(s) the person plans to address. The notification should also provide the FRA Docket Clerk and the STB Secretary with the participant's mailing address. FRA and the Board reserve the right to limit participation in the hearing by persons who fail to provide such notification.

ADDRESSES: (1) *FRA Docket Clerk:* Submit one copy of the notification identifying the docket number to the Department of Transportation Central Docket Management Facility located in room PL–401 at the Plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590. All docket material on the FRA rule will be available for inspection at this address and on the Internet at http://dms.dot.gov. (Docket hours at the Nassif Building are Monday-Friday, 10 a.m. to 5 p.m., excluding Federal holidays.)

(2) *The STB Secretary:* Send an original and 10 paper copies referring to STB Ex Parte No. 574 to Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, NW, Washington DC 20423. In addition to paper copies, each party must also submit its respective notification and pleadings to the Board on a 3.5-inch diskette formatted for WordPerfect 7.0 (or in a format readily convertible into WordPerfect 7.0). All such pleadings will be posted on the Board's website (http://www.stb.dot.gov).

(3) *Public Hearing:* The venue for the public hearing scheduled for May 4, 1999, will be at the Nassif Building, 400 Seventh Street, S.W., Room 2230, in Washington DC.

(4) *Written Comments:* The procedures for filing written comments with FRA and the Board are the same as provided in the NPRM published on December 31, 1998. 63 FR 72225 (December 31, 1998).

FOR FURTHER INFORMATION CONTACT: Jon Kaplan, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, Mailstop 10, Washington, DC 20590 (telephone: (202) 493–6053); or Evelyn G. Kitay, Office of the General Counsel, STB, 1925 K Street, NW, Washington, DC 20423 (telephone: (202) 565–1563) [TDD for the hearing impaired: (202) 565–1695.].

Issued in Washington, DC, on April 12, 1999.

Jolene Molitoris,
Federal Railroad Administrator.

Decided: April 7, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,
Secretary.

[FR Doc. 99–9798 Filed 4–20–99; 8:45 am]
BILLING CODE 4910–06–P

Notices

Federal Register
Vol. 64, No. 76
Wednesday, April 21, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Analysis of Veteran/Boulder Project Area; Black Hills National Forest; Spearfish/Nemo Ranger District; Lawrence and Meade Counties, SD

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare draft supplement to final environmental impact statement.

SUMMARY: Pursuant to 36 CFR 219.10(g), the District Ranger of the Spearfish/Nemo Ranger District, Black Hills National Forest, gives notice of the agency's intent to prepare a draft supplement to the Veteran/Boulder Project Area Final Environmental Impact Statement. The responsible official for this project is John C. Twiss, Forest Supervisor, Black Hills National Forest.

ADDRESSES: Send written comments to District Ranger, Spearfish/Nemo Ranger District, Black Hills National Forest, 2014 N. Main Street, Spearfish, SD 57783.

DATES: This project schedule is as follows: File Draft Supplement to Final Environmental Impact Statement—June 1999. File Final Supplement to Final Environmental Impact Statement and Record of Decision signature—September 1999.

FOR FURTHER INFORMATION CONTACT: Joy Trowbridge, Project Interdisciplinary Team Leader, 605–642–4622. Additional information, such as maps, can be obtained by written request to the Spearfish Ranger District office, or by phone at the above address and phone number.

SUPPLEMENTARY INFORMATION: The Veteran/Boulder Project Area Final Environmental Impact Statement (FEIS) was completed in September 1998 and a Notice of Availability was published in the **Federal Register** on October 16, 1998 (EIS number 980410). The FEIS describes alternatives for timber harvest and associated activities with the Veteran/Boulder Project Area (27,463 acres) on the Black Hills National Forest. The Project Area contains the majority of the 5,109 acre Beaver Park RARE II inventoried roadless area. On September 30, 1998 a Record of Decision was signed by Forest Supervisor John C. Twiss allowing timber harvest and associated activities within the Veteran/Boulder project area, except for the roadless area, on which a separate decision was to be made. On March 1, 1999, Supervisor Twiss signed a second Record of Decision allowing timber harvest and associated activities, except road construction, within the Beaver Park roadless area.

Significant issues described in the FEIS include wildlife habitat and vegetative diversity, the Beaver Park roadless area, mountain pine beetle infestation and forest health, timber harvest, roads and travel management, and prescribed burns and fuels. These issues were addressed through development of alternatives and/or mitigation, or through the disclosure of environmental effects.

Since the FEIS was published, the Forest has acquired new information concerning Forest health in the Beaver Park area, relating to the existing infestation of mountain pine beetles. The FEIS analyzed mountain pine beetle data and field reconnaissance information in the project area from 1997 to early 1998. Since that time, an aerial flight and related report from the Forest Service's Forest Health Management unit has indicated the beetles have spread beyond the areas analyzed in the FEIS and are approaching epidemic levels in the Beaver Park Area.

In addition to the increased insect activity, an early winter storm in October 1998 resulted in several areas of severely damaged and blown down trees within the southern third of Beaver Park.

Given this new information, the Forest has decided to further analyze the potential consequences of continued beetle activity within the southern half of Beaver Park (Management Areas 4.1, Limited Motorized Use and Forest Products; and 5.4, Big Game Winter Range). Timer management has already been approved in this portion of Beaver Park under the March 1, 1999 Record of Decision. The proposed supplement to the FEIS would analyze additional treatments within this area in order to slow further spread of the beetles, reduce damage to wildlife habitat and green trees, and reduce wildfire risk.

The proposed action is to salvage approximately 400 to 600 thousand board feet of trees either infested with mountain pine beetles or severely damaged in the October 1998 storm, from a total of approximately 200 to 300 acres within Management Areas 4.1 and 5.4 (Forbes Gulch) of Beaver Park. Treatments would consist of small (one quarter of an acre to 20 acres) clearcuts to remove beetle-infested trees as well as removal of downed and snapped off trees killed by the storm. NO new roads would be constructed and no additional road work would be needed on existing roads. Access would be from existing roads with forwarder machines and skidders. Sufficient dead and down trees would be left to meet Forest Plan standards for wildlife habitat and soil conditions (snags and down woody material).

Alternatives to the proposed action being considered at this time include no action, helicopter removal of infested trees, and removal of green wood in addition to beetle-infested trees.

The decision to be made is whether or not to remove infested and storm-damaged trees from the southern portion of Beaver Park (Forbes Gulch) in order to slow the mountain pine beetle epidemic, reduce wildfire risk, and protect wildlife habitat and other forest resources.

The comment period on the draft supplement to the FEIS will be a minimum of 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

In addition to the proposed supplement to the FEIS, the Forest is also planning to do a wider analysis of the mountain pine beetle epidemic over a larger area, including the northern half of Beaver Park. Therefore, this supplement will only address the southern portion of Beaver Park, in order to more expediently address the beetle situation in this area.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First,

reviewers of draft environmental impact statements (or draft supplements to an EIS) must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement (or draft supplement to an EIS) stage but that are not raised until after completion of the final environmental impact statement (or final supplement to an EIS) may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement (or draft supplement to an EIS) should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement (or draft supplement to an EIS) or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: April 8, 1999.

John Twiss,

Forest Supervisor.

[FR Doc. 99–9964 Filed 4–20–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Coastal Services Center Coastal Management Survey.

Agency Form Number(s): N/A.

OMB Approval Number: 0648–0308.

Type of Request: Revision of a currently approved collection.

Burden: 27 hours.

Number of Respondents: Approximately 80.

Avg. Hours Per Response: 30 minutes.

Needs and Uses: The mission of the NOAA Coastal Services Center is to foster and sustain the environmental and economic well being of the coast by linking people, information, and technology. NOAA is seeking approval to conduct a customer survey. The purpose of the survey is to assess the coastal resource management community's information needs. The results will allow the Center to determine the kinds of services its customers want, to understand the customer's level of technical expertise, and to document priority issues most relevant to the missions. This information will be used to guide the development of future products and services in the formats and software commonly used by customers.

Affected Public: State, local or tribal government, federal government.

Frequency: One-time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: April 15, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–9932 Filed 4–20–99; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: India and Pakistan Sanctions.

Agency Form Number: BXA 748–P.

OMB Approval Number: 0694–0111.

Type of Request: Extension of a currently approved collection of information.

Burden: 52 hours.

Average Time Per Response: 40 to 45 minutes per response.

Number of Respondents: 57 respondents.

Needs and Uses: Consistent with the President's directive, the Bureau of Export Administration (BXA) is imposing certain sanctions, as well as certain supplementary measures to enhance the sanctions. This section includes a new license review policy of denial for the export and reexport of most items controlled for nuclear proliferation (NP) reasons or missile technology (MT) reasons to all end-users in India and Pakistan. Items controlled on the Commerce Control List for nuclear and missile technology reasons have been made subject to this sanction policy because of their significance for nuclear explosive purposes and for delivery of nuclear devices.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker (202)395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, Office of the Chief Information Officer, (202) 482–3272, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: April 15, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–9933 Filed 4–20–99; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041399A]

Mid-Atlantic Fishery Management Council (MAFMC); Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Tilefish Committee, Tilefish Technical Committee, and Industry Advisory Panel will hold a public meeting.

DATES: The meeting will be held on Thursday, May 6, 1999, from 10:00 a.m. until 4:00 p.m.

ADDRESSES: This meeting will be held at the Radisson Hotel Philadelphia Airport, 500 Stevens Drive, Philadelphia, PA; telephone: 610–521–5900.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss and recommend management option alternatives for the public hearing draft of the Tilefish Fishery Management Plan.

Although other issues not contained in this agenda may come before the Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 15, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–9988 Filed 4–20–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041399C]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad-Hoc Marine Reserve Committee will hold a meeting which is open to the public.

DATES: The meeting will begin on Tuesday, May 11 at 8 a.m. and will continue through 5 p.m. Wednesday, May 12. The Tuesday session may go into the evening until business for the day is completed. The Thursday session will begin at 8 a.m. An opportunity for public comment will be provided on Wednesday.

ADDRESSES: The meeting will be held in the Multnomah Falls Room of the Doubletree Hotel Downtown, 310 SW Lincoln Avenue, Portland OR 97201.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Seger, Economic Analysis Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to identify objectives for marine reserve options to be presented to the Council. Based on the objectives, the committee may begin work on design characteristics. The first day of the meeting will be taken up largely by technical presentations. This meeting is an early step in the first phase of a two-phase process for Council consideration of marine reserves. The first phase involves the conceptual evaluation of marine reserves as a tool for Council management and will culminate with a Council decision on whether or not to develop site-specific fully specified proposals for marine reserves.

Although other issues not contained in this agenda may come before the committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues will not be the subject of formal committee action during this meeting. Committee action will be restricted to those issues specifically identified in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: April 15, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–9989 Filed 4–20–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041499E]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications to modify scientific research/enhancement permits (895, 900, 946, 1094, 1114, 1193); issuance of permits (1187, 1197); and modifications to existing permits (1115, 1116).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement:

NMFS has received applications for modifications to existing permits from: U.S. Army Corps of Engineers in Walla Walla, WA (Corps) (895), Fish Ecology Division, NMFS Northwest Fisheries Science Center, in Seattle, WA (NWFSC) (900, 946), Washington Department of Fish and Wildlife in Olympia, WA (WDFW) (1094, 1114), and Fish Passage Center in Portland, OR (FPC) (1193); NMFS has issued permits to Mr. Stephen M. H. Connett, of St. George's School (SC-SGS) (1187) and Mr. John Crutchfield, of Harris Energy & Environmental Center (JH-HEEC) (1197); and NMFS has issued modifications to scientific research permits to Chelan County Public Utility District No. 1 (PUD-CC) (1115) and Public Utility District No. 1 of Douglas County (PUD-DC) (1116).

DATES: Written comments or requests for a public hearing on any of the new applications or modification requests must be received on or before May 21, 1999.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permits 895, 900, 946, 1094, 1114, 1115, 1116, 1193: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

For permits 1187, 1197: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (301–713–1401).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT:

For permits 895, 900, 946, 1193: Leslie Schaeffer, Portland, OR (503–230–5433).

For permit 1094: Robert Koch, Portland, OR (503–230–5424).

For permits 1114, 1115, 1116: Tom Lichatowich, Portland, OR (503–230–5438).

For permits 1187, 1197: Terri Jordan, Silver Spring, MD (301–713–1401).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the ESA, is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice:

Sea Turtles

Green turtle (*Chelonia mydas*), Hawksbill turtle (*Eretmochelys imbricata*), Kemp's ridley turtle (*Lepidochelys kempii*), Loggerhead turtle (*Caretta caretta*).

Fish

Chinook salmon (*Oncorhynchus tshawytscha*): Snake River (SnR) fall, SnR spring/summer, Upper Columbia River (UCR) spring

Sockeye salmon (*Oncorhynchus nerka*): SnR

Steelhead trout (*Oncorhynchus mykiss*): UCR

Shortnose sturgeon (*Acipenser brevirostrum*).

Modification Requests Received

The Corps requests modification 6 to enhancement permit 895. Permit 895 authorizes the Corps annual direct takes of juvenile, endangered, SnR sockeye salmon; juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon; juvenile, threatened, SnR fall chinook salmon; and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with the operation of the juvenile fish transportation program at four hydroelectric projects on the Snake and Columbia Rivers in the Pacific Northwest. Permit 895 also authorizes the Corps annual incidental takes of ESA-listed adult salmonids associated with fallbacks through the juvenile fish bypass systems at the four dams. For modification 6, the Corps requests annual direct takes of juvenile, endangered, naturally produced and artificially propagated, UCR spring chinook salmon. ESA-listed juvenile fish are proposed to be captured, transported past the dams, and released to aid their outmigration to the Pacific Ocean. ESA-listed juvenile fish indirect mortalities are also requested. Modification 6 is requested to be valid for the duration of the permit, which expires on December 31, 1999.

NWFSC requests modification 7 to scientific research permit 900. Permit 900 authorizes NWFSC annual direct takes of juvenile, endangered, SnR sockeye salmon; juvenile, threatened, SnR fall chinook salmon; juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon; and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with studies designed to determine the relative survival of migrating juvenile salmonids at hydropower dams and reservoirs on the Snake and Columbia Rivers in the Pacific Northwest. For modification 7, NWFSC proposes an increase in the annual take of ESA-listed juvenile fish associated with The Dalles Dam survival study. An increased annual take of ESA-listed juvenile fish is requested to validate previously collected survival data at 64 percent and 30 percent spill volume scenarios at The Dalles Dam. ESA-listed juvenile fish are proposed to be captured at John Day Dam on the Columbia River. The fish are proposed to be handled and released or tagged with passive integrated transponders, transported to The Dalles Dam, held for up to 24 hours, and released. Also for modification 7, NWFSC requests annual takes of juvenile, endangered, naturally produced and artificially propagated UCR spring chinook salmon associated with the research. An associated increase in ESA-listed juvenile fish indirect mortalities is also requested. Modification 7 is requested to be valid for the duration of the permit, which expires on December 31, 1999.

NWFSC requests modification 6 to scientific research permit 946. Permit 946 authorizes NWFSC annual direct takes of juvenile, endangered, SnR sockeye salmon; adult and juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon; juvenile, threatened, SnR fall chinook salmon; and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with a study designed to assess the migration timing and relative survival of transported and inriver juvenile chinook salmon migrating volitionally from Bonneville Dam to the mouth of the Columbia River. For modification 6, NWFSC requests an increase in the take of ESA-listed juvenile fish due to improvements in sampling equipment that are designed to speed passage of fish through a passive PIT tag detection system and reduce potential impacts from passage through the apparatus. Increased take is also requested due to the revised estimate for the number of fish thought to be available in the estuary in 1999. Also for modification 6, NWFSC requests annual takes of juvenile, endangered, naturally produced and artificially propagated UCR spring chinook salmon associated with the research. An associated

increase in ESA-listed juvenile fish indirect mortalities is also requested. Modification 6 is requested to be valid for the duration of the permit, which expires on December 31, 1999.

WDFW requests modification 2 to research/enhancement permit 1094. Permit 1094 authorizes WDFW annual direct takes of adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with a hatchery supplementation program in the mid- to upper Columbia River Basin. Incidental takes of ESA-listed species resulting from WDFW hatchery operations and hatchery produced fish releases are also authorized by the permit. For modification 2, WDFW requests annual takes of ESA-listed adult steelhead associated with a radio tagging study. The purpose of the study is to evaluate the ladder passage and fallback rates of adult steelhead at Priest Rapids, Wanapum, Rock Island, Rocky Reach, and Wells Dams on the mid-Columbia River. The goal of the study is to assure that safe passage conditions are being provided for returning ESA-listed adult fish at the dams. ESA-listed adult steelhead are proposed to be captured at Priest Rapids Dam, tagged with radiotransmitters, released, and tracked electronically as they migrate upstream. Grant Public Utility District (PUD), Chelan PUD, and Douglas PUD are requested to act as agents of WDFW in tracking the ESA-listed adult fish upstream. ESA-listed adult fish indirect mortalities are also requested. Modification 2 is requested to be valid for the duration of the permit, which expires on May 31, 2003.

WDFW requests modification 3 to scientific research permit 1114. Permit 1114 authorizes WDFW annual direct takes of adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with a smolt monitoring program at Rock Island Dam on the Columbia River in WA. For modification 3, WDFW requests an increase in the annual take of ESA-listed adult and juvenile steelhead associated with a new study to be conducted in the Hanford Reach of the Columbia River. Information from the study will be used to verify the spawning regime and exact stock of steelhead in the Hanford Reach to aid in developing future recovery plans for that section of the Columbia River. Adult steelhead are proposed to be captured by angling, sampled for biological data, fin clipped, and released. Eggs and alevin steelhead are proposed to be collected by excavating redds and sacrificed for genetic analysis. Steelhead fry are proposed to be collected with seines, sampled for biological data, fin clipped to obtain tissue samples, and released. ESA-listed juvenile steelhead indirect mortalities are also requested. Modification 3 is requested to be valid for the duration of the permit, which expires on December 31, 2002.

FPC requests modification 1 to scientific research permit 1193. Permit 1193 authorizes FPC annual direct takes of juvenile, endangered, SnR sockeye salmon, juvenile, threatened, SnR fall chinook salmon, juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon, and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with FPC's Smolt Monitoring Program at the hydropower dams on the Snake and Columbia Rivers in the Pacific Northwest. For modification 1, FPC requests an increase in the annual take of juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon. An increased annual take is requested because a larger than anticipated outmigration run of this ESA-listed species is estimated in 1999. ESA-listed juvenile fish are proposed to be captured, handled (examined and/or tagged with passive integrated transponders), and released. An associated increase in ESA-listed juvenile fish indirect mortalities is also requested. Modification 1 is requested to be valid for the duration of the permit, which expires on December 31, 2003.

Permits and Modifications Issued

Notice was published on February 4, 1999 (64 FR 5640), that an application had been filed by PUD-CC, for Modification 2 to permit 1115. Permit 1115 authorizes a take of adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with research. For Modification 2, PUD-CC is authorized an increase in annual takes of adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with three new proposed studies. PUD-CC will: (1) use new acoustic tagging technology to monitor the behavior of juvenile salmonids, (2) Use PIT and radio tagging technology to study the survival of juvenile salmonids, and (3) determine the number of adult salmonids that may be present in the Lake Chelan bypass reach after spill at the Lake Chelan hydroelectric project is curtailed. Modification 2 was issued on April 14, 1999, and is valid for the duration of the permit, which expires on December 31, 2002.

Notice was published on February 4, 1999 (64 FR 5640), that an application had been filed by PUD-DC for Modification 2 to permit 1116. Permit 1116 authorizes annual takes of juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with research studies. For Modification 2 PUD-DC is authorized an increase in takes of juvenile, endangered, naturally produced and artificially propagated, UCR steelhead for two new research studies. PUD-DC will use passive integrated transponder (PIT) tag technology to assess the survival of juvenile salmonids and will evaluate the relative benefits of PIT and radio tag technology. Modification 2 was issued on April 12, 1999, and is valid for the duration of the permit, which expires on December 31, 2002.

Notice was published on December 1, 1998 (63 FR 66125), that SC-SGS had applied for a 5-year scientific research permit (1187) to take up to 200 loggerhead, 300 green, 200 hawksbill, 5 leatherback, and 5 Kemp's ridley sea turtles annually from the Northwest Atlantic Ocean. The purpose of this research is to obtain life history data on all turtles captured, and to determine migratory behavior and habitat utilization of juvenile turtles captured on foraging grounds. Turtles will be captured by hand and/or dip net, weighed, measured, flipper tagged, tissue sampled and released at the site of capture. This is a continuation of work permitted under scientific research permit 886 which expired on December 31, 1998. Permit 1187 was issued on April 2, 1999, and expires on December 31, 2003.

Notice was published on February 4, 1999 (64 FR 5030), that JC-HEEC had applied for a 3-year research permit (1197) to take endangered shortnose sturgeon while conducting original research regarding the population of fishes in the Pee Dee River, NC. The Pee Dee River has been historically included in the shortnose sturgeon's native range. The applicant will be performing a baseline assessments of the resident and migratory fish species inhabiting the river below the Blewett Hydroelectric Plant. To ensure compliance with the ESA, the applicant requests a permit to capture, handle and release shortnose sturgeon that may be taken during this study. Permit 1197 was issued on April 5, 1999, and expires January 31, 2002.

Dated: April 15, 1999.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–9987 Filed 4–20–99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee; Seventh Renewal

The Commodity Futures Trading Commission has determined to renew for a period of two years its advisory committee designated as the "Commodity Futures Trading Commission Financial Products Advisory Committee." As required by Section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. app. 2 § 14(a)(2)(A), and 41 CFR 101–6.1007 and 101–6.1029, the Commission has consulted with the Committee Management Secretariat of the General Services Administration, and the Commission certifies that the renewal of the advisory committee is in the public interest in connection with duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. 1, *et seq.*, as amended.

The objectives and scope of activities of the Financial Products Advisory Committee are to conduct public meetings and submit reports and recommendations on issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission.

Chairperson Brooksley Born serves as Chairperson and Designated Federal Official of the Financial Products Advisory Committee. The committee's membership will represent a cross-section of interested and affected persons and groups including representatives of newer institutional market participants, such as broker-dealers, pension sponsors, and investment companies; traditional market participants, such as futures commission merchants, commodity pool operators, and commodity trading advisors; federal financial markets oversight agencies; futures exchanges; the academic, legal and accounting communities; and other appropriate public participants.

Interested persons may obtain information or make comments by writing to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

Issued in Washington, DC on April 15, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–9941 Filed 4–20–99; 8:45 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

AmeriCorps State Formula Program Grants: North Dakota and South Dakota

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds for new and renewal grants; notice of availability of 1999 application guidelines.

SUMMARY: The Corporation for National and Community Service (Corporation) announces the availability of approximately $500,000 to support new and continuing national service programs in North Dakota and approximately $500,000 to support new and continuing national service programs in South Dakota. (CFDA #94.004).

DATES: To be considered, applications must be received by 3:30 p.m., Eastern Standard Time, Wednesday, June 30, 1999.

ADDRESSES: Applications must be submitted to the Corporation for National Service, 1201 New York Avenue NW, Box SND, Washington, D.C. 20525. Facsimiles will not be accepted.

FOR FURTHER INFORMATION: For further information contact James Cooper, Corporation for National Service, 1201 New York Avenue, NW, Washington, D.C. 20525, phone (202) 606–5000, ext. 149, TDD (202) 565–2799.

SUPPLEMENTARY INFORMATION: Application guidelines may be obtained by calling Rosa Harrison, Corporation for National Service, (202) 606–5000, ext. 433.

These funds are authorized under the National and Community Service Act of 1990, as amended, and represent the statute's population-based provision of program assistance formula funds that, in most cases, flow through approved state commissions on national and community service. Because neither North Dakota nor South Dakota currently maintains an approved state commission or alternative administrative entity, eligible entities may apply directly to the Corporation for formula funds. Local government agencies, institutions of higher education, public or private nonprofit organizations, and Indian Tribes in North Dakota and South Dakota are eligible entities. An organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), that engages in lobbying activities is not eligible for these funds.

Requirements relating to this assistance are published at 45 CFR Parts 2510 *et seq.* and are further described in the application guidelines. The Corporation will also provide *Principles for High Quality National Service Programs,* which includes program examples, upon request.

Organizations interested in applying for these program funds may participate in one of two conference calls to be held on April 29, 1999 and May 20, 1999, respectively, during which Corporation staff will provide technical assistance to potential applicants. The calls will begin at 1:00 p.m. and conclude at 3:00 p.m. (E.D.T.). To register for either call, please contact Rosa Harrison, at (202) 606–5000, ext. 433. Upon registration, you will be apprised of the applicable 800 number needed for participation.

The provision of these grants is subject to the availability of appropriated funds.

Dated: April 15, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–9992 Filed 4–20–99; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Low Observable Strategic Vision Assessment Panel will meet in Rosslyn, VA on July 27–29, 1999 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefings.

The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–9972 Filed 4–20–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Low Observable Strategic Vision Assessment Panel will meet in Rosslyn, VA on August 10–12, 1999 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefings.

The meeting will be closed to the public in accordance with Section 552b (c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–9973 Filed 4–20–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Low Observable Strategic Vision Assessment Panel will meet in Rosslyn, VA on September 8–10, 1999 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefings.

The meeting will be closed to the public in accordance with Section 552b (c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–9974 Filed 4–20–99; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Low Observable Strategic Vision Assessment Panel will meet in Rosslyn, VA on July 7–9, 1999 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefings.

The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–9975 Filed 4–20–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Low Observable Strategic Vision Assessment Panel will meet in Rosslyn, VA on August 24–26, 1999 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefings.

The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–9976 Filed 4–20–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Low Observable Strategic Vision Assessment Panel in support of the HQ USAF Scientific Advisory Board will meet in Rosslyn, VA on September 28–30, 1999 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefings in support of the Scientific Advisory Board.

The meeting will be closed to the public in accordance with Section 552b (c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–9977 Filed 4–20–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Notice Inviting Applicants To Serve as Field Readers for the Community Technology Centers Program

SUMMARY: The Office of Vocational and Adult Education (OVAE) invites interested individuals to apply to serve as field readers evaluating grant applications for the Community Technology Centers Program. The Community Technology Centers Program is intended to increase access to information technology and related services for adults and children in economically distressed low-income urban and rural communities through grants to establish or expand community technology centers.

Duties and Compensation of Field Readers: Field readers will review applications according to the applicable selection criteria. Each field reader will serve for a period of approximately 5 days. Each field reader who is selected will receive compensation for certain travel expenses and an honorarium.

Field Reader Qualifications: The Department is seeking experienced and knowledgeable professionals who are current with issues regarding the provision of computers and technology to residents of low-income urban and rural communities. These professionals should be familiar with issues dealing with the start-up and expansion of community technology centers; use of technology in adult, elementary or secondary education programs; technology and technology management; or community development and outreach to residents of low-income communities. Prospective field readers may include technology providers, administrators, and experts; individuals with experience in use of technology in elementary, secondary or adult education; individuals from State agencies, elementary and secondary education, institutions of higher education, and community-based organizations and agencies; and individuals with experience in providing access to technology in low-income communities. Each field reader must have the expertise necessary to accurately assess an applicant's showing on the applicable selection criteria.

Application Process: Any individual interested in serving as a field reader should mail or fax two copies of his or her resume to the address listed below indicating the program in which they are interested in serving as a field reader. Resumes should not exceed two pages and should include a Social

Security Number and an e-mail address, if available.

FOR FURTHER INFORMATION CONTACT: Community Technology Centers Program, Division of Adult Education and Literacy, Office of Vocational and Adult Education, U.S. Department of Education, Washington, DC 20202–7240. Inquiries may be sent by e-mail to frances__littlejohn@ed.gov or by Fax to: (202) 205–8973. Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audio tape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader program with search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 6832.

Dated: April 16, 1999.

Patricia W. McNeil,

Assistant Secretary, Vocational and Adult Education.

[FR Doc. 99–9979 Filed 4–20–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, May 6, 1999, 6:00 p.m.–9:30 p.m.

ADDRESSES: College Hill Library (Front Range Community College), 3705 West 112th Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Presentation on sampling protocols and quality assurance audit of the program.
2. Final approval of the Request for Proposals for technical services—Community Radiation (COMRAD) Monitoring Program.
3. Continued discussion on low-level waste disposition issues.
4. Other Board business may be conducted as necessary.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between 9:00 a.m. to 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on April 15, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–9952 Filed 4–20–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Teleconference Meeting

AGENCY: Department of Energy.

SUMMARY: This notice announces a teleconference of the Secretary of Energy Advisory Board. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

The purpose of the teleconference is for members of two of the Board's subcommittees (the Openness Advisory Panel and the External Members of the Laboratory Operations Board) to discuss their review of the Department's policies and practices related to foreign visitors.

DATES AND TIME: Thursday, April 29, 1999, 11:00 AM–12:30 PM, EST.

ADDRESSES: Members of the public may participate by dialing 1–301–903–6495. Public participation is welcomed, however, the number of teleconference lines is limited and available on a first come basis.

FOR FURTHER INFORMATION CONTACT: Bruce Bornfleth, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4040 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The Secretary of Energy Advisory Board (Board) reports directly to the Secretary of Energy and is chartered under the Federal Advisory Committee Act. The Board provides the Secretary of Energy with essential independent advice and recommendations on issues of national importance. On April 29, members from two of the Board's subcommittees will conduct a teleconference to discuss the Department's policies and practices related to foreign visitors.

Purpose of the SEAB Review of the Foreign Visitors Program

In March 1999, the Secretary of Energy directed the Board to review and provide advice, information, and recommendations on the Department's policies and practices related to foreign visitors.

Tentative Agenda

Thursday, April 29, 1999

11:00 AM–11:10 AM
Welcome and Opening Remarks—SEAB Chairman Andrew Athy
11:10 AM–11:30 AM
Overview of DOE's Foreign Visitors Program
11:30 PM–12:00 PM Public Comment Period
12:00 AM–12:30 PM
Board Comments and Action Plan—SEAB Chairman Andrew Athy
12:30 PM
Adjourn

This tentative agenda is subject to change.

Public Participation

The Chairman of the Secretary of Energy Advisory Board is empowered to conduct the teleconference in a way that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its teleconference, the Board welcomes public comment. Members of the public will be heard during the public comment period. The Board will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

Minutes and a transcript of the teleconference will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays. Information on the Secretary of Energy Advisory Board may also be found at the Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, DC, on April 15, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–9955 Filed 4–20–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: This notice announces a teleconference of the Secretary of Energy Advisory Board. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**. The purpose of the teleconference is for members of two of the Board's subcommittees (the Openness Advisory Panel and the External Members of the Laboratory Operations Board) to discuss their review of the Department's policies and practices related to foreign visitors.

DATES: Tuesday, May 4, 1999, 8:30 AM—4:30 PM, EST.

ADDRESSES: U.S. Department of Energy, Program Review Center (Rm 8E–089), Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585.

Note: Members of the public are requested to contact the Office of the Secretary of Energy Advisory Board at (202) 586–7092 in advance of the meeting (if possible) to expedite their entry to the Forrestal Building on the day of the meeting.

FOR FURTHER INFORMATION CONTACT: Bruce Bornfleth, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4040 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The Secretary of Energy Advisory Board (Board) reports directly to the Secretary of Energy and is chartered under the Federal Advisory Committee Act. The Board provides the Secretary of Energy with essential independent advice and recommendations on issues of national importance. On May 4, selected members from two of the Board's subcommittees will conduct a second and final meeting to discuss the Department's policies and practices related to foreign visitors.

Purpose of the SEAB Review of the Foreign Visitors Program

In March 1999, the Secretary of Energy directed the Board to review and provide advice, information, and recommendations on the Department's policies and practices related to foreign visitors.

Tentative Agenda

Tuesday, May 4, 1999

8:30 AM–9:00 AM
Welcome and Opening Remarks—SEAB Chairman Andrew Athy
9:00 AM–12:00 PM
Presentations and Discussions of Program Offices' Laboratory Foreign Visitors Programs—TBD
12:00 PM–1:00 PM
Lunch Break
1:00 PM–4:00 PM
Board Review, Comments and Actions—SEAB Chairman Andrew Athy
4:00 PM–4:30 PM
Public Comment Period
4:30 PM
Adjourn

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation

The Chairman of the Secretary of Energy Advisory Board is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting, the Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Board will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

Minutes and a transcript of the teleconference will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays. Information on the Secretary of Energy Advisory Board may also be found at the Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, DC, on April 15, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–9956 Filed 4–20–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Teleconference Meeting

AGENCY: Department of Energy.

SUMMARY: This notice announces a teleconference of the Secretary of Energy Advisory Board. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**. The purpose of the teleconference is for the Board to discuss their findings and recommendations related to the Department's policies and practices for foreign visitors.

DATES: Wednesday, May 12, 1999, 11:00 AM–12:30 PM, EST.

ADDRESSES: Members of the public can participate by dialing 1–301–903–7073. Public participation is welcomed, however, the number of teleconference lines is limited and available on a first come basis.

FOR FURTHER INFORMATION CONTACT: Bruce Bornfleth, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4040 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The Secretary of Energy Advisory Board (Board) reports directly to the Secretary of Energy and is chartered under the Federal Advisory Committee Act. The Board provides the Secretary of Energy with essential independent advice and recommendations on issues of national importance. On May 12, the Board will conduct a teleconference to discuss the Board's findings and recommendations on the Department's policies and practices related to foreign visitors.

Purpose of the SEAB Review of the Foreign Visitors Program

In March 1999, the Secretary of Energy directed the Board to review and provide advice, information, and recommendations on the Department's policies and practices related to foreign visitors.

Tentative Agenda

Wednesday, May 12, 1999

11:00 AM–11:10 AM

Welcome and Opening Remarks—SEAB Chairman Andrew Athy

11:10 AM–11:30 AM

Overview of findings and recommendations—Dr. John McTague

11:30 AM–12:00 PM

Public Comment Period

12:00 PM–12:30 PM

Board review, comments and action—SEAB Chairman Andrew Athy

12:30 PM

Adjourn

This tentative agenda is subject to change.

Public Participation

The Chairman of the Secretary of Energy Advisory Board is empowered to conduct the teleconference in a way that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its teleconference, the Board welcomes public comment. Members of the public will be heard during the public comment period. The Board will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, US Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Minutes

Minutes and a transcript of the teleconference will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays. Information on the Secretary of Energy Advisory Board may also be found at the Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, DC, on April 15, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–9957 Filed 4–20–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC99–582–000; FERC–582]

Proposed Information Collection and Request for Comments

April 15, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted by June 21, 1999.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at mike.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Abstract: The information collected under the requirements of FERC–582 "Electric Annual Charges" (OMB No. 1902–0132) is used by the Commission to implement the statutory provisions of the Omnibus Budget Reconciliation Act of 1986, (Pub. L. 99–509) Title III, Subtitle E, Section 3401. Congress directed the Commission "to assess and collect fees and annual charges in any fiscal year in amount equal to all of the costs incurred by the Commission in that fiscal year." The Commission implements a program of annual charges to be assessed against power marketing agencies, electric utilities and electric cooperatives. The Commission computes annual charges based on information of adjusted sales for resale and adjusted coordination of sales data. In calculating annual charges, the Commission first determines the total costs of its electric regulatory program and subtracts all electric regulatory filing fee collections to determine total collectible electric regulatory program costs. The Commission then uses the data submitted under FERC–582 to determine the total volume of long-term

firm sales and transmission, and short-term sales and transmission and exchanges for all public utilities, including power marketers. The Commission divides these volumes into its collectible program costs to determine the unit charge per megawatt-hour for each category of sales. Finally, the Commission multiplies the sales volume in each category for each public utility by the relevant unit charge per megawatt-hour to determine the annual charges for public utilities, including power marketers. In addition the Commission uses company financial information filed under the waiver provisions to evaluate a company's request for a waiver, or exemption, of the obligation to pay a fee for an annual charge. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 381 Sections 381.108 and 381.302 and Part 382 Section 382.201(b).

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually	Number of responses per respondent	Average burden hours per response hours	Total annual burden hours
(1)	(2)	(3)	(1)×(2)×(3)
242	1	2	484

Estimated cost burden to respondents: 484 hours / 2,080 hours per year × $109,889 per year = $25,570. The cost per respondent = $106.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost of information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technologies collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 99–9917 Filed 4–20–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC99–583–000; FERC–583]

Proposed Information Collection and Request for Comments

April 15, 1999.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted within 60 days of the publication of this notice.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Micheal Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at mike.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Abstract: The information collected under the requirements of FERC–583 "Annual Kilowatt Generating Report (Annual Charges)" (OMB No. 1902–0136) is used by the Commission to implement the statutory provisions of Section 10(e) of the Federal Power Act (FPA), Part I, 16 USC 803(e) which requires the Commission to collect annual charges from hydropower licensees for, among other things, the cost of administering Part I of the FPA and for the use of United States dams. In addition, the Omnibus Budget Reconciliation Act of 1986 (OBRA) authorizes the Commission to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year." The information is collected annually and used to determine the amount of annual charges to be assessed licensees for reimbursable government administrative costs and for use of government dams. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR sections Part 11. *Action* The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

	Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
660		1	2	1,320

Estimated cost burden to respondents: 1,320 hours/2,080 hours per year × $109,889 per year = $69,737. The cost per respondent = $106.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collection, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology *e.g.* permitting electronic submission of responses.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9918 Filed 4–20–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–283–000]

Sabine Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

April 15, 1999.

Take notice that on April 12, 1999, Sabine Pipe Line Company (Sabine) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 248A, to become effective May 15, 1999.

Sabine states that the purpose of this filing is to modify the provisions of its FERC Gas Tariff to specify the types of discounts that are permissible and would not constitute a "material deviation" requiring individual agreements to be filed with FERC.

Sabine states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9916 Filed 4–20–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP97–315–000 et al., CP97–319–000, CP98–200–00, CP98–540–000]

Independent Pipeline Company, ANR Pipeline Company, National Fuel Gas Supply Corporation, Transcontinental Gas Pipe Line Corporation; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Independence Pipeline and Market Link Expansion Projects

April 15, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this draft environmental impact statement (draft EIS) on natural gas pipeline facilities proposed by ANR Pipeline Company (ANR), Independence Pipeline Company (Independence), National Fuel Gas Supply Corporation (National Fuel), and Transcontinental Gas Pipe Line Corporation (Transco) in the above-referenced dockets.

The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed projects, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The draft EIS also evaluates alternatives to the proposal, including system alternatives.

The draft EIS assesses the potential environmental effects of the construction and operation of the following facilities in Illinois, Indiana, Michigan, Ohio, Pennsylvania, and New Jersey:

ANR

- About 72.3 miles of high pressure pipeline looping in three segments, consisting of about 42.4 miles of 42-inch-diameter pipeline, and about 29.9 miles of 30-inch-diameter pipeline;

• 15,000 horsepower (hp) of additional compression at one existing compressor station, and minor modifications to two existing stations; and

• Six new internal tool or "pig" launchers along the new pipeline loops.

Independence

• About 397.4 miles of 36-inch-diameter high pressure pipeline;

• 60,000 hp of compression at three new compressor stations;

• Three new meter stations;

• Six taps to local distribution companies; and

• 28 mainline valves along the pipeline.

National Fuel

• Abandon, primarily by removal, various segments of three existing pipelines within about 39.3 miles of right-of-way; and

• Minor modifications to remaining facilities along that section of right-of-way to maintain service to existing customers.

Transco

• About 154.3 miles of high-pressure pipeline looping, consisting of four segments totaling 63.2 miles of 36- and 42-inch-diameter pipeline in Pennsylvania, six segments totaling 84.8 miles of 36- and 42-inch-diameter pipeline in New Jersey, and 6.3 miles of 36-inch-diameter replacement in New Jersey;

• 62,400 hp of additional compression at three existing compressor stations, and replace impeller at one existing compressor station;

• Modification to three regulator stations; and

• One new pig launcher.

The purpose of the proposed projects would be to transport natural gas principally from expansion projects destined for the Chicago, Illinois area, to Leidy, Pennsylvania, and to markets in the eastern United States.

Comment Procedures and Public Meetings

Any person wishing to comment on the draft EIS may do so. Please carefully follow these instructions to ensure that your comments are received in time and are properly recorded:

• Reference Docket No. CP97–315–000 *et al.*;

• Send two copies of your comments to: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426; and

• Label one copy for the attention of the Environmental Review and Compliance Branch I, PR–11.1.

• Mail your comments so that they will be received in Washington, DC on or before June 4, 1999.

In addition to written copies, we will hold ten public meetings in the project area to receive comments on the draft EIS. All meetings will begin at 7:00 pm, and are scheduled as follows:

Crown Point, Indiana: May 24, 1999

Marion Education Center, St. Anthony's Hospital, 1201 South Main Street, Crown Point, Indiana, (219) 757–6398

Buchanan, Michigan: May 25, 1999

Buchanan High School Auditorium, 401 West Chicago Street, Buchanan, Michigan, (616) 695–8403

Tiffin, Ohio: May 24, 1999

Tiffin Columbian High School Auditorium, 300 South Monroe Street, Tiffin, OH, (419) 447–6331

Wooster, Ohio: May 25, 1999

Ohio Agriculture Research Development Center (Ohio State University), Fisher Auditorium, 1680 Madison Avenue, Wooster, Ohio, (330) 263–3738

North Canton, Ohio: May 24, 1999

Hoover High School, Hoover Hall, 575 7th St., NE, North Canton, Ohio, (330) 497–5600

Butler, Pennsylvania: May 25, 1999

Intermediate High School, Auditorium, 110 Campus Lane, Butler, Pennsylvania, (724) 287–8721

Ridgeway, Pennsylvania: May 24, 1999

Royal Inn, Boot Jack Road, Route 219 (South of Ridgeway), Ridgeway, Pennsylvania, (814) 773–3153

Williamsport, Pennsylvania: May 25, 1999

Sheraton Inn, 100 Pine Street, Williamsport, PA, (717) 327–8231

Phillipsburg, New Jersey: May 24, 1999

Holiday Inn, 1314 US Highway 22, Phillipsburg, New Jersey, (908) 454–9771

Hasbrouck Heights, New Jersey: May 25, 1999

Holiday Inn, 283 Route 17 South, Hasbrouck Heights, New Jersey, (202) 462–9600

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impact described in the draft EIS. Transcripts of the meetings will be prepared.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the draft EIS as necessary, a final EIS will be published and distributed by the staff. The final EIS will contain the staff's responses to timely comments received on the draft EIS.

Comments will be considered by the Commission but will not serve to make the commenter a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

Anyone may intervene in this proceeding based on this draft EIS. You must file your request to intervene as specified above. You do not need intervenor status to have your comments considered.

All intervenors and anyone providing written comments on the draft EIS will receive a copy of the final EIS. If you do not wish to comment on the draft EIS but wish to receive a copy of the final EIS, you must write to the Secretary of the Commission indicating this request. Individuals who do not indicate their desire to receive the final EIS will receive an Executive Summary. Agencies, elected officials, local governments, special interest groups, libraries, and media will receive a final EIS.

The draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, (202) 208–1371.

A limited number of copies are available from the Public Reference and Files Maintenance Branch identified above. In addition, the draft EIS has been mailed to Federal, state, and local agencies; public interest groups; individuals who requested a copy of the draft EIS; affected landowners; libraries; newspapers; and parties to this proceeding.

Additional information about the proposed projects is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the "RIMS" link to information in these docket numbers. Click on the "RIMS" link, select "Docket #" from the RIMS menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders,

notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access the CIPS, the CIPS helpline can be reached at (202) 208–2474.

Lonwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–9912 Filed 4–20–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00267; FRL–6066–8]

Notice of Availability of Grants and Selection Criteria for PrintSTEP Pilots

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of PrintSTEP grants.

SUMMARY: To support States implementing PrintSTEP project pilots, EPA plans to award three to five cooperative agreements of approximately $100K each. To be eligible for PrintSTEP grants, all projects should have an impact on regulating simultaneous air, water and hazardous waste releases of chemicals or mixtures covered by Toxic Substances Control Act (TSCA) from printing facilities.

DATES: The application must be submitted to EPA by close of business July 20, 1999. EPA anticipates awarding the cooperative agreements no later than September 30, 1999.

ADDRESSES: One original and four copies of the application must be submitted to: Gina Bushong (2224A), Office of Compliance, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Gina Bushong (2224A), Office of Compliance, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 564–2242; e-mail address: bushong.gina@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Printers Simplified Total Environmental Partnership (PrintSTEP) model program was developed by a diverse group of stakeholders as part of EPA's Common Sense Initiative (CSI). The PrintSTEP program, which States will pilot, is designed to result in a single-enforceable agreement that regulates a printing facility's releases of chemicals or mixtures covered by TSCA to the air, water, and hazardous waste streams all at once. The PrintSTEP design does not change the existing environmental emissions or release standards for the printing industry. Instead, it changes the process of implementing those standards to improve efficiency, simplify requirements, and improve environmental performance. Under the EPA budget, funds are available to support States wishing to pilot test an alternative system for regulating printing facilities.

PrintSTEP has been design to benefit State regulatory agencies, printers, and the community. The combined features of PrintSTEP create a system which integrates multiple interests and concerns, including a process that is transparent, business flexible, and reduces environmental impacts. Some of the PrintSTEP benefits to be evaluated under the State PrintSTEP pilot projects include: Reducing the time and resources spent on the administrative components of environmental regulation, providing a multimedia plain language approach to simplifying environmental requirements, providing early and meaningful public participation, enhancing environmental protection, and providing operational flexibility for printing facilities.

To assist in the implementation of PrintSTEP, three documents have been developed. The first is a State Guide to PrintSTEP which provides the States with what they need to know to implement a PrintSTEP pilot program for their printers. The second, the Plain Language Workbook provides printers with simplified tools to allow them to identify their regulatory requirements. The Workbook also includes pollution prevention information specific to the printing sector to help printers reduce their emissions. Finally, the Community Handbook, provides citizens an overview of environmental issues, background on the printing industry, and suggestions for working with printers as part of PrintSTEP.

It is strongly recommended that States requesting funding to pilot a PrintSTEP program become familiar with the three documents described above prior to submitting an application. Copies of these documents may be obtained from Gina Bushong at the address under "FOR FURTHER INFORMATION CONTACT."

II. Statutory Authority

The funding authority for making these cooperative agreements is section 28 of TSCA. The authority provides that "the Administrator may make grants to States for the establishment and operation of programs to prevent or eliminate unreasonable risks within the States to health or the environment which are associated with a chemical substance or mixture and with respect to which the Administrator is unable or is not likely to take action under this chapter for their prevention and elimination." This initiative addresses chemicals covered under TSCA and complements, but does not duplicate, the Administrator's actions under TSCA. These funds are being made available to States for priority needs not currently addressed by the Administrator under TSCA due to resource constraints.

III. Matching Requirements

States receiving TSCA section 28 grant funding are required to contribute a minimum of 25% of the project cost. The State may utilize in-kind services to satisfy this requirement consistent with 40 CFR 31.24.

IV. Eligibility

In accordance with TSCA, eligible applicants for purposes of funding under this grant program include the 50 States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any territory or possession of the United States. For convenience, the term "State" in this notice refers to all eligible applicants. Local governments, tribes, private universities, private nonprofit entities, private businesses, and individuals are not eligible.

V. Pre-Proposal Submission

A. Scope

The funding authority provides an avenue for supporting cross-media environmental projects such as PrintSTEP. Applicants for PrintSTEP pilot funding, should propose an approach addressing the significant components to be evaluated under the PrintSTEP pilot project. Potential applicants are strongly encouraged to obtain and review copies of the materials, discussed in Unit I. of this document, which have been developed for printers, communities and State regulators as part of the development of PrintSTEP prior to developing a pre-proposal. These materials may be obtained from the person listed under "FOR FURTHER INFORMATION CONTACT." EPA will evaluate each application with regard to its applicability to the key principles in the PrintSTEP design. These key elements are outlined in the selection criteria section of this notice. Pre-proposals

should be no more than 15 pages in length. Pre-proposals should be as complete as possible since EPA may make selections for funding based on the pre-proposals without further consultations with the applicants.

B. Selection Criteria

Include:

1. *Delegation of program authority.* The pre-proposal should include a statement confirming that the applicant has the legal authority to implement the Federal program for each environmental media covered by their proposed PrintSTEP project. In the case where all media are not covered in the pre-proposal, an explanation should be provided for any omissions.

2. *Stakeholder involvement.* A plan for involvement of all stakeholder groups (industry, environmental and environmental justice groups, labor, regulators, etc.) in the design of the State PrintSTEP program should be submitted. If possible, letters of support from stakeholder groups should be included.

3. *Regulatory components/ coordination.* A proposed design providing a modular, multimedia regulatory system for printers who volunteer for this pilot, including a process for coordination among various levels of government should be provided. The design should include:

i. Description of the regulatory program and requirements covered by the State's PrintSTEP program, including a discussion of which media programs are included and a discussion of how the level of regulatory requirements is directly related to the level of wastes generated.

ii. Description of how the program will cover new and/or existing printing facilities, including a process for printing facility modifications.

iii. Discussion of the type of printing facilities expected to be included in the State's PrintSTEP pilot program (facility size, printing process type etc.). The PrintSTEP pilots should only include printing facilities that wish to volunteer to be part of the project.

iv. Geographic location of proposed PrintSTEP pilot (targeting a pilot to a location where investigations are already underway to evaluate a community's cumulative pollution exposure will be judged favorably).

4. *Public involvement.* The key aspects of the program design to enhance public involvement should be described including:

i. A description of the proposed information repository for making printing facility information available to the public.

ii. Discussion of approaches to providing actual notice of printing facility permitting to the public.

iii. A proposed method for identifying the relevant community affected by a printing facility.

iv. Identification and discussion of any environmental justice concerns within the geographic area proposed for the pilot.

v. A method for providing technical assistance to the community.

5. *Printing facility support.* Information should include:

i. A discussion of technical assistance available to businesses seeking information about source reduction/ pollution prevention opportunities.

ii. Efforts to provide compliance assistance targeted to small businesses.

6. *Evaluation.* The applicant must agree to work cooperatively with EPA, the PrintSTEP development team, and the other grantees to develop a final strategy for evaluating the PrintSTEP pilots. This will require participation in at least one meeting of all awardees and the PrintSTEP development team to be held in Washington, DC. A copy of the draft evaluation strategy template should be requested from the person listed under "FOR FURTHER INFORMATION CONTACT."

7. *Administrative components*—i. A proposed staffing plan for project.

ii. Compliance and enforcement program including a description of resources.

iii. A proposed schedule for implementing the pilot.

iv. A breakdown of costs should be provided (Note: States must provide a minimum of 25% of the total project costs).

v. Completed grant application forms. The Federal application forms may be obtained from the person listed under "FOR FURTHER INFORMATION CONTACT."

VI. Application Process

One original and four copies of the application must be submitted to EPA at the address under "FOR FURTHER INFORMATION CONTACT," by close of business July 20, 1999. EPA anticipates awarding the cooperative agreements no later than September 30, 1999. All non-awarded applicants will be notified at that time. This solicitation is authorized under the information collection request, Office of Management and Budget (OMB) control number 2030–0020.

VII. Congressional Review Act

Under the Agency's current interpretation of the definition of a "rule," grant solicitations such as this which are competitively awarded on the basis of selection criteria, are considered rules for the purpose of the Congressional Review Act (CRA). (The PrintSTEP program itself is not considered a rule.) The CRA, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Business and industry, Grants—environmental protection, Printing.

Dated: April 9, 1999.

Elaine Stanley,

Director, Office of Compliance.

[FR Doc. 99–10004 Filed 4–21–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00594; FRL 6075–8]

Notice of Availability of Pesticide Data Submitters List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

FOR FURTHER INFORMATION CONTACT: By mail: John Jamula, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Office location for commercial courier delivery, telephone number, and e-mail address: Rm. 226, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–6426; e-mail: jamula.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Pesticide Data Submitters List is a compilation of names and addresses of registrants who wish to be notified and offered compensation for use of their data. It was developed to assist pesticide applicants in fulfilling their obligation as required by sections 3(c)(1)(f) and 3(c)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and 40 CFR part 152 subpart E regarding ownership of data used to support registration. This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

II. Ordering Information

Microfiche copies of the document are available from the National Technical Information Service (NTIS) ATTN: Order Desk 5285 Port Royal Road Springfield, VA 22161. Telephone: 1–800–553–6847. When requesting a document from NTIS, please provide its name and NTIS Publication Number (PB). The NTIS Publication for this version of the Pesticide Data Submitters List is PB 99–131963.

III. Electronic Access

The Pesticide Data Submitters List is available on EPA's World Wide Web (WWW) site on the Internet. The Internet address of EPA's web site is www.epa.gov.

To Access the Data Submitters List from the EPA Home Page, select "Databases and Software." From the next page, select "Media Specific."

The Pesticide Data Submitters List may be found by searching for the keywords "datasubmitterslist" from the EPA Home Page, or may be accessed directly on the EPA web site, by going directly to the address listed below. Note that this address is case sensitive. http://www.epa.gov./opppmsd1/datasubmitterslist/index.html

List of Subjects

Environmental protection, Administrative practice and procedure, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 8, 1999.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs

[FR Doc. 99–10002 Filed 4–20–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–AL; FRL–6072–1]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Alabama's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On October 5, 1998, the State of Alabama submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Alabama's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application. Alabama has provided a certification that its program meets the requirements for approval of a State program under section 404 of TSCA. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission. If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the **Federal Register** and the Federal program will take effect in Alabama.

DATES: Comments on the authorization application must be received on or before June 7, 1999. Public hearing requests must be received on or before May 5, 1999.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket number "PB–402404–AL" (in duplicate) to: Environmental Protection Agency, Region IV, Air, Pesticides and Toxics Management Division, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303–3104.

Comments, data, and requests for a public hearing may also be submitted electronically to: beldin-quinones.john@epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: John A. Beldin-Quinones, Project Officer, Air, Pesticides and Toxics Management Division, Environmental Protection Agency, Region IV, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303–3104. Telephone: (404) 562–9171, e-mail address: beldin-quinones.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed

by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether Alabama's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of Alabama's proposed program has been provided by the applicant:

The State of Alabama, through the Alabama Department of Public Health (ADPH) and Safe State of the University of Alabama, will implement and administer the lead-based paint training, accreditation, and certification program, based on authority provided by the Alabama Legislature during ratification of "The Alabama Lead Reduction Act of 1997."

The Alabama regulations are applicable to all persons engaged in lead-based paint activities in target housing and child-occupied facilities. The State certification program requirements include: accreditation of lead-based paint activities training providers and training courses; certification of firms and individuals (inspectors, risk assessors, supervisors, project designers, and abatement workers) conducting lead-based paint inspections, risk assessments, or abatement in target housing and child-occupied facilities; and required work practice standards for lead-based paint activities.

Additional requirements include: (1) Principal instructors and guest instructors teaching hands-on or work practice standards to successfully complete the training course to be taught; (2) training programs to notify Safe State of the University of Alabama prior to conducting a training course; and (3) training course accreditation to be contingent on completion of a satisfactory course audit.

Work practice standards required for lead-based paint activities are equivalent to standards in the Federal regulations, but also include filing a project notification in writing, with fees, prior to commencement of any lead-based paint abatement activity.

The State program provides for establishing reciprocity arrangements with other states and/or Indian Tribes with authorized programs, and provides for outreach activities to educate the public and the regulated community. Costs are supported by Federal grants as well as fees assessed for the certification of firms, accreditation of training programs and individuals, and the notification of projects.

Alabama's rules provide for the suspension and revocation or modification of training provider accreditations, training course accreditation, and firm and individual certifications.

III. Federal Overfiling

TSCA section 404(b) (15 U.S.C. 2684(b)) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "PB-402404-AL." Copies of this notice, the State of Alabama's authorization application, and all comments received on the application are available for inspection in the Region IV office, from 8 a.m. to 4:45 p.m., Monday through Friday, excluding legal holidays. The docket is located at EPA Region IV Library, Environmental Protection Agency, Atlanta Federal Center, 9th Floor, 61 Forsyth St., SW., Atlanta, GA.

Commenters are encouraged to structure their comments so as not to contain information for which Confidential Business Information (CBI) claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2.

Comments and information not claimed as CBI at the time of submission will be placed in the public record. Electronic comments can be sent directly to EPA at:

beldin-quinones.john@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB-402404-AL." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to

issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: April 7, 1999,

A. Stanley Meiburg,

Regional Administrator, Region IV.

[FR Doc. 99–10003 Filed 4–20–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

April 14, 1999.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 21, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0859.

Title: Suggested Guidelines for Petitions for Ruling Under Section 253 of the Communications Act.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and State, local or tribal government.

Number of Respondents: 80.

Estimated Time per Response: 78.5 hours (avg).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 6,280 hours.

Total Annual Costs: None.

Needs and Uses: Section 253 of the Communications Act of 1934, as amended requires the Commission, with certain important exceptions, to preempt the enforcement of any state or local statute or regulation, or other state or local legal requirement (to the extent necessary) that prohibits or has the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. The Commission's consideration of preemption begins with the filing of a petition by an aggrieved party. The petition is placed on public notice and commented on by others. The Commission issued a Public Notice that establishes guidelines relating to its consideration of preemption petitions. The Commission expects petitioners and commenters to provide it with relevant information sufficient to describe the legal regime involved in the controversy and to establish the factual basis necessary for decision. The Commission will use the information to discharge its statutory mandate relating to the preemption of state or local statutes or other state or local legal requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–9900 Filed 4–20–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–474; Report No. AUC–99–24–B (Auction No. 24)]

Phase II 220 MHz Service Spectrum Auction; Notice and Filing Requirements for Auction of Phase II 220 MHz Service Spectrum Scheduled for June 8, 1999; Minimum Opening Bids and Other Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This is a summary of a Public Notice (DA 99–474) released on March 8, 1999, establishing minimum opening bids and procedures for the upcoming auction of Phase II 220 MHz Service Spectrum (Auction No. 24), in accordance with the Balanced Budget Act of 1997.

DATES: Auction No. 24 is scheduled to begin on June 8, 1999.

ADDRESSES: See the text of the Public Notice and attachments for information regarding important addresses.

FOR FURTHER INFORMATION CONTACT:

Media Contact: Meribeth McCarrick, (202) 418–0654.

Auctions Division: Ruby Hough, Operations; Bob Reagle, Auctions Analysis; or Anne Napoli, Legal, (202) 418–0660.

Commercial Wireless Division: Scott Mackoul, (202) 418–0620.

SUPPLEMENTARY INFORMATION: The complete text of this Public Notice, including nine attachments that do not appear in this summary, is available for inspection and copying Monday through Thursday from 9 a.m. to 4 p.m., and Friday from 9 a.m. to 2 p.m., in the Wireless Telecommunications Bureau's Public Reference Room (Room 5608), 2025 M Street, N.W., Washington, D.C. 20554, and on the Commission's World Wide Web page, located at: http://www.fcc.gov/wtb/auctions/auc24/auc24.html. Please note that the Wireless Telecommunications Bureau's Public Reference Room will cease operations at the M Street location on Monday, April 26, 1999, and will reopen on Monday, May 3, 1999 at the Commission's new headquarters, located at 445 Twelfth Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800. The nine attachments that do not appear in this summary, but are available as described above, are: Attachment A (Summary of Licenses to be Auctioned, Upfront Payments, Minimum Opening Bids); Attachment B (List of Cases Pending Before the Commission Involving Non-Nationwide Phase I 220 MHz Licensees); Attachment C (Guidelines for Completing FCC Forms 175 and 159 and Exhibits); Attachment D (Auction-Specific Instructions for FCC Remittance Advice (FCC Form 159)); Attachment E (Electronic Filing and Review of FCC Form 175); Attachment F (Accessing the FCC Network Using Windows 95/98); Attachment G (FCC Remote Bidding Software Order Form); Attachment H (Summary Listing of Documents from the Commission and the Wireless Telecommunications Bureau Addressing Application of the Anti-Collusion Rules); and Attachment I (Auction Seminar Registration Form).

Synopsis

I. Introduction

1. The Federal Communications Commission ("FCC" or "Commission") will hold an auction of 225 licenses to operate in the 220–222 MHz band. This auction offers 216 100-kHz licenses in 87 Economic Areas (EAs), and nine 150-kHz licenses in four Economic Area Groups (EAGs) designated for the Phase II 220 MHz auction. The number of 100-kHz licenses available in each EA varies from one to five, while the number of 150-kHz licenses available in each EAG varies from two to three. No nationwide licenses are available in this auction. A list of each license that will be available in Auction No. 24, along with its upfront payment and minimum opening bid, is included in the full text of this Public Notice as Attachment A (see "Supplementary Information," *supra*, for further details).

2. *Auction Date:* The auction will commence on June 8, 1999. The initial schedule for bidding will be announced by Public Notice at least one week before the start of the auction. Unless otherwise announced, bidding will be conducted on each business day until bidding has stopped on all licenses.

3. *Bidding Methodology:* Simultaneous multiple round bidding. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically. Pre-Auction Dates and Deadlines:

- Auction Seminar: April 21, 1999.
- Short Form Application (FCC Form 175): May 10, 1999; 5:30 p.m. ET.
- Upfront Payments (via wire transfer): May 24, 1999; 6:00 p.m. ET.
- Orders for Remote Bidding Software: May 25, 1999.
- Mock Auction June 4, 1999.

Telephone Contacts:

- FCC National Call Center: (888) CALL–FCC ((888) 225–5322) or (717) 338–2888 (direct dial). For general auction information and seminar registration, press option #2 at the prompt. Hours: 8 a.m.–5:30 p.m. ET, Monday through Friday.
- FCC Technical Support Hotline: (202) 414–1250 (voice), (202) 414–1255 (text telephone (TTY)). Hours of service: 8 a.m.–6 p.m. ET, Monday through Friday.

A. Background

4. In the *220 MHz Third Report and Order* (62 FR 15978, April 3, 1997), the Commission restructured the licensing framework that governs the 220 MHz Service. Site-specific licensing, used in the Phase I 220 MHz Service, was replaced with a geographic-based system in the Phase II 220 MHz Service, which is the subject of the upcoming auction. This geographic-based licensing methodology is similar to that used in other commercial mobile radio services ("CMRS"). The Commission developed three types of geographic area licenses for the Phase II 220 MHz Service. The first type of license was based upon Economic Areas (EAs), developed by the Bureau of Economic Analysis of the U.S. Department of Commerce (60 FR 13114, March 10, 1995). In addition, the Commission created three EA-type license areas to cover the following United States territories: American Samoa; the U.S. Virgin Islands and Puerto Rico; and Guam and the Northern Mariana Islands. The second type of license, known as Economic Area Groupings (EAGs), included 6 groups of EAs, which collectively encompassed all of the EA and EA-type licenses. Finally, the Commission designed three nationwide licenses, each of which encompassed all six EAGs. Service and operational requirements for the Phase II 220 MHz Service are contained in Part 90 of the Commission's Rules, 47 CFR Part 90.

Pursuant to the rules adopted in the *220 MHz Third Report and Order* (62 FR 15978, April 3, 1997) and the *220 MHz Memorandum Opinion and Order on Reconsideration* (63 FR 306611, June 12, 1998), the Commission commenced the auction of 908 Phase II 220 MHz licenses on September 15, 1998. This auction closed on October 22, 1998. Forty-four winning bidders won a total of 693 licenses. On November 24, 1998, the Bureau released a Public Notice (DA 98–2386) (63 FR 67685, December 12, 1998) ("Phase II 220 MHz Service Public Notice"), announcing that 225 licenses now available for auction will be included in Auction No. 24.

B. Due Diligence

5. Potential bidders are reminded that there are a number of incumbent Phase I 220 MHz licensees already licensed and operating on frequencies that will be subject to the upcoming auction. Such incumbents must be protected from harmful interference by Phase II 220 MHz licensees in accordance with the Commission's Rules. *See* 47 CFR 90.763. These limitations may restrict the ability of such geographic area licensees to use certain portions of the electromagnetic spectrum or provide

service to certain areas in their geographic license areas.

6. In addition, potential bidders seeking licenses for geographic areas that are near the Canadian border should be aware that the use of some or all of the channels they acquire in the auction could be restricted as a result of a future agreement with Canada on the use of 220–222 MHz spectrum in the border area.

7. Potential bidders should also be aware that certain applications (including those for modification), waiver requests, petitions for reconsideration and applications for review are pending before the Commission that relate to particular incumbent non-nationwide 220 MHz licensees. In addition, the decisions reached in the 220 MHz proceeding are the subject of a judicial appeal and may be the subject of additional reconsideration or appeal. *See, e.g., PLMRS Narrowband Corp., et al.* v. *Federal Communications Commission,* No. 92–1432, (D.C. Cir., filed September 18, 1992). We note that resolution of these matters could have an impact on the availability of spectrum for EA and EAG licensees. In addition, while the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction.

8. Potential bidders are solely responsible for investigating and evaluating the degree to which such pending matters may affect spectrum availability in areas where they seek EA or EAG licenses.

9. To aid potential bidders, Attachment B to this Public Notice lists matters pending before the Commission that relate to licenses or applications for the 220 MHz service. The Commission makes no representations or guarantees that the listed matters are the only pending matters that could affect spectrum availability in the 220–222 MHz band.

10. Parties may submit additions or corrections to the list, provided such additions or corrections are filed with the Commission within ten (10) business days from release of this Public Notice. Such submissions should be limited to identifying pleadings or papers previously filed with the Commission. No new pleadings or arguments on the merits will be accepted as explicitly provided by Commission Rules.

11. Corrections and additions must be filed with the Office of the Secretary, Federal Communications Commission, 445 12th St., S.W., Washington, D.C. 20554. One copy of each submission should also be sent to International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, while an additional courtesy copy should be sent to Scott A. Mackoul, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4–A230, Washington, D.C. 20554. Parties filing additions or corrections should include the internal reference number of this Public Notice (DA 99–474) on their submissions. Parties are also reminded that some of the proceedings are restricted proceedings governed by the Commission's ex parte rules. Accordingly, any submission filed pursuant to this Public Notice that is directed to the merits or outcome of any restricted proceeding must be served on all parties to that restricted proceeding. *See generally* 47 CFR 1.1200–1.1216.

12. Additional information regarding matters identified in Attachment B is available to the public. Licensing information is contained in the Commission's licensing database, which is available for inspection in the Wireless Telecommunications Bureau's Public Reference Rooms, located at 2025 M Street, N.W., Room 5608, Washington, D.C. 20554, and 1270 Fairfield Road, Gettysburg, PA 17325. In a future Public Notice, the Bureau will provide the new location of the Commission's licensing database in the Portals building. In addition, copies of the pleadings are available for public inspection only in the Gettysburg Public Reference Room.

13. In addition, potential bidders may search for information (but not the pleadings) regarding incumbent 220 MHz licensees on the World Wide Web at http://www.fcc.gov/wtb. In particular, information can be accessed by downloading databases by selecting "WTB Database Files" (http://www.fcc.gov/wtb/databases.html), or searching on-line by selecting "Search WTB Databases" (http://gullfoss.fcc.gov:8080/cgi-bin/ws.exe/beta/genmen/index.hts). Any telephone inquires regarding these matters should be directed to the Technical Support Hotline at (202) 414–1250 (V) or (202) 414–1255 (text telephone (TTY)).

14. The Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential bidders are strongly encouraged to physically inspect any sites located in or near the geographic area for which they plan to bid.

C. Participation

15. Those wishing to participate in the auction must:

- Electronically submit a short form application (FCC Form 175) by May 10, 1999.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by May 24, 1999.
- Comply with all provisions outlined in the Bidder Information Package.

D. Prohibition of Collusion

16. To ensure the competitiveness and integrity of the auction process, the Commission's Rules prohibit applicants for the same geographic license area from communicating with each other during the auction about bids, bidding strategies, or settlements. This prohibition begins with the filing of short-form applications, and ends on the down payment due date. Bidders competing for the same license(s) are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he/she is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (e.g., law firm or consulting firm), a violation could similarly occur. At a minimum, in such a case, applicants should certify that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule. The Bureau, however, cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred nor will it preclude the initiation of an investigation when warranted. In Auction No. 24, for example, the rule would apply to any applicants bidding for the same EA or EAG. Therefore, applicants that apply to bid for "all markets" would be precluded from communicating with all other applicants after filing the FCC Form 175. However, applicants may enter into bidding agreements before filing their FCC Form 175 short-form applications, as long as they disclose the existence of the agreement(s) in their Form 175 short-form applications. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with Section 1.2105(c).

In addition, Section 1.65 of the Commission's Rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, Section 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders are therefore required to make such notification to the Commission immediately upon discovery.

E. Bidder Information Package

17. No Bidder Information Package will be provided for Auction No. 24. The Commission provided a Bidder Information Package for Auction No. 18, the initial auction of Phase II 220 MHz Service spectrum. Although the majority of the specific software and technical information contained therein is no longer applicable (*e.g.*, Tabs A through D), other information, including the auction rules and some (but not all) of the relevant rulemakings, can be found in Tab E of the Auction No. 18 Bidder Information Package. Upon request, the Commission will provide one free copy of that Bidder Information Package to each Auction No. 24 applicant. Additional copies may be ordered at a cost of $16.00 each, including postage, payable by Visa or Master Card, or by check payable to "Federal Communications Commission" or "FCC." To place an order, contact the FCC National Call Center at (888) CALL–FCC ((888) 225–5322, press option #2 at the prompt). Prospective bidders that have already contacted the FCC at this number expressing an interest in Auction No. 24 will receive a Bidder Information Package in approximately four weeks, and need not call again unless they wish to order additional copies. In addition, applicants may access updated information about Auction No. 24 at the following address on the Bureau's web site:

http://www.fcc.gov/wtb/auctions/auc24/auc24.html

Applicants are strongly encouraged to check this site regularly for complete information regarding Auction No. 24.

F. Relevant Authority

18. Prospective bidders must familiarize themselves thoroughly with the Commission's Rules relating to the Phase II 220 MHz Service, contained in Title 47, Part 90 of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions contained in the *220 MHz Third Report and Order* (62 FR 15978, April 3, 1997); *220 MHz Memorandum Opinion and Order on Reconsideration* (63 FR 306611, June 12, 1998); *220 MHz Fourth Report and Order* (62 FR 46211, September 2, 1997); and *220 MHz Fifth Report and Order* (63 FR 49291, September 15, 1998). Potential bidders must also familiarize themselves with Part 1, Subpart Q of the Commission's Rules concerning Competitive Bidding Proceedings.

19. The terms contained in the Commission's Rules, relevant orders, Public Notices and bidder information package are not negotiable. The Commission may amend or supplement the information contained in our Public Notices or the bidder information package at any time, and will issue Public Notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission Rules and with all Public Notices pertaining to this auction. Copies of most Commission documents, including Public Notices, can be retrieved from the FCC Internet node via anonymous ftp @ftp.fcc.gov or the FCC World Wide Web site at http://www.fcc.gov/wtb/auctions. Additionally, documents may be obtained for a fee by calling the Commission's copy contractor, International Transcription Service, Inc. (ITS), at (202) 857–3800. When ordering documents from ITS, please provide the appropriate FCC number (*e.g.*, FCC 98–93 for the Memorandum Opinion and Order on Reconsideration and FCC 97–57 for the 220 MHz Second Report and Order).

20. Bidder Alerts: The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding, as they would with any new business venture.

21. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 22 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a "cold call" from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of the minimum investment is less than $25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service ("IRS"), Federal Trade Commission ("FTC"), Securities and Exchange Commission ("SEC"), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

22. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 22 may also call the FCC National Call Center at (888) CALL–FCC ((888) 225–5322).

G. National Environmental Policy Act (NEPA) Requirements

23. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a federal action and licensees must comply with the Commission's NEPA rules for each wireless facility. *See* 47 CFR 1.1305–1.1319. These rules require that, among other things, licensees consult with expert agencies having NEPA responsibilities including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). Licensees must prepare environmental assessments for wireless facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or

endangered species or designated critical habitats, historical or archaeologic sites, Indian religious sites, floodplains, and surface features. Licensees must also prepare environmental assessments for wireless facilities that include high intensity white lights in residential neighborhoods or excessive radiofrequency emission.

II. Eligibility

A. General Eligibility Criteria

24. For the Phase II 220 MHz Service, the Commission adopted small business provisions to promote and facilitate the participation of small businesses in the auction, and in the provision of this and other commercial mobile radio services.

(1) Determination of Revenues

25. For purposes of determining which entities qualify as very small businesses or small businesses, the Commission will consider the gross revenues of the applicant, its controlling principals, and the affiliates of the applicant and its controlling principals. Therefore, the gross revenues of all of the above entities must be disclosed *separately and in the aggregate* as Exhibit C to an applicant's FCC Form 175. The Commission does not impose specific equity requirements on controlling principals. The term "controlling principal" includes both *de facto* and *de jure* control of the applicant. Typically, *de jure* control is evidenced by ownership of at least 50.1 percent of an entity's voting stock. *De facto* control is determined on a case-by-case basis. The following are some common indicia of control:

- The person/entity constitutes or appoints more than 50 percent of the board of directors or management committee;
- The person/entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- The person/entity plays an integral role in management decisions.

(2) Very Small or Small Business Consortia

26. A consortium of small businesses or very small businesses is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which *individually* satisfies the definition of small or very small business in Section 90.1021(b) (1) or (2). Thus, each consortium member must disclose its gross revenues along with those of its affiliates, controlling principals, and controlling principals' affiliates. We note that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for very small or small business credits, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

(3) Application Showing

27. Applicants should note that they will be required to file supporting documentation as Exhibit C to their FCC Form 175 short form applications to establish that they satisfy the eligibility requirements to qualify as a very small business or small business (or consortia of very small or small businesses) for this auction. Specifically, for the Phase II 220 MHz Service auction, applicants applying to bid as very small or small businesses (or consortia of very small or small businesses) will be required to file all information required under Sections 1.2105(a) and 1.2112(a) of the Commission's Rules. *See* 47 CFR 90.1009. In addition, these applicants must disclose, *separately and in the aggregate*, the gross revenues for the preceding three years of each of the following: (1) the applicant; (2) the applicant's affiliates; (3) the applicant's controlling principals; and (4) the affiliates of the applicant's controlling principals. Certification that the average gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. A statement of the total gross revenues for the preceding three years is also insufficient. The applicant must provide separately for itself, its affiliates, and its controlling principals, a schedule of gross revenues for each of the preceding three years, as well as a statement of total average gross revenues for the three-year period. If the applicant is applying to bid as a consortium of very small or small businesses, this information must be provided for each consortium member.

B. Bidding Credits

28. Applicants that qualify under the definitions of very small business and small business (or consortia of very small or small businesses), as set forth in 47 CFR 90.1021(b), are eligible for a bidding credit that represents the amount by which a bidder's winning bids are discounted. The size of a Phase II 220 MHz Service bidding credit depends on the average gross revenues for the preceding three years of the bidder, its controlling principals, and the affiliates of both the bidder and its controlling principals:

- A bidder with average gross revenues of not more than $15 million for the preceding three years receives a 25 percent discount on its winning bids for Phase II 220 MHz Service licenses; and,
- A bidder with average gross revenues of not more than $3 million for the preceding three years receives a 35 percent discount on its winning bids for Phase II 220 MHz Service licenses.

29. Bidding credits are not cumulative: qualifying applicants receive either the 25 percent or the 35 percent bidding credit, but not both. Guidance on calculating gross revenues is contained in 47 CFR 90.1021(c).

30. Phase II 220 MHz Service bidders should note that unjust enrichment provisions apply to winning bidders that use bidding credits and subsequently assign or transfer control of their licenses to an entity not qualifying for the same level of bidding credit. Finally, Phase II 220 MHz Service bidders should also note that there are no installment payment plans in the Phase II 220 MHz Service auction.

III. Pre-Auction Procedures

A. Short-Form Application (FCC Form 175)—Due May 10, 1999, 5:30 p.m. ET

31. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be received at the Commission by 5:30 p.m. ET on May 10, 1999. Late applications will not be accepted. There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See* Part III.C., *infra*.

(1) Electronic Filing

32. As of January 1, 1999, applications to participate in FCC auctions must be filed electronically, unless it is not operationally feasible. Applicants will be permitted to file their FCC Form 175 applications in hard copy form only in the event the FCC experiences technical difficulties with its electronic systems. In such an event, the FCC will announce the procedure for submitting manual applications.

33. For Auction No. 24, applicants may file applications electronically beginning April 16, 1999. The system will generally be open for filing on a 24-hour basis. The filing window will remain open until 5:30 p.m. ET on May 10, 1999. Applicants are strongly encouraged to file early, and applicants are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline of May 10, 1999. Information about installing and

running the FCC Form 175 application software will be included in a future Public Notice. Technical support is available at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)); the hours of service are 8 a.m.–6 p.m. ET, Monday–Friday.

(2) Completion of the FCC Form 175

34. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment B of this Public Notice. Applicants should not consider their form submitted to the FCC until they press the "Submit Form 175" button on the "Submit" page and receive confirmation from the filing system that the form has been received by the Commission.

(3) Electronic Review of FCC Form 175

35. The FCC Form 175 review software may be used to review and print applicants' FCC Form 175 applications. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a Public Notice explaining the status of the applications. For this reason, it is important that applicants do not include their Taxpayer Identification Numbers (TINs) on any Exhibits to their FCC Form 175 applications. There is a fee of $2.30 per minute for accessing this system. For details, see Attachment E of the full text of the Public Notice (see **SUPPLEMENTARY INFORMATION** above).

B. Application Processing and Minor Corrections

36. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a Public Notice identifying: (1) those applications accepted for filing (including FCC account numbers and the licenses for which they applied); (2) those applications rejected; and (3) those applications that have minor defects that may be corrected, and the deadline for filing such corrected applications.

37. As described more fully in the Commission's Rules, after the May 10, 1999, short form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change the certifying official or change control of the applicant). *See* 47 CFR 1.2105.

C. Upfront Payments—Due May 24, 1999

In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). Applicants will have access to an electronic version of the FCC Form 159 (July 1997 version) after completing the electronic FCC Form 175. Earlier versions of this form will not be accepted. All upfront payments must be received at Mellon Bank in Pittsburgh, PA, by 6 p.m. ET on May 24, 1999.

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 24 go to a lockbox number different from the ones used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the May 24, 1999 deadline will result in dismissal of the application and disqualification from participation in the auction.

(1) Making Auction Payments by Wire Transfer

39. Wire transfer payments must be received by 6:00 p.m. ET on May 24, 1999. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC 9100180
OBI Field: (Skip one space between each information item).

"AUCTIONPAY"

Taxpayer Identification No.: (same as FCC Form 159, block 26)
Payment Type Code: (enter "A24U")
FCC Code: 1 (same as FCC Form 159, block 23A: "24")
Payer Name: (same as FCC Form 159, block 2)
Lockbox No.: # 358420.

Note: The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

Applicants must fax a completed FCC Form 159 to Mellon Bank at (412) 236–5702 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write "Wire Transfer—Auction Payment for Auction Event No. 24." Bidders may confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.

(2) FCC Form 159

41. Each upfront payment must be accompanied by a completed FCC Remittance Advice Form (FCC Form 159). Proper completion of FCC Form 159 is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 will be included in a future Public Notice.

(3) Amount of Upfront Payment

42. As proposed in the *Phase II 220 MHz Service Public Notice*, the following upfront payments will apply in Auction No. 24:

(1) EAG Licenses: $0.01 * 0.15 MHz * License Population (the result rounded up to the next dollar).
(2) EA Licenses: $500 per license.

The upfront payment amount for each license has been calculated and is listed in Attachment A. Please note that upfront payments are not attributed to specific licenses, but instead will be translated to bidding units to define a bidder's maximum bidding eligibility. For Auction No. 24, the amount of the upfront payment will be translated into bidding units on a one-to-one basis, *e.g.*, a $25,000 upfront payment provides the bidder with 25,000 bidding units. The total upfront payment defines the maximum amount of bidding units on which the applicant will be permitted to bid (including standing high bids) in any single round of bidding. Thus, an applicant does not have to make an upfront payment to cover all licenses for which the applicant has selected on FCC Form 175, but rather to cover the maximum number of bidding units associated with licenses on which the bidder wishes to place bids and hold high bids on at any given time.

43. To be able to place a bid on a license, in addition to having specified that license on the FCC Form 175, a bidder must have an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on the FCC Form 175, or else the applicant will not be eligible to participate in the auction.

44. In calculating the upfront payment amount, an applicant should determine the *maximum* number of bidding units it may wish to bid on in any single

round, and submit an upfront payment covering that number of bidding units. Bidders should check their calculations carefully as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

45. **Note:** An applicant may, on its FCC Form 175, apply for every license being offered, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment.

(4) Applicant's Wire Transfer Information for Purposes of Refunds

46. Because experience with prior auctions has shown that in most cases wire transfers provide quicker and more efficient refunds than paper checks, the Commission will use wire transfers for all Auction No. 24 refunds. To avoid delays in processing refunds, applicants should include wire transfer instructions with any refund request they file; they may also provide this information in advance by faxing it to the FCC Billings and Collections Branch, ATTN: Linwood Jenkins or Geoffrey Idika, at (202) 418–2843. Please include the following information:

Name of Bank
ABA Number
Account Number to Credit
Correspondent Bank (if applicable)
ABA Number
Account Number
Contact and Phone Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain an applicant's Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed in Part V.D., *infra*.

D. Auction Registration

47. Approximately ten days before the auction, the FCC will issue a Public Notice announcing all qualified bidders for Auction No. 24. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and that have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

48. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, each containing part of the confidential identification codes required to place bids. These mailings will be sent only to the contact person at the applicant address listed in the FCC Form 175.

49. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on June 3, 1999 should contact the FCC National Call Center at (888) CALL–FCC ((888) 225–5322, press option #2 at the prompt). Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

50. Qualified bidders should note that lost login codes, passwords or bidder identification numbers can be replaced only by appearing *in person* at the FCC Auction Headquarters located at 2 Massachusetts Avenue, N.E., Washington, D.C. 20002. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes.

E. Remote Electronic Bidding Software

51. Qualified bidders must purchase remote electronic bidding software for $175.00 by May 25, 1999. (Auction software is tailored to a specific auction, so software from prior auctions will not work for Auction No. 24.) A software order form is included in this Public Notice.

F. Auction Seminar

52. On April 21, 1999, the FCC will sponsor a seminar for the Phase II 220 MHz Service auction at the Park Hyatt Washington, 1201 24th Street, N.W., Washington, D.C. 20037. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC remote bidding software, and the Phase II 220 MHz Service service and auction rules.

53. To register, complete the registration form included as Attachment I to this Public Notice. The registration form includes details about the time and location of the seminar. Registrations are accepted on a first-come, first-served basis.

G. Mock Auction

54. All applicants whose FCC Form 175 and 175–S have been accepted for filing will be eligible to participate in a mock auction on June 4, 1999. The mock auction will enable applicants to become familiar with the electronic software prior to the auction. Free demonstration software will be available for use in the mock auction. Participation by all bidders is strongly recommended. Details will be announced by Public Notice.

IV. Auction Event

55. The first round of the auction will begin on June 8, 1999. The initial round schedule will be announced in a Public Notice listing the qualified bidders, to be released approximately 10 days before the start of the auction.

A. Auction Structure

(1) Simultaneous Multiple Round Auction

56. As proposed in the *Phase II 220 MHz Service Public Notice*, the 225 Phase II 220 MHz Service licenses will be awarded through a single, simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of any synergies that exist among licenses and is most administratively efficient.

(2) Maximum Eligibility and Activity Rules

57. For Auction No. 24, the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments are not attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility. The total upfront payment defines the maximum number of bidding units on which the applicant will initially be permitted to bid. There is no provision for increasing a bidder's maximum eligibility during the course of an auction, as discussed under "Auction Stages" in Part IV.A.(2), *infra*.

58. To ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until the end before participating. Bidders are required to be active on a specific percentage of their maximum eligibility during each round of the auction.

59. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits an acceptable bid in the current round (*see* "Minimum Accepted Bids" in Part IV.B.(3), *infra*). A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. The minimum required activity level is expressed as a percentage of the bidder's maximum bidding eligibility, and increases as the auction progresses. These procedures have proven

successful in maintaining the pace of previous auctions, as discussed in Parts IV.A.(4) and (5), *infra*.

(3) Activity Rule Waivers and Reducing Eligibility

60. Each bidder will be provided five activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license.

61. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where a bidder's activity level is below the minimum required unless: (1) There are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

62. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

63. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

(4) Auction Stopping Rules

64. As proposed in the *Phase II 220 MHz Service Public Notice*, barring extraordinary circumstances, bidding will remain open on all licenses until bidding stops on every license. Thus, the auction will close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid. In addition, however, the Bureau retains the discretion to close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule.

65. The Bureau retains the discretion, however, to keep an auction open even if no new acceptable bids or proactive waivers are submitted, and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use an activity rule waiver (if it has any left).

66. Further, in its discretion, the Bureau reserves the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the FCC invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The FCC intends to exercise this option only in extreme circumstances, such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the FCC is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity.

(5) Auction Delay, Suspension, or Cancellation

67. As proposed in the *Phase II 220 MHz Service Public Notice*, by Public Notice or by announcement during the auction, the Bureau may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. This approach has proven effective in resolving exigent circumstances in previous auctions. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

B. Bidding Procedures

(1) Round Structure

68. The initial bidding schedule will be announced by Public Notice at least one week before the start of the auction, and will be included in the registration mailings. The round structure for each bidding round contains a single bidding round followed by the release of the round results.

69. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The FCC may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

(2) Reserve Price or Minimum Opening Bid

70. As proposed in the *Phase II 220 MHz Service Public Notice*, the following formulae will be used for calculating minimum opening bids on a license-by-license basis in Auction No. 24:

(1) EAG Licenses: $0.01 * 0.15 MHz * License Population (the result rounded up to the next dollar)
(2) EA Licenses: $500 per license.

These amounts are reducible at the discretion of the Bureau. This will allow the Bureau flexibility to adjust the minimum opening bids if circumstances warrant. Such discretion will be exercised, if at all, sparingly and early in the auction, i.e., before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any bidder requests to reduce the minimum opening bids on specific licenses. Based on our experience in prior auctions, the Commission believes that minimum opening bids speed the course of the auction and ensure that valuable assets are not sold for nominal prices, without unduly interfering with the efficient assignment of licenses.

(3) Minimum Accepted Bids and Bid Increments

71. As proposed in the *Phase II 220 MHz Service Public Notice* (63 FR 67685, December 8, 1998), once there is a standing high bid on a license, there will be a bid increment associated with that bid indicating the minimum amount by which the bid on that license can be raised. For the Phase II 220 MHz auction, we will use a standard exponential smoothing methodology to calculate minimum bid increments. The Bureau retains the discretion to compute the minimum bid increment through other methodologies if it determines that circumstance so dictate.

72. The exponential smoothing formula calculates the bid increment for each license based on a weighted average of the activity received on each license in all previous rounds. This methodology will tailor the bid increment for each license based on activity, rather than setting a global increment for all licenses. For every license that receives a bid, the bid increment for the next round for that license will be established using the exponential smoothing formula.

73. The calculation of the percentage bid increment for each license in a given round is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1, and the maximum percentage increment at 0.2.

Equations

$A_i = (C * B_i) + ((1 - C) * A_{i-1})$

I_{i+1} = smaller of $((1 + A_i) * N)$ and M

where,

A_i = activity index for the current round (round i)

C = activity weight factor

B_i = number of bids in the current round (round i)

A_{i-1} = activity index from previous round (round i − 1), A_0 is 0

I_{i+1} = percentage bid increment for the next round (round i+1)

N = minimum percentage increment or bid increment floor

M = maximum percentage increment or bid increment ceiling

Under the exponential smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the new high bid plus the dollar amount associated with the percentage increment (variable I_{i+1} from above times the high bid). This result will be rounded to the nearest thousand if it is over ten thousand or to the nearest hundred if it is under ten thousand.

Examples

License 1

C = 0.5, N = 0.1, M = 0.2

Round 1 (2 new bids, high bid = $1,000,000)

1. Calculation of percentage increment for round 2 using exponential smoothing:

$A_1 = (0.5 * 2) + (0.5 * 0) = 1$

The smaller of $I_2 = (1 + 1) * 0.1 = 0.2$ or 0.2 (the maximum percentage increment)

2. Minimum bid increment for round 2 using the percentage increment (I_2 from above).

0.2 * $1,000,000 = $200,000

3. Minimum acceptable bid for round 2 = 1,200,000

Round 2 (3 new bids, high bid = 2,000,000)

1. Calculation of percentage increment for round 3 using exponential smoothing:

$A_2 = (0.5 * 3) + (0.5 * 1) = 2$

The smaller of $I_3 = (1 + 2) * 0.1 = 0.3$ or 0.2 (the maximum percentage increment)

2. Minimum bid increment for round 3 using the percentage increment (I_3 from above)

0.2 * $2,000,000 = $400,000

3. Minimum acceptable bid for round 3 = 2,400,000

Round 3 (1 new bid, high bid = 2,400,000)

1. Calculation of percentage increment for round 4 using exponential smoothing:

$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$

The smaller of $I_4 = (1 + 1.5) * 0.1 = 0.25$ or 0.2 (the maximum percentage increment)

2. Minimum bid increment for round 4 using the percentage increment (I_4 from above)

0.2 * $2,400,000 = $480,000

3. Minimum acceptable bid for round 4 = 2,880,000

(4) High Bids

74. Each bid will be date- and time-stamped when it is entered into the FCC computer system. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which bids are received by the Commission, starting with the earliest bid. The bidding software allows bidders to make multiple submissions in a round. As each bid is individually date and time-stamped according to when it was submitted, bids submitted by a bidder earlier in a round will have an earlier date- and time-stamp than bids submitted later in a round.

(5) Bidding

75. During a bidding round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), as well as withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each bidding round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round, and the date- and time-stamp of that bid reflects the latest time the bid was submitted.

76. Please note that all bidding will take place either through the automated bidding software or by telephonic bidding. (Telephonic bid assistants are required to use a script when handling bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid, by placing their calls well in advance of the close of a round, because four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 24.

77. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (1) the licenses applied for on FCC Form 175; and (2) the upfront payment amount deposited. The bid submission screens will be tailored for each bidder to include only those licenses for which the bidder applied on its FCC Form 175. A bidder also has the option to further tailor its bid submission screens to call up specified groups of licenses.

78. The bidding software requires each bidder to login to the FCC auction system during the bidding round using the FCC account number, bidder identification number, and the confidential security codes provided in the registration materials. Bidders are

strongly encouraged to download and print bid confirmations *after* they submit their bids.

79. The bid entry screen of the Automated Auction System software for the Phase II 220 MHz Service auction allows bidders to place multiple increment bids which will let bidders increase high bids from one to nine bid increments. A single bid increment is defined as the difference between the standing high bid and the minimum acceptable bid for a license.

80. To place a bid on a license, the bidder must enter a whole number between 1 and 9 in the bid increment multiplier (Bid Mult) field. This value will determine the amount of the bid (Amount Bid) by multiplying the bid increment multiplier by the bid increment and adding the result to the high bid amount according to the following formula:

Amount Bid = High Bid + (Bid Mult * Bid Increment)

Thus, bidders may place a bid that exceeds the standing high bid by between one and nine times the bid increment. For example, to bid the minimum acceptable bid, which is equal to one bid increment, a bidder will enter "1" in the bid increment multiplier column and press submit.

81. For any license on which the FCC is designated as the high bidder (i.e., a license that has not yet received a bid in the auction or where the high bid was withdrawn and a new bid has not yet been placed), bidders will be limited to bidding only the minimum acceptable bid. In both of these cases no increment exists for the licenses, and bidders should enter "1" in the Bid Mult field. Note that in this case, any whole number between 1 and 9 entered in the multiplier column will result in a bid value at the minimum acceptable bid amount. Finally, bidders are cautioned in entering numbers in the Bid Mult field because, as explained in the following section, a high bidder that withdraws its standing high bid from a previous round, even if mistakenly or erroneously made, is subject to bid withdrawal payments.

(6) Bid Removal and Bid Withdrawal

a. Procedure

82. As proposed in the *Phase II 220 MHz Service Public Notice*, before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bid" function in the software, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed. This procedure will enhance bidder flexibility and, we believe, may serve to expedite the course of the auction.

83. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the "withdraw bid" function (assuming that the bidder has not exhausted its withdrawal allowance). A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g) and 1.2109. The procedure for withdrawing a bid and receiving a withdrawal confirmation is essentially the same as the bidding procedure described in "High Bids," Part IV.B.(4).

84. In previous auctions, we have detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While we continue to recognize the important role that bid withdrawals play in an auction, i.e., reducing risk associated with efforts to secure various geographic area licenses in combination, we conclude that, for the Phase II 220 MHz Service auction, adoption of a limit on their use to two rounds is the most appropriate outcome. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Our decision on this issue is based upon our experience in prior auctions, particularly the PCS D, E and F block auction, 800 MHz SMR auction, and LMDS auction, and is in no way a reflection of our view regarding the likelihood of any speculation or "gaming" in the Phase II 220 MHz Service auction. Withdrawals will still be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g) and 1.2109. Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market.

85. If a high bid is withdrawn, the license will be offered in the next round at the second highest bid price, which may be less than, or equal to, in the case of tie bids, the amount of the withdrawn bid, without any bid increment. The FCC will serve as a "place holder" on the license until a new acceptable bid is submitted on that license.

b. Calculation

86. Generally, a bidder that withdraws a standing high bid during the course of an auction will be subject to a payment equal to the lower of: (1) the difference between the net withdrawn bid and the subsequent net winning bid; or (2) the difference between the gross withdrawn bid and the subsequent gross winning bid for that license. *See* 47 CFR 1.2104(g) and 1.2109. No withdrawal payment will be assessed if the subsequent winning bid exceeds the withdrawn bid.

(7) Round Results

87. The bids placed during a round are not published until the conclusion of that bidding period. After a round closes, the FCC will compile reports of all bids placed, bids withdrawn, current high bids, new minimum accepted bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access.

88. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 24 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

(8) Auction Announcements

89. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available on the FCC remote electronic bidding system, as well as the Internet and the FCC Bulletin Board System.

(9) Other Matters

a. Inclusion of the Gulf of Mexico in Auction No. 24

90. The Commission will not designate the Gulf of Mexico as the seventh EAG and the 176th EA in the Phase II 220 MHz Service auction. This issue cannot be addressed in the context of this Public Notice, which, consistent with the Bureau's delegated authority, implements the Commission's rules pertaining to auctions procedures. The licensing regions for the 220 MHz Service were adopted by the Commission in the *220 Third Report and Order*, 62 FR 15978, April 3, 1997, and subsequently codified.

b. Minor Modifications to FCC Form 175 Applications

91. As noted in Section III.B., *supra*, after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Filers should make these

changes on-line, and submit a letter (and a courtesy copy to Anne Napoli at the same address) to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Suite 4–A760 Washington, D.C. 20554, briefly summarizing the changes. Questions about other changes should be directed to Anne Napoli of the FCC Auctions and Industry Analysis Division at (202) 418–0660.

V. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

After bidding has ended, the Commission will issue a Public Notice declaring the auction closed, identifying the winning bids and bidders for each license, and listing withdrawn bid payments due.

Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Government to 20 percent of its net winning bids (actual bids less any applicable bidding credits). *See* 47 CFR 1.2107(b). In addition, by the same deadline all bidders must pay any withdrawn bid amounts due under 47 CFR 1.2104(g), as discussed in "Bid Removal and Bid Withdrawal," Part IV.B.(6), *supra*. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Long-Form Application

Within ten business days after release of the auction closing notice, winning bidders must submit a properly completed long-form application and required exhibits for each Phase II 220 MHz Service license won through the auction. Winning bidders that are small businesses or very small businesses must include an exhibit demonstrating their eligibility for bidding credits. *See* 47 CFR 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

C. Default and Disqualification

Any high bidder that defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may offer the license to the next highest bidders (in descending order) at their final bids, or reauction the spectrum. *See* 47 CFR 1.2109(b) and (c). In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant. *See* 47 CFR 1.2109(d).

D. Refund of Remaining Upfront Payment Balance

All applicants that submitted upfront payments but were not winning bidders for a Phase II 220 MHz Service license may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid.

Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. However, bidders that reduce their eligibility and remain in the auction are not eligible for partial refunds of upfront payments until the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request including wire transfer instructions, a Taxpayer Identification Number ("TIN"), and a copy of their bidding eligibility screen print, to: Federal Communications Commission, Billings and Collections Branch, Attn: Regina Dorsey or Linwood Jenkins, 445 12th Street, S.W., Room 1–A824, Washington, D.C. 20554.

Bidders can also fax their request to the Billings and Collections Branch at (202) 418–2843. Once the request has been approved, a refund will be sent to the address provided on the FCC Form 159.

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Linwood Jenkins or Geoffrey Idika at (202) 418–1995.

Federal Communications Commission.

Amy J. Zoslov,

Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau.

[FR Doc. 99–9765 Filed 4–20–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2326]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

April 15, 1999.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by May 6, 1999. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of Section 25 of the Cable Television Consumer and Competition Act of 1992, DBS Service Obligations (MM Docket No. 93–25).

Number of Petitions Filed: 9.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–9901 Filed 4–20–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, April 20, 1999, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider matters relating to the Corporation's corporate supervisory, and resolution activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 – 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: April 16, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–10026 Filed 4–16–99; 4:57 pm]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Gava International Freight Consolidators, (U.S.A.), Inc., 1525 Elmhurst Road, Elk Grove Village, IL 60007.

Officers: Pino Gazzetta, President, Pabio Vannucci, Director.

Dated: April 16, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–9924 Filed 4–20–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 14, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. FCNB Corp, Frederick, Maryland; to merge with First Frederick Financial Corporation, Frederick, Maryland, and thereby indirectly acquire First Bank of Frederick, Frederick, Maryland.

In connection with this application, Applicant also has applied to engage in owning and operating cash dispensing machines in locations owned or leased by unaffiliated third parties and thereby engage in data processing activities, through First Frederick Financial Corporation, pursuant to § 225.218(b)(14) of Regulation Y.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Commercial Bancshares, Inc., Minnetonka, Minnesota; to become a bank holding company by acquire 100 percent of the voting shares of First Commerce Bank, Bloomington, Minnesota, a *de novo* bank.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Poteau Bancshares, Inc., Poteau, Oklahoma, and First Poteau Corporation, Poteau, Oklahoma; to acquire 100 percent of the voting shares of The First State Bank, Wister, Oklahoma.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of Mustang Financial Corp., Rio Vista, Texas, and thereby indirectly acquire First State Bank, Rio Vista, Texas.

2. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of Eastern Heights Bank, Maplewood, Minnesota.

Board of Governors of the Federal Reserve System, April 15, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–9898 Filed 4–20–99; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

Prepayment Audit Authority Granted to the Agency for International Development

AGENCY: Federal Supply Service, GSA.

ACTION: Notification of prepayment audit authority.

SUMMARY: The General Services Administration has determined that it is cost-effective and in the public interest to grant prepayment audit authority to the U.S. Agency for International Development.

FOR FURTHER INFORMATION CONTACT: James Fitzgerald, Director, Audit Division, FSS/GSA, 202–501–3000.

SUPPLEMENTARY INFORMATION: Pursuant to the authority vested in me by Section 3726 of Title 31, U.S.C., I have determined that it is both cost-effective and in the public interest to delegate authority to the U.S. Agency for International Development (USAID) to conduct a prepayment audit of its foreign and domestic household goods and transportation bills, subject to the Federal Property Management Regulations, 41 CFR 101–41, and amendments thereto. These prepayment audits will be conducted by a General Services Administration (GSA) contractor, at the contractor's site. USAID may re-delegate this authority to any officer, official, or employee of USAID.

The Administrator of USAID shall notify GSA in writing of additional delegations.

Dated: April 16,1999.

Allan J. Zaic,

Assistant Commissioner, Office of Transportation and Property Management.

[FR Doc. 99–9991 Filed 4–20–99; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting

Name: Advisory Committee to the Director, National Center for Environmental Health.

Times and Dates: 10 a.m.–5:15 p.m., May 3, 1999. 8:30 a.m.–3:30 p.m., May 4, 1999.

Place: Swissotel, 3391 Peachtree Street, NE, Atlanta, Georgia, 30326 (next to Lenox Square), in the "Zermatt" room, telephone 404/365–0065.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 20 committee members and presenters, plus 20 observers.

Matters to be Discussed

The Committee will provide advice on the following: environmental public health problems that potentially pose the greatest risks to human health and may not be receiving adequate attention; the primary prevention of birth defects and developmental and other disabilities; the prevention of secondary conditions in persons with a primary disability; and the research agenda needed to improve the science base relative to human health effects and environmental exposures and that will ultimately provide sound human health data for policy and decision-making. Particular attention will be paid to the matters of NCEH surveillance systems and the relationship between genetics and public health.

Persons wishing to make written or oral comments at the meeting should notify the contact person in writing or by telephone no later than close of business April 26, 1999.

Requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Depending on the time available and the number of requests to make oral comments, it may be necessary to limit the time of each presenter.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Anne Wilson, Program Analyst, Office of the Director, NCEH, CDC, 4770 Buford Highway, NE, M/S F49, Atlanta, Georgia 30341–3724, telephone 770/488–7321, fax 770/488–7024, e-mail: amw6@cdc.gov

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 15, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–9925 Filed 4–20–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Hanford Thyroid Morbidity Study Advisory Committee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Hanford Thyroid Morbidity Study Advisory Committee.

Times and Date: 1 p.m.–5 p.m., May 6, 1999; 7 p.m.–9 p.m., May 6, 1999.

Place: Doubletree Hotel Seattle Airport, 18740 Pacific Highway South, Seattle, Washington 98188, telephone 206/246–8600, fax 206/431–8687.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 200 people.

Purpose

The CDC and investigators from Seattle's Fred Hutchinson Cancer Research Center (FHCRC) will present and discuss findings of the Hanford Thyroid Disease Study and appropriate activities to follow-up study results to the Hanford Thyroid Morbidity Study Advisory Committee. The Committee will continue in evening session at 7 p.m., with a presentation by CDC, and/or its contractor, on the findings of the Hanford Thyroid Disease Study Draft Final Report and to allow more time for public input and comment. The purpose of the study was to determine if there was an increased risk for thyroid disease among a randomly selected study population exposed to atmospheric releases of radioactive iodine-131 (I–131) from the Hanford Nuclear Site in eastern Washington State during the 1940s and 1950s. The study, mandated by Congress, was conducted by a team of scientists at the FHCRC under contract from the CDC.

Background

In 1986, Freedom of Information Act requests led the Department of Energy to make public thousands of pages of documentation indicating that large quantities of radioactive materials were released into the atmosphere from the Hanford Nuclear Site. The radioactivity was a byproduct of nuclear weapons production from December 1944 through 1957. Most of the radioactivity was released in the form of I–131, which concentrates in the thyroid glands of those who eat food contaminated by it. The amount of I–131 released during this period was more than half a million curies, prompting concern regarding thyroid health effects. The government convened a special Hanford Health Effects Review Panel to review the documents and recommend steps to evaluate possible health consequences among those who live near the Hanford Site.

Two studies were undertaken as a result of these recommendations. The first was the Hanford Environmental Dose Reconstruction Project which estimated potential radiation doses to the thyroid among persons exposed to Hanford I–131 releases. The second was the Hanford Thyroid Disease Study. This study was designed to determine whether the exposures from Hanford resulted in an increased risk of thyroid disease in a randomly selected study population. In late 1989, a contract to perform this study was awarded to the FHCRC.

CONTACT PERSONS FOR ADDITIONAL INFORMATION: General information may be obtained from Mr. Mike Donnelly, Project Officer, Radiation Studies Branch (RSB), Division of Environmental Hazards and Health Effects (DEHHE), National Center for Environmental Health (NCEH), CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770–488–7040, fax 770–488–7044. Technical information may be obtained from Dr. Paul Garbe, RSB, DEHHE, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770–488–7040, fax 770–488–7044.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 15, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–9927 Filed 4–20–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Public Meetings

Name: Update on Hanford Thyroid Disease Study Draft Final Report.

Dates: Wednesday, May 5, 1999, Thursday, May 6, 1999

Times: 7 p.m.–9 p.m., 7 p.m.–9 p.m.

Place: WestCoast Ridpath Hotel, West 515 Spraque, Spokane, Washington 99201,

Tel: (509) 838–2711, Doubletree Hotel Seattle Airport, 18740 Pacific Highway South, Seattle, Washington 98188, (206) 246–8600.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 200 people.

Purpose

The CDC and investigators from Seattle's Fred Hutchinson Cancer Research Center (FHCRC) will discuss findings on the Hanford Thyroid Disease Study Draft Final Report. The purpose of the study was to determine if there was an increased risk for thyroid disease among a randomly selected study population exposed to atmospheric releases of radioactive iodine-131 (I–131) from the Hanford Nuclear Site in eastern Washington State during the 1940s and 1950s. The study, mandated by Congress, was conducted by a team of scientists at the FHCRC under contract from the CDC.

Background

In 1986, Freedom of Information Act requests led the Department of Energy to make public thousands of pages of documentation indicating that large quantities of radioactive materials were released into the atmosphere from the Hanford Nuclear Site. The radioactivity was a byproduct of nuclear weapons production from December 1944 through 1957. Most of the radioactivity was released in the form of I–131, which concentrates in the thyroid glands of those who eat food contaminated by it. The amount of I–131 released during this period was more than half a million curies, prompting concern regarding thyroid health effects. The government convened a special Hanford Health Effects Review Panel to review the documents and recommend steps to evaluate possible health consequences among those who live near the Hanford Site.

Two studies were undertaken as a result of these recommendations. The first was the Hanford Environmental Dose Reconstruction Project which estimated potential radiation doses to the thyroid among persons exposed to Hanford I–131 releases. The second was the Hanford Thyroid Disease Study. This study was designed to determine whether the exposures from Hanford resulted in an increased risk of thyroid disease in a randomly selected study population. In late 1989, a contract to perform this study was awarded to the FHCRC.

CONTACT PERSONS FOR ADDITIONAL INFORMATION: General information may be obtained from Mr. Mike Donnelly, Project Officer, Radiation Studies Branch (RSB), Division of Environmental Hazards and Health Effects (DEHHE), NCEH, CDC, 4770 Buford Highway, NE, M/S (F–35), Atlanta, Georgia 30341–3724, telephone 770–488–7040, fax 770–488–7044. Technical information may be obtained from Dr. Paul Garbe, RSB, DEHHE, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770–488–7040, fax 770–488–7044.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 15, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–9926 Filed 4–20–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0674]

Draft Guidance for Industry on IND's for Phase 2 and 3 Studies of Drugs, Including Specified Therapeutic Biotechnology-Derived Products; Chemistry, Manufacturing, and Controls Content and Format; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "INDs for Phase 2 and 3 Studies of Drugs, Including Specified Therapeutic Biotechnology-Derived Products; Chemistry, Manufacturing, and Controls Content and Format." This draft guidance is intended to provide recommendations to sponsors of investigational new drug applications (IND's) on the chemistry, manufacturing, and controls documentation (CMC), including microbiology documentation, that should be submitted for phase 2 and 3 of IND's. This draft guidance applies to human drugs and specified-biotechnology derived products.

DATES: Written comments on the draft guidance document may be submitted by July 20, 1999. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance for industry to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Charles P. Hoiberg, Center for Drug Evaluation and Research (HFD–810), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2570, or
Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled "INDs for Phase 2 and 3 Studies of Drugs, Including Specified Therapeutic Biotechnology-Derived Products; Chemistry, Manufacturing, and Controls Content and Format." This draft guidance is intended to: (1) Facilitate drug discovery and development, (2) ensure that sufficient data will be submitted for the agency to assess the safety as well as the quality of the proposed clinical studies from the CMC and microbiology perspectives, and (3) expedite the entry of new drugs into the marketplace.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). This draft guidance represents the agency's current thinking on CMC content and format of IND's for phase 2 and 3 studies of drugs, including specified therapeutic biotechnology-derived products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

II. Comments

Interested persons may submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Copies of this draft guidance are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm" or "http://www.fda.gov/cber/guidelines.htm".

Dated: April 13, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–9769 Filed 4–20–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1728 and HCFA–R–0266]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration; HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Home Health Agency Cost Report and Supporting Regulations in 42 CFR 413.20, 413.24 and 413.106; *Form No.:* HCFA–1728 (OMB No. 0938–0022); *Use:* Participating providers are required to submit annual information to HCFA in order to achieve settlement of costs for health care services rendered to Medicare beneficiaries. The HCFA–1728 is the form used by Home Health Agencies to report their health care costs to determine the amount reimbursable for services furnished to Medicare beneficiaries. *Frequency:* Annually; *Affected Public:* Business or other for profit, Not for profit institutions, and State, Local or Tribal Gov.; *Number of Respondents:* 8,950; *Total Annual Responses:* 8,950; *Total Annual Hours Requested:* 1,575,200.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Disproportionate Share Hospital Payments—Institutions for Mental Disease; *Form No.:* HCFA–R–0266 (OMB# 0938–0746); *Use:* This PRA package announces the Federal share of disproportionate share hospital (DSH) allotments for Federal fiscal years (FFYs) 1998 through 2002. It also describes the methodology for calculating the Federal share DSH allotments for FFY 2003 and thereafter, and announces the FFY 1998 and FFY 1999 limitations on aggregate DSH payments States may make to institutions for mental disease (IMD) and other mental health facilities.; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 54; *Total Annual Responses:* 54; *Total Annual Hours:* 2,160.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: April 13, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–9969 Filed 4–20–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0268, R–0271, and R–0274]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send

comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Collection of Assessment Information on Three Federal Government Web Sites: www.medicare.gov, www.4woman.gov, and www.healthfinder.gov; *Form Nos.:* HCFA–R–268 (OMB No. 0938–0756); *Use:* The purpose of the bounceback forms is to provide feedback to the government agencies that provide the web sites. The information collected through the bounceback forms will be used with other information collected about the web sites through focus groups, interviews, and expert evaluations. The combined information will guide future improvements to the web sites. Currently, there is no plan to distribute the information, other than through public health, medical, or other professional journals, in which we may report the results.; *Frequency:* Users will have the opportunity to complete the bounceback form whenever they exit the web site. *Affected Public:* Individuals or Households, Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 636,555; *Total Annual Responses:* 212,185; *Total Annual Hours:* 21,221.

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Publication Information Sheet Reorder Form Feedback Questionnaire; *Form No.:* HCFA–R–0271 (OMB# 0938-new); *Use:* The Educational and Health Promotion Group (EHPG) develops materials for beneficiary-centered education, and makes efforts to improve beneficiary ability to make informed health decisions. The purpose of this collection is post-distribution testing. One Feedback Questionnaire will be placed in each box of bulk mailings, on the back of a publication information sheet, and reorder forms. The distributor is given the option of completing the questionnaire. Those who choose to complete the questionnaire will be providing EHPG with valuable information that will assist in improving future versions of the publication; *Frequency:* Annually; *Affected Public:* Federal Government, Business or other for-profit, Not-for-profit institutions, and State, Local, or Tribal Government; *Number of Respondents:* 20,000; *Total Annual Responses:* 2,000; *Total Annual Hours:* 500.

3. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Evaluation of Medicare+Choice (M+C) Medical Savings Account (MSA) Demonstration, Insurer Survey Component; *Form No.:* HCFA–R–0274 (OMB# 0938-new); *Use:* This survey instrument is designed for insurers to determine their marketing plans regarding high deductible health insurance plans for Medicare beneficiaries to be used in conjunction with MSA. The Insurer Survey is part of a larger evaluation of the M+C MSA demonstration mandated by the Balanced Budget Act of 1997. The overall evaluation plan includes collecting data on use of and payment for medical services from Medicare MSA enrollees through an addition to the Medicare Current Beneficiary Survey sample, collecting data from beneficiaries who disenroll from M+C MSA plans, and collecting data from insurers about their reactions to the M+C MSA demonstration; *Frequency:* Annually; *Affected Public:* Business or other for-profit, and Not-for-profit institutions.; *Number of Respondents:* 350; *Total Annual Responses:* 350; *Total Annual Hours:* 155.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: April 13, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–9970 Filed 4–20–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: April 27, 1999.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 14, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–9902 Filed 4–20–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel Development and Maintenance of a Cryopreserved Embryo Bank.

Date: April 30, 1999.

Time: 1:00 p.m. to Adjournment.

Agenda: To review and evaluate contract proposals.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Arthur Schaerdel, DVM, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 14, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–9904 Filed 4–20–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 21, 1999.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Timothy J. Henry, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 28, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Joe Marwah, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, (301) 435–1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 28, 1999.

Time: 10:30 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, Md 20892, (Telephone Conference Call).

Contact Person: David J. Remondini, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 28, 1999.

Time: 1:00 PM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, Md 20892, (Telephone Conference Call).

Contact Person: Larry Pinkus, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 28, 1999.

Time: 1:30 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, Md 20892, (Telephone Conference Call).

Contact Person: Jarold M. Davidson, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, (301) 435–1776.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel IFCN 6.

Date: April 28, 1999.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 28, 1999.

Time: 3:00 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Harold M. Davidson, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, (301) 435–1776.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 28, 1999.

Time: 4:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 28, 1999.

Time: 12:00 PM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 14, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–9903 Filed 4–20–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of Receipt of Applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.).

Permit No. TE—798107

Applicant: SWCA, Inc., Tucson, Arizona

Applicant requests authorization to conduct presence/absence surveys for Yaqui topminnow (*Poeciliopsis occidentalis sonoriensis*) within Arizona.

Permit No. TE—009543

Applicant: Mary E. Richardson, Mesa Arizona

Applicant requests authorization to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) on Organ Pipe Cactus National Monument, Arizona.

Permit No. TE—009926–0

Applicant: Gulf South Research Corporation, Baton Rouge, Louisiana

Applicant requests authorization to conduct presence/absence surveys for interior least tern (*Sterna antillarum athalassos*) along the Red River in Texas and Oklahoma.

Permit No. TE—009900–0

Applicant: Biozone, Inc., Prescott, Arizona

Applicant request authorization to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) in various counties in Arizona and New Mexico.

Permit No. TE—0005923–0

Applicant: National Park Service, Saguaro National Park, Tucson, Arizona

Applicant requests authorization to conduct presence/absence surveys for cactus ferruginous pygmy-owls (*Glaucidium brasilianum cactorum*) within lands administered by the National Park Service, Saguaro National Park.

Permit No. TE—10037–0

Applicant: Colorado River Indian Tribes, Parker, Arizona

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) and Yuma clapper rail (*Rallus longirostris yumanensis*) in Arizona and California.

Permit No. TE—10440–0

Applicant: David N. Stokely, Billings, Missouri

Applicant requests authorization to conduct presence/absence surveys for the American burying beetle (*Nicrophorus americanus*) in northeastern Oklahoma.

Permit No. TE—006141–1

Applicant: Bruce D. Wilcox, Phoenix, Arizona

Applicant requests authorization to conduct presence/absence surveys for the golden-cheeked warbler (*Dendroica chrysoparia*) and black-capped vireo (*Vireo atricapillus*) in Texas and Oklahoma.

Permit No. TE—010441

Applicant: Jones & Stokes Associates, Inc., Phoenix, Arizona

Applicant requests authorization to conduct presence/absence surveys for Yuma clapper rail (*Rallus longirostris yumanensis*), cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*), southwestern willow flycatcher (*Empidonax traillii extimus*), and northern aplomado falcon (*Falco femoralis septentrionalis*) in California, Arizona, New Mexico, and Texas.

Permit No. TE—828642

Applicant: Darling Environmental & Surveying, Ltd., Tucson, Arizona

Applicant requests authorization to conduct presence/absence surveys for Gila topminnow (including Yaqui) (*Poeciliopsis occidentalis*) in various counties in Arizona.

Permit No. TE—800900

Applicant: Lower Colorado River Authority, Austin, Texas

Applicant requests authority to conduct presence/absence surveys for black-capped vireo (*Vireo atricapillus*), golden-cheeked warbler (*Dendroica chrysoparia*), Houston toad (*Bufo houstonensis*), and fountain darter (*Etheostoma fonticola*) on Lower Colorado River counties within Texas.

Permit No. TE—820022

Applicant: PBS&J, Austin, Texas

Applicant requests authorization to conduct presence/absence surveys for the Concho water snake (*Nerodia harteri paucimaculata*) and fountain darter (*Etheostoma fonticola*) in Concho and Comal Counties, Texas.

Permit No. TE—010472–0

Applicant: Geo-Marine, Inc., Plano, Texas

Applicant requests authorization to conduct presence/absence surveys for the northern aplomado falcon (*Falco femoralis septentrionalis*), peregrine falcon (*Falco peregrinus anatum/tundrius*), Sneed pincushion cactus (*Coryphantha sneedii sneedii*) in southeastern New Mexico and west Texas.

DATES: Written comments on these permit applications must be received on-or before May 21, 1999.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103.

Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: The U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30

days of the date of publication of this notice, to the address above.

Bryan Arroyo,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 99–9928 Filed 4–20–99; 8:45 am]

BILLING CODE 4510–01–P

DEPARTMENT OF THE INTERIOR

United States Geological Survey

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the U.S. Geological Survey (USGS), U.S. Department of the Interior, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application Serial Number 9–015,214 entitled "Automated Groundwater Monitoring System and Method," to Systems Management, Inc. of Hunt Valley, MD 21031.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the grant of this published notice, USGS receives written evidence and argument which establishes that the grant of a license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention is a method of monitoring the quality of water at a ground water sampling site without human intervention. Waste at the sampling site is purged until at least one preselected purge criterion is satisfied. At least one water quality attribute is automatically measured at the sampling site, and quality of water at the site is determined based on the measured water quality attribute. The method is performed by a system including a control unit which, in accordance with a computer program, controls the taking of water quality attribute measurements at the sampling site. The control unit may be equipped with a port for downloading data to a technician on site and with a transceiver for communicating data to a base station via a communications network.

The availability of the invention for licensing has been announced on the USGS' website (*www.usgs.gov/tech-transfer*), on a inventor's website (*http://ma.water.usgs.gov/automo/*), and at industry exhibits appearing more than a year ago.

A copy of the cited patent application is available, for those with a licensing interest, from the USGS Technology Enterprise Office. It may be requested by phone at (703) 648–4450 or by e-mail at *rgraves@usgs.gov*.

Inquiries, comments and other materials relating to the contemplated license must be submitted by regular mail to Neil L. Mark, Technology Enterprise Office, U.S. Geological Survey, 211 National Center, Reston, VA 20192 or by email at *nmark@usgs.gov*.

Properly filed competing applications received by the USGS in response to this notice will be treated as objections to the grant of the contemplated license.

Anton L. Inderbitzen,

Director, Technology Enterprise Office.

[FR Doc. 99–9968 Filed 4–20–99; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–065–1220–00]

Notice of Closure and Restriction Order for BLM Lands in Fiddle Creek Area, Order No. ID–060–14; Correction

AGENCY: Bureau of Land Management, Upper Columbia-Salmon Clearwater Districts, Idaho; DOI.

ACTION: Correction.

SUMMARY: In notice document 99–8956 on page 17676 in the FR issue of Monday, April 12, 1999, make the following correction:

Under item (2) of the Summary add: (3) Area is closed to all use from 8 p.m. to 6 a.m.

Dated: April 13, 1999.

Ted Graf,

Acting District Manager.

[FR Doc. 99–9920 Filed 4–20–99; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(NM–930–1310–01); (NMNM 96062)]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease NMNM 96062 for lands in Lea County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from December 1, 1998, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16–2/3 percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

The Lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 USC 188), and the Bureau of Land Management is proposing to reinstate the lease effective December 1, 1998, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, Bureau of Land Management, New Mexico State Office, (505) 438–7586.

Dated: April 13, 1999.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 99–9965 Filed 4–20–99; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore; South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, April 30, 1999.

The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1:00 p.m. at Headquarters, Marconi Station, Wellfleet, Massachusetts for the regular business meeting to discuss the following:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting 03/24/99
3. Report of Officers
4. Report of Nickerson Subcommittee
5. Superintendent's Report
   Highlands Center trip report

Cellular transmission facilities
Turkey hunting
Dog run in Provincetown
Compendium update
6. Old Business
PWC Subcommittee
ORV Subcommittee
Commission handbook
Jack's Gas certificate of suspension
7. New Business
8. Agenda for next meeting
9. Date for next meeting
10. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: April 9, 1999.

Maria Burks,

Superintendent.

[FR Doc. 99–9921 Filed 4–20–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Selma to Montgomery National Historic Trail Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92–463, that a meeting of the Selma to Montgomery National Historic Trail Advisory Council will be held May 13, 1999, at 9:00 am, at the town hall in Whitehall, Alabama.

The Selma to Montgomery National Historic Trail Advisory Council was established pursuant to Pub. L. 100–192 establishing the Selma to Montgomery National Historic Trail. This law was put in place to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, and administrative matters.

The matters to be discussed include:

- Cooperative Agreements
- Federal Advisory Council Act
- Interpretive Themes
- Interpretive and Visitor Center locations
- Historic route treatment

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on first come, first served basis. Any member of the public may file a written statement concerning the matters to be discussed with Lee Edwards, Trail Manager.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact Lee Edwards, Trail Manager, Selma to Montgomery National Historic Trail, P.O. Box 5690, Montgomery, AL 36103, telephone 334–353–3744 or 334–727–6390.

Lee Edwards,

Trail Manager.

[FR Doc. 99–9923 Filed 4–20–99; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

Submission for OMB Review; Comment Request

AGENCY: United States International Trade Commission.

ACTION: Agency proposal for the collection of information submitted to the Office of Management and Budget (OMB) for review; comment request.

SUMMARY: In accordance with the provisions of the Paperwork Reduction Act of 1995 (P.L. 104–13), the Commission has submitted a proposal for the collection of information to OMB for approval. The proposed information collection is a 3-year extension of the current "generic clearance" (approved by the Office of Management and Budget under control No. 3117–0016) under which the Commission can issue information collections (specifically, producer, importer, purchaser, and foreign producer questionnaires and certain institution notices) for the following types of import injury investigations: countervailing duty, antidumping, escape clause, market disruption, NAFTA safeguard, and "interference with programs of the USDA." Any comments submitted to OMB on the proposed information collection should be specific, indicating which part of the questionnaires or study plan are objectionable, describing the problem in detail, and including specific revisions or language changes.

DATES: To be assured of consideration, comments should be submitted to OMB on or before May 21, 1999.

ADDRESSES: Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: David Rossker, Desk Officer for U.S. International Trade Commission. Copies of any comments should be provided to Robert Rogowsky (United States International Trade Commission, 500 E Street, S.W., Washington, DC 20436).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed collection of information and supporting documentation may be obtained from Debra Baker (USITC, tel. no. 202–205–3180). Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

(1) The proposed information collection consists of five forms, namely the *Sample Producers', Sample Importers', Sample Purchasers', and Sample Foreign Producers' questionnaires* (separate forms are provided for questionnaires issued for the five-year reviews) and *Sample Notice of Institution for Five-Year Reviews.*

(2) The types of items contained within the sample questionnaires and institution notice are largely determined by statute. Actual questions formulated for use in a specific investigation depend upon such factors as the nature of the industry, the relevant issues, the ability of respondents to supply the data, and the availability of data from secondary sources.

(3) The information collected through questionnaires issued under the generic clearance for import injury investigations are consolidated by Commission staff and form much of the statistical base for the Commission's determinations. Affirmative Commission determinations in countervailing duty and antidumping investigations result in the imposition of additional duties on imports entering the United States. If the Commission makes an affirmative determination in a five-year review, the existing antidumping or countervailing duty order will remain in place. The data developed in escape-clause, market disruption, and interference-with-USDA-program investigations (if the Commission finds affirmatively) are used by the President/U.S. Trade Representative to determine the type of

relief, if any, to be provided to domestic industries. The submissions made to the Commission in response to the notices of institution of five-year reviews form the basis for the Commission's determination whether a full or expedited review should be conducted.

(4) Likely respondents consist of businesses (including foreign businesses) or farms that produce, import, or purchase products under investigation. Estimated total annual reporting burden for the period July 1999–June 2002 that will result from the collection of information is presented below.

TABLE 1—PROJECTED ANNUAL BURDEN DATA, BY TYPE OF INFORMATION COLLECTION, JULY 1999–JUNE 2002

Item	Producer questionnaires	Importer questionnaires	Purchaser questionnaires	Foreign producer questionnaires	Institution notices for 5-year reviews	Total
	Estimated burden hours imposed annually for July 1999–June 2002					
Number of respondents	890	871	575	208	86	2,630
Frequency of response	1	1	1	1	1	1
Total annual responses	890	871	575	208	86	2,630
Hours per response	52.6	44.1	23.2	28.0	7.4	39.9
Total hours	46,825	38,426	13,335	5,832	636	105,054

No recordkeeping burden is known to result from the proposed collection of information.

Issued: April 15, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–9995 Filed 4–20–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–823–824 (Preliminary)]

Certain Aperture Masks From Japan and Korea [1]

Determinations

On the basis of the record [2] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of certain aperture masks, provided for in subheading 8540.91.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).[3]

Also, pursuant to 19 U.S.C. 1677(24)(A), the Commission determines that the subject imports from Korea that are alleged to be sold at LTFV are negligible. The Commission's investigation with respect to Korea is thereby terminated pursuant to 19 U.S.C. 1673b(a)(1).

Background

On February 24, 1999, petitions were filed with the Commission and the Department of Commerce by BMC Industries, Inc., Minneapolis, MN, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of certain aperture masks from Japan and Korea. Accordingly, effective February 24, 1999, the Commission instituted antidumping investigations Nos. 731–TA–823–824 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 3, 1999 (64 FR 10316). The conference was held in Washington, DC, on March 17, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 12, 1999. The views of the Commission are contained in USITC Publication 3185 (April 1999), entitled Certain Aperture Masks from Japan and Korea: Investigations Nos. 731–TA–823–824 (Preliminary).

Issued: April 15, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–9994 Filed 4–20–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–69]

In the Matter of Certain Steel Wire Rod; Notice of Commission Determination Not To Conduct a Portion of the Hearing In Camera

AGENCY: U.S. International Trade Commission.

ACTION: Commission determination not to close any part of the hearing to the public.

SUMMARY: The Commission has determined to deny the requests of petitioners and Respondents Group (foreign producers in Japan, Trinidad & Tobago, Turkey, Germany, France, Spain, the United Kingdom, Italy, Venezuela, Brazil, and the American Wire Producers Association) to conduct

[1] The products covered by these investigations are all aperture masks (also known as "shadow masks") made from aluminum-killed, open-coil annealed steel (decarburized) (known generally as "AK steel") for color picture tubes ("CPTs") used in television sets. AK steel includes the following types of steel: low carbon, AF (annealing-free) steel, AK type A steel (commonly referred to as AKM steel), AK type B steel, and general AK steel. The aperture masks covered by the scope generally have a vertical pitch (distance between the centers of two apertures) of greater than 0.28 mm. Specifically excluded from the scope are the following products: (1) aperture masks made from FeNi 36 alloy (whether sold under the brand names Invar, Inovar or LLTE); (2) aperture masks that have a vertical pitch of less than 0.28 mm that are generally used for color display tubes ("CDTs") used in computer monitors; and (3) grille masks (a grille mask replaces the slots in an aperture mask with an array of finely tensioned vertical wires). The merchandise subject to these investigations is provided for in subheading 8540.91.50 of the Harmonized Tariff Schedule of the United States (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

[2] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[3] Commissioners Carol T. Crawford and Stephen Koplan dissenting.

a portion of its hearing in the above-captioned investigation scheduled for April 15, 1999, *in camera*. *See* Commission rules 201.13 and 201.35(b)(3) (19 CFR 201.13 and 201.35(b)(3)).

FOR FURTHER INFORMATION CONTACT: William Gearhart, Office of General Counsel, U.S. International Trade Commission, telephone 202–205–3091, e-mail wgearhart@usitc.gov. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes it should conduct its business in public in all but the most unusual circumstances. The Commission has determined that, in light of the nature of this investigation, it will be able to assess adequately all arguments raised by the parties without resorting to the extraordinary measure of an *in camera* hearing. Accordingly, the Commission has determined that the public interest would be best served by a hearing that is entirely open to the public. *See* 19 CFR 201.36(c)(1).

Authority: This notice is provided pursuant to Commission Rule 201.35(b) (19 CFR 201.35(b)).

Issued: April 15, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–9993 Filed 4–20–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with 28 CFR 50.7 and section 122 of the Comprehensive Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622, the Department of Justice gives notice that a proposed consent decree in *United States* v. *City of Albion, MI, et al.*, Civil No. 1:97–CF–1037 (W.D. Mich.), was lodged with the United States District Court for the Western District of Michigan on March 22, 1999, pertaining to the Albion Sheridan Township Landfill Superfund Site (the "Site"), Calhoun County, Michigan. The proposed consent decree would resolve the United States' civil claims against the City of Albion, Michigan (the "City") and three third-party defendants named in this action.

Under the proposed consent decree, Cooper Industries, Inc. ("Cooper") and Corning Incorporated ("Corning") (collectively, the "Settling RA Defendants") would be obligated to finance and perform the remedial action at the Site as specified in EPA's Record of Decision, at an estimated cost of $2.6 million. The City and Decker Manufacturing Co. ("Decker") (collectively, the "Settling O&M Defendants") would be obligated to finance and perform the operation and maintenance of the remedial action at the Site as specified in the Record of Decision, at an estimated cost of $0.538 million. The Settling O&M Defendants would be required to reimburse EPA's future response costs at the Site in the amount of $200,000. In addition, the City would be required to reimburse the Superfund $400,000, and Decker would be required to reimburse the Superfund $250,000, in separate obligations, toward the United States' past costs at the Site.

The Site is an inactive municipal landfill located approximately one mile east of the City of Albion in Sheridan Township, Calhoun County, Michigan. The Site, which covers approximately 18 acres, was widely used for both municipal and industrial waste disposal from approximately 1966 to 1981. In the early 1970s, the landfill accepted metal plating sludges, including insoluble hydroxides and carbonates. Other materials, such as paint wastes and thinners, oil and grease, dust, sand and dirt containing flyash and casting sand, also have been disposed of at the Site. Site activities resulted in contamination of soil and groundwater with hazardous substances. The Site will be remediated under the proposed consent decree. The remedial action to be implemented by the Settling RA Defendants consists of the following actions: (1) Removal and off-Site treatment of surface wastes; (2) construction of a landfill cap; (3) installation of passive gas collection system; (4) installation of groundwater monitoring wells; (5) institutional controls, including Site Security, on- and off-Site; and (6) construction of stormwater/infiltration retention basins. The operation and maintenance to be implemented by the Settling O&M Defendants consists of the following actions: (1) Operation and maintenance of the cap and other remedy components installed; (2) long-term (30 years) monitoring of groundwater; (3) institutional controls on certain adjacent parcels of land; and (4) maintenance of Site security.

Under the proposed consent decree, the United States agrees to move the Court for leave to withdraw the consent decree between the United States and Decker lodged with the Court on May 27, 1998. 63 FR 29752 (June 1, 1998). Also, under the proposed consent decree, the U.S. Environmental Protection Agency agrees to withdraw a unilateral administrative order issued to the City, Decker, Cooper and Corning on October 11, 1995, within fourteen days after entry of the proposed consent decree by the Court.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resource Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Albion, Michigan, et al.*, Civil No. 1:97–CV–1037 (W.D. Mich.), and DOJ Reference No. 90–11–2–1109. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. § 6973(d).

The proposed consent decree may be examined at: (1) The Office of the United States Attorney for the Western District of Michigan, The Law Building, 330 Ionio Avenue, NW, 5th Floor, Grand Rapids, Michigan 49503, (616–456–2404); (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Connie Puchalski (312–886–6719)); and (3) the U.S. Department of Justice, Environment and Natural Resources Division Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005 (202–624–0892). A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and DOJ Reference Number and enclose a check in the amount of $22.50 for the consent decree only (90 pages at 25 cents per page reproduction costs), or $408.50 for the consent decree and all appendices (1,634 pages), made payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–9967 Filed 4–20–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Chem-Pak Corporation*, Civ. No. CA–99–152 (ML), was lodged on March 26, 1999 with the United States District Court for the District of Rhode Island. The complaint in this action seeks to recover civil penalties for Chem-Pak Corporation's ("Chem-Pak's") violations of the Resource Conservation and Recovery Act, 42 U.S.C. 6921, *et seq.*, at its hazardous waste storage and treatment facility in Cranston, Rhode Island.

The proposed Consent Decree embodies an agreement providing for Chem-Pak to pay a civil penalty of $75,000 in settlement of the United States' claims. The proposed Consent Decree also will require Chem-Pak to purchase a new computerized record keeping system and to employ a full time environmental engineer at its facility.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree.

Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Chem-Pak Corporation*, DOJ Ref. No. 90–7–1–905.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Fleet Center, Eighth Floor, 50 Kennedy Plaza, Providence, RI 02903; the Region I Office of the Environmental Protection Agency, Region I Records Center, 90 Canal Street, Fourth Floor, Boston, MA 02203; and at the Consent Decree Library, 1120 G Street, NW., Third Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, Third Floor, NW., Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $4.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–9966 Filed 4–20–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–8]

Leonard E. Reaves III, M.D.; Reinstatement of Registration

On August 13, 1998, the then-Acting Deputy Administrator of the Drug Enforcement Administration (DA) issued a final order revoking DEA Certificate of Registration AR2127377 issued to Leonard E. Reaves III, M.D. (Respondent), effective September 18, 1998. See 63 FR 44,471 (August 19, 1998). The then-Acting Deputy Administrator further ordered that the revocation be stayed for six months from the effective date of the order "during which time Respondent must present evidence to the Acting Deputy Administrator of his completion of a training course regarding controlled substances, and of his ongoing treatment for his codependency problems [and] must request modification, if necessary, of his 1995 renewal application to accurately reflect what schedules he wishes to be registered in to effectively treat his patient population." *Id.*

The then-Acting Deputy Administrator noted that should Respondent submit this information in a timely fashion, a subsequent order would be issued indicating that the conditions have been met, and reinstating and renewing Respondent's DEA Certificate of Registration. The then-Acting Deputy Administrator further noted that should Respondent fail to provide this information in a timely manner, the stay would be removed and Respondent's DEA Certificate of Registration would be revoked and any pending applications for renewal would be denied.

By order dated April 1, 1999, the Deputy Administrator found that more than six months had passed since the effective date of the final order regarding Respondent's DEA Certificate of Registration, and Respondent had not presented any evidence to the Deputy Administrator of his completion of a training course regarding controlled substances or of his ongoing treatment for his codependency problems. *See 64* FR 17,416 (April 9, 1999). In addition, the order indicated that the Deputy Administrator had not received a request from Respondent to modify his 1995 renewal application. As a result, the Deputy Administrator ordered that effective May 10, 1999, the stay would be removed and Respondent's DEA Certificate of Registration would be revoked.

It has recently come to the Deputy Administrator's attention that while Respondent did not submit the required information to the Deputy Administrator as directed by the August 13, 1998 final order, he did submit such information to other offices within DEA in a timely manner. Therefore, the Deputy Administrator concludes that Respondent has in fact met the conditions set forth in the August 13, 1908 final order, and as a result the April 1, 1999 final order removing the stay and revoking Respondent's DEA Certificate of Registration effective May 10, 1999 is rescinded. The Deputy Administrator further concludes that DEA Certificate of Registration AR2127377 shall be reinstated and renewed in Schedules, II, IIN, III, IIIN, IV and V. Respondent is reminded that he is required to indicate that there has been taken against his DEA Certificate of Registration in response to the liability question on any future applications.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the April 1, 1999 final order found at 64 FR 17,416 (April 9, 1999), be and it hereby is rescinded. The Deputy Administrator further orders that DEA Certificate of Registration AR2127377, issued to Leonard E. Reaves III, M.D., be, and it hereby is, reinstated and renewed in Schedules II, IIN, III, IIIN, IV and V. This order is effective April 21, 1999.

Dated: April 15, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–9980 Filed 4–20–99; 8:45 am]

BILLING CODE 4410–09–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider matters relating to

administration and enforcement of the price regulation, including the reports and recommendations of the Commission's standing Committees. The Commission will also hold its deliberative meeting to consider whether to extend the exemption for certain milk sold in eight-ounce containers by school food authorities through the operation of the Compact Over-order Price Regulation.

DATES: The meeting is scheduled for Wednesday, May 5, 1999 to commence at the close of the public hearing for a proposed rule beginning at 9:00 a.m. as previously noticed at 64 FR 19084 (April 19, 1999).

ADDRESSES: The meeting will be held at the Wayfarer Inn, 121 S. River Road, U.S. Route 3, Bedford, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, VT 05602. Telephone (802) 229–1941.

Authority: 7 U.S.C. 7256.

Dated: April 15, 1999.

Kenneth M. Becker,

Executive Director.

[FR Doc. 99–9929 Filed 4–20–99; 8:45 am]

BILLING CODE 1650–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* Design Information Questionnaire.

3. *The form number if applicable:* IAEA Form N–71.

4. *How often the collection is required:* Once.

5. *Who will be required or asked to report:* Licensees of facilities on the U.S. eligible list who have been notified in writing by the Commission to submit the form.

6. *An estimate of the number of responses:* One.

7. *The number of annual respondents:* One.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 360.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* Licensees of facilities that appear on the U.S. eligible list, pursuant to the US/IAEA Safeguards Agreement, and who have been notified in writing by the Commission, are required to complete and submit a Design Information Questionnaire, IAEA Form N–71 (and the appropriate associated IAEA Form), to provide information concerning their installation for use of the International Atomic Energy Agency.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by May 21, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Erik Godwin, Office of Information and Regulatory Affairs (3150–0056), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 22nd day of March 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–9938 Filed 4–20–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards and Advisory Committee on Nuclear Waste Working Group Meeting; Notice of Meeting

The ACRS and ACNW Working Group will hold a joint meeting on May 11, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, May 11, 1999—8:30 a.m. until 12:00 Noon

The Joint Working Group will discuss the staff's proposed framework for risk-informed regulation in the Office of Nuclear Material Safety and Safeguards. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committees.

Oral statements may be presented by members of the public with the concurrence of the Working Group; written statements will be accepted and made available to the Working Group. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Working Group, their consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS/ACNW staff member named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Working Group, along with any consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Working Group will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding these matters.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Working Group's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the Senior Fellow, John N. Sorensen (telephone 301/415–7372) between 8:00 a.m. and 5:45 p.m. (EDT) or by e-mail JNS@NRC.gov. Persons planning to attend this meeting are urged to contact the above-named individual one to two working days prior to the meeting to be

advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: April 15, 1999.

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–9937 Filed 4–20–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of April 19, 26, May 3 and 10, 1999.

PLACE: Commissioners' Conference Room, 11555, Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 19

There are no meetings scheduled for the Week of April 19.

Week of April 26—Tentative

Monday, April 26

2:00 p.m.—Affirmation Section (Public Meeting) (if needed)

Week of May 3—Tentative

Tuesday, May 4

9:00 a.m.—Meeting on NRC Response to Stakeholders' Concerns (Public Meeting) Location: (NRC Auditorium, Two White Flint North)

2:00 p.m.—Meeting on Planning, Budgeting and Performance Management Process (PBPM) And Institutionalizing Change (Public Meeting)

Wednesday, May 5

9:00 a.m.—Discussion of Intragovernmental Issues (Closed-Ex. 9b)

10:00 a.m.—Briefing on Safeguards Performance Assessment (Public Meeting)

Thursday, May 6

9:30 a.m.—Briefing on Operating Reactors and Fuel Facilities (Public Meeting) (Contact: Glenn Tracy, 301–415–1725)

11:30 a.m.—Affirmation Session (Public Meeting) (if needed)

Week of May 10—Tentative

There are no meetings scheduled for the Week of May 10.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (RECORDING)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 5–0 on April 15, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of (a) Private Fuel Storage, LLC (PFS) Review of Board's Decision Granting Late-Filed Intervention Petition of Southern Utah Wilderness Alliance (LBP–99–3) (February 3, 1999) and (b) Duke Energy Corporation—Commission Review of LBP 98–33" (PUBLIC MEETING) be held on April 15, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or *dkw@nrc.gov.*

Dated: April 16, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–10124 Filed 4–19–99; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 27 through April 9, 1999. The last biweekly notice was published on April 7, 1999 (64 FR 17021).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of

Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 21, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: March 23, 1999.

Description of amendment request: The proposed amendment would modify Technical Specification Surveillance Requirement 4.4.1.1.1 to require each recirculation pump discharge valve to be demonstrated OPERABLE at least once every 18 months and will delete footnote * that applies to Technical Specification 4.4.1.1.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to the Technical Specifications (TS) would modify the frequency of cycling the recirculation pump discharge valves from "each STARTUP*

prior to THERMAL POWER exceeding 25% of RATED THERMAL POWER" to "at least once per 18 months;" and replace the footnote applicable to TS 4.4.1.1, "*If not performed in the previous 31 days" with "*Not Used." The change in testing frequency does not affect the probability of an accident since the valve testing is not related to accident initiation sequences. Consequences of accidents are not significantly increased because the proposed testing interval provides reasonable assurance that the valves will function. Testing of the valves will still be performed on a frequency that is allowed by TS if no events occur that require entry into Mode 3 or Mode 4. Therefore, the change will not involve a significant increase in the probability or consequences of an accident previously evaluated. Testing the valves in accordance with the inservice testing (IST) program on the same testing frequency as testing performed for the low pressure coolant injection system. provides adequate assurance that the valves can perform their safety function and will not increase the consequences of an accident previously evaluated. The change to the footnote is administrative in nature and will have no effect on the probability of an accident and will not increase any safety consequences.

2. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes revise performing the testing of the recirculation pump discharge valves from "prior to Startup* not to exceed 25% of rated thermal power." to "at least once per 18 months" and replace the footnote applicable to TS 4.4.1.1" *If not performed in the previous 31 days" with "*Not Used" does not result in a new accident precursor since the test only verifies that the valve can close which is its safety function. Deleting the information contained in footnote "*" that applies to TS 4.4.1.1.1 and designating it as "* Not Used." is administrative in nature with no safety significance. Therefore, no different type of accident from any previously evaluated is introduced.

3. The change does not involve a significant reduction in the margin of safety.

The proposed changes revise the frequency of cycling the recirculation pump discharge valves from "each STARTUP* prior to THERMAL POWER exceeding 25% of RATED THERMAL POWER" to "at least once per 18 months" and replace the footnote applicable to TS 4.4.1.1 "*If not performed in the previous 31 days" with "*Not Used." Altering the test frequency does not change valve stroke time or other performance or design characteristics related to the safety function of the valves. The potential for failure of the valve to close is not changed as a result of the proposed change since the same frequency is allowed by the current TS if no events occur that require entry into Mode 3 or Mode 4. Performing stroke time testing on a refueling outage basis and MOV testing on a periodic basis does not decrease the margin of safety associated with the valve performing its safety function. Revising footnote * is an administrative change and has no safety consequence. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Section Chief: George F. Dick, Acting.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: March 3, 1999.

Description of amendment request: The proposed amendments would change the required qualifications for operations management specified in the Technical Specifications (TSs) for the Beaver Valley Power Station, Units 1 and 2 (BVPS–1 and BVPS–2). The requirement that the operations manager hold a Senior Reactor Operator (SRO) license at the time of appointment would be changed in the TSs to require that the assistant operations managers, one for each unit, hold an SRO license on their assigned unit. The TSs would not then require the operations manager hold an SRO license. Additionally, the Updated Final Safety Analysis Report (UFSAR) for each unit would be changed to require the operations manager to hold, or have held, an SRO license rather than presently hold a license. The UFSAR would require the same as the TS; that the assistant operations managers hold an SRO license on the unit to which they are assigned. Finally, the proposed amendments would substitute generic personnel titles for plant-specific personnel titles in the BVPS–1 and BVPS–2 TSs. The correlation between generic titles and plant-specific titles would be provided in the BVPS–2 UFSAR.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes are administrative in nature. The revised requirements for who must hold a current senior reactor operator (SRO) License does not involve any change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident nor alter the conditions or assumptions in any of the Updated Final Safety Analysis Report [UFSAR] accident analyses. The requirement that the operations manager hold or have held an SRO License is included in the revised Position Qualifications in the Unit 2 UFSAR, Table 13.1–2, sheet 30 of 35. The title changes are being made, consistent with TSTF–65, Rev 1 and help avoid the need for future Technical Specification changes. Therefore, it can be concluded that the proposed changes do not involve any increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No new failure modes are defined for any plant system or component important to safety nor has any new-limiting failure been identified as a result of the proposed changes. Therefore, it can be concluded that the proposed change does not create the possibility of a new or different kind of accident from those previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed changes are administrative in nature. One of the proposed changes requires that the manager who directly supervises the licensed operators at each unit be the holder of a current SRO license. The other change modifies personnel titles. Therefore, it can be concluded that the proposed changes do not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Section Chief: Singh Bajwa.

Duquesne Light Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of amendment request: March 16, 1999.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3/4.7.1.3

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and associated Bases for the Primary Plant Demineralized Water (PPDW) System to clarify that the minimum specified volume of water in the PPDW Storage Tank is a usable volume. Additionally, the minimum usable volume of water in the PPDW Storage tank is increased, and a clarifying footnote that the specified value is an analysis value is added. Finally, several editorial and administrative changes, such as revision of action statement wording, addition of license number to the TS page, and addition of clarifying information to the TS Bases regarding analysis assumptions are made.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The failure of the primary plant demineralized water (PPDW) storage tank to provide a sufficient source of water to the Auxiliary Feedwater (AFW) System is not an accident initiating event. Therefore, the probability of an accident previously evaluated is not increased by this proposed amendment.

Limiting Condition for Operation (LCO) 3.7.1.3 titled "Primary Plant Demineralized Water (PPDW)" will be revised to specify the required value for PPDW storage tank volume as a usable volume. To reflect the value currently assumed in the analysis, the value stated in the LCO, for minimum required PPDW storage tank volume, would be slightly increased. The addition of proposed Footnote (1) to LCO 3.7.1.3 will ensure that plant operators recognize that the specified volume is an analysis value and that the value does not include measurement uncertainties. This footnote will require plant procedures to specify an increased required volume in the PPDW storage tank to account for measurement uncertainties. The proposed revisions to LCO 3.7.1.3 will assure that the PPDW storage tank minimum usable volume is maintained consistent with the design basis for the PPDW storage tank. The PPDW storage tank will continue to provide a sufficient source of water to the AFW pumps. Maintaining a sufficient source of water will ensure that the AFW System is capable of mitigating the consequences of Design Basis Accidents (DBAs) that could result in overpressurization of the RCS pressure boundary. The AFW system will continue to be capable of providing an emergency source of feedwater to the steam generators to act as heat sinks for sensible and decay heat removal from the reactor core. A sufficient volume of water will continue to be maintained in the PPDW storage tank to satisfy the Safe Shutdown evaluation.

The proposed changes to the Action statements will remove the required water volume value and add wording pertaining to the water volume not being within the limit. The LCO clearly states the value for the minimum required volume in the PPDW storage tank. Therefore, the proposed modification to the Action statements is administrative in nature and does not affect plant safety. The additional Bases wording pertaining to reactor coolant pump operation is administrative in nature and does not affect plant safety. The remaining change, which consists of the addition of plant operating license number, is editorial in nature and does not affect plant safety.

Therefore, operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed amendment will not change the physical plant or the modes of plant operation defined in the operating license. This change does not involve the addition or modification of plant equipment nor does it alter the design or operation of plant systems. The proposed amendment will require that the minimum volume in the PPDW storage tank be maintained consistent with analysis assumptions.

Therefore, operation of the facility in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The minimum required volume in the PPDW storage tank would be slightly increased over the currently required value. This increase in the required volume will ensure that an adequate volume of water is maintained in the PPDW storage tank. The proposed addition of the term "usable," along with the addition of Footnote (1), will ensure that the water volume specified in LCO 3.7.1.3 is appropriately increased in plant procedures to account for unusable volume in the tank and for measurement uncertainties. A sufficient volume of water will continue to be maintained in the PPDW storage tank to satisfy the Safe Shutdown evaluation.

The PPDW storage tank will continue to provide a sufficient source of water to the AFW pumps to ensure that the AFW System is capable of mitigating the consequences of DBAs that could result in overpressurization of the RCS pressure boundary. The AFW system will continue to be capable of providing an emergency source of feedwater to the steam generators to act as heat sinks for sensible and decay heat removal from the reactor core.

The proposed changes to the Action statements will remove the required water volume value and add wording pertaining to the water volume not being within the limit. The LCO clearly states the value for the minimum required volume in the PPDW storage tank. Therefore, the proposed modification to the Action statements is administrative in nature and does not affect plant safety. The additional Bases wording pertaining to reactor coolant pump operation is administrative in nature and does not affect plant safety. The remaining change, which consists of the addition of plant operating license number, is editorial in nature and does not affect plant safety.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: S. Singh Bajwa.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: August 31, 1998, and revised March 18, 1999.

Description of amendment request: The proposed amendment would revise Improved Technical Specification (ITS) 5.6.2.10, "Steam Generator (OTSG [once-through steam generator]) Tube Surveillance Program," to include a new repair process, called a "repair roll" or "re-roll." The process would be used to repair steam generator tubes with defects within the upper tubesheet. Changes to inservice inspection and reporting requirements are proposed for tubes which are repaired using this process. In addition, several format and editorial changes are proposed to ITS 5.6.2.10 and to ITS 5.7.2, "Special Reports," for clarification purposes. The March 18, 1999 revision superceded the August 31, 1998 request, and includes the results of recent accident analyses conducted to identify the maximum OTSG tube tensile loads. As a result of the increased tube tensile loads, some tubes will require a double repair roll. The double repair roll methodology was not included in the original amendment request. Therefore, this notice revises the previous Notice of Consideration of Issuance of Amendment (63 FR 56249).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

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(1) Involve a significant increase in the probability or consequences of an accident previously evaluated?

The repair roll process is a method to create a new primary-to-secondary pressure boundary joint in the upper tubesheet of Babcock & Wilcox (B&W) Once Through Steam Generators (OTSGs) manufactured with Inconel Alloy 600 tubes. The repair roll process creates a new roll joint in the OTSG tubes at a point closer to the secondary face of the tubesheet than the existing roll joint. The new pressure boundary is established by the repair roll to remove degradation of the existing roll joint from pressure boundary service. The repair roll process has been qualified as an acceptable repair methodology for use in the upper tubesheet of the Crystal River Unit 3 (CR–3) OTSGs. The proposed License Amendment Request (LAR) proposes to implement the qualified OTSG tube repair roll process, and also addresses several editorial and format changes which do not impact the current CR–3 accident analyses.

The qualification of the OTSG tube repair roll methodology is based on establishing a mechanical joint length that will carry all structural loads imposed on the OTSG tubes while maintaining the required margins during normal and accident conditions. A series of tests and analyses were performed to establish the minimum acceptable length of the OTSG tube repair roll. Tests performed included leak, tensile, fatigue, ultimate load and eddy-current measurement uncertainty. The analyses evaluated plant operating and faulted load conditions, in addition to OTSG tubesheet bow effects. OTSG tube leakage remains bounded by the evaluation presented in the CR–3 Final Safety Analysis Report (FSAR) for a main steam line break (MSLB). The proposed change also includes a description of the required inspection program for the OTSG tube repair rolls. The additional inspection requirements do not change any accident initiators. The proposed inspections following OTSG tube repair roll installation, and during future inservice inspections, assure continuous monitoring of these tubes such that inservice degradation of tubes repaired by the repair roll process will be detected. Based on the qualification testing and analyses performed, as well as the industry experience with the use of OTSG tube repair roll processes, there are no new safety issues associated with the use of repair roll methodology. Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from previously evaluated accidents?

The repair roll creates no new failure modes or accident scenarios. The new pressure boundary joint created by the repair roll process has been demonstrated, by testing and analysis, to provide structural and leakage integrity equivalent to the original design and construction for all normal operating and accident conditions. Furthermore, the testing and analysis demonstrate the repair roll process creates no new adverse effects for the repaired tube and does not change the design or operating characteristics of the OTSGs. In the unlikely event that a tube with a repair roll should fail and sever completely at the transition of the repair roll region, the tube would remain engaged in the tubesheet bore, preventing interaction with other surrounding tubes. In this case, leakage is bounded by the steam generator tube rupture (SGTR) accident analysis. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in a margin of safety?

The repair roll process effectively removes the defective/degraded area of the tube from service. The repair roll interface created with the tubesheet satisfies the necessary structural, leakage and heat transfer requirements. The mechanical joint is constrained within the tubesheet bore; thus, there is no additional risk associated with tube rupture. The accident leakage is shown to be less than one gallon per minute primary-to-secondary leakage. Therefore, the FSAR analyzed accident scenarios remain bounding, and the use of the repair roll process does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC–A5A, P. O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Section Chief: Sheri R. Peterson.

Illinois Power Company, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: March 1, 1999.

Description of amendment request: **The proposed amendment would approve changes to the Updated Safety Analysis Report (USAR) concerning design requirements for physical protection from tornado missiles for safety-related equipment.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:**

(1) The proposed activity does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The associated USAR changes reflect use of the Electric Power Research Institute (EPRI) Topical Report, "Tornado Missile Risk Evaluation Methodology, (EPRI NP–2005)," Volumes I and II. This methodology has been reviewed, accepted and documented in an NRC Safety Evaluation dated October 26, 1983. The NRC concluded that: "the EPRI methodology can be utilized when assessing the need for positive tornado missile protection for specific safety-related plant features in accordance with the criteria of SRP Section 3.5.1.4."

The EPRI methodology has been previously applied at CPS to resolve previously identified missile protection issues during the initial licensing of the plant. The NRC documented their acceptance of this methodology in Supplement 6 to the CPS Safety Evaluation Report (NUREG–0853, July 1986).

As permitted in the Standard Review Plan (NUREG–0800), the total probability of damage to plant systems or components initiated from tornado missiles leading to consequences in excess of 10 CFR Part 100 guidelines will be maintained below an acceptable level. The results of the current tornado missile hazards analysis are such that the calculated total tornado missile hazard probability is approximately 3.4×10^{-7} per year. This is lower than the value determined to be acceptable, i.e., 1×10^{-6} per year.

Although it has been calculated that these targets have a higher total probability of being exposed to tornado missiles than that described to be acceptable in SER Supplement 6, Section 3.5.1.3, the revised tornado missile hazards analysis for CPS has determined that this probability is acceptably low.

With respect to the probability of occurrence or the consequences of an accident previously analyzed in the USAR, the possibility of a tornado reaching CPS and causing damage to plant systems, structures and components is a design basis event considered in the USAR. The changes being proposed herein do not affect the probability that a tornado will reach the plant, but they do, from a licensing basis perspective, reflect a slightly increased, calculated probability that missiles generated by the winds of a tornado might strike certain plant systems or components. The tornado missile analysis determined that there are a limited number of safety-related components that theoretically could be struck. The probability of tornado-generated missile strikes on important systems and components (as discussed in Regulatory Guide 1.117) was analyzed using the probability methods described above. Based on the low, calculated probability, the total (cumulative) probability of strikes will be maintained below an adequately low acceptance criterion to ensure overall plant safety. On this basis, the proposed change is not considered to constitute a significant increase in the probability of occurrence or the consequences of an accident, due to the low probability of a tornado missile striking safety-related systems or components.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of previously evaluated accidents.

(2) The proposed activity does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes involve evaluation of whether any physical protection of safety-related equipment from tornado missiles is required relative to the probability of such damage without physical protection. A tornado at CPS is a design basis event considered in the USAR, however, a tornado is not postulated to act as an initiator for any new or different kind of accident, or to occur coincident with any of the design basis accidents in the USAR. The low probability threshold established for missile damage to plant systems is consistent with these assumptions.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident.

(3) The proposed activity does not involve a significant reduction in a margin of safety.

Under the proposed change, physical protection of safety-related equipment from tornado missiles must be considered if it has been determined that the calculated total tornado missile hazard probability is greater than 1 × 10–6 per year. The proposed change to the USAR to specifically identify this threshold may slightly increase the probability of a malfunction of equipment important to safety previously evaluated in the safety analysis report (i.e., changing the requirements from protecting all safety-related systems and components to not requiring protection if there is an extremely low probability that a tornado missile could strike portions of safety related systems and components). However, the changes are consistent with the minimum acceptable requirements as documented in the NRC's Safety Evaluation Report dated October 23, 1983. Therefore, there will be no significant reduction to the margin of safety that may be associated with the potential for safety-related equipment to be damaged from tornado-generated missiles.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, IL 61727.

Attorney for licensee: Leah Manning Stetzner, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, IL 62525.

NRC Section Chief: Anthony J. Mendiola.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: March 17, 1999.

Description of amendment request: **The licensee is proposing to change Technical Specifications 3.5.2, "Emergency Core Cooling Systems—ECCS Subsystems—Tavg greater than or equal to 300 °F;" 3.7.1.7, "Plant Systems—Atmospheric Steam Dump Valves;" and 3.7.6.1, "Plant Systems—Control Room Emergency Ventilation System." The proposed Technical Specification changes will revise (1) surveillance requirements for Emergency Core Cooling System valves, (2) the atmospheric steam dump valve requirements to focus on the steam release path instead of the individual valves, and (3) the allowed outage times for the atmospheric steam dump valves and Control Room Emergency Ventilation System.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

In accordance with 10 CFR 50.92, NNECO has reviewed the proposed changes and has concluded that they do not involve a Significant Hazards Consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed changes do not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 3.5.2

The removal of 2–CH–434, a manual valve, from the list of valves to be checked every 31 days by Surveillance Requirement (SR) 4.5.2.a.10 will not change the requirement for this containment isolation valve to be locked closed. The position of valve 2–CH–434, and the associated locking device, will be verified by SR 4.6.1.1.a. Although this change will result in the position of 2–CH–434 being checked less often, there are sufficient Technical Specification and administrative requirements to ensure that 2–CH–434 will be maintained in the proper position. An additional benefit of this proposed change will be a reduction in personnel exposure since 2–CH–434 is located inside containment. This proposed change will not result in any modification to Emergency Core Cooling System (ECCS) alignment or operation.

The addition of the footnote to SR 4.5.2.a.10 will clarify that 2–SI–306 is pinned and locked open to the required throttle position. 2–SI–306, which is the Shutdown Cooling (SDC) System throttle valve in the discharge piping of the SDC pumps, is required to be left in a throttled position after SDC has been secured to ensure sufficient low pressure safety injection (LPSI) flow will be available. This proposed change will not result in any modification to ECCS alignment or operation.

The change in the valve nomenclature used in SR 4.5.2.e and Table 4.5–1 from throttle valve to injection valve will eliminate any confusion between valve description and valve operation. This proposed change will not result in any modification to ECCS alignment or operation.

The addition of the License Amendment Number to the bottom of Page 3/4 5–6a will not result in a technical change to this Technical Specification.

Technical Specification 3.7.1.7

The proposed changes will expand the scope of Technical Specification 3.7.1.7 to include the steam release path, instead of just the individual atmospheric dump valves (ADVs). The allowed outage times will be modified to address inoperable ADV lines and the impact inoperable ADV lines will have on the ability of Millstone Unit No. 2 to mitigate a loss of coolant accident (LOCA). If one ADV line is inoperable, a plant shutdown will be required if the ADV line is not restored to operable status within 48 hours. An allowed outage time of 48 hours to restore the ADV line to operable status is acceptable based on the low probability of a LOCA occurring during this time period, and the subsequent loss of offsite power and the failure of one train of high pressure safety injection (HPSI). This is also consistent with the allowed outage time for one ECCS train (Technical Specification 3.5.2).

If two ADV lines are inoperable, a plant shutdown will be required if at least one ADV line is not restored to operable status within one hour. The plant will be required to be in Mode 3 within the following 6 hours. These time requirements are based on Technical Specification 3.0.3. However, the time to reach Mode 4 will remain at the "following 24 hours" to reflect the impact inoperable ADV lines may have on the time to cool down the plant.

The proposed change to the surveillance requirement will ensure operation of the ADV lines, consistent with the accident analysis, is verified.

The proposed change in component nomenclature is consistent with current Millstone Unit No. 2 terminology. This is not a technical change.

The proposed changes to the Bases of Technical Specification 3.7.1.7 are consistent with the changes just described.

Technical Specification 3.7.6.1

The action requirements for the Control Room Emergency Ventilation System will be modified to address the situation when both Control Room Emergency Ventilation Trains are inoperable in Modes 1, 2, 3, and 4. This situation is expected to occur during normal plant operation when the air filters in the common supply header to both trains are cleaned/replaced. Since this is a common supply header, both trains are affected and would be inoperable. The proposed action requirements will address this situation so

that Technical Specification 3.0.3 will not be entered as a result of an expected plant activity. However, since the proposed action requirements are the same as the requirements of Technical Specification 3.0.3, the time the plant is allowed to operate in this situation will not change.

The proposed changes to the Technical Specifications and associated Bases will have no adverse effect on plant operation or accident mitigation equipment. The proposed changes will ensure that the necessary equipment to mitigate the design basis accidents will be available, or a plant shutdown will be required. In addition, the proposed changes can not cause an accident, and they will ensure the accident mitigation equipment will continue to operate as assumed in the analyses to mitigate the design basis accidents. Therefore, there will be no significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the Technical Specifications and associated Bases will have no adverse effect on plant operation or accident mitigation equipment. The proposed changes will ensure that the necessary equipment to mitigate the design basis accidents will be available, or a plant shutdown will be required. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes to the Technical Specifications and associated Bases will ensure that the necessary equipment to mitigate the design basis accidents will be available, or a plant shutdown will be required. The proposed changes will not result in any plant configuration changes. There will be no adverse effect on plant operation or accident mitigation equipment. The plant response to the design basis accidents will not change. Therefore, there will be no significant reduction in the margin of safety as defined in the Bases for the Technical Specifications affected by these proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Section Chief: James W. Clifford.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: March 19, 1999.

Description of amendment request: The proposed changes will relocate Technical Specifications (TSs) 3.3.3.2, "Instrumentation, Incore Detectors," 3.3.3.3, "Instrumentation, Meteorological Instrumentation," to the Millstone, Unit No. 2 Technical Review Manual (TRM). Index Page V will be revised by eliminating the sections corresponding to incore detectors (Page ¾ 3–0), seismic instrumentation (Page ¾ 3–32), and meteorological instrumentation (Page ¾ 3–36). These sections, as well as changes to the associated Bases, will be relocated to the TRM.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10 CFR 50.92, NNECO has reviewed the proposed changes and has concluded that they do not involve a Significant Hazards Consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed changes do not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 3.3.3.2, Instrumentation, "Incore Detectors," is proposed to be relocated to the TRM where future changes will be controlled in accordance with 10 CFR 50.59. Relocation of this Technical Specification to the TRM does not imply any reduction in its importance in confirming that core power distribution are bounded by safety analysis limits. These instruments are neither used for, nor capable of, detecting a significant abnormal degradation of the reactor coolant pressure boundary before a design basis accident, nor do they function as a primary success path to mitigate events which assume a failure of, or a challenge to, the integrity of fission product barriers. Although the core power distribution (measured by the incore detectors) constitutes an important initial condition to design basis accidents and therefore needs to be addressed by Technical Specifications, the detectors themselves are not an active design feature needed to preclude analyzed accidents or transients. The proposed change will not alter the way core power distribution is measured by the incore detectors, nor will it alter any of the power distribution assumptions used in the accident analysis. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

Technical Specification 3.3.3.3, Instrumentation, "Seismic Instrumentation," is proposed to be relocated to the TRM where future changes will be controlled in accordance with 10 CFR 50.59. Relocation of Technical Specification 3.3.3.3 to the TRM does not imply any reduction in its importance in determining the response of those nuclear power plant features important to safety in the event of an earthquake. Seismic instrumentation does not actuate any protective equipment or serve any direct role in the mitigation of an accident. The capability of the plant to withstand a seismic event or other design basis accident is determined by the initial design and construction of systems, structures, and components. The instrumentation is used to alert operators to the seismic event and evaluate the plant response. The seismic instrumentation does not serve as a protective design feature or part of a primary success path for events which challenge fission product barriers. The proposed change will not alter the way these instruments are used in determining the response of those nuclear power plant features important to safety in the event of an earthquake, nor will it alter the capability of the plant to withstand a seismic event. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

Technical Specification 3.3.3.4, Instrumentation, "Meteorological Instrumentation," is proposed to be relocated to the TRM where future changes will be controlled in accordance with 10 CFR 50.59. Relocation of Technical Specification 3.3.3.4 to the TRM does not imply any reduction in its importance in providing a basis for estimating annual radiation doses resulting from radioactive materials released in airborne effluents. The instrumentation does not serve to ensure that the plant is operated within the bounds of initial conditions assumed in design basis accident and transient analyses or that the plant will be operated to preclude transients or accidents. Likewise, the meteorological instrumentation does not serve as part of the primary success path of a safety sequence analysis used to demonstrate that the consequences of these events are within the appropriate acceptance criteria. The proposed change will not alter the way these instruments are used in providing a basis for estimating annual radiation doses resulting from radioactive materials released in airborne effluents. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

Revision of Index page V and the proposed changes to the associated Bases sections are administrative changes. Therefore, these changes will not significantly increase the probability or consequences of an accident previously evaluated.

The proposed changes do not alter how any structure, system, or component functions. There will be no effect on

equipment important to safety. The proposed changes have no effect on any of the design basis accidents previously evaluated. Therefore, this License Amendment Request does not impact the probability of an accident previously evaluated, nor does it involve a significant increase in the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. The proposed changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed relocation of incore detector instrumentation requirements to the TRM does not imply any reduction in their importance in confirming that core power distribution is bounded by safety analysis limits. The incore detectors will still be used to measure core power distribution and the assumptions used in the accident analysis will be verified. The proposed relocation of seismic instrumentation requirements to the TRM does not imply any reduction in their importance in determining the response of those nuclear power plant features important to safety in the event of an earthquake. The seismic instrumentation will still be used to determine the response of those nuclear power plant features important to safety in the event of an earthquake. The capability of the plant to withstand a seismic or other design basis accident, which is determined by the initial design and construction of systems, structures, and components will not be altered. The relocation of meteorological instrumentation requirements to the TRM does not change the way these instruments are used in providing a basis for estimating annual radiation doses resulting from radioactive materials released in airborne effluents. The meteorological instrumentation will continue to perform their function in exactly the same way.

The proposed changes do not affect any of the assumptions used in the accident analysis, nor do they affect any operability requirements for equipment important to plant safety. Therefore, the proposed changes will not result in a significant reduction in the margin of safety as defined in the Bases for Technical Specifications covered in this License Amendment Request.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Section Chief: James W. Clifford.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: September 11, 1998, as supplemented by letter dated January 14, 1999.

Description of amendment request: The proposed amendments would change the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2 to revise TS 6.8.4f., "Containment Polar and Turbine Building Cranes," to control the operation of the containment polar cranes in jet impingement zones.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Technical Specification (TS) 6.8.4f requirement to have a program that will ensure the position of the polar cranes precludes jet impingement from a postulated pipe rupture was previously evaluated in the NRC staff's safety evaluation for License Amendments (LA) 20 and 21. The proposed change is to control the operation of the containment polar cranes in jet impingement zones.

PG&E evaluated a high energy line break (HELB) scenario for core damage frequency (CDF) considering operation of a polar crane. A postulated HELB would have to damage the crane or cause its load to drop in a manner that damages a component that exacerbates the HELB event and leads to core damage. The PRA evaluation for this scenario concluded the CDF is 1.6E–9 per year. It is not a significant increase in CDF compared to never operating the polar crane in jet impingement zones. The CDF for this scenario is nonrisk significant when compared to the industry standard threshold for risk significance for an operational evolution, which is 1E–6 per year. Several factors that further lower the risk of CDF include: 1) the movement of heavy loads is done in accordance with the DCPP Heavy Loads Program, which provides assurance that a dropped load would not lead to core damage, 2) the polar crane had been evaluated to withstand jet impingement loads without the seismic loads, and 3) the probability of simultaneous seismic and HELB events is low.

Therefore, based on probabilistic considerations, the risk associated with this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Deterministic engineering methods required combining both the seismic and jet impingement loads to qualify Design Class I structures. The polar cranes were not originally qualified for these combined loads. This resulted in administrative controls that prohibited parking the polar cranes in jet impingement zones to preclude jet impingement loads from a postulated pipe rupture. The proposed change does not involve a physical change to the plant, but it does involve a change to the TS required program for containment polar crane operation.

The proposed change is to control the operation of the containment polar cranes in jet impingement zones. It recognizes that there are jet (HELB) and target (polar crane) interactions. They were previously not considered for postulated jet impingement analyses because administrative controls prohibited parking the polar cranes in jet impingement zones. PG&E has evaluated jet impingement loads on the polar crane and determined it is able to withstand these loads without seismic loads. Based on this evaluation, the polar crane would not fail due to a HELB event. The movement of a heavy load would be done in accordance with the DCPP Heavy Loads Program. Thus, there would be no consequential failures that would lead to core damage.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The current TS 6.8.4f. requirement to have a program that will ensure the position of the polar cranes precludes jet impingement from a postulated pipe rupture was previously evaluated in the NRC staff's safety evaluation for LAs 20 and 21.

The credible HELB sources that could impinge on the polar crane were identified and evaluated. The feedwater and main steam line steam generator nozzles are the only credible HELBs that could impinge upon the polar crane. The structural integrity of these lines was evaluated and determined to be of robust design.

The margin of safety affected by the proposed change involves a comparison between the margin of safety afforded by no operation of the polar crane and operation that is controlled by procedures. The margin of safety in this case is the increase in risk for CDF caused by a scenario that postulates that operation of the polar crane would lead

to core damage. The risk for CDF has been evaluated and determined to be nonrisk significant. The CDF value is well below the industry standard threshold for acceptable risk for an operational evolution, which is 1E–6 per year.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room Location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for Licensee: Christopher J. Warner, Esq., Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Stuart A. Richards.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: December 12, 1998.

Description of amendment request: The proposed amendments would change the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2 to revise TS 6.9.1.8, "Core Operating Limits Report," to allow use of NRC approved addenda to WCAP–10054–P–A, "Westinghouse Small Break ECCS Evaluation Model Using NOTRUMP Code," August 1985, to determine core operating limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change is administrative in nature in that it revises the Technical Specification (TS) Administrative Controls for the Core Operating Limits Report to include reference to NRC approved addenda to WCAP–10054–P–A, "Westinghouse Small Break ECCS Evaluation Model Using the NOTRUMP Code," August 1985. The proposed change would allow the use of the analytical methods in WCAP–10054–P–A, Addendum 2, Revision 1, Addendum to the Westinghouse Small Break ECCS.

Evaluation Model Using the NOTRUMP Code: Safety Injection Into the Broken Loop and COSI Condensation Model," July 1997, and other NRC approved addenda to WCAP–10054–P–A to determine core operating limits for Diablo Canyon Power Plant (DCPP). Because plant operation will continue to be limited in accordance with cycle specific core operating limits that are established using an NRC approved methodology, NRC approved addenda to WCAP–10054–P–A are acceptable for use in determining DCPP Unit 1 and 2 cycle specific core operating limits.

The change does not affect plant operation, or physically alter or change the function of structures, systems, or components required to mitigate the consequences of a design basis accident. In addition, it cannot initiate a transient or affect the probability of occurrence of any previously analyzed accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change revises the TS to allow the use of NRC approved analytical methods in WCAP–10054–P–A, Addendum 2, Revision 1, and other NRC approved addenda to WCAP–10054–P–A, to determine core operation limits. The change is consistent with the requirements of the TS, and does not affect plant operation, or physically alter or change the function of structures, systems, or components required to mitigate the consequences of a design basis accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change revises the TS to allow the use of the NRC approved analytical methods in WCAP–10054–P–A, Addendum 2, Revision 1 and other NRC approved addenda to WCAP–10054–P–A, to determine core operating limits. The change is consistent with the requirements of the TS, and does not affect plant operation, or physically alter or change the function of structures, systems, or components required to mitigate the consequences of a design basis accident. The acceptance limits for the small break loss-of-coolant accident are not affected by this change and will continue to be met.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room Location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for Licensee: Christopher J. Warner, Esq., Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Stuart A. Richards.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 25, 1999.

Description of amendment request: This application for amendment to the Indian Point 3 (IP3) Technical Specifications (TSs) proposes to relocate the time restriction for movement of irradiated fuel and its related basis page from the TSs to the IP3 Final Safety Analysis Report (FSAR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously [evaluated]?

Response

Relocation (i.e., removal from TS) of TS 3.8.A.9 and its basis for the minimum time prior to movement of more than 76 irradiated fuel assemblies (267 hour limit) will not involve a significant increase in the probability or consequences of an accident since the relocation of the TS to administrative controls governed by 10 CFR 50.59 (FSAR) does not affect the availability or function of fuel storage and handling equipment or the SFP [spent fuel pool] cooling system. The waiting time of 267 hours following plant shutdown before unloading more than 76 assemblies from the reactor is to ensure that the maximum SFP water temperature will be within design objectives as stated in the FSAR.

The waiting time of 267 hours is not an initiator of an accident and the proposed change does not alter overall system operation, physical design, system configuration, or operational setpoints. There will be no significant increase in the consequences of an accident because the restricted movement time for irradiated fuel will continue to be administratively controlled under 10 CFR 50.59.

The other TS of section 3.8.A (such as the remaining portion of 3.8.A.9, and 3.8.A. 10) and the other controls ensure that doses from a postulated FHA are within 10 CFR 100 limits.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

The basis for the waiting time of 267 hours following plant shutdown before unloading more than 76 assemblies from the reactor is to ensure that the maximum pool water temperature will be within design objectives as stated in the FSAR. Relocation of this waiting time of 267 hours for irradiated fuel will not create the possibility of a new or different kind of accident from any previously evaluated. The TS change will not create the possibility of a new or different kind of accident from any previously evaluated since it does not alter the administrative controls for fuel handling or the operation, physical design, system configuration, or operational setpoints for fuel handling and SFP cooling. The plant systems for fuel storage and handling, and SFP cooling are operated in the same manner as before and, consequently, the relocation does not introduce any new accident initiators or failure mechanisms and does not invalidate the existing FHA response. The minimum waiting time for movement of more than 76 irradiated fuel assemblies is not an accident initiator. The minimum waiting time will continue to be controlled under 10 CFR 50.59.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response

Relocation (i.e., removal from TS) of TS 3.8.A.9 and its basis for the waiting time of 267 hours following plant shutdown for irradiated fuel will not involve a significant reduction in margin of safety. The waiting time of 267 hours following plant shutdown before unloading more than 76 assemblies from the reactor is to ensure that the maximum SFP water temperature will be within design objectives as stated in the FSAR. The relocation is a change to the administrative controls that are used to limit the heat load on the SFP cooling system, and those administrative controls will be governed by 10 CFR 50.59. The manner in which fuel storage and handling is performed, and how the SFP cooling system is operated does not change and there is no change to physical design, system configuration, or operational setpoints. The other controls and the existing TS assure that dose from a postulated FHA are within 10 CFR 100 limits. Previous analyses remain unchanged. The current TS does not meet the criteria in 10 CFR 50.36(c)(2)(ii) for inclusion in the Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Section Chief: S. Singh Bajwa.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 28, 1999.

Description of amendment request: **This application for amendment to the Indian Point 3 (IP3) Technical Specifications (TSs) proposes to change the setpoint of the automatic reactor trip on turbine trip to at or below the P–8 setpoint.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The addition of reactor trip on turbine trip at [greater than or equal to] 50% to the P–8 Permissive function versus its current setting of [greater than or equal to] 10%, as revised in TS section 2.3.1.C.(3), 2.3.2.A, 2.3.2.B, Table 3.5–2, item 12, Table 4.1–1, item 21 and associated bases, does not significantly increase the probability or consequences of an accident previously evaluated. This additional function, change in reactor trip on turbine trip setpoint, does not cause the initiation of any accident, nor create any new credible limiting single failure, nor result in any event previously deemed incredible being made credible. The existing separation of the reactor and protection functions are not adversely impacted. In addition, the safety functions of safety related systems and component, which are related to accident mitigation, have not been altered. The change in the P–7 or P–8 circuitry does not directly initiate an accident. The consequences of accidents previously [evaluated] in the IP3 FSAR [final safety analysis report] are unaffected by this change because no change to any equipment response or accident mitigation scenario has resulted. There are no additional challenges to fission product barrier integrity. Therefore, the probability or consequences of an accident previously evaluated will not be increased.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

By adding the reactor trip on turbine trip at [greater than or equal to] 50% to the P–8 Permissive function and setpoint, versus its current setting of [greater than or equal to] 10% and revising TS sections 2.3. l.C.(3), 2.3.2.A, 2.3.2.B, Table 3.5–2, item 12, Table 4.1–1, item 21 and associated bases, does not create the possibility of a new or different kind of accident than any accident already evaluated. The additional function added to the P–8 Permissive does not result in any event previously deemed incredible being made credible. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this change. In addition, the safety functions of safety related systems and components, which are related to accident mitigation, have not been altered. Therefore, the possibility of a new or different kind of accident is not created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The addition of the reactor trip on turbine trip at [greater than or equal to] 50% to the P–8 Permissive function, versus its current setting of [greater than or equal to] 10% and associated changes to TS Sections 2.3. l.C.(3), 2.3.2.A, 2.3.2.B, Table 3.5–2, item 12, Table 4.1–1, item 21 and the associated bases, will have no effect on the availability, operability or performance of the safety-related systems and components and does not affect the plant TS requirements. The current licensing basis safety analyses for IP3 remain bounding with the modification to the P–8 Permissive function; therefore, the margin of safety as defined in the TS is not reduced. The change to the IP3 TS does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Section Chief: S. Singh Bajwa.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 28, 1999.

Description of amendment request: **This application for amendment to the Indian Point 3 Technical Specifications (TSs) proposes to reduce the number of Emergency Diesel Generators (EDGs) required to be operable during cold shutdown from 2 to 1 under certain conditions.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

(1) Does the proposed license amendment involve a significant increase in the

probability or consequences of an accident previously [evaluated]?

Response

No. The equipment, which is affected by the proposed Technical Specification change, is not an initiator to those accidents postulated to occur during Cold Shutdown or Refueling operating conditions. A comprehensive systems review and EDG loading electrical analysis has demonstrated the ability of those shutdown support systems, necessary to provide safe shutdown needs, to perform their accident mitigation functions for the postulated accidents during Cold Shutdown and Refueling conditions. One EDG can support the necessary electrical loads required in Cold Shutdown and Refueling in the event of postulated accidents along with a LOOP [loss of offsite power] in the time frame required to prevent reactor core/cavity/SFP [spent fuel pool] heatup concerns. This EDG support relies upon existing plant designed manual closure of 480VAC EDS [electrical distribution system] bus tie breakers to allow a single EDG to pick up other 480VAC EDS bus loads, such as supplying an RHR [residual heat removal] pump and SFP cooling pump, located on 480VAC EDS buses 3A, 5A, or 6A. Together, operability of the required offsite circuit(s) and one EDG ensures the availability of sufficient AC sources to operate the unit in a safe manner and to mitigate the consequences of postulated accidents during shutdown (e.g., Fuel Handling Accidents). Action statements provide prompt, specific guidance to ensure sufficiently conservative plant response should the expected EDG power supply not be available. These Action Statements are similar to those in the STS [Standard Technical Specifications]. Therefore, the proposed license amendment (i.e., changes to 3.7.F.4 and the added sections of 3.7.F.5 & 3.7.F.6) does not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

No. The proposed license amendment does not involve any physical changes to plant systems or component set points. The use of 480VAC EDS bus tie breakers to power loads from an energized 480VAC bus is part of present plant design and included within the present LOOP Off-Normal operating procedures when the reactor is in Cold Shutdown operating conditions. As discussed in the Standard Technical Specifications, NUREG 1431, during plant shutdown with one EDG, it is not required to assume a single failure and concurrent loss of all offsite or all onsite power. Worst case bounding events are deemed not credible in Cold Shutdown and Refueling conditions because the energy contained within the reactor pressure boundary, reactor coolant temperature and pressure, and the corresponding stresses result in the probabilities of occurrence being significantly reduced or eliminated, and ultimately result in minimal consequences. The lone EDG is capable of accepting and starting required loads within the assumed loading sequence intervals and continue to operate until offsite power can be provided to the 480VAC EDS buses. Action statements provide prompt, specific guidance to ensure sufficiently conservative plant response should the expected EDG power supply not be available. These action statements are similar to those in the STS. Therefore, the proposed license amendment (i.e., changes to 3.7.F.4 and added sections 3.71.5 & 3.7.F.6) does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response

No. The electrical power system specifications support the equipment required to be operable, commensurate with the current level of safety, including the equipment requiring an EDG backed power source. The design review results demonstrate that operation in the conditions of Cold Shutdown and Refueling, in accordance with the proposed Technical Specification change, is acceptable from an accident mitigation standpoint. The basic system functions in Cold Shutdown and Refueling operating conditions are not changed. One EDG can supply the necessary electrical power needs during these plant operating conditions, and in the time frame required to prevent reactor core/cavity/SFP heatup concerns, with sufficient "kw loading" to spare. The analysis conducted shows that the systems are capable of performing their design basis functions. Applicable safety analysis in the Standard Technical Specifications, NUREG 1431, discusses these system requirements as well (i.e., it is not required to assume a single failure and concurrent loss of all offsite or all onsite power). Action statements, similar to those in the Standard Technical Specifications, provide prompt, specific guidance to ensure sufficiently conservative plant response should the expected EDG power supply not be available. On this basis, the proposed license amendment (i.e., changes to 3.7.F.4 and added sections 3.7.F.5 & 3.7.F.6) does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Section Chief: S. Singh Bajwa.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 29, 1999.

Description of amendment request: This application for amendment to the Indian Point 3 (IP3) Technical Specifications (TSs) proposes to change the allowable indicated control rod misalignment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response

No. Based on the Westinghouse evaluation in WCAP–14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS Bases is not reduced in any of the IP3 licensing basis accident analysis. Increasing the magnitude of allowed control rod indicated misalignment (in section 3.10.5) is not a contributor to the mechanistic cause of an accident evaluated in the FSAR [Final Safety Analysis Report]. Neither the rod control system nor the rod position indicator function is being altered. Therefore, the probability of an accident previously evaluated has not significantly increased. Because design limitations continue to be met, and the integrity of the reactor coolant system pressure boundary is not challenged, the assumptions employed in the calculation of the offsite radiological doses remain valid.

Therefore, the consequences of an accident previously evaluated will not be significantly increased.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

No. Based on the Westinghouse evaluation in WCAP–14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS Bases is not reduced in any of the IP3 licensing basis accident analysis. Increasing the magnitude of allowed control rod indicated misalignment is not a contributor to the mechanistic cause of any accident. Neither the rod control system nor the rod position indicator function is being altered. Therefore, an accident which is new or different than any previously evaluated will not be created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response

No. Based on the Westinghouse evaluation in WCAP–14668, the Authority has

determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS Bases is not reduced in any of the IP3 licensing basis accident analysis based on the changes to safety analyses input parameter values as discussed in WCAP–14668. Since the evaluations in Section 3.0 of WCAP–14668 demonstrate that all applicable acceptance criteria continue to be met, the proposed change will not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Section Chief: S. Singh Bajwa.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 29, 1999.

Description of amendment request: This application for amendment to the Indian Point 3 (IP3) Technical Specifications (TSs) proposes to change the allowable indicated control rod misalignment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response

No. Based on the Westinghouse evaluation in WCAP–14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS Bases is not reduced in any of the IP3 licensing basis accident analysis. Increasing the magnitude of allowed control rod indicated misalignment (in Section 3.10.5) is not a contributor to the mechanistic cause of an accident evaluated in the FSAR [Final Safety Analysis Report]. Neither the rod control system nor the rod position indicator function is being altered. Therefore, the probability of an accident previously evaluated has not significantly increased. Because design limitations continue to be met, and the integrity of the reactor coolant system pressure boundary is not challenged, the assumptions employed in the calculation of the offsite radiological doses remain valid.

Therefore, the consequences of an accident previously evaluated will not be significantly increased.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

No. Based on the Westinghouse evaluation in WCAP–14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS Bases is not reduced in any of the IP3 licensing basis accident analysis. Increasing the magnitude of allowed control rod indicated misalignment is not a contributor to the mechanistic cause of any accident. Neither the rod control system nor the rod position indicator function is being altered. Therefore, an accident which is new or different than any previously evaluated will not be created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response

No. Based on the Westinghouse evaluation in WCAP–14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS Bases is not reduced in any of the IP3 licensing basis accident analysis based on the changes to safety analyses input parameter values as discussed in WCAP–14668. Since the evaluations in Section 3.0 of WCAP–14668 demonstrate that all applicable acceptance criteria continue to be met, the proposed change will not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Section Chief: S. Singh Bajwa.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: March 22, 1999.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3.7.1.6, "Atmospheric Steam Relief Valves," and add a new TS for atmospheric steam relief valve instrumentation, to ensure that the automatic feature of the steam generator power-operated relief valve (i.e., atmospheric steam relief valves) remains operable during Modes 1 and 2. In addition, the proposed change would add an associated surveillance requiring that a channel calibration on the steam generator power-operated relief valve be performed every 18 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The methodologies used in the accident analyses remain unchanged. The automatic actuation of the Steam Generator Power Operated Relief Valves is not a new design feature. The effects of the inadvertent opening of a Steam Generator Power Operated Relief Valve are currently analyzed as described in Section 15.1.4 of the Updated Final Safety Analysis Report. The radiological consequences for the Small Break Loss of Coolant Accident (SBLOCA) event presented in the Updated Final Safety Analysis Report remain unchanged. The calculated Peak Clad Temperature is 1849°F remaining substantially below the 2200°F acceptance limit of 10 CFR 50.46. Although the manual control specification is relocated from Specification 3.7.1.6 to the new instrumentation specification, the limiting condition for operation, applicability and action statements for manual controls remain unchanged. Therefore no increase in the probability or consequences of any accident previously evaluated will occur.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The automatic actuation of the Steam Generator Power Operated Relief Valves is not an accident initiator for the SBLOCA event. The automatic actuation of the Steam Generator Power Operated Relief Valves currently exists at the South Texas Project and is not a new design feature. The description of the Steam Generator Power Operated Relief Valves currently exists in the Updated Final Safety Analysis Report. This change does not represent a change to the facility and does not affect the safety functions and reliability of systems, structures, or components in any new manner. Operating procedures have a temporary administrative control to ensure the automatic actuation of the Steam Generator Power Operated Relief Valves remains operable in Modes 1 and 2. This condition will become permanent with the approval of this Technical Specification Amendment proposal. Although the manual control specification is relocated from Specification 3.7.1.6 to the new instrumentation specification, the limiting condition for operation, applicability and

action statements for manual controls remain unchanged. Since the automatic actuation of the Steam Generator Power Operated Relief Valves is not an accident initiator and is not a new design feature to the facility, no possibility exists for a new or different kind of accident from those previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change results in the calculated Peak Clad Temperature of 1849°F remaining well below the acceptance limit of 10 CFR 50.46 and comparable to the results currently described in the Updated Final Safety Analysis Report. Therefore, the change does not involve a significant reduction in a margin of safety.

Based on the above, the South Texas Project has evaluated the proposed Technical Specification change and determined it does not represent a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

Tennessee Valley Authority (TVA), Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, (SQN), Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: March 19, 1999 (TS 99–01).

Brief description of amendments: The proposed amendments would change the SQN Technical Specifications (TS) for Operating Licenses DPR–77 (Unit 1) and DPR–79 (Unit 2) by relocating TS Sections 3.8.3.1, 3.8.3.2, and 3.8.3.3 to the SQN Technical Requirements Manual. These sections provide requirements for electrical overcurrent isolation devices.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to the TS relocates the requirements for SQN's electrical equipment protective devices without changing the current requirements. TVA does not consider these devices to be the source of any accident; therefore, this administrative relocation of the requirements will not increase the possibility of an accident. SQN's electrical equipment protective devices will continue to provide fault protection for circuits and equipment. Changes to the relocated requirements will be processed, in accordance with 10 CFR 50.59, to ensure changes are not implemented that would reduce the functionality or introduce an unreviewed safety question to SQN's electrical equipment devices. Therefore, the proposed relocation of the TS requirements for electrical equipment protective devices will not increase the consequences of an accident.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

SQN's electrical equipment protective devices ensure proper operation of plant equipment. These devices are not associated with accident mitigation or previously evaluated accidents and would not be the initiator of any new or different kind of accident. The proposed change does not alter the current functions of these devices, therefore, this proposed change will not create the possibility of a new or different kind of accident.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The requirements for SQN's electrical equipment protective devices are unchanged by the proposed relocation of the requirements to the SQN Technical Requirements Manual. The function of these devices and the surveillance testing to ensure operability of these devices remains unchanged. Any future changes to these requirements will be evaluated, in accordance with 10 CFR 50.59, to ensure acceptability and NRC review as required. Accordingly, the proposed change will not result in a reduction in a margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Sheri R. Peterson.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document rooms for the particular facilities involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: December 16, 1997, as supplemented August 31, and December 7, 1998.

Brief description of amendment: This amendment changes Technical Specification 4.7.1.2.1.a.2.a, Auxiliary Feedwater (AFW) System Surveillance Requirements, by changing the differential pressure and flow requirements of the steam turbine-driven AFW pump to allow testing of the pump at a lower speed.

Date of issuance: April 1, 1999.

Effective date: April 1, 1999.

Amendment No.: 87.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 11, 1998 (63 FR 6981).

The August 31, and December 7, 1998, submittals contained clarifying information only, and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: September 1, 1998, as supplemented on March 19, 1999.

Brief description of amendment: This amendment changes Technical Specification (TS) ¾.9.11, "Water Level—New and Spent Fuel Pools," and its associated Bases by requiring 23 feet of water above the top of fuel rods within irradiated fuel assemblies seated in the storage racks..

Date of issuance: April 8, 1999.

Effective date: April 8, 1999.

Amendment No.: 88.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** September 23, 1998 (63 FR 50935).

The March 19, 1999, submittal contained clarifying information only, and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: November 25, 1998.

Brief description of amendments: The amendments revised the Technical Specifications (TS) to support on-line replacement of the Braidwood, Unit 2, vital batteries.

Date of issuance: March 26, 1999.

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 99 and 99.

Facility Operating License Nos. NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1999 (64 FR 9185).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: January 21, 1999.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) by relocating TS Section ¾.6.I, "Primary System Boundary-Chemistry" and associated bases to the Updated Final Safety Analysis Report (UFSAR) and to applicable plant procedures.

Date of issuance: March 31, 1999.

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 187 and 184.

Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1999 (64 FR 9186).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 31, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: January 28, 1999.

Brief description of amendments: The amendments revised Technical Specifications Section 3.7.13, "Fuel Handling Ventilation Exhaust System," and associated Bases to correct discrepancies between the current design and this section.

Date of issuance: March 26, 1999.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–176; Unit 2–168.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1999 (64 FR 9187).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: October 15, 1998, as supplemented December 15, 1998, and January 11 and 21, 1999.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) to change the heatup, cooldown, and inservice test limitations for the reactor coolant system of each unit to a maximum of 26 effective full-power years. The amendments also revise the TSs for low temperature overpressure protection to reflect the revised pressure-temperature limits of the reactor vessels.

Date of Issuance: March 30, 1999.

Effective date: As of the date of issuance to be implemented within 90 days from the date of issuance.

Amendment Nos.: Unit 1–302; Unit 2–302; Unit 3–302.

Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 2, 1998 (63 FR 66592).

The December 15, 1998, and January 11 and 21, 1999, letters provided clarifying information that did not change the scope of the original **Federal Register** notice and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 30, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: October 15, 1998, as supplemented

December 14, 1998, February 18, 1999, and February 23, 1999.

Brief description of amendments: These amendments made several changes that are administrative in nature. The changes (1) made editorial changes that delete obsolete material or material adequately described elsewhere, changed action statement numbers, updated technical specification (TSs) index pages, and made changes to be consistent with the guidance provided in the improved standard technical specifications for Westinghouse reactors (NUREG–1431, Revision 1); (2) deleted reporting requirements that are duplicated in various sections of Title 10 of the Code of Federal Regulations; and (3) relocated the requirement for meteorological monitoring instrumentation from the TSs to the Licensing Requirements Manual.

The February 18, 1999, and February 23, 1999, letters withdrew a portion of the amendment request that would have deleted the description of the site exclusion boundary from the TSs. The description of the site exclusion boundary will remain in the TS.

Date of issuance: March 26, 1999.

Effective date: Units 1 and 2, as of date of issuance, to be implemented within 60 days.

Amendment Nos.: 220 and 97.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications and licenses.

Date of initial notice in **Federal Register:** November 18, 1998 (63 FR 64111).

The December 14, 1998, February 18, 1999, and February 23, 1999, letters did not change the initial proposed no significant hazards consideration determination or expand the amendment request beyond the scope of the initial notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001

Duquesne Light Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania

Date of application for amendment: March 10, 1997, as supplemented July 28, 1997, September 17, 1997, April 30, 1998, January 29, 1999, and February 26, 1999.

Brief description of amendment: The amendment modifies Technical Specification 3/4.4.5, "Steam Generators," and its associated Bases and adds a new license condition to Appendix D to allow repair of steam generator tubes by installation of sleeves developed by ABB Combustion Engineering. In addition, the amendment deletes the option for using the kinetic sleeving methodology previously approved for use at Beaver Valley Power Station, Unit 2.

Date of issuance: March 26, 1999.

Effective date: As of date of issuance, to be implemented within 60 days.

Amendment No: 98.

Facility Operating License No. NPF–73. Amendment revised the Technical Specifications and License.

Date of initial notice in **Federal Register:** April 23, 1997 (62 FR 19829).

The July 28, 1997, September 17, 1997, April 30, 1998, January 29, 1999, and February 26, 1999, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the amendment request beyond the scope of the April 23, 1997, **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: January 12, 1999, supersedes application dated May 31, 1996.

Brief description of amendment: The amendment adds an additional required action to the Limiting Condition for Operation (LCO) 3.9.1, "Refueling Equipment Interlocks," of the RBS Technical Specifications. The additional action will allow an alternative to the current action for one or more inoperable refueling equipment interlocks. The current action is to "suspend in-vessel fuel movement with equipment associated with the inoperable interlock(s)." The alternative action will be to (1) insert a control rod withdrawal block, and (2) verify all control rods are fully inserted in core cells containing one or more fuel assemblies. The amendment also revised the Bases for LCO 3.9.1 actions to describe the alternative action.

Date of issuance: March 26, 1999.

Effective date: March 26, 1999.

Amendment No.: 104.

Facility Operating License No. NPF–47: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 10, 1999 (64 FR 6695).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, LA 70803.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: November 30, 1998.

Brief description of amendment: The amendment changes Technical Specification 3.1.2, "Liquid Poison System," and its associated Bases to correct the required concentration and volume of boron solution.

Date of issuance: April 2, 1999.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 166.

Facility Operating License No. DPR–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1998 (63 FR 71970).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: April 1, 1998, as supplemented May 29, June 26, and August 4, 1998.

Brief description of amendment: The amendment revises the Millstone Unit 3 final safety analysis report (FSAR) by adding a new sump pump subsystem to address groundwater inleakage through the containment basemat.

Date of issuance: March 17, 1999.

Effective date: As of the date of issuance, to be implemented within 60 days from the date of issuance.

Amendment No.: 168.

Facility Operating License No. NPF–49: Amendment authorized changes to the FSAR.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19974).

The May 29, June 26, and August 4, 1998, letters provided clarifying information that did not change the scope of the April 1, 1998, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment, state consultation, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 17, 1999.

No significant hazards consideration comments received: No public comments received. A petition to intervene was received from the Citizens Regulatory Commission that was dismissed and terminated by the NRC Atomic Safety Licensing Board (LBP–98–22).

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

PECO Energy Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 4, 1998, as revised September 29, 1998.

Brief description of amendments: The amendments revise the Technical Specifications surveillance requirements concerning secondary containment doors.

Date of issuance: April 7, 1999.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendments Nos.: 227 and 230.

Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 14, 1998 (63 FR 38202).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 7, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (Regional Depository) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: October 22, 1998.

Brief description of amendment: This amendment revises Technical Specification (TS) 4.8.2.1.b.3 to increase the minimum battery electrolyte temperature limit from 60°F to 72°F. This change resolves a discrepancy in the electrolyte temperature assumed in the Class 1E battery sizing calculations versus the limit specified in the TSs.

Date of issuance: March 25, 1999.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 118.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 2, 1998 (63 FR 66602).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 25, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: December 4, 1998.

Brief description of amendments: The amendments make two changes to the TS. The first change revises the Unit 1 TS Section 2.1.1.2 to delete the footnote that specifies that the Safety Limit Minimum Critical Power Ratios are for Cycle 18 only. The second change revises the TS for both units by deleting Section 5.6.5.b.2) and incorporating Section 5.6.5.b.1) into Section 5.6.5.b.

Date of issuance: April 1, 1999.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–215; Unit 2–156.

Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 27, 1999 (64 FR 4161).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: October 15, 1998, as supplemented by letter dated November 11, 1998.

Brief description of amendments: The amendments change the Vogtle Electric Generating Plant Unit 1 and 2 Facility Operating Licenses to delete or modify certain license conditions that have become obsolete or inappropriate. In addition, the Technical Specifications and Bases are reissued to reflect new word processing software.

Date of issuance: March 26, 1999.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–107; Unit 2–85.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised Facility Operating Licenses and the Technical Specifications.

Date of initial notice in **Federal Register**: December 2, 1998 (63 FR 66602).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of applications for amendment: October 31, 1997, as supplemented by letter dated September 29, 1998, and application dated July 30, 1998.

Brief description of amendment: The amendment revised Tables 3.3–3, 3.3–4, and 4.3–2 of the technical specifications regarding the engineered safety feature actuation system (ESFAS) Functional Unit 6.f, "Loss of Offsite Power—Start Turbine-Driven Pump," by establishing separate requirements for the analog and digital portions of the associated circuit. The amendment also adds a note to TS Table 4.3–2 to clarify that the verification of time delays associated

with ESFAS Functional Units 8.a and 8.b, "Loss of Power," is only performed as part of the channel calibration.

Date of issuance: April 2, 1999.

Effective date: April 2, 1999, to be implemented within 30 days of the date of issuance.

Amendment No.: 130.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 16, 1998 (63 FR 69348).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Elmer Ellis Library, University of Missouri, Columbia Missouri 65201.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: November 18, 1998, as supplemented with additional information by letters dated March 1, 1999, and March 9, 1999.

Brief description of amendment: The amendment revises the pressure/temperature limits and the low-temperature overpressure protection requirements in the facility technical specifications.

Date of issuance: April 1, 1999.

Effective date: April 1, 1999.

Amendment No.: 144.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1998. (63FR71978)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001.

Dated at Rockville, Maryland, this 14th day of April 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–9839 Filed 4–20–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23785; 812–11218]

American Capital Strategies, Ltd.; Notice of Application

April 14, 1999.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of an application for an order under section 61(a)(3)(B) of the Investment Company Act of 1940 (the "Act").

SUMMARY OF APPLICATION: Applicant, American Capital Strategies, Ltd., requests an order approving its 1997 Disinterested Director Stock Option Plan (the "Plan") and the grant of certain stock options under the Plan.

FILING DATES: The application was filed on July 10, 1998 and amended on November 12, 1998. Applicant has agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 10, 1999, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW, Washington, DC 20549–0609. Applicant, c/o Samuel A. Flax, Esquire, Arnold & Porter, 555 Twelfth Street, NW, Washington, DC 20004–1206.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (Tel. 202–942–8090).

Applicant's Representations

1. Applicant is a business development company ("BDC") within the meaning of section 2(a)(48) of the Act.[1] Applicant's primary business is making loans and investments in small and medium-sized companies. Applicant's investment decisions are made by a board of directors ("Board") based on recommendations of a loan approval committee comprised of senior management. Applicant does not have an external investment adviser within the meaning of section 2(a)(20) of the Act.

2. Applicant requests an order under section 61(a)(3)(B) of the Act approving the Plan, which provides for the grant of options to purchase shares of applicant's common stock to directors who are neither officers nor employees of applicant ("Non-Employee Directors").[2] Applicant has a nine member Board, the majority of whom are not "interested persons" as defined in section 2(a)(19) of the Act. On November 6, 1997, the Board adopted the Plan subject to approval by the Commission and applicant's shareholders. On May 14, 1998, applicant's shareholders approved the Plan. The Plan will not become effective until the date that a Commission order is issued on the application.

3. The Plan provides that each Non-Employee Director will receive an initial grant of options (together with any options issued later under the Plan, "Options") to acquire 15,000 shares of applicant's common stock. The Options will vest over a three-year period in 5,000 share increments. Five of the Non-Employee Directors were directors when the Board adopted the Plan. These five Non-Employee Directors will have 5,000 Options vest on November 6 of each of the three years following November 6, 1997. The sixth Non-Employee Director became a director and received an initial grant of 15,000 Options on August 8, 1998. The sixth director's Options will vest in 5,000 increments on August 8th of each of the three following years. Any Options granted prior to the issuance of a Commission order that otherwise would have vested

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] Each Non-Employee Director receives $10,000 per year for each year they serve as a director and $1,000 for each Board or committee meeting attended, plus reimbursement of related expenses.

will vest on the date that the Commission issues an order on the application. The Plan provides that a maximum of 150,000 shares of applicant's common stock may be issued to Non-Employee Directors as a group. Following the initial grants, 60,000 shares of applicant's stock would remain eligible for grants under the Plan. Future grants would be made by a committee of the Board, none of whose members are eligible to participate in the Plan ("Committee"). The Committee has plenary authority to determine, subject to the Plan, the granting of future Options. Under the Plan, no single Non-Employee Director may receive Options to purchase more than 25,000 shares of applicant's common stock.

4. Under the terms of the Plan, the exercise price of the initial grants will be the current market price of applicant's common stock on the date that a Commission order is issued on the application, and on the date of issuance of any Options thereafter. The Options expire ten years from the date of grant and may not be assigned or transferred other than by the laws of descent and distribution. In the event of the death or disability of a Non-Employee Director during the Director's service, unexercised Options immediately become exercisable and may be exercised for a period of three years following the date of death (by the Director's personal representative) or one year following the date of disability, but in no event after the respective expiration dates of such Options. In the event of the termination of a Non-Employee Director for cause, any unexercised Options terminate immediately. If a Non-Employee Director's service is terminated for any reason other than by death, disability, or for cause, the Options may be exercised within one year immediately following the date of termination, but in no event later than the expiration date of such Options.

5. As of March 16, 1999, applicant had outstanding 11,106,105 shares of common stock. Applicant's officers and employees, including employee directors, are eligible to receive options under Applicant's other stock option plan (under which Non-Employee Directors are not entitled to participate) ("Other Plan"). A maximum of 1,800,252 shares, or 16.2% of applicant's outstanding common stock, may be issued under the Other Plan, of which 1,637,778 shares, representing 14.7% of applicant's outstanding common stock, are subject to granted options. Applicant also has outstanding 442,751 warrants issued to Friedman, Billings, Ramsey & Co. in connection with applicant's initial public offering. Each warrant is exercisable for one share of applicant's common stock, representing 4% of applicant's outstanding common stock.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current net asset value upon the exercise of any option issued in accordance with section 61(a)(3) of the Act. Section 61(a)(3)(B) of the Act provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) The options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value of the underlying securities at the date of the issuance of the options, or if no market exists, the current net asset value of the voting securities; (c) the proposal to issue the options is authorized by the BDC's shareholders, and is approved by order of the Commission upon application; (d) the options are not transferable except for disposition by gift, will or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (A) or (B) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

2. In addition, section 61(a)(3)(C) of the Act provides that the amount of the BDC's voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the BDC's outstanding voting securities, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to the BDC's directors, officers, and employees pursuant to an executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance will not exceed 20% of the outstanding voting securities of the BDC.

3. Applicant represents that the Plan would comply with all of the requirements of section 61(a)(3)(B) of the Act. Applicant states in support of its application that the Board actively oversees applicant's affairs, applicant relies extensively on the judgment and experience of the Board, and that Non-Employee Directors provide advice to applicant on operational issues, underwriting policies, credit policies and asset valuation and strategic direction, as well as serving on committees. Applicant believes that the Plan will provide additional incentives to Non-Employee Directors to remain on the Board and devote their best efforts to ensure applicant's success. Applicant also believes that the Options will provide significant at-risk incentives to the Non-Employee Directors, thereby further ensuring close identification of their interests with those of the applicant and its shareholders. Applicant asserts that by providing incentives such as Options, applicant will be able to maintain continuity in the Board's membership and to attract and retain the highly experienced and skilled professionals who are critical to applicant's success as a BDC.

4. Applicant submits that the terms of the Plan are fair and reasonable and do not involve overreaching of applicant or its shareholders. Applicant states that the Options would not be immediately exercisable and that they vest over a three-year period. Applicant asserts that if the current Non-Employee Directors remain in office for a period of three years and exercise all of the Options granted to them under the Plan, applicant would issue 90,000 shares of common stock representing .81% of the applicant's outstanding common stock. Applicant also states that the total number of shares of common stock issuable under the Plan to Non-Employee Directors represents approximately 1.4% of applicant's outstanding common stock. Applicant asserts that the Options will have value only to the extent that applicant's market value increases above the exercise price of the Options and that, given the small amount of common stock issuable upon exercise of the Options, the exercise of the Options pursuant to the Plan would not have a substantial dilutive effect on the net asset value of applicant's common stock. Applicant states that the total amount of voting securities that would result from the exercise of all outstanding warrants, options and rights upon approval of the Plan would represent 19.6% of applicant's outstanding voting securities. To the extent that applicant has authorized a number of options for future issuance that, if granted currently, would exceed the limits imposed by section 61(a)(3)(C) of the Act, applicant represents that no grants will be made in excess of the

percentage limitations set forth in section 61(a)(3)(C) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9910 Filed 4–20–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (K–V Pharmaceutical Company, Class A Common Stock, Par Value $.01 Per Share, and Class B Common Stock, Par Value $0.1 Per Share) File No. 1–9601

April 14, 1999.

K–V Pharmaceutical Company ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the securities specified above ("Securities") from listing and registration on the American Stock Exchange LLC ("Amex" or "Exchange").

The Securities have been listed for trading on the Amex and, pursuant to a Registration Statement on Form 8–A which became effective on March 25, 1999, on the New York Stock Exchange, Inc. ("NYSE"). Trading in the Securities on the NYSE commenced at the opening of business on March 25, 1999.

The Company has complied with the rules of the Amex by filing with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the Exchange and by setting forth in detail to the Exchange the reasons for such proposed withdrawal, and the facts in support thereof. The Amex has in turn informed the Company that it has no objection to the withdrawal of the Company's Securities from listing on the Exchange.

In making the decision to withdraw its Securities from listing on the Amex, the Company determined the following: (a) that listing on the NYSE would enhance the overall value of the Company's Securities and provide enhanced trading and other services to the Company's stockholders; and (b) that withdrawal of such Securities from listing on the Amex would avoid both the direct and indirect costs arising from maintaining dual listings, as well as the resultant division of the market for such Securities.

The Company's application relates solely to the withdrawal of the Securities from listing on the Amex and shall have no effect upon the continued listing of the Securities on the NYSE. By reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and with the NYSE.

Any interested person may, on or before May 5, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9907 Filed 4–20–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration (PolyMedica Corporation, Common Stock, $.01 Par Value Per Share, and Preferred Stock Purchase Rights); File No. 1–13690

April 14, 1999.

PolyMedica Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the American Stock Exchange LLC ("Amex" or "Exchange").

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Securities of the Company have been listed for trading on the Amex and on the Nasdaq National Market ("Nasdaq"). Trading of the Company's Securities on the Nasdaq commenced at the opening of business on January 11, 1999. As a result of listing its Securities on the Nasdaq, the Company determined to withdraw its Securities from listing on the Amex.

The Company has complied with the rules of the Amex by notifying the Exchange of its intention to withdraw the Securities from listing on the Exchange and by delivering to the Exchange a certified copy of the resolution adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the Amex and by setting forth in detail to the Exchange the reasons for the proposed withdrawal, and the facts in support thereof. The Amex has in turn informed the Company that it has no objection to the withdrawal of the Company's Securities from listing on the Exchange.

Any interested person may, on or before May 5, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9908 Filed 4–20–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Unocal Corporation, Common Stock, Par Value $1.00, and Associated Preferred Stock Purchase Rights) File No. 1–8483

April 14, 1999.

Unocal Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the Chicago Stock Exchange, Incorporated ("CHX") and

the Pacific Exchange, Inc. ("PCX") (collectively, the CHX and the PCX shall be referred to herein as the "Exchanges").

The reasons cited in the application for withdrawing the Securities from listing and registration on the Exchanges include the following:

The Securities of the Company have been listed for trading on the CHX, the PCX and the New York Stock Exchange, Inc. ("NYSE"). The Board of Directors of the Company has authorized withdrawing the Securities from the CHX and the PCX in order to eliminate the costs associated with such listings. These costs include both annual maintenance fees for listed shares and fees for listing additional shares.

The Company has complied with the rules of each Exchange by filing with them certified copies of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the Exchanges and by setting forth in detail to the Exchanges the reasons for the proposed withdrawal, and the facts in support thereof.

Both CHX and the PCX have informed the Company that they have no objections to the Company's application to withdraw its Securities from listing on the Exchanges.

The Company's application relates solely to the withdrawal of its Securities from listing on the CHX and the PCX and shall have no effect upon the continued listing of the Securities on the NYSE. By reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and with the NYSE.

Any interested person may, on or before May 5, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9909 Filed 4–20–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Viacom Inc., Class A Common Stock, $.01 Par Value, and Class B Common Stock, $.01 Par Value) File No. 1–9553

April 15, 1999.

Viacom Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the securities specified above ("Securities") from listing and registration on the American Stock Exchange LLC ("Amex" or "Exchange").

The Securities have been listed for trading on the Amex and, pursuant to a Registration Statement on Form 8–A filed with the Commission which became effective on April 1, 1999, on the New York Stock Exchange, Inc. ("NYSE"). Trading in the Securities on the NYSE commenced at the opening of business on April 8, 1999.

The Company has complied with the rules of the Amex by filing with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the Exchange and by setting forth in detail to the Exchange the reasons for such proposed withdrawal, and the facts in support thereof. The Amex has in turn informed the Company that it has no objection to the withdrawal of the Company's Securities from listing on the Exchange.

In making the decision to withdraw its Securities from listing on the Amex, the Company determined that it would be in the Company's best interests to withdraw its Securities from listing on the Amex in order to list them on the NYSE.

The Company's application relates solely to the withdrawal of the Securities described above from listing on the Amex and shall have no effect upon the continued listing of the Securities on the NYSE, nor shall it have any effect on the continued listing of the Company's other securities on the Amex, including its Five-Year Warrants expiring July 7, 1999, its 6.75% Senior Notes due 2003, its 7.75% Senior Notes due 2005, its 8% Exchangeable Subordinated Debentures due 2006, and its 7.625% Senior Debentures due 2016. Moreover, by reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the Amex, as well as the NYSE.

Any interested person may, on or before May 6, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9944 Filed 4–20–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41287; File No. SR–NASD–99–18]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Size of the Nasdaq Listing and Hearing Review Council

April 14, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 1, 1999, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

have been prepared by Nasdaq.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and simultaneously granting approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to increase the maximum size of the Nasdaq Listing and Hearing Review Council ("Review Council") to 18 members and increase the minimum number of non-industry members on the Review Council to five. Below is the text of the proposed rule change. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

Bylaws of The Nasdaq Stock Market, Inc.

Sec. 5.2 Number of Members and Qualifications

(a) The Nasdaq Listing and Hearing Review Council shall consist of no fewer than eight and no more than [11] *18* members, of which not more than 50 percent may be engaged in market-making activity or employed by a member whose revenues from market-making activity exceed ten percent of its total revenues. The Nasdaq Listing and Hearing Review Council shall include at least [three] *five* Non-Industry members.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[3] Amendment No. 1 was received by the Commission on April 8, 1999, the substance of which is incorporated into this notice. Letter from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, to Katherine A. England, Division of Market Regulation, Commission, dated April 7, 1999 ("Amendment No. 1").

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposal is designed to address the increase in the workload of the Review Council. The number of listing and policy matters pending before the Review Council has significantly increased over the last year. This increased workload is challenging the ability of the Review Council to effectively discharge its duties. Accordingly, Nasdaq is proposing to increase the maximum size of the Review Council to 18 members. The Review Council will continue to be a balanced committee, with not more than 50 percent of its members engaged in market-making activity or employed by a member whose revenues from market-making activity exceed ten percent of its total revenues. Furthermore, the proposal provides for the minimum percentage of non-industry members on the Review Council to remain virtually the same.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[4] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, and in general, to protect investors and the public interest. Increasing the size of the Review Council, while maintaining it as a balanced committee, will permit the Review Council to remain focused on issues that may raise investor protection concerns and to act rapidly on such issues when necessary.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–18 and should be submitted by May 12, 1999.

[4] 15 U.S.C. 78*o*–3(b)(6).

IV. Commission's Findings and Other Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[5] Specifically, the Commission believes the proposal is consistent with Section 15A(b)(6) and (6)(11).[6] Section 15A(b)(6) requires, in part, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, and in general, to protect investors and the public interest.[7] Section 15A(b)(11) requires, among other things, that the rules of a national securities association include provisions governing the form and content of quotations, and that such rules must be designed to promote orderly procedures for collecting, distributing, and publishing quotations.[8]

The Commission finds that increasing the number of members on the Review Council should provide for the efficient and timely execution of the Review Council's duties (*e.g.*, establishing listing standards and making listing determinations).[9] The Commission believes that this proposal should

[5] In approving this proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78*o*–3(b)(6) and (b)(11).

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 15 U.S.C. 78*o*–3(b)(11).

[9] The Nasdaq submits that the proposed rule change is immediately necessary given the increased workload facing the Review Council. *See,* Amendment No. 1.

reduce workloads, expedite the listing process and facilitate capital formation by allowing issuers quicker access to capital. The Nasdaq proposal should also protect investors and the public interest by ensuring that delisting decisions and policy determinations involving listing standards are addressed promptly. In addition, the Commission notes that the proposed rule change maintains virtually the same percentage of industry members versus non-industry members on the Review Council, which should prevent any unfair discrimination in the execution of the Review Council's duties. For the foregoing reasons, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NASD–99–18) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9943 Filed 4–20–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice No. 3028]

Notice of Meetings; United States International Telecommunication Advisory Committee (ITAC); Telecommunication Standardization Sector (ITAC–T) National Committee and Study Groups A & D; Interamerican Telecommunication Commission (CITEL) Ad Hoc Committee

The Department of State announces meetings of the U.S. International Telecommunication Advisory Committee (ITAC) and its committees and Study Groups in the Telecommunication Standardization, Telecommunication Development Sectors, and CITEL ad hoc committee for May and June 1999. The purpose of the Committee and its Study Groups is to advise the Department on policy and technical issues with respect to the International Telecommunication Union and international telecommunication standardization and development. All meetings will be held at the Department of State, 2201 "C" Street, NW, Washington, D.C.

The ITAC will meet from 9:30 to 1:00 on Wednesday, May 5 (Room 1205), May 12 (Room 1205), May 19 (Room 1406), May 26 (Room 1205), June 2 (Room 1205), and June 9 (Room 1205), 1999, to complete preparations for the ITU Council meeting in June 1999.

The ITAC–T National Committee will meet from 9:30 to 4:00 on May 26, 1999, (Room 1207). The ITAC–T will review activities resulting from the ITU Telecommunication Sector Advisory Group (TSAG) meeting in April 1999.

ITAC–T Study Group A will meet from 9:30 to 4:00 on May 19, 1999, (Room 1205). Study Group A will complete preparations for ITU Study Groups 2 and 3.

ITAC–T Study Group D will meet from 9:30 to 4:00 on May 20, 1999, to prepare for ITU Study Group 8 and 16 meetings.

The ITAC ad hoc CITEL committee will meet May 6, 1999 in Room 4517 from 9:30 to 12:30 to prepare for the next Permanent Consultative Committee I meeting.

Members of the general public may attend these meetings and join in the discussions, subject to the instructions of the Chair. Admission of public members will be limited to seating available. Entrance to the Department of State is controlled; people intending to attend ITAC, ITAC–T National Committee and Study Groups A & D meetings should send a fax to (202) 647–7407 or email to *williamscd@state.gov* not later than 24 hours before the meeting. This fax should display the name of the meeting (ITAC, ITAC–T, National Committee, Study Group and date of meeting), your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, U.S. passport, U.S. Government identification card. Enter from the "C" Street Main Lobby. In view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Dated: April 14, 1999.

Marian R. Gordon,

Information and Telecommunication Standardization, U.S. Department of State.

[FR Doc. 99–9982 Filed 4–20–99; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–4620]

Oil Pollution Act of 1990 (OPA 90) Phase-Out Requirements for Single Hull Tank Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of policy.

SUMMARY: In a notice published on November 16, 1998, the Coast Guard requested comments on whether a single hull tank vessel, converted to include double sides or a double bottom, should be accepted as a different hull design when applying the tank vessel phase-out dates under the Oil Pollution Act of 1990 (OPA 90). This notice discusses the comments received and the Coast Guard's determination. The Coast Guard has decided that changing the hull configuration of an existing single hull tank vessel to a single hull tank vessel with double sides or a double bottom, after August 18, 1990, will not result in a change to the tank vessel's originally scheduled phase-out date as required by 46 U.S.C. 3703a.

DATES: This policy is effective April 21, 1999.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the Docket Management Facility, (USCG–1998–4620), U.S. Department of Transportation, Plaza level, room PL–401, 400 Seventh Street SW, Washington DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this policy, please contact Mr. Bob Gauvin, Project Manager, Office of Operating and Environmental Standards, Commandant (G–MSO–2), U.S. Coast Guard Headquarters, telephone 202–267–1053. For questions on viewing material in the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: The Coast Guard published a request for comments (63 FR 63768) on November 16, 1998. The notice encouraged interested persons to provide written comments, information, opinions and arguments on whether single hull tank vessels that were altered with double sides or a double bottom should be considered a different hull configuration for

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

determining their OPA 90 phase-out date. The comment period ended on January 15, 1999, and there were 32 submissions to the docket.

The Coast Guard held no public meeting on this request for comments. Two comments did request a public meeting, but the Coast Guard determined that the written comments in the docket adequately addressed the issues and that a public meeting would not be helpful in acquiring additional information.

Background

Section 4115 of the Oil Pollution Act of 1990 (Pub. L. 101–380, August 18, 1990) (OPA 90) amended title 46, United States Code, by adding a new section 3703a. This section contains the double hull requirements and phase-out schedule for single hull tank vessels operating in U.S. waters. It requires an owner to remove a single hull tank vessel from bulk oil service on a specific date, depending on a vessel's gross tonnage, build date, and hull configuration. The phase-out schedule allows more years of service for single hull tank vessels configured to include double sides or a double bottom than for single hull tank vessels without these hull configurations.

The OPA 90 timetable for double hull requirements and phase-out schedule for single hull tank vessels are implemented in 33 CFR part 157, Appendix G. Both OPA 90 and our implementing regulations are silent on if, or when, a vessel owner can convert a single hull tank vessel to include double sides or a double bottom to qualify for a later phase-out date. As a result, some vessel owners have asked the Coast Guard to clarify the types of vessel conversions permitted and their associated phase-out dates.

In 1997, the Vessel Compliance Division replied to a question asking if a single hull tank vessel with wing cargo tanks reconfigured as segregated ballast tanks or void spaces to create double sides would qualify for a different OPA 90 phase-out date. They indicated that this type of conversion and an associated later phase-out date was acceptable provided that the modified tanks meet the double side dimension requirements applied to new tank vessels in 33 CFR 157.10d(c)(1). Converted double side segregated ballast tanks must also provide protection to the full extent of a vessel's cargo tank length. In 1998, we received another inquiry from the same source asking if hull conversions completed after a single hull tank vessel's original phase-out date qualified the vessel to reenter bulk oil service with a later phase-out date.

Recent inquiries by the maritime industry indicate a continued interest in the possibility of converting single hull tank vessels to include double sides or a double bottom to increase a vessel's operational life past its original OPA 90 phase-out date. In our November 16, 1998, request for comments, we asked for information to help us develop a clear policy on phase-out dates.

Summary of Comments

The comments fell into two clearly opposed groups on whether a single hull tank vessel could, after August 18, 1990, add double sides or a double bottom and use that alteration to change the vessel's category under § 3703a and thus have a later phase-out date.

The comments generally urged that the Coast Guard either—

- NOT ALLOW a single hull tank vessel converted with double sides or a double bottom after August 18, 1990, to be considered under a different category in § 3703a to result in later phase-out dates; or,
- ALLOW single hull tank vessels converted with double sides or a double bottom after August 18, 1990, to be considered under a different category in § 3703a that would result in a later phase-out date or a return to operation after the vessel's phase-out date.

Conversion to add double sides or a double bottom SHOULD NOT be allowed to change the phase-out date under OPA 90.

Nineteen comments stated that no change or extension of a single hull tank vessel phase-out date is allowed by OPA 90. These comments came from members of the U.S. Senate, U.S. House of Representatives, MARAD, the U.S. shipbuilding industry and associations, major ship companies and associations, environmental groups and individual citizens. One individual's comment included eighty (80) signatures supporting the "* * * replacement of single hull oil tankers by double hull oil tankers * * *" as scheduled by OPA 90. This group of nineteen comments offered the following reasons for their position:

- Congress intended OPA 90 to protect the environment from the increased risk of oil spills that were specifically linked to older single hull tank vessels.
- The phase-out schedule of § 3703a was deliberate and designed to ensure balance between the environment and the interests of the vessel owners. When developing the phase-out schedule, Congress took into account economic conditions; owner capital investment concerns; national oil transportation needs; shipbuilding resources availability; existing vessels and need for tank vessels which would operate in U.S. trade after OPA 90 became effective.
- The phase-out schedule was liberal, but, as with all of OPA 90, it does not provide for equivalence, waivers, or exemptions to its requirements.
- OPA 90 was intended to protect the environment from operational or accidental discharge of oil by removing older single hull tankers from service, as soon as possible, and by constructing new double hull tankers with the latest technology, design, and materials for safer operations, reducing damage to the environment.
- Allowing the continued operation of existing single hull tank vessels for longer periods of time than established by the OPA 90 schedule is not acceptable or fair to owners who have invested in the building of new double hull vessels.

Conversion to add double sides or a double bottom SHOULD be allowed to change the phase-out date under OPA 90.

Thirteen comments supported allowing a change of phase-out date after a single hull tank vessel converts to either double sides or a double bottom. These thirteen comments came from ship owners, oil companies, a shipyard company, a marine terminal company, and a licensed U.S. merchant mariner. This group of thirteen comments offered the following reasons for their position:

- There is no language in OPA 90 or U.S. regulations that prohibits a conversion of a single hull tank vessel to add double sides or a double bottom from being considered under a different category in § 3703a for the additional operating years allowed for that hull configuration.
- If Congress had intended not to allow such a conversion of single hull tank vessels to be considered, they would have used the words "vessels built with double sides or a double bottom," instead of "vessels equipped with double sides or a double bottom." Not defining when the vessel had to be equipped with double sides or a double bottom, allows it to occur after the statute became effective (August 18, 1990).
- The acceptance of the alteration of an existing vessel's design is not considered a major conversion under 33 CFR 157.03. This also allows the "natural action" of single hull tank vessels, or a single hull tank vessel originally built with double sides or a double bottom, to be converted to a

complete double hull and meet the OPA 90 requirements. It provides an incentive to completely double hull an existing vessel and has been used by U.S. tanker and barge owners to convert their tank vessels to be compliant with the double hull standards.

• One comment pointed out that section 3606 of Pub. L. 105–85 halted the industry practice of reducing gross tonnage to extend the phase-out date. This comment suggested that if the Congress did not approve of a Coast Guard position to allow double sides or a double bottom modification, then they could take legislative action once again.

• Given the current market conditions and expectations for needs of transportation and supply of oil to the U.S., this issue will not effect an increase of shipyard orders for new double hull tank vessels, specifically built in U.S. shipyards for the Jones Act trade. The cost to build a U.S. Jones Act tanker is approximately three times the cost to build the same tanker in the foreign shipyard market.

• There may be short periods within the next five to ten years when there will be an insufficient number of tankers available to transport the Alaska North Slope (ANS) crude. ANS crude transportation needs are slowing on a schedule from approximately 1.3 million barrels a day in 1999, to approximately 460,000 barrels a day in 2015. Due to this slowing schedule for ANS crude, the phasing out of the existing tankers in the ANS operation (23 in service at this time) will shrink until only nine to eleven tank vessels will be needed to sustain ANS crude delivery to the west coast of the U.S. Many single hull tankers, or single hull tankers with double bottoms only, will phase-out in ANS trade and will not be replaced. The ability to extend a single hull tank vessel for up to five years will allow coverage of possible tonnage shortages during the reduction of the fleet and reduction of oil to be transported from Alaska.

• There is no increase of risk to the environment in allowing such conversions. Statements in the Congressional Record during the OPA 90 Congressional Conference and studies completed for the Coast Guard, support that double sides provide protection from a collision and a double bottom provides protection from a grounding.

Specific Questions

Comments, both supporting and opposing phase-out date changes, responded to the four specific questions in our November 16, 1998, **Federal Register** notice. The answers not already included in the general comments summary are enclosed below.

1. If the Coast Guard does not allow single hull tank vessels to qualify for later OPA 90 phase-out dates by converting the single hulls to single hulls with double sides or a double bottom, what would be the effect on U.S. oil transportation and supplies?

• There would be little to no effect on oil transportation in the U.S. as there were more than a sufficient number of tankers available and planned, to meet U.S. demands.

• Any extensions of the phase-out schedule would slow down the demand by owners to build new U.S. double hull tankers.

• Shortages of tanker tonnage may occur in the specialty class U.S. tramp tanker trade within the clean product market. This will raise tanker rates and the cost of oil to the consumer. Extensions of the phase-out schedule will moderate charter tanker rates and meet the shortages for tank vessels during these periods.

2. If single hull tank vessels which have passed their initial phase-out date could qualify for later phase-out dates, and reenter service by converting their single hulls with double sides or a double bottom, what would be the effect on U.S. oil transportation and supplies?

• There will be no impact on U.S. oil transportation or supplies.

• There will be a sufficient number of tankers for U.S. oil transportation.

• Older single hull tank vessels would become heavily relied upon, if their phase-out dates are extended, and no ready replacements of new double hull vessels would be built or be available, should the older converted single hull tank vessels be abruptly lost from service.

• There would not be enough tankers in the Jones Act trade and the population would be reduced from the 49 in operation now to 21. Allowing this small period of extension (5 years maximum), could be used by vessel owners to ensure that no shortfalls of needed tonnage would occur and moderate tanker charter rates.

• A phased out single hull tank vessel could be laid up, if not needed. If a future transportation need occurred, the vessel could be converted and brought back into trade until the transportation need subsided or the converted single hull tank vessel with double sides or a double bottom reached its changed phase-out date or January 1, 2015, which ever comes first. This option would be beneficial in the ANS trade.

3. If single hull tank vessels could qualify for later phase-out dates through these types of hull conversions, what would be the effect on the conversion of the tank vessel fleet to double hull tank vessels? Would there be an adverse impact on the marine environment?

• The U.S. environment would be adversely impacted by vessels not complying with the original OPA 90 phase-out schedule for single hull tankers.

• Allowing extension of the phase-out dates for converted single hull tank vessels reduces the incentive for double hull new buildings and slows the building of double hulls, advancing the average age and reducing the levels of safety in the existing tank vessel fleet.

• Allowing extensions of the phase-out dates would indefinitely delay the environmental benefit of the double hull tank vessels anticipated by Congress and the U.S. population, who have advocated the need for double hull tankers for twenty-five (25) years.

• The older converted single hull tank vessels use more fossil fuels than the newer double hull tank vessels, increasing the amount of hazardous air pollutants emitted into the atmosphere.

• Overall double hull conversions in the U.S. would be modestly impacted, with no impact to the environment. A converted single hull tank vessel offers a sensible alternative for short-term periods (5 years) of U.S. tonnage needs.

• Owners of vessels will naturally wait until the deadline before considering a double hull because at this time the economic situation does not support the cost involved.

• A single hull tank vessel having its side cargo tanks converted to segregated ballast tanks would provide a larger double side spacing than required of new double hulls, providing more protection to the environment.

4. Are there any other concerns regarding whether we should recognize a single hull tank vessel converted to include double sides or a double bottom as a different hull design when applying the vessel phase-out dates under OPA 90?

• Depending on the type of conversion to a single hull tanker, it could effect the gross tonnage of the tank vessel, imparting a change to the vessel's phase-out due to reduction of the vessel's gross tonnage from original admeasurement. This would extend the tank vessel's phase-out even later (possibly 7 to 8 years) from its original phase-out per § 3703a.

• The reconfiguration of oil cargo tanks could pose new operational risks; ballast tanks experience high corrosion rates accounted for in the design of new double hull tank vessels.

• The average age of the U.S. tanker fleet would increase. Older single hull

tankers would not be maintained, and become unsafe as they got older and closer to the extended phase-out date, making them a greater risk to the environment.

- Allowing the extension of the phase-out schedule by recognizing the conversion of single hull tank vessels under OPA 90 could be of strategic value to the U.S. in certain national security scenarios.
- Eliminating the conversion of single hull tank vessels could possibly reduce, rather than increase, shipyard activity in the U.S.
- For the U.S. tanker industry to succeed it is essential that the companies involved know that the rules and standards are clear, inherently stable and likely to stay that way for the foreseeable future. With investment decisions reaching out over 20 years, we should not make changes to the ground rules which could have catastrophic effects.
- Examination of this issue has been couched as an evaluation by a federal agency of the economics of the U.S. flag market. Such decisions should be left up to the Congress.
- There would be increasing difficulty in hiring qualified U.S. merchant seaman. When crew members lose jobs due to the phase-out of their vessels, their tendency is to migrate to fields outside the maritime field and not to return. Extensions of the phase-out schedules could assist keeping these seamen employed until vessel replacement is completed.

Discussion

OPA 90 and our implementing regulations in 33 CFR 157 require that tank vessels either convert to full double hull configuration or be removed from the carriage of oil in bulk service by the dates set out in 46 U.S.C. § 3703a. We have not, before today, established a policy on whether a single hull tank vessel could alter its hull configuration with a double bottom or double sides in order to change its OPA 90 phase-out date.

Previously, we had interpreted OPA 90 as not specifically precluding a change in phase-out date for tank vessels that reduced their gross tonnage. However, in section 3606 of Pub. L. 105–85, enacted on November 18, 1997, Congress added a new paragraph (e) to § 3703a. It effectively stopped the industry practice of using protectively located segregated ballast tanks to reduce a tank vessel's gross tonnage and change its phase-out date under OPA 90.

After a vessel's phase-out date, OPA 90 allows tank vessels without double hulls to continue to deliver oil until January 1, 2015, either to a deepwater port or in one of the four lightering zones we established in the Gulf of Mexico. (See 33 CFR 156.300.)

Many vessel owners, including American Heavy Lift, Maritrans, and Bouchard Transportation Services, have already modified, or are in the process of modifying, existing single hull tank barges or tankers with double hulls to meet the requirements of OPA 90.

Although a number of comments discussed possible shortages of tankers in the Alaska North Slope (ANS) crude trade, the Department of Energy does not anticipate such shortages in ANS operations. Further, there are Jones Act trade vessels currently trading foreign that could be employed in ANS operations, if needed.

While the comments contained a variety of responses both for and against a policy of allowing vessels to change their phase-out dates based on conversions after the effective date of OPA 90, most of these issues were considered by Congress when developing OPA 90. No comments cited immediate operational problems or pressing need to allow vessels to operate beyond their currently scheduled phase-out date.

The OPA 90 double hull requirements were intended to protect the environment from oil spills. The only amendment Congress has made to the OPA 90 phase-out schedule in § 3703a stopped the change of phase-out dates resulting from reductions in gross tonnage. By enactment of Pub. L. 105–85, Congress demonstrated its unwillingness to delay the OPA 90 schedule for the double hull requirement.

Policy

Based on all of the reasons set out above, the Coast Guard has decided that its policy should be consistent with the plain language of § 3703a and the intent of OPA 90. Therefore, changing the hull configuration of an existing single hull tank vessel to a single hull tank vessel with double sides or a double bottom, after August 18, 1990, will not result in a change to the tank vessel's originally scheduled phase-out date as required by § 3703a. This policy is effective immediately and applies to all tank vessels.

The Coast Guard will shortly open a rulemaking to make appropriate changes to the double hull regulations in 33 CFR part 157 and will revise Navigation and Vessel Inspection Circular No. 10–94 consistent with this policy.

Dated: April 15, 1999.

James M. Loy,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 99–9899 Filed 4–20–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–10]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 13, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on April 16, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28884.
Petitioner: Aero Sky.
Section of the FAR Affected: 14 CFR 145.37(b).
Description of Relief Sought: To continue to allow Aero Sky to hold a Federal Aviation Administration repair station certificate (certificate No. KQ7R556N) without having suitable permanent housing facilities for at least one of the heaviest aircraft within the weight class of the rating it holds.

Docket No.: 29469.
Petitioner: Astral Aviation, Inc. dba Skyways Airlines.
Section of the FAR Affected: 14 CFR 121.358(a).
Description of Relief Sought: To permit Skyway Airlines to begin proving flights in the Fairchild Dornier 328–300 aircraft without installation of an approved windshear escape flight guidance system.

Docket No.: 29479.
Petitioner: Skydive U, Inc.
Sections of the FAR Affected: 14 CFR 105.43(a).
Description of Relief Sought: To permit Skydive U, Inc. to allow non-student, foreign national parachutists to make international parachute jumps at Skydive U's facility without complying with the parachute equipment packing requirements of 105.43(a).

Docket No.: 29483.
Petitioner: Jackson Police Department.
Section of the FAR Affected: 14 CFR 61.195(g)(1) and 91.109(a).
Description of Relief Sought: To permit Jackson PD pilots in training to use public aircraft to log the aeronautical experience required by 61.39 to take the practical test for issuance of a pilot certificate and aircraft rating.

Docket No.: 29492.
Petitioner: Lynden Air Cargo.
Section of the FAR Affected: 14 CFR 121.344.
Description of Relief Sought: To permit Lynden Air Cargo to operate each of its four L382G Hercules aircraft (Registration Nos. N401LC, N402LC, N403LC, N404LC; Serial Nos. 4606, 4698, 4590, and 4763 respectively) without a digital flight data recorder as required under 121.344.

Dispositions of Petitions

Docket No.: 22706.
Petitioner: Bankair, Inc.
Sections of The FAR Affected: 14 CFR 135.225(e).
Description of Relief Sought/ Disposition: To permit Bankair pilots to operate Bankair aircraft at any U.S. military base that has adopted the criteria contained in the U.S. Standard for Terminal Instrument Procedures used for determining lower-than-standard departure minimums using takeoff visibility minimums that are less than 1 mile and equal to or greater than the landing visibility minimums established for those airfields. *GRANT, 4/15/99, Exemption No. 6661A*

Docket No.: 26478.
Petitioner: United States Air Force.
Section of the FAR Affected: 14 CFR 91.209(a) (1) and (2).
Description of Relief Sought/ Disposition: To permit the Air Force to conduct conternarcotics aircrew flight training operations in support of drug law enforcement and drug traffic interdiction, without lighted aircraft position or anticollision lights. *GRANT, 4/8/99, Exemption No. 5305C*

Docket No.: 28847.
Petitioner: Trans State Airline.
Section of The FAR Affected: 14 CFR 14 CFR 121.433(c)(1)(iii) and 121.441(a)(1)) & (b)(1)
Description of Relief Sought/ Disposition: To continue to permit TSA to combine recurrent flight and ground training and proficiency checks for TSA's flight crewmembers in a single annual training and proficiency evaluation program. *GRANT, 4/8/99, Exemption No. 63336A*

Docket No.: 29424.
Petitioner: Amerflight, Inc.
Section of The FAR Affected: 14 CFR 135.243.
Description of Relief Sought/ Disposition: To permit Ameriflight to allow its pilots in command to operate under instrument flight rules with a minimum of 800 hours of total flight time, including 400 hours of cross-country flight time and 75 hours of night flight time, in lieu of the flight-time requirements of 135.243. *DENIAL, 4/8/99, Exemption No. 6885.*

Docket No.: 29425
Petitioner: Popular Rotorcraft Association, Inc.
Section of The FAR Affected: 14 CFR 91.319(a)(1) & (2)
Description of Relief Sought/ Disposition: To permit PRA and its member flight instructors to conduct pilot and flight instructor training in an experimental gyroplane for compensation or hire. *GRANT, 4/15/99, Exemption No. 5209F*

[FR Doc. 99–9985 Filed 4–20–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 195—Flight Information Services Communications (FISC)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)–195 meeting to be held May 25–26, starting at 9:00 a.m. This new committee has been approved by the Program Management Committee to replace SC–169 and Working Group 3. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036.

The agenda will include: (1) Chairman's Introductory Remarks; (2) Review Transition from SC–169; (3) Approval of Summary from the Last SC–169 Meeting; (4) Approve New Terms of Reference; (5) Report Final Disposition of Automet Minimum Operational Performance Standards; (6) Technical Discussions of FIS–B Minimum Aviation System Performance Standards (MASPS); (7) Review of FIS–B MASPS Issues and Action Items; (8) Other Business; (9) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the Committee at any time.

Issues in Washington, DC, on April 14, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–9984 Filed 4–20–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5531]

Notice of Receipt of Petition for Decision That Nonconforming 1990–1991 and 1993–1994 BMW 7 Series Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1990–1991 and 1993–1994 BMW 7 Series passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1990–1991 and 1993–1994 BMW 7 Series passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 21, 1999.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("Wallace") (Registered Importer 90–005) has petitioned NHTSA to decide whether 1990–1991 and 1993–1994 BMW 7 Series passenger cars are eligible for importation into the United States. The vehicles which Wallace believes are substantially similar are 1990–1991 and 1993–1994 BMW 7 Series passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Bayerische Motoren Werke, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1990–1991 and 1993–1994 BMW 7 Series passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1990–1991 and 1993–1994 BMW 7 Series passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1990–1991 and 1993–1994 BMW 7 Series passenger cars are identical to their U.S.-certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver from the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that non-U.S. certified 1990–1991 and 1993–1994 BMW 7 Series passenger cars comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) substitution of a lens marked "Brake" for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) replacement of the speedometer/odometer with U.S.-model components.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of a high-mounted stop lamp if the vehicle is not already so equipped.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection*: installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems*: installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection*: (a) replacement of the driver's seat belt latch and installation of a seat belt warning system; (b) replacement of the driver's side air bag and knee bolster on 1990–1993 models, and the driver's and passenger's side air bags and knee bolsters on 1994 models, with U.S.-model components if the vehicle is not already so equipped. The petitioner states that the vehicles are equipped with Type II seat belts in both front and rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 301 *Fuel System Integrity*: installation of a rollover valve in the fuel tank vent line between the

fuel tank and the evaporative emissions collection canister.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Additionally, the petitioner states that non-U.S. certified 1990–1991 and 1993–1994 BMW 7 Series passenger cars will be inspected prior to importation to ensure that they are equipped to comply with the Theft Prevention Standard found in 49 CFR Part 541.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. NHTSA has previously decided that a number of individual models within the 1990–1991 and 1993–1994 BMW 7 Series are eligible for importation and has assigned separate eligibility numbers to each of these models. If the agency ultimately decides to grant this petition, these eligibility numbers will be replaced by a single eligibility number that applies to all 1990–1991 and 1993–1994 BMW 7 Series passenger cars.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 14, 1999.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 99–9947 Filed 4–20–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5530]

Notice of Receipt of Petition for Decision That Nonconforming 1993–1997 Toyota Previa Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1993–1997 Toyota Previa multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1993–1997 Toyota Previa MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 21, 1999.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards..

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1993–1997 Toyota Previa MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1993–1997 Toyota Previa MPVs that were manufactured for sale in the United States and certified by their manufacturer, Toyota Motor Corporation, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1993–1997 Toyota Previa MPVs to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1993–1997 Toyota Previa MPVs, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1993–1997 Toyota Previa MPVs are identical to their U.S. certified counterparts with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Locking*

Components, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.- model headlamp assemblies that incorporate headlamps with DOT markings; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies;

(c) installation of U.S.-model taillamp assemblies;

(d) installation of a center high mounted stop lamp on vehicles that are not already so equipped.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:*

(a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components. The petitioner states that the vehicles are equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single push button at both front designated seating positions, and with combination lap and shoulder restraints that release by means of a single push button at all middle seat and rear seat outboard designated seating positions, and with a lap belt in the center designated seating position of the rear seat.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 14, 1999.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 99–9948 Filed 4–20–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Advisory Council on Transportation Statistics; Notice of Meeting

SUMMARY: Pursuant to Section 10(A)(2) of the Federal Advisory Committee Act (Public Law 72–363; 5 U.S.C. App. 2), notice is hereby given of a meeting of the Bureau of Transportation Statistics (BTS) Advisory Council on Transportation Statistics (ACTS) to be held Wednesday, April 28, 1999, 10:00 to 4:00 pm. The meeting will take place at the U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, in conference room 8236–40 of the Nassif Building.

The Advisory Council, called for under Section 6007 of Public Law 102–240, Intermodal Surface Transportation Efficiency Act of 1991, December 18, 1991, and chartered on June 19, 1995, was created to advise the Director of BTS on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information.

The agenda for this meeting will include an introduction of new Advisory Council member, review of staffing, discussion of customer service outreach and marketing, upcoming data conferences, update on performance indicators project, identification of substantive issues, review of plans and schedule, other items of interest, discussion and agreement of date(s) for subsequent meetings, and comments from the floor.

Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Lillian Chapman, Council Liaison, on (202) 366–1270 prior to April 26. Attendance is open to the interested public but limited to space available. With the approval of the Chair, members of the public may present oral statements at the meeting. Noncommittee members wishing to present oral statements, obtain information, or who plan to access the building to attend the meeting should also contact Ms. Chapman.

Members of the public may present a written statement to the Council at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Chapman (202) 366–1270 at least seven days prior to the meeting.

Issued in Washington, DC, on April 15, 1999.

Robert A. Knisely,

Executive Director, Advisory Council on Transportation Statistics.

[FR Doc. 99–9986 Filed 4–20–99; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 15, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department

Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 21, 1999 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: New.
Form Number: None.
Type of Review: New collection.
Title: Voluntary Surveys to Enhance the Electronic Federal Tax Payment System.
Description: The Financial Management Service of the Department of the Treasury is undertaking voluntary surveys to improve the efficiency of tax payment collections and to help entities comply with electronic payment requirements.
Respondents: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.
Estimated Number of Respondents: 3,520.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: Other (one time).
Estimated Total Reporting Burden: 880 hours.
Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 99–9911 Filed 4–20–99; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of a Public Briefing Concerning the Expansion of the International Trade Prototype

AGENCY: Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice announces that Customs will hold a public briefing for interested parties concerning the expansion of the International Trade Prototype. The meeting will focus on providing details concerning the functionality of the next phase, soliciting participation, and allowing the public to provide comments. Seating is limited and will be extended to the first 100 callers.

DATES: The public briefing will take place on Thursday, April 29, 1999, beginning at 1:00 p.m. Requests to attend this briefing must be received by Pamela McGuyer at (202) 927–0279 on or before Monday, April 26, 1999.

ADDRESSES: The public briefing will take place in the Edward R. Murrow Conference Room located on the 13th Floor of the National Press Club located at 529 14th Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: For prototype or participation questions please contact Daniel Buchanan, of the U.S. Customs Service at (617) 565–6236, or Linda LeBaron Grasley, of the U.S. Customs Service at (716) 626–0400 x 204.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 1998, Customs published a document in the **Federal Register** (63 FR 30288) announcing what is expected to be a series of prototypes collectively called the International Trade Prototype (ITP). This notice invited public comments concerning any aspect of the planned prototype, informed interested members of the public of the eligibility requirements for voluntary participation in the first phase of the first prototype called the International Trade Prototype 1 (ITP1) and outlined the development and evaluation methodology to be used in the test. It was announced that in order to participate in ITP1, the necessary information, as outlined in that notice, must be filed with Customs and approval granted.

Today's document announces that Customs will proceed to the next phase of the International Trade Prototype commencing in late June 1999 and will hold a public briefing for the purpose of providing details concerning the functionality of the next phase, soliciting participation, and allowing the public to provide comments.

For interested parties that are unable to attend the public briefing on April 29, 1999, a subsequent notice will be published in the **Federal Register** providing the details and requirements for participation in the next phase of the International Trade Prototype.

Dated: April 15, 1999.

Charles W. Winwood,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 99–9945 Filed 4–20–99; 8:45 am]

BILLING CODE 4820–02–P

federal register

Wednesday
April 21, 1999

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 401 et al.
Commercial Space Transportation Licensing Regulations; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 401, 411, 413, 415 and 417

[Docket No. 28851; Amdt. Nos. 401–01, 411–01, 413–01, 415–01 and 417–01]

RIN 2120–AF99

Commercial Space Transportation Licensing Regulations

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: The Associate Administrator for Commercial Space Transportation of the Federal Aviation Administration (FAA), Department of Transportation (DOT) is amending the FAA's commercial space transportation licensing regulations. The FAA amends its licensing regulations in order to clarify its license application process generally, and for launches from federal launch ranges, specifically. The regulations are intended to provide applicants and licensees greater specificity and clarity regarding the scope of a license, and to codify and amend licensing requirements and criteria.

EFFECTIVE DATE: June 21, 1999. An application pending at the time of the effective date must conform to any new requirements of this rulemaking as of the effective date. All license terms and conditions, and all safety requirements of this rulemaking also apply as of the effective date.

FOR FURTHER INFORMATION CONTACT: J. Randall Repcheck, Licensing and Safety Division (AST–200), Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, DOT, Room 331, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8379; or Laura Montgomery, Office of the Chief Counsel (AGC–250), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3150.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the amendment number or docket number of this final rule. Persons interested in being placed on a mailing list for future FAA notices of proposed rulemaking and final rules should request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes application procedures.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the Government Printing Office's electronic bulletin board service (telephone 202–512–1661) or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: 800–322–2722 or 202–267–5948). Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the Government Printing Office's webpage at http://www.access.gpo.gov/nara/aces/aces140.html for access to recently published rulemaking documents.

In order to enhance communications regarding commercial space transportation with the public, the FAA developed an internet-based information system, which provides the public with electronic access to the FAA. The system provides on-line information to interested parties, and allows applicants, through a secure portion of the system, to check the status of applications and licenses. The system currently contains a limited amount of information, but includes schedules of upcoming commercial launches, the FAA's regulations, guidance documents, and research studies. The address is: http://ast.faa.gov/.

Small Entity Inquiries

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM–27, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 1–888–551–1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at http://www.faa.gov and may send electronic inquiries to the following Internet address: 9–AWA–SBREFA@faa.gov.

Introduction

By this rulemaking, the FAA clarifies license application procedures and requirements. The FAA's revisions to its regulations provide information regarding the scope of a launch license, the criteria for obtaining a license for expendable launch vehicles (ELVs) launching from federal launch ranges, and the underlying safety rationale for the FAA's launch licensing regime. These regulations also explain that the FAA will license the operation of a launch site or the launch of a launch vehicle from a site that is not operated by a federal launch range on a case by case basis.

History and Current Revisions

The Commercial Space Launch Act of 1984, as codified at 49 U.S.C. Subtitle IX—Commercial Space Transportation, ch. 701, Commercial Space Launch Activities, 49 U.S.C. 70101–70121 (the Act), authorizes the Secretary of Transportation to oversee, license and regulate commercial launch and reentry activities and the operation of launch and reentry as carried out by U.S. citizens or within the United States. 49 U.S.C. 70104, 70105. The Act directs the Secretary to exercise this responsibility consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States, 49 U.S.C. 70105, and to encourage, facilitate and promote commercial space launches by the private sector, 49 U.S.C. 70103.

The FAA carries out the Secretary's responsibilities for licensing and regulating launches and the operation of launch sites. Prior to November 15, 1995, the Secretary's responsibilities were implemented by the Office of Commercial Space Transportation (the Office), which was located within the Office of the Secretary in the Department of Transportation. Now, the Associate Administrator for Commercial Space Transportation is part of DOT's Federal Aviation Administration. When this administrative change was effected, the Secretary delegated the statutory authority over the regulation of commercial space transportation to the Administrator of the Federal Aviation Administration, and the Administrator redelegated this authority to the Associate Administrator.

On August 4, 1994, President Clinton announced a new National Space Transportation Policy reaffirming the government's commitment to the commercial space transportation industry and the critical role of the Department of Transportation in encouraging and facilitating private sector launch activities. In 1996, President Clinton signed a National Space Policy, which recognized the Department of Transportation as the lead federal agency for regulatory guidance regarding commercial space transportation activities. The FAA's

rules, by offering greater specificity and certainty regarding licensing requirements and the scope of a license, should assist the launch industry in its business and operational planning. This will facilitate the private sector's launch activities by increasing certainty and by easing its regulatory burden.

Background on the FAA's Commercial Launch Licensing History and Process

The FAA licenses commercial launches and the commercial operation of launch sites through 14 CFR Ch. III. In April 1988, when the then Office of Commercial Space Transportation first issued final regulations, no licensed launches had yet taken place. Accordingly, the Office established a flexible regime intended to be responsive to an emerging industry while at the same time ensuring public safety. The Office noted that it would "continue to evaluate and, when necessary, reshape its program in response to growth, innovation and diversity in this critically important industry." Commercial Space Transportation Licensing Regulations, 53 FR 11004, 11006 (Apr. 4, 1988). Under the 1988 regulations the Office implemented a case-by-case approach for the evaluation of launch license applications. All commercial launches at the time took place from federal launch ranges.

In conjunction with information guidelines describing the Office's application process, the Office's regulations reflected the intent of Congress that the Office evaluate the policy aspects and safety of a proposed launch. The Office followed a case-by-case approach to performing these reviews, tailoring its information requests to the specifics of a given launch proposal.

Later, the Office took further steps designed to simplify the licensing process for launch operators with established safety records. For example, before issuing its final rules in 1988, the Office issued interim regulations, in which it had contemplated the possibility that "one license could cover a specified series of launches where the same safety resources [would] support identical or similar missions." Commercial Space Transportation Licensing Regulations; Interim Final Rule and Request for Comments, 51 FR 6870, 6872 (Feb. 26, 1986). In 1991, the Office implemented this option by instituting a launch operator license for similar launches carried out by a single licensee. The launch operator license currently authorizes a licensee to conduct any number of launches within defined parameters over the course of a two year period. The FAA has continued to apply a case by case analysis to licenses authorizing a single launch or to licenses authorizing a set of specifically identified launches.

The FAA, in accordance with 49 U.S.C. 70112 and 14 CFR Ch. III, part 440, imposes financial responsibility requirements on a licensee, commensurate with the scope of its license, pursuant to which a licensee is required either to purchase insurance to protect launch participants in the event of claims by third parties and to protect against damage to government property, or to otherwise demonstrate financial responsibility. In the event that there were a launch accident and third party claims arising out of that launch exceeded the financial responsibility required by the FAA, the Act contains procedures through which the government of the United States may pay those excess claims up to a statutory ceiling. *See* 49 U.S.C. 70113. The possible payment of excess claims by the government for damages related to a particular launch is commonly referred to, albeit erroneously, as "indemnification" of the launch industry. The payment of excess claims constitutes, in fact, only a provisional agreement by the government of the United States subject to conditions, including Congressional appropriation of funds.

Growth and Current Status of Launch Industry

The number of commercial space launches has steadily grown over the years since the first licensed commercial launch in 1989. As of April 13, 1999, 110 licensed launches have taken place from five different federal launch ranges, and from two non-federal launch sites. Launch vehicles have included traditional orbital launch vehicles such as the Atlas, Titan and Delta, as well as suborbital vehicles such as the Starfire. New vehicles using traditional launch techniques include Lockheed Martin's Athena I and II, EER's Conestoga, Orbital Sciences Corporation's Taurus, and Boeing's Delta III. Unique vehicles such as the Pegasus are also included in this count. New launch vehicles are proposed every year. For example, the Pegasus air-launched rocket has been developed since the passage of the Act. On the horizon are sea-launched rockets, Lockheed Martin's Atlas III and Boeing's and Lockheed Martin's evolved expendable launch vehicles. A number of companies are proposing partially and fully reusable launch vehicles. Several companies are participating in partnership with the National Aeronautics and Space Administration (NASA) to develop X–33 and X–34 launch vehicles incorporating reusable and single-stage-to-orbit technology, which could result in vehicles for commercial use.

Currently, commercial launches take place from federal launch ranges operated by the Department of Defense and NASA. Launch operators bring launch vehicles to federal ranges such as Cape Canaveral Air Station, Vandenberg Air Force Base, White Sands Missile Range and Wallops Flight Facility for launch. A launch operator obtains a number of services from a federal range, including radar, tracking and telemetry, flight termination and other launch services. Pursuant to an agreement between a federal launch range and a launch operator, the federal range has final authority over decisions regarding whether to allow a launch to proceed. A federal range operates pursuant to its own internal rules and procedures, and the launch operator must comply with those rules and procedures in addition to the requirements of the FAA.

The U.S. commercial space transportation industry faces strong international competition. Ariane, Europe's launch vehicle, continues to be the market leader, with other competition coming from China, Russia, and Ukraine. The U.S. industry still obtains a significant percentage of launch contracts, and AST projects over seventy commercial orbital launches within the next three years.

Additionally, U.S. participation in international ventures is increasing. For example, International Launch Services (ILS), comprised of Lockheed Martin Corporation, Khrunichev Enterprise and NPO Energia, markets Russia's Proton rockets and the U.S. Atlas. Another international partnership, Sea Launch Limited Partnership (Sea Launch), involves Boeing Commercial Space Company, S.P. Korolev Rocket and Space Corporation Energia, KB Yuzhnoye and PO Yuzhnoye Mashinostroitelny Zavod, and Kvaerner Moss Technologies a.s., which are U.S., Russian, Ukrainian and Norwegian companies, respectively. Sea Launch has launched a commercial rocket from a modified oil rig located in the Pacific Ocean. Orbital Sciences Corporation has conducted a launch outside the United States and envisions more.

Current Revisions to Licensing Regulations

With six years of experience in regulating the commercial launch industry, the DOT Office of Commercial Space Transportation initiated a process for standardizing its licensing

regulations. Originally, when the Office first initiated its licensing program, the Office did not possess standardized rules or requirements. Accordingly, it evaluated each license application individually to ensure that a proposed launch would not jeopardize public health and safety, the safety of property, U.S. national security or foreign policy interests or international obligations of the United States. Over the course of time, and with the input of licensees and federal launch ranges, the FAA has evolved a standardized approach to licensing launches from federal launch ranges. Accordingly, the FAA now implements that approach through revisions to its regulations.

On October 13, 1994, in anticipation of issuing a notice of proposed rulemaking, the Office of Commercial Space Transportation, DOT, announced that it was holding a public meeting to obtain industry's views to assist the Office in developing an NPRM that would address specific requirements for launch and launch site operator licenses. Notice of Public Meeting, 59 FR 52020 (1994). The Office stated that it would streamline its launch licensing process by standardizing requirements and by codifying certain information requirements in its regulations. *Id.* The Office also advised the public that it would promulgate rules concerning licensing the operation of a launch site. *Id.* The FAA proposes to implement rules of general applicability for operation of a launch site through an additional notice of proposed rulemaking in order to foster certainty for this new industry as well. *Id.* The public meeting took place on October 27, and 28, 1994, and was attended by representatives of the commercial launch industry, payload companies, prospective commercial launch site operators, interested government agencies, both state and federal, and the public.

On March 19, 1997, the FAA released a notice of proposed rulemaking proposing to amend its licensing requirements. Commercial Space Transportation Licensing Regulations, Notice of Proposed Rulemaking (NPRM), 62 FR 13216 (Mar. 19, 1997). In the NPRM, the FAA proposed to narrow its definition of launch from "gate to gate," which resulted in the licensing of the launch related activities of a launch operator at a federal launch range prior to the arrival of the launch vehicle, to "vehicle at the gate," which encompasses only the launch operator's activities once its vehicle arrives. The NPRM proposed a launch license application process developed through its case by case license history, including the implementation of certain safety proposals recommended by the National Transportation Safety Board. The FAA also proposed to streamline and reorganize a variety of other licensing provisions. The comment period closed May 19, 1997. At the request of several launch operators, the FAA reopened the comment period until August 4, 1997. The FAA received comments from a number of interested parties, including launch operators, a payload provider, a launch site operator and prospective reusable launch vehicle operators.

The Environmental Protection Agency commented on the FAA's environmental procedures. The launch operators who filed comments included Boeing Commercial Space Company, Lockheed Martin Corporation, McDonnell Douglas Aerospace, and Orbital Sciences Corporation. Reusable launch vehicle operators' views were represented by Kistler Aerospace Corporation, Rotary Rocket Company, and Space Access. Hughes Electronics, Spaceport Florida Authority, and the National Transportation Safety Board also filed comments. The comments focused on several major issues, with the proposed definition of launch eliciting the most attention. Foreign ownership of a license applicant also proved a topic of concern, as did issues surrounding the FAA's proposed risk threshold and various safety requirements. In light of the great variety of topics encompassed by this rulemaking, rather than devoting a single section to all of the comments, the FAA addresses the comments by subject matter throughout the preamble and section by section analysis in the relevant context.

On October 28, 1998, the Commercial Space Act of 1998 was signed into law. Among other things, it revised the definition of launch to include activities "involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States." P.L. 105–303 (1998), 49 U.S.C. 70102(3). The change affects this rulemaking's definition of launch by both confirming the more narrow application proposed in the NPRM and expanding the scope of launch to encompass launch vehicle preparatory activities occurring at any launch site in the United States, even when those activities take place at a launch site from which flight of the launch vehicle does not take place.

Launch License

The amendments to the FAA's launch licensing regulations address the definition of "launch," licensing requirements, including payload determinations and policy reviews, and information required from an applicant proposing to launch a vehicle employing established technology and procedures from a federal launch range. The FAA here changes its interpretation of the definition of "launch" and thus changes the scope of a launch license. Additionally, in contrast to what was originally proposed in the NPRM, which was to define with particularity the beginning of launch for purposes of those taking place from a federal launch range, the FAA will apply its proposed definition of launch to a launch taking place at any launch site located in the United States, whether that launch site is a federal launch range or not. Through this rulemaking the FAA is formalizing its practice of issuing two different types of launch licenses, a launch operator license pursuant to which a licensee may conduct any launches that fall within the broad parameters described in its license, and a launch-specific license, which allows a licensee to conduct only those launches enumerated in the license.

Scope of Launch License and Definition of "Launch"

The Act requires a launch operator to obtain a license for the launch of a launch vehicle. Accordingly, the definition of "launch" controls the scope of a launch license. Greater certainty regarding this definition will allow a licensee to plan better regarding a number of issues. Because the FAA's financial responsibility requirements and eligibility for payment by the United States of excess claims for liability for damages to third parties are coextensive with a licensed launch, knowledge of the scope of a launch license allows a licensee to manage its risks appropriately and to make its own provisions for financial responsibility or insurance coverage in addition to that required under the statute. Through this rulemaking, the FAA defines launch to begin with the arrival of a launch vehicle at a federal launch range or other U.S. launch site.[1] Launch ends, for purposes of ground operations, when the launch vehicle leaves the ground, and, for purposes of flight, after the licensee's last exercise of control over the vehicle. The NPRM had proposed to include within the new definition "[t]he term launch includes the flight of a launch vehicle, and those hazardous pre-flight activities that are closely

[1] As discussed in greater detail in response to comments, the FAA does not define launch to commence with the arrival of a payload at a launch site.

proximate in time to flight and are unique to space flight." That sentence is now omitted as superfluous in light of the application of the launch license period to all U.S. launch sites, regardless of whether the launch site is located on a federal launch range or not. The concepts guided the creation of the definition for this rulemaking, and will still guide the FAA in defining the beginning of launch outside the United States.

In its NPRM, the FAA considered three options to defining launch and the scope of a launch license and, by necessary implication, possible "indemnification" for government property and third party damages arising out of a launch. The FAA noted that its approach of licensing the activities of a launch operator within the gates of a federal launch range, commonly referred to as "gate to gate," had been criticized as too broad. The criticism came from Congress through non-binding report language; however, because Congress would ultimately prove the source of funding for any possible "indemnification," the FAA was concerned that "gate to gate" might eventually mislead industry into inappropriately relying on the government for money that was not available. Congress might deny funding on the grounds that pre-flight preparation did not constitute part of launch under 49 U.S.C. Subtitle IX, ch. 701.[2] Accordingly, the FAA considered two approaches to narrowing its definition of launch. It considered, but rejected, defining launch as commencing with ignition. Instead, it proposed to define launch as commencing with the arrival of a launch vehicle at a federal launch range from which flight would occur. The FAA also proposed in its NPRM to clarify when launch ended. With flight, launch ends when the last action over which a licensee has direct control is performed. As proposed in the NPRM, ground operations would no longer be deemed part of launch when an expendable launch vehicle left the ground. With the changes to the definition brought about by the Commercial Space Act of 1998, the FAA revises the definition to include activities involved in the preparation of a launch vehicle for launch, when those activities take place at a launch site in the United States. The FAA now adopts those changes.

In reaching its final decision regarding its interpretation of launch, the FAA considered a number of factors. The statutory definition provided the first line of inquiry. The FAA also took into account the commenters' desire for a consistent and broad interpretation. Ease of administration played a role as well. In the end, the change in the level of risk proved determinative as to where in the course of preparation for flight the FAA would deem launch to commence.

The FAA received comments on its proposed revisions. Boeing Commercial Space Company (Boeing) voiced its concern with the FAA's proposed definition of launch, opposing the inclusion of ground operations out of concern for the precedent such a definition might establish for launches conducted by Sea Launch, which proposes to launch from the ocean, and in which Boeing participates as a partner. Boeing believes that although some hazardous activities are part of launch preparation, these activities do not "in themselves constitute uniquely hazardous events which should be covered in the scope of a launch license. Such activities should [be] and are regulated by existing hazardous material and operations regulations that are applicable to industry at large." *Boeing* at 1. According to Boeing, the purpose of the Act was to define the scope of launch "so as to cover those operations which directly placed the general public at risk." *Boeing* at 1. Where more innovative launch technologies are employed, such as that contemplated by Sea Launch, Boeing expects that launch will be defined consistently with this purpose.

Hughes Electronics (Hughes) requested that the FAA clarify whether a launch vehicle's payload is part of launch site activities in order for Hughes to determine when the possible indemnification provisions of the Act apply. Hughes proposed that indemnification provisions of the FAA's rules be clarified to apply to a payload and its components, or that a payload be included within the definition of launch vehicle. Hughes asked, in essence, that the FAA define launch, for purposes of including payload activities, to commence with the arrival of a payload at the launch site. Launch would end, under Hughes' proposal, either after a defined period of time or after such time as a launch vehicle could cause a payload accident, whichever came later. Hughes did not elaborate on the implementation of its proposals.

Kistler Aerospace Corporation (Kistler), concerned that the proposed regulations governing expendable launch vehicles (ELVs) might serve as a model for rules governing reusable launch vehicles (RLVs), argued against including ground operations within a launch license. Kistler recommended, instead, that, for a liquid-fueled vehicle, launch be defined to commence with the fueling of a vehicle. In support of this position Kistler first noted that defining launch as commencing with the arrival of a launch vehicle at a federal launch range, may not or should not apply to the launch of an RLV, pointing out that although an "RLV may "arrive" at the launch range initially, it thereafter returns directly and repeatedly to the launch range. Clearly, however, the RLV is not constantly in a "launch" state." *Kistler* at 7. Kistler also argued against the FAA position that pre-flight activities constitute uniquely hazardous activities. "Many of these activities are entirely routine industrial activity and pose no unique hazards." *Kistler* at 7. Kistler maintained that subjecting all these activities to FAA review and prohibiting them without the issuance of a license would constitute an unnecessary and costly regulatory burden. Moreover, if the FAA were to require a license for ground activities, Kistler and its customers would have to sign cross-waivers with its contractor and subcontractors, its customers and the contractors and subcontractors of its customers. This, Kistler maintained, "would distort the normal commercial allocation of risk and legal remedies for fault and, consequently, would increase insurance costs to the licensee." *Kistler* at 7–8.

Kistler recommended, for a liquid fueled vehicle, that launch commence with fueling. This is because fueling is closely proximate in time to flight and may be directly attributable to space flight, unlike other activities, which Kistler characterized as routine industrial activities not directly attributable to space flight. *Kistler* at 8. Kistler did not describe the other "routine industrial" activities. Nor did it describe its basis for distinguishing between routine industrial activities and those that are directly attributable to space flight. Nonetheless, its point of view is interesting, indicating as it does, that there is an insurance market for ground operations, and one apparently affordable to a start up company such as Kistler.

Kistler also advised that it believes that an RLV launch ends with the landing of the RLV, and would include any "proximate consequences" of the landing. *Kistler* at 9. Kistler was silent with respect to what it considers a proximate consequence. Kistler would not include post-launch ground activities within the definition of launch.

[2] Although originally prompted to revisit the scope of launch out of concern for the availability of funding, the FAA's revision derives from its interpretation of the Act as a whole.

Lockheed Martin also filed comments, which included correspondence from Marsh & McLellan, an aviation underwriter. Lockheed Martin stated that it "views with serious reservations the Office's proposed definition of "launch" that would narrow the scope of a license issued by the Office and effectively standardize the treatment of all launch systems from federal ranges, without regard for the[ir] unique attributes * * *." *Lockheed Martin* at 1. Lockheed Martin supported the FAA's proposal to dispense with gate to gate as a means of defining launch, agreeing that it resulted in illogical exclusions. *Lockheed Martin* at 3. It maintained, however, that "vehicle at the gate" achieves the same illogical exclusions of hazardous activities depending on whether they take place before or after a vehicle's major components arrive at a federal launch range. *Lockheed Martin* at 3. Lockheed Martin also believes that the FAA's concerns regarding congressional report language were groundless. *Lockheed Martin* at 3–4.

Lockheed Martin proposed that the FAA adopt an activity test to determine what may be included within the scope of a launch license. *Lockheed Martin* at 6. The FAA should "address hazardous risks associated with a particular launch campaign," presumably on a case-by-case basis for each license it issues. *Lockheed Martin* at 6. Lockheed Martin believed it would be instructive for the FAA, in considering hazardous risks, to consider the Public Law 85–804 [3] indemnification that the Department of Defense contractually offers its contractors. *Lockheed Martin* at 5. It noted that DoD contracts for Atlas, Titan and Delta launch services provide government indemnification for "unusually hazardous risks," which include, in part, the burning, explosion or detonation of propellants, liquid fueled rocket engines or solid fueled rocket motors, or launch vehicles or their components during testing, transporting, launch preparation or launch. *Lockheed Martin* at 5. "Unusually hazardous risks" also include, according to Lockheed Martin's list, the toxic or other unusually hazardous properties of propellants or inert gases, their constituent ingredients, or their degradation products and the flight or surface impact of launch vehicles or components or fragments thereof. *Lockheed Martin* at 5.

[3] P.L. 85–804, 50 U.S.C.A. §§ 1431–1435 (1991 and West Supp. 1997), is effective only during a national emergency. 50 U.S.C. § 1435. It does not define launch.

The former McDonnell Douglas Aerospace filed draft comments with a request for an extension of time. In its draft comments, McDonnell Douglas asked that the FAA continue to employ gate to gate as the scope of a launch license, with certain modifications. Specifically, McDonnell Douglas sought to extend license coverage off of a federal launch range, for activity that "is consistent with standard commercial space industry practice." McDonnell Douglas does not elaborate on what it envisions as consistent with standard commercial space industry practice. The main thrust of its argument appears to be that it favors centralizing questions of liability and insurance within the FAA and removing them as subjects of Air Force launch support agreements.

Orbital Sciences Corporation (Orbital) opposed that portion of the proposed definition of launch that confined a licensed launch to the launch site from which flight would occur. According to Orbital, the FAA's proposed approach was illogical because it meant that identical activities might in some instances be licensed and in others not. Also, the proposed approach would discriminate against modern launch vehicle technologies, so that they would be "penalized by the denial of license coverage." *Orbital* at 2. Orbital, relying on 1997 report language, also argued that the House Science Committee opposed the FAA's narrowing of the definition of launch. See Civilian Space Authorization Act, Fiscal Years 1998 and 1999, H.R. 1275, H. Rep. 65, 51, 105th Cong., 1st Sess. (Apr. 21, 1997).

Orbital proposed that the FAA adopt an activity test to determine what activities might be included in the definition of launch. It recommended that the FAA "identify pre-launch activities generally common to launch systems and cover them for all launch systems if they are sufficiently hazardous and integral to a licensed launch, regardless of where or when they occur." *Orbital* at 4. Orbital provides a list of those of its pre-flight activities it considers hazardous. *Orbital,* Attachment 2.

Space Access, which intends to operate a reusable launch vehicle, also filed comments. Space Access' comments focused on the impact on future developments, such as reusable launch vehicles, of the FAA's proposed definition of launch. Space Access opposed defining launch to encompass a vehicle's entire time at a launch site, and believes that there is no way to consistently and fairly apply the FAA's proposed definition of launch. Space Access noted that the FAA "does not regulate the development, testing, or transportation of solid rocket boosters at a manufacturer's facility, even though this [is a] significant hazardous activity, so it should not license nor should the government offer to indemnify that activity just because it occurs on a Federal Launch Range." *Space Access* at 6. Furthermore, defining a vehicle's "major components" may ultimately prove a burdensome task for the FAA. *Space Access* at 4. Space Access also questioned the FAA's legal authority for its proposed definition, and does not believe that the Act supports the "gate to gate" approach. In support of this, Space Access pointed out that under the Act, as the NPRM also notes, launch does not start with launch services.

After reviewing a number of conceptual approaches, Space Access recommended that the FAA define launch to begin with "an intentional self propelled change in the state of equilibrium of the launch vehicle and any payload toward Earth orbit or outer space [that] continues until the launch vehicle and payload achieve[] a new state of equilibrium or exit[]the Earth's dominant gravitational influence." *Space Access* at 5. By this, Space Access intended "vertical or horizontal takeoff." *Id.* For the end of launch, this would mean that once a vehicle completes its propellant expulsion and no other changes in equilibrium are planned, the launch process is over. *Space Access* at 5. A change in equilibrium to reach other places in earth orbit or outer space would not be part of launch.

The Spaceport Florida Authority (SFA) supported the proposed definition of launch as including those hazardous pre-flight activities that are closely proximate in time to flight and are unique to space flight. *SFA* at 1. SFA also supported the FAA's proposal to define the beginning of launch as commencing with the arrival of a vehicle's major components at a federal range. SFA opposed limiting the scope of a licensed launch to those activities that occur at the federal launch range from which flight would occur because this approach would result in some of the current pre-flight activity of at least two launch companies not being licensed. *SFA* at 2. SFA accordingly viewed this approach as discriminatory. SFA also maintained that the proposal was contrary to the statute, which requires consistency with public health and safety. SFA pointed out that in some situations the FAA would review certain pre-flight activities and in others it would not, thus resulting in no FAA safety oversight and no possibility of indemnification by the federal government. *SFA* at 2. On a separate

note, SFA stated its support for excluding the storage of solid rocket motors from the definition of "launch." *SFA* at 3. SFA notes that such storage is not extremely hazardous and that commercial insurance for storage is available at a reasonable premium.

The FAA considered three possible options in defining "launch" for purposes of developing proposed regulations. The FAA considered codifying its "gate to gate" definition but was concerned that "gate to gate" created a false impression that indemnification would be available for all commercial activities taking place within the confines of a federal range. The FAA also weighed the most narrow approach, which would employ the ordinary definition of "launch" as only those flight activities beginning at "T minus zero (T–0)," or intentional first stage ignition; but the FAA initially determined in its NPRM that this approach failed to provide regulatory oversight of certain hazardous activities and that concerns regarding international competition weighed against this formulation. In light of the 1998 change to the Act, the FAA must reject this narrow definition as inconsistent with the new law. A less expansive approach than "gate to gate," one within the scope of the FAA's mandate, will include within a launch license those activities that are part of a launch as contemplated by the new directive to license activities involved in the preparation of a launch vehicle for launch, when those activities take place at a launch site in the United States. This satisfies the requirements of the statutory change and the wishes of commenters such as Orbital and the Spaceport Florida Authority. Under the approach the FAA now adopts, because of the 1998 changes and because risks change shortly after the launch vehicle or its components enter the gate of a launch site, launch begins, for purposes of licensing, upon the arrival of that vehicle to be prepared for flight at a U.S. launch site.

Vehicle at the Gate

By this rulemaking, the FAA will license as launch those preparatory activities that may be considered part of a launch. As noted in the NPRM, the FAA's licensing authority derives from the Act, which states that a license is required "to launch a launch vehicle." 49 U.S.C. § 70104(a). The word "launch" is commonly understood to mean ignition, lift-off and flight of a launch vehicle, as well as, perhaps only in popular parlance, certain immediately preliminary activities such as countdown and other final steps necessary to effectuate flight. The Act defines "launch" to mean "to place or try to place a launch vehicle or reentry vehicle[4] and any payload from Earth- (A) in a suborbital trajectory; (B) in Earth orbit in outer space; or (C) otherwise in outer space, including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States." 49 U.S.C. § 70102(3).

The recently enacted change to the definition of launch in the Act establishes which pre-flight activities are part of a launch. There are certain pre-flight activities so integral to the launch of a launch vehicle that they should be considered part of the launch itself even though they do not constitute flight. Additionally, there are hazards associated with pre-flight activity that are proximate in time to flight and unique to space flight. Because the changes to the Act dictate that launch include preparation of a launch vehicle and payload for flight, the FAA defines the commencement of launch as the moment at which hazardous activities related to the assembly and ultimate flight of the launch vehicle begin, which, for purposes of consistency and clarity, the FAA deems to be when the major components of a licensee's launch vehicle enter, for purposes of preparing for flight, the gate of a U.S. launch site, whether situated on a federal launch range or not, and regardless of whether flight occurs from there or not.

In its NPRM, the FAA determined that defining "launch" as the arrival of the launch vehicle at the gate of a launch site accorded with the proposals of a number of earlier commenters, who suggested that the FAA define "launch" to begin when hazardous activities start. The FAA is charged by statute with protecting the public, and a definition that recognizes hazards will address concerns regarding public health and safety. Only if an activity is so hazardous as to pose a threat to third parties should regulatory oversight by the FAA be exercised, and "indemnification" to recompense third parties be available. Because shortly after vehicle components arrive, hazardous activities related to the assembly and ultimate flight of the launch vehicle begin, the arrival of the vehicle or its parts is a logical point at which the FAA should ensure that a launch operator is exercising safe practices and is financially responsible for any damage it may cause. These hazardous activities include, but are not limited to, fuel tank wet testing, ordnance installation, spin balancing and the stacking of motors. They are hazardous because they expose third parties and government property to risk of damage or loss. The FAA believes that this test is well within the new licensing authority conferred by the Congress' 1998 revision to the Act. Also it both broadly incorporates the activity test advocated by commenters such as Lockheed Martin and Orbital and accommodates the FAA's need for simplicity in administration. A launch license will encompass hazardous activities without requiring numerous decisions regarding individual hazardous activities on a piecemeal basis.

Moreover, with the expansion of the definition as originally proposed to encompass the ground operations of a launch operator at a commercial launch site not situated on a federal launch range, the advisability of this approach is further evident. The FAA believes that a launch operator contracting with a licensed launch site operator should be the licensee responsible for activities in preparation for flight. To the extent that the government may hope to achieve seamless safety and financial responsibility coverage, the FAA would rather look to a launch operator, who has control and authority over its employees, contractor and subcontractors, including any launch site operator providing services as well as a location from which to launch, for regulatory responsibility. Otherwise, the FAA might have to attempt to apportion responsibility for ground operations between a launch operator and a launch site operator and develop additional criteria for doing so. In this regard, commenters such as Kistler and Space Access should note that were a launch license for ground operations not required a license to operate a launch site might be.

For purposes of ascertaining the start of launch, and particularly with the 1998 addition to the definition of launch, the FAA reviewed the hazardous activities associated with the launch of a launch vehicle to determine when those hazardous activities started. The FAA's experience shows that commercial launch vehicles share a number of hazardous procedures, and that most of those procedures take place once the vehicle is at a launch site in order to minimize hazardous transport and exposure time. The DOT Office of Commercial Space Transportation prepared a study in 1994, available in draft, titled "Prelaunch Hazardous

[4] The Commercial Space Act of 1998 also amends the definition of launch to add "reentry vehicle and any payload from Earth—." Because reentry will be the subject of a separate rulemaking it will not be addressed here.

Operations for the Delta, Atlas, Titan at Cape Canaveral Air Station, Pegasus at Vandenberg Air Force Base, Conestoga at Wallops Flight Facility and Black Brant at White Sands Missile Range." The study analyzed similarities in the risk profiles for pre-flight processing of these vehicles, and compared the pre-flight processing timelines for the various vehicles. The results complement information available in a DOT "Hazard Analysis of Commercial Space Transportation," May 1988. The amount of damage that a vehicle may cause varies from vehicle to vehicle, depending upon such factors as the mass of the vehicle, the number of stages, the presence and number of solid rocket motors, and the type and quantity of propellants. The launch vehicles studied and their pre-flight processing procedures are similar in that each has a similar hazardous potential.

The study showed that even though pre-flight processing procedures and the sequence of those procedures may vary among vehicles, the vehicles studied share such pre-flight processing procedures as solid rocket motor handling and processing, flight termination system or separation ordnance installation and checkout, and fueling. These activities occur at different times for different vehicles. The likelihood of a mishap [5] resulting from these procedures is similar for each vehicle. These procedures constitute hazardous operations that have an identifiable or otherwise quantifiable probability of occurrence (P_o) of a mishap. The probabilities that these operations will result in a mishap are approximately $P_o=10^{-4}$ to 10^{-5} for solid rocket motor handling and processing; $P_o=10^{-5}$ for flight termination system or separation ordnance installation and checkout, and $P_o=10^{-5}$ to 10^{-6} for fueling. "Eastern Launch Site Safety Programs," Louis J. Ullian, Commercial Space Risk and Insurance Symposium, Cocoa Beach, Florida (Oct. 26, 1988). These probabilities are relied upon by launch companies, federal agencies and federal launch ranges for their analyses of hazardous operation risks, and reflect the rigorous safety standards, analysis and review process required at federal launch ranges for hazardous ground operations.

The FAA considers these operations hazardous because their processes may lead to identifiable mishaps and dangerous consequences.[6] Solid rocket motor handling and processing may result in ignition of the propellant, either explosively or otherwise. This may be caused by the unconstrained burning or explosion of a major portion of the propellant if circumstances prevented proper venting of the propellant. Casualties and property damage may result if an installed igniter initiates and causes an engine or solid rocket motor to become fully propulsive, as during flight. Casualties or damage may result from fire, explosion or toxic fumes that may be a by-product of combustion. These events may result in direct damage or casualties as the consequence of blast and debris effects. These events may also lead to secondary effects such as fires, explosions or unintended motor stage flight that may be caused by the direct blast and debris effects.

Flight termination system or separation ordnance installation and checkout may result in lethal or damaging releases of energy. The inadvertent ignition of installed or uninstalled ordnance, including that of the flight termination system and explosive bolts installed on various separation systems could result in explosion and debris. Fueling may result in a range of consequences, including fires, either pool fires or fireballs, or the release of vapor clouds, which may be toxic or which may ignite. These events may occur because of leakage during fueling or spills during an accident. If such a mishap involves toxic propellants, toxic components of the fuels may be released into the atmosphere or spilled on the ground. If a vehicle releases its hazardous materials into the atmosphere, it could expose people at a launch site or in the public at large to those hazards.

As a general rule, hazardous operations begin as soon as, or shortly after, a launch vehicle's major systems arrive at a launch site. The FAA relies on the new 1998 definition to employ a geographic element in defining launch by using entry of a launch vehicle onto a launch site in the United States as part of its definition of "launch." This ensures consistency and clarity of interpretation. Consistency is guaranteed by the fact that regardless of vehicle type, each vehicle will receive the same regulatory coverage within the United States. Although some commenters maintain that launch begins at different points for different vehicles, because the FAA wishes to treat launch operators in an equivalent fashion, the FAA will not define "launch" on the basis of the launch vehicle. Moreover, reliance on a geographic element provides clarity of interpretation even for a launch operator of a new vehicle using different technology. An applicant seeking a license for a new vehicle will know to plan for license coverage at the time its vehicle enters a U.S. launch site.

Some commenters dispute this conclusion, arguing that defining a launch to commence with a vehicle's arrival results in different licensing treatment of different activities. The FAA recognizes this dilemma. It believes, however, that a single test such as a vehicle's arrival will avoid an administrative burden on both the FAA and its licensees. Rather than creating an activity test, as recommended by some, which would result in a series of tests, the FAA will face only questions attendant to a single activity. Many of the questions that will plague determining when a vehicle arrives at a federal launch range" launch vehicles show up in parts, a lot of them would also bedevil any particular hazardous activity related to the preparation of any particular vehicle for flight. Additionally, the FAA considers it outside of its statutory mandate to license pre-flight activities located outside of a launch site in light of the new definition of launch. That definition limits launch to activities taking place at a U.S. launch site. In any event, that commercial operations exist outside of federal launch ranges to manufacture and process vehicle components and payloads indicates to the FAA that the hazards are not so extreme as to stifle the development of facilities and services off of a federal launch range. Additionally, as some of the comments indicate, insurance does appear to be available.

Another aspect of the FAA's definition attempts to capture those activities that constitute preparation for flight. For example, fueling for liquid-fueled vehicles usually takes place not long before flight to minimize the risks attendant to the exposure to a fueled vehicle, and the FAA would consider that activity to be a component of launch under the Act. On the other hand, the FAA does not intend a launch license to encompass components stored at a launch site for a considerable

[5] The term "mishap" means a launch accident, a launch incident, failure to complete a launch as planned, or an unplanned event or series of events resulting in a fatality or serious injury (as defined in 49 CFR § 830.2) or resulting in greater than $25,000.00 worth of damage to a payload, a launch vehicle, a launch support facility or government property located on the launch site.

[6] These findings are based on the DOT Office of Commercial Space Transportation's 1994 review of launch vehicle manufacturers' data, FAA commercial launch baseline assessments, past FAA maximum probable loss determination analyses and Ullian's 1988 presentation at the Commercial Space Risk and Insurance Symposium.

period of time prior to flight. The FAA is aware that the definition of launch may be construed to encompass motor storage as well. However, if motors arrive at a launch site for purposes of storage rather than as part of a launch campaign in preparation for flight, the FAA does not consider that storage part of a launch. SFA's comments support this interpretation.

Orbital questioned one element of the FAA's proposed definition. Orbital disputed that part of the FAA's definition that included within the definition of launch only those activities that take place at the launch site from which flight will occur. Orbital's concern is addressed in the 1998 amendment to the definition of launch. The statutory revision expands launch to include preparatory activities that "take place at a launch site in the United States." 49 U.S.C. 70102(3) (emphasis added). This provision includes preparatory activities at any U.S. launch site. The FAA notes that the revision excludes preparatory activities outside of a U.S. launch site.

Hughes asked for clarification regarding the commencement of launch with respect to payloads. Hughes suggested that launch be defined to commence with the arrival of a payload. Under current conditions, a payload tends to arrive after a launch vehicle, and its integration to a launch vehicle has been included within the definition of launch. The FAA does not consider payload processing absent launch vehicle integration to constitute part of launch or part of a licensee's licensed activities. Although the 1998 amendment appears to provide that preparation of a payload for launch at a U.S. launch site is part of launch, the revision does not require the definition of launch to encompass payload processing at a launch site until the payload is being integrated with a launch vehicle. The revision itself provides for activities involved in the preparation of a launch vehicle or payload for flight to ensure that launch may begin with a launch vehicle's arrival alone at a launch site, regardless of the presence of a payload. Read in the context of existing statutory provisions and requirements, the revised definition does not encompass payload activities that are not otherwise associated with a launch vehicle. The original and still unchanged definition of launch means, in relevant part, the launch of a launch vehicle and any payload. 49 U.S.C. 70102(3). Section 70104 further confirms the inadvisability of commencing launch with the arrival of a payload. Section 70104 requires a license for the launch of a launch vehicle, not for the launch of a payload or for the launch of a launch vehicle and a payload. Moreover, were launch to begin with the arrival of a payload it would constitute unlicensed launch, and a payload operator is not required to obtain a launch license in any event. Additionally, the launch operator, who is the licensee, is not necessarily participating in the payload processing until integration of the payload with the vehicle. For all these reasons, the FAA will not change its definition.

"T Minus Zero (T–0)" or Intentional First Stage Ignition

The FAA also considered defining "launch" as the word is ordinarily understood. This would have limited the scope of a launch license to activities commencing at intentional first stage ignition. Were a launch license to cover only those activities, the launch industry would no longer have been eligible for so-called indemnification for damages arising out of any preparatory activities. The regulatory burden, however, would be correspondingly less. Such a licensee would not, for instance, be required to obtain a license as early in the process as it must for gate to gate, nor would it be required to provide the FAA as much information. Likewise, this approach would have resulted in similar treatment of licensees regardless of the type of vehicle employed or the timing or location of hazardous activities. The FAA carefully weighed this approach, especially in light of those comments advocating a more narrow definition of launch. With the changes brought about by the 1998 revision to the Act, which expands the scope of launch, defining launch as commencing with intentional first stage ignition is no longer an option.

"Gate to Gate"

The FAA's practice of licensing ground operations associated with the conduct of a launch, commonly referred to as "gate to gate," was to license all commercial, launch related activities by a launch operator operating within the gates of a federal range. Through this rulemaking the FAA abandons this approach. Under this view, a launch operator's operations were licensed, even if ignition and flight were not imminent and even if the launch vehicle itself was not present at the range. The 1998 amendment to the definition of launch confirms the FAA's intent to abandon this approach. A launch vehicle must be present for preparatory activities to constitute part of launch.

The "gate to gate" approach constituted an attempt to treat different launch vehicles similarly. Whether a launch vehicle undergoes hazardous integration significantly in advance of flight, as the Delta and Pegasus do, or closer in time as an Atlas does, a license covered the same pre-launch activities: all launch related activities performed by a launch operator within the gates of a federal range. Additionally, "gate to gate" licensing ensured that the FAA required launch operators to demonstrate financial responsibility through the purchase of insurance coverage or other appropriate measures for possible damage arising out of commercial activities to government property. "Gate to gate" licensing received support because of the belief that a launch operator would be indemnified for damage to third parties caused by pre-flight and post-flight ground operations.

The FAA does not define "launch" to encompass all pre-flight activities by a launch operator at a launch site because not all activities are part of the launch of a launch vehicle. A launch operator may be present on the range, and engaged in preparatory activities, but not be working on a launch vehicle or its component parts in preparation for flight. A licensed launch operator may be present at a federal range between launches. The FAA is aware of launch operators who perform construction activities within the gates of a federal range months or years prior to any anticipated flight of a launch vehicle. At that point, the launch operator may or may not be engaged in the type of hazardous activities warranting FAA oversight or indemnification because construction activity, however hazardous, is not part of the process of preparing the vehicle itself for flight.

In support of "gate to gate" licensing it has been suggested that pre-launch licensing authority arises out of the Act's directive to license "operation of a launch site." *See* 49 U.S.C. 70104(a). In the case of a launch taking place from a federal launch range, the launch operator is not, in fact, operating a launch site. The site is operated by the federal range. Moreover, it is the FAA's opinion that a person requires a license to operate a launch site only if offering the site to customers for their launch. Otherwise, activities related to preparation for flight are part of a launch license rather than a license to operate a launch site.

As noted in the NPRM, "gate to gate" evolved out of an industry desire for broad license coverage, and this approach was the FAA's official position with respect to the scope of its licenses. Other government sectors, including NASA, have criticized this

approach as overly broad. Civilian Space Authorization Act, Fiscal Years 1998 and 1999, H. Rep. 65, 51 105th Cong., 1st Sess. (Apr. 21, 1997). In 1995, House Science Committee Report No. 104–233, accompanying H.R. 2043, the NASA Authorization Act for Fiscal Year 1996, noted that members of Congress view with concern this approach to covering all licensee activities within the gates of a federal range, and considered it too broad.[7] Although recognizing that the report language does not carry the force and effect of law, the FAA is concerned that launch operators might be pursuing their pre-launch activities in reliance on an indemnification that must be enacted by Congress and that may or may not be available from Congress. This prompted the FAA in its NPRM to revisit the issue of the scope of a license and, thus, necessarily, of the definition of "launch."

Lockheed Martin questioned the FAA's concern over the possibility that Congress would refuse to vote for indemnification for all of a launch operator's activities at a federal launch range. As stated in the NPRM, while the FAA recognizes that the report language of concern does not have the effect of law, *see, e.g., Public Employees Retirement Systems of Ohio* v. *Betts,* 492 U.S. 158, 168, 109 S. Ct. 2854, 2862 (1989), it nonetheless remains a fact that Congress does play a role in deciding whether to provide "coverage" for damages in excess of the FAA's financial responsibility requirements. In *Betts,* the Court noted that it "has observed on more than one occasion that the interpretation given by one Congress (or a committee or Member thereof) to an earlier statute is of little assistance in discerning the meaning of that statute." *Id.* However, in this funding context, the FAA does not believe that it behooves either the FAA or licensed launch operators to ignore these warnings. That is the source of the FAA's concern. Additionally, the fact that 1997 also produced report language recommending a more narrow definition indicates to the FAA, as it should to industry, that the better course is to rely on a definition grounded in the Act rather than on fluctuating Congressional report language.

End of Launch

The FAA notes that the end of launch may be expressed both in terms of flight activity and ground operations. For purposes of flight, the FAA will continue to define the end of a launch as the point after payload separation when the last action occurs over which a licensee has direct or indirect control over the launch vehicle. For a liquid-fueled stage, that point may be when any remaining fuel is emptied from the upper stage, the vehicle propellant and gas tanks are vented and other stored energy is released. For solid rocket motors, that point may arrive when the upper stage fuel is expended or the stage is inert, and the payload is released. For purposes of ground operations, launch no longer ends with the cessation of supporting ground operations but when the vehicle leaves the surface.

With respect to flight, others apply different definitions to the end of launch. The most recent House Committee Report, H.R. Rep. No. 347, 105th Cong., 1st Sess., 22 (1997), suggests that launch ends when a payload is placed into orbit or in its planned trajectory in outer space. The 45th Space Wing considers a launch complete when all hazardous activities are secured and, for purposes of flight safety, upon orbital insertion. NPRM, 62 FR at 13223. Orbital insertion takes place when a launch vehicle achieves orbital velocity or when its instantaneous impact point leaves the earth. In other words, orbital insertion is achieved when a launch vehicle is moving horizontally to the earth's surface sufficiently fast enough, given its altitude, to counteract the effects of the earth's gravity. The FAA believes that although defining launch to end at orbital insertion may make sense from a federal range "flight termination" perspective, such a definition would halt FAA oversight of certain aspects of launch too soon for safety. For example, damage to other orbiting material may still ensue as the result of activities subsequent to orbital insertion. Absent a licensee taking appropriate measures, risk exists of the possible collision of a launch vehicle or its components with other objects in space. Additionally, dangerous orbital debris might be generated. Accordingly, in the interests of safety, the FAA will retain its current practice of defining the cessation of launch.

With respect to ground operations, the FAA now changes its current practice of including post-flight ground operations for expendable launch vehicles in a launch license and thus as part of launch. Instead, ground operations are no longer part of launch once the vehicle leaves the ground. The FAA considered several options as to when ground operations were no longer considered part of a launch. Under the chosen option, ground operations would not be considered part of launch once the launch vehicle left the ground. Reentry activities aside, it has not been the FAA's experience that post-flight activities involve the same levels of public safety risk as pre-flight handling, integration and fueling of a vehicle. The FAA reviewed another option. Ground operations for launch could end with the end of launch in the context of flight, namely, when the last action occurs over which a licensee has direct or indirect control over the launch vehicle. This alternative would have allowed for at least part of the post-flight ground operations to be covered by the license. The end of launch for purposes of flight is not, however, related to activities on the ground. The FAA is concerned that attempting to create such a connection would be arbitrary and might inappropriately influence a licensee's post-flight ground operation procedures. The third option the FAA considered was to define the end of ground operations for launch as that point at which all personnel may resume operations at the launch pad and related environs. This approach recognized that hazardous operations do occur subsequent to ignition and lift off. These operations include such activities as securing ground propellant and pneumatic systems and inspecting the launch pad to verify that no post-flight hazards exist. With this option, ground operations would no longer have been part of launch when the launch pad and other launch related facilities no longer endangered personnel. Because, however, the hazards associated with ground operations subsequent to lift off are not related to the preparation of the vehicle for flight, the FAA defines the end of launch for purposes of ground operations as the point at which the launch vehicle leaves the ground. This analysis applies to expendable launch vehicles. For the time being, judgment is reserved with respect to reusable launch vehicles.

Formalizing Launch and Launch Operator Licenses

This rulemaking, through section 415.3, codifies the FAA practice of issuing two types of launch licenses, the launch-specific and the launch operator, and amends the duration of a launch operator license from two to five years. In order to enable the FAA to issue a license for a single mission or for multiple missions, the FAA's licensing structure provides for two types of launch licenses, the launch-specific and the launch operator license. A launch specific license authorizes a licensee to conduct a single launch, or a specified

[7] In 1994, a House Space, Science and Technology Committee Report expressed the same sentiments. The report accompanied H.R. 4489, the NASA Authorization Act for Fiscal Year 1995, a bill that was not enacted into law.

number of identical launches, from a single launch site. The launch vehicle for each authorized launch must be the same and launch parameters must present no unique public safety issues or other issues affecting U.S. national interests. The licensee's authorization to conduct launches terminates upon completion of all launches authorized by the license or the expiration date set forth in the license, whichever comes first. A launch operator license authorizes a licensee to conduct launches from a specified launch site, using the same family of launch vehicles, carrying specified classes of payloads, within the range of launch parameters defined by the license.

Initially, the FAA's launch operator license allowed a launch operator to conduct launches authorized by its license for a period of two years. Under the new section 415.3(b), a launch operator license authorizes the conduct of launches for five years from the date of issuance.

The option of issuing a launch operator license, as opposed to requiring a launch-specific license for every launch, provides advantages both to the licensee and to the FAA. Although the application preparation for and review of a launch operator license will be more extensive than for a launch specific license, use of this class of license will ultimately result in cost reductions and efficiency gains for licensees by reducing the number of applications that a company with an active launch schedule must submit, and that the FAA must review. The FAA's increase of the term of a launch operator license from the current practice of two years to five years reflects the FAA's experience with its licensees during the past few years. During that time, the FAA has encountered very few serious safety problems with launch operator licensees.

On the basis of this record, the FAA proposed in the NPRM that a launch operator with a safe launch record should not be required to apply for a new license every two years. The FAA will continue to verify, through compliance monitoring, that a licensee is operating in accordance with the terms and conditions of its license. In this regard, the longer the license term, the more important the role compliance monitoring plays in enabling the FAA to provide safety oversight regarding how a licensee implements its procedures.

The FAA received comments regarding the duration of a launch operator license. Several launch operators supported the proposed increase from two to five years. Boeing at 1; *Lockheed Martin* at 7; *Orbital Sciences* at 6; *Rotary Rocket Company* at 4–5 (while emphasizing its need for a launch operator license for a reusable flight test program); *Space Access* at 6. Kistler Aerospace Corporation requested that the FAA consider issuing launch operator licenses of indefinite duration. *Kistler* at 4. Kistler maintains that the choice of five years is arbitrary and of little utility in regulating a licensee. *Id.* Kistler notes that the proposed regulations vest the FAA with continuing oversight powers, require a licensee to ensure the continuing accuracy of its application representations and allow the FAA to amend the terms and conditions of a license at any time. *Id.* Kistler claims that renewing a license every five years poses an unnecessary burden and creates an uncertainty that adversely affects a licensee's ability to enter into contracts, attract capital and otherwise make long term plans. *Id.*

Although the FAA appreciates the issues raised by Kistler, the FAA will increase the duration of a launch operator license from two to five years as originally proposed rather than creating a license of indefinite duration. This is because an increase in duration from two to five years already place greater reliance on the FAA's compliance monitoring program. A license renewal application has the benefit of compelling the FAA and a licensee to perform a comprehensive review of a licensee's operations. Experience has shown that a renewal process ensures that oversight is performed.

Space Access raises a separate issue, namely the question of how the FAA will determine who is qualified for a launch operator license as opposed to a launch-specific license. Space Access asks what constitutes a safe launch record. To this, the FAA is able to respond with some guidance culled from its past practices. The FAA licensed the first launch of a Pegasus launch vehicle on a launch-specific basis. It is currently contemplating a launch-specific license for Sea Launch's proposed first launch from the Pacific Ocean. Other examples of launch-specific licenses include the first launches of Lockheed Martin's LMLV–1 and 2, EER's Conestoga launch and AMROC's hybrid launch vehicle launch. To date, the FAA has not considered a new launch operator one with a safe launch record. A new launch operator has no record.

Although a launch-specific license might be required for a new vehicle, an established operator may apply for a launch operator license after the first launch, but a newer entity may have a greater showing to make. A first launch may be safe without being successful. A first launch LMLV–1 failure that demonstrated that a safety system worked led to a launch operator license for Lockheed Martin. Historically, launch operators who received launch operator licenses had already demonstrated some level of capability in conducting launches, either by conducting launches for the government or with other launch vehicles.

The FAA policy of considering an applicant for a launch operator license after a safe launch conducted under a launch-specific license has, to date, applied to launches from federal launch ranges. This policy may not always be appropriate under other circumstances. The complexity of the proposed operations, whether a vehicle is reusable and the potential for endangering the public may also play a role in whether the FAA decides a launch operator license is appropriate for subsequent launches.

Space Access also asks whether an overall accident history of approximately ten to fifteen percent is acceptable. The FAA has not made a determination regarding an acceptable mishap rate at this point, and is hesitant to prejudge the question. The answer may turn more on the facts underlying a mishap rather than on a particular rate. The FAA would also like to stress what it defines as a launch accident. By definition, a launch accident is an unplanned event occurring during the flight of a launch vehicle resulting in the known impact of a launch vehicle, its payload or any component thereof outside designated impact limit lines, or a fatality or serious injury to any person who is not associated with the flight, or resulting in damage estimated to exceed $25,000 to property not associated with the flight. This has rarely, if ever, happened in the history of the U.S. space program. Space Access appears to be referring to other mishaps such as mission failures that are not launch accidents. An unsuccessful mission is not necessarily an un-safe flight. In fact, a successful mission may not even be a safe one, as recognized by the FAA's definition of "launch incident," which is an unplanned event occurring during the flight of a launch vehicle, other than a launch accident, involving a malfunction of a flight safety system or failure of the licensee's safety organization, design or operations. Because the FAA is concerned with public safety, a safe launch record is judged based on whether an applicant's launches have placed the public at risk,

not whether the launches have placed payloads in space.

Space Access contends that any launch accident, incident or mishap should result in a license amendment reflecting changes made to prevent a reoccurrence. If circumstances warrant, this may prove a likely result. Space Access also asks whether a launch operator accident that is not covered by an FAA license, that is, perhaps, a government launch, is considered part of a licensee's accident history, and whether an accident would result in a license revocation. An un-licensed launch resulting in a mission failure may certainly raise safety concerns for future licensed launches, but need not necessarily lead to license revocation. When a mishap occurred with McDonnell Douglas' Delta vehicle in January 1997, during a government launch, the FAA did not revoke, suspend or modify McDonnell Douglas' launch operator license. This was because McDonnell Douglas' license specified that it comply with the requirements of the federal launch range from which it was authorized to launch, and the FAA knew that the Air Force would not allow additional Delta launches to take place until the problem was identified and resolved. Space Access' inquiry arises, perhaps, out of contemplating launch activity that is not governed by federal launch range oversight. To avoid prejudging a hypothetical situation, the FAA will not address that situation until confronted with it.

Relationship Between FAA and Federal Government Launch Ranges

The FAA's launch requirements as promulgated through part 415, subpart C, of this rulemaking apply to launches as they currently take place from Department of Defense (DOD) or NASA launch ranges. Public meeting comments strongly supported avoidance of duplication of launch safety oversight for launches that take place from a federal launch range. The rules are consistent with that desire. Although the FAA requires information and analyses not required by federal launch ranges to ensure that all flight safety issues are addressed, and imposes certain additional requirements derived from a National Transportation Safety Board investigation, the FAA will not duplicate the safety assessments performed by federal launch ranges.

Federal launch ranges manage the launch facilities from which the great majority of commercial launches now take place. The federal ranges act, in effect, both as landlords and as providers of launch facilities and services. The ranges require compliance with their safety rules as a condition of using their facilities and services. Because different federal launch ranges confront different safety issues, practices are not always standardized; the Air Force ranges did, however, produce a joint set of documentation requirements and procedures, "Eastern and Western Range Requirements 127–1" (Mar. 1995).[8] In addition to providing for public safety, the federal launch range procedures protect government property and launch capability, and are designed, to some extent, to ensure mission success.

The FAA fully recognizes the comprehensive and responsible safety oversight that DOD and NASA have exercised at their ranges for over forty years. The FAA communicates on an ongoing basis with the federal launch ranges regarding standards and launch activities. The FAA also recognizes the scope of information that a launch operator employing federal range services must submit for approval over a two to three year period in order to conduct launch operations. Therefore, for launches that take place from DOD or NASA launch ranges, the FAA's regulatory program makes maximum use of information provided by an applicant to the federal launch range and of federal launch range analyses and approvals. This means that the FAA relies on the processes of the federal launch range and does not duplicate those safety analyses conducted by a federal launch range.

A federal launch range requires a launch operator to provide data regarding its proposed launch. The range evaluates the data to ascertain whether the launch operator will comply with range requirements. The range also uses the data to prepare range support for the mission. DOD ranges require that a launch operator apply for and obtain specific mandatory approvals from the range in order to conduct certain specified operations. For example, the Air Force's Eastern and Western Range Requirements 127–1 require a launch operator to obtain approvals for hazardous and safety critical procedures before the range will allow those operations to proceed. In the event that a launch operator's proposal does not fully comply with range requirements, a range may issue a deviation or a waiver if the mission objectives of the launch operator could not otherwise be achieved. A range may issue a deviation to allow a launch even when a launch operator's designs or proposed operations do not comply with range requirements. A range may issue a waiver when it is discovered after production that hardware does not satisfy range requirements or when it is discovered that operations do not meet range requirements after operations have begun at a federal range. A range will allow a deviation or grant a waiver only under unique and compelling circumstances, or when the intent of the range requirements is met.

The FAA's baseline assessments[9] of various federal launch ranges found their safety services adequate. The FAA will not require an applicant to demonstrate the adequacy of the range services it proposes to employ if the applicable baseline assessment included those services and if those services remain adequate. Certain showings regarding the applicant's own capabilities are still required. The FAA requires specific information regarding the interface between the safety organizations of a federal launch range and of an applicant. In the event that a service or procedure upon which an applicant proposed to rely was not within the documented experience of the federal launch range that the applicant proposed to utilize, the applicant would have to demonstrate the safety of that particular aspect of its launch. This is also true if a documented range safety service has changed significantly or has experienced a recent failure. In those cases, the burden of demonstrating safety shifts to the applicant.

The revisions also codify FAA guidelines containing National Transportation Safety Board (NTSB) recommendations concerning launch readiness and countdown procedures. The FAA's guidelines implement NTSB recommendations made following an investigation of a commercial launch anomaly occurring during a launch from a federal launch range. These guidelines are designed to ensure that a launch licensee has clear lines of authority and communication during launch, and has specific procedures governing other safety aspects of its launch operations. The NTSB filed comments to the docket stating that the regulations proposed in the NPRM would, if implemented, satisfy the intent of the NTSB's

[8] The latest version of these requirements may be found at http://www.pafb.af.mil/45SW/rangesafety/ewr97.htm. The Air Force up-dates its requirements on an ongoing basis.

[9] "Commercial Launch Baseline Assessment, NASA Goddard Space Flight Center, Wallops Flight," DOT (Oct. 1989); "Commercial Launch Baseline Assessment, U.S. Air Force Western Space and Missile Center," DOT (Jul. 1989); "Commercial Launch Baseline Assessment, U.S. Air Force Eastern Space and Missile Center," DOT (Sept. 1988).

recommendations. Accordingly, the NTSB supports their adoption.

Discussion of Parts Affected by the Rule

Part 401—Organization and Definitions

Section 401.5 contains definitions of significant terms used in the FAA's regulations. Proposed amendments include both changes to existing definitions and the addition of new terms. Certain changes are intended only to reflect changes resulting from the 1994 codification of the Act. Others are editorial.

Deletions

The FAA proposes to remove the terms "Director," "launch activity," "licensee," "mission," and "safety operations." "Director" no longer constitutes a title related to the FAA's Associate Administrator for Commercial Space Transportation and is therefore deleted. "Launch activity" refers to activities licensed by the FAA. The term is overly broad and lacking in specificity. "Licensee" is also deleted as a term whose meaning is self-evident. "Mission" is no longer necessary because the FAA is modifying and renaming the mission review contained in part 415, subpart C. "Safety operations" does not appear in the regulations and the FAA has therefore removed it.

Revisions

Some of the proposed revisions merely reflect the codification of the Act. These include "Act," "launch," "launch vehicle," "payload," and "person." The FAA revises the term "launch," however, not only to reflect the codification of Pub. L. 98–575 and the Commercial Space Act of 1998, but to clarify that launch, for purposes of licensing, includes the flight of a launch vehicle and preflight activities commencing with the arrival of a launch vehicle at a U.S. launch site as discussed earlier.

As noted in the NPRM, the FAA proposed to change the definition of "launch vehicle" to reflect the changes made to the Act when it was codified in 1994. This rulemaking implements that change. Space Access provides an interesting analysis of one of the constituent parts of a launch concerning an element that the NPRM did not address in detail, namely, that vehicle stages are part of launch. "Space Access believes anything that does not achieve orbit should be considered as part of launch, just like multiple stage boosters are today." *Space Access* at 5. Space Access points out that if the FAA's intent is to cover the hazardous elements of launch, "the return of any boosters is pertinent." *Id.* at 5–6. For these reasons, the FAA's proposed definition of launch vehicle should clearly encompass "all physically connected parts used to propel or to otherwise place [a] launch vehicle and any payload into an Earth orbit or otherwise in outer space." *Id.* at 5. Space Access believes that its proposed definition would clearly encompass first stage boosters that fall back to earth and a carrier aircraft such as is used to launch a Pegasus. *Id.*

Under the Act, launch vehicle means "(A) a vehicle built to operate in, or place a payload in, outer space; and (B) a suborbital rocket." 49 U.S.C. § 70102(7). Congress chose this definition, and the FAA designed the new regulatory definition to match the congressional choice. Space Access fears that the definition could imply that only the parts of a launch vehicle that reach outer space are part of a launch vehicle, thus excluding both the carrier aircraft for an air launch and any vehicle stages that fall back to earth. *Space Access* at 5. The definition does not preclude the inclusion of carrier aircraft or vehicle stages as part of the definition of launch vehicle. The FAA agrees with Space Access that vehicle stages are included within the definition of a launch vehicle. It should be noted that because the definition includes a vehicle that either operates in or places a payload in outer space, the definition includes the entire vehicle necessary to accomplish that objective. This necessarily includes the first and intermediate stages of a launch vehicle. Therefore, the FAA will not change what it proposed as the new definition of "launch vehicle" with the exception that it will change "and" to "or" to clarify that a suborbital rocket is also a launch vehicle.

Additions

New terms include "Associate Administrator," "federal launch range," "hazardous materials," "launch accident," "launch incident," "launch operator," "launch site," and "mishap." Although the NPRM proposed "Office," that term is no longer included.

"Associate Administrator" reflects a change in title of the person in charge of Commercial Space Transportation within the FAA and arises out of the transfer of the Office of Commercial Space Transportation from the Office of the Secretary, DOT, to the Federal Aviation Administration. The term describes the FAA's Associate Administrator for Commercial Space Transportation.

"Federal launch range" means a launch site from which launches take place that is owned and operated by the government of the United States. Federal launch ranges include Cape Canaveral Air Station, Vandenberg Air Force Base, White Sands Missile Range and Wallops Flight Facility. In its comments, Kistler Aerospace Corporation recommended that the FAA clarify that only these four facilities constitute federal launch ranges. The FAA is not prepared to do this, but will reach a separate accommodation. The FAA agrees that the definition of a federal launch range should only encompass those federal launch facilities where the government facilities, services and organization routinely support launch activities. The four listed above, however, are not the only current ones, and others could emerge in the future.

The FAA assumes that Kistler's interest in this topic arises out of its proposed launch plans for the Nevada Test Site, which is not currently a federal launch range. The Nevada Test Site should not, in its current operational status, be considered a federal launch range because the U.S. government does not routinely oversee the launch of launch vehicles from the site. Although it is true that the U.S. government has conducted launches from the site, this does not mean that the Nevada Test Site is a federal launch range for purposes of this rule because the activities that have occurred there are not routine. No staff is dedicated to routinely supporting launch activity, and the FAA is not aware of any permanent launch infrastructure at the site. Nor is the Nevada Test Site a member of the Range Commander's Council. Accordingly, the FAA here clarifies its definition by adding "routinely."

"Hazardous materials" mean hazardous materials as defined in 49 CFR § 172.101.

"Launch accident," "launch incident," and "mishap" all address related issues. The term "mishap" is a general term for all unplanned events at a launch site or during a launch resulting in injury, occupational illness, or damage to or loss of equipment or property. Mishaps include but are not limited to launch accidents and launch incidents. Launch accidents and launch incidents are types of "mishaps." "Launch accident" and "launch incident" derive from the FAA's current definition of "accident" and "incident" as the terms appear in the FAA's accident investigation plan. Both terms encompass unplanned events occurring during flight. "Launch accident" is

defined by the seriousness of the results, and "launch incident" focuses on the failure of a safety system or process that may or may not have caused serious harm. Special reporting and investigation requirements attach if a launch accident or incident occurs. "Accident" is also defined in a Memorandum of Understanding with the National Transportation Safety Board (NTSB). A launch accident will entail NTSB involvement. A "launch incident" may or may not involve the NTSB, depending on the seriousness of the safety issues involved. Other mishaps, such as a mission failure, have fewer reporting and investigation requirements.

Orbital raised a concern regarding the reporting requirements for a mishap. *Orbital* at 5. It noted that, if read literally, section 415.41 would require FAA notification every time a piece of the licensee's own equipment was damaged. The FAA does not require this and now amends its definition of mishap from that originally proposed in the NPRM to include only a launch accident, a launch incident, failure to complete a launch as planned, or an unplanned event resulting in fatal or serious injury or greater than $25,000 damage to a payload, a launch vehicle, a launch support facility, or government property located at the launch site. The notification requirement has also been modified for mishaps other than launch accidents and launch incidents. For a mishap that is not a launch accident or launch incident, or one that does not involve a fatality, a licensee must notify the FAA within 24 hours of the event. Such mishaps may involve insurance claims or may uncover flaws in a licensee's safety procedures.

"Launch operator" is defined as a person who launches or plans to launch a launch vehicle and any payload.

The definition of "launch site" reflects changes resulting from the codification of the Act and a subsequent revision. The definition of "launch site" in the original Commercial Space Launch Act includes "facilities located on a launch site which are necessary to conduct a launch." 49 U.S.C. App. 2603(5) (emphasis added). As noted in the NPRM, the codified definition of "launch site" merely included "necessary facilities" with no mention of their location. Now, Congress has remedied that oversight, and the definition of "launch site" means the location on Earth from which a launch takes place and necessary facilities *at that location*. 49 U.S.C. 70102(6) (emphasis added). The FAA correctly proposed to include only those facilities located at the launch site. In order, however, to reflect accurately the new language of the codified statute, the FAA's definition of launch site will not, as proposed in the NPRM, include "necessary facilities located at the site," but "necessary facilities at that location."

The FAA will not include the term Office in its definitions as originally proposed in the NPRM. There is greater familiarity with the term "FAA" and the agency believes that its use will result in less confusion.

Part 411—Policy

The FAA deletes as unnecessary and reserves part 411, which establishes the policies of the FAA for licensing commercial launch activities. This part identified how the FAA addressed safety and mission reviews, which, pursuant to this rulemaking, are addressed in parts 413, 415 and 417.

Part 413—License Application Procedures

Part 413 continues to describe those license application procedures applicable to all license applications. As explained by section 413.1, which clarifies the former section of the same number, the procedures apply to any application for a license to launch a launch vehicle or to operate a launch site. These procedures should also be used by a payload owner or operator requesting a payload review. More specific requirements applicable to obtaining a launch license or a license to operate a launch site are set forth in parts 415 and 417, respectively. The majority of the revisions to this part are editorial or self-explanatory. A few bear individual mention.

Section 413.3, which renumbers the former section 415.3 and amends the provision by including operation of a launch site, identifies who must obtain a license to launch a launch vehicle or to operate a launch site. Any person proposing to launch a launch vehicle or to operate a launch site within the United States must obtain a license authorizing the launch or the operation of the launch site. 49 U.S.C. § 70104(a)(1). A U.S. citizen or entity proposing to launch outside the United States or to operate a launch site outside of the United States must obtain a license authorizing the launch or the operation of the launch site. 49 U.S.C. § 70104(a)(2). A foreign corporation, partnership, joint venture, association or other foreign entity controlled by a U.S. citizen and proposing to launch from, or to operate a launch site within, international territory or waters must obtain a license if the United States does not have an agreement with a foreign nation providing that the foreign nation shall exercise jurisdiction. 49 U.S.C. § 70104(a)(3). A foreign corporation, partnership, joint venture, association or other foreign entity controlled by a U.S. citizen does not require an FAA license to launch from foreign territory, unless that foreign nation has agreed that the United States shall exercise jurisdiction over the launch. 49 U.S.C. § 70104(a)(4).

Section 413.5, which renumbers and amends the former section 413.3, requires a prospective applicant to consult with the FAA prior to submitting an application. Pre-application consultation is now mandatory in order to allow both an applicant and the FAA the opportunity to identify potential issues relevant to the FAA's licensing determination. Pre-application consultation does not possess a formal structure or timetable. Nor does it require personal meetings. For many proposals consultations may be made by telephone, electronic mail or other means.

Pre-application consultation is intended to provide an efficient and effective process leading to the development of a substantially complete application. It should also ensure that an applicant is aware of the responsibilities of a licensee. Pre-application consultation allows a prospective applicant to familiarize the FAA with its proposal and the FAA to familiarize the prospective applicant with the licensing process. It has been the FAA's experience that pre-application consultation helps speed the overall licensing process by ensuring that any unique safety issues are uncovered early. It also avoids potentially wasted efforts by a prospective applicant in preparation of an application. For new launch concepts, the pre-application process allows a prospective applicant and the FAA's Commercial Space Transportation Licensing and Safety Division to identify the most efficient process for the applicant to demonstrate the safety of any proposed launch. Experience shows that this often is best carried out through a series of meetings, and other interchanges, each focusing on different issues. The schedule and order of such discussions is nearly always driven by a prospective applicant's concept, issues and schedule. In all cases, the FAA encourages the proposed applicant to submit, as part of the process, application material in draft, and the FAA will review and provide feedback on the content.

Although the FAA will answer general questions regarding the licensing process at any time, the pre-

application process is best begun when a prospective applicant is ready to discuss specific application requirements or to begin preparation of an application. At this time, the Licensing and Safety Division will assign a primary staff engineer who will be responsible for working with the prospective applicant. Typically, a second engineer is also assigned to track the project and to be available should the primary engineer not be available. Other support staff may also be assigned to help in specialized areas such as environmental reviews.

Section 413.7, which renumbers and amends the former section 413.5, contains a change in the name of the entity regulating commercial space transportation. Effective November 15, 1995, the DOT Office of Commercial Space Transportation became a part of the Federal Aviation Administration, where it now operates as the FAA's seventh line of business. With that move, the name was changed from the Office of Commercial Space Transportation to that of the Associate Administrator for Commercial Space Transportation. Section 413.7(a), which directs an applicant where to file an application, reflects that change, as well as the new address. Section 413.7(b)(2) requires an applicant to provide the FAA with one or more points of contact to receive notices from the FAA.

Section 413.9, which renumbers the former section 413.7, describes how an applicant may request confidential treatment for trade secrets or proprietary commercial or financial data. The treatment of confidential information is governed by applicable law, including the Freedom of Information Act.

Section 413.11, amending former section 413.9, describes the process by which an application is accepted or rejected. Section 413.11(a) provides for an initial screening of an application in order for the FAA to determine whether the application is sufficiently complete to allow the FAA to initiate the required reviews. The Act requires the FAA to complete its evaluation of an application within 180 days. The FAA determines when an application is sufficiently complete for the 180 days review period to commence and how those 180 days will be measured. If the FAA receives an application that fails to provide sufficient information for the FAA to commence a meaningful review, then a review cannot be performed. The FAA returns applications that are not substantially complete, noting the areas of deficiency. Accordingly, the 180-day review period will start to run only upon receipt of an acceptable application.

The FAA considered the option of not commencing any review of an application and thus of not starting to count the 180-day statutory time limit until the application was complete in order to ensure that the FAA did not receive piecemeal applications. The FAA also considered rejecting or denying an incomplete application, which would also prevent the 180-day review period from commencing. Instead, the FAA determined that if an applicant presented sufficient material to allow at least some meaningful review to commence, the FAA would do so in the interests of the applicant. Commencing the review of even an incomplete application should allow for earlier identification of required information not addressed, hasten the process and increase efficiency.

In order for the FAA to review an application, however, the application must be sufficiently complete to allow review to commence. Accordingly, under section 413.13, the FAA's acceptance of an application does not constitute a determination that the application is complete. That section now contains an additional provision that was not explicit in the NPRM. The new provision clarifies that the FAA may ask for additional information in the course of the licensing process. It states that if, in addition to the information required by the applicable parts of this chapter, the FAA requires other information necessary for a determination that public health and safety, safety of property and national security and foreign policy interests of the United States are protected during the conduct of a licensed activity, an applicant shall submit the additional information required to show compliance with this chapter. The FAA anticipates that there will be situations where an applicant's proposal contemplates activities, vehicle configurations or technologies not envisioned in the course of this rulemaking. In that case, it is necessary for the regulations to reflect clearly the FAA's authority to request additional information prior to issuing a license.

Although review of an incomplete application may commence, section 413.13 requires an applicant to complete an incomplete application, and section 413.15 allows for tolling in the event an applicant does not submit the remaining material in sufficient time to avoid affecting the evaluation process. Section 413.15, a new provision, tolls, or stops the clock of, the review period of 180 days when an applicant fails to provide information required for the FAA to complete its review. Although the FAA will commence its application review once it receives a substantially complete application, the fact that an application is only substantially complete means that more information may be required before the application is entirely complete. If an application does not address requests for required information in sufficient detail, or if the application contains inconsistencies, the FAA will advise the applicant and provide a time by which the requested information must be provided. Once the deadline has passed, and while the FAA waits for any information necessary to complete its review, the 180-day time limit on the FAA does not run. The FAA considered the option of denying a license and returning the application for resubmission if the requested information were not submitted within the time provided. Because of the new submission of the application, a new 180-day review period would commence. This course would provide the applicant a strong incentive to respond to the FAA's information request in a timely fashion, and, perhaps, result in the processing of only those applications where the applicant possesses the actual capacity to respond. This would discourage frivolous applications. The FAA determined, however, that most applicants, provided with information regarding how soon the FAA would require information necessary to complete a review, would respond in the time allotted. Thus, so extreme an incentive would not be required. However, it has been the FAA's experience that applicants do not always respond in a timely fashion to requests from the FAA for clarification or additional information. Accordingly, some incentive to respond promptly is necessary, and in the event an applicant fails to respond within the time provided, the FAA will toll the 180-day statutory review period.

Both Orbital and Rotary Rocket objected to this provision. *Oribital* at 5; *Rotary Rocket* at 5. Neither, however, proposed a different solution for addressing the problem of an applicant not supplying requested information in a timely fashion. For the reasons discussed above, the FAA adopts the tolling provision.

Section 413.17, which renumbers and amends former section 413.19, describes an applicant's responsibility for the continuing accuracy and completeness of the information contained in the applicant's license application. Orbital objects to requiring that an applicant update its application any time it is no longer accurate and complete in all respects, and recommends retaining the

language of former section 413.19. *Orbital* at 6. The FAA agrees that it need not be advised of any and all changes, and will therefore incorporate a materiality standard. An applicant should note, however, that the FAA considers a great majority of the information required for an application to be material. Otherwise, the FAA would not require that information. An applicant must advise the FAA in a timely manner of any proposed material change in any representation contained in its application, including, without being limited to, its launch plans or operations, launch procedures, classes of payloads, orbital destinations, safety requirements, the type of launch vehicle, flight path, launch site, and launch point, or any safety related system, policy, procedure, requirement, criteria or standard, related to commercial space launch or launch site operation activities, that may affect public health and safety, the safety of property, including government property, or hazards to the environment. Because the FAA proposes to rely upon federal launch ranges for launches from those sites, an applicant must also notify the FAA in a timely manner in the event the applicant applies to the federal range for a waiver to, or deviates from the federal range's safety requirements or procedures.

Changes to an application may lengthen the time that the FAA requires to complete its reviews in support of a license determination. The FAA will reserve to itself the right to toll the 180-day review period in the event that any amendment to an application so radically changes the applicant's proposal that the change, in effect, constitutes a new application. The FAA's experience, however, has been that most amendments, while important, have a relatively minor impact on the processing time, particularly if those amendments are submitted in a timely manner.

Section 413.19 addresses issuance of a license.

Section 413.21 contains the procedures employed by the FAA when it denies an applicant a license, and describes the recourse available to that applicant. An applicant may attempt to correct the deficiencies that resulted in the denial of its application and request reconsideration of its application, or it may request a hearing to show why the application should not be denied.

Section 413.23 allows a licensee to apply for renewal of an expiring license. A licensee seeking authorization to conduct activities that are substantially different from those authorized under the expiring license is not eligible for renewal of the license and must apply for a new license.

Part 415—Launch License

Part 415 establishes requirements applicable to obtaining a license to launch a launch vehicle and establishes post-licensing requirements. The provisions of this part apply to prospective and licensed launch operators and to prospective payload owners and operators, and should be read in conjunction with the general application requirements of part 413. This part replaces and amends the former part 415. A flow chart of the launch license application process is provided in Figure 1.

Subpart A describes the scope and types of launch licenses, required approvals or determinations, and procedures governing issuance or transfer of a launch license. Like the former section 415.1, the new section 415.1 explains that part 415 prescribes requirements for obtaining a launch license and adds that it prescribes post-licensing requirements. Section 415.3, a new provision arising out of this rulemaking, addresses the types of launch licenses issued, as discussed previously.

Sections 415.5 and 415.7 identify the approvals and determinations required to qualify for a launch license. These sections require a license applicant to obtain policy and safety approvals from the FAA. Section 415.7 constitutes an administrative change, although the FAA has conducted payload reviews in the past. This provision requires an applicant to obtain a payload determination unless the payload is otherwise exempt from FAA consideration. The owner or operator of the proposed payload may also apply for a payload determination. Only a launch license applicant may apply for safety and policy approvals, and, as with former section 415.5, may apply for either approval separately and in advance of submitting a complete license application. An applicant applying for a separate approval should note, however, that some of the information described as required for one approval may be necessary for a different approval. In order to avoid duplication, the FAA is requesting only once material that is relevant to more than one review. For example the information required by section 415.25 is germane to an FAA safety review although it is also pertinent to a policy review.

In addition to the approvals and determinations that the FAA requires of an applicant for a launch license, an applicant should bear in mind that the National Environmental Policy Act (NEPA) requires the FAA, prior to considering a license application, to perform environmental reviews of major federal actions such as issuing a launch license. Accordingly, if a proposed launch vehicle is not otherwise already encompassed by a 1986 Programmatic Environmental Assessment of Commercial Expendable Launch Vehicle Programs, then NEPA may direct the FAA to perform an additional environmental review. No other approvals or determinations are required from the FAA in order for an applicant to obtain a license for launch of a launch vehicle.

This subpart also contains new provisions for issuance and transfer of a launch license. Once an applicant has obtained all required approvals, the FAA will issue a launch license under section 415.9.

Section 415.11, a new provision, allows the FAA to modify a launch license at any time by modifying or adding terms and conditions to the license to ensure compliance with the Act and regulations. Although standard license terms and conditions, contained in subpart E, apply to all licensees, it is the experience of the FAA that a particular licensee's launch may present unique circumstances which apply only to that licensee. In that event, the FAA may issue or modify a license with terms and conditions not identified in subpart E to protect public health and safety, safety of property, U.S. national security and foreign policy interests, or international obligations of the United States. A licensee may also initiate license modification.[10]

Under section 415.13, a new provision, only the FAA may transfer a license, and only upon application by the transferee. The prospective transferee must satisfy all requirements for obtaining a license as specified in parts 413 and 415.

Subpart B describes the requirements for a policy review. To date a policy review has been known as a mission review under former sections 415.21–415.25. Because the FAA now separates a payload determination from any mission review, it is changing the name of the review to policy review to more accurately identify its purpose. Under sections 415.21 and 415.23, a policy

[10] Should a licensee wish to protest an FAA modification of its license, it is entitled to a hearing pursuant to section 406.1(a)(3) of part 406. In the event safety requires that additional terms and conditions be applied to all licensees, the FAA would revise subpart E by rulemaking to implement any such standardized terms. As provided in part 415, a licensee may request modification of its license to reflect changes in its proposed launches.

review addresses whether some aspect of a proposed launch presents any issues affecting U.S. national security or foreign policy interests or is inconsistent with international obligations of the United States. Specific launch safety issues will be addressed only in a safety review although the FAA will address payload safety issues in the course of a payload determination. Only a launch license applicant may request a policy approval. An applicant must provide the information required by subpart B so that the FAA may review those aspects of an applicant's launch proposal that are not related to safety. The FAA coordinates this review with other government agencies, including the Departments of Defense, State, and Commerce, the National Aeronautics and Space Administration and the Federal Communications Commission. Space Access questioned the inclusion of NASA in the policy review. *Space Access* at 12. Space Access states that NASA does not determine U.S. national security, foreign policy or questions of international obligations. *Id.* The FAA's experience has been that NASA, as the primary civilian government launch operator, often offers insights of value with respect to issues of concern. The FAA plans to continue to consult with NASA for a number of reasons. NASA has a long history of launching expendable launch vehicles, and currently operates the Space Shuttle. NASA also operates a federal launch range . NASA procures launch services from the private sector for a wide range of satellites and space probes. Also, NASA has programs and assets that it may wish to bring to the FAA's attention in the context of a particular launch. Accordingly, NASA will remain one of the agencies regularly consulted regarding any launch license application.

An applicant may choose to submit an application for policy review separately from its license application, or, as do most applicants, it may submit a complete license application. The FAA will allow separate submission of a request for a policy review because of the possibility that an applicant might be uncertain about policy issues surrounding its proposal, and might wish to allay concerns over reactions to any proposed launch. An applicant might then request only a policy review prior to undertaking the additional effort necessary to prepare a complete license application. Past experience indicates that the FAA accomplishes these reviews relatively quickly in comparison with a safety review.

Section 415.25, a new provision, describes the information an applicant must provide to obtain a policy approval. As described in the NPRM, the information required reflects current FAA information requests. The FAA requires this information in order to inform it and other agencies of what is being launched, by whom, for what purpose, and where a vehicle and its payload are going. The State Department, for example, may identify overflight issues regarding particular countries.

Accordingly, the FAA requires that an applicant supply sufficient information to describe a proposed launch vehicle and its mission. The information requested by paragraph 415.25(b) is required in the event there are any policy issues surrounding the launch vehicle itself. The FAA requires a brief description of the launch vehicle, including the propellants used and the vehicle's major systems, such as its structural, pneumatic, propulsion, electrical or avionics systems. Policy questions may arise, for example, over the use of nuclear power, or the Department of Defense may have concerns over the allocation of resources to a commercial launch if a sole source manufacturer is involved.

The information requested by paragraph 415.25(c)(2), that an applicant identify any foreign ownership interests of 10% or more means that an applicant must identify any foreign owner possessing a ten percent or greater interest in a license applicant. This provision is intended to provide the FAA and the Departments of State and Defense the identities of foreign interests involved in a licensed launch. The Departments of State and Defense have interests in foreign involvement in the U.S. launch industry, including, for example, issues surrounding technology transfer and national security. The FAA believes that a ten percent ownership interest is sufficiently high for a foreign owner to be able to influence a prospective licensee. The FAA is aware that a publicly traded corporation will not always know the identity of each of its smaller shareholders. However, such an applicant should be aware of any shareholders possessing that significant an interest in the corporation. Reporting requirements of the Securities and Exchange Commission and the Department of Defense are often triggered by an ownership interest of ten percent or even less, and the FAA believes that this constitutes a reasonable threshold.

Through the comment process, Kistler Aerospace Corporation and Lockheed Martin Corporation requested that the FAA not require an applicant to identify its foreign ownership interests. *Kistler at* 10; *Lockheed Martin* at 7. Kistler recommended that the FAA require, instead, a statement from the applicant that it is in compliance with all federal requirements governing foreign ownership in certain sensitive industries under 50 U.S.C. §§ 1701 et seq. and 31 CFR Part 800. Kistler notes that the Treasury Department examines and passes upon foreign involvement in sensitive industries such as the launch industry. Thus, according to Kistler, the FAA's information requirements concerning foreign ownership would be duplicative. Lockheed Martin maintains that the FAA offers an insufficient explanation regarding the purposes of obtaining the information.

The statutory and regulatory provisions upon which Kistler relies for its argument do address certain elements of foreign ownership, but address a more narrow area of concern than identified in the Act. The provisions of 50 U.S.C. ch. 35—International Emergency Economic Powers, §§ 1701–1706, apply to the President's exercise of authority in a national emergency. The FAA, on the other hand, may apply the information on a more routine basis, and for its own purposes. For example, the FAA has occasion, as with Sea Launch, to determine whether a U.S. citizen controls a license applicant for purposes of ascertaining whether the launch operator requires a license. Nor do the regulations Kistler cites address all forms of foreign ownership. On its face, part 800 only applies to mergers, acquisitions and takeovers by foreign persons. 31 CFR Part 800. There are transactions that are not acquisitions under part 800. *See* 31 CFR § 800.302 and examples provided. In light of the fact that not all foreign ownership receives scrutiny under part 800, the FAA finds that its information requirements concerning foreign ownership will not duplicate those of the Treasury. The FAA also takes note of the fact that part 800 does not alter or affect any other reviews. Accordingly, because the FAA itself may require the information regarding foreign ownership in order to determine whether a U.S. citizen exercises control over an applicant, because the Departments of State and Defense have interests in foreign ownership issues, and because the Treasury regulations do not address all forms of foreign ownership, the FAA adopts paragraph 415.25(c)(2) as proposed.

Section 415.25(d)(2) requires an applicant to identify proposed vehicle flight profiles. Space Access maintains

that compliance may be difficult when planning large numbers of launches. To date, it has been the experience of the FAA that compliance is possible. An applicant may satisfy this requirement by providing a range of proposed flight azimuths, trajectories, ground tracks, and instantaneous impact points. Launch frequency should not affect an accurately identified range of flight profiles. In any event, this same information is also used by the FAA in its safety review and is critical to assessing public risk.

Section 415.25(d)(3) requires information regarding the sequence of major launch events during flight. In this regard, the FAA expects to be informed of events such as approximate engine burn times of all stages, stage separation events, pitch and yaw maneuvers and engine cutoff. An applicant may provide this information through a text explanation or through diagrams and charts.

Section 415.25(d)(4) requests a description of the range of nominal impact areas for all spent motors and other discarded mission hardware. The area identified for each impacting component shall include that area within three standard deviations of the nominal impact point, a calculation otherwise known as a 3-sigma footprint.

Section 415.27 contains procedures employed by the FAA when it denies an applicant a policy approval and describes the recourse available to that applicant. If an applicant fails to obtain a policy approval, the applicant may attempt to correct the deficiencies which resulted in the denial and request reconsideration of the denial, or, upon denial of a license, it may request a hearing. The final version of this provision differs slightly from what the NPRM proposed. The NPRM stated that an applicant who was denied a policy approval could reapply. In order to avoid confusion, the provision now permits an applicant to request the FAA's reconsideration of its denial. This makes clear that the FAA need only reconsider an issue once rather than an unlimited number of times. The particular issue in controversy may serve as one of the reasons for requesting a hearing before an administrative law judge after denial of a license.

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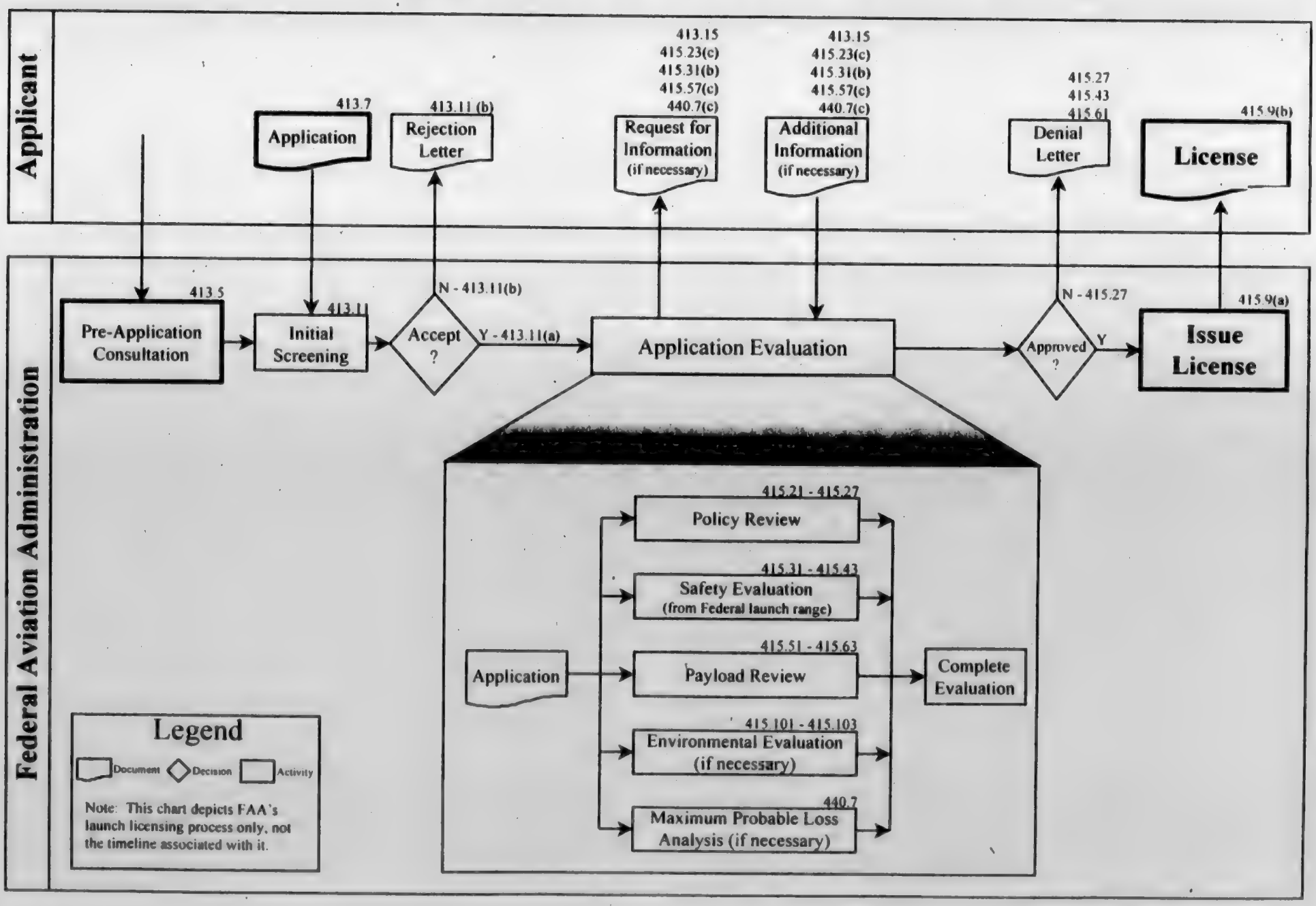
Figure 1. FAA Launch License Process



Subpart C addresses the FAA's safety evaluation process for license applications for launch from a federal launch range. This subpart is new and replaces the former subpart B—Safety Review, 14 CFR 415.11–415.17. Because of the history and safety record of the federal launch ranges, and because the FAA's baseline assessments provide a written record of the federal launch range's experience relevant to commercial space transportation, the FAA accepts that a federal launch range will perform its safety role. Accordingly, the FAA's information requirements are directed more toward an applicant's own safety capabilities and its integration with a federal launch range's safety organization. The FAA requires information regarding an applicant's safety organization, vehicle design and operational safety practices. This subpart includes standards regarding acceptable flight risk and requires an applicant to submit procedures and plans that demonstrate that it will satisfy certain other safety requirements if it obtains a license.

The FAA recognizes that federal launch ranges provide a number of safety services for launch operators, and that these sites have an historically good record of safety. Section 415.31 explains that the FAA will issue a license to an applicant proposing to launch from a federal launch range if the applicant satisfies the requirements of subpart C and has contracted with the federal launch range for the range to provide launch services and property, as long as the safety related launch services and proposed use of property are within the experience of the federal launch range. All other safety services and property associated with an applicant's proposal are evaluated on an individual, case by case basis.

The FAA has assessed the four federal launch ranges which provide launch services and facilities. The federal ranges assessed include Cape Canaveral Air Station, Vandenberg Air Force Base, Wallops Flight Facility and White Sands Missile Range. The FAA does not duplicate federal launch range analyses or routinely review those analyses during the launch safety review conducted by the FAA. Instead, the FAA relies on its knowledge of the range processes as documented in the FAA's baseline assessments. The FAA's assessments provide a basis for the FAA's reliance on the adequacy of the services provided by each of the federal launch ranges. Some safety issues, however, may not be adequately addressed by a federal launch range. The failure of federal launch range safety systems or procedures may, for example, affect the FAA's ability to rely on a federal launch range. The FAA may ascertain this during the course of a pre-application consultation or once an applicant submits its application, or through its communications regarding launch activities with the federal ranges. The FAA may then require the applicant to demonstrate safety with respect to those specific areas of concern on an individual or case by case basis. In addition to requiring a showing of safety from the applicant, the FAA will also work with the federal launch range to address the issue, and will update the FAA's baseline assessment as appropriate.

The FAA also makes maximum use of the information an applicant must provide a federal launch range. The applicant, to save paperwork, may submit to the FAA either entire, or appropriate sections of, documents it prepares and submits to a federal launch range that are relevant to the applicant's launch application. It has been the FAA's experience that because information requested by federal launch ranges provides greater detail than the FAA requires, the FAA's requirements may be satisfied by this material.

Section 415.33 requires an applicant to document its safety organization. An applicant must possess a functioning safety organization because an applicant cannot ensure safety without someone designated as responsible for safety issues. The FAA will evaluate whether the structure, lines of communication, and approval authority an applicant establishes will enable the applicant to identify and address safety issues and to ensure compliance with the requirements of range safety and the FAA's regulations. How a federal launch range's safety services are integrated with the licensee is also relevant. The FAA expects that for launches from federal launch ranges an applicant will structure its safety organization to ensure compliance with federal launch range requirements, such as, for example, Eastern and Western Range Regulation 127–1 for Air Force launch ranges. The FAA believes that charts are the most efficient way to depict much of the required information, and encourages applicants to include one or more, as appropriate, organizational charts that will delineate the lines of communication and the internal decision making process. The lines of communication must depict the lines of communication within the applicant's organizational structure, and between the applicant and any federal launch range providing launch services. In providing this information, the applicant should include those services of the federal launch range upon which the applicant proposes to rely, and those of any other organization providing flight safety services. The applicant's description must include interfaces with the federal launch range and should explain how the safety policies and procedures of all segments of the safety organization identified above will be implemented.

Section 415.33(b) requires an applicant to have a safety official possessing authority to examine launch safety operations and to monitor independently personnel compliance with safety policies and procedures. In order to keep safety concerns separate from mission goals, the person responsible for safety should have the ability to perform independently of those parts of the applicant's organization responsible for mission assurance, and should also have the authority to report directly to the licensee's personnel in charge of licensed launches. The safety official should be identified by name, title or position, and by qualifications.

Orbital suggests that a safety official should not be required to report to someone who has a vested interest in the outcome of the launch. *Orbital* at 7. According to Orbital, such a person might be in a position to exert undue influence or pressure on the safety official. *Id.* When it proposed this requirement, the FAA intended just the opposite. The FAA intended that the safety official have authority to report directly to the person in charge of licensed launches in order to ensure that safety decisions were made at appropriately elevated levels, rather than becoming low priority issues buried in the lower levels of an organization. As noted in the NPRM, the FAA intends the reporting to ensure that the person responsible for the licensed launch ensure that all of a safety official's concerns are addressed prior to launch. Accordingly, because both the safety official and the person responsible for licensed launch possess safety obligations, no conflict of interest should exist. The FAA also believes that this decision reflects a reality within industry, namely, that the person in charge of mission success may well make final decisions regarding safety. The regulations impose safety obligations on that individual as well.

Space Access also questioned this provision, querying the value of an applicant identifying the qualifications of a safety official's position. Space Access believes that this could result in an applicant identifying the qualifications of the position even though the individual performing the

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job is not qualified. In order to clarify the FAA's intent, section 415.33(b) now states that an applicant shall identify the safety official by name, title, and qualifications. An applicant must show that there is a relationship between the individual's experience and responsibilities. The FAA agrees with Space Access that a safety official's experience be provided. The FAA will not at this time impose requirements governing the particulars of a person's education and years of experience. Instead, it will rely on the performance standard articulated in 415.33(b).

Although risk is inherent in the launch of a launch vehicle, section 415.35, which is promulgated through this rulemaking, establishes limits on how much risk the FAA will allow for a licensed launch. The FAA has clarified this section from that originally proposed in the NPRM to better describe the FAA's expected casualty (E_c) measure of risk by deleting "the probability of occurrence" and including mention of suborbital launch vehicles. The FAA is also classifying the scope of the hazards addressed. An E_c measure reflects risk from debris, not from toxic releases or blast overpressure, which the federal launch ranges handle through other means. Additionally, the proposed term "collective risk" in the second sentence is now deleted to state more specifically that an applicant's proposed launch shall not exceed an expected average number of 30 casualties in one million launches. This phrasing still describes collective risk, but with more precision. With these clarifying editorial changes, the FAA now adopts its measure of acceptable risk of $E_c \leq 30 \times 10^{-6}$ per launch.

The FAA received comments regarding its proposed risk threshold. Boeing supported the FAA's proposal. *Boeing* at 1. Space Access argued that the E_c was insufficiently strict, and should be compared to involuntary rather than voluntary risk. Space Access recommended an individual risk threshold of $E_c \leq 1 \times 10^{-7}$. *Space Access* at 11. The FAA anticipates that a better explanation of what E_c measures and the differences between individual and collective risk will respond to Space Access' arguments against an E_c of 30×10^{-6}. In short, when expressed in terms of individual risk, the FAA's collective risk measure satisfies the concerns voiced by Space Access. Space Access also maintains that a comparison to voluntary risk is inappropriate and that involuntary risk provides the better measure. The FAA, however, like the Air Force, defines background risk as the risk voluntarily accepted in the course of day to day activities, and finds that voluntary risk provides an acceptable basis of comparison for determining acceptable risk. Moreover, even when compared to involuntary risk, as Space Access recommends, if the FAA's collective risk measure is described in terms of its individual risk counterpart, the measure compares favorably.

Section 415.35(a) requires that acceptable flight risk through orbital insertion for an orbital launch vehicle, and through impact for a suborbital launch vehicle, be measured in terms of collective risk. Pursuant to section 415.35(a), the collective risk associated with debris from an applicant's proposed launch, measured by casualty expectancy, shall not exceed 0.00003 (30×10^{-6}) casualties per launch. E_c represents the FAA's measure of the collective risk to the population exposed to the launch of a launch vehicle. The measure represents the expected average number of casualties for a specific launch mission. In other words, if there were thousands of the same mission conducted and all the casualties were added up and the sum divided by the number of missions, the answer and the mission's expected casualty should statistically be the same. This E_c value defines acceptable collective risk.[11]

Collective risk is estimated prior to launch, and constitutes the sum total launch related risk to that part of the public exposed to the hazards of a launch. The public includes everyone except launch personnel. Government personnel who are not essential to a launch are defined as the public for purposes of measuring acceptable risk.

The FAA's standard derives from launch risk guidance employed by the Air Force at its Eastern Range, Cape Canaveral Air Station, and its Western Range, Vandenberg Air Force Base, to define acceptable risk. The FAA adopts this standard because the FAA believes that commercial launches should not expose the public to risk greater than normal background risk, which the FAA defined in its NPRM as those risks voluntarily accepted in the course of normal day-to-day activities. The FAA is using the Air Force standard because it reflects the standard already in place for the majority of commercial U.S. launches, and for the majority of government launches of vehicles of a comparable size. No casualties arising out of a government or commercial launch have occurred to the public under this standard. It is the FAA's understanding that although the Air Force published this figure in 1995, it did so because it found that this figure best represented historical launch risk levels.

The FAA is aware that the Air Force implements this standard as "acceptable launch risk without high management (Range Commander) review." "Eastern and Western Range 127–1 Range Safety Requirements," Sec. 1.4.1, 1–12. This means that based on national need and the approval of a range or wing commander the Air Force may allow a launch with a predicted expected casualty risk of greater than 30×10^{-6}. *Id.* As mentioned in the NPRM, the FAA recognizes that many commercial launches carry government payloads, and that there may be a national need to launch a critical national payload with a predicted launch risk of greater than 30×10^{-6}. An applicant proposing to launch a government payload, where the launch would not meet the FAA's risk requirement, would have to request a waiver from the FAA and show that national need warranted waiver of this standard. The FAA would work with any government payload owner or operator to resolve such an issue. The FAA establishes this standard, however, for all commercial launches, so that the

[11] The E_c value adopted originated with the Air Force's stated measure of acceptable risk. "Eastern and Western Range 127–1 Range Safety Requirements," Sec. 1.4(d), 1–12 (Mar. 31, 1995). Space Access brought a number of risk levels to the FAA's attention, requesting that the FAA reconcile the apparent discrepancies between those risk levels, including the agency's own past descriptions of risk levels, and the FAA's proposed risk measure. A rulemaking is the appropriate mechanism for the FAA to adopt new standards. Thus, although the FAA now adopts a standard different than those its earlier reviews described, this rulemaking provides the forum for doing so. The conflicts Space Access identifies stem, in relevant part, from the fact that the risk figures Space Access cites pre-date the Eastern and Western Ranges' publication of an acceptable risk threshold of $E_c \leq 30 \times 10^{-6}$. For example, although it is true that DOT's "Hazard Analysis of Commercial Space Transportation" (1988) ("DOT Hazard Analysis") states that the Department of Defense (DOD) ranges do not have published standards for acceptable levels of public risk, DOD's Eastern and Western Ranges have since published the risk criteria on which the FAA now bases its own measure. Likewise, "Financial Responsibility for Reentry Vehicle Operations," DOT, 27 (May 1995) describes general background risk as 1×10^{-6} per year. Prior to 1990, a collective risk of $E_c \leq 1 \times 10^{-6}$ was thought to be the typical safety level at the DOD ranges. However, studies using the most up to date models for predicting risk, undertaken to support the effort by the Eastern and Western Ranges to adopt a common standard showed that this was not always the case. The Air Force eventually published an $E_c \leq 30 \times 10^{-6}$ in 1995 instead. Again, the "Commercial Launch Baseline Assessment for US Air Force Western Space and Missile Center" DOT, 79, Sec. D.7.e (Jul. 1989) states that E_c should lie between 1.9×10^{-7} and 4.6×10^{-7}. The referenced passage was a relatively simple calculation of risk in the launch area for a representative launch, and provides an example of the risks rather than a worst case limit. This estimate today proves low with the availability of more accurate data.

general public will not be exposed to a higher than normal risk from a commercial activity.

The FAA also recognizes that the federal launch ranges may perform separate E_c analyses for three different hazard categories, including debris, toxic releases and blast overpressure. When the FAA relies on a federal launch range's E_c analysis to determine whether the FAA E_c requirement is met, the FAA is interested only in the debris analysis performed by a range, and this provision makes that clear. For toxic releases and blast overpressure, the federal launch ranges implement specific safety requirements designed to keep toxic releases and the effects of blast from reaching the public. For example, if more than a given number of parts per million of a toxic release would reach people, a launch will be delayed until conditions improve. Likewise, if atmospheric effects threaten to carry overpressure impact to persons outside the federal launch site, a launch will be delayed. Because these measures achieve safety, the FAA will rely on them rather than implementing an E_c analysis requirement for toxic releases and blast overpressure.

Space Access raised the question of whether an E_c of 30×10^{-6} meant that if an accident occurred and 100,000 people were exposed then 3 deaths would occur. *Space Access* at 8. The FAA wishes to take advantage of this opportunity to clarify the concepts involved. E_c is the expected average number of casualties per launch of a launch vehicle. The consequence measured is casualties, which includes serious injury as well as deaths, and the measure is per event, namely, launch. Space Access based its question on the assumption that 30×10^{-6} is "3 per 100,000" persons. That E_c is a measure of casualties rather than deaths aside, expected casualty is measured for each event, which, in this case is a single launch. Although Space Access is, of course, correct that an E_c of 30×10^{-6} is equivalent to 3 per 100,000, the 100,000 refers not to exposed persons, but to the number of launches that would have to be conducted before one would expect statistically that total number of casualties. One would have to launch 100,000 times to statistically reach 3 casualties.

Space Access sought clarification on the differences between individual and collective risk. In contrast to the more familiar measure of risk, namely, individual risk, which describes the probability of serious injury or death to a single person, the launch industry's common measure of risk is collective risk. Collective risk constitutes the sum total launch related risk, that is, the probability of injury or death to that part of the public exposed to a launch. Collective risk is analogous to an estimate of the average number of people hit by lightning each year, while individual annual risk would be an individual's likelihood of being hit by lightning in any given year. Collective risk may be expressed in terms of individual risk if certain factors associated with any given launch are taken into account. Also, individual risk may be—and will be, in most instances—less than collective risk, depending on the size of the population exposed. For example, a collective risk of E_c of 30×10^{-6} for a defined population of one hundred thousand people exposed to a particular launch results (assuming the risk is spread equally throughout the defined population) in a probability of injury or death to any one individual exposed of 3×10^{-10} (three per ten billion).

In its comments, Space Access argued for a stricter standard on the basis of what it understood to be other measures of risk. Space Access analyzed the FAA's proposed measure in terms of two categories: background risk, which may be further categorized as a combination of voluntary and involuntary risk, and other launch risk thresholds. Contrary to the contentions of Space Access, the FAA finds that the comparison to voluntary risks is appropriate. Even, however, when compared to involuntary risk, if the risks of launch are expressed in terms of individual risk, launch risk usually compares favorably. In fact, it is possible to have an unacceptably high expected casualty value while still having an extremely low individual risk level.

Space Access inquired whether the proposed standard appropriately reflects risk levels voluntarily accepted by the public in normal daily activity. Voluntary risk provides an appropriate comparison. The FAA defines background risk in the context of its statutory mandate to regulate and facilitate the commercial launch industry. Congress has chosen to accept the risk of launch in order to reap the benefits attendant to the activity. Recognizing that this country has decided to accept these risks, the FAA believes, as the federal launch ranges do (*see* "Eastern and Western Range 127–1 Range Safety Requirements", Sec. 1.4(d), 1–12), that it is appropriate to compare launch risks to other measures of voluntary risk. A recent study proves helpful for making that comparison. *See Acceptable Risk Criteria for Launches from National Ranges: Rationale*, Rep. No. 97/350–2.1–01, ACTA, for the Department of the Air Force, 30th and 45th Space Wings (Sept. 1997) [12]. ACTA estimated the average annual accidental fatality probability for any individual, which is defined as all accidental causes of death. ACTA estimated the fatality probability by adding the estimated annual individual fatality probability from accidents outside the home and the reported annual individual fatality probability from accidents in the home. This excludes risk of disease. ACTA estimated a total risk of 2×10^{-4}. *Id.* at 18. The FAA's measure of acceptable risk for casualties may be as much as four orders of magnitude lower than this accident death risk. The comparison may only be made, of course, by translating the FAA's collective risk measure into individual risk and by employing the same time scale for both. If the comparison is made on an annual basis, and the example of an exposed population of 100,000 persons continues to be employed, then individual risk for a launch is, as mentioned earlier, 3×10^{-10}. Assuming 100 launches per year, then the individual annual risk results in a figure of 3×10^{-8}, which is four orders of magnitude lower than the risks, both voluntary and involuntary, of day to day activity.

Space Access also makes the point that the FAA would have to assign a maximum number of launches per launch site if the agency intends acceptable risk to remain below background risk. In the NPRM, the FAA acknowledged that its standard is based on present launch rates, and it still finds that this threshold is appropriate for the scope and frequency of launch operations planned over the next several years. Even if launch rates increase by an order of magnitude, individual annual risk will still compare favorably with other voluntary and involuntary risks. An exponential rise in launch rates may require a reassessment, although the FAA does not foresee an exponential increase in launch rates in the near term.

Space Access also suggests that other launch risk standards provide the proper measure of acceptable risk. Space Access notes that the 1988 DOT Hazard Analysis states that "acceptable risk criteria" for NASA's Wallops Flight Facility (WFF) is $E_c \leq 1 \times 10^{-7}$. *Space Access* at 10. As noted in its NPRM the FAA recognizes that WFF does not use an expected casualty standard of $E_c \leq 30$

[12] ACTA prepared this study in support of Range Commander's Council Standard 321–97, which articulates federal launch range policies and criteria for protection of personnel, aircraft, ships, and spacecraft.

$\times 10^{-6}$. Although at the time of the publication of DOT's Hazard Analysis WFF may have reported $E_c \leq 1 \times 10^{-7}$, since that time, NASA has stated that WFF uses an E_c of less than or equal to 1×10^{-6}. "Range Safety Manual for Goddard Space Flight Center (GSFC)/ Wallops Flight Facility," 24 (Jun. 23, 1993); Beyma, "Flight Safety Range Safety Officer Training Manual, NASA/ Wallops Flight Facility," 2 (Sept. 1993). The FAA must choose one standard. The level of safety at the Eastern and Western Ranges, represented by the collective risk standard of $E_c \leq 30 \times 10^{-6}$ has resulted in no harm to the public. The vast majority of U.S. commercial launches take place from CCAS and VAFB. The FAA therefore finds that this accepted standard is appropriate for all licensed launches.

Space Access also maintains that in order to adopt an E_c standard of $E_c \leq 30 \times 10^{-6}$, the FAA would have to obtain NASA's acceptance. This is not in fact the case. NASA and the FAA have different roles. Commercial launches are regulated by the FAA, not NASA. As the operator of a launch site, NASA is free to require a different measure of acceptable risk than that required by the FAA. Any FAA licensed commercial launch, regardless of where it takes place, must, however, at least meet FAA standards, even were a particular federal launch range to impose less stringent requirements. In this case, the more stringent NASA standard with which a user of WFF would have to comply does not conflict with the FAA standard.

Paragraph 415.35(b), which the NPRM proposed as paragraph 415.35(c), requires an applicant to submit an analysis that identifies the hazards and assesses the risks for flight under nominal and non-nominal conditions.[13] This requirement has been modified to clarify that the risk assessment serves the purpose of demonstrating compliance with paragraphs 415.35(a). A federal launch range will sometimes perform a quantitative analysis for flight until orbital insertion, or for a suborbital mission until impact. A range may determine that an analysis of previously approved missions applies or may serve as a basis for a comparative analysis. If an applicant's previously submitted application contains a risk assessment, the applicant need not submit additional analyses for similar launches. In such cases, a comparative analysis may be supplied.

[13] This section is renumbered in order to accommodate the move of the NPRM's proposed paragraph 415.35(b) into section 415.39, which addresses safety at the end of launch.

As an alternative to relying on federal launch range procedures, an applicant may perform its own quantitative risk analysis. Pursuant to section 415.35(b), although an applicant may submit a federal launch range risk analysis, the applicant bears the burden of demonstrating that predicted risk does not exceed an expected casualty of $30 \times 10-6$. To assist applicants, the FAA has documented the range safety process for each of the federal launch ranges. A launch hazard event tree, such as the one described in the DOT Hazard Analysis of Commercial Space Transportation, page 10–29, provides an acceptable method for identifying hazards and assessing risks.

Section 415.35(c), which was proposed in the NPRM as section 415.37(a), ensures that an applicant identify the design of its launch vehicle. In its application, an applicant shall identify and describe its launch vehicle's design, including its structure and the vehicle's hazardous and safety-critical systems, and provide drawings and schematics for each system identified. Because federal launch ranges require an applicant to provide a detailed description of the applicant's launch vehicle and its systems, including drawings and schematics, an applicant may satisfy the requirements of this paragraph by providing the FAA with a copy of all or appropriate portions of the documentation provided to a federal launch range. The FAA will not use the data to duplicate the federal launch range's design approval process, but to document the characteristics of the launch vehicle being licensed and upon which the hazard identification and risk assessment are based.

Section 415.35(d) requires that an applicant's launch vehicle be operated in a manner that meets the criteria of paragraph 415.35(a). To that end, an applicant must describe the launch operations and procedures that the applicant will employ to mitigate risks for flight. The applicant should eliminate or control by design and operations all identified hazards to the levels specified in paragraph (a). Typical hazard controls for flight until orbital insertion used at current federal launch ranges include flight termination systems, and, for suborbital launches, azimuth and elevation adjustments based on a wind weighting analysis. Other hazard controls may involve modifying a vehicle trajectory to avoid high risk areas, and delaying launch until more favorable conditions exist. An applicant for a license to launch from a federal launch range may rely on the methods used by federal launch ranges to identify hazard controls and to ensure that the hazard controls will be effective.

Section 415.37(a), which was originally proposed as section 415.37(c), implements the FAA's current flight readiness guidelines. As noted in the NPRM, the requirements arise out of recommendations from a National Transportation Safety Board (NTSB) investigation [14] of an anomaly that occurred during a commercial launch from a federal launch range. Requirements intended to ensure the readiness of a launch team include designation of an individual responsible for flight readiness, launch readiness reviews, rules and abort procedures and, countdown checklists, dress rehearsals procedures, and procedures for crew rest.

The FAA recognizes that there are many reviews conducted of a launch system from its initial design up to flight. However, in section 415.37(a)(1), the FAA places special emphasis on a flight readiness review, or its equivalent. A review is typically conducted not more than one or two days prior to scheduled flight. In most cases a flight readiness review is standard practice at federal launch ranges, but the FAA considers the review, and the topics required in this section, to be so important that the applicant must, in its application, commit to a meeting and identify the topics to be addressed. This review must ensure that all system and personnel readiness problems are identified and are associated with a plan to resolve them, that all systems needed for flight have been checked out and are ready, and that each participant is cognizant of his or her role on the day of flight. If this review reveals unresolved issues, the licensee will be able to assess its ability to resolve those issues before the intended launch time or to delay the flight, as appropriate.

Section 415.37(a)(2) requires an applicant to possess procedures that ensure mission constraints, rules and abort procedures are contained in a single document approved by licensee flight safety and federal launch range personnel.

Section 415.37(a)(3) requires an applicant to employ procedures that ensure that all launch countdown checklists are current and consistent. Past inconsistencies in critical countdown checklists and procedures have raised serious safety concerns. The FAA recognizes that it may be

[14] "Special Investigation Report, Commercial Space Launch Incident, Launch Procedure Anomaly, Orbital Sciences Corporation Pegasus/ SCD–1 80 Nautical Miles East of Cape Canaveral, Florida," NTSB (Feb. 9, 1993).

impractical for all launch participants to have identical checklists due to differences in the roles of launch participants. The applicant should, however, have some process, such as a master countdown manual, to ensure the currency and consistency of all participants' checklists during countdown to flight. This will ensure that confusion and uncertainties on launch day are minimized, that flight safety critical procedures are completed successfully, and that those individuals with launch decision authority know what is going on and are able to make sound decisions.

Section 415.37(a)(4) requires an applicant to have procedures for the conduct of dress rehearsals. As demonstrated in the past, poor performance at a dress rehearsal may indicate a lack of readiness of individuals or systems responsible for safety. An applicant's procedures should include criteria for determining when dress rehearsals are not necessary. A number of launch companies, for example, have been conducting routine launches of the same vehicle for many years. The FAA recognizes that although dress rehearsals may not be necessary in every case, they may be critical to those launch companies that are new to a launch site, to those that have significant changes in personnel, or to those launching a new launch vehicle.

Even those launch operators that routinely conduct launches typically have certain criteria and procedures in place to verify that a launch team is ready for launch, especially if a considerable period of time has elapsed since the last launch took place. In this regard, Space Access recommends that the FAA impose a currency requirement of 45 days. *Space Access* at 11. The FAA will take the recommendation into account in future rulemakings, but for the time being declines to impose a currency requirement of 45 days. The need for dress rehearsals is driven by issues specific to particular vehicles, including the number of personnel required to launch the vehicle, the complexity of their tasks, and the amount of communication required among team members to launch safely.

For those situations where dress rehearsals are necessary, the dress rehearsal should simulate both nominal and non-nominal conditions, induced not only by the launch vehicle or payload, but by the range safety system as well. Anomalies introduced during the rehearsal should exercise and prove the abilities of all launch participants, including federal launch range personnel, to recognize an event that compels a launch hold, delay or flight termination decision. In the NPRM, the FAA noted its interest in views as to any need for future standards relating to rehearsals and the criteria for deciding, based on performance during the rehearsal, that it is acceptable to proceed with the launch. In response, Space Access suggested that no discrepancies be permitted for a nominal profile, and only minor discrepancies be permitted for failure profiles, if the discrepancies involve non-critical actions. *Space Access* at 11. The FAA agrees, and will interpret section 415.37(a)(4)(i) according to Space Access' recommendation.

Section 415.37(a)(5) responds to another NTSB recommendation, and requires that an applicant ensure that its flight safety personnel adhere to federal launch range crew rest rules. Experience has shown that launch crew rest criteria for all those involved in supporting launch operations are extremely important and can have a significant impact on public health and safety. Federal launch ranges typically have such requirements. Based on current knowledge and the demonstrated safety history of the federal ranges, the FAA would consider adequate adherence to these requirements. Other rest criteria proposed by an applicant may be acceptable if the applicant requests a waiver of the FAA's rules and demonstrates that the criteria would be adequate.

Section 415.37(b) and (c), originally proposed as a separate section, 415.39, require an applicant to submit a communications plan that ensures that licensee and federal launch range personnel receive safety-critical information during countdown and flight. The NTSB, after its investigation of a launch anomaly, concluded that effective communications are critical to the conduct of a safe flight. Everyone involved in a launch needs to know not only what channel has been assigned for particular communications, but also the proper protocol for communicating on that channel. The FAA recognizes that a number of different individuals typically have input and decision authority with respect to the readiness of various launch and safety systems. Past experience has shown that serious mishaps could result if these relationships are not clearly defined and understood by all parties. These relationships must therefore be identified by the applicant. Identifying persons with authority to make "hold" and "go/no-go" decisions is critical to ensuring that on launch day, everyone knows who can call a "hold" and, more importantly, who has the authority to authorize the resumption of the countdown or a recycle procedure, and under what specific conditions. This will help eliminate confusion and cross-talk that could cause a miscommunication leading to an unsafe condition. In addition, the FAA requires that everyone who has a decision-making role, or who, by action or inaction can either prevent or allow a launch to take place, be on the same predetermined channel during countdown and flight.

Under section 415.39, which was included in the NPRM as paragraph 415.35(b), an applicant must demonstrate that for any proposed launch that for all launch vehicle stages or components that reach earth orbit that there will be no unintended physical contact of the vehicle or its components with its payload after payload separation. The applicant's proposal must also ensure that debris generation will not result from the conversion of energy sources into energy that fragments the vehicle or its components. In addition, although not specifically proposed in the NPRM, the FAA now adds paragraph (c) to specify required measures that prevent the conversion of energy sources into energy that fragments a vehicle or its components, unless other measures are approved in the course of the licensing process. The FAA discussed the new measures in the NPRM.

Those involved in commercial, defense and scientific uses of space have been voicing a growing space safety concern due to the increasing number of objects being placed in orbit, which increases the potential for collisions between objects in space. Collisions in turn create additional objects, increasing the potential for harm or damage. The operation of launch vehicles in space affects and is affected by hazards associated with space debris. Accordingly, the requirements of this section serve to mitigate hazards associated with space debris. Federal launch ranges perform a collision avoidance analysis, or conjunction on launch assessment, commonly referred to as a COLA, prior to launch only to ensure that manned or potentially manned spacecraft will not be affected through orbital insertion. The FAA has elected to adopt only selected debris mitigation practices that are of almost universal applicability. It has not, for example, opted for requiring collision avoidance measures or post-mission disposal, or for specifying a minimum lifetime on orbit.

Orbital noted in its comments that preventing unplanned contact is a primary goal of each launch because it "represents sound technical,

operational, safety and financial business practice," rendering a regulation prohibiting such contact unnecessary. *Orbital at 10.* Orbital recommends that the prohibition on unintended contact be deleted or modified so that rather than ensuring there be no contact, such contact be prevented "to the fullest extent feasible." *Id.* For the reasons stated in the NPRM the FAA now implements this requirement. In light of the fact that preventing unplanned contact is already a primary goal of a launch operator, the FAA does not consider the requirement unduly burdensome. At the time of the NPRM, the FAA intended that the original requirement constitute a performance standard that could be implemented in any manner that achieved the goal, thus avoiding an overly intrusive degree of regulation.

Orbital's recommendation that a licensee ensure against unplanned contact "to the fullest extent feasible" cannot be adopted because it only adds ambiguity to what is required. Ensuring against an event is a clear requirement. It means that the event must not occur. Ensuring against that event to the fullest extent feasible raises questions regarding whether something need not be done if it is technically not feasible, too expensive or for some other reason. The FAA does not discern a reason for making such distinctions that outweigh the safety benefits of requiring a licensee to prevent unplanned contact.

Orbital also maintains that it is impossible to ensure that debris generation will not result from the conversion of energy sources into energy that fragments the vehicle as required by paragraph (b). Although Orbital is correct that it is impossible to ensure with utter certainty that energy will not fragment the vehicle, or, indeed that any given event could be prevented with utter certainty, there are practices that have been shown to prevent this occurrence. As noted in the NPRM, the FAA is aware of a number of standard industry practices designed to prevent or reduce this on-orbit risk. These practices include depleting residual fuels and leaving fuel lines valves open, venting pressurized systems, and leaving batteries in a permanent discharge state. These practices are routine. The NPRM intended to require that these practices be employed for all commercial launches, rather than ignored for reasons of cost or otherwise. The FAA recently uncovered ambiguity in the proposed requirements. Therefore, the FAA now clarifies the requirement by specifying that a licensee must remove stored energy by depleting residual fuels and leaving fuel line valves open, venting pressurized systems, leaving batteries in a permanent discharge state, and removing any remaining sources of stored energy, or other equivalent procedures. The practices enumerated in paragraph (c) should satisfy the requirement in paragraph (b).

A number of standard industry practices reduce potential on-orbit risks arising out of flight following orbital insertion. A launch operator may maneuver its launch vehicle orbital stage after payload separation to minimize the likelihood that the orbital stage will recontact the payload. This avoids the consequences of either a malfunctioning payload or orbital debris. In order to reduce the possibility of future explosions that could create orbital debris, a launch operator must render liquid fueled orbital stages as inert as possible by expelling all propellants and pressurants and protecting batteries from spontaneous explosion. A launch operator may keep stage-to-stage separation devices and other potential debris sources captive to a stage with lanyards or other means. Also, a launch operator may choose launch times to geosynchronous transfer orbit designed to align the final orbit of the orbital stage so as to lower the perigee of the stage more quickly than other orbits.

Section 415.41 requires an applicant to submit an accident investigation plan. The accident investigation plan must comply with the reporting requirements identified in section 415.41(b), and must contain procedures for responding to a launch accident, incident or other mishap. As noted in the discussion of the definition of "mishap," the proposed rules have been modified to require notification of mishaps only above a threshold severity level.

Section 415.43 contains the procedures employed by the FAA when it denies an applicant a safety approval and describes the recourse available to that applicant. If an applicant fails to obtain a safety approval, the applicant may attempt to correct the deficiencies which resulted in the denial and request reconsideration of the denial, or, upon denial of a license, it may request a hearing. The final version of this provision differs slightly from what the NPRM proposed. The NPRM stated that an applicant who was denied a safety approval could reapply. In order to avoid confusion, the provision now permits an applicant to request the FAA's reconsideration of its denial. This makes clear that the FAA need only reconsider an issue once rather than an unlimited number of times.

Under subpart D, the FAA conducts a payload review and determination pursuant to 49 U.S.C. § 70104(c). The Act provides that the Secretary of Transportation may prevent the launch of a particular payload if the Secretary determines that the payload's launch would jeopardize the public health and safety, safety of property, or national security or foreign policy interests, or international obligations of the United States. Subpart D explains when a payload review and determination are required and the elements of that review. Addition of this subpart constitutes a change from the FAA's current practice because the payload review will no longer be performed as part of the policy review. This subpart allows either a launch license applicant or a payload owner or operator to apply for a payload determination separately from a launch license application, as was also provided under the former section 415.23 of a mission review. A launch license applicant's decision to seek a payload determination separately from a license application might be based on uncertainty with respect to payload issues and a desire to gain a payload determination before undertaking the additional effort required to prepare a complete launch license application.

Although a payload determination is required for a license, it is not necessarily a requirement imposed on a license applicant. An applicant need not itself apply for a payload determination if a determination has otherwise been issued to a payload owner or operator. In addition to the fact that many payloads are exempt from FAA consideration, an applicant may incorporate by reference a payload determination issued earlier to the applicant or to a payload owner or operator. Alternatively, an applicant may reference a separate application submitted by another launch license applicant for a payload determination and request that the FAA incorporate its earlier determination.

The FAA does not believe that this flexible approach affects the statutory requirement that the FAA complete its license application review within 180 days. Submission of a request for a payload determination does not constitute the filing of a complete application, and a license application is not complete without a request for a payload determination. The FAA stated in its NPRM that it was considering issuing conditional licenses on those occasions when a request for a payload determination had yet to be completed. This would mean that a license would be issued subject to or conditional upon

issuance of a payload determination. The FAA once issued a conditional license to an applicant who proposed to launch a reentry vehicle as its payload. The reentry vehicle was still under development, but the FAA issued a launch license conditioned upon eventual submission of all required payload information and a final determination by the FAA regarding the payload. The FAA has decided, however, that with these rules it will not adopt such a course. A license will be issued only for a complete application.

The FAA also addresses payload safety issues because payload safety is not otherwise part of the safety evaluation of a launch. Payload issues considered during the review include, but are not limited to, safety issues associated with the launch of the payload and its intended operation and design, the payload owner(s), and the payload function. For example, a past payload issue included the nature of the cargo. In that case the payload cargo consisted of cremains, which are human remains reduced to small pellets. A safety issue addressed was whether the pellets would be dispersed while in orbit.

Section 415.51 describes the scope of an FAA payload review, clarifying part of the former section 415.21. Pursuant to proposed section 415.53, the FAA will not review payloads owned and operated by the government of the United States or those that are subject to the regulation of the Federal Communications Commission or the Department of Commerce, National Oceanic and Atmospheric Administration.

As explained in the NPRM, new section 415.55 allows the FAA to make a determination regarding a proposed class of payloads, including, for example, communications, remote sensing or navigation satellites. When an applicant requests an operator license to conduct unspecified but similar launches over a period of five years, the applicant will not always be able to identify specifically each payload to be launched. The applicant must describe the class or classes of payloads proposed for launch under the license and general characteristics of those payloads. In these cases, the licensee must later provide additional descriptive information regarding the specific payload prior to flight as described in section 415.79(a). That section refers a licensee to the information requirements of section 415.59, which specify the information required for a payload review.

The FAA must take this opportunity to clarify an issue raised by the comments of Kistler Aerospace Corporation. Kistler expressed concern that the launch reporting requirement under section 415.79 amounted to an additional payload review by the FAA for each payload within the class encompassed by a launch operator license. *Kistler* at 5–6. In point of fact, the information submitted sixty days prior to launch would not trigger additional policy and safety reviews. It would merely identify the characteristics of what is being launched for compliance monitoring purposes. Kistler recommends that a licensee whose class of payload has been approved and is proposing to launch a payload within that approved class merely submit a copy of a launch manifest "describing the payload, the payload owner, pertinent details about the launch, etc." *Kistler* at 6. By requiring the information described in section 415.59, the FAA intends just that.

Section 415.57 provides procedures an applicant must follow to obtain a payload determination. The FAA coordinates a payload review with other government agencies such as the Departments of Defense, State, and Commerce, the National Aeronautics and Space Administration and the Federal Communications Commission.

The information requested under section 415.59 for a payload review is required to identify and address possible safety and policy issues related to the payload, and to conduct any necessary interagency review. In most instances, the information submitted may be brief, but in cases which present potential unique safety concerns considerable detail may be necessary regarding the physical characteristics, functional description and operations of the payload.

Section 415.61(a), which reflects certain requirements of former section 415.21, explains that the FAA will issue a payload determination unless policy or safety considerations prevent launch of the payload. Section 415.61(b) contains the procedures employed to deny an applicant a payload determination and describes the recourse available to that applicant. If an applicant fails to obtain a payload determination, the applicant may attempt to correct the deficiencies which resulted in a denial and request reconsideration of the denial, or, upon denial of a license, it may request a hearing. The final version of this provision differs slightly from what the NPRM proposed. The NPRM stated that an applicant who was denied a payload determination could reapply. In order to avoid confusion, the provision now permits an applicant to request the FAA's reconsideration of its denial. This makes clear that the FAA need only reconsider an issue once rather than an unlimited number of times.

Section 415.63 addresses incorporation of a payload determination into subsequent license reviews. It also explains that any change in information provided to the FAA must be reported in accordance with applicable rules.

Subpart E addresses post-licensing requirements, including license terms and conditions. This subpart describes a licensee's public safety responsibilities under section 415.71.

Section 415.73 describes the circumstances that require a licensee to apply for a modification to its license. This section modifies and builds upon the former section 413.19. That provision required an applicant or a licensee to notify the FAA whenever the information that formed the basis for any approval, determination or license action was no longer substantially accurate and complete in all significant respects, or whenever there has been a substantial change as to any matter of decisional significance. The FAA has required licensees to report material changes in order for the FAA to determine their significance. In the NPRM, the FAA proposed requiring that it be notified of all changes regardless of materiality, but now adopts a materiality standard in response to comments. A launch licensee must ensure the continuing accuracy of representations contained in its application for the term of its license, and must conduct its licensed launches as it has represented that it will. This means that if any information a licensee provides pursuant to part 415 will no longer be accurate, a licensee must apply for a modification to its license in advance of instituting the proposed change. For example, if a licensee intends to alter its accident investigation plan, it must obtain authorization in advance through a license modification to do so. Orbital describes this requirement as overly broad and undefined. *Orbital* at 9. Orbital recommends that the FAA incorporate a materiality standard, so that an applicant or licensee would only notify the FAA of any significant changes. *Id.* The FAA agrees in part. It does not wish to be advised of any and all changes, only of those material to public health and safety or safety of property. The FAA wishes to be advised of any material changes so that it may determine whether to modify a license.

The FAA also wishes to draw attention to an editorial change from the provision as originally proposed. In its NPRM, the regulations required a licensee to "amend" its application even after its license was issued. Now, the same provisions require a license "modification." This results in no substantive change. It does clarify, however, that an application is part of any ensuing license and that a licensee must obtain advance authorization from the FAA for any material changes.

The remainder of subpart E contains license terms and conditions applicable to all licensees. Section 415.75 requires a licensee to enter into an agreement with the federal launch range from which it proposes to launch. Orbital recommends that rather than require the range agreement to remain in effect for the term of the license, that the FAA require that it be in effect during the conduct of licensed launches. *Orbital* at 9. The FAA sees no practical difference, but agrees, and revises the regulation accordingly. A licensee should bear in mind, however, that "launch" begins with the arrival of a vehicle at the launch site. Accordingly, any agreement must be in place at the time of the vehicle's arrival.

Section 415.77 requires a licensee to maintain those records that pertain to activities carried out under a license issued by the FAA. These records must be retained for at least three years after the completion of all launches conducted under the license.

Section 415.79, as proposed in the NPRM, required a licensee to report certain information before each launch. Because launch begins with the arrival of a launch vehicle at the gate, this section is now clarified to require reporting 60 days prior to flight. Section 415.79(b) regarding provision of the FAA's Launch Notification Form has also been clarified from the FAA's original proposal. The FAA files the Launch Notification Form with U.S. Space Command 15 days prior to flight. Accordingly, the form is now due at noon, Eastern Standard Time, 15 days prior to flight so that the FAA may provide the form to U.S. Space Command in a timely manner. The Federal Aviation Administration/ U.S. Space Command Launch Notification Form is provided in this notice. See Appendix A. Section 415.79(c) is now modified from what was proposed in the NPRM to add a requirement for immediate notification of any mishap involving a fatality or serious injury.

Section 415.81, which replaces former section 415.10, contains requirements for registration of space objects, including a new provision that a licensee need not provide registration information concerning objects owned and registered by the government of the United States. The former version of this requirement provided that a licensee need not provide registration information for objects it placed in space that were owned by a foreign entity. The new provision contains the same proviso. It has, however, come to the attention of the FAA that this requires clarification. The Act requires that a foreign entity controlled by a U.S. citizen which launches outside the territory of any nation obtain an FAA license to launch. 49 U.S.C. 70104(a)(3). Applying these principles to an actual case, the FAA found that Sea Launch, a Cayman Islands partnership, which intends to launch from international waters, required a launch license on account of the control Boeing Commercial Space Company, a U.S. company, exercised over the partnership. 49 U.S.C. 70104(a)(3), 70102(1)(C); 14 CFR 401.5. Because Sea Launch is a U.S. citizen for licensing purposes, the FAA requires data pertinent to registration for Sea Launch's upper stage.

Section 415.83 requires a licensee to comply with financial responsibility requirements as specified in a license or license order.

Section 415.85 explains that a licensee is required to cooperate with the compliance monitoring responsibilities of the FAA.

Subpart F describes the FAA's safety review for a proposed launch from a launch site not operated by a federal launch range. The FAA will conduct a review on an individual, case by case basis until it issues regulations of general applicability. The FAA will take this opportunity to advise applicants to bear in mind that a case by case review still must conform to existing standards and precedent. For example, part of the reason that the FAA relies on federal launch range safety reviews is because of the testing and reviews the ranges conduct of a launch operator's flight safety system, which, in most cases, contain a flight termination system. Accordingly, when a federal launch range is not assessing the adequacy of a launch operator's flight safety system, it is incumbent upon the FAA to do so.

Subpart G incorporates the FAA's environmental review requirements, the former sections 415.31 and 415.33, which require the FAA to comply with applicable environmental laws and regulations, and state that an applicant must provide the FAA with the information required for doing so. The renumbering of these provisions represents no substantive change from the current regulations. In response to the NPRM relocation proposal, the Environmental Protection Agency (EPA) commented that the environmental review process for licensing commercial launch activities should reference FAA Order 1050.1D. This change is incorporated here. Additionally, the EPA requested that section 415.101 reference other informal FAA guidance documents. The FAA notes that informal guidance documents are available, and will confer with a license applicant regarding the applicability of the guidance. The FAA also notes that the NPRM text omitted the proposed section revisions. They are now included in the regulatory text.

Part 417—License To Operate a Launch Site

Because the FAA is removing and reserving part 411, which contains section 411.3 regarding the operation of a launch site, the FAA now creates part 417 to govern licensing the operation of a launch site. The FAA will license the operation of a launch site on an individual, case by case basis until it issues regulations of general applicability. Until then, an applicant for a license to operate a launch site should refer to the FAA's draft guidelines and pre-application consultation for assistance. This part also now contains the requirements governing an environmental review for licensing the operation of a launch site previously located in 14 CFR 415.31–33.

Paperwork Reduction Act

Section 441 of this rule contains information collection requirements. In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the information collection requirements associated with this rule and titled, Commercial Space Transportation Licensing Regulations, were submitted to the Office of Management and Budget for review. The collection of information was approved and assigned OMB control number 2120–0608. Information collected includes: data to support both policy and payload reviews; evidence that supports launch safety requirements, and submitted environmental impact statement (EIS) materials. The required information will be used to determine if applicant proposals for conducting commercial space launches can be done in a safe manner as set forth in regulations and in the licenses and the license orders issued by the FAA. Comments received on the reporting requirements associated with this rule have been discussed earlier in the preamble. Respondents are license

applicants and licensees. The estimated number of respondents on an annual basis is six. The estimated annual burden is 2914 hours.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with this collection of information is 2120–0608.

Regulatory Evaluation Summary

This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State and local governments, as well as anticipated benefits. This evaluation was conducted in accordance with Executive Order 12866, which directs that each Federal agency can propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. This document also includes an initial regulatory flexibility determination, required by the Regulatory Flexibility Act of 1980, and an international trade impact assessment, required by the Office of Management and Budget. This rule is considered a significant regulatory action under section 3 (f) of Executive Order 12866 and, therefore, was reviewed by the Office of Management and Budget. The rule is considered significant under Department of Transportation Policies and Procedures, 44 FR 11034 (Feb. 26, 1979). In addition, for the reasons stated under the "Trade Impact Statement" and the " Regulatory Flexibility Determination," the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Economic Impacts

The Federal Aviation Administration (FAA) is modifying its commercial space licensing regulations to streamline its licensing process while continuing to ensure safety and continuing to preserve the flexibility required to address multiple launch technologies and associated issues. With this rulemaking, the FAA is clarifying its license application procedures, codifying its practice of issuing launch-specific licenses and launch operator licenses, increasing the duration of launch operator licenses from two years to five years, and defining the launch period so that the scope of a launch license is narrower than it has been under current practice.

This rulemaking is expected to result in quantifiable cost savings compared to current practice because of the increased duration of the launch operator license. Increasing the duration of the launch operator license will decrease paperwork and administrative costs both to government and to industry.

The cost savings to industry over ten years resulting from the administrative and paperwork impacts are estimated to be $305,000, undiscounted and $185,000, discounted. These savings are primarily due to the fewer number of license renewal applications that are likely to be submitted. The cost savings reflect primarily the fewer number of hours necessary for both submitting the license applications to the FAA and for complying with the financial responsibility requirements when there are fewer licenses covering the same number of launches. No added costs from the paperwork and administrative impacts are expected.

The FAA is expected to receive some cost savings, as well, because of reduced paperwork and administrative costs that result from processing and issuing fewer applications and licenses. Cost savings to the FAA over ten years is estimated to be $424,000, undiscounted and $256,000, discounted. The FAA is expected to incur no costs resulting from the paperwork and administrative impacts. Over the ten-year time horizon of this analysis, the total cost savings to both industry and the FAA is expected to be approximately $729,000, undiscounted and $441,000, discounted.

There are numerous non-quantifiable impacts associated with this final rulemaking. The information coding requirements are expected to increase clarity to both industry and government. Probably more importantly, however, is the fact that firms will be better able to plan future operations because this rulemaking extends the time period of the launch operator license to five years.

The narrower scope of launch licenses under this rulemaking is expected to slightly increase the launch operator's risk of having to pay for any damages to third parties or government property. The activities that will no longer be covered under the narrower scope of the launch license are of low risk (such as ground activities prior to the arrival of the hazardous components of the launch vehicle). The higher burden of risk borne by the licensee should be considered low and inconsequential.

There is also a slightly lower risk to the U.S. Treasury that it will be called upon to indemnify for third-party damages under the "indemnification" provisions of the statute, because the launch phase is now more limited. The change in risk to the U.S. Treasury is expected to be minimal. This risk has not been quantified.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statues, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency must so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this final rulemaking and determined that it would not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to the regulatory Flexibility Act, U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Potentially Affected Entities

The Small Business Administration has defined small business entities relating to space vehicles [SIC codes 3761, 3764, and 3769] as entities comprising fewer than 1000 employees. The potentially affected entities are Lockheed-Martin, Boeing, Orbital Sciences Corporation, Sea Launch, Beal Aerospace Technologies and Universal Space Lines. Lockheed-Martin, Boeing and Orbital Sciences Corporation all

have more than 1,000 employees and are therefore not small entities. Sea Launch is a partnership of various entities that includes Boeing and therefore would not be considered a small entity. Beal and Universal Space Lines each have under 1,000 employees and can therefore be considered small entities. According to an FAA forecast, Beal Aerospace Technologies will be issued a launch operator license in 2000 and Universal Space Lines will be issued a launch operator license in 2002.

This final rulemaking will result in a cost savings to the launch operator. It primarily results from renewing a license every five years instead of two years. To calculate the annualized cost savings, the FAA discounted the costs or cost savings for the appropriate year. The net total cost savings for Beal Aerospace is $13,204 and the net total cost savings for Universal Space Lines is $8,442. The net total cost savings for the period 1999–2008 is then annualized by multiplying the net total cost savings for each of the affected firms by the 10 year, 7 percent annualization factor (.142378). The FAA estimates that the annualized cost savings for Beal Aerospace is $1,880 ($13,204 × 142378 = $1,880) and the annualized cost savings for Universal Space Lines is $1,202 ($8,442 × 142378 = $1,202).

The FAA has little financial information to calculate whether the projected cost savings represents a significant amount to these two firms. However, according to the Beal Aerospace website, over 70 people currently work for Beal Aerospace. They project that the firm will grow to more than 200 people over the next ten years. Moreover, the same source states that: "Beal Aerospace is fully financed, up to $250M." The FAA concludes that the annualized cost savings of $1,880 does not represent a significant amount for this firm. Even less information is available on Universal Space Lines. However, one article quotes John Grady, Universal's chief financial officer by stating that: "Initially the company will hire about 40 people—mostly in technological and engineering positions. In three years, employment is expected to rise to 100." The same article states that: "The initial plan is to manufacture low-cost, two-stage orbital launch vehicles capable of launching 3,000-pound and greater satellite payloads." If 40 people each hypothetically earned $50,000 annually, then the annual cost to employ these individuals would be at least $2 million. Comparing the hypothetical annual cost of employing these individuals against the net cost savings of this final rulemaking, the FAA again concludes that the annualized cost savings of $1,202 does not represent a significant amount for this firm.

International Trade Impact Assessment

This final rulemaking will not constitute a barrier to international trade. This rulemaking affects launch activities located within the United States and launch activities abroad that have substantial U.S. involvement. In fact, if the anticipated cost savings result and are passed along to launch service customers in the form of reduced prices, it is possible that the international competitiveness of U.S. commercial launch services will be enhanced.

Federalism Implications

The regulations herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the UMRA), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This final rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects

14 CFR Part 411

Space transportation and exploration.

14 CFR Part 413

Confidential business information, Space transportation and exploration.

14 CFR Part 415

Aviation safety, Environmental protection, Space transportation and exploration.

14 CFR Part 417

Environmental protections, Reporting and recordkeeping requirements, Rockets, Space transportation and exploration.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends Chapter III of Title 14 of the Code of Federal Regulations as follows:

SUBCHAPTER A—GENERAL

PART 401—ORGANIZATION AND DEFINITIONS

1. The authority citation for part 401 is revised to read as follows:

Authority: 49 U.S.C. 70102.

2. Section 401.5 is revised to read as follows:

§ 401.5 Definitions.

As used in this chapter—

Act means 49 U.S.C. Subtitle IX, Commercial Space Transportation, ch. 701—Commercial Space Launch Activities, 49 U.S.C. 70101–70121.

Amateur rocket activities means launch activities conducted at private sites involving rockets powered by a motor or motors having a total impulse of 200,000 pound-seconds or less and a total burning or operating time of less than 15 seconds, and a rocket having a ballistic coefficient—i.e., gross weight in pounds divided by frontal area of rocket vehicle—less than 12 pounds per square inch.

Associate Administrator means the Associate Administrator for Commercial Space Transportation, Federal Aviation

Administration, or any person designated by the Associate Administrator to exercise the authority or discharge the responsibilities of the Associate Administrator.

Federal launch range means a launch site, from which launches routinely take place, that is owned and operated by the government of the United States.

Hazardous materials means hazardous materials as defined in 49 CFR 172.101.

Launch means to place or try to place a launch vehicle or reentry vehicle and any payload from Earth in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space, and includes activities involved in the preparation of a launch vehicle for flight, when those activities take place at a launch site in the United States. The term launch includes the flight of a launch vehicle and pre-flight ground operations beginning with the arrival of a launch vehicle or payload at a U.S. launch site. Flight ends after the licensee's last exercise of control over its launch vehicle.

Launch accident means an unplanned event occurring during the flight of a launch vehicle resulting in the known impact of a launch vehicle, its payload or any component thereof outside designated impact limit lines; or a fatality or serious injury (as defined in 49 CFR 830.2) to any person who is not associated with the flight; or any damage estimated to exceed $25,000 to property not associated with the flight that is not located at the launch site or designated recovery area.

Launch incident means an unplanned event occurring during the flight of a launch vehicle, other than a launch accident, involving a malfunction of a flight safety system or failure of the licensee's safety organization, design or operations.

Launch operator means a person who conducts or who will conduct the launch of a launch vehicle and any payload.

Launch site means the location on Earth from which a launch takes place (as defined in a license the Secretary issues or transfers under this chapter) and necessary facilities at that location.

Launch vehicle means a vehicle built to operate in, or place a payload in, outer space or a suborbital rocket.

Mishap means a launch accident, a launch incident, failure to complete a launch as planned, or an unplanned event or series of events resulting in a fatality or serious injury (as defined in 49 CFR 830.2) or resulting in greater than $25,000 worth of damage to a payload, a launch vehicle, a launch support facility or government property located on the launch site.

Operation of a launch site means the conduct of approved safety operations at a permanent site to support the launching of vehicles and payloads.

Payload means an object that a person undertakes to place in outer space by means of a launch vehicle, including components of the vehicle specifically designed or adapted for that object.

Person means an individual or an entity organized or existing under the laws of a state or country.

State and United States when used in a geographical sense, mean the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, The United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States; and

United States citizen means:

(1) Any individual who is a citizen of the United States;

(2) Any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States or any State; and

(3) Any corporation, partnership, joint venture, association, or other entity which is organized or exists under the laws of a foreign nation, if the controlling interest in such entity is held by an individual or entity described in paragraph (1) or (2) of this definition.

Controlling interest means ownership of an amount of equity in such entity sufficient to direct management of the entity or to void transactions entered into by management. Ownership of at least fifty-one percent of the equity in an entity by persons described in paragraph (1) or (2) of this definition creates a rebuttable presumption that such interest is controlling.

SUBCHAPTER C—LICENSING

PART 411—[REMOVED AND RESERVED]

3. Part 411 is removed and reserved.

4. Part 413 is revised to read as follows:

PART 413—LICENSE APPLICATION PROCEDURES.

Sec.

413.1 Scope.
413.3 Who must obtain a license.
413.5 Pre-application consultation.
413.7 Application.
413.9 Confidentiality.
413.11 Acceptance of an application.
413.13 Complete application.
413.15 Review period.
413.17 Continuing accuracy of application; supplemental information; amendment.
413.19 Issuance of a license.
413.21 Denial of a license application.
413.23 License renewal.

Authority: 49 U.S.C. 70101–70121.

§ 413.1 Scope.

This part prescribes the procedures applicable to all applications submitted under this chapter to conduct licensed activities. These procedures apply to applications for issuance of a license, transfer of an existing license and renewal of an existing license. More specific requirements applicable to obtaining a launch license or a license to operate a launch site are contained in parts 415 and 417 of this chapter, respectively.

§ 413.3 Who must obtain a license.

(a) Any person must obtain a license to launch a launch vehicle from the United States or a license to operate a launch site within the United States.

(b) An individual who is a United States citizen or an entity organized or existing under the laws of the United States or any state must obtain a license to launch a launch vehicle outside of the United States or a license to operate a launch site outside of the United States.

(c) A foreign entity in which a United States citizen has a controlling interest, as defined in section 401.5 of this chapter, must obtain a launch license to launch a launch vehicle from or a license to operate a launch site within—

(1) Any place that is both outside the United States and outside the territory of any foreign nation, unless there is an agreement in force between the United States and a foreign nation providing that such foreign nation shall exercise jurisdiction over the launch or the operation of the launch site; or

(2) The territory of any foreign nation if there is an agreement in force between the United States and that foreign nation providing that the United States shall exercise jurisdiction over the launch or the operation of the launch site.

§ 413.5 Pre-application consultation.

A prospective applicant shall consult with the FAA before submitting an application to discuss the application process and potential issues relevant to the FAA's licensing decision. Early consultation enables an applicant to identify potential licensing issues at the planning stage when changes to a license application or to proposed licensed activities are less likely to result in significant delay or costs to the applicant.

§ 413.7 Application.

(a) *Form.* An application must be in writing, in English and filed in

duplicate with the Federal Aviation Administration, Associate Administrator for Commercial Space Transportation, AST–200, Room 331, 800 Independence Avenue, S.W., Washington, D.C. 20591. Attention: Licensing and Safety Division, Application Review.

(b) *Administrative information.* An application must identify the following:

(1) The name and address of the applicant;

(2) The name, address, and telephone number of any person to whom inquiries and correspondence should be directed; and

(3) The type of license for which the applicant is applying.

(c) *Signature and certification of accuracy.* An application must be legibly signed, dated, and certified as true, complete, and accurate by one of the following:

(1) *For a corporation:* An officer authorized to act for the corporation in licensing matters.

(2) *For a partnership or a sole proprietorship:* A general partner or proprietor, respectively.

(3) *For a joint venture, association, or other entity:* An officer or other individual duly authorized to act for the joint venture, association, or other entity in licensing matters.

§ 413.9 Confidentiality.

(a) Any person furnishing information or data to the FAA may request in writing that trade secrets or proprietary commercial or financial data be treated as confidential. The request must be made at the time the information or data is submitted, and state the period of time for which confidential treatment is desired.

(b) Information or data for which any person or agency requests confidentiality must be clearly marked with an identifying legend, such as "Proprietary Information," "Proprietary Commercial Information," "Trade Secret," or "Confidential Treatment Requested." Where this marking proves impracticable, a cover sheet containing the identifying legend must be securely attached to the compilation of information or data for which confidential treatment is requested.

(c) If a person requests that previously submitted information or data be treated confidentially, the FAA will do so to the extent practicable in light of any prior distribution of the information or data.

(d) Information or data for which confidential treatment has been requested or information or data that qualifies for exemption under section 552(b)(4) of Title 5, United States Code, will not be disclosed to the public unless the Associate Administrator determines that the withholding of the information or data is contrary to the public or national interest.

§ 413.11 Acceptance of an application.

The FAA will initially screen an application to determine whether the application is sufficiently complete to enable the FAA to initiate the reviews or evaluations required under any applicable part of this chapter. After completion of the initial screening, the FAA notifies the applicant, in writing, of one of the following:

(a) The application is accepted and the FAA will initiate the reviews or evaluations required for a licensing determination under this chapter; or

(b) The application is so incomplete or indefinite as to make initiation of the reviews or evaluations required for a licensing determination under this chapter inappropriate, and the application is rejected. The notice will state the reason(s) for rejection and corrective actions necessary for the application to be accepted. The FAA may return a rejected application to the applicant or may hold it pending additional submissions by the applicant.

§ 413.13 Complete application.

Acceptance by the FAA of an application does not constitute a determination that the application is complete. If, in addition to the information required by the applicable parts of this chapter, the FAA requires other information necessary for a determination that public health and safety, safety of property and national security and foreign policy interests of the United States are protected during the conduct of a licensed activity, an applicant shall submit the additional information required to show compliance with this chapter.

§ 413.15 Review period.

(a) *180-day review.* Unless otherwise specified in this chapter, the FAA reviews and makes a determination on a license application within 180 days of receipt of an accepted application.

(b) *Review period tolled.* If an accepted application does not provide sufficient information to continue or complete the reviews or evaluations required by this chapter for a licensing determination, or an issue exists that would affect a licensing determination, the FAA notifies the applicant, in writing, and informs the applicant of any information required to complete the application. If further review is impracticable, the 180-day review period shall be tolled pending receipt by the FAA of the requested information.

(c) *120-day notice.* If the FAA has not made a licensing determination within 120 days of receipt of an accepted application, the FAA informs the applicant, in writing, of any outstanding information needed to complete the reviews or evaluations required by this chapter for a licensing determination, or of any pending issues that would affect the licensing determination.

§ 413.17 Continuing accuracy of application; supplemental information; amendment.

(a) An applicant is responsible for the continuing accuracy and completeness of information furnished to the FAA as part of a pending license application. If at any time information provided by an applicant as part of a license application is no longer accurate and complete in all material respects, the applicant shall submit a statement furnishing the new or corrected information. As part of its submission, the applicant shall recertify the accuracy and completeness of the application in accordance with section 413.7. An applicant's failure to comply with any of the requirements set forth in this paragraph is a sufficient basis for denial of a license application.

(b) An applicant may amend or supplement a license application at any time prior to issuance or transfer of a license.

(c) Willful false statements made in any application or document relating to an application or license are punishable by fine and imprisonment under section 1001 of Title 18, United States Code, and by administrative sanctions in accordance with part 405 of this chapter.

§ 413.19 Issuance of a license.

After the FAA completes its reviews and makes the approvals and determinations required by this chapter for a license, the FAA issues a license to an applicant in accordance with this chapter.

§ 413.21 Denial of a license application.

(a) The FAA informs a license applicant, in writing, if its application has been denied and states the reasons for denial.

(b) An applicant whose license application is denied may either:

(1) Attempt to correct any deficiencies identified by the FAA and request reconsideration of the revised application. The FAA has 60 days or the number of days remaining in the 180-day review period, whichever is greater, within which to reconsider its licensing determination; or

(2) Request a hearing in accordance with part 406 of this chapter, for the

purpose of showing why the application should not be denied.

(c) An applicant whose license application is denied after reconsideration under paragraph (b)(1) of this section may request a hearing in accordance with paragraph (b)(2) of this section.

§ 413.23 License renewal.

(a) *Eligibility.* A licensee may apply to renew its license by submitting to the FAA a written application for renewal of the license at least 90 days before the expiration date of the license.

(b) *Application.*

(1) A license renewal application shall satisfy the requirements set forth in this part and any other applicable part of this chapter.

(2) The application may incorporate by reference information provided as part of the application for the expiring license or any modification to that license.

(3) The applicant must describe any proposed changes in its conduct of licensed activities and provide any additional clarifying information required by the FAA.

(c) *Review of application.* The FAA conducts the reviews required under this chapter for a license to determine whether the applicant's license may be renewed for an additional term. The FAA may incorporate by reference any findings that are part of the record for the expiring license.

(d) *Grant of license renewal.* After completion by the FAA of the reviews required by this chapter for a license and issuance of the requisite approvals and determinations, the FAA issues an order amending the expiration date of the license. The FAA may impose additional or revised terms and conditions necessary to protect public health and safety and the safety of property and to protect U.S. national security and foreign policy interests.

(e) *Denial of license renewal.* The FAA informs a licensee, in writing, if the licensee's application for renewal has been denied and states the reasons for denial. A licensee whose application for renewal is denied may follow the procedures set forth in section 413.21 of this part.

5. Part 415 is revised to read as follows:

PART 415—LAUNCH LICENSE

Subpart A—General

Sec.
415.1 Scope.
415.3 Types of launch licenses.
415.5 Policy and safety approvals.
415.7 Payload determination.
415.9 Issuance of a launch license.
415.11 Additional license terms and conditions.
415.13 Transfer of a launch license.
415.15 Rights not conferred by launch license.
415.16–415.20 [Reserved]

Subpart B—Policy Review and Approval

415.21 General.
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Appendix A to Part 415—FAA/USSPACECOM Launch Notification Form

Authority: 49 U.S.C. 70101–70121.

Subpart A—General

§ 415.1 Scope.

This part prescribes requirements for obtaining a launch license and post-licensing requirements with which a licensee shall comply to remain licensed. Requirements for preparing a license application are contained in part 413 of this subchapter.

§ 415.3 Types of launch licenses.

(a) *Launch-specific license.* A launch-specific license authorizes a licensee to conduct one or more launches, having the same launch parameters, of one type of launch vehicle from one launch site. The license identifies, by name or mission, each launch authorized under the license. A licensee's authorization to launch terminates upon completion of all launches authorized by the license or the expiration date stated in the license, whichever occurs first.

(b) *Launch operator license.* A launch operator license authorizes a licensee to conduct launches from one launch site, within a range of launch parameters, of launch vehicles from the same family of vehicles transporting specified classes of payloads. A launch operator license remains in effect for five years from the date of issuance.

§ 415.5 Policy and safety approvals.

To obtain a launch license, an applicant must obtain policy and safety approvals from the FAA. Requirements for obtaining these approvals are contained in subparts B, C and F of this part. Only a launch license applicant may apply for the approvals, and may apply for either approval separately and in advance of submitting a complete license application, using the application procedures contained in part 413 of this subchapter.

§ 415.7 Payload determination.

A payload determination is required for a launch license unless the proposed payload is exempt from payload review under § 415.53 of this part. The FAA conducts a payload review, as described in subpart D of this part, to make the determination. Either a launch license applicant or a payload owner or operator may request a review of its proposed payload using the application procedures contained in part 413 of this subchapter. Upon receipt of an application, the FAA may conduct a payload review independently of a launch license application.

§ 415.9 Issuance of a launch license.

(a) The FAA issues a launch license to an applicant who has obtained all approvals and determinations required under this chapter for a license.

(b) A launch license authorizes a licensee to conduct a launch or launches in accordance with the representations contained in the licensee's application, subject to the

licensee's compliance with terms and conditions contained in license orders accompanying the license, including financial responsibility requirements.

§ 415.11 Additional license terms and conditions.

The FAA may modify a launch license at any time by modifying or adding license terms and conditions to ensure compliance with the Act and regulations.

§ 415.13 Transfer of a launch license.

(a) Only the FAA may transfer a launch license.

(b) An applicant for transfer of a launch license shall submit a license application in accordance with part 413 of this subchapter and shall meet the requirements of part 415 of this subchapter. The FAA will transfer a license to an applicant who has obtained all of the approvals and determinations required under this chapter for a license. In conducting its reviews and issuing approvals and determinations, the FAA may incorporate by reference any findings made part of the record to support the initial licensing determination. The FAA may modify a license to reflect any changes necessary as a result of a license transfer.

§ 415.15 Rights not conferred by launch license.

Issuance of a launch license does not relieve a licensee of its obligation to comply with all applicable requirements of law or regulation that may apply to its activities, nor does issuance confer any proprietary, property or exclusive right in the use of any federal launch range or related facilities, airspace, or outer space.

§§ 415.16–415.20 [Reserved]

Subpart B—Policy Review and Approval

§ 415.21 General.

The FAA issues a policy approval to a license applicant unless the FAA determines that a proposed launch would jeopardize U.S. national security or foreign policy interests, or international obligations of the United States. A policy approval is part of the licensing record on which the FAA's licensing determination is based.

§ 415.23 Policy review.

(a) The FAA reviews a license application to determine whether it presents any issues affecting U.S. national security or foreign policy interests, or international obligations of the United States.

(b) Interagency consultation.

(1) The FAA consults with the Department of Defense to determine whether a license application presents any issues affecting U.S. national security.

(2) The FAA consults with the Department of State to determine whether a license application presents any issues affecting U.S. foreign policy interests or international obligations.

(3) The FAA consults with other federal agencies, including the National Aeronautics and Space Administration, authorized to address issues identified under paragraph (a) of this section, associated with an applicant's launch proposal.

(c) The FAA advises an applicant, in writing, of any issue raised during a policy review that would impede issuance of a policy approval. The applicant may respond, in writing, or revise its license application.

§ 415.25 Application requirements for policy review.

In its launch license application, an applicant shall—

(a) Identify the model and configuration of any launch vehicle proposed for launch by the applicant.

(b) Identify structural, pneumatic, propellant, propulsion, electrical and avionics systems used in the launch vehicle and all propellants.

(c) Identify foreign ownership of the applicant as follows:

(1) For a sole proprietorship or partnership, identify all foreign ownership;

(2) For a corporation, identify any foreign ownership interests of 10% or more; and

(3) For a joint venture, association, or other entity, identify any participating foreign entities.

(d) Identify proposed launch vehicle flight profile(s), including:

(1) Launch site;

(2) Flight azimuths, trajectories, and associated ground tracks and instantaneous impact points;

(3) Sequence of planned events or maneuvers during flight;

(4) Range of nominal impact areas for all spent motors and other discarded mission hardware, within three standard deviations of the mean impact point (a 3-sigma footprint); and

(5) For each orbital mission, the range of intermediate and final orbits of each vehicle upper stage, and their estimated orbital lifetimes.

§ 415.27 Denial of policy approval.

The FAA notifies an applicant, in writing, if it has denied policy approval for a license application. The notice states the reasons for the FAA's determination. The applicant may respond to the reasons for the determination and request reconsideration.

§§ 415.28–415.30 [Reserved]

Subpart C—Safety Review and Approval for Launch From a Federal Launch Range

§ 415.31 General.

(a) The FAA conducts a safety review to determine whether an applicant is capable of launching a launch vehicle and its payload without jeopardizing public health and safety and safety of property. The FAA issues a safety approval to a license applicant proposing to launch from a federal launch range if the applicant satisfies the requirements of this subpart and has contracted with the federal launch range for the provision of safety-related launch services and property, as long as those launch services and the proposed use of launch property are within the federal launch range's experience. The FAA evaluates on an individual basis all other safety-related launch services and property associated with an applicant's proposal. A safety approval is part of the licensing record on which the FAA's licensing determination is based.

(b) The FAA advises an applicant, in writing, of any issue raised during a safety review that would impede issuance of a safety approval. The applicant may respond, in writing, or revise its license application.

§ 415.33 Safety organization.

(a) An applicant shall maintain a safety organization and document it by identifying lines of communication and approval authority for all launch safety decisions. Lines of communication, both within the applicant's organization and between the applicant and any federal launch range providing launch services, shall be employed to ensure that personnel perform launch safety operations in accordance with range safety requirements and with plans and procedures required by this subpart. Approval authority shall be employed to ensure compliance with range safety requirements and with plans and procedures required by this subpart.

(b) *Safety official.* An applicant shall identify by name, title, and qualifications, a qualified safety official authorized to examine all aspects of the applicant's launch safety operations and to monitor independently personnel compliance with the applicant's safety policies and procedures. The safety official shall report directly to the person responsible for an applicant's

licensed launches, who shall ensure that all of the safety official's concerns are addressed prior to launch.

§ 415.35 Acceptable flight risk.

(a) *Flight risk through orbital insertion or impact.* Acceptable flight risk through orbital insertion for an orbital launch vehicle, and through impact for a suborbital launch vehicle, is measured in terms of the expected average number of casualties (E_c) to the collective members of the public exposed to debris hazards from any one launch. To obtain safety approval, an applicant shall demonstrate that the risk level associated with debris from an applicant's proposed launch shall not exceed an expected average number of 0.00003 casualties per launch ($E_c \leq 30 \times 10^{-6}$).

(b) *Hazard identification and risk assessment.* To demonstrate compliance with this section, an applicant shall submit an analysis that identifies hazards and assesses risks to public health and safety and safety of property associated with nominal and non-nominal flight under its launch proposal.

(c) A launch vehicle shall be designed to ensure that flight risks meet the criteria set forth in this section. An applicant shall identify and describe the following:

(1) Launch vehicle structure, including physical dimensions and weight;

(2) Hazardous and safety critical systems, including propulsion systems; and

(3) Drawings and schematics for each system identified under paragraph (c)(2) of this section.

(d) A launch vehicle shall be operated in a manner that ensures that flight risks meet the criteria set forth in this section. An applicant shall identify all launch operations and procedures that must be performed to ensure acceptable flight risks.

§ 415.37 Flight readiness and communications plan.

(a) *Flight readiness requirements.* An applicant shall designate an individual responsible for flight readiness. The applicant shall submit the following procedures for verifying readiness for safe flight:

(1) Launch readiness review procedures involving the applicant's flight safety personnel and federal launch range personnel involved in the launch. The procedures shall ensure a launch readiness review is conducted during which the individual designated under paragraph (a) of this section is provided with the following information to make a judgement as to flight readiness:

(i) Flight-readiness of safety-related launch property and services to be provided by a federal launch range;

(ii) Flight-readiness of launch vehicle and payload;

(iii) Flight-readiness of flight safety systems;

(iv) Mission rules and launch constraints;

(v) Abort, hold and recycle procedures;

(vi) Results of dress rehearsals and simulations conducted in accordance with paragraph (a)(4) of this section;

(vii) Unresolved safety issues as of the launch readiness review and plans for addressing and resolving them; and

(viii) Any additional safety information required by the individual designated under paragraph (a) of this section to determine flight readiness.

(2) Procedures that ensure mission constraints, rules and abort procedures are listed and consolidated in a safety directive or notebook approved by licensee flight safety and federal launch range personnel;

(3) Procedures that ensure currency and consistency of licensee and federal launch range countdown checklists;

(4) Dress rehearsal procedures that—

(i) Ensure crew readiness under nominal and non-nominal flight conditions;

(ii) Contain criteria for determining whether to dispense with one or more dress rehearsals; and

(iii) Verify currency and consistency of licensee and federal launch range countdown checklists.

(5) Procedures for ensuring the licensee's flight safety personnel adhere to federal launch range crew rest rules.

(b) *Communications plan requirements.* An applicant shall submit a communications plan providing licensee and federal launch range personnel communications procedures during countdown and flight. Effective issuance and communication of safety-critical information during countdown shall include hold/resume, go/no go and abort commands by licensee and federal launch range personnel during countdown. The communications plan shall describe the authority of licensee and federal launch range personnel, by individual or position title, to issue these commands. The communications plan shall also ensure that—

(1) Communication networks are assigned so that personnel identified under paragraph (b) of this section have direct access to real-time safety-critical information required for issuing hold/resume, go/no go and abort decisions and commands;

(2) Personnel identified under paragraph (b) of this section monitor common intercom channel(s) during countdown and flight; and

(3) A protocol is established for utilizing defined radio telephone communications terminology.

(c) An applicant shall submit procedures that ensure that licensee and federal launch range personnel receive a copy of the communications plan required by paragraph (b) of this section, and that the federal launch range concurs in the communications plan.

§ 415.39 Safety at end of launch.

To obtain safety approval, an applicant must demonstrate for any proposed launch that for all launch vehicle stages or components that reach earth orbit—

(a) There will be no unplanned physical contact between the vehicle or its components and the payload after payload separation;

(b) Debris generation will not result from the conversion of energy sources into energy that fragments the vehicle or its components. Energy sources include chemical, pressure, and kinetic energy; and

(c) Stored energy will be removed by depleting residual fuel and leaving all fuel line valves open, venting any pressurized system, leaving all batteries in a permanent discharge state, and removing any remaining source of stored energy. Other equivalent procedures may be approved in the course of the licensing process.

§ 415.41 Accident investigation plan.

(a) An applicant shall submit an accident investigation plan (AIP) containing the applicant's procedures for reporting and responding to launch accidents, launch incidents, or other mishaps, as defined in § 401.5 of this chapter. The AIP shall be signed by an individual authorized to sign and certify the application in accordance with § 413.7(c) of this chapter, and the safety official designated under § 415.33(b) of this subpart.

(b) *Reporting requirements.* An AIP shall provide for—

(1) Immediate notification to the Federal Aviation Administration (FAA) Washington Operations Center in case of a launch accident, a launch incident or a mishap that involves a fatality or serious injury (as defined in 49 CFR § 830.2).

(2) Notification within 24 hours to the Associate Administrator for Commercial Space Transportation or the Federal Aviation Administration (FAA) Washington Operations Center in the event of a mishap, other than those in

§ 415.41 (b) (1), that does not involve a fatality or serious injury (as defined in 49 CFR 830.2).

(3) Submission of a written preliminary report to the FAA, Associate Administrator for Commercial Space Transportation, in the event of a launch accident or launch incident, as defined in § 401.5 of this chapter, within five days of the event. The report shall identify the event as either a launch accident or launch incident, and shall include the following information:

(i) Date and time of occurrence;

(ii) Description of event;

(iii) Location of launch;

(iv) Launch vehicle;

(v) Any payload;

(vi) Vehicle impact points outside designated impact lines, if applicable;

(vii) Number and general description of any injuries;

(viii) Property damage, if any, and an estimate of its value;

(ix) Identification of hazardous materials, as defined in § 401.5 of this chapter, involved in the event, whether on the launch vehicle, payload, or on the ground;

(x) Action taken by any person to contain the consequences of the event; and

(xi) Weather conditions at the time of the event.

(c) *Response plan.* An AIP shall contain procedures that—

(1) Ensure the consequences of a launch accident, launch incident or other mishap are contained and minimized;

(2) Ensure data and physical evidence is preserved;

(3) Require the licensee to report to and cooperate with FAA and National Transportation Safety Board (NTSB) investigations and designate one or more points of contact for the FAA or NTSB; and

(4) Require the licensee to identify and adopt preventive measures for avoiding recurrence of the event.

(d) *Investigation plan.* An AIP shall contain—

(1) Procedures for investigating the cause of a launch accident, launch incident or other mishap;

(2) Procedures for reporting investigation results to the FAA; and

(3) Delineated responsibilities, including reporting responsibilities for personnel assigned to conduct investigations and for any one retained by the licensee to conduct or participate in investigations.

§ 415.43 Denial of safety approval.

The FAA notifies an applicant, in writing, if it has denied safety approval for a license application. The notice states the reasons for the FAA's determination. The applicant may respond to the reasons for the determination and request reconsideration.

§§ 415.44–415.50 [Reserved]

Subpart D—Payload Review and Determination

§ 415.51 General.

The FAA reviews a payload proposed for launch to determine whether a license applicant or payload owner or operator has obtained all required licenses, authorization, and permits, unless the payload is exempt from review under § 415.53 of this subpart. If not otherwise exempt, the FAA reviews a payload proposed for launch to determine whether its launch would jeopardize public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States. A payload determination is part of the licensing record on which the FAA's licensing determination is based.

§ 415.53 Payloads not subject to review.

The FAA does not review payloads that are—

(a) Subject to regulation by the Federal Communications Commission (FCC) or the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA); or

(b) Owned or operated by the U.S. Government.

§ 415.55 Classes of payloads.

The FAA may review and issue findings regarding a proposed class of payload, e.g., communications, remote sensing or navigation. However, each payload is subject to compliance monitoring by the FAA before launch to determine whether its launch would jeopardize public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States. The licensee is responsible for providing current information, in accordance with § 415.79(a), regarding a payload proposed for launch not later than 60 days before a scheduled launch.

§ 415.57 Payload review.

(a) *Timing.* A payload review may be conducted as part of a license application review or may be requested by a payload owner or operator in advance of or apart from a license application.

(b) *Interagency consultation.* The FAA consults with other agencies to determine whether launch of a proposed payload or payload class would present any issues affecting public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States.

(1) The FAA consults with the Department of Defense to determine whether launch of a proposed payload or payload class would present any issues affecting U.S. national security.

(2) The FAA consults with the Department of State to determine whether launch of a proposed payload or payload class would present any issues affecting U.S. foreign policy interests or international obligations.

(3) The FAA consults with other federal agencies, including the National Aeronautics and Space Administration, authorized to address issues identified under paragraph (b) of this section associated with an applicant's launch proposal.

(c) The FAA advises a person requesting a payload determination, in writing, of any issue raised during a payload review that would impede issuance of a license to launch that payload or payload class. The person requesting payload review may respond, in writing, or revise its application.

§ 415.59 Information requirements for payload review.

(a) A person requesting review of a particular payload or payload class shall identify the following:

(1) Payload name;

(2) Payload class;

(3) Physical dimensions and weight of the payload;

(4) Payload owner and operator, if different from the person requesting payload review;

(5) Orbital parameters for parking, transfer and final orbits;

(6) Hazardous materials, as defined in § 401.5 of this chapter, and radioactive materials, and the amounts of each;

(7) Intended payload operations during the life of the payload; and

(8) Delivery point in flight at which the payload will no longer be under the licensee's control.

(b) [Reserved]

§ 415.61 Issuance of payload determination.

(a) The FAA issues a favorable payload determination unless it determines that launch of the proposed payload would jeopardize public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States. The FAA advises any person who has requested a payload review of its determination, in writing. The notice states the reasons for the

determination in the event of an unfavorable determination.

(b) Any person issued an unfavorable payload determination may respond to the reasons for the determination and request reconsideration.

§ 415.63 Incorporation of payload determination in license application.

A favorable payload determination issued for a payload or class of payload may be included by a license applicant as part of its application. However, any change in information provided under section 415.59 of this subpart must be reported in accordance with section 413.17 of this chapter. The FAA determines whether a favorable payload determination remains valid in light of reported changes and may conduct an additional payload review.

§ 415.64–415.70 [Reserved]

Subpart E—Post-Licensing Requirements—Launch License Terms and Conditions

§ 415.71 Public safety responsibility.

A launch licensee is responsible for ensuring the safe conduct of a licensed launch and for ensuring that public safety and safety of property are protected at all times during the conduct of a licensed launch.

§ 415.73 Continuing accuracy of license application; application for modification of license.

(a) A launch licensee is responsible for the continuing accuracy of representations contained in its application for the entire term of the license. A launch licensee must conduct a licensed launch and carry out launch safety procedures in accordance with its application. A licensee's failure to comply with the requirements of this paragraph is sufficient basis for suspension or revocation of a license.

(b) After a launch license has been issued, a licensee must apply to the FAA for modification of the license if:

(1) The launch licensee proposes to conduct a launch or carry out a launch safety procedure or operation in a manner that is not authorized by the license; or

(2) Any representation contained in the license application that is material to public health and safety or safety of property would no longer be accurate and complete or would not reflect the launch licensee's procedures governing the actual conduct of a launch. A change is material to public health and safety or safety of property if it alters or affects the licensee's launch plans or procedures submitted in accordance with subpart D of this part, class of payload, orbital destination, type of launch vehicle, flight path, launch site, launch point, or any safety system, policy, procedure, requirement, criteria or standard.

(c) An application to modify a launch license shall be prepared and submitted in accordance with part 413 of this chapter. The launch licensee shall indicate any part of its license or license application that would be changed or affected by a proposed modification.

(d) The FAA reviews approvals and determinations required by this chapter to determine whether they remain valid in light of a proposed modification. The FAA approves a modification that satisfies the requirements set forth in this part.

(e) Upon approval of modification, the FAA issues either a written approval to the launch licensee or a license order modifying the license if a stated term or condition of the license is changed, added or deleted. A written approval has the full force and effect of a license order and is part of the licensing record.

§ 415.75 Agreement(s) with federal launch range.

Prior to conducting a licensed launch from a federal launch range, a launch licensee or applicant shall enter into an agreement with a federal launch range providing for access to and use of U.S. Government property and services required to support a licensed launch from the facility and for public safety related operations and support. The agreement shall be in effect for the conduct of any licensed launch. A launch licensee shall comply with any requirements of the agreement(s) that may affect public safety and safety of property during the conduct of a licensed launch, including flight safety procedures and requirements.

§ 415.77 Records.

(a) A launch licensee shall maintain all records necessary to verify that licensed launches are conducted in accordance with representations contained in the licensee's application. A launch licensee shall retain records for three years after completion of all launches conducted under the license.

(b) In the event of a launch accident or launch incident, as defined in § 405.1 of this chapter, a launch licensee shall preserve all records related to the event. Records shall be retained until completion of any federal investigation and until the FAA advises the licensee that the records need not be retained. The licensee shall make available to federal officials for inspection and copying all records required to be maintained under these regulations.

§ 415.79 Launch reporting requirements.

(a) Not later than 60 days before each flight conducted under a launch operator license, a licensee shall provide the FAA the following launch-specific information:

(1) Payload information contained in § 415.59 of this part;

(2) Flight information, including the launch vehicle, planned flight path, including staging and impact locations, and on-orbit activity of the launch vehicle including payload delivery point(s); and

(3) Mission specific launch waivers, approved or pending, from a federal launch range from which the launch will take place, that are unique to the launch and may affect public safety.

(b) Not later than noon, EST, 15 days before each licensed flight a licensee shall submit to the FAA a completed Federal Aviation Administration/U.S. Space Command (FAA/USSPACECOM) Launch Notification Form (OMB No. 2120–0608).

(c) A launch licensee shall report a launch accident, launch incident, or a mishap that involves a fatality or serious injury (as defined in 49 CFR 830.2) immediately to the Federal Aviation Administration (FAA) Washington Operations Center and provide a written preliminary report in the event of a launch accident or launch incident, in accordance with the accident investigation plan (AIP) submitted as part of its license application under § 415.41 of this part.

§ 415.81 Registration of space objects.

(a) To assist the U.S. Government in implementing Article IV of the 1975 Convention on Registration of Objects Launched into Outer Space, each licensee shall provide to the FAA the information required by paragraph (b) of this section for all objects placed in space by a licensed launch, including a launch vehicle and any components, except:

(1) Any object owned and registered by the U.S. Government; and

(2) Any object owned by a foreign entity.

(b) For each object that must be registered in accordance with this section, not later than thirty (30) days following the conduct of a licensed launch, a licensee shall submit the following information:

(1) The international designator of the space object(s);

(2) Date and location of launch;

(3) General function of the space object; and

(4) Final orbital parameters, including:

(i) Nodal period;

(ii) Inclination;
(iii) Apogee; and
(iv) Perigee.

§ 415.83 Financial responsibility requirements.

A launch licensee shall comply with financial responsibility requirements specified in a license or license order.

§ 415.85 Compliance monitoring.

A launch licensee shall allow access by, and cooperate with, federal officers or employees or other individuals authorized by the FAA to observe any activities of the licensee, or of the licensee's contractors or subcontractors, associated with the conduct of a licensed launch.

§ 415.86–415.90 [Reserved]

Subpart F—Safety Review and Approval for Launch From a Launch Site Not Operated by a Federal Launch Range

§ 415.91 General.

The FAA evaluates on an individual basis the safety-related elements of an applicant's proposal to launch a launch vehicle from a launch site not operated by a federal launch range. The FAA issues a safety approval to a license applicant proposing to launch from a launch site not operated by a federal launch range when the FAA determines that the launch demonstrates an equivalent level of safety to that provided by a launch from a federal launch range as set forth in subpart C of this part. A safety approval is part of the licensing record on which the FAA's licensing determination is based.

§ 415.93 Denial of safety approval.

The FAA notifies an applicant, in writing, if it has denied safety approval for a license application. The notice states the reasons for the FAA's determination. The applicant may respond to the reasons for the determination and request reconsideration.

§§ 415.94–415.100 [Reserved]

Subpart G—Environmental Review

§ 415.101 General.

An applicant shall provide the FAA with information for the FAA to analyze the environmental impacts associated with a proposed launch. The information provided by an applicant must be sufficient to enable the FAA to comply with the requirements of the National Environment Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR parts 1500–1508, and the FAA's Procedures for Considering Environmental Impacts, FAA Order 1050.1D.

§ 415.103 Environmental information.

An applicant shall submit environmental information concerning:

(a) A proposed launch site not covered by existing environmental documentation;

(b) A proposed launch vehicle with characteristics falling measurably outside the parameters of existing environmental documentation;

(c) A proposed launch from an established launch site involving a vehicle with characteristics falling measurably outside the parameters of any existing environmental impact statement that applies to that site;

(d) A proposed payload that may have significant environmental impacts in the event of a mishap; and

(e) Other factors as determined by the FAA.

BILLING CODE 4910–13–P

Appendix A to Part 415—FAA/USSPACECOM Launch Notification Form

Form Approved OMB No. 2120-0608

U.S. Department of Transportation
Federal Aviation Administration

FAA/USSPACECOM Launch Notification

1) Launch Site & Launch Date:
2) Earliest and Latest possible Launch Time (GMT):
3) List of objects to achieve orbit - to include payload description, Rocket bodies, and all other objects:
4) Launch Booster, sustainer, and strap-on descriptions:
5) Launch operator POC - to include name, address, & phone numbers:
6) Orbital Parameters for all objects achieving orbit a) inertial launch azimuth at liftoff:
b) inertial flight azimuth after liftoff:
c) epoch time:
d) nominal period (min):
e) inclination (deg):
f) eccentricity:
g) semimajor axis (km):
h) argument of perigee (deg):
i) right ascension of ascending node (deg):
j) mean anomaly (deg):
k) start time of orbit (hh:mm:ss after launch):
l) end time of orbit (hh:mm:ss after launch):
7) Injection data a) injection point latitude (deg n or s) & longitude (deg e):
b) inertial azimuth at injection point:
c) height above earth (km):

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FAA/USSPACECOM Launch Notification
d) injection time (hh:mm:ss after liftoff):
8) Sequence of Events from liftoff to final injection. Give the times (hh:mm:ss after liftoff) a) separation of each motor:
b) ignition of each motor:
c) cutoff of each motor:
d) jettison of pieces:
e) maneuvers:
f) reorientations:
g) deorbit:
h) ejection of special packages or other experiments:
9) Optional - Schedule for events (not included in no. 8), such as ejection or experiments, maneuvering (unclassified missions), jettison of parts, extension of antenna and solar arrays, venting, spinning or despinning attitude changes, reorientation, or anything which may affect the orbital characteristics:
10) A brief narrative description of the mission:
11) Transmitting frequencies and power (required only if space surveillance is required), including device, band, power (watts), frequency (mhz), and emission scheduled by fixed program, command, or transponder tracking:
12) Orbital objects cataloging instructions (include all orbital objects listed in no. 3, including common name, international designation, and country:

BILLING CODE 4910-13-C

6. Subchapter C of Chapter III, title 14, Code of Federal Regulations, is amended by adding a new part 417 to read as follows:

PART 417—LICENSE TO OPERATE A LAUNCH SITE

Sec.
417.101 General.
417.103 Issuance of a license to operate a launch site.
417.105 Environmental.
417.107 Environmental information.

Authority: 49 U.S.C. 70101–70121.

§ 417.101 General.

The FAA evaluates on an individual basis an applicant's proposal to operate a launch site.

§ 417.103 Issuance of a license to operate a launch site.

(a) The FAA issues a license to operate a launch site when it determines that an applicant's operation of the launch site does not jeopardize public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States.

(b) A license to operate a launch site authorizes a licensee to operate a launch site in accordance with the representations contained in the licensee's application, subject to the licensee's compliance with terms and condition contained in any license order accompanying the license.

§ 417.105 Environmental.

An applicant shall provide the FAA with information for the FAA to analyze the environmental impacts associated with proposed operation of a launch site. The information provided by an applicant must be sufficient to enable the FAA to comply with the requirements of the National Environment Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR Parts 1500–1508, and the FAA's Procedures for Considering Environmental Impacts, FAA Order 1050.1D.

§ 417.107 Environmental information.

An applicant shall submit environmental information concerning:

(a) A proposed launch site not covered by existing environmental documentation; and

(b) Other factors as determined by the FAA.

Issued in Washington, DC on April 13, 1999.

Patricia G. Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 99–9639 Filed 4–20–99; 8:45 am]

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federal register

Wednesday
April 21, 1999

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 400 et al.
Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulations; Proposed Rule
Proposed Advisory Circular (AC) 431–01, Reusable Launch Vehicle System Safety Process and AC 431–02, Expected Casualty Calculations for Commercial Space Launch and Reentry Missions; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 400, 401, 404, 405, 406, 413, 415, 431, 433, and 435

[Docket No. FAA–1999–5535; Notice No. 99–04]

RIN 2120–AG71

Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to amend the commercial space transportation licensing regulations by establishing operational requirements for launches of reusable launch vehicles (RLVs) and the authorized conduct of commercial space reentry activities. The proposed rule would respond to advancements in the development of commercial RLV and reentry capability and enactment of legislation extending the FAA's licensing authority to reentry activities. The agency is proposing requirements that limit risk to the public from RLV and reentry operations and seeks public comment on appropriate measures to carry out its licensing and safety responsibilities.

DATES: Comments must be received on or before July 20, 1999.

ADDRESSES: Comments on this document should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–1999–5535, 400 Seventh Street SW., Room Plaza 401, Washington, DC 20590. Comments also may be sent electronically to the following Internet address: 9–NPRM–CMTS@faa.gov. Comments may be filed and examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart W. Jackson, AST–100, Space Systems Development Division, Office of the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, U.S. Department of Transportation, 800 Independence Avenue SW., Washington, DC 20591, (202) 267–7903; or Ms. Esta M. Rosenberg, Attorney-Advisor, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, U.S. Department of Transportation, (202) 366–9320.

Comments Invited

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered to the extent possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a pre-addressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. FAA–1999–5535." The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone (703) 321–3339) or the Government Printing Office's electronic bulletin board service (telephone (202) 512–1661).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the Government Printing Office's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future NPRMs should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

SUPPLEMENTARY INFORMATION:

Background

General

The Commercial Space Act of 1998 (CSA), Public Law 105–303, extends the licensing authority of the Secretary of Transportation under 49 U.S.C. Subtitle IX, chapter 701 (known as the Commercial Space Launch Act or CSLA), to reentry vehicle operators and the operation of reentry sites by a commercial or non-Federal entity. Under the CSA, the Secretary is authorized to license reentry of a reentry vehicle, including reusable launch vehicles, and the operation of reentry sites when those activities are conducted within the United States or by U.S. citizens abroad. The Secretary is charged with exercising licensing authority protection of public health and safety and the safety of property as well as consistency with U.S. national security and foreign policy interests, and treaty obligations entered into by the United States. By delegation of authority, the Administrator of the Federal Aviation Administration is responsible for carrying out the Secretary's licensing and safety mandate with respect to commercial space transportation and the Administrator has, in turn, delegated regulatory and related authority to the Associate Administrator for Commercial Space Transportation (AST).

Amendment of the CSLA responds to development of reentry capability and reusable launch vehicle technology by the commercial space industry. Market forecasts of launch demand and international launch competition are driving industry to invest in means of accomplishing lower cost and more efficient access to space and specifically to low earth orbit. Reusable, or partially reusable vehicles that are capable of payload delivery and return to Earth for reflight are considered by many in industry as integral to reducing launch costs. For years, expendable launch vehicles (ELVs) have successfully provided commercial payload delivery services; however, the ability to survive the rigors of launch and the prospect of multiple missions per vehicle may dramatically lower price-per-pound-to-orbit launch costs. Growing interest in the ability to provide reliable round-trip space-route services, such as satellite

retrieval, package delivery, and ultimately space tourism, is attracting investment in a new class of space launch vehicle that can provide orbital launch and reentry services.

A reusable launch vehicle, or RLV, differs from an expendable launch vehicle in that the vehicle, or a significant portion of it, would be designed to survive launch and reentry from space and maintain functional integrity. Proponents of reusable launch technology envision rapid reconditioning and turn-around time to maximize efficiency and profitability.

Reusable launch vehicles are one form of reentry capability that would be subject to FAA licensing and safety requirements under the Commercial Space Act of 1998. Any vehicle, reusable or not, that is designed and operated such that it would intentionally return to Earth from Earth orbit or outer space, substantially intact, would require an FAA license. A person who offers use of a designated site for purposes of containing landing impacts would also be subject to FAA licensing to assure public safety is maintained if that person is a citizen of the United States or if the reentry site is in the United States.

Launch vehicle survivability poses unique issues for the FAA in carrying out its safety mandate. Except for the U.S. Space Transportation System (STS) which transports the space shuttle, only ELVs are launched from the United States and the vast majority of ELV launches have been from federally owned and operated launch sites, such as Cape Canaveral Air Station (CCAS) or Vandenberg Air Force Base (VAFB). ELVs having an orbital delivery capability are generally launched over unpopulated ocean areas so that debris generated from a vehicle failure would impact the Earth away from population. Risk to public safety is assessed by Federal ranges and launches proceed from Federal sites only if public risk is contained at an acceptable level. ELVs rely upon flight termination systems (FTS) that assure safe flight by destroying a vehicle if it is traveling beyond pre-approved boundaries so as to endanger the public. The boundaries, or impact limit lines, are drawn in advance of a launch and ensure that vehicle debris is confined within an unpopulated area in the event of vehicle failure or FTS activation.

In contrast, RLVs would be designed for recovery and reuse. Therefore, launch safety, for the most part, may be assured through non-destructive means of terminating flight. In the event of a malfunction, an RLV may be able to return to its launch site or fly to an alternative landing site where the problem can be corrected and flight attempted again. Or, in another scenario, thrust termination combined with a soft or slowed landing may allow a vehicle operator to recover its vehicle for reconditioning and reuse. If a landing can be accomplished safely in terms of public risk, the operator would prefer it to total loss of the vehicle, and may purposely select an in-land site for the conduct of an RLV launch rather than risk launching over water where recovery would be difficult and costly.

Return to Earth of a substantially intact vehicle also presents safety issues for the FAA. Although spent vehicle stages return to Earth periodically, as does other space debris, it is generally expected that reentering space objects burn up upon reentry into the Earth's atmosphere and do not present a threat to public safety. Reentry vehicles would be designed and controlled to the extent necessary to avoid burning up upon entry into the Earth's atmosphere and the FAA's safety program must ensure that they impact Earth in a manner that does not jeopardize public health and safety or the safety of property. Until accuracy and reliability of a vehicle's performance can be demonstrated through rigorous testing and numerous flights, other risk mitigation measures may be necessary to limit risks to the public from an off-site landing, explosion or release of toxic substances.

The proposed rules would establish general performance-based standards for the launch of an RLV from any launch site and requirements applicable to commercial reentry activities. The approach proposed by the FAA in this notice is intended to provide the emerging commercial space transportation industry with the requisite flexibility to develop commercially feasible reentry and reusable launch vehicle systems whose operation would not jeopardize public safety.

Reentry Vehicles and Reusable Launch Vehicle Proposals

Extension of the FAA's licensing authority to cover reentry operations responds to the development of RLV technology by a number of commercial entities that have begun to develop and test RLV concepts. Not all test operations require FAA launch and reentry licensing and may be covered by other agency authority. A number of RLV technology developers have begun preliminary consultations with the FAA to ascertain the nature and extent of FAA safety requirements and authorization needed for flight of their vehicles and the FAA encourages early discussion between the agency and aerospace companies to avoid regulatory obstacles down the road that may delay operations.

The proposed rules would apply to both commercial reentry vehicle and RLV activities. Not all RLVs are reentry vehicles, and all reentry vehicles are not RLVs. A reentry vehicle is defined by the Commercial Space Act of 1998 to mean "a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from outer space to Earth, substantially intact." Pub. L. 105–303, Section 102(a)(3). Therefore, an RLV is a reentry vehicle under specific conditions of design and operation. Similarly, "reentry" is defined to mean "to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth." Pub. L. 105–303, Section 102(a)(3).

An RLV is a launch vehicle designed to be launched more than once; however its return to Earth would be licensable as a reentry only if the vehicle achieves Earth orbit or outer space. Some RLVs are designed to operate in a suborbital fashion in that they do not enter Earth orbit. Others achieve Earth orbit and remain on orbit anywhere from one orbital revolution to several days prior to initiating reentry, depending on the nature of the mission. Some vehicle concepts employ a fully reusable vehicle that carries the payload to orbit and returns to Earth with the entire vehicle intact. This category of RLV includes single-stage-to-orbit (SSTO) vehicles, such as the VentureStar vehicle planned by Lockheed Martin Corporation (Lockheed Martin) and Rotary Rocket's Roton vehicle. For some, only certain stages, or portions, of the vehicle are designed to reenter . For example, Kistler Aerospace Corporation's (Kistler) K–1 vehicle relies upon a two-stage-to-orbit concept in which both the orbital vehicle and booster vehicle return to Earth for reuse; however only the orbital vehicle would qualify as a reentry vehicle under the statutory definition. An RLV also may be designed with one or more stages that are fully reusable and with other stages that are either partially reusable or even expendable. There are also airborne launch systems under development, such as that proposed by Kelly Aerospace, involving RLV and reentry operations.

Further complicating the development of regulations for commercial space transportation activities is the variety of take-off and landing concepts that have been proposed. These concepts include

vertical launch from conventional launch pads, horizontal take-off from conventional runways, and airborne release using tow or air-drop configurations. Also included are vertical landing, horizontal landing, and a variety of "soft" landing concepts, such as parachutes, airbags, parafoils, rotors, water landings, or aerial recovery.

The FAA does not want to constrain the development of emerging technology as operators seek effective and efficient methods of operation. Therefore, the regulatory requirements proposed by the FAA are not, generally speaking, based on type or design of a reentry vehicle or RLV, nor is the FAA proposing to certificate vehicle design. Rather, the FAA is proposing to examine closely those critical systems whose performance or reliability can affect public safety. Except for certain restrictions deemed critical to assuring public safety, the FAA proposes to employ a system safety engineering approach that effectively allows an operator to design its own operational restrictions and performance envelope within permissible risk thresholds established by the agency consistent with safety mandate. Limits and conditions on a licensee's RLV launch and reentry vehicle operations would be determined through the system safety process and risk assessments performed by a license applicant. The FAA envisions that future use of RLV operations may include passenger transport, in addition to cargo transport, to and from space. This notice is not intended to address these issues. Future rulemakings will address crew and passenger safety and other issues.

History of U.S. Commercial Reentry Capability

COMET/METEOR Program

A number of the safety principles reflected in this proposal originate with the experience gained by the Department's Office of Commercial Space Transportation (OCST), the predecessor organization to AST, in evaluating the COMET (Commercial Experiment Transporter) Program and, later, the METEOR (Multiple Experiment to Earth Orbit and Return) Program.

The COMET Program began as a commercial program administered through National Aeronautics and Space Administration (NASA)'s Centers for the Commercial Development of Space (CCDS). COMET was intended to provide the services of a reentry vehicle system to carry and return to Earth experimental payloads. Three reentry missions were originally planned, with an option for two additional missions. The reentry vehicle system was comprised of a service module, manufactured by Westinghouse Electric Corporation, and a capsule-shaped reentry vehicle, manufactured by Space Industries, Inc. Both companies were under contract with NASA's CCDS. The program was intended to demonstrate the capability of a low cost, medium-term (30-day) platform in space for the conduct and return to Earth of microgravity experiments. The COMET Program and the agency's approach to authorizing its activity is fully described in several **Federal Register** Notices . (*See* 57 FR 10213, March 24, 1992; 57 FR 55021, November 23, 1992; and 60 FR 39476, August 2, 1995.) EER Systems Corporation (EER), also under contract to the CCDS, was responsible for launching the COMET reentry vehicle system into space using a Conestoga expendable launch vehicle.

Upon command from Earth, the COMET would separate into two components and the reentry vehicle portion (Freeflyer), designed and operated by Space Industries, Inc., would reenter the Earth's atmosphere targeting a designated landing site on earth where experiments could be recovered. Because of funding problems the COMET Program was terminated and subsequently resurrected under a contract between NASA and Systems, Inc., which became responsible for both launch and reentry operations. Flight capability of the reentry vehicle system, renamed METEOR, was never demonstrated, however, because of the Conestoga launch failure which destroyed the METEOR system shortly after lift-off.

The agency's initial approach to the COMET Program was to license the reentry event separately from the launch event under existing launch licensing authority. The determination to issue a separate license for return to Earth of the reentry vehicle was based, in large measure, on the fact that the reentry vehicle operator was a different entity than the launch operator, and that responsibility over the subsequent reentry (30 days following completion of the launch) ought not be imposed regulatorily on the launch operator, whose responsibility for launch safety would terminate after delivery of COMET to orbit and upon safing of the Conestoga expendable launch vehicle upper stage. Also, under typical circumstances, the launch provider's obligations to its customer would end upon successful deployment of the payload or cargo, in this case the COMET reentry vehicle system. By letter from the Chairman of the House Subcommittee on Space to the Director of OCST, the Department was advised that it did not have explicit licensing authority over payloads but that it should continue its safety review of reentry vehicle operations associated with the Launch. In the letter, dated September 2, 1992, the House Subcommittee Chairman indicated that the Committee would seek legislation to address commercial reentry vehicle licensing issues, including indemnification and liability. OCST continued its evaluation of the COMET reentry vehicle system, and then METEOR, under its authority to evaluate missions and payloads not otherwise licensed by the Federal government, for purposes of assuring whether the launch of the COMET payload would jeopardize public health and safety or safety of property.

The Commercial Space Act of 1998, Pub. L. 105–303, provides reentry licensing authority to the Department and imposes the financial responsibility and risk allocation provisions of 49 U.S.C. 70112 and 70113 on licensed reentries. (Financial responsibility issues associated with licensed reentry activities are discussed in a separate rulemaking.)

COMET/METEOR Safety Approval

The COMET Program safety review evaluated safety aspects of the reentry vehicle system when operated in accordance with certain operating limits. The review encompassed vehicle design, engineering analyses, testing, manufacturing, and integration. A vehicle safety evaluation determined the performance capabilities and limitations of the integrated reentry vehicle system. OCST did not dictate the methodology to be used by the applicant in performing the hazard and risk assessment required for vehicle safety approval; however, the applicant had to address engineering and safety analyses, component and system tests and checkouts, quality assurance procedures, manufacturing processes, and test plans and results. A separate operations review evaluated the operator's ability to carry out the reentry operation in a safe manner consistent with the capability and limitations of the reentry vehicle system. Vehicle safety and operations approvals issued by OCST were limited to the design and operating limits presented in the respective applications. Any subsequent changes would require an amendment of the application and further review and approval by the agency.

For further assurance of public safety, OCST determined it prudent to conduct

independent evaluations of the reliability, design performance, and operation of the COMET reentry vehicle system in addition to assessing the data submitted by Space Industries, Inc., and later by EER, to support the application for vehicle safety approval. These independent evaluations were designed to serve as a means of ensuring all hazards had been identified and the applicant had adequately addressed all potential risks. The evaluation also provided technical verification of the applicant's analysis of the reliability of the reentry vehicle system.

COMET/METEOR Safety Approval Criteria

The COMET Program was the first commercial reentry operation that proposed to land a reentry vehicle in the United States. The designated landing site for the reentry vehicle was the Utah Test and Training Range, a Federal facility located in a sparsely populated area.

In fulfilling its statutory mandate to protect public safety, OCST selected three criteria against which the reentry vehicle system would be evaluated. The evaluation criteria were performance-based rather than design standards to afford the COMET Program participants maximum flexibility in developing a safe and cost-effective product. As a general matter, performance-based standards also further the public interest by encouraging innovation and technology development. The three criteria developed by OCST to evaluate the COMET Program reentry vehicle system were as follows:

1. The probability of the Reentry Vehicle (RV) landing outside the designated landing site shall not be greater than 3 in 1,000 missions.

2. The additional risks to the public in the immediate vicinity of the landing site (that is, the area within 100 miles of the designated landing site) shall not exceed the normal background risks to which those individuals ordinarily would be exposed but for the reentry missions. Normal background risk is characterized as: the probability of any casualty occurring within the 100-mile zone shall not exceed one in a million on an annual basis. In addition, the probability of any casualty occurring within the zone shall not exceed one in a million for a single mission.

3. The additional risks to the general public beyond the 100-mile zone around the designed landing site, and to property on orbit, shall not exceed normal background risks to which the public ordinarily would be exposed but for the reentry missions. This normal background risk is characterized as: the probability of any casualty occurring shall not exceed one in a million on an annual basis. In addition, the probability of any casualty occurring in the area that is both outside the designated landing site and the 100-mile zone around the site shall not exceed one in a million for a single mission.

The three criteria, established an acceptable level of risk that conservatively, did not exceed the normal background risk of individuals affected by the activity. The criteria were published in the **Federal Register** on March 24, 1992 (57 FR 10213).

As explained in the March 24, 1992 Notice, the first criterion was directed at ensuring vehicle reliability and accuracy within a controlled area. The second criterion was intended to ensure that as a result of nominal operations, or in the event of a system error or deviation from planned trajectory of the vehicle, persons living within the vicinity of the landing site were not exposed to greater than the normal background risk that is accepted by the public in daily activities. The third criterion would limit public risk to normal background risk even if a major system failure resulted in an essentially random reentry; however, flight path, design, and limited cross-range capability of the vehicle made it possible to define the potential "footprint" in which a random reentry could occur.

Believing that it could not satisfy the first criterion in the absence of flight performance history, Space Industries, Inc. petitioned for relief from the accuracy and reliability criterion. The program was discontinued in May 1994, before official action could be taken on the waiver request. Approximately one year later, NASA restarted the program, renamed METEOR by EER, which took over responsibility for development and operation of the reentry vehicle system in addition to launch of the METEOR, on its Conestoga launch vehicle. However, unlike the COMET Program, NASA contracted for reentry services and designated an area in the Atlantic Ocean, off the coast of Virginia, for the program's initial reentry attempt. Changing the landing site from Utah to the Atlantic Ocean significantly reduced the public's exposure to risk if the vehicle were to land off-site as a result of a system failure. While analysis showed that the properly operating reentry vehicle would land within the designated landing area in 997 out of 1,000 nominal cases, Systems Corporation argued that it could not demonstrate that the vehicle met the criterion in non-nominal cases. Non-nominal cases were those that considered the probability of failure of certain safety critical systems and the resultant errors in the landing location. Therefore, EER pursued the requested relief from the accuracy and reliability criterion.

OCST granted the requested waiver for the following reasons: OCST determined that the three criteria were designed to collectively ensure public safety, meaning that satisfaction of the second and third criteria would compensate if the ability of the reentry vehicle system to meet the accuracy and reliability criterion was marginal. OCST analyzed failure scenarios and determined that there were circumstances in which intentional reentry of the METEOR reentry vehicle could occur and public safety would be assured without the demonstrated level of accuracy required under the first criterion. Those circumstances were as follows: (i) if there were well-defined areas within which the vehicle was most likely to land if it missed the designated landing site, and the risk to the population within those areas fell within acceptable limits; (ii) if the condition of the vehicle following an errant reentry presented little risk to exposed populations because it would not survive reentry or because of its small size and mass and the absence of hazardous materials on the vehicle; and (iii) if risk mitigation measures could be implemented to limit public safety risk to acceptable levels. Because all of these circumstances were found to exist, and because criteria two and three were satisfied, OCST concluded that public safety and U.S. national interests would not be jeopardized if criterion one were not satisfied for non-nominal cases. A waiver of the accuracy and reliability criterion was therefore granted for the METEOR Program's first reentry. However, as a condition of the waiver, OCST required that the operator implement a public information communications plan under which the affected public would be informed of the reentry activity, including its estimated time and location. The operator also was required to have an emergency response plan whereby local officials would be notified in the event of an off-site landing.

The launch vehicle failed shortly after lift-off during first stage powered ascent and the vehicle and payload were destroyed. No subsequent application for a launch license or payload determination has been made under the COMET/METEOR Program and, as yet, no formal application has been submitted to the FAA to reenter a reentry vehicle.

Lessons Learned From COMET/ METEOR Safety Approval Criteria

The FAA concludes that a collective approach of using a number of safety standards, in combination, to limit risk is in the public interest. Accordingly, the FAA is proposing a three-prong interrelated approach to achieving safe reentry operations, in addition to requiring certain organizational safeguards derived from the government's experience in managing safe launch operations. First, the performance hazards and risks to public safety presented by a reentry vehicle proposal would be identified through a system safety process that defines the safe operating envelope for a particular reentry vehicle, much like the vehicle safety approval process utilized for evaluating the COMET reentry vehicle system. Second, an applicant for a reentry license would be required to satisfy a collective risk criteria, referred to as E_c. Third, as in COMET, the FAA is proposing certain risk mitigation measures that must be followed even if other standards are satisfied. These measures take the form of operational restrictions and are described below.

The FAA proposes that the reentry site must be sufficiently large so as to encompass the three-sigma footprint of the vehicle, as explained in greater detail in a subsequent section elsewhere in this notice under supplementary information. This articulation of the landing site accuracy standard effectively limits the risk of an off-site landing but does so in a way that is more readily demonstrable by an applicant, as it relates only to nominal performance of the vehicle and its systems.

General Approach to Reusable Launch Vehicle and Reentry Licensing

Purposeful Reentry From Earth Orbit or Outer Space

Prior to enactment of the Commercial Space Act of 1998 (CSA), FAA licensing authority over launch vehicle flight was limited to launches of launch vehicles, defined to mean to place or try to place a launch vehicle and any payload in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space. 49 U.S.C. 70102(3). A "launch vehicle" is defined in 49 U.S.C. 70102 to mean a vehicle built to operate in, or place a payload in, outer space, and a suborbital rocket. 49 U.S.C. 70102(7).

Recent amendment of 49 U.S.C. Subtitle IX, chapter 701, grants to the agency explicit licensing authority over reentry operations. "Reentry," an event that must be authorized by the FAA, means the "return or attempt to return, purposefully, [of] a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth." 49 U.S.C. 70102(10). Two elements must be satisfied for an event to qualify as a "reentry" subject to FAA licensing jurisdiction. First, the vehicle (an undefined term) that is being returned to Earth must qualify as a "reentry vehicle" under the statutory definition. That is, not only must its reentry originate from Earth orbit or outer space, but the vehicle must be designed to reenter and land on Earth in substantially intact condition. Second, deliberate intent to reenter, or the element of purposefulness, must exist. Absent these two elements, the unintended, though foreseeable, return to Earth of an object capable of surviving reentry is not an event that requires licensing by the FAA.

For example, the return to Earth in 1997 of a major part of a Delta II launch vehicle, a second stage tank, in substantially intact condition in a Texas field was foreseeable inasmuch as any object in orbit, and most immediately in low Earth orbit, will experience the effects of orbital decay over time and eventually reenter Earth atmosphere. Most such objects will burn up upon reentry into Earth atmosphere due to aerodynamic heating caused by atmospheric drag. The Delta II second stage tank is notorious because it failed to do so, however it would not require FAA licensing. The event illustrates that an object that is not intended to survive reentry substantially intact may in fact do so. The Delta II second stage is not a reentry vehicle under the statutory definition because it was not designed to survive reentry. However, even if it were a reentry vehicle, the event would not be subject to FAA licensing jurisdiction because there was never any deliberate intent by an operator to return the Delta II second stage to Earth, even though it was understood that the Delta stage, just like any other space object, would eventually reenter Earth atmosphere as a function of orbital decay.

Certain RLV launch concepts operate in a suborbital [1] fashion in that they do not achieve orbital velocity. However, until passage of the CSA, it remained doubtful (or at best unclear) as to whether Congress intended for the FAA to impose regulatory controls over the intact landing of such vehicles returning from outer space and whether financial responsibility and risk allocation requirements, specifically the so-called indemnification provisions of 49 U.S.C. 70113, would apply to their landing on Earth. The matter is now resolved by legislation and, to ensure consistency in its regulatory approach to assessing and limiting risk to public safety, the FAA considers a suborbitally operated RLV the same as other reentry vehicles that return from Earth orbit or outer space. From a safety and risk standpoint, the difference between a suborbital reentry and an orbital one is a distinction without a difference, in the agency's opinion, because both pose comparable risks to public safety as a result of launch or ascent of the vehicle and intact descent or reentry of the vehicle. To ensure consistent application of standards in evaluating ascent and descent risks presented by RLV proposals, the FAA has determined that the better approach is to regard a suborbitally operated RLV as the launch and reentry of a reentry vehicle, rather than as a suborbital launch of a launch vehicle. As explained in the next section of this supplementary information, because the FAA would evaluate the safety of the entire mission, regardless of whether one authorization (launch) or two (launch and reentry) are combined in a single instrument known as a license, consistency in the agency's approach to risk assessment is assured.

The FAA concludes that a suborbitally operated RLV that achieves outer space would satisfy the requisite element of purposefulness and would thus be subject to FAA reentry licensing authority, even though an intervening event of human control over vehicle operations is not required to return that vehicle to Earth. The term "purposefully" that appears in the definition of "reenter" and "reentry" is intended to include within the FAA's reentry licensing authority those vehicles whose return to Earth must be deliberately initiated by human or pre-programmed intervention, as well as those vehicles for which intentional reentry has been designed into the vehicle's capability without initiation of a reentry sequence, as is the case in a ballistic launch and reentry where there is no need to activate a reentry propulsion system. The term "purposeful" is, however, intended to eliminate from the scope of FAA licensing jurisdiction those spacecraft that are not designed to, but may, survive reentry into Earth atmosphere through application of natural deorbiting forces, such as orbital decay.

[1] The dictionary definition of the term "suborbital" means of or less than one orbit of the earth. A suborbital trajectory is a flight path that is not closed, whereas an orbit is a closed path. A suborbital trajectory may be ballistic, that is, acted on only by atmospheric drag and gravity, or it can be controlled by external forces and therefore maneuverable.

Where the operator's intent, as evidenced through vehicle design and operation, is to launch and deliberately return to Earth the RLV, and the vehicle is designed to return from outer space to Earth substantially intact, the return to Earth is licensable as a "reentry." Thus, suborbitally operated RLVs that reach outer space are reentry vehicles whose reentry would be subject to FAA reentry licensing authority.

As previously indicated, not all RLVs will satisfy the statutory definition of the term "reenter" because they do not achieve Earth orbit or outer space. However, RLVs and reentry vehicles share the common operational characteristic of intact, targeted reentry and it is this operational characteristic that presents risks to public safety warranting regulatory oversight. It is also this operational characteristic that heightens the risk of U.S. Government international liability under the Outer Space Treaties and therefore warrants regulatory supervision by the United States to ensure that reentry activities are conducted in a manner consistent with international obligations of the United States.

Therefore, whether or not an RLV is also a reentry vehicle specifically subject to reentry licensing jurisdiction of the agency, the FAA is proposing a consistent measure of safety for ascent and descent flight phases of an RLV. The measure of safety would not vary on the basis of whether an RLV's flight and return to Earth meet the statutory definition of a "reentry." In other words, the public should not be exposed to greater risk because a vehicle achieves Earth orbit or outer space, or is maneuvered in its return to Earth rather than returning through ballistic flight. However, where reentry must be deliberately initiated for de-orbit to occur, certain affirmative controls or safety standards, as described under a separate heading elsewhere in this supplementary information, would be imposed on the operator to ensure conditions for safe reentry are satisfied.

Mission Risk Assessment

For all RLVs and most reentry vehicles, the FAA proposes to approach safety on an overall mission basis. The FAA would evaluate the safety of the ascent and descent phases of an RLV mission and would not allow it to proceed unless the combined risk of the ascent and descent phases of the mission satisfies the agency's safety criteria. That criteria is: $E_c \leq 30 \times 10^{-6}$. For risk assessment purposes, the FAA proposes no distinction among space launch vehicles that combine expendable and reusable vehicle concepts, or that reenter in multiple stages (some or all of which may also be reentry vehicles). A single safety criteria, measured in terms of expected casualty for the mission, would apply to all public risk exposure from vehicle operations during both ascent and descent. Thus, a launch vehicle that utilizes an expendable first stage booster to achieve altitude and a second reusable stage for delivery on orbit followed by reentry would be required to satisfy the single E_c criterion cited above for the FAA to authorize the mission (launch and reentry).

The FAA believes a caveat may be appropriate with respect to the appropriate public safety risk threshold to apply to a reentry vehicle that is designed to remain on orbit for an extended period of time and for which planned reentry is so remote from the launch event that there is no objective means or rational basis for combining reentry risk with launch or ascent risk. The FAA requests public comment on the circumstances, if any, under which it may be appropriate to separately assess the reentry risks of a reentry vehicle from those presented by the entire mission of launching a reentry vehicle into space and its subsequent reentry.

That said, the FAA envisions combining launch and reentry authorizations under a single license whereby a single operator is responsible for launch and reentry phases of the mission.[2] The FAA would not use a "wait and see" approach to authorize a reentry. Reentry authorization would have to be issued in advance of launch, signifying the FAA's conclusion that both ascent and descent flight phases could be performed in a manner that does not expose the public to unreasonable risk.

Scope of License

The report of the House Committee on Science, Report 105–347, addresses the intended scope of licensing authority over reentry operations granted to the FAA by H.R. 1702, the Commercial Space Act of 1997. (The Commercial Space Act of 1998 was enacted into law during the second session of the 105th Congress as Public Law 105–303. No substantive changes to FAA reentry licensing authority from that reported on by the House Science Committee in Report 105–347 appear in the public law.) It provides that the legislation is not intended to extend FAA launch licensing authority, as far as the payload is concerned, beyond placement of the payload in orbit or its planned trajectory. According to the Committee Report, only the launch of a launch vehicle and reentry of a reentry vehicle requires FAA licensing and regulatory oversight. While non-reentry vehicle operations on-orbit, maneuvers between orbits, and activities following launch that also precede reentry are not intended to be covered by an FAA license, the Committee Report recognized that the FAA may need to examine pre-reentry procedures and activities to evaluate safe reentry capability.

A discussion of launch duration and the commencement point of a reentry license appears in a separate rulemaking that addresses financial responsibility and risk allocation for licensed reentry activities so that space vehicle operators can manage risks appropriately. Unlicensed events would only be eligible for government payment of excess claims protection, known as indemnification, to the extent losses result from and are causally related to a licensed activity. Therefore, for purposes of insurance and indemnification under 49 U.S.C. 70112 and 70113, it is critical that the FAA define those activities to which statutory-based insurance and risk allocation would be applicable. For purposes of licensing, it is also important that the agency define the extent of activity that is covered by a license and is therefore subject to FAA safety standards.

In determining the appropriate scope of a reentry license, the FAA considered the Committee Report language cited above, the scope of launch licenses for ELV launches, and reentry risks for which statutorily mandated financial responsibility and risk allocation are necessary.

In its report accompanying H.R. 1702, the House Committee on Science stated that "[b]y way of definition, the Committee intends that ["reentry"] begins when the vehicle is prepared specifically for reentry. By way of definition, the Committee intends the term to apply to that phase of the overall space mission during which the reentry is intentionally initiated. Although this may vary slightly from system to system, as a general matter the Committee expects reentry to begin when the vehicle's attitude is oriented for propulsion firing to place the vehicle on its reentry trajectory." (Report 105–347 at p. 21, 105th Cong., 1st Sess.)

The Report acknowledges that to evaluate capability of a reentry operator to conduct a safe reentry, the agency

[2] Separate licenses would be appropriate in circumstances where different operators are each responsible for a particular phase of flight, as originally planned in the COMET Program.

may need to examine certain proposed procedures and activities that would precede initiation of reentry; however, these procedures and activities are not events requiring a license or otherwise subject to regulations. "Rather, they would represent aspects of an application that the Department would have to measure against standards and criteria that the Department has established are necessary to evaluate capability to conduct the reentry." The Committee further allows for both general and particular (case-by-case) applicability of such standards and criteria to a reentry proposal.

The FAA proposes regulations adopting the analytical approach to assessing reentry capability envisioned by the House Science Committee. The FAA is not proposing design-based or prescriptive requirements applicable to RLV or reentry vehicle activities while on orbit. As described below, the agency's system safety approach to reentry risk requires that a reentry operator establish operating procedures and specifications that ensure reentry risks are confined within acceptable limits. Reentry authorization would be granted based on a demonstration by an applicant that its vehicle and reentry operations satisfy the agency's safety criteria when operated in accordance with operator-designed procedures and criteria.

For purposes of measuring reentry safety against FAA criteria (E_c), however, it remains necessary to define the extent of activities that enter into the E_c analysis. Most of the RLV and reentry activities currently contemplated by the aerospace industry involve very limited time on orbit. RLVs that operate suborbitally, as discussed above, would spend no time on orbit and would be subject to continuous FAA licensing. Unlike the COMET situation, RLVs that are reentry vehicles are not payloads for purposes of launch. Rather, they are both a launch and reentry vehicle.

Except for extended microgravity experimentation, such as that contemplated by the COMET Program, regulation of on orbit activity of orbital reentry vehicles would be limited to that necessary to ensure reentry readiness, capability and safe return to a designated destination. Because additional time on orbit would raise costs and otherwise interfere with RLV objectives of prompt delivery and return services, the FAA envisions that the only on orbit time spent by an orbital reentry vehicle would be that required to assure reentry-readiness through reentry safety-critical system check-out and attitude and orientation adjustment for return to the reentry site. Because a non-nominal reentry could occur as a result of or during reentry-readiness activity following a vehicle's ascent to orbit, the agency concludes that such activities must necessarily be covered by a license in order to assure public safety. As discussed in a separate rulemaking on reentry financial responsibility, licensing reentry-readiness activity is also critical to a meaningful risk management scheme under 49 U.S.C. 70112 and 70113.

Accordingly, the FAA proposes to define reentry and the scope of a reentry license in a manner similar to that utilized for launch licensing. The term "launch" is characterized in the House Science Committee Report as including activities that precede flight that entail critical preparatory steps to initiating flight, are unique to space launch and are so hazardous as to warrant agency regulatory oversight, as long as they are conducted at a launch site in the United States, even if that site is not ultimately the site of the actual launch. (Report 105–347 at p. 22, 105th Cong., 1st Sess.) The FAA finds in this report language helpful guidance in attempting to delimit "that phase of the overall space mission during which the reentry is intentionally initiated." Just as pre-flight launch activities must be licensed because, among other things, they are critical and particular to the launch process, the reentry phase may be defined as encompassing those vehicle operations necessary to assure reentry readiness and safety that are uniquely associated with the purpose and performance of the reentry mission.

The FAA also considered the point in time when licensing authority over a launch is concluded in an effort to define the point after launch when an authorized reentry may commence for licensing purposes. In a separate rulemaking governing licensing requirements for launches from Federal ranges, the FAA defines the end of licensed activity, for purposes of the launch vehicle, as the point after payload separation when the last action occurs over which a licensee has direct or indirect control over the launch vehicle. Typically, this point occurs when the vehicle's upper stage is rendered inert or safe from explosive risk. Currently, licensed launches from Federal ranges are exclusively launches of expendable launch vehicles (ELVs), and the licensing rule definition of the end of licensed launch activity is directed, quite properly, to ELV launches. If applied to RLV technology, however, a launch might not be concluded under the terms of this definition until reentry is complete because the RLV operator would retain (or design in) certain control over the vehicle in order to ready it for reentry. Because separate licensing authority over launch and reentry is granted to the agency by the amended statute, the FAA believes that the defined end of licensed launch activity for an ELV may not be appropriate in defining the end of licensed launch activity for an RLV. However, that portion of the definition that addresses payload delivery is instructive in defining the end of the launch phase of an RLV mission that involves both a launch and reentry. In fact, the Committee focuses on payload delivery in defining the end of launch under the original intent of the CSLA. "The original Act intended that a launch ends, as far as the payload is concerned, once the launch vehicle places the payload in Earth orbit or in the planned trajectory in outer space." (House Science Committee Report 105–347, at p. 22.)

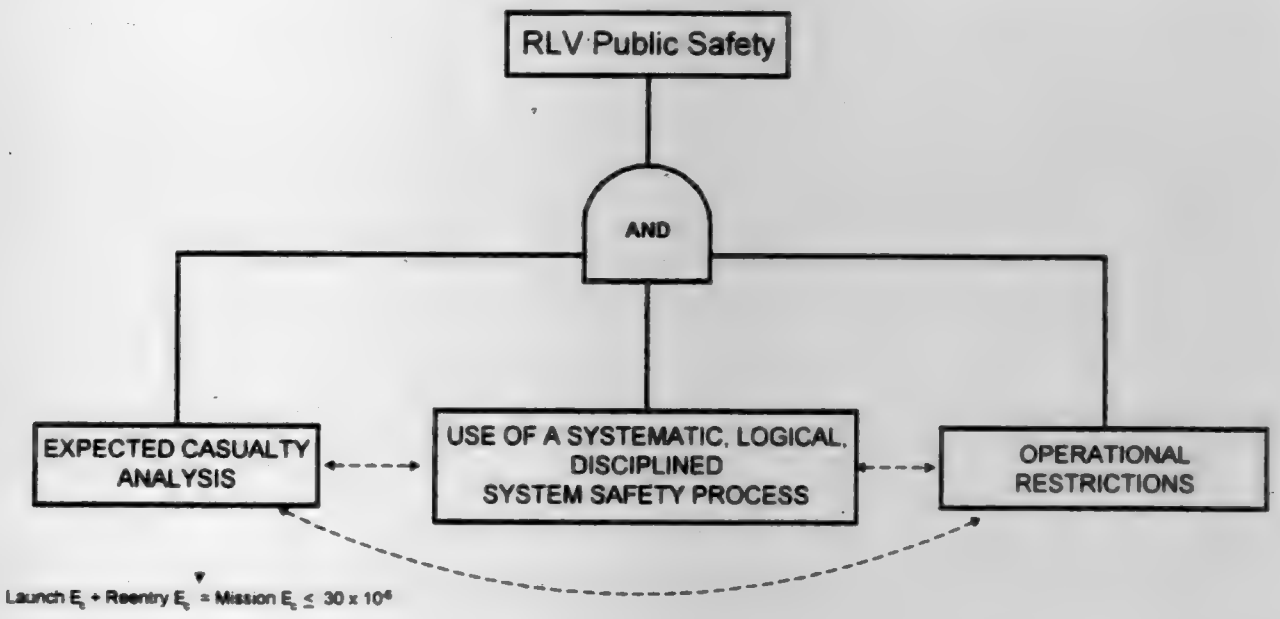
The Committee report language employs terms that describe the appropriate end of a licensed launch of a reentry vehicle when the reentry vehicle itself is a payload, as was the case in the COMET/METEOR experience, in an effort to ensure the FAA does not bootstrap licensing authority over payloads. If the COMET or METEOR vehicle were presented today for licensing, the end of launch would properly be defined as placement of the payload, the COMET or METEOR reentry vehicle, in Earth orbit or its planned trajectory, and safing of the ELV upper stage used to launch the reentry vehicle (payload) to orbit, consistent with FAA licensing rules and Committee report language. During the 30-day period following launch and preceding planned reentry, the COMET/METEOR payload would not be subject to FAA licensing, just as any other payload operating on orbit is not subject to FAA licensing. However, the intentional reentry to Earth of the COMET/METEOR reentry vehicle from Earth orbit would require FAA licensing because it was designed to return to Earth substantially intact.

Reusable launch vehicles that are also reentry vehicles present a different situation from COMET/METEOR in that RLV operations on orbit are not payload operations. Based on pre-application consultations with RLV developers, the FAA understands that RLV operations on orbit following payload deployment would be those conducted generally for the purpose of assuring reentry readiness, such as safety system checkouts, vehicle orientation for the targeted landing site, and attitude control and adjustment prior to initiating a deorbit burn or other reentry

sequence necessary for the intended return to Earth. Accordingly, the FAA defines the end of licensed launch activity for an RLV launch at deployment of a payload. The licensed reentry phase of a mission begins immediately thereafter for vehicles that are intended to reenter when reentry-readiness is verified. In other circumstances, such as a planned or designed-in delay of reentry for an extended duration the FAA requests comments on the appropriate point for commencing reentry licensing authority.

Public Safety Strategy for Assessing Reusable Launch Vehicle and Reentry Safety

This proposal reflects a three-pronged approach to assuring that risks to public safety are maintained at or below acceptable levels during an RLV mission and any licensed reentry. The three prongs, which are interrelated, are: (1) utilization by an applicant of a systematic, logical and disciplined system safety process; (2) an analysis that determines the expected casualty rate per mission; and (3) mandatory operational restrictions imposed by regulation for risk mitigation purposes. No single one of these processes is sufficient by itself to ensure that a reentry operation would not jeopardize public safety. The FAA believes that the combination of these elements will be effective in limiting public risk. The following chart demonstrates the interrelationship of the three elements of the agency's public safety strategy:



The first two elements are applied on a case-by-case, or individual, basis because the factors that comprise the necessary analyses are uniquely dependent on vehicle capability, design and intended operation. Mandatory operational restrictions would be specified in rules of general applicability.

Assessment of expected casualties is a commonly used measure of launch risk within the aerospace community. The FAA proposes to measure collective risk, defined as the product of the probability (or frequency) of occurrence of all events and the severity of each events impact or consequences on public safety. A quantitative number is derived through analytic techniques in lieu of empirical launch data, because the actual number of launches of a particular type of launch vehicle is too small to be statistically significant. Presented below is the agency's proposed measure of acceptable casualty risk.

Applicants will be required to utilize a system safety process. In some respects, this is similar to the FAA systems approach to examining aviation systems such as that contained in 14 CFR 25.1309. This process lays the foundation for the system safety engineering effort used in designing a vehicle and therefore the FAA believes the requirement would impose no additional burden on an applicant. A system safety process employs methods and techniques that may be utilized for identifying: (i) the hazards that result from a particular launch or reentry vehicle operation, (ii) the effects on or consequences to public safety of those hazards including vehicle failure, (iii) means of controlling or mitigating those consequences, and (iv) verification processes of the effectiveness of risk mitigation measures. Part of a system safety process is the application of techniques and tools to determine failure probabilities and to estimate the consequences of such failures, which in turn informs calculation of the expected casualty rate. Thus, the two analyses are interrelated. Through a system safety process, an applicant develops operational constraints and defines the operating envelope that will ensure its mission does not exceed acceptable risk thresholds .

The FAA does not propose to define acceptable system safety processes as a regulatory matter; however, the process selected must be adequate to accomplish its intended purpose. The FAA will issue guidance material describing an acceptable system safety process and its elements as a means of compliance with regulations. The FAA will also issue guidance on acceptable methodology for calculating expected casualty risk. The FAA believes applying a flexible approach of this nature to assessing risk to public safety is particularly critical at this early stage of RLV and reentry technology development to accommodate, and encourage, the varied operational and design concepts envisioned within the industry.

Calculation of casualty expectancy and system safety process analyses are analytical tools. Absent operational proof of vehicle reliability, the FAA believes that additional constraints on operations are also necessary to assure public safety until sufficient flight data is available to validate analytical demonstrations. The FAA is proposing to impose certain operational

restrictions on all RLV missions and reentries, and additional restrictions for unproven vehicles. The FAA will relieve or waive restrictions once sufficient performance data is available to support an agency determination that public safety is assured without their imposition.

1. Calculation of E_c (Acceptable public risk)

Although risk is inherent in the operation of an RLV or reentry vehicle, this proposal would establish limits on the risk to public safety that may result from licensed flight of an RLV or reentry vehicle. Risk analysis has been widely used to support regulatory and industrial decision-making and to allocate limited resources. The Nuclear Regulatory Commission and the Department of Energy, for example, have made extensive use of risk analysis in analyzing, licensing, and regulating the operation of nuclear power plants; prioritizing nuclear waste disposal safety issues; and performing environmental impact analyses. The Department of Defense (DOD) also has used risk analysis to develop and test nuclear weapons systems.

In the space launch arena, risk analysis is used to evaluate the hazards and consequences associated with a launch. One measure of acceptable flight risk used to determine whether a launch can proceed at a Federal launch range is calculation of the expected number of casualties (E_c) to the collective members of the public exposed to debris hazards from a particular launch. A casualty includes serious injury as well as death. E_c provides the advantage of a mathematically defined criterion on which to evaluate an event, such as a launch or reentry, without the necessity of completing detailed vehicle design analyses. The term "public" for purposes of E_c calculation means all persons who do not participate in the operation of the vehicle, hence, the term "public" would not include the crew on a manned vehicle.

Federal range safety requirements developed over the last 40 years safeguard the public by limiting the public's exposure to the risks associated with launch activities. Because of operator adherence to Federal range safety requirements and practices, the public has not suffered any casualty from launches of ELVs. Therefore, it has not been necessary for the FAA to independently evaluate the design or manufacture of vehicles and duplicate the evaluation process undertaken when a vehicle is launched from a Federal range. The FAA has adopted the Federal range E_c standard of 0.00003 casualties per launch or $E_c \leq 30 \times 10^{-6}$ in its licensing regulations and will license launches from non-Federal launch sites if equivalent safety is demonstrated. The FAA proposes to apply the same approach to evaluate RLV and reentry risks on a per mission basis.

There are two fundamental components of E_c analysis: (1) determination of the probability of a failure event (p_i), and (2) evaluation of the consequence of the failure event (C_i). The complete equation for E_c is the sum, over all possible failure events, of the product of the p_i and C_i as follows:

$$E_c = \sum_{i=1}^{n} (p_i \times c_i)$$

where "i" is a failure event and where there are "n" failure events that could result in a non-zero consequence.

The probability of a failure event is always a fraction between 0 and 1, while the measure of the consequence of the failure event could be any number. The larger the number, the greater the risk. Reducing the probability of the failure event could lower the risk. Because the probability of a failure event is related directly to the reliability of a vehicle's safety critical systems and subsystems, having a very reliable vehicle could lower the risk. (Whether a system is safety critical such that a failure of the system might affect public safety would depend on a number of factors, including vehicle flight path and its capability to reach populated areas.)

Lowering the consequence of the failure event also could reduce the risk. The consequence of the failure event is calculated by multiplying the surface area population density by the casualty area of the vehicle. This calculation would have to be made using the casualty area produced by an intact vehicle or the casualty area created by the debris fragments produced by a vehicle that has broken up in midair. The worst-case scenario should be used. The casualty area of the vehicle would consider the potential for casualties related to secondary explosions, hazardous material exposure, collateral damage, and the lateral movement of debris after impact. From the equation it can be deduced that E_c could be lowered by operating the vehicle so that a failure event causes few or fewer casualties. (ELVs generally have a small E_c because planned flight paths are over unpopulated areas, such as the ocean, and a destructive flight termination system (FTS) would be used to destroy the vehicle if it deviates from its planned flight path.)

The basic elements for determining mission risk are discussed above; however, the real-world process for determining mission risk is a bit more complicated. The process must account for a large number of possible events, and there are likely to be many different failure modes that could affect the characteristics (e.g., size, location) of the debris and lethal area. Fortunately, the goal in conducting a risk analysis to determine E_c for a particular mission is not to determine the actual risk but to determine that the risk is below a certain threshold E_c of 30×10^{-6}. The FAA believes that E_c calculations are best made using conservative estimates and worst-case assumptions to identify and limit the public's risk exposure for improbable hazardous events with high consequences.

Recognizing that Congress has chosen to accept the risk of RLV operations and reentry to derive the benefits from evolving commercial technology, the FAA considered whether to separately assess launch risk from reentry risk and, if so, whether a different risk threshold should be used for launch as opposed to reentry. This proposal reflects the FAA's opinion that a single consistent standard for measuring acceptable public risk should be applied, and that it should apply on a per mission basis.

The FAA has met with representatives of the space transportation industry in pre-application consultation on RLV proposals and to provide licensing guidance. On May 13, 1998, the FAA met with representatives of each RLV developer then known to the agency to discuss RLV and reentry safety assessment issues and to gather information from industry members who have begun to develop commercial RLVs and reentry vehicles. A summary of the meeting has been added to the docket for this proposal. Information obtained by the FAA indicates that a reentry accident may be comparatively less hazardous than a launch accident, a risk generally accepted by the public. A reentry accident could pose less of a risk than a launch accident because a reentry vehicle could carry substantially less propellant, if any, than a launch vehicle and could therefore pose less of an explosive or fire hazard under some circumstances. If this is so, it also could be expected that the E_c for the reentry of a vehicle of a particular design would be significantly less than the E_c for the launch of that same vehicle over any area of the same population density.

On February 11, 1999, the FAA held a public meeting to discuss draft interim safety guidance concerning RLV operations and to gather information from industry representatives who are

developing commercial RLVs. The draft interim safety guidance, issued in advance of rulemaking proceedings, was prepared to assist prospective reentry license applicants in understanding the nature of the agency's public safety concerns when evaluating proposed RLV operations. A transcript of comments made at the public meeting have been added to the docket inasmuch as they may also address aspects of the agency's proposed regulatory approach to regulating safety of RLV and reentry operations. Written comments are also placed in the docket.

In light of this information, the FAA considered whether a single E_c risk threshold should be applied to the mission as a whole or separately to each segment of the mission (launch and reentry). If it is assumed that a vehicle will operate at the absolute extreme allowed by the risk threshold, employing separate risk thresholds at the level currently tolerated for launch would make the total maximum risk exposure for an entire RLV mission nearly equal to 60×10^{-6} (30×10^{-6} for launch plus 30×10^{-6} for reentry, assuming independent events). The effect of using separate, independently applied standards would be to effectively nearly double the acceptable maximum risk exposure imposed on the public for an RLV mission in comparison to the public's risk from the launch of an expendable launch vehicle launching the same payload. (Note that applying separate risk thresholds for launch and reentry would result in an increased risk threshold for the mission if the aggregate risk allowed (launch E_c + reentry E_c) were greater than 30×10^{-6}.)

Next, the FAA considered the appropriate risk threshold to use in assessing risk on a per-mission basis if a single E_c value is applied to the mission, that is, whether the level of acceptable risk should be increased in the interest of technology advancement.

Currently, the FAA's practice in evaluating the collective risks associated with a launch is to ensure that E_c is not greater than 30×10^{-6}. This value was derived from launch risk guidance employed by the U.S. Air Force at Cape Canaveral Air Station and Vandenberg Air Force Base to define acceptable risk. "Eastern and Western Range 127–1 Range Safety Requirements," Section 1.4 (October 31, 1995). Since the beginning of the U.S. space program, the public has not suffered any serious injuries or fatalities as a result of a Government or commercial launch under this standard. Expected risks from eventual reentry of ELV stages due to orbital decay is relatively small because most are believed to burn up on reentry. While some components of the stages have been found to have survived, empirical data seems to support this conclusion.

In fostering the nation's space launch capability, the government understands that some risk to public safety shall be endured for the national interest and economic well-being of the United States. And, the public accepts the very limited risks to which it is exposed, as evidenced by population growth in the vicinity of Federal launch sites. However, the FAA is reticent to impose greater risk on the public than that currently accepted for ELV launches in order to accomplish the comparable launch mission of placing payloads on orbit, but at reduced costs. Accordingly, the FAA proposes to continue use of the Federal range risk standard of $E_c \leq 30 \times 10^{-6}$ on a per mission basis for RLV and other launch and reentry missions. Nevertheless, the FAA acknowledges that there may be circumstances under which it would be appropriate to separate launch from reentry risk, such as where different operators are involved and may be apportioned allowable risk thresholds, or where intervening events or time make reentry risks sufficiently independent of launch risks as to warrant separate consideration.

2. System Safety Process and Risk Analysis

As part of the system safety process and risk analysis, an applicant would be required to determine the probability and consequences of events that may affect public safety. Doing so requires population data, vehicle casualty areas, and vehicle failure modes and rates. Accurate population data generally are available and casualty areas could be estimated using accepted industry practices. However, development of vehicle failure rate is more complicated.

Failure modes and rates for a vehicle are related to the failure modes and rates of its major systems, which in turn correlate to the failure modes and rates of major subsystems of a vehicle. To obtain a conservative risk assessment of a vehicle lacking an adequate flight history, an applicant could conduct a risk analysis and assume the probability of a catastrophic failure of 1.0. In the alternative, an applicant would have to complete a detailed risk analysis. This risk analysis would be similar to a traditional systems safety analysis used by DOD and NASA; however, it would not focus on mission success *per se*. However, while experience shows that such analyses are helpful, they are subject to error because of "unknowns" for unproven vehicles. Instead, it would focus solely on identifying and evaluating failure modes and rates affecting risks to public health and safety and the safety of property by conducting an evaluation of vehicle systems and proposed operations.

Because of the variety of RLV and reentry vehicle designs and operational concepts, the FAA has not enumerated a specific evaluation methodology. Examples of acceptable techniques for determining failure conditions include, but are not limited to, the following: Preliminary Hazards Analysis, Failure Mode and Effect Analysis, Failure Mode Effect and Criticality Analysis, Fault Hazard Analysis, Event Tree Analysis, Double Failure Matrix, Hazard and Operability Analysis or Operability Hazard Analysis, and Fault Tree Analysis Methodology for Hazard Assessment. An applicant would use the evaluation methodology most appropriate for the system being evaluated. A separate analysis needn't be performed for each flight of a launch vehicle. If a previously approved mission utilized a risk assessment for a similar mission with a substantially similar vehicle, the earlier risk assessment may serve as the basis of a comparative analysis for the proposed mission.

Potential risks identified in the analysis must be mitigated to protect public health and safety and the safety of property. The process of evaluating and mitigating the potential risk of a vehicle or operation would continue until all risks are mitigated to an acceptable level. In the aviation industry, typical hazard control and risk mitigation includes the following:

- Design integrity and quality, including life limits, to ensure intended function and prevent failures;
- Proven reliability of systems so that multiple, independent failures are unlikely to occur during the same flight;
- Capability to check a component's condition;
- Failure warning or indication to provide failure detection;
- Isolation of systems, components, and elements so the failure of one does not cause the failure of another;
- Redundancy or backup systems to enable continued function after any failure;
- Design failure effect limits, including the capability to sustain damage and to limit the safety impact or effects of a failure;
- Design failure path to control and direct the effects of a failure in a way that limits its safety impact;

- Margins or factors of safety to allow for any undefined or unforeseeable adverse conditions;
- Error tolerance that considers adverse effects of foreseeable errors during the vehicle's design, test, manufacture, operation, and maintenance;
- Computer software verification, validation, documentation, configuration management, and quality assurance;
- Personnel qualification and training;
- Contingency planning, including operator procedures after failure detection to enable continued safe flight, evacuating personnel from high risk areas, and modifying vehicle trajectory to avoid high risk areas; and
- Process approval, including an evaluation of risk reduction, mitigation strategies, and configuration management.

The system safety process and associated risk analysis that the FAA proposes to require is substantially similar to the engineering analysis a vehicle developer would complete to assess the viability and the probability of success of an intended operation. Developers would also need this information to convince and assure investors of the soundness of their investment.

The FAA is developing guidance material to assist the industry in complying with the proposed system safety approach. In discussions, industry representatives recommended that the FAA develop an approach built around engineering documentation during specific program phases, such as design and development, manufacturing, and vehicle operations. Others have stated that [an applicant's submission] [the documents] should outline the applicant's "philosophy" but that the FAA should require evidence supporting the documentation. The FAA invites further comments and recommendations that would assist in developing an acceptable analysis to ensure all factors affecting public health and safety and the safety of property are considered and addressed specifically.

3. Operational Restrictions on Reusable Launch Vehicle Launch and Reentry

The system safety process, in combination with quantitative risk criteria, yields a performance envelope within which an applicant demonstrates its ability to operate without excessive risk to public safety. But these are analytical processes only and may not reflect real world performance even under the best of circumstances.

As noted above, the risk a vehicle poses to public health and safety and the safety of property is a product of two factors: the probability of a failure event and the consequences of that failure event. If the probability of a failure event is related directly to vehicle reliability and that reliability cannot be determined accurately, public health and safety and the safety of property can be protected only by limiting the consequences of a failure event. Therefore, based on the uncertainties involved in the operation of an unproven RLV or reentry vehicle and the projected benefits resulting from the imposition of operational restrictions on such vehicles (based on a current assessment of probable system failures), the FAA proposes to impose operational restrictions on a vehicle that has not proven system performance and reliability through a flight test program or operational use.

In support of proposed restrictions, the FAA notes that industry representatives have stated that, historically, predictions of vehicle performance and failure modes have often overlooked key events or circumstances. None of the significant failures in the Apollo program or other ELV programs were predicted. Also, failure rates for the first launch of new launch vehicles are significant. While a quantitative risk analysis is an important and necessary tool in the development of a vehicle concept, the FAA considers it inappropriate in this proposal to allow the flight of an unproven and untested RLV or reentry vehicle over populated areas in a manner that can affect public safety based solely on the favorable results of a quantitative risk analysis.

The FAA does not believe an adequate determination of system performance and reliability for new flight concepts can be demonstrated solely through hazard analyses and ground tests. Accidents or other failures often are the result of an unforeseen combination of hardware and software failures in combination with external influences, such as human error. System design validation and functional performance verification could possibly be accomplished in 10 to 20 flights, depending on the design unique to each vehicle. However, a relatively large number of flights may be needed to demonstrate reliability and to understand unanticipated failure modes. Some industry representatives have expressed the opinion that one would need to complete 1,000 flights to accurately determine reliability of a vehicle. At the May 1998 FAA meeting with RLV industry representatives, industry noted that the STS (Space Shuttle) is still in the midst of its test program.

Moreover, because of the costs and disadvantages of flight testing, the FAA expects that many RLV and reentry vehicle operators will propose to validate vehicle design through the use of sophisticated computer simulations, ground testing, or other detailed analyses. The FAA does not object to this anticipated approach but does believe it necessary to impose operational restrictions in the interest of public safety until vehicle performance is proven.

Finally, the FAA is not proposing rules applicable to reuse or reflight of a particular vehicle. Each flight of a reusable launch vehicle would be required to satisfy the safety criteria promulgated by the agency in licensing rules, and an applicant's demonstration that it has satisfied the criteria would have to account for effects of prior flight on vehicle performance.

For these reasons, the FAA proposes to impose operational restrictions that would apply to *all* RLV launches and reentries, with an additional restriction on the flights of unproven vehicles at least until sufficient data is obtained about vehicle performance to warrant relief from that restriction.

A. *Restricting flight over populated areas.* The FAA defines flight restrictions applicable to flight of an RLV or reentry of a reentry vehicle in terms of its "dwell time," which refers to the measured period of time during which an area is exposed to hazards from a vehicle's operation, and its instantaneous impact point, or IIP. The IIP reflects a projected impact point on the surface of the Earth where the vehicle or vehicle debris in the event of failure and break-up would land. A vehicle's IIP is not generally the area immediately under the vehicle's flight path because the vehicle's momentum and atmospheric conditions will cause the vehicle to impact in some other location. The projected IIP of a vehicle can be calculated with some degree of accuracy if the vehicle's aerodynamic characteristics are known. The projected IIP of an RLV during ascent to orbit moves across the surface of the Earth until the vehicle attains orbital velocity. Once on orbit, a vehicle no longer has an IIP.

The FAA does not believe it would be appropriate to allow the IIP of an unproven RLV or reentry vehicle to pass over populated areas unless the risk is very low, even if failure occurs. In other words, if the vehicle were to fail and the vehicle or debris from vehicle break-up were dispersed in the course of vehicle

flight, the flight path and trajectory must be designed to minimize the risk of debris impacting a populated area. The proposed regulation therefore limits public risk exposure to an E_c of not greater than 30×10^{-6} assuming a failure while the IIP is over each populated area.

Thus, for unproven vehicles, the FAA proposes that during *any* segment of flight, the projected IIP of the vehicle shall not have substantial dwell time over a populated area. The applicant may either avoid any passage of the vehicle's IIP over populated areas or may demonstrate that the E_c criteria of $\leq 30 \times 10^{-6}$ would be satisfied *even if the vehicle were certain to fail* while its IIP is over a populated area.[3] An applicant can select the approach to limiting public risk that best suits its proposed operations.

For a proven vehicle, the FAA proposes that a vehicle may not have substantial dwell time over densely populated areas but for the time being proposes to determine what is "substantial" and "densely" on a case-by-case basis to afford the agency flexibility in evaluating an RLV or reentry flight proposal. Substantial dwell time over a populated area could result from a stationary or slowly moving IIP that remains over a populated area or a rapidly moving IIP that traverses numerous populated areas. Typical dwell time for ELV operations ranges from four to six seconds of flight but varies depending upon the point in vehicle flight during which it occurs. For example, dwell time in the first seconds of a launch would not be tolerated because of the risk of vehicle failure. Later in flight when a vehicle is nearing orbital velocity, some dwell time over populated areas has historically been tolerated because the probability of failure and its consequences are much reduced. Thus, for any particular RLV flight or reentry proposal, the agency would evaluate on an individual basis the public safety risks associated with proposed dwell time over populated areas. However, in any event, vehicle operations would be assessed against E_c criteria, which may not be exceeded.

The FAA is not prepared to state in a rule of general applicability the point at which an RLV transitions from an "unproven" state to a proven one. The number of flights necessary to determine the point of transition will depend on the unique design characteristics of the vehicle. The FAA believes that, at a minimum, an operator must validate its risk analysis with flight data in order to "prove" the performance of a vehicle. In this context, the term "validate" means that the vehicle's flight data show that the vehicle operated in a manner substantially similar to that predicted by the operator's risk analysis.

As stated earlier, the number of flights necessary to validate a vehicle's risk analysis also would depend on the nature of the operations the vehicle would be expected to perform. For example, if an operator proposes to operate its vehicle over populated areas and to rely on an abort capability to achieve required levels of safety, the operator would be required to demonstrate that the vehicle can perform the critical abort and recovery maneuvers necessary to fly safely.

The agency also believes it prudent to gain practical experience in observing the stresses of flight on reentry vehicles, particularly those intended for reuse, before issuing a pronouncement of the point at which a vehicle is "proven" for purposes of safety regulation. In adopting this stance, the FAA is mindful that the nation's STS, commonly referred to as the Space Shuttle, is still undergoing a test program under NASA's purview, despite its many flights. Therefore, before the FAA would allow an RLV or reentry vehicle to fly over densely populated areas, an applicant would need to prove that its vehicle maintains structural and aerodynamic integrity throughout its proposed flight regime (i.e., flight lifetime), and that the operator can maintain command and control of the vehicle during flight.

That said, the FAA is not specifically mandating adherence to a flight test regime to demonstrate vehicle capability. Traditionally, flight testing has not been required of ELVs. Because ELVs are generally launched over ocean areas and the flight safety systems are subject to rigorous design and testing standards such that little public risk exposure is involved, there is little to be gained in terms of public safety risk mitigation from a requirement to conduct test flights of ELVs for the purpose of design validation. Moreover, because each flight of an ELV is its first flight, and its only flight, little would be learned about the effects of flight stress on reusability of the vehicle.

RLV industry representatives have noted that for vehicles currently under development it would be impractical to require thousands of flight test hours, and the FAA concurs that a thorough flight test program similar to that required of commercial aircraft would stifle the emerging industry and pose a number of difficulties. Furthermore, by the nature of their operational envelopes, differences between an RLV or reentry vehicle test flight and operational flight are less distinct than those of an aircraft test flight and operational flight. While an aircraft may conduct tests of its full-flight envelope within a remote site, conducting full-flight tests of an RLV or reentry vehicle would require suborbital and/or orbital flights over substantially large areas. Because of the physical range of such flights, there would be little distinction between a test and an operational flight with its inherent risks. Imposition of a flight test requirement also would impose on the industry direct costs to conduct the tests and indirect costs through lost revenue, reduced life cycles, and vehicle test flight damage that would have to be repaired to ensure the vehicle meets regulatory standards for reentry operations. For these reasons, the FAA is not proposing requirements for the conduct of a flight test program but rather has proposed a regulatory structure that would require an applicant to demonstrate that its proposed operations meet an acceptable level of risk and conform to certain operational requirements. However, an operator may choose to conduct flight-testing to ensure its proposed operations meet proposed risk mitigation criteria.

The FAA requests views on appropriate measures of validating new vehicle performance and criteria for determining the point at which a vehicle may be considered "proven."

B. *Monitoring critical systems.* The operator of an RLV or reentry vehicle must be able to monitor and verify the status of launch and reentry safety-critical systems before launch, during launch flight, and before reentry flight. The status of a reentry safety-critical system before reentry would affect any decision to conduct reentry operations. To ensure an operator is aware of the status of the vehicle, the FAA proposes to require procedures for monitoring performance of on-board, safety critical systems just prior to enabling reentry. Monitoring would provide an operator with the status of key systems before conducting public safety critical operations and would ensure that reentry flight would be initiated only under nominal or non-nominal conditions that have been assessed through the system safety process and satisfy the risk threshold. Critical information would have to be provided perhaps through telemetry to a control

[3] The proposed restrictions would apply only to those segments of flight where the IIP touches the surface of the Earth. Certain reentry-readiness operations performed on orbit during the "reentry phase of flight" do not involve an IIP that touches the surface of the Earth and therefore would not be affected by the criteria.

center or individual with command capacity and decision making responsibility. Other information used for system validation, system reuse, performance characterization, or post-flight anomaly investigation could be recorded for review after flight. This type of data may facilitate transition from an unproven to proven vehicle; however, the FAA is not mandating real-time monitoring of non-safety critical systems.

C. *Positive enabling of fail-safe reentry.* To further enhance safety, the FAA proposes a fail-safe operational procedure whereby an operator must issue a command that enables vehicle reentry unless the vehicle is designed to operate suborbitally. In the event reentry cannot be enabled, the vehicle would remain in orbit. Totally autonomous initiation of reentry would not be allowed to ensure that certain clearances and system verifications are completed to assure that a reentering vehicle will not pose safety risks to the public. These may include clearance of airspace in the reentry corridor, securing reentry sites, verifying the configuration and status of reentry safety critical systems, and verifying reentry corridor weather is within vehicle operational constraints. Such activities would be external to the vehicle's systems and autonomous control systems would not verify them.

D. *Reentry sites.* To minimize public safety risk due to an off-site landing, the site selected for reentry of a reentry vehicle or as the landing area for an RLV must be sufficiently large such that the vehicle will land within it with a certain degree of predictability. The agency assesses size suitability of a proposed reentry or landing site by using the three-sigma footprint measure commonly applied to launch operations. The three-sigma footprint describes the area where the vehicle will land with a .997 probability rate, assuming no major system failure.

The statistical term "three-sigma" refers to three standard deviations from the mean, or average point, assuming a standard normal distribution. The area that is within three standard deviations from the mean point encompasses the area surrounding it with the mean at its center. An area within two or even one standard deviation of the mean point is a smaller, more precise measure; however, statistically there is less chance of an event falling within that range. The larger the area, the higher degree of confidence one has of an event falling within its boundary limits, assuming a normal distribution of events.

For example, if the reentry site were an area on a target, the mid-point or center point is the mean and the small area around it is the bulls-eye. The bulls-eye represents one standard deviation from the mean or center point. The first contour area is two standard deviations from the mean point and the second contour area is three standard deviations from that point. Assuming a normal distribution, the three-sigma area, or the area within two contours of the bulls-eye, represents the area in which an archer's arrow would strike with a three-sigma probability.

However, the size of the area must be adjusted for different conditions or variables, such as distance from the target, wind, or aerodynamic qualities of different kinds of arrows. If one's ability to meet the three-sigma probability distribution depends on the existence of certain conditions, then those conditions become requirements.

From a regulatory standpoint, an applicant would be required to demonstrate that a proposed reentry or controlled landing site is large enough to contain the landing impacts of its vehicle with a three-sigma probability, assuming a nominal reentry, and the conditions or assumptions on which the demonstration is predicated would become conditions of the license.

The size of the area must be large enough to accommodate potential trajectory deviations that may occur. Therefore, in determining the necessary size of the three-sigma area, an applicant should calculate the errors associated with physical forces that act on the vehicle to cause its flight path to deviate from the planned trajectory, if reentry is intended to occur despite those errors.

Maneuverability of a vehicle is likely to affect the three-sigma area. For example, the three-sigma area for an airplane may be a narrow ellipse because the pilot can stand otherwise control the vehicle's descent such that it touches down within a narrow band. An uncontrolled or ballistic vehicle, such as the COMET/METEOR reentry vehicle, required a large three-sigma area because of imprecise orientation of the vehicle at the point at which reentry was initiated and the varying effects of atmospheric forces on the vehicle.

In any case, a designated reentry site, including any designated contingency abort location, would have to be large enough to ensure the probability of landing outside the designated area is not greater than .997 for nominal vehicle operations.

Reusable Launch Vehicle Mission and Other Reentry Licenses

For the near term, the FAA envisions that the majority of reentry activities subject to FAA licensing jurisdiction would involve reusable launch vehicle technology, as opposed to the COMET/METEOR type of reentry vehicle. The latter was intended for launch as a payload by an expendable launch vehicle, would enter its designated orbit and ultimately perform an unguided ballistic reentry to a designated reentry site about 30 days later. In the case of such reentries, the same risk criteria would apply to launch and reentry of the reentry vehicle as would apply to any other RLV mission, under the FAA's proposal. However, other regulatory requirements to assure public safety, such as operational restrictions, would be directed exclusively to RLV missions. Other safety requirements may only be appropriate for reentry vehicles resembling the COMET/METEOR vehicle system. Therefore, to make the requirements "user friendly," the FAA proposes to address RLV mission licensing requirements in a separate part of the licensing regulations so that RLV operators can see, at a glance, the commercial space transportation regulations applicable to their operations. A separate part is proposed to address unique safety requirements applicable to licensing other types of reentries, that is, those that don't involve RLVs, even though policy, payload reentry, and environmental review requirements would be comparable to those applied to RLV missions.

1. Reusable Launch Vehicle Mission Licensing Overview

Before granting an applicant a safety approval, the FAA would review the appropriateness for a particular launch activity of the following items: the location, size, and design configuration of the proposed launch site; launch operational procedures; personnel qualifications; range safety equipment and instrumentation; vehicle safety systems; and the applicant's flight safety analysis.

An RLV launch operator would be required to possess the ability to monitor the status of launch and reentry safety critical systems during countdown to launch. The FAA also proposes that an operator have the ability to activate the vehicle's flight safety system (FSS), if any, or to invoke contingency plans if the vehicle is not operating within approved mission parameters and poses an unreasonable risk to public health and safety. This

requirement does not mean that an FSS cannot also function automatically or autonomously. Such systems are desirable where, for example, a human monitor may not be able to react in sufficient time to achieve a safe condition.

The term FSS encompasses a variety of devices designed to place a vehicle in a mode less hazardous to public health and safety and safety of property. A type of FSS commonly used on ELVs is a destructive-type FTS, which is used to terminate flight and destroy the vehicle. However, many reentry vehicles and RLVs do not propose to rely on a destructive-type FTS as a primary mechanism for protecting public safety because the vehicle may be capable of attempting a nondestructive abort. The proposal would not mandate any particular type of FSS. An applicant for a launch license would be permitted to use any type of FSS necessary to ensure public safety during the applicant's proposed operation of the vehicle. Mission rules derived from the applicant's risk analysis, among other things, would dictate whether and when to activate the FSS.

Members of the RLV industry have agreed generally that some type of FSS would be necessary to meet the risk limitations imposed on launch vehicles by Federal ranges. Many believe that a reentry vehicle or RLV operator that proposed to operate without an FSS would have to improve overall vehicle reliability and performance to meet those risk limitations. Others have also asserted that some type of human intervention capability would be necessary before a vehicle could be allowed to operate within controlled airspace.

An RLV may have the capability to abort launch flight to a pre-planned and approved location. Other vehicles would require emergency planning so that in the event of a failure or anomaly, they can be directed to an unpopulated area or attempt a safe landing. Therefore, an operator without abort capability would be required to plan a flight path that allows for safe flight abort on an emergency basis before the vehicle reaches orbit.

Once an RLV achieves orbit, the FAA was concerned that if the vehicle could not reenter or must abort during reentry, an operator would have to be able to incapacitate the vehicle so it would not substantially survive reentry. Agency concern was based on the view that, unlike an expendable launch vehicle, a reentry vehicle is designed to survive reentry intact. However, industry representatives have noted that reentry vehicles are designed to survive reentry under very specific reentry parameters. An operator must undertake significant effort to achieve a successful reentry. Industry has compared successful reentry to "flying the vehicle through a key hole." Because an uncontrolled RLV or reentry vehicle may be unlikely to survive reentry, the FAA does not propose a requirement that an operator would have to be able to incapacitate the vehicle so that it would not survive a random return to Earth. However, the applicant must demonstrate that a random reentry will not exceed acceptable risk for the mission.

The FAA is proposing a quantitative risk measure in evaluating RLV mission safety because it forces a vehicle designer to consider failure rates, consequences, and mitigation of unacceptable risks. Acceptable flight risk would be limited to the standard applied for launches from Federal launch ranges, that is, that the E_c is not greater than 30×10^{-6}, a collective measure of risk, on a per-mission basis. Issues related to risk limitation and risk analysis are discussed above in relation to RLV launch and reentry. An applicant proposing to conduct an RLV mission would also be subject to operational requirements and restrictions because the FAA believes them necessary to limit risk to public safety as the industry conducts operational flights of innovative vehicle concepts.

The proposal would identify the two types of RLV mission licenses issued—a mission-specific license and an operator license. The mission-specific license would authorize an operator to conduct one or more RLV missions from a designated launch site to a designated reentry site, using essentially the same type or model of RLV such that it has substantially similar design, performance, and operational characteristics. Because more than one flight may be authorized, the license would be sufficiently broad to allow an operator to conduct a series of RLV test flights within identified parameters. The license would terminate automatically with the completion of all authorized activity or the expiration date of the license, whichever first occurs.

The proposed operator license would authorize an operator to conduct RLV missions using any of a designated family of vehicles from any launch site specified in the license to any reentry site specified in the license. A family of RLVs has similar design and operational characteristics, but each member of the family may be capable of different performance characteristics. The term of the operator license would be set at a 2-year renewable period.

The FAA expects it will first issue a new operator a mission-specific license to conduct RLV missions. Mission-specific licenses can be structured so as to accommodate a proposed test program that may consist of a series of test flights within an envelope of approved parameters. After the operator has demonstrated several successful reentries, it may apply to the FAA for an operator license. The FAA has used a similar licensing approach successfully for new launch operators and operation of new vehicles.

To receive an RLV license, an applicant would be required to obtain policy and safety approvals and complete a payload reentry determination and environmental review, if applicable. Procedural regulations governing the policy approval, payload reentry determination, and environmental review generally would be consistent with the corresponding regulations under part 415, Launch License.

To complete a safety review and receive approval for an RLV mission, an applicant would need an acceptable safety organization; mission rules, procedures, and contingency plans; a communications plan; and a mishap investigation and emergency response plan. In addition, the proposed operation could not pose an unacceptable risk to public safety as demonstrated through a risk analysis designed to ensure compliance with regulations to mitigate risk and protect public health and safety and the safety of property.

2. Reentry Licensing Overview

A separate part would prescribe reentry licensing and post-licensing requirements and would be modeled after the RLV mission license regulations. Unique attributes of reentry vehicles that are not RLVs would be assessed by the FAA on an individual basis as part of the safety approval process. The same risk criteria covering launch and reentry and the system safety process approach would apply to an applicant for a license to reenter a reentry vehicle. Operational requirements and restrictions would result from the applicant's system safety program plan, which would define the safe operating limits and procedures for reentry vehicle operations. Requirements applicable to launch of a reentry vehicle would depend on the type of vehicle used to place the reentry vehicle in orbit or otherwise in outer space. For example, an expendable launch vehicle (ELV) launched from a Federal range would be subject to the

licensing requirements contained in part 415 of this subchapter.

The FAA is proposing a mission approach to reentry licensing by assessing the combined risk of launch of a reentry vehicle with its reentry to determine that a reentry may be licensed. The agency considers that no less stringent safety criteria should be imposed upon a reentry because it occurs as a separate event, either by time or function, from the launch that placed it in Earth orbit or outer space. However, the FAA understands that reentry vehicles resembling the COMET/METEOR vehicle may remain in space for extended periods and may be operated under the responsibility of an operator different from that which launched the vehicle initially. To address these considerations, the FAA considered whether to apply a COMET/METEOR type of risk criteria to reentry, leaving launch risk as it currently is stated. The COMET risk criteria that there shall be no greater than one in a million probability of a casualty, when combined with acceptable launch risk, actually imposes a more stringent criteria on reentry than a combined collective risk measure of $E_c \leq 30 \times 10^{-6}$. The FAA wishes to utilize an appropriate measure of risk for reentry capability and requests comments on its proposed approach of applying mission risk.

Section-By-Section Analysis

FAA regulatory and licensing responsibilities have been extended by statute to include reentry, as well as launch. It is therefore necessary to add the term "reentry" or "operation of a reentry site" to agency procedures and enforcement provisions, as follows.

Section 400.2 Scope

Section 400.2 sets forth the scope of regulations presented in 14 CFR Chapter III. The scope would be revised to refer generally to commercial space transportation activities subject to 49 U.S.C. Subtitle IX, chapter 701. The FAA proposes to generalize the scope of the regulations rather than to add specific reference to reentry licensing and other authority under the statute.

Section 401.5 Definitions

New terms are added to the list of definitions. They are: "contingency abort," "emergency abort," "flight safety system," "operation of a reentry site," "reenter," "reentry accident," "reentry incident," "reentry operator," "reentry site," "reentry vehicle," "reusable launch vehicle," "safety-critical," and "vehicle safety operations personnel." A reusable launch vehicle would be a reentry vehicle when it is designed to return from Earth orbit or outer space to Earth substantially intact.

The term "reentry accident" refers to unplanned events resulting in certain consequences listed in the definition. Accordingly, reentry to a pre-planned abort location would not qualify as a reentry accident unless it resulted in a casualty to an uninvolved person or damage to unassociated, off-site property.

The term "mishap" would be revised to include reentry events.

Section 404.1 Scope

Section 404.1 sets forth the scope of the agency's procedures for issuing implementing regulations. Rather than referring to specific licensing authority of the agency under 49 U.S.C. Subtitle IX, chapter 701, § 404.1 would be revised to refer to commercial space transportation activities falling within the agency's statutory authority.

Section 404.3 Filing of Petitions to the Associate Administrator

Section 404.3 would be revised to include rulemaking petitions regarding reentry and operation of a reentry site.

Section 405.1 Monitoring of Licensed and Other Activities

Reentry sites and reentry vehicle manufacturing, testing, assembly, and production facilities would be subject to FAA monitoring and observation and § 405.1 would be revised accordingly.

Section 405.5 Emergency Orders

The agency's authority to terminate, prohibit or suspend a licensed activity extend to reentry and operation of a reentry site. Section 405.5 would be revised accordingly.

Section 406.1 Hearings

Rights to a hearing extend to an owner or operator of a reentry payload, as well as a licensee, and section 406.1 is revised accordingly.

Section 413.1 Scope

The procedures contained in part 413 of 14 CFR Chapter III would apply to an application for a license to reenter a reentry vehicle or to operate a reentry site. Reference to reentry licensing requirements is added to section 413.1 in this proposal.

Section 413.3 Who Must Obtain a License

The proposal would revise paragraph (a) to require any person to obtain a reentry license to reenter a reentry vehicle in the United States or to operate a reentry site within the United States.

Under the proposal, paragraph (b) would be revised to require an individual who is a U.S. citizen or an entity organized under the laws of the United States or any State to obtain a reentry license to reenter a reentry vehicle outside the United States or to operate a reentry site outside the United States.

Proposed paragraph (d) would be added. That paragraph would require a foreign entity in which a U.S. citizen has a controlling interest to obtain a reentry license or, if the activity is occurring in certain locations and subject to certain conditions. The geographic constraints and conditions in the proposal would be identical to those imposed on licensed launch activities and launch site operators in current paragraph (c) of this section.

Section 415.1 Scope

Part 415 contains the approvals necessary to obtain a license to launch a launch vehicle from a Federal or non-Federal launch site. The FAA proposes to limit the scope of part 415 to vehicles other than reusable launch vehicles (RLV) and to place licensing requirements for the conduct of RLV missions in a separate part of the regulations. Launch and reentry flight phases of a proposed RLV mission would be evaluated under a single set of risk criteria applicable to the mission. Placing RLV mission requirements in a separate part, part 431, should facilitate understanding of the licensing requirements applicable to RLV operations.

Part 431 Launch and Reentry of a Reusable Launch Vehicle (RLV)

The proposal would create a new part 431 that prescribes licensing requirements for the conduct of missions involving reusable launch vehicles. Part 431 would include subpart A (General), subpart B (Policy Review and Approval), subpart C (Safety Review and Approval for RLV Missions), subpart D (Payload Reentry Review and Determination), subpart E (Post-Licensing Requirements—RLV Mission License Terms and Conditions), and subpart F (Environmental Review). Part 431 is organized in the same manner as part 415 "Launch License" and has been modified to address regulatory concerns applicable to RLV operations. Because safety aspects of an RLV mission would be evaluated on a per mission basis, commencing upon initiation of vehicle flight, proceeding through orbital insertion and concluding with the vehicle's landing on Earth, comprehensive requirements applicable to all licensed flight phases

of an RLV mission are included in this part. Specific mention is made in part 431 where requirements of other parts of the commercial space transportation regulations are applicable.

Section 431.1 Scope

Proposed § 431.1 would establish the applicability of part 431. The proposed part would prescribe the requirements for obtaining an RLV mission license and any continuing requirements to remain licensed.

Section 431.3 Types of Reusable Launch Vehicle Mission Licenses

The proposed section would identify the two types of RLV mission licenses that would be issued and set forth the privileges and limitations of the licenses. Under the proposal the FAA would issue either a mission-specific license or operator license, on bases comparable to that used for issuing launch licenses. A licensed RLV mission includes launch or ascent, and reentry or descent, authorization. Both authorizations are necessary to conduct an RLV mission; however, they would be embodied in a single license. The term "mission" is used to characterize both ascent and descent flight phases of an RLV operation but should not be confused with mission-specific authorization.

A mission-specific license need not be limited to a single RLV mission. The license would identify the specific RLV missions to which it applies and may authorize a proposed flight test program within an envelope of approved parameters. An expiration date would be stated in the license so that it is not unlimited as to time.

An operator license would provide broader authority to the licensee and, as with launch licenses, would be issued to operators that have demonstrated capability to conduct safe operations on an ongoing basis. The FAA is proposing an initial two-year license term so that it can routinely reevaluate licensee qualifications. Operator licenses issued under part 415 were initially authorized for a two-year term and have recently been extended to a five-year term. The FAA considers two years a reasonable duration at the outset of RLV operations.

Section 431.5 Policy and Safety Approvals

Under the proposal, a license applicant would be required to obtain policy and safety approvals from the FAA. Requirements for obtaining these approvals are contained in subparts B and C of this part.

Section 431.7 Payload and Payload Reentry Determinations

For purposes of launching a payload into earth orbit or outer space there should be no unique issues presented by the fact that an RLV is the transportation vehicle that places the payload in space. Accordingly, proposed paragraph (a) of this section states that the FAA would require an applicant to obtain a payload determination in accordance with part 415 requirements unless the proposed payload were exempt from payload review. Payload reentry issues may be different, however, and the FAA would require a separate payload reentry determination, as indicated in paragraph (b), for purposes of returning a payload to Earth unless it is exempt from FAA review. Payloads exempt from FAA review include U.S. Government payloads. Payloads subject to reentry review by another Government agency would not be subject to duplicative review by the FAA. For a payload that would be substantially similar to a previously approved payload, the previously issued payload reentry determination could serve as the basis for a comparative analysis. Proposed paragraph (c) would allow a previous payload reentry determination to be used to meet the requirements of proposed paragraph (b). Proposed paragraph (d) identifies the payload review procedures applicable to reentering a payload. A payload review determination may be requested of the agency in advance of or separately from an RLV mission (or other reentry) license.

Section 431.9 Issuance of a Reusable Launch Vehicle Mission License

The proposal states that the FAA would issue a license to an applicant who has obtained all approvals and determinations required under this chapter for an RLV mission license, including a policy and safety approval and payload reentry determination, if necessary. Although the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the FAA to perform an environmental review of major Federal actions, such as issuing an RLV mission license, specific environmental requirements would not be set forth in this section, but rather in proposed subpart F of this part.

The proposed section also would require a licensee to conduct its operations in accordance with the representations in its application and terms and conditions in license orders accompanying the RLV mission license, including financial responsibility requirements for launch and reentry activities.

Section 431.11 Additional License Terms and Conditions

Under the proposal, the FAA could amend an RLV mission license by modifying or adding license terms and conditions to ensure compliance with 49 U.S.C. Subtitle IX, chapter 701, and applicable regulations. Although standard terms and conditions that apply to most RLV mission licenses are proposed in subpart E, the unique circumstances of a particular licensee may require the FAA to impose additional requirements to protect public health and safety, safety of property, or U.S. national security and foreign policy interests, or to ensure compliance with international obligations of the United States.

Section 431.13 Transfer of a Reusable Launch Vehicle Mission License

Under proposed § 431.13, only the FAA would be able to transfer an RLV mission license. The prospective transferee would need to satisfy all requirements for obtaining a license as specified in this chapter. The FAA would amend the license to reflect any changes necessary as a result of license transfer.

Section 431.15 Rights Not Conferred by a Reusable Launch Vehicle Mission License

Proposed § 431.15 would state that an RLV mission license would not relieve a licensee of its obligation to comply with applicable laws.

Subpart B—Policy Review and Approval for Launch and Reentry of a Reusable Launch Vehicle

This subpart would describe the proposed requirements for a policy review. An applicant could choose to submit an application for a policy review with a comprehensive license application or separately in advance of submitting the complete application.

Section 431.21 General

Under the proposal, the FAA would issue a policy approval to an RLV mission license applicant upon completion of a favorable policy review; it would be part of the licensing record.

Section 431.23 Policy Review

Proposed § 431.23 states that the FAA would coordinate the policy review with other Government agencies, including the Department of Defense (DOD), Department of State (DOS), Department of Commerce (DOC), NASA, and Federal Communications

Commission (FCC). Under the policy review, the FAA would determine whether conduct of an RLV mission, inclusive of launch and reentry flight, would adversely affect U.S. national security or foreign policy interests, jeopardize public health and safety or the safety of property, or be inconsistent with international obligations of the United States. In determining whether the mission would jeopardize public health and safety or the safety of property under the policy review, the FAA would consider safety issues from a policy perspective rather than an engineering perspective.

Section 431.25 Application Requirements for Policy Review

The proposed section would describe the information an applicant would be required to provide to obtain a policy review. The FAA would require this information to effectively begin consultation with other Government agencies regarding resolution of any potential policy issues. Proposed paragraphs (a) and (b) would require a basic identification of the vehicle and its systems. Foreign ownership information would be required to be identified in proposed paragraph (c).

Under proposed § 431.25(d), an applicant would be required to provide the range of proposed launch and reentry profiles, including reentry sites and any planned contingency abort locations. An applicant must also provide the sequence of planned events or maneuvers during an RLV mission. Although these vary by vehicle and mission, the FAA would expect to be informed of events such as engine burn time; stage separation events; pitch, yaw, and roll maneuvers; and engine cutoff. This information could be provided in the form of text, diagrams, or charts.

For orbital RLVs, proposed § 431.25(e) would require information concerning intermediate and final orbits intended for the vehicle and its upper stages, if any, and their estimated orbital lifetimes.

Section 431.27 Denial of Policy Approval

Under the proposal, the FAA would notify an applicant in writing if a policy approval is denied. The notice would state the reasons for denial and allow an applicant to respond and request reconsideration. An applicant could correct the deficiencies identified in the denial and request reconsideration of the denial. Alternatively, an applicant could request a hearing upon denial of a license.

Subpart C—Safety Review and Approval for Launch and Reentry of a Reusable Launch Vehicle

Subpart C would describe the FAA's safety evaluation process for reentry license applicants.

Section 431.31 General

The proposal states that the FAA would conduct a safety review to determine whether an applicant is capable of launching and reentering, or otherwise landing, a reentry vehicle and payload, if any, from and to a designated site without jeopardizing public health and safety and the safety of property. The launch site may be different from the reentry landing site, but both must be approved by the FAA in the context of evaluating safety issues presented by a particular RLV mission. The safety review would be conducted from an engineering perspective to ensure that all aspects of the proposed RLV mission would be sufficient to support safe operations. The safety review is necessarily tailored to the unique attributes and capabilities of a vehicle and is conducted on an individual basis.

Under the proposal, the FAA would notify an applicant in writing of any issues that might prevent issuance of a safety approval. The notice would state the reasons for lack of safety approval and allow an applicant to respond and correct the deficiencies identified.

Section 431.33 Safety Organization

The FAA concurs with National Transportation Safety Board (NTSB) reports and the Rodgers Commission report that indicate an independent safety organization is key to ensuring safe transportation operations. The proposal, therefore, would require an RLV mission license applicant to possess a safety organization. The FAA would evaluate an applicant's safety organization to determine whether the structure, lines of communication, and approval authority an applicant establishes would enable the applicant to identify and address safety issues and to ensure an applicant conducts operations in accordance with its license and the proposed regulations.

The experience gained by the FAA in regulating aviation and launch operations has shown that an independent safety official with direct access to the person responsible for an applicant's licensed activities can positively influence safety. Therefore, the FAA also proposes that the safety official report directly to the person responsible for the conduct of licensed activity to ensure that management adequately considers public safety concerns before initiating either flight phase of the mission. The safety official may be dual-hatted in that he or she may perform functions other than safety-related or mission-driven operations for the applicant as long as there is no "conflict of interest" with safety responsibilities.

The safety official would evaluate an applicant's readiness to safely conduct an RLV mission by conducting operational dress rehearsals and completing a readiness determination. Rehearsals would allow an operator to verify that vehicle safety operations personnel are ready for launch and reentry and can manage non-nominal events, especially if a considerable period of time has elapsed since the operator's most recent conduct of a mission. A review typically would be conducted before launch and, for orbital RLVs, would address reentry readiness as well. However, before initiating reentry, an operator would be required to conform with mission rules designed to ensure safe reentry and verify the status of safety critical systems. The reviews would ensure all system and personnel readiness problems are identified and resolved, all systems needed for safe conduct of the mission are checked and ready, and each participant is cognizant of his or her role in the operation. While a rehearsal may not be necessary in every case, it is critical in certain situations, such as operations with a new vehicle, reentering to a new site, or after significant personnel changes.

This proposal also would impose an affirmative obligation on the person responsible for licensed activity to address any hazards and risks to public safety identified by the safety official. Such action would help ensure that RLV mission operations satisfy the proposed expected casualty criteria. The FAA believes that management attitude influences an organization's safety compliance; therefore, the proposed regulations would impose a safety obligation on the person responsible for licensed activity to address identified hazards.

Proposed § 431.33(a) would require an applicant to maintain and define its safety organization by identifying lines of communication and approval authority. A number of different individuals typically have input and decision authority with respect to the readiness of various vehicle and safety systems. FAA and NTSB investigations have shown that mishaps could result if the role of each critical individual in the organization is not defined clearly and understood by all parties. Therefore, the

applicant would have to identify these relationships by clearly establishing and identifying the lines of communication and approval authority for all mission decisions. An applicant would have to clearly identify persons with authority to make "hold" and "go/no-go" decisions and to authorize the resumption of the countdown or a recycle procedure, for both launch and reentry flight phases. The FAA recommends using organizational charts as an efficient method of depicting an applicant's organization, lines of communication, and other required information.

Proposed § 431.33(b) would require an applicant to designate a person responsible for the conduct of all licensed RLV mission activities.

Proposed § 431.33(c) would require an applicant to identify a qualified safety official to ensure compliance with the applicant's safety policies and procedures. The person assigned to the position of safety official would have the management and technical education, training, and experience to ensure the highest degree of safety in the applicant's operations. The safety official must be identified by title or position and by name and qualifications. Before mission operations begin, and before initiation of RLV reentry or descent, the person responsible for an applicant's licensed activities must address all hazards and risks to public safety identified by the safety official.

The safety official would be responsible for evaluating an applicant's readiness to safely conduct an RLV mission by monitoring compliance with the applicant's safety policies and procedures, completing a readiness determination, and conducting operational dress rehearsals. Rehearsals would have to simulate both nominal and non-nominal conditions, under the mission readiness requirements listed in proposed § 431.37, including vehicle and range safety system failures.

Section 431.35 Acceptable Reusable Launch Vehicle Mission Risk

Under the proposal, paragraph (a) would establish the limits on the risk the FAA would allow for an RLV mission. The FAA proposes to assess risk on a per mission basis, commencing with initiation of vehicle flight through authorized landing on Earth. Application of risk criteria on a per mission basis means that risks presented by launch of a reentry vehicle and its subsequent reentry or other return to Earth are assessed in a cumulative manner. The expected average number of casualties from a proposed RLV mission could not exceed .00003 ($30x10^{-6}$) and casualties for any launch and reentry mission and .000001 ($1x(10^{-6})$ casualties for persons in the areas adjacent to the reentry site. Risk criteria are presented in proposed § 431.35(b). The term "public" would include all members of the general public but would not include the launch operator, reentry operator, and site personnel. Satisfaction of acceptable risk criteria under this part includes consideration of the size and configuration of planned landing sites, including contingency abort locations, and the surrounding area.

The FAA would establish these risk limitations as a standard for all licensed RLV mission activities. An applicant proposing a mission that does not meet the FAA's risk criteria could request a waiver from requirements (or any requirement) under 14 CFR § 404.3, by demonstrating that granting the waiver would be in the public interest.

Proposed paragraph (c) would require an applicant to submit an analysis that assesses public safety risk for the proposed activity under nominal and non-nominal conditions. The analysis would need to demonstrate that the applicant's proposed activity would not expose the general public to an unreasonable level of risk at any time during vehicle flight, as defined in proposed § 431.35(b), and would not expose the general public within a 100-mile area surrounding the reentry site to unreasonable risk, as defined in proposed paragraph (b). Based on the agency's experience in evaluating the COMET/METEOR vehicle system, the FAA believes that it is prudent to ensure that population located within a reasonable area of the intended landing site is not exposed to greater than normal background risk as a result of a licensed reentry. The one hundred mile area surrounding the proposed reentry site was utilized in COMET/METEOR because it limits public risk exposure in the event of a minor system failure during reentry causing a somewhat off-site, but not random, landing.

If an applicant previously has submitted a risk assessment for a similar reentry, the applicant may not need to submit an additional analysis. An analysis that compares the parameters and assumptions of previously approved and proposed activities, after review by the FAA, may be deemed sufficient.

Proposed paragraph (c) would require an applicant to employ a system safety process that identifies and assesses risks to public health, safety and property associated with a nominal and non-nominal mission. The FAA will issue advisory guidance on acceptability of a system safety process under this requirement. At a minimum, it must identify and assess the probability and consequences of reasonably foreseeable hazardous events and safety critical system failures during a mission including consequences of a random reentry that could jeopardize public safety.

Proposed paragraph (d) would specify the data that must be provided by an applicant as part of the demonstration of acceptable risk under this subpart. Included are drawings and schematics for each safety critical system, a timeline identifying all safety critical events and empirical data to substantiate the risk analysis required by this section.

Section 431.37 Mission Readiness

Under proposed § 431.37, an applicant must include procedures for verifying mission readiness for both launch and reentry operations as part of its application. The procedures must enable the person designated and responsible for the conduct of licensed operations to make a judgment of mission readiness before initiating the mission, including launch and reentry site, equipment, vehicle, payload, personnel, and safety-critical system readiness. Mission rules, constraints and contingency or abort plans and procedures must be in a state of readiness as well by ensuring that they are contained in an approved form and coordinated with launch and reentry site operators. Launch and reentry readiness procedures must include dress rehearsal procedures covering nominal and non-nominal situations and provide bases for doing away with dress rehearsals under certain circumstances. Launch and reentry readiness procedures must also cover crew rest requirements and verification.

Section 431.39 Mission Rules, Procedures, Contingency Plans, and Checklists

To ensure a licensee's procedures would be conducted as planned, the FAA proposes that an applicant submit as part of its application written mission rules, procedures, emergency plans, and contingency abort plans, if applicable, and that vehicle safety operations personnel have current and consistent mission checklists. Inconsistencies in critical countdown checklists and procedures can jeopardize public safety. While all mission participants may not have identical checklists, an applicant would need some means, such as a master checklist manual, to ensure participants have current and consistent

procedures. This process would ensure that flight safety critical procedures are completed successfully.

Proposed paragraph (a) would require that an applicant possess adequate mission rules, procedures, contingency plans, and checklists to execute safe nominal and non-nominal operations throughout the mission. Proposed paragraph (b) would require that mission rules, procedures, contingency plans, and checklists be contained in a safety directive, notebook, or other compilation approved by the safety official designated under § 431.33(c) of this part and concurred in by the reentry site operator, if applicable. Under proposed paragraph (c), operations personnel would need current and consistent reentry checklists.

Section 431.41 Communications Plan

An applicant also would be required to submit a communications plan that describes personnel communications procedures during the mission. This requirement would be substantially similar to the current requirement for a launch license applicant to submit a communications plan describing communications procedures during launch, but the procedures would be required to apply throughout the mission. The NTSB has concluded that effective communications are critical to the conduct of a safe launch, and the FAA believes the same rationale applies to RLV and reentry operations.

Personnel would be required to follow communication procedures and proper protocol to help eliminate confusion and cross talk that could cause a miscommunication leading to an unsafe condition. Personnel with decision-making authority over launch and reentry would be available on the same predetermined channel during launch countdown and reentry countdown, if any. Safety-critical communications would have to be recorded and would include hold/resume, go/no go, and emergency and contingency abort commands, and any other irrevocable decisions that could affect public safety or the safety of property.

Section 431.43 Reusable Launch Vehicle Mission Operational Requirements and Restrictions

Under proposed § 431.43, the FAA would establish operational requirements and impose restrictions on RLV missions. Operational requirements would be implemented through procedures developed by an applicant to ensure that RLV mission risks are contained within acceptable levels. In keeping with the preference for performance-based, rather than design, standards the FAA is not dictating the content of procedures. An applicant would be afforded flexibility in developing procedures specific to its vehicle and mission profile that accomplish certain objectives. Procedures would need to cover such safety requirements as ensuring that mission risks do not exceed stated risk criteria for nominal and non-nominal operations, ensuring RLV operations conform with operator procedures derived through the system safety process described in proposed § 431.35(c), monitoring and verifying the status of safety critical systems during mission operations, and activating a flight safety system during the launch flight phase to safely terminate flight in the event the vehicle is not operating within approved limits. The FAA believes that sole reliance by an operator on an autonomous system to abort launch flight is not sufficient to ensure public safety and that, as is the case for nearly all expendable launch vehicles, human control capability is critical to safety.

A reentry site proposed for use in conducting an RLV mission would have to be of sufficient size to accommodate the three-sigma landing dispersion and other landing impacts associated with the reentry vehicle or vehicle stage. The three-sigma footprint requirement for determining site suitability would apply to any reentry site contemplated as part of the mission, that is, the nominal targeted site as well as any contingency abort location identified in order to satisfy acceptable risk criteria during launch of an RLV. A broad ocean area may be a contingency abort location because it would satisfy requirements for site suitability. An applicant for RLV mission safety approval would be required to identify such sites and show that they are attainable given the operational capability of a proposed RLV. Restrictions are also proposed to further mitigate public safety risks during flight of any RLV.

The space industry has been voicing a growing concern regarding the increasing number of objects being placed in orbit that increases the potential for collisions between objects in space. Collisions in space create additional objects that add to the orbital debris environment and increase the potential for damage to other objects. The requirements of this section serve to mitigate hazards associated with space debris. A collision avoidance analysis shall be performed prior to RLV launch to ensure that an RLV, its payload, and any jettisoned components do not pass closer than 200 kilometers to an inhabitable spacecraft. Window closures for launch and reentry activities should be adjusted to account for uncertainties in the predicted positions of inhabitable spacecraft. The 200 kilometer separation distance is currently practiced by Federal launch ranges.

To further assure public safety, the FAA is proposing a number of additional restrictions applicable to all RLVs. The FAA is proposing that the projected IIP of the vehicle shall not have substantial dwell time over densely populated areas during any segment of mission flight. The agency is not setting design-type requirements for determining what constitutes a densely populated area. This determination is consequence-driven, in the agency's view. For example, even though an applicant has satisfied the agency's risk criteria of E_c no greater than 30 casualties in a million missions, if the consequence of a mission accident at a particular location would result in a significant number of actual casualties, then the FAA would view that area as densely populated for safety purposes. To mitigate debris risks that would interfere with the safety of other launch and reentry missions, the FAA proposes that RLV operators ensure no unplanned physical contact between its RLV and payload with other space objects and that explosive risks are minimized. The proposed requirement is intended to mitigate the hazards posed by orbital debris generation to the integrity of another vehicle and is in furtherance of the agency's safety responsibility for the conduct of licensed activities. This requirement is comparable to that imposed on licensed launch of an expendable launch vehicle involving an upper stage that remains on orbit.

The proposal contains crew rest requirements for vehicle safety operations personnel because their performance might affect public safety. Experience has shown that crew rest criteria for those involved in supporting space operations are extremely important and would have a significant impact on organizational safety. Crew rest is of particular concern when the same crew is involved in pre-launch preparation, launch, on orbit operations, monitoring reentry-readiness, and reentry flight of the vehicle. The proposed crew rest rules are based on an NTSB investigation of an anomaly that occurred during a commercial launch from a Federal launch range and are intended to ensure RLV mission personnel readiness. The specific work and rest standards are similar to those currently used at Federal launch ranges "Eastern and Western Range 127–1 Range Safety Requirements," Section 6.5.1.4 (March 31, 1995). The FAA has

not reviewed the impact the proposed crew rest standards might have on an operator intending to launch and reenter a vehicle in a short time period. The FAA invites comments from the public on the practicality and potential burden to industry of the proposed crew rest standards and also requests information regarding analogous crew rest requirements in other industries or regulated areas.

Proposed paragraph (d) establishes additional restrictions on an unproven vehicle. The projected IIP of an unproven reentry vehicle must not have substantial dwell time over a populated, as opposed to a densely populated, area during any segment of the mission unless the applicant can demonstrate that it satisfies stated risk criteria assuming the vehicle will fail while the IIP is over a populated area.

To further enhance public safety when an RLV reenters from Earth orbit, the FAA proposes under § 431.43(e) that the operator must be able to monitor the status of safety critical systems before enabling reentry and verify that the condition of the vehicle is such that it can reenter safely. The operator would also be required to issue a positive command to enable the vehicle's reentry. The FAA is aware that some RLV operators are contemplating totally autonomous reentry capability. The agency is concerned that authorizing reentry of such vehicles would not fulfill adequately its public safety responsibility. In the absence of active control, those systems and conditions determined necessary for safe reentry would not be verified before reentry is initiated and safety could be compromised. Accordingly, because of the possibility of system anomalies or other non-compliant conditions, the proposed rules require that an operator enable reentry.

Section 431.45 Mishap Investigation Plan and Emergency Response Plan

The proposal also would require that an applicant prepare a mishap investigation plan (MIP) and emergency response plan (ERP) to respond to a launch or reentry accident or incident, or unplanned event during the mission. In addition to accident investigation plan requirements applicable to launches under part 415 of the regulations, the MIP would include procedures covering the reentry phase of a mission, including immediate notification to the FAA of a mishap and procedures for minimizing damage, preserving evidence, investigating or cooperating with an investigation conducted by the FAA or NTSB, reporting investigation results, and identifying and adopting preventive measures for avoiding recurrence of the event. This requirement would be substantially similar to the requirement for a launch license applicant to submit a plan describing accident and mishap investigation and emergency response procedures for a launch accident or incident.

Also required would be emergency response plan whereby an RLV operator would be responsible for contacting local officials in the event a non-nominal reentry occurs and can be projected to impact at an identified location.

Section 431.47 Denial of Safety Approval

Under the proposal, the FAA would notify an applicant in writing if a safety approval application is denied. The notice would state the reasons for denial and allow an applicant to respond and request reconsideration. An applicant could correct the deficiencies identified in the denial and request reconsideration of the denial or, upon denial of a license, an applicant may request reconsideration.

Subpart D—Payload Reentry Review and Determination

Subpart D would explain when a payload reentry review and determination would be required and the factors considered in that review. Either an RLV mission license applicant or a payload owner or operator may apply for a payload reentry determination separately from an RLV mission license application. A license applicant could request a summary determination, if the risks to public safety posed by the payload proposed for reentry are substantially similar to a previously approved payload reentry determination issued earlier to the applicant, the payload owner or operator, or another RLV mission license applicant. For purposes of launching the payload, payload review procedures and requirements of part 415 would apply.

Section 431.51 General

The proposed section would describe the scope of an FAA payload reentry review. Payloads owned and operated by the U.S. Government or subject to the reentry authority of another Government agency, such as the Department of Commerce, would be exempt from this subpart. A payload reentry review and determination is required to address the unique safety and policy issues presented by the return to Earth of a payload that has been launched or otherwise operated in outer space. A hazardous substance may be approved for launch over water or other unpopulated area, but disapproved for reentry if the consequences of dispersion cannot be adequately contained for a planned reentry to a site on land.

Section 431.53 Classes of Payloads

The proposal would permit an applicant to request a payload determination for a type or class of payload. The applicant would describe the type or class of payload proposed for reentry under the license and general characteristics of the payload. If a payload reentry determination is issued for a class of payloads under this section, the RLV mission license applicant would have to later provide additional information regarding the specific payload before reentering it.

Section 431.55 Payload Reentry Review

Proposed § 431.55 describes how the FAA would coordinate a payload reentry review with other Government agencies, such as the Department of Defense, the Department of State, and NASA. Other agencies may include the Department of Commerce and the Federal Communications Commission. It also would describe those issues that would be addressed by the FAA in a payload reentry review. The FAA would notify an applicant of any issue raised during the payload reentry review that would impede a favorable payload reentry determination, and the applicant could respond or revise its application.

Section 431.57 Information Requirements for Payload Reentry Review

The proposal would describe the specific information that an applicant would be required to provide to the FAA to perform a payload reentry review and conduct any necessary interagency review. In cases that present potential unique safety concerns, the FAA would require considerable detail regarding the physical characteristics, functional description, and operation of the payload, and its ownership.

Section 431.59 Issuance of Payload Reentry Determination

Proposed § 431.59 would explain that the FAA issues a payload reentry determination unless policy or safety considerations prevent reentry of the payload. If an applicant were to fail to obtain a favorable payload reentry determination, the applicant could attempt to correct the deficiencies that necessitated the denial and request reconsideration of the denial or, upon

denial of an RLV mission license, the applicant could request reconsideration.

Section 431.61 Incorporation of Payload Reentry Determination in License Application

The proposal states that a favorable payload reentry determination may be included in the RLV mission license application. If, prior to a licensed mission, there is a change in the information submitted for a payload reentry determination, it is the licensee's responsibility to report the change to the FAA which may revisit its determination. The licensee must ensure that the payload owner or operator reports any such changes to the licensee so that the licensee is in compliance with the requirement.

Subpart E—Post-Licensing Requirements—Reusable Launch Vehicle Mission License Terms and Conditions

Subpart E would describe post-licensing requirements for an RLV mission licensee, including license terms and conditions.

Section 431.71 Public Safety Responsibility

Proposed paragraph (a) would state that an RLV mission licensee is responsible for ensuring a safe mission and protecting public health and safety and the safety of property at all times during the conduct of the mission.

Proposed paragraph (b) would require the licensee to conduct its operations in accordance with representations made in its license application. Failure to conduct a licensed activity in accordance with the application would be cause for the FAA to revoke the license or take other appropriate enforcement action.

Section 431.73 Continuing Accuracy of License Application; Application for Modification of License

The proposal would require a reentry licensee to ensure the continuing accuracy of representations contained in its application for the term of its license and to conduct procedures and operations in accordance with its application. An RLV mission licensee would be required to apply to the FAA for modification of the license if any representation material to public health and safety and the safety of property made in the application is no longer accurate. A license modification application would have to conform with part 413 of this chapter and indicate the part of the license or license application affected. The proposal also would state that the FAA would review its previous determinations and approvals to determine their continued validity.

Section 431.75 Agreements

The proposed rules specify a number of agreements that an RLV mission licensee must have in place before conducting licensed activities. Just as launches of expendable launch vehicles from Federal launch ranges must be conducted under an agreement between a licensed launch operator and the Federal range for the provision of U.S. Government launch property and services, so must the conduct of an RLV mission or reentry using Federal range facilities. The FAA also envisions that licensed launch site operators will, through agreements with users of its facilities, require adherence to its safety rules and requirements and such agreements must be finalized before licensed launch or reentry activity occurs at the licensed site. In either case, the terms of an agreement between the RLV mission (or reentry) licensee and the site operator (whether Federal or non-Federal) would be expected to cover, as appropriate to the flight phase being conducted at the site, preparation for licensed flight, securing the vehicle before launch and after reentry, and transporting the vehicle from the site following its reentry, because these operations must be done in a manner that does not jeopardize public health and safety. A licensee would be required to comply with any portions of an agreement that would affect public health and safety and the safety of property during the conduct of a licensed RLV mission or reentry.

Federal launch ranges coordinate Notices to Airmen and Notices to Mariners with the FAA and the U.S. Coast Guard, respectively. Consequently, there need be no additional responsibility imposed on an RLV mission or reentry licensee to issue such notices when utilizing a Federal range facility as the site of a licensed launch or reentry. In a separate rulemaking, the FAA intends to propose that a licensed launch site operator undertake responsibility for completing an agreement with the FAA and Coast Guard, respectively, for the issuance of such notices when launches are conducted at its launch site in order to assure a single point of contact. However, in the absence of such agreements, responsibility for safety coordination with regional FAA and Coast Guard offices would remain with the vehicle operator. An RLV mission (or reentry) licensee that utilizes a licensed site would be relieved of these responsibilities if issuance of notices is covered by an agreement between the licensed site operator and other modal administrations of the U.S. Department of Transportation. An RLV mission or reentry licensee authorized to conduct licensed activities at a private site, or one that is reserved for its exclusive use, would be obligated to complete such agreements. An example of an exclusive, although not private, launch and reentry site would be the lot at the Nevada Test Site authorized for use by Kistler Aerospace Corporation (Kistler) under a subpermit from the Nevada Test Site Development Corporation. Although the launch and reentry site to be utilized by Kistler are located on U.S. Government property and therefore not privately owned, the Nevada Test Site is not a Federal launch range as defined in the Commercial Space Transportation Licensing Regulations. Therefore Kistler would be responsible for completing an agreement with the appropriate FAA regional office for issuance of Notices to Airmen and compliance with other public safety measures involving air routes. Because the Nevada Test Site is an inland location, it is highly unlikely that a comparable agreement with the U.S. Coast Guard would be necessary.

Section 431.77 Records

Proposed § 431.77 would require a licensee to maintain for a period of 3 years all records, data, and other material related to a licensed RLV mission activity. In the event of a launch or reentry accident, or launch or reentry incident, the proposal would require a licensee to preserve all records related to the event until the FAA advises the licensee that the records need not be retained.

Section 431.79 Reusable Launch Vehicle Mission Reporting Requirements

Under the proposal, a licensee would be required to report certain information to the Associate Administrator at least 60 days before each RLV mission. Not later than fifteen days before a mission, a licensee would be required to report the time and date of the planned RLV mission to the Associate Administrator. The proposal also would require the immediate submission of accident, incident, and mishap information to the FAA in accordance with proposed § 431.45. The FAA invites public comment on the timeframes proposed for reporting requirements in light of operator plans for rapid RLV launch and reentry services.

Section 431.81 Financial Responsibility Requirements

Proposed § 431.81 would require a licensee to comply with financial

responsibility requirements specified in its license.

Section 431.83 Compliance Monitoring

Proposed § 431.83 explains that a licensee is required to cooperate with the FAA's compliance monitoring policy.

Section 431.85 Registration of Space Objects

Consistent with the recently issued Commercial Space Transportation Licensing Regulations, certain information must be reported to the FAA regarding placement of objects in space. Information requirements applicable to RLV missions and the associated timeframe for reporting information are consistent with those for ELV launches.

Subpart F—Environmental Review.

Subpart F would set forth the FAA's environmental review requirements. Regulations contained in this subpart would be substantially similar to the environmental review regulations applicable to launch licenses under part 415, subpart G.

Section 431.91 General

Under the proposal, an applicant would be required to provide the FAA with the information necessary for the FAA to comply with applicable environmental laws and regulations, including 42 U.S.C. 4321 *et seq.*, the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; 40 CFR parts 1500–1508; and the FAA's Procedures for Considering Environmental Impacts, FAA Order 1050.1D. The proposal also would indicate how copies of these documents could be obtained.

Section 431.93 Environmental Information

Proposed § 431.93 would require an applicant to provide the FAA with required environmental information for a reentry site and contingency abort locations, if any, and activities that may have new effects on established reentry sites. Use of a new vehicle, or reentry of a payload with characteristics falling measurably outside the parameters of existing environmental documentation, would also be subject to FAA environmental review requirements.

Part 433—License To Operate a Reentry Site

The proposal would create a new part 433 that prescribes licensing requirements and procedures applicable to operation of a reentry site. Reentry sites may offer an array of reentry services or may simply provide a secured area within which reentry may occur. Given the breadth of possibilities, and the agency's desire to allow prospective reentry site operators to develop unique proposals for operation, the FAA intends to evaluate the safety of a particular site on an individual basis. This principle appears in proposed § 433.1.

Section 433.1 General

Proposed section 433.1 reflects the principle that the FAA will evaluate on an individual basis whether an applicant is capable of safe operation of a reentry site and whether a proposed site is suitable to support reentry operations.

Section 433.3 Issuance of a License To Operate a Reentry Site

Under § 433.3, the FAA would license an operator to offer use of a reentry site if its operation does not jeopardize public health and safety, safety of property and U.S. national security and foreign policy interests. As with other licenses, the authorization granted by an FAA license would be limited to the representations contained in the licensee's application and subject to terms and conditions stated in the license.

Section 433.5 Operational Restrictions on a Reentry Site

A reentry vehicle may be authorized to reenter to a site that, among other things, satisfies within three standard deviations the probable dispersion of the vehicle upon landing. This measure of landing dispersion is known as the three-sigma footprint of a vehicle. A reentry site may be offered to support reentry of a particular reentry vehicle if the vehicle's three-sigma footprint is contained entirely within the reentry site.

Section 433.7 Environmental

Issuance of a license to operate a reentry site is a major Federal action subject to agency review under the requirements of the National Environmental Policy Act. Section 433.7 provides that an applicant shall provide sufficient information to enable the FAA to fulfill its environmental review responsibilities under Federal law and FAA procedures.

Section 433.9 Environmental Information

Although a reentry site may be covered by existing environmental documentation, its use to support licensed reentry activities and other site operations may not be adequately addressed. Section 433.9 provides that a reentry site operator must submit information to support environmental review of reentry impacts at the site, if not already covered in existing documentation.

Part 435—Reentry of a Reentry Vehicle Other Than a Reusable Launch Vehicle (RLV)

The proposal would create a new part 435 that addresses FAA's anticipation that there may be some reentries that will not involve reusable launch vehicle (RLV) technology. A COMET/METEOR type of reentry vehicle or other reentry vehicle capability that is not also an RLV may be proposed for reentry, and regulations are required to address licensing requirements applicable to those vehicles. Under the proposal, the FAA would evaluate safety aspects of reentry vehicles of this nature on an individual basis using the same three-pronged approach proposed for RLVs. The three-pronged approach consists of a risk criteria assessed on a per mission basis so that it encompasses the risks to public safety presented by the launch of a reentry vehicle in addition to its reentry, operational requirements and restrictions, and utilization of a system safety process. Compliance with that portion of regulations and licensing procedures proposed for an RLV mission that pertain to its reentry would apply to a license to reenter a reentry vehicle. Any person seeking a license to reenter a reentry vehicle should refer to part 431 regulations governing RLV missions. Only those requirements and licensing considerations that are unique to reentry of a reentry vehicle that is not also an RLV would be expressly stated in part 435.

Section 435.1 Scope

Proposed § 435.1 would establish the applicability of part 435. The proposed part would prescribe the requirements for obtaining a license to conduct a reentry of a reentry vehicle other than an RLV and any continuing requirements to remain licensed.

Section 435.3 Types of Reentry Licenses

The proposed section would identify the two types of reentry licenses that would be issued and set forth the privileges and limitations of the licenses. Under the proposal the FAA would issue either a reentry-specific or operator license, on bases comparable to that used for issuing launch.

A reentry-specific license would identify the specific missions to which it applies. An expiration date would be

stated in the license so that it is not unlimited as to time.

An operator license would authorize reentry operations on an ongoing basis, as is currently done for launch. An initial two-year license term is proposed.

Section 435.5 Policy and Safety Approvals

Under the proposal, a license applicant would be required to obtain policy and safety approvals from the FAA. Requirements for obtaining these approvals are contained in subparts B and C of this part.

Section 435.7 Payload Reentry Determinations

A payload reentry determination would be required, consistent with proposed requirements for RLV missions, for purposes of returning a payload to Earth unless it is exempt from FAA review. As with other payload determinations, a payload substantially similar to a previously approved payload may be reviewed using a comparative analysis. Under paragraph (b), a previous payload reentry determination may be used to meet the requirements of proposed paragraph (a). Proposed paragraph (c) identifies the payload review procedures applicable to reentering a payload. A payload review determination may be requested of the agency in advance of or separately from a reentry license application.

Section 435.9 Issuance of a Reentry License

The FAA would issue a license to an applicant who has obtained all approvals and determinations required under this chapter for a reentry license, including a policy and safety approval and payload reentry determination, if necessary. The authorization would be limited to representations contained in an application and subject to licensee compliance with applicable requirements of the agency.

Section 435.11 Additional License Terms and Conditions

As proposed, the FAA may amend a reentry license by modifying or adding license terms and conditions to ensure compliance with 49 U.S.C. Subtitle IX, chapter 701, and applicable regulations.

Section 435.13 Transfer of a Reentry License

Consistent with other licensing authority of the agency, only the FAA would be able to transfer a reentry license. The prospective transferee would need to satisfy all requirements for obtaining a license as specified in this chapter.

Section 435.15 Rights Not Conferred by Reentry License

Proposed § 435.15 would state that the license would not relieve a licensee of its obligation to comply with applicable laws.

Subpart B—Policy Review and Approval for Reentry of a Reentry Vehicle

This subpart would impose requirements for a policy review consistent with those for an RLV mission license.

Section 435.21 General

Under the proposal, the FAA would issue a policy approval to a reentry license applicant upon completion of a favorable policy review; it would be part of the licensing record.

Section 435.23 Policy Review Requirements and Procedures

An applicant for reentry policy review and approval would be referred to requirements expressed in proposed part 431, subpart B concerning policy review for an RLV mission. The FAA reserves authority to impose additional requirements unique to reentry policy concerns, if any.

Subpart C—Safety Review and Approval for Reentry of Reentry Vehicle

Subpart C would describe the FAA's safety evaluation process for reentry license applicants. The safety review is conducted to ensure that all safety aspects of a proposed reentry have been adequately addressed. The safety review is necessarily based on the unique attributes and capabilities of a vehicle and is conducted on an individual basis, measured against a regulatory risk criteria.

Section 435.31 General

The proposal states that the FAA would conduct a safety review to determine whether an applicant is capable of reentering a reentry vehicle and payload, if any, to a designated site without jeopardizing public health and safety and the safety of property. The suitability of a proposed reentry site would be assessed by the FAA in the context of evaluating safety issues presented in a particular reentry proposal.

Section 435.33 Safety Review Requirements and Procedures

Safety review requirements proposed for the reentry or descent flight phase of an RLV mission would apply to the reentry safety review, unless otherwise stated in proposed subpart C of part 431.

Section 435.35 Acceptable Reentry Risk for Reentry of a Reentry Vehicle

The FAA is proposing a mission approach to assessment of reentry safety and risk. As proposed, the risk presented by a proposed reentry, in combination with the launch of the reentry vehicle into Earth orbit or outer space, must not exceed acceptable risk for an RLV mission. As indicated previously in the supplementary information of this proposed rule, the FAA requests comment on its proposed approach to combined risk.

Subpart D—Payload Reentry Review and Determination

Subpart E—Post-Licensing Requirements—Reentry License Terms and Conditions

Subpart F—Environmental Review

Consistent with the FAA's general approach to authorizing reentry, requirements governing payload reentry review, license terms and conditions, and environmental review for the reentry or descent phase of an RLV mission would apply to a reentry license application, unless otherwise stated in the regulations.

Paperwork Reduction Act

This proposal contains the following new information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)).

Title: Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulations.

Summary: The FAA proposes to amend the commercial space transportation licensing regulations by establishing operational requirements for launches of reusable launch vehicles (RLVs) and the authorized conduct of commercial space reentry activities. The proposed rule would respond to advancements in the development of commercial reentry capability and enactment of legislation extending the FAA's licensing authority to reentry activities. The agency is proposing requirements that limit risk to the public from RLV and reentry operations.

Description of Respondents: Applicants seeking licenses to conduct licensed reentry operations and launches of RLVs.

The proposed rule outlined is in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The required information will be used to determine whether applicants satisfy requirements for obtaining a launch license to protect the public

from risks associated with RLV missions and other reentries. The information to be collected includes data required for performing a safety review, which includes a technical assessment to determine if the applicant can safely reenter a reentry vehicle, including an RLV and payload, if any, to a designated reentry site without jeopardizing public health and safety and safety of property. The frequency of required submissions may depend upon the frequency of licensed launch activities; however, a license may authorize more than one launch. The estimated average burden hours per respondent are 4,384 hours.

The agency is soliciting comments to (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (for example, permitting electronic submission of responses). Individuals and organizations may submit comments on the information collection requirement by June 21, 1999, to the address listed in the **ADDRESSES** section of this document.

International Compatibility

The FAA has determined that a review of the Convention on International Civil Aviation Standards and Recommended Practices is not warranted because there is not a comparable rule under ICAO standards.

Regulatory Evaluation Summary

Proposed and final rule changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980, as amended in May 1996, requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that the proposed rule would generate benefits that justify its costs and is "not a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. The proposed rule is not a significant action. The proposed rule would not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade. In addition, this proposed rule does not contain Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply. These analyses, available in the docket, are summarized below.

Baseline for Economic Analysis

The proposed rule implements certain policies developed by AST in 1992 with respect to public safety for the first commercial space reentry operation. However, the safety criteria proposed in this rulemaking uses different measures that better reflect current agency and range safety practices. The 1992 policy established safety criteria pertaining to a unique and specific request to conduct a first-of-a-kind payload reentry mission; that is, the COMET, later renamed METEOR, reentry vehicle. Accordingly, a comprehensive regulatory (benefit-cost) analysis was not required. Therefore, the baseline case used for this analysis views the proposed rule as a new requirement imposed on an emerging segment of the commercial space transportation industry that plans to operate reusable launch vehicles (RLVs) or conduct reentry operations with reentry vehicles (RVs). Doing so implies that, but for imposition of safety requirements by the agency, some compliance costs would not have been incurred by entities planning to conduct RLV missions (launch and reentry) and RV operations that are associated with launches from Federal ranges. (Regulatory costs and benefits associated with launches from Federal ranges are assessed as part of a separate rulemaking on launch licensing requirements for launches from Federal ranges.)

Costs

The proposed rule is expected to impose a total estimated cost of $113 million ($65 million, discounted), in 1997 dollars, on the commercial space transportation industry and the FAA over the 15-year period from 2000 to 2014. Commercial space transportation industry operators potentially impacted by the proposed rule would incur approximately 27 percent (or $30 million) of this total cost estimate in the form of compliance costs. The FAA would incur about 73 percent (or $83 million) of the total cost estimate in the form of administrative costs. All monetary values shown in this regulatory evaluation summary are expressed in 1997 dollars over the 15-year period. Due to some of the operational requirements of the proposed rule, costs may materialize that have not been specifically considered in this evaluation. For example, the proposed requirement for each commercial space operator to have an independent safety inspector could, under certain circumstances, result in costs not examined in this evaluation. The independent safety inspector could require the operator to abort a launch or reentry for safety reasons, which would result in higher operating costs. Due to this additional safety oversight, it is uncertain whether all cost and benefit considerations have been captured in this evaluation. Accordingly, the FAA solicits industry comments on the extent to which this evaluation has captured critical costs associated with the proposed rule.

Reentry of RLVs and RVs are subject to comparable safety requirements and therefore regulatory costs for reentry are assessed collectively. Costs are assessed on the basis that, over the next 15-year period, five commercial operators of RLVs or RVs would be impacted by the regulations. It is assumed that five operators would obtain all necessary approvals to conduct RLV missions or RV reentries and that market demand is sufficient to support that level of vehicle operation.

Industry Compliance Costs

Section 431.25 Application Requirements for Policy Review and Section 435.23 Policy Review

These sections of the proposed rule would impose an administrative paperwork burden on each of the five anticipated commercial space industry operators potentially impacted by requiring them to provide specific policy review information to the FAA with regard to their anticipated RLV missions (launch and reentry) or RV reentry operations. Compliance with this proposed section would result in an estimated cost of $400 per operator to assemble the data and submit each application or $2,000 (5 x $400), in 1997 dollars, for all five operators over the 15-year period. The cost estimate of $400 per operator assumes an employee with an annual loaded salary of approximately $103,000 (with fringe benefits) and a level of effort of eight hours.

Section 431.33 Safety Organization and Section 435.33 Safety Review Requirements and Procedures

Under the baseline, a safety organization with clearly defined roles, responsibilities, authorities, and lines of communication is consistent with the findings and recommendations of the Rodgers Commission and National Transportation Safety Board. However, the proposed requirement to "* * * designate a qualified safety official * * * to monitor independently compliance * * * with * * * [all] safety policies and procedures" is not necessarily customary and usual practice. Inclusion of this proposed requirement suggests that it is a refinement of industry baseline practices designed to mitigate safety risks to the public. For example, to be "responsible for the conduct of all * * * mission activities * * *"implies a degree of comprehensiveness that may not be common practice in industry. Because the safety official must be independent, the function cannot be assigned as a collateral duty to an individual with line responsibility for launch and reentry operations though it could conceivably be assigned to an existing employee. Furthermore, the magnitude of responsibilities of the safety official suggests that the level of effort required to perform this function would exceed part-time employment. Assuming that the independent safety official function will not be performed as a collateral duty, this proposed requirement would result in a commercial space transportation entity hiring a person to fulfill the safety official role. An annual loaded salary for this position would be about $103,000. Therefore, the total incremental compliance cost to a commercial operator attributable to the proposed requirement would be about $1.6 million or $8 million (5 × $1.6 million) for all five operators over the 15-year period.

Section 431.35 Acceptable Reusable Launch Vehicle Mission Risk, and Section 435.35 Acceptable Reentry Risk for Reentry of a Reentry Vehicle

Commercial space transportation entities are expected to incur additional costs for performance of risk analyses of vehicle operations, including reentry, and would incur costs in assessing the probabilities and consequences of all reentry hazards, events, and system failures that potentially expose the public to risk. Additionally, commercial entities would expend effort preparing documentation and establishing an associated document control system for drawings and schematics. This compliance activity is expected to fulfill the level of rigor implied by the requirements contained in the proposed rule. The cost impact to a commercial entity attributable to this proposed requirement would be approximately $757,000 in the first year of operation, with recurring costs of $3,600 annually, in 1997 dollars. Over the 15-year period, from 2000 to 2014, the cost of compliance for each potentially impacted operator would be about $800,000. The total cost of compliance for all potentially impacted operators would be approximately $4 million (5 × $800,000), over the 15-year period.

Section 431.37 Mission Readiness and Section 435.33 Safety Review Requirements and Procedures

The proposed requirement to provide specific procedures to the FAA that verify mission readiness presents an administrative paperwork burden to a commercial entity. This proposed requirement would cause an operator to incur costs for preparing and submitting the requisite information to the FAA. A knowledgeable employee having an annual salary of about $103,000 over a period of 80 hours would perform the requirement. This exercise would result in a paperwork cost to a commercial entity of approximately $4,000 per application submittal over the 15-year period. For all entities, this proposed requirement would impose an estimated cost of compliance of $20,000 (5 × $4,000) over the 15-year period.

Section 431.39 Mission Rules, Procedures, Contingency Plans, and Checklists, and Section 435.33 Safety Review Requirements and Procedures

Commercial space transportation entities are generally expected to fulfill the proposed requirements as part of their standard operating procedures. However, the FAA anticipates that these entities would incur some additional costs conforming to FAA requirements. Additionally, commercial entities are expected to incur costs from submitting updated documents with the FAA periodically, and preparing for, accommodating and reacting to FAA inspection and compliance monitoring activities. The cost impact to a single commercial space transportation entity to comply with this proposed requirement would be approximately $90,000 or $450,000 (5 × $90,000) for five entities over the 15-year period.

Section 431.41 Communications Plan and Section 435.33 Safety Review Requirements and Procedures

Commercial space transportation entities are expected to have in place a communications plan that, for the most part, are consistent with proposed regulatory requirement as a matter of standard business practice. However, they are expected to incur incremental costs complying with the requirement, annual recurring costs from interfacing and exchanging documents with the FAA periodically and preparing for, accommodating, and reacting to FAA inspection and compliance monitoring activities. The cost impact to a single commercial space transportation entity to comply would be approximately $90,000 or $450,000 for all five entities over the 15-year period.

Section 431.43 Reusable Launch Vehicle Mission Operational Requirements and Restrictions, and Section 435.33 Safety Review Requirements and Procedures

(Mission Operational Requirements: Dwell Time)

Commercial space transportation entities are expected to expend additional levels of effort to comply with risk mitigation requirements that, to some extent, may limit vehicle flight path options during nominal and non-nominal operations, specifically limitations on dwell time over populated areas and requirements for performing a collision avoidance analysis during launch windows to maintain adequate separation from orbiting objects.

(Rest and Duty Restrictions)

This proposed rule would impose work restrictions and personnel rest requirements on commercial space transportation entities potentially impacted by this action. For example, an individual having direct control over reentry or involved in decisions affecting reentry operations is restricted to working 60 hours over the seven-day period preceding reentry. Further, the proposed rule would reduce the maximum permissible hours worked per shift to 12, limits the maximum number of consecutive workdays to 14, and specifies the minimum rest required (48 hours) between five consecutive days of 12-hour work shifts.

Currently, based on information received from industry, it is common practice among commercial space transportation entities to follow Air Force work and rest standards for launches. Those standards are similar to the proposed requirements. Ordinarily,

based on industry information, launch mission operations personnel work less than the maximum currently permissible, such as a 40-hour workweek comprised of five eight-hour shifts. Hence, the 72-hour workweek is generally an extreme condition that occurs infrequently.

The duration of a reentry operation is likely to determine the extent of the impact that the proposed work and rest requirements would have on commercial space transportation entities. However, this impact would occur under extreme or limiting conditions only (e.g., one reentry operations person).

Given the relatively small size of the entities comprising the emerging RLV segment of the commercial space transportation industry, staff augmentation of at least one person is not unlikely as a result of the proposed requirements. Additionally, the FAA anticipates that additional costs would be incurred for recordkeeping to ensure compliance with required work and rest standards, and preparing for, accommodating, and reacting to FAA inspection and monitoring activities.

The incremental cost to a single commercial entity to comply with this proposed work and rest requirement would be slightly more than $3 million over the 15-year period. Over this same period, for all five entities, the cost of compliance would be $16 million ($5 × $3.2 million).

Section 431.45 Mishap Investigation Plan and Emergency Response Plan, and Section 435.33 Safety Review Requirements and Procedures

As a matter of standard business practice, commercial entities are expected to have prepared emergency response plans that are consistent with much of the regulatory requirement. However, the FAA anticipates that these plans would require additional annual maintenance to comply with certain elements of the proposed rule. For example, entities are likely to incur additional costs to establish their ability to successfully respond to accidents occurring in remote areas having sparse populations. Furthermore, additional annual maintenance costs are expected to arise from preparing for, accommodating, and reacting to FAA inspection and monitoring activities. Accordingly, a commercial space transportation entity would incur incremental costs of $542,000 or $2.7 million (5 × $542,000) for all five entities over the 15-year period.

Section 431.57 Information Requirements for Payload Reentry Review and Section 435.43 Payload Reentry Review Requirements and Procedures

This proposed requirement to provide specific payload information to the FAA presents an administrative paperwork burden to a commercial entity. The submission of data to the FAA is estimated to impose costs of $400 per application or $2,000 for all five entities over the 15-year period.

Section 431.73 Continuing Accuracy of License Application; Application for Modification of License

The proposed requirement would impose minor costs on a licensee to advise the FAA of material changes to its application, and RLV and reentry missions that may impact public safety and property. Depending upon the types of changes reported, it is assumed based on input received from FAA and industry technical personnel that, on average, a licensee would incur incremental compliance costs of approximately $33,000 per modification application or $165,000 (5 × $33,000) for five entities over the 15-year period.

Section 431.75 Agreements, and Section 435.51 Post Licensing Requirements—Reentry License Terms and Conditions (General)

Entities that conduct commercial launches of ELVs from Federal ranges must enter into formal agreements with the Federal range authority prior to using such facilities. Entities planning to use these same facilities for reentry missions would also be required to enter into such agreements. The proposed requirement has no impact on commercial entities other than the negligible level of effort expended (e.g., less than one hour) to advise the FAA of compliance, and the incremental cost to industry to comply with this requirement would be negligible.

Section 431.77 Records and Section 435.51 Post Licensing Requirements—Reentry License Terms and Conditions (General)

It is generally accepted practice among all commercial concerns to maintain business operations records for some period of time, often more than three years. Furthermore, the availability and capability of electronic storage systems renders records retention a manageable task. Accordingly, the proposed three-year requirement to maintain records for FAA review, upon request, would not impact commercial space transportation entities. From a worst case perspective, this evaluation assumes the FAA would exercise its record request authority. As a result the cost of compliance is expected to be about $400 per entity per year. Over the 15-year period, the cost would be $6,000 (400 × 15) per entity or $30,000 (5 × $6,000) for five entities.

Section 431.79 Reusable Launch Vehicle Mission Reporting Requirements, and Section 435.51 Post Licensing Requirements—Reentry License Terms and Conditions (General)

The information to be supplied by a licensee under this proposed requirement is similar to that supplied previously to the FAA during the application process in accordance with Section 431.57. The burden placed on the licensee is to provide more specific mission data than that supplied previously but closer in time to the actual conduct of the mission. Because an operator must have this data to perform a scheduled mission, the incremental cost to industry to comply with this proposed requirement would be zero.

Section 431.93 Environmental Information, and Section 435.61 Environmental Review (General)

Because licensing is a major Federal action, a commercial space transportation entity would be required to provide information addressing the environmental effects of its operations so that the agency can fulfil its responsibility under NEPA and CEQ environmental regulations, even in the absence of the proposed rule. Commercial entities planning to conduct launch and reentry missions must submit environmental assessment data to the FAA regarding environmental impacts of its proposed activities. Additional information must be submitted to evaluate environmental effects not previously assessed by the agency. This proposed requirement would cause a commercial entity to incur incremental compliance costs of $271,000 per entity or $1.4 million (5 × $271,000) for five entities over the 15-year period.

Section 433.7 Environmental

An analysis of the environmental impacts of operating a reentry site is required under NEPA. The proposed requirement, as distinct from similar requirements for operation of a launch site, would cause a applicant to incur incremental compliance costs of $162,000 over the 15-year period as a result of the need to submit additional information to the agency to evaluate environmental effects not previously assessed by the agency. For all

operators, the cost of compliance would be about $800,000 over the same period.

FAA Administrative Costs

The proposed rule would result in the FAA expending great effort in evaluating RLV mission and reentry license applications and monitoring licensees for compliance.

This evaluation estimates that the FAA would incur costs of approximately $83 million ($45 million, discounted), 1997 dollars over the 15-year period, as the result of administering its review of license applications and monitoring of licensees compliance in accordance with the proposed requirements of certain sections of parts 431, 433, and 435.

The FAA's actual experience in evaluating an application to conduct a reentry mission is limited to the COMET and METEOR programs. Much of the proposed rule reflects safety policies for reentry developed by the agency in 1992 to ensure that the COMET/METEOR payload reentry missions would not jeopardize public health and safety and health and the safety of property. Consequently, this experience provides a partial basis for establishing the costs to the FAA for administering the proposed rule. Using this past experience, AST expects that the costs to be incurred in performing its RLV mission and reentry licensing pre-application consultation, application evaluation, and compliance monitoring duties in the near term to be higher than that incurred for COMET/METEOR for a single application, with or without a formal reentry licensing regulation. The extent to which such costs would be higher than that incurred for COMET/METEOR is unknown since there is no history of U.S. commercial reentry activity. The assessment of higher application costs, however, is largely due to the expectation that inherently more complex RLV programs would dominate reentry missions in the future and initially these would require greater evaluative effort on the part of FAA personnel until they have developed experience in this area. While AST budget estimates for fiscal year 2000 reflect additional funding needed to exercise its reentry mission approval function, this need cannot be attributed to the proposed rule, but rather to the complexity associated with the advancing technology that would be evaluated.

AST fiscal year 2000 budget estimates of the cost to perform its pre-application consultation and application evaluation licensing responsibilities may be correlated collectively to sections 431.23, 431.27, 431.31, 431.47, 431.55, 431.59, and 431.91; 433.3, 433.9; and 435.23, 435.31, 435.43, and 435.61 of the proposed regulation. The costs to be incurred by the FAA to implement its compliance monitoring responsibilities corresponding to sections 431.73, 431.83, and 435.51 can vary widely, as the spectrum of changes to reentry program operations can range from minor to major. Therefore, the FAA expects to spend $2.5 million—an amount equivalent to that expended for COMET/METEOR—to implement and administer these proposed requirements for a single application.

Based on projections of the level of application activity over the 15-year period from 2000 to 2014, the FAA is expected to spend approximately $83 million in administering the safety requirements of parts 431, 433, and 435. Approximately 94 percent (or $78 million) of the cost by the FAA to administer these parts would be incurred to approve the projected reentry license applications and modifications to be evaluated over the 15-year period. Approximately 6 percent (or $5 million) of the cost to administer parts 431, 433, and 435 would be expended on the review of application denials and the reconsideration process.

Unlike the estimates for potential benefits, the costs section of this evaluation uses a point (or single) estimate rather than a range. The point estimate approach was chosen in estimating FAA administrative costs because, due in large measure to the agency's experience with the COMET/METEOR Program, there is far less uncertainty associated with the estimation of costs for this proposed rule relative to benefits.

Benefits

The proposed rule is expected to generate safety benefits of $119 million ($66 million, discounted), in 1997 dollars, over the 15-year period. Benefits include enhanced safety by limiting reentry risk to a level that does not exceed an expected average number of 30 casualties per one million RLV missions or reentries for the general public, and an expected average number of no more than one casualty per million missions for the public in the vicinity of reentry sites.

The potential safety benefits that are expected to accrue as the result of this proposed rule stem from two types of safety criteria implemented and administered by the FAA on commercial space transportation industry operators who wish to engage in RLV missions or reentries. The two criteria are:

(1) $E_c \leq 30 \times 10^{-6}$. This criterion applies on a per mission basis and includes both launch and reentry phases of an RLV mission. It requires that the risk to the public associated with each mission incorporate a level of safety that is equivalent to a probabilistic outcome of no more than an expected average number of 30 public casualties per one million missions.

(2) $E_c \leq 1 \times 10^{-6}$. This criterion pertains to the public adjacent to reentry sites. It requires that the risk to the public associated with each reentry mission incorporate a level of safety that is equivalent to a probabilistic outcome of no more than an expected average number of one public casualty per one million missions.

Compliance by operators with these safety criteria, along with other restrictions addressed in the proposed rule are intended to limit risk to public safety. In estimating these potential safety benefits, the FAA employed the following steps: (First), the agency examined six accident types, grouped into two categories, related to airborne explosions and ground point-of-impact crashes. (For the purpose of this evaluation, the term accident is defined as any unplanned event with potential casualty losses). For each accident category—airborne or ground—the population density of the area surrounding the accident scene or accident zone can be either (1) none, (2) sparse (e.g. rural), or (3) dense (e.g., urban). An examination of the consequences of these types of accidents was conducted. To arrive at accident consequences, the accident scenes or zones for airborne and ground accidents are characterized in terms of fatalities, injuries, and property damage under the baseline and the proposed rule. The difference between the baseline scenario and proposed rule scenario represents the incremental safety benefits that would be generated by the proposed rule. This process was performed for each of the steps below: (Second), monetary values are assigned to each of the various types of accidents expected to occur during launch or reentry (including accidents at or near launch sites). (Third), probabilities are assigned to each of the six accident types based on the percentage of impacted landmass (e.g., no population, sparse population, and dense population) for the baseline and the proposed rule. That is, the probability of occurrence for each accident type over the next 15 years was determined by using the two types of risk criteria mentioned earlier.

And last, expected values were estimated for each of the accident types under the baseline and the proposed

rule. For this proposed rule, the expected benefit values represent the difference between these two scenarios. One of the more difficult areas to ascertain is the probability of a reusable launch vehicle (RLV) or RLV accident in the absence of government regulation in order to calculate the expected value of an accident under the baseline and estimate the incremental safety benefits of the proposed rule. This difficulty stems from the fact there is no empirical evidence or historical RLV accident history. Because of this difficulty, there is uncertainty associated with estimating the probability of an RLV or RLV accident. As a result of this uncertainty, the FAA estimated a range of accident probabilities, which are based on historical experience with ELV accidents and incidents, and sorted them into six categories or types of accidents. In estimating the expected casualty and property loss values, the probability of each of the six accident types is multiplied by the accident consequence values (e.g., the cost of an accident). This process was repeated for all six accident types and summed. This procedure was done for both scenarios (baseline and proposal). Thus, the difference in casualty and property losses for these two scenarios was used as the estimated benefits for this proposed rule. The results of these calculations generate the potential safety benefits as discussed below.

Safety benefits—accident costs avoided—are realized as RLV launch and reentry operations are performed, without incident. Therefore, the number of completed RLV missions and reentries projected over the 15-year period is multiplied by incremental safety benefits per mission to estimate total incremental safety benefits over the period 2000 to 2014. The total safety benefit resulting from the proposed rule is estimated to be $119 million for the period 2000 to 2014. This estimate of $119 million represents the midpoint of benefits ranging from $22 million to $217 million over the 15-year period. This midpoint estimate of benefits was chosen because of the high degree of uncertainty associated with the wide range of accident probabilities. Uncertainty stems from the extent to which industry has already adopted and implemented safety measures similar to those proposed as part of this rulemaking action. (Based on information obtained from commercial space industry technical personnel, nearly all of the potentially impacted operators would be in compliance with the proposed rule to some degree.) The low end of the range of benefits assumes that practically all of the potentially impacted operators would be in almost complete compliance in the absence of the proposed rule. The high end of the range of benefits assumes the opposite. There is insufficient information that would support adopting the benefits estimates at either end of the range. Thus, the median (or midpoint) was chosen as an appropriate benefits estimate. It suggests that the actual benefits to be generated by the proposed rule lies somewhere between the lower and upper end of this range. Since uncertainty is associated with using a midpoint benefits estimate and range of benefits, the FAA solicits public comment as to whether its assumptions are appropriate and the validity of this approach. The agency asks that comments be specific and supported by quantitative data wherever possible.

Secondary Benefits

The proposed rule would generate secondary benefits in the form of enhanced operational efficiency, due largely to regulatory and procedural clarifications that would be facilitated by the iterative pre-application consultation process, help ensure consistency in implementing the licensing process, and may result in cost-savings to the FAA as a result of repetitive operations. These cost-savings would also reduce the turnaround time between application submittal and licensing approval, help commercial space transportation entities gain familiarity with requirements, and facilitate government-industry interaction. Enhanced operational efficiency, in turn, would lead to industry cost-savings, possibly due to less rework or paperwork avoided.

Summary of Total Costs and Benefits

The total potential benefits and costs of this proposed rule are shown below in Table 1. This Table shows that the potential cost imposed by the proposed rule would be approximately $113 million over the 15-year period. Also shown in Table 1, about $30 million of this total cost would be incurred by industry. The cost estimate of $30 million is lower than the summation of those costs discussed in the above sections for industry because it takes into account the fact that certain operators would incur recurring costs for some of the 15-year period rather than for the entire period. Table 1 also shows that the proposed rule would generate potential safety benefits of $119 million over the 15-year period. Due to some of the operational requirements of the proposed rule, costs and benefits not considered in this evaluation may materialize. The FAA solicits comments from the commercial space industry as to what extent this evaluation has captured critical costs and benefits associated with the proposed rule.

TABLE 1.—SUMMARY OF TOTAL COSTS AND BENEFITS

[In millions of dollars]

Category (in 1997 dollars, 15 yrs.)	Undiscounted	Discounted
Commercial Space Transportation Industry Compliance Costs	$30	$20
Federal Aviation Administration Implementation Costs	83	45
Total Costs	113	65
Accident Costs Avoided: Lower Bound (Safety Benefits)	22	12
Accident Costs Avoided: Upper Bound (Safety Benefits)	217	121
Total Accident Costs Avoided: Midpoint (Safety Benefits)	119	66

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities (e.g., small business and small not-for-profit government jurisdictions) are not unnecessarily and disproportionately burdened by Federal Government regulations. The RFA, which was amended in March 1996, requires that whenever an agency publishes a general notice of proposed rulemaking, an initial regulatory flexibility analysis be performed if the proposed rule would

have a significant economic impact on a substantial number of small entities. The regulatory flexibility analysis must (1) identify the economic impact on small entities and (2) consider alternatives that may lessen those impacts.

The Small Business Administration has defined small business entities relating to space vehicles (Standard Industrial Codes 3761, 3764, and 3769) as entities comprising fewer than 1,000 employees. The FAA has determined that the proposed rule would impact five small businesses, imposing on an entity average compliance costs of approximately $6 million over the 15-year period (in 1997 dollars).

The annualized compliance cost to each small business is approximately $700,000 (in 1997 dollars). Ordinarily, this section of the evaluation would be based on typical financial data (for example, annual net income or losses) as a means to determine any of the commercial space transportation small entities significantly impacted by the proposed rule. However, the traditional use of such financial data for these small entities cannot be employed since RLV operators (including a number of RV operators) represent relatively new companies and they have no revenue history. In fact, these small operators are in the process of raising funds to finance their new ventures. Due to the lack of data on the financial characteristics of these small RLV operators, this evaluation uses the 1998 average revenue received per launch for ELV operators. The revenue that RLV operators would obtain from their customers is expected to be similar to the revenue that established ELV operators currently receive from their customers. Revenue data based on ELV operators' experience would be used for the purpose of assessing the extent to which compliance with the proposed rule would impose significant economic impacts on each of the five potentially impacted small RLV operators. This assessment would be done by comparing the annualized cost of compliance to the annual average revenue expected to be received by each of the five small RLV operators over the next 15 years. While the long-term revenues of RLV operators are expected to exceed those of ELV operators, which would be due to inherent lower operating costs, for the purpose of this evaluation they are assumed to be nearly the same over the 15-year period. For this reason, the average revenue of about $50 million generated by each ELV launch in 1998 will be used as an indicator of what RLV operators would be expected to generate per RLV mission in future years. This assessment is based primarily on information received for orbital launch events for ELV operators from the FAA's Office of Commercial Space Transportation Report entitled, "Commercial Space Transportation: 1998 Year In Review", Table 1 and the Appendix (January 1999).

Each of the five potentially impacted small RLV entities is expected to average about seven missions per year over the next 15 years. Using $50 million as an average expected revenue per mission, each entity would be expected to receive about $350 million in revenue ($50m × 7 missions annually) for all missions annually. The FAA has determined that none of the five small entities would incur a significant economic impact, since the average annualized cost of compliance ($700,000) would be only 0.2 percent of the anticipated average annual revenues of $350 for missions conducted annually.

The FAA certifies that the proposed rule would not impose a significant economic impact on a substantial number of small businesses. Therefore, a regulatory flexibility analysis is not required. Furthermore, the proposed rule is not likely to cause small business failures or adversely impact their competitive position relative to larger businesses. However, the FAA requests comments on the validity of the assertions herein and additional information on the financial characteristics of these small businesses

International Trade Impact Assessment

The proposed rule contains revisions to commercial space transportation licensing regulations that would not constitute a barrier to international trade, including the export of domestic goods and services out of the United States. The proposed rule would equally affect domestic and foreign organizations conducting commercial space transportation operations within the United States. The proposed rule is not expected to place domestic firms at a disadvantage with respect to foreign interests competing for similar business in international markets. Therefore, based on this evaluation and impacts reported herein, the proposed rule is not expected to affect trade opportunities for U.S. firms doing business abroad or for foreign firms doing business in the United States. The FAA invites comments on the validity of this assertion and any potential impacts related thereto.

Unfunded Mandates Act of 1995 Assessment

Title II of the Unfunded Mandates Reform Act of 1995, enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, Title 2 of the United States Code 1534(a), requires the Federal agency to develop an effectiveness process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A significant intergovernmental mandate under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, Title 2 of the United States Code 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity any affected small governments to provide input in the development of proposed rules.

Based on the evaluation and impacts reported herein, the proposed rule is not expected to meet the $100 million per year cost threshold. Consequently, it would not impose a significant cost on uniquely affect small governments. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to the proposed regulation.

Federalism Implications

The regulations proposed herein will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment (EA) or environmental impact statement (EIS). In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(i), regulatory documents which cover administrative or procedural requirements qualify for a categorical exclusion. Proposed sections 431.91, 431.93, 433.7, and 433.9 would require an applicant to submit sufficient environmental information for the FAA to comply with NEPA and other applicable environmental laws and regulations during the processing of each license application. Accordingly, the FAA proposes that this rule qualifies for a categorical exclusion because no significant impacts to the environment are expected to result from finalization or implementation of its administrative provisions for licensing.

List of Subjects

14 CFR Part 400

Space transportation and exploration.

14 CFR Part 401

Organization and functions (Government agencies), Space transportation and exploration.

14 CFR Part 404

Administrative practice and procedure, Space transportation and exploration.

14 CFR Part 405

Investigations, Penalties, Space transportation and exploration.

14 CFR Part 406

Administrative practice and procedure, Space transportation and exploration.

14 CFR Part 413

Confidential business information, Space transportation and exploration.

14 CFR Part 415

Aviation safety, Environmental protection, Space transportation and exploration.

14 CFR Part 431

Aviation safety, Environmental protection, Investigations, Reporting and recordkeeping requirements, Rockets, Space transportation and exploration.

14 CFR Part 433

Aviation safety, Environmental protection, Investigations, Reporting and recordkeeping requirements, Rockets, Space transportation and exploration.

14 CFR Part 435

Aviation safety, Environmental protection, Investigations, Reporting and recordkeeping requirements, Rockets, Space transportation and exploration.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 400, 401, 404, 405, 406, 413, and 415, of Chapter III Title 14, Code of Federal Regulations and add parts 431, 433 and 435 as follows:

PART 400—BASIS AND SCOPE

1. The authority citation for part 400 is revised to read as follows:

Authority: 49 U.S.C. 70101–70121.

2. Section 400.2 is revised to read as follows:

§ 400.2 Scope.

These regulations set forth the procedures and requirements applicable to the authorization and supervision under 49 U.S.C. Subtitle IX, chapter 701, of commercial space transportation activities conducted in the United States or by a U.S. citizen. The regulations in this chapter do not apply to exempted-class rocket activities.

PART 401—ORGANIZATION AND DEFINITIONS

3. The authority citation for part 401 is revised to read as follows:

Authority: 49 U.S.C. 70101–70121.

4. Section 401.5 is revised to read as follows:

§ 401.5 Definitions.

As used in this chapter—

Act means 49 U.S.C. Subtitle IX, Commercial Space Transportation, ch. 701—Commercial Space Launch Activities, 49 U.S.C. 70101–70121.

Amateur rocket activities means launch activities conducted at private sites involving rockets powered by a motor or motors having a total impulse of 200,000 pound-seconds or less and a total burning or operating time of less than 15 seconds, and a rocket having a ballistic coefficient—i.e., gross weight in pounds divided by frontal area of rocket vehicle—less than 12 pounds per square inch.

Associate Administrator means the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, or any person designated by the Associate Administrator to exercise the authority or discharge the responsibilities of the Associate Administrator.

Contingency abort means cessation of vehicle flight during ascent or descent in a manner that does not jeopardize public health and safety and the safety of property, in accordance with mission rules and procedures. Contingency abort includes landing at an alternative location that has been designated as a contingency abort location in advance of vehicle flight.

Emergency abort means cessation of vehicle flight during ascent or descent in a manner that minimizes risk to public health and safety and the safety of property. Emergency abort involves failure of a vehicle, safety-critical system, or flight safety system such that contingency abort is not possible.

Federal launch range means a launch site, from which launches routinely take place, that is owned and operated by the government of the United States.

Flight safety system means a system designed to limit or restrict the hazards to public health and safety and the safety of property presented by a launch vehicle or reentry vehicle while in flight by initiating and accomplishing a controlled ending to vehicle flight. A flight safety system may be destructive resulting in intentional break up of a vehicle or nondestructive, such as engine thrust termination enabling vehicle landing or safe abort capability.

Hazardous materials means hazardous materials as defined in 49 CFR 172.101.

Launch means to place or try to place a launch vehicle or reentry vehicle and any payload from Earth in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space, and includes activities involved in the preparation of a launch vehicle for flight, when those activities take place at a launch site in the United States. The term launch includes the flight of a launch vehicle and pre-flight ground operations beginning with the arrival of a launch vehicle or payload at a U.S. launch site. Flight ends after the licensee's last exercise of control over its launch vehicle.

Launch accident means:

(1) A fatality or serious injury (as defined in 49 CFR 830.2) to any person who is not associated with the flight;

(2) Any damage estimated to exceed $25,000 to property not associated with the flight that is not located at the launch site or designated recovery area.

(3) An unplanned event occurring during the flight of a launch vehicle resulting in the known impact of a launch vehicle, its payload or any component thereof:

(i) For an expendable launch vehicle (ELV), outside designated impact limit lines; and

(ii) for an RLV, outside a designated landing site.

Launch incident means an unplanned event occurring during the flight of a launch vehicle, other than a launch accident, involving a malfunction of a flight safety system or safety-critical system or failure of the licensee's safety organization, design or operations.

Launch operator means a person who conducts or who will conduct the launch of a launch vehicle and any payload.

Launch site means the location on Earth from which a launch takes place (as defined in a license the Secretary issues or transfers under this chapter) and necessary facilities at that location.

Launch vehicle means a vehicle built to operate in, or place a payload in, outer space or a suborbital rocket.

Mishap means a launch or reentry accident, launch or reentry incident, failure to complete a launch or reentry as planned, or an unplanned event or series of events resulting in a fatality or serious injury (as defined in 49 CFR § 830.2), or resulting in greater than $25,000 worth of damage to a payload, a vehicle, a launch or reentry support facility or government property located on the launch or reentry site.

Operation of a launch site means the conduct of approved safety operations at a permanent site to support the launching of vehicles and payloads.

Operation of a reentry site means the conduct of safety operations at a fixed site on Earth at which a reentry vehicle and its payload, if any, is intended to land.

Payload means an object that a person undertakes to place in outer space by means of a launch vehicle, including components of the vehicle specifically designed or adapted for that object.

Person means an individual or an entity organized or existing under the laws of a state or country.

Reenter means to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth. The term "reenter" includes activities conducted in Earth orbit or outer space to determine reentry readiness and are therefore unique to reentry and critical to ensuring public health and safety and the safety of property during reentry.

Reentry accident means any unplanned event occurring during the reentry of a reentry vehicle resulting in the known impact of the reentry vehicle, its payload, or any component thereof outside a designated reentry site; a fatality or serious injury (as defined in 49 CFR 830.2) to any person who is not associated with the reentry; or any damage estimated to exceed $25,000 to property not associated with the reentry and not located within a designated reentry site.

Reentry incident means any unplanned event occurring during the reentry of a reentry vehicle, other than a reentry accident, involving a malfunction of a reentry safety-critical system or failure of the licensee's safety organization, procedures, or operations.

Reentry operator means a person responsible for conducting the reentry of a reentry vehicle as specified in a license issued by the FAA.

Reentry site means the location on Earth where a reentry vehicle is intended to return. It includes the area within three standard deviations of the intended landing point (the predicted three-sigma footprint).

Reentry vehicle means a vehicle designed to return from Earth orbit or outer space to Earth substantially intact. A reusable launch vehicle that is designed to return from Earth orbit or outer space to Earth substantially intact is a reentry vehicle.

Reusable launch vehicle (RLV) means a launch vehicle that is designed to return to Earth substantially intact and therefore may be launched more than one time or that contains vehicle stages that may be recovered by a launch operator for future use in the operation of a substantially similar launch vehicle.

Safety-critical means essential to safe performance or operation. A safety-critical system, subsystem, condition, event, operation, process or item is one whose proper recognition, control, performance or tolerance is essential to safe system operation.

Vehicle safety operations personnel means those persons whose job performance is critical to public health and safety or the safety of property during RLV or reentry operations.

State and United States means, when used in a geographical sense, the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States; and

United States citizen means:

(1) Any individual who is a citizen of the United States;

(2) Any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States or any State; and

(3) Any corporation, partnership, joint venture, association, or other entity which is organized or exists under the laws of a foreign nation, if the controlling interest in such entity is held by an individual or entity described in paragraph (1) or (2) of this definition. *Controlling interest* means ownership of an amount of equity in such entity sufficient to direct management of the entity or to void transactions entered into by management. Ownership of at least fifty-one percent of the equity in an entity by persons described in paragraph (1) or (2) of this definition creates a rebuttable presumption that such interest is controlling.

PART 404—REGULATIONS AND LICENSING REQUIREMENTS

5. The authority citation for part 404 is revised to read as follows:

Authority: 49 U.S.C. 70101–70121.

6. Section 404.1 is revised to read as follows:

§ 404.1 Scope.

Under section 49 U.S.C. 70105, this part establishes procedures for issuing regulations to implement the provisions of 49 U.S.C. Subtitle IX, chapter 701, and for eliminating or waiving requirements of Federal law otherwise applicable to the licensing of commercial space transportation activities under 49 U.S.C. Subtitle IX, chapter 701.

7. Section 404.3 is amended by revising the section title and paragraph (a) to read as follows:

§ 404.3 Filing of petitions to the Associate Administrator.

(a) Any person may petition the Associate Administrator to issue, amend, or repeal a regulation to eliminate as a requirement for a license any requirement of Federal law applicable to commercial space launch and reentry activities and the operation of launch and reentry sites or to waive any such requirement in the context of a specific application for a license.

* * * * *

PART 405—INVESTIGATIONS AND ENFORCEMENT

8. The authority citation for part 405 is revised to read as follows:

Authority: 49 U.S.C. 70101–70121.

9. Section 405.1 is revised to read as follows:

§ 405.1 Monitoring of licensed and other activities.

Each licensee must allow access by and cooperate with Federal officers or employees or other individuals authorized by the Associate Administrator to observe licensed

facilities and activities, including launch sites and reentry sites, as well as manufacturing, production, and testing facilities, or assembly sites used by any contractor or a licensee in the production, assembly, or testing of a launch or reentry vehicle and in the integration of a payload with its launch or reentry vehicle. Observations are conducted to monitor the activities of the licensee or contractor at such time and to such extent as the Associate Administrator considers reasonable and necessary to determine compliance with the license or to perform the Associate Administrator's responsibilities pertaining to payloads for which no Federal license, authorization, or permit is required.

10. Section 405.5 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 405.5 Emergency orders.

The Associate Administrator may immediately terminate, prohibit, or suspend a licensed launch, reentry, or operation of a launch or reentry site if the Associate Administrator determines that—

(a) The licensed launch, reentry, or operation of a launch or reentry site is detrimental to public health and safety, the safety of property, or any national security or foreign policy interest of the United States; and

* * * * *

PART 406—ADMINISTRATIVE REVIEW

11. The authority citation for part 406 is revised to read as follows:

Authority: 49 U.S.C. 70101–70121.

12. Section 406.1 is amended by revising paragraphs (a), introductory text, (a)(2), and (a)(3) to read as follows:

§ 406.1 Hearings.

(a) Pursuant to 49 U.S.C. 70110, the following are entitled to a determination on the record after an opportunity for a hearing in accordance with 5 U.S.C. 554.

* * * * *

(2) An owner or operator of a payload regarding any decision to prevent the launch or reentry of the payload;

(3) A licensee regarding any decision to suspend, modify, or revoke a license or to terminate, prohibit, or suspend any licensed activity; and

* * * * *

PART 413—LICENSE APPLICATION PROCEDURES

13. The authority citation for part 413 is revised to read as follows:

Authority: 49 U.S.C. 70101–70121.

14. Section 413.1 is revised to read as follows:

§ 413.1 Scope.

This part prescribes the procedures applicable to applications submitted under this chapter to conduct licensed activities. These procedures apply to all applications for issuance of a license, transfer of an existing license, and renewal of an existing license. More specific requirements applicable to obtaining a launch license or a license to operate a launch site are contained in parts 415 and 417 of this chapter, respectively. More specific requirements applicable to obtaining a license to launch and reenter a reentry vehicle or to operate a reentry site are contained in parts 431, 433 and 435 of this chapter, respectively.

5. Section 413.3 is revised to read as follows:

§ 413.3 Who must obtain a license.

(a) A person must obtain a license—

(1) To launch a launch vehicle from the United States;

(2) To operate a launch site within the United States;

(3) To reenter a reentry vehicle in the United States; or

(4) To operate a reentry site within the United States.

(b) An individual who is a U.S. citizen or an entity organized under the laws of the United States or any State must obtain a license—

(1) To launch a launch vehicle outside the United States;

(2) To operate a launch site outside of the United States;

(3) To reenter a reentry vehicle outside of the United States; or

(4) To operate a reentry site outside of the United States.

(c) A foreign entity in which a United States citizen has a controlling interest, as defined in § 401.5 of this chapter, must obtain a launch license to launch a launch vehicle from or a license to operate a launch site within—

(1) Any place that is both outside the United States and outside the territory of any foreign nation, unless there is an agreement in force between the United States and a foreign nation providing that such foreign nation shall exercise jurisdiction over the launch or the operation of the launch site; or

(2) The territory of any foreign nation if there is an agreement in force between the United States and that foreign nation providing that the United States shall exercise jurisdiction over the launch or the operation of the launch site.

(d) A foreign entity in which a U.S. citizen has a controlling interest, as defined in § 401.5 of this chapter, must obtain a license to reenter a reentry vehicle or to operate a reentry site in—

(1) Any place that is outside the United States and outside the territory of any foreign nation, unless there is an agreement in force between the United States and a foreign nation providing that such foreign nation shall exercise jurisdiction over the reentry or the operation of the reentry site; or

(2) The territory of any foreign nation if there is an agreement in force between the United States and that foreign nation providing that the United States shall exercise jurisdiction over the reentry or the operation of the reentry site.

PART 415—LAUNCH LICENSE

16. The authority citation for part 415 is revised to read as follows:

Authority: 49 U.S.C. 70101–70121.

17. Section 415.1 is revised to read as follows:

§ 415.1 Scope.

This part prescribes requirements for obtaining a license to launch a launch vehicle, other than a reusable launch vehicle (RLV), and post-licensing requirements with which a licensee shall comply to remain licensed. Requirements for preparing a license application are contained in part 413 of this subchapter. Requirements for obtaining a license to launch an RLV and conduct an RLV mission are contained in part 431 of this subchapter.

18. Part 431 is added to read as follows:

PART 431—LAUNCH AND REENTRY OF A REUSABLE LAUNCH VEHICLE (RLV)

Subpart A—General

Sec.

431.1 Scope.
431.3 Types of reusable launch vehicle mission licenses.
431.5 Policy and safety approvals.
431.7 Payload and payload reentry determinations.
431.9 Issuance of a reusable launch vehicle mission license.
431.11 Additional license terms and conditions.
431.13 Transfer of a reusable launch vehicle mission license.
431.15 Rights not conferred by a reusable launch vehicle mission license.
431.16–431.20 [Reserved]

Subpart B—Policy Review and Approval for Launch and Reentry of a Reusable Launch Vehicle

431.21 General.
431.23 Policy review.
431.25 Application requirements for policy review.
431.27 Denial of policy approval.
431.28–431.30 [Reserved]

Subpart C—Safety Review and Approval for Launch and Reentry of a Reusable Launch Vehicle

431.31 General.
431.33 Safety organization.
431.35 Acceptable reusable launch vehicle mission risk.
431.37 Mission readiness.
431.39 Mission rules, procedures, contingency plans, and checklists.
431.41 Communications plan.
431.43 Reusable launch vehicle mission operational requirements and restrictions.
431.45 Mishap investigation plan and emergency response plan.
431.47 Denial of safety approval.
431.48–431.50 [Reserved]

Subpart D—Payload Reentry Review and Determination

431.51 General.
431.53 Classes of payloads.
431.55 Payload reentry review.
431.57 Information requirements for payload reentry review.
431.59 Issuance of payload reentry determination.
431.61 Incorporation of payload reentry determination in license application.
431.62–431.70 [Reserved]

Subpart E—Post-Licensing Requirements-Reusable Launch Vehicle Mission License Terms and Conditions

431.71 Public safety responsibility.
431.73 Continuing accuracy of license application; application for modification of license.
431.75 Agreements.
431.77 Records.
431.79 Reusable launch vehicle mission reporting requirements.
431.81 Financial responsibility requirements.
431.83 Compliance monitoring.
431.85 Registration of space objects.
431.86–431.90 [Reserved]

Subpart F—Environmental Review

431.91 General.
431.93 Environmental information.

Authority: 49 U.S.C. 70101–70119.

Subpart A—General

§ 431.1 Scope.

This part prescribes requirements for obtaining a reusable launch vehicle (RLV) mission license and post-licensing requirements with which a licensee must comply to remain licensed. Requirements for preparing a license application are contained in part 413 of this subchapter.

§ 431.3 Types of reusable launch vehicle mission licenses.

(a) *Mission-specific license.* A mission-specific license authorizing an RLV mission, authorizes a licensee to launch and reenter, or otherwise land, one model or type of RLV to a reentry site approved for the mission. A mission-specific license authorizing an RLV mission may authorize more than one RLV mission and identifies each flight of an RLV authorized under the license. A licensee's authorization to conduct RLV missions terminates upon completion of all activities authorized by the license or the expiration date stated in the reentry license, whichever occurs first.

(b) *Operator license.* An operator license for RLV missions authorizes a licensee to launch and reenter, or otherwise land, any of a designated family of RLVs within authorized parameters, including trajectories, transporting specified classes of payloads to any reentry site designated in the license. An operator license for RLV missions is valid for a two-year renewable term.

§ 431.5 Policy and safety approvals.

To obtain either type of RLV mission license, an applicant must obtain policy and safety approvals from the FAA. Requirements for obtaining these approvals are contained in subparts B and C of this part. Only the license applicant may apply for the approvals, and may apply for either approval separately and in advance of submitting a complete license application, using the application procedures contained in part 413 of this subchapter.

§ 431.7 Payload and payload reentry determinations.

(a) A payload determination is required to launch a payload unless the proposed payload is exempt from payload review under § 415.53 of this chapter. Requirements for obtaining a payload determination are set forth in part 415, subpart D.

(b) A payload reentry determination is required to transport a payload to Earth on an RLV unless the proposed payload is exempt from payload review.

(c) A payload reentry determination made under a previous license application under this subchapter may satisfy the requirements of paragraph (b) of this section.

(d) The FAA conducts a review, as described in subpart D of this part, to make a payload reentry determination. Either an RLV mission license applicant or a payload owner or operator may request a review of the proposed payload using the application procedures contained in part 413 of this subchapter. Upon receipt of an application, the FAA may conduct a payload reentry review independently of an RLV mission license application.

§ 431.9 Issuance of a reusable launch vehicle mission license.

(a) The FAA issues either a mission-specific or operator license authorizing RLV missions to an applicant who has obtained all approvals and determinations required under this chapter for the license.

(b) An RLV mission license authorizes a licensee to launch and reenter, or otherwise land, an RLV and payload, if any, in accordance with the representations contained in the licensee's application, subject to the licensee's compliance with terms and conditions contained in license orders accompanying the license, including financial responsibility requirements.

§ 431.11 Additional license terms and conditions.

The FAA may amend an RLV mission license at any time by modifying or adding license terms and conditions to ensure compliance with 49 U.S.C. subtitle IX, chapter 701, and applicable regulations.

§ 431.13 Transfer of a reusable launch vehicle mission license.

(a) Only the FAA may transfer an RLV mission license.

(b) An applicant for transfer of an RLV mission license shall submit a license application in accordance with part 413 of this subchapter and satisfy the applicable requirements of this part. The FAA will transfer an RLV mission license to an applicant who has obtained all of the approvals and determinations required under this chapter for an RLV mission license. In conducting its reviews and issuing approvals and determinations, the FAA may incorporate any findings made part of the record to support the initial licensing determination. The FAA may modify an RLV mission license to reflect any changes necessary as a result of a license transfer.

§ 431.15 Rights not conferred by a reusable launch vehicle mission license.

Issuance of an RLV mission license does not relieve a licensee of its obligation to comply with requirements of law that may apply to its activities.

§§ 431.16–431.20 [Reserved]

Subpart B—Policy Review and Approval for Launch and Reentry of a Reusable Launch Vehicle

§ 431.21 General.

The FAA issues a policy approval to an RLV mission license applicant upon completion of a favorable policy review. A policy approval is part of the licensing record on which the licensing determination is based.

§ 431.23 Policy review.

(a) The FAA reviews an RLV mission license application to determine

whether the proposed mission presents any issues, other than those issues addressed in the safety review, that would adversely affect U.S. national security or foreign policy interests, would jeopardize public health and safety or the safety of property, or would not be consistent with international obligations of the United States.

(b) *Interagency consultation.*

(1) The FAA consults with the Department of Defense to determine whether an RLV mission license application presents any issues adversely affecting U.S. national security.

(2) The FAA consults with the Department of State to determine whether an RLV mission license application presents any issues adversely affecting U.S. foreign policy interests or international obligations.

(3) The FAA consults with other Federal agencies, including the National Aeronautics and Space Administration, authorized to address issues identified under paragraph (a) of this section, associated with an applicant's RLV mission proposal.

(c) The FAA advises an applicant, in writing, of any issue raised during a policy review that would impede issuance of a policy approval. The applicant may respond, in writing, or revise its license application.

§ 431.25 Application requirements for policy review.

In its RLV mission license application, an applicant must—

(a) Identify the model, type, and configuration of any RLV proposed for launch and reentry, or otherwise landing on Earth, by the applicant.

(b) Identify all vehicle systems, including structural, thermal, pneumatic, propulsion, electrical, and avionics and guidance systems used in the vehicle(s), and all propellants.

(c) Identify foreign ownership of the applicant as follows:

(1) For a sole proprietorship or partnership, identify all foreign ownership;

(2) For a corporation, identify any foreign ownership interests of 10% or more; and

(3) For a joint venture, association, or other entity, identify any participating foreign entities.

(d) Identify proposed launch and reentry flight profile(s), including—

(1) Launch and reentry site(s), including planned contingency abort locations, if any;

(2) Flight trajectories, reentry trajectories, associated ground tracks, and instantaneous impact points for nominal operations, and contingency abort profiles, if any;

(3) Sequence of planned events or maneuvers during the mission; and

For an orbital mission, the range of intermediate and final orbits of the vehicle and upper stages, if any, and their estimated orbital life times.

§ 431.27 Denial of policy approval.

The FAA notifies an applicant, in writing, if the FAA has denied policy approval for an RLV mission license application. The notice states the reasons for the FAA's determination. The applicant may respond to the reasons for the determination and request reconsideration.

§§ 431.28–431.30 [Reserved]

Subpart C—Safety Review and Approval for Launch and Reentry of a Reusable Launch Vehicle

§ 431.31 General.

(a) The FAA conducts a safety review to determine whether an applicant is capable of launching an RLV and payload, from a designated launch site, and reentering the RLV and payload, if any, to a designated reentry site, or otherwise landing the RLV and payload, if any, on Earth, without jeopardizing public health and safety and the safety of property.

(b) The FAA issues a safety approval to an RLV mission license applicant that satisfies the requirements of this subpart. The FAA evaluates on an individual basis all public safety aspects of a proposed RLV mission to ensure they are sufficient to support safe conduct of the mission. A safety approval is part of the licensing record on which the FAA's licensing determination is based.

(c) The FAA advises an applicant, in writing, of any issue raised during a safety review that would impede issuance of a safety approval. The applicant may respond, in writing, or revise its license application.

§ 431.33 Safety organization.

(a) An applicant shall maintain a safety organization and document it by identifying lines of communication and approval authority for all mission decisions that may affect public safety. Lines of communication within the applicant's organization, between the applicant and the launch site, and between the applicant and the reentry site, shall be employed to ensure that personnel perform RLV mission operations in accordance with plans and procedures required by this subpart. Approval authority shall be employed to ensure compliance with terms and conditions stated in an RLV mission license and with the plans and procedures required by this subpart.

(b) An applicant must designate a person responsible for the conduct of all licensed RLV mission activities.

(c) *Safety official.* An applicant shall designate by name, title, and qualifications, a qualified safety official authorized by the applicant to examine all aspects of the applicant's operations with respect to safety of RLV mission activities and to monitor independently compliance by vehicle safety operations personnel with the applicant's safety policies and procedures. The safety official shall report directly to the person responsible for an applicant's licensed RLV mission activities, who shall ensure that all of the safety official's concerns are addressed both before the mission is initiated and before reentry or descent of an RLV is initiated. The safety official is responsible for—

(1) Conducting operational dress rehearsals in accordance with procedures required by § 431.37(a)(4), that ensure the readiness of vehicle safety operations personnel to conduct a safe mission under nominal and non-nominal conditions; and

(2) Completing a mission readiness determination as required by § 431.37 of this subpart before an RLV mission is initiated. The safety official must monitor and report to the person responsible for the conduct of licensed RLV mission activities any non-compliance with procedures listed in §§ 431.37 and 431.43 or any representation contained in the application, and the readiness of the licensee to conduct mission operations in accordance with the license and this part. The safety official is responsible for compliance with §§ 431.37 and 431.43 and with representations contained in the application.

§ 431.35 Acceptable reusable launch vehicle mission risk.

(a) To obtain safety approval for an RLV mission, an applicant must demonstrate that the proposed mission does not exceed acceptable risk as defined in this subpart. For purposes of this part, the mission commences upon initiation of the launch phase of flight, proceeds through orbital insertion of an RLV or vehicle stage, or flight to outer space, whichever is applicable, and concludes upon landing on Earth of the RLV.

(b) Acceptable risk for a proposed mission is measured in terms of the expected average number of casualties (E_c) to the collective members of the public exposed to vehicle or vehicle debris impact hazards. To obtain safety

approval, an applicant shall demonstrate—

(1) For public risk, the risk level associated with a proposed mission does not exceed an expected average number of 0.00003 casualties per mission (or E_c criterion of 30×10^{-6}) to members of the public from the applicant's proposed activity; and

(2) For persons within a 100-mile distance from the border of the designated reentry site and contingency abort locations, if any, the risk level associated with a proposed mission does not exceed an expected average number of .000001 casualties per mission (or E_c criterion of 1×10^{-6}).

(c) *Hazard identification and risk assessment.* To demonstrate compliance with acceptable risk criteria in this section, an applicant shall employ a system safety process to identify the hazards and assess the risks to public health and safety and the safety of property associated with the mission, including nominal and non-nominal operation and flight of the vehicle and payload, if any. An acceptable system safety analysis identifies and assesses the probability and consequences of any reasonably foreseeable hazardous events, and safety-critical system failures during launch and reentry that could result in a casualty to the public.

(d) As part of the demonstration required under paragraph (c) of this section, an applicant must—

(1) Identify and describe the structure of the RLV, including physical dimensions and weight;

(2) Identify and describe any hazardous materials, including radioactive materials, and their container on the RLV;

(3) Identify and describe safety-critical systems;

(4) Identify and describe all safety-critical failure modes and their consequences;

(5) Provide drawings and schematics for each safety-critical system identified under paragraph (d) (3) of this section;

(6) Provide a timeline identifying all safety-critical events;

(7) Provide data that validates the applicant's system safety analyses required in paragraph (c) of this section; and

(8) Provide flight trajectory analyses covering launch or ascent of the vehicle through orbital insertion and reentry or descent of the vehicle through landing, including three-sigma dispersion.

§ 431.37 Mission readiness.

(a) *Mission readiness requirements.* An applicant shall submit the following procedures for verifying mission readiness:

(1) Mission readiness review procedures that involve the applicant's vehicle safety operations personnel, and launch site and reentry site personnel involved in the mission. The procedures shall ensure a mission readiness review is conducted during which the designated individual responsible for the conduct of licensed activities under § 431.33(b) of this subpart is provided with the following information to make a judgment as to mission readiness—

(i) Readiness of the RLV including safety-critical systems and payload for launch and reentry flight;

(ii) Readiness of the launch site, personnel, and safety-related launch property and launch services to be provided by the launch site;

(iii) Readiness of the reentry site, personnel, and safety-related property and services for reentry flight and vehicle recovery;

(iv) Readiness of vehicle safety operations personnel to support mission flight, including results of dress rehearsals and simulations conducted in accordance with paragraph (a)(4) of this section;

(v) Mission rules and constraints, including contingency abort plans and procedures, if any, as required under § 431.39 of this part;

(vi) Unresolved safety issues identified during the mission readiness review and plans for addressing them; and

(vii) Any additional safety information required by the individual designated under § 431.33(b) of this part to determine launch and reentry readiness.

(2) Procedures that ensure mission constraints, rules, contingency abort and emergency abort procedures are listed and consolidated in a safety directive or notebook approved by the person designated by the applicant under § 431.33(b) of this subpart, the launch site operator, and the reentry site operator, if any;

(3) Procedures that ensure currency and consistency of licensee, launch site operator, and reentry site operator checklists;

(4) Dress rehearsal procedures that—

(i) Ensure crew readiness under nominal and non-nominal flight conditions;

(ii) Contain criteria for determining whether to dispense with or add one or more dress rehearsals; and

(iii) Verify currency and consistency of licensee, launch site operator, and reentry site operator checklists; and

(5) Procedures for ensuring the licensee's vehicle safety operations personnel adhere to crew rest rules of this part.

§ 431.39 Mission rules, procedures, contingency plans, and checklists.

(a) An applicant shall submit mission rules, procedures, checklists, emergency plans, and contingency abort plans, if any, that ensure safe conduct of mission operations during nominal and non-nominal vehicle flight.

(b) Mission rules, procedures, checklists, emergency plans, and contingency abort plans must be contained in a safety directive, notebook, or other compilation that is approved by the safety official designated under § 431.33(c) of this part and concurred in by the launch site operator and reentry site operator, if any.

(c) Vehicle safety operations personnel must have current and consistent mission checklists.

§ 431.41 Communications plan.

(a) An applicant shall submit a plan providing vehicle safety operations personnel communications procedures during the mission. Procedures for effective issuance and communication of safety-critical information during the mission shall include hold/resume, go/no go, contingency abort, if any, and emergency abort commands by vehicle safety operations personnel. The communications plan shall describe the authority of vehicle safety operations personnel, by individual or position title, to issue these commands. The communications plan shall ensure that—

(1) Communication networks are assigned so that personnel identified under this section have direct access to real-time, safety-critical information required for making these decisions and issuing the commands;

(2) Personnel identified under this section monitor a common intercom channel for safety-critical communications during launch and reentry;

(3) A protocol is established for utilizing defined radio communications terminology; and

(4) Communications affecting the safety of the mission are recorded.

(b) An applicant shall submit procedures to ensure that licensee and reentry site personnel, if any, receive a copy of the communications plan required by this section and that the reentry site operator, if any, concurs with the communications plan.

§ 431.43 Reusable launch vehicle mission operational requirements and restrictions.

(a) An applicant for RLV mission safety approval shall submit procedures—

(1) That ensure RLV mission risks do not exceed the criteria set forth in

§ 431.35 of this part for nominal and non-nominal operations;

(2) That ensure conformance with the system safety process and associated hazard identification and risk assessment required under § 431.35(c);

(3) That ensure conformance with operational restrictions listed in paragraphs (c) through (e) of this section;

(4) To monitor and verify the status of RLV safety-critical systems immediately before and during mission operations; and

(5) For human activation or initiation of a flight safety system that safely aborts the launch of an RLV if the vehicle is not operating within approved mission parameters and the vehicle poses risk to public health and safety and the safety of property in excess of acceptable flight risk as defined in § 431.35.

(b) To satisfy risk criteria set forth in § 431.35(b)(1), an applicant for RLV mission safety approval shall identify suitable and attainable locations for nominal landing and vehicle staging impact, if any. An application shall identify such locations for a contingency abort if necessary to satisfy risk criteria contained in § 431.35(b)(1) during launch of an RLV. A nominal landing, vehicle staging impact and contingency abort location are suitable for launch or reentry if—

(1) For any vehicle or vehicle stage, the area of the predicted three-sigma dispersion of the vehicle or vehicle stage can be wholly contained within the designated location; and

(2) The location is of sufficient size to contain landing impacts, including debris dispersion upon impact and any toxic release.

(c) For an RLV mission—

(1) A collision avoidance analysis shall be performed in order to maintain at least a 200-kilometer separation from any inhabitable orbiting object during launch and reentry. The analysis shall address:

(i) For launch, closures in a planned launch window for ascent to outer space or, for an orbital RLV, to initial orbit through at least one complete orbit;

(ii) For reentry, the reentry trajectory;

(iii) Expansions of the closure period by subtracting 15 seconds from the closure start-time and adding 15 seconds to the closure end-time for each sequential 90 minutes elapsed time period, or portion there of, beginning at the time the state vectors of the orbiting objects were determined;

(2) The projected instantaneous impact point (IIP) of the vehicle shall not have substantial dwell time over densely populated areas during any segment of mission flight;

(3) There will be no unplanned physical contact between the vehicle or its components and payload after payload separation and debris generation will not result from conversion of energy sources into energy that fragments the vehicle or its payload. Energy sources include, but are not limited to, chemical, pneumatic, and kinetic energy; and

(4) Vehicle safety operations personnel shall adhere to the following work and rest standards:

(i) A maximum 12-hour work shift with at least 8 hours of rest after 12 hours of work, preceding initiation of a reentry mission or during the conduct of a mission;

(ii) A maximum of 60 hours worked in the 7 days, preceding initiation of an RLV mission;

(iii) A maximum of 14 consecutive work days; and

(iv) A minimum 48-hour rest period after 5 consecutive days of 12-hour shifts.

(d) In addition to requirements of paragraph (c) of this section, any unproven RLV may only be operated—

(1) Such that the projected instantaneous impact point (IIP) of the vehicle does not have substantial dwell time over populated areas; or

(2) Such that the expected average number of casualties to members of the public does not exceed 30×10^{-6} ($E_c \leq 30 \times 10^{-6}$) given a probability of vehicle failure equal to 1 ($p_f = 1$) at any time the IIP is over a populated area;

(e) Any RLV that enters Earth orbit may only be operated such that the vehicle operator is able to—

(1) Monitor the status of safety-critical systems immediately before enabling reentry flight and verify that the vehicle can reenter safely to Earth; and

(2) Issue a command enabling reentry of the vehicle. Reentry cannot be initiated autonomously under nominal circumstances without prior enable.

§ 431.45 Mishap investigation plan and emergency response plan.

(a) An applicant shall submit a mishap investigation plan (MIP) containing the applicant's procedures for reporting and responding to launch and reentry accidents, launch and reentry incidents, or other mishaps, as defined in § 401.5 of this chapter, that satisfies requirements of § 415.41 of this subchapter. An applicant shall submit an emergency response plan (ERP) that contains procedures for informing the affected public of a planned reentry. An ERP will provide procedures to notify local officials of an off-site landing. The MIP and ERP shall be signed by an individual authorized to sign and certify the application in accordance with § 413.7(c) of this chapter, the person responsible for the conduct of all licensed RLV mission activities designated under § 431.33(b) of this subpart, and the safety official designated under § 431.33(c) of this subpart. MIPs covering launch and reentry flight phases of an RLV mission may be combined in a single document.

(b) *Report requirements.* A MIP shall provide for—

(1) Immediate notification to the FAA Washington Operations Center in case of an event identified in paragraph (a) of this section. In addition to requirements of § 415.41(b), the notification shall include:

(i) Date and time of occurrence;

(ii) Description of the event;

(iii) Intended and actual location of reentry, or other landing on Earth;

(iv) Identification of the vehicle;

(v) Identification of the payload, if applicable;

(vi) Number and general description of any fatalities and injuries;

(vii) Property damage, if any, and an estimate of its value;

(viii) Identification of any hazardous material, as defined in § 401.5 of this chapter, involved in the event, whether on the vehicle, payload, or on the ground;

(ix) Action taken by personnel to contain the consequences of the event;

(x) Description of weather conditions at the time of the event; and

(xi) Potential consequences for other vehicles or systems of similar type and proposed operations.

(2) Submission of a written preliminary report to the FAA Associate Administrator for Commercial Space Transportation in the event of a reentry accident or reentry incident, as defined in § 401.5 of this chapter, within 5 days of the event. The report shall identify the event as either a reentry accident or reentry incident and must include the information specified in paragraph (b)(1) of this section.

(c) A mishap investigation plan must contain procedures to—

(1) Ensure the consequences of a reentry accident, reentry incident, or other mishap are contained and minimized;

(2) Ensure data and physical evidence are preserved;

(3) Investigate the cause of a reentry accident, reentry incident, or other mishap;

(4) Report the mishap to the FAA;

(5) Designate a point of contact for the FAA and the National Transportation Safety Board;

(6) Cooperate with investigations conducted by the FAA and the National Transportation Safety Board;

(7) Delineate responsibilities, including reporting responsibilities, for personnel assigned to conduct investigations and for any unrelated entities retained by the licensee to conduct or participate in investigations.;

(8) Report investigation results to the FAA; and

(9) Identify and adopt preventive measures for avoiding a recurrence of the event.

(d) An emergency response plan shall provide for—

(1) Notification to local officials in the event of an off-site landing so that vehicle recovery can be conducted safely and effectively, with minimal risk to public safety. The plan must provide for the quick dissemination of up to date information to the public, and for doing so in advance of reentry to the extent practicable.

(2) A public information dissemination plan for informing the potentially affected public, in laymen's terms and in advance of a planned reentry, of the estimated date, time and landing location for the reentry activity.

(3) An ERP shall be submitted as part of the application process.

§ 431.47 Denial of safety approval.

The FAA notifies an applicant, in writing, if the FAA has denied safety approval for an RLV mission license application. The notice states the reasons for the FAA's determination. The applicant may respond to the reasons for the determination and request reconsideration.

§§ 431.48–431.50 [Reserved]

Subpart D—Payload Reentry Review and Determination

§ 431.51 General.

(a) A payload reentry review is conducted to examine the policy and safety issues related to the proposed reentry of a payload, other than a U.S. Government payload or a payload whose reentry is subject to regulation by another Federal agency, to determine whether the FAA will approve reentry of the payload.

(b) A payload reentry review may be conducted as part of an RLV mission license application review or may be requested by a payload owner or operator in advance of or separate from an RLV mission license application.

(c) A payload reentry determination will be made part of the licensing record on which the FAA's licensing determination is based.

§ 431.53 Classes of payloads.

(a) The FAA may approve the return of a type or class of payloads (for example, communications or microgravity/scientific satellites).

(b) The RLV mission licensee that will return a payload approved for reentry under this section, is responsible for providing current information in accordance with § 431.57 regarding the payload proposed for reentry no later than 60 days before a scheduled RLV mission involving that payload.

§ 431.55 Payload reentry review.

(a) In conducting a payload reentry review to decide if the FAA should approve reentry of a payload, the FAA determines whether its reentry presents any issues that would adversely affect U.S. national security or foreign policy interests, would jeopardize public health and safety or the safety of property, or would not be consistent with international obligations of the United States.

(b) The FAA consults with the Department of Defense to determine whether reentry of a proposed payload presents any issues adversely affecting U.S. national security.

(c) The FAA consults with the Department of State to determine whether reentry of a proposed payload presents any issues adversely affecting U.S. foreign policy interests or international obligations.

(d) The FAA consults with other Federal agencies, including the National Aeronautics and Space Administration, authorized to address issues identified under paragraph (a) of this section.

(e) The FAA advises a person requesting a payload reentry determination, in writing, of any issue raised during a payload reentry review that would impede the issuance of a favorable determination to reenter that payload. The person requesting a payload reentry review may respond, in writing, or revise its application.

§ 431.57 Information requirements for payload reentry review.

A person requesting reentry review of a particular payload or payload class must identify the following:

(a) Payload name or class and function;

(b) Physical characteristics, dimensions, and weight of the payload;

(c) Payload owner and operator, if different from the person requesting the payload reentry review;

(d) Type, amount, and container of hazardous materials, as defined in § 401.5 of this chapter, and radioactive materials in the payload;

(e) Explosive potential of payload materials, alone and in combination with other materials found on the payload or RLV during reentry;

(f) Designated reentry site(s); and

(g) Method for securing the payload on the RLV.

§ 431.59 Issuance of payload reentry determination.

(a) The FAA issues a favorable payload reentry determination unless it determines that reentry of the proposed payload would adversely affect U.S. national security or foreign policy interests, would jeopardize public health and safety or the safety of property, or would not be consistent with international obligations of the United States. The FAA responds to any person who has requested a payload reentry review of its determination in writing. The notice states the reasons for the determination in the event of an unfavorable determination.

(b) Any person issued an unfavorable payload reentry determination may respond to the reasons for the determination and request reconsideration.

§ 431.61 Incorporation of payload reentry determination in license application.

A favorable payload reentry determination issued for a payload or class of payload may be included by an RLV mission license applicant as part of its application. Before the conduct of an RLV mission involving a payload approved for reentry, any change in information provided under § 431.57 of this subpart must be reported by the licensee in accordance with § 413.17 of this chapter. The FAA determines whether a favorable payload reentry determination remains valid and may conduct an additional payload reentry review.

§§ 431.62–431.70 [Reserved]

Subpart E—Post-Licensing Requirements—Reusable Launch Vehicle Mission License Terms and Conditions

§ 431.71 Public safety responsibility.

(a) A licensee is responsible for ensuring the safe conduct of an RLV mission and for protecting public health and safety and the safety of property during the conduct of the mission.

(b) A licensee must conduct a licensed RLV mission and perform RLV safety procedures in accordance with representations made in its license application. A licensee's failure to perform safety procedures in accordance with the representations made in the license application or comply with any license condition is sufficient basis for

the revocation of a license or other appropriate enforcement action.

§ 431.73 Continuing accuracy of license application; application for modification of license.

(a) A licensee is responsible for the continuing accuracy of representations contained in its application for the entire term of the license.

(b) After a license has been issued, a licensee must apply to the FAA for modification of the license if

(1) The licensee proposes to conduct an RLV mission or perform a safety-critical operation in a manner not authorized by the license; or

(2) Any representation contained in the license application that is material to public health and safety or the safety of property is no longer accurate and complete or does not reflect the licensee's procedures governing the actual conduct of an RLV mission. A change is material to public health and safety or the safety of property if it alters or affects the—

(i) Mission rules, reentry plans, contingency abort plans, if any, or emergency plans submitted in accordance with § 431.39 of this part;

(ii) Class of payload;

(iii) Type of RLV;

(iv) Any safety-critical system;

(v) Type and container of the hazardous material carried by the vehicle;

(vi) Flight trajectory;

(vii) Launch site or reentry site; or

(viii) Any safety system, policy, procedure, requirement, criteria, or standard.

(c) An application to modify an RLV mission license must be prepared and submitted in accordance with part 413 of this chapter. The licensee must indicate any part of its license or license application that would be changed or affected by a proposed modification.

(d) The FAA reviews determinations and approvals required by this chapter to determine whether they remain valid after submission of a proposed modification.

(e) Upon approval of a modification, the FAA issues either a written approval to the licensee or a license order amending the license if a stated term or condition of the license is changed, added, or deleted. An approval has the full force and effect of a license order and is part of the licensing record.

§ 431.75 Agreements.

(a) *Launch and reentry site use agreements.* Before conducting a licensed RLV mission using property and services of a Federal launch range or licensed launch or reentry site operator, a licensee or applicant shall enter into an agreement with the Federal launch range and/or licensed site operator that provides for access to and use of property and services required to support a licensed RLV mission or reentry and for public safety related operations and support. The agreement shall be in effect before any licensed RLV mission or reentry. A licensee shall comply with any requirements of the agreement that may affect public health and safety and the safety of property during the conduct of its licensed activity.

(b) *Agreements for notices to mariners and airmen.* Unless otherwise addressed in agreements between a licensed launch site operator and the U.S. Coast Guard and the FAA, respectively, a licensee authorized to conduct an RLV mission using a launch site or reentry site other than a Federal launch range shall complete the following:

(1) An agreement between the licensee and the local U.S. Coast Guard district to establish procedures for the issuance of a Notice to Mariners prior to a launch or reentry and other measures as the Coast Guard deems necessary to protect public health and safety; and

(2) An agreement between the licensee and the FAA regional office having jurisdiction over the airspace through which a launch and reentry will take place, to establish procedures for the issuance of a Notice to Airmen prior to the conduct of a licensed launch or reentry and for closing of air routes during the respective launch and reentry windows and other measures deemed necessary by the FAA regional office in order protect public health and safety.

§ 431.77 Records.

(a) Except as specified in paragraph (b) of this section, a licensee shall maintain for 3 years all records, data, and other material necessary to verify that a licensed RLV mission is conducted in accordance with representations contained in the licensee's application.

(b) In the event of a launch accident, reentry accident, launch incident or reentry incident, as defined in § 401.5 of this chapter, a licensee shall preserve all records related to the event. Records must be retained until completion of any Federal investigation and the FAA advises the licensee that the records need not be retained. The licensee shall make all records required to be maintained under the regulations available to Federal officials for inspection and copying.

§ 431.79 Reusable launch vehicle mission reporting requirements.

(a) Not less than 60 days before each RLV mission conducted under a license, a licensee shall provide the FAA with the following information:

(1) Payload information in accordance with § 431.57 of this part; and

(2) Flight information, including the vehicle, launch site, planned launch and reentry flight path, and intended landing sites including contingency abort sites.

(3) Launch or reentry waivers, approved or pending, from a federal range for which the launch or reentry will take place, that are unique and may affect public safety.

(b) Not later than 15 days before each licensed RLV mission, a licensee must notify the FAA, in writing, of the time and date of the intended launch and reentry or other landing on Earth of the RLV.

(c) A licensee must report a launch accident, launch incident, reentry accident, reentry incident, or other mishap immediately to the FAA Operations Center and provide a written preliminary report in the event of a launch accident, launch incident, reentry accident, or reentry incident, in accordance with the mishap investigation and emergency response plan submitted as part of its license application under § 431.45 of this part.

§ 431.81 Financial responsibility requirements.

A licensee under this part must comply with financial responsibility requirements specified in its license.

§ 431.83 Compliance monitoring.

A licensee shall allow access by, and cooperate with, federal officers or employees or other individuals authorized by the FAA to observe any activities of the licensee, or of the licensee's contractors or subcontractors, associated with the conduct of a licensed RLV mission.

§ 431.85 Registration of space objects.

(a) To assist the U.S. Government in implementing Article IV of the 1975 Convention on Registration of Objects Launched into Outer Space, each licensee shall provide to the FAA the information required by paragraph (b) of this section for all objects placed in space by a licensed RLV mission, including an RLV and any components, except:

(1) Any object owned and registered by the U.S. Government; and

(2) Any object owned by a foreign entity.

(b) For each object that must be registered in accordance with this

section, a licensee shall submit the following information not later than thirty (30) days following the conduct of a licensed RLV mission :

(1) The international designator of the space object(s);

(2) Date and location of the RLV mission initiation;

(3) General function of the space object; and (4) Final orbital parameters, including:

(i) Nodal period;

(ii) Inclination;

(iii) Apogee; and

(iv) Perigee.

(c) A licensee shall notify the FAA when it removes an object that it has previously placed in space.

§§ 431.86–431.90 [Reserved]

Subpart F—Environmental Review

§ 431.91 General.

An applicant shall provide the FAA with sufficient information to analyze the environmental impacts associated with proposed operation of an RLV, including the impacts of anticipated activities to be performed at its reentry site. The information provided by an applicant must be sufficient to enable the FAA to comply with the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR parts 1500–1508, and the FAA's Procedures for Considering Environmental Impacts, FAA Order 1050.1D. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of FAA Order 1050.1D may be obtained from the Office of Environment and Energy, AEE–300, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, (202) 267–3553. Copies of FAA Order 1050.1D may be inspected in the Rules Docket at the Federal Aviation Administration, Office of the Chief Counsel, AGC–200, Room 915G, 800 Independence Avenue SW., Washington, DC 20591 weekdays between 8:30 a.m. and 5:00 p.m., or at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC 20001.

§ 431.93 Environmental information.

An applicant shall submit environmental information concerning—

(a) A designated reentry site, including contingency abort locations, if any, not covered by existing FAA environmental documentation;

(b) A proposed new RLV with characteristics falling measurably outside the parameters of existing environmental documentation;

(c) A proposed reentry to an established reentry site involving an RLV with characteristics falling measurably outside the parameters of existing environmental impact statements covering that site;

(d) A proposed payload that may have significant environmental impacts in the event of a reentry accident; and

(e) Other factors as necessary to comply with the National Environmental Policy Act.

19. Part 433 is added to read as follows:

PART 433—LICENSE TO OPERATE A REENTRY SITE

Subpart A—General

Sec.

433.1 General.
433.3 Issuance of a license to operate a reentry site.
433.5 Operational restrictions on a reentry site.
433.7 Environmental.
433.9 Environmental information.

Authority: 49 U.S.C. 70101–70121

§ 433.1 General.

The FAA evaluates on an individual basis an applicant's proposal to operate a reentry site.

§ 433.3 Issuance of a license to operate a reentry site.

(a) The FAA issues a license to operate a reentry site when it determines that an applicant's operation of the reentry site does not jeopardize public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States.

(b) A license to operate a reentry site authorizes a licensee to operate a reentry site in accordance with the representations contained in the licensee's application, subject to the licensee's compliance with terms and conditions contained in any license order accompanying the license.

§ 433.5 Operational restrictions on a reentry site.

A license to operate a reentry site authorizes the licensee to offer use of the site to support reentry of a reentry vehicle for which the three-sigma footprint of the vehicle upon reentry is wholly contained within the site.

§ 433.7 Environmental.

An applicant shall provide the FAA with information for the FAA to analyze the environmental impacts associated with proposed operation of a reentry site. The information provided by an applicant must be sufficient to enable the FAA to comply with the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR Parts 1500–1508, and the FAA's Procedures for Consideration Environmental Impacts, FAA Order 1050.1D.

§ 433.9 Environmental information.

An applicant shall submit environmental information concerning a proposed reentry site not covered by existing environmental documentation for purposes of assessing reentry impacts.

20. Part 435 is added to read as follows:

PART 435—REENTRY OF A REENTRY VEHICLE OTHER THAN A REUSABLE LAUNCH VEHICLE (RLV)

Subpart A—General

Sec.

435.1 Scope.
435.3 Types of reentry licenses.
435.5 Policy and safety approvals.
435.7 Payload reentry determinations.
435.9 Issuance of a reentry license.
435.11 Additional license terms and conditions.
435.13 Transfer of a reentry license.
435.15 Rights not conferred by reentry license.
435.16–435.20 [Reserved]

Subpart B—Policy Review and Approval for Reentry of a Reentry Vehicle

435.21 General.
435.23 Policy review requirements and procedures.
435.24–435.30 [Reserved]

Subpart C—Safety Review and Approval for Reentry of a Reentry Vehicle

435.31 General.
435.33 Safety review requirements and procedures.
435.35 Acceptable reentry risk for reentry of a reentry vehicle.
435.36–435.40 [Reserved]

Subpart D—Payload Reentry Review and Determination

435.41 General.
435.43 Payload reentry review requirements and procedures.
435.44–435.50 [Reserved]

Subpart E—Post-Licensing Requirements—Reentry License Terms and Conditions

435.51 General.
435.52–435.60 [Reserved]

Subpart F—Environmental Review

435.61 General.
435.62–435.70 [Reserved]

Authority: 49 U.S.C. 70101–70119.

Subpart A—General

§ 435.1 Scope.

This part prescribes requirements for obtaining a license to reenter a reentry vehicle other than a reusable launch vehicle (RLV), and post-licensing requirements with which a licensee must comply to remain licensed. Requirements for preparing a license application are contained in part 413 of this subchapter.

§ 435.3 Types of reentry licenses.

(a) *Reentry-specific license.* A reentry-specific license authorizes a licensee to reenter one model or type of reentry vehicle, other than an RLV, to a reentry site. A reentry-specific license may authorize more than one reentry and identifies each reentry authorized under the license. A licensee's authorization to reenter terminates upon completion of all activities authorized by the license or the expiration date stated in the reentry license, whichever occurs first.

(b) *Reentry operator license.* A reentry operator license authorizes a licensee to reenter any of a designated family of reentry vehicles, other than an RLV, within authorized parameters, including trajectories, transporting specified classes of payloads to any reentry site designated in the license. A reentry operator license is valid for a 2-year renewable term.

§ 435.5 Policy and safety approvals.

To obtain a reentry license, an applicant must obtain policy and safety approvals from the FAA. Requirements for obtaining these approvals are contained in subparts B and C of this part. Only a reentry license applicant may apply for the approvals, and may apply for either approval separately and in advance of submitting a complete license application, using the application procedures contained in part 413 of this subchapter.

§ 435.7 Payload reentry determinations.

(a) A payload reentry determination is required to transport a payload to Earth on a reentry vehicle unless the proposed payload is exempt from payload review.

(b) A payload reentry determination made under a previous license application under this subchapter may satisfy the requirements of paragraph (a) of this section.

(c) The FAA conducts a review, as described in subpart D of this part, to make a payload reentry determination. Either a reentry license applicant or a payload owner or operator may request a review of the proposed payload using the application procedures contained in part 413 of this subchapter. Upon receipt of an application, the FAA may conduct a payload reentry review independently of a reentry license application.

§ 435.9 Issuance of a reentry license.

(a) The FAA issues a reentry license to an applicant who has obtained all approvals and determinations required under this chapter for a reentry license.

(b) A reentry license authorizes a licensee to reenter a reentry vehicle and payload, if any, in accordance with the representations contained in the reentry licensee's application, subject to the licensee's compliance with terms and conditions contained in license orders accompanying the reentry license, including financial responsibility requirements.

§ 435.11 Additional license terms and conditions.

The FAA may amend a reentry license at any time by modifying or adding license terms and conditions to ensure compliance with 49 U.S.C. Subtitle IX, chapter 701, and applicable regulations.

§ 435.13 Transfer of a reentry license.

(a) Only the FAA may transfer a reentry license.

(b) An applicant for transfer of a reentry license shall submit a reentry license application in accordance with part 413 of this subchapter and satisfy the applicable requirements of this part. The FAA will transfer a reentry license to an applicant who has obtained all of the approvals and determinations required under this chapter for a reentry license. In conducting its reviews and issuing approvals and determinations, the FAA may incorporate any findings made part of the record to support the initial licensing determination. The FAA may modify a reentry license to reflect any changes necessary as a result of a reentry license transfer.

§ 435.15 Rights not conferred by reentry license.

Issuance of a reentry license does not relieve a licensee of its obligation to comply with requirements of law that may apply to its activities.

§§ 435.16–431.20 [Reserved]

Subpart B—Policy Review and Approval for Reentry of a Reentry Vehicle

§ 435.21 General.

The FAA issues a policy approval to a reentry license applicant upon completion of a favorable policy review. A policy approval is part of the licensing record on which the licensing determination is based.

§ 435.23 Policy review requirements and procedures.

Unless otherwise indicated in this subpart, regulations applicable to policy review and approval of the reentry of an RLV contained in part 431, subpart B of this subchapter shall apply to the policy review conducted for a license to reenter a reentry vehicle under this part.

§§ 435.24–435.30 [Reserved]

Subpart C—Safety Review and Approval for Reentry of a Reentry Vehicle

§ 435.31 General.

The FAA conducts a safety review to determine whether an applicant is capable of reentering a reentry vehicle and payload, if any, to a designated reentry site without jeopardizing public health and safety and the safety of property. A safety approval is part of the licensing record on which the licensing determination is based.

§ 435.33 Safety review requirements and procedures.

Unless otherwise stated in this subpart, regulations applicable to safety review and approval of the reentry of an RLV contained in part 431, subpart C of this subchapter shall apply to the policy review conducted for a license to reenter a reentry vehicle under this part.

§ 435.35 Acceptable reentry risk for reentry of a reentry vehicle.

To obtain safety approval reentry, an applicant must demonstrate that risk for the proposed reentry, when assessed in combination with launch of the reentry vehicle, does not exceed acceptable risk for the conduct of an RLV mission as defined in paragraphs (a) and (b) of § 431.35 of this subchapter.

§§ 435.36–435.40 [Reserved]

Subpart D—Payload Reentry Review and Determination

§ 435.41 General.

The FAA conducts a payload reentry review to examine the policy and safety issues related to the proposed reentry of a payload, except a U.S. Government payload, to determine whether the FAA will approve the reentry of the payload.

§ 435.43 Payload reentry review requirements and procedures.

Unless otherwise indicated in this subpart, regulations contained in part 431, subpart B of this subchapter applicable to a payload reentry review and determination for reentering a payload using an RLV shall apply to the payload reentry review conducted for a

license to reenter a reentry vehicle under this part.

§§ 435.44–435.50 [Reserved]

Subpart E—Post-Licensing Requirements—Reentry License Terms and Conditions

§ 435.51 General.

Unless otherwise indicated in this subpart, post-licensing requirements contained in part 431 subpart E of this subchapter applicable to a license to reenter an RLV shall apply to a license issued under this part.

§§ 435.52–435.60 [Reserved]

Subpart F—Environmental Review

§ 435.61 General.

Unless otherwise indicated in this subpart, environmental review requirements contained in part 431 subpart F, applicable to a license to reenter an RLV shall apply to an application for a reentry license under this part.

§§ 435.62–435.70 [Reserved]

Issued in Washington, DC, on April 13, 1999.

Patricia Grace Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 99–9640 Filed 4–20–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proopsed Advisory Circular (AC) 431–01, Reusable Launch Vehicle System Safety Process and AC 431–02, Expected Casualty Calculations for Commercial Space Launch and Reentry Missions

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability of and requests comments on two proposed AC's that would describe the Federal Aviation Administration (FAA) Commercial Space Transportation Reusable Launch Vehicle. The proposed AC's would provide guidance on two separate processes. Proposed AC 431–01 will provide top level guidance and information concerning the application of a logical safety process methodology for the identification and control of public safety hazards associated with the operation of Reusable Launch Vehicle (RLV) systems. Proposed AC 431–02 would provide a description of the measure Expected Casualty and generally will discuss the basics of an acceptable methodology for estimating the value or upper limit of the value for commercial space launch and reentry missions.

DATES: Comments must be received on or before July 20, 1999.

ADDRESSES: Send all comments on the proposed AC's to Stewart Jackson, AST–100, Space Systems Development Division, Office of the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, telephone (202) 267–7982.

FOR FURTHER INFORMATION CONTACT: Stewart Jackson, AST–100, Space Systems Development Division, Office of the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, 800 Independence Ave SW., Washington, DC 20591, telephone (202) 267–7982.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC's may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**. Interested persons are invited to comment on the proposed AC's by submitting such written data, views or arguments as they may desire. Commenters must identify AC 431–01 or AC 431–02 and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final AC's.

Discussion

AC 431–01

An RLV applicant will be expected to apply a disciplined, systematic, and logical safety process methodology for the identification and control of hazards associated with its launch and/or reentry systems. The applicant should use the System Safety Engineering Process or its equivalent, which includes a Risk Analysis, to show that it meets the safety process methodology critieria identified in the proposed AC. The use of a systematic process for the identification and control of safety critical systems and operations also provides the foundation supporting the Expected Casualty analysis. Without a process that helps assure a disciplined approach to the design, manufacture, integration, test, and operation of a system, it will be very difficult to establish any confidence in the probabilities of success and failure provided for the Expected Casualty analysis. The application of the system safety engineering approach in combination with the expected casualty analysis and the mandatory operational controls defined in the reentry proposal is intended to help ensure an adequate level of public safety.

AC 431–02

Expected casualty is used in the space transportation industry as a measure of risk to public safety from a specific mission, and is one of the factors typically used within the U.S. Government to determine if a mission may proceed or a license granted. Expected casualty is the expected average number of human casualties per commercial space mission. Human casualty is defined as a fatality or serious injury. For the purpose of this advisory circular, a human casualty is considered to be any human contact with a piece of vehicle debris or exposure to or greater. Another way of expressing the measure of expected casualty is that; if thousands of identical missions were conducted and all the casualties that resulted were added up and the sum divided by the number of missions, the actual casualties and the expected casualties per mission should ideally be the same.

For the purpose of this advisory circular, a mission includes all licensed flight segments throughout the mission. If there are activities that occur on orbit that are not conducted under a license, these segments, or phases, are not included in the mission. For example, a sub-orbital mission might include launch, stage separations, state ignitions and payload landing or recovery. An orbital mission of an expendable launch vehicle (ELV) might include vehicle launch, multiple booster stage separations, stage ignitions, booster stage recovery, and payload insertion into orbit.

The proposed AC's would become effective only after a final rule establishing the operational requirements for launches of reusable launch vehicles and the authorized conduct of commercial space reentry activities becomes effective.

Issued in Washington, D.C. April 13, 1999.

Patricia Grace Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 99–9641 Filed 4–20–99; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
April 21, 1999

Part IV

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Evaluation of the U.S. Department of Labor's Education and Training for Youthful Offenders Initiative; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1218]

RIN 1121–ZB52

Evaluation of the U.S. Department of Labor's Education and Training for Youthful Offenders Initiative

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of funding availability.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to Section 243(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (Public Law 93–415), is issuing a solicitation for applications for a cooperative agreement from public and private agencies, organizations, institutions, and individuals to conduct process evaluations and impact evaluation feasibility assessments of two programs administered by the Department of Labor (Category II grants under the Youth Offender Demonstration Projects notice issued on September 2, 1998), which are intended to enhance school-to-work education and training in juvenile correctional facilities and improve transition into the community.

DATES: Applications under this program must be received no later than 5 p.m. EDT on June 21, 1999.

ADDRESSES: The Application Package is available through OJJDP's Juvenile Justice Clearinghouse at 800–638–8736 and can also be obtained online at the OJJDP Web site at www.ojjdp.ncjrs.org.

For further information regarding the Evaluation of the U.S. Department of Labor's Education and Training for Youthful Offenders Initiative, contact: Dean Hoffman, Program Manager, Office of Juvenile Justice and Delinquency Prevention, 800 K Street, NW, Washington, DC 20531; phone: 202–353–9256; e-mail: hoffmand@ojp.usdoj.gov.

SUPPLEMENTARY INFORMATION:

Purpose

The evaluation will document the activities undertaken by two States selected to receive Department of Labor grants under its Education and Training for Youth Offenders Initiative, which is intended to enhance school-to-work education and training in juvenile correctional facilities and improve transition into the community. The evaluation also will assess the feasibility of conducting impact evaluations at both sites. The award will be made in the form of a cooperative agreement.

Background

This Office of Juvenile Justice and Delinquency Prevention (OJJDP) solicitation supports an evaluation of two Education and Training for Youth Offenders Initiative (Youth Offenders Initiative) grantees to be funded by the Department of Labor's Employment and Training Administration (ETA). The ETA's solicitation for these programs was published in the **Federal Register** on September 2, 1998 at 63 F.R. 46805–809. The solicitation also can be found on ETA's Web site at www.doleta.gov. The ETA solicitation describes grants to be awarded in three categories: (I) Model Community Projects; (II) Education and Training for Youth Offenders Initiatives; and (III) Community-Wide Coordination Projects. *This OJJDP solicitation supports the evaluation of the two grants to be awarded under category II.*

The two Youth Offenders Initiative grantees will provide comprehensive school-to-work education and training within juvenile correctional facilities and followup and job placement services as youth return to the community (i.e., case management and aftercare). It is intended that the comprehensive services developed under these grants will serve as models for other juvenile correctional facilities across the country. Applicants are encouraged to read the ETA solicitation for more detailed programmatic requirements.

The ETA solicitation states that, as a condition for award, applicants must agree to participate in the evaluation sponsored by OJJDP and comply with certain data collection requirements.

Goals

Phase I has three goals:

- Design and conduct a process evaluation of the two Education and Training for Youth Offenders Initiative programs to determine the extent to which educational, job training, and aftercare services were enhanced after the facility became an ETA program site.
- Assess the feasibility of an impact evaluation at both sites and design an impact evaluation where feasibility is established.

Phase II has a single goal:

- Conduct an impact evaluation to measure the effects of the program on job-related skills, employment, earnings, academic performance, and recidivism.

Objectives

The objectives for Phase I of this evaluation are as follows:

- Document each facility's existing (i.e., pre-ETA involvement) educational, job training, and employment programs and transitional (e.g., aftercare) services.
- Document enhancements made to existing services after the facility became an ETA program site.
- Describe the number and characteristics of the youth served and the type and amount of services delivered.
- Document how the State agency and/or local government assisted in planning, implementing, and managing the program.
- Document the facility's coordination with Federal, State, and local programs operating in the broader community and juvenile justice system with a focus on youth employment. Explore how the nature of this coordination may have changed after the facility became an ETA program site.
- Document the leveraging of other sources of funding, such as Juvenile Justice and Delinquency Prevention Act (JJDP) formula grant funds and Juvenile Accountability Incentive Block Grants (JAIBG) funds, and steps taken to assure the activities are sustained as the program is developed and implemented.
- Assess the extent to which each program has been implemented in accordance with the requirements of the ETA program solicitation.
- Identify and evaluate available data sources.
- Determine whether an impact evaluation is feasible at each site. Factors to consider include the number of youth served and the correctional environment in which the program is implemented.
- Design a rigorous impact evaluation where the feasibility of such is established.

The objectives for Phase II of this evaluation are as follows:

- Continue process evaluation activities.
- Conduct a rigorous impact evaluation to measure the effects of the program. As stated above, these programs should result in increased job-related skills, higher success in postrelease employment, increased postrelease earnings, improved academic performance, and reduced recidivism.

Evaluation Strategy

This evaluation will be conducted in two phases over a period of 36 months. Phase I (12 months), which will be funded under this solicitation, entails

designing and conducting a process evaluation at each site and determining the feasibility of conducting an impact evaluation at each site. The results of the feasibility assessments will determine to what extent, if at all, the project continues into Phase II (24 months). If the project does continue, Phase II will entail conducting an impact evaluation at one or both sites. OJJDP will make the final determination on whether the project continues into Phase II.

When addressing the issue of feasibility assessments, applicants must demonstrate an understanding of the potential difficulties involved in conducting an impact evaluation of an initiative such as this one (e.g., obtaining a sufficient sample size, isolating the effects of the program).

Products

The products for Phase I of the evaluation are:

1. A finalized process evaluation design and approach to conducting the feasibility assessments, to be submitted to OJJDP for approval within 2 months of the grant award. This will be a modified version of the detailed process evaluation design and approach to conducting the feasibility assessment that must be included in the application.
2. An interim report detailing the status of the process evaluation and summarizing data collected to date on each site, to be submitted 7 months after the project begins.
3. A report discussing the results of the impact evaluation feasibility assessments, due 10 months after the project begins. This report should include proposed impact evaluation designs where feasibility is established.
4. A Phase I final report at the end of the first phase. A summary version of this report suitable for publishing as an OJJDP Bulletin must be prepared.

The products for Phase II of the evaluation are:

1. An interim report summarizing the progress of the impact evaluation and additional findings of the process evaluation, to be submitted 6 months after Phase II begins.
2. A final report summarizing the results of the process and impact evaluation(s), to be submitted at the end of Phase II. A summary version of this report suitable for publishing as an OJJDP Bulletin must be prepared.

Eligibility Requirements

OJJDP invites applications from public and private agencies, organizations, institutions, and individuals. Private, for-profit organizations must agree to waive any profit or fee to be eligible. Joint applications from two or more eligible applicants are welcome; however, one applicant must be clearly indicated as the primary applicant (for correspondence, award, and management purposes) and the others indicated as coapplicants.

Selection Criteria

Problem(s) To Be Addressed (15 points)

Applicants should demonstrate their knowledge of educational and vocational programming in juvenile correctional facilities, aftercare programs, and school-to-work efforts. Applicants should discuss their experience with evaluating similar programs. Applicants should demonstrate an understanding of and solutions to the challenges that will be encountered in conducting the process and impact evaluations.

Goals and Objectives (15 points)

Applicants must establish clearly defined, measurable, and attainable goals and objectives for the proposed evaluation and feasibility assessment.

Project Design (40 points)

Applicants must present a clear preliminary research design for conducting the process evaluation and assessing the feasibility of an impact evaluation at each site. The design may need to be revised once information is obtained about the specific approaches to be implemented by the selected State and juvenile correctional facilities. The research design should also include a workplan. All components of the research design should be sound, feasible, and capable of achieving the identified objectives. Issues to be addressed should be clearly defined.

Management and Organizational Capability (20 points)

Applicants should discuss how they will coordinate and manage this evaluation to achieve the objectives. Applicants' management structure and staffing must be adequate and appropriate for the successful implementation of the project. Applicants must clearly identify responsible individuals, their time commitment, and major tasks. Staff résumés should be attached as part of the appendixes. Applicants must demonstrate the organization's ability to conduct the project successfully. Description of prior experience in evaluating State and local programs should be provided.

Budget (10 points)

Applicants must provide a proposed budget that is complete, detailed, reasonable, allowable, and cost effective in relation to the activities to be undertaken.

Format

Applicants are required to limit their proposals to a total of 25 pages (excluding the budget narrative). The page limit does not include the application forms, assurances, or appendixes. The appendixes must include the following: résumés of the project manager and other key staff and consultants and the timeline for the project's major milestones with dates for submission included.

Award Period

The project period will be 36 months, funded in one 12-month budget period (Phase I) and one 24-month budget period (Phase II). Funding for Phase II depends upon feasibility of conducting the impact evaluation(s), grantee performance, availability of funds, and other criteria established at the time of award.

Award Amount

Up to $250,000 is available for the award of a cooperative agreement for the initial 12-month budget period (Phase I).

Catalog of Federal Domestic Assistance (CFDA) Number

For this program, the CFDA number, which is required on Standard Form 424, Application for Federal Assistance, is 16.542. This form is included in OJJDP's Application Kit, which can be obtained by calling the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to puborder@ncjrs.org. The Application Kit is also available online at www.ojjdp.ncjrs.org.

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, the U.S. Department of Justice is requesting applicants to provide information on the following: (1) Active Federal grant award(s) supporting this or related efforts, including awards from the U.S. Department of Justice; (2) any pending application(s) for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) or (2) with the funding sought by this application. For each Federal award, applicants must include the program or project title, the Federal grantor agency, the amount of the

award, and a brief description of its purpose.

"Related efforts" is defined for these purposes as one of the following:

1. Efforts for the same purpose (i.e., the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).

2. Another phase or component of the same program or project (*e.g.*, to implement a planning effort funded by other Federal funds or to provide a substance abuse treatment or education component within a criminal justice project).

3. Services of some kind (*e.g.*, technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Note: In the lower left-hand corner of the envelope, you must clearly write "Evaluation of the Youth Offenders Initiative."

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. EDT on June 21, 1999.

Contact

For further information, call Dean Hoffman, Program Manager, Research and Program Development Division, Office of Juvenile Justice and Delinquency Prevention, 202–353–9256, or send an e-mail inquiry to hoffmand@ojp.usdoj.gov.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99–9885 Filed 4–20–99; 8:45 am]

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federal register

Wednesday
April 21, 1999

Part V

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Juvenile Accountability Incentive Block Grants; Final Rule

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

[OJP (OJJDP)–1158]

RIN 1121–AA46

Juvenile Accountability Incentive Block Grants

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Final rule.

SUMMARY: This rule provides procedures under which an eligible State, or unit of local government that receives a subgrant from the State, is required to provide notice to the Attorney General regarding the proposed use of funds available under the Juvenile Accountability Incentive Block Grants (JAIBG) program. The JAIBG program is designed to promote greater accountability in the juvenile justice system. OJJDP has developed the "Juvenile Accountability Incentive Block Grants Program Guidance Manual" to assist States and units of local government in applying for, receiving, obligating, and expending JAIBG funds. The manual is available on OJJDP's homepage at www.ojjdp.ncjrs.org.

EFFECTIVE DATE: This regulation is effective April 21, 1999.

FOR FURTHER INFORMATION CONTACT: Rodney L. Albert, Deputy Director, State Relations and Assistance Division, OJJDP, 810 7th Street, NW, Washington, DC 20531. Phone: (202) 307–5924.

SUPPLEMENTARY INFORMATION:

A. Legislative Background

On October 14, 1998, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) published proposed regulations in the **Federal Register**, at 63 FR 55069, for implementation of the JAIBG Program. The comment period ended November 13, 1998. Comments were received from two State agencies.

Pub. L. 105–119, November 26, 1997, Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the Fiscal Year Ending September 30, 1998, and for other Purposes (1998 Appropriations Act) appropriated $250,000,000 for the Juvenile Accountability Incentive Block Grants (JAIBG) program described in Title III of H.R. 3, as passed by the House of Representatives on May 8, 1997. Subsequently, Pub. L. 105–277, October 21, 1998, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (1999 Appropriations Act) further appropriated $250,000,000 to continue the JAIBG program.

B. Program Purposes

Funds are available under JAIBG in FY 1998, FY 1999, and each subsequent fiscal year as funds are made available, for State and local grants to support the following program purposes as set forth in section 1801(b)(1)–(11) of H.R. 3:

(1) Building, expanding, renovating, or operating temporary or permanent juvenile correction or detention facilities, including the training of correctional personnel;

(2) Developing and administering accountability-based sanctions for juvenile offenders;

(3) Hiring additional juvenile judges, probation officers, and court-appointed defenders, and funding pre-trial services for juveniles, to ensure the smooth and expeditious administration of the juvenile justice system;

(4) Hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and backlogs reduced;

(5) Providing funding to enable prosecutors to address drug, gang, and youth violence more effectively;

(6) Providing funding for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

(7) Providing funding to enable juvenile courts and juvenile probation offices to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism;

(8) The establishment of court-based juvenile justice programs that target young firearms offenders through the establishment of juvenile gun courts for the adjudication and prosecution of juvenile firearms offenders;

(9) The establishment of drug court programs for juveniles so as to provide continuing judicial supervision over juvenile offenders with substance abuse problems and to provide the integrated administration of other sanctions and services;

(10) Establishing and maintaining interagency information sharing programs that enable the juvenile and criminal justice system, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts;

(11) Establishing and maintaining accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies, or which are designed, in cooperation with law enforcement officials, to protect students and school personnel from drug, gang, and youth violence; and,

(12) implementing a policy of controlled substance testing for appropriate categories of juveniles within the juvenile justice system.

C. Application Process

Eligible applicants in FY 1998, FY 1999, and each subsequent fiscal year as funds are made available, are States whose Governor (or other Chief Executive Officer for the eligible jurisdictions that are not one of the 50 States but defined as such for purposes of this program under 1808(3) of Title III of H.R. 3) certifies, consistent with guidelines established by the Attorney General in consultation with Congress and incorporated into OJJDP's Program Guidance Manual, that the State is actively considering (or already has in place), or will consider within one year from the date of such certification, legislation, policies, or practices which, if enacted, would qualify the State for a grant under section 1802 of H.R. 3. Specific information regarding section 1802 qualifications can be found in the JAIBG Program Guidance Manual.

The Chief Executive of each State is required to designate a State agency to apply for, receive, and administer JAIBG funds. The designated State agency will administer funds allocated to the State based on relative population of people under 18 years of age, with no more than 25% of the funds retained at the State level, absent a waiver, and with 75% or more allocated and subgranted to units of local government within the State. Specific information regarding "waiver" qualifications can be found in the JAIBG Program Guidance Manual.

JAIBG funds awarded to a State and expended at the State level or subgranted by a State to a unit of local government, other than funds set aside for administrative costs, may be expended only for programs or projects under one or more of the twelve purpose areas established by law.

D. Discussion of Comments

Comments were received from a State agency regarding issues relevant to the underlying JAIBG statute. These comments addressed issues involving the prosecution of juveniles in criminal court; implementing a system of graduated sanctions for juvenile offenders requesting that requirements of other OJJDP funded programs be tied

to local JAIBG grant awards; and, requesting clarification of match requirements. These comments were beyond the scope of this rulemaking but will be addressed in separate correspondence with the commenting agency.

Four additional comments were received from the above State agency, along with another State agency, that were within the scope of this rulemaking. These comments have been considered by OJJDP in the issuance of a final policy. The following is a summary of these comments and the response by OJJDP:

1. *Comment:* There is some concern with the additional burden of reporting to be placed on local governments and subgrantees.

Response: Use of the Follow-up Information Form to report to OJJDP on the expenditure of JAIBG funds will not be a cumbersome process. The form will require that the following types of information be provided on each unit of local government receiving JAIBG funds and on funds retained by the State for program expenditure:

1. OJJDP Award Number.
2. Award Amount.
3. Unit of local government or State agency name, address, city, State, zip, phone.
4. Contact person.
5. Jurisdiction type, i.e. State, County, Local, Regional.
6. Juvenile Crime Enforcement Coalition (JCEC) membership.
7. Verification that a Crime Enforcement Plan was developed.
8. Program Purpose Area Distribution of Funds (dollar amount allocated to each purpose area).

The Follow-up Information Form will be electronic and anticipated to be accessible via the Internet, thus reducing the burden required for the State to meet the reporting requirements. It is anticipated that the form will be very basic in nature and should not require undue burden to units of local government or the State agency responsible for submission.

2. *Comment:* States should be afforded the authority to fund projects without having to first seek programmatic fund drawdown approval from OJJDP. The FY 1998 JAIBG Guidance Manual specified a two phase implementation for States. Initially States could only access administrative funds while access to program funds required states to make a second submission to OJJDP. States could commit to program compliance in the FY 1999 application and inform OJJDP of any revisions throughout the year. This approach would align JAIBG with other programs administered by OJJDP.

Response: States may drawdown any or all funds at any time after the date of award. OJJDP allowed that while States were preparing for the first year of implementation the Designated State Agency (DSA) could drawdown administrative funds (up to 10% of the total award) up to 180 days prior to drawing down program funds. The drawdown of program funds starts the statutorily required 24 month grant period. Allowing States to first drawdown administrative funds provided an additional six months for States to prepare to administer the program.

The authority to obligate program funds through the use of the Follow-up Information Form is similar to the submission of the Sub-Award Report Form utilized for the OJJDP Formula Grants Program.

3. *Comment:* Section 31.502(b) of the proposed regulation provides "* * * a State administering JAIBG funds must provide to OJJDP information that demonstrates that the State, or a unit of local government that receives JAIBG funds, has established a coordinated enforcement plan for reducing juvenile crime, developed by a Juvenile Crime Enforcement Coalition. The phrase "information that demonstrates" is subject to interpretation. A certification or an assurance would meet the requirement, without increasing the documentation requirements of the States or the units of local government.

Response: Submission of the Follow-up Information Form will satisfy the requirements of providing information.

4. *Comment:* Section 31.503 of the proposed regulation provides a mechanism for a State to report on the proposed use of funds by the State or by a subgrantee unit of local government. A "review" by OJJDP is identified. Since the proposed use of funds should be consistent with the plan as provided in § 31.502, could the Follow-up Information Form with a planning assurance meet the planning requirements as a single mechanism for submission to OJJDP?

Response: The review by OJJDP is only for funds retained at the State level. It is the responsibility of the DSA to review submissions by units of local government to determine if planning requirements have been met and funds are budgeted for expenditures within the twelve program purpose areas.

For funds expended at the State level, the Follow-up Information Form will include a planning assurance and will serve as the single mechanism for submission to OJJDP.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Office of Justice Programs has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons:

(1) This rule provides the procedures under which eligible applicants are required to provide notice regarding the proposed use of funds available under the JAIBG program; and

(2) The award of such funds imposes no requirements on small business or on small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the

ability of United States-based companies to compete in domestic and export markets.

National Environmental Policy Act

This rule has been reviewed in accordance with OJP's Procedures for Implementing the National Environmental Policy Act, 28 CFR part 61. The Assistant Attorney General for OJP has determined that this regulation does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to and approved by the Office of Management and Budget for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3504(h)).

List of Subjects in 28 CFR Part 31

Administrative practice and procedure, Grants.

For the reasons set forth in the preamble, 28 CFR part 31 is amended as follows:

PART 31—OJJDP GRANT PROGRAMS

1. The authority citation for part 31 is revised to read as follows:

Authority: 42 U.S.C. 5601 *et seq.*; Pub. L. 105–119, 111 Stat. 2440.

2. The heading for part 31 is revised as set forth above.

3. The designations "Subpart A through Subpart E" are removed and the headings remain as undesignated centerheadings.

§§ 31.1 through 31.403 and undesignated centerheadings [Designated as Subpart A]

4. Sections 31.1 through 31.403, and the undesignated centerheadings, are designated as subpart A and a new subpart heading is added to read as follows:

Subpart A—Formula Grants

§ 31.1 [Amended]

5. Section 31.1 is amended by revising "This part" to read as follows: "This subpart".

§ 31.200 [Amended]

6. Section 31.200 is amended by revising "This part" to read as follows: "This subpart".

§ 31.300 [Amended]

7. Section 31.300 is amended by revising "This part" to read as follows: "This subpart".

8. Part 31 is amended by adding new subpart B to read as follows:

Subpart B—Juvenile Accountability Incentive Block Grants

Sec.

31.500 Program purposes
31.501 Eligible applicants
31.502 Assurances and plan information
31.503 Notice of proposed use of funds

§ 31.500 Program purposes.

Funds are available under the Juvenile Accountability Incentive Block Grants (JAIBG) in FY 1998, FY 1999, and each subsequent fiscal year as funds are made available, for State and local grants to support the following program purposes:

(a) *Program purpose no. 1:* Building, expanding, renovating, or operating temporary or permanent juvenile correction or detention facilities, including the training of correctional personnel;

(b) *Program purpose no. 2:* Developing and administering accountability-based sanctions for juvenile offenders;

(c) *Program purpose no. 3:* Hiring additional juvenile judges, probation officers, and court-appointed defenders, and funding pre-trial services for juveniles, to ensure the smooth and expeditious administration of the juvenile justice system;

(d) *Program purpose no. 4:* Hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and backlogs reduced;

(e) *Program purpose no. 5:* Providing funding to enable prosecutors to address drug, gang, and youth violence more effectively;

(f) *Program purpose no. 6:* Providing funding for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

(g) *Program purpose no. 7:* Providing funding to enable juvenile courts and juvenile probation offices to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism;

(h) *Program purpose no. 8:* The establishment of court-based juvenile justice programs that target young firearms offenders through the establishment of juvenile gun courts for the adjudication and prosecution of juvenile firearms offenders;

(i) *Program purpose no. 9:* The establishment of drug court programs for juveniles so as to provide continuing judicial supervision over juvenile offenders with substance abuse problems and to provide the integrated administration of other sanctions and services;

(j) *Program purpose no. 10:* Establishing and maintaining interagency information sharing programs that enable the juvenile and criminal justice system, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts;

(k) *Program purpose no. 11:* Establishing and maintaining accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies, or which are designed, in cooperation with law enforcement officials, to protect students and school personnel from drug, gang, and youth violence; and,

(l) *Program purpose no. 12:* Implementing a policy of controlled substance testing for appropriate categories of juveniles within the juvenile justice system.

§ 31.501 Eligible applicants.

(a) *Eligible applicants.* Eligible applicants in FY 1998, FY 1999, and each subsequent fiscal year as funds are made available, are States whose Governor (or other Chief Executive Officer for the eligible jurisdictions that are not one of the 50 States but defined as such for purposes of this program) certifies, consistent with guidelines established by the Attorney General in consultation with Congress and incorporated into OJJDP's Program Guidance Manual, that the State is actively considering (or already has in place), or will consider within one year from the date of such certification, legislation, policies, or practices which, if enacted, would qualify the State for a grant. Specific information regarding qualifications can be found in the JAIBG Program Guidance Manual.

(b) *Qualifications.* Each State Chief Executive Officer must designate a state agency to apply for, receive, and administer JAIBG funds.

§ 31.502 Assurances and plan information.

(a) In its application for a Juvenile Accountability Incentive Block Grant (JAIBG), each State must provide assurances to the Office of Juvenile Justice and Delinquency Prevention (OJJDP), absent a waiver as provided in the JAIBG Program Guidance Manual, that:

(1) The State will subgrant at least 75% of the State's allocation of funds to eligible units of local government to implement authorized programs at the local level; and

(2) The State, and each unit of local government applying for a subgrant from the State, will expend not less than 45% of any grant provided to such State or unit of local government, other than funds set aside for administration, for program purposes 3–9 in § 31.500 (c) through (i) of this subpart, and will not spend less than 35% for program purposes 1, 2, and 10 in § 31.500 (a), (b), and (j) of this subpart, unless the State certifies to OJJDP, or the unit of local government certifies to the State, that the interests of public safety and juvenile crime control would be better served by expending the grant award for purposes set forth in the twelve program areas in a different ratio. Such certification shall provide information concerning the availability of existing structures or initiatives within the intended areas of expenditure (or the availability of alternative funding sources for those areas), and the reasons for the State or unit of local government's alternative use.

(b) Following award of JAIBG funds to a State by OJJDP, but prior to obligation of program funds by the State or of subgrant funds by a unit of local government for any authorized program purpose, a State administering JAIBG funds must provide to OJJDP information that demonstrates that the State, or a unit of local government that receives JAIBG funds, has established a coordinated enforcement plan for reducing juvenile crime, developed by a Juvenile Crime Enforcement Coalition (JCEC).

(c) State coordinated enforcement plans must be developed by a Juvenile Crime Enforcement Coalition consisting of representatives of law enforcement and social service agencies involved in juvenile crime prevention. To assist in developing the State's coordinated enforcement plan, States may choose to utilize members of the State Advisory Group (SAG) established by the State's Chief Executive under section 223(a)(3) of Part B of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, codified at 42 U.S.C. 5633(a)(3), if appropriate membership exists, or use or establish another planning group that constitutes a coalition of law enforcement and social service agencies.

(d) When establishing a local Juvenile Crime Enforcement Coalition (JCEC), units of local government must include, unless impracticable, individuals representing:

(1) Police,

(2) Sheriff,

(3) Prosecutor,

(4) State or local probation services,

(5) Juvenile court,

(6) Schools,

(7) Business, and

(8) Religious affiliated, fraternal, nonprofit, or social service organizations involved in crime prevention.

(e) Units of local government may utilize members of Prevention Policy Boards established pursuant to section 505(b)(4) of Title V of the JJDP Act, codified at 42 U.S.C. 5784(b)(4), to meet the JCEC requirement, provided that each JCEC meets the membership requirements listed in paragraph (d) of this section.

§ 31.503 Notice of proposed use of funds.

The mechanism for a State to report on the proposed use of funds by the State or by a subgrantee unit of local government is by electronic submission of a "Follow Up Information Form" to be provided to each participating State. The purpose of this report is for the State to provide assurances to OJJDP that funds expended by the State and its subgrantee units of local government will be used for authorized program purpose areas. Although no actual program descriptions will be required, information about the distribution of funds among the authorized program purpose areas must be provided. Upon receipt and review of the "Follow Up Information Form" by OJJDP, States may obligate program funds retained for expenditure at the State level. Similarly, the State shall require that each recipient unit of local government submit its proposed use of non-administrative funds to the State prior to drawdown of subgrant funds to implement local programs and projects. Upon receipt and review of the local unit of government's proposed fund use, the State shall authorize the local unit of government to obligate local subgrant funds. The State shall electronically submit a copy of the local subgrant information to OJJDP, as provided in the award package, within 30 days of the date that the local unit of government is authorized to obligate program funds under its subgrant award.

Dated: April 12, 1999.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99–9884 Filed 4–20–99; 8:45 am]

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federal register

Wednesday
April 21, 1999

Part VI

The President

Proclamation 7185—National Organ and Tissue Donor Awareness Week, 1999

Proclamation 7186—National Volunteer Week, 1999

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Title 3—

The President

Proclamation 7185 of April 16, 1999

National Organ and Tissue Donor Awareness Week, 1999

By the President of the United States of America

A Proclamation

Organ donation is one of humanity's most noble expressions of compassion and generosity. It reflects the extraordinary selflessness of the donor and gives the recipient a second chance to experience life's abundant blessings.

For many people across our country, receiving an organ or tissue transplant means relief from suffering and a marked improvement in the quality of their lives. For others, it literally means the difference between life and death. And the demand for such donations continues to grow. In the last six years, the number of people on the national organ transplant list has doubled, from more than 30,000 in 1993 to more than 62,000 patients today. A new name is added to that list every 18 seconds.

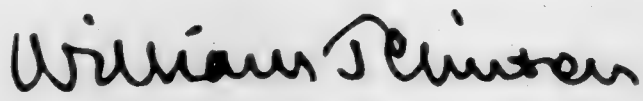
Fortunately, thanks to remarkable medical breakthroughs, each of us has the power to improve these troubling statistics. In December of 1997, Vice President Gore and Secretary of Health and Human Services (HHS) Donna Shalala launched the National Organ and Tissue Donation Initiative to raise awareness of the successes of transplantation and to educate our citizens about the urgent and continuing need for organ and tissue donations. Building on this effort, the Health Care Financing Administration now requires hospitals participating in Medicaid and Medicare to notify organ procurement organizations of all deaths and imminent deaths at their facilities and to train their personnel to discuss donation with the families of potential donors. Judging from the positive impact of similar legislation in Pennsylvania, we anticipate that this new Federal regulation will substantially increase the number of donations throughout the country.

Becoming a donor is simple, requiring only that we complete and carry a donor card and inform our families and friends about our wish to donate. This second step is a critical one because, according to a new study issued by HHS, almost all Americans would agree to donate their loved one's tissue or organs if they knew their loved one had requested it. Fewer than half would consent if they did not know their loved one's wishes.

During National Organ and Tissue Donor Awareness Week, I urge all Americans to become potential donors. By doing so, we can bring new hope and improved lives to thousands of our fellow citizens and hasten the day when no American on the organ transplant waiting list loses the race against time.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 18 through April 24, 1999, as National Organ and Tissue Donor Awareness Week. I urge all health care professionals, educators, the media, public and private organizations concerned with organ donation and transplantation, the clergy, and all Americans to join me in promoting greater awareness and acceptance of this humanitarian action.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of April, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.



[FR Doc. 99–10176
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Proclamation 7186 of April 16, 1999

National Volunteer Week, 1999

By the President of the United States of America

A Proclamation

Helping others—and helping others help themselves—through volunteer work is a great American tradition. Our Nation's dedicated volunteers come from all walks of life, all races, and all ages. Whether they support their communities through their churches, synagogues, or other religious institutions, serve full-time as AmeriCorps members, or spend a few hours a week helping out organizations or individuals in need, America's volunteers are bringing hope and help to their fellow citizens and building a stronger, more compassionate Nation for us all.

Our volunteers know that service is one of the best ways to make a difference in the lives of others—and they are proving that Americans at any stage of life can serve. Thousands of older Americans donate their time to serve as foster grandparents, senior companions, and as part of the Retired and Senior Volunteer Program and other initiatives. As many as 13 million young Americans aged 12 to 17 also volunteer each year, improving their communities, broadening their educational experiences, developing new skills, and increasing their understanding of the responsibilities of citizenship. This week, during National Youth Service Day, young people across our country will participate in service activities and demonstrate with their good works the power of youth to strengthen our Nation.

Volunteers will become increasingly vital to our society as we enter a new millennium. We cannot rely solely on charitable contributions or government programs to address the challenges we see in our communities. Each of us must find our own role and take action as a volunteer, a neighbor, and a citizen. We must work together to ensure that every child has a caring adult in his or her life, a safe place in which to live and grow, a good school to attend, a healthy start in life, and a chance to serve the community. We must continually strive to bring hope and hard work to bear on the human problems we see every day. With warm hearts and willing hands, we can make a lasting difference.

During this week, let us renew our spirit of community, our sense of idealism, and our commitment to service. Let us also honor the invaluable work of the thousands of voluntary, civic, religious, school, and neighborhood groups across our country that are leading the way by serving their fellow Americans and improving the quality of life for us all.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 18 through April 24, 1999, as National Volunteer Week. I call upon all Americans to observe this week with appropriate programs, ceremonies, and activities to express appreciation to the volunteers among us for their commitment to service and to encourage the spirit of volunteerism in our families and communities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of April, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

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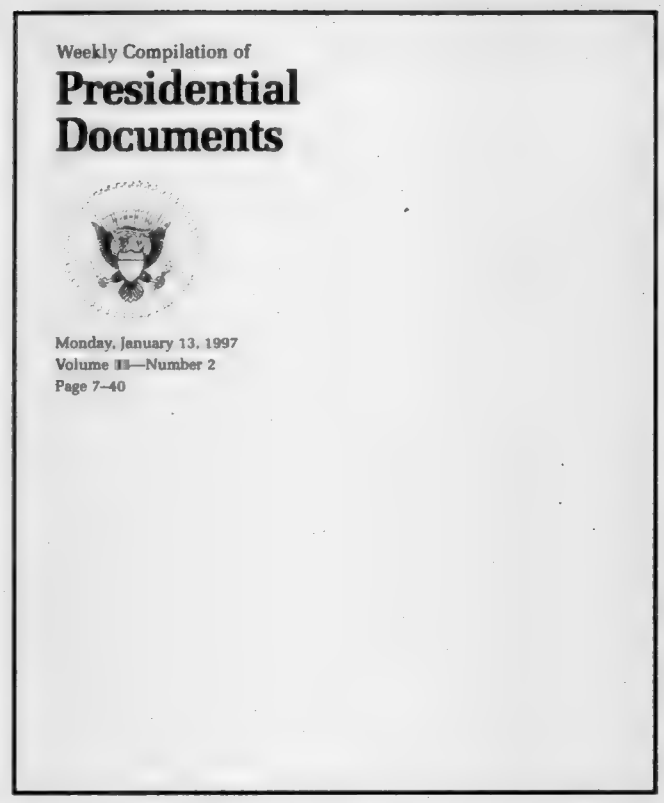

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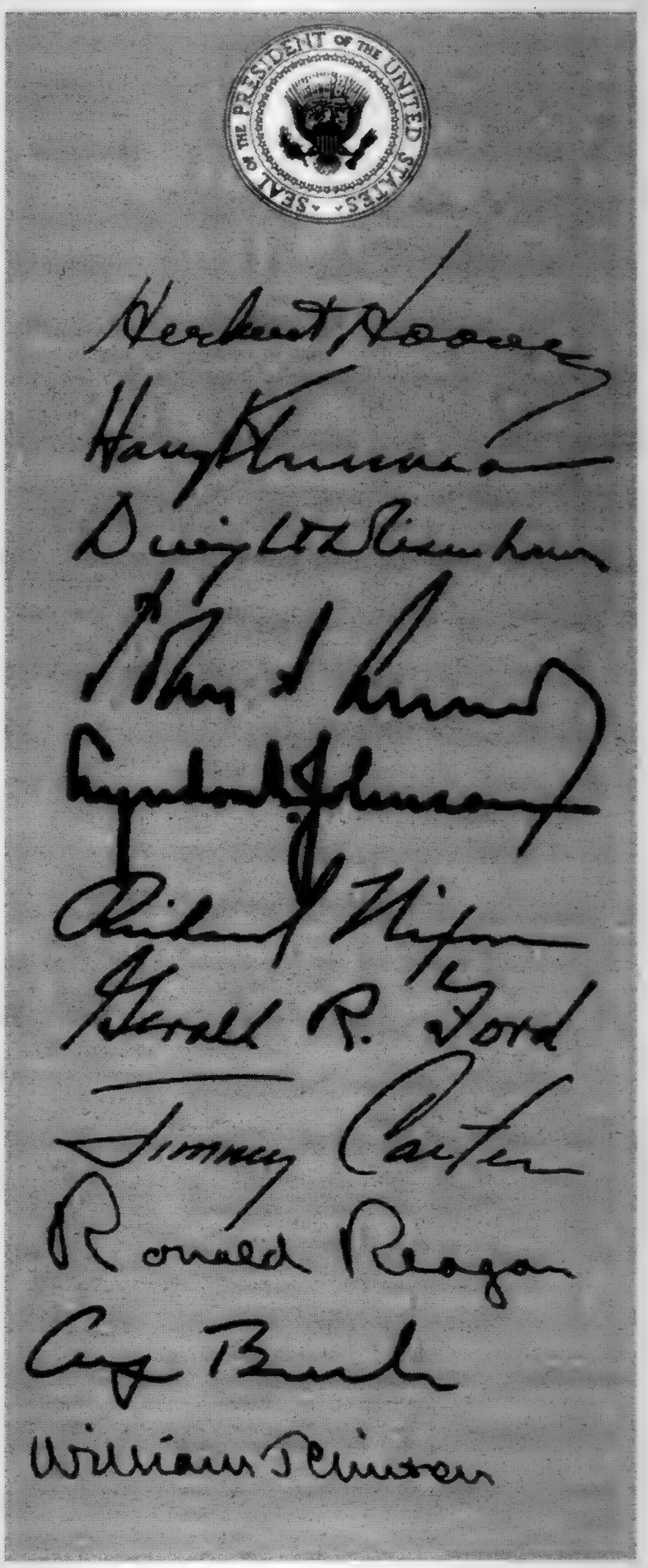

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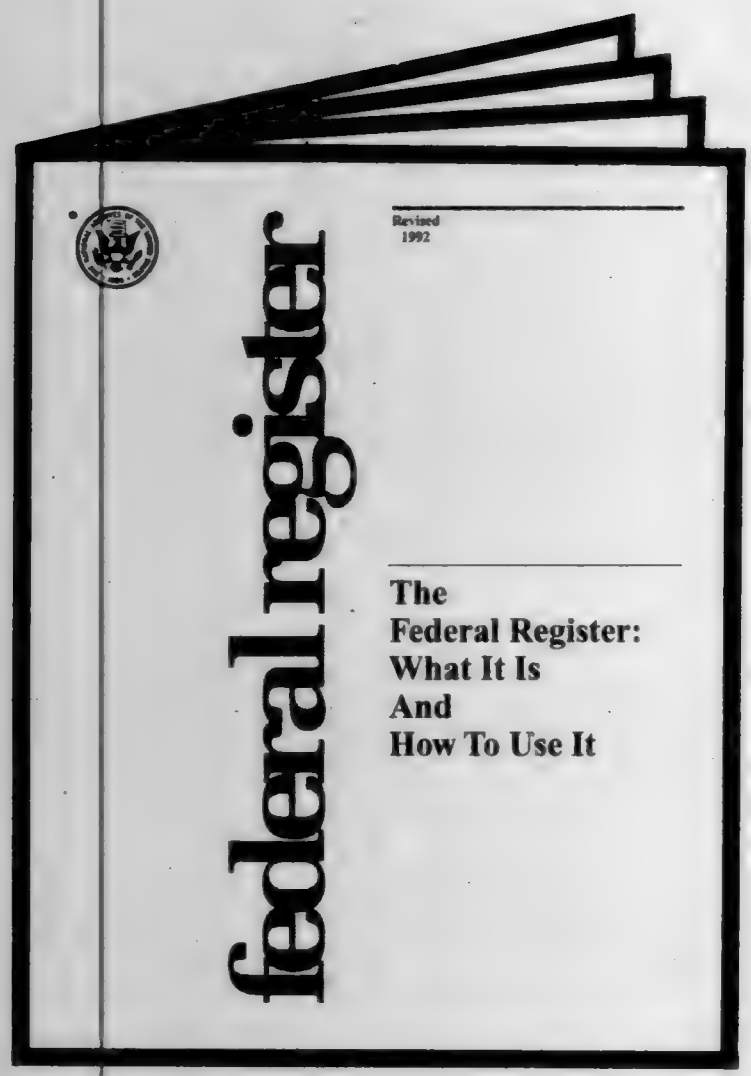

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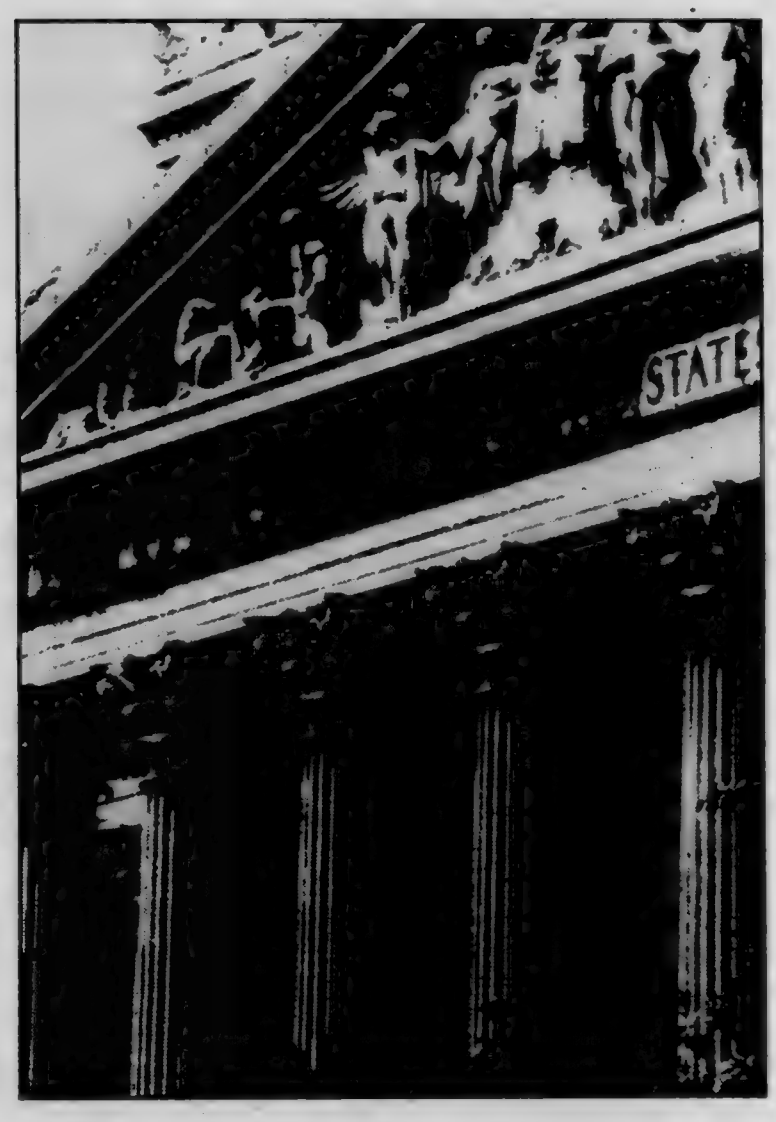

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Rules and Regulations

Federal Register
Vol. 64, No. 77
Thursday, April 22, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 745

Share Insurance and Appendix

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: This interim rule simplifies NCUA's share insurance regulations on testamentary accounts, frequently referred to as revocable trust accounts or payable on death accounts, and joint ownership accounts. These amendments are similar to those adopted by the Federal Deposit Insurance Corporation (FDIC) for its deposit insurance regulations. The first amendment increases available share insurance coverage on payable on death accounts by adding parents and siblings to the list of relatives for whom a member may receive separate coverage. The second amendment simplifies the method for determining the amount of insured funds a person may have in one or more joint accounts by eliminating the first of two steps used to make such determinations. These amendments are adopted as an interim rule to provide parity between NCUA and FDIC insurance regulations on commonly held accounts, and to aid the public and prevent confusion over the amount of federal insurance available on those accounts.

DATES: Effective April 22, 1999. Comments must be received on or before July 15, 1999.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Deputy General Counsel, at the above address, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

In accordance with NCUA's regulatory review process, at year end 1998, NCUA staff identified part 745 as one of the regulations in need of updating, clarification and simplification. Part 745 was included in NCUA's Semi-Annual Agenda of Regulations that will appear in the April 1999, Unified Agenda of Federal Regulatory and Deregulatory Actions published by the Regulatory Information Service Center, GSA. Work on this project is to begin in late summer. However, due to recent deposit insurance rule changes for joint accounts and revocable trust accounts adopted by the Board of Directors of the Federal Deposit Insurance Corporation (FDIC), the NCUA Board believes it is in the public interest to adopt similar changes for two basic reasons. First, the FDIC's recent action to simplify its rules and provide added protection for bank customers warrants similar action by the NCUA Board to maintain parity between the coverage provided by both federal programs. Both revocable trust accounts and joint accounts are types of accounts commonly used by members of the public for the future transfer of ownership of family assets without loss of control during the owner's life. Traditionally, the owners of these accounts have been afforded the same protection through similar Congressionally created federal insurance funds, whether the accounts are maintained in banks or credit unions.

Second, changes are needed to reduce, and hopefully avoid, confusion about the application of NCUA's insurance rules to these types of accounts, and also to avoid confusion regarding any differences between NCUA insurance on credit union accounts and FDIC insurance on similar accounts at bank and savings associations. The NCUA Board is aware that there is confusion, both on the part of credit union members and credit union employees about the current rules regarding these accounts. This confusion has been brought to the Board's attention through appeals filed under subpart B of part 745. It is especially apparent when family members open several different joint accounts, or joint owners use combinations of joint accounts and revocable trust accounts. The FDIC had noted that its previous joint account and payable on death account rules were frequently misunderstood by bank depositors. It also looked at surveys conducted by public interest research groups that showed that bank employees too shared depositors' confusion. The action taken by FDIC provides needed clarification and simplification for customers of its insured institutions. The same benefits are extended to credit unions and their members by the Board's adoption of this interim rule.

In order to expedite this process, the Board has chosen to make minimum changes to the existing language of its regulations and not a full scale rewrite or format revision at this time. Further, the NCUA Board has not attempted to duplicate the studies conducted by or reviewed by the FDIC prior to its adoption of the recent final rule. The Board recognizes that its payout experience on revocable trust and joint accounts has not been of the magnitude of that cited by the FDIC.

B. Current Rules

Testamentary Accounts (Revocable Trust Accounts)

These are accounts that evidence an intention on the part of the owner to pass funds on to one or more beneficiaries upon the owner's death. They include payable-on-death accounts (POD accounts), and tentative or "Totten" trust accounts. These accounts are insured separately from other accounts of the owner if the beneficiary is a spouse, child or grandchild. There can be more than one beneficiary, and if each beneficiary is either the spouse, a child or grandchild, the account will be insured up to $100,000 for each such beneficiary. For example, if an account is held by a husband "in trust for" his wife and three children, the account will be insured for $400,000. This coverage will be separate from any insurance the husband, wife or children may have on their own accounts. For these accounts, insurance is provided on a per beneficiary basis for the spouse,

child or grandchild. If, however, a credit union member names a parent or sibling as a beneficiary, a common practice particularly for single individuals, then the account will be added to the individual account of the member and insured up to $100,000. There is no per beneficiary protection in that case even though there is a close familial relationship.

As the FDIC noted, by adding parents and siblings to the list of family members who qualify as beneficiaries for additional coverage, most of the customers who misunderstand the current rules will be protected. The Board believes that same level of protection should be provided to credit union members and, therefore, has adopted a similar amendment. This interim rule also clarifies that the degree of kinship for named beneficiaries includes relationships through blood, adoption, or by virtue of remarriage. FDIC has a similar provision.

Joint Accounts

NCUA's current regulation does not expressly refer to a two step process in determining insurance coverage on joint accounts as did the FDIC's rule. However, where an individual had several joint accounts, some with different joint owners, insurance coverage was determined by applying two subsections. First, under subsection 745.8(d), joint accounts with the same combination of owners are aggregated and insured up to $100,000. Even though there is more than one account, if the owners are the same, the accounts are treated as one account. Then, under subsection 745.8(e), a person's interest in all joint accounts with different combinations of owners joint is aggregated and insured up to $100,000. Thus, NCUA followed the same type of two step process used by the FDIC

The application of this process results in certain inequities. If a person has ownership interests in several different joint accounts, each with a different combination of joint owners, his or her interest in each of those accounts will be added together and insured to $100,000. The same will be done for each of the other joint owners as well. If instead, that person has one or more joint accounts with the same combination of joint owners, the maximum insurance available to all of those joint owners combined will be limited to $100,000. Thus, in one instance, each joint owner's interest can be insured up to $100,000, while in the other, total coverage on the account is limited to $100,000, notwithstanding the amount of each of the joint owner's interest.

Through this interim final rule, the Board is taking the same approach to simplify coverage on joint accounts as did the FDIC. It will no longer be necessary to aggregate all joint accounts owned by the same combination of individuals. With this amendment, each person's interest in all qualifying joint accounts will be aggregated and insured to a maximum of $100,000. The rule also eliminates the signature requirement for share certificates, a matter that has presented problems in the past, and for accounts maintained by certain fiduciaries for joint owners as long as the credit union's records reflect that there are joint owners. FDIC has a similar provision.

C. Interim Rule—Amendments

For purposes of this interim rule, the Board has not changed the current format used in part 745. Instead, minor modifications have been made to keep the amendments simple while accomplishing the desired change. It is expected that more substantial changes to part 745 will be made when agency staff undertakes a more comprehensive review of all of its provisions and after receiving comments as a result of this request for comments.

1. Section 745.4

The title of this section has been changed from "Testamentary Accounts" to "Revocable Trust Accounts," the section title the FDIC adopted when it issued uniform rules for banks and savings associations previously insured by the former Federal Savings and Loan Insurance Corporation (FSLIC). See 55 FR 20111 (May 15, 1990). This nomenclature will be more reflective of the types of accounts that members will be using in the future and that the Board anticipates will be addressed in subsequent action on part 745. Substantively, this interim rule extends insurance coverage by adding parents and siblings to the list of relatives who may be named as beneficiary on a revocable trust account and for whom per beneficiary insurance coverage will be provided. The rule also adds a new subsection (d) to define the degree of kinship for named beneficiaries to include relationships through blood, adoption, or by virtue of remarriage, such as a step-child or step-sister.

2. Section 745.8 Joint Accounts

This amendment adds language to subsection (a) to provide that a co-owner's interest in all joint accounts will be added together and insured up to a maximum of $100,000. It also removes subsections (d) and (e). These changes eliminate the two step process for determining insurance coverage on joint accounts. Language is also added to subsection (b) to eliminate the signature requirement for share certificates and accounts maintained for joint owners provided the credit union records reflect the nature of the accounts.

D. Request for Comments

This interim rule only affects those provisions in part 745 and the appendix that relate to joint accounts and revocable trust accounts. As noted above, the Board is not amending or proposing any specific amendments to other provisions of Part 745. Also, the Board is not adopting in this interim rule a change similar to that adopted by the FDIC regarding insurance coverage of accounts held by agents or fiduciaries. However, the Board is interested in comments on part 745 in its entirety, including style and format and suggestions for simplification or clarification. NCUA currently uses a separate appendix to provide examples of insurance coverage, whereas FDIC provides examples within some of the specific provisions of its rules. Is either format preferable, or should NCUA add an additional appendix with staff interpretations, similar to that used in part 707 for Truth in Savings?

When reviewing part 745, the Board suggests commenters look to the simplification of deposit insurance rules amendments adopted by the FDIC (63 FR 25750, May 11, 1998; 64 FR 15653, April 1, 1999). Many of those changes, with or without additional modification, may be appropriate for Board consideration. The Board invites comments on how to address insurance on living trusts, or the need for guidance on any account insurance related areas they may be unique to credit unions. Of particular importance are suggestions on ways to make the share insurance regulations more easily understandable to members and employees.

E. Effective Date

Under the Administrative Procedure Act, a substantive rule is to be published 30 days before its effective date unless it meets one of that Act's exceptions. The NCUA Board has determined that this interim rule falls within the "good cause" exception of that Act, 5 U.S.C. 553(d), and, therefore, it is made effective immediately upon publication in the **Federal Register**. "Good cause" exists because the rule benefits credit union members and employees by simplifying how to determine the amount of coverage available on commonly used accounts; it increases the amount of coverage that

is available for the benefit of credit union members; it does not prejudice credit union members or credit unions; and it provides immediate protection for members whose interests might otherwise be jeopardized if an insured credit union were to fail within the normal thirty day delayed effective date period.

Regulatory Procedures

Regulatory Flexibility Act

This interim final rule applies to all federally-insured credit unions but does not impose new reporting, recordkeeping or other compliance requirements on those institutions. Therefore, the Board has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This interim rule does not impose any paperwork requirements and, therefore, no information has been submitted to the Office of Management and Budget.

Executive Order 12612

Although this interim rule applies to federally-insured state-chartered credit unions, it has no affect on the regulation of those credit unions.

List of Subjects in 12 CFR Part 745

Credit unions, Pension plans, Share insurance, Trustee.

By the National Credit Union Administration Board, this 15th day of April, 1999.

Becky Baker,

Secretary, NCUA Board.

For the reasons stated in the preamble, NCUA amends 12 CFR chapter VII as follows:

PART 745—SHARE INSURANCE AND APPENDIX

1. The authority citation for part 745 is revised to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789.

2. Section 745.4 is revised to read as follows:

§ 745.4 Revocable trust accounts.

(a) For purposes of this part, the term "revocable trust account" includes a testamentary account, tentative or "Totten" trust account, "payable-on-death" account, or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary.

(b) If the named beneficiary of a revocable trust account is a spouse, child, grandchild, parent, brother or sister of the account owner, the account shall be insured up to $100,000 in the aggregate as to each such beneficiary, separately from any other accounts of the owner or beneficiary, regardless of the membership status of the beneficiary.

(c) If the named beneficiary of a revocable trust account is other than the spouse, child, grandchild, parent, brother or sister of the account owner, the funds in such account shall be added to any individual accounts of the owner and insured up to $100,000 in the aggregate.

(d) For purposes of this section, the term "child" includes the biological, adopted or step-child of the owner; the term "grandchild" includes the biological, adopted or step-child of any of the owner's children; the term "parent" includes the biological, adoptive or step-parent of the owner; the term "brother" includes a full brother, half brother, brother through adoption or step-brother; and the term "sister" includes a full sister, half sister, sister through adoption or step-sister.

3. Section 745.8 is revised to read as follows:

§ 745.8 Joint ownership accounts.

(a) *Separate insurance coverage.* Qualifying joint accounts, whether owned as joint tenants with right of survivorship, as tenants by the entireties, as tenants in common, or by husband and wife as community property, shall be insured separately from accounts individually owned by any of the co-owners. The interest of a co-owner in all qualifying joint accounts shall be added together and the total for that co-owner shall be insured up to $100,000.

(b) *Qualifying joint accounts.* A joint account is a qualifying joint account if each of the co-owners has personally signed a membership or account signature card and has a right of withdrawal on the same basis as the other co-owners. The signature requirement does not apply to share certificates, or to any accounts maintained by an agent, nominee, guardian, custodian or conservator on behalf of two or more persons if the records of the credit union properly reflect that the account is so maintained.

(c) *Failure to qualify.* A joint account that does not meet the requirements for a qualifying joint account shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate. An account will not fail to qualify as a joint account if a joint owner is a minor and applicable state law limits or restricts a minor's withdrawal rights.

(d) *Nonmember joint owners.* A nonmember may become a joint owner with a member on a joint account with right of survivorship. The nonmember's interest in such accounts will be insured in the same manner as the member joint-owner's interest.

4. Part B of the Appendix to Part 745 is amended by revising the heading of Part B and first three sentences of the introductory paragraph to read as follows:

Appendix to Part 745—Examples of Insurance Coverage Afforded Accounts in Credit Unions Insured by the National Credit Union Share Insurance Fund

* * * * *

B. Revocable Trust Accounts

The term "revocable trust account" includes a testamentary account, tentative or "Totten" trust account, "payable-on-death" account, or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary. If the named beneficiary is a spouse, child, grandchild, parent, brother or sister (as defined in subsection 745.4(d)) of the owner, the funds in all such accounts are insured for the owner up to $100,000 in the aggregate as to each such beneficiary. If the beneficiary of such an account is other than the spouse, child, grandchild, parent, brother or sister of the owner, the funds in the account are, for insurance purposes, added to any other individual (single ownership) accounts of the owner and insured up to $100,000 in the aggregate. * * *

5. Part B of the Appendix to Part 745 is amended by revising Example 2 to read as follows:

* * * * *

B. Revocable Trust Accounts

* * * * *

Example 2

Question: Member H invests $100,000 in each of four "payable-on-death" accounts. Under the terms of each account contract, H has the right to withdraw any or all of the funds in the account at any time. Any funds remaining in the account at the time of H's death are to be paid to a named beneficiary. The respective beneficiaries of the four accounts are H's wife, his mother, his brother, and his nephew. H also holds an individual account containing $100,000. What is the insurance coverage?

Answer: The accounts payable on death to H's wife, mother and brother are each

separately insured to the $100,000 maximum (Sec. 745.4(b)). The account payable to H's nephew is added to H's individual account and insured to $100,000 in the aggregate, leaving $100,000 uninsured (Sec. 745.4(c)).

* * * * *

6. Part F of the Appendix to Part 745 is amended by removing the five introductory paragraphs and adding four introductory paragraphs in their place to read as follows:

* * * * *

F. Joint Accounts

The interest of a co-owner in all accounts held under any form of joint ownership valid under state law (whether as joint tenants with right of survivorship, tenants by the entireties, tenants in common, or by husband and wife as community property) is insured up to $100,000. This insurance is separate from that afforded individual accounts held by any of the co-owners.

An account is insured as a joint account only if each of the co-owners has personally signed a membership card or an account signature card and possesses the same withdrawal rights as the other co-owners. (The signature requirement does not apply to share certificates, or to any accounts maintained by an agent, nominee, guardian, custodian or conservator on behalf of two or more persons. However, the records of the credit union must show that the account is being maintained for joint owners. There is also another exception in the case of a minor discussed below.) An account owned jointly which does not qualify as a joint account for insurance purposes is insured as if owned by the named persons as individuals. In that case, the actual ownership interest in the account of each person is added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate.

Any individual, including a minor, may be a co-owner of a joint account. Although, generally, each co-owner must have signed an account signature card and must have the same rights of withdrawal as other co-owners in order for the account to qualify for separate joint account insurance, there is an exception for minors. If state law limits or restricts a minor's withdrawal rights—for example, a minimum age requirement to make a withdrawal—the account will still be insured as a joint account.

The interests of a co-owner in all joint accounts that qualify for separate insurance coverage are insured up to the $100,000 maximum. For insurance purposes, the co-owners of any joint account are deemed to have equal interests in the account, except in the case of a tenancy in common. With a tenancy in common, equal interests are presumed unless otherwise stated on the records of the credit union.

7. Part F of the Appendix to Part 745 is amended by removing Example 6 and by revising Examples 1 through 5(b) to read as follows:

* * * * *

F. Joint Accounts

* * * * *

Example 1

Question: Members A and B maintain an account as joint tenants with right of survivorship and, in addition, each holds an individual account. Is each account separately insured?

Answer: If both A and B have signed the membership or signature card and possess equal withdrawal rights with respect to the joint funds, their interests in the joint account are separately insured from their interests in the individual accounts. (§ 745.8 (a) and (b).) If the joint account is represented by a share certificate, their individual signatures are not required for that account.

Example 2

Question: Members H and W, husband and wife, reside in a community property state. Each holds an individual account and, in addition, they hold a qualifying joint account. The funds in all three accounts consist of community property. Is each account separately insured?

Answer: Yes. An account in the individual name of a spouse will be insured up to $100,000 whether the funds consist of community property or separate property of the spouse. A joint account containing community property is separately insured. Thus, community property can be used for individual accounts in the name of each spouse and for a joint account in the name of both spouses. In this example, each individual account is insured up to $100,000 (§ 745.3(a)(1)), and the interests of both the husband and wife in the joint account are each insured up to $100,000 (§ 745.8(a)).

Example 3

Question: Two accounts of $100,000 each are held by a member husband and his wife under the following names: John Doe and Mary Doe, husband and wife, as joint tenants with right of survivorship. Mrs. John Doe and John Q. Doe (community property). How much insurance do the husband and wife have?

Answer: They have $200,000 of insurance. Both the husband and wife are deemed to have a one half interest ($50,000) in each account. (§ 745.2(c)(4).) The husband's interest in both accounts would be added together and insured for $100,000. The wife's insurance coverage would be determined the same way. (§ 745.8(a).)

Example 4

Question: The following accounts are held by members A, B and C, each of whom has personally executed signature cards for the accounts in which he has an interest. Each co-owner of a joint account possesses the necessary withdrawals rights.

1. A, as an individual—$100,000.
2. B, as an individual—$100,000.
3. C, as an individual—$100,000.
4. A and B, as joint tenants w/r/o survivorship—$90,000.
5. A and C, as joint tenants w/r/o survivorship—$90,000.
6. B and C, as joint tenants w/r/o survivorship—$90,000.
7. A, B and C, as joint tenants w/r/o survivorship—$90,000.

What is the insurance coverage?

Answer: Accounts numbered 1, 2 and 3 are each separately insured for $100,000 as individual accounts held by A, B and C, respectively (§ 745.3(a)(1)). The interest of the co-owners of each joint account are deemed equal for insurance purposes (§ 745.2(c)(4)). A's interest in accounts numbered 4, 5, and 7 are added together for insurance purposes (§ 745.8(e)). Thus, A has an interest of $45,000 in account No. 4, $45,000 in account No. 5 and $30,000 in account No. 7, for a total joint account interest of $120,000, of which $100,000 is insured. The interest of B and C are similarly insured.

Example 5(a)

Question: A, B and C hold accounts as set forth in Example 4. Members A and B are husband and wife; C, their minor child, has failed to sign the signature card for Account No. 7. In Account No. 5, according to the terms of the account, C cannot make a withdrawal without A's written consent. (This is not a limitation imposed under state law.) In Account No. 6, the signatures of both B and C are required for withdrawal. A has provided all of the funds for Accounts numbered 5 and 7 and under state law has the entire actual ownership interest in these two accounts. What is the insurance coverage?

Answer: If any of the co-owners of a joint account have failed to meet any of the joint account requirements, the account is not a qualifying joint account. Instead, the account is treated as if it consisted of commingled individual accounts of each of the co-owners in accordance with his or her actual ownership interest in the funds, as determined under applicable state law. (§ 745.8(c).)

Account No. 5 is not a qualifying joint account because C does not have equal withdrawal rights with A. Based on the terms of the account, C can only make a withdrawal if he has A's written consent. Account No. 7 is not a qualifying joint account because C did not personally sign the signature card. Therefore, all of the funds in Accounts 5 and 7 are treated as individually owned by A and added to A's individual account, Account No. 1. For insurance purposes then, A has $280,000 in one individual account that is insured for $100,000, leaving $180,000 uninsured.

Account 6 is a qualifying joint account for insurance purposes since each co-owner has the right to withdraw funds on the same basis. Account 4 is also a qualifying joint account. A's interest in Account 4 is insured for $45,000. B's interest of $45,000 in Account 4 is added to her interest of $45,000 in Account 6 and insured for $90,000. C's interest in Account 6 is insured for $45,000.

Example 5(b)

Question: Assume the same accounts as Example 5(a) except that, on Account No. 5, C's right to make a withdrawal is limited by state law which precludes a minor from making a withdrawal without the co-owner's written consent. What is the insurance coverage?

Answer: In this situation, Accounts 4, 5, and 6 all qualify as joint accounts. A, B, and

C will each have $90,000 of insured funds based on: A's interest in Account 4 ($45,000) and 5 ($45,000), B's interest in Accounts 4 ($45,000) and 6 ($45,000), and C's interest in Accounts 5 ($45,000) and 6 ($45,000). As in Example 5(a), Account No. 7 does not qualify as a joint account and would be added to A's individual account for insurance purposes.

* * * * *

[FR Doc. 99–9930 Filed 4–21–99; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–44–AD; Amendment 39–11135; AD 99–09–03]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires a one-time inspection of the wiring and wire bundles of the aft main avionics rack (MAR) to determine if the wires are damaged, or riding or chafing on structure, clamps, braces, standoffs, or clips, and to detect damaged or out of alignment rubber cushions inserts of the wiring clamps; and corrective actions, if necessary. This amendment is prompted by an incident in which the automatic and manual cargo door test in the cockpit was inoperative during dispatch of the airplane, due to the wiring of the MAR chafing against clamps as a result of the wire bundles being installed improperly during production of the airplane. The actions specified in this AD are intended to ensure that the wires that route from the main wire bundles to the MAR and associated brackets, clamps, braces, standoffs, and clips are installed properly. Improper installation of such wiring and structure could cause chafing of the wire/wire bundles, which could result in electrical arcing, smoke, and possible fire in the MAR.

DATES: Effective May 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–44–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident in which the automatic and manual cargo door test in the cockpit was inoperative. This incident occurred on a McDonnell Douglas Model MD–11 series airplane during dispatch.

Investigation revealed the insulation of a wire located on the aft main avionics rack (MAR) was worn through, and that the wire shorted to a coax cable clamp. The wires that route from the main wire bundles to the MAR also were found contacting clamps at other locations of the MAR. The cause of such chafing has been attributed to improper installation of the wire bundles in the MAR during production of the airplane. (This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.)

Improper installation of the wires that route from the main wire bundles to the MAR or improper installation of associated brackets, clamps, braces, standoffs, or clips could cause chafing of the wire/wire bundles, which could result in electrical arcing, smoke, and possible fire in the MAR.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A146, dated February 1, 1999. The alert service bulletin describes procedures for a one-time inspection of the wiring and wire bundles of the aft MAR to determine if the wires are damaged, or riding or chafing on structure, clamps, braces, standoffs, or clips, and to detect damaged or out of alignment rubber cushions inserts of the wiring clamps; and corrective actions, if necessary. The corrective actions include repairing damaged wiring; routing and tying all wires/wire bundles so that they are not in contact with adjacent wire bundles, clamps, or structure; installing silicone rubber coated glass cloth wrapping on wiring; and inspecting all brackets, clamps, braces, standoffs, and clips to make sure they are not bent or twisted and come in contact with wires/wire bundles.

Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to ensure that the wires that route from the main wire bundles to the MAR and associated brackets, clamps, braces, standoffs, and clips are installed properly. Improper installation of such wiring and structure could cause chafing of the wire/wire bundles, which could result in electrical arcing, smoke, and possible fire in the MAR. This AD requires accomplishment of the actions specified in the alert service bulletin described previously, except as

discussed below. This AD also requires that operators submit a report of the inspection results to the FAA.

Differences Between the AD and the Referenced Alert Service Bulletin

The alert service bulletin specifies the following corrective actions for certain conditions: realigning rubber cushion and replacing clamp. However, the alert service bulletin does not provide any instructions for accomplishment of those procedures or reference other service information. The FAA has verified with the manufacturer that the appropriate source of service information for accomplishment of those procedures is Chapter 20–30–01 of McDonnell Douglas MD–11 Airplane Maintenance Manual (AMM), dated February 1, 1999. Therefore, this AD requires that those actions be accomplished in accordance with the AMM.

Operators should note that, although the alert service bulletin recommends accomplishing the one-time inspection within 6 months (after the release of the service bulletin), the FAA has determined that an interval of 6 months would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (two work hours). In light of all of these factors, the FAA finds a 60-day compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–44–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–03 McDonnell Douglas: Amendment 39–11135. Docket 99–NM–44–AD.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0447 through 0464 inclusive, 466 through 0552 inclusive, 0554 through 0596 inclusive, and 0597 through 0628 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the wires that route from the main wire bundles to the MAR and associated brackets, clamps, braces, standoffs, and clips are installed properly, accomplish the following:

One-Time Inspection

(a) Within 60 days after the effective date of this AD, perform a one-time inspection of the wiring and wire bundles of the aft main avionics rack (MAR) to determine if the wires are damaged, or riding or chafing on structure, clamps, braces, standoffs, or clips, and to detect damaged or out of alignment rubber cushions inserts of the wiring clamps; in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A146, dated February 1, 1999.

Note 2: Where there are differences between this AD and the referenced alert service bulletin, the AD prevails.

Corrective Actions

(b) If any damaged wiring is detected during the inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with the alert service bulletin.

(c) If any wire/wire bundle is detected to be riding or chafing on the subject areas during the inspection required by paragraph (a) of this AD, prior to further flight, accomplish paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

Note 3: Operators should note that paragraph 3.A.2. of the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin MD11–24A146, dated February 1, 1999, incorrectly states, "* * * as outlined in paragraph 3.B.2 . . . ." The correct reference is paragraph 3.A.2.

(1) Route and tie all wires/wire bundles so that they are not in contact with adjacent wire bundles, clamps, or structure, and if necessary, install silicone rubber coated glass cloth wrapping on wiring; in accordance with the alert service bulletin.

(2) Perform an inspection of all brackets, clamps, braces, standoffs, and clips to make sure they are not bent or twisted and do not come in contact with wires/wire bundles, in accordance with the alert service bulletin. If any of these parts is bent or twisted or is in contact with wires/wire bundles, prior to further flight, reposition in accordance with the alert service bulletin.

(3) Perform an inspection of the clamps for proper alignment or for damage of the rubber cushion, in accordance with alert service bulletin. If any clamp is not aligned properly, prior to further flight, realign clamp in accordance with the alert service bulletin. If any rubber cushion is damaged, prior to further flight, replace the clamp with a new or serviceable clamp in accordance with Chapter 20–30–01 of McDonnell Douglas MD–11 Airplane Maintenance Manual (AMM), dated February 1, 1999.

(d) If any damaged rubber cushion insert is detected during the inspection required by paragraph (a) of this AD, prior to further flight, replace the clamp with a new or serviceable clamp in accordance with Chapter 20–30–01 of McDonnell Douglas MD–11 Airplane Maintenance Manual, dated February 1, 1999.

(e) If any rubber cushion insert is out of alignment, prior to further flight, visually realign the cushion.

Reporting Requirement

(f) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(i) Except as provided by paragraphs (c)(2), (c)(3), (d), and (e) of this AD, the actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A146, dated February 1, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on May 7, 1999.

Issued in Renton, Washington, on April 13, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10178 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–42–AD; Amendment 39–11133; AD 99–09–01]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires a visual inspection to verify that the channel flanges of the bracket installations are facing forward and to detect chafing or damage of the wire bundles of the center accessory compartment (CAC), and corrective actions, if necessary. This amendment also requires that operators submit a report of the inspection results to the FAA. This amendment is prompted by an incident in which sparks and smoke came out of the CAC during a functional test due to a wire bundle that had chafed against a support bracket installation, which was installed improperly during production of the airplane. The actions specified in this AD are intended to ensure that such bracket installations are installed properly. Improper installation of the brackets of the CAC could cause chafing of the wire bundles, which could result in sparks, smoke, and possible fire in the CAC.

DATES: Effective May 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–42–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane

Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident of sparks and smoke coming out of the right side of the center accessory compartment (CAC). This incident occurred on a McDonnell Douglas Model MD–11 series airplane during a modification functional test.

Investigation revealed the source of the sparks and smoke to be a wire bundle that had chafed against a support bracket installation. A similar condition was noted on the left side of the CAC. The cause of such chafing has been attributed to improper installation (i.e., flange facing aft) of the brackets during production of the airplane. (This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.)

Improper installation of the brackets of the CAC could cause chafing of the wire bundles, which could result in sparks, smoke, and possible fire in the CAC.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A139, dated November 23, 1998. The alert service bulletin describes procedures for a visual inspection to verify that the channel flanges of the bracket installations are facing forward and to detect chafing or damage of the wire bundles on the left and right sides of the center accessory compartment, and corrective actions, if necessary. The corrective actions include removing bracket installations that are facing aft; retaining bracket attaching hardware and wire clamps; reinstalling the bracket with flanges facing forward; reinstalling clamps; and repairing chafed or damaged wire bundles. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to ensure that the support bracket installations are installed properly. Improper installation of the brackets of the CAC could cause chafing of the wire bundles, which result in sparks, smoke, and possible fire in the CAC. This AD requires a visual inspection to verify that the channel flanges of the bracket installations are facing forward and to detect chafing or damage of the wire bundles on the left and right sides of the center accessory compartment, and corrective actions, if necessary. The actions are required to be accomplished in accordance with the alert service bulletin described previously. This AD also requires that operators submit a report of the inspection results to the FAA.

Differences Between the AD and the Referenced Alert Service Bulletin

Operators should note that, although the alert service bulletin recommends accomplishing the visual inspection within 6 months (after the release of the service bulletin), the FAA has determined that an interval of 6 months would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (two work hours). In light of all of these factors, the FAA finds a 60-day compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–42–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive

Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–01 McDonnell Douglas: Amendment 39–11133. Docket 99–NM–42–AD.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0447 through 0464 inclusive, 0466 through 0552 inclusive, and 0554 through 0618 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the support bracket installations of the center accessory compartment (CAC) are installed properly, accomplish the following:

Visual Inspection

(a) Within 60 days after the effective date of this AD, perform a visual inspection to verify that the channel flanges of the bracket installations are facing forward and to detect chafing or damage of the wire bundles on the left and right sides of the CAC, in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A139, dated November 23, 1998.

Condition 1

(1) If all bracket installations are facing forward, and if no chafing or damage is detected, no further action is required by this AD.

Condition 2

(2) If any bracket installation is facing aft, prior to further flight, remove and retain bracket attaching hardware and wire clamps, reinstall the bracket with flanges facing forward, and reinstall clamps, in accordance with the alert service bulletin.

(3) If any chafing or damage is detected, prior to further flight, repair in accordance with the alert service bulletin.

Reporting Requirement

(b) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A139, dated November 23, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 7, 1999.

Issued in Renton, Washington, on April 13, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–9734 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–43–AD; Amendment 39–11134; AD 99–09–02]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires relocating the support bracket and rerouting the electrical wiring in the aft storage compartment drop ceiling structure. This amendment is prompted by an incident in which a burning odor was detected, and the rear galley power repeatedly tripped off line during flight of an in-service airplane, due to the sense wiring of the galley load control unit (GLCU) chafing against the support bracket. The actions specified in this AD are intended to prevent chafing of the sense wire of the GLCU due to the location of the support bracket of the aft drop ceiling, which could result in electrical arcing, smoke, and possible fire in the aft drop ceiling area of the passenger compartments.

DATES: Effective May 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–43–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident in which a burning odor was detected, and the rear galley power repeatedly tripped off line. This incident occurred on a McDonnell Douglas Model MD–11 series airplane during flight.

Investigation revealed that the sense wiring of the galley load control unit (GLCU) located in the aft drop ceiling of the passenger compartments chafed against the light ballast; consequently, the wiring shorted. The cause of such chafing has been attributed to the location of the support bracket of the aft drop ceiling. (This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.)

The location of the support bracket of the aft drop ceiling could cause chafing of the sense wire of the GLCU, which could result in electrical arcing, smoke, and possible fire in the aft drop ceiling area of the passenger compartments.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–33A061, December 21, 1998, which describes procedures for relocating the support bracket and rerouting the electrical wiring in the aft storage compartment drop ceiling structure. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to prevent chafing of the sense wire of the GLCU due to the location of the support bracket of the aft drop ceiling, which could result in electrical arcing, smoke, and possible fire in the aft drop ceiling area of the passenger compartments. This AD requires relocating the support bracket and rerouting the electrical wiring in the aft storage compartment drop ceiling structure. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Differences Between the AD and the Referenced Alert Service Bulletin

Operators should note that, although the alert service bulletin recommends accomplishing the relocation and reroute within 6 months (after the release of the service bulletin), the FAA has determined that an interval of 6 months would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the relocation and reroute (two work hours). In light of all of these factors, the FAA finds a 60-day compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–43–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–02 McDonnell Douglas: Amendment 39–11134. Docket 99–NM–43–AD.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0577, 0579, 0581, 0582, 0584, and 0586; certificated in any category.

Note 1: This AD is applicable only to convertible freighters.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the sense wire of the galley load control unit (GLCU) due to the location of the support bracket of the aft drop ceiling, which could result in electrical arcing, smoke, and possible fire in the aft drop ceiling area of the passenger compartments, accomplish the following:

Modification

(a) Within 60 days after the effective date of this AD, relocate the support bracket and reroute the electrical wiring in the aft storage compartment drop ceiling structure, in accordance with McDonnell Douglas Alert Service Bulletin MD11–33A061, dated December 21, 1998.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–33A061, dated December 21, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 7, 1999.

Issued in Renton, Washington, on April 13, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–9735 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–59–AD; Amendment 39–11136; AD 99–09–04]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires a one-time inspection to verify correct wire terminations of certain circuit breakers in the cockpit overhead switch panel; and correction of incorrect wire termination. This amendment also requires that operators submit a report of the inspection results to the FAA. This amendment is prompted by incidents in which the wiring of circuit breakers on the overhead switch panel lighting were found to be terminated improperly during production of the airplane, which bypassed the circuit breaker protection. The actions specified in this AD are intended to prevent smoke and possible fire in the overhead switch panel lighting circuitry due to an overload condition, as a result of lack of circuit breaker protection.

DATES: Effective May 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–59–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing

Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident in which the wiring to a circuit breaker on the overhead switch panel lighting was found to be terminated improperly on a McDonnell Douglas Model MD–11 series airplane. The bus assembly and the wire were connected on the same lug with nothing connected to the load side of the circuit breaker (i.e., bypassing the circuit breaker protection).

A subsequent line check of Model MD–11 series airplanes in production revealed that the wiring to three other circuit breakers on the overhead switch panel also were terminated improperly on some airplanes. Further investigation revealed that the MD–11 production build paper did not reference the wire hook-up chart for wire temination of the circuit breakers of the overhead switch panel lighting. (These incidents are not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.)

Lack of circuit breaker protection for the circuit of the overhead switch panel lighting, if not corrected, could result in smoke and possible fire in the overhead switch panel lighting if the circuit breaker has an overload condition.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–33A027, dated March 10, 1999, which describes procedures for a one-time inspection to verify correct wire terminations of certain circuit breakers in the cockpit overhead switch panel; and correction of incorrect termination. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to prevent smoke and possible fire in the overhead switch panel lighting circuitry due to an overload condition, as a result of lack of circuit breaker protection. This AD requires accomplishment of the actions specified in the alert service bulletin described previously. The actions are required to be accomplished in accordance with the alert service bulletin described previously. This AD also requires that operators submit a report of the inspection results to the FAA.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–59–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–04 McDonnell Douglas: Amendment 39–11136. Docket 99–NM–59–AD.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0447 through 0464 inclusive, and 0466 through 0475 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke and possible fire in the overhead switch panel lighting circuitry due to an overload condition, as a result of lack of circuit breaker protection, accomplish the following:

One-Time Inspection

(a) Within 60 days after the effective date of this AD, perform a one-time inspection to verify correct wire terminations of certain circuit breakers in the cockpit overhead switch panel, in accordance with McDonnell Douglas Alert Service Bulletin MD11–33A027, dated March 10, 1999.

Condition 1 (Correct Wire Terminations)

(1) If all affected circuit breakers have correct wire terminations, no further action is required by this AD.

Condition 2 (Incorrect Wire Terminations)

(2) If any affected circuit breaker has an incorrect wire termination, prior to further flight, correct termination in accordance with the alert service bulletin.

Reporting Requirement

(b) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21:199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–33A027, dated March 10, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 7, 1999.

Issued in Renton, Washington, on April 13, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–9737 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29544; Amdt. No. 1927]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination— 1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase- Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20951; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription— Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service,

Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantage of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment is part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on April 16, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
03/16/99 ...	VA	Norfolk	Norfolk Intl	FDC 9/1576	NDB Rwy 5 ORIG...
03/24/99 ...	GA	Savannah	Savannah Intl	FDC 9/1750	MLS Rwy 27, ORIG–A...
03/30/99 ...	UT	Milford	Milford Muni	FDC 9/2079	VOR OR GPS–A AMDT 3...
04/01/99 ...	MO	Kaiser/Lake Ozark	Lee Co. Fine Memorial	FDC 9/2118	LOC/DME Rwy 21, AMDT 1...
04/01/99 ...	MO	St. Louis	Lambert-St. Louis Intl	FDC 9/2125	ILS Rwy 6, ORIG–A...
04/02/99 ...	KS	Olathe	New Century Aircenter	FDC 9/2161	NDB OR GPS Rwy 35, AMDT 4A...
04/02/99 ...	MI	Hancock	Houghton City Memorial	FDC 9/2179	LOC/DME BC Rwy 13, AMDT 11...
04/02/99 ...	MI	Holland	Tulip City	FDC 9/2180	ILS/DME Rwy 26 ORIG–A...

FDC date	State	City	Airport	FDC number	SIAP
04/02/99 ...	MO	Kirksville	Kirksville Regional	FDC 9/2175	LOC/DME Rwy 36, AMDT 6...
04/02/99 ...	MO	Sikeston	Sikeston Memorial Muni	FDC 9/2178	VOR/DME OR GPS Rwy 2, AMDT 1A...
04/02/99 ...	NC	Jacksonville	Albert J. Ellis	FDC 9/2171	ILS RWY 5 AMDT 7A...
04/02/99 ...	NJ	Linden	Linden	FDC 9/2185	GPS–A ORIG...
04/02/99 ...	PA	Pittsburgh	Pittsburgh Intl	FDC 9/2172	ILS Rwy 28L AMDT 6A...
04/06/99 ...	MN	Motley	Morey's	FDC 9/2270	NDB OR GPS Rwy 9, AMDT 1...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2299	GPS Rwy 32 ORIG...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2300	GPS Rwy 28 ORIG...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2302	GPS Rwy 14 ORIG...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2303	VOR Rwy AMDT 22...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2304	VOR OR TACAN Rwy 32, ORIG–A...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2305	NDB Rwy 28 AMDT 28...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2306	ILS Rwy 10 AMDT 9...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2307	ILS Rwy 28 AMDT 32...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2348	VOR/DME OR GPS Rwy 18 AMDT 8...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2349	VOR/DME OR GPS Rwy 15 AMDT 1...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2350	ROSSLYN LDA Rwy 18 AMDT 14...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2352	ILS Rwy 36 AMDT 39...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2357	VOR Rwy 36 AMDT 11A...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2358	VOR Rwy 15 AMDT 9...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2361	NDB Rwy 15 AMDT 4...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2363	NDB OR GPS Rwy 36 AMDT 10...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2364	VOR/DME RNAV OR GPS Rwy 3 AMDT 6...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2365	VOR/DME RNAV OR GPS Rwy 33 AMDT 5A...
04/09/99 ...	GA	Bainbridge	Decatur County Industrial Airpark	FDC 9/2328	VOR OR GPS–A, AMDT 3...
04/09/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2321	GPS Rwy 10 ORIG...
04/09/99 ...	SC	Charleston	Charleston AFB/Intl	FDC 9/2370	RADAR–1 AMDT 16...
04/09/99 ...	TX	Austin	Austin-Bergstrom Intl	FDC 9/2322	ILS Rwy 17L (CAT II), ORIG...
04/12/99 ...	DC	Washington	Ronald Reagan Washington National ...	FDC 9/2422	LDA/DME Rwy 18 AMDT 1...
04/12/99 ...	NH	Portsmouth	Pease Intl Tradeport	FDC 9/2395	ILS Rwy 34 AMDT 1A...
04/13/99 ...	AK	Cold Bay	Cold Bay	FDC 9/2450	ILS Rwy 14, AMDT 16...
04/14/99 ...	KS	Russell	Russell Muni	FDC 9/2448	VOR/DME OR GPS–A AMDT 4...
04/14/99 ...	PA	Monongahela	Monongahela/Rostraver	FDC 9/2459	VOR OR GPS–A AMDT 4A...

[FR Doc. 99–10085 Filed 4–21–99; 8:45 am]
BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Parts 239, 700, 701, 702, and 703

Final Action Concerning Review of Interpretations of Magnuson-Moss Warranty Act; Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions; Rule Governing Pre-Sale Availability of Written Warranty Terms; Rule Governing Informal Dispute Settlement Procedures; and Guides For the Advertising of Warranties and Guarantees

AGENCY: Federal Trade Commission.

ACTION: Notice of final action.

SUMMARY: The Federal Trade Commission ("the Commission") is announcing its final action in connection with the review of a set of warranty-related rules and guides: the Interpretations of the Magnuson-Moss Warranty Act, ("Interpretations"); the Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions, ("Rule 701"); the Rule Governing Pre-Sale Availability of Written Warranty Terms, ("Rule 702"); the Rule Governing Informal Dispute Settlement Procedures, ("Rule 703"); and the Guides for the Advertising of Warranties and Guarantees, ("Guides").

The Interpretations represent the Commission's views on various aspects of the Magnuson-Moss Warranty Act ("the Act"), 15 U.S.C. 2301 *et seq.*, and are intended to clarify the Act's requirements. They are similar to industry guides in that they are advisory in nature, although failure to comply with the Act and the Rules under the Act as elucidated by the Interpretations may result in corrective action by the Commission. Rule 701 specifies the information that must appear in a written warranty on a consumer product. Rule 702 details the obligations of sellers and warrantors to make warranty information available to consumers prior to purchase. Rule 703 specifies the minimum standards which must be met by any informal dispute settlement mechanism that is incorporated into a written consumer product warranty and which the consumer must use prior to pursuing any legal remedies in court. The Guides are intended to help advertisers avoid unfair or deceptive practices in the advertising of warranties or guarantees.

EFFECTIVE DATE: April 22, 1999.

FOR FURTHER INFORMATION CONTACT: Carole I. Danielson, Investigator, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326–3115.

SUPPLEMENTARY INFORMATION: On April 3, 1996, the Commission published a **Federal Register** notice [1], soliciting written public comments concerning four warranty rules and guides: (1) The Commission's Interpretations of the Magnuson-Moss Warranty Act, 16 CFR part 700; (2) the Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR part 701; (3) the Rule Governing Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702; and (4) the Guides for the Advertising of Warranties and Guarantees, 16 CFR part 239. On April 2, 1997, the Commission published a second **Federal Register** notice, this time soliciting written public comments concerning Rule 703.[2] On June 13, 1997, the Commission extended the comment period on Rule 703 until August 1, 1997.[3] The Commission requested comments on these rules and guides as part of its regulatory review program, under which it reviews rules and guides periodically in order to obtain information about the costs and benefits of the rules and guides under review, as well as their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. After careful review of the comments received in response to both requests, the Commission has determined to retain the Interpretations, Rules 701, 702, and 703, and the Guides without change.

A. Background

1. 16 CFR Part 700: Interpretations of the Magnuson-Moss Warranty Act ("Interpretations")

The Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.*, which governs written warranties on consumer products, was signed into law on January 4, 1975. Soon thereafter, the Commission received many questions concerning the Act's requirements. In response to these inquiries, the Commission decided to provide guidance in order to facilitate compliance with the requirements of the Act. The Commission published a policy statement in the **Federal Register** (40 FR 25721) on June 18, 1975, to provide interim guidance during the initial implementation of the Act. As the Commission continued to receive questions and requests for advisory opinions, however, it determined that guidance of a more permanent nature was appropriate. Therefore, on July 13, 1977, the Commission published in the **Federal Register** (42 FR 36112) its Interpretations of the Magnuson-Moss Warranty Act.

The Interpretations apply to written warranties on consumer products. They set forth the Commission's views on various terms and provisions of the Act that are not entirely clear on the face of the statute. Thus, the Interpretations clarify the Act's requirements for all who are affected by them—consumers, manufacturers, importers, distributors, and retailers. The Interpretations are not substantive rules, and do not have the force or effect of such rules; like industry guides, they are advisory in nature. Nonetheless, failure to comply with the requirements of the Act and the substantive Rules adopted under the Act as elucidated by the Interpretations could result in enforcement action by the Commission.

The Interpretations cover a wide range of subjects covered by the Act and terms used in the Act, including what types of products are considered "consumer products" under the Act; what constitutes an "expression of general policy" under section 103(b) of the Act [4] and what the Act requires with respect to such expressions of general policy; how warranty registration cards may be used in connection with full and limited warranties; what constitutes an illegal tying arrangement under section 102(c) of the Act;[5] and how to distinguish between "written warranty," "service contract," and "insurance."

2. 16 CFR Part 701: Disclosure of Written Consumer Product Warranty Terms and Conditions ("Rule 701")

The language of the Act and its legislative history make it amply clear that Congress intended that the Commission promulgate rules regarding the disclosure of written warranty terms and conditions. Accordingly, on December 31, 1975, the Commission published Rule 701 in the **Federal Register**.[6] Rule 701 sets forth what warrantors must disclose about the terms and conditions of the written warranties they offer on consumer products that actually cost the consumer more than $15.00. Rule 701 tracks the disclosure requirements suggested in

[1] 61 FR 14688 (April 3, 1996).
[2] 62 FR 15636 (April 2, 1997).
[3] 62 FR 32338 (June 13, 1997).
[4] 15 U.S.C. 2303(b).
[5] 15 U.S.C. 2302(c).
[6] 40 FR 60168, 60188.

section 102(a) of the Act,[7] specifying information that must appear in the written warranty, and, for certain disclosures, mandates the exact language that must be used. Rule 701 requires that the information be disclosed in a single document in simple, easily understood, and concise language. In promulgating Rule 701, the Commission determined that the items required to be disclosed are material facts about product warranties, the non-disclosure of which would be deceptive or misleading.[8]

In addition to specifying the information that must appear in a written warranty, Rule 701 also requires that, if the warrantor uses a warranty registration or owner registration card, the warranty must disclose whether return of the registration card is a condition precedent to warranty coverage. (16 CFR 701.4) Finally, it clarifies that, in connection with some "seal of approval" programs, the disclosures required by the Rule need not be given in the actual seal itself, if they are made in a publication. (16 CFR 701.3(b))

3. 16 CFR Part 702: Pre-Sale Availability of Written Warranty Terms ("Rule 702")

Section 102(b)(1)(A) of the Act directs the Commission to prescribe rules requiring that the terms of any written warranty on a consumer product be made available to the prospective purchaser prior to the sale of the product. Accordingly, on December 31, 1975, the Commission published Rule 702 in the **Federal Register**.[9] Subsequently, the Commission amended the Rule on March 12, 1987, to provide sellers with greater flexibility in how to make warranty information available.[10]

Rule 702 establishes requirements for sellers and warrantors to make the text of any written warranty on a consumer product available to the consumer prior to sale. Among other things, the Rule (as amended) requires sellers to make the text of the warranty readily available either by (1) displaying it in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that the warranty is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements, and also sets out the methods by which warranty information can be made available prior to the sale if the product is sold through catalogs, mail order or door-to-door sales.

4. 16 CFR Part 703: Informal Dispute Settlement Procedures ("Rule 703")

In enacting the Warranty Act, Congress recognized the potential benefits of consumer dispute mechanisms as an alternative to the judicial process. Section 110(a) of the Act sets out the Congressional policy to "encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms" and erected a framework for their establishment. As an incentive to warrantors to establish such informal dispute settlement mechanisms ("IDSMs"), Congress provided in section 110(a)(3), 15 U.S.C. 2310(a)(3), that warrantors may incorporate into their written consumer product warranties a requirement that a consumer must resort to an IDSM before pursuing a legal remedy under the Act for breach of warranty. To ensure fairness to consumers, however, Congress also directed that, if a warrantor were to incorporate such a "prior resort requirement" into its written warranty, the warrantor must comply with the minimum standards set by the Commission for such IDSMs; section 110(a)(2) directed the Commission to establish those minimum standards. Accordingly, on December 31, 1975, the Commission published Rule 703, 16 CFR part 703.[11]

Rule 703 contains extensive procedural standards for IDSMs, which must be followed by any warrantor who wishes to incorporate an IDSM, through a prior resort requirement, into the terms of a written consumer product warranty. These standards include requirements concerning the mechanism's structure (e.g., funding, staffing, and neutrality), the qualifications of staff or decision makers, the mechanism's procedures for resolving disputes (e.g., notification, investigation, time limits for decisions, and follow-up), recordkeeping, and annual audits. The Rule applies only to those firms that choose to be bound by it by placing a prior resort requirement in their written consumer product warranties. Neither Rule 703 nor the Act requires warrantors to set up IDSMs. Furthermore, a warrantor is free to set up an IDSM that does not comply with Rule 703 as long as the warranty does not contain a prior resort requirement.

In the twenty years since Rule 703 was promulgated, most developments in mediation and arbitration programs for the resolution of consumer warranty disputes has taken place in the automobile industry. It is unclear how many companies, if any, continue to utilize a Rule 703 mechanism.[12] Most vehicle manufacturers no longer include a prior resort requirement in their warranties; thus, they and any dispute resolution programs in which they participate are not required to comply with Rule 703.

The fact that most warrantors do not include prior resort requirements in their warranties does not mean, however, that warrantors have abandoned informal dispute resolution programs. On the contrary, due to the terms of state lemon laws[13] (as explained more fully below), all major automakers participate in either manufacturer-sponsored or state-run dispute resolution programs that frequently are modeled on the minimum standards set out in Rule 703 even though they are not required to do so under any provision of federal law.

5. 16 CFR Part 239: Guides for the Advertising of Warranties and Guarantees ("Guides")

In May, 1985, the Commission published the Guides in the **Federal Register**.[14] The Guides were intended to help advertisers avoid unfair or deceptive practices when advertising warranties or guarantees. They took the place of the Commission's "Guides Against Deceptive Advertising of

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[7] 15 U.S.C. 2302(a).

[8] 40 FR 60168, 60169–60170.

[9] 40 FR 60168, 60189.

[10] 52 FR 7569.

[11] 40 FR 60190.

[12] General Motors ceased incorporating an IDSM in its warranty beginning with its 1986 models and no longer operates a 703 program. Ford discontinued operation under Rule 703 with its 1988 model year cars. Chrysler discontinued its Rule 703 program with its 1991 models. Similarly, American Honda, Nissan, Volvo, and other auto manufacturers have all discontinued operating Rule 703 programs. The Commission has not been notified that any of these manufacturers has reinstituted a prior resort requirement in their warranties. Although they are not required to do so, the IDSMs for the major auto manufacturers continue to file annual audits with the Commission. These audits are placed on the public record and can be obtained from the FTC's Public Reference Branch, Room 130, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580; 202–326–2222. (FTC File No. R711002)

[13] State lemon laws give consumers the right to a replacement or a refund if their new cars cannot be repaired under warranty. Under these lemon laws, if a reasonable number of repair attempts fails to correct a major problem, the manufacturer must either replace the car or refund the full purchase price, less a reasonable allowance for the consumer's use of the car prior to reporting the defect. Most of these laws define a "reasonable number of repair attempts" to be four or more times during the first year of ownership. Consumers may also be entitled to a refund or replacement remedy when a new car has been out of service for repair for the same problem for a cumulative period of thirty days or more within one year following delivery of the vehicle.

[14] 50 FR 18470 (May 1, 1985); 50 FR 20899 (May 21, 1985).

Guarantees," 16 CFR part 239, adopted April 26, 1960, which had become outdated due to developments in Commission case law and, more importantly, changes in circumstances brought about by the Magnuson-Moss Warranty Act and by Rules 701 and 702 under that Act. The 1985 Guides advise that advertisements mentioning warranties or guarantees should contain a disclosure that the actual warranty document is available for consumers to read before they buy the advertised product. In addition, the Guides set forth advice for using the terms "satisfaction guarantees," "lifetime," and similar representations. Finally, the Guides advise that sellers or manufacturers should not advertise that a product is warranted or guaranteed unless they promptly and fully perform their warranty obligations.

B. Analysis of the Comments on the Interpretations, Rule 701, Rule 702, and the Guides

Seven (7) organizations submitted comments in response to the April 3, 1996, **Federal Register** notice.[15] The small number of comments likely reflects that compliance with these Rules and Guides is not burdensome and that seeking rescission or modification of them is therefore not a high priority for industry members most closely affected by them. In fact, the comments generally reflect a strong level of support for the view that the Warranty Rules and Guides are achieving the objectives they were fashioned to achieve—*i.e.*, to facilitate the consumer's ability to obtain clear, accurate warranty information, as well as the consumer's ability to enforce a warrantor's contractual obligations under any written warranty. Some commenters enthusiastically supported the current regulatory regime. For example, AAMA stated that the current system is working well and is not unreasonably costly to warrantors. AAMA stated that the Rules are workable and understood by industry and that there is no evidence that either the adequacy of warranty disclosure or that the legal sufficiency of the warranties given is a major source of complaints; nor is there evidence that customers are unaware of their warranty rights. AAMA cautioned:

> In view of the effectiveness of the current system, AAMA and its members * * * urge the Commission to proceed cautiously in considering a major overhaul to the Rules. Any comprehensive changes will unavoidably involve substantial compliance costs as warrantors and their staffs will have both to unlearn the current system and to assimilate the new provisions. * * * The Magnuson-Moss Warranty Act and the Rules promulgated under it provide an important avenue for consumer protection and establishing consumer confidence in the marketplace and the products they buy. As presently structured, these Rules are workable and effective, and permit warrantor compliance without unreasonable expense. * * * (A) major overhaul of the system is neither necessary or appropriate.

AAMA recommended that, before making any significant changes to the system, the Commission should first conduct a formal study of the marketplace to ensure that changes are needed, the specific proposed revisions would help, and the benefits achieved would outweigh the costs of the changes to industry and to consumers.[16]

NAIMA echoed AAMA's positive appraisal of the benefits derived from the Warranty Rules and Guides. NAIMA cautioned that, in the absence of such guides, there would be an increase in unfair and deceptive uses of warranties to promote products.[17] NAIMA believes that the warranty regulations benefit both consumers and warrantors: the requirements "increase the consumer's confidence in a warranty and increase the likelihood that a consumer will rely on the warranty * * * (T)he honest warrantor also benefits because of increased consumer confidence in warranties."[18] NAIMA noted that the costs of the warranty regulations are not imposed upon businesses by government, but rather are voluntarily assumed by companies that choose to offer written warranties. As such, NAIMA states that "any cost incurred by a firm would be calculated into a business decision to offer a warranty or guarantee and should not be weighed as a factor to eliminate or diminish the requirement."[19]

Four other commenters, although not expressly endorsing retention of the present regulatory regime, supported such retention by implication in suggesting modifications to the rules and guides which they believed would provide greater consumer protections and/or minimize burdens on firms subject to the regulations. One commenter (NRF) recommended that the Commission report to Congress that the Rule 702 was no longer necessary and recommend that Congress amend that portion of Magnuson-Moss requiring a pre-sale availability rule so that Rule 702 could be repealed.[20] However, for the reasons discussed herein, the Commission has decided that both Rule 702 and the other Rules and Guides should be retained. In the following, we discuss in more depth each of the suggestions and the basis for the Commission's decision.

1. 16 CFR Part 700: Interpretations.

a. *"Building materials" exemption.* Under §§ 700.1(c)–(f) of the Commission's Interpretations, building materials are *not* "consumer products" covered by the Act when they are already incorporated into the structure of a dwelling at the time the consumer buys the home. These same building products *are* "consumer products" covered by the Act when they are sold over-the-counter directly to the consumer by a retailer. Two commenters (Cohen and NAIMA) argued that the dichotomy created by this interpretation is confusing and irrational. They asserted that the current interpretation deprives consumers of the benefits and protections of the Act and its Rules when they purchase a home.

Cohen argued that the current interpretation is counter to the legislative history, intent, and language of the Act. The Act defines "consumer product" as "any personal property * * * which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed). (15 U.S.C. 2301(1)) Cohen asserted that building materials fall within the category of personal property intended to be attached to or installed in any real property. Cohen also cited the House Committee's discussion of the definition as support for the proposition that Congress intended that items that were to become part of realty were to be covered by Magnuson-Moss as "consumer products."[21]

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[15] The seven commenters are: (1) American Automobile Manufacturers Association ("AAMA"); (2) Association of International Automobile Manufacturers, Inc. ("AIAM"); (3) Cohen, Milstein, Hausfeld & Toll ("Cohen") by Gary Mason, Esq.; (4) National Consumer Law Center ("NCLC"); (5) National Retail Federation ("NRF"); (6) North American Insulation Manufacturers Association ("NAIMA"); and (7) North American Retail Dealers Association ("NARDA") by James M. Goldberg, Esq., Goldberg & Associates.

[16] AAMA at 2.

[17] NAIMA at 2.

[18] NAIMA at 4.

[19] NAIMA at 3.

[20] NRF at 2.

[21] "There are many products which fall within this definition (tangible personal property normally used for personal, family, or household purposes) which are also used for other than personal, family, or household purposes * * *. Under concepts of property law, fixtures such as hot water heaters and air conditioners when incorporated into a dwelling become a part of the real property. It is intended that the provisions of Title I continue to apply to such products regardless of how they are classified." H.R. Rep. No. 93–1107, 93rd Cong., 2d

The Commission is not persuaded by these arguments. The Commission's analysis starts with the statute. The Commission believes that there are three conclusions that can be drawn based on the language used in the statutory definition of "consumer product." First, the definition assumes the traditional legal distinction between real property and personal property. Second, it clearly places "personal" property within the scope of the Act's coverage. Third, through the drafters' choice of language, the definition obviously stops short of sweeping within the scope of the Act's coverage *all* property, real and personal. In this connection, the legislative history includes the following instructive colloquy, which was part of the floor debate on the legislation by Congressmen Broyhill and Moss, two members of the Conference Committee and of the House Committee responsible for the Act: [22]

Mr. Broyhill of North Carolina. I would like to address a question to Mr. Staggers or Mr. Moss concerning the definition of "consumer product" in section 101(1) of the bill. Would a house be in the definition of consumer product?

Mr. Moss. A house would not fall within the definition of consumer product since a house is not quite "tangible personal property."

Mr. Broyhill of North Carolina. If a warranty applied to component parts of a home such as dry wall, plumbing, heating and air conditioning, would these items be in the definition of "consumer product"?

Mr. Moss. The definition of consumer product in section 101 includes "tangible personal property which is distributed in commerce and which is normally used for personal, family or household purposes—including any such property intended to be attached to or installed in any real property." This definition would apply to any separate equipment such as heating and air conditioning systems which are sold with a new home. However, such a definition would not apply to items such as dry walls, pipes, or wiring which are not separate items of equipment but are rather integral components of a home.

The Commission believes that the Interpretations embody the same practical rationale as that espoused by the Act's sponsor in the above-quoted exchange. The Interpretations draw the line, apparently contemplated by the language of the statute, to separate personalty (covered by the Act) and realty (not covered) in a manner that is clear and workable, and that is consistent with the intent of Congress, to the extent it can be determined. Thus, after having reconsidered this issue, the Commission adheres to the view that its original interpretation is correct and should be retained as written: Structural components of a new home such as lumber, dry wall, pipes or electrical conduit or wiring are not considered separate items of equipment and are not considered consumer products within the meaning of section 101 of the Act. Insulation is another item that is a structural component of a new home and thus would not be a consumer product. These items are not *functionally* separate from the realty. In contrast, such items would be "consumer products" and within the scope of the Act were they purchased either separately or in combination to improve, repair, replace or otherwise modify an existing structure. This distinction holds true regardless of whether the consumer purchased the items for new home construction directly from a retail supplier.

b. Coverage of export items. In its comment, NCLC asked the Commission to reconsider whether its warranty regulations should apply to goods exported to foreign countries. In § 700.1(i) of its Interpretations, the Commission stated that, although the Act arguably applies to products exported to foreign jurisdictions:

> the public interest would not be served by the use of Commission resources to enforce the Act with respect to such products. Moreover, the legislative intent to apply the requirements of the Act to such products is not sufficiently clear to justify such an extraordinary result.

No evidence has been submitted to the Commission that would justify changing its stated position. The Commission's enforcement responsibilities have expanded since adoption of the Interpretations in 1976, spreading scarce law enforcement resources further. Therefore, the Commission has decided to retain § 700.1(i) remain as written.

c. Warrantor's decision as final. Section 700.8 prohibits the warrantor from indicating in any warranty or service contract that the decision of the warrantor, service contractor, or any designated third party is final or binding in any dispute involving the warranty or service contract. NCLC expressed the fear that a warrantor who is also the seller could circumvent this prohibition by placing such a restriction in a document other than the warranty or service contract and, therefore, suggested that the Commission reword this section in order to bar such a possibility. No evidence has been provided, however, to indicate that this hypothetical situation occurs, or that it occurs with a frequency that would merit the expenditure of Commission resources necessary to make the wording change. Absent such evidence, the Commission has decided to retain § 700.8 unchanged.

d. Tying arrangements. Section 700.10 sets out the Commission's interpretations regarding the use of tying arrangements in connection with warranties. Among other things, § 700.10 prohibits conditioning the continued validity of a warranty on the use of authorized repair service for non-warranty service and maintenance. NCLC recommended that the Commission amend § 700.10 to prohibit used car warranties which provide for a percentage (e.g., 25 percent) of parts and labor costs provided the repair is done by the dealer or a place of the dealer's choosing. According to NCLC, these warranties allegedly are for a short term, often 30-days or 1,000 miles. NCLC stated that these warranties are common among "low-end" used car dealers and alleges that the warranties harm consumers because they provide little value and that the consumer has little control over the prices charged for the repair. Since the consumer is paying 75 percent of the repair cost under the warranty, the consumer may actually lose money by using the warranty to obtain repairs, according to NCLC.

The Commission has determined not to incorporate the change NCLC proposed into the Interpretations for two reasons. First, a drafting change probably is not necessary to accomplish what NCLC advocated, since such warranties already likely violate section 102(c) of the Act. Section 102(c) prohibits arrangements that condition warranty coverage on the use of an article or service identified by brand, trade, or corporate name *unless that article or service is provided without charge to the consumer.* Since the consumer must pay a significant charge for parts and labor under these warranties, the warranties may violate section 102(c) by restricting the consumer's choices for obtaining warranty service. Second, the Commission notes that, although consumers may have little control over the prices charged for repairs under such warranties, they do have a choice of whether to use the warranty. Many states have enacted legislation requiring auto servicers to give estimates on any repair to be done. These estimates allow the consumer to shop for the best price. If the consumer realizes that having a repair done under the warranty may actually cost more than having the repair done by an independent servicer, the consumer can go elsewhere for the

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Sess., (1974) *reprinted* in 1974 U.S.C.C.A.N. 7702, at 7716-7717.

[22] *Congressional Record*, Vol. 120, No. 139 (September 17, 1974) p. H9316.

work. For these reasons, the Commission has decided to retain § 700.10 as written.

2. 16 CRR Part 701: Disclosure of Terms and Conditions (Rule 701).

a. "On the face of the warranty" requirement. Two commenters (AAMA and AIAM) suggested that the Commission modify the requirement in § 701.3(a)(7) that limitations on the duration of implied warranties be "disclosed on the face of the warranty." In the case of multi-page warranty documents, § 701.1(i)(1) of the Rule defines "face of the warranty" to mean "the page on which the warranty text begins." The commenters stated that this restriction constrains the warrantor's ability to make the warranty document more user-friendly. They maintain that a warranty booklet is more difficult for consumers to read when the limitations come before complete descriptions of all warranty coverage. These commenters suggest that § 701.3(a)(7) be modified to permit the limitations to appear anywhere within the text of the warranty, provided that the limitations are displayed prominently, clearly and conspicuously.

The Commission believes that § 701.3(a)(7) should be retained without change. One of the problems that led to passage of the Magnuson-Moss Warranty Act was that warrantors frequently gave warranties which at first appeared to offer very expansive coverage, which was in fact severely eroded by provisions buried further on in the document limiting coverage of the written warranty, or of the implied warranties of merchantability or fitness for a particular purpose. Such warranties were deceptive, since they could mislead consumers into thinking that coverage is greater than it actually is. Protection of the consumer's implied warranty rights is the bedrock of the Magnuson-Moss Warranty Act regulatory scheme. Accordingly, it is essential that any limitation on these rights be disclosed up-front and not buried elsewhere in a multi-page document. The Commission has been provided with no evidence that would compel revision of this core provision of Rule 701.

b. Value thresholds. Two commenters [23] suggested that the Commission should modify §§ 701.3(a) and 702.3 to increase the threshold for products subject to the rules in order to account for the impact of inflation. The AAMA suggested that the threshold be raised from $15 to $25, and also suggested that the Commission report to Congress, recommending that the corresponding value thresholds in the statute itself also be adjusted (15 U.S.C. 2302(e) and 2303(d)).[24] The Commission, however, believes that the dollar thresholds set out in the rules and in the statute remain appropriate. The statute and the rules were drafted to be flexible. There is no requirement that a company offer a written warranty. Therefore, a company that sells a product costing less than $15 is under no obligation to give a written warranty. The costs of compliance are minimal for those products that cost under $15—*i.e.*, principally a prohibition against warranty tying arrangements and a requirement that the warranty be labeled either "limited" or "full."

Furthermore, the Commission believes that consumers might be deprived of important protections if the threshold for rule coverage were to be raised to $25. Although many warrantors voluntarily would continue to disclose fully the terms and conditions of the warranty, others might choose not to do so since the legal obligation would no longer be present. It is true that, if a low-cost product were to malfunction, some consumers might choose to simply throw it away and purchase another. However, not all consumers view products costing $15–$25 as disposable. Some consumers might choose to assert their warranty rights in getting the product repaired or replaced.[25] Therefore, the Commission has decided that the threshold values for coverage by the statute and the rules shall remain unchanged.

c. Use of owner registration cards. One commenter [26] recommended that § 701.4 [27] should be eliminated due to perceived conflict with the Commission's interpretations in 16 CFR 700.7(b) regarding the use of owner registration cards in connection with a *full* warranty, and with the intent of Section 104(b)(1) of the Act.[28] NARDA stated the view that retaining 701.4 would allow manufacturers to continue "raiding" retailer customer lists under the guise of "warranty card registration." NARDA opined that such customer information can be used by manufacturers to compete directly with the retailer in offering service contracts and other products. NARDA did not oppose that manufacturers be allowed to collect demographic and similar market information on consumers, but urged that they should not be allowed to do so under the premise of conditioning warranty coverage on the furnishing of that information.

A second commenter (NCLC) suggested that § 700.7(c) should be clarified to prohibit return instructions for registration cards that imply that returning the card is necessary in order to obtain warranty coverage. NCLC cites language such as "Return this card to ensure warranty registration" as misleading because consumers are led to believe that registration is necessary to obtain coverage.

The Commission is aware that warrantors commonly request that purchasers return owner or warranty registration cards in order to obtain marketing and demographic information. The required return of such owner registration cards is prohibited as an "unreasonable duty" *only* when the warrantor gives a full warranty; requiring return of such cards is permitted under a *limited* warranty as long as the warrantor discloses in the

[23] AAMA at 3; NAIMA at 5.

[24] Section 102(e) of the Act provides that all written warranties on consumer products costing $5 or more will be subject to the provisions of section 102. This threshold serves two purposes: First, it insures that any warrantor giving a written warranty on a consumer product costing $5 or more may not condition the warranty on the consumer's use of a specific brand or trade name of product or service (15 U.S.C. 2302(c)). Second, this section sets a floor for the written warranties to be covered by the Commission rules which were to be promulgated under the Act. Those rules could set the threshold higher than $5, but could not lower the threshold to encompass all products. In addition, section 103(d) provides that only those warranties on products costing $10 or more must adhere to the labeling requirements of section 103 (*i.e.*, labeling the warranty either "limited" or "full.")

[25] This position has some support from the 1984 Warranty Consumer Follow-Up Study, ("Warranty Rules Consumer Follow-Up: Evaluation Study Final Report" (1984), at ES–4. ("Warranty Study")), in which over 30 percent of the respondents felt that it was important to see the warranty for products costing as little as $15.

[26] NARDA at 1–2.

[27] Section 701.4 requires a warrantor to disclose in the warranty if an owner or warranty registration card is a condition precedent to warranty coverage. The section also requires the warrantor to disclose that the return of the card is not necessary for warranty coverage if the return of such a card reasonably appears to be a condition precedent to warranty coverage and performance, but is not such a condition.

[28] Section 104(b)(1) of the Act prohibits a warrantor that offers a "full" warranty (*i.e.*, one that meets the minimum standard of coverage set out in section 104(a)) from imposing on the consumer any duty other than notification in order to obtain warranty service. Section 770.7 of the Interpretations cover the use of warranty registration cards as a condition precedent to perform obligations under a full warranty and whether the use of such cards constitutes an "unreasonable duty" in violation of section 104(b)(1). The Interpretations state that the use of such cards constitute an "unreasonable duty" when their return is a condition precedent to warranty performance and coverage under a full warranty. However, warrantors may suggest the use of such cards as one possible means of proof of the purchase date of the product. In addition, sellers can use these cards to obtain information from purchasers at the time of sale on behalf of the warrantor.

warranty that the consumer must return the card in order to get coverage.

However, no evidence submitted to the Commission identified specific situations where the return of such a card is a condition precedent for warranty coverage, or how often this occurs, if at all. Nor has any evidence been provided that consumers actually are being misled by the language used on owner registration cards. The record, therefore, contains no indication that such language is inherently deceptive or misleading and as such should be banned. (Of course, particular language or instructions could still be challenged as deceptive or unfair under section 5 of the FTC Act (15 U.S.C. 45)).

In sum, in the absence of specific evidence that these cards are being misused by warrantors and/or that the language used is inherently deceptive or misleading, the commission believes that §§ 701.4 and 700.7 should remain unchanged.

3. 16 CFR 702: Pre-Sale Availability (Rule 702)

a. Should the Rule be Rescinded? The NRF proposed that Rule 702 no longer serves the purpose for which it was intended and that it should be rescinded. Section 102(b)(1)(A) of the Magnuson-Moss Warranty Act [29] directs the Commission to promulgate rules requiring that the terms of any written warranty be made available to the consumer prior to sale. Because the Act specifically requires a pre-sale availability rule, the NRF recommended that the Commission report to Congress that the rule is no longer necessary to ensure that consumers are informed about warranties and request that Congress repeal section 102(b)(1)(A) of the Act.

The NRF asserted that consumers no longer need Rule 702 in order to obtain information about warranties since a variety of sources exist for consumers to educate themselves about consumer issues in general, including warranties. To buttress this argument, the NRF cited an anecdotal survey conducted by three of its members indicating that consumers rarely request warranty information from retailers.[30] The NRF also cited the Commission's 1984 Warranty Study as further support for rescinding the rule. According to NRF, that study indicated that the primary reason consumers did not ask retailers for warranty information was that they already knew all they needed to know about the warranty for the particular product they were buying.[31] The NRF reasoned that since few consumers request warranty information from retailers, most consumers are aware of warranties. Therefore, according to NRF, the Commission is imposing unnecessary costs on retailers to maintain product warranties on hand and up to date.

The Commission believes that NRF is misguided in its interpretation of the Warranty Study results. The Commission believes that the Warranty is more a measure of the importance of warranties in making a purchase decision on certain products rather than the importance to consumers of pre-sale availability of warranty information generally on all products. The study shows that warranties were considered in the purchase decision for 54.2 percent of the products for which buyers comparison shopped.[32] In 40 percent of those cases, consumers reported having information about the warranty prior to purchasing the product. Of those 40 percent, 23.1 percent said that they received at least some of that information from reading the warranty.[33] The study goes on to state:

> Most consumers [who did not read warranties before buying] did not believe pre-purchase warranty reading was important **in that particular instance**. * * * While very few consumers appear to engage in serious warranty reading, **most feel that it is important to see the written warranty before buying—only 11.8 percent of the respondents believed that it was never important to see the warranty before buying.** [emphasis added] [34]

If most consumers believe that it is important to see the warranty before buying in some instances, the Commission believes that it would not be in the public interest to recommend legislative action that would permit rescission of Rule 702. Certainly, before recommending that such a drastic step be taken, the Commission would require more up-to-date factual evidence countering the results of the 1984 Warranty Study regarding the importance to consumers of having warranty information available before the sale.

The Commission believes that Rule 702 continues to serve the purpose for which it was intended: to ensure that full and accurate warranty information is available prior to sale when consumers want it. In some instances and with respect to some purchases, consumers might be satisfied with general information about a warranty that can be gleaned from other sources such as advertising or a salesperson's oral presentation. Nonetheless, the warranty survey indicates that, in a substantial number of instances, such information will not satisfy consumers' needs. Because a warranty is a legally enforceable document that defines the respective rights and obligations of the purchaser and the warrantor, a summary description of the warranty, derived from advertising or from a salesman's oral representations, may or may not completely and accurately convey material terms of coverage. Such alternative sources of information are an inadequate substitute for the actual text of the warranty.

Furthermore, the 1987 amendment to Rule 702 gave retailers a great deal of flexibility in how to comply with the rule and alleviated much of the burden imposed by the original rule. The Commission believes that this flexibility has made compliance costs minimal. Anecdotal information provided by the NRF for three members regarding compliance costs does not provide an adequate basis to conclude that compliance costs outweigh benefits and that Congress should repeal the Act's requirements for a rule on pre-sale availability of warranty information.

b. Posting requirement. NARDA recommends that the Commission should amend § 702.3(a) to eliminate the requirement that retailers post signs notifying customers where actual copies of the warranties may be obtained.[35] NARDA maintains that since the rule was adopted in 1975, compliance with

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[29] 15 U.S.C. 2302(b)(1)(A).

[30] The NRF also cites the Commission's statement in its 1987 amendment of Rule 702 that "consumers rarely consult warranty binders." (NRF at 2, citing 52 FR 7569, 7569 (March 12, 1987). However, the Commission notes that it made this statement in the context of explaining why the specific detailed methods of compliance were not needed and why detailed regulatory requirements were unnecessary. While the statement is useful in explaining why more flexible methods are necessary to provide warranty information, Commission believes that it would be incorrect to infer from that statement that it is unnecessary to ensure that warranty information is available.

[31] Warranty Study at 57.

[32] The Warranty Study implies that one reason many consumers do not read warranties before buying a product is because they rarely experience problems with the products they purchase and, those who do, had few problems in obtaining satisfactory repairs under the warranty. (Warranty Study at ES–3)

[33] Warranty Study at ES–2. The Warranty Study also indicates that more people apparently learn about warranties from salespersons and newspaper or magazine articles than from an actual reading of the document. However, more people will seek out warranty information on high-priced goods. (Warranty Study at 50)

[34] Warranty Study at ES–4.

[35] Section 702.3(a) requires the retailer to either display the actual product warranty in close proximity to the product, or to furnish it upon request. If the retailer chooses to furnish it on request, the retailer must place signs in prominent locations advising buyers that copies of warranties are available upon request.

the posting requirement has ebbed to the point where few retailers comply. However, despite the alleged non-compliance, NARDA believes that there has been no corresponding decrease in information made available to consumers. NARDA recommends that the rule should be amended to eliminate the posting requirement and simply require retailers to make warranty information available upon request.[36] NARDA believes that this modification would cause no consumer harm and would eliminate compliance costs for those retailers who do attempt to comply with the requirement.

Commission has been concerned about the non-compliance with the Rule 702 that NARDA alleges is commonplace. As a result, the Commission has brought several actions against major retailers in recent years for failing to comply with the rule's requirements.[37] These actions place all retailers on notice that they risk Commission action by ignoring their compliance responsibilities under Rule 702. If NARDA is correct that there is widespread non-compliance with the posting requirements of Rule 702, such non-compliance would not support eliminating the requirement as much as it would support an argument for increased enforcement activity.[38]

NARDA does not offer any empirical evidence regarding the compliance costs of posting signs regarding the availability of warranty information. When the Commission amended Rule 702 in 1987, it substituted the posting requirement for the requirement in the original rule that specified the particular methods by which retailers should make the warranty information available (*e.g.*, by the use of a binder). At that time, the evidence available to the Commission indicated that the cost of posting signs is relatively low. The Commission concluded that, on balance, this low compliance cost was substantially outweighed by the potential benefit of raising consumer awareness about their ability to obtain warranty information. The Commission has seen no evidence which would challenge this conclusion and, therefore, has determined that § 702.3(a) be retained unchanged.

c. Plain language warranties. One commenter (NCLC) suggested that the Commission amend § 702.3 to require the display of "key points" of warranties, especially on big-ticket items.[39] NCLC also suggested that the Commission consider creating model "plain-language" warranty forms as a guide on how to write warranties that can be easily understood.

The Commission believes that market forces already drive many warrantors and retailers to promote the key points of their warranties, in print and broadcast media as well as in point-of-sale promotional pieces. In fact, because of this competition, the Commission issued its Guides for the Advertising of Warranties and Guarantees to ensure that consumers are not misled into thinking that the "key points" mentioned constitute all material terms of coverage. The Guides require a statement directing consumers to where they can obtain full details of the warranty. Given the apparent healthy competition in promoting warranties, the Commission sees no basis for government intervention to impose such a "key points" disclosure requirement. With regard to creating model "plain-language" warranty forms, the Commission believes that the examples and guidance set out in the FTC business education publications, *A Businessperson's Guide to Federal Warranty Law* and *Writing Readable Warranties*, are sufficient to assist those who want to make their warranties readable.[40]

4. 16 CFR Part 239: Warranty Guides

One commenter (AIAM) suggested that the Commission amend the Warranty Guides to eliminate the requirement that an advertisement mentioning a warranty also include a statement of where the consumer can find complete details about the warranty. The AIAM believed that, at least for automobiles, the statement "See your dealer for details" is a "statement of the obvious and accordingly unnecessary."

The Commission does not believe the disclosure of such information is unnecessary. The message intended is not just that the dealer or other retailer has the warranty; that much is obvious. What may not be obvious is the remainder of the message: that prospective purchasers have a right to read the warranty, if they desire, before purchasing. Because the aspects of warranty coverage touted in an advertisement may not necessarily provide a complete understanding of a warranty's overall coverage, the Commission believes that it is important to alert consumers that the actual warranty text is available for review, to obtain an accurate and complete understanding of the coverage. Accordingly, the Commission has determined to retain the Warranty Guides unchanged.

C. Analysis of Comments on Rule 703

Thirteen (13) organizations submitted comments in response to the April 2, 1997 **Federal Register** notice.[41] The comments generally reflected strong support for the Rule 703 and indicated that the Rule is achieving the objectives it was fashioned to achieve—*i.e.*, to encourage the fair and expeditious handling of consumer disputes through the use of informal dispute settlement mechanisms.[42] Commenters pointed to the importance of Rule 703 in serving as a standard for IDSMs in general (particularly in the absence of any other standards from private or government organizations) and, more specifically, in providing a benchmark for the state lemon law IDSMs.[43] Commenters noted that, for those 45 states that incorporate Rule 703 into their lemon laws or reference the Rule in these laws, [44] Rule

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[36] NARDA at 2–3.

[37] *See, e.g.*, Circuit City Stores, Inc., FTC Docket No. C–3389 (1992); Nobody Beats the Wiz, FTC Docket No. C–3329 (1991); The Good Guys, FTC Docket No. C–3388 (1992); Sears, Roebuck & Co., FTC Docket No. C–3529 (1994); Montgomery Ward & Co., FTC Docket No. C–3528 (1994); and R.H. Macy & Co., Inc., FTC Docket No. C–3115 (1994). In addition, the Commission brought an action against a mail order company which included charges that the company had violated Rule 702 *See*, Advance Watch Co., Civil Action No. 94 CV601 78AA (E.D. Mich. 1994).

[38] Interestingly, the NRF recognized the Commission's commitment to enforcing Rule 702 and asked the Commission to "reexamine its enforcement priorities in this area." (NRF at 2).

[39] Section 702.3 is the core section of Rule 702 that sets out the duties of the seller and the warrantor in making warranty information available prior to sale.

[40] These publications as well as other consumer and business education brochures and other materials are available online in the *FTC Consumer Publications* and *FTC Business Publications* sections of the FTC's Home Page, located at http://www.ftc.gov/ftc/news.htm.

[41] The thirteen commenters are: (1) American Automobile Manufacturers Association ("AAMA"); (2) Association of International Automobile Manufacturers, Inc. ("AIAM"); (3) California Arbitration Review Program ("California"); (4) The CIT Group ("CIT"); (5) Consumers for Auto Reliability and Safety Foundation ("CARS"); (6) Council of Better Business Bureaus, Inc. ("BBB"); (7) Jay R. Drick, Esq. ("Drick"); (8) Manufactured Housing Institute ("MHI"); (9) Frank E. McLaughlin ("McLaughlin"); (10) National Association of Consumer Advocates ("NACA"); (11) National Consumer Law Center, Inc. ("NCLC"); (12) P.R. Nowicki & Company ("Nowicki"); and (13) Donald Lee Rome, Esq., Robinson & Cole ("Rome").

[42] AAMA at 1; AIAM at 1; BBB at 1–2; California at 1; CARS at 2; McLaughlin at 2–3; NACA at 1; NCLC at 1; Nowicki at 2. Although not expressly endorsing retention of the present regulatory regime, three other commenters (CIT, MHI, and Rome) supported such retention by implication in suggesting modifications to the Rule which they believed would provide greater consumer protections or would reduce burdens on firms subject to the regulations. CIT, MHI, and Rome. Only one commenter (Drick) recommended that Rule 703 be rescinded, stating that the Rule serves no useful purpose since few if any programs actually operate under Rule 703. Drick at 2.

[43] AAMA at 1; BBB at 2.

[44] Many state lemon laws prohibit consumers from pursuing a state lemon law action in court

703 provides either the sole standard or a critical part of the standards that are used to determine the threshold acceptability of a dispute resolution program in accordance with state law prior resort requirements.[45] Commenters believed that the minimum standards set out in Rule 703 were developed with forethought and have withstood the test of time and usage.[46] As one commenter put it, "Rule 703 is an integral part of a wide-ranging system of informal dispute resolution procedures * * * (which) functions smoothly and provides quick, inexpensive and informal dispute resolution."[47]

Commenters cautioned the Commission that rescinding the Rule would create significant problems for consumers and manufacturers because of the impact such action would have on the functioning of state lemon laws.[48] Rescission would create a vacuum in the 45 states that reference Rule 703 in their lemon laws, thus requiring massive efforts to alter existing state laws and reconfigure auto maker programs.[49] The uniformity in dispute resolution programs which Rule 703 promotes would be lost, to the detriment of consumers, warrantors, IDSMs, and state governments.[50]

Commenters generally did not think that compliance with the Rule was particularly burdensome or costly. The AAMA estimated that its three member companies pay the independent suppliers that administer their IDSMs an estimated $10 million, in addition to corporate staff support or related filing, recordkeeping or administrative costs.[51] However, other commenters noted that, except for the annual audit and specific record keeping requirements in Rule 703, most of the costs involved are the administrative costs that would be associated with the operation of any dispute resolution program.[52] The only IDSM to submit a comment was the BBB which operates the BBB AUTOLINE program. The BBB estimated that the annual costs of Rule 703's audit and record keeping requirements were less than $100,000 for the entire AUTOLINE program.[53] California stated that manufacturers have indicated that IDSM programs are a cost effective way to avoid expensive litigation and that they would continue to use these programs for warranty disputes even if not required to do so by state lemon laws.[54]

Based on its review of the comments and on its experience with the evolving area of alternative dispute resolution, the Commission has decided to retain Rule 703 unchanged. Although most commenters supported retention of Rule 703, they also recommended certain modifications that they believed would benefit consumers or reduce the burden on warrantors and IDSMs. These recommendations fall into four major categories: (1) Certification or other oversight of IDSM compliance; (2) mandatory pre-dispute arbitration clauses; (3) increasing the time limit for rendering a decision from 40 days to 60 days; (4) encouraging a mediation approach to dispute resolution; and (5) other suggested modifications (*e.g.*, allowing electronic storage of records and changing the nature of the required statistical compilations).

1. *Certification and oversight of IDSMs.* Commenters generally expressed the view that a need exists for stronger government oversight both on the federal and state levels and for increased funding to monitor IDSM and warrantor operations to ensure that their procedures comply with Rule 703.[55] However, commenters did not suggest how such increased oversight or monitoring could, as a practical matter, be achieved given the voluntary nature of the Rule. As noted, the Rule applies only to warrantors who "give or offer to give a written warranty which incorporates an informal dispute settlement mechanism,"[56] but few warrantors incorporate an IDSM into their warranties—*i.e.*, few include a prior resort requirement in their warranties. Therefore, there are few IDSMs that come within the ambit of the Rule's existing monitoring requirement (in § 703.7), which mandates an annual audit for compliance with the Rule.[57] The comments do not support radically revising the Rule to mandate use of IDSMs across the board, regardless of whether a warrantor incorporates an IDSM into its warranty.

Despite the fact that the Rule seldom comes into play in the manner originally contemplated (*i.e.*, by inclusion of prior resort requirements in warranties), the Rule now serves as an essential reference point for state lemon laws. Specifically, many state lemon laws, paralleling section 110(a)(3) of the Warranty Act, prohibit the consumer from pursuing any state lemon law rights in court unless the consumer first seeks a resolution of the claim to the manufacturer's (or a state-operated) IDSM.[58] Those statutes also provide that the consumer is required to use the manufacturer's IDSM *only* if it complies with the FTC's standards set out in Rule 703. Thus, in effect, these states incorporate Rule 703 into their lemon laws.[59] A threshold question for many state lemon law suits is whether the IDSM complies with Rule 703 and thus whether the consumer must use that IDSM or may proceed directly to a court action.

The problem of determining compliance is not a new one.[60] The auto manufacturers recommended nationwide certification of IDSM compliance with Rule 703, possibly through a neutral third-party organization, that would preempt state

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unless the consumer first attempts to resolve the claim through the manufacturer's IDSM, *if* it complies with Rule 703.

[45] BBB at 2.

[46] McLaughlin at 2; Nowicki at 2.

[47] AIAM at 1.

[48] AIAM at 1; McLaughlin at 2–3; Nowicki at 2. As mentioned, many state lemon laws require consumers to resort to a manufacturer's IDSM before pursuing a legal remedy in court. However, the consumer is required to do so *only if* the IDSM complies with Rule 703.

[49] AIAM at 1; Nowicki at 2.

[50] McLaughlin at 2.

[51] AAMA at 2–3. Another report indicated that GM alone spent $8.4 million in 1994 on its BBB AUTOLINE program. Leslie Marable, "Better Business Bureaus Are A Bust," *Money*, October 1995, p. 108, cited in Nowicki at 5, fn. 5.

[52] BBB at 3; California at 2. CARS noted that any discussion of cost burdens by the manufacturers should be viewed with skepticism since most have opted not to offer Rule 703 programs and thus they are not in a position to calculate any additional costs that a 703 program would cause them to incur. CARS at 6, 7.

[53] BBB at 3. The AAMA estimated that the annual aggregate cost for its three members to conduct the annual audits is about $160,000. AAMA at 3. (One of the three members of AAMA is General Motors, which uses the BBB AUTOLINE as its dispute resolution mechanism; thus, there may be some duplication between the BBB figures and the AAMA figures.)

[54] California at 2.

[55] CARS at 3; McLaughlin at 3–4; Nowicki at 4–5. One suggestion was to use the model of California and Florida where manufacturers pay between 25–28 cents on each car sale to fund the state lemon law programs, including the annual review of IDSM operations. Nowicki at 5. Another commenter suggested that increased warrantor and IDSM compliance might be achieved at a lower cost by establishing a voluntary offenders program similar to the Funeral Rule Offenders Program ("FROP"), which is used in conjunction with law enforcement actions under the Commission's Funeral Rule, 16 CFR part 453. McLaughlin at 4.

[56] 16 CFR 703.1(d).

[57] Nonetheless, the manufacturer IDSMs continue to submit annual audits to the FTC on a voluntary basis.

[58] "Lemon laws" entitle the consumer to obtain a replacement or a refund for a defective new car if the warrantor is unable to repair the car after a reasonable number of repair attempts.

[59] Some state lemon laws require that the IDSM comply with additional state standards in addition to complying with the Rule 703 provisions. For example, approximately ten states (CA, CT, FL, GA, IA, NJ, NY, OH, OR, WI) require manufacturer IDSMs to maintain state-specific records in addition to the recordkeeping requirements in Rule 703.

[60] In 1988, the auto manufacturers petitioned the Commission to initiate a rulemaking proceeding to amend Rule 703, proposing, among other things, that the Commission institute a national certification program for IDSMs in order to determine whether a specified warrantor or IDSM complies with Rule 703's standards.

certification standards.[61] The manufacturers argued that a federal certification program would be an incentive to warrantors to set up Rule 703 IDSMs because, among other benefits, it would eliminate the uncertainty of conflicting state certification standards and the risk of litigation over the issue of whether a mechanism complies with Rule 703.[62] Manufacturers further argued that not only does the lack of a national certification program lead to economic inefficiencies, but it also harms consumers by prolonging the dispute settlement process through fostering litigation over the issue of compliance.[63] The manufacturers maintained that non-uniformity in federal and state laws increases costs to warrantors, to IDSMs, and to consumers, thus frustrating the Congressional policy stated in the Warranty Act[64] of encouraging the development of IDSMs.

The Commission recognizes that a uniform certification program could possibly diminish uncertainty as to whether an IDSM complies with Rule 703 and, thus, whether the consumer must use the IDSM before pursuing a court action. Nonetheless, for the reasons stated below, the Commission has decided to reject the suggestion that it institute a national certification program.

First, it is possible that FTC certification would not eliminate an IDSM's alleged non-compliance with Rule 703 as an issue for litigation, but merely shift the focus for consumer litigants to challenge FTC certifications.[65] Such an outcome would not likely curtail the litigation that the manufacturers allege makes final resolution of disputes elusive; in fact, such a certification program might well prolong and further complicate such litigation.

Second, as a general matter, the Commission traditionally has been unwilling to commit its limited law enforcement resources to regulatory schemes that entail licensing or prior approval, such as the certification program recommended by some commenters. The Commission, moreover, would be loathe to take regulatory action likely to exert a chilling effect on competition and on experimentation by IDSMs, warrantors, and state governments in setting up and administering these programs.

Finally, were the Commission to follow some commenters' recommendation to preempt state certification standards through a federal certification program, it could jeopardize the very laws that give force to Rule 703's IDSM standards by incorporating them into state lemon law statutory schemes. For these reasons, the Commission has determined not to undertake a national certification program for IDSMs.

2. *Binding arbitration clauses.* Two commenters urged that the Rule be amended to permit mandatory binding arbitration clauses in consumer contracts,[66] while comments from two consumer advocacy groups (NACA and NCLC) urged the Commission to continue the Rule's current prohibition against binding arbitration.[67] NACA and NCLC pointed to the increased use by corporations of mandatory binding arbitration clauses in standard form contracts with consumers. They expressed the belief that the use of binding arbitration is more favorable to institutional interests than to the consumer and that it provides the corporation with a way to avoid class actions, punitive damage awards, attorney fee awards, discovery, and juries.[68] NACA and NCLC indicated that the use of mandatory binding arbitration clauses is expanding in the securities, credit, and health care industries and expressed the fear that, without the protection of Rule 703 in its current form, warrantors may begin to require mandatory binding arbitration as a precondition of warranty coverage on consumer products.

The Commission examined the legality and the merits of mandatory binding arbitration clauses in written consumer product warranties when it promulgated Rule 703 in 1975. Although several industry representatives at that time had recommended that the Rule allow warrantors to require consumers to submit to binding arbitration, the Commission rejected that view as being contrary to the Congressional intent.

The Commission based this decision on its analysis of the plain language of the Warranty Act. Section 110(a)(3) of the Warranty Act provides that if a warrantor establishes an IDSM that complies with Rule 703 and incorporates that IDSM in its written consumer product warranty, then "(t)he consumer may not commence a civil action (other than a class action) * * * *unless he initially resorts to such procedure.*" (Emphasis added.) This language clearly implies that a mechanism's decision cannot be legally binding, because if it were, it would bar later court action. The House Report supports this interpretation by stating that "(a)n adverse decision in any informal dispute settlement proceeding would not be a bar to a civil action on the warranty involved in the proceeding."[69] In summarizing its position at the time Rule 703 was adopted, the Commission stated:

> The Rule does not allow (binding arbitration) for two reasons. First * * * Congressional intent was that decisions of section 110 Mechanisms not be legally binding. Second, even if binding Mechanisms were contemplated by section 110 of the Act, the Commission is not prepared, at this point in time, to develop guidelines for a system in which consumers would commit themselves, at the time of product purchase, to resolve any difficulties in a binding, but nonjudicial proceeding. *The Commission is not now convinced that any guidelines which it set out could ensure sufficient protection for consumers.* (Emphasis added.)[70]

Based on its analysis, the Commission determined that "reference within the written warranty to any binding, non-judicial remedy is prohibited by the Rule and the Act."[71] The Commission believes that this interpretation continues to be correct.[72] Therefore, the Commission has determined not to amend § 703.5(j) to allow for binding arbitration. Rule 703 will continue to prohibit warrantors from including

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[61] *See, generally,* AAMA and AIAM.

[62] AAMA at 2, 5–6; AIAM at 2.

[63] AAMA at 2. No data was supplied as to the actual number of cases in which compliance with Rule 703 is litigated.

[64] 15 U.S.C. 2310(a)(1).

[65] Conceivably, auto manufacturer litigants also might challenge the denial of certification.

[66] MHI and CIT proposed a "streamlined" warranty dispute resolution process when the dispute is related to manufactured homes. Among other characteristics of such a process, MHI recommended that the process allow the decision of the IDSM to be binding on the parties.

[67] *See, generally,* NACA and NCLC. Section 703.5(j) of the Rule states that the informal dispute settlement procedure *cannot* be legally binding on any person.

[68] NACA at 1–2; NCLC at 2–3.

[69] House Report (to accompany H.R. 7917), H. Report, No. 93–1107, 93d Cong., 2d Sess. (1974), at 41.

[70] 40 FR 60168, 60210 (1975). The Commission noted, however, that warrantors are not precluded from offering a binding arbitration option to consumers *after* a warranty dispute has arisen. 40 FR 60168, 60211 (1975).

[71] 40 FR 60168, 60211 (1975).

[72] At least one federal district court has upheld the Commission's position that the Warranty Act does not intend for warrantors to include binding arbitration clauses in written warranties on consumer products. *Wilson* v. *Waverlee Homes, Inc.*, 954 F. Supp. 1530 (M.D. Ala. 1997). The court ruled that a mobile home warrantor could not require consumers to submit their warranty dispute to binding arbitration based on the arbitration clauses in the installment sales and financing contracts between the consumers and the dealer who sold them the mobile home. The court noted that a contrary result would enable warrantors and the retailers selling their products to avoid the requirements of the Warranty Act simply by inserting binding arbitration clauses in sales contracts. *Id.* at 1539–1540.

binding arbitration clauses in their contracts with consumers that would require consumers to submit warranty disputes to binding arbitration.

3. *Increase time limit for rendering a decision from 40 days to 60 days.* The BBB recommended that the time limit for rendering a decision be increased from 40 days to 60 days, at least for those dispute resolution programs that provide for oral hearings.[73] The BBB stated that BBB and State experience with arbitration programs indicates that time requirements should be more flexible in order to provide for an arbitration hearing, and notes that several states with state-run programs (*e.g.*, Florida, Connecticut, and Texas) allow for a 60-day time period to render decisions.[74]

The BBB argued that the 40-day time frame set by Rule 703 may work to the detriment of consumers because the BBB is often unable to accommodate consumer requests for delay or postponement of hearings because the Rule requires that disputes be resolved within 40 days. Furthermore, the BBB maintained that the 40-day time period often constrains their efforts to mediate disputes for those consumers who prefer a mediated resolution rather than the more formal arbitration process that Rule 703 sets forth.

When the Rule was promulgated in 1975, the Commission received many comments on its proposal that decisions must be rendered within 40 days. Many consumer commenters believed that 40 days was too long to wait when there is a malfunctioning product, while industry comments generally took the position that the time limit was too short.[75]

The goal of encouraging fair and expeditious informal handling of consumer warranty disputes remains an important step in providing consumers a means to obtain relief for defective products. The Commission's intent in promulgating the requirements set out in Rule 703 was to avoid creating artificial or unnecessary procedural burdens so long as the basic goals of speed, fairness, and independent participation are met.[76] The Commission is concerned that by the time a dispute has ripened to referral to an IDSM the consumer in many cases has already had to contend with a defective product for a protracted period. The Commission is concerned that any period longer than 40 days would, in many cases, serve only to wear down consumers so they will abandon their attempts to obtain redress. In the absence of firmer evidence to the contrary, the Commission believes that the 40-day time period, on balance, is beneficial to consumers most in need of an IDSM remedy. The Commission believes that the 40-day time limit should remain in effect.

4. *Encourage the use of a mediation approach to settling disputes.* Two commenters sounded the theme that warrantors, consumers, and IDSMs need flexibility to fashion dispute resolution procedures using mediation and other forms of alternative dispute resolution mechanisms so disputes can be resolved in an expeditious and cost effective manner.[77] MHI recommended that mediation be allowed in addition to, or in lieu of, arbitration.[78] Donald Rome recommended that the Rule encourage mediation as an approach to facilitate the early resolution of warranty disputes in a manner that would better meet the needs and expectations of consumers than more formal arbitration proceedings.[79]

The Commission supports the use of mediation to achieve a mutually-agreed-upon settlement among the parties to the dispute prior to initiating the more formal arbitration process outlined in the Rule. Indeed, § 703.5(d) itself implies that there will be ongoing attempts to settle the dispute short of having the decision maker render a decision.

If the dispute has not been settled, the Mechanism shall, as expeditiously as possible, but at least within 40 days of notification of the dispute * * * render a fair decision. (Emphasis added.)

The Commission has made clear, however, that the use of mediation must not impede those consumers who wish to pursue a remedy through other avenues (*e.g.*, arbitration and litigation). Those avenues must be readily accessible if mediation does not produce a satisfactory resolution of the dispute. In addition, consumers must not be obligated to use mediation *instead* of the Rule 703 arbitration process, nor should they be pressured into accepting a settlement that is unsatisfactory to them. The Commission articulated its position on this subject in 1984 when it granted limited exemptions from Rule 703, for a two-year trial period, to the BBB, the Chrysler Customer Arbitration Board, the Automotive Consumer Action Panel, and the Ford Consumer Appeals Board programs.[80] The exemptions suspended the 40-day time limit and extended the Rule's time limit for arbitration decisions to 60 days in order to allow the programs up to 20 days to pursue mediation prior to conducting arbitration. In granting the exemption, however, the Commission imposed three conditions to ensure that consumers retained control over the speed of the process.

(1) The mediation process must be optional. Consumers should not be required to participate in mediation and must be allowed to terminate mediation at any time during the process and still obtain a decision from the IDSM.

(2) As soon as the consumer notifies the IDSM that he or she elects to terminate mediation and begin the arbitration process, the IDSM must render a decision within 40 days of that notification, or within 60 days of the date on which the IDSM first received notification of the dispute, whichever is less.

(3) The above two conditions must be disclosed clearly and conspicuously to the consumer after the mechanism has received notice of the dispute and prior to beginning the arbitration process.

The Commission believed that these conditions would ensure that consumers would not lose any of their protections under Rule 703 for a speedy and fair resolution of their warranty disputes. Consumers would retain control over which approach (mediation and/or arbitration) they wished to use and also would control the speed of the process.

The Commission continues to believe that mediation's informality, flexibility, and emphasis on the particular needs of

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[73] BBB at 2.

[74] BBB at 2. Twelve states offer consumers the opportunity to use a state-run arbitration program in addition to, or in lieu of, a manufacturer-sponsored IDSM. Although those states require that the manufacturer-sponsored IDSM comply with Rule 703's 40-day requirement, ten of them allow their state-run panels longer than 40 days to render a decision. The time limits for state-run panels in those twelve states are as follows: **40 days:** NJ, NY; **45 days:** HI, ME, MA. The remaining states require decisions within 50–150 days: **50 days:** VT (30 days to hold hearing and 20 days thereafter to render decision); **60 days:** CT, FL; **70 days:** NH (40 days to hold hearing and 30 days thereafter to render decision) and WA (10 days to forward application to Board, 45 days thereafter to hold hearing, and 15 days after hearing to render decision); **150 days:** TX (60 days to render decision after hearing; if process not completed within 150 days of date consumer application and fee received, consumer can go into court); **no stated time limit:** GA.

[75] 40 FR 60168, 60208. Consumer witnesses recommended a time period of 10 to 30 days, while industry recommended a 90-day limit.

[76] 40 FR 60168, 60193.

[77] *See,* Rome; MHI.

[78] MHI, Appendix A at 3.

[79] *See, generally,* Rome.

[80] 49 FR 28397 (July 12, 1984) (Approval of Exemption for BBB, Chrysler, and Automotive Consumer Action Panel); and 50 FR 27936 (July 9, 1985) (Approval of Exemption for Ford Consumer Appeals Board). These programs did not renew their requests for exemptions after the two-year trial period ended.

disputing parties makes it a useful tool in achieving a fair and expeditious resolution of consumer product warranty disputes. However, the Commission does not believe that it is necessary to amend the Rule to specifically encourage the use of mediation since the Rule's provisions already allow for such settlements before a decision is rendered.

5. *Other recommendations.*

a. Changes in technology. The BBB notes that it is implementing an electronic document management system that will enable all case records and documents to be stored as electronic images. The BBB asks that Rule 703 be updated to specifically provide for storage of records as electronic images. [81]

As the BBB notes, Rule 703's recordkeeping requirements do not mandate the form in which records are stored. There is nothing in the Rule to prohibit the use of electronic storage or any other new technology, as long as the IDSM can meet its obligations under the Rule to allow public inspection and copying of the statistical summaries and other public records, to allow parties to the dispute to access and copy the records relating to the dispute, and to allow an annual audit of the IDSM's operations. It is not the Commission's intention that the Rule be interpreted to restrict to antiquated technological methods the form or format of records required to be kept under the Rule.

b. Changing the type of required statistical analyses. One commenter (Nowicki) recommends that § 703.6(e) be abolished. [82] Section 703.6(e) requires the IDSM to maintain certain statistical compilations, including the number and percent of disputes resolved or decided and whether the warrantor has complied; the number of decisions adverse to the consumer; and the number of decisions delayed beyond 40 days and the reasons for the delay. Mr. Nowicki argues that the categories of statistical compilations the mechanism must maintain are "either moot, nebulous, or even worse, misleading and deceptive."

Mr. Nowicki maintains, for example, that the statistical compilations underreport the number of decisions that are not resolved within 40 days because many manufacturer IDSMs assign a new file each time a consumer files a complaint, even if the consumer previously had filed a complaint for the same vehicle and the same problem. Thus, if a consumer was awarded an interim repair and refiles because the repairs did not cure the problem, the refiling is assigned a new case number and triggers a new 40-day time period. Mr. Nowicki believes the statistics would be more meaningful if they tracked the entire process of resolving the consumer's complaint about a particular vehicle, regardless of how many times the consumer refiles. Similarly, he maintains that the statistical compilations understate the level of compliance by warrantors with settlements and decisions and that the category that reports the number of "adverse decisions" under reports the number of consumers who are not awarded the relief they sought (*e.g.*, the consumer is awarded further repairs instead of a replacement).

The Commission appreciates that the statistical compilations required by § 703.6(e) cannot provide an in-depth picture of the workings of a particular IDSM. However, the statistics were not intended to serve that function. The statistical compilations attempt to provide a basis for minimal review by the interested parties to determine whether the IDSM program is working fairly and expeditiously. Based on that review, a more detailed investigation could then be prompted. In addition, in adopting the recordkeeping requirements, the Commission was mindful that substantial recordkeeping costs might dissuade the establishment of IDSMs. Therefore, the Commission sought to minimize the costs of the recordkeeping burden on the IDSM while ensuring that sufficient information was available to the public to provide a minimal review. The Commission does not believe that there is sufficient record evidence to prompt changes in the statistical compilations required under § 703.6(e). Accordingly, the Commission has determined to retain § 703.6(e) unchanged.

D. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act provides for analysis of the potential impact on small businesses of Rules proposed by federal agencies. (5 U.S.C. 603, 604). Rules 701 and 702 are the only warranty-related matters currently under review that require such an analysis. [83] In 1987, the Commission conducted a Regulatory Flexibility Act analysis of Rule 702 in connection with its amendment of that Rule. *See* 52 FR 7569. The April 3, 1996 request for comment was the first review of Rule 701 since it was promulgated in 1975 and thus presented the first opportunity to conduct such an analysis for that Rule. Therefore, the April 3 notice included questions to elicit the necessary information.

The Commission believes that a very high percentage of businesses subject to Rule 701 are "small" based on Small Business Administration size standards. Unfortunately, the available data do not provide a precise measurement of the impact Rule 701 has had on small businesses nor the economic impact that would result from leaving the Rule unchanged.

For example, in the regulatory analysis conducted for Rule 702, the Commission's investigation found that nearly all the manufacturers (11,365 companies or 97 percent) and nearly all retailers (952,916 companies or 99.3 percent) affected by Rule 702 were considered "small" using the size standards promulgated by the Small Business Administration. That investigation indicated that, if the companies were compared according to annual receipts, small retailers would represent about 47 percent and small manufacturers about 23 percent of the gross annual receipts in their respective industries.

In 1984, the FTC's Office of Impact Evaluation issued a study evaluating the Impact of the Warranty Rules (Market Facts, *Warranty Rules Consumer Follow-Up: Evaluation Study. Final Report*, Washington, DC, July 1984 ("the Study")). The Study found that some type of warranty was offered for 87 percent of the consumer products surveyed. Of those warranted products, almost 63 percent carried only a manufacturer's warranty, about 12 percent were warranted only by the retailer, and about 13 percent were covered by both a manufacturer's and a retailer's warranty. Thus, the costs of Rule 701 would appear to fall principally on manufacturers, since those entities are more likely to provide a written warranty. However, it is unknown how many of those manufacturers or retailers who give written warranties are also small entities.

Much of the burden imposed on business by Rule 701 is statutorily imposed. Section 102 of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.*, requires warrantors who use written warranties to disclose fully and conspicuously the terms and conditions of the warranty. The Act lists a number of items that may be included in any

[81] BBB at 4.

[82] Nowicki at 3–4.

[83] Rule 703 does not require a Regulatory Flexibility Act analysis because the only entities affected by the requirements of Rule 703 are those warrantors and IDSMs who purport to follow Rule 703 standards (the auto manufacturers and their IDSM programs). Currently, none of those entities fall within the definition of "small" based on Small Business Administration size standards. Therefore, Rule 703 does not appear to have a significant effect on a substantial number of small entities.

rules requiring disclosure that the Commission might prescribe, and, in Rule 701, the Commission tracked those items. Nonetheless, in promulgating the Rule, the Commission attempted to comply with the Congressional mandate in Section 102 of the Act while minimizing the economic impact on affected businesses. For example, the Commission limited the disclosure requirements to warranties on consumer products actually costing the consumer more than $15.00. Furthermore, the Commission exempted "seal of approval" programs from providing the disclosures on the actual seal.

The comments provided some indication that the Commission succeeded in drafting the Rule so as not to make it unduly burdensome to business. The comments from AAMA and NAIMA indicate that Rule 701 is not unreasonably costly to warrantors. These two commenters indicated that the system is working well. The AAMA stated that the current system is working well and is not unreasonably costly to warrantors: The Rules are workable and understood by industry and that there is no evidence that the adequacy of warranty disclosure nor that the legal sufficiency of the warranties given is a major source of complaints, nor is there evidence that customers are unaware of their warranty rights. The AAMA stated "As presently structured, these Rules are workable and effective, and permit warrantor compliance without unreasonable expense." [84]

The NAIMA echoed AAMA's opinion. NAIMA indicated that the costs of the warranty regulations are not imposed upon businesses by government, but rather are voluntarily assumed by companies that choose to offer written warranties. As such, NAIMA states that "any cost incurred by a firm would be calculated into a business decision to offer a warranty or guarantee and should not be weighed as a factor to eliminate or diminish the requirement." [85]

The other commenters were silent as to the effects of Rule 701 on small businesses. Therefore, based on the information available, the Commission has determined that, to the extent that Rule 701's requirements are not Congressionally mandated, the current version of Rule 701 does not unduly burden small businesses.

List of Subjects in 16 CFR Parts 239, 700, 701, 702, and 703.

Warranties, advertising, dispute resolution, trade practices.

Authority: 15 U.S.C. 41–58.

[84] AAMA at 2.
[85] NAIMA at 3.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–9841 Filed 4–21–99; 8:45 am]

BILLING CODE 6750–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 5 and 31

Fees for Applications for Contract Market Designation, Audits of Leverage Transaction Merchants, and Reviews of the Rule Enforcement Programs of Contract Markets and Registered Futures Associations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final schedule of fees.

SUMMARY: The Commission periodically adjusts fees charged for certain program services to assure that they stay in line with current Commission costs. In this regard, the staff recently reviewed the Commission's actual costs of processing applications for contract market designations (17 CFR Part 5, Appendix B), audits of leverage transactions merchants (17 CFR Part 31, Appendix B) and reviews of the rule enforcement programs of contract markets and registered futures associations (17 CFR Part 1, Appendix B). As a result of this review, the Commission is adopting final fees for applications for contract market designation for a futures contract, submitted to the Commission for review and approval by contract markets, which will be reduced from $7,900 to $6,800; contract market designation for an option contract which will be reduced from $1,600 to $1,200; and simultaneous applications for contract market designation for a futures contract and an option on that futures contract, which will be reduced from a combined fee of $8,500 to a combined fee of $7,500.

In addition, the Commission is adopting the final fees for 1999 for the Commission's review of the rule enforcement program at the registered futures association and the contract markets regulated by the Commission as described under **SUPPLEMENTARY INFORMATION.**

Finally, the Commission is eliminating the list of fees for audits of leverage transaction merchants because there have been no leverage transaction merchants registered with the Commission for a number of years and none is expected to register in the near future.

DATES: The fee schedule for reviews of the programs of listed contract markets and the registered futures association must be paid by the named entities no later than June 21, 1999. The reduced fee for filing futures and option contracts singly or simultaneously is effective April 22, 1999. The list of fees for audits of Leverage Transaction Merchants is no longer provided upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Donald L. Tendick, Office of the Executive Director, (202) 418–5160, Paul Bjarnason, Division of Trading and Markets, (202) 418–5459, or Richard Shilts, Division of Economic Analysis, (202) 418–5275, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION

I. Computation of Fees

The Commission has established fees for certain activities and functions it performs, including processing applications for contract market designation and performing reviews of the rule enforcement programs of contract markets and the registered futures association.[1] The starting point for the determination of all fees, including both contract market designations and reviews of rule enforcement programs, is the average of the previous three years' actual costs incurred for each of the above-mentioned activities. However, as explained below in section II, all contract markets pay a uniform fee for filing applications with the Commission for the designation of new contracts. With respect to the Commission's review of programs of rule enforcement, a unique fee is assessed each entity, based upon the actual costs of the particular review conducted at each entity. The costs of performing a rule enforcement review at a contract market or registered futures association vary according to the size and complexity of the entity's program. To ensure that high fees do not unduly burden small exchanges, the Commission's formula provides for some reduction in the fee assessed, as explained in section II below.

Actual costs include the direct salaries of the personnel assigned to each activity plus overhead. The overhead added to the direct salary costs is based upon various indirect costs including: indirect personnel costs (leave and benefits), rent, communications, travel/transportation, contract services, utilities, equipment

[1] See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701.

and supplies. All costs are accounted for by the Commission's Management Accounting Structure Codes (MASC) system, which is an agency-wide time accounting system. Overhead is calculated according to a government-wide standard established by the Office of Management and Budget. The overhead rate applied usually differs each year due to fluctuations in the component costs included in overhead. The overhead rate for fiscal year 1996 was 98%, for fiscal year 1997 was 91% and for fiscal year 1998 was 104% (rounded to nearest whole percent). As stated above, once the total direct personnel costs for each fee item have been determined for each year, the overhead factor for that year is applied, and the three-year costs are averaged. The three-year annual average of costs is used to compute the fee schedule amounts, as explained in detail below.

II. Applications for Contract Market Designation

A. History

On August 23, 1983, the Commission established a fee for contract market designation (48 FR 38214). The fee was based upon a three-year moving average of the actual costs and the number of contracts, reviewed by the Commission during that period of time. The formula for determining the fee was revised in 1985. At that time, most of designation applications were for futures contracts as opposed to option contracts, and the same fee was applied to both futures and option designation applications.

In 1992, the Commission reviewed its data on the actual costs for reviewing designation applications for both futures and option contracts and determined that the cost of reviewing a futures contract designation application was much higher than the cost of reviewing an option contract designation. It also determined that, when designation applications for both a futures contract and an option on that futures contract were submitted simultaneously, the cost for reviewing both together was lower than for reviewing the contracts separately. Based upon that finding, three separate fees were established—one for futures alone, one for options alone, and one for combined futures and option contract applications (57 FR 1372). The combined futures/option designation application fee is set at a level that is less than the aggregate fee for separate futures and option applications to reflect the fact that the cost for review of an option is lower when submitted simultaneously with the underlying future and to create an incentive for contract markets to submit simultaneously applications for futures and options on that future.

B. Fees for Applications for Contract Market Designation

The Commission staff reviewed the actual costs of processing applications for contract market designation for a futures contract for fiscal years 1996, 1997 and 1998 and found that the average cost over the three-year period was $6,810 per contract. The review of actual costs of processing applications for contract market designation for an option contract for fiscal years 1996, 1997 and 1998 revealed that the average cost over the same period was $1,268 per contract. Accordingly, the Commission has determined that the final fee for applications for contract market designations as a futures contract will be reduced to $6,800, and the final fee for applications for contract market designation as an option contract will be reduced to $1,200 in accordance with the Commission's regulations (17 CFR Part 5, Appendix B). In addition, the final combined fee for contract markets simultaneously submitting designation applications for a futures contract and an option contract on that futures contract will be reduced to $7,500 per combined filing.

The fee for futures contract applications also applies to options on physicals applications. Because the requirements for designation of an option on a physical are substantially identical to those of futures contracts, the same fee will apply to both types of filings.[2]

The Commission is also today publishing separately in the **Federal Register** a proposal to establish reduced fees for a limited class of simultaneously submitted multiple contract market designation application filings.

III. Rule Enforcement Reviews of Contract Markets and Registered Futures Associations

Under the formula adopted in 1993 (58 FR 42643 (August 11, 1993), which appears in 17 CFR Part 1, Appendix B), the Commission calculates the fee for its review of rule enforcement programs based on its actual costs. The Commission has provided for a downward adjustment to reduce an exchange's fee below actual costs if actual costs (as a percentage of total rule enforcement review program costs) are greater for the particular exchange than that exchange's pro-rata portion of contracts traded industry-wide (total contract volume for the exchange as a percentage of total U.S. futures industry contract volume). As noted above, this feature of the formula generally reduces the fee burden on the smaller exchanges.

Specifically, the fee required of each contract market is equal to the lesser of: average annual costs based upon the three-year historical average of costs for that contract market or one-half the average annual costs incurred by the Commission pertaining to each contract market for the most recent three-years, plus a pro-rata share (based upon average trading volume for the most recent three years) of the aggregate of average annual costs of all the contract markets for the most recent three years. The formula for calculating the second factor mentioned above is 0.5a + 0.5vt = current fee. In the formula, "a" equals the average annual costs, "v" equals the percentage of total volume across exchanges over the last three years and "t" equals the average annual cost for all exchanges. The one registered futures association regulated by the Commission, National Futures Association (NFA), has no contracts traded, and thus, NFA's fee is based simply on the average costs for the most recent three fiscal years.

Following is a summary of data used in the calculations and the resultant fee for each entity:

	3-year average annual costs	3-year average percentage of volume	1999 fee amount
Chicago Board of Trade	$259,841	46.0317	$259,841
Chicago Mercantile Exchange	228,215	35,6595	228,215
New York Mercantile Exchange	204,627	15.1517	174,062
Coffee, Sugar & Cocoa Exchange	66,814	2.2468	44,046

[2] In this regard, under the Commission's Guideline No. 1, which details the information an application for contract market designation must include, all of the requirements for futures contract applications (whether providing for physical delivery or cash settlement) also apply to options on physicals applications, plus several additional requirements that apply uniquely to options. See, for example, 63 FR 38537, July 17, 1998.

	3-year average annual costs	3-year average percentage of volume	1999 fee amount
New York Cotton Exchange	155,338	1,2997	83,824
Kansas City Board of Trade	15,055	0.4074	9,457
Minneapolis Grain Exchange	16,558	0.1979	9,216
Philadelphia Board of Trade	624	0.0054	338
Subtotal	947,072	100.0000	808,999
National Futures Association	327,551	N/A	327,551
Total	1,274,624	100,0000	1,136,550

Below is an example of how the fee was calculated for one exchange, the Minneapolis Grain Exchange:

(i) Average annual costs are $16,558;
(ii) Alternative computation is:
(.5)($16,558) + (.5)(.1979%) (947,042) = $8,279 + $937 = *$9,216*
(iii) The fee is the lesser of (i) and (ii) = $9,216.

As noted above, NFA, a registered futures association, has no contracts and, therefore, is billed for average annual costs. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 1996 through 1998 was $327,551 (⅓ of $982,654). Therefore, the fee to be paid by NFA pertaining to fiscal year 1998 is $327, 551.

Issued in Washington, D.C. on April 15, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–9939 Filed 4–21–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF STATE

22 CFR Parts 50 and 51

[Public Notice 3027]

Nationality Procedures—Report of Birth Regulation; Passport Procedures—Revocation or Restriction of Passports Regulation

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final rule.

SUMMARY: This rule finalizes the proposed rule published February 5, 1999 (64 FR 5725) and implements sections of the Immigration and Nationality Technical Corrections Act of 1994 (INTCA). The INTCA added new grounds for denying, revoking or canceling a passport, and for canceling a Consular Report of Birth. The rule authorizes the cancellation of a Consular Report of Birth, or a certification thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. It also amends the existing regulation to authorize the cancellation of a United States passport when a person has obtained a United States passport illegally or erroneously, or when the Department of State has been notified that a naturalized person whose order of admission to citizenship and certificate of naturalization, on the basis of which the passport was issued, have been canceled or set aside as the result of a judicial denaturalization procedure.

Finally, the rule amends regulations by replacing the procedures for appeal of adverse passport action. Other agency regulations contain provisions for the organization and operation of the Board of Appellate Appeal of the Department of State. Under this rule, the Board of Appellate Review no longer has jurisdiction to consider appeals from adverse passport actions. The decision of the Deputy Assistant Secretary of State for Passport Services is final.

EFFECTIVE DATE: April 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sharon E. Palmer-Royston, Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, U.S. Department of State, 1111 19th Street, N.W., Suite 260, Washington, D.C. 20524 (202) 955–0231.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule, Public Notice 2961 at 64 FR 5725, February 5, 1999, with a request for comments, for numerous sections of Title 22, Parts 50 and 51 of the Code of Federal Regulations. The rule was primarily proposed to implement provisions of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103–416 (INTCA), though it also makes a procedural change for appeal of adverse passport action. The rule was discussed in detail in Public Notice 2961, as were the Department's reasons for the changes to the regulations. The rules incorporate changes to those sections in Parts 50 and 51 explained below.

A passport when issued for its full validity period and a "Report of Birth Abroad of a Citizen of the United States", issued by a consular officer to document a citizen born abroad, are documents established as proof of United States citizenship by the provisions of section 33 of the Department of State Basic Authorities Act of 1956, as amended (22 U.S.C. 2705). 8 U.S.C. 1504 (108 Stat. 4309, October 25, 1994) authorizes the Secretary of State to cancel either of these documents if it appears that they were obtained illegally, fraudulently or erroneously. The rule amends the regulations by providing for a post-cancellation hearing when a Consular Report of Birth, or certification thereof, is canceled. The provisions of 22 CFR 51.75 already provide for notification in writing of the reasons for the revocation and of the procedures for review to any person who is the subject of a passport cancellation and revocation on the grounds, among others, that the passport was obtained illegally, fraudulently or erroneously. Procedures for review include a hearing available under subsections 51.80 through 51.89 of the passport regulations in 22 CFR part 51. Such a hearing concerns only the extent to which the passport was illegally, fraudulently or erroneously obtained and not the citizenship status of the person in whose name the document was issued.

A district court of the United States may denaturalize an individual in a judicial proceeding on the grounds that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation. Any person who is the subject of a passport revocation due to judicial denaturalization, *i.e.*, by reason of noncitizenship, is not entitled to a hearing by the Department of State, pursuant to the provisions in 22 CFR 51.80(a).

The Board of Appellate Review of the Department of State has had jurisdiction to consider appeals from decisions of

the Office of Passport Services that constitute adverse action affecting a passport: denial, revocation, or limitation. This jurisdiction has been infrequently utilized, and an adverse action can be reviewed fairly and efficiently without the same kind of administrative hearing that the Board conducts in loss of nationality cases. Changes in the applicable laws, their interpretation, and practice thereunder now make it even more unlikely that administrative appeals will be taken. Accordingly, 22 CFR part 7 is being amended by eliminating this particular administrative appeal jurisdiction. This amendment to 22 CFR part 51, Subpart F, reflects that change and replaces an appeal with a request for reconsideration.

In current practice, the most common adverse passport action is denial or revocation based upon grounds set forth in 22 CFR section 51.70(a), such as being subject to a Federal warrant of arrest or being under court ordered restraint. In these cases, the Board of Appellate Review or other appellate body within the Department of State has no authority to affect the underlying ground for adverse passport action, so that this rule results in no change in existing practice. Similarly, passport denial or revocation as set forth in 22 CFR subsection 51.70(b)(4), the Secretary of State's determination that activities of the affected national abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States, has not been delegated by the Secretary and is not subject to subordinate review.

Accordingly, the findings of fact and recommendations resulting from a hearing before a hearing officer are referred to the Deputy Assistant Secretary for Passport Services for decision instead of to the Assistant Secretary for Consular Affairs. The rule permits the adversely affected person to request reconsideration by the Deputy Assistant Secretary, but the initial decision or the decision based upon request for reconsideration, as the case may be, is final.

The rule also amends 22 CFR section 51.84 by substituting a more general statement of legal qualifications for representatives for the current reference to the qualification set by the Board of Appellate Review.

Finally, the rule makes clear that nothing in revised 22 CFR section 51.89 bars an adversely affected person from submitting a new passport application as provided for in 22 CFR part 51, Subparts B through D.

Analysis of Comments

The proposed rule was published February 5, 1999 at 64 FR 5725. The commenting period was closed March 8, 1999. The Department received one inquiry that concerned the change in regulations to replace the procedures for appeal of adverse passport action. The inquirer was concerned that eliminating jurisdiction for the Board of Appellate Review to consider appeals from adverse passport actions would deny procedural due process where the adverse action was taken on grounds of noncitizenship. However, a person who has been denied a passport on grounds that they are not a national of the United States may seek a declaration of their nationality in U.S. district court pursuant to the provisions of 8 U.S.C. 1503(a).

Final rule

This rule is not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). This rule imposes no reporting or recordkeeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. This rule has been reviewed as required by E.O. 12988 and determined to be in compliance therewith. This rule is exempted from E.O. 12866 but has been reviewed and found to be consistent therewith. The proposed rule was submitted for review in accordance with 5 U.S.C. 801 *et seq.*, as amended.

List of Subjects

22 CFR Part 50

Citizenship and Naturalization.

22 CFR Part 51

Administrative practice and procedure, Drug traffic control, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, 22 CFR Parts 50 and 51 are amended as follows:

PART 50—NATIONALITY PROCEDURES

1. The authority citation for Part 50 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104, 1502, 1503 and 1504.

2. Section 50.7 is amended by adding a new paragraph (d) as follows:

§ 50.7 Consular Report of Birth Abroad of a Citizen of the United States of America.

* * * * *

(d) A consular report of birth, or a certification thereof, may be canceled if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. The cancellation under this paragraph of such a document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued. A person for or to whom such document has been issued or made shall be given at such person's last known address, written notice of the cancellation of such document, together with the specific reasons for the cancellation and the procedures for review available under the provisions in 22 CFR 51.81 through 51.89.

PART 51—PASSPORTS

1. The authority citation for Part 51 is revised to read as follows:

Authority: 22 U.S.C. 211a; 22 U.S.C. 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p 570; sec. 129, Pub. L. 102–138, 105 Stat. 661; 8 U.S.C. 1504.

2. Section 51.72 is amended by revising paragraph (b) and adding paragraph (c) as follows:

§ 51.72 Revocation or restriction of passports.

* * * * *

(b) The passport has been obtained illegally, by fraud, or has been fraudulently altered, or has been fraudulently misused, or has been issued in error; or

(c) The Department of State is notified that a certificate of naturalization issued to the applicant for or bearer of the passport has been canceled by a federal court.

3. Section 51.80 is revised to read as follows:

§ 51.80 Applicability of §§ 51.81 through 51.89.

(a) The provisions of §§ 51.81 through 51.89 apply to any action of the Secretary taken on an individual basis in denying, restricting, revoking or invalidating a passport or a Consular Report of Birth, or in any other way adversely affecting the ability of a person to receive or use a passport except action taken by reason of:

(1) Noncitizenship,

(2) Refusal under the provisions of § 51.70(a)(8),

(3) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(b) The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subject of adverse action under §§ 51.70, 51.71 or 51.72.

§ 51.83 [Amended]

5. Section 51.83 is amended by revising the phrase "Administrator of" to read "Deputy Assistant Secretary for Passport Services in" and by removing "Security and".

§ 51.84 [Amended]

6. Section 51.84 is amended by revising the phrase "must possess the qualifications prescribed for practice before the Board of Appellate Review" to read "must be admitted to practice in any State of the United States, the District of Columbia, or any territory or possession of the United States".

7. Section 51.89 is revised to read as follows:

§ 51.89 Decision of Deputy Assistant Secretary for Passport Services.

The person adversely affected shall be promptly notified in writing of the decision of the Deputy Assistant Secretary for Passport Services, and, if the decision is adverse to that person, the notification shall state the reasons for the decision. The notification shall also state that the adversely affected person may request reconsideration within 60 days from the date of the notice of the adverse action. If no request is made within that period, the decision is considered final and not subject to further administrative review; a decision on a request for reconsideration is also administratively final. Nothing in this section, however, shall be considered to bar the adversely affect person from submitting a new passport application as provided for in subparts B through D of this part.

Dated: April 9, 1999.

Donna J. Hamilton,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 99–10116 Filed 4–21–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–021]

Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations at 33 CFR 100.511 during the Blue Angels Airshow, an aerial demonstration to be held May 23 and 24, 1999, over the waters of Spa Creek and the Severn River, near the U.S. Naval Academy, Annapolis, Maryland. These Special local regulations are necessary to control vessel traffic in the vicinity of the U.S. Naval Academy due to the confined nature of the waterway and expected vessel congestion during the airshow. The effect will be to restrict general navigation in the regulated area for the safety of spectators and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.511 is effective from 10:30 a.m. to 4 p.m. on May 23, 1999 and from 12 noon to 4:00 p.m. on May 24, 1999.

FOR FURTHER INFORMATION CONTACT:

Chief Warrant Officer R.L. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, (410) 576–2674.

SUPPLEMENTARY INFORMATION: The U.S. Naval Academy will sponsor the Blue Angels Airshow over the Severn River near the U.S. Naval Academy, Annapolis, Maryland. The event will consist of 6 high performance jet aircraft flying at low altitudes in formation over the Severn River. Therefore, to ensure the safety of spectators and transiting vessels, 33 CFR 100.511 will be in effect for the duration of the event. Under provisions of 33 CFR 100.511, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: April 6, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99–10111 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–98–162]

RIN 2115–AE46

Special Local Regulations: Empire State Regatta, Albany, New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the Special Local Regulations for the Empire State Regatta. This action is necessary to update the course location and effective period for this annual event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

DATES: This final rule is effective May 24, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, between 8 .am. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4193.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4193.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 4, 1999, The Coast Guard published a notice of proposed rulemaking, entitled Special Local Regulations: Empire State Regatta, Albany, New York in the **Federal Register** (64 FR 66). The Coast Guard did not receive any letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

The Albany Rowing Center sponsors this annual crewing race with approximately 300 rowers competing in this event. The sponsor expects no spectator craft for this event. The race will take place on the Hudson River in the vicinity of Albany, New York. The sponsor held the race in a new location

in 1998 and is planning on holding the event in this new location in the future. This new course provides better viewing for spectators on shore, and it is also easier for the sponsor to set up. The regulated area encompasses all waters of the Hudson River from the Albany Rensselaer Swing Bridge, river mile 146.2, to Light 224 (LLNR 39015), river mile 147.5, located approximately 750 yards north of the I–90/Patroon Island Bridge. The new race course is 800 yards smaller than the previous course.

Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rule. This final rule is the same as the proposed rule except that the daily completion time for the event has been moved from 7 p.m. to 8 p.m. This change was made to provide a safety window for race completion and course removal in the event there is inclement weather. The Coast Guard is not publishing a Supplemental NPRM (SNPRM) for this change. A SNPRM is not necessary because the final rule is not materially different from the proposed rule, therefore the notice provided in the NPRM was sufficient for this final rule. This conclusion is based upon the following factors: the minimal extra time the regulations may be in effect,the extra time will only be required in case of inclement weather, the location of the event, and the minimal amount of commercial traffic affected.

Regulatory Evaluating

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Although this regulation prevents traffic from transiting a portion of the Hudson River during the race and afterwards while lane breakdowns are being conducted, the effect of this regulation will not be significant for several reasons: this is an annual marine event currently published in 33 CFR § 100.104, the limited amount of commercial traffic in this area of the river,commercial vessels can plan their transits up the river around the time the regulated area is in effect as they will have advance notice of the event, it is an annual event with local support, the new course is 800 yards smaller than the previous course, the event's course has only been moved 1600 yards north of the previous regulated area,vessel traffic will still be able to transit the regulated area in accordance with 33 CFR § 100.104(c), and advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. *Small entities* include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons stated in the Regulatory Evaluation section above,the Coast Guard certifies under 5 U.S.C. § 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 109 Stat. 48) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain *Federal mandates*. A Federal mandate is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This final rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

In accordance with agency procedures for implementing the National Environmental Policy Act (NEPA), the Coast Guard has considered the environmental impact of the Special Local Regulations together with the impacts of the marine event with which it is associated. In accordance with these NEPA implementing procedures, listed in Commandant Instruction M16475.1C, Figure 2–1, paragraphs (34)(h) and (35)(a), this final rule is categorically excluded from further environmental analysis and documentation. A written Categorical Exclusion Determination is not required.

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this final rule and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This rule will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Revise § 100.104 to read as follows:

§ 100.104 Empire State Regatta, Albany, New York.

(a) *Regulated area.* All waters of the Hudson River between the Albany Rensselaer Swing Bridge, river mile 146.2, and Light 224, (LLNR 39015), river mile 147.5, located approximately 750 years north of the I–90/Patroon Island Bridge.

(b) *Effective period.* This section is effective annually from 12 p.m. Friday through 8 p.m. Sunday, on the first weekend of June.

(c) *Special local regulations.* (1) The regulated area will be closed to all vessel traffic, except official patrol craft and sponsor craft, during the following times: Friday from 12 p.m. to 8 p.m.; Saturday from 6 a.m. to 8 p.m.; and on Sunday from 6 a.m. to 8 p.m.

(2) Vessels greater than 20 meters in length shall not transit the regulated area at any time during the effective period unless allowed to do so by the Coast Guard Patrol Commander.

(3) Vessels less than 20 meters in length may transit the regulated area at the conclusion of each day of racing. Transiting vessels will be escorted by official regatta patrol vessels specified in paragraph (c)(5) of this section. Approximate periods for transit will be: Friday at 8 p.m. through Saturday at 6 a.m.; and again on Saturday at 8 p.m. through Sunday at 6 a.m.

(4) Unless otherwise directed by the Coast Guard Patrol Commander, transiting vessels shall: proceed at no-wake speeds, remain clear of the race course area as marked by the sponosor-provided buoys, not interfere with races or any shells in the area, make no stops and keep to the eastern edge of the Hudson River.

(5) Official patrol vessels include Coast Guard and Coast Guard Auxiliary vessels, New York State and local police boats and other vessels so designated by the regatta sponsor or Coast Guard Patrol Commander.

(6) No person or vessel may enter or remain in the regulated area during the effective period unless participating in the event, or authorized to be there by the sponsor or Coast Guard patrol personnel.

(7) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessem operators of this regulation and other applicable laws.

(8) In the event of an emergency or as directed by the Coast Guard Patrol Commander, the sponsor shall dismantle the race course to allow the passage of any U.S. Government vessel or any other designated emergency vessel.

Dated: April 12, 1999.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 99–10115 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD–FRL–6326–5]

RIN 2060–AI48

Revisions to Reference Method for the Determination of Fine Particulate Matter as $PM_{2.5}$ in the Atmosphere

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: A new national network of fine particulate monitors is being established over the next two years. In order to assure that monitoring data are of the highest quality and are comparable both within and between air monitoring agencies, many specific design and performance requirements were detailed in 40 CFR part 50, appendix L. Other requirements were set forth in documents such as section 2.12 of the "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods," EPA/600/R–94/038b.

This direct final action revises two requirements for measurement of fine particulates in 40 CFR part 50. For transport of exposed filters from the sample location to the conditioning environment, 40 CFR part 50 will no longer specify that the protective shipping container be made of metal. For verification of sampler flow rate, 40 CFR part 50 will now specify that new calibrations shall be performed if the reading of the sampler's flow rate indicator or measurement device differs by more than ±4 percent or more from the flow rate measured by the flow rate standard. The flow rate verification tolerance was previously set at ±2 percent.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to revise two requirements for measurement of fine particulate in 40 CFR part 50 should adverse comments be filed.

DATES: This rule is effective on June 21, 1999 unless the Agency receives adverse comments by May 24, 1999. Should the Agency receive such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. If adverse comments are timely received on an amendment, paragraph, or section of this rule and that provision may be addressed separately from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of adverse comment, effective on June 21, 1999.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air Docket (A–95–54), US Environmental Protection Agency, Attn: Docket No. A–95–54, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tim Hanley, Emissions, Monitoring, and Analysis Division (MD–14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541–4417, e-mail: hanley.tim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Authority

Sections 110, 301(a), and 319 of the Clean Air Act as amended 42 U.S.C. 7409, and 7601(a).

II. Background

A new national network of fine particulate monitors is being established over the next two years. In order to assure that monitoring data are of the highest quality and are comparable both within and between air monitoring agencies, many specific design and performance requirements were detailed in 40 CFR part 50, appendix L. Other requirements were set forth in documents such as section 2.12 of the "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods," EPA/600/R–94/038b.

One design requirement detailed in 40 CFR part 50, appendix L, is the use of a protective metal container for transporting filter cassettes from

monitoring sites to the conditioning environment. (Sample filters are weighed before and after sample collection. To help assure that any post-sampling weight gain is due to $PM_{2.5}$, sample filters must be "conditioned" at the same moisture and temperature conditions prior to weighing.) 40 CFR part 50, appendix L, section 10.10, second sentence, reads: "This protective container shall be made of metal and contain no loose material that could be transferred to the filter." The EPA believes that the requirement of a metal container should not be mandated and container selection should be based on performance, not design. What is important is not that the container be made of metal but that it not contain loose material that could be transferred to the filter. So, this direct final rule eliminates the requirement for metal containers and leaves in place the requirement that the containers not contain loose material that could be transferred to the filter.

To help assure that a sampler's collection of fine particles is acceptable for its intended use, 40 CFR part 50 requires that specific air flow rates be maintained and verified. Section 9.2.5 of appendix L, 40 CFR part 50 states "If during a flow rate verification the reading of the sampler's flow rate indicator or measurement device differs by +/−2 percent or more from the flow rate measured by the flow rate standard, a new multi-point calibration shall be performed and the flow rate verification must then be repeated." The EPA believes that while flow rate is a critical parameter whose accuracy must be controlled, having too tight a control limit on verifications may result in unnecessary field calibrations. This is due to the expectation that flow rate verifications will be performed in the field on a schedule detailed in the "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods," EPA/600/R–94/038b. Since conditions in the field will always be less controllable than in a laboratory, a more relaxed tolerance for verification of the flow rate will be set at +/−4 percent.

III. Administrative Requirements Section

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, State and local governments, or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this action is not a "significant regulatory action" under the terms of the Executive Order 12866 and is therefore not subject to formal OMB review.

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

In compliance with Executive Order 12875, the Agency involved State, local, and Federal governments in the development of this rule. These governments are not directly impacted by the rule; i.e., they are not required to purchase control systems to meet the requirements of the rule. However, they will be required to implement the rule. Representatives of State environmental agencies have been members of the EPA work group developing this rule. The comments and suggestions of State agency staffs have been carefully considered in the rule development. In addition, all States had opportunity to comment on the proposed rule during the public comment period and the EPA fully considered these comments in the final rulemaking.

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This direct final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under Executive Order 13084 entitled "Consultation and Coordination with Indian Tribal Governments," EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaninful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements

of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Paperwork Reduction Act

Today's action does not impose any new information collection burden. This action revises the part 50 air monitoring regulations for particulate matter to allow for flexibility in the type of containers used and a reduction in unnecessary flow rate calibrations. The Office of Management and Budget (OMB) has previously approved the information collection requirements in the part 50 regulation under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060–0084 (EPA ICR No. 0940.13 and revised by 0940.14).

F. Impact on Small Entities

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions whose jurisdictions are less than 50,000 people. This final rule will not have a significant impact on a substantial number of small entities because it does not impact small entities whose jurisdictions cover less than 50,000 people. Pursuant to the provision of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities.

Since this modification is classified as minor, no additional reviews are required.

G. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final standards that include a Federal mandate that may result in estimated costs to State, local, or tribal governments, or to the private sector, of, in the aggregate, $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the standard and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the standards. The EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments. Therefore, the requirements of the Unfunded Mandates Act of 1995 do not apply to this action.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. The search was performed by querying the National Resource for Global Standards Database available on the world wide web at www.nssn.org. This database, maintained by the American National Standards Institute, is a comprehensive data network for national, foreign, regional and international standards and regulatory documents. The search did not identify any voluntary consensus standard that referenced the required use of metal containers or specific flow rate tolerances in standards applicable to particulate matter. Therefore, EPA intends to use the technical standards proposed herein.

I. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Quality assurance requirements, Ambient air quality monitoring network.

Dated: April 9, 1999.

Carol M. Browner,

Administrator.

* * * * *

For the reasons set forth in the preamble, title 40, chapter I, part 50 of the Code of Federal Regulations is amended as follows:

PART 50—[AMENDED]

1. The authority citation for part 50 continues to read as follows:

Authority: 42 U.S.C. 7410, 7601(a), 7613, 7619.

2. Appendix L is amended by revising section 9.2.5 to read as follows:

Appendix L to Part 50—Reference Method for the Determination of Fine Particulate Matter as $PM_{2.5}$ in the Atmosphere

9.2.5 If during a flow rate verification the reading of the sampler's flow rate indicator or measurement device differs by ± 4 percent or more from the flow rate measured by the flow rate standard, a new multipoint calibration shall be performed and the flow rate verification must then be repeated.

3. Appendix L is further amended by revising the second sentence of section 10.10 to read as follows:

10.10 * * * The protective container shall contain no loose material that could be transferred to the filter. * * *

[FR Doc. 99–9593 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6326–2]

Approval of the Clean Air Act, Section 112(l), Delegation of Authority to Puget Sound Air Pollution Control Agency in Washington; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority; amendment.

SUMMARY: This action provides an amendment to a direct final **Federal Register** action published on December

1, 1998 (see 63 FR 66054), that granted Clean Air Act, section 112(l), delegation of authority for three local air agencies in Washington, including Puget Sound Air Pollution Control Agency (PSAPCA), to implement and enforce specific 40 CFR parts 61 and 63 federal National Emission Standards for the Hazardous Air Pollutants (NESHAP) regulations which have been adopted into local law. This action amends 40 CFR 63.99 by revising the table outlining PSAPCA's current delegation status.

DATES: This amendment is effective on April 22, 1999.

ADDRESSES: Copies of the requests for delegation and other supporting documentation are available for public inspection at the following location: U.S. Environmental Protection Agency, Region X, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101.

FOR FURTHER INFORMATION CONTACT: Andrea Wullenweber, US EPA, Region X (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101, (206) 553–8760.

SUPPLEMENTARY INFORMATION:

I Administrative Requirements

Under Executive Order (E.O.) 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore, not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), entitled "Protection of Children from Environmental Health Risks and Safety Risks," because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 21, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

II Clarification

On December 1, 1998, EPA promulgated direct final approval of the Washington Department of Ecology (Ecology) request, on behalf of the Puget Sound Air Pollution Control Agency (PSAPCA), for program approval and delegation of authority to implement and enforce specific 40 CFR parts 61 and 63 federal NESHAP regulations which have been adopted into local law (as apply to both part 70 and non-part 70 sources). Since the February 1, 1999, effective date of that program approval and delegation of authority, Ecology has submitted an updated delegation request on behalf of PSAPCA. In a letter dated March 1, 1999, Ecology requested updated delegation for PSAPCA to implement and enforce specific 40 CFR part 63 National Emission Standards for Hazardous Air Pollutants (NESHAPs) in effect as of July 1, 1998, as these new and revised standards have been adopted unchanged into PSAPCA Regulation III, section 2.02 (as amended on September 10, 1998). Consistent with RCW 70.94.860 and the approved mechanism for streamlined delegation (see page 66057, 63 FR 66054, December 1, 1998), EPA granted this updated delegation request to Ecology for purposes of redelegating to PSAPCA in a letter to Ecology dated March 19, 1999. The effective date of that letter and the updated delegation was March 29, 1999.

Therefore, PSAPCA now has the authority to implement and enforce 40 CFR part 63 NESHAPs in effect as of July 1, 1998. This update includes any revisions to previously delegated 40 CFR part 63 standards, and the following new NESHAPs: Subpart S (Pulp & Paper), Subpart LL (Primary Aluminum), and Subpart EEE (Hazardous Waste Combustors).

PSAPCA is now the primary point of contact with respect to these delegated NESHAPs. Pursuant to 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii), EPA waived the requirement that notifications and reports for delegated standards be submitted to EPA in addition to PSAPCA. Therefore, sources within PSAPCA's jurisdiction should send notification and reports for delegated NESHAPs to PSAPCA, and do not need to send a copy to EPA.

This updated delegation for PSAPCA to implement and enforce NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151, except for those non-trust lands within the boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies, such as PSAPCA, authority over activities on non-trust lands within the 1873 Survey Area. Therefore, PSAPCA will implement and enforce the NESHAPs on these non-trust lands within the 1873 Survey Area. EPA will continue to implement the NESHAPs in all other Indian country, consistent with previous federal program approvals or delegations, because PSAPCA does not have authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 8, 1999.

Chuck Clarke,

Regional Administrator, Region X.

40 CFR Part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for Part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by revising the table in paragraph (a) (47)(i) to read as follows:

§ 63.99 Delegated Federal Authorities

(a) * * *

(47) * * *

(i) * * *

DELEGATION STATUS FOR PART 63 STANDARDS—WASHINGTON

Subpart		Ecology [1]	BCAA [2]	NWAPA [3]	OAPCA [4]	PSAPCA [5]	SCAPCA [6]	SWAPCA [7]	YRCAA [8]
A	General Provisions [9]			X		X		X	
D	Early Reductions			X		X		X	
F	HON-SOCMI			X		X		X	
G	HON-Process Vents			X		X		X	
H	HON-Equipment Leaks			X		X		X	
I	HON-Negotiated Leaks			X		X		X	
L	Coke Oven Batteries			X		X		X	
M	Perc Dry Cleaning			X		X		X	
N	Chromium Electroplating			X		X		X	
O	Ethylene Oxide Sterilizers			X		X		X	
Q	Industrial Process Cooling Towers.			X		X		X	
R	Gasoline Distribution			X		X		X	
S	Pulp and Paper					X			
T	Halogenated Solvent Cleaning			X		X		X	
U	Polymers and Resins I			X		X			
W	Polymers and Resins II-Epoxy			X		X		X	
X	Secondary Lead Smelting			X		X		X	
Y	Marine Tank Vessel Loading			X		X		X	
CC	Petroleum Refineries			X		X		X	
DD	Off-Site Waste and Recovery			X		X		X	
EE	Magnetic Tape Manufacturing			X		X		X	
GG	Aerospace Manufacturing & Rework.			X		X		X	
II	Shipbuilding and Ship Repair			X		X		X	
JJ	Wood Furniture Manufacturing Operations.			X		X		X	
KK	Printing and Publishing Industry.			X		X		X	
LL	Primary Aluminum					X			
OO	Tanks—Level 1			X		X			
PP	Containers			X		X			
QQ	Surface Impoundments			X		X			
RR	Individual Drain Systems			X		X			
VV	Oil-Water Separators and Organic-Water Separators.			X		X			
EEE	Hazardous Waste Combustors.					X			
JJJ	Polymers and Resins IV			X		X		X	

[1] Washington Department of Ecology
[2] Benton Clean Air Authority
[3] Northwest Air Pollution Authority (5/14/98)
[4] Olympic Air Pollution Control Authority
[5] Puget Sound Air Pollution Control Agency (7/1/98)
[6] Spokane County Air Pollution Control Authority
[7] Southwest Air Pollution Control Authority (8/1/96)
[8] Yakima Regional Clean Air Authority
[9] Authorities which are not delegated include: 40 CFR 63.6(g); 63.6(h)(9); 63.7(e)(2)(ii) and (f) for approval of major alternatives to test methods; 63.8(f) for approval of major alternatives to monitoring; 63.10(f); and all authorities identified in the subparts (i.e., under "Delegation of Authority") that cannot be delegated. For definitions of minor, intermediate, and major alternatives to test methods and monitoring, see memorandum from John Seitz, Office of Air Quality Planning and Standards, dated July, 10, 1998, entitled, "Delegation of 40 CFR Part 63 General Provisions Authorities to State and Local Air Pollution Control Agencies."

Note to paragraph (a)(47): Dates in parenthesis indicate the effective date of the federal rules that have been adopted by and delegated to the state or local air pollution control agency. Therefore, any amendments made to these delegated rules after this effective date are not delegated to the agency.

[FR Doc. 99–9606 Filed 4–21–99; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 42

[CC Docket No. 96–61; FCC 99–47]

Nondominant Interexchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Second Order on Reconsideration, the Commission consider again whether nondominant interexchange carriers (IXCs) should be required to make available to the public information concerning the rates, terms, and conditions for all of their interstate, domestic, interexchange services. Like other common carriers, IXCs historically have been required to file tariffs with the appropriate regulatory body (this Commission, in the case of interstate services) establishing the rates, terms, and conditions of service. The tariff does not simply serve as a public source of such information; under the judicially created "filed-rate" doctrine, the tariffed rate for a service is the only lawful rate that the carrier may charge for that service. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the tariffed rate. When a single carrier dominated the interstate, interexchange market, tariffing was an effective tool for ensuring compliance with various common carrier requirements, including rules that require nondiscrimination among customers.

EFFECTIVE DATE: May 24, 1999.

FOR FURTHER INFORMATION CONTACT: Andrea Kearney, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Order On Reconsideration and Erratum adopted March 18, 1999, and released March 31, 1999 (FCC 99–47). The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 425 12th Street, SW, Washington, D.C. the complete text also may be obtained through the World Wide Web, at http:/www.fcc.gov/Bureaus/Common Carrier/Order/fcc9947.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Synopsis of Second Order on Reconsideration and Erratum Overview

A. Overview

1. In this Second Order on Reconsideration, we consider again whether nondominant interexchange carriers (IXCs) should be required to make available to the public information concerning the rates, terms, and conditions for all of their interstate, domestic, interexchange services. Like other common carriers, IXCs historically have been required to file tariffs with the appropriate regulatory body (this Commission, in the case of interstate services) establishing the rates, terms, and conditions of service. The tariff does not simply serve as a public source of such information; under the judicially created "filed-rate" doctrine, the tariffed rate for a service is the only lawful rate that the carrier may charge for that service. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the tariffed rate. When a single carrier dominated the interstate, interexchange market, tariffing was an effective tool for ensuring compliance with various common carrier requirements, including rules that require nondiscrimination among customers.

2. With the advent of competition in the provision of interstate, interexchange services, however, tariffing became less beneficial and, in some ways, harmful to consumers. The Commission previously has concluded that tariffing can discourage competitive pricing, restrict the flexibility of carriers seeking to offer service arrangements tailored to an individual customer's needs, and impose unnecessary regulatory costs on carriers. In view of these concerns as well as the potentially harsh consequences of the "filed-rate" doctrine for consumers, and pursuant to a statutory amendment contained in the Telecommunications Act of 1996, the Commission in the *Second Report and Order*, 61 FR 59340 (November 22, 1996) required the complete detariffing of interstate, domestic, interexchange services offered by nondominant carriers.

3. At the same time, the Commission sought to retain the one aspect of tariffing that continued to serve the public interest, i.e., giving consumers access to information about the rates, terms and conditions of services offered by these carriers. Thus, in the same order in which the Commission eliminated tariffing of interstate, domestic, interexchange services, the Commission imposed a public disclosure requirement.

4. Following a stay of the *Second Report and Order* by the Court of Appeals for the District of Columbia Circuit, and upon the petitions of a number of parties who claimed that the public disclosure requirement would lead to some of the same ills that prompted the Commission to order complete detariffing, the Commission eliminated the public disclosure requirement in the *Order on Reconsideration*. Acting on petitions for reconsideration of that order, we now conclude that in a detariffed and increasingly competitive environment, consumers should have ready access to information concerning the rates, terms, and conditions governing the provision of interstate, domestic, interexchange services offered by nondominant IXCs. We therefore reinstate the public disclosure requirement that was originally established in the *Second Report and Order*, and also require nondominant IXCs that have Internet websites to post this information on-line.

B. Procedural Background

5. On October 29, 1996, the Commission adopted the *Second Report and Order* in its proceeding reviewing the regulation of interstate, domestic, interexchange telecommunications services. Throughout this proceeding, the Commission's objective has remained constant: to foster increased competition in the market for interstate, domestic, interexchange telecommunications services by eliminating unnecessary regulation, in accordance with the goals established by Congress in the 1996 Act. The 1996 Act added section 10 to the Communications Act, which requires the Commission to forbear from applying any provision of the Communications Act, or any of the Commission's regulations, to a telecommunications carrier or telecommunications service, or class thereof, if the Commission makes certain specified findings with respect to such provisions or regulations.

6. For more than a decade prior to the 1996 Act, the Commission attempted to forbear from tariff regulation of nondominant IXCs, but was struck down by the courts. Subsequently, the Commission requested, and Congress granted in section 10 of the Act, forbearance authority, with the express understanding that it would be used to effectuate interexchange detariffing. Exercising its forbearance authority, the Commission eliminated its tariff filing requirements for nondominant IXCs in the *Second Report and Order*. While tariffs originally were required to protect consumers from unjust, unreasonable, and discriminatory rates in a virtually monopolistic market, the Commission concluded that such tariffs had become unnecessary for this purpose in an increasingly competitive market. The Commission found that it is highly unlikely that interexchange carriers that lack market power could successfully charge rates, or impose terms and conditions, for interstate, domestic, interexchange services that violate sections 201 and 202 of the Communications Act because consumers could simply switch to a competing provider that offered better rates, terms, and conditions. Instead of tariffs, the Commission found that it could rely on market forces, the section 208 complaint process, and its ability to reimpose tariff requirements, if necessary, to fulfill its mandate under the Communications Act to ensure that rates are just and reasonable and not unreasonably discriminatory, and to protect consumers. Moreover, the Commission concluded that tariffs can have negative effects that impair market efficiency and increase costs to consumers. The Commission found that, in particular, tariffs impede competition by permitting carriers to invoke the "filed-rate" doctrine and by not requiring carriers to provide rate and service information directly to consumers. The Commission also stated that tariffs provide a source of information that carriers can use to engage in tacit price coordination.

7. Although the Commission concluded that tariffs harm competition in the market for interstate, domestic, interexchange services, it also acknowledged that in the absence of some rate disclosure requirement, even in a competitive market, consumers might not have access to sufficient information about such services for purposes of bringing complaints under section 254(g) of the Act or for choosing the particular rate plan that best suits their individual needs. Yet the Commission also recognized that requiring carriers to make such information publicly available for these purposes may be at odds with its goals to reduce regulatory burdens on nondominant IXCs and to foster additional competition in the interstate, domestic, interexchange market. In addition, an information disclosure requirement may detract from the Commission's goal of deterring any tacit price coordination that might exist because rate and service information would be collected and made available in a single, central location.

8. The Commission determined in the *Second Report and Order* that the statutory forbearance criteria in section 10 of the Communications Act were met for complete detariffing of the interstate, domestic, interexchange services offered by nondominant IXCs. The Commission concluded that complete detariffing would foster increased competition without failing to protect consumers by eliminating the possible invocation of the "filed-rate" doctrine in ways that would otherwise lead to harsh results for consumers, establishing market conditions that more closely resemble an unregulated environment, and deterring any potential for tacit price coordination.

9. The Commission also adopted a public disclosure requirement in the *Second Report and Order* because it recognized that, even in a competitive market, nondominant IXCs might not provide complete information about the rates, terms, and conditions of their interstate, domestic, interexchange services to enable customers to bring to the Commission's attention violations of the Communications Act and to choose the calling plan that best suits their individual needs. For example, nondominant IXCs might engage in targeted advertising concerning particular discounts and rate plans that might be the most appropriate plan for some, but not all, consumers. The Commission required nondominant IXCs to disclose to the public information about the rates, terms, and conditions of all of their interstate, domestic, interexchange services, in at least one location during regular business hours. The Commission did not, however, require that public disclosure be made in any particular format or at any particular location, although it encouraged nondominant IXCs to consider ways to make this information more widely available to the public, for example, posting such information on-line, mailing relevant information to consumers, or responding to inquiries over the telephone. In addition to adopting the public disclosure requirement, the Commission required nondominant IXCs to: (1) file an annual certification stating that they are in compliance with the geographic rate averaging and rate integration requirements of section 254(g) of the Communications Act, and (2) maintain supporting documentation on the rates, terms, and conditions of all of their interstate, domestic, interexchange services that they could submit to the Commission and to state commissions within ten business days upon request.

10. Several parties filed petitions for review of the *Second Report and Order* in the District of Columbia Circuit and filed motions requesting that the court stay the *Second Report and Order* pending judicial review. On February 13, 1997, the court granted these motions. In addition, a number of parties filed petitions requesting that the Commission reconsider or clarify the rules it adopted in the *Second Report and Order*.

11. On August 15, 1997, the Commission adopted the *Order on Reconsideration*. The Commission placed more weight on its concern that making available rate and service information to the public may detract from its objectives of deterring tacit price coordination and allowing market forces rather than regulation to discipline carriers. The Commission recognized that elimination of the public disclosure requirement could make the access to rate and service information more difficult for businesses, including consumer groups that offer their analyses of the rates and services of IXCs to the public, as well as for resellers that are both customers and competitors of IXCs. The Commission nevertheless concluded that the benefits of eliminating the public disclosure requirement would outweigh any adverse effects. The Commission determined that elimination of the public disclosure requirement would decrease the regulatory burden on nondominant IXCs and deter any tacit price coordination that might exist. The Commission also found that, in all likelihood, consumers would still receive the information they need to ensure that they have been correctly billed and to bring to the Commission's attention possible violations of section 254(g) and other provisions of the Act. The Commission stated, however, that it remained willing to revisit its decision regarding the elimination of the public disclosure requirement. The Commission did not modify the requirements adopted in the *Second Report and Order* that nondominant IXCs file an annual certification and that they maintain supporting

documentation on their interstate, domestic, interexchange services that they could submit to the Commission and to state regulatory commissions within ten business days upon request.

12. Five parties filed petitions for further reconsideration asking the Commission to reinstate the public disclosure requirement. The D.C. Circuit subsequently deferred the briefing schedule in the appeal of the *Second Report and Order* to allow the Commission to act on these petitions. The judicial stay of the Commission's rules adopted in this proceeding, therefore, remains in effect.

13. The single issue raised on reconsideration is whether the Commission should require nondominant IXCs to make available to the public information on the rates, terms, and conditions of their interstate, domestic, interexchange services. For the reasons set forth, we reinstate the public disclosure requirement that was originally specified in the *Second Report and Order* and also require that carriers make this information publicly available on-line at their Internet websites.

C. Discussion

14. The parties who filed the petitions for reconsideration that are before us today express grave concerns about the effects on consumers of the Commission's decision to eliminate the public disclosure requirement. These parties generally disagree with the Commission's finding in the *Order on Reconsideration* that consumers will have access to the information they need to select a telecommunications carrier and to bring to the Commission's attention possible violations of the Communications Act without a specific public disclosure requirement. Eighty-five percent of consumers believe that the public disclosure requirement will serve their interests, according to a study commissioned by one of the members of petitioner TURN/TMISC. Consumers find that IXCs' billing information often is "inaccurate and difficult to understand" and that their marketing information is "confusing," according to findings of other studies cited by petitioners. Consumers find it impossible to obtain accurate and detailed information directly from carriers concerning their calling plans, according to TURN/TMISC and TRAC, on the basis of their own experiences in attempting to obtain such information directly from IXCs. These petitioners claim that carrier representatives: (1) provided information that was generally incomplete or inaccurate; (2) referred callers to their filed tariffs rather than provide information verbally; (3) withheld information about lower-cost calling plans; and (4) provided information verbally, but only reluctantly confirmed it in writing. We also note that MCI WorldCom recently ended its cooperation with TRAC to provide information that TRAC summarizes in its comparative chart of long distance calling plans, citing the "time-consuming nature of gathering and confirming information," and referred the organization to its filed tariffs.

15. There is abundant evidence that making information available to consumers is beneficial to competitive markets. In addition to the evidence set forth and in prior orders in this proceeding, several of our recent decisions clearly recognize the beneficial effects of publicly available information on competitive markets and consumers. For instance, we proposed rules in the *Truth-in-Billing Notice* to make telephone bills more readable and accurate, because we believe that "consumers must have adequate information about the services they are receiving, and the alternatives available to them, if they are to reap the benefits of a competitive market." In 1998, we adopted a price disclosure requirement for long distance carriers providing service at public phones that "more readily enables consumers to obtain valuable information necessary in making the decision whether to have that [carrier] carry the call at the identified rates, or to use another carrier." We took these actions to address concerns that consumers were not receiving sufficient information to protect themselves against fraud and misinformation, and to select telecommunications services and providers that best suit their individual needs. There are many examples of government mandating disclosure of information to protect and promote consumer interests.

16. In comparison with abundant evidence in this proceeding of the benefits of information to competition and consumers, the anticompetitive effect of a public disclosure requirement is sparse and indeterminate. Moreover, the growing number of competitors in this market substantially lessens the risk of tacit price collusion. As antitrust law recognizes, tacit price collusion is more likely to occur where there are only a few competitors who have an oligopoly in the market. Where there are greater numbers of competitors and low barriers to entry, as in the long distance market, the likelihood of such coordinated behavior is marginal. In light of the "conflicting and inconclusive" evidence of tacit price collusion and the competitive nature of the market, we now are convinced that the public availability of pricing information presents only the slimmest opportunity for collusion and thus a public disclosure requirement need not be eliminated on that basis. Consequently, in light of the very positive public benefits of a limited public disclosure requirement, we believe that the Commission erred in previously eliminating that requirement in the *Order on Reconsideration*. In addition, the growth of competition in the long distance market means that consumers have more choices and, in turn, need more information in order to choose the long distance service plan that best suits their needs. We also note that IXCs have superior resources and incentives to stay informed of the rate plans of their competitors whether or not rate and service information is made publicly available. Therefore, it is consumers who likely will experience the most harm in the absence of a meaningful public disclosure requirement. We clearly recognize that tacit price collusion is one of the grounds on which the Commission relied in choosing to forbear from the tariffing requirement and that basis is incongruous with our current holding. Nonetheless, we emphasize that the Commission substantially rested its detariffing decision on grounds other than collusion that remain compelling; thus, we find no conflict between the Commission's decision to order complete detariffing and our decision to require public disclosure.

17. We agree with Ad Hoc that the "filed-rate" doctrine that the courts have applied to the tariff filing requirement should not apply to the public disclosure requirement. The "filed-rate" doctrine is applied to the rates, terms, and conditions of services specified in tariffs that are "duly filed" with the Commission in accordance with section 203 of the Communications Act. The "filed-rate" doctrine is inapplicable to the public disclosure requirement because it is not a filing requirement within the meaning of section 203, but rather simply requires carriers to make information available to the public. Moreover, the Commission has long held that the "filed-rate" doctrine is harmful to competition and consumers, as noted.

18. In the face of opposing positions on whether public disclosure should be required, we strike the balance once again in favor of consumer concerns. We therefore reinstate the public disclosure requirement as originally established in the *Second Report and Order*.

Specifically, we require nondominant IXCs to make information available to the public concerning current rates, terms, and conditions for all of their interstate, domestic, interexchange services, in at least one location during regular business hours. We also require such carriers that have Internet websites to post this information on-line. Carriers should post rate and service information at their Internet websites in a timely and easily accessible manner and update such information regularly. We agree with TRAC and Ad Hoc that an on-line public disclosure requirement will make rate and service information more readily available and beneficial for consumers directly, as well as for businesses and consumer organizations that collect and analyze rate and service information and offer their analyses to the public, particularly in view of the tremendous growth in usage of the Internet since the adoption of the *Second Report and Order* in 1996 and forecasts for additional growth. We find that an on-line requirement is not unduly burdensome, because the growth of Internet usage has increased the benefits of an on-line requirement to consumers, and the costs of maintaining an Internet website and posting the information on-line for carriers are moderate. We exempt from the Internet posting requirement nondominant IXCs that do not have Internet websites, to avoid imposing undue burdens on such carriers.

19. Our decision to reinstate the public disclosure requirement can be reconciled with our previous decision to implement complete detariffing. The Commission's decision to forbear from applying the tariff filing requirements to nondominant IXCs and require complete detariffing is amply supported by evidence of numerous concerns that are independent of, and more compelling than, tacit price coordination. These concerns, as set forth in the *Second Report and Order* and the *Order on Reconsideration*, include promoting competitive market conditions, eliminating problems resulting from the "filed-rate" doctrine, and preserving the public's reasonable commercial expectations. We believe that our decision to reinstate the public disclosure requirement retains the one positive aspect of tariffing, making information on the rates, terms, and conditions of interstate, interexchange services available to the public, without the negative aspects of tariffing.

II. Erratum

20. This Erratum corrects a final rule in the *Order on Reconsideration*, which was released by the Commission on August 20, 1997 and published at 62 FR 46447, September 3, 1997. Rule changes to the *Order on Reconsideration* is corrected to include a reference to state regulatory commissions that was contained in the text of paragraph 69 of the *Order on Reconsideration*, but was inadvertently not included in the rule to be codified at 47 CFR 42.11. The corrected final rule is contained in this order.

III. Ordering Clauses

Accordingly, *it is ordered*, that, pursuant to sections 1–4, 10, 201–205, 215, 218, 220, 226, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 201–205, 215, 218, 220, 226, and 254, the *second order on reconsideration* is hereby *adopted*. The requirements adopted in this *Second Order on Reconsideration* shall be effective [30 days after publication of a summary thereof in the **Federal Register**] or on the date when the requirements adopted in the *Second Report and Order* in this proceeding become effective, whichever is later.

22. *It is further ordered* that the Petitions for Further Reconsideration filed in this proceeding *are granted* to the extent described in this order.

23. *It is further ordered* that Part 42 of the Commission's rules, 47 CFR 42, *is amended* as set forth in the Rule Changes.

24. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, *shall send* a copy of this *Second Order on Reconsideration*, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 42 as follows:

PART 42—PRESERVATION OF RECORDS OF COMMUNICATIONS COMMON CARRIERS

1. The authority citation for part 42 continues to read as follows:

Authority: Sec. 4(i), 48 Stat. 1066, as amended, 47 U.S.C. 154(i). Interprets or applies secs. 219 and 220, 48 Stat. 1077–78, 47 U.S.C. 219, 220.

2. The undesignated center heading preceding § 42.11 is revised to read as follows:

Specific Instructions for Carriers Offering Interexchange Services

3. Section 42.10 is added to read as follows:

§ 42.10 Public availability of information concerning interexchange services.

(a) A nondominant interexchange carrier (IXC) shall make available to any member of the public, in at least one location, during regular business hours, information concerning its current rates, terms and conditions for all of its interstate, domestic, interexchange services. Such information shall be made available in an easy to understand format and in a timely manner. Following an inquiry or complaint from the public concerning rates, terms and conditions for such services, a carrier shall specify that such information is available and the manner in which the public may obtain the information.

(b) In addition, a nondominant IXC that maintains an Internet website shall make such rate and service information specified in paragraph (a) of this section available on-line at its Internet website in a timely and easily accessible manner, and shall update this information regularly.

4. Section 42.11 is amended by revising paragraph (a) to read as follows:

§ 42.11 Retention of information concerning interexchange services.

(a) A nondominant IXC shall maintain, for submission to the Commission and to state regulatory commissions upon request, price and service information regarding all of the carrier's interstate, domestic, interexchange service offerings. The price and service information maintained for purposes of this paragraph shall include documents supporting the rates, terms, and conditions of the carrier's interstate, domestic, interexchange offerings. The information maintained pursuant to this section shall be maintained in a manner that allows the carrier to produce such records within ten business days.

* * * * *

[FR Doc. 99–10023 Filed 4–21–99; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 64, No. 77
Thursday, April 22, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–22–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) PW4000 series turbofan engines. This proposal would establish short term criteria for limiting the number of engines with potentially reduced stability on each airplane to no more than one engine, would require initial and repetitive on-wing or test cell cold takeoff high pressure compressor (HPC) stability tests, would require removal of engines from service that fail on-wing test acceptance criteria, and would allow a follow-on test cell stability test. The AD also establishes required intervals for stability testing of the remaining engine with potentially reduced stability on the airplane and requirements for reporting test data. This proposal is prompted by a report of a dual-engine HPC surge event and reports of single-engine HPC surge events during the takeoff and climb phases of flight. The actions specified by the proposed AD are intended to prevent an HPC surge event, which could result in engine power loss at a critical phase of flight such as takeoff or climb.

DATES: Comments must be received by May 24, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–22–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.gov." Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NE–22–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–22–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received a report of a dual-engine high pressure compressor (HPC) surge event and several reports of single-engine HPC surge events on Pratt & Whitney (PW) PW4000 series turbofan engines. The FAA has determined that these HPC surges are caused by excessive HPC blade tip-to-stator assembly clearances in the aft stages of the HPC. The average maximum clearance between the blade tip and the stator assembly is reached during a cold engine takeoff approximately 60 seconds after throttle advance from idle to takeoff power, as a result of different thermal growth rates of the HPC rotor and stator components. The manufacturer's data indicates that some PW4000 engines exhibit reduced stability resulting from clearances larger than those due to this thermal mismatch alone. Testing has indicated that binding of stator assembly segments in the HPC outer casing can result in flow path distortion and produce local open clearances. These two factors (average maximum clearance and local open clearances) combine to produce excessive local blade tip-to-stator assembly clearances, which reduce stability and create subsequent engine surge.

The FAA has issued AD 98–23–08, Amendment 39–10873, (63 FR 63391, November 13, 1998) which was intended to reduce the rate of single-engine surges. Although the surge rates for engines that have incorporated the requirements of that AD have been reduced, the FAA has determined that further improvement is necessary. The investigation of engine surge events has determined that the dual-engine HPC surge event and several single-engine surge events have occurred on engines that meet the requirements of AD 98–23–08.

This condition, if not corrected, could result in an HPC surge event, which could result in engine power loss at a critical phase of flight such as takeoff or climb.

The FAA has reviewed and approved the technical contents of PW Special Instructions (SI) 49F96, dated August 9, 1996, PW SI 7F–96, dated January 10, 1996, and PW PW4000 Engine Manual Temporary Revisions 71–0016, 71–0025, and 71–0030, all dated March 15, 1999, and PW SI 32F–99, dated March April 13, 1999, which describe procedures for assessing the stability of PW4000 engines. Since an unsafe condition has been identified that is likely to exist or develop on other Pratt & Whitney (PW) PW4000 series turbofan engines of the same type design, the proposed AD would require short term criteria for limiting the number of engines with potentially reduced stability on each airplane to no more than one engine, would require initial and repetitive on-wing or test cell cold takeoff high pressure compressor (HPC) stability tests for all affected PW4000 series engines, would require removal from service of engines that fail on-wing test criteria, and would allow a follow-on test-cell stability test. Initial on-wing testing is required to limit the number of engines on the aircraft to no more than one engine that has exceeded the initial stability threshold. The proposed AD also establishes requirements to perform a stability test of the remaining engine with potentially reduced stability on the airplane. The stability tests are required to be accomplished in accordance with the special instructions described previously. This proposed AD has been drafted in conjunction with the Transport Aircraft Directorate, to coordinate the aircraft level aspects of this compliance plan. Data reporting requirements are necessary for this AD to allow continuous monitoring of the effectiveness and assumptions of this compliance plan. The manufacturer does not receive data on all of the tests that are performed, and this data is necessary to continuously monitor this plan. Additional rulemaking may be necessary based on the results of the data collected.

There are approximately 2,200 engines of the affected design in the worldwide fleet. The FAA estimates that 546 engines installed on aircraft of U.S. registry would be affected by this proposed AD. The FAA also estimates that, on average, approximately 192 on-wing tests, 60 test cell stability tests, 11 engine removals, and 19 HPC overhauls will be required annually. It is estimated that the cost to industry of an on-wing stability test will average $2,000, a test cell stability test will average $12,000, an engine removal is approximately $5,000, and an HPC overhaul will cost approximately $400,000. Based on these figures, the total average annual cost impact of the proposed AD to U.S. operators is estimated to be $8,759,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket No. 99–NE–22–AD.

Applicability: Pratt & Whitney PW4050, PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462 and PW4650 turbofan engines installed on, but not limited to certain models of Boeing 747, Boeing 767, Airbus Industrie A300, Airbus Industrie A310, and McDonnell Douglas MD–11 series airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a high pressure compressor (HPC) surge event, which could result in engine power loss at a critical phase of flight such as takeoff or climb, accomplish the following:

(a) Limit the number of engines on each airplane to no more than one untested engine that has exceeded the initial threshold specified in Table 1 of this AD, within 1,000 engine cycles in service (CIS) from the effective date of this AD or by December 31, 1999, whichever comes first, by one of the following methods:

(1) Conduct an initial on-wing stability test on engines listed in Table 1 of this AD, which have accumulated cycles equal to or greater than the associated initial threshold listed in Table 1 of this AD, as follows:

(i) Perform either a Cool Bodie stability test in accordance with PW Special Instructions 7F–96,dated January 10, 1996. Refer to Table 2 of this AD for disposition instructions, or;

(ii) Perform an E1E stability test in accordance with paragraphs A through D and F through H of the Run On-Wing E1E Testing section of PW Special Instructions 49F–96, dated August 9, 1996. Refer to Table 2 of this AD for disposition instructions.

(iii) For purposes of this AD, the initial threshold for PW4056, PW4156, and PW4156A, first run, full-up engines, applies only to engines that have incorporated service bulletins PW4ENG 72–474, 72–477, 72–484, 72–575, 72–485, 72–486, and 72–514 at original manufacture, and have had no work performed on the HPC and high pressure turbine gas path.

(2) Remove from service those engines listed in Table 1 of this AD with HPC's that have accumulated cycles equal to or greater than the initial threshold listed in Table 1 of this AD and replace with a serviceable engine that has undergone applicable initial and repetitive testing in accordance with paragraphs (a), (b) and (c) of this AD.

TABLE 1

Models	Initial threshold	Engine manual
PW4052, PW4152, PW4158, PW4050, PW4650	2400 HPC cycles since new or since HPC overhaul	50A605, 50A443
PW4056,* PW4156,* PW4156A*	1700 engine cycles since new	50A605, 50A443
PW4056, PW4156, PW4156A	1200 HPC cycles since HPC overhaul	50A605, 50A443
PW4060, PW4060A, PW4060C, PW4062, PW4160, PW4460, PW4462.	1200 HPC cycles since new or since HPC overhaul	50A605, 50A443,50A822

First Run, Full Up Engines.

TABLE 2.—ON-WING ACCEPTANCE CRITERIA

Test type	Test result	Disposition
Cool Bodie: In accordance with SI 7F–96, dated August 9, 1996.	Pass	Continue in service.
	Failure	Remove from service or conduct E1E. If <0.02 continue in service. If E1E is ≥0.02 remove from service, prior to further flight.
E1E: In accordance with SI 49F–96, dated January 10, 1996.	<0.02	Continue in service.
	≥0.02 but ≤0.032	Conduct Cool Bodie, if pass continue in service. If fail remove engine from service, prior to further flight.
	>0.032	Remove from service, prior to further flight.

(b) For engines removed from service in accordance with paragraph (a) of this AD, a cold engine fuel spike stability test (Testing—20) may be done in accordance with the associated PW PW4000 Engine Manual Temporary Revisions 71–0016, 71–0025, and 71–0030, all dated March 15, 1999, or PW SI 32F–99, dated April 13, 1999. Engines that pass a test cell stability test may be returned to service.

(c) Repeat stability tests in accordance with paragraph (a)(1)(i) or (a)(1)(ii) on engines that meet the acceptance criteria of Table 2 of this AD or pass a test cell stability test in accordance with paragraph (b) before accumulating 800 CIS since last stability test.

(d) Remove from service engines that do not meet the acceptance criteria of Table 2, prior to further flight and replace with a serviceable engine that has undergone applicable initial and repetetive testing in accordance with paragraphs (a), (b) and (c) of this AD.

(e) Conduct stability tests on the remaining engine on each airplane before accumulating 1800 engine CIS after the effective date of this AD, or by December 31, 2000, whichever comes first, in accordance with paragraph (a) of this AD.

(f) Engines that have not reached the initial threshold specified in Table 1 of this by 1000 engine CIS after the effective date of this AD, or by December 31, 1999, whichever comes first, must be tested before the engine reaches the initial threshold so that no more than one engine per airplane has not been tested. After accumulating 1800 CIS or December 31, 2000, whichever comes first, the engines must be managed so that all engines have been tested in accordance with the initial thresholds specified in Table 1 of this AD or the repetitive 800 CIS threshold requirement of this AD.

(g) After the effective date of this AD, a cold engine fuel spike stability test (Testing—20) must be performed in accordance with PW Temporary Revision 71–0016, 71–0025, or 71–0030, all dated March 15, 1999, or PW SI 32F–99, dated April 13, 1999, before an engine can be returned to service after having undergone maintenance in the shop, except under any of the following conditions:

(1) The HPC stage 12 through 14 blade tip clearances were restored to the clearances specified in the applicable fits and clearances engine manual during the shop visit, or the HPC was replaced with a new HPC during the shop visit.

(2) Less than 800 CIS have passed since the last accomplishment of Testing—20, unless a major engine flange was separated during the shop visit.

(3) The shop visit was only for replacement of a line replaceable unit, with no other work done, unless a major engine flange was separated during the shop visit.

Note 2: Boeing SB 767–72A0034, dated April 16, 1999, and SB 747–72A2038, dated April 16, 1999, include instructions similar to those contained in this AD, however, these SB's are not approved as alternate methods of compliance with this AD.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(i) Report the results of the stability assessment tests to the Manager, Engine Certification Office, 12 New England Executive Park, Burlington, MA 01803–5299. Data to be reported includes engine serial number, type and date of the test, results of the test (include E1E value if applicable), position of engine on the airplane, disposition of the engine after the test, time and cycles since compressor overhaul, and total time on engine and total cycles at the time of the test. Reporting requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 2120–0056.

(j) Special flight permits may be issued in accordance §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on April 14, 1999.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–10054 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ANM–03]

Proposed removal of Class E airspace; Oak Harbor, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal would remove the Class E surface airspace at Oak Harbor Air Park, Oak Harbor, WA. The airport is no longer eligible to retain a Class E surface area because of a lack of weather reporting.

DATES: Comments must be received on or before June 7, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 99–ANM–03, 1601 Lind Avenue SW, Renton, Washington, 98055–4056.

The Official docket may be examined in the office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 99–ANM–03, 1601 Lind Avenue SW, Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of this proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–ANM–03." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington, 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) to remove Class E airspace at Oak Harbor, WA. This amendment would revoke airspace no longer meeting the requirements of a Class E surface area. The weather reporting requirements for a surface area dictate that weather observations must be taken by a Federally Certified Weather Observer and/or a Federally Commissioned Weather Observing System during the times and dates the surface area is designated. These weather observations routinely are not being met as required at the Oak Harbor Air Park. Attempts to have interested personnel fix the reporting problem were unsuccessful. The intended effect of this proposal is designed to provide efficient and safe use of the navigable airspace.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from the surface of the earth, are published in Paragraph 6002 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, effective September 16, 1998, is amended as follows:

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * * *

ANM WA E2 Oak Harbor, WA [Remove]

* * * * *

Issued in Seattle, Washington, on April 9, 1999.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 99–10091 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 259

Request for Comment on the Guide Concerning Fuel Advertising for New Automobiles

AGENCY: Federal Trade Commission.

ACTION: Request for public comment.

SUMMARY: The Federal Trade Commission ("Commission") requests public comment on the overall costs and benefits and the continuing need for its Guide Concerning Fuel Economy Advertising for New Automobiles ("Fuel Economy Guide" or "Guide"), 16 CFR Part 259, as part of the Commission's systematic review of all

current Commission regulations and guides.

DATES: Written comments will be accepted until June 21, 1999.

ADDRESSES: Mailed comments should be directed to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Mailed comments should be identified as " Fuel Guide, 16 CFR Part 256—Comment." E-Mail comments will be accepted at [FuelGuide@ftc.gov]. Those who comment by e-mail should give a mailing address to which an acknowledgment can be sent.

FOR FURTHER INFORMATION CONTACT: Willie L. Greene, Investigator, Federal Trade Commission, Cleveland Regional Office, Cleveland, OH 44114, telephone number (216) 236–3406.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission adopted the Guide Concerning Fuel Economy Advertising for New Automobiles in 1975 to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy in advertising. Since its enactment, the Guide has advised marketers to disclose the established fuel economy of the vehicle as determined by EPA's Automobile Information Disclosure Act (15 U.S.C. 2206) in advertisements that make representations regarding the fuel economy of a new vehicle. These EPA fuel economy numbers also appear on window labels attached to new automobiles.

In 1978 and 1995, the Commission amended the Guide to make it consistent with EPA Information Disclosure Act changes regarding fuel economy disclosures. 43 FR 55757 (November 29, 1978); 60 FR 56230 (Nov. 8, 1995).

II. Regulatory Review Program

The Commission has determined to review all current Commission rules and guides periodically. These reviews seek information about the cost and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Therefore, the Commission solicits comments on, among other things, the economic impact of and the continuing need for the Guide concerning Fuel Economy Advertising for New Automobiles; possible conflict between the Guide and state, local or other federal laws; and the effect on the Guide of any technological, economic, or other industry changes.

III. Request for Comment

The Commission solicits written public comments on the following questions:

(1) Is there a continuing need for the Guide Concerning Fuel Economy Advertising for New Automobiles?

(a) What benefits has the Guide provided to purchasers of the product affected by the Guide?

(b) Has the Guide imposed costs on purchasers?

(2) What changes, if any, should be made to the Guide to increase the benefits of the Guide to purchasers? How would these changes affect the costs the Guide imposes on firms who conform to its advice? How would these changes affect the benefits to purchasers?

(3) What significant burdens or costs, including costs of compliance, has the Guide imposed on firms who conform to its advice? Has the Guide provided benefits to such firms? If so, what benefits?

(4) What changes, if any, should be made to the Guide to reduce the burdens or costs imposed on firms who conform to its advice? How would these changes affect the benefits provided by the Guide?

(5) Does the Guide overlap or conflict with other federal, state, or local laws or regulations?

(6) Since the Guide was issued, what effects have changes in relevant technology or economic conditions had on the Guide? Do sellers of automobiles use E-mail or the Internet to promote or sell by using fuel economy advertisements? Does the use of this new technology affect consumers' rights or advertisers' responsibilities under the Guide?

(7) Are there any abuses occurring in the promotion or advertising of fuel economy that are not covered by the Guide? If so, what mechanisms should be explored to address such abuses (*e.g.*, consumer education, industry self-regulation, revisions to the Guide)?

List of Subjects in 16 CFR Part 259

Advertising, Fuel economy, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–9842 Filed 4–21–99; 8:45 am]

BILLING CODE 6750–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Fees for Applications for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed reduction of schedule of fees.

SUMMARY: The staff reviews periodically the Commission's actual costs of processing applications for contract market designation (17 CFR Part 5, Appendix B) and adjusts its schedule of fees accordingly. As a result of the most recent review, the Commission is proposing to establish reduced fees for a limited class of simultaneously submitted multiple contract designation application filings.

DATES: Comments must be received by May 24, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A., Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to *secretary@cftc.gov*. Reference should be made to Designation Fee Proposal.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, (202) 418–5275, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION:

I. History

On August 23, 1983, the Commission established a fee for contract market designation (48 FR 38214). The fee was based upon a three-year moving average of the actual costs and the number of contracts reviewed by the Commission during that period of time. The formula for determining the fee was revised in 1985. At that time, most of the designation applications were for futures contracts rather than option contracts, and the same fee was applied to both futures and option designation applications.

In 1992, the Commission reviewed its data on the actual costs for reviewing designation applications for both futures and option contracts and determined that the cost of reviewing a futures contract designation application was much higher than the cost of reviewing an option contract designation. It also determined that, when designation

applications for both a futures contract and an option on that futures contract are submitted simultaneously, the cost for reviewing both together was lower than for reviewing the contracts separately. Based on that finding, three separate fees were established—one for futures alone, one for options alone, and one for combined futures and option contract applications (57 FR 1372). The combined futures/option designation application fee is set at a level that is less than the aggregate fee for separate futures and option applications to reflect the fact that the cost for review of an option is lower when submitted simultaneously with the underlying future and to create an incentive for contract markets to submit simultaneously applications for futures and options on that future.

II. Proposed Further Modifications to Fee Structure

The Commission is proposing to further modify its fees structure for a limited class of multiple designation applications submitted simultaneously relating to contracts: (i) which are cash settled based on an index representing measurements to physical properties or financial characteristics which are not traded per se in the cash market; (ii) which use the same procedures for determining the cash-settlement values for all contracts in the filing; (iii) as to which the procedure for determining the values which vary for the individual cash settlement prices is objective and the individual contract values represent a spatial or other variant of that procedure or a larger of smaller multiplier; and (iv) as to which all other terms and conditions are the same.[1] Commission fees for simultaneous submission of such multiple cash-settled contracts would be equal to the prevailing fee for the the first contract plus 10 percent of that fee for each additional contract in the filing. This fee structure represents an extension of the policy adopted by the Commission in 1992 when it established reduced fees for option applications and for combined futures and option applications and would be consistent with the Commission's responsibility under the Independent Offices Appropriations Act (31 U.S.C. 9107 (1982)) to base fees on the costs to the Government.

The Commission believes that a 10 percent marginal fee for additional contracts in a filing is appropriate for applications submitted simultaneously that are eligible for the proposed multiple-contract filing fee. Because the multiple-contract filing fee applies only to cash-settled contracts based on objectively determined index values such that each separate contract represents only a spatial or other variant of that process and because the index is a measurement of a physical property or a financial characteristic which is not traded per se in the cash market, the Commission's review likely will not require a separate detailed analysis of each of the contracts in the filing. Moreover, for contracts meeting the standard for the multiple contract filing fee, the Commission's review of the cash settlement mechanism would involve a single analysis of the nature of the index and the process by which the underlying index values are determined. Separate comprehensive evaluations for each individuals index would not be required since the same calculations apply to each. Since the underlying instruments are not traded in the cash market, the Commission need not conduct separate reviews of the underlying cash markets or the reliability or transparency of prices for the individual commodities. Because each contract much use an identical case-settlement procedure and all other material terms and conditions must be the same (except for the differentiated term of the specified contract multiplier), the analysis of the cash settlement procedure for one contract would apply in large part to each of the additional contracts. Finally, because each contract in a filing must be differentiated only with respect to a single term or contract size feature that is not likely to affect the integrity of the cash settlement mechanism, each separate contract would not require a separate comprehensive analysis to ascertain its compliance with requirements for designation.

The Commission notes that, regardless of the fee assessed for designation applications, the Commission will continue to conduct the same comprehensive review to ensure that each proposed contract meets all requirements for designation set forth in Guideline No. 1. However, as explained above, for the types of applications covered by the multiple contract filing fee, the Commission's analysis of the cash settlement procedure in general and its review of the other material terms and conditions likely would be applicable to each contract in the filing. Only a limited incremental analysis would be required to assess whether each additional contract in such a filing meets the designation requirements of Guideline No. 1, resulting in a much higher degree of efficiency in reviewing the applications and substantially reducing the marginal cost for reviewing and processing the additional contracts. The Commission's extensive experience in reviewing new contract designation applications indicates that, for simultaneously submitted multiple contract filings meeting the specified standards, a fee for each additional contract equal to 10 percent of the single contract application fee would reflect the Commission's expected review costs for these types of applications. To the extent the Commission finds otherwise, this fee will be adjusted in subsequent years.

The Commission wishes to make clear that the reduced option fee for the limited class of multiple-designation applications applies only to options on futures applications and not to options on physicals applications.

Under the new procedures noted above, the Commission's proposed multiple contract designation application fees for filings meeting the standard discussed above would be as follows: For filings involving multiple cash-settled futures—$6,800 for the first contract, plus $680 for each additional contract; for filings involving multiple options on case-settled futures—$1,200 for the first contract, plus $120 for each additional contract; and for filings involving multiple combined cash-settled futures and options on those futures—$7,500 for the first futures and option contract, plus $750 for each additional futures and option contract. To be eligible for the reduced fees, contract markets must label the submission as a multiple contract filing and identify the cash settlement procedure to be used and the nature of the differentiated term or the different contract size specifications and justify why the application qualifies for this

[1] In this regard, contracts having differentiated spatial features include contracts that are identical in all respects including the cash settlement mechanism but which may be based on the application of differing objectively determined values for different geographical areas. These may include contracts on weather-related data or vacancy rates for rental properties, where each individual contract is based on the value—temperature, local vacancy rate, etc.—for a specific city. To be eligible for the multiple contract filing fee, each contract must be cash-settled based on the same underlying data source and derived under identical calculation procedures such that the integrity of the cash settlement mechanism is not dependent on the individual contract specifications and that values which vary are derived objectively using the same source of type of data. Thus, for example, applications containing a number of similar cash-settled contracts based on indexes of government debt of different foreign countries would not be eligible for the reduced fee since the manipulation potential of each contract would be related to the liquidity of the underlying instruments and the individual trading practices and governmental oversight in each specific country, requiring separate analyses.

reduced fee. The Commission is seeking comment on this multi-contract designation application fee proposal.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires agencies, in proposing rules, to consider the impact of those rules on small businesses. The fees implemented in this release affect contract markets (also referred to as "exchanges") and a registered futures association. The Commission has previously determined that contract markets and registered futures associations are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, 47 FR 18618 (April 30, 1982). Therefore, the Chairperson, on behalf of the Commission, certifies, pursuant to 5 U.S.C. 605(b), that the fees proposed herein will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on April 15, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–9940 Filed 4–21–99; 8:45 am]

BILLING CODE 6351–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 34–41288; FOIA–190; and PA–27; File No. S7–14–99]

RIN 3235–AH71

Amendments to the Commission's Freedom of Information Act, Privacy Act, and Confidential Treatment Rules

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its Freedom of Information Act, Privacy Act, and confidential treatment rules because they are outdated in many respects. The proposed amendments would conform these rules to current statutory and case law and administrative practice.

DATES: Comments must be received by June 21, 1999.

ADDRESSES: You should send three copies of your comments to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Stop 0609, Washington, DC 20549–0609. You may also submit your comments electronically to the following electronic address: rule-comments@sec.gov. All comments letters should refer to File No. S7–14–99; you should also include this file number in the subject line if you use electronic mail. Comment letters will be available for public inspection and copying at our Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. We will post electronically-submitted comment letters on our Internet Web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Betty Lopez, FOIA/Privacy Act Officer (202) 942–4327; or Elizabeth T. Tsai, Staff Attorney, Office of Freedom of Information and Privacy Act Operations (202) 942–4326.

SUPPLEMENTARY INFORMATION:

I. Discussion of Rule Amendments

The Commission hereby proposes to amend its rules that allow persons to request records in its possession and request confidential treatment of records they submit to the Commission. The proposed amendments would make substantive and procedural changes to conform the rules to current statutory and case law and Commission practice. Other changes would correct clerical errors.

For example, under the proposed amendments, persons who voluntarily submit commercial or financial records to the Commission for which they are claiming confidentiality must stamp each page of the records "Voluntarily Submitted" in order to claim confidentiality under *Critical Mass Energy Project v. Nuclear Regulatory Comm'n.*[1] Also, requests for confidential treatment and substantiations of such requests would be deemed confidential and effective for five years from the date of their last submission unless renewed by the requester.

Specifically, the Commission proposes to amend 17 CFR 200.80, 200.83, and 200.301 *et seq.* These rules lay down the procedures for requesting records under the Freedom of Information Act ("FOIA")[2] or the Privacy Act of 1974 ("Privacy Act")[3] and allow persons to request confidential treatment for records they submit to the Commission.[4]

A. Confidential Treatment Requests

1. Background

The Commission has acquired, and will continue to acquire, a large number of records from private parties. Some of these records are regarded as very sensitive by the persons providing them. Yet, members of the public often want access to those records in the Commission's possession. Under the FOIA, a request for agency records by any person must be honored unless they are exempt from disclosure.[5]

Thus, the Commission must carefully weigh competing interests in fulfilling its obligation to disclose non-exempt records to the public under the FOIA, while preserving the legitimate interest of the submitter in keeping sensitive records confidential. The Commission wants to assure submitters of records that it will preserve the confidentiality of such records to the extent permitted by law and consistent with the Commission's responsibilities.[6] The Commission believes that the submission of records will be encouraged if the Commission maintains procedures that promote the fair evaluation of claims of confidentiality and enable it to determine which records may be withheld from disclosure under the FOIA.

To that end, in 1980, the Commission adopted confidential treatment procedures which apply to documents for which there is no other specific procedure to obtain confidentiality and which, in the normal course of Commission business, would not be placed in a public file.[7] The Commission amended these rules in 1982 to provide that, by delegated authority from the Commission, the General Counsel would decide confidential treatment appeals.[8]

One of the proposed amendments would implement the opinion of the District of Columbia Circuit in *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*,[9] in which the Court held that commercial or financial information, which is voluntarily submitted to an agency and is of a kind that the submitter would not customarily disclose to the public, is deemed confidential and, thus, exempt from disclosure under Exemption 4 of

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[1] 975 F.2d 871, 880 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993).

[2] 5 U.S.C. 552.

[3] 5 U.S.C. 552a.

[4] 5 U.S.C. 552.

[5] *See* 5 U.S.C. 552(b) (FOIA exemptions).

[6] A grant of confidential treatment does not preclude appropriate disclosure of the information, such as to Congress or another governmental authority. Nor does it preclude disclosure under a court order or subpoena.

[7] *See* 45 FR 62418, Sept. 19, 1980. The rule requires persons wishing to make a request for confidential treatment to submit their request at the time the information is first provided to the Commission or as soon thereafter as possible.

[8] 47 FR 20287, May 12, 1982.

[9] 975 F.2d 871 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993).

the FOIA.[10] As a result of *Critical Mass*, the Commission is proposing new procedures to ensure that records voluntarily submitted are properly identified as such.

The proposed rule also addresses the confidentiality of requests for confidential treatment and substantiations submitted in support of such requests and requires that confidential treatment requesters renew their requests every five years. The Commission is also proposing certain other changes to conform the rule to current Commission practice. These rules are not intended to alter the substantive rights of any person to obtain or protect records under the FOIA or any other federal statute or regulation.

2. Significant Revisions in the Rule

a. Voluntarily Submitted Information

In *Critical Mass*, the United States Court of Appeals for the District of Columbia Circuit held "that Exemption 4 protects any financial or commercial information provided to the Government on a voluntary basis if it is of a kind that the provider would not customarily release to the public." [11] Before *Critical Mass*, commercial or financial information was deemed confidential (and, thus, exempt) if it was likely that disclosure would "impair the government's ability to obtain necessary information in the future" or "cause substantial harm to the competitive position of the person" submitting the information. *National Parks & Conservation Ass'n v. Morton*.[12] Hence, *Critical Mass* applies to commercial or financial information submitted voluntarily to an agency, whereas *National Parks* remains applicable to such information required to be submitted to an agency.[13]

The Commission's proposed rule requires that submitters designate the records that they claim to be submitting voluntarily by clearly marking each page "Voluntarily Submitted." In addition, the submitter must describe the circumstances under which the records were submitted to the Commission in sufficient detail to support the claim that they were voluntarily submitted. No decision whether the records were, in fact, submitted voluntarily will be made unless the Commission receives a FOIA request for those records.[14]

The Commission believes that this proposed rule comports with the present state of the law.[15] Moreover, it will facilitate prompt, efficient review by the FOIA Office and eliminate the need for the Commission to obtain after-the-fact information of the circumstances of voluntary submissions.[16] In short, the new rule should provide more accurate, reliable information in a manner that will facilitate timely responses by the FOIA Office to FOIA and confidential treatment requests.

b. Confidentiality of Confidential Treatment Requests and Substantiations

The Commission proposes to deem all confidential treatment requests confidential, even though historically the Commission has viewed such requests as unprotected by the FOIA.[17] Frequently, submitters seek confidential treatment of their confidential treatment requests because the requests, themselves, contain confidential competitive information or describe in detail the information for which they seek confidentiality.

In addition, the FOIA Office has been unable to assure confidential treatment requesters that their substantiations would be kept confidential during and after the processing of their confidential treatment requests. The lack of such assurance has, on occasion, resulted in vague, generalized, or incomplete substantiations by those who feared that a thorough substantiation would reveal confidential information.

The Commission now proposes to amend its rules so that confidential treatment requests and substantiations of confidential treatment requests will also be deemed confidential. This amendment would encourage persons requesting confidential treatment to submit full, detailed substantiations to demonstrate that the records should be withheld under FOIA Exemption 4.[18]

c. Expiration of Confidential Treatment Requests

The Commission often spends considerable time, effort, and expense in notifying persons requesting confidential treatment that it has received a FOIA request for the submitted records. Frequently, however, notifying requesters becomes impossible because counsel, company personnel, addresses, or telephone numbers have changed without notice to the FOIA Office.[19]

Moreover, it has been the Commission's experience that the need for confidential treatment often diminishes with the passage of time. Thus, the Commission believes that a rule designating an expiration date for confidential treatment requests five years after their receipt by the FOIA Office is appropriate.[20] To that end, the proposed amendment states that a confidential treatment request will expire five years after its receipt by the FOIA Office unless the person requesting confidentiality renews the request before its expiration date.

3. Other Procedural Provisions in the Confidential Treatment Rules

Under paragraph (c)(2) of the proposed rule, written requests for confidential treatment must refer to identifying numbers and codes placed on the records. While the current rule permits a submitter to attach a cover sheet rather than actually mark each page of the record, the FOIA Office has encountered difficulties determining which records are covered when this method is used. Therefore, the amended rule requires that all records covered by a confidential treatment request be marked "Confidential Treatment requested by (name)," accompanied by an identifying number and code on each page. Further, the confidential treatment request and any substantiation should specify by the identifying code the records they cover.

Finally, the FOIA Office will issue a preliminary decision to the person requesting confidential treatment under paragraph (e) of the proposed rule. The requester will then have ten calendar days after the preliminary decision to respond to the preliminary decision or to submit a supplemental substantiation if he or she desires. The Office of Freedom of Information and Privacy Act

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[10] 975 F.2d at 879. Exemption 4 protects "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. 552(b)(4).

[11] 975 F.2d at 880.

[12] 498 F.2d 765, 770 (D.C. Cir. 1974).

[13] 975 F.2d at 880.

[14] Indeed, the Commission resolves any request for confidential treatment only at such time as a FOIA request is made for the designated records.

[15] The Commission recognizes that the law relating to Exemption 4 of the FOIA is still developing and that the applicable standards may be further modified.

[16] The person requesting confidential treatment is responsible for substantiating his request, including any assertion that the provided confidential commercial or financial records are voluntarily submitted.

[17] *See* FOIA Rel. No. 65, May 5, 1983, 48 FR 21112.

[18] Nevertheless, if the FOIA requester or the confidential treatment requester files an action in Federal court, the confidential treatment request and its substantiation could become part of the court record.

[19] The Commission's existing confidential treatment rule requires notice of any change in address or telephone number of a confidential treatment requester. 17 CFR 200.83(c)(3). Persons requesting confidential treatment frequently fail, however, to comply with this requirement.

[20] *See* Executive Order No. 12,600, 3 CFR, 1987 Comp., p. 235, permits such time limits.

Operations may issue the final decision ten business days after the preliminary decision if that Office receives no supplemental substantiation within the time allowed. This change is intended to conform the rule to the Commission's current practice.

B. Amendments to Rules Regarding Commission Records and Information and the Privacy of Individuals

1. Commission Records and Information

The proposed amendments are designed to (1) implement the Electronic Freedom of Information Act Amendments of 1996 ("EFOIA") [21] and the FOIA Reform Act of 1986 ("FOIA Reform Act"),[22] (2) clarify the methods used by the Commission to respond to FOIA requests, and (3) correct outdated information and certain typographical errors in the present regulations.

A number of the proposed amendments would conform 17 CFR 200.80 to the EFOIA. For example, in addition to (1) final opinions and orders, (2) statements of policy and interpretations adopted by the agency but not published in the **Federal Register**, and (3) staff manuals and instructions which must be available for inspection and copying in the public reference room,[23] EFOIA requires that each agency make available, (4) records processed and disclosed in response to a FOIA request when the agency determines that those records have become or are likely to become the subject of subsequent requests; and (5) a general index of such previously released records.[24] Moreover, as the EFOIA permits an agency to respond to a FOIA request within 20 business days of receipt of the request (rather than 10 days as previously mandated), the proposed amendments reflect the longer response time permitted by law.[25] Lastly, the EFOIA requires each agency to adopt rules for expedited processing of certain requests.[26]

As amended by the FOIA Reform Act, the FOIA authorizes agencies to recover review costs from commercial-use requesters.[27] Review costs are the direct costs incurred during the initial examination of a record to determine whether the record must be disclosed and whether to withhold any portion as exempt from disclosure.[28] The proposed amendment would add review fees to search and duplication fees now authorized under 17 CFR 200.80(e) and would codify the practice of charging review fees to commercial requesters.

The FOIA Reform Act also requires each agency to promulgate procedures and guidelines for determining when search, review, and duplication fees should be waived or reduced.[29] The proposed amendment provides that such fees will be waived or reduced if disclosure is in the public interest because it will likely contribute significantly to public understanding of government activities and is not primarily in the commercial interest of the requester. Moreover, the FOIA Reform Act extends the protection of Exemption 7 to all records or information that are compiled for law enforcement purposes, not merely investigatory records. As a result, the proposed amendment deletes the definition of "investigatory records" found in 17 CFR 200.80(b)(7)(ii).

Finally, because the Commission has rescinded certain rules mentioned in 17 CFR 200.80(b)(4)(ii), the proposed amendments would delete references to those rules.[30]

2. The Privacy of Individuals and Systems of Records

The proposed amendments would conform this rule to the current organization of the Commission and the systems of records it currently maintains. For example, certain systems of records deemed exempt from the Privacy Act [31] are no longer maintained by the Commission or have been merged into other systems. Consequently, the Commission proposes to amend § 200.313(a) to reflect these changes. In addition, the proposed amendments would conform the Commission's rules to a recent change in the case law regarding requests for information under the Privacy Act. In *Summers* v. *Dep't of Justice*,[32] the court held that a verification of an individual's identity for purposes of obtaining access to Privacy Act records need not be sworn or notarized if the unsworn statement complies with 28 U.S.C. 1746.[33] The proposed amendment would permit such an unsworn statement to verify an individual's identity.

II. Effects on Competition

Section 23(a)(2) of the Securities Exchange Act of 1934 ("Exchange Act") [34] requires the Commission, in adopting rules under the Exchange Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits furthering the purposes of the Exchange Act. The Commission has considered these proposed amendments to 17 CFR 200.80, 200.83, and 200.301 *et seq.*, in light of the standards cited in section 23(a)(2), and believes that the amendments will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. The proposed amendments would merely conform the rules to current law, clarify document submission procedures, and help assure voluntary submitters of confidential commercial or financial information that the information they submit will not be readily available to competitors.

III. Statutory Basis of Rule

These amendments are proposed under the authority of the FOIA, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a; the Administrative Procedure Act, 5 U.S.C. 553; section 19 of the Securities Act of 1933, 15 U.S.C. 77s; sections 23 and 24 of the Exchange Act, 15 U.S.C. 78w, 78x; section 20 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79t; section 319 of the Trust Indenture Act of 1939, 15 U.S.C. 77sss; section 38 of the Investment Company Act of 1940; 15 U.S.C. 80a–37; and section 211 of the Investment Advisers Act of 1940, 15 U.S.C. 80b–11.

IV. Initial Regulatory Flexibility Analysis

The Commission has prepared this initial regulatory flexibility analysis in accordance with 5 U.S.C. 603.

A. Reasons for Action

To update its regulations, the Commission is proposing to amend its rules to conform them to present Commission organization and practice and current statutory and case law.

B. Objectives and Legal Basis

These proposed amendments are designed to conform the Commission's rules to statutory changes in the FOIA, enhance public access to nonpublic records in the Commission's possession which do not contain confidential

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[21] Pub. L. 104–231, 110 Stat. 3048 (1996).
[22] Pub. L. 99–570, 100 Stat. 3207 (1986).
[23] *See* 5 U.S.C. 552(a)(2).
[24] *See* 5 U.S.C. 552(a)(2)(D) and (E).
[25] 5 U.S.C. 552(a)(6)(A)(i).
[26] 5 U.S.C. 552(a)(6)(E).
[27] 5 U.S.C. 552(a)(4)(A)(ii)(I).
[28] 5 U.S.C. 552(a)(4)(A)(iv).
[29] Freedom of Information Reform Act of 1986, Pub. L. 99–570, sec. 1803, 100 Stat. 3207–1, 49 (1986) (amending 5 U.S.C. 552(a)(4)(A)).
[30] The Commission has rescinded two of the rules referred to in 17 CFR 200.80(b)(4)(ii):
17 CFR 240.17a–9 (*See* Rel. 34–18108, Sept. 21, 1981, 46 FR 49114); and
17 CFR 240.17a–16 (*See* Rel. 34–20121, Aug. 26, 1983, 48 FR 39604).
[31] *See* 17 CFR 200.313(a).
[32] 999 F.2d 570 (D.C. Cir. 1993).
[33] Section 1746 permits an unsworn statement when subscribed as true under penalty of perjury if written in the particular format set forth in the statute.
[34] 15 U.S.C. 78w(a)(2).

commercial or financial information, and improve statutory safeguards to protect individuals from an invasion of their personal privacy. This action is authorized by 5 U.S.C. 552, 5 U.S.C. 552a, and Executive Order 12,600.

C. Small Entities Affected

The proposed changes will affect all small entities requesting Commission records under the FOIA or requesting confidential treatment for information that they submit to the Commission. The Commission believes that the burden imposed on small entities as a result of these proposed amendments will be negligible. There is no reasonable method for estimating the number of entities involved.

D. Compliance Requirements

There will be no additional reporting, recordkeeping, or other compliance requirements.

E. Duplicative, Overlapping, or Conflicting Rules

The Commission believes that there are no duplicative, overlapping, or conflicting federal rules.

F. Significant Alternatives

There are no significant alternatives to the proposed amendments that would accomplish the stated objectives of applicable statutes and executive order.

G. Solicitation of Comments

You may submit written comments on this Initial Regulatory Flexibility Analysis by sending three copies of your submission to: Office of the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609.

You may also e-mail your comments to rule-comments@sec.gov. Please note on the first page of your submission that it relates to File No. S7–14–99. Your comments will be available for public inspection and copying at the Commission's Public Reference Room at 450 Fifth Street, NW, Washington, DC 20549. We will consider your comments when we prepare the Final Regulatory Flexibility Analysis in connection with the adoption of the final rules.

List of Subjects in 17 CFR Part 200

Administrative practice and procedures; Classified information; Freedom of information; Privacy.

Text of Amendments to 17 CFR Part 200

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart D—Information and Requests

1. The authority citation for part 200, subpart D is revised to read as follows:

Authority: 5 U.S.C. 552, as amended, 15 U.S.C. 77f(d), 77s, 77ggg(a), 78m(F), 78w, 79t, 79v(a), 77sss, 80a–37, 80a–44(a), 80a–44(b), 80b–10(a), and 80b–11.

§ 200.80 also issued under 5 U.S.C. 552b; 15 U.S.C. 78d–1, 78d–2; 78a *et seq.*; 11 U.S.C. 901, 1109(a).

§ 200.80a also issued under 5 U.S.C. 552b.

§§ 200.80b and 200.80c also issued under 11 U.S.C. 901, 1109(a).

§ 200.82 also issued under 15 U.S.C. 78n.

§ 200.83 also issued under Exec. Order 12,600, 3 CFR, 1987 Comp., p. 235.

§ 200.80 [Amended]

2. Amend § 200.80 by adding "Northeast and Midwest" before the phrase "Regional Offices" in the introductory text of paragraph (a)(2), removing the word "and" at the end of paragraph (a)(2)(iv), removing the period at the end of paragraph (a)(2)(v) and adding in its place "; and"; adding paragraph (a)(2)(vi) and republishing paragraph (a)(2) to read as follows:

§ 200.80 Commission records and information.

(a)(1) * * *

(2) *Records available for public inspection and copying; documents published and indexed.* * * *

(vi) Copies and a general index of all records which have been released to any person under the Freedom of Information Act and which, because of the nature of their subject matter, the Commission determines have become or are likely to become the subject matter of subsequent requests for substantially the same records.

* * * * *

3. Amend § 200.80 by redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(4) and (a)(5), correcting "secton" to read "section" in the first sentence of newly redesignated paragraph (a)(4), and adding new paragraph (a)(3) to read as follows:

§ 200.80 Commission records and information.

(a)(1) * * *

(3) Records created on or after November 1, 1996, which are required to be available for public inspection and copying under paragraph (a)(2) of this section, shall be made available on the Internet.

* * * * *

4. Amend § 200.80, paragraph (b)(4)(ii), by correcting "pursant" to read "pursuant"; by revising the phrase "15c3–1(c)(7)(G)" to read "15c3–1d(c)(6)(i)"; by revising the phrase "17 CFR 240.15c–1(c)(7)(vii)" to read "17 CFR 240.15c3–1d(c)(6)(i)"; by revising the phrase "Rules 17a–9, 17a–10, 17a–12 and 17a–16" to read "Rules 17a–10 and 17a–12"; and by revising the phrase "17 CFR 240.17a–9, 240.17a–10, 240.17a–12, and 240.17a–16" to read "17 CFR 240.17a–10 and 240.17a–12".

5. Amend § 200.80 by removing paragraph (b)(7)(ii); by redesignating the introductory text of paragraph (b)(7)(i) as paragraph (b)(7) and paragraphs (b)(7)(i)(A) through (F) as paragraphs (b)(7)(i) through (b)(7)(vi); by revising the word "State" to read "state" in newly redesignated paragraph (b)(7)(iv); and by adding a comma after the word "examination" in paragraph (b)(8).

6. Amend § 200.80(c)(1) as follows:

a. In paragraph (c)(1) introductory text, first sentence, remove the numbers "(202–272–3100)" and revise the phrase "New York and Chicago regional offices" to read "Northeast and Midwest Regional Offices"; and, in the second sentence, revise the phrase "8½ x 14" to read "8½ x 11" and the phrase "New York and Chicago offices" to read "Northeast and Midwest Regional Offices";

b. In paragraph (c)(1)(i), second sentence, revise the phrases "regional offices in New York or Chicago" to read "Northeast and Midwest Regional Offices";

c. In paragraph (c)(1)(iii), first sentence, revise the phrase "New York and Chicago regional offices" to read "Northeast and Midwest Regional Offices"; and, in the second sentence, revise the term "suite" to read "Suite" each time it appears in the list of Commission offices and, for the Southeast Regional Office, revise the phrase "8:30 a.m. to 5 p.m." to read "9:00 a.m. to 5:30 p.m.".

7. Amend § 200.80(c)(2), first sentence, by revising the phrase "or by telephone" to read "or in writing"; in the second sentence, by removing the phrase "and telephone numbers"; and, in the third sentence, by revising the phrase "a particular regional office" to read "the Northeast or Midwest Regional Office".

8. Amend § 200.80(d)(1), first sentence, by adding the word "the" after the phrase "by mail directed to"; in the second sentence, by adding the word "the" after the phrase "not available in"; in the third sentence, by revising the phrase "Securities and Exchange Commission, Washington, DC 20549" to read "SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413"; and by adding a sentence

at the end of paragraph (d)(1) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *—(1) * * * The request may also be made by facsimile (703–914–1149) or by Internet (foia/pa@sec.gov).

* * * * *

9. Revise § 200.80(d)(5) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(5) *Initial determination; multi-track processing, and denials.—(i) Time within which to respond.* When a request complies with the procedures in this section for requesting records under the Freedom of Information Act, a response shall be sent within 20 business days from the date the Office of Freedom of Information and Privacy Act Operations receives the request, except as described in paragraphs (d)(5)(ii) and (d)(5)(iii) of this section. If that Office has identified the requested records, the response shall state that the records are being withheld, in whole or in part, under a specific exemption or are being released.

(ii) *Voluminous records.* When the requested records are so voluminous that they cannot be reviewed within 20 business days, as prescribed in paragraph (d)(5)(i) of this section, the Office of Freedom of Information and Privacy Act Operations shall inform the requestor of their approximate volume, give the requester the choice of having the records included in the Commission's first-in, first-out (FIFO) system for reviewing voluminous records, and state the approximate time when the review will start. A requester may modify or limit his or her request to qualify for review within 20 business days.

(iii) *Expedited processing.* The Office of Freedom of Information and Privacy Act Operations shall grant a request for expedited processing if the requester demonstrates a compelling need for the records. "Compelling need" means that a failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to an individual's life or physical safety or, if the requester is primarily engaged in disseminating information, an urgency to inform the public of actual or alleged Federal government activity. A compelling need shall be demonstrated by a statement, certified to be true and correct to the best of the requester's knowledge and belief. The Office of Freedom of Information and Privacy Act Operations shall notify the requester of the decision to grant or deny the request for expedited treatment within 10 days of the date of the request. A request for records that has been granted expedited processing shall be processed as soon as practicable.

(iv) *Notice of denial.* Any notification of denial of any request for records shall state the name and title or position of the person responsible for the denial of the request, the reason for the decision, and the right of the requester to appeal to the General Counsel. The decision shall estimate the volume of records that are being withheld in their entirety, unless giving such an estimate would harm an interest protected by the applicable exemption. The amount of information redacted shall be indicated on the released portion of the record and, if technically feasible, at the place where the redaction is made.

(v) *Form of releasable records.* Releasable records shall be made available in any form or format requested if they are readily reproducible in that form or format.

* * * * *

10. Revise the introductory text of § 200.80(d)(6) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(6) *Administrative review.* Any person who has received no response to a request within the period prescribed in paragraph (d)(5) of this section or within an extended period permitted under paragraph (d)(7) of this section, or whose request has been denied under paragraph (d)(5) of this section, may appeal the adverse decision or failure to respond to the General Counsel.

* * * * *

11. Revise § 200.80(d)(6)(ii) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(6) * * *

(ii) The appeal must be mailed to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413 or delivered to Room 1418 at that address, and a copy of it must be mailed to the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549 or delivered to Room 1012–B at that address.

12. Amend § 200.80, paragraph (d)(7), introductory text, first sentence, by revising the word "reasons" to read "unusual circumstances"; second sentence, by revising the phrase "working days" to read "business days, except as provided in paragraph (d)(8) of this section".

13. Revise § 200.80(d)(8), introductory text, to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(8) *Inability to meet time limits.* If a request for records cannot be processed within the time prescribed under paragraph (d)(7) of this section, the Commission shall so notify and give the requester an opportunity to modify the request so that it may be processed within that time or to arrange an alternative time for processing the request or a modified request. An unreasonable refusal to modify a request or arrange an alternative time for processing the request shall be a factor in determining whether unusual circumstances exist under paragraph (d)(7) of this section.

* * * * *

14. Amend § 200.80(d)(9) by removing the heading "*Oral requests; misdirected written requests*"; removing paragraph (d)(9)(i); and redesignating paragraph (d)(9)(ii) as paragraph (d)(9).

15. Amend § 200.80(e), introductory text, first sentence, by adding after the word "locating" the word ", reviewing,".

16. Amend § 200.80(e)(1), first sentence, by adding the words "and reviewing" immediately after the words "searching for".

17. Amend § 200.80(e)(3), first sentence, by adding the phrase ", reviewing" immediately after the word "locating"; and third sentence, by revising the figure "$25" to read "$28" and the word "advised" to read "informed".

18. Amend § 200.80, by revising paragraph (e)(4) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(e) * * *

(4) *Waiver or reduction of fees:* (i) The Office of Freedom of Information and Privacy Act Operations may waive or reduce search, review, and duplication fees if:

(A) Disclosure of the requested records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(B) Disclosure is not primarily in the commercial interest of the requester.

(ii) The Office of Freedom of Information and Privacy Act Operations will determine whether disclosure is likely to contribute significantly to public understanding of the operations or activities of the government based upon four factors:

(A) Whether the subject of the requested records concerns the operations and activities of the Federal government;

(B) Whether the requested records are meaningfully informative on those operations or activities so that their disclosure would likely contribute to increased public understanding of specific operations or activities of the government;

(C) Whether disclosure will contribute to the understanding of the public at large, rather than the understanding of the requester or a narrow segment of interested persons; and

(D) Whether disclosure would contribute significantly to public understanding of the governmental operations or activities.

(iii) The Office of Freedom of Information and Privacy Act Operations will determine whether disclosure of the requested records is not primarily in the commercial interest of the requester based upon two factors:

(A) Whether disclosure would further any commercial interests of the requester, and

(B) Whether the public interest in disclosure is greater than the requester's commercial interest.

(iv) If only a portion of the requested records satisfies both the requirements for a waiver or reduction of fees, a waiver or reduction of fees will be granted for only that portion.

(v) A request for a waiver or reduction of fees may be a part of a request for records. Such requests should address all the factors identified in paragraphs (e)(4)(ii) and (e)(4)(iii) of this section.

(vi) Denials of requests for a waiver or reduction of fees may be appealed to the General Counsel in accordance with the procedure set forth in paragraph (d)(6) of this section.

* * * * *

19. Amend § 200.80, paragraph (e)(7)(i), first sentence, by revising the phrase "New York, or Chicago" to read "Northeast, or Midwest" and by removing the word "Branch"; and paragraph (e)(7)(ii), last sentence, by removing "or calling this facility at 202–272–3100".

20. Amend § 200.80, paragraph (e)(8)(iii), second sentence, by adding "U.S." before "Government Printing Office".

21. Amend § 200.83, by revising paragraphs (c)(2) through paragraphs (c)(6) and adding paragraphs (c)(7), (c)(8), and (c)(9) to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(c) *Written request for confidential treatment to be submitted with information.* (1) * * *

(2) A person who submits a record to the Commission for which he or she seeks confidential treatment must clearly mark each page or segregable portion of each page with the words "Confidential Treatment Requested by [name]" and an identifying number and code. In his or her written confidential treatment request, the person must refer to the record by identifying number and code.

(3) A person who submits a record to the Commission voluntarily and requests confidential treatment of it, must comply with paragraph (c)(2) of this section and mark each page clearly with the words "Voluntarily Submitted." In the written confidential treatment request, the person must explain the circumstances under which the record was voluntarily submitted to the Commission. The burden is on the person requesting confidential treatment to show that the record was submitted voluntarily.

(4) In addition to giving a copy of any written request for confidential treatment to the Commission employee receiving the record in question, the person requesting confidential treatment must send a copy of the request (but not the record) by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413. The legend "FOIA Confidential Treatment Request" must clearly and prominently appear on the top of the first page of the written request, and the written request must contain the name, address, and telephone number of the person requesting confidential treatment. The person requesting confidential treatment is responsible for informing the Office of Freedom of Information and Privacy Act Operations promptly of any changes in address, telephone number, or representation.

(5) In some circumstances, such as when a person is testifying in the course of a Commission investigation or providing a record requested in the course of a Commission examination or inspection, it may be impracticable to submit a written request for confidential treatment at the time the record is first given to the Commission. In no circumstances can the need to comply with the requirements of this section justify or excuse any delay in submitting any record to the Commission. The person testifying or otherwise submitting the record must inform the Commission employee receiving it, at the time the record is submitted or as soon thereafter as possible, that he or she is requesting confidential treatment. The person must then submit a written confidential treatment request within 30 days from the date of the testimony or the submission of the record. Any confidential treatment request submitted under this paragraph must also comply with paragraph (c)(4) of this section.

(6) Where confidential treatment is requested by the submitter on behalf of another person, the request must identify that person and provide the telephone number and address of that person or the person's responsible representative if the submitter would be unable to provide prompt substantiation of the request at the appropriate time.

(7) No determination on a request for confidential treatment will be made until the Office of Freedom of Information and Privacy Act Operations receives a request for disclosure of the record.

(8) A confidential treatment request will expire five years from the date the Office of Freedom of Information and Privacy Act Operations receives it, unless that Office receives a renewal request before the confidential treatment request expires. The renewal request must be sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, and must clearly identify the record for which confidential treatment is sought. A renewal request will likewise expire five years from the date that Office receives it, unless that Office receives another timely renewal request which complies with the requirements of this paragraph.

(9) A confidential treatment request shall be confidential. If an action is filed in a Federal court, however, by either the Freedom of Information Act requester (under 5 U.S.C. 552(a)(4) and § 200.80(d)(6)) or by the confidential treatment requester (under paragraph (e)(5) of this section), the confidential treatment request may become part of the court record.

* * * * *

22. Amend § 200.83, paragraph (d)(1), by revising the phrase "telegram or express" to read "facsimile or certified" and by adding a sentence to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(d) *Substantiation of request for confidential treatment.* (1) * * * Failure to submit a written substantiation within ten calendar days from the time of notification, or any extension thereof, may be deemed a waiver of the confidential treatment request and the confidential treatment requester's right to appeal an initial decision denying confidential treatment to the Commission's General Counsel as permitted by paragraph (e) of this section.

* * * * *

23. Revise § 200.83, paragraph (e)(1), to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(e) *Appeal from initial determination that confidential treatment is not warranted.* (1) The Office of Freedom of Information and Privacy Act Operations will issue a preliminary decision that will inform the confidential treatment requester whether that Office is of the view that confidential treatment is warranted with respect to all or part of the records in question. The preliminary decision may ask the confidential treatment requester to submit a supplemental substantiation within ten calendar days from the date of notice of the preliminary decision. The confidential treatment requester may respond to the preliminary decision within ten business days of receipt. The Office of Freedom of Information and Privacy Act Operations may issue a final decision no sooner than ten business days after giving notice of the preliminary decision. It shall inform, by mail or facsimile, the person seeking the record under the Freedom of Information Act and the person requesting confidential treatment of the final decision and of their right to appeal the decision to the Commission's General Counsel within ten calendar days from the date of the final decision. Records which the Office of Freedom of Information and Privacy Act Operations determines are not entitled to confidential treatment may be released under the Freedom of Information Act no sooner than ten calendar days after the date of the final decision unless, within those ten calendar days, it receives an appeal from the confidential treatment requester. In such a case, the person seeking the information under the Freedom of Information Act will be informed of the pending appeal and that no disclosure of the records will be made until the appeal is resolved.

* * * * *

24. Amend § 200.83, paragraph(e)(2), by revising the second sentence and adding a third sentence to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(e) *Appeal from initial determination that confidential treatment is not warranted.* (1) * * *

(2) * * * The appeal must be sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149). A copy of the appeal must be mailed to the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0606.

* * *

25. Amend § 200.83, paragraph(e)(4), first sentence, by revising the phrase "telegram or express" to read "facsimile or certified".

26. Amend § 200.83, paragraph (e)(5), last sentence, by revising the phrase "telegram or express" to read "facsimile or certified".

27. Amend § 200.83 by redesignating paragraphs (g), (h), and (i) as paragraphs (h), (i), and (j); by revising the phrase "(c)(4)" in newly redesignated paragraph (h)(1) to read "(c)(5)"; by revising the phrase "(g)(1)" in the first sentence of newly redesignated paragraph (h)(2) to read "(h)(1)"; by removing the commas after "extended" and "Officer" in newly redesignated paragraph (i), and adding new paragraphs (g) and (k) to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(g) *Confidentiality of substantiations.* Confidential treatment requests and substantiations of requests for confidential treatment shall be confidential. If an action is filed in a Federal court, however, by either the Freedom of Information Act requester (under 5 U.S.C. 552(a)(4) and § 200.80(d)(6)) or by the person requesting confidential treatment (under paragraph(e)(5) of this section), the substantiations may become part of the court record.

* * * * *

(k) In their discretion, the Commission, the Commission's General Counsel, and the Freedom of Information Act Officer may use alternative procedures for considering requests for confidential treatment.

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

28. The authority citation for Part 200, Subpart H continues to read in part as follows:

Authority: 5 U.S.C. 552a(f), unless otherwise noted.

* * * * *

§ 200.303 Amended

29. Amend § 200.303, paragraph (a), introductory text, by revising the clause "by the individual in person during normal business hours at the Commission's Public Reference Room which is located at 450 Fifth Street, NW., Room 1024, Washington, DC, or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, DC 20549" to read "by mail to the Privacy Act Officer, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149)".

30. Amend § 200.303, paragraph(a)(2), second sentence, by revising the phrase "Commission's Public Reference Room located at 450 Fifth Street, NW., Room 1024, Washington, DC," to read "Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413,"; revising "suite" to read "Suite" each time it appears in the list of Commission offices; for the Southeast Regional Office, revising the phrase "8:30 a.m. to 5 p.m." to read "9:00 a.m. to 5:30 p.m."; for the Central Regional Office, revising the acronym "C.S.T." to read "M.S.T."; and, in the last sentence of the concluding paragraph, adding immediately after "New Year's Day," the phrase "Martin Luther King, Jr.'s Birthday,".

31. Amend § 200.303(a)(3), first sentence, by revising the phrase "For the purpose of verifying his identity, an" to read "An".

32. Revise § 200.303(a)(4) to read as follows:

§ 200.303 Times, places, and requirements for requests pertaining to individual records in a record system and for the identification of individuals making requests for access to the records pertaining to them.

(a) * * *

(4) *Method for verifying identity by mail.* Where an individual cannot appear at one of the Commission's Offices for the purpose of verifying his identity, he must submit along with the request for information or access, a statement attesting to his identity.

Where access is being sought, the statement shall include a representation that the records being sought pertain to the individual and a statement that the individual is aware that knowingly and willfully requesting or obtaining records pertaining to an individual from the Commission under false pretenses is a criminal offense. This statement shall be a sworn statement, or in lieu of a sworn statement, an individual may submit an unsworn statement to the same effect if it is subscribed by him as true under penalty of perjury, dated, and in substantially the following form:

(i) If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."

Executed on (date)

(Signature)

(ii) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct."

Executed on (date)

(Signature)

33. Amend § 200.303, paragraph (b)(2), first sentence, by revising the phrase "Commission's Public Reference Room in Washington DC" to read "Office of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413".

34. Revise § 200.306(a), introductory text, to read as follows:

§ 200.306 Requests for amendment or correction of records.

(a) *Place to make requests.* A written request by an individual to amend or correct records pertaining to him or her may be hand delivered during normal business hours to the SEC Operations Center, Room 1418, 6432 General Green Way, Alexandria, VA 22312–2414, or be sent by mail to the Office of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149).

* * * * *

35. Amend § 200.308, paragraph (a), introductory text, by revising the phrase "Commission's staff" to read "Office of Information and Privacy Act Operations" and revising the phrase "by applying for an order of the General Counsel determining and directing that access to the record be granted or that the record be amended or corrected in accordance with his request" to read "to the General Counsel".

36. Amend § 200.308, paragraph (a)(1), by revising the word "application" to read "appeal".

37. Revise § 200.308, paragraph (a)(2), to read as follows:

§ 200.308 Appeal of initial adverse agency determination as to access or as to amendment or correction.

(a) * * *

(2) The appeal shall be delivered or sent by mail to the Office of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149).

* * * * *

38. Amend § 200.308, paragraph (a)(9)(ii) by adding the phrase "or her" immediately after the word "His".

39. Amend § 200.308, paragraph (b)(1), first sentence, by revising the phrase "to the Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street NW., Room 1024, Washington, DC 20549, or mailed to the Privacy Act Officer, Securities and Exchange Commission, Washington, DC 20549," to read "or sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149),".

§ 200.310 [Amended]

40. Amend § 200.310, paragraph(a), first sentence, by revising the phrase "made in person during normal business hours at the Public Reference Room at 450 Fifth Street, NW., Room 1024, Washington, DC, or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, DC 20549" to read "sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149)"; and by removing the last sentence.

41. Amend § 200.310, paragraph (b), by revising the phrase "the Director of the Office of Consumer Affairs and Information Services" to read "the Privacy Act Officer" and adding the phrase "or she" immediately after the word "he".

42. Amend § 200.312 by revising paragraphs (a)(1) through (a)(8) to read as follows:

§ 200.312 Specific exemptions.

* * * * *

(a) * * *

(1) Enforcement Files;

(2) Office of General Counsel Working Files;

(3) Office of the Chief Accountant Working Files;

(4) Name-Relationship Index System;

(5) Rule 102(e) of the Commission's Rules of Practice—Appearing or Practicing Before the Commission; and

(6) Agency Correspondence Tracking System.

* * * * *

By the Commission.

Dated: April 14, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9905 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 204

RIN 1010–AC30

Accounting Relief for Marginal Properties

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule; notice of extension of public comment period.

SUMMARY: The Minerals Management Service hereby gives notice that it is extending the public comment period on a notice of proposed rule, which was published in the **Federal Register** on January 21, 1999, (64 FR 3360). The proposed rule would implement legislation for Federal oil and gas leases. The new regulations would explain to lessees and their designees how to obtain accounting and auditing relief for Federal marginal properties. In response to requests for additional time, MMS will extend the comment period for 15 days.

DATES: Comments must be submitted on or before May 6, 1999.

ADDRESSES: Written comments, suggestions, or objections regarding this proposed amendment should be sent to the following addresses: E-mail address is: RMP.comments@mms.gov.

For comments sent via the U.S. Postal Service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165.

For comments via courier or overnight delivery service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, MS 3021, Building 85, Denver Federal Center, Room A–212, Denver, Colorado 80225–0165.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, phone (303) 231–

3432, FAX (303) 231–3385, e-Mail David_Guzy@mms.gov.

Dated: April 19, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–10166 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD–FRL–6326–6]

RIN 2060–AI48

Revisions to Reference Method for the Determination of Fine Particulate Matter as $PM_{2.5}$ in the Atmosphere

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: A new national network of fine particulate monitors is being established over the next two years. In order to assure that monitoring data are of the highest quality and are comparable both within and between air monitoring agencies, many specific design and performance requirements were detailed in 40 CFR part 50, appendix L. Other requirements were set forth in documents such as section 2.12 of the "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods," EPA/600/R–94/038b.

This action proposes to revise two requirements for measurement of fine particulate in 40 CFR part 50. For transport of exposed filters from the sample location to the conditioning environment, 40 CFR part 50 will no longer specify that the protective shipping container be made of metal. For verification of sampler flow rate, 40 CFR part 50 will now specify that new calibrations shall be performed if the reading of the sampler's flow rate indicator or measurement device differs by more than +/−4 percent or more from the flow rate measured by the flow rate standard. The flow rate verification tolerance was previously set at +/−2 percent. Because the Agency views this action as a noncontroversial amendment and anticipates no adverse comments, the EPA is approving the amendment to 40 CFR part 50 as a direct final rule without prior proposal. A detailed rationale for this action is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: Comments must be submitted on or before May 24, 1999.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air Docket (A–95–54), US Environmental Protection Agency, Attn: Docket No. A–95–54, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tim Hanley, Emissions, Monitoring, and Analysis Division (MD–14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541–4417, e-mail: hanley.tim@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: April 9, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–9594 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking submitted by Mr. Keith Gross to initiate an investigation to evaluate and regulate the "high profile gas tank design" on motorcycles relating to the rider's injury potential during a frontal crash. Specifically, Mr. Gross noted that Kawasaki does not crash test their Ninja model motorcycle to evaluate the effect that a high profile gas tank design has on the rider during a crash. Mr. Gross provided insufficient information to support his contention that the high profile fuel tank design on motorcycles presents a safety problem warranting investigation and possible regulation. Further, available data reviewed by NHTSA do not show that Kawasaki motorcycle riders suffered more injuries than other motorcycle riders.

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Dr. William J.J. Liu, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590. Telephone: (202) 366–4923. Facsimile (202) 366–4329. *For legal issues:* Ms. Nicole Fradette, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590. Telephone: (202) 366–2992. Facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION: By petition dated September 1, 1997, Mr. Keith Gross requested NHTSA to evaluate the effect that high profile gas tank designs have on a rider's injury potential during a frontal motorcycle crash and to promulgate a Federal motor vehicle safety standard to reduce the risk of injury to the driver. The petitioner asserted that a driver was more likely to suffer an injury in a frontal collision if the driver were operating a motorcycle with a high profile fuel tank design, than one with a "tear drop" fuel tank design, i.e., a wide-based gas tank design that rises gradually above the seat of the motorcycle. The high profile gas tanks rise up abruptly by approximately 3 to 4 inches above the level of the seat and the upper surface of these gas tanks differs from that of other gas tanks.

Mr. Gross explained that, in a frontal collision, motorcycle riders move forward and contact both the gas tank and the handle bars before being separated from the motorcycle. The petitioner stated that high profile gas tank designs serve to enhance the maneuverability and handling of sporty motorcycles. However, the high profile gas tank designs prevent a rider's pelvis from sliding forward in a frontal crash. According to Mr. Gross, this impediment forces the rider's upper body to rotate against the gas tank, delaying separation and increase the potential for head and neck injuries. The petitioner explained that the more traditional "tear drop" wide-based gas tank design minimizes the risk of a groin injury to the rider by facilitating the rider's separation from the motorcycle without interference from the gas tank. Mr. Gross noted that neither Kawasaki nor the Department of Transportation (DOT) have crash tested a motorcycle to determine how much

force the male pelvis/groin can tolerate before permanent injury (such as impotence or infertility) can occur.

The petitioner also argued that the risk of a post-collision motorcycle fire was greater with a high profile fuel tank design than with other fuel tank designs, such as a tear drop fuel tank. The petitioner based this argument on the alleged greater tendency of a high profile engine to detach from a motorcycle in a frontal collision, thereby increasing the potential for a fuel tank fire. Specifically, the petitioner suggested that this would occur in a frontal crash because opposing pressure would be exerted on the fuel tank from both the front (from the force generated by the crash) and the rear (from the force generated from the rider's forward motion), thereby causing the tank to disengage and spill fuel.

The petitioner claimed that Kawasaki and other manufacturers continue to use the high profile gas tank design without conducting frontal crash tests because the agency does not have a crashworthiness standard to cover this area. The petitioner requested the agency to initiate an investigation to evaluate and to regulate the high profile gas tank design on motorcycles.

NHTSA is responsible for issuing and enforcing Federal motor vehicle safety standards (FMVSS) to deal with safety problems on our nation's highways. Before promulgating or amending a vehicle safety requirement, NHTSA must decide that a safety problem exists, that the problem is significant enough to warrant regulation, and that the requirement would reduce the problem and thus meet the need for motor vehicle safety. In this instance, NHTSA has found no basis for concluding that there is a safety problem of any significance with respect to "the high profile gas tank design" on motorcycles.

The petitioner asserted that the high profile gas tank design is detrimental to a rider's safety in a frontal collision; however, he did not provide sufficient data to substantiate that rider injuries were caused by such a design. In fact, the petitioner did not provide any data indicating that more rider injuries were caused by such a design. In that regard, the petitioner has not established a safety problem related to the high profile gas tank design on motorcycles.

NHTSA's consumer complaint files could not establish a safety problem caused by the high profile gas tank design on motorcycles. Specifically, NHTSA's consumer compliant files showed no complaints on Kawasaki motorcycles related to riders impacting the gas tank of the motorcycle or causing the tank to disengage and spill fuel as suggested by the petitioner. There were 35 fuel system related complaints, only one had a fuel tank puncture in a frontal crash with no fire—a 1991 Harley Davidson FXRS model. There were four non-collision fires—a 1994 Harley Davidson XL model (a loose fuel tank problem), a 1994 Kawasaki EX500 model (electrical short), a 1991 Kawasaki, Kawasaki model (oil pump problem), and a 1994 Yamaha EZR600 model (electrical short). There was no fuel system related complaints on Kawasaki Ninja model.

Further, NHTSA's motorcycle crash data indicate that Kawasaki riders did not suffer more groin injuries than riders of other motorcycles. Available data from several states showed that about 5.5% of all the injured motorcycle riders as compared to about 3.4% of Kawasaki injured riders, suffered groin injuries. There was no specific information on models or fuel tank designs.

Finally, the agency also reviewed medical literature concerning motorcycle rider groin injuries due to frontal crashes. Most of the medical literature data was found in foreign publications. The reviewed literature showed that about 5.5% of injured patients with a pelvic fracture were motorcycle riders. Although the reviewed medical literature also showed that motorcycle fuel tanks can contribute to serious groin injuries in frontal impacts, the literature did not indicate that the fuel tanks of Kawasaki Ninja model (high profile gas tank designs) or other Kawasaki models are involved in more pelvic fracture injuries (groin injuries) in crashes than other motorcycles. In the reviewed medical literature, the types and attributes of the fuel tanks responsible for injury mechanisms or the impact velocities of the crashes were not reported.

Although, currently NHTSA does not have a safety standard applicable to motorcycle fuel tanks, the agency has sponsored motorcycle crashworthiness and fuel system integrity test programs. These activities have induced the manufacturers to adopt safer fuel tank designs such as the "tear drop" tank design, the recessed filler cap design, the tank rupture resistance against fuel spillage design. The following are examples of NHTSA sponsored research addressing these issues: (1) a research program with 27 motorcycle crashes to study the safety aspects of motorcycle design and crash configurations, including frontal impacts; "Dynamics of Motorcycle Impact, Volume II—Motorcycle Crash Test Program," by P.W. Bothwell, R.E. Knight, and H.C. Peterson, University of Denver, Denver Research Institute, Final Report, Contract No. FH–11–7307, July 1971 (DOT HS–800–587); and (2) an experimental safety motorcycle research program to study a number of motorcycle subsystems, including fuel system, "Requirements Analysis and Feasibility Studies for an Experimental Safety Motorcycle," by J.A. Bartol, G.D. Livers, and R. Miennert, AMF Incorporated, Advanced Systems Laboratory, Final Report, Contract No. DOT–HS–4–00816, July 1975 (DOT HS–801–654).

Finally, for reducing deaths and injuries to motorcyclists resulting from head impacts, the agency has issued FMVSS No. 218, Motorcycle Helmets. Crash data show that injuries from head impacts are the most serious injuries in motorcycle crashes. The agency believes that head impacts produce the most serious injuries in motorcycle crashes. The agency believes and statistical data confirm that helmet usage is the most effective way to reduce head and perhaps neck injuries caused by motorcycle crashes.

Although, the agency is denying this petition, it is noted that NHTSA has been very actively participating with other countries in the development of a motorcycle crash data base for global application to be used in analyzing motorcycle crashes and injuries. Since May 1997, the agency has been working with other countries on a research project that is being undertaken by the Organization for Economic Co-operation and Development to establish a "common methodology" for collection of motorcycle crash data. Currently, there are no established international procedures for collecting such data. The agency is hopeful that this internationally harmonized effort will provide more detailed data for further analysis of motorcycle crash and rider injury studies.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. The agency has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of a rulemaking proceeding. After considering all relevant factors, the agency has decided to deny the petition.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: April 16, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–10050 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA–99–5156]

RIN 2127–AG78

Anthropomorphic Test Dummy; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Extension of comment period.

SUMMARY: This document grants a request to extend the comment period on an agency proposal to adopt new design and performance specifications for a 12-month-old infant dummy. Subsequent to publication of the proposal, the agency received a request for extension of the comment period for 60 days in order to prepare a considered comment to submit in response thereto. NHTSA is extending the comment period from April 22, 1999 to June 22, 1999.

DATES: Extended comment closing date: Comments on the March 8, 1999 proposal, 64 FR 10965, Docket No. 99–5156, must be received by the agency on or before close of business on June 22, 1999.

ADDRESSES: Comments should refer to Docket No. 99–5156 and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Docket room hours are from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Stan Backaitis, Office of Crashworthiness Standards, at 202–366–4912.

For legal issues, you may call Rebecca MacPherson, Office of the Chief Counsel, at 202–366–2992.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION: On March 8, 1999, NHTSA published a notice of proposed rulemaking to incorporate the Child Restraint Air Bag Interaction (CRABI) 12-month-old dummy into 49 CFR Part 572, and to adopt new design and performance specifications for that dummy. The modified CRABI is especially needed to evaluate the effects of air bag deployment on children who are out of position at the time of a crash. The proposed modifications would provide more useful information to better evaluate child safety in a variety of crash environments. Adopting the modified CRABI dummy would facilitate its use in evaluating the safety of air bags for infants and very young children. The separate issue of specifying the use of the dummy in performance tests, e.g., as part of the occupant protection standard and/or child restraint standard, will be addressed in other rulemakings, most notably the current rulemaking on advanced air bags.

The NPRM specified a comment closing date of April 22, 1999 (45 days after date of publication). However, on April 14, 1999, we received a request for an extension of the comment closing date from the Alliance of Automobile Manufacturers (AAM). The AAM stated that, although it has used the CRABI dummy, it has been unable to adequately access our proposed changes. Upgraded dummies will apparently not be available for evaluation until early May. Accordingly, AAM stated that it will not be able to complete its review and prepare comments prior to the closing date of April 22, 1999. Therefore, AAM requested an additional 60 days for submission of its comments.

Since AAM is the national trade association for vehicle manufacturers representing the majority of new vehicle sales, the agency is interested in its comments. Thus, in order to provide the AAM and other interested parties ample time and opportunity to express their views on the CRABI proposal, NHTSA believes that there is good cause for the extension of the comment period and that such extension is consistent with the public interest. Accordingly, the AAM request to extend the comment period for an additional 60 days is granted.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority is at 49 CR 1.50.

Issued on: April 16, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–10084 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–59–U

Notices

Federal Register

Vol. 64, No. 77

Thursday, April 22, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–026–1]

Availability of an Environmental Assessment and Finding of No Significant Impact for Field Testing Salmonella Dublin Vaccine, Live Culture

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment and finding of no significant impact concerning authorization to ship for the purpose of field testing, and then to field test, an unlicensed live *Salmonella dublin* vaccine for use in cattle. A risk analysis, which forms the basis for the environmental assessment, has led us to conclude that field testing this veterinary vaccine will not have a significant impact on the quality of the human environment. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared. We intend to authorize shipment of this vaccine for field testing 14 days after the date of this notice, unless new substantial issues bearing on the effects of this action are brought to our attention. We also intend to issue a veterinary biological product license for this vaccine, provided the field test data support the conclusions of the environmental assessment and finding of no significant impact and the product meets all other requirements for licensure.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** Please refer to the docket number, date, and complete title of this notice when requesting copies. Copies of the environmental assessment and finding of no significant impact (as well as the risk assessment with confidential business information removed) are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Jeanette Greenberg, Technical Writer-Editor, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, USDA, 4700 River Road Unit 148, Riverdale, MD 20737–1231; telephone (301) 734–5338; fax (301) 734–4314; or e-mail: Jeanette.B.Greenberg@usda.gov.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. Prior to conducting a field test on an unlicensed product, an applicant must obtain approval from the Animal and Plant Health Inspection Service (APHIS), as well as obtain APHIS' authorization to ship the product for field testing.

To determine whether to authorize shipment and grant approval for the field testing of the unlicensed product referenced in this notice, APHIS conducted a risk analysis to assess the potential effects of this product on the safety of animals, public health, and the environment. Based on the risk analysis, APHIS has prepared an environmental assessment (EA). APHIS has concluded that field testing the unlicensed veterinary biological product will not significantly affect the quality of the human environment. Based on this finding of no significant impact (FONSI), we have determined that there is no need to prepare an environmental impact statement.

An EA and FONSI have been prepared by APHIS concerning the field testing of the following unlicensed veterinary biological product:

Requester: Fort Dodge Laboratories, Inc., Division of American Home Products Corporation.

Product: Salmonella Dublin Vaccine, Live Culture.

Field test locations: California, Colorado, Indiana, and Wisconsin.

The above-mentioned vaccine is for use in cattle as an aid in the prevention of clinical disease caused by *Salmonella dublin*. The vaccine bacteria contain the *aro* A deletion, which limits the ability of the bacteria to replicate in vertebrate tissues.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Unless substantial environmental issues are raised in response to this notice, APHIS intends to authorize shipment of the above product for the initiation of field tests 14 days from the date of this notice.

Because the issues raised by field testing and by issuance of a license are identical, APHIS has concluded that the EA and FONSI that were generated for field testing would also be applicable to the proposed licensing action. Provided that the field test data support the conclusions of the original EA and FONSI, APHIS does not intend to issue a separate EA to support the issuance of the product license, and would determine that an environmental impact statement need not be prepared. APHIS intends to issue a veterinary biological product license for this vaccine following completion of the field test provided no adverse impacts on the human environment are identified and provided the product meets all other requirements for licensure.

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 16th day of April 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–10092 Filed 4–21–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Urban Connections

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to establish a new information collection. The collected information will help Forest Service personnel better understand the demands that urban residents make on agency programs and services, how well the agency meets these demands, and if the agency effectively communicates its programs and services to urban residents. Information will be collected from people living in and around Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

DATES: Comments must be received in writing on or before June 21, 1999.

ADDRESSES: All comments should be addressed to LindaLou Stockinger, Public Affairs, Forest Service, USDA, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203 or email to lstockin/r9@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: LindaLou Stockinger, Public Affairs, at (414) 297–3326.

SUPPLEMENTARY INFORMATION:

Background

Urban residents are increasingly looking to the National Forests as a source of recreation and relaxation and to gain some relief from dense urban settings. Many eastern National Forests are situated within a few hours drive from dense urban environments. For example, the Chippewa and Superior National forests are within a few hours drive of Minneapolis/St. Paul, Minnesota. The Huron-Manistee, Hiawatha, and Ottawa National Forests are within driving distance of Detroit, Michigan. The White Mountain National Forest, located in New Hampshire, is within commuting distance of Boston, Massachusetts. Two National Forests, the Wayne in Ohio and the Allegheny in Pennsylvania, are within a few hours drive of Cleveland, Ohio. As a result, National Forest System lands are under increased pressure from urban residents to meet their need for relief from dense urban environments.

Because of the increased demands on these natural resources, the agency is collecting information to identify the concerns that urban residents have regarding the agency's ability to meet these additional demands.

The Forest Service has contracted with a private public affairs firm, Kearns & West, to collect this information. Personnel from Kearns & West will collect information in four phases that will include telephone interviews and focus groups. Forest Service personnel will work with Kearns & West personnel to evaluate and analyze the results.

The results of the study will help Forest Service personnel better understand the demands that urban residents make on the agency's programs and services, how well the agency communicates its programs and services to these residents, how well the agency meets needs and expectations of urban residents, how opportunities might be made available to involve urban residents in discussions about land management issues, and how to interest urban residents in participating in volunteer activities on National Forest System lands.

Data from this information collection is not available from other sources.

Description of Information Collection

Title: Urban Connections—Phase I—Telephone Surveys.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection that has not received approval from the Office of Management and Budget.

Abstract: The purpose of the information collected in Phase I is to gain feedback on the types of questions that will be asked in Phase II. Kearns & West personnel will interview 12 urban residents: 3 in Boston, Massachusetts; 3 in Minneapolis/St. Paul, Minnesota; 3 in Detroit, Michigan; and 3 in Cleveland, Ohio. Each participant will be asked questions that include how important they think the health of forest lands are to future generations; their perceptions of how and why National Forest System lands are managed as they are; their knowledge of Forest Service programs; their thoughts about economically based enterprises on National Forest System lands, such as concessionaires; their view of the Forest Service Natural Resource Agenda that includes improving water quality, recreational experiences, wildlife habitat, and land stewardship; their perceptions of Forest Service customer service; and if they would be willing to volunteer time to help the agency with activities, such as trail maintenance. Respondents also will be asked if there are other questions they think should be included on the survey and if they know of anyone who might be a potential survey participant.

Estimate of Burden: 15 minutes.

Type of Respondents: Residents living in or around the cities of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

Estimated Number of Respondents: 12.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3 hours.

Description of Information Collection

Title: Urban Connections—Phase II—Telephone Survey.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection that has not received approval from the Office of Management and Budget.

Abstract: Data from Phase I is the basis for the questionnaire used in Phase II. Kearns & West will interview 1000 people in each of the following metropolitan areas: Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

Respondents will be asked questions that include how important they think the health of forest lands are to future generations; their perceptions of how and why National Forest System lands are managed as they are; their knowledge of Forest Service programs; their thoughts about economically based enterprises on National Forest System lands, such as concessionaires; their view of the Forest Service Natural Resource Agenda that includes improving water quality, recreational experiences, wildlife habitat, and land stewardship; their perceptions of Forest Service customer service; and if they would be willing to volunteer time to help the agency with activities, such as trail maintenance. Respondents also will be asked if there are other questions they think should be included on the survey and if they know of anyone who might be a potential survey participant.

Respondents also will be asked if they are, or if they know of anyone who might be, willing to participate in a future focus group.

Data from Phase II will help Forest Service personnel understand how urban residents perceive the agency's management of National Forest System lands.

Estimate of Burden: 20 minutes.

Type of Respondents: Residents living in or around the cities of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan, and Cleveland, Ohio.

Estimated Number of Respondents: 4000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1334 hours.

Description of Information Collection

Title: Urban Connections—Phase III—Focus Groups.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection that has not received approval from the Office of Management and Budget.

Abstract: The information collected during Phases I and II of this information collection will form the basis for Phase III. Kearns & West will conduct a total of 8 focus groups: 2 in Boston, Massachusetts; 2 in Minneapolis/St. Paul, Minnesota; 2 in Detroit, Michigan; and 2 in Cleveland, Ohio. The purpose of the focus groups is to discuss responses to questions asked in Phases I and II and help Forest Service personnel understand perceptions urban residents have concerning the agency's management of National Forest System lands.

Estimate of Burden: 2 hours.

Type of Respondents: Residents living in or around the cities of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio who either participated in a telephone interview in Phases I or II or whose name was suggested by one of the telephone interviewees as someone who might be interested in participating in a focus group.

Estimated Number of Respondents: 96.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 192 hours.

Description of Information Collection

Title: Urban Connections—Phase IV—Telephone Surveys.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection that has not received approval from the Office of Management and Budget.

Abstract: The information collected during Phases I, II and III will serve as the basis for Phase IV. Kearns and West personnel will interview 10 people in each of the metropolitan areas of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

These respondents will be selected from those who were interviewed previously during Phase I or II of this information collection process, or will be people who were identified as potential participants by one of the earlier telephone survey respondents.

The purpose of Phase IV is to gain additional information to those questions that were included in Phases I and II. The collected information will help the Forest Service understand what urban residents expect from public lands in order for the agency to meet these expectations.

Estimate of Burden: 30 minutes.

Type of Respondents: Residents living in or around the cities of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

Estimated Number of Respondents: 40.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 20 hours.

Comment Is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comment

All comments, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: April 15, 1999.

Robert Lewis, Jr.,

Acting Associate Chief.

[FR Doc. 99–10081 Filed 4–21–99; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra Nevada Forest Plan Amendment Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Revision of the Notice of Intent for the Sierra Nevada Forest Plan Amendment Environmental Impact Statement. The Department of Agriculture, Forest Service, Regions 4 and 5 announce the adjustment to the schedule for the development of new management direction in Sierra Nevada national forest, supported by an environmental impact statement. Previous schedules published in the **Federal Register** on July 10, 1998 and November 20, 1998 announced a completion date of July 31, 1999.

SUMMARY: The previous **Federal Register** notice of November 20, 1998 called for publication of the draft environmental impact statement in late February, 1999. The schedule is being adjusted to allow the Forest Service more time to integrate relevant natural resource science findings and to better integrate public concerns into alternatives to be displayed in the draft environmental impact statement. The adjustment in schedule will result in a more meaningful and useful draft environmental impact statement for public review and comment. The adjustment in schedule changes the estimated publication of the draft environmental impact statement to late spring or early summer of 1999. The Sierra Nevada Forest Plan Amendment Environmental Impact Statement (EIS) will amend national forest plans for the Humboldt-Toiyabe, Modoc, Lassen, Plumas, Tahoe, Eldorado, Stanislaus, Sierra, Sequoia, and Inyou National Forests, and the Lake Tahoe Basin Management Unit. The EIS will address five problem areas described in the Notice of Intent published in the November 20, 1998 **Federal Register**: old forest ecosystems; aquatic, riparian, and meadow ecosystems; fire and fuels; noxious weeds; and, lower westside hardwood forest ecosystems.

FOR FURTHER INFORMATION CONTACT: Please see the USDA Forest Service Region 5 World Wide Web site www.r5.fs.fed.us or contact Dr. Kent Connaughton, USDA Forest Service, Sierra Nevada Framework Project, Room 419, 801 "I" Street, Sacramento, CA 95814; phone number 916–492–7554; TTY via PacBell relay (800) 735–2929.

SUPPLEMENTARY INFORMATION:

The USDA Forest Service Pacific Southwest Region and the Pacific Southwest Research Station are integrating new science into management of the national forests of California. The effort is called the Sierra Nevada Framework Project. One objective of the Framework Project is to amend forest plans in conformance with the National Forest Management Act

and the National Environmental Policy Act. Other activities of the Framework Project involve improving long-term cooperation and coordination among the Forest Service, tribes, local governments, state and federal agencies.

On November 20, 1998, the Region published a Notice of Intent in the **Federal Register** identifying five problem areas to address in an Environmental Impact Statement: old forest ecosystems; aquatic, riparian and meadow ecosystems; fire and fuels management; noxious weeds; and, lower westside hardwood ecosystems. Prior to drafting the Notice of Intent, the Pacific Southwest Region and Pacific Southwest Research Station reviewed recent science and gathered public comment and related information during a series of 37 community workshops throughout the Sierra and other towns in California and Nevada. Publication of the Notice of Intent initiated a 60-day opportunity for public comment, including 27 additional community workshops. To date, the Forest Service has received 3000 comments via letters, postcards, and e-mail. Response to these comments is integrated into the alternatives being developed to address the five problem areas.

In response to the significant public interest in the development of alternatives, the Forest Service is making available summary descriptions of alternatives that may appear in the draft EIS. The Forest Service is not soliciting public comment on these preliminary drafts, but is making them available so people may be better prepared to comment on the draft EIS when it is published.

At present, several alternatives are being developed by the Forest Service. These alternatives reflect extensive public comment and suggestions, as well as recent scientific information. To view summaries of these draft alternatives, please see the USDA Forest Service Region 5 World Wide Web site www.r5.fs.fed.us or contact USDA Forest Service, Sierra Nevada Framework Project, 801 I Street, Room 419, Sacramento, CA, 95814 to receive a copy by mail.

The Forest Service is convening public meetings to inform interested people about its progress in the development of the environmental impact statement. Meetings will be held in the Sierra Nevada Framework Project Office, 801 I Street, Sacramento, California, 95814 Room 484 as follows:

Tuesday, May 11, 1999, 1–3 pm
Wednesday, June 2, 1999, 1–3 pm
Wednesday, July 7, 1999, 1–3 pm
Wednesday, August 4, 1999, 1–3 pm

Dated: April 9, 1999.

Kent P. Connaughton,

Deputy Regional Forester.

[FR Doc. 99–10062 Filed 4–21–99; 8:45 am]

BILLING CODE 3410–11–M

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: April 27, 1999; 9:30 A.M.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., S.W., Washington, D.C. 20547.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or John Lindburg at (202) 401–3736.

Dated: April 19, 1999.

John A. Lindburg,

Legal Counsel.

[FR Doc. 99–10159 Filed 4–19–99; 4:50 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Application to Amend Certificate.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6 (a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 88–5A013."

CISA Export Trade Group, Inc.'s original Certificate was issued on October 13, 1988 (53 FR 43253, October 26, 1988), and previously amended on

March 2, 1990 (55 FR 23123, June 6, 1990), December 16, 1991 (57 FR 883, January 9, 1992) and on October 9, 1997 (62 FR 54832, October 22, 1997). A summary of the application for an amendment follows.

Summary of the Application

APPLICANT: Casting Industry Suppliers of America International, formerly known as CISA Export Trade Group.

223 West Jackson Blvd., Suite 800, Chicago, IL 60606.

CONTACT: John M. Peterson, Esquire, Telephone: (312) 263–3001.

APPLICATION NO.: 88–5A013.

DATE DEEMED SUBMITTED: April 13, 1999.

PROPOSED AMENDMENT: The CISA Export Trade Group, Inc., seeks to amend its Certificate to 1. Change the listing of the Certificate holder cited in this paragraph to the new listing cited in this paragraph in parenthesis as follows: CISA Export Trade Group, Inc. (Casting Industry Suppliers of America International); and

2. Change the listing of the "Member" cited in this paragraph to the new listing cited in this paragraph in parenthesis as follows: Didion Manufacturing Company (Didion International, Inc.); and

3. Delete the following companies as "Members" of the Certificate within the meaning of section § 325.2(1) of the Regulations (15 CFR 325.2 (1)): Georg Fischer Disa, Inc., Holly, MI; Hickman, Williams & Company, Livonia, MI; and

4. Add the following companies as new "Members" of the Certificate within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2 (1)): ABB Industrial System Inc, Columbus, Ohio, for the activities of its division ABB Metallurgy, New Brunswick, NJ; CSI Industrial Systems Corporation, Grayling, MI; Fairmount Minerals, Ltd., Chardon, OH; and Hamilton Technical Ceramics, Paris, ON Canada.

Dated: April 16, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–10069 Filed 4–21–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Reports and Guidance Documents; Availability etc.; European Union's Directive on Data Protection; Compliance Guidance for U.S. Organizations

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of publication.

SUMMARY: The Department of Commerce has been working very closely over the last several months with the European Commission to develop clear and predictable guidance to U.S. organizations that would enable them to comply with the European Union's Directive on Data Protection. The Directive, which went into effect late last year, allows the transfer of personally identifiable data to third countries only if they provide an "adequate" level of privacy protection. Because the United States relies largely on a sectoral and self-regulatory, rather than legislative, approach to effective privacy protection, many U.S. organizations have been uncertain about the impact of the "adequacy" standard on personal data transfers from European Community countries to the United States.

Last Fall, the DOC proposed a safe harbor for U.S. companies that choose to adhere to certain privacy principles. As the DOC explained then, the principles are designed to serve as guidance to U.S. organizations seeking to comply with the European Union Directive. Organizations within the safe harbor would have a presumption of adequacy and data transfers from the European Community to them would continue. Organizations could come into the safe harbor by self certifying that they adhere to these privacy principles. The decision to enter the safe harbor is entirely voluntary. As a result of the safe harbor proposal, the European Union announced last Fall its intention to avoid disrupting data flows to the US so long as the US is engaged in good faith negotiations with the European Commission.

Last November, the DOC issued draft principles for review and comment by interested organizations, noting that the content of the principles was of course crucial to the proposal. The DOC received numerous written comments in response to that draft and countless additional comments and suggestions in the subsequent months through extensive discussions with interested parties. Generally, the comments the DOC received supported the safe harbor concept. They also raised concerns with certain aspects of the principles, particularly access and onward transfer.

Because the principles are quite broad and general, questions were also raised about how they would be applied in specific circumstances. DOC consultations also made clear that US organizations would welcome additional information on the benefits of being in the safe harbor and the procedures that would be followed when they were in the safe harbor. The comments the DOC received have been extremely valuable both in helping the DOC understand how data is protected in practice and in working with the European Commission to find appropriate solutions to issues raised in DOC/EC discussions.

Concurrently with DOC discussions with US organizations, the DOC has had extensive discussions with the European Commission about the content and contours of the safe harbor as well as on the comments raised by US organizations. On the basis of our discussions with US negotiators and the EU Commission, the DOC has further refined the safe harbor principles to account for the many views expressed and those of our European counterparts.

New Documents for Review and Comment

At this point, the two sides have achieved a substantial level of consensus on the content of the principles, on the content of more specific guidance (FAQs), and safe harbor procedures and benefits. Accordingly, the DOC is now issuing for comment by US organizations the first tranche of documents that will comprise the relevant safe harbor documents. These include: (1) revised safe harbor principles; (2) frequently asked questions and answers (FAQs) on access; and (3) a draft European Commission document on the procedures that will be established for the handling of complaints where the Commission had made an adequacy determination, as it will with the safe harbor. (These documents are also available on our web site at http://www.ita.doc.gov/ecom.) In addition to your comments on these documents, the DOC also requests your views on the weight to give the FAQs relative to the principles.

The DOC will also be issuing within the week additional FAQs addressing certain sectoral concerns, procedural issues, and several clarifications requested during DOC consultations. The European Commission is also providing these documents to the Member States for their comments and review. Additional documents will be put on the ITA website as soon as they are available for review.

All the draft documents are still under negotiation with the European Commission. Points of difference between the two sides have been identified in footnotes in the text and mark those parts of the document that are most likely to be revised further. Please note that these principles and the

accompanying explanatory materials were developed solely for use by US organizations receiving personal data from the EU under the safe harbor. Consequently, they rely on references to European Union law, as for example in defining sensitive information and some of the relevant exceptions, which limit their general applicability. For that reason, adoption of the principles for other purposes may well be inappropriate.

Safe Harbor Benefits

The Dept. of Commerce would like to highlight the several benefits of the Safe Harbor approach. They include:

- All 15 Member States (MS) will bound by US/EC understanding;
- The understanding will create the presumption that companies within the safe harbor provide adequate data protection (rather than the opposite) and data flows to those companies will continue;
- MS requirements for prior approval of data transfers either will be waived or approval will be automatically granted; and
- US companies will have a transition period to implement safe harbor policies.
- Claims against US organizations will for the most part be limited to claims of non-compliance with the principles, European consumers will be expected to exhaust their recourse with the US organization first, and due process will be assured for US organizations that are subject to complaints; and
- Generally, only the European Commission, acting with a committee of Member State representatives (the Article 31 Committee), will be able to interrupt personal data flows from an EU country to a US organization.

In addition to the documents made available today and next week, the final package of safe harbor documents will include the European Commission's Article 25.6 decision, letters from the Department of Commerce to the European Commission and a reply letter from the Commission to the Department of Commerce, and memoranda describing enforcement authority in the US for unfair and deceptive practices and European Union Member State enforcement procedures involving data protection claims. Please remember to check the website http://www.ita.doc.gov/ecom for postings of additional documents.

Document Availability: April 19, 1999 at URL: *http://www.ita.doc.gov/ecom*. If you would like to speak to someone or want hard copies of the documents please call Brenda Carter-Nixon on (202) 482–5227.

Address Comments: Please submit comments on any of the draft documents to the Department of Commerce by May 10, 1999. DOC requests that all comments be submitted electronically in an HTML format to the following email address: *Ecommerce@ita.doc.gov*. If organizations do not have the technical ability to provide comments in an HTML format, they can forward them in the body of the email, or in a Word or WordPerfect format. The DOC intends to post all comments on the ITA/ECOM website.

If necessary, hard copies of comments can be mailed to the Electronic Commerce Task Force, U.S. Department of Commerce, Room 2009, 14th and Constitution Ave., NW, Washington DC 20230, or faxed to 202–501–2548.

Dated: April 19, 1999.

Eric Fredell,

International Trade Specialist, International Trade Administration/Trade Development.

[FR Doc. 99–10145 Filed 4–20–99; 2:35 pm]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041499C]

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Council will hold a public joint meeting of its Crustacean Advisory Panel (CAP) and Crustaceans Plan Team (CPT) in Honolulu, HI.

DATES: The meeting will be held on May 10–11, 1999, from 8:30 a.m. to 5:00 p.m. each day.

ADDRESSES: The meeting will be held at the Council office conference room, 1164 Bishop St., Suite 1400, Honolulu, HI; telephone: (808–522–8220).

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The CAP and CPT will discuss and may make recommendations to the Council on the agenda items below. The order in which agenda items will be addressed can change.

8:30 a.m., Monday, May 10, 1999

1. 1998 Draft Annual Report
   A. Northwestern Hawaiian Islands (NWHI) lobster fishery
   B. Other areas (American Samoa, Guam, main Hawaiian Islands, Northern Mariana Islands)
2. Bank-specific harvest guideline framework measure
3. NWHI 1999 harvest guidelines
   A. Exploitable population sizes
   B. Harvest guidelines and data collectors
4. NMFS research on NWHI lobster stocks
   A. Tagging experiments
   B. Spiny and slipper lobster time-series data and stock status at Necker & Maro
5. Marine Mammal Commission's concern regarding monk seals and lobster fishing
6. State "License for Imported Marine Life"
   A. Review of bill
7. Addition of new areas to Crustaceans Permit Area 3 (Exclusive Economic Zone of American Samoa and Guam)
   A. U.S. atolls
   B. Other
8. Status of amendment addressing Sustainable Fishery Act provisions
   A. Bycatch
   B. Overfishing
   C. Fishing communities
9. Review of Council's draft Program Planning document
10. Review of draft Comprehensive Data Amendment
11. Other business

8:30 a.m., Tuesday, May 11, 1999

12. Review of the issues, discussion and recommendations (CPT and CAP meeting separately)
13. Summary of recommendations (CPT and CAP meeting jointly)

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues will not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: April 15, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10117 Filed 4–21–99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, May 3, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10260 Filed 4–20–99; 2:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, May 7, 1999.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10261 Filed 4–20–99; 2:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, May 10, 1999.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Adjudicoatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10262 Filed 4–20–99; 2:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, May 14, 1999.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10263 Filed 4–20–99; 2:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, May 17, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10264 Filed 4–20–99; 2:38 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, May 21, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10265 Filed 4–20–99; 2:38 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, May 24, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10266 Filed 4–20–99; 2:38 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, May 29, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10267 Filed 4–20–99; 2:38 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Proposed Information Collection; Commander, Naval Sea Systems Command

AGENCY: Department of the Navy, DOD.

ACTION: Notice of proposed information collection.

SUMMARY: The Naval Sea Systems Command announces a proposed

extension of a previously approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 21, 1999.

ADDRESSES: Send written comments and recommendations on the proposed information collection to Commander, Naval Sea Systems Command (SEA 04X13), 2531 Jefferson Davis Highway, Arlington, VA 22242–5160.

FOR FURTHER INFORMATION CONTACT: To request additional information or to obtain a copy of the proposal and associated collection instruments, contact Sherrell Smith or Leonard Thompson at (703) 602–4170 (Ext. 139 or 137) respectively.

SUPPLEMENTARY INFORMATION:

Form Title and OMB Number: Facilities Available for the Construction or Repair of Ships; OMB Control Number 0703–0006.

Needs and Uses: This collection of information provides NAVSEASYSCOM and the Maritime Administration with a list of facilities available for construction or repair of ships, and information utilized in a data base for assessing the production capacity of the individual shipyards. Respondents are businesses involved in shipbuilding and/or repair.

Affected Public: Businesses or other for profit institutions.

Annual Burden Hours: 679.5.

Number of Respondents: 151.

Responses per Respondent: 1.

Average Burden per Response: 4.5 hours.

Frequency: Annually and as requested.

Authority: 44 U.S.C. Sec. 3506(c)(2)(A)

Dated: April 13, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–10107 Filed 4–21–99; 8:45 am]

BILLING CODE 3810–FF–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearings

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, April 28, 1999. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:00 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference among the Commissioners and staff will be held at 9:30 a.m. at the same location and will include discussions of proposals for a flow needs study and a Commission-Corps of Engineers drought storage agreement; and status reports on the Flowing Toward the Future workshops and activities of the Toxics Advisory Committee.

In addition to the subjects summarized below which are scheduled for public hearing at the business meeting, the Commission will also address the following: Minutes of the March 9, 1999 business meeting; announcements; report on Basin hydrologic conditions; reports by the Executive Director and General Counsel; status of compliance of Somerton Springs Golf Development; resolutions to contract for fish tissue analyses, continued development of the water quality model for the Delaware Estuary and participation in EPA's Energy Star building program; consideration of a resolution to authorize funding of selected tasks of the flow needs study for the Delaware Estuary; and public dialogue.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *New York State Department of Environmental Conservation (NYSDEC) D–77–20 CP (Revision No. 4).* A project to modify the revised schedule of experimental augmented conservation releases for Pepacton and Cannonsville Reservoirs (each located in Delaware County, New York) and Neversink Reservoir (located in Sullivan County, New York). The NYSDEC requests the following modifications for a two-year period: (1) Storage of 50 percent of the annual excess release quantity to create a fisheries protection bank that would be available to augment releases during drought warnings; (2) a revision to the drought operating curves to temporarily replace the Drought Warning One and Drought Warning Two designations with Drought Watch and Drought Warning, respectively; and (3) raise the Drought Warning (formerly Drought Warning Two) threshold by four billion gallons. The existing experimental release program (D–77–20 CP Revision No. 3) will be extended until April 30, 2001 to coincide with Revision 4.

2. *SPI Polyols, Inc. D–88–74 RENEWAL.* An application for the renewal of a ground water and surface water withdrawal project to supply up to 60.04 million gallons (mg)/30 days of ground water and 470.58 mg/30 days of surface water to the applicant's industrial facility from Well Nos. 8 through 12 and Delaware River intake. Commission approval on January 25, 1989 was extended to 10 years. The applicant requests that the total withdrawal from all wells remain limited to 60.04 mg/30 days and 470.58 mg/30 days from the river intake. The project is located in New Castle County, Delaware.

3. *Northampton Generating Company, L.P. D–98–40.* A project to increase the withdrawal of water from 67.5 mg/30 days to 75 mg/30 days from the Lehigh River to continue to serve the applicant's existing 96 megawatt cogeneration facility located on Route 329 in Allen Township and Northampton Borough, both in Northampton County, Pennsylvania. The applicant also proposes to modify the passby flow condition relative to Lehigh River low-flow periods.

4. *Township of East Rockhill D–99–6 CP.* A project to construct a new 0.113 mgd sewage treatment plant (STP) in East Rockhill Township, Bucks County, Pennsylvania. The proposed extended aeration secondary treatment STP will serve East Rockhill Township only and will discharge treated effluent to East Branch Perkiomen Creek approximately 500 feet upstream of Perkasie Borough, Bucks County, Pennsylvania.

5. *Parkway Gravel, Inc. D–99–8.* An application for approval of a surface water withdrawal project to supply up to 97.2 mg/30 days of water to the applicant's sand and gravel washing facility from a proposed water supply pond, and to limit the withdrawal from all sources to 97.2 mg/30 days. The project is located in New Castle County, Delaware.

6. *Upper Dublin Township D–99–9 CP.* A project to upgrade and expand the applicant's existing 1.1 mgd capacity secondary treatment plant to provide an additional 0.25 mgd capacity. The plant will continue to serve a portion of Upper Dublin Township and discharge to Pine Run, a tributary of Wissahickon

Creek in Montgomery County, Pennsylvania.

7. Lehigh County Authority D–99–11 CP. A project to upgrade and expand the applicant's existing 35,000 gallons per day (gpd) sewage treatment facility by providing a new advanced secondary biological treatment system capable of providing 60,000 gpd of treatment. The project is located just south of Heidelberg Heights Road in Heidelberg Township, Lehigh County, Pennsylvania. Treated effluent will continue to discharge to an unnamed tributary of Mill Creek, which is a tributary of Jordan Creek.

8. *Warrington Township and The Cutler Group D–99–12 CP.* An application to rerate the applicant's existing 0.26 mgd Tradesville STP to 0.33 mgd to serve existing and proposed residential development in the northwestern portion of Warrington Township, Bucks County, Pennsylvania. The applicant proposes an additional ultraviolet disinfection system and changes to the sequencing batch reactor process to allow the STP to operate more efficiently. The STP is located along the west side of Mill Creek Road in Warrington Township and will continue to discharge to Mill Creek, a tributary of Neshaminy Creek.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who would like to attend a hearing should contact the Secretary at (609) 883–9500 ext. 203 or through the New Jersey Relay Service at 1 (800) 852–7899 (TTY) to discuss how the DRBC may accommodate your needs.

Other Scheduled Hearings

By earlier notice, the Commission announced its schedule of public hearings on a determination that the assimilative capacity of the tidal Delaware River is being exceeded for certain toxic pollutants. This determination will authorize the Executive Director to establish wasteload allocations for specific point source discharge of these pollutants.

The public hearings are scheduled as follows:

May 3, 1999 beginning at 1:30 p.m. and continuing until 5 p.m., as long as there are people present wishing to testify. The hearing will be held in the Second Floor Auditorium of the Carvel State Building, 820 North French Street, Wilmington, Delaware.

May 5, 1999 beginning at 1:30 p.m. and continuing until 5 p.m. as long as there are people present wishing to testify, and resuming at 6:30 p.m. and continuing until 9 p.m., as long as there are people present wishing to testify. The hearing will be held in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

May 11, 1999 beginning at 1:30 p.m. and continuing until 5 p.m., as long as there are people present wishing to testify. The hearing will be held in the Jefferson Room of the Holiday Inn at 400 Arch Street, Philadelphia, Pennsylvania.

Copies of supporting documents may be obtained by contacting Christopher Roberts, Public Information Officer at (609) 883–9500, ext. 205.

Persons wishing to testify are requested to notify the Secretary in advance. Written comments on the proposed determination should also be submitted to the Secretary at the Delaware River Basin Commission, PO Box 7360, West Trenton, New Jersey 08628–0360.

Dated: April 13, 1999.

Susan M. Weisman,

Secretary.

[FR Doc. 99–10109 Filed 4–21–99; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Financial and Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by April 23, 1999. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 21, 1999.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address Pat__Sherrill@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A)) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Financial and Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified

above. Copies of the requests are available from Patrick J. Sherrill at the address specified above. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 16, 1999.

William Burrow,

Acting Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Guidance to SEAs on Procedures for Adjusting ED-Determined Title I Allocations to Local Educational Agencies (LEAs).

Abstract: Guidance for State educational agencies (SEAs) on procedures for adjusting ED-determined Title I Basic and Concentration Grants allocations to local educational agencies (LEAs) to account for newly created LEAs and LEA boundary changes.

Additional Information: Failure to issue this guidance document would mean that SEAs have no guidance from ED on procedures to follow in determining final allocations for the more than 800 LEAs not on the Census list that are eligible for Title I. SEAs must make final allocations for all LEAs and notify school districts of the Title I amounts they will receive for school year 1999–2000 in April and May.

Frequency: Guidance issued on as needed basis.

Affected Public: State, local or Tribal Government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 2,080.

[FR Doc. 99–10013 Filed 4–21–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Achievement Levels of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: April 30, and May 1, 1999.

TIME: April 30—6–9 p.m., (open); May 1—8 a.m.–3 p.m., (closed).

LOCATION: St. Paul Hotel, 350 Market Street, St. Paul MN.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under Pub. L. 105–78, the National Assessment Governing Board is also granted exclusive authority over developing Voluntary National Tests pursuant to contract number RJ97153001.

On April 30 from 6 to 9 p.m., the Achievement Levels Committee of the National Assessment Governing Board will meet in open session to review the response of the Technical Advisory Committee to the National Academy of Sciences' evaluation of NAEP. Also, the Committee will discuss the NAGB plan and report to Congress.

On May 1, the Achievement Level Committee will meet in closed session from 8 a.m. to 3:00 p.m. The Committee will review the civics item classification study and the analysis on supplementary cut scores in preparation for the formulation and reporting of recommendations to the Governing Board at its May meeting. This meeting must be closed because references will be made to specific items from the assessment and premature disclosure of the information presented for review would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

A summary of the activities of this closed meeting and other related matters, which are informative to the public and consistent with the policy of the 5 U.S.C. 552b, will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, D.C., from 8:30 a.m. to 5 p.m.

Dated: April 19, 1999.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 99–10064 Filed 4–21–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Idaho Operations Office; Notice of Availability of Solicitation for Awards of Financial Assistance

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of Availability of Solicitation DE–PS07–99ID13788–Industrial Combustion.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID) is seeking applications for innovative cost-shared research, development and demonstration of technologies which will enhance economic competitiveness, reduce energy consumption and reduce environmental impacts of crosscutting integrated industrial combustion process system applications. The research is to address the characteristics, strategic targets and challenges identified in the Industrial Combustion Vision and research priorities identified by the combustion community in the Industrial Combustion Technology Roadmap.

DATES: The deadline for receipt of full applications is August 2, 1999, at 3:00 p.m. MST.

ADDRESSES: Applications should be submitted to: Marshall Garr, Contract Specialist Procurements Services Division, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, MS1221, Idaho Falls, Idaho 83401–1563.

FOR FURTHER INFORMATION CONTACT: Marshall Garr, Contract Specialist at *garrmc@id.doe.gov*, or Linda Hallum, Contracting Officer at hallumia@id.doe.gov.

SUPPLEMENTARY INFORMATION: Approximately $2,700,000 in federal funds are expected to be available to fund the first year of selected research efforts. DOE anticipates making 2 or more cooperative agreement awards each with a duration of five years or less. A minimum 50% non-federal cost-share is required for the *total* project which includes research, development and demonstration. The minimum research and development cost share is 30%. Collaborations between industry, industry organizations, university, and National Laboratory participants are encouraged. The issuance date of the solicitation is on or about May 3, 1999. The solicitation will be available in its full text via the internet at the following address: *http://www.id.doe.gov/doeid/PSD/proc-div.html*. The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (P.L. 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.086.

Issued in Idaho Falls on *April 19, 1999.*

Wendy Huggins,

Contract Specialist, Procurement Services Division.

[FR Doc. 99–10072 Filed 4–21–99; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

American Statistical Association Committee on Energy Statistics

AGENCY: Department of Energy.

ACTION: Supplemental notice of open meeting.

On April 6, 1999, the Department of Energy published a notice announcing an open meeting of the American Statistical Association Committee on Energy Statistics 64 FR 16727. This notice provides additional detail on the tentative agenda published. The meeting will open in room 8E–089, followed by concurrent morning sessions on Thursday, April 29, 1999 and Friday, April 30, 1999. Please refer to the poster in Room 8E–089 for the concurrent session room numbers.

Issued in Washington, D.C. on April 15, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–10205 Filed 4–21–99; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

National Stakeholder Forum on Central Internet Database

AGENCY: Office of Environmental Management, DOE.

ACTION: Notice of a National Stakeholder Forum.

SUMMARY: DOE is sponsoring a forum on the development of a Central Internet Database ("CID" or "database") that will contain specified information on DOE managed waste, contaminated environmental media, and facilities. DOE is developing this database and sponsoring this forum pursuant to the terms of a settlement agreement between DOE, the Natural Resources Defense Council, Inc., and several other organizations. The purposes of this forum are: (1) To inform and discuss with stakeholders the current status of the development of the database and review the data that will be contained in the database; (2) to engage in a dialogue with stakeholders about the continued development of, and possible enhancements to, the outline and structure of the database; (3) to discuss Internet linkages to other data sources; and (4) to discuss opportunities for on-going stakeholder involvement in the development and implementation of the database. The forum is open to the public. However, pre-registration is strongly recommended to assist DOE in logistical planning for the forum. Detailed registration information is provided below.

DATES: June 3–4, 1999.

ADDRESSES: Columbia Inn Hotel and Conference Center, 10207 Wincopia Circle, Columbia, MD 21044.

FOR FURTHER INFORMATION CONTACT: James D. Werner, 202–586–9280.

SUPPLEMENTARY INFORMATION:

1. Background

On December 12, 1998, DOE and the Natural Resources Defense Council, Inc. (NRDC), on its own behalf and that of 38 other plaintiff organizations, settled a lawsuit (*Natural Resources Defense Council, et al.* v. *Richardson, et al.*, Civ No. 97–936 (SS)). The terms of the settlement agreement require DOE to complete three major items: (1) Develop and implement a Central Internet Database (CID) containing specified information on DOE waste, facilities, and contaminated media, as well as information on waste transfers; (2) conduct a study of DOE's long-term stewardship activities; and (3) establish a $6.25 million fund, to be administered by an independent organization (RESOLVE, Inc.), enabling recipient organizations to conduct technical and scientific reviews of DOE's environmental management activities. In connection with the development of this database, DOE agreed to hold at least two national stakeholders forums to discuss with members of the public issues relating to the development of the database. The first of these forums is the subject of this notice.

Additional information on the settlement agreement is available through an Internet web site (see URL given below) or by contacting the DOE point of contact, James D. Werner, at the address listed below.

2. Central Internet Database Requirements

From 1980 to 1996, the Department compiled, on a national basis, information about its waste, contaminated media, and spent nuclear fuel in a system, called the "Integrated Database" or "IDB." The new database (the CID) will, in part, supplant the IDB and will include more information and make it more readily accessible than the IDB. The CID will contain specified information on the wastes, contaminated media, facilities, spent nuclear fuel, and materials in inventory managed by DOE's Offices of Environmental Management, Defense Programs, Science, and Nuclear Energy. The database will also include data from the Formerly Utilized Sites Remedial Action Program (FUSRAP) sites, if they have been returned to DOE for management, as well as sites governed by Section 151(b) of the Nuclear Waste Policy Act that have been transferred to DOE ownership. (To date, no sites have been transferred to DOE under section 151(b). FUSRAP sites that have not already been cleaned up, are currently managed by the Army Corps of Engineers).

Under the terms of the settlement, DOE will include in the CID, data that are presently available and collected by DOE on a national level, or that are presently planned to be collected in the future by DOE on a national level. For example, specific information will be provided on waste types and volumes of material and waste in storage, as well as newly generated, treated, and disposed waste; the mass of spent nuclear fuel in storage and the annual receipts of spent nuclear fuel; the major chemical constituents and radionuclides of concern; the program responsible for generation and disposition; and the location, managing program, approximate square footage, status, and type of contamination for DOE facilities. The database will not include any information that is classified,

controlled, or proprietary. DOE also committed to make the database available to the public on the Internet through a web-based reporting tool (e.g., web site) that provides the capacity to generate standard reports and perform searches and queries.

As explained above, this notice announces the first national stakeholder forum to discuss the development of the CID. DOE will sponsor at least one additional stakeholder forum; the second forum will be held no sooner than one year after the date on which DOE announces that the database is operational. The subject of the second forum will be the operation of the database, including its structure and linkages to other databases. DOE is required to maintain the database for a minimum of five years following the second national stakeholder forum. Before the expiration of this five-year period, upon request, DOE will hold a third national stakeholder forum to discuss whether the Department should continue operation of the database.

3. Draft Forum Agenda

The following is a draft agenda for the forum. Members of the public are invited to review the draft agenda and provide comments on it in the manner described below.

June 3

8:30—Welcome and Introductions
9:30—Overview and Status Reports on the Database by DOE and Stakeholders
11:00—Public Comments and General Discussion
12:00—Lunch
1:00—Sessions on Specific Topics—Topics may include the following:
- Data sources, level of detail, and availability
- User Interface—Look and feel of interface
- Database search and query capabilities
- Database deployment, training, and documentation
- Updating and maintaining the database
- Opportunities for ongoing stakeholder involvement with database development and deployment

5:45—Adjourn

June 4

8:30—Agenda Review and Announcements
9:00—Reports from Previous Day Sessions
10:30—Discussion Regarding Sessions
12:00—Lunch
1:00—Discussion of Outstanding Issues
1:45—Next Steps—Upcoming Activities and Action Items
2:15—Closing Comments
2:30—Adjourn

Comments on the draft agenda should be sent to James D. Werner at the following address: Office of Strategic Planning and Analysis (EM–24), U.S. Department of Energy, 1000 Independence Ave, SW, Washington, DC 20585.

The Department will consider comments received on the draft agenda in reaching its determination on the final agenda. The final agenda will be made available through the Internet Web Site referenced below.

4. Ongoing Communication Mechanisms

In order to communicate current information about activities related to the settlement to stakeholders and the public, DOE has established an Internet Web Site at *http://www.em.doe.gov/settlement*. This site includes:
- Text of Settlement Agreement
- Stakeholder Forum Information
- Forum Agenda
- Registration Information
- Background Materials (available 5/22/99)
- Project Plan—provides an overview of the proposed design of the database and the tentative implementation schedule
- Fact Sheets and Updates on Settlement-Related Activities
- Overall Status of Settlement Implementation

5. Registration Information

Registration information can be obtained from the Internet Web Site referenced above, or by calling the Center for Environmental Management Information at 1–800–736–3282 (in the Washington, DC area, 202–863–5084). In addition, any member of the public desiring further information concerning the database and forum can contact James D. Werner at the address provided above. The deadline for registration is May 19, 1999.

Pursuant to the settlement agreement, DOE will consider providing funding for reasonable travel expenses (not to exceed $50,000 per forum) associated with attendance at the forum by members of the plaintiff organizations or other organizations that can demonstrate need and are working on issues related to DOE's environmental management activities. The Environmental Law Institute (ELI) will process and evaluate these applications and determine eligibility. Applications are due no later than May 14, 1999. For further information about how to apply for funding of travel expenses, please contact ELI as outlined below:

Eric Feldman, Environmental Law Institute, 1616 P Street, NW, Suite 200, Washington, DC 20036, Phone: 202–939–3823, Fax: 202–939–3868, Email: *feldman@eli.org*

Information on how to apply for travel expense funding can also be obtained from the Internet Web Site referenced above or by calling the Center for Environmental Management Information at 1–800–736–3282 (in the Washington, DC area, 202–863–5084).

Issued in Washington, DC, on April 16, 1999.

James D. Werner,

Director, Office of Strategic Planning and Analysis, Office of Environmental Management.

[FR Doc. 99–10073 Filed 4–21–99; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; National Coal Council Notice of Open Meeting

SUMMARY: This notice announces a meeting of the National Coal Council. That Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires notice of these meetings be announced in the **Federal Register.**

DATES: Tuesday, May 18, 1999, 9:00 a.m. to 12 Noon.

ADDRESSES: Embassy Suites, 1900 Diagonal Road, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202/586–3867.

SUPPLEMENTARY INFORMATION: Purpose of the Council: To provide advice, information, recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda

- Approval of agenda, E. Linn Draper, Jr., Chairman of the National Coal Council.
- Opening remarks, E. Linn Draper, Jr., Chairman of the National Coal Council.
- Remarks of Secretary of Energy, Bill Richardson (invited).
- Administrative business.
- Presentation by Steve Miller, Center for Energy and Environmental Development, Coal: Improving Public Perception of the Nation's Largest Domestic Energy Resource.
- Presentation by Ben Yamagata, Van Ness, Feldman, Fuel Diversity Economic

Incentives—Using one to Achieve the Other.

- Other business.
- Adjournment.

Public Participation: The meeting is open to the public. The Chairperson of the Council will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Council, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Margie D. Biggerstaff at the address or telephone number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10-minute rule.

Transcripts: The transcript will be available for pubic review and copying, within 30 days, at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on April 15, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–10206 Filed 4–21–99; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. SA99–17–000, SA99–18–000, SA99–19–000, SA99–20–000. SA99–21–000 (Not Consolidated)]

Chevron U.S.A. Inc.; Notice of Petitions for Dispute Resolution or, Alternative, for Adjustment

April 16, 1999.

Take notice that Chevron U.S.A. Inc. (Chevron) filed the above-referenced petitions, requesting the Commission to resolve disputes concerning this Kansas ad valorem tax refund obligation to the pipelines listed below.

Pipeline	Docket No.	Refund claim
ANR Pipeline Company	[1] SA99–17–000	$23,260.20
Northern Natural Gas Company	[2] SA99–18–000	494,814.97
Panhandle Eastern Pipe Line Company	[3] SA99–19–000	7,403.85
Colorado Interstate Gas Company	[4] SA99–20–000	418,116.56
Williams Gas Pipelines Central, Inc	[5] SA99–21–000	840,470.72

[1] Changed from GP99–2–000, filed March 9, 1999.
[2] Changed from GP99–3–000, filed March 11, 1999.
[3] Changed from GP99–4–000, filed March 9, 1999.
[4] Changed from GP99–5–000, filed March 10, 1999.
[5] Changed from GP99–6–000, filed March 10, 1999.

Chevon requests that the Commission resolve its dispute with the pipelines by holding that settlements and/or release agreements resolved all issues, including those associated with Kansas ad valorem tax refund liabilities, between the parties. Chevron contends that by agreeing in the settlement to forego claims it for nonperformance it otherwise could have continued to pursue, Chevron agreed to accept total payments under the contracts that did not exceed the MLP ceilings multiplied by the total volumes represented by each pipeline's nonperformance. In such circumstances, no refund should be required. To order otherwise would prevent Chevron from receiving the very benefits it bargained for in the settlements-settlements that the Commission itself strongly encouraged as a means to resolve the massive take-or-pay and underpayments liabilities of interstate pipelines and make the transition to a more market-responsive and competitive environment.

Chevron maintains that the pipelines and consumers benefitted from agreements and settlements because the settlements allowed the pipelines to avoid the much higher costs that full-performance of the contract would have entailed. By resolving "all claims" relating to, *inter alia*, "contractual price", the settlements resolved the Kansas ad valorem tax reimbursement issue. The Commission has found that these settlements served the public interest.

Chevron also requests the Commission to establish procedures to verify the refund calculations in all dockets to ensure fairness and equity. Alternatively, Chevron requests that the Commission waive Chevron's refund liability pursuant to Section 501(c) of the NGPA. Chevron asserts that the Commission has equitable discretion to grant adjustment relief from this refund requirement. Since the tax reimbursement payments made by the pipelines were for taxes that Chevron in fact paid the State of Kansas, Chevron maintains it did not retain any revenues in excess of the MLPs. Chevron maintains that the equities in the case require the Commission to waive Chevron's refund obligation. At a minimum, Chevron continues the Commission should waive the royalty portion of the refund. Chevron notes that it sold its Kansas properties since 1988, and thus no longer has ongoing contractual relationships with its former Kansas royalty owners. The response from Chevron's former royalty owners to Chevron's mailing has been negligible. To engage in extensive searches or to pursue legal action against these interests would be a cost-prohibitive exercise in futility. Since Chevron has transferred or otherwise ended the leases in question here, and thus has no ongoing relationship with the royalty owners, let alone relationships that would permit Chevron to impose a unilateral reduction in future royalty payments as contemplated in Wylee. Chevron asserts that the royalty portion of the refund claim is uncollectible, as a practical matter, due to the passage of time and the Kansas statute of limitations. Chevron's petitions are on file with the Commission, and they are open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties

to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10035 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–313–000]

Kern River Gas Transmission Company; Notice of Request Under Blanket Authorization

April 16, 1999.

Take notice that on April 14, 1999, Kern River Gas Transmission Company (Kern River), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP99–313–000, an application pursuant to section 7 of the Natural Gas Act (NGA), requesting approval to upgrade its Blue Diamond Meter Station in Clark County, Nevada, by constructing and operating additional facilities, all as more fully set forth in the request that is filed with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/htm (call 202–208–2222 for assistance).

Kern River proposes to upgrade the Blue Diamond Meter Station by adding a third 12-inch turbine meter and appurtenances. It is stated that the maximum design capacity of the meter station for delivery to the local distribution system of Southwest Gas Corporation (Southwest) will increase from 338,000 Mcf per day to approximately 507,000 Mcf per day. Kern River states that the total cost of the proposed upgrade at the Blue Diamond Meter Station is estimated to be approximately $102,000. It is asserted that the total actual cost of the upgrade plus the associated income tax gross-up will be reimbursed by Southwest.

Any person or the Commission Staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 285.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10102 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–303–000]

K N Interstate Gas Transmission Co.; Notice of Request Under Blanket Authorization

April 16, 1999.

Take notice that on April 13, 1999, K N Interstate Gas Transmission Co. (KNI), P.O. Box 281304, Lakewood, Colorado 80228–8304, filed in Docket No. CP99–303–000 a request pursuant to Sections 157.205 and 157.212(a) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212(a)) for authorization to construct and operate two new delivery points in Kearny County, Kansas to provide firm transportation and delivery of natural gas to Midwest Energy, Inc. (Midwest) under KNI's blanket certificate issued in Docket Nos. CP83–140–000 and CP83–140–001, all as more fully set forth in the request which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http:/// www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

According to KNI, it provides firm transportation service for Midwest pursuant to the terms and conditions of a Transportation Agreement dated October 1, 1998. Midwest is a distribution customer of KNI, which owns and operates facilities to transport, distribute, and sell gas to consumers in Kansas. Midwest has requested two additional delivery points (Midwest Energy Kearny Nos. 1 and 2) to serve irrigation load in Kearny County, Kansas. KNI proposes to deliver 9,480 Mcf on a peak day and 3,460,200 Mcf annually at Kearny No. 1 and 12,000 Mcf on a peak day and 4,380,000 Mcf annually at Kearny No. 2. KNI estimates the proposed cost of the tap and valve assemblies, meter and appurtenant facilities at each of the proposed delivery points to be $106,600 for Kearny No. 1 and $126,100 for Kearny No. 2. Midwest has agreed to reimburse KNI for the total costs related to the construction of the proposed delivery points.

KNI states the addition of the proposed delivery points will have no adverse impact on a daily or annual basis upon its existing customers. Additionally, KNI states the volumes of gas to be delivered at the proposed delivery points will be within the current maximum transportation quantities set forth in its transportation service agreement with Midwest. KNI asserts that the addition of the proposed delivery points is not prohibited by KNI's existing FERC Gas Tariff.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10038 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–282–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 16, 1999.

Take notice that on April 12, 1999, Reliant Energy Gas Transmission Company (REGT), formerly NorAm Gas Transmission Company, tendered for filing *pro forma* tariff sheets which REGT desires to take effect June 1, 1999.

These tariff sheets would institute new Rate Schedule HFT to provide hourly firm transportation service, to serve the peaking needs of electric generation customers and other shippers with similar requirements.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10034 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–315–000]

Reliant Energy Gas Transmission Company; Notice of Request Under Blanket Authority

April 16, 1999.

Take notice that on April 14, 1999, Reliant Energy Gas Transmission Company (REGT), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP99–315–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon certain facilities, located in Claiborne Parish, Louisiana, under REGT's blanket certificate issued in Docket No. CP82–384–000 and CP82–384–001, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

REGT proposes to abandon a 1-inch delivery tap located in Section 29, Township 21 North, Range 7 West, Claiborne Parish, Louisiana, on a gathering line owned and operated by Reliant Energy Field Services, Inc. REGT states that this delivery tap has been inactive for twelve months and previously provided service to Reliant Energy Arkla, a distribution division of Reliant Energy, Incorporated (Arkla). REGT declares that Arkla provided distribution service to a small industry customer, Jan-Mar Oil Corporation (Jan-Mar).

REGT asserts that Arkla has not received gas through this delivery tap for delivery to Jan-Mar in more than a twelve month period. REGT states that Arkla and Jan-Mar have been notified of this abandonment. REGT declares that no active service will be affected by the abandonment of this tap.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10039 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. SA99–25–000, SA99–26–000, SA99–27–000, SA99–28–000, SA99–29–000 (Not Consolidated)]

Texaco Exploration and Production Inc.; Notice of Petition for Dispute Resolution or, Alternatively, and Adjustment

April 16, 1999.

Take notice that on March 10, 1999, Texaco Exploration and Production Inc. (Texaco), filed a petition for dispute resolution and adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA 15 U.S.C. 3412(c)) and Rules 1101–1117 of the Commission's Rules of Practice and Procedure (18 CFR 385.1101–385.1117).

Pipeline	Docket No.
Colorado Interstate Gas Company	[1] SA99–25–000
Northern Natural Gas Company	[2] SA99–26–000
Panhandle Eastern Pipe Company	[3] SA99–27–000
Williams Gas Pipelines Central, Inc.	[4] SA99–28–000
KN Interstate Gas Transmission Company	[5] SA99–29–000

[1] Changed from GP99–10–000.
[2] Changed from GP99–11–000.
[3] Changed from GP99–12–000.
[4] Changed from GP99–13–000.
[5] Changed from GP99–14–000.

Texaco requests that the Commission resolve its dispute with the pipelines by holding that settlements and/or release agreements resolved all issues, including those associated with Kansas ad valorem tax dispute resolution and adjustment, between the parties. Texaco contends that by agreeing in the settlement to forego claims it for nonperformance it otherwise could have continued to pursue, Texaco agreed to accept total payments under the contracts that did not exceed the MLP ceilings multiplied by the total volumes represented by each pipeline's nonperformance. In such circumstances, no refund should be required. To order otherwise would prevent Texaco from receiving the very benefits it bargained for in the settlements—settlements that the Commission itself strongly encouraged as a means to resolve the massive take-or-pay and underpayments liabilities of interstate pipelines and make the transition to a more market-responsive and competitive environment.

Texaco maintains that the pipelines and consumers benefitted from agreements and settlements because the settlements allowed the pipelines to avoid the much higher costs that full-performance of the contract would have entailed. By resolving "all claims" relating to, inter alia, "contractural price", the settlements resolved the Kansas ad valorem tax reimbursement issue. The Commission has found that these settlements served the public interest. Texaco's petitions are on file with the Commission, and they are open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10036 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–110–000, et al.]

Dominion Elwood Services Company Inc., et al. Electric Rate and Corporate Regulation Filings

April 13, 1999.

Take notice that the following filings have been made with the Commission:

1. Dominion Elwood Services Company, Inc.

[Docket No. EG99–110–000]

Take notice that on April 9, 1999, Dominion Elwood Services Company, Inc. (Dominion Elwood) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Dominion Elwood, a Virginia corporation, is a wholly-owned subsidiary of Dominion Energy, Inc. (DEI) also a Virginia corporation. DEI is a wholly-owned subsidiary of Dominion Resources, Inc., a Virginia corporation.

Dominion Elwood will operate a generating facility with a nominal capacity of 600 MW located near Elwood, Illinois, consisting of four 150 GE turbine generator sets, an approximately 0.3 mile long 345 kV transmission line, four 18/345 kV step up transformers, four 18kV/4160v auxiliary transformers, and associated circuit breakers. The facility will be interconnected with the transmission system of Commonwealth Edison Company.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. South Jersey Energy Company

[Docket No. ER97–1397–005]

Take notice that on April 8, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

3. Electrion Inc., Energy Clearinghouse Corporation, Quark Power L.L.C., Merrill Lynch Capital Services, Inc., Global Petroleum Corp., Global Energy Services, LLC, Burlington Resources Trading Inc., AMVEST Coal Sales, Inc.

[Docket Nos. ER98–3171–003, ER98–2020–003, ER97–2374–008, ER99–830–002, ER96–359–015, ER97–1177–008, ER96–3112–010, and ER97–464–010]

Take notice that on April 9, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

4. Western States Power Providers, Inc.

[Docket No. ER99–2418–000]

Take notice that on April 7, 1999, Western States Power Providers, Inc. filed a request for termination of their rate schedule.

Comment date: April 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Montana-Dakota Utilities Co.

[Docket No. ER99–2426–000]

Take notice that on April 8, 1999, the above-referenced public utility filed their quarterly transaction report for the quarter ending March 31, 1999.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Agway Energy Services—PA, Inc.

[Docket No. ER99–2313–000]

Take notice that on April 8, 1999, Agway Energy Services—PA, Inc. (AES), tendered for filing an Amended Filing to its Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority. Said amended filing consists of a chart of corporate affiliates, which was inadvertently omitted from its original filing on March 31, 1999.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Smarr EMC

[Docket No. ER99–2420–000]

Take notice that on April 8, 1999, Smarr EMC (Smarr), tendered for filing amendments to its Rate Schedule FERC No. 1. The amendments clarify provisions of the Rate Schedule and do not change the rate derived or revenues received under the Rate Schedule.

A copy of Smarr's filing has been served upon each of Smarr's Member-purchasers.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER99–2421–000]

Take notice that on April 8, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., has filed with the Twenty-Eighth Amendment (Amendment) to the Power Coordination, Interchange and Transmission Agreement (PCITA) between Entergy Arkansas, Inc., and Arkansas Electric Cooperative Corporation (AECC). Entergy Services states that, among other things, the Amendment adds additional delivery points between Entergy Arkansas, Inc., and AECC.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. PP&L, Inc.

[Docket No. ER99–2422–000]

Take notice that on April 8, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated February 4, 1999, with Florida Power & Light Company (FP&L) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds FP&L as an eligible customer under the Tariff.

PP&L requests an effective date of April 8, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to FP&L and to the Pennsylvania Public Utility Commission.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Northern Indian Public Service Company

[Docket No. ER99–2423–000]

Take notice that on April 8, 1999, Northern Indiana Public Service

Company (Northern Indiana), tendered for filing a Service Agreement pursuant to its Power Sales Tariff with American Municipal Power—Ohio, Inc., (AMP–Ohio).

Northern Indiana has requested an effective date of April 1, 1999.

Copies of this filing have been sent to AMP—Ohio, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Delmarva Power & Light Company

[Docket No. ER99–2424–000]

Take notice that on April 8, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing an executed umbrella service agreement with UGI Energy Services, Inc., under Delmarva's market rate sales tariff.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PacificCorp

[Docket No. ER99–2425–000]

Take notice that on April 8, 1999, PacificCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Systems Operating Service Agreement between PacificCorp and the Flathead Electric Cooperative, Inc. (Flathead) dated March 1, 1999.

PacifiCorp requests that the Commission accept for filing the enclosed Operating Agreement and assign an effective date of March 26, 1999.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. UtiliCorp United Inc.

[Docket No. ER99–2427–000]

Take notice that on April 8, 1999, UtiliCorp United Inc. (UtiliCorp), tendered for filing service agreements with Energy Transfer Group, L.L.C., for service under its Short-Term Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. UtiliCorp United Inc.

[Docket No. ER99–2428–000]

Take notice that on April 8, 1999, UtiliCorp United Inc. (UtiliCorp), tendered for filing service agreements with Energy Transfer Group, L.L.C., for service under its Non-Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Service, Inc.

[Docket No. ER99–2429–000]

Take notice that on April 8, 1999, Cinergy Services, Inc., acting as agent for and on behalf of its utility operating company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively Cinergy), tendered for filing a service agreement under Cinergy's Cost-Based Power Sales Standard Tariff-CB (the Tariff) entered into between Cinergy and PP&L EnergyPlus Co., (EnergyPlus).

Cinergy and EnergyPlus are requesting an effective date of March 7, 1999.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Cinergy Services, Inc.

[Docket No. ER99–2430–000]

Take notice that on April 8, 1999, Cinergy Services, Inc., collectively as agent for and on behalf of its utility operating company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively Cinergy), tendered for filing a service agreement under Cinergy's Market-Based Power Sales Standard Tariff-MB (the Tariff) entered into between Cinergy and PP&L EnergyPlus Co. (EnergyPlus).

Cinergy and EnergyPlus are requesting an effective date of March 7, 1999.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Dayton Power and Light Company

[Docket No. ER99–2431–000]

Take notice that on April 8, 1999, The Dayton Power and Light Company (Dayton) tendered for filing an agreement with Hoosier Energy Electric Coop, Inc., in the above referenced docket.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. The Detroit Edison Company

[Docket No. ES99–36–000]

Take notice that on April 7, 1999, The Detroit Edison Company filed an Application pursuant to Section 204 of the Federal Power Act, seeking authorization to issue from time to time, on or before May 31, 2001, in an aggregate principal amount not to exceed $1.0 billion at any one time outstanding, short-term debt securities and promissory notes bearing final maturities not to exceed two years.

Detroit Edison also requests an exemption from the Commission's competitive bidding requirements.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Northwestern Corporation

[Docket No. ES99–37–000]

Take notice that on April 7, 1999, Northwestern Corporation (Northwestern) submitted an application, under Section 204 of the Federal Power Act, for authorization to issue (1) not more than 10 million shares of Northwestern's common stock, par value $1.75 per share, including related common stock purchase rights, and (2) not more than $300 million of Northwestern's mortgage bonds, notes, debentures, subordinated debentures, guarantees or other evidences of indebtedness, including so-called monthly income preferred securities, quarterly income preferred securities, trust originated preferred securities, trust preferred securities or variations thereof.

Northwestern also requested exemption from compliance with the Commission's competitive bidding or negotiated placement requirements at 18 CFR 34.2.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10027 Filed 4–21–99; 8:45 am]

BILLING CODE 6718–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–150–000 et al. and CP98–151–000]

Millennium Pipeline Company, L.P., Columbia Gas Transmission Corporation; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Millennium Pipeline Project

April 16, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this draft environmental impact statement (draft EIS) on natural gas pipeline facilities proposed by Millennium Pipeline Company, L.P. (Millennium) and Columbia Gas Transmission Corporation (Columbia) in the above-referenced dockets.

The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed projects, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The draft EIS also evaluates alternatives to the proposal, including system alternatives.

The draft EIS assesses the potential environmental effects of the construction and operation of the following facilities in New York and Pennsylvania:

Millennium:

- 373.5 miles of 36-inch-diameter mainline;
- 43.8 miles of 24-inch-diameter mainline;
- 3 measurement facilities; and
- Associated pipelines facilities, including mainline and block valves, pig launchers and receivers, remote blowdown valves, and remote cathodic protection rectifier beds.

The draft EIS also assesses the potential environmental effects of abandonment of these facilities by Columbia:

Abandonment by Conveyance to Millennium:

- 6.7 miles of 24-inch diameter pipeline in Rockland County, New York that would be used for the new mainline system between mileposts (MPs) 376.4 and 383.3;
- 20.1 miles of laterals and 28 metering and regulation stations in New York and Pennsylvania, and one compressor station in Pennsylvania; and

Abandonment in place or by removal:

- 222 miles of pipeline, Line A–5, in New York.

The purpose of the proposed projects would be to transport natural gas from Canada to markets in the eastern United States, including New York, Pennsylvania, and New Jersey.

Comment Procedures and Public Meetings

Any person wishing to comment on the draft EIS may do so. Please carefully follow these instructions to ensure that your comments are received in time and are properly recorded:

- Send two copies of your comments to: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Reference Docket No. CP98–150–000 *et al.;* and
- Mail your comments so that they will be received in Washington, DC on or before June 7, 1999.

In addition to written comments, we will hold ten public meetings in the project area to receive comments on the draft EIS. All meetings will begin at 7:00 pm, and are scheduled as follows:

May 17, 1999
Goshen High School, Scottstown Avenue, Goshen, NY, (914) 294–2433

May 18, 1999
Mark Twain Junior High School, 160 Woodlawn Avenue, Yonkers, NY, (914) 376–8540

May 18, 1999
Chautauqua Lake Central High School, 2 Academy Street, Mayville, NY, (716) 753–9305

May 19, 1999
Horseheads High School, 401 Fletcher Street, Horseheads, NY, (607) 739–5601

May 20, 1999
Binghamton High School, 31 Main Street, Binghamton, NY, (607) 762–8200

May 20, 1999
Wellsville Elementary School, 50–98 School Street, Wellsville, NY, (716) 593–5504

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impact described in the draft EIS. Transcripts of the meetings will be prepared.

Comments will be considered by the Commission but will not serve to make the commenter a party to the proceeding. Any person may file a motion to intervene on the basis of the Commission Staff's DEIS (see 18 CFR 380.106 and 385.214). You do not need intervenor status to have your comments considered.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the draft EIS as necessary, a final EIS will be published and distributed by the staff. The final EIS will contain the staff's responses to timely comments received on the draft EIS.

All intervenors, agencies, elected officials, local governments, special interest groups, libraries, media, and anyone providing written comments on the DEIS will receive a copy of the final EIS. If you do not wish to comment on the DEIS but wish to receive a copy of the final EIS, you must write to the Secretary of the Commission indicating this request. Individuals who do not indicate their desire to receive the final EIS will only receive the Executive Summary.

The draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, (202) 208–1371.

A limited number of copies are available from the Public Reference and Files Maintenance Branch identified above. In addition, the draft EIS has been mailed to Federal, state, and local agencies; public interest groups; individuals who requested a copy of the draft EIS; affected landowners; libraries; newspapers; and parties to this proceeding.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.fed.us) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions.

For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10037 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11708–000.

c. *Data Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* John W. Flannagan Dam.

f. *Location:* On the Pound River near the towns of Haysi Clintwood, Dickenson County, Virginia, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)—825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' John W. Flannagan Dam and would consist of: (1) A new 50-foot-long, 72-inch-diameter steel penstock; (2) a new 30-foot-long, 30-foot-wide, 30-foot-high powerhouse containing three generating units having a total installed capacity for 3,000-kW; (3) a new exhaust apron; (4) a new 200-foot-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 18 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,000,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10028 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11709–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Mississippi L&D #13.

f. *Location:* On the Mississippi River, near the city of Clinton, Clinton County, Iowa, and near the city of Fulton, Whiteside County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Mississippi River Lock and Dam No. 13 and would consist of: (1) Seven new 80-foot-long, 72-inch-diameter steel penstocks; (2) a new 200-foot-long, 50-foot-wide, 30-foot-high powerhouse containing one 7,600-kW generating unit; (3) a new exhaust apron; (4) a new 1.5-mile-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 46 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,500,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims..htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days, after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10029 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* P–11710–000.

c. *Date Filed:* March 26 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Falls Lake Dam.

f. *Location:* On the Neuse River near the city of Raleigh, Wake County, North Carolina, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Fall Lake Dam and would consist of: (1) A new 50-foot-long , 62-inch-diameter steel penstock; (2) a new 30-foot-long, 30-foot-wide, 30-foot-high powerhouse containing a 1,000-kW generating unit; (3) a new exhaust apron; (4) a new 500-foot-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 5 GWh and that the cost of the studies to be performed under the terms of the permit would be $500,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1271. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Perliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10030 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* P–11711–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Peoria L&D.

f. *Location:* On the Illinois River, near the town of North Pekin, Peoria County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Peoria Lock and Dam and would consist of: (1) four new 50-foot-long, 84-inch-diameter steel penstocks; (2) a new 60-foot-long, 30-foot-wide, 30-foot-high submersible powerhouse containing four generating units with a total installed capacity of 6,600–kW; (3) a new exhaust apron; (4) a new 100-foot-long, 14.7–kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual generation would be 40 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,500,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, is issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a notice to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10031 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11712–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Dresden Island L&D.

f. *Location:* On the Illinois River, near the city of Morris, Grundy County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp. 1145 Highbrook, Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers'

Dresden Island Lock and Dam and would consist of: (1) four new 50-foot-long, 84-inch-diameter steel penstocks; (2) a new 60-foot-long, 30-foot-wide, 30-foot-high powerhouse containing four generating units having a total installed capacity of 5,250–kW; (3) a new exhaust apron; (4) a new 0.5-mile-long, 14.7–kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual generation would be 32 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,250,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans,—and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10032 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11714–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Kaskaskia L&D.

f. *Location:* On the Kaskaskia River, near the cities of Ellis Grove and Chester, Randolph County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Kaskaskia Lock and Dam and would consist of: (1) two new 50-foot-long, 96-inch-diameter steel penstocks; (2) a new 30-foot-long, 30-foot-wide, 30-foot-high powerhouse containing two generating units with a total installed capacity of 1,600–kW; (3) a new exhaust apron; (4) a new 300-foot-long, 14.7–kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 10 GWh and that the cost of the studies to be performed under the terms of the permit

would be $650,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www/ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project COMPETING APPLICATION", Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10033 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meeting and Site Visit and Soliciting Scoping Comments

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2060–005.

c. *Date filed:* January 28, 1999.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Carry Falls Project.

f. *Location:* On the Raquette River, at river mile 68 from the confluence with the St. Lawrence River, in the town of Colton, St. Lawrence County, New York. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, P.E., Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–5561.

i. *FERC Contact:* Charles T. Raabe, charles.raabe@ferc.fed.us, 202–219–2811.

j. *Deadline for filing scoping comments:* June 11, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

1. Description of the Project: The project consists of the following existing facilities: (1) an 826-foot-long dam consisting of: (a) a 568-foot-long and 76-foot-high concrete gravity spillway with a crest elevation of 1,386 feet; and (b) a 258-foot-long and 63-foot-high concrete gated non-overflow spillway with two 14.5-foot by 27-foot Taintor regulating gates, two 10-foot-square low-level

sluice gates, and an intake structure with two 15-foot-square openings for future power installation; (2) five earth dikes totaling 2,500 feet in length, with lengths varying from 320 feet to 1,015 feet, maximum heights varying from 12 feet to 31 feet, each with a crest width of 12 feet at elevation 1,392 feet; (3) a 7-mile-long reservoir having a 3,000-acre surface area and a 107,478-acre-foot usable storage capacity at normal pool elevation 1,385 feet USGS; and (4) appurtenant facilities. The project has no installed generating capacity.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20246, or by calling (202) 208–1371. This application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Scoping Process: The Commission intends to prepare a multiple project Environment Assessment (EA) for the proposed relicensing of the Carry Falls Project, Upper Raquette River Project (FERC No. 2084), Middle Raquette River Project (FERC No. 2320), and Lower Raquette River Project (FERC No. 2330), in accordance with the National Environmental Policy Act of 1969. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed actions.

Scoping Meetings

The Commission will hold one combined agency and public scoping meeting to help us identify the scope of issues to be addressed in the EA. All interested individuals, organizations, and agencies are invited to attend the meeting, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The meeting will be held on Tuesday, May 11, 1999, beginning at 7:00 p.m. in the Barben Room B, Cheel Center, Clarkson University, in the town of Potsdam, New York.

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EA to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meeting.

Site Visit

The applicant and the Commission staff will conduct a project site visit on Tuesday, May 11, 1999. We will meet in the parking lot to the tailrace fishing platform at the South Colton development of the Upper Raquette River Project at 9:30 a.m. If you would like to attend, please call Jack Kuhn, Niagara Mohawk Power Corporation, at (315) 428–5042, no later than May 4, 1999.

Objectives

At the scoping meeting, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

The meeting will be recorded by a stenographer and will become part of the formal record of the Commission's proceeding on the project. Individuals presenting statements at the meeting will be asked to sign in before the meeting starts and to identify themselves clearly for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10040 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meeting and Site Visit and Soliciting Scoping Comments

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2084–020.

c. *Date filed:* January 28, 1999.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Upper Raquette River Project.

f. *Location:* On the Raquette River, between river miles 52 and 68 from the confluence with the St. Lawrence River, in the towns of Colton and Parishville, St. Lawrence County, New York. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, P.E., Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–5561.

i. *FERC Contact:* Charles T. Raabe, charles.raabe@ferc.fed.us, 202–219–2811.

j. *Deadline for filing scoping comments:* June 11, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, 888 First Street, NE, Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

l. Description of the Project: The project consists of five developments:

Stark Falls Development comprising: (a) a 35-foot-high concrete gravity-type dam with a concrete overflow section and a control gate section flanked by earth dikes; (b) six earth saddle dikes; (c) a 1.5-mile-long reservoir at normal pool elevation 1,355.0 feet USGS; (d) an intake; (e) a penstock; (f) a powerhouse containing a 23,872-kW generating unit; and (g) appurtenant facilities;

Blake Falls Development comprising: (a) a 75-foot-high concrete gravity-type dam with a concrete overflow section; (b) an earth dike; (c) a 5.5-mile-long reservoir at normal pool elevation 1,250.5 feet USGS; (d) an intake; (e) a penstock; (f) a powerhouse containing a 13,913-kW generating unit; and (g) appurtenant facilities;

Rainbow Falls Development comprising: (a) a 75-foot-high concrete gravity-type dam with a concrete overflow section flanked by a 1,600-foot-long earth dike; (b) an earth saddle dike; (c) a 3.5-mile-long reservoir at normal pool elevation 1,181.5 feet USGS; (d) an intake; (e) a penstock; (f) a

powerhouse containing a 22,828-kW generating unit; and (g) appurtenant facilities;

Five Falls Development comprising: (a) a 50-foot-high concrete gravity-type dam with a concrete overflow section flanked at each end by an earth dike; (b) a 1.0-mile-long reservoir at normal pool elevation 1,077.0 feet USGS; (c) an intake; (d) a 1,200-foot-long penstock; (e) a powerhouse containing a 22,828-kW generating unit; and (f) appurtenant facilities; and

South Colton Development comprising: (a) a 45-foot-high concrete gravity-type dam with a concrete overflow section and earth abutments; (b) a 1.5-mile-long reservoir at normal pool elevation 973.5 feet USGS; (c) an intake; (d) a 1,300-foot-long penstock; (e) a powerhouse containing a 18,948-kW generating unit; and (f) appurtenant facilities. The project has a total installed capacity of 102,389 kW.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Scoping Process: The Commission intends to prepare a multiple project Environmental Assessment (EA) for the proposed relicensing of the Upper Raquette River Project, Carry Falls Project (FERC No. 2060), Middle Raquette River Project (FERC No. 2320), and the Lower Raquette River Project (FERC No. 2330), in accordance with the National Environmental Policy Act of 1969. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed actions.

Scoping Meetings

The Commission will hold one combined agency and public scoping meeting to help us identify the scope of issues to be addressed in the EA. All interested individuals, organizations, and agencies are invited to attend the meeting, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The meeting will be held on Tuesday, May 11, 1999, beginning at 7:00 p.m. in the Barben Room B, Cheel Center, Clarkson University, in the town of Potsdam, New York.

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EA to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meeting.

Site Visit

The applicant and the Commission staff will conduct a project site visit on Tuesday, May 11, 1999. We will meet in the parking lot to the tailrace fishing platform at the South Colton development of the Upper Raquette River Project at 9:30 a.m. If you would like to attend, please call Jack Kuhn, Niagara Mohawk Power Corporation, at (315) 428–5042, no later than May 4, 1999.

Objectives

At the scoping meeting, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

The meeting will be recorded by a stenographer and will become part of the formal record of the Commission's proceeding on the project. Individuals presenting statements at the meeting will be asked to sign in before the meeting starts and to identify themselves clearly for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10041 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission .

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11680–000.

c. *Date Filed:* February 8, 1998.

d. *Applicant:* Price Dam Partnership, Ltd.

e. *Name of Project:* Price Dam.

f. *Location:* On the Mississippi River in St. Charles County, Missouri, near the town of Alton, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James B. Price, Ph.D., W.V. Hidro, Inc., 4165 Old Webb Creek Road, Gatlinburg, TN 37738, (423) 436–0402.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabeferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Melvin Price Locks and Dam and would consist of: (1) A new 60-foot-long, 150-foot-wide concrete powerhouse containing two generating units with a total installed capacity of 75,000–kW; (2) a new 20-foot-square switchyard; (3) a new 2-mile-long, 161–kV transmission line; and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 350 GWh and that the cost of the studies to be performed under the terms of the permit would be $100,000. Project energy would be sold to a subsidiary of Ameron Corp.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims/htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.26.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385,214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS, "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10042 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11692–000.

c. *Dated Filed:* March 5, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Kentucky L&D #13.

f. *Location:* On the Kentucky River in Lee County, Kentucky, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Kentucky River Lock and Dam No. 13 and would consist of: (1) Two new 50-foot-long, 72-inch-diameter steel penstocks; (2) a new 50-foot-long, 40-foot-wide, 30-foot-high powerhouse containing two generating units with a total installed capacity of 2,000-kW; (3) a new exhaust apron; (4) a new 300-foot-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 12.3 GWh and that the cost of the studies to be performed under the terms of the permit would be $700,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the

particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service or Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10043 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application*: Preliminary Permit.

b. *Project No.*: P–11706–000.

c. *Date Filed*: March 22, 1999.

d. *Applicant*: Renewable Power and Light of Saylorville, LLC.

e. *Name of Project*: Saylorville.

f. *Location*: On the Des Moines River, near the city of Des Moines, Polk County, Iowa utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact*: Mr. Tim Belinski, Renewable Power and Light of Saylorville, LLC, 115 AABC, Aspen, CO 81611, (970) 920–6597.

i. *FERC Contact*: Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date*: 60 days from the issuance date of this notice.

k. *Description of Project*: The proposed project would utilize the existing U.S. Army Corps of Engineers' Saylorville Dam and would consist of: (1) Thirty-six new 280-kW submersible bulb-type generating units mounted on three independent movable racks for a total installed capacity of 10,080-kW; (2) six new 4,160-volt buried cables and a 100-pair buried control cable; (3) a new 30-foot-square generator control building; (4) a new 45-foot-long, 30-foot-wide 4.16-kV/13.8-kV switchyard; (5) a new 7,000-foot-long, 13.8-kV transmission line; and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 50,000 MWh and that the cost of the studies to be performed under the terms of the permit would be $100,000. Project energy would be sold.

l. *Locaitons of the application*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development

application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An Additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10044 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11707–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Brandon Road L&D.

f. *Location:* On the Des Plaines River, near the town of Channahon, Will County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger Universal Electric Power Corp. 1145 Highbrook Street Akron, OH 44301 (303) 535–7115

i. *FERC Contract:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Brandon Road Lock and Dam and would consist of: (1) three new 80-foot-long, 54-inch-diameter steel penstocks; (2) a new 60-foot-long, 30-foot-wide, 30-foot-high powerhouse containing three generating units with a total installed capacity of 3,000–kW; (3) a new exhaust apron; (4) a new 1-mile-long, 14.7–kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual generation would be 18 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,000,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—a notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be

filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any failings must bear in all capital letters, the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10045 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[OPPTS–00268; FRL–6077–4]

Renewal of Toxics Information Collection Activities; Residential Lead-Based Paint Hazard Disclosure Requirements; Request for Comments

AGENCIES: The Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD).

ACTION: Notice and request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this notice announces that EPA and HUD are planning to submit the following Information Collection Request (ICR) renewal to the Office of Management and Budget (OMB) for review and approval: "Residential Lead-Based Paint Disclosure Requirements," (EPA ICR No. 1710.03, OMB No. 2070–0151). This ICR involves a collection activity that is currently approved by OMB. The ICR describes the nature of the information collection activity and the estimated burden and costs associated with the collection activity. Before submitting the ICR renewal to OMB, EPA and HUD are soliciting comments on specific aspects of the information collection described in this document.

DATES: Written comments must be submitted on or before June 21, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of this document. To ensure proper receipt by EPA, your comments must identify docket control number OPPTS–00268 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information*: Joe Carra, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov or Warren Friedman, Director, Planning and Standards Division, Office of Lead Hazard Control, Department of Housing and Urban Development, 451 7th St., SW., (P–3206), Washington, DC 20460; telephone: (202) 755–1785, ext. 159, TTY: 800–877–8339, Fax: (202) 755–1000; e-mail address: warren__friedman@hud.gov.

For technical information: Dayton Eckerson, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–1591, Fax: (202) 260–0770; e-mail address: eckerson.dayton@epa.gov or David K. Levitt, Planning and Standards Division, Office of Lead Hazard Control, Department of Housing and Urban Development, 451 7th St., SW., (P–3206), Washington, DC 20460; telephone: (202) 755–1785, ext. 156, TTY: 800–877–8339, Fax: (202) 755–1000; e-mail address: david__k.__levitt@hud.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This ICR Apply To Me?

You may be affected by this ICR if you are a seller, purchaser, lessor, or lessee of a non-exempt residential dwelling built before 1978, or a real estate agent representing such parties. Potentially affected categories and entities may include, but are not limited to:

Catagories	NAICS	SIC	Examples of potentially affected entities
Real Estate Operators/Lessors	53111	651	Lessors of residential buildings Lessors of residential dwellings

Categories	NAICS	SIC	Examples of potentially affected entities
Offices of Real Estate Agents/Property Managers	53121 531311	653	Real estate agents Real estate brokers Property managers
Private Parties—Sales Transactions	None	None	Sellers and buyers of houses, townhouses, and cooperatives/condominiums
Private Parties—Rental Transactions	None	None	Lessors and lessees of residential dwellings

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed above could also be affected. If available, the four-digit Standard Industrial Classification (SIC) codes or the six-digit North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR 745.100. If you have any questions regarding the applicability of this action to a particular entity, you may also consult the technical person listed in the "FOR FURTHER INFORMATION CONTACT" at the beginning of this document.

B. How Can I Get Additional Information or Copies of This Document or Other Documents?

1. *Electronically.* Electronic copies of this document and the ICR are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/). You can easily follow the menu to find this **Federal Register** notice using the publication date or the **Federal Register** citation for this notice. Although a copy of the ICR is posted with the **Federal Register** notice, you can also access a copy of the ICR by going directly to http://www.epa.gov/icr/. You can then easily follow the menu to locate this ICR by the EPA ICR number, the OMB control number, or the title of the ICR.

2. *In person or by phone.* If you have any questions or need additional information about this action, you may contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this notice, including the public version, has been established for this notice under docket control number OPPTS–00268. This record includes not only the documents that are physically located in the docket, but also all the documents that are referenced in those documents. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in the TSCA Nonconfidential Information Center, Rm. NE B–607, Waterside Mall, 401 M St., SW., Washington, DC, from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Nonconfidential Information Center telephone number is (202) 260–7099.

II. How Can I Respond To This Notice?

A. How And To Whom Do I Submit The Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, you must identify docket control number OPPTS–00268 in the subject line on the first page of your response.

1. *By mail.* Submit written comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: Document Control Office in Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC; telephone: (202) 260–7093.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov. Do not submit any information electronically that you consider to be Confidential Business Information (CBI). Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disk in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–00268. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want To Submit To the Agency?

You may claim information that you submit in response to this notice as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must also be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

C. What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

D. What Should I Consider When I Prepare My Comments for EPA?

We invite you to provide your views on the estimates provided, new approaches that may help to minimize the burden, and any data or information that you would like the Agency to

consider during the development of the final ICR. You may find the following suggestions helpful for preparing your comments:

—Explain your views as clearly as possible.

—Describe any assumptions that you used.

—Provide solid technical information and/or data to support your views.

—If you estimate potential burden or costs, explain how you arrived at the estimate.

—Provide specific examples to illustrate your concerns.

—Offer alternative ways to improve the collection activity.

—Make sure to submit your comments by the deadline in this notice.

At the beginning of your comments (e.g., as part of the "Subject" heading), be sure to properly identify the document you are commenting on. To ensure proper receipt by EPA, you must identify the docket control number assigned to the notice in the subject line on the first page of your response. You may also provide the name, date, **Federal Register** citation, and/or the appropriate EPA or OMB ICR number.

III. What Information Collection Activity or ICR Does This Notice Apply To?

EPA and HUD are seeking comments on the following ICR:

Title: Residential Lead-Based Paint Hazard Disclosure Requirements.

ICR numbers: EPA ICR No. 1710.03, OMB No. 2070–0151.

ICR status: This ICR is currently scheduled to expire on April 30, 1999, but EPA and HUD have requested an extension to ensure that there is adequate time to review comments prior to submission of the renewal request to OMB. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d) requires that sellers and lessors of most residental housing built before 1978 disclose known information on the presence of lead-based paint and lead-based paint hazards, and provide an EPA-approved pamphlet to purchasers and renters before selling or leasing the housing. Sellers of pre-1978 housing are also required to provide prospective purchasers with 10 days to conduct an inspection or risk assessment for lead-based paint hazards before obligating purchasers under contracts to purchase the property. The rule does not apply to rental housing that has been found to be free of lead-based paint, 0-bedroom dwellings, housing for the elderly, housing for the handicapped, or short-term leases.

The affected parties and the information collection related requirements related to each are described below:

1. *Sellers of pre-1978 residential housing.* Sellers of pre-1978 housing must attach certain notification and disclosure language to their sales/leasing contracts. The attachment lists the information disclosed and acknowledges compliance by the seller, purchaser, and any agents involved in the transaction.

2. *Lessors of pre-1978 residential housing.* Lessors of pre-1978 housing must attach notification and disclosure language to their leasing contracts. The attachment, which lists the information disclosed and acknowledges compliance with all elements of the rule, must be signed by the lessor, lessee, and any agents acting on their behalf. Agents and lessees must retain the information for 3 years from the completion of the transaction.

3. *Agents acting on behalf of sellers or lessors.* Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 specifically directs EPA and HUD to require agents acting on behalf of sellers or lessors to ensure compliance with the disclosure regulations.

IV. What Are EPA's Burden And Cost Estimates For This ICR?

Under PRA (44 U.S.C. 3501 *et seq.*) "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. Although these requirements also apply to the Federal government, the PRA does not require EPA and HUD to estimate the potential burden or costs associated with the information collection activities performed by Federal agencies. For this collection it includes the time needed to amend this list as appropriate, but use these terms; review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here. The annual burden for this ICR is estimated to average 0.12 hours (7.2 minutes) per response, with an estimated average cost of $1.66 per response. The following is a summary of the total estimates taken from the ICR:

Respondents/affected entities: Sellers, purchasers, lessors, and lessees of non-exempt residential dwellings built before 1978, or a real estate agents representing such parties.

Estimated total number of potential respondents: 16,144,922

Frequency of response: As needed only when specific data are required.

Estimated total/average number of responses for each respondent: 61,798,605.

Estimated total annual burden hours: 7,666,200.

Estimated total annual burden costs: $102,500,273.

Please note that in developing the burden estimates, the agencies have not distinguished between the burden associated with the compliance activities of private parties and those of Federal entities. The agencies are currently analyzing the total burden estimates, to determine what portion of the estimate represents the burden associated with the compliance activities of Federal entities. Since, the agencies are not required to include the burden on Federal entities in the total burden estimate reported under the PRA, the total burden will be reduced accordingly prior to submission to OMB.

V. Are There Changes in the Estimates From the Last Approval?

Yes. Since the ICR for the final rule was prepared approximately 3 years ago, several factors relating to the ICR have changed significantly. Among the more significant changes affecting estimates in the ICR are the following:

1. Wage rates, the cost of the required lead hazard pamphlets, and photocopying costs have increased.

2. The number of annual real estate sale and rental transactions has increased by approximately 3%.

3. The number of real estate agents and property managers has increased by approximately 22%.

4. The number of property owners and lessors has increased by approximately 16%.

The estimated startup costs in the revised ICR are no longer annualized over 3 years, resulting in a substantial decrease in burden. In addition, the agencies expect the total burden presented above to be reduced further prior to submission to OMB, to reflect the portion of the estimate that represents the burden associated with the compliance activities of Federal entities. As indicated Unit IV. of this document, the agencies are not required to include this burden under the PRA.

EPA and HUD are particularly interested in receiving comments on the changes related to the burden estimates for this relatively new program.

VI. What Is The Next Step In The Process For This ICR?

EPA and HUD will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.10. EPA and HUD will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section.

List of Subjects

Environmental protection, Health and safety, Lead, Reporting and recordkeeping requirements.

Dated: April 15, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances, EPA.

Dated: April 12, 1999.

David S. Cristy,

Director, IRM Policy and Management, HUD.

[FR Doc. 99–10238 Filed 4–20–99; 1:21 pm]

BILLING CODE 6560–60–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6321–9]

Hackensack Meadowlands Special Area Management Plan

AGENCY: White House Council on Environmental Quality, Department of Defense (U.S. Army Corps of Engineers), Environmental Protection Agency, Department of Commerce (National Oceanic and Atmospheric Administration), and the Department of the Interior (U.S. Fish and Wildlife Service), the Hackensack Meadowlands Development Commission, and the New Jersey Department of Environmental Protection.

ACTION: Notice of proposed changes.

SUMMARY: The Federal and State agencies that have been partners in the development of the proposed Special Area Management Plan (SAMP) for the Hackensack Meadowlands are providing this notice of their intention to complete the SAMP by September 15, 1999, and to make modifications to the proposed SAMP to reflect: developments subsequent to publication of the July 21, 1995 Notice of Availability of the draft Environmental Impact Statement (EIS); the agencies' further review of the pertinent scientific issues; and input from meetings with interested members of the public.

The changes focus primarily on reductions in the fill of wetlands acreage proposed previously, to more effectively preserve the integrity of the Hackensack Meadowlands ecosystem as a whole, while providing greater regulatory certainty for development projects likely to proceed. This will be achieved through three major changes to the proposed SAMP: (1) A significant reduction in overall acreage of fill, with reductions focused on the largest wetlands fill proposal; (2) more extensive measures to protect remaining acreage from development; and (3) modifications in methodologies and regulatory products to conform to these proposed changes.

FOR FURTHER INFORMATION CONTACT: Robert W. Hargrove, Chief, Strategic Planning & Multi-Media Programs Branch, U.S. Environmental Protection Agency—Region 2, 290 Broadway, New York, New York 10007, (212) 637–3504, E-Mail: hargrove.robert@epamail.epa.gov.

Joseph J. Seebode, Chief, Regulatory Branch, U.S. Army Corps of Engineers—New York District, Jacob K. Javits Federal Building, New York, New York 10278–0090, (212) 264–3996, E-Mail: Joseph.J.Seebode@usace.army.mil.

SUPPLEMENTARY INFORMATION:

Background:

The Hackensack Meadowlands District (District) is a 32-square mile area that includes portions of 14 municipalities in two counties in Northeastern New Jersey. The District, which once contained approximately 17,000 acres of wetlands, has lost nearly half of these wetlands as a result of hydrologic and environmental alterations, primarily filling and draining for development. The remaining undeveloped areas within the District are mostly wetlands (approximately 8,500 acres including open water) and are under substantial development pressure.

In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers' (USACE) regulations for implementing NEPA; the U.S. Environmental Protection Agency's (EPA) procedures for the voluntary preparation of EISs on significant regulatory actions, and the 1980 Amendments to the Coastal Zone Management Act, a draft EIS was issued in June 1995 on a proposed SAMP for the District. The SAMP is a comprehensive plan providing for natural resource protection, remediation of pollution, and reasonable economic growth in the District. It presents a comprehensive statement of policies and criteria to guide future land use and environmental management in the District, including preservation, restoration and enhancement of the District's environmental resources, and meeting economic and social needs. The public comment period on the draft EIS closed on December 1, 1995.

Update:

During the comment period, we received over 1000 comments, most of which were highly critical of the preferred alternative presented in the draft EIS. A number of constituent groups, ranging from environmental organizations to prospective permit applicants, raised concerns and were offered an opportunity to expand upon their comments in meetings with the relevant agencies. In addition to concerns expressed by many environmental stakeholders, the Department of the Interior (DOI) identified the Hackensack Meadowlands SAMP as a candidate for referral to the Council on Environmental Quality (CEQ) if its concerns could not be resolved. Although there was a great deal of overlap in the concerns raised, they highlighted the need to make some substantial revisions to the SAMP prior to the release of the final EIS. The

concerns raised most frequently include:

- Growth Needs;
- Out of District Alternatives;
- Hybrid elements and process;
- Environmental Improvement Program funding mechanisms;
- 404 Issues vs. SAMP Goals;
- Environmental Improvement Program linkage to SAMP;
- Regulatory Products/General Permit;
- Community Facilities/Cost of Public Services;
- Transportation Components;
- Wetland Impacts/AVID vs. IVA; and
- Fisheries Impacts.

Since the close of the comment period, the involved agencies have been evaluating the comments received and have been working to address these comments. In some subject areas, additional field work, re-evaluation, and re-analysis have been necessary.

Since late June 1997, CEQ, the federal SAMP partners (EPA, USACE and NOAA), the DOI, and the U.S. Fish and Wildlife Service (FWS) have been meeting with a view towards resolving public concerns about the SAMP. These meetings have been closely coordinated with the Hackensack Meadowlands Development Commission (HMDC) and the New Jersey Department of Environmental Protection (NJDEP). Moreover, CEQ has also held meetings with the involved federal and state agencies, representatives from environmental groups and representatives from the business community.

These consultations have resulted in a series of proposed changes to the proposed SAMP to address concerns about the following issues: the Projected Development Needs; the amount and distribution of the projected acres of wetlands fill; the Environmental Improvement Program (EIP); the Wetland Indicator Value Assessment (IVA) Methodology; the Alternatives Analysis; and Regulatory Products. Our progress in discussing and resolving the issues surrounding these topics is outlined below.

Needs Analysis

The Needs Analysis for the District is an economic development projection for the next 20 years. In response to comments received on the draft SAMP/EIS, the HMDC has proposed substantial reductions to its projected development needs for the next 20 years. Most significantly, HMDC has proposed to reduce its projected housing and primary office space needs by close to 80 percent and 40 percent, respectively.

In an effort to ensure that the methodology used in projecting the development needs is appropriate, the federal agencies sent HMDC a comprehensive list of concerns about the Needs Analysis and its supporting documentation. The federal concerns were identified through the deliberations of the EIS Subcommittee and subsequent meetings. The federal agencies met with HMDC and its consultants to discuss their preliminary responses to our concerns. We have reviewed HMDC's written response to many of the questions asked and received a revised Needs Analysis. While the need for various kinds of development has been established by HMDC, the parties to this notice have agreed that all the development needs, and particularly the need for housing units, may not be fulfilled. HMDC has agreed to remove the majority of the zoning for housing units that was proposed in the draft EIS. It is assumed that the municipalities will meet their low and moderate income housing requirements through the Council on Affordable Housing.

Projected Acres of Wetlands Fill

One of the most significant and widely shared concerns raised during the draft EIS comment period was the amount of wetlands fill projected for the preferred development plan for the District. In addition to concern about the amount of wetlands fill, several parties, including DOI, expressed concern that the distribution of wetlands fill would have significant detrimental impacts on the overall habitat quality of the District because of fragmentation, regardless of the quality of the wetlands on the property. Specifically, concern was expressed that because the District represents one of the last remaining large open space parcels in the New York metropolitan area, the loss of the wetlands and open space projected in the draft EIS could have significant adverse effects on wildlife's ability to effectively use the landscape. Accordingly, the parties to this notice agreed to explore opportunities to further reduce the amount of wetlands fill associated with the development proposed under the SAMP.

The plan proposed in the draft EIS called for 842 acres of wetlands fill (for development and transportation projects) and approximately 3,400 acres of compensatory mitigation. As a result of the HMDC's proposed modifications to its projected development needs, strict application of the HMDC's open space policies and sound land use planning principles, expected fill reductions through the Section 404 permit review process, and the recognition that some projects have already been approved, the wetlands fill associated with the SAMP was reduced following the close of the draft EIS comment period. Despite these efforts to reduce the wetlands fill associated with the SAMP, however, the parties to this notice believe that the importance of the Meadowlands as one of the last major wetlands ecosystems in the region, the compelling water quality and habitat concerns affecting the Hackensack River watershed, and the deleterious effects of further fragmentation of wetlands parcels that would result from wetlands fill, militate for further steps to reduce permissible wetlands fill in the District—even where the wetlands may be degraded in their current state.

The parties to this notice have undertaken a further review of the scale and distribution of further acreage reductions that would be appropriate for a comprehensive plan for the Meadowlands resource base, primarily to avoid excessive disruption of an integral wetlands landscape at the center of the District where the Empire tract is located. In evaluating the scale and distribution of further acreage reductions, the SAMP process evaluates the functions and values of the aquatic ecosystem on a comprehensive basis. This approach may identify proposals for development that are different from those that would result from case-by-case permit decisions by the USACE or zoning decisions by other agencies in the absence of a final SAMP. Within this context of planning, proposed development under the SAMP approach, the parties to this notice have identified the need to substantially reduce the acreage proposed in prior SAMP drafts for the Empire Tract. Based on consultation to date, the parties to this notice are proposing a limit in the range of approximately 80 to 90 acres of fill (net buildable area after minimization) for the Empire Tract; mitigation requirements would be scaled accordingly. (This limit assumes that a further four to seven acres of fill may be appropriate for passive water control infrastructure to protect waters of the United States from polluted runoff.) This proposal would focus development on areas of the property, in proximity to existing industrial and commercial development, where wetland values have been significantly diminished.

This proposed reduction would not otherwise affect the fill acreage for development proposed for other tracts, nor would it affect the fill associated with transportation projects anticipated as part of the final SAMP. The following

table presents the current projections for wetlands fill under the SAMP.

SAMP PROJECTED WETLANDS FILL

	Acres
Empire, Ltd. (Site 4)	90.5
Berry's Creek Center (Site 7)	23.1
U.O.P. Site (Site i)	15.0
Murray Hill Circle (Site w)	28.4
Bellemeade (Site x)	29.8
North Bergen (Site v)	17.5
Rutherford Landfill (Site bd)	35.6
Guarini Tract (Site be)	34.8
F.D. & P. Site (Site as)	53.5
SK Services, Inc. (Site bh)	17.9
General Permit Sites (approx. 25 sites)	67.7
Transportation Projects	51.9
Total	465.7

As shown in the above table, the total amount of wetlands fill associated with development and transportation projects under the SAMP has been greatly reduced. In recognition of this reduction, the parties to this notice propose to establish a cap of 465 acres on the wetlands fill associated with development and transportation projects under the SAMP. Except for the Empire, Ltd. and F.D. & P. Projects, further reductions of wetlands fill may be realized through site-specific minimization. It must be noted, however, that some activities outlined in the EIP (e.g., closure of orphaned landfills, remediation of hazardous waste sites, and some habitat enhancement measures, which could require the construction of uplands in existing wetlands) may impact (e.g., through fill and/or material extraction) minor wetlands areas. Exact wetlands impacts of these activities will be evaluated in the final EIS. Moreover, these activities, while fully supported by the SAMP, will have to obtain all state and federal regulatory approvals. We are specifically inviting public comment on this aspect of the proposal prior to completion of the SAMP.

In considering this proposal for the SAMP, the public should note that because the USACE has an individual permit application for the Empire tract under evaluation, the USACE must proceed with its permit review process concurrent with continued development of the SAMP. Pending regulatory decisions, approvals, and related actions by parties to this notice also will proceed concurrently, until the SAMP is finalized. The USACE's evaluation process, and that of other agencies, will consider all information and alternatives developed during the SAMP process.

Enhancing Conservation

There are a series of measures put forth in the draft EIS to ensure that the fill proposed in the SAMP document constitutes full build-out for the District, including: deed restrictions, zoning, conservation easements, and the use of a conservancy. Since the draft EIS was issued, the HMDC has taken positive steps to implement some of these mechanisms. Most significantly, the HMDC has acquired over 1000 acres of wetlands over the past three years, and is currently exploring the possibility of acquiring an additional 600 acres. A Hackensack Meadowlands Conservancy has been approved by the New Jersey State Legislature, and was signed into law by Governor Whitman on March 2, 1999. Furthermore, in light of the particular development pressures in the Meadowlands District, the parties to this notice agree that wetlands preservation of otherwise developable properties may be an appropriate part of mitigation strategies, where that approach is consistent with national policy and appropriate to support further reductions in wetlands fill. Similarly, the agencies will assign priority to encourage acquisition as an element of Supplemental Environmental Projects developed in the context of enforcement actions. To ensure full realization of the SAMP's wetlands preservation goals, including that development activities will not result in unacceptable adverse effects to aquatic resources, EPA will consider the use of its veto authority under Section 404(c) of the Clean Water Act.

Furthermore, the Federal agencies will work with the State of New Jersey and local government agencies to pursue other tools and resources to ensure permanent preservation of wetland acreage not identified for development as part of the SAMP. In particular, the DOI will work with the State of New Jersey on a joint proposal for acquisition of wetland acreage through the North American Wetlands Conservation Act for submission in August 1999. Moreover, the FWS is reviewing a request that it consider the establishment of a National Urban Wildlife Refuge that would encompass portions of the District.

In addition, President Clinton's budget for Fiscal Year 2000 includes two new tools to support collaborative work by Federal, state, and local agencies to preserve wetlands in the Meadowlands. The first is a $1 billion Lands Legacy Initiative—the largest one-year investment ever in the protection of America's land resources. This FY 2000 budget proposal—a 125 percent increase over FY 1999—expands federal efforts to save America's natural treasures, and provides significant new resources to states and communities to protect local green spaces like the Meadowlands. Second, the budget includes a total of $700 million over five years for tax credits to finance Better America Bonds. This funding will support federal tax credits enabling state, local and tribal governments to issue $9.5 billion in bonds over 5 years to preserve open space. Federal agencies will provide assistance to State and local government agencies in New Jersey in developing proposals to qualify for this new funding, once approved by Congress.

Governor Whitman's Open Space Program, which was approved by New Jersey voters in November 1998, is an additional tool which will be pursued in attempting to preserve wetlands in the Meadowlands. This program constitutionally dedicates approximately $1 billion over the next ten years from state sales tax revenue for the purpose of acquiring and preserving 1 million acres of open space in New Jersey.

Environmental Improvement Program (EIP)

The HMDC's EIP provides a comprehensive, multi-media set of programs designed to remediate existing pollution and to prevent future pollution. The federal agencies have identified five concerns about the EIP: (1) the relationship of the EIP to the land use development alternatives; (2) the identification of essential and non-essential EIP projects; (3) the prioritization of projects within the EIP; (4) the security and stability of future EIP funding; and, (5) the measurement of EIP success.

The parties to this notice have met to discuss these issues and have resolved most of the issues. In particular, a new approach of conducting separate analyses for the EIP and the development alternatives, including the Section 404(b)(1) compliance analysis has been agreed to, and updated information on EIP projects and the proposed funding mechanisms has been requested from HMDC.

Wetlands Indicator Value Assessment (IVA) Methodology

The IVA methodology will be used to compare the wetland impacts of alternative development scenarios. The federal agencies have discussed the sufficiency of the IVA in its current form for comparing wetlands impacts at the programmatic level. Consensus was reached that the IVA is sufficient for addressing water quality improvement

and social significance functions. Consensus was also reached on a way to supplement the existing IVA wildlife habitat attribute to provide a greater level of detail.

The federal representatives on the IVA work group, in cooperation with biologists from the HMDC and the NJDEP, are working to supplement the existing general fish and wildlife attributes of the IVA method with attributes that are more precisely defined to represent species groups that the agencies agree are of management concern in the District. These groups include waterfowl, wading birds, migratory shorebirds, passerine birds, and juvenile anadromous and forage fish. The method has been revised to incorporate these modifications. The supplemental methodology is being reviewed by independent experts; we expect the independent expert review to be completed by April 1999.

To address the need to augment the IVA method with site-specific field data for individual Section 404 permit reviews, we are developing a protocol for field work requirements. This protocol will allow applicants to better anticipate the type and amount of field data that will be required for processing applications for USACE permits, and will also improve the quality of the information used in making permit decisions.

In addition, the federal agencies, in cooperation with the HMDC and the NJDEP, are developing a comprehensive wildlife management plan for the District. This plan will help guide future wildlife management decisions in the District and help in the establishment of goals and performance standards for wetland mitigation projects. Thus far, the agencies have reached consensus on the priority species groups of management concern in the District, which include the above-mentioned wetland dependent groups as well as grassland birds, raptors, and State-listed species. The FWS is currently preparing a revised draft of the wildlife management plan that identifies the specific management objectives for these species groups and identifies broader landscape level management objectives. The next step, to be completed by June 1, 1999, will be to identify specific management strategies to meet these objectives.

Alternatives

The federal agencies want to ensure that the full range of practical alternative land use scenarios for future growth and environmental preservation are evaluated and meet the requirements of Section 404 of the Clean Water Act and NEPA, while being respective of property rights.

Based on our discussions, we intend to perform an alternatives analysis that evaluates the following scenarios: no action; uplands/redevelopment; the FWS's February 1997 proposal; the HMDC's preferred development configuration; and an out-of-District alternative. For the out-of-District alternative, we have agreed on a process to evaluate potential sites. We have agreed on a 25 acre parcel size and several criteria for the exclusion of sites from consideration (e.g., wetlands, active camp sites, parkland, and cemeteries). We will then be conducting a second level evaluation to look at land use compatibility, implementability/feasibility, and environmental impacts. The out-of-District analysis will be available for public review during the outreach efforts outlined in the project completion schedule at the end of this notice of proposed SAMP revisions, and will be included in the final EIS.

Regulatory Products

At the time of publication of the draft EIS, two major regulatory products were proposed to enhance efficiency, while providing needed environmental protection measures in the Hackensack Meadowlands. First, a General Permit (GP) authorized by section 404(e) of the Clean Water Act was proposed to allow authorization of: (a) development with less than 15 acres of wetland fill; (b) transportation projects with less than one acre of wetland fill; and (c) wetland mitigation projects and banks. The second regulatory product, aimed at addressing development projects entailing over 15 acres of wetland fill, and larger transportation projects, was an Abbreviated Processing Procedure (APP). The APP would streamline the permit review process for projects consistent with the SAMP.

A substantial number of comments were received in response to the draft EIS, opposing the proposed GP, and implementation of the APP. These comments must be considered, however, in light of the significant wetlands fill reductions that are proposed by this notice. Consistent with the acreage reduction goal, the USACE, in consultation with the parties to this notice, has proposed modifications to both regulatory products to address environmental concerns. The wetlands fill associated with development projects under the GP would be reduced to a 10 acre threshold, and require that all wetland impacts be fully mitigated.

The parties to this notice have decided to retain the APP for SAMP-consistent development projects involving wetlands fill greater than 10 acres. The APP would streamline time frames normally required for evaluating an individual permit application by tiering off information made available through the SAMP process. The APP continues to require the full public interest and federal agency review process now employed, including development/implementation of appropriate value-for-value mitigation. Permit applications under the APP may utilize data developed in the SAMP towards documentation of compliance with the section 404(b)(1) Guidelines, analysis of out-of-district alternatives, and NEPA documentation. As such, no additional off-site analysis will be required. However, data/information developed to support the APP (e.g., the out-of-District alternatives analysis) will have to be updated every five years.

We expect that these regulatory enhancements will substantially reduce the processing time for section 404 permits for projects that are consistent with the SAMP. Specifically, assuming an applicant follows the process that will be outlined in the SAMP, projects subject to the GP would be authorized in less than six months; projects subject to the APP would be authorized in less than a year.

In addition to the aforementioned regulatory products, the parties to this notice have established a joint coordination framework to evaluate proposed wetlands mitigation, habitat restoration, and mitigation banks proposed for the District. The Meadowlands Interagency Mitigation Advisory Council (MIMAC) was established by written agreement in 1997, and has been meeting on a monthly basis since early 1998. The MIMAC Agreement established coordination procedures that will be implemented as part of the SAMP; however, it was recognized that those procedures would be immediately useful in coordinating the planning, implementation, and monitoring of compensatory mitigation projects in the District. To date, the MIMAC has provided comments to the USACE on numerous mitigation projects in the District, and two mitigation banks have been permitted and are under construction.

Under this proposal, any SAMP-consistent project that has HMDC General Plan approval would be exempt from the development moratorium that is intended to be imposed as part of the SAMP implementation process. The application review process could proceed immediately following publication of the Record of Decision for

the SAMP; project construction could begin upon receipt of required permits.

The regulatory products proposed for SAMP-consistent projects are intended to provide a high degree of certainty to the affected public concerning future regulatory decisions. As such, the parties to this notice acknowledge that, upon completion of the SAMP and in the absence of new information (i.e., information unavailable at the time of the final SAMP), there will be a heavy presumption against adverse agency comment and/or action (including but not limited to elevation or veto of section 404 permits pursuant to sections 404(q) or 404(c) of the Clean Water Act, respectively, or referral to CEQ under NEPA) for SAMP-consistent projects. This presumption will not limit the parties' to this notice right to comment (either through the MIMAC or as individual agencies) on site-specific minimization and/or mitigation aspects of individual section 404 authorizations.

Effect of this Notice: In this proposal, the parties to this notice have taken a more comprehensive approach in evaluating the scale and distribution of further acreage reductions, as is appropriate for a comprehensive plan for the Meadowlands resource base, and consequently their conclusions may differ from the conclusions that might be reached in the context of an individual regulatory decision, such as a decision on an individual permit application. Therefore, nothing in this **Federal Register** notice shall be construed to affect any agency's discretion to evaluate all reasonable alternatives and to render final regulatory decisions including, without limitation, the USACE decisions pursuant to section 404 of the Clean Water Act and section 10 of the River and Harbors Act if the SAMP is not timely completed. If the SAMP is not completed, the USACE and other agencies will continue to render final permit decisions based on applicable criteria. Those permit decisions may not comport with statements in this notice or prior drafts of the SAMP.

Coordination with Stakeholders: The federal agencies intend to hold meetings with stakeholders, including the Citizens Advisory Committee, to keep the stakeholders informed of the status of activities.

Schedule for Completion of SAMP/EIS

April/May 1999—Conduct public outreach on the SAMP/EIS, including Congressional briefings, constituent meetings, and public information sessions
July 15, 1999—Issue Final EIS
August 15, 1999—Close Final EIS comment period
September 15, 1999—Issue SAMP Record of Decision
July 1, 2000—HMDC completes revisions to Master Plan and zoning regulations; NJDEP submits these documents to NOAA for approval as a Coastal Management Plan revision
September 1, 2000—NOAA acts on New Jersey Coastal Management Plan revision

Dated: March 25, 1999.

Jeanne M. Fox,

Regional Administrator, EPA—Region 2.

William H. Pearce,

District Engineer, USACE—New York District.

Jane M. Kenny,

Chairperson, Hackensack Meadowlands Development Commission.

Robert C. Shinn, Jr.,

Commissioner, New Jersey Department of Environmental Protection.

Jon C. Rittgers,

Acting Regional Administrator, National Marine Fisheries Service Northeast Region.

Ralph C. Pisapia,

Acting, Regional Director, USFWS—Region 5.

Bradley M. Campbell,

Associate Director for Toxic and Environmental Protection, White House Council on Environmental Quality.

[FR Doc. 99–10094 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[WH–FRL–6330–1]

Peer Review Workshop and Public Stakeholder Meetings on the Draft Water Quality Criteria Methodology Revisions: Human Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of peer review workshop and public stakeholder meetings on revisions to the methodology for deriving ambient water quality criteria for the protection of human health.

SUMMARY: The Environmental Protection Agency (EPA) is holding a peer review workshop and subsequent public stakeholder meeting between May 17 and May 20, 1999 for the purpose of conducting an external expert peer review of the Draft Methodology Revisions and a subsequent information exchange with stakeholders on issues related to the changes or additions in the Revisions.

DATES: The peer review workshop will start at 9:00 AM on May 17 and will adjourn on May 19 at 12:00 PM. The public stakeholder meeting will start at 9:00 AM and adjourn at 5:30 PM on May 20, the day following the conclusion of the peer review workshop.

FOR FURTHER INFORMATION CONTACT: Denis Borum (4304), U.S. EPA, 401 M St. S.W., Washington, D.C. 20460 (Telephone: (202) 260–8996).

SUPPLEMENTARY INFORMATION: Both the peer review workshop and subsequent public stakeholder meeting will be held at the Hilton Springfield, 6550 Loisdale Road, Springfield, VA for the purpose of conducting an external expert peer review of the Draft Methodology Revisions and a subsequent information exchange with stakeholders on issues related to the changes or additions that, when finalized, will supersede the existing Guidelines and Methodology Used in the Preparation of Health Effect Assessment Chapters of the Consent Decree Water Criteria Documents ("1980 AWQC National Guidelines"), published by EPA in November 1980. The purpose of the peer review workshop is to have the methodology reviewed in its entirety, even though many components of it have been peer reviewed in separate efforts. This is intentionally being conducted in a public forum, so that interested persons will be able to watch and listen while the peer reviewers discuss the recommended methodology revisions and draft their peer review report. Observers at the workshop will have an opportunity during a 30-minute period set aside at the end of the first and second day to make brief statements of opinion. Observers will not be allowed to ask questions of the reviewers or engage in the discussion. Observers who wish to make any statements should provide an advance written request to Pat Wood, Versar, Inc. at (703) 750–3000. There will also be an opportunity to sign up at the Workshop (on the first day) to make comments at the end of the second day, as time allows.

The public stakeholder meeting is to provide an opportunity for interested persons to discuss the issues and process for developing criteria and implementing the methodology. The stakeholder meeting will be the opportunity for substantive input and dialogue with the primary authors of the Draft Methodology Revisions. As with the peer review workshop, participants for the stakeholders meeting who wish to make comments or ask questions are strongly encouraged to provide an advance written request due to potential time limitations. Requests to speak at the stakeholder meeting should be made to Robert Noecker, ICF, Inc. at (703)

218–2700 or by e-mail at: rnoecker@icfkaiser.com.

EPA is inviting all interested members of the public to observe the workshop and participate in the stakeholder meeting. To the extent that is available, EPA is instituting an open door policy to allow any member of the public to attend either event for any length of time. Approximately 150 seats will be available for the public. Seats will be available on a first-come, first served basis. On-site registration for both will begin at 8:00 AM.

For additional information about the meeting, please contact Denis Borum of EPA's Office of Science and Technology at (202) 260–8996 or by e-mail at borum.denis@epa.gov.

Dated: April 14, 1999.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 99–10097 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6329–9]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act: Odessa Drum Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Odessa Drum Superfund Site with Alpha Intermediates, Inc.

The settlement requires the settling party to pay a total of $155,259.15 as payment of past response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to section 107 of CERCLA, 42 U.S.C. 9607.

For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733.

DATES: Comments must be submitted on or before May 24, 1999.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733. A copy of the proposed settlement may be obtained from Carl Bolden, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–6713. Comments should reference the Odessa Drum Superfund Site, Ector County, Texas and EPA Docket Number 6–02–99, and should be addressed to Carl Bolden at the address listed above.

FOR FURTHER INFORMATION CONTACT: Michael Boydston, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–7376.

Dated: April 13, 1999.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

[FR Doc. 99–10095 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6329–6]

Oil Pollution Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding GTE Midwest, Inc.

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding GTE Midwest, Inc.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment of an administrative penalty against GTE Midwest, Inc. Under 33 U.S.C. 1321(b)(6), EPA is authorized to issue orders assessing administrative penalties for violations of the Act. EPA may issue such orders after filing a Complaint commencing, a Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1321(b)(6)(C).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. part 22. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On March 31, 1999, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following complaint: In the Matter of GTE Midwest incorporated; EPA Docket No, VII–99–0010.

The Complaint proposes a penalty of Nineteen Thousand Seven Hundred and Thirty Dollar ($19,730) for the discharge of diesel fuel to waters of the U.S. and failure to timely prepare a Spill Prevention, Control, and Countermeasure Plan, in violation of sections 311 of the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by GTE Midwest, Inc. is available as part of the administrative record subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this Document.

Dated: April 8, 1999.

Dennis Grams,

Regional Administrator, Region 7.

[FR Doc. 99–9998 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6329–7]

Oil Pollution Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding the Kansas Department of Transportation

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding the Kansas Department of Transportation.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment of an administrative penalty against the Kansas Department of Transportation Under 33 U.S.C. 1321(b)(6), EPA is authorized to issue orders assessing administrative penalties for violations of the Act. EPA may issue such orders after filing a Complaint commencing a Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1321(b)(6)(C).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On September 29, 1998, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following complaint: In the Matter of the Kansas Department of Transportation; EPA Docket No. VII–98–W–0042.

The Complaint proposed a penalty of Fifty-Eight Thousand Four Hundred Dollars ($58,400) for the discharge of emulsified asphalt to waters of the U.S. and failure to timely prepare a Spill Prevention, Control, and Countermeasure Plan, in violation of sections 311 of the Clean Water Act. EPA proposes to issue a final penalty of Twenty-Nine Thousand Dollars ($29,000).

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by the Kansas Department of Transportation is available as part of the administrative record subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this document.

Dated: April 13, 1998.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 99–9999 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6330–2]

National Recommended Water Quality Criteria; Notice; Republication; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice; correction.

SUMMARY: This document contains corrections to a notice, National Recommended Water Quality Criteria, which was published in the **Federal Register** on Thursday, December 10, 1998 (63 FR 68354).

ADDRESSES: A copy of the document, "National Recommended Water Quality Criteria—Correction", (EPA–822–Z–99–001) is available from the U.S. Environmental Protection Agency, National Service Center for Environmental Publications, 11029 Kenwood Road, Cincinnati, Ohio 45242, phone (513) 489–8190 or 1–800–490–9198. This document may also be viewed on the Internet at: http://www.epa.gov/ost/Standards/wqcriteria.html.

FOR FURTHER INFORMATION CONTACT: Cindy Roberts, Office of Water (4304), 401 M Street, SW, Washington, DC 20460; telephone (202) 260–2787; fax (202) 260–6098.

SUPPLEMENTARY INFORMATION: In the **Federal Register** issue, of December 10, 1998, in FR Doc. 98–30272, make the following corrections:

(1) On page 68359, footnote F, change "CMD" to "CMC".

(2) On page 68359, footnote K, change "EPA–820–B–96–011" to EPA–820–B–96–001".

(3) On page 68359, footnote L, change "CMC=1/[(f1/CMC1)=(f2/CMC2)]" to "CMC=1/[(f1/CMC1) + (f2/CMC2)]".

(4) On page 68360, Non priority pollutant 3, Ammonia, remove footnote "D" from—SALTWATER CRITERIA ARE pH AND TEMPERATURE DEPENDENT. Add footnote "D" to, FRESHWATER CRITERIA ARE pH DEPENDENT—SEE DOCUMENT.

(5) On page 68360, Non priority pollutant 21, Malathion, Saltwater CCC ug/L, add "0.1 F".

(6) Remove all footnote "H" from the Non priority pollutant table.

(7) On page 68362, Pollutant 1, Acenaphthene, change CAS No. "208968" to "83329".

(8) On page 68364, Appendix A—Conversion Factors for Dissolved Metals, Conversion factor freshwater CMC, Cadmium, change "1.38672–[(lnhardness)(0.041838)]" to "1.36672–[(lnhardness)(0.041838)]".

(9) On page 68364, Appendix C—Calculation of Freshwater Ammonia Criterion, 2., after the CCC equation add the following text: "and the highest four-day average within the 30-day period does not exceed twice the CCC".

Dated: April 15, 1999.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 99–10098 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–713]

Office of Engineering and Technology Announces Workshop for Telecommunication Certification Bodies (TCB)

AGENCY: Federal Communications Commission.

ACTION: Notice of workshop.

SUMMARY: The Office of Engineering and Technology invites interested parties to attend a workshop on April 28, 1999, from 1–5 p.m., on Telecommunication Certification Bodies (TCBs). On April 15, 1999, the Commission released a public notice announcing the workshop. The workshop will be held in conjunction with the National Institute

of Standards and Technology (NIST) workshops on the US–EC Mutual Recognition Agreement on April 27, 1999, and the workshop on the National Voluntary Conformity Assessment Systems Evaluation (NVCASE) on the morning of April 28, 1999.

SUPPLEMENTARY INFORMATION: There is no fee to attend the workshops, but parties must pre-register by providing the full names and affiliations of planned participants by April 21, so that NIST can make appropriate arrangements. Parties may pre-register by e-mail at scp@nist.gov, by fax at 301–975–5414, or by writing to: EMC/Telecom Workshop Coordinator, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2100, Gaithersburg, MD 20899–2100.

DATES: The workshop will be held in the afternoon (1–5 p.m.) on April 28, 1999.

ADDRESSES: The workshop will be held in the Department of Commerce Auditorium at 14th Street and Constitution Ave., NW, Washington, DC

FOR FURTHER INFORMATION CONTACT: Art Wall of the FCC at (301) 362–3041, fax: (301) 344–2050, email: awall@fcc.gov. or National Institute of Standards and Technology (NIST) at 301–975–5120.

Federal Communications Commission.

Dale N. Hatfield,

Chief, Office of Engineering and Technology.

[FR Doc. 99–10119 Filed 4–21–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, April 27, 1999 at 10 a.m.

PLACE: 999 E Street, NW, Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, April 29, 1999 at 10 a.m.

PLACE: 999 E Street, NW, Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Combined Federal Campaign Team Recognition Ceremony.

Advisory Opinion 1999–1: (Reconsideration) Mark Greene, candidate for Congress in 2000 election cycle.

Petition for Rulemaking Filed by James Bopp, Jr., on Behalf of the Virginia Society for Human Life.

Proposed Final Rules of Treatment of Limited Liability Companies under the Federal Election Campaign Act.

Status of PricewaterhouseCoopers (Pwc) Recommendations.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 99–10259 Filed 4–20–99; 2:28 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. State Financial Services Corporation, Hales Corners, Wisconsin; to acquire 100 percent of the voting shares of First Waukegan Corporation, Waukegan, Wisconsin, and thereby indirectly acquire Bank of Northern Illinois, Waukegan, Illinois.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Clear Creek Bank Corp., Idaho Springs, Colorado; to acquire 100 percent of the voting shares of High Desert State Bank, Albuquerque, New Mexico.

2. Peoples Bank & Trust Company, Ryan, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank & Trust Company, Ryan, Oklahoma.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Bank On It, Inc., Stockton, California; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of San Joaquin, Stockton, California (in organization).

2. Belvedere Capital Partners, Inc., and California Community Financial Institutions Fund, L.P., both of San Francisco, California; to acquire at least 54.85 percent of the voting shares of Cerritos Valley Bancorp, Norwalk, California, and thereby indirectly acquire Cerritos Valley Bank, Norwalk, California.

3. Newco Alaska, Inc., Ketchikan, Alaska; to become a bank holding company by acquiring 100 percent of the voting shares of First Bancorp, Inc., Ketchikan, Alaska, and thereby indirectly acquire First Bank, Ketchikan, Alaska. Comments regarding this application must be received not later than May 6, 1999.

Board of Governors of the Federal Reserve System, April 16, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–10014 Filed 4–21–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Public Workshop: U.S. Perspectives on Consumer Protection in the Global Electronic Marketplace

AGENCY: Federal Trade Commission.

ACTION: Notice extending comment period to April 30, 1999.

SUMMARY: In connection with the Federal Trade Commission's request for public comments on U.S. perspectives on consumer protection in the global electronic marketplace announced in 63 FR 69289 (December 16, 1998), the Commission has extended the period to April 30, 1999. Public comments already submitted are posted on the Commission's Web page, at <http://www.ftc.gov/bcp/icpw/comment/index.html>.

DATES: The deadline for public comments is April 30, 1999. The dates of the workshop are June 8–9, 1999.

COMMENT SUBMISSION PROCEDURE: Written responses should be submitted to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., N.W., Washington, D.C., 20580. The Commission requests that commenters submit the original plus five copies, if feasible. To enable prompt review and accessibility to the public, responses also should be submitted, if possible, in electronic form, on either one 5¼ or one 3½ inch computer disk, with a disk label stating the name of the submitter and the name and version of the word processing program used to create the document. (Programs based on DOS or Windows are preferred. Files from other operating systems should be submitted in ASCII text format.) Alternatively, the Commission will accept responses submitted via the Internet to <EMarketplace@ftc.gov>. All submissions should be captioned: "U.S. Perspectives on Consumer Protection in the Global Electronic Marketplace—Comment, P994312."

FOR FURTHER INFORMATION: A workshop agenda and information about participation will be published closer to the date of the workshop. For questions about the workshop, contact either: Lisa Rosenthal, Legal Advisor for International Consumer Protection, Division of Planning and Information, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, telephone 202–326–2249, e-mail <lrosenthal@ftc.gov>; or Jonathan Smollen, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, telephone 202–326–3457, e-mail <jsmollen@ftc.gov>.

Authority: 15 U.S.C. 41 *et seq.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–10075 Filed 4–21–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTION GRANTED EARLY TERMINATION

ET date	Trans No.	ET req status	Party name
29–MAR–99	19991819	G	J.H. Whitney III, L.P.
		G	MedSource Technologies, Inc.
		G	MedSource Technologies, Inc.
	19991844	G	Terex Corporation.
		G	Amida Industries, Inc.
		G	Amida Industries, Inc., a South Carolina corporation.
	19991860	G	Stroh Companies, Inc., (The)
		G	Minott Wessinger.
		G	McKenzie River Corporation.
	19991875	G	Olivetti S.p.A.
		G	Telecom Italia S.p.A.
		G	Telecom Italia S.p.A.
	19991877	G	Olivetti S.p.A.
		G	Concentric Network Corporation.
		G	Concentric Network Corporation.
	19991951	G	American Business Products, Inc.
		G	Tekkote Corp.
		G	Tekkote Corp.
	19991955	G	Cyrus A. Ansary.
		G	National City Corporation.
		G	National Processing Company.
	19991967	G	Textron Inc.
		G	First Union Corporation.
		G	LCI Corporation International, Inc.
	19991968	G	Swiss Reinsurance Company.
		G	Royal & Sun Alliance Insurance Group plc.
		G	Royal Maccabees Life Insurance Company.
	19991973	G	RCBA Strategic Partners, L.P.
		G	HWH Capital Partners, L.P.
		G	SMC Holdings Corp.
	19991974	G	Dycom Industries, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	Ervin Cable Construction, Inc.
		G	Ervin Cable Construction, Inc.
	19991978	G	Michael Foods, Inc.
		G	John Kaneb.
		G	H.P. Hood, Inc.
	19991980	G	Kent Electronics Corporation.
		G	Vol H. Montgomery.
		G	SabreData, Inc.
	19991987	G	AGCO Corporation.
		G	Roy E. and Donice E. Applequist, husband and wife.
		G	Great Plains Manufacturing, Inc.
	19991991	G	The Manitowoc Company, Inc.
		G	Kyees Aluminum, Inc.
		G	Kyees Aluminum, Inc.
	19991992	G	Danisco A/S.
		G	Cultor Corporation.
		G	Cultor Corporation.
	19991993	G	Heritage Fund II, L.P.
		G	Avista Corp.
		G	Creative Solutions Group, Inc.
	19991995	G	Aon Corporation.
		G	Presidium Holdings, Inc.
		G	Presidium Holdings, Inc.
	19991996	G	Southcorp Limited.
		G	John C. Cushman, III & Jeanine S. Cushman (husband & wife).
		G	Cushman Winery Corporation.
	19991998	G	Electra Investment Trust PLC.
		G	Allflex USA, Inc.
		G	Allflex USA, Inc.
	19992001	G	Amgen Inc.
		G	Praecis Pharmaceuticals Incorporated.
		G	Praecis Pharmaceuticals Incorporated.
	19992002	G	AlliedSignal Inc.
		G	Johnnie Lou LaRoche.
		G	LaRoche Industries Inc.
	19992003	G	Union Carbide Corporation.
		G	Johnnie Lou LaRoche.
		G	LaRoche Industries Inc.
	19992005	G	United American Energy Corp.
		G	National Power PLC.
		G	ANP Mechlenburg Cogeneration Company.
		G	TEVCO Cogeneration Company.
	19992007	G	Philip J. D'Elia.
		G	Johnson Service Group PLC.
		G	Johnson Group, Inc.
	19992008	G	Maverick Country Stores, Inc.
		G	Tosco Corporation.
		G	Circle K Stores, Inc.
	19992011	G	Naomi C. Dempsey.
		G	Robert H. Dorst.
		G	Great Lakes Corrugated Corp.
	19992013	G	Kasper A.S.L. Ltd.
		G	Tomio Taki.
		G	Anne Klein Company LCC.
	19992026	G	Francois Pinault.
		G	Brylane Inc., a Delaware corporation.
		G	Brylane Inc., a Delaware corporation.
	19992029	G	PCMC Holdings, L.P.
		G	Plum Creek Timber Company, Inc.
		G	Plum Creek Timber Company, Inc.
	19992039	G	Burmah Castrol plc.
		G	James R. Pyne.
		G	REMET Corporation.
	19992047	G	Summit Ventures V, L.P.
		G	Paul C. Steinwachs.
		G	EMED Co., Inc.
	19992048	G	Summit Ventures V, L.P.
		G	Donald E. Steinwachs.
		G	EMED Co., Inc.
	19992054	G	Bessemer Securities LLC.
		G	The Beacon Group III—Focus Value Fund, L.P.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	Identity Group, Inc.
	19992056	G	Whole Foods Market, Inc.
		G	Leo Kahn.
		G	Nature's Heartland, Inc.
	19992070	G	Arkansas Best Corporation.
		G	Treadco, Inc.
		G	Treadco, Inc.
30–MAR–99	19991797	G	Charles M. Lillis.
		G	MediaOne Group. Inc.
		G	MediaOne Group, Inc.
	19991849	G	BellSouth Corporation.
		G	TDS Voting Trust.
		G	United States Cellular Operating Corporation.
	19991873	G	Baker Communications Fund, L.P.
		G	Ascend Communications, Inc.
		G	S2 Systems, Inc.
	19991942	G	Stewart Enterprises, Inc.
		G	F. Peter Newcomer.
		G	D.W. Newcomer's Sons, Inc. and DWN Properties, I
	19991960	G	St. Luke's Episcopal Health System.
		G	MedPartners, Inc.
		G	Caremark Inc., Caremark Resources Corporation.
	19991961	G	Methodist Health Care System.
		G	MedPartners, Inc.
		G	Caremark Inc., Caremark Resources Corporation.
	19991969	G	Bell Atlantic Corporation.
		G	Bell Atlantic Corporation.
		G	Columbia Cellular Telephone Company.
	19991994	G	National Computer Systems, Inc.
		G	Don H. Barden.
		G	NovaNet Learning, Inc.
	19991997	G	General Electric Company.
		G	iVillage, Inc.
		G	iVillage, Inc.
		G	iVillage, Inc.
	19992012	G	News Corporation Limited.
		G	David E. Shaw.
		G	Juno Online Services, Inc.
	19992016	G	Deutsche Lufthansa AG.
		G	Gerald W. Schwartz.
		G	Onex Food Services, Inc.
	19992019	G	Vereniging AEGON.
		G	Transamerica Corporation.
		G	Transamerica Corporation.
	19992027	G	Larry Van Tuyl.
		G	Boomershine Automotive Group, Inc.
		G	Boomershine Ford, Inc., Bommershine Isuzu, Inc.
		G	Boomershine Colliston Centers of Gwinnett, Inc.
	19992032	G	Heating Oil Partners, L.P.
		G	Alliance Energy Corp.
		G	Alliance Energy Corp.
	19992040	G	Stichting Administratiekantoor van aandelen Koniklijk.
		G	Hagemeyer N.V.
		G	MBC Foods Inc., Fine Distributing, Inc., Direct Specialty.
	19992055	G	Paul G. Allen.
		G	Go2Net, Inc.
		G	Go2Net, Inc.
	19992079	G	Sabratek Corporation.
		G	Ralin Medical, Inc.
		G	LifeWatch, Inc.
	19992080	G	Ralin Medical, Inc.
		G	Sabratek Corporation.
		G	Sabratek Corporation.
31–MAR–99	19991793	G	World Color Press, Inc.
		G	Legg Mason Capital Partners, L.P.
		G	UP/Graphics, Inc.
	19991833	G	Health Management Associates, Inc.
		G	The Lower Florida Keys Health System, Inc.
		G	dePoo Hospital, Florida Keys Memorial Hospital.
	19991896	G	Cendant Corporation.
		G	Apollo Investment Fund III, L.P.
		G	NRT Incorporated.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
01-APR-99	19991785	G	Wilh. Werhahn.
		G	Nalco Chemical Company.
		G	Nalco Chemical Company.
	19992060	G	American Plumbing & Mechanical, Inc.
		G	David A. Croson.
		G	J.A. Croson Company.
		G	Franklin Fire Sprinkler Company.
	19992077	G	Allianz Aktiengesellschaft.
		G	Orion Captial Corporation.
		G	Wm. H. McGee & Co., Inc.
02-APR-99	19991331	G	Reilly Industries, Inc.
		G	AlliedSignal Inc.
		G	AlliedSignal Inc.
	19991850	G	Sisters of St. Francis Health Services, Inc.
		G	MedPartners, Inc.
		G	MedPartners Physician Management, L.P.
	19991894	G	Galaxy Telecom Investments, L.L.C.
		G	Tele-Communications Inc. or AT&T Corporation.
		G	Mississippi Cablevision, Inc.
	19991927	G	Regis Corporation.
		G	Florence F. Francis.
		G	The Barbers, Hairstyling for Men & Women, Inc.
	19991935	G	Aalberts Industries, N.V.
		G	Taprite-Fassco Mfg., Inc.
		G	Taprite-Fassco Mfg., Inc.
	19991945	G	General Electric Company.
		G	Sumitomo Corporation.
		G	Phoenixcor, Inc.
	19991946	G	Paul G. Allen.
		G	Morgan Stanley Capital Partners III, L.P.
		G	Renaissance Media Group LLC.
	19991970	G	GAMBRO AB.
		G	ZENECA Group PLC.
		G	Salick Health Care, Inc.
		G	Century Dialsis Corporation.
		G	USHAWL, Inc.
	19991977	G	Marshalls Finance Limited.
		G	Arthur Hughes.
		G	Fulton Prebon Group Limited.
	19991999	G	Textron Inc.
		G	Andrew K. Rayburn.
		G	Flexalloy Inc.
	19992000	G	Activated Communications Limited Partnership.
		G	E. Burke Ross, Jr., Family Trust 1.
		G	New Jersey Broadcasting Partners, L.P. II.
	19992009	G	Fenway Partners Capital Fund, L.P.
		G	Joseph F. Umosella.
		G	Patriot Manufacturing, Inc.
	19992010	G	Siemens Aktiengesellschaft (a German company).
		G	Castle Networks, Inc.
		G	Castle Networks, Inc.
	19992030	G	Palace Sports & Entertainment, Inc.
		G	Arthur L. Williams, Jr.
		G	ALW Sports Management, Inc.
		G	Tampa Bay Lightning, Limited Liability Company.
	19992041	G	ABRY Broadcast Partners II, L.P.
		G	David S. Smith.
		G	Mission Broadcasting of Wichita Falls, Inc.
	19992049	G	General Motors Corporation.
		G	John B.T. Campbell, III and Anne Catherine Campb.
		G	Campbell Automotive Group, Inc.
	19992051	G	VS&A Communications Partners II, L.P.
		G	William A. Patterson, Jr.
		G	International Travel Service, Inc.
	19992071	G	Dover Corporation.
		G	Summit Ventures IV, L.P.
		G	Somero Enterprises, Inc.
	19992075	G	Stewart Enterprises, Inc.
		G	Froedtert Memorial Lutheran Hospital Trust.
		G	Wisconsin Memorial Park, Inc.
	19992078	G	Gilead Sciences, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	NeXstar Pharmaceuticals, Inc.
		G	NeXstar Pharmaceuticals, Inc.
	19992084	G	Hoopeston Foods, Inc.
		G	Pro-Fac Corporative, Inc.
		G	Agrilink Foods, Inc.
	19992085	G	Navigant International, Inc.
		G	Vincent E. Vitti.
		G	VTS Travel Enterprises, Inc.
	19992086	G	Marketing Services Group, Inc.
		G	CMGI, Inc.
		G	CMG Direct Corporation.
	19992094	G	CoreComm Limited.
		G	USN Communications, Inc. (Debtor-in-Possession)
		G	USN Communications, Inc. (Debtor-in-Possession)
	19992098	G	Activision, Inc.
		G	Expert Software, Inc.
		G	Expert Software, Inc.
	19992099	G	ING Groep N.V.
		G	PennCorp Financial Group, Inc.
		G	UC Mortgage Corp.
		G	Marketing One, Inc.
		G	CyberLink Development, Inc.
		G	United Life & Annuity Insurance Company.
		G	United Variable Services, Inc.
	19992101	G	Hughes Supply, Inc.
		G	Flori Corporation.
		G	Flori Corporation.
	19992103	G	ACME Television Holdings, LLC.
		G	Lowell W. Paxson.
		G	Paxson Communications Corporation.
	19992120	G	EMP Group, L.L.C.
		G	American Media, Inc.
		G	American Media, Inc.
		G	American Media, Inc.
	19992121	G	Cornerstone Equity Investors IV, LP
		G	Equitrac Corporation.
		G	Equitrac Corporation.
	19992123	G	Sisters of Providence, Sacred Heart Province.
		G	Hood River Memorial Hospital.
		G	Hood River Memorial Hospital.
	19992127	G	Associated Food Store, Inc.
		G	Kenneth W. Macey and Robin A. Macey, husband and wife.
		G	Macey's Inc., Macey's-Provo, LLC, Macey's-Clearfie LLC.
	19992131	G	Vester Capital Partners III, L.P.
		G	Sheridan Healthcare, Inc.
		G	Sheridan Healthcare, Inc.
	19992134	G	Cablevision Systems Corporation.
		G	Cablevision Systems Corporation.
		G	Madison Square Garden, L.P.
	19992137	G	Catherine L. Hughes.
		G	Sinclair Telecable, Inc.
		G	WCDX–FM, Mechanicsville, Virginia.
		G	WJRV–FM Richmond, Virginia.
		G	WGCV–FM Petersburg, Virginia.
		G	WPLZ–FM Petersburg, Virginia.
04–APR–99	19992050	G	Paul G. Allen.
		G	Go2Net, Inc.
		G	Go2Net. Inc.
05–APR–99	19991957	G	UGI Corporation.
		G	Unisource Worldwide, Inc.
		G	Unisource Worldwide, Inc.
	19992042	G	General Electric Company.
		G	Value Vision International, Inc.
		G	Value Vision International, Inc.
	19992052	G	ITT Industries, an Indian corporation.
		G	Earth Watch Incorporated.
		G	Earth Watch Incorporated, a Delaware corporation.
	19992063	G	Compagnie Financiere Rupert.
		G	Caroline Arpels Daumen.
		G	Van Cleef & Arpels, Inc.
	19992064	G	Compagnie Financiere Rupert.
		G	Eric Arpels.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	Van Cleef & Arpels, Inc.
	19992092	G	EMCOR Group, Inc.
		G	Monumental Investment Corporation.
		G	Monumental Investment Corporation.
	19992106	G	L. Ross Love.
		G	Clear Channel Communications, Inc.
		G	Clear Channel Broadcasting, Inc.
		G	Jacor Broadcasting of Louisville, Inc.
	19992122	G	Anderson Corporation.
		G	Morgan Products Ltd.
		G	Morgan Products Ltd.
	19992145	G	Sovereign Specialty Chemical, L.P.
		G	The Valspar Corporation.
		G	Valsper Flexible Packaging Coatings Business.
	19992148	G	The ServiceMaster Company.
		G	American Residential Services, Inc.
		G	American Residential Services, Inc.
07–APR–99	19992014	G	PP&L Resources, Inc.
		G	Bangor Hydro-Electric Company.
		G	Bangor Hydro-Electric Company.
	19992067	G	A.M. Todd Group, Inc.
		G	William H. and Margaret E. Brevoort.
		G	East Earth Herb, Inc.
	19992144	G	Kerr-McGee Corporation.
		G	Kerr-McGee Corporation.
		G	Sun Energy Partners, L.P.
08–APR–99	19991072	G	Reed International P.L.C.
		G	Benjamin and Ann Lewin.
		G	Cell Press, Inc.
	19991073	G	Elsevier NV.
		G	Benjamin and Ann Lewin.
		G	Cell Press, Inc.
09–APR–99	19990666	G	Allied Waste Industries, Inc.
		G	Browning Ferris Industries, Inc.
		G	BFI Waste Systems of North America, Inc.
	19990667	G	Browning Ferris Industries, Inc.
		G	Allied Waste Industries, Inc.
		G	Allied Waste Industries, Inc.
	19991644	G	Chart Industries, Inc.
		G	MVE Investors, LLC.
		G	MVE Investors, LLC.
	19991964	G	Reed International P.L.C.
		G	Benjamin and Ann Lewin.
		G	Cell Press, Inc.
	19991965	G	Elsevier NV.
		G	Benjamin and Ann Lewin.
		G	Cell Press, Inc.
	19991984	G	First Union Corporation.
		G	Fred Thomas Tattersall,
		G	Tattersall Advisory Group, Inc.
	19992017	G	British Telecommunications plc.
		G	Corporation Impsa S.A.
		G	IMPSAT Corporation.
	19992036	G	TRW Inc.
		G	Safeguard Scientifics, Inc.
		G	ClientLink, Inc.
	19992045	G	Chase Manhattan Corporation, (The).
		G	Mark Eric and Patricia A. Benjamin, (husband and wife).
		G	Benjamin Metals Company.
	19992081	G	Western Wireless Corporation.
		G	Century Telephone Enterprises, Inc.
		G	Brownsville Cellular Telephone Company, Inc.
		G	McAllen Cellular Telephone Co., Inc.
	19992093	G	Windward Capital Partners II, L.P.
		G	Bayer AG.
		G	Bayer Inc., a Canadian corporation.
	19992130	G	Vincent Camuto.
		G	Jones Apparel Group, Inc.
		G	Jones Apparel Group, Inc.
	19992141	G	Wind Point Partners III, L.P.
		G	MascoTech, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	BLD Products, Ltd.
		G	Pylon Manufacturing Corp.
		G	Novo Products, Inc.
		G	Hebco Products, Inc.
		G	International Brake Industries, Inc.
		G	Longman Enterprises, Inc.
		G	Mr. Bracket, Inc.
		G	McGuane Industries, Inc.
	19992142	G	MCN Energy Group Inc.
		G	SEMCO Energy, Inc.
		G	SEMCO Energy Services, Inc.
	19992147	G	Foster & Gallagher, Inc.
		G	Donald L. Kruml
		G	Gurney Seed & Nursery Corp.
	19992149	G	Mistral International Finance A.G.
		G	Wangner Finckh GmbH.
		G	Wangner Systems Corporation.
	19992150	G	Enron Corp.
		G	Philip Services Corp.
		G	Philip Utilities Management Corporation.
	19992155	G	Cowles Publishing Company.
		G	Raycom Media, Inc.
		G	Federal Broadcasting Company.
	19992156	G	Public Service Enterprise Group Inc.
		G	The Frank A. McBride Company.
		G	The Frank A. McBride Company.
	19992164	G	WD–40 Company.
		G	Block Drug Company, Inc.
		G	Block Drug Company, Inc.
	19992165	G	ZENECA Group PLC.
		G	Cima Labs, Inc.
		G	Cima Labs, Inc.
	19992170	G	Alain Merieux.
		G	Silliker bioMerieux, Inc.
		G	Silliker bioMerieux, Inc.
	19992172	G	Marlin Water Trust.
		G	Philip Services Corp.
		G	Philip Utilities Management Corporation.
		G	Philip Services Corp.
		G	Philip Utilities Management Corporation.
	19992174	G	Rollins, Inc.
		G	H.F. Johnson Distributing Trust f/b/o Samuel C. Johnson.
		G	S.C. Johnson Commercial Markets, Inc.
		G	PRISM Integrated Sanitation Management, Inc.
	19992178	G	MEDIQ Incorporated.
		G	HTD Corporation.
		G	HTD Corporation.
	19992181	G	Group 1 Automotive, Inc.
		G	Frederick A. Nagher.
		G	Rodeo Chrysler-Pymouth, Inc.
	19992183	G	Apollo Investment Fund IV, L.P.
		G	Building One Services Corporation.
		G	Building One Services Corporation.
	19992186	G	KPMG LLP.
		G	Softline Consulting & Integrators, Inc.
		G	Softline Consulting & Integrators, Inc.
	19992192	G	Gerald W. Schwartz.
		G	Windward Capital Associates, L.P.
		G	J.L. French Automotive Castings, Inc.
	19992195	G	The National Grid Group plc.
		G	New England Electric System.
		G	New England Electric System.
	19992206	G	SCI Systems, Inc.
		G	Hewlett-Packard Company.
		G	VeriFone Electronics Co. Ltd.
	19992207	G	Swedish Match AB (publ).
		G	General Cigar Holdings, Inc.
		G	General Cigar Co., Inc.
	19992222	G	NORPAC Foods, Inc.
		G	Agripac, Inc.
		G	Agripac, Inc.
	19992223	G	Ogden Corporation.
		G	Dawson Consolidated Holdings Limited.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	Southbrook Corporation.
	19992244	G	IXC Communications, Inc.
		G	Riva Bursten 1994 Trust u/a/d September 19, 1994.
		G	Coastal Telephone Services Limited Company.
		G	Coastal Telecom Limited Company.
		G	Coastal Telecom Limited Liability Company (Tennessee).
		G	Coastal Telecom Limited Liability Company (Wisconsin).
	19992245	Y	IXC Communications, Inc.
		Y	Andrew M. Bursten 1994 Trust u/a/d September 19, 1994.
		Y	Coastal Telephone Services Limited Company.
		Y	Coastal Telecom Limited Liability Company (Wisconsin).
		Y	Coastal Telecom Limited Company.
		Y	Coastal Telecom Limited Liability Company (Tennessee).
	19992253	G	Gerald F. Bean.
		G	Republic Industries, Inc.
		G	Kendall Imports, LLC and G.F.B. Enterprises, LLC.

For Further Information Contact: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–10074 Filed 4–21–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

ICD–9–CM Coordination and Maintenance Committee Meeting

National Center for Health Statistics (NCHS), Data Policy and Standards Staff, announces the following meeting.

Name: ICD–9–CM Coordination and Maintenance Committee meeting.

Time and Date: 9 a.m.–4 p.m., May 13, 1999.

Place: The Health Care Financing Administration, Auditorium, 7500 Security Boulevard, Baltimore, Maryland.

Status: Open to the public.

Purpose: The ICD–9–CM Coordination and Maintenance (C&M) Committee will hold its first meeting of the 1999 cycle on Thursday, May 13, 1999. The C&M meeting is a public forum for the presentation of proposed modifications to the International Classification of Diseases, Ninth-Revision, Clinical Modification.

Matters to be discussed: Agenda items include: adverse effects of Viagra; allergy status; loss of height; foot ulcers; external cause codes for rollerblading/skateboarding; acquired absence of organ; infertility versus sterility; update on the ICD–10–PCS; insertion of implantable loop recorder; transurethral microwave therapy and Addenda.

Contact Person for Additional Information: Amy Blum, Medical Classification Specialist, Data Policy and Standards Staff, NCHS, 6526 Belcrest Road, Room 1100, Hyattsville, Maryland 20782, telephone 301/436–7050 ext. 164 (diagnosis), Amy Gruber, Health Insurance Specialist, Division of Acute Care, HCFA, 7500 Security Blvd., Room C4–07–07, Baltimore, Maryland, 21244 telephone 410–786–1542 (procedures).

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and thee Agency for Toxic Substances and Disease Registry.

Dated: April 16, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–10080 Filed 4–21–99; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–0925]

The Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2,2-dibromo-3-nitrilopropionamide as a preservative for adhesives and coatings used in the manufacture of paper and paperboard intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5)(21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 9B4641) has been filed by The Dow Chemical Co., Midland, MI 48674. The petition proposes to amend the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) and § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of 2,2-dibromo-3-nitrilopropionamide as a preservative for adhesives and for coatings in the manufacture of paper and paperboard intended for contact with food.

The agency has determined under 21 CFR 25.32(q) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: April 7, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10009 Filed 4–21–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Conducting Successful Clinical Trials Under Good Clinical Practice Regulations to Facilitate the Product Approval Process; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of workshop.

The Food and Drug Administration (FDA), Los Angeles District Office, in cooperation with the Southern California Pharmaceutical Discussion Group (SCPDG) and the Association of Clinical Research Professionals, is announcing a workshop intended to give clinical investigators and clinical research staff an opportunity to learn and discuss requirements and expectations for clinical research intended to support new product applications to FDA.

Date and Time: See Table 1 following the "*Location*" section of this document.

Location: See Table 1 below.

TABLE 1.

Meeting Address	Date and Local Time	FDA Contact Person
SAN DIEGO: Marriott Mission Valley Inn, 8757 Rio San Diego Dr., San Diego, CA, 619–692–3800	Monday, May 10, 1999, 8 a.m. to 5:30 p.m.	Sandi R. Velez
LOS ANGELES: Westin Bonaventure Hotel, 404 South Figueroa St., Los Angeles, CA, 213–624–1000	Wednesday, May 12, 1999, 8 a.m. to 5:30 p.m.	Do.
TUSCON: Plaza Hotel and Conference Center, 1900 East Speedway Blvd., Tucson, AZ, 520–327–7341	Friday, May 14, 1999, 8 a.m. to 5:30 p.m.	Do.

Contact: Sandi R. Velez, Los Angeles District Office, Office of the District Director (HFR–PA200), 19900 MacArthur Blvd., Irvine, CA 92612–2445, 949–798–7698, FAX 949–798–7715.

Registration: Space is limited. Preregistration and confirmation are required by April 28, 1999. Registration forms may be obtained from the contact listed previously. There is a $150 registration fee payable to SCPDG. The registration fee and form should be sent to Eileen Ohlander at 2525 Dupont Dr., RD–3C, Irvine, CA 92613, FAX 714–246–6220. The registration fee will cover actual expenses including refreshments, lunch, materials, and some speaker expenses. Parking fees are not included in the registration fee. Walk-ins will be accepted, provided space is available. Walk-in registration for each workshop is scheduled between 7:30 a.m. and 8 a.m. on the morning of each workshop.

If you need special accommodations due to a disability, please contact Sandi R. Velez at least 7 days in advance.

Dated: April 16, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10012 Filed 4–21–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pharmacy Compounding Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pharmacy Compounding Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 6 and 7, 1999, 8:30 a.m. to 5 p.m.

Location: CDER Advisory Committee Conference Room 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Igor Cerny, or Tony Slater, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or by e-mail at CERNY@CDER.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12440. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss and provide FDA with advice about the agency's development and publication of a list of bulk drug substances that may be used in pharmacy compounding that do not have a United States Pharmacopeia or National Formulary monograph and are not components of FDA-approved drugs. Specifically, the committee is likely to address the following drug substances as candidates for the bulk drugs list: 4-aminopyridine, 3,4-diaminopyridine, betahistine dihydrochloride, chloramine-T, cyclandelate, dinitrochlorobenzene, diphenylcyclopropenone, hydrazine sulfate, mild silver protein, monosodium asparate, pentylenetetrazole, peruvian balsam, and squaric acid dibutyl ester.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 23, 1999. Oral presentations from the public will be scheduled between approximately 10:30 a.m. to 11 a.m. for dinitrochlorobenzene, diphenylcyclopropenone, and squaric acid dibutyl ester, and between approximately 2:45 p.m. and 3:15 p.m. for 4-aminopyridine, 3,4-diaminopyridine, and betahistine dihydrochloride on May 6, 1999; and between approximately 10:15 a.m. and 10:45 a.m. for mild silver protein, cyclandelate, and monosodium asparate, and between approximately

2:45 p.m. and 3:15 p.m. for hydrazine sulfate on May 7, 1999. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 23, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 16, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–10076 Filed 4–19–99; 11:05 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–1266]

Draft Guidance for Industry on Placing the Therapeutic Equivalence Code on Prescription Drug Labels and Labeling; Availability; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until June 21, 1999, the comment period for the draft guidance for industry entitled "Placing the Therapeutic Equivalence Code on Prescription Drug Labels and Labeling" that appeared in the **Federal Register** of January 28, 1999 (64 FR 4434). FDA is taking this action in response to several requests for an extension and to allow interested parties additional time to submit comments.

DATES: Written comments may be submitted by June 21, 1999. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of the draft guidance for industry are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm". Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jerry Phillips, Center for Drug Evaluation and Research (HFD–730), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3225.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 28, 1999, FDA published a notice announcing the availability of a draft guidance for industry entitled "Placing the Therapeutic Equivalence Code on Prescription Drug Labels and Labeling." The draft guidance is intended to clarify for prescription drug manufacturers, relabelers, and distributors FDA's position regarding placing the therapeutic equivalence code on approved FDA product labels and labeling. The January 28, 1999, notice invited interested persons to submit written comments on the draft guidance within 60 days.

The agency has received several requests to extend the comment period on the draft guidance. The agency has decided to reopen the comment period on the draft guidance until June 21, 1999, to allow the public more time to review and comment on its contents.

Interested persons may, on or before June 21, 1999, submit to the Dockets Management Branch (address above) written comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 15, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10010 Filed 4–21–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Innovative Approaches to Clinical Trials Informatics.

Date: April 19, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6130 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Wilna A. Woods, PHD, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Rockville, MD 20852, (301) 496–7903.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10057 Filed 4–21–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Director's Consumer Liaison Group, April 19, 1999, 9:00 AM to April 29, 1999, 5:00 PM, Natcher Building, Conference Room B, 45 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on April 13, 1999, 64 FR 18036.

The meeting will be held from April 19, 1999, 8:30 AM to April 20, 1999,

5:00 PM. The meeting is partially closed to the public, as previously announced.

Dated: April 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10058 Filed 4–21–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Clinical Centers for Feasibility Studies on Retinoid Treatment in Emphysema.

Date: May 12, 1999.

Time: 8:00 AM to 1:00 PM.

Agenda: To review and evaluate contract proposals.

Place: HOLIDAY INN—GEORGETOWN, WASHINGTON, DC 20007.

Contact Person: Anne P. Clark, PHD, Scientific Review Administrator, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, (301) 435–0280.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Clinical Coordinating Center for Feasibility Studies on Retinoid.

Date: May 12, 1999.

Time: 1:00 PM to 5:00 PM.

Agenda: To review and evaluate contract proposals.

Place: HOLIDAY INN—GEORGETOWN, WASHINGTON, DC 20007.

Contact Person: Anne P. Clark, PHD, Scientific Review Administrator, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, (301) 435–0280.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10059 Filed 4–21–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Asthma in Puerto Rican children.

Date: May 11, 1999.

Time: 2:00 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Anne P. Clark, PHD, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, (301) 435–0280.

(Catalog of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Disease Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10060 Filed 4–21–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Availability of Funding for Alternative Projects, Known as Wilson/Fish Projects, to Implement Alternative Means of Providing Interim Financial Assistance, Medical Assistance, Social Services, and Case Management to Refugees and Cuban and Haitian Entrants

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Request for applications for alternative projects for the provision of refugee employment and other social services, interim financial and medical assistance, and case management for newly arriving and other eligible refugees. This notice replaces the notice published in the **Federal Register** of March 27, 1995 (60 FR 15766).

SUMMARY: The Office of Refugee Resettlement (ORR) announces that competing applications will be accepted from public and private non-profit organizations under a standing announcement for Wilson/Fish projects which propose alternative approaches to serving refugees. The purpose of an alternative project is to provide integrated services and cash assistance to refugees in order to increase refugees' prospects for early employment and self-sufficiency, reduce their level of welfare dependence, enhance acculturation, and promote coordination among voluntary resettlement agencies and service providers.

Projects will be accepted under either of two categories: (1) Projects to establish or maintain a refugee program in a State where the State is not participating in the refugee program or is dropping out of the refugee program or a portion of the program; and (2) projects to provide an alternative to the existing system of assistance and services to refugees.

Funding is available to these projects under the "Wilson/Fish" authority.

DATES: This is a standing announcement applicable from the date of publication until canceled or modified by the Director of the Office of Refugee Resettlement. The Director will observe the following closing dates for applications: October 31 and March 31 of each year. The applicant has the option to select the preferred review cycle. Under Category One, if a State withdraws from the program, the Director may review an application

outside of the proposed review cycle, if necessary.

FOR FURTHER INFORMATION CONTACT: Barbara R. Chesnik, Team Leader, Office of Refugee Resettlement, telephone (202) 401–4558, or e-mail: *bchesnik@acf.dhhs.gov*. You may address correspondence as follows: Administration for Children and Families (ACF), ORR/Division of Refugee Self-Sufficiency, 370 L'Enfant Promenade, SW, 6th Floor, Washington, DC 20447.

SUPPLEMENTARY INFORMATION:

The Office of Refugee Resettlement (ORR) is issuing this announcement for applications in two categories: (1) Projects to establish or maintain a refugee program in a State where the State does not fully participate in the refugee program; and (2) projects to provide an alternative to the existing system of assistance and services to refugees.

Category One of this announcement provides an opportunity for interested applicant(s) to continue the provision of refugee program services and assistance, including refugee cash and medical assistance, employment and other social services, targeted assistance, and preventive health services, in a State when the State elects to discontinue participation in the program or is not currently participating in the program. This category may also be used when a State elects to cease participation in all of the above components except for medical assistance and preventive health and where the Director, ORR, believes that continued resettlement in that State is in the best interests of the government and of refugees. A consortium of voluntary agencies, a lead voluntary agency, or another public or private non-profit agency may apply to administer and provide services and assistance to refugees in the State or local geographic area.

Category Two provides interested applicants an opportunity to implement alternative projects to promote refugee self-sufficiency, for example, (1) Where assistance and services for refugees receiving refugee cash assistance (RCA) and those receiving Temporary Assistance for Needy Families (TANF) could be provided in a better coordinated, effective, and efficient manner; (2) where TANF eligible refugees may not have access to timely, culturally and linguistically compatible services or employment and training programs; (3) where the regulatory options for delivery of services and assistance to refugees do not present the best resettlement in that location and resettlement could be made more effective through the implementation of an alternative project; (4) where refugees, particularly in two-parent families, are in danger of becoming dependent upon welfare and using the full time period of assistance allowed under the TANF program in a State, thereby removing the ability of the family to access TANF as a safety net in the future, if needed; (5) where the continuity of services from the time of arrival until the attainment of self-sufficiency needs to be strengthened, or (6) where it is in the best interest of refugees to be resettled outside the welfare system. Under this category, applicants have considerable latitude to propose an alternative model for resettlement in a geographic area.

Applicants are expected to propose, at a minimum, a range of services and financial assistance generally comparable to those currently available to eligible refugees in the State. Applicants in Category One may propose to transfer and serve in the Wilson/Fish project the clients who have not completed their period of eligibility under the existing RCA program. Applicants in Category Two must propose an alternative project for refugees in one or more geographic areas and cover, at a minimum, all newly arriving refugees in a geographic area of the cash assistance type proposed, e.g., all refugees otherwise eligible for RCA and/or TANF (sometimes referred to as "RCA-type" or "TANF-type" refugees). We would not expect projects in either category to propose transferring to the Wilson/Fish project refugees who are already enrolled in the TANF program.

Services and assistance under these awards are intended to help refugees attain self-sufficiency within the period of support defined by 45 CFR 400.211. This period is currently 8 months after arrival. We expect that most projects funded will provide services and assistance to refugees for this period of time, as needed.

Wilson/Fish projects will no longer be required to be budget neutral. For further discussion, please see the section on funding availability of this announcement.

ORR will entertain proposals, subject to the availability of appropriated funds, to provide interim cash support to refugees who would otherwise be eligible for the Temporary Assistance for Needy Families (TANF) program, in addition to those refugees who would otherwise be eligible for the Refugee Cash Assistance (RCA) program.

Consistent with section 412(e)(7)(B) of the Immigration and Nationality Act (INA), refugees in projects funded under this announcement will be precluded from receiving cash assistance under the TANF program or the RCA program during the period of support provided under the Wilson/Fish project. If alternative medical assistance is included, participants will be precluded from receiving RMA or Medicaid during the period of support provided under the Wilson/Fish project.

Applications will be screened and evaluated as indicated in this program announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

ORR encourages prospective applicants to consult with ORR while developing the application.

This Program Announcement consists of four parts:

Part I: Background—Program Purpose, Legislative Authority, Funding Availability, CFDA Number, Project and Budget Periods, Definition of Terms.

Part II: Wilson/Fish Program—Eligible Applicants, Purpose and Objectives, Use of Funds, Review Criteria.

Part III: The Review Process—Intergovernmental Review, Initial ORR Screening, Competitive Review.

Part IV: The Application—Application Development, Guidelines for Preparing a Project Description, Application Submission, Paperwork Reduction and Reporting.

Part I. Background

Program Purpose

Consistent with the legislative mandate provided in the Refugee Act of 1980, ORR program regulations define the parameters for resettlement services and assistance which we believe provide the best overall approach for assisting refugees to resettle and become self-sufficient. However, we acknowledge, as did Congress in passing the Wilson/Fish legislation, that opportunities should be available to public and private non-profit organizations to design different approaches to serving refugees in a particular geographic area. Since passage of the Wilson/Fish legislation in 1985, ORR has funded seven projects under a previous version of this announcement: Two public/private projects; two projects where a State discontinued participation in the program; two privately-administered projects; and one State-administered program.

The purpose of the announcement is to enable applicants to implement alternative projects under one of two categories in order to provide interim financial assistance, social services and case management to refugees in a

manner that encourages self-sufficiency, reduces the likelihood of welfare dependency, speeds acculturation, and/or fosters greater coordination among resettlement agencies and services providers in a community. We are interested in projects which optimize all available resources—from the Federal government, the State, and the community—to make the resettlement period as beneficial as possible. An integrated system of assistance and services is considered an essential characteristic of a Wilson/Fish project.

Although ORR has included the provision of medical assistance as an allowable activity under this announcement, we strongly believe that the best medical assistance option available in almost all circumstances is the existing State-administered program of refugee medical assistance or Medicaid. However, the option to provide medical assistance under this announcement would be available under two circumstances: (a) Primarily for Category One projects where a State chooses to discontinue participation in all areas of the refugee program, including the provision of refugee medical assistance; and (b) under Category Two, in the event that there are significant problems in the provision of medical assistance to refugees in a State and where an alternative private medical assistance plan or provider is available which is able to provide a better and a more timely range of services for refugees and at an affordable cost.

In the case where an alternative medical assistance system is approved, refugee participants would not be permitted to receive Medicaid or RMA during the period of support provided under the Wilson/Fish project because they would be receiving comparable medical assistance.

Legislative Authority

In October, 1984, Congress amended the Immigration and Nationality Act to provide authority for the Secretary of Health and Human Services to implement alternative projects for refugees. This provision, known as the Wilson/Fish Amendment, (Pub. L. 98–473), provided:

(7)(A) The Secretary shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

(B) Refugees covered under such alternative projects shall be precluded from receiving cash or medical assistance under any other paragraph of this subsection or under title XIX or part A of title IV of the Social Security Act.

* * * * *

(D) To the extent that the use of such funds is consistent with the purposes of such provisions, funds appropriated under section 414(a) of this Act, part A of title IV of the Social Security Act, or title XIX of such Act, may be used for the purpose of implementing and evaluating alternative projects under this paragraph.

Funding Availability

ORR will consider the requests for funding based on the merits of the proposals. Requests do not have to be limited to the amount being spent for current assistance and services, but that amount will be one of the measures used in considering the reasonableness of the request. Because projects proposed under this announcement will be alternatives to an existing program in a State or community, the expected range for funding applications and total funding level to be awarded per year is not a relevant measure for applicants. Historically, ORR has received fewer than three applications per year under preceding versions of this announcement.

In previous years, ORR applied a test of cost-neutrality to Wilson/Fish projects by limiting the amount of funds that could be awarded to grantees to the level of funds the project's target population would otherwise have received during the same budget and project periods. This concept of cost-neutrality, however, is not required by statute. The legislative history to the Wilson/Fish Amendment demonstrates Congressional intent that the amendment be budget neutral, meaning that no additional funds were provided by Congress to implement the amendment. See 130 Cong. Rec. 28,363 (October 2, 1984) (statements of Sen. Wilson, Sen. Weicker, Sen. Proxmire). Wilson/Fish projects no longer need to be cost neutral. ORR will entertain proposals, subject to the availability of appropriated funds, to provide financial assistance to TANF-type refugees in addition to RCA-type refugees.

Interim cash and medical assistance under the Wilson/Fish program will be provided from funds appropriated under the Transitional Assistance and Medical Services (TAMS) line item. Funds for services under the Wilson/Fish program will be provided through the State's share of social services formula funds applicable to the population proposed. If the program needs for services are in excess of the formula social services funds available in an area, ORR will consider the provision of supplementary discretionary funds to meet the funding level proposed in the application, if the funds are available and if the applicant has adequately demonstrated the need for such funding.

Applicants are encouraged to cover all or a portion of the costs of interim financial support in this program for TANF-eligible refugees by either seeking a relevant portion of State and Federal TANF funds from the State TANF agency, or seeking State-only funds which may be counted under certain circumstances toward the State's maintenance of effort (MOE) requirement. Those refugees supported by Federal or State TANF funds would be subject to TANF participation and work requirements, while refugees supported with State-only funds would not be subject to TANF rules.

Definition of Terms

Interim Financial Support: To provide financial assistance adequate to meet the basic needs of refugees otherwise eligible for RCA and/or for TANF at a level generally comparable to assistance allowable under those programs. The greater part of this assistance is expected to be provided in the form of cash payments to refugees, but may also include incentive bonuses for early employment or payment for work-related expenses such as transportation or tools.

Eligible population: In addition to persons who meet all requirements of 45 CFR 400.43, "Requirements for documentation of refugee status", eligibility for refugee program services and assistance also includes: (1) Cuban and Haitian entrants under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422; (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Program Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513). For convenience, the term "refugee" is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

CFDA Number: 93.583

Part II. The Wilson/Fish Program

Eligible Applicants

Eligible applicants include public and private non-profit organizations, such as States, private voluntary resettlement agencies, a consortium of agencies, local government entities, refugee mutual assistance associations, and community-based organizations.

Because a Wilson/Fish project will have a potential impact on a State's or locality's budgetary needs for cash assistance and/or medical assistance, as well as social services, a non-State applicant is encouraged to coordinate its activities with the State Refugee Coordinator in the development and implementation of such an alternative project under Category Two of this announcement. State applicants should also coordinate their proposed activities with other participants in refugee resettlement such as voluntary resettlement agencies, service providers, mutual assistance associations, and local agencies, if applicable.

Project and Budget Periods

This announcement is inviting applications for project periods up to four years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for four years. Applications for non-competing continuation grants funded under these awards beyond the one-year budget period but within the four year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the government.

Income generated from activities funded under this program shall be added to the funds committed to the project, although ORR does not expect that such income will be generated.

Part III: The Review Process

A. Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State territory participation in the Intergovernmental Review Process does not signify applicant eligibility for Financial assistance under a program. a potential applicant must meet the eligibility requirements of the program for which it is applying prior to submitting an application to its single point of contact (SPOC), if applicable, or to ACF.

As of November 20, 1998, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372:

Alabama, Alaska, American Samoa, Colorado, Connecticut, Kansas Hawaii, Idaho, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility criteria of the program may still apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Attn: Grants Officer, 370 L'Enfant Promenade, SW., Sixth Floor-East, Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included with the application materials for this program announcement.

B. Initial ORR Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the applicable closing date and submitted in accordance with the instructions in this announcement; and (2) the applicant is an eligible public or private non-profit agency, and therefore eligible for funding. ORR will return to the applicant those applications which are found not eligible or incomplete.

C. Competitive Review and Evaluation Criteria

Applications which pass the initial ORR screening will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria within the context of this program announcement. Proposed projects will be reviewed using the following evaluation criteria:

1. Objectives, Need for Assistance, and Rationale for Proposing the Alternative-Project

The improvements proposed to be implemented by the project are based on a thorough review and description of the current resettlement system in the geographic area to be covered, in terms of the services and assistance available; the ability of refugees to access culturally and linguistically appropriate services; the employment outcomes achieved (types of jobs currently available and length of time after arrival required to obtain these jobs); and the post-employment services available. Points: 20

2. Results, Benefits Expected, and Proposed Outcomes

The proposed project is capable of achieving the stated results. The outcomes proposed are reasonable, and the methodology for collecting outcome and other data are clearly described and adequate. Points: 15

3. Approach/Program Strategy

The proposed project design is clear, logical, complete and reasonable in terms of (a) the proposed strategies related to the target population, the

geographic area to be covered, the adequacy of the system, the policies and administration of interim cash support; (b) the likelihood that the relationship between the interim support and services described will result in a program which delivers quality resettlement; and (c) the adequacy of the policies and procedures for appeals and fair hearings. The application has included adequate evidence of consultation with other relevant agencies and actors, e.g., the State Coordinator in a non-State application and the voluntary agencies and refugee service providers in a State application. Points: 25

4. Organization

The organization as described has the capacity and resources for effective administration and management of the project. The project staff are qualified and have the necessary expertise to manage the project and to deliver bilingual and bicultural services and assistance to refugees in the manner described. The applicant has described a system for monitoring and reporting that is attainable and adequate considering the organizational capacity and resources described. Points: 15

5. Budget and Budget Justification

The budget is clear, logical, complete, and reasonable in relation to the expected activities and outcomes. The line-item budget narrative is understandable and adequately justifies the costs proposed. The data provided to justify the budget are consistently and logically presented in terms of the population to be served. Points: 25

Part IV. The Application

Project Description

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

The Director reserves the right to award more or less than the funds requested depending upon the quality of the applications, or such other circumstances as may be deemed to be in the best interest of the Government. Applicants may be required to reduce the scope of selected projects to accommodate the amount of the approved grant awards.

Applicants shall prepare the project description statement in accordance with the following instructions.

1. Project Summary/Abstract

Provide a summary of the project description with reference to the funding request.

2. Objective and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other improvements to the current resettlement situation which you are proposing to make. The need for assistance must be demonstrated and the objectives of the project must be clearly stated; supporting documentation, such as letters of support from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

ORR is particularly interested in the following:

a. A clear description of the improvements to be made by the alternative strategy, stated in terms of population to be served, assistance and services to be provided, and outcomes to be achieved.

b. A description of the planning and preparation for the project, including the primary participants involved in planning for this project and those institutions and organizations consulted, such as refugee mutual assistance associations, local community services agencies, national voluntary organizations, and other agencies that serve refugees.

3. Results or Benefits Expected

Identify the results and benefits to be derived. For example, describe the proposed program outcomes in terms of appropriate indicators, including proposed outcomes using the Government Performance and Results (GPRA) measures currently in use in the refugee resettlement program (e.g., the number of employable refugees in the caseload, the number of entered employments, the number of cash assistance reductions due to employment, the number of cash assistance terminations due to employment, the average hourly wage at entered employment, the number of 90-day employment retentions, and the number of entered employments with health benefits available). Identify other benefits refugees will realize as a result of the Wilson/Fish project, including enhanced acculturation and other social adjustment measures.

Describe how and what data will be collected and how this data will be used to analyze project results. Describe the plan and schedule for project monitoring.

4. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

ORR is particularly interested in the following:

a. Describe the target population (numbers, ethnicity, and other characteristics such as age, family composition, ability to speak English, and labor skills); and the targeted populations by the anticipated category of public assistance for which the population may otherwise be eligible.

b. Describe the proposed management plan indicating who has fiscal and programmatic responsibility for the overall project and for individual components. Identify the organizational structure and include a staffing pattern and key position descriptions. Briefly discuss experience of organization(s) and staff in providing services and assistance to refugees, including the capacity to provide bilingually and biculturally appropriate services. Sources and allocation of funds for

administration and staffing should be detailed and clearly shown for each position and activity.

.c. Describe the proposed services and how they will be provided, e.g., employment and case management services.

d. Describe the proposed system for providing cash support, including: (i) The income standards for cash assistance eligibility; (ii) payment levels to be used to provide cash assistance to eligible refugees; (iii) assurance that the payment levels established are not lower than the State TANF amount; (iv) a detailed description of how benefit payments will be structured, including the employment incentives and/or income disregards to be used, if any; (v) a description of how refugees residing within the project area will have appropriate access to cash assistance and services; (vi) a description of the eligibility criteria; (vii) a description of provisions for sanctions for non-cooperation as required by section 412(e)(2) of the INA; (viii) a description of the procedures to be used to ensure appropriate protections and due process for refugees, such as notice of adverse action and the right to mediation, a predetermination hearing, and an appeal to an independent entity; and (ix) a description of the procedures to be used to safeguard the disclosure of information on refugee clients.

e. Describe the proposed system for providing medical assistance, if applicable, including: (a) The type and range of services to be made available (e.g., physician, inpatient, prescription, surgical, emergency, dental, etc.); (b) a comparison of the system and range of medical services proposed to the currently available Medicaid system and services; (c) the type of provider proposed and history of the proposed provider, especially in providing services to low-income and ethnically diverse communities; (d) a description of how refugees, especially those who do not speak English or who have limited English skills, will have equal, easy, and timely access to medical assistance; (e) variables which will affect the cost of this assistance. Include a comparison of current costs with proposed costs. A description of the constitutionally required due process procedures described in d(viii), above, must also be included for medical assistance alternative projects.

f. Assurances that the written policies of the alternative project will be made available to refugee clients, including agency eligibility standards, duration and amount of cash assistance payments and medical assistance (if applicable), the requirements for participation in services, the penalties for non-cooperation, and client rights and responsibilities to ensure that refugees understand what they are eligible for, what is expected of them, and what protections are available to them. Assurance that agency policy materials will be made available to refugee clients in English and in their own language.

g. Discuss how all activities of the project will be coordinated among resettlement agencies and service providers in the community, and how refugees will have access to other programs in the community, such as the Children's Health Insurance Program (CHIP), child care services, and other support programs for working families and individuals.

5. Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

6. Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form, e.g., cash assistance, employment and other services, case management, and administrative costs by program activity. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

ORR is also interested in the following:

1. A client loading chart showing the anticipated arrival of clients over the budget period and the projected interim assistance (and medical assistance, if applicable) needed on a monthly basis throughout the year to assist those refugees. Provide assumptions about the length of time clients are expected to need that assistance.

Identify administrative costs required for the provision of interim cash assistance and for services separately from those costs projected as part of the overall role of coordinating the refugee program in the geographic area.

2. The amount and source of any additional funding, including in-kind contributions, that will help support the project.

3. If the provision of medical assistance is proposed, provide a detailed budget and a narrative concerning the underlying assumptions used in developing the budget, such as the system for co-payments and the proposed amounts of co-payments, if applicable, and other variables such as deductibles, premium amounts, prescription costs, if separate.

7. Additional Information

The following is a description of additional information that should be placed in the appendix to the application.

A. Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

B. Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail the scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

V. Application Submission

1. Mailed applications postmarked after the closing date will be classified as late.

2. Deadline. Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ORR in time for the independent review to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Attention: Shirley B. Parker, Grants Officer, 370 L'Enfant Promenade, SW, Sixth Floor—East, Washington, D.C. 20447.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications hand-carried by applicants, applicant couriers, or by

other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, ACF Mailroom, 2nd Floor (near loading dock), Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note "Attention: Shirley B. Parker, ORR Grants Officer". (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ORR cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

3. Late applications. Applications which do not meet the criteria above are considered late applications. ORR shall notify each late applicant that its application will not be considered in the current competition.

4. Extension of deadlines. ORR may extend an application deadline when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there is widespread disruption of the mail service, or in other rare cases. Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

Applicable Regulations

Applicable HHS regulations can be found at 45 CFR part 74 or part 92.

Reporting Requirements

Grantees are required to file the Financial Status Report (SF–269) and the Program Progress Reports on a quarterly basis. Funds issued under these awards must be accounted for and reported upon separately from all other grant activities. A final Financial Status Report and Program Progress Report shall be due 90 days after the project period end date.

Grantees must maintain adequate records to track and report on project outcomes and expenditures by budget line item.

The official receipt point for the original of all reports and correspondence is the ORR Grants Officer. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period: the original addressed to the Grants Officer, Office of the Director; a copy addressed to the ORR Project Officer, Division of Refugee Self-Sufficiency. The mailing address is: Office of Refugee Resettlement, 370 L'Enfant Promenade SW, Sixth Floor—East, Washington, DC 20447.

A final Financial and Program Report shall be due 90 days after the budget expiration date.

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Based on historical experience, ORR anticipates fewer than ten responses annually to this notice. An OMB control number is therefore not required.

Dated: April 15, 1999.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 99–10015 Filed 4–21–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Cooperative Agreement With Policy Research, Inc., To Continue the National GAINS Center for People With Co-Occurring Disorders in the Justice System

AGENCY: Center for Substance Abuse Treatment (CSAT) and Center for Mental Health Services (CMHS), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Cooperative agreement to support the National GAINS Center for People with Co-occurring Disorders in the Justice System.

SUMMARY: This notice is to inform the public of a planned $1,100,000 cooperative agreement award to Policy Research, Inc., to support the National GAINS Center for People with Co-occurring Disorders in the Justice System. CSAT and CMHS will make this award if the application is recommended for approval by the initial review group and the CSAT and CMHS National Advisory Councils. This is not a formal request for applications; assistance will be provided only to Policy Research, Inc. The purpose of the award is to support developing knowledge, conducting analyses of state-of-the-art practices, and disseminating and transferring information related to treating and managing persons in the justice system who are dually diagnosed with substance abuse and mental disorders. The GAINS Center promotes effective solutions by gathering information, assessing what works, interpreting the facts, networking with key stakeholders, and stimulating change.

Eligibility for this program is limited to Policy Research, Inc., a non-profit corporation which operates the National GAINS Center. The GAINS Center has been federally funded by SAMHSA through the National Institute of Corrections/Department of Justice. This resource center has established, on a national level, a locus for the collection and dissemination of information about effective mental health and substance abuse services for people with co-occurring disorders in the justice system. The Center gathers information designed to influence the range and scope of mental health and substance abuse services provided in the justice system, tailors these materials to the specific needs of localities, and provides technical assistance to help them plan, implement, and operate appropriate, cost-effective programs. SAMHSA, for administrative reasons, can no longer fund the Center in this fashion because the former funding mechanism is no longer available. Therefore, SAMHSA will fund the project directly to complete the originally approved term of 5 years. An award to Policy Research, Inc., will enable the GAINS Center to build upon prior work and current activities underway in its work plan. This conversion to direct SAMHSA (CSAT and CMHS) funding will permit several important projects to be completed.

Authority: The cooperative agreement will be made under the authority of section 501(d)(5) of the Public Health Service Act, as amended (42 U.S.C. 290aa). The Catalog of Federal Domestic Assistance number for this program is 93.230.

Contact: Bruce C. Fry, J.D., Division of Practice and Systems Development, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 740,5600 Fishers Lane, Rockville, MD 20857, (301) 443–0128.

Dated: April 16, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–10077 Filed 4–21–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–10]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: June 21, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Diane L. Lobasso, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410, telephone (202) 708–2191 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: NOFA for Secondary Market for Non-conforming Loans to Low Wealth Borrowers Demonstration Program.

OMB Control Number, if applicable: 2502–0535.

Description of the need for the information and proposed use: The Department will collect information from grantees (non-profits) to assess their ability to participate in the demonstration program. Information will also be collected on a quarterly basis and at the conclusion of the demonstration to assess the outcome of the program.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 36, frequency of responses is quarterly, the total annual responses are 6, and the estimated annual burden hours requested is 825.

Status of the proposed information collection:

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 12, 1999.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 99–10078 Filed 4–21–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–22]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* May 24, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number or respondents, frequency of response, and hours or response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 16, 1999.

David S. Cristy,

Director, ISP and Management.

Title of Proposal: Information Collection for regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac).

Office: Housing.

OMB Approval Number: 2502–0514.

Description of the Need for the Information and Its Proposed Use: HUD will collect information on the Government-Sponsored Enterprises (GSEs') business activities to: Measure and monitor compliance with statutorily-mandated housing goals. To foster a continuing dialogue between HUD, the GSEs, Congress and the public on the activities of the GSEs with respect to affordable housing and

underserved mortgage market issues; and to improve the operation of the housing finance market.

Form Number: None.

Respondents: Business or other for-profit.

Frequency of Submission: On occasion.

Reporting burden	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
	2		43		64.72		5,632

Total Estimated Burden Hours: 5,632.

Status: Extension of a currently approved collection.

Contact: Janet A. Tasker, HUD, (202) 708–2224; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated April 16, 1999.

[FR Doc. 99–10079 Filed 4–21–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE 010442

Applicant: Missouri Department of Conservation, NW Regional Office, St. Joseph, Missouri.

The applicant requests a permit to take (capture and hold for artificial propagation) Topeka shiners (*Notropis topeka*) from the Moniteau Creek watershed in Cooper and Moniteau Counties, Missouri. Take from the wild is proposed for the purpose of captive propagation and development of propagation techniques for Topeka shiner. Propagation will take place at the Blind Pony Fish Hatchery in Sweet Springs, Missouri. Proposed work is anticipated to result in the enhancement of survival of the species in the wild.

Permit Number TE 805269

Applicant: Dr. Dan Soluk, Center for Aquatic Ecology, Illinois Natural History Survey, Champaign, IL

The applicant requests an amendment to his existing endangered species permit for Hine's emerald dragonfly (*Somatochlora hineana*) to include collection (limited lethal take) of specimens for scientific research to enhance survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations (Attn: Ms. Lisa Mandell), 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5343); FAX: (612/713–5292).

Dated: April 15, 1999.

Lisa L. Mandell,

Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 99–10052 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–008519

Applicant: Zoo Atlanta, Atlanta, GA

The applicant requests a permit to import one male and one female captive-born giant panda (*Ailuropoda melanoleuca*) from Chengdu, China, for scientific research and for the enhancement of the survival of the species through captive breeding.

PRT–009239

Applicant: University of California, Davis, CA

The applicant requests a permit to import hair and blood samples from wild and captive-held Orangutans (*Pongo pygmaeus pygmaeus*) from Sarawak, Malaysia, for the enhancement of the species in the wild through scientific research and conservation.

PRT–010593

Applicant: Donald D. Schmitz, Tucson, AZ

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–010618

Applicant: Anthony N. Sciullo, Wexford, PA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–008873

Applicant: Duke University, Durham, NC

The applicant request a permit to import samples from wild Zanzibar red colobus monkey (*Procolobus kirkii*) in Zanzibar, Tanzania for the purpose of enhancement of the survival of the species through scientific research.

PRT–009445

Applicant: University of Georgia, Athens, GA

The applicant request a permit to import samples from various Psittaciformes held in captivity in various countries for the purpose of enhancement of the survival of the species through scientific research.

PRT–007642

Applicant: Have Trunk Will Travel; Perris, CA

The applicant request a permit to re-import, re-export, and sale in foreign commerce one pre-convention Asian elephant (*Elephas maximus*) to African Lion Safari, Ontario, Canada, for the purpose of enhancement of the survival of the species through propagation.

PRT–797878, 009987, 009988

Applicant: Cat Dancers Ranch, Alachua, Fl

The applicant requests a permit to re-export and re-import leopard (*Panthera*

pardus), tigers (*Panthera tigris*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358–2281).

Dated: April 16, 1999.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–10082 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for an Incidental Take Permit for Golden-cheeked Warbler, Black-capped Vireo, Tooth Cave Pseudoscorpion, Kretschmarr Cave Mold Beetle, Bee Creek Cave Harvestman, Bone Cave Harvestman, Tooth Cave Spider, Tooth Cave Ground Beetle, and Species of Concern, Jollyville Plateau Salamander and Bifurcated Cave Amphipod, During the Construction and Operation of a Residential and Commercial Development on Portions (237 Acres) of the Approximately 550.3-Acre Grandview Hills Property, Austin, Travis County, Texas

SUMMARY: Tomen-Parke Associates, LTD, and Pulte Homes of Texas, L.P. (Applicants) have applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number PRT–815447. The requested permit, which is for a period of 30 years, would authorize the incidental take of the endangered golden-cheeked warbler (Dendroica chrysoparia), black-capped vireo (Vireo atricapillus), Tooth Cave pseudoscorpion (Tartarocreagris texana), Kretschmarr Cave mold beetle (Texamaurops reddelli), Bee Creek Cave harvestman (Texella reddelli), Bone Cave harvestman (Texella reyesi), Tooth Cave spider (Neoleptoneta myopica), Tooth Cave ground beetle (Rhadine persephone), and species of concern, Jollyville Plateau salamander (Eurycea sp.) and bifurcated cave amphipod (Stygobromus bifurcatus), during construction and operation of a residential and commercial development on portions of the approximately 550.3-acre Grandview Hills property, Austin, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before May 24, 1999.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Sybil Vosler, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas at the above address. Please refer to permit number PRT–815447 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Sybil Vosler at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

APPLICANT: Tomen-Parke Associates, LTD, and Pulte Homes of Texas, L.P., plan to construct a residential and commercial development on a 550.3-acre tract and will preserve a minimum of 315 acres of golden-cheeked warbler and other endangered species habitat on-site. An additional 15.4 acres of black-capped vireo habitat will be restored adjacent to the property off-site. The construction will be located at the Grandview Hills property, located west of R.M. 620 and north of Bullick Hollow Road on the northwest side of the City of Austin, Travis County, TX. The preserved areas will be maintained in their natural state; title or conservation easement will be granted in perpetuity and held by a non-profit conservation organization or governmental agency approved by the Service. In addition, the Applicants will avoid impacts to the six listed karst invertebrates and two species of concern.

Alternatives to this action were rejected because increased development would result in greater levels of take of golden-cheeked warblers, black-capped vireos and karst invertebrates, and selling or not developing the subject property with federally listed species present was not economically practical or feasible.

Dated: April 8, 1999.

Charlie Sanchez, Jr.,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 99–10051 Filed 4–21–99; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Paperwork Reduction Act Request to Office of Management and Budget

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for the Johnson-O'Malley Program Annual Report Form, OMB No. 1076–0096, has been submitted to the Office of Management and Budget (OMB) for

approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 25).

DATES: Submit your comments and suggestions on or before May 24, 1999.

ADDRESSES: Written comments should be sent directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Room 10102, 725 17th Street NW., Washington, DC 20503. Send a copy of your comments to Garry R. Martin, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street NW., Washington, DC 20240–0001.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection may be obtained by contacting Garry R. Martin, 202–208–3478.

SUPPLEMENTARY INFORMATION:

Abstract

The information collection is necessary to assess the need for Johnson-O'Malley programs as required by 25 CFR 273.50, Annual Reporting. A request for comments on this information collection was published in the **Federal Register** on February 24, 1998 (63 FR 9245). A total of five comments were received. Two commentors remarked that the streamlined format would make reporting a more efficient process and stated that the forms were acceptable. One commentor recommended that the form be numbered for easier reference in the application review process. One respondent commented that it takes longer than the identified number of hours to gather and maintain data for the completion of the annual report but did not offer an alternate length of time. One respondent commented on the relationship of the Johnson-O'Malley annual report form to tribal government programs, self-governance compacts and other Bureau education programs. All comments were received timely and were considered in this analysis.

Request for Comments

Comments are invited on (a) whether the information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including through the use of automated collection techniques or other forms of information technology.

The Office of Management and Budget has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, comments submitted in response to this notice should be submitted to OMB within 30 days in order to assure their maximum consideration.

Title: Johnson-O'Malley Program Annual Report Form.

OMB approval number: 1076–0096.

Frequency: Annually.

Description of respondents: Tribes, Tribal Organizations, School District education program administrators.

Estimated completion time: 5 hours.

Number of Annual responses: 360.

Annual Burden hours: 1,800 hours.

Dated: April 7, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–10024 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1020–00; GP9–0167]

Notice of Meeting of John Day—Snake Resource Advisory Council

AGENCY: Bureau of Land Management, Prineville District Office.

ACTION: Meeting of John Day—Snake Resource Advisory Council: John Day, Oregon; June 3 & 4, 1999.

SUMMARY: A meeting of the John Day—Snake Resource Advisory Council will be held on June 3rd from 8:00 a.m. to 5:00 p.m. and on June 4th from 8:00 a.m. to 3:00 p.m. at the U.S. Forest Service Offices, 431 Paterson Bridge Road, John Day, Oregon 97845. The meeting is open to the public. Public comments will be received at 10:00 a.m. on June 4th. Topics to be discussed by the Council will include: A field trip on June 3rd to the Summit Fire to look at forest health problems in the region; John Day River Plan update; program of work for 1999; presentation of weed management; report on Resource Emphasis and Action Priorities (REAP); and ICBEMP update. Transportation for the field trip will not be provided to the public.

FOR FURTHER INFORMATION CONTACT: James L. Hancock, Bureau of Land Management, Prineville District Office, 3050 NE Third Street, P.O. Box 550, Prineville, Oregon 97754, or call (541) 416–6700.

Dated: April 13, 1999.

James L. Hancock,

District Manager.

[FR Doc. 99–10106 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–932–1410–00; AA–59639]

Public Land Order No. 7386; Opening of Land Under Section 24 of the Federal Power Act; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order opens, subject to the provisions of Section 24 of the Federal Power Act, approximately 11,900 acres of land withdrawn by a Geological Survey order which established Power Site Classification No. 395. This action will permit conveyance of the land to the State of Alaska, if such land is otherwise available, and retain the waterpower rights to the United States. The land has been and continues to be open to mineral leasing.

EFFECTIVE DATE: April 22, 1999.

FOR FURTHER INFORMATION CONTACT: Shirley J. Macke, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5049.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994), and pursuant to the determination by the Federal Energy Regulatory Commission in DVAK–149–000, it is ordered as follows:

1. Subject to valid existing rights, existing withdrawals, or other segregations of record, and the requirements of applicable law, at 8:00 a.m. Alaska Standard Time, on April 22, 1999, the following described public land withdrawn by the Geological Survey Order dated April 22, 1948, which established Power Site Classification No. 395, is hereby opened to disposal in order to allow for conveyance of the land to the State of Alaska, subject to the provisions of Section 24 of the Federal Power Act:

Seward Meridian

Land located within Tps. 13 N., Rs. 16 through 20 W., and T. 14 N., R. 20 W., more particularly described as:

All land within ¼ mile around the Kenibuna Lake, Chakachatna River, Chakachamna Lake and tributary.

The area described contains approximately 11,900 acres.

2. The State of Alaska applications for selection made under Section 6(b) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1994), and under Section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1994), become effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State will continue to be subject to the terms and conditions of the Power Site Classification No. 395, as established by Geological Survey Order dated April 22, 1948, and any other withdrawal or segregation of record.

Dated: March 29, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–9971 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

Request for Public Comment on Appropriate Studies on Winter Use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Solicitation of public comment on appropriate research topics on winter use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway.

SUMMARY: On September 24, 1998 the National Park Service and the Fund for Animals and other individuals and organizations signed a settlement agreement to resolve litigation concerning the National Park Service Winter Use Plan for Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway. Under the terms of the agreement the National Park Service agreed to solicit comments on appropriate studies they should conduct on winter use in the parks for use in the ongoing winter use planning process. However, due to the time constraints imposed by the settlement agreement, some of the proposed and ongoing winter use research may not be completed in time for incorporation into the draft winter use plans and environmental impact statement. The information will be useful for long term management of winter use in the parks.

The National Park Service requests that all individuals, organizations, agencies or entities that are interested in or affected by winter visitor use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway share comments or concerns on appropriate topics of research for use in the winter user planning process.

Background

Winter use research projects currently underway in the affected national parks include: the social carrying capacity of Yellowstone National Park for winter use, an assessment of winter recreation on wildlife in Yellowstone National Park, a winter visitor survey for Yellowstone and Grand Teton National Parks and the Greater Yellowstone Area, a snowmobile emission survey in Yellowstone, Hayden Valley bison monitoring, Gibbon/Golden Gate bison monitoring, bison use of groomed roads in Yellowstone National Park, characterization of snowmobile particulate emissions, measurement of airborne toxics and regulated pollutants emitted from snowmobiles in Yellowstone National Park, and snowpack and snowmelt runoff chemical analysis at Yellowstone National Park. In addition, research projects are currently being conducted on bison ecology and brucellosis. These studies include forage availability, habitat use, and bison population dynamics.

Proposed research topics include, but are not limited to, snowmobile mogul generation, a field evaluation of gasohol's ability to reduce snowmobiler exposure to carbon monoxide, and snowmobile sound monitoring.

Comments

Written comments concerning appropriate research topics on winter use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway should be postmarked no later than June 21, 1999. Comments should be addressed to Winter Use Research, Planning Office, Box 168, Yellowstone National Park WY, 82190.

FOR FURTHER INFORMATION: Contact Sarah Creachbaum, Planning Office, Box 168, Yellowstone National Park WY, 82190, (307) 344–2024; or George Helfrich, Grand Teton National Park, Box 170, Moose WY, 83102 (307) 739–3486.

Dated: April 7, 1999.

John E. Cook,

Regional Director, Intermountain Region.

[FR Doc. 99–9922 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy and Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622, the Department of Justice gives notice that a proposed partial consent decree in *United States* v. *USX Corp., et al.*, Civil No. 98 C 6389 (N.D. Ill.), was lodged with the United States District Court for the Northern District of Illinois on April 7, 1999, pertaining to the Yeoman Creek Landfill Superfund Site, located in Waukegan, Lake County, Illinois. The proposed partial consent decree would resolve the United States's civil claims against ten *de minimis* defendants named in the action as provided in the consent decree. The settling defendants are Akzo Nobel Coatings, Inc. (successor to Reliance Universal, Inc.); Babson Bros. Co. (on behalf of Pfanstiehl Detergent Chemicals, Inc.); Commonwealth Edison Company; F.K. Pattern & Foundry, Inc.; Kmart Corporation; North Shore Gas Company; Pfanstiehl Corporation (f/k/a Pfanstiehl Chemical Corporation); Pfanstiehl Laboratories, Inc.; Sears, Roebuck and Co.; and Waste Management of Illinois, Inc. (successor to Ace Scavenger Service, Inc.) and Waste Management of Wisconsin,Inc. (f/k/a Acme Disposal Service Corp. and successor to City Disposal Corporation, f/k/a City Disposal Service, Inc.). Under the proposed consent decree, the ten settling defendants would pay a total of $290,000,00.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resource Division, United States Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *USX Corp., et al.*, Civil No. 98 C 6389 (N.D. Ill.), and DOJ Reference No. 90–11–2–1315/1.

The proposed consent decree may be examined at: (1) the Office of the United States Attorney for the Northern District

of Illinois, 219 S. Dearborn Street, Chicago, IL 60604; (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Stuart Hersh (312–886–6235)); and (3) the U.S. Department of Justice, Environment and Natural Resources Division Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. 20005 (202–624–0892). A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and DOJ Reference Number and enclose a check in the amount of $9.00 for the consent decree only (36 pages at 25 cents per page reproduction costs), or $9.75 for the consent decree and all appendices (39 pages), made payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–10065 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on April 14, 1999, a proposed consent decree in *United States* v. *WCI Steel, Inc.*, Civil Action No. 4:95 CV 1442, was lodged with the United States District Court for the Northern District of Ohio.

In this action, the United States sought injunctive relief and civil penalties under section 309(b) and (d) of the Clean Water act ("the Act"), 33 U.S.C. 1319(b) and (d), against WCI Steel, Inc. ("WCI") for violations of section 301 of the Act, 33 U.S.C. 1311, and the terms and conditions of WCI's National Pollutant Discharge Elimination System ("NPDES") permits at WCI's Warren, Ohio, steel mill. Specifically, the Complaint alleges that WCI repeatedly violated various effluent limitations in each of its three permits over the past several years, as evidenced by WCI's self-monitoring reports, and that numerous unpermitted discharges at both permitted outfalls and unpermitted point sources have occurred. In addition, WCI has allegedly violated various monitoring, sampling, and reporting requirements during the past several years.

The proposed Clean Water Act consent decree provides for injunctive relief consisting of an evaluation of WCI's blast furnace recycle system, a comprehensive evaluation of its wastewater systems, a visible oil corrective action and monitoring plan, the removal of sludge and the lining of a wastewater pond as well as the removal of sludge and filling in of a second wastewater pond, cessation of chlorine discharges except as authorized by its NPDES permit, and various steps to improve compliance with stormwater effluent limitations. In addition, WCI will spend a minimum of $750,000 to conduct a sediment removal Supplemental Environmental Project ("SEP") and a benthic macro-invertebrate sampling SEP in the Mahoning River. In addition, WCI will pay a civil penalty of $1,140,000 to resolve the claims in the amended CWA complaint as well as claims for certain violations of a December 1997 administrative order.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *WCI Steel, Inc.*, DOJ Ref. # 90–5–1–1–5027.

The proposed consent decree may be examined at the office of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue East, Cleveland, Ohio 44114; at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604; and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $12.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–10066 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Under 28 CFR § 50.7 notice is hereby given that on April 14, 1999, a proposed consent decree in *United States* v. *WCI Steel, Inc.*, Civil Action No. 4:96 CV 659, was lodged with the United States District Court for the Northern District of Ohio.

In this action, the United States sought injunctive relief and civil penalties under Section 113(b) of the clean Air Act, 42 U.S.C. 7413(b), for violations of the National Emission Standard for Hazardous Air Pollutants for Asbestos ("Asbestos NESHAP"), 40 CFR Part 61, Subpt, M, the federally approved Ohio State Implementation Plan ("SIP"), and an Approval to Construct permit issued pursuant to regulations promulgated under Part C of the Act, Prevention of Significant Deterioration of Air Quality, at WCI Steel's Warren, Ohio, facility. Specifically, the Complaint alleges that WCI violated the work practice, inspection, and notice requirements of the Asbestos NESHAP, the opacity limits set forth in Ohio Rule AP–3–07 and its revised version codified at OAC Rule 3745–17–07 of the Ohio SIP, the mass emission limits set forth in Ohio Rule AP–3–12 and its revised version codified at OAC Rule 3745–17–11 of the Ohio SIP, and the particulate emission limits set forth in WCI's Approval to Construct permit. The proposed consent decree provides for injunctive relief consisting of an asbestos NESHAP compliance plan, a visible emissions monitoring program, and an internal and external inspection and evaluation at WCI's electrostatic precipitator stack. In addition, WCI will pay a civil penalty of $600,000 to resolve claims under the Clean Air Act, the asbestos NESHAP, and the Ohio SIP.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *WCI Steel, Inc.*, DOJ Ref. #90–5–1–1–5027A.

The proposed consent decree may be examined at the office of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue East, Cleveland, Ohio 44114; at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $8.00 (25 cents per page

reproduction costs); payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–10067 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended

Notice is hereby given that on March 26, 1999, a proposed consent decree in *United States* v. *Daniel Wettreich, et al.*, Civil Action No. 97–2648–CIV–T–23(B) was lodged with the United States District Court for the Middle District of Florida, Tampa Division.

In this action, the United States sought reimbursement of response costs incurred with respect to a release and threatened release of hazardous substances at the APF Industries Site in St. Petersburg, Florida. The United States sued three parties, alleging that they were liable under 42 U.S.C. 9607(a)(2): Daniel Wettreich; Hermina, Inc., as trustee for the Wettreich Heritage Trust; and Zara Wetterich, as trustee for the Wettreich Heritage Trust. In resolution of these claims, the defendants will pay the United States $40,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Daniel Wettreich, et al.*, D.J. Ref. 90–11–2–963A.

The proposed consent decree may be examined at the Office of the United States Attorney, 400 North Tampa Street, Suite 3200, Tampa, Florida; at U.S. EPA Region 4, 61 Forsyth Street, SW, Atlanta Georgia 30303; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC, 20005. In requesting a copy, please enclose a check in the amount of $6.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–10068 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Internatonal Competition Policy Advisory Committee (ICPAC); Notice of Hearings

The International Competition Policy Advisory Committee ("Advisory Committee") has rescheduled hearings that were scheduled for April 23, 1999 in Washington, D.C. The hearings will now be held on May 17, 1999. The hearings currently scheduled for April 22, 1999 will still take place as planned. The Advisory Committee was established by the Department of Justice to provide advice regarding issues relating to international competition policy; specifically, how best to cooperate with foreign authorities to eliminate international anticompetitive agreements, how best to coordinate United States' and foreign antitrust enforcement efforts in the review of multinational mergers, and how best to address issues that interface international trade and competition policy concerns. The hearings on May 17, 1999 will be held at the American Geophysical Union Conference Center, 2000 Florida Avenue, N.W., Washington, D.C. 20009–1277. The agenda and current schedule for the hearings are as follows:

May 17, 1999

9:00–9:30—Welcoming Remarks
9:30–12:00—Session One: Presentations by Members of the ABA Section of Antitrust Law ICPAC Task Force
1:00–2:00—Session Two: Presentations by Economists
2:00–3:45—Session Three: Presentations from Representatives of U.S. Businesses
4:00–5:30—Session Four: Presentations on Institution Building and Competition Law Advocacy

The hearings schedule is not final and may change. For the latest information about the hearings schedule or other matters related to the hearings, please check the Advisory Committee's website at: www.usdoj.gov/atr/icpac/icpac.htm or contact Marianne Pak of the Advisory Committee staff at (202) 353–9074.

Attendance is open to the interested public, limited by the availability of space. Persons needing special assistance, such as sign language interpretation or other special accommodations, should notify the contact person listed below as soon as possible. Members of the public may submit written statements by mail, electronic mail, or facsimile at any time before or after the hearings to the contact person listed below for consideration by the Advisory Committee. Oral statements from the public will not be solicited or accepted at the hearings. For further information contact: Merit Janow, c/o Marianne Pak, U.S. Department of Justice, Antitrust Division, 601 D Street, N.W., Room 10011, Washington, D.C. 20530, Telephone: (202) 353–9074, Facsimile: (202) 353–9985, Electronic mail: icpac.atr@usdoj.gov.

Merit E. Janow,

Executive Director, International Competition Policy Advisory Committee.

[FR Doc. 99–10257 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities; Announcement of OMB Approvals

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing that the Office of Management and Budget (OMB) has intended the approval for a number of information collection requirements in OSHA's safety and health standards. OSHA sought approval under the Paperwork Reduction Act of 1995 (PRA–95) and as required by that Act, is announcing the OMB control numbers and expiration dates for the approval requirements.

FOR FURTHER INFORMATION CONTACT: Barbara J. Bielaski, Office of Regulatory Analysis, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3627, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone (202) 693–1954.

SUPPLEMENTARY INFORMATION: In a series of **Federal Register** notices, OSHA announced its intent to request an extension of approval for various information collection (paperwork) requirements in its safety and health standards for General Industry,

Shipyard Employment, and the construction Industry. In accordance with the Paperwork Reduction Act (PRA–95) (44 U.S.C. 3501–3520), OMB has renewed its approval for these information collection requirements and issue control numbers. Below is a listing of the title of the information collection requirements, the date OSHA requested public comment via the **Federal Register** the OMB control numbers, and the expiration dates for the approvals.

Title	Federal Register date	OMB Control No.	Expiration date
Portable Fire Extinguishers Annual Maintenance Record	12/29/97	1218–0238	5/31/2001
Acrylonitrile	1/21/98	1218–0126	5/31/2000
4,4 Methylenedianiline for Construction	1/30/98	1218–0183	4/30/2000
4,4 Methylenedianiline for General Industry	1/30/96	1218–0184	4/30/2000
Cotton Dust	2/27/98	1218–0061	4/30/2000
Personal Protective Equipment	4/20/98	1218–0205	3/31/2000
Welding, Cutting, and Brazing	4/20/98	1218–0207	7/31/2001
Commercial Diving Operations	4/20/98	1218–0069	11/30/2001
Fire Brigades	5/19/98	1218–0075	11/30/2001
Logging Operations	5/21/98	1218–0198	6/30/2001
Powered Platforms for Exterior Building Maintenance	6/19/98	1218–0121	6/30/2001
Grain Handling Facilities	6/26/98	1218–0206	7/31/2001
Walking/Working Surfaces	6/26/98	1218–0199	11/30/2001
Storage & Handling of Anhydrous Ammonia	6/26/98	1218–0208	6/30/2001
Accident Prevention Tags	7/28/98	1218–0132	6/30/2001
Electrical Standards for Construction	8/6/98	1218–0130	1/31/2002
Presence Sensing Device Initiation	8/13/98	1218–0143	1/31/2002
Control of Hazardous Energy Lockout/Tagout	8/13/98	1218–0150	2/28/2002
Confined Spaces, Shipyard Employment	9/9/98	1218–0011	1/31/2002

Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number and the Agency informs respondents that they are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Authority and Signature

This notice was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of April 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–10070 Filed 4–21–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10021, et al.]

Proposed Exemptions; First Security Corporation (FSC) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete

statement of the facts and representations.

First Security Corporation (FSC) Located in Salt Lake City, UT

[Application No. D–10021]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[1]

Section I. Proposed Exemption for the In-Kind Transfer of Assets

If the exemption is granted the restrictions of section 406(a) and section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (F) shall not apply to the in-kind transfers, that occurred on December 28, 1994, to any open-end investment company (the Fund or Funds) registered under the Investment Company Act of 1940 (the Investment Company Act) to which FSC or any of its affiliates (collectively, First Security) serves as investment adviser and/or may provide other services, of the assets of various employee benefit plans (the Plan or Plans) that are held in certain collective investment funds (the CIF or CIFs) maintained by First Security, in exchange for shares of such Funds, provided that the following conditions were met:

(a) A fiduciary (the Second Fiduciary) which was acting on behalf of each affected Plan and which was independent of and unrelated to First Security, as defined in paragraph (g) of Section II below, received advance written notice of the in-kind transfer of assets of the CIFs in exchange for shares of the Funds, a full and detailed written disclosure of information concerning any such Fund including, but not limited to—

(1) A current prospectus for each of the Funds in which such Plan considered investing;

(2) A statement describing the fees for investment management, investment advisory, or other similar services, any fees for secondary services (Secondary Services), as defined in paragraph (h) of Section II below, and all other fees charged to or paid by the Plan and by the Funds to First Security, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why First Security considered such investment to be appropriate for the Plan;

(4) A statement describing whether there were any limitations applicable to First Security with respect to which assets of a Plan may be invested in the Funds, and, if so, the nature of such limitations; and

(5) When available, upon request of the Second Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, if granted.

(b) On the basis of the information described above in paragraph (a) of this Section I, the Second Fiduciary authorized in writing—

(1) The investment of assets of the Plans in shares of the Fund, in connection with the transactions set forth in Section I;

(2) the investment portfolios of the Funds in which the assets of the Plans were invested; and

(3) the fees received by First Security in connection with its services to the Funds. Such authorization by the Second Fiduciary was consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act.

(c) All transferred assets were securities for which market quotations were readily available, or cash.

(d) No sales commissions or redemption fees, including fees that are payable pursuant to Rule 12b–1 of the Investment Company Act (the 12b–1 Fees), were paid by the Plans in connection with the in-kind transfers of the assets of the CIFs in exchange for shares of the Funds.

(e) Neither First Security nor its affiliates, including any officers or directors, would be permitted to purchase from or sell to any of the Plans shares of any of the Funds.

(f) The Plans were not sponsored or maintained by First Security.

(g) The transferred assets in exchange for shares of such Funds constituted the Plan's pro rata portion of all assets that were held by the CIFs prior to the transfer. A Plan not electing to invest in the Fund received a cash payment representing a pro rata portion of the assets of the terminating CIF before the final liquidation took place.

(h) The CIFs received shares of the Funds that had a total net asset value equal to the value of the transferred assets of the CIFs exchanged for such shares on the date of transfer.

(i) The current market value of the assets of the CIFs transferred in-kind in exchange for shares of the Funds was determined in a single valuation performed in the same manner and at the close of business on the same day, using independent sources in accordance with the procedures set forth in Rule 17a–7(b) (Rule 17a–7) under the Investment Company Act, as amended from time to time or any successor rule, regulation, or similar pronouncement and the procedures established pursuant to Rule 17a–7 for the valuation of such assets. Such procedures required that all securities for which a current market price could not be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ were to be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the last business day preceding the CIF transfers determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of First Security.

(j) Not later than 30 days after completion of each in-kind transfer of assets of the CIFs in exchange for shares of the Funds, First Security sent by regular mail to the Second Fiduciary, which was acting on behalf of each affected Plan and which was independent of and unrelated to First Security, as defined in paragraph (g) of Section II below, a written confirmation that contained the following information:

(1) The identity of each of the assets that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4) under the Investment Company Act;

(2) The current market price, as of the date of the transfer, of each such security involved in the purchase of Fund shares; and

(3) The identity of each pricing service or market maker consulted in determining the value of such assets.

(k) Not later than 90 days after completion of each in-kind transfer of assets of the CIFs in exchange for shares of the Funds, First Security sent by regular mail to the Second Fiduciary, which was acting on behalf of each affected Plan and which was independent of and unrelated to First Security, as defined in paragraph (g) of Section II below, a written confirmation that contained the following information:

(1) The number of CIF units held by each affected Plan immediately before the conversion (and the related per unit value and the aggregate dollar value of the units transferred); and

(2) the number of shares in the Funds that were held by each affected Plan

[1] For purposes of this proposed exemption, reference to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

following the conversion (and the related per share net asset value and the aggregate dollar value of the shares received).

(l) As to each individual Plan, the combined total of all fees received by First Security for the provision of services to the Plans, and in connection with the provision of services to any of the Funds in which the Plans hold shares acquired in connection with an in-kind transfer transaction, was not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

(m) On an ongoing basis, First Security has provided and will continue to provide a Plan investing in a Fund—

(1) At least annually with a copy of an updated prospectus of such Fund; and

(2) at least annually with a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) which contains a description of all fees paid by the Fund to First Security, upon the request of such Second Fiduciary.

(n) All dealings between the Plans and any of the Funds have been and will remain on a basis no less favorable to such Plans than dealings between the Funds and other shareholders holding the same class of shares as the Plans.

(o) First Security has maintained and will maintain for a period of 6 years the records necessary to enable the persons, as described below in paragraph (p)(1) of this Section I, to determine whether the conditions of this proposed exemption have been met, except that:

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of First Security, the records are lost or destroyed prior to the end of the 6 year period; and

(2) no party in interest, other than First Security, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (p) of this Section I.

(p)(1) Except as provided in paragraph (p)(2) of this Section I and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (o) of Section II above are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC);

(B) Any fiduciary of each of the Plans who has authority to acquire or dispose of shares of any of the Funds owned by such a Plan, or any duly authorized employee or representative of such fiduciary; and

(C) any participant or beneficiary of the Plans or duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in paragraph (p)(1)(B) and (p)(1)(C) of this Section I shall be authorized to examine trade secrets of First Security, or commercial or financial information which is privileged or confidential.

Section II. Definitions

For purposes of this proposed exemption—

(a) The term "First Security" means FSC and any affiliate of FSC, as defined in paragraph (b) of this Section II.

(b) An "affiliate" of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "Fund," "Funds" or "Affiliated Funds" means any open-end management investment company or companies registered under the Investment Company Act for which First Security serves as investment adviser and/or provides any Secondary Service as approved by such Funds. As noted in the Preamble, the Funds are also referred to as the "Affiliated Funds" to distinguish them from certain third party funds (the Third Party Funds) for which First Security and its affiliates provide subadministrative services and which are not involved in conversion transactions that are described herein.

(e) The term "net asset value" means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and statement of additional information, and other assets belonging to each of the portfolios in such Fund, less the liabilities charged to each portfolio, by the number of outstanding shares.

(f) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term "Second Fiduciary" means a fiduciary of a plan who is independent of and unrelated to First Security. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to First Security if:

(1) Such Second Fiduciary directly or indirectly controls, is controlled by, or is under common control with First Security;

(2) Such Second Fiduciary, or any officer, director, partner, employee, or relative of such Second Fiduciary is an officer, director, partner, or employee of First Security (or is a relative of such persons); or

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with the transactions described in this proposed exemption.

If an officer, director, partner, or employee of First Security (or a relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in (A) the choice of the Plan's investment manager/adviser or (B) the approval of any purchase or sale by the Plan of shares of the Funds, in connection with the transactions described in Section I, then paragraph (g)(2) of this Section II, shall not apply.

(h) The term "Secondary Service" means a service, other than an investment management, investment advisory, or similar service, which is provided by First Security to the Funds, including but not limited to custodial, accounting, brokerage, administrative, or any other service.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of December 28, 1994.

Preamble

First Security initially filed a request for retroactive and prospective exemptive relief (Exemption Application No. D–09916) with the Department to permit the in-kind transfer of Plan assets held in CIFs maintained by First Security to any Affiliated Fund for which First Security might serve as investment adviser and/or provide other fiduciary services. In addition, First Security requested that the exemption cover any fees it might receive from the Affiliated Funds as well as from certain Third Party Funds

for which it might serve as a custodian, subadministrator or other service provider. If granted, the exemption would have been effective as of December 28, 1994.

Upon further consideration, First Security decided to withdraw the fee transaction aspect of its exemption request and continue to rely on its interpretation of Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977) with respect to its receipt of fees from the Affiliated Funds. In pertinent part, PTE 77–4 permits the purchase and sale by an employee benefit plan of shares of a mutual fund when a fiduciary with respect to the plan is also the investment adviser of the investment company. In addition, Section II(c) of PTE 77–4 requires, in part, that a plan may pay an investment advisory fee to the plan fiduciary based on total plan assets from which a credit has been subtracted representing the plan's *pro rata* share of investment advisory fees paid by the plan to the mutual fund.

The Department expresses no opinion herein on whether interim and subsequent fee arrangements adopted by First Security comply with the relevant provisions of PTE 77–4. As a result of the uncertainty regarding the application of PTE 97–41 [2] to the original exemption request, the Department has made a determination to propose the exemption and limit the scope of exemptive relief to the three conversion transactions described below.

Summary of Facts and Representations

1. The parties involved in the in-kind transfer transactions that are discussed herein are described as follows:

(a) *FSC* is a national association bank holding company/financial services corporation incorporated under the laws of the State of Delaware and headquartered in the State of Utah. FSC's affiliates include the following banks: First Security Bank of New Mexico, N.A.; First Security Bank of Oregon; First Security Bank of Utah, N.A. (FSB Utah); First Security Bank of Idaho, N.A. (FSB Idaho); First Security Trust Company of Nevada (FSB Nevada); First Security Bank of Wyoming; and First Security Investment Management, Inc. (FSIM), an indirect, wholly owned subsidiary registered as an investment adviser under the Advisers Act. As of December 31, 1997, First Security had aggregate assets under management of approximately $5.2 billion. FSB Utah formerly served as trustee with respect to the CIFs described herein and FSIM serves as investment adviser to the Funds also described herein.

(b) *The Plans* consist of retirement plans qualified under section 401(a) of the Code, pension plans as defined in section 3(2) of the Act, "plans" as defined in section 4975(e)(1) of the Code, including certain individual retirement accounts (the IRAs) that are subject to section 408(a) of the Code and certain Keogh Plans that are qualified under section 401(a) of the Code. For these Plans, First Security serves as a directed trustee, a discretionary trustee, an investment manager or a fiduciary. The Plans also include participant-directed plans subject to the provisions of section 404(c) of the Act [3] but they do not include any plans sponsored by First Security.[4] Whether a Plan would be an investor in a CIF at the time of a conversion transaction or elect to invest in any Fund depended solely on the decision of a Plan fiduciary which was independent of First Security.

(c) *The CIFs* consisted of certain portfolios of the Affiliated Banks of First Security Corporation Investment Trust for Employee Benefit Plans. These portfolios were the Common Stock Trust, the Two Year Bond Trust and the Intermediate Corporate/Government Bond Trust. As of September 30, 1994, the aggregate fair market value of these CIFs was approximately $66 million. Participation in the CIFs was open to any Plan with respect to which a First Security bank was a fiduciary. As described below, the three CIFs were terminated as of December 28, 1994 following the conversion transactions.

(d) *The Funds* consist of separate portfolios of open-end investment companies registered under the Investment Company Act. The Funds constitute part of the Achievement Funds Trust, a registered, open-end series management investment company which has been organized under Massachusetts law as an unincorporated business trust. The Funds are identified as follows: the Short Term Bond Fund, the Intermediate Bond Fund, the Equity Fund, the Balanced Fund, the Idaho Municipal Bond Fund and the Short Term Municipal Fund.[5]

FSIM serves as investment adviser to the Funds. In this capacity, FSIM makes investment decisions with respect to the assets of each Fund and reviews, supervises and administers each Fund's investment program. In the future, First Security proposes to serve as the subadministrator for the Funds and will provide Secondary Services to the Funds.

Two classes of beneficial interests (i.e., shares) in the Funds have been issued. Retail Class A Shares are offered primarily to individuals (including certain non-fiduciary IRA and Keogh accounts). Retail Class D Shares are offered to individuals, Plans and IRAs through intermediaries such as banks or investment managers. Except for their fee structures, the two classes are identical and hold interests in the same underlying Fund assets.

2. First Security represents that it has maintained CIFs as investment options for Plans in accordance with requirements under Federal or state banking laws that apply to collective investment trusts. However for business reasons, it decided to terminate the Common Stock Trust, the Two Year Bond Trust and the Intermediate Corporate/Government Bond Trust and to offer Plans formerly participating in such CIFs alternative investments in certain Funds. Because interests in CIFs generally must be liquidated or withdrawn to effect distributions, First Security believed that the interests of the Plans investing in CIFs would be better served by in-kind transfers to the Funds. Overall, First Security believed that the Funds would offer Plans

[2] PTE 97–41 is a class exemption which permits an employee benefit plan (the Client Plan) to purchase shares of one or more open-end management investment companies (i.e., Funds) registered under the Investment Company Act, the investment adviser for which is a bank (the Bank) or a plan adviser (the Plan Adviser) registered under the Investment Advisers Act of 1940 (the Advisers Act), that also serves as a fiduciary of the Client Plan, in exchange for plan assets transferred in-kind to the Fund from a CIF maintained by the Bank or the Plan Adviser, in connection with the complete withdrawal of a Client Plan's assets from the CIF.

[3] The Department is not providing exemptive relief to such Plans to the extent such transactions are covered under section 404(c) of the Act.

[4] The applicants have not requested exemptive relief with respect to any investment in the Funds by Plans sponsored by First Security. The applicants note that First Security-sponsored plans might acquire or redeem shares in the Funds pursuant to Prohibited Transaction Exemption (PTE) 77–3 (42 FR 18734, April 8, 1977). PTE 77–3 permits the acquisition or sale of a registered, open-end investment company by an employee benefit plan covering only employees of such investment company, employees of the investment adviser or principal underwriter for such investment company, or employees of any affiliated person (as defined therein) of such investment adviser or principal underwriter, provided certain conditions are met. The Department is expressing no opinion in this proposed exemption regarding whether any transactions with the Funds by First Security-sponsored Plans would be covered by PTE 77–3.

Similarly, First Security has not requested exemptive relief with respect to future purchases or sales of shares of a Fund by Plans since it believes such transactions would be covered by PTE 77–4.

[5] Although the Idaho Municipal Fund and the Short Term Municipal Fund are included within the Achievements Fund Trust, these Funds are not offered to Plan investors.

numerous advantages as pooled investment vehicles, including daily valuations reported in newspapers of general circulation, increased liquidity, portability, investment consolidation, voting and other shareholder rights. Further, First Security wished to expand the range of investment options available to Plans by offering other Funds (i.e., the Balanced Fund, the International Equity Portfolio and the Small Cap Growth Portfolio) that did not correspond to its existing CIFs.

3. First Security also noted that Plans investing in the Funds would periodically receive certain disclosures concerning the Funds. Such disclosures would include, but would not be limited to, (a) an updated copy of the prospectus provided on an annual basis; and (b) an annual report containing audited financial statements of the Funds and information regarding such Funds' performance (unless such information is included in the prospectus of the Funds) and the fees paid to First Security, depending upon the type of Plan account that was established. Further, First Security represented that it would report all transactions in shares of the Funds in periodic account statements provided to the Second Fiduciary of each of the Plans.

4. Thus, to avoid the potentially large brokerage expenses, on December 28, 1994, First Security transferred the assets of the three affected CIFs, which assets consisted of cash and marketable securities, to corresponding portfolios of the Funds, in exchange for shares of such Funds. First Security represents that the in-kind transfers were ministerial transactions performed in accordance with pre-established, objective procedures which were approved by the board of trustees of each Fund. Such procedures require that assets transferred to a Fund (a) be consistent with the investment objectives, policies, and restrictions of the corresponding portfolios of such Fund, (b) satisfy the applicable requirements of the Investment Company Act and the Code, and (c) have a readily ascertainable market value established by independent sources. In addition, any assets that were transferred were required to be liquid and would not be subject to restrictions on resale. Assets which did not meet these criteria were required to be sold in the open market through an unaffiliated brokerage firm prior to any transfer in-kind. Further, prior to entering into and following an in-kind transfer transaction, each affected Plan would be required to receive certain disclosures from First Security and approve such transactions in writing. Accordingly, First Security requests retroactive exemptive relief from the Department.

5. In accordance with the criteria described above in Representation 4, First Security stated that it conducted the in-kind transfer transactions as follows:

Prior to each in-kind transfer, the assets of the three CIFs were reviewed to confirm that they were appropriate investments for the corresponding portfolios of the Funds. If any of the assets of such CIFs were not appropriate for the Funds, First Security sold the assets in the open market through an unaffiliated brokerage firm.

Participants in the affected CIFs who did not elect to participate in the conversion transactions received distributions of the value of their interests therein. However, with respect to participants in the CIFs who elected to participate in the in-kind transfers and transfer their interests to the Funds, the transferred assets constituted the participants' and Plans' *pro rata* portion of all assets that were held by the CIF immediately prior to the transfer. Further, the Funds had investment objectives and policies that were substantially identical to those of the CIFs. Following the in-kind transfers, the affected CIFs were terminated.

No brokerage commissions, redemption fees, 12b–1 Fees or expenses (other than customary transfer charges paid to parties other than First Security or its affiliates) were charged to the Plans or the CIFs in connection with the in-kind transfers of assets into the Funds or would be charged with respect to the redemption of shares of such Funds. Further, neither First Security nor its affiliates, including any officers or directors, were (nor would be) permitted to purchase from or sell to any of the Plans shares of the Funds.

6. First Security provided the Second Fiduciary, as defined in Section II(g), for each affected Plan with disclosures announcing the termination of the CIFs, summarized the transaction, and otherwise complied with provisions of Section I of this proposed exemption. Based on these disclosures, the Second Fiduciary from each Plan approved, in writing, the in-kind transfer of the CIFs assets to the corresponding Funds, in exchange for shares of the Funds, and the receipt by First Security of fees for services provided to such Funds.

7. The assets transferred by the affected CIFs to the Funds consisted entirely of cash and securities for which market quotations were readily available. The value of the securities in each of the three CIFs was determined based on market values as of the close of business on December 27, 1994, the last business date prior to the transfer. Such values were determined in a single valuation performed in the same manner and at the close of business on the same day, using independent sources in accordance with the procedures described in Rule 17a–7 under the Investment Company Act, as amended from time to time or any successor rule, regulation or similar pronouncement and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets.[6] In this regard, First Security represents that the "current market price" for specific types of CIF securities involved in the transactions was determined as follows:

(a) If the security was a "reported security" as the term is defined in Rule 11Aa3–1 under the Securities Exchange Act of 1934 (the 1934 Act), the last sale price with respect to such security reported in the consolidated transaction reporting system (the Consolidated System) for December 27, 1994; or if there were no reported transactions in the Consolidated System that day, the average of the highest current independent bid and the lowest current independent offer for such security (reported pursuant to Rule 11Ac1–1 under the 1934 Act), as of the close of business on December 27, 1994.

(b) If the security was not a reported security, and the principal market for such security was an exchange, then the last sale on such exchange on December 27, 1994; or if there were no reported transactions on such exchange that day, the average of the highest current independent bid and lowest current independent offer on such exchange as of the close of business on December 27, 1994.

(c) If the security was not a reported security and was quoted in the NASDAQ system, then the average of the highest current independent bid and lowest current independent offer reported on Level 1 of NASDAQ as of the close of business on December 27, 1994.

(d) For all other securities, the average of the highest current independent bid and lowest current independent offer as of the close of business on December 27, 1994, determined on the basis of reasonable inquiry. (For securities in this category, First Security represents that it obtained quotations from at least three sources that were either broker-dealers or pricing services independent of and unrelated to First Security and used the average of the quotations to value the securities, in

[6] Rule 17a–7 provides an exemption from section 17(a) of the Investment Company Act, which prohibits, among other things, principal transactions between an investment company and its investment adviser or affiliates of the investment adviser. Among the conditions of Rule 17a–7 is the requirement that the transaction be effected at the "independent current market price" for specific types of CIF or Plan assets involved in the in-kind transfer.

conformance with interpretations by the SEC and practice under Rule 17a–7.)

8. The securities received by the corresponding portfolios of the Funds were valued by each such portfolio for purposes of the in-kind transfers in the same manner and on the same day as such securities were valued by the CIFs. The per share value of the shares of each portfolio of the Funds issued to the CIFs was based on the corresponding portfolio's then current net asset value. As a result of this procedure, the aggregate value of the shares of the corresponding Fund issued to the CIF was equal to the value of the assets (cash and marketable securities) transferred to such portfolio as of the opening of business on December 28, 1994. In addition, the value of a Plan's investment in shares of a corresponding portfolio, as of the opening of business on the date of the transactions (December 28, 1994), was equal to the value of such Plan's investment in the corresponding CIFs as of the close of business on the last business day prior to the transaction (December 27, 1994).

9. Not later than 30 days after completion of the in-kind transfer transaction, First Security sent by regular mail a written confirmation of the transaction to each affected Plan. Such confirmation contained: (a) the identity of each security that was valued in accordance with Rule 17a–7(b)(4), as described above; (b) the price of each such security for purposes of the transaction; and (c) the identity of each pricing service or market maker consulted in determining the value of such securities.

In addition, not later than 90 days after completion of each in-kind transfer transaction, First Security sent, by regular mail to the Second Fiduciary of each affected Plan, a written confirmation containing the following information: (a) the number of CIF units held by each affected Plan immediately before the conversion (and the related per unit value and the aggregate dollar value of the units transferred); and (b) the number of shares in the Funds that were held by each affected Plan following the conversion (and the related per share net asset value and the aggregate dollar value of the shares received).

10. The requested exemption is also subject to the satisfaction of certain general conditions. For example, the transactions are subject to the prior authorization of a Second Fiduciary, acting on behalf of each of the Plans, who has been provided with full written disclosure by First Security. The Second Fiduciary is generally the administrator, sponsor or a committee appointed by the sponsor to act as a named fiduciary for a Plan.

With respect to disclosures, the Second Fiduciary of such Plan received, in writing, in advance of the investment by a Plan in any of the Funds: (a) a current prospectus for each of the Funds in which such Plan might invest; (b) a statement describing the fees for investment management, investment advisory, or other similar services, any fees for Secondary Services, and all other fees to be charged to or paid by the Plan and by such Funds to First Security, including the nature and extent of any differential between the rates of such fees, (c) the reasons why First Security considered such investment to be appropriate for the Plan, (d) a statement describing whether there were any limitations applicable to First Security with respect to which assets of a Plan may be invested in the Funds, and, if so, the nature of such limitations. Upon written request, the Second Fiduciary will be provided with a copy of the proposed exemption and/or the final exemption, if granted.

On the basis of the information disclosed, the Second Fiduciary of a Plan authorized, in writing, the investment of assets of the Plan in shares of a Fund in connection with the transactions set forth herein, the investment portfolios of the Funds in which the assets of the Plans may be invested and the compensation received by First Security in connection with its services to the Funds. In addition, the Second Fiduciary received each Fund's current prospectus and the written disclosures referred to above which specifically referenced the Fund and afforded such fiduciary the opportunity to select the Fund for its prior authorization. Having obtained the authorization of the Second Fiduciary, First Security invested the assets of a Plan among the portfolios and in the manner covered by the authorization, subject to the satisfaction of the other terms and conditions of the proposed exemption.

In addition to the above, as to each individual Plan, the combined total of all fees received by First Security for the provision of services to the Plans, and in connection with the provision of services to any of the Funds in which the Plans hold shares acquired in connection with the in-kind transfers, were required not to be in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act. Further, all dealings by or between the Plans and the Funds were required to remain on a basis which would be at least as favorable to the Plans as such dealings are with other shareholders of the Funds.

11. Besides the disclosures provided to the Plan prior to investment in any of the Funds, First Security represents that it will routinely provide, at least annually to the Second Fiduciary, updated prospectuses of the Funds in accordance with the requirements of the Investment Company Act and the SEC rules promulgated thereunder. Further, the Second Fiduciary will be supplied, at least annually, with a report or statement (which may take the form of the most recent financial report of such Funds, the current statement of additional information, or some other written statement) containing a description of all fees paid by the Fund.

12. In summary, First Security represents that the in-kind transfer transactions satisfied the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The CIFs did not pay sales commissions or redemption fees in connection with the in-kind transfer of assets to the Funds in exchange for shares of the Funds.

(b) With respect to any in-kind transfer of assets, the CIFs received shares of the Funds that were equal in value to the assets of the CIFs exchanged for such shares, the latter values determined in a single valuation performed in the same manner and at the close of business on the same day in accordance with the procedures set forth in Rule 17a–7 under the Investment Company Act, as amended from time to time or any successor rule, regulation, or similar pronouncement.

(c) Not later than 30 days after completion of each in-kind transfer of assets in exchange for shares of the Funds, the Second Fiduciaries of the affected Plans received written confirmation of the assets involved in the exchange which were valued by a third-party source (e.g., pricing service or market maker) in accordance with Rule 17a–7(b)(4), the price of such assets and the identity of the pricing service or market maker consulted.

(d) Not later than 90 days after completion of each in-kind transfer of assets of the CIFs in exchange for shares of the Funds, First Security mailed to each affected Plan a written confirmation of the number of CIF units held by such Plan immediately before the conversion (and the related per unit value and the aggregate dollar value of the units transferred), and the number of shares in the Funds that were held by the Plan following the conversion (and the related per share net asset value or the aggregate dollar value of the shares received).

(e) The price paid or received by the Plans for shares in the Funds was the net asset value per share at the time of the transaction and was the same price for the shares which would have been paid or received by any other investor at that time.

(f) First Security, its affiliates, and officers or directors would not be permitted to purchase or sell to any of the Plans shares of any of the Funds.

(g) As to each individual Plan, the combined total of all fees received by First Security for the provision of services to the Plans, and in connection with the provision of services to any of the Funds in which the Plans may invest, was not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

(h) Prior to investment by a Plan in any of the Funds, in connection with transactions, the Second Fiduciary received a full and detailed written disclosure of information concerning such Fund.

(i) Subsequent to the investment by a Plan in any of the Funds, First Security would provide the Second Fiduciary of such Plan with an updated copy of the prospectus for each of the Funds in which the Plan invests, at least annually as well as other pertinent information.

(j) All dealings between the Plans and any of the Funds would remain on a basis no less favorable to such Plans than dealings between the Funds and other shareholders holding the same class of shares as the Plans.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

San Diego Electrical Pension Trust, (the Pension Plan); and San Diego Joint Apprenticeship and Training Trust (the Training Plan; collectively, the Plans) Located in San Diego, California

[Application Nos. D–10581 and L–10582]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the proposed purchase by the Training Plan from the Pension Plan of a minority interest (the Minority Interest) in certain improved real property (the Property) jointly owned by the Plans, provided that the following conditions are satisfied:

(1) The purchase is a one-time transaction for cash;

(2) The terms and conditions of the transaction are not less favorable to either Plan than those each could obtain in a comparable arm's length transaction with an unrelated party;

(3) The Training Plan pays no more, and the Pension Plan receives no less, than the fair market value of the Minority Interest, as of the date of the transaction, as determined by a qualified, independent appraiser;

(4) Neither the Pension Plan nor the Training Plan pays any commissions or fees in connection with the transaction;

(5) The trustees of the Plans (other than their common trustees), the Pension Plan's investment manager, and a qualified, independent fiduciary that has been retained to represent the Training Plan, have reviewed the terms and conditions of the transaction and determined that such terms and conditions are in the best interests of, and appropriate for, their respective Plans; and

(6) The independent fiduciary for the Training Plan monitors the proposed transaction and takes whatever actions necessary to safeguard the interests of the Training Plan.

Summary of Facts and Representations

1. The Plans are multiple employer, jointly trusteed employee benefit plans, established pursuant to collective bargaining agreements between Local 569, the International Brotherhood of Electrical Workers, and the National Electrical Contractors Association, San Diego Chapter, Inc. The Plans cover members of Local 569.

The Pension Plan is a defined benefit plan and, as of January 9, 1998, had approximately 2,790 participants and beneficiaries. As of September 30, 1997, the fair market value of the assets of the Pension Plan was $181,250,000.

The Training Plan is a welfare plan that operates a five-year apprenticeship program approved and regulated by the Division of Industrial Relations, State of California. As of January 9, 1998, the approximate number of apprentices participating in the Training Plan was 230. As of December 31, 1997, the fair market value of the assets of the Training Plan was $2,930,680.

Each of the Plans is managed by a board of trustees, with eight trustees on each board. Currently, there are three trustees who serve on both boards: Mr. Michael Sparks, Mr. Ronald Cooper, and Mr. James Aylsworth. These individuals have each signed a sworn affidavit removing themselves from all considerations in connection with the purchase of the Minority Interest by the Training Plan from the Pension Plan.

2. The Property consists of a two-story commercial office building located at 4675 Viewridge Avenue, San Diego, California. The Property consists of a land area of 77,101 gross sq. ft. and a building area of 31,435 gross sq. ft.

Title to the Property is jointly held, with the Training Plan having a 77.6475% interest and the Pension Plan having a 22.3525% interest.[7] The land relating to the Property was purchased by the Plans in August, 1981, from Booth Enterprises, Inc., an unrelated party, for a total of $810,168. The Pension Plan and the Training Plan subsequently held the land as tenants-in-common, with a view to developing the land to provide administrative offices for both Plans, as well as training facilities for the Training Plan. The building was constructed in 1983, with the majority of the cost ultimately paid by the Training Plan, based upon its percentage interest in the Property.

The Property is the location of the classrooms and administrative offices of the Training Plan, as well as the administrative offices for the Pension Plan and the San Diego Electrical Health and Welfare Trust (the Health Plan). The Health Plan, like the Pension Plan and the Training Plan, is a multiple employer plan that covers members of Local 569. The Pension Plan has been leasing office space in the Property to its sister plans (i.e., the Training Plan and the Health Plan).[8]

3. The Property has been appraised by Lipman Stevens Marshall & Thene, Inc. (Lipman, Inc.), a qualified, independent appraiser. Mr. Walter J. Stevens, MAI and Vincent G. Ferrer, of Lipman, Inc., are both certified real estate appraisers in the State of California. Utilizing the sales comparison and the income capitalization approaches to value the Property, Messrs. Stevens and Ferrer concluded that the fair market value of the Property was $2,000,000, as of August 1, 1997.

The Minority Interest in the Property has been appraised by American Realty

[7] The Department expresses no opinion herein as to whether the joint ownership of the Property by the Pension Plan and the Training Plan may have violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act.

[8] Prohibited Transaction Class Exemption (PTCE) 77–10 (42 FR 33918, July 1, 1977) provides an exemption, under certain conditions, from section 406(b)(2) of the Act for the leasing of office space by a multiple employer plan to another such plan with common trustees. No individual exemptive relief is proposed herein for the leasing of office space in the Property by the Pension Plan to the Training Plan and the Health Plan. It is represented that such leasing has been done in accordance with the conditions of PTCE 77–10. However, the Department expresses no opinion herein as to whether the conditions of PTCE 77–10 have been satisfied.

Advisors (ARA), the Pension Plan's real estate investment manager.[9] ARA concluded that the fair market value of the Minority Interest was $415,756.50, as of November 11, 1997. ARA first determined a value of $2,000,000 for the Property overall, utilizing the following approaches (but giving greatest weight to the first as most accurate): (1) Discounted cash flow analysis; (2) direct capitalization analysis; and (3) sales comparison analysis. With respect to the Minority Interest, ARA applied a 7% discount factor to reflect its illiquidity and derived a value for the Minority Interest as follows.

Property Value	$2,000,000
Less: 7% Discount	(140,000)
	1,800,000
22.3525% Minority Interest	415,756.50

In its report, ARA explains that a discount factor must be applied because investors typically wish to purchase a controlling interest in real estate, not minority positions, and the majority owner is the most logical purchaser of a minority interest. Thus, ARA concludes that the 7% discount is appropriate in a purchase of the Minority Interest by the Training Plan, as the majority owner of the Property, and no premium would be associated with such purchase.

Mr. Stevens, of Lipman, Inc., reviewed ARA's report and, in a letter to the Department dated March 20, 1998, confirmed that the valuation methodology used and the fair market value arrived at by ARA for the Minority Interest was fair and reasonable.

4. It is proposed that the Pension Plan and the Training Plan enter into a transaction wherein the Training Plan will purchase for cash all of the Minority Interest in the Property held by the Pension Plan. The purchase price will be an amount equal to the fair market value of the Minority Interest ($415,756.50, as of November 11, 1997) as of the date of the sale, based on an updated independent appraisal. Neither the Pension Plan nor the Training Plan will pay any commissions or fees in connection with the transaction.

The trustees of both Plans, other than their common trustees, have reviewed the terms and conditions of the transaction and determined that such terms and conditions are in the best interests of, and appropriate for, their respective Plans. The Pension Plan trustees desire to divest the Pension Plan of its otherwise illiquid Minority Interest, while the Training Plan trustees desire to acquire the Minority Interest so that the Training Plan will have total ownership and control of the Property, over 80% of whose space the Training Plan occupies.

5. The Pension Plan's real estate investment manager, ARA, not only has appraised the fair market value of the Minority Interest but, in its report dated November 11, 1997, has expressed its approval of the proposed sale, which is consistent with ARA's investment strategy of ultimately liquidating all of the Pension Plan's direct real estate investments. ARA has determined that due to the size of the Pension Plan and its ongoing need for liquidity, direct investments in real estate are not appropriate for the Pension Plan in the long term. ARA is monitoring the three major real estate assets that it manages for the Pension Plan to time their disposition. Given the even greater illiquidity of a minority interest in real estate, ARA has concluded that the Training Plan should take advantage of this opportunity to sell its Minority Interest in the Property at fair market value to the majority owner.

6. Amresco Advisors, Inc. (Amresco), a registered investment advisor, has been retained to act as an independent fiduciary to represent the Training Plan's interests with respect to the proposed purchase. Amresco represents that it has extensive experience as a fiduciary under the Act and that it is knowledgeable as to the subject transaction. Amresco acknowledges and accepts its duties, liabilities, and responsibilities in acting as a fiduciary with respect to the Training Plan.

Amresco, in its report dated March 27, 1998, has expressed its approval of the proposed purchase because, as explained in detail below, it will immediately provide the Training Plan with an excellent return on its investment, as well as securing the additional space in the Property that will be needed in the future for expansion.

Amresco has reviewed the appraisal of Lipman, Inc. and concurs with their conclusion as to the fair market value of $2,000,000 for the Property. Amresco has also reviewed the ARA report and concurs with their valuation methodology and their conclusion as to the fair market value of $415,756.50 for the Minority Interest.

Amresco notes that with real estate, the whole is more than the sum of its parts. Because of the extremely limited marketability of an undivided interest (as opposed to an outright, or whole interest) in real estate, the Training Plan is able to purchase the Pension Plan's Minority Interest at a 7% discount from its proportionate value of the total fee interest in the Property, an economic value that would immediately accrue to the Training Plan.

In addition, Amresco notes that the Training Plan's space requirements exceed its approximately 78% proportionate share of the Property. Thus, the Training Plan currently must lease an additional 1,900 sq. ft. in the Property from the Pension Plan [10] at the rate of $1,400/mo., or $16,800/yr. This lease rate is projected to increase soon to approximately $2000/mo., or $24,000/yr. The Training Plan will require even more space in the future to accommodate an expanding student body, at ever-increasing rents.

Following the Training Plan's purchase of the Minority Interest, no immediate change will occur with respect to occupancy of space in the Property. The Training Plan has no re-development plans for the Property and, thus, will incur no significant additional expenses, in connection with the proposed transaction. It is intended that the Training Plan will lease approximately 4,800 sq. ft. of the Property to the Pension Plan until such time as the Training Plan needs to fully utilize this space. The Pension Plan, in turn, will sublease a portion of its space to the Health Plan.[11] At rental rates of approximately $1.05/sq. ft./mo. and $.35/sq. ft./mo., the lease will generate approximately $3,350/mo., or $40,320/yr., in net rental income to the Training Plan.

Thus, Amresco states that the combination of a projected $24,000/yr. savings in rent, plus $40,320/yr. in net rental income, or $64,320/yr., will provide an immediate 15% return on the Training Plan's $415,756.50 investment. In addition, the Training Plan, instead of being a renter, will enjoy the benefits of equity ownership in real estate, such as any appreciation in value.

In anticipation of the proposed transaction, the collective bargaining parties have designated new money of $0.37 per hour worked to fund the purchase price for the Minority Interest. Since the purchase price is being

[9] It is represented that ARA is a "qualified professional asset manager" (QPAM), as defined in PTCE 84–14 (49 FR 9494, March 13, 1984), for the Pension Plan. PTCE 84–14, a/k/a the QPAM Class Exemption, permits, under certain conditions, parties in interest to engage in various transactions with plans whose assets are managed by persons, defined for purposes of the exemption as QPAMs, which are independent of the parties in interest (with certain limited exceptions) and which meet specified financial standards.

[10] See Footnote 1 regarding PTCE 77–10.

[11] It is represented that the proposed lease of office space in the Property by the Training Plan to the Pension Plan, if the exemption is granted, as well as the sublease of office space by the Pension Plan to the Health Plan, will meet the conditions for exemptive relief under PTCE 77–10.

specially funded by an increase in the contribution rate to the Training Plan required to be met by contributing employers, Amresco states that the Training Plan will have sufficient cash available to purchase the Minority Interest without affecting the ordinary operational costs and liquidity needs of the Training Plan.

Amresco, as the independent fiduciary for the Training Plan, will monitor the proposed transaction and take whatever actions necessary to safeguard the interests of the Training Plan.

7. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons:

(a) The purchase will be a one-time transaction for cash; (b) the terms and conditions of the transaction will not be less favorable to either Plan than those each could obtain in a comparable arm's length transaction with an unrelated party; (c) the Training Plan will pay no more, and the Pension Plan will receive no less, than the fair market value of the Minority Interest, as of the date of the transaction, as determined by a qualified, independent appraiser; (d) neither the Pension Plan nor the Training Plan will pay any commissions or fees in connection with the transaction; (e) the trustees of the Plans (other than their common trustees), the Pension Plan's real estate investment manager (i.e., ARA), and a qualified, independent fiduciary (i.e., Amresco) representing the Training Plan, have reviewed the terms and conditions of the transaction and determined that such terms and conditions are in the best interests of, and appropriate for, their respective Plans; and (f) Amresco will monitor the proposed transaction and take whatever actions necessary to safeguard the interests of the Training Plan.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the epartment, telephone (202) 219–8881. (This is not a toll-free number.)

Hanson Operating Company, Inc. Defined Benefit Pension Plan (the Plan) Located in Roswell, New Mexico

[Application No. D–10702]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan of certain closely-held stock (the Stock) to Douglas L. McBride and Basil R. Willis, parties in interest with respect to the Plan, provided that the following conditions are satisfied: (a) the sale is a one-time transaction for cash; (b) the Plan pays no commissions nor other expenses relating to the sale; and (c) the Plan receives an amount that is no less than the fair market value of the Stock as of the date of the sale, as determined by a qualified, independent appraiser.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan established by Hanson Operating Company, Inc. (the Employer). The Employer, a New Mexico corporation, is engaged in the business of oil and gas exploration and is located in Roswell, New Mexico. As of June 30, 1998, the Plan had 12 participants and beneficiaries and total assets of approximately $808,183.01. The trustees of the Plan are Mr. McBride and Mr. Willis (the Applicants), who are also officers of the Employer.

2. Among the assets of the Plan is the Stock, which consists of 7,500 shares of common stock of Commerce Bankshares of Roswell Inc. (CBR), a closely-held one-bank holding company organized under the laws of the State of New Mexico. CBR's subsidiary bank is the Valley Bank of Commerce (the Bank), a state-chartered commercial bank. The Applicants represent that they acquired 7,500 shares of the Stock for the Plan in 1992 in a limited offering at $20 per share, for a total cost of $150,000. Neither of the Applicants was or is related to CBR or the Bank.

3. The Stock was appraised by Patten, MacPhee & Associates, Inc. (Patten, MacPhee), a qualified, independent appraiser located in Denver, Colorado that performs annual valuations of the Stock. In a cover letter dated August 25, 1998, accompanying the appraisal report, Ms. E. Jayne MacPhee and Mr. Gary M. Schwartz state that their firm has performed over 200 common stock and intangible asset valuations for clients nationwide.

The appraisal states that as of June 30, 1998, the 151,218 shares of common stock of CBR issued and outstanding were held by 60 shareholders, and the Plan owned 7,500 shares of the Stock, or approximately 4.96%. As of June 30, 1998, the 7,500 shares of the Stock had an estimated fair market value of approximately $76.30 per share, or a total value of $572,250, which represents approximately 71% of the assets of the Plan.[12]

Patten, MacPhee performed another appraisal of the Stock's value, as of December 31, 1998, for purposes of the Plan's annual report. As of December 31, 1998, there were 149,208 shares of common stock of CBR issued and outstanding, which were held by 57 shareholders. As of that date, the 7,500 shares of the Stock had an estimated fair market value of approximately $80.95 per share, or a total value of $607,125.

Each appraisal states, in regard to the valuation methodology, that a number of documents and information sources were considered, as well as the elements for the valuation of corporate stock as set forth in the Internal Revenue Service's Revenue Ruling 59–60. Such valuation elements included: the financial condition of both the Bank and CBR; strengths of current management, market share, economic conditions, and competitive factors; the fair market value of the underlying assets and liabilities of the Bank and CBR; historical and projected earnings; and sales of other banks and bank holding company stock within the southwestern United States. The appraisals state that, inasmuch as the Bank represents the only significant asset and activity of CBR, many of the foregoing factors were considered solely in regard to the Bank. In addition, since much of the published information utilized in valuation relates to the transfer of control, the appraisals focussed on those issues which influence the market values of minority interests, namely marketability, liquidity risk, and lack of control.

4. The Applicants propose to purchase 5,500 of the 7,500 shares of the Stock held by the Plan for the fair market value of the Stock as of the date of the sale, based upon an updated independent appraisal. Mr. McBride proposes to purchase 3,000 shares of the Stock, and Mr. Willis proposes to purchase 2,500 shares of the Stock. Based upon an appraised value for the Stock, as of December 31, 1998, of

[12] The Department expresses no opinion herein as to whether the Plan's acquisition and holding of the Stock violated any of the general fiduciary responsibility provisions of Part 4 of Title I of the Act. However, the Department notes that section 404(a) of the Act requires, among other things, that a plan fiduciary act prudently and solely in the interest of the plan's participants and beneficiaries when making investment decisions on behalf of the plan. Section 404(a) of the Act also requires that a plan fiduciary diversify the investments of a plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

$80.95 per share, 5,500 shares of the Stock have a total value of $445,225. The sale will be a one-time transaction for cash, and the Plan will pay no commissions nor other expenses relating to the sale.

The Applicants represent that following a large benefit distribution made by the Plan in 1993, the proportion of Plan assets represented by the Stock rose to 28%. At that time, the Applicants, as trustees of the Plan, determined that future contributions due to the Plan from the Employer, plus dividends paid on the Stock, would keep the assets of the Plan diversified and provide the liquidity needed to make benefit payments. However, the Stock has appreciated so much over the last few years that the Plan has been fully funded, and no additional Employer contributions have been allowed.

Although the Stock has been a good investment for the Plan, the Applicants, as Plan trustees, have determined that the proposed sale of 5,500 shares of the Stock is in the best interests of, and appropriate for, the Plan because such sale will enhance the liquidity and diversification of the assets of the Plan. In addition, the sale will reduce the risk of loss to the Plan in the event that the market value of the Stock should decline in the future, or in the event that the Stock, because it is not publicly traded, cannot be sold expeditiously when the Plan requires the funds to make benefit payments, forcing a distress sale in order to generate cash. Finally, the Applicants, as Plan trustees, have determined that the continued holding by the Plan of the remaining 2,000 shares of the Stock will not adversely affect the Plan's liquidity needs.

5. In summary, the Applicants represent that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (a) the sale will be a one-time transaction for cash; (b) the Plan will pay no commissions nor other expenses relating to the sale; (c) the Plan will receive an amount that is no less than the fair market value of the Stock as of the date of the sale, as determined by a qualified, independent appraiser; and (d) the sale will enhance the liquidity and diversification of the assets of the Plan, as well as reduce the risk of loss to the Plan, in the event that the market value of the Stock should decline in the future.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 19th day of April, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 99–10104 Filed 4–21–99; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training; Homeless Veterans' Reintegration Project Competitive Grants for Rural Areas

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training.

ACTION: Notice of availability of funds and solicitation for grant applications for Rural Homeless Veterans Reintegration Projects (SGA 99–02).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. All applicants for grant funds should read this notice in its entirety. The U.S. Department of Labor, Veterans' Employment and Training Service (VETS) announces a grant competition for Rural Homeless Veterans Reintegration Projects (HVRP) authorized under the Stewart B. McKinney Homeless Assistance Act. Such projects will assist eligible veterans who are homeless by providing employment, training, supportive and transitional housing assistance where possible. Under this solicitation, VETS expects to award up to five grants in FY 1999.

This notice describes the background, the application process, description of program activities, evaluation criteria, and reporting requirements for Solicitation of Grant Applications (SGA) 99–02. VETS anticipates that up to $300,000 will be available for grant awards under this SGA.

The information and forms contained in the Supplementary Information Section of this announcement constitute the official application package for this Solicitation. In order to receive any amendments to this Solicitation which may be subsequently issued, all applicants must register their name and address with the Procurement Services Center. Please send this information as soon as possible, Attention: Grant Officer, to the following address: U. S. Department of Labor, Procurement Services Center, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Please reference SGA 99–02.

DATES: One (1) ink-signed original, complete grant application (plus three (3) copies of the Technical Proposal and three (3) copies of the Cost Proposal shall be submitted to the U.S. Department of Labor, Procurement Services Center, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210, not later than 4:45 p.m., Eastern Standard Time, May 24, 1999, or be postmarked by the U.S. Postal Service on or before that date. Hand delivered applications must be received by the Procurement Services Center by that time.

ADDRESSES: Applications shall be mailed to the U.S. Department of Labor, Procurement Services Center, Attention: Lisa Harvey, Reference SGA 99–02, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 219–6445 [not a toll free number].

SUPPLEMENTARY INFORMATION:

RURAL HOMELESS VETERANS REINTEGRATION PROJECT SOLICITATION

I. Purpose

The U.S. Department of Labor (DOL), Veterans' Employment and Training Service (VETS) is requesting grant applications for the provision of employment and training services in accordance with Title VII, Subtitle C, Section 738 of the Stewart B. McKinney Homeless Assistance Act (MHAA), 42 U.S.C. 11448. These instructions contain general program information, requirements and forms for application for funds to operate a Rural Homeless Veterans Reintegration Project (HVRP).

II. Background

The Stewart B. McKinney Homeless Assistance Act of 1987, enacted on July 22, 1987, under Title VII, Subtitle C, Section 738 provides that "The Secretary shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to expedite the reintegration of homeless veterans into the labor force." This program was reauthorized under Section 621 of the McKinney Homeless Assistance Amendments Act of 1990 (Pub. L. 101–645) for an additional three years, i.e., through FY 1993. Under the Homeless Veterans Comprehensive Service Programs Act of 1992 (Pub. L. 102–590—enacted on November 10, 1992) the Homeless Veterans Reintegration Project was reauthorized through Fiscal Year 1995. However, the program was rescinded in FY 1995. Pub. L. 104–275, dated October 9, 1996, was amended to reauthorize the program through FY 1998. Public Laws 105–41 and 105–114, enacted in 1997, extend the program through FY 1999.

The Homeless Veterans Reintegration Project was the first nationwide Federal program that focused on placing homeless veterans into jobs. In accordance with the MHAA, the Assistant Secretary for Veterans' Employment and Training (ASVET) is making approximately $300,000 of the funds available to award grants for HVRPs in rural areas in FY 1999 under this competition. Projects are expected to provide valuable information on approaches that work in a rural environment.

III. Application Process

A. Rural Areas

Under this announcement, applications will be accepted from eligible applicants (as defined in Section B. Of this part), to serve homeless veterans in rural areas.

The Census Bureau has defined "urban" for the 1990 census, and territory, population, and housing units not classified as urban constitute "rural." Most specifically, "urban" consists of territory, persons, and housing units in:

1. Places of 2,500 or more persons incorporated as cities, villages boroughs (except in Alaska and New York), and towns (except in the six New England States, New York, and Wisconsin), but excluding the rural portions of "extended cities."

2. Census designated places of 2,500 or more persons.

3. Other territory, incorporated or unincorporated, included in urbanized areas.

Those not constituted as "urban" likely fall into the category or "rural." Potential applicants are referred to the Geography Division, U.S. Bureau of the Census, Washington, DC 20233, for any questions or clarification on the Census Bureau's definition. It is expected that an applicant's submission under this solicitation will clearly demonstrate the rural nature of the area to be served.

B. Eligible Applicants

Applications for funds will be accepted from State and local public agencies, Private Industry Councils, and nonprofit organizations as follows:

1. Private Industry Councils (PICS) as defined in Title I, Section 102 of the Job Training Partnership Act (JTPA), Public Law 97–300, are eligible applicants, as well as State and local public agencies. "Local public agency" refers to any public agency of a general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers. (This typically refers to cities and counties.) A State agency may propose in its application to serve one or more of the potential jurisdictions located in its State. This does not preclude a city or county agency from submitting an application to serve its own jurisdiction. (Although cities are mentioned in the above explanation, this solicitation is limited to cities within a rural jurisdiction.)

Applicants are encouraged to utilize, through subgrants, experienced public agencies, private nonprofit organizations, and private businesses which have an understanding of the unemployment and homeless problems of veterans, a familiarity with the area to be served, and the capability to effectively provide the necessary services.

2. Also eligible to apply are nonprofit organizations who have operated an HVRP or similar employment and training program for the homeless or veterans; or have proven capacity to manage Federal grants; and have or will provide the necessary linkages with other service providers. Nonprofit organizations will be required to submit with their application recent (within one year) financial audit statements that attest to the financial responsibility of the organization.

Entities described in Section 501(c)4 of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement. The Lobbying Disclosure Act of 1995, Public Law No. 104–65, 109 Stat. 691, prohibits the award of Federal funds to these entities if they engage in lobbying activities.

C. Funding Levels

The total amount of funds available for this solicitation is $300,000. It is anticipated that up to 5 awards will be made under this solicitation. Awards are expected to range from $50,000 to $75,000. The Federal government reserves the right to negotiate the amounts to be awarded under this competition. Please be advised that requests exceeding this range by 15% or more will be considered non-responsive.

D. Period of Performance

The period of performance will be for one year from date of award. It is expected that successful applicants will commence program operations under this solicitation on or before July 1, 1999. Actual start dates will be

negotiated with each successful applicant.

E. Late Proposals

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at the Office of Procurement Services after 4:45 pm EST, May 24, 1999, will not be considered unless it is received before the award is made and:

1. it was sent by registered or certified mail not later than the fifth calendar day before May 24, 1999;

2. it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or

3. it was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 pm at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to May 24, 1999.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. "Postmark" means a printed, stamped or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request that the postal clerk place a legible hand cancellation "bull's-eye" postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation "bull's-eye" postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office. Applications sent by telegram or facsimile (FAX) will not be accepted.

F. Submission of Proposal

A cover letter, and an original and three (3) copies of the proposal shall be submitted. The proposal shall consist of two (2) separate and distinct parts:

Part I—Technical Proposal shall consist of a narrative proposal that demonstrates the applicant's knowledge of the need for this particular grant program, its understanding of the services and activities proposed to alleviate the need and its capabilities to accomplish the expected outcomes of the proposed project design. The technical proposal shall consist of a narrative not to exceed fifteen (15) pages double-spaced, typewritten on one side of the paper only. Charts and exhibits are not counted against the page limit. Applicants should be responsive to the Rating Criteria contained in Section VI and address all of the rating factors noted as thoroughly as possible in the narrative. The following format is strongly recommended:

1. Need for the project: the applicant should identify the geographical area to be served and the rural characteristics of the area; provide an estimate of the number of homeless veterans and their needs, poverty and unemployment rates in the area, and gaps in the local community infrastructure the project would fulfill in addressing the employment and other barriers of the targeted veterans. Include the outlook for job opportunities in the service area.

2. Approach or strategy to increase employment and job retention: The applicant should describe the specific supportive services and employment and training services to be provided under this grant and the sequence or flow of such services. Participant flow charts may be provided. Include a description of the relationship with other employment and training programs such as Disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representative (LVER) program, and programs under the Job Training Partnership Act. Please include a plan for follow up of participants who entered employment at 30 and 90 days and the capacity to assist the Department of Labor in one-year and/or multi-year follow up efforts. (See discussion on results in Section V. D.) Please include the chart of proposed performance goals and planned expenditures listed in Appendix D. Although the form itself is not mandatory, the information called for in Appendix D must be provided by the applicant.

3. Linkages with other providers of employment and training services to the homeless and to veterans: Describe what linkages this program will have with other providers of services to veterans and to the homeless in the community outside of the HVRP grant. List the types of services provided by each. Note the type of agreement in place if applicable. Linkages with the workforce development system [inclusive of JTPA and State Employment Security Agencies (SESAs)], non-profit organizations and public agencies (i.e., the Department of Housing and Urban Development and with the Department of Veterans Affairs) resources should be delineated.

4. Organizational capability in providing required program activities: The applicant's relevant current or prior experience in operating employment and training or related programs serving the homeless or veterans should be delineated. Provide information denoting outcomes of past programs in terms of enrollments and placements or other measures of success. Applicants who have operated an HVRP program, or more recent Homeless Veterans Employment and Training (HVET) program should include final or most recent technical performance reports. (This information is subject to verification by the Veterans' Employment and Training Service.) Provide evidence of key staff capability. Non-profit organizations should submit evidence of satisfactory financial management capability including recent financial and/or audit statements.

5. Proposed housing strategy for homeless veterans: Describe how housing resources for homeless veterans in the rural area may be obtained or accessed. These resources may be from linkages or sources other than the HVRP grant such as HUD, community housing resources, DVA leasing or other programs. The applicant should explain whether HVRP resources will be used and why this is necessary.

Part II—Cost Proposal shall contain the Standard Form (SF) 424, "Application for Federal Assistance," and the Budget Information Sheet in Appendix B. In addition the budget shall include—on a separate page(s)—a detailed cost break-out of each line item on the Budget Information Sheet. Please label this page or pages the "Budget Narrative." Also to be included in this Part is the Assurance and Certification Page, Appendix C. Copies of all required forms with instructions for completion are provided as appendices to this solicitation. The Catalog of Federal Domestic Assistance number for this program is 17.805, which should be

entered on the SF 424, Block 10. In Block 11, please enter the following: Homeless Veterans Reintegration Project (RURAL). Please show leveraged resources/matching funds and/or the value of in-kind contributions in Section B of the Budget Information Sheet.

Budget Narrative Information

As an attachment to the Budget Information Sheet, the applicant must provide at a minimum, and on separate sheet(s), the following information:

(a) A breakout of all personnel costs by position, title, salary rates and percent of time of each position to be devoted to the proposed project (including subgrantees);

(b) An explanation and breakout of fringe benefit rates and associated charges. Rates exceeding 35% of salaries and wages require justification;

(c) An explanation of the purpose and composition of, and method used to derive the costs of each of the following: travel, equipment, supplies, subgrants/contracts and any other costs. The applicant should include costs of any required travel described in this Solicitation. Mileage charges shall not exceed 31 cents per mile;

(d) Description/specification of and justification for equipment purchases, if any. Tangible, non-expendable, personal property having a useful life of more than one year and a unit acquisition cost of $5,000 or more per unit must be specifically identified; and

(e) Identification of all sources of leveraged or matching funds and an explanation of the derivation of the value of matching/in-kind Services.

IV. Participant Eligibility

To be eligible for participation under HVRP, an individual must be homeless and a veteran defined as follows:

A. The term "homeless or homeless individual" includes persons who lack a fixed, regular, and adequate nighttime residence. It also includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for individuals intended to be institutionalized; or a private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. (Reference 42 U.S.C. 11302).

B. The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable. [Reference 38 U.S.C. 101(2)]

V. Project Summary

A. Program Concept and Emphasis

The HVRP grants under Section 738 of the Stewart B. McKinney Homeless Assistance Act are intended to address dual objectives:

Provide services to assist in reintegrating homeless veterans into the labor force; and stimulate the development of effective service delivery systems that will seek to address the complex problems facing homeless veterans. These programs are designed to be flexible in addressing the universal as well as local or regional problems barring homeless veterans from the workforce. The program in FY 1999 will continue to strengthen the provision of comprehensive services through a case management approach, the attainment of housing resources for veterans entering the labor force, and strategies for employment and retention.

B. Required Features

1. The HVRP has since its inception featured an outreach component consisting of veterans who have experienced homelessness. In recent years this requirement was modified to allow the projects to utilize formerly homeless veterans in other positions where there is direct client contact if outreach was not needed extensively, such as counseling, peer coaching, intake and follow up. This requirement applies to projects funded under this solicitation.

2. Projects will be required to show linkages with other programs and services which provide support to homeless veterans. Coordination with the Disabled Veterans' Outreach Program (DVOP) Specialists in the jurisdiction is imperative.

3. Projects will be "employment focused." That is, they will be directed towards (a) increasing the employability of homeless veterans through providing for or arranging for the provision of services which will enable them to work; and (b) matching homeless veterans with potential employers.

C. Scope of Program Design

The HVRP project design should provide or arrange for the following services:

—Outreach, intake, assessment, counseling and employment services. Outreach should, to the degree practical, be provided at shelters, day centers, soup kitchens, and/or other locations particular to the rural environment, and other programs for the homeless. Program staff providing outreach services are to be veterans who have experienced homelessness

Coordination with veterans' services programs and organizations such as:

—Disabled Veterans' Outreach Program (DVOP) Specialists and Local Veterans' Employment Representatives (LVERs) in the State Employment Security/Job Service Agencies (SESAs) or in the newly instituted workforce development system's One-Stop Centers, JTPA Title IV, Part C (IV–C) Veterans' Employment Program
—Department of Veterans' Affairs (DVA) services, including its Health Care for Homeless Veterans, Domiciliary and other programs, including those offering transitional housing
—Department of Housing and Urban Development (HUD) services, including its Per Diem Grants program
—Veteran service organizations such as The American Legion, Disabled American Veterans, and the Veterans of Foreign Wars, Vietnam Veterans of America, and the American Veterans (AMVETS)

Referral to necessary treatment services, rehabilitative services, and counseling including, but not limited to:

—Alcohol and drug
—Medical
—Post Traumatic Stress Disorder
—Mental Health
—Coordinating with MHAA Title VI programs for health care for the homeless

Referral to housing assistance provided by:

—Local shelters
—Federal Emergency Management Administration (FEMA) food and shelter programs
—Transitional housing programs and single room occupancy housing programs funded under MHAA Title IV
—Permanent housing programs for the handicapped homeless funded under MHAA Title IV
—Department of Veterans' Affairs programs that provide for leasing or sale of acquired homes to homeless providers
—Transitional housing leased by HVRP funds (HVRP funds cannot be used to purchase housing)

Employment and training services such as:

—Basic skills instruction
—Basic literacy instruction
—Remedial education activities
—Job search activities
—Job counseling
—Job preparatory training, including resume writing and interviewing skills

—Subsidized trial employment (Work Experience)
-On-the-Job Training
—Classroom Training
—Job placement in unsubsidized employment
—Placement follow up services
—Services provided under JTPA Program Titles

D. Results-Oriented Model

Based on past experience of grantees working with this target group, a workable program model evolved which is presented for consideration by prospective applicants. No model is mandatory, and the applicant should design a program that is responsive to local needs, but will carry out the objectives of the HVRP to successfully reintegrate homeless veterans into the workforce.

With the advent of implementing the Government Performance and Results Act (GPRA), Congress and the public are looking for results rather than process. While entering employment is a viable outcome, it will be necessary to measure results over a longer term to determine the success of programs. The following program discussion emphasizes that followup is an integral program component.

The first phase of activity consists of the level of outreach that is necessary in the community to reach veterans who are homeless. This may also include establishing contact with other agencies that encounter homeless veterans such as shelters, soup kitchens and other facilities in the rural area. An assessment should be made of the supportive and social rehabilitation needs of the client and referral may take place to services such as drug or alcohol treatment or temporary shelter. When the individual is stabilized, the assessment should focus on the employability of the individual and they are enrolled into the program if they would benefit from pre-employment preparation such as resume writing, job search workshops, related counseling and case management, and initial entry into the job market through temporary jobs, sheltered work environments, or entry into classroom or on-the-job training. Such services should also be noted in an Employability Development Plan so that successful completion of the plan may be monitored by the staff.

Entry into full-time employment or a specific job training program should follow in keeping with the objective of HVRP to bring the participant closer to self-sufficiency. Transitional housing may assist the participant at this stage or even earlier. Job development is a crucial part of the employability process. Wherever possible, DVOP and LVER staff should be utilized for job development and placement activities for veterans who are ready to enter employment or who are in need of intensive case management services. Many of these staff have received training in case management at the National Veterans' Training Institution and have as a priority of focus, assisting those most at a disadvantage in the labor market. VETS urges working hand-in-hand with DVOP/LVER staff to achieve economies of resources.

Follow up to determine if the veteran is in the same or similar job at the 30 day period after entering employment is required and important in keeping contact with the veterans and so that assistance in keeping the job may be provided. The 90 day followup is fundamental to assessing the results of the program interventions. Grantees should be careful to budget for this activity so that followup can and will occur for those placed at or near the end of the grant period. Such results will be reported in the final technical performance report.

VETS emphasizes in its Strategic Plan to implement GPRA that suitable outcomes involve careers, not just jobs. Successful results are achieved when the veteran is in the same or similar job after one or more years. Towards that end, VETS solicits the cooperation of successful applicants in retaining participant information pertinent to a longitudinal follow up survey, i.e., at least for one year after the grant period ends. Retention of records will be reflected in the Special Provisions at time of award.

E. Related HVRP Program Development Activities

1. Community Awareness Activities

In order to promote linkages between the HVRP program and local service providers (and thereby eliminate gaps or duplication in services and enhance provision of assistance to participants), the grantee must provide project orientation and/or service awareness activities that it determines are the most feasible to local providers of hands-on services to homeless, Federal, State and local entitlement services (such as the Social Security Administration, DVA, HUD, and the local Job Service office(s), and civic and private sector groups to enlist their support for the program.

VI. Rating Criteria for Award

Applications will be reviewed by a DOL panel using the point scoring system specified below. Applications will be ranked based on the score assigned by the panel after careful evaluation by each panel member. The ranking will be the primary basis to identify approximately 5 applicants as potential grantees. Although the Government reserves the right to award on the basis of the initial proposal submissions, the Government may establish a competitive range, based upon the proposal evaluation, for the purpose of selecting qualified applicants. The panel's conclusions are advisory in nature and not binding on the Grant Officer. The government reserves the right to ask for clarification or hold discussions, but is not obligated to do so. The Government further reserves the right to select applicants out of rank order if such a selection would, in its opinion, result in the most effective and appropriate combination of funding, demonstration models, and geographical service areas. The Grant Officer's determination for award under SGA 99–02 is the final agency action. The submission of the same proposal from any prior year HVRP or HVET competition does not guarantee an award under this Solicitation.

Panel Review Criteria

1. Need for the Project: 15 Points

The applicant shall document the extent of need for this project, as demonstrated by: (1) the potential number or concentration of homeless individuals and homeless veterans in the proposed project area relative to other similar areas of jurisdiction; (2) the high rates of poverty and/or unemployment in the proposed project area as determined by the census or other surveys; and (3) the extent of gaps in the local infrastructure the program would fill to effectively address the employment barriers which characterize the target population in the rural area.

2. Overall Strategy To Increase Employment and Retention: 30 Points

The application must include a description of the proposed approach to providing comprehensive employment and training services, including job training, job development, placement and post placement follow up services. The supportive services to be provided as part of the strategy of promoting job readiness and job retention should be indicated. The applicant should identify the local human resources and sources of training to be used for participants. A description of the relationship, if any, with other employment and training programs such as SESAs (DVOP and LVER Programs), JTPA IV–C, other JTPA programs, and Workforce Development Boards or entities where in place,

should be presented. It should be indicated how the activities will be tailored or responsive to the needs of homeless veterans in the rural area. A participant flow chart may be used to show the sequence and mix of services.

Note: The applicant MUST complete the chart of proposed program outcomes to include participants served, and job retention. (See Appendix D)

3. Quality and Extent of Linkages With Other Providers of Services to the Homeless and to Veterans: 20 Points

The application should provide information on the quality and extent of the linkages this program will have with other providers of services to benefit the homeless or veterans in the local community outside of the HVRP grant. For each service, it should be specified who the provider is, the source of funding (if known), and the type of linkages/referral system established or proposed. Describe to the extent possible, how the project would fit into the community's approach to respond to homelessness.

4. Demonstrated Capability in Providing Required Program Services: 20 Points

The applicant should describe its relevant prior experience in operating employment and training programs and providing services to participants similar to that which is proposed under this solicitation. Specific outcomes achieved by the applicant should be described in terms of clients placed in jobs, or other outcome measures of success. The applicant must also delineate its staff capability and ability to manage the financial aspects of Federal grant programs. Relevant documentation such as financial and/or audit statements should be submitted (required for applicants who are non-profit agencies). Final or most recent technical reports for HVRP, HVET or other relevant programs should be submitted as applicable. The applicant should also address its capacity for timely startup of the program.

5. Quality of Overall Housing Strategy: 15 Points

The application should demonstrate how the applicant proposes to obtain or access housing resources for veterans in the program and entering the labor force. This discussion should specify the provisions made to access temporary, transitional, and permanent housing for participants through community resources, HUD, lease, HVRP or other means unique to the locale. HVRP funds may not be used to purchase housing.

Applicants can expect that the cost proposal will be reviewed for allowability, allocability, and reasonableness of costs, but will not be scored.

VII. Post Award Conference

A post-award conference for those awarded FY 1999 HVRP funds will be held by the designated Grant Officer Technical Representative (GOTR) within each state. The conference will focus on providing information and assistance on reporting, record keeping, and grant requirements.

VIII. Reporting Requirements

The grantee shall submit the reports and documents listed below:

A. Financial Reports

The grantee shall report outlays, program income, and other financial information on a quarterly basis using SF 269A, Financial Status Report, Short Form. These forms shall cite the assigned grant number and be submitted to the appropriate State Director for Veterans' Employment and Training (DVET) no later than 30 days after the ending date of each Federal fiscal quarter during the grant period. In addition, a final SF 269 shall be submitted no later than 90 days after the end of the grant period.

B. Program Reports

Grantees shall submit a Quarterly Technical Performance Report 30 days after the end of each Federal fiscal quarter to the DVET which contains the following:

1. A comparison of actual accomplishments to established goals for the reporting period and any findings related to monitoring efforts;
2. Reason for slippage if established goals are not met and identification of the corrective action which will be taken to meet the goals, and the timetable for accomplishment of the corrective action.

A final Technical Performance Report will also be required as part of the final report package due 90 days after grant expiration.

C. Summary of Final Report Package

The grantee shall submit 90 days after the grant expiration date the following final report package:

1. Final Financial Status Report
2. Final Technical Performance Report
3. Final Narrative Report—Grantees will be required to submit a final narrative report identifying major successes of the program as well as obstacles to success.

IX. Administrative Provisions

A. Limitation on Administrative and Indirect Costs

1. Direct Costs for administration, plus any indirect charges claimed, may not exceed 20 percent of the total amount of the grant.

2. Indirect costs claimed by the applicant shall be based on a federally approved rate. A copy of the negotiated, approved, and signed indirect cost negotiation agreement must be submitted with the application. (Do not submit the State cost allocation plan.)

3. Rates traceable and trackable through the SESA Cost Accounting System represent an acceptable means of allocating costs to DOL and, therefore, can be approved for use in MHAA grants to SESAS.

4. If the applicant does not presently have an approved indirect cost rate, a proposed rate with justification may be submitted. Successful applicants will be required to negotiate an acceptable and allowable rate with the appropriate DOL Regional Office of Cost Determination within 90 days of grant award.

B. Allowable Costs

Determinations of allowable costs shall be made in accordance with the following applicable Federal cost principles:

State and local government—OMB Circular A–87

Nonprofit organizations—OMB Circular A–122

C. Administrative Standards and Provisions

All grants shall be subject to the following administrative standards and provisions:

29 CFR Part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

29 CFR Part 95—Grants and Agreements with Institutes of Higher Education, Hospitals, and Other Non-Profit Organizations.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

29 CFR Part 30—Equal Employment Opportunity in Apprenticeship and Training.

29 CFR Part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.

Signed at Washington, D.C. this 16th day of April, 1999.

Lawrence J. Kuss,

Grant Officer.

Appendices

Appendix A: Application for Federal Assistance SF Form 424

Appendix B: Budget Information Sheet

Appendix C: Assurances and Certifications Signature Page

Appendix D. Technical Performance Goals Form HVRP Performance Goals Definitions

BILLING CODE 4510–79–U

Appendix A

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application / Construction / Non-Construction; Preapplication / Construction / Non-Construction		2. DATE SUBMITTED	Applicant Identifier
		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

New Continuation Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. PROGRAM IS NOT COVERED BY E.O. 12372

OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

Yes If "Yes," attach an explanation. No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable)
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.
12.	List only the largest political entities affected (e.g., State, counties, cities.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Appendix B

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. **Personnel:** Show salaries to be paid for project personnel.

2. **Fringe Benefits**: Indicate the rate and amount of fringe benefits.

3. **Travel**: Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.

4. **Equipment**: Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.

5. **Supplies**: Include the cost of consumable supplies and materials to be used during the project period.

6. **Contractual**: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.

7. **Other**: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. **Total, Direct Costs**: Add lines 1 through 7.

9. **Indirect Costs**: Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.

10. **Training /Stipend Cost:** (If allowable)

11. **Total Federal funds Requested**: Show total of lines 8 through 10.

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE:

PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

Appendix C

ASSURANCES AND CERTIFICATIONS - SIGNATURE PAGE

The Department of Labor will not award a grant or agreement where the grantee/recipient has failed to accept the ASSURANCES AND CERTIFICATIONS contained in this section. By signing and returning this signature page, the grantee/recipient is providing the certifications set forth below:

A. Assurances - Non-Construction Programs

B. Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters and Drug-Free/Tobacco-Free Workplace Requirements.

C. Certification of Release of Information

APPLICANT NAME and LEGAL ADDRESS:

If there is any reason why one of the assurances or certifications listed cannot be signed, please explain. Applicant need only submit and return this signature page with the grant application. All other instructions shall be kept on file by the applicant.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL TITLE

APPLICANT ORGANIZATION DATE SUBMITTED

Please Note: **This signature page and any pertinent attachments which may be required by these assurances and certifications shall be attached to the applicant's Cost Proposal.**

Appendix D

RECOMMENDED FORMAT FOR PLANNED QUARTERLY TECHNICAL PERFORMANCE GOALS

(data entered cumulatively)

Performance Goals

	1ST QTR	2ND QTR	3RD QTR	4TH QTR
Assessments				
Participants Enrolled				
Placed Into Transitional Or Permanent Housing				
Direct Placements Into Unsubsidized Employment				
Assisted Placements Into Unsubsidized Employment				
Combined Placements Into Unsubsidized Employment (Direct & Assisted)				
Cost Per Placement				
Number Retaining Jobs For 30 Days				
Number Retaining Jobs For 90 Days				
Rate of Placement Into Unsubsidized Employment				
Average Hourly Wage At Placement				

Employability Development Services - (As Applicable)

Classroom Training				
On-The-Job Training				
Remedial Education				
Vocational Counseling				
Pre-employment Services				
Occupational Skills Training				
_____				
_____				
_____				
_____				

Planned Expenditures

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
Total Expenditures	$	$	$	$
Administrative Costs	$	$	$	$
Participant Services*	$	$	$	$

*Services may include training and/or supportive.

HVRP PERFORMANCE GOAL DEFINITIONS

1. Assessments. This process includes addressing the supportive services and employability and training needs of individuals before enrolling them in an HVRP program. Generally, this includes an evaluation and/or measurement of vocational interests and aptitudes, present abilities, previous education and work experience, income requirements, addressing supportive service needs, substance abuse treatment needs, counseling needs, temporary or transitional housing needs, personal circumstances and other related services.

2. Participants Enrolled. A client should be recorded as having been enrolled when an intake form has been completed, and services, referral, or employment has been received through the HVRP program. This should be an unduplicated count over the year: i.e., each participant is recorded only once, regardless of the number of times she or he receives assistance.

3. Placed Into Transitional Or Permanent Housing. A placement into transitional or permanent housing should be recorded when a veteran served by the program upgrades his/her housing situation during the reporting period from shelter/streets to transitional housing or permanent housing or from transitional housing to permanent housing. Placements resulting from referrals by HVRP staff shall be counted. This item is however an unduplicated count over the year, except that a participant may be counted once upon entering transitional housing and again upon obtaining permanent housing.

4. Direct Placements Into Unsubsidized Employment. A direct placement into unsubsidized employment must be a placement made directly by HVRP-funded staff with an established employer who covers all employment costs for 20 or more hours per week at or above the minimum wage. Day labor and other very short-term placements should not be recorded as placements into unsubsidized employment.

5. Assisted Placements Into Unsubsidized Employment. Assisted placements into unsubsidized employment should be recorded where the definition for placement with unsubsidized employment above is met, but the placement was arranged by an agency to which the HVRP referred the homeless veteran, such as a Job Training Partnership Act (JTPA) program.

6. Cost Per Placement. The cost per placement into unsubsidized employment is obtained by dividing the total HVRP funds expended by the total of direct placements plus assisted placements.

7. Number Retaining Job For 30 Days. To be counted as retaining a job for 30 days, continuous employment with one or more employers for at least 30 days must be verified and the definition for either direct placement or assisted placement into unsubsidized employment above is met. This allows clients who have moved into a position with a different employer to be recorded as retaining the job for 30 days as long as the client has been steadily employed for that length of time.

8. Number Retaining Job For 90 Days. To be counted as retaining a job for 90 days, continuous employment with one or more employers for at least 90 days must be verified, and the definition for either placement or assisted placement into unsubsidized employment above is met. This allows clients who have moved into a position with a different employer to be recorded as retaining the job for 90 days as long as the client has been steadily employed for that length of time.

9. Rate of Placement Into Unsubsidized Employment. The rate of placement into unsubsidized employment is obtained by dividing the number placed into unsubsidized employment (HVRP), plus the number of assisted placements into unsubsidized employment by the number of clients enrolled.

10. Average Hourly Wage At Placement. The average hourly wage at placement is the average hourly wage rates at placement of all assisted placements plus direct placements.

11. Employability Development Services. This includes services and activities which will develop or increase the employability of the participant. Generally, this includes vocational counseling, classroom and on-the-job training, pre-employment services (such as job seeking skills and job search workshops), temporary or trial employment, sheltered work environments and other related services and activities. Planned services should assist the participant in addressing specific barriers to employment and finding a job. These activities may be provided by the applicant or by a subgrantee, contractor or another source such as the local Job Partnership Training Act program or the Disabled Veterans'Outreach Program (DVOP) personnel or Local Veterans' Employment Representatives (LVERs). Such services are not mandatory but entries should reflect the services described in the application and the expected number of participants receiving or enrolled in such services during each quarter. Participants may be recorded more than once if they receive more than one service.

12. Total Planned Expenditures. Total funds requested. Identify forecasted expenditures needed for each fiscal quarter.

13. Administrative Costs. Administrative costs shall consist of all direct and indirect costs associated with the supervision and management of the program. These costs shall include the administrative costs, both direct and indirect, of subrecipients and contractors.

14. Participant Services. This cost includes supportive, training, or social rehabilitation services which will assist in stabilizing the participant. This category should reflect all costs other than administrative.

[FR Doc. 99–10071 Filed 4–21–99; 8:45 am]
BILLING CODE 4510–79–C

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee

AGENCY: National Communications System (NCS).

ACTION: Notice of meeting.

SUMMARY: A meeting of the President's National Security Telecommunications Advisory Committee will be held on Wednesday, June 9, 1999, from 9:00 a.m. to 11:15 a.m. The Business Session will be held at the Department of State, 2101 C Street NW, Washington, DC. The agenda is as follows:

—Call to Order/Welcoming Remarks.
—Industry Executive Subcommittee Report.
—Critical Infrastructure Protection Briefing.
—Information Assurance Briefing.
—Year 2000 Issue.
—Adjournment.

Due to the potential requirement to discuss classified information in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense.

FOR FURTHER INFORMATION CONTACT: Telephone (703) 607–6215 or write the Manager, National Communications System, 701 South Court House Road, Arlington, VA 22204–2198.

Frank McClelland,

Federal Register Liaison Officer, Technology and Standards Division (N6).

[FR Doc. 99–9843 Filed 4–21–99; 8:45 am]

BILLING CODE 5000–03–M

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted final revised annual fee rates for calendar years 1991, 1992, 1993, 1994 and 1995. The rate for 1991 is .704658544% (.00704658544) on both tier 1 and tier 2 revenues; the rate for 1992 is .538274583% (.00538274583) on both tier 1 and tier 2 revenues; the rate for 1993 is .5% (.005) on tier 1 revenues and .392952686% (.00392952686) on tier 2 revenues; the rate for 1994 is .5% (.005) on tier 1 revenues and .34541121% (.0034541121) on tier 2 revenues; the rate for 1995 is .5% (.005) on tier 1 revenues and .221595808% (.00221595808) on tier 2 revenues. These rates shall apply to all class II assessable gross revenues from gaming operations regulated by the Commission.

FOR FURTHER INFORMATION CONTACT: Cindy Altimus, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005; telephone 202/632/7003; fax 202/632/7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 500) provide for a system of fee assessment and payment that is self-administered by the gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the final rates being adopted today are effective for calendar years 1991, 1992, 1993, 1994 and 1995. As a result, the Commission shall credit each gaming operation pro-rata fees collected in excess of $1,500,000 during those years. The Commission will notify each gaming operation as to the amounts of overpayments, if any, and therefore the amounts of credit to be taken against the next quarterly payment(s) otherwise due.

Montie R. Deer,

Chairman.

[FR Doc. 99–10120 Filed 4–21–99; 8:45 am]

BILLING CODE 7565–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend and Revise a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice; comment request.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this data collection with the addition of a Follow-Up Survey administered to eligible institutions from the main study sample, as requested by OMB. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this information collection.

SEND COMMENTS TO: Ms. Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 245, Arlington, Virginia 22230 or send email to splimpto@nsf.gov. Written comments should be received within 60 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Plimpton on (703) 306–1125 x2017. Or send an email to splimpto@nsf.gov. You may also obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title of Collection: 2000 Survey of Scientific and Engineering Research Facilities at Colleges and Universities.

OMB Control Number: 3145–0101.

Proposed Renewal Project: The current National Science Foundation Survey of Scientific and Engineering Research Facilities at Universities and Colleges has been in use for two years. Data were collected from a sample of 365 institutions to examine the status and need for science and engineering research facilities at universities and colleges as directed by Public Law 99–159, and from a sample of 100 nonprofit research organizations and hospitals. It was expected by Congress that this survey would provide data necessary to formulate appropriate solutions to documented needs, as well as provide trend data necessary to evaluate outcomes of approaches that might be implemented. The proposed Follow-Up survey will collect additional information to supplement the original survey data, increasing its usefulness to Federal agencies, policymakers and higher education administrators. Total project construction costs which exceed $25 million per project will be reported and particular space designation measurements (e.g., net assignable square feet) of the building will be identified. Additional questions

regarding special features or conditions which might contribute to prices beyond standard expectations are also included in the survey.

Use of the Information: Analysis of the Facilities survey data will provide updated information on the status of scientific and engineering research facilities. The survey will provide comparable data from which trends can be observed. The information can be used by Federal policy makers, planners, and budget analysts in making policy decisions, as well as by academic officials, the scientific/engineering establishment, and state agencies that fund universities. The Follow-Up Survey data are expected to be used to make more exact and, as a result, more valid jugements concerning the reasonableness of facility costs.

Burden on the Public: The Facilities survey will be sent by mail to approximately 475 academic institutions and 100 nonprofit research organizations and hospitals. The completion time per academic institution is expected to average 24 hours and the completion time per research organization/hospitals is expected to average 5 hours. Assuming a 90% response rate, this would result in an estimated burden of 10,260 hours for academic institutions and 450 hours for nonprofit research organizations/ hospitals.

The screener to the Follow-Up Survey will be sent by e-mail to approximately 70 institutions. The completion time per academic institution is expected to average 30 minutes. Assuming a 90% response rate, the estimated burden would be 32 hours for academic institutions.

The Follow-Up Survey will be sent by mail to the qualifying institutions of which there is expected to be approximately 42. The completion time per academic institution is expected to average 1.5 hours. Assuming a 90% response rate, the estimated burden would be 57 hours for academic institutions.

Dated: April 19, 1999.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 99–10121 Filed 4–21–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

GPU Nuclear, Inc., et al.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of GPU Nuclear, Inc., et al., (the licensee) to withdraw its November 25, 1998, application as supplemented by letter dated February 12, 1999, for proposed amendment to Facility Operating License No. DPR–50 for the Three Mile Island Nuclear Station, Unit No. 1, located in Dauphin County, Pa.

The proposed amendment would have, in part, extended the Technical Specification (TS) reporting interval in TS 4.19.5 from 90 days to 12 months.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 16, 1998 (63 FR 69342). However, by letter dated February 12, 1999, the licensee withdrew the proposed change request.

For further details with respect to this action, see the application for amendment dated November 25, 1998, as supplemented February 12, 1999, which withdrew that portion of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Law/ Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, P.O. Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 13th day of April 1999.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10122 Filed 4–21–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 109th meeting on May 11–13, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, May 11, 1999—1:00 P.M. until 6:00 P.M.

Wednesday, May 12, 1999—8:30 A.M. until 6:00 P.M.

Thursday, May 13, 1999—8:30 A.M. until 4:00 P.M.

The following topics will be discussed:

A. *ACNW Planning and Procedures*—The Committee will hear a briefing from its staff on issues to be covered during this meeting. The Committee will also consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

B. *Risk Communications*—The Committee will begin to prepare for an October Working Group meeting on this topic with a number of lead-in presentations. These will include discussions with representatives from other government agencies, private industry, and the National Academy of Sciences, as well as professional risk communication experts. Risk communication initiatives underway within the NRC will also be discussed.

C. *Yucca Mountain Review Plan*—The NRC staff will discuss the strategy for converting the Issue Resolution Status Reports for the proposed high-level waste repository at Yucca Mountain into a review plan for the repository license application.

D. *Preparation of ACNW Reports*—The Committee will discuss planned reports on the following topics: biological effects of low levels of ionizing radiation, a White Paper on Repository Design Issues at Yucca Mountain and other topics discussed during this and previous meetings as the need arises.

E. *Meeting with NRC's Executive Director for Operations (EDO)*—The Committee will meet with the EDO to discuss items of mutual interest.

F. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 29, 1998 (63 FR 51967). In accordance with these procedures, oral

or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Associate Director for Technical Support, ACNW, Dr. Richard P. Savio, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the Associate Director for Technical Support, ACNW, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Dr. Savio as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Dr. Richard P. Savio, Associate Director for Technical Support, ACNW (Telephone 301/415–7363), between 8:00 A.M. and 5:00 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. EDT at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: April 16, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–10123 Filed 4–21–99; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Statement Regarding Contributions and Support.

(2) *Form(s) submitted:* G–134.

(3) *OMB Number:* 3220–0099.

(4) *Expiration date of current OMB clearance:* 6/30/1999.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 100.

(8) *Total annual responses:* 100.

(9) *Total annual reporting hours:* 129.

(10) *Collection description:* Dependency on the employee for one-half support at the time of the employee's death can be a condition affecting eligibility for a survivor annuity provided for under section 2 of the Railroad Retirement Act. One-half support is also a condition which may negate the public service pension offset in Tier I for a spouse or widow(er).

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Laurie Schack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–10108 Filed 4–21–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension: Rule 15g–2 [17 CFR 240.15g–2], SEC File No. 270–381, OMB Control No. 3235–0434.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The "Penny Stock Disclosure Rules" (Rule 15g–2, 17 CFR 240.15g–2) require broker-dealers to provide their customers with a risk disclosure document, as set forth in Schedule 15G, prior to their first non-exempt transaction in a "penny stock." As amended, the rules requires broker-dealers to obtain written acknowledgement from the customer that he or she has received the required risk disclosure document. The amended rule also requires broker-dealers to maintain a copy of the customer's written acknowledgement for at least three years following the date on which the risk disclosure document was provided to the customer, the first two years in an accessible place.

The risk disclosure documents are for the benefit of the customers, to assure that they are aware of the risks of trading in "penny stocks" before they enter into a transaction. The risk disclosure documents are maintained by the broker-dealers and may be reviewed during the course of an examination by the Commission. The Commission estimates that there are approximately 270 broker-dealers subject to Rule 15g–2, and that each one of these firms will process an average of three new customers for "penny stocks" per week. Thus each respondent will process approximately 156 risk disclosure documents per year. The staff calculates that (a) the copying and mailing of the risk disclosure document should take no more than two minutes per customer, and (b) each customer should take no more than eight minutes to review, sign, and return the risk disclosure document. Thus, the total ongoing respondent burden is approximately 10 minutes per response, or an aggregate total of 1,560 minutes per respondent. Since there are 270 respondents, the annual burden is 421,200 minutes (1,560 minutes per each of the 270 respondents), or 7,020 hours. In addition, broker-dealers will incur a recordkeeping burden of approximately two minutes per response. Thus each respondent will incur a recordkeeping burden of 312 (156 × 2) minutes per

year, and respondents as a group will incur an aggregate annual recordkeeping burden of 1,404 hours (270 × 312/60). Accordingly, the aggregate annual hour burden associated with Rule 15g–2 is 8,424 hours (7,020 + 1,404).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: April 13, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10016 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services, Washington, DC 20549, "Tell Us How We're Doing!" SEC File No. 270–406, OMB Control No. 3235–0463.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The title of the questionnaire is "Tell Us How We're Doing!"

The Commission currently sends the questionnaire to persons who have used the services of the Commission's Office of Investor Education and Assistance. The questionnaire consists mainly of eight (8) questions concerning the quality of services provided by OIEA. Most of the questions can be answered by checking a box on the questionnaire.

The Commission needs the information to evaluate the quality of services provided by OIEA. Supervisory personnel of OIEA use the information collected in assessing staff performance and for determining what improvements or changes should be made in OIEA operations for services provided to investors.

The respondents to the questionnaire are some of those investors who request assistance or information from OIEA. In 1998, for example, the number of investors who responded was 355, or about 4.7 percent.

The total reporting burden of the questionnaire in 1998 was approximately 89 hours. This was calculated by multiplying the total number of investors who responded to the questionnaire times how long it is estimated to take to complete the questionnaire (355 respondents × 15 minutes = 89 hours).

Providing the information on the questionnaire is voluntary, and responses are kept confidential.

Members of the public should be aware that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless a currently valid Office of Management and Budget control number is displayed.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 15, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10017 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23787; 812–11032]

Colchester Street Trust, et al.; Notice of Application

April 15, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act") under (i) section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act, (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act, and (iv) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order that would supersede an existing order permitting certain registered management investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: Colchester Street Trust, Fidelity Aberdeen Street Trust, Fidelity Advisor Emerging Asia Fund Inc., Fidelity Advisor Korea Fund Inc., Fidelity Advisor Series I, Fidelity Advisor Series II, Fidelity Advisor Series III, Fidelity Advisor Series IV, Fidelity Advisor Series V. Fidelity Advisor Series VI, Fidelity Advisor Series VII, Fidelity Advisor Series VIII, Fidelity Beacon Street Trust, Fidelity Boston Street Trust, Fidelity California Municipal Trust, Fidelity California Municipal Trust II, Fidelity Capital Trust, Fidelity Charles Street Trust, Fidelity Commonwealth Trust, Fidelity Concord Street Trust, Fidelity Congress Street Fund, Fidelity Contrafound, Fidelity Court Street Trust, Fidelity Court Street Trust II, Fidelity Covington Trust, Fidelity Destiny Portfolios, Fidelity Devonshire Trust, Fidelity Exchange Fund, Fidelity Financial Trust, Fidelity Fixed-Income Trust, Fidelity Hastings Street Trust, Fidelity Hereford Street Trust, Fidelity Income Fund, Fidelity Investment Trust, Fidelity Magellan Fund, Fidelity Massachusetts Municipal Trust, Fidelity Money Market Trust, Fidelity Mt. Vernon Street Trust, Fidelity Municipal Trust, Fidelity Municipal Trust II, Fidelity New York Municipal Trust, Fidelity New York Municipal Trust II, Fidelity Phillips Street Trust, Fidelity Puritan Trust, Fidelity Revere Street Trust, Fidelity School Street Trust, Fidelity Securities Fund, Fidelity Select

Portfolios, Fidelity Summer Street Trust, Fidelity Trend Fund, Fidelity Union Street Trust, Fidelity Union Street Trust II, Newbury Street Trust, Variable Insurance Products Fund, Variable Insurance Products Fund II, Variable Insurance Products Fund III (collectively, the "Funds"), and Fidelity Management & Research Company (together with any person controlling, controlled by, or under common control with Fidelity Management & Research Company, "FMR"), and any other registered open-end management investment companies for which FMR serves as investment adviser.[1]

FILING DATES: The application was filed on February 27, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 10, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 Fifth Street, N.W., Washington DC 20549–0609. Applicants, Fidelity Management & Research Company, 82 Devon shire Street E17B, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser (202) 942–0562, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, DC, 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each of the Funds is registered under the Act as an open-end management investment company. FMR, an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser to the Funds.

2. Applicants have an existing SEC order that permits the Funds to participate in a joint lending and borrowing facility (the "1990 Order").[2] FMR administers the credit facility under its existing advisory agreements with the Funds, and does not receive any additional compensation for its administration of the credit facility. Applicants request an order that would supersede the 1990 Order.

3. Applicants state that the credit facility was designed to permit the Funds to lend money to each other for temporary purposes, such as when redemptions exceed anticipated levels. The credit facility was designed to reduce substantially the Funds' borrowing costs and to enhance their ability to earn higher rates of interest on investment of their short-term cash balances. While bank borrowings continue to be a source of liquidity pending the sale and settlement of portfolio securities, the rates charged under the credit facility are normally below those offered by banks on short-term loans, and Funds making loans through the credit facility are able to earn interest at a rate higher than they could obtain from investing their cash in short-term repurchase agreements or jointly through FICASH.[3]

4. When the Funds lend money to and borrow money from each other than the credit facility ("Interfund loans"), interest rates ("Interfund Loan Rates") are based on the average of the overnight repurchase agreement rate for that day for the Funds' joint account ("FICASH Rate") and a benchmark rate established periodically to approximate the lowest rate available from at least three banks on loans to the Funds.

5. On each business day, the Cash Management Department of Fidelity Service Company, Inc., the transfer, pricing and bookkeeping agent for most of the Funds, (the "Cash Management Department") compares the Interfund Loan Rate with the FICASH Rate negotiated that day and available short-term borrowing rates quoted to any of the Funds by banks with which any Fund has a loan agreement. At least three such quotations will be obtained each day in which any Fund borrows through the credit facility prior to such borrowing. The Cash Management Department will make cash available for Interfund Loans only if the Interfund Loan Rate is more favorable to the lending Fund than the FICASH Rate and more favorable to the borrowing Fund than the lowest quoted back loan rate.

6. The Cash Management Department on each business day collects data on uninvested cash balances and borrowing requirements of all participating Funds from the Funds' custodians. The Cash Management Department will not solicit cash for the facility from any Fund or prospectively publish or disseminate total loan demand data to portfolio managers. No portfolio manager is able to direct that a Fund's cash balances be loaned to any particular Fund or otherwise intervene in the Cash Mangement Department's allocation of loans. A portfolio manager for a money market Fund, however, may decline to enter into a loan if he or she believes the loan is inconsistent with portfolio strategy. The Cash Management Department allocates borrowing cash and cash available for lending among Funds on an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to mininize the number and associated administrative costs of transactions.

7. All Funds whose investment policies and boards of trustees (the "Boards") permit, may participate as potential borrowers and/or lenders in the credit facility. The money market Funds typically would not participate as borrowers because they rarely need to borrow cash to meet redemptions. A Fund would not participate as a lender unless it was also eligible to participate in FICASH.

8. No Fund may participate in the credit facility unless: (i) the Fund has obtained shareholder approval for its participation or, if such approval is not required by law, the Fund's prospectus and/or statement of additional information have disclosed at all times the possibility of the Fund's participation in the credit facility upon receipt of requisite regulatory approval; (ii) the Fund has fully disclosed all material information concerning the credit facility in its prospectus and/or

[1] All existing registered investment companies that currently intend to rely on the order have been named as applicants, and any other existing or future registered investment companies that subsequently rely on the order will comply with the terms and conditions in the application.

[2] *In the Matter of Daily Money Fund, et al.*, Investment Company Act Release Nos. 17257 (Dec. 8, 1989) (notice) and 17303 (Jan. 11, 1990) (order).

[3] FICASH was established pursuant to SEC exemptive orders. *In the Mater of Daily Money Fund, et al.*, Investment Company Act Release Nos. 11962 (Sept. 29, 1981) (notice) and 12061 (Nov. 27, 1981) (order); *In the Mater of Daily Money Fund, et al.*, Investment Company Act Release Nos. 19594 (July 26, 1993) (notice) and 19647 (Aug. 23, 1993) (order). Pursuant to these orders, during each trading day, the Funds' cash balances may be deposited in FICASH. FICASH invests these cash balances in one or more large, short-term repurchase agreements. FMR administers FICASH as part of its duties under its existing advisory contract with each of the Funds, and does not charge any additional fee for this service.

statement of additional information; and (iii) the Fund's participation in the credit facility is consistent with its investment objectives, limitations, and/or Declaration of Trust.

9. Applicants seek to amend the 1990 Order to reduce certain administrative burdens associated with the credit facility and give participating Funds greater flexibility consistent with the purposes of the credit facility and investor protection. Applicants state that the anticipated benefits of the 1990 Order have not been realized, primarily because the administrative burdens and related costs of complying with certain conditions of the 1990 Order often made the use of the credit facility inefficient. Applicants assert that modifying these conditions would benefit both those Funds that are borrowers and those Funds that are lenders.

10. The 1990 Order prohibited a Fund from borrowing through the credit facility if the Fund's outstanding borrowings from all sources immediately after the interfund borrowing exceeded 15% of the Fund's total assets. Applicants seek to raise that limit to 33⅓%. Applicants state that this limit would provide greater flexibility in the use of the credit facility consistent with the Act. Applicants also state that the other conditions in the application governing Funds' borrowing through the credit facility (such as the conditions addressing unsecured borrowing) provide adequate safeguards against any misuse of the credit facility.

11. Applicants also seek to modify the condition in the 1990 Order that permitted an equity, taxable bond or money market Fund to lend through the credit facility only if the Fund's aggregate outstanding loans through the credit facility do not exceed 5%, 7.5% and 10%, respectively, of the Fund's net assets at the time of the loan. Applicants seek to permit any type of Fund to make loans through the credit facility in an amount of up to 15% of the Fund's current net assets at the time of the loan. Applicants state that the percentage limitations in the 1990 Order created artificial distinctions that were not related to a Fund's particular circumstances and unnecessarily restricted a Fund's ability to effectively manage its cash balances. Applicants further state that, if a Fund has large cash balances, its ability to invest the cash at a more attractive rate should not be unnecessarily limited.

12. Finally, applicants seek to remove the condition in the 1990 Order that provided that a Fund's borrowing through the credit facility will not exceed 125% of the Fund's total net cash redemptions for the preceding seven calendar days. Applicants assert that this condition is difficult to monitor and ineffective. Applicants state that the condition was designed to protect the Funds from the dangers of borrowing for investment, and the resulting leverage, especially in a declining securities market. Applicants assert that this condition may be ineffective in addressing a Fund's need for cash in the case of unanticipated levels of redemption (such as in the event of a sharp market correction). Applicants also assert that the condition may not necessarily prevent a fund from borrowing from investment. Applicants state that each Fund's fundamental investment limitations provide that the Fund may borrow money only for temporary or emergency purposes and prohibit borrowing for purposes of leverage or investment (except that certain Funds also may engage in reverse repurchase agreements in which the Fund is a seller for any purpose). Applicants assert that this fundamental policy is a more effective safeguard that will prevent inappropriate use of the credit facility. Applicants propose as a condition to the requested order that each Fund borrowing through the facility have this fundamental policy.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(c) of the Act defines an "affiliated person" of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be deemed to be under common control because FMR serves as their common investment adviser.

2. Section 17(d) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Section 6(c) under the Act provides that an exemptive order may be granted where an example is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with potential adverse interests to and influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the credit facility does not raise these concerns because (i) FMR administers the credit facility as a disinterested fiduciary; (ii) the Interfund Loans consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term instruments directly, through FICASH or in affiliated money market funds ("Central Funds");[4] (iii) the Interfund Loans do not involve a significantly greater risk than such other investments; (iv) the lending Fund would receive interest at a rate higher than it could obtain through such other investments; and (v) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements. Moreover, applicants believe that the other conditions governing the credit facility effectively preclude the possibility of any undue advantage.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1).

5. Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under

[4] *See In the Matter of Daily Money Fund, et al.*, Investment Company Act Release Nos. 22236 (Sept. 20, 1996) (notice) and 22285 (Oct. 16, 1996) (order).

sections 6(c), 17(b) and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

6. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the credit facility does not involve these abuses because there would be no duplicative costs or fees to the Funds or shareholders, and that FMR would receive no additional compensation for its services in administering the credit facility.

7. Section 18(f)(1) prohibits an open-end investment company from issuing any senior security except that the company is permitted to borrow from any bank; provided that immediately after any such borrowing there is an asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term "senior security" includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks). Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined credit facility and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 provides that in passing upon such applications, the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to investment company insiders. Applicants believe that the credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned moneys to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the credit facility will be on terms which are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. The interest rate to be charged to the Funds under the credit facility will be the average of the current FICASH Rate and a benchmark rate established periodically to approximate the lowest rate available from banks on loans to the Funds.

2. The Cash Management Department on each business day will compare the Interfund Loan Rate set pursuant to the formula calculated as provided in condition 1 with the FICASH Rate negotiated that day and all short-term borrowing rates quoted to any of the Funds by any bank with which any Fund has a loan agreement. At least three such quotations will be obtained each day in which any Fund borrows through the credit facility prior to such borrowing. The Cash Management Department will make cash available for Interfund Loans only if the Interfund Loan Rate is more favorable to the lending Fund than the FICASH Rate and more favorable to the borrowing Fund than the lowest quoted bank loan rate.

3. If a Fund has outstanding borrowings from one or more banks, any Interfund Loans to the Fund (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in no event over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan, it will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Loan agreement entitling the lending Fund to call the loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Fund has a second loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the credit facility only on a secured basis. A Fund could not borrow through the credit facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceeds 10% of its total assets for any other reason (such as decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter: (a) repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until, the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to

maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may loan funds through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 15% of its current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund will be limited to 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. All loans may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

10. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and Declaration of Trust. No Fund may borrow through the credit facility unless the Fund has a fundamental policy that prevents the Fund from borrowing for other than temporary or emergency purposes (and not for leveraging), except that certain Funds may engage in reverse repurchase agreements for any purpose.

11. The Cash Management Department will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among Funds, without the intervention of the portfolio manager of any Fund. The Cash Management Department will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The Cash Management Department will invest amounts remaining after satisfaction of borrowing demand in FICASH or Central Funds or return remaining amounts for investment directly by the portfolio managers of the money market Funds.

12. FMR will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Board concerning the participation of the Funds in the credit facility and the terms and other conditions of any extensions of credit thereunder.

13. Each Fund's Board, including a majority of the trustees who are not interested persons of the Funds as defined in section 2(a)(19) of the Act ("Independent Trustees"), will: (a) review, no less frequently than quarterly, the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting such transactions; (b) establish the bank loan rate formula used to determine the interest rate on Interfund Loans, and review, no less frequently than annually, the continuing appropriateness of such benchmark rate formula; and (c) review, no less frequently than annually, the continuing appropriateness of the Fund's participation in the credit facility.

14. In the event an Interfund Loan is not paid according to its terms and such default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Loan agreement, FMR will promptly refer such loan for arbitration to a retired Independent Trustee previously selected by the Board of each Fund, who no longer has any fiduciary responsibilities to any Fund, and who will serve as arbitrator of disputes concerning Interfund Loans. The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Boards setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

15. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and commercial bank borrowings, and such other information presented to the Fund's Board in connection with the review required by conditions 12 and 13.

16. Compliance with the conditions to any order issued on the application will be considered by the external auditors as part of their internal accounting control procedures, performed in connection with Fund audit examinations, which form the basis, in part, of the auditors' report on internal accounting controls in Form N–SAR.

17. No Fund will participate in the credit facility unless it has fully disclosed in its registration statement all material facts abut its intended participation.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10021 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27007]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

April 16, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Intersted persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 11, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After May 11, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities (70–9342)

Northeast Utilities ("NU"), a registered holding company, located at 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010 has filed a post-effective amendment under section 12(b) of the Act and rule 45 under the Act.

By order dated November 12, 1998 (HCAR No. 26939) ("Order"), the Commission authorized NU and

NEWCO[1] to, among other things, provide guarantees and similar forms of credit support or enhancements (collectively, "Guarantee") to, or for the benefit of, NEWCO, its nonutility subsidiaries, or NU's other to-be-formed direct or indirect energy related companies, as defined in rule 58 under the Act, in an aggregate amount not to exceed $75 million, through December 31, 1999. NU and NEWCO now propose to increase the Guarantee authority from $75 million to $250 million under the terms and conditions of the Order.[2]

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10101 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23789; 812–11424]

The RBB Fund, Inc. and Boston Partners Asset Management, L.P.; Notice of Application

April 16, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(1)(G)(i)(II) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a fund of funds relying on section 12(d)(1)(G) of the Act to invest directly in securities and other instruments.

APPLICANTS: The RBB Fund, Inc. ("Company") and Boston Partners Asset Management, L.P. ("Boston Partners"). The requested order also would extend to any existing or future open-end management investment company or series thereof advised by Boston Partners (an "Upper Tier Fund") that wishes to invest in a registered open-end management investment company or series thereof that is advised by Boston Partners and is part of the same "group of investment companies" (as defined in section 12(d)(1)(G)(ii) of the Act) (together with the series of the Company excluding the Boston Partners Long-Short Equity Fund, the "Underlying Funds") as the investing Upper Tier Fund.[1]

FILING DATES: The application was filed on December 4, 1998 and amended on April 9, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 11, 1999 and should be accompanied by proof of service on the applicants in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549–0609. Applicants, c/o Allan J. Oster, Drinker Biddle & Reath LLP, 1345 Chestnut Street, Philadelphia, PA 19107–3496.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Company, a Maryland corporation, is registered under the Act as an open-end management investment company and organized as a series company (each series a "Fund" and collectively, the "Funds"). Boston Partners is an investment adviser registered under the Investment Advisers Act of 1940 and is the investment adviser for five of the Funds (the "Boston Partners Funds"), including the Boston Partners Market Neutral Fund (the "Market Neutral Fund").[2] Boston Partners also will be the investment adviser for a proposed series of the Company, the Boston Partners Long-Short Equity Fund (the "Equity Fund").

2. The Equity Fund will seek a total return greater than that of the Standard and Poor's 500 Composite Stock Price Index by investing in shares of the Market Neutral Fund, while also investing in futures, options on futures, equity swap contracts and other investments (collectively, "Index Securities"). The Market Neutral Fund seeks long-term capital appreciation while minimizing exposure to general equity market risk, by taking long positions in stocks that Boston Partners has identified as undervalued and short positions in stocks that Boston Markets has identified as overvalued. By investing in shares of the Market Neutral Fund, the Equity Fund seeks to capture the return generated by the "market neutral strategy" of the Market Neutral Fund. The Equity Fund and Upper Tier Funds also would like to retain the flexibility to invest, subject to their respective investment restrictions, in other securities and financial instruments (excluding investments in shares of investment companies other than those made in reliance on section 12(d)(1)(G) (collectively, "Other Securities").

3. With respect to the Equity Fund and Market Neutral Fund, Boston Partners expects to reduce its advisory fees and bear certain expenses to the extent that each Fund's total annual operating expenses (excluding nonrecurring account fees and extraordinary expenses) exceed a specified percentage of net assets. Any advisory fee that Boston Partners charges to the Equity Fund will be for services that are in addition to, rather than duplicative of, services provided to the Underlying Funds. Neither the Equity Fund's nor the Underlying Funds' shares are subject to a sales charge and the Equity Fund intends to invest only in shares of the Underlying Funds that are not subject to distribution fees. Applicants believe that the proposed operation of the Equity Fund will benefit investors by lowering transactions and operational costs and providing them with investment alternatives.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the

[1] NEWCO is now known as NU Enterprises and is engaged, through the use of multiple subsidiaries, in various energy related and other activities.

[2] Rule 52 exempts NEWCO's financial transactions among associate companies from Commission jurisdiction, however, this information is provided for background purposes.

[1] All existing entities that currently intend to rely on the order are named as applicants and any registered open-end management investment company that may rely on this order in the future will do so only in accordance with the terms and conditions of the application.

[2] The other Boston Partners Funds are the Boston Partners Board Fund, Boston Partners Micro Cap Value Fund, Boston Partners Mid Cap Fund and Boston Partners Large Cap Value Fund.

acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (a) The acquiring company and the acquired company are part of the same group of investment companies; (b) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (c) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Securities Exchange Act of 1934 or the Commission; and (d) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trust in reliance on section 12(d)(1) (F) or (G) of the Act. Applicants state that the proposed arrangement would comply with provisions of section 12(d)(1)(G), but for the fact that the Equity Fund's policies contemplate that it will invest in Index Securities and may invest in Other Securities.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt, conditionally or unconditionally, persons or transactions from the provisions of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants believe that permitting the Equity Fund and other Upper Tier Funds to invest in securities as described in the application would not raise any of the concerns that the requirements of section 12(d)(1)(G) were designed to address.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before approving any advisory contract under section 15 of the Act, the Board of Directors of the Company, on behalf of the Equity Fund or an Upper Tier Fund, including a majority of the directors who are not "interested persons," as defined in section 2(a)(19) of the Act, will find that the advisory fees, if any, charged under such contract are based on services provided that are in addition to, rather than duplicative of, services that are provided under any Underlying Fund's advisory contract. Such finding, and the basis upon which the finding was made, will be recorded fully in the Company's minute books on behalf of the Equity Fund or Upper Tier Fund.

2. Applicants will comply with all of the provisions of section 12(d)(1)(G) of the Act, except for section 12(d)(1)(G)(i)(II) to the extent that it restricts the Equity Fund or an Upper Tier Fund from investing in securities as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10100 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. PA–26; File No. S7–13–99]

Privacy Act of 1974: Establishment of Two Systems of Records: Disgorgement and Penalties Tracking System (SEC–47) and Fitness Center Membership, Payment, and Fitness Records (SEC–48)

AGENCY: Securities and Exchange Commission.

ACTION: Notice of the establishment of two systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission gives notice of the establishment of two new Privacy Act systems of records: Disgorgement and Penalties Tracking System (SEC–47) and Fitness Center Membership, Payment, and Fitness Records (SEC–48).

DATES: The proposed systems will become effective June 1, 1999, unless further notice is given. The Commission will publish a new notice if the effective date is delayed to review comments, or if changes are made based on comments received. To be assured of consideration, comments must be received on or before May 24, 1999.

ADDRESSES: Persons wishing to submit comments should file three (3) copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 0609, Washington, DC 20549–0609. Reference should be made to File S7–13–99. Copies of the comments will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Betty Lopez, Privacy Act Officer (202) 942–4327, Office of Filings and Information Services, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission" or "SEC") gives notice of the establishment of two systems of records entitled Disgorgement and Penalties Tracking System (SEC–47) and Fitness Center Membership, Payment, and Fitness Records (SEC–48).

The SEC is establishing SEC–47 to facilitate SEC staff tracking of the repayment of disgorgement and penalties imposed on entities and individuals who have been determined to be violators of the provisions of the federal securities laws in SEC-initiated civil actions and administrative proceedings. The Commission's staff uses the records for case administration and collections. The system also is used to provide status reports to the Congress and the Department of the Treasury, and for responding to requests for information filed under the Freedom of Information Act.

The SEC is establishing SEC–48 in order to maintain payment and fitness information needed for operating the SEC Fitness Center. The SEC established the Fitness Center to provide fitness facilities to members of the Commission's staff. Members of the Commission's staff oversee the Fitness Center and have access to SEC–48 records in order to perform their official Fitness Center duties.

The systems of records reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, have been submitted to the Committee on Government Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," as

amended on February 20, 1996 (61 FR 6428, 6435).

Accordingly, the Commission is adding the following systems of records.

SEC–47

SYSTEM NAME:

Disgorgement and Penalties Tracking System.

SYSTEM LOCATION:

Securities and Exchange Commission, Office of the Secretary, 450 Fifth Street, NW, Mail Stop 0609, Washington, DC 20549–0609.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or entities that have been ordered to pay disgorgement and/or monetary penalties in SEC injunctive actions and administrative proceedings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on individuals or entities from whom the Commission is seeking or has obtained an order to pay disgorgement and/or monetary penalties, including the individual's or entity's name; the dates the Commission authorized, instituted, and/or settled an action; the responsible Commission staff; the internal case tracking number; the date the judgment or administrative order was entered; the amount of disgorgement and/or monetary penalties to be paid; the payment due date for disgorgement and/or monetary penalties; the date and amount of payments; the amount of disgorgement waived; and the status of debt collection efforts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 77h–1, 77t, 77x, 78u, 78ff, 79z–3, 80a–9, 80a–41, 80a–48, 80b–3, and 80b–9.

PURPOSE(S):

The system is being initiated to enable the Commission's staff to track the collection of disgorgement and monetary penalties arising out of SEC-initiated civil actions and administrative proceedings to enforce the federal securities laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the conditions for disclosure specified at 5 U.S.C. 552a(b), the SEC's staff may use these records and the information contained in the records routinely, as provided at 5 U.S.C. 552a(b)(3), as follows:

(1) To provide information to the Department of the Treasury, on a quarterly and annual basis, on the Commission's monetary penalty receivables;

(2) To provide information to the Department of the Treasury and other federal agencies while assisting in the collection of past due disgorgement and/or monetary penalties; and

(3) To provide information to persons, as appropriate, while assisting in the collection of past due disgorgements and/or monetary penalties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically and on paper.

RETRIEVABILITY:

Records may be retrieved electronically by the internal case tracking number, the case name, and the individual's or entity's name. Paper records may be retrieved by the internal case tracking number.

SAFEGUARDS:

Paper records are kept in locked file cabinets. Electronic records can be retrieved only by authorized persons using appropriate passwords.

RETENTION AND DISPOSAL:

Paper records and computer database records are maintained until matter is closed plus 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Secretary, Office of the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 0609, Washington, DC 20549–0609.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual or entity may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORDS ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CONTESTING RECORD PROCEDURES:

See record access procedures above.

RECORD SOURCE CATEGORIES:

Information is provided by Commission staff, and is extracted from Commission memoranda, Commission releases, judgments, and administrative orders. Additional information regarding the status of payments is provided in the form of copies of checks and/or money orders and from the Department of the Treasury's debt collection referral program.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SEC–48

SYSTEM NAME:

Fitness Center Membership, Payment, and Fitness Records.

SYSTEM LOCATION:

Securities and Exchange Commission, Fitness Center, 450 Fifth Street, NW, Washington, DC 20549.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the SEC's staff who have become members of the Fitness Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Membership applications, fee and payment information (including electronic debit information), and fitness progress charts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901, *et seq.*

PURPOSE(S):

The system was initiated to enable SEC Fitness Center staff to track Fitness Center membership, fee payments, and the physical fitness of members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

No routine use disclosures have been established for these records. The records and information obtained in these records will not be disclosed outside the SEC, unless mandated by law. See the statutory conditions of disclosure at 5 U.S.C. 552a(b).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically and on paper.

RETRIEVABILITY:

Records are retrieved by the individual's name or membership number.

SAFEGUARDS:

Paper records are kept in locked file cabinets. Electronic records can be retrieved only by authorized persons using appropriate passwords.

RETENTION AND DISPOSAL:

Records are maintained for as long as an individual is a member of the Fitness Center plus six months.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Executive Director, Office of Administrative and Personnel Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual or entity may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORDS ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CONTESTING RECORD PROCEDURES:

See record access procedures. above.

RECORD SOURCE CATEGORIES:

All information is provided by Fitness Center members.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

Dated: April 14, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9906 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41289; File No. SR–CBOE–99–12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Market-Maker Surcharge

April 14, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 there under,[2] notice is hereby given that on March 31, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposing to make changes to its fee schedule pursuant to CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage.*[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to CBOE Rule 2.40, the Equity Floor Procedure Committee approved the following fees for the following option classes: [4]

Option Class	Market-Marker Surcharge (per contract)	Order Book Official Brokerage Rate (per contract) [4]
Yahoo (YHQ)	$0.10	$0.00
Citigroup (C)	0.06	0.00
Amazon (ZQN)	0.10	0.00
Worldcom (LDQ)	0.10	0.00
U.S. Web (QWB)	0.03	0.00
Mindspring (MQD).	0.03	0.00
Doubleclick (QTD).	0.04	0.00

These fees will be effective as of April 1, 1999, and will remain in effect until such time as the Equity Floor Procedure Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999)(order approving CBOE Rule 2.40).

[4] The surcharge will be used to reimburse the Exchange for the reduction in the Order Book Official brokerage rate form $0.20 in the relevant options classes. Any remaining funds will be paid to Stationary Floor Brokers as provided in exchange Rule 2.40.

6(b)(4)[5] of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)[6] and subparagraph (f)(2) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–12 and should be submitted by May 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10018 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 u.S.c. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41286; File No. SR–CSE–99–02]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to a Specialist Revenue Sharing Program

April 14, 1999.

I. Introduction

On February 18, 1999, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a specialist revenue sharing program.

The proposed rule change was published for comment in the **Federal Register** on March 1, 1999.[3] No comments were received on the proposal.[4] This order approves the proposal.

II. Description of the Proposal

The Exchange proposes to amend Exchange Rule 11.10 to provide an incentive for growth in specialist activity by implementing a quarterly revenue sharing program and to eliminate the current two-million-share average daily cap on preference charges. Under the proposal, the Exchange would share with specialist firms all or a portion of the CSE's Specialist Operating Revenue ("SOR"), after operating expenses and working capital needs have been met. Under the definition contained in proposed Exchange Rule 11.10(j), SOR consists of transaction fees, book fees, technology fees, and market data revenue which is attributable to specialist firm activity. Further, all regulatory monies and investment income are excluded from SOR.

Under the proposal, the Exchange's Board of Trustees will determine on an ongoing basis the appropriate amount of SOR to be shared with specialist firms. The Exchange represents that its Board of Trustees has initially determined to share 100% of the first $750,000 in quarterly SOR and 50% of all quarterly SOR over $750,000, after actual expenses have been paid and the budgeted working capital goal of the Exchange has been set aside.

The proposed rule change provides that each specialist firm will receive a percentage of the SOR to be shared which is equal to that specialist firm's percentage contribution to SOR. Accordingly, the specialist firms will share the SOR on a pro rata basis. Although Tape B revenue is included in SOR, it will be excluded from each specialist firm's percentage contribution calculation.[5] The Exchange represents that in no event will the amount of revenue shared with specialist firms exceed SOR.

III Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[6] and, in particular, with the Section 6(b)(5) requirements that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[7]

The Commission notes that, in recent years, several markets have instituted various forms of incentive programs for their members, in attempts to attract

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41082 (February 22, 1999) 64 FR 10035 (File No. SR–CSE–99–02).

[4] On March 30, 1999, Sam Scott Miller, Orrick, Herrington & Sutcliffe, on behalf of Charles Schwab & Co. ("Schwab") sent a letter advising the Commission that Schwab would submit comments on the proposed rule change in mid-April. On April 2, 1999, Mr. Miller informed Kathy England, Assistant Director, Division of Market Regulation, Commission, by telephone that Schwab would not comment on CSE's proposal.

[5] CSE's current transaction charge on Tape B activity is already zero and CSE already has in place a program which shares up to 40% of Tape B revenue with its specialist firms. *See* Securities Exchange Act Release No. 39395 (December 3, 1997) 62 FR 65113 (December 10, 1997).

[6] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

additional order flow to the exchange.[8] As an incentive to its specialists, the CSE has chosen to distribute a portion of operating revenue which is solely attributable to specialist trade activity (*e.g.*, transaction fees, book fees, and market data fees).[9] The Commission believes that the CSE's revenue sharing program should allow the Exchange to remain competitive with other markets which have implemented similar programs, which, in turn, should enhance the National Market System.

The Commission further finds that the parameters of the Exchange's revenue sharing program are consistent with the requirements of Section 6(b)(1).[10] The Commission believes it is appropriate for the CSE to distribute operating revenue generated by specialists only after the Exchange accumulates sufficient revenue to offset its actual expenses and working capital needs. In accordance with this principle, the Commission also finds that it is reasonable for the CSE's Board of Trustees to adjust the percentage of SOR to be distributed to reflect the changing financial needs of the Exchange over time. As a national securities exchange, it is the obligation of CSE to have the necessary resources to adequately conduct surveillance, examination and other regulatory responsibilities. While the Commission understands CSE's need to remain competitive with other securities markets, the Commission expects CSE to not compromise its regulatory responsibilities by sharing revenue that would more appropriately be used to fund regulatory responsibilities. More specifically, CSE, when determining its "working capital needs," should be mindful of its regulatory responsibilities.

The Commission believes it is appropriate for the Exchange to exclude all regulatory monies, such as fines paid by specialists, from the definition of SOR. The deterrent and punished effect of a fine would be compromised if the Exchange essentially credited the fine amount back to the member. The Commission also finds that it is reasonable to exclude investment income from the definition of SOR, as that income is not generated by specialist activity.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–CSE–99–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10020 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* Securities Exchange Act Release Nos. 38237 (February 4, 1997) 62 FR 6592 (February 12, 1997) (notice of filing and immediate effectiveness of amendments to the Chicago Stock Exchange's pricing schedule relating to specialist fees); 40591 (October 22, 1998) 63 FR 58078 (October 29, 1998) (notice of filing and immediate effectiveness of the Boston Stock Exchange's revenue sharing program for member firms); and 41174 (March 16, 1999) 64 FR 14034 (March 23, 1999) (notice of filing and immediate effectiveness of the NASD's pilot program to provide transaction credits to NASD members who exceed certain levels of trading activity).

[9] The Commission has recently undertaken a review of market data fees, including the current structure of such fees and the role such fees serve in the operation of the markets. Exchange programs that rebate or share revenue generated from market data fees to market participants, including the present proposal, are relevant to that study. Accordingly, it is likely that the Commission will examine the use of market data rebate programs in the context of the study.

[10] 15 U.S.C. 78f(b)(1).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41296; File Nos. SR–NASD–99–11 and SR–NASD–98–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify Its Small Order Execution System and SelectNet Service; Reopening of Comment Period on Nasdaq's Limit Order Book Proposal (SR–NASD–98–17)

April 15, 1999.

On February 5, 1999, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") proposed rule changes to modify its Small Order Execution System and SelectNet Service.[1] The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD, through Nasdaq, is proposing rule changes that: (1) Re-establish SelectNet as an order delivery and negotiation system for Nasdaq National Market ("NNM") securities; and (2) make numerous changes to the current rules relating to the trading of NNM securities, including: (a) Establishing a larger maximum automatic execution order entry size of 9,900 shares for NNM securities; (b) allowing market makers to use Nasdaq's proposed automatic execution system on a proprietary basis for transactions involving NNM securities; (c) reducing time delays between system executions against the same market maker from 17 to 5 seconds; and (d) enabling system interaction with a market maker's reserve size in NNM securities. The resulting new system will be referred to as the Nasdaq National Market Execution System ("NNMS"). In addition, as discussed below, Nasdaq is proposing to eliminate the NO Decrementation ("NO DEC") and preferencing functions for NNM quotes and orders. The current voluntary automatic execution system for Nasdaq SmallCap issues will continue to operate as it does today. Nasdaq views NNMS as an interim approach to improving the Nasdaq market pending final approval by the Commission of Nasdaq's previously proposed Integrated Order Delivery and Execution System (SR–NASD–98–17).[2]

The NASD also proposes to modify several rules found in the NASD Rule Series 4600 and throughout the NASD Manual. In particular, Rule 4613 (Character of Quotations) will be amended to eliminate the references to Small Order Execution System ("SOES") "Tier Sizes for the NNM" of market makers. Other rules referencing SOES will be rescinded or conformed accordingly, including Rule 4611(f) (Registration as a Nasdaq Market Maker), Rule 4619 (Withdrawal of Quotations and Passive Market Making), Rule 4620 (Voluntary Termination of Registration), Rule 4632 (Trade Reporting), Rule 4618(c) (Clearance and Settlement), and Rule 4700 Series (SOES).

II. Self-Regulatory Organization's Statement of the purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any

[1] The notice was filed pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, 17 CFR 250.19b–4. Items I, II, and III were prepared by Nasdaq.

[2] Because this filing is related to File No. SR–NASD–98–17 regarding the NASD's proposal to establish a central limit order book, the Commission also is seeking comment on that proposal at this time. NASD 98–17 was published in the **Federal Register** on March 12, 1998. *See* Securities Exchange Release No. 39718 (March 4, 1998), 63 FR 12124 (March 12, 1998). The comment period was subsequently extended to May 8, 1998. *See* Securities Exchange Act Release No. 39794 (March 25, 1998), 63 FR 15471 (March 31, 1998).

comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The central purpose of these rule changes is to encourage and assist market professionals to provide liquidity by increasing their ability to manage the receipt and execution of the dramatically increased volume of orders prevalent in today's Nasdaq market. In their simplest form, the proposed rules provide for the automatic execution of all orders in NNM securities of 9,900 shares or less against a newly expanded universe of available trading interest to consist of all market makers' displayed quotes and reserve sizes. the rules will also allow Nasdaq to continue to provide, through SelectNet, a negotiation facility that maintains all of the benefits of modern communications technology and automated market services. Finally, the proposed system can be created and made functional quickly and with a minimum of reprogramming, factors that are particularly important given the upcoming Year 2000 moratorium.[3]

Background

Nasdaq's SOES was developed in 1984 to provide a simple and efficient means to execute small agency orders at the inside quote, report trades for public dissemination, and send trades to clearing for comparison and settlement.[4] Trading is done automatically and is negotiation free. In response to the October 1987 market break, SOES was enhanced in several respects to provide individual investors with guaranteed liquidity and assured access to market makers in times of market disruption. In particular, SOES participation was made mandatory for all market makers in NNM securities.

In January 1988, the Commission approved the NASD's Order Confirmation Transaction ("OCT") Service (later renamed SelectNet). The Service was intended to provide an alternative to telephone contact among trading desks for negotiating trades.[5] The Service also was developed to provide additional communication options and electronic access to Nasdaq's trade reporting, order comparison and settlement facilities.[6]

SelectNet is an electronic, screen-based order routing system that allows market makers and order entry firms (collectively referred to as "participants") to negotiate securities transactions in Nasdaq securities through computer communications rather than relying on the telephone. Unlike SOES, SelectNet offers the opportunity to negotiate for a larger size or a price superior to the current inside. In addition, participants may provide that an order or counter-offer will be in effect for anywhere from 3 to 99 minutes, specify a day order, or indicate whether price or size are negotiable or whether a specific minimum quantity is acceptable. Participants may accept, price improve, counter, or decline a SelectNet order. Once agreement is reached, the execution is "locked in" and reported to the tape for public dissemination and sent to clearing for comparison and settlement.

SelectNet currently allows subscribers to direct, or "preference" orders to specified market makers or to broadcast orders to all market participants. Although SelectNet is an order delivery service, rather than an order execution service, Nasdaq believes that preferenced SelectNet order presented to a market maker at its displayed quote generally gives rise to liability under Exchange Act Rule 11Ac1–1 ("Firm Quote Rule") for the market maker to execute the transaction at that price.[7] Under the rules proposed today, preferencing in SelectNet would still be allowed subject to the oversized order entry requirement discussed later in this filing.

Nasdaq also designated SelectNet as the link to Electronic Communications Networks ("ECNs") in conjunction with the Act's Order Handling Rules.[8] Specifically, an amendment to SEC Rule 11Ac1–1 now requires an OTC market maker to make publicly available any superior prices that the market maker privately quotes through an ENC. A market maker may comply with this requirement by either changing its quote to reflect the superior price or delivering better priced orders to an ECN, provided that the ECN disseminates these priced orders to the public quotation system and provides broker-dealers equivalent access to these orders. The SelectNet linkage was implemented to facilitate these dissemination and access requirements.[9] SelectNet will continue to perform this function in the new trading environment proposed in this filing.

While SOES and SelectNet provide valuable services to market participants for the ultimate benefit of investors, there is a long-standing problem of potential "dual laibility" for a market maker's displayed quote which is directly attributable to the maintenance of two separate execution systems operating independently and simultaneously. Multiple access points to a market maker's quote, thorugh a combination of SOES and SelectNet as well as through a firm's internal order receipt/execution and telephone access facilities, can routinely subject market makers to unintended double liability for orders that reach their quote at or near the same time through disparate, asynchronous systems. In turn, the potential for unexpected and increased order liability reduces market maker incentives to commit capital and display larger quote sizes, which could deprive the Nasdaq market of valuable liquidity. Nasdaq's new automated execution environment is designed to remedy these problems.

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[3] Beginning June 30, 1999, NASD will implement a self-imposed Year 2000 moratorium on itself preventing any system changes to SOES and SelectNet Service. Per telephone conversation between Thomas P. Moran and John F. Malitzis, Office of General Counsel, Nasdaq, and Heather Traeger, Division of Market Regulation, SEC, on April 14, 1999.

[4] *See* Securities Exchange Act Release No. 21743 (February 12, 1985), 50 FR 7432 (February 22, 1985) (order approving rule change describing SOES).

[5] *See* Securities Exchange Act Release No. 25263 (January 11, 1988), 53 FR 1430 (January 19, 1988) (order approving OCT Service, on a temporary, accelerated basis). *See also,* Securities Exchange Act Release No. 25523 (March 28, 1988), 53 FR 10965 (April 4, 1988) (order extending temporary approval of SelectNet) and Securities Exchange Act Release No. 25690 (May 11, 1988), 53 FR 17523 (May 17, 1988) (order permanently approving OCT).

[6] The Service was enhanced and renamed SelectNet in 1990. *See* Securities Exchange Act Release No. 28636 (November 21, 1990), 55 FR 49732 (November 30, 1990). In 1992, the service was expanded to add pre-opening and after-hours sessions, so that today, SelectNet is available for members to negotiate and execute orders from 9:00 a.m. until 5:15 p.m. (ET). *See* Securities Exchange Act Release No. 30581 (April 14, 1992), 57 FR 14596 (April 21, 1992).

[7] There are two exceptions to the Firm Quote Rule: (1) prior to the receipt of the order, the market maker has communicated to its exchange or association a revised quotation size or revised bid or offer or (2) prior to the receipt of the order, the market maker is in the process of effecting a transaction in a security when an order in the same security is presented, and immediately after the completion of such transaction, the market maker communicates to its exchange or association a revised quotation size or revised bid or offer.

[8] SelectNet is also used by UTP Exchanges (as defined below) to access Nasdaq market makers. *See* Securities Exchange Act Release No. 38191 (January 22, 1997), 62 FR 4562 (January 30, 1997).

[9] *See* Securities Exchange Act Release No. 38156 (January 10 ,1997), 62 FR 2415 (January 16, 1997) (order approving changes related to implementation of the SEC Order Handling Rules).

Nasdaq's New Trading Environment

To deal with the significant and ongoing problem of dual liability, Nasdaq is proposing modifications to its negotiation and automatic execution systems. Under the proposal, SelectNet, through rule and system changes, would be re-established as a non-liability, order delivery and negotiation system for NNM securities. Moreover, SOES, the current automatic execution system for small orders from public customers, will be recast for the trading of NNM securities through the following changes: (1) increasing for NNM securities the maximum order size to 9,900 shares; (2) allowing market makers to enter proprietary orders into the new system and to obtain automatic execution for their proprietary and agency orders in NNM securities; (3) reducing the current 17-second delay between executions against the same market maker to 5 seconds; and (4) enabling NNM orders to interact automatically with market makers' displayed size and reserve size, including a market maker's Agency Quotes.[10] Nasdaq believes that this combination of rule changes will expeditiously reduce "double hit" liability in the most active Nasdaq securities while dramatically increasing the speed of executions and enhancing access to the full depth of a security's trading interest by all market participants.

Changes to SelectNet

Specifically, SelectNet's transformation to an order delivery and negotiation system will be accomplished through rule changes prohibiting the use of SelectNet for the entry of any preferenced orders directed to market makers in NNM securities unless such orders are at least one normal unit of trading (*i.e.*, 100 shares) in excess of the displayed amount of the NNMS market makers's quote to which they are directed ("over-sized order requirement"). In addition, such orders must also be designated as wither: (1) "All-or-None" ("AON") of a size that is at least 100 shares greater than the displayed amount of the NNMS market maker's quote to which the order is directed; or (2) a "Minimum Acceptable Quantity" order ("MAQ") with an MAQ value of at least 100 shares greater than the displayed amount of the NNMS market maker's quote to which the order is directed. SelectNet itself will be programmed to reject preferenced messages violating this mandate.[11] In Nasdaq's view, these changes will ensure that market makers are not subject to potential dual liability arising under the Firm Quote Rule as the result of the duplicative receipt of liability orders through asynchronous systems. Recipients of oversized NNM SelectNet orders would still have the option to execute or initiate electronic negotiation in response to the message.[12]

As described below, national securities exchanges trading under grants of unlisted trading privilege ("UTP Exchanges") will continue to use SelectNet as their primary linkage with Nasdaq. ECNs will have the ability to be accessed through the SelectNet linkage, or fully participate in the NNMS and be subject to automatic execution, through NNMS, against their quote. Taken together, these changes will ensure for NNM securities that SelectNet regains its place as the order delivery and negotiation system that it was originally intended to be.

Order Entry Parameters

For NNM securities, the system proposed today becomes the Nasdaq market's primary trading and execution medium. The proposed NNMS system transforms the currently operating execution system for small orders from public customers into a more efficient, automated facility for the handling of all NNM orders of 9,900 shares or less entered for execution against an expanded trading interest accessible through both displayed and reserve size quotes. The proposed system will execute automatically against market makers' proprietary and agency quotes as more fully described below.

First, the maximum order size for NNM securities entered into NNMS will be increased to 9,900 shares from current order size maximums (*e.g.*, 1000, 500 or 200 shares). Second, market makers will be allowed to use NNMS on a proprietary basis, including being able to obtain automatic execution for orders sent to other NNMS participants, when trading NNM securities. Third, the current 17-second interval delay between automatic executions against the same market maker will be reduced to 5 seconds in NNMS. Fourth, Nasdaq will design NNMS to permit interaction of orders against a market maker's "reserve size" (including a market maker's posted agency quote) after yielding priority to displayed quotes at the same price. Additionally, market makers will be given the option of having their quote automatically refreshed from that reserve to a size level of their choosing. If no particular size is designated by the market maker, the quote will be automatically refreshed by NNMS at a 1000 share displayed size level.[13]

Reserve Size

The proposed reserve size functionality in the NNMS will yield priority to all other displayed quotes at the same price level, so that the system will execute against displayed size in time priority and then against the reserve size in time priority. To encourage the display of appropriate order size, NNMS will require a market maker using NNMS's reserve-size functionality to display a minimum of 100 shares in its Proprietary Quote. Moreover, displayed Proprietary Quotes at the inside of the market that are to be refreshed at the same price level must be refreshed at 1000 or more shares for a market maker to be permitted to continue using reserve size. Market makers wishing to refresh and display at the same inside price at a size less than 1000 shares will be able to do so but will not be permitted to use NNMS's reserve size feature.[14]

For example, in a situation where there are three market makers, ranked in time priority A, B, C, each at the best bid and each displaying 1,000 shares and all with 5,000 shares in reserve, the system will handle the order as follows: if a 9,000 share market order is entered, the proposed system would automatically first take out the displayed 3,000 shares. It then would take out the entire 5,000 share reserve size of market maker A ("MMA") and 1,000 shares of market maker B's ("MMB") 5,000 share reserve size in

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[10] Nasdaq recently filed a proposal with the Commission that would permit the separate display of customer orders by market makers in Nasdaq through a market maker agency identification symbol ("Agency Quote"). *See* Securities Exchange Act Release No. 41128 (March 2, 1999), 64 FR 12198 (March 11, 1999). ("SR–NASD–99–09.") The Commission subsequently extended the comment period for that proposal until June 1, 1999. Securities Exchange Act Release No. 41243 (April 1, 1999), 64 FR 17428 (April 9, 1999).

[11] SelectNet will continue to accept orders of any size (subject to the current 999,999 shares system limit) for Nasdaq SmallCap securities.

[12] This is not to be understood to prohibit liability for each of potentially two quotes displayed by market makers under the Agency Quote proposal contained in SR–NASD–99–09.

[13] *See* NASD Rule 4710(g) and proposed rules 4701(g) and 4710(d)(3).

[14] This restriction will not apply for interim executions against a market maker's unupdated quote. For example, should a market maker displaying an initial quotation of 1000 shares with 5000 shares in reserve be automatically accessed by NNMS for 300 shares in displayed size, that market maker will still be allowed to continue to display its remaining 700 shares and keep 5000 available in reserve size. Should the market maker subsequently update either its displayed or reserve sizes, or its quoted price, the market maker will be obligated to increase its displayed size to 1000 shares to continue to use NNMS's reserve size feature.

time priority, filling the order and leaving MMB with 4,000 shares in reserve size and market maker C ("MMC") with 5,000 shares in reserve size.[15] MMA's quote would be completely decremented and drop from the inside market. Since MMB's total displayed and reserve quote would not be completely decremented (4,000 reserve share size remaining) it would retain its time priority and, assuming it remains the best bid, remain at the top of the quote montage and have its displayed size refreshed from its remaining reserve size. For MMB to continue quoting shares in reserve size, MMB would have to have selected a 1,000 share or greater refresh size. MMC, based on its 5,000 share reserve size remainder, would retain the number two slot in the montage and would have the option of having its displayed quote automatically refreshed from reserve to a size level of its choosing. MMC would be subject to a 1,000 share or greater display refresh minimum to be allowed to continue to quote reserve size. MMA's fully exhausted quote will have the option of being automatically refreshed away from the inside market using Nasdaq's automatic quote update function. If a specific, predetermined automatic quote refresh amount is not selected, the NNMS system will refresh a market maker's displayed quote from reserve size to a 1,000 share display level.

As always, failure to update a fully exhausted quote will result in the system placing the market maker's quote in a "closed" state that, if not updated within 5 minutes, will be cause for suspension of the market maker's quote for 20 business days.[16]

No Decrementation

In addition, Nasdaq is also proposing to eliminate the NO DEC feature for NNM securities, which currently allows continuous executions against a market maker's quote at the same price without decrementing the quoted size. Nasdaq believes that the NO DEC feature is increasingly less important now that market makers can manage their quote by displaying their actual size, and will become even less important in a market where market makers are given the ability to refresh their quote at a size they determine. Nasdaq also believes that NO DEC inhibits quote competition among market participants and discourages the full display of trading interest. Moreover, given the larger order sizes and faster executions that can be expected from the new trading system, Nasdaq submits that a continuation of NO DEC in NNMS could inadvertently expose market participants to inappropriate levels of order liability. Finally, NO DEC provides no benefits in conjunction with Nasdaq's proposed Agency Quote concept in that such agency quotes will represent the full and complete trading interest of the customer and are inconsistent with the unlimited and constant exposure to orders indicated by the use of NO DEC.

SOES Preferencing

Similarly, Nasdaq is also proposing to eliminate the existing SOES preferencing feature for NNM securities as being inconsistent with the processing of orders in time priority as contemplated in the proposed new trading environment. Preferencing in an automatic execution system also reduces market maker incentives to aggressively compete for orders by showing the full size and true price of their trading interest. Moreover, a continuation of preferencing may place Agency Quotes of public customers at a disadvantage. Nasdaq believes that these factors, especially when combined with the proposed elimination of potential dual liability though SelectNet and the current ability of market makers to display their actual size, clearly militate in favor of discontinuing preferencing in NNMS.

UTP Exchange Participation

UTP Exchanges will continue to have access to the full range of SelectNet's capabilities as their primary linkage with Nasdaq. UTP exchanges will continue to receive, and be obligated to execute, preferenced SelectNet liability orders. Additionally, UTP Exchanges will retain their ability to send SelectNet preferenced liability orders to market makers. While Nasdaq notes that a market maker may still have dual liability in situations where a market maker is accessed by a UTP Exchange via SelectNet and simultaneously by an NNMS market maker of order entry firm via the NNMS system, Nasdaq believes that such dual liability is manageable in the current trading environment. Nasdaq will continue to monitor this issue and will propose amendments to the NNMS system and the UTP Plan if significant problems arise.

ECN Participation

ECNs will have two options for participation in the NNCS System, and the manner in which they choose to participate shall be governed by an addendum to the Nasdaq Workstation II Subscriber Agreement of ECNs.[17]

First, an ECN would be allowed to participate in Nasdaq in substantially the same manner as they do today ("Order Entry ECN"). That is, market participants would continue to be able to access ECNs via the SelectNet linkage and would continue to be able to send preferenced SelectNet messages of any size (up to 999,999 shares) and with any conditions to such ECNs (*i.e.*, the oversized order requirement for a preferenced SelectNet order would not apply to ECNs under this first option). ECNs that choose to have the capability to "reach out" and access other market maker quotes (including Agency quotes) could do so by requesting order-entry capability in the NNMS system. The ECN also could send preferenced SelectNet orders to NNMS market makers subject to the oversized order restrictions described in this filing.[18]

Second, an ECN could choose to participate fully in the NNMS system ("Full-Participant ECN"). Under this option, the ECN would agree to provide automatic execution for orders received from other NNMS participants through the NNMS system by the ECN. As with the first option, Full-Participant ECNs could use the NNMS system to obtain automatic execution of orders they send to NNMS market makers or other Full-Participant ECNs.

Given time and technology constraints affecting some ECNs, Nasdaq feels that on an interim basis ECNs should have options as to the manner in which to participate in Nasdaq's new system. Thus, Nasdaq is not proposing at this time to mandate that all ECNs register as Full-Participant ECNs, but will reconsider this issue in the future.

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[15] Like Nasdaq's other automatic execution systems, NNMS will impose a $0.50 per side fee for each execution. To reduce user costs and facilitate the use of NNMS's reserve size functionality, a simultaneous and instantaneous execution against an NNMS participant's displayed and reserve size will be treated for billing purposes as a single execution.

[16] Market makers will still have the ability, through Nasdaq's automatic quote update facility, to pre-select a tick value and have Nasdaq refresh their proprietary quote away from the inside market. This capability would not apply to a market maker's Agency Quote because that quotation represents agency interest and will not be required to be two-sided. If a market maker's quote is refreshed to a different price or size level, another order will not be delivered to that market maker for 5 seconds after that quote is refreshed at the new price or size level.

[17] The manner in which ECNs currently participate in the Nasdaq market place is governed, in part, by the Nasdaq Workstation agreement as amended for ECNs, which all ECNs must sign. *See* Rule 4623(b)(3). Under the proposed rules for the NNMS system, this practice would not change.

[18] This would allow ECNs to access market makers through two systems, but would limit dual liability that market makers currently face because they will only be receiving orders requiring them to execute from NNMS.

Nasdaq SmallCap

For Nasdaq SmallCap securities, the trading rules for automatic execution will remain the same as they are today. Thus, participation in the automatic execution system for SmallCap will continue to be voluntary, and be available only for the small orders of public customers. Maximum order size limits will remain in effect as well as the prohibition against splitting larger orders to avoid those limits. Restrictions on access by market professionals will likewise be maintained.[19] After Nasdaq has had experience with the NNMS system, it will consider whether the functionality of the system should be made available for SmallCap trading.

Other, Technical Modifications

Finally, several rules found in NASD Rule Series 4600 and throughout the NASD Manual will be modified in technical, non-substantive ways. In particular, Rule 4613 (Character of Quotations), will be amended to eliminate the references to SOES Tier Sizes for the NNM quotations of market makers. Other rules referencing SOES will be rescinded or conformed accordingly, including Rule 4611(f) (Registration as a Nasdaq Market Maker), Rule 4619 (Withdrawal of Quotations and Passive Market Making), Rule 4620 (Voluntary Termination of Registration), Rule 4632 (Trade Reporting), Rule 4618(c) (Clearance and Settlement) and the Rule 4700 Series (SOES).

Nasdaq submits that the above proposals can obtain many of the market benefits of a full integration of Nasdaq systems in a timely and efficient manner, while still maintaining SelectNet as a negotiation system and as the approved link between Nasdaq, ECNs and UTP exchanges. Most importantly, Nasdaq's proposals leverage its existing technology platform to significantly reduce the negative market impacts resulting from multiple executions from non-integrated systems as quickly as possible, with a minimum of burdensome reprogramming for all market participants during the crucial period of time leading up to the approaching year 2000 moratorium. The proposals also provide order entry firms and their public customers increased benefits from enhanced access through larger NNM order entry size parameters, quicker executions, and the ability to interact with the non-displayed reserve size of NNM market makers resulting in improved overall market efficiency.

2. Statutory Basis

Nasdaq believes that the proposed rule change are consistent with Section 15A(b)(6) of the Act[20] in that the proposed rule changes are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in the regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Nasdaq believes that the proposal also is consistent with Section 11A(a)(1)(C),[21] in which Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: (1) economically efficient execution of securities transactions; (2) fair competition among brokers and dealers; (3) the availability to brokers, dealers and investors of information with respect to quotations and transactions in securities; (4) the practicability of brokers executing investors' orders in the best market; and (5) an opportunity for investors' orders to be executed without the participation of a dealer. Specifically, Nasdaq believes that this proposal, combined with Nasdaq's Agency Quote, which is also pending with the Commission, will provide a mechanism for the more efficient display and automatic execution of customer limit orders. Thus, the Nasdaq believes the proposed rule change is consistent with Section 11A and the SEC's Order Handling Rules,[22] and in particular the Display Rule.[23]

(B) Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. As discussed, Nasdaq has proposed modifications to SOES and Select Net as interim measures pending Commission action on its Integrated Order Delivery and Execution System, commonly known as its limit order book proposal (SR–NASD 98–17). Nasdaq has also proposed its agency quote display structure (SR–NASD 99–09) as an interim measure pending its limit order book proposal. Both the SOES/SelectNet modifications and the agency quote display could significantly modify the existing Nasdaq market in ways that some may consider less desirable than the results of the proposed limit order book. Because these proposals are largely alternatives to each other, market participants should have the chance to formally comment on the limit order book proposal in light of the SOES/SelectNet and agency quote proposals. Therefore , the Commission is formally reopening the comment period on the limit order filing, and requesting additional comments on this proposal.

In response to prior comments on the impact of the limit order book filing, Nasdaq has discussed operating the limit order book on a pilot basis. A pilot would provide experience with the book and allow Nasdaq and the Commission to better gauge the impact of the book on the Nasdaq market. The Commission specifically requests comment on whether the proposal should be

[19] *See* NASD *Notice to Members 88–61*. Nasdaq notes that is recently filed, in response to concerns raised by SEC staff, a rule proposal to eliminate the "five-minute presumption" outlined in *Notice to Members 88–61*. *See* Securities Exchange Act Release No. 41015 (February 4, 1999), 64 FR 6415 (February 9, 1999).

[20] 15 U.S.C. 78o–3(b)(6).

[21] 15 U.S.C. 78k–l(a)(1)(C).

[22] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (adopting release of Order Handling Rules).

[23] 17 CFR 240.11Ac1–4.

approved on a pilot basis. If so, how should a pilot be structured? To gain a realistic assessment of the book, should the pilot include a limited number of securities across a range of the NNM market, or should it include securities representing a substantial portion of the trading market. For example, should the pilot include 250 securities, of which 20 were from the Nasdaq top 100 securities, and the rest were chosen from different quintiles of NNM securities? Or should the pilot comprise 1000 securities including the Nasdaq top 100 securities and the remainder chosen from quintiles of NNM securities? Or would a different pilot be more appropriate? In addition, how long should a pilot last? Would six months, or one year, provide sufficient information to evaluate a pilot? Would a pilot of this length and breadth potentially harm the Nasdaq market on a lasting basis?

Persons making written submissions on either filing should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–11 (including those comments specifically addressing File No. SR–NASD–98–17) and should be submitted by June 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10019 Filed 4–21–99; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S7 covers the Office of the Deputy Commissioner, Human Resources. Notice is given that Subchapter S7B, the Office of Personnel, is being amended to reflect the realignment of center functions and the retitling of the Center for Personnel Operations and the Center for Personnel Policy and Program Development. The changes are as follows:

Section S7B.10 *The Office of Personnel*—(Organization)

Retitle:

F. The Center for Personnel Operations (S7BK) to: "The Center for Classification and Organization Management (S7BK)."

G. The Center for Personnel Policy and Program Development (S7BE) to: "The Center for Personnel Policy and Staffing (S7BE)."

Section S7B.20 *The Office of Personnel*—(Functions)

Retitle:

F. The Center for Personnel Operations (S7BK) to: "The Center for Classification and Organization Management (S7BK)."

Delete:

1., 7., 8. and 9. in their entirety.

Remember remaining functions 1 through 5.

Retitle:

G. The Center for Personnel Policy and Program Development (S7BE) to "The Center for Personnel Policy and Staffing (S7BE)."

Amend to read as follows:

2. Directs the development and operation of SSA performance and employee awards programs. Develops and implements SSA employee incentive and honor awards programs and administers the performance management systems.

Add:

3. Develops and implements policies and regulations pertaining to SSA recruitment and placement. Initiates and processes personnel actions for SSA Headquarters employees; participates with office managers and staffs in assessing placement actions; and directs the administration of all Merit Promotion Plans applicable within Baltimore/Washington/Falls Church Headquarters components. Processes necessary administrative actions required for new employees entering on duty.

4. Implements policies, regulations and programs pertaining to special recruitment and staffing activities for SSA headquarters and field organizations. Develops and implements student employment programs.

5. Directs the development and administration of SSA services concerning employee benefit programs which include the Civil Service Retirement System, the Federal Employees Retirement System, the Thrift Savings Plan and the Federal Employees Group Life Insurance Program. Serves as the focal point for unemployment compensation activities.

6. Provides for the establishment and maintenance of the Official Personnel Folders for SSA headquarters employees.

H. The Center for Employee Services (S7BG).

Delete:

3. In its entirety.

Add:

3. Directs the administration of the Federal Employees Health Benefits Program for SSA employees.

6. Directs the development and operation of the SSA employee suggestion program.

Dated: April 9, 1999.

Paul D. Barnes,

Deputy Commissioner for Human Resources.

[FR Doc 99–10105 Filed 4–21–99; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–99–015]

Houston/Galveston Navigation Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) and its two Subcommittees (Waterways and Navigation) will meet to discuss waterway improvements, aids to navigation, current meters, and various other navigation safety matters affecting the Houston/Galveston area. All meetings will be open to the public.

DATES: The meeting of HOGANSAC will be held on Thursday, May 27, 1999 from 9 a.m. to approximately 1 p.m. The meeting of the Navigation Subcommittee will be held on Thursday, May 13, 1999 at 9 a.m. and immediately following, the Waterways Subcommittee will meet. The meetings may adjourn early if all business is finished. Members of the public may present written or oral statements at the meetings.

[24] 17 CFR 200.30–3(a)(12).

ADDRESSES: The HOGANSAC meeting will be held in the conference room of the Houston Pilots' Office, 8150 South Loop East, Houston, Texas. The subcommittee meetings will be held at the Houston Yacht Club, 3620 Miramar, Seabrook, Texas.

FOR FURTHER INFORMATION CONTACT: Captain Wayne Gusman, Executive Director of HOGANSAC, telephone (713) 671–5199, or Commander Paula Carroll, Executive Secretary of HOGANSAC, telephone (713) 671–5164.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of the Meetings

Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC). The tentative agenda includes the following:

(1) Opening remarks by the Committee Sponsor (RADM Pluta), Executive Director (CAPT Gusman) and chairman (Tim Leitzell).

(2) Approval of the January 28, 1999 minutes.

(3) Report from the Waterways Subcommittee.

(4) Report from the Navigation Subcommittee.

(5) Status reports on Baytown Tunnel removal, Army Corps of Engineers' dredging projects and pipeline safety, and comments and discussions from the floor.

(6) New business

Subcommittee on Waterways. The tentative agenda includes the following:

(1) Presentation by each work group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each work group.

Subcommittee on Navigation. The tentative agenda includes the following:

(1) Presentation by each work group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each work group.

Procedural

All meetings are open to the public. Please note that the meetings may adjourn early if all business is finished. Members of the public may make oral presentations during the meetings.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: April 8, 1999.

A.L. Gerfin, Jr.,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.

[FR Doc. 99–10114 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5543]

Study of the Implementation and Enforcement of Safety Management System (SMS) regulations, complying with the International Safety Management (ISM) Code

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments.

SUMMARY: The Coast Guard will hold a public meeting to discuss how we intend to study the implementation and enforcement of the International Safety Management (ISM) Code and the impact that Safety Management Systems (SMSs) are having on marine safety and environmental protection. The study will measure the effectiveness of vessel and company SMSs and identify actions that could be taken to further promote the use and effective implementation of the ISM Code. The Coast Guard encourages interested parties to attend the meeting and submit comments for discussion during the meeting, and seeks written comments from any party who is unable to attend the meeting.

DATES: The public meeting will be held on May 14, 1999, from 9:30 a.m. to 2 p.m. The meeting may close early if all business is finished. Written material for discussion during the meeting should reach the Docket Management Facility on or before May 7, 1999. Comments and related material must reach the Docket Management Facility on or before May 31, 1999.

ADDRESSES: The public meeting will be held at the U.S. Coast Guard Headquarters Transpoint Building, room 2415, 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–1181.

You may submit your comments and related material by only one of the following methods:

(1) By mail to the Docket Management Facility, (USCG–1999–5543), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments and documents, as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this rulemaking on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice or public meeting, contact Mr. Bob Gauvin, Project Manager, Vessel and Facility Operating Standards Division (G–MSO–2), Coast Guard, 202–267–1053. For questions on viewing or submitting material to the docket, contact Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard ("We") encourages you to participate in this study by submitting comments and related material, and by attending the public meeting. If you submit written comments, please include your name and address, identify the docket number for this study (USCG–1999–5543), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please do not submit the same comment or material by more than one means.

If you submit them by mail or hand, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they were received, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period for the study report.

Public Meeting

This meeting is open to the public. Please note that the meeting may close

early if all business is finished. Members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify Mr. Bob Gauvin at 202–267–1053 no later than May 7, 1999.

We will begin the public meeting with a brief presentation discussing the actions taken to date by the Coast Guard to develop and enforce regulations and policy for the implementation of SMSs, as well as ISM Code requirements for certification. The presentation will include a brief synopsis of the Coast Guard's planned actions to complete the study.

On completion of the Coast Guard presentation, we will read any written comments received before the public meeting to those attending and into the record of the meeting. We will then give the attendees time to speak on their concerns and interest regarding this issue and the study. After the attendees complete their oral presentations, we may open up discussions about concerns voiced repeatedly during the comment period of the meeting. These discussions may request input on the Coast Guard's planned actions to complete the study and recommendations from the attendees on how we can best research information from those companies using SMSs in their shore and vessel operations.

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Bob Gauvin at the address or phone number under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Background and Purpose

The ISM Code is enforced by the Coast Guard in compliance with regulations in Title 33, Code of Federal Regulations, part 96 (33 CFR part 96), and Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS). Navigation and Vessel Inspection Circulars No. 2–94 (NVIC 2–94) and No. 4–98 (NVIC 4–98) provide the Coast Guard's enforcement policy. Both of these NVICs may be read or downloaded from the Coast Guard's publication homepage on the Internet at http://www.uscg.mil/hq/g-m/index.htm.

In July 1998, the Coast Guard began recognizing classification societies to issue certification for and ensure compliance with the ISM Code for shipping companies and certain vessels, with the approval of the International Maritime Organization (IMO). The ISM Code addresses the importance of designated persons and various responsibilities of the master and maritime company and requires consistent documentation and monitoring of management procedures, actions and practices implemented in accordance with governmental and company requirements. The ISM Code ensures the continuous improvement of safety management skills in the maritime industry and requires companies to ensure safe operation of their fleets in accordance with applicable international and Flag State requirements by developing Safety Management Systems (SMSs) for their shore and vessel operations.

The primary goal of an SMS is to ensure, in writing, the commitment and involvement of a shipping company's top management and representatives of shore and ship personnel to continuously improve safety management skills of shore-based and ship-based personnel, including preparation for emergencies related to both safety and environmental protection. Implementing an SMS ensures company and vessel compliance with mandatory rules and regulations. Using an SMS also ensures that applicable codes, guidelines, and standards recommended by the IMO, various Flag Administrations, recognized classification societies, and maritime industry organizations are taken into account. Companies are required by the ISM Code to develop and implement SMSs; this includes exercising company procedures and maintaining regular written reports and internal audits for reporting accidents and non-conformities with the provisions of the ISM Code. External audits conducted by recognized classification societies ensure that companies maintain current internal audits, reports, and records of exercises, procedures, accidents, and non-conformities and the company's or vessel's respective corrective actions.

Essential to the effective functioning of an SMS is the need for all persons involved with the system to openly exchange safety information that will result in corrective actions of material conditions, safety procedures and company processes that support safety. Candid and accurate records ensure open lines of communication between company management and vessel crews and are vital for companies, vessels, and external recognized authorities to measure a company's safety and environmental protection performance against a documented system.

Recently, we received comments and questions from the maritime industry regarding vessel owners' ability or willingness to fully implement SMSs. They contended that vessel owners, out of fear of self-incrimination for liability, would not properly complete the internal audits, critical management reviews, and reports of non-conformities required by the SMSs and subject to external audits. Incomplete, vague, or inaccurate reports interfere with the effectiveness such a system would have in raising levels of safety. If these required SMS documents could be used against a vessel, its owner, or the companies' employees in legal challenges, how could we expect full disclosure?

In response, we recognize that certain information of a personal or business nature is already protected to varying degrees by laws, such as the Privacy Act. In addition, SMSs are considered a form of intellectual property since they define and describe key practices that play a role in maintaining a competitive edge in the maritime industry. We acknowledge and abide by our legal and moral duty to protect personal and business information from public disclosure in the course of our role as a safety agency. However, records intended to improve safety may also demonstrate the omission or commission of an act that could be construed as negligent. Although this was not the intended purpose of the ISM Code, legal actions could occur as a result of information found in SMS-required documentation of accidents and non-conformities evaluated by external audits.

Coast Guard ISM Code Study

The purpose of this notice is to announce that we intend to conduct a study regarding the effective implementation and possible improvements of ISM Code SMSs and to invite the public to attend a public meeting to discuss issues and concerns regarding the ISM Code and the study.

Section 306 of the Coast Guard Authorization Act of 1998 (Pub. L. 105–383), "Safety Management Code Report and Policy," mandates the Secretary of Transportation to complete a study on:

(1) Reporting the status of ISM Code implementation;

(2) Detailing enforcement actions involving the ISM Code, including the role documents and reports produced following the external audits required by the ISM Code play in such enforcement actions;

(3) Evaluating the effects the ISM Code has had on marine safety and environmental protection, and identifying actions to further promote

marine safety and environmental protection through the ISM Code;

(4) Identifying actions to achieve full compliance with and effective implementation of the ISM Code; and

(5) Evaluating the effectiveness of internal reporting and auditing under the ISM Code, and recommending actions to ensure the accuracy and candidness of such reporting and auditing. These recommended actions might include proposed limits on the use of documents produced following external audits required by the ISM Code in legal proceedings.

Questions to the Public and Maritime Industry

We are initiating research for the study by requesting answers to the questions listed below. You may submit your responses in writing to the docket at the address under **ADDRESSES** or present them orally at the public meeting on May 14, 1999. Please consider the following questions with regard to granting access to information in the SMS. Who should have access to this information and what impact could the release of this information have on safety and the intended purpose of the information?

(1) Should the information contained in an SMS be restricted to direct users of the system, i.e., recognized organizations directly responsible for the audit of the system, Port State and Flag State authorities, etc. and no others?

(2) Would restricting the use of information in the SMS to only those entities listed in Question 1, and excluding all others, appreciably improve candid reporting of corrective actions for items related to safety or environmental protection?

(3) If you answered that restricting the access to or use of SMS information by entities other than those listed in Question 1 would improve the reporting of corrective actions, please respond. Would this improvement be of a sufficient magnitude to justify placing restrictions on the use of that information?

(4) If selected entities could be granted access beyond those listed in Question 1, who should they be and why?

(5) Who should not, under any circumstances, be granted access to the information in the SMS and why?

(6) Should the safety information and records contained in the SMS be as accessible as other similar information now contained in ships logs and other records required to be maintained by law, regulations or international convention (e.g., the ships oil record book)?

(7) If company SMS procedures and SMS audit report information is made available and could be used by private litigants in actions against the company or company employees; what impact, if any, would the use of this information have on the level of detail vessel crew members and company personnel would use in creating and maintaining records that identify corrective actions related to safety items?

(8) Instead of restricting access to the information, should restrictions be placed on the use of the information from the SMS? If yes, for what purposes should information in the SMS not be used?

(9) Are there SMS records that should be accessible while other SMS records should be restricted?

(10) Are there other alternatives that would promote candidness of reporting that would not restrict access (e.g., placing limits of liability on actions stemming from use of information in the SMS)?

Dated: April 16, 1999.

Jeffery P. High,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–10113 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[ALJ 99–0004–CIV]

In the Matter of Parker & Parsley Petroleum USA, Inc.

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed penalty; opportunity to participate.

SUMMARY: The Coast Guard gives notice of the proposed assessment of a Class II administrative penalty against Parker & Parsley Petroleum USA, Inc. for violations of the Federal Water Pollution Control Act (FWPCA). The alleged violation involves a discharge of approximately 77,523 gallons of oil into and upon Deadend Canal, Franklin, Louisiana and adjoining navigable waters of the United States on or about November 26, 1996 and continuing through and including December 5, 1996. Interested persons may participate or file comments in this proceeding.

DATES: Filings in this matter must be received no later than May 24, 1999.

ADDRESSES: You may mail comments to the Hearing Docket Clerk, Administrative Law Judge Docketing Center, United States Coast Guard, 40 South Gay Street, Room 412, Baltimore, Maryland 21202–4022. Comments may also be personally delivered to Room 412 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (410) 962–7434. You may also fax your comments to (410) 962–1742.

The Administrative Law Judge Docketing Center maintains the public docket for this matter. Comments will become part of this docket and will be available for inspection or copying in Room 412 at the address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. George J. Jordan, Director of Judicial Administration, Office of the Chief Administrative Law Judge, Commandant (G–CJ), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is (202) 267–2940.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their name, address, identify this document (ALJ 99–0004–CIV), and state the reason for each specific comment. Please submit all comments and attachments in an unbound format on white paper no longer than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment or receipt of comments should enclose self-addressed, stamped postcards or envelopes.

Discussion

This is a Class II civil penalty proceeding brought under section 311(b)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) (FWCPA), as amended by the Oil Pollution Act of 1990 (33 U.S.C. 1321(b)(3)). The FWPCA requires the Coast Guard to publish notice of the proposed issuance of an order assessing a Class II civil penalty in the **Federal Register**.

If you wish to be an interested person, you must file written comments on the proceeding or written notice of intent to present evidence at any hearing held in this Class II civil penalty proceeding with the Hearing Docket Clerk.

The following table explains how interested persons may participate in a Class II civil penalty proceeding.

If—	Then—
a hearing is scheduled.	You will be given

If—	Then—
	Notice of any hearing; A reasonable opportunity to be heard and to present evidence during any hearing; and Notice and a copy of the decision. 33 CFR 20.404
the proceeding is concluded without a hearing.	You may petition the Commandant of the Coast Guard to set aside the order and to provide a hearing. You must file the petition within 30 days after issuance of the administrative law judge's order. 33 CFR 20.1102.

You can find the regulations concerning Class II civil penalty proceedings in 33 CFR Part 20.

The Coast Guard alleges that on or about November 26, 1996 and continuing through and including December 5, 1996, Parker & Parsley Petroleum USA, Inc. discharged approximately 77,523 gallons of oil into and upon Deadend Canal, 100 yards off the Atchafalaya River, Myette Point, Franklin, Louisiana and adjoining navigable waters of the United States.

The Coast Guard filed the complaint on March 24, 1999 at New Orleans, LA.

The Respondent is Parker & Parsley Petroleum USA, Inc., 303 W. Wall Street, Suite 101, Midland, Texas 79701.

The Coast Guard seeks a civil penalty of $100,000.

Dated: April 15, 1999.

George J. Jordan,

Director of Judicial Administration, Office of the Chief Administrative Law Judge, United States Coast Guard.

[FR Doc. 99–10112 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular (AC) 23.1309–1C, Equipment, Systems, and Installations in Part 23 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 23.1309–1C, Equipment, Systems, and Installations in Part 23 Airplanes. AC 23.1309–1C provides information and guidance concerning an acceptable means, but not the only means of showing compliance with the requirements of § 23.1309(a) and (b) (Amendment 23–49) for equipment, systems, and installations in Title 14 Code of Federal Regulations (14 CFR) Part 23 airplanes.

DATES: AC 23.1309–1C was issued by the Manager, Small Airplane Directorate, Aircraft Certification Service, ACE–100, on March 12, 1999.

HOW TO OBTAIN COPIES: This AC is currently available on the internet at *http://www.faa.gov/avr/air/airhome.htm.*

Printed versions of this AC should be available within 60 days of the issue date and copies may be obtained by writing the U.S. Department of Transportation, Subsequent Distribution Office, SVC–121.23, Ardmore East Business Center, 3341, Q 75th Avenue, Landover, MD 20785, or by faxing your request to that office at 301–386–5394.

Issued in Kansas City, Missouri, on April 9, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10087 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular (AC) 23.1311–1A, Installation of Electronic Displays in Part 23 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 23.1311–1A, Installation of Electronic Displays in Part 23 Airplanes. AC 23.1311–1A provides information and guidance concerning an acceptable means, but not the only means of showing compliance with the requirements of Title 14 of the Code of Federal Regulations (14 CFR) applicable to the installation of electronic displays in Part 23 airplanes.

DATES: AC 23.1311–1A was issued by the Manager, Small Airplane Directorate, Aircraft Certification Service, ACE–100, March 12, 1999.

HOW TO OBTAIN COPIES: This AC is currently available on the internet at *http://www.faa.gov/avr/air/airhome.htm.*

Printed versions of this AC should be available within 60 days of the issue date and copies may be obtained by writing the U.S. Department of Transportation, Subsequent Distribution Office, SVC–121.23, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, MD 20785, or by faxing your request to that office at 301–386–5394.

Issued in Kansas City, Missouri, on April 9, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10088 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (98–04–C–00–CRW) To Impose and Use a Passenger Facility Charge Revenue at Yeager Airport, Charleston WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: This correction revises information from the previously published notice.

In notice document 98–23630 beginning on page 46825 in the issue of Wednesday September 2, 1998, under Supplementary Information, last paragraph, the Class or classes of air carriers which the public agency has requested not be required to collect PFCs should read, "Far Part 135 Charter Operators for hire to the General Public and unscheduled Part 121 Charter Operators for hire to the General Public".

DATES: Comments must be received on or before May 24, 1999.

FOR FURTHER INFORMATION CONTACT: Oz Turner, Manager, Airports Field Office, 176 Airport Circle, Rm. 101, Beaver, WV 25813–9350.

Issued in Jamaica, New York on April 12, 1999.

Thomas Felix,

Manager, Planning & Programming Branch, Airports Division, Eastern Region.

[FR Doc. 99–10049 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environment Impact Statement: SR 20, Fredonia to 1–5, Skagit County, WA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Cancellation of notice of intent, FR document 91–15994.

SUMMARY: The FHWA is issuing this notice to rescind the previous Notice of Intent issued on June 21, 1991, to prepare an environmental impact statement (EIS) for the proposed highway project in Skagit County, Washington.

FOR FURTHER INFORMATION CONTACT: Gene K. Fong, Federal Highway Administration, Evergreen Plaza Building, Suite 501, 711 South Capitol Way, Olympia, Washington, 98501–1284, Telephone: (360) 753–9413; Brian Ziegler, State Design Engineer, Washington State Department of Transportation, Transportation Administration Building, Olympia, Washington, 98204, Telephone: (360) 705–7231; or, John Okamoto, WSDOT Northwest Region Administrator, 15700 Dayton Avenue North, PO Box 330310, Seattle, Washington 98133–9710, Telephone: (206) 440–4691.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation (WSDOT), issued a Notice of Intent on June 21, 1991 to prepare an EIS on a proposal to improve or construct a 4-1/2 mile section of SR 20 from two lanes to four lanes. The Draft Environmental Impact Statement (DEIS) was originally circulated on May 30, 1995, and was followed by an EIS/Design Hearing on June 28, 1995. Since then, as the project elements have been refined, impacts have been more specifically identified, and public and agency comments have been evaluated, the FHWA and WSDOT have jointly decided that the project will not result in significant impacts to the environment and that an Environmental Assessment (EA) is the most appropriate environmental document under the National Environmental Policy Act (NEPA) rather than an EIS. The EA is available through the above contacts. Because a previous hearing was held for this project, another hearing is not planned for the current EA. However, any person with questions about the project or wishing to request a hearing may write to Bill James at 15700 Dayton Avenue North, MS 11, PO. Box 330310, Seattle, WA. 98133–9710, or call (206) 440–4139.

Authority: Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of federal programs and activities apply to this program.

Issued on: April 12, 1999.

Donald A Petersen,

Transportation and Environmental Engineer, Olympia, Washington.

[FR Doc. 99–10110 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Will, DuPage, and Cook Counties, IL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplement to a Final Environmental Impact Statement will be prepared for a proposed highway project in Cook, Will, and DuPage, Counties, Illinois.

FOR FURTHER INFORMATION CONTACT: Jon-Paul Kohler, Environmental Engineer, Federal Highway Administration, 3250 Executive Park Drive, Springfield, Illinois 62703, Telephone: (217) 492–4988 Patrick Pechnick, Bureau Chief of Programming, Illinois Department of Transportation, 201 West Center Court, Schaumburg, Illinois 61096–1096, Telephone: (847) 705–4393

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Illinois Department of Transportation (IDOT), will prepare a Supplement to the Final Environmental Impact Statement (EIS) on a proposal for a new highway. The proposed highway facility would begin at the interchange of Interstate Routes 55 and 355 east of Bolingbrook, Illinois and extend southerly approximately 12 miles to Interstate Route 80 northwest of New Lenox, Illinois. The proposed highway generally follows the previously recorded centerline for the Lake-Will Freeway (FA Route 61) in Will, DuPage, and Cook Counties and is designated FAP Route 340. The original EIS for the proposed project (FHWA–IL–EIS–93–03–F/4(f)) was approved on February 21, 1996. The Record of Decision (ROD) was approved on April 15, 1996. The approved EIS and ROD indicate that the Illinois State Toll Highway Authority would construct and operate the new highway. The Supplement to the Final EIS will allow traffic projections to be updated to the current planning year horizon, 2020. No-Action Alternative land use forecasts will be modified based on revisions to the Year 2020 transportation network. Various transportation alternatives including No-Action, No-Action with Transportation System Management, Mass Transit, and Build Alternates will be reexamined with regards to the new traffic. The Build Alternates include Further Improvements to the Existing Highway Network, Expressway, and Freeway/Tollway Alternates. Coordination meetings, three public meetings, and a public hearing were conducted as part of the previous EIS. Coordination with Federal, State, regional, county, and local agencies, community organizations, private industry, and the public was performed. Additional coordination will include coordination meetings and a public hearing. No formal scoping meeting will be held. If new information indicates a need to define issues attendant to the proposed action, scoping activities will be conducted with specific resource agencies. To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the Supplement to the Final EIS should be directed to FHWA or IDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: April 15, 1999.

Jon-Paul Kohler,

Environmental Engineer, Springfield, Illinois.

[FR Doc. 99–10056 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. FRA–1999–5103; Old Docket No. RST–93–3]

Burlington Northern and Santa Fe Railway Co.; Petition for an Extension and Modification of a Waiver of Compliance with Certain Provisions of 49 CFR 213.113(a)(2), Notes C and D

In accordance with 49 CFR 211.41, notice is hereby given that The Burlington Northern and Santa Fe Railway Company (BNSF) has petitioned the Federal Railroad Administration (FRA) under date of December 2, 1998, for extension and modification of a waiver of compliance with certain requirements of Title 49, Code of Federal Regulations, Part 213: Track Safety Standards. This proceeding

was previously identified with FRA Docket Number RST–93–3.

The present waiver was granted by FRA to BNSF in August 1990 to permit the use on certain BNSF tracks of a device known as a Bulldog Clamp®. The purpose of the device is to provide additional security between detection and removal of certain types of transverse defects internal to a rail head. The device achieves this purpose by functioning as a boltless track joint centered on a rail at the location of a flaw and being attached to the rail by two "C" clamps. It is claimed that avoidance of bolting the joint saves times, but more important, eliminates drilled bolt holes in the rail web which can serve later as sources of equally unwanted defects of a different type. FRA has granted extensions to that original waiver up to the present time.

BNSF specifically requests of the Federal Railroad Administration (FRA) that the subject waiver be extended for an indefinite period unless modified or revoked by FRA, that BNSF be relieved from monthly reporting as presently required in the terms of the waiver, and that the waiver be made applicable on additional tracks owned by BNSF beyond the ten line segments presently encompassed in the waiver.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should be identified with docket number FRA–1999–5103 and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 30 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC on April 7, 1999.

Edward R. English,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 99–10047 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. FRA–1999–5102]

Petition for Waiver of Compliance With Certain Provisions of 49 CFR 213.233(c) Southeastern Pennsylvania Transportation Authority

In accordance with 49 CFR 211.41, notice is hereby given that the Southeastern Pennsylvania Transportation Authority (SEPTA) has petitioned the Federal Railroad Administration (FRA) under date of January 7, 1999, for a waiver of compliance with certain requirements of Title 49, Code of Federal Regulations, Part 213: TRACK SAFETY STANDARDS.

The purpose of the petition is to request of the Federal Railroad Administration (FRA) relief from compliance with the provisions of 49 CFR 213.233(c) of the Federal Track Safety Standards. The petitioner requests approval to reduce the frequency of visual track inspections required by this section for certain tracks which carry passenger traffic, specifically only those tracks that are constructed with continuous welded rail. Petitioner proposes to conduct one visual track inspection per week, instead of the two inspections per week presently required, and to supplement its visual inspections with the operation of an automated track geometry measuring vehicle over the affected main track and sidings four times per year. SEPTA has owned and operated such a measuring vehicle since 1990.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, the should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should be identified with docket number FRA–1999–5102 and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 30 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m. to 5:00 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, S.W. Washington, DC. All documents in the public docket at also available for inspection and copying on the internet at the docket facility Web site at *http://dms.dot.gov.*

Issued in Washington, DC on April 7, 1999.

Edward R. English,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 99–10046 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSAC–96–1, Notice No. 17]

Railroad Safety Advisory Committee ("RSAC"); Working Group Activity Update

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) Working Group Activities.

SUMMARY: FRA is updating its announcement of RSAC's working group activities to reflect the current status of working group activities.

FOR FURTHER INFORMATION CONTACT: Vicky McCully, RSAC Coordinator, FRA, 400 7th Street, S.W. Washington, DC. 20590, (202) 493–6305 or Grady Cothen, Deputy Associate Administrator for Safety Standards Program Development, FRA, 400 7th Street, SW., Stop 25, Washington, D.C. 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: This notice serves to update FRA's last announcement of working group activities and status reports on December 29, 1998 (63 FR 71668). The tenth full Committee meeting was held January 28, 1999. The next meeting of the full Committee is scheduled for April 15, 1999, at the Wyndham Hotel in Washington, DC.

Since its first meeting in April of 1996, the RSAC has accepted fifteen tasks. Status for each of the tasks is provided below:

Task 96–1—Revising the Freight Power Brake Regulations. This Task was formally withdrawn from the RSAC on June 24, 1997. FRA published an NPRM on September 9, 1998, reflective of what FRA had learned through the collaborative process. Two public hearings were conducted and a technical conference was held. The date for submission of written comments was extended to March 1, 1999. FRA is preparing a final rule. Contact: Thomas Hermann (202)493–6036.

Task 96–2—Reviewing and recommending revisions to the Track Safety Standards (49 CFR part 213) . This task was accepted April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on July 3, 1997, (62 FR 36138). The final rule was published in the **Federal Register** on June 22, 1998 (63 FR 33991). The effective date of the rule is September 21, 1998. A task force was established to address Gage Restraint Measurement System (GRMS) technology applicability to the Track Safety Standards. An amendment to the final rule is being prepared for presentation to the RSAC. Contact: Al MacDowell (202)493–6236.

Task 96–3—Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR part 220). This Task was accepted on April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on June 26, 1997 (62 FR 34544). The final rule was published on September 4, 1998 (63 FR 47182) and becomes effective on January 2, 1999. Contact: Gene Cox (202)493–6319.

Task 96–4—Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads. This Task was accepted on April 2, 1996, and a Working Group was established. The Working Group is monitoring the steam locomotive regulations task. Contact: Grady Cothen (202)493–6302.

Task 96–5—Reviewing and recommending revisions to Steam Locomotive Inspection Standards (49 CFR part 230). This Task was assigned to the Tourist and Historic Working Group on July 24, 1996. Consensus was reached and an NPRM was published on September 25, 1998 (63 FR 51404). Written and oral comments have been reviewed and FRA is preparing the final rule. Contact: George Scerbo (202)493–493–6349.

Task 96–6—Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR part 240). This Task was accepted on October 31, 1996, and a Working Group was established. Consensus was reached and an NPRM was published on September 22, 1998. The Working Group met to resolve issues presented in public comments. At the January 28, 1999, meeting, the RSAC recommended issuance of a final rule with the Working Group modifications. FRA is preparing the final rule. Contact: John Conklin (202)493–6318.

Task 96–7—Developing On-Track Equipment Safety Standards. This task was assigned to the existing Track Standards Working Group on October 31, 1996, and a Task Force was established. The Task Force is finalizing a proposed rule to present to the RSAC for consideration. Contact: Al MacDowell (202)493–6236.

Task 96–8—This Planning Task evaluated the need for action responsive to recommendations contained in a report to Congress entitled, Locomotive Crashworthiness & Working Conditions. This Planning Task was accepted on October 31, 1996. A Planning Group was formed and reviewed the report, grouping issues into categories.

Task 97–1—Developing crashworthiness specifications to promote the integrity of the locomotive cab in accidents resulting from collisions. This Task was accepted on June 24, 1997. A Task Force on engineering issues was established by the Working Group on Locomotive Crashworthiness to review collision history and design options and additional research was commissioned. The Working Group is finalizing recommended standards for future locomotives to present to the RSAC for consideration. Contact: Sean Mehrvazi (202) 493–6237.

Task 97–2—Evaluating the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect the crew's health and the safe operation of locomotives, proposing standards where appropriate. This Task was accepted June 24, 1997. The Working Group on Cab Working Conditions is drafting a standard for locomotive sanitary conditions. Task forces on noise and temperature were formed to identify and address issues. The Noise Task Force is drafting recommendations for hearing conservation program requirements. Contact: Brenda Hattery (202)493–6326.

Task 97–3—Developing event recorder data survivability standards. This Task was accepted on June 24, 1997. An Event Recorder Working Group and Task Force have been established and are actively meeting. A draft proposed rule is being reviewed. Contact: Edward English (202)493–6321.

Task 97–4 and *Task 97–5*—Defining Positive Train Control (PTC) functionalities, describing available technologies, evaluating costs and benefits of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

Task 97–6—Revising various regulations to address the safety implications of processor-based signal and train control technologies, including communications-based operating systems. These three tasks were accepted on September 30, 1997, and assigned to a single Working Group. A Data and Implementation Task Force, formed to address issues such as assessment of costs and benefits and technical readiness, is finalizing a report on the future of PTC systems. The report will be incorporated into a Report to the Congress. The Standards Task Force, formed to develop PTC standards, is developing draft recommendations for presentation to the RSAC. Contact: Grady Cothen (202)493–6302.

Task 97–7—Determining damages qualifying an event as a reportable train accident. This Task was accepted on September 30, 1997. A working group was formed to address this task and conducted their initial meeting February 8, 1999. Contact: Robert Finkelstein (202)493–6280.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC, on April 15, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety.

[FR Doc. 99–10048 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–99–5141 (Notice No. 99–5)]

Notice of Information Collection Approval

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Information Collection Approval.

SUMMARY: This notice announces OMB approval of information collection requests (ICRs), for OMB No. 2137–0018, entitled Inspection and Testing of Protable Tanks and Intermediate Bulk Containers; OMB No. 2137–0022, entitled Testing, Inspection and Marking Requirements for Cylinders; OMB No. 2137–0039, entitled Hazardous Materials Incident Reports; OMB No. 2137–0542, entitled Flammable Cryogenic Liquids; OMB No. 2137–0557, entitled approvals for Hazardous Materials; OMB No. 2137–0572, entitled Testing Requirements for Non-Bulk Packaging (formerly entitled Testing Requirements for Packaging); OMB No. 2137–0582, entitled Container Certification Statement; OMB No. 2137–0586, entitled Hazardous Materials Public Sector Training and Planning Grants; OMB No. 2137–0591, entitled Response Plans for Shipments of Oil. These information collections have been extended until March 31, 2002.

DATES: The expiration date for these ICRs is March 31, 2002.

ADDRESSES: Requests for a copy of an information collection should be directed to Deborah Bothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: Office of Management and Budget (OMB) regulations (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(s)) and specify that no person is required to respond to an information collection unless it displays a valid OMB control number. In accordance with the Paperwork Reduction Act of 1995, RSPA has received OMB approval of the following ICRs.

Title: Inspection and Testing of Portable tanks and Intermediate Bulk Containers.
OMB Control Number: 2137–0018.
*Title:*Testing, Inspection and Market Requirements for Cylinders.
OMB Control Number: 2137–0022.
Title: Hazardous Material Incident Reports.
OMB Control Number: 2137–0039.
Title: Flammable Cryogenic Liquids.
OMB Control Number: 2137–0542.
Title: Approvals for Hazardous Materials.
OMB Control Number: 2137–0557.
Title: Testing Requirements for Non-Bulk Packaging (Formerly entitled Testing Requirements for Packaging).
OMB Control Number: 2137–0572.
Title: Container Certification Statement.
OMB Control Number: 2137–0582.
Title: Hazardous Materials Public Sector Training Planning Grants.
OMB Control Number: 2137–0586.
Title: Response Plans for Shipments of Oil.
OMB Control Number: 2137–0591.

These information collection approvals expire on March 31, 2002.

Issued in Washington, DC of April 15, 1999.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards.

[FR Doc. 99–10083 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Department Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and time for the next meeting and the provisional agenda for consideration by the Committee.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, May 7, 1999 at approximately 9:00 a.m. in Memphis, Tennessee. The meeting will be held at The Peabody Hotel at 149 Union Avenue. Phone: (901) 529–4000. Fax: (901) 529–36000.

The duration of the meeting will be roughly three to and a half hours.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Under Secretary (Enforcement), Room 4004, Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. Tel: (202) 622–0220. Final meeting details, including the meeting time and final agenda, can be confirmed by contacting the above number one week prior to the meeting date.

SUPPLEMENTARY INFORMATION: At the May 7, 1999 session, the regular quarterly meeting of the Advisory Committee, the Committee is expected to focus on Customs automation and also user fee and budget issues as they affect Customs automation capabilities. Time permitting, the Committee may also discuss: (1) The results of FY 1998 trade compliance measurement as well as the methodology for Compliance Assessment Team (CAT) review and/or (2) the possible establishment of a subcommittee to consider the adequacy of staffing for the Office of Regulations and Rulings. The agenda may be modified prior to the meeting.

Members

The Secretary of the Treasury has appointed the following private sector members to the Committee for the current two-year term:

Christine Berghofer, KPMG Peat Marwick
Shirley Boyd, Cargill, Inc.
Graham S. Cassano, Xerox Corporation
Leslie K. B. Cazas, Nissan North America, Inc.
James Clawson, JBC International
James J. Cook, Sara Lee Knit Products, Inc.
Fermin Cuza, Mattel, Inc.
Alfred R. De Angelus, De Angelus & Associates
Kenneth Glenn, Federal Express Corporation
Daniel B. Hastings, Jr., Daniel B. Hasting, Inc.
Kathy Hansen, CNF Services Company
Philip W. Hastings, UPS Customhouse Brokerage, Inc.
Frank X. Kelley, Liz Claiborne, Inc.
Jerrol Larrieu, Management Information Systems
Joan M. Paddock, Staples, Inc.
Richard J. Salamone, BASF Corporation
Gilbert Lee Sandler, Sandler, Travis & Rosenberg, P.A.
Janet Y. Sangster, Chrysler Corporation
David Serko, Serko & Cimon
Joseph Strain, Jacksonville Port Authority

The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members and Customs and Treasury Department staff. A person other than an Advisory Committee member who wishes to attend the meeting, should give advance notice by contacting Theresa Manning at (202) 622–0220, no later than April 30, 1999.

Dated: April 16, 1999.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff, and Trade Enforcement)

[FR Doc. 99–10061 Filed 4–21–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending March 31, 1999.

Last name	First name	Middle name
GETTEL	HILKEA	GETTEL.
APPLE	GEORGE	LOUIS.
BACA	MICHEL	MARLO.
BAJUMI-JORDON	RITA	R.
BATCHELOR	TIMOTHY	JAMES.
BEAUBIEN, M ATTRICK	NANON	BOWLES DE GASPE.
BOGDANOVICH, JR.	JOSEPH	JAMES.
BUATTERFIELD-WATTS	KATHERINE	DARREL.
BURNS-CLOUGH	FRANCES	
BURNSIDE	DAVID	ANDREW.
BUSER	NAKAO	
CALDERWOOD	CHRISTOPHER	JOHN-ROBERTSON.
CATE	VINCENT	ARON.
CAYETANO	ALALN	PETER S.
CHENG	EDGAR	WAI KIN.
CHOI	KWANG	JOO.
CHRISTIAN	IRMGARD	MARIA.
COLLEY	WINIFRED	MARY.
COONEY	ROBERT	JOHN.
COSTA-SORIANO	ROCIO	MARTINEZ.
COTTLE, NEE MACDONALD	BARBARA	JO.
CURLEY	PAUL	CHRISTOPHER.
D'AMICO	KEMBERLY	
DALY	JOHN	VINCIENT.
DILTS	THOMAS	EDWARD.
DUNNICLIFF	CHRISTOPHER	JOHN.
DUNNICLIFF	MARY	IRENE.
EGGLESTON	WILLIAM	WALTER.
ELVENSTAR-MURPHY	LIV	KAREN.
EVANS-MOORE	DOROTHY	
EVERS	JOCHEN	
FIRMIN-BULLOUGH	IAN	GRAHAM.
FOREMAN-WILLIAMS-JONES	EVELYN	ROSETTA.
FOY	JOHN	EDWARD.
GETTY	TARA	GABRIEL.
GILDELATORRE	YOSHIKO	
GODAY	MARK	ANDREW.
GOLDSTEIN	SMADAR	NAVON.
HAAKONSEN	HAAKON	OLAV.
HANES	SANDRA	ANDREA.
HANSEN, NEE MCMARTIN	GERLADINE	KEY.
HENLEY	DAVID	CHALMERS.
HENLEY-NEE PAGENKOPF	CAROLINE	LOUISE.
HERMANNS	BONITA	CARROL.
HODGES	CHRISTOPHER	ROBERT.
HSIEH	CHING	HUEF.
JELLINEK	JOSEPH	STDPHAN.
JUNG	EDWARD	GYOUNGTBAE.
KAMMERER	YVONNE	URSULA.
KAO	HENRY	DO-PING.
KELLY	ANDREW	JORDON.
KNAPP	MICHAEL	SCOTT.
KRAUSE	CLIFFORD	A.
KUBAJAK	MARK	ALAN.
KWAK	UNG	OK.
LEE	JOHNNYF	CHUNHI.
LEE	JULIANA	KYUNG.
LEIGHTON	FREDERIKF	
LIAO	SUEY-FEN	
LOO	LI-YEN	
LYONS-NEE TSAVOUSSIS	KALOTINA	
MADIRAZZA	MAYA	
MAHANTY	BRIGITTA	

Last name	First name	Middle name
MAHANTY	KANJIT	KESHARI.
MARSH	WILLIAM	ROY.
MCALLISTER	ERIK	JOHN, RICHARD.
MILANICH	MELANIE	MARIE.
MILLER	MICHAEL	SCOTT.
MITTELMARK	MAURICE	BARRY.
NEE ABRAHAMSEN	ANNELISE	ROHMANN.
NEWTON-LEIDING	EMILIE	
NIAMI	MARK	
OLDE	ERNEST	JACOB.
OLSON	JOHN	GORDON.
OXENDINE	ANNEROSE	
PARKER	CARMEN	MONIQUE.
PARKER-ROBERTS	MELVILLE	
QUILLEN	RAMON	JOSE.
RAUSCH	CLYDE	ALBERT.
REESER	MARIA	OKCHA.
RENNER-KRUSKA	THERESE	
ROMMESWINKEL	DIRK	HEINRICH.
RUSSELL JR.	AMILEY	LEON.
RYU	JEROME	
SCHMIDT	FREDI	WILLY.
SCHWAB	DIANA	
SEIGELE	DONNA	JEAN.
SEIPPEL	ALEXANDER	HENRY.
SHERRILL	IN	CHA.
SHIELDS, JR.	JAMES	CHARLES.
SILVA III	CHARLES	FRANCIS.
SKJONSFJELL	MARGARET	
SMITH	JULIA	ANN.
SODERBERG	WENDY	MINER.
SONG	STEVE	SANGHO.
SPIES	BARIGITTA	TAMARA.
SPIES	RUDOLF	
STEPHENS	RASHIDA	
STOLT-NIELSEN III	JACOB	
STRASSE	KAREN	ELOISE.
STRAUSS	WALTER	FREDERICK.
SULLIVAN	ROBERT	WILLIAM.
SUZUKI	SUMI	
TATUM	GENE	CHRISTOPHER.
THIEL	JESSE	MICHAEL.
THOMSEN	ERIK	MARTIN.
THORNTON	NINETTE	JULIA.
THORP	RICHARD	GRAHAM.
TSAND	JOHN	CHUN WAH.
UM	IN	JA.
VAN KAN	MARGARET	HAYS.
VAN MUEHLEN	CONSTANTIN	OLVIER.
VAN RIBBENTROP	PATRICK	MAXIMILIAN-HENKEL.
VEA	PEGGY	
VOEGELE	KAREN	LOUISE.
WALKER	ROBERT	RANDOLPH.
WANG	HAE	SOOK.
WARNER	MARK	DOUGLAS.
WEBSTER	DONALD	LINTON.
WEBSTER	ROSE	MARIE.
WHITEHEAD-WRIGHT	RAYMOND	GRENVILLE.
WILLIAMS JR.	JAMES	MATTHEW.
WILLIAMSON	RAYMOND	JORGE-USEBIO.
WINGFIELD	NICHOLAS BRINSMADE	WINGFIELD.
WOOD	ELFRIEDE	
WRIGHT	MARGARET	BRENDA.
ZERAFA	MICHELLE	CARMEN.
ZIMMER	ERIC	RUDOLF.

Approved: April 14, 1999.

Doug Rogers,

Chief, Special Projects & Support Branch, International District.

[FR Doc. 99–10022 Filed 4–21–99; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 64, No. 77

Thursday, April 22, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Kiyoyuki Yasutomi

Correction

In notice document 99–8540, appearing on page 16899, in the issue of Wednesday, April 7, 1999, make the following correction:

On page 16899, in the second column, in the eighth line, "1 Maitocho" should read "1 Naitocho".

[FR Doc. C9–8540 Filed 4-21-99; 8:45 am]

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H.R. 1376/P.L. 106–21

To extend the tax benefits available with respect to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes. (Apr. 19, 1999; 113 Stat. 34)

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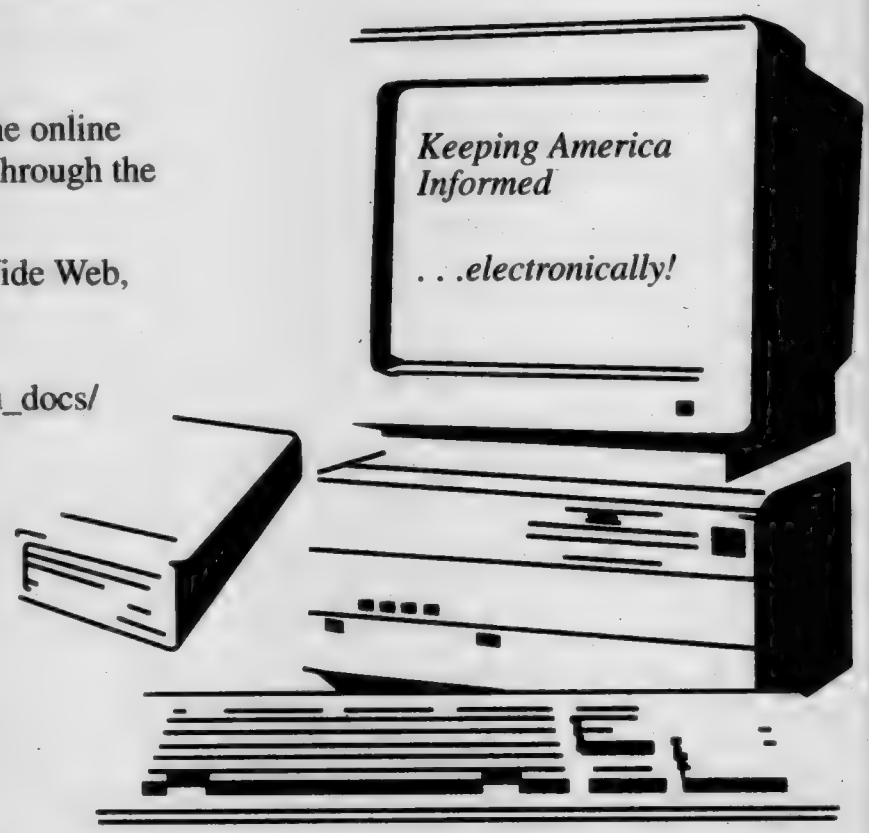

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 1951

RIN 0560–AF80

Suspension of Collection of Recapture Amount for Borrowers With Certain Shared Appreciation Agreements

AGENCY: Farm Service Agency, USDA.

ACTION: Interim rule.

SUMMARY: The Farm Service Agency (FSA) is amending the shared appreciation agreement requirements to allow certain Farm Loan Program (FLP) borrowers with such agreements that end prior to December 31, 2000, to have the obligation to pay all or part of the recapture amount due under the agreement suspended for up to 3 years. This rule will allow those borrowers to suspend their obligation to pay the recapture amount to give them time to recover from the current situation of depressed commodity prices.

DATES: Effective April 23, 1999. Comments on this rule and on the information collections must be submitted by June 22, 1999 to be assured consideration.

ADDRESSES: Submit written comments to the Director, Farm Loan Programs, Loan Servicing and Property Management Division, United States Department of Agriculture, Farm Service Agency, STOP 0523, 1400 Independence Avenue, SW, Washington, DC 20250–0523.

FOR FURTHER INFORMATION CONTACT: David Spillman, Branch Chief, or Veldon Hall, telephone (202) 720–0900; electronic mail: david__spillman@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 and 602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis is not required and was not performed.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." The issuing agency has determined that this action does not affect the quality of human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule because it will not affect agreements, entered into prior to the effective date of the rule, to pay the shared appreciation amount due under a shared appreciation agreement; and (3) administrative proceedings in accordance with 7 CFR parts 11 and 780 must be exhausted before bringing suit in court challenging action taken under this rule. This rule will only allow certain borrowers who are obligated to pay a sum certain at the maturity date of the shared appreciation agreement to delay that payment.

Executive Order 12372

For reasons set forth in the Notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs within this rule are excluded from the scope of E.O. 12372, which requires intergovernmental consultation with State and local officials.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA requires FSA to prepare a written statement, including a cost benefit assessment, for proposed and final rules with "Federal mandates" that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under Title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act of 1995

The amendments to 7 CFR part 1951 set forth in this interim rule require a revision to the information collection requirements that were previously approved by OMB under the provisions of chapter 35 of title 44 of the United States Code. Since this interim rule will be effective as soon as it is published, FSA has submitted a request for emergency approval of the information collections of this rule to OMB. Still, the agency is seeking public comments on the information collection estimates and subsequent revisions may be made based on the comments received.

Title: 7 CFR 1951–S, Farmer Program Account Servicing Policies.

OMB Control Number: 0560–0161.

Expiration Date of Approval: March 31, 2001.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The information collected under OMB Number 0560–0161, as identified above, is needed for FSA to effectively administer the regulations relating to the servicing of delinquent

direct FSA farm loans. The information is collected by the loan official in order to document the borrower's eligibility for specific loan servicing actions. The reporting requirements imposed on the public by the regulations contained in 7 CFR part 1951–S are necessary to administer the loan program in accordance with statutory requirements, are consistent with commonly performed lending practices, and are necessary to protect the Government's financial interest.

This rule, which provides for the suspension of the borrower's obligation to pay the recapture payment due under a shared appreciation agreement in 1999 and 2000, will result in an information collection burden for borrower's seeking such a suspension. Each borrower who wishes to suspend a recapture payment obligation will be required to request a suspension, read and sign a suspension agreement, and provide cash flow projections documenting that they are unable to pay for 2 years subsequent to the suspension. The revision to the information collection requirements approved under 0560–0161 also requests approval of an existing requirement associated with this program. The currently approved information collection contains no burden estimates for the information collection requirements contained in 7 CFR 1951.914(e). Specifically, paragraphs 1951.914(e)(1) and (8) require a borrower that wishes to amortize the recapture due to present a feasible plan documenting their ability to pay the recapture in installments plus interest and to execute a promissory note for the amount due.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.51 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 9,453.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 14,309 hours.

Proposed topics for comment include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments regarding this information collection should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to David Spillman, Branch Chief, USDA, FSA, Farm Loan Programs Loan Servicing Division, Farm Service Agency, USDA, 1400 Independence Avenue, SW, STOP 0523, Washington, D.C. 20250–0523. A copy and explanation of the information collection requirements of this rule may be obtained from Mr. Spillman at the above address. Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Federal Assistance Programs

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance.

10.407—Farm Ownership Loans

Discussion of the Interim Rule

The Farm Service Agency (FSA) publishes this amendment to subpart S of part 1951 for immediate affect because of the emergency nature of the program and the eligibility requirements involved. Publication as a proposed rule for notice and comment is impractical and contrary to the public interest as discussed below.

In late 1988, the Agricultural Credit Act of 1987 amended § 353 of the Consolidated Farm and Rural Development Act (Con Act) by inserting subsection (e) (7 U.S.C. 2001(e)) to allow the Farmers Home Administration (which later became part of FSA), to begin restructuring debts with debt write-downs and entering into shared appreciation agreements with borrowers. Under these agreements, a borrower is required to make a recapture payment equal to a specified portion of any appreciation in the value of the real estate between the date of the agreement and the earlier of the following dates: (1) The date the real estate securing the borrower's loan with the agency is sold, (2) the repayment of the loan, (3) the date the borrower ceases farming operations, or (4) the date 10 years after the borrower and the agency entered into the agreement. The recapture payment is 75% of the appreciation in the case of agreements that lasted 4 years or less and 50% of the appreciation in the case of all other agreements.

Many of these agreements have now matured. However, the prices for many agricultural commodities for the 1998 crop are at depressed levels. Such depressed prices are expected to continue for at least another year. In certain cases, the prices farmers are receiving for the agricultural commodities they produce have fallen by more than 50% over the last 3 years. This situation has led to a substantial fall in farm income across nearly all sectors of production agriculture. Thus, a significant percentage of the approximately 3,300 borrowers with shared appreciation agreements that are coming to an end during the 1999 and 2000 calendar years are not able to repay the recapture amounts.

This rule will allow those borrowers to suspend their obligation to pay the recapture amount to give them time to recover from the current situation of depressed commodity prices. Accordingly, there is a good cause to make the rule effective immediately upon publication. FSA will accept public comments on the rule for 60 days after publication in the **Federal Register**.

The shared appreciation agreement regulations codified at 7 CFR 1951.914, generally provide the procedures for the servicing of shared appreciation agreements, including the procedure for determining and collecting recapture amount of any appreciation in the secured real estate.

The rule would amend the regulation by adding paragraph (h) to give a borrower with a shared appreciation agreement that becomes due on or before December 31, 2000, provided there has been no agreement for payment of the recapture amount, a period of 30 days to apply for a 1 year suspension of the borrower's obligation to pay the recapture amount if the borrower certifies in writing the inability to pay the recapture amount. In order to protect the Government's lien position, FSA must determine that its mortgage on the secured real estate will not expire prior to the end of the suspension period plus an additional 3 years, or FSA must be advised that under State law the mortgage can be extended for an additional 3 years.

A suspension may be renewed twice. At each renewal, the borrower will receive a suspension limited to the portion of the recapture amount FSA determines, based on a Farm and Home Plan, that the borrower is still unable to pay at the time of the renewal request. The amount of the recapture payment subject to a suspension will accrue

interest at a rate equal to the applicable Federal borrowing interest rate, as determined by the FSA Administrator.

Thirty days before the suspension period FSA will notify the borrower that the suspension of the shared appreciation agreement will end in the near future. This notification is separate and apart from the notification required by § 807 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (1999 Appropriations Act). Section 807 of the 1999 Appropriations Act requires FSA, beginning in fiscal year 2000, to send an FLP borrower notice of the provisions of the agreement not later than 12 months before the end of the term of a shared appreciation agreement. Under additional FSA procedures all borrowers whose agreements were due, even if the payment obligation is suspended, were notified of the agreements' provisions in the timeframe required by § 807. The requirement in this regulation that borrowers be notified 30 days before the end of the suspension is not intended to apply under § 807 of the 1999 Appropriations Act.

If the real estate is conveyed during the suspension period, the recapture amount plus any applicable interest will become immediately due and payable under the notice procedures explained in the notice to the borrowers.

List of Subjects in 7 CFR Part 1951

Accounting, Credit, Loan programs-agriculture.

Accordingly, 7 CFR part 1951 is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

Subpart S—Farmer Program Account Servicing Policies

2. Section 1951.914 is amended by revising the heading and introductory text of paragraph (b) and by adding paragraph (h) to read as follows:

§ 1951.914 Servicing of accounts restructured under Primary Loan Service Program.

* * * * *

(b) *Recapture under Shared Appreciation Agreements.* Except as provided in paragraph (h), recapture of any appreciation will take place at the end of the term of the agreement, or sooner, if the following occurs: * * *

* * * * *

(h) *Suspension of Recapture Payment Obligation under a Shared Appreciation Agreement.*

(1) A borrower may request from a Farm Loan Program (FLP) servicing official, a suspension of the obligation to pay the recapture amount under a shared appreciation agreement, if:

(i) The shared appreciation agreement recapture payment is now due but there has been no agreement to pay the recapture payment;

(ii) The 10 year term of the agreement ends on or before December 31, 2000;

(iii) The secured real estate has not yet been conveyed so that the entire amount of the shared appreciation agreement recapture payment is due;

(iv) The borrower has complied with the other terms of the agreement;

(v) The borrower certifies in writing that the borrower is not able to pay the recapture amount;

(vi) The agreement or the obligations thereunder have not been accelerated and there are pending servicing rights under this subpart still available to the borrower; and

(vii) The Agency's mortgage which secures the agreement remains in effect for a period not less than the suspension period under this paragraph plus 3 additional years or the Agency determines that the mortgage can be extended for an additional 3 years beyond the suspension period.

(2) A request for suspension of the obligation to pay the recapture amount must be submitted in writing to the FLP servicing official after the borrower has received notification of the recapture amount due by the later of:

(i) 30 days after the borrower has received notification of the recapture amount due; or

(ii) May 24, 1999.

(3) The term of the suspension of the obligation to pay the recapture amount is 1 year.

(4) A suspension may be renewed by the Agency at the request of a borrower in writing not more than twice. Prior to renewal of a suspension, the Agency will determine, based on a Farm and Home Plan, the portion of the recapture amount the borrower is still unable to pay, or obtain credit to pay, from any other source (including nonprogram loans from the Agency, in accordance with this part), the suspension will be limited to such an amount. The Agency must also determine that the conditions prescribed in paragraphs (h)(1)(i) through (h)(1)(vi) are still met.

(5) The amount of the recapture payment suspended will accrue interest at a rate equal to the applicable rate of interest of Federal borrowing, as determined by the Agency.

(6) Thirty days before the end of the suspension period, the FLP Servicing Official shall inform the borrower by letter of the suspended amount, including accrued interest that is owed and the date such payment is due.

(7) At the end of the suspension period, the borrower will be obligated to pay the amount suspended, plus any accrued interest and the borrower will be so notified.

(8) If the real estate that is the subject of the shared appreciation agreement during the suspension period is conveyed, the suspended amount, plus any accrued interest shall become immediately due and payable by the borrower in accordance with the procedures established under paragraph (c), except that an appraisal is not required on the real estate.

Signed in Washington, DC, on April 20, 1999.

August Schumacher, Jr.,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 99–10258 Filed 4–21–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 391

[Docket No. 98–052F]

RIN 0583–AC54

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is increasing the fees charged to meat and poultry establishments, plants, importers, and exporters for providing voluntary inspection, identification, and certification services; laboratory services; and overtime and holiday services. These fees are being increased in order to generate the additional revenue that FSIS is required to recover. Despite increased costs each year, these rates have not been adjusted since 1996.

FSIS is reducing the fee it charges for the Accredited Laboratory program. The Agency's analysis has identified decreased operational costs for this program. Accordingly, the Agency is reducing its fee.

DATES: Effective April 25, 1999.

FOR FURTHER INFORMATION CONTACT: Michael B. Zimmerer, Director, Financial Management Division, Office of Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700, (202) 720–3552.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) provide for mandatory Federal inspection of the slaughter of certain livestock and poultry and of the processing of certain livestock and poultry products. The cost of this inspection (excluding such inspection performed on holidays or on an overtime basis) is borne by FSIS.

In addition to mandatory inspection, FSIS provides a range of voluntary inspection, certification, and identification services. Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), FSIS provides these services to assist in the orderly marketing of various animal products and byproducts. These services include the certification of technical animal fats and the inspection of exotic animal products. FSIS is required to recover the costs of voluntary inspection, certification, and identification services.

FSIS also provides certain voluntary laboratory services which establishments or others may request FSIS to perform. The cost of these services, which are provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), must be recovered by FSIS. Laboratory services are provided for four types of analytic testing. These are: microbiological testing, residue chemistry tests, food composition tests, and some pathology testing.

In 1998, FSIS reviewed the fees that it charged for providing voluntary inspection, identification, and certification services; laboratory services; and overtime and holiday services and performed a cost analysis to determine whether the fees it established were adequate to recover the costs that FSIS would incur in providing the services. As reflected in the proposed rule published on March 4, 1999, (64 FR 10402), FSIS has determined that the fees it currently charges are not adequate to recover the costs of providing the services.

Comments submitted in response to the proposed rule questioned why the base time fee for voluntary inspection, certification, and identification services and the fee for overtime and holiday services were being increased more than FSIS' projected increased FY 1999 costs of 3.1% for Federal employees pay raises and 1.9% for inflation. Comments submitted also questioned why the base time fee, the overtime and holiday fee, and the laboratory service fee were not being raised the same percentage.

FSIS has not raised the fees that it charges for providing voluntary inspection, identification, and certification services, overtime and holiday services, and laboratory services since December 1996 (61 FR 65459; 62 FR 6111). The cost of providing these services has risen since that time. FSIS has been absorbing these increased costs in various ways. FSIS cannot continue to absorb these increased costs.

As discussed below in the Agency's response to comments, since the 1996 rate change, FSIS has experienced increased costs in providing voluntary inspection, identification, and certification services; laboratory services; and overtime and holiday services. These increased costs are attributable to the national and locality pay raises given to Federal employees each year, the increased travel and overhead costs each year, and other factors such as higher-salaried personnel certifying product during base time. These increased costs necessitate a 12.53% increase in base time costs, a 9.12% increase in overtime and holiday costs, and a 4.78% increase in laboratory services costs. The differing fee increase for each type of service is the result of the different amount it costs FSIS to provide these three types of services. As reflected in the response to comments, these differences in costs stem from various factors including the differing salary levels of the personnel who provide the services.

In its analysis of projected costs for FY 1999, FSIS has identified a decrease in the cost of operating the Accredited Laboratory Program (ALP). This projected decreased cost of $1,000 per accreditation is based upon the difference in actual costs since the 1996 increase and projected costs. The decreased cost of accreditation is the result of a number of factors, including a projected decrease in accreditations sought and maintained, as well as more efficient operating practices by FSIS.

A full analysis of the economic impact of this rule was presented in the proposed rule (64 FR 10402).

Proposed Rule and Comments

On March 4, 1999, FSIS published a proposed rule at 64 FR 10402 to increase the fees that FSIS charges meat and poultry establishments, plants, importers, and exporters for providing voluntary inspection, identification, and certification services; laboratory services; and overtime and holiday services. FSIS received 19 comments from the meat and poultry industries. All commenters were opposed to the proposal, objecting to the proposed fee increases for the affected inspection services. The commenters' specific concerns and the Agency's responses follow.

Comment: All commenters stated that the proposed raise of 12.53% and 9.12% in fees, respectively for base time and overtime/holiday time services, which appeared to be based upon an actual cost increase of 5.0% (3.1% for wages and 1.9% for overhead adjustments), was excessive. Most of the commenters stated that they were opposed to any rate increase in excess of 5.0%.

Response: The fee increases that FSIS proposed were not solely based upon FSIS' projected increased FY 1999 costs of 3.1% for wages and 1.9% for overhead. The last time FSIS increased reimbursable rates was in December of 1996 (61 FR 65459). FSIS is required to recover all of the costs associated with providing services in its voluntary inspection programs (i.e. voluntary inspection, identification, and certification services and overtime and holiday services). New rates were not proposed in 1997 and 1998 because of major reorganizations within the Agency and other factors, even though all Federal employees received pay raises, and travel and overhead costs increased in each of those years. This resulted in the industry being underbilled in each of these years and the Agency not recovering the full costs it incurred in operating its voluntary programs.

Since FY 1996, all Federal employees have received across the board average salary increases as follows: January, 1997—3.0%; January, 1998—2.8%; and January, 1999—3.6%. The compounded annual effect of all 3 years of salary increases total 9.7%. The compounded effect calculates the increase in a given year on top of the previous years' increases. That is, for every dollar earned by a Federal employee in 1996, he now is earning almost 10 cent more in 1999. Specifically, each dollar earned by a Federal employee in 1996, because of salary raises, increased to $1.03 in 1997 (a 3% increase), $1.06 in 1998 (a 2.8% increase) and $1.10 in 1999 (a 3.6% increase).

Additionally, there were other factors that were taken into account in determining the increased rate of 12.53% and 9.12% for base and overtime/holiday time services, respectively, beyond the calculated

9.7% increased salary amount for Federal employees. For base time, an additional 3.37% increase was added to the 9.16% compounded salary cost increase (estimated in mid-1998) to provide for the fact that base time services are performed by higher salaried employees doing certification of product for exports, instead of lower salaried employees in previous years, plus the projected inflated travel and overhead costs. The proposed increase of 9.12% for overtime/holiday services is less than the compounded effect of the 3 years of Federal pay raises (9.7%) by the amount of .58% due to the fact that when the proposed rate increases were originally calculated in mid-1998, the projected pay increase for January 1999 was calculated at the anticipated 3.1%, instead of the later approved actual raise of 3.6% that occurred.

Commenters were not opposed to the proposed increase cost for laboratory services. The increase of 4.78% for laboratory service fees is due to increased efficiencies in the laboratories, which in turn keep down operating costs. Operating costs constitute a significant portion of the fee for laboratory services. Operating costs have been kept in check over the last three years.

The fees being finalized reflect the difference between the last fee change in 1996 and projected costs incurred by FSIS for FY 1999. If those fees were recalculated to reflect all actual costs through FY 1999, they would probably increase. However, the Agency has decided to finalize the fee rates it proposed. It will make appropriate adjustments in a new proposal it expects to publish in late 1999 regarding the fees that need to be charged for the inspection programs it operates. This new proposal will reflect the Federal pay raise and inflation rate for travel and overhead costs anticipated for January 2000, and any other relevant factors.

Comment: Two commenters stated that in the proposed rule, there is an attempt to rationalize that small establishments would not be affected adversely. Some commenters stated that the rule will have a detrimental effect on small establishments trying to develop a growing market. Additionally, some commenters stated that some small establishments are not selling directly to consumers, but instead are selling to food service or retail establishments. Therefore, these commenters indicated that it was highly unlikely that the excessive cost increases being proposed could be passed through, especially in today's low inflation or even deflationary environment.

Response: FSIS does not have data on specific small establishments that sell their products directly to food service or retail establishments. Therefore, FSIS could not estimate the economic impact of the proposed fee increase on small establishments who engaged in this type of business, i.e., the potential impact of the increase in prices on their sales or the price elasticity. Price elasticity is the percentage change in demand for a product associated with a one percent change in its price. FSIS relied on the overall elasticity of demand for the product, i.e., responsiveness or sensitivity of demand to changes in prices of the product sold by all establishments. FSIS would welcome specific data on this issue for considering future adjustments. However, it must be understood that FSIS is required to recover the full costs of operating its voluntary programs.

Comment: Four commenters said that the increase in fees does not take into consideration the cooperative-certification programs of the Agricultural Marketing Service, USDA, such as the Certified Angus Beef or the Certified American Lamb program.

Response: The certification services provided by other agencies and the rates that other agencies charge for the services that they provide has no impact upon the fees charged by FSIS.

Comment: Some commenters raised issues about FSIS inspection structure and the possible operation of HACCP plants outside normal inspection hours without the requirement for overtime inspection.

Response: These issues are not within the scope of this rulemaking and, thus, are not being addressed in this docket.

Accordingly, FSIS is amending § 391.2 to increase the base time rate for providing voluntary inspection, identification, and certification services from $32.88 per hour, per program employee, to $37.00 per hour, per program employee. FSIS is amending § 391.3 to increase the rate for providing overtime and holiday services from $33.76 per hour, per program employee, to $36.84 per hour, per program employee. FSIS is also amending § 391.4 to increase the rate for laboratory services from $48.56 per hour, per program employee to $50.88 per hour, per program employee. Further, FSIS is amending § 391.5 to reduce the fee charged for accreditations and renewals from $2,500 per accreditation, to $1,500 per accreditation per year.

To recover the increased costs in an expeditious manner, the Administrator has determined that these amendments should be effective on the first day of the pay period (Sunday) after publication of this rule. Therefore, the effective date for this rule is April 25, 1999.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. The fee increases for voluntary inspection, identification, and certification services, laboratory services, and overtime and holiday inspection services are the result of increases in the salaries of Federal employees established by Congress under the Federal Employees Pay Comparability Act of 1990. The increase also includes projected increased travel costs and overhead costs due to inflation, higher-salaried employees working more base time than overtime, and various other factors.

The Administrator, Food Safety and Inspection Services, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. States and local jurisdictions are preempted by the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected livestock and poultry products that are in addition to, or different than, those imposed under the FMIA and PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over livestock and poultry products that are outside official establishments for the purpose of preventing the distribution of livestock and poultry products that are misbranded or adulterated under the FMIA and PPIA, or, in the case of imported articles, that are not at such an establishment, after their entry into the United States.

State or local laws, regulations, or policies are preempted by the Agricultural Marketing Act of 1946, as amended, if they present irreconcilable conflict with the provisions of this rule under the Agricultural Marketing Act of 1946, as amended.

Administrative proceedings will not be required before parties may file suit

in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5 and 381.35 of the FMIA and PPIA regulations, respectively, must be exhausted prior to any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA or PPIA.

List of Subjects in 9 CFR Part 391

Fees and charges, Government employees, Meat inspection, Poultry products.

For the reasons set out in the preamble, part 391 of title 9 of the Code of Federal Regulations is amended as follows:

PART 391—FEES AND CHARGES FOR INSPECTION SERVICES AND LABORATORY ACCREDITATION

1. The authority citation for Part 391 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 394, 1622 and 1624; 21 U.S.C. 451 et seq.; 21 U.S.C. 601–695; 7 CFR 2.18 and 2.53.

2. Sections 391.2, 391.3, 391.4 and paragraph (a) in § 391.5 are revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $37.00 per hour, per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5 and 381.38 shall be $36.84 per hour, per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12 and 362.5 shall be $50.88 per hour, per program employee.

§ 391.5 Laboratory accreditation fees.

(a) The annual fee for the initial accreditation and maintenance of accreditation provided pursuant to §§ 318.21 and 381.153 shall be $1,500 per accreditation.

* * * * *

Done in Washington, DC on: April 20, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–10239 Filed 4–20–99; 3:49 pm]

BILLING CODE 3410–DM–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 55

RIN 3150–AF62

Initial Licensed Operator Examination Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to allow nuclear power facility licensees to prepare, proctor, and grade the required written examinations and to prepare the required operating tests that the NRC uses to evaluate the competence of individuals applying for operator licenses at those plants. The amendment requires facility licensees that elect to prepare the examinations to prepare the examinations in accordance with NRC operator licensing examination standards for power reactors; establish, implement, and maintain procedures to control examination security and integrity; submit, upon approval by an authorized representative of the facility licensee, each examination and test to the NRC for review and approval; and proctor and grade the written examinations upon NRC approval. In making this final rule change, the NRC will continue to administer (i.e., manage and oversee) the initial operator licensing examination process by: Developing the generic fundamentals examinations (which are also proctored by facility licensees); reviewing and approving the facility-developed, site-specific written examinations and operating tests; and independently conducting and grading both the dynamic simulator and walk-through portions of the operating test, which is considered the most performance-based aspect of the licensing process and permits the NRC to evaluate the operator and senior operator applicants' competence under normal and abnormal plant conditions. The amendment preserves the NRC's authority to prepare the examinations and tests in lieu of licensees and to exercise its discretion and reject a power reactor facility licensee's determination to prepare, proctor, and grade the written examinations and prepare the operating tests. The Commission is concerned with examination integrity; therefore, the amendment will also revise the regulations to ensure that applicants, licensees, and facility licensees understand the scope of the regulation.

EFFECTIVE DATE: This final rule is effective on October 20, 1999.

FOR FURTHER INFORMATION CONTACT: Siegfried Guenther, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1056; e-mail:sxg@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 107 of the Atomic Energy Act (AEA) of 1954, as amended, requires the NRC to determine the qualifications of individuals applying for an operator's license, to prescribe uniform conditions for licensing these individuals, and to issue licenses as appropriate. Pursuant to the AEA, 10 CFR Part 55 requires an applicant for an operator license to pass an examination that satisfies the basic content requirements specified in the regulation. The licensing examination consists of the following parts: (1) A written generic fundamentals examination (covering reactor theory, thermodynamics, and components) that license applicants have to pass as a prerequisite for taking the site-specific examination; (2) a site-specific written examination covering plant systems, emergency and abnormal plant procedures, and plant-wide generic knowledge and abilities; and (3) a site-specific operating test consisting of three categories, including a crew-based, dynamic simulator performance demonstration, an individual, task-based walk-through covering control room and in-plant systems, and various plant administrative requirements. Although neither the AEA nor Part 55 specifies who must prepare, proctor, or grade these examinations, the NRC has traditionally performed those tasks itself or through its contract examiners. The NRC and its contract examiners have used the guidance in NUREG–1021, "Operator Licensing Examination Standards for Power Reactors," once titled "Operator Licensing Examiner Standards," to prepare the initial operator licensing examinations. This document has been revised as experience has been acquired in preparing the examinations. The current version is designated Revision 8.[1]

In accordance with 10 CFR 170.12(i), the NRC's staff and contractual costs are recovered from facility licensees that receive examination services. In Fiscal

[1] Copies are available for inspection or copying for a fee from the NRC Public Document Room (PDR) at 2120 L Street NW, Washington, DC 20555–0001; the PDR's mailing address is Mail Stop LL–6; telephone is 202–634–3273; fax is 202–634–3343. Revision 8 of NUREG–1021 is also available for downloading from the internet at http://www.nrc.gov.

Year (FY) 1995, the NRC spent approximately $3 million on contractor support for the preparation and administration of the initial operator licensing examinations and for support of requalification program inspections. On March 24, 1995, in SECY–95–075, "Proposed Changes to the NRC Operator Licensing Program," the staff advised the Commission of its intent to eliminate the use of contractors by allowing facility licensees to prepare the examinations. The NRC staff's proposal was motivated by the general improvement in the performance level of power reactor facility licensees' training programs, the NRC's continuing efforts to streamline the functions of the Federal government, and the need to accommodate anticipated resource reductions.

On April 18, 1995, the Commission approved the NRC staff's proposal to initiate a transition process to revise the operator licensing program and directed the NRC staff to consider carefully the experience from pilot examinations before fully implementing the changes. On August 15, 1995, the NRC issued Generic Letter (GL) 95–06, "Changes in the Operator Licensing Program," [1] outlining the revised examination development process and soliciting volunteers to participate in pilot examinations to evaluate and refine the methodology.

Between October 1, 1995, and April 5, 1996, the NRC reviewed and approved 22 operator licensing examinations, including both the written examinations and the operating tests, prepared by facility licensees as part of a pilot program. These examinations were prepared using the guidance in Revision 7 (Supplement 1) of NUREG–1021 [1] and the additional guidance in GL 95–06.

The results of the pilot examinations were discussed in SECY–96–123, "Proposed Changes to the NRC Operator Licensing Program," dated June 10, 1996. Based on the results of the pilot program, the NRC staff recommended that the Commission approve the implementation of the new examination process on a voluntary basis until rulemaking could be completed to require all power reactor facility licensees to prepare the entire initial operator licensing examination and to proctor and grade the written portion of the examination. On July 23, 1996, the Commission authorized the staff to continue the pilot examination process on a voluntary basis and directed the staff to develop a rulemaking plan to justify the changes that would be necessary to 10 CFR Part 55. The Commission also directed the staff to address a number of additional items (e.g., pros, cons, and vulnerabilities) regarding the revised examination process to facilitate a Commission decision on whether to implement the revised process on an industrywide basis.

With Commission approval, the NRC staff resumed conducting pilot-style examinations on August 19, 1996, and by the end of June 1998 had reviewed, approved, and administered 80 additional examinations that were developed by facility licensees. This raised the total number of examinations completed using the pilot process to 102.

On September 25, 1996, the NRC staff forwarded the rulemaking plan and a response to the additional items to the Commission in SECY–96–206, "Rulemaking Plan for Amendments to 10 CFR part 55 to Change Licensed Operator Examination Requirements." SECY–96–206 identified a number of areas (i.e., quality and consistency, independence and public perception, examination security, NRC resources, program stability, and examiner proficiency) in which the NRC could be more vulnerable under the revised examination process and described the measures that the NRC has taken to manage the vulnerabilities. On December 17, 1996, the Commission directed the staff to proceed with the proposed rulemaking. The NRC staff forwarded the proposed rule (SECY–97–079, "Proposed Rule—Initial Licensed Operator Examination Requirements") to the Commission on April 8, 1997, and on June 26, 1997, the Commission approved publication of the proposed rule for a 75-day comment period. The proposed rule was published in the **Federal Register** (62 FR 42426) on August 7, 1997. After the public comment period expired on October 21, 1997, 11 comment letters were received. Two additional comment letters arrived after the expiration date but were also considered in the development of the final rule.

As written, the proposed rule would have required all power reactor facility licensees to prepare their operator licensing examinations and to proctor and grade the written portion of those examinations. Although the proposed rule would have imposed new requirements on facility licensees, the NRC took the position that the backfit rule, 10 CFR 50.109, did not apply because the shift in responsibility for preparing the examinations would not: (1) Constitute a "modification of the procedures required to operate a facility" within the scope of the backfit rule; (2) affect the basic procedures for qualifying licensed operators; or (3) require facility licensees to alter their organizational structures. However, based upon further review after issuing the proposed rule, the NRC has concluded that there is insufficient basis to support the original position. Therefore, the NRC has decided to revise the final rule so power reactor facility licensees may elect to prepare their written examinations and operating tests (and proctor and grade the written examinations) in accordance with NUREG–1021, or to have the NRC prepare the examinations, thereby making a backfit analysis unnecessary.

Discussion

The pilot examinations demonstrated that the revised process, under which facility licensees prepare the written examinations and operating tests, is generally effective and efficient. From the time the pilot program began in October 1995 through the end of June 1998, the NRC staff reviewed, approved, and administered a total of 102 examinations that were voluntarily developed by facility licensees under the pilot examination and transition program.

Facility licensees prepared the written examinations and the operating tests, proctored the written examinations, and graded the written examinations using the guidance provided by the NRC in GL 95–06 during the early stages of the pilot program, and subsequently in interim Revision 8 of NUREG–1021, "Operator Licensing Examination Standards for Power Reactors." NRC examiners thoroughly reviewed the examinations and tests to determine if they were consistent with NRC standards, directed facility licensees to make whatever changes were necessary to achieve NRC standards if the submitted examinations and tests were deficient, and approved the examinations and tests before they were administered. NRC examiners independently administered all of the operating tests, reviewed the written examination grading, and made the final licensing recommendations for approval by NRC management.

Comments from the NRC chief examiners who evaluated the pilot examinations indicate that the quality and level of difficulty of the licensee-prepared examinations (when modified as directed by the NRC) were generally comparable to the examinations prepared by the NRC (i.e., by the staff or NRC contractors). The passing rate on the 102 pilot-style examinations administered through the end of June 1998 was only slightly lower than the passing rate on the power reactor licensing examinations administered

during FY 1995, the last year in which all examinations were prepared by the NRC. However, considering the historical fluctuation in the average examination passing rates and the other factors (e.g., training program quality and screening of applicants by facility licensees) that could be responsible for some or all of the observed difference, the Commission has concluded that the observed change in the passing rates is not significant. The average grades on the facility-prepared, NRC-approved written examinations were also comparable if slightly lower than the grades on examinations prepared by the NRC during FY 1995. These data support the conclusion that the facility-prepared examinations are discriminating at a conservative and acceptable level and that the revised examination process is effective. Therefore, the fact that some facility licensees will be preparing the examinations with NRC review and approval, should have no negative effect on the safe operation of the plants.

Although the NRC-approved examinations were comparable to NRC-prepared examinations, essentially all of the examinations prepared by facility licensees required some changes subsequent to NRC review, and many of the examinations required significant rework. The NRC had originally believed that, with training and experience, the industry would quickly gain proficiency in preparing the examinations, but the overall quality of the examinations submitted to the NRC during the pilot program did not improve as expected over time. Although approximately half of the 17 facility licensees that had prepared more than one examination by the end of FY 1997 did maintain or improve the quality of their second or third examination submittals, the quality of the other facility licensees' second or third examinations was lower. Consequently, the NRC has asked the industry to address the issue of examination quality and determine the need for additional training on examination development. The NRC will continue to: (1) Direct facility licensees that prepare their examinations to revise the examinations as necessary to achieve an acceptable level of quality and discrimination; (2) withhold approval of those examinations that do not meet NRC standards; (3) oversee the regional implementation of the operator licensing process to ensure consistency; (4) address significant deficiencies in the submitted examinations as licensee performance issues in the examination reports, as appropriate; (5) conduct or participate in workshops, as necessary, to ensure that facility licensees understand the NRC's examination criteria; and (6) prepare the licensing examinations for those facility licensees that elect not to prepare their own examinations.

With regard to the efficiency of the revised examination process, the experience to date supports the conclusion that the average industry cost will not differ significantly from the cost of NRC-prepared examinations. Comments from the industry reflect that the cost for some facility licensees to prepare the examination was higher than it would have been for an NRC-prepared examination; however, other licensees prepared good quality examinations at lower cost than the NRC. The industry generally attributed the higher cost to the revised examination and administrative criteria under the pilot examination process. Although the NRC acknowledges that the revised criteria contribute somewhat to the elevated cost, many of the variables that affect the quality and, consequently, the cost of the examination will be under the facility licensees' control and can present an opportunity for cost savings. For example, facility licensees that elect to prepare the examinations will be able to manage the size and quality of their examination banks and the training and experience of the personnel they select to write their licensing examinations. The revised examination process allows facility licensees to control the development of the examinations and holds them responsible for their quality. If a facility licensee submits an acceptable quality examination, it is likely to save resources despite the additional administrative criteria; however, if the facility licensee submits an examination that requires many changes, it will likely cost more than if the NRC had prepared the examination.

Comments from the NRC chief examiners who worked on the pilot examinations indicate that the average amount of time spent reviewing and revising the facility-prepared examinations was generally consistent with the estimates developed before starting the pilot program. Although a number (approximately 20 percent in FY 1997) of the examinations required significantly more NRC effort than originally anticipated to bring them up to the NRC's standards, the resource burden was generally offset by other examinations that required less effort to review and revise. The increased efficiency of the revised examination process has enabled the NRC to eliminate the use of contractors in the operator licensing program and conduct the initial operator licensing and requalification inspection programs with the existing NRC staff. Before initiating the pilot examination and transition process at the beginning of FY 1996, the NRC spent approximately $3 million per year on contractor assistance for initial examinations and requalification inspections. In FY 1997, when facility licensees prepared approximately 75 percent of the examinations, the NRC's spending on contractor assistance for the licensing examinations and requalification inspections decreased to approximately $0.5 million. The FY 1998 and FY 1999 budgets reflect the complete elimination of contractor support for the operator licensing program (with the exception of the generic fundamentals examination). Future resource requirements for the operator licensing program will, in large part, be driven by changes in the level of facility participation in the voluntary examination development process.

In order to maintain the integrity of the operator licensing written examinations required by 10 CFR 55.41 and 55.43 and the operating tests required by 10 CFR 55.45, the Commission has amended the final rule by adding a requirement for those power reactor facility licensees that elect to prepare, proctor, and grade the written examinations and prepare the operating tests, to establish, implement, and maintain procedures that control the security and integrity of those examinations and tests. The Commission's regulations in 10 CFR 55.49 already prohibit applicants, licensees (operators), and facility licensees from engaging in any activity that compromises the integrity of any examination or test required by 10 CFR 55. However, based on the number of examination security incidents that have occurred since the pilot examination program began, the Commission has concluded that applicants, licensees, and facility licensees may not be aware that the requirements of 10 CFR 55.49 cover more than just those activities directly involving the physical administration of an examination or test. In that regard, the Commission considers the integrity of an examination or test to be compromised if any activity occurs that could affect the equitable and consistent administration of the examination or test, regardless of whether the activity takes place before, during, or after the administration of the examination or test. Therefore, in addition to requiring certain facility licensees to establish,

implement, and maintain procedures that control the security and integrity of the examinations and tests, the Commission is also amending 10 CFR 55.49 to clarify the scope of that regulation.

Revision 8 of NUREG–1021 identifies a number of examination security and integrity guidelines (e.g., physical security precautions, including the use of simulators and the mailing of examination materials) that the affected facility licensees (i.e., those that elect to prepare their own written examinations and operating tests) should consider when establishing their procedures. Although the security and integrity guidelines in NUREG–1021 are not regulatory requirements, once a facility licensee has established its required procedures, the Commission intends to monitor this area to ensure that the procedures are implemented and maintained.

Consistent with the examination security and integrity guidelines in NUREG–1021, facility employees with specific knowledge of any NRC examination before it is given should not communicate the examination contents to unauthorized individuals and should not participate in any further instruction of the students scheduled to take the examination. Before they are given access to the examination, facility employees are expected to sign a statement acknowledging their understanding of the restrictions. When the examinations are complete, the same employees are expected to sign a post-examination statement certifying that they have not knowingly compromised the examination.

NRC examiners are expected to be attentive to the facility licensee's examination security measures, to review the security expectations with the facility licensee at the time the examination arrangements are confirmed, and to report any security concerns to NRC management. If the NRC determines during its preparation that an examination may have been compromised, it will not administer the examination until the scope of the potential compromise is determined and measures can be taken to address the integrity and validity of the examination. Pursuant to 10 CFR 55.51, the NRC must make a determination before issuing a license that the test or examination is valid, meeting the requirements of the AEA and the Commission's regulations. If the compromise is discovered after the examination has been administered, the NRC will not complete the licensing action for the affected applicants until the NRC staff can make a determination regarding the validity of the examination. If the compromise is not discovered until after the licensing action is complete, the NRC will reevaluate the licensing decision. If the NRC determines that the original licensing decision was based on an invalid examination, it will take appropriate action pursuant to 10 CFR 55.61(b)(2).

As a separate action, the Commission is modifying its "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy) to provide examples of violations that may be used as guidance in determining the appropriate severity level for violations involving the compromise of an examination or test. The NRC staff will evaluate all potential compromises of an examination or test required by 10 CFR 55 to determine whether a violation of 10 CFR 55.49 has occurred. A compromise that is not detected before a license is issued would be considered a significant regulatory concern and categorized at least at Severity Level III. However, depending on the circumstances as explained in the Enforcement Policy, the severity level may be increased or decreased. The NRC intends to utilize its enforcement authority including, as warranted, civil penalties and orders against individuals and facility licensees who: (1) Compromise the integrity of an examination in violation of 10 CFR 55.49; (2) commit deliberate misconduct in violation of 10 CFR 50.5; or (3) provide incomplete or inaccurate information to the NRC in violation of 10 CFR 50.9. In addition, cases involving willful violations may be referred to the Department of Justice for criminal prosecution.

The Commission has reviewed the vulnerabilities and costs associated with the revised examination process and considered the measures that the NRC staff has taken to mitigate the vulnerabilities. With regard to examination quality and level of difficulty, the Commission acknowledges that the effectiveness of the revised examination process is contingent on the NRC staff's review of the facility-proposed examinations to ensure that NRC standards are achieved. The Commission has concluded, based on the results of the pilot examination program, that the controls implemented by the NRC staff will provide reasonable assurance that the examinations that are administered to the license applicants will provide a valid and consistent basis upon which to make the licensing decisions regardless of whether the examinations were prepared by the facility licensee or the NRC. The Commission also realizes that the frequency of examination security incidents and the risk of undetected compromises may increase for those examinations that are prepared by facility licensees. However, the Commission is confident that the measures discussed above will sufficiently control the vulnerability in this area.

The Commission is aware that the original expectation that facility licensees would eventually realize cost savings under the revised process as they gain proficiency in preparing the examinations has not yet been realized. However, the Commission has concluded that neither the increased vulnerabilities nor the absence of clear industry cost benefit provides sufficient basis for discontinuing the revised examination process. The Commission also finds that the revised examination process is more consistent with the NRC's other oversight programs because it requires NRC examiners to review materials prepared by facility licensees. The revised process enables NRC examiners to focus more on the psychometric quality of examinations (e.g., the cognitive level at which the questions are written and the plausibility of the distractors or wrong answer choices) prepared by the facility licensees than on the technical accuracy of the examinations, which was their primary focus when the examinations were prepared by NRC contractors. This shift in the NRC examiners' focus, coupled with the facility licensees' technical expertise, has the potential to improve the overall quality of the facility-prepared licensing examinations.

In the proposed rule, the NRC took the position that the backfit rule (10 CFR 50.109) did not apply to this rulemaking. However, in its review of the final rule, the Committee To Review Generic Requirements (CRGR) opined that it was inclined to view the rule as a backfit and recommended that the provisions of the proposed rule be implemented on a voluntary basis, which would not constitute a backfit. Although the NRC had considered and dismissed that alternative during the proposed rulemaking because of concerns regarding resource planning, it has since concluded that the benefits of the revised examination process (e.g., improved regulatory efficiency and greater licensee control over the examination costs) remain substantial even if every facility licensee is not required to prepare its own examinations. Rather than terminate the pilot program and resume the NRC-

prepared examination process on an industrywide basis, the NRC has decided to amend the final rule to give facility licensees the option to prepare their own examinations or to have them prepared by the NRC.

Summary of Public Comments

The 75-day public comment period began when the notice of proposed rulemaking was published in the **Federal Register** (62 FR 42426) on August 7, 1997, and closed on October 21, 1997. The notice (FRN) requested public comment on the proposed rule, on the implementation guidance in interim Revision 8 of NUREG–1021, and on the following two questions:

1. Are there portions of the operator exams that are common to all licensees, and would, therefore, be more efficiently developed by the NRC?

2. Is the conclusion in the regulatory analysis correct that it would be less costly for each licensee to prepare its own initial operator examinations to be reviewed, revised, and administered by the NRC, than to have one NRC contractor prepare these exams for all licensed operators with the costs to be reimbursed by licensee fees?

The NRC received 13 comment letters on the proposed rule; two of the letters arrived after the comment period closed, but they were considered nonetheless. The respondents included three NRC examiners, one contract examiner, five nuclear utilities and one utility employee, one nonpower reactor facility licensee, the State of Illinois, and the Nuclear Energy Institute (NEI), which submitted its comments on behalf of the nuclear power industry. Copies of the public comments are available in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC, and on the internet at "http://ruleforum.llnl.gov/cgi-bin/rulemake?source=OE_PRULE".

Seven of the respondents (three NRC examiners, one contract examiner, one utility employee, one nonpower facility licensee, and the State of Illinois) recommended that the rule change be disapproved. Five of the industry respondents (NEI and four utilities) supported the rule change; however, one utility endorsed NEI's comments but stated that it did not agree with the proposed rule in its present form. NEI and two of the utilities stated that they would rather continue with a voluntary program because it would allow greater flexibility for those facility licensees with small training staffs. However, they would support mandatory participation with the rule change rather than return to the previous process under which NRC contractors wrote most of the examinations.

Those comments related to the two specific questions raised in the proposed rule and those that have a direct bearing on the rule are discussed below. The comments are categorized as they relate to reactor safety and the vulnerabilities discussed in SECY–96–206 (i.e., quality and consistency, independence and public perception, security, NRC resources, and examiner proficiency). The NRC received no comments related to program stability.

One NRC examiner, NEI, four of the utilities, and the utility employee also provided specific comments and recommendations regarding the implementation guidance in interim Revision 8 of NUREG–1021. Those comments are addressed in Attachment 1 of the Commission (SECY) paper associated with this rulemaking. A copy of the SECY is available in the NRC Public Document Room, on the internet at http://www.nrc.gov, or from Siegfried Guenther, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, at 301–415–1056 or e-mail at sxg@nrc.gov.

Comment: With regard to the first specific question included in the proposed rulemaking, 2 of the 13 respondents (NEI and one utility) stated that all of the common material is already included in the generic fundamentals examination (GFE) and that the remaining elements are best covered as part of the site-specific examination.

Response: It appears that the current allocation of topics between the GFE and site-specific written examinations is generally perceived to be an efficient method of covering the topics required by 10 CFR 55.41 and 55.43. Therefore, the Commission finds no basis for changing the process to have the NRC separately develop portions of the initial examination that would be common to all facilities.

Comment: Seven of the 13 respondents (NEI, two utilities, a utility employee, and three examiners) directly or indirectly addressed the second specific question in their letters. NEI and one utility stated that the revised examination criteria in interim Revision 8 of NUREG–1021 have increased the level of effort and will result in higher licensing fees regardless of who prepares the examinations. However, NEI and another utility agreed that comparing the cost of facility-prepared examinations to those prepared by the NRC is difficult, but they concluded that it should be less costly for facility licensees to prepare the examinations than to have the NRC prepare them under the same criteria.

NEI also stated that the relative cost of the two examination processes should not be the only factor in deciding whether to proceed with the rulemaking that would have required all power reactor facility licensees to prepare their licensing examinations. NEI indicated that preparing higher cognitive level questions requires detailed plant knowledge, better provided by facility licensees, and that the revised process (which has eliminated the use of NRC contractors to administer the operating tests) will allow NRC staff to evaluate each applicant without relying on third-party observers.

Two NRC examiners, one contract examiner, and a utility employee asserted that the facility licensees' cost has increased under the revised examination process. They cited various reasons for the increased cost, including training personnel to write the examinations and then restricting them from training the applicants, and upgrading equipment to maintain examination security. The NRC examiners based their comments on feedback from facility training personnel; one examiner indicated that it took facility licensees an average of 700 hours to prepare each examination. The utility employee stated that the rule change will simply transfer the cost of contractors from the NRC to the utilities.

Response: The NRC acknowledges that the revised administrative criteria in particular (e.g., the restrictions on which facility training personnel would be allowed to write the pilot examinations and the need to document the source of the test items) have probably caused the cost of preparing the examinations to be somewhat higher than it would have been if facility licensees had been allowed to prepare the examinations using the same criteria that applied to the NRC and its contractors before starting the pilot program. However, when the NRC first developed the revised examination process, with its additional administrative criteria, the NRC still believed that the cost for facility licensees to prepare the examinations would be offset by the reduction in the licensing fees and that a cost savings could be realized as facility licensees gained experience with the process. Many of the facility licensees that participated in the pilot program demonstrated that it is possible to prepare an acceptable quality examination at the same or lower cost than the NRC or its contractors could prepare a comparable examination. The

fact that a number of facility licensees did not prepare acceptable examinations may be as much an indication of the licensees' inefficiency and inexperience as it is a symptom of deficiencies in the examination criteria. Those facility licensees that did not initially submit acceptable examinations, eventually paid more in fees because of the additional effort required for the NRC to review, and the licensees' staffs to rewrite, the examinations. Finally, it is possible that the magnitude of the increase in effort and cost may be perceived to be higher than it actually is because the industry had originally expected to save money if the NRC would have allowed facility licensees to prepare the examinations using the version of NUREG–1021 that was in effect before beginning the pilot program.

With regard to the additional security costs cited by the examiners, the Commission has stressed the importance of maintaining examination security, but the NRC has not required facility licensees to invest in additional physical security systems. However, the frequency of security incidents since beginning the pilot examination program has prompted the NRC to: (1) clarify the intent of 10 CFR 55.49 in the final rule; (2) amend the final examination rule to require facility licensees that elect to prepare their examinations to establish, implement, and maintain procedures to control examination security and integrity; and (3) include additional security guidance in the final version of Revision 8 of NUREG–1021. These actions will help ensure, among other things, that facility licensees understand their responsibility for maintaining control over the examination process.

The pilot examinations demonstrated that some of the people assigned by facility licensees to develop the examinations did not have sufficient expertise required to prepare good quality examination materials consistent with NRC standards. As noted earlier, the NRC has asked the industry to address the issue of examination quality and the need for additional training on examination development. The NRC acknowledges that the restrictions on the use of instructors to prepare the licensing examinations may be partially responsible for limiting the availability of qualified examination preparers. Moreover, the NRC has concluded that the restrictions have placed an unnecessary burden on facility licensees with minimal benefit and, therefore, has revised the personnel restrictions in the final version of Revision 8 of NUREG–1021 to allow facility instructors to prepare the licensing examinations (including the written and operating test outlines, the written examination questions, and the operating test details) without regard to the amount of time they spent training the license applicants. However, the instructors will still be precluded from instructing the applicants once they begin working on the licensing examination. This change is consistent with NRC policy regarding instructor participation in requalification examinations and should provide licensees that elect to prepare their examinations with increased flexibility in managing their resources and possibly reduce their costs.

The NRC has revised the regulatory analysis in response to the public comments and lessons learned from the pilot program. The NRC has also reevaluated the additional administrative criteria in interim Revision 8 of NUREG–1021 and considers them reasonable and essential to mitigate the vulnerabilities (e.g., quality, security, and conflict of interest) of the new examination process and to facilitate the NRC staff's review of the proposed examinations. These criteria are retained in the final version of Revision 8 of NUREG–1021.

The issue of cost has lost much of its importance because the NRC has decided to continue the revised examination process on a voluntary basis rather than require each power reactor facility licensee to prepare the examinations. It will be up to each facility licensee to compare the cost of preparing its own examinations in accordance with the criteria in the effective revision of NUREG–1021 with the cost of having the NRC staff prepare the examinations and then make a decision based on its available resources (and other considerations).

Comment: Two NRC examiners with pilot-examination experience asserted that the quality of the simulator and walk-through tests has decreased significantly and that, in most cases, the quality and difficulty of the submitted examinations have been below NRC standards. All four examiners who submitted comments cited various reasons why the quality and difficulty of the facility-prepared examinations might be lower than examinations prepared by the NRC or its contract examiners, including: (1) the facility licensees' tendency to narrow the scope of the operating test to those procedures that the facility believes are important (and emphasized in the training program); and (2) the belief that most facility training personnel do not have the expertise to develop valid test items. Two NRC examiners asserted that the quality of the examinations has not improved during the pilot program and is not likely to improve because there is nothing to prevent licensees from using different people to develop successive examinations. A utility employee asserted that the utilities' limited contact with the process by preparing an examination once every 18 to 24 months will not foster consistency or develop skilled examination writers.

Two NRC examiners asserted that the elimination of NRC contract examiners who participated in examinations across the four NRC regions will be detrimental to examination consistency. One NRC examiner asserted that the guidance in interim Revision 8 of NUREG–1021 is not sufficiently prescriptive to ensure nationwide consistency in the level of knowledge tested and the level of difficulty of the examinations and that several specific changes should be included in NUREG–1021 to address his concerns.

The State of Illinois asserted that the quality and consistency of the written examination questions can be maintained because the NRC can change and approve the questions before they are used. However, the State also recommended that the NRC should compile the examination questions and proctor the examinations (refer to the conflict-of-interest discussion below).

According to NEI, the recent facility-prepared examinations were of higher quality than the examinations prepared by the NRC before the pilot program started. Many of the NRC-prepared examinations had to be revised in response to the facility licensees' technical reviews.

Response: Essentially all of the facility-prepared examinations required some changes and many required significant changes to make them conform to the NRC's standards for quality and level of difficulty. According to the questionnaires completed by the NRC chief examiners responsible for the pilot examinations, the average facility-prepared written examination required approximately 10 to 20 changes, which is consistent with the number of changes often required on examinations prepared by NRC contract examiners. Most NRC chief examiners judged the final examinations (with the NRC's changes incorporated) to be comparable to recent NRC-prepared examinations in terms of quality and level of difficulty. Moreover, the fact that the passing rate on the facility-prepared examinations is generally consistent with the historical passing rate on examinations prepared by the NRC suggests that the NRC-approved examinations have discriminated at an

acceptable level and that they have provided an adequate basis for licensing the applicants at those facilities.

Although the NRC expected that the proposed examination quality would improve as facility licensees gained experience and familiarity with the NRC's requirements and expectations, the overall quality of examinations submitted to the NRC during the transition process did not improve appreciably over time. Although approximately half of the 17 facility licensees that had prepared more than one examination by the end of FY 1997 did maintain or improve the quality of their second or third examination submittals, the quality of the other facility licensees' second or third examinations was lower. Although it is unclear to what extent the problems with proposed examination quality and difficulty have been caused by a lack of sufficient expertise on the part of the examination writers, the NRC has asked the industry to address this issue. Furthermore, the NRC staff has conducted and participated in a number of public meetings and workshops in an effort to communicate its expectations to the facility employees who will be preparing the examinations. Additional NRC and industry workshops will be conducted to address examination quality and solicit industry feedback.

In SECY–96–206, the NRC staff discussed the issues of examination quality and consistency and how they might be affected when a large number of facility employees assume the role that had been filled by a smaller number of experienced NRC and contract examiners. The NRC staff's comprehensive examination reviews versus the examination criteria in NUREG–1021, in combination with supervisory reviews and the examination oversight activities conducted by the Office of Nuclear Reactor Regulation, should mitigate the vulnerability in this area. Moreover, the industry and staff initiatives to improve the expertise of the examination writers should eventually enhance the quality and consistency of the facility-prepared examinations.

Comment: All four examiners who submitted comments, a nonpower reactor facility licensee, and the State of Illinois asserted that allowing the facility licensees to prepare the operator licensing examinations decreases the level of independence and creates a conflict of interest for facility personnel having responsibility for training and licensing the operators. Their letters maintained that the new process makes it possible for the utilities to "teach the examination," to test applicants only on what was taught, or to avoid testing in areas with known difficulties. One NRC examiner noted that the new process places training managers in a no-win situation because if applicants fail the examination, the managers look like poor trainers, and if the examination is too easy, the NRC gives them a bad report. He and another NRC examiner asserted, based on their experience during the pilot examinations, that some facility personnel openly admitted that they would develop the easiest possible examination to ensure that all their applicants would pass.

One NRC examiner noted that the NRC review and approval process cannot adequately compensate for the conflict-of-interest problems inherent in the revised examination process and recommended a change to interim Revision 8 of NUREG–1021 that would limit the licensees' latitude in selecting topics for the examination outline. The State of Illinois suggested that the NRC should compile the questions and proctor the examination to maintain more of the checks and balances that existed under the old process.

The nonpower reactor facility licensee noted that most professional licensing examinations are developed by independent agencies, and that this fosters a sense of professionalism in the license applicants.

Response: The NRC agrees that the revised examination process decreases the level of independence in the licensing process and may create a potential conflict of interest for facility personnel involved in preparing the examination. However, the Commission has concluded that restricting the training activities of those individuals when they become involved in preparing the licensing examination, in combination with the NRC's enforcement authority, will adequately mitigate the vulnerability in this area. Although the NRC has amended the final version of Revision 8 of NUREG–1021 to allow instructors to participate in the examination development regardless of their involvement in training the license applicants (as discussed above in response to comments concerning the industry burden under the revised examination process), the NRC has also amended NUREG–1021 to include an expectation that facility licensees will use an objective, systematic process for preparing the written examination outlines. This process enhancement should limit the potential for bias in the selection of topics to be evaluated on the written examination.

The NRC will continue to monitor the facility licensees' examination development programs and implement additional restrictions, as necessary, if actual bias problems are identified. Moreover, if the NRC determines that a facility licensee has intentionally biased the scope, content, or level of difficulty of an examination (i.e., compromised its integrity contrary to 10 CFR 55.49) to enhance the chances that its applicants would pass the examination, the NRC will utilize its enforcement authority including, as warranted, civil penalties, orders against the individuals involved, and charging the individuals involved with deliberate misconduct pursuant to 10 CFR 50.5.

Concerns regarding the potential for conflict of interest and the frequency of security incidents since beginning the pilot examination program have prompted the NRC to review the clarity of 10 CFR 55.49. The regulation encompasses not only activities like cheating and lapses in security but also activities that compromise the integrity or validity of the examination itself (e.g., noncompliance with the criteria designed to limit the potential for bias in the selection of topics to be evaluated on the written examination). Therefore, the NRC has concluded that it would be beneficial to amend 10 CFR 55.49 to clarify its intent and to amend the examination rule to require power reactor facility licensees that elect to prepare their licensing examinations to establish procedures to control examination security and integrity.

Comment: Three NRC examiners and the State of Illinois asserted that the revised examination process increases the threat to examination security. One examiner noted that the examination is onsite for a longer period of time, thereby proportionally increasing the risk of being compromised. Another examiner cited the fact that a number of examination reports have documented problems with security.

Response: As discussed in SECY–96–206 and SECY–97–079, the Commission is aware of the vulnerability in this area because several security incidents have occurred since beginning the pilot examination program. Therefore, based on the comments received and the experience with security incidents, the NRC has: (1) clarified 10 CFR 55.49 in the final rule to ensure that applicants, licensees, and facility licensees understand the scope and intent of the regulation; (2) amended the final examination rule to require facility licensees that elect to prepare their licensing examinations to establish, implement, and maintain procedures to control examination security and integrity; (3) strengthened the discussion of examination security in

the final version of Revision 8 of NUREG–1021; and (4) modified NUREG–1600, "General Statement of Policy and Procedures for NRC Enforcement Actions," to address enforcement action against parties subject to the requirements in 10 CFR 55.49. NRC examiners are expected to review the NRC's physical security guidelines and the facility licensee's specific plans for ensuring examination security at the time the examination arrangements are confirmed with the designated facility contact. Furthermore, the NRC has issued an Information Notice to advise power reactor facility licensees of the NRC's perspective and expectations regarding the integrity of examinations developed by the facility licensees' employees and representatives, and it has asked NEI to take the initiative in developing a model for securing examinations.

As a separate action, the NRC will not administer any examination that may have been compromised until the scope of the potential compromise is determined and measures can be taken to address the integrity and validity of the examination. If the compromise is discovered after the examination has been administered, the NRC will not complete the licensing action for the affected applicants until the staff can make a determination regarding the impact that the compromise has had on the examination process. If the compromise is not discovered until after the licensing action is complete, the NRC will reevaluate the licensing decision pursuant to 10 CFR 55.61(b)(2) if it determines that the original licensing decision was based on an invalid examination.

Comment: One NRC examiner disagreed with the conclusion in the proposed rulemaking that the facility-prepared examination process is an efficient use of NRC resources when compared to the NRC-prepared or contractor-prepared examinations. He noted that, in most cases, the quality and difficulty of the proposed examinations have been below NRC standards (as discussed above) and that it has taken a significant effort on the part of the NRC chief examiner to achieve an acceptable product.

An NRC contract examiner asserted that NRC cost-saving is a poor reason for changing the rule, since the utilities pay for the examinations anyway. He noted that the pilot examination process has led to a loss of certified examiners and contends that those NRC examiners who are left will become more dissatisfied with their jobs and will leave because they will be required to travel more to compensate for the loss of contractors.

Response: The NRC acknowledges that many of the facility-prepared examinations (about 20 percent in FY 1997) required significantly more NRC examiner time than desired or planned in order to achieve NRC quality standards. However, questionnaires filled out by NRC chief examiners for the pilot examinations indicate that the average amount of time spent on reviewing and upgrading the examinations is generally consistent with the estimates developed before starting the pilot program (i.e., approximately 170 examiner-hours). As noted in SECY–97–079, the NRC has issued a memorandum to its regional administrators emphasizing the importance of: (1) Assigning adequate resources to carry out the operator licensing task; (2) completing a review of every facility-prepared examination; and (3) not administering any examination that fails to meet NRC standards for quality and level of difficulty. Furthermore, all the time that NRC examiners spend reviewing an examination and modifying it so that it meets NRC standards is ultimately billed to the facility licensee.

The Commission acknowledges that facility licensees bear the cost of preparing the licensing examinations whether or not the NRC performs this function. However, this rule will give facility licensees more control over the cost of licensing operators at their facility, and the pilot examination program has demonstrated that some facility licensees will save resources if they elect to prepare their own licensing examinations.

The NRC's budget cuts have necessitated agencywide downsizing, which can be expected to increase the burden of travel for many NRC employees, not just the operator licensing examiners. The number of NRC full-time equivalent (FTE) license examiners has remained essentially constant throughout the pilot program and, aside from normal attrition and staff turnover, the loss of certified examiners has been limited to NRC contractors.

Comment: Two NRC examiners expressed concern that examiner proficiency will decrease as a result of implementing the revised examination process. One of the examiners stated that examination reviewers will not maintain the same base of knowledge as examination writers maintained and that they will lose their familiarity with plant operating procedures.

Response: The Commission has concluded that the revised examination process affords sufficient NRC staff involvement that NRC examiners will maintain an acceptable level of proficiency. An NRC examiner will review and approve every facility-prepared examination before it is administered to ensure that it conforms to the criteria specified in NUREG–1021 for content, format, quality, and level of knowledge and difficulty. NRC examiners will also continue to independently administer and grade both the dynamic simulator and the plant walk-through portions of the operating tests. Because NRC examiners will be administering all of the operating tests, the Commission believes that the revised process will enable the examiners to accrue more experience in a shorter period of time and to maintain their proficiency. New NRC license examiners will still be required to complete a standardized training program, including the development of a written examination and operating test, as part of their qualification process. Moreover, the NRC will ensure that the in-house capability to prepare the examinations is maintained by: (1) Requiring a regional supervisor to review and approve every examination and the Office of Nuclear Reactor Regulation to conduct periodic examination reviews; (2) conducting examiner refresher training; and (3) convening an operator licensing examiners' training conference at intervals not to exceed 24 months. Although experience during the voluntary pilot program and informal feedback from the industry suggests that facility licensees are likely to request the NRC to prepare a sufficient number of examinations to maintain the proficiency of its examiners, each region will be required to write at least one initial operator licensing examination per calendar year.

Comment: A utility employee asserted that the revised examination process will not enhance the competency of the operators or reactor safety because the facilities' training resources will be diverted from their primary purpose (i.e., training the applicants) as much as six months before the examination date. Three NRC examiners also took issue with the conclusion in the proposed rulemaking that the NRC staff's focus on operator performance and its core of experience will improve under the pilot examination process because contractors will no longer be used to administer the operating tests. Two of the examiners asserted that the reduction in the amount of procedural research by examiners will result in the identification and correction of fewer procedural problems. Two of the examiners also stated that the contract

examiners help maintain examination consistency across the NRC regions and that their contribution to the operator licensing program goes beyond simple task completion.

Response: The Commission expects that those training departments that cannot readily and safely absorb the examination development work will use the funds that they were previously paying to the NRC through the fee recovery program to secure the additional personnel to do the extra work or request the NRC to prepare the examinations. If a facility licensee decides to prepare the examination and, as a result, places insufficient resources on either training or testing, the quality of its proposed licensing examinations or the passing rate on those examinations would most likely suffer. Although many of the facility-prepared examinations have required significant changes to achieve NRC quality standards, the examination results, to date, are generally consistent with the results on previous NRC-prepared examinations, suggesting that the quality of the facility licensees' training programs has not been affected. Therefore, the fact that facility licensees will have the option of preparing the examinations is not expected to have a negative effect on reactor safety.

The NRC acknowledges that the contract examiners identified procedural and training problems in addition to their primary responsibility for preparing and administering the licensing examinations, and that they helped maintain examination consistency by working on examinations in each of the NRC's regions. As noted in connection with the discussion of examination quality, the Commission realizes that the revised examination process increases the possibility of inconsistency, but it believes that the examination criteria in the final version of Revision 8 of NUREG–1021, in combination with the NRC's examination oversight programs, will minimize these inconsistencies so that they remain within acceptable limits.

When the NRC initiated the pilot program, its goal was to eliminate the need for NRC contract examiners without compromising the existing levels of reactor safety. Because NRC examiners will be administering all of the operating tests, the revised process will enable the NRC examiners to accrue more experience in a shorter period of time and may improve the consistency of the operating test evaluations and the licensing decisions. Although the total number of procedures reviewed in the process of developing examinations may be fewer under the revised method, NRC examiners will still be expected to review and identify discrepancies in the procedures that will be exercised during the walk-through portion of the operating test and during the simulator scenarios.

Other Comments

Since beginning the pilot examination program, the NRC has sought to obtain up-to-date insights regarding the effectiveness of the revised examination process based on the staff's growing body of experience in reviewing the facility-prepared examinations. Many of the staff comments received have paralleled the public comments and require no further attention in this notice. However, one recommendation to amend the wording of the proposed regulation is considered worthy of discussion and incorporation. Specifically, it was recommended that the rule should indicate that a key manager would be responsible for submitting the examination because that individual would be in a position to ensure that the facility licensee's operations and training departments apply sufficient resources to prepare a quality examination. The NRC finds that the recommendation is consistent with normal NRC practice and the analogous regulatory requirement in § 55.31(a)(3), which requires "* * * an authorized representative of the facility licensee by which the applicant will be employed * * *" to submit a written request that examinations be administered to the applicant. Therefore, the wording of the final examination rule has been amended to require an authorized representative of the facility licensee to approve the written examinations and operating tests before they are submitted to the NRC for review and approval.

Availability of Guidance Document for Preparing Operator Licensing Examinations

As a consequence of preparing and administering the initial operator licensing examinations over a number of years, the NRC has developed a substantial body of guidance to aid its examiners. That guidance has been published in various versions of NUREG–1021, the latest version of which (final Revision 8) incorporates lessons learned since interim Revision 8 was published in February 1997, as well as refinements prompted by the comments submitted in response to the FRN of August 7, 1997 (62 FR 42426), which solicited public comments in conjunction with the proposed rulemaking. A copy of the final version of Revision 8 of NUREG–1021 will be mailed to each facility licensee; in accordance with NRC practice, revisions of NUREG–1021 are announced in the **Federal Register** when they are issued and become effective six months after the date of issuance. Copies may be inspected and/or copied for a fee at the NRC's Public Document Room, 2120 L Street NW (Lower Level), Washington, DC. Final Revision 8 of NUREG–1021 is also electronically available for downloading from the internet at "http://www.nrc.gov."

The NRC will prepare, administer, and grade initial operator licensing examinations when requested by facility licensees and at least four times a year to maintain the proficiency of its examiners. NRC examiners will use the criteria in the effective version of NUREG–1021 to evaluate whether an applicant meets the Commission's regulations. In this regard, NUREG–1021 is comparable to the Standard Review Plan (SRP), which establishes the criteria that the NRC uses to evaluate Part 50 license applications. Licensees that elect to prepare their own licensing examinations will also be required to use the guidance in the effective version of NUREG–1021. As provided in NUREG–1021, licensees may identify differences from the NUREG–1021 examination criteria and evaluate how the proposed alternatives provide an acceptable method of complying with the Commission's regulations. The NRC staff will review any proposed alternatives and make a decision regarding their acceptability. The NRC will not approve any alternative that would compromise its statutory responsibility of prescribing uniform conditions for the operator licensing examinations.

Final Rule

This regulation adds a new section, § 55.40, "Implementation," to Subpart E of 10 CFR Part 55. Paragraph (a) of § 55.40 states the NRC's intent to use the criteria in the version of NUREG–1021, "Operator Licensing Examination Standards for Power Reactors," in effect six months before the examination date when preparing and evaluating the written examinations required by §§ 55.41 and 55.43, and the operating tests required by § 55.45. The NRC uses the criteria in NUREG–1021 to evaluate whether an applicant meets the Commission's regulations. In this regard, NUREG–1021 is comparable to the Standard Review Plan, which establishes the criteria that the NRC uses to evaluate Part 50 license applications. Pursuant to Section 107 of the AEA of 1954, as amended, the NRC must prescribe uniform conditions for

licensing individuals applying for operator licenses.

Based on the success of the pilot examination program, paragraph (b) of § 55.40 allows power reactor facility licensees to prepare, proctor, and grade the written examinations required by §§ 55.41 and 55.43 and to prepare the operating tests required by § 55.45, subject to the following conditions:

(1) To ensure uniformity pursuant to the AEA, the facility licensee shall prepare the examinations and tests in accordance with NUREG–1021;

(2) To minimize the possibility that the required written examinations and operating tests might be compromised, the facility licensee shall establish, implement, and maintain procedures to control the security and integrity of the examinations and tests;

(3) To ensure that the facility licensee's operations and training departments apply sufficient resources to prepare a quality examination, an authorized representative of the facility licensee shall approve the examinations before they are submitted to the NRC for review and approval; and

(4) To ensure that NRC standards for quality are maintained, the facility licensee must receive Commission approval of its proposed written examinations and operating tests before they are given.

These requirements are contained in §§ 55.40(b)(1), (2), (3), and (4) respectively.

As provided in NUREG–1021, licensees may identify differences from the NUREG–1021 examination criteria and evaluate how the proposed alternatives provide an acceptable method of compliance with NRC regulations. The NRC staff will review any proposed alternatives and make a decision regarding their acceptability. However, the NRC will not approve any alternative that would compromise its statutory responsibility of prescribing uniform conditions for the operator licensing examinations. The NRC staff will review the facility-prepared written examinations and operating tests against the criteria in NUREG–1021 and direct whatever changes are necessary to ensure that adequate levels of quality, difficulty, and consistency are maintained. After the NRC staff reviews and approves a written examination, the facility licensee will proctor and grade the examination consistent with the guidance in NUREG–1021. The NRC staff will continue to independently administer and grade the operating tests, review and approve the written examination results, and make the final licensing decisions. The facility licensee will not conduct parallel operator evaluations during the dynamic simulator or the walk-through tests.

Pursuant to the requirements in § 55.40(c), the NRC staff will prepare the licensing examinations and tests upon written request by a power reactor facility licensee in accordance with § 55.31(a)(3). In addition, the NRC may exercise its discretion to reject a power reactor facility licensee's determination to prepare the required written examinations and operating tests, and to proctor and grade the written examinations. The NRC will then prepare, proctor, and grade the written examinations and prepare the operating tests for the facility licensee. This provision of the regulation allows the NRC to maintain its proficiency and to perform these activities if the NRC questions a licensee's ability to prepare an acceptable examination.

Paragraph (d) of § 55.40 reasserts that the NRC will continue to prepare and administer the written examinations and operating tests for non-power reactor facility licensees. The NRC has taken this position because the non-power reactor community does not have an accreditation process for training and qualification or the resources to prepare the examinations.

This regulation also amends § 55.49 because the NRC has determined, since the proposed rule was published, that applicants, licensees, and facility licensees may be interpreting § 55.49 too narrowly by limiting it to actual cases of cheating. The amendment clarifies that the regulation pertains to all activities that could affect the equitable and consistent administration of the examination, including activities before, during, and after the examination is administered.

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*). These were approved by the Office of Management and Budget (OMB), approval number 3150–0101. The additional public reporting burden for this collection of information is estimated to average 500 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information (i.e., preparing the examinations). The additional, one-time burden for power reactor facility licensees that elect to prepare their licensing examinations to establish procedures to prevent the examinations from being compromised is not expected to exceed 100 hours per facility; and the burden of maintaining those procedures is estimated at approximately 10 hours per facility per year. Send comments on any aspect of this collection of information, including suggestions for reducing the burden, to the Information and Records Management Branch (T–6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by internet electronic mail to bjs1@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0101), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Siegfried Guenther, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, at 301–415–1056 or by e-mail at sxg@nrc.gov.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" described in the Regulatory Flexibility Act or the Small Business Size Standards stated in regulations issued by the Small Business Administration at 13 CFR part 121.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Backfit Analysis

In the proposed rule, the NRC took the position that the backfit rule (10 CFR 50.109) did not apply because the proposed shift in responsibility for preparing the examinations: (1) Would not constitute a "modification of the procedures required to operate a facility" within the scope of the backfit rule; (2) would not have affected the basic procedures for qualifying licensed operators; and (3) would not have required facility licensees to alter their organizational structures. However, upon further review, the NRC has concluded that there is insufficient basis to support the original position. Therefore, the NRC has decided to revise the final rule so that power reactor facility licensees may elect to prepare their written examinations and operating tests (and proctor and grade the written examinations) in accordance with NUREG–1021 or to have the NRC prepare the examinations. Eliminating the requirement for all facility licensees to prepare their examinations and tests obviates the need for a backfit analysis.

Enforcement Policy

In conjunction with this final rule, the Commission is separately publishing modifications to NUREG–1600, "General Statement of Policy and Procedure for NRC Enforcement Actions," to address enforcement action against parties subject to the requirements in 10 CFR 55.49 (i.e., Part 55 license applicants/licensees and Part 50 licensees).

List of Subjects in 10 CFR Part 55

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons given in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC adopts the following amendments to 10 CFR part 55.

PART 55—OPERATORS' LICENSES

1. The authority citation for Part 55 continues to read as follows:

Authority: Secs. 107, 161, 182, 68 Stat. 939, 948, 953 , as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97–425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

2. In § 55.8, paragraph (c)(4) is revised to read as follows:

§ 55.8 Information collection requirements; OMB approval

* * * * *

(4) In §§ 55.40, 55.41, 55.43, 55.45, and 55.59, clearance is approved under control number 3150–0101.

* * * * *

3. A new § 55.40 is added to read as follows:

§ 55.40 Implementation.

(a) The Commission shall use the criteria in NUREG–1021, "Operator Licensing Examination Standards for Power Reactors," [1] in effect six months before the examination date to prepare the written examinations required by §§ 55.41 and 55.43 and the operating tests required by § 55.45. The Commission shall also use the criteria in NUREG–1021 to evaluate the written examinations and operating tests prepared by power reactor facility licensees pursuant to paragraph (b) of this section.

(b) Power reactor facility licensees may prepare, proctor, and grade the written examinations required by §§ 55.41 and 55.43 and may prepare the operating tests required by § 55.45, subject to the following conditions:

(1) Power reactor facility licensees shall prepare the required examinations and tests in accordance with the criteria in NUREG–1021 as described in paragraph (a) of this section;

(2) Pursuant to § 55.49, power reactor facility licensees shall establish, implement, and maintain procedures to control examination security and integrity;

(3) An authorized representative of the power reactor facility licensee shall approve the required examinations and tests before they are submitted to the Commission for review and approval; and

(4) Power reactor facility licensees must receive Commission approval of their proposed written examinations and operating tests.

(c) In lieu of paragraph (b) of this section and upon written request from a power reactor facility licensee pursuant to § 55.31(a)(3), the Commission shall, for that facility licensee, prepare, proctor, and grade, the written examinations required by §§ 55.41 and 55.43 and the operating tests required by § 55.45. In addition, the Commission may exercise its discretion and reject a power reactor facility licensee's determination to elect paragraph (b) of this section, in which case the Commission shall prepare, proctor, and grade the required written examinations and operating tests for that facility licensee.

(d) The Commission shall prepare, proctor, and grade the written examinations required by §§ 55.41 and 55.43 and the operating tests required by § 55.45 for non-power reactor facility licensees.

4. Section 55.49 is revised to read as follows:

§ 55.49 Integrity of examinations and tests.

Applicants, licensees, and facility licensees shall not engage in any activity that compromises the integrity of any application, test, or examination required by this part. The integrity of a test or examination is considered compromised if any activity, regardless of intent, affected, or, but for detection, would have affected the equitable and consistent administration of the test or examination. This includes activities related to the preparation and certification of license applications and all activities related to the preparation, administration, and grading of the tests and examinations required by this part.

Dated at Rockville, Maryland, this 19th day of April, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–10190 Filed 4–22–99; 8:45 am]

BILLING CODE 7590–01–P

[1] Copies of NUREGs may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 38082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection and/or copying in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, D.C.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–337–AD; Amendment 39–11132; AD 99–08–23]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This action requires repetitive inspections to detect cracking in the web of the aft pressure bulkhead at body station 1016 at the aft fastener row attachment to the "Y" chord; and corrective actions, if necessary. This amendment is prompted by several reports of fatigue cracking found at that location on Model 737 series airplanes. The actions specified in this AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage.

DATES: Effective May 10, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 10, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 22, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–337–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Nenita Odesa, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2557; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports of fatigue cracking found on Boeing Model 737–200 series airplanes in the web of the aft pressure bulkhead at body station 1016 at the aft fastener row attachment to the "Y" chord. An 11-inch crack was found on an airplane with 40,000 total flight cycles, and a 3.5-inch crack was found on an airplane with 28,000 total flight cycles. Investigation revealed 43 fasteners installed in improperly drilled holes at the web-to-"Y" chord attachment in the area of the 11-inch crack. Such fatigue cracking, if not detected and corrected, could result in rapid decompression of the fuselage.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking at certain fastener holes of the aft pressure bulkhead, which could result in rapid decompression of the fuselage. This AD requires repetitive inspections of the web of the aft pressure bulkhead at body station 1016 at the aft fastener row attachment to the "Y" chord, and corrective actions, if necessary. For compliance with this inspection requirement, operators may perform either a low frequency eddy current (LFEC) inspection from the aft side of the bulkhead or a detailed visual inspection from the forward side of the bulkhead. Corrective actions include a high frequency eddy current inspection to detect cracking of the web at the "Y" chord attachment; a detailed visual inspection of the bulkhead, if necessary; and repair in accordance with a method approved by the FAA.

Differences Between AD and Relevant Service Information

This AD refers to Boeing 737 Nondestructive Test (NDT) Manual D6–37239, Part 6, Subject 53–10–54, as the appropriate source of service information for accomplishment of the LFEC inspection. Operators should note that, unlike the procedures described in the NDT manual, which specifies that the web be inspected only from stringer 9 left to stringer 9 right, this AD expands the area to be inspected. Because of the safety implications and consequences associated with fatigue cracking and because of the unknown nature of the source of the subject cracking, the FAA has determined that an LFEC inspection, if accomplished, must be performed from stringer 15 left to stringer 15 right of the upper section of the bulkhead at body station 1016.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–337–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–08–23 Boeing: Amendment 39–11132. Docket 98–NM–337–AD.

Applicability: All Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking at certain fastener holes of the aft pressure bulkhead, which could result in rapid decompresssion of the fuselage, accomplish the following:

Initial Inspection

(a) Perform either inspection specified by paragraph (a)(1) or (a)(2) of this AD at the time specified in paragraph (b) of this AD.

(1) Perform a low frequency eddy current inspection from the aft side of the aft pressure bulkhead to detect discrepancies (including cracking, misdrilled fastener holes, and corrosion) of the web of the upper section of the aft pressure bulkhead at body station 1016 at the aft fastener row attachment to the "Y" chord, from stringer 15 left to stringer 15 right, in accordance with Boeing 737 Nondestructive Test Manual D6–37239, Part 6, Section 53–10–54, dated December 5, 1998.

(2) Perform a detailed visual inspection of the aft fastener row attachment to the "Y" chord from the forward side of the aft pressure bulkhead to detect discrepancies (including cracking, misdrilled fastener holes, and corrosion) of the entire web of the aft pressure bulkhead at body station 1016.

(b) Perform the inspection required by paragraph (a) of this AD at the time specified by paragraph (b)(1), (b)(2), or (b)(3) of this AD, as applicable.

(1) For airplanes that have accumulated 40,000 or more total flight cycles as of the effective date of this AD: Inspect within 375 flight cycles or 60 days after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 25,000 or more total flight cycles and fewer than 40,000 total flight cycles as of the effective date of this AD: Inspect within 750 flight cycles or 90 days after the effective date of this AD, whichever occurs later.

(3) For airplanes that have accumulated fewer than 25,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 25,750 total flight cycles.

Repetitive Inspections

(c) Within 1,200 flight cycles after performing the initial inspection required by paragraph (a) of this AD, and thereafter at intervals not to exceed 1,200 flight cycles: Perform either inspection specified by paragraph (a)(1) or (a)(2) of this AD.

Corrective Actions

(d) If any discrepancy is detected during any inspection required by this AD: Prior to further flight, accomplish the actions specified by paragraphs (d)(1) and (d)(3), and paragraph (d)(2) if applicable, of this AD.

(1) Perform a high frequency eddy current inspection from the forward side of the bulkhead to detect cracking of the web at the "Y" chord attachment, around the entire periphery of the "Y" chord, in accordance with Boeing 737 Nondestructive Test Manual D6–37239, Part 6, Section 51–00–00, Figure 23, dated November 5, 1997.

(2) If the most recent inspection performed in accordance with paragraph (a) of this AD was not a detailed visual inspection: Accomplish the actions specified by paragraph (a)(2) of this AD. If the inspection was a detailed visual inspection, it is not necessary to repeat that inspection prior to further flight.

(3) Repair any discrepancy such as cracking or corrosion or misdrilled fastener holes in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) The eddy current inspections shall be done in accordance with Boeing 737 Nondestructive Test Manual D6–37239, Part 6, Section 53–10–54, dated December 5, 1998; or Boeing 737 Nondestructive Test Manual D6–37239, Part 6, Section 51–00–00, Figure 23, dated November 5, 1995; as applicable. These references contain the specified list of effective pages:

Page No.	Revision level shown on page	Date shown on page
Title Page	Not Shown	February 5, 1995.
List of Effective Pages—Pages 1, 6–12	Not Shown	December 5, 1998.
List of Effective Pages—Page 2	Not Shown	August 5, 1998.
List of Effective Pages—Pages 2A, 3	Not Shown	November 5, 1997.
List of Effective Pages—Page 4	Not Shown	November 5, 1995.

Page No.	Revision level shown on page	Date shown on page
List of Effective Pages—Page 5	Not Shown	May 5, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 10, 1999. .

Issued in Renton, Washington, on April 9, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–9739 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–44–AD; Amendment 39–11139; AD 99–09–06]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS–350B, B1, B2, B3, BA, and D Helicopters, and Model AS 355E, F, F1, F2 and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Eurocopter France Model AS–350B, B1, B2, B3, BA, and D helicopters, and Model AS 355E, F, F1, F2 and N helicopters. This action requires inspecting the tail rotor spider plate bearing (bearing) for the proper bearing rotational torque, axial play, and for any brinelling of the bearing. This amendment is prompted by service difficulty reports citing the need to prematurely replace bearings due to wear, and by two in-flight incidents of increased tail rotor vibration levels due to bearing wear. This condition, if not corrected, could result in seizure of the bearing, loss of tail rotor control and subsequent loss of control of the helicopter.

DATES: Effective May 10, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 10, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 22, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–44–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model AS–350B, B1, B2, B3, BA, and D helicopters, and Model AS 355E, F, F1, F2 and N helicopters. The DGAC advises that a one-time measurement of bearing rotational torque and repetitive inspections of the bearing for axial play, binding, or brinelling is necessary to prevent seizure of the bearing and loss of control of the helicopter.

Eurocopter France has issued Eurocopter AS 350 Service Bulletin (SB) No. 05.00.29, applicable to Model AS–350 helicopters, and SB No. 05.00.30, applicable to Model AS 355 helicopters, both dated February 8, 1999. These SB's specify a periodic check of the pitch change spider plate bearing to prevent any blocking of the bearing. The DGAC classified these SB's as mandatory and issued AD 1999–084–057(A), and AD 1999–085–076(A), both dated February 24, 1999, applicable to Model AS 355 and Model AS–350 helicopters, respectively, in order to assure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

The FAA estimates that 507 helicopters will be affected by this AD, that it will take approximately 1 work hour to accomplish the inspection, and 4 work hours to replace a bearing, if required, and that the average labor rate is $60 per work hour. Required parts will cost approximately $60 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $182,520 to inspect and replace one bearing in each helicopter in the fleet.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model AS–350B, B1, B2, B3, BA, and D helicopters, and Model AS 355E, F, F1, F2 and N helicopters of the same type design registered in the United States, this AD is being issued to prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter. This AD requires, within 50 hours TIS, measuring the bearing rotational torque, and thereafter at intervals not to exceed 100 hours TIS, inspecting the bearing for axial play, binding, or brinelling. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, inspecting the bearing for the proper rotational torque within the next 50 hours time-in-service (TIS), and for any bearing roughness at intervals not to exceed 100 hours TIS is required, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons

are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–SW–44–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–09–06 Eurocopter France: Amendment 39–11139. Docket No. 98–SW–44–AD.

Applicability: Eurocopter France Model AS–350B, B1, B2, B3, BA, and D helicopters, and Model AS 355E, F, F1, F2 and N helicopters, with tail rotor spider assembly, part number 350A332004–03 or 350A332004–05, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent seizure of the tail rotor spider plate bearing (bearing), loss of tail rotor control, and subsequent loss of control of the helicopter, accomplish the following in accordance with the specified paragraphs of Eurocopter Service Bulletin (SB) 05.00.29, applicable to Model AS–350 helicopters, or SB 05.00.30, applicable to Model AS 355 helicopters, both dated February 8, 1999, as applicable:

(a) Within 50 hours time-in-service, measure the rotational torque of the bearing using the operational procedure in paragraph 2.B.1 of the Accomplishment Instructions in the applicable SB. If the rotational load is equal to or greater than 300 grams, replace the pitch change spider plate assembly with an airworthy pitch change spider plate assembly before further flight.

(b) At intervals not to exceed 100 hours time-in-service, measure the axial play, and inspect for rotational binding or brinelling of the bearing using the operational procedure in paragraph 2.B.2 of the Accomplishment Instructions in the applicable SB.

(c) If the bearing fails to meet the airworthiness criteria stated in paragraph 2.B.3(b) of the Accomplishment Instructions in the applicable SB, replace the pitch change spider plate assembly with an airworthy pitch change spider plate assembly before further flight.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(f) The measurements and replacements, if necessary, shall be done in accordance with Eurocopter Mandatory SB 05.00.29, applicable to Model AS–350 helicopters, or Eurocopter Mandatory SB 05.00.30, applicable to Model AS 355 helicopters, both dated February 8, 1999, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–44–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 10, 1999.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 1999–084–057(A) and AD 1999–085–076(A), both dated February 24, 1999.

Issued in Fort Worth, Texas, on April 14, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–10053 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–49–AD; Amendment 39–11144; AD 99–09–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped With General Electric Model CF6–45 or –50 Series Engines; or Pratt & Whitney Model JT9D–3, –7, or –70 Series Engines; and 747–E4B (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes and all 747–E4B (military) airplanes. This action requires repetitive inspections to detect cracking or fracture of the steel attachment fittings of the diagonal brace to the nacelle struts; and replacement of the attachment fittings with new steel fittings, if necessary. This amendment is prompted by a report indicating a fractured steel attachment fitting of a diagonal brace to the number 2 nacelle strut; such fracture has been attributed to fatigue cracking. The actions specified in this AD are intended to detect and correct such fatigue cracking, which could result in failure of a nacelle strut diagonal brace load path and possible separation of the nacelle from the wing.

DATES: Effective May 10, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 22, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–49–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information pertaining to this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On May 10, 1995, the FAA issued AD 95–10–16, amendment 39–9233 (60 FR 27008, May 22, 1995), applicable to certain Boeing Model 747 series airplanes equipped with Pratt & Whitney Model JT9D series engines (excluding Model JT9D–70 series engines); and on June 16, 1995, the FAA issued AD 95–13–07, amendment 39–9287 (60 FR 33336, June 28, 1995), applicable to certain Boeing Model 747 series airplanes equipped with General Electric Model CF6–45 or –50 series engines, or Pratt & Whitney Model JT9D–70 series engines. Both of those AD's require modification of the nacelle strut and wing structure, inspections and checks to detect discrepancies, and correction of discrepancies. The requirements of those AD's are intended to prevent failure of the nacelle strut and subsequent separation of the nacelle from the wing.

Since issuance of those two AD's, the FAA has received a report indicating that a fractured steel attachment fitting of a diagonal brace to the number 2 nacelle strut was found during a routine service inspection of a Boeing Model 747 series airplane equipped with General Electric Model CF6–50 series engines. This is the first report of a fractured steel attachment fitting on a Model 747 series airplane that was found after the strut and wing were modified in accordance with AD 95–13–07 or AD 95–10–16. However, the report clarifies that the steel fitting had been installed during production rather than during the modification required by AD 95–13–07. The FAA points out that the replacement of the fitting with a new steel fitting is only part of the modification required by the previously referenced AD's. The manufacturer reported that the crack initiation, which began at the far aft fastener hole on the inboard side of the lower flange of the attachment fitting, was attributed to fretting and galling and is indicative of fatigue. The airplane had accumulated 54,852 flight hours and 11,124 flight cycles, and the strut and wing modification had been accomplished in accordance with AD 95–13–07 at 50,357 flight hours and 10,085 flight cycles.

While this is the first report of a fitting failure after modification in accordance with AD 95–13–07, cracking or fracture of a steel attachment fitting of the diagonal brace to the nacelle strut, if not corrected, could result in failure of a nacelle strut diagonal brace load path and possible separation of the nacelle from the wing.

The attachment fittings on the Pratt & Whitney series engines are similar to the attachment fittings on the General Electric series engines that are addressed in this AD. Therefore, all of the attachment fittings on either of these engines may be subject to the same unsafe condition. However, the configurations of these engines are different in that some have enhanced structural capability; therefore, the FAA has determined that a somewhat longer repetitive inspection interval for those configurations is appropriate.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 747 series airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking or fracture of the steel attachment fittings of the diagonal brace to the nacelle struts, which could result in failure of the nacelle strut diagonal brace load path and possible separation of the nacelle from the wing. This AD requires repetitive detailed visual inspections to detect such cracking or fracture. This AD also requires replacement of the attachment fittings with new steel fittings, if necessary, in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be

amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–49–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–11 Boeing: Amendment 39–11144. Docket 99–NM–49–AD.

Applicability: Model 747 series airplanes equipped with General Electric Model CF6–45 or –50 series engines, or Pratt & Whitney Model JT9D–3, –7, or –70 series engines, and all 747–E4B (military) airplanes, having steel attachment fittings of the diagonal brace to the nacelle struts; certificated in any category.

Note 1: This AD excludes those airplanes that are included in the applicability of AD 97–20–01 R1, amendment 39–10982 (64 FR 985, January 7, 1999). Those airplanes have aluminum attachment fittings.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking or fracture of the steel attachment fittings of the diagonal brace to the nacelle struts, which could result in failure of a nacelle strut diagonal brace load path and possible separation of the nacelle from the wing; accomplish the following:

Initial Inspection

(a) Gain access to the attachment fittings of the diagonal brace to the inboard and outboard nacelle struts through the aft fairing doors, and perform a detailed visual inspection to detect cracking or fracture of the steel attachment fittings of the diagonal brace to the inboard and outboard nacelle struts, at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD.

(1) For airplanes on which the strut and wing modification required by AD 95–10–16, amendment 39–9233, or AD 95–13–07, amendment 39–9287, has not been accomplished: Within 10 days after the effective date of this AD, accomplish the detailed visual inspection.

(i) For airplanes equipped with General Electric Model CF6–45 or –50 series engines and/or Pratt & Whitney JT9D–3 or –7 series engines, repeat the inspection thereafter at intervals not to exceed 180 flight cycles.

(ii) For airplanes equipped with Pratt & Whitney JT9D–70 series engines, repeat the inspection thereafter at intervals not to exceed 250 flight cycles.

(2) For airplanes on which the strut and wing modification required by AD 95–10–16, amendment 39–9233, or AD 95–13–07, amendment 39–9287, has been accomplished: Within 30 days after the effective date of this AD or within 150 flight cycles after accomplishment of the modification, whichever occurs later, accomplish the detailed visual inspection.

(i) For airplanes equipped with General Electric Model CF6–45 or –50 series engines or Pratt & Whitney JT9D–70 series engines, repeat the inspection thereafter at intervals not to exceed 600 flight cycles.

(ii) For airplanes equipped with Pratt & Whitney JT9D–3 or –7 series engines, repeat the inspection thereafter at intervals not to exceed 350 flight cycles.

Corrective Actions

(b) If any cracking or fracture of any attachment fitting is detected during any inspection required by paragraph (a) of this AD, prior to further flight, replace the fitting with a new steel fitting in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on May 10, 1999.

Issued in Renton, Washington, on April 16, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10175 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–54]

Revision of Class E Airspace; San Antonio, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at San Antonio, TX.

EFFECTIVE DATE: The direct final rule published at 64 FR 3208 is effective 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 21, 1999 (64 FR 3208). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on April 14, 1999.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 99–10090 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–55]

Revision of Class E Airspace; Monroe, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at Monroe, LA.

EFFECTIVE DATE: The direct final rule published at 64 FR 3207 is effective 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Forth Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 21, 1999 (64 FR 3207). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on April 14, 1999.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 99–10089 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–6]

Amendment to Class E Airspace; Boonville, MO; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which revises the Class E airspace at Boonville, MO, and corrects an error in the geographic coordinates for the Viertel Nondirectional Radio Beacon (NDB) as published in the **Federal Register** February 22, 1999 (64 FR 8508), Airspace Docket No. 99–ACE–6.

DATES: The direct final rule published at 64 FR 8508 is effective on 0901 UTC, May 20, 1999.

This correction is effective on May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

On February 22, 1999, the FAA published in the **Federal Register** a direct final rule; request for comments which revises the Class E airspace at Boonville, MO (FR Document 99–4175, 64 FR 8508, Airspace Docket No. 99–ACE–6). An error was subsequently discovered in the geographic coordinates for the Viertel NDB. This action corrects that error. After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the geographic coordinates for the Viertel NDB and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comments. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Correction to the Direct final rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Viertel

NDB, as published in the **Federal Register** on February 22, 1999 (64 FR 8508), **Federal Register** Document 99–4175; page 8509, column three) are corrected as follows:

§ 71.1 [Corrected]

ACE MO E5 Boonville, MO [Corrected]

On page 8509, in the third column, under Viertel NDB, by correction (lat. 38°57′03″ N., long. 92°41′22″ W.) to read (lat. 38°56′58″ N., long. 92°41′03″ W.)

Issued in Kansas City, MO on April 2, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–10278 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–5]

Amendment to Class E Airspace; El Dorado, KS; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which revises the Class E airspace at El Dorado, KS, and corrects an error in the airspace designation for Captain Jack Thomas/El Dorado Airport as published in the **Federal Register** February 22, 1999 (64 FR 8507), Airspace Docket No. 99–ACE–5.

DATES: The direct final rule published at 64 FR 8507 is effective on 0910 UTC, May 20, 1999.

This correction is effective on May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

On February 22, 1999, the FAA published in the **Federal Register** a direct final rule; request for comments which revises the Class E airspace at El Dorado, KS (FR Docket 99–4176, 64 FR 8507, Airspace Docket No. 99–ACE–5). An error was subsequently discovered in the airspace designation for Captain Jack Thomas/El Dorado Airport. This action corrects that error. After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the airspace designation for the Captain Jack Thomas/El Dorado Airport and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received with the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Correction to the Direct final rule

Accordingly, pursuant to the authority delegated to me, the airspace designation for Captain Jack Thomas/El Dorado Airport, as published in the **Federal Register** on February 22, 1999 (64 FR 8507), **Federal Register** Document 99–4176; page 8508, column three) is corrected as follows:

§ 71.1 [Corrected]

ACE KS E5 El Dorado, KS [Corrected]

On page 8508, in the third column, line seven, correct the airspace designation by removing the word "south" and adding "southwest."

Issued in Kansas City, MO on April 2, 1999.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–10277 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Use of Small Self-Contained Payloads

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim final rule.

SUMMARY: NASA is removing its rule on use of small self-contained payloads. This rule, in effect since August 31, 1992, revised the prices for standard launch support of Small Self-Contained Payloads (SSCP), as well as clarified and amended other features of the SSCP policy. It addressed conditions of use of the space shuttle, reimbursement policy, flight schedule and reflight, patent and data rights, among other things. NASA plans to issue a new policy whereby domestic educational institutions will have priority ranking in the manifest process.

EFFECTIVE DATE: April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Lynda Cywanowicz, 202–358–1673.

SUPPLEMENTARY INFORMATION: The rule removed in this document was originally published at 45 FR 73023, November 4, 1980, and was codified in the Code of Federal Regulations at 14 CFR part 1214, subpart 1214.9. The proposed new policy will be separately published in the **Federal Register**, for notice and comment, before becoming a final rule.

List of Subjects in 14 CFR Part 1214

Government employees, Government procurement, Security measures, Space transportation, and exploration.

Daniel S. Goldin,

Administrator.

Accordingly, NASA amends 14 CFR chapter V as follows:

PART 1214—SPACE SHUTTLE

1. The authority citation for part 1214 continues to read as follows:

Authority: Sec. 203, Public Law 85–568, 72 Stat. 429, as amended (42 U.S.C. 2473).

Subpart 1214.9—[Removed and Reserved]

2. Subpart 1214.9, consisting of §§ 1214.900 through 1214.912, is removed and reserved.

[FR Doc. 99–9896 Filed 4–22–99; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Special Policy on Small Self-Contained Payloads (SSCP's) By Domestic Educational Institutions

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim final rule.

SUMMARY: NASA is removing its rule on special policy on small, self-contained payloads (SSCP's) by domestic educational institutions. This rule, in effect since December 21, 1992, offered lower prices, relative to other users, for standard launch services for SSCP's sponsored by domestic educational institutions that agreed to certain provisions and could meet certain criteria. NASA plans to issue a new policy to reduce further the price for SSCP standard launch services for

qualifying domestic educational institutions.

EFFECTIVE DATE: April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Lynda Cywanowicz, 202–358–1673.

SUPPLEMENTARY INFORMATION: The rule removed in this document was originally published at 57 FR 61794, December 29, 1992, and was codified in the Code of Federal Regulations at 14 CFR part 1214, subpart 1214.10. The proposed new policy will be published separately in the **Federal Register**, for notice and comment, before becoming a final rule.

List of Subjects in 14 CFR Part 1214

Government employees, Government procurement, Security measures, space transportation, and exploration.

Daniel S. Goldin,

Administrator.

Accordingly, NASA amends 14 CFR chapter V as follows:

PART 1214—SPACE SHUTTLE

1. The authority citation for part 1214 continues to read as follows:

Authority: Sec. 203, Public Law 85–568, 72 Stat. 429, as amended (42 U.S.C. 2473).

Subpart 1214.10—[Removed and Reserved]

2. Subpart 1214.10, consisting of §§ 1214.1000 through 1214.1004, is removed and reserved.

[FR Doc. 99–9895 Filed 4–22–99; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 84G–0257]

Carbohydrase and Protease Enzyme Preparations Derived From Bacillus Subtilis or Bacillus Amyloliquefaciens; Affirmation of GRAS Status as Direct Food Ingredients

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that carbohydrase enzyme preparations derived from either *Bacillus subtilis* or *B. amyloliquefaciens* and protease enzyme preparations derived from either *B. subtilis* or *B. amyloliquefaciens* are generally recognized as safe (GRAS) for use as direct food ingredients. This action is a partial response to a petition filed by the Ad Hoc Enzyme Technical Committee (now the Enzyme Technical Association).

DATES: The regulation is effective April 23, 1999. The Director of the Office of the **Federal Register** approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications listed in 21 CFR 184.1148 and 184.1150, effective April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Linda S. Kahl, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3101.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In accordance with the procedures described in § 170.35 (21 CFR 170.35), the Ad Hoc Enzyme Technical Committee (now the Enzyme Technical Association), c/o Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, IN 46514, submitted a petition (GRASP 3G0016) requesting that the following enzyme preparations be affirmed as GRAS for use in food: (1) Animal-derived enzyme preparations: Catalase (bovine liver); lipase, animal; pepsin; rennet; rennet, bovine; and trypsin; (2) plant-derived enzyme preparations: Bromelain; malt; and papain; (3) microbially-derived enzyme preparations: Lipase, catalase, glucose oxidase, and carbohydrase from *Aspergillus niger*, var.; mixed carbohydrase and protease from *Bacillus subtilis*, var.; carbohydrase from *Rhizopus oryzae*; and carbohydrase from *Saccharomyces* species.

FDA published a notice of filing of this petition in the **Federal Register** of April 12, 1973 (38 FR 9256), and gave interested persons an opportunity to submit comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. The petition was amended by notices published in the **Federal Register** of June 12, 1973 (38 FR 15471), proposing affirmation that microbially-derived enzyme preparations (carbohydrase, lipase, and protease) from *A. oryzae* are GRAS for use in food; in the **Federal Register** of August 29, 1984 (49 FR 34305), proposing affirmation that the enzyme preparations ficin, obtained from species of the genus *Ficus* (fig tree), and pancreatin, obtained from bovine and porcine pancreas, are GRAS for use in food; in the **Federal Register** of June 23, 1987 (52 FR 23607), proposing affirmation that the protease enzyme preparation from *A. niger* is GRAS for use in food; and in the **Federal Register** of August 5, 1996 (61 FR 40648), proposing affirmation that carbohydrase and protease enzyme preparations from *B. amyloliquefaciens* are GRAS for use in food. In the June 23, 1987, notice, FDA also noted the petitioner's assertion that pectinase enzyme preparation from *A. niger* and lactase enzyme preparation from *A. niger* are included under carbohydrase enzyme preparation from *A. niger*, and that invertase enzyme preparation from *Saccharomyces cerevisiae* and lactase enzyme preparation from *Kluyveromyces marxianus* are both included under carbohydrase enzyme preparation from species of the genus *Saccharomyces*. The agency further noted that, therefore, pectinase enzyme preparation from *A. niger*, lactase enzyme preparation from *A. niger*, invertase enzyme preparation from *S. cerevisiae*, and lactase enzyme preparation from *K. marxianus* were to be considered part of the petition. Interested persons were given an opportunity to submit comments to the Dockets Management Branch (address above) on each amendment.

After the petition was filed, the agency published, as part of its comprehensive safety review of GRAS substances, two GRAS affirmation regulations that covered three of the enzyme preparations from animal and plant sources included in the petition. These two regulations are: (1) § 184.1685 *Rennet* (animal derived) (21 CFR 184.1685), which was published in the **Federal Register** of November 7, 1983 (48 FR 51151) and includes the petitioned enzyme preparations rennet and bovine rennet; and (2) § 184.1585 *Papain* (21 CFR 184.1585), which was published in the **Federal Register** of October 21, 1983 (48 FR 48805). Thus,

rennet, bovine rennet, and papain are already affirmed as GRAS and need not be addressed further.

In a notice published in the **Federal Register** of September 20, 1993 (58 FR 48889), the agency announced that the petitioner had requested that the following enzyme preparations be withdrawn from the petition without prejudice to the filing of a future petition: (1) Pancreatin used for its lipase activity, (2) pancreatin used for its amylase activity, and (3) amylase derived from unmalted barley extract. In that notice, the agency stated that, in light of the petitioner's request, any future action by FDA on the petition would not include a determination of the GRAS status of these three enzyme preparations.

In a final rule published in the **Federal Register** of June 26, 1995 (60 FR 32904), the agency affirmed as GRAS the following enzyme preparations derived from animal sources: Catalase (bovine liver), animal lipase, pepsin, trypsin, and pancreatin (as a source of protease activity). In that same final rule, the agency also affirmed as GRAS the following enzyme preparations derived from plant sources: Bromelain, ficin, and malt.

This final rule addresses the following bacterially-derived enzyme preparations: (1) carbohydrase enzyme preparation from *B. subtilis*; (2) protease enzyme preparation from *B. subtilis*; (3) carbohydrase enzyme preparation from *B. amyloliquefaciens*; and (4) protease enzyme preparation from *B. amyloliquefaciens*.[1] The other microbial enzyme preparations in the petition will be dealt with separately in a future issue of the **Federal Register**.

II. Standards for GRAS Affirmation

Under § 170.30 (21 CFR 170.30) and 21 U.S.C. 321(s), general recognition of safety may be based only on the views of experts qualified by scientific training and experience to evaluate the safety of substances directly or indirectly added to food. The basis of such views may be either scientific procedures or, in the case of a substance used in food prior to January 1, 1958, experience based on common use in food. General recognition of safety based upon scientific procedures requires the same quantity and quality of scientific evidence as is required to obtain approval of a food additive and ordinarily is based upon published studies, which may be corroborated by unpublished studies and other data and information (§ 170.30(b)). General recognition of safety through experience based on common use in food prior to January 1, 1958, may be determined without the quantity or quality of scientific procedures required for approval of a food additive, and ordinarily is based upon generally available data and information concerning the pre-1958 use of the substance (§ 170.30(c)).

For the enzyme preparations from *B. subtilis* and *B. amyloliquefaciens* that are the subject of this document, the Enzyme Technical Association bases its request for affirmation of GRAS status on a history of safe food use prior to 1958. As discussed in the preamble to the proposed rule for the most recent amendment to § 170.30, general recognition of safety through experience based on common use in food requires a consensus on the safety of the substance among the community of experts who are qualified to evaluate the safety of food ingredients (50 FR 27294 at 27295, July 2, 1985).

III. Background

A. Identity and Technical Effect

Enzymes are proteins that originate from living cells and produce chemical change by catalytic action (*Random House Dictionary of the English Language*, 1987). Most enzymes are very specific in their ability to catalyze only certain chemical reactions; this high degree of specificity and strong catalytic activity are the most important functional properties of enzymes (Ref. 1).

Commercial enzyme preparations such as those that are the subject of this document usually contain several enzymes that have catalytic activities other than those for which they are sold—i.e., other than their characterizing enzyme activities. As discussed in more detail in section III.B of this document, the methods of manufacture for a specific commercial enzyme preparation are tailored to maximize the characterizing enzyme activity. The other enzymes that are present in the preparation generally are present at low levels.

Carbohydrases, which are also known as glycosidases, are enzymes whose catalytic activity is the hydrolysis (i.e., splitting) of *O*-glycosyl bonds in carbohydrates. The carbohydrase enzyme preparations that are the subject of this document each contain two or more carbohydrases, including: (1) α-amylase, which hydrolyzes α-1,4-glucan bonds in polysaccharides (e.g., starch) yielding monosaccharides, linear oligosaccharides and branched oligosaccharides (dextrins), and (2) β-glucanase, which hydrolyzes 1,3 and some 1,4 linkages in β-D-glucans (polysaccharides that are common in cereals such as oats, barley, and rye), yielding oligosaccharides and glucose (Refs. 2 and 3). Because the major carbohydrase in the carbohydrase enzyme preparations derived from *B. subtilis* or *B. amyloliquefaciens* is α-amylase, the primary use of these enzyme preparations is the hydrolysis of starch in processes such as the preparation of starch syrups and the fermentation of beer (Refs. 3 through 5).

Proteases are enzymes whose catalytic activity is the hydrolysis of peptide bonds in proteins, yielding peptides and amino acids. The protease enzyme preparations that are the subject of this document each contain two or more proteases, including subtilisin and neutral proteinase (Refs. 2 and 3). The primary use of the protease enzyme preparations derived from *B. subtilis* or *B. amyloliquefaciens* is in the preparation of protein hydrolysates and the tenderizing of meat (Refs. 3 through 5).

Table 1 lists the characterizing enzyme activities and associated International Union of Biochemistry Enzyme Commission (EC) numbers of the carbohydrase and protease enzyme preparations derived from *B. subtilis* or *B. amyloliquefaciens*.

TABLE 1.—ENZYME ACTIVITIES AND EC NUMBERS ASSOCIATED WITH ENZYME PREPARATIONS DERIVED FROM B. SUBTILIS OR B. AMYLOLIQUEFACIENS

Enzyme Preparation	Characterizing Enzyme Activity	EC Number
Carbohydrase	α-Amylase	3.2.1.1
	β-Glucanase	3.2.1.6
Protease	Subtilisin	3.4.21.62
	Neutral Proteinase	3.4.24.28

B. Methods of Manufacture

All microbial strains, including bacterial strains, used to manufacture enzyme preparations are started from a

[1] Although the petition requested GRAS affirmation for mixed carbohydrase and protease enzyme preparation from *B. subtilis*, the petitioner subsequently agreed that this enzyme preparation be evaluated as two separate enzyme preparations, carbohydrase enzyme preparation from *B. subtilis* and protease enzyme preparation from *B. subtilis*. Enzyme preparations that contain mixtures of carbohydrases and proteases can be used either for their carbohydrase activity or for their protease activity, and they are usually sold according to their intended use. FDA requested the petitioner's agreement to this change to reflect the distinct uses of mixed carbohydrase and protease enzyme preparations in food depending on whether a particular preparation is being used for its carbohydrase activity or for its protease activity.

pure laboratory culture and grown, or "fermented," in a sterile liquid nutrient medium or sterile moistened semisolid medium. Accepted microbiological techniques are used to exclude contaminating organisms and to avoid development of substrains from within the culture itself (Ref. 6). Although specific conditions of fermentation vary from manufacturer to manufacturer, common fermentation procedures are: (1) The submerged culture method, which uses closed fermenters equipped with agitators, aeration devices, and jackets or coils for temperature control; and (2) the semisolid culture method, which uses horizontal rotating drums or large chambers fitted with trays (Refs. 5 and 6). During fermentation by either method, the pH, temperature, appearance or disappearance of certain ingredients, purity of culture, and level of enzyme activity must be carefully controlled. The fermentation is harvested at the point where laboratory tests indicate that maximum production of enzyme activity has been attained.

In practice, the processes by which microbial-derived enzyme preparations are produced vary widely. Each single strain of microorganism produces a large number of enzymes (Ref. 5). The absolute and relative amounts of various individual enzymes produced vary markedly among species and even among strains of the same species. They also vary depending upon the composition of medium on which the microorganism grows, and upon the fermentation conditions. The petitioner states that for a specific enzyme preparation the production strain, medium composition, and fermentation conditions are optimized to maximize the desired enzyme activity (Refs. 7 and 8).

The carbohydrase and protease enzymes from *B. subtilis* and *B. amyloliquefaciens* are excreted into the fermentation medium (Refs. 9 through 11). In the semisolid culture method, an enzyme that is present in the fermentation medium is extracted either directly from the moist material, or later after the culture mass has been dried. In the submerged culture method, the microorganisms and other insolubles are removed from the fermentation medium by decanting, filtering, or centrifuging, and therefore an extraction step is not required. In either method, further processing steps may involve clarification, evaporation, precipitation, drying, and grinding (Refs. 6 and 9 through 12).

IV. Safety Evaluation

A. Pre-1958 History of Use in Food

Enzyme preparations have been safely used for many years in the production and processing of food, for example, in the baking, dairy, and brewing industries (e.g., see Refs. 1, 4, and 13).

1. Bacillus Subtilis

The petitioner has provided generally available information, including published reviews, showing that carbohydrase and protease enzyme preparations derived from *B. subtilis* were commonly used in food prior to 1958 (Refs. 4 and 5). This information is summarized in Table 2.

TABLE 2.—APPLICATIONS OF BACTERIAL CARBOHYDRASE AND PROTEASE ENZYME PREPARATIONS IN FOOD PRIOR TO 1958

Enzyme preparation	Food categories	Technical effect or industry application	References
Carbohydrase	Beer	Mashing[1]	4 and 5
	Syrup for cocoa and chocolate	Reduction of viscosity	4 and 5
	Sugar	Recovery from scrap candy	4 and 5
	Distilled beverages	Mashing	4 and 5
	Precooked cereals	Modification of cereal starches to improve characteristics	4
Protease	Beer	Chillproofing	4
	Condiments	Not reported	5
	Milk	Protein hydrolysis	5

[1] Mashing is the conversion of starch to sugars.

In the published article by Underkofler et al. (Ref. 5), the authors use the general terms "bacterial amylase" and "bacterial protease" to refer to bacterially-derived carbohydrase and protease enzyme preparations used in food at the time of the article. However, the article also includes a table in which the source bacterium for bacterially-derived enzyme preparations is identified as *B. subtilis*.

In the published article by Underkofler and Ferracone (Ref. 4), the authors use the general terms "bacterial carbohydrase" and "bacterial protease" to refer to bacterially-derived carbohydrase and protease enzyme preparations used in food at the time of the article. Unlike the Underkofler et al. article, however, the Underkofler and Ferracone article does not identify the source bacterium for these enzyme preparations. Although it is not possible to determine conclusively whether the descriptor "bacterial" in the Underkofler and Ferracone article refers to *B. subtilis*, the use of this term by the same principal author in two scientific articles published in consecutive years to describe the source of protease and carbohydrase enzyme preparations used in the food industry, coupled with the identification of the source bacterium for these enzyme preparations as *B. subtilis* in the Underkofler et al. article, makes it likely that the source bacterium referred to by Underkofler and Ferracone was in fact *B. subtilis*.

The food uses shown in Table 2, using terminology from the cited reference(s), were documented in articles that were published before or during 1958; the cited references demonstrate that the use of these enzyme preparations in a variety of foods was widely recognized by 1958. Therefore, the agency concludes that carbohydrase and protease enzyme preparations derived from *B. subtilis* were in common use in food prior to January 1, 1958.

2. *Bacillus Amyloliquefaciens*

According to the petitioner (Refs. 8 and 14 through 16), the species *B. amyloliquefaciens* was not classified under the name *B. amyloliquefaciens* until it was taxonomically separated from the species *B. subtilis* in the late 1980's (Refs. 17 and 18). Therefore, the petitioner asserts, references in contemporaneous scientific literature to pre-1958 food use of enzyme preparations from *B. amyloliquefaciens* occur under the name *B. subtilis*.

With respect to carbohydrase components of the petitioned enzyme

preparations, the petitioner cites scientific literature describing a distinctive group of bacteria, within the group originally considered to be *B. subtilis*, that are known to possess a high level of α-amylase activity and are currently designated as *B. amyloliquefaciens* (Refs. 19 through 22). The petitioner also cites a scientific review article (Ref. 23) that states that the source organism for commercial preparations of α-amylase from *B. amyloliquefaciens* was called *B. subtilis* prior to its current designation as *B. amyloliquefaciens*. With respect to the protease components of the petitioned enzyme preparations, the petitioner cites a statement in the same scientific review article (Ref. 23) that most bacterial protease preparations produced before 1960 were derived from *B. amyloliquefaciens*.

As FDA noted in the preamble to another final rule affirming an enzyme preparation as GRAS (58 FR 27197 at 27199, May 7, 1993), the taxonomic placement and name of an organism may change as a result of scientific advances. If internationally accepted rules of nomenclature are observed, references to a particular organism can be followed historically in the scientific literature. Thus, changes in the taxonomic placement of an organism should not affect the ability to identify scientific references to the organism, including scientific references to its toxigenicity, pathogenicity, or use in the production of food or enzymes.In reviewing the petition, FDA has evaluated whether the scientific information documenting pre-1958 food use of bacterially-derived carbohydrase and protease enzyme preparations pertains to carbohydrase and protease enzyme preparations from *B. amyloliquefaciens*. Although it is not possible to determine conclusively whether any one reference to *B. subtilis* in the scientific literature refers to the species now referred to as *B. amyloliquefaciens*, the totality of the scientific evidence supports a determination that some carbohydrase and some protease enzyme preparations that were described in scientific literature documenting their common use in food before 1958 as derived from *B. subtilis* were in fact derived from *B. amyloliquefaciens*. Therefore, the agency concludes that carbohydrase and protease enzyme preparations derived from *B. amyloliquefaciens* were in common use in food prior to January 1, 1958.

B. Corroborating Evidence of Safety

Because enzymes are highly efficient catalysts, they are needed in only minute quantities to perform their function. When used in accordance with current good manufacturing practice (CGMP), the amounts added to food represent only a minute fraction of the total food mass. FDA estimates dietary exposure to enzyme preparations derived from *B. subtilis* or *B. amyloliquefaciens* at 200 mg/person/day (Ref. 24). This estimate is exaggerated because the agency used the total consumption of microbially-derived enzyme preparations in food as an approximation for the consumption of enzyme preparations derived from *B. subtilis* or *B. amyloliquefaciens*. Thus, the estimate relies on the worst-case assumption that all microbially-derived enzyme preparations that are consumed in food are derived from *B. subtilis* or *B. amyloliquefaciens*. This assumption is extremely conservative because there are numerous microbially-derived enzyme preparations that are GRAS for use in food (see, e.g., 21 CFR 184.1012, 184.1027, 184.1387, 184.1388, 184.1924, and 184.1985).

1. The Enzyme Components

Enzymes, including carbohydrase and protease enzymes in the enzyme preparations that are the subject of this document, are naturally occurring proteins that are ubiquitous in living organisms. A wide variety of enzymes has always been present in human food. Many naturally occurring enzymes remain active in unprocessed food and therefore are consumed as active enzymes. For example, active enzymes are present in fresh fruits and vegetables and are not inactivated unless the fruits or vegetables are cooked (Refs. 1 and 25).

Enzymes derived from microorganisms have been used as components of foods that have been safely consumed as part of the diet throughout human history (Ref. 26). For example, such common foods as bread and yogurt are produced using enzymes derived from microorganisms (Refs. 26 and 27).

The carbohydrase and protease enzymes in the enzyme preparations that are the subject of this document are substantially equivalent [2] to carbohydrase and protease enzymes from other microorganisms that FDA has evaluated and found to be safe and that are routinely consumed as part of a normal diet in the United States. For example, FDA has affirmed the use of a mixed carbohydrase and protease enzyme preparation derived from *Bacillus licheniformis* is GRAS (see 21 CFR 184.1027). In addition, carbohydrases derived from various fungi (e.g., *Rhizopus niveus*, *Rhizopus oryzae*, and *A. niger*) are approved for use as secondary direct food additives (see 21 CFR 173.110, 173.130, and 173.120, respectively).

In general, issues relevant to a safety evaluation of proteins such as the enzyme component of an enzyme preparation are potential toxicity and allergenicity. Pariza and Foster (Ref. 1) note that very few toxic agents have enzymatic properties, and those that do (e.g., diphtheria toxin and certain enzymes in the venom of poisonous snakes) catalyze unusual reactions that are not related to the types of catalysis that are common in food processing and that are the subject of this document. Further, as the agency has noted in the context of guidance to industry regarding the safety assessment of new plant varieties, enzymes do not generally raise safety concerns (57 FR 22984 at 23000, May 29, 1992). Exceptions include enzymes that catalyze the formation of toxic substances or substances that are not ordinarily digested and metabolized. The catalytic activities of the enzymes that are the subject of this document are well known; they split proteins or carbohydrates into smaller subunits that are readily metabolized by the human body and that do not have toxic properties.

According to Pariza and Foster (Ref. 1), there have been no confirmed reports of allergies or primary irritations in consumers caused by enzymes used in food processing. There have been, however, some reports of allergies and primary irritations from skin contact with enzymes or inhalation of dust from concentrated enzymes (for example, proteases used in the manufacture of laundry detergents) (Refs. 29 through 31). These reports relate primarily to workers in production plants (Ref. 30) and are not relevant to an evaluation of

[2] A 1996 report of the joint Food and Agriculture Organization and World Health Organization (FAO/WHO) consultation group (Ref. 28) stated that "[s]ubstantial equivalence embodies the concept that if a new food or food component is found to be substantially equivalent to an existing food or food component, it can be treated in the same manner with respect to safety (i.e. the food or food component can be concluded to be as safe as the conventional food or food component). Account should be taken of any processing that the food or food component may undergo as well as the intended use and the intake by the population." As discussed more fully in FDA's proposal to amend the agency's regulations pertaining to substances that are generally recognized as safe (62 FR 18938 at 18944, April 17, 1997), international expert groups such as the FAO/WHO consultation group and the Organization for Economic Co-operation and Development (OECD) consultation group have recommended that the concept of "substantial equivalence" be applied to the safety assessment of foods and substances intentionally added to food.

the safety of ingestion of such enzymes in food.

The 1977 report of the Select Committee on GRAS substances concerning the plant enzyme papain (Ref. 29) supports the view that the ingestion of an active protease at levels found in food products is not likely to affect the human gastrointestinal tract, where many proteases already exist at levels adequate to digest food:

> In common with other proteolytic enzymes, papain digests the mucosa and musculature of tissues in contact with the active enzyme for an appreciable period. Because there is no food use of papain that could result in the enzyme preparation occurring in sufficient amount in foods to produce these effects, this property does not pose a dietary hazard.

FDA concludes that generally available and accepted data and information corroborate the safety of the enzyme components of the enzyme preparations that are the subject of this document by establishing that these enzyme components are identical or substantially equivalent to enzymes that are known to have been safely consumed in the diet for many years. FDA also concludes that generally available and accepted data and information corroborate that the enzyme components of the enzyme preparations that are the subject of this document are nontoxigenic and nonallergenic when ingested.

2. Enzyme Sources, Manufacturing Methods, and Processing Aids

Enzyme preparations used in food processing are usually not chemically pure; in addition to the enzyme component(s), they may contain other components derived from the production organism and the fermentation medium, residual amounts of processing aids, and substances added as stabilizers, preservatives, or diluents. The agency has concluded that the enzyme components of the carbohydrase and protease enzyme preparations derived from *B. subtilis* or *B. amyloliquefaciens* do not raise safety concerns; therefore, the remaining safety issue is whether other components of the enzyme preparations are toxic or raise other safety concerns.

a. *Antibiotics.* Some microorganisms are capable of producing antibiotics, which are a special class of metabolites that can inhibit the growth of, or kill, other microorganisms. Some microorganisms have genetic traits that make them resistant to one or more antibiotics such as penicillin, tetracycline, and kanamycin. These traits or markers are often located on plasmids (extrachromosomal pieces of deoxyribonucleic acid (DNA) that are easily transferred to other microorganisms in the environment (e.g., in the gastrointestinal tract). The presence of antibiotics in the food supply would be expected to favor the growth of microorganisms resistant to the antibiotic, and thus could accelerate the spread of antibiotic resistance among microorganisms, including human pathogens, rendering them resistant to therapy with antibiotic drugs. Therefore, experts have recommended that microbial-derived enzyme preparations that are intended for food use not contain clinically important antibiotics (Refs. 1 and 32).

Accordingly, FDA has evaluated the potential for carbohydrase or protease enzyme preparations derived from *B. subtilis* or *B. amyloliquefaciens* to contain antibiotics as contaminants derived from the bacterial source. Although *Bacillus* species are capable of producing a number of linear or cyclic polypeptide antibiotics following the exponential phase of growth as part of the process of spore formation (Ref. 33), the production of antibiotics can be repressed by selection of strains that produce low or undetectable levels of antibiotics as well as by strict control of the growth conditions. In addition, the enzyme preparations can be tested for the presence of antibiotic activity by routine methods (Ref. 34) to ensure that they do not contain antibiotics. Because of safety concerns about the presence of antibiotics in substances added to food, a condition of agency affirmation of GRAS status for the enzyme preparations that are the subject of this document is that the enzyme preparations not contain antibiotics.

b. *Toxicity and pathogenicity.* A published scientific review article (Ref. 23) states that *Bacillus* species, with the exception of the *B. cereus* group (which does not include *B. subtilis* or *B. amyloliquefaciens*) do not produce toxins. Another published scientific review article on the safety of *B. subtilis* and *B. amyloliquefaciens* (Ref. 35) notes that *B. subtilis* is consumed in large quantities in the Japanese food natto. Further, according to a monograph on microbial enzymes that was prepared under the auspices of the agency-initiated review of GRAS substances conducted during the 1970's, there had been no reported problems of pathogenicity or toxicity with enzyme preparations derived from *B. subtilis* for use in food as of the time of that review (Ref. 12).

More recently, de Boer and Diderichsen (Ref. 35) searched the scientific literature for references that might implicate *B. subtilis* or *B. amyloliquefaciens* as a cause of human disease. These authors characterized *B. subtilis* as an opportunistic microorganism with no pathogenic potential to humans. Although they reported that cultures from some patients with opportunistic infections have revealed the presence of *B. subtilis* along with other microorganisms, they attributed the presence of *B. subtilis* in these cultures to the virtual ubiquity of this microorganism in the environment (e.g., *B. subtilis* commonly occurs in the soil and can be isolated in the home environment from sites such as the kitchen and bathroom). De Boer and Diderichsen also noted that only patients treated with immunosuppressive drugs appeared to be susceptible to such infections. Moreover, viable cells, which are not present in finished enzyme preparations, would be a prerequisite for any opportunistic infection in an immunocompromised patient. De Boer and Diderichsen also reported that their search for references on *B. amyloliquefaciens* infections revealed no such cases. As discussed in section IV.A.2 of this document, any references to *B. amyloliquefaciens* prior to the late 1980's would be expected to occur under the name *B. subtilis*.

A few reports have implicated *B. subtilis* as a potential source of food poisoning when present as a contaminant in food (Refs. 36 and 37). However, a particular strain of virtually any microorganism may, under certain circumstances, mutate to become an opportunistic pathogen. Therefore, FDA considered these reports in the context of: (1) The information summarized in the monograph on microbial enzymes (Ref. 12); (2) the scientific review article describing *Bacillus* species other than those in the *B. cereus* group as nontoxigenic (Ref. 23); (3) the documented consumption of *B. subtilis* bacteria in the Japanese food natto (Ref. 35); and (4) the characterization by de Boer and Diderichsen of *B. subtilis* as an opportunistic microorganism with no pathogenic potential to humans (Ref. 36). Based on this information, FDA concludes that nontoxigenic and nonpathogenic strains of *B. subtilis* are widely available and have been safely used in a variety of food applications. Because an enzyme preparation derived from a toxigenic or pathogenic source would not be GRAS, a condition of agency affirmation of GRAS status for the enzyme preparations that are the subject of this document is that the bacterial strains used as a source of these enzyme preparations be nontoxigenic and nonpathogenic.

c. Manufacturing methods and processing aids. Enzyme preparations

that are manufactured in accordance with CGMP using the methods described in section III.B of this document meet the general requirements and additional requirements in the monograph on enzyme preparations in the Food Chemicals Codex, 4th ed. (Ref. 3). Such enzyme preparations are produced using substances that are acceptable for use in foods and under culture conditions that ensure a controlled fermentation, thus preventing the introduction of extraneous microorganisms that could be the source of toxic materials and other toxic substances (Ref. 3).

FDA concludes that generally available and accepted data and information corroborate the safety of carbohydrase and protease enzyme preparations derived from nontoxigenic and nonpathogenic strains of *B. subtilis* or *B. amyloliquefaciens* and manufactured in accordance with CGMP by establishing that any added substances or impurities derived from the enzyme source or introduced during the manufacturing of such enzyme preparations would not be expected to present health concerns.

V. Comments

FDA received seven comments in response to the filing notice and none in response to the amendment notices. Of these, FDA received two comments from food manufacturers, two from trade associations, one from a manufacturer of enzymes for use in animal feed, one from a pharmaceutical manufacturer, and one from a consumer group. Six comments supported the petition for GRAS affirmation, stating that the enzyme preparations included in the petition have a long history of use in foods such as cheese, bread, and corn syrup.

One comment stated that *B. subtilis* has a history of use in animal feed and requested GRAS affirmation for this use. However, the petition is for the use of certain enzyme preparations in human food, and not in animal feed. Therefore, the agency finds that this comment is not relevant to the petition.

One comment asserted that enzyme preparations should not be considered GRAS. The comment further asserted that the use of enzyme preparations should be declared on the label of foods and that consumers should be warned about hazards inherent in their use. The comment stated that enzyme preparations are rarely purified to any significant degree and contain a variety of cellular constituents and metabolic debris. The comment further argued that, although enzyme preparations are used at low levels and are inactivated after the treatment of food, they may elicit allergic reactions and other biological activities which could be detrimental to human health. In support of this statement, the comment cited a published scientific article (Ref. 38) that reported that enzyme preparations from *B. subtilis* caused temporary weight loss and aggravated infection in mice when injected into the abdominal cavity and caused hemolysis and hemagglutination of sheep erythrocytes in in vitro studies.

FDA has evaluated the comment and the article it cited. For the following two reasons, FDA concludes that the study cited by the comment is not relevant to food uses of the bacterial enzyme preparations that are the subject of this document.

First, the paper did not identify the composition of the *B. subtilis* enzyme preparations tested. The preparations were intended for use in laundry detergents; such nonfood grade enzyme preparations need not conform to specifications for enzyme preparations used in food processing. For example, nonfood grade enzyme preparations may include processing aids that are not acceptable for food use. Because of such differences, the results from the testing of laundry cleaning enzyme preparations have little value in the safety assessment of food-processing enzyme preparations.

Second, in the cited study, adverse effects were observed in mice after the intraperitoneal administration of *B. subtilis* autolysates. However, exposure to enzyme preparations in food occurs by ingestion and not by injection. The difference in the route of exposure is particularly significant for assessing the significance of immunological effects. With intraperitoneal administration, the components of the immune system are directly exposed to a high level of the test compound. This contrasts with exposure to enzyme preparations in food, whereby low levels of the enzyme preparations are ingested and undergo hydrolysis by digestive enzymes before any interaction with the immune system. Pariza and Foster (Ref. 1) note that there are no confirmed reports of allergic reactions in consumers caused by enzymes used in food processing.

Moreover, a report of the Joint Food and Agriculture Organization/World Health Organization Expert Committee on Food Additives (JECFA) corroborates the safety of food uses of enzyme preparations from *B. subtilis* (Ref. 39). This report concluded that results from a 90-day feeding study in rats showed no adverse effects. The test diet was meat protein-based and supplemented with a protease enzyme preparation from *B. subtilis* at a 1-percent level (equivalent to approximately 1 gram of enzyme preparation per kilogram of body weight per day). This level is more than 300 times greater than the highest level that would be expected in the human diet (200 mg/person/day, or 3.3 mg/kg body weight per day for a 60 kg person), as estimated in section IV.B of this document.

With respect to the comment's assertion that enzyme preparations should be declared on the label of foods in which they are used, the agency notes that under certain circumstances, applicable regulations already require use of an enzyme preparation in a food to be declared on the label, depending upon the nature of the enzyme preparation's use and technical effect in the food. Section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(i)(2)) requires that all ingredients of multi-ingredient foods be listed on the label of the food. By regulation, FDA has exempted certain ingredients that are used only as processing aids from this requirement. Section 101.100(a)(3)(ii)*(a)* and (a)(3)(ii)*(c)* (21 CFR 101.100(a)(3)(ii)*(a)* and (a)(3)(ii)*(c)*) provides an exemption from the ingredient listing requirement for processing aids that are added to a food for their technical or functional effect during processing, but are either removed from the food before packaging or are present in the finished food at insignificant levels and do not have any technical or functional effect in the finished food. Although many enzyme preparations are used as processing aids in food (e.g., amylase preparations used in the manufacture of glucose syrup and protease preparations used in the manufacture of protein hydrolysates), other enzyme preparations that are added during processing (e.g., protease preparations used in tenderizing meat) are not processing aids as defined in § 101.100(a)(3)(ii) because they remain active in the finished food product. For example, enzymes used in the manufacture of swiss and cheddar cheese remain active in the finished cheese, enhancing body, flavor, and aroma (49 FR 29242, July 19, 1984). Because such effects in the finished food remove the enzymes from the ingredient listing exemption for processing aids in § 101.100(a)(3)(ii)(c), the use of such enzymes must be declared on the label. Therefore, whether a label declaration is needed for the use of an enzyme preparation in a food will depend upon its function and effect in the food.

VI. Conclusions

The petitioner has provided generally available evidence demonstrating that carbohydrase and protease enzyme preparations from *B. subtilis* were in common use in food prior to 1958. FDA has determined, under § 170.30(a) and (c)(1), that this information provides an adequate basis upon which to conclude that the safety of these enzyme preparations for use in food is generally recognized among the community of experts qualified by scientific training and experience to evaluate the safety of food ingredients.

The petitioner has also provided generally available evidence demonstrating that the bacterium now known as *B. amyloliquefaciens* was formerly included within the *B. subtilis* classification. Based on its analysis of the data submitted, the agency concludes that the evidence of common use in food pertains to carbohydrase and protease enzyme preparations from the bacterium now known as *B. amyloliquefaciens* as well as to carbohydrase and protease enzyme preparations from *B. subtilis*.

This evidence of common use in food prior to 1958 is corroborated by information that the enzymes themselves and the sources from which they are derived are nontoxic and nontoxicogenic, and that manufacturing will not introduce impurities that would adversely affect the safety of the finished enzyme preparations. Moreover, the carbohydrase and protease enzyme preparations from *B. subtilis* and *B. amyloliquefaciens* are substantially equivalent to enzymes naturally present in foods that have been safely consumed in the human diet for many years.

Having evaluated the information in the petition, along with other available information related to the use of these enzyme preparations, the agency concludes that carbohydrase enzyme preparation and protease enzyme preparation derived from either *B. subtilis* or *B. amyloliquefaciens* are GRAS under conditions of use consistent with CGMP. The agency is basing its conclusion on evidence of a substantial history of safe consumption of the enzyme preparations in food by a significant number of consumers prior to 1958, corroborated by the other evidence summarized in section IV.B of this document.

FDA is affirming that the use of these bacterially-derived carbohydrase and protease enzyme preparations in food is GRAS with no limits other than CGMP (21 CFR 184.1(b)(1)). To clarify the identity of each enzyme preparation, the agency is including in §§ 184.1148(a) and 184.1150(a) the EC numbers of the enzymes that supply the characterizing enzyme activities of each preparation. In order to make clear that the affirmation of the GRAS status of these enzyme preparations is based on the evaluation of specific uses, the agency is including in §§ 184.1148(c) and 184.1150(c) the technical effect and the specific substances on which each enzyme preparation acts, although the data show no basis for a potential risk from any foreseeable use of these enzyme preparations.

For simplicity, FDA is affirming the GRAS status of both carbohydrase enzyme preparations in a single combined regulation that describes the source of the enzyme as *B. subtilis* or *B. amyloliquefaciens*, rather than affirming the GRAS status of carbohydrase derived from *B. subtilis* separately from that of carbohydrase derived from *B. amyloliquefaciens*. Likewise, FDA is affirming the GRAS status of both protease enzyme preparations in a single combined regulation that describes the source of the enzyme as *B. subtilis* or *B. amyloliquefaciens*.

To ensure that the enzyme preparations are of suitable purity for use in food, FDA is including in the regulations the general requirements and additional requirements for enzyme preparations in the monograph "Enzyme Preparations" in the Food Chemicals Codex, 4th ed. (1996) as general specifications for these enzyme preparations. Furthermore, to ensure that the use of these enzyme preparations does not promote the development of antibiotic resistance, the agency is specifying that the enzyme preparations must be free of antibiotic activity as determined by a suitable method (e.g., the method described in Ref. 34).

VII. Environmental Considerations

The agency has determined under 21 CFR 25.32(f) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Analysis for Executive Order 12866

FDA has examined the impacts of this final rule under Executive Order 12866. Executive Order 12866 directs Federal agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). According to Executive Order 12866, a regulatory action is significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million, adversely affecting in a material way a sector of the economy, competition, or jobs, or raising novel legal or policy issues. FDA finds that this final rule is not a significant regulatory action as defined by Executive Order 12866. In addition, the agency has determined that this final rule is not a major rule for the purpose of Congressional review.

The primary benefit of this action is to remove uncertainty about the regulatory status of the petitioned substances. No compliance costs are associated with this final rule because no new activity is required and no current or future activity is prohibited by this rule.

IX. Regulatory Flexibility Analysis

FDA has examined the impacts of this final rule under the Regulatory Flexibility Act. The Regulatory Flexibility Act (5 U.S.C. 601–612) requires agencies to consider alternatives that would minimize the economic impact of their regulations on small entities. No compliance costs are associated with this final rule because no new activity is required and no current or future activity is prohibited. Accordingly, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

X. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

XI. Effective Date

As this rule recognizes an exemption from the food additive definition in the Federal Food, Drug, and Cosmetic Act, and from the approval requirements applicable to food additives, no delay in effective date is required by the Administrative Procedure Act, 5 U.S.C. 553(d). The rule will therefore be effective immediately (5 U.S.C. 553(d)(1)).

XII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons

between 9 a.m. and 4 p.m., Monday through Friday.

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15. Letter dated August 17, 1995, from Gary L. Yingling, Enzyme Technical Association, to Alan M. Rulis, FDA.

16. Letter dated April 16, 1996, from Alice J. Caddow, Enzyme Technical Association, to Linda Kahl, FDA.

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List of Subjects in 21 CFR Part 184

Food additives, Food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 184 is amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR part 184 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

2. Section 184.1148 is added to subpart B to read as follows:

§ 184.1148 Bacterially derived carbohydrase enzyme preparation.

(a) Bacterially derived carbohydrase enzyme preparation is obtained from the culture filtrate resulting from a pure culture fermentation of a nonpathogenic and nontoxigenic strain of *Bacillus subtilis* or *B. amyloliquefaciens*. The preparation is characterized by the presence of the enzymes α-amylase (EC 3.2.1.1) and β-glucanase (EC 3.2.1.6), which catalyze the hydrolysis of *O*-glycosyl bonds in carbohydrates.

(b) The ingredient meets the general requirements and additional requirements in the monograph on enzyme preparations in the Food Chemicals Codex, 4th ed. (1996), pp. 128–135, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are

available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, antibiotic activity is absent in the enzyme preparation when determined by an appropriate validated method such as the method "Determination of antibiotic activity" in the Compendium of Food Additive Specifications, vol. 2, Joint FAO/WHO Expert Committee on Food Additives (JECFA), Food and Agriculture Organization of the United Nations, Rome, 1992. Copies are available from Bernan Associates, 4611–F Assembly Dr., Lanham, MD 20706, or from The United Nations Bookshop, General Assembly Bldg., rm. 32, New York, NY 10017, or by inquiries sent to "http://www.fao.org". Copies may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to hydrolyze polysaccharides (e.g., starch).

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

3. Section 184.1150 is added to subpart B to read as follows:

§ 184.1150 Bacterially-derived protease enzyme preparation.

(a) Bacterially derived protease enzyme preparation is obtained from the culture filtrate resulting from a pure culture fermentation of a nonpathogenic and nontoxigenic strain of *Bacillus subtilis* or *B. amyloliquefaciens*. The preparation is characterized by the presence of the enzymes subtilisin (EC 3.4.21.62) and neutral proteinase (EC 3.4.24.28), which catalyze the hydrolysis of peptide bonds in proteins.

(b) The ingredient meets the general requirements and additional requirements in the monograph on enzyme preparations in the Food Chemicals Codex, 4th ed. (1996), pp. 128–135, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700 Washington, DC. In addition, antibiotic activity is absent in the enzyme preparation when determined by an appropriate validated method such as the method "Determination of antibiotic activity" in the Compendium of Food Additive Specifications, vol. 2, Joint FAO/WHO Expert Committee on Food Additives (JECFA), Food and Agriculture Organization of the United Nations, Rome, 1992. Copies are available from Bernan Associates, 4611–F Assembly Dr., Lanham, MD 20706, or from The United Nations Bookshop, General Assembly Bldg., rm. 32, New York, NY 10017, or by inquiries sent to "http://www.fao.org". Copies may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to hydrolyze proteins or polypeptides.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

Dated: March 26, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10011 Filed 4–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 203 and 204

[Docket No. FR–4288–N–03]

RIN 2502–AH08

Withdrawal of Interim Rule on Builder Warranty for High Ratio FHA-Insured Single Family Mortgages for New Homes

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Withdrawal of interim rule.

SUMMARY: This notice withdraws an interim rule, published on March 25, 1999, that would have permitted FHA insurance for a mortgage on a new home to exceed a 90 percent loan-to-value ratio if the home is covered by a 1-year builder warranty that meets the requirements of HUD regulations. This rule would have replaced a 10-year builder warranty requirement.

DATES: This withdrawal is effective April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Home Mortgage Insurance Division, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–2700. (This is not a toll free number.) For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 25, 1999, HUD published an interim rule for public comment. This rule, scheduled to take effect on April 27, 1999, would have permitted FHA insurance for a mortgage on a new home to exceed a 90 percent loan-to-value ratio if the home is covered by a 1-year builder warranty that meets the requirements of HUD regulations. This rule would have eliminated a 10-year builder warranty requirement.

There was favorable reaction to HUD's change in warranty requirements when first announced. However, since publication of the interim rule, some affected parties have expressed concern about the elimination of a 10-year warranty requirement and have requested that HUD further consider the matter before allowing the change in warranty requirements to take effect.

HUD continues to believe, as noted in the interim rule, that the quality of housing and building technology has improved so substantially that a 10-year warranty requirement is excessive, and a comprehensive 1-year builder warranty provides valuable consumer protection and is consistent with current industry practices and requirements. Nevertheless, HUD agrees to further consider this issue.

HUD is therefore withdrawing the March 25, 1999 interim rule. HUD will reissue this rule as a proposed rule and take additional public comment on this subject.

Accordingly, the interim rule to amend 24 CFR parts 203 and 234, published on March 25, 1999, at 64 FR 14572, entitled, Builder Warranty for High Ratio FHA-Insured Single Family Mortgages for New Homes, is hereby withdrawn.

Dated: April 15, 1999.
William C. Apgar,
Assistant Secretary for Housing-Federal Housing Commissioner.
[FR Doc. 99–10137 Filed 4–22–99; 8:45 am]
BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 61

RIN 1076–AD89

Preparation of Rolls of Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is amending its regulations governing the compilation of rolls of Indians in order to reopen the enrollment application process for the Sisseton and Wahpeton Mississippi Sioux Tribe. The amendment reopens the enrollment period to comply with a directive of the Eighth Circuit Court of Appeals, and to modify the standards used to verify Sisseton and Wahpeton Mississippi Sioux Tribe ancestry.

DATES: This rule becomes effective on May 24, 1999.

FOR FURTHER INFORMATION CONTACT: Daisy West, 202–208–2475.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Indian Affairs must reopen the enrollment application process authorized under 25 U.S.C. 1300d–3(b) to give individuals another opportunity to file applications to share in the Sisseton and Wahpeton Mississippi Sioux judgment fund distribution. The Eighth Circuit Court of Appeals decision in *Loudner* v. *U.S.*, 108 F. 3d 896 (8th Cir. 1997), held that the Bureau of Indian Affairs did not give proper notice of the application period, and that 5 months was not a sufficient time period within which to file applications, in light of the long delay in distribution of the fund.

This rule reopens the enrollment period to allow adequate time for eligible persons to enroll. It also identifies the specific rolls that we will use to verify Sisseton and Wahpeton Mississippi Sioux Tribe ancestry as required by subsection 7(c) of Pub. L. 105–387.

On July 8, 1998, the Bureau of Indian Affairs (BIA) published a proposed amendment to 25 CFR Part 61 in the **Federal Register** at 63 FR 36866. Since then, three things have happened:

(1) On November 13, 1998, Congress amended the Act of October 25, 1972, Pub. L. 555, 86 Stat. 1168, to include a provision concerning verification of Sisseton and Wahpeton Mississippi Sioux Tribe ancestry.

(2) BIA held a meeting in Sioux Falls, South Dakota with a group of approximately 30 Sisseton and Wahpeton Mississippi Sioux lineal descendants and others to discuss the proposed rule that was published on July 8, 1998.

(3) We have received two public comments on the proposed rule.

In light of these three occurences, we have made several changes to the provisions that we published in the proposed rule. We have explained these changes in the section of this preamble titled "Changes to the Proposed Rule."

Review of Public Comments

We received written comments from two individuals. Those comments and our responses are as follows:

1. *Comment:* We take issue with the timing proposed for establishing the application deadline date and object to steps two and three as set forth under the provisions of "Application Deadline". Due to the court proceedings in the *Loudner* case, there has already been a great deal of publicity, correspondence, newspaper articles, and published summaries about the rights of lineal descendants since October 1994. There have also been at least three public meetings at the Crow Creek and Yankton Sioux Reservations in South Dakota. For that reason, the lineal descendants who would be entitled to share in the judgment fund distribution already know that judgment funds are available and that they can apply for them. The application period should be set for a fixed period of 60 days.

Response: While there has been publicity in North and South Dakota about the reopening of this enrollment period, there has been little if any publicity about this in other parts of the United States. A flexible application period will allow us to continue accepting applications until the application review process is almost complete without significantly affecting the time required to complete the review process. It will also give the lineal descendants who live away from the Sioux Indian reservations the maximum opportunity to file applications. As mentioned elsewhere in this preamble, we are reducing the number of days specified in step one of the application process from 180 days to 90 days because of the number of applications already on file with the Aberdeen Area Office.

2. *Comment:* If the Bureau of Indian Affairs cannot process the applications within 90 days, the rule should either allow the Federal Court to conduct the review or enable the Secretary to retain an independent commercial agency to do the review.

Response: The approximately 3,000 applications that we have received are mostly undocumented. They do not include copies of birth certificates, marriage certificates, proof of paternity, or, if deceased, death certificates. The applications also do not include family history charts that show each generation between the applicant and an ancestor named on the Sisseton and Wahpeton Mississippi Sioux Tribe rolls specified under 25 U.S.C. 1300d–26(c). If we were to limit the review process to 90 days, we would have to deny most of the applications because they don't include these documents. We would prefer not to do this because most of the applicants are probably Sisseton and Wahpeton Mississippi Sioux lineal descendants. By extending the review process we will have time to review each application and ask the applicant for any information that we cannot find in our records.

We also do not think it is feasible for us to "allow the Federal Court to conduct the review" under federal regulations. If the court were to assume jurisdiction of the review, it would probably still leave the review process with us. We would be required to submit several thousand recommendations to the court for determination. Each determination would then be subject to appeal.

If the review is conducted by the Bureau of Indian Affairs, an independent contractor, or under the supervision of the court, the same problem remains—insufficient documentation to verify the applicant's ancestry. If an applicant's ancestry cannot be sufficiently documented, then the application must be denied under 25 U.S.C. 1300d–26(c).

As we've already explained, a 90-day limitation on the review process would force us to deny the many applications that do not include proof of Sisseton and Wahpeton Mississippi Sioux ancestry.

Changes to the Proposed Rule

As a result of the new legislation, we have made the following changes to the rule:

(1) We have added new criteria relating to ancestry in § 61.4(s)(1)(i)(A)–(B). These new criteria replace the

criterion in § 61.4(s)(1)(iv) of the proposed rule.

(2) We have added new names to the list in § 61.4(s)(1)(v). This list was in § 61.4(s)(1)(iv) of the proposed rule.

As a result of the public meeting and comments, we have changed the procedure that we will use to calculate the deadline for receiving applications. Specifically, we have reduced the number of days that we will use in step one of this procedure from 180 to 90. (We have explained the procedure we will use to calculate the application deadline in the section of this preamble titled "Application Deadline.") We have made this change because approximately 3,000 individuals have already contacted the BIA Aberdeen Area Office concerning the reopening of the Sisseton and Wahpeton Mississippi Sioux enrollment application process.

Application Deadline

We have not established a firm application deadline in this rule. In order to allow adequate time for submitting and processing applications we will establish a deadline using the following three steps:

Step 1. On August 23, 1999, we will count all applications that we have received.

Step 2. We will note the date on which we complete processing of 90 percent of the applications that we receive by August 23, 1999.

Step 3. The application deadline will be 90 days after the date in Step 2.

For example, if we receive 10 applications by August 23, 1999, the final application deadline date will be 90 days after we process 9 applications. Similarly, if we receive 10,000 applications by August 23, 1999, the final application deadline date will be 90 days after we process 9,000 applications.

After we establish the application deadline, we will notify the same area directors, agency superintendents, and local newspapers that we notify after publishing this rule. (See the section in this preamble titled "Additional Notice and Public Meetings.") Our notification will include application/enrollment criteria.

Additional Notice and Public Meetings

We will take several steps to ensure that all potential applicants are informed of the reopening of the enrollment application period.

(1) We will notify all BIA Area Directors and Agency Superintendents and require them to post notices in area offices, agency offices, community centers on and near reservations, and in Indian Health Clinics.

(2) We will notify tribal newspapers and newspapers of general circulation in major communities in Montana, North Dakota, South Dakota, Nebraska, and Minnesota.

(3) We will hold community meetings on Indian reservations identified from the 1909 roll, including: Cheyenne River, Crow Creek, Upper Sioux, Sisseton-Wahpeton, Spirit Lake, Fort Peck, Standing Rock, Lower Brule, Yankton, Rosebud, and Pine Ridge.

At each of the community meetings we will:

(1) Inform potential beneficiaries of the reopening of the enrollment process for this judgment fund;

(2) Inform potential beneficiaries of eligibility criteria; and

(3) Help applicants to prepare and file applications.

Previously Submitted Applications

We have on file applications submitted under § 61.4(s) that we denied because we received them after November 1, 1973. We will now process these applications. If you previously filed an application that we denied, you may wish to confirm that we have it and are processing it. To do this, please call the Aberdeen Area Tribal Enrollment Office at (605) 226–7376.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlement, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because it makes technical changes that do not affect the substance of the rules there is no economic effect at all, other than to improve the utility of the rules for users.

Small Business Regulatory Enforcement Fairness Act (SBREFA).

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(1) Does not have an annual effect on the economy of $100 million or more.

(2) Will not cause a major increase in cost or prices for consumers, individual industries, Federal, State, or geographic regions.

(3) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required.

Federalism (E.O. 12612)

In accordance with Executive Order 12612, the rule does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of states.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule requires collection of information from many enrollees. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d), the Department submitted a copy of the application to the Office of Management and Budget (OMB) for its review. OMB approved the application form and assigned form number 1076–0145 with the expiration date of September 30, 2001.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the

quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

List of Subjects in 25 CFR Part 61

Indians, Indians—claims.

Dated: April 14, 1999.

Kevin Gover,

Assistant Secretary for Indian Affairs.

For the reasons given in the preamble, Part 61 of Chapter 1 of Title 25 of the Code of Federal Regulations is amended as follows.

PART 61—PREPARATION OF ROLLS OF INDIANS

1. The authority citation for 25 CFR part 61 is revised to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2 and 9, 1300d–3(b), 1300d–26, 1401 *et seq.*

2. In § 61.4, paragraph (s) is revised to read as follows:

§ 61.4 Qualifications for enrollment and the deadline for filing application forms.

* * * * *

(s) *Sisseton and Wahpeton Mississippi Sioux Tribe.* (1) Persons meeting the criteria in this paragraph are entitled to enroll under 25 U.S.C. 1300d–3(b) to share in the distribution of certain funds derived from a judgment awarded to the Mississippi Sioux Indians. To be eligible a person must:

(i) Be a lineal descendent of the Sisseton and Wahpeton Mississippi Sioux Tribe;

(A) Those individuals who applied for enrollment before January 1, 1998, and whose applications were approved by the Aberdeen Area Director before that same date, are deemed to appear in records and rolls acceptable to the Secretary or have a lineal ancestor whose name appears in these records;

(B) Those individuals who apply for enrollment after January 1, 1998, or whose application was not approved by the Aberdeen Area Director before that same date, must be able to trace ancestry to a specific Sisseton or Wahpeton Mississippi Sioux Tribe lineal ancestor who was listed on:

(*1*) The 1909 Sisseton and Wahpeton annuity roll;

(*2*) The list of Sisseton and Wahpeton Sioux prisoners convicted for participating in the outbreak referred to as the "1862 Minnesota Outbreak";

(*3*) The list of Sioux scouts, soldiers, and heirs identified as Sisseton and Wahpeton Sioux on the roll prepared under the Act of March 3, 1891 (26 Stat. 989 *et seq.*, Chapter 543); or

(*4*) Any other Sisseton or Wahpeton payment or census roll that preceded a roll referred to in paragraphs (s)(1)(i)(B)(*1*), (*2*), or (*3*) of this section.

(ii) Be living on October 25, 1972;

(iii) Be a citizen of the United States;

(iv) Not be listed on the membership rolls for the following tribes:

(A) The Flandreau Santee Sioux Tribe of South Dakota;

(B) The Santee Sioux Tribe of Nebraska;

(C) The Lower Sioux Indian Community at Morton, Minnesota;

(D) The Prairie Island Indian Community at Welch, Minnesota;

(E) The Shakopee Mdewakanton Sioux Community of Minnesota;

(F) The Spirit Lake Tribe (formerly known as the Devils Lake Sioux of North Dakota);

(G) The Sisseton-Wahpeton Sioux Tribe of South Dakota; or

(H) The Assiniboine and Sioux Tribes of the Fort Peck Reservation.

(v) Not be listed on the roll of Mdewakantan and Wahpakoota lineal descendants prepared under 25 U.S.C. 1300d–1(b).

(2) The initial enrollment application period that closed on November 1, 1973, is reopened as of May 24, 1999. The application period will remain open until further notice.

* * * * *

[FR Doc. 99–10208 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF JUSTICE

28 CFR Part 70

Uniform Administrative Requirements for Grants and Agreements (Including Subawards) with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations

CFR Correction

In Title 28 of the Code of Federal Regulations, parts 43 to End, revised as of July 1, 1998, the text appearing on page 339, following page 238, is incorrect and should be removed. The text on page 239 should read as follows:

* * * * *

(b) Except as provided in paragraph (h) of this section, program income earned during the project period must be retained by the recipient and, in accordance with the Department regulations or the terms and conditions of the award, must be used in one or more of the ways listed in the following:

(1) Added to funds committed to the project by the Department and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(c) When the Department authorizes the disposition of program income as described in paragraphs (b)(1) or (b)(2), of this section, program income in excess of any limits stipulated must be used in accordance with paragraph (b)(3) of this section.

(d) In the event that the Department does not specify in its regulations or the terms and conditions of the award how program income is to be used, paragraph (b)(3), of this section applies automatically to all projects or programs.

(e) Unless the Department's regulations or the terms and conditions of the award provide otherwise, recipients will have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) If authorized by the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property must be handled in accordance with the requirements of the Property Standards (See § § 70.30 through 70.37).

(h) Unless the terms and conditions of the award provide otherwise, recipients will have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

(i) Recipients must account for seized assets from the date of seizure until forfeiture and liquidation of funds occur.

§ 70.25 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the Federal and non-Federal share, or only the Federal share, depending upon the Department's requirements. It must be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, recipients must request in writing prior approval from the Department for one or more of the following program or budget related reasons:

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional Federal funding.

(5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, approval is required by the Department.

(6) The inclusion, unless waived by the Department, of costs that require prior approval in accordance with OMB Circular A–21, "Cost Principles for Institutions of Higher Education," OMB Circular A–122, "Cost Principles for Non-Profit Organizations," or 45 CFR part 74 appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals," or 48 CFR* * *

[FR Doc. 99–55515 Filed 4–22–99; 8:45 am]

BILLING CODE 1505–01–F

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1254

RIN 3095–AA69

Researcher Registration and Research Room Procedures

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule and interim rule.

SUMMARY: This rule will make it easier for students to do research in archival records and will reduce the frequency with which researchers must reapply for researcher cards to do research in NARA facilities. The rule also clarifies research room procedures to address conduct issues, to update the types of equipment that researchers can bring into the research room, and to clarify copying procedures. This rule will affect individuals who wish to use NARA research rooms in the National Archives Building and College Park facility in the Washington, DC, area, regional records services facilities, and Presidential libraries.

We are also revising the criteria and procedures for private microfilming projects to provide more specific criteria as to the types of requests that will be approved and conditions on that approval. These changes will affect organizations that wish to prepare microfilm publications from NARA holdings.

DATES: Effective: May 24, 1999.

Comments on § 1254.20(b) through (d), which is adopted as an interim rule, must be received by June 22, 1999. Comments will only be accepted on these paragraphs. NARA will issue a final rule confirming or further amending these paragraphs after this comment period closes.

ADDRESSES: Comments must be sent to Regulation Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. They may be faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at telephone number 301–713–7360, ext. 226, or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION: We published a notice of proposed rulemaking on August 11, 1998 (**Federal Register**, Vol. 63, No. 154, at pp. 42776–42782). Two comments were received. One endorsed the lower age limit for students to use the research room. The other respondent, a microfilm publisher, offered comments on certain proposed or existing requirements in Subpart F, Microfilming Archival Records. We have reviewed the respondent's comments and addressed them as discussed later in this **SUPPLEMENTARY INFORMATION** section.

Interim Final Rule Changes

The proposed rule contained three proposed revisions to § 1254.20 relating to revocation and reinstatement of research privileges:

- Modifying the grounds on which a researcher identification card may be revoked to add verbal and physical harassment of other researchers, NARA employees, volunteers, or contractor employees.
- Clarifying the description of unacceptable behavior to read "actions or language."
- Clarifying that the grounds for revoking privileges and for denying probationary reinstatement include danger to either documents or NARA property.

No comments were received on these proposed changes. In the proposed rule, the provisions were organized by the type of research privilege (researcher identification card and research privileges at research rooms where no card is required), following the format of the then existing regulations. The conditions under which privileges would be revoked, and appeal and reinstatement procedures were identical.

In drafting this final rule we reorganized the provisions to reflect the steps of the process. We believe that the reorganized format is easier to understand. No substantive changes have been made from the proposed rule. We are issuing these provisions (§ 1254.20(b) through (d)) as an interim final rule, however, to allow public comment in case our rewritten provisions inadvertently did make a change or they raise questions of the clarity on the process.

Review of Comments Made on the Proposed Rule

Conditions for Approving Requests To Microfilm Records

In response to the commenter's request that we reduce the time required to review requests for microfilm projects, we have changed the lead time for approval from 6 months to 4 months. We have also added "a limited number of separate series related by provenance or subject" to the definition of "one microfilming project."

The commenter questioned several of the criteria for approving requests in § 1254.94(a). In particular, the commenter was concerned that we intended to deny project proposals based on our assessment of their research value and that we would deny proposals to film series that may have future accessions (additional records). We have clarified § 1254.94(a) to reflect that potential research value is a criterion only when we are evaluating multiple projects and we cannot accommodate all of them at the same time. We have modified paragraph (a)(2) to state that records with future end-of-series accretions may be approved for filming.

The commenter also raised concerns with existing and proposed requirements in § 1254.94(d) relating to materials the micropublisher would furnish to us as a condition of approval. The commenter concurred with our current policy of making preservation and reference copies of the microfilm available for staff and researcher use in NARA facilities during the first seven years after the microfilming is done, but requested that we revise paragraph (d)(1) to prevent the wholesale reel duplication of the microform during this

period. The current rule adequately addresses this concern and we have made no changes to it.

The commenter agreed to the provision requiring detailed roll lists, but objected strongly to the proposed provisions requiring the micropublisher to furnish paper and electronic copies of any subject indexes, name indexes or other finding aids to its version of the microfilm, and that the electronic version should be in a form that can run easily on NARA's internal and external computer network(s). The commenter argued that this requirement was not technically feasible, and would seriously compromise the company's intellectual property rights. The finding aids are produced with proprietary software and represent significant value-added components to its microform products. We had proposed this requirement to enhance the ability of our reference staff to assist researchers using the microfilmed records. We recognize the validity of these comments and have modified the provision significantly. First, providing any finding aids other than the detailed microfilm roll lists is no longer a condition for approval of the project. Second, if a micropublisher wishes to provide other finding aids to NARA, the finding aids would be donated to us under a deed of gift which would restrict NARA's use of these products under mutually acceptable terms.

The commenter also objected to the proposed § 1254.94(k), which stated that NARA would not approve requests for microfilming records if we had insufficient staff to provide support, training, and monitoring services. The commenter stated that we should not use budgetary problems as justification for denying projects that achieve NARA goals of both preserving records and enhancing broad public access to the historical record. We believe the commenter's position is unreasonable and we have retained this provision.

Fees for Microfilm Preparation and Training Services

The commenter questioned the fees for several services covered by §§ 1254.96 and 1254.100. He stated that the declassification and reintegration of previously declassified materials to the files is a fundamental NARA function, and costs should not be imposed on microfilm publishers. We agree and have eliminated the following activities from the list of microfilm preparation activities in § 1254.96 for which a fee will be assessed: verifying or correcting the arrangement of documents after withdrawn items are reviewed and refiled when appropriate, screening documents for possible restrictions on use, declassifying security classified documents, and restoring recently declassified records to the files. The commenter stated that the assessment of fees to review document preparation work by NARA supervisors and senior staff is an effort to unfairly and disproportionately shift costs normally borne by NARA to micropublishers. Since quality control is a service that the microfilmer would expect to be included in document preparation, we have eliminated review by supervisors or senior staff as a separate fee item.

The commenter also stated his view that the training in proper document handling required by § 1254.100 did not have to be provided by NARA staff. If we provide the training, however, he urged that the program be more clearly defined and strengthened to provide for a certification renewal. We disagree with these comments. A primary goal of the training is to ensure that all persons working directly with original records receive the same information, adapted as appropriate to their specific tasks and responsibilities. Most of our training is tailored, focusing on procedures for handling specific types of records included in specific filming projects. Additional training may be required if microfilm operators work on subsequent projects involving different types of records. We believe the current description of the training is clear in conveying its purpose that "documents are not damaged during copying and so that their original order is maintained." We also see no need for a formal certification program.

Equipment Standards

The commenter noted that the proposed § 1254.98(a) needlessly restricted the use of non-table top models and emerging newer, more technologically advanced cameras. We agree with this comment and have revised the section to allow free standing/floor models if permission is first received from the relevant NARA unit. A sentence has also been added stating that new or improved camera types not specified in this section will be approved for use on a case-by-case basis.

Fees for NARA Support Services

The commenter expressed concerns with the fees to be charged for support services such as document preparation, document handling training, and monitoring of microfilm projects. While the commenter supported a "processing" fee that is fair and equitable, he did not support paying for monitoring and document preparation services that are provided for free to our on-site contractor and to individual researchers. He also noted that the proposed rule did not address how monitoring costs will be assessed when more than one project has undertaken microfilming operations in the same area.

We believe the changes in this final rule removing document review and declassification as document preparation services partially address this comment. We note, however, that the commenter misunderstands the relationship that we have with our on-site microfilm contractor. That contractor is operating as a NARA agent in producing NARA microfilm or fee reproductions for our customers, so we would not charge the contractor these fees. The archival handling component of the fee that the customer pays for a fee reproduction includes document preparation costs that we incur for that order. Similarly, the archival handling component of self-service electrostatic copying includes the cost of monitoring that work.

We have clarified § 1254.100(b) to specify that when more than one project shares the same space, monitoring costs will be divided equally among the projects. If we determine that the microfilm project can be located in a research room that monitors researchers who are not copying records, we will not assess a monitoring charge for monitoring that is already being provided.

We also disagree with the commenter's view that we have not provided a formula for the fees to be assessed for document preparation, training, and monitoring. The proposed rule states that fees will be based on direct salary costs (including benefits). We have clarified in § 1254.94(l) of the final rule that we will provide a detailed estimate of the fees for each specific project based on this formula in our letter providing tentative approval of the project. We have also deleted the proposed § 1254.100(l), which conflicted with this provision.

Information Collections Subject to the Paperwork Reduction Act

The information collections in §§ 1254.71(e), and 1254.92 are subject to the Paperwork Reduction Act. Under this Act, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The information collection in § 1254.92 has been approved by OMB with the control number 3095–0017. The information collection in § 1254.71(e) has been approved by OMB with the control number 3095–0035.

Plain Language

This regulation was published as a notice of proposed rulemaking prior to January 1, 1999. We will rewrite it in the plain language format required by the Presidential memorandum of June 1, 1998, Plain Language in Government Writing, at a future time.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget at the final rule stage. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1254

Archives and records, Confidential business information, Freedom of information, Micrographics, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, NARA is amending part 1254 of title 36, Code of Federal Regulations, as follows:

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

1. The authority citation for part 1254 continues to read:

Authority: 44 U.S.C. 2101—2118; 5 U.S.C. 552; and E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Section 1254.1 is amended by revising paragraph (d) to read:

§ 1254.1 General provisions.

* * * * *

(d) A Regional Administrator, a director of a Presidential Library, or a director of a Washington, DC, area research unit may require that researchers under the age of 14 years be accompanied by an adult researcher who agrees in writing to be present when the documents are used and to be responsible for compliance with the research room rules set forth in Subpart B.

* * * * *

3. Section 1254.2 is amended by revising paragraph (a) to read:

§ 1254.2 Location of documents and hours of use.

(a) Researchers should identify the location of the documents needed. Information about the location of records may be obtained by writing to the National Archives and Records Administration (NWCCR1), Washington, DC 20408; by sending an e-mail message to INQUIRE@NARA.GOV; sending a fax request to (301) 713–6920; or calling (202) 501–5400 or (301) 713–6800.

* * * * *

4. Section 1254.6 is revised to read:

§ 1254.6 Researcher identification card.

An identification card is issued to each person whose application is approved to use records other than microfilm. Cards are valid for 3 years. Cards may be renewed upon application. Cards are valid at each facility. Cards are not transferable and must be presented if requested by a guard or research room attendant.

§ 1254.8 [Amended].

5. In paragraphs (b) and (c) of § 1254.8, remove the phrase "the Director of the Legal Services Staff (NXL) or his designee" and add in its place the phrase "the General Counsel (NGC) or his/her designee".

6. Section 1254.10 is revised to read:

§ 1254.10 Registration.

Researchers must register each day they enter a research facility, furnishing the information on the registration sheet or scanning a bar-coded researcher identification card, and may be asked to provide additional personal identification.

7. Section 1254.12 is amended by revising paragraph (a) to read:

§ 1254.12 Researcher's responsibility for documents.

(a) The research room attendant may limit the quantity of documents delivered to a researcher at one time. The researcher must sign for the documents received and may be required to show his/her researcher identification card. The researcher is responsible for the proper handling of and prevention of damage to all documents delivered to him/her until he/she returns them. When the researcher is finished using the documents, the documents must be returned to the research room attendant. The reference service slip that accompanies the documents to the research room must not be removed. If asked to do so, the researcher must return documents as much as 15 minutes before closing time. Before leaving a research room, even for a short time, a researcher must notify the research room attendant and place all documents in their proper containers.

* * * * *

8. Section 1254.14 is amended by revising paragraph (b) to read:

§ 1254.14 Restrictions on using microfilm readers.

* * * * *

(b) The number of researchers in the microfilm research room in the National Archives Building may be limited, for fire safety reasons, to those researchers assigned a microfilm reader.

* * * * *

9. Section 1254.16 is amended by revising paragraphs (d) and (e) to read:

§ 1254.16 Prevention of damage to documents.

* * * * *

(d) Documents must be identified for reproduction only with a paper tab provided by NARA. Documents may not be identified with paper clips, rubber bands, self-stick notes or similar devices.

(e) Microfilm must be carefully removed from and returned, rewound, to the proper microfilm boxes. Care must be taken loading and unloading microfilm from microfilm readers. Damaged microfilm must be reported to the research room attendant as soon as it is discovered.

* * * * *

10. Section 1254.20 is revised to read:

§ 1254.20 Conduct.

(a) *Regulations.* Researchers are subject to the provisions of part 1280 of this chapter and to all rules and regulations issued and posted or distributed by a facility director supplementing Subpart B of this part, including rules on the use of NARA equipment. Eating, drinking, chewing gum, or using smokeless tobacco products in a research room are prohibited. Smoking is prohibited in all NARA facilities. Loud talking and other activities likely to disturb other researchers are also prohibited. Persons desiring to use typewriters, computers, sound recording devices, or similar equipment must work in areas designated by the research room attendant, when so required.

(b) *Revocation of research privileges.* Researchers who refuse to comply with the rules and regulations of a NARA facility, or by their actions or language demonstrate that they present a danger to documents or NARA property, or present a danger to or verbally or physically harass or annoy other researchers, NARA or contractor employees, or volunteers may have their research privileges revoked by NARA for up to 180 days. The revocation of research privileges means that a researcher loses research privileges at all NARA research rooms nationwide and, if the researcher holds a valid researcher identification card, the loss of the card. All NARA facilities will be notified of the revocation of research privileges. A researcher whose research

privileges have been revoked will be sent a written notice of the reasons for the revocation within 3 work days of the action.

(c) *Reinstatement of research privileges.* The researcher has 30 calendar days after the date of revocation to appeal the action in writing and seek reinstatement of research privileges. Appeals should be mailed to the Archivist of the United States (address: National Archives and Records Administration (N), 8601 Adelphi Road, College Park, MD 20740–6001). The Archivist has 30 calendar days from receipt of an appeal to decide whether to reinstate research privileges. The response will be made in writing and sent to the researcher whose research privileges have been revoked. If the revocation of privileges is upheld or if no appeal is made, the researcher may request reinstatement of research privileges no earlier than 180 calendar days from the date the privileges were revoked. This request may include application for a new researcher identification card. The reinstatement of research privileges applies to all research rooms, except that in the case of a new researcher identification card, the researcher will be issued a card for a probationary period of 60 days. At the end of the probationary period, the researcher may apply for a new, unrestricted identification card, which will be issued if the researcher's conduct during the probationary period has been in accordance with the rules of conduct set forth in this part and in 36 CFR part 1280.

(d) *Extending the revocation period.* If the reinstatement of research privileges would pose a threat to the safety of persons, property, or NARA holdings, or if, in the case of a probationary identification card, the researcher has failed to comply with the rules of conduct for NARA facilities, NARA may extend the revocation of privileges for 180-day periods. Researchers will be sent a written notice all such extensions within 3 work days of NARA's decision to continue the revocation of research privileges. The researcher has 30 calendar days after the decision to extend the revocation of research privileges to appeal the action in writing. Appeals should be mailed to the Archivist at the address given above. The Archivist has 30 calendar days from receipt of an appeal to decide whether to reinstate research privileges. The response will be made in writing and sent to the researcher.

11. Section 1254.24 is amended by adding new paragraph (d) to read:

§ 1254.24 Locker use policy.

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(d) NARA may charge a replacement fee for lost locker keys.

12. Section 1254.26 is amended by revising paragraphs (a) through (d), the introductory text of paragraph (e), paragraphs (e)(2) and (e)(3), paragraph (g), the introductory text of paragraph (h), and paragraphs (h)(2)(i), (h)(2)(ii), (h)(5), and (h)(6) to read:

§ 1254.26 Additional rules for use of certain research rooms in NARA facilities in the Washington, DC, area.

(a) Admission to research rooms in the National Archives Building and the National Archives at College Park facility is limited to individuals examining and/or copying documents and other materials in the custody of the National Archives and Records Administration. Children under the age of 14 will not be admitted to these research rooms unless they have been granted research privileges or are granted an exception to this provision to view specific documents that a parent or other accompanying adult researcher is using. The exception will be granted by the Chief of the Archives I or Archives II Research Room Services Branch for a child who is able to read and who will be closely supervised by the adult researcher while in the research room. Normally, such a child will be admitted only for the short period required to view the documents. Unless otherwise permitted, persons without a researcher card may not actively participate in research activities, e.g., removing, copying, or refiling documents. Students under the age of 14 who wish to perform research on original documents must apply in person to the Chief of the Research Room Services Branch where the documents are located and present a letter of reference from a teacher. Such students may contact NARA by phone or letter in advance of their visit to discuss their eligibility for research privileges. Students under the age of 14 who have been granted research privileges will be required to be accompanied in the research room by an adult with similar privileges, unless the Chief of the Archives I or Archives II Research Room Services Branch specifically waives this requirement with respect to individual researchers.

(b) The procedures in paragraphs (d) through (g) of this section apply to all research rooms in the National Archives Building (except the Microfilm Research Room) and in the National Archives at College Park facility. These procedures are in addition to the procedures specified elsewhere in this part.

(c) Researchers bringing personal computers, tape recorders, cameras, and other equipment into the National Archives Building must complete the Equipment Log at the guard's desk. The log will evidence personal ownership and will be checked by the guard when such equipment is removed from the building.

(d) Researchers must present a valid researcher identification card to the guard or research room attendant on entering the research room. All researchers are required to register their attendance each day. Researchers will also register the time they leave the research area at the end of the visit for that day. Researchers are not required to sign in or out when leaving the area temporarily.

(e) Researchers may not bring into the research rooms overcoats, raincoats, hats, or similar apparel; personal paper-to-paper copiers, unless permitted in accordance with § 1254.71(e) of this part; briefcases, suitcases, day packs, purses, or similar containers of personal property; notebooks, notepaper, note cards, folders or other containers for paper. These items may be stored at no cost in lockers available for researchers. The following exceptions may be granted:

* * * * *

(2) Notes, references, lists of documents to be consulted, and other materials may be admitted if the chief of the branch administering the research room or the senior staff member on duty in the research room determines they are essential to a researcher's work requirements. Materials approved for admission will be stamped, initialed, and dated by a NARA or contractor employee, to indicate that they are the personal property of the researcher;

(3) Personal computers, tape recorders, scanners, cameras, and similar equipment may be admitted by the research room attendant provided such equipment meet the approved standards for preservation set by the NARA Preservation Programs unit. Use of researcher owned equipment may be limited to designated areas within the research rooms. If demand to use equipment exceeds the space available for equipment use, time limits may be imposed. Equipment that could potentially damage documents will not be approved. Scanners and other copying equipment must meet these minimum standards:

(i) Equipment platens or copy boards must be the same size or larger than the records. No part of a record may overhang the platen or copy board.

(ii) No part of the equipment may come in contact with records in a

manner that causes friction, abrasion, or that otherwise crushes or damages records.

(iii) Drum scanners are prohibited.

(iv) Automatic feeder devices on flatbed scanners are prohibited. When using a slide scanner, slides must be checked after scanning to ensure that no damage occurs while the slide is inside the scanner.

(v) Light sources must not raise the surface temperature of the record being copied. Light sources that generate ultraviolet light must be filtered.

(vi) All equipment surfaces must be clean and dry before being used with records. Cleaning and equipment maintenance activities, such as replacing toner cartridges, may not take place when records are present. Aerosols or ammonia-containing cleaning solutions are not permitted. A 50% water and 50% isopropyl alcohol solution is permitted for cleaning. The chief of the branch administering the research room or the senior staff member on duty in the research room will review the determination made by the research room attendant if requested to do so by the researcher; and

* * * * *

(g) The personal property of all researchers, including notes, electrostatic copies, equipment cases, tape recorders, cameras, personal computers, and other property, will be inspected before removal from the research room. Guards and research room attendants may request that a member of the research room staff examine such personal items prior to their removal from the research room.

(h) In addition to the procedures in paragraphs (c) through (g) of this section, the following procedures apply to the Motion Picture, Sound, and Video Research Room (hereinafter, the "research room") in the College Park facility:

* * * * *

(2) * * *

(i) Personal recording equipment brought into the unrestricted viewing and copying area in the research room may be inspected and tagged by the research room attendant prior to admittance. All equipment and accessory devices must be placed on the carts provided by NARA, except that a tripod holding a video camera may be placed on the floor in front of a film-viewing station. NARA is not responsible for damage to or loss of personal equipment and accessories.

(ii) Researchers shall remain in the research room while their personal equipment is in use at an audio or video viewing station. The film viewing stations must be attended at all times while in use. Researchers shall remove their personal equipment from the research room when they leave the room for the day.

* * * * *

(5) The NARA-furnished recorder or personal recording device and media may be used to make a copy of unrestricted archival materials in the research room.

(6) Each researcher will be provided a copy of the Motion Picture, Sound, and Video Research Room rules and a warning notice on potential copyright claims in unrestricted titles. The individual making and/or using the copy is responsible for obtaining any needed permission or release from a copyright owner for other than personal use of the copy.

* * * * *

13. Section 1254.27 is amended by revising the section heading and paragraphs (a) and (c)(3) to read:

§ 1254.27 Additional rules for use of certain research rooms in regional records services facilities and Presidential libraries.

(a) When directed by the appropriate regional administrator or library director, the following procedures shall be observed in regional records services facility and Presidential library archival research rooms where original documents are used. These procedures are in addition to the procedures specified elsewhere in this part.

* * * * *

(c) * * *

(3) Typewriters, personal computers, tape recorders, and hand-held cameras may be admitted by the guard or research room attendant provided that they are inspected, approved, and tagged prior to admittance. For a regional records services facility, the regional administrator, the director or other supervisor having responsibility for research room operations in a facility, or the senior attendant on duty will review the determination made by the guard or research room attendant if requested to do so by the researcher. In a Presidential library, the director, or the senior attendant on duty in the research room will review the determination made by the guard or research room attendant if requested to do so by the researcher. In facilities where personal paper-to-paper copiers and scanners are permitted, the researcher must obtain prior written approval from the facility director to bring in the copier or scanner. The request to bring a personal copier or scanner should state the space and power consumption requirements and the intended period of use; and

* * * * *

14. Section 1254.70 is amended by revising paragraph (a) to read:

§ 1254.70 NARA copying services.

(a) The copying of documents will be done by a contractor or NARA staff with equipment belonging to NARA. NARA reserves the right to make a duplicate, at NARA expense, of any material copied. Such duplicates may be used by NARA to make additional copies for others.

* * * * *

15. Section 1254.71 is amended by revising the section heading, paragraphs (a) through (c)(2), and (d)(1); removing paragraph (g); redesignating paragraphs (e) and (f) as paragraphs (f) and (g); adding new paragraph (e), and revising redesignated paragraph (g) to read:

§ 1254.71 Researcher use of the self-service card-operated copiers in the National Archives Building and the National Archives at College Park.

(a) *General.* Self-service card-operated copiers are located in research rooms in the National Archives Building and the National Archives at College Park. Other copiers set aside for use by reservation are located in designated research areas. Procedures for use are outlined in paragraphs (b) through (h) of this section.

(b) *Limitations and hours of use.* (1) There is a 3-minute time limit on copiers in research rooms when others are waiting to use the copier. Researchers using microfilm reader-printers may be limited to three copies when others are waiting to use the machine. Researchers wishing to copy large quantities of documents should see a staff member in the research room to reserve a copier for an extended time period.

(2) If an appointment must be canceled due to copier failure, NARA will make every effort to schedule a new mutually agreed-upon time. However, NARA will not displace researchers whose appointments are not affected by the copier failure.

(c) *Copying procedures.* (1) Individual documents to be copied shall be tabbed in accordance with the procedures governing the tabbing of documents and; brought to the research room attendant for inspection in the file unit. The research room attendant will examine the documents to determine whether they can be copied on the self-service copier. The chief of the branch administering the research room will review the determination of suitability if asked to do so by the researcher. After

reproduction is completed, documents removed from files for copying must be returned to their original position in the file container, any fasteners removed to facilitate copying must be refastened, and any tabs placed on the documents to identify items to be copied must be removed.

(2) Researchers using the reserved copier must submit the containers of documents to the attendant for review prior to the appointment. The review time required is specified in each research room. Research room attendants may inspect documents after copying.

* * * * *

(d) * * *

(1) Bound archival volumes (except when specialized copiers are provided);

* * * * *

(e) *Use of personal paper-to-paper copiers at the National Archives at College Park facility.* (1) NARA will approve a limited number of researchers to bring in and use personal paper-to-paper copying equipment in the Textual Research Room (Room 2000). Requests must be made in writing to the Chief, Archives II Research Room Services Branch (NWCCR2), National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740–6001. Requests must identify the records to be copied, the expected duration of the project, and the make and model of the equipment.

(2) NARA will evaluate requests using the following criteria:

(i) A minimum of 3,000 pages must be copied;

(ii) The project is expected to take at least 4 weeks, with the copier in use a minimum of 6 hours per day or 30 hours per week;

(iii) The copying equipment must meet the standards for preservation set by NARA's Preservation Programs unit (see § 1254.26(e)(3) of this part); and

(iv) Space is available for the personal copying project. NARA will allow no more than 3 personal copying projects in the research room at one time, with Federal agencies given priority over other users.

(3) Researchers must coordinate with research room management and oversee the installation and removal of copying equipment and are responsible for the cost and supervision of all service calls and repairs. Copying equipment and supplies must be removed within two business days after the personal copying project is completed.

(4) NARA will not be responsible for any personal equipment or consumable supplies.

(5) Each operator must obtain a valid researcher identification card and be trained by NARA staff on the proper methods for handling and copying archival documents.

(6) Operators must abide by all regulations on copying stated in paragraphs (c), (d) and (f) of this section.

(7) NARA reserves the right to discontinue the privilege of using a personal copier at any time without notice. Conditions under which NARA would discontinue the privilege include: violation of one of the conditions in paragraphs (c), (d), (e), or (f) of this section; a need to provide space for a Federal agency; or a lack of NARA staff to supervise the area.

* * * * *

(g) *Purchasing debit cards for copiers.* Researchers may use cash to purchase a debit card from a vending machine during the hours that self-service copiers are in operation. Additionally, debit cards may be purchased with cash, check, money order, credit card, or funds from an active deposit account from the Cashier's Office located in room G–1 of the National Archives Building, and the researcher lobby of the College Park facility, during posted hours. The debit card will, when inserted into the copier, enable the user to make copies, for the appropriate fee, up to the value on the debit card. Researchers may add value to the debit card by using the vending machine. No refunds will be made. The fee for self-service copiers is found in § 1258.12 of this chapter.

16. Section 1254.90 is revised to read:

§ 1254.90 General.

(a) This subpart establishes rules and procedures governing the use of privately owned microfilm equipment to film accessioned archival records and donated historical materials in the legal and physical custody of the National Archives and Records Administration (NARA) by foreign and domestic government agencies, private commercial firms, academic research groups, and other entities or individuals who request exemption from obtaining copies through the regular fee schedule reproduction ordering system of NARA.

(b) Persons or organizations wishing to microfilm Federal agency records in the physical custody of the Washington National Records Center (WNRC) contact the director, WNRC, about procedures for obtaining permission from the originating agency to film those records. For information about procedures for obtaining permission from the originating agency to film records in the records center operation of one of NARA's regional records services facilities or in the physical custody of the National Personnel Records Center (NPRC), contact the Regional Administrator of the region in which the records are located, or the director, NPRC, for records in NPRC.

(c) Federal agencies needing to microfilm archival records in support of the agency's mission must contact the appropriate office as specified in § 1254.92 of this part, as soon as possible after the need is identified, for information concerning standards and procedures for microfilming archival records.

17. Section 1254.92 is amended by revising paragraphs (a) and (b) and adding new paragraphs (d)(3) and (d)(4) to read as follows:

§ 1254.92 Requests to microfilm records and donated historical materials.

(a) Requests to microfilm archival records or donated historical materials (except donated historical materials under the control of the Office of Presidential Libraries) in the Washington, DC area must be made in writing to the Assistant Archivist for Records Services—Washington, DC (NW), 8601 Adelphi Rd., College Park, MD 20740–6001. Requests to microfilm archival records or donated historical materials held in a NARA regional records service facility must be made in writing to the Assistant Archivist for Regional Records Services (NR), 8601 Adelphi Rd., College Park, MD 20740–6001. Requests to microfilm records or donated historical materials in a Presidential library or donated historical materials in the Washington area under the control of the Office of Presidential Libraries must be made in writing to the Assistant Archivist for Presidential Libraries (NL), 8601 Adelphi Rd., College Park, MD 20740–6001. OMB control number 3095–0017 has been assigned to the information collection contained in this section.

(b) Requests to use privately owned microfilm equipment should be submitted four months in advance of the proposed starting date of the microfilming project. Requests submitted with less advance notice will be considered and may be approved if adequate NARA space and staff are available and if all training, records preparation and other NARA requirements can be completed in a shorter time frame. Only one project to microfilm a complete body of documents, such as an entire series, a major continuous segment of a very large series which is reasonably divisible, or a limited number of separate series related by provenance or subject, may be included in a request. NARA will not accept additional requests from an individual or

organization to microfilm records in a NARA facility while NARA is evaluating an earlier request from that individual or organization to microfilm records at that facility. NARA will establish the number of camera spaces available to a single project based upon the total number of projects approved for filming at that time.

* * * * *

(d) * * *

(3) If the original documents are presidential or vice-presidential records as specified in 44 U.S.C. 2201, the requester must agree to include on the film this statement: "The documents reproduced in this publication are presidential records in the custody of the (name of Presidential library or National Archives of the United States). NARA administers them in accordance with the requirements of Title 44, U.S.C. No copyright is claimed in these official presidential records."

(4) If the original documents are records of Congress, the requester must agree to include on the film this statement: "The documents reproduced in this publication are among the records of the (House of Representatives/Senate) in the physical custody of National Archives and Records Administration (NARA). NARA administers them in accordance with the requirements of the (House/Senate).

* * * * *

18. Section 1254.94 is amended by adding paragraphs (a)(1) through (a)(3), (d)(3), (d)(4), (k), and (l), revising the introductory text of paragraph (d), paragraph (d)(1) and paragraph (i), to read as follows:

§ 1254.94 Criteria for granting the requests.

(a) * * *

(1) In considering multiple requests to film at the same time, NARA will give priority to microfilming records that have research value for a variety of studies or that contain basic information for fields of research in which researchers have demonstrated substantial interest.

(2) The records to be filmed should be reasonably complete and not subject to future additions, especially of appreciable volumes, within the original body of records. Records with pending or future end-of-series additions are appropriate for filming.

(3) The records to be filmed should not have substantial numbers of documents withdrawn because of continuing security classification or privacy or other restriction.

* * * * *

(d) NARA will approve only requests which specify that NARA will receive a first generation silver halide duplicate negative containing no splices made from the original camera negative of the microform record created in accordance with part 1230 of this chapter. NARA may waive any of the requirements of this paragraph at its discretion.

(1) NARA may use this duplicate negative microform to make duplicate preservation and reference copies. The copies may be made available for NARA and public use in NARA facilities and programs immediately upon receipt, subject to the limitation in paragraph (d)(2) of this section.

* * * * *

(3) Detailed roll lists must be delivered with the microfilm. The lists must give the full range of file titles and a complete list of all file numbers on each roll of microfilm. NARA prefers that the list be provided in a fielded, electronic format to facilitate its use by staff and researchers. If the electronic format is a data file with defined or delimited fields, the records layout identifying the fields, any coded values for fields, and explanations of any delimiters should be transferred with the list.

(4) Microfilm projects may donate to NARA additional indexes and/or finding aids. NARA and the microfilm project will execute a deed of gift that will specify restrictions on NARA's use and dissemination of these products under mutually acceptable terms.

* * * * *

(i) NARA will not approve requests to microfilm records in NARA facilities in which there is insufficient space available for private microfilming. NARA also will not approve requests where the only space available for filming is in the facility's research room, and such work would disturb researchers. NARA will not move records from a facility lacking space for private microfilming to another NARA facility for that purpose. When a NARA facility does not have enough space to accommodate all the requests made, NARA may schedule separate projects by limiting the time allowed for each particular project or by requiring projects to alternate in the use of the space.

* * * * *

(k) NARA will not approve requests to microfilm records when there is not enough staff to provide the necessary support services, including document preparation, training of private microfilmers, and monitoring the filming.

(l) NARA will not approve the start of a project to microfilm records until the requestor has agreed in writing to the amount and schedule of fees for any training, microfilm preparation, and monitoring by NARA staff that is necessary to support that specific project. NARA's letter of tentative approval for the project will include an agreement detailing the records in the project and the detailed schedule of fees for NARA services for the project. NARA will give final approval when NARA receives the requestor's signed copy of the agreement.

§ 1254.96 [Amended]

19. Section 1254.96 is amended by removing paragraphs (a)(1) through (a)(3) and designating existing paragraphs (a)(4) and (a)(5) as (a)(1) and (a)(2) respectively.

20. Section 1254.98 is amended by revising paragraph (a) to read:

§ 1254.98 Equipment standards.

(a) Because space in many NARA facilities is limited, microfilm/fiche equipment should be operable from a table top unless NARA has given written permission to use free standing/floor model cameras. Only planetary type camera equipment may be used. Automatic rotary cameras and other equipment with automatic feed devices may not be used. Book cradles or other specialized equipment designed for use with bound volumes, oversized documents, or other formats may be approved by NARA on a case-by-case basis. Other camera types not specified in this section may be approved for use on a case-by-case basis.

* * * * *

21. Section 1254.100 is amended by revising paragraphs (b), (c) and (g) to read:

§ 1254.100 Microfilming procedures.

* * * * *

(b) Documents must be handled in accordance with the training and instructions provided by NARA personnel so that documents are not damaged during copying and so that their original order is maintained. Only persons who have attended NARA training will be permitted to handle the documents or supervise microfilming operations. Training will be offered only in Washington, DC. NARA will charge the requester fees for training services and these fees will be based on direct salary costs (including benefits) and any related supply costs. Such fees will be specified in the written agreement required for project approval in § 1254.94(l).

(c) Documents from only one file unit may be microfilmed at a time. After reproduction is completed, documents removed from files for microfilming

must be returned to their original position in the file container, any fasteners removed to facilitate copying must be refastened, and any tabs placed on the documents to identify items to be copied must be removed.

* * * * *

(g) Microfilm equipment may be operated only in the presence of the research room attendant or a designated NARA employee. If NARA places microfilm projects in a common research area with other researchers, the project will not be required to pay for monitoring that is ordinarily provided. If the microfilm project is performed in a research room set aside for copying and filming, NARA will charge the project fees for these monitoring services and these fees will be based on direct salary costs (including benefits). When more than one project share the same space, monitoring costs will be divided equally among the projects. The monitoring service fees will be specified in the written agreement required for project approval in § 1254.94(l).

* * * * *

22. Section 1254.102 is amended by adding paragraph (e) to read:

§ 1254.102 Rescinding permission.

* * * * *

(e) If the person or organization fails to pay NARA fees in the agreed to amount or on the agreed to payment schedule.

Dated: April 16, 1999.

John W. Carlin,

Archivist of the United States.

[FR Doc. 99–10063 Filed 4–22–99; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AI92

Loan Guaranty: Requirements for Interest Rate Reduction Refinancing Loans

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends our loan guaranty regulations concerning the requirements for Interest Rate Reduction Refinancing Loans (IRRRLs). Under the final rule, generally to obtain an IRRRL the veteran's monthly mortgage payment must decrease. Also, the final rule provides that the loan being refinanced must not be delinquent or the veteran seeking the loan must meet certain credit standard provisions. We believe these changes are necessary to ensure that IRRRLs provide a real benefit to veterans and protect the financial interest of the Government.

DATES: Effective Date: May 24, 1999.

FOR FURTHER INFORMATION CONTACT: R.D. Finneran, Supervisory Loan Specialist (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7369.

SUPPLEMENTARY INFORMATION: Under the authority of 38 U.S.C. chapter 37, VA guarantees loans made by lenders to eligible veterans to purchase, construct, improve, or refinance their homes (the term veteran as used in this document includes any individual defined as a veteran under 38 U.S.C. 101 and 3701 for the purpose of housing loans). This document amends VA's loan guaranty regulations by revising the requirements for VA-guaranteed IRRRLs.

The IRRRL program was established by Public Law 96–385, October 7, 1980. IRRRLs are designed to assist veterans by allowing them to refinance an outstanding VA-guaranteed loan with a new loan at a lower rate. The provisions of 38 U.S.C. 3703(c)(3) and 3710(e)(1)(C) allow the veteran to do so without having to pay any out-of-pocket expenses. The veteran may include in the new loan the outstanding balance of the old loan plus reasonable closing costs, including up to two discount points.

In a document published in the **Federal Register** on June 3, 1998 (63 FR 30162), we proposed to amend the loan guaranty regulations concerning the requirements for IRRRLs. Under the proposal, generally to obtain an IRRRL the veteran's monthly mortgage payment must decrease. Also, if the loan being refinanced is delinquent the lender must submit the proposed IRRRL to VA for prior approval of the veteran's creditworthiness. With respect to the proposal, we provided a 60-day comment period, which ended August 3, 1998. In the proposal, we also stated that we would consider comments submitted in response to a rescinded interim rule (62 FR 52503, 63454) which addressed the same issues that were addressed in the proposal. We received many thousands of comments, most of which were groups of identical responses in form letters. The issues raised in the comments are discussed below.

Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule without change except for nonsubstantive changes for purposes of clarity.

Monthly Payment Reduction

The final rule generally requires that the monthly payment (principal and interest) on the new loan be lower than the monthly payment on the loan being refinanced. A number of commenters supported this change. Some commenters stated that they generally opposed any changes regarding IRRRLs and one commenter raised specific objections regarding the issue of monthly payment reduction. This commenter submitted an alternative to the proposal which would allow 10 percent of a lender's volume of IRRRLs closed during any calendar month to exceed the previous monthly payment on the loan being financed while not simultaneously reducing the term of the loan, and provide for sanctions if the 10 percent threshold were exceeded.

We believe that with the four exceptions discussed below, there is no legitimate reason for allowing the monthly payment (principal and interest) on the new loan to be as high or higher than the monthly payment on the loan being refinanced. The final rule is intended to prevent the veteran's monthly payment from increasing because of extensive costs added to the loan (including closing costs), even though the interest rate is lowered slightly. This is consistent with the Congressional intent of the IRRRL program as expressed in the House Report (H. Rep. No. 96–1165, July 21, 1980, at p. 3) which states: "[T]he bill is * * * intended to assist veterans by allowing their monthly payments to be reduced. * * *"

The final rule also provides that the monthly payment reduction requirement would not apply to four limited situations where VA believes that other factors offset the risk of loss from an increase in monthly payment. These four situations are cases in which an adjustable rate mortgage (ARM) is being refinanced with a fixed-rate loan; cases in which the term of the new loan is shorter than the term of the loan being refinanced; cases in which the increase in monthly payment is attributable to the inclusion of energy efficient improvements, as provided in § 36.4336(a)(4); and cases in which the Secretary approves the new loan, on a case-by-case basis, in order to prevent an imminent foreclosure. We reaffirm the following rationale which was stated in the proposal (63 FR 30163) for establishing these four exceptions:

"With regard to ARMs, there is already a possibility that the monthly payment will increase in future years.

The certainty that the payment on the new loan will not increase in future years offsets the increased risk associated with the immediate increase over the veteran's current payment. VA may establish limits on the amount of such increase in future rulemaking. Although the monthly payments on shorter term loans are higher, they amortize faster, thus reducing the risk of loss to both the veteran and the Government. In future rulemaking, VA may address minimum term reduction. Current law allows veterans to include additional costs of energy efficient improvements in IRRRLs; thus, this exception would merely continue current law. Finally, with regard to imminent foreclosure, the risk of loss to the Government and veteran from such foreclosure could be greater than permitting a new loan at a higher monthly payment. VA would have to approve each such loan on a case-by-case basis under existing credit underwriting standards set forth at 38 CFR 36.4337 to ensure that it is in the best interest of the Government and that the veteran is able to afford the new payment."

Accordingly, we are not adopting the proposed alternative suggested by the commenter. For the reasons set forth above, VA does not believe any IRRRL where the monthly payment will exceed the payments on the loan being refinanced should be permitted unless it falls within the standards discussed above. Further, VA does not believe a lender should be limited to an arbitrary 10 percent threshold for IRRRLs having an increased monthly payment if the payment increase on each individual loan is permitted under these standards.

Delinquent Loans—General Comments

Prior to the effective date of this document, VA administratively required prior approval review for an IRRRL in accordance with 38 CFR 36.4303(c) if a scheduled monthly mortgage payment of the loan being refinanced were more than 90 days past due. The final rule states that a loan being refinanced is considered delinquent and an IRRRL replacing such loan is subject to such prior approval procedures if a scheduled monthly mortgage payment of the loan being refinanced is more than 30 days past due.

Almost all commenters asserted that VA should continue to require prior approval review for an IRRRL only if a scheduled monthly mortgage payment of the loan being refinanced were more than 90 days past due. We respectfully disagree with the commenters.

This final rule makes changes needed to prevent lenders from encouraging veterans to default on their current loans, and then to refinance the delinquent loans with IRRRLs that include missed payments, fees, and late charges.

VA has become aware of a number of lenders who encourage veterans to skip two or three mortgage payments and then obtain an IRRRL which includes the missed payments, fees, and late charges. We believe the provisions of the final rule are necessary to meet the intended requirements of Public Law 96–385 which established the IRRRL program. In this regard, the legislative history of Public Law 96–385 states that "a veteran would not be permitted under the bill to obtain cash from the proceeds of the refinancing loan for other purposes." H.R. Report 96–1165, 96th Congress 2d. Session (1980) at 3.

VA is aware that it is common for persons who refinance home loans to skip the payment due on the first day of the month in which their new loan will close. For example, if a lender expects to close an IRRRL on or about October 18, the lender may tell the veteran that he or she may skip the payment due October 1. The skipped payment is then included in the principal balance of the IRRRL. The changes made by this final rule would not affect this common practice. Under the final rule, only "delinquent" loans are subject to the prior approval procedures. Since the final rule, consistent with industry practice, defines "delinquent" as being more than 30 days past due, the loan in this example is not delinquent and would be eligible for streamlined processing, i.e., processing without regard to VA prior approval procedures.

As noted above, the final rule states that a loan being refinanced is delinquent and an IRRRL replacing such loan is subject to prior approval procedures if a scheduled monthly mortgage payment of the loan being refinanced is more than 30 days past due. Not only is the final rule needed to prevent lenders from causing veterans to default on their current loans, it is needed to prevent lenders from closing poor-quality IRRRLs.

Commenters disagreed with the conclusion that action was necessary because of poor quality IRRRLs. They asserted that when VA guaranteed the original loan for a veteran, VA assumed a certain risk and that a subsequent IRRRL does not increase the Government's risk. Commenters further asserted that the risk of default on an IRRRL is reduced because the interest rate is lowered. With respect to loans that are current, VA presumes that the veteran, having established creditworthiness for the original loan, continues to be creditworthy for an IRRRL. VA notes, however, that loans more than 30 days past due reflect that two payments were missed. This raises the question as to whether an underlying financial problem exists that requires attention. An IRRRL which capitalizes missed payments, fees, and late charges would have a higher loan-to-value ratio than the loan being refinanced. Thus, the IRRRL, at least initially, would be less secure than the original loan. If an IRRRL is foreclosed shortly after being made, the loss to the taxpayers likely would be greater than would have been the case had the original loan been foreclosed. Sometimes a lower interest rate on an IRRRL would reduce the monthly payment sufficiently to allow a veteran in financial distress to make the payments. This is not always true. In fact, in many cases a veteran's degree of financial distress would prevent the veteran from making even the reduced monthly payment on the IRRRL. Accordingly, prior approval procedures are necessary to ensure that the veteran who is delinquent can meet the payment terms of the IRRRL.

As noted above, the final rule states that prior approval procedures must be met for an IRRRL if a scheduled monthly mortgage payment of the loan being refinanced is more than 30 days past due. Commenters recommended that, as a compromise, the 30 day time period be changed to 59 or 60 days. One commenter submitted an alternative to the proposal which would allow an unlimited number of a lender's volume of IRRRLs closed during any calendar month to be up to 60 days past due and to allow 10 percent of a lender's volume of IRRRLs closed during any calendar month to be between 60 and 90 days past due, and provide for sanctions if the 10 percent threshold were exceeded. In response, we conclude that this would not prevent individuals from skipping payments to obtain cash and would not provide adequate protection against loans that are in financial difficulty.

Further, VA disagrees with suggestions from some commenters that skipping more than one payment is necessary for lenders to obtain accurate pay-off figures from the holder of the loan being refinanced. The modern loan servicing industry is highly computerized, and loan balances which include the latest payment are obtainable from holders within a day or two after their receipt of that payment. Lenders normally obtain pay-off figures from holders by fax or overnight express. Thus, as an example, there is no practical need for a lender which

anticipates making an IRRRL in mid-October to urge the borrower to skip the payment due September 1 in order to obtain accurate payoff information.

Commenters asserted that the final rule could cause some veterans to lose their homes due to foreclosure by removing the ability to refinance during a period of delinquency. VA agrees that there are instances where being able to refinance a loan will make a difference between saving a home or losing it to foreclosure. The final rule does not automatically preclude such a veteran from obtaining an IRRRL. If VA determines that the veteran is creditworthy and able to make the payments on the proposed IRRRL and thereby save the home, VA would approve the IRRRL. In cases where VA, after carefully considering the veteran's entire financial circumstances, concludes the veteran is unlikely to be able to make the payments on the IRRRL, the IRRRL would not be approved. Such an IRRRL would only delay for a short time an inevitable foreclosure, causing greater expense to both the veteran and the Government. If a veteran's current loan is delinquent and VA determines that the veteran does not qualify for an IRRRL because of financial difficulties, VA will use its supplemental servicing procedures to determine if other viable alternatives to foreclosure exist.

Delinquent Loans—Streamlined Feature

Commenters asserted that the adoption of the proposed rule would take away the "streamlined" feature of the IRRRL program contrary to the legislative intent. In response, we note that nothing in the statutory provisions authorizing the IRRRL program or the relevant legislative history requires or even suggests that VA is required to implement a streamlined procedure for closing loans. Further, streamlined processing would still be available for veterans who are not delinquent on their current loans.

Some commenters asserted that if the proposed rule is adopted, VA would be unable to process IRRRLs in a timely manner. In this regard, one commenter asserted that the review of prior approvals would increase by 35,000 per year. This commenter further asserted that an increase would become more burdensome due to a shrinking Federal workforce. We do not believe that these results suggested by the commenters will occur. We believe that in most cases this final rule will cause veterans seeking IRRRLs to make sure that their original loans are not delinquent. Further, with respect to those that are delinquent, we believe that this will cause lenders to find the underlying reason why there is a delinquency and submit to VA for prior approval only those applications for IRRRLs that have a reasonable opportunity of being approved. Moreover, we note that VA will do all that it can to process prior approvals as quickly as possible. In support of this effort, VA is consolidating its credit underwriting into nine regional loan centers with the intent to provide adequate staffing to process all loans in a timely manner. Even so, under the provisions of 38 U.S.C. 3710(b)(2) and (b)(3), VA has a statutory duty for all loans, including IRRRLs, to ensure that the veteran is creditworthy and that the veteran's total income and expenses bear a proper relationship to the loan repayment terms. This statutory duty to ensure a veteran's creditworthiness must be met even if compliance were to cause some delays.

One commenter asserted that VA is unable to provide statistical data or analysis to suggest that there has been an increased rate of foreclosure for IRRRLs under the previous policy which provided that an IRRRL was subject to prior approval review if the scheduled monthly mortgage payment of the loan being refinanced were more than 90 days past due. In response, we have compiled the following information from our loan guaranty records. Four years ago the early foreclosure rate (i.e., within 2 years of loan closing) on IRRRLs was 25% higher than on VA guaranteed purchase-money loans. Two years ago the early foreclosure rate on IRRRLs grew to 61% higher and has now further grown to 63% higher. VA analysis shows that poor origination of some IRRRLs has caused this disturbing trend. The final rule is narrowly tailored to address this issue and will not significantly impact most IRRRLs.

One commenter suggested that because VA collects a fee on the original VA loan and collects an additional fee on an IRRRL, VA collects enough to cover any losses on IRRRLs, and, consequently, the final rule is not necessary. In response, we note that the amount of fees collected on loans is established by statute (38 U.S.C. 3729). There are no statutory provisions that require VA to accept a poor credit risk merely because of fees that may have been collected to cover amounts paid due to foreclosures. Instead, as noted above, VA must ensure that all veterans receiving loans are creditworthy.

One commenter asserted that regardless of the number of delinquent payments, those payments must be allowed to be included in an IRRRL because the provisions of 38 U.S.C. 3710(e)(1)(C)(i) state that refinanced loans will include the "sum of the balance." In response, we note that this must be read together with the provisions of 38 U.S.C. 3710(b)(2) and (b)(3) which provide that a veteran may obtain a guaranteed loan only if creditworthy. Accordingly, under the final rule a veteran may obtain a guaranteed loan only if creditworthy, but all of those IRRRLs that are closed may include the entire balance of the loan being refinanced, including missed payments, fees, and late charges.

One commenter asserted that the final rule would cause lenders to make extensive adjustments regarding computer systems and training. We agree that some lenders may have to make some adjustments. However, we do not believe that any necessary adjustments will be significant.

Delinquent Loans—Denial of Benefit

Commenters asserted that veterans who are delinquent on their loan payments will be denied the benefit of an IRRRL. This final rule will not automatically deny any veteran who is delinquent on an existing VA guaranteed loan the opportunity to obtain an IRRRL. In the event that a veteran is more than 30 days past due on the loan, the final rule requires that VA perform the same creditworthiness review prior to approving the IRRRL that is now performed on all other VA housing loans. If the veteran is found creditworthy, the IRRRL will be guaranteed. If the veteran is found not creditworthy, VA must decline to guarantee the loan. However, as noted above, VA will use its supplemental servicing procedures to determine if other viable alternatives to foreclosure exist.

Delinquent Loans—Out-of-Pocket Expenses

Some commenters asserted that veterans subject to the prior approval procedures would be required to provide out-of-pocket expenses at closing and that this "will mark the beginning of the end" of the IRRRL program by making such loans less appealing to the borrower. The vast majority of veterans seeking to obtain IRRRLs will not be in default and will be eligible to use the streamlined procedures, with only nominal, if any, out-of-pocket expenses. For those subject to the prior approval procedures, the cost of a credit report (approximately $50) would be the only additional expense the veteran is likely to incur. This cost may be included in

the loan amount. Accordingly, those subject to the prior approval procedures may avoid out-of-pocket expenses.

Delinquent Loans—Solicitation to Skip Payments

Some commenters asserted that instead of the changes made in the final rule concerning delinquent loans, VA should establish prohibitions against lenders who advertise or otherwise solicit veterans to skip payments so that they can include missed payments, fees, and late charges in an IRRRL. Some commenters asserted that VA should rely on other agencies, including the Federal Trade Commission, to enforce such prohibitions. The adoption of these suggestions would not address our concerns noted above regarding poor-quality loans. Further, in our view, the adoption of these suggestions would not provide an adequate system for regulating lenders who advertise or otherwise solicit veterans to skip payments. There is no practical way for VA or other agencies to monitor and regulate the possible means of advertising or other solicitations made by lenders. Because of the sheer volume of advertising or other solicitations (e.g., telephone, radio, cable TV; direct mail) by thousands of companies, it is not practical for VA or other agencies to even be aware of all of them, let alone review their content.

Delinquent Loans—Clarification

In § 36.4306, paragraph (a)(5) provides that if a loan is delinquent the new loan will be guaranteed only if the Secretary approves it in advance based on a finding that the borrower "through the lender" has provided certain information and meets certain criteria. One commenter asserted that the term "through the lender" is confusing and should be clarified. In response, we note that "through the lender" merely means that the borrower submits information to the lender who in turn submits it to VA. We believe the proposed language conveys this concept clearly to readers.

Paperwork Reduction Act

We submitted the collection of information contained in the notice of the proposed rulemaking to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3507(d)). The information collection subject to this rulemaking, set forth at § 36.4306a(a)(3) and (a)(5), concerns requirements for certain IRRRLs. The final rule states that a loan being refinanced is delinquent and an IRRRL replacing such loan is subject to prior approval procedures if a scheduled monthly mortgage payment of the loan being refinanced is more than 30 days past due. Under the prior approval procedures, lenders must collect certain information about the veteran (and spouse or other co-borrower, as applicable), and the veteran's credit history to ensure that the veteran is creditworthy. Collection of this type of information is normal business practice for mortgage lenders.

We invited interested parties to submit comments on the collection of information. However, we received no comments. OMB has approved this information collection under control number 2900–0601, which expires October 31, 2001.

VA is not authorized to impose a penalty on persons for failure to comply with information collection requirements which do not display a current OMB control number, if required.

Executive Order 12866

This final rule has been reviewed by OMB under Executive Order 12866.

Final Regulatory Flexibility Analysis

This final regulatory flexibility analysis is provided to meet the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). A copy of this final rule, including the final regulatory flexibility analysis, is available from the individual referred to in the **FOR FURTHER INFORMATION CONTACT** portion of this document.

a. A succinct statement of the need for, and objectives of, the final rule.

Response: The need for and the objectives of this final rule are to insure that IRRRLs continue to provide a real benefit to veterans and to protect the financial interest of the Government.

b. A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.

Response: These matters are discussed above in the preamble portion of this document.

c. A description of and an estimate of the number of small entities to which the final rule will apply or an explanation of why no such estimate is available.

Response: The final rule would apply to all lenders who make IRRRLs. In Fiscal Year 1997, 1476 lenders made at least one IRRRL. We believe a number of these lenders are small entities; however, we are unable to make an informed estimate of the number because VA does not collect information that would establish whether a lender closing IRRRLs is a small entity.

d. A description of the projected reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

Response: Any reporting or recordkeeping requirements are discussed in the Paperwork Reduction Act portion of this document. The requirements of the final rule are discussed above in the preamble portion of this document. As noted above, we are unable to make an informed estimate of the number of small entities that would be affected by the adoption of the final rule. To comply with the provisions of the final rule, employees of lenders would not need any professional skills that would be additional to those skills already needed to process VA home loans.

e. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the final rule considered by the agency which affect the impact on small entities was rejected.

Response: Generally, limiting IRRRLs to instances where the veteran's monthly mortgage payment will decrease and requiring that the loans being refinanced either be current in their payments or meet certain credit standard provisions is intended to ensure that IRRRLs are made only when they provide a real benefit to the veteran and to protect the financial interest of the Government. One alternative would be to allow IRRRLs to be made only when the veteran's monthly mortgage payment would decrease. However, as explained above in the preamble portion of this document, this document establishes exceptions in those cases when it appears that the objectives could still be met. Another alternative would be to require that all IRRRLs meet the credit standard provisions. However, we believe this is necessary only when the loan is delinquent. Another alternative would be to transfer responsibility for policing misleading advertising of offending lenders to the Federal Trade Commission. Although VA believes referral of generic misleading advertising issues (such as

bait and switch or truth in lending violations) to FTC is appropriate, we do not believe FTC staff would be sufficiently familiar with the unique requirements of the IRRRL program to oversee lender compliance. We are aware of no alternatives which could be considered that would allow the objectives to be met and provide less stringent rules for small businesses.

The adoption of the final rule would not have a significant impact on the resources available to small entities. The type of actions that would be required are the same or similar to types of actions already being handled by employees of small entities.

We are unaware of any alternatives that would accomplish the intended purposes. Further, we are unaware of any changes we could consider regarding clarification, consolidation, or simplification that could be made for small entities and still protect veterans and the interests of the Government. The final rule does not include performance standards because we believe there is no means to ensure compliance without design standards. Further, we believe there is no good reason for any lender to act contrary to the final rule.

The Catalog of Federal Domestic Assistance Program number is 64.114.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Indians, Individuals with disabilities, Loan programs-housing and community development, Loan programs-Indians, Loan programs-veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: March 25, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 36 is amended as set forth below.

PART 36—LOAN GUARANTY

1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3719, 3719, 3720, 3729, 3762, unless otherwise noted.

2. In § 36.4306a, paragraphs (a)(3) through (a)(5) are revised, paragraphs (a)(6) and (a)(7) are added, and a parenthetical is added to the end of the section, to read as follows:

§ 36.4306a Interest rate reduction refinancing loan.

(a) * * *

(3) The monthly principal and interest payment on the new loan must be lower than the payment on the loan being refinanced, except when the term of the new loan is shorter than the term of the loan being refinanced; or the new loan is a fixed-rate loan that refinances a VA-guaranteed adjustable rate mortgage; or the increase in the monthly payments on the loan results from the inclusion of energy efficient improvements, as provided by § 36.4336(a)(4); or the Secretary approves the loan in advance after determining that the new loan is necessary to prevent imminent foreclosure and the veteran qualifies for the new loan under the credit standards contained in § 36.4337.

(4) The amount of the refinancing loan may not exceed:

(i) An amount equal to the balance of the loan being refinanced, which must not be delinquent, except in cases described in paragraph (a)(5) of this section, and such closing costs as authorized by § 36.4312(d) and a discount not to exceed 2 percent of the loan amount; or

(ii) In the case of a loan to refinance an existing VA-guaranteed or direct loan and to improve the dwelling securing such loan through energy efficient improvements, the amount referred to with respect to the loan under paragraph (a)(4)(i) of this section, plus the amount authorized by § 36.4336(a)(4).

(Authority: 38 U.S.C. 3703, 3710)

(5) If the loan being refinanced is delinquent (delinquent means that a scheduled monthly payment of principal and interest is more than 30 days past due), the new loan will be guaranteed only if the Secretary approves it in advance after determining that the borrower, through the lender, has provided reasons for the loan deficiency, has provided information to establish that the cause of the delinquency has been corrected, and qualifies for the loan under the credit standards contained in § 36.4337. In such cases, the term "balance of the loan being refinanced" shall include any past due installments, plus allowable late charges.

(6) The dollar amount of guaranty on the 38 U.S.C. 3710(a)(8) or (a)(9)(B)(i) loan may not exceed the original dollar amount of guaranty applicable to the loan being refinanced, less any dollar amount of guaranty previously paid as a claim on the loan being refinanced; and

(7) The term of the refinancing loan (38 U.S.C. 3710(a)(8)) may not exceed the original term of the loan being refinanced plus ten years, or the maximum loan term allowed under 38 U.S.C. 3703(d)(1), whichever is less. For manufactured home loans that were previously guaranteed under 38 U.S.C. 3712, the loan term, if being refinanced under 38 U.S.C. 3710(a)(9)(B)(i), may exceed the original term of the loan but may not exceed the maximum loan term allowed under 38 U.S.C. 3703(d)(1).

(Authority: 38 U.S.C. 3703(c)(1), 3710(e)(1))

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0601)

3. In § 36.4337, paragraph (a) is revised to read as follows:

§ 36.4337 Underwriting standards, processing procedures, lender responsibility and lender certification.

(a) *Use of standards.* The standards contained in paragraphs (c) through (j) of this section will be used to determine whether the veteran's present and anticipated income and expenses, and credit history are satisfactory. These standards do not apply to loans guaranteed pursuant to 38 U.S.C. 3710(a)(8) except for cases where the Secretary is required to approve the loan in advance under § 36.4306a.

(Authority: 38 U.S.C. 3703, 3710)

* * * * *

[FR Doc. 99–10146 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–84–1–7341a; FRL–6324–2]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: Motor Vehicle Inspection and Maintenance (I/M) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves three revisions to the I/M SIP submitted by the State, thereby removing the conditions for final approval. The program was initially given conditional interim approval by the EPA on July 11, 1997 (62 FR 37138). The action is being taken under section 348 of the National Highway System Designation Act of 1995 (NHSDA) and section 110 of the Clean Air Act (Act). The EPA is removing the conditions from the interim approval because the State's SIP revisions correct the major conditions identified in the July 11, 1997, conditional interim approval action. In today's **Federal Register** action, EPA is

finding that the State has obtained the legislative authority needed to meet the major conditions contained in EPA's July 11, 1997 action. Today's action also approves into the SIP the definition of "primarily operated," the State's commitment to implement On-Board Diagnostic testing, and removes the requirement for Test-on-Resale from the SIP.

DATES: This direct final rule is effective on June 22, 1999, without further notice, unless the EPA receives adverse comment by May 24, 1999. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Sandra Rennie, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION:

I. Background

What Are the Previous Actions Related to This Action?

On October 3, 1996 (61 FR 51651), EPA published a Notice of Proposed Rule Making (NPR) proposing conditional interim approval of Texas' I/M program that was submitted to satisfy the applicable requirements of both the Act and the NHSDA. The formal SIP revision was submitted by Texas on March 14, 1996. After the NPR was published, EPA received comments requesting an extension of the comment period for 60 days which was granted on November 18, 1996 (61 FR 58671).

On July 11, 1997, (62 FR 37138), EPA finalized its conditional interim approval action and responded to comments made on the action. The **Federal Register** Notice stated that EPA was conditionally approving the Texas I/M program as a revision to the Texas SIP, based upon three major conditions to be remedied within twelve months of final interim approval. The State had made a commitment to remedy these conditions and to support the additional needed legislation to be carried out in Texas's 75th Legislative Session.

What Are the Conditions That Need To Be Met for the EPA To Grant Final Interim Approval?

Texas was required to obtain additional legal authority needed to implement its program. The specific authority needed was outlined in EPA's NPR (61 FR 51651) and was identified in a February 27, 1996, Governor's Executive Order that was submitted as part of the Texas I/M SIP. The major conditions are the legal authority identified in the Executive Order that includes: (1) The denial of re-registration of vehicles that have not complied with I/M program requirements, (2) the establishment of a class C misdemeanor penalty for operating a grossly polluting vehicle in a nonattainment area (i.e., enforcement of remote sensing), and (3) the requirement for an inspection within 60 days of resale and prior to transfer of title to nonfamily member consumers in Dallas, Tarrant, or Harris counties.

The EPA also was aware that the State of Texas had expressed plans to remove the "test-on-resale" provisions from their I/M plan. In the FRN, EPA stated that we would not require the State to obtain authority for and implement the test-on-resale provisions of the current State plan if the State submitted a SIP revision removing it from the SIP, since the test-on-resale provision was not required by the Act or the Federal I/M rule.

What Else Will Be Needed for EPA To Grant a Final Full Approval?

The final conditional interim approval also identified further requirements for permanent I/M SIP approval, that are not being considered in this action. In addition to complying with all the major conditions of its commitment to EPA that is being acted on in this NPR, the State needs to provide EPA with the following:

(1) A program evaluation to confirm that the appropriate amount of program credit was claimed by the State and achieved with the interim program.

(2) Final Texas Department of Public Safety program regulations.

(3) Evidence that the Texas I/M program will meet all of the requirements of EPA's I/M rule, including those *de minimus* deficiencies identified in the October 3, 1996, proposal (61 FR 51651) as minor for purposes of interim approval.

(4) Evidence that the remote sensing program is effective in identifying and obtaining repairs on vehicles with high levels of emissions, or expand the Texas I/M core program area to include the entire urbanized area for both Dallas/Fort Worth and Houston.

II. EPA Analysis of Texas' Submittals

A. May 29, 1997

The revision included a deletion of the test-on-resale element to the SIP, the Memorandum of Understanding (MOU) between the Texas Natural Resource Conservation Commission (TNRCC) and Texas Department of Public Safety, and revision to the definition of "primarily operated" in the Texas I/M rules. The EPA has reviewed the State's submittal and finds it acceptable for approval.

Test-on-Resale

The removal of the test-on-resale element from the SIP fulfills one of the three major conditions required for SIP approval.

Memorandum of Understanding

The MOU outlines and specifies the respective responsibilities between the TNRCC and the Texas Department of Public Safety. It fulfills the Federal I/M rule requirement for SIP submissions contained in 40 CFR 51.372(a)(7).

Definition of "Primarily Operated"

The State also revised its definition of primarily operated to require compliance of vehicles that are operated 60 calendar days in the nonattainment area, instead of 60 continuous days. The revision will result in a strengthening of the State I/M plan.

B. June 23, 1998

In this revision to the I/M SIP, the State commits to implementing On-board Diagnostic testing beginning on January 1, 2001. This revision was required under section 51.358 of the Federal I/M regulation.

C. December 22, 1998

During the 75th Texas legislative session, the State obtained the authority to implement a program for denial of re-registration of vehicles that have not complied with I/M program requirements, and the authority to establish a class C misdemeanor penalty for operating a grossly polluting vehicle in a nonattainment area (i.e., enforcement of remote sensing). Senate Bill 1856, signed by the Governor, and effective on June 19, 1997, revised section 382 of the Texas Health and Safety Code, and sections 502 and 548

of the Texas Transportation Code to correct legislative deficiencies identified in the July 11, 1997, conditional interim approval. A certified copy of the legislation was submitted to EPA under a letter from the Governor dated December 22, 1998.

III. Discussion of Rulemaking Action

The EPA review of this material indicates that these supplemental SIP revisions, with supporting documentation, meet the minimum requirements of the Act, NHSDA, and Federal I/M regulations. Based upon the discussion contained in the previous analysis section, EPA concludes the State's submittals satisfy the conditions established in the July 11, 1997 conditional interim approval. Therefore, EPA is granting final interim approval for the Texas I/M program.

Because EPA views the approval of these SIP revisions as non-controversial, we are taking direct final action to approve these revisions to the I/M SIP.

IV. Explanation of the Interim Approval

In the July 11, 1997, notice the 18-month interim approval was set to lapse on February 11, 1999. Prior to that date, Texas submitted a program effectiveness demonstration. The EPA is reviewing that submittal and will take action in the near future.

V. Further Requirements for Permanent I/M SIP Approval

Final approval of the State's plan will be granted based upon the criteria outlined in the background section and explained in the July 11, 1997 notice. This **Federal Register** action does not change the requirements for permanent I/M SIP approval.

VI. Final Action

The EPA is approving the State's May 29, 1997, June 23, 1998, and December 22, 1998, submittals. By this approval, EPA is giving final interim approval to the Texas I/M program. As discussed above, the State submitted the required program demonstration prior to lapse of the program approval. The EPA will take a separate action on that demonstration.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial submittal and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 22, 1999, without further notice unless we receive adverse comments by May 24, 1999.

If EPA receives such comments, we will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. A second comment period will not be instituted. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 22, 1999, and no further action will be taken.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VII. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concern, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal government "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's proposed rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this proposed rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The proposed rule is not subject to E.O. 13045 because it is not economically significant under E.O. 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this proposed rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an

agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because conditional approval of SIP submittals under section 110 and subchapter I, part D of the Act does not create any new requirements but simply approves requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the U.S. comptroller General prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR PART 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 30, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding new paragraph (c)(120) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(120) Revisions submitted by the Governor on May 29, 1997, June 23, 1998, and December 22, 1998, that change the definition of "primarily operated," commit to on-board diagnostic testing, remove the test-on-resale of vehicles subject to the inspection and maintenance program, and provide the legal authority for denial of re-registration of vehicles that have not complied with the I/M program requirements, and the establishment of a class C misdemeanor penalty for operating a grossly polluting vehicle in a nonattainment area.

(i) Incorporation by reference:

(A) Narrative of State Implementation Plan revision submitted May 29, 1997, by the Governor.

(B) Narrative of State Implementation Plan revision submitted June 23, 1998, by the Governor.

(C) Letter from the Governor dated December 22, 1998, submitting Senate Bill 1856.

(ii) Additional material:

(A) Senate Bill 1856.

(B) Memorandum of Agreement between the Texas Natural Resource Conservation Commission and the Texas Department of Public Safety adopted November 20, 1996, and signed February 5, 1997.

§ 52.2310 [Removed]

3. Section 52.2310, Conditional approval, is removed.

[FR Doc. 99–9460 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ33–2–191; FRL–6328–8]

Approval and Promulgation of Implementation Plans; New Jersey 15 Percent Rate of Progress Plans, Recalculation of 9 Percent Rate of Progress Plans and 1999 Transportation Conformity Budget Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a New Jersey State Implementation Plan (SIP) revision involving the State's Ozone plan. Specifically, EPA is approving the 15 Percent Rate of Progress (ROP) Plans, recalculation of the 9 Percent ROP Plans, revisions to the 1990 base year emission inventories, revisions to the

1996 and 1999 projection year emission inventories, and the 1999 transportation conformity budgets. The intended effect of this action is to approve programs required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the 1-hour national ambient air quality standard for ozone. In addition, this approved SIP revision corrects the deficiency which led EPA to disapprove, on December 12, 1997, New Jersey's 15 Percent ROP Plans. Consequently, the sanction and Federal Implementation Plan (FIP) process that was started by EPA's disapproval are terminated. The sanction clock associated with the State's failure to implement the enhanced inspection and maintenance program continues to run.

EFFECTIVE DATE: This rule will be effective April 23, 1999.

ADDRESSES: Copies of the State's submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Paul R. Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

On March 1, 1999 (64 FR 9952), EPA proposed approval of New Jersey's State Implementation Plan (SIP) submittals of July 30, 1998 and February 10, 1999. The July and February SIP submittals address the requirements for the two severe ozone nonattainment areas in New Jersey—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. For the purposes of this action, these areas will be referred to as, respectively, the Northern New Jersey nonattainment area (NAA) and the Trenton NAA. The counties located within the Northern New Jersey NAA are: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, and Union. The counties within the Trenton NAA are: Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem.

The following Clean Air Act (CAA) requirements were included in the March 1, 1999 proposal: revisions to the 1990 base year ozone emission inventory; revisions to the 1996 and 1999 ozone projection emission inventories; and the 1999 transportation conformity budgets. EPA also proposed approval of New Jersey's 15 Percent Rate of Progress (ROP) Plans and recalculation of the 9 Percent ROP Plans. New Jersey's two SIP submittals revised the previously submitted 15 Percent ROP Plans and 9 Percent ROP Plans dated December 31, 1996 and February 25, 1997.

New Jersey's new 15 ROP Plans will achieve the required emission reductions by November 15, 1999. This is the same date that the reductions would have been achieved had the enhanced I/M program started on time. The new measures along with the previously approved measures in the new 15 Percent ROP Plans being approved today meets EPA's "as soon as practicable" criteria.

A detailed discussion of the SIP revisions and EPA's rationale for approving them is contained in the March 1, 1999 proposal and will not be restated here. The reader is referred to the proposal for more details.

II. Public Comments

In response to EPA's proposed action on this New Jersey SIP revision, no comments were received.

III. Federal Implementation Plan

On December 12, 1997, EPA announced by letter that its conditional approval of New Jersey's 15 Percent ROP Plans had converted to a disapproval because the enhanced inspection and maintenance program, which was part of the State's plans, did not start as scheduled and resulted in an emission reduction shortfall. This disapproval applied to the New Jersey portions of the two severe ozone nonattainment areas: the Northern New Jersey NAA and the Trenton NAA.

EPA's disapproval of New Jersey's 15 Percent ROP Plans triggered an obligation to promulgate a Federal Implementation Plan (FIP). For the Trenton NAA, EPA has been under a Consent Agreement to propose a FIP by January 15, 1999, and to adopt the FIP by August 15, 1999. EPA developed such a FIP and proposed it on January 22, 1999 (64 FR 3465).

Today's approval of the July 30, 1998 addendum and the February 10, 1999 State Implementation Plan revision for the Northern New Jersey and Trenton nonattainment areas eliminates the shortfall identified in EPA's December 12, 1997 disapproval of New Jersey's 15 Percent ROP Plans and, thereby, terminates the sanction process associated with this deficiency and the requirement for EPA to promulgate a FIP. Therefore, EPA will not proceed with the FIP proposal which was published on January 22, 1999 (64 FR 3465). The sanction clock associated with the State's failure to implement the enhanced inspection and maintenance program, which was included in the December 12, 1997 disapproval, continues to run.

IV. Conclusion

EPA has evaluated these submittals for consistency with the CAA and Agency regulations and policy. EPA is approving New Jersey's: revisions to the 1990 base year ozone emission inventory; revisions to the 1996 and 1999 ozone projection emission inventories; 15 Percent ROP Plans, recalculation of the 9 Percent ROP Plans; and the 1999 transportation conformity budgets for the North Jersey Transportation Planning Authority, South Jersey Transportation Planning Organization, and Delaware Valley Regional Planning Commission.

EPA is making its approval of today's action effective upon the date of publication in the **Federal Register**, based upon a finding of good cause. Approval of this action would relieve restrictions that have been placed on New Jersey when EPA disapproved its SIP on December 12, 1997 and will not adversely affect other parties. The sanction clock associated with the State's failure to implement the enhanced inspection and maintenance program, which was included in the December 12, 1997 disapproval, continues to run.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive

Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1 of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This SIP approval is not subject to E.O. 13045 because it approves a state program implementing a Federal standard, and it is not economically significant under E.O. 12866.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 12, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

§ 52.1580 [Amended]

2. Section 52.1580 is amended by removing and reserving paragraph (b).

§ 52.1581 [Removed and Reserved]

3. Section 52.1581 is removed and reserved.

4. Section 52.1582 is amended by adding a sentence to the end of paragraph (d)(1) and by revising paragraphs (d)(3) and (d)(4) and adding new paragraph (g) as follows:

§ 52.1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide.

* * * * *

(d)(1) * * * Revisions to the 1990 base year emission inventory dated February 10, 1999 for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas of New Jersey have been approved.

* * * * *

(3) The 1996 and 1999 ozone projection year emission inventories included in New Jersey's July 30, 1998 addendum and February 10, 1999 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas have been approved.

(4) The conformity emission budgets for the McGuire Air Force Base included in New Jersey's December 31, 1996 State Implementation Plan revision have been approved. The 1999 conformity emission budgets for the North Jersey Transportation Planning Authority, South Jersey Transportation Planning Organization and Delaware Valley Regional Planning Commission included in New Jersey's July 30, 1998 addendum and the February 10, 1999 State Implementation Plan revision have been approved.

* * * * *

(g) The 15 Percent Rate of Progress (ROP) Plans and the recalculation of the 9 Percent ROP Plans included in the July 30, 1998 addendum and the February 10, 1999 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas have been approved.

[FR Doc. 99–9872 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA126–0129a; FRL–6233–1]

Approval and Promulgation of Implementation Plans for Arizona and California; General Conformity Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves various revisions to State Implementation Plans (SIP) which contain regulations for implementing and enforcing the general conformity rules which the EPA promulgated on November 30, 1993. EPA is approving SIP revisions which contain general conformity rules for the Arizona SIP and the California SIP for the following California Air Pollution Control Districts (APCD) and Air Quality Management Districts (AQMD): El Dorado County APCD, Great Basin Unified APCD, Monterey Bay Unified APCD, San Joaquin Valley Unified APCD, Santa Barbara County APCD, South Coast AQMD, Feather River AQMD, Placer County APCD, Sacramento Metro AQMD, Imperial County APCD, Bay Area AQMD, San Diego County APCD, Butte County AQMD, Ventura County APCD, Mojave Desert AQMD and Yolo-Solano AQMD.

The approval of these general conformity rules into the SIP will result in the SIP criteria and procedures governing general conformity determinations instead of the Federal rules at 40 CFR Part 93, Subpart B for those actions under the jurisdiction of the SIPs. Federal actions by the Federal Highway Administration and Federal Transit Administration (under Title 23 U.S.C. or the Federal Transit Act) are covered by the transportation conformity rules under 40 CFR Part 51, Subpart T-Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act (and 40 CFR Part 93, Subpart A) and are not affected by this action.

EPA approves these SIP revisions under sections 110(k) and 176(c) of the Clean Air Act (CAA or the Act). A more detailed discussion of this action is provided below and in the support documentation.

DATES: This rule is effective on June 22, 1999 without further notice, unless EPA receives adverse comments by May 24, 1999. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to: Doris Lo, Planning Office [AIR2], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012
California Air Resources Board, 2020 L Street, P.O. Box 2815, Sacramento, California 95812
El Dorado County APCD, 2850 Fairlane Court, Placerville, California 95667
Great Basin Unified APCD, 157 Short Street, Suite #6, Bishop, California 93514
Monterey Bay Unified APCD, 24580 Silver Cloud Court, Monterey, California 93940
San Joaquin Valley Unified APCD, 1999 Tuolumne Street, Suite 200, Fresno, California 93721
Santa Barbara County APCD, 26 Castillian Drive, B–23, Goleta, California 93117
South Coast AQMD, 21865 E. Copley Drive, Diamond Bar, California 91765–4182
Feather River AQMD, 463 Palora Avenue, Yuba City, California 95991–4711
Placer County APCD, 11464 B Avenue, Auburn, California 95603
Sacramento Metro AQMD, 8411 Jackson Road, Sacramento, California 95826
Bay Area AQMD, 939 Ellis Street, San Francisco, California 94109
Imperial County APCD, 150 South Ninth Street, El Centro, California 92243–2850
San Diego County, APCD 9150 Chesapeake Drive, San Diego, California 92123–1096
Butte County AQMD, 9287 Midway, Suite 1A, Durham, California 95938
Ventura County APCD, 669 County Square Drive, Ventura, California 93003
Mojave Desert AQMD, 15428 Civic Drive, Suite 200 Victorville, California 92392–2383

Yolo-Solano AQMD, 1947 Galileo Court, Suite 103, Davis, California 95616

FOR FURTHER INFORMATION CONTACT: Doris Lo, Planning Office (AIR2), Air Division, U.S., Environmental Protection Agency, Region IX,75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1287.

SUPPLEMENTARY INFORMATION:

I. Background

Section 176(c) of the Act requires that all Federal actions conform to an applicable implementation plan. Conformity is defined in section 176(c) of the Act as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that such activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

As required by section 176(c) of the Act, EPA published the final general conformity rules implementing this statutory section on November 30, 1993 (58 FR 63214), which are codified under 40 CFR part 51 subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Among other things, EPA's general conformity rules require the States and local air quality agencies (where applicable) to adopt and submit a general conformity SIP revision to EPA which are "no less stringent than the requirements" of Subpart W (40 CFR Part 51.851(b)). *See also,* § 176(c)(4)(C).

The governors of Arizona and California submitted SIP revisions in accordance with 40 CFR part 51, subpart W that contained general conformity rules for the following areas on the following dates summarized below.

Arizona Rule and Submittal Date

—Arizona Administrative Code Title 18, Chapter 2, Article 14, *Conformity Determinations,* 3/3/95

California District Rules and Submittal Dates

—El Dorado County APCD, Rule 502 General Conformity Rule, 11/30/94
—Great Basin Unified APCD, Reg XIII Conformity of General Federal Actions to SIPs, 11/30/94
—Monterey Bay Unified APCD, (Appendix G) General Conformity, 11/30/94
—San Joaquin Valley Unified APCD, Rule 9110 General Conformity, 11/30/94
—Santa Barbara County APCD, Rule 702 General Conformity, 11/30/94
—South Coast AQMD, Rule 1901 General Conformity, 11/30/94
—Feather River AQMD, Rule 10.4 General Conformity, 12/22/94
—Placer County APCD, Rule 508 General Conformity, 12/22/94
—Sacramento Metro AQMD, Rule 104 General Conformity, 12/22/94
—Bay Area AQMD, Federal General Conformity Regulation, 12/28/94
—Imperial County APCD, Rule 925 General Conformity, 2/24/95
—San Diego County APCD, Rule 1501 General Conformity, 5/24/95
—Butte County AQMD, Rule 1103 General Conformity, 5/25/95
—Ventura County APCD, Rule 220 General Conformity, 8/10/95
—Mojave Desert AQMD, Rule 2002-General Federal Actions Conformity, 5/10/96
—Yolo-Solano AQMD, Rule 10.3 General Conformity, 12/3/98

II. EPA Evaluation and Final Action

EPA compared each of the submitted rules to the Federally promulgated rule at 40 CFR part 51. EPA believes that all of the submitted SIP revisions are consistent with 40 CFR 51.851(b) and are no less stringent than the Federal rule. EPA is thus approving the above rules into the SIP under 110(k) and 176(c) of the CAA. A more detailed discussion of EPA's evaluation can be found in the Support Documentation available at the EPA Region 9 Office.

EPA is publishing these rules without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revisions should adverse comments be filed. These rules will be effective June 22, 1999 without further notice unless the Agency receives adverse comments by May 24, 1999.

If the EPA receives any adverse comments, then EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 22, 1999 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an

environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, General conformity, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compound.

Note: Incorporation by reference of the State Implementation Plan for the State of California and the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 29, 1999.

Laura Yoshii,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(92) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(92) Plan revisions were submitted on March 3, 1995, by the Governor's designee.

(A) Arizona State Administrative Code Title 18, Chapter 2, Article 14, adopted on December 23, 1994.

* * * * *

Subpart F—California

3. Section 52.220 is amended by adding paragraphs (c)(205) introductory text, (c)(205)(i) introductory text, (c)(205)(i)(B)(*2*), (c)(207)(i)(B)(*5*), (c)(207)(i)(E)(*2*), (c)(207)(i)(F), (c)(207)(i)(G), (c)(207)(i)(H), (c)(207)(i)(I), (c)(210)(i)(F), (c)(210)(i)(G), (c)(210)(i)(H), (c)(215)(i)(E), (c)(220)(i)(D), (c)(221)(i)(B), (c)(224)(i)(B)(*2*), (c)(231)(i)(C) and (c)(259) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(205) New and amended plans for the following APCDs were submitted on December 28, 1994, by the Governor's designee.

(i) Incorporation by reference.

* * * * *

(B) * * *

(*2*) Federal General Conformity Regulation, adopted on September 7, 1994.

* * * * *

(207) * * *

(i) * * *

(B) * * *

(*5*) Rule 502, adopted on November 8, 1994.

* * * * *

(E) * * *

(*2*) Appendix G General Conformity, adopted on October 19, 1994.

(F) Great Basin Unified Air Pollution Control District.

(*1*) Regulation XIII, adopted on October 5, 1994.

(G) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 9110, adopted on October 20, 1994.

(H) Santa Barbara County Air Pollution Control District.

(*1*) Rule 702, adopted on October 20, 1994.

(I) South Coast Air Quality Management District.

(*1*) Rule 1901, adopted on September 9, 1994.

* * * * *

(210) * * *

(i) * * *

(F) Feather River Air Quality Management District.

(*1*) Rule 10.4, adopted on November 7, 1994.

(G) Placer County Air Pollution Control District.

(*1*) Rule 508, adopted on November 3, 1994.

(H) Sacramento Metropolitan Air Quality Management District.

(*1*) Rule 104, adopted on November 3, 1994.

* * * * *

(215) * * *

(i) * * *

(E) Imperial County Air Pollution Control District.

(*1*) Rule 925, adopted on November 29, 1994.

* * * * *

(220) * * *

(i) * * *

(D) San Diego County Air Pollution Control District.

(*1*) Rule 1501, adopted on March 7, 1995.

* * * * *

(221) * * *

(i) * * *

(B) Butte County Air Quality Management District.

(*1*) Rule 1103, adopted on February 16, 1995.

* * * * *

(224) * * *

(i) * * *

(B) * * *

(*2*) Rule 220, adopted on May 9, 1995.

* * * * *

(231) * * *

(i) * * *

(C) Mojave Desert Air Quality Management District.

(*1*) Rule 2002, adopted on October 26, 1994.

* * * * *

(259) New and amended regulations for the following APCDs were submitted on December 3, 1998, by the Governor's designee.

(i) Incorporation by reference.

(A) Yolo-Solano Air Quality Management District.

(*1*) Rule 10.3, adopted on February 8, 1995.

* * * * *

[FR Doc. 99–9996 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MD056–3022a; FRL–6330–7]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Maryland; Control of Emissions From Large Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the municipal waste combustor (MWC) 111(d)/129 plan submitted by the Air and Radiation Management Administration, Maryland Department of the Environment, on December 4, 1997, and as amended on October 7, 1998. The plan was submitted to fulfill requirements of the Clean Air Act (CAA), and EPA emission guidelines (EG) applicable to existing MWC facilities with a unit combustor capacity of more than 250 tons per day (TPD) of municipal solid waste. An existing MWC unit is defined as one for which construction has commenced on or before September 20, 1994.

DATES: This direct final rule is effective on June 22, 1999, without further notice, unless the EPA receives adverse comment by May 24, 1999. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Makeba A. Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania; and the Air and Radiation Management Administration, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: James B. Topsale at (215) 814–2190, or by e-mail at topsale.jim@epamail.gov. While information may be obtained via e-mail, any comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 111(d) of the CAA requires that "designated" pollutants controlled under standards of performance for new stationary sources by section 111(b) of the CAA must also be controlled at existing sources in the same source category. Also, section 129 of the CAA specifically addresses solid waste combustion. It requires EPA to establish emission guidelines (EG) for MWC units and requires states to develop state plans for implementing the promulgated EG. The part 60, subpart Cb, EG for MWC units differ from other EG adopted in the past because the rule addresses both sections 111(d) and 129 CAA requirements. Section 129 requirements override certain related aspects of section 111(d).

On December 19, 1995, pursuant to sections 111 and 129 of the CAA, EPA promulgated new source performance standards (NSPS) applicable to new MWCs (i.e., those for which construction was commenced after September 20, 1994) and EG applicable to existing MWCs. The NSPS and EG are codified at 40 CFR part 60, subparts Eb and Cb, respectively. *See* 60 FR 65387. Subparts Cb and Eb regulate MWC emissions. Emissions from MWCs contain organics (dioxin/furans), metals (cadmium, lead, mercury, particulate matter, opacity), and acid gases (hydrogen chloride, sulphur dioxide, and nitrogen oxides).

On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated subparts Cb and Eb as they apply to MWC units with capacity to combust less than or equal to 250 tons per day (TPD) of municipal solid waste (MSW), consistent with their opinion in *Davis County Solid Waste Management and Recovery District* v. *EPA*, 101 F.3d 1395 (D.C. Cir. 1996), *as amended*, 108 F.3d 1454 (D.C. Cir. 1997). As a result, subparts Cb and Eb were amended to apply only to MWC units with the capacity to combust more than 250 TPD of MSW per unit (i.e., large MWC units). The amended requirements of the EG and NSPS were published in the **Federal Register** on August 25, 1997. *See* 62 FR 45119 and 45124 for the EG amendments.

Section 129(b)(2) of the CAA requires States to submit to EPA for approval State plans that implement and enforce the EG. State plans must be "at least as protective" as the EG, and become Federally enforceable upon approval by EPA. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. EPA originally promulgated the subpart B provisions on November 17, 1975. However, EPA amended subpart B on December 19, 1995, to allow the source specific subparts (e.g., subpart Cb) developed under section 129 to include requirements that supersede the general provisions in subpart B regarding the schedule for submittal of State plans, the stringency of the emission limitations, and the compliance schedules. *See* 60 FR 65414.

As required by section 129(b)(3) of the CAA, on November 12, 1998 EPA promulgated a Federal Implementation Plan (FIP) for large MWCs for which construction was commenced on or before September 20, 1994. The FIP is a set of emissions limits, compliance schedules, and other requirements that implement the MWC EG, as amended. The FIP is applicable to those large existing MWC not specifically covered by an approved State plan under sections 111(d) and 129 of the CAA. It fills a Federal enforceability gap until State plans are approved and ensures that the MWC units stay on track to complete pollution control equipment retrofit schedules to meet the final statutory compliance date of December 19, 2000. However, the FIP no longer applies once a State plan is approved. An approved State plan is a State plan that EPA has reviewed and approved based upon the requirements of 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart Cb. *See* 63 FR 63192.

As noted above, emissions from MWCs contain organics (dioxin/furans), metals (cadmium, lead, mercury, particulate matter, opacity), and acid gases (hydrogen chloride, sulphur dioxide, and nitrogen oxides). These pollutants can cause adverse effects to the public health and the environment. Dioxin, lead and mercury can bioaccumulate in the environment. Acid gases contribute to the acid rain that lowers the pH of surface waters and watersheds, harms forests, and damages buildings. In addition, nitrogen oxides emissions contribute to the formation of ground level ozone, which is associated with a number of adverse health and environmental effects.

II. Review of Maryland's MWC Plan

EPA has reviewed the Maryland 111(d)/129 plan for existing large MWC units in the context of the requirements of 40 CFR part 60, and subparts B and Cb, as amended. A summary of that review is provided below.

A. Identification of Enforceable State Mechanism for Implementing the EG

The regulation at 40 CFR 60.24(a) requires that the section 111(d) plan include emissions standards, defined in 40 CFR 60.21(f) as " a legally enforceable regulation setting forth an allowable rate of emissions into the atmosphere, or prescribing equipment specifications for control of air pollution emissions." The State of Maryland through the MDE, has adopted State regulations to control MWC emissions. The applicable Code of Maryland Regulations (COMAR) for large MWC is found at COMAR 26.11.08, Control of Incinerators. The applicable portion of the regulation relating to large MWC was adopted on October 24, 1997, and became effective on November 17, 1997. COMAR 26.11.08 amendments were adopted on August 18, 1998 and became effective on September 7, 1998. The MDE has met the requirements of 40 CFR 60.24(a) to have a legally enforceable emission standard.

B. Demonstration of Legal Authority

Title 40 CFR 60.26 requires the 111(d) plan to demonstrate that the State has legal authority to adopt and implement the emission standards and compliance schedules. The MDE has demonstrated that it has the legal authority to adopt and implement the emission standards governing MWC emissions. MDE's legal authority is derived from Title 2 of the Environment Article, Annotated Code of Maryland, sections 2–103(b) and 2–301. Furthermore, Maryland has submitted and EPA has approved previous Maryland 111(d) plans for other designated facilities that demonstrate the required legal authority. This meets the requirements of 40 CFR 60.26.

C. Inventory of MWCs in Maryland Affected by the EG

Title 40 CFR 60.25(a) requires the 111(d) plan to include a complete source inventory of all existing large MWCs (i.e., unit capacity greater than 250 TPD). The MDE has identified three (3) facilities with individual MWC units having combustion capacities greater than 250 TPD. The first facility, the Baltimore Resco plant has a total capacity of 2,250 TPD, consisting of three 750 TPD units each with emissions controlled by an electrostatic precipitator. The second facility, the Ogden Martin Systems of Montgomery County plant, has a total capacity of 1,800 TPD, consisting of three 600 TPD units each with emissions controlled by dry lime furnace injection and post combustion scrubbers for acid gases; ammonia injection for nitrogen oxides; carbon injection for mercury and dioxins; and baghouses for particulate matter and metals. The third facility, the Pulaski Highway MWC plant, has a total capacity of 1,500 TPD; however, this plant was shut down on September 15, 1995.

D. Inventory of Emissions From MWC in Maryland

Title 40 CFR 60.25(a) requires that the plan include an emissions inventory that estimates emissions of the pollutant regulated by the EG. Emissions from MWCs contain organics (dioxin/furans), metals (cadmium, lead, mercury, particulate matter, opacity), and acid gases (hydrogen chloride, sulphur dioxide, and nitrogen oxides). For each MWC plant, the MDE plan contains information on estimated MWC emission rates in pounds per hour and tons per year based on stack test data and continuous emission monitoring data. This meets the emission inventory requirements of 40 CFR 60.25(a).

E. Emission Limitations for MWCs

Title 40 CFR 60.24(c) specifies that the State plan must include emission standards that are no less stringent than the EG, except as specified in 40 CFR 60.24(f) which allows for less stringent emission limitations on a case-by-case basis if certain conditions are met. However, this exception clause is superseded by section 129(b)(2) of the CAA which requires that state plans be "at least as protective" as the EG. Title 40 CFR 60.33b of the EG contains the emissions limitations applicable to existing large MWCs. The MDE MWC regulation meets the emission limitation requirements by specifying emission limitations that are consistent and "at least as protective" as those in the EG, as amended.

F. Compliance Schedules

A state section 111(d) plan must include a compliance schedule that owners and operators of affected MWCs must meet in complying with the requirements of the plan. Any proposed revision to a compliance schedule is subject to the requirements of subpart B 60.28, Plan revisions by the State. Title 40 CFR 60.39b of the EG provides that planning, awarding of contracts, and installation of air emission collection and control equipment capable of meeting the EG requirements must be accomplished within 3 years of EPA plan approval, but in no case later than December 19, 2000. As a result of the *Davis County* litigation, noted above, compliance with supplemental EG emissions limits for lead, sulfur dioxide, hydrogen chloride, and nitrogen oxides could extend until August 26, 2002, or 3 years after EPA approval of the 111(d)/129 plan, whichever is earlier. However, section 129(f)(2) of the CAA states that requirements promulgated pursuant to sections 111 and 129 must be effective "as expeditiously as practicable after approval of a State plan." Title 40 CFR 60.39b(c)(1) provides that any compliance schedule, extending more than 1 year beyond the date of EPA plan approval, must include measurable and enforceable increments of progress. The minimum increments of progress are specified in 40 CFR 60.21(h); they include deadlines for submitting a final control plan, awarding of contracts for emission control systems, initiating of on-site construction or installation of emission control equipment, completing of on-site construction/installation of emission control equipment, and final compliance. In addition, 60.39b(c)(5) requires that all large MWCs for which construction was commenced after June 26, 1987 must meet the mercury and dioxins/furans emissions limitations within one year following issuance of a revised construction or operating permit, if a permit modification is required, or within one year following EPA approval of the State plan, whichever is later.

The MDE has determined that source compliance with the EG emissions limits, including the supplemental limits, requires compliance no later than December 19, 2000. For any large MWC for which construction commenced after June 26, 1987, the MDE regulation requires compliance with all applicable emission standards and requirements on or before January 1, 1999. The MDE MWC regulation establishes interim and final compliance dates, as required by subpart B 60.21(h)(1), and subpart Cb 60.39b.

H. Testing, Monitoring, Recordkeeping, and Reporting Requirements

The EG at 40 CFR 60.38b and 60.39b cross reference applicable MWC NSPS (subpart Eb) requirements relating to performance testing, monitoring, reporting and recordkeeping requirements that State plans must include. The MDE regulation meets the requirements of 40 CFR 60.38b and 60.39b.

I. A Record of Public Hearing on the State Plan

The public hearings on the applicable portions of the MDE MWC regulation, COMAR 26.11.08, were held September 17, 1997 and July 22, 1998. The applicable portions of the regulation became effective November 17, 1997. The subsequent regulation amendments for large MWCs became effective on September 7, 1998. The State provided evidence of complying with public notice and other hearing requirements, including a record of public comments received. The 40 CFR 60.23 requirement for a public hearing on the 111(d)/129 plan has been met by the MDE.

J. Provision for Annual State Progress Reports to EPA

The MDE will submit to EPA on an annual basis a report which details the progress in the enforcement of the MWC 111(d)/129 plan in accordance with 40 CFR 60.25. The first progress report will be submitted to EPA one year after approval of Maryland's MWC 111(d)/129 plan.

III. Final Action

Based upon the rationale discussed above and in further detail in the technical support document (TSD) associated with this action, EPA is approving the Maryland MWC 111(d)/129 plan for the control of MWC emissions from affected facilities. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. Providing the Pulaski MWC facility remains closed, it is not subject to the COMAR 26.11.08 emission limitations, operator training, and compliance schedule requirements under the 111(d)/129 plan. As provided by 40 CFR 60.28(c), any revisions to Maryland's MWC 111(d)/129 plan or associated regulations will not be considered part of the applicable plan until submitted by the State of Maryland in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B, requirements.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules Section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the 111(d)/129 plan should relevant adverse or critical comments be filed. This rule will be effective June 22, 1999 without further notice unless the Agency receives relevant adverse comments by May 24, 1999. If EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on this section should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 22, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review." Because today's rule does not create a mandate on state, local or tribal governments, it does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule. This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental

health or safety risk that would have a disproportionate effect on children. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule. Under the Regulatory Flexibility Act (RFA), because the Federal 111(d) approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

B. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 1999. Filing a petition for reconsideration by the Administrator of this final rule pertaining to the State of Maryland MWC 111(d)/129 plan does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: April 15, 1999.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR Part 62, Subpart V, is amended as follows:

PART 62—[AMENDED]

Subpart V—Maryland

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. A new center heading, and §§ 62.5110, 62.5111, and 62.5112 are added to read as follows:

Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions From Existing Municipal Waste Combustors With a Unit Capacity Greater Than 250 Tons Per Day

§ 62.5110 Identification of plan.

111(d)/129 plan for municipal waste combustors (MWCs) with a unit capacity greater than 250 tons per day (TPD) and the associated Code of Maryland Regulation (COMAR 26.11.08), as submitted by the Air and Radiation Management Administration, Maryland Department of the Environment, on December 4, 1997, and as amended on October 7, 1998.

§ 62.5111 Identification of sources.

The plan applies to all existing MWC facilities with a MWC unit capacity greater than 250 TPD of municipal solid waste.

§ 62.5112 Effective date.

The effective date of the 111(d)/129 plan is June 22, 1999.

[FR Doc. 99–10229 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[A–1–FRL–6325–3]

Authorization To Implement Section 111 and 112 Standards; State of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve the mechanism that will allow EPA to authorize the State of Connecticut to implement and enforce specific national emission standards for hazardous air pollutants for source categories (NESHAPs) and new source performance standards (NSPS) under the Clean Air Act. This authority will be limited to only facilities that have obtained a Clean Air Act Title V operating permit under Connecticut's approved program.

EFFECTIVE DATE: This rule will become effective on May 24, 1999.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Donald Dahl at (617) 918–1657.

SUPPLEMENTARY INFORMATION:

I. Background

On December 6, 1996 (61 FR 64651), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. The NPR proposed approval under section 112(l)(5) of the Clean Air Act (CAA, 42 U.S.C. 7401 *et seq.*) and 40 CFR 63.91 of Connecticut's mechanism for receiving authorization to implement section 112 standards for part 70 sources that are unchanged from the federal standards as promulgated. Section 112 of the CAA provides for the control of air toxics emissions through the issuance of federal National Emission Standards for Hazardous Air Pollutants. EPA's approval was contingent on Connecticut making an amendment to its authority for enforcing federal standards. The state made the necessary changes to its statute. See section 22(a)–174(c), as amended by Public Act 97–124 section 4. The legislation, a copy of which can be found in the docket, became effective on October 1, 1997. The NPR also proposed using the same mechanism to authorize state implementation of future NSPS standards that are unchanged from 40 CFR part 60. The authorization mechanism does not cover sources which do not obtain a Title V permit.

Section 112(l) of the Clean Air Act, as inserted by the 1990 CAA amendments, authorizes EPA to approve state or local air pollution control agencies to implement and enforce the standards set out in 40 CFR parts 61 and 63, National Emission Standards for Hazardous Air

Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR part 63, subpart E, establishing procedures for EPA's approval of state rules or programs under section 112(l) (see 58 FR 62262).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and 40 CFR part 63, subpart E. To streamline the approval process for future applications, a state or local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. See 40 CFR 63.90 (introduction) and 63.91(a). If such demonstration is approved, then the state or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for authorization to implement CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the does not adequately implement or enforce an approved rule or program. See 40 CFR 63.96.

Other specific requirements and the rationale for EPA's proposed action were explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving a mechanism that will allow Connecticut to accept authorization to implement CAA sections 111 and 112. EPA is also reconfirming previously authorized parts 60 and 61 standards as indicated in Table I. Although EPA reserves its right, pursuant to 40 CFR 63.96, to review the appropriateness of any future authorization request, EPA will not institute any additional comment periods on future authorization actions.

This authorization will give Connecticut the primary implementation and enforcement responsibility of 40 CFR parts 60, 61 and 63 standards for sources that obtain a Title V permit. However, EPA still retains the right, pursuant to CAA sections 111(c) and 112(l)(7), to enforce any applicable emission standard or requirement under CAA sections 111 or 112. In addition, EPA is not authorizing Connecticut to implement any authorities that require approval rulemaking in the **Federal Register**, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA sections 111 or 112.

III. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 **Federal Register** 51,735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13045

This final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

C. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because authorizing Connecticut to implement standards developed

under sections 111 and 112 of the CAA does not create any new requirements, but simply allows the state to implement the standards. Therefore, because an authorization of NSPS or MACT standard does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to , local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either, local, or tribal governments in the aggregate, or to the private sector. This Federal approves action the State of Connecticut to implement pre-existing requirements under state law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: April 6, 1999.

John P. DeVillars,

Regional Administrator, Region I.

TABLE TO THE PREAMBLE

[Authorization of Connecticut to implement part 60 and 61 standards as they apply to sources with permits under Connecticut's Title V Operating Permits Program]

Part 60—Subpart Categories	
D	Fossil-Fuel Fired Steam Generators
Da	Electric Utility Steam Generators
Db	Industrial-Commercial-Institutional Steam Generating Units
Dc	Small Industrial Commercial Institutional Steam Generating Units
E	Incinerators
Ea	Municipal Waste Combustors
F	Portland Cement Plants
G	Nitric Acid Plants
H	Sulfuric Acid Plants
I	Asphalt Concrete Plants
J	Petroleum Refineries
K	Petroleum Liquid Storage Vessels
Ka	Petroleum Liquid Storage Vessels
Kb	Volatile Organic Liquid Storage Tanks
L	Secondary Lead Smelters
M	Secondary Brass and Bronze Production Plants
N	Basic Oxygen Process Furnaces Primary Emissions
Na	Basic Oxygen Process Steelmaking—Secondary Emissions
O	Sewage Treatment Plants
T	Phosphate Fertilizer Wet Process
U	Phosphate Fertilizer—Superphosphoric Acid
V	Phosphate Fertilizer—Diammonium Phosphate
W	Phosphate Fertilizer—Triple Superphosphate
X	Phosphate Fertilizer—Granular Triple Superphosphate Storage
AA	Steel Plants—Electric Arc Furnaces
CC	Glass Manufacturing Plants
EE	Surface Coating of Metal Furniture
GG	Stationary Gas Turbines
HH	Lime Manufacturing Plants
LL	Metallic Mineral Processing Plants
QQ	Graphic Arts—Rotogravure Printing

TABLE TO THE PREAMBLE—Continued

[Authorization of Connecticut to implement part 60 and 61 standards as they apply to sources with permits under Connecticut's Title V Operating Permits Program]

RR	Tape and Label Surface Coatings
SS	Surface Coating: Large Appliances
TT	Metal Coil Surface Coating
UU	Asphalt Processing Roofing
VV	Equipment Leaks of VOC in SOCMI
WW	Beverage Can Surface Coating
XX	Bulk Gasoline Terminals
BBB	Rubber Tire Manufacturing
DDD	VOC Emissions from Polymer Manufacturing Industry
FFF	Flexible Vinyl and Urethane Coating and Printing
GGG	Equipment Leaks of VOC in Petroleum Refineries
HHH	Synthetic Fiber Production
III	VOC from SOCMI Air Oxidation Unit
JJJ	Petroleum Dry Cleaners
NNN	VOC from SOCMI Distillation
OOO	Nonmetallic Mineral Plants
SSS	Magnetic Tape Coating
TTT	Surface Coating of Plastic Parts for Business Machines
VVV	Polymeric Coating of Supporting Substrates

Part 61—Subpart Categories

C	Beryllium
D	Beryllium—Rocket Motor
E	Mercury
F	Vinyl Chloride
J	Equip Leaks of Benzene
M	Asbestos
N	Arsenic—Glass Manufacturing
Q	Radon—DOE Facilities
V	Equip Leaks (Fugitive Emission Sources)
Y	Benzene Storage Vessels

[FR Doc. 99–9472 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6330–9]

Wyoming: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of immediate final rule.

SUMMARY: We are withdrawing the immediate final rule for Wyoming: Final Authorization of State Hazardous Waste Management Program Revision published on February 25, 1999, which approved the first revision to Wyoming's Hazardous Waste Rules. We stated in the immediate final rule that if we received adverse comment, we would publish a timely notice of withdrawal in the **Federal Register**. Subsequently, we received adverse comment. We will address the adverse comment in a subsequent final action based on the proposed rule also published on February 25, 1999, and the extension of the public comment period published in a separate document in the "Proposed Rules" section of this **Federal Register**.

DATES: As of April 23, 1999, we withdraw the immediate final rule published at 64 FR 9278, on February 25, 1999.

FOR FURTHER INFORMATION CONTACT: Kris Shurr (8P–HW), phone number: (303) 312–6312, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

SUPPLEMENTARY INFORMATION: Because we received adverse comment, we are withdrawing the immediate final rule for Wyoming: Final Authorization of State Hazardous Waste Management Program Revision published on February 25, 1999 at 64 FR 9278, which intended to grant authorization for the first revision to Wyoming's Hazardous Waste Rules. We stated in the immediate final rule that if we received adverse comment by March 29, 1999, we would publish a timely notice of withdrawal in the **Federal Register**. Subsequently, we received adverse comment. We will address all comments in a subsequent final action based on the previously published proposed rule and an extension of the public comment period published in the "Proposed Rules" section of this **Federal Register**. We will not provide for additional public comment during the final action. Any party interested in commenting must do so during the extended comment period.

Dated: April 16, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

[FR Doc. 99–10231 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1802, 1804, 1812, 1852, 1853, and 1871

Administrative Revisions to the NASA FAR Supplement

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule to conform NASA FAR Supplement MidRange Administrative Procedures with FAR 19.11, 19.12, 19.13, and make editorial corrections and miscellaneous changes dealing with NASA internal and administrative matters.

DATES: This rule is effective April 23, 1999.

ADDRESSES: Celeste Dalton, NASA Headquarters Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, (202) 358–1645, e-mail: celeste.dalton@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

Background

Recent changes to FAR Subpart 19.11, Price Evaluation Adjustment for Small Disadvantaged Business Concerns, and FAR Subpart 19.12, Small Disadvantaged Business Participation Program, established mechanisms to benefit small disadvantaged business (SDB) firms at the prime and subcontract levels. This rule incorporates these changes into MidRange Procedures and provides guidance on the evaluation of the extent of SDB participation, as required by FAR 19.12, under MidRange Best Value Selection (BVS) procedures. NASA MidRange Procurement Procedures require that all acquisitions be reserved for small business concerns. Changes at FAR 19.13, implementing the SBA Historically Underutilized Business Zone (HUBZone) Program, change the order of priority for small business set-asides. This rule incorporates this change into the MidRange Procedures. Additional administrative changes are made to the MidRange Procedures to: reflect the expiration of the pilot test period and synopsis waiver for these procedures; modify the dollar threshold for MidRange acquisitions; correct a FAR citation noted in section 1871.401–1(b)(3); delete redundant coverage of NASA Acquisition Internet Service (NAIS) usage at section 1871.405; and add prescribed NASA Forms 1667 and 1668 to Part 1853. Other editorial changes unrelated to MidRange are made to: revise the language at 1812.301(f)(i) to clarify that use of the clauses listed is authorized without obtaining a waiver; add clause 1852.223–71, Frequency Authorization, to the list of clauses authorized for use in commercial acquisitions in accordance with the authority at FAR 12.301(f); and revise several references to Lewis Research Center (LeRC) to the Glenn Research Center at Lewis Field (GRC).

Impact

Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comments is not required. However, comments from small entities concerning the affected NFS subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5. U.S.C. 601, *et seq.*

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1802, 1804, 1812, 1852, 1853, and 1871

Government procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1802, 1804, 1812, 1852, 1853, and 1871 are amended as follows:

PART 1802—DEFINITIONS OF WORDS AND TERMS

1. The authority citation for 48 CFR Parts 1802; 1804, 1812, 1852, 1853, and 1871 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. In the definition "Contracting activity" in section 1802.101, "Lewis Research Center" is removed and "Glenn Research Center at Lewis Field" is added in alphabetical order after "Dryden Flight Research Center".

PART 1804—ADMINISTRATIVE MATTERS

3. In paragraph (a) to section 1804.7102, under the heading "Installation", "Lewis Research Center" is removed and "Glenn Research Center at Lewis Field" is added in its place and the entry is placed in alphabetical order after "Dryden Flight Research Center".

PART 1812—ACQUISITION OF COMMERCIAL ITEMS

4. Section 1812.301, is revised to read as follows:

1812.301 Solicitation provisions and contract clauses for the acquisition of commercial items. (NASA Supplements paragraph (f))

(f)(i) The following clauses are authorized for use in acquisitions of commercial items when required by the clause prescription:

(A) 1852.214–71, Grouping for Aggregate Award.

(B) 1852.214–72, Full Quantities.

(C) 1852.215–84, Ombudsman.

(D) 1852.219–75, Small Business Subcontracting Reporting.

(E) 1852.219–76, NASA Small Disadvantaged Business Goal.

(F) 1852.223–71, Frequency Authorization.

(G) 1852.228–72, Cross-Waiver of Liability for Space Shuttle Services.

(H) 1852.228–76, Cross-Waiver of Liability for Space Station Activities.

(I) 1852.228–78, Cross-Waiver of Liability for NASA Expendable Launch Vehicles.

(J) 1852.232–70, NASA Progress Payment Rates.

(K) 1852.246–72, Material Inspection and Receiving Report.

PART 1852—SOLICITATION PROVISIONS AND CONRACT CLAUSES

5. In paragraph (b)(i) to section 1852.103, "CW" and "LERC" are removed, and "GRC" is added in alphabetical order after "DFRC".

PART 1853—FORMS

6. Section 1853.271 is added to read as follows:

1853.271 MidRange procurement procedures (NASA Forms 1667 and 1668).

The following forms are prescribed in 1871.105(f):

(a) NASA Form 1667, Request for Offer.

(b) NASA Form 1668, Contract.

PART 1871—MIDRANGE PROCUREMENT PROCEDURES

7. Subpart 1871.1 is revised to read as follows:

Subpart 1871.1—General

Sec.

1871.101 Purpose.
1871.102 Applicability.
1871.103 Definitions.
1871.104 Policy.

Subpart 1871.1—General

1871.101 Purpose.

The purpose of this part is to establish policies and procedures that implement the MidRange procurement process.

1871.102 Applicability.

(a) This part applies to all acquisitions at NASA, except as provided in 1871.401–4(a)(3), the aggregate amount of which is not more than $10,000,000 including options, and for commercial items (FAR Part 12) not more than $25,000,000 including options. This part may be used for commercial item contracts above $25,000,000 at the installation's discretion.

(b) For other than commercial items, if the Government estimate exceeds the limits of paragraph (a) of this section, the acquisition will be processed under FAR and NFS procedures applicable to large acquisitions (see FAR Parts 14 and 15). When the estimate is within the threshold of paragraph (a) of this section and the acquisition was started using these procedures but the offered prices/costs exceed the MidRange ceiling, the acquisition may continue under MidRange procedures, provided that—

(1) The price/cost can be determined to be fair and reasonable;

(2) The successful offeror accepts incorporation of required FAR and NFS clauses applicable to large acquisitions; and

(3) The acquisition does not exceed $15,000,000 for the total requirement.

1871.103 Definitions.

The following terms are used throughout part 1871 as defined in this subpart.

(a) MidRange procurement procedure means a set of procedures contained in this part and within the applicability of 1871.102.

(b) Request for Offer (RFO) means the solicitation used to request offers for all authorized MidRange procurements.

(c) Clarification and Discussion are used as defined in FAR 15.306.

(d) Commercial item is used as defined in FAR 2.101.

1871.104 Policy.

(a) Unless stated otherwise, acquisitions conducted using MidRange procedures shall comply with all applicable parts of the FAR and NFS (e.g. FAR 15.4 and 1815.4—Contract Pricing, and FAR 19.7 and 1819.7—The Small Business Subcontracting Program).

(b) Acquisitions conducted under Part 1871, unless otherwise properly restricted under the provisions of FAR Part 6, are considered to be full and open competition after exclusion of sources when set aside for competitions among small business concerns (FAR 6.203), 8(a) concerns (FAR 6.204), or HUBZone small businesses (FAR 6.205).

(c) Options may be included in the acquisition provided they conform to 1871.102(a).

(d) The appropriate part 1871 post-selection processes (negotiation, award, and publication of award) may be used to the extent applicable for Small Business Innovation Research (SBIR), broad agency announcements, unsolicited proposals, and Small Business Administration 8(a) acquisitions within the applicability of 1871.102(a).

(e) The NASA Acquisition Internet Service (NAIS) will be used to the maximum extent practicable to disseminate advance acquisition information and conduct part 1871 acquisitions.

(f) Use of locally generated forms is encouraged where their use will contribute to the efficiency and economy of the process. NASA Forms 1667, Request for Offer, and 1668, Contract, or computer generated versions of these forms, may be used as the solicitation and contract cover sheets, respectively, except that the SF1442, Solicitation, Offer, and Award (Construction, Alteration, or Repair), shall be used for construction acquisitions and the SF1449, Solicitation/Contract/Order for Commercial Items, shall be used for commercial item acquisitions. Contractor generated forms or formats for solicitation response should be allowed whenever possible. There is no requirement for uniform formats (see FAR 15.204).

8. In section 1871.204, paragraphs (a), (d), and (f) are revised and paragraph (h) is added to read as follows:

1871.204 Small business set-asides.

(a) Except as provided in paragraphs (b) through (f) of this section, each MidRange acquisition shall be reserved exclusively for small business concerns. (See FAR subparts 19.5 and 19.13. See FAR 19.1305(a) regarding priority considerations).

* * * * *

(d) If the buying team procurement member determines that the conditions for a HUBZone set-aside, HUBZone sole source, or small business set-aside cannot be satisfied, the buying team may purchase on an unrestricted basis utilizing MidRange procedures. The buying team procurement member shall document the contract file with the reason for the unrestricted acquisition.

* * * * *

(f) If the buying team proceeds with a small business MidRange set-aside and receives an offer from only one responsible small business concern at a reasonable price, the contracting officer will normally make an award to that concern. However, if the buying team does not receive a reasonable offer from a responsible small business concern, the buying team procurement member may cancel the small business set-aside and complete the acquisition on an unrestricted basis utilizing MidRange procedures. If the acquisition is a HUBZone set-aside and only one acceptable offer is received, the buying team should proceed with the award in accordance with FAR 19.1305(d). The buying team procurement members shall document in the file the reason for the unrestricted purchase.

* * * * *

(h) Each model contract under a HUBZone MidRange set-aside shall contain the clause at FAR 52.219–3, Notice of Total HUBZone Set-Aside.

9. In section 1871.401–1, paragraph (b)(3) is revised and paragraph (b)(5) is added to read as follows:

1871.401–1 Sealed offers.

* * * * *

(b) * * *

(3) All offers shall be examined for mistakes in accordance with FAR 14.407–1 and 14.407–2. The buying team shall determine that a prospective contractor is responsible and that the prices offered are reasonable (see FAR 14.408–2).

* * * * *

(5) When proceeding with an unrestricted acquisition see—

(i) FAR Subpart 19.11 regarding use of the price evaluation adjustment for small disadvantaged business (SDB) concerns; and

(ii) FAR Subpart 19.13 regarding use of the price evaluation preference for HUBZone small business concerns.

10. In section 1871.401–2, the section heading is revised and paragraph (b)(5) is added to read as follows:

1871.401–2 Two-step competitive acquisition.

* * * * *

(b) * * *

(5) When proceeding with an unrestricted acquisition see—

(i) FAR Subpart 19.11 regarding use of the price evaluation adjustment for SDB concerns; and

(ii) FAR Subpart 19.13 regarding use of the price evaluation preference for HUBZone small business concerns.

11. In section 1871.401–3, the section heading is revised and paragraph (a)(4) is added to read as follows:

1871.401–3 Competitive negotiated acquisition not using qualitative criteria.

(a) * * *

(4) When proceeding with an unrestricted acquisition see—

(i) FAR Subpart 19.11 regarding use of the price evaluation adjustment for SDB concerns; and

(ii) FAR Subpart 19.13 regarding use of the price evaluation preference for HUBZone small business concerns.

* * * * *

12. In section 1871.401–4 paragraph (a)(5) is added to read as follows:

1871.401–4 Competitive negotiations using qualitative criteria (Best Value Selection).

(a) * * *

(5) When proceeding with an unrestricted acquisition see—

(i) FAR Subpart 19.11 regarding use of the price evaluation adjustment for SDB concerns. SDB concerns that choose the FAR 19.11 price evaluation adjustment shall receive no consideration under a MidRange BVS value characteristic that addresses the FAR 19.1202 SDB participation evaluation;

(ii) FAR 19.1202 regarding the evaluation of the participation of SDB concerns in performance of the contract. For BVS MidRange acquisitions, SDB participation shall be evaluated as a BVS value characteristic (see 1871.603(b)); and

(iii) FAR Subpart 19.13 regarding use of the price evaluation preference for HUBZone small business concerns.

* * * * *

13. In section 1871.401–5, paragraph (b) is revised to read as follows:

1871.401–5 Noncompetitive negotiations.

* * * * *

(b) Procedures.

(1) The buying team shall request pricing information in accordance with FAR 15.402 and 15.403.

(2) The technical member of the buying team shall provide technical assistance to the procurement member during evaluation and negotiation of the contractor's offer.

14. Section 1871.405 is removed.

15. Section 1871.505 is revised to read as follows:

1871.505 Notifications to unsuccessful offerors.

For solicitations that were posted on the NAIS, a preaward notice shall be electronically transmitted to the offerors. In addition, contracting officers shall comply with the preaward notices for small business programs in FAR 15.503(a)(2).

16. In section 1871.602, the second sentence is revised to read as follows:

1871.602 Specifications for MidRange procurements.

* * * The offeror will be guided in meeting the Government's needs by a separate set of value characteristics which establish what the Government considers to be valuable in an offer beyond the baseline requirement. * * *

17. In section 1871.603, paragraphs (b) and (c) are redesignated as paragraphs (d) and (e), and new paragraphs (b) and (c) are added to read as follows:

1871.603 Establishment of evaluation criteria.

* * * * *

(b) For unrestricted acquisitions, small disadvantaged business (SDB) participation shall be evaluated as a BVS value characteristic (see FAR 19.1202–3). In order to receive consideration under the value characteristic, the offeror must propose a target for SDB participation greater than the baseline requirement. The baseline requirement for SDB participation is zero or no SDB participation. SDB concerns that choose the price evaluation adjustment under FAR 19.11 shall receive no consideration under this MidRange BVS value characteristic. Like other value characteristics, offerors meeting the baseline, but proposing no value above the baseline, and which are otherwise acceptable, are to be considered for award if they are finalists.

(c) Past performance may be included as a value characteristic or considered as a separate evaluation criteria. If considered as a separate criterion, the relative importance of past performance in relation to cost and technical must be defined in the solicitation.

* * * * *

[FR Doc. 99–10126 Filed 4–22–99; 8:45 am]
BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CFR 48 Part 1842

Contracting Officer's Technical Representative (COTR) Training

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to make the required COTR training subjects more logically coherent and flexible. Specifically, this change: (1) eliminates the Service Contract Act as a mandatory topic; (2) combines coverage of the Anti-Deficiency Act with the Limitation of Funds and Limitation of Cost clauses; and (3) enables Procurement Officers to credit local ethics training against the requirement for instruction in Procurement Integrity.

EFFECTIVE DATE: April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Patrick Flynn, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), (202) 358–0460, e-mail: patrick.flynn@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

Background

The objective of NASA's COTR training is to provide a common background in contract management processes and contract mechanisms for NASA's COTRs to successfully apply their delegated authority toward project objectives. In fiscal year 1998, a review of NASA's training program resulted in actions to clarify the subjects that are required to be addressed and give NASA field installations more flexibility in how they implement the training.

Impact

Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for comments is not required. However, comments from small business entities concerning the affected NFS coverage will be considered in accordance with 5 U.S.C. 610. Such comments may be submitted separately and should cite 5 U.S.C. 601, *et seq.*

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 1842

Government procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Part 1842 is amended as follows:

PART 1842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

1. The authority citation for 48 CFR Part 1842 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. In section 1842.270, paragraph (f) is revised to read as follows:

1842.270 Contracting officer technical representative (COTR) delegations.

* * * * *

(f)(1) Mandatory training for COTRs and their alternates shall include the following core topic areas:

(i) Contracting authority and contract modifications (including non-personal services and inherently governmental functions);

(ii) Inspection and surveillance;

(iii) Changes and performance-based contracting;

(iv) Contract financial and property management (including "Limitation of Cost" clause, Anti-Deficiency Act, "Limitation of Funds" clause); and

(v) Disputes.

(2) Procurement officers are responsible for assuring that the course(s) utilized by their center address the mandatory core topics in sufficient detail for the purpose of COTR training. Procurement officers may accept the following training alternative(s) in satisfaction of comparable requirement(s) specified in paragraph (f)(1) of this section:

(i) Another center's COTR training; or

(ii) Annual ethics training.

* * * * *

[FR Doc. 99–10125 Filed 4–22–99; 8:45 am]
BILLING CODE 7510–01–P

Proposed Rules

Federal Register
Vol. 64, No. 78
Friday, April 23, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–117–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes. The proposed AD would require inspecting the nose wheel steering system to assure that the free play between the steering handle or knob and the nose wheels is within acceptable limits, and adjusting as necessary. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by the proposed AD are intended to prevent the inability to steer the airplane because of excessive free play in the steering linkage, which could result in loss of control of the airplane during take-off, landing, or taxi operations.

DATES: Comments must be received on or before May 24, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–117–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–117–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–117–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Civil Airworthiness Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes. The CAA reports a recent incident where the operator of one of the affected airplanes lost control while the airplane was on the ground and veered off the runway. Inspection of this airplane following the incident revealed an unacceptable amount of free play in the nose landing gear steering linkage because of excessive wear in the steering selector differential.

This condition, if not corrected in a timely manner, could result in loss of control of the airplane during take-off, landing, or taxi operations.

Relevant Service Information

British Aerospace has issued the following:

—Jetstream Alert Service Bulletin 32–A–JA980840, Original Issue: October 28, 1998, Revision No. 2: December 17, 1998, which specifies procedures for inspecting the nose wheel steering system to assure that the free play between the steering handle or knob and the nose wheels is within acceptable limits, and adjusting as necessary; and

—Jetstream Service Bulletin 32–JA980841, Original Issue: October 28, 1998, which specifies removing the nose landing gear steering selector valve and installing either a new nose landing gear steering selector valve or one that has been overhauled in accordance with the appropriate component maintenance manual.

The CAA classified these service bulletins as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom. The CAA classifying a service bulletin as mandatory is the same in the United Kingdom as the FAA issuing an AD in the United States.

The FAA's Determination

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions

of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the CAA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the nose wheel steering system to assure that the free play between the steering handle or knob and the nose wheels is within acceptable limits, and adjusting as necessary. Accomplishment of the proposed actions would be in accordance with British Aerospace Jetstream Alert Service Bulletin 32-A-JA980840, Original Issue: October 28, 1998, Revision No. 2, December 17, 1998.

The FAA is proposing in another action (Docket No. 98–CE–115–AD) a repetitive requirement of removing the nose landing gear steering selector valve and installing either a new nose landing gear steering selector valve or one that has been overhauled in accordance with the appropriate component maintenance manual.

Differences Between the Service Bulletin and the Proposed AD

British Aerospace Jetstream Alert Service Bulletin 32–A–JA980840, Original Issue: October 28, 1998, Revision No. 2, December 17, 1998, specifies calendar compliance times based on the number of landings each airplane has accumulated. In order to keep the compliance time equal for all airplane operators, the FAA is proposing the inspection when the airplane has 10,000 landings. In order to assure that no affected airplane is inadvertently grounded, the FAA is proposing 100 landings as a grace period. The proposed compliance time is as follows:

"Upon accumulating 10,000 landings or within the next 100 landings after the effective date of this AD, whichever occurs later."

Cost Impact

The FAA estimates that 350 airplanes in the U.S. registry would be affected by the proposed inspection, that it would take approximately 6 workhours per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $126,000, or $360 per airplane.

These figures only take into account the costs of the proposed inspection and do not take into account the costs associated with any adjustments that would be necessary if the free play was not within acceptable limits. The FAA has no way of determining the number of airplanes that would need adjustments to the nose wheel steering system based on the results of the proposed inspection.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

British Aerospace: Docket No. 98–CE–117–AD.

Applicability: HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the inability to steer the airplane because of excessive free play in the steering linkage, which could result in loss of control of the airplane during take-off, landing, or taxi operations, accomplish the following:

(a) Upon accumulating 10,000 landings or within the next 100 landings after the effective date of this AD, whichever occurs later, inspect the nose wheel steering system to assure that the free play between the steering handle or knob and the nose wheels is within acceptable limits. Accomplish this inspection in accordance with the A. *Inspection* portion of the Accomplishment Instructions section of British Aerospace Jetstream Alert Service Bulletin 32–A–JA980840, Original Issue: October 28, 1998, Revision No. 2, December 17, 1998.

Note 2: If the number of landings is unknown, hours time-in-service (TIS) may be used by dividing 10,000 and 100 by 0.75. If hours TIS are utilized to calculate the number of landings, this would calculate the 10,000 landings compliance time to 13,333 hours TIS; and the 100 landings grace period compliance time to 133 hours TIS.

(b) If the free play between the steering handle or knob and the nose wheels is not within the acceptable limits, prior to further flight, adjust in accordance with the B. *Rectification* portion of the Accomplishment Instructions section of British Aerospace Jetstream Alert Service Bulletin 32–A–

JA980840, Original Issue: October 28, 1998, Revision No. 2, December 17, 1998.

Note 3: The FAA is proposing in another action (Docket No. 98–CE–115–AD) a repetitive requirement of removing the nose landing gear steering selector valve and installing either a new nose landing gear steering selector valve or one that has been overhauled in accordance with the appropriate component maintenance manual.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to British Aerospace Jetstream Alert Service Bulletin 32–A–JA980840, Original Issue: October 28, 1998, Revision No. 2: December 17, 1998, should be directed to British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 5: The subject of this AD is addressed in British Aerospace Jetstream Alert Service Bulletin 32–A–JA980840, Original Issue: October 28, 1998, Revision No. 2: December 17, 1998. This service bulletin is classified as mandatory by the United Kingdom Civil Aviation Authority (CAA).

Issued in Kansas City, Missouri, on April 15, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10174 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–05–AD]

RIN 2120–AA64

Airworthiness Directives; deHavilland Inc. Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all deHavilland Inc. (deHavilland) Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes. The proposed AD would require repetitively inspecting the rear fuselage bulkhead at Station 228 for cracks. The proposed AD would also require repairing any crack found or replacing any cracked rear fuselage bulkhead in accordance with a repair or replacement scheme obtained from the manufacturer through the Federal Aviation Administration (FAA). The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Canada. The actions specified by the proposed AD are intended to detect and correct cracking of the rear fuselage bulkhead at Station 228, which could result in structural damage of the fuselage to the point of failure with consequent loss of airplane control.

DATES: Comments must be received on or before May 21, 1999.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–05–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted. Service information that applies to the proposed AD may be obtained from Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5; telephone: (416) 633–7310. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. James Delisio, Aerospace Engineer, FAA, New York Aircraft Certification Office, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581–1200; telephone: (516) 256–7521; facsimile: (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–05–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–05–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Transport Canada, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on all deHavilland Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes. Transport Canada reports three incidents of cracks found in the rear fuselage bulkhead at Station 228. The airplanes involved in these incidents had between 10,000 and 12,000 hours time-in-service (TIS).

This condition, if not detected and corrected in a timely manner, could result in structural damage of the fuselage to the point of failure with consequent loss of airplane control.

Relevant Service Information

Bombardier Inc. has issued the following service information to address the above-referenced condition:

—deHavilland Beaver Service Bulletin 2/52, dated August 30, 1998, which specifies procedures for inspecting the rear fuselage bulkhead at Station 228 for cracks on Models DHC–2 Mk. I and DHC–2 Mk. II airplanes; and

—deHavilland Beaver Service Bulletin TB/60, dated August 30, 1998, which specifies procedures for inspecting the rear fuselage bulkhead at Station 228 for cracks on Model DHC–2 Mk. III airplanes.

Transport Canada classified these service bulletins as mandatory and issued Canadian AD No. CF–98–38, dated October 15, 1998, in order to assure the continued airworthiness of these airplanes in Canada.

The FAA's Determination

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above.

The FAA has examined the findings of Transport Canada; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other deHavilland Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require the following:

—Repetitively inspecting the rear fuselage bulkhead at Station 228 for cracks in accordance with the previously referenced service information; and

—Repairing any crack found or replacing any cracked rear fuselage bulkhead in accordance with a repair or replacement scheme obtained from the manufacturer through the FAA.

Compliance Time of the Proposed AD

The compliance time of the proposed AD is presented in both calendar time and hours TIS. While cracks are generally a result of classic fatigue (i.e., aging and cylic operation), the FAA and Bombardier believe that the condition could develop over time regardless of how often the airplane is operated. In order to assure that rear fuselage bulkhead cracking does not go undetected, a compliance time of specific hours TIS and calendar time (whichever occurs first) is proposed.

Cost Impact

The FAA estimates that 350 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed initial inspection on U.S. operators is estimated to be $21,000, or $60 per airplane. These figures only take into the account the costs of the initial inspection and do not take into account the costs of the repetitive inspections or the cost of any repair or replacement necessary if any rear fuselage bulkhead was found cracked. The FAA has no way of determining the number of repetitive inspections each owner/operator would incur over the life of his/her affected airplane or the number of airplanes that would have a cracked rear fuselage bulkhead and need repair or replacement.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

deHavilland Inc. Docket No. 99–CE–05–AD.

Applicability: Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect and correct cracking of the rear fuselage bulkhead at Station 228, which could result in structural damage of the fuselage to the point of failure with consequent loss of airplane control, accomplish the following:

(a) Within the next 400 hours time-in-service (TIS) after the effective date of this AD or within the next 12 calendar months after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 2,000 hours TIS or 5 years, whichever occurs first, inspect the rear fuselage bulkhead at Station 228 for cracks. Inspect in accordance with the Accomplishment Instructions section of whichever of the following service bulletins that is applicable:

(1) *For the Models DHC–2 Mk. I and DHC–2 Mk. II airplanes:* deHavilland Beaver

Service Bulletin 2/52, dated August 30, 1998; or

(2) *For the Model DHC–2 Mk. III airplanes:* deHavilland Beaver Service Bulletin TB/60, dated August 30, 1998.

(b) If any crack(s) is/are found in the rear fuselage bulkhead at Station 228 during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the following:

(1) Obtain a repair or replacement scheme from the manufacturer through the FAA, New York Aircraft Certification Office (ACO), 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581–1200; facsimile: (516) 568–2716.

(2) Incorporate this repair or replacement scheme.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft ACO, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581–1200. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(e) Questions or technical information related to deHavilland Beaver Service Bulletin TB/60, dated August 30, 1998, and deHavilland Beaver Service Bulletin 2/52, dated August 30, 1998, should be directed to Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5; telephone: (416) 633–7310. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Canadian AD No. CF–98–38, dated October 15, 1998.

Issued in Kansas City, Missouri, on April 15, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10172 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–12–AD]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 99–06–02, which currently requires repetitively inspecting the wing spar center web cutout on both wings for cracks between Wing Station (WS) 8 and WS 17.5 on certain Fairchild Aircraft (Fairchild) SA226 and SA227 series airplanes, and immediately repairing any area found cracked. The repair will eliminate the need for the repetitive inspections on that particular wing spar. Since that AD became effective, the FAA has determined that it inadvertently omitted certain serial numbers of the Model SA227–CC/DC airplanes. The proposed AD would retain the actions of AD 99–06–02, and would add these Model SA227–CC/DC airplanes to the Applicability section of the AD. The actions specified by the proposed AD are intended to continue to detect and correct fatigue cracking of the wing spar center web cutout area, which could result in structural failure of the wing spar to the point of failure with consequent loss of control of the airplane.

DATES: Comments must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–12–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Field Support Engineering, Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Hung Viet Nguyen, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5155; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–12–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–12–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 99–06–02, Amendment 39–11066 (64 FR 11761, March 10, 1999), currently requires the following on certain Fairchild SA226 and SA227 series airplanes:

—Repetitively inspecting the wing spar center web cutout on both wings for cracks between Wing Station (WS) 8 and WS 17.5; and

—Immediately repairing any area found cracked. This repair will eliminate the need for the repetitive inspections on that particular wing spar.

Accomplishment of the actions as specified in AD 96–06–02 is required in

accordance with the following documents:

—Fairchild Airframe Airworthiness Limitations Manual ST–UN–M001, Rev. No. C–6, dated April 7, 1998;
—Fairchild Airframe Inspection Manual ST–UN–M002, Rev. No. A–6, dated December 8, 1997;
—Fairchild Airframe Airworthiness Limitations Manual ST–UN–M003, Rev. No. 5, dated April 7, 1998;
—SA226/227 Series Structural Repair Manual, part number (P/N) 27–10054–079, pages 57 through 90; Initial Issue: March 1, 1983; Revision 28, dated June 24, 1998; and
—SA227 Series Structural Repair Manual, P/N 27–10054–127, pages 47 through 60; Initial Issue: December 1, 1991; Revision 7, dated June 24, 1998.

The actions specified in AD 99–06–02 are intended to detect and correct fatigue cracking of the wing spar center web cutout area, which could result in structural failure of the wing spar to the point of failure with consequent loss of control of the airplane.

AD 99–06–02 was the result of reports of cracks in the wing spar center web cutout caused by fatigue due to airplane maneuvering and wind gusts.

Actions Since Issuance of Previous Rule

Since AD 99–06–02 became effective, the FAA has determined that it inadvertently omitted certain serial numbers of the Fairchild Model SA227–CC/DC airplanes. In particular, the FAA restricted the applicability of these airplanes to serial numbers CC/DC784 and CC/DC790 through CC/DC878. Any Fairchild Model SA227–CC/DC airplane incorporating a serial number from CC/DC879 through CC/DC896 should also be affected by the actions of AD 99–06–02.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that:

—The actions of AD 99–06–02 should also apply to the serial numbered Fairchild Model SA227–CC/DC airplanes referenced above; and
—AD action should be taken to continue to detect and correct fatigue cracking of the wing spar center web cutout area, which could result in structural failure of the wing spar to the point of failure with consequent loss of control of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild SA226 and SA227 series airplanes of the same type design, the FAA is proposing AD action to supersede AD 99–06–02. The proposed AD would retain the actions of AD 99–06–02, and would add these Model SA227–CC/DC airplanes to the Applicability section of the AD.

Cost Impact

The FAA estimates that 508 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 5 workhours per airplane to accomplish the proposed initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed initial inspection specified in this AD on U.S. operators is estimated to be $152,400, or $300 per airplane.

These figures only take into account the costs of the proposed initial inspection and do not take into account the costs of repetitive inspections and the costs associated with any repair that would be necessary if cracks are found. The FAA has no way of determining the number of repetitive inspections an owner/operator will incur over the life of the airplane, or the number of airplanes that will need repairs.

If an affected airplane would have cracks in both wing spar center webs, the repair would take 400 workhours to accomplish at an average labor rate of $60 per hour. Parts to accomplish this repair cost approximately $400 per airplane. Based on these figures, the cost to repair cracked wing spar center webs on both sides of the airplane would be approximately $24,400 per airplane.

The only difference between AD 99–06–02 and the proposed AD is the addition of 18 Fairchild Model SA227–CC/DC airplanes that the FAA inadvertently omitted from the "Applicability" section of AD 99–06–02. Therefore, the only impact the proposed AD would have over that already required by AD 99–06–02 is the cost of the proposed actions on these 18 additional airplanes.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 99–06–02, Amendment 39–11066, and by adding a new AD to read as follows:

Fairchild Aircraft, Inc.: Docket No. 99–CE–12–AD; Supersedes AD 99–06–02, Amendment 39–11066.

Applicability: The following model airplanes and serial numbers, certificated in any category:

Model	Serial Nos.
SA226–AT	AT001 through AT074.
SA226–TC	TC201 through TC419.
SA226–T	T201 through T291.
SA226–T(B)	T(B)276 and T(B)292 through T(B)417.

Model	Serial Nos.
SA227–TT	TT421 through TT541.
SA227–TT(300)	TT(300)447, TT(300)465, TT(300)471, TT(300)483, TT(300)512, TT(300)518, TT(300)521, TT(300)527, TT(300)529, and TT(300)536.
SA227–AC	AC406, AC415, AC416, and AC420 through AC785.
SA227–AT	AT423 through AT631 and AT695.
SA227–BC	BC762, BC764, BC766, and BC770 through BC789.
SA227–CC/DC	CC/DC784 and CC/DC790 through CC/DC896.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect and correct fatigue cracking of the wing spar center web cutout area, which could result in structural failure of the wing spar to the point of failure with consequent loss of control of the airplane, accomplish the following:

(a) Upon accumulating 6,500 hours time-in-service (TIS) on each wing spar; within the next 2,000 hours TIS after the last inspection accomplished per the applicable Airworthiness Limitations Manual (referenced in the paragraphs below); or within the next 500 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished (accomplishment of AD 99–06–02, including any FAA-approved alternative methods of compliance with AD 99–06–02); and thereafter at intervals not to exceed 2,000 hours TIS, inspect each wing spar center web cutout for cracks between Wing Station (WS) 8 and WS 17.5. Accomplish this inspection in accordance with one of the following, as applicable:

(1) *For Models SA227–TT, SA227–AT, SAA227–AC, and SA227–BC airplanes:* In accordance with Fairchild Airframe Airworthiness Limitations Manual ST–UN–M001, Rev. No. C–6, dated April 7, 1998;

(2) *For Models SA226–T, SA226–T(B), SA226–AT, and SA226–TC airplanes:* In accordance with Fairchild Airframe Inspection Manual ST–UN–M002, Rev. No. A–6, dated December 8, 1997; or

(3) *For Models SA227–CC and SA227–DC airplanes:* In accordance with Fairchild Airframe Airworthiness Limitations Manual ST–UN–M003, Rev. No. 5, dated April 7, 1998.

(b) If any crack(s) is/are found during any inspection required by paragraph (a) of this AD, prior to further flight, repair the crack(s) in accordance with one of the following, as applicable. This repair eliminates the repetitive inspections (2,000 hours TIS intervals) required in paragraph (a) of this AD for that particular wing spar.

(1) *For Models SA226–T, SA226–T(B), SA226–AT, SA226–TC, SA227–TT, SA227–AT, SA227–AC, and SA227–BC airplanes:* In accordance with Fairchild SA226/227 Series Structural Repair Manual, part number (P/N) 27–10054–079, pages 57 through 90; Initial Issue: March 1, 1983; Revision 28, dated June 24, 1998; or

(2) *For Models SA227–CC and SA227–DC airplanes:* In accordance with Fairchild SA227 Series Structural Repair Manual, P/N 27–10054–127, pages 47 through 60; Initial Issue: December 1, 1991; Revision 7, dated June 24, 1998.

(c) The repetitive inspections required by paragraph (a) of this AD may be terminated if the wing spar center web repair specified in paragraph (b) of this AD has been accomplished on both the left and right wing spar. If one wing spar center web has been repaired, then repetitive inspections are still required on the other one if the repair has not been incorporated.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, FAA, Airplane Certification Office (ACO), 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Forth Worth ACO.

(2) Alternative methods of compliance approved in accordance with AD 99–06–02 are considered approved as alternative methods of compliance for this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(f) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Field Support Engineering, Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment supersedes AD 99–06–02, Amendment 39–11066.

Issued in Kansas City, Missouri, on April 15, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10170 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–115–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes. The proposed AD would require repetitively removing the nose landing gear steering selector valve and installing either a new nose landing gear steering selector valve or one that has been overhauled in accordance with the appropriate component maintenance manual. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by the proposed AD are intended to prevent the inability to steer the airplane because of wear in the nose landing gear steering selector differential, which could result in loss of control of the airplane during take-off, landing, or taxi operations.

DATES: Comments must be received on or before May 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–

115–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–115–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–115–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Civil Airworthiness Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes. The CAA reports a recent incident where the operator of one of the affected airplanes lost control while the airplane was on the ground and veered off the runway. Investigation of this incident revealed an unacceptable amount of free play in the nose landing gear steering linkage because of an excessive amount of wear in the steering selector differential.

This condition, if not corrected in a timely manner, could result in loss of control of the airplane during take-off, landing, or taxi operations.

Relevant Service Information

British Aerospace has issued the following:

—Jetstream Service Bulletin 32–JA980841, Original Issue: October 28, 1998, which specifies removing the nose landing gear steering selector valve and installing either a new nose landing gear steering selector valve or one that has been overhauled in accordance with the appropriate component maintenance manual; and

—Jetstream Alert Service Bulletin 32–A–JA980840, Original Issue: October 28, 1998, Revision No. 2: December 17, 1998, which specifies procedures for inspecting the nose wheel steering system to assure that the free play between the steering handle or knob and the nose wheels is within acceptable limits, and adjusting as necessary.

The CAA classified these service bulletins as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom. The CAA classifying a service bulletin as mandatory is the same in the United Kingdom as the FAA issuing an AD in the United States.

The FAA's Determination

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the CAA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require repetitively removing the nose landing gear steering selector valve and installing either a new nose landing gear steering selector valve or one that has been overhauled in accordance with the appropriate component maintenance manual. Accomplishment of the proposed action would be in accordance with the applicable maintenance manual, as specified in British Aerospace Jetstream Service Bulletin 32–JA980841, Original Issue: October 28, 1998.

The FAA is proposing in another action (Docket No. 98–CE–117–AD) a one-time inspection of the nose wheel steering system to assure that the free play between the steering handle or knob and the nose wheels is within acceptable limits, with adjustment as necessary.

Cost Impact

The FAA estimates that 350 airplanes in the U.S. registry would be affected by the proposed initial replacement, that it would take approximately 4 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $2,500 per airplane. Based on these figures, the total cost impact of the proposed initial replacement on U.S. operators is estimated to be $959,000, or $2,740 per airplane.

These figures only take into account the cost of the initial overhaul or replacement and do not take into account the cost of subsequent overhauls or replacements. The FAA has no way of determining the number of overhauls or replacements that each owner/operator of the affected airplanes would incur over the life of his/her airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

British Aerospace: Docket No. 98–CE–115–AD.

Applicability: HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Upon accumulating 10,000 hours time-in-service (TIS) on the nose landing gear selector valve or within the next 12 calendar months after the effective date of this AD, whichever occurs later, unless already accomplished; and thereafter each time 10,000 hours TIS is accumulated on a nose landing gear selector valve.

To prevent the inability to steer the airplane because of wear in the nose landing gear steering selector differential, which could result in loss of control of the airplane during take-off, landing, or taxi operations, accomplish the following:

(a) Remove the nose landing gear steering selector valve, part number (P/N) 8668C or AIR86002–0 (or FAA-approved equivalent part number), and install one of the following in accordance with the applicable maintenance manual, as specified in British Aerospace Jetstream Service Bulletin 32–JA980841, Original Issue: October 28, 1998:

(1) A new steering selector valve, P/N 8668C or AIR86002–0 (or FAA-approved equivalent part number); or

(2) An FAA-approved nose landing gear steering selector valve that has been overhauled in accordance with the appropriate component maintenance manual.

Note 2: The FAA is proposing in another action (Docket No. 98–CE–117–AD) a one-time inspection of the nose wheel steering system to assure that the free play between the steering handle or knob and the nose wheels is within acceptable limits, with adjustment as necessary.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to British Aerospace Jetstream Service Bulletin 32–JA980841, Original Issue: October 28, 1998, should be directed to British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in British Aerospace Jetstream Alert Service Bulletin 32–JA980841, Original Issue: October 28, 1998. This service bulletin is classified as mandatory by the United Kingdom Civil Aviation Authority (CAA).

Issued in Kansas City, Missouri, on April 15, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10168 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–371–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model 382 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Lockheed Model 382 series airplanes. This proposal would require a one-time visual inspection of the under floor to ring fittings at fuselage station 817E to verify installation of the correct sized fasteners; and follow-on corrective actions, if necessary. This proposal is prompted by notification from the manufacturer indicating that during production incorrect sized fasteners were installed on the under floor to ring fittings at fuselage station 817E. The actions specified by the proposed AD are intended to prevent fatigue cracking of the fastener holes and adjacent fuselage structure due to installation of the incorrect sized fasteners, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by June 7, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–371–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Martin Aeronautical Systems Support Company (LMASSC), Field Support Department, Dept. 693, Zone

0755, 2251 Lake Park Drive, Smyrna, Georgia 30063. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–371–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–371–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received notification from the manufacturer indicating that during production, incorrect sized fasteners were installed on Lockheed Martin Model 382 series airplanes. These fasteners are located on the under floor to ring fittings (aft "pork chop" fittings) at fuselage station 817E. The installation of 5/32-inch diameter fasteners in lieu of the correct 3/16-inch diameter fasteners could cause fatigue cracking of the fuselage structure by increasing the stress loads of the fuselage skin. Such cracking, if not detected and corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Lockheed Hercules Alert Service Bulletin A382–53–57, Revision 1, dated January 30, 1997, which describes procedures for a one-time visual inspection of the under floor to ring fittings (aft "pork chop" fittings) at fuselage station 817E to verify installation of the correct sized fasteners; and follow-on corrective actions, if necessary. The follow-on corrective actions involve measurement of the distance between the incorrect sized fasteners, removal of discrepant fasteners, and a visual inspection of the fastener holes and surrounding areas to detect discrepancies (damage, corrosion, or misdrilled or elongated fastener holes). The alert service bulletin also describes procedures for redrilling the fastener holes at fuselage station 817E, visually inspecting the fastener holes to confirm damage removal, and installing new fasteners. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that the alert service bulletin specifies that visual inspection and/or rework of the under floor to ring fasteners at fuselage station 817E be accomplished upon receipt of the alert service bulletin, or an immediate cabin pressurization limit of 8.75 in Hg (4.3 psi) is to be implemented. However, the FAA finds that a 30-day compliance time for accomplishment of the inspection and rework is adequate in that the FAA has determined that fatigue cracking originating at the fastener holes caused by the installation of incorrect size of fasteners could result in loss of pressurization, but not an "explosive decompression" or severe structural degradation. In light of this, the FAA finds that it is not necessary to implement an immediate cabin pressurization limit of 8.75 in Hg (4.3 psi) for affected airplanes to continue to operate without compromising safety.

Operators also should note that, although the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

There are approximately 112 airplanes of the affected design in the worldwide fleet. The FAA estimates that 18 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $1,080, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft

regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Lockheed: Docket 98–NM–371–AD.

Applicability: Model 382 series airplanes as listed in paragraph 1.A.(1) ("Effectivity") of Lockheed Hercules Alert Service Bulletin A382–53–57, Revision 1, dated January 30, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the fastener holes and adjacent fuselage structure due to installation of the incorrect sized fasteners, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time visual inspection of the under floor to ring fittings at fuselage station 817E to verify installation of the correct sized fasteners, in accordance with Lockheed Hercules Alert Service Bulletin A382–53–57, Revision 1, dated January 30, 1997.

Note 2: Inspections, repairs, or replacements that have been accomplished prior to the effective date of this AD, in accordance with Lockheed Hercules Alert Service Bulletin A382–53–57, dated January 16, 1997, are considered acceptable for compliance with the applicable action specified by this AD.

(1) If all fasteners are the correct size, no further action is required by this AD.

(2) If any fastener is determined to be the incorrect size, prior to further flight, measure the distance between the fastener centers in accordance with the alert service bulletin.

(i) If the distance between the fastener centers is less than 0.57 inch, prior to further flight, repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

(ii) If the distance between the fastener centers is greater than or equal to 0.57 inch, prior to further flight, accomplish the requirements of paragraph (b) of this AD.

(b) For all airplanes on which the distance between the fastener centers is greater than or equal to 0.57 inch: Prior to further flight, remove any incorrect sized fastener and perform a one-time visual inspection of the fastener holes and adjacent fuselage structure to detect discrepancies (damage, corrosion, or misdrilled or elongated fastener holes) in accordance Lockheed Hercules Alert Service Bulletin A382–53–57, Revision 1, January 30, 1997.

(1) If no discrepancy is detected, prior to further flight, redrill the fastener holes to the correct size and install correct sized fasteners in accordance with the alert service bulletin.

(2) If any discrepancy is detected, prior to further flight, redrill the fastener holes to the correct size and perform an additional one-time visual inspection of the redrilled holes to detect remaining discrepancies (damage, corrosion, or misdrilled or elongated fastener holes) of the affected area, in accordance with the alert service bulletin.

(i) If no remaining discrepancy is detected, prior to further flight, install the correct sized fasteners in accordance with the alert service bulletin.

(ii) If any remaining discrepancy is detected, prior to further flight, repair in accordance with a method approved by the Manager, Atlanta ACO.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 19, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10185 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–364–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Series Airplanes Equipped with Rolls-Royce 532–7 "Dart 7" (RDa-7) Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F27 series airplanes. This proposal would require a revision to the Airplane Flight Manual (AFM) to provide the flightcrew with modified operational procedures to ensure continuous operation with the high pressure cock (HPC) levers in the lockout position. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent overspeed and burnout of the engines during flight by ensuring that the HPC levers are in a permanent lockout position.

DATES: Comments must be received by May 24, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–364–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, The Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–364–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–364–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on Fokker Model F27 series airplanes equipped with Rolls-Royce 532–7 "Dart 7" (RDa-7) series engines. The RLD advises that there have been numerous incidents of cruise lock hang-up on Fokker Model F27 series airplanes. This malfunction of the cruise lock withdrawal system, combined with failure of the flightcrew to select the high pressure cock (HPC) levers to the lockout position, has resulted in incidents of engine overspeed and burnout. Additionally, there have been reports of erroneous selection of the HPC levers to the closed position, resulting in unnecessary engine shutdown. These conditions, if not corrected, could result in overspeed and burnout of the engines during flight.

Explanation of Relevant Service Information

The manufacturer has issued Fokker F27 Service Bulletin F27/61–40, Revision 1, dated August 1, 1997; including Fokker F27 Manual Change Notification (MCNO) F27–001, dated June 30, 1997; which describes procedures for revision of the Emergency, Normal, and Abnormal Procedures Sections of the Airplane Flight Manual (AFM). The MCNO introduces a change that specifies placing the HPC levers in a permanent lockout position (with the cruise lock withdrawal system disabled) during operation of the airplane. The RLD classified this service information as mandatory and issued Dutch airworthiness directive 1996–130(A), dated October 31, 1996, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a revision of the Emergency, Normal, and Abnormal Procedures Sections of the FAA-approved Airplane Flight Manual (AFM) to provide the flightcrew with modified operational procedures to ensure continuous operation with the HPC levers in the lockout position (with the cruise lock withdrawal system disabled). The actions would be required to be accomplished in accordance with the service information described previously, except as discussed below.

Differences Between Proposed Rule and Dutch Airworthiness Directive

Operators should note that the related Dutch airworthiness directive recommends verification that the modifications described in two Rolls-Royce Service Bulletins (DA72–198 and DA72–348) have been accomplished on Rolls-Royce 532–7 "Dart 7" (RDa-7) series engines installed on Fokker F27 airplanes. However, this proposed AD would not require such verification. The FAA has been advised that accomplishment of the two modifications of the Rolls-Royce engines is recommended to prevent the loss of propeller control in the event of an annulus gear failure. Such engine gearbox failures are not related to malfunction of the cruise lock withdrawal system, and accomplishment of these engine modifications is not intended to address the identified unsafe condition of this proposed AD. Therefore, the FAA has determined that verification of accomplishment of these engine modifications, if necessary, will be addressed by separate rulemaking action.

Cost Impact

The FAA estimates that 34 Model F27 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed AFM revision, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AFM revision proposed by this AD on U.S. operators is estimated to be $2,040, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1)

Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 98–NM–364–AD.

Applicability: Model F27 series airplanes, as listed in Fokker F27 Service Bulletin F27/61–40, Revision 1, dated August 1, 1997; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent overspeed and burnout of the engines during flight by ensuring that the high pressure cock (HPC) levers are in a permanent lockout position, accomplish the following:

AFM Revision

(a) Within 6 months after the effective date of this AD: Revise the Emergency, Normal, and Abnormal Procedures Sections, as applicable, of the FAA-approved Airplane Flight Manual (AFM) by incorporation of Fokker F27 Service Bulletin F27/61–40, Revision 1, dated August 1, 1997; including Fokker F27 Manual Change Notification (MCNO) F27–001, dated June 30, 1997. [MCNO F27–001 specifies procedures for placing the HPC levers in a permanent lockout position (with the cruise lock withdrawal system disabled) during operation of the airplane.] This action may be accomplished by inserting a copy of the MCNO into the AFM.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 2: The subject of this AD is addressed in Dutch airworthiness directive 1996–130 (A), dated October 31, 1996.

Issued in Renton, Washington, on April 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10184 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–62–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Industrie Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Industrie Model A300–600 series airplanes, that currently requires repetitive high frequency eddy current inspections to detect cracks in bolt holes where parts of the main landing gear are attached to the rear spar, and repair, if necessary. This action would require repetitive ultrasonic inspections to detect cracking in certain bolt holes of the rear spar, and repair, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct cracking of the rear spar of the wing, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by May 24, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–62–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–62–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–62–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 20, 1995, the FAA issued AD 95–20–02, amendment 39–9380 (60 FR 52618, October 10, 1995), applicable to certain Airbus Industrie Model A300–600 series airplanes, to require repetitive high frequency eddy current (HFEC) inspections to detect cracks in bolt holes where parts of the main landing gear are attached to the rear spar, and repair, if necessary. That action was prompted by a report that cracks emanating from bolt holes in the rear spar were found during full-scale fatigue testing. The requirements of that AD are intended to prevent unnecessary degradation of the structural integrity of the airframe due to cracks in the rear spar.

Explanation of Relevant Service Information

Since the issuance of AD 95–20–02, Airbus Industrie has issued Service Bulletin A300–57–6017, Revision 2, dated January 14, 1997, and Revision 3, dated November 19, 1997. Airbus Industrie Service Bulletin A300–57–6017, Revision 2, describes procedures for an ultrasonic inspection to be performed in lieu of the HFEC inspection that was described in Revision 1, dated July 25, 1994. The ultrasonic inspection method allows the inspection to be performed without removing bolts in the area to be inspected, which is necessary for accomplishment of the HFEC inspection described in Revision 1. Revision 3 of the service bulletin adds new procedures for airplanes that have been inspected previously in accordance with the original issue, dated November 22, 1993, or Revision 1 of the service bulletin. Accomplishment of the actions specified in Airbus Industrie Service Bulletin A300–57–6017, Revision 3, is intended to adequately address the identified unsafe condition. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified Revision 2 of this service bulletin as mandatory and issued French airworthiness directive 94–031–155(B)R1, dated May 7, 1997, in order to assure the continued airworthiness of these airplanes in France. The DGAC also approved Revision 3 of this service bulletin.

Airbus Industrie also has issued Service Bulletin A300–57–6073, dated September 30, 1997. That service bulletin describes procedures for modification of certain bolt holes of the rear spar by oversizing and cold working the bolt holes, and installing oversize studs. For airplanes on which no cracks are found during the ultrasonic inspections proposed by this AD, and on which Airbus Modification 07716 (reference Airbus Industrie Service Bulletin A300–57–6020, dated November 22, 1993) has not been accomplished, accomplishment of the modification described in service bulletin A300–57–6073 would eliminate the need for the inspections described previously.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 95–20–02 to require repetitive ultrasonic inspections to detect cracking in certain bolt holes of the rear spar, and repair, if necessary. The actions would be required to be accomplished in accordance with Revision 3 of Airbus Industrie Service Bulletin A300–57–6017, described previously. This proposed AD also would provide for optional terminating action for the repetitive inspections.

Clarification of Repetitive Inspection Interval for Certain Airplanes

The FAA finds that paragraph (c)(1) of the existing AD may be misleading to operators in terms of specifying the applicable repetitive inspection interval. Paragraph (c)(1) of the existing AD states (for airplanes on which a crack was detected but on which Airbus Industrie Modification 07716 has not been accomplished), "After accomplishing the oversizing and HFEC inspection, • repeat the inspection as required by paragraph (b) of this AD at the applicable schedule specified in that paragraph." The FAA finds that the repair procedures specified in Airbus Industrie Service Bulletin 300–57–6017, Revision 1, are substantially similar to those described in Airbus Industrie Service Bulletin A300–57–6020, dated November 22, 1993 (which is the service bulletin associated with Airbus Industrie Modification 07716). Therefore, the FAA has determined that airplanes on which Airbus Industrie Modification 07716 has not been accomplished, but on which cracks were detected and repaired in accordance with Airbus Industrie Service Bulletin 300–57–6017, Revision 1, should be subject to repetitive inspections at the same interval as those airplanes on which Airbus Industrie Modification 07716 has been accomplished. Note 4 has been included in this proposal to clarify the intent of paragraph (c)(1) of this AD.

Differences Between the Proposed Rule and the French Airworthiness Directive

The proposed AD would differ from the parallel French airworthiness directive in that the proposed AD would require accomplishment of the repetitive ultrasonic inspections in accordance with Revision 3 of the service bulletin. The French airworthiness directive specifies accomplishment of the repetitive ultrasonic inspections in accordance with Revision 2 of the service bulletin. The FAA's determination is based on the fact that Revision 3 of the service bulletin includes appropriate inspection thresholds and repetitive intervals for airplanes inspected previously in accordance with Revision 1 of the service bulletin. Because the existing AD requires accomplishment of HFEC inspections in accordance with Revision 1 of the service bulletin, the FAA finds that Revision 3 is the appropriate source of service information for the inspections proposed by this AD.

Cost Impact

There are approximately 54 airplanes of U.S. registry that would be affected by this proposed AD.

The new inspections that are proposed in this AD action would take approximately 226 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $732,240, or $13,560 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9380 (60 FR 52618, October 10, 1995), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 98–NM–62–AD. Supersedes AD 95–20–02, Amendment 39–9380.

Applicability: Model A300–600 series airplanes, having manufacturer's serial numbers (MSN) 252 through 553 inclusive, certificated in any category; except those airplanes on which Airbus Industrie Production Modification No. 07601 has been accomplished prior to delivery.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the rear spar of the wing, which could result in reduced structural integrity of the airplane, accomplish the following:

Restatement of Requirements of AD 95–20–02

Note 2: Accomplishment of the inspections and repair of cracking in accordance with Airbus Industrie Service Bulletin A300–57–6017, dated November 22, 1993, prior to November 9, 1995 (the effective date of AD 95–20–02, amendment 39–9380), is acceptable for compliance with the applicable action specified in this amendment.

(a) Perform a high frequency eddy current (HFEC) rototest inspection to detect cracks in certain bolt holes where the main landing gear (MLG) forward pick-up fitting and MLG rib 5 aft are attached to the rear spar, in accordance with Airbus Industrie Service Bulletin A300–57–6017, Revision 1 (includes Appendix 1), dated July 25, 1994.

Note 3: This service bulletin also references Airbus Industrie Service Bulletin A300–57–6020, dated November 22, 1993, as an additional source of service information.

(1) For airplanes that have accumulated 17,300 total landings or less as of November 9, 1995: Inspect prior to the accumulation of 17,300 total landings, or within 1,500 landings after November 9, 1995, whichever occurs later.

(2) For airplanes that have accumulated 17,301 or more total landings, but less than 19,300 total landings as of November 9, 1995: Inspect within 1,500 landings after November 9, 1995.

(3) For airplanes that have accumulated 19,300 or more total landings as of November 9, 1995: Inspect within 750 landings after November 9, 1995.

(b) If no crack is found during the inspection required by paragraph (a) of this AD, repeat that inspection thereafter at the time specified in either paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes on which Airbus Industrie Modification 07716 (as described in Airbus Industrie Service Bulletin A300–57–6020) has not been accomplished, inspect at the time specified in paragraph (b)(1)(i) or (b)(1)(ii) of this AD, as applicable.

(i) For airplanes having MSN 465 through 553 inclusive: Repeat the inspection at intervals not to exceed 13,000 landings, until the inspection required by paragraph (d)(2)(i)(A) has been accomplished.

(ii) For airplanes having MSN 252 through 464 inclusive: Repeat the inspection at intervals not to exceed 8,400 landings, until the inspection required by paragraph (d)(2)(i)(B) has been accomplished.

(2) For airplanes on which Airbus Industrie Modification 07716 has been accomplished, inspect at the time specified in either paragraph (b)(2)(i) or (b)(2)(ii) of this AD, as applicable.

(i) For airplanes having MSN 465 through 553 inclusive: Repeat the inspection at intervals not to exceed 11,800 landings, until the inspection required by paragraph (d)(2)(ii)(A) has been accomplished.

(ii) For airplanes having MSN 252 through 464 inclusive: Repeat the inspection within 10,700 landings following the initial inspection required by paragraph (a) of this AD, and thereafter at intervals not to exceed 7,500 landings, until the inspection required by paragraph (d)(2)(ii)(B) has been accomplished.

(c) If any crack is found during the inspection required by either paragraph (a) or (b) of this AD, prior to further flight, accomplish the requirements of either paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For airplanes on which Airbus Industrie Modification 07716 has not been accomplished: Oversize the bolt hole by 1/32 inch and repeat the HFEC inspection required by paragraph (a) of this AD, in accordance with Airbus Industrie Service Bulletin 300–57–6017, Revision 1, dated July 25, 1994. After accomplishing the oversizing and HFEC inspection, repeat the inspection as required by paragraph (b) of this AD at the applicable schedule specified in that paragraph, until the inspection required by paragraph (d)(2)(ii)(A) has been accomplished.

Note 4: For the purposes of this AD, airplanes that are repaired in accordance with Airbus Industrie Service Bulletin 300–57–6017, Revision 1, are considered to be subject to repetitive inspections at the same interval as those airplanes on which Airbus

Industrie Modification 07716 has been accomplished.

(i) If no cracking is detected, install the second oversize bolt in accordance with the service bulletin.

(ii) If any cracking is detected, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(2) For airplanes on which Airbus Industrie Modification 07716 has been accomplished: Repair in accordance with a method approved by the Manager, International Branch, ANM–116. After repair, repeat the inspections as required by paragraph (b) of this AD at the applicable schedule specified in that paragraph, until the inspection required by paragraph (d)(2)(ii)(B) has been accomplished.

New Requirements of This AD:

New Initial and Repetitive Inspections

(d) Perform an ultrasonic inspection to detect cracks in certain bolt holes where the MLG forward pick-up fitting and MLG rib 5 aft are attached to the rear spar, in accordance with Airbus Industrie Service Bulletin A300–57–6017, Revision 3, dated November 19, 1997; at the time specified in paragraph (d)(1) or (d)(2) of this AD, as applicable.

Note 5: Inspections accomplished prior to the effective date of this AD in accordance with Airbus Industrie Service Bulletin A300–57–6017, Revision 2, dated January 14, 1997, are considered acceptable for compliance with paragraph (d) of this AD.

(1) For airplanes not inspected prior to the effective date of this AD in accordance with Airbus Industrie Service Bulletin A300–57–6017, dated November 22, 1993, or Revision 1 (includes Appendix 1), dated July 25, 1994: Inspect at the time specified in paragraph (d)(1)(i), (d)(1)(ii), or (d)(1)(iii) of this AD, as applicable. Accomplishment of this inspection terminates the requirements of paragraph (a) of this AD.

(i) For airplanes that have accumulated 17,300 total landings or fewer as of the effective date of this AD: Inspect prior to the accumulation of 17,300 total landings, or within 1,500 landings after the effective date of this AD, whichever occurs later.

(ii) For airplanes that have accumulated 17,301 total landings or more but fewer than 19,300 total landings as of the effective date of this AD: Inspect within 1,500 landings after the effective date of this AD.

(iii) For airplanes that have accumulated 19,300 total landings or more as of the effective date of this AD: Inspect within 750 landings after the effective date of this AD.

(2) For airplanes on which an HFEC inspection was performed prior to the effective date of this AD in accordance with paragraph (a) of AD 95–20–02, or in accordance with Airbus Industrie Service Bulletin A300–57–6017, dated November 22, 1993: Inspect at the time specified in paragraph (d)(2)(i) or (d)(2)(ii), as applicable.

(i) If no cracking was detected during any HFEC inspection accomplished prior to the effective date of this AD, and if Airbus Industrie Modification 07716 has *not* been accomplished: Inspect at the time specified in paragraph (d)(2)(i)(A) or (d)(2)(i)(B) of this AD, as applicable.

(A) For airplanes having MSN 465 through 553 inclusive: Inspect within 13,000 landings after the most recent HFEC inspection, and thereafter at intervals not to exceed 8,900 landings. Accomplishment of this inspection constitutes terminating action for the repetitive inspection requirement of paragraph (b)(1)(i) of this AD.

(B) For airplanes having MSN 252 through 464 inclusive: Inspect within 8,400 landings after the most recent HFEC inspection, and thereafter at intervals not to exceed 5,500 landings. Accomplishment of this inspection constitutes terminating action for the repetitive inspection requirement of paragraph (b)(1)(ii) of this AD.

(ii) If any cracking was detected during any HFEC inspection performed prior to the effective date of this AD, regardless of the method of repair, or if Airbus Industrie Modification 07716 *has* been accomplished: Inspect at the time specified in paragraph (d)(2)(ii)(A) or (d)(2)(ii)(B) of this AD, as applicable.

(A) For airplanes having MSN 465 through 553 inclusive: Inspect within 11,800 landings after the most recent HFEC inspection, and thereafter at intervals not to exceed 8,200 landings. Accomplishment of this inspection constitutes terminating action for the repetitive inspection requirement of paragraph (c)(1) or (c)(2) of this AD, as applicable.

(B) For airplanes having MSN 252 through 464 inclusive: Inspect within 10,700 landings after the initial inspection in accordance with paragraph (a) of AD 95–20–02, or within 7,500 landings after the most recent HFEC inspection, whichever occurs later, and thereafter at intervals not to exceed 4,900 landings. Accomplishment of this inspection constitutes terminating action for the repetitive inspection requirement of paragraph (c)(1) or (c)(2) of this AD, as applicable.

(e) If no cracking is detected during the ultrasonic inspection required by paragraph (d)(1) of this AD, repeat that inspection thereafter at the time specified in paragraph (e)(1) or (e)(2) of this AD, as applicable.

(1) For airplanes having MSN 465 through 553 inclusive: Repeat the inspection at intervals not to exceed 8,900 landings.

(2) For airplanes having MSN 232 through 464 inclusive: Repeat the inspection at intervals not to exceed 5,500 landings.

Repair

(f) If any cracking is detected during any inspection performed in accordance with paragraph (d) or (e) of this AD: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116; or the Direction Générale de l'Aviation Civile (or its delegated agent).

Terminating Action

(g) Accomplishment of Airbus Industrie Modification 11440 (Airbus Industrie Service Bulletin A300–57–6073, dated September 30, 1997) constitutes terminating action for the repetitive inspection requirements of paragraphs (d) and (e) of this AD, as applicable.

Alternative Methods of Compliance

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 7: The subject of this AD is addressed in French airworthiness directive 94–031–155(B)R1, dated May 7, 1997.

Issued in Renton, Washington, on April 19, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 970626156–9077–02]

RIN No. 0648–AK01

Regulation of the Operation of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary

AGENCY: Marine Sancturaries Division (MSD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Proposed rule.

SUMMARY: The National Oceanic and Atmospheric Administration proposes to amend the regulations governing the Gulf of the Farallones National Marine Sanctuary (GFNMS or Sanctuary) to prohibit the operation of motorized personal watercraft (MPWC) in the nearshore waters of the Sanctuary. Specifically, the operation of MPWC would be prohibited from the mean high-tide line seaward to 1,000 yards

(approximately 0.5 nautical mile), including seaward of the Farallon Islands. This proposed action responds to a petition from the Environmental Action Committee of West Marin, California, to ban operation of MPWC in the Sanctuary. This document also responds to comments received in response to a Notice of Inquiry/Request for Information that NOAA published on August 21, 1997, to obtain additional information on the operation and impacts of MPWC. The proposed rule would ensure that Sanctuary resources and qualities are not adversely impacted and would help avoid conflicts among various users of the Sanctuary.

A Draft Environmental Assessment (DEA) has been drafted on the proposed rule and is available for comment. The DEA may be obtained from the address below.

DATES: Comments on the proposed rule or DEA must be received by May 24, 1999. A public hearing on this proposed rule will be held at a time and location to be published in a separate document.

ADDRESSES: Comments should be sent to Ed Ueber, Sanctuary Manger, Gulf of the Farallones National Marine Sanctuary, Ft. Mason, Building 201, San Francisco, California 94123; fax: (415) 561–6616; email: ed.ueber@noaa.gov. Comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ed Ueber at (415) 561–6622.

SUPPLEMENTARY INFORMATION:

I. Background

In recognition of the national significance of the unique marine environment of the Gulf of the Farallones, California, the GFNMS was designated in January 1981. Final regulations became effective April 5, 1981, and March 30, 1982. The GFNMS regulations at 15 CFR part 922, Subpart H prohibit a relatively narrow range of activities to protect Sanctuary resources and qualities.

On April 18, 1996, the Environmental Action Committee (EAC) of West Marin, California, petitioned the GFNMS to ban the use of MPWC in the Sanctuary. Operation of MPWC are currently not regulated by the Sanctuary. The EAC identified a number of concerns regarding the use of MPWC within the Sanctuary. In its petition, the EAC asserted that: MPWC are completely incompatible with the existence of a marine sanctuary; pose a danger to the biological resources of the sanctuary, such as marine mammals, wildfowl, kelp beds, anadromous fish, and other marine life; create noise, water and air pollution; and threaten mariculture and other commerce throughout the Sanctuary. The EAC also stated that MPWC create a hazard for other Sanctuary users, including swimmers, sailboats, windsurfers, open-water rowing shells and kayaks. NOAA also received 195 letters from members of the public in response to media publicity about the petition. Sixty-four percent opposed regulation of MPWC; 33 percent supported the ban; one percent expressed no clear opinion.

To supplement existing information on the use and impacts of MPWC, NOAA published a Notice of Inquiry/Request for Information in the **Federal Register** on August 21, 1997, initiating a 45-day comment period that ended October 6, 1997. NOAA requested information on the following: (1) The number of motorized personal watercraft being operated in the Sanctuary; (2) possible future trends in such numbers; (3) the customary launching areas for motorized personal watercraft in or near the Sanctuary; (4) the areas of use of motorized personal watercraft activity in the Sanctuary, including areas of concentrated use; (5) the periods (e.g., time of year, day) of use of motorized personal watercraft in the Sanctuary, including periods of high incidence of use; (6) studies or technical articles concerning the impacts of motorized personal watercraft on marine resources and other users; (7) first person or documented accounts of impacts of motorized personal watercraft on marine resources and other users; and (8) any other information or other comments that may be pertinent to this issues. NOAA received 160 public comments in response to the notice of inquiry and two signature petitions during the comment period. One hundred fifty-three (96 percent) supported banning the operation of MPWC within the GFNMS. Two signature petitions were also received; one, with 276 signatures, supported the ban; the second, with 41 signatures, opposed the ban. Forty-four people spoke at a public meeting held to gather information during the comment period, all but one of whom supported the petition. Half of the speakers at the public meeting had previously submitted written comments.

Responses to and investigation of the specific questions in the notice revealed that: (1) The number of MPWC currently being operated in Sanctuary waters is believed by the proprietors of Lawson's Landing, the primary MPWP launch site in Sanctuary waters, to be less than 200 launches per year by approximately 20 users; (2) the use of MPWC in Sanctuary waters is believed to be increasing; (3) there are two established MPWC launch sites in the Sanctuary, at Bodega Harbor and Lawson's Landing; (4) the areas in the Sanctuary where MPWC are operated are in the vicinity of the mouth of Tomales Bay and the area outside Bodega Harbor. Over 95 percent of MPWC operation that occurs in the Sanctuary occurs in these areas; (5) April through November appear to be the times of highest use of MPWC in Sanctuary waters; (6, 7, 9) numerous studies, technical articles, and personal documentation such as photos, letters and logs of the impacts of MPWC on marine resources and other users were received and collected.

The following have been identified throughout NOAA's review of this issue: (1) Water-based recreational activity is increasing in the United States; (2) water-based recreational activity has impacted coastal habitats, seabirds, marine mammals and fish; (3) operation of MPWC is a relatively new and increasingly popular water sport; (4) MPWC, are different from other types of motorized watercraft in their structure (smaller size, shallower draft, two-stroke engine, and exhaust venting to water as opposed to air) and their operational impacts (operated at faster speeds, operated closer to shore, make quicker turns, stay in a limited area, tend to operate in groups, and have more unpredictable movements); (5) MPWC have been operated in such a manner as to create a safety hazard to other resource users in the vicinity; (6) MPWC may interfere with marine commercial uses; (7) MPWC have disturbed natural quiet and aesthetic appreciation; (8) MPWC have interfered with other marine recreational uses; (9) MPWC have impacted coastal and marine habitats; (10) MPWC have disturbed waterfowl and seabirds; (11) MPWC have disturbed and marine mammals; (12) MPWC may disturb fish; (13) Other jurisdictions have had problems with MPWC and have proposed and implemented various means of attempting to solve the problems; (14) the Sanctuary has sensitive areas that were deemed worthy of protection by the designation of a National Marine Sanctuary, including five State designated Areas of Special Biological Significance and four semi-enclosed estuarine areas; (15) MPWC present a present and potential threat to resources and users of the GFNMS.

The waters of the Sanctuary are home to rich biological diversity. The importance and uniqueness of Sanctuary waters has been internationally recognized by the incorporation of Sanctuary waters in the Golden Gate International Biosphere Reserve, and the designation of Bolinas

Lagoon as a RAMSAR (the Convention for Wetlands of International Significance) site. The Sanctuary provides habitat for hundreds of species of birds, marine mammals, pinnipeds, otters, sea turtles, and marine fauna and algae.

Among the hundreds of bird species that reside in or migrate through the Sanctuary, many are endangered, threatened or of special concern. These include the following species [1], which are found in the nearshore waters of the Sanctuary and the Farallon Islands:

[Key: FE=Federally listed as endangered; FT=Federally listed as threatened; SE=listed in the State of California as endangered; ST=listed in the State of California as threatened; CSC=California species of concern]

Swimmers [ducks and duck-like]		
Aleutian Canada goose	*Branta canadensis leucopareia*	FT
Barrow's goldeneye	*Bucephala islandica*	CSC
Common loon	*Gavia immer*	CSC
Double-crested cormorant	*Palacrocorax auritus*	CSC
Harlequin duck	*Histrionicus histrionicus*	CSC
Marbled murrelet	*Brachyramphus marmoratus*	FT/SE
Aerialists [gulls and gull-like]		
American white pelican	*Pelecanus erythorhynchos*	CSC
Ashy storm petrel	*Oceanodroma homochroa*	CSC
California brown pelican	*Pelecanus occidentalis californicus*	FE/SE
California gull	*Larus californicus*	CSC
California least tern	*Sterna antillarum browni*	FE/SE
Elegant tern	*Sterna elegant*	CSC
Hawaiian dark-rumped petrel	*Pterodroma phaeopygia*	FE
Short-tailed albatross	*Diomedea albatrus*	FE
Long-legged waders [herons, cranes, etc.]		
California black rail	*Laterallus jamaicensis corumiculus*	ST
White-faced ibis	*Plegadis chihi*	CSC
Smaller waders [plovers, sandpipers, etc.]		
Long-billed curlew	*Numenius americanus*	CSC
Western snowy plover (coastal)	*Charadrius alexandrinus niv.*	FT/CSC
Birds of prey [hawks, eagles, owls]		
Bald eagle	*Haliaeetus leucocephalus*	FT
Ferruginous hawk	*Buteo regalis*	CSC
Osprey	*Pandion haliaetus*	CSC
Prairie falcon	*Falco mexicanus*	CSC
Passerine birds [perching]		
Saltmarsh common yellowthroat	Geothlypis trichas sinuosa	CSC

There are at least twelve critical marine bird nesting areas along the shoreline of the Sanctuary. More than twelve species of marine birds breed in the Sanctuary. The nesting seabird population of the Farallon Islands comprises the largest concentration of breeding marine birds in the continental U.S.

Thirty-three species of marine mammals have been observed in the Sanctuary including six species of pinnipeds and twenty-five species of cetaceans. More than 20 percent of the state's harbor seals live within the boundaries of the Sanctuary, and Northern Fur seals have pupped here for the first time since the Sanctuary was designated. Of the twenty-six species of cetaceans that occur in Sanctuary waters, nineteen are migratory, and seven are considered resident species. Many of these marine mammals occur in large concentrations and are dependent on the productive and secluded habitat of the Sanctuary's waters and adjacent coastal areas for breeding, pupping, hauling-out, feeding, and resting during migration. Three areas in the Sanctuary have been identified as critical feeding areas for the threatened Steller sea lion, including the nearshore areas around Point Reyes, and the northern half of Tomales Bay. The Harbor seals, elephant seals, California sea lion, Dall's porpoise, harbor porpoise and Gray whales are common in the nearshore waters and protected bays of the Sanctuary. In addition, four species of endangered sea turtles are known to reside in or migrate through Sanctuary waters. A listing of all threatened and endangered marine mammals and sea turtles follows.

[1] Bird classifications from Peterson, R.T. 1990. A field guide to western birds. Houghton Mifflin Company.

[Key: FE=Federally listed as endangered; FT=Federally listed as threatened; ST=listed in the State of California as threatened]

Pinnipeds		
Guadelupe fur seal	*Arctocephalus townsendi*	FT/ST
Stellar (Northern) sea lion	*Eumetopias jubatus*	FT
Mustelids		
Southern sea otter	*Enhydra lutris nereis*	FT
Cetaceans		
Blue whale	*Balaenoptera musculus*	FE
Humpback whale	*Magaptera noveangliae*	FE
Sei whale	*Balaenoptera robustus*	FE
Sperm whale	*Physeter macrocphalus*	FE
Sea Turtles		
Green turtle	*Chelonia mydas*	FE
Leatherback turtle	*Dermochelys coriancea*	FE
Loggerhead turtle	*Caretta caretta*	FE
Olive (Pacific) ridley sea turtle	*Lepidochelys olivacea*	FE

Because of its unique geology and geography, the Sanctuary's marine fauna may be more diverse than in other areas along the Pacific Coast. The protected bays and coastal wetlands of the Sanctuary, such as Tomales Bay, Drakes Bay, Bolinas Lagoon, and the esteros, include intertidal mudflats, sand flats, salt marshes, submerged rocky terraces, and shallow subtidal areas. These areas support large populations of benthic fauna and concentrations of burrowing organisms living on marine plants. Submerged eel grass (*Zostra*) beds are prevalent in the northern portion of Tomales Bay, and support crucial habitat for more than 50 resident, breeding, and migratory bird populations, for a wide array of marine invertebrates, and for the egg masses of herring and other fish. It is estimated that approximately 30 million herring annually spawn in the eelgrass beds of Tomales Bay (Fox, 1997). The shallow protected bays and estuaries within the Sanctuary, such as Tomales Bay, Drakes Bay, Bolinas Lagoon, and the esteros, are important habitat for anadromous fish, several species of surfperches, and flatfish. Numerous and diverse fish and invertebrate species are found in Sanctuary waters. Over 150 species of fish are found in the Sanctuary, and include predator and prey species, and commercial fishing species. Among the fish found in Sanctuary waters are the endangered winter-run chinook salmon and tidewater goby, and coho salmon, Federally listed as a threatened species.

The nearshore waters of the Sanctuary are particularly vulnerable areas where myriad marine invertebrates and algae reside, where bird rookeries and pinniped haulout sites are present, where many critical nursery and food source habitats for wildlife are located, and where many nearshore users of the Sanctuary's water tend to concentrate. The nearshore waters of the Sanctuary are also those areas most impacted by the operation of MPWC. Lawson's Landing, a current MPWC launch site, is situated at the largest pinniped haulout in Tomales Bay, and is also within a quarter mile of Walker Creek delta, where the highest concentration of wading and shore birds occurs in the Sanctuary, and where sea otters have been regularly observed.

The nearshore waters of the Sanctuary are the areas most heavily used for recreation. Areas such as Tomales Bay and Dillon Beach are used for sailing, canoeing, rowing, kyaking and swimming. These activities are often conducted very close to shore and may be dependent on calm waters. The ability of MPWC to go very close to shore (due to their shallow draft) and move in unpredictable ways may be detrimental to the safety and aesthetic experience of those conducting these more benign recreational activities. NOAA believes that MPWC operation in nearshore areas creates a user conflict that can be avoided by keeping MPWC offshore.

Because of the biological diversity of the Sanctuary waters, the importance of the nearshore areas of the Sanctuary to that diversity, the potential for adverse environmental impacts that operation of MPWC pose to these nearshore areas, and because the the high potential for user conflicts, NOAA has decided to prohibit their operation from the nearshore waters of the Sanctuary, including waters surrounding the Farallon Islands. After discussions with the National Park Service, the Environmental Action Committee of West Marin, the MPWC industry, the Audubon Canyon Ranch, and individual ornithologists, NOAA is proposing a 1,000-yard buffer as a reasonable area to protect the nearshore waters. Specifically, the proposed rule would prohibit the operation of MPWC from the mean high-tide line seaward to 1,000 yards (approximately 0.5 nautical mile). The restricted areas include Drakes Bay, Tomales Bay, Bolinas Lagoon, Estero Americano and Estero de San Antonio, except for an access corridor from the launch site at Bodega Harbor leading into Bodega Bay.

Historically, there have been 4 (four) launch sites in the area—Lawson's Landing at Dillion Beach, Millerton Point Park, Inverness, and Bodega Harbor. As of 1 November 1998, launching MPWC from Point Reyes National Seashore (PRNS) or Golden Gate National Recreation Areas (GGNRA) is prohibited (U.S. Dept. of Interior, 1998a & b). Millerton Point Park and Inverness are within GGNRA and PRNS boundaries, respectively, and therefore can no longer be used. Lawson's Landing is situated at the most critical Harbor seal and shore bird area in Tomales Bay (Walker Creek Delta). Continued use of Lawson's Landing would result in unacceptable disturbance of these sensitive resources. Therefore, NOAA is proposing Bodega Harbor as the most appropriate launch site, and the access corridor proposed in designed to facilitate access by MPWC

to the GFNMS from this site. This change in primary launch site should not cause a significant inconvenience for any of the customary users of MPWC within the GFNMS as Bodega Harbor is within five (5) miles of Lawson's Landing and is easier to access.

II. Comments and Responses on Notice of Inquiry/Request for Information

The following is a summary of comments received on the Request for Information, and NOAA's responses.

(1) Comment: Prohibiting operation of MPWC in the Sanctuary would unfairly single out one type of vessel.

Response: NOAA disagrees. Several Federal resource agencies have recognized MPWC as a unique type of recreational vessel that is relatively recent in origin (U.S. Fish and Wildlife Service, 1992; NOAA, 1992; U.S. Dept. of Interior, 1998c). MPWC are designed to be operated at high speeds, closer to shore, and to make quicker turns than other types of motorized vessels. MPWC have a disproportional thrust capability and horsepower to vessel length and/or weight, in some cases four times that of conventional vessels (U.S. Dept. of Interior, 1998c). Research indicates that impacts associated with MPWC tend to be locally concentrated, producing effects that are more geographically limited yet potentially more severe than motorboat use, due to repeated disruptions and an accumulation of impacts in a shorter period of time (Snow, 1989). The Washington, D.C., Circuit Court of Appeals agreed with NOAA that there was a difference between MPWC and other kinds of watercraft: "personal watercraft were small, highly maneuverable, and fast, and * * * they operated close to shore, in areas of high concentrations of kelp forests, marine mammals, and sea birds. That differentiated all larger craft, all slower craft, all less maneuverable craft, and all craft that did not tend to use the same areas in the same manner." (PWIA v. Dept of Commerce, 1995) There are at least five salient differences between the use of MPWC and other types of watercraft: (1) MPWC operators rarely engage in sedentary activities such as fishing; (2) MPWC operators often travel in groups of more than two vessels; (3) MPWC operators generally run their craft at high speeds and drive in patterns of repeated circuitous trips; (4) MPWC operators repeatedly circumnavigate small islands in shallow waters, and/or may repeatedly jump nearshore waves; and (5) because of MPWC size, speed and maneuverability, MPWC operators may run unpredictable transits, and can access shallow, nearshore areas that other types of motorized watercraft cannot.

(2) Comment: MPWC impact the environment less that other boats, primarily due to their smaller size and jet propulsion system.

Response: NOAA disagrees. MPWC are generally of smaller size, with a shallower draft (4 to 9 inches), and lower horsepower (around 75, as compared to up to 250 for large pleasure craft) than most other kinds of motorized watercraft (Ballestero, 1990; Snow, 1989). The smaller size and shallower draft of MPWC means they are more maneuverable, operable closer to shore and in shallower waters than other types of motorized watercraft. This maneuverability greatly increases the potential for MPWC to disturb fragile nearshore habitats and organisms. Although wakes of MPWC may be smaller than wakes of conventional motor boats, they can be more damaging (e.g., flooding of coastal bird nests; erosion of shoreline) because MPWC are often operated faster, closer to shore and repeatedly in the same area (Snow, 1989). Also, equipment can be installed on MPWC to create more and higher spray, which exacerbates the effects of MPWC wake.

Research indicates that MPWC increase turbidity and may redistribute benthic invertebrates, and these impacts may be prolonged as a result of repeated use by multiple machines in a limited area. Research has shown that MPWC can foul water with their discharge, and increase local erosion rates by launching and beaching repeatedly in the same locations (Snow, 1989). The Bodega Bay access route proposed in this regulation is an established corridor from an active launch ramp, and would not result in unreasonable additional environmental impacts.

MPWC are powered by a jet-propelled system that typically involves a two-stroke engine with an exhaust expulsion system that vents into the water. Most conventional recreational boats use a four-stroke engine. The two-stroke engines found on the vast majority of MPWC in the United States discharge more of their fuel (ranging from 10 percent to more than 50 percent of the unburned fuel/oil mixture, depending on manufacturing conditions and operating variables) than the four-stroke engines found on conventional recreational boats (Tahoe Research Group, 1997). These emissions pose a serious threat to the environment, as two-stroke engines introduce more volatile organic compounds (by a factor of 10) into the water than four-stroke engines (Juttner et al., 1995; Tjarnlund et al., 1995). These emission can have significant adverse impacts in many areas of the Sanctuary, particularly shallow nearshore coastal areas and estuaries.

In addition, the gasoline additive MTBE (methyl tert-butyl ether) is being found to contaiminate various water bodies (National Research Council, 1996). When discharged into water, MTBE tends to float on the surface microlayer of the water. Research has indicated that chromosomal damage, malformation, reduced growth, and high mortality rates of fish larvae may occur at extremely low levels of surface layer hydrocarbon pollution (Long, 1997). MTBE, classified as a possible human carcinogen, has been implicated in human complaints of headaches, coughs, and nausea, and may also have detrimental effects on wildlife (National Research Council 1996). MTBE is more soluble in water than other hydrocarbons, is not readily biodegradable, is not subject to photolysis, and does not readily absorb to organic or inorganic particles. It is expected to volatilize approximately 10 times slower than other compounds (Miller and Fiore, 1997; Squillace et al., 1996). Since two-stroke engines emit more exhaust into the water, they therefore emit more MTBE into the water, posing a more serious ecological threat than do four-stroke engines.

(3) Comment: MPWC may disturb fish, waterfowl and seabirds.

Response: NOAA agrees. Research in the Everglades National Park indicated that fishing success dropped to zero when fishing occurred in the same waters used by MPWC, and scientists in the Pacific Northwest have been concerned about the effects of MPWC on spawning salmon (Snow, 1989; Sutherland and Ogle, 1975). Research in Florida indicates that MPWC cause wildlife to flush at greater distances, with more complex behavioral responses than observed in disturbances caused by automobiles, all-terrain vehicles, foot approach, or motorboats. This was partially attributed by the scientists to the typical operation of MPWC, where they accelerate and decelerate repeatedly and unpredictably, and travel at fast speeds directly toward shore, while motorboats generally slow down as they approach shore (Rodgers, 1997). Scientific research also indicates that even at slower speeds, MPWC were a significantly stronger source of disturbance to birds than were motorboats. Levels of disturbance were further increased when MPWC were used at high speeds or outside of established boating channels (Burger, 1998). Research notes that declining

nesting success of grebes, coots, and moorhens in the Imperial National Wildlife Refuge were due to the noise and physical intrusion of MPWC (Snow, 1989). In addition, MPWC have been observed flushing wading birds and nesting osprey from their habitats, contributing to abnormally high numbers of abandoned osprey nests on certain islands in the Florida Keys (U.S. Fish and Wildlife Service, 1992). The number of active osprey nests in the lower Florida Keys "backcountry" dropped from five to zero between 1986 and 1990. Biologists believe this was due to MPWC flushing parents from the nests (Cuthbert and Suman, 1995). Research suggests that declines in nesting birds in some states occurred simultaneous with MPWC operation. Numerous shoreline roost sites exist within the Sanctuary, and research has shown that human disturbance at bird roost sites can force birds to completely abandon an estuary. Published evidence strongly suggests that estuarine birds may be seriously affected by even occasional disturbance during key parts of their feeding cycle, and when flushed from feeding areas, such as eelgrass beds, will usually abandon the area until the next tidal cycle (Kelly, 1997).

(4) Comment: MPWC disturb marine mammals.

Response: NOAA agrees. There is a general conclusion that marine mammals are more disturbed by watercraft such as MPWC, which run faster, on varying courses, or often change direction and speed, than they are by boats running parallel to shore with no abrupt course or major speed change. Researchers note that MPWC may be disruptive to marine mammals when they change speed and direction frequently, are unpredictable, and may transit the same area repeatedly in a short period of time. In addition, because MPWC lack low-frequency long distance sounds underwater, they do not signal surfacing mammals or birds of approaching danger until they are very close to them (Gentry, 1996; Osborne, 1996).

Possible disturbance effects of MPWC on marine mammals could include shifts in activity patterns and site abandonment by harbor seals and Steller sea lions; site abandonment by harbor porpoise; injuries from collisions; and avoidance by whales (Gentry, 1996; Richardson et al., 1995).

Comment: MPWC are excessively noisy, and disturb the peace of other users of the Sanctuary.

Response: In general, unless modified by the operator (i.e., removal or alteration of the muffler), MPWC do not appear to be any louder in the air than similarly powered conventional motorized watercraft (MPWC and conventional watercraft both registered between 74 and 84 decibels in tests conducted in 1990) (Wooley, 1996) and appear to be quieter underwater (Gentry, 1996). However, many MPWC operators alter or remove the mufflers to enhance craft performance, thus increasing the noise generated by their craft. Also, MPWC may be perceived as being louder than other boats because they can travel faster, closer to shore often travel in groups, tend to frequently accelerate and decelerate, and "wake-jump."These characteristics create uneven, persistent noise apparently more bothersome to people and potentially to wildlife. In addition, research indicates that the constancy of speed figures into noise generation, as most people adjust to a constant drone and cease to be disturbed by it, even at elevated levels, but the changes in loudness and pitch of MPWC are more disturbing to people than other watercraft (Wagner, 1994).

(6) Comment: MPWC may interfere with other recreational uses of the Sanctuary.

Response: NOAA agrees. The Sanctuary encourages multiple uses of its waters that are compatible with resource protection. When used as designed and in the current manner, MPWC have significant potential to interfere with a large number of other Sanctuary users. Numerous respondents to the Notice of Inquiry/Request for Information noted that MPWC were interfering with, and often jeopardizing the well-being of, swimmers, kayakers, canoeists, and other recreational boaters and users of nearshore areas in the Sanctuary. MPWC have been involved in numerous accidents, and thus pose a hazard to other water users. Although MPWC make up approximately 11 percent of vessels registered in the country (U.S. Dept. of Interior, 1998c), Coast Guard statistics show that in 1996, 36 percent of all watercraft involved in accidents were MPWC (U.S. Coast Guard, 1999). In addition, numerous commentors noted that the operation of MPWC in nearshore areas diminishes the aesthetic qualities of many beach and recreational areas, and may interfere with other economic uses of the areas based upon these aesthetic qualities.

(7) Comment: MPWC are incompatible with the purposes of the Sanctuary.

Response: The Sanctuary was designated in 1981 to "protect and preserve the extraordinary ecosystems, including marine birds, mammals, and other natural resources, of the waters surrounding the Farallon Islands and Point Reyes, and to ensure the continued availability of the area as a research and recreational resource." When used as designed and in the current manner, the combined attributes of MPWC interfere with resource protection, multiple compatible use of Sanctuary resources, and the long-term ecological integrity of the nearshore Sanctuary waters. While use of MPWC in certain areas of the GFNMS could adversely impact resources and create conflicts, uses outside these areas may not be incompatible with the Sanctuary's purposes. For the reasons outlined in responses 1 through 7, NOAA believes that operation of MPWC are incompatible with the protection and preservation of the sensitive natural resources of the nearshore waters of the Sanctuary.

III. Summary of Regulations

Due to the many bird, pinniped, mustelid, cetacean and fish species, dependent solely or in the part on the Sanctuary's nearshore waters, some of which are listed by the State of California and/or the Federal Government as endangered, threatened, or of concern, and the effects the operation of MPWC has on these species and other human users of the Sanctuary's waters (as detailed above), NOAA proposes to restrict the operation so MPWC within Sanctuary waters to those areas outside a 1,000-yard nearshore zone, including around the Farallon Islands. In proposing this rule, NOAA is responding to the April 1996 petition of the Environmental Action Committee of West Marin, California and to the agency's constituents, including the public, marine commercial interests, and other governments agencies. In responding, the agency has taken into account all expressed viewpoints, and has attempted to balance these fully and in accordance with the Gulf of the Farallones National Marine Sanctuary's stated mission to "protect and preserve the extraordinary ecosystem, including marine birds, mammals, and other natural resources, of the waters surrounding the Farallon Islands and Point Reyes, and to ensure the continued availability of the area as a research and recreational resource." In responding thus, the agency also aims to proactivity carry out the mission of the MFNMS by addressing the operation of a unique type of vessel in sensitive marine and estuarine habitats.

Amendments to the GFNMS regulations are proposed in this rulemaking as follows:

The proposed amendment is the addition to 15 CFR 922.82(a) of a prohibition against operation of motorized personal watercraft in the nearshore waters of the Sanctuary. Specifically, the operation of MPWC would be prohibited from the mean high-tide line seaward to 1,000 yards (approximately 0.5 nautical mile), including seaward of the Farallon Islands. The restricted areas include Drakes Bay, Tomales Bay, Bolinas Lagoon, Estero Americano and Estero de San Antonio, except for an access corridor in Bodega Bay, as described in Appendix B of Subpart H of 15 CFR Part 922. The prohibition would include an exception for the use of MPWC for emergency search and rescue and law enforcement (other than training activities) by Federal, State and local jurisdictions.

Section 922.81 would also be amended by adding a definition of "motorized personal watercraft" as "a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel."

As discussed in detail above, this regulation is necessary to protect sensitive biological resources and important, to minimize user conflict, and to protect the ecological, aesthetic, and recreational qualities of the nearshore area of the Sanctuary.

IV. Miscellaneous Rulemaking Requirements

Executive Order 12866: Regulatory Impact

This proposed rule has been determined to be not significant for purposes of Executive order 12866.

Executive Order 12612: Federalism Assessment

NOAA has concluded that this regulatory action does not have federal implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration as follows:

The proposed rule would amend the Gulf of the Farallones National Marine Sanctuary (GFNMS or Sanctuary) regulations to prohibit the operation of motorized personal watercraft in the nearshore areas of the Sanctuary. Specifically, the operation of MPWC would be prohibited from the mean high-tide line seaward to 1,000 yards (approximately 0.5 nautical mile). The proposed rule would ensure that Sanctuary resources and qualities are not adversely impacted and would help avoid conflicts among various users of the Sanctuary.

There are currently two established launch sites for MPWC operation in the Sanctuary; Lawson's Landing and Bodega Harbor. The proposed regulation would remove Lawson's Landing as a MPWC launch site due to its proximity to critical harbor seal and shore bird areas. Lawson's Landing, on the eastern shore at the mouth of Tomales Bay, had 169 MPWC launches in 1997 at $5/launch. According to the owner of Lawson's Landing, the total annual value of MPWC launch business was under $800, because some of the launches were free. Neither launch site rents MPWC. The Bodega Harbor launch site will still be available for MPWC, and is less than 5 miles north of Lawson's Landing. The owner of Lawson's Landing says that this is a minor portion of the total revenues. The majority of the Sanctuary (over 95 percent) will still be available to MPWC, so rentals should not be affected by the 1,000-yard prohibited buffer. Consequently, the rule is not expected to significantly impact a substantial number of small business entities.

Accordingly, a Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

This proposed rule would not impose an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

National Environmental Policy Act

NOAA has concluded that this regulatory action does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required. A draft environmental assessment has been prepared. It is available for comment from the address listed at the beginning of this notice.

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List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

Authority: 16 U.S.C. Section 1431 *et seq.* (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

April 3, 1999.

Ted Lillestolen,

Deputy Assistant Administrator, Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR 922, Subpart H is proposed to be amended as follows:

PART 922, SUBPART H—THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

1. Section 922.81 is amended by adding the following definition, in the appropriate alphabetical order.

§ 922.81 Definitions.

* * * * *

Motorized personal watercraft means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel.

2. Section 922.82 is amended by adding new paragraph (a)(7) as follows:

§ 922.82 Prohibited or otherwise regulated activities.

(a) * * *

(7)(i) Except for transit through an established access corridor described in Appendix B to this subpart, operation of any motorized personal watercraft from the mean high-tide line seaward to 1,000 yards (approximately 0.5 nautical mile), including 1,000 yards seaward from the Farallon Islands. The restricted areas include Drakes Bay, Tomales Bay, Bolinas Lagoon, Estero Americano and Estero de San Antonio.

(ii) This prohibition shall not apply to the use of personal watercraft for emergency search and rescue missions or law enforcement operations carried out by National Park Service, U.S. Coast Guard, San Francisco Fire or Police Departments or other Federal, State or local jurisdictions.

* * * * *

3. A new appendix is added to subpart H, as follows:

Appendix B to Subpart H of Part 922—Access Corridor Within the Sanctuary Where the Operation of Motorized Personal Watercraft Is Allowed

There shall be an access corridor at Bodega Bay where MPWC can launch and motor out to waters that are outside the 1,000 yard buffer where operation of MPWC are prohibited. This access corridor shall be between the following coordinates at Bodega Harbor: South Jetty: 38__ 18′18″ N, 123__ 02′54″ W; North Jetty: 38__ 18′22″ N, 123__ 02′56″ W; and out 1,000 yards into the Bay on a 090__ T bearing.

[FR Doc. 99–9981 Filed 4–22–99; 8:45 am]

BILLING CODE 3510–08–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1625

Waivers of Rights and Claims: Tender Back of Consideration

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing this notice of proposed rulemaking (NPRM) to address issues related to the United States Supreme Court's decision in *Oubre* v. *Entergy Operations, Inc.*, 522 U.S. 422 (1998).

DATES: To be assured of consideration by EEOC, comments must be in writing and must be received on or before June 22, 1999.

ADDRESSES: Written comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, D.C. 20507.

FOR FURTHER INFORMATION CONTACT: Carol R. Miaskoff, Assistant Legal Counsel, or Paul E. Boymel, Senior Attorney-Advisor, 202–663–4689 (voice), 202–663–7026 (TDD).

SUPPLEMENTARY INFORMATION:

A. Background

1. Introduction

In *Oubre* v. *Entergy Operations, Inc.*, 522 U.S. 422 (1998), the Supreme Court held that an individual was not required to return ("tender back") consideration for a waiver in order to allege a violation of the Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. 621 *et seq.*, as amended by the Older Workers Benefit Protection Act of 1990 (OWBPA). The Court explained that, because the release did not comply with the ADEA, plaintiff's retention of the consideration did not constitute a ratification that made the release valid. Moreover, the employer could not invoke the employee's failure to tender back consideration as a way of excusing its own failure to comply with the statute.

EEOC is issuing proposed legislative regulations to address issues raised by the *Oubre* decision. In summary, EEOC's position is that: (1) an individual alleging that a waiver agreement was not knowing and voluntary under the ADEA is not required to tender back the consideration as a precondition for challenging that waiver agreement; (2) a covenant not to sue or any other condition precedent, penalty, or other limitation adversely affecting any individual's right to challenge a waiver agreement is invalid under the ADEA; (3) although in some cases an employer may be entitled to setoff, recoupment, or restitution against an individual who has successfully challenged the validity of a waiver agreement, such setoff, recoupment, or restitution cannot be greater than the consideration paid to the individual or the damages awarded to the individual, whichever is less; and (4) no employer may unilaterally abrogate its duties under a waiver agreement, even if one or more of the signatories to the agreement successfully challenges the validity of that agreement under the ADEA.

2. The Older Workers Benefit Protection Act of 1990

Title II of OWBPA amended the ADEA to set out rules governing the validity of a waiver agreement. Section 7(f)(1) of the ADEA provides that "[a]n

individual may not waive any right or claim under [the ADEA] unless the waiver is knowing and voluntary." Section 7(f)(1) provides a list of minimum requirements that must be met in order for a waiver to be knowing and voluntary. The statutory language and legislative history of OWBPA make it clear that the listing in § 7(f)(1) is nonexhaustive, and that even waiver agreements meeting the stated minimum requirements would not satisfy the ADEA if, under the totality of the circumstances, the waiver were not knowing and voluntary. As recognized in *Oubre*, the ADEA waiver rules extend to the tender back situation.

3. Tender Back Requirement Before Oubre

Prior to the Supreme Court's decision in *Oubre*, the circuits were split on the issue of whether an individual who signed an agreement waiving rights and claims under the ADEA was required to tender back any consideration paid by the employer in order to challenge the validity of the waiver in court. Several courts took the position that an individual who accepted consideration in exchange for a waiver agreement was not required to tender back that consideration to the employer before challenging in court either the validity of the waiver agreement or any employment discrimination. *See, e.g., Long* v. *Sears Roebuck & Co.*, 105 F.3d 1529 (3d Cir. 1997), *cert denied*, 118 S.Ct. 1033 (1998); *Oberg* v. *Allied Van Lines*, Inc., 11 F.3d 679 (7th Cir. 1993). Other courts took the position that the tender back of consideration was necessary before an individual could challenge the waiver and the discrimination in court. These courts concluded that by retaining the consideration, the individual "ratified" the waiver agreement and therefore could not challenge the agreement in court. *See, e.g., Blistein* v. *St. John's College*, 74 F.3d 1459, 1465–66 (4th Cir. 1996); *Wamsley* v. *Champlin Refining & Chemicals, Inc.*, 11 F.3d 534 (5th Cir. 1993).

4. The Oubre Decision

In *Oubre* v. *Entergy Operations, Inc.*, 522 U.S. 422 (1998), the Supreme Court resolved the split among the circuits on the question of tender back. The facts in *Oubre* involved an employee who, upon her termination, signed an agreement waiving all claims against her employer in exchange for payments totalling $6,258. The waiver agreement failed to comply with at least three of the requirements of § 7(f)(1) of the ADEA. It did not: (1) give her the statutorily mandated 21 days to consider the waiver agreement, but instead provided only 14 days; (2) give her seven days to revoke the agreement; or (3) make specific reference to ADEA claims. *Oubre*, 522 U.S. at 424. After the employee received all of the consideration for the waiver, she filed an ADEA suit against the employer without tendering back the consideration. The lower courts ruled that she could not proceed with her lawsuit because she had not offered to return the consideration to the employer, agreeing with the employer's arguments under state contract and common law. *See Oubre* v. *Entergy Operations, Inc.*, 112 F.3d 787 (5th Cir. 1996), *rev'd* 522 U.S. 422 (1998).

The Supreme Court reversed the Fifth Circuit's decision, stating that under § 7(f)(1) of the ADEA:

> [T]he employee's mere retention of monies [did not] amount to a ratification equivalent to a valid release of her ADEA claims, since the retention did not comply with the OWBPA any more than the original release did. The statute governs the effect of the release on ADEA claims, and the employer cannot invoke the employee's failure to tender back as a way of excusing its own failure to comply.

Oubre, 522 U.S. at 428. Thus, the Court allowed the employee's case to proceed even though she had not tendered back the consideration for the waiver agreement.

In its decision, the Court addressed three main concerns. First, the Court stated that the ADEA foreclosed the employer's argument that state contract law and common law principles apply to ADEA waiver issues. The Court emphasized that "the OWBPA sets up its own regime for assessing the effect of ADEA waivers, separate and apart from contract law." 522 U.S. at 427. The Court also noted that the contract law principles cited by the employer "may not be as unified as the employer asserts." *Id.* at 426.

Second, the Court reasoned that the practical effect of the employer's position, requiring tender back of consideration as a condition of bringing suit, could frustrate the purposes of the ADEA and lead to an evasion of the statute:

> In many instances a discharged employee likely will have spent the monies received and will lack the means to tender their return. These realities might tempt employers to risk noncompliance with the OWBPA's waiver provisions, knowing it will be difficult to repay the monies and relying on ratification.

Oubre, 522 U.S. at 427.

Finally, the Court observed that lower "courts may need to inquire whether the employer has claims for restitution, recoupment, or setoff against the employee, and these questions may be complex where a release is effective as to some claims but not as to ADEA claims." 522 U.S. at 428. The Court saw no need to resolve such questions in this case, however, and simply reversed the Fifth Circuit's judgment and remanded for further proceedings consistent with its opinion. *Id.*

5. EEOC Negotiated Rulemaking on Waivers Under OWBPA

In 1995 and 1996, EEOC conducted a negotiated rulemaking on ADEA waivers under OWBPA. Although the Rulemaking Committee considered the issue of tender back and ratification during its deliberations, the Committee decided that it would not reach consensus and the issue was not addressed in the regulatory language recommended by the Committee to the Commission. EEOC promulgated a final regulation at 29 CFR 1625.22 on June 5, 1998, 63 FR 30624. The preamble to the final regulation confirmed that the issues raised in *Oubre* would not be addressed in that section, but that the tender back issue would be covered in other guidance.

B. Purpose and Discussion of This Proposed Rule

1. Purpose: Pursuant to its regulatory authority under § 9 of the ADEA, EEOC has developed this proposed legislative regulation to address issues related to the *Oubre* decision. This proposal would add a new legislative regulation at 29 CFR § 1625.23.

2. Discussion: This regulation sets forth EEOC's position on several important issues concerning tender back.

a. An individual alleging that a waiver agreement was not knowing and voluntary under the ADEA is not required to tender back the consideration given for that agreement before filing either a lawsuit or a charge of discrimination with EEOC or any state or local fair employment practices agency. Retention of consideration does not foreclose a challenge to any waiver agreement; nor does the retention constitute the ratification of any waiver. A clause requiring tender back is invalid under the ADEA.

(i) *The Oubre Decision:* The Court in *Oubre* made it clear that "[a]n employee 'may not waive' an ADEA claim unless the waiver or release satisfies the OWBPA's requirements. . . . Courts cannot with ease presume ratification of that which Congress forbids." 522 U.S. at 427. The Court emphasized that "the employee's mere retention of monies [does not] amount to a ratification

equivalent to a valid release * * *'" *Id.* at 848.

The facts of the *Oubre* case concerned a waiver agreement that clearly did not satisfy at least three of the requirements of § 7(f)(1), and thus was invalid on its face. However, the holding and rationale of *Oubre*, which are based on the ADEA as well as important public policy concerns, are not limited to cases in which the terms of the waiver agreement are facially invalid. The ADEA's overarching standard is that waivers must be knowing and voluntary, and the specific provisions in § 7(f)(1) are only minimum requirements. While a waiver agreement that fails to meet these minimum criteria cannot be knowing and voluntary, even agreements that do meet these criteria still may not be knowing and voluntary under the ADEA.

For example, a waiver agreement that meets all of the enumerated requirements in § 7(f)(1) still would not be knowing and voluntary if the employer obtained an employee's signature by force or compulsion. As another example, an agreement might state on its face that an individual had 45 days to accept the offer. If the individual in fact were given only 5 days to make this decision, the waiver would not be knowing and voluntary under the ADEA. *See* 29 CFR 1625.22(e). Finally, with regard to the informational requirements under § 7(f)(1)(H), it is impossible to assess an employer's compliance by a mere examination of the waiver agreement. These requirements depend on the unique facts of a particular workforce reduction or voluntary termination program. *See* 29 CFR 1625.22(i); *see, e.g., Griffin* v. *Kraft General Foods, Inc.*, 62 F.3d 368 (11th Cir. 1995)(analyzing the validity of the information provided under § 7(f)(1)(H), the court found that, where the employer may have considered several plants for closure before it decided to close the plant at issue, it might need to provide information about employees at multiple facilities).

In summary, compliance with § 7(f)(1) of the ADEA cannot be determined based solely on the face of a waiver document. Because a waiver agreement may be invalid due to circumstances beyond the document itself, the Supreme Court's rationale in *Oubre* precludes tender back as a condition for any lawsuit or charge.

(ii) *ADEA Statutory Language and Legislative History:* In the ADEA, as amended by the OWBPA, Congress clearly contemplated that courts would decide the validity of waiver agreements. A requirement of tender back would, as the Oubre Court pointed out, effectively prevent access to the courts for many employees and therefore would undermine this statutory scheme.

Section 7(f) of the ADEA contemplates that the courts have the authority to determine the validity of a waiver agreement. Section 7(f)(3) states that:

> In any dispute that may arise over whether any of the requirements [of §§ 7(f)(1) or (2)] have been met, the party asserting the validity of a waiver shall have the burden of proving *in a court of competent jurisdiction* that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

(Emphasis supplied). Thus, the statute does not envision a waiver agreement as a complete bar to litigation, but rather suggests that a waiver is an affirmative defense. A tender back requirement would be inconsistent with this statutory design.

A tender back requirement is inconsistent with the OWBPA legislative history, which also shows that Congress contemplated that litigation would be available for deciding the validity of waiver agreements. Here, Congress expressly stated that the burden of proof described in § 7(f)(3) establishes "an affirmative defense." *See* S. 1511, Final Substitute Statement of Managers, 136 Cong. Rec. 13596–97 (1990). In reference to an earlier version of the OWBPA legislation, the Senate Committee on Labor and Human Resources explained:

> The Committee expects that courts reviewing the "knowing and voluntary" issue will scrutinize carefully the complete circumstances in which the waiver was executed. * * * The bill establishes specified minimum requirements that must be satisfied before a court may proceed to determine factually whether the execution of a waiver was "knowing and voluntary."

S. Rep. No. 101–263, at 32 (1990), *reprinted in* 1990 U.S.C.C.A.N. 1509, 1537 (hereinafter "Senate Report").

The law also is clear that a waiver agreement cannot interfere with an individual's right to file a charge of discrimination or assist EEOC in any administrative or legal proceedings. Section 7(f)(4) of the ADEA states:

> No waiver agreement may affect the Commission's rights and responsibilities to enforce [the ADEA]. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.

See also 29 CFR 1625.22(i); *EEOC Enforcement Guidance on Non-Waivable Employee Rights under EEOC Enforced Statutes*, #915.002, April 10, 1997, 3 EEOC Compl. Man. (BNA) No. 2345. In light of the *Oubre* Court's concern about the chilling effect of a tender back requirement, imposition of such a requirement as a condition for filing an EEOC charge clearly would "interfer[e] with the protected right of an employee to file a charge * * *," and therefore would contravene the statute. 29 CFR § 1625.22 (i).

b. A covenant not to challenge a waiver agreement, or any other arrangement that imposes any condition precedent, any penalty, or any other limitation adversely affecting any individual's right to challenge a waiver agreement, is invalid under the ADEA, whether the covenant or other arrangement is part of the agreement or is contained in a separate document. A provision allowing an employer to recover costs, attorneys' fees, and/or damages for the breach of any covenant or other arrangement is not permitted.

(i) Covenants not to sue and other similar arrangements purport, on their face, to bar an individual's right to challenge a waiver agreement in court.[1] Like a tender back requirement, such a covenant or other arrangement directly offends the congressional intent to afford an individual the right to challenge the validity of a waiver agreement. The ADEA clearly envisions that courts would have authority to determine the validity of the waiver and, therefore, necessarily contemplates that individuals would have the opportunity to bring such a challenge. *See* § 7(f)(1) of the ADEA (setting out the specific standards for a court to determine the validity of a waiver agreement); § 7(f)(3) of the ADEA (referring to a "court of competent jurisdiction" as the entity expected to decide the validity of a challenged waiver); *accord* Senate Report at 32. See also *Raczak* v. *Ameritech Corp.*, 103 F.3d 1257, 1271 (6th Cir. 1997) ("[i]t was the intent of Congress that waivers would not preclude parties from bringing suit under the OWBPA"), *cert. denied*, 118 S.Ct. 1033 (1998).

(ii) Covenants not to sue and other such arrangements also carry with them the threat of a counterclaim for breach of the covenant and liability for costs, attorneys' fees, and damages. The threat of such a counterclaim or a similar threat,[2] with the prospect of being

[1] No waiver agreement, covenant, or other arrangement may prohibit any person from filing a charge of discrimination or assisting EEOC in its law enforcement activities. *See* 29 CFR 1625.22(i).

[2] For example, it would be impermissible for an employer to bring an independent legal action, such as a state or federal breach of contract lawsuit, because an employee filed a charge of discrimination or challenged a waiver agreement in court. Such lawsuits would constitute retaliation

forced to pay defendant's legal expenses, easily could chill persons with valid claims from challenging waiver agreements. This chilling effect runs counter to the purposes of the ADEA, a remedial civil rights statute that encourages employees to challenge illegal conduct by employers. *See generally, Commonwealth of Massachusetts* v. *Bull HN Information Systems, Inc.*, 16 F.Supp. 2d 90, 106 (D. Mass. 1998) ("[u]nder Bull's proffered interpretation, employers could functionally insulate themselves from ADEA suits and ignore the waiver provisions of the OWBPA simply by including a drastic penalty provision in the waiver as Bull has done. This interpretation offends the intent of Congress. * * *"); *Carroll* v. *Primerica Financial Services Insurance Marketing*, 811 F.Supp. 1558 (N.D.Ga. 1992); *Isaacs* v. *Caterpillar, Inc.*, 702 F.Supp. 711, 713 (C.D.Ill. 1988); *EEOC* v. *United States Steel Corp.*, 671 F.Supp. 351, 358–59 (W.D.Pa. 1987) (the court enjoined a waiver provision wherein an employee promised not to file a charge or claim under the ADEA since the waiver "has the potential of deterring individuals from participating in ADEA claims. * * * [I]f an individual is deterred from bringing such an action in the first instance, the validity of the waiver of rights will not be able to be determined.")

A position permitting covenants not to sue or similar arrangements would render the OWBPA amendments and the *Oubre* decision a nullity. Such provisions, coupled with the threat of counterclaims, would as a practical matter undo the ADEA's carefully crafted criteria for a knowing and voluntary waiver by encouraging employers to ignore those provisions. This in turn would undermine the ADEA's objective to "ensure that older workers are not coerced or manipulated into waiving their rights to seek legal relief under the ADEA." Senate Report at 5. EEOC does not find cases allowing covenants not to sue persuasive, because they are fundamentally at odds with the holding and rationale of the Supreme Court in *Oubre*. *See, e.g., Astor* v. *International Business Machines Corp.*, 7 F.3d 533, 540 (6th Cir. 1993) (covenant not to sue permissible in release of ERISA rights); *Artvale Inc.* v *Rugby Fabrics Corp.*, 363 F.2d 1002, 1008 (2d Cir. 1966).

(iii) An employer does not need to bring a counterclaim to obtain what it purchased with the waiver. With a valid waiver, an employer receives an affirmative defense against ADEA claims. *See Isaacs* v. *Caterpillar*, 765 F.Supp. 1359, 1371 (C.D.Ill. 1991); Senate Report at 53. Assuming that a waiver agreement is upheld in court, and consequently serves as an affirmative defense to a discrimination suit, the employer has received the benefit of its bargain. If the waiver is not upheld because it is not knowing and voluntary under the ADEA, the employer has no right to the benefit of its bargain.

c. In some circumstances an employer may be entitled to restitution, recoupment, or setoff against an employee's recovery of damages in court (or in the administrative process).

In *Oubre*, the Court commented that, "[i]n further proceedings in this or other cases, courts may need to inquire whether the employer has claims for restitution, recoupment, or setoff against the employee. * * *" 522 U.S. at 428.[3] In EEOC's view, restitution, recoupment, or setoff should be in the discretion of the court but never exceed the lesser of the consideration given or the damages won. In the context of the *Oubre* decision, with its overriding prohibition of tender back requirements, permitting any restitution beyond the lesser of the amount the plaintiff wins in court, or the amount of consideration given, would operate constructively as a tender back penalty for bringing suit. Such a tender back penalty would interfere with the plaintiff's exercise of ADEA rights, impose significant hardship, and be contrary to public policy. Additionally, *Oubre* dictates that general contract principles are not applicable to ADEA cases if their application would deter protected individuals from vindicating their statutory rights or encourage employers to evade their statutory responsibilities. *See generally Daley* v. *United Technologies Corp.*, Civil No. 3:97 CV 00439 (AVC) (D.Conn. March 23, 1998); *Pace* v. *United Technologies Corp.*, Civil No. 3:97 CV 00481(AVC) (D.Conn. March 23, 1998) (post-*Oubre* cases stating that the employer would be entitled to a setoff consisting of all or part of the severance benefits paid if the plaintiffs should prevail on their ADEA claims); *Rangel* v *El Paso Natural Gas Co.*, 996 F. Supp. 1093, 1099 (D.N.M. 1998) (post-*Oubre* Title VII waiver case concluding that setoff against damages would be the proper way to handle reimbursement); 50 C.J.S. Judgment § 674 (stating that set-off "is not demandable as of course, but rests in the discretion of the court").

This limit also ensures that employees would not be penalized for a challenge to a waiver agreement when the amount of damages awarded is low (for example, when the employee has mitigated damages by finding new employment). Moreover, as stated in section b., above, covenants not to sue or other similar arrangements are not permitted. Therefore, an employer is not entitled to restitution, recoupment, or setoff for any costs, attorneys' fees or other amounts claimed as damages attributable to an alleged breach of such a covenant or other arrangement.

Finally, in a case involving more than one plaintiff, the reduction must be awarded on a plaintiff-by-plaintiff basis. Thus, no individual's award can be reduced based on the consideration received by any other person.

The following is a nonexhaustive list of the factors that may be relevant in calculating the proper amount of reduction to avoid unjust enrichment. These factors reflect, in the ADEA context, equitable principles that a reduction should be allowed only if it would promote justice, and should not be allowed if it results in injustice. *See generally* 50 C.J.S. Judgment § 674. These factors also reflect the *Oubre* Court's recognition that determining the proper amount of reduction may be complex when the waiver encompasses claims other than those arising under the ADEA. *Oubre*, 522 U.S. at 428. The factors include:

(i) Whether the employer apportioned the amount paid for the waiver agreement among the rights waived, if the waiver purports to waive rights other than ADEA rights. If the employer did not apportion the consideration among the rights waived, the apportionment should be done on an equitable basis;

(ii) Whether the employer's noncompliance with the ADEA waiver requirements was inadvertent or was in bad faith or fraudulent;

(iii) The nature and severity of the underlying employment discrimination

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under § 4(d) of the ADEA and intentional discrimination for purposes of liquidated damages under § 7 of the ADEA.

[3] The terms "recoupment" and "setoff" refer to the ability of a defendant to reduce the plaintiff's award of damages by amounts otherwise due to the defendant. Recoupment and setoff serve to limit the defendant's recovery to no more than the amount of plaintiff's damages. Black's Law Dictionary (6th ed. 1990), at 1275 and 1372. "Restitution is a return or restoration of what the [employee] has gained in a transaction." 1 Dan B. Dobbs, Law of Remedies, Damages-Equity-Restitution § 4.1(1) at 551 (1993). Generally, restitution is required to avoid the "unjust enrichment" of the party who previously obtained the money or property. Dobbs § 4.1(2) at 557. There are several exceptions to the unjust enrichment doctrine that are relevant to ADEA waivers, including when restitution would: (1) interfere with the rights of, or otherwise be inequitable to, the party who received payment; (2) cause significant hardship because an individual changed position based upon the payment; or (3) be contrary to public policy considerations. *Id*. at 563.

in the case, including whether the employer willfully violated the ADEA. If a willful violation occurred, any deduction from the award should be made after the damages are doubled pursuant to § 7(b) of the ADEA;

(iv) The employee's financial condition;

(v) The employer's financial condition;

(vi) The effect of the reduction upon the purposes and enforcement of the ADEA and the deterrence of future violations by the employer.

d. No employer may unilaterally abrogate its duties under a waiver agreement to any signatory, even if one or more of the signatories to the agreement or EEOC successfully challenges the validity of that agreement under the ADEA.

In his concurrence in *Oubre,* Justice Breyer expressed concern that a successful challenge to a waiver agreement by one or more individuals not be construed to relieve an employer of its obligations to other individuals who did not challenge that agreement. *Oubre,* 522 U.S. at 431 (Breyer, J., concurring). Such an abrogation would penalize innocent employees for the employer's noncompliance with the ADEA, and would therefore be void as against public policy. *See generally* 17A Am. Jur. 2d Contracts § 327 (1991) (stating that an illegal contract will be enforced if refusal to enforce it "would produce a harmful effect on the party for whose protection the law making the bargain illegal exists").

e. The rules set out in this regulation apply to cases within the EEOC administrative process as well as to cases in court, and are fully consistent with the provisions of EEOC's regulation at 29 CFR 1625.22(i)(3).

Comments: As a convenience to commentors, the Executive Secretariat will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is 202–663–4114. (Telephone numbers published in this Notice are not toll-free). Only public comments of six or fewer pages will be accepted via FAX transmittal in order to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff on 202–663–4066.

Comments received will be available for public inspection in the EEOC Library, Room 6502, 1801 L Street, N.W., Washington, D.C. 20507, by appointment only, from 9:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. Copies of this Notice are available in the following alternative formats: large print, braille, electronic file on computer disk, and audio tape. To schedule an appointment or receive a copy of the Notice in an alternative format, call 202–663–4630 (voice), 202–663–4399 (TDD).

Executive Order 12866, Regulatory Planning and Review

Pursuant to § 6(a)(3)(B) of Executive Order 12866, EEOC has coordinated this NPRM with the Office of Management and Budget. Under § 3(f)(1) of Executive Order 12866, EEOC has determined that the regulation will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State or local or tribal governments or communities. Therefore, a detailed cost-benefit assessment of the regulation is not required.

Paperwork Reduction Act

EEOC certifies that the rule as proposed does not require the collection of information by EEOC or any other agency of the United States Government. The rule as proposed does not require any employer or other person or entity to collect, report, or distribute any information.

Regulatory Flexibility Act

EEOC certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this regulation will not result in a significant economic impact on a substantial number of small entities. For this reason, a regulatory flexibility analysis is not required. A copy of this proposed rule was furnished to the Small Business Administration.

In addition, in accordance with Executive Order 12067, EEOC has solicited the views of affected Federal agencies.

List of Subjects in 29 CFR Part 1625

Advertising, Age, Employee Benefits, Equal Employment Opportunity, Retirement.

Signed at Washington, D.C. this 19th day of April, 1999.

Ida L. Castro,

Chairwoman.

It is proposed to amend chapter XIV of title 29 of the Code of Federal Regulations as follows:

PART 1625—AGE DISCRIMINATION IN EMPLOYMENT ACT

1. The authority citation for part 1625 continues to read as follows:

Authority: 81 Stat. 602; 29 U.S.C. 621; 5 U.S.C. 301; Secretary's Order No. 10–68; Secretary's Order No. 11–68; sec. 12, 29 U.S.C. 631; Pub. L. 99–592, 100 Stat. 3342; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807.

2. In part 1625, § 1625.23 would be added to Subpart B—Substantive Regulations, to read as follows:

§ 1625.23 Waiver of rights and claims: Tender back of consideration.

(a) An individual alleging that a waiver agreement was not knowing and voluntary under the ADEA is not required to tender back the consideration given for that agreement before filing either a lawsuit or a charge of discrimination with EEOC or any state or local fair employment practices agency. Retention of consideration does not foreclose a challenge to any waiver agreement; nor does the retention constitute the ratification of any waiver. A clause requiring tender back is invalid under the ADEA.

(b) A covenant not to challenge a waiver agreement, or any other arrangement that imposes any condition precedent, any penalty, or any other limitation adversely affecting any individual's right to challenge a waiver agreement, is invalid under the ADEA, whether the covenant or other arrangement is part of the agreement or is contained in a separate document. A provision allowing an employer to recover costs, attorneys' fees, and/or damages for the breach of any covenant or other arrangement is not permitted.

(c) *Restitution, recoupment, or setoff.* (1) Where an employee successfully challenges a waiver agreement and prevails on the merits of an ADEA claim, courts have the discretion to determine whether an employer is entitled to restitution, recoupment, or setoff (hereinafter, "reduction") against the employee's damages award. These amounts never can exceed the lesser of the consideration the employee received for signing the waiver agreement or the amount recovered by the employee. Consistent with paragraph (b) of this section, an employer is not entitled to restitution, recoupment, or setoff for any costs, attorneys' fees or other amounts claimed as damages attributable to an alleged breach of such a covenant or other arrangement.

(2) In a case involving more than one plaintiff, any reduction must be applied on a plaintiff-by-plaintiff basis. No individual's award can be reduced

based on the consideration received by any other person.

(3) A nonexhaustive list of the factors that may be relevant to determine whether, or in what amount, a reduction should be granted, includes:

(i) Whether the employer apportioned the amount paid for the waiver agreement among the rights waived, if the waiver purports to waive rights other than ADEA rights. If the employer did not apportion the consideration among the rights waived, the apportionment should be done on an equitable basis;

(ii) Whether the employer's noncompliance with the ADEA waiver requirements was inadvertent or was in bad faith or fraudulent;

(iii) The nature and severity of the underlying employment discrimination in the case, including whether the employer willfully violated the ADEA. If a willful violation occurred, any deduction from the award should be made after the damages are doubled pursuant to § 7(b) of the ADEA;

(iv) The employee's financial condition;

(v) The employer's financial condition;

(vi) The effect of the reduction upon the purposes and enforcement of the ADEA and the deterrence of future violations by the employer.

(d) No employer may unilaterally abrogate its duties under a waiver agreement to any signatory, even if one or more of the signatories to the agreement or EEOC successfully challenges the validity of that agreement under the ADEA.

[FR Doc. 99–10143 Filed 4–22–99; 8:45 am]
BILLING CODE 6570–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–84–1–7341b; FRL–6324–1]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: Motor Vehicle Inspection and Maintenance (I/M) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval of the State of Texas supplemental I/M SIP submittals dated May 29, 1997, June 23, 1998, and December 22, 1998, which would thereby remove the conditions from the July 11, 1997, conditional interim approval. The May 29, 1997, submittal changes the definition of "primarily operated," includes a Memorandum of Agreement between the Texas Natural Resource Conservation Commission and the Texas Department of Public Safety, and removes the test-on-resale requirement from the SIP. The June 23, 1998, submittal commits the State to implementing On-Board Diagnostic testing in January 2001. The December 22, 1998, submittal is the legislative authority needed to meet the requirements of the Clean Air Act and the Federal I/M regulations. In the Rules section of this **Federal Register**, EPA is issuing direct final approval of the above SIP submittals and removing the conditions from the July 11, 1997, conditional interim approval. The Agency views this rulemaking as noncontroversial and anticipates no adverse comment. A rationale for the approval is set forth in the direct final rule. If no adverse comments are received, no further action is contemplated with regard to this proposal. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 24, 1999.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Sandra Rennie, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title located in the Rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 30, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 99–9461 Filed 4–22–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA126–0129b FRL–6233–2]

Approval and Promulgation of Implementation Plans for Arizona and California; General Conformity Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This action proposes to approve various revisions to State Implementation Plans (SIP) which contain regulations for implementing and enforcing the general conformity rules which the EPA promulgated on November 30, 1993. EPA is proposing to approve SIP revisions which contain general conformity rules for the Arizona SIP and the California SIP for the following California Air Pollution Control Districts (APCD) and Air Quality Management Districts (AQMD): El Dorado County APCD, Great Basin Unified APCD, Monterey Bay Unified APCD, San Joaquin Valley Unified APCD, Santa Barbara County APCD, South Coast AQMD, Feather River AQMD, Placer County APCD, Sacramento Metro AQMD, Imperial County APCD, Bay Area AQMD, San Diego County APCD, Butte County AQMD, Ventura County APCD, Mojave Desert AQMD and Yolo-Solano AQMD.

The approval of these general conformity rules into the SIP will result in the SIP criteria and procedures governing general conformity determinations instead of the Federal rules at 40 CFR Part 93, Subpart B. The Federal actions by the Federal Highway Administration and Federal Transit Administration (under Title 23 U.S.C. or the Federal Transit Act) are covered by the transportation conformity rules under 40 CFR Part 51, Subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act (and 40 CFR Part 93, Subpart A) and are not affected by this action.

EPA proposes to approve these SIP revisions under sections 110(k) and 176(c) of the Clean Air Act (CAA or the Act). A more detailed discussion of

today's action is provided in the Final Rule Section of this **Federal Register**.

In the Final Rules Section of this **Federal Register**, the EPA is approving these General Conformity SIP revisions as a direct final rulemaking without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in providing comments on this action should do so at this time.

DATES: Comments must be received in writing and postmarked by May 24, 1999.

ADDRESSES: Written comments must be submitted to: Doris Lo, Planning Office [AIR2], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012
California Air Resources Board, 2020 L Street, P.O. Box 2815, Sacramento, California 95812
El Dorado County APCD, 2850 Fairlane Court, Placerville, California 95667
Great Basin Unified APCD, 157 Short Street, Suite #6, Bishop, California 93514
Monterey Bay Unified APCD, 24580 Silver Cloud Court, Monterey, California 93940
San Joaquin Valley Unified APCD, 1999 Tuolumne Street, Suite 200, Fresno, California 93721
Santa Barbara County APCD, 26 Castillian Drive, B–23, Goleta, California 93117
South Coast AQMD, 21865 E. Copley Drive, Diamond Bar, California 91765–4182
Feather River AQMD, 463 Palora Avenue, Yuba City, California 95991–4711
Placer County APCD, 11464 B Avenue, Auburn, California 95603
Sacramento Metro AQMD, 8411 Jackson Road, Sacramento, California 95826
Bay Area AQMD, 939 Ellis Street, San Francisco, California 94109
Imperial County APCD, 150 South Ninth Street, El Centro, California 92243–2850
San Diego County APCD, 9150 Chesapeake Drive, San Diego, California 92123–1096
Butte County AQMD, 9287 Midway, Suite 1A, Durham, California 95938
Ventura County APCD, 669 County Square Drive, Ventura, California 93003
Mojave Desert AQMD, 15428 Civic Drive, Suite 200, Victorville, California 92392–2383
Yolo-Solano AQMD, 1947 Galileo Court, Suite 103, Davis, California 95616

FOR FURTHER INFORMATION CONTACT: Doris Lo, Planning Office (AIR2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1287.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which in located in the Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, General conformity, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compound.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 29, 1999.

Laura Yoshii,

Acting Regional Administrator, Region 9.

[FR Doc. 99–9997 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MD056–3022b; FRL–6330–6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Maryland; Control of Emissions From Large Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the municipal waste combustor (MWC) 111(d)/129 plan submitted by the Air and Radiation Management Administration, Maryland Department of the Environment, on December 4, 1997, and as amended on October 7, 1998. In the final rules section of the **Federal Register**, EPA is approving the plan. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by May 24, 1999.

ADDRESSES: Comments may be mailed to Makeba A. Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: James B. Topsale at (215) 814–2190, or by e-mail at topsale.jim@epamail.gov. While questions may be forwarded to EPA via e-mail, comments on this proposed rule must be submitted in writing in accordance with procedures outlined above.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule, of the same title, which is located in the rules section of the **Federal Register**.

Dated: April 15, 1999.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 99–10230 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152, 174, and 180

[OPP–300369A; FRL–6077–6]

RIN 2070–AC02

Plant-Pesticides, Supplemental Notice of Availability of Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; supplemental notice.

SUMMARY: EPA is soliciting comment on a request to substitute an alternative name for the term "plant-pesticide." This document also solicits suggestions for appropriate alternative names.

DATES: Comments and data must be received on or before May 24, 1999.

ADDRESSES: Comments and data may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Units I.C. and D. of this document. To ensure proper receipt by EPA, your comments and data must identify the docket control number

OPP–300369A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Philip Hutton, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Hwy., Arlington, VA 22202; telephone: (703) 308–8260; e-mail address: hutton.phil@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Document Apply To Me?

You may be potentially affected by this document, if you conduct large scale field tests during the process of developing plant-pesticides, or if you sell or distribute plant-pesticides. Potentially affected entities may include, but are not limited to:

Category	Examples of potentially affected entities
Field testing	Universities; domestic, foreign, or multinational biotechnology companies; chemical companies; or seed companies
Selling and distributing	Domestic, foreign, or multinational biotechnology companies; chemical companies; or seed companies

This table is not intended to be exhaustive, but rather provides a guide for readers regarding the types of entities potentially affected by this document. If you have any questions regarding the applicability of this document to a particular entity, consult the technical person listed in the "FOR FURTHER INFORMATION CONTACT" at the beginning of this document.

B. How Can I Get Additional Information or Copies of This Document or Other Documents?

1. *Electronically.* You may obtain electronic copies of this document and other documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page, select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**— Environmental Documents." You can also go directly to the "**Federal Register**" listings at http://www.epa.gov/fedrgstr/.

2. *In person or by phone.* If you have any questions or need additional information about this document, you may contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section of this document. In addition, the official record for this document, including the public version, has been established under docket control number OPP–300369A, (including comments and data submitted electronically as described in Unit I.C. of this document). This record not only includes the documents that are physically located in the docket, but also includes all the documents that are referenced in those documents. A public version of this record, including printed, paper versions of any electronic comments and data, which does not include any information claimed as Confidential Business Information (CBI) is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305–5805.

C. How and To Whom Do I Submit Comments?

You may submit comments and data through the mail, in person, or electronically. To ensure proper receipt by EPA, your comments and data must identify the docket control number OPP–300369A in the subject line on the first page of your response.

1. *By mail.* Submit written comments and data to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW. Washington, DC 20460.

2. *In person or by courier.* Deliver written comments and data to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

3. *Electronically.* Submit your comments and data electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Submit comments and data as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic comments and data must be identified by the docket control number OPP–300369A. Electronic comments on this document may be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want To Submit To the Agency?

You may claim information that you submit in response to the document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment and data that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section.

II. History

Section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136(u)) defines *pesticide* as: "(1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer . . . ." The substances plants produce for protection against pests are pesticides under the FIFRA definition of pesticide, if humans intend to use these substances for "preventing, destroying, repelling, or mitigating any pest."

EPA recognizes the unique use pattern of these pesticides, which are produced and used in the living plant. Thus, in a November 23, 1994, **Federal Register** document (59 FR 60496), EPA suggested giving these types of pesticides a unique name, "plant-pesticides," in order to distinguish them from chemical, microbial, or biochemical pesticides. Since 1994, EPA has been using the term, "plant-

pesticide," to refer to these unique pesticides. EPA believes a unique name for this category of pesticides benefits the public by providing the means to readily identify regulations specific to this type of pesticide in the Code of Federal Regulations (CFR). A "plant-pesticide" was described in the November 23, 1994, **Federal Register** document (59 FR 60496) as "a pesticidal substance that is produced in a living plant and the genetic material necessary for production of the substance, where the substance is intended for use in the living plant."

EPA received several letters during the official comment period for the November 23, 1994, **Federal Register** document (59 FR 60496) that expressed concern about the name, "plant-pesticide." These comments expressed the opinion that the term "pesticide" has a negative connotation, and requested that EPA consider another name.

III. Request for Comment

EPA is requesting comment on the advisability of substituting another name for the term, "plant-pesticide." EPA also requests suggestions for appropriate alternative names, as no alternative names were suggested during the official comment period. Alternative names may be names in common scientific use, e.g., "plant defense compounds," or names created specifically to describe this type of pesticide, e.g., "caedeflors" or "floragens." EPA, specifically, requests comment on whether the alternative name, "plant-expressed protectants," would be an acceptable name for this category of pesticides. EPA is only seeking comments on the advisability of substituting another name for the term "plant-pesticides" and on appropriate alternative names. The Agency is not reopening the comment period on previously published **Federal Register** documents dealing with plant-pesticides as described in Unit IV. of this document.

If EPA changes the name describing the pesticides currently termed, "plant-pesticides," the change will only affect the name. It will not affect the status of the pesticidal substance or the genetic material necessary to produce it. These will still be pesticides under FIFRA section 2(u). Similarly, a change of name will not affect any regulatory requirements.

IV. Sources of Additional Information

Commenters, who wish to obtain further information on plant-pesticides and on EPA's approach to them, should consult the documents listed in this unit, as well as the dockets for these documents. In the November 23, 1994, **Federal Register**, EPA published a package of five separate documents (59 FR 60496, 60519, 60535, 60542, and 60545) (FRL–4755–2, FRL–4755–3, FRL–4758–8, FRL–4755–5, and FRL–4755–4) which described EPA's policy and proposals for plant-pesticides. On July 22, 1996, EPA published a supplemental document in the **Federal Register** (61 FR 37891) (FRL–5387–4) on one aspect of its November 23, 1994, **Federal Register** documents; i.e., how the concept of inert ingredient related to plant-pesticides. On May 16, 1997, EPA published in the **Federal Register** three supplemental documents (62 FR 27132, 27142, and 27149) (FRL–5717–2, FRL–5716–7, and FRL–5715–6) to provide the public an opportunity to comment on EPA's analysis of how certain amendments to the Federal Food, Drug, and Cosmetic Act (FFDCA) and FIFRA by the Food Quality Protection Act (FQPA) apply to EPA's proposed exemptions under FFDCA section 408 for certain categories of residues of plant-pesticides and proposed exemptions under FIFRA for certain categories of plant-pesticides.

Included in the dockets cited in this unit are:

1. Relevant **Federal Register** documents, such as the June 26, 1986, policy statement issued by the Office of Science and Technology Policy, the "Coordinated Framework for Regulation of Biotechnology" (51 FR 23302).
2. All public comments received in response to all of the documents cited in this unit, including comments received after the close of the official public comment periods for the documents, such as the report from 11 professional scientific societies entitled "Appropriate Oversight for Plants with Inherited Traits for Resistance to Pests."
3. Reports of the scientific advisory committees on plant-pesticides, such as the January 21, 1994, joint meeting of a Subpanel of the FIFRA Scientific Advisory Panel and a Subcommittee of the EPA Biotechnology Science Advisory Committee.
4. All support documents and reports.
5. Published literature cited in the documents.

V. Regulatory Assessment Requirements

A. Certains and Executive Orders

This supplemental document only seeks comment on an alternative name for the term "plant-pesticide." As such, this document does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub.L. 104–4), or Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). In addition, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulations. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governements "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's supplemental document does not create an unfunded Federal mandate on State, local, or tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this supplemental document.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal

government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's supplemental document does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this supplemental document.

List of Subjects in Parts 152, 174, and 180

Environmental protection, Agricultural commodities, Pesticides and pests, Plants.

Dated: April 16, 1999.

Susan Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–10237 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185, and 186

[OPP–300847; FRL–6076–4]

RIN 2070–AC18

Bentazon, Cyanazine, Dicrotophos, Diquat, Ethephon, Oryzalin, Oxadiazon, Picloram, Prometryn, and Trifluralin; Proposed Revocations and Changes in Terminology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document proposes to revoke specific tolerances for residues of the herbicides bentazon, cyanazine, diquat, oxadiazon, picloram, prometryn, and trifluralin; the plant growth regulator ethephon; and the insecticide dicrotophos. EPA expects to determine whether any individuals or groups want to support these tolerances. In addition, EPA is also proposing to revise commodity terminology for oryzalin, bentazon, diquat, ethephon, picloram, and trifluralin to conform to current Agency practice. The regulatory actions proposed in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA). By law, EPA is required to reassess 33% of the tolerances in existence on August 2, 1996, by August 1999, or about 3,200 tolerances. The regulatory actions proposed in this document pertain to the proposed revocation of 29 tolerances and/or exemptions, which would be counted among reassessments made toward the August, 1999 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: Comments must be received on or before June 22, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IV of the SUPPLEMENTARY INFORMATION section of this notice. Be sure to identify the appropriate docket number [OPP–300847].

FOR FURTHER INFORMATION CONTACT: For technical information contact: Joseph Nevola, Special Review Branch, (7508C), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, Crystal Mall #2, 6th floor, 1921 Jefferson Davis Hwy., Arlington, VA. Telephone: (703) 308–8037; e-mail: nevola.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Is the Progress of Tolerance Reassessment?

By law, EPA is required to reassess 33% of the tolerances in existence on August 2, 1996, by August 1999, or about 3,200 tolerances. The regulatory actions proposed in this document pertain to the proposed revocation of 29 tolerances and/or exemptions, which would be counted among reassessments made toward the August, 1999 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

II. Does this Notice Apply to Me?

You may be affected by this notice if you sell, distribute, manufacture, or use pesticides for agricultural applications, process food, distribute or sell food, or implement governmental pesticide regulations. Pesticide reregistration and other actions [see FIFRA section 4(g)(2)] include tolerance and exemption reassessment under FFDCA section 408. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of Potentially Affected Entities
Agricultural Stakeholders.	Growers/Agricultural Workers Contractors [Certified/ Commercial Applicators, Handlers, Advisors, etc.] Commercial Processors Pesticide Manufacturers User Groups Food Consumers
Food Distributors	Wholesale Contractors Retail Vendors Commercial Traders/Importers
Intergovernmental Stakeholders.	State, Local, and/or Tribal Government Agencies
Foreign Entities	Governments, Growers, Trade Groups

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. If you have any questions regarding the applicability of this action to a particular entity, you can consult with the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

III. How Can I Get Additional Information or Copies of this or Other Support Documents?

A. Electronically

You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations" and then look up the entry for this document under "**Federal Register** - Environmental Documents." You can also go directly to the "**Federal Register**" listings at http://www.epa.gov/homepage/fedrgstr/.

B. In Person or by Phone

If you have any questions or need additional information about this action, please contact the technical person

identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this notice, including the public version, has been established under docket control number [OPP–300847], (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Room 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is 703–305–5805.

IV. How Can I Respond to this Notice?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket number (i.e., "[OPP–300847]") in your correspondence.

1. *By mail.* Submit written comments, identified by the docket control number [OPP–300847], to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments, identified by the docket control number [OPP–300847], to: Public Information and Records Integrity Branch, Office of Pesticide Programs, U.S. Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

3. *Electronically.* Submit your comments and/or data electronically by E-mail to: oppt.ncic@epa.gov. Do not submit any information electronically that you consider to be CBI. Submit electronic comments in ASCII file format avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the appropriate docket control number [OPP–300847]. You may also file electronic comments and data online at many Federal Depository Libraries.

B. How Should I Handle CBI Information in My Comments?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section.

V. What Is a "Tolerance"?

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 301 et seq., as amended by the FQPA of 1996, Pub. L. 104–170, authorizes the establishment of tolerances (maximum residue levels), exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. 21 U.S.C. 346(a). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of the FFDCA. If food containing pesticide residues is considered to be "adulterated," you may not distribute the product in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under section 3, section 5, or section 18 of FIFRA (7 U.S.C. et seq.). Food-use pesticides not registered in the United States have tolerances for residues of pesticides in or on commodities imported into the United States.

Monitoring and enforcement of pesticide tolerances and exemptions are carried out by the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA). This includes monitoring for pesticide residues in or on commodities imported into the United States.

VI. Why Is EPA Proposing the Tolerance Actions Discussed below?

EPA is proposing a number of tolerance commodity terminology changes to conform to current Agency practice, as discussed below. EPA is also proposing specific tolerance revocations to address canceled pesticides and uses of pesticides.

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. However, in accordance with FFDCA section 408, EPA will not revoke any tolerance or exemption proposed for revocation if any person demonstrates a need for the retention of the tolerance, and if retention of the tolerance will meet the tolerance standard established under FQPA. Generally, interested parties support the retention of such tolerances in order to permit treated commodities to be legally imported into the United States, since raw agricultural commodities or processed food or feed commodities containing pesticide residues not covered by a tolerance or exemption are considered to be adulterated.

Tolerances and exemptions established for pesticide chemicals with FIFRA registrations cover residues in or on both domestic and imported commodities. To retain these tolerances and exemptions, EPA must make a finding that the tolerances and exemptions are safe. To make this safety finding, EPA needs data and information indicating that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide residues covered by the tolerances and exemptions.

For tolerances without U.S. registrations, EPA requires the same toxicology and residue chemistry data needed to support U.S. food-use registrations. For import tolerances, EPA applies these data requirements on a case-by-case basis to account for specific growing conditions in foreign countries. (See 40 CFR part 158 for EPA's data requirements to support domestic use of a pesticide and the establishment and maintenance of a tolerance. EPA is developing a guidance concerning submissions for import tolerance support. This guidance will be made available to interested persons.) In most cases, EPA also requires residue chemistry data (crop field trials) that are representative of growing conditions in exporting countries in the same manner that EPA requires representative residue chemistry data from different U.S. regions to support domestic use of a pesticide and any resulting tolerance(s)

or exemption(s). Good Laboratory Practice (GLP) requirements for studies submitted in support of tolerances and exemptions for import purposes only are the same as those for domestic purposes; i.e., the studies are required to either fully meet GLP standards, or have sufficient justification presented to show that deviations from GLP standards do not significantly affect the results of the studies.

VII. Which Pesticides Are Covered by this Action?

Bentazon (trade name Basagran) is a selective, contact, early postemergent herbicide registered for use on such food and feed crops as alfalfa, beans, corn, peanuts, peas, pepper, peppermint, rice, sorghum, soybeans, and spearmint. Bentazon is also registered for use on ornamental lawns and turf. It is manufactured by BASF Corporation.

2-[[4-chloro-6-(ethylamino)-*s*-triazin-2-yl]amino]-2-methylpropionitrile (Cyanazine; trade names Bladex, Cy-Pro, etc.) is a selective herbicide used to control annual broadleaf weeds, carpetweed, chickweed, corn spurry, mayweed, pigweed, and ragweed. It is manufactured by E.I. DuPont de Nemours and Company, Incorporated and Griffin Corporation.

Dimethyl phosphate of 3-hydroxy-*N,N*-dimethyl-cis-crotonamide (Dicrotophos; trade name Bidrin) is an insecticide used to control aphids, boll weevils, grasshoppers, gypsy moths, leafhoppers, and thrips. It is manufactured by Amvac Chemical Corporation.

Diquat (trade name Diquat Herbicide) is a non-selective contact herbicide, desiccant, and plant growth regulator for use as a general herbicide of broadleaf and grassy weeds in terrestrial non-crop and aquatic areas; as a desiccant in seed crops and potatoes; and for tassel control and spot weed control in sugarcane. Diquat is also used for aquatic, indoor, greenhouse, and terrestrial food crops; aquatic non-food industrial, outdoor, greenhouse, and residential; terrestrial feed crops, and outdoor residential uses. It is manufactured by Zeneca Ag Products.

Ethephon (trade name Ethrel) is a plant growth regulator registered for use on a number of terrestrial food, feed, and nonfood crops, greenhouse nonfood crops, and outdoor residential plants. It is manufactured by Rhone-Poulenc Ag Company and Cedar Chemical Corporation.

Oryzalin (trade name Surflan) is a herbicide used to control annual grasses and broadleaf weeds on berries, vine and orchard crops, Christmas tree plantations, commercial/industrial and recreation area lawns, golf course turf, residential lawns and turf, ornamental and/or shade trees, nonagricultural rights-of-way/fencerows, nonagricultural uncultivated and industrial areas, power stations, paths/patios and paved areas. Oryzalin is also used to control herbaceous plants, woody shrubs, and vines. It is manufactured by DowElanco.

Oxadiazon (trade name Ronstar) is a herbicide used to control annual broadleaf weeds, barnyardgrass, carpetgrass, carpetweed, crabgrass, goosegrass, and quackgrass. It is manufactured by Rhone-Poulenc Ag Company.

Picloram is a systemic herbicide used to control deeply rooted herbaceous weeds and woody plants in rights-of-ways, forestry, rangelands, pastures, and small grains. It is manufactured by DowElanco.

Prometryn (trade names Caparol, Prometryne, etc.) is a herbicide used to control annual broadleaf weeds, barnyardgrass, carpetweed, chickweed, cottonweed, crabgrass, foxtail, goosegrass, nutsedge, pigweed, and ragweed. It is manufactured by Novartis Crop Protection, Inc. and Verolit Chemical Manufacturers Limited.

Trifluralin (trade names Treflan, Triflurex, etc.) is a preemergent herbicide used to control annual grasses and broadleaf weeds on a variety of food crops and is also currently registered for nonfood uses, including residential use sites. It is manufactured by DowElanco, Makhteshim-Agan, Industria Prodotti Chimici S.P.A. (I.Pi.Ci.), Tri Corporation, and Albaugh Inc.

VIII. What Action Is Being Taken?

This notice proposes revocation of FFDCA tolerances for residues of the herbicides bentazon, 2-[[4-chloro-6-(ethylamino)-*s*-triazin-2-yl]amino]-2-methylpropionitrile (cyanazine), diquat, oxadiazon, picloram, prometryn, and trifluralin; the plant growth regulator ethephon, and the insecticide dimethyl phosphate of 3-hydroxy-*N,N*-dimethyl-cis-crotonamide (dicrotophos) in or on commodities listed in the regulatory text because these pesticides are not registered under FIFRA for uses on the commodities. The registrations for these pesticide chemicals were canceled because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily canceled one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person in comments on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

Changes in the commodity terminology and definitions are proposed for the aforementioned active ingredients and oryzalin, which does not have tolerance revocations proposed in this document, to conform to current Agency practice. These proposed changes are in accordance with the revised Crop Group Regulation (40 CFR 180.41) and the updated Table I "Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops" (August, 1996) in the Residue Chemistry Test Guidelines: OPPTS 860.1000 (EPA 721–C–96–169). Table I contains data on both crops and livestock diets, and lists feed commodities considered significant in livestock diets. Significant feedstuffs account for more than 99 percent of the available annual tonnage (on-a dry-matter basis) of feedstuffs used in the domestic production of more than 95 percent of beef and dairy cattle, poultry, swine, milk, and eggs. EPA has devised criteria to include or exclude feedstuffs from Table I and sets tolerances for significant feedstuffs. Tolerances are not set for feedstuffs which are neither significant nor a human food. Pesticide residues on such feedstuffs are governed by tolerances on the commodity from which they are derived (62 FR 66020, December 17, 1997). These changes are technical in nature and have no effect on the scope of the tolerance.

1. *Bentazon.* EPA proposes to revoke the tolerance for beans, lima (succulent) in 40 CFR 180.355(a) because residues in/on lima beans are covered under the tolerance for (bean, succulent). EPA proposes to revoke tolerances for mint, spent hay and peanuts, forage because they are no longer considered to be significant livestock feed commodities. According to Table I, mint, spent hay and peanuts, forage are insignificant contributors to the livestock diet. Terminology changes for beans (except soybeans), dried to bean, dry, seed; beans (exc. soybeans), dried, vine hays to cowpea, hay; beans (exc. soybeans), forage to cowpea, forage; beans, succulent to bean, succulent; Bohemian chili peppers to pepper, nonbell; cattle, mbyp to cattle, meat byproducts; corn, fodder to corn, field, stover; corn, forage to corn, field, forage; corn, grain to corn, field, grain; and corn, pop, grain; corn, fresh (inc. sweet K+CWHR) to corn, sweet, kernel plus cob with husks removed; eggs to egg; peanuts to peanut; peanuts, hay to peanut, hay; peas (dried) to pea, dry, seed; peas (dried), vine hays to pea, field, hay; peas, forage to pea,

field, vines; peas, succulent to pea, succulent; poultry, mbyp to poultry, meat byproducts; and rice to rice, grain are proposed in the regulatory text.

2. *2-[[4-chloro-6-(ethylamino)-s-triazin-2-yl]amino]-2-methylpropionitrile; Cyanazine.* EPA initiated a Special Review of cyanazine in November, 1994, based on concerns that cyanazine may pose a risk of inducing cancer in humans from dietary, occupational, and residential exposure. On August 2, 1995, E. I. DuPont de Nemours Co., Inc. (DuPont) voluntarily proposed to amend its cyanazine registrations to incrementally reduce cyanazine maximum application rates in 1997, 1998, and 1999, and to terminate production for use in the United States by December 31, 1999. DuPont would modify the labels of cyanazine formulated end use products released for shipment by the registrant after July 25, 1996. Those modified labels would specify the maximum application rates during the phase-out, inform the public of the existing stocks provisions, and require the use of application equipment with enclosed cabs for applicators beginning in 1998. On November 8, 1995 (60 FR 56333) (FRL–4984–1), EPA announced receipt of a request from Ciba Geigy Corporation to voluntarily cancel its only product containing cyanazine effective February 6, 1996. After EPA initiated Special Review, Griffin Corporation had filed an application to register certain cyanazine end use products and subsequently agreed to the terms and conditions of registration that were proposed by DuPont. EPA granted Griffin's applications and issued conditional registrations subject to those same terms and conditions. On March 1, 1996 (61 FR 8186) (FRL–5352–6), EPA issued a notice of preliminary determination to terminate Special Review and a notice of receipt of requests for voluntary cancellation of cyanazine registrations from DuPont and from Griffin Corporation.

In the **Federal Register** of July 25, 1996 (61 FR 39023)(FRL–5385–7) , EPA announced a final determination to terminate the cyanazine Special Review. In the same notice, EPA accepted requests for the voluntary cancellation of cyanazine registrations effective December 31, 1999 and ordered the cancellations to take effect on January 1, 2000, authorized sale and distribution of such products in the channels of trade in accordance with their labels through September 30, 2002, and prohibited the use of cyanazine products after December 31, 2002. Therefore, EPA proposes to revoke the tolerances for cyanazine in 40 CFR 180.307 with an expiration/revocation date of April 1, 2003, to allow any treated commodities to pass through the channels of trade.

Terminology changes in 40 CFR 180.300(a) for corn, fodder to corn, field, stover; corn, forage to corn, field, forage; corn, fresh (including sweet K+CWHR) to corn, sweet, kernel plus cob with husks removed; corn, grain to corn, field, grain; and corn, pop, grain; cottonseed to cotton, undelinted seed; sorghum, fodder to sorghum, grain, stover; sorghum, forage to sorghum, forage, forage; sorghum, grain to sorghum, grain, grain; and wheat, forage (green) to wheat, forage are proposed in the regulatory text.

3. *Dimethyl phosphate of 3-hydroxy-N,N-dimethyl-cis-crotonamide; Dicrotophos.* EPA proposes to revoke the tolerance for pecans in 40 CFR 180.299. No active registration exists.

4. *Diquat.* EPA proposes to revoke the tolerance for sugarcane in 40 CFR 180.226(a) because no registered use exists. Also, since the Agency no longer requires tolerances for residues in potable water (47 FR 25746, December 15, 1982), the tolerance for diquat has been replaced with a designated maximum contaminant level (MCLG) at 0.02 mg/L for residues of diquat dibromide in potable water (57 FR 31776, July 17, 1992). Therefore, EPA proposes to revoke the tolerance for diquat in potable water in 40 CFR 185.2500(a) and the tolerance for diquat in potable water in § 185.2500(b). In § 180.226(a), the table commodity terminology is changed for potatoes to potato; and in § 180.226(b), the table commodity terminology is changed for avocados to avocado; cottonseed to cotton, undelinted seed; cucurbits to vegetable, cucurbit, group; fruits, citrus to fruit, citrus, group; fruits, pome to fruit, pome, group; fruits, stone to fruit, stone, group; grasses, forage to grass, forage; hops to hop, dried cones; legumes, forage to vegetable, foliage of legume, group; nuts to nut, tree, group; sugarcane to sugarcane, cane; vegetables, fruiting to vegetable, fruiting, group; and vegetables, root crop to vegetable, root and tuber, group. In § 185.2500, the terminology is changed for processed potatoes (includes potato chips) to potato, granules/flakes and potato, chips. These terminology changes are proposed in the regulatory text.

5. *Ethephon.* EPA proposes to revoke the tolerances for filberts, lemons, tangerines, and tangerine hybrids in 40 CFR 180.300(a) because no registered uses exist. EPA proposes to revoke the tolerances for pineapple fodder, and pineapple forage, because they are no longer considered raw agricultural commodities. Terminology changes in 40 CFR 180.300(a) for figs to fig; goats, fat to goat, fat; horses, meat to horse, meat; macadamia nuts to nut, macadamia; pineapples to pineapple; pumpkins to pumpkin; and tomatoes to tomato are given in the regulatory text. Also, terminology changes in 40 CFR 185.2700 for barley, milling fractions, except flour to barley, pearled barley and barley, bran; and wheat, milling fractions, except flour to wheat, bran; wheat, middlings; and wheat, shorts; and in § 186.2700(a) for wheat, milling fractions, except flour to wheat, milled byproducts are proposed in the regulatory text.

6. *Oryzalin.* The terminology revision in 40 CFR 180.304(a) for figs to fig; kiwifruits to kiwifruit; nuts to nut, tree, group; and olives to olive are proposed in the regulatory text.

7. *Oxadiazon.* The tolerance for rice straw in 40 CFR 180.346 is being proposed for revocation because no registered use exists.

8. *Picloram.* The tolerances for flax, seed and flax, straw in 40 CFR 180.292 are being proposed for revocation because no registered uses exist. Terminology changes for cattle, mbyp (exc. kidney and liver) to cattle, meat byproducts except kidney and liver; eggs to egg; goats, fat to goat, fat; goats, mbyp (exc. kidney and liver) to goat, meat byproducts except kidney and liver; goats, meat to goat, meat; grasses, forage to grass, forage; hogs, mbyp (exc. kidney and liver) to hog, meat byproducts except kidney and liver; horses, mbyp (exc. kidney and liver) to horse, meat byproducts except kidney and liver; oats, green forage to oat, forage; sheep, mbyp (exc. kidney and liver) to sheep, meat byproducts except kidney and liver; and wheat, green forage to wheat, forage are proposed in the regulatory text.

9. *Prometryn.* EPA is proposing to revise the terminology for cotton in 40 CFR 180.222(a) to cotton, forage and to revoke the tolerance because cotton, forage is no longer considered a significant livestock feed commodity according to Table I.

10. *Trifluralin.* In 40 CFR 180.207 EPA proposes to remove the "(N)" designation from all entries to conform to current Agency administrative practice ("N" designation means negligible residues). EPA proposes to revoke the tolerance for barley, fodder because barley, fodder is no longer considered a raw agricultural commodity. Terminology changes for carrots to carrot, roots; citrus fruits to fruit, citrus, group; corn, grain (exc. popcorn) to corn, field, grain; corn, grain (exc. popcorn), forage to corn,

field, forage; corn, grain (exc. popcorn), fodder to corn, field, stover; cottonseed to cotton, undelinted seed; cucurbits to vegetable, cucurbit, group; grain, crops (except fresh corn and rice grain) to grain, crops, except corn, sweet and rice grain; mung bean sprouts to bean, mung, sprouts; nuts to nut, tree, group; peanuts to peanut; peppermint, hay to peppermint, tops; rape, seed to rapeseed, seed; spearmint, hay to spearmint, tops; stone fruits to fruit, stone, group; sugarcane to sugarcane, cane; sunflower seed to sunflower, seed; upland cress to cress, upland; and vegetables, fruiting to vegetable, fruiting, group are proposed in the regulatory text.

IX. When Do These Actions Become Effective?

With the exception of cyanazine, for which EPA proposes an expiration/revocation date of April 1, 2003, EPA proposes that these actions become effective 90 days following publication of a final rule in the **Federal Register**. EPA has proposed delaying the effectiveness of these revocations for 90 days following publication of a final rule to ensure that all affected parties receive notice of EPA's action. For this particular proposed rule, with the exception of cyanazine, the actions will affect uses which have been canceled for more than a year. This should ensure that commodities have cleared the channels of trade. Therefore, EPA believes revocation after a 90–day period following publication of a final rule should be reasonable. However, if EPA is presented with information that there are existing stocks still available for use, and that information is verifiable, then EPA will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks, please submit comments as described in Unit IV of the SUPPLEMENTARY INFORMATION section of this notice.

Any commodities listed in the regulatory text of this notice that are treated with the pesticides subject to this notice, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

X. What Can I Do If I Wish the Agency to Maintain a Tolerance That the Agency Proposes to Revoke?

In addition to submitting comments in response to this notice, you may also submit an objection after EPA issues a final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, the issues resolved in the final rule cannot be raised again in any subsequent proceedings.

This proposed rule provides a comment period of 60 days for any interested person to demonstrate a need for retaining a tolerance, if retention of the tolerance will meet the tolerance standard established under FQPA. If EPA receives within that 60–day period a comment to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the *Federal Register* under FFDCA section 408(f) if needed. The order would specify the data needed, the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FIFRA or FFDCA.

XI. How Do the Regulatory Assessment Requirements Apply to this Proposed Action?

A. Is this a "Significant Regulatory Action"?

No. Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action". The Office of Management and Budget (OMB) has determined that tolerance actions, in general, are not "significant" unless the action involves the revocation of a tolerance that may result in a substantial adverse and material affect on the economy. In addition, this proposed action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this proposed action is not an economically significant regulatory action as defined by Executive Order 12866. Nonetheless, environmental health and safety risks to children are considered by the Agency when determining appropriate tolerances. Under FQPA, EPA is required to apply an additional 10–fold safety factor to risk assessments in order to ensure the protection of infants and children unless reliable data supports a different safety factor.

B. Does this Proposed Action Contain Any Reporting or Recordkeeping Requirements?

No. This proposed action does not impose any information collection requirements subject to OMB review or approval pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

C. Does this Proposed Action Involve Any "Unfunded Mandates"?

No. This proposed action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

D. Do Executive Orders 12875 and 13084 Require EPA to Consult with States and Indian Tribal Governments Prior to Taking the Action Proposed in this Document?

No. Under Executive Order 12875, entitled *Enhancing Intergovernmental Partnerships* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's proposed rule does not create an unfunded Federal mandate on State, local or tribal governments. The proposed rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this proposed rule.

Under Executive Order 13084, entitled *Consultation and Coordination*

with Indian Tribal Governments (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This proposed action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

E. Does this Proposed Action Involve Any Environmental Justice Issues?

No. This proposed rule does not involve special considerations of environmental-justice related issues pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

F. Does this Proposed Action Have a Potentially Significant Impact on a Substantial Number of Small Entities?

No. The Agency has certified that tolerance actions, including the tolerance proposed actions in this document, are not likely to result in a significant adverse economic impact on a substantial number of small entities. The factual basis for the Agency's determination, along with its generic certification under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), appears at 63 FR 55565, October 16, 1998 (FRL–6035–7). This generic certification has been provided to the Chief Counsel for Advocacy of the Small Business Administration.

G. Does this Proposed Action Involve Technical Standards?

No. This tolerance proposed action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, Section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. EPA invites public comment on this conclusion.

H. Are There Any International Trade Issues Raised by this Proposed Action?

The proposed revocations in this document will not become final if comments are received which demonstrate the need to maintain the tolerance to cover residues in or on imported commodities. However, data must be submitted to support the continued tolerance. The U.S. EPA is developing a guidance concerning submissions for import tolerance support. This guidance will be made available to interested persons.

I. Is this Proposed Action Subject to Review under the Congressional Review Act?

No. This proposed action is not a final rule. Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104–121, 110 Stat. 847), only final rules must be submitted to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**.

List of Subjects

40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

40 CFR Part 185

Environmental protection, Food additives, Pesticides and pests.

40 CFR Part 186

Environmental protection, Animal feeds, Pesticides and pests.

Dated: April 12, 1999.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR parts 180, 185, and 186 be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.207 [Amended]

b. Section § 180.207 is amended as follows:

1. In the table to paragraph (a) remove the "(N)" designation from all entries and remove the entry for "barley, fodder". Also, remove the terms listed in the first column below and add in their place in alphabetical order the terms listed in the second column:

Remove	Add
Carrots	Carrot, roots
Citrus fruits	Fruit, citrus, group
Corn, grain (exc. popcorn).	Corn, field, grain
Corn, grain (exc. popcorn), fodder.	Corn, field, stover
Corn, grain (exc. popcorn) forage.	Corn, field, forage
Cottonseed	Cotton, undelinted seed
Cucurbits	Vegetable, cucurbit, group
Grain, crops (except fresh corn and rice grain).	Grain, crops, except corn, sweet and rice grain
Mung bean sprouts	Bean, mung, sprouts
Nuts	Nut, tree, group
Peanuts	Peanut
Peppermint, hay	Peppermint, tops
Rape, seed	Rapeseed, seed
Spearmint, hay	Spearmint, tops
Stone fruits	Fruit, stone, group
Sugarcane	Sugarcane, cane
Sunflower seed	Sunflower, seed
Upland cress	Cress, upland
Vegetables, fruiting	Vegetable, fruiting, group

§ 180.222 [Amended]

c. In § 180.222, in paragraph (a), the table is amended by removing the entry for "cotton."

180.226 [Amended]

d. Section 180.226 is amended as follows:

1. In paragraph (a), the table is amended by removing the entry for "sugarcane" and revising the term "potatoes" to read "potato".

2. In the table to paragraph (b) remove the terms listed in the first column below and add in their place in alphabetical order the terms listed in the second column below:

Remove	Add
Avocados	Avocado
Cottonseed	Cotton, undelinted seed
Cucurbits	Vegetable, cucurbit, group
Fruits, citrus	Fruit, citrus, group
Fruits, pome	Fruit, pome, group
Fruits, stone	fruit, stone, group
Grasses, forage	Grass, forage
Hops	Hop, dried cones
Legumes, forage	Vegetable, foliage of legume, group
Nuts	Nut, tree, group
Sugarcane	Sugarcane, cane
Vegetables, fruiting	Vegetable, fruiting, group
Vegetables, root crop	Vegetable, root and tuber, group.

§ 180.292 [Amended]

e. In § 180.292, in the table to paragraph (a)(1) remove the entries for "flax, seed"; and "flax, straw" and remove the entries listed in the first column of the table below and add the entries listed in the second column in place thereof in alphabetical order.

Remove	Add
Cattle, mbyp (exc. kidney and liver).	Cattle, meat byproducts except kidney and liver
Eggs	Egg
Goats, fat	Goat, fat
Goats, mbyp (exc. kidney and liver).	Goat, meat byproducts except kidney and liver
Goats, meat	Goat, meat
Grasses, forage	Grass, forage
Hogs, mbyp (exc. kidney and liver).	Hog, meat byproducts except kidney and liver
Horses, mbyp (exc. kidney and liver).	Horse, meat byproducts except kidney and liver
Oats, green forage	Oat, forage
Sheep, mbyp (exc. kidney and liver).	Sheep, meat byproducts except kidney and liver
Wheat, green forage	Wheat, forage

§ 180.299 [Amended]

f. In § 180.299, remove the entry for "pecans."

180.300 [Amended]

g. In § 180.300(a) remove from the table the entries for filberts; lemons; pineapple fodder; pineapple forage; tangerines, and tangerine hybrids and remove the terms listed in the first column of the table below and add the term listed in the second column in place thereof in alphabetical order.

Remove	Add
Figs	Fig
Goats, fat	Goat, fat
Horses, meat	Horse, meat
Macadamia nuts	Nut, macadamia
Pineapples	Pineapple
Pumpkins	Pumpkin
Tomatoes	Tomato

h. Section 180.304 is amended as follows:

1. By revising paragraph (a) introductory text to read as follows:

§ 180.304 Oryzalin; tolerances for residues.

(a) Tolerances are established for residues of the herbicide oryzalin (3,5-dinitro-N^4,N^4-dipropylsulfanilamide) in or on the following raw agricultural commodities:

* * * * *

§ 180.304 [Amended]

2. In the table to § 180.304(a) remove the terms listed in the first column below and add in place thereof in alphabetical order the terms listed in the second column.

Remove	Add In place thereof
Figs	Fig
Kiwifruits	Kiwifruit
Nuts	Nut, tree, group
Olives	Olive

i. In § 180.307 the table is revised to read as follows:

§ 180.307 2-[[4-chloro-6-(ethylamino)-s-triazin-2-yl]amino]-2-methylpropionitrile; tolerances for residues.

* * * * *

Commodity	Parts per million	Expiration/ revocation date
Corn, field, forage	0.2	4/1/03
Corn, field, grain	0.05	4/1/03
Corn, field, stover	0.2	4/1/03
Corn, pop, grain	0.05	4/1/03
Corn, sweet, kernel plus cob with husks removed	0.05	4/1/03
Cotton, undelinted seed	0.05	4/1/03
Sorghum, forage, forage	0.05	4/1/03
Sorghum, grain, grain	0.05	4/1/03
Sorghum, grain, stover	0.05	4/1/03
Wheat, forage	0.1	4/1/03
Wheat, grain	0.1	4/1/03
Wheat, straw	0.1	4/1/03

§ 180.346 [Amended]

j. In § 180.346(a) by removing the entry for "rice straw."

§ 180.355 [Amended]

k. Section 180.355 is amended as follows:

1. In the table to paragraph (a), remove the entries for "beans, lima (succulent)"; "mint, spent hay" and "peanuts, forage"; and remove the terms listed in the first column below and add in place thereof in alphabetical order the terms listed in the second column.

Remove	Add
Beans (except soybeans), dried.	Bean, dry, seed
Beans (exc. soybeans), dried, vine hays.	Cowpea, hay
Beans (exc. soybeans), forage.	Cowpea, forage
Beans, succulent	Bean, succulent
Bohemian chili peppers.	Pepper, nonbell
Cattle, mbyp	Cattle, meat byproducts
Corn, fodder	Corn, field, stover
Corn, forage	Corn, field, forage
Corn, fresh (inc. sweet K+CWHR).	Corn, sweet, kernel plus cob with husks removed
Corn, grain	Corn, field, grain
Eggs	Egg
Peanuts	Peanut
Peanuts, hay	Peanut, hay
Peas (dried)	Pea, dry, seed
Peas (dried), vine hays.	Pea, field, hay
Peas, forage	Pea, field, vines
Peas, succulent	Pea, succulent
Poultry, mbyp	Poultry, meat byproducts
Rice	Rice, grain

2. Section 180.355 is further amended by adding alphabetically an entry to the table in paragraph (a) for corn, pop, grain to read as follows:

§ 180.355 Bentazon; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Corn, pop, grain	0.05
* * * * *	

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By revising § 185.2500 to read as follows:

§ 185.2500 Diquat.

A food additive regulation of 0.5 part per million is established for residues of diquat in potato, granules/flakes and potato, chips.

§ 185.2700 [Amended]

c. In § 185.2700, the table is revised to read as follows:

§ 185.2700 Ethephon.

* * * * *

Food	Parts per million
Barley, pearled barley and barley, bran.	5.0
Sugarcane, molasses	1.5
Wheat, bran, wheat, middlings, and wheat, shorts.	5.0

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

§ 186.2700 [Amended]

b. In § 186.2700(a) by revising the term, "wheat, milling fractions, except flour" to read "wheat, milled byproducts".

[FR Doc. 99–9725 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6330–8]

Wyoming: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of Public Comment Period on Proposed Rule.

SUMMARY: We are reopening the public comment period on the proposed rule for Wyoming: Final Authorization of State Hazardous Waste Management Program Revision published on February 25, 1999, which proposed to grant final authorization for the first revision to Wyoming's Hazardous Waste Rules. Due to adverse comment received and the passage of Senate File 147 (SF 147), we are reevaluating the State's program to ensure that it meets the requirements for authorization of a Resource Conservation and Recovery Act (RCRA) hazardous waste program.

DATES: Written comments on this proposed rule must be received on or before July 22, 1999. If there is sufficient public interest, a public hearing will be held no earlier than June 22, 1999. Requests to present testimony at a hearing must be received on or before June 7, 1999.

ADDRESSES: Send written comments and requests for public hearing to Kris Shurr (8P–HW), EPA, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, phone number: (303) 312–6139. You can examine copies of the materials submitted by Wyoming at the following locations: EPA Region VIII, from 8:00 AM to 4:00 PM, at the above address, contact: Kris Shurr, phone number: (303) 312–6312; or Wyoming Department of Environmental Quality (WDEQ), from 8:00 AM to 5:00 PM, 122 W. 25th Street, Cheyenne, Wyoming 82002, contact: Marisa Latady, phone number: (307) 777–7541.

FOR FURTHER INFORMATION CONTACT: Kris Shurr at the above address and phone number.

SUPPLEMENTARY INFORMATION: We are reopening the public comment period for the proposed rule published at 46 FR 09295 on February 25, 1999, which proposed to grant final authorization for the first revision to Wyoming's Hazardous Waste Rules. The previous public comment period for this proposed rule closed on March 29, 1999.

Due to the adverse comment received and the passage of SF 147, we are asking for additional comments. SF 147 modifies the corrective action requirements and provides for "innocent owner" exemptions from environmental liability. We are inviting the public to provide comments. In addition, if there is sufficient interest, we will hold a public hearing to accept verbal and/or written comments. Anyone wishing to present testimony must send us a request using the information provided in the **DATES** and **ADDRESSES** sections of this notice. All comments and testimony will be addressed in a subsequent final action.

Dated: April 16, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

[FR Doc. 99–10232 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6329–8]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 28

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "the Act"), requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule proposes to add 12 new sites to the NPL and reproposes one already proposed site. All sites are being proposed to the General Superfund section of the NPL.

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before June 22, 1999.

ADDRESSES: By Postal Mail: Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; (Mail Code 5201G); 401 M Street, SW; Washington, DC 20460; 703/603–9232.

By Express Mail: Send original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; 1235 Jefferson Davis Highway; Crystal Gateway #1, First Floor; Arlington, VA 22202.

By E-Mail: Comments in ASCII format only may be mailed directly to superfund.docket@epa.gov. E-mailed comments must be followed up by an original and three copies sent by mail or express mail.

For additional Docket addresses and further details on their contents, see section II, "Public Review/Public Comment," of the Supplementary Information portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Yolanda Singer, phone (703) 603–8835, State, Tribal and Site Identification Center, Office of Emergency and Remedial Response (Mail Code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or the Superfund Hotline, Phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases of hazardous substances. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Pub. L. 99–499, 100 Stat. 1613 *et seq.*

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases (42 U.S.C. 9601(23)).

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. section 105(a)(8)(B) defines the NPL as a list of "releases" and the highest priority "facilities" and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Neither does placing a site on the NPL mean that any remedial or removal action necessarily need be taken. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), 48 FR 40659 (September 8, 1983).

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the "General Superfund section"), and one of sites that are owned or operated by other Federal agencies (the "Federal Facilities section"). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA generally is not the lead agency at Federal Facilities Section sites, and its role at such sites is accordingly less extensive than at other sites.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as a appendix A of the NCP (40 CFR part 300). The

HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) Each State may designate a single site as its top priority to be listed on the NPL, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2) requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State (see 42 U.S.C. 9605(a)(8)(B)); (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on January 19, 1999 (64 FR 2941).

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). ("Remedial actions" are those "consistent with permanent remedy, taken instead of or in addition to removal actions. * * *" 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

F. How Are Site Boundaries Defined?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so.

Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance release has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location to which contamination from that area has come to be located, or from which that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the "Jones Co. plant site") in terms of the property owned by a particular party, the site properly understood is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the "site"). The "site" is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the "Jones Co. plant site," does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the "nature and extent of the threat presented by a release" will be determined by a Remedial Investigation/Feasibility Study ("RI/FS") as more information is developed on site contamination (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met: (i) Responsible parties or other persons have implemented all appropriate response actions required; (ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or (iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate. As of April 5, 1999, the Agency has deleted 184 sites from the NPL.

H. Can Portions of Sites Be Deleted From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while

portions of the site may have been cleaned up and available for productive use. As of April 5, 1999, EPA has deleted portions of 16 sites.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) The site qualifies for deletion from the NPL.

Of the 184 sites that have been deleted from the NPL, 175 sites were deleted because they have been cleaned up (the other 9 sites were deleted based on deferral to other authorities and are not considered cleaned up). In addition, there are 424 sites also on the NPL CCL. Thus, as of April 5, 1999, the CCL consists of 599 sites. For the most up-to-date information on the CCL, see EPA's Internet site at http://www.epa.gov/superfund.

II. Public Review/Public Comment

A. Can I Review the Documents Relevant to This Proposed Rule?

Yes, documents that form the basis for EPA's evaluation and scoring of the sites in this rule (including the reproposed site) are contained in dockets located both at EPA Headquarters in Washington, DC and in the Regional offices.

B. How Do I Access the Documents?

You may view the documents, by appointment only, in the Headquarters or the Regional dockets after the appearance of this proposed rule. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. Please contact the Regional dockets for hours.

Following is the contact information for the EPA Headquarters docket: Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202, 703/603–9232. (Please note this is a visiting address only. Mail comments to EPA Headquarters as detailed at the beginning of this preamble.)

The contact information for the Regional dockets is as follows:

Jim Kyed, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA Waste Management Records Center, HRC–CAN–7, J.F. Kennedy Federal Building, Boston, MA 02203–2211; 617/573–9656

Ben Conetta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4435

Dawn Shellenberger (GCI), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PMH52, Philadelphia, PA 19103; 215/814–5364.

Sherryl Decker, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, 9th floor, Atlanta, GA 30303; 404/562–8127.

Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–7570.

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Mailcode 6SF–RA, Dallas, TX 75202–2733; 214/665–7436.

Carole Long, Region 7 (IA, KS, MO, NE), U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101; 913/551–7224.

David Williams, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 999 18th Street, Suite 500, Mailcode 8EPR–SA, Denver, CO 80202–2466; 303/312–6757.

Carolyn Douglas, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/744–2343.

David Bennett, Region 10 (AK, ID, OR, WA), U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop ECL–115, Seattle, WA 98101; 206/553–2103.

You may also request copies from EPA Headquarters or the Regional dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

C. What Documents Are Available for Public Review at the Headquarters Docket?

The Headquarters docket for this rule contains: HRS score sheets for the proposed site; a Documentation Record for the site describing the information used to compute the score; information for any site affected by particular statutory requirements or EPA listing-policies; and a list of documents referenced in the Documentation Record.

D. What Documents Are Available for Public Review at the Regional Dockets?

The Regional dockets for this rule contain all of the information in the Headquarters docket, plus, the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the Regional dockets.

E. How Do I Submit My Comments?

Comments must be submitted to EPA Headquarters as detailed at the beginning of this preamble in the **ADDRESSES** section.

F. What Happens to My Comments?

EPA considers all comments received during the comment period. Significant comments will be addressed in a support document that EPA will publish concurrently with the **Federal Register** document if, and when, the site is listed on the NPL.

G. What Should I Consider When Preparing My Comments?

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill* v. *Thomas*, 849 F.2d 1516 (D.C. Cir. 1988)). EPA will not address voluminous comments that are not specifically cited by page number and referenced to the HRS or other listing criteria. EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in EPA's stated eligibility criteria is at issue.

H. Can I Submit Comments After the Public Comment Period Is Over?

Generally, EPA will not respond to late comments. EPA can only guarantee that it will consider those comments postmarked by the close of the formal comment period. EPA has a policy of not delaying a final listing decision solely to accommodate consideration of late comments.

I. Can I View Public Comments Submitted by Others?

During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes.

J. Can I Submit Comments Regarding Sites Not Currently Proposed to the NPL?

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

III. Contents of This Proposed Rule

A. Proposed Additions to the NPL

With today's proposed rule, EPA is proposing to add 12 new sites to the NPL, all to the General Superfund section of the NPL. The sites are being proposed based on HRS scores of 28.50 or above. The sites being proposed in this rule are presented in Table 1 which follows this preamble.

B. Reproposal of One Site

The Hanlin-Allied-Olin site in Moundsville, West Virginia is being reproposed in this proposed rule. New technical information became available following its original proposal on October 2, 1995 (60 FR 51390). Thus, EPA is reproposing the site with a new HRS scoring package and requesting comments as part of the comment period for this proposed rule.

C. Status of NPL

Currently the NPL consists of 1,202 final sites; 1,049 in the General Superfund section and 153 in the Federal Facilities section. With this proposal of 12 new sites, there are now 72 sites proposed and awaiting final agency action, 63 in the General Superfund section and 9 in the Federal Facilities section. Final and proposed sites now total 1,274.

IV. Executive Order 12866

A. What Is Executive Order 12866?

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

B. Is This Proposed Rule Subject to Executive Order 12866 Review?

No, the Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

V. Unfunded Mandates

A. What Is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

B. Does UMRA Apply to This Proposed Rule?

No, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or by the private sector in any one year. This rule will not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of listing a site on the NPL.

For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

VI. Effect on Small Businesses

A. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

B. Has EPA Conducted a Regulatory Flexibility Analysis for This Rule?

No. While this rule proposes to revise the NPL, an NPL revision is not a typical regulatory change since it does not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this proposed rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only a firm's contribution to the problem, but also its ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

VII. National Technology Transfer and Advancement Act

A. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

B. Does the National Technology Transfer and Advancement Act Apply to This Proposed Rule?

No. This proposed rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

VIII. Executive Order 12898

A. What is Executive Order 12898?

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," as well as through EPA's April 1995, "Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report," and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

B. Does Executive Order 12898 Apply to this Proposed Rule?

No. While this rule proposes to revise the NPL, no action will result from this proposal that will have disproportionately high and adverse human health and environmental effects on any segment of the population.

IX. Executive Order 13045

A. What Is Executive Order 13045?

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

B. Does Executive Order 13045 Apply to This Proposed Rule?

This proposed rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed rule present a disproportionate risk to children.

X. Paperwork Reduction Act

A. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574).

B. Does the Paperwork Reduction Act Apply to This Proposed Rule?

No. EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

XI. Executive Order 12875

What Is Executive Order 12875 and Is It Applicable to This Proposed Rule?

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement

supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

This proposed rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

XII. Executive Order 13084

What is Executive Order 13084 and Is It Applicable to this Proposed Rule?

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This proposed rule does not significantly or uniquely affect the communities of Indian tribal governments because it does not significantly or uniquely affect their communities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

TABLE 1.—NATIONAL PRIORITIES LIST PROPOSED RULE NO. 28, GENERAL SUPERFUND SECTION

State	Site name	City/county
AR	Mountain Pine Pressure Treating	Plainview.
ME	Eastland Woolen Mill	Corinna.
NC	North Belmont PCE	North Belmont.
NJ	Emmell's Septic Landfill	Galloway Township.
NJ	Martin Aaron, Inc.	Camden.
NY	Peter Cooper Corporation (Markhams)	Dayton.
OK	Hudson Refinery	Cushing.
PR	Vega Baja Solid Waste Disposal	Rio Abajo Ward.
TX	Hart Creosoting Company	Jasper.
UT	International Smelting and Refining	Tooele.
VA	Kim-Stan Landfill	Selma.
WV	Hanlin-Allied-Olin*	Moundsville.
WV	Vienna Tetrachloroethene	Vienna.

*Site Reproposed to General Superfund Section: 1.

Number of Sites Proposed to General Superfund Section: 12.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: April 19, 1999.

Timothy Fields, Jr.,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 99–10236 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 64, No. 78
Friday, April 23, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Okatoma Creek Watershed, Covington, County, MS

AGENCY: Natural Resources Conservation Service, DOA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Okatoma Creek Watershed, Covington County, MS.

FOR FURTHER INFORMATION CONTACT: Homer L. Wilkes, State Conservationist, Natural Resources Conservation Service, Suite 1321, A.H. McCoy Federal Building, 100 West Capital Street, Jackson, Mississippi 39269, telephone 601–965–5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Homer L. Wilkes, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for the project.

Okatoma Creek Watershed, Covington County, Mississippi; Notice of a Finding of No Significant Impact

The project concerns a watershed plan for the purpose of flood reduction and recreation enhancement. The planned works of improvement consists of selective debris removal on Okatoma Creek from Highway 590 at Seminary, Mississippi, upstream to the Covington and Simpson County Line at Mount Olive, Mississippi.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Homer L. Wilkes. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904 Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: April 12, 1999.

Homer L. Wilkes,

State Conservationist.

[FR Doc. 99–10158 Filed 4–22–99; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed collection; comment request.

TITLE: Nonprofit Agency Responsibilities.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to the record keeping requirements of nonprofit agencies serving people who are blind or severely disabled.

DATES: Comments must be submitted on or before June 22, 1999.

ADDRESSES: Written comments should be sent to: Daniel Werfel, Desk Officer for the Committee for Purchase, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for information should be directed to: Beverly L. Milkman, Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, VA 22202–4302, (703) 603–7740.

SUPPLEMENTARY INFORMATION: The Committee imposes record keeping requirements on nonprofit agencies serving people who are blind or severely disabled. The requirements are for records of direct labor hours performed for the nonprofit agency by each worker and are for files which document the disability and competitive employability of each worker. Such records and files are required to ensure that nonprofit agencies seeking to participate in the Committee's program meet the requirements of 41 U.S.C. 46–48c.

Dated: April 13, 1999.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–10272 Filed 4–22–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or

have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 24, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will result in authorizing small entities to furnish the commodity and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Towbar Assembly
3920–01–000–0559

NPA: Mississippi Industries for the Blind
Jackson, Mississippi at its facility in
Meridian, Mississippi

Services

Base Supply Center and Operation of Individual Equipment Element Store
Francis E. Warren Air Force Base, Wyoming

NPA: Envision, Inc. Wichita, Kansas

Carwash Service
USDI, Bureau of Land Management, 1661 South Fourth Street, El Centro, California

NPA: Association for Retarded Citizens—Imperial Valley, El Centro, California

Janitorial/Custodial
Naval and Marine Corps Reserve Center, 30 Woodward Avenue, New Haven, Connecticut

NPA: CW Resources, Inc., New Britain, Connecticut

Janitorial/Custodial
Three Child Care Centers, Headquarters III Corps and Fort Hood, Fort Hood, Texas

NPA: World Technical Services, Inc., San Antonio, Texas

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Fly Tent, Nylon, Polyurethane Coated
8340–00–102–6370
8340–01–185–5512

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–10273 Filed 4–22–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: May 24, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 30, 1998, January 15, February 26, and March 12, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 FR 65746,64 FR 2623, 9470 and 12284) of proposed additions to the Procurement List.

The following comments pertain to Janitorial/Custodial, Federal Building #4, 4401 Suitland Road, Suitland, Maryland.

Comments were received from the current contractor for this service. The contractor claimed that losing this contract, together with a 1994 loss of another contract to the Committee's program (from which it says it has "never recovered)", would have a severe impact on the company.

The contractor has only an interim contract for the building in question, and that contract began within the past three months. Although the contractor believes it has an excellent chance of obtaining the next full contract for the service, the fact is that no contractor is guaranteed a contract under the competitive bidding system. Therefore, the Committee is using the value of the interim contract as the measure of loss for calculating impact of adding the service to the Procurement List on the contractor. This figure, considered as a percentage of the contractor's total sales, is well below the level which the Committee normally considers to constitute severe adverse impact on a contractor. In addition, the fact that the contractor has only held the contract for a few months eliminates the possibility that the firm has any long-term dependence on that contract's revenues.

The contractor stated that it has not recovered from the impact of a 1994 Procurement List addition where it had been the current contractor. However, the Committee's records reflect a statement by the President of the firm that it was losing money on the contract added to the Procurement List in 1994, and that it did not want the option to be exercised. To avoid having its option exercised and to protect another contract under consideration for addition to the Procurement List, the firm suggested that the Committee discontinue its consideration of another

contract and add the contract in question to the Procurement List. The Committee proceeded as suggested, and the 1994 addition actually benefitted rather than harmed the contractor. Consequently, the Committee does not believe the 1994 addition ever had a significant adverse impact on the contractor, nor does it believe the current and 1994 additions together constitute severe adverse impact on the contractor.

The following material pertains to all of the items being added to the Procurement List:

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Base Supply Center and Operation of Individual Equipment Element Store
Moody Air Force Base, Georgia

Duplicating Service
U.S. Army Corps of Engineers, Baltimore, Maryland

Janitorial/Custodial
Federal Building #4, 4401 Suitland Road, Suitland, Maryland

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–10274 Filed 4–22–99; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on May 12, 1999, at the Doubletree Hotel Tallahassee, 101 South Adams Street, Tallahassee, Florida 32301. The purpose of the meeting is to review affirmative action efforts in Florida, discuss and review the report on immigration in Florida, and review civil rights developments in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 16, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–10269 Filed 4–22–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 5:00 p.m. on June 14, 1999, at the West Virginia University College of Law, Lugar Courtroom, 100A Law Center, Morgantown, West Virginia 26506. The Committee will hold a community forum with government, community, and disability right leaders to discuss (1) challenges facing persons with disabilities in the areas of employment and public accommodation, and (2) civil rights issues unique to the north-central region of the State. In addition to invited panelists, an open session will allow members of the public to present their views on ongoing civil rights issues in the area.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gregory T. Hinton, 304–367–4244, or Ranjit Majumder, Chair, Northern region subcommittee, 304–293–5313, extension 1872, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 19, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–10268 Filed 4–22–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1036]

Grant of Authority for Subzone Status; PFIZER Inc.(Pharmaceuticals); Brooklyn, New York

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment* * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, the City of New York, grantee of Foreign-Trade Zone 1, has made application to the Board for authority to establish special-purpose subzone status at the pharmaceutical manufacturing plant of Pfizer Inc., located in Brooklyn, New York (FTZ Docket 49–98, filed 11/3/98, amended 1/12/99);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 63451, 11/13/98); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the pharmaceutical manufacturing plant of Pfizer Inc., located in Brooklyn, New York (Subzone 1A), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 7th day of April 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 99–10130 Filed 4–22–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1035]

Expansion of Foreign-Trade Zone 183 and Expansion of Scope of Manufacturing Authority (Computer Products) Within FTZ 183, Austin, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zone of Central Texas, Inc., grantee of Foreign-Trade Zone 183, submitted an application to the Board for authority to expand FTZ 183-Site 3 at the High-Tech Corridor site and to expand scope of FTZ manufacturing authority (computer products) for Dell Computer Corporation within FTZ 183, Austin Texas, within the Austin Customs port of entry (FTZ Docket 30–98; filed 6/11/98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 34145, 6/33/98) and the application has been processed pursuant to the FTZ Act and the Boards's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 183-Site 3 and to expand the scope of FTZ manufacturing authority with respect to computer products is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the Board's standard 2,000-acre activation limit.

Signed at Washington, DC, this 7th day of April 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 99–10129 Filed 4–22–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of approval and availability of revision to the final revised management plan for the Apalachicola National Estuaries Research Reserve, 1999–2004.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, has approved the revised Management Plan for the Apalachiocola National Estuarine Research Reserve (ANERR). The ANERR was designated in 1979 and has been operating under a Management Plan approved on August 27, 1993. Pursuant to section 315 of the Coastal Zone Management Act, 16 U.S.C. 1461, and 921.33(c) of the implementing regulations, a state must revise its management plan at least every five years, or more often if necessary. This revision is Florida's effort to comply with this requirement.

The revisions to the ANERR Management Plan include:

1. The revised management plan expands the Reserve boundaries from 193,758 acres to a total of 246,766 acres. The newly incorporated lands were previously described in the 1993 ANERR. Management Plan Revision as proposed areas for boundary expansion. The Florida Game and Fresh Water Fish Commission (GFC) amended an existing Memorandum Of Understanding with the Florida Department of Environmental Protection (DEP) which adds 17,521 acres to Reserve boundaries. This addition extends the floodplain portion of the Reserve to the east and west. The expansion also includes 34,487 of Northwest Florida Water Management District (NWFWMD) floodplain lands bordering the Reserve's northern boundary. The inclusion of these lands expands the Reserve to Mile Marker 52 on the Apalachicola River. The lands and waters of the Reserve are all contiguous and the boundary expansion affords the Reserve considerably more influence in river basin issues.

The management plan revision places seven small but important tracts totaling 419 acres under ANERR's management. As a result, the Reserve now has lead-role management on 21,480 of the 246,766 acres. The remainder is managed under Cooperative Agreements with GFC and NWFWMD.

2. The revised management plan includes the addition of three permanent state positions to the ANERR staff; one each in research, education and resource management. There has also been an increase in state support for temporary employees.

3. Under a NOAA matching grant, the ANERR has constructed a new Administrative/Research facility. The 8,000 square foot building has 4,000 square feet of office space, a 1,000 square foot laboratory and 3,000 square feet of maintenance shop.

4. The revised management plan demonstrates continued strong support from the Florida DEP and NOAA for research, monitoring and education programs. The Resource Management section of the management plan describes the Reserve's expanded role in the management of upland resources. ANERR staff will now be involved with prescribed burning, dump-site cleanup, opening lands to the public and exotic plant control.

Copies of the document can be obtained from the Apalachicola National Estuarine Research Reserve, 350 Carroll Street, Eastpoint, Florida 32368. (850) 670–4783.

FOR FURTHER INFORMATION CONTACT: Nathalie Peter, OCRM, Estuarine Reserves Division, 1305 East-West Highway, 11th Floor (N/ORM5), Silver Spring, Maryland 20910. (301) 713–3132, Extension 119.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves

Dated: April 14, 1999.

Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 99–10248 Filed 4–22–99; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Designation of the Jacques Cousteau National Estuarine Research Reserve at Mullica River and Great Bay, New Jersey; and the Kachemak Bay National Estuarine Research Reserve, Alaska

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

ACTION: Notice of designation.

SUMMARY: Notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA), U. S. Department of Commerce, has designated certain lands and waters of the Mullica River-Great Bay estuary in New Jersey as the Jacques Cousteau National Estuarine Research Reserve at Mullica River and Great Bay, and has designated certain lands and waters of Kachemak Bay in Alaska as the Kachemak Bay National Estuarine Research Reserve.

On April 3, 1998, Under Secretary of Commerce for Oceans and Atmosphere D. James Baker, signed findings of designation for the Jacques Cousteau National Estuarine Research Reserve in New Jersey pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461, and its implementing regulations at 15 CFR Part 921. The Reserve duly received certification from the State of New Jersey Coastal Zone Management Program that Reserve designation is consistent to the maximum extent practicable with its program. A copy of the official Record of Decision is available for public review from NOAA's Office of Ocean and Coastal Resource Management at the address below.

On February 12, 1999, Under Secretary of Commerce for Oceans and Atmosphere D. James Baker, signed findings of designation for the Kachemak Bay National Estuarine Research Reserve in Alaska pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461, and its implementing regulations at 15 CFR Part 921. The Reserve duly received certification from the State of Alaska Coastal Zone Management Program that Reserve designation is consistent to the maximum extent practicable with its program. A copy of the official Record of Decision is available for public review from NOAA's Office of Ocean and Coastal Resource Management at the address below.

FOR FURTHER INFORMATION CONTACT: Laurie McGilvray (301) 713–3155, Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1305 East West Highway, N/ORM5, Silver Spring, MD 20910. A copy of the Record of Decision for each Reserve is available upon request.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves

Dated: April 16, 1999.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 99–10282 Filed 4–22–99; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for Pacific Missile Range Facility Enhanced Capability

AGENCY: Department of the Navy, Department of Defense.

ACTION: Notice of record of decision.

SUMMARY: The Department of the Navy, after carefully weighing the operational and environmental consequences, announces its decision to enhance the Pacific Missile Range Facility's (PMRF) capability to permit accommodation of the Department of the Navy Theater Ballistic Missile Defense (TBMD) and Department of Defense (DOD) Theater Missile Defense (TMD) testing, evaluation, and training.

FOR FURTHER INFORMATION CONTACT: Ms. Vida Mossman, Pacific Missile Range Facility, P.O. Box 128, Kekaha, Kauai, Hawaii, 96752–0128, telephone number (808) 335–4740.

SUPPLEMENTARY INFORMATION: The text of the entire Record of Decision (ROD) is provided as follows:

The Department of the Navy, pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969; the Council on Environmental Quality regulations implementing NEPA procedures, 40 CFR parts 1500–1508; SECNAVINST 5090.6; OPNAV Instruction 5090.1B; and Executive Order 12114, announces its decision to enhance the Pacific Missile Range Facility's (PMRF) capability to accommodate the Department of the Navy Theater Ballistic Missile Defense (TBMD) and Department of Defense (DOD) Theater Missile Defense (TMD) testing, evaluation, and training. These enhancements of PMRF capabilities were described in the preferred alternatives in the Pacific Missile Range Facility Enhanced Capability Final Environmental Impact Statement (EIS) of December 18, 1998.

This decision adopts both the continuation of current PMRF functions and the development of new sites and implementation of new activities. Existing PMRF functions include range and land-based training and operations, research, development, test, and evaluation (RDT&E), and ongoing base operations and maintenance activities. The new sites and activities adopted include construction and modification of target and interceptor launch facilities, launches of target and interceptor missiles by air, land and/or sea, construction and modification of instrumentation facilities, construction of support facilities, and transportation of missile propellant. Locations that will be affected by this decision are PMRF (PMRF/Main Base, Restrictive Easement; Makaha Ridge; Kokee; Kamokala Magazines; and Port Allen, Kauai) PMRF support sites (Niihau; Kaula; Maui Space Surveillance System, Maui; Kaena Point, Oahu; Wheeler Network Segment Control/PMRF Communications Sites, Oahu; Department of Energy Communication Sites, Kauai and Oahu; and the Ocean Area inside and outside of U.S. territory. Tern Island and Johnston Atoll were eliminated as sites in the Final EIS.

Related State of Hawaii decisions will permit the use of State lands in proximity to PMRF to support missile launch and storage requirements. These State decisions will allow the U.S. Government to: (1) Continue to exclude non-participants from the ground hazard area during missile launches at PMRF, (2) permit the Navy to construct additional ordnance storage facilities to accommodate missile storage requirements, and (3) establish and maintain safety zones around the ordnance storage facilities.

Process

The Navy has complied with all applicable Executive Orders including consideration of the environmental effects of its actions outside the United States or its territories under the provisions of Executive Order 12114

(*Environmental Effects Abroad of Major Federal Actions*) and the requirements of Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations).

The Notice of Intent and the State of Hawaii EIS Preparation Notice were published in both the **Federal Register** (62 FR 28451) and The Environmental Notice, a semi-monthly bulletin of the State of Hawaii Office of Environmental Quality Control, on May 23, 1997. Notification of public scoping was also made through local media, as well as through letters to Federal, State, and local agencies and officials, and interested groups and individuals. Four public scoping meetings were held in Hawaii from June 17–23, 1997. In addition a similar but modified meeting was held for the residents of Niihau.

The notice of Availability of the Draft EIS was published in The Environmental Notice on April 8, 1998 and in the **Federal Register** (63 FR 17857) on April 10, 1998. Public hearings were conducted at Waimea, Kauai, and Honolulu, Oahu, Hawaii, on April 25 and 28, 1998, respectively. A meeting was held on Niihau for the residents on April 23, 1998. Approximately 210 individuals, agencies, and organizations submitted comments on the Draft EIS. The Final EIS addressed all oral and written comments. The Notice of Availability for the Final EIS was published in the **Federal Register** on December 18, 1998 and in The Environmental Notice on December 23, 1998. Articles also appeared in the Kauai and Oahu newspapers announcing the release and summarizing the results of the Final EIS. Copies of the Final EIS were mailed to all those agencies, organizations and individuals who had provided comments and had requested a copy of the Final EIS.

Alternatives Considered

The alternatives considered were based upon Navy testing requirements and included sites within a 1200-kilometer radius of PMRF that were accessible and could be safely used for testing. These alternatives were the no-action alternative and the preferred alternative adopted in this decision.

No-Action Alternative

The no-action alternative was the continuation of all components of existing range and land-based operations, existing RDT&E activities and training, ongoing base operations maintenance of technical and logistical facilities, and those mitigation measures and standard operating procedures which are in place to protect the environment without any of the enhancements included within the proposed action. The no-action alternatives was not selected because it fails to build capability sufficient to meet the Navy TBMD and other DOD TMD mission requirements. The no-action alternative is the environmentally preferred alternative.

Action Selected

The selected action was presented as the Preferred Alternative in the EIS. It includes continued testing and training activities as currently conducted with the addition of facilities enhancements. The enhancements are described more particularly below. As noted above, the decision also includes pursuit of modification of existing restrictive easements with the State of Hawaii to support missile launches and acquisition, either through lease or purchase, of State lands located in proximity to PMRF to support missile storage requirements.

Actions Associated With the Decision

Support Facilities

The Navy will construct, renovate, and modify support facilities at PMRF, Kamokala Magazines, Makaha Ridge, Kokee, and Niihau. Enhancements at PMRF will be construction of temporary storage areas for liquid propellant and a new missile assembly building. Enhancements at Kamokala Magazines will be construction of two new missile storage buildings, with security fencing and associated road improvements on land acquired, through lease or purchase, from the State of Hawaii. Makaha Ridge and Kokee enhancements consist of improvements to radar and associated instrumentation support facilities. Enhancements at Niihau will be construction of target launch facilities at sites A and/or K, along with reinforced operations shelters, associated road improvements, and construction of an airstrip at site M on Niihau. These enhancements will be initiated when program requirements for PMRF are identified.

Instrumentation

This decision includes installation of new and upgraded radars, telemetry, and instrumentation at PMRF, Makaha Ridge, and Kokee. On Niihau, the Navy will install additional instrumentation and telemetry as well as operate an Aerostat from site C and one of four other sites (F, G, H, or I) when program requirements are identified. This decision also includes operation of an Aerostat from a mobile sea platform.

Target Missile Launches

The preferred methods of delivering target missiles are from aircraft and from land areas at PMRF/Kauai Test Facility. Target launches from a mobile sea platform or barge will also be used if required to satisfy mission requirements. Target launch facilities, consisting of launch pads and supporting facilities, will be built at PMRF and/or Niihau as and when program requirements are identified.

Interceptor Launches

The Navy will launch interceptor missiles in the open ocean from existing ships. Missile launch capabilities will also be established on PMRF for other land based DOD interceptor systems when required, and will include the use of the existing Strategic Target System (STARS) launch site. If program requirements are identified, interceptor launch facilities on Niihau will be developed at sites A and/or K in addition to the target launch facilities at those sites.

Real Property

The U.S. Navy will request the State of Hawaii to extend the existing Restrictive Easement at PMRF to December 31, 2030 and to revise the easement to include launches of additional target missiles. Current limitations on closures per year or length of closures will not change. The Navy will also acquire, through lease or purchase, State of Hawaii property adjacent to the Kamokala Magazines on which to build two missile storage magazines and establish an associated safety area.

Propellant Transport

The Navy will transport liquid missile propellants to PMRF by air if the appropriate transportation waivers can be obtained. If waivers cannot be obtained, the Navy will transport the liquid propellants by sea directly to PMRF. At this time transportation of liquid propellants to PMRF by road is not anticipated. if, in the future, transport of liquid propellants on public roads should become necessary, the Navy will consult with the Hawaii Department of Transportation and the Governor's staff prior to any shipments on the public roads.

Environmental Impacts

The Navy analyzed the potential impacts of the selected action in 14 resources areas: air quality, airspace, biological resources, cultural resources, geology and soils, hazardous materials and hazardous waste, health and safety, land use, noise, socioeconomics,

transportation, utilities, visual and aesthetic resources, and water resources. The Navy also considered the action's potential for cumulative effects and ensured consistency with federal policies addressing environmental justice and federal actions in areas outside the territorial limits of the U.S.

This decision when implemented will have significant impacts on airspace above Niihau and biological resources at Niihau. Ongoing Navy activities will continue to have significant impacts on geology and soils at Kaula and on the non-potable water supplies at Makaha Ridge and Kokee Park. Impacts on all other resources or functions analyzed will be less than significant.

Geology and Soils

Ongoing air-to-surface weapons delivery training being conducted at the southeast end of Kaula has caused permanent adverse soil and geologic effects associated with rock shattering explosions and the presence of both live and inert ordnance.

Non-Potable Water

Ongoing test activities at Makaha Ridge and Kokee Park will continue to have an adverse impact on the non-potable water supply system.

Airspace

Activation of new operating areas over Aerostat sites or missile launch sites on Niihau have the potential to impact the V–16 low altitude airway that crosses the middle of the island. When program requirements are identified, the Navy will request that a new Restricted Area be established by the Federal Aviation Administration. The Restricted Area will surround the proposed sites that lie within the boundaries of the airway. Whenever an operation is scheduled, the new Restricted Area will be activated, and air traffic using the V–16 airway will be required to use an alternate flight course. This represents a potentially significant adverse impact, as defined by the Federal Aviation Administration, on other regional airways.

Biological Resources

Additional traffic at the existing logistics landing sites and other landing craft landing areas on Niihau may disturb monk seals that haul out to bask, or possibly pup, on the sandy beach areas. Disturbance of green sea turtle nesting sites at the existing logistics landing sites and other sandy beach areas could also occur. The monk seal is a federally listed endangered species and the green sea turtle is a federally listed threatened species.

Mitigation

With regard to the significant impacts described above, the Navy will ensure that the following mitigation measures described below are implemented.

Geology and Soils

To minimize impacts to geology and soil at Kaula, the Navy will limit targeting for air-to-surface weapons delivery to the southeast tip of the island. This area constitutes approximately eight percent of the landmass of the island. The Navy is planning no new activities for Kaula.

Non-Potable Water

To minimize impact on the water supply at Makaha Ridge and Kokee, the Navy will continue existing water conservation measures in coordination with the State of Hawaii. The State Parks Department has drilled a new water well at Kokee Park that will be online within one to two years, and significant impacts associated with water supply will be reduced.

Airspace

Use of Notice of Airmen notification will minimize the impact to aircraft transiting Niihau.

Biological Resources

To protect biological resources at Niihau during construction, PMRF will use the measures discussed below, developed through consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under the requirements of Section 7 of the Endangered Species Act.

The National Marine Fisheries Service, in a decision letter issued on October 21, 1998, concluded that the proposed actions would "not likely adversely affect listed species". The U.S. Fish and Wildlife Service, in a decision letter issued on October 22, 1998, concurred with the findings of the Navy's Biological Assessment and stated that the proposed action is "not likely to adversely affect endangered or threatened species."

During operations PMRF will ensure beaches are monitored for the presence of monk seals and green sea turtles, and either wait for their departure or conduct landings elsewhere. PMRF will provide fire suppression equipment at launch sites and will restrict project personnel to the facilities where their responsibilities will be carried out. PMRF will obtain prior approval from the landowner for all site alterations. Prior to construction of an airstrip, PMRF will develop a bird aircraft strike hazard plan to avoid bird impacts to aircraft. PMRF will also take measures to eliminate the import of exotic wildlife species, and will conduct checks of equipment and personnel to minimize the risk of inadvertent pest transportation to the island.

In addition to implementing the above mitigation measures for significant impacts, the Navy will ensure the following mitigation measures are implemented to avoid potential significant impacts:

Air Quality

To protect the air quality during any construction activities, standard construction practices will be followed to control fugitive dust emissions. These practices may include periodic wetting of disturbed soils.

Airspace

To prevent indirect impacts to airspace use in the Ocean Area, PMRF will keep the public and pilots informed of activity that affects airspace use. PMRF will annually evaluate flight activities, including missile launch activities, and review mission changes with respect to supersonic operations, to ensure that every effort is being made to reduce any adverse indirect impacts.

Biological Resources

To protect biological resources at PMRF/Main Base, the following existing mitigation measures will be continued: (1) Discourage albatross from nesting on base, (2) reduce impacts on the Newell shearwater by the use of protective light shields, (3) monitor the beaches to identify and avoid turtle nesting before amphibious landings, and (4) monitor beaches to identify and avoid monk seals prior to test activities. To protect biological resources at Makaha Ridge and Kokee, protective shielding will be used for any new outdoor lighting. To protect biological resources at the Kamokala Magazines, PMRF will install light shields (if any site is lighted at night) to reduce effects on the Newell shearwater. To protect biological resources at Kaula, PMRF will use the area seasonally, when marine mammals are not present, and will survey waters off the island, delaying or moving operations if marine mammals are found. The impact area will continue to be on the south end of the island only.

To protect biological resources in Open Ocean areas, PMRF will use standard range warning and checking procedures to check for concentrations of marine mammals in hazard areas. If marine mammals are present, the Flight Safety Officer will determine whether to continue, delay, or move the test, as and if necessary for protection of the animals.

The Navy plans to continue periodic monitoring of bird populations on Kaula with assistance from the State of Hawaii Department of Land and Natural Resources and the U.S. Fish & Wildlife Service.

Cultural Resources

To protect cultural resources, PMRF will implement the mitigation measures contained in the March 18, 1999 Memorandum of Agreement (MOA) with the Hawaii State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation. Concerning Niihau, the MOA requires the involvement of the island's proprietors, the residents of Niihau, and the SHPO in determining the nature and scope of surveys to identify potential impacts to historic properties, including traditional cultural properties. The MOA also requires appropriate mitigation measures in the event that there are potentially adverse impacts to such properties from PMRF's actions on Niihau.

Geology and Soils

To protect geological and soil resources at PMRF/Main Base and Niihau, the following mitigation measures will be implemented: (1) PMRF will not launch solid propellant missiles when it is raining, (2) A water deluge system for cooling or noise suppression will not be employed, (3) Excavated material will be watered frequently, and (4) Soil additivities will be used to bond exposed surface soils when necessary.

To protect geological and soil resources at PMRF/Mail Base, Makaha Ridge, Kokee, Kamokala Magazines, and Niihau from erosion, PMRF will: (1) Minimize areas exposed during digging, (2) use soil stabilizers and sandbags, (3) add covering to slopes, and (4) revegetate slopes as necessary.

Hazardous Materials and Waste

PMRF will extend main base waste management procedures to include Niihau. Hazardous materials will not be permanently stored at Niihau, and hazardous wastes generated by Navy and other DOD activities will be shipped from Niihau for proper disposal. PMRF will construct all launch pads and storage devices with containment or sump systems to contain any potential spills and will conduct any required remediation.

Health and Safety

– In the Restrictive Easement, PMRF will continue to clear the easement area during missile launches, in accordance with the provisions of the lease with the State of Hawaii.

Land Use

To protect land resources on Niihau, PMRF will work with the landowner or Niihau residents to minimize operations that might exclude residents from traditional fishing areas during the best times of day or seasons.

Socioeconomics

To prevent potential negative socioeconomic impacts on Niihau, PMRF will periodically review and strengthen the protection protocol to help reduce construction and operational impacts, and provide cultural sensitivity training to off-island personnel who may come into contact with Niihau residents. To benefit the residents, the maximum feasible number of Niihau residents will be employed.

Transportation

To prevent minor ongoing transportation impacts (access to Polihale Park) expected as a result of implementation of the action within the Restrictive Easement, PMRF will: (1) Issue advance warnings of closures to citizens, (2) minimize closure times, and (3) reopen road access as soon as possible. Such actions shall be taken in accordance with the provisions of the state lease.

Visual and Aesthetic Resources

To protect visual resources at PMRF/Main Base and Niihau, PMRF will maintain as much natural vegetation around existing launch pads and newly constructed facilities as safety will allow. Emphasis will be placed along the ocean side of the launch pads and newly constructed facilities. To minimize impacts to visual resources at the Kamokala Magazines, the storage magazines will be covered with earth material except for entrance doors that will face the cliffs outside of public view. Grass and other limited height vegetation will be allowed to grow on the storage magazines to help reduce erosion. To minimize aesthetic effects on Niihau, PMRF will use earth-toned paint on all structures.

Response to Comments Received Regarding the Final EIS

The Department of Navy received three comment letters on the Final EIS, The U.S. Environmental Protection Agency (EPA) withdrew environmental objections raised during comments on the Draft EIS upon the removal of Term Island and Johnston Atoll from the sites under consideration. The EPA further suggested that the Navy document, in the Record of Decision, any mitigation measures it intends to implement. This Record of Decision provides that documentation. Two comment letters were received from individuals who disagreed with the conclusions of the Final EIS. The subject of one of the letters was outside the scope of the EIS. The other letter renewed comments that had been made on the Draft EIS. The comments questioned analysis techniques used in the Final EIS and expressed concerns about risk of brush fires and U.S. treaty implications. Responses have been provided in the Final EIS, and some are reflected in this Record of Decision.

Conclusions

On behalf of the Department of the Navy, I have selected the Preferred Alternative of the PMRF EIS for implementation as set out in this Record of Decision. In determining whether and how to enhance the capabilities of the PMRF, I considered the following: existing assets and capabilities of PMRF; the Navy and DOD operational, testing, and training requirements; range improvements necessary to support PMRF as a TBMD test site; environmental impacts; costs associated with construction of facilities, the operation and maintenance of ships and aircrafts, and training of personnel; and comments received during the EIS process.

After carefully weighing all of these factors and analyzing the data presented in the Final EIS, I have determined that the Preferred Alternative best meets the requirements for the enhancement of the capabilities at PMRF.

Dated: April 14, 1999.

Duncan Holaday,

Deputy Assistant Secretary of the Navy, Installations and Facilities.

[FR Doc. 99–10241 Filed 4–22–99; 8:45 am]

BILLING CODE 5000–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 24, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat__Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: April 20, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.
Title: TRIO Dissemination Program.
Frequency: Annually.
Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Burden:
Responses: 50.
Burden Hours: 2,250.
Abstract: The TRIO Dissemination Program provides grants to enable TRIO projects to work with other institutions and agencies that serve first-generation, low-income persons in replicating or adapting successful TRIO program components and practices.

The application package is available on the Department's web site: *http://www.ed.gov/offices/OPE/OHEP/hepss/dissem/*

Comments regarding this package may be submitted to the following electronic mailbox: TRIO@ED.gov.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, this 30-day public comment notice will be the only public comment notice published for this information collection.

[FR Doc. 99–10240 Filed 4–22–99; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Availability: Revised Draft Hanford Remedial Action Environmental Impact Statement and Comprehensive Land-Use Plan

AGENCY: Department of Energy.
ACTION: Notice of availability.

SUMMARY: The U.S. Department of Energy (DOE) announces the availability of the Revised Draft Hanford Remedial Action Environmental Impact Statement and Comprehensive Land-Use Plan (HRA–EIS), DOE/EIS–0222D, for public review. The proposed action is to establish a comprehensive land use plan for the next 50 years for the Hanford Site near Richland, Washington. This EIS identifies alternative future land uses for the Hanford Site and discusses the potential associated environmental impacts. Because DOE has significantly revised the scope of the HRA–EIS and alternatives considered in response to comments received on the draft EIS published in August 1996, it is appropriate to issue this revised draft HRA–EIS. Since land use was an objective of the previous draft EIS, no further scoping meetings are required. The 1996 Draft HRA–EIS focused on developing an overall strategy for remediating the Hanford Site and included a proposed land use plan as an appendix; the revised Draft HRA–EIS focuses only on land use planning. To reflect this reduction in scope, DOE is soliciting comments on changing the name of this EIS to the Hanford Comprehensive Land-Use EIS as well as on the contents of the Revised Draft HRA–EIS. The draft HRA–EIS evaluates five "action alternatives," each of which represents a Federal, State, local agency, or Tribe's preferred land-use alternative, and also evaluates a "no-action alternative" of continuing current land use practices. DOE's preferred alternative for future uses of the Hanford Site includes consolidating waste management operations in the Central Plateau; allowing industrial development in the eastern and southern portions of the site; increasing recreational access to the Columbia River; and expanding the Saddle Mountain National Wildlife Refuge to include all of the Wahluke Slope.

DATES: The public comment period begins today and concludes on June 7, 1999. DOE invites Federal agencies, Native American Tribes, State and local governments, and the public to comment on the Revised Draft HRA–EIS. DOE will consider all timely comments in preparing the Final EIS, and will consider comments provided after the close of the comment period to the extent practicable.

Public information meetings and hearings will be held during the comment period.

May 18, 1999: State Office Building, 800 NE Oregon Street, Portland, Oregon. DOE will conduct informal information session from 6 to 7 p.m., followed by a public hearing beginning at 7 p.m.

May 20, 1999: Shilo Inn, 50 Comstock Road, Richland, Washington. DOE will conduct informal information session from 3 to 5 p.m. and from 6 to 7 p.m., followed by a public hearing beginning at 7 p.m.

June 3, 1999: Ridpath Hotel, West 515 Sprague Avenue, Spokane, Washington. DOE will conduct informal information session from 6 to 7 p.m., followed by a public hearing beginning at 7 p.m.

In addition, during the comment period DOE will participate in public involvement activities sponsored by the other cooperating agencies, at times and locations to be determined.

ADDRESSES: Written comments on the Revised Draft HRA–EIS may be mailed to Mr. Thomas W. Ferns, DOE National Environmental Policy Act Document Manager, U.S. Department of Energy, Richland Operations Office, PO Box 550, MSIN HO–12, Richland, Washington 99352–0550. Comments also may be transmitted by fax to 509–376–4360 or by electronic mail to Thomas_W_Ferns@rl.gov.

FOR FURTHER INFORMATION CONTACT: To request information about the HRA–EIS and the public meetings and hearings, or to request copies of the document, use any of the methods listed in **ADDRESSES** above. (The Revised Draft HRA–EIS will also be made available on the DOE NEPA Web at http://tis.eh.doe.gov/nepa/ under DOE NEPA Analyses and at http://www.hanford.gov/eis/hraeis/hraeis.htm on the DOE Hanford Web Site.) When requesting copies of the document, please specify whether you wish to receive only the summary (about 100 pages), or the entire document including appendices. For general information about the DOE National Environmental Policy Act (NEPA) process, contact: Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0119. Phone: 202–586–4600, or leave a message at: 800–472–2756. Fax: 202–586–7031.

SUPPLEMENTARY INFORMATION:

Background

DOE published a notice of intent to prepare the HRA–EIS in 1992 (57 FR 37959; August 21, 1992). The U.S. Environmental Protection Agency (EPA), Washington Department of Ecology (Ecology), and DOE, in cooperation with other interested parties, initiated a process to involve stakeholders in the development of a vision for the future of the Hanford Site. A committee consisting of representatives of labor, environmental, governmental, agricultural, economic development, citizen-interest groups, and Tribal governments was established and became known as the Hanford Future Site Uses Working Group (Working Group). The result of the Working Group's efforts, a report titled The Future for Hanford: Uses and Cleanup; The Final Report of the Hanford Future Site Uses Working Group was issued in December 1992, and was submitted to DOE as a formal scoping comment for the HRA–EIS.

DOE issued the Draft HRA–EIS in August 1996. DOE received more than 2,000 comments from approximately 230 commenters on the August 1996 Draft HRA–EIS. These comments, as well as transcripts from the public hearing, are included in the Comment and Response Volume of the Revised Draft HRA–EIS. A summary of the Comment-Response Volume is provided as Appendix F of the Revised Draft HRA-EIS, and the entire Comment-Response Volume is being provided for public review in local and regional information repositories. Several commenters, including the U.S. Environmental Protection Agency, urged DOE to change the scope of the EIS to eliminate consideration of remedial action alternatives. DOE revised the 1996 draft EIS in accordance with this recommendation.

Revised Draft HRA–EIS

During the public comment period on the August 1996 Draft HRA–EIS, several Federal, State, and local agencies and American Indian Tribes expressed an interest in working with DOE to establish alternative visions for future land uses. In response, DOE invited representatives of other Federal Agencies, American Indian Tribes, and State and local governments to participate in ongoing planning efforts. These groups became cooperating agencies and consulting Tribal governments in the preparation of a Revised Draft HRA–EIS.

Cooperating Agencies and Consulting Tribal Governments

The cooperating agencies and consulting Tribal governments helping to prepare the Revised Draft HRA–EIS are: Benton, Franklin, and Grant counties; the City of Richland; and the U.S. Department of Interior (Bureau of Land Management, Bureau of Reclamation, and the U.S. Fish and Wildlife Service). Consulting Tribal governments are the Confederated Tribes of the Umatilla Indian Reservation and the Nez Perce Tribe, Department of Environmental Restoration and Waste Management.

Since March 1997, DOE has worked with these cooperating agencies and consulting Tribal governments to establish a framework for the environmental analyses presented in this Revised Draft HRA–EIS. Substantial agreement was reached among the cooperating agencies and consulting Tribal governments on the development of nine land-use designations and definitions, and on the format for determining the potential environmental impacts associated with the land uses carried forward in this EIS. The nine land-use designations are: Industrial-Exclusive, Industrial, Agricultural, Research and Development, High-Intensity Recreation, Low-Intensity Recreation, Conservation (Mining and Grazing), Conservation (Mining), and Preservation.

The cooperating agencies and consulting Tribal governments also worked together to develop the proposed policies and procedures in Chapter 6 if the revised draft HRA-EIS for implementing the Comprehensive Land-Use Plan. These policies would manage competing land use and resource use goals and objectives; provide for amendments to the comprehensive land-use plan where necessary; and identify area- and resource-management plans to be developed as part of the land-use plan implementation.

Revised Draft HRA–EIS Alternatives

The Revised Draft HRA–EIS presents a set of land-use policies and procedures specific to the Hanford Site. It evaluates six alternatives, including a no-action alternative of continuing current land use practices, DOE's preferred alternative, and four other alternatives, each of which represents a Federal, State, Tribal, or local agency's preferred set of land uses. DOE's preferred alternative for future uses of the Hanford Site includes consolidating waste management operations in the Central Plateau; allowing industrial development in the eastern and southern portions of the site; increasing recreational access to the Columbia River; and expanding the Saddle Mountain National Wildlife Refuge to include all of the Wahluke Slope.

Public Involvement Opportunities

DOE has scheduled information meetings and public hearings [see **DATES**] during the comment period that ends on June 7, 1999. Persons interested in speaking at the hearings may register at the hearings and will be called on to speak on a first-come, first-served basis. Written comments will also be accepted at the hearings, and speakers are encouraged to provide written versions of their oral comments for the record. Oral and written comments will be considered equally in preparing the Final EIS. DOE intends to complete the Final HRA–EIS and issue a Record of Decision in November 1999.

DOE Public Reading Rooms and Information Repositories

The Revised Draft HRA–EIS and associated reference materials can be found in the following DOE Public Reading Rooms and Information Repositories:

- Suzzallo Library, University of Washington, Government Publications Room, Mail Stop FM–25, Seattle, Washington 98195–2900, phone 206–543–4664;
- Foley Center, Gonzaga University, E 502 Boone Avenue, Spokane, Washington 99258, phone 509–328–4220, ext. 3844;
- U.S. Department of Energy Public Reading Room, Washington State University, Tri-Cities Campus, 100 Sprout Road, Room 130 West, Richland, Washington 99352, (509) 376–8583;
- Branford Price Millar Library, Science and Engineering Floor, Portland State University, SW Harrison and Park, Portland, Oregon 97207, phone 503–725–3690;
- U.S. Department of Energy Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, phone 202–586–5000.

Issued this 19th day of April 1999.

James J. Fiore,

Acting Deputy Assistant Secretary for Environmental Restoration.

[FR Doc. 99–10193 Filed 4–22–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11659–000]

Gustavus Electric Company of Gustavus, Alaska; Notice of Scoping Meetings, Site Visit, and Soliciting Additional Comments on the Request to Use Alternative Licensing Procedures

April 19, 1999.

The Federal Energy Regulatory Commission's (FERC or Commission) Regulations provide applicants with the option of preparing their own Environmental Assessment (EA) for hydropower projects, and filing this applicant prepared environmental assessment (APEA) with their application as part of an alternative licensing procedure (ALP).[1] On February 17, 1999, the Commission received a request from Gustavus Electric Company (GEC) to use the ALP in the preparation of a license application for the proposed Kahtaheena River (Falls Creek) Project, No. 11659. On March 9, 1999, the Commission issued a notice requesting comments on the applicant's use of this process. A Commission decision regarding the use of this process is still pending; however, contingent on subsequent Commission approval of the use of this process, we are proceeding with scoping, pursuant to the National Environmental Policy Act (NEPA) of 1969, at this time.

The alternative procedures include provisions for the distribution of an initial information package, and for the cooperative scoping of environmental issues and needed studies. On December 1, 1998, GEC distributed their initial information document (ICD). On January 19 and 20, 1999, GEC held two public meetings to discuss the ICD and conducted a visit of the proposed project site. On April 5, 1999, GEC distributed their Scoping Document 1 (SD1).[2] As part of scoping, GEC has scheduled two public meetings to discuss the information presented in SD1, primarily the alternatives and issues to be evaluated in any APEA which may be prepared by GEC if it is subsequently approved to use the ALP in preparation of a license application. In addition to participating in the scoping meetings and site visit, Commission staff will use this opportunity to answer questions and take comments about the use of the ALP. Participation in these meetings will not prejudice any rights or future participation by the Department of the Interior or any of its subsidiary agencies.

Scoping Meetings

GEC will hold public scoping meetings on May 6 and 7, 1999, pursuant to NEPA. At the scoping meetings, GEC will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) outline any resources they believe would not require a detailed analysis; (3) identify reasonable alternatives to be addressed in the EA; (4) solicit from the meeting participants all available information, especially quantitative data, on the resources at issue; and (5) encourage statements from experts and the public on issues that should be analyzed in the EA.

GEC has requested to use the ALP and prepare an APEA for inclusion in its application; however, there is the possibility that an Environmental Impact Statement (EIS) would be required. If the Commission subsequently approves the applicant's request to use the ALP, these meetings would serve to satisfy the NEPA scoping requirements, regardless of whether an EA or EIS is issued by the Commission and/or any other participating federal agencies.[3]

The times and locations of the scoping meeting are:

Evening scoping meeting	Morning scoping meeting
May 6, 1999, 7:00 p.m. Multipurpose Room, Gustavus School, Gustavus, Alaska.	May 7, 1999, 1:00 p.m., King Conference Room, Alaska Dept. of Fish & Game, 802 Third Street, Douglas Alaska.

All interested individuals, organizations, and agencies are invited and encouraged to attend any or all of the meetings to assist in identifying and clarifying the scope of environmental issued that should be analyzed in the EA.

Scoping Meeting Procedures

These scoping meetings will be conducted consistent with the procedures used at Commission scoping meetings. Commission staff will attend the meetings on May 6 and 7, 1999. These meetings would serve to address the Commission's scoping requirements under NEPA if the applicant is subsequently approved to use the ALP. Regardless of whether the applicant's request to use the ALP is approved, the Commission may reconvene scoping during the post-filing period if it is needed.

Commenting Deadline

Both scoping meetings will be recorded and the transcripts will become part of the formal record of the proceedings for this project. Those who choose not to speak during the scoping meetings may instead submit written comments on the project. written comments should be mailed to: Mr. Richard Levitt, Gustavus Electric Company, P.O. Box 102, Gustavus, AK 99826.

All correspondence should be postmarked no later than July 7, 1999. Comments should show the following caption on the first page: Scoping Comments, Kahtaheena River (Falls Creek) Project, Project No. 11659.

Site Visit

GEC has scheduled a tour of the proposed project site on Thursday, May 6, 1999. This site visit will require

[1] 81 FERC ¶ 61,103 (1997).

[2] Copies of the ICD and SDI can be obtained by calling Lani Joslin at 907–697–2299.

[3] The Glacier Bay National Park Boundary Adjustment Act of 1998 designates the National Park Service (NPS) ad a joint lead agency with the Federal Energy Regulatory Commission (FERC) in the preparation of any environmental document under NEPA for this project. FERC and NPS have initiated discussions to address how this joint lead designation would be coordinated.

hiking approximately 5 to 6 miles over rugged terrain and it is expected to take approximately 6 hours to complete. Those wishing to attend the site visit must notify Richard Levitt of GEC at (907) 697–2299 by April 30, 1999. Site visit participants should meet at Gustavus Dray Gas Station in Gustavus at 8:30 a.m. or at the end of Rink Creek Road at 9:00 a.m.

For further information please contact Richard Levitt of GEC at (907) 697–2299 or Bob Easton of the Commission at (202) 219–2782.

David P. Boergers,

Secretary.

[FR Doc. 99–10220 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–302–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

April 19, 1999.

Take notice that on April 13, 1998, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251–1478, filed under Sections 157.205 and 157.211(a) of the Commission's Regulations under the Natural Gas Act to construct, own and operate a 16-inch tap, ultrasonic meter station and regulation equipment [1] to enable Koch to transport gas on a firm basis for Southern Company Service, Inc. (SCS), to Mississippi Power Company's Jack Watson Power Plant. Construction of these facilities will allow Koch to make average day deliveries under its Rate Schedule FTS to the Jack Watson Power Plant, totaling 20,000 MMBtu. Koch will transport these volumes under its blanket certificate issued in Docket No. CP88–6–000. This docket is on file with the Commission and open to public inspection. The application may also be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance.

Any person or the Commission's staff may, within 45 days after insurance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authroization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–10219 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–M

[1] Facilities for this project also include 5,200 feet of 16-inch line, which Koch plans to construct under Section 157.208(a) of the Commission's Regulations.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–312–000]

National Fuel Gas Supply Corporation; Notice of Request Under Blanket Authorization

April 19, 1999.

Take notice that on April 14, 1999, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP99–312–000 a request pursuant to sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate facilities at an existing delivery point used to render service to an existing firm transportation customer, National Fuel Gas Distribution Corporation (Distribution) in Erie County, New York, under National Fuel's blanket certificate issued in Docket No. CP83–4–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

National Fuel proposes to construct and operate facilities at the Vicksburg Station, which is a delivery point used to serve Distribution. National Fuel states that the new facilities include two 12-inch meters, two 8-inch regulator and monitor sets, one 4-inch regulator and monitor set, and upstream and downstream piping, valves, fittings, controllers, etc. National Fuel estimates the cost of construction to be $750,000. National Fuel declares the peak day capacity of this station is 120 MMcf and 6,200 MMcf per year. It is further indicated that the proposed construction will not increase Distribution's authorized level of service or the capacity of the station.

National Fuel states that in connection with this project, it will also be purchasing certain facilities at the Vicksburg Station from Distribution, including approximately 200 feet of 20-inch inlet piping, a three valve tee (valve numebrs TN3104, TN3105 and TN3106), which consists of two 16-inch valves and one 20-inch valve, a gas heater and a path of the outlet piping and some additional miscellaneous downstream piping. National Fuel states that these facilities will be purchased from Distribution at its net book value, which will be approximately $166,800.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–10222 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–317–000]

Williams Gas Pipelines Central, Inc.; Notice of Request Under Blanket Authorization

April 19, 1999.

Take notice that on April 15, 1999, Williams Gas Pipelines Central, Inc. (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP99–317–000 a request pursuant to Sections 157.205 and 157.216, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon in place by sale to ONEOK, Inc. D.b.a. Kansas Gas Service Company (KGS) facilities and related services in Shawnee County, Kansas, under the

blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://ww.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Williams states that it will abandon by sale approximately 2.3 miles of 16-inch lateral pipeline, related service and facilities. Williams states that the sales price of the line is $10.00 and associated reclaim costs is estimated to be $0.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–10221 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–114–000, et al.]

Dearborn Generation Operating L.L.C., et al.; Electric Rate and Corporate Regulation Filings

April 16, 1999.

Take notice that the following filings have been made with the Commission:

1. Dearborn Generation Operating, L.L.C.

[Docket No. EG99–114–000]

Take notice that on April 13, 1999, Dearborn Generation Operating, L.L.C., 330 Town Center Drive, Suite 1000, Dearborn, Michigan 48126–2712, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Dearborn Generation Operating, L.L.C. is a wholly-owned indirect subsidiary of CMS Generation Co., a Michigan corporation, which is a wholly-owned indirect subsidiary of CMS Energy Corporation, also a Michigan corporation. Dearborn Generation Operating, L.L.C. will operate, under an operations and maintenance agreement with the owner, a facility under construction located in Dearborn, Michigan with a net electrical generating capacity of approximately 710 MW.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limits its consideration of comments to those that concern the adequacy or accuracy of the application.

2. MEG Marketing, LLC, Sempra Energy Trading Corp.

[Docket Nos. EC99–28–000, ER98–2284–003 and ER94–1691–023]

Take notice that on April 14, 1999, MEG Marketing, LLC (MEG) and Sempra Energy Trading Corp. (SET) filed a report on disposition, informing the Commission that SET acquired a 40 percent interest in MEG on April 1, 1999, as authorized by the Commission's order of March 12, 1999 in Docket No. EC99–28–000. This report also served as a notice of change in status for MEG and SET.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Dearborn Industrial Generation, L.L.C.

[Docket No. EG99–115–000]

Take notice that on April 13, 1999, Dearborn Industrial Generation, L.L.C., Fairlane Plaza South, 330 Town Center Drive, Suite 1000, Dearborn, Michigan 48126–2712, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Dearborn Industrial Generation L.L.C. is a limited liability company formed under the laws of the State of Michigan. It is owned one hundred (100%) by CMS Generation Co., a Michigan corporation, which is a wholly-owned indirect subsidiary of CMS Energy Corporation, also a Michigan corporation ("CMS Energy"). Dearborn Industrial Generation L.L.C. is constructing a combined cycle combustion turbine, natural gas-fired power plant located in Dearborn, Michigan with a net electrical generating capacity of approximately 710 MW.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limits its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Rojana Power Company Limited

[Docket No. EG99–116–000]

Take notice that on April 14, 1999, Rojana Power Company Limited (Rojana) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Rojana is developing a 122 MW eligible facility located in Ayuthaya, Thailand. Rojana states that, upon commercial operation of the facility, it will be engaged directly and exclusively in the business of owning and/or operating all or part of an eligible facility (as defined in Section 32(a)(1) of the Public Utility Holding Company Act); selling electricity at wholesale to the Electricity Generating Authority of Thailand, a government corporation operating under the laws of the Thailand; and at retail to 12 industrial and commercial consumers in an industrial park in which the Facility is situated. All retail sales made by Rojana will be to customers located within Thailand.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Bridger Valley Electric

[Docket No. EL99–59–000]

Take notice that on April 13, 1999, 1999, Bridger Valley Electric Association (Bridger Valley) submitted for filing an Application for Waiver of the Requirements of Order Nos. 888 and 889, in accordance with Section 35.28(d) of the Rules of the Federal Energy Regulatory Commission (Commission), 18 CFR 35.28(d).

Bridger Valley states that it owns, operates, or controls only limited and discrete transmission facilities that do not constitute an integrated grid. Bridger Valley also states that it provides transmission service to the U.S. Department of Energy's Western Area Power Administration which is more akin to distribution service than transmission service. Bridger Valley states that it thus qualifies for a waiver of application of the requirements of Order Nos. 888 and 889 to it, as more

fully set forth in the application which is on file with the Commission and open to public inspection.

Comment date: May 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Flowell Electric Association

[Docket No. EL99–60–000]

Take notice that on April 13, 1999, Flowell Electric Association (Flowell) submitted for filing an Application for Waiver of the Requirements of Order Nos. 888 and 889, in accordance with Section 35.28(d) of the Rules of the Federal Energy Regulatory Commission (Commission), 18 CFR 35.28(d).

Flowell states that it owns, operates, or controls only limited and discrete transmission facilities that do not constitute an integrated grid. Flowell also states that it provides transmission service to the Towns of Kanosh and Meadow, Utah, and PacifiCorp (formerly Utah Power and Light Company) which is more akin to distribution service than transmission service. Flowell states that it thus qualifies for a waiver of application of the requirements of Order Nos. 888 and 889 to it, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Comment date: May 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Russell Energy Services Company, Energetix, Inc., Nicole Energy Services

[Docket Nos. ER96–2882–010, ER97–3556–007 and ER98–2683–003]

Take notice that on April 15, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

8. Boston Edison Company

[Docket No. ER98–4332–000]

Take notice that on April 13, 1999, Boston Edison Company (Edison), tendered for filing a Transmission Facilities Support Agreement between Boston Edison Company and Millennium Power Partners, L.P., dated July 25, 1998 (Support Agreement).

Boston Edison requests that the Commission accept the Support Agreement as amended by the Amendment and allow it to become effective 60 days following the date of this filing.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Energy Atlantic, LLC

[Docket No. ER98–4381–002]

Take notice that on April 14, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

10. Ameren Services Company

[Docket No. ER99–2467–000]

Take notice that on April 13, 1999, Ameren Services Company (ASC), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between ASC and New Energy Ventures, Inc., and PP&L, Inc., (the parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of New Mexico

[Docket No. ER99–2468–000]

Take notice that on April 13, 1999, Public Service Company of New Mexico (PNM), tendered for filing a mutual netting/settlement agreement between PNM and PacifiCorp Power Marketing Inc.

PNM requested waiver of the Commission's notice requirement so that service under the PNM/PacifiCorp netting agreement may be effective as of April 1, 1999.

Copies of the filing were served on PacifiCorp and the New Mexico Public Regulation Commission.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Newport Electric Corporation

[Docket No. ER99–2469–000]

Take notice that on April 13, 1999 Newport Electric Corporation (Newport), tendered for filing an Agreement that provides for the rental by Montaup Electric Company (Montaup), an affiliate of Newport, of all of Newport's transmission facilities. The Agreement supersedes a prior agreement between Newport and Montaup.

Newport requests an effective date for the rental agreement of May 1, 1999

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. PacifiCorp

[Docket No. ER99–2470–000]

Take notice that on April 13, 1999, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations the Service Agreement for Long Term Firm Transmission Service on Direct Assignment Facilities between PacifiCorp's Transmission Function and PacifiCorp's Merchant Function dated March 29, 1999.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Ameren Services Company

[Docket No. ER99–2471–000]

Take notice that on April 13, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Long-Term Firm Point-to-Point Transmission Services between ASC and PECO Energy—Power Team (PECO). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to PECO pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Mid-Continent Area Power Pool

[Docket No. ER99–2474–000]

Take notice that on April 12, 1999, Mid-Continent Area Power Pool (MAPP) tendered for filing with the Federal Energy Regulatory Commission an informational filing listing MAPP Members, with all the rights and obligations of membership including transmission service pursuant to MAPP Service Schedule F, effective on the dates indicated.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Dixie-Escalante Rural Electric Association

[Docket No. ER99–2475–000]

Take notice that on April 13, 1999, Dixie-Escalante Rural Electric Association (Dixie Escalante), tendered an Application for Acceptance of Initial Rate Filing and Waiver of Notice

Requirement for transmission agreement with the City of Enterprise, Utah. Dixie-Escalante is a non-profit distribution cooperative that retired its outstanding Rural Utilities Service debt on October 16, 1996.

Dixie-Escalante seeks Commission acceptance of its transmission agreements, effective October 16, 1996. Dixie-Escalante seeks no changes in the rates, charges, terms or conditions of the transmission agreements. Accordingly, Dixie-Escalante seeks a waiver pursuant to 18 CFR 35.11 of the 60-day prior notice requirement of 18 CFR 35.3.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Bridger Valley Electric Association

[Docket No. ER99–2476–000]

Take notice that on April 13, 1999, Bridger Valley Electric Association (Bridger Valley), tendered an Application for Acceptance of Initial Rate Filing and Waiver of Notice Requirement for transmission agreement with the United States Department of Interior's Bureau of Reclamation (Bureau, the Department of Energy's Western Area Power Administration has assumed the Bureau's responsibility under the agreement). Bridger Valley is a non-profit distribution cooperative that retired its outstanding Rural Utilities Service debt on January 31, 1997.

Bridger Valley seeks Commission acceptance of its transmission agreement, as amended, effective January 31, 1997. Bridger Valley seeks no changes in the rates, charges, terms or conditions of the transmission agreements. Accordingly, Bridger Valley seeks a waiver pursuant to 18 CFR 35.11 of the 60-day prior notice requirement of 18 CFR 35.3.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. PJM Interconnection, L.L.C.

[Docket No. ER99–2477–000]

Take notice that on April 13, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing two executed umbrella service agreements for firm point-to-point transmission service and two executed service agreements for non-firm point-to-point transmission service with Avista Energy, Inc.; and American Municipal Power-Ohio, Inc., under the PJM Open Access Transmission Tariff.

Copies of this filing were served upon the parties to the service agreements.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Ameren Services Company

[Docket No. ER99–2480–000]

Take notice that on April 13, 1999, Ameren Services Company (ASC), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between ASC and New Energy Ventures, Inc. and PP&L, Inc., (the parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER 96–677–004.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Flowell Electric Association

[Docket No. ER99–2481–000]

Take notice that on April 13, 1999, Flowell Electric Association (Flowell), tendered an Application for Acceptance of Initial Rate Filing and Waiver of Notice Requirement for transmission agreements with the Town of Kanosh, Utah; the Town of Meadow, Utah; and Utah Power & Light (currently PacifiCorp). Flowell is a non-profit distribution cooperative that retired its outstanding Rural Utilities Service debt on October 16, 1996.

Flowell seeks Commission acceptance of its transmission agreements, effective October 16, 1996. Flowell seeks no changes in the rates, charges, terms or conditions of the transmission agreements. Accordingly Flowell seeks a waiver pursuant to 18 CFR 35.11 of the 60-day prior notice requirement of 18 CFR 35.3.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Bridgeport Energy, LLC

[Docket No. ER99–2482–000]

Take notice that on April 13, 1999, Bridgeport Energy, LLC tendered for filing an Application for an Order Accepting for Filing Revised Rate Schedule for Sales of Ancillary Services at Market-Based Rates and Reassignment of Transmission Capacity and Waiver of Regulations.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Oregon Trail Electric Consumers Cooperative, Inc.

[Docket No. ES99–38–000]

Take notice that on April 14, 1999, Oregon Trail Electric Consumers Cooperative (Oregon Trail) submitted an application, under Section 204 of the Federal Power Act, for authorization to issue (1) up to $23 million of notes with maturities of up to 35 years and (2) to borrow funds under a two-year $5 million line of credit agreement.

Oregon Trail also requested exemption from compliance with the Commission's competitive bidding or negotiated placement requirements at 18 CFR 34.2.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Public Service Company of New Mexico

[Docket Nos. OA97–433–003 and OA97–720–003]

Take notice that on April 6, 1999, Public Service Company of New Mexico made a filing with the Commission stating that it had revised the organizational charts and job descriptions posted on OASIS in response to the Commission's February 11, 1999 order on standards of conduct.* The filing contains a copy of the organizational charts, a narrative description of the charts, and an inventory of job descriptions.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10224 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–P

*Carolina Power & Light Company et al., 86 FERC ¶61,146 (1999).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–610–008, et al.]

Murphy Oil USA, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 15, 1999.

Take notice that the following filings have been made with the Commission:

1. Murphy Oil USA, Inc.

[Docket No. ER97–610–008]

Take notice that on April 13, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

2. Maine Public Service Company

[Docket Nos. ER95–836–004 and ER99–2472–000]

Take notice that on April 12, 1999, Maine Public Service Company (MPS), tendered for filing revised sheets reflecting changes to its transmission rate formula in compliance with the Federal Energy Regulatory Commission's December 22, 1998, order in Docket No. ER95–836. In addition, MPS filed a settlement agreement designed to resolve certain issues between it and Houlton Water Company, Van Buren Light and Power District, and Eastern Maine Electric Cooperative.

Copies of this filing were served upon all parties on the Commission's official service lists for these proceedings, affected state commissions and all customers taking service under MPS's open access transmission tariff.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Delmarva Power & Light Company

[Docket Nos. ER97–3189–022 and ER97–2343–001]

Take notice that on April 12, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing a compliance refund report for the City of Easton, Maryland (Easton) required by the Commission's letter order approving the settlement in Docket No. ER97–3189–003, 85 FERC ¶ 61,349 (December 16, 1998) and by the Interconnection Agreement between Easton and Delmarva as modified in Docket No. ER97–2343–000.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Delmarva Power & Light Company

[Docket Nos. ER97–3189–023 and OA97–586–002]

Take notice that on April 12, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing a compliance refund report for the City of Dover, Delaware (Dover), required by the Commission's order in Atlantic City Electric Company, et al., 85 FERC ¶ 61,445 (December 24, 1998) and letter order approving the settlement in Docket No. ER97–3189–003, 85 FERC ¶ 61,349 (December 16, 1998).

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Bollinger Energy Corporation Rainbow Energy Marketing Corporation

[Docket Nos. ER98–1821–003 and ER94–1061–020]

Take notice that on April 14, 1999, the above-mentioned power marketers filed a quarterly report with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

6. New England Power Pool

[Docket No. ER99–1142–004]

Take notice that on April 12, 1999, the New England Power Pool (NEPOOL) Executive Committee tendered for filing certain amendments to the NEPOOL Tariff (Amendments), which serve to include the Financial Assurance Policy for NEPOOL Members and the Financial Assurance Policy for NEPOOL Non-Participant Transmission Customers (collectively, the Financial Assurance Policies) as attachments to the Restated NEPOOL Open Access Transmission Tariff (the NEPOOL Tariff) in compliance with the Commission's order in New England Power Pool 86 FERC ¶ 61,262 (1999), to include the NEPOOL Billing Policy (the Billing Policy) as an attachment to the NEPOOL Tariff, and to make other changes to the NEPOOL Tariff in order to reflect the addition of the Financial Assurance Policies and the Billing Policy as attachments thereto.

The NEPOOL Executive Committee states that copies of these materials were sent to all entities on the service lists in the captioned dockets, to the participants in NEPOOL, and to the six New England state governors and regulatory commissions.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. The United Illuminating Company

[Docket No. ER99–2441–000]

Take notice that on April 12, 1999, The United Illuminating Company (UI), tendered for filing changes to the rate set forth in UI's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, as amended (Tariff No. 4). The changes are limited to modifications to the Network Operating Agreement contained in Attachment G of Tariff No. 4.

UI requests that the proposed changes be made effective as of April 1, 1999.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER99–2442–000]

Take notice that on April 12, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Duke Energy South Bay LLC (South Bay) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on South Bay and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective as of March 25, 1999.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER99–2443–000]

Take notice that on April 12, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities (Meter Service Agreement) between the ISO and Duke Energy South Bay LLC (South Bay) for acceptance by the Commission.

The ISO states that this filing has been served on South Bay and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of March 25, 1999.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER99–2444–000]

Take notice that on April 12, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and El Paso Power Services Company for acceptance by the Commission.

The ISO is requesting a waiver of 60-day prior notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of March 4, 1999.

The ISO states that this filing has been served on El Paso Power Services Company and the California Public Utilities Commission.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Company AllEnergy Marketing Company, L.L.C.

[Docket No. ER99–2446–000]

Take notice that on April 12, 1999, the above-referenced public utility filed their quarterly transaction report for the first quarter ending March 31, 1999.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. EME Homer City Generation, L.P.

[Docket No. ER99–2447–000]

Take notice that on April 9, 1999, EME Homer City Generation, L.P. (EMEHCG) tendered for filing with the Federal Energy Regulatory Commission, a Notice of Succession that on March 18, 1999, Mission Energy Westside, Inc. (MEW) transferred to EMEHCG the FERC rate schedules accepted in Docket No. ER99–4600–000, pertaining to interconnections with, and the sale of power from, the Homer City Generating Station. Both MEW and EMEHCG are wholly-owned subsidiaries of Edison Mission Energy. EMEHCG is also selling power at market-based rates under its FERC Electric Rate Schedule No. 1, accepted by the Commission on January 13, 1999, in Docket No. ER99–666–000.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Madison Gas and Electric Company

[Docket No. ER99–2448–000]

Take notice that on April 12, 1999, Madison Gas and Electric Company (MGE), tendered for filing a service agreement under MGE's Power Sales Tariff with DukeSolutions, Inc.

MGE requests an effective date of March 15, 1999, which is the date the agreement was signed.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Delmarva Power & Light Company

[Docket No. ER99–2449–000]

Take notice that on April 12, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing an executed umbrella service agreement with Long Island Lighting Company d/b/a/ LIPA, under Delmarva's market rate sales tariff.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Metropolitan Edison Company

[Docket No. ER99–2450–000]

Take notice that on April 12, 1999, Metropolitan Edison Company (doing business as and referred to as GPU Energy), tendered for filing a Generation Facility Interconnection Agreement between GPU Energy and AES Ironwood, L.L.C.

GPU Energy requests an effective date of April 13, 1999, for the agreement.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Company of New Mexico

[Docket No. ER99–2451–000]

Take notice that on April 12, 1999, Public Service Company of New Mexico (PNM), tendered for filing two executed service agreements with Mieco, Inc., for Non firm and Short-Term Firm point-to-point transmission service under PNM's Open Access Transmission Service Tariff dated March 30, 1999.

PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Electric Power Company

[Docket No. ER99–2452–000]

Take notice that on April 12, 1999, Wisconsin Electric Power Company tendered for filing notice that effective sixty days from the date of filing, Service Agreement No. 32 under Wisconsin Electric Power Company's Coordination Sales Tariff, FERC Electric Tariff Original Volume No. 2, is to be canceled as a result of KN Services, Inc. (KN), f/k/a KN Marketing, Inc., recent FERC filings stating they are no longer functioning as a power marketer.

Copies of the filing have been served on KN Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. New England Power Company

[Docket No. ER99–2453–000]

Take notice that on April 12, 1999, New England Power Company (NEP), tendered for filing a Firm Local Generation Delivery Service Agreement with ANP Bellingham Energy Company.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Florida Keys Electric Cooperative Association, Inc.

[Docket No. ER99–2454–000]

Take notice that on April 12, 1999, Florida Keys Electric Cooperative Association, Inc. (FPA), tendered for filing pursuant to Section 205 of the Federal Power Act, an agreement to provide capacity and energy to Florida Power & Light Company at market-based rates under an agreement dated April 7, 1999.

Florida Keys Electric Cooperative seeks an effective date from the Commission of June 11, 1999, 60 days after the filing of this agreement.

A copy of this filing has been served upon Florida Power & Light Company.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. California Independent System Operator Corporation

[Docket No. ER99–2455–000]

Take notice that on April 12, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for Scheduling Coordinators between the ISO and Mieco, Inc., for acceptance by the Commission.

The ISO is requesting a waiver of the 60-day prior notice requirement to allow the Meter Service Agreement to be made effective as of March 18, 1999.

The ISO states that this filing has been served on Mieco, Inc., and the California Public Utilities Commission.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. California Independent System Operator Corporation

[Docket No. ER99–2456–000]

Take notice that on April 12, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and Mieco, Inc., for acceptance by the Commission.

The ISO is requesting a waiver of the 60-day prior notice requirement to allow

the Scheduling Coordinator Agreement between the ISO and Mieco, Inc.

The ISO states that this filing has been served on Mieco, Inc., and the California Public Utilities Commission.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Western Resources, Inc.

[Docket No. ER99–2457–000]

Take notice that on April 12, 1999, Western Resources, Inc., tendered for filing two long-term firm transmission agreements between Western Resources and the city of Mulvane, Kansas, and the city of Winfield, Kansas. Western Resources states that the purpose of the agreements is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission.

The agreements are proposed to become effective May 1, 1999 and June 1, 1999.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Arizona Public Service Company

[Docket No. ER99–2458–000]

Take notice that on April 12, 1999, Arizona Public Service Company (APS), tendered for filing a revised Contract Demand Exhibit for Southern California Edison applicable under the APS–FERC Rate Schedule No. 120.

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

Copies of this filing have been served on SCE, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Public Service Company of New Mexico

[Docket No. ER99–2459–000]

Take notice that on April 12, 1999, Public Service Company of New Mexico (PNM), tendered for filing a mutual netting/close-out agreement between PNM and Aquila Energy Marketing Corporation.

PNM requested waiver of the Commission's notice requirement so that service under the PNM/Aquila netting agreement may be effective as of March 31, 1999.

Copies of the filing were served on Aquila and the New Mexico Public Regulation Commission.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Ameren Services Company

[Docket No. ER99–2460–000]

Take notice that on April 12, 1999, Ameren Services Company (Ameren), tendered for filing Service Agreements for Market Based Rate Power Sales between Ameren and Delmarva Power & Light Company and DukeSolutions, Inc., (the parties). Ameren asserts that the purpose of the Agreements is to permit Ameren to make sales of capacity and energy at market based rates to the parties pursuant to Ameren's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Orange and Rockland Utilities, Inc.

[Docket No. ER99–2461–000]

Take notice that on April 12, 1999, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing a Service Agreement between Orange and Rockland and Cargill-Alliant, LLC (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1996 in Docket No. OA96–210–000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of March 25, 1999, for the Service Agreement.

Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Ohio Valley Electric Corporation

[Docket No. ER99–2462–000]

Take notice that on April 12, 1999, Ohio Valley Electric Corporation (OVEC), tendered for filing Modification No. 11, dated as of April 1, 1999, to the Inter-Company Power Agreement dated July 10, 1953 among OVEC and certain other utility companies named within that agreement as "Sponsoring Companies" (the Inter-Company Power Agreement). The Inter-Company Power Agreement bears the designation "Ohio Valley Electric Corporation Rate Schedule FPC No. 1–B."

Mod. No. 11 is part of an arrangement intended to make additional electricity available to OVEC's Sponsoring Companies during the summer of 1999 and to provide DOE with billing credits in exchange for its release of a portion of its entitlement to such electricity.

OVEC has requested that the changes to the Inter-Company Power Agreement become effective as of April 1, 1999.

Copies of the filing were served upon Appalachian Power Company, The Cincinnati Gas & Electric Company, Columbus Southern Power Company, The Dayton Power and Light Company, Indiana Michigan Power Company, Kentucky Utilities Company, Louisville Gas and Electric Company, Monongahela Power Company, Ohio Edison Company, Ohio Power Company, Pennsylvania Power Company, The Potomac Edison Company, Southern Indiana Gas and Electric Company, The Toledo Edison Company, West Penn Power Company, the Utility Regulatory Commission of Indiana, the Public Service Commission of Kentucky, the Public Service Commission of Maryland, the Public Service Commission of Michigan, the Public Utilities Commission of Ohio, the Public Utility Commission of Pennsylvania, Tennessee Regulatory Authority, the State Corporation Commission of Virginia and the Public Service Commission of West Virginia.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Central Hudson Gas & Electric Corporation

[Docket No. ER99–2473–000]

Take notice that on April 12, 1999, Central Hudson Gas and Electric Corporation (Central Hudson), tendered for filing its development of actual costs for 1998 related to substation service provided to Consolidated Edison Company of New York, Inc. (Con Edison) in accordance with the provisions of its Rate Schedule FERC No. 43.

Central Hudson indicates that the actual costs amounted to $275,827 for 1998 and will be the basis on which estimated charges for 1999 will be billed.

Central Hudson requests waiver of the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1999 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison and

the State of New York Public Service Commission.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Central Vermont Public Service Corporation

[Docket No. ER99–2478–000]

Take notice that on April 12, 1999, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with PP&L EnergyPlus Co., under its FERC Electric Tariff No. 8.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on April 14, 1999.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Central Vermont Public Service Corporation

[Docket No. ER99–2479–000]

Take notice that on April 12, 1999, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with DukeSolutions, Inc., under its FERC Electric Tariff No. 8.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on April 14, 1999.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. Wisconsin Public Service Corporation, Lowell Cogeneration Company, Limited Partnership

[Docket Nos. ER99–2491–000 and ER99–2494–000]

Take notice that on April 14, 1999 the above-referenced public utilities filed their quarterly transaction reports for the first quarter ending March 31, 1999.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. Dayton Power and Light Company, Idaho Power Company, Minnesota Power & Light Company, Northern States Power Company (Minnesota) and Northern States Power Company, (Wisconsin), PP&L, Inc., Pacific Gas & Electric Company, Southwestern Public Service Company

[Docket Nos. OA97–418–004, OA97–455–004, OA97–590–003, OA97–130–003, OA97–406–004, OA97–423–003, OA97–594–003, OA97–515–003, and OA97–400–003]

Take notice that on March 29, 1999, Dayton Power & Light Company submitted revised standards of conduct in Docket No. OA97–418–004 in response to the Commission's February 25, 1999 order on standards of conduct.[1]

Also on March 29, 1999, PP&L, Inc. submitted a letter in OA97–423–003 and OA97–594–003 to notify the Commission that it has posted revised organizational charts and job descriptions on its OASIS to comply with the Commission's February 25, 1999 order.

On April 2, 1999, Pacific Gas & Electric Company submitted a letter in Docket No. OA97–515–003 to notify the Commission that it has posted its revised organizational charts and job descriptions on its website and that this information is posted on the California Independent System Operator's website to comply with the Commission's February 25, 1999 order.

The February 25, 1999 order required Idaho Power Company, Minnesota Power & Light Company, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin), and Southwestern Public Service Company to revise their organizational charts and job descriptions posted on OASIS within 30 days. These companies did not make any filings with the Commission (nor were they required to). However, by this notice, the public is invited to intervene, protest or comment regarding their revised organizational charts and job descriptions.

Comment date: April 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

[1] Alliant Services, Inc., *et al.*, 86 FERC ¶ 61,185 (1999).

David P. Boergers,

Secretary.

[FR Doc. 99–10223 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–111–000, et al.]

Southern Energy Potrero, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

April 14, 1999.

Take notice that the following filings have been made with the Commission:

1. Southern Energy Potrero, L.L.C.

[Docket No. EG99–111–000]

Take notice that on April 9, 1999, Southern Energy Potrero, L.L.C. (Southern Potrero), 50 California Street, Suite 3220, San Francisco, California 94111, tendered for filing with the Federal Energy Regulatory Commission, an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Southern Potrero is a Delaware limited liability company that intends to acquire a direct 100 percent ownership interest in the 363 MW Potrero Power Plant located at Potrero Point, San Francisco, California. Southern Potrero is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Equitable Power Services Company and Northeast Energy Services, Inc.

[Docket No. EC99–63–000]

Take notice that on April 9, 1999, the above-captioned parties (Applicants) filed an application under Section 203 of the Federal Power Act requesting authorization for the transfer of power sales agreements from Equitable Power Services Company to Northeast Energy Services, Inc.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Energy Delta, L.L.C.

[Docket No. EG99–112–000]

Take notice that on April 9, 1999, Southern Energy Delta, L.L.C. (Southern Delta), 50 California Street, Suite 3220, San Francisco, California 94111, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Southern Delta is a Delaware limited liability company that intends to acquire a direct 100 percent ownership interest in the Pittsburg Power Plant and the Contra Costa Power Plant located in Pittsburg and Antioch, California (collectively, the Delta Facilities). The Delta Facilities have an aggregate generating capacity of approximately 2702 MW. Southern Delta is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Southern Energy California, L.L.C.

[Docket No. EG99–113–000]

Take notice that on April 9, 1999, Southern Energy California, L.L.C. (Southern California), 50 California Street, Suite 3220, San Francisco, California 94111, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Southern California is a Delaware limited liability company that intends to acquire: (a) an indirect 100 percent ownership interest in the 363 MW Potrero Power Plant located at Potrero Point, San Francisco, California, (b) an indirect 100 percent ownership interest the Pittsburg Power Plant located in Pittsburg, California, and (c) an indirect 100 percent ownership interest in the Contra Costa Power Plant located in Antioch, California. The Pittsburg Power Plant and the Contra Costa Power Plant have an aggregate generating capacity of approximately 2702 MW. Southern California is engaged directly, or indirectly through one or more affiliates, and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Village of Freeport, New York Complainant v. Consolidated Edison Company of New York, Inc. Respondent.

[Docket No. EL99–58–000]

Take notice that on April 9, 1999, the Village of Freeport, New York (Freeport) tendered for filing a Complaint against Consolidated Edison Electric Company of New York, Inc. (Con Edison) pursuant to Section 206 of the Federal Power Act, 16 U.S.C. §§ 824e, and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206. Freeport's Complaint requests that the Commission investigate and remedy the unreliable, discontinuous and unduly discriminatory firm wholesale electric transmission services provided to Freeport by Con Edison under Con Edison's Open Access Transmission Tariff.

Freeport states that a copy of the Complaint has been served by mail upon Con Edison, the New York State Public Service Commission, and the Long Island Power Authority.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall also be due on or before May 10, 1999.

6. Southwestern Public Service Company

[Docket No. ER85–477–018]

Take notice that on April 9, 1999, Southwestern Public Service Company tendered for filing in accordance with the January 22, 1999, Federal Energy Regulatory Commission acceptance of the Joint Offer of Settlements (between Southwestern Public Service Company (Southwestern) and Golden Spread Electric Cooperative, Inc. (Golden Spread) and between Southwestern and Lyntegar Electric Cooperative, Inc.) and the acceptance of the clarification (between Southwestern and Golden Spread) issued on March 11, 1999 in Docket No. ER85–477–010, a compliance filing with the Federal Energy Regulatory Commission by Southwestern Public Service Company.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. United American Energy Corp., CHI Power Marketing, Inc., Griffin Energy Marketing, L.L.C., AC Power Corporation, Kamps Propane, Inc., AMVEST Power, Inc., Symmetry Device Research, Inc., Golden Valley Power Company, PowerTec International, LLC, Agway Energy Services, Inc., Total Gas & Electric, Inc., Superior Electric Power, Corporation, and Central Hudson Enterprises Corporation.

[Docket Nos. ER96–3092–011, ER96–2640–010, ER97–4168–006, ER97–2867–007, ER98–1148–003, ER97–2045–008, ER96–2524–005, ER98–4334–002, ER96–1–014, ER97–4186–006, ER97–4202–007, ER95–1747–014, and ER97–2872–002]

Take notice that on April 12, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/ online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

8. EME Homer City Generation, L.P.

[Docket No. ER99–2433–000]

Take notice that on April 9, 1999, EME Homer City Generation, L.P., petitioned the Commission for acceptance of a market-based rate schedule for the sale of certain ancillary services in the markets administered by the New York and Pennsylvania-New Jersey-Maryland independent system operators.

The company also requested waiver of the 60-day notice requirement, and waiver of certain requirements under Subparts B and C of Part 35 of the Commission's regulations. The company is an indirect subsidiary of Edison International.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Edison Mission Marketing & Trading, Inc.

[Docket No. ER99–2434–000]

Take notice that on April 9, 1999, Edison Mission Marketing & Trading, Inc. (EMMT), a power marketer incorporated under the laws of California, petitioned the Commission for acceptance of a market-based rate schedule for the sale of ancillary services at market-based rates. EMMT is an indirect subsidiary of Edison International.

EMMT also requested waiver of the 60-day notice requirement and waiver of certain requirements under Subparts B and C of Part 35 of the Commission's Regulations.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Automated Power Exchange, Inc.

[Docket No. ER99–2435–000]

Take notice that on April 9, 1999, Automated Power Exchange, Inc., tendered for filing a rate schedule under which APX will offer power exchange services in the APX-Ohio Hub Market.

APX requests that this new APX Rate Schedule be accepted to become effective as of June 1, 1999.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Duke Energy Corporation

[Docket No. ER99–2436–000]

Take notice that on April 9, 1999, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a Service Agreement for Market Rate Sales under Rate Schedule MR, FERC Electric Tariff First Revised Volume No. 3 (the MRSAs), between Duke and Public Service Electric and Gas Company.

Duke requests that the MRSA submitted for filing in this docket be made effective as a rate schedule as of March 10, 1999.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. UtiliCorp United Inc.

[Docket No. ER99–2437–000]

Take notice that on April 9, 1999, UtiliCorp United Inc., tendered for filing a Service Agreement under its Market-Based Power Sales Tariff, FERC Electric Tariff Original Volume No. 28, with Midwest Energy, Inc. The Service Agreement provides for the sale of capacity and energy by UtiliCorp United Inc., to Midwest Energy, Inc., pursuant to the tariff.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Southern Indiana Gas and Electric Company

[Docket No. ER99–2438–000]

Take notice that on April 9, 1999, the above-referenced public utility filed their quarterly transaction report for the first quarter ending March 31, 1999.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. MidAmerican Energy Company

[Docket No. ER99–2439–000]

Take notice that on April 9, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a First Amendment to Network Integration Transmission Service Agreement by and between the Board of Trustees of the Municipal Electric Utility of Waverly, Iowa and MidAmerican, dated March 12, 1999, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of March 12, 1999, for the Amendment, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on the Iowa Utilities Board, the Illinois Commerce Commission, South Dakota Public Utilities Commission and Waverly Municipal Electric Utility.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Services, Inc.

[Docket No. ER99–2440–000]

Take notice that on April 9, 1999, Cinergy Services, Inc. (Cinergy Services), on behalf of its Operating Companies (The Cincinnati Gas & Electric Company and PSI Energy, Inc.), tendered for filing unexecuted Service Agreements for service under the Cinergy Operating Companies FERC Electric Cost-Based Power Sales Tariff, Original Volume No. 6–CB applicable to customers which Cinergy Services has individual negotiated agreements for the sale of electric energy by the Cinergy Operating Companies.

Cinergy Services requests an effective date of May 1, 1999. Said date coincides with the effective date of the Notices of Cancellation for sales by the Cinergy Operating Companies under individual negotiated agreements with these counter parties.

Copies of the filing were served upon all parties listed in Attachment B of the filing.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Edgar Electric Cooperative, Riverside Canal Power Company, Mountainview Power Company, and Jersey Central Power & Light Company

[Docket Nos. ER99–2463–000, ER99–2465–000, ER99–2464–000, amd ER99–2445–000]

Take notice that on April 12, 1999, the above-referenced public utilities filed their quarterly transaction reports for the first quarter ending March 31, 1999.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Niagara Mohawk Energy Marketing, Inc.

[Docket No. ER99–2466–000]

Take notice that on April 13, 1999 the above-referenced public utilities filed their quarterly transaction reports for the first quarter ending March 31, 1999.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10225 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11713–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* La Grange L&D.

f. *Location:* On the Illinois River, near the town of Meredosia, Cass County,

Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' La Grange Lock and Dam and would consist of: (1) five new 50-foot-long, 84-inch-diameter steel penstocks; (2) a new 80-foot-long, 30-foot-wide, 30-foot-high submersible powerhouse containing five generating units have a total installed capacity of 9,100-kW; (3) a new exhaust apron; (4) a new 100-foot-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 56 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,750,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction a the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.10, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal state, local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10144 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

April 19, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 2367–033.

c. *Date Filed:* March 23, 1999.

d. *Applicants:* Maine Public Service Company.

e. *Name of Project:* Caribou.

f. *Location:* On the Aroostook River and Millinocket Stream, in Piscataquis and Aroostock Counties, Maine. The project does not utilize federal or tribal lands.

g. *Filed pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Mr. Calvin Deschene, Maine Public Service Company, P.O. Box 1209, Presque Isle, ME 04769, (207) 768–5811.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Papsidero at (202) 219–2715, or e–mail address: Thomas.Papsidero@fed.us.

j. *Deadline for filing comments and/or motions:* May 6, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the project number (2367–033) on any comments or motions filed.

k. *Description of Transfer:* Maine Public Service Company requests to transfer the license to PDI New England, Inc. as part of its divestiture of assets mandated by the State of Maine.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http;//www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.*

B. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representatives of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–10217 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

April 19, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2554–006.

c. *Date Filed:* March 29, 1999.

d. *Applicants:* Moreau Manufacturing Corporation (MMC) and Niagara Mohawk Power Corporation (NMPC).

e. *Name of Project:* Feeder Dam Hydroelectric Project.

f. *Location:* On the Hudson River in Saratoga and Washington Counties, New York. The project does not occupy federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 8.

h. *Applicant Contacts:* For MMC: Mr. Michael W. Murphy, Moreau Manufacturing Corporation, c/o Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, NY 13202 (315) 428–6941. For NMPC: Mr. Stephen C. Palmer, Swidler Berlin Shereff Friedman, LLP, 3000 K Street, N.W., Suite 300, Washington, DC 20007 (202) 424–7500.

i. *FERC Contact:* Any questions on this notice should be addressed to James Hunter at (202) 219–2839, or e-mail address: james.hunter@ferc.fed.us.

j. *Deadline for filing comments and or motions:* May 27, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426.

Please include the project number (P–2554–006) on any comments or motions filed.

k. *Description of Proposals:* Transfer of the license for this project from MMC, a wholly-owned subsidiary of NMPC, to NMPC is a corporate formality that will enable NMPC to proceed with the sale of all of NMPC's non-nuclear generating facilities.

The transfer application was filed following the expiration of the license for Project No. 2554, which is the subject of a pending relicense application.[1] In Hydroelectric Relicensing Regulations Under the Federal Power Act (54 FR 23,756; FERC Stats. and Regs. Regs. Preamble 1986–1990 30,854 at p. 31,437), the Commission declined to forbid all license transfers during the last five years of an existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing (*id.* at p. 31,438 n. 318). The transfer would lead to the substitution of the transferee for the transferor as the applicant in the relicensing proceedings for Project No. 2554.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.*

B. *Comments Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 19 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS",

[1] The Commission has authorized continued project operation. *See* Table of Notices of Authorization for Continued Project Operation, 66 FERC ¶ 61,145 (1994).

"RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–10218 Filed 4–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Announcement of Final Deadline to Request Supplemental Crude Oil Overcharge Refunds

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of final deadline for crude oil overcharge refund recipients to request the $.0008 per gallon supplemental refund first announced in 1995 in the crude oil overcharge refund proceeding (RF272 Case Nos.).

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has set a January 31, 2000 deadline for requesting the $.0008 per gallon supplemental refund first announced in 1995 in the crude oil overcharge refund proceeding. The deadline applies to all refund recipients eligible for a supplemental refund of $50 or more. Those refund recipients that do not request a supplemental refund by the deadline will forfeit the supplemental refund and any further payment from crude oil overcharge funds. Small refund recipients, i.e., those eligible for a supplemental refund less than $50, continue to have the option of requesting a supplemental refund until the conclusion of the crude oil overcharge refund proceeding.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, or Janet N. Freimuth, Deputy Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0107, telephone number 202–426–1527, FAX 202–426–1415.

SUPPLEMENTARY INFORMATION: The Department of Energy's crude oil overcharge refund proceeding began over twelve years ago. In August 1986, the DOE announced its policy concerning the administration of a proceeding to refund crude oil overcharge funds to injured purchasers of refined petroleum products. See 51 FR 27,899 (August 4, 1986) (Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP)). That same month, the first crude oil refund application was filed. Pursuant to the MSRP, the OHA announced, in April 1987, that it would use the refund procedures at 10 CFR part 205, Subpart V, to process crude oil refund applications. 52 FR 11,737 (1987). The OHA accepted crude oil refund applications until the June 1995 deadline.

As the OHA has conducted the crude oil overcharge refund proceeding, the DOE has continued to collect additional overcharge funds. Under the MSRP, up to 20 percent of crude oil overcharge funds are reserved for direct refunds to claimants through the OHA pursuant to Subpart V. The remaining 80 percent is divided equally between the federal government (40 percent) and the states (40 percent) for indirect restitution. Because of the potential availability of additional funds, the OHA decisions approving refund applications advise the refund recipient to inform the OHA of any change of address.

The amount of a refund is based on the refund recipient's volume of refined petroleum product purchases, multiplied by a per gallon refund amount, referred to as the "volumetric refund amount" or simply the "volumetric." The larger a firm's or individual's purchases, the greater the injury from crude oil overcharges and therefore the greater the refund. As the DOE has collected additional crude oil overcharge funds, the OHA has raised the volumetric. The OHA originally paid crude oil overcharge refund recipients at a rate of $.0002 per gallon. The OHA has raised the volumetric twice. First, in 1989, the OHA raised the volumetric to $.0008 per gallon; the OHA sent a supplemental payment of $.0006 per gallon to those refund recipients that had been paid at the $.0002 rate. See Crude Oil Supplemental Refund Distribution, 18 DOE ¶ 85,878 (1989). Second, in 1995, the OHA raised the volumetric to $.0016 per gallon; the OHA notified refund recipients that had been paid at the $.0008 per gallon volumetric of the availability of a $.0008 supplemental payment. See 60 FR. 15562 (March 24, 1995).

The OHA's 1995 notice advised refund recipients that if they wished to receive a supplemental payment at that time, they should verify to the OHA that certain information was still correct, such as their address. The 1995 notice stated that refund recipients could wait until the end of the proceeding to receive their supplemental payment, as well as any final payment that might be made.

The OHA mailed the 1995 notice to over 56,000 refund recipients that had filed directly with the OHA for their original refund, i.e., refund recipients that did not file through a representative. The mailing went to each such recipient whose supplemental refund would be $50 or more, i.e., refund recipients with approved purchases of 62,500 gallons or more. Although the OHA did not mail to small refund recipients, i.e., those entitled to less than $50, the OHA stated that those refund recipients could request a supplemental refund. In addition to the mailing to the over 56,000 recipients that did not file through a representative, the OHA mailed a notice to the representatives of an additional 12,000 refund recipients.

Since 1995, the OHA has granted supplemental refunds totaling $268 million to 56,000 recipients. At the same time, the OHA has almost completed its consideration of the original crude oil overcharge refund applications. The OHA has granted a total of $597 million to 91,500 recipients. Of the total 100,000 applications filed, only 1,000 remain pending.

The OHA has now determined that a January 31, 2000 deadline for requesting the $.0008 per gallon supplemental refund announced in 1995 should be set for refund recipients whose supplemental refund would be $50 or more, i.e., refund recipients with approved purchases of 62,500 gallons or more. Both administrative efficiency and the goal of achieving finality in the crude oil overcharge refund proceeding warrant establishing the deadline. Over the last four years, the OHA has granted supplemental refunds to 56,000 applicants, representing 335 million

gallons of approved purchases. A deadline for requesting a supplemental refund is a necessary, interim step to the completion of the crude oil overcharge refund proceeding, which has been pending over 12 years. In order to make any final payment in the proceeding, we need to determine the number of eligible recipients and the total amount available after current supplemental payments are made. When we issued original refund decisions, we advised refund recipients to keep us informed of address changes, but some refund recipients failed to do so. We are concerned that the addresses and other information for the refund recipients that did not request a supplemental payment may not be current. For example, the recipient may have a new address or the recipient may no longer exist—an individual applicant may have died or a business entity may have ceased operations. Setting a deadline for all supplemental payments will allow us to identify those recipients that are either unreachable or that are not interested in receiving a supplemental refund. Those recipients will forfeit any further refund, which will then allow us to calculate a final payment for all remaining recipients, provided sufficient crude oil overcharge funds are left over.

Based on the foregoing, we intend to mail notice of a January 31, 2000 deadline to the 10,000 refund recipients with approved purchases of 62,500 gallons or more that have not yet requested a supplemental refund. As stated above, a refund recipient with approved purchases of 62,500 gallons or more that does not request a supplemental refund by January 31, 2000 will not be eligible for any further payment from crude oil overcharge funds. The deadline does not apply to small refund recipients, i.e., those with approved purchases of less than 62,500 gallons. We have concluded that mailing notice to such refund recipients is not appropriate, given the small size of the refund (less than $50) and the age of the addresses in our data base. Small refund recipients continue to have the option of requesting a supplemental refund until the conclusion of the crude oil overcharge refund proceeding.

Dated: April 15, 1999.

George B. Breznay,

Director, Office of Hearings and Appeals, Department of Energy, Washington, DC.

[FR Doc. 99–10192 Filed 4–22–99; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6241–9]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed April 12, 1999 Through April 16, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990121, Draft EIS, COE, FL, Alligator Chain of Lakes and Lake Gentry Extreme Drawdown and Habitat Enhancement Project, Implement Aquatic Habitat Enhancement, Osceola County, FL, Due: June 10, 1999, Contact: Christine Bauer (904) 232–3271.

EIS No. 990122, Draft EIS, GSA, TN, Volunteer Army Ammunition Plant, Disposal and Transfer Ownership of Property to Other Federal Agencies and Private Entities, City of Chattanooga's, Hamilton County, TN, Due: June 08, 1999, Contact: Phil Youngberg (404) 331–1831.

EIS No. 990123, Draft EIS, COE, IL, Hunter Lake New Supplemental Water Supply Reservoir, Construction, City of Springfield Application for Permit, Sangamon County, IL, Due: June 07, 1999, Contact: Charlene Carmack (309) 794–5570.

EIS No. 990124, Final EIS, DOE, TN, NY, IL, NM, Spallation Neutron Source (SNS) Facility Construction and Operation, Implementation and Site Selection, Oak Ridge National Laboratory, Oak Ridge, TN; Argonne National Laboratory, Argonne, IL; Brookhaven National Laboratory, Upton, NY; and Los Alamos National Laboratory, Los Alamos, NM, Due: May 24, 1999, Contact: David Wilfert (800) 927–9964.

EIS No. 990125, Final EIS, FHW, WA, WA–167 Corridor Adoption, WA–167 Freeway Extension from WA–167/ Meridian Street North in the City of Puyallup to the proposed WA–509 Freeway/East-West Alignment in the City of Tacoma, Funding and COE Section 404 Permit, Pierce County, WA, Due: May 24, 1999, Contact: Jeff Sawyer (360) 357–2713.

EIS No. 990126, Draft EIS, AFS, MT, North Belts Travel Plan/Maypie Confederate Vegetation Restoration Project, Improvements, Helena National Forest, Townsend and Helena Ranger District, Broadwater, Lewis and Clark and Meagher County, MT, Due: June 07, 1999, Contact: Carol Nunn (406) 266–3425.

The US Department of Agriculture, Forest Service and the US Department of the Interior, Bureau of Land Management are Joint Lead Agencies on the above project.

EIS No. 990127, Final EIS, DOE, CA, Sutter Power Plant Project, Operation and Maintenance of a High-Voltage Electric Transmission, 500 megawatt (MW) Gas Fueled, Sutter County, CA, Due: May 24, 1999, contact Loreen McMahon (916) 353–4460.

EIS No. 990128, Draft EIS, FRC, PA, NJ, NY, Millennium Pipeline Project, Construct and Operate an Interstate Natural Gas Pipeline from United States to Canada, including PA, NY and NJ, Due: June 07, 1999, Contact: Paul McKee (202) 208–1611.

EIS No. 990129, Draft EIS, FRC, MA, Holyoke Hydroeletric Relicensing Project, (FERC Nos. 2004–073 and 11607–000), Construction, Operation and Maintenance, Located on the Connecticut River, Hampshire, Hampden and Franklin Counties, MA, Due: June 07, 1999, Contact: Allan E. Creamer (202) 219–0365.

EIS No. 990130, Revised Draft EIS, DOE, WA, Hanford Remedial Action, Revised and New Alternatives, Comprehensive Land-Use Plan,. Hanford Site lies within the Pasco Basin of the Columbia Plateau, WA, Due: June 07, 1999, Contact: Thomas W. Ferns (509) 372–0649.

EIS No. 990131, Final EIS, NCP, MD, National Harbor Project, Construction and Operation along the Potomac River on a 534 acre site adjacent to the Capital Beltway and Oxon Hill Manor, COE Section 10 and 404 Permits, Prince George's County, MD, Due: May 24, 1999, Contact: Eugene Keller (202) 482–7251.

EIS No. 990132, Final EIS, DOE, KY, TN, OH, TN, Programmatic EIS—Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride, Paducah Site, McCracken County, KY; Portsmouth Site, Pike County, OH; and K–25 Site on the Oak Ridge Reservation, Anderson and Roane Counties, TN, Due: May 24, 1999, Contact: Scott E. Harlow (301) 903–3352.

EIS No. 990133, Draft EIS, FRC, IL, MI, PA, IN, OH, NJ, Independence Pipeline and Market Link Expansion Projects, Construction and Operation, Interstate National Gas Pipeline, (Docket Nos. CP97–315–001, CP97–319–000, CP98–200–000 and CP98–540–000), NPDES and COE Section 404 Permits, IL, IN, MI, OH, PA and NJ, Due: June 07, 1999, Contact: Paul McKee (202) 208–1611.

Amended Notices

EIS No. 990107, Final EIS, FRC, MI, IN, IL, IN, Vector Pipeline Project, Natural Gas Pipeline and Associated above ground Facilities Construction and Operation, Approval, Joliet, IL to Vector Canada at the International Border near St. Clair, MI, several counties, MI, IN, and IL , Due: May 10, 1999, Contact: Paul McKee (202) 208–1611.
Published FR 04–09–99 Correction to Telephone Number.

Dated: April 20, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–10284 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6242–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 29, 1999 through April 02, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 09, 1999 (64 FR 17362).

Draft EISs

ERP No. D–NPS–K65209–00 Rating LO, Death Valley National Park General Management Plan, Implementation, Mojave Desert, Inyo and San Bernardino Counties, CA and Nye and Esmeralda Counties, NV.

Summary: EPA expressed lack of objections, however, EPA made specific comments regarding groundwater extraction outside the park, grazing within park boundaries, and military overflights.

ERP No. D–UMC–K11096–AZ Rating EC2, Yuma Marine Corps Air Station (MCAS), To Improve Ordnance Handling and Storage, Construct a new Combat Aircraft Loading Area (CALA); New Station Ordnance Area and Relocation of MCAS Yuma, AZ.

Summary: EPA expressed environmental concerns regarding the lack of information on compliance with Executive Order 12902, Energy Efficiency and Water Conservation. EPA requested that information on this issue be included in the final document.

Final EISs

ERP No. F–BIA–K02010–AZ, Southpoint Power Plant, Fort Mojave Indian Reservation Approval of a Lease for Development Project, Construction and Operation of a 500 Megawatt Natural Gas Fired Power Plant, NPDES Permit and COE Section 404 Permit, Mohave County, AZ.

Summary: EPA had no objection to the proposed action.

ERP No. F–BLM–J01009–WY, Carbon Basin Coal Project Area, Coal Lease Application for Elk Mountain/ Saddleback Hills, Carbon County, WY.

Summary: Final EIS adequately addressed most of EPA's concerns.

ERP No. F–DOA–G36149–OK, Double Creek Watershed Plan, Implementation, Watershed Protection and Flood Prevention, National Economic Development (NED), Town of Ramona, Washington and Osage Counties, OK.

Summary: EPA had no objection to the selection of the lead agency's preferred alternative as described in the DEIS.

ERP No. F–DOE–L09813–ID, Advanced Mixed Waste Treatment Project, Construction and Operation, Site Selection, Idaho National Engineering and Environmental Laboratory (INEEL), Eastern Snake River Plain, ID.

Summary: Review of the Final EIS has resulted in no objection to project as proposed.

ERP No. F–DOI–K39053–CA, San Joaquin River Agreement Project, Implementation of the Meeting Flow Objectives for 1999–2010, Vernalis Adaptive Management Plan, San Joaquin, Stanislaus, Madera, Merced, Fresno and Tuolume Counties, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–K40142–CA, CA–4 "GAP" Closure Project, Improvements between I–80 and Cunninings Skyway, Funding, NPDES Permit and COE Section 404 Permit, City of Hercules, Contra Costa County, CA.

Summary: Review of the FEIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–NOA–E39044–FL, Guana, Tolomato, Matanizas, Site Designation, National Estuarine Research Reserve, Management Plan, City of Jacksonville, St. Johns and Flagler Counties, FL.

Summary: EPA expressed no objection to the action as proposed.

ERP No. F–USA–E11043–GA, U.S. Army/Fort Benning and The Consolidated Government of Columbus Proposed Land Exchange, Muscogee and Chattahoochee Counties, GA.

Summary: EPA raised concerns about the gopher tortoises have been adequately resolved; however, the actual long-term impacts of land use changes attendant to the exchanges remained to be determined.

ERP No. F–USA–G11027–NM, White Sands Missile Range (WSMR), Implementation, Range-Wide, Las Cruces, NM.

Summary: Review of the Final EIS has resulted in no objection to the project as proposed.

ERP No. F–USN–K11089–HI, Pacific Missile Range Facility Enhanced Capabilities, To Accommodate Theater Ballistic Missile Defense (TBMD) Training & Testing and Theate Missile Defense (TMD) Testing, NPDES Permit, several counties, HI.

Summary: EPA expressed environmental concerns regarding the lack of commitment to proposed mitigation. EPA requested that the Record of Decision clearly document the mitigation measures that will be implemented.

ERP No. F–USN–K11093–HI, Barbers Point Naval Air Station, Disposal and Reuse of Land Facilities, HI.

Summary: Review of the Final EIS has been completed and no environmental objection were identified.

Other

ERP No. LF–USN–K11091–NV, Fallon Naval Air Station, Renewal of the B–20 Land Withdrawal, City of Fallon, Churchill County, NV.

Summary: Review of the Final EIS has been completed and no environmental objection were identified .

Dated: April 20, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–10285 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6330–4]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby

given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held on May 4–6, 1999, at the Ramada Plaza Hotel Pentagon in Alexandria, VA at Seminary Road and I–395. The CHPAC was created to advise the Environmental Protection Agency in the development of regulations, guidance and policies to address children's environmental health.

DATES: Tuesday, May 4, 1999, Work Group meetings only; plenary sessions Wednesday, May 5 and Thursday, May 6, 1999.

ADDRESSES: Ramada Plaza Hotel Pentagon, Alexandria, VA at Seminary Road and I–395.

AGENDA ITEMS: The meetings of the CHPAC are open to the public. The Outreach and Communications Work Group, the Science and Research Work Group, and the Regulatory Process Work Group will meet from 10:00 a.m. to 5:00 p.m. on Tuesday, May 4, 1999. The Economics Work Group will meet from 8:30 a.m. to 4:30 p.m. on Tuesday, May 4.

The plenary session will begin on Wednesday, May 5 from 8:30 a.m. to 5:15 p.m. and Thursday, May 6, from 8:45 a.m. to 12:00 p.m. The plenary session will open with introductions and a review of the agenda and objectives for the meeting. Some tentative agenda items include reports from the Work Groups, a presentation on key economics issues and a two panel discussions on EPA's proposed cancer guidelines. There will be a public comment period on Wednesday, May 5, 1999, from 4:45–5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Contact Paula R. Goode, Office of Children's Health Protection, USEPA, MC 1107, 401 M Street, SW, Washington, D.C. 20460, (202) 260–7778, goode.paula@epa.gov.

Dated: April 9, 1999.

E. Ramona Trovato,

Director, Office of Children's Health Protection.

[FR Doc. 99–10234 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6330–5]

Proposed Administrative Cashout De Minimis Settlement Under Section 122(g) of the Comprehensive Environmental Response Compensation and Liability Act; In the Matter of Tri-County/Elgin Landfill Site, Kane County, IL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past and projected future response costs concerning the Tri-County/Elgin Landfill site in Kane County, Illinois, with the settling parties listed in the Supplementary Information portion of this document. The settlement requires the 125 settling parties to pay $2,072,421.00 to the Hazardous Substance Superfund.

The total cost of the cleanup (without adjustments, such as the premium and the use of only a percentage of the cost of the groundwater component) is $25,649,139.43. This number is the sum of EPA's past costs of $2,536,732.00, plus past costs incurred by certain potentially responsible parties of $2,039,318.43, plus capital costs of $16,650,000.00 for the landfill cap and the gas extraction remedy components, plus the capital cost for the groundwater component of $3,623,089.00, plus EPA's estimated future oversight cost of $800,000.00. For purposes of the *de minimis* offer, the groundwater component costs were adjusted downward, and total future site costs were assigned a premium of 30%. These cost adjustments were for reasons of fairness. The *de minimis* generator class' share of responsibility, as reflected in the total site costs, was further adjusted by taking into consideration other parties, besides generators, who may be liable at the site. The generator class' allocated responsibility is 50%, and is reflected through a downward adjustment to the Total Site Cost. Thus, the generator site cost is 50% of the total site cost (because the transporters and the owner/operator also are potentially responsible for response costs). The owner/operator and transporter classes are assigned responsibility for the portion of the costs not assigned to the generator class. Payment amounts for each *de minimis* generator were calculated by multiplying the generator site cost by each *de minimis* generator's percentage share of volume contributed to the site.

Under the terms of the settlement, the *de minimis* generators who sign the Consent Order agree to pay their respective settlement amounts. In exchange for those payments, the United States covenants not to sue or take administrative action pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), relating to the Site. In addition, participating *de minimis* generators will be entitled to protection from contribution actions or claims as provided by sections 113(f) and 122(g)(5) of CERCLA, 42 U.S.C. 9613(f) and 9622(g)(5), for all response costs incurred and to be incurred by any person at the Site.

For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at EPA's Region 5 Office at 77 West Jackson Boulevard, Chicago, Illinois 60604 and at the Gail Borden Public Library in Elgin.

DATES: Comments must be submitted on or before May 24, 1999.

ADDRESSES: The proposed settlement is available for public inspection at EPA's Record Center, 7th floor, 77 W. Jackson Blvd., Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from Jeffrey A. Cahn, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604, telephone (312) 886–6670. Comments should reference the Tri-County/Elgin Landfill site, Kane County, Illinois, and EPA Docket No. V–W–99–C–507, and should be addressed to Jeffrey A. Cahn, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Cahn, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604, telephone (312) 886–6670.

SUPPLEMENTARY INFORMATION: The following is a list of the settling *de minimis* generators:

ACME Eyelet Stamping Company
ACME Screw Company

Advance Sheet Metal
Alumax Extrusions, Inc.
Americana Nursing Center
George J. Ball Company
Barker Lumber Co.
Barnhart Standard
Boehringer Mannheim Corp.
Bonnie Dundee Golf Club
Brady Ready Mix
Brunswick Bowling Division
Burren Transfer
Capsonic Group
Carefree Garden Products
Carlith Printers
Central Ink and Chemical
Checker Oil Co.
Chicago Northwestern Railroad
Chicago Title Insurance
City of West Chicago
Clark Oil & Refining Corp.
Clark Outdoor Spraying
Commercial Printing
Commonwealth Edison
Continental Envelope Corp.
Countryside Graphics
Crane Co.
Crest Motel
Crest Photo Lab
Days Gas Station
Dempsey Tool-Engineering
Ditchwitch of Illinois
Dominick's Finer Foods
Dukane Corp.
Dundee Animal Hospital
Dunkin Donut
Dupage County Airport
Dupage County Building Administration
Eaton Corp. Controls Division
Elgin Business Forms
Elgin Corrugated Box
Elgin Country Club
Elgin Courier News
Elgin Die Mold
Elgin Federal Savings
Elgin Key and Lock Co. Inc.
Elgin Realty
Elgin Sanitary District
Elgin State Bank
Elgin Sweeper Co.
Ferdon Plastics
Flex-Weld Inc.
Fox Electric Supply Co.
Fox Valley Marketing System
Glen Oak County Club
Globe Glass
Goodyear
Harbrace Publications
Haumiller Engineering Co.
Hawthorn Realty Group
Head Inc.& Screw Product
SA Healy Co.
Herbs Glass & Mirror
Inlaid Wood Craft
Inland Real Estate
International Harvester
IVCO Inc.
Jel-Sert
Jones Electric Co.
Jurs Auto Service
K Mart Auto
Katy Industries
Kearneys TV and Appliance
Kerr-McGee Chemical Corp.
Lake Cook Farm Supply
Lakeview Screw Machine Products
Lions Photo
Liquid Container
Ludwig Dairy Corp.
Majestic Distributors
Malcor Roofing Co.
Maremont Corp.
McWhorter Tech.
Metropolitan Sanitary Dist.
Municipal Ins. Co. of America
National Tea Co.
Nichols Homeshield
Northern Illinois Gas Co.
Northwestern Chemical Co.
Olsen Electronics
Olympic Controls Corp.
Orkin Exterminating
Otto Engineering
JH Patterson Lbr.
Pierce & Stevens Chemical
Quilt Master Inc.
Radio Shack
Renberg Garage
Rep Corp.
Revere Electric
Rollins Leasing Corp.
Safety Kleen Corp.
Saint Andrews Country Club
Schaumberg Dodge
Seven-Eleven
Seven-Up Bottling Co.
Shaped Wire, Inc.
Shell Oil Co.
So-Fro Fabrics
Spiegel Mail Order
Standard Oil Co.
Star Displays, Inc.
Steves Equipment
Stewart Warner
Suburban Plastics
Taco Bell
Tessendorf Mechanical Ind.
U.S. Life Service
W.J. Dennis Co.
W.R. Meadows
Walgreens Co.
West Chicago State Bank
Woolco Dept. Stores
Zurich-American Ins. Co.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601, *et seq.*

William E. Muno,

Director, Superfund Division.

[FR Doc. 99–10233 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Sunshine Act Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e) (2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Tuesday, April 20, 1999, the Corporation's Board of Directors determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Ellen S. Seidman (Director, Office of Thrift Supervision), concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum re: Proposed revision to Memorandum of Understanding between the FDIC and FICO Regarding the Collection of Assessments.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: April 20, 1999.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 99–10340 Filed 4–21–99; 10:39 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:20 a.m. on Tuesday, April 20, 1999, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) Matters relating to the Corporation's corporate, supervisory, and resolution activities, and (2) matters relating to an administrative enforcement proceeding.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice earlier than April 16, 1999, of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: April 20, 1999.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 99–10341 Filed 4–21–99; 10:39 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors: Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Heartland Bancshares, Inc., Lake Placid, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Heartland National Bank, Lake Placid, Florida (in organization).

2. South Alabama Bancorporation, Inc., Mobile, Alabama; to acquire 100 percent of the voting shares of Sweet Water State Bancshares, Inc., Sweet Water, Alabama, and thereby indirectly acquire Sweet Water State Bank, Sweet Water, Alabama.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Simmons First National Corporation, Pine Bluff, Arkansas; to merge with NBC Bank Corp., El Dorado, Arkansas, and thereby indirectly acquire National Bank of Commerce of El Dorado, El Dorado, Arkansas.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Amoret Bancshares, Butler, Missouri; to acquire 100 percent of the voting shares of C.J. Bancshares, Inc., Harrisonville, Missouri.

2. FirstBank Holding Company of Colorado ESOP, and FirstBank Holding Company of Colorado, both of Lakewood, Colorado; to acquire 100 percent of the voting shares of FirstBank of El Paso County, Colorado Springs, Colorado (in organization).

Board of Governors of the Federal Reserve System, April 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10133 Filed 4–22–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 20, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. The Banc Corporation, Birmingham, Alabama; to merge with C&L Banking Corporation, Bristol, Florida, and thereby indirectly acquire C&L Bank of Bristol, Bristol, Florida.

2. The Banc Corporation, Birmingham, Alabama; to acquire 100 percent of the voting shares of C&L Bank of Blountstown, Blountstown, Florida.

Board of Governors of the Federal Reserve System, April 20, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10270 Filed 4–22–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 20, 1999.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Fifth Third Bancorp, Cincinnati, Ohio; to acquire Emerald Financial Corp., Strongville, Ohio, and thereby indirectly acquire Strongville Savings Bank, Strongville, Ohio, and thereby engage in savings and loan activities, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, April 20, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10271 Filed 4–22–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Wednesday, April 28, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 21, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10339 Filed 4–21–99; 10:03 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0803]

Agency Information Collection Activities: Proposed Collection; Comment Request; Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the proposed collection of information concerning restrictions on the sale and distribution of cigarettes and smokeless tobacco in order to protect children and adolescents under the Federal Food, Drug, and Cosmetic Act (the act).

DATES: Submit written comments on the collection of information by June 22, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Heather M. Rubino, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 15–74, Rockville, MD 20857, 301–827–3322.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents—OMB No. 0910–0312—Extension

Part 897 (21 CFR part 897) reflects requirements in sections 502(e)(2) and 520(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352(e)(2) and 360j(e)).

Section 897.24 is intended to implement section 502(e)(2) of the act. Under section 502(e)(2) of the act, a device is misbranded unless its label bears the product's established name. Section 502(e)(4) of the act, in turn, explains that the "established name" with respect to a device means: (1) The applicable official name of the device designated under section 508 of the act (21 U.S.C. 358), (2) if there is no such name and the device is recognized in an official compendium, then the official title in such compendium, or (3) if neither (1) nor (2) apply, then "any common or usual name of such device." Here, no official names have been designated under section 508 of the act, and these products are not recognized in an official compendium. Consequently, FDA developed established names for these products under section 502(e)(4) of the act. Section 897.24 requires that each cigarette or smokeless tobacco product package, carton, box, or container of any kind that is offered for sale, sold, or otherwise distributed bear

whichever of the following established names is appropriate: "Cigarettes," "Cigarette Tobacco," "Loose Leaf Chewing Tobacco," "Plug Chewing Tobacco," "Twist Chewing Tobacco," "Moist Snuff," or "Dry Snuff."

Section 520(e) of the act authorizes the agency to, by regulation, require that a device be restricted to sale, distribution, or use "upon such other conditions as the [agency] may prescribe in such regulation, if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the [agency] determines that there cannot otherwise be reasonable assurance of its safety and effectiveness." In the **Federal Register** of August 28, 1996 (21 CFR 44396), the agency issued regulations restricting the sale and distribution of cigarettes and smokeless tobacco under this authority (hereinafter referred to as the August 1996 final rule).

Sections 897.30 and 897.32 are intended to help protect children and adolescents by reducing the appeal of cigarettes and smokeless tobacco to them. Section 897.30, in part, contains a comprehensive list of permissible forms of advertising and labeling; in the unlikely event that a person wishes to use a form of advertising or labeling that is not described in § 897.30, the rule directs persons to notify FDA. The rule's concept of permitted advertising is sufficiently broad to encompass almost all known forms of advertising, but the agency has provided a reporting estimate of 1 hour in the remote chance that a firm will provide such notice to FDA.

Section 897.32 would reduce the appeal of cigarettes and smokeless tobacco to children and adolescents by requiring most advertisements to use black text on white backgrounds, without any colors or pictures. It would also require advertising to include the product's established name and a statement of its intended use. In the August 1996 final rule, FDA estimated that approximately 25,000 pieces of labeling or advertising will be submitted to the agency under this provision. The agency arrived at this estimate by comparing the advertising expenditures by the cigarette and smokeless tobacco industries and by the pharmaceutical industry and the number of pieces of advertising that the agency receives from the pharmaceutical industry, and projecting that printed advertisements may increase due to the rule's effect on promotional activities (see 61 FR 44396 at 44597). FDA also estimated that the time required for such advertising is 1 hour based on the highest estimated time reported in industry comments on the proposed rule.

The text-only requirement of § 897.32 does not apply to advertisements in "adult" publications, as defined in § 897.32(a)(2). Under that definition, firms wishing to advertise in "adult" publications may need to retain records to demonstrate that the publication is an "adult" publication within the meaning of § 897.32. In the August 1996 final rule, FDA estimated that 31 respondents may be affected and that a total of 100,000 hours would be needed for such surveys (see 61 FR 44396 at 44612). The 31 respondents reflects the number of manufacturers as reported in a 1992 U.S. census of tobacco product manufacturers, and the estimated total time for these surveys would be 100,000 hours, assuming 100 surveys (for the approximately 100 magazines in which tobacco manufacturers advertise) at 1,000 hours per survey or approximately 3,226 hours per respondent.

The medical device reporting requirements (21 CFR 803.19 and 804.25) were addressed in a separate rulemaking that published in the **Federal Register** of May 12, 1998 (63 FR 26069 and 26129).

Description of Respondents: Cigarette and smokeless tobacco manufacturers, distributors, and retailers.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours	Total Capital Costs
897.24	2,000	1	2,000	40	80,000	$17 million
897.30	1	1	1	1	1	0
897.32	25,000	1	25,000	1	25,000	0
Total					105,001	$17 million

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Record-keepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours	Total Capital Costs	Total Operating & Maintenance Costs
97.32	31	1	31	3,226	100,000	$2 million	$1 million
Total					100,000	$2 million	$1 million

It should be noted that some information requested from respondents is already provided or possessed by the respondents. For example, § 897.24 makes "cigarettes" the established name for cigarettes, and cigarette packages already use that name. Therefore, there should not be any significant burden on respondents to comply with § 897.24.

FDA also notes that, due to ongoing litigation concerning FDA's authority to issue regulations pertaining to cigarettes and smokeless tobacco, §§ 897.24, 897.30, and 897.32 have not become effective. Nevertheless, FDA intends to submit the proposed collection of information to OMB for its review and clearance under the PRA so that it will continue to be able to collect the information once these provisions become effective.

Dated: April 15, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10227 Filed 4–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Registration and Listing Grassroots Meeting for Medical Device Manufacturers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following meeting: Registration and Listing Grassroots Meeting for Medical Device Manufacturers. The topic to be discussed is FDA's intention to propose changes to the current medical device registration and listing process. This meeting is being conducted to provide a forum in which FDA can obtain industry views on changes to the device registration and listing system that FDA is currently considering. The changes being considered are aimed at streamlining the collection of registration and listing data, improving the accuracy and quality of the data in the system, and decreasing the time it takes manufacturers to register their establishments and list their devices, while ultimately reducing FDA's cost of maintaining the registration and listing system.

DATES: The meeting will be held on May 25, 1999, 8:30 a.m. to 12 noon; registration will begin at 7:30 a.m.

ADDRESSES: The meeting will be held at 9200 Corporate Blvd., rm. 20B, Rockville, MD 20850.

FOR FURTHER INFORMATION CONTACT: Bryan H. Benesch, Food and Drug Administration, Center for Devices and Radiological Health, Office of Health and Industry Programs (HFZ–220), 1350 Piccard Dr., Rockville, MD 20850, 301–443–6597 ext. 131, (FAX) 301–443–8810, (e-mail) "BHB@CDRH.FDA.GOV".

Those persons interested in attending the meeting should fax or e-mail their registration including name, title, firm name, address, telephone, and fax number. There is no charge to attend this meeting, but advance registration is requested due to limited seating. If you need special accommodations due to a disability, please contact Bryan H. Benesch at least 7 days in advance.

SUPPLEMENTARY INFORMATION: Over the past one and a half years, FDA has reviewed the entire registration and listing process to determine if the process can be made more efficient and accurate. This was one of many reengineering efforts conducted by the Center for Devices and Radiological Health (CDRH). This reengineering effort has resulted in a number of suggestions aimed at improving the registration and listing process for both FDA and industry. This meeting will help FDA obtain the medical device industry perspective on the changes under consideration and suggestions for additional changes. FDA has announced two meetings on the same subject to be held April 20, 1999, in California (64 FR 12813, March 15, 1999).

Some of the changes that FDA is currently considering include the following:

(1) Require industry submission of registration and listing information through the World Wide Web (WEB). What are the advantages and disadvantages to industry, and how would industry be affected if WEB submissions were mandated?

(2) Require that owners and parent companies register, list, and take responsibility for the registration and listing of their establishments. What is the highest level in a company that should be responsible for registration and listing, and how should this level be defined/described?

(3) Require that additional data elements be submitted to FDA, e.g., premarket submission numbers for those devices that have gone through the premarket notification (510(k)), premarket approval, or product development protocol process.

(4) Because of the ease of submission through the WEB, require that firms register and list within 5 days (current requirement is 30 days) of entering into an operation that requires registration and listing.

A summary report of the meeting will be available on CDRH's website approximately 15 working days after the meeting. The CDRH home page may be accessed at "http://www.fda.gov/cdrh".

Dated: April 19, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10140 Filed 4–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0693]

"Guidance for Industry: On the Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for an Allergenic Extract or Allergen Patch Test"; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled "Guidance for Industry: On the Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for an Allergenic Extract or Allergen Patch Test." The guidance document is intended to provide guidance to applicants on the content and format of the chemistry, manufacturing and controls (CMC) and establishment description sections of the "Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use" (revised Form FDA 356h) for an allergenic extract or allergen patch test. This action is part of FDA's continuing effort to achieve the objectives of the President's "Reinventing Government" initiatives and the FDA Modernization Act of 1997, and is intended to reduce unnecessary burdens for industry without diminishing public health protection.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled "Guidance for Industry: On the Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for an Allergenic Extract or Allergen Patch Test" to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at

1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance document entitled "Guidance for Industry: On the Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for an Allergenic Extract or Allergen Patch Test." The guidance document is intended to provide guidance to applicants in completing the CMC section and the establishment description information of revised Form FDA 356h. The guidance document announced in this notice finalizes the draft guidance document entitled "Guidance for Industry: On the Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for an Allergenic Extract or Allergen Patch Test" published in the **Federal Register** of August 27, 1998 (63 FR 45826).

In the **Federal Register** of July 8, 1997 (62 FR 36558), FDA announced the availability of a revised Form FDA 356h that will be used as a single harmonized application form for all drug and licensed biological products. Manufacturers may voluntarily begin using this form for an allergenic extract or allergen patch test. FDA will announce in the future when manufacturers are required to use this form for all products. Use of the new harmonized Form FDA 356h will allow a biologic product manufacturer to submit one biologics license application instead of two separate applications (product license application and establishment license application).

This guidance document represents the agency's current thinking with regard to the content and format of the CMC and establishment description sections of a license application for an allergenic extract or allergen patch test. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The guidance document is intended to provide information and does not set forth requirements.

II. Comments

Interested persons, may at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document using the World Wide Web (WWW). For WWW access, connect to CBER at "http://www.fda.gov/cber/guidelines.htm".

Dated: April 16, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10228 Filed 4–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–278]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection;

Title of Information Collection: National Hospital Malpractice Insurance Survey;

Form No.: HCFA–R–278 (OMB# 0938–NEW);

Use: The Data collected from this survey will be used to collect two years of malpractice insurance costs data from a nationally representative sample of 800 hospitals. Along with the survey of hospitals, we will collect rate schedules from the commercial insurers and the offices of state insurance commissioners. As compared to the survey of hospitals which is a statistical sampling survey, the survey of the offices of state insurance commissioners and commercial insurance companies will not be a statistical sampling survey. We will match collected data in the rate schedules to the data from sampled hospitals in order to convert malpractice insurance costs of different level of coverage into costs of a constant level of coverage. The primary statistics will be used to rebase the input price index through weight adjustment and the annual percent change to update the operating prospective payment rates. Therefore, the NHMIS must allow estimates of the primary statistics for each hospital be adjusted by their rating basis, coverage elements, and types of coverage. The survey results will be used to estimate the weight of malpractice insurance costs in relation to goods and services hospitals purchase in order to furnish inpatient care and to calculate the malpractice insurance cost to change over time at the national level. The analytic results will be used to adjust Medicare operating reimbursement rates to Medicare participating hospitals and to prepare statistical summaries.;

Frequency: Annually;

Affected Public: Not-for-profit institutions, business or other for-profit, and State, Local, or Tribal Govt.;

Number of Respondents: 600;

Total Annual Responses: 600;

Total Annual Hours: 300.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your

request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 14, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–10280 Filed 4–22–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–0416]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Annual Early and Periodic Screening, Diagnostic, and Treatment Services (EPSDT) Participation Report and Supporting Regulations in 42 CFR 441.60; *Form No.:* HCFA–416 (OMB# 0938–0354); *Use:* States are required to submit an annual report on the provision of EPSDT services to HCFA pursuant to section 1902(a)(43) of the Social Security Act. These reports provide HCFA with data necessary to assess the effectiveness of State EPSDT programs. It is also helpful in developing trend patterns, national projections, responding to inquiries, and determining a State's results in achieving its participation goal.; *Frequency:* Annually; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 56; *Total Annual-Responses:* 56; *Total Annual Hours:* 1,568.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 15, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–10155 Filed 4–22–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration; Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Proposed Project: Feasibility Study To Evaluate the Positive Activities Campaign (PAC) (OMB No. 0930–0188 Revision)

The Center for Substance Abuse Prevention is conducting a feasibility study of the Positive Activities Campaign (PAC), an initiative aimed at the general public to encourage adults to become more involved in positive, skill-building activities with youth. The ultimate goal of the initiative is to reduce substance abuse among young people.

To determine the likely effectiveness of the campaign, CSAP's feasibility study consists of a process evaluation and an outcomes evaluation. The evaluation is assessing change in communities exposed to PAC, including change in adults' involvement with youth. Two treatment and two comparison communities have been selected for study. Data for the process evaluation are primarily from on-site interviews with key personnel in local youth-serving organizations (e.g, Boy Scouts, Boys and Girls Clubs); data for the outcomes evaluation are from baseline and 6-month followup telephone surveys of adults.

This revision to the currently approved information collection activities involves: (1) a third, 12-month followup telephone interview with the random sample of adults; and (2) because PAC is being expanded to serve civic membership organizations (e.g., Rotary Clubs, Lions Clubs, Kiwanis) application of the process evaluation activities with these groups, plus three telephone interviews with random samples of members of the civic organizations.

The table that follows shows the total response burden associated with this project. All of the currently approved burden will have been experienced by the time of OMB approval of the revision.

	Number of respondents	Responses/respondent	Burden/response	Total burden hrs.
Currently approved: (1,350)				
Additional 12-month telephone interview	1,600	1	0.10	160
Additional 12-month interview with local staff for process evaluation	150	1	1.0	150
Interviews with local-level staff for process evaluation	20	3	1.0	60
Telephone interviews with members of civic organizations	1,800	baseline 1	.14	252
	1,650	follow-up 2	.10	330
Total revised: 952*				

*Annualized over an 18-month approval period, the annual burden is 715 hours.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Daniel Chenok, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 18, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–10188 Filed 4–22–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Minority Fellowship Program

AGENCY: Center for Mental Health Services (CMHS), Center for Substance Abuse Prevention (CSAP), and the Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), DHHS.

ACTION: Notice of planned award for renewal of clinical training grants under the Minority Fellowship Program (MFP) to the American Nurses Association (ANA), the American Psychiatric Association (APA) and the Council on Social Work Education (CSWE).

SUMMARY: SAMHSA plans to award renewal MFP grants to the ANA, APA, and CSWE to help facilitate the entry of ethnic minority students into mental health and/or substance abuse careers and increase the number of nurses, psychiatrists, and social workers trained to teach, administer, and provide direct mental health and substance abuse services to ethnic minority groups. The project period is anticipated to be 3 years. The first year will be funded for up to $400,000 for each award.

This is not a general request for applications. The renewal clinical training grants will only be made to the ANA, APA, and the CSWE based on the receipt of satisfactory applications that are considered to have sufficient merit by an Initial Review Group and the National Advisory Council.

Authority/Justification

The awards will made under the authority of Section 303 of the Public Health Service Act (PHS). The authority to administer this program has been delegated to the Director, CMHS. The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.244.

Background

Section 303 of the Public Health Service Act assigns to the Secretary, acting through the SAMHSA, certain responsibility for the clinical training of mental health professionals. SAMHSA is concerned with the treatment of underserved priority populations; i.e., adults with serious mental illness; children with serious emotional disturbance; elderly, ethnic minority and/or rural populations with mental and substance abuse disorders. SAMHSA also considers the lack of suitably trained professionals to be a major cause of the lack of access for ethnic minority communities to appropriate mental health and substance abuse services. Accordingly, SAMHSA has the responsibility for providing support to facilitate the entry of ethnic minority students into mental health careers and increase the number of professionals trained at the doctoral-level to teach, administer, and provide direct mental health and substance abuse services to ethnic minority communities.

Over the past several decades, the Federal mental health clinical training program at SAMHSA (and previously at the National Institute of Mental Health [NIMH]) has addressed this gap primarily by attempting to increase the numbers of professionals who wish to dedicate themselves to serving ethnic minority populations with mental and addictive disorders.

Renewal applications may be submitted only by the ANA, APA, and CSWE. These professional organizations have unique access to those students entering their respective profession. The fields of nursing, psychiatry, and social work have been nationally recognized for decades as part of the four core behavioral health disciplines included in the MFP (along with psychology). Nursing, psychiatry, and social work provide part of an essential core of services for individuals with serious mental illness and also less severe mental disorders. The ANA and APA are the largest national professional organizations in the country for nursing and psychiatry, respectively. The ANA and APA and their affiliates have activities in all major areas of national policies affecting nursing and psychiatry as professions, including education and training. In the field of social work, the CSWE is the leading national organization which is focused just on the education and training of social workers. All three organizations, the ANA, APA, and CSWE, along with their affiliates, have direct involvement in curriculum development, school accreditation, and pre-/post-doctoral training. The ANA, APA, and CSWE have had decades of experience in working directly with university training programs. Because of the above unique characteristics and long experience, the ANA, APA, and CSWE were chosen more than 20 years ago as the exclusive representatives for the field of nursing, psychiatry, and social work. During that time, the ANA, APA, and CSWE have administered their MFP programs exceptionally well. In addition, the ANA, APA, and CSWE have recruited excellent students, assured that all program requirements were satisfied, and effectively monitored the progress of fellows during and after the fellowship period. These MFP grantees continue in their unique position to represent these core mental health and substance abuse disciplines exceptionally well, and eligibility has been restricted to the ANA, APA, and CSWE, accordingly.

Therefore, because the APA's, ANA's and CSWE's grant support will end in FY 1999, SAMHSA is providing additional support for up to 3 years via renewal grant awards.

FOR FURTHER INFORMATION CONTACT: Questions concerning the MFP may be directed to Mr. James Blair, Division of State and Community Systems Development, CMHS/SAMHSA, Room 15C–26, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–5850.

Dated: April 18, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–10141 Filed 4–22–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–16]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless.

Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 15, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 99–9858 Filed 4–22–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; As Amended; Revisions to an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to modify an existing Privacy Act system of records notice, OS–79, "General Personnel Records." The revisions will update the name and number of the system and the address of the system locations and system managers.

EFFECTIVE DATE: These actions will be effective on April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Department of the Interior is proposing to amend the system notice for OS–79, "General Personnel Records," to update the name and number of the system to more accurately reflect its Department-wide scope, and to update the address of the system locations and system managers to reflect changes that have occurred since the notice was last published. Accordingly, the Department of the Interior proposes to amend the "General Personnel Records," OS–79, system notice in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/DOI–79

SYSTEM NAME:

Interior Personnel Records—Interior, DOI—79.

Note: This system complements OPM/GOVT–1, the Government wide system for general personnel records maintained by the Office of Personnel Management. This notice incorporates by reference but does not repeat all of the information contained in OPM/GOVT–1.

SYSTEM LOCATION:

Official personnel files, in paper and micro format, of current and recently separated employees are located at the personnel offices of the bureaus which currently employ (or employed) the individuals. Automated personnel records are maintained in the Federal Personnel Payroll System (FPPS) managed by the National Business Center in Denver, Colorado.

(1) Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) FPPS Program Management Division, National Business Center, U.S. Department of the Interior, 7301 West Mansfield Avenue, MS D–2400, Denver, CO 80235.

(3) Bureau personnel offices:

(a) Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW, Washington, DC 20245.

(b) U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(c) U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(d) Bureau of Reclamation, P.O. Box 25001, Denver, CO 80225.

(e) Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(f) National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(g) Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(h) Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and recently separated employees of the Department of the Interior.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current and historical personnel data for each employee of the Department.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 2951, 5 U.S.C. 2954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The official personnel records (in paper or micro format) maintained by the servicing personnel offices on all Departmental employees provide basic data for preparation and verification of personnel reports and documents. They also provide a comprehensive and continuing record of each employee's service, status, skills, and personnel history, for use in the merit promotion program, reduction in force program, and to effect other personnel actions. Automated records are used to generate reports and listings, produce standard

personnel management documents, establish and verify entitlements to pay and benefits, and provide historical data.

Routine use disclosures outside the Department are the same as those listed in, and can be found in, the system notice for OPM/GOVT–1, the Government wide system for general personnel records maintained by the Office of Personnel Management.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on lists and forms, on microfilm or microfiche, and in computer-processible storage media.

RETRIEVABILITY:

Records are retrieved by a variety of personal identifiers, including name of individual, birth date, Social Security number, and/or other identification number.

SAFEGUARDS:

Access to all records in the system is limited to authorized personnel whose official duties require such access. Bureau officials generally have access only to records pertaining to employees of their bureaus. Paper or micro format records are maintained in locked metal file cabinets in secured rooms. Electronic records are maintained with safeguards meeting the security requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are maintained in accordance with approved retention and disposal schedules. Some records may be retained indefinitely as a basis for longitudinal work history statistical studies.

SYSTEM MANAGER(S) AND ADDRESSES:

(1) Director, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Chief, FPPS Program Management Division, National Business Center, U.S. Department of the Interior, 7301 West Mansfield Avenue, MS D–2400, Denver, CO 80235.

(3) Bureau personnel officers:

(a) Director of Administration, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW, Washington, DC 20245.

(b) Personnel Officer, U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(c) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(d) Labor Relations Officer, Bureau of Reclamation, P.O. Box 25001, Denver, CO 80225.

(e) Personnel Officer, Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(f) Personnel Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(g) Personnel Officer, Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(h) Personnel Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Departmental employees and agency officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–10212 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–RJ–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; As Amended; Revisions to an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to modify an existing Privacy Act system of records notice, USGS–04, "Employee Assistance Program Records." The revisions will update the name and number of the system, the system storage and safeguards statements, and the address of the system managers.

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the Office of the Secretary Privacy Act Officer, U.S. Department of the Interior, National Business Center, MS–1414 MIB, 1849 C Street NW, Washington, DC 20240. Comments received within 40 days of publication in the **Federal Register** will be considered. The system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination.

FOR FURTHER INFORMATION CONTACT: Director, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Department of the Interior is proposing to amend the system notice for USGS–04, "Employee Assistance Program Records," to expand the scope of the system notice from bureau-wide to Department-wide coverage. In the process, it will update the name and number of the system to more accurately reflect its new Department-wide scope, update the storage and safeguards statements to account for those records that are maintained in automated format, and add the addresses of the system managers for the Departmental office and the remainder of the bureaus. Accordingly, the Department of the Interior proposes to amend the "Employee Assistance Program

Records," USGS–04, system notice in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary, Privacy Act Officer, National Business Center.

INTERIOR/DOI–04

SYSTEM NAME:

Employee Assistance Program Records—Interior, DOI–04.

SYSTEM LOCATION:

Records are located with the contractors providing counseling services under the Employee Assistance Program (EAP).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of the Interior and their families who seek, are referred to, and/or receive assistance through the Employee Assistance Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors (Federal, State, local government, or private), the problem assessment, the recommended plan of action to correct the major issue, referral to community or private resource for assistance with personal problems, referral to community or private resource for rehabilitation or treatment, results of referral, and other notes or records of discussions held with the employee made by the Employee Assistance Program counselor. Additionally, records in this system may include documentation of treatment by a therapist or at a Federal, State, local government, or private institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 290dd–1; 42 U.S.C. 290ee–1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by an Employee Assistance Program Counselor to document the nature of an individual's problem and progress made to solve the problem. The primary uses of these records are:

(1) For the Employee Assistance Program counselor to document the nature of an individual's problem and progress made to solve the problem.

(2) To record an individual's participation in and the results of community or private referrals for solution of problems, rehabilitation, or treatment programs. These records and the information in them information may be used to disclose information to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report or otherwise disclose patient identities in any manner. (When such records are provided to qualified researchers employed by the Department of the Interior, all patient identifying information will be removed). Note: Disclosure of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR part 2. Disclosure of records pertaining to the physical and mental fitness of employees are, as a matter of Department policy, afforded the same degree of confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in paper format are stored in file folders. Records maintained in electronic format are stored on disk and on other appropriate media.

RETRIEVABILITY:

Records are retrieved by the name of the individual receiving assistance.

SAFEGUARDS:

Access to records is strictly limited to those persons employed by the contractors who are directly involved in the alcohol and drug abuse prevention function of the Department as that term is defined in 42 CFR, part 2. Paper format records are maintained in locked metal file cabinets in secured rooms. Electronic records are maintained with safeguards meeting the security requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with approved agency schedules. (These include the U.S. Geological Survey's Bureau Records Disposition Schedule, RCS/Item 405–04 a and b.)

SYSTEM MANAGER(S) AND ADDRESS:

(1) Departmental office: Team Leader, Employee and Labor Relations Group, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Bureau offices:

(a) Director of Administration, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW, Washington, DC 20245.

(b) Chief, Branch of Employee/Labor Management Relations, Office of Personnel, U.S. Geological Survey, 601 National Center, Reston, Virginia 20192.

—Atlanta Personnel Officer, U.S. Geological Survey, 3850 Holcomb Bridge Rd, Norcross, Georgia 30092.

—Rolla Personnel Officer, U.S. Geological Survey, 1400 Independence Road, Rolla, Missouri 65401.

—Chief, Employee Relations Section, Central Region Personnel Branch, U.S. Geological Survey, Denver Federal Center, Denver, Colorado 80225.

—Western Region EAP Administrator, Employee Relations and Development Section, Western Region Personnel Branch, 345 Middlefield Road, Menlo Park, California 94025.

(c) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(d) Labor Relations Officer, Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(e) Personnel Officer, Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(f) Personnel Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(g) Personnel Officer, Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(h) Personnel Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on him or her should address his/her request to the appropriate System Manager. The request must be in writing, contain the individual's name and date of birth, and be signed by the requestor, as required by 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, be signed by the requestor, and comply with the Department's Privacy Act Regulations regarding verification of identity and access to records as required by 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, be signed by the requestor, and comply with the Department's Privacy Act Regulations regarding verification of identity and amendment of records as required by 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, the Employer Assistance Program staff member who records the counseling session, and the therapists or institutions used as referrals or providing treatment.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–10214 Filed 4–22–99; 8:45 am]
BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; As Amended; Revisions to an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to modify an existing Privacy Act system of records notice, OS–20, "Secretarial Controlled Correspondence File." The revisions will update the record source categories statement and the address of the system location and system manager.

EFFECTIVE DATE: These actions will be effective on April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Executive Secretariat, U.S. Department of the Interior, 1849 C Street NW, MS–7229 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Department of the Interior is proposing to amend the system notice for OS–20, "Secretarial Controlled Correspondence File," to update the record source categories statement and the address of the system location and system manager to reflect changes that have occurred since the notice was last published. Accordingly, the Department of the Interior proposes to amend the "Secretarial Controlled Correspondence File," OS–20, system notice in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/OS–20

SYSTEM NAME:

Secretarial Controlled Correspondence File—Interior, OS—20.

SYSTEM LOCATION:

Office of Executive Secretariat, U.S. Department of the Interior, 1849 C Street NW, MS–7229 MIB, Washington, DC 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have written to the Secretary of the Interior on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information identifying the author(s) of correspondence received, date and subject of the correspondence, disposition of the correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 43 U.S.C. 1457; 44 U.S.C. 3101; Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to ascertain the status of official correspondence sent to the Secretary of the Interior.

Disclosures outside the Department of the Interior may be made:

(1) To another Federal agency to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(2) To the Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when: (a) One of the following is a party to the proceeding or has an interest in the proceeding: (1) The Department or any component of the Department; (2) Any Departmental employee acting in his or her official capacity; (3) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee; or (4) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and (b) The Department deems the disclosure to be: (1) Relevant and necessary to the proceeding; and (2) Compatible with the purpose for which it compiled the information.

(3) To the appropriate Federal, State, tribal, local or foreign governmental agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation order or license, when the Department becomes aware of an indication of a violation or potential violation of the statute, rule, regulation, order or license.

(4) To a congressional office in response to an inquiry to that office by the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in an automated database.

RETRIEVABILITY:

Records are retrieved by a unique number assigned by the automated system to each letter received, name of correspondent(s), subject(s) of correspondence, date of correspondence, date correspondence received in the Office of Executive Secretariat, and disposition of correspondence.

SAFEGUARDS:

Records are maintained in a secure database with access limited by security software. Database is installed on hardware located in a secure room.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with General Records Schedule No.23, Item No.3, which you can find at http://www.nara.gov.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Office of Executive Secretariat, U.S. Department of the Interior, 1849 C Street NW, MS–7229 MIB, Washington, DC 20240.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on him or her should address his/her request to the System Manager. The request must be in writing, signed by the requestor, state that the requester seeks information on his/her records, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the System Manager. The request must be in writing, signed by the requestor, and

comply with the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

The information contained in this system of records is obtained both from the individuals to whom the records pertain and the agency officials who respond to the correspondence received.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–10215 Filed 4–22–99; 8:45 am]
BILLING CODE 4310–RP–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; As Amended; Revisions to an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary (OS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, OS–82, "Executive and Manager Development Program (EMDP)." The revisions will update the system name and number, the categories of records in the system, safeguards, and retention and disposal statements, and address of the system locations and system managers.

EFFECTIVE DATE: These actions will be effective on April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Team Leader, Executive Resources and Career Management Group, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Department of the Interior is proposing to amend the system notice for OS–82, "Executive and Manager Development Program (EMDP)," to update the name of the system to more adequately describe the current executive and managerial training being provided to Departmental employees, and the system number to more accurately reflect the Departmentwide scope of the system. The Executive and Manager Development Program described in the system notice when it was first published has been replaced by the Senior Executive Service Candidate Development Program, a competitive twelve-month developmental program open to GS–14 and GS–15 applicants to enhance candidates' managerial and leadership skills in preparation for Office of Personnel Management certification of graduates' managerial competencies for noncompetitive Senior Executive Service selection, and the Team Leadership Program, a related developmental program open to applicants at the GS–11 through GS–13 levels. The Department is also proposing to update the categories of records in the system statement to indicate, more specifically, what types of records are being maintained on individuals covered by the system, and to update the safeguards and retention and disposal statements and the address of the system locations and system managers to reflect changes that have occurred since the notice was last published. Accordingly, the Department of the Interior proposes to amend the "Executive and Manager Development Program (EMDP)," OS–82 system notice in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary, Privacy Act Officer, National Business Center.

INTERIOR/DOI–82

SYSTEM NAME:

Executive Development Programs Files—Interior, DOI–82.

SYSTEM LOCATION:

(1) Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Department of the Interior University, National Business Center, U.S. Department of the Interior, 1849 C Street NW, MS–7129 MIB, Washington, DC 20240.

(3) Bureau personnel offices:

(a) Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW, Washington, DC 20245.

(b) U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(c) U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(d) Bureau of Reclamation, P.O. Box 25001, Denver, CO 80225.

(e) Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(f) National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(g) Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(h) Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Departmental employees who apply for, participate in, and/or graduate from Departmentwide executive development programs such as the Senior Executive Service Candidate Development Program and the Team Leadership Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application and nomination documents, reports of training assignments, evaluation statements, and lists of graduates. Application and nomination documents contain personal information that may include the following (or similar) data elements: name, date of birth, Social Security number, home address and telephone number, physical limitations or interests which might affect type of location of assignment, career interests, education history, work or skills experience, outside activities (including membership in professional organizations), listing of special qualifications, licenses and certificates held, listing of honors and awards, career goals and objectives, and annual supervisory evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301; Pub. L. 91–616, Pub. L. 92–255, Pub. L. 93–282, Pub. L. 79–258 (5 U.S.C. 7901); OMB Circular A–72.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are:

(a) By personnel staffing specialists, evaluation panel members, and selecting officials to determine selections for the programs.

(b) By employee development specialists for purposes of review in connection with training and employee development activities, transfers, promotions, reassignments, adverse actions, disciplinary actions, and determination of qualifications, of an individual.

(c) By bureau and Departmental officials for setting out developmental goals and objectives of the employee

and for documenting attainment of these goals. Disclosures outside the Department of the Interior may be made:

(1) To the Office of Personnel Management for the purpose of obtaining Qualifications Review Board certification of the executive qualifications of Senior Executive Service Candidate Development Program participants.

(2) Educational institutions providing training and development opportunities.

(3) To the U.S. Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when: (a) One of the following is a party to the proceeding or has an interest in the proceeding: (1) The Department or any component of the Department; (2) Any Department employee acting in his or her official capacity; (3) Any departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee; or (4) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and (b) The Department deems the disclosure to be: (1) Relevant and necessary to the proceeding; and (2) Compatible with the purpose for which the Department compiled the information.

(4) To appropriate Federal, State, tribal, local or foreign agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation order or license, when we become aware of an indication of a violation or potential violation of the statute, rule regulation, order or license.

(5) To a congressional office in response to an inquiry to that office by the individual to whom the record pertains.

(6) To a Federal, State, or local agency which has requested information relevant or necessary to the hiring or retention of an employee, or the issuing of a security clearance, license, grant or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(7) To a Federal, State, or local agency where necessary to obtain information relevant to the hiring or retention of an employee, or the issuing of a security clearance, license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file folders, in file cabinets. Electronic records are stored on disk, tape or other appropriate media.

RETRIEVABILITY:

Records are retrieved by name of individual.

SAFEGUARDS:

Access to records is limited to authorized personnel. Paper records are maintained in locked file cabinets. Electronic records are maintained with safeguards meeting minimum security requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records on applicants are retained for two years after close of selection process. Records on current participants and graduates are retained in accordance with established retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Team Leader, Executive Resources and Career Management Group, Office of Personnel Policy, U.S. Department of the Interior, 1849 C Street NW, MS–5221 MIB, Washington, DC 20240.

(2) Vice President, Department of the Interior University, National Business Center, U.S. Department of the Interior, 1849 C Street NW, MS–7129 MIB, Washington, DC 20240.

(3) Bureau personnel officers:

(a) Director of Administration, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW, Washington, DC 20245.

(b) Personnel Officer, U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

(c) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 1849 C Street NW, Washington, DC 20240.

(d) Labor Relations Officer, Bureau of Reclamation, PO Box 25001, Denver, CO 80225.

(e) Personnel Officer, Bureau of Land Management, Division of Personnel (530), 1849 C Street NW, Washington, DC 20240.

(f) Personnel Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 1849 C Street NW, Washington, DC 20240.

(g) Personnel Officer, Minerals Management Service, Personnel Division, 1110 Herndon Parkway, Herndon, VA 22070.

(h) Personnel Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue NW, Washington, DC 20245.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Departmental applicants and agency officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–10216 Filed 4–22–99; 8:45 am]
BILLING CODE 4310–RJ–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Natural Gas Pipeline Right-of-Way Permit Application To Cross Lower Rio Grande Valley National Wildlife Refuge

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior, DOI.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) advises the public that Tennessee Gas Pipeline Company has applied for a right-of-way easement for the installation of a 24″ O.D. welded steel pipeline across the Lower Rio Grande Valley National Wildlife Refuge, Hidalgo Bend Tract #354. The 0.79 mile right-of-way will consist of a 100 foot construction right-of-way, with additional work space of varying widths, which will revert to a 50 foot right-of-way 30 year easement. The project will temporarily impact 7.92 acres and the 30 year permanent easement area will comprise 4.92 acres. Notice of the complete project, which allows for bi-directional transportation

of natural gas between the United States and Mexico, was previously published in the **Federal Register** on November 6, 1998, (63 FR 59,962) and an environmental assessment was subjected to public review. As a result, the applicant received authorization for the 9.3 mile pipeline project from the Federal Energy Regulatory Commission in Docket No. CP99–29 pursuant to sections 157.205, 157.208 and 157.212 of the Commission's Regulations. In addition, a Natural Gas Act (NGA) Section 3 Presidential Permit has been issued by the Secretary of State and the Secretary of Defense.

This notice informs the public that this right-of-way application and associated documents is available for review.

DATES: Written comments should be received on or before May 24, 1999 to receive consideration by the service.

ADDRESSES: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306 (RE), Albuquerque, New Mexico 87103–1306, Attention: Wanda McKean, Realty Specialist.

FOR FURTHER INFORMATION CONTACT: Wanda McKean, Realty Specialist at the above Albuquerque, New Mexico address (505) 248–7415 or FAX (505) 248–6803.

Dated: April 16, 1999.

Stephen C. Helfert,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 99–10189 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Privacy Act of 1974; As Amended; Deletion of Systems of Records

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed deletion of existing systems of records.

SUMMARY: We conducted a review of our Privacy Act systems pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), and the President's May 14, 1998, memorandum concerning Personal Information in Federal Records. As a result of our review, we found 12 Privacy Act systems that needed deletion. We are deleting three systems because they are now part of Department of the Interior, Office of the Secretary systems, another system because it no longer contains personal identifiers, three systems because we no longer collect the information, and five systems because they are now part of another agency's records.

DATES: These actions will be effective on April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Johnny R. Hunt, Service Privacy Act Officer, U.S. Fish and Wildlife Service, Phone: 703/358–1730.

SUPPLEMENTARY INFORMATION: We list the twelve systems of records proposed for deletion and the reasons for deletion below.

1. FWS–1, "Labor Cost Information Records," previously published in the **Federal Register** on April 11, 1977 (42 FR 19081). The system of records is now part of a Department of the Interior, Office of the Secretary system-OS–85 entitled "Payroll, Attendance, Retirement, and Leave Records—Interior, Office of the Secretary-85."

2. FWS–2, "Travel Records", previously published in the **Federal Register** on December 6, 1983 (48 FR 54715). The system of records is now part of an Department of the Interior, Office of the Secretary system—OS–88 entitled "Travel-Interior, Office of the Secretary-88."

3. FWS–3, "Security File," previously published in the **Federal Register** on March 24, 1981, (46 FR 18368). The system of records is now part of a Department of the Interior, Office of the Secretary system—OS-45 entitled "Security Clearance Files and Other Reference Files—Interior, Office of the Secretary."

4. FWS–6, "Hunting and Fishing Survey Records," previously published in the **Federal Register** on March 24, 1981 (46 FR 18370). We receive this information from the Department of Commerce, Bureau of Census without personal identifiers. We disposed of any records that contained personal identifiers in accordance with the U.S. Fish and Wildlife Service Records Disposition Schedule.

5. FWS–8, "Fish Disease Inspection Reports," previously published in the **Federal Register** on March 24, 1981 (46 FR 18371). We no longer collect this information. Records containing personal information were disposed of in accordance with the U.S. Fish and Wildlife Service Records Disposition Schedule. We transferred any remaining records to those States which still inspect private facilities.

6. FWS–9, "Farm Pond Stocking Report," previously published in the **Federal Register** on March 24, 1981 (46 FR 18372). We are no longer involved in the Farm Pond Stocking Program. We disposed of the records in accordance with the U.S. Fish and Wildlife Service Records Disposition Schedule.

7. FWS–13, "North American Breeding Bird Survey," previously published in the **Federal Register** on April 11, 1977 (42 FR 19086). We no longer maintain the information. The Department of Interior, U.S. Geological Survey is now responsible for the system and data contained therein.

8. FWS–14, "Great Lakes Commercial Fisheries Catch Records," previously published in the **Federal Register** on April 11, 1977 (42 FR 19086). We no longer maintain the information. The Department of Interior, U.S. Geological Survey is now responsible for the system and the data contained therein.

9. FWS–17, "Diagnostic Extension Service Records," previously published in the **Federal Register** on April 11, 1977 (42 FR 19088). We no longer maintain the information. The Department of the Interior, U.S. Geological Survey is now responsible for the system and the data contained therein.

10. FWS–23, "Motor Vehicle Permit Log," previously published in the **Federal Register** on March 24, 1981 (46 FR 18376). We no longer collect this information. We disposed of the records in accordance with the U.S. Fish and Wildlife Service Records Disposition Schedule.

11. FWS–28, "Avitrol Authorization Records," previously published in the **Federal Register** on March 24, 1981 (46 FR 18379). We no longer maintain the information. The Department of Agriculture is now responsible for the system and the data contained therein.

12. FWS–29, "Animal Damage Control Non-Federal Personnel Records," previously published in the **Federal Register** on December 6, 1983, (48 FR 54722). We no longer maintain the information. The Department of Agriculture is now responsible for the program. The records are now part of a system of records entitled "Animal Damage Control Non-Federal Personnel Records—USDA/APHIS–7." We transferred the previous records when the Department of Agriculture assumed responsibility for the program.

Roy M. Francis,

Departmental Privacy Act Officer.

[FR Doc. 99–10211 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

Privacy Act of 1974; As Amended; Revisions to the Existing System of Records

AGENCY: Office of Hearings and Appeals, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of Hearings and Appeals is issuing public notice of its intent to modify an existing Privacy Act system of records, OHA–01, "Hearings and Appeals Files." The revisions will update the address of the system locations in its regional offices and the authority for maintenance of the system.

EFFECTIVE DATE: These actions will be effective April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203.

SUPPLEMENTARY INFORMATION: In this notice, the Department of the Interior is amending OHA–01, "Hearings and Appeals Files," to update the address of the system locations in the regional offices and the authority for maintenance of the system. Accordingly, the Office of Hearings and Appeals proposes to amend "Hearings and Appeals Files," OHA–01, in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/OHA–01

SYSTEM NAME:

Hearings and Appeals Files—Interior, OHA–01.

SYSTEM LOCATION:

(1) National headquarters: Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(2) Field offices: Office of Hearings and Appeals, Hearings Division, Offices of Administrative Law Judges. (Contact the System Manager to obtain a current address list for these field offices).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in hearings and appeals proceedings before the Hearings Division, Appeals Boards, and/or the Director of the Office of Hearings and Appeals (or his/her designee/s).

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

Information assembled in case files pertaining to hearings proceedings, and to appeals to the Department relating to:

(1) Contract disputes arising out of findings of fact or decisions by contracting officers of any bureau or office of the Department, or any field installation thereof, which are considered and decided finally for the Department by the Interior Board of Contract Appeals.

(2) Indian probate matters, including determination of heirs, and approval of wills, except as to members of the Five Civilized Tribes, and resolution of appeals to the Department in such matters; proceedings in Indian probate relating to Tribal acquisition of certain interests of decedents in trust and restricted lands; and appeals pertaining to administrative actions of Bureau of Indian Affairs officials in cases involving determinations, findings and orders protested as a violation of a right or privilege of the appellant, which are considered and decided finally for the Department by the Interior Board of Indian Appeals.

(3) Appeals from decisions rendered by Departmental officials relating to the use and disposition of mineral resources in certain acquired lands of the United States and in the submerged lands of the Outer Continental Shelf, which are considered and decided finally for the Department by the Interior Board of Land Appeals,

(4) Appeals from orders and decisions issued by Departmental officials and administrative law judges in proceedings relating to surface coal mining control and reclamation which are considered and decided finally for the Department by the Interior Board of Land Appeals.

(5) Wildlife civil penalty assessment hearings before administrative law judges of the Office of Hearings and Appeals and appeals from their orders and decisions which are considered and finally decided for the Department by the Director, Office of Hearings and Appeals, or ad hoc appeals boards appointed by him.

(6) Appeals from orders and decisions of Departmental bureaus pertaining to relocation assistance benefits claims, or requests for waiver of claims for erroneous overpayments, considered and finally decided for the Department by the Director, Office of Hearings and Appeals, or ad hoc appeals boards appointed by him/her.

(7) Grievance proceedings involving employees of the Department, in which hearings are conducted and recommended decisions are prepared by Office of Hearings and Appeals attorneys and hearing examiners under authority delegated by the Director, Office of Hearings and Appeals.

(8) Proceedings and decisions by administrative law judges and the Director, Office of Hearings and Appeals, concerning nondiscrimination in Federally assisted programs in connection with which Federal financial assistance is extended under laws administered in whole or in part by the Department of the Interior Effectuation of Title VI of the Civil Rights Act of 1964.

(9) Proceedings and decisions by administrative law judges and the Director, Office of Hearings and Appeals, concerning nondiscrimination in activities conducted under permits, rights-of-way, public land orders, and other Federal authorizations granted or issued under Title II of the Trans-Alaska Pipeline Authorization Act.

(10) Proceedings and decisions by the Director, Office of Hearings and Appeals, or his/her designee/s, in matters arising under various statutes or Departmental regulations providing for a hearing and/or a right to appeal within the Department as set forth in 43 CFR part 4.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 43 CFR Part 4; 41 U.S.C. 601; 43 U.S.C. 1201; 43 U.S.C. 1701; 25 U.S.C. 2, 9, 372, 373, 373a, 373b, 374; 43 U.S.C. 315a; 43 U.S.C. 1601–1628; 5 U.S.C. 551; 30 U.S.C. 1202 et seq.; 43 U.S.C. 1331; 30 U.S.C. chap. 2, 3, 3A, 5, 7, 15, 16, 23, 25 and 29.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the system is the adjudication of appeals and determination of issues in hearings and appeals proceedings.

Disclosure outside the Department of the Interior may be made:

(1) To the U.S. Department of Justice, or to a court or adjudicative body with jurisdiction, when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or compatible with the purpose for which the records were compiled.

(2) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of, or for enforcing or implementing a statute, rule, regulation,

order or license, when the disclosing agency becomes aware of information indicating the violation or potential violation of a statute, rule, regulation, order or license.

(3) To a congressional office in connection with an inquiry an individual covered by the system has made to the congressional office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual form in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name of the appellant, claimant, or other party, or by designated Office of Hearings and Appeals docket number.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Records are maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are retained in accordance with approved records retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager. The request must be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager. The request must be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Records in the system contain information submitted by all parties to the adjudication, including but not limited to the following categories of individuals: appellants, claimants, grievants, and other persons involved in the hearings and appeals proceedings, and government officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–10213 Filed 4–22–99; 8:45 am]
BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU–76195]

Notice of Coal Lease Offering by Sealed Bid; The Pines Tract

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155. Notice is hereby given that at 11 a.m., May 20, 1999, certain coal resources in lands hereinafter described in Sevier and Emery Counties, Utah will be offered for competitive lease by sealed bid of $100.00 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (41 Stat. 437). However, no bid will be accepted for less than fair market value as determined by the authorized officer. A company or individual is limited to one sealed bid. If a company or individual submits two or more sealed bids for this tract, all of the company's or individual's bids will be rejected.

This lease is being offered for sale under the provisions set forth in the regulations for Leasing on Application at 43 CFR 3425.

The lease sale will be held in the State of Utah, Division of Community and Economic Development Conference Room, 324 South State Street, Suite 501, Salt Lake City, Utah, at 11 p.m. on May 20, 1999. At that time, the sealed bids will be opened and read. No bids received after 10 a.m., May 20, 1999, will be considered.

Coal Offered

The coal resources to be offered consist of all recoverable reserves available in the following described lands located in Sevier and Emery Counties, Utah, approximately 5 miles northwest of Emery, Utah on public land located in the Manti-LaSal National Forest:

T. 20 S., R 5 E., SLM, Utah
Sec. 35, S2NE, SENW, NESW, S2SW, SE;
Sec. 36, W2SW, SESW.
T. 21 S., R. 5 E., SLM, Utah
Sec. 1, lots 3, 4, S2SW, SWSE;
Sec. 2, lots 1–4, S2S2;
Sec. 10, E2;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, E2;
Sec. 22, E2;
Sec. 23, all;
Sec. 24, all;
Sec. 25, N2, N2S2;
Sec. 26, N2, NESW, E2NWSW, SE.
T. 21 S., R. 6 E., SLM, Utah
Sec. 19, lots 3, 4, E2SW;
Sec. 30, lots 1–3, E2NW, NESW.
Containing 7,171.66 acres

The minable portions of the seams in this area are from 6 to 14 feet in thickness. This tract contains an estimated 60 million tons of recoverable high volatile C bituminous coal.

The estimated coal quality using weighted averages of samples on an as-received basis is:

11,539	BTU/lb.;
8.37	Percent moisture:
0.5	Percent sulphur;
8.78	Percent ash;
45.98	Percent fixed carbon;
36.87	Percent volatile matter.

(Totals do not equal 100% due to rounding)

Rental and Royalty

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods, and 8 percent of the value of coal mined by underground methods. The value of coal shall be determined in accordance with BLM Manual 3070.

Notice of Availability

Bidding instructions are included in the Detailed Statement of Lease Sale. A copy of the detailed statement and the proposed coal lease are available by mail at the Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84155–0155 or in the Public Room (Room 400), 324 South State Street, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in the Public Room (Room 400) of the Bureau of Land Management.

Douglas M. Koza,

Deputy State Director, Natural Resources.

[FR Doc. 99–10187 Filed 4–22–99; 8:45 am]
BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–099–0777–43]

Relocation/Change of Address/Office Closure: California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On May 6, 1999, the Bureau of Land Management's California State Office will relocate to another facility.

EFFECTIVE DATE: May 6, 1999.

FOR FURTHER INFORMATION CONTACT: Tony Staed at 916–978–4610 or Andy Smith at 916–978–4500; BLM California State Office; 2135 Butano Drive, Sacramento, CA 95825.

SUPPLEMENTARY INFORMATION: On May 6, 1999, BLM California State Office will relocate to 2800 Cottage Way, Sacramento, CA 95825; Telephone: 916–978–4400. The following business practices will be in effect from May 6 through May 21, 1999:

(A) A representative will be available at the Federal Building, 2800 Cottage Way; to provide assistance during the relocation period.

(B) The following telephone numbers may be utilized to contact a staff person in the offices listed below:

(1) Fire (pager) 1–888–705–3330.

(2) Law Enforcement, 909–697–5332, POC: Jim Beaudette, (Pager) 1–888–347–8904.

(3) Public Information Center 916–978–4400 POC: Gary Catledge.

(4) External Affairs 916–978–4610 or 916–978–5107.

(5) Director's Office 916–978–4600; fax 916–978–4620.

(C) Access our website at (www.ca.blm.gov) for information related to our relocation, BLM programs, news releases and other BLM related programs.

(D) The Public Information Center will be staffed for general inquiries only. There will be no over-the-counter sales transactions during this interim period. Orders received will be processed but mailed after May 24, 1999.

(E) Our official records (I.e., case files, maps, plats. etc.)will not be available for public inspection.

(F) Please Note: existing telephone numbers will remain the same. During the interim, BLM employees will access their voice mail and respond to messages in an expeditious manner.

(G) All correspondences should be sent to the following Cottage Way address effective May 5, 1999: Bureau of Land Management 2800 Cottage Way, Room W–1834 Sacramento, CA 95825

(H) We will resume a full service business on May 24, 1999 at 2800 Cottage Way; Sacramento, CA.

Dated: April 16, 1999.

Andrew M. Smith,

Acting Deputy State Director, Support Services.

[FR Doc. 99–10103 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Little Rock Central High School National Historic Site

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare a General Management Plan and Environmental Impact Statement for Little Rock Central High School National Historic Site, Arkansas.

SUMMARY: The National Park Service (NPS) will prepare a General Management Plan (GMP) and an Environmental Impact Statement (EIS) for the Little Rock Central High School National Historic Site (hereafter, "the historic site"), Arkansas, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) and Public Law 105–356. This notice is being furnished as required by NEPA Regulations 40 CFR 1501.7.

To facilitate sound planning and environmental assessment, the NPS intends to gather information necessary for the preparation of the EIS, and to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are invited.

Participation in the planning process will be encouraged and facilitated by various means, including newsletters, open houses, etc.

ADDRESSES: Written comments and information concerning the scope of the EIS and other matters, or requests to be added to the project mailing list, should be directed to: Bill Koning, National Park Service, Denver Service Center, P.O. Box 25287, Denver, Colorado 80225, 303–969–2390, bill__koning@nps.gov

FOR FURTHER INFORMATION CONTACT: Sändra Washington, Chief, Planning and Compliance, National Park Service, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102, 402–221–3351, sandra__washington@nps.gov

SUPPLEMENTARY INFORMATION: As established, the historic site shall consist of lands and interests therein comprising the Central High School campus and adjacent properties in Little Rock, Arkansas. Congress established the historic site to preserve, protect, and interpret for the benefit, education, and inspiration of present and future generations, Central High School and its role in the integration of public schools and the development of the Civil Rights movement in the United States.

In accordance with NPS park planning policy, the GMP will ensure the historic site has a clearly defined direction for resource preservation and visitor use. It will be developed in consultation with servicewide program managers, interested parties, and the general public. It will be based on an adequate analysis of existing and potential resource conditions and visitor experiences, environmental impacts, and costs of alternative courses of action.

In accordance with Public Law 105–356, the GMP for the historic site will include provisions to:

(1) Identify specific roles and responsibilities for the NPS in administering the historic site.

(2) Identify lands or property, if any, that might be necessary for the NPS to acquire to carry out its responsibilities.

(3) Identify the roles and responsibilities of other entities in administering the historic site and its programs.

(4) Include a management framework that ensures the administration of the historic site does not interfere with the continuing use of Central High School as an educational institution.

Public Law 105–356 specifies that nothing in the Act shall affect the authority of the Little Rock School District to administer Central High School, nor shall the Act affect the authorities of the City of Little Rock in the neighborhood surrounding the school.

The environmental review of the GMP and EIS for historic site will be conducted in accordance with requirements of the NEPA (42 U.S.C. 4371 *et seq.*), NEPA regulations (40 CFR 1500–1508), other appropriate Federal regulations, and National Park Service procedures and policies for compliance with those regulations.

The NPS estimates the draft GMP and draft EIS will be available to the public by June 2000.

Dated: April 14, 1999.

David N. Given,

Deputy Regional Director, Midwest Region.

[FR Doc. 99–10201 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Saguaro, National Park, Arizona; Transfer of Administrative Jurisdiction Over Certain Lands

AGENCY: National Park Service, Department of the Interior.

ACTION: Saguaro National Park, Arizona; Transfer of administrative jurisdiction over certain lands within Saguaro National Park.

DATES: The effective date of this Order is April 28, 1999.

SUMMARY: Saguaro National Park was established by the Saguaro National Park Establishment Act of 1994, Pub. L. 103–364, 108 Stat. 3467. Since the date of enactment of that act, October 14, 1994, the Bureau of Land Management has acquired certain lands and/or interests in lands within the area described in subsection 4(a) of the act. Notice is hereby given that, as of the date of publication of this notice, administrative jurisdiction over those lands and/or interests in lands is transferred from the Bureau of Land Management to the National Park Service.

The lands and/or interests acquired by the Bureau of Land Management, subject to this notice, are known as Tract 02–108 of Saguaro National Park and include 632.78 acres of land.

A map and legal description of these certain lands within Saguaro National Park may be reviewed by contacting National Park Service, Chief, Land Resources Program Center, Intermountain Region, P.O. Box 728, Santa Fe, New Mexico 87504.

Dated: March 30, 1999.

John E. Cook,

Regional Director, Intermountain Region, National Park Service.

[FR Doc. 99–10204 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Agenda for the June 2, 1999 Public Meeting of the Advisory Commission for the San Francisco Maritime National Historical Park

Public Meeting, Presidio Golden Gate Club 10:00 AM–12:15 PM

10:00 AM
Welcome—Neil Chaitin, Chairman
Opening Remarks—Neil Chaitin, Chairman, William Thomas, Superintendent
10:15 AM
Update—General Management Plan, Phase II Implementation, William Thomas
10:30 AM
Update—Haslett Warehouse, Stephen Crabtree, Concession Program Management
10:45 AM
Update—SAFR Space needs for: Haslett Warehouse, Building E
Space Update: Alameda Building Leasing Project
Status—Port of Oakland, Bay Ship & Yacht, Dry-dock, Tom Mulhern, Museum Services Manager
11:15 AM
Status—Ship Preservation Update, Wayne Boykin, Ships Manager & Staff
11:30 AM
Status—Volunteer Program, Sue Schmidt, Volunteer Coordinator
11:45 PM
Update—National Maritime Museum Association Projects, Kathy Lohan, Chief Executive Officer
12:00 PM
Public Comments and Questions
12:15 PM
Agenda items/Date for next meeting

William G. Thomas,

Superintendent.

[FR Doc. 99–10202 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of Bandelier National Monument, National Park Service, Los Alamos, NM

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of Bandelier National Monument, National Park Service, Los Alamos, NM, which meet the definition of "sacred object" under Section 2 of the Act.

The 53 cultural items are projectile points.

In 1909, one projectile point was recovered during Edgar Hewett's excavation of the Tyuonyi site. The Tyuonyi site is believed to have been occupied between AD 1325–1600 on the basis of ceramic and tree-ring data from the site.

In 1943, J.W. Hendron recovered five projectile points from the Group M excavates in Frijoles Canyon. On the basis of ceramic data, the occupation of this site is believed to have been between AD 1400-1550.

Between 1948-1955, 29 projectile points were recovered from the Rainbow House site by Fredrick Worman and Louis Caywood. On the basis of ceramic and tree-ring dating of the site, these items are believed to date between AD 1400-1500.

Between 1974-1978, 15 projectile points were recovered from the Cochiti Flood Pool by National Park Service archeological crews. On the basis of ceramic and radiocarbon dating of sites in the Flood Pool, these items are dated between AD 1200-1600.

Monument accession and catalog records do not record the provenience for three projectile points. However, all are believed to have been recovered from the monument, as they are very similar to the type and appearance of other items found at sites in the monument area. On the basis of information from similar objects found in the area, the estimated dates of these items are between AD 1200-1600.

Anthropological, archeological, and oral tradition evidence indicates that the monument area has been continuously occupied by Keres-speaking pueblo groups (including the Pueblo of Acoma, Pueblo of Cochiti, Pueblo of Laguna, Pueblo of San Felipe, Pueblo of Santa Ana, Pueblo of Santo Domingo, and Pueblo of Zia) and the Tewa-speaking pueblo groups (including the Pueblo of Nambe, Pueblo of Pojoaque, Pueblo of San Ildefonso, Pueblo of San Juan, Pueblo of Santa Clara, Pueblo of Tesuque, and the present-day Hano community at Hopi) since at least AD 1100.

In 1995, representatives of Bandelier National Monument continued consultation with the Pueblo of Cochiti, New Mexico, as part of its NAGPRA compliance process. Two Cochiti traditional religious leaders reviewed the Monument's entire archeological collection and identified 53 projectile points as needed for the practice of traditional Cochiti religion by present-day adherents. After reviewing information obtained through tribal consultation, as well as considering recommendations forwarded by the NAGPRA Review Committee, National Park Service officials determined that in this instance these 53 projectile points meet the definition of "sacred object" under Section 2 of the Act. Information regarding the names of the traditional religious leaders and the specific ceremonies in which these objects will be used is being withheld from this notice by the Superintendent of the

Monument, at the request of the Cochiti representatives, in order to not compromise the Pueblo de Cochiti's code of religious practice.

Based on the above-mentioned information, and the recommendations of the NAGPRA Review Committee, officials of the National Park Service have agreed that, pursuant to 42 CFR 10.2(d)(3), these 53 projectile points are needed by traditional Native American religious leaders for the practice of traditional Native American religion by present-day adherents. Officials of the National Park Service have also determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity which can be reasonably traced between these objects and the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Tesuque, New Mexico; and Pueblo of Zia, New Mexico.

This notice has been sent to officials of the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any other Indian Tribe that believes itself to be culturally affiliated with these objects should contact Roy W. Weaver, Superintendent, Bandelier National Monument, National Park Service, HCR 1, Box 1, Suite 15, Los Alamos, NM 87544; telephone: (505) 672-3861, ext. 501 before [*thirty days after publication in the Federal Register*]. Repatriation of these cultural items to the Pueblo of Cochiti, New Mexico, may begin after that date if no additional claimants come forward.

Dated: April 15, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 99–10209 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Privacy Act of 1974, as Amended; Systems of Records

AGENCY: Office of Surface Mining, Interior.

ACTION: Notice of deletion of two systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is deleting two systems of records managed by the Office of Surface Mining (OSM). The system of records entitled "Travel Advance File-Interior/OSMRE–2" and the system of records entitled "Travel Vouchers and Authorizations-Interior/OSMRE–3" both have been re-examined and determined that the records contained in these two systems are covered by and maintained in "Advanced Budget/Accounting Control and Information System (ABACIS)—Interior/MMS–8," published in the **Federal Register** on February 18, 1999 (64 FR 8116).

DATES: These actions will be effective on April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht, Payments and Acquisitions Team, Division of Financial Management, Office of Surface Mining, Denver, Colorado, at (303) 236–0330, extension 243.

SUPPLEMENTARY INFORMATION: Earlier Privacy Act Compilations list the systems of records with the prefix of "OSMRE" (e.g., OSMRE–2) when originally published in the **Federal Register**. The prefix was later changed to "OSM" in subsequent records systems for convenience; the content of the systems of records is the same.

The two systems of records notices being deleted and the reasons for deletions are listed below:

1. Interior/OSM–2, "Travel Advance File," previously published in the **Federal Register** on December 27, 1988 (53 FR 52240). The records contained in this system are covered by Interior/MMS–8, "Advanced Budget/Accounting Control and Information Systems (ABACIS)," published in the **Federal Register** on February 18, 1999 (64 FR 8116). OSM records can be located by contacting the OSM System Manager: Payments and Acquisitions Team Leader, Division of Financial Management, Office of Surface Mining, PO Box 25065, Denver, Colorado 80225–0065.

2. Interior/OSM–3, "Travel Vouchers and Authorizations," previously published in the **Federal Register** on December 27, 1988 (53 FR 52241). The records contained in this system are covered by Interior/MMS–8, "Advanced Budget/Accounting Control and Information System (ABACIS)," published in the **Federal Register** on February 18, 1999 (64 FR 8116). OSM records can be located by contacting the OSM System Manager: Payments and Acquisitions Team Leader, Division of Financial Management, Office of Surface Mining, PO Box 25065, Denver, Colorado 80225–0065.

Robert Ewing,

Chief Information Officer, Office of Surface Mining.

[FR Doc. 99–10210 Filed 4–22–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Housing Criminal Alien Population in Non-Federal Low-Security Correctional Facilities

AGENCY: Bureau of Prisons, Department of Justice.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Action: The mission of the U.S. Department of Justice, Federal Bureau of Prisons (Bureau) is to protect society by confining offenders in the controlled environments of prison and community-based facilities that are safe, humane, cost efficient, and appropriately secure, and that provides work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. In addition, the Bureau supports the U.S. Marshals Service in its efforts to house the growing number of unsentenced federal detainees, and the Immigration and Naturalization Service in the rapidly increasing requirements for the detention of sentenced and unsentenced aliens awaiting hearings and/or release

or repatriation to their countries of origin. The Bureau accomplishes its mission through the appropriate use of community correction, detention, and correctional facilities that are either:

Federally owned and operated;
Federal owned and non-federally operated; and
Non-federally owned and operated.

Historically, the Bureau evaluated the establishment and operation of both federal and contract correctional facilities under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 (NEPA) on a case-by-case basis. This individualized approach to project evaluation carries with it the advantages of site-specific evaluation, significant public participation, and tailored mitigation plans. However, it is the Bureau's experience that the evaluation of low-security institutions has many common issues that must be separately addressed for each new project. The cost, time, and effort expended in examining these common issues are magnified and can become impractical in the context of awarding contracts for the operation and/or construction of non-federal low security facilities. Therefore, the Bureau proposes to establish national procedures in accordance with NEPA for the award and monitoring of contracts for low-security non-federally owned and operated detention and prison facilities.

In recent years, the Bureau has faced unprecedented growth in its inmate population. It is projected that this growth will accelerate as a result of programs implemented by the Immigration and Naturalization service regarding sentenced and unsentenced aliens. Correctional institutions at the low-security level will be impacted immediately because sentenced and unsentenced aliens are typically housed at the low-security level. Due to the current shortage of beds, especially at the low-security level, the Bureau has been forced to manage its population by designating minimum and medium-security level institutions as low-security institutions, which, in turn, creates a domino effect for all other security levels. The projected population of sentenced and unsentenced aliens will only exacerbate these population pressures.

As a result, the Bureau is seeking flexibility in managing its current shortage of beds in the low-security level as well as the anticipated sharp and/or short-term increases at this security level. Such management flexibility would have to meet population capacity needs in a timely fashion, conform with federal law, and maintain fiscal responsibility, all while successfully attaining the mission of the Bureau. Management flexibility includes the appropriate contracting of non-federal facilities. In order to do so, the Bureau over the next several months, will be preparing one or more Request for Proposals to be sent to prospective contractors requesting proposals to house in private contract facilities low-security adult non-U.S. citizen males with 60 months or less remaining on their sentences.

To ensure compliance with NEPA, the Bureau is undertaking preparation of a Draft Programmatic Environmental Impact Statement (DPEIS) to determine the potential impacts of this proposal. Topics to be studied as part of the DPEIS includes, but are not limited to: topography, geology/soils, hydrology, biological resources, utility services, transportation services, cultural resources, land uses, social and economic factors, hazardous materials, air and noise quality, among others.

Alternatives: In developing the DPEIS, the options of "no action," "alternative housing arrangements," and "preferred alternative" will be fully and thoroughly examined.

Scoping Process: During preparation of the DPEIS, there will be numerous opportunities for public involvement. Towards that end, the Bureau will host Scoping Meetings to which all interested persons are invited to attend. The purpose of the Scoping Meetings is to afford the public, regulatory agency representatives, and elected officials an opportunity to learn about and voice their interests and concerns regarding the privatization mandate. The Scoping Meetings are being held to provide for timely public comments and understanding of federal plans and programs with possible environmental consequences as required by NEPA. The Scoping Meetings will be held:

7:00 p.m., Thursday, April 29, 1999, at the Solis Cohen Auditorium of Thomas Jefferson University, 1020 Locust Avenue, Jefferson Alumni Hall, 1020 Locust Avenue, Philadelphia, Pennsylvania
7:00 p.m., Tuesday, May 4, 1999, at the Hall of State Auditorium at Fair Park, 3939 Grand Avenue, Dallas, Texas
7:00 p.m. Thursday, May 6, 1999, at the Marina Village Conference Center Captain's Room, 1936 Quivira Way, San Diego, California

Inquiries or written comments may also be directed to the Bureau through June 1, 1999.

Draft Programmatic EIS Preparation: Public notice will be provided concerning the availability of the Draft Programmatic EIS for public review and comment.

ADDRESSES: Questions concerning the proposed action and the DPEIS can be answered by: David J. Dorworth, Chief, Site Selection and Environmental Review Branch, Federal Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534, Telephone 1–800–658–1117, Facsimile 202–616–6024, e-mail: siteselection@bop.gov

Dated: April 19, 1999.

David J. Dorworth,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 99–10337 Filed 4–22–99; 8:45 am]

BILLING CODE 4410–05–U

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 20, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Acting Departmental Clearance Officer, Pauline Perrow ({202} 219–5096 ext. 165) or by E–Mail to Perrow-Pauline@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Title: Equal Employment Opportunity, Affirmative Action.

OMB Number: 1205–0224 (Extension).

Frequency: On-occasion.

Affected Public: Individuals or household, business or other for-profit, not-for-profit institutions, Federal Government, State, Local, or Tribal govt.

Number of Respondents: 5,350.

Section No.	Affected Public	Respondents	Frequency	Average time per response
30.3	Apprenticeship Sponsors	112	One-time	30 min.
30.4	....do	1,336	One-time	1 hr.
30.5	....do	3,964	One-time	30 min.
30.6	....do	50	One-time	5hrs.
30.8	....do	41,480	One-time	1min.
30.3	Apprenticeship Programs	30	One-time	5min.
ETA 9039	Apprentice	50	One-time	½ hr.

Total Burden Hours: 6,068.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: Title 29 CFR Part 30 sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor and recognized State apprenticeship agencies.

Agency: Bureau of Labor Statistics (BLS).

Title: Consumer Price Index Commodities and Services Survey.

OMB Number: 1220–0039 (Extension).

Frequency: Monthly.

Affected Public: Individuals and households; business or other for-profit; farms.

Number of Respondents: 49,675 (3 yr. Avg.).

Estimated Time Per Respondent:

Form No.	Total number of respondents	Frequency	Total annual responses	Minutes per response (Average)	Est. total burden hours
BLS 3400	11,831	Annual	11,831	4	789
BLS 3400A.2	11,831	Annual	11,831	36	7,099
BLS 3400B	11,831	Annual	11,831	23	4,535
BLS 3400C	3,076	Annual	3,076	6.9	354
BLS 3401	37,844	Monthly/Bimonthly	325,530	14.187	76,972
Totals	42,487		337,361	16	89,749

Total Burden Hours: 89,749 (3 yr. Avg.).

Total Annualized Capital/startup costs: $0.

Total Annual (operating/maintaining): $0.

Description: The collection of prices directly from retail establishments is essential for the timely and accurate calculation of the commodities and services component of the Consumer Price Index. Respondents include retail establishments throughout the country.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Consultation Agreements (29 CFR 1908).

OMB Number: 1218–0110 (Reinstatement).

Frequency: On-occasion, quarterly, biennially, annually.

Affected Public: Business or other for-profit; Federal Government, State, Local or Tribal.

Number of Respondents: 27,048.

Estimated Time Per Respondent: Varies (Average of 0.44 hour).

Total Burden Hours: 11,935.

Total Annualized Capital/startup costs: $0.

Total Annual (operating/maintaining): $0.

Description: The information collection requirements contained in the consultation regulations are necessary to ensure proper operation of the consultation programs funded by OSHA and operated by the states, and to meet employment participation requirements of the Compliance Assistance Authorization Act (CAAA) of 1998.

Pauline Perrow,

Acting Departmental Clearance Officer.

[FR Doc. 99–10276 Filed 4–22–99; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They

specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Act," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Pennsylvania
PA990024 (Mar. 12, 1999)

Volume III

None

Volume IV

None

Volume V

Iowa
IA990003 (Mar. 12, 1999)
IA990005 (Mar. 12, 1999)
IA990010 (Mar. 12, 1999)
IA990018 (Mar. 12, 1999)
IA990070 (Mar. 12, 1999)
IA990071 (Mar. 12, 1999)
IA990072 (Mar. 12, 1999)
IA990078 (Mar. 12, 1999)
IA990079 (Mar. 12, 1999)
IA990080 (Mar. 12, 1999)
Missouri
MO990046 (Mar. 12, 1999)

Volume VI

Alaska
AK990001 (Mar. 12, 1999)
AK990002 (Mar. 12, 1999)
AK990006 (Mar. 12, 1999)

Volume VII

Nevada
NE990002 (Mar. 12, 1999)

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 16th day of April 1999.

Margaret J. Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–9978 Filed 4–22–99; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL SKILL STANDARDS BOARD

Notice of Open Meeting

AGENCY: National Skill Standards Board.

ACTION: Notice of open meeting.

SUMMARY: The National Skill Standards Board was established by an Act of Congress, the National Skill Standards Act, Title V, Pub. L. 103–227. The 27-member National Skill Standards Board will serve as a catalyst and be responsible for the development and implementation of a ñational system of voluntary skill standards and certification through voluntary partnerships which have the full and balanced participation of business, industry, labor, education and other key groups.

Time and Place: The meeting will be held from 8:30 a.m. to approximately 12:00 p.m. on Tuesday, May 18, 1999, in The Westin, Southfield-Detroit at 1500 Town Center, Southfield Michigan.

Agenda: The agenda for the Board Meeting will include: an update from the Board's committees; and presentations from representatives of the Sales and Service Voluntary Partnership (SSVP) and the Manufacturing Skill Standards Council (MSSC).

Public Participation: The meeting, from 8:30 a.m. to 12:00 p.m., is open to the public. Seating is limited and will be available on a first-come, first-served basis. Seats will be reserved for the media. Individuals with disabilities should contact Leslie Donaldson at (202) 254–8628, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Tracy Marshall, Director of program Operations at (202) 254–8628.

Signed at Washington, DC, this 20th day of April 1999.

Edie West,

Executive Director, National Skill Standards Board.

[FR Doc. 99–10275 Filed 4–22–99; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

Regulatory Oversight Process Pilot Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will hold a public workshop to provide information to the NRC, industry, and public representatives of the participating pilot sites with the new PI reporting, inspection, assessment, and enforcement processes. This meeting is open to the public.

DATES: The workshop will be held May 17 through May 20, 1999. Registration will be held on May 17, 1999 from 10 a.m to noon. The hours of the workshop will be from 12 to 5 p.m. on May 17, 8 a.m. to 5 p.m. on May 18 and May 19, and 8 a.m. to 1 p.m. on May 20.

ADDRESSES: The workshop will be held at the Philadelphia Airport Ramada Inn, 76 Industrial Highway (Rt. 291), Essington, PA 19029. The hotel phone number is (610) 521–9600 or (800) 277–3900.

FOR FURTHER INFORMATION CONTACT: August Spector at 301–415–2140 or Lee Miller at 301–415–1361, Mail Stop: O–5H4, Inspection Program Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1999, the staff issued SECY–99–007a Recommendations for Reactor Oversight Process Improvements (Follow-Up to SECY–99–007), forwarding the staff's recommendations for a new reactor oversight process. This paper forwarded additional information and noteworthy changes to the staff recommendations for improving the regulatory oversight process initially provided by SECY–99–007 Recommendations for Reactor Oversight Improvements. This paper also responds to the Commission's comments from the January 20, 1999, briefing on SECY–99–007 and provides the staff's responses to public comments.

The following issues represent a brief summary of the concepts presented in SECY–99–007A.

Over the last 10 years, commercial nuclear power plants have been operated safely and overall plant performance has improved. This improvement in plant performance can be attributed, in part, to successful regulatory oversight. Despite this success, the agency has noted that the current reactor oversight process (1) is at times not clearly focused on the most safety important issues, (2) consists of redundant actions and outputs, and (3) is frequently subjective, with NRC action taken in a manner that is at times neither scrutable nor predictable.

In the new regulatory oversight process:

- There will be a risk-informed baseline inspection program that establishes the minimum regulatory interaction for all licensees.
- Thresholds will be established for licensee safety performance, below which increased NRC interaction would be warranted.
- Adequate assurance of licensee performance will require assessment of both performance indicators (PIs) and inspection findings.
- Inspection findings will be evaluated for significance and integrated with PIs in timely manner to support overall assessment of licensee performance.
- Both PIs and inspection findings will be evaluated against risk-informed thresholds, where feasible.
- Crossing a PI threshold and an inspection threshold will have the same meaning with respect to safety significance and required NRC interaction.
- The baseline inspection program will cover those risk-significant attributes of licensee performance not adequately covered by PIs.
- The baseline inspection program will also verify the accuracy of PI data collection and analysis and provide for event response, as appropriate.
- Enforcement actions will be focused on issues that are risk significant.
- Guidelines will be established for identifying and responding to unacceptable licensee performance.

Additionally, the staff will pilot the new reactor oversight process during a 6-month period beginning in June, 1999. The purpose of the pilot program is to exercise the new processes (PI reporting, inspection, assessment, and enforcement), to identify process and procedure problems and make appropriate changes and, to the maximum extent possible, evaluate the effectiveness of the new process. Full implementation of the new oversight process will commence pending successful completion of the pilot program, as measured against pre-established success criteria. A notable feature of the pilot program is the use of the Pilot Program Evaluation Panel, consisting of NRC, NEI, industry, public, and State representatives, to aid in evaluating the effectiveness of the pilot program.

Scope of the Public Workshop

The NRC will hold a four day workshop from May 17–20, 1999, to review and familiarize NRC, industry, and public representatives of the participating pilot sites with the new PI reporting, inspection, assessment, and enforcement processes. However, representatives from all plants are welcome to attend the workshop. The pilot plants are: Hope Creek, Salem Units 1 and 2, FitzPatrick, Prairie Island Units 1 and 2, Quad Cities Units 1 and 2, Shearon Harris, Sequoyah Units 1 and 2, Ft. Calhoun, and Cooper.

Attendees should be familiar with the key attributes of the new oversight processes and their associated program documents and understand the key differences between the new processes and the existing oversight processes. Copies of SECY–00–007 and SECY–99–007a are available on the internet at http:/www.nrc.gov/NRC/COMMISSION/SECYS/index.html#1999.

The agenda for the workshop will consist of the following:

- Day 1: registration and check-in, background and concept review, review of performance indicators (PIs), thresholds, and PI manual.
- Day 2: practical examples of PI data reporting, and inspection procedure review and documentation.

- Day 3: significance determination process (including practical examples), and new enforcement policy.
- Day 4: assessment process review (including practical examples).

Workshop Pre-Registration

Workshop attendees are requested to pre-register with the NRC approximately two weeks before the workshop. Attendees may pre-register in either of the following ways:

1. Fax to Sun Hoon Kim at (301) 415–5106.
2. Mail to: U.S. Nuclear Regulatory Commission, Attn: Sun Hoon Kim, Office of Human Resources, Mailstop T3D45, Washington, DC 20555–0001.

Dated at Rockville, Maryland, this 19th day of April 1999.

For the Nuclear Regulatory Commission.

Cornelius F. Holden,

Acting Chief, Inspection Program Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

Regulatory Oversight Process Pilot Workshop Registration, Philadelphia Airport Ramada Inn, Essington, PA, May 17–20, 1999

(Please Print)

Name: _____
(Last) (First)

Title: _____

Address: _____
(department, division or unit)

_____
(organization/facility)

_____
(street or P.O. box)

_____
(city) (state) (zip code)

Pilot Plant (Yes/No) _____

Telephone (business): _____ (ext)____

E-mail: _____

Name (for name badge): _____

Mail your registration form to: Sun Hoon Kim, Nuclear Regulatory Commission, Office of Human Resources, Mail Stop T3D45, Washington, DC 20555.

Fax your registration form to: 301–415–5106, Attention: Sun Hoon Kim.

THIS REGISTRATION FORM IS FOR THE WORKSHOP ONLY.
PLEASE MAKE HOTEL RESERVATIONS SEPARATELY.

[FR Doc. 99–10191 Filed 4–22–99; 8:45 am]
BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: The Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget.

SUMMARY: The Associate Director for Management invites comments on information collection requests as required pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35). This notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the use of the Peace Corps World Wise Schools Educators Technology Information Form. A copy of the information collection may be obtained from Betsi Shays, Director of World Wise School Peace Corps, 1111 20th Street, NW, Washington, DC 20526. Ms. Shays may be contacted by telephone at 202–692–1455. The Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and, ways to minimize the burden the collection of information those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. Comments on these forms should be addressed to Victoria Becker Wassmer, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: Peace Corps Educator Technology Information Form.

Need for and Use of This Information: The Peace Corps needs this information to explore ways to involve World Wise Schools educators in accessing global information through cutting-edge technology.

Respondents: Educators who apply for World Wise Schools.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

a. Annual reporting burden: 833 hours
b. Annual recordkeeping burden: 250 hours
c. Estimated average burden per response: 3 min
d. Frequency of response: one time
e. Estimated number of likely respondents: 10,000
f. Estimated cost to respondents: $4,466–

This notice is issued in Washington, DC, on April 23, 1999.

Dated: April 19, 1999.

Doug Greene,

Associate Director for Management.

[FR Doc. 99–10142 Filed 4–22–99; 8:45 am]
BILLING CODE 6051–01–M

PEACE CORPS

Information Collection Request Under OMB Review

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35) this notice announces that the information collection requests abstracted below have been forwarded to the Office of Management and Budget for emergency clearance and for review and comment. A copy of the information collection may be obtained from Paul Davis, Office of Volunteer Recruitment and Selection, United States Peace Corps, 1111 20th Street, NW, Washington, DC 20526. Mr. Davis may be contacted by telephone at (202) 692–1836. Comments on these forms should be addressed to Victoria Becker Wassner, Desk Office, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: Peace Corps Reference Form.

Need for and use of this information: Peace Corps needs this information in order to process applicants for Volunteer service. The information is used to determine suitability of applicants.

Respondents: Individuals who voluntarily agree to serve as references for Peace Corps applicants.

Respondents Obligation To Reply: Voluntary.

Burden on the Public

a. *Annual reporting burden:* 13,692.
b. *Annual record keeping burden:* 0 hr.
c. *Estimated average burden per response:* 30 minutes.
d. *Frequency of response:* one time.
e. *Estimated number of likely respondents:* 27,384.

This notice is issued in Washington, DC on April 19, 1999.

Dated: April 19, 1999.

Doug Greene,

Associate Director for Management.

[FR Doc. 99–10226 Filed 4–22–99; 8:45 am]
BILLING CODE 6051–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: SF 2817

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. SF 2817, Life Insurance Election, is used by employees to enroll in or change their enrollment in the Federal Employees' Group Life Insurance Program. The Federal Employees Life Insurance Improvement Act (Pub. L. 105–311), enacted on October 30, 1998, necessitated changes to the SF 2817. That Act allowed employees to elect from one to five multiples of Option C—Family life insurance. In the past, employees either had Option C or they did not—there were no multiples to elect.

Approximately 100 forms are completed annually. Each form takes approximately 15 minutes to complete. The annual estimated burden is 25 hours.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before June 22, 1999.

ADDRESSES: Send or deliver comments to Laura Lawrence, Senior Insurance Benefits Specialist, Insurance Operations Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3415, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Phyllis R. Pinkney, Management Analyst, Budget & Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–10132 Filed 4–22–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request Review of an Expired Information Collection SF 15

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, Chapter 35), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for extending the information collection form, Standard Form 15, Application for 10-Point Veteran Preference. OPM examining offices and agency appointing officials use the information provided to adjudicate an individual's claim for veterans' preference in accordance with the Veteran Preference Act of 1944.

According to the General Services Administration, 45,000 forms were used last year. Each form requires approximately 10 minutes to complete. The annual burden is 7,500 hours. For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358 or e-mail to *mbtoomey@opm.gov*.

DATES: Comments on this proposal should be received on or before May 24, 1999.

ADDRESSES: Send or deliver written comments to—

Mary Lou Lindholm, Associate Director for Employment, U.S. Office of Personnel Management, 1900 E Street, NW, Room 6500, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–10131 Filed 4–22–99; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 31a–2 [17 CFR 270.31a–2], SEC. File No. 270–174, OMB Control No. 3235–0179

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) ("Paperwork Reduction Act"), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension and approval of the collections of information discussed below.

Section 31(a) of the Investment Company Act of 1940 [15 U.S.C. 80a] ("Investment Company Act" or "Act") requires registered investment companies ("fund") and certain principal underwrites, broker-dealers, investment advisers and depositors of funds to maintain and preserve records as prescribed by Commission rules.[1] Rule 31a–1 specifies the books and records for each of these entities must be maintained.[2] Rule 31a–2, which the Commission adopted in 1944, specifies the time periods that entities must retain books and records required to be maintained under rule 31a–1.[3]

Rule 31a–2 requires the following:

(i) Every fund must preserve permanently, and in an easily accessible place for the first two years, all books and records required under rule 31a–1(b)(1)–(4).[4]

(ii) Every fund must preserve for at least six years, and in an easily accessible place for the first two years: (a) All books and records required under rule 31a–1(b)(5)–(12);[5] (b) all

[1] 15 U.S.C. 80a–30(a)(1).

[2] 17 CFR 270.31a–1.

[3] 17 CFR 270.31a–2.

[4] 17 CFR 270.31a–1(b)(1)–(4). These include, among other records, journals detailing daily purchases and sales of securities or contracts to purchase and sell securities, general and auxiliary ledgers reflecting all asset, liability, reserve, capital, income and expense accounts, separate ledgers or records reflecting separately for each portfolio security as of the trade date, all "long" and "short" positions carried by the fund for its own account, and corporate charters, certificates of incorporation, and by-laws.

[5] 17 CFR 270.31a–1(b)(5)–(12). These include, among other records, records of each brokerage order given in connection with purchases and sales of securities by the fund, all other portfolio purchases, records of all puts, calls, spreads, straddles or other options in which the fund has an interest, has granted, or has guaranteed, records of

Continued

vouchers, memoranda, correspondence, checkbooks, banks statements, canceled checks, cash reconciliations, canceled stock certificates and all schedules that support each computation of net asset value of fund shares; and (c) any advertisement, pamphlet, circular, form letter or other sales literature addressed or intended for distribution to prospective investors.

(iii) Every underwriter, broker or dealer that is a majority-owned subsidiary of a fund must preserve records required to be preserved by brokers and dealers under rules adopted under section 17 of the Securities Exchange Act ("section 17") for the periods established in those rules.

(iv) Every depositor of any fund, and every principal underwriter of any fund other than a closed-end fund, must preserve for at least six years records required to be preserved by brokers and dealers under rules adopted under section 17 of the Exchange Act to the extent the records are necessary or appropriate to record the entity's transactions with the fund.

(v) Every investment adviser that is a majority-owned subsidiary of a fund must preserve the records required to be maintained by investment advisers under rules adopted under section 204 of the Investment Advisers Act of 1940 ("section 204") for the periods specified in those rules.

(vi) Every investment adviser that is not a majority-owned subsidiary of a fund must preserve for at least six years records required to be maintained by registered investment advisers under rules adopted under section 204 to the extent the records are necessary or appropriate to reflect the adviser's transactions with the fund.

Rule 31a–2 permits the organizations subject to the rule to reproduce and preserve many records on photographic film ("microfilm") or on magnetic tape, disk, or other computer storage medium. If one of these media is used by or on behalf of a fund, the fund must:

(i) Arrange the records and index and file the microfilm or computer storage medium in a way that will permit immediate access and retrieval of any particular record;

(ii) Be prepared to provide promptly a microfilm enlargement or computer printout, or other copy requested by Commission representatives or the fund's directors;

(iii) Store one copy separately from the original of the microfilm or computer record for the time required to store the original;

(iv) Maintain procedures for maintaining, preserving, and providing access to records stored on computer medium in order to reasonably safeguard them from loss or destruction; and

(v) At all times have microfilm available for examination by Commission representatives or fund directors, and have available facilities for immediate, easily readable projection and production of easily readable enlargements of microfilm records.

proof of money balances in all ledger accounts, files of all advisory material received from the investment adviser, and memoranda identifying persons, committees or groups authorizing the purchase or sale of securities for the fund.

The Commission periodically inspects the operations of all funds to ensure their compliance with the provisions of the Act and the rules under the Act. Commission staff spend a significant portion of their time in these inspections reviewing the information contained in the books and records required to be kept by rule 31a–1 and to be preserved by rule 31a–2.

The retention of records, as required by the rule, is necessary to insure that the public has access to material business and financial information about issuers of securities and regulated entities. As noted above, the Commission periodically inspects the operations of funds to ensure they are in compliance with the Act and regulations under the Act. Due to the limits on the Commission's resources, however, each fund may only be inspected at intervals of several years. In addition, under the federal securities laws, there is no time limit on the prosecution of persons engaged in certain types of conduct that violate the securities laws. For these reasons, the Commission often needs information relating to events or transactions that occurred years ago. Without the requirement to preserve books, records and other documents, the Commission would have difficulty determining whether the fund was in compliance with the law in such areas as valuation of its portfolio securities, computation of the prices investors paid and, when purchasing and selling fund shares, types and amounts of expenses the fund incurred, kinds of investments the fund purchased, actions of affiliated persons, or whether the fund had engaged in any illegal or fraudulent activities.

There are approximately 3,900 active investment companies registered with the Commission as of December 31, 1998, all of which are required to comply with rule 31a–2. Based on conversations with representatives of the fund industry, Commission staff estimate that each fund spends approximately 27.8 hours per year complying with rule 31a–2, for a total annual burden for the fund industry of approximately 108,420 hours.[6]

[6] Commission staff surveyed several fund representatives to determine the current burden hour estimate. Although the Commission did not change its collection of information requirements in rule 31a–2, the fund representatives' estimates reflect an annual increase of 12.4 hours per fund over the burden of 15.4 hours estimated in the 1995 PRA submission. The change in annual hours is based upon an increase in the time each fund spends complying with the rule. The burden hours associated with maintaining records under rules adopted under section 204 of the Investment Advisers Act for investment advisers and under section 17 of the Exchange Act for underwriters, brokers, dealers, and depositors are addressed in the PRA submissions relating to the rules adopted under those sections.

The estimates of burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Commission staff estimates the average cost of preserving books and records required by rule 31a–2, to be approximately $.000018 per $1.00 of net assets per year.[7] Within the total net assets of all funds at about $4.5 trillion,[8] the staff estimates compliance with rule 31a–2 costs the fund industry approximately $81 million per year.[9] Commission staff estimates, based on conversations with representatives of the fund industry, that funds would spend at least half of this amount ($40.5 million) in any case to preserve the books and records that are necessary to prepare financial statements, meet various state reporting requirements, and prepare their annual federal and state income tax returns.[10]

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and

[7] The staff estimated the annual cost of preserving the required books and records by identifying the annual costs by several funds and then relating this total cost to the average net assets of these funds during the year.

[8] *See* Investment Company Institute, 1998 Mutual Fund Fact Book, at 1.

[9] This estimate is based on the annual cost per dollar of net assets of the average fund as applied to the net assets of all funds.

[10] Several of the fund industry representatives surveyed indicated that the records required to be preserved and maintained by rule 31a–2 also are required for accounting, tax return and state reporting requirements. In the experience of two investment companies, the major portion of the cost, approximately 60 percent, is for labor related costs and approximately 40 percent is for storage related costs, however these companies were not able to allocate the percentage of costs specifically attributable to rent or equipment.

Exchange Commission, Mail Stop 0–4, 450 5th Street, NW Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10194 Filed 4–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, NW, Washington, DC 20549

Extension:

Rule 10f–3 [17 CFR 270.10f–3], SEC File No. 270–237, OMB Control No. 3235–0226

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension and approval of the collections of information discussed below.

Section 10(f) of the Investment Company Act of 1940 [15 U.S.C. 80a–10(f)] (the "Act" or "Investment Company Act") prohibits a registered investment company ("fund") from purchasing any security during an underwriting or selling syndicate if the fund has certain relationships with a principal underwriter [1] for the security ("affiliated underwriter").[2] Congress enacted this provision in 1940 to protect funds and their investors by preventing underwriters from "dumping" unmarketable securities on affiliated funds.[3]

Under rulemaking authority under section 10(f), the Commission adopted rule 10f–3 in 1958 and last amended the rule in 1997. Rule 10f–3 currently permits a fund to purchase securities in a transaction that otherwise would violate section 10(f) if, among other things:

(1) The securities either are registered under the Securities Act of 1933, are municipal securities with certain credit ratings, or are offered in certain private or foreign offerings;

(2) The offering involves a "firm commitment" underwriting;

(3) The fund (together with other funds advised by the same investment adviser) purchases no more than 25 percent of the offering;

(4) The fund purchases the securities from a member of the syndicate other than the affiliated underwriter;

(5) If the securities are municipal securities, the purchase is not a group sale; and

(6) The fund's directors have approved procedures for purchases made in reliance on the rule and regularly review fund purchases to determine whether they comply with these procedures.

These limitations are designed to ensure that the purchases are not likely to raise the concerns that section 10(f) was enacted to address and are consistent with the protection of investors.[4]

Among other conditions to the exemption, rule 10f–3 requires a fund's board of directors to approve procedures that would ensure compliance with the conditions of the rule and to approve changes to these procedures as necessary. The board also must review rule 10–f transactions on a quarterly basis. The rule requires funds to report, on Form N–SAR, any transactions effected under the rule and to attach to the report a written record of each transaction. The written record must state (i) from whom the securities were acquired, (ii) the identity of the underwriting syndicate's members, (iii) the terms of the transactions, and (iv) the information or materials on which the fund's board of directors has determined that the purchases were made in compliance with procedures established by the board. In addition, a fund must retain written records of the rule 10f–3 transactions and of the quarterly transactional information reviewed by the board for six years. These requirements are important not only because they provide a built-in mechanism for fund boards to monitor compliance with the rule, but also because they permit the Commission to review these materials during fund inspections, monitor developments under the rule, and consider whether to take enforcement action in appropriate cases.

These estimates of average coats are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

The collection of information requirements (as well as other requirements) of rule 10f–3 are designed to assure that appropriate arrangements are in place to confirm the enforceability of the Act against the fund. The records required to be maintained are reviewed by the Commission in the course of its compliance and examination program, and are used by fund directors to evaluate procedures and transactions executed pursuant to the rule. The rule does not impose any separate recordkeeping costs on funds because the records required to be maintained already are required by section 31(a) of the Act and rules 31a–1 and 31a–2.

From our review of Form N–SAR filings, we estimate that 300 funds rely on rule 10f–3 annually. We estimate that the board of directors of each of those funds makes, on average, 1 response each year when it approves procedures required by the rule. We estimate further that the approval of such procedures would take on average, 1 hour of director time (at $500 per hour) and 0.5 hours of professional time (at $150 per hour) for 70 funds that do not purchase foreign or municipal securities, and 1.5 hours of director time and 0.5 hours of professional time for 230 funds that invest in these securities. Thus, Commission staff estimates that the total annual reporting burden of the rule's paperwork requirement is 565 hours, at a total annual cost of $230,000.[5]

The estimated burden hours are a decrease from the current allocation of 670 hours. The decrease of 105 hours reflects a decrease in the number of funds that have reported the purchase of securities in reliance on rule 10f–3. The 1996 proposal to eliminate the

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[1] *Principal underwriter* is defined to mean (in relevant part) an underwriter that, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer, (B) acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate, or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution. 15 U.S.C. 80a–2(a)(29).

[2] Section 10(f) prohibits the purchase if a principal underwriter of the security is an officer, director, member of an advisory board, investment adviser, or employee of the fund, or if any officer, director, member of an advisory board, investment adviser, or employee of the fund is affiliated with the principal underwriter. 15 U.S.C. 80a–10(f).

[3] See Investment Trusts and Investment Companies: Hearings on S. 3580 Before a Subcomm. of the Senate Comm. on Banking and Currency, 76th Cong., 3d Sess. 35 (1940) (statement of Commissioner Healy).

[4] *See* Exemption for the Acquisition of Securities During the Existence of An Underwriting or Selling Syndicate, Investment Company Act Release No. 22775 (July 31, 1997) [62 FR 42401 (Aug. 7, 1997)] ("1997 Adopting Release").

[5] This estimate is equal to the number of funds that do not purchase foreign or municipal securities (70) multiplied by the estimated annual cost of adopting or reviewing procedures for each fund ((1×$500 + (0.5×$150) = $575) plus the number of funds that invest in foreign or municipal securities (230) multiplied by the estimated annual cost of adopting or reviewing procedures for each fund ((1.5 × $500) + (0.5×$150) = $825), for a total of $230,000 ((70× $575) + (230 × $825) = $230,000).

requirements that funds report information about rule 10f–3 transactions on Form N–SAR would not have led to a decrease in the burden hours reportable for rule 10f–3 because the hours associated with the reporting requirement are included in the burden hours reported for Form N–SAR.

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of Commission rules.

Commission staff estimates that there is no cost burden for rule 10f–3 other than the $230,000 in annual costs associated with the respondent reporting burden. The procedures to be developed and revised as necessary require no start-up or capital costs. Additionally, the development of and occasional review of procedures would be part of customary and usual business practice to ensure compliance with applicable laws and regulations.

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

It is mandatory that funds provide the information required by rule 10f–3 to obtain the benefit of the exemption provided by the rule.

The information required by rule 10f–3 that is reported on Form N–SAR is public and therefore not confidential. The written record of the rule 10f–3 transactions, the quarterly transactional information reviewed by the board, and the written procedures that ensure compliance with the rule, and any modifications, are non-public and therefore confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0–4, 450 5th Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 19, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10195 Filed 4–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 17a–3 [17 CFR 240.17a–3], SEC File No. 270–026, OMB Control No. 3235–0033

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Rule 17a–3 [17 CFR 240.17a–3] under the Securities Exchange Act of 1934 requires records to be made by certain exchange members, brokers, and dealers, to be used in monitoring compliance with the Commission's financial responsibility program and antifraud and antimanipulation rules as well as other rules and regulations of the Commission and the self-regulatory organizations. It is estimated that approximately 7,900 active broker-dealer respondents registered with the Commission incur an aggregate burden of 1,967,412 hours per year to comply with this rule.[1]

Rule 17a–3 does not contain record retention requirements. Compliance with the rule is mandatory. The required records are available only to the examination staff of the Commission and the self-regulatory organization of which the broker-dealer is a member. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: April 19, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10196 Filed 4–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, NW, Washington, DC 20549

Extension:

[Rule 24 [17 CFR 250.24]; SEC File No. 270–129; OMB Control No. 3235–0126]

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for an extension of the previously approved collection of information discussed below.

Rule 24 under the Public Utility Holding Company Act of 1935 (15 U.S.C. Section 79a *et seq.*) ("Act") requires the filing with the Commission of certain information indicating that an authorized transaction has been carried out in accordance with the terms and conditions of the Commission order authorizing the transaction. The Commission needs the information under rule 24 to ensure that the terms and conditions of its orders are being complied with, and the Commission uses the information to ensure appropriate compliance with the Act. The respondents are comprised of two groups of entities: (a) Registered holding companies under the Act and their direct and indirect subsidiaries and affiliates; and (b) holding companies

[1] The Commission has increased its estimated number of active broker-dealers to 7,900 from the 7,769 that was included in the 60-day notice for the extension request. 64 FR 7915 (Feb. 17, 1999). In addition, the number of burden hours listed above reflects an adjustment for the increase in broker-dealers and an additional 312 hours required for OTC derivative dealers as discussed in Exchange Act Rel. No. 39455 (Dec. 17, 1997), which was inadvertently omitted from the 1,934,481 hours included in the 60-day notice for the extension request.

exempt from the provisions of the Act by rule or order from all provisions of the Act except section 9(a)(2). It is estimated that the total number of respondents is 134, and the average number of responses per respondent is 2.4 responses annually. The Commission estimates that the total annual reporting burden under rule 24 is 636 hours (*e.g.*, 318 filings × 2 hours = 636 burden hours).

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. There is no requirement to keep the information in the forms confidential because it is public information.

General comments regarding the above information should be directed to the following persons: (i) Desk officer for the Securities and Exchanger Commission Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 19, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10197 Filed 4–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23788; 812–11398]

INVESCO Bond Funds, Inc., et al.; Notice of Application

April 16, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 ("Act") for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered management investment companies to invest uninvested cash in affiliated money market funds.

APPLICANTS: INVESCO Bond Funds, Inc., INVESCO Combination Stock and Bond Funds, Inc., INVESCO Diversified Funds, Inc., INVESCO Emerging Opportunity Funds, Inc., INVESCO Global Health Sciences Fund, INVESCO Growth Funds, Inc., INVESCO Industrial Income Fund, Inc., INVESCO International Funds, Inc., INVESCO Sector Funds, Inc., INVESCO Specialty Funds, Inc., INVESCO Stock Funds, Inc., INVESCO Tax-Free Income Funds, Inc., INVESCO Treasurer's Series Trust, INVESCO Value Trust, INVESCO Variable Investment Funds, Inc., INVESCO Money Market Funds, Inc. (collectively, the "Funds"), and INVESCO Funds Group, Inc. ("INVESCO").

FILING DATES: The application was filed on November 13, 1998, and amended on April 4, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 11, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, 7800 East Union Avenue, Denver, Colorado 80237.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942–0527, or George J. Zornada, Branch Chief, at (202) 942–0564, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102, (tel. (202) 942–8090).

Applicants' Representatives

1. The Funds, with the exceptions noted below, are registered under the Act as open-end management investment companies and organized as Maryland corporations. INVESCO Treasurer's Series Trust and INVESCO Value Trust are registered under the Act as open-end management investment companies and organized as Massachusetts business trusts. INVESCO Global Health Sciences Fund is registered under the Act as a closed-end management investment company and organized as a Massachusetts business trust. INVESCO, a wholly-owned subsidiary of AMVESCAP PLC, is registered under the Investment Advisers Act of 1940 and serves as the investment adviser for each of the Funds. Applicants also request relief for any other registered management investment company or series thereof that is currently, or in the future becomes, advised by INVESCO or an entity controlling, controlled by, or under common control with INVESCO (INVESCO and all such entities, collectively, "INVESCO").[1]

2. Each Fund has, or may be expected to have, uninvested cash ("Uninvested Cash") held by its custodian. Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions, dividend payments, or new monies received from investors. Currently, the Funds can invest Uninvested Cash directly in money market instruments. The policies of certain Funds permit them to purchase shares of a money market fund. The trustees and directors of the Funds that have investment restrictions currently prohibiting the investment in shares of other open-end management investment companies have determined that such policies should be changed to permit such investments and plan to recommend to shareholders the adoption of such policies.

3. Applicants request relief to permit Funds that are not money market funds (the "Investing Funds") to invest their Uninvested Cash in one of more series of INVESCO Money Market Funds, Inc. or any other money market series of any of the Funds (collectively, the "Money Market Funds") and the Money Market Funds to sell to and purchase shares from the Investing Funds. The Money

[1] All investment companies that currently intend to rely on the order have been named as applicants. Any other existing or future registered management investment company that relies on the order will comply with the terms and conditions of the application.

Market Funds are subject to rule 2a–7 under the Act. Any investment by an Investing Funds of Uninvested Cash in shares of the Money Market Funds will be in accordance with each Investing Fund's investment restrictions and will be consistent with each Investing Fund's policies. Applicants believe that the proposed investments may reduce transaction costs, create more liquidity, increase returns, and further diversify holdings.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) of the Act, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) of the Act from the limitations of sections 12(d)(1)(A) and (B) of the Act to permit an Investing Fund to invest its Uninvested Cash in Money Market Funds, provided that in all cases the Investing Fund's aggregate investment of uninvested Cash in shares of the Money Market Funds will not exceed 25% of the Investing Fund's total assets at any time.

3. Applicants believe that the proposed arrangement does not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that the Money Market Funds will have a highly liquid portfolio, and will enhance the Investing Funds' ability to manage Uninvested Cash. Applicants also represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, asset-based distribution fee or service fee. In addition, the board of director or trustees of each Investing Fund (the "Board"), including a majority of the directors or trustees who are not "interested persons" of the Fund, as defined in Section 2(a)(19) of the Act, ("Independent Directors or Trustees") will consider to what extent the advisory fees charged by INVESCO should be reduced to account for reduced services provided such Investing Fund by INVESCO as a result of Uninvested Cash being invested in a Money Market Fund.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an "affiliated person" of an investment company to include the investment adviser, any person that owns 5% or more of the outstanding shares of that company, and any person directly or indirectly controlling, controlled by, or under common control with the investment company. Applicants state that, because the Funds have a common investment adviser and identical Boards, each Fund may be deemed to be under common control with the other Funds and could be deemed an affiliated person or an affiliated person of an affiliated person of each other Fund. In addition, applicants state that a Fund could become an affiliated person of a Money Market Fund by owning more than 5% of a Money Market Fund. Accordingly, applicants state that the sale of shares of the Money Market Funds to the Investing Funds, and the redemption of such shares by the Funds, may be prohibited under section 17(a) of the Act.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt persons or transactions from any provision of the Act if, and to the extent that, the exemption is necessary or appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that the request for relief satisfies the standards of sections 17(b) and 6(c) of the Act. Applicants state that the relief requested is fair and reasonable and would not involve overreaching because shares of the Money Market Funds will be sold and redeemed at their net asset values, the same consideration paid and received by any other shareholder. In addition, the Investing Funds will retain their ability to invest their cash balances directly into money market instruments if they believe that they can obtain a higher return or any other reason. Any Money Market Fund has the right to discontinue selling shares to any of the Investing Funds if its Board determines that such sales would adversely affect the portfolio management and operations of the Money Market Fund.

7. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants state that each Investing Fund, by purchasing shares of the Money Market Funds, and INVESCO, by managing the assets of the Investing Funds invested in the Money Market Funds, could be participants in a joint enterprise within the meaning of section 17(d)(1) of the Act and rule 17d–1 under the Act.

8. Rule 17d–1 under the Act permits the Commission to approve a joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission considers whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants. Applicants submit that the Funds will participate in the proposed transactions on a basis not different from or less advantageous than that of any other participants. Applicants submit that the Funds will participate in the proposed transaction on a basis not different from or less advantages than that of any other participant and that the transactions will be consistent with the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act, or service fee (as

defined in rule 2830 of the NASD's Conduct Rules).

2. Before the next meeting of an Investing Fund's Board held for the purpose of voting on an advisory contract under section 15 of the Act, INVESCO will provide the Board with specific information regarding the approximate cost to INVESCO of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of such Investing Fund that can be expected to be invested in the Money Market Funds. Before approving any advisory contract for an Investing Fund, the Board, including a majority of the Independent Directors or Trustees, shall consider to what extent, if any, the advisory fees charged to the Investing Fund by INVESCO should be reduced to account for the reduced services provided to the Investing Fund by INVESCO as a result of Uninvested Cash being invested in the Money Market Funds. An Investing Fund's minute books will record fully the Board's consideration in approving the advisory contract, including the considerations relating to fees referred to above.

3. Each of the Investing Funds will be permitted to invest Uninvested Cash in, and hold shares of, a Money Market Fund only to the extent that the Investing Fund's aggregate investment in the Money Market Funds does not exceed 25% of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund or series thereof will be treated as a separate investment company.

4. Investment in shares of the Money Market Funds will be in accordance with each Investing Fund's respective investment restrictions and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information.

5. Each Investing Fund, Money Market Fund, and any future Fund that may rely on the order requested will be advised by INVESCO.

6. No Money Market Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10139 Filed 4–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23790; 812–11492]

MFS Series Trust XI, et al.; Notice of Application

April 19, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit in-kind redemptions of shares of certain registered open-end management investment companies held by certain affiliated shareholders.

APPLICANTS: MFS Series Trust XI, MFS Institutional Trust and MFS Variable Insurance Trust (each a "Fund" and collectively, the "Funds") and Massachusetts Financial Services Company ("MFS") and Vertex Investment Management, Inc. ("Vertex," and together with MFS, the "Advisers").

FILING DATES: The application was filed on February 1, 1999, and amended on April 1, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 14, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, Massachusetts Financial Services Company, 500 Boylston Street, Boston, MA 02116.

FOR FURTHER INFORMATION CONTACT: George J. Zornada, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each Fund is registered under the Act as an open-end management investment company, and organized as a Massachusetts business trust. MFS, a Delaware corporation, serves as investment adviser to one series of MFS Series Trust XI and to each of the series of MFS Institutional Trust and MFS Variable Insurance Trust. Vertex, a Delaware corporation and a wholly-owned subsidiary of MFS, serves as investment adviser to the other series of MFS Series Trust XI. Each of the Advisers is registered as an investment adviser under the Investment Advisers Act of 1940.

2. Applicants request relief to permit the Funds to satisfy redemption requests made by any shareholder of a Fund who, at the time of such redemption requests, is an "affiliated person" of a Fund solely by reason of owning, controlling, or holding with the power to vote, five percent or more of the Fund's shares ("Covered Shareholder") by distributing portfolio securities in-kind. The relief sought would not extend to shareholders who are "affiliated persons" of a Fund within the meaning of sections 2(a)(3)(B) through (F) of the Act.

3. Each Fund's prospectus and statement of additional information provide that, in limited circumstances, the Fund may satisfy all or part of a redemption request by a distribution in-kind of portfolio securities. The boards of trustees of the Funds ("Boards") including a majority of the trustees who are not "interested persons" as defined in section 2(a)(19) of the Act ("Non-Interested Trustees"), have determined that it would be in the best interests of the Funds and their shareholders to pay to a Covered Shareholder the redemption price for shares of the Funds in-kind to the extent permitted by certain Funds' elections to be governed by rule 18f–1 under the Act.

Applicants' Legal Analysis

1. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from knowingly purchasing any security or other property (except securities of which the seller is the issuer) from the registered investment company. Section 2(a)(3)(A) of the Act defines "affiliated person" of another person to include any person owning 5% or more of the outstanding voting securities of the other person. Applicants state that to the extent that

an in-kind redemption could be deemed to involve the purchase of portfolio securities (of which the Fund is not the issuer) by a Covered Shareholder, the proposed redemptions in-kind would be prohibited by section 17(a)(2).

2. Section 17(b) of the Act provides that, notwithstanding section 17(a) of the Act, the Commission shall exempt a proposed transaction from section 17(a) of the Act if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants request an order under sections 6(c) and 17(b) of the Act exempting applicants from section 17(a) of the Act to permit Covered Shareholders to redeem their shares of the Funds in-kind. The requested order would not apply to redemptions by shareholders who are affiliated persons of a Fund within the meaning of sections 2(a)(3)(B) through (7) of the Act.

5. Applicants submit that the terms of the proposed in-kind redemptions by Covered Shareholders meet the standards set forth in sections 6(c) and 17(b) of the Act. Applicants assert that neither the Fund nor the Covered Shareholder will have any choice as to the type of consideration to be received in connection with a redemption request, and neither the Adviser nor the Covered Shareholder will have any opportunity to select the specific portfolio securities to be distributed. Applicants further state that the portfolio securities to be distributed will be valued according to an objective, verifiable standards and that the in-kind redemptions are consistent with the investment policies of the Fund. Applicants also state that the proposed in-kind redemption are consistent with the general purposes of the Act because the Covered Shareholders would not receive any advantage not available to other redeeming shareholders.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. The securities distributed pursuant to a redemption in-kind (the "In-Kind Securities") will be limited to securities that are traded on a public securities market or for which market quotations are available.

2. The in-Kind Securities will be distributed by each Fund on a *pro rata* basis after excluding (a) Securities which may not be publicly offered or sold without registration under the Securities Act of 1933; (b) securities issued by entities in countries which (i) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Funds or (ii) permit transfers of ownership of securities to be effected only by transactions conducted on a local stock exchange; (c) certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions and repurchase agreements) that, although they may be liquid and marketable, involve the assumption of contractual obligations, require special trading facilities or can only be traded with the counterparty to the transaction to effect a change in beneficial ownership; (d) cash equivalents (such as certificates of deposit, commercial paper and repurchase agreements); and (e) other assets which are not readily distributable (including receivables and prepaid expenses). In addition, portfolio securities representing fractional shares, odd lot securities and accruals on such securities may be excluded from portfolio securities distributed in-kind to a Covered Shareholder. Cash will be paid for the portion of the in-kind distribution represented by the excluded assets set forth above, less liabilities (including accounts payable).

3. The In-Kind Securities distributed to the Covered shareholders will be valued in the same manner as they would be valued for purposes of computing each Fund's net asset value.

4. The Funds' Boards, including a majority of the Non-Interested Trustees, will determine no less frequently than annually: (a) Whether the In-Kind Securities, if any, have been distributed in accordance with conditions 1 and 2; (b) whether the In-Kind Securities, if any, have been valued in accordance with condition 3; and (c) whether the distribution of any such In-Kind Securities is consistent with the policies of each effected Fund as reflected in the prospectus. In addition, the Board will make and approve such changes as it deems necessary in the procedures for monitoring the Funds' compliance with the terms and conditions of this application.

5. The Funds will maintain and preserve for a period of not less than six years from the end of the fiscal year in which a proposed in-kind redemption occurs, the first two years in an easily accessible place, a written record of such redemption setting forth a description of each security distributed in-kind, the identity of the Covered Shareholder, the terms of the in-kind distribution and the information or materials upon which the valuation was made.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10138 Filed 4–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41305; File No. SR–DTC–99–08]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to Amendments to its Organization Certificate and By-Laws

April 16, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 18, 1999, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on April 12, 1999, amended the proposed rule change (File No. SR–DTC–99–08) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, DTC will amend its Organization Certificate and By-Laws: (1) to increase the size of its Board of Directors, (2) to redesignate its capital stock, and (3) to modernize its Certificate of Organization. The amendments are subject to stockholder approval. DTC anticipates implementing

[1] 15 U.S.C. 78s(b)(1).

the proposed rule change on June 15, 1999.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change, DTC's Organization Certificate and By-Laws will be amended as follows:

1. Increasing the Number of Board Directors

The Board of Directors of DTC has unanimously determined to proceed with a plan for the integration over time of DTC with the National Securities Clearing Corporation ("NSCC"), and DTC has been advised that NSCC has taken similar action. An initial step in this plan is to propose the reelection by shareholders of DTC at this year's annual meeting and the reelection by the shareholders of NSCC at its annual meeting in June of the two entities' current Boards of Directors. Assuming there is no objection by DTC's and NSCC's regulators, the two current Boards will then be restructured so that one group of individuals will serve as the Board of Directors for each of the two companies. Since simply adding DTC's current Board to NSCC's current Board to achieve uniform Boards would result in certain user and marketplace organizations having more than one representative on the uniform Boards, each organization represented will be asked to select only one representative. Through this process and with the inclusion of DTC and NSCC management director, the Board of Directors for each company will be comprised of twenty-seven people.[3]

DTC's Organization Certificate and By-Laws currently provide for the number of directors of the Board to be not less than five nor more than twenty. In order to accommodate the number of directors resulting from the consolidation plan described above and in order to provide for a possible limited future expansion of the Board, paragraph "SEVENTH" of the Organization Certificate (which after elimination of paragraph "FOURTH," as described below, will become paragraph "SIXTH") and Article II, Section 2.1 of the By-Laws will be amended to provide that the number of directors be not less than seven nor more than twenty-five. Section 2.1 of the By-Laws will also be amended to set the number of directors at twenty-five.

2. Redesignating DTC's Capital Stock

DTC's Organization Certificate currently limits DTC to only one class of stock, 18,500 shares of capital stock having a par value of $100,000 per share. All of this stock is issued and outstanding. The Board of Directors may in the future wish to consider authorizing the issuance of preferred stock, for example, as part of DTC's program to strengthen capital. Therefore, paragraph "THIRD" will be amended and paragraph "FOURTH" will be eliminated in order to designate the existing class of capital stock as "common stock" and to provide for 1,500,000 shares of preferred stock having a par value of $100,000 per share.

3. Modernizing the Organization

DTC's Organization Certificate was originally drafted in 1973. Provisions of the Organization Certificate relating to DTC's powers refer both explicitly and implicitly to New York State Statutory provisions that are no longer applicable. The Organization Certificate also fails to recognize DTC's status as a securities depository registered with the SEC (registration was required by federal law enacted two years later in 1975) and to describe more clearly powers incidental to DTC's role as a securities depository. Accordingly, paragraph "THIRTEENTH" (which after elimination of paragraph "FOURTH," as described above, will become paragraph "TWELFTH") will be amended to correct these deficiencies.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(a) of the Act[4] and the rules and regulations thereunder applicable to DTC. The proposed rule change will not affect the safeguarding of securities and funds in DTC's custody or control or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments from DTC Participants have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which DTC consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–99–08 and should be submitted by May 14, 1999.

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] Under the Federal Reserve Act, DTC's may have no more than twenty-five members on its Board. As a result, after the uniform Boards are elected DTC's Board will have twenty-five members and two non-voting advisors, and NSCC's board will have twenty-seven members.

[4] 15 U.S.C. 78q–1(b)(3)(A).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10199 Filed 4–22–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41302; File No. SR–NASD–99–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Creating a Discovery Guide for Use in NASD Arbitrations

April 16, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 29, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. On March 23, 1999, NASD Regulation submitted Amendment No 1 to the proposed rule change.[3] NASD Regulation submitted Amendment No. 2 to the proposed rule change on April 9, 1999.[4] The Commission is publishing this notice of the rule change, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation has filed with the Commission a proposed Discovery Guide for use in NASD arbitration proceedings to improve the discovery process in NASD-sponsored securities arbitrations. Below is the text of the proposed rule change which would create the Discovery Guide and Document Production Lists.

* * * * *

Discovery Guide

For NASD arbitrations, the Discovery Guide supplements the section in The Securities Industry Conference on Arbitration ("SICA") publication entitled "The Arbitrator's Manual," and captioned "Prehearing Conference," found on pages 11 through 16, regarding public customer cases.

I. The Need for New Discovery Procedures

Discovery disputes have become more numerous and time consuming. The same discovery issues repeatedly arise. To minimize discovery disruptions, the NASD Regulation Office of Dispute Resolution has developed too initiatives to standardize the discovery process: early appointment of arbitrators to conduct an initial prehearing conference and document production lists ("Document Production Lists").

No requirement under the Discovery Guide supersedes any record retention requirement of any federal or state law or regulation or any rule of a self-regulatory organization.

The Discovery Guide and Document Production Lists are designed for customer disputes with firms and Associated Person(s).[5] The Discovery Guide also discusses additional discovery requests, information requests, depositions, admissibility of evidence, and sanctions.

The Discovery Guide, including the Document Production Lists, will function as a guide for the parties and the arbitrators; it is not intended to remove flexibility from arbitrators or parties in a given case. For instance, arbitrators can order the production of documents not provided for by the Document Production Lists or alter the production schedule described in the Discovery Guide. Further, nothing in the Discovery Guide precludes the parties from voluntarily agreeing to an exchange of documents in a manner different from that set forth in the Discovery Guide. In fact, the Office of Dispute Resolution encourages the parties to agree to the voluntary exchange of documents and information and to stipulate to various matters. The fact that an item appears on a Document Production List does not shift the burden of establishing or defending any aspect of a claim.

II. Document Production Lists.

The Office of Dispute Resolution will provide the parties with Document Production Lists (attached to the Discovery Guide) at the time it serves the statement of claim in customer cases. The arbitrators and the parties should consider the documents described in Document Production Lists 1 and 2 presumptively discoverable. Absent a written objection, documents on Document Production Lists 1 and 2 shall be exchanged by the parties within the time frames set forth below.

The arbitrators and parties also should consider the additional documents identified in Document Production Lists 3 through 14, respectively, discoverable, as indicated, for cases alleging the following causes of action: churning, failure to supervise misrepresentation/omission, negligence/breach of fiduciary duty, unauthorized trading, and unsuitability. For the general document production and for each of these causes of action, there are separate Document Production Lists for firms/Associated Person(s) and for customers.

NASD Rule 10321 provides that the parties shall cooperate to the fullest extent practicable in the voluntary exchange of documents and information to expedite the arbitration process. As noted, nothing in the Discovery Guide precludes parties from voluntarily agreeing to an exchange of documents in a manner different from that set forth in the Discovery Guide.

A. Time Frames for Document Production and Objections

The parties should produce all required documents listed in the applicable Document Production Lists not later than thirty days[6] from the date the answer is due or filed, whichever is earlier. If a party redacts any portion of a document prior to production, the redacted pages (or ranges of pages) shall be labeled "redacted." A party may object to the production of any document, which would include an objection based upon an established privilege such as the attorney-client privilege. If any party objects to the production of any document listed in the relevant Document Production Lists, the party must file written objections with the Office of Dispute Resolution and serve all parties not later than thirty days following the date the answer is due or filed, whichever is earlier. Objections should set forth the reasons the party objects to producing the documents. An objection to the production of a document or a category of documents is not an acceptable reason to delay the production of any document not covered by the objection. A response to an objection should be served on all parties within 10 days from service of the written objections. Objections and responses should be filed with the Office of Dispute Resolution at the time they are served on the parties. The arbitrator(s) shall then determine whether the objecting party has overcome the presumption based upon sufficient reason(s).

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[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Alden S. Adkins, Senior vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 23, 1999. In Amendment No. 1, NASD Regulation made minor changes to the Discovery Guide in response to some of the Commission's concerns about the Guide ("Amendment No. 1").

[4] *See* letter from S. Alden, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 9, 1999. In Amendment No. 2, NASD Regulation made minor changes to clarify some of the language within the Discovery Guide ("Amendment No. 2").

[5] NASD Regulation may develop separate Document Production Lists for intra-industry disputes.

[6] All time periods referenced herein are calendar days.

B. Confidentiality[7]

If a party objects to document production on grounds of privacy or confidentiality, the arbitrator(s) or one of the parties may suggest a stipulation between the parties that the document(s) in question will not be disclosed or used in any manner outside of the arbitration of the particular case, or the arbitrator(s) may issue a confidentiality order. The arbitrator(s) shall not issue an order or use a confidentiality agreement to require parties to produce documents otherwise subject to an established privilege. Objections to the production of documents, based on an established privilege, should be raised in accordance with the time frame for objections set forth above.

C. Affirmation in The Event That There Are No Responsive Documents or Information

If a party responds that no responsive information or documents exist, the customer or the appropriate person in the brokerage firm who has personal knowledge (i.e., the person who has conducted a physical search), upon the request of the requesting party, must: (1) State in writing that he/she conducted a good faith search for the requested information or documents; (2) describe the extent of the search; and (3) state that based on the search, no such information or documents exist.

III. The Initial Prehearing Conference

To maximize the efficient administration of a case by the arbitration panel,[8] the Office of Dispute Resolution staff will schedule an initial prehearing conference in which the arbitrator(s) usually participates.[9] The initial prehearing conference gives the arbitrator(s) and the parties an opportunity to organize the management of the case, set a discovery cut-off date,[10] identify dispositive or other potential motions, schedule hearing dates, determine whether mediation is desirable, and resolve any other preliminary issues.[11] During the initial prehearing conference, the arbitrator(s) and the parties should schedule hearing dates for the earliest available time, consistent with the parties' need to prepare adequately for the hearing.

Prior to the initial prehearing conference, each arbitrator should become familiar with the claims and defenses asserted in the pleadings filled by the parties. At the initial prehearing conference, the arbitrator(s) should order time limits for discovery that will allow the scheduling of hearing dates within a reasonable time and address all outstanding discovery disputes. If the exchange of properly requested documents has not occurred, the arbitrator(s) should order the production of all required documents, including those outlined in the Document Production List (see section II. above), within 30 days following the conference.

IV. Additional Discovery Requests

The parties may request documents in addition to those identified in the Document Production Lists pursuant to Rule 10321(b). Unless a longer period is allowed by the requesting party, requests should be satisfied or objected to within 30 days from the date of service of the document request. A response to an objection should be served on all parties within 10 days from service of the written objections. Requests, objections, and responses should be filed with the Office of Dispute Resolution at the time they are served on the parties.

A party may move to compel production of documents when the adverse party (a) refuses to produce such documents or (b) offers only to produce alternative documents that are unacceptable to the requesting party. The Office of Dispute Resolution will provide the chairperson of the panel with the motion, opposition, and reply, along with the underlying discovery documents the parties have attached to their pleadings. The chairperson should determine whether to decide the matter on the papers or to convene a prehearing conference (usually via telephone). In considering motions to compel, particularly where non-production is based upon an argument asserting an established privilege, such as the attorney-client privilege, the arbitrator(s) should always give consideration to the arguments set forth by both sides, particularly as to the relevancy of the documents or information. The arbitrator(s) should carefully consider such motions, regardless of whether item requested is on any of the Document Production Lists. If in doubt, the arbitrator(s) should ask the requesting party what specific documents it is trying to obtain and what it seeks to prove with the documents.

V. Information Requests

Like requests for documents, parties may serve requests for information pursuant to Rule 10321(b). Requests for information are generally limited to identification of individuals, entities, and time periods related to the dispute; such requests should be reasonable in number and not require exhaustive answers or fact finding. Standard interrogatories, as utilized in state and federal courts, are generally not permitted in arbitration.

Unless a longer period is allowed by the requesting party, information requests should be satisfied or objected to within 30 days from the date of service of the requests. A response to an objection should be served on all parties within 10 days from service of the written objections. Requests, objections, and responses should be filed with the Office of Dispute Resolution at the time they are served on the parties.

A party may move to compel responses to requests for information that the adverse party refuses to provide. The Office of Dispute Resolution will provide the chairperson of the panel with the motion, opposition, and reply, along with the underlying discovery documents the parties have attached to their pleadings. The chairperson should determine whether to decide the matter on the papers or to convene a prehearing conference (usually via telephone).

VI. Depositions

Depositions are strongly discouraged in arbitration. Upon request of a party, the arbitrator(s) may permit depositions, but only under very limited circumstances, such as: (1) To preserve

[7] Section II. B. is also applicable to additional discovery requests and information requests (see sections IV. and V.).

[8] The panel consists of three arbitrators in most cases. Claims between $25,000 and $50,000 may proceed with a single arbitrator. Claims under $25,000 are decided by a single arbitrator, generally on the pleadings.

[9] In some instances, the parties may opt out of the initial prehearing conference. To opt out, parties must supply the following information to the Office of Dispute Resolution by the specified deadline:

(1) A minimum of four sets of mutually agreeable hearing dates;

(2) A discovery cut-off date;

(3) A list of all anticipated motions with the motion due dates, opposition due dates, and reply due dates provided;

(4) A minimum of four dates and times for any proposed prehearing conferences to hear motions; and

(5) A determination whether briefs will be submitted and, if so, the due date for submission.

[10] The Office of Dispute Resolution recommends that the panel set a cut-off date during the initial prehearing conference for service of discovery requests, giving due consideration to time frames that permit timely resolution of objections and disputes prior to the scheduled exchange of hearing exhibits pursuant to the NASD Code of Arbitration Procedure.

[11] The arbitrators should direct one of the parties to prepare and forward to the Office of Dispute Resolution, within 48 hours, a written order memorializing the results of the prehearing conference, approved as to form and content by the other parties. When motions are heard at the initial prehearing conference, the panel may order the parties to submit the order with a stipulation as to form and content from all parties.

the testimony of ill or dying witnesses; (2) to accommodate essential witnesses who are unable or unwilling to travel long distances for a hearing and may not otherwise be required to participate in the hearing; (3) to expedite large or complex cases; and (4) to address unusual situations where the arbitrator(s) determines that circumstances warrant departure from the general rule. Balanced against the authority of the arbitrator(s) to permit depositions, however, is the traditional reservation about the overuse of depositions in arbitration.

VII. Admissibility

Production of documents in discovery does NOT create a presumption that the documents are admissible at the hearing. A party may state objections to the introduction of any document as evidence at the hearing to the same extent that any other objection may be raised in arbitration.

VIII. Sanctions

The arbitration panel should issue sanctions if any party fails to produce documents or information required by a written order, unless the panel [12] finds that there is "substantial justification" for the failure to produce the documents or information. The panel has wide discretion to address noncompliance with discovery orders. For example, the panel may make an adverse inference against a party or assess adjournment fees, forum fees, costs and expenses, and/or attorneys' fees caused by noncompliance. In extraordinary cases, the panel may initiate a disciplinary referral against a registered entity or person who is a party or witness in the proceeding or may, pursuant to Rule 10305(b), dismiss a claim, defense, or proceeding with prejudice as a sanction for intentional failure to comply with an order of the arbitrator(s) if lesser sanctions have proven ineffective.

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Document Production Lists

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List 1

Documents to be Produced in all Customer Cases [13]

Firm/Associated Persons(s)

(1) All agreements with the customer, including, but not limited to, account opening documents, cash, margin, and option agreements, trading authorizations, powers of attorney, or discretionary authorization agreements, and new account forms.

(2) All account statements for the customer's account(s) during the time period and/or relating to the transaction(s) at issue.

(3) All confirmations for the customer's transaction(s) at issue. As an alternative, the firm/Associated Person(s) should ascertain from the claimant and produce those confirmations that are at issue and are not within claimant's possession, custody, or control

(4) All "holding (posting) pages" for the customer's account(s) at issue or, if not available, any electronic equivalent.

(5) All correspondence between the customer and the firm/Associated Person(s) relating to transaction(s) at issue

(6) All notes by the firm/Associated Person(s) or on his/her behalf, including entries in any diary or calendar, relating to the customer's account(s) at issue.

(7) all recordings and notes of telephone calls or conversations about the customer's account(s) at issue that occurred between the Associated Persons(s) and the customer (and any person purporting to act on behalf of the customer), and/or between the firm and the Associated Person(s).

(8) All Forms RE–3, U–4, and U–5, including all amendments, all customer complaints identified in such forms and all customer complaints of a similar nature against the Associated Person(s) handling the account(s) at issue.

(9) All sections of the firm's Compliance Manual(s) related to the claims alleged in the statement of claim, including any separate or supplemental manuals governing the duties and responsibilities of the Associated Person(s) and supervisors, any bulletins (or similar notices) issued by the compliance department, and the entire table of contents index to each such Manual.

(10) All analyses and reconciliations of the customer's account(s) during the time period and/or relating to the transaction(s) at issue.

(11) All records of the firm/Associated Person(s) relating to the customer's account(s) at issue, such as, but not limited to, internal reviews and exception and activity reports which reference the customer's account(s) at issue.

(12) Records of disciplinary action taken against the Associated Person(s) by any regulator or employer for all sales practices or conduct similar to the conduct alleged to be at issue.

* * * * *

LIST 2

Documents to be Produced in All Customer Cases

CUSTOMER

(1) All customer and customer-owned business (including partnership or corporate federal income tax returns, limited to pages 1 and 2 of Form 1040, Schedules B, D, and E, or the equivalent for any other type of return, for the three years prior to the first transaction at issue in the statement of claim through the date of the statement of claim was filed.

(2) Financial statements or similar statements of the customer's assets, liabilities and/or net worth for the period(s) covering the three years prior to the first transaction at issue in the statement of claim through the date the statement of claim was filed.

(3) Copies of all documents the customer received from the firm/Associated Person(s) and from any entities in which the customer invested through the firm/Associated Person(s), including monthly statements, opening account forms, confirmations, prospectuses, annual and periodic reports, and correspondence.

(4) Account statements and confirmations for accounts maintained at securities firms other than the respondent firm for the three years prior to the first transaction at issue in the statement of claim through the date the statement or claim filed.

(5) All agreements, forms, information, or documents relating to the account(s) at issue signed by or provided by the customer to the firm/Associated Person(s).

(6) All account analyses and reconciliations prepared by or for the customer relating to the account(s) at issue.

(7) All notes, including entries in diaries or calendars, relating to the account(s) at issue.

(8) All recordings and notes of telephone calls or conversations about the customer's account(s) at issue that occurred between the Associated Person(s) and the customer (any person purporting to act on behalf of the customer).

(9) All correspondence between the customer (and any person acting on behalf of the customer) and the firm/Associated Person(s) relating to the account(s) at issue.

(10) Previously prepared written statements by persons with knowledge of the facts and circumstances related to the account(s) at issue, including those by accountants, tax advisors, financial planners, other Associated Person(s), and any other third party.

(11) All prior complaints by or on behalf of the customer involving securities matters and the firm's/Associated Person(s') response(s).

(12) Complaints/Statements of Claim and Answers filed in all civil actions involving securities matters and securities arbitration proceedings in which the customer has been a party, and all final decisions and awards entered in these matters.

(13) All documents showing action taken by the customer to limit losses in the transaction(s) at issue.

* * * * *

List 3

Churning

Firm/Associated Person(s)

(1) All commission runs relating to the customer's account(s) at issue or, in the alternative, a consolidated commission report relating to the customer's account(s) at issue.

(2) All documents reflecting compensation of any kind, including commissions, from all sources generated by the Associated

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[12] As with other rulings, an arbitration panel's ruling need only be by majority vote; it need not be unanimous.

[13] Only named parties must produce documents pursuant to the guidelines set forth herein. However, non-parties may be required to produce documents pursuant to a subpoena or an arbitration panel order to direct the production of documents (see Rule 10322). In addition, the arbitration chairperson may use the Document Production Lists as guidance for discovery issues involving non-parties.

Person(s) assigned to the customer's account(s) for the two months preceding through the two months following the transaction(s) at issue, or up to 12 months, whichever is longer. The firm may redact all information identifying customers who are not parties to the action, except that the firm/Associated Person(s) shall provide at least the least four digits of the non-party customer account number for each transaction.

(3) Documents sufficient to describe or set forth the basis upon which the Associated Person(s) was compensated during the years in which the transaction(s) or occurrence(s) in question occurred, including: (a) any bonus or incentive programs; and (b) all compensation and commission schedules showing compensation received or to be received based upon volume, type of product sold, nature of trade (e.g., agency v. principal), etc.

* * * * *

List 4

Churning

Customer

No additional documents identified.

* * * * *

List 5

Failure to Supervise

Firm/Associated Person(s)

(1) All commission runs and other reports showing compensation of any kind relating to the customer's account(s) at issue or, in the alternative, a consolidated commission report relating to the customer's account(s) at issue.

(2) All exception reports and supervisory activity reviews relating to the Associated person(s) and/or the customer's account(s) that were generated not earlier than one year before or not later than one year after the transaction(s) at issue, and all other documents reflecting supervision of the Associated Person(s) and the customer's account(s) at issue.

(3) Those portions of internal audit reports at the branch in which the customer maintained his/her account(s) that: (a) focused on the Associated Person(s) or the transaction(s) at issue; and (b) were generated not earlier than one year before or not later than one year after the transaction(s) at issue and discussed alleged improper behavior in the branch against other individuals similar to the improper conduct alleged in the statement of claim.

(4) Those portions of examination reports or similar reports following an examination or an inspection conducted by a state or federal agency or a self-regulatory organization that focused on the Associated Person(s) or the transaction(s) at issue or that discussed alleged improper behavior in the branch against other individuals similar to the improper conduct alleged in the statement of claim.

* * * * *

List 6

Failure to Supervise

Customer

No additional documented identified.

* * * * *

List 7

Misrepresentation/Omissions

Firm/Associated Person(s)

Copies of all materials prepared or used by the firm/Associated Person(s) relating to the transactions or products at issue, including research reports, prospectuses, and other offering documents, including documents intended or identified as being "for internal use only," and worksheets or notes indicating the Associated Person(s) reviewed or read such documents. As an alternative, the firm/Associated Person(s) may produce a list of such documents that contains sufficient detail for the claimant to identify each document listed. Upon further request by a party, the firm/Associated Person(s) must provide any documents identified on the list.

* * * * *

List 8

Misrepresentation/Omissions

Customer

(1) Documents sufficient to show the customer's ownership in or control over any business entity, including general and limited partnerships and closely held corporations.

(2) Copy of the customer's resume.

(3) Documents sufficient to show the customer's complete educational and employment background or, in the alternative, a description of the customer's educational and employment background if not set forth in a resume produced under item 2.

* * * * *

List 9

Negligence/Breach of Fiduciary Duty

Firm/Associated Person(s)

Copies of all materials prepared or used by the firm/Associated Person(s) relating to the transactions or products at issue, including research reports, prospectuses, and other offering documents, including documents intended or identified as being "for internal use only," and worksheets or notes indicating the Associated Person(s) reviewed or read such documents. As an alternative, the firm/Associated Person(s) may produce a list of such documents that contains sufficient detail for the claimant to identify each document listed. Upon further request by a party, the firm/Associated Person(s) must provide any documents identified on the list.

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List 10

Negligence/Breach of Fiduciary Duty

Customer

(1) Documents sufficient to show the customer's ownership in or control over any business entity, including general and limited partnerships and closely held corporations.

(2) Copy of the customer's resume.

(3) Documents sufficient to show the customer's complete educational and employment background or, in the alternative, a description of the customers educational and employment background if not set forth in a resume produced under item 2.

* * * * *

List 11

Unauthorized Trading

Firm/Associated Person(s)

(1) Order tickets for the customer's transaction(s) at issue.

(2) Copies of all telephone records, including telephone logs, evidencing telephone contact between the customer and the firm/Associated Person(s).

(3) All documents relied upon by the firm/Associated Person(s) to establish that the customer authorized the transaction(s) at issue.

* * * * *

List 12

Unauthorized Trading

Customer

1. Copies of all telephone records, including telephone logs, evidencing telephone contact between the customer and the firm/Associated Person(s).

2. All documents relied upon by the customer to show that the transaction(s) at issue was made without his/her knowledge or consent.

* * * * *

List 13

Unsuitability

Firm/Associated Person(s)

(1) Copies of all materials prepared, used, or reviewed by the firm/Associated Person(s) related to the transactions or products at issue, including but not limited to research reports, prospectuses, other offering documents, including documents intended or identified as being "for internal use only," and worksheets or notes indicating the Associated Person(s) reviewed or read such documents. As an alternative, the firm/Associated Person(s) may produce a list of such documents. Upon further request by a party, the firm/Associated Person(s) must provide any documents identified on the list.

(2) Documents sufficient to describe or set forth the basis upon which the Associated Person(s) was compensated in any manner during the years in which the transaction(s) or occurrence(s) in question occurred, including, but not limited to: (a) any bonus or incentive program: and (b) all compensation and commission schedules showing compensation received or to be received based upon volume, type of product sold, nature of trade (e.g., agency v. principal), etc.

* * * * *

List 14

Unsuitability

Customer

(1) Documents sufficient to show the customer's ownership in or control over any business entity, including general and limited partnerships and closely held corporations.

(2) Written documents relied upon by the customer in making the investment decision(s) at issue.

(3) Copy of the customer's resume.

(4) Documents sufficient to show the customer's complete educational and employment background or, in the alternative, a description of the customer's educational and employment background if not set forth in a resume produced under item 3.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Discovery Guide, which includes Document Production Lists, provides guidance to parties on which documents they should exchange without arbitrator or staff intervention, and to arbitrators in determining which documents customers and member firms or associated persons are presumptively required to produce in customer arbitrations. The NASD developed the Discovery Guide because parties and their attorneys often do not comply or do not comply fully with discovery requests in NASD arbitrations. The proposal will streamline discovery in arbitrations in several ways, including reducing the number and scope of document productions and other discovery disputes, thereby reducing staff, arbitrator and party resources required to resolve such disputes. The Discovery Guide is a consensus document. It was developed over more than a two-year period, and reflects the view of many arbitration experts, experienced practitioners, and self-regulatory organization ("SRO") arbitration staff.

The Discovery Guide and Document Production Lists will function as a guide for the parties and the arbitrators; they are not intended to bind arbitrators in a given case or to bind parties. For instance, arbitrators can order the production of documents not provided for by the Document Production Lists or alter the production schedule described in the Discovery Guide. Further, nothing in the Discovery Guide precludes the parties from voluntarily agreeing to an exchange of documents in a manner different from that set forth in the Discovery Guide or in the Document Production Lists. In fact, the Office of Dispute Resolution ("ODR") of NASD Regulation encourages the parties to agree to the voluntary exchange of documents and information and to stipulate to various matters. However, the Discovery Guide is binding on parties to the extent it is used by arbitrators to order the exchange of documents.

Background

In January 1996, the Arbitration Policy Task Force ("Task Force"), in *Securities Arbitration Reform: Report of the Arbitration Policy Task Force to the Board of Governors of NASD* (*"Task Force Report"*), made a number of broad recommendations to the NASD Board of Governors to improve the securities arbitration process administered by the NASD Board of Governors to improve the securities arbitration process administered by the NASD. One of these recommendations states that: "Automatic production of essential documents should be required for all parties, and arbitrators should play a much greater role in directing discovery and resolving discovery disputes."[14] The Task Force reported that parties and their attorneys routinely failed to comply with discovery requests or only complied partially. In addition, the Task Force noted that existing NASD rules did not provide guidance to an arbitrator as to the proper scope of discovery and, thus, discovery disputes were resolved largely according to the standards of individual arbitrators.[15] According to the Task Force, some arbitrators had experience in civil litigation, but others had little knowledge or training that would enable them to resolve a dispute according to any uniform standard or rules. [16]

After the work of the Task Force was completed, several groups were formed to work on the discovery issue. Each group was composed of persons offering diverse perspectives, and all made a substantial contribution to the process. The proposed Discovery Guide is the product resulting from these groups' efforts which were composed of arbitration experts, experienced practitioners, and SRO arbitration staff. Among those contributing to the Discovery Guide were persons who are members of the Securities Industries Conference on Arbitration ("SICA") [17], members of the Securities Industry Association ("SIA"), directors of the Public Investors Arbitration Bar Association ("PIABA"), industry representatives from major broker-dealers, counsel for claimants, and counsel for the industry. The Discovery Guide represents a compromise reached over more than two years among a variety of securities industry and investor representatives and their counsel. Most of the contributors believe the proposal represents an opportunity to improve discovery in arbitration.

The approval of the Discovery Guide would result in the implementation of key recommendations of the Task Force by establishing the practice in customer arbitrations that essential documents will be produced, and requiring that arbitrators play a greater role in directing the discovery process and resolving discovery disputes. The Discovery Guide follows the Task Force's recommendation in all but one respect. Although the Task Force recommended that any proposed arbitration rule or guideline require that documents be produced automatically, the Discovery Guide is drafted so that the documents are presumptively discoverable instead to give the arbitrators more discretion in managing the discovery process and to provide more flexibility to the process.

Features of the Discovery Guide

The Discovery Guide will be used as a supplement or an addendum to the guidance regarding discovery set forth in The Arbitrator's Manual, published by SICA, and particularly the provisions in the section entitled, "Prehearing Conference," at pages 11–16. The Arbitrator's Manual is compiled by members of SICA as a guide for arbitrators, and is designed to

[14] *Task Force Report* at 2.

[15] *Id.* at 79.

[16] *Id.*

[17] SICA was formed to develop and maintain a Uniform Code of Arbitration and to provide a forum for the discussion of new developments in securities arbitration among arbitration SRO forums and participants in those forums. The membership includes representatives from the SRO's with securities arbitration forums, three of four "public" members, and a representative from the SIA.

supplement and explain the Uniform Code of Arbitration as developed by SICA. By the terms of The Arbitrator's Manual, the procedures and policies contained therein are discretionary and may be changed by the arbitrators. Further, nothing in the Discovery Guide, including The Document Production Lists, precludes the parties from voluntarily agreeing to an exchange of documents in a manner different from that set forth in the Discovery Guide.

The Discovery Guide consists of introductory and instructional text, and fourteen Document Production Lists. It is intended for use by arbitrators in customer arbitrations only. These lists include the following (parenthetical references refer to the party from whom documents are sought):

List 1: Documents To Be Produced In All Customer Cases (Firm/Associated Person(s))
List 2: Documents To Be Produced In All Customer Cases (Customer)
List 3: Churning (Firm/Associated Person(s))
List 4: Churning (Customer)
List 5: Failure To Supervise (Firm/Associated Person(s))
List 6: Failure To Supervise (Customer)
List 7: Misrepresentation/Omission (Firm/Associated Person(s))
List 8: Misrepresentation/Omission (Customer)
List 9: Negligence/Breach Of Fiduciary Duty (Firm/Associated Person(s))
List 10: Negligence/Breach Of Fiduciary Duty (Customer)
List 11: Unauthorized Trading (Firm/Associated Person(s))
List 12: Unauthorized Trading (Customer)
List 13: Unsuitability (Firm/Associated Person(s))
List 14: Unsuitability (Customer).

The ODR will provide the parties with the Discovery Guide including the Document Production Lists at the time ODR serves the statement of claim. The document production requirements in the first two Document Production Lists, "List 1, Documents To Be Produced In All Customer Cases: (Firm/Associated Person(s))," and "List 2, Documents To Be Produced In All Customer Cases: Customer," would apply in virtually all cases involving member-customer or associated person-customer disputes, unless the arbitrator(s), in the exercise of discretion, determines that some or all of the documents in the relevant Document Production Lists should not be produced. For cases in which allegations of churning, failure to supervise, misrepresentation/omission, negligence/breach of fiduciary duty, unauthorized trading, or unsuitability are stated, additional Document Production Lists (*e.g.*, Document Production Lists 3 and 4—Churning) provide additional guidance. If a Document Production List is applicable, the Discovery Guide is drafted to guide the arbitrator(s) to order production, unless in the exercise of discretion, the arbitrator(s) believes that there is good cause not to order production.

In addition to specific document production requirements, the Discovery Guide also discusses other topics such as confidential treatment of documents, additional discovery requests, depositions, admissibility of evidence, arbitrator participation, and sanctions. These general instructions are discussed below.

Confidential Treatment. Under the Discovery Guide, parties may stipulate that private or confidential document(s) will not be disclosed or used in any manner outside of the arbitration of the particular case. Alternatively, the arbitrator(s) may issue confidentiality orders. The Discovery Guide further provides that arbitration panels shall not issue orders or use confidentiality agreements to require parties to produce documents otherwise protected by established privileges.

Additional Discovery Requests. The Discovery Guide states that parties may request documents in addition to those identified in the Document Production Lists, and it provides guidance regarding the timing of such requests. Unless a longer period is allowed by the requesting party, requests should be satisfied or objected to within 30 days from the date of service of the document request. Any response to objections to a request should be served on all parties within 10 days of service of the objection.

The Discovery Guide provides a mechanism for a party to seek to compel production of documents when the adverse party (a) refuses to produce such documents or (b) offers only to produce alternative documents that are unacceptable to the requesting party. The Discovery Guide directs the arbitrator(s) to carefully consider such motions, regardless of whether the item requested is on any of the Document Production Lists.

Depositions. The Discovery Guide enables the arbitrator(s) to allow depositions, but only under very limited circumstances, such as: (a) to preserve the testimony of ill or dying witnesses; (b) to accommodate essential witnesses who are unable or unwilling to travel long distances for a hearing and may not otherwise be required to participate in the hearing; (c) expedite large or complex cases; and (d) to address unusual situations where the arbitrator(s) determines that circumstances warrant departure from the general guidance.

Admissibility. Production of documents pursuant to the Discovery Guide does not create a presumption that the documents are admissible at the arbitration hearing. Nothing in the Discovery Guide prevents a party from objecting to the introduction of any document as evidence at the hearing to the same extent that any other objection may be raised in arbitration.

Arbitrator Participation. Under the Discovery Guide, the NASD arbitrator(s) will participate in the initial and subsequent prehearing conferences to organize the management of the case, set a discovery cut-off date, identify dispositive or other potential motions, schedule hearing dates, determine whether mediation is desirable, and resolve any other preliminary issues. If the exchange of properly requested discovery has not occurred, the Discovery Guide provides that the arbitrator(s) may order the production of all required documents subject to production.

Sanctions. The Discovery Guide instructs arbitration panels to issue sanctions if any party fails to produce documents or information required by a written order, unless the panel [18] finds that there is "substantial justification" for the failure to produce the documents or information. The Discovery Guide gives wide discretion to address noncompliance with discovery orders. For example,the panel may make an adverse inference against a party or assess adjournment fees, forum fees, cost and expenses, and/or attorney's fees caused by noncompliance. In extraordinary cases, the Discovery Guide permits the panel to initiate a disciplinary referral against a registered entity or person who is a party or witness in the proceeding or may, pursuant to Rule 10305(b), dismiss a claim, defense, or proceeding with prejudice as a sanction for intentional failure to comply with an order of the arbitrator(s) if lesser sanctions have proven ineffective.

The Discovery Guide Is a Guideline

As noted, the Discovery Guide will function as a guide for the parties and the arbitrator(s), and is intended to supplement The Arbitrator's Manual, which does not create any binding regulatory obligations. Further, the policies set forth in the Discovery Guide are discretionary and may be changed by the arbitrator(s). Moreover, the parties may agree to a voluntary exchange of documents in a manner that

[18] An arbitration panel's ruling need only be by majority vote; if need not be unanimous.

is different from that set forth in the Discovery Guide.

2. Statutory Basis

NASD Regulation believes that the proposed Discovery Guide is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the Discovery Guide will reduce the number and limit the scope of disputes involving document productions and other matters, thereby improving the arbitration process for the benefit of public investors, broker/dealer members, and associated persons who are the users of the process.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed Discovery Guide will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether utilizing the Discovery Guide, as amended, is consistent with the Act. In addition to any other issues that the public may wish to address, the Commission specifically requests comments on the following aspects of the Discovery Guide:

A. The Discovery Guide as a Compromise Document

The Discovery Guide provides guidance to parties on which documents they should exchange without arbitrator or staff intervention in NASD-sponsored arbitrations, and to arbitrators in determining which documents customers and member firms or associated persons are presumptively required to produce in customer arbitrations. In January 1996, the Arbitration Policy Task Force chaired by former Commission Chairman David Ruder recommended that "[a]utomatic production of essential documents should be required for all parties, and arbitrators should play a much greater role in directing discovery and resolving discovery disputes." *Task Force Report* (January 1996), at 2.

The NASD's National Arbitration and Mediation Committee, together with advisors from various diverse backgrounds, helped to draft the Discovery Guide over a period of two years in an effort to implement this recommendation. Among those contributing to the Discovery Guide were persons who are members of SICA, members of SIA, directors of PIABA, industry representatives, representatives from major broker-dealers, counsel for claimants, and counsel for the industry. The Discovery Guide reflects a compromise between the various interests of the drafters.

The Commission seeks comment on whether the Discovery Guide's document discovery lists, when considered as a whole, reflect a balanced compromise between the various interests of the drafters.

The Commission seeks comment on whether the Discovery Guides document discovery lists, when considered as a whole, reflect a balanced compromise between the production needs of, and burdens on, both claimants and industry defendants in customer arbitrations. For example, while some may believe production of a particular class of documents on one of the industry production lists is burdensome, there may be an equally burdensome production requirement on the corresponding customer production list. Comments should provide specific examples to support their views of whether the Discovery Guide is a balanced effort to make both sides in an arbitration produce more relevant documents more quickly. Comments should take into account that, as noted in the Discovery Guide, parties are not precluded from seeking additional classes of documents either by agreement or by order of the arbitrators in any particular case.

B. Customer Personal Financial Information

Under List 2 of the Discovery Guide, claimants in all cases are asked to produce a significant amount of personal financial information. For example, claimants are asked to produce portions of all customer and customer-owned business federal income tax returns (List 2, Item 1), financial statements or similar statements of the customer's assets, liabilities and or net worth (List 2, Item 2), and account statements and confirmations for accounts maintained at a securities firm other than the respondent firm (List 2, Item 4) for a period of at least three years and as many as six years.[19]

The Commission seeks comment on whether the scope of these requests on List 2 is reasonable in all customer cases. For example, should these requests be limited to a lesser amount of personal financial and tax information (*e.g.*, either tax returns or financial statements), or to a shorter period of coverage (*e.g.*, financial information covering a year before the transactions at issue until the date the claim is made)? Should federal income tax returns be made presumptively discoverable in only certain types of cases where the information contained in those documents may be more relevant (such as unsuitability cases (List 14)), than in other types of cases (such as churning claims)?

The Commission also seeks comment on whether the relative production burden is reasonably equivalent for both claimants and respondents in an arbitration proceeding. The drafters of the Discovery Guide sought to effect a compromise between competing interests, with each party being required to give up certain types of information in order to receive other types of information on a regular and timely basis. For example, does requiring customers to produce personal financial information (List 2, Items 1, 2, and 4) balance the respondent's obligation to produce records of customer complaints and disciplinary action, without time limitation (List 1, Items 8 and 12).[20]

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[19] These requests seek documents covering the period from 3 years prior to the transaction(s) in issue through the time the claim is filed. Since most arbitration claims must be brought within 3 years from the date of the transaction under applicable statutes of limitations, depending on when a claim is filed, a claimant may have to produce 6 years' worth of personal financial information.

[20] List 1, Item 8 requires firms/associated persons to produce "[a]ll Forms RE–3, U–4, and U–5s, including all amendments, all customer complaints

Commenters should provide specific examples to support their opinions where possible.

C. Privilege Issues

The Discovery Guide states in Part II.B. that "[t]he arbitrator(s) shall not issue an order or use a confidentiality agreement to require parties to produce documents otherwise subject to an established privilege." Those privileges that would be deemed "established," however, are not listed in the Guide. While the attorney-client privilege would clearly be an example of an established privilege, would it be helpful to parties and arbitrators to identify if other privileges also could be claimed? Do securities firms intend to assert any other types of privileges? Is the absence of specificity an invitation to argument about whether a privilege has been "established"?

As the NASD has stressed, the Lists of presumptively discoverable documents were the result of significant compromise between representatives of the industry, the plaintiffs' bar, and other interested persons. Each group agreed to include certain types of documents in the Lists that it could otherwise object to producing because it would receive other types of documents in return. Is the term "established privilege" sufficiently limited to assure that the balance between competing interests that the NASD sought to achieve through the Discovery Guide will not be upset?

The Commission therefore seeks comment on the privileges that should be considered "established" for purposes of the Discovery Guide. Should the only privilege recognized as "established" be the attorney/client privilege (and the related work product doctrine)? In light of the compromises reached in fashioning the Discovery Guide, should a party be precluded from asserting a blanket privilege to keep from producing an entire category of documents contained on one of the discovery Lists?

D. Internal Audit Reports

List 5, Item 3(a) calls for the production of those portions of internal audit reports that "focused on" the associated person(s) or transaction(s) at issue. There may be instances where an internal audit report does not "focus on" a particular person or transaction, but may nonetheless relate to a claim made in arbitration. For example, an internal report that addresses a particular practice of the firm or branch office may be relevant to the customer's claim even if it does not "focus on" the associated person named in the customer's complaint.

Therefore, the Commission would like comment on whether the internal audit reports subject to production under List 5, Item 3(a) should be limited to those that "focus on" the associated person(s) or transaction(s) at issue in the claim, or whether the class of internal audit reports should be expanded to include those that "concern" or "relate to" the claims made in the arbitration. Is the limitation in List 5, Item 3(a) to reports that "focus on" the associated person(s) and transaction(s) at issue necessary to prevent production of audit reports that are unrelated to the claims in a particular arbitration, or does the limitation exclude particular types of reports that will almost always be relevant?

List 5, Item 3(b) requires production of those portions of internal audit reports that "were generated not earlier than one year before or not later than one year after the transaction(s) at issue and discussed alleged improper behavior in the branch against other individuals similar to the improper conduct alleged in the statement of claim." Does this provision help ensure that all portions of internal audit reports that may be relevant to the claims asserted in an arbitration will be produced by firms? Would an expansion of the documents called for in List 5, Item 3(a) upset the balance strived for by the members of the NASD's drafting committee?

E. Particular Types of Claims

Lists 1 and 2 set forth documents to be produced in all customer cases by firms/associated persons and customers, respectively. Lists 3 through 14 call for the production of additional classes of documents in particular types of cases, including churning (Lists 3 and 4), failure to supervise (Lists 5 and 6), misrepresentation/omission (Lists 7 and 8), negligence/breach of fiduciary duty (Lists 9 and 10), unauthorized trading (Lists 11 and 12) and unsuitability (Lists 13 and 14). Are there other types of specific claims that should be included in particular lists in the Discovery Guide? For instance, claims alleging failure to obtain best execution on particular trades do not have individualized production lists. Because of the nature of best execution claims, the documents called for in List 11 may be relevant in those cases. Should List 11 also apply to best execution claims as well as unauthorized trading claims? When commenting, commenters should take into account that recently best execution has become a topic of significant interest.[21]

Person making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0690. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–07 and should be submitted by May 14, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10200 Filed 4–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41296; File No. SR–OCC–99–05]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Regarding Joint Back Office Participants

April 16, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 3, 1999, The Options Clearing Corp. ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule

identified in such forms, and all customer complaints of a similar nature against the Associated Person(s) handling the account(s) at issue." List 1, Item 12 calls for production of "[r]ecords of disciplinary action taken against the Associated Person(s) by any regulator or employer for all sales practices or conduct similar to the conduct alleged to be at issue," in all cases.

[21] *See, e.g., Newton* v. *Merrill Lynch, Pierce, Fenner & Smith Incorporated, et al.*, 135 F.3d 266 (3d Cir. 1998); *Order Execution Obligations*, Exchange Act Release No. 37619A, 61 FR 48290 (Sept. 12, 1996) (duty of best execution requires broker-dealer to seek the most favorable terms reasonably available under the circumstances of the customer's transaction).

[22] 17 CFR 200.30–3(a)(12)

[1] 15 U.S.C. 78s(b)(1).

change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, OCC will amend its rules and by-laws to allow clearing members to maintain joint back office accounts in which long positions can be used to offset short positions in options for broker-dealers with which they have joint back office arrangements.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to allow OCC clearing members to maintain joint back office accounts ("JBO accounts") for broker-dealers with whom the clearing members have joint back office arrangements. (These broker-dealers are referred to as JBO participants.) Under the proposed rule change, a broker-dealer registered with the Commission will be considered a JBO participant if it (1) maintains a joint back office arrangement with an OCC clearing member that satisfies the requirements of Regulation T,[3] (2) meets the applicable requirements as specified in exchange rules, and (3) consents to having its exchange transactions cleared and its positions carried in a JBO participant account.

OCC will treat JBO participants like market makers and specialists and will treat JBO participants' accounts like market maker's accounts and specialist's accounts. For example, long positions in a JBO participants' account will be treated as unsegregated long positions. The one exception to this treatment relates to Chapter IV of OCC's rules which pertains to matched trade reporting. OCC does not anticipate that its participant exchanges will report JBO transactions as market maker or specialist transactions for purposes of reporting matched trades. Accordingly, JBO participants will not be included within the term "market maker" or "specialist" for the purposes of the rules in Chapter IV.

To implement the above changes, OCC will add definitions for "JBO participant" and "JBO participants' account" in Article I, Section 1 of the by-laws. OCC will also amend the definition of "unsegregated long position" to include long positions in JBO participants' accounts. OCC will amend Interpretation .03 to Article V, Section 1 of the by-laws, which provides that applicants for clearing membership must agree to seek approval for the membership/margin committee to clear types of transactions for which the applicant did not initially seek approval in its membership application, by adding JBO participant transactions. Finally, Article VI, Section 3 of the by-laws will be amended to add JBO participants' accounts to the list of permissible accounts clearing members may maintain with OCC.

OCC believes that the proposed rule change is consistent with Section 17A of the Act[4] and the rules and regulations thereunder because the proposal is consistent with OCC's requirement to assure the safeguarding of securities and funds which are in OCC's custody or control or for which OCC is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any material impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–99–05 and should be submitted by May 14, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10198 Filed 4–22–99; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] Joint back office arrangements are authorized under Section 220.7 of Regulation T of the Board of Governors of the Federal Reserve System and permit non-clearing broker-dealers to be deemed self-clearing for credit extension purposes if the non-clearing broker-dealer has an ownership interest in the clearing firm.

[4] 15 U.S.C. 78q–1.

[5] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before May 24, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW , 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–6629.

SUPPLEMENTARY INFORMATION:

Title: Small Business Investment Company (SBIC) Leverage Application Forms & Documents, Leverage Application Kits.

Form No's: 25, 33, 34 and 1065.

Frequency: On Occasion.

Description of Respondents: Small Business Investment Companies and Minority Small Business Investment Companies.

Annual Responses: 327.

Annual Burden: 507.

Dated: April 13, 1999.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–10156 Filed 4–22–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9A81, Amdt. #1]

State of California

The above numbered declaration is hereby amended to include Glenn County and the contiguous counties of Butte, Colusa, Lake, Mendocino, and Tehama in the State of California as an economic injury disaster loan area as a result of extremely low temperatures and sub-freezing conditions beginning on December 20, 1998 and continuing. Applications may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the deadline for filing applications for economic injury is October 15, 1999.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: April 19, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–10255 Filed 4–22–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3165, Amdt. #1]

State of Louisiana

As a result of the President's major disaster declaration on April 9, 1999 for Public Assistance only for Bossier Parish, and an amendment thereto on April 12 adding Individual Assistance for Bossier and Caddo Parishes in the State of Louisiana, I find that the above Parishes constitute a disaster area as a result of damages caused by severe storms, tornadoes, and flooding that occurred on April 3–7, 1999. This amendment supercedes SBA's existing Administrative disaster declaration to comply with the requirements of a major declaration by the President. Applications for loans for physical damages may be filed until the close of business on June 7, 1999.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties or parishes may be filed until the specified date at the previously designated location: Bienville, DeSoto, Red River, and Webster Parishes in Louisiana; Lafayette and Miller Counties in Arkansas; and Cass, Harrison, Marion, and Panola Counties in Texas.

The economic injury numbers are 9C1600 for Louisiana, 9C1700 for Arkansas, and 9C4900 for Texas.

All other information remains the same, i.e., the deadline for filing applications for economic injury is January 7, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 13, 1999.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 99–10254 Filed 4–22–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3167]

State of Ohio

Hamilton County and the contiguous counties of Butler, Clermont, and Warren in the State of Ohio; Dearborn and Franklin Counties in Indiana; and Boone, Campbell, and Kenton Counties in Kentucky constitute a disaster area as a result of damages caused by severe storms and tornadoes that occurred on April 9, 1999. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on June 14, 1999 and for economic injury until the close of business on Jan. 18, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.875
Homeowners without credit available elsewhere	3.437
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and Small Agricultural Cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 316712 for Ohio; 316812 for Indiana; and 316912 for Kentucky. For economic injury the numbers are 9C5000 for Ohio; 9C5100 for Indiana; and 9C5200 for Kentucky.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 15, 1999.

Fred P. Hochberg,

Acting Administrator.

[FR Doc. 99–10253 Filed 4–22–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Federal Assistance To Provide Financial Counseling, Technical Assistance and Long-Term Training to Women

AGENCY: Small Business Administration.

ACTION: Program announcement No. OWBO–95–007, as amended by OWBO–98–011

SUMMARY: The Small Business' Administration (SBA) plans to issue program announcement No. OWBO–95–007, as amended by OWBO–98–011, to invite applications of private, not-for-profit organizations to conduct Women's Business Center projects in the Mid-Delta Region of Mississippi. The authorizing legislation is the Small Business Act, Section 29, 15 U.S.C., Section 656, as amended by Pub. L. 105–277,111 Stat. 2592. SBA Headquarters must receive applications/proposals by May 31, 1999. SBA will select successful applicants competitively. The successful applicant(s) will receive an award to provide long-term training, counseling and technical assistance to women who want to start or expand businesses. The women's business center project of the successful applicant(s) will replace a previous project in the 4th year and complete the 5th year of the previous project's 5-year term. Service and assistance areas must include financial, management, marketing and government procurement/certification assistance. The applicant must also target women who are socially and economically disadvantaged . The applicant must plan to provide services locally and on the Internet via the SBA-funded Online Women's Business Center, www.onlinewbc,org.

The applicant must submit a two-year plan that describes proposed fund-raising, training and technical assistance activities. A twelve-month award will be issued for each project year, without re-competition. Award recipients must provide non-Federal matching funds as follows: one non-Federal dollar for each Federal dollar for both project years. Up to one-half of the non-Federal matching funds may be in the form of in-kind contributions.

DATES: SBA will mail program announcements to interested parties immediately, upon request. The opening date will be May 3, 1999 and the closing date will be May 31, 1999.

FOR FURTHER INFORMATION CONTACT: Sally Murrell, (202) 205–6673 or Mina Wales (202) 205–6621.

Sherrye P. Henry,

Assistant Administrator, SBA/Office of Women's Business Ownership.

[FR Doc. 99–10157 Filed 4–22–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 3009]

Advisory Committee on International Communications and Information Policy Meeting Notice

The Department of State is holding the next meeting of its Advisory Committee on International Communications and Information Policy. The Committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

The purpose of this quarterly meeting will be for the members to look at the substantive issues on which the committee should focus, as well as specific countries and regions of interest to the committee.

This meeting will be held on Thursday, May 20, 1999, from 9:30 a.m.–12:30 p.m. in Room 1105 of the Main Building of the U.S. Department of State, located at 2201 "C" Street, NW, Washington, DC 20520. Members of the public may attend these meetings up to the seating capacity of the room. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Shirlett Thornton at (202) 647–8345 or by fax at (202) 647–0158. All attendees must use the "C" Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

For further information, contact Timothy C. Finton, Executive Secretary of the Committee, at (202) 647–5385 or <fintontc@state.gov>.

Dated: April 19, 1999.

Timothy C. Finton,

Executive Secretary.

[FR Doc. 99–10279 Filed 4–22–99; 8:45 am]

BILLING CODE 4710–45–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Deadline for Submission of Petitions for the 1999 Annual GSP Product and Country Eligibility Practices Review

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of the 1999 Annual GSP Product and Country Eligibility Practices Review.

SUMMARY: The deadline for the submission of petitions for the 1999 Annual GSP Product and Country Eligibility Practices Review is 5:00 p.m., Wednesday, June 16, 1999.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW, Room 518, Washington, DC 20508. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION:

I. Announcement of 1999 Annual GSP Product and Country Eligibility Practices Review

The GSP regulations (15 CFR Part 2007) provide the schedule of dates for conducting an annual review unless otherwise specified by a **Federal Register** notice. Notice is hereby given that, in order to be considered in the 1999 Annual GSP Product and Country Eligibility Practices Review, all petitions to modify the list of articles eligible for duty-free treatment under GSP or to review the GSP status of any beneficiary developing country must be received by the GSP Subcommittee of the Trade Policy Staff Committee no later than 5 p.m., Wednesday, June 16, 1999. Petitions submitted after the deadline will not be considered for review and will be returned to the petitioner.

The GSP provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries. The GSP is authorized by title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*), as amended (the "Trade Act"), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations. Section 505 of the Trade Act states that duty-free treatment provided under the GSP shall not remain in effect after June 30, 1999. If the program expires without reauthorization on that date, the 1999 Annual GSP review will be conducted according to a schedule to be issued in the **Federal Register** if and when the

program is reauthorized. The review will be based on those petitions that are submitted prior to the June 16 deadline and accepted for review by the GSP Subcommittee.

A. 1999 Annual Product Review

Interested parties or foreign governments may submit petitions: (1) To designate additional articles as eligible for GSP; (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; (3) to waive the competitive need limits for individual beneficiary developing countries with respect to specific GSP eligible articles; and (4) to otherwise modify GSP coverage. As specified in 15 CFR 2007.1, all product petitions must include a detailed description of the product and the Harmonized Tariff Schedule (HTS) subheading in which the product is classified.

B. 1999 GSP Annual Country Eligibility Practices Review

Interested parties may submit petitions to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation criteria listed in sections 502(b) or 502(c) of the Trade Act (19 U.S.C. 2462(b) and (c)). Such petitions must comply with the requirements of 15 CFR 2007.01(b).

C. Submission of Petitions and Requests

Petitions to modify GSP treatment should be addressed to GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, NW, Room 518, Washington, DC 20508. An original and fourteen (14) copies of each petition must be submitted in English. If the petition contains business confidential information, an original and fourteen (14) copies of a nonconfidential version of the submission along with an original and fourteen (14) copies of the confidential version must be submitted. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the submission. Petitions submitted as "business confidential" must conform to 15 CFR 2003.6 and other qualifying information submitted in confidence must conform to 15 CFR 2007.7. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either "public version" or "nonconfidential"). Furthermore, interested parties submitting petitions that request action with respect to specific products should list on the first page of the petition the following information: (1) The requested action; (2) the HTS subheading in which the product is classified; and (3) if applicable, the beneficiary country.

All such submissions must conform to the GSP regulations which are set forth in 15 CFR Part 2007. The regulations are also included in "A Guide to the U.S. Generalized System of Preferences (GSP)" (August 1991) ("GS Guide"). Petitioners are strongly advised to review the GSP regulations. Submissions that do not provide all information required by sections 2007.0 and 2007.1 of the GSP regulations will not be accepted for review, except upon a detailed showing in the submission that the petitioner made a good faith effort to obtain the information required. These requirements will be strictly enforced. Petitions with respect to waivers of the competitive need limitations must meet the information requirements for product addition requests in section 2007.1(c) of the GSP regulations. A model petition format is available from the GSP Subcommittee and is included in the GSP Guide. Petitioners are requested to use this model petition format so as to ensure that all information requirements are met.

Only the public versions of the submissions will be available for public inspection and only by appointment. Appointments to review petitions may be made by contacting Ms. Brenda Webb (Tel. 202/395–6186) of the USTR Public Reading Room. The hours of the Reading Room are 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 99–10283 Filed 4–22–99; 8:45 am]

BILLING CODE 3901–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST–99–5051]

Passenger, Third–Party, and Property Liability Insurance Coverage for U.S. and Foreign Air Carriers—Non-Approval of Exclusions Related to the Year 2000 Problem

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The Department issues this notice to remind all carriers of its requirements with regard to passenger, third-party, and property liability insurance under 49 U.S.C. 41112(a) and 14 CFR part 205. The notice informs carriers that certain aviation insurers wish to write into airline insurance policies required by Title 49 and Department regulations an exclusionary clause that would exclude liability for damages related to the Year 2000 problem and other computer-related time, date, and year changes. The notice further informs carriers that no such exclusion has been approved by the Department and reminds carriers that any carrier operating with such an exclusion in place would not be in compliance with Title 49 of the United States Code and 14 CFR part 205 and would be subject to enforcement action.

FOR FURTHER INFORMATION CONTACT: Dayton Lehman, Deputy Assistant General Counsel, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590. Tel. No. (202) 366–9342.

Notice

We face a challenge in the Year 2000 (Y2K) computer problem that, if unmet, could pose risks to the public and disrupt the flow of commerce. Addressing the Y2K problem is a top priority for the U.S. Department of Transportation.

While transportation operations are typically the responsibility of the private sector, ensuring their safe, smooth functioning is a matter of national concern and the Department is taking steps to assist our partners.

Department officials have met with industry associations and businesses in every sector, and have held industry-wide forums to address the issue. We will continue to work with carriers to address Y2K problems; however, we wish to make clear that carriers must continue to comply with existing requirements while addressing Y2K problems.

Department regulations require airlines to provide a minimum level of insurance coverage for passenger, third-party, and property liability resulting from an accident. 14 CFR Part 205. It has come to our attention that some aviation insurers wish to write into airline insurance policies an exclusionary clause that would exclude all liability for damages related to the Y2K problem. No Y2K insurance exclusion has been approved by the Department.[1]

[1] The same endorsements that contain the Y2K exclusionary clauses of which we are aware also propose to eliminate coverage for claims arising

Continued

Pursuant to part 205, all direct air carriers and foreign air carriers, including U.S. commuters and air taxis (14 CFR 298.2) as well as Canadian charter air taxi operators (14 CFR 294.2(c)), are required to carry minimum "aircraft accident liability insurance coverage" for "bodily injury to or death of aircraft passengers" as well as "persons, including non-employee cargo attendants, other than passengers, and for damage to property." Each carrier must file a certificate of insurance with the Department, signed by an authorized representative of the insurer or insurance broker, stating that the carrier has in effect insurance coverage meeting the requirements of Part 205. Minimum coverage amounts depend on the class of carrier and aircraft size.

Section 205.6 of the Department's regulations, 14 CFR 205.6, prohibits the effectiveness of any liability insurance policy exclusion not specifically approved by the Department. The Department and the Civil Aeronautics Board before it have permitted exclusions from liability coverage only in a very limited number of circumstances. These exclusions cover, in essence, the following risks:

(1) War and insurrection;

(2) Noise, pollution, and other effects not caused by a "crash, fire, explosion, or collision, or a recorded in-flight emergency causing abnormal aircraft operation" (an accident);

(3) Nuclear risks;

(4) Damages incurred by an employee arising out of and in the course of his/her employment; and

(5) Injury to property owned, leased, occupied or used by the insured.

The Department recently established a public docket, OST–99–5051, that contains correspondence regarding exclusions requested in the past, including those described above. All future correspondence regarding requests for exclusions will also be placed in the docket, which can be accessed through the Internet at http://dms.dot.gov. You should be aware that, although the Department may not have permitted a particular exclusion, section 205.6 also specifically provides that insurers retain the right to recover from carriers any amounts paid under the policy. For example, although an insurer may be obligated to make payments to claimants because the regulations require a particular coverage, the regulations would not prohibit a provision in a policy requiring a carrier to reimburse an insurer for Y2K-related claims where the carrier has failed to satisfy the insurer that it has in place a program to become Y2K compliant.

Any carrier operating with a Y2K exclusion in place covering passenger, third party, or property liability for aircraft accidents would not be in compliance with the insurance requirements contained in part 205. All U.S. carriers should be aware that, under 49 U.S.C. 41112(a), any certificate to provide air transportation ceases to be effective if an air carrier fails to comply with part 205. This condition is also specifically made a part of the operating certificate of each U.S. carrier. Likewise, pursuant to 14 CFR 298.37 air taxis and commuter air carriers are prohibited from conducting operations not properly covered under part 205. In addition, all foreign air carriers should be aware that all permit and exemption authority of foreign air carriers is also specifically conditioned on compliance with part 205. Consequently, any operations performed without lawful insurance coverage as required by part 205 would be unauthorized.

The Department has been approached by a major aviation industry insurer requesting approval of its Y2K exclusion. In addition, other major insurers have attempted to impose such an exclusion on carriers without first seeking Department approval of the exclusion. The exclusions of which we are aware would involve immediate imposition of a Y2K exclusion, with the insured carrier given the right to obtain a limited "write-back" of coverage, provided it demonstrates adequate Y2K compliance or planning to the insurer's satisfaction. The write-back coverage would be designed to meet Part 205 requirements. We urge carriers that have not done so to implement programs to ensure that they will achieve timely Y2K compliance and to work with their insurers to ensure that there is no lapse in required coverage. We wish to make clear, however, that the Department has not approved any insurance arrangement for Y2K-related problems that does not provide continuous coverage meeting the minimum coverage requirements set forth in part 205.

Certain insurers have assured us they recognize that, in the absence of Department approval, any Y2K exclusion written into the policies of their particular airline clients will not be applicable to the minimum liability requirements of part 205. However, we are concerned that other carriers may have had Y2K exclusions written into their liability policies by insurers with different views and that such carriers may not yet have obtained coverage meeting the requirements of part 205 under a "write-back" clause, or otherwise. Any carrier operating without the liability coverage required by part 205, including coverage for Y2K-related problems, is subject to immediate enforcement action, which could include civil penalties assessed under 49 U.S.C. 46301 and action against its operating authority. Section 46301 provides for civil penalties of $1,100 per violation and, in the case of a continuing violation, $1,100 per day for each day each violation continues. In addition, carriers and their responsible officials should be aware that 49 U.S.C 46316 provides for criminal penalties in the event of knowing and willful violations of the Department's regulations and Title 49.

This notice is not concerned with Y2K exclusions from insurance coverage not included in the minimum passenger, third-party, or property liability limits set forth in 14 CFR part 205, such as loss of business by an airline or other liability not resulting directly from operation of an aircraft.

If you have any questions, you may contact Dayton Lehman, Deputy Assistant General Counsel, Office of Aviation Enforcement and Proceedings, on 202–366–9342.

Dated: April 19, 1999.

An electronic version of this document is available on the World Wide Web at http://dms.dot.gov.

Nancy E. McFadden,

General Counsel.

[FR Doc. 99–10245 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–62–P

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from computer-related problems in connection with "any other change in time, date, or year," including the reset of the Global Positioning Satellite system that will occur on August 21–22, 1999. As with the Y2K exclusion, the Department has not approved any such exclusion.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–1999–5382]

Fiscal Year (FY) 2000 Implementation Guidance for Interstate Maintenance Discretionary Program Funds

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; FHWA solicitation memorandum for FR 2000 funds; request for comments on selection criteria for FY 2001 and beyond.

SUMMARY: This document provides implementation guidance on the Interstate maintenance discretionary (IMD) program for FY 2000 and beyond. On March 4, 1999, a memorandum on

this topic was issued to division offices soliciting candidate projects from State transportation agencies for FY 2000 IMD funding, The memorandum also contains information of criteria used by the FHWA in evaluating candidate projects. This document seeks comments from all interested parties on the selection criteria and their continued use by the FHWA for FY 2001 and beyond.

DATES: Comments on the selection criteria for IMD funding for FY 2001 and beyond must be received on or before June 22, 1999.

ADDRESSES: Your signed, written comments on project selection criteria for IMD founding for FY 2001 and beyond must refer to the docket number appear at the top of this document and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL 401, Seventh Street, SW, Washington, DC 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments should include a self-addressed, stamped envelope or postcard.

Applications for candidate projects for FY 2000 funding should be submitted to the FHWA Division Office in the State of the applicant in accordance with the guidance provided in the solicitation memorandom.

FOR FURTHER INFORMATION CONTACT: Cecilio Leonin, Office of Program Administration, (202) 366–4651; or Wilbert Baccus, Office of the Chief Counsel, (202) 366–1396; Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL):http://www.dmsm.dot.gov. It is avaiable 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register** home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

The solicitation memorandum is available on the FHWA web site at *http://www.fhwa.dot.gov/discretionary*.

Background

On March 4, 1999, the FHWA issued a memorandum to its division offices, located in each State, the District of Columbia and Puerto Rico, soliciting from the State transportation agencies candidate projects for FY 2000 IMD funding. This memorandum is published for informational purposes. The memorandum contains information on the IMD program, eligible activities, the application process, and the selection criteria used by the FHWA in evaluating candidate projects.

Also, the purpose of this document is to invite comments on the selection criteria used by the FHWA for evaluating candidate projects for FY 2001 and beyond. The attachment to the March 4, 1999, memorandum presents the selection criteria that the FHWA will be using for FY 2000. These criteria reflect areas which are given preference when evaluating candidate projects; however, any project submitted by a State transportation agency which meets the eligibility requirements for this discretionary program can potentially be selected for funding. These are the same general selection criteria that the FHWA has used for several years to evaluate candidates for this discretionary program. Occasionally, a selection criterion may be added for an individual year that reflects a special emphasis area, but for the most part the selection criteria have remained unchanged.

The FHWA plans to continue to use these same basic selection criteria for FY 2001 and beyond for this discretionary program. However, before doing so, the FHWA is interested in the views of the States or others on these selection criteria. Accordingly, comments are invited to this docket on the selection criteria that the FHWA will use for the IMD program for funding available during FY 2001 and beyond.

Publicaton of the implementation guidance for the Interstate maintenance discretionary program satisfies the requirement of section 9004(a) of the TEA–21 Restoration Act, Pub. L. 105–206, 112 Stat. 685, 842 (1998).

Authority: 23 U.S.C. 118 and 315; 49 CFR 1.48.

Issued on: April 12, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

The text of the FHWA solicitation and implementation guidance memorandum follows:

ACTION: Request for Project for FY 2000 Interstate Maintenance Discretionary (IMD) Funds—March 4, 1999 (Reply Due: July 1, 1999)

Henry H. Rentz for Vincent F. Schimmoller, Program Manager, Infrastructure, HIPA

Division Administrators

We are requesting submission of eligible candidate projects for FY 2000 IMD funds. It appears that approximately $90 million will be available for allocation in FY 2000 Candidate project submissions are to be received in Headquarters no later than July 1, 1999.

Please work with the States to identify viable projects to assure high quality candidates for this program. The attached program guidance for the IMB program provides information on eligibility, selection criteria, and submission requirements. Your office should review all candidates submitted by a State to ensure the application is complete and contains all of the requested information as outlined in the attached program guidance. After review, please forward candidate project submissions to the Director of Program Administration, HIPA.

When sending in candidate projects, the States must understand that any qualified project may or may not be selected, and it may be necessary to supplement allocated IMD funds with other Federal-aid and/or State funds to construct a section of highway which will be usable to the traveling public in as short a period of time as possible.

Any allocations in FY 2000 will be made on the assumption that proposed projects are viable and implementation schedules are realistic. Obligation limitation will be distributed with each allocation of funds.

In 1992, Headquarters established a policy (reference Mr. Willett's November 3, 1992, memorandum to the regions; Subject: Transfer of Funds/Discretionary Allocations) that Interstate 4R discretionary funds would not be allocated to a State that had, in the preceding fiscal year, transferred either National Highway System (NHS) or Interstate Maintenance (IM) funds to the Surface Transportation Program (STP) apportionment. This policy was based on the tremendous Interstate System needs across the country and FHWA's belief that congressional intent was to give priority consideration to high cost

projects in States where available apportionments were insufficient to allow such projects to proceed on a timely basis. We believe this policy is still appropriate at this time, and it will continue to be applied to IMD funds, with modifications to reflect the uniform transfer provisions enacted by the Transportation Equity Act for the 21st Century. Our policy is:

The IMD funds will not be allocated to a State that has, in the preceding year, transferred either NHS or IM funds to the STP, the Congestion Mitigation and Air Quality Improvement Program, the Bridge Replacement and Rehabilitation Program, or to Recreational Trails apportionments. However, this restriction will not apply to transfers from (IM to NHS or vice-versa.

As a reminder, any requests to adjust the amount of IMD funds allocated to a specific project or to shift funds among previously approved IMD projects must be forwarded in writing to the Director of Program Administration, HIPA, for approval.

Questions concerning preparation of applications and other matters may be directed to Mr. Cecilio Leonin of the Office of Program Administration, HIPA, telephone (202) 366–4651.

Attachment

INTERSTATE MAINTENANCE DISCRETIONARY PROGRAM PROGRAM GUIDELINES

Background

The Interstate Maintenance Discretionary Program provides funding for resurfacing, restoration, rehabilitation and reconstruction (4R) work, including added lanes to increase capacity, on most existing Interstate System routes. This discretionary program was first established by the Surface Transportation Assistance Act of 1982, where funding were derived from lapsed I–4R apportionments, and was known as the I–4R Discretionary Program. The Surface Transportation and Uniform Relocation Assistance Act of 1987 and the Intermodal Surface Transportation Efficiency Act of 1991 continued funding with set asides from I–4R and NHS authorizations, respectively, for each of fiscal years 1988 through 1997. The 1998 Transportation Equity Act for the 21st Century (TEA–21) continued this program by authorizing set asides from the Interstate Maintenance (IM) funds for fiscal years 1998 through 2003. This is now called the Interstate Maintenance Discretionary (IMD) Program.

Statutory References

23 U.S.C. 118.

Funding

Fiscal year	1998	1999	2000	2001	2002	2003
Authorization	$50M	$100M	$100M	$100M	$100M	$100M

TEA–21 provides $2,914 million in FY 1998 and increasing each year to $4,218 million in FY 2003 for the Interstate Maintenance Program. In accordance with 23 U.S.C. 118(c), before any apportionment is made under 23 U.S.C. 104(b)(4), the Secretary shall set aside $50 million in FY 1998 and $100 million for each of FY's 1999 through 2003 for the IMD program.

The amount of available funding is impacted by any obligation limitation imposed on the Federal-aid highway program under the provisions of TEA–21 Section 1102(f), Redistribution of Certain Authorized Funds. Under this provision, any funds authorized for the program for the fiscal year, which are not available for obligation due to the imposition of an obligation limitation, are not allocated for the IMD program, but are redistributed to the States by formula as STP funds.

After the Section 1102(f) reduction, it is expected that approximately $90 million will be available for candidate projects in each of fiscal years 2000 through 2003. This available funding may also increase or decrease each year depending on the obligation limitation calculation and on the estimated receipts to the Highway Trust Fund.

Federal Share

In accordance with 23 U.S.C. 120 the normal pro-rata Federal share of the costs for any project eligible under this program is 90 percent.

Obligation Limitation

The IMD discretionary funds are subject to obligation limitation. The obligation limitation reduces the available funding for the program under the provisions of TEA–21 Section 1102(f) discussed above.

Eligibility

The eligibility for IMD projects is provided in Section 118(c) of 23 U.S.C., as follows:

1. IMD funds are available for resurfacing, restoring, rehabilitating and reconstructing (4R) work, including added lanes, on the Interstate System. However, not eligible for allocation of IMD funds are projects on any highway designated as a part of the Interstate System under Section 139 of 23 U.S.C., as in effect before the enactment of TEA–21 and any toll road on the Interstate System not subject to an agreement under Section 119(e) of 23 U.S.C., as in effect on December 17, 1991.

2. A State is eligible to receive an allocation of IMD funds if it has obligated or demonstrates that it will obligate in FY 2000 all of its IM funds apportioned under Section 104(b)(4) of 23 U.S.C. other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating and reconstructing the Interstate System which has been submitted by the State to the Secretary for approval.

3. The applicant must be willing and able to obligate the IMD funds within a year of the date the funds are made available, apply them to a ready-to-commence project, and in the case of construction work, begin work within 90 days of obligation.

In 1992, Headquarters established a policy that Interstate 4R discretionary funds would not be allocated to a State that had, in the preceding fiscal year, transferred either National Highway System (NHS) or Interstate Maintenance (IM) funds to the Surface Transportation Program (SIP) apportionment. This policy was based on the tremendous Interstate System needs across the country and FHWA's belief that congressional intent was to give priority consideration to high cost projects in States where available apportionments were insufficient to allow such projects to proceed on a timely basis. This policy is still appropriate at this time, and will continue to be applied to IMD funds, with modifications to reflect the uniform transfer provisions enacted by the Transportation Equity Act for the 21st Century. The policy is: IMD funds will not be allocated to a State that has, in the preceding year, transferred either NHS or IM funds to the STP, the Congestion Mitigation and Air Quality Improvement Program, the Bridge Replacement and Rehabilitation Program, or to Recreational Trails apportionments. However, this restriction will not apply to transfers from IM to NHS or vice-versa.

Selection Criteria

The following criteria are used to evaluate the submitted candidates for selection. The statutory criteria for priority consideration are found in 23 U.S.C. 118(c)(3) and Section 1223 of TEA–21, as follows:

- Any project the cost of which exceeds $10 million (23 U.S.C. 118(c)(3)).
- A project on any high volume route in an urban area or high truck-volume route in a rural area (23 U.S.C. 118(c)(3)).
- Priority may be given to funding a transportation project relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event if the project meets the extraordinary needs associated with such events and is otherwise eligible for assistance with IMD funds (Section 1223, TEA–21).

There are no regulatory criteria for selection of IMD discretionary projects; however, the following criteria are also considered in the evaluation of candidates for his program:

- Leveraging of private or other public funding—Because the annual requests for funding far exceed the available IMD funds, commitment of other funding sources to complement the requested IMD funds is an important factor.
- State priorities—For States that submit more than one project, consideration is given to the individual State's priorities if specified.
- Expeditious completion of project—Preference is also given to requests that will expedite the completion of a viable project over requests for initial funding of a project that will require a long-term commitment of future IMD funding. For large-scale projects consideration is given to the State's total funding plan to expedite the completion of the project.

Because the concept of equity was important in the development of TEA–21, project selection will also consider national geographic distribution among all of the discretionary programs as well as congressional direction or guidance provided on specific projects or programs.

Solicitation Procedure

Each year, usually around March, a memorandum is sent from the FHWA Headquarters Office of Program Administration to the FHWA division offices requesting the submission of candidate projects for the following fiscal year's funding. This solicitation is also published in the **Federal Register**. The FHWA division offices provide this solicitation request to the State transportation departments, who are the only agencies that can submit candidates. The State transportation departments coordinate with local and Federal agencies within their respective States in order to develop viable candidate projects. The State transportation departments submit the candidate applications to the FHWA division offices, who send them in to the Office of Program Administration. Candidate projects are due in FHWA Headquarters usually around the first of July. The specific timetable for the solicitation process for any particular fiscal year is provided in the solicitation memorandum. The most recent solicitation is provided in these Guidelines for reference.

The candidate project applications are reviewed and evaluated by the Office of Program Administration and an allocation plan is prepared for presentation of the candidate projects to the Office of the Federal Highway Administrator, where the final selection of projects for funding is made. The announcement of the selected projects and the allocation of funds is usually accomplished by the middle of November.

Submission Requirements

Only State transportation departments may submit applications for funding under this program. Although there is not a prescribed format for a project submission, the following information must be included to properly evaluate the candidate projects. With the exception of the project area map, all of the following must be included to consider the application complete. Those applications that do not include these items are considered incomplete and returned.

1. State in which the project is located.
2. Federal-Aid Project Number
3. Project Location—Describe the specific location of the project, including route number and mileposts, if applicable.
4. County or Counties in which the project is located.
5. U.S. Congressional District No.(s) in which the project is located.
6. U.S. Congressional District Member's Name(s).
7. Name of Urban Area or indicate if located in a rural area.
8. Proposed Work—Describe the project work to be completed under this particular request, and whether this is a complete project or part of a larger project. If the project is related to one of the Olympic events listed in Section 1223 of TEA–21, that relationship should be described.
9. Current 2-way Average Daily Traffic including percentage of trucks.
10. Number of lanes before and after construction of the project. The number of lanes and current ADT are used to gauge the degree of congestion on the route.
11. Project Plan Status—PS&E Status.
12. Estimated Authorization Date (month/year).
13. Total Project Cost
14. Amount of IMD funds requested—Indicate amount of IMD funds being requested. If a State is willing to accept partial funding of this amount, that should be indicated. Sometimes, partial funding of requests is utilized to provide funding for more projects since the requests far exceed the available funds.
15. An Obligation Schedule—Demonstrate how the State will obligate all of its IM apportionments before the end of FY 2000.
16. Commitment of Other Funds—Indicate the amounts and sources of any private or other public funding being provided as part of this project. Only indicate those amounts of funding that are firm with documented commitments. The submission must include written confirmation of these commitments from the entity controlling the committed funds.
17. Previous Interstate 4R Discretionary (IDR) Funding—Indicate the amount and fiscal year of any previous IDR discretionary funds received for this project or route.
18. Future Funding Needs—Indicate the estimated future funding needs for the project, including anticipated requests for additional IMD funding, the items of work to be completed and projected scheduling.
19. Talking Points Briefing—A one page talking points paper covering basic project information is also needed for use by the Office of the Secretary for the congressional notification process should a project be selected for funding. Each State's request for discretionary funds must include a talking points paper. A sample paper is included in these Guidelines.

State Transportation Agency Responsibilities

1. Coordinate with State, local, and Federal agencies within the State to develop viable candidate projects.
2. Ensure that the applications for candidate projects meet the submission requirements outlined above.
3. Establish priorities for their candidate projects if desired.
4. Submit the applications to the local FHWA division office on time so that the submission deadline can be met.

FHWA Division Office Responsibilities

1. Provide the solicitation memorandum and this program information to the State transportation agency.
2. Request candidate projects be submitted by the State to the FHWA division office to meet the submission deadline established in the solicitation.
3. Review all candidate applications submitted by the State prior to sending them to FHWA Headquarters to ensure that they are complete and meet the submission requirements.
4. Submit the candidate applications to FHWA Headquarters by the established submission deadline.

FHWA Headquarters Program Office Responsibilities

1. Solicit candidates from the States through annual solicitation memorandum.
2. Review candidate project submissions and compile program and project information for preparation of allocation plan.
3. Submit allocation plan to the Office of the Federal Highway Administrator for use in making final project selections.
4. Allocate funds for the selected projects.

FHWA Headquarters Program Office Contact

Cecilio Leonin, Highway Engineer, Office of rogram Administration, Phone: (202) 366–4651, Fax: (202) 366–3988, E-mail: cecilio.leonin@fhwa.dot.gov.

Sample Talking Points Briefing for Secretary

Note: These talking points will be used by the Office of the Secretary in making congressional notification contacts. Since some of the recipients of the calls may not be closely familiar with the highway program, layman's language should be used to the extent possible. Information contained in the talking points may be used by a member of Congress in issuing a press release announcing the discretionary allocation.

Interstate Maintenance (IMD) Discretionary Funds

Grantee: <List full name of State Transportation Agency>

Project No: IMD–xxx–x(xxx) <List each project number in this format>

FHWA Funds: $xx,xxx,xxx. <If more than one project, also show cost for each>

- This project provides for resurfacing ____ miles of the two northbound lanes of I-xx in _____ county, extending from the U.S. Route 1 interchange at Hometown to the State Road 2 overpass in the vicinity of Smallville.
- The project provides for a 2-inch overlay of the existing bituminous concrete pavement which is badly deteriorated and rutted. (If there is anyhing innovative about the project be sure to mention in layman's terms.)
- This project is part of the second phase of a 5-year program to resurface a 25-mile section of I-xx between Town-A and Town-B. In 1998, the southbound lanes at this same location are being resurfaced using State funds.
- In addition to State matching funds, a portion of the total project cost will be financed by $_____ in funds provided by _____.
- The project includes improvements to several safety features within the project limits including upgrading of guardrail and traffic signs.
- The project will be advertised for construction in <month/year> and is scheduled for completion in <month/year>.

[FR Doc. 99–10246 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

Atlantic and Western Railway, L.P. (Docket Number FRA–1998–4624)

The Atlantic and Western Railway (ATW) seeks a permanent waiver of compliance with the *Safety Glazing Standards*, 49 CFR 223.11(c), which requires certified glazing in all locomotive windows, except those locomotives used in yard service. The ATW seeks this waiver for locomotive number RSS 202. The locomotive has been leased to replace retired locomotive ATW 101 which was previously granted a waiver from the glazing requirements, FRA Docket Number RSGM–90–16. Locomotive number 202 is not equipped with FRA certified glazing but the operator states replacement of broken or damaged glazing will be made with certified glazing. ATW operates on track consisting of approximately 10 miles under yard limits requirements.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1998–4624) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 45 days from the publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at DOT's Central Docket Managment Facility at Room PL–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Issued in Washington, DC on April 15, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development. .

[FR Doc. 99–10162 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Burlington Northern Santa Fe Railway (Docket Number FRA–1999–5429)

The Burlington Northern Santa Fe Railway (BNSF) seeks a permanent waiver of compliance with the Locomotive Safety Standards, 49 CFR 229.21, which requires each locomotive in use be inspected once during each calendar day. BNSF seeks this waiver for locomotives utilized to haul loaded coal trains through Alliance, Nebraska. BNSF states that these locomotives are inspected before the empty coal trains are hauled to the mine. The round trip from the Alliance service track to the mine takes 24 to 36 hours. BNSF states that on the return trip, the locomotives are removed from their train and placed on the service track for a second inspection which at a minimum takes three hours. BNSF indicates that this second inspection is unwarranted and causes undue congestion in the terminal.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1999–5429) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room Pl–401, Washington, DC 20590–001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the DOT Central Docket Management Facility, Room Pl–401 (Plaza Level), 400 7th Street, SW, Washington, DC 20590. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at http://dms.dot.gov.

Issued in Washington, DC on April 15, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–10165 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The petition is described below, including the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favour of relief.

Mid-Continent Railway Historical Society, Inc., Docket Number FRA–1999–5106

The Mid-Continent Railway Historical Society, Inc. (MCRY) seeks a waiver of compliance from 49 CFR 230.116(h)—which requires that oil burning steam locomotives taking air for combustion through the fire door opening be equipped with a suitable conduit extending from the fire door to the outside of the cab which will prevent air being drawn into the fire box from the interior of the cab. This is required within the specified territory during the period from November 1 to April 1. MCRY is asking that the requirement be waived for steam locomotive number MCRY 2. MCRY indicates that they operate the steam locomotive a total of six days from November 1 to April 1.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1999–5106) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC. on April 15, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–10163 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The petition is described below, including the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Middletown & Hummelstown Railroad Company (Docket Number FRA–1999–4989)

The Middletown & Hummelstown Railroad Company (MH) seeks a permanent waiver of compliance with the *Safety Glazing Standards*, 49 CFR Part 223.11(c), which requires certified glazing in all locomotive windows, except those locomotives used in yard service. The MH seeks this waiver for two locomotives, number 1016 built in 1969, and number 151 built in 1956. The owner states the locomotives are equipped with automotive type safety glazing and were never equipped with FRA certified glazing. The MH operates 6.5 miles of track through rural country side with a maximum speed of 10 mph freight and 15 mph passenger. I11All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1999–4989) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC. 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular

business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street SW., Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC, on April 15, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–10164 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49, Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

Southern Freight Logistics (Waiver Petition Docket Number FRA–1998–4565)

The Southern Freight Logistics (SFL) Company seeks a permanent waiver of compliance with the *Safety Glazing Standards*, 49 CFR 223.11(c), which requires certified glazing in all locomotive windows, except those locomotives used in yard service. The SFL seeks this waiver for locomotive number 39–5310. The locomotive is a Model ALCO RS3 built in 1951 and has never been equipped with FRA certified glazing. SFL indicates that they operate 17 miles of track of which 12 miles is on a United States Department of Energy reservation with guard service, the five miles outside the reservation is rural and not heavily populated.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1998–4565) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC, on April 15, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–10161 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on October 8, 1998 (63 FR 54184-54185).

DATES: Comments must be submitted on or before May 24, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. John Eberhard at the National Highway Traffic Safety Administration, Office of Research and Traffic Records (NTS–31), 202–366–5595. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Older Person's Driving and Transportation Issues.

OMB Number: 2127–NEW.

Type of Request: New information collection.

Abstract: NHTSA proposes to conduct a survey by telephone among some nationally representative samples of 3,220 adults, including older adults. Participation by respondents would be voluntary. NHTSA's information needs require collection of information to assess the awareness of the American public concerning the mobility issues of seniors and establish benchmarks against which progress in improving seniors' safety and mobility can be assessed over time.

In conducting the proposed survey, the interviewers would use computer-aided telephone interviewing (CATI) to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers are proposed to minimize language barriers to participation. The proposed survey would be anonymous and confidential.

Affected Public: Randomly selected members of the general public aged sixteen and older in telephone households.

Estimated Total Annual Burden: 882.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, D.C. 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, D.C., on April 20, 1999.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 99–10247 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001, (202) 366–4535.

Key to "Reasons for Delay":

1. Awaiting additional information from applicant.

2. Extensive public comment under review.

3. Application is technically very complex and is of significant impact or precedent-setting and requires extensive analysis.

4. Staff review delayed by other priority issues or volume of exemption applications.

Meaning of Application Number Suffixes:

N—New application
M—Modification request
PM—Party to application with modification request.

Issued in Washington, DC, on April 19, 1999.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
11699–N	GEO Speciality Chemicals, Bastrop, LA	4	05/31/1999
11761–N	Vulcan Chemicals, Birmingham, AL	4	05/31/1999
11767–N	Ausimont USA, Inc., Thorofare, NJ	4	05/31/1999
11817–N	FIBA Technologies, Inc., Westboro, MA	1, 4	05/31/1999
11862–N	The BOC Group, Murray Hill, NJ	4	05/31/1999
11894–N	Quicksilver Fiberglass Manufacturing Ltd., Strome, Alberta, CN	4	05/31/1999
11927–N	Alaska Marine Lines, Inc., Seattle, WA	4	05/31/1999
11934–N	UtiliCorp United, Inc., Omaha, NE	4	05/31/1999
12001–N	Albemarle Corporation, Baton Rouge, LA	4	05/31/1999
12020–N	Rhone-Poulenc, Inc., Shelton, CT	4	05/31/1999
12029–N	NACO Technologies, Lombard, IL	4	05/31/1999
12032–N	Physical Acoustics Quality Services, Lawrenceville, NJ	4	05/31/1999
12033–N	PPG Industries, Inc., Pittsburgh, PA	4	05/31/1999
12051–N	General American Transportation Corporation, Chicago, IL	4	05/31/1999
12064–N	Occident Chemical Corp., Webster, TX	4	05/31/1999
12071–N	Pennwalt India Limited, Worli, Mumbai, IN	4	05/31/1999
12072–N	Consani Engineering (PTY) Limited, Cape Province, RI	4	05/31/1999
12105–N	Becton Dickinson Microbiology Systems, Sparks, MD	4	05/31/1999
12106–N	Air Liquide America Corporation, Houston, TX	4	05/31/1999
12123–N	Eastman Chemical Co., Kingsport, TN	4	06/30/1999
12125–N	Mayo Foundation, Rochester, MN	4	06/30/1999
12126–N	LaRoche Industries Inc., Atlanta, GA	4	06/30/1999
12129–N	Kenyon International Emergency Services, Houston, TX	4	06/30/1999
12130–N	FIBA Technologies, Inc., Westboro, MA	4	06/30/1999
12136–N	Net Grocer, North Brunswick, NJ	4	06/30/1999
12142–N	Aristech Chemical Corp., Pittsburgh, PA	4	06/30/1999
12144–N	Sea-Land Service, Inc., Charlotte, NC	4	05/31/1999
12145–N	Dorbyl Heavy Engineering, Duncanville Vereeniging, SA	1	05/31/1999
12146–N	Luxfer Gas Cylinders, Riverside, CA	4	05/31/1999
12148–N	Eastman Kodak Company, Rochester, NY	4	05/31/1999
12156–N	Columbia Falls Aluminum Co., Columbia Falls, MT	4	06/30/1999
12158–N	Hickson Corporation, Conley, GA	4	06/30/1999
12164–N	Rhodia Inc., Shelton, CT	4	06/30/1999
12205–N	Independent Chemical Corp., Glendale, NY	4	05/31/1999
12208–N	Air Products & Chemicals, Inc., Allentown, PA	4	05/31/1999
4354–M	PPG Industries, Inc., Pittsburgh, PA	1	05/31/1999
8915–M	Advanced Silicon Materials, Inc., Moses Lake, WA	4	04/30/1999
9266–M	ERMEWA, Inc., Houston, TX	4	05/31/1999
9275–M	Estee Lauder Company, Melville, NY	4	05/31/1999
9419–M	FIBA Technologies, Inc., Westboro, MA	4	05/31/1999
11050–M	Koppers Industries, Inc., Pittsburgh, PA	4	05/31/1999
11173–M	Olin Corporation, Norwalk, CT	4	05/31/1999
11327–M	Phoenix Services Limited Partnership, Pasadena, MD	4	06/30/1999
11379–M	TRW Vehicle Safety Systems, Inc., Washington, MI	4	06/30/1999
11984–M	United Parcel Service Company, Louisville, KY	4	05/31/1999

[FR Doc. 99–10243 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before May 24, 1999.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW. Washington, DC 20590.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, April 20, 1999.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12204–N	RSPA–1999–5016	Express Service and Lockheed Martin, Princeton, NJ.	49 CFR 173.245(a), 179.300–12(b).	To authorize the transportation of dinitrogen tetroxide, anhydrous hydrazine and/or other specified hazardous materials aboard cargo-only aircraft in separate specially modified stainless steel multi-unit tank car tanks. (modes 1, 4.)
12237–N	RSPA–1999–5397	Dept. of Defense, Falls Church, VA.	49 CFR 173.416, 175.3 ..	To authorize the transportation in commerce of Radioactive material, Class 7, inside specially designed devices. (modes 1, 3, 4.)
12240–N	RSPA–1999–5399	Spence Air Service, Enterprise, OR.	49 CFR 172.101 (Co. 9A), 175.75(a)(1) & (a)(2).	To authorize the transportation in commerce of Propane, Division 2.1, in DOT specification 4BA and/or 4BW cylinders and DOT Specification 39 containers which is presently forbidden for shipment by passenger aircraft. (mode 5.)
12241–N	RSPA–1999–5396	Solutia Inc., St. Louis, MO.	49 CFR 172.101(8C)	To authorize the bulk transportation of Metal catalyst, wetted, Division 4.2 in DOT specification tank trucks. (mode 1.)
12242–N	RSPA–1999–5394	United States Enrichment Corporation, Bethesda, MD.	49 CFR 172.302(c), 173.420.	To authorize the transportation in commerce of Uranium hexafluoride cylinders equipped with removable cylinder valve guards which have been manufactured in variance to the American National Standards Institute (ANSI). (modes 1, 2.)
12247–N	RSPA–1999–5490	Weldship Corp., Bethlehem, PA.	49 CFR 172.301(c), 173.302(c)(2); (c)(3); (c)(4), 173.34(e), 173.34(e)(16), 173.34(e)(3), 173.34(e)(4), 173.34(e)(5), 173.34(e)(6), 173.34(e)(7), 173.34(e)(8).	To authorize the ultrasonic testing of DOT–3A and DOT–3AA seamless steel cylinders for use in transporting Division 2.1, 2.2 or 2.3 material. (modes 1, 2, 3, 4.)
12248–N	RSPA–1999–5491	Ciba Specialty Chemicals Corp., High Point, NC.	49 CFR 171.12(b)(5), 173.242.	To authorize the transportation in commerce of Corrosive solid, flammable, n.o.s., Class 8, in IM 101 portable tanks not presently authorized. (modes 1, 2, 3.)
12249–N	RSPA–1999–5492	Breed Technologies, Inc., Lakeland, FL.	49 CFR 172.301(c), 178.65(f)(1).	To authorize the manufacture, mark and sale DOT-Specification 39 compressed gas cylinders (pressure vessels) for use as components of automobile vehicle safety systems with relief from the 30 second holdtime required at test pressure. (modes 1, 2, 3, 4.)

[FR Doc. 99–10242 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing

DATES: Comments must be received on or before May 10, 1999.

ADDRESS COMMENTS TO: Records Center, Research and Special programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW, Washington DC.

Application No.	Docket No.	Applicant	Modification of exemption
6299–M		MVE, Inc., New Prague, MN (See Footnote 1)	6299
7573–M		U.S. Department of Defense (MTMC), Falls Church, VA (See Footnote 2)	7573
8723–M		Nelson Brothers, Inc., Birmingham, AL (See Footnote 3)	8723
9997–M		Hodgdon Powder Co. Inc., Shawnee Mission, KS (See Footnote 4)	9997
10492–M		Detroit Water & Sewage Department, Detroit, MI (See Footnote 5)	10492
10938–M		Westvaco Corporation, Richmond, VA (See Footnote 6)	10938
11513–M		Thiokol Propulsion (Div of Cordant Tech Inc), Brigham City, UT (See Footnote 7).	11513
11667–M		Weldship Corporation, Bethlehem, PA (See Footnote 8)	11667
12069–M	RSPA–1998–3829	Compagnie des Containers Reservoirs, Paris, FR (See Footnote 9)	12069
12124–M	RSPA–1998–4309	Albemarle Corporation, Baton Rouge, LA (See Footnote 10)	12124
12219–M	RSPA–1999–5127	TRW Space and Electronics Group, Redondo Beach, CA (See Footnote 11).	12219

(1) To modify the exemption to reflect current revision levels on MVE's drawings for the manufacture, marking and sale of non-DOT specification portable tanks, for the transportation of Division 2.2 materials.

(2) To modify the exemption to provide for Division 1.5 as an additional class of material for the transport of certain hazardous materials presently forbidden or in quantities greater than allowed for cargo-only aircraft.

(3) To modify the exemption to provide for the addition of IM–101 portable tanks equipped with safety relief devices with lower set point devices that meet IM–102 set point and capacity requirements for bulk shipments of certain blasting agents.

(4) To modify the exemption to provide for Division 4.1 as an additional class of material for the transport of a kit containing smokeless powder for small arms, percussion caps and nonhazardous articles such as lead balls and bore cleaner, in non-DOT specification fiber boxes.

(5) To modify the exemption to authorize an alternative locking system and a change to the onsite bi-directional derail for tank cars loaded with chlorine allowed to remain attached to transfer connections when the unloading process is discontinued.

(6) To modify the exemption to allow for Class 8 as an additional class of material in tank cars authorized to remain standing with unloading connections attached when no product is being transferred.

(7) To modify the exemption to include cyclotrimethylene trinitramine (RDX), Division 1.1, as an additional material in limited quantities and under specially prescribed shipping conditions in UN 1G fiber drums.

(8) To modify the exemption to allow for the testing of DOT–3AA cylinders and the use of Automatic Sensor Test (AST) method for the transportation of certain compressed gases.

(9) To modify the exemption to provide for the addition of Class 8 material in certain DOT Specification IM 101 portable tanks used in dedicated service with an alternative visual inspection schedule.

(10) To modify the exemption to provide for design changes of the non-DOT specification portable tank comparable to a specification DOT 51 portable tank equipped with bottom outlet and no internal shutoff valve for use in transporting various Division 4.2 and 4.3 hazardous materials.

(11) To reissue the exemption originally issued on an emergency basis for the transportation of Division 2.2 materials in non-DOT specification refrigeration systems described as pulse tube coolers.

This notice of receipt of applications for modification of exemptions is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on April 19, 1999.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 99–10244 Filed 4–22–99; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Open Meeting of the Community Development Advisory Board

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the next meeting of the Community Development Advisory Board which provides advice to the Director of the Community Development Financial Institutions Fund.

DATES: The next meeting of the Community Development Advisory Board will be held on Thursday, May 13, 1999 at 10:00 a.m.

ADDRESSES: The Community Development Advisory Board meeting will be held at the Treasury Executive Institute, 1255 22nd Street, NW., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Community Development Financial Institutions Fund (the "Fund"), U.S. Department of Treasury, 601 13th Street, NW, Suite 200 South, Washington, DC, 20005, (202) 622–8662 (this is not a toll free number). Other information regarding the Fund and its programs may be obtained through the Fund's website at http://www.treas.gov/cdfi.

SUPPLEMENTARY INFORMATION: Section 104(d) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(d)) established the Community Development Advisory Board (the "Advisory Board"). The charter for the Advisory Board has been filed in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and with the approval of the Secretary of the Treasury.

The function of the Advisory Board is to advise the Director of the Fund (who has been delegated the authority to administer the Fund) on the policies regarding the activities of the Fund. The Fund is a wholly owned corporation within the Department of the Treasury. The Advisory Board shall not advise the Fund on the granting or denial of any particular application for monetary or non-monetary awards. The Advisory Board shall meet at least annually.

It has been determined that this document is not a major rule as defined in Executive Order 12291 and therefore regulatory impact analysis is not required. In addition, this document does not constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

The next meeting of the Advisory Board, all of which will be open to the public, will be held at the Treasury Executive Institute, located at 1255 22nd Street, NW, Suite 500, Washington, DC, on Thursday, May 13, 1999 at 10:00 a.m. The room will accommodate 30 members of the public. Seats are available on a first-come, first-served basis. Participation in the discussions at the meeting will be limited to Advisory Board members and Department of the Treasury staff. Anyone who would like to have the Advisory Board consider a written statement must submit it to the Fund, at the address of the Fund specified above in the **FOR FURTHER INFORMATION CONTACT** section, by 4:00 p.m., Monday, May 11, 1999.

The meeting will include a report from Director Lazar on the activities of the CDFI Fund since the last Advisory Board meeting, including programmatic, fiscal and legislative initiatives for the year 1999.

Authority: 12 U.S.C. 4703; Chapter X, Pub. L. 104–19, 109 Stat. 237.

Dated: April 19, 1999.

Ellen Lazar,

Director, Community Development Financial Institutions Fund.

[FR Doc. 99–10186 Filed 4–22–99; 8:45 am]

BILLING CODE 4810–70–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: "Land of Myth and Fire: The Ancient and Medieval Culture of Georgia"

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 133359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985). I hereby determine that the objects to be included in the exhibit "Land of Myth and Fire: The Ancient and Medieval Culture of Georgia," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Walters Art Gallery, Baltimore, MD, from on or about October 24, 1999 to on or about January 16, 2000; the Mingei International Museum, San Diego, CA, from on or about March 1, 2000 to on or about July 15, 2000; The Museum of Fine Arts, Houston, TX, from on or about August 27, 2000 to on or about January 7, 2001; the Memphis Brooks Museum of Art, Memphis, TN, from on or about February 15, 2001 to on or about May 15, 2001; and possibly at other U.S. venues yet to be identified, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit items, or for other information, contact Lorie Nierenberg, Assistant General Counsel, Office of the General Counsel at 202/619–6084. The address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: April 20, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–10358 Filed 4–22–99; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0014]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine enrollment conditions and to certify pursuit and attendance for rehabilitation and special restorative or specialized vocational training program.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0014" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Authorization and Certification of Entrance or Reentrance into Rehabilitation and Certification of Status, VA Form 28–1905.

OMB Control Number: 2900–0014.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The information collected on VA Form 28–1905 ensures that veterans or other eligible persons do not receive benefits for periods when they did not actually begin to participate in any rehabilitation or special restorative or specialized vocational training program. The information is used by VA to establish the correct beginning and ending dates for the education, training, or other rehabilitation services and the correct rates for subsistence allowance payments.

Affected Public: Not-for-profit institutions, Individuals or households, Business or other for-profit, farms, Federal Government, and State, Local or Tribal Government.

Estimated Annual Burden: 2,917 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 35,000.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10148 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0064]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine the individual who may be entitled to accrued benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0064" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Amounts Due Estates of Person Entitled to Benefits, VA Form 21–609.

OMB Control Number: 2900–0064.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–609 is used to gather the necessary information to determine the individual(s) who may be entitled to accrued benefits of deceased beneficiaries. It would be impossible for VA to administer the accrued benefits program without this collection of information.

Affected Public: Individuals or households.

Estimated Annual Burden: 375 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 750.

Dated: April 7, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10149 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0068]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of

1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine a veteran's eligibility for Service Disabled Veterans Insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0068" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Service-Disabled Insurance, VA Form 29–4364.

OMB Control Number: 2900–0068.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used by veterans to apply for Service Disabled Veterans Insurance, to designate a beneficiary and to select an optional settlement. The data collected on the form is used by VA to determine the veteran's eligibility for insurance.

Affected Public: Individuals or households.

Estimated Annual Burden: 4250 hours.

Estimated Average Burden Per Respondent: 40 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 2833.

Dated: April 7, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10150 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0161]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to report medical expenses paid by claimants in connection with claims for pension and other income-based benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0161" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Medical Expense Report, VA Form 21–8416.

OMB Control Number: 2900–0161.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Title 38, CFR 3.272 provides that a claimant's countable income for Improved Pension purposes can be reduced if the individual pays unreimbursed medical expenses. These expenses may be deducted from otherwise countable in determining the rate of VA benefits payable. VA Form 21–8416 is used to report unreimbursed medical expenses paid by claimants.

Affected Public: Individuals or households.

Estimated Annual Burden: 48,200 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 96,400.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10151 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0208]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to notify contractors of available work, solicit and evaluate bids and monitor work in progress.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (191A1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0208" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Numbers:

a. Daily Log—Formal Contract, VA Form 10–6131.

b. Architect—Engineer Fee Proposal, VA Form 10–6298.

c. Supplement to SF 129, Solicitation Mailing List Application, VA Form 6299.

OMB Control Number: 2900–0208.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract:

a. VA Form10–6131 is used to disseminate information to potential contractors about the type and volume to be done at VA facilities and to compile a list of potential bidders.

b. VA Form 10–6298 is completed by the contractor to guarantee the performance of the work necessary to complete the project.

c. VA Form 10–6299 is used to assure the contractor provides sufficient labor and materials to accomplish the contracted work.

Affected Public: Business or other for-profit, and State, Local or Tribal Government.

Estimated Total Annual Burden: 7,400 hours.

a. VA Form10–6131—3,600 hours.

b. VA Form 10–6298—800 hours.

c. VA Form 10–6299—3,000.

Estimated Average Burden Per Respondent:

a. VA Form10–6131—12 minutes.

b. VA Form 10–6298—4 hours.

c. VA Form 10–6299—1 hour.

Frequency of Response: On occasion.

Estimated Total Number of Respondents: 21,200.

a. VA Form10–6131—18,000.

b. VA Form 10–6298—200.

c. VA Form 10–6299—3,000.

Dated: April 7, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10152 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0236]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine eligibility for an education loan.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0236" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Education Loan, VA Form 22–8725.

OMB Control Number: 2900–0236.

Type of Review: Revision of a currently approved collection.

Abstract: This form requests information needed to determine

eligibility for an education loan. VA uses the information to determine whether an eligible student's education-related expenses will exceed his or her financial resources during a specific enrollment period. The amount of the education may not be more than the difference between an applicant's education-related expenses and his or her available financial resources. Without this information, VA might underpay or overpay the amount of an education loan.

Affected Public: Individuals or households.

Estimated Annual Burden: 20 hours.

Estimated Average Burden Per Respondent: 40 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 30.

Dated: April 7, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10153 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0492]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to process a policyholder's request.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0492" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501—3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: VAMATIC Authorization, VA Form 29–0532–1.

OMB Control Number: 2900–0492.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used by policyholders to authorize deductions from their bank accounts to pay insurance premiums. The information collected is used by VA to process the policyholder's request.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,500 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 3,000.

Dated: April 6, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10154 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that the annual meeting of the Department of Veterans Affairs Voluntary Service National Advisory Committee (NAC) will be held at the Richmond Marriott Hotel, 500 East Broad Street, Richmond, Virginia, May 5–8, 1999. The meeting begins with participant registration from 10:00 a.m. to 5:00 p.m. on Tuesday, May 4, and from 8:00 a.m. to 5:00 p.m. on Wednesday, May 5, through Friday, May 7, 1999, in the Upper Level Coatroom.

The committee, comprised of fifty nine national voluntary organizations, advises the Under Secretary for Health and other members of the Department of Veterans Affairs Central Office staff on how to coordinate and promote volunteer activities within VA facilities. The primary purposes of this meeting are: to provide for committee review of volunteer policies and procedures; to accommodate full and open communications between the organizations, representatives and the Voluntary Service Office and field staff; to provide educational opportunities geared towards improving volunteer programs with special emphasis on methods to recruit, retain, motivate and recognize volunteers; and to approve committee recommendations.

On Tuesday, May 4, 1999, VAVS Field Staff will meet from 2:00 p.m. until 4:00 p.m. in Salon E. The National Executive Committee will meet on Wednesday, May 5, from 8:00 a.m. until 12:00 p.m. in Salon E. The Richmond VA Medical Center will provide a Health Fair from 8:00 a.m.–1:00 p.m. in Foyer A–D. There will be an orientation for new members from 1:00 p.m. until 2:30 p.m. in Salon E, and from 3:00 p.m. until 4:30 p.m. there will be an open forum in Salon E. Opening ceremonies will begin at 6:00 p.m. featuring Dr. Kenneth Kizer, M.D., M.P.H, as keynote speaker. A reception from 7:00 p.m. to 8:00 p.m. is planned for all participants in Salon F–J.

On Thursday, May 6, 1999, there will be a Business Session from 8:30 a.m. until 10:15 a.m. in Salon A–E. A plenary session on End of Life Care will be conducted by Judy Salerno from 10:30 a.m. to 11:30 a.m. in Salon A–E. Repeating educational workshops will be presented from 1:00 p.m.–2:30 p.m. and 2:45 p.m.–4:15. The workshop topics include: Community Based

Volunteer Programs, Salon 4; "Today's Students—Tomorrows Leaders" Workshop, Salon 5; Final Salute Workshop, Salon 6–8, and No One Need Die Alone Workshop, Monroe.

On Thursday evening from 5:00 p.m. to 7:30 p.m. the Richmond VA Medical Center and Veterans Canteen Service are sponsoring a barbecue and tours of the VA Medical Center.

On Friday, May 7, 1999, a NAC Business Session will be held from 8:30 a.m. – 9:30 a.m, followed by plenary session conducted by Dr. Alfonso Batres, on Vet Centers, in Salon A–E. The educational workshops will be repeated from 10:30 a.m.–12:30 p.m. and from 3:00 p.m.–4:30 p.m., rooms remain the same as on Thursday. The James H. Parke luncheon will be held from 12:30 p.m.–2:00 p.m. in Salon F–J, honoring the 1999 recipient of the James H. Parke Scholarship.

On the morning of Saturday, May 8, 1999, the NAC will hold a Business Session from 8:30 a.m.–11:30 a.m. in Salon A–E. A critique of the meeting will be held from 11:30 a.m.–12:30 p.m. in Salon 4–5. A closing celebration honoring the NAC Volunteers of the Year will be held in Salon F–J, beginning at 6:00 p.m.

The meeting is open to the public. Individuals interested in attending are encouraged to contact: Ms. Laura Balun, Administrative Officer, Voluntary Service Office (10C2), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, (202) 273–8392.

Dated: April 14, 1999.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 99–10147 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–M

federal register

Friday
April 23, 1999

Part II

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program (PTFP); Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 981028269–9093–02]

RIN 0660–ZA05

Public Telecommunications Facilities Program (PTFP)

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of applications received.

SUMMARY: The National Telecommunications and Information Administration (NTIA) previously announced the solicitation of grant applications for the Public Telecommunications Facilities Program (PTFP). This notice announces the list of applications received and notifies any interested party that it may file comments with the Agency supporting or opposing an application.

FOR FURTHER INFORMATION CONTACT: William Cooperman, Acting Director, Public Telecommunications Facilities Program, telephone: (202) 482–5802; fax: (202) 482–2156. Information about the PTFP can also be obtained electronically via Internet (send inquiries to http://www.ntia.doc.gov).

SUPPLEMENTARY INFORMATION: By **Federal Register** notice dated November 6, 1998, the NTIA, within the Department of Commerce, announced that it was soliciting grant applications for the Public Telecommunications Facilities Program (PTFP). NTIA announced that the closing date for receipt of PTFP applications was 8 p.m. EST, January 14, 1999.

In all, the PTFP received 252 applications from 48 states and territories. The total amount of funds requested by the applicants is $74.8 million.

Notice is hereby given that the PTFP received applications from the following organizations. The list includes all applications received. Identification of any application only indicates its receipt. It does not indicate that it has been accepted for review, has been determined to be eligible for funding, or that an application will receive an award.

Any interested party may file comments with the Agency supporting or opposing an application and setting forth the grounds for support or opposition. PTFP will forward a copy of any opposing comments to the applicant. Comments must be sent to PTFP at the following address: NTIA/PTFP, Room 4625, 1401 Constitution Ave., N.W., Washington, D.C. 20230.

The Agency will incorporate all comments from the public and any replies from the applicant in the applicant's official file.

Alaska

File No. 99069CRB, Rainbird Community Broadcasting Corporation, 123 Stedman Street, Ketchikan, AK 99901. Contact: Ms. Mary White, General Manager, (907) 225–9655. Funds Requested: $42,494. Total Project Cost: $56,659. To replace the obsolete 23-year-old transmitter at public radio station KRBD(FM), which operates on 105.9 MHz in Ketchikan, AK.

File No. 99070CRB, Wrangell Radio Group, Inc., 202 St. Michael St., Wrangell, AK 99929. Contact: Ms. Elizabeth Peterman, General Manager, (907) 874–2345. Funds Requested: $38,969. Total Project Cost: $51,959. To replace an obsolete and worn-out 20-year-old transmitter at public radio station KSTK(FM), which operates on 101.7 MHz in Wrangell, AK.

File No. 99086CRB, University of Alaska/Fairbanks, 201 Theatre Building, Fairbanks, AK 997755620. Contact: Mr. Jerry Brigham, General Manager, (907) 474–7508. Funds Requested: $25,951. Total Project Cost: $51,903. To replace worn-out and obsolete studio production equipment at public radio station KUAC(FM), which operates on 89.9 MHz in Fairbanks, AK, and which is licensed to the University of Alaska. The project would purchase a hard disk record/playback system, two digital, dual-line, auto-nulling telephone hybrids, and six computerized audio editing systems.

File No. 99097CRB, CoastAlaska, Inc., 360 Egan Drive, Juneau, AK 99801. Contact: Mr. James Waste, Executive Director, (907) 463–6420. Funds Requested: $61,320. Total Project Cost: $81,760. To replace inadequate, obsolete and aging automation systems at two public radio stations in southeast Alaska: KFSK(FM), Petersburg, and KTOO(FM), Juneau. The project would purchase new digital storage and automation systems for the two stations. The new systems would allow KFSK(FM) and KTOO(FM) to participate fully in their regional network, which is part of Alaska's Satellite Interconnection Project (SIP). CoastAlaska, Inc. is a consortial effort of the five public radio stations in Southeast Alaska. CoastAlaska, Inc. provides centralized administrative, development, membership, engineering, and news programming support services to its member-stations. The three other stations in the consortium are: KCAW(FM), Sitka; KRBD(FM), Ketchikan; and KSTK(FM), Wrangell.

File No. 99098CRB, Raven Radio Foundation, Inc., 2B Lincoln St., Sitka, AK 99835. Contact: Ms. Lisa Herwald, Chief Operating Officer, (907) 747–5877. Funds Requested: $32,744. Total Project Cost: $43,659. To replace an obsolete, failing 18-year-old transmitter at public radio station KCAW(FM), which operates on 104.7 MHz in Sitka, AK.

File No. 99129CRB, Koahnic Broadcast Corporation, 818 E 9th Avenue, Anchorage, AK 99501. Contact: Ms. Jaclyn Sallee, President & CEO, (907) 258–8880. Funds Requested: $103,555. Total Project Cost: $138,073. To improve the studio production capabilities of public radio station KNBA(FM), which operates on 90.3 MHz in Anchorage. KNBA(FM) is a Native-owned station that targets its programming for Native people not only in Anchorage but also, via satellite distribution, throughout Alaska and nationwide. The project would purchase four additional workstations, upgrade the station's storage capacity, ensure Y2K compliance of its current Dalet automation system, upgrade the production equipment in the station's existing studios, and create a new production/recording room to provide production facilities that must now be rented.

File No. 99130PRB, Koahnic Broadcast Corporation, 818 East 9th Avenue, Anchorage, AK 99501. Contact: Ms. Jaclyn Sallee, President & CEO, (907) 258–8880. Funds Requested: $38,670. Total Project Cost: $94,858. To assist the Koahnic Broadcast Corporation to plan how best to relocate the studios of its public radio station, KNBA(FM), which operates on 90.3 MHz in Anchorage, AK. The Koahnic Broadcast Corporation is a Native-owned entity. KNBA(FM) offers programming targeted to Native people not only in Anchorage but also, via satellite distribution, throughout Alaska and nationwide.

File No. 99151CRB, Unalakleet Broadcasting, Inc., P.O. Box 178, Unalakleet, AK 99684. Contact: Mr. Henry Ivanoff, General Manager, (907) 624–3745. Funds Requested: $85,302. Total Project Cost: $113,737. To improve the transmission and interconnection facilities at public radio station KNSA(AM), in Unalakleet, AK. The project would replace KNSA(AM)'s 17-year-old transmitter and would help the station purchase a satellite receive-only earth station. The latter would allow the station to have access to statewide and nationally-distributed programming.

File No. 99170CRB, Alaska Public Radio Network, 810 East 9th Avenue, Anchorage, AK 99501. Contact: Ms. Tammy Gilstrap, Business Manager, (907) 277–2776. Funds Requested: $54,225. Total Project Cost: $72,300. To improve the studio production facilities of the Alaska Public Radio Network (APRN). The APRN is a nonprofit organization that, from its Anchorage studios, provides programming, representation, and satellite distribution to its 29 public radio member-stations statewide. The project would upgrade APRN's digital audio processing system to make it Y2K compliant and purchase an ISDN transmitter/receiver, a telephone hybrid, eight minidisc portable recorders, and six minidisc studio recorders.

File No. 99179CRB, Kuskokwim Public Broadcasting Corporation, Mile 389 Iditarod Trail, McGrath, AK 99627. Contact: Ms. Amie Hind, General Manager, (907) 561–9234. Funds Requested: $34,305. Total Project Cost: $75,741. To improve the studio production and interconnection facilities of public radio station KSKO(AM), which brings the sole such signal to the 6,000 residents of McGrath, AK. The project would replace a 20-year-old satellite receive-only earth station, a power generator at the station's transmission site, and diverse items of studio equipment.

File No. 99244PRTBN, Tanana Chiefs Conference, Inc., 122 First Avenue, Fairbanks, AK 99701. Contact: Mr. Alfred Ketzler, Chief Administrative Officer, (907) 452–8251. Funds Requested: $59,066. Total Project Cost: $67,866. To help the Tanana Chiefs Conference, Inc., Fairbanks, AK, plan for possible activation of tribally-owned public radio, public television, and distance learning facilities to serve the needs of the 14,000 Alaskan Natives who reside in the State's vast Interior Region. The Tanana Chiefs Conference, Inc. is a consortium of 42 tribal villages that are located throughout an area of 235,000 square miles, which represents approximately 39% of the entire State of Alaska.

Alabama

File No. 99085CTB, Alabama Educational Television Commission, 2112 11th Avenue, South Birmingham, AL 352052884. Contact: Mr. Philip Hutcheson, Deputy Director/CFO, (205) 328–8756. Funds Requested: $810,667. Total Project Cost: $1,621,334. To improve the statewide microwave system operated by the applicant which interconnects the state's nine public television stations. The project will replace 60 FM analog modulators and 59 FM analog demodulators with digital encoders and decoders and add MPEG II equipment. The project will ensure continued public television service to 4.2 million residents of Alabama and will assist in the state's conversion to digital technologies.

Arkansas

File No. 99055CTB, Arkansas Educational Television Commission, 350 S. Donaghey, Conway, AR 72032. Contact: Ms. Susan Howarth, Executive Director, (501) 682–2386. Funds Requested: $178,842. Total Project Cost: $357,685. To improve the state's public TV network by replacing old, obsolete origination equipment. New equipment includes prompters, lighting system, camera pedestals and an audio mixer. Network serves about 2.35 million people.

File No. 99248CRB, Arkansas Broadcasting Foundation, 2101 S. Main Street, Little Rock, AR 72206. Contact: Ms. Valerie Coffin, Station Manager, (501) 372–6119. Funds Requested: $68,925. Total Project Cost: $93,925. To improve public radio station KABF–FM, 88.3 MHz, in Little Rock by replacing old, worn out dissemination and origination equipment including remote control, studio-to-transmitter link, coax cable, consoles, speakers, microphones and similar equipment. KABF–FM serves about 623,000 people. The Little Rock area is also served by several other public radio stations.

Arizona

File No. 99008CTB, Arizona Board of Regents in behalf of Arizona State University, Box 871405, Tempe, AZ 852874505. Contact: Mr. Larry Fallis, Sponsored Projects Officer, (602) 965–1415. Funds Requested: $1,395,000. Total Project Cost: $2,790,000. To assist in the digital conversion for KAET–DT, Ch. 29, Phoenix, by purchasing a DTV transmitter, antenna, transmission line, digital microwave, digital master control, test and monitoring equipment. KAET–TV, Ch. 8, Phoenix, currently serves about 3.5 million people.

File No. 99056ICTN, Arizona Board of Regents for and on Behalf of Northern Arizona University, Old Main, Bldg 10, Room 209 Flagstaff, AZ 86011. Contact: Mr. Edward Groenhout, VP for Strategic Initiatives, (520) 523–1805. Funds Requested: $1,403,838. Total Project Cost: $1,871,784. To expand the interactive instructional television network (NAUNet) of Northern Arizona University, Flagstaff, from existing hubs to three remote locations on Indian Reservations in Arizona. The receive sites would be placed at the Tsaile Campus of Dine' College on the Navajo Indian Reservation, the Tohono O'odham Nation Indian Reservation, at Sells, and the San Carlos Apache Indian Reservation. The addition of these sites would require expansion of NAUNet network routing equipment at the system's Flagstaff and Phoenix hubs.

File No. 99087CRB, Arizona Board of Regents for and on behalf of Northern Arizona University, Building 83, Flagstaff, AZ 86011. Contact: Mr. John Stark, General Manager, (520) 523–5628. Funds Requested: $86,762. Total Project Cost: $115,683. To activate a 3 KW repeater/satellite public radio station on 90.3 MHz, in Grand Canyon Village. Station will repeat the signal of KNAU–FM, Flagstaff, and will provide a first public radio service to about 4,257 people.

File No. 99128PRB, Tohono O'odham Nation, P.O. Box 835, Sells, AZ 85634. Contact: Mr. Alex Ritchie, Executive Assistant, (520) 383–2028. Funds Requested: $29,526. Total Project Cost: $80,710. To plan for a new public radio station to serve about 20,000 people on the 2.8 million acres of the Tohono O'Odham Nation in Sells, Arizona.

File No. 99132CTB, Arizona Board of Regents for Benefit of University of Arizona, University of Arizona, Tucson, AZ 85721. Contact: Mr. Ronald Stewart, Associate Director, (520) 621–5828. Funds Requested: $251,298. Total Project Cost: $502,596. To improve public television station KUAT–TV, Ch. 6, in Tucson by replacing field acquisiton cameras, video cassette recorders (VCR's) and the master control VCR with a video server. The new digital equipment will allow KUAT–TV and its satellite station KUAS–TV, to provide quality local programming to approximatley 690,000 people.

California

File No. 99006CTB, Valley Public Television, Inc., 1544 Van Ness Avenue, Fresno, CA 93721. Contact: Mr. Colin Dougherty, General Manager/Exec. Dir., (559) 266–1800. Funds Requested: $181,765. Total Project Cost: $363,531. To improve public television station KVPT–TV, Channel 18 in Fresno, CA, by replacing obsolete master control equipment with digital capable units, including a video server, a non-linear editing system and a routing switcher. The station serves a population of over 2.2 million people in the San Joaquin Valley.

File No. 99027CRB, San Bernardino Community College District, 701 S. Mt. Vernon Avenue, San Bernardino, CA 92410. Contact: Mr. Lew Warren, General Manager, (909) 888–6511. Funds Requested: $77,445. Total Project Cost: $154,890. To improve public radio

station KVCR–FM, operating on 91.9 MHz in San Bernardino, CA, by increasing power and replacing its antenna, transmitter and associated test equipment. The station serves a population of over 2.5 million people in the Riverside/San Bernardino market.

File No. 99031CTB, Board of Trustees, Coast Community College District, 15751 Gothard Sreet, Huntington Beach, CA 92647. Contact: Mr. Mel Rogers, President, (714) 895–5623. Funds Requested: $142,779. Total Project Cost: $285,558. To improve public television station KOCE–TV, Channel 50 in Huntington Beach, CA, by replacing obsolete and unreliable ¾-inch U-matic videotape machines with ten state-of-the-art Panasonic DVC Pro digital VTRs. The station serves a population of 8.2 million people.

File No. 99043CTB, KVIE, Inc., P.O. Box 6, Sacramento, CA 95833. Contact: Mr. Michael Wall, Director of Engineering, (916) 923–7474. Funds Requested: $1,600,842. Total Project Cost: $3,201,684. To convert public station KVIE–TV, Channel 6 in Sacramento, CA, to digital broadcasting on DTV Channel 53 by purchasing digital equipment including antenna, transmission line, digital transmitter, STL digital microwave, digital test equipment and upconverters. The station serves a population of over 4.3 million people in North Central California.

File No. 99057CRB, Santa Monica Community College District, 1900 Pico Blvd., Santa Monica, CA 90405. Contact: Ms. Ruth Seymour, General Manager, (310) 450–5183. Funds Requested: $135,990. Total Project Cost: $181,320. To expand the broadcast services of KCRW–FM, operating on 89.9 MHz in Santa Monica, by constructing a full power, repeater station in Mojave, California. The new station, KCRI–FM will operate on 88.1 MHz and will provide first public radio services to over 32,000 residents of the Antelope Valley.

File No. 99062ICTN, Monterey County Office of Education, 901 Blanco Circle, Salinas, CA 93901. Contact: Mr. Michael Mellon, Director, Instruct. Resources, (831) 755–0383. Funds Requested: $408,982. Total Project Cost: $968,842. To extend the ITFS-based distance learning system of the Monterey County Office of Education, Salinas, CA, to San Benito and San Luis Obispo Counties and to expand the already-existing system in Monterey and Santa Cruz Counties to presently-unserved audiences.

File No. 99081CRB, KPFK Pacifica Radio, 3729 Cahuenga Boulevard West, North Hollywood, CA 91604. Contact: Mr. Mark Schubb, General Manager, (818) 985–2711. Funds Requested: $247,704. Total Project Cost: $495,408. To improve public radio station KPFK–FM, operating on 90.7 MHz in North Hollywood, CA, by replacing the obsolete and failing transmission chain and worn out origination equipment, including two 23-year-old transmitters, a 40-year-old tower and antenna, control room mixing boards, recorders, CD players and microphones. The station serves a population of over 13.8 million people in Greater Los Angeles.

File No. 99082CTB, KTEH–TV Foundation, 1585 Schallenberger Road, San Jose, CA 95131. Contact: Mr. Gary Martinez, Grants Associate, (408) 795–5412. Funds Requested: $674,191. Total Project Cost: $898,922. To extend the signal and broadcast services of KTEH–TV, Channel 54 in San Jose, CA, by reactivating KCAH–TV, Channel 25 in Watsonville. The station is expected to serve approximately 1.2 million residents of Salinas, Monterey and Santa Cruz. The project will aquire DTV-capable equipment to replace KCAH's transmitter, antenna, STL and transmission line. KTEH serves a population of over 6.2 million people in 14 northern California counties.

File No. 99088CTB, KTEH–TV Foundation, 1585 Schallenberger Road, San Jose, CA 95131. Contact: Mr. Gary Martinez, Grants Associate, (408) 795–5412. Funds Requested: $558,310. Total Project Cost: $1,116,620. To improve public television station KTEH–TV, Channel 54 in San Jose, CA, by replacing the 25-year-old transmitter, antenna, STL and transmission line with DTV-ready equipment. The station serves a population of over 6.2 million in Northern California.

File No. 99122CRB, Radio Bilingue, Inc., 5005 E. Belmont, Fresno, CA 93727. Contact: Mr. Hugo Morales, Executive Director, (204) 455–5757. Funds Requested: $133,541. Total Project Cost: $178,055. To improve public radio station KSJV–FM, 91.5 MHz in Fresno, and KMPO–FM, 88.7 MHz in Modesto, CA, by replacing both transmitters and associated equipment. In addition, the KSJV studio facility will be upgraded by replacing analog equipment with digital equipment, including an audio console, CD players and recorders/playback units. The stations serve a Spanish-speaking population of over 100,000 people.

File No. 99133CTB, Community Television of Southern California, 4401 Sunset Boulevard, Los Angeles, CA 90027. Contact: Mr. Donald Youpa, Exec. VP & COO, (323) 953–5210. Funds Requested: $1,440,685. Total Project Cost: $1,920,914. To convert public station KCET–TV, Channel 28 in Los Angeles, CA, to digital broadcasting on Channel 59 by purchasing a transmitter, antenna, transmission line, STL, encoder and test equipment. The station serves a population of over 18 million people.

File No. 99140CTB, Los Angeles Unified School District, 1061 West Temple Street, Los Angeles, CA 90012. Contact: Mr. Tom Mossman, Station Manager, (213) 625–6958. Funds Requested: $156,391. Total Project Cost: $312,781. To improve public television station KLCS–TV, Channel 58 in Los Angeles, CA, by replacing obsolete and failing master control equipment with digital units, including videotape machines, a video server, a still storer and a character generator. The station serves a population of over 12 million people.

File No. 99142CRB, Fresno Free College Foundation, 1449 N. Wishon Avenue, Fresno, CA 93728. Contact: Mr. Victor Bedoian, Executive Director, (559) 233–2221. Funds Requested: $5,315. Total Project Cost: $10,630. To improve public radio station KFCF–FM, operating on 88.1 MHz in Fresno, CA, by replacing the 38-year-old transmitter. The station serves a population of over 600,000 people.

File No. 99161CRB, Humboldt State University, Humboldt State University, Arcata, CA 95521. Contact: Terry Green, Assistant Manager/Chief Engine, (707) 826–3979. Funds Requested: $13,175. Total Project Cost: $26,350. To improve public radio station KHSU–FM, operating on 90.5 MHz in Arcata, CA, by replacing failing analog two-track recorders and the production console with a digital audio workstation and a digital, 8 channel audio console unit. The station serves a population of over 135,000 people.

File No. 99164CRB, KQED, Inc., 2601 Mariposa Street, San Francisco, CA 94110. Contact: Ms. Jo Anne Wallace, Vice Pres. & General Mgr., (415) 553–2296. Funds Requested: $253,152. Total Project Cost: $506,304. To improve public radio station KQED–FM, operating on 88.5 MHz in San Francisco, CA, by replacing analog recording and playback equipment and related production hardware with an a Audiovault digital storage and delivery system. The station serves a population of over 6 million people.

File No. 99165CRB, University of Southern California, 3716 South Hope Street, Suite 26, Los Angeles, CA 90007. Contact: Ms. Brenda Pennell, General Manager, (213) 514–1450. Funds Requested: $84,200. Total Project Cost: $168,400. To improve public radio station KUSC–FM, 91.5 MHz in Los

Angeles, CA, by upgrading the master control and the production studios to digital technology, including consoles, production/storage workstations, CD players and miniDisc player/recorders. The station serves a population of approximately 12 million people.

File No. 99168CRB, University of Southern California, 3716 South Hope Street, Suite 26, Los Angeles, CA 90007. Contact: Ms. Brenda Pennell, General Manager, (213) 514–1450. Funds Requested: $270,424. Total Project Cost: $360,565. To expand the coverage area and improve the signal of KUSC–FM, operating on 91.5 MHz in Los Angeles, CA, by upgrading the transmission system and doubling the station's broadcast power. The project includes replacement of the transmitter, antenna, transmission line and STL. The station currently serves about 12 million people and will add over 700,000 as a result of the power increase.

File No. 99172CTB, Rural California Broadcasting Corporation, 5850 LaBath Avenue, Rohnert Park, CA 94928. Contact: Ms. Nancy Dobbs, President and CEO, (707) 585–8522. Funds Requested: $110,357. Total Project Cost: $147,143. To improve public television station KRCB–TV, Channel 22 in Rohnert Park, CA, by replacing ten 15-year-old ¾" videotape machines in master control, production control and editing rooms with digital units. The station serves a population of over 2.8 million people.

File No. 99182PRB, Radio Bilingue, Inc., 5005 E. Belmont Fresno, CA 93727. Contact: Mr. Hugo Morales, Executive Director, (559) 455–5757. Funds Requested: $52,580. Total Project Cost: $83,440. To plan for the distribution of Radio Bilingue's 24-hour satellite programming service to the top 10 Latino markets in the U.S. using subcarrier (SCA) technology.

File No. 99183CTN, City of San Leandro, 835 E.14th Street San Leandro, CA 94577. Contact: Mr. Greg Park, Interim IS Manager, (510) 577–3393. Funds Requested: $41,000. Total Project Cost: $54,668. To assist the City of San Leandro, which is in California's Bay Area, to activate a government access channel on the local cable television system.

File No. 99198CRB, California State University-Northridge, 18111 Nordhoff Street Northridge, CA 91330–8312. Contact: Ms. Dolly Salazar, Dir. of Development KCSN, (818) 677–3090. Funds Requested: $31,545. Total Project Cost: $63,090. To improve public radio station KCSN–FM, operating on 88.9 MHz in Northridge, CA, by replacing analog reel-to-reel and cartridge tape machines with two digital audio workstations and four digital audio edit systems. The station serves a population of over 1.5 million people.

File No. 99206CTB, KQED, Inc., 2601 Mariposa Street San Francisco, CA 94110. Contact: Ms. Jayme Burke, Development Associate, (415) 553–2174. Funds Requested: $398,086. Total Project Cost: $796,173. To continue the conversion to digital broadcasting of KQED–DTV, operating on Digital Channel 30 in San Francisco, by purchasing a digital video server system to store and play multiple program streams for digital television multicasting. The station serves a population of 5.5 million people.

File No. 99214CRB, Redwood Community Radio, Inc., 1144 Redway Dr Redway, CA 95560. Contact: Mr. Simon Frech, Station Manager, (707) 923–2513. Funds Requested: $92,062. Total Project Cost: $122,750. To extend and improve the signal of KMUD–FM, 91.1 MHz in Redway, CA, by replacing the transmitter and the antenna system and installing a microwave STL. The station will also increase its broadcast power providing first public radio service to over 14,000 residents of Humboldt, northern Mendocino and western Trinity counties. In addition to the people receiving first service, KMUD currently serves almost 9,000 people and will add another 9,000 as a result of the increased coverage area.

File No. 99219CTB, San Diego State University Foundation, 5200 Campanile Drive San Diego, CA 92182. Contact: Ms. Susan Holloway, Director Admin. Services, (619) 594–2491. Funds Requested: $660,926. Total Project Cost: $1,321,852. To convert public station KPBS–TV, Channel 15 in San Diego, CA, to digital broadcasting on Channel 30 by purchasing a digital transmitter, digital microwave STL, digital encoding system, HDTV recorders, HDTV master control switcher processor and other essential master control equipment. The station serves a population of over 2.5 million people.

File No. 99230CTB, San Mateo County Community College District, 1700 W. Hillside Blvd. San Mateo, CA 94402. Contact: Ms. Marilyn Lawrence, General Manager, (650) 524–6905. Funds Requested: $1,223,325. Total Project Cost: $2,446,650. To convert public station KCSM–TV, Channel 60 in San Mateo, CA, to digital broadcast on Channel 59 by purchasing a digital transmitter, transmission line, antenna, STL and other equipment including a video file server and a compression/decompression system. The station serves a population of over 6.3 million people.

File No. 99232CRB, University of Southern California, 3716 South Hope Street Suite 26 Los Angeles, CA 90007. Contact: Ms. Brenda Pennell, General Manager, (213) 514–1450. Funds Requested: $267,144. Total Project Cost: $534,288. To improve public radio station KUSC–FM, operating on 91.5 MHz in Los Angeles, CA, by replacing the aging transmission systems of its repeater stations at KPSC–FM (88.5 MHz) in Palm Springs, KFAC–FM (88.7 MHz) in Santa Barbara, and KCPB–FM (91.1) in Thousand Oaks. The network of transmitters that re-broadcast the signal of KUSC in Los Angeles, serve nearly 1.9 million residents of Southern California.

Colorado

File No. 99036ICTN, National Technological University, 700 Centre Avenue Ft. Collins, CO 80526. Contact: Dr. Lionel Baldwin, President, (970) 495–6411. Funds Requested: $966,000. Total Project Cost: $4,578,000. To expand the distance learning service provided by National Technological University by converting 41 universities with MPEG–2 digital encoding equipment at their satellite uplinks. Conversion of the NTU system to MPEG–2 digital equipment will permit NTU to provide distance learning directly to small business and home viewers through the use of 90 cm antennas and standard digital equipment.

File No. 99046ICTN, Centennial Board of Cooperative Educational Services, 830 South Lincoln Street Longmont, CO 80501. Contact: Mr. David Biekert, Director of Technology Service, (303) 772–4420. Funds Requested: $323,783. Total Project Cost: $794,849. To extend the T–1-based distance learning system of the Centennial Board of Cooperative Educational Services (Centennial BOCES), Longmont, CO, to a number of school districts in Colorado's northeast quadrant. Project equipment would be located in the following high schools in the affected area: Longmont, Ft. Morgan, Frederick, Lyons, Erie, Berthoud, Estes Park, Johnstown, Briggsdale, Akron, Weldona, and Merino. The Centennial BOCES was formed by merging the former Northern Colorado BOCES and Weld BOCES.

File No. 99108CRB, Colorado State Board of Agriculture, 1000 Rim Drive Durango, CO 81301. Contact: Ms. Wynn Harris, Station Manager, (970) 247–7261. Funds Requested: $31,160. Total Project Cost: $47,035. To improve noncommerical FM radio station KDUR–FM, 91.9MHz, in Durango, by replacing its old, worn-out transmission

system including transmitter, processor, antenna and transmission line. Station will also replace a production console, cart machines, DAT machines, below standard mini-disc players and test equipment. KDUR–FM serves about 20,000 people.

File No. 99229CRB, Equal Representation of Media Advocacy, 528 9th Street Alamosa, CO 81101. Contact: Ms. Annajo (Aj) Sanchez, General Manager, (719) 589–9057. Funds Requested: $27,295. Total Project Cost: $36,394. To extend and improve public radio station KRZA–FM, 88.1 MHz, Alamosa, by repositioning the antenna, activating a translator and acquiring field production equipment. KRZA–FM serves about 75,000 people.

File No. 99246CTB, Rocky Mountain Public Broadcasting, 1089 Bannock Street Denver, CO 80204. Contact: Mr. James Morgese, Pres. & General Mgr., (303) 620–5662. Funds Requested: $1,371,738. Total Project Cost: $2,743,477. To convert public television station KRMA–TV, Ch. 6, Denver to digital broadcasting on Ch. 18, by purchasing a transmitter, antenna, transmission line, microwave interconnection equipment, test equipment and other associated equipment. KRMA–TV serves about 3.9 million people.

Connecticut

File No. 99063CTB, Connecticut Public Broadcasting Inc., 240 New Britain Avenue Hartford, CT 06106. Contact: Mr. James Whitsett, VP, Operations and Engineering, (860) 278–5310. Funds Requested: $743,434. Total Project Cost: $1,486,868. To convert public station WEDH–TV, Channel 24 in Hartford, CT, to digital broadcating on Channel 32 by purchasing a transmitter, antenna, transmission line, microwave STL, test and monitoring equipment. The station serves a population of more than 3 million people.

District of Columbia

File No. 99102ICTN, Association of Jesuit Colleges & Universities, 1 DuPont Circle, Suite 405 Washington, DC 200361110. Contact: Dr. William Husson, Dean of Professional Studies, (303) 458–1844. Funds Requested: $503,500. Total Project Cost: $1,263,500. To help the Association of Jesuit Colleges & Universities interconnect 19 of its member-institutions to form the Jesuit Distance Education Network (JDEN). The proposed network would consist of a video interconnection relying on Internet Protocol technologies to unite the merits of videoconferencing with the advantages of Internet-based learning. Internet Protocol video would enable the delivery of video over the Internet connectivity in a cost-effective manner.

File No. 99226CRB, Pacifica Foundation, 2390 Champlain Street NW Washington, DC 20009. Contact: Ms. Bessie Wash, General Manager, (202) 598–0999. Funds Requested: $45,732. Total Project Cost: $91,465. To improve the operation of public radio station WPFW, 89.3 MHz, Washington, DC, by replacing its transmitter.

File No. 99235CRN, Self Reliance Foundation, 518 C Street NE Washington, DC 20002. Contact: Mr. Sebastian Puente, Chief of Staff, (202) 547–7447. Funds Requested: $159,720. Total Project Cost: $319,440. To provide satellite downlink equipment to twenty non-commercial radio stations affiliated with the Self Reliance Foundation that wish to broadcast the Foundation's Hispanic-language programing.

File No. 99236PRN, Self Reliance Foundation, 518 C Street NE Washington, DC 20002. Contact: Mr. Sebastian Puente, Chief of Staff, (202) 547–7447. Funds Requested: $40,710. Total Project Cost: $81,420. To plan for the extension of the applicant's Spanish language radio programming to the ten U.S. cities with the largest concentration of Hispanics: Los Angeles, New York, Miami, San Francisco/San Jose, Chicago, Houston, San Antonio, Brownsville, Dallas, and San Diego.

Florida

File No. 99021CRB, University of Florida, 2208 Weimer Hall Gainesville, FL 32611. Contact: Mr. Henri Pensis, Station Manager, (352) 392–5200. Funds Requested: $25,591. Total Project Cost: $51,182. To replace an obsolete 17-year-old production studio console for public radio station WUFT(FM), which operates on 89.1 MHz in Gainesville, FL, and is licensed to the University of Florida.

File No. 99038CTB, University of Florida, 202 Weimer Hall Gainesville, FL 326118405. Contact: Mr. Richard Lehner, General Manager, (352) 392–5551. Funds Requested: $77,445. Total Project Cost: $154,890. To purchase a digital switcher, a digital router, and digital test equipment for public television station WUFT(TV), which operates on Ch. 5 in Gainesville, FL, and which is licensed to the University of Florida. The requested equipment would complete the modernization and digital conversion of WUFT(TV)'s master control area. The project would thus assist the station's effort to convert to digital technologies in a timely way.

File No. 99054CTB, The Board of Regents of Florida acting on behalf of the Florida State University, 1600 Red Barber Plaza Tallahassee, FL 32310. Contact: Mrs. Donna Landrum, Business Manager, (850) 487–3170. Funds Requested: $80,560. Total Project Cost: $161,120. To purchase seven digital tape machines to improve the master control and production operations of public television station WFSE(TV), which operates on Ch. 11 in Tallahasee and which is licensed to Florida State University. Three of the new tape machines would replace analog equivalents in WFSU(TV)'s editing suites. The remaining four digital machines would replace analog machines used for program playback and network delay in the master control on-air configuration. The requested equipment would substantially complete the station's digital conversion plans for its master control, production, and postproduction operations.

File No. 99058CTN, Sarasota County Board of County Commissioners, 1660 Ringling Boulevard Sarasota, FL 34236. Contact: Ms. Melissa Fritsch, Administrative Asst., (941) 951–5294. Funds Requested: $644,385. Total Project Cost: $859,180. To assist the Sarasota (FL) County Board of County Commissioners in activating the first government access channel on the County's cable television system. The project would purchase the equipment for a production studio, in addition to some test equipment. Eventually, the studio in question would be used to produce programming for a community access channel as well; the community access channel is also to be administered by the Board.

File No. 99083CTB, Community Communications, Inc., 11510 East Colonial Drive Orlando, FL 32817. Contact: Mr. Jose Fajardo, Vice President for Programming, (407) 273–2300. Funds Requested: $883,172. Total Project Cost: $1,766,345. To replace the 26-year-old transmitter, antenna, and transmission line at public television station WMFE(TV), which operates on Ch. 24 in Orlando, FL. The project would also purchase a nonlinear editing system for the station.

File No. 99099CTB, District Board of Trustees, Pensacola Junior College, 1000 College Boulevard Pensacola, FL 32504. Contact: Mr. Allan Pizzato, General Manager, (850) 484–1213. Funds Requested: $798,109. Total Project Cost: $3,246,218. To assist public television station WSRE(TV), Pensacola, FL, complete its conversion to digital transmission. Station WSRE(TV) operates on Ch. 23 for its analog transmission and will operate on Ch. 31 for its digital service. The station is licensed to Pensacola Junior College. The project would purchase diverse

digital transmission equipment; e.g., a transmitter, an antenna, a transmission line, an STL, and varied test equipment items. Station WSRE(TV) must move its tower site in order to broadcast in digital. The project thus also includes a one-time, $1 million lease payment for antenna space on a new, 2,000' commercial tower. The lease would extend for a minimum of 40 years. The tower will be located approximately five miles from the station's present tower site.

File No. 99137PTB, Myth Slayer, Inc., 1015 NW 21st Avenue, #46 Gainesville, FL 32609. Contact: Ms. Gloria Rozier, President, (352) 337–9111. Funds Requested: $172,384. Total Project Cost: $208,144. To assist Myth Slayer, Inc. plan for the activation of a nonprofit low power television station that would serve the needs of minority groups, women, and children in Gainesville, FL.

File No. 99149CTB, State Board of Regents acting on behalf of the University of South Florida, 4202 Fowler Avenue SVC 0001 Tampa, FL 336620. Contact: Mr. William Buxton, Station Manager, (813) 974–4000. Funds Requested: $12,037. Total Project Cost: $24,074. To replace the transmitter remote control system of public television station WUSF(TV), which operates on Ch. 16 in Tampa, FL, and which is licensed to the University of South Florida. The present remote control system will be noncompliant with Year 2000 program language.

File No. 99171CTB, Florida Gulf Coast University acting for and in behalf of the State Board of Reg, 10501 FGCU BLVD Fort Myers, FL 33965. Contact: Mr. Kirk Lehtomaa, Station Manager, (941) 590–2300. Funds Requested: $654,999. Total Project Cost: $1,310,000. To replace a 17-year-old, obsolete transmitter for public television station WGCU(TV), which operates on Ch. 30 in Fort Myers, FL, and which is licensed to Florida Gulf Coast University. The project would also replace the station's antenna and transmission line.

File No. 99187CTB, Florida West Coast Public Broadcasting, Inc., 1300 North Boulevard Tampa, FL 33607. Contact: Ms. Elsie Garner, Sr. Vice Pres. & COO, (813) 254–9338. Funds Requested: $465,742. Total Project Cost: $931,485. To improve the program production capability of public television station WEDU(TV), which operates on Ch. 3 in the St. Petersburg/Tampa region of Florida. The project would purchase a high definition video production switcher, a high definition digital effects unit, high definition color monitors, and an edit controller system. The new switcher and effects unit would replace outdated items. The project would permit WEDU(TV) to make significant progress in converting its production capabilities to digital technology.

File No. 99195CRB, Board of Regents of Florida Acting for and on behalf of Florida State University, 1600 Red Barber Plaza Tallahassee, FL 32310. Contact: Mr. Andrew Hanus, Chief Engineer, (850) 487–3086. Funds Requested: $15,343. Total Project Cost: $30,686. To replace the master control and production control consoles at public radio stations WFSU(FM) and WFSQ(FM), Tallahassee, FL. Station WFSU(FM) is a news and information station and operates on 88.9 MHz. Station WFSQ(FM), a fine arts station, operates on 91.5 MHz. Both stations are licensed to Florida State University. The two stations share studio facilities and, together, provide the sole public radio service to over 580,000 listeners in greater Tallahasee.

File No. 99197CTB, Barry Telecommunications, Inc., 3401 South Congress Avenue Boynton Beach, FL 33426. Contact: Mr. Philip DiComo, VP of Development, (561) 737–8000. Funds Requested: $255,936. Total Project Cost: $511,872. To replace worn-out or obsolete studio equipment at public television station WXEL(TV), which operates on Ch. 42 in Boynton Beach, FL. The project would purchase video tape machines, a video server system, a nonlinear editor system, and diverse other associated items.

File No. 99209CRB, Florida Board of Regents for and on Behalf of the University of South Florida, University of South Florida Tampa, FL 33620. Contact: Dr. James Heck, General Manager, (813) 974–8665. Funds Requested: $32,912. Total Project Cost: $65,824. To improve the transmission and studio production capabilities of public radio station WUSF(FM), which operates on 89.7 MHz in Tampa, FL, and which is licensed to the University of South Florida. The project would purchase a digital exciter, a hot-standby studio-to-transmitter link, digital audio work stations, an ISDN codec, and portable minidisc recorders.

File No. 99210CTB, Barry Telecommunications, Inc., 3401 South Congress Avenue Boynton Beach, FL 33426. Contact: Mr. Philip DiComo, VP of Development, (561) 737–8000. Funds Requested: $262,099. Total Project Cost: $524,198. To replace three obsolete, worn-out, tube-type studio cameras with modern "chip " cameras at public television station WXEL(TV), which operates on Ch. 42 in Tampa, FL. The new cameras would be 16:9/4:3 switchable, standard definition digital-compatible and would thus advance WXEL(TV)'s digital conversion effort.

File No. 99212CRB, Barry Telecommunications, Inc., 3401 South Congress Avenue Boynton Beach, FL 33426. Contact: Mr. Philip DiComo, VP of Development, (561) 737–8000. Funds Requested: $83,407. Total Project Cost: $166,814. To extend the service area and improve the studio production facilities of public radio station WXEL(FM), which operates on 90.7 MHz in Tampa, FL. The project would modify the station's antenna, purchase an antenna line, and reinforce the present tower; this would allow the station's signal to reach an estimated 50,000 additional listeners in the rural areas of Palm Beach and Hendry Counties. This would represent the first public radio service to these listeners. In addition, the project would purchase replacement DAT recorders, a cart system, CD players, and microphones.

File No. 99218CTB, WJCT, Inc., 100 Festival Park Avenue Jacksonville, FL 32202. Contact: Mr. Rick Johnson, Sr Vice Pres. Broadcasting, (904) 358–6394. Funds Requested: $473,692. Total Project Cost: $947,385. To replace worn-out transmission equipment at public television station WJCT(TV), which operates on Ch. 7 in Jacksonville, FL. The project would purchase a new transmitter, microwave Studio-to-Transmitter Link, and diverse associated test equipment items. WJCT(TV) intends to retrofit this transmitter to digital when its analog operations must cease as of May 1, 2006. The purchase would thus provide WJCT(TV) with a reliable analog signal during the next few years and at the same time position the station for its eventual conversion to all-digital transmission.

File No. 99241CRB, University of Central Florida, Communications Building Room 13 Orlando, FL 32816. Contact: Ms. Kayonne Riley, Station Manager, (407) 823–5162. Funds Requested: $139,980. Total Project Cost: $279,960. To construct a new tower and install a new antenna system at public radio station WUCF(FM), which operates on 89.9 MHz in Orlando, FL, and which is licensed to the University of Central Florida. These improvements would alleviate radio frequency interference and permit WUCF(FM) to comply with nonionizing radiation standards required by the FCC and the ANSI.

File No. 99242CTB, School Board of Miami-Dade County Florida, 172 N.E. 15th Street Miami, FL 33132. Contact: Mrs. Laurel Long, Director of Finance Admin., (305) 995–2240. Funds Requested: $857,534. Total Project Cost: $1,715,068. To purchase a complete

digital transmission system for public television station WLRN(TV), which is licensed to The School Board of Miami-Dade County, FL, and thus allow the station to begin immediate digital operations. WLRN(TV) operates on Ch. 17 for its analog service and will operate on Ch. 18 for its digital broadcasting.

Georgia

File No. 99233CRB, Progressive United Communications, Inc., 316 N. River St. Claxton, GA 30417. Contact: Mrs. Paschell Mix, CEO/Owner, (912) 739–9252. Funds Requested: $86,250. Total Project Cost: $115,000. To improve the production facilities of WCLA–AM, 1470 KHz and WCLA–FM, 107.3 MHZ in Claxton, GA by purchasing an audio vault storage, audio console and related production equipment. WCLA serves 160,000 people in southeast Georgia.

Iowa

File No. 99010CRB, University of Northern Iowa, 324 Communication Arts Center Cedar Falls, IA 50614. Contact: Ms. Barbara Reid, Administrative Assistant, (319) 273–6325. Funds Requested: $906,984. Total Project Cost: $1,813,968. To improve the transmission reliability of public radio station KUNI, 90.9 MHz, Cedar Rapids, IA, by constructing a transmitter tower to replace one the station may have to vacate because the owner may need the tower capacity for converting itself to DTV. KUNI serves a population of about 1,213,130 through its primary transmission and through four translators that relay its signal in Des Moines, Dubuque, Davenport, and Eldridge, all in Iowa.

File No. 99011CRB, University of Northern Iowa, 324 Communications Arts Center Cedar Falls, IA 50614. Contact: Ms. Barbara Reid, Administrative Assistant, (319) 273–6325. Funds Requested: $10,711. Total Project Cost: $21,423. To improve the signal of public station KRNI(AM), 1010 KHz, Mason City, IA, by replacing its worn out and obsolete transmitter. The station repeats the programing of KUNI, 90.9 MHz, Cedar Falls, IA, and serves a population of about 95,000.

File No. 99015CRB, Iowa Radio Reading Information Service for the Blind and Print Handicapped, Inc., 100 East Euclid Ave. Des Moines, IA 50313. Contact: Ms. Sally Vander Linden, Executive Director, (515) 243–6833. Funds Requested: $25,272. Total Project Cost: $50,544. To extend the service area of Iowa Radio Reading Information Service, Des Moines. IA, by acquiring the necessary satellite up- and down-link equipment to enable IRIS to provide its service to Iowa City, Cedar Falls, and Sioux City, all Iowa. The project will also acquire a supply of the special receivers needed for the visually handicapped in those communities to utilize the service. About 1,000 visually handicapped persons will receive service in the added communities.

File No. 99020CRB, University of Northern Iowa, 324 Communication Arts Center Cedar Falls, IA 50614. Contact: Ms. Barbara Reid, Administrative Assistant, (319) 273–6325. Funds Requested: $20,008. Total Project Cost: $40,017. To extend the signal of public station KUNI, 90.9 MHz, Cedar Falls, IA, by constructing a repeater station on channel 208 (89.5 MHz) in Oskaloosa, IA. The new station will bring the first full-time public radio service to a population of about 14,979. It will repeat the programing of KUNI.

File No. 99039CTB, Iowa Public Broadcasting Board, 6450 Corporate Drive Johnston, IA 50131. Contact: Mr. Dennis Malloy, Dir. of Com. Relations & Dev., (515) 242–3106. Funds Requested: $223,922. Total Project Cost: $447,845. To improve the production capacity of Iowa Public Television, Johnston , IA, by replacing items of worn out and obsolete equipment, including tape recorders, a switcher, and associated equipment. Iowa PTV serves a statewide population of about 3,600,000. The equipment acquired will be digital compatible and assist in the ultimate conversion of Iowa PTV to digital television broadcasting.

File No. 99091CRB, University of Northern Iowa, 324 Communication Arts Center Cedar Falls, IA 50614. Contact: Ms. Barbara Reid, Administrative Assistant, (319) 273–6325. Funds Requested: $22,757. Total Project Cost: $45,514. To improve the signal reliability of public station KHKE, 89.5 MHz, Cedar Falls, IA, by replacing its worn out and obsolete 24-year-old transmitter. The station serves a population of about 191,207.

Idaho

File No. 99092CRB, Idaho State University, 921 South 8th Street Pocatello, ID 83209. Contact: Mr. Ernest Naftzger, Dean of Student Affairs, (208) 236–2688. Funds Requested: $33,771. Total Project Cost: $45,028. To complete public station KISU, Pocatello, ID, by acquiring satellite downlink equipment. The station provides the only public radio signal to about 13,678 persons.

File No. 99189CRB, Boise State University Foundation, Inc., 1910 University Drive Boise, ID 83725. Contact: Dr. James Paluzzi, General Manager, BSU Radio, (208) 426–3663. Funds Requested: $371,041. Total Project Cost: $742,082. To construct a new transmission tower for public stations KBSU–FM, 90.3 MHz, and KBSX, 91.5 MHz, both Boise, ID, in order to meet FCC mandates regarding public health and safety.

File No. 99202CRB, Idaho State Board of Education (Boise State University), BSU Radio/SMITC #213 Boise, ID 83725. Contact: Dr. James Paluzzi, General Manager, (208) 426–3663. Funds Requested: $268,750. Total Project Cost: $358,333. To extend the service of the Boise State University Radio Network, Boise, ID, by constructing a repeater station at 91.3 MHz in Jackpot, NV, to serve Elko County, NV, and Twin Falls, Cassia and Owyhee Counties, ID. The new station will bring the first public radio signal to about 1,534 persons. It will repeat the programing of station KBSX, Boise, ID, but will also carry programing intended just for its own listeners.

Illinois

File No. 99077CTB, Black Hawk College, 6600 34th Avenue Moline, IL 61265. Contact: Mr. Rick Best, General Manager, (309) 796–2424. Funds Requested: $164,790. Total Project Cost: $219,720. To improve the operation of public station WQPT, ch. 24, Moline, IL, by replacing its obsolete and worn out master control system, including a server and a digital routing switcher. The station serves a population of about 550,000.

File No. 99079CTB, Window to the World Communications, Inc., 5400 North St. Louis Avenue Chicago, IL 60625. Contact: Mr. Martin McLaughlin, Vice President Corporate Affa, (773) 509–5433. Funds Requested: $1,057,312. Total Project Cost: $2,114,624. To convert public station WTTW, ch. 11, Chicago, IL, to digital transmission on channel 47 by purchasing a transmitter and ancillary equipment, an antenna, STL, and test equipment. Tower modification is also included in the project. The station serves a population of about 10.5 million persons.

File No. 99084ICTN, Chicago Housing Authority, 4859 S. Wabash Avenue Chicago, IL 606151008. Contact: Ms. Zenobia Johnson-Black, Exec. Dir., Hayes FIC, (773) 285–0200. Funds Requested: $187,500. Total Project Cost: $250,000. To establish a video distance learning system that would interconnect The Chicago Housing Authority's Hayes Family Investment Center with three public housing developments and allow the Authority to transmit diverse instructional programming to their residents. The three participating developments would be Altgeld

Gardens, Cabrini-Green, and Henry Horner Homes. The programming would, in part, be targeted to assist the City's welfare-to-work effort and would emphasize pre-employment and job readiness skills training. More generally, the programming would also strive to increase the literacy levels and improve the information technology capabilities of the developments' residents. The project would build upon the Authority's experience with its computer learning effort.

File No. 99114CRB, Board of Trustees University of Illinois, 801 South Wright Street, 109 Cob Urbana, IL 61820. Contact: Mr. J.J. Kamerer, Director, Grants & Contract Ad, (217) 333–2187. Funds Requested: $45,000. Total Project Cost: $90,000. To improve the operation of WILL–AM, 580 KHz, and WILL–FM, 90.9 MHz, Champaign, IL, by replacing reel-to-reel and cartridge tape machine with a networked digital audio storage and delivery system. The stations serve a population of about 1,048,698.

File No. 99251CRB, Illinois State University, Old Union Building, Room 310, S Normal, IL 61790. Contact: Mr. Bruce Bergethon, General Manager, (309) 438–2393. Funds Requested: $40,000. Total Project Cost: $80,000. To improve the operation of public station WGLT, 89.1 MHz, Normal, IL, by replacing worn out and obsolete tape recording equipment with digital audio server system. The station serves a population of about 300,000.

Indiana

File No. 99061CTB, Michiana Public Broadcasting Corporation, 2300 Charger Blvd Elkhart, IN 46514. Contact: Ms. Trina Cutter, President/General Mgr., (219) 674–5961. Funds Requested: $362,370. Total Project Cost: $724,740. To improve the operation of public station WNIT, ch. 34, Elkhart, IN, by replacing obsolete and worn out cameras. The project will help the station's eventual transition to all-digital operation. WNIT serves a population of about 1,709,000.

File No. 99096CRN, City of Hobart Police Department, 200 Main Street Hobart, IN 46342. Contact: Mr. Ronald Taylor, Police Chief, (219) 942–1126. Funds Requested: $331,095. Total Project Cost: $438,289. To improve the public safety telecommunications system of the Hobart Police Department

File No. 99117CTB, Trustee of Indiana University, P.O. Box 1847 Bloomington, IN 47402. Contact: Mr. Barrie Zimmerman, Director, Operations & Engineer, (812) 855–2898. Funds Requested: $114,110. Total Project Cost: $228,220. To improve the operation of public station WTIU, ch. 30, Bloomington, IN, by replacing its worn out and obsolete video production switcher, an effects system, and video monitors. The project will help the station's eventual transition to all-digital operation. The station serves a population of about 490,000.

File No. 99180CRTB, Metropolitan Indianapolis Public Broadcasting, Inc., 1401 North Meridian Street, Indianapolis, IN 46202. Contact: Mr. Lloyd Wright, President & General Manager, (317) 636–2020. Funds Requested: $205,000. Total Project Cost: $410,000. To improve the signal reliability of public stations WFYI–TV, ch. 20, and WFYI–FM, 90.1 MHz, Indianapolis, IN, by replacing their failing, 20-year-old STL with a digital fiber-optic link. The stations serve a population of about 2 million.

Kansas

File No. 99009CTB, Smoky Hills Public Television Corp., 604 Elm Street Bunker Hill, KS 676260009. Contact: Mr. Lloyd Mintzmyer, Director of Engineering, (785) 483–6990. Funds Requested: $386,500. Total Project Cost: $773,000. To improve the facilites of three public TV stations, the main station (KOOD–TV, Ch. 9, in Bunker Hill), two repeater/satellite stations (KDCK–TV, Ch. 21, Dodge City, and KSWK–TV, Ch. 3, Lakin) and translators in western KS. Project would lease fiber optic to replace the failing analog microwave studio to multi-transmitter system. Project will also acquire "last mile" microwave equipment and associated satellite interconnection equipment. Stations currently serve about 365,000 people.

File No. 99022CTB, Kansas Public Telecommunications Service, Inc., 320 West 21st Street North Wichita, KS 67203. Contact: Mr. David McClintock, Director of Engineering, (316) 838–3090. Funds Requested: $118,735. Total Project Cost: $237,470. To improve public television station KPTS–TV, Ch. 8, in Wichita, by replacing station's old Umatic video recorders and analog studio-to-transmitter link. Project would acquire 5 digital tape recorders, a 10-year lease of fiber optic, 2 fiber optic encoders and decoders. Station serves about 588,000 people.

File No. 99024CRB, Hutchinson Community College, 815 N Walnut Suite 300 Hutchinson, KS 67501. Contact: Mr. David Horning, General Manager, (316) 665–3555. Funds Requested: $43,563. Total Project Cost: $87,126. To improve public radio station KHCC–FM, 90.1 MHz, in Hutchinson, by replacing the on-air console and main production console. Both units have been plagued with increasing outages and repair problems. KHCC–FM and its two repeater/satellite stations serve about 925,000 people.

File No. 99051CTB, Washburn University of Topeka, 1700 SW College Avenue Topeka, KS 66621. Contact: Mr. Robert Fidler, Director of Operations, (785) 231–1111. Funds Requested: $125,000. Total Project Cost: $250,000. To improve public television station KTWU–TV, Ch. 11, Topeka, by replacing its 45-year-old VHF antenna with a new antenna. Initially new antenna will be used as its NTSC antenna but will eventually become its DTV antenna. KTWU–TV serves about 1.26 million people.

File No. 99066CRB, Kanza Society, Inc., 210 N 7th St. Garden City, KS 67846. Contact: Mr. Brian Gibbons, Executive Director, (316) 275–7444. Funds Requested: $309,705. Total Project Cost: $412,940. To activate a new public radio satellite/repeater station on 89.5 MHz in Perryton-Spearman, TX. New 100 kilowatt station will repeat the signal of KANZ–FM, 91.1 MHz, Garden City, KS. Signal will be provided via a satellite downlink. New station will provide a first public radio signal to about 68,000 people in TX and OK.

File No. 99067CRB, Kanza Society, Inc., 210 N 7th Street Garden City, KS 67846. Contact: Mr. Brian Gibbons, Executive Director, (316) 275–7444. Funds Requested: $16,656. Total Project Cost: $33,312. To improve and upgrade the facilities of public radio FM translator, K242AL, 96.3 MHz, Hays, by relocating, replacing and upgrading the station to a Class A station (1,250 watts). Upgraded repeater/satellite station will broadcast on 91.7 MHz.

File No. 99089CRB, Wichita State University, 3317 E. 17th Street Wichita, KS 67208. Contact: Mr. Mark McCain, General Manager, (316) 978–6789. Funds Requested: $44,772. Total Project Cost: $89,544. To improve public radio station KMUW–FM, 89.1 MHz, Wichita, by replacing a 20-year-old satellite receive-only antenna and analog test equipment. Project will also replace and upgrade equipment in KMUW–FM's news production facility. KMUW–FM serves about 516,700 people.

Kentucky

File No. 99002CTB, Kentucky Authority for Educational Television, 600 Cooper Drive Lexington, KY 40502. Contact: Mrs. Virginia Fox, Executive Director, (606) 258–7000. Funds Requested: $699,371. Total Project Cost: $1,398,742. To improve the reliability of the signals of two public television stations in the Kentucky Educational Television system—WKSO, ch. 29,

Somerset, KY, and WKMR, ch. 38, Morehead, KY, by replacing 30 year old transmitters.

File No. 99053CTB, Western Kentucky University, 1 Big Red Way Bowling Green, KY 42101. Contact: Mr. Jerry Barnaby, Assistant Director, (502) 745–2400. Funds Requested: $86,544. Total Project Cost: $173,089. To improve the operation of public station WKYU–TV, ch. 24, Bowling Green, KY, by replacing origination equipment, including digital tape decks and cameras. The project will assist the station in its planned conversion to DTV. The station serves a population of about 250,000.

File No. 99064CRB, Eastern Kentucky University, 102 Perkins Building Richmond, KY 40475. Contact: Dr. Fred Kolloff, Director Media Resources, (606) 622–2474. Funds Requested: $139,928. Total Project Cost: $186,571. To extend the signal of public radio station WEKU, 88.9 MHz, Richmond, KY, by constructing a repeater station in Mt. Victory, KY, to bring the first public radio service to about 106,212 residents of central and southeastern Kentucky and northern Tennessee.

File No. 99184CRB, Kentucky Public Radio, 301 York Street Louisville, KY 40203. Contact: Ms. Kathi Ellis, Development Specialist, (502) 574–1848. Funds Requested: $253,085. Total Project Cost: $506,170. To augment the operational capability of Kentucky Public Radio, which operates WFPL 89.3 MHz, WUOL 90.5 MHz, and WFPK 91.8 MHz, in Louisville, KY, by acquiring various items of equipment for its new building, including fiber optic interfaces, a routing switcher, consoles, limiters, audio processors, speakers, headphones, microphones, microphone stands and mounts, digital audio editors, CD players, CD recorder, and digital audio work stations. The three stations serve a population of about 3,057,566.

File No. 99191CRB, Appalshop, Inc., 91 Madison Avenue, Whitesburg, KY 41858. Contact: Mr. Timothy Marema, Dir. of Devel.& Admin., (606) 633–0108. Funds Requested: $69,010. Total Project Cost: $93,010. To improve the operation of public station WMMT, 88.7 Mhz, Whitesburg, KY, by replacing worn out and obsolete items of production equipment, including audio consoles, cassette and DAT recorders, microphones, CD players, CD recorder, a telephone interface, and turntables plus its STL and a package of test equipment. The station serves a population of about 299,162.

Louisiana

File No. 99167CTB, Greater New Orleans Educational Television Foundation, 916 Navarre Avenue, New Orleans, LA 70124. Contact: Mr. Randall Feldman, President & General Manager, (504) 486–5511. Funds Requested: $265,000. Total Project Cost: $530,000. To improve public television station WYES–TV, Ch. 11, New Orleans, by replacing its transmission line, and acquiring a digital video effects machine and waveform monitors. In addition to making its current service more reliable, the new equipment will assist in the eventual conversion to digital television. Station serves about 1.8 million people. The area is also served by WLAE–TV, Ch. 32.

File No. 99186CTB, Educational Broadcasting Foundation, Inc., 2929 S. Carrollton Ave., New Orleans, LA 70118. Contact: Mr. John Pela, Station Manager, (504) 830–3709. Funds Requested: $49,150. Total Project Cost: $98,300. To improve public television station WLAE–TV, Ch. 32., in New Orleans by replacing obsolete master control origination equipment. New equipment includes 6 videotape machines and 3 digital waveform monitors. WLAE–TV serves about 1,163,000 people. The area is also served by WYES–TV.

File No. 99223ICTN, New Orleans Educational Telecommunications Consortium, 2 Canal St., New Orleans, LA 70130. Contact: Dr. Robert Lucas, Executive Director, (504) 524–0350. Funds Requested: $62,319. Total Project Cost: $124,638. To assist the New Orleans Educational Telecommunications Consortium ("NOETC, Inc") to extend its instructional services to the Stennis Space Center, located in nearby Mississippi. The project would also establish a video classroom at Nunez Community College and connect that studio via microwave to NOETC, Inc.'s ITFS system. NOETC, Inc. is a consortium of eight post-secondary institutions located in New Orleans. The instructional programming to be transmitted to the Stennis Space Center would originate at The University of New Orleans, a consortium partner. The Nunez Community College equipment would allow course work emphasizing basic literacy and math skills to be transmitted to a presently unserved population in Plaquemine Parish.

File No. 99247CTB, Louisiana Educational Television Authority, 7733 Perkins, Baton Rouge, LA 70810. Contact: Mrs. Cynthia Rougeou, CAO, (225) 767–5660. Funds Requested: $225,000. Total Project Cost: $450,000. To improve the state's public television network by replacing 17-year-old video tape equipment in its telecommunications center in Baton Rouge. New equipment consists of 5 digital video tape recorders with monitoring, a digital video server and digital test equipment. Public television network serves about 1,082,000 people.

Massachusetts

File No. 99113CTB, WGBH Educational Foundation, 44 Hampden St., Springfield, MA 01103. Contact: Ms. Deborah Onslow, General Manager, (413) 781–2801. Funds Requested: $201,300. Total Project Cost: $402,600. To convert public station WGBY–TV, Channel 57 in Springfield, MA, to digital broadcasting on Channel 58 by purchasing and installing a digital transmitter, antenna, transmission line, STL and a small digital satellite receiver. The station serves a population of nearly 2.5 million residents of western Massachusetts and northern Connecticut.

File No. 99211CRB, Trustees of Boston University, 890 Commonwealth Avenue, Boston, MA 02215. Contact: Mr. Stephen Elman, Assistant General Manager, (617) 353–0909. Funds Requested: $223,256. Total Project Cost: $446,512. To improve public radio station WRNI–AM, 1290 KHz in Providence, RI, by replacing the obsolete and failing transmission system, increase power and build a local production studio. WRNI is part of Boston University's WBUR Group and its broadcast originates at WBUR–FM in Boston. WRNI–AM serves a population of over 250,000 residents of Rhode Island.

File No. 99216ICTN, Mount Wachusett Community College, 444 Green Street Gardner, MA 01440. Contact: Mr. Anthony Cherubini, Professor, (978) 632–6600. Funds Requested: $562,882. Total Project Cost: $750,509. To activate a Ku-band satellite project at the applicant's Telecommunications and Distance Learning Center. The applicant is partnering with the Wood Products Manufacturers Association to upgrade skills of the industries employees. Another partner in the project is Rural Housing Improvement, which assists low income clients to become self sufficient.

Maryland

File No. 99018CRB, University of Maryland Eastern Shore, Backbone Road Princess Anne, MD 21853. Contact: Mr. Anthony Hunt, General Manager, (410) 651–8001. Funds Requested: $70,743. Total Project Cost: $141,486. To

improve public radio station WESM–FM, operating on 91.3 MHz in Princess Anne, MD, by replacing a damaged transmitter, adding electrical protection and redundancy, upgrading the main production room, and acquiring remote recording equipment. The station serves a population of more than 142,000 residents of the southeast corner of Maryland, southern Delaware and northeastern Virginia.

File No. 99065CTB, Maryland Public Broadcasting Commission, 11767 Owings Mills Boulevard Owings Mills, MD 21117. Contact: Mr. Robert Sestili, Senior Vice President/CEO, (410) 581–4297. Funds Requested: $449,400. Total Project Cost: $898,800. To convert public station WMPT–TV, Channel 22 in Annapolis, MD, to digital broadcasting on Channel 42 by purchasing a transmitter, antenna, transmission line, monitoring and test equipment. The station serves a population of over 6.8 million people in the cities of Baltimore and Annapolis, and in North, Central and Southern Maryland.

File No. 99104CRB, Metropolitan Washington Ear, Inc., 35 University Boulevard East Silver Spring, MD 20901. Contact: Mrs. Nancy Knauss, Administrative Dir., (301) 681–6636. Funds Requested: $23,719. Total Project Cost: $31,625. To improve the services of the Washington Ear, the radio reading service in the Wahington DC metropolitan area, by replacing control room equipment including tape machines, PC-based automation equipment, mini-disc units and headsets. In addition, the project will purchase 50 closed-circuit radio receivers to lend to listeners free of charge. The Washington Ear serves a population of over 1,900 blind and visually impaired residents of Washington DC, Maryland and Virginia.

Maine

File No. 99158CTB, Maine Public Broadcasting Corporation, 65 Texas Avenue Bangor, ME 04401. Contact: Mr. Alexander Maxwell, Chief Technology Officer, (207) 941–1010. Funds Requested: $324,000. Total Project Cost: $648,000. To improve public television stations WMEM–TV, Channel 10 in Presque Isle and WMEB–TV, Channel 12 in Orono, Maine, by replacing failing and obsolete transmitters with digital-capable units. Maine Public Broadcasting serves a population of over 1.2 million people.

File No. 99173IPTN, Washington County Consortium for School Improvement, 10 Torrey Hall Machias, ME 04654. Contact: Ms. Gloria Jenkins, Director, (207) 255–1219. Funds Requested: $50,000. Total Project Cost: $118,625. To help the Washington County Consortium for School Improvement, Machias, Maine, plan the development of a distance learning system. The Consortium is composed of the 11 school districts in the County. Cooperating in the project would be the following: the University of Maine/Machias; Washington County Technical College; Coastal Washington County Institute of Technology; the Regional Medical Center at Lubec; St. Croix Regional Technical School; three American Indian elementary schools; a private middle/high school that provides educational services to a number of school districts; schools that serve the unorganized territories within the County; and the Maine State Department of Education.

Michigan

File No. 99048CTB, Board of Trustees of Michigan State University, 283 Communication Arts Building East Lansing, MI 48824. Contact: Mr. Steven Meuche, Director & General Manager, (517) 432–3120. Funds Requested: $330,325. Total Project Cost: $660,650. To improve the operation of public station WKAR–TV, ch. 23, East Lansing, MI, by replacing worn out and obsolete video tape recorders, video production switchers, and audio consoles. All new equipment will be digital-capable and aid the station's eventual conversion to digital broadcasting. The station serves a population of about 2,633,010.

File No. 99059CTB, Grand Valley State University, 301 W. Fulton Street Grand Rapids, MI 49504. Contact: Mr. Robert Lumbert, Director of Engineering, (616) 771–6739. Funds Requested: $417,425. Total Project Cost: $834,850. To complete the conversion of public station WGVU–TV, ch. 35, Grand Rapids, MI, to digital broadcasting on channel 11, by purchasing a transmitter, transmission line, remote control, an encoder, and test equipment. The station serves a population of about 1,060,425.

File No. 99123CTB, Detroit Educational Television Foundation, 7441 Second Avenue Detroit, MI 48202. Contact: Mr. Daniel Alpert, Senior VP & Station Manager, (313) 876–8102. Funds Requested: $579,402. Total Project Cost: $1,158,804. To convert public station WTVS, ch. 56, Detroit, MI, to digital broadcasting on channel 43, bringing the first DTV public broadcasting to about 4.6 million people. The project includes acquisition of DTV transmitter, STL, satellite demod for DTV feeds, encoder, a multiplexer, and related monitoring and test equipment.

File No. 99221CTB, Delta College, 1961 Delta Road University Center, MI 48710. Contact: Mr. Barry Baker, Dir. of Broadcasting/G.M., (517) 686–9346. Funds Requested: $114,940. Total Project Cost: $229,881. To improve the operation of public station WDCQ–TV, ch. 19, University Center, MI, by replacing worn out and obsolete cameras and video tape recorders. The new equipment will be digital-capable and aid the station's eventual conversion to digital broadcasting. The station serves a population of about 866,000.

File No. 99227CTB, Board of Control of Northern Michigan University, 1401 Presque Isle Avenue Marquette, MI 49855. Contact: Mr. Scott Seaman, General Manager, (906) 227–1300. Funds Requested: $135,000. Total Project Cost: $270,000. To improve the production capability of public station WNMU–TV, ch. 13, Marquette, MI, by replacing worn out and obsolete field and studio cameras. The new equipment will be digital-capable and aid the station's eventual conversion to digital broadcasting. The station serves a population of about 250,000.

Minnesota

File No. 99001CTB, Duluth-Superior Area Educational Television Corporation, 1202 East University Circle Duluth, MN 55811. Contact: Mr. Allen Harmon, President, (218) 724–8567. Funds Requested: $122,812. Total Project Cost: $163,750. This is a request for emergency funding to construct a tower in Grand Marais, MN, for the translator of public television station WDSE, Ch. 8, Duluth, MN. The new tower would replace the tower on which WDSE(TV) presently leases space for the translator. The present tower is in imminent danger of collapse. The project also seeks to replace the 18-year-old translator transmitter and its 31-year-old antenna. The new transmitter would increase the translator's power from 100 watts to 500 watts and the new antenna would be omnidirectional. The changes would result in an increase in the population served from 1,000 to 3,000.

File No. 99016CTB, Northern Minnesota Public Television., Inc., BSU Box 9 Bemidji, MN 56601. Contact: Mr. Bill Sanford, Director of Engineering, (218) 751–3407. Funds Requested: $195,840. Total Project Cost: $261,120. To improve the operation of public station KAWE, ch. 9, Bemidji, MN, by replacing worn out and obsolete video tape recorders and a character generator. The new equipment will be digital-capable and aid the station's eventual conversion to digital broadcasting. The

station's programing is repeated by KAWB, ch. 22, Brainerd, MN. Together the two stations serve a population of about 300,000.

File No. 99017CTB, Northern Minnesota Public Television, BSU Box 9 Bemidji, MN 56601. Contact: Mr. Bill Sanford, Director of Engineering, (218) 751–3407. Funds Requested: $54,600. Total Project Cost: $72,800. To improve the signal quality of public station KAWB, ch. 22, Brainerd, MN, by replacing its worn out and obsolete antenna. The station repeats the programing of station KAWE, ch. 9, Bemidji, MN. The new equipment will be digital-capable and aid the station's eventual conversion to digital broadcasting. The two stations serve a population of about 300,000.

File No. 99101CTB, West Central Minnesota Education Television Co., Inc., 120 West Schlieman Appleton, MN 56208. Contact: Mr. Ansel Doll, General Manager, (320) 289–2622. Funds Requested: $251,100. Total Project Cost: $334,800. To improve the operation of public station KWCM, ch. 10, Appleton, MN, by replacing worn out and obsolete video recorders and acquiring a video server. The new equipment will be digital-capable and aid the station's eventual conversion to digital broadcasting. The station serves a population of about 600,000.

File No. 99177CTB, Austin Independent School District No. 492, 2000 8th Avenue NW Austin, MN 55912. Contact: Mr. Richard Sailors, General Manager, (507) 433–0671. Funds Requested: $720,250. Total Project Cost: $1,263,596. To extend the signal of public station KSMQ, ch. 15, Austin, MN, and establish the first local origination facility by constructing a new station on channel 35 in Winona, MN. The new station will operate as a "pass-through" service of KSMQ programing except when originating local-interest programs. The new station will serve an estimated 152,000 people, providing about 12,000 of them with their first public television signal. All equipment at the new station will be digital-capable.

File No. 99200CRB, Fresh Air, Inc., 1808 Riverside Avenue Minneapolis, MN 55454. Contact: Ms. Denise Mayotte, General Manager, (612) 341–3144. Funds Requested: $53,120. Total Project Cost: $106,240. To improve the production capability of public station KFAI, 90.3 MHz, Minneapolis, MN, by replacing worn out and obsolete equipment, including audio consoles, distribution amplifiers, CD players, cassette decks, turntables, and an audio processor. The station serves a population of about 900,000.

File No. 99238CTB, Twin Cities Public Television, Inc., 172 East 4th Street, St. Paul, MN 55101. Contact: Mr. Bruce Jacobs, Chief Technologist, (651) 222–1717. Funds Requested: $997,998. Total Project Cost: $1,995,996. To convert public station KTCI, ch. 17, St. Paul, MN, to digital broadcasting on channel 16 by purchasing a transmitter, antenna, transmission line, a video server, satellite demod, format converter, channel automation, DTV multiplexer, encoders, and monitors plus ancillary items and test equipment. The station serves a population of about 3,125,000.

File No. 99252CRB, Minnesota Public Radio, 45 East 7th Street, St. Paul, MN 55101. Contact: Mr. Ron Hall, Development Assistant, (651) 290–1163. Funds Requested: $121,209. Total Project Cost: $242,418. To extend the coverage of Minnesota Public Radio, St. Paul, MN, by constructing two new public stations on 88.7 MHz and 89.7MHz in Grand Marais, MN. One of the two stations will carry Minnesota Public Radio's news service; the other, MPR's classical music service. The new stations will provide service to about 4,166.

Missouri

File No. 99044CTB, St. Louis Regional Educational and Public Television Commission, 3655 Olive Street, St. Louis, MO 63108. Contact: Mrs. Wilma Matta, VP & CFO, (314) 512–9000. Funds Requested: $1,237,214. Total Project Cost: $2,474,428. To convert public station KETC, ch. 9, St. Louis, MO, to digital broadcasting on channel 39, by purchasing a transmitter, antenna, encoder, satellite demod. up-converter, bit splicer, PSIP generator, spooler, and STL. The station serves a population of more than 3 million.

File No. 99112CTB, Ozarks Public Telecommunications, Inc., 821 North Washington, Springfield, MO 65802. Contact: Mr. Brent Moore, Director of Engineering, (417) 865–2100. Funds Requested: $58,000. Total Project Cost: $116,000. To improve the operations of public station KOZK, ch, 21, Springfield, MO, by acquiring equipment to automate its master control to allow for overnight delivery of college courses and additional general programing. The station serves a population of about 1.5 million.

File No. 99169CTB, Public Television 19, Inc., 125 East 31st Street, Kansas City, MO 64108. Contact: Ms. Brenda Williams, Grant Coordinator, (816) 756–3580. Funds Requested: $352,075. Total Project Cost: $704,150. To further the conversion of public television station KCPT(TV), Ch. 19, Kansas City, MO, to digital broadcasting on Ch. 18 by purchasing a dual-channel antenna, Studio-Transmitter Link, SD encoder, PSIP generator, off-air monitoring equipment, interconnection equipment, and test equipment. The station serves a population of about 1.8 million.

File No. 99228CRB, Curators of the University of Missouri for the University of Missouri-St. Louis, 8001 Natural Bridge Road, St. Louis, MO 63121. Contact: Ms. Patricia Bennett, Director & General Manager, (314) 516–5968. Funds Requested: $18,576. Total Project Cost: $37,153. To improve the production capability of public station KWMU, 90.7 MHz, St. Louis, MO, by replacing two worn out and obsolete audio consoles and acquiring added audio server capacity, DAT recorders, and a telephone hybrid. The station serves a population of about 2,442,200.

Montana

File No. 99116CRB, Board of Regents Montana University System, 330 Strand Union Building, Bozeman, MT 59717. Contact: Mr. Philip Charles, General Manager, (406) 994–6484. Funds Requested: $39,630. Total Project Cost: $62,130. To improve the transmission facilities of public radio station KGLT–FM, operating on 91.9 MHZ in Bozeman, by replacing the station's 24 year old antenna, transmission and STL system. The project would ensure continued service to 70,000 people and permit a future power increase to provide first public radio service to an additional 15,000 people.

North Carolina

File No. 99100ICTN, North Carolina School of Science and Mathematics, P.O. Box 2418, Durham, NC 27715. Contact: Ms. Peggy Manring, Head of Distance Learning, (919) 286–3366. Funds Requested: $397,935. Total Project Cost: $649,620. To develop a state-of-the-art multimedia distance learning classroom for the North Carolina School of Science and Mathematics, Durham. The project would permit the School to expand its current distance learning system by using a variety of technologies and delivery systems such as wireless networking, H.320, webcasting, video streaming, and time-delay satellite broadcasts. The North Carolina School of Science and Mathematics is a residential, statewide magnet school that provides 11th- and 12th-grade students with a comprehensive, free education focused on science, mathematics and technology.

File No. 99125CTB, University of North Carolina Center for Public Television, 10 TW Alexander Drive

Research Triangle Park, NC 27709. Contact: Ms. Meg Lu, Director of Admin., (919) 549–7154. Funds Requested: $307,455. Total Project Cost: $614,910. To improve the state's public television network by replacing seven 100-watt translators (Brevard, Burnsville, Hayesville, Lake Lure, Sparta, Spruce Pine and Murphy) and a 1-kilowatt translator at Canton. Project will also replace 1960's vintage microwave repeater equipment at Cane Mountain, Tarboro, Statesville, and Cowee, plus a digital ready hot standby will be installed at Joanna Bald. Project will replace 8 transmission equipment shelters. Network serves the entire state.

File No. 99126CRB, Board of Trustees of the University of North Carolina at Chapel Hill, CB #0915, Chapel Hill, NC 275990915. Contact: Mr. Thomas Davis, General Manager, (919) 966-5454. Funds Requested: $245,685. Total Project Cost: $327,580. To extend the service of public radio station WUNC(FM), Chapel Hill, NC, by constructing a repeater station operating on 88.9 MHz in Manteo. The station will have a small studio for local origination and will receive programming form WUNC via satellite interconnection. The repeater station will provide first public radio service to 74,073 people and additional service to 49,166 residents of eastern North Carolina and the Outer Banks.

File No. 99162CTB, Charlotte-Mecklenburg Public Broadcasting Authority, 3242 Commonwealth Avenue, Charlotte, NC 28205. Contact: Mr. Harold Bouton, President & CEO, (704) 372–2442. Funds Requested: $52,846. Total Project Cost: $105,692. To improve public television station WTVI–TV, Ch. 42, in Charlotte, by purchasing a digital video server to replace the labor and maintenance intensive videotapte machines. New equipment will be easily converted to digital television service when needed. WTVI–TV serves about 1.08 million people.

North Dakota

File No. 99157CTB, Prairie Public Broadcasting, Inc., 207 North 5th Street, Fargo, ND 58102. Contact: Mrs. Kathleen Pavelko, President & CEO, (701) 241–6900. Funds Requested: $1,188,258. Total Project Cost: $1,584,344. To convert public television station KBME–TV, Ch. 3, in Bismarck, to digital broadcasting on Ch. 22 by purchasing a full complement of digital dissemination, origination, interconnection, reception and test equipment. KBME–DT will also be used to demonstrate the use of digital broadband capacity for distance learning. KBME–DT will provide a first digital TV service to about 115,000 people.

File No. 99194CRTB, Prairie Public Broadcasting, Inc., 207 North 5th Street Fargo, ND 58102. Contact: Mrs. Kathleen Pavelko, President & CEO, (701) 241–6900. Funds Requested: $1,325,901. Total Project Cost: $1,767,868. To improve the state's public radio and television system by replacing its obsolete, worn-out, six-hop, 21-year-old, Fargo-to-Bismarck, ND analog microwave system. This replacement is part of the long-term digital transition plan for ND. Network currently serves about 790,300 people.

Nebraska

File No. 99004CTB, Board of Regents of the University of Nebraska, 6001 Dodge Street Omaha, NE 68182. Contact: Ms. Debra Aliano, General Manager, (402) 554–2516. Funds Requested: $69,816. Total Project Cost: $145,450. To improve public television station KYNE–TV, Ch. 26, in Omaha, by acquiring a digital video file server. The equipment will replace the current playback system which does not produce a fully broadcast quality signal. KYNE–TV serves about 696,000 people.

File No. 99007CRB, Board of Regents of the University of Nebraska, 6001 Dodge Street Omaha, NE 68182. Contact: Ms. Debra Aliano, General Manager, (402) 559–5866. Funds Requested: $23,664. Total Project Cost: $49,300. To improve public radio station KVNO–FM, 90.7 MHz, in Omaha by acquiring 2 digital audio consoles, a digital 8-track tape recorder, microphones and associated equipment. Current consoles are obsolete and worn-out. KVNO–FM serves about 607,000 people.

File No. 99094ICTN, Educational Service Unit 7, 2657 44th Avenue Columbus, NE 68601. Contact: Ms. Phyllis Brunken, Media/Technology Director, (402) 564–5753. Funds Requested: $563,076. Total Project Cost: $750,769. To establish a video distance learning system for the Educational Service Unit 7 ("ESU 7"), Columbus, Nebraska. The system would interconnect 11 school districts in a five-county area of eastern Nebraska. The counties are Butler, Colfax, Merrick, Platte and Polk. The system would also encompass Central Community College, which is in Columbus, and ESU 7 itself. The proposed system would be digital fiber-optic based, with the signal transmitted via T–1 telephone lines. Each participating school would receive either or both of two types of distance learning equipment: a dedicated two-way video classroom or desktop conferencing equipment.

File No. 99109ICTN, ADEC Corporation, C218 Animal Science Building Lincoln, NE 68583. Contact: Dr. Janet Poley, President/CEO, (402) 472–7000. Funds Requested: $454,180. Total Project Cost: $908,360. To extend the distance learning services of ADEC by purchasing a digital satellite uplink which will distribute 6 MCPC channel of programming. The uplink will aggregate programming from ADEC member universities and extend programming to previously unserved audiences. ADEC is a consortium of 55 land-grant institutions providing distance learning nationwide.

File No. 99156CRB, Nebraska Educational Telecommunications Commission, 1800 N 33 Street Lincoln, NE 68501. Contact: Mr. Rod Bates, Secretary, (402) 472–3611. Funds Requested: $81,300. Total Project Cost: $162,600. To improve and expand the coverage of public radio station KUCV–FM, 90.9 MHz, Lincoln by replacing the station's 20-year-old transmitter and antenna system. Project will change frequency to 91.1 MHz and increase station's power from 16.0 to 20.14 kilowatts. KUCV–FM currently serves about 268,544 people.

File No. 99190CTB, Nebraska Educational Telecommunications Commission, 1800 N 33 Street Lincoln, NE 685013111. Contact: Mr. Rod Bates, Secretary, (402) 472–3611. Funds Requested: $878,497. Total Project Cost: $1,756,994. To improve the state public television network by replacing worn-out and obsolete dissemination and origination equipment with digital or digital-compatible equipment. Network will acquire a non-linear edit system, studio/remote cameras, hard disk server system, and a remote control switcher. Equipment will be used in partnership with Central Educational Network (CEN). Network serves about 1.65 million people in Nebraska.

File No. 99201CRB, Nebraska Educational Telecommunications Commission, 1800 N 33 Street Lincoln, NE 685013111. Contact: Mr. Rod Bates, Secretary, (402) 472–3611. Funds Requested: $120,500. Total Project Cost: $241,000. To replace the antenna systems of four stations of the state's public radio network. New antennas will be installed at: KRNE–FM, 91.5 MHz, Merriman; KCNE–FM, 91.9 MHz, Chadron; KPNE–FM, 91.7 MHz, North Platte and KMNE–FM, 90.3 MHz, Bassett. Antennas have experienced longitudinal cracks and one of the stations (KRNE–FM) has already reduced power 40% to avoid permanent damage. The four stations serve about ⅓ of the state.

New Hampshire

File No. 99003CTB, University of New Hampshire, 268 Mast Road Durham, NH 03824. Contact: Mr. Robert Ross, Director of Engineering, (603) 868–7552. Funds Requested: $1,305,000. Total Project Cost: $2,610,000. To convert public station WENH–TV, Channel 11 in Durham, NH, to digital broadcasting on Channel 57 by purchasing and installing a transmitter, antenna transmission line, STL, encoder and test equipment. In addition, the project will acquire digital studio equipment, including a video server, router, still store, DVE and ENG kit. The station serves a population of over 1.1 million people.

File No. 99215CRB, New Hampshire Public Radio, Inc., 207 North Main Street Concord, NH 03301. Contact: Mr. Andrew Morrell, Program Director, (603) 228–8910. Funds Requested: $50,225. Total Project Cost: $100,450. To improve the broadcast quality of the state network by replacing the obsolete and failing transmitter at repeater station WEVH–FM, 91.3 MHz in Hanover, NH. The project will also replace recording and playback equipment at WEVO–FM, 89.1 MHz in Concord, including minidisc players and the audio Vault. New Hampshire Public Radio serves a population of over 900,000 people.

New Jersey

File No. 99052ICTN, Burlington County College, Pemberton-Browns Mills Rd. Pemberton, NJ 08068. Contact: Dr. Bernard Solomon, Director, Distance Learning at, (609) 894–9311. Funds Requested: $197,160. Total Project Cost: $394,320. To equip a new Telecommunications Center on the Mt. Laurel Campus of Burlington County College, Pemberton, NJ. The equipment would allow the College to interconnect with a consortium of academic institutions and thus expand distance learning to a large underserved population throughout southern New Jersey. In addition to Burlington County College, the consortium participants include the New Jersey Institute of Technology, The University of Medicine and Dentistry of New Jersey, Cumberland Community College, Ocean County College, Salem Community College, and Georgian Court College.

File No. 99110CTB, New Jersey Public Broadcasting Authority, 23 South Stockton Street Trenton, NJ 08625. Contact: Mr. William Schnorbus, Acting Director of Engineering, (609) 777–5162. Funds Requested: $796,750. Total Project Cost: $1,593,500. To convert public station WNJT–TV, Channel 52 in Trenton, NJ, to digital broadcast on Channel 43 by the purchase and installation of a digital transmitter, antenna, STL, combiner; encoder, video server and monitoring equipment. The station serves a population of over 9.8 million people.

File No. 99124CRB, New Jersey Public Broadcasting Authority, 25 South Stockton Street Trenton, NJ 08625. Contact: Mr. William Schnorbus, Acting Director of Engineering, (609) 777–5162. Funds Requested: $71,657. Total Project Cost: $95,543. To expand the state public radio network by constructing a new Class A station, WNJZ–FM in Cape May Courthouse, operating on 90.3 MHz, that will provide first public radio services to over 52,000 residents of Cape May County in southeastern New Jersey.

New Mexico

File No. 99019CTB, Regents of the University of New Mexico and Board of Education of the City of Al, 1130 University Blvd NE Albuquerque, NM 87102. Contact: Mr. Jon Cooper, General Manager, (505) 277–2121. Funds Requested: $202,428. Total Project Cost: $404,856. To improve KNME–TV, Ch. 5, Albuquerque by replacing analog studio routing switcher and analog video tape recorders with digital equipment. KNME–TV will also acquire satellite reception equipment which will allow the reception and display of PBS ATSC satellite transmissions. This equipment will assist in the digital conversion of the station which serves about 1,130,922 people.

File No. 99026CTB, Regents or the University of New Mexico and the Board of Education of the City of, 1130 University Blvd. N.E., Albuquerque, NM 87102. Contact: Mr. Jon Cooper, General Manager, (505) 277–2121. Funds Requested: $104,205. Total Project Cost: $208,410. To improve the translator facilities of public television station KNME–TV, Ch. 5, Albuquerque, by replacing and modifying translators at 12 sites. The frequencies of these translators must be "displaced" to lower frequency channels in order to comply with FCC mandates regarding the implementation of digital television. Sites affected are: Cimarron (K60AA), Gallup (K60BD), Grants (K67CR), Roy (K69CG), Las Vegas (K65BQ), Eagle Tail/ Raton (K20CV), Red River (K03CZ), Mora (K31EO), Santa Rosa (K74BBO), Sheridan (K69CI), Wagon Mound (K68BO), and Chama (K69CH). Translators currently serve about 167,000 people.

File No. 99028CTB, Eastern New Mexico University, Station 52, Portales, NM 88130. Contact: Mr. Duane Ryan, Director of Broadcasting, (505) 562–2112. Funds Requested: $38,545. Total Project Cost: $77,090. To improve public television station KENW–TV, Ch. 3, Portales, by replacing three old UHF translators with solid state units and retuning an existing translator to a new channel. New translators will be in Carlsbad (K49ES), Forrest/McAlister (K34EZ) and Tucumcari (Ch. 32). The retuned translator is Ruidoso (K49EW). These changes are in compliance with FCC mandated channel displacement for all UHF translators operating on Ch. 60–69.

File No. 99029CTB, Eastern New Mexico University, Station 52, Portales, NM 88130. Contact: Mr. Duane Ryan, Director of Broadcasting, (505) 562–2112. Funds Requested: $272,450. Total Project Cost: $544,900. To improve public television station KENW–TV, Ch. 3, Portales, by replacing old camera systems and aquiring a video file server to replace one-inch video tape recorders. KENW–TV serves about 350,000 people.

File No. 99035CRB, Eastern New Mexico University, Station 52, Portales, NM 88130. Contact: Mr. Duane Ryan, Director of Broadcasting, (505) 562–2112. Funds Requested: $27,860. Total Project Cost: $40,480. To expand and improve the facilities of public radio station KENW–FM, 89.5 MHz, in Portales, by constructing new translators at Fort Sumner (K219DP—91.7 MHz) and Conchas Lake (K202CX—88.3 MHz). KNEW–FM will also replace its 1978 vintage audio processor. New translators will add a first public radio service to about 2,500 people.

File No. 99072CTB, Mescalero Apache Tribe, 101 Central (P.O. Box 176), Mescalero, NM 88340. Contact: Mr. Ferris Palmer, Administrator, (505) 671–4494. Funds Requested: $74,993. Total Project Cost: $99,990. To improve the facilities of public television translators KO2KR and KO2KQ, in Mescalero by acquiring a studio-to-transmitter link to interconnect both translators to efficiently present local programs. In addition, project will acquire basic origination equipment to facilitate the production of local programming beyond the minimum level previously available to the tribe. Stations serve about 3,000 people.

File No. 99080ICTN, Crownpoint Institute of Technology, Lower Point Road, Crownpoint, NM 87313. Contact: Mr. James Tutt, President, (505) 786–4102. Funds Requested: $522,545. Total Project Cost: $696,727. To bring Northern Arizona University's interactive television distance learning system—called NAUNet—to Crownpoint Institute of Technology, Crownpoint, New Mexico, which is

located in northwest NM at the extreme southeast of the Main Reservation of the Navajo Nation. Crownpoint Institute of Technology is a tribally-controlled two-year vocational and technical institution.

File No. 99093CRB, Regents of New Mexico State University, McFie Circle, Las Cruces, NM 88003. Contact: Mr. Colin Gromatzky, General Manager, (505) 646–4525. Funds Requested: $17,445. Total Project Cost: $34,890. To improve public radio station KRWG–FM, 90.7 MHz, Las Cruces, by replacing old, worn-out studio-to-transmitter link (STL) and audio processor with a digital STL and compatible digital processor. KRWG–FM serves about 263,000 people.

File No. 99111CRB, Santa Fe Community College, 6401 Richards Ave., Santa Fe, NM 87505. Contact: Mr. Barton Bond, Station Manager, (505) 428–1319. Funds Requested: $56,697. Total Project Cost: $113,394. To improve public radio station KSFR–FM, 90.7 MHz, Santa Fe, by acquiring a new antenna, studio-to-transmitter link converter, digital processor, monitor and exciter as well as a variety of digital origination equipment. In addition, KSFR–FM will acquire its first satellite downlink equipment. KSFR–FM serves about 100,000 people.

File No. 99207CRB, Board of Education of the City of Albuquerque, 2020 Coal SE Albuquerque, NM 87106. Contact: Mr. Michael Brasher, General Manager, (505) 242–7163. Funds Requested: $69,291. Total Project Cost: $92,388. To expand public radio station KANW–FM, 89.1 MHz, Albuquerque by replacing translators with protected repeater/satellite stations at the following sites: Espanola (K212AN— replaced by 91.1 MHz repeater), Grants (K216AN— replaced by 88.1 MHz repeater) and Santa Rosa (K220BH— replaced by 91.9 MHz repeater). Translator stations currently serve about 26,975 and new protected facilities will add first service to an additional 1,000 people.

Nevada

File No. 99134CTB, Clark County School District, 4210 Channel 10 Drive Las Vegas, NV 89119. Contact: Mr. Tom Axtell, General Manager, (702) 799–1010. Funds Requested: $340,857. Total Project Cost: $524,395. To improve public television station KLVX–TV, Ch. 10, in Las Vegas, by replacing origination equipment to improve the capabilities of the station. Main routing switcher, color monitors, pedestals and camera mounts, prompter mounts, video servers, and related origination equipment plus a small complement of test equipment will replace worn-out and obsolete equipment. KLVX–TV provides an educational and public television service to about 1.2 million people.

File No. 99136ICTN, Clark County School District, 4210 Channel 10 Drive Las Vegas, NV 89119. Contact: Mr. Tom Axtell, General Manager, (702) 799–1010. Funds Requested: $101,400. Total Project Cost: $156,000. To purchase equipment that will be part of the operation of four new channels of Instructional Television Fixed Service (ITFS) licensed to the Clark County School District and administered by Station KLVX(TV), which operates over-the-air on Ch. 10 in Las Vegas, NV. The project would purchase one Flexicart and eight logo generator/inserters.

File No. 99139CRB, Board of Regents/UCCSN/University of Nevada Las Vegas, P.O. Box 452010 Las Veqas, NV 891542010. Contact: Mr. Donald Fuller, Gen. Mgr., (702) 895–3877. Funds Requested: $88,825. Total Project Cost: $118,434. To improve public radio station KUNV–FM, 91.5 MHz, Las Vegas, by replacing its 20-year-old transmitter, antenna, and transmission line. Station serves about 1.3 million people.

File No. 99250CRB, Shoshone-Paiute Tribes of the Duck Valley Reservation, P.O. Box 219 Owyhee, NV 89832. Contact: Mr. Herman Atkins, Tribal Administrator, (775) 757–3211. Funds Requested: $233,723. Total Project Cost: $311,631. To activate a new noncommercial FM radio station on 88.5 MHz, in Owyhee. New station will carry the signal of KNBA–FM, Anchorage, Alaska and programming from the American Indian Radio on Satellite (AIROS) network . These programs will be delivered via satellite. Initially the station will have 4 hours/day of local programming. New station will provide a first noncommercial FM service to about 1,550 Native Americans.

New York

File No. 99005CTB, Public Broadcasting Council of Central New York, Inc., 506 Old Liverpool Road Syracuse, NY 13220. Contact: Mr. John Duffy, Chief Engineer, (315) 453–2424. Funds Requested: $75,000. Total Project Cost: $150,000. To improve public television station WCNY–TV, Channel 24 in Syracuse, NY, by replacing the master control video server. The station serves a population of over 1.7 million residents of central New York State.

File No. 99023CTB, St. Lawrence Valley Educational Television Council, Inc., 1056 Arsenal Street Watertown, NY 13601. Contact: Mr. Thomas Hanley, President/General Manager, (315) 782–3142. Funds Requested: $61,925. Total Project Cost: $123,850. To improve public television stations WPBS/WNPI–TV, Channels 16 and 18 in Watertown, NY, by replacing four obsolete one-inch videotape players with digital-based VTRs. The stations serve a population of over 1 million people.

File No. 99042CTB, Western New York Public Broadcasting Association, 140 Lower Terrace Buffalo, NY 14202. Contact: Mr. Richard Daly, Senior VP Broadcasting, (716) 845–7002. Funds Requested: $490,333. Total Project Cost: $980,667. To improve public television station WNED–TV, Channel 17 in Buffalo, NY, by upgrading to a digital router and replacing 14 one-inch and two ¾″ videotape machines, the production switcher and the linear editing switcher with digital units. The station serves a population of 1.6 million people.

File No. 99068CRB, Long Island University, Southampton College Southampton, NY 11968. Contact: Dr. Wallace Smith, General Manager, (516) 287–8295. Funds Requested: $153,682. Total Project Cost: $307,365. To improve public radio station WPBX–FM, 88.3 MHz in Southampton, NY, by replacing the damaged and unreliable transmitter and antenna. The station is relocating its transmission facilities to a new site. WPBX serves a population of 3.5 million residents of Long Island, and the southern region of Connecticut and Rhode Island.

File No. 99076CTB, Mountain Lake Public Telecommunications Council, One Sesame Street Plattsburgh, NY 12901. Contact: Mr. Howard Lowe, President and General Manager, (518) 563–9770. Funds Requested: $157,440. Total Project Cost: $209,920. To improve public television station WCFE–TV, Channel 57 in Plattsburgh, NY, by replacing the 12-year-old analog master control switcher with a digital switcher. The station serves a population of 341,000 people.

File No. 99105ICTN, Board of Cooperative Educational Services for the Sole Supervisory District of O, 179 County Route 64 Mexico, NY 13114. Contact: Mr. Frank House, Executive Director, (315) 963–4248. Funds Requested: $544,191. Total Project Cost: $725,588. To purchase equipment that would allow the Oswego County BOCES, Mexico, NY, to establish a distance learning network interconnecting 12 sites located throughout Oswego and Fulton Counties. The project would install video classrooms in nine public school districts, a BOCES site, the State University of New York College at

Oswego, and an outreach center of the Cornell Cooperative Extension. The interconnection will be achieved via dedicated T–1 high speed data lines interconnected with a fiber optic network.

File No. 99138CTB, Long Island Educational TV Council, Inc., Channel 21 Drive Plainview, NY 11803. Contact: Mr. Terrel Cass, President & General Manager, (516) 367–2100. Funds Requested: $493,303. Total Project Cost: $986,607. To improve public television station WLIW–TV, Channel 21 in Plainview, New York, by replacing the 21-year-old transmitter with a digital-ready transmitter and purchasing analog test equipment. The station serves approximately 5.1 million people in New York City, Westchester and Rockland counties, Long Island, New Jersey and Connecticut.

File No. 99174CTB, WXXI Public Broadcasting Council, 280 State Street Rochester, NY 14614. Contact: Mr. Norm Silverstein, President and CEO, (716) 325–7500. Funds Requested: $300,000. Total Project Cost: $600,000. To improve public television station WXXI–TV, Channel 21 in Rochester, NY, by replacing obsolete and unreliable master control and production equipment, including master control and production switchers, one-inch and ¾" videotape machines, color monitors and test equipment. The station serves a population of 1.2 million people.

File No. 99213CRB, St. Lawrence University, St. Lawrence University Canton, NY 13617. Contact: Ms. Ellen Rocco, Station Manager, (315) 229–5356. Funds Requested: $71,912. Total Project Cost: $108,250. To expand the coverage area of WSLU–FM, 89.5 MHz in Canton, NY, by installing two transmitters and one translator to serve the communities of Morristown, Chateaugay and Old Forge. The new service will provide first public radio programming to about 30,000 residents of these communities. The project also includes the urgent replacement of two generators and obsolete recording equipment. WSLU currently serves a population of 450,000 people.

Ohio

File No. 99013CTB, Educational Television Association of Metropolitan Cleveland, 4300 Brookpark Road Cleveland, OH 44134. Contact: Mr. Jerrold Wareham, President & CEO, (216) 739–3850. Funds Requested: $47,750. Total Project Cost: $95,500. To replace the translator in Thompson, OH, of public television station WVIZ(TV); the latter broadcasts on Ch. 25 in Cleveland, OH. The present Thompson translator has been operating on Ch. 67; the new translator would operate on Ch. 63. The Federal Communications Commission recently required the Ch. 67 translator to shut down operations because the translator interfered with the signal of a full-power station that had moved its transmitter and increased its power. This situation makes the present proposal an emergency application. The project would restore public television service to nearly 47,000 residents of the translators' service area immediately to the east of Cleveland.

File No. 99014CTB, Ohio University, Athens, OH 45701. Contact: Mr. Paul Witkowski, Associate Director, (740) 593–4784. Funds Requested: $734,167. Total Project Cost: $1,468,335. To improve the transmission facilities of public television station WOUB–TV, operating on Ch. 20 in Athens, OH, by replacing an 18 year old transmitter with a digital compatible unit. The project would also purchase a wideband antenna and tower to enable future conversion of the station to digital broadcasting. The project will ensure continued service to approximately 700,000 people in eastern Ohio and adjoining areas of West Virginia.

File No. 99120CTB, Greater Dayton Public Television, Inc., 110 South Jefferson Street Dayton, OH 45402. Contact: Mr. David Fogarty, President & General Manager, (937) 220–1611. Funds Requested: $299,848. Total Project Cost: $599,696. To improve the facilities of public television station WPTD, operating on Ch. 16 in Dayton, by replacing three 12 year old studio cameras and a 15 year old routing switcher. The new equipment will be digital compatible and will assist the station in converting to digital broadcasting. The applicant serves 2.6 million people in southwest/west-central Ohio and adjacent areas in Indiana and Kentucky.

File No. 99152CRB, Kent State University, 1613 East Summit Street Kent, OH 44242. Contact: Dr. John Perry, Executive Director and General, (330) 672–3114. Funds Requested: $161,266. Total Project Cost: $215,022. To extend the service of public radio station WKSU(FM), Kent, Ohio by constructing an FM repeater station operating on 90.7 MHz in Norwalk, OH. The new station will provide first public radio service to 52,947 people in Erie, Lorian and Huron counties and additional service to 37,149 in northeast Ohio.

File No. 99153CRB, Kent State University, 1613 East Summit Street Kent, OH 44242. Contact: Mr. John Perry, Executive Director and General, (330) 672–3114. Funds Requested: $94,589. Total Project Cost: $155,635. To improve the program service of public radio station WKSU–FM, operating on 89.7 MHZ in Kent, Ohio, and is repeater stations in northeast Ohio by constructing a satellite interconnection system. The satellite interconnection system will deliver WKSU–FM programming to new stations proposed for Norwalk and Sandusky, which are the subject of PTFP applications 99152 and 99154. The interconnection will also improve reliability of program delivery to existing repeater stations WKSV, Thompson; WKRJ, New Philadelphia; and WKRW, Wooster and will permit the broadcast of programming tailored to each station's coverage area.

File No. 99154CRB, Kent State University, 1613 East Summit Street Kent, OH 44242. Contact: Dr. John Perry, Executive Director & General M, (330) 672–3114. Funds Requested: $225,546. Total Project Cost: $300,728. To extend the service of public radio station WKSU(FM), Kent, Ohio by constructing an FM repeater station operating on 88.5 MHz in Sandusky. The proposed repeater station will provide first public radio service to an estimated 112,000 people in Erie, Ottawa, Sandusky, Huron and Seneca counties in Northeast Ohio.

File No. 99155CRB, The WOSU Stations of The Ohio State University, 2400 Olentangy River Road Columbus, OH 43210. Contact: Mr. Sam Eiler, Radio Station Manager, (614) 292–9678. Funds Requested: $56,330. Total Project Cost: $112,660. To improve the production facilities of the WOSU public radio stations by purchasing an audio vault system. The audio vault will replace audio cart machines and will permit the introduction of local programming on the applicant's radio stations. WOSU serves 1.5 million people in central Ohio through broadcasts on public radio stations WOSU–FM, 89.7 MHz in Columbus; WOSB–FM, 91.1 MHz in Marion; WOSV–FM, 91.7 MHz in Mansfield; WOSE–FM, 91.1 MHz in Coshocton; and WOSP–FM, 91.5 MHz in Portsmouth.

File No. 99185CTB, Public Broadcasting Foundation of Northwest Ohio, 136 Huron Street Toledo, OH 43604. Contact: Mr. Daniel Niedzwiecki, Director of Engineering, (419) 243–3091. Funds Requested: $279,500. Total Project Cost: $559,000. To improve the facilities of public television station WGTE, operating on Ch. 30 in Toledo, by replacing three 12 year old studio cameras and a 12 year old production switcher. The new equipment will be

digital compatible and will assist the station in converting to digital broadcasting. The applicant serves 1.6 million people in northwest Ohio and adjacent areas in Michigan.

File No. 99192CTB, Educational Television Association of Metropolitan Cleveland, 4300 Brookpark Road, Cleveland, OH 44134. Contact: Mr. Jerrold Wareham, President & CEO, (216) 739–3850. Funds Requested: $47,750. Total Project Cost: $95,500. To improve the facilities of television translator station W64AK, operating on Ch. 64 in Ashtabula. The translator rebroadcasts public television station WVIZ, Cleveland. The project will replace a 25 year old antenna and transmitter with modern equipment which can be tuned to another frequency. (As a result of the FCC's digital television plan, Ch. 64 will eventually be assigned by the FCC for non-television uses.) The project will ensure continued public television service to 110,000 residents of Ashtabula and Lake Counties in northeast Ohio.

File No. 99199CRB, Public Broadcasting Foundation of Northwest Ohio, 136 Huron Street, Toledo, OH 43604. Contact: Mr. Daniel Niedzwiecki, Director of Engineering, (419) 243–3091. Funds Requested: $62,150. Total Project Cost: $124,300. To improve the facilities of public radio station WGTE–FM, operating on 91.3 MHZ in Toledo, OH, by purchasing digital production equipment including an audio console, audio server, CD, and DAT machines. The applicant provides public radio service to 1.2 million residents of northwest Ohio and adjacent areas of Michigan.

File No. 99203CTB, Ohio State University, 2400 Olentangy River Road, Columbus, OH 43210. Contact: Mr. Thomas Lahr, Engineering Manager, (614) 292–9678. Funds Requested: $83,875. Total Project Cost: $167,750. To improve the facilities of public television station WOSU–TV, operating on Ch. 34 in Columbus, by purchasing digital routing and audio switching equipment. The project will enable WOSU to continue its service to 1.6 residents of central Ohio and will assist in the station's conversion to digital broadcasting as required by the FCC.

File No. 99239ICTN, Columbus State Community College, 550 East Spring Street, Columbus, OH 43215. Contact: Dr. Kevin May, Admin. Distance Educ., (614) 287–2589. Funds Requested: $64,532. Total Project Cost: $94,532. To allow Columbus State Community College, Columbus, OH, to extend its video conferencing distance learning system to the rural and underserved populations in Union and Madison Counties. The project would have two primary educational objectives. First, it would increase the access of the Post Secondary Enrollment Option students and the adult re-entry students in these counties to diverse instructional programs, college courses, and continuing education. Second, the efforts of the College's Community Education Services/Workforce Development Division in support of entrepreneurial businesses would be made available there.

File No. 99243CRB, Cincinnati Classical Public Radio, Inc., 1223 Central Parkway, Cincinnati, OH 45214. Contact: Ms. Cathy Beltz-Williams, Business Manager, (513) 241–8282. Funds Requested: $47,356. Total Project Cost: $94,712. To improve the facilities of public radio station WGUC(FM), operating on 90.9 MHz in Cincinnati, OH by replacing a 16 year old transmitter. The project also will purchase a digital 950 MHz studio to transmitter link to replace a fiber optic interconnection. WGUC(FM) serves 1.7 million people in the Cincinnati metropolitan area in Ohio, Kentucky and Indiana.

File No. 99245CTB, Greater Cincinnati Television Education Foundation, 1223 Central Parkway Cincinnati, OH 45214. Contact: Mr. W. Wayne Godwin, President & General Mgr., (513) 381–4033. Funds Requested: $129,832. Total Project Cost: $324,581. To improve the production facilities of public television station WCET–TV, operating on Ch. 48 in Cincinnati, OH by replacing 11" and ¾" videotape recorders and audio cart machines with digital videorecorders and a digital audio server. The equipment will assist in the station's conversion to digital broadcasting and ensure continued service to 1.5 million people in the Cincinnati metropolitan area.

Oklahoma

File No. 99146CTB, Oklahoma Educational Television Authority, 7403 North Kelley Avenue, Oklahoma City, OK 73113. Contact: Mr. Malcolm Wall, Executive Director, (405) 848–8501. Funds Requested: $361,662. Total Project Cost: $723,324. To improve the state public television network's Tulsa news bureau/studio by replacing origination, test and other associated equipment. The 1982 studio provides local production from northeast Oklahoma. Productions are fed to the network for dissemination throughout the state system which serves about 2.96 million people.

Orégon

File No. 99074CTB, Oregon Public Broadcasting, 7140 SW Macadam Avenue Portland, OR 97219. Contact: Ms. Deborah Hinton, Sr. Vice President, (503) 293–4008. Funds Requested: $504,157. Total Project Cost: $1,008,314. To improve the facilities of KOPB–TV, operating on Ch. 10 in Portland, OR by purchasing a video server, digital routing switcher, 4 channel SDTV encoder and automation system. The project will assist in the conversion to digital television broadcasting by the applicant and will ensure continued public television service to 3 million residents of northwest Oregon and southern Washington State.

File No. 99141IPTN, School District No. 1 Multnomah County Oregon, P.O. Box 3107 Portland, OR 97208. Contact: Ms. Christine Poole-Jones, Administrator, (503) 916–3382. Funds Requested: $166,760. Total Project Cost: $208,622. To assist School District No. 1, Multnomah County, OR—popularly known as the Portland Public Schools—prepare a comprehensive, strategic long-range telecommunications plan. The project would allow the Portland Public Schools to analyze its existing telecommunications and distance learning technologies and, with this analysis as a base, to achieve the following: (a) outline strategies for consolidating existing technologies into a coordinated infrastructure; (b) provide a detailed blueprint for future technology acquisition and use; and (c) describe management, resource, implementation, and training requirements.

File No. 99217ICTN, North Clackamas School District, 14211 SE Johnson Road Milwaukie, OR 97267. Contact: Dr. Ronald Dexter, Director, Professional Tech., (503) 653–3813. Funds Requested: $658,000. Total Project Cost: $1,337,000. To improve the production facilities of the distance learning facility of the Owen Sabin Skills Center by constructing a new video studio. The applicant reaches over 300,000 people in Claxton County via cable access channel and serves additional viewers by satellite distribution.

Pennsylvania

File No. 99032CTB, Pennsylvania State University, 102 Wagner Building University Park, PA 168023899. Contact: Mr. William Speakman, Acting General Manager, (814) 865–3333. Funds Requested: $104,350. Total Project Cost: $208,700. To augment the digital production capability of public station WPSX, ch. 3, University Park, PA, by constructing a Fibre Channel

network to facilitate the production of interactive and enhanced program content. The station serves a population of about 1,365,677.

File No. 99033CRB, Pennsylvania State University, 102 Wagner Building University Park, PA 168023899. Contact: Mr. William Speakman, Acting General Manager, (814) 865–3333. Funds Requested: $15,744. Total Project Cost: $20,992. To extend the coverage of public radio station WPSU, 91.5 MHz, University Park, PA, by activating an FM translator at 102.5 MHz in Huntingdon, PA, to bring the first public radio signal to about 17,333 residents.

File No. 99060CRB, Northeastern Pennsylvania Educational Television Association, 70 Old Boston Road Pittston, PA 18640. Contact: Mr. A. William Kelly, President/CEO, (570) 601–1120. Funds Requested: $98,266. Total Project Cost: $196,532. To improve the signal of public station WVIA–FM, 89.9 MHz, Pittston, PA, by replacing its worn out and obsolete antenna and underpowered transmitter. The project will also activate an FM repeater at 89.7 MHz in Williamsport, PA. The new repeater will use the current transmitter from WVIA–FM in a situation in which its power will be adequate. The repeater will bring the first public radio signal to about 63,533 persons. WVIA–FM presently serves a population of more than one million.

File No. 99071CTB, Northeastern Pennsylvania Educational Television Association, 70 Old Boston Road Pittston, PA 18640. Contact: Mr. A. William Kelly, President/CEO, (570) 602–1120. Funds Requested: $226,745. Total Project Cost: $453,490. To improve the operation of public station WVIA–TV. ch. 44, Pittston, PA, by acquiring a digital file server and automation system. The station serves a population of more than one million.

File No. 99075CTB, Independence Public Media of Philadelphia, Inc., 6070 Ridqe Avenue Philadelphia, PA 19128. Contact: Ms. Sherri Culver, General Manager, (215) 483–3900. Funds Requested: $262,353. Total Project Cost: $349,805. To improve the operation of public station WYBE, ch. 35, Philadelphia, PA, by acquiring a digital file server and additional video tape recorders, and by replacing obsolete satellite downlink and studio demod. The station serves a population of 5,500,000.

File No. 99090CTB, WQED Pittsburgh, 4802 Fifth Avenue Pittsburgh, PA 15213. Contact: Mr. Jeffrey Rutkowski, Director, Administration, (412) 622–1312. Funds Requested: $969,915. Total Project Cost: $1,939,831. To improve the operation of public station WQED–TV, ch. 12, Pittsburgh, PA, by replacing worn out and obsolete items of equipment, including switcher, cart decks, editor, and ENG packages. All new equipment will be digitally compatible. The station serves a population of 3.25 million.

File No. 99143CTB, WHYY, Inc., 150 North Sixth Street Philadelphia, PA 19106. Contact: Mr. John Doran, Chief Engineer, (215) 351–1271. Funds Requested: $502,354. Total Project Cost: $1,004,708. To improve the operation of public station WHYY–TV, ch. 12, Philadelphia, PA, by replacing worn out and obsolete production equipment, including master control switcher, routing switcher, video server, encoder, monitoring, and test gear. All equipment will be digital-capable. The station serves a population of about 7,280,200.

File No. 99188CRB, WQED Pittsburgh, 4802 Fifth Avenue Pittsburgh, PA 15213. Contact: Mr. James Cunninqham, Station Manager, (412) 622–1541. Funds Requested: $68,951. Total Project Cost: $137,902. To improve the signal of public station WQED–FM, 89.3 MHz, Pittsburgh, PA, by replacing its worn out and obsolete antenna. The station serves a population of about 1,283,557.

File No. 99193IPTN, Crawford County Regional Alliance, 18257 Industrial Drive Meadville, PA 16335. Contact: Mrs. Maryann Martin, Chief Executive Officer, (814) 337–8200. Funds Requested: $75,000. Total Project Cost: $155,000. To assist the Crawford County Regional Alliance, Meadville, PA, to plan for the incorporation of distance learning and information technologies into its future Regional Training & Conference Center. The Alliance is an element of the Crawford County Development Corporation.

File No. 99224CRB, Public Broadcasting of Northwest Pennsylvania, Inc., 8425 Peach Street Erie, PA 16509. Contact: Ms. Thomas McLaren, Director of Radio, (814) 864–3001. Funds Requested: $14,253. Total Project Cost: $28,506. To improve the operation of public station WQLN–FM, 91.3 MHz, Erie, PA, by replacing worn out and obsolete logging and automation equipment. The station serves a population of about 427,300.

File No. 99225CTB, WITF, Inc., 1982 Locust Lane Harrisburg, PA 17105. Contact: Mr. Greg Poland, Senior VP & COO, (717) 236–6000. Funds Requested: $400,000. Total Project Cost: $2,225,000. To purchase the equipment required to allow public television station WITF(TV), Harrisburg, PA, to initiate digital television transmission. WITF(TV) broadcasts its analog signal on Ch. 33 and will transmit its digital service on Ch. 36.

File No. 99249CRB, Golden Triangle Radio Information Center, Inc., 2100 Wharton Street Pittsburgh, PA 15203. Contact: Mr. David Noble, General Manager, (412) 488–3944. Funds Requested: $37,931. Total Project Cost: $50,575. To improve the facilities of the Radio Information Service, a radio reading service in Southwestern Pennsylvania, by replacing the STL, the SCA Generator and an equalizer. The project will also purchase 350 SCA receivers to be donated to potential listeners. The Radio Information Service currently has 6,500 daily listeners.

Puerto Rico

File No. 99103CTB, Ana G. Mendez University System, State Road 176 KM 0.3 Cupey San Juan, PR 00928. Contact: Mr. Ariel Diaz, Chief Engineer, (787) 766–2600. Funds Requested: $346,125. Total Project Cost: $461,500. To replace the microwave system that interconnects public television station WMTJ(TV), which operates on Ch. 40 in San Juan, PR, to its satellite station, WQTO(TV), which operates on Ch. 26 in Ponce. Both stations are licensed to the Ana G. Mendez University System (AGMUS). The previous microwave system was irreparably damaged on September 21, 1998 by Hurricane Georges. For this reason, the proposal is considered to be an emergency application. Since the hurricane devasted the microwave, the interconnection has been accomplished by using the AGMUS Instructional Television Fixed Service equipment. This has resulted in a lower-quality public television signal in Ponce and a severe diminishing of the number of hours of instructional programming the University System is able to offer its learners in Ponce.

File No. 99121ICTN, Hispanic Educational Telecommunications System, Highway 1 Experimental Station Rio Piedras, PR 00927. Contact: Dr. Nitza Hernandez, Executive Director, (787) 250–0000. Funds Requested: $412,562. Total Project Cost: $825,125. To extend the distance learning services of the Hispanic Educational Telecommunications System (HETS) by constructing satellite facilities at the John Jay College of Criminal Justice in New York City, Miami Dade Community College in Miami, and Inter American University and the University of Scared Heart in San Juan, Puerto Rico. HETS is a consortium of nine colleges throughout the United States which link Hispanic college students.

File No. 99145ICTN, Ponce School of Medicine, P.O. Box 7004 Ponce, PR 00732. Contact: Mr. Ramon Torres-

Morales, VP of Business Affairs, (787) 848–4254. Funds Requested: $350,000. Total Project Cost: $580,229. To allow the Ponce School of Medicine, Ponce, PR, to extend medical education and training course work to three remote health care sites via video teleconferencing.

South Carolina

File No. 99040CTB, South Carolina Educational Television Commission, 1101 George Rogers Boulevard Columbia, SC 29201. Contact: Mr. Leslie Griffin, Vice President-Engineering, (803) 737–3486. Funds Requested: $364,036. Total Project Cost: $728,073. To improve the state public television network's telecommunications center by replacing worn-out and obsolete equipment. Equipment being acquired includes master control scheduling system, automation system, digital file server system, non-linear editing system and associated test equipment. Public TV network serves about 3.6 million people.

File No. 99150CRB, South Carolina Educational Television Commission, 1101 George Rogers Boulevard Columbia, SC 29201. Contact: Mr. Thomas Fowler, Vice President, Radio, (803) 737–3404. Funds Requested: $102,570. Total Project Cost: $213,080. To improve the facilities of the South Carolina Educational Radio network by constructing a C-band satellite system to interconnect the eight stations in the network. The satellite system will improve delivery of programing to the stations and will permit broadcast of programming directed at each station's local service area. The eight stations in the project are WEPR–FM, 90.1 MHz, Greenville; WNSC–FM, 88.9 MHz, Rock Hill; WLTR–FM, 91.3 MHz, Columbia; WRJA–FM, 88.1 MHz, Sumter; WHMC–MF, 90.1 MHz, Conway; WLJK–FM, 89.1 MHz, Aiken; WJWJ–MF, 89.9 MHz, Beaufort; and WSCI–FM, 89.3 MHz, Columbia. The applicant provides public radio service to 4.8 million people in South Carolina and adjacent areas of Georgia and North Carolina.

File No. 99159IPTN, South Carolina State Board for Technical and Comprehensive Education, 111 Executive Center Drive Columbia, SC 29210. Contact: Dr. Candace Gosnell, Associate Exec. Director, (803) 737–9321. Funds Requested: $49,363. Total Project Cost: $70,518. To assist the South Carolina State Board for Technical and Comprehensive Education ("the State Board"), Columbia, to plan how best to extend its present distance learning activities so as to reach learners who are presently inhibited by diverse barriers from full participation in higher education. The State Board administers a system of 16 State technical colleges, whose main campuses are interconnected by a T–1 based distance learning system featuring interactive compressed video. The project would develop a distance education implementation and management plan to guide the expansion of the State Board's telecommunication infrastructure to ensure that learners, wherever they may live in the State, would have access to high quality and affordable technical education.

File No. 99196ICTN, Tri-County Technical College, 7900 Highway 76 Pendleton, SC 29670. Contact: Ms. Tabatha Thompson, Director of Grants, (864) 646–8361. Funds Requested: $374,170. Total Project Cost: $498,893. To assist Tri-County Technical College, Pendleton, SC, to establish a distance learning network that would interconnect the College with six high schools in the College's service area. The College serves Anderson, Oconee, and Pickens Counties in northwestern South Carolina. The project, which would encompass two high schools in each of those counties, would have two objectives: (1) to deliver dual-credit instruction to high school juniors and seniors from College instructors; and (2) to permit the high schools to share courses among themselves.

South Dakota

File No. 99160CTB, South Dakota Board of Directors for Educational Telecommunications, Cherry & Dakota Streets Vermillion, SD 57069. Contact: Mr. Donald Forseth, Tech. Services Coordinator, (605) 677–5861. Funds Requested: $200,000. Total Project Cost: $400,000. To improve KUSD–TV, Ch. 3, in Vermillion, by replacing obsolete, worn-out audio/video router and videotape machines. The new equipment will support the eventual digital conversion of the state's public television system which serves about 800,000 people.

Tennessee

File No. 99037CRB, University of Tennessee at Chattanooga, DEPT 1151 Chattanooga, TN 37403. Contact: Dr. John McCormack, Director, (423) 755–4756. Funds Requested: $32,203. Total Project Cost: $64,407. To improve the facilities of public radio station WUTC–FM, operating on 88.1 MHz in Chattanooga, by purchasing digital audio origination/production equipment and a studio site auxiliary power generator. The project will purchase a Digital Audio Delivery System as part of the station's conversion to digital technology. WUTC–FM serves 1 million residents in the states of Tennessee, North Carolina, Georgia and Alabama.

File No. 99045CTB, East Tennessee Public Communications Corporation, 1611 E. Magnolia Avenue Knoxville, TN 37917. Contact: Mr. Jim Tindell, President/General Manager, (423) 595–0220. Funds Requested: $137,929. Total Project Cost: $275,858. To improve the facilities of public television stations WKOP, operating on Ch. 15 in Knoxville, TN and WSJK, operating on Ch. 2 in Sneedville, TN. The project will purchase three new digital studio/field cameras to replace 13 year old equipment used by both stations. The project will also replace a 16 year old transmitter remote control system required for the continued operation of WSJK. The applicant's stations serve 2 million people in East Tennessee and surrounding areas of North Carolina, Virginia, and Kentucky.

File No. 99127CTB, Greater Chattanooga Public Television Corporation, 4411 Amnicola Hwy Chattanooga, TN 37406. Contact: Mr. Victor Hogstrom, President/General Manager, (423) 629–0045. Funds Requested: $107,165. Total Project Cost: $214,330. To improve the production facilities of public television stations WTCI, operating on Ch. 45 in Chattanooga, TN by replacing obsolete studio production equipment. The project would purchase digital videotape recorders, a portable digital camera, a non-linear editing system and lighting equipment for the station' studio. The project will help ensure continued program service to 800,000 residents of Tennessee, Georgia and Alabama and will assist in the station's conversion to digital broadcasting.

File No. 99208ICTN, Board of Education of the Memphis City Schools, 2597 Avery Avenue Memphis, TN 38112. Contact: Ms. Mary Korff, Interim Grant Writer, (901) 325–5791. Funds Requested: $477,475. Total Project Cost: $954,951. To extend the distance learning network recently established by the Memphis City Schools to an additional 55 schools in the system. The network is based on Asynchronous Transfer Mode (ATM) transmission. The project would purchase the ATM equipment for each of the schools. It would also assist the school system to buy a Ku-Band satellite uplink. The proposal would represent one element of a multi-phase project the intent of which is to equip all the City's schools for distance learning. The goals are to extend the benefits of the City's educational offerings on a more equal basis to all the City's students and to provide easily accessible professional

development for the teachers. The uplink would allow the teachers to interact with national leaders in education and the school system's administrators to "meet" with specialists across the country to help resolve system problems.

File No. 99237CTB, Mid-South Public Communications Foundation, 900 Getwell Road Memphis, TN 38111. Contact: Mr. Michael LaBonia, President & CEO, (901) 458–2521. Funds Requested: $60,600. Total Project Cost: $121,200. To improve the production facilities of public television station WKNO–TV, operating on Ch. 10 in Memphis, TN, by replacing four 1" videotape machines with digital units. The videotape machines will be used in the station's Master Control and will assist in the station's conversion to digital broadcasting. WKNO–TV provides service to 1.7 million people in west Tennessee and adjacent areas of Mississippi, Arkansas and Missouri.

Texas

File No. 99025CTB, Capital of Texas Public Telecommunications Council, 2504–B Whitis Austin, TX 78705. Contact: Ms. Mary Beth Rogers, CEO & President, (512) 471–5561. Funds Requested: $279,097. Total Project Cost: $558,195. To improve public television station KLRU–TV, Ch. 18, in Austin by replacing old origination equipment with 3 CCD studio-type camera systems, a digital video recorder and a component measurement set. KLRU–TV serves about 1.23 million people

File No. 99034CTB, South Texas Public Broadcasting System, Inc., 4455 South Padre Island Drive Corpus Christi, TX 78411. Contact: Mr. Don Dunlap, President & General Mgr., (512) 855–2213. Funds Requested: $422,963. Total Project Cost: $563,950. To improve public television station KEDT–TV, Ch. 16, in Corpus Christi by replacing and upgrading worn-out origination, interconnection and test equipment to begin digital conversion. Equipment includes a digital STL, digital monitors, non-linear digital editor, still store, digital router and various digital interface equipment, camera pedestals and heads, plus wireless transmitters and beltpacks. KEDT–TV also seeks a steerable 3.8 meter satellite dish to obtain educational programming. KEDT–TV serves about 560,000 people.

File No. 99047CTB, University of Houston, 4513 Cullen Boulevard Houston, TX 77004. Contact: Mr. Jeff Clarke, CEO & General Manager, (713) 749–8202. Funds Requested: $574,546. Total Project Cost: $1,436,365. To improve public television station KUHT–TV, Ch. 8, in Houston by making transmitter upgrades in conjunction with the conversion to DTV and adding digital test equipment. Project will also acquire studio cameras with lens and pedestals, studio lighting system, and an audio console. Equipment will be used in the digital conversion of the station and the move to a new telecommunications center. KUHT–TV serves about 4.5 million people.

File No. 99049CTB, Alamo Public Telecommunications Council, 501 Broadway San Antonio, TX 78215. Contact: Mr. Charles Vaughn, Sr. VP Telecommunications, (210) 270–9000. Funds Requested: $196,335. Total Project Cost: $392,670. To improve public television station KLRN–TV, Ch. 9, in San Antonio, by augmenting the station's facilities by acquiring digital routing equipment. Equipment will be used in its current NTSC broadcasts and eventually will be used in the Digital TV conversion. KLRN–TV serves about 2 million people.

File No. 99115ICTN, Dallas County Community College District, LeCroy Ctr. for Educ. Telecom. Dallas, TX 75243. Contact: Mrs. Pamela Quinn, Asst. Chancellor, Ed. Telecom, (972) 669–6550. Funds Requested: $317,498. Total Project Cost: $634,996. To provide two-way digital video distribution of instructional video to nine sites throughout Dallas County. Seven of these sites would be member-schools of the Dallas County Community College District: El Centro College (Dallas); Brookhaven College (Farmers Branch); Richland College (Dallas); Eastfield College (Mesquite); Cedar Valley College (Lancaster); Mountain View College (Dallas); and North Lake College (Irving). The remaining sites would be the Bill J. Priest Institute for Economic Development and the R. Jan LeCroy Center for Educational Telecommunications. The system would expand the applicant's current video capacity to over 700 classrooms and would allow for multi-site origination of video programming for distance education.

File No. 99131CTB, Brazos Valley Public Broadcasting Foundation, 500 Speight P.S. 7296 Waco, TX 76703. Contact: Mr. Kliff Kuehl, General Manager, (254) 710–3874. Funds Requested: $670,080. Total Project Cost: $893,442. To improve and extend the signal of public television station KCTF–TV, Ch. 34, in Waco, by replacing its faulty and highly unreliable analog transmitter with a dual-cavity transmitter, improved antenna and studio-to-transmitter (STL) link. Modifications will provide improved service plus provide first public television service to about 12,000 people. KCTF–TV currently serves about 201,000 people.

File No. 99147CRB, North Texas Public Broadcasting, Inc., 3000 Harry Hines Boulevard Dallas, TX 75201. Contact: Mr. Jeffrey Luchsinger, Station Manager, (214) 871–1390. Funds Requested: $64,000. Total Project Cost: $128,000. To improve public radio station KERA–FM, 90.1 MHz, in Dallas, by replacing its outdated and malfunctioning analog audio record/play equipment with a digital storage and automation system. KERA–FM serves about 3.9 million people.

File No. 99148ICTN, United Star Distance Learning Consortium, Inc., 3305 North 3rd Suite 307 Abilene, TX 79603. Contact: Ms. Glenda Mathis, Executive Director, (915) 672–9499. Funds Requested: $735,376. Total Project Cost: $1,470,752. To purchase equipment to support the expansion of the StarNet distance learning network. Digital satellite downlinks will be purchased for 700 schools in over 40 states. Equipment requested also includes a satellite uplink to be placed at Education Service Center Region 20 in San Antonio, TX, and digital encoders to be placed at Western Illinois University in Macomb, IL, and at the Agency for Public Telecommunications in Raleigh, NC.

File No. 99166CTB, North Texas Public Broadcasting, Inc., 3000 Harry Hines Boulevard Dallas, TX 75201. Contact: Ms. Cheryl Craigie, President & CEO, (214) 740–9210. Funds Requested: $830,400. Total Project Cost: $1,660,800. To convert public station KERA–TV, Ch. 13, in Dallas, to digital broadcasting on Ch. 14 by purchasing DTV transmitter, encoder, test equipment and start-up production equipment. Equipment will be used with existing DTV antenna system funded in 1998. Station serves about 5.2 million people.

File No. 99176ICTN, Texas State Technical College, 3801 Campus Dr. Waco, TX 76705. Contact: Ms. Greta Hecker, Coordin. Video Productions, (254) 867–3300. Funds Requested: $867,134. Total Project Cost: $867,134. To improve the video production capabilities of Texas State Technical College, Waco. The College transmits instructional programming via a dedicated educational access channel of the local cable television system.

File No. 99204CTB, El Paso Public Television Foundation, Inc., UTEP Campus Education Building El Paso, TX 79902. Contact: Mr. Craig Brush, President and G.M., (915) 747–6500. Funds Requested: $62,100. Total Project Cost: $82,800. To improve public television station KCOS–TV, Ch. 13, in

El Paso, by replacing its obsolete ¾" umatic tape machine system with a digital video file server and related equipment. KCOS–TV serves about 700,000 people.

File No. 99222ICTN, Alamo Public Telecommunications Council, 501 Broadway San Antonio, TX 78215. Contact: Mr. Charles Vaughn, Sr. VP Telecommunications, (210) 270–9090. Funds Requested: $371,650. Total Project Cost: $743,300. To purchase diverse digital archiving and server equipment that would permit public television station KLRN (TV)—which operates on Ch. 9 in San Antonio, TX—and Education Service Center Region 20 ("ESC Region 20")—also based in San Antonio—to activate an educational content delivery system. The materials disseminated by the proposed system would be transmitted over the T–1-based STARTNet system administered by ESC Region 20. Project equipment, especially the digital servers, would be located at both KLRN (TV) and ESC Region 20, as well as at the eight participating school districts located throughout their service area. The eight participating districts would be Floresville, Kerrville, Cotulla, Eagle Pass, Pleasanton, North East, Southside, and Judson Independent. Once implemented, the system would allow teachers to enjoy immediate access to reference works and other digital media stored on CD–ROM and DVD technologies. In addition, hundreds of hours of classroom programming would be accessible from the two main servers at KLRN (TV) and ESC Region 20. These two central participants would facilitate timely program delivery to teachers by making some of the educational materials available on demand at any time, and others readily available by appointment over the Wide Area Network which would be part of the system.

Utah

File No. 99073CTB, University of Utah, Office of Sponsored Projects Salt Lake City, UT 84102. Contact: Ms. Lynne Chronister, Director of Sponsored Projects, (801) 581–3008. Funds Requested: $461,460. Total Project Cost: $922,920. To improve public television stations KUED–TV, Ch. 7, Salt Lake City and KULC–TV, Ch. 9, Ogden/Salt Lake City, by replacing obsolete, DTV-incompatible equipment with digital equipment. New equipment includes automation equipment, digital file server and router which will be installed in the broadcast center. In addition, a new repeater station will be activated on Ch. 19 in Richfield to provide channel protection. Channel will initially broadcast in NTSC but will be converted to DTV at a later time. All equipment is part of a phased DTV conversion plan. Stations serve about 2,059,148 people.

File No. 99181CRB, Listeners Community Radio of Utah, Inc., 230 South 500 West Suite 105 Salt Lake City, UT 84101. Contact: Mr. John Bortel, Pres. and General Manager, (801) 363–1818. Funds Requested: $94,958. Total Project Cost: $189,916. To improve and extend the signal of noncommercial radio station KRCL–FM, 90.9 MHz, Salt Lake City, by replacing its 17-year-old transmitter, studio-to-transmitter link, a variety of old, obsolete origination equipment and acquiring a new satellite dish and spectrum analyzer. KRCL–FM serves about 1.4 million people.

Virginia

File No. 99106CTB, Hampton Roads Educational Telecommunications Association Incorporated, 5200 Hampton Boulevard Norfolk, VA 23508. Contact: Ms. Roberta Baker, Corporate Secretary, (757) 889–9400. Funds Requested: $600,554. Total Project Cost: $1,201,108. To convert public Station WHRO–TV, Channel 15 in Norfolk, VA, to digital broadcasting on Channel 16 by purchasing and installing a digital transmitter, antenna, transmission line, microwave STL and test equipment. The station serves a population of 1.5 million people.

File No. 99107CTB, Shenandoah Valley Educational Television Corporation, 298 Port Republic Road Harrisonburg, VA 22801. Contact: Mr. Maurice Bresnahan, President/General Manager, (540) 434–5391. Funds Requested: $227,417. Total Project Cost: $454,835. To improve public television station WVPT–TV, Channel 51 in Harrisonburg, VA, and to begin the station's conversion to digital broadcast, by replacing old and obsolete equipment with state-of-the-art digital equipment, including the routing switcher, master control switcher, sync generator, character generator and test equipment. The station serves a population of more than 475,000 people.

File No. 99163IPTN, Old Dominion University, Room 145 Norfolk, VA 23529. Contact: Dr. Anne Savage, Asso VP for Academic Affairs, (757) 683–5314. Funds Requested: $100,575. Total Project Cost: $134,100. To help Old Dominion University, Norfolk, VA, and Florida A&M University, Tallahassee, FL, to develop a cooperative plan to extend their respective distance learning networks to several Historically Black Colleges and Universities (HBCUs). (Florida A&M Univerity is an HBCU.) If implemented, the extended networks would serve a number of purposes: strengthen existing degree programs at the several participating institutions; expand the number of their degree programs; engage in workforce development in the regions of the recipient schools; and improve the technological capabilities of the participating institutions.

File No. 99175CTB, Greater Washington Educational Telecommunications Association, Inc., 2775 S. Quincy Street Arlinton, VA 22206. Contact: Mr. Lewis Zager, Vice President Tech., (703) 998–2637. Funds Requested: $1,219,565. Total Project Cost: $1,626,087. To continue the conversion to digital broadcasting of WETA–DTV, operating on Digital Channel 34 in Arlington, VA, by purchansing a high definition television camera, digital high definition editing equipment and digital test and measurement equipment. The station serves a population of more than 2.7 million people.

File No. 99231IPTN, Virginia Polytechnic Institute & State University, 1700 Pratt Drive Blacksburg, VA 24061. Contact: Dr. Andrea Kavanaugh, Director of Research, (540) 231–5468. Funds Requested: $101,916. Total Project Cost: $154,337. To help Virginia Polytechnic Institute & State University ("Virginia Tech"), Blacksburg, plan how to establish distance learning interconnections in rural Smyth and Floyd Counties, both in southwest Virginia. The new system would deliver diverse programing: high school courses (including Graduate Equivalency Degree programs) and health care education and training.

Virgin Islands

File No. 99095CTB, Virgin Islands Public Television System, P.O. Box 7879 Charlotte Amalie, VI 00801. Contact: Ms. Lori Elskoe, General Manager, (340) 774–3226. Funds Requested: $175,163. Total Project Cost: $233,550. To purchase portable production equipment to allow public television station WTJX (TV), Charlotte Amalie, Virgin Islands, to establish an electronic news gathering system. WTJX (TV) operates on Ch. 12 and brings the sole public television service to the American Virgin Islands. The project would permit WTJX (TV) to offer its first local news service to its viewers.

Vermont

File No. 99078CTN, Lyndon State College, 1001 College Road Lyndonville, VT 05851. Contact: Ms. Cynthia Baldwin, Professor CAS, (802) 626–

6256. Funds Requested: $213,705. Total Project Cost: $284,940. To replace and enhance studio equipment at the cable television access production studio at Lyndon State College, Lyndonville, VT. The College has been transmitting its programming over a dedicated channel of the local cable television system since 1980.

File No. 99240CTB, Vermont ETV Inc, 88 Ethan Allen Ave Colchester, VT 05446. Contact: Mr. Wayne Rosberg, Vice President, (802) 655–5276. Funds Requested: $623,675. Total Project Cost: $1,247,350. To convert public station WVTA–TV, Channel 41 in Colchester, VT, to digital broadcasting on Channel 24 by purchasing and installing a digital transmitter, antenna, transmission line, microwave STL, encoder and test equipment. The station serves a population of 750,000 people.

Washington

File No. 99012CTB, Spokane School District #81, 3911 S. Regal Street Spokane, WA 99223. Contact: Mr. Claude Kistler, General Manager, (509) 353–5771. Funds Requested: $144,847. Total Project Cost: $289,694. To improve public television station KSPS–TV, Channel 7 in Spokane, WA, by replacing one-inch and 3/4" videotape machines with a digital video server and purchasing digital test equipment. The station serves a population of 1.3 million people.

File No. 99041CRB, Evergreen State College, College Activities Building 301 Olympia, WA 98505. Contact: Mr. Michael Huntsberger, General Manager, (360) 866–6000. Funds Requested: $77,576. Total Project Cost: $129,294. To expand and improve the facilities of KAOS–FM, operating on 89.3 MHz in Olympia, WA, by relocating and replacing the transmitter, the antenna, STL and related equipment. The station will also increase power providing first public radio services to over 36,000 people, for a total of about 62,000 additional listeners. KAOS–FM currently serves 80,000 people.

File No. 99050CRB, Washington State University, 382 Murrow Center Pullman, WA 99164. Contact: Mr. Dennis Haarsager, Associate VP & General Manager, (509) 335–6511. Funds Requested: $74,205. Total Project Cost: $98,940. To extend the services of the Northwest Public Radio Network by constructing a repeater station in Chehalis, operating on 88.9 MHz, serving rural western Washington and providing first public radio programming to over 62,000 residents of the area.

File No. 99119CTB, KCTS Television, 401 Mercer Street Seattle, WA 98109. Contact: Mr. Burnill Clark, President & CEO, (206) 443–6706. Funds Requested: $381,500. Total Project Cost: $763,000. To continue the conversion to digital broadcasting of KCTS–DTV, operating on Digital Channel 41 in Seattle, WA, by purchasing a digital routing switcher and a digital multichannel master control switcher. The station serves a population of over 3.4 million people.

File No. 99234CTB, Bates Technical College, 1101 Yakima Avenue South Tacoma, WA 98405. Contact: Ms. Debbie Emond, General Manager, (253) 596–1528. Funds Requested: $398,493. Total Project Cost: $531,324. To extend the broadcast signal of KBTC–TV, Channel 28 in Tacoma, WA, by activating a repeater station in Bellingham, operating on Channel 34, that will provide first public broadcasting television programming to over 175,000 residents of the north Puget Sound region of Washington State.

Wisconsin

File No. 99030IPTN, La Crosse Medical Health Science Consortium, Inc., 105 Graff Main Hall La Crosse, WI 54601. Contact: Dr. Martin Venneman, Executive Director, (608) 785–8218. Funds Requested: $125,400. Total Project Cost: $167,200. To help the La Crosse Medical Health Science Consortium, Inc. (LMHSC), La Crosse, WI, plan for the activation of a distance learning network. In this proposal, the LMHSC would develop detailed plans for the first phase of a two-stage, long-range plan to establish a regional telecommunications network of "virtual" Population Health Centers throughout the LMHSC's service area. The service area encompasses 22 counties in southwestern Wisconsin and parts of Minnesota and Iowa. The long-range plan's first phase would center on three Wisconsin communities: Black River Falls (Jackson Co.); Mauston (Juneau Co.); and Prairie du Chien (Crawford Co.). The LMHSC is a collaborative body comprising the University of Wisconsin/La Crosse, Western Wisconsin Technical College, Viterbo College, Gundersen Lutheran Medical Center, and Franciscan Skemp Healthcare.

File No. 99118CTB, Milwaukee Area Technical College District Board, 1036 North 8th Street Milwaukee, WI 53233. Contact: Mr. Bryce Combs, General Manager, (414) 297–7661. Funds Requested: $690,611. Total Project Cost: $1,381,223. To improve the transmission facilities of public television station WMVT–TV, operating on Ch. 36 in Milwaukee, by replacing the transmitter, antenna and transmission line. The project will ensure continued service to 2 million people and assist in the station's conversion to digital broadcasting.

File No. 99144CRB, Wisconsin Educational Communications Board, 3319 West Beltline Highway Madison, WI 537134296. Contact: Mr. Thomas Fletemeyer, Executive Director, (608) 264–9676. Funds Requested: $112,825. Total Project Cost: $225,650. To improve the broadcast facilities of Wisconsin Public Radio by replacing unreliable transmitters at WHLA–FM, 90.3 MHz in La Crosse and WPNE–FM, 89.3 MHz in Green Bay, Wisconsin. The state network serves a population of 1.6 million people.

File No. 99178CRB, Lac Courte Oreilles Ojibwe Public Broadcasting Corporation, 13386 W. Trepania Road Hayward, WI 54843. Contact: Ms. Camille Lacapa, Program Director, (715) 634–2100. Funds Requested: $99,881. Total Project Cost: $199,762. To improve public radio station WOJB–FM, 88.9 MHz in Hayward, WI, by replacing the damaged 16-year-old transmitter and purchasing test equipment. The project will also replace studio equipment with new DAT machines, CD players, a stereo generator, microphones, amplifiers and speakers. The station serves a population of 129,000 people.

File No. 99205CTB, Wisconsin Educational Communications Board, 3319 West Beltline Highway Madison, WI 537134296. Contact: Mr. Thomas Fletemeyer, Executive Director, (608) 264–9676. Funds Requested: $901,240. Total Project Cost: $1,802,480. To convert public station WHRM–TV, Channel 20 in Wausau, WI, to digital broadcasting on Digital Channel 24 by purchasing and installing a digital transmitter, antenna and transmission line, STL, encoder and test equipment. The station serves a population of 478,450.

West Virginia

File No. 99135PRB, Educated Communications Unlimited, 109 Glenwood Avenue Charleston, WV 25312. Contact: Ms. Lisa Miller, Director, (304) 345–7594. Funds Requested: $75,000. Total Project Cost: $75,000. To plan for the establishment of a public radio station serving the residents of Charleston, Huntington and Beckley, West Virginia.

File No. 99220CTB, West Virginia Educational Broadcasting Authority, 600 Capitol Street Charleston, WV 25301. Contact: Mr. Bill Acker, General Manager, (304) 558–3400. Funds Requested: $760,567. Total Project Cost: $1,521,134. To improve and upgrade the production capability of the State

Network by replacing the router switcher, a 30-year-old lighting system, the character generator and the editing system at the Network's news and public affairs production studio in Charleston, WV. In addition, the project will replace the current analog microwave interconnection system with a fiber-optic ATM system and purchase and install new character generators at the Huntington and Morgantown stations. The Network serves a population of over 1.8 million residents of West Virginia.

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

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April 23, 1999

Part III

Department of Justice

Office of Justice Programs

28 CFR Part 90

Grants to Combat Violent Crimes Against Women on Campuses; Proposed Rule

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 90

[OJP (OJP)–1206]

RIN 1121–AA49

Grants To Combat Violent Crimes Against Women on Campuses

AGENCY: Violence Against Women Office, Office of Justice Programs, Justice.

ACTION: Proposed rulemaking.

SUMMARY: The Violence Against Women Office, Office of Justice Programs, U.S. Department of Justice, is publishing proposed regulations governing the implementation of Grants to Combat Violent Crimes Against Women on Campuses authorized by Title VIII, Part E, section 826 of the Higher Education Amendments of 1998. This authorization provides funds to institutions of higher education for two broad purposes: To develop and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, particularly domestic violence, sexual assault, and stalking and to develop, enlarge, and strengthen victim services in cases involving violent crimes against women on campuses.

As microcosms of the larger society, institutions of higher education harbor many of the same social conditions and forces that permit violence against women to occur outside the campus community. Sexism, male student support systems that validate and perpetuate violence against women, and institutional minimization of, or indifference to, violence against women can create a climate that is inhospitable to women. Therefore, the higher education community must address not only the actual incidents and consequences, but also the underlying causes of violence against women.

DATES: Comments will be received no later than 5:00 p.m. on May 24, 1999.

ADDRESSES: Comments may be sent to Preet Kang, Senior Associate, Violence Against Women Office, Office of Justice Programs, 810 Seventh Street, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Preet Kang, Senior Associate, Violence Against Women Office, Office of Justice Programs, 810 Seventh Street, N.W., Washington, D.C. 20531. Telephone: (202) 307–6026.

SUPPLEMENTARY INFORMATION: The Violence Against Women Office (VAWO) of the Office of Justice Programs (OJP) proposes to amend the regulations governing the STOP Violence Against Women Formula and Discretionary Grants Program, found at 28 CFR Part 90, to comply with the amendments to the authorizing statutes, 42 U.S.C. 3796gg through 3796gg–5, enacted by the Violence Against Women Act, Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, and Title VIII, Part E, section 826 of the Higher Education Amendments of 1998, Public Law 105–244, 112 Stat. 1815 (1998).

The Higher Education Amendments of 1998 authorize Federal financial assistance to institutions of higher education to work individually or in consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution. Grant funds may be used to develop, implement, and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, including sexual assault, stalking, and domestic violence; and to develop and strengthen victim services and prevention efforts.

Statement of the Problem

Violence against women on college and university campuses is a serious, widespread problem. More than half of all stalking victims are between 18–29 years old, according to the National Violence Against Women Survey sponsored by the National Institute of Justice (NIJ) and the Centers for Disease Control and Prevention.[1] Similarly, National Crime Victimization Survey (NCVS) data indicate that more than 52 percent of all rape/sexual assault victims are females younger than age 25.[2] Although these figures are for the population as a whole, they are especially significant for the campus community in its efforts to recognize and address violent crimes against women, given the typical age of the campus populace. Further, results of several studies indicate that among college students, the average prevalence rate for nonsexual dating violence is 32 percent.[3]

Sexual assault is the second most common violent crime committed on college campuses, according to a national survey of 3,472 students at 12 randomly selected sites around the country.[4] This 1995 study also revealed that:

- Most of the perpetrators of sexual victimization are fellow students known to the victims;
- More sexual victimizations occur on-campus than off-campus;
- Half of the off-campus sexual victimizations occur in the victims' residence and an additional one-third occur in off-campus student housing, such as fraternities;
- Most of the victims of sexual assaults are full-time students, with about one-third of them being freshmen between 17–19 years old; and
- Almost 81 percent of the on-campus and 84 percent of the off-campus sexual assaults are not reported to police.

Consistent with the findings of this survey, numerous other studies have also revealed that sexual assaults, as well as other forms of violence against women, are seriously underreported generally and on campuses, indicating that the problem is even more acute than the available data suggest. Victims cite a number of reasons for not reporting the violence, including considering the matter to be private, being unaware or unclear that the violent behavior was in fact criminal, being embarrassed, fearing reprisals, and in some instances relenting to peer pressure, especially when the perpetrator is a prominent member of the campus community, such as an athlete.

One of the most frequent factors cited for violence against women on campus is substance abuse, particularly alcohol abuse, which is disproportionately high among college students. A survey of 89,874 students at 171 institutions of higher education revealed that alcohol was involved in 74 percent of the sexual assaults.[5] Another study conducted by the Harvard School of Public Health indicates that "non-binge drinking women living on campuses with high levels of binge drinking had almost twice the risk of experiencing unwanted

[1] "Stalking and Domestic Violence," Attorney General's Third Annual Report to Congress under the Violence Against Women Act, Office of Justice Programs, Violence Against Women Grants Office, (Washington, DC: U.S. Department of Justice, July 1998), p. 10.

[2] U.S. Department of Justice, Bureau of Justice Statistics, "Age Patterns of Victims of Serious Violent Crime," September 1997, NCJ–162031.

[3] "Fact Sheet on Dating Violence," Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, January 1998, p. 1.

[4] Bonnie Fisher, John J. Sloan, III, and Francis T. Cullen, "Final Report: Understanding Crime Victimization Among College Students: Implications for Crime Prevention," Funded through National Institute of Justice Grant No. 93–IJ–CX–0049, 1995, p. 65.

[5] Presley, C.A., Meilman, P.W., Cashin, J.R., Leichliter, J.S., "Alcohol and Drugs on American College Campuses: Issues of Violence, A Report to College Presidents," Core Institute Monograph, Southern Illinois University, Carbondale, IL, p. 4.

sexual advances as their counterparts at lower drinking-level schools."[6]

While alcohol may be an important, and all too frequent, exacerbating factor in violence against women in the campus community, alcohol consumption cannot be viewed as a causative factor of these crimes. Ultimately, the responsibility for the criminal actions rests with perpetrators, who must be held accountable. Unfortunately, many male students continue to hold beliefs and attitudes, about gender roles, often supported by their male peers, that result in the physical and sexual abuse of women, whether or not alcohol is involved.

Recently, cases have been reported in which perpetrators have used drugs to subdue their victims prior to the sexual assault. These drugs, such as Rohypnol and GHB, can be easily slipped into drinks and consumed by unsuspecting victims. Within 15 to 30 minutes of ingestion, the drugs may produce effects ranging from drowsiness, impaired memory or judgement, loss of motor skills, and dizziness to loss of consciousness. These effects are further magnified when the drugs are mixed with alcohol and can be potentially lethal. Victims often do not remember the attack itself but wake up knowing that something is wrong. They may have hazy memories of waking up for a few seconds during the assault and then losing consciousness again. For these reasons, an assault may not be reported to the police for several days, if at all, and victims may have difficulty testifying in court about the assault.

Unlike their counterparts in the larger community, female students victimized by fellow students often face additional challenges in a "closed" campus environment. For instance, stalking victims may find it difficult to escape their tormentors because the stalker may have a seemingly "legitimate" reason for remaining in contact with or proximity to the victim (e.g., attending class or studying in the library). Similarly, the fear and anguish suffered by rape victims may continue because they attend the same classes or live in the same dormitory as their rapists. Even changing class schedules or living arrangements may not eliminate the threat of encountering the perpetrator on campus, assuming such options are available without the victim incurring any academic disadvantage or further financial penalties and emotional hardship.

[6] Henry Wechsler, Bryn Austin, and William DeJong, "Secondary Effects of Binge Drinking on College Campuses," The Higher Education Center for Alcohol and Other Drug Prevention Bulletin, February 1996, p. 4.

Historically, institutions of higher education generally have handled crimes of violence against women through closed administrative procedures or processes rather than initiating criminal proceedings through the local law enforcement agency. However, this approach, where it is used in lieu of a report to local law enforcement, sends a message to victims, perpetrators, and the entire campus community that violence against women is not criminal behavior. Quite simply, an administrative response trivializes the seriousness of these crimes. When campus administrators fail to respond adequately, they perpetuate the acceptance and continuation of violence against women and may also encourage the escalation of such behaviors.

Institutions of higher education are in a unique position to educate young men and women about violence against women, and to help shape attitudes that students will carry with them long after they leave. The campus community can create large-scale social change by adopting policies and protocols that treat violence against women as a serious offense and by developing victim services and programs that make victim safety, offender accountability and prevention of such crimes a high priority. Through their policies, protocols, and actions, colleges and universities can demonstrate to every student that violence against women in any shape or form will not be tolerated and that sexual assault, stalking, and domestic violence are serious crimes, requiring legal action. Should such violence and abuse occur, appropriate steps should be taken to ensure victim safety and offender accountability both through internal administrative disciplinary processes and through the criminal justice system. Violence against women should be treated with the same gravity as any other criminal justice matter, whether it occurs on a campus, on the streets, or in private homes.

Effective Responses to Combat Violence Against Women on Campuses

The cornerstone of any effective strategy for addressing violence against women must include the development of a coordinated, multidisciplinary response involving the entire campus community, including victim service providers, campus security, faculty, staff, administrators, offices of the dean of students, women's centers, the athletic department, student groups, fraternity and sorority life coordinators, health care professionals, and campus clergy. In addition, this comprehensive effort must involve the larger community in which the institution is located by developing partnerships with community-based victim service providers, victim advocates, local law enforcement and prosecution agencies and other criminal justice officials. A comprehensive, coordinated approach not only provides enhanced victim safety and offender accountability, but also includes prevention efforts to address the underlying causes of violence against women. Implementation of such coordinated strategies sends a strong message that acts of violence against women are serious criminal offenses and that ending violence against women requires the involvement of the entire campus and broader community.

Elements of a coordinated, multidisciplinary response include:

- Enlisting the full support and commitment of the entire campus leadership of the higher education institution, including the president or chancellor. This commitment can be demonstrated by establishing and strengthening campus policies and protocols; consistently implementing these policies; vigorously responding to victimization; publicly condemning all forms of violence against women; and actively communicating expectations about appropriate conduct. For instance, the president of the University of Virginia wrote a letter condemning acquaintance rape, along with a discussion of what constitutes acquaintance rape.[7] Both the letter and the discussion were published in the college newspaper.
- Emphasizing that sexual assault, stalking, and domestic violence are serious crimes and encouraging victims to report these crimes to criminal justice authorities. Higher education institutions, as a matter of policy, should routinely provide information about the criminal and civil justice options available to victims, with guidance on how to access these systems (e.g., providing information cards that list addresses and telephone numbers of sexual assault and domestic violence units in the local police department and the prosecutor's office). Victims should be provided assistance with obtaining services from criminal justice agencies (for example, transportation to the police department or the court.)
- Developing formal written policies and protocols specifically for

[7] "Preventing Alcohol-Related Problems on Campus: Acquaintance Rape, A Guide for Program Coordinators," The Higher Education Center for Alcohol and Other Drug Prevention, (Newton, MA, 1997), p. 5–7.

responding to sexual assault, stalking, and domestic violence, emphasizing victim safety and confidentiality, as well as meaningful offender accountability. These policies and protocols must be formulated in collaboration with community and campus experts on violence against women to ensure that the needs of victims are met and that perpetrators are held accountable.

These protocols should provide clear guidance to campus officials on specific procedures for handling incidents of sexual assault, stalking and domestic violence, including who victims should notify on campus, how victims should make a report, the specific procedures to be followed once a report is made, and how officials should work with victims on the issue of notifying local law enforcement agencies to report the crime. The protocols must make clear that sexual assault, stalking, and domestic violence are crimes, that victims must be provided full information on how to report these crimes to local law enforcement, and that officials must not dissuade victims from reporting these crimes to local law enforcement. Training should be provided to all relevant persons in positions likely to respond to, or have authority over those responding to, violent crimes against women.

These policies and protocols must be widely disseminated to the campus community. Written materials should be developed for dissemination by the office of the dean of students, explaining the protocols and procedures as well as how victims can contact local law enforcement. These materials should also explain when a report will be filed with an internal disciplinary board, how the board operates, how long it will take to review and take action on such a report, the victim's and perpetrator's rights before the board, the range of sanctions or disciplinary actions possible, and any other relevant information.

• Developing comprehensive, appropriate victim services for all students [8] and campus employees [9], including underserved campus populations. To accomplish this goal, institutions of higher education must forge strong, meaningful partnerships with community-based victim service providers, victim advocates, and local law enforcement authorities to enhance collaboration and coordination of resources so that victims receive services tailored to their specific safety needs and perpetrators are held accountable through the criminal and civil justice system. These partnerships have the added benefit of ensuring that the higher education institution's decisionmaking is informed by the realities and experiences of the larger community.

• Reviewing and revising, if necessary, the student and employee codes of conduct and policies to ensure that incidents involving violence against women are treated as serious offenses, with strong consequences. These codes of conduct should be distributed to every new student and employee entering the institution. Institutions should explore other means of disseminating this information as widely as possible, including posting the code on an institution's website, sending it through e-mail, and posting excerpts on student and employee bulletin boards throughout the campus.

• Working in collaboration with campus and community-based victim advocates and victim service providers to develop training programs and materials (e.g., brochures and stickers with campus and local hotline numbers) for students and campus employees that explain the causes and consequences of violence against women. This training should include basic information and precise definitions of sexual assault, domestic violence, and stalking so that everyone understands what actions constitute each of these crimes, that these crimes are serious, and that offenders will face severe criminal sanctions. Information must be provided about both the internal institutional and external legal sanctions against perpetrators; common myths surrounding violence against women; why different victims may have very different responses to the same crime; the importance of gathering evidence promptly after a crime has been committed; the role of drugs and alcohol as contributory factors, including Rohypnol, GHB, and other drugs used by rapists; maintenance of victim confidentiality; available campus and community resources and how to access them; safety planning; how peers can support victims and hold offenders accountable; campus policies and protocols addressing violence against women; and any mandatory reporting policies and laws. The training should also include a discussion of the underlying causes, such as social attitudes, beliefs, and conditions that allow violence against women to exist in our society. These education programs should be made an integral component of orientation sessions for all first year students and other new students on campus and be mandatory for all campus employees.

• Formulating audience-specific training and awareness campaigns and developing resources to reach out effectively to student groups, such as athletes, fraternities, sororities, student groups representing diverse communities, first year students, and other new students. Materials should be tailored to the specific audiences being addressed. Members of these student groups should be recruited as trainers and spokespersons on issues related to violence against women. These individuals should receive rigorous training on the underlying causes of such violence.

• Developing ongoing, innovative public outreach campaigns to raise awareness and reinforce continually the information provided during the training. Possible opportunities for this ongoing training could include the periodic meetings convened by resident assistants for dormitory residents, and special events in conjunction with sexual assault and domestic violence awareness months. As part of this outreach campaign, the campus and local community media, such as the campus radio and television stations, could be used to disseminate information about violence against women, including how to identify signs of abuse, the legal rights of victims, availability of resources for victims, and sanctions for perpetrators.

• Developing strategies for preventing violence against women on campuses through education programs and media campaigns. These efforts should be designed to change the social norms, and attitudes that support and perpetuate violence against women.

• Evaluating the campus infrastructure for safety and security and the quality and availability of resources such as escort services after dark, shuttles, and extra lighting. This undertaking, however, should be only one element of a larger effort to address the problem comprehensively. As studies indicate, most women are victimized in private spaces, such as houses or apartments, by people they know. Therefore, by themselves, physical security measures have only a limited impact.

Campus sexual assault, stalking, and domestic violence are serious crimes requiring swift, forceful and coordinated responses from the higher education

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[8] For the purposes of this Grant Program, students include both full- and part-time students enrolled at an institution of higher education.

[9] For the purposes of this Grant Program, employees include full-and part-time permanent faculty, staff, and administrators, as well as temporary and contract employees (e.g., visiting professors who are on sabbatical from other institutions for an extended time), and contractors whose primary work duties are on campus or at a location that is affiliated with the institution.

community. These responses must be sensitive to victims' needs and safety and must hold offenders accountable for their criminal actions through the criminal justice system and, as a supplement but not a substitute, through internal administrative disciplinary processes. Pursuing criminal charges enables victims of violence against women to use the criminal justice system to enhance their safety and potentially deter future abuse. These intervention efforts, however, must be combined with prevention strategies that seek to change the underlying campus culture and social norms that explicitly or implicitly support violent and abusive behavior against women.

Fiscal Year 1999 Grants To Combat Violent Crimes Against Women on Campuses

Consistent with the vision guiding all of the efforts supported through the Violence Against Women Act (VAWA), the Grants to Combat Violent Crimes Against Women on Campuses are designed to encourage the higher education community to adopt comprehensive, multidisciplinary strategies for preventing, detecting, and stopping violence against women, particularly sexual assault, stalking, and domestic violence. Addressing and ending violence against women is the entire community's responsibility. Institutions of higher education, working in partnership with the communities in which they are located, must adopt coordinated, campus-wide and community-wide efforts for responding to sexual assault, stalking, and domestic violence. Accordingly, all applicants for these grants are strongly encouraged to form consortia consisting of campus personnel, such as the athletic department and the women's center; student organizations, such as fraternities and sororities; groups working with diverse communities; campus housing officials, including student residence hall assistants; campus administrators, such as the institution's president and the dean of students; campus disciplinary boards; security personnel such as campus police and local law enforcement; and on-campus and community-based victim service providers; prosecutors; and judicial personnel to shape and guide grant-funded efforts. This multidisciplinary approach is intended to create strategies that are responsive to victims, bring perpetrators to justice *and* change the underlying campus climate to make it inhospitable to violence and abuse against women in all shapes and forms.

For Fiscal Year 1999, Congress appropriated $10 million to the Department of Justice to fight violent crimes against women on campuses across the country. These funds will be awarded competitively for the following broad purposes:

1. To provide personnel, training, technical assistance, data collection, and other equipment to increase arrests, investigations, and adjudication of persons committing violent crimes against women on campus;
2. To train campus administrators, campus security personnel, and campus disciplinary or judicial boards to identify and respond more effectively to violent crimes against women on campus, including sexual assault, stalking, and domestic violence;
3. To implement and operate education programs for prevention of violent crimes against women;
4. To develop, expand, or strengthen support services programs, including medical or psychological counseling, for victims of sexual offense crimes;
5. To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action;
6. To develop and implement more effective campus policies, protocols, orders, and services to prevent, identify, and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence;
7. To develop, install, and expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purposes of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to violent crimes against women on campus, including sexual assault, stalking, and domestic violence;
8. To develop, enlarge, or strengthen victim service programs for the campus and to improve delivery of victim services on campus;
9. To provide capital improvements (including improved lighting and communications facilities but excluding the construction of buildings) on campuses to address violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence; and
10. To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce violent crimes against women on campus.

Distribution of Grant Funds

The Higher Education Amendments of 1998 call on the Attorney General to award the Grants to Combat Violent Crimes Against Women on Campuses on a competitive basis. Every effort will be made to ensure the equitable participation of private and public institutions of higher education in activities supported through this Grant Program and the equitable geographic distribution of grants under this section among the various regions of the country.

Eligibility Requirements

To be eligible to receive grant funds under this Program, all grant applicants must be in compliance with the campus crime reporting requirements set forth in 20 U.S.C. 1092 (f) as amended by Public Law 105–244, 112 Stat. 1581, section 486(e) (1998).

This section requires in part that all institutions of higher education collect crime statistics and information about any campus security policies for their respective campuses. The information must be compiled in an annual security report and disseminated to all current students and employees, and, upon request, to any applicant for enrollment or employment. The annual security report must contain information regarding campus security policies and campus crime statistics. (See Exhibit A at the end of this document for relevant provisions of the Campus Security Act of 1990, as amended by Public Law 105–244, 112 Stat. 1741, section 486 (e) of the Higher Education Amendments of 1998.)

FERPA Requirements

To be eligible for this Grant Program, institutions of higher education must certify that they have developed policies consistent with the requirements of the Amendment to the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended by Public Law 105–244, 112 Stat. 1835, section 951 of the Higher Education Amendments of 1998. (See Exhibit B at the end of this document for an excerpt of this section.) Under FERPA and if permissible under State law, an institution of higher education may disclose to law enforcement agencies the name of the student who is an alleged perpetrator of any crime of violence or a nonforcible sex offense, as well as his or her offense and any sanctions imposed upon him or her as a result of campus disciplinary proceedings conducted by the institution. FERPA permits such disclosure only after a student has been found to have been in violation of the

institution's rules or policies. Moreover, FERPA, as amended by Section 951 of the Higher Education Amendments of 1998, prohibits such disclosures by institutions of higher education unless the victim(s) and/or witness(es) provide their written consent.

To be eligible for this Grant Program, grantees are required to disclose to law enforcement information permitted under FERPA provided that it is consistent with State law, but only if the victim requests or agrees to the disclosure. Victims' consent to disclosure is necessary because their safety, confidentiality, and privacy could be compromised.

In addition, the Violence Against Women Office of the Office of Justice Programs will require all institutions of higher education applying for grant funds to certify that they have, or plan to develop within 60 days of receipt of grant funds, written policies prohibiting the disclosure of a victim's or a witness' name, address, telephone number, or any other identifying information without the prior voluntary written consent of the victim or witness. All applicants will be required to forward copies of these policies to the Violence Against Women Office of the Office of Justice Programs with their grant application, or if no such policies have been developed, institutions must include written assurances in their grant application that within 60 days of receipt of a grant award, they will develop written policies and forward copies of these policies to the Violence Against Women Office of the Office of Justice Programs. Institutions must also certify that these policies were developed in close collaboration with campus-based or community-based victim service programs.

Application Requirements

In their applications, all grant applicants must:

- describe the need for grant funds and a plan for implementation of any of the 10 purposes areas. Higher Education Amendments of 1998, section 826 (b), 20 U.S.C. 1152;
- describe how campus authorities shall consult and coordinate with nonprofit and other victim service programs both on campus and in the local community, including sexual assault and domestic violence victim service programs;
- describe the characteristics of the population being served, including type of campus, demographics of the population, and the number of students;
- provide measurable goals and expected results from the use of grant funds; and
- provide assurances that Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the 10 purpose areas set forth in section 826 (b) of the Higher Education Amendments of 1998. 20 U.S.C. 1152.

Other Requirements

OJP will require all applicants seeking funds for capital improvements to combine these efforts with a broader approach to addressing violence against women, consisting of some combination of the following: victim service provision or formation of a task force whose members include representatives of the institution's administration, the athletic department, student organizations such as the fraternities and sororities, the women's center, the health center, faculty and staff. While security strategies such as increased lighting and alarms are important, to be fully effective they must be part of a broader coordinated community response that addresses the underlying causes of violence against women. All applicants also will be required to enter into partnerships with nonprofit, nongovernmental victim service providers through formal memoranda of understanding (MOU) clearly describing the responsibilities of each partner.

Reporting Requirements

In addition to semi-annual progress reports, all institutions of higher education receiving a grant through this Program are required to submit annual performance reports to the Violence Against Women Office in the Office of Justice Programs. Funding shall be suspended if an institution fails to submit an annual performance report.

Upon completion of the grant period, the institution shall be required to file a performance report with the Violence Against Women Office of the Office of Justice Programs, Violence Against Women Office, and the U.S. Department of Education's Safe and Drug-Free Schools Program, explaining the activities carried out and assessing the effectiveness of those activities in achieving the purposes of the Program.

Request for Comments

In an effort to fulfill the letter, as well as the spirit of Title VIII, Part E, Section 826 of the Higher Education Amendments of 1998, the Violence Against Women Office of the Office of Justice Programs seeks comments on all aspects of this Program, consistent with the statutory limitations. Comments are being sought on a broad range of issues, including but not limited to the topics below.

- The Violence Against Women Office of the Office of Justice Programs is seeking comments on any other priority areas that should be considered in addition to the statutory purpose areas identified in § 90.102 of Subpart E of the regulation set out in the following pages.
- For the purposes of this Program, the Violence Against Women Office of the Office of Justice Programs is seeking comments on whether there are any special needs of diverse campuses with underserved populations that should be considered.
- For the purposes of this Program, victims are eligible for assistance provided through grant-funded programs if they qualify for the types of services provided through rape crisis centers, campus women's centers, battered women's shelters, sexual assault and domestic violence programs, including campus counseling support and victim advocate organizations, campus health centers, and other campus victim service providers, consistent with section 826(b)(4), (5) and (8) of the Higher Education Amendments of 1998. The Violence Against Women Office of the Office of Justice Programs is seeking comments on whether this scope of eligibility adequately covers the types of services needed by victims.
- For the purposes of this Program, section 826(f) of the Higher Education Amendments of 1998 defines the term "victim services" to mean a nonprofit, nongovernmental organization that assists domestic violence or sexual assault victims, including campus women's centers, rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, including campus counseling support and victim advocate organizations with domestic violence, stalking, and sexual assault programs, whether or not organized and staffed by students. This statutory definition excludes victim service providers, including women's centers, rape crisis centers and other sexual assault and domestic violence programs that are established and operated by public institutions of higher education. The Violence Against Women Office of the Office of Justice Programs is seeking comments on whether and/or how the exclusion of programs established and operated by public institutions will affect the effectiveness of this Program.
- For the purposes of this Grant Program, the Violence Against Women Office of the Office of Justice Programs

is defining "students" to include both full- and part-time students enrolled at an institution of higher education; and "employees" of the institution to include full- and part-time faculty, staff, and administrators, as well as temporary and contract employees such as visiting professors, and contractors whose primary work duties are on campus or at a location that is affiliated with the institution. The Violence Against Women Office of the Office of Justice Programs is seeking comments on whether or not these definitions adequately cover all persons on campuses.

• For the purposes of this Grant Program, "campus-community members" is defined as including all campus students and employees as defined above. The Violence Against Women Office of the Office of Justice Programs is seeking comments on whether or not the scope of the definition of campus-community members adequately encompasses the types of victimizations against women likely to occur in a campus environment.

• For the purposes of this Grant Program, victims are eligible for services provided through grant funds if they are students or employees (as defined above) at the institution. Victims are also eligible for services provided through grant funds if the victimization took place within the campus community as defined above. In addition, victims are eligible for grant-funded services if they are victimized by perpetrators who are students, faculty, staff, administrators or affiliated in some manner with an entity that is officially recognized by the institution of higher education, such as fraternities and sororities. Victims are also eligible for grant-funded services if the victimization occurred at events associated with campus life, such as educational activities, meetings, and social gatherings sponsored by an institution of higher education or a group affiliated with an institution of higher education. The Violence Against Women Office of the Office of Justice Programs is seeking comments on whether or not the eligibility criteria for grant-funded services adequately covers all types of victims affiliated with institutions of higher education.

• For the purposes of this Grant Program, victim services include, but are not limited to, 24-hour hotlines; development of safety plans with the victim; transportation to hospitals, medical appointments, police stations, prosecutor's offices, court hearings, and on- and off-campus service agencies; intervention with professors, employers, creditors, and landlords; relocation to another on-campus housing facility; provision of new locks and other security devices; provision of a new, unlisted telephone number and e-mail address; provision of services to victims with disabilities; provision of language interpretation services; orientation to the criminal justice and the institution's administrative disciplinary systems; written information about the institution's administrative disciplinary systems and criminal justice systems and options; escort to court, the administrative disciplinary hearings, and medical appointments; victim notification regarding offender release, case status and outcome; assistance with preparation of victim impact statements and restitution claims; assistance with insurance and other compensation claims; referrals to off-campus counseling; arrangements for and referrals to on-campus counseling; and assistance with a transfer to another institution of higher education if the victim chooses. For the purposes of this Grant Program, "victim services" excludes mediation between the victim and the offender, and any counseling or other support services for the perpetrator. The Violence Against Women Office of the Office of Justice Programs is seeking comments on whether or not the scope of the proposed grant-funded services adequately covers the needs of victims of sexual assault, stalking, and domestic violence.

• For the purposes of this Grant Program, institutions of higher education would be required to provide equal information about both the administrative disciplinary process and the criminal and civil justice process to victims, if available. In no case should less information be provided about the criminal and civil justice process than about the internal institutional administrative disciplinary process in an effort to influence the victim to pursue university adjudication of violent crimes against women. If applicable, victims should be provided with information about pursuing the matter through both the criminal and civil justice systems and the institution's administrative disciplinary process simultaneously. The Violence Against Women Office of the Office of Justice Programs is seeking comments on whether or not this requirement adequately ensures that victims receive information about options to seek redress and hold the perpetrator accountable through not only internal administrative disciplinary processes, but also through the criminal and civil justice systems.

• For the purposes of this Grant Program, institutions of higher education would be required to establish specific penalties for specific crimes, if not already in place (for example, mandatory permanent expulsion for criminal justice system convictions or a finding of guilt by the campus administrative disciplinary board for crimes of domestic violence, stalking, and sexual assault). Institutions of higher education also would have to develop means for entering permanent notations on the permanent student records or employee records of offenders. The Violence Against Women Office of the Office of Justice Programs is seeking comments on whether or not these requirements will assist in holding offenders accountable adequately.

• For the purposes of this Grant Program, institutions of higher education would be required to encourage victims to report sexual assault, domestic violence, and stalking to local law enforcement authorities and hold offenders accountable through the criminal and civil justice systems. Institutions must make every effort to facilitate victims' access to the criminal justice system by providing information about options; an explanation of how the criminal justice system operates; telephone numbers of appropriate law enforcement and legal agencies; and transportation to police stations, prosecutor's offices, and the courts. The Violence Against Women Office of the Office of Justice Programs is seeking comments on whether or not these requirements would provide adequate information to victims to enable them to make informed decisions about their options to use the criminal and civil justice systems.

• For the purposes of this Grant Program, Congress appropriated $10 million. To maximize the impact of these limited funds, the Violence Against Women Office of the Office of Justice Programs is seeking comments on whether the most effective use of these funds would be to support a limited number (e.g., 10 to 15) of carefully selected demonstration projects, or more numerous, smaller grants to a larger number of institutions of higher education.

Administrative Requirements

Executive Order 12866

This proposed regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The

Office of Justice Programs has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: The Grants to Combat Violence Against Women on Campuses will be administered by the Office of Justice Programs, and any funds distributed under it shall be distributed to institutions of higher education, not small entities, and the economic impact is limited to the Office of Justice Programs' appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete in domestic and export markets.

Paperwork Reduction Act

The collection of information requirements contained in the proposed regulation has been submitted to and approved by the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3504(h)).

List of Subjects in 28 CFR Part 90

Colleges and universities, Crime, Grant programs—Indians, Grant programs—law, Grant programs—women, Reporting and recordkeeping requirements, Women.

For the reasons set forth in the preamble, 28 CFR Chapter I is proposed to be amended as follows:

PART 90—VIOLENCE AGAINST WOMEN

1. The authority for part 90 is revised to read as follows:

Authority: 42 U.S.C. 3711 *et seq.*; Sec. 826, part E, title VIII, Pub. L. 105–244, 112 Stat. 1815.

2. Part 90 is amended by adding a new Subpart E to read as follows:

Subpart E—Grants to Combat Violent Crimes Against Women on Campuses

Sec.

90.100 What is the scope of the grant program?
90.101 What definitions apply for the grant program?
90.102 What are the purposes of the grant program?
90.103 What are the eligibility requirements for the grant program?
90.104 What must the grant program application contain?
90.105 What are the review criteria for grant program applications?
90.106 What are the grantee reporting requirements for the grant program?

Subpart E—Grants To Combat Violent Crimes Against Women on Campuses

§ 90.100 What is the scope of the grant program?

This subpart implements the Higher Education Amendments of 1998, Part E, Section 826 (Pub. L. 105–244, 112 Stat. 1815), which authorizes Federal financial assistance to institutions of higher education to work individually or in consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution for two broad purposes: to develop, implement, and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, including sexual assault, stalking, and domestic violence and to develop, enlarge, and strengthen support services for victims of sexual assault, stalking, and domestic violence.

§ 90.101 What definitions apply for the grant program?

For the purposes of this subpart, the following definitions apply:

(a) *Domestic violence* includes acts or threats of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

(b) *Institution of higher education* is defined to include an educational institution in any State that admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; is legally authorized within such State to provide a program of education beyond secondary education; provides an educational program for which the institution has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time. Section 101, Public Law 105–244, 20 U.S.C. 1001.

(c) *Sexual assault* means any conduct proscribed by chapter 109A of Title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison, including both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim.

(d) *Victim services* means a nonprofit, nongovernmental organization that assists domestic violence or sexual assault victims, including campus women's centers, rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, including campus counseling support and victim advocate organizations with domestic violence, stalking, and sexual assault programs, whether or not organized and staffed by students.

§ 90.102 What are the purposes of the grant program?

The purposes of the grant program in this subpart are:

(a) To provide personnel, training, technical assistance, data collection, and other equipment to increase arrests, investigations, and adjudication of persons committing violent crimes against women on campus;

(b) To train campus administrators, campus security personnel, and campus disciplinary or judicial boards to more effectively identify and respond to violent crimes against women on campus, including sexual assault, stalking, and domestic violence;

(c) To implement and operate education programs for prevention of violent crimes against women;

(d) To develop, expand, or strengthen support services programs, including medical or psychological counseling, for victims of sexual offense crimes;

(e) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action;

(f) To develop and implement more effective campus policies, protocols, orders, and services to prevent, identify, and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence;

(g) To develop, install, and expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purposes of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to violent crimes against women on campus, including sexual assault, stalking, and domestic violence;

(h) To develop, enlarge, or strengthen victim service programs for the campus and to improve delivery of victim services on campus;

(i) To provide capital improvements (including improved lighting and communications facilities but excluding the construction of buildings) on campuses to address violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence; and

(j) To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce violent crimes against women on campus.

§ 90.103 What are the eligibility requirements for the grant program?

(a) Eligible grantees are institutions of higher education that are in compliance with the campus crime reporting requirements as set forth in section 486(e) of the Higher Education Amendments of 1998, as amended, Public Law 105–244, 112 Stat. 1741, 20 U.S.C. 1092(f).

(b) To be eligible for this Grant Program, such institutions of higher education referred to in paragraph (a) of this section must:

(1) Collect crime statistics and information about any campus security policies for their respective campuses, and compile such data in an annual security report and disseminate it to all current students and employees, and, upon request, to any applicant for enrollment or employment;

(2) Include in all annual security reports referred to in paragraph (b)(1) of this section information regarding campus security policies and campus crime statistics;

(3) Certify that they have developed and carry out policies consistent with the requirements of the Amendment to the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended by Section 951 of the Higher Education Amendments of 1998 (under FERPA and if permissible under State law, an institution of higher education may disclose to law enforcement agencies the name of the student who is an alleged perpetrator of any crime of violence or a nonforcible sex offense, as well as his or her offense and any sanctions imposed upon him or her as a result of campus disciplinary proceedings conducted by the institution. FERPA permits such disclosure only after a student has been found to have been in violation of the institution's rules or policies. Moreover, FERPA, as amended by Section 951 of the Higher Education Amendments of 1998, prohibits such disclosures by institutions of higher education unless the victim(s) and/or witness(es) provide their written consent.);

(4) Disclose to law enforcement information permitted under FERPA provided that it is consistent with State law, but only if the victim requests or agrees to the disclosure;

(5) Certify that they have, or plan to develop within 60 days of receipt of grant funds, written policies prohibiting the disclosure of a victim's or a witness' name, address, telephone number, or any other identifying information without the prior voluntary written consent of the victim or witness;

(6) Forward copies of policies referred to in paragraph (b)(4) of this section to the Violence Against Women Office of the Office of Justice Programs with their grant applications, or if no such policies have been developed, must include written assurances in their grant application that within 60 days of receipt of a grant award, they will develop written policies and forward copies of these policies to the Violence Against Women Office of the Office of Justice Programs;

(7) Certify that policies referred to in paragraph (b)(4) of this section have been developed in close collaboration with campus-based or community-based victim service programs; and

(8) Enter into partnerships with nonprofit, nongovernmental victim service providers through formal memoranda of understanding (MOU) clearly describing the responsibilities of each partner.

§ 90.104 What must the grant program application contain?

(a) *Format.* Applications from institutions of higher education must be submitted on Standard Form 424, Application for Federal Assistance, at a time designated by the Violence Against Women Office of the Office of Justice Programs. The Violence Against Women Office of the Office of Justice Programs will develop and disseminate to institutions of higher education and other interested parties a complete Application Kit, which will include a Standard Form 424, a list of assurances to which applicants must agree, and additional guidance on how to prepare and submit an application for grants under this Subpart. Complete application kits will be available from: The Violence Against Women Office, Office of Justice Programs, 810 Seventh Street, N.W., Washington, D.C. 20531. Telephone: (202) 307–6026.

(b) *Programs.* Applications must set forth programs and projects that meet the purposes and criteria of the Grants to Combat Violent Crimes Against Women on Campuses set out in §§ 90.102 and 90.103.

(c) *Requirements.* Applicants in their applications must, at a minimum:

(1) Describe the need for grant funds and a plan for implementation of any of the 10 purpose areas set forth in section 826 (b) of the Higher Education Amendments of 1998, Public Law 105–244, 112 Stat. 1816 (20 U.S.C. 1152);

(2) Describe how campus authorities shall consult and coordinate with nonprofit and other victim service programs, including sexual assault and domestic violence victim service programs;

(3) Describe the characteristics of the population being served, including type of campus, demographics of the population, and the number of students;

(4) Provide measurable goals and expected results from the use of grant funds;

(5) Provide assurances that Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the 10 purposes as set forth in section 826 (b) of the Higher Education Amendments of 1998, Pub. L. 105–244, 112 Stat. 1816 (20 U.S.C. 1152);

(6) Identify the agency or office or groups of agencies or offices responsible for carrying out the Program; and

(7) Include documentation from nonprofit, nongovernmental sexual assault and domestic violence victims' programs demonstrating their participation in developing the application, and explain how these groups will be involved in the development and implementation of the project.

(d) *Certifications.* (1) Each institution of higher education applying for grant funds must be in compliance with the eligibility requirements set out in § 90.103.

(2) Each institution of higher education applying for grant funds must certify that it has developed policies consistent with the requirements of the Amendment to the Family Educational Rights and Privacy Act (FERPA) of 1974, at Section 951 of the Higher Education Amendments of 1998, Public Law 105–244, 112 Stat. 1835.

(3) Each institution of higher education applying for grant funds must certify that it has, or plans to develop within 60 days of receipt of grant funds, written policies prohibiting the disclosure of a victim's or a witness' name, address, telephone number, or any other identifying information without the prior voluntary written consent of the victim or witness.

(4) Each institution of higher education applying for grant funds is required to forward copies of these policies to the Violence Against Women Office of the Office of Justice Programs with their grant application, or if no such policies have been developed, institutions must include written assurances in their grant application that within 60 days of receipt of a grant award, they will develop written policies and forward copies of these policies to the Violence Against Women Office of the Office of Justice Programs.

(5) Each institution of higher education applying for grant funds must certify that policies referred to in paragraph (d)(4) of this section have been developed in close collaboration with campus-based or community-based victim service programs.

(6) Each institution of higher education applying for grant funds must certify that all the information contained in the application is correct. All submissions will be treated as a material representation of fact upon which reliance will be placed, and any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.105 What are the review criteria for grant program applications?

(a) *Equitable participation and geographic distribution.* In accordance with Section 826(a)(3) of the Higher Education Amendments of 1998, Public Law 105–244, 112 Stat. 1816, every effort shall be made to ensure:

(1) The equitable participation of private and public institutions of higher education in the activities assisted under this subpart; and

(2) The equitable geographic distribution of grants funded through this subpart among the various regions of the United States.

(b) *Additional review criteria.* Priority shall be given to applicants that demonstrate a commitment to developing strong collaborative models for developing services that are victim-centered; policies, protocols and penalties that hold offenders accountable; and programs that educate the entire campus community about how to end and prevent violence against women through systemic change. Commitment may be demonstrated in a number of ways including: clear communication from the institution's top leadership that strong responses to and prevention of violence against women is a priority; development and vigorous enforcement of campus policies and adherence to local laws addressing violence against women; creation of coordinated, multidisciplinary task forces that include at a minimum both campus and community-based victim service providers and campus security personnel and local law enforcement; innovative approaches to educating the entire campus community, including faculty, staff, administration, and students; provision of training and education programs to campus security personnel, others in positions of authority, and campus victim service providers; development of resource materials and information on violence against women; and innovative dissemination strategies for communicating information about the identification of violence against women, its underlying causes, and the consequences of committing violent crimes against women.

(c) *Intergovernmental review.* This grant program is covered by Executive Order 12372, Intergovernmental Review of Federal Programs (3 CFR, 1982 Comp., p. 197), and implementing regulations at 28 CFR Part 30. A copy of the application submitted to the Violence Against Women Office of the Office of Justice Programs should also be submitted at the same time to the State's Single Point of Contact, if there is a Single Point of Contact.

§ 90.106 What are the grantee reporting requirements for the grant program?

(a) *Semi-annual progress reports and annual performance reports.* Each grantee receiving funds under this subpart shall submit semi-annual progress reports and an annual performance report to the Attorney General (Office of Justice Programs, Violence Against Women Office). Funding shall be suspended if a grantee fails to submit an annual performance report.

(b) Final performance report. Upon completion of the grant period, the institution shall be required to file a final performance report to the Attorney General (Office of Justice Programs, Violence Against Women Office) and the Secretary of Education (U.S. Department of Education's Safe and Drug Free Schools Program) explaining the activities carried out under this Subpart along with an assessment of the effectiveness of those activities in achieving the purposes set forth previously.

Note: The following exhibits will not appear in the Code of Federal Regulations.

Exhibit A to Preamble—Excerpts From Section 204 of the Student Right-to-Know and Campus Security Act, as Amended by Section 486(f) of the Higher Education Amendments of 1998

Relevant sections of the campus crime reporting requirements set forth in the Student Right-To-Know and Campus Security Act, as amended by the section 486(e) of the Higher Education Amendments of 1998, 20 U.S.C. 1092(f),[1] mandate the following:

(f) Disclosure of campus security policy and campus crime statistics

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter,

[1] Note: The official version of section 486(e) of Public Law 105–244 appears at 112 Stat. 1742.

prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including—

(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

(i) Of the following criminal offenses reported to campus security authorities or local police agencies:

(I) murder;
(II) sex offenses, forcible or nonforcible;
(III) robbery;
(IV) aggravated assault;
(V) burglary;
(VI) motor vehicle theft;
(VII) manslaughter;
(VIII) arson; and
(IX) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and

(ii) Of the crimes described in subclauses (I) through (VIII) of clause (i), and other crimes involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under Section 1011i of this title.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

(4)(A) Each institution participating in any program under this subchapter [20 U.S.C.A. 1070 *et seq.*] and part C of subchapter I of chapter 34 of Title 42 [42 U.S.C.A. 2751 *et seq.*] that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

(i) The nature, date, time, and general location of each crime; and

(ii) The disposition of the complaint, if known.

(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within two business days of the initial report being made to the department or a campus security authority.

(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police or security department.

(iii) If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

(5) On an annual basis, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 [42 U.S.C.A. 2751 *et seq.*] shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(F). The Secretary shall—

(A) Review such statistics and report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 2000;

(B) Make copies of the statistics submitted to the Secretary available to the public; and

(C) In coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(6)(A) In this subsection:

(i) The term "campus" means—

(I) Any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(II) Property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

(ii) The term "noncampus building or property" means—

(I) Any building or property owned or controlled by a student organization recognized by the institution; and

(II) Any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

(iii) The term "public property" means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution, if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(7) The statistics described in paragraph (1)(F) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act. Such statistics shall not identify victims of crimes or persons accused of crimes.

(8)(A) Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

(i) Such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

(ii) The procedures followed once a sex offense has occurred.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

(iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—

(I) The accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

(II) Both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.

(9) The Secretary shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.

(10) Nothing in this Section shall be construed to require the reporting or disclosure of privileged information.

(11) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

(12) For purposes of reporting the statistics with respect to crimes described in paragraph (1)(F), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

(A) on campus;

(B) in or on a noncampus building or property;

(C) on public property; and

(D) in dormitories or other residential facilities for students on campus.

(13) Upon a determination pursuant to section 1094(c)(3)(B) of this title that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this Subsection, the Secretary shall impose a civil penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 1094(c)(3)(B) of this title.

(14) (A) Nothing in this Subsection may be construed to—

(i) Create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(ii) Establish any standard of care.

(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

* * * * *

Exhibit B to Preamble—Excerpts From the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g(b), as Amended by Section 951 of the Higher Education Amendments of 1998

Relevant sections of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g(b), as amended by Section 951 of the Higher Education Amendments of 1998, 112 Stat. 1835,[1] state the following:

* * * * *

"(B) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence (as that term is defined in Section 16 of Title 18, United States Code), or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

"(C) For the purpose of this paragraph, the final results of any disciplinary proceeding—

"(i) Shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student; and

"(ii) May include the name of any other student, such as a victim or witness, only with the written consent of that other student.".

* * * * *

Dated: April 15, 1999.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 99–9949 Filed 4–22–99; 8:45 am]

BILLING CODE 4410–18–P

[1] **Note:** The official version of section 951 of Public Law 105–244 appears at 112 Stat. 1835.

federal register

Friday
April 23, 1999

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1216

Peanut Promotion, Research, and Information Order; Referendum Procedures; Proposed Rule and Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1216

[FV–98–703–FR]

Peanut Promotion, Research, and Information Order; Referendum Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to establish procedures which the Department of Agriculture (USDA or the Department) will use in conducting a referendum to determine whether the issuance of the proposed Peanut Promotion, Research, and Information Order (Order) is favored by a majority of the producers voting in the referendum. These procedures will also be used for any subsequent referendum under the Order, if it is approved in the initial referendum. The Order is being published in a separate document. This program would be implemented under the Commodity Promotion, Research, and Information Act of 1996 (Act).

DATES: This final rule is effective April 24, 1999.

FOR FURTHER INFORMATION CONTACT: Daniel R. Williams II, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2535–S, Stop 0244, Washington, D.C. 20250–0244; telephone toll free (888) 720–9917, or facsimile (202) 205–2800.

SUPPLEMENTARY INFORMATION: A referendum will be conducted among eligible peanut producers to determine whether the issuance of the proposed Peanut Promotion, Research, and Information Order (Order) (7 CFR Part 1216) is favored by a majority of persons voting in the referendum. The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) (Pub. L. 104–427, 7 U.S.C. 7401–7425). The Order is being published separately in this issue of the **Federal Register**.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under Section 519 of the Act, a person subject to the Order may file a petition with the Secretary of Agriculture (Secretary) stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall be the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Executive Order 12866

This rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has examined the impact of the proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be disproportionately burdened.

The Act, which authorizes the Secretary to consider industry proposals for generic programs of promotion, research, and information for agricultural commodities, became effective on April 4, 1996. The Act provides for alternatives within the terms of a variety of provisions.

Paragraph (e) of Section 518 of the Act provides three options for determining industry approval of a new research and promotion program: (1) By a majority of those voting; (2) by a majority of the volume of the agricultural commodity voted in the referendum; or (3) by a majority of those persons voting who also represent a majority of the volume of the agricultural commodity voted in the referendum. In addition, section 518 of the Act provides for referenda to ascertain approval of an Order to be conducted either prior to its going into effect or within three years after assessments first begin under the Order. The American Farm Bureau Federation (proponent) has recommended that the Secretary conduct a referendum in which the Order must be approved by a majority of those persons voting. The proponent also has recommended that a referendum be conducted prior to the proposed Order going into effect.

This rule establishes the procedures under which producers may vote on whether they want a peanut promotion, research, and information program to be implemented. This action will add a new subpart which establishes procedures to conduct the initial referendum and future referenda. The subpart covers definitions, voting instructions, use of subagents, ballots, the referendum report, and confidentiality of information.

There are approximately 25,000 producers and 57 handlers of peanuts who would be subject to the program. Most producers would be classified as small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR § 121.601], and most of the handlers would not be classified as small businesses. The SBA defines small agricultural handlers as those whose annual receipts are less than $5 million, and small agricultural producers are defined as those having annual receipts of not more than $500,000 annually.

According to USDA's National Agricultural Statistics Service (NASS), the nine major peanut-producing states in the United States account for 99 percent of the peanuts grown in this country. The combined production from these states totaled 3.5 billion pounds in 1997. The farm value of peanuts in 1997 reached $932 million. NASS reports that Georgia was the largest producer (38 percent of the total), followed by Texas (23 percent), Alabama (11 percent), North Carolina (9 percent), Florida (6 percent), Virginia (5 percent), Oklahoma (5 percent), New Mexico (1 percent), and South Carolina (1 percent). According to 1992 Census of Agriculture (Census) data, small amounts of peanuts were also grown in seven other states.

According to the proponent, and based on the Census data for these nine states, 36 percent of the peanut-producing counties in the United States had 35 percent or more of their total crop income from peanuts. Twenty-four percent of the counties had 50 percent or more of their crop income from peanuts. From a state perspective, 70 percent of the crop income in Alabama's peanut-producing counties is generated from peanuts. For Virginia, the percentage is 48 percent. In addition, 16,194 farms harvested peanuts in 1992.

Of these, 15,914 were located in the nine primary peanut-producing states.

Three main types of peanuts are grown in the United States: Florunners, Virginia, and Spanish. The southeast growing region grows mostly the medium-kernel Runner peanuts. The southwest growing region used to grow two-thirds Spanish and one-third Runner peanuts, but now more Runners than Spanish are grown. Virtually all of the Spanish peanut production is in Oklahoma and Texas. In the Virginia-Carolina region, mainly large-kernel Virginia peanuts are grown. New Mexico grows a fourth type of peanut, the Valencia.

Peanut manufacturers produce three principal peanut products: peanut butter, packaged nuts (including salted, unsalted, flavored, and honey-roasted nuts), and peanut candies. In most years, half of all peanuts produced in the United States for edible purposes are used to manufacture peanut butter. Packaged nuts account for almost one-third of all processed peanuts. Some of these (commonly referred to as "ballpark" peanuts) are roasted in the shell, while a much larger quantity is used as shelled peanuts packed as dry-roasted peanuts, salted peanuts, and salted mixed nuts. Some peanuts are ground to produce peanut granules and flour. Other peanuts are crushed to produce oil.

According to USDA's Foreign Agricultural Service, exports of U.S. peanuts (including peanut meal, oil, and peanut butter) totaled 880 million in-shell equivalent pounds in 1997, with a value of $285 million (U.S. point of departure for the foreign country). Of the total quantity, 60 percent was shelled peanuts used as nuts, 11 percent was blanched or otherwise prepared or preserved peanuts, 10 percent was in-shell peanuts, 7 percent was peanut butter, 4 percent was shelled oil stock peanuts, 4 percent was crude peanut oil, and 3 percent was refined peanut oil.

The major destinations for domestic shelled peanuts for use as nuts are Canada, Mexico, the United Kingdom, and the Netherlands. Blanched or otherwise prepared peanuts are sent mainly to Western Europe, especially the Netherlands, France, and Spain. In-shell peanuts are mainly exported to Canada and various countries in Western Europe. Peanut butter is sent to many countries, with the largest amounts going to Canada and Saudi Arabia. Peanut oil and oil stock peanuts are exported world-wide, but major destinations can vary from year to year.

Approximately 250 million in-shell equivalent pounds of peanuts and processed peanuts (including oil and peanut butter) were imported in 1997 with a combined value (f.o.b. country of origin) of $73 million. Most of the imports (45 percent) were shelled peanuts for use as nuts. The major U.S. supplier is Argentina, but several other countries export shelled peanuts to the United States, including Mexico, Nicaragua, and South Africa.

Peanut butter imports are also significant and accounted for about 32 percent of the total quantity of nuts (in-shell basis) imported in 1997. Most peanut butter imports come from Canada and Argentina. The other major import category—crude and refined peanut oil—are shipped mainly from Argentina and Nicaragua and account for approximately 18 percent of total imports (in-shell equivalent basis). In-shell peanuts, primarily from Mexico, accounted for nearly 3 percent of total imports in 1997. About 3 percent of total imports consisted of blanched or other processed peanuts, mainly from China. Imports of oil stock shelled peanuts were negligible.

Most peanuts produced in other countries are crushed for oil and protein meal. The United States is the main producer of peanuts used in such edible products as peanut butter, roasted peanuts, and peanut candies. Peanuts are one of the world's principal oilseeds, ranking fourth behind soybeans, cottonseed, and rapeseed. India and China usually account for half of the world's peanut production.

According to the "Agricultural Statistics Report" published by USDA, during the 1995–96 season, the average annual production per domestic producer was approximately 144,228 pounds of peanuts. Peanuts produced during these growing seasons provided average annual gross sales of $42,222 per peanut producer. The value of the 1995–96 crop was approximately $1.013 billion. During the same period, per capita consumption in the United States was 5.7 pounds of peanuts.

This rule provides the procedures under which peanut producers may vote on whether they want the Order to be implemented. In accordance with the provisions of the Act, subsequent referenda may be conducted, and it is anticipated that the proposed procedures would apply. There are approximately 25,000 producers who will be eligible to vote in the first referendum.

USDA will keep these individuals informed throughout the program implementation and referendum process to ensure that they are aware of and are able to participate in the program implementation process. USDA will also publicize information regarding the referendum process, so that trade associations and related industry media can be kept informed.

Voting in the referendum is optional. However, if producers choose to vote, the burden of voting would be offset by the benefits of having the opportunity to vote on whether or not they want to be covered by the program.

The information collection requirements contained in this rule are designed to minimize the burden on producers. This rule provides for a ballot to be used by eligible producers in voting in the referendum. The estimated annual cost of providing the information by an estimated 25,000 producers would be $12,500 or $0.50 per producer.

The Secretary considered requiring eligible voters to vote in person at various USDA offices across the country. The Secretary also considered electronic voting, but the use of computers is not universal, current technology is not reliable enough to ensure that electronic ballots would be received in a readable format, and technology is insufficient at this time to provide sufficient safeguards of voters' confidentiality. Conducting the referendum from one central location by mail ballot would be more cost-effective and reliable. The Department also will accept ballots sent by facsimile (fax) machine. A pilot of this method was conducted during a recent referendum for another program. A fax machine was dedicated to the receipt of ballots. All ballots received in this manner were stored in the memory of the machine until the end of the voting period. Due to the large number of voters expected in the referendum on the proposed peanut program, USDA may use more than one such machine, providing voters in different states with different fax numbers in order to avoid exceeding the memory of the machine. Further, the Department would provide easy access to information for potential voters through a toll-free telephone line.

While other peanut programs have been implemented by the government, USDA has not identified any relevant federal rules that duplicate, overlap, or conflict with this rule.

We have performed this Final Regulatory Flexibility Analysis regarding the impact of this rule on small entities. The results of this analysis have found that there would be no adverse effect on the small entities.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR 1320) which implement the Paperwork Reduction

Act of 1995 (44 U.S.C. Chapter 35), the referendum ballot, which represents the information collection and recordkeeping requirements that may be imposed by this rule, were submitted to OMB and have been approved under OMB control number 0581–0093.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–0093.

Expiration Date of Approval: November 30, 2000.

Type of Request: Revision of a currently approved information collection for research and promotion programs.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act. The burden associated with the ballot is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response for each producer.

Respondents: Producers.

Estimated Number of Respondents: 25,000.

Estimated Number of Responses per Respondent: 1 every 5 years (0.2).

Estimated Total Annual Burden on Respondents: 1,250 hours.

The estimated annual cost of providing the information by an estimated 25,000 producers would be $12,500 or $0.50 per producer.

The ballot will be added to the other information collections approved for use under OMB Number 0581–0093.

In the proposed rule published on November 6, 1998 comments were invited on: (a) Whether the proposed collection of information is necessary and whether it will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

By the January 5, 1999, deadline for comments on information collections associated with this rule, no comments were received.

Background

The Act authorizes the Secretary, under generic authority, to establish agricultural commodity research and promotion Orders. The American Farm Bureau Federation (proponent), working in cooperation with 20 state and regional industry organizations from the peanut-producing states, has requested the establishment of a Peanut Promotion, Research, and Information Order (Order) pursuant to the Act. The Order will provide for the development and financing of an effective and coordinated program of promotion, research, and information for peanuts. The program would be funded by an assessment levied on producers (to be collected by handlers) at a rate of 1 percent of the total value of all farmers stock peanuts. When peanuts are placed under loan, a deduction from the producer's loan draft equal to 1 percent of the price support value would be made and submitted to the Board by an area marketing association. Once peanuts are sold for disposition from a loan, the association would remit the balance of the assessment to the Board. In the Order, peanuts are defined as the seeds of the legume arachis hypogaea, including both in-shell and shelled peanuts other than those marketed by the producer in green form for consumption as boiled peanuts.

Assessments would be used to pay for promotion, research, and consumer information; administration, maintenance, and functioning of the Board; and expenses incurred by the Secretary in implementing and administering the Order, including referendum costs.

Section 518 of the Act requires that a referendum be conducted among eligible peanut producers to determine whether they favor the Order. In addition, section 518 of the Act provides for referenda to ascertain approval of an Order to be conducted either prior to its going into effect or within three years after assessments first begin under the Order. According to the rule that is published separately in this issue of the **Federal Register**, the Order would become effective if it is approved by a majority of producers voting in the referendum, which will be held before the program is implemented.

The rule establishes the procedures under which producers may vote on whether they want the peanut promotion, research, and information program to be implemented. There are approximately 25,000 eligible voters.

This rule would add a new subpart which would establish procedures to be used in this and future referenda. The subpart covers definitions, voting, instructions, use of subagents, ballots, the referendum report, and confidentiality of information.

A proposed rule on the Order was published in the November 6, 1998, issue of the **Federal Register** (63 FR 59893). On the same date, a proposed rule was published on the referendum procedures (63 FR 59907). As stated above, the comment period on the information collection requirements associated with this rule ended on January 5, 1999, and no comments were received on the information collection requirements. The comment period on the substance of the referendum procedures ended on January 5, 1999. Three comments were received on the procedures. Two commenters felt that the referendum period should be a least three weeks and one urged that the referendum be conducted in March or April. In addition, two comments were received on the proposed Order that stated that the referendum should be conducted no later than June 1, 1999. As is common practice, the representative period will be established in the referendum Order which is being published with the proposed Order. The referendum Order also establishes the voting period and identifies the referendum agents. The Department has established a three week voting period, but the referendum will be conducted in May. The proposed Order and referendum Order will be published separately in this issue of the **Federal Register**.

Two comments were received about § 1216.102 (c) which address how votes are to be cast. Both commentors expressed concern about how the Department would supervise the voting to provide that only eligible producers cast ballots. To ensure that only eligible producers cast ballots, information obtained from the Farm Service Agency (FSA) will be used to develop the mailing list that is generated to mail ballots to eligible producers. Also each commenter stated that voters should have the ability to hand deliver the ballots to local FSA offices. We deny the commentors' request to have hand delivery of the ballots to FSA offices. Conducting the referendum by mail will help ensure an accurate and precise count. This can be ensured by having one location for the delivery of the ballots which will allow for a daily monitoring of the process by the Agricultural Marketing Service's Office of Compliance and Analysis (OCA).

Two comments were received on § 1216.103 (2) (d) which addresses eligible persons' ability to receive a ballot. We deny this part of the comments concerning use of the local FSA offices. An FSA list of peanut producers will be used to determine eligible persons. As stated above, by conducting the referendum by mail an accurate and precise count can be determined by using one location for the

delivery of the ballots. In addition, any eligible voter that does not receive a ballot by mail may call the referendum agents as stated in the referendum Order which is being published with the proposed Order.

All ballot handling is done in the presence of an official from the OCA, and the referendum agents or the OCA official may request documentation from any or all voters. We believe this course of action addresses the commentors' concerns as well as allows for the timely tabulation of referendum results.

After consideration of all relevant material presented, it is found that this final rule is consistent with and will effectuate the purpose of the Act.

Pursuant to the provisions in 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) A proposed rule with request for comments was published in the **Federal Register** and comments were received and they are addressed in this rule; (2) it is necessary to have these procedures in place in order to conduct the referendum in May 1999 prior to the beginning of the 1999 crop year; and (3) no useful purpose will be served by a delay of the effective date.

List of Subjects in 7 CFR Part 1216

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7, Chapter XI of the Code of Federal Regulations is amended as follows:

1. Part 1216 is added to read as follows:

PART 1216—PEANUT PROMOTION, RESEARCH, AND INFORMATION ORDER

Subpart A—[Reserved]

Subpart B—Procedure for the Conduct of Referenda in Connection With the Peanut Promotion, Research, and Information Order

Sec.

1216.100 General.
1216.101 Definitions.
1216.102 Voting.
1216.103 Instructions.
1216.104 Subagents.
1216.105 Ballots.
1216.106 Referendum report.
1216.107 Confidential information.

Authority: 7 U.S.C. 7401–7425.

Subpart A—[Reserved]

Subpart B—Procedure for the Conduct of Referenda in Connection With the Peanut Promotion, Research, and Information Order

§ 1216.100 General.

Referenda to determine whether eligible peanut producers favor the issuance, amendment, suspension, or termination of a Peanut Promotion, Research, and Information Order shall be conducted in accordance with this subpart.

§ 1216.101 Definitions.

The following definitions apply to this subpart:

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Order* means the Peanut Promotion, Research, and Information Order.

(c) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(d) *Representative period* means the period designated by the Secretary.

(e) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term "partnership" includes, but is not limited to:

(1) A husband and a wife who have title to, or leasehold interest in, a peanut farm as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So-called "joint ventures" wherein one or more parties to an agreement, informal or otherwise, contributed land and others contributed capital, labor, management, or other services, or any variation of such contributions by two or more parties.

(f) *Eligible producer* means any person who is engaged in the production and sale of peanuts in the United States and who:

(1) Owns, or shares the ownership and risk of loss of, the crop. This does not include quota holders who do not share in the risk of loss of the crop;

(2) Rents peanut production facilities and equipment resulting in the ownership of all or a portion of the peanuts produced;

(3) Owns peanut production facilities and equipment but does not manage them and, as compensation, obtains the ownership of a portion of the peanuts produced; or

(4) Is a party in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce peanuts who share the risk of loss and receive a share of the peanuts produced. No other acquisition of legal title to peanuts shall be deemed to result in persons becoming eligible producers.

§ 1216.102 Voting.

(a) Each person who is an eligible producer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast only one ballot in the referendum. However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce peanuts, in which more than one of the parties is a producer, shall be entitled to cast one ballot in the referendum covering only such producer's share of the ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer, or an administrator, executor, or trustee or an eligible producing entity may cast a ballot on behalf of such producer. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible producer, or an administrator, executive, or trustee of an eligible producing entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) All ballots are to be cast by mail or by facsimile, as instructed by the Secretary.

§ 1216.103 Instructions.

The referendum agent shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(c) Give reasonable public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible producers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the Peanut Promotion, Research, and Information Order. No person who claims to be eligible to vote shall be refused a ballot.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.

§ 1216.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in performing such agent's functions under this subpart. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1216.105 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefor, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1216.106 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

§ 1216.107 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Act and the voting list shall be held confidential and shall not be disclosed.

Dated: April 19, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–10135 Filed 4–22–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1216

[FV–98–702–PR 2]

Proposed Peanut Promotion, Research, and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum Order.

SUMMARY: This proposed rule would establish an industry-funded promotion, research, and information program for peanuts. A proposed program—the Peanut Promotion, Research, and Information Order (Order)—was submitted to U.S. Department of Agriculture (USDA or Department) by the American Farm Bureau Federation. Under the Order, peanut producers would pay an assessment of 1 percent of the price of farmers stock peanuts sold to first handlers. First handlers and marketing associations would remit the assessments to the proposed National Peanut Board (Board). The proposed program would be implemented under the Commodity Promotion, Research, and Information Act of 1996 (Act). In addition, the USDA is announcing that a referendum will be conducted among eligible peanut producers to determine whether they favor the implementation of the program.

DATES: In Order to be eligible to vote, peanut producers must have produced peanuts during the period from August 1, 1997, through July 30, 1998 (representative period). The voting period for the referendum will be May 24 through June 11, 1999.

FOR FURTHER INFORMATION CONTACT: Daniel R. Williams II, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, 1400 Independence Avenue, S.W., Room 2535-S, Washington, D.C. 20250–0244; telephone (202) 720–9916 or fax (202) 205–2800.

SUPPLEMENTARY INFORMATION: This Order is issued pursuant to the Commodity Promotion, Research, and Information Act of 1996, 7 U.S.C. 7401–7425; Public Law 104–127, enacted April 4, 1996, hereinafter referred to as the Act.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or state law authorizing promotion or research relating to an agricultural commodity.

Under Section 519 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within 2 years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary of Agriculture (Secretary) will issue a ruling on a petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Executive Order 12866

This proposed rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agency has examined the impact of the proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

The Act authorizes generic programs of promotion, research, and information for agricultural commodities. Congress found that it is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, government-supervised, generic commodity promotion programs.

This program is intended to develop and finance an effective and coordinated program of promotion, research, and consumer information to maintain and expand the markets for peanuts. A proposal was submitted by the American Farm Bureau Federation (proponent), working in cooperation with 20 state and regional peanut grower organizations representing the nine primary peanut-producing states and other states. The proponent has proposed that peanut producers approve the program in a referendum in advance of its implementation, and producer members would serve on the 10 member Board that would administer the program under USDA's supervision. In addition, any person subject to the program may file with the Secretary a petition stating that the Order or any provision is not in accordance with law and requesting a modification of the Order or an exemption from the Order.

While the proposed Order would impose certain recordkeeping requirements on first handlers, information required under the proposed Order could be compiled from records currently maintained. First handlers and area marketing associations—for peanuts placed under loan with the Commodity Credit Corporation (CCC) in the price support program administered for CCC by USDA's Farm Service Agency (FSA)—would collect and remit all assessments to the Board. Their responsibilities would include accurate recordkeeping and accounting of all peanuts purchased or contracted for, including the number of pounds handled, price paid to the producer, and when peanuts are purchased. The forms require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act. Such records shall be retained for at least two years. These requirements are either already being conducted as a normal business practice or are required by other USDA peanut regulations. The added burden to first handlers and area marketing associations for a peanut promotion, research, and information program is therefore expected to be minimal.

There is also a minimal burden on producers. The burden relates to those producers who would seek nomination to serve on the Board and those who vote in referenda. In addition, the proposed Order would require producers to keep records and to provide information to the Board or the Secretary when requested. However, it is not anticipated that producers would be required to submit forms to the Board. Most likely, the information would be obtained through an audit of a producer's records to confirm information provided by a first handler or if a first handler did not file the required reports as part of the Board's compliance operation.

The estimated annual cost of providing the information to the Board by an estimated 98 respondents (21 producers, 57 first handlers, and 20 producer organizations) would be $4,059.85 or $5.00 per producer, $66.05 per first handler, and $9.50 per producer organization.

The Department would oversee program operations and, if the program is implemented, would conduct a referendum (1) every five years to determine whether peanut producers support continuation of the program, (2) at the request of the Board established under the Order, or (3) at the request of 10 percent or more of the number of persons eligible to vote in referenda. Additionally, the Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the Order or a provision of the Order is favored by those eligible to vote in referenda.

There are approximately 25,000 producers and 57 first handlers of peanuts that would be subject to the program. Most of the producers would be classified as small businesses under the criteria established by the Small Business Administration (SBA) (13 CFR 121.601). Most first handlers would not be classified as small businesses. The SBA defines small agricultural handlers as those whose annual receipts are less than $5 million, and small agricultural producers are defined as those having annual receipts of not more than $500,000 annually.

According to USDA's National Agricultural Statistics Service (NASS), the nine major peanut-producing states in the United States account for 99 percent of the peanuts grown in this country. The combined production from these states totaled 3.5 billion pounds in 1997. The farm value of peanuts in 1997 reached $932 million. NASS reports that Georgia was the largest producer (38 percent of the total), followed by Texas (23 percent), Alabama (11 percent), North Carolina (9 percent), Florida (6 percent), Virginia (5 percent), Oklahoma (5 percent), New Mexico (1 percent), and South Carolina (1 percent). According to 1992 Census of Agriculture (Census) data, small amounts of peanuts were also grown in seven other states.

According to the proponent, based on Census data for these nine states, 36 percent of the peanut-producing counties in the United States acquired 35 percent or more of their total crop income from peanuts. Twenty-four percent of the counties had 50 percent or more of their crop income from peanuts. From a state perspective, 70 percent of the crop income in Alabama's peanut-producing counties is generated from peanuts. For Virginia, the percentage is 48 percent. In addition, 16,194 farms harvested peanuts in 1992. Of these, 15,914 were located in the nine primary peanut-producing states.

Three main types of peanuts are grown in the United States: Florunners, Virginia and Spanish. The southeast growing region grows mostly the medium-kernel Runner peanuts. The southwest growing region used to grow two-thirds Spanish and one-third Runner peanuts, but now more Runners than Spanish are grown. Virtually all of the Spanish peanut production is in Oklahoma and Texas. In the Virginia-Carolina region, mainly large-kernel Virginia peanuts are grown. New Mexico grows a fourth type of peanut, the Valencia.

Peanut manufacturers produce three principal peanut products: peanut butter, packaged nuts (including salted, unsalted, flavored, and honey-roasted nuts), and peanut candies. In most years, half of all peanuts produced in the United States for edible purposes are used to manufacture peanut butter. Packaged nuts account for almost one-third of all processed peanuts. Some of these (commonly referred to as "ballpark" peanuts) are roasted in the shell, while a much larger quantity is used as shelled peanuts packed as dry-roasted peanuts, salted peanuts, and salted mixed nuts. Some peanuts are ground to produce peanut granules and flour. Other peanuts are crushed to produce oil.

According to USDA's Foreign Agricultural Service, U.S. exports of peanuts (including peanut meal, oil, and peanut butter) totaled 880 million in-shell equivalent pounds in 1997, with a value of $285 million (U.S. point of departure for the foreign country). Of the total quantity, 60 percent was shelled peanuts used as nuts, 11 percent was blanched or otherwise prepared or preserved peanuts, 10 percent was in-shell peanuts, 7 percent was peanut butter, 4 percent was shelled oil stock peanuts, 4 percent was crude peanut oil, and 3 percent was refined peanut oil.

The major destinations for domestic shelled peanuts for use as nuts are Canada, Mexico, the United Kingdom, and the Netherlands. Blanched or otherwise prepared peanuts are sent mainly to Western Europe, especially the Netherlands, France, and Spain. In-shell peanuts are mainly exported to Canada and various countries in Western Europe. Peanut butter is sent to many countries, with the largest amounts going to Canada and Saudi Arabia. Peanut oil and oil stock peanuts are exported world-wide, but major destinations can vary from year to year.

Approximately 250 million in-shell equivalent pounds of peanuts and processed peanuts (including oil and peanut butter) were imported in 1997 with a combined value (f.o.b. country of origin) of $73 million. Most of the imports (45 percent) were shelled peanuts for use as nuts. The major U.S. supplier is Argentina, but several other countries export shelled peanuts to the United States, including Mexico, Nicaragua, and South Africa.

Peanut butter imports are also significant and accounted for about 32 percent of the total quantity of nuts (in-shell basis) imported in 1997. Most peanut butter imports come from Canada and Argentina. The other major import category—crude and refined peanut oil—are shipped mainly from Argentina and Nicaragua and account for approximately 18 percent of total imports (in-shell equivalent basis). In-shell peanuts, primarily from Mexico, accounted for nearly 3 percent of total imports in 1997. About 3 percent of total imports consisted of blanched or other processed peanuts, mainly from China. Imports of oil stock shelled peanuts were negligible.

Most peanuts produced in other countries are crushed for oil and protein meal. The United States is the main producer of peanuts used in such edible products as peanut butter, roasted peanuts, and peanut candies. Peanuts are one of the world's principal oilseeds, ranking fourth behind soybeans, cottonseed, and rapeseed. India and China usually account for half of the world's peanut production.

According to the "Agricultural Statistics Report" published by USDA, during the 1995–96 season, the average annual production per U.S. producer was 144,228 pounds of peanuts. Peanuts produced during these growing seasons provided average annual gross sales of $42,222 per peanut producer. The value of the 1995–96 crop was approximately $1.013 billion. During the same period, per capita consumption in the United States was 5.7 pounds of peanuts.

The Order would authorize a fixed assessment paid by producers (to be collected by first handlers) at a rate of 1 percent of the price paid for all farmers stock peanuts, regardless of whether the peanuts are sold commercially or placed under loan with CCC in the price support program administered for CCC by FSA.

Section 516(a)(1) of the Act provides authority to the Secretary to exempt from the Order any de minimis quantity of an agricultural commodity otherwise covered by the Order. The proponent

has elected not to provide for exemptions for a de minimis amount regarding peanuts. Therefore, the term de minimis is not defined in the proposed Order, and a de minimis exemption is not included.

At the proposed rate of assessment of 1 percent of farm value, the Board would collect approximately $10 million annually, assuming 1 billion pounds of peanuts are produced. It is expected that the 1 percent rate of assessment would represent approximately 1 percent of producers' average return. In 1995–96, the average price for peanuts was $0.293 per pound.

USDA will keep all individuals informed throughout the referendum process to ensure that they are aware of and are able to participate in the referendum. USDA will publicize information regarding the referendum process so that trade associations and related industry media can be kept informed. If the program is implemented, the newly established Board would recommend to USDA regulations for the program.

In addition, the peanut industry would nominate producers to serve as members on the Board. The Board would recommend the assessment rate, programs and projects, a budget, and any other rules and regulations that might be necessary for the administration of the program. USDA would ensure that the nominees represent the peanut industry in accordance with the Act. Primary peanut-producing states are defined in the Order as Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, provided that these states maintain 3-year average production of at least 10,000 tons of peanuts each. Minor peanut-producing states are defined in the Order as all peanut-producing states other than the primary peanut-producing states. Currently, the following states would be considered minor states: Arizona, California, Louisiana, Mississippi, and Tennessee.

Each primary producing state would have one member on the Board, and the minor peanut-producing states would be represented collectively by one member on the Board. Each member would have an alternate. Therefore, the Board would have 10 members and 10 alternates.

Proposed recordkeeping and reporting requirements for the peanut promotion, research, and information program would be designed to minimize the burden on first handlers. It is USDA's goal to collect as much information as possible from forms already submitted to another USDA agency. In addition, any information collection that could not occur through forms already in use would pose a minimal additional burden. The peanut promotion program would be designed to strengthen the position of peanuts in the marketplace, maintain and expand existing domestic and foreign markets, and develop new uses and markets for peanuts.

The estimated annual cost of providing the information to the proposed Board by an estimated 98 respondents (21 producers, 57 first handlers, and 20 producer organizations) would be $4,059.85, or $5.00 per producer, $66.05 per first handler, and $9.50 per producer organization.

With regard to alternatives to this proposed rule, the Act itself does provide for authority to tailor a program according to the individual needs of an industry. Provision is made for permissive terms in an Order in Section 516 of the Act, and other sections provide for alternatives. For example, Section 514 of the Act provides for Orders applicable to (1) producers, (2) first handlers and other persons in the marketing chain as appropriate, and (3) importers (if imports are subject to assessment). Section 516 authorizes an Order to provide for exemption of de minimis quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports. In addition, Section 518 of the Act provides for referenda to ascertain approval of an Order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the Order. An Order also may provide for its approval in a referendum to be based upon (1) a majority of those persons voting; (2) persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. Section 515 of the Act provides for establishment of a board from among producers, first handlers, and others in the marketing chain as appropriate and importers, if importers are subject to assessment.

The proposal included provisions for both domestic and foreign market expansion and improvement; reserve funds; and an initial referendum to be conducted prior to the Order going into effect, with approval based upon a majority of those persons voting in a referendum.

In order to conduct the Regulatory Flexibility Analysis regarding the impact of this proposed Order on small entities, the proposed rule that was published in the **Federal Register** on November 6, 1998 (63 FR 59907) invited comments concerning the potential effects of the proposed Order. Concerning the information collection burden, one comment was received regarding the effect of the paperwork burden on first handlers. The concern of the commenter was that there would be significant administrative and financial burdens associated with collecting the information necessary to produce these reports and, finally, the production of the reports. The Department recognizes the burden that may be placed on first handlers due to the reports. In order to reduce this burden on first handlers, we modified § 1216.60 to eliminate the monthly requirement for first handlers to identify each producer, the address of the producer, and the date assessments were collected. However, we have also modified § 1216.61 *Books and records* to clarify what books and records first handlers and producers must maintain and make available to the Secretary and Board employees as necessary. This section now states that copies of FSA 1007 forms, the names and addresses of producers, and the date when assessments were collected must be maintained by first handler and producer. One purpose of this change is to help ensure that this information is available for enforcement purposes.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulation (5 CFR Part 1320) which implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that may be imposed by this Order have been submitted to OMB for approval and have been approved under OMB control number 0581–0093.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number for background form (number 1 below): 0505–0001.

Expiration Date of Approval: June 30, 1999.

OMB Number for other information collections: 0581–0093.

Expiration Date of Approval: November 30, 2000.

Type of Request: Revision of currently approved information collections for advisory committees and boards and for research and promotion programs.

Abstract: The information collection requirements in the request are essential to carry out the intent of the Act.

In addition, there will be the additional burden on producers of voting in referenda. The referendum ballot, which represents the information collection requirement relating to referenda, is addressed in a final rule on referendum procedures which is published separately in this issue of the **Federal Register**.

Under this program, first handlers would be required to collect assessments from producers and file reports with and submit assessments to the Board. While the proposed Order would impose certain recordkeeping requirements on first handlers, information required under the proposed Order could be compiled from records currently maintained. Such records shall be retained for at least two years beyond the marketing year of their applicability. The estimated annual cost of providing the information to the Board by an estimated 98 respondents (21 producers, 57 first handlers, and 20 producer organizations) would be $4,059.85, or $5.00 per producer, $66.05 per first handler, and $9.50 per producer organization.

The Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other peanut programs administered by the Department.

Most of the proposed forms require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act. Such information can be supplied from the FSA Form 1007 without data processing equipment or outside technical expertise. FSA Form 1007 Inspection Certificate and Sales Memorandum is a standard form used within the peanut industry to collect peanut crop characteristics and value of the load from the producer to the first handler. This form will provide the information that would be needed in order to complete the first handlers form for the Board. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

Collecting information monthly would coincide with normal industry business practices. Reporting other than monthly would impose an additional and unnecessary recordkeeping burden on first handlers. The timing and frequency of collecting information is intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports.

Information collection requirements that are included in this proposal include:

(1) *A background information form to be completed by candidates nominated by certified producer organizations for appointment to the Board.*

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hours per response for each producer.

Respondents: Producers.

Estimated number of Respondents: 21 (average of 40 for initial nominations to the Board and approximately 12 respondents annually thereafter for each 3-year period).

Estimated number of Responses per Respondent: 1 every 3 years.

Estimated Total Annual Burden on Respondents: 20 hours for the initial nominations to the board and 6 hours annually thereafter.

(2) *A monthly report by each first handler of peanuts.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per each first handler reporting on peanuts handled.

Respondents: First handlers.

Estimated number of Respondents: 57.

Estimated number of Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 342 hours.

(3) *Nomination information by which certified producer organizations would nominate producers for membership on the Board.*

Estimate of Burden: Public reporting burden for this collecting of information is estimated to average 0.5 hours per response.

Respondents: Certified producer organizations.

Estimated number of Respondents: 20.

Estimated number of Responses per Respondent: 1 per year.

Estimated Total Annual Burden on Respondents: 10 hours.

(4) *An application for peanut producer organizations for certification of eligibility to nominate Board members.*

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hours per response for each organization.

Respondents: Peanut producer organizations.

Estimated number of Respondents: 9.

Estimated number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 9 hours.

(5) *A requirement to maintain records sufficient to verify reports submitted under the Order.*

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.5 hours per recordkeeper maintaining such records.

Recordkeepers: First handlers.

Estimated number of recordkeepers: 57.

Estimated total recordkeeping hours: 28.5 hours.

Comments were invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Order and the Department's oversight of the program, including whether the information will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Information that is needed for recordkeeping would come from the FSA 1007 form. As stated earlier, this form is a standard form within the peanut industry and its use would result in no new training of personnel.

As discussed previously in the Regulatory Flexibility Analysis, one comment was received regarding the effect of the paperwork burden on first handlers. The concern of the commenter was that there would be significant administrative and financial burdens associated with collecting the information necessary to produce these reports and, finally, the production of the reports. The Department recognizes the burden that may be placed on first handlers due to the reports. In order to reduce this burden on first handlers, we have modified § 1216.60 to eliminate the monthly requirement for first handlers to identify the name and address of each producer and the date assessments were collected. However, we have also modified § 1216.61 *Books and records* to clarify what books and records that first handlers and producers must maintain and make available to the Secretary and Board employees. This section now states that

copies of FSA 1007 forms, the name and addresses of producers, and the date when assessments were collected must be maintained by the first handler and producer. The purpose of this change is to help ensure that this information is available for enforcement purposes.

Background

The Act authorizes the Secretary, under a generic authority, to establish agricultural commodity research and promotion Orders. Section 516 of the Act provides permissive terms for Orders, and other sections provide for alternatives. For example, Section 514 of the Act provides for Orders applicable to (1) producers, (2) first handlers and others in the marketing chain as appropriate, and (3) importers (if importers are subject to assessment). Section 516 authorizes an Order to provide for exemption of de minimis quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports. In addition, Section 518 of the Act provides for referenda to ascertain approval of an Order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the Order. The Order also may provide for its approval in a referendum based upon different voting patterns. Section 515 provides for establishment of a board from among producers, first handlers and others in the marketing chain as appropriate, and importers, if imports are subject to assessment.

This proposed Order includes provisions for both domestic and foreign market expansion and improvement, reserve funds, and an initial referendum to be conducted prior to the Order going into effect and with approval based upon a majority of those persons voting in the referendum.

The Act provides for a number of optional provisions that allow the tailoring of Orders for different commodities.

The proponent, working in cooperation with 20 state and regional peanut industry organizations representing the nine primary peanut-producing states, has requested the establishment of a national peanut promotion, research, and information Order pursuant to the Act. The Act authorizes the establishment and operation of generic promotion programs which includes a combination of promotion, research, industry information, and consumer information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities. This proposal provides for the development and financing of an effective and coordinated program of research, promotion, and information for peanuts. The purpose of the program is to strengthen the position of peanuts in domestic and foreign markets, and to develop, maintain, and expand markets for peanuts.

The program would not become effective until approved by peanut producers in a referendum to be conducted by USDA. Section 518 of the Act provides for the Department (1) to conduct an initial referendum, preceding a proposed Order's effective date, among persons who would pay assessments under the program or (2) to implement a proposed Order, pending the conduct of a referendum, among persons subject to assessments, within 3 years after assessments first begin.

In accordance with Section 518(e) of the Act, the results of the referendum must be determined one of three ways: (1) approval by a majority of those persons voting; (2) approval by persons voting who represent a majority of the volume of the commodity covered by the program; or (3) approval by a majority of the persons voting who also represent a majority of the volume of the commodity produced, handled, or imported by the persons voting.

The proponent proposes that the Department conduct an initial referendum preceding the proposed Order's effective date and that approval of the Order be determined by a simple majority of the producers voting.

In accordance with the Act, the Department would oversee the program's operations. In addition, the Act requires the Secretary to conduct subsequent referenda: (1) not later than 7 years after assessments first begin under the Order; or (2) at the request of the board established under the Order; or (3) at the request of 10 percent or more of the number of persons eligible to vote. The proponent group has requested that a referendum be conducted every 5 years to determine if producers want the program to continue.

In addition to these criteria, the Act provides that the Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the Order or a provision of the Order is favored by persons eligible to vote.

The proponent states that the United States Congress has established a number of programs since the early 1930's to support and stabilize farm prices and income and to adjust production in 1934. In 1949, a revised system of marketing quotas and acreage allotments for peanuts began. Since then, Congress has amended and changed the peanut program a number of times, with the latest changes made to the peanut title in 1996 with the passage of the Federal Agriculture Improvement and Reform (FAIR) Act. The new program retains its price support and supply management elements while operating at no cost to the government other than administrative expenses common to all price support programs. The new program also lowers the loan rate for quota peanuts from $678 per ton to $610 per ton and freezes that price for the life of the program, through 2002. In addition, the quota level, which the Secretary could not set below 1.35 million tons prior to passage of the FAIR Act, has been reduced to equal the anticipated domestic demand for peanuts.

The proponent has identified a number of market and production factors that suggest the need for a national research, promotion, and information program for peanuts. The most basic problem affecting peanut marketing is a drop in demand caused by negative health perceptions of peanuts' fat content, competition from other snack foods, and lack of awareness among young people.

In addition, the proponent cites other factors. Government purchases of peanut butter are down. If purchases return to historic heights, purchases will still not be enough to reverse supply/demand trends. Also, a 1997 Gallup survey revealed that 87 percent of all consumers are peanut users, while 13 percent did not consume any peanuts in the past year. Per capita consumption of peanuts has been decreasing. It appears now that demand trends have bottomed out and are starting to rise. National promotion could bolster this trend.

The same survey indicated that the percent of peanut non-users is increasing, as is the percent of young people not consuming peanuts or peanut products. Thirty-five percent of all consumers surveyed indicated they did not consume any snack peanuts, and more than 40 percent thought peanuts contained cholesterol when, in fact, peanuts contain none.

The proponent also states that 26 percent of all consumers did not consume any peanut butter in 1997. Peanut butter could be an affordable

alternative for low-income consumers in comparison to other sandwich options, but fewer and fewer low income consumers are using peanut butter as an alternative.

In addition, in 1996, the farm value of U.S. peanuts fell below $1 billion, to $970 million, for the first time since 1982.

Further, the domestic industry is facing increased competition in the United States and abroad from lower-priced peanuts produced in other countries. The value of peanuts and peanut products imported into the United States exceeded $100 million in 1996.

All of these factors have led the domestic peanut industry to seek a national promotion program to find ways to further increase the consumption of U.S. peanuts.

Section 516(f) of the Act allows an Order to authorize the levying of assessments on imports of the commodity covered by the program or on products containing that commodity, at a rate comparable to the rate determined for the domestic agricultural commodity covered by the Order. The program would not assess imports.

The assessment levied on domestically produced peanuts will be used to pay for promotion, research, and consumer and industry information as well as administration, maintenance, and functioning of the Board. Expenses incurred by the Secretary in implementing and administering the Order, including referenda costs, also would be paid from assessments.

Sections 516(e)(1) and (2) of the Act state that the Secretary may provide credits of assessments for generic and branded activities. The proponent did not elect to propose credits for generic or branded activities. Therefore, the terms "generic activities" and "branded activities" are not defined in the Order, and credits for assessments on generic and branded activities would not be made.

First handlers will be responsible for the collection of assessments from the producer and payment to the Promotion Board. First handlers will be required to maintain records for each producer for whom peanuts are handled, including peanuts produced by the first handler. In addition, first handlers will be required to file reports regarding the collection, payment, or remittance of the assessments.

All information obtained from persons subject to this Order as a result of recordkeeping and reporting requirements will be kept confidential by all officers, employees, and agents of the Department and of the Board. However, this information may be disclosed only if the Secretary considers the information relevant, and the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party. Other exceptions for disclosure of confidential information would include the issuance of general statements based on reports or on information relating to a number of persons subject to an Order if the statements do not identify the information furnished by any person or the publication, by direction of the Secretary of the name of any person violating the Order and a statement of the particular provisions of the Order violated by the person.

The proposed Order provides for the Department to conduct an initial referendum preceding the proposed Order's effective date. Therefore, the proposed Order must be approved by a majority of the producers voting for approval in the referendum. The proposed Order also provides for subsequent referenda to be conducted (1) every 5 years after the program is in effect, (2) at the request of the Board established under the Order, or (3) when requested by 10 percent or more of peanut producers covered by the Order. In addition, the Secretary may conduct a referendum at any time.

The Act requires that such a proposed Order provide for the establishment of a Board to administer the program under USDA supervision. The proponent's proposal provides for a 10-member National Peanut Board.

To ensure fair and equitable representation of the peanut industry on the Board, the Act requires membership on the Board to reflect the geographical distribution of the production of peanuts. To that end, this proposal provides that each primary peanut-producing state will be represented on the Board by one producer member and alternate and that the minor peanut-producing states will be represented collectively by one at-large producer member and alternate. Based on current information on production in the various states, the Order defines the primary peanut-producing states as Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, provided that these states maintain three-year average production of at least 10,000 tons of peanuts.

Upon implementation of the Order and pursuant to the Act, the Board will at least once in each five-year period, but not more frequently than once in each three-year period, review the geographical distribution of peanuts in the United States and make a recommendation to the Secretary after considering the results of its review and other information it deems relevant regarding the reapportionment of the Board.

Members and alternates would serve for three-year terms, except that the members and alternates appointed to the initial Board would serve proportionately for two-, three-, and four-year terms. No member or alternate would serve more than two consecutive three-year terms.

The Department received an entire proposed Order from the American Farm Bureau Federation on June 15, 1998.

Prior to publication, the Department modified the proponent's proposal to make it consistent with the Act, other similar national research and promotion programs, and other Federal peanut programs administered by the Department; for consistency throughout the text; and for clarity.

In the definitions and throughout the text of the Order, "farmer stock peanuts" was changed to "farmers stock peanuts" for consistency with industry use and existing regulations.

A definition for "first handler" was added for consistency with similar national research and promotion programs, and subsequent sections were renumbered accordingly.

The definition of "information" was rewritten to include activities designed to enhance peanuts' image, to add definitions of "consumer information" and "producer information," and to conform with the Act.

The definition of "quota peanuts" was rewritten to reference 7 CFR Part 729.

In § 1216.41 (Nominations), the phrase "qualified nominating organizations" was changed to read "certified nominating organizations" for consistency with the text.

In addition, § 1216.50 (h) was revised to be consistent with the Act. Paragraph (e)(5) *Limitation on spending* of § 515 of the Act states that a Board "may not expend for administration (except for reimbursements to the Secretary . . .)" an amount that exceeds 15 percent of the Board's income during any fiscal year. The proposal submitted set a more stringent limitation of 10 percent and stated that administrative expenses included reimbursement to the Secretary. The Order may set the more stringent limitation of 10 percent because that amount is less than the 15 percent provided in the Act. However, the Order may not provide that

reimbursements to the Secretary are covered by the limitation on spending.

Other minor changes which did not materially affect the text were made for consistency. For instance, in the definitions, "additional peanuts are . . ." was changed to read "additional peanuts means . . ." As another example, in sections containing only one paragraph, the paragraph designation was removed. Minor grammatical changes also were made.

The proponent also submitted "Subpart B—Voting Procedures and Approval of the Peanut Promotion, Research, and Information Order." This proposed subpart was revised and included as § 1216.81 of the proposed Order.

A proposed rule seeking comments on the national research and promotion program for peanuts was published on November 6, 1998 in the **Federal Register** [63 FR 59893]. Comments were invited on the entire proposal with the deadline for comments on January 5, 1999. Fourteen comments were received. Comments were received from 10 peanut producers associations or growers associations, two manufacturer associations, one manufacturer, and one peanut producer. Four commenters simply stated that they supported the proposal and/or recommended that USDA conduct the referendum as early in Spring 1999 as possible. The other comments are discussed below.

Two comments were submitted about § 1216.03 which defines area marketing associations. Each felt that the statement in § 1216.03 that area marketing associations will assist in the collection of assessments conflicted with the assessment provisions in § 1216.51(h). To correct this we have accepted their solution of changing the word "will" to "may" in § 1216.03.

One comment noted that § 1216.06 includes peanuts for crushing for exportation and asked if peanuts for domestic crushing were covered by the proposed Order. In response, § 1216.11 *Handle* includes peanuts for domestic crushing.

One comment was received about § 1216.18 which defines peanut producer organizations eligible for receipt of check-off funds. The commenter felt that any peanut producer organization that is involved in lobbying activities should not be eligible for receipt of check-off funds. We do not find merit in this comment. Any peanut producer organization that receives funds will only be eligible for the funds after meeting the certification as outlined in § 1216.70 and will be prohibited from using Board funds for lobbying, pursuant to § 1216.49.

A comment was submitted about § 1216.23 which defines quota peanuts. The commenter felt that this definition should provide for the assessment of peanuts that are not marketed and held back in storage. We disagree and believe that the term does not need further clarification in the proposed Order. Section 1216.51 *Assessments* outlines which peanuts are to be assessed and how to handle farmers stock peanuts. In addition, § 1216.11 defines handle. The intent of this Order is only to assess peanuts that enter the current of commerce.

A comment was received on § 1216.24 which defines research as any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of peanuts, including research relating to nutritional value and cost of production. The commenter felt that this section allowed for research to justify the continued existence of the FSA peanut program. We don't find merit in this comment. The research as outlined is performed to increase the marketability of peanuts and not justify other peanut programs.

A comment was submitted on § 1216.41 which outlines the nomination procedures. The commenter felt that the nomination procedures should be clarified to indicate that all peanut producers eligible to serve on the Board would participate in the nomination process. We have accepted the comment and revised the third sentence in § 1216.41 (a) to read: "The nominees shall be chosen at an open meeting by election among peanut producers eligible to serve on the Board."

In addition, we have adopted the following recommendations made by the same commenter and revised § 1216.41 to require (1) widespread announcements in addition to public notice to all growers; (2) 30 day advanced notice prior to a nomination meeting; and (3) USDA personnel to be present to oversee and to verify eligibility and count ballots. The commenter also requested USDA to conduct the nomination meeting for the initial Board appointments. However, by having USDA personnel present at the initial meeting, we do not find it necessary for USDA to hold the initial grower meetings for nominations. Therefore, that part of the comment is denied. In addition, this commenter wished for pre-addressed ballots to be issued at nomination meetings and a list of persons eligible to vote at the open nominations meeting be issued upon entrance to said meetings. These comments are denied. USDA's role in these meetings is to oversee the process and not set the procedures of the meetings.

A comment was received in respect to § 1216.48(j) which outlines the powers and duties of the National Peanut Board. The commenter questioned why the Board would act as intermediary between the Secretary and any producer or first handler, especially when there is no first handler member on the Board. It is true that there is no handler member on the Board. However, handlers would be collecting the assessments under the program and remitting them to the Board. Therefore, a handler's first point of contact regarding the requirements of the program would be the staff of the Board. This does not preclude any first handler from contacting the Secretary. Therefore, this comment is denied.

One comment was received about § 1216.49. This section deals with the prohibited activities of the Board, employees, and agents of the Board. The commenter felt that this section should be modified using stronger language to ensure that funds are not used for other activities other than promotion, research and consumer/producer information. We deny this comment. This language is consistent with other National Promotion Programs and has prohibited improper activities.

Three comments were received about § 1216.50(h). This section limits the amount the Board may spend on administration, maintenance, and functioning in any fiscal year to no more than 10 percent of assessments. Two comments recommended lowering this to 5 percent of the assessments. The third comment recommended maintaining the 10 percent requirement. The first two comments are denied. Although 10 percent is stated in the proposed Order, the Board may in fact operate below that rate, but to mandate this amount could restrict the Board in its daily operations.

Five comments were received on § 1216.50(i) which addresses budget and expenses. Each commenter had concerns that the use of the words "quota peanuts" to describe the peanuts that would be assessed was too narrow in scope. We accept their comments and have revised § 1216.50(i) to state that the allocation of funds would be based on the assessments collected from all peanuts.

Two comments about § 1216.50(i) were received addressing the allocation of the assessments. The commenters recommended that this provision be revised to ensure that no less than 80 percent of the Board's funds are used in

national programs. We believe that this comment has merit. To reduce the possibility of having more than the 20 percent of the Board's funds spent on state or regional research, we have revised § 1216.50(i) to state that the Board shall allocate, to the extent practicable, no less than 80 percent of the assessments to national and regional promotion, research, and information and no more than 20 percent to state or regional research.

Two comments were received about § 1216.50(k) which provided for assessments collected from the gross sales of contract export additional peanuts to be provided to a primary contractor for the promotion and related research of export peanuts. Each commenter felt that assessments collected from contract export additional peanuts would not share the burden of research at the state and regional level. We don't find merit in these comments. We feel that § 1216.50(k) provides for either market or production research to be conducted. Research that is done for export peanuts does overlap with research for domestic peanuts. In addition, § 1216.50(l) provides the Board with the flexibility to change how funds are used in § 1216.50(k). Therefore, this comment is denied.

One comment stated that half of the financial burden should be shifted to handlers, whereas § 1216.51(a) specifies that assessments will be paid by producers. This comment is denied. The proponent group, which was comprised of producers, recommended only a producer assessment.

One comment was received concerning the language of the Act and payment of assessments. The commenter questioned whether the Act's assessment language covered only handler paid type programs. The Act authorizes producer assessment type programs as provided in this proposal. We do not find merit in this comment.

A comment was received in regard to § 1216.51(b) which deals with the collection of the assessments. The commenter believed that the words ". . . peanuts owned by the first handler . . ." is vague and subject to interpretation. We agree with this comment and have changed § 1216.51(b) to read: ". . . peanuts produced by the first handler . . ."

Three comments were received on § 1216.51(c) which sets the assessment rate. The commenters wished to change the basis of the assessments to either a per ton basis or a percent of the support price. We do not find merit in these comments. This proposal was submitted by producer groups which recommended the assessments be collected on a percent of the price paid (the "value of segment" on FSA 1007). They maintain this is the most equitable system. If assessments were based on the number of tons, an inequity would exist because of the variation in prices paid for different types and qualities of peanuts. Also, there would have to be at least two assessment rates: one for quota peanuts and one for contract export additional peanuts. Basing the assessment on the price paid allows the program to have one assessment rate that is applied equally to all peanuts. If the assessment were based on the support price, the proposed Order would have to be revised if the support program is changed or eliminated. For example, if the support price is lowered, the promotion program assessment would need to be raised to compensate for the loss in income in order to assure continuity in the Board's programs. Basing assessments on the price paid would provide continuity in funding for a national program, regardless of the changes in or the existence of the support program. Therefore, these comments are denied.

In addition, a comment was submitted about the use of the words "price paid" in § 1216.51(c). The commenter felt that the use of the words "price paid" can be subject to interpretation. We have accepted this comment and added the following language to § 1216.51(c): Price paid shall mean the value of segment on the FSA 1007 form.

One comment requested clarification of who is responsible for collection assessments on peanuts when the immediate buyback is used. In response, § 1216.51(d) states that area marketing associations shall remit assessments to the Board on all peanuts placed under loan, which would have included buyback peanuts.

Two comments were submitted on § 1216.51(f) which addresses late payments. The commenters requested confirmation that late payments of assessments should be subject to penalties in the form of interest and not any damages that may have been incurred from the late payment. In response, it should be noted that § 1216.51(f) only provides for late payment charges in the form of interest on the outstanding balance due as recommended by the commenters. Therefore no change to this section is made.

Three comments were submitted on the Board having the ability to raise or lower the rate of assessment with the approval of the Secretary. The concern was that the Board could raise the rate without a producer referendum. In order to assure that producers have the ability to vote on the raising of the assessment rate, a new § 1216.51(i) has been added to the Order. This section would require a producer referendum in addition to notice and comment rulemaking when the Board recommends raising the assessment rate. Further, the Act provides for this action.

One comment was submitted on § 1216.60 which addresses the reports that first handlers must submit at the time monthly assessments are paid. The commenter felt there would be significant administrative and financial burdens associated with preparing these reports. The Department recognizes the burden that may be placed on first handlers. In order to reduce this burden on first handlers, we have changed § 1216.60 to eliminate the requirement to identify each producer, the address of the producer, and the date assessments were collected. In addition, § 1216.60 has been re-worded to correspond with the change in § 1216.51(c) which now defines the price paid as the entry in the value of segment section on the FSA 1007 form as recommended by the commenter. Also, we have added a new § 1216.60(b) to clarify when first handlers are to submit monthly reports and assessments.

We also have modified § 1216.61 *Books and records* to clarify what books and records that first handlers and producers must maintain and make available to the Secretary and Board employees. This section now states that copies of FSA 1007 forms, the names and addresses of producers, and the date when assessments were collected must be maintained by the first handler and producer. The purpose of this change is to help ensure that this information is available for enforcement purposes.

A comment was submitted on § 1216.62 which deals with confidential treatment. The commenter stated that this section does not provide adequate safeguards for the confidentiality of proprietary information. We disagree with this comment. This confidentiality provision is common to other similar national programs and has prevented any improper release of information. Therefore, we deem it sufficient in this Order. In addition, the Act states that any person who willfully violates this provision shall be subject, on conviction, to a fine of not more $1,000 or to imprisonment for not more than 1 year, or both.

Nonetheless, to address the commenter's concern, the modification to § 1216.61 *Books and Records* clarifies that only the Secretary and agents and employees of the Board (not

Board members) will have access to first handlers' and producers' records.

Three comments were submitted on § 1216.81(b), formerly § 1216.80(b), which outlines the implementation of the Order. Each commenter felt that this section was unclear and may contradict the definition of producer in § 1216.21. We concur with these comments. Therefore, in order to assure a clear understanding of the implementation provisions, we have inserted in § 1216.81(b) a reference to the definition of producer in § 1216.21.

Comments were submitted on § 1216.87 *Amendments,* formerly § 1216.86. The comments were in favor of requiring a referendum especially when increasing the assessment. As indicated above, we agree that there should be a referendum before the assessment rate is raised. However, we deny the comment because the addition of § 1216.51(i) addresses the need of a referendum to raise the assessment rate.

In summary, § 1216.03, § 1216.41, § 1216.50(i), § 1216.51(b), § 1216.51(c), § 1216.51(i), § 1216.60(a), § 1216.60(b), § 1216.60(c), § 1216.60(d), § 1216.61, and § 1216.81(b) have been revised as a result of comments received. Other changes to the proposed rule made by AMS are noted and discussed below.

Section 1216.03 was revised to use the word "may" instead of "will" in describing the role of an area marketing association in collecting assessments.

Section 1216.08 was added by AMS to provide a definition for the Department's Farm Service Agency. This will provide clarity to the proposed Order. Section of the Order have been renumbered accordingly.

Section 1216.41 was revised to ensure that the nominating process is open to all peanut producers. This was accomplished by adding new subsections (d) and (e).

Section 1216.50(i) was revised to change "quota peanuts" to "all peanuts" available. In addition, language was added to provide at least 80 percent of the assessments for national programs.

Section 1216.50(j) was modified by AMS. The language "and approved" was removed from this section. AMS felt that this language was repetitive and unnecessary.

Section 1216.50(k) was modified by AMS. The language "to an appropriate organization approved by the Secretary as the primary contractor" was removed from this section. This will provide flexibility to the Board.

Section 1216.51(b) was revised for clarification by changing "owned" to "produced". Section 1216.51(i) was revised to include the following language: Price paid is the value of segment entry on the FSA 1007 form. A new sub-section (i) was added to § 1216.51 to require a producer referendum on raising the assessment rate.

Section 1216.60 was revised to reduce the burden that was placed on first handlers. In order to accomplish this, sub-sections (a) and (b) were re-written.

Section 1216.61 was revised to state that copies of FSA 1007 forms, the names and addresses of producers, and the date when assessments were collected must be maintained by first handlers and producers.

A new § 1216.80 *Right of the Secretary* was added to provide conformity with existing programs. This section was added by AMS for consistency with similar National Research and Promotion Programs, and subsequent sections were renumbered accordingly.

Section 1216.81(b) was revised to prevent any contradiction with § 1216.21 by citing § 1216.21 in § 1216.81(b).

Other minor changes which did not materially affect the text of the Order were made for clarity.

The Order is summarized as follows: Sections 1216.01 through 1216.29 of the proposed Order define certain terms, such as peanuts, minor peanut-producing states, primary peanut-producing states, producer, and quota peanuts, which are used in the proposed Order.

Sections 1216.40 through 1216.49 include provisions relating to the Board establishment and membership, nominations, selections and acceptance, term of office, vacancies, alternate members, and compensation and reimbursement; procedures for conducting Board business; and powers and duties of the Board, which is the governing body authorized to administer the Order through the implementation of programs, plans, projects, budgets, and contracts to promote and disseminate information about peanuts, subject to oversight by the Secretary. These sections also include maintenance of books and records by the Board and prohibited activities of the Board, its employees, and agents.

In order to ensure support throughout the production area for all Board votes, § 1216.46(b) provides that all Board members' votes would be weighted by the value of production represented by each member. The votes of members from primary peanut-producing states would represent their respective states' three-year running average of total gross farm income derived from all peanut sales. The votes of the at-large Board member would equal the collective value of production from all minor peanut-producing states' three-year running average of total gross farm income from all peanut sales. Any Board action would require the concurring votes of members collectively representing more than 50 percent of the total U.S. gross farm income derived from all peanut sales plus an additional two votes from other Board members, provided a minimum of five members concur. Therefore, regardless of the volume voted by the members, no Board action would be approved unless at least five members voted in favor of it. Similarly, if five members vote in favor of a motion and those five members do not represent more than 50 percent of the total U.S. gross farm income derived from all peanut sales, the motion would not be approved.

Sections 1216.50 through 1216.55 would cover budget review and approval; authorize the collection of assessments; use of assessments, including reimbursement of necessary expenses incurred by the Board for the performance of its duties, including expenses incurred for the Department's oversight responsibilities; specify who pays the assessment and how; authorize the imposition of a late-payment charge on past-due assessments; address programs, plans, and projects; require the Board to conduct periodically an independent review of its overall program; specify a program operating reserve; and cover the investment of assessment funds.

There will be an assessment rate of 1 percent of the price paid for all farmers stock peanuts sold. Peanut producers may sell their peanuts commercially or put them in a government loan program. For peanuts sold commercially, the first handler would remit the assessment to the Board. The assessment would be 1 percent of the price paid for the peanuts. Under a loan program administered by FSA, a peanut producer also has the option of delivering the peanuts to an area marketing association and receiving payment for the peanuts from CCC. If the peanut promotion program is implemented, the area association would deduct 1 percent of the payment from the producer's proceeds and remit that amount to the Board as the producer's initial assessment payment on the peanuts. After the association sells the peanuts, the area association reimburses CCC the amount of the payment to the producer and deducts its expenses from the selling price. If the peanut promotion program is implemented and if there is any profit from the sale of the peanuts,

the association would deduct 1 percent of the profit, remit that amount to the Board to pay the producer's assessment, and pay the balance to the producer.

The Board may raise or lower the rate of assessment with the approval of the Secretary and a producer referendum.

The federal debt collection procedures referenced in § 1216.51(g) include those set forth in 7 CFR 3.1 through 3.36 for all research and promotion programs administered by AMS (60 FR 12533, March 7, 1995).

Sections 1216.60 through 1206.62 concern reporting and recordkeeping requirements for persons subject to the Order and protect the confidentiality of information from such books, records, or reports.

Section 1216.70 describes the certification requirements for peanut-producer organizations to be eligible to nominate Board members and submit requests for funds from the Board.

Sections 1216.80 through 1216.88 describe the rights of the Secretary; authorize the Secretary to suspend or terminate the Order when deemed appropriate; prescribe proceedings after suspension or termination; address personal liability, separability, and amendments; and address patents, copyrights, trademarks, information, publications, and product formulations developed through the use of assessment funds.

The Department has determined that this Order is consistent with and will effectuate the purposes of the Act.

For the Order to become effective, the Order must be approved by a simple majority of peanut producers voting in a referendum.

Referendum Order

It is hereby directed that a referendum be conducted among peanut producers to determine whether they favor implementation of the Peanut Promotion, Research, and Consumer Information Order.

The referendum shall be conducted from May 24 through June 11, 1999. Ballots will be mailed to all known eligible peanut producers on or before May 17, 1999. Eligible voters who do not receive a ballot by mail should call the following toll-free telephone number to receive a ballot: 1 (888) 720–9917. All ballots will be subject to verification. Ballots must be received by the referendum agents no later than June 11, 1999, to be counted.

Daniel R. Williams II and Martha B. Ransom, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2535–S, Stop 0244, Washington, D.C. 20250–0244, are designated as the referendum agents of the Secretary of Agriculture to conduct the referendum. The Procedure for the Conduct of Referenda in Connection with the Peanut Promotion, Research, and Consumer Information Order, 7 CFR 1216.101–1216.107, which is being published separately in this issue of the **Federal Register**, shall be used to conduct the referendum.

List of Subjects in 7 CFR Part 1216

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Title 7, Chapter XI of the Code of Federal Regulations be amended as follows:

PART 1216—PEANUT PROMOTION, RESEARCH, AND INFORMATION ORDER

1. The authority citation for part 1216 continues to read as follows:

Authority: 7401–7425.

2. Subpart A is added to part 1216 to read as follows:

Subpart A—Peanut Promotion, Research, and Information Order

Definitions

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1216.02 Additional peanuts.
1216.03 Area marketing association.
1216.04 Board.
1216.05 Conflict of interest.
1216.06 Contract export additional peanuts.
1216.07 Department.
1216.08 Farm Service Agency.
1216.09 Farmers stock peanuts.
1216.10 First handler.
1216.11 Fiscal year.
1216.12 Handle.
1216.13 Information.
1216.14 Market.
1216.15 Minor peanut-producing states.
1216.16 Order.
1216.17 Part and subpart.
1216.18 Peanuts.
1216.19 Peanut producer organization.
1216.20 Person.
1216.21 Primary peanut-producing states.
1216.22 Producer.
1216.23 Promotion.
1216.24 Quota peanuts.
1216.25 Research.
1216.26 Secretary.
1216.27 Suspend.
1216.28 State.
1216.29 Terminate.
1216.30 United States.

National Peanut Board

1216.40 Establishment and membership.
1216.41 Nominations.
1216.42 Selection.
1216.43 Term of office.
1216.44 Vacancies.
1216.45 Alternate members.
1216.46 Procedure.
1216.47 Compensation and reimbursement.
1216.48 Powers and duties of the National Peanut Board.
1216.49 Prohibited activities.

Expenses and Assessments

1216.50 Budget and expenses.
1216.51 Assessments.
1216.52 Programs, plans, and projects.
1216.53 Independent evaluation.
1216.54 Operating reserve.
1216.55 Investment of funds.

Reports, Books, and Records

1216.60 Reports.
1216.61 Books and records.
1216.62 Confidential treatment.

Certification of Peanut Producer Organizations

1216.70 Certification.

Miscellaneous

1216.80 Right of the Secretary.
1216.81 Implementation of Order.
1216.82 Suspension and termination.
1216.83 Proceedings after termination.
1216.84 Effect of termination or amendment.
1216.85 Personal liability.
1216.86 Separability.
1216.87 Amendments.
1216.88 Patents, copyrights, trademarks, information, publications, and product formulations.

Subpart A—Peanut Promotion, Research, and Information Order

Definitions

§ 1216.01 Act.

Act means the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7401–7425; Public Law 104–127, 110 Stat. 1029), or any amendments thereto.

§ 1216.02 Additional peanuts.

Additional peanuts means peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

§ 1216.03 Area marketing association.

Area marketing association means an association selected and approved by the Secretary to conduct activities under regulations of the Department's Farm Service Agency. Under an inter agency agreement, area marketing associations may assist in the collection of assessments under this subpart. The approved area marketing associations and the areas served by such associations are as follows:

(a) *GFA Peanut Association of Camilla, Georgia (GFA).* GFA serves the southeastern area consisting of Puerto Rico, the U.S. Virgin Islands, and the states of Alabama, Florida, Georgia,

Mississippi, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers;

(b) *Peanut Growers Cooperative Marketing Association of Franklin, Virginia (PGCMA).* PGCMA serves the Virginia-Carolina area consisting of the District of Columbia, and the states of Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers; and

(c) *Southwestern Peanut Growers Association of Gorman, Texas (SWPGA).* SWPGA serves the southwestern area consisting of the states of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, and all other territories of the United States not listed in paragraph (a) or (b) of this section.

§ 1216.04 Board.

Board means the administrative body referred to as the National Peanut Board established pursuant to § 1216.40.

§ 1216.05 Conflict of interest.

Conflict of interest means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

§ 1216.06 Contract export additional peanuts.

Contract export additional peanuts are additional peanuts for exportation, including peanuts for crushing for exportation, for which a contract has been entered into between a first handler and a producer.

§ 1216.07 Department.

Department means the U.S. Department of Agriculture.

§ 1216.08 Farm Service Agency.

Farm Service Agency or FSA means the U.S. Department of Agriculture's Farm Service Agency.

§ 1216.09 Farmers stock peanuts.

Farmers stock peanuts means picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels that are removed from farmers stock peanuts before such farmers stock peanuts are marketed.

§ 1216.10 First handler.

First handler means any person who handles peanuts in a capacity other than that of a custom cleaner or dryer, an assembler, a warehouseman, or other intermediary between the producer and the person handling.

§ 1216.11 Fiscal year.

Fiscal year is synonymous with crop year and means the 12-month period beginning with August 1 of any year and ending with July 31 of the following year, or such other period as determined by the Board and approved by the Secretary.

§ 1216.12 Handle.

Handle means to engage in the receiving or acquiring, cleaning and shelling, cleaning in-shell, or crushing of peanuts and in the shipment (except as a common or contract carrier of peanuts owned by another) or sale of cleaned in-shell or shelled peanuts, or other activity causing peanuts to enter the current of commerce: *Provided*, that this term does not include sales or deliveries of peanuts by a producer to a handler or to an intermediary person engaged in delivering peanuts to handler(s) and *Provided further*, that this term does not include sales or deliveries of peanuts by such intermediary person(s) to a handler.

§ 1216.13 Information.

Information means information and programs that are designed to increase efficiency in processing and to develop new markets, marketing strategies, increased market efficiency, and activities that are designed to enhance the image of peanuts on a national or international basis. These include:

(a) *Consumer information*, which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of peanuts; and

(b) *Producer information*, which means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the peanut industry, and activities to enhance the image of the peanut industry.

§ 1216.14 Market.

Market means to sell or otherwise dispose of peanuts into interstate, foreign, or intrastate commerce by buying, marketing, distributing, or otherwise placing peanuts into commerce.

§ 1216.15 Minor peanut-producing states.

Minor peanut-producing states means all peanut-producing states with the exception of Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia.

§ 1216.16 Order.

Order means an Order issued by the Secretary under section 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

§ 1216.17 Part and subpart.

Part means the Peanut Promotion, Research, and Information Order and all rules, regulations, and supplemental Orders issued pursuant to the Act and the Order. The Order shall be a "subpart" of such part.

§ 1216.18 Peanuts.

Peanuts means the seeds of the legume *arachis hypogaea* and includes both in-shell and shelled peanuts other than those marketed by the producer in green form for consumption as boiled peanuts.

§ 1216.19 Peanut producer organization.

Peanut producer organization means a state-legislated peanut promotion, research, and education commission or organization. For states without a state-legislated peanut promotion, research, and education commission or organization, "peanut producer organization" means any organization which has the primary purpose of representing peanut producers and has peanut producers as members.

§ 1216.20 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1216.21 Primary peanut-producing states.

Primary peanut-producing states means Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, *Provided*, these states maintain three-year average production of at least 10,000 tons of peanuts.

§ 1216.22 Producer.

Producer means any person engaged in the production and sale of peanuts and who owns, or shares the ownership and risk of loss of the crop. This does not include quota holders who do not share in the risk of loss of the crop.

§ 1216.23 Promotion.

Promotion means any action taken by the National Peanut Board under this Order, including paid advertising, to present a favorable image of peanuts to the public to improve the competitive position of peanuts in the marketplace, including domestic and international markets, and to stimulate sales of peanuts.

§ 1216.24 Quota peanuts.

Quota peanuts means peanuts which are:

(a) Eligible for domestic edible uses; and

(b) Marketed or considered marketed from a farm as quota peanuts pursuant to the provisions of 7 CFR Part 729 and are not in excess of the effective farm poundage quota established for the farm on which such peanuts were produced.

§ 1216.25 Research.

Research means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of peanuts, including research relating to nutritional value and cost of production.

§ 1216.26 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1216.27 Suspend.

Suspend means to issue a rule under section 553 of title 5, United States Code, to temporarily prevent the operation of an Order during a particular period of time specified in the rule.

§ 1216.28 State.

State means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

§ 1216.29 Terminate.

Terminate means to issue a rule under section 553 of title 5, United States Code, to cancel permanently the operation of an Order beginning on a date certain specified in the rule.

§ 1216.30 United States.

United States means collectively the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

National Peanut Board

§ 1216.40 Establishment and membership.

(a) Establishment of a National Peanut Board. There is hereby established a National Peanut Board, hereinafter called the Board, composed of no more than 10 peanut producers and alternates, appointed by the Secretary from nominations as follows:

(1) Nine members and alternates. One member and one alternate shall be appointed from each primary peanut-producing state, who are producers and whose nominations have been submitted by certified peanut producer organizations within a primary peanut-producing state.

(2) The minor peanut-producing states shall collectively have one at-large member and one alternate, who are producers, to be appointed by the Secretary from nominations submitted by certified peanut producer organizations within minor peanut-producing states or from other certified farm organizations that include peanut producers as part of their membership.

(b) Adjustment of membership. At least once in each five-year period, but not more frequently than once in each three-year period, the Board, or a person or agency designated by the Board, shall review the geographical distribution of peanuts in the United States and make recommendation(s) to the Secretary to continue without change, or whether changes should be made in the number of representatives on the Board to reflect changes in the geographical distribution of the production of peanuts.

§ 1216.41 Nominations.

(a) All nominations authorized under § 1216.40 shall be made within such a period of time as the Secretary shall prescribe. Eligible peanut producer organizations within each state as certified pursuant to § 1216.70 shall nominate two qualified persons for each member and each alternate member. The nominees shall be elected at an open meeting among peanut producers eligible to serve on the Board. Any certified peanut producer organization representing a minor peanut-producing state may nominate two eligible persons for each member and two eligible persons for each alternate member.

(b) As soon as practicable after this subpart becomes effective, the Secretary shall obtain nominations for appointment to the initial promotion Board from certified nominating organizations. In any subsequent year in which an appointment to the Board is to be made, nominations for positions whose terms will expire shall be obtained from certified nominating organizations by the Board's staff and submitted to the Secretary by May 1 of such year, or other such date as approved by the Secretary.

(c) Except for initial Board members, whose nomination process will be initiated by the Secretary, the Board shall issue the call for nominations by March 1 of each year.

(d) The nomination meeting shall be announced 30 days in advance:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as deemed advisable.

(e) At nominations meetings, Department personnel will be present to oversee and to verify eligibility and count ballots.

§ 1216.42 Selection.

From the nominations, the Secretary shall select the members of the Board and alternates for each primary peanut-producing state. The Secretary shall select one member and one alternate from all nominations submitted by certified peanut producer organizations representing minor peanut-producing states.

§ 1216.43 Term of office.

All members and alternates of the Board shall each serve for terms of three years, except that the members and alternates appointed to the initial Board shall serve proportionately for two-, three-, and four-year terms, with the length of the terms determined at random. No member or alternate may serve more than two consecutive three-year terms. An alternate, after serving two consecutive three-year terms, may serve as a member for an additional two consecutive three-year terms. A member, after serving two consecutive three-year terms, may serve as an alternate for an additional two consecutive three-year terms. Each member and alternate shall continue to serve until a successor is selected and has qualified.

(a) Those members serving initial terms of two or four years may serve one successive three-year term.

(b) Any successor serving one year or less may serve two consecutive three-year terms.

§ 1216.44 Vacancies.

To fill any vacancy resulting from the failure to qualify of any person selected as a member or as an alternate member of the Board, or in the event of death, removal, resignation, or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be nominated and selected in the manner specified in § 1216.40.

§ 1216.45 Alternate members.

An alternate member of the Board, during the absence of the member for the primary peanut-producing state or at-large member for whom the person is the alternate, shall act in the place and stead of such member and perform such duties as assigned. In the event of death, removal, resignation, or disqualification of any member, the alternate for that state or at-large member shall act for the member until a successor for such member is selected and qualified. In the event that both a producer member of the Board and the alternate are unable to attend a meeting, the Board may not designate any other alternate to serve in such member's or alternate's place and stead for such a meeting.

§ 1216.46 Procedure.

(a) A majority of the members of the Board, including alternate members acting for members, shall constitute a quorum.

(b) At assembled meetings, all votes shall be cast in person. Board actions shall be weighted by value of production as determined by a primary peanut-producing state's three-year running average of total gross farm income derived from all peanut sales. The at-large Board member's vote shall be weighted by the collective value of production from all minor peanut-producing states' three-year running average of total gross farm income derived from all peanut sales. Any Board action shall require the concurring votes of members or alternates from states representing more than 50 percent of total U.S. gross farm income derived from all peanut sales, plus an additional two votes from any other Board members, provided a minimum of five votes concur.

(c) For routine and noncontroversial matters which do not require deliberation and the exchange of views, and in matters of an emergency nature when there is not time to call an assembled meeting of the Board, the Board may also take action as prescribed in this section by mail, facsimile, telephone, or any telecommunication method appropriate for the conduct of business, but any such action shall be confirmed in writing within 30 days.

(d) There shall be no voting by proxy.

(e) The chairperson shall be a voting member.

§ 1216.47 Compensation and reimbursement.

The members of the Board, and alternates when acting as members, shall serve without compensation but shall be reimbursed for reasonable travel expenses, as approved by the Board, incurred by them in the performance of their duties as Board members.

§ 1216.48 Powers and duties of the National Peanut Board.

The Board shall have the following powers and duties:

(a) To administer the Order in accordance with its terms and conditions and to collect assessments;

(b) To develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board, and such rules as may be necessary to administer the Order, including activities authorized to be carried out under the Order;

(c) To meet, organize, and select from among the members of the Board a chairperson, other officers, committees, and subcommittees, as the Board determines to be appropriate;

(d) To employ persons, other than the members, as the Board considers necessary to assist the Board in carrying out its duties and to determine the compensation and specify the duties of such persons;

(e) To develop programs and projects, and enter into contracts or agreements, which must be approved by the Secretary before becoming effective, for the development and carrying out of programs or projects of research, information, or promotion, and the payment of costs thereof with funds collected pursuant to this subpart. Each contract or agreement shall provide that any person who enters into a contract or agreement with the Board shall develop and submit to the Board a proposed activity; keep accurate records of all of its transactions relating to the contract or agreement; account for funds received and expended in connection with the contract or agreement; make periodic reports to the Board of activities conducted under the contract or agreement; and make such other reports available as the Board or the Secretary considers relevant. Any contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program, plan, or project together with a budget or budgets that show the estimated cost to be incurred for such program, plan, or project;

(2) The contractor or agreeing party shall keep accurate records of all its transactions and make periodic reports to the Board of activities conducted, submit accounting for funds received and expended, and make such other reports as the Secretary or the Board may require;

(3) The Secretary may audit the records of the contracting or agreeing party periodically; and

(4) Any subcontractor who enters into a contract with a Board contractor and who receives or otherwise uses funds allocated by the Board shall be subject to the same provisions as the contractor;

(f) To prepare and submit for approval of the Secretary fiscal year budgets in accordance with § 1216.50;

(g) To maintain such records and books and prepare and submit such reports and records from time to time to the Secretary as the Secretary may prescribe; to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it; and to keep records that accurately reflect the actions and transactions of the Board;

(h) To cause its books to be audited by a competent auditor at the end of each fiscal year and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary;

(i) To give the Secretary the same notice of meetings of the Board as is given to members in order that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting of the Board to the Secretary;

(j) To act as intermediary between the Secretary and any producer or first handler;

(k) To furnish to the Secretary any information or records that the Secretary may request;

(l) To receive, investigate, and report to the Secretary complaints of violations of the Order;

(m) To recommend to the Secretary such amendments to the Order as the Board considers appropriate; and

(n) To work to achieve an effective, continuous, and coordinated program of promotion, research, consumer information, evaluation, and industry information designed to strengthen the peanut industry's position in the marketplace; maintain and expand existing markets and uses for peanuts; and to carry out programs, plans, and

projects designed to provide maximum benefits to the peanut industry.

§ 1216.49 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

(a) Any action that would be a conflict of interest;

(b) Using funds collected by the Board under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, including local, state, national, and international, other than recommending to the Secretary amendments to the Order; and

(c) Any advertising, including promotion, research, and information activities authorized to be carried out under the Order, that is false or misleading or disparaging to another agricultural commodity.

Expenses and Assessments

§ 1216.50 Budget and expenses.

(a) At least 60 days prior to the beginning of each fiscal year, and as may be necessary thereafter, the Board shall prepare and submit to the Secretary a budget for the fiscal year covering its anticipated expenses and disbursements in administering this subpart. Each such budget shall include:

(1) A statement of objectives and strategy for each program, plan, or project;

(2) A summary of anticipated revenue, with comparative data for at least one preceding year (except for the initial budget);

(3) A summary of proposed expenditures for each program, plan, or project; and

(4) Staff and administrative expense breakdowns, with comparative data for at least one preceding year (except for the initial budget).

(b) Each budget shall provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in this subpart.

(c) Subject to this section, any amendment or addition to an approved budget must be approved by the Secretary, including shifting funds from one program, plan, or project to another. Shifts of funds which do not cause an increase in the Board's approved budget and which are consistent with governing bylaws need not have prior approval by the Secretary.

(d) The Board is authorized to incur such expenses, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board.

(e) With approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays and are limited to the first year of operation of the Board.

(f) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use.

(g) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, and supervision of the Order, including all referendum costs in connection with the Order.

(h) The Board may not expend for administration, maintenance, and functioning of the Board in any fiscal year an amount that exceeds 10 percent of the assessments and other income received by the Board for that fiscal year. Reimbursements to the Secretary required under paragraph (g) of this section are excluded from this limitation on spending.

(i) The Board shall allocate, to the extent practicable, no less than 80 percent of the assessments collected on all peanuts available for any fiscal year on national and regional promotion, research, and information activities. The Board shall allocate, to the extent practicable, no more than 20 percent of assessments collected on all peanuts available for any fiscal year for use in state or regional research programs. Specific percentages and amounts shall be determined annually by the Board, with the approval of the Secretary.

(j) Certified peanut producer organizations may submit requests for funding for research and/or generic promotion projects. Amounts approved for each state shall not exceed the pro rata share of funds available for that state as determined by the Board and approved by the Secretary. Amounts allocated by the Board for state research or promotion activities will be based on requests submitted to the Board when it is determined that they meet the goals and objectives stated in the Order.

(k) Assessments collected, less pro rata administrative expenses, from the gross sales of contract export additional peanuts shall be allocated by the Board for the promotion and related research of export peanuts.

(l) The Board shall determine annually how total funds shall be allocated pursuant to paragraphs (i), (j), and (k) of this section, with the approval of the Secretary.

§ 1216.51 Assessments.

(a) The funds to cover the Board's expenses shall be acquired by the levying of assessments upon producers in a manner prescribed by the Secretary.

(b) Each first handler, at such times and in such manner as prescribed by the Secretary, shall collect from each producer and pay assessments to the Board on all peanuts handled, including peanuts produced by the first handler, no later than 60 days after the last day of the month in which the peanuts were marketed.

(c) Such assessments shall be levied at a rate of 1 percent of the price paid for all farmers stock peanuts sold. Price paid is the value of segment entry on the FSA 1007 form.

(d) For peanuts placed under loan with the Department's Commodity Credit Corporation, each area marketing association shall remit to the Board the following:

(1) One (1) percent of the initial price paid for either quota or additional peanuts no more than 60 days after the last day of the month in which the peanuts were placed under loan; and

(2) One (1) percent of the profit from the sale of the peanuts within 60 days after the final day of the area association's fiscal year.

(e) All assessments collected under this section are to be used for expenses and expenditures pursuant to this Order and for the establishment of an operating reserve as prescribed in the Order.

(f) The Board shall impose a late payment charge on any person who fails to remit to the Board the total amount for which the person is liable on or before the payment due date established under this section. The late payment charge will be in the form of interest on the outstanding portion of any amount for which the person is liable. The rate of interest shall be prescribed in regulations issued by the Secretary.

(g) Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(h) The Board may authorize other organizations to collect assessments on its behalf with the approval of the Secretary.

(i) The assessment rate may not be increased unless the new rate is

approved by a referendum among eligible producers.

§ 1216.52 Programs, plans, and projects.

(a) The Board shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program, plan, or project authorized under this subpart. Such programs, plans, or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate programs for promotion, research, and information, including producer and consumer information, with respect to peanuts; and

(2) The establishment and conduct of research with respect to the use, nutritional value, sale, distribution, and marketing of peanuts and peanut products, and the creation of new products thereof, to the end that marketing and use of peanuts may be encouraged, expanded, improved, or made more acceptable and to advance the image, desirability, or quality of peanuts.

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the Board shall take appropriate steps to implement it.

(c) Each program, plan, or project implemented under this subpart shall be reviewed or evaluated periodically by the Board to ensure that it contributes to an effective program of promotion, research, or consumer information. If it is found by the Board that any such program, plan, or project does not contribute to an effective program of promotion, research, or consumer information, then the Board shall terminate such program, plan, or project.

(d) No program, plan, or project shall make any false claims on behalf of peanuts or use unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product. Peanuts of all domestic origins shall be treated equally.

§ 1216.53 Independent evaluation.

The Board shall, not less often than every five years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and other programs conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this section.

§ 1216.54 Operating reserve.

The Board shall establish an operating monetary reserve and may carry over to subsequent fiscal years excess funds in a reserve so established; *Provided*, that funds in the reserve shall not exceed any fiscal year's anticipated expenses.

§ 1216.55 Investment of funds.

The Board may invest, pending disbursement, funds it receives under this subpart, only in obligations of the United States or any agency of the United States; general obligations of any state or any political subdivision of a state; interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve system; or obligations that are fully guaranteed as to principal and interest by the United States.

Reports, Books, and Records

§ 1216.60 Reports.

(a) Each producer and first handler subject to this part shall be required to report to the employees of the Board, at such times and in such manner as it may prescribe, such information as may be necessary for the Board to perform its duties. Such reports shall include, but shall not be limited to the following:

(1) Number of pounds of peanuts produced or handled;

(2) Price paid to producers (entry in value of segment section on the FSA 1007 form); and

(3) Total assessments collected.

(b) First Handlers shall submit monthly reports to the Board. These reports shall accompany the payment of the collected assessments and shall be due 60 days after the last day of the month in which the peanuts were marketed.

§ 1216.61 Books and records.

Each first handler and producer subject to this subpart shall maintain and make available for inspection by the Secretary and employees and agents of the Board such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall include but are not limited to the following: copies of FSA 1007 forms, the names and address of producers, and the date the assessments were collected. Such records shall be retained for at least two years beyond the marketing year of their applicability.

§ 1216.62 Confidential treatment.

All information obtained from books, records, or reports under the Act, this subpart, and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members, producers, importers, exporters, or handlers. Only those persons having a specific need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a judicial proceeding or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of this subpart violated by such person.

Certification of Peanut Producer Organizations

§ 1216.70 Certification.

(a) Organizations receiving certification from the Secretary will be entitled to submit nominations for Board membership to the Secretary for appointment and to submit requests for funding to the Board.

(b) For major peanut-producing states, state-legislated peanut promotion, research, and information organizations may request certification, provided the state-legislated promotion program submits a factual report that shall contain information deemed relevant and specified by the Secretary for the making of such determination pursuant to paragraph (e) of this section.

(c) If a state-legislated peanut promotion, research and information organization in a major peanut-producing state does not elect to seek certification from the Secretary within a specified time period as determined by the Secretary, or does not meet eligibility requirements as specified by the Secretary, then any peanut producer organization whose primary purpose is to represent peanut producers within a primary peanut-producing state, or any other organization which has peanut

producers as part of its membership, may request certification. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization that shall contain information deemed relevant and specified by the Secretary for the making of such determination pursuant to paragraph (e) of this section.

(d) For minor peanut-producing states, any organization that has peanut producers as part of its membership may request certification.

(e) The information required for certification by the Secretary may include, but is not limited to, the following:

(1) The geographic distribution within the state covered by the organization's active membership;

(2) The nature and size of the organization's active membership in the state, proportion of total such active membership accounted for by producers, a map showing the peanut-producing counties in such state in which the organization has members, the volume of peanuts produced in each such county, the number of peanut producers in each such county, and the size of the organization's active peanut producer membership in each such county;

(3) The extent to which the peanut producer membership of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanency of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) Functions of the organization;

(7) The organization's ability and willingness to further the aims and objectives of the Act and Order; and,

(8) Demonstrated experience administering generic state promotion and research programs.

(f) The Secretary's determination as to eligibility or certification of an organization shall be final.

Miscellaneous

§ 1216.80 Right of the Secretary.

All fiscal matters, programs, plans, or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1216.81 Implementation of the Order.

The Order shall not become effective unless:

(a) The Secretary determines that the Order is consistent with and will effectuate the purposes of the Act; and

(b) The Order is approved by a simple majority of the peanut producers as defined in § 1216.21 voting in a referendum who, during a representative period determined by the Secretary, have been engaged in the production of peanuts.

§ 1216.82 Suspension and termination.

(a) The Secretary shall suspend or terminate this subpart or a provision thereof if the Secretary finds that this subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) Every five years, the Secretary shall hold a referendum to determine whether peanut producers favor the continuation of the Order. The Secretary will also conduct a referendum if 10 percent or more of all eligible peanut producers request the Secretary to hold a referendum. In addition, the Secretary may hold a referendum at any time.

(c) The Secretary shall suspend or terminate this subpart at the end of the marketing year whenever the Secretary determines that its suspension or termination is approved or favored by a simple majority of the producers voting in a referendum who, during a representative period determined by the Secretary, have been engaged in the production of peanuts.

(d) If, as a result of the referendum conducted under paragraph (b) of this section, the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under this subpart; and

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1216.83 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend not more than three of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into pursuant to the Order;

(3) From time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and the trustees, to such person or persons as the Secretary may direct; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary and appropriate to vest in such persons title and right to all funds, property and claims vested in the Board or the trustees pursuant to the Order.

(c) Any person to whom funds, property or claims have been transferred or delivered pursuant to the Order shall be subject to the same obligations imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practical, to the peanut producer organizations, certified pursuant to § 1216.70, in the interest of continuing peanut promotion, research, and information programs.

§ 1216.84 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder; or

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary or of any other persons, with respect to any such violation.

§ 1216.85 Personal liability.

No member or alternate member of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or alternate, except for acts of dishonesty or willful misconduct.

§ 1216.86 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the

applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1216.87 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1216.88 Patents, copyrights, trademarks, information, publications, and product formulations.

Patents, copyrights, trademarks, information, publications, and product formulations developed through the use of funds received by the Board under this subpart shall be the property of the U.S. Government as represented by the Board and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, information, publications, or product formulations, inure to the benefit of the Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval by the Secretary. Upon termination of this subpart, § 1216.82 shall apply to determine disposition of all such property.

Dated: April 19, 1999.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 99–10134 Filed 4–22–99; 8:45 am]

BILLING CODE 3410–02–P

federal register

Friday
April 23, 1999

Part V

Department of Justice

Bureau of Prisons

28 CFR Parts 506 and 540
Inmate Commissary Account Deposit Procedures; Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 506 and 540

[BOP–1091–P]

RIN 1120–AA86

Inmate Commissary Account Deposit Procedures

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to amend its regulations on how an inmate may receive funds from family, friends, and other sources. Under current regulation, funds intended for any inmate's use are included in correspondence sent to the inmate or left with staff as part of visiting. Staff at the institution arrange for the deposit of these funds into the inmate's account. Under the proposed regulations, funds from family, friends, or other sources will no longer be sent to the inmate but will instead be sent directly to a centralized inmate commissary account in the form of a money order for receipt and posting. Any funds sent by family or friends to the inmate's location will not be accepted and will be rejected and returned to the sender provided there is an adequate return address. This amendment is intended to provide for the more efficient processing of inmate funds.

DATES: Comments due by June 22, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to add new regulations (28 CFR part 506) pertaining to inmate deposits and to make conforming amendments to its regulation on inmate correspondence (28 CFR 540.23). The current provisions in § 540.23 were published in the **Federal Register** on October 1, 1985 (50 FR 40109).

Current provisions on general correspondence allow an inmate, upon completing the appropriate form, to receive funds through the mail from family or friends or, upon approval of the Warden, from other persons for crediting to the inmate's trust fund account. Current provisions on visiting provide that the Warden may allow a visitor to leave money with a designated staff member for deposit in the inmate's commissary account. Institution staff are responsible for processing these funds. The Bureau is proposing that all inmate funds from family and friends be sent directly to a centralized inmate commissary account. The deposit must be in the form of a money order and the envelope must not contain any enclosures intended for delivery to the inmate as any enclosure is subject to disposal. Personal checks are not acceptable, but will be returned provided the check has adequate return address information. Funds received from other sources such as tax refunds, dividends from stocks, or state benefits will be forwarded for deposit to the centralized inmate commissary account.

The Bureau currently manages its inmate accounting functions in a completely de-centralized fashion. Each institution operates separately and distinctly from one another, although each is performing virtually identical functions. For example, posting mail room collections to inmate accounts, making daily trips to the bank to deposit collections, establishing inmate accounts each time an inmate arrives at their current location, and transferring funds between institutions. The Bureau believes that having a centralized inmate commissary account will benefit the inmate by allowing them immediate access to their funds. Also, the centralized inmate commissary account will eliminate redundant work efforts, allow institutions complete access to detailed inmate account history, remove personal liability from institution staff related to handling of inmate funds, and enhance Bureau security by allowing centralized reporting and comparisons of sources of incoming funds and destination of outgoing funds across all institutions. The tremendous growth of the number of Bureau facilities coupled with new computer networking technology have made the current method of managing inmate funds outdated, inefficient, and costly.

The Bureau will test deposit procedures under a centralized inmate commissary account at a limited number of institutions. The inmates at the institutions selected for the test project will be notified individually of the procedures to follow and will be provided assistance in notifying family and friends of these same procedures. Information gathered from the test project will be used in conjunction with comments received from the public in evaluating any final rule.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute "significant regulatory actions" under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534, 202–514–6655.

List of Subjects in 28 CFR Parts 506 and 540

Prisoners.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(o), a new part 506 is proposed to be added to 28 CFR, chapter V, subchapter A, and part 540 in 28 CFR, chapter V, subchapter C is proposed to be amended as set forth below.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

1. Part 506 is added to read as follows:

PART 506—INMATE COMMISSARY ACCOUNT

Sec.
506.1 Background.
506.2 Deposit procedures.

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 31 U.S.C. 1321; 28 CFR 0.95–0.99.

§ 506.1 Background.

The Bureau operates individual inmate commissary accounts to maintain inmates' monies while they are incarcerated. Deposits to the account may be made by family or friends, and for funds received from other sources.

§ 506.2 Deposit procedures.

(a) *Funds deposited by family and friends.* Deposits by family and friends must be mailed to the centralized inmate commissary account at the address provided by the Bureau and must be in the form of a money order.

(1) The deposit envelope must not contain any enclosures intended for delivery to the inmate. Any enclosure is subject to disposal.

(2) The deposit must be in the form of a money order made out to the inmate's full name and complete register number. Checks are to be returned to the sender provided the check contains an adequate return address.

(b) *Funds received from other sources.* Funds received from other sources in correspondence addressed to the inmate (for example, tax refunds, royalties from books, dividends from stocks, state benefits) are to be forwarded for deposit to the centralized inmate commissary account.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

1. The authority citation for 28 CFR part 540 continues to read as follows:

Authority: 5 U.S.C. 301, 551, 552A, 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509; 28 CFR 0.95–0.99.

2. Section 540.23, is revised to read as follows:

§ 540.23 Inmate funds received through the mails.

Except as provided for in part 506 of this chapter, funds enclosed in inmate correspondence are to be rejected. Deposits intended for the inmate's commissary account must be mailed directly to the centralized commissary account (see 28 CFR part 506).

3. In § 540.51 paragraph (g)(3) is revised to read as follows:

§ 540.51 Procedures.

* * * * *

(g) * * *

(3) The visiting room officer may not accept articles or gifts of any kind for an inmate, except packages which have had prior approval by the Warden or a designated staff member.

* * * * *

[FR Doc. 99–10207 Filed 4–22–99; 8:45 am]

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federal register

Friday
April 23, 1999

Part VI

Federal Trade Commission

Public Workshop: Market Power and Consumer Protection Issues Involved With Encouraging Competition in the U.S. Electric Industry; Notice

FEDERAL TRADE COMMISSION

Public Workshop: Market Power and Consumer Protection Issues Involved With Encouraging Competition in the U.S. Electric Industry

AGENCY: Federal Trade Commission.

ACTION: Notice announcing the dates of workshop.

SUMMARY: The Federal Trade Commission has set September 13–14, 1999 as the dates for its public workshop examining the market power and consumer protection issues involved with encouraging competition in the U.S. electric industry.

DATES: The workshop will be held September 13 and 14, 1999 in the Commission Meeting Room (Room 432), 600 Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: For questions about the workshop, contact: Michael Wroblewski, Office of Policy Planning, Federal Trade Commission, 600 Pennsylvania Ave., N.W., Washington, D.C. 20580, telephone 202–326–2155, e-mail mwroblewski@ftc.gov; John C. Hilke, Bureau of Economics, Federal Trade Commission, 1961 Stout Street, Suite 1523, Denver, CO 80294–0101, telephone 303–844–3565, e-mail jhilke@ftc.gov; Gina Schaar Howard, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., N.W., Washington, D.C. 20580, telephone 202–326–2982, e-mail ghoward@ftc.gov; or David Balto, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Ave., N.W., Washington, D.C. 20580, telephone 202-326–2881, e-mail dbalto@ftc.gov.

To preregister for the workshop, contact Wendy Givler, National Research Regulatory Institute at The Ohio State University, 1080 Carmack Road, Columbus, Ohio 43210, telephone (614) 292–9106, e-mail givler.4@osu.edu.

SUPPLEMENTARY INFORMATION:

Retail Electricity: Promise and Progress Workshop

Overview

In recent years, states and the Federal government have taken steps to encourage restructuring and competition in the electricity industry, including the elimination of regulatory barriers. The FTC recognizes these issues are vast and interrelated and that states could derive substantial benefit from sharing ideas and experiences in these areas. The FTC seeks to convene a workshop that will allow such idea sharing on two topics that bear directly on the FTC's expertise—market power (*e.g.* evaluating and addressing horizontal market power concerns in generation) and consumer protection (*e.g.* disclosures by electric service providers of environmental attributes of power they are selling). The intent of the workshop is to provide a forum for discussing the experience under policies that have been implemented at the state level, rather than attempting to provide all of the answers to a complex set of issues that vary by region and locale. The FTC anticipates that a robust exchange of views and ideas among those working on the issues will prove stimulating and useful as the regulatory reform process moves forward. To facilitate discussion of how states have addressed these two issues, each of the panels in the workshop will be moderated by the FTC (or the U.S. Department of Justice, Antitrust Division), so that we can gain a better understanding of the issues involved and be available as a resource. Although there are many other issues that policymakers are considering in the electric industry restructuring debate, discussion will focus on how states have addressed market power and consumer protection concerns.

Workshop Goals

1. Provide state regulators and state attorneys general a forum in which they can describe and discuss present and expected results of state regulatory reform efforts in the electric power industry with a focus on market power and consumer protection strategies to ensure that consumers benefit from regulatory reform.

2. Provide an opportunity for the Commission and the staff to gain a better understanding of the issues involved in the regulatory reform process so that we can serve as a resource with respect to market power and consumer protection issues.

Registration and Participants

The workshop will focus on issues of concern to state regulators and state attorneys general. State commissioners, attorneys general and their staffs from states active in promoting retail electricity competition will be invited to participate as panelists as described in the following proposed workshop agenda. Suppliers, customers, public policy and interest groups and/or representatives from academia that have experience with these state efforts also will be invited to participate as panelists. Other state commissioners, attorneys general and their staff are encouraged and welcome to attend. Electricity industry groups, marketers, suppliers and customers are invited to attend as well.

The National Regulatory Research Institute (NRRI) and the National Council on Competition and the Electric Industry (NCCEI) are co-sponsoring the workshop. NRRI will handle registration. To ensure space, attendees are encouraged to preregister by September 3, 1999. To preregister, contact Wendy Givler, National Research Regulatory Institute at The Ohio State University, 1080 Carmack Road, Columbus, Ohio 43210, telephone (614) 292–9106, e-mail givler.4@osu.edu.

Proposed Workshop Agenda

First Day

Introduction Address 9 a.m. (15 minutes)—Representatives of the sponsoring organizations (FTC, NRRI, and NCCEI) will provide an introduction by establishing the framework for the two-day workshop and providing an overview concerning the focus of the workshop on market power and consumer protection issues involved as states move toward retail electricity competition.

Session I: Retail Competition in Pioneer States

Panel A: What Approaches Did Pioneer States take in Promoting Retail Electricity Competition?

(9:15 a.m.–10:00 a.m.)

State policymakers (state commissioners or staff) from pioneer states (states active in promoting retail electricity competition) will be asked to discuss the approach and structure each state used or is using to proceed with electricity restructuring. In order to provide guidance and to share experiences with other states considering restructuring, each panelist will be asked to provide an assessment of the best and worst of his/her state's experience, as well as describe the most significant decisions made in restructuring the provision of electricity at the retail level Examples of the types of issues panelists might raise include:

- The approach and process the state used to address regulatory reform and restructuring;
- Types of services (e.g., generation, metering & billing) subject to competition;
- Elimination of entry barriers (e.g., streamline of siting requirements);
- Effects on consumer choice of various competitive transition charges that have been implemented; and
- Consumer education efforts aimed at retail electricity competition.

Break (10:00 a.m.–10:15 a.m.)

Panel B: Assessment of the Results to Date of Pioneer State Reform Efforts

(10:15 a.m.–12:00 p.m.)

Panelists representing suppliers, customers, public policy and interest groups and/or academia will be asked to assess the positive and negative results of state retail electricity restructuring efforts, and the reasons therefor, with an emphasis on:

- Types of products and services that have been offered in the states where retail competition has been implemented;
- Percentage of industrial, commercial and residential customers switching to new service providers; and
- Electricity pricing trends for industrial, commercial and residential customers in a deregulated environment.

Lunch Break (12:00 p.m.–1:15 p.m.)

Session II: Existing Market Power in Retail Markets

Panel A: How Have States Addressed Existing Market Power?

(1:15 p.m.–2:15 p.m.)

Panelists (state attorneys general, commissioners or staff) will be asked to discuss how each state addressed existing market power of incumbent utilities, if any.

- Approaches states have taken with respect to evaluating and addressing concerns about horizontal market power (in the generation sector) of incumbent utilities (e.g., divestiture, ISOs).
- Approaches states have taken with respect to evaluating and addressing vertical discrimination and cross-subsidization (e.g., use of ISOs, divestiture, codes of conduct).

Break (2:15 p.m.–2:30 p.m.)

Panel B: Assessment of State Efforts to Address Existing Market Power

(2:30 p.m.–3:45 p.m.)

Panelists representing suppliers, customers, public policy and interest groups and/or academia will be asked to discuss the positive and negative results of state efforts to evaluate and address existing market power, if any, held by incumbent utilities. FTC staff also will assist in this discussion by presenting possible approaches to address and remedy market power by:

- Applying the factors in the DOJ/FTC Horizontal Merger Guidelines to assess existing market power (horizontal);
- Considering alternative future scenarios based upon different possible remedies;
- Providing access to the information necessary for an appropriate analysis;
- Using computer simulations to assess market power.

Break (3:45 p.m.–4:00 p.m.)

Session III: How Does Wholesale Competition for Generation Affect Retail Electricity Competition?

(4:00 p.m.–5:30 p.m.)

Panelists (federal policymakers, academics, or representatives from public policy groups) will be asked to discuss the links between wholesale competition and retail competition and whether competitive wholesale generation electricity markets are necessary for competition to emerge at the retail level. The topics will include:

- Consideration of regional transmission organizations;
- Use of new technologies (distributed generation) that facilitate entry;
- Congestion pricing through locational marginal pricing and the use of firm transmission rights;
- Role of North American Electric Reliability Council (NERC) and reliability monitoring; and
- Implications of the wholesale price spikes of the past year for prospective retail electricity competition.

Second Day

Session IV: Affiliate Rules or Codes of Conduct

Panel A: How Have States Developed Affiliate Rules or Codes of Conduct?

(9:00 a.m.–10:00 a.m.)

Panelists (state attorneys general, commissioners or staff) will be asked to discuss how each state has used affiliate rules or codes of conduct to remedy problems posed by incumbent utilities' market power and to prevent deceptive practices. Topics of discussion will include:

Types of affiliate entities created by utilities for unregulated activities;

- The potential for cross-subsidization between a utility and its affiliates, including controls to avoid cross-subsidization;
- Unregulated affiliates' use of incumbent utilities' names/logos—varieties of use and possibility for consumer confusion; and
- Remedies to avoid consumer deception regarding the relationship between the incumbent utility and the affiliate—disclosures regarding the relationship versus a ban on use of the utility name and logo by the affiliate.

Break (10:00 a.m.–10:15 a.m.)

Panel B: Assessment of State Use of Affiliate Rules or Codes of Conduct

(10:15 a.m.–12:00 p.m.)

Panelists representing suppliers, customers, public policy and interest groups and/or academia will be asked to assess the positive and negative results of state use of affiliate rules or codes of conduct with an emphasis on:

- Effect (enhancement vs. inhibition) on competition;
- Consumer expectations and reactions; and
- Relationship between these rules and the offering and pricing of new/innovative products.

Lunch Break (12:00 p.m.–1:30 p.m.)

Session V: Advertising and disclosures of Environmental Attributes and Price

(1:30 p.m.–3:00 p.m.)

Panelists (state attorneys general, commissioners, public policy and interest groups, or industry consultants) will be asked to discuss the trends in advertising environmental claims, labeling requirements, and tracking systems. FTC staff would lead off with a summary of its Green Guide comment to the National Association of Attorneys General (NAAG).

- Description of existing remedies for deceptive claims—jurisdiction (i.e., attorneys general, state commissions, or both); whether these remedies are sufficient or whether new legal authority is needed; need for additional industry guidance from regulators (e.g., Electricity Green Guides).
- Mandated disclosure of information—current requirements; effect on consumers and the market; relationship to advertising.
- Verification or auditing of company-supplied information—state experience thus far.
- Issues with systems for tracking fuel mix—cost; prevention of "double counting" of a fuel source; substantiation that a product has not been "double counted"; the Western states' current views and plans on using a "tradable tags" system.

Break (3:00 p.m.–3:15 p.m.)

Session VI: Supplier Practices in a Retail Environment

(3:15 p.m.–4:45 p.m.)

Panelists (state attorneys general, commissioners, public policy and interest groups, or industry consultants) will be asked to discuss existing legislation/regulations on slamming/cramming issues, licensing/bonding of

service providers and credit and billing practices of service providers.

• Slamming and cramming—extent of problem; adequacy of existing remedies; preventing fraud without creating unnecessary barriers to entry or legitimate innovative marketing techniques.

• Licensing and bonding—deterring unscrupulous competitors without discouraging legitimate new entrants; protecting incumbent utilities vs. protecting consumers.

• Credit laws and regulations—applicability of Truth in Lending Act (TILA), Equal Credit Opportunity Act (ECOA), etc. to suppliers and utilities under various billing schemes; consumer privacy concerns arising from exchange of account information for switching or billing purposes; account information access and sharing between utilities and suppliers.

Authority: 15 U.S.C. 41 *et seq.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–10251 Filed 4–22–99; 8:45 am]

BILLING CODE 6750–01–P

federal register

Friday
April 23, 1999

Part VII

Federal Trade Commission

Intel Corporation; Analysis To Aid Public Comment and Commissioner Statements; Notice

FEDERAL TRADE COMMISSION

[Docket No. 9288]

Intel Corp.; Analysis To Aid Public Comment and Commissioner Statements

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement: Publication of commissioner statements.

SUMMARY: The consent in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint that the Commission issued in June 1998 and the terms of the consent order—embodied in the consent agreement—that would settle these allegations. This document also contains the Statement of Chairman Pitofsky and Commissioners Anthony and Thompson, and the Statement of Commissioner Swindle.

DATES: Comments must be received on or before May 24, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John Horsley or Richard Parker, FTC/H–3105, 600 Pennsylvania Avenue, NW, Washington, DC 20580. (202) 326–2648 or (202) 326–2574.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis of Proposed Consent Order to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. This document also contains (1) the Statement of Chairman Pitofsky and Commissioners Anthony and Thompson, and (2) the Statement of Commissioner Swindle.[1] An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 17, 1999) on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½-inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted for public comment an Agreement Containing Consent Order with Intel Corporation ("Intel") to resolve the matters charged in an administrative Complaint issued by the Commission on June 8, 1998. The Agreement has been placed on the public record for sixty (60) days for receipt of comments from interested members of the public. The Agreement is for settlement purposes only and does not constitute an admission by Intel that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Complaint

The Complaint alleges that Intel has monopoly power in the worldwide market for general purpose microprocessors. According to the Complaint, Intel's market dominance is reflected in a market share approximating 80 percent of dollar sales, together with high entry barriers including large sunk costs of design and manufacture, substantial economies of scale, customers' investments in existing software, the need to attract support from software developers, and reputational barriers.

The Complaint alleges that Intel sought to maintain its dominance by, among other things, denying advance technical information and product samples of microprocessors to Intel customers ("original equipment manufacturers" or "OEMs") and threatening to withhold product from those OEMs as a means of coercing those customers into licensing their patented innovations to Intel.

A microprocessor is an integrated circuit that serves as the central processing unit (or CPU) of computer systems. Microprocessors are sometimes described as the "brains" of computers because they perform the major data processing functions essential to computer systems. Advance technical information about new microprocessor products is essential to Intel's OEM customers, who design, develop, manufacture, and sell computer system products such as servers, workstations, and desktop and mobile personal computers. Computer design and development require the effective integration of multiple complex microelectronics components (including microprocessors, memory components, core logic chips, graphics controllers, and various input and output devices) into a coherent system. To achieve such system integration, a computer OEM requires product specifications and other technical information about each component, such as the electrical, mechanical, and thermal characteristics of the microprocessor. OEMs also need advance product samples, errata, and related technical assistance in order to perform system testing and debugging, thereby assuring the high performance and reliability of new computer products.

Intel promotes and markets its microprocessors by providing customers with technical information about new Intel products in advance of their commercial release, subject to formal nondisclosure agreements. Such information sharing has substantial commercial benefits for Intel and its OEM customers. Customers benefit because the information enables them to develop and introduce new computer system products incorporating the latest microprocessors as early and efficiently as possible. Intel benefits because a larger group of OEMs can sell new computer systems incorporating Intel's newest microprocessors as soon as the new microprocessors are introduced to the market.

The Complaint charges that Intel suspended its traditional commercial relationships with three established customers—Digital Equipment Corporation, Intergraph Corporation, and Compaq Computer Corporation—by refusing to provide advance technical information about, and product samples of, Intel microprocessors. Intel did so, according to the Complaint, to force those customers to end disputes with Intel concerning the customers' asserted intellectual property rights and to grant Intel licenses to patented technology developed and owned by those customers. In at least one of the cases,

[1] The Analysis and other Commissioner Statements were published in the **Federal Register** on March 24, 1999, and the public comment period began at that point. *See* 64 FR 14246 (March 24, 1999).

the Complaint alleges that Intel also acted to create uncertainty in the marketplace about the customer's future source of supply of Intel microprocessors.

The computer industry is characterized by short, dynamic product cycles, which are generally measured in months. Time to market is crucial. Indeed, the denial of advance product information is virtually tantamount to a denial of actual parts, because an OEM customer lacking such information simply cannot design new computer systems on a competitive schedule with other OEMs. An OEM who suffers denial of such information over a period of months will lose much of the profits it might otherwise have earned even from a successful new computer model. Continued denial of advance technical information to an OEM by a dominant supplier can make a customer's very existence as an OEM untenable.

As a result of the commercial pressure exerted by Intel's conduct, Compaq and Digital quickly entered into cross-license arrangements with Intel. Intergraph was able to resist that pressure because it succeeded in obtaining a preliminary injunction from a federal district court requiring Intel to resume and continue supplying Intergraph with advance product information, part samples, and other technical support pending a judicial resolution on the merits of the claims in the lawsuit.

The alleged conduct tends to reinforce Intel's domination of the general purpose microprocessor market in at least three ways. First, the alleged conduct tends to give Intel preferential access to a wide range of technologies being developed by many other firms in the industry. To the extent that firms desiring to compete with Intel are unable to obtain comparable access to such a wide range of technology, they can be seriously disadvantaged, thus making it more difficult for them to challenge Intel's dominance. Second, because patent rights are an important means of promoting innovation, coercion that forces customers to license away rights to microprocessor-related technologies on unfavorable terms tends to diminish the customers' incentives to develop such technologies, and thus harms competition by reducing innovation. Finally, Intel's conduct tends to make it more difficult for an OEM to serve as a platform for microprocessors that compete with Intel's. Intel's actions ensure that Intel can act as a conduit for technology flows from one OEM to another. That is, an OEM that seeks to enforce its intellectual property rights against other Intel customers may face retaliation from Intel, as the Complaint alleges Compaq did when it sued Packard-Bell for patent infringement. The result is that OEMs find it more difficult to differentiate their computer systems from their competitors through patented technology. As a result, an OEM seeking to use non-Intel microprocessors is less able to offset the lack of an Intel microprocessor by the strength of its own reputation for offering superior technology in other areas. For all of these reasons, continuation of this pattern of conduct would likely have injured competition by entrenching Intel's dominant position.

The Complaint also alleges that Intel's exclusionary conduct was not reasonably necessary to serve any legitimate, procompetitive purpose.

Exclusionary conduct by a monopolist that is reasonably capable of significantly contributing to the maintenance of a firm's dominance through unjustified means has long been understood to give rise to serious competitive concerns. *See, e.g., Lorain Journal Co.* v. *United States*, 342 U.S. 143, 154 n.7 (1951); *Eastman Kodak Co.* v. *Image Technical Services*, 504 U.S. 451, 483 & n.32 (1992); *Aspen Skiing Co.* v. *Aspen Highlands Skiing Co.*, 472 U.S. 585, 596 n.19 (1985); *United States* v. *Grinnell Corp.*, 384 U.S. 563, 570–71 (1966); *Barry Wright Corp.* v. *ITT Grinnell Corp.*, 724 F.2d 227, 230 (1st Cir. 1983) (Breyer, J.) (citing 3 P. Areeda & D. Turner, *Antitrust Law*, ¶ 626 at 83 (1978)).

Such conduct harms consumers, not only because competition brings lower prices, but also because competition is a powerful spur to the development of new, better, and more diverse products and processes. Unjustified conduct by a monopolist that removes the incentive to such competition by depriving innovators of their reward or otherwise tilting the playing field against new entrants or fringe competitors thus has a direct and substantial impact upon future consumers.

In the absence of a legitimate business justification that outweighs these concerns, such conduct constitutes a violation of Section 2 of the Sherman Act, 15 U.S.C. 2, and therefore Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. In issuing the Complaint, the Commission found reason to believe that such a violation had occurred.

II. Terms of the Proposed Consent Order

The Proposed Order would remedy all of the concerns embodied in the Complaint. The substantive prohibition, Section II.A., prohibits Intel from withholding or threatening to withhold certain advance technical information from a customer or taking other specified actions with respect to such information for reasons relating to an intellectual property dispute with that customer. It also prohibits Intel from refusing or threatening to refuse to sell microprocessors to a customer for reasons related to an intellectual property dispute with that customer. This provision is designed to prevent Intel from restricting access to microprocessor products, or advance technical information relating to such products, as leverage in an intellectual property dispute against a customer that is receiving advance technical information from Intel at the time the dispute arises. The Proposed Order does not impose any kind of broad "compulsory licensing" regime upon Intel. So long as it is otherwise lawful, Intel is free to decide in the first instance whether it chooses to provide or not provide information to customers, and whether to provide more information or earlier information to specific customers in furtherance of a joint venture or other legitimate activity. Moreover, the Order is limited to the types of information that Intel routinely gives to customers to enable them to use Intel microprocessors, not information that would be used to design or manufacture microprocessors in competition with Intel.

In short, Paragraph II.A. secures to Intel customers the right to seek full and fair value for their intellectual property, free from the risk of curtailment of needed advance technical information or product. With one exception, Intel will be required to continue providing information and product while the customer seeks any of a range of legal and equitable remedies available to it, such as damages (trebled or otherwise increased in appropriate cases), reasonable royalties, and attorneys fees and costs. These remedies will generally be sufficient to protect the customer in its exercise of its intellectual property rights.

The exception involves situations where a customer maintains the right to seek an injunction against Intel's manufacture, use, sale, offer to sell or importation of its microprocessors. The Order contemplates that Intel may request a customer to waive that remedy and give the customer a reasonable opportunity to make a simple written statement to that effect. If the customer refuses, Intel will not be required by this Order to continue providing information or product with respect to the microprocessors that the customer is seeking to enjoin.

This part of the Order strikes an appropriate balance, on a prospective basis, between the interests of Intel and its customers. If a customer chooses to seek an injunction against Intel's microprocessors, it cannot, under the provisions of this Order, be assured of continuing to receive advance technical information about the very same microprocessors that it is attempting to enjoin. If an Intel customer nevertheless wishes to seek injunctive relief against Intel's manufacture, use, sale, offer to sell or importation, it remains free to do so, but without the protections in this Order. In all other circumstances, Intel is required to continue supplying technical information and product under the Proposed Order.

The Proposed Order contains a number of other definitions and provisos to ensure that it will achieve its purposes while not sweeping more broadly than needed to remedy the competitive concerns alleged in the Complaint:

- "Advance Technical Information" (or "AT Information") is defined in Paragraph I.C. to encompass all information necessary to enable a customer to design and develop, in a timely way, computer systems incorporating Intel microprocessors. The Proposed Order establishes a rebuttable presumption that the provision of AT information six months before the commercial release date of a microprocessor is sufficient to enable the customer to design and develop new systems based on that microprocessor in a competitive and timely way. AT Information does not include detailed microprocessor design information or other information not generally provided to Intel's customers.
- "Intellectual Property Dispute" is defined in Paragraph I.D. to include not only situations in which a customer directly or indirectly asserts or threatens to assert patent, copyright or trade secret rights against Intel, but also to situations in which a customer asserts such rights against another Intel customer, or where a customer has refused a request by Intel to license or otherwise convey its intellectual property rights.
- Paragraph II.B.1. states that the Proposed Order does not prohibit Intel from seeking legal or equitable remedies based upon its own intellectual property, provided that it continues to supply AT Information to the customer.
- Paragraph B.2. and B.3. make clear that the Proposed Order does not prohibit Intel from withholding AT Information or making decisions about product supply based on otherwise lawful business considerations unrelated to the existence of the intellectual property dispute. For example, Intel retains the right to withhold information from a customer that has breached an agreement regarding the disclosure or use of the information.
- Paragraph B.4. provides that the Proposed Order does not require Intel to provide AT Information or microprocessors to facilitate the design or development of a type of system that the customer has not designed or developed or demonstrated plans to design or develop within the preceding year.
- Paragraph B.5. makes clear that the Proposed Order does not prohibit Intel from restricting the use of AT Information to the customer's design and development of computer systems that incorporate the microprocessor to which the AT Information pertains. For example, if a recipient of AT Information is in the business of designing competing microprocessors, the Proposed Order would not prevent Intel from using reasonable firewall provisions to prevent that recipient from using the information in that competing business.
- Paragraph B.6. provides that the Proposed Order does not require Intel to disclose information or supply microprocessors that are not otherwise available for disclosure or supply to Intel's customers. If the information or product is not being provided to other customers, then the refusal to provide it to a customer with which Intel has an intellectual property dispute does not provide the kind of leverage that the challenged conduct provides.
- Paragraph B.7. makes clear that, apart from the specific requirements and prohibitions, the Proposed Order does not otherwise limit Intel's intellectual property rights.

In light of the rapidly changing nature of the industry, Intel's obligations under the Proposed Order would terminate in ten years. The Commission appreciates that this same industry dynamic makes it important for it to address disputes over Intel's compliance with the Order expeditiously, should any such disputes arise.

Parts III, IV, and V of the Proposed Order set out various procedural requirements, such as notice to affected persons and annual compliance reporting. Paragraph III.A. permits Intel to provide notice of the Order to recipients of AT Information through a conspicuous notice placed, for thirty days after final entry of the Order, as the first item on the "In the News" portion of the "developers" page of Intel's World-Wide Web site. Because recipients of AT Information must frequently visit that area of Intel's Website in order to receive information needed in their business, a notice displayed at that location will ensure notice to all affected persons. After the initial thirty day period, Intel will maintain a link from the "developers" page to the Order, so that new customers will also have access to the Order. The other provisions of these paragraphs are standard provisions of the type typically included in Commission orders of this kind.

III. Opportunity for Public Comment

The Proposed Order has been placed on the public record for 60 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the Agreement and comments received, and will decide whether it should withdraw from the Agreement or make final the Order contained in the Agreement.

By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive issues described in the complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the Proposed Order. It is not intended to constitute an official interpretation of the Agreement and Proposed Order or in any way to modify their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Chairman Robert Pitofsky and Commissioners Sheila F. Anthony and Mozelle W. Thompson

In the Matter of Intel Corporation

Docket No. 9288

We join our colleague Commissioner Swindle in welcoming comments during the public comment period. To facilitate that comment, we briefly recapitulate the precedent, legal and economic reasoning, and judgment that led us to accept the settlement for public comment.

The Complaint alleged that Intel has monopoly power in the worldwide market for general purpose microprocessors, and that it sought to maintain that monopoly power by coercing customers into licensing to it certain patented innovations. Intel carried out this coercion, according to the Complaint, by refusing to provide advance technical information about Intel microprocessors, withholding product samples, and creating uncertainty in the marketplace about the

customer's future source of supply. Advance technical information about new microprocessor products is essential to Intel's customers, so it is alleged, because one cannot achieve the effective integration of components such as microprocessors, memory components, core logic chips, graphics controllers, and various input and output devices without information such as the electrical, mechanical, and thermal characteristics of the microprocessor.

The conduct is alleged to reinforce Intel's domination of the general purpose microprocessor market in at least three ways. First, the conduct gives Intel preferential access to the technologies of other firms. To the extent that competitors cannot obtain comparable access to technology, it would be more difficult for them to challenge Intel's dominance. Second, coercion that forces customers to license away patent rights on unfavorable terms tends to diminish the incentives to develop such technologies. Finally, a computer maker's inability to enforce its patent rights makes it more difficult to develop and maintain a brand name based on superior technology, because the patent owner is forced to share its technology with all computer makers. In turn, a weakened brand identification tends to make it more difficult for that computer manufacturer to find consumer acceptance for computers using non-Intel microprocessors.

These are allegations, not proven facts, and Intel would have had a full opportunity to respond to these allegations had there been a trial. But the allegations are consistent with our knowledge of the industry and with common sense, and the proposed remedy is consistent with both of those as well as with Intel's representations as to its own legitimate business needs.

Some have raised questions about a few of the factual predicates of the case. But those questions are of a type that one would litigate at trial, not use as a basis to reject a settlement. It is in the nature of any settlement before trial that the facts are not fully known. Were we to demand certainty, no case could ever be settled. Complaint Counsel would have had an opportunity to present its evidence with respect to each of the points that we have heard raised, and its pretrial brief promised to do so.[1]

Some have also questioned the practicalities of enforcing the order. But courts weigh facts and circumstances and make determinations about the purposes motivating challenged conduct every day, both within and outside the antitrust field. Certainly the order could have been made more certain in its application by, for example, requiring Intel to deal with all comers on identical terms, regardless of circumstances or the credit-worthiness or other characteristics of would-be customers. Such an order would have been far more burdensome on Intel and would have deterred a wide range of efficient conduct. Both the Commission and a respondent share a common interest in an order that is well-tailored to the violation and to the competitive circumstances—even, sometimes, at the expense of bright-line clarity.

In short, in welcoming public comments on the proposed order, we remain of the view that Complaint Counsel and Intel have done a commendable job of crafting a remedy that addresses serious potential competitive harm without significantly hindering Intel's legitimate business activity. Moreover, this important balance supports the climate of innovation that benefits both industry and consumers.

Statement of Commissioner Orson Swindle

In the Matter of Intel Corporation

Docket No. 9288

When the Commission accepted the consent agreement with Intel Corporation last month, I said that I would take the opportunity to express my views about it following my medical leave. In this statement I will address issues arising from both the consent agreement and the administrative complaint, from whose issuance I dissented last June. Since we do not have the benefit of a trial record here [1]—and because the information in hand does not allay the misgivings I have had since the outset—I hope that public comment on the consent agreement will provide helpful guidance on how to vote once the agreement comes off the public record.

In essence, the complaint consists of an allegation that Intel has monopoly power in general-purpose microprocessors (complaint ¶¶ 4–10, 38 [2]); an allegation that Intel engaged in exclusionary conduct toward several customers by cutting off key technical information and microprocessor prototypes in order to coerce those customers to license certain of their intellectual property to Intel (¶¶ 11–37, 39); and concluding allegations that, through its exclusionary behavior, Intel has both illegally maintained its monopoly power in general-purpose microprocessors and attempted to monopolize current and future generations of such microprocessors, in violation of Section 5 of the FTC Act (¶¶ 40–42).

In the first place, there is no doubt that Intel has long bestrode the market for general-purpose microprocessors, but there has also been reason to ask whether Intel's position in the market is as unassailable as the complaint suggests. It is widely recognized that Intel is facing vigorous competition in supplying microprocessors to the segment consisting of personal computers costing less than $1000—a segment toward which a good deal of consumer demand appears to have been shifting lately. Although Intel has not

[1] As to monopoly power, Complaint Counsel said it would offer evidence that the sub-$1000 segment was a small and relatively unprofitable portion of the market (CCBr. at 13), and that at the high-end, many computer manufacturers have been abandoning their proprietary microprocessor designs in favor of Intel's (CCBr. at 11–12). In the market as a whole, Complaint Counsel contended that Intel's share had grown, not shrunk, and was in the range of 80% or more. (CCBr. at 9 n.6.) Complaint Counsel also represented that it would prove the existence of formidable barriers to entry and expansion—including large sunk costs, long development lead times, economies of scale, network effects, intellectual property rights, and reputational barriers. (CCBr. at 15.)

As to whether Intel's actions affected actions taken against *customers* rather than *competitors*, these customers had microprocessor or related technology that Intel, the alleged monopolist, desired. Moreover, the Supreme Court has repeatedly condemned both monopolists and cartels that strike at their customers in order to injure competitors. *See, e.g., Lorain Journal Co.* v. *United States*, 342 U.S. 143 (191); *Blue Shield* v. *McCready*, 457 U.S. 465 (1982).

As to the customers in question being "litigious," one could alternatively characterize the customers as firms attempting to resist inappropriate demands to turn over their constitutionally-derived patent rights. If monopoly power could be used to force an end to litigation, in such a Hobbesian world the strong would always vanquish the weak, regardless of he underlying merits. Such an outcome is the antithesis of civil society. Nor would forbidding such conduct necessarily condemn parties to lengthy an expensive litigation. Non-monopolists settle disputes all the time, even though they do not have the powerful weapon of monopoly power to wield.

As to whether Intel's conduct harmed consumer welfare, Compliant Counsel acknowledged the burden of proving that Intel engaged in "conduct, other than competition on the merits or restraints reasonably 'necessary' to competition on the merits, that reasonably appear[s] capable of making a significant contribution to creating or maintaining monopoly power." CCBr. at 5–6, *quoting Barry Wright Corp.* v. *ITT Grinnell Corp.*, 724 F.2d 227, 230 (1st Dir. 1983) (Breyer, J.) (*quoting* 3 P. Areeda & D. Turner, Antitrust Law ¶ 626 at 83 (1978).

[1] Were we considering this matter at the conclusion of an adjudicative proceeding, I would of course base my analysis strictly on information in the adjudicative record. In the absence of such a record, I am compelled to rely on other sources of information.

[2] Unless otherwise indicated, all further citations to paragraph numbers refer to the administrative complaint.

faced challenges of the same magnitude in the mid-range and high-end segments of the business, some have also questioned the durability of the firm's dominance of those segments as well. In the absence of a full-blown adjudicative record that might have proved what Paragraph 38 alleges, available information has not dispelled my questions about whether Intel has monopoly power—as opposed to just an extremely large market share—in general-purpose microprocessors.[3]

Second, even if one were to assume Intel's monopoly power, I have misgivings about the theory of violation underlying the complaint. The complaint claims that Intel took action against three *customers*—firms whose primary significance to the case, according to the Commission's own documentation, lies in their being manufacturers of PCs, not in their being competitors of Intel in the microprocessor market.[4] What action did Intel take against those customers, and for what reasons?

The Commission's complaint says that Intel cut off the supply of technical information and microprocessor prototypes to Digital Equipment, and demanded the return of information and prototypes already in Digital's possession, after Digital sued Intel for patent infringement (¶¶ 18–19). Intel took similar actions against Intergraph, a customer focused largely on workstations and servers, after Intergraph spurned Intel's demand for a royalty-free license to certain Intergraph microprocessor-related technology (¶¶ 26–29). Finally, Intel cut off technical information to Compaq Computer, which had earlier sued Packard Bell Electronics on the theory that certain Packard Bell computer systems used Intel microprocessors that infringed Compaq's patents—a lawsuit in which Intel felt an obligation to intervene on behalf of the defendant (¶¶ 34–35). According to the complaint, Intel's purpose in taking these actions was to "forc[e] those customers to grant Intel licenses to microprocessor-related technology developed and owned by those customers' (¶ 13). The alleged effects of Intel's behavior were "to diminish the incentives of those three Intel customers—as well as other firms that are Intel customers or otherwise commercially dependent upon Intel—to develop new innovations relating to microprocessor technology" (¶ 14) and to "entrench[] [Intel's] monopoly power in the current generation of general-purpose microprocessors and reduce[] competition to develop new microprocessor technology and future generations of microprocessor products' (¶ 39).

At this point I do not have sufficient information to be confident that complaint counsel would have proved these rather dramatic charges. My vote against pursuing the case last June, especially as regards Intel's conduct toward Digital and Compaq, rested in part on my sense that the Commission had not sufficiently considered the grounds on which even a putative monopolist is entitled to withhold aid and comfort from another company that threatens serious harm by suing it or suing a third party on whose behalf the monopolist is obligated to intervene. It was my judgment then, and it remains so now, that one could plausibly view Intel's conduct in precisely such an exculpatory light. If the Commission intended to broadcast some kind of general admonition that a monopolist in these circumstances cannot resort to "self-help" (by, *e.g.*, withdrawing and withholding technical information and prototypes) but must instead hire lawyers and take its disputes through lengthy and expensive litigation, then that is a message to which I most assuredly do not subscribe. On the other hand, if the complaint was meant to tell a narrower, more traditional antitrust story based on harm to competition and consumers—in this case, harm to innovation in a high-technology industry—I remain unsure whether even that more modest edifice can rest on Intel's decision to withdraw assistance from a handful of customers who were litigious or otherwise flouted Intel's wishes.[5]

Before I turn to the order, I wish to address one other consideration concerning issuance of the complaint against Intel. Regardless of how one characterizes the dealings between Intel and its three customers—*i.e.*, regardless of whether one accepts the complaint's claim that Intel used its monopoly power to unfairly gain access to intellectual property developed by those customers—I do not believe that the complaint spells out an especially coherent theory of how those dealings harmed consumers. Consumer welfare is the touchstone of antitrust enforcement, and the "public interest" standard of Section 5 of the FTC Act embodies considerations of consumer welfare. In the absence of clear evidence of how Intel's dealings with Digital, Intergraph, and Compaq could have adversely affected consumers, one can question the very basis for issuing this complaint—and for injecting a government agency into the dynamic workings of a fast-moving, high-technology industry.[6] I look forward to any public comments that deal with the likely harm to consumers stemming from the misconduct alleged in the Commission's complaint.

Regarding the proposed order itself, some observers have characterized it as

[3] In their statement, my fellow Commissioners—citing complaint counsel's pretrial brief as support—assert that "Compliant Counsel said it would offer evidence that the sub-$1000 segment was a small and relatively unprofitable portion of the market * * * and that at the high-end, many computer manufacturers have been abandoning their proprietary microprocessor designs in favor of Intel's * * *. Moreover, according to my colleagues, "[i]n the market as a whole, Compliant Counsel contended that Intel's share had grown, not shrunk, and was in the range of 80% or more." Statement of Chairman Robert Pitofsky and Commissioners Sheila F. Anthony and Mozelle W. Thompson at 2 n.1. I do not disagree that these propositions that complaint counsel aimed to establish. My point is simply that I have not yet been persuaded by the *evidence* in the Commission's possession—as distinguished from complaint counsel's representations and contentions—that Intel possesses monopoly power in the relevant market.

[4] Of course, both Digital (the developer of the Alpha microprocessor) and Intergraph (which developed the Clipper chip prior to 1993) were not only Intel's customers but also—at least to the extent that they were able to chisel away at Intel's alleged monopoly—its competitors in the microprocessor market. The Commission's complaint, however, is couched almost entirely in terms of Intel's allegedly anticompetitive behavior toward three victims that needed Intel technical information and prototypes *so that they could build computers*. And although press releases do not necessarily reflect the official views of the Commission (in the sense that the complaint does), both the June 8, 1998, FTC press release that announced the issuance of this complaint as well as the March 17, 1999, release announcing the Commission's acceptance of this consent agreement spoke almost entirely in terms of Intel's conduct toward its customers. Even if Digital and Intergraph can be characterized as Intel's present or erstwhile competitors—thereby giving this matter more of the character of a traditional monopolization case—the Commission has consistently placed far greater emphasis on the supplier/customer relationship between Intel and its alleged victims.

[5] My colleagues characterize Intel's conduct as "coercion that forces customers to license away patent rights on unfavorable terms" (Statement of Chairman Pitofsky and Commissioners Anthony and Thompson, *supra* n.3, at 1), which begs the important question whether Intel was truly engaged in such coercion or was instead defending against attacks by its alleged victims. Regarding my doubts about whether Intel's alleged conduct (and its anticompetitive effects) could have been proved, my colleagues state that these allegations "are consistent with our knowledge of the industry and with common sense * * *" *Id.* It bears repeating that my concerns arise from the state of the evidence underlying the Commission's allegations. I take little comfort from—indeed, I am not sure I fully understand—the notion that monopolization allegations are "consistent with our knowledge of the industry and with common sense." I do not—as my colleagues suggest (*id.*)—"demand certainty" about the facts at issue, but I do look to the strength of the evidence rather than to what a litigant's pretrial brief might promise to deliver (*id.* at 2).

[6] I note that to the extent this case is depicted as involving harm to Intel's competitors (rather than to its customers), that would tend to attenuate further any theory that Intel's conduct threatened harm to consumers.

having achieved whatever objective prompted the Commission's suit against Intel. I am not so sure, in part because of my uncertainty (discussed earlier) over what message the complaint was meant to communicate and in part because of the very terms of the order. In fact, given my reservations about the merits of the complaint, I would be more concerned about the order—comprising a difficult-to-enforce mandate to "sin no more," with a major proviso and some significant exceptions—if it seemed likely to impose real and significant restrictions on Intel.

I expect the proposed order to present possible enforcement difficulties because, among other things, its basic prohibition (order ¶ II.A) commands Intel not to take certain adverse actions against microprocessor customers with regard to "Advance Technical Information" "*for reasons related to* an Intellectual Property Dispute" [7] and not to "*base[ ]* any supply decisions for general purpose microprocessors *upon the existence of* an [Intellectual Property] Dispute." No matter what may motivate Intel's future decisions whether to furnish technical information and microprocessor prototypes to customers, it is extremely doubtful that Intel is going to create any kind of record that will enable the Commission to ascertain whether such a decision is "for reasons related to" or "base[d] * * * upon" the one ground made impermissible by the order—an intellectual property dispute. Exacerbating the impact of Paragraph II.A's subjective language are two further paragraphs that allow Intel to withhold advance technical information from customers (order ¶ II.B.2) or make product supply decisions (order ¶ II.B.3) based on "*business considerations unrelated to* the existence of the [Intellectual Property] Dispute"—further verbiage that appears to make order enforceability hinge on difficult inquiries into the state of mind of Intel decision makers. I hope that my pessimism is unwarranted, but the key terms of the order seem destined to enmesh the Commission in expensive, and perhaps intractable, enforcement proceedings if Intel is ever suspected of violating it.[8]

I end where I began—searching for information to help me decide whether I now have reason to believe that Intel violated the law and, if so, whether I can support this consent order. I genuinely look forward to receiving public comments both supportive and critical of the settlement and the underlying theory of violation. I hope that the considerations spelled out in this statement will be helpful to those preparing to submit comments to the Commission.

[FR Doc. 99–10252 Filed 4–22–99; 8:45 am]
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[7] All italics in this paragraph are added.

[8] Presumably in response to my point about the difficulty of order enforcement in this case, my fellow Commissioners note that "[c]ertainly the order could have been made more certain in its application by, for example, requiring Intel to deal with all comers on identical terms, regardless of circumstances or the credit-worthiness or other characteristics of would-be customers." Statement of Chairman Pitofsky and Commissioners Anthony and Thompson, *supra* n. 3, at 2. There is nothing in my statement to suggest that I would favor an order drafted along such rigid, mechanical lines. My point was that, in its current form, the order against Intel could present formidable enforcement problems.

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To extend the tax benefits available with respect to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes. (Apr. 19, 1999; 113 Stat. 34)

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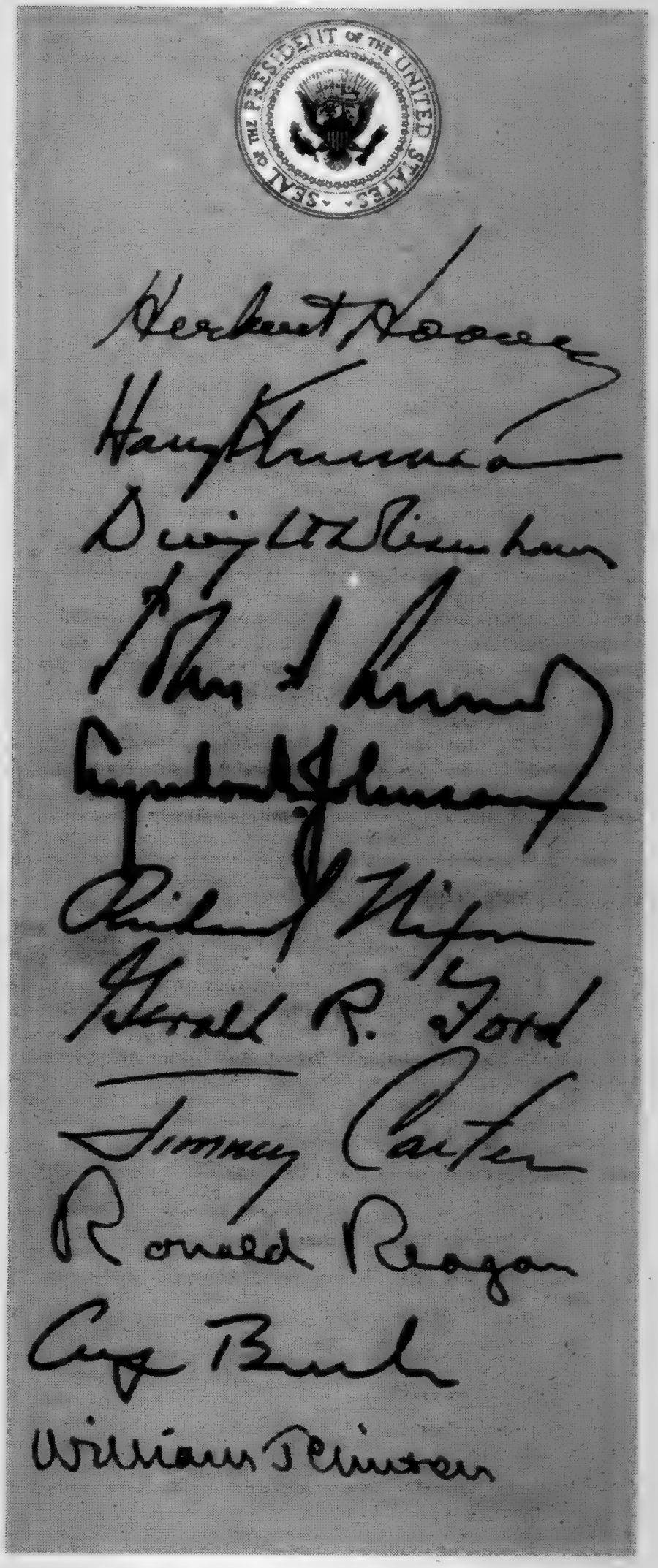

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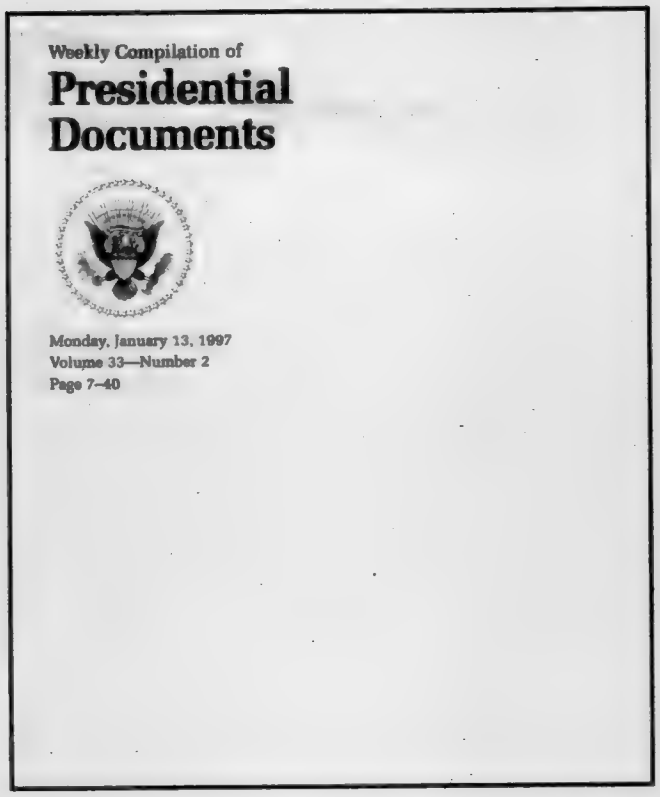

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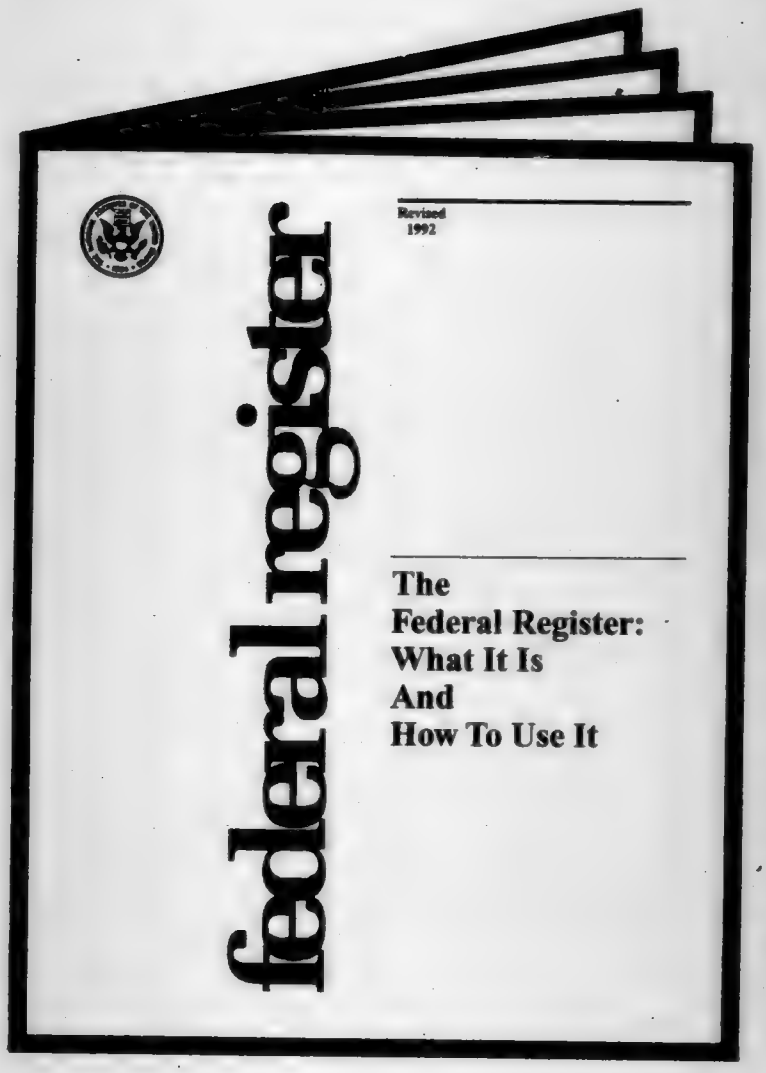

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Rules and Regulations

Federal Register
Vol. 64, No. 79
Monday, April 26, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

RIN 3064–AC22

Filing Procedures and Delegations of Authority

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is amending its procedural regulations for mutual-to-stock conversion notices to delegate authority from the FDIC's Board of Directors to the Director and Deputy Director of the Division of Supervision to act on certain requests for the waiver of the depositor vote requirements in its mutual-to-stock conversion regulations. Delegated authority is granted only with respect to requests for the waiver of the depositor vote requirements involving mutual-to-stock conversions in situations where applicable state law in effect as of January 1, 1999, provided for voting by corporators as the only depositor voting mechanism for mutual-to-stock conversions, or prohibited proxy voting by depositors of state-chartered, cooperative savings banks in mutual form. This amendment will expedite the FDIC's final actions regarding such waiver requests.

EFFECTIVE DATE: May 26, 1999.

FOR FURTHER INFORMATION CONTACT: Division of Supervision: John M. Lane, Assistant Director, (202) 898–3671; Calvin B. Riddick, Manager, (202) 898–6758; Scott S. Patterson, Review Examiner, (202) 898–6768; Legal Division: Michael B. Phillips, Counsel, (202) 898–3581.

SUPPLEMENTARY INFORMATION:

I. Background

On November 30, 1994, the FDIC promulgated regulations governing mutual-to-stock conversions of state nonmember banks. (59 FR 61233 (November 30, 1994)). Under the conversion regulations, as recodified in 1998, a proposed conversion must be approved by a vote of at least a majority of the bank's depositors. (12 CFR 333.4(c)(2)). Voting may be in person or by proxy. Waivers of the requirements in § 333.4 may be granted by the FDIC's Board of Directors (the Board) for good cause shown. (12 CFR 333.4(a)). Certain authority involving the FDIC's conversion regulations is delegated; however, under 12 CFR 303.164(b), the authority to act on depositor vote waiver requests is reserved to the Board.

Based on its experience with such waiver requests, the Board has determined that sufficient precedent has been established to allow a delegation of the authority to the Director or Deputy Director of the Division of Supervision (DOS) to act on depositor vote waiver requests when the requests involve state law in effect as of January 1, 1999, regarding (i) voting by corporators as the only depositor voting mechanism for conversions, or (ii) prohibitions under state law regarding proxy voting by depositors of cooperative savings banks in mutual form.

II. Final Amendment to Part 303

Since the promulgation of the conversion regulations in 1994, the Board has approved many depositor waiver requests from mutual savings banks in Massachusetts and other New England states which concerned (i) corporator voting in lieu of voting by all eligible depositors or (ii) prohibitions under state law (for mutual cooperative savings banks) regarding proxy voting by depositors.

The FDIC Board has determined that sufficient precedent has been established with respect to waiver requests in the above circumstances to allow for a delegation of authority to the Director of DOS and Deputy Director of DOS to approve or deny waiver requests. In its review of waiver requests from mutual savings banks whose corporators (not the broader set of eligible depositors) were authorized to vote on mutual-to-stock conversions, the focus of the Board's inquiry has been whether a sufficient number of independent corporators voted in favor of the proposed conversion. This focus accords with the statement in the preamble to the FDIC's conversion regulations that provides the following criteria for such determinations: on a case-by-case basis, the Board will consider waiving the depositor voting requirement if it is demonstrated, to the Board's satisfaction, that the alternative voting mechanism established under the applicable state law satisfies the concerns expressed above regarding the need for a vote on the conversion by parties that are not insiders and do not have a potential conflict of interest in reviewing the proposed conversion. (59 FR 61233, 61238 (November 30, 1994)).

With respect to waiver requests based on state prohibitions on proxy voting by depositors, the focus of inquiry by the Board has been, among other factors, the efforts expended by the cooperative savings bank to encourage in-person depositor voting and the number of depositors with no apparent conflict of interest who attended the special meeting held by the bank and voted for the conversion.

In order to recognize current state law regarding corporator voting or prohibitions on proxy voting by depositors, the Board has decided to only provide the delegation where the request is based upon applicable state law in effect as of January 1, 1999.

III. Effective Date

This amendment to part 303 is being adopted without opportunity for public comment in accordance with section 553(b)(A) of the Administrative Procedure Act (APA) which exempts from required public comment rules of agency organization, procedure, or practice. As this amendment modifies a rule concerning internal delegations of authority, section 553(b)(A) applies.

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) provides that rules imposing reporting, disclosure or other new requirements may not be effective earlier than the first day of the calendar quarter after adoption. This statutory requirement does not apply to this amendment as there are no additional reporting, disclosure or other new requirements imposed by this amendment on insured depository institutions.

IV. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the FDIC may not

conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. Information collection under the FDIC's mutual-to-stock conversion regulations is approved under OMB control number 3064–0117 and is valid until July 31, 2000. This rulemaking does not modify the collection approved by OMB. As this amendment does not involve any additional recordkeeping or reporting requirements, no Paperwork Reduction Act analysis is required.

V. Regulatory Flexibility Act

In accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601–612, no regulatory flexibility analysis is required with respect to this amendment as the APA does not require that this amendment be published for public comment.

VI. Assessment of Impact of Federal Regulation on Families

The FDIC has determined that this amendment will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act of 1999 (Public Law 105–277).

VII. Small Business Regulatory Enforcement Fairness Act

No notice of a final rule is being provided to Congress regarding this amendment under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 801. SBREFA provides generally for agencies to report rules to Congress and for major rules not to take effect until a certain period after the notice has been received. However, section 251 of SBREFA provides that rules of agency practice and procedure that do not substantially affect the rights or obligations of non-agency parties are not subject to the reporting requirement and may be made effective in accordance with the APA and any other applicable law. This amendment pertains to the FDIC's delegations of authority, is procedural in nature and does not substantially affect the rights of any non-agency party.

List of Subjects in 12 CFR Part 303

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, Banking, Bank merger, Branching, Foreign branches, Foreign investments, Golden parachute payments, Insured branches, Interstate branching, Reporting and recordkeeping requirements, Savings associations.

For the reasons set forth in the preamble and under the authority of 12 U.S.C. 1819(a)(Tenth), the FDIC Board of Directors hereby amends 12 CFR part 303 as follows:

PART 303—FILING PROCEDURES AND DELEGATIONS OF AUTHORITY

1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817, 1818, 1819(Seventh, and Tenth), 1820, 1823, 1828, 1831a, 1831e, 1831o, 1831p–1, 1835a, 3104, 3105, 3108, 3207; 15 U.S.C. 1601–1607.

2. Section 303.164 is amended by revising paragraph (b) to read as follows:

§ 303.164 Delegation of authority.

* * * * *

(b) Authority to act on a waiver under § 303.162 is retained by the Board of Directors, except for requests to waive the depositor vote requirements in § 333.4(c)(2) of this chapter when the requests are based on the need for the bank to comply with applicable state law in effect as of January 1, 1999, that provides for voting by corporators as the only depositor voting mechanism for state-chartered, mutual savings banks, or prohibits depositors of state-chartered, cooperative savings banks in mutual form from voting by proxy. Authority is delegated to the Director and Deputy Director (DOS) to act on such waiver requests.

* * * * *

By Order of the Board of Directors.

Dated at Washington, D.C., this 20th day of April, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–10424 Filed 4–23–99; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–25–AD; Amendment 39–11149; AD 95–11–15 R1]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASK 21 Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises Airworthiness Directive (AD) 95–11–15, which currently requires replacing the parallel rocker with a part of improved design and incorporating flight manual revisions on all Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASK 21 gliders. AD 95–11–15 was the result of two incidents of the parallel rocker breaking at the elevator connection on the affected gliders. Since that time, the FAA has determined that the AD should only affect those Model ASK 21 gliders equipped with the automatic elevator connection. This AD retains the actions of AD 95–11–15, but only for those gliders with the automatic elevator connection incorporated. The actions specified in this AD are intended to continue to prevent possible loss of elevator control that could result from a broken parallel rocker.

DATES: Effective July 25, 1999.

The incorporation by reference of certain publications as listed in the regulations was previously approved by the Director of the Federal Register as of July 14, 1995 (60 FR 29978, June 7, 1995).

Comments for inclusion in the Rules Docket must be received on or before May 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 91–CE–25–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Alexander Schleicher GmbH & Co., Segelflugzeugbau, Postfach 60, 36163 Poppenhausen, Germany; telephone: ++49 (0) 6658–890; facsimile: ++49 (0) 6658–8923. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 91–CE–25–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Discussion

AD 95–11–15, Amendment 39–9248 (60 FR 29978, June 7, 1995), currently requires the following on all Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASK 21 gliders:

—Replacing the parallel rocker with a part of improved design; and
—Incorporating flight manual revisions.

Accomplishment of these actions is required in accordance with Alexander Schleicher ASK 21 Technical Note No. 22, dated November 26, 1990.

AD 95–11–15 was the result of two incidents of the parallel rocker breaking at the elevator connection on the affected gliders.

The actions specified in AD 95–11–15 are intended to prevent possible loss of elevator control that could result from a broken parallel rocker.

Actions Since Issuance of Previous Rule

Since AD 95–11–15 became effective, the FAA has determined that the AD should only affect those Model ASK 21 gliders equipped with the automatic elevator connection. Model ASK 21 gliders incorporating serial numbers 21206 through 21473 were equipped with the automatic elevator connection at manufacture, and any earlier serial numbers could be modified to incorporate an automatic elevator connection. Alexander Schleicher Technical Note No. 11 includes the procedures necessary to accomplish this modification.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that:

—The applicability of AD 95–11–15 should be limited to only those Model ASK 21 gliders equipped with the automatic elevator connection; and
—AD action should be taken to continue to prevent possible loss of elevator control that could result from a broken parallel rocker.

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Alexander Schleicher Model ASK 21 gliders of the same type design registered in the United States, the FAA is issuing an AD to revise AD 95–11–15. This AD retains the actions of AD 95–11–15, but only for those gliders with the automatic elevator connection incorporated. Accomplishment of the actions of this AD would be required in accordance with Alexander Schleicher ASK 21 Technical Note No. 22, dated November 26, 1990.

Cost Impact

The FAA estimates that 35 gliders in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per glider to accomplish the required action, and that the average labor rate is approximately $60 per work hour. Parts cost approximately $45 per glider. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $3,675, or $105 per glider. This figure is based upon the presumption that no affected glider owner/operator has accomplished the required replacement.

Alexander Schleicher has informed the FAA that improved design parallel rockers have been distributed for all 35 affected gliders. Presuming that each set of parts has been installed on one of the affected gliders, the required action will not impose any cost impact upon U.S. operators.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. This AD restricts the glider applicability in that it only requires the actions on Alexander Schleicher Model ASK 21 gliders that are equipped with the automatic elevator connection instead of all gliders as required by 95–11–15. With this in mind, this AD reduces the burden that is currently required for U.S. operators of the affected gliders. Therefore, this action does not impose a significant burden on affected operators. In accordance with Section 11.17 of the Federal Aviation Regulations (14 CFR 11.17) unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, a written adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91–CE–25–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 95–11–15, Amendment 39–9248 (60 FR 29978, June 7, 1995), and by adding a new AD to read as follows:

95–11–15 R1 Alexander Schleicher Segelflugzeugbau: Amendment 39–11149; Docket No. 91–CE–25–AD; Revises AD 95–11–15, Amendment 39–9248.

Applicability: The following serial numbered Model ASK 21 gliders, certificated in any category:

—Serial numbers 21206 through 21473; and

—Any earlier serial numbers that were retrofitted to incorporate an automatic elevator connection.

Note 1: Alexander Schleicher Technical Note No. 11 includes all the procedures necessary to retrofit the earlier serial numbered Model ASK 21 gliders.

Note 2: This AD applies to each glider identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished (compliance with AD 95–11–15).

To prevent possible loss of elevator control that could result from a broken parallel rocker, accomplish the following:

(a) Within 30 calendar days after July 14, 1995 (the effective date of AD 95–11–15), accomplish the following:

(1) Replace the parallel rocker with an improved and stronger part (part number 99.000.4940 with modification status 1), in accordance with the instructions in Alexander Schleicher ASK 21 Technical Note No. 22, dated November 26, 1990.

(2) Incorporate the flight manual revisions included with the technical note referenced above into the aircraft flight manual (AFM).

(b) As of the effective date of this AD, no person may install, on any affected glider, a parallel rocker that is not part number 99.000.4940 with modification status 1.

(c) Accomplishment of the AFM insertion, as required by paragraph (a)(2) of this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the glider to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be used if approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

(2) Alternative methods of compliance approved in accordance with AD 95–11–15 are considered approved for this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) The replacement required by this AD shall be done in accordance with Alexander Schleicher ASK 21 Technical Note No. 22, dated November 26, 1990. The incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of July 14, 1995 (60 FR 29978, June 7, 1995). Copies may be obtained from Alexander Schleicher GmbH & Co., Segelflugzeugbau, Postfach 60, 36163 Poppenhausen, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(g) This amendment becomes effective on July 25, 1999. Issued in Kansas City, Missouri, on April 19, 1999.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10313 Filed 4–23–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–199–AD; Amendment 39–11147; AD 99–09–14]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that currently requires inspections to detect cracking of fuselage station (FS) 983 main frame (left and right sides), and repair, if necessary. That AD was prompted by reports of cracks found in the left and right sides of the FS 983 main frame, below the level of the cabin floor. This amendment adds a new requirement to review the airplane maintenance records to determine if a crack within the FS 983 main frame web was detected previously, and if repair of any such crack was deferred; and repetitive inspections, if necessary, until accomplishment of a repair. This amendment also adds terminating action for the repetitive inspections. The actions specified by this AD are intended to prevent cracking of the FS 983 frame, which could result in reduced structural integrity of the fuselage.

DATES: Effective June 1, 1999.

The incorporation by reference of Lockheed Tristar L–1011 Service Bulletin 093–53–266, dated March 2, 1992; as revised by Change Notification CN1, dated July 10, 1992, as listed in the regulations, is approved by the Director of the Federal Register as of June 1, 1999.

The incorporation by reference of Lockheed Service Bulletin 093–53–264, dated October 4, 1991, was approved previously by the Director of the Federal Register as of December 18, 1991 (56 FR 61361, December 3, 1991).

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Centers, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta

Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 91–21–51, amendment 39–8099 (56 FR 61361, December 3, 1991), which is applicable to all Lockheed Model L–1011–385 series airplanes, was published in the **Federal Register** on August 19, 1998 (63 FR 44411). The action proposed to require inspections to detect cracking of fuselage station (FS) 983 main frame (left and right sides), and repair, if necessary. The action also proposed to add a new requirement to review the airplane maintenance records to determine if a crack within the FS 983 main frame web was detected previously, and if repair of any such crack was deferred; and repair, prior to further flight, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposed Rule

One commenter supports the proposed rule.

Request To Revise Certain Requirements of Proposed Rule

One commenter requests that paragraph (f) of the proposed rule be revised to read, "For aircraft with previously deferred cracks, continue the current repetitive inspection at the limits given in AD 91–21–51, paragraph (e). Repair of these cracks must be accomplished in accordance with Lockheed Service Bulletin 093–53–266, dated March 2, 1992, within 18 months after the effective date of this AD." The commenter states that, as paragraph (f) is worded in the proposed rule, the operator would have to repair any cracks that were deferred in accordance with the requirements in paragraph (e), prior to further flight. This could result in airplanes being immediately out of compliance as of the effective date of the final rule.

The FAA concurs that paragraph (f) of the proposed rule could be misinterpreted as suggested by the commenter. The FAA's intent was that the repair be accomplished prior to further flight after the determination that is required by the first sentence of paragraph (f). To accommodate the commenter's concern, the FAA has revised paragraph (f) of this AD to require the repetitive inspections to continue until accomplishment of the repair. In addition, a new paragraph (g) has been added to require accomplishment of the repair within 18 months after the effective date of this AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 235 airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry will be affected by this AD.

The external eddy current inspection that currently is required by AD 91–21–51, and is retained in this AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspection on U.S. operators is estimated to be $7,020, or $60 per airplane.

The internal visual and eddy current inspections that currently are required by AD 91–21–51, and retained in this AD, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these inspections on U.S. operators is estimated to be $7,020, or $60 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator be required to accomplish the necessary repair of cracking, it would take approximately 30 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the repair required by this AD on U.S. operators is estimated to be $1,800 per airplane.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8099 (56 FR 61361, December 3, 1991), and by adding a new airworthiness directive (AD), amendment 39–11147, to read as follows:

99–09–14 Lockheed: Amendment 39–11147. Docket 98–NM–199–AD. Supersedes AD 91–21–51, amendment 39–8099.

Applicability: All Model L–1011–385 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking in the fuselage station (FS) 983 frame, which could result in reduced structural integrity of the fuselage, accomplish the following:

Restatement of Requirements of AD 91–21–51, Amendment 39–8099

(a) Within 20 days after December 18, 1991 (the effective date of AD 91–21–51, amendment 39–8099), inspect the left and right sides of FS 983 main frame from waterline (WL) 175 to WL 200 to detect cracks using a high frequency eddy current procedure, in accordance with paragraph A. of the Accomplishment Instructions of Lockheed Service Bulletin 093–53–264, dated October 4, 1991. At the operator's option, the internal inspection required by paragraph (d) below may be used in lieu of the external inspection.

(b) If cracks that extend into the main frame caps are found during the inspection performed in accordance with paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

(c) Within 60 days after December 18, 1991, perform an internal visual and an eddy current inspection of the FS 983 main frame cap and web in accordance with paragraph B. of the Accomplishment Instructions of Lockheed Service Bulletin 093–53–264, dated October 4, 1991.

(d) If cracks in the following locations are found during the inspection required by paragraph (c) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Atlanta ACO.

(1) Any crack extending into the main frame caps.

(2) Any crack extending into the web-to-cap radius.

(3) Any crack extending into a web area outside the shaded area shown in Figure 1, Sheet 3, of Lockheed Service Bulletin 093–53–264, dated October 4, 1991.

(4) More than 1 crack within the main frame web area shown in Figure 1, Sheet 3, of Lockheed Service Bulletin 093–53–264, dated October 4, 1991.

(e) If, during the inspection required by paragraph (c) of this AD, a single crack is found that is completely contained within the main frame web area shown in Figure 1, Sheet 3, of Lockheed Service Bulletin 093–53–264, dated October 4, 1991: Prior to further flight, treat the cracked section of the web with corrosion inhibitor in accordance with the service bulletin. Thereafter, repeat the inspections at intervals not to exceed 90 days, using the internal inspection procedure required by paragraph (c) of this AD.

New Requirements of This AD

(f) Within 18 months after the effective date of this AD: Review the airplane maintenance records to determine if a crack within the main frame web area has been detected previously, and to determine if repair of any such crack was deferred in accordance with paragraph (e) of AD 91–21–51, amendment 39–8099. For airplanes having cracks for which a repair has been deferred, continue the repetitive inspections in accordance with the requirements of paragraph (e) of this AD, until accomplishment of paragraph (g) of this AD.

(g) Within 18 months after the effective date of this AD: Repair any crack for which repair has been deferred as specified in paragraph (e) of this AD, in accordance with Lockheed Tristar L–1011 Service Bulletin 093–53–266, dated March 2, 1992; as revised by Change Notification CN1, dated July 10, 1992. Accomplishment of such repair constitutes terminating action for the repetitive inspections required by paragraph (e) of this AD.

Note 2: Lockheed Tristar L–1011 Service Bulletin 093–53–266, dated March 2, 1992; as revised by Change Notification CN1, dated July 10, 1992; references Lockheed Drawings LCC–7622–325, LCC–7622–326, and LCC–7622–327, as additional sources of service information to accomplish repairs.

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(h)(2) Alternative methods of compliance, approved previously in accordance with AD 91–21–51, amendment 39–8099, are approved as alternative methods of compliance with the inspection requirements of paragraphs (a) and (c) of this AD, and the repair/modification requirements of paragraphs (b) and (d) of this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(j) Except as provided by paragraphs (b) and (d) of this AD, the actions shall be done in accordance with Lockheed Tristar L–1011 Service Bulletin 093–53–266, dated March 2, 1992; as revised by Change Notification 093–53–266, CN1, dated July 10, 1992; and Lockheed Service Bulletin 093–53–264, dated October 4, 1991.

(1) The incorporation by reference of Lockheed Tristar L–1011 Service Bulletin 093–53–266, dated March 2, 1992; as revised by Change Notification 093–53–266, CN1, dated July 10, 1992, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Lockheed Service Bulletin 093–53–264, dated October 4, 1991, was approved previously by the Director of the Federal Register as of December 18, 1991 (56 FR 61361, December 3, 1991).

(3) Copies may be obtained from Lockheed Martin Aircraft & Logistics Centers, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(k) This amendment becomes effective on June 1, 1999.

Issued in Renton, Washington, on April 19, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10183 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–37–AD; Amendment 39–11146; AD 99–09–13]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757–200 series airplanes, that requires modifications to the attachment installation of the forward lavatory. This amendment is prompted by a stress analysis report indicating that the forward lavatory could break free from the upper and/or lower attachments during an emergency landing. The actions specified by this AD are intended to prevent failure of the attachment installation of the forward lavatory during an emergency landing,

which could result in injury to the crew and passengers.

DATES: Effective June 1, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2780; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 757–200 series airplanes was published in the **Federal Register** on May 12, 1998 (63 FR 26104). That action proposed to require modifications to the attachment installation of the forward lavatory.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule, three commenters offer no objection to the proposed rule, and one commenter states that the proposed rule will not apply to it.

Request to Extend Compliance Time

One commenter requests that the compliance time for the modification requirements be extended from 18 months after the effective date of this AD to 24 months or 3,000 flight cycles, whichever occurs later. The commenter states that such a schedule would coincide with its normal maintenance interval of 24 months or 3,000 flight cycles. The commenter states that the 18-month compliance time would be unnecessarily restrictive and would force it to schedule special maintenance visits for some of its airplanes.

The FAA concurs with the commenter's request to extend the compliance time for the modification requirements. However, the FAA finds that extending the compliance time for both passenger and freighter airplanes from 18 months to 24 months or 3,000 flight cycles after the effective date of this AD, whichever occurs first, will not adversely affect safety, and will allow the modification to be performed at a base during regularly scheduled maintenance. Therefore, paragraphs (a) and (b) of this final rule have been revised accordingly.

Request to Include A Note About Floor Panels on Freighters

One of the commenters who expressed no objection to the proposed rule requests that a note be inserted in the final rule to clarify that the floor panels identified in paragraph (c) of the proposed rule are applicable only for freighter airplanes.

The FAA concurs with the commenter's request. The floor panels specified in paragraph (c) of the final rule are not installed on passenger airplanes. Therefore, a new NOTE 2 has been inserted into the final rule to clarify that the floor panels specified in paragraph (c) of the final rule are only installed on freighter airplanes and are not used on passenger airplanes.

Request to Revise the Service Bulletin

One commenter maintains that it is impossible to accomplish the instructions specified in Boeing Service Bulletin 757–25–0181, dated June 26, 1997, and requests that the service bulletin be revised. The commenter states that a certain doubler specified in the service bulletin does not always have adequate edge margin on existing fasteners. The commenter further states that it fabricated a new doubler to accommodate the fastener spacing and, if this condition is not addressed in rulemaking action, it will be required to request an alternative method of compliance for each airplane that requires a new doubler.

The commenter makes no specific request for a change to the proposal. However, Boeing has been advised of the commenter's situation, and it will survey other operators to determine whether they also have experienced the same short edge margin condition. Boeing will revise the service bulletin if necessary.

The FAA concurs that the commenter will require an alternative method of compliance to allow use of a new doubler of its own manufacture. Under the provisions of paragraph (d) of this final rule, the FAA may consider requests for approval of an alternative method of compliance if sufficient data are submitted to substantiate that the new doubler would provide an acceptable level of safety. No change to the final rule in this regard is necessary.

Request To Increase the Strength of the Lavatory Attachments

The commenter that supports the proposed rule also requests that the strength of the subject lavatory attachments be increased beyond the limit required by 14 CFR 25.561. The commenter states that survivable accident impacts can exceed the 9g static limit before the structure of the airplane breaks up; therefore, the attachments of all structures in the cabin of the airplane should be designed to retain the structure up to a level where the fuselage frames and skin stringers are no longer able to hold together.

The FAA acknowledges the commenter's concern. However, while there may be merit to the commenter's suggestions, this AD is not the appropriate context in which to evaluate those suggestions. As the commenter states, such an increase in the strength of the lavatory attachments would require a change to the 14 CFR 25.561. The FAA has determined that an unsafe condition exists, and that the actions required by this AD are adequate in order to ensure the continued safety of the affected fleet. No change to the final rule in this regard is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 333 airplanes of the affected design in the worldwide fleet. The FAA estimates that 225 airplanes of U.S. registry will be affected by this AD: 164 passenger airplanes and 61 freighter airplanes.

It will take approximately 10 work hours per passenger airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $100 per airplane. Based on these figures, the cost impact of the required modification on U.S. operators is estimated to be $114,800, or $700 per passenger airplane.

It will take approximately 42 work hours per freighter airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will be provided by the airplane manufacturer at no cost to the operators. Based on these figures, the cost impact of this required modification on U.S. operators is estimated to be $153,720, or $2,520 per freighter airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–13 Boeing: Amendment 39–11146. Docket 98–NM–37–AD.

Applicability: Model 757–200 series airplanes; as listed in Boeing Service Bulletin 757–25–0181, dated June 26, 1997, and Boeing Alert Service Bulletin 757–25A0187, dated September 18, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the attachment installation of the forward lavatory during an emergency landing, which could result in injury to the crew and passengers, accomplish the following:

(a) For passenger airplanes identified in Boeing Service Bulletin 757–25–0181, dated June 26, 1997: Within 24 months or 3,000 flight cycles after the effective date of this AD, whichever occurs first, install a doubler to the upper attachment installation of the forward lavatory in accordance with Boeing Service Bulletin 757–25–0181, dated June 26, 1997.

(b) For freighter airplanes identified in Boeing Alert Service Bulletin 757–25A0187, dated September 18, 1997: Within 24 months or 3,000 flight cycles after the effective date of this AD, whichever occurs first, install floor panel inserts, a retention fitting assembly, and a doubler assembly to the lower attachment installation of the forward lavatory, in accordance with Boeing Alert Service Bulletin 757–25A0187, dated September 18, 1997.

(c) As of the effective date of this AD, no person shall install a floor panel, part number 141N5410–12 or 141N5410–28, on any airplane.

Note 2: Floor panels having part numbers 141N5410–12 and 141N5410–28 are only installed on freighter airplanes and are not used on passenger airplanes.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The actions shall be done in accordance with Boeing Service Bulletin 757–25–0181, dated June 26, 1997, and Boeing Alert Service Bulletin 757–25A0187, dated September 18, 1997, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on June 1, 1999.

Issued in Renton, Washington, on April 19, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10181 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–80–AD; Amendment 39–11141; AD 99–09–08]

RIN 2120–AA64

Airworthiness Directives; Avions Pierre Robin Model R2160 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Avions Pierre Robin Model R2160 airplanes. This AD requires repetitively inspecting the aileron/flap common support bracket for cracks, loose rivets, or separation of the bracket from the skin, and reinforcing the bracket either immediately or at a certain time period depending on whether discrepancies are found during the inspections. Reinforcing the aileron/flap common support bracket terminates the repetitive inspection requirement. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions

specified by this AD are intended to detect defects in the aileron/flap common support bracket (cracks, loose rivets, or separation of the bracket from the skin), which could result in reduced or loss of control of the airplane.

DATES: Effective June 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 7, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from Avions Pierre Robin, 1, route de Troyes, 21121 Darois-France; telephone: 33–3 80 44 20 50; facsimile: 33–3 80 35 60 80. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–80–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Karl M. Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Avions Pierre Robin Model R2160 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 8, 1999 (64 FR 5985). The NPRM proposed to require repetitively inspecting the aileron/flap common support bracket for cracks, loose rivets, or separation of the bracket from the skin, and reinforcing the bracket either immediately or at a certain time period depending on whether discrepancies are found during the inspections.

Accomplishment of the proposed inspections as specified in the NPRM would be required in accordance with Avions Pierre Robin Service Bulletin No. 90, dated May 3, 1982. Accomplishment of the proposed reinforcement as specified in the NPRM would be required in accordance with Avions Pierre Robin Repair Kit No. 97.40.16, as specified in Avions Pierre Robin Service Bulletin No. 90, dated May 3, 1982.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 10 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish the initial inspection and modification, and that the average labor rate is approximately $60 per work hour. Parts cost approximately $100 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $3,400, or $340 per airplane.

These figures only take into account the costs of the initial inspection and do not take into account the costs of repetitive inspections. The FAA has no way of determining the number of repetitive inspections an owner/operator will incur during 12 months or when a crack is found, whichever occur first (when the modification becomes mandatory).

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–09–08 Avions Pierre Robin: Amendment 39–11141; Docket No. 98–CE–80–AD.

Applicability: Model R2160 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect defects in the aileron/flap common support bracket (cracks, loose rivets, or separation of the bracket from the skin), which could result in reduced or loss of control of the airplane, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 50 hours TIS until the reinforcement required by paragraph (b) of this AD is accomplished, inspect the aileron/flap common support brackets for cracks, loose rivets, or separation of the bracket from the skin. Accomplish this

inspection in accordance with Avions Pierre Robin Service Bulletin No. 90, dated May 3, 1982.

(b) At whichever of the compliance times in paragraphs (b)(1) and (b)(2) of this AD that occurs first, reinforce the left-hand and right-hand aileron/flap common support bracket in accordance with the instructions in Avions Pierre Robin Repair Kit No. 97.40.16, as specified in Avions Pierre Robin Service Bulletin No. 90, dated May 3, 1982.

(1) Prior to further flight if any crack(s), loose rivet(s), and/or separation of the bracket from the skin is/are found during any inspection required by paragraph (a) of this AD; or

(2) Within the next 12 calendar months after the effective date of this AD.

(c) Reinforcing the aileron/flap common support bracket as specified in paragraph (b) of this AD is considered terminating action for the repetitive inspection requirement of this AD.

(d) As of the effective date of this AD, no person may install, on any affected airplane, an aileron/flap common support bracket that has not been reinforced as specified in paragraph (b) of this AD.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be used if approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) Questions or technical information related to the service information referenced in this AD should be directed to Avions Pierre Robin, 1, route de Troyes, 21121 Darois-France; telephone: 33–3 80 44 20 50; facsimile: 33–3 80 35 60 80. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) The inspections required by this AD shall be done in accordance with Avions Pierre Robin Service Bulletin No. 90, dated May 3, 1982. The reinforcements required by this AD shall be done in accordance with the instructions in Avions Pierre Robin Repair Kit No. 97.40.16, as specified in Avions Pierre Robin Service Bulletin No. 90, dated May 3, 1982. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Avions Pierre Robin, 1, route de Troyes, 21121 Darois-France. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in issued French AD 82–70–(A), dated May 19, 1982.

(i) This amendment becomes effective on June 7, 1999.

Issued in Kansas City, Missouri, on April 15, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10173 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–214–AD; Amendment 39–11145; AD 99–09–12]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace (Jetstream) Model 4101 series airplanes, that requires repetitive inspections to detect damage of the structure associated with the engine nacelle fairing attached to the wing flaps, and repair of any damage found; drilling a new drain hole in each engine nacelle fairing; and applying a sealant to the gap between the wing flap and engine nacelle fairing. This amendment also requires correction of discrepancies, and modification of the wing flap structure, which terminates the repetitive inspections. This amendment is prompted by reports of fatigue cracks found in the structure that attaches the engine nacelle fairing to the wing flaps. The actions specified by this AD are intended to prevent such fatigue cracking, which could result in the partial or complete separation of the fairing from the wing flap, and consequent additional structural damage to the airframe and/or reduced controllability of the airplane.

DATES: Effective June 1, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all British Aerospace (Jetstream) Model 4101 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on February 17, 1999 (64 FR 7830). That action proposed to require repetitive inspections to detect damage of the structure associated with the engine nacelle fairing attached to the wing flaps, and repair of any damage found; drilling a new drain hole in each engine nacelle fairing; and applying a sealant to the gap between the wing flap and engine nacelle fairing. That action also proposed to limit the applicability of the AD. The action also proposed to require corrective actions for discrepancies, and modification of the wing flap structure, which would terminate the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 51 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to perform the detailed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S.

operators is estimated to be $6,120, or $120 per airplane, per inspection cycle.

It will take approximately 1 work hour per airplane to drill a drain hole and apply primer and sealant, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these actions required by this AD on U.S. operators is estimated to be $3,060, or $60 per airplane.

It will take approximately 90 work hours per airplane to accomplish the required terminating modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,658 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $410,958, or $8,058 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99-09-12 British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Amendment 39-11145. Docket 96-NM-214-AD.

Applicability: Jetstream Model 4101 airplanes, excluding those on which Jetstream Modifications JM41575B and JM41575C have been accomplished, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in the structure that attaches the flap nacelle fairing to the wing flaps, which could result in the partial or complete separation of the fairing from the wing flap, and consequent additional structural damage to the airframe and/or reduced controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 1,500 total hours time-in-service, or within 60 days after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Perform a detailed visual inspection to detect discrepancies [cracks, loose rivets and Jo-Bolts, chafing damage at the flap trailing edge, and installation of nonstandard parts (as defined in Figure 1. of Jetstream Alert Service Bulletin J41–A57–015, Revision 1, dated August 23, 1996, or Revision 2, dated June 30, 1997)] and previous repairs of the flap structure that attaches the flap nacelle fairing to each wing flap; in accordance with Jetstream Alert Service Bulletin J41–A57–015, Revision 1, dated August 23, 1996, or Revision 2, dated June 30, 1997. Repeat the inspection thereafter at intervals not to exceed 1,500 hours time-in-service until the requirements of paragraph (b) of this AD have been accomplished.

(i) Except as provided by paragraph (a)(1)(ii) of this AD, if any discrepancy is found, prior to further flight, perform corrective action in accordance with Revision 1 or Revision 2 of the alert service bulletin.

(ii) If any discrepancy is found for which Revision 1 or Revision 2 of the alert service bulletin specifies to contact the manufacturer to obtain a repair scheme: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent).

(2) Drill a drain hole in the flap nacelle fairing on each wing flap, in accordance with Jetstream Alert Service Bulletin J41-A57–015, dated May 27, 1996, Revision 1, dated August 23, 1996, or Revision 2, dated June 30, 1997.

(3) Apply new primer and sealant to the gap between the wing flap and flap nacelle fairing, in accordance with Jetstream Alert Service Bulletin J41-A57–015, Revision 1, dated August 23, 1996, or Revision 2, dated June 30, 1997.

(b) Within 3,000 hours time-in-service after the effective date of this AD: Modify the wing flap structure in accordance with Jetstream Service Bulletin J41–57–017, dated May 9, 1997. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) Except as provided by paragraph (a)(1)(ii) of this AD, the actions shall be done in accordance with Jetstream Service Bulletin J41–57–017, dated May 9, 1997; Jetstream Alert Service Bulletin J41–A57–015, Revision 1, dated August 23, 1996; and Jetstream Alert Service Bulletin J41–A57–015, Revision 2, dated June 30, 1997, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1–3	2	June 30, 1997.
2, 4–9	1	Aug. 23, 1996.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 006–05–96.

(f) This amendment becomes effective on June 1, 1999.

Issued in Renton, Washington, on April 19, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10180 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–50–AD; Amendment 39–11140; AD 99–09–07]

RIN 2120–AA64

Airworthiness Directives; S.N. CENTRAIR 101 Series Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all S.N. CENTRAIR (CENTRAIR) 101 series gliders that have modification 101–24 (major cockpit configuration equipped on all gliders manufactured since 1990) incorporated, and do not have modification 101–21 (minor modifications to this cockpit configuration) incorporated. This AD requires installing an attachment lug to the supporting bracket in order to secure the battery discharge warning device. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by this AD are intended to prevent elevator flight control interference caused by an unsecured battery discharge warning device, which could result in reduced or loss of glider control.

DATES: Effective June 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of June 7, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from S.N. CENTRAIR, Aerodome—36300 Le Blanc, France; telephone: 02.54.37.07.96; facsimile: 02.54.37.48.64. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–50–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all CENTRAIR 101 series gliders that have modification 101–24 (major cockpit configuration equipped on all gliders manufactured since 1990) incorporated, and do not have modification 101–21 (minor modifications to this cockpit configuration) incorporated was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 5, 1999 (64 FR 441). The NPRM proposed to require installing an attachment lug (part number SY986A or an FAA-approved equivalent part number) to the supporting bracket in order to secure the battery discharge warning device.

Accomplishment of the proposed action as specified in the NPRM would be required in accordance with CENTRAIR Service Bulletin No. 101–19, Revision 1, dated May 20, 1997.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

Although the elevator flight control interference caused by an unsecured battery discharge warning device would only be unsafe during flight, the unsafe condition is not a result of the number of times the glider is operated. The chance of the battery discharge warning device becoming unsecure is the same for a glider with 50 hours time-in-service (TIS) as it would be for a glider with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed on all gliders in a reasonable time period.

Cost Impact

The FAA estimates that 63 gliders in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per glider to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $15 per glider. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $16,065, or $255 per glider.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3)

will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–09–07 S.N. Centrair: Amendment 39–11140; Docket No. 98–CE–50–AD.

Applicability: Models 101, 101A, 101P, and 101AP gliders, all serial numbers, certificated in any category, that have modification 101–24 (major cockpit configuration equipped on all gliders manufactured since 1990) incorporated, and do not have modification 101–21 (minor modifications to this cockpit configuration) incorporated.

Note 1: This AD applies to each glider identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD.

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 3 calendar months after the effective date of this AD, unless already accomplished.

To prevent elevator flight control interference caused by an unsecured battery discharge warning device, which could result in reduced or loss of glider control, accomplish the following:

(a) Secure the battery discharge warning device by installing an attachment lug (part number $Y986A or an FAA-approved equivalent part number) to the supporting bracket. Accomplish this installation in accordance with CENTRAIR Service Bulletin No. 101–19, Revision 1, dated May 20, 1997.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the glider to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to CENTRAIR Service Bulletin No. 101–19, Revision 1, dated May 20, 1997, should be directed to S.N. CENTRAIR, Aerodome—36300 Le Blanc, France; telephone: 02.54.37.07.96; facsimile: 02.54.37.48.64. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) The modification required by this AD shall be done in accordance with S.N. CENTRAIR Service Bulletin No. 101–19, Revision 1, dated May 20, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from S.N. CENTRAIR, Aerodome—36300 Le Blanc, France. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French AD 97–149(A), dated July 16, 1997.

(f) This amendment becomes effective on June 7, 1999.

Issued in Kansas City, Missouri, on April 15, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10167 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–104–AD; Amendment 39–11143; AD 99–09–10]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models C90A, B200, B200C, B200T, B200CT, 300, B300, B300C, and A200CT Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Models C90A, B200, B200C, B200T, B200CT, 300, B300, B300C, and A200CT airplanes. This AD requires installing a filter element in the landing gear hand pump suction line. This AD is the result of reports of the potential for debris to enter the landing gear hand pump and interfere with its operation, which could prevent the nose landing gear from being extended manually. Two occurrences were reported of nose landing gear collapse after manual extension. The actions specified by this AD are intended to prevent the inability to extend the landing gear with the hand pump caused by debris entering the landing gear hand pump, which could result in passenger injury or damage to the airplane if manual operation of the landing gear failed.

DATES: Effective June 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 7, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–104–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Models C90A, B200, B200C, B200T, B200CT, 300, B300, B300C, and A200CT airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 5, 1999 (64 FR 443). The NPRM proposed to require installing a filter element in the landing gear hand pump suction line. Accomplishment of the proposed action as specified in the NPRM would be required in accordance with Raytheon Mandatory Service Bulletin SB 32–3073, Revision 1, Issued: March, 1998, Revised: July 1998.

The NPRM was the result of reports of the potential for debris to enter the landing gear hand pump and interfere with its operation, which could prevent the nose landing gear from being extended manually. Two occurrences were reported of nose landing gear collapse after manual extension.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 991 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 5 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Raytheon will give warranty credit for parts until July 31, 1999. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $297,300, or $300 per airplane.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–09–10 Raytheon Aircraft Company (All type certificates of the affected airplanes previously held by the Beech Aircraft Corporation): Amendment 39–11143; Docket No. 98–CE–104–AD.

Applicability: The following airplane models and serial numbers, certificated in any category:

Models	Serial numbers
C90A	LJ–1063 through LJ–1482
B200	BB–1158, BB–1167, BB–1193 through BB–1532, and all serial numbers with Beech Kit 101–8018 incorporated
B200C	BL–113 through BL–117, BL–124 through BL–140, and all serial numbers with Beech Kit 101–8018 incorporated
B200T	BT–31 through BT–38, and all serial numbers with Beech Kit 101–8018 incorporated
B200CT	BN–2, BN–3, and BN–4 that have Beech Kit 101–8018 incorporated
B200CT	FG–1 and FG–2
300	FA–1 through FA–230
300	FF–1 through FF–19
B300	FL–1 through FL–138
B300C	FM–1 through FM–9
B300C	FN–1
A200CT (C–12D)	BP–46 through BP–51
A200CT (C–12F)	BP–52 through BP–63
A200CT (RC–12H)	GR–14 through GR–19
A200CT (RC–12K)	FE–1 through FE–9
A200CT (RC–12N)	FE–10 through FE–24
A200CT (RC–12P)	FE–25 through FE–31, FE–33, and FE–35
A200CT (RC–12Q)	FE–32, FE–34, and FE–36
B200C (C–12F)	BL–73 through BL–112 and BL–118 through BL–123
B200C (C–12F)	BP–64 through BP–71
B200C (UC–12F)	BU–1 through BU–10
B200CT (RC–12F)	BU–11 and BU–12
B200C (UC–12M)	BV–1 through BV–10
B200C (RC–12M)	BV–11 and BV–12
B200C (C–12R)	BW–1 through BW–19

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 200 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

Note 2: The service information referenced in this AD specifies 800-hour repetitive inspections. This AD does not require these inspections.

To prevent the inability to extend the landing gear with the hand pump caused by debris entering the landing gear hand pump, which could result in passenger injury or damage to the airplane if manual operation of the landing gear failed, accomplish the following:

(a) Install a filter element in the landing gear hand pump suction line, in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Mandatory Service Bulletin SB 32–3073, Revision 1, Issued: March, 1998, Revised: July 1998.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(d) The installation required by this AD shall be done in accordance with Raytheon Mandatory Service Bulletin SB 32–3073, Revision 1, dated July 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(e) This amendment becomes effective on June 7, 1999.

Issued in Kansas City, Missouri, on April 15, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10171 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–6]

Modification of Class E Airspace; Howell, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies Class E airspace at Howell, MI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 036° helicopter point in space approach, has been developed for McPherson Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Howell, MI, in order to include the point in space approach serving McPherson Hospital Heliport.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, February 10, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Howell, MI (64 FR 6583). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 part 71 modifies Class E airspace at Howell, MI, to accommodate aircraft executing the proposed GPS SIAP 036° helicopter point in space approach for McPherson Hospital Heliport by modifying existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective

September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Howell, MI [Revised]

Howell, Livingston County Airport, MI
(Lat. 42°37′46″ N., long. 83°59′03″ W)
McPherson Hospital, MI
Point in Space Coordinates
(Lat. 42°36′25″ N., long 83°56′58″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Livingston County Airport, and within a 6.0-mile radius of the Point in Space serving McPherson Hospital, excluding that airspace within the Detroit, MI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10433 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–11]

Establishment of Class E Airspace; and Modification of Class E Airspace; Alpena, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice establishes Class E airspace and modifies Class E airspace at Alpena, MI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 012° helicopter point in space approach, has been developed for Alpena General Hospital Heliport, Alpena, MI. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Alpena, MI, in order to include the point in space approach serving Alpena General Hospital Heliport. In addition, air carrier operations are routinely conducted into and out of the airport during periods of time when the airport traffic control tower (ATCT) is closed. This action creates a Class E airspace area during periods of time when the ATCT is closed to better accommodate those operations.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, February 18, 1999, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace and modify Class E airspace at Alpena, MI (64 FR 8031). The proposal was to add controlled airspace extending upward from the surface and 700 to 1200 feet AGL to contain Instrument Flight Rule (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from the surface are published in paragraph 6002 and airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace and modifies Class E airspace at Alpena, MI, to accommodate aircraft executing the proposed GPS SIAP 012° helicopter point in space approach for Alpena General Hospital Heliport by modifying the existing controlled airspace, and to accommodate air carrier operations during periods of times when the ATCT is closed by establishing a new Class E surface area. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Pointing, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6002 Class E airspace areas designated as surface areas.

* * * * *

AGL MI E2 Alpena, MI [New]

Alpena County Regional Airport
(Lat. 45°04′41″ N., long. 83°33′37″ W.)
Alpena VORTAC
(Lat 45° 04′ 58″N., long. 83° 33′ 25″W.)

Within a 4.4-mile radius of the Alpena County Regional Airport, and within 2.5 miles each side of the Alpena VORTAC 350° radial, extending from the 4.4-mile radius of the airport to 7.0 miles north of the VORTAC, and within 2.5 miles each side of the Alpena VORTAC 187° radial, extending from the 4.4-mile radius of the airport to 7.0 miles south of the VORTAC. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace area extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Alpena, MI [Revised]

Alpena County Regional Airport
(Lat. 45°04'41" N, long. 83°33'37" W.)
Alpena VORTAC
(Lat. 45°04'58" N., long. 83°33'25" W.)
FELPS NDB
(Lat. 44°57'39" N., long. 83°33'36" W.)
Alpena General Hospital, MI
Point in Space Coordinates
(Lat. 45°04'38" N., long, 83°26'53" W.)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of Alpena County Regional Airport and within 4.0 miles each side of the 180° bearing from the FELPS NDB extending from the 7.0-mile radius to 12.3 miles south of the Alpena VORTAC, and within a 6.0-mile radius of the Point in Space serving Alpena General Hospital.

* * * * *

Issued in Des Plaines, Illinois on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10434 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–9]

Revocation of Class E Airspace, Saginaw, Harry W. Browne Airport, MI; Revocation of Class E Airspace, Saginaw, Tri-City Airport, MI; and Establishment of Class E Airspace; Saginaw, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice revokes the Class E airspace for Saginaw, Harry W. Browne Airport, MI, and Saginaw, Tri-City Airport, MI, and establishes a single Class E airspace area for Saginaw, MI. The Class E airspace for Harry W. Browne Airport is largely encompassed by the Class E airspace for Tri-City Airport already. Further, the airport names for Harry W. Browne Airport and Tri-City Airport have recently changed, requiring renaming the Class E airspace areas. Harry W. Browne Airport is now called Saginaw County H.W. Browne Airport, and Tri-City Airport is now called MBS International Airport. In addition, a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 021° helicopter point in space approach, has been developed for Saint Mary's Hospital Heliport, Saginaw, MI. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing this approach. This action combines the two existing Class E airspace areas into one Class E airspace area, renames the Class E airspace area to Sagniaw, MI, incorporates the new airport names, and increases the size of the new airspace area slightly in order to include the point in space approach serving Saint Mary's Hospital Heliport.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, February 10, 1999, the FAA proposed to amend 14 CFR part 71 to revoke Class E airspace and establish Class E airspace at Saginaw, MI (64 FR 6581). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were receive. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes a new Class E airspace area at Saginaw, MI. This action revokes the two existing Class E airspace areas (Saginaw, Harry W. Browne Airport, MI, and Saginaw, Tri-City Airport, MI) and combines them into one new Class E airspace area. The new Class E airspace areas is slightly larger than the two existing Class E airspace areas in order to accommodate aircraft executing the proposed GPS SIAP 021° helicopter point in space approach for Saint Mary's Hospital Heliport, Saginaw, MI. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Saginaw, Harry W. Browne Airport, MI [Removed]

* * * * *

AGL MI E5 Saginaw, Tri-City Airport, MI [Removed]

* * * * *

AGL MI E5 Saginaw, MI [New]

MBS International Airport, MI
(Lat. 43°31'58" N., long. 84°04'47" W.)
Saginaw County H. W. Browne Airport, MI

(Lat. 43°26'00" N., long. 83°51'45" W.)
Bay City, James Clements Municipal Airport, MI
(Lat. 43°32'49" N., long. 83°53'44" W.)
Midland, Jack Barstow Airport, MI
(Lat. 43°39'46" N., long. 84°15'41" W.)
Saint Mary's Hospital, MI
Point in Space Coordinates
(Lat. 43°24'54" N., long. 83°56'27" W.)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of MBS International Airport, within a 6.4-mile radius of Saginaw County H.W. Browne Airport, within a 6.4-mile radius of James Clements Municipal Airport, within a 6.3-mile radius of Jack Barstow Airport, and within a 6.0-mile radius of the Point in Space serving Saint Mary's Hospital.

* * * * *

Issued in Des Plaines, Illinois, on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10435 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–10]

Modification of Class E Airspace; Marlette, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies Class E airspace at Marlette, MI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 011° helicopter point in space approach, has been developed for Marlette Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to modify existing controlled airspace for Marlette, MI, in order to include the point in space approach serving Marlette Airport.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, February 10, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Marlette, MI (64 FR 6579). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Marlette, MI, to accommodate aircraft executing the proposed GPS SIAP 011° helicopter point in space approach for Marlette Airport by modifying existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Pargaraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Marlette, MI [Revised]

Marlette Airport, MI
(Lat. 43°18'43"N., long. 83° 05'27" W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Marlette Airport.

* * * * *

Issued in Des Plaines, Illinois on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10436 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–5]

Modification of Class E Airspace; Hallock, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies Class E airspace at Hallock, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 31 has been developed for Hallock Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, February 12, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Hallock, MN (64 FR 7142). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Hallock, MN, to accommodate aircraft executing the proposed GPS Rwy 31 SIAP at Hallock Municipal Airport by modifying the existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Hallock MN [Revised]

Hallock Municipal Airport, MN
(Lat. 48°45′10″ N., long. 96°56′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Hallock Municipal Airportand within 4.0 miles each side of the 136° bearing from the airport, extending from the 6.4-mile radius to 9.8 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10441 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–4]

Modification of Class E Airspace; Cahokia, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies Class E airspace at Cahokia, IL. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 30L has been developed for St. Louis Downtown-Parks Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, February 12, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Cahokia, IL (64 FR 7141). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rule (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Cahokia, IL, to accommodate aircraft executing the proposed GPS Rwy 30L SIAP at St. Louis Downtown-Parks Airport by modifying the existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44

FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Cahokia IL [Revised]

Cahokia, St. Louis Downtown—Parks Airport, IL
(Lat. 38°34′15″ N, long. 90°09′22″ W.)

That airspace extending upward from 700 feet above the surface within an 6.7-mile radius of the St. Louis Downtown-Parks Airport.

* * * * *

Issued in Des Plaines, Illinois on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10440 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–79]

Establishment of Class E Airspace; Waverly, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice establishes Class E airspace at Waverly, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 07, a GPS SIAP to Rwy 25, and a Nondirectional Beacon (NDB) SIAP to Rwy 25, have been developed for Pike County Airport. Controlled airspace extending upward from 700 feet to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action creates controlled airspace at Pike County Airport to accommodate the approaches.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, February 11, 1999, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Waverly, OH (64 FR 6823). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Waverly, OH, to accommodate aircraft executing the proposed GPS Rwy 07 SIAP, GPS Rwy 25 SIAP, and NDB Rwy 25 SIAP, at Pike County Airport by creating controlled airspace at the airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Waverly, OH [New]

Waverly, Pike County Airport, OH

(Lat. 39°10'00" N., long. 82°55'45" W.)

That airspace extending upward from 700 feet above the surface within a 8.8-mile radius of the Pike County Airport and within 3.9 miles each side of the 242° bearing from the airport extending from the 8.8-mile radius to 9.8 miles southwest of the airport and 5.0 miles each side of the 064° bearing from the airport extending from the 8.8-mile radius to 9.6 miles northeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10439 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–75]

Modification of Class E Airspace; Fremont, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Fremont, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 06, and a GPS SIAP to Rwy 24, have been developed for Sandusky County Regional Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action modifies existing controlled airspace for Fremont, OH, by expanding the airspace to the southeast to accommodate the instrument flight procedures at the Sandusky County Regional Airport. This is an unrelated airspace action to the airspace action in docket number 98–AGL–56, Modification of Class E Airspace, Fremont, OH, (64 FR 4782, February 1, 1999) and incorporates the changes specified in that document.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone(847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, February 12, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Fremont, OH (64 FR 7143). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Fremont, OH, to accommodate aircraft executing the proposed GPS Rwy 06 SIAP, and GPS Rwy 24 SIAP, at Sandusky County Regional Airport by expanding the existing controlled airspace to the southeast for the airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Fremont, OH [Revised]

Fremont Airport, OH
(Lat. 41°20'03" N., long. 83°09'36" W)
Sandusky County Regional Airport, OH
(Lat. 41°17'45" N., long. 83°02'14" W)
Memorial Hospital of Sandusky County, OH
Point In Space Coordinates
(Lat. 41°20'18" N., long. 83°08'57" W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Fremont Airport, and within a 6.5-mile radius of the Sandusky County Regional Airport, and within a 6.0-mile radius of the Point in Space serving Memorial Hospital of Sandusky County, excluding the airspace within the Bellevue, OH, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10438 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–8]

Modification of Class E Airspace; Detroit, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies Class E airspace at Detroit, MI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP),

008° helicopter point in space approach, has been developed for Port Huron Hospital Heliport, Port Huron, MI. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to modify existing controlled airspace for Detroit, MI, in order to include the point in space approach serving Port Huron Hospital Heliport.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, February 10, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Detroit, MI (64 FR 6582). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Detroit, MI, to accommodate aircraft executing the proposed GPS SIAP 008° helicopter point in space approach for Port Huron Hospital Heliport by modifying existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Detroit, MI [Revised]

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 43°06′44″ N., long. 82°21′49″ W.; on the Canadian boundary to lat. 43°04′00″ N., long. 82°30′00″ W.; to lat. 42°56′00″ N., long. 83°00′00″ W.; to lat. 42°45′00″ N., long. 83°50′00″ W.; to 42°30′00″ N., long. 83°50′00″ W.; to lat. 42°10′00″ N., long. 84°00′00″ W.; to lat. 42°00′00″ N., long. 83°30′00″ W.; thence east along the 42nd parallel to the Canadian boundary, thence along the Canadian boundary to the point of beginning.

* * * * *

Issued in the Des Plaines, Illinois on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10437 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–7]

Modification of Class E Airspace; Flint, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies Class E airspace at Flint, MI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 047° helicopter point in space approach, has been developed for Genesys Regional Medical Center Heliport, Grand Blanc, MI. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Flint, MI, in order to include the point in space approach serving Genesys Regional Medical Center Heliport.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, February 10, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Flint, MI (64 FR 6581). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Flint, MI, to accommodate aircraft executing the proposed GPS SIAP 047° helicopter point in space approach for Genesys Regional Medical Center Heliport by modifying existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration for the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Flint, MI [Revised]

Flint, Bishop International Airport, MI
(Lat. 42°57′56″ N., long. 83°44′37″ W.)
Owosso Community Airport, MI
(Lat. 42°59′35″ N., long. 84°08′20″ W.)
Davison, Athelone Williams Memorial Airport, MI
(Lat. 43°01′45″ N., long. 83°31′47″ W.)
Linden, Prices Airport, MI
(Lat. 42°48′28″ N., long. 83°46′39″ W.)
PETLI LOM
(Lat. 42°58′05″ N., long. 83°53′25″ W.)
Grand Blanc, Genesys Regional Medical Center, MI
Point in Space Coordinates
(Lat. 42°52′59″ N., long. 83°39′05″ W.)

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Bishop International Airport, and within 4.4 miles north and 7.0 miles south of the Flint ILS localizer west course, extending from the 10.5-mile radius area to 10.5 miles west of the PETLI LOM, and within a 6.4-mile radius of the Owosso Community Airport, and within a 6.3-mile radius of the Prices Airport, and within a 6.3-mile radius of the Athelone Williams Memorial Airport, and within a 6.0-mile radius of the Point in Space serving Genesys Regional Medical Center, excluding that airspace within the Detroit, MI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on April 8, 1999.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 99–10432 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Narasin and Nicarbazin With Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Elanco Animal Health, a Division of Eli Lilly and Co. The NADA provides for combining approved narasin/nicarbazin (1:1 fixed ratio) and roxarsone type A medicated articles to make combination drug type C medicated broiler chicken feeds for prevention of coccidiosis, for increased rate of weight gain, improved feed efficiency, and improved pigmentation.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Gilbert, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, a Division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285, filed NADA 141–113 that provides for combining approved narasin/nicarbazin (1:1 fixed ratio, 27 grams per pound (g/lb) each) (Maxiban®) and roxarsone (45.4, 90, and 227 g/lb) (3–Nitro®) type A medicated articles to make combination drug type C medicated broiler chicken feeds. The type C feeds contain 27 to 45 g/ton each of narasin and nicarbazin and 22.7 to 45.4 g/ton roxarsone. The type C broiler feeds are used for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*, and for increased rate of weight gain, improved feed efficiency, and improved pigmentation. The NADA is approved as of March 4, 1999, and the regulations are amended in 21 CFR 558.363, 558.366, and 558.530 to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

This approval is for use of approved type A medicated articles to make combination drug type C medicated feeds. These ingredients are Category II drugs as defined in 21 CFR 558.3(b)(1)(ii). As provided in 21 CFR 558.4(b), an approved form FDA 1900 is required for making type B or C medicated feeds as in this application. Under section 512(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)), as amended by the Animal Drug Availability Act of 1996 (Pub. L. 104–250), medicated feed applications have been replaced by a requirement for manufacture in a licensed feed mill. Therefore, use of narasin/nicarbazin and roxarsone type A medicated articles to make type C medicated feeds as in NADA 141–113 is limited to manufacture in a licensed feed mill.

FDA has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.363 is amended by adding paragraph (d)(2)(iv) to read as follows:

§ 558.363 Narasin.

* * * * *

(d) * * *

(2) * * *

(iv) Nicarbazin and roxarsone as in § 558.366.

3. Section 558.366 is amended in the table in paragraph (c) under entry "27 to 45" by alphabetically adding an entry "Narasin 27 to 45 and roxarsone 22.7 to 45.4" to read as follows:

§ 558.366 Nicarbazin.

* * * * *

(c) * * *

Nicarbazin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
27 to 45				
*	*	*	*	*
	Narasin 27 to 45 and roxarsone 22.7 to 45.4.	Broiler chickens; for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*; for increased rate of weight gain, improved feed efficiency, and improved pigmentation.	Feed continuously as sole ration. Use as sole source of organic arsenic. Withdraw 5 days before slaughter. Do not allow turkeys, horses or other equines access to formulations containing narasin. Ingestion of narasin by these species has been fatal. Do not feed to laying hens. Use as sole source of organic arsenic. Narasin and nicarbazin as provided by 000986, roxarsone by 046573.	000986
*	*	*	*	*

4. Section 558.530 is amended by adding paragraph (d)(5)(xxvi) to read as follows:

§ 558.530 Roxarsone.

* * * * *

(d) * * *

(5) * * *

(xxvi) Narasin and nicarbazin as in § 558.366.

* * * * *

Dated: April 9, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–10291 Filed 4–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 901, 904, 913, 914, 915, 916, 918, 925, 936, and 943

[Technical Amendment No. MCRCC–01]

Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Missouri, Oklahoma, and Texas Abandoned Mine Land Reclamation Plans and Regulatory Programs

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; technical amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is making technical amendments to 30 CFR Chapter VII, Subchapter T. We are updating or adding addresses for the locations of the publicly available copies of State Abandoned Mine Land Reclamation (AMLR) plans and regulatory programs; revising or correcting the codification of sections approving State AMLR plans and regulatory programs; and making other minor codification changes. These changes will ensure awareness of the current locations where the public may inspect State AMLR plans and regulatory programs. They will also provide consistency throughout the sections codified at Subchapter T.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Charles E. Sandberg, Office of Surface Mining, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, Illinois 62002. Telephone: (618) 463–6460. Internet: Csandber@mcrgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Since July 1, 1998, the date of the most recent revision to Title 30 of the Code of Federal Regulations (30 CFR Part 700 to End), we became aware of changes that we needed to make to 30 CFR Chapter VII, Subchapter T.

1. We are updating State and OSM addresses at 30 CFR Parts 901, 904, 913, 914, 915, 916, 918, 925, 936, and 943 to accurately indicate where copies of the Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Missouri, Oklahoma, and Texas AMLR plans and regulatory programs are available for public inspection and copying.

2. We are taking this opportunity to revise the language of sections approving the Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Missouri, and Texas AMLR plans and regulatory programs so that they are accurate and consistent.

3. We are also making other needed codification changes to the Arkansas and Missouri regulatory programs as discussed below:

a. In the June 30, 1995, **Federal Register**, OSM announced its approval, with additional requirements, of a proposed amendment to the Arkansas regulatory program (60 FR 34138). In Finding 4 and 30 CFR 904.16(b), we required Arkansas to delete the phrase "and section 15(d)(1)" from section 13(k) of the Arkansas Surface Coal Mining and Reclamation Act of 1979 (ASGMRC). By letter dated March 16, 1999 (Administrative Record No. AR–563), Arkansas notified OSM that it had deleted the phrase "and section 15(d)(1)" from section 13(k) of the ASCMRC and from the legislative counterpart, the Arkansas Code Annotated (ACA) at section 15–58–503(a)(3). Therefore, we are removing the required amendment at 30 CFR 904.16(b).

b. By letter dated April 2, 1999, Arkansas notified OSM that the "Arkansas Department of Pollution Control and Ecology" had its name changed to the "Arkansas Department of Environmental Quality" by the Arkansas General Assembly Act 1219 of 1997, effective March 31, 1999 (Administrative Record No. AR–564). We are taking this opportunity to make this name change in the State regulatory program approval section at 30 CFR 904.10(a) and in the Arkansas abandoned mine land reclamation plan approval section at 30 CFR 904.20(a).

c. In the **Federal Register** notice announcing the Department of the Interior's approval of Missouri's original program, the Secretary at 30 CFR 925.10(b) affirmatively disapproved several provisions of Missouri's program that incorporated suspended or remanded Federal regulations (November 21, 1980, 45 FR 77017). The affirmative disapprovals were based upon an order of the U.S. District Court for the District of Columbia. The order required the Secretary to "affirmatively disapprove * * * those segments of a State program that incorporate a suspended or remanded regulation" (*In re: Permanent Surface Mining Regulation Litigation, Civil Action 79–1144*, May 16, 1980, Mem. Op. at 49). In a State program amendment dated October 10, 1990, Missouri adequately addressed the one remaining affirmatively disapproved provision codified at 30 CFR 925.10(b)(1). This disapproved provision concerned Missouri's regulation at 10 CSR 40–8.010–75 [recodified as 10 CSR 40–8.010(1)(A)84]. The disapproved regulation pertained to a definition of "roads" that is used in sections 10 CSR 40–3.140(1)–(21). Missouri addressed this issue by proposing revisions to its regulations concerning performance standards for roads at 10 CSR 40–3.140(1)–(21). OSM approved the proposed revisions on September 29, 1992 (57 FR 44660). Because Missouri adequately addressed the disapproval codified at 30 CFR 925.10(b)(1), we are taking this opportunity to remove it.

II. Procedural Determinations

1. Administrative Procedure Act

The revisions contained in this rulemaking are technical in nature. So, under 5 U.S.C. 553(b)(B), we determined that the notice and public comment procedures of the Administrative Procedure Act are unnecessary. For the same reason, we determined that under 5 U.S.C. 553(d), there is good cause to make the rule effective on the date of publication in the **Federal Register**.

2. Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

3. Executive Order 12988

The Department of the Interior conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. This rule (1) does not preempt any State, Tribal, or local laws or regulations; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

4. National Environmental Policy Act

We reviewed this rule and determined that it is categorically excluded from the National Environmental Policy Act (NEPA) process under the Departmental Manual (516 DM 2, appendix 1.10) and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1507.3).

5. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

6. Regulatory Flexibility Act

The Department of the Interior determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule merely revises addresses and makes other minor changes to the information contained in the regulations.

7. Unfunded Mandates

We determined and certify under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Parts 901, 904, 913, 914, 915, 916, 918, 925, 936, and 943

Abandoned mine land reclamation program, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 15, 1999.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, OSM is amending 30 CFR Parts 901, 904, 913, 914, 915, 916, 918, 925, 936, and 943 as set forth below:

PART 901—ALABAMA

1. The authority citation for part 901 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 901.10 is revised to read as follows:

§ 901.10 State regulatory program approval.

The Secretary conditionally approved the Alabama regulatory program, as resubmitted on January 11, 1982, and clarified in a meeting with OSM on April 9, 1982, and in a letter to OSM on May 14, 1982, effective May 20, 1982. He removed the last condition of program approval effective July 18, 1996. Copies of the approved program are available at:

(a) Alabama Surface Mining Reclamation Commission, 1811 Second Avenue, 2nd Floor, P.O. Box 2390, Jasper, AL 35502.

(b) Office of Surface Mining Reclamation and Enforcement, Birmingham Field Office, Barber Business Park, 135 Gemini Circle, Homewood, AL 35209.

3. Section 901.20 is revised to read as follows:

§ 901.20 Approval of Alabama abandoned mine land reclamation plan.

The Secretary approved the Alabama abandoned mine land reclamation plan, as submitted on May 29, 1981, and revised on August 13, 1981, effective May 20, 1982. Copies of the plan are available at:

(a) Alabama Department of Industrial Relations, 649 Monroe Street, Montgomery, AL 36131.

(b) Office of Surface Mining Reclamation and Enforcement, Birmingham Field Office, Barber Business Park, 135 Gemini Circle, Homewood, AL 35209.

PART 904—ARKANSAS

4. The authority citation for part 904 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

5. Section 904.10 is revised to read as follows:

§ 904.10 State regulatory program approval.

The Secretary conditionally approved the Arkansas regulatory program, as submitted on February 18, 1980, amended on May 29, 1980, and July 2, 1980, and clarified on July 29, 1980, August 8, 1980, August 14, 1980, and August 29, 1980, effective November 21, 1980. He fully approved the Arkansas regulatory program, as amended on September 2, 1980, January 19, 1981, and March 12, 1981, effective January 22, 1982. Copies of the approved program are available at:

(a) Arkansas Department of Environmental Quality, 8001 National Drive, P.O. Box 8913, Little Rock, AR 72219–8913.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135–6548.

6. Section 904.16 is removed and reserved.

7. Section 904.20 is revised to read as follows:

§ 904.20 Approval of Arkansas abandoned mine land reclamation plan.

The Secretary approved the Arkansas abandoned mine land reclamation plan, as submitted on July 7, 1982, effective May 2, 1983. Copies of the approved plan are available at:

(a) Arkansas Department of Environmental Quality, 8001 National Drive, P.O. Box 8913, Little Rock, AR 72219–8913.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135–6548.

PART 913—ILLINOIS

8. The authority citation for part 913 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

9. Section 913.10 is revised to read as follows:

§ 913.10 State regulatory program approval.

The Secretary conditionally approved the Illinois regulatory program, as submitted on March 3, 1980, amended and clarified on June 16, 1980, resubmitted on December 22, 1981, clarified in a meeting with OSM on March 18 and 19, 1982, and clarified in material submitted April 13, 1982, effective June 1, 1982. He fully approved the Illinois regulatory program, as amended on March 28, 1986, and March 22, 1987, effective September 6, 1989. Copies of the approved program are available at:

(a) Illinois Department of Natural Resources, Office of Mines and Minerals, Land Reclamation Division, 300 W. Jefferson Street, Suite 300, Springfield, IL 62701.

(b) Illinois Department of Natural Resources, Office of Mines and Minerals, Land Reclamation Division, Southern District Field Office, 503 E. Main Street, Benton, IL 62812.

(c) Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204.

10. Section 913.20 is revised to read as follows:

§ 913.20 Approval of Illinois abandoned mine land reclamation plan.

The Secretary approved the Illinois abandoned mine land reclamation plan, as submitted on July 20, 1980, effective June 1, 1982. Copies of the approved plan are available at:

(a) Illinois Department of Natural Resources, Office of Mines and Minerals, Abandoned Mine Land Reclamation Division, 300 W. Jefferson Street, Suite 300, Springfield, IL 62701.

(b) Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204–1521.

PART 914—INDIANA

11. The authority citation for part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

12. Section 914.10 is revised to read as follows:

§ 914.10 State regulatory program approval.

The Secretary conditionally approved the Indiana regulatory program, as submitted on March 3, 1980, amended and clarified on June 4, 1980, resubmitted on September 28, 1981, and clarified on December 8, 1981, April 8, 1982, May 18–19, 1982 and May 26, 1982, effective July 29, 1982. He fully approved the Indiana program, as amended on April 19 and 28, 1983, effective August 19, 1983. Copies of the approved program are available at:

(a) Indiana Department of Natural Resources, Room W–295, 402 West Washington Street, Indianapolis, IN 46204.

(b) Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, Room 301, 575 North Pennsylvania Street, Indianapolis, IN 46204–1521.

13. Section 914.20 is revised to read as follows:

§ 914.20 Approval of Indiana abandoned mine land reclamation plan.

The Secretary approved the Indiana abandoned mine land reclamation plan, as submitted on December 7, 1981, on July 26, 1982, effective July 29, 1982. Copies of the approved plan are available at:

(a) Indiana Department of Natural Resources, Division of Reclamation, R.R. 2, Box 129, Jasonville, IN 47438–9517.

(b) Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, Room 301, 575 North Pennsylvania Street, Indianapolis, IN 46204–1521.

PART 915—IOWA

14. The authority citation for part 915 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

15. Section 915.10 is revised to read as follows:

§ 915.10 State regulatory program approval.

The Secretary approved the Iowa regulatory program, as submitted February 28, 1980, and amended and clarified on June 11, 1980, and December 15, 1980, effective April 10, 1981. Copies of the approved program are available at:

(a) Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Henry A. Wallace Building, E. 9th and Grand Streets, Des Moines, IA 50319.

(b) Office of Surface Mining Reclamation and Enforcement, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, IL 62002.

16. Section 915.20 is revised to read as follows:

§ 915.20 Approval of Iowa abandoned mine land reclamation plan.

The Secretary approved the Iowa abandoned mine land reclamation plan, as submitted on December 17, 1982, effective March 28, 1983. Copies of the approved plan are available at:

(a) Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Henry A. Wallace Building, E. 9th and Grand Streets, Des Moines, IA 50319.

(b) Office of Surface Mining Reclamation and Enforcement, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, IL 62002.

PART 916—KANSAS

17. The authority citation for part 916 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

18. Section 916.10 is revised to read as follows:

§ 916.10 State regulatory program approval.

The Secretary conditionally approved the Kansas regulatory program, as submitted on February 26, 1980, and amended on October 31, 1980, effective January 21, 1981. He fully approved the Kansas program, as amended on May 20, 1981, effective April 14, 1982. Copies of the approved program are available at:

(a) Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, KS 66763.

(b) Office of Surface Mining Reclamation and Enforcement, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, IL 62002.

19. Section 916.20 is revised to read as follows:

§ 916.20 Approval of Kansas abandoned mine land reclamation plan.

The Secretary conditionally approved the Kansas abandoned mine land reclamation plan, as submitted on October 1, 1981, effective February 1, 1982. He fully approved the Kansas plan, as amended by Kansas House Bill No. 2994 on April 14, 1982, and Kansas House Bill No. 2516 on May 2, 1983, and removed all conditions prohibiting the funding of State abandoned mine land construction grants, effective June 3, 1983. Copies of the approved plan are available at:

(a) Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, KS 66763.

(b) Office of Surface Mining Reclamation and Enforcement, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, IL 62002.

PART 918—LOUISIANA

20. The authority citation for part 918 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

21. Section 918.10 is revised to read as follows:

§ 918.10 State regulatory program approval.

The Secretary approved the Louisiana regulatory program, as submitted on January 3, 1980, and resubmitted on September 4, 1980, effective October 10, 1980. Copies of the approved program are available at:

(a) Louisiana Department of Natural Resources, Office of Conservation, Injection and Mining Division, 625 N. 4th Street, P.O. Box 94275, Baton Rouge, LA 70804–9275.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135–6548.

22. Section 918.20 is revised to read as follows:

§ 918.20 Approval of Louisiana abandoned mine land reclamation plan.

The Secretary approved the Louisiana abandoned mine land reclamation plan, as submitted on February 3, 1986, effective December 10, 1986. Copies of the approved plan are available at:

(a) Louisiana Department of Natural Resources, Office of Conservation, Injection and Mining Division, 625 N. 4th Street, P.O. Box 94275, Baton Rouge, LA 70804–9275.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135–6548.

PART 925—MISSOURI

23. The authority citation for part 925 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

24. Section 925.10 is revised to read as follows:

§ 925.10 State regulatory program approval.

The Secretary approved the Missouri regulatory program, as submitted on February 1, 1980, and amended and clarified on May 14, 1980, effective November 21, 1980. He fully approved the Missouri program, as amended on September 7, 1982, and October 13, 1982, effective January 17, 1983. Copies of the approved program are available at:

(a) Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102.

(b) Office of Surface Mining Reclamation and Enforcement, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, IL 62002.

25. Section 925.20 is revised to read as follows:

§ 925.20 Approval of the Missouri abandoned mine land reclamation plan.

The Secretary approved the Missouri abandoned mine land reclamation plan, as submitted on September 11, 1981, effective January 29, 1982. Copies of the approved plan are available at:

(a) Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, Jefferson City, MO 65102.

(b) Office of Surface Mining Reclamation and Enforcement, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, IL 62002.

26. Section 925.25 is amended by removing paragraph (a) and redesignating paragraph (b) as the introductory paragraph.

PART 936—OKLAHOMA

27. The authority citation for part 936 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

28. Section 936.10 is revised to read as follows:

§ 936.10 State regulatory program approval.

The Secretary conditionally approved the Oklahoma regulatory program, as submitted on February 28, 1980, amended on June 11, 1980, and resubmitted on December 8, 1980, effective January 19, 1981. He fully approved the Oklahoma program, as amended on August 15, 1985, effective January 14, 1986. Copies of the approved program are available at:

(a) Oklahoma Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, OK 73105.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa

Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135–6548.

29. Section 936.20 is revised to read as follows:

§ 936.20 Approval of Oklahoma abandoned mine land reclamation plan.

The Secretary approved the Oklahoma abandoned mine land reclamation plan, as submitted on July 30, 1981, effective January 21, 1982. Copies of the approved plan are available at:

(a) Oklahoma Conservation Commission, 2800 N. Lincoln Blvd., Suite 160, Oklahoma City, OK 73105.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135–6548.

PART 943—TEXAS

30. The authority citation for part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

31. Section 943.10 is revised to read as follows:

§ 943.10 State regulatory program approval.

The Secretary approved the Texas regulatory program, as submitted on July 20, 1979, and amended on November 13, 1979, and December 20, 1979, effective February 16, 1980. Copies of the approved program are available at:

(a) Surface Mining and Reclamation Division, Railroad Commission of Texas, Capitol Station, P.O. Box 12967, Austin, TX 78711.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135–6548.

32. Section 943.20 is revised to read as follows:

§ 943.20 Approval of Texas abandoned mine land reclamation plan.

The Secretary approved the Texas abandoned mine land reclamation plan, as submitted on April 24, 1980, and amended on May 30, 1980, June 2, 1980, and June 4, 1980, effective June 23, 1980. Copies of the approved plan are available at:

(a) Surface Mining and Reclamation Division, Railroad Commission of Texas, Capitol Station, P.O. Box 12967, Austin, TX 78711.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135–6548.

[FR Doc. 99–10382 Filed 4–23–99; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions Regulations: Implementation of Executive Order 13059

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending the Iranian Transactions Regulations to implement Executive Order 13059, which clarifies the steps taken in Executive Orders 12957 and 12959 with respect to the declaration of national emergency and imposition of new and additional sanctions against Iran.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Regarding the issuance of licenses, Steven I. Pinter, Chief, Licensing Division (tel.: 202/622–2480); regarding banking and compliance questions, Dennis P. Wood, Chief, Compliance Programs Division (tel.: 202/622–2490); regarding Iranian government entities, J. Robert McBrien, Chief, International Programs Division (tel.: 202/622–2420); regarding legal questions, William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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Background

In Executive Order 12957 of March 15, 1995 (60 FR 14615, March 17, 1995), President Clinton declared a national emergency with respect to the actions and policies of the Government of Iran and imposed sanctions against Iran supplementing those imposed in 1987, invoking the authority, inter alia, of the International Emergency Economic Powers Act, 50 U.S.C. 1701–06 ("IEEPA"). The President substantially supplemented and amended those sanctions in Executive Order 12959 of May 6, 1995 (60 FR 24757, May 9, 1995). In implementation of these orders, the Office of Foreign Assets Control ("OFAC") amended the Iranian Transactions Regulations in September 1995 (the "Regulations") (60 FR 47061, September 11, 1995).

In Executive Order 13059 of August 19, 1997 (62 FR 44531, August 21, 1997), the President clarified the steps taken with respect to the national emergency declared in Executive Order 12957 and expanded in Executive Order 12959. In implementation of these orders, OFAC is amending the Regulations.

Section 560.201 continues the prohibition on the importation into the United States of goods or services of Iranian origin but indicates that this includes goods or services owned or controlled by the Government of Iran. Section 560.201 also conforms the exemption for information and informational materials for import purposes to that applicable under IEEPA for all other purposes.

Section 560.204 is revised to provide that any exportation, reexportation, sale or supply of goods to Iran or the Government of Iran from the United States, or by a U.S. person wherever located, is prohibited. This includes any exportation, reexportation, sale or supply of goods, services or technology from the United States or by a U.S. person in a third country undertaken with knowledge or reason to know that such goods, services or technology are intended specifically for supply, transshipment or reexportation, directly or indirectly, to Iran or the Government of Iran. Similarly, § 560.204 prohibits any exportation, reexportation, sale or supply of goods, services or technology

intended specifically for use in the production of, for commingling with, or for incorporation into goods, technology or services to be supplied, transshipped or reexported exclusively or predominantly to Iran or the Government of Iran.

Section 560.205 is amended to clarify that a person other than a U.S. person is prohibited from knowingly reexporting U.S.–origin goods, technology and services to Iran or the Government of Iran if those goods, services or technology are subject to written license application requirements by any U.S. Government agency imposed independently of part 560, unless such U.S.–origin items have been substantially transformed into a foreign–made product or the U.S.–origin content meets the de minimis standard in that section. U.S. persons remain subject to the prohibitions in § 560.204, regardless of the origin or type of item or the country from which it is shipped.

Section 560.206 amends the rules relating to dealings in goods or services of Iranian origin or owned or controlled by the Government in Iran and concerning dealings in goods, technology or services for exportation, reexportation, sale or supply to Iran or the Government of Iran. Section 560.208 is amended to provide that the approval, facilitation, financing or guarantee by a U.S. person of any Iran–related transaction by a foreign person is not permitted if the transaction by the foreign person would be prohibited by this part if performed by a U.S. person or within the United States. In addition, §§ 560.210(c) and (d) are amended to clarify rules relating to informational materials and travel.

The effective dates of the prohibitions in this part are set out in § 560.301. Section 560.306 is revised to clarify the definitions of the terms *goods of Iranian origin* and *goods or services owned or controlled by the Government of Iran*. The definition of *United States depositary institution* in § 560.319 is revised to remove reference to certain activities of banks that might draw into the definition non–banking businesses that are not subject to federal or state regulation as banks. Certain other revisions to existing definitions are made to subpart C.

In subpart D, certain existing interpretive provisions are revised and new interpretive sections are added. Section 560.403 is added to make clear that the prohibitions in §§ 560.204, 560.206 and 560.208 apply to export, reexport or supply transactions which require a transshipment or transit of goods or technology through Iran to third countries. Section 560.406 is revised to indicate that the prohibition on importation in § 560.201 includes, among other things, importation into the United States, for transshipment or transit, of goods owned or controlled by the Government of Iran destined for third countries, and the prohibition on exportation in § 560.204 includes, among other things, the exportation from the United States, for transshipment or transit, of goods intended or destined for the Government of Iran, including entities owned or controlled by the Government of Iran. Section 560.410 is revised to clarify the term *exportation or supply of services*. Section 560.412 on extensions of credit to Iran is amended to add a reference to standby letters of credit. Section 560.414, which relates to reexportation of U.S.–origin goods or technology, is amended to provide interpretation with respect to § 560.205.

Section 560.416 is added to provide examples of prohibited brokering services. Section 560.417 on facilitation of transactions is added to replace § 560.516(d), which is removed. Section 560.418 is added to deal with the release of technology to Iran or the Government of Iran that may violate this part, and transfers of technology to foreign nationals, including Iranian nationals, that may implicate rules administered by the U.S. Department of State, the U.S. Department of Commerce, or other agencies of the U.S. Government. Section 560.419 is added to deal with issues related to the U.S. employment of persons normally located in Iran. Section 560.420 is added to interpret the de minimis content rules contained in § 560.205, which apply to reexportations by foreign persons.

In subpart E, § 560.501(c) is added to explain that specific licenses issued pursuant to Executive Orders 12613, 12957 or 12959 continue in effect in accordance with their terms except to the extent revoked, amended, or modified by the Office of Foreign Assets Control. Section 560.501(e) provides that certain exports, reexports or transfers of goods, technology, or services, or the direct products of technology, which are not prohibited by this part and which do not require authorization by OFAC, may nonetheless require authorization by the U.S. Department of Commerce, the U.S. Department of State or other agencies of the U.S. Government. Section 560.505 is amended to deal with activities taken in connection with certain visa categories.

Section 560.509 is amended to clarify that the general license relating to protection of patents, trademarks and copyrights extends to the importation of Iranian–origin services, payment for such services, and payment to persons in Iran in connection with such intellectual property protection.

Section 560.511 is added to create an "insubstantial content" exception to the prohibitions in § 560.204. As noted, § 560.204 prohibits the knowing exportation, reexportation, sale or supply of goods, services or technology from the United States, or by U.S. persons wherever located, to third countries for incorporation or substantial transformation into items destined for Iran or the Government of Iran. Section 560.511 creates an exception to this rule, authorizing such "knowing" supply by U.S. persons or from the United States under certain circumstances: Such "knowing" supply is authorized under § 560.511 when (1) the items being exported, reexported or supplied for substantial transformation or incorporation abroad do not require authorization for exportation or reexportation by another agency of the U.S. Government; (2) the U.S.–origin items do not exceed the content levels specified in § 560.511(a)(2); (3) the foreign–made end product is not destined to end uses or end users prohibited under regulations administered by other U.S. Government agencies (§ 560.511(d)); and (4) the foreign–made end product is not intended for use in the Iranian petroleum or petrochemical industry (§ 560.511(e)). The authorization in § 560.511(a) is not available if the foreign–made end product is of a type which other U.S. Government agencies make ineligible for de minimis U.S.–origin content. More generally, export control rules administered by other agencies of the U.S. Government may prohibit an exportation or supply otherwise authorized by § 560.511.

A general license is added in § 560.529 to authorize the provision of goods or services in the United States to a non–Iranian carrier transporting passengers or goods to or from Iran if they are bunkers or bunkering services, are supplied in the course of emergency repairs, or are supplied under circumstances which could not be anticipated prior to the carrier's departure for the United States.

Technical changes or new text also appear at the following sections, among others: §§ 560.207, 560.308, 560.315, 560.412, 560.506, 560.515, 560.516, and 560.523. The prior § 560.411 concerning offshore transactions in Iranian–origin goods and services has been removed and reserved because its content, as modified to accord with Executive Order 13059, is covered in § 560.206.

Section 560.318 is removed and reserved.

An appendix is added to provide the names of financial institutions deemed by OFAC to be entities owned or controlled by the Government of Iran. This list, with minor modifications, duplicates the list promulgated as an annex to General License No. 3 on June 6, 1995 (see 60 FR 40883, August 10, 1995).

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

List of Subjects in 31 CFR Part 560

Administrative practice and procedure, Agricultural commodities, Banks, banking, Exports, Foreign trade, Imports, Information, Investments, Iran, Loans, Penalties, Reporting and recordkeeping requirements, Services, Specially designated nationals, Terrorism, Transportation.

For the reasons set forth in the preamble, 31 CFR part 560 is amended as follows:

PART 560—IRANIAN TRANSACTIONS REGULATIONS

1. The authority citation continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 22 U.S.C. 2349aa–9; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

Subpart B—Prohibitions

2. Section 560.201 is revised to read as follows:

§ 560.201 Prohibited importation of goods or services from Iran.

Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, the importation into the United States of any goods or services of Iranian origin or owned or controlled by the Government of Iran, other than information and informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)), is prohibited.

3. Section 560.204 is revised to read as follows:

§ 560.204 Prohibited exportation, reexportation, sale or supply of goods, technology, or services to Iran.

Except as otherwise authorized pursuant to this part, including § 560.511, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of any goods, technology, or services to Iran or the Government of Iran is prohibited, including the exportation, reexportation, sale, or supply of any goods, technology, or services to a person in a third country undertaken with knowledge or reason to know that:

(a) Such goods, technology, or services are intended specifically for supply, transshipment, or reexportation, directly or indirectly, to Iran or the Government of Iran; or

(b) Such goods, technology, or services are intended specifically for use in the production of, for commingling with, or for incorporation into goods, technology, or services to be directly or indirectly supplied, transshipped, or reexported exclusively or predominantly to Iran or the Government of Iran.

4. Section 560.205 is revised to read as follows:

§ 560.205 Prohibited reexportation of goods, technology or services to Iran or the Government of Iran by persons other than United States persons; exceptions.

(a) Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, the reexportation from a third country, directly or indirectly, by a person other than a United States person, of any goods, technology or services that have been exported from the United States is prohibited, if:

(1) Undertaken with knowledge or reason to know that the reexportation is intended specifically for Iran or the Government of Iran; and

(2) The exportation of such goods, technology, or services from the United States to Iran was subject to export license application requirements under any United States regulations in effect on May 6, 1995, or thereafter is made subject to such requirements imposed independently of this part (see § 560.414).

(b) The prohibitions of paragraph (a) of this section shall not apply to those goods or that technology subject to export license application requirements if such goods or technology have been:

(1) Substantially transformed into a foreign–made product outside the United States; or

(2) Incorporated into a foreign–made product outside the United States if the aggregate value of such goods and technology described in paragraph (a)(2) of this section constitutes less than 10 percent of the total value of the foreign–made product to be exported from a third country (see § 560.420).

(c) Reexportation by United States persons or from the United States is governed by other sections in this part, including §§ 560.204 and 560.206.

Note to § 560.205. The reexportation of U.S.–origin goods or technology, including U.S.–origin goods or technology that have been incorporated or substantially transformed into a foreign–made product, not prohibited by this section, may require authorization by the U.S. Department of Commerce under the Export Administration Regulations (15 CFR parts 740–774) or by the U.S. State Department under the International Traffic in Arms Regulations (22 CFR 123.9).

5. Section 560.206 is revised to read as follows:

§ 560.206 Prohibited trade–related transactions with Iran; goods, technology, or services.

(a) Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, no United States person, wherever located, may engage in any transaction or dealing in or related to:

(1) Goods or services of Iranian origin or owned or controlled by the Government of Iran; or

(2) Goods, technology, or services for exportation, reexportation, sale or supply, directly or indirectly, to Iran or the Government of Iran.

(b) For purposes of paragraph (a) of this section, the term *transaction or dealing* includes but is not limited to purchasing, selling, transporting, swapping, brokering, approving, financing, facilitating, or guaranteeing.

6. Section 560.207 is revised to read as follows:

§ 560.207 Prohibited investment.

Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, any new

investment by a United States person in Iran or in property (including entities) owned or controlled by the Government of Iran is prohibited.

7. Section 560.208 is revised to read as follows:

§ 560.208 Prohibited facilitation by United States persons of transactions by foreign persons.

Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, no United States person, wherever located, may approve, finance, facilitate, or guarantee any transaction by a foreign person where the transaction by that foreign person would be prohibited by this part if performed by a United States person or within the United States.

8. Paragraphs (c) and (d) of § 560.210 are revised to read as follows:

§ 560.210 Exempt transactions.

* * * * *

(c) *Information and informational materials.* (1) The importation from any country and the exportation to any country of information and informational materials as defined in § 560.315, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(2) This section does not exempt from regulation or authorize transactions related to information and informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Transactions that are prohibited notwithstanding this section include, but are not limited to, payment of advances for information and informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications), provision of services to market, produce or co–produce, create or assist in the creation of information and informational materials, and payment of royalties to persons in Iran or to the Government of Iran.

(3) This section does not exempt from regulation or authorize transactions incident to the exportation of software subject to the Export Administration Regulations (15 CFR parts 730–774).

(4) This section does not exempt from regulation or authorize the exportation of goods (including software) or technology or the sale or leasing of telecommunications transmission facilities (such as satellite links or dedicated lines) where such exportation, sale or leasing is for use in the transmission of any data.

(d) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages. This exemption extends to transactions with Iranian carriers and those involving group tours and payments in Iran made for transactions directly incident to travel.

* * * * *

Subpart C—Definitions

9. Section 560.301 is revised to read as follows:

§ 560.301 Effective date.

The effective date of the prohibitions and directives contained in subpart B of this part is 12:01 a.m., Eastern Daylight Time, August 20, 1997. For the effective date of pre–existing regulations and directives, see the Executive orders in the Authority citation for this part and implementing regulations.

10. Section 560.306 is revised to read as follows:

§ 560.306 Iranian–origin goods or services; Goods or services owned or controlled by the Government of Iran.

(a) The terms *goods of Iranian origin* and *Iranian–origin goods* include:

(1) Goods grown, produced, manufactured, extracted, or processed in Iran; and

(2) Goods which have entered into Iranian commerce.

(b) The terms *services of Iranian origin* and *Iranian–origin services* include:

(1) Services performed in Iran or by an entity organized under the laws of Iran, or a person residing in Iran; and

(2) Services performed outside Iran by a citizen, national or permanent resident of Iran who is ordinarily resident in Iran, or by an entity organized under the laws of Iran.

(c) The term *goods or services owned or controlled by the Government of Iran* includes:

(1) Goods grown, produced, manufactured, extracted or processed by the Government of Iran or goods in its possession or control; and

(2) Services performed by the Government of Iran.

(d) The terms *services of Iranian–origin*, *Iranian–origin services*, and *services owned or controlled by the Government of Iran* do not include:

(1) Diplomatic and consular services performed by or on behalf of the Government of Iran;

(2) Diplomatic and consular services performed by or on behalf of the Government of the United States; or

(3) Services performed outside Iran by an Iranian citizen or national who is resident in the United States or a third country, provided such services are not performed by or on behalf of the Government of Iran (other than diplomatic and consular services), an entity organized under the laws of Iran, or a person located in Iran.

11. Section 560.308 is revised to read as follows:

§ 560.308 Importation of goods.

With respect to goods (including software), the term *importation* means the bringing of any goods into the United States, except that in the case of goods transported by vessel, *importation* means the bringing of any goods into the United States with the intent to unlade them.

12. Section 560.315 is amended to revise the section heading and paragraphs (a) introductory text, (b) introductory text, and (b)(1) to read as follows:

§ 560.315 Information and informational materials.

(a) The term *information and informational materials* includes:

* * * * *

(b) The term *information and informational materials*, with respect to exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979 (50 U.S.C. App. 2401-2420, the "EAA"), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

* * * * *

§ 560.318 [Removed and reserved]

13. Section 560.318 is removed and reserved.

14. Section 559.319 is revised to read as follows:

§ 560.319 United States depository institution.

The term *United States depository institution* means any entity (including

its foreign branches) organized under the laws of any jurisdiction within the United States, or any agency, office or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (for example, banks, savings banks, savings associations, credit unions, trust companies and United States bank holding companies).

Subpart D—Interpretations

15. Section 560.403 is added to subpart D to read as follows:

§ 560.403 Transshipment through Iran.

The prohibitions in §§ 560.204, 560.206 and 560.208 apply to export, reexport or supply transactions which require a transshipment or transit of goods or technology through Iran to third countries.

16. Section 560.406 is revised to read as follows:

§ 560.406 Transshipment or transit through United States prohibited.

(a) The prohibitions in § 560.201 apply to the importation into the United States, for transshipment or transit, of Iranian–origin goods or goods owned or controlled by the Government of Iran which are intended or destined for third countries.

(b) The prohibitions in § 560.204 apply to the transshipment or transit of foreign goods through the United States which are intended or destined for Iran or the Government of Iran, including entities owned or controlled by the Government of Iran.

17. Section 560.410 is revised to read as follows:

§ 560.410 Exportation, reexportation, sale or supply of services.

(a) The prohibition on the exportation, reexportation, sale or supply of services contained in § 560.204 applies to services performed on behalf of a person in Iran or the Government of Iran or where the benefit of such services is otherwise received in Iran, if such services are performed:

(1) In the United States, or

(2) Outside the United States by a United States person, including by an overseas branch of an entity located in the United States.

(b) The benefit of services performed anywhere in the world on behalf of the Government of Iran is presumed to be received in Iran.

(c) *Example.* A United States person is engaged in a prohibited exportation of services to Iran when it extends credit to a third–country firm specifically to enable that firm to manufacture goods for sale to Iran or for an entity of the Government of Iran. See also § 560.416.

§ 560.411 [Removed and reserved]

18. Section 560.411 is removed and reserved.

19. Section 560.412 is revised to read as follows:

§ 560.412 Extensions of credit or loans to Iran.

(a) The prohibitions contained in §§ 560.204 and 560.207 apply to but are not limited to the unauthorized renewal or rescheduling of credits or loans in existence as of May 6, 1995, such as the extension of a standby letter of credit.

(b) The prohibitions contained in § 560.209 apply, among other things, to the unauthorized renewal or rescheduling of credits or loans in existence as of March 15, 1995.

(c) The prohibitions contained in §§ 560.204, 560.207 and 560.209 apply to, among other things, credits or loans in any currency.

20. Section 560.414 is revised to read as follows:

§ 560.414 Reexportation of certain U.S.–origin goods exported prior to May 7, 1995.

The prohibitions on reexportation in § 560.205 do not apply to United States–origin goods or technology that were exported from the United States prior to 12:01 a.m., Eastern Daylight Time, May 7, 1995, if:

(a) Such goods or technology were not the property of a United States person as of 12:01 a.m. Eastern Daylight Time, May 7, 1995; and

(b) The reexportation of the U.S.–origin goods or technology to Iran or the Government of Iran was not subject to reexport (as opposed to export) license application requirements under U.S. regulations in effect prior to May 6, 1995.

Notes to § 560.414.

1. The exclusion in this section applies, among other things, to goods that were as of May 6, 1995, classified under the U.S. Department of Commerce's Export Administration Regulations (15 CFR parts 730–774) as ECCNs 2A994; 3A993; 5A992; 5A995; 6A990; 6A994; 7A994; 8A992; 8A994; 9A990; 9A992; and 9A994, that were exported from the United States prior to 12:01 a.m. Eastern Daylight Time, May 7, 1995, and were not the property of a United States person as of 12:01 a.m. Eastern Daylight Time, May 7, 1995. As of April 26, 1999, items covered by this note are classified under ECCNs 2A994; 3A992.a; 5A991.f; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f and .g; 9A990.a and .b; and 9A991.d and .e.

2. A reexportation of U.S.–origin goods or technology which meets the conditions of paragraph (a) of this section, or which is not within the scope of § 560.205, nevertheless may require specific authorization by other agencies of the U.S. Government for reexportation to Iran or the Government of Iran. For example, items which meet the conditions of paragraph (a) may nevertheless require an export license under the Enhanced Proliferation Control Initiative provisions of the Export Administration Regulations (15 CFR part 744).

21. Section 560.416 is added to subpart D to read as follows:

§ 560.416. Brokering services.

(a) For purposes of the prohibitions in §§ 560.201, 560.204, 560.205, 560.206 and 560.208, the term *services* includes performing a brokering function.

(b) *Examples.* A person within the United States, or a United States person, wherever located, may not:

(1) Act as broker for the provision of goods, services or technology, from whatever source, to or from Iran or the Government of Iran;

(2) Act as broker for the purchase or swap of crude oil of Iranian origin or owned or controlled by the Government of Iran;

(3) Act as broker for the provision of financing, a financial guarantee or an extension of credit by any person to Iran or the Government of Iran;

(4) Act as a broker for the provision of financing, a financial guarantee or an extension of credit to any person specifically to enable that person to construct or operate a facility in Iran or owned or controlled by the Government of Iran; or

(5) Act as a broker for the provision of financing, a financial guarantee, or an extension of credit to any person specifically to enable that person to provide goods, services, or technology intended for Iran or the Government of Iran.

22. Section 560.417 is added to subpart D to read as follows:

§ 560.417 Facilitation; change of policies and procedures; referral of business opportunities offshore.

With respect to § 560.208, a prohibited facilitation or approval of a transaction by a foreign person occurs, among other instances, when a United States person:

(a) Alters its operating policies or procedures, or those of a foreign affiliate, to permit a foreign affiliate to accept or perform a specific contract, engagement or transaction involving Iran or the Government of Iran without the approval of the United States person, where such transaction previously required approval by the United States person and such transaction by the foreign affiliate would be prohibited by this part if

performed directly by a United States person or from the United States;

(b) Refers to a foreign person purchase orders, requests for bids, or similar business opportunities involving Iran or the Government of Iran to which the United States person could not directly respond as a result of the prohibitions contained in this part; or

(c) Changes the operating policies and procedures of a particular affiliate with the specific purpose of facilitating transactions that would be prohibited by this part if performed by a United States person or from the United States.

23. Section 560.418 is added to subpart D to read as follows:

§ 560.418 Release of technology or software in the United States or a third country.

The release of technology or software in the United States, or by a United States person wherever located, to any person violates the prohibitions of this part if made with knowledge or reason to know the technology is intended for Iran or the Government of Iran, unless that technology or software meets the definition of *information and informational materials* in § 560.315. See § 560.511.

Notes to § 560.418.

1. The U.S. Department of Commerce's Bureau of Export Administration requires a license for the release in the United States (or in a third country) to a foreign national of technology if both of the following conditions are met:

(a) That technology would require a license for exportation (or reexportation) to the home country of the foreign national; and

(b) The foreign national is not a citizen or permanent resident of the United States (or of the third country) or is not a protected individual under the Immigration and Naturalization Act (8 U.S.C. § 1324(b)(a)(3)). See 15 CFR 734.2(b)(2)(ii) and 734.2(b)(5).

2. The transfer to a foreign national of technology subject to regulations administered by the U.S. Department of State or other agencies of the U.S. Government may require authorization by those agencies.

24. Section 560.419 is added to subpart D to read as follows:

§ 560.419 U.S. employment of persons normally located in Iran.

The prohibitions in § 560.201 make it unlawful to hire an Iranian national normally located in Iran to come to the United States solely or for the principal purpose of engaging in employment on behalf of an entity in Iran or as the employee of a U.S. person, unless that employment is authorized pursuant to a visa issued by the U.S. State Department or by § 560.505. See also § 560.418 with respect to the release of technology and software.

25. Section 560.420 is added to subpart D to read as follows:

§ 560.420 Reexportation by non-U.S. persons of certain foreign-made products containing U.S.-origin goods or technology.

For purposes of satisfying the de minimis content rule in § 560.205(b)(2):

(a) U.S.-origin goods (excluding software) falling within the definition in § 560.205 must comprise less than 10 percent of the foreign-made good (excluding software);

(b) U.S.-origin software falling within the definition in § 560.205 must comprise less than 10 percent of the foreign-made software;

(c) U.S.-origin technology falling within the definition in § 560.205 must comprise less than 10 percent of the foreign-made technology; and,

(d) In cases involving a complex product made of a combination of U.S.-origin goods (including software) and technology falling within the definition in § 560.205, the aggregate value of all such U.S.-origin goods (including software) and such technology contained in the foreign-made product must be less than 10 percent of the total value of the foreign-made product.

Notes to § 560.420.

1. Notwithstanding the exceptions contained in § 560.205(b)(1) and (b)(2) and this section, a reexportation to Iran or the Government of Iran of U.S.-origin items falling within the definition in § 560.205 is prohibited if those U.S.-origin goods (including software) or that technology have been substantially transformed or incorporated into a foreign-made end product which is destined to end uses or end users prohibited under regulations administered by other U.S. Government agencies. See, e.g., the Export Administration Regulations (31 CFR 736.2(b)(5), 744.2, 744.3, 744.4, 744.7, and 744.10); International Traffic in Arms Regulations (22 CFR 123.9).

2. A reexportation not prohibited by § 560.205 may nevertheless require authorization by the U.S. Department of Commerce, the U.S. Department of State or other agencies of the U.S. Government.

3. The provisions of § 560.205 and this section apply only to persons other than United States persons.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

26. Section 560.501 is amended by adding paragraphs (d) and (e) to read as follows:

§ 560.501 Effect of license or authorization.

* * * * *

(d) Specific licenses issued prior to 12:01 a.m., Eastern Daylight Time, August 20, 1997, continue in effect in accordance with their terms except to the extent specifically revoked, amended, or modified by the Office of Foreign Assets Control.

(e) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency. For example, exports of goods, services, or technical data which are not prohibited by this part or which do not require a license by the Office of Foreign Assets Control, nevertheless may require authorization by the U.S. Department of Commerce, the U.S. Department of State or other agencies of the U.S. Government. See also § 560.701(d).

27. Section 560.505 is revised to read as follows:

§ 560.505 Importation of certain Iranian-origin services authorized; activities related to certain visa categories authorized.

(a) The importation of Iranian-origin services into the United States or other dealing in such services is authorized where such services are performed in the United States by an Iranian citizen or national for the purpose of, or which directly relate to, participating in a public conference, performance, exhibition or similar event, and such services are consistent with that purpose.

(b) Persons otherwise qualified for a non-immigrant visa under categories A-3 and G-5 (attendants, servants and personal employees of aliens in the United States on diplomatic status), D (crewmen), F (students), I (information media representatives), J (exchange visitors), M (non-academic students), O and P (aliens with extraordinary ability, athletes, artists and entertainers), Q (international cultural exchange visitors), R (religious workers), or S (witnesses) are authorized to carry out in the United States those activities for which such a visa has been granted by the U.S. State Department.

(c) Persons otherwise qualified for a visa under categories E-2 (treaty investor), H-1b (temporary worker), or L (intra-company transferee) and all immigrant visa categories are authorized to carry out in the United States those activities for which such a visa has been granted by the U.S. State Department, provided that the persons are not coming to the United States to work as an agent, employee or contractor of the Government of Iran or a business entity or other organization in Iran.

28. Section 560.506 is revised to read as follows:

§ 560.506 Importation and exportation of certain gifts authorized.

The importation into the United States of Iranian-origin goods from Iran or a third country, and the exportation from the United States to Iran of goods, are authorized for goods sent as gifts to persons provided that the value of the gift is not more than $100; the goods are of a type and in quantities normally given as gifts between individuals; and the goods are not controlled for chemical and biological weapons (CB), missile technology (MT), national security (NS), or nuclear proliferation (NP). See Commerce Control List, Export Administration Regulations (15 CFR part 774).

29. Section 560.509 is amended by revising paragraph (a)(1) as follows:

§ 560.509 Certain transactions related to patents, trademarks and copyrights authorized.

(a) * * *

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright or other form of intellectual property protection, including importation of or dealing in Iranian-origin services, payment for such services, and payment to persons in Iran directly connected to such intellectual property protection;

* * * * *

30. Section 560.511 is added to read as follows:

§ 560.511 Exportation or supply of insubstantial United States content for use in foreign-made products or technology.

(a) Except as provided in paragraph (b) of this section and notwithstanding the prohibitions in § 560.204, the exportation or supply of goods or technology from the United States, or by a United States person wherever located, for substantial transformation or incorporation into a foreign-made end product in a country other than the United States or Iran, intended specifically or predominantly for Iran or the Government of Iran, is permitted under this part where the exporter has ascertained that all of the following are the case:

(1) The U.S.-origin goods or technology being exported for substantial transformation or incorporation abroad were not subject to export license application requirements under any United States regulations in effect on May 6, 1995, or were not thereafter made subject to such regulations imposed independently of this part;

(2) With respect to the foreign-made end product:

(i) U.S.-origin goods (excluding software) comprise less than 10 percent of the foreign-made good (excluding software);

(ii) U.S.-origin software comprises less than 10 percent of the foreign-made software;

(iii) U.S.-origin technology comprises less than 10 percent of the foreign-made technology; and

(iv) In cases involving a complex product made of a combination of goods (including software) and technology, the aggregate value of all U.S.-origin goods (including software) and technology contained in the foreign-made end product is less than 10 percent of the total value of the foreign-made product;

(3) The foreign-made end product is not destined to end uses or end users prohibited under regulations administered by other U.S. Government agencies. See, e.g., the Export Administration Regulations (31 CFR 736.2(b)(5), 744.2, 744.3, 744.4, 744.7, and 744.10); International Traffic in Arms Regulations (22 CFR 123.9);

(4) The foreign-made end product is not intended for use in the Iranian petroleum or petrochemical industry. For this purpose, products intended for use in the Iranian petroleum or petrochemical industry include not only products uniquely suited for use in those industries, such as oilfield services equipment, but also goods and technology for use in products, such as computers, office equipment, construction equipment, or building materials, which are suitable for use in other industries but which are intended specifically for use in the petroleum or petrochemical industries.

(b) The authorization contained in this section is not available if the foreign-made end product is of a type which other U.S. Government agencies make ineligible for de minimis U.S.-origin content. See, e.g., the Export Administration Regulations (15 CFR 734.4(a) and (b)); International Traffic in Arms Regulations (22 CFR 123.9).

Note to § 560.511. An exportation authorized by this section may nevertheless require authorization by the U.S. Department of Commerce, the U.S. Department of State or other agencies of the U.S. Government.

31. Paragraph (d) of § 560.515 removed, and paragraph (a) is revised to read as follows:

§ 560.515 30-day delayed effective date for pre-May 7, 1995 trade contracts involving Iran.

(a) All transactions necessary to complete performance of a trade contract entered into prior to May 7, 1995, and involving Iran (a *pre-existing trade contract*), including the exportation of goods, services (including financial services), or technology from the United States that was authorized pursuant to Federal regulations in force immediately prior to May 6, 1995, or performance under a pre-existing trade contract for transactions in Iranian-origin or Government of Iran-owned or controlled goods or services that do not involve importation into the United States, are authorized without specific licensing by the Office of Foreign Assets Control if the conditions in paragraph (a)(1) or (a)(2) of this section are met:

(1) If the pre-existing trade contract is for an exportation of goods or technology from the United States that was authorized pursuant to Federal regulations in force immediately prior to May 6, 1995, the goods or technology must be exported from the United States prior to 12:01 a.m. Eastern Daylight Time, June 6, 1995, and all other activity by U.S. persons that is necessary and incidental to the performance of the pre-existing trade contract (other than payment under a financing contract) must be completed prior to 12:01 a.m. Eastern Daylight Time, August 6, 1995; or

(2) All obligations under a pre-existing trade contract (other than payment under a financing contract) must be fully completed prior to 12:01 a.m. Eastern Daylight Time, June 6, 1995, if the pre-existing trade contract is for one of the following:

(i) The exportation of services from the United States benefitting a person in Iran or the Government of Iran;

(ii) The reexportation of goods or technology to Iran, the Government of Iran, or an entity owned or controlled by the Government of Iran that was authorized pursuant to Federal regulations in force immediately prior to May 6, 1995; or

(iii) Transactions relating to goods or services of Iranian origin or owned or controlled by the Government of Iran other than transactions relating to importation into the United States of such goods or services.

* * * * *

32. Section 560.516 is amended by revising paragraphs (a)(3), (a)(4), and (b) to read as follows:

§ 560.516 Payment and United States dollar clearing transactions involving Iran.

(a) * * *

(3) The transfer arises from an underlying transaction that is not prohibited by this part, such as a non-commercial remittance to or from Iran (e.g., a family remittance not related to a family-owned enterprise); a U.S.-

related commercial transfer not prohibited by this part (see, e.g., § 560.515(b)); or a third–country transaction not prohibited by this part; or

(4) The transfer arises from an underlying transaction that is exempted from regulation pursuant to § 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), such as an exportation to Iran or importation from Iran of information and informational materials, a travel–related remittance, or payment for the shipment of a donation of articles to relieve human suffering.

(b) Before a United States depository institution initiates a payment on behalf of any customer, or credits a transfer to the account on its books of the ultimate beneficiary, the United States depository institution must determine that the underlying transaction is not prohibited by this part.

* * * * *

33. Section 560.523 is revised to read as follows:

§ 560.523 Exportation of equipment and services relating to information and informational materials.

Specific licenses may be issued on a case–by–case basis for the exportation of equipment and services necessary for the establishment of news wire feeds or other transmissions of information and informational materials.

34. Section 560.529 is added to subpart E to read as follows:

§ 560.529 Bunkering and emergency repairs.

Goods or services provided in the United States to a non–Iranian carrier transporting passengers or goods to or from Iran are permissible if they are:

(a) Bunkers or bunkering services;

(b) Supplied or performed in the course of emergency repairs; or

(c) Supplied or performed under circumstances which could not be anticipated prior to the carrier's departure for the United States.

35. An appendix to this part is added at the end thereof to read as follows:

Appendix to Part 560—Financial Institutions Determined to be Owned or Controlled by the Government of Iran

This appendix lists financial institutions determined by the Office of Foreign Assets Control to be entities owned or controlled by the Government of Iran within the meaning of § 560.313. The names and addresses represent the most complete list available at this time. Unless otherwise indicated, the financial institutions listed below are considered to be entities *owned or controlled by the Government of Iran* when they operate, not only from the locations listed below, but also from any other location. The names and addresses are subject to change, and the Office of Foreign Assets Control will update the list as needed.

1. AGRICULTURAL COOPERATIVE BANK OF IRAN (a.k.a. BANK TAAVON KESHAVARZI IRAN), No. 129 Patrice Lumumba Street, Jalal–Al–Ahmad Expressway, P.O. Box 14155/6395, Tehran, Iran
2. AGRICULTURAL DEVELOPMENT BANK OF IRAN (a.k.a. BANK JOSIAIYI KESHAHVARZI), Farahzad Expressway, Tehran, Iran
3. BANK JOSIAIYI KESHAHVARZI (a.k.a. AGRICULTURAL DEVELOPMENT BANK OF IRAN), Farahzad Expressway, Tehran, Iran
4. BANK MARKAZI JOMHOURI ISLAMI IRAN (a.k.a. THE CENTRAL BANK OF IRAN), Ferdowsi Avenue, P.O. Box 11365–8551, Tehran, Iran
5. BANK MASKAN (a.k.a. HOUSING BANK (of Iran)), Ferdowsi St., Tehran, Iran
6. BANK MELLAT, Park Shahr, Varzesh Avenue, P.O. Box 11365/5964, Tehran, Iran, and all offices worldwide, including, but not limited to:

a. BANK MELLAT (Branch), Ziya Gokalp Bulvari No. 12, Kizilay, Ankara, Turkey
b. BANK MELLAT (Branch), Binbir Cicek Sokak, Buyukdere Caddesi, P.O. Box 67, Levant, Istanbul, Turkey
c. BANK MELLAT (Branch), 48 Gresham Street, London EC2V 7AX, England

7. BANK MELLI, P.O. Box 11365–171, Ferdowsi Avenue, Tehran, Iran, and all offices worldwide, including, but not limited to:

a. BANK MELLI (Branch), 4 Moorgate, London EC2R 6AL, England
b. BANK MELLI (Branch), Schadowplatz 12, 4000 Dusseldorf 1, Germany
c. BANK MELLI (Branch), Friedenstrasse 4, P.O. Box 160 154, 6000 Frankfurt am Main, Germany
d. BANK MELLI (Branch), P.O. Box 112129, Holzbruecke 2, 2000 Hamburg 11, Germany
e. BANK MELLI (Branch), Odeonsplatz 18, 8000 Munich 22, Germany
f. BANK MELLI (Branch), 43 Avenue Montaigne, 75008 Paris, France
g. BANK MELLI (Branch), 601 Gloucester Tower, The Landmark, 11 Pedder Street, P.O. Box 720, Hong Kong
h. BANK MELLI (Representative Office), 333 New Tokyo Building, 3–1 Marunouchi, 3–chome, Chiyoda–ku, Tokyo, Japan
i. BANK MELLI (Representative Office), 818 Wilshire Boulevard, Los Angeles, California 90017, U.S.A
j. BANK MELLI (Representative Office), 767 Fifth Avenue, 44th Floor, New York, New York 10153, U.S.A
k. BANK MELLI (Representative Office), Smolensky Boulevard 22/14, Kv. S., Moscow, Russia
l. BANK MELLI (Branch), Flat No. 1, First Floor, 8 Al Sad El–Aaly, Dokki, P.O. Box 2654, Cairo, Egypt
m. BANK MELLI (Branch), Ben Yas Street, P.O. Box No. 1894, Riga Deira, Dubai, U.A.E
n. BANK MELLI (Branch), P.O. Box 2656, Shaikha Maryam Building, Liwa Street, Abu Dhabi, U.A.E
o. BANK MELLI (Branch), B.P.O. Box 1888, Clock Tower, Industrial Road, Al–Ain Club Building in from Emertel Al Ain, Al Ain, Abu Dhabi, U.A.E
p. BANK MELLI (Branch), P.O. Box 1894, Riqa, Ban Yas Street, Deira, Dubai, U.A.E
q. BANK MELLI (Branch), Mohd–Habib Building, Al–Fahidi Street, P.O. Box 3093, Bur Dubai, Dubai, U.A.E
r. BANK MELLI (Branch), P.O. Box 248, Fujairah, U.A.E
s. BANK MELLI (Branch), Sami Sagar Building Oman Street Al–Nakheel, P.O. Box 5270, Ras–Al Khaimah, U.A.E
t. BANK MELLI (Branch), P.O. Box 459, Al Bory Street, Sharjah, U.A.E.
u. BANK MELLI (Branch), P.O. Box 785, Government Road, Shaikh Mubarak Building, Manama, Bahrain
v. BANK MELLI (Branch), P.O. Box 23309, Shaikh Salman Street, Road No. 1129, Muharraq 211, Bahrain
w. BANK MELLI (Branch), P.O. Box 5643, Mossa Abdul Rehman Hassan Building, 238 Al Burj St., Ruwi, Muscat, Oman

8. BANK OF INDUSTRY AND MINE (of Iran) (a.k.a. BANK SANAT VA MADAN), Hafez Avenue, P.O. Box 11365/4978, Tehran, Iran
9. BANK REFAH KARGARAN (a.k.a. WORKERS WELFARE BANK (of Iran)), Moffettah No. 125, P.O. Box 15815 1866, Tehran, Iran
10. BANK SADERAT IRAN, Bank Saderat Tower, P.O. Box 15745–631, Somayeh Street, Tehran, Iran, and all offices worldwide, including, but not limited to:

a. BANK SADERAT IRAN (Branch), Hamdam Street, Airport Road Intersection, P.O. Box 700, Abu Dhabi, U.A.E
b. BANK SADERAT IRAN (Branch), Al–Am Road, P.O. Box 1140, Al Ein, Abu Dhabi, U.A.E
c. BANK SADERAT IRAN (Branch), Liwara Street, P.O. Box 16, Ajman, U.A.E
d. BANK SADERAT IRAN (Branch), 3rd Floor Dom Dasaf Building, Mejloka Street 7A, Ashkhabad, Turkmenistan
e. BANK SADERAT IRAN (Branch), 25–29 Panepistimiou Street, P.O. Box 4308, GR–10210, Athens 10672, Greece
f. BANK SADERAT IRAN (Branch), Imam Ali Street, Sahat Yaghi, Ras Elain–Alektisad Building 2nd Floor, Baalbeck, Lebanon
g. BANK SADERAT IRAN (Branch and Offshore Banking Unit), 106 Government Road, P.O. Box 825, Manama Town 316, Bahrain
h. BANK SADERAT IRAN (Branch), Hamra Pavillion Street, Savvagh and Daaboul Building 1st Floor, P.O. Box 113–6717, Beirut, Lebanon
i. BANK SADERAT IRAN (Branch), Alghobairi Boulevard, Beirut, Lebanon
j. BANK SADERAT IRAN (Branch), 28 Sherif Street, P.O. Box 462, Cairo, Egypt
k. BANK SADERAT IRAN (Branch), Old Ben–Ghanem Street (next to God Market), P.O. Box 2256, Doha, Qatar
l. BANK SADERAT IRAN (Branch), Almaktoum Road, P.O. Box 4182, Deira, Dubai, U.A.E

m. BANK SADERAT IRAN (Branch), Bazar Murshid, P.O. Box 4182, Deira, Dubai, U.A.E
n. BANK SADERAT IRAN (Branch), Alfahid Road, P.O. Box 4182, Bur Dubai, Dubai, U.A.E
o. BANK SADERAT IRAN (Branch), Sherea Sheikh Zayad Street, P.O. Box 55, Fujairah, U.A.E
p. BANK SADERAT IRAN (Branch), Wilhelm Leuschner Strasse 41, P.O. Box 160151, W–6000 Frankfurt am Main, Germany
q. BANK SADERAT IRAN (Branch), P.O. Box 112227, Hopfenhof Passage, Kleiner Bastah 6–10, W–2000 Hamburg 11, Germany
r. BANK SADERAT IRAN (Branch), Lothbury, London EC2R 7HD, England
s. BANK SADERAT IRAN (Representative Office), 707 Wilshire Boulevard, Suite 4880, Los Angeles, California 90017, U.S.A
t. BANK SADERAT IRAN (Representative Office), 55 East 59th Street, 16th Floor, New York, New York 10022, U.S.A.
u. BANK SADERAT IRAN (Branch), P.O. Box 4269, Mutrah, Muscat, Oman
v. BANK SADERAT IRAN (Branch), 16 Rue de la Paix, Paris 2eme, 75002 Paris, France
w. BANK SADERAT IRAN (Branch), Alaroba Road, P.O. Box 316, Sharjah, U.A.E
11. BANK SANAT VA MADAN (a.k.a. BANK OF INDUSTRY AND MINE (of Iran)), Hafez Avenue, P.O. Box 11365/4978, Tehran, Iran
12. BANK SEPAH, Emam Khomeini Square, P.O. Box 11364, Tehran, Iran, and all offices worldwide, including, but not limited to:
a. BANK SEPAH (Branch), Muenchener Strasse 49, P.O. Box 10 03 47, W–6000 Frankfurt am Main 1, Germany
b. BANK SEPAH (Branch), 5/7 Eastcheap, EC3M 1JT London, England
c. BANK SEPAH (Representative Office), 650 Fifth Avenue, New York, New York 10019, U.S.A
d. BANK SEPAH (Branch), 17 Place Vendome, 75001 Paris, France.
e. BANK SEPAH (Branch), Via Barberini 50, 00187 Rome, Italy
f. BANK SEPAH (Representative Office), Ufficio di Rappresentan Za, Via Ugo Foscolo 1, 20121 Milan, Italy
13. BANK TAAVON KESHAVARZI IRAN (a.k.a. AGRICULTURAL COOPERATIVE BANK OF IRAN) No. 129 Patrice Lumumba Street, Jalal–Al–Ahmad Expressway, P.O. Box 14155/6395, Tehran, Iran
14. BANK TEJARAT, 130 Taleghani Avenue, Nejatoullahie, P.O. Box 11365–5416, Tehran, Iran, and all offices worldwide, including, but not limited to:
a. BANK TEJARAT (Branch), 6/8 Clements Lane, London EC4N 7AP, England
b. BANK TEJARAT (Branch), 44 Avenue des Champs Elysees, 75008 Paris, France
15. DEUTSCH–IRANISCHE HANDELSBANK AG (n.k.a. EUROPAEISCH–IRANISCHE HANDELSBANK AG) Depenau 2, W–2000 Hamburg 1, Germany, and all offices worldwide, including, but not limited to:
a. DEUTSCH–IRANISCHE HANDELSBANK AG (n.k.a. EUROPAEISCH–IRANISCHE HANDELSBANK AG) (Representative Office), 23 Argentine Square, Beihaghi Bulvard, P.O. Box 15815/1787, Tehran 15148, Iran
16. EUROPAEISCH–IRANISCHE HANDELSBANK AG (f.k.a. DEUTSCH–IRANISCHE HANDELSBANK AG) Depenau 2, W–2000 Hamburg 1, Germany, and all offices worldwide, including, but not limited to:
a. EUROPAEISCH–IRANISCHE HANDELSBANK AG (f.k.a. DEUTSCH–IRANISCHE HANDELSBANK AG) (Representative Office), 23 Argentine Square, Beihaghi Bulvard, P.O. Box 15815/1787, Tehran 15148, Iran
17. HOUSING BANK (of Iran) (a.k.a. BANK MASKAN), Ferdowsi St., Tehran, Iran
18. IRAN OVERSEAS INVESTMENT BANK LIMITED (f.k.a. IRAN OVERSEAS INVESTMENT CORPORATION LIMITED), 120 Moorgate, London EC2M 6TS, England, and all offices worldwide, including, but not limited to:
a. IRAN OVERSEAS INVESTMENT BANK LIMITED (Representative Office), 1137 Avenue Vali Asr off Park–e–SAll, P.O. Box 15115/531, Tehran, Iran
b. IRAN OVERSEAS INVESTMENT BANK LIMITED (Agency), Suite 3c Olympia House, 61/63 Dame Street, Dublin 2, Ireland
c. IRAN OVERSEAS INVESTMENT BANK LIMITED (Agency), Improgetti, Via Germanico 24, 00192 Rome, Italy
d. IRAN OVERSEAS TRADING COMPANY LIMITED (Subsidiary), 120 Moorgate, London EC2M 6TS, England
e. IRAN OVERSEAS INVESTMENT CORPORATION LIMITED (n.k.a. IRAN OVERSEAS INVESTMENT BANK LIMITED), 120 Moorgate, London EC2M 6TS, England
19. THE CENTRAL BANK OF IRAN (a.k.a. BANK MARKAZI JOMHOURI ISLAMI IRAN), Ferdowsi Avenue, P.O. Box 11365–8551, Tehran, Iran
20. WORKERS WELFARE BANK (of Iran) (a.k.a. BANK REFAH KARGARAN), Moffettah No. 125, P.O. Box 15815 1866, Tehran, Iran

Dated: March 25, 1999.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: March 31, 1999.

Elisabeth A. Bresee,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 99–10179 Filed 4–21–99; 4:01 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD07–99–003]

RIN 2115–AA98

Anchorage Grounds; Port Everglades, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the Anchorage Regulations for Port Everglades, FL. The amendment is needed to strengthen existing anchoring requirements and guidelines in order to provide a higher degree of protection to the coastal area during periods of adverse weather which would cause anchored vessels to drag anchor and strike other vessels, or become grounded.

DATES: This rule becomes effective May 26, 1999.

FOR FURTHER INFORMATION CONTACT: CWO Marcos DeJesus, Coast Guard Marine Safety Office Miami, at (305) 535–8762.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** on January 26, 1999 (64 FR 3889) proposing to amend the Anchorage Regulations for Port Everglades. No comments were received during the comment period.

Background and Purpose

The east coast of Florida is susceptible to many erratic weather changes, and mariners who are not vigilant to the seas often discover themselves in dangerous situations. In recent years, a number of vessel groundings have resulted from vessels dragging anchor and drifting into the beach or onto reefs during bad weather. These amendments are intended to reduce these incidents by modifying the existing anchoring requirements and guidelines to account for possible adverse weather situations. The amended regulations will require vessels to notify the Captain of the Port when entering the anchorage areas and when any casualty or work affects the main propulsion or steering equipment. The proposed regulations will also require vessels to have an English speaking watchstander monitor Channel 16 VHF at all times.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is necessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic effect upon a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities as it will only affect anchored vessels in the waters off Port Everglades and the changes are minor in nature.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(f) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination has been prepared and is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

In consideration of the foregoing, the Coast Guard amends part 110 of Title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a is also issued under 33 U.S.C. 1223 and 1231.

2. Revise § 110.186(b) to read as follows:

§ 110.186 Port Everglades, Florida.

* * * * *

(b) *The regulations.*

(1) Commercial vessels in the Atlantic Ocean in the vicinity of Port Everglades shall anchor only within the anchorage area hereby defined and established, except in cases of emergency.

(2) Prior to entering the anchorage area, all vessels shall notify the Coast Guard Captain of the Port, via the Port Everglades Harbormaster, on VHF–FM Channel 14.

(3) All vessels within the anchorage area shall maintain a 24-hour bridge watch by an English speaking licensed deck officer monitoring VHF–FM channel 16. This individual shall perform frequent checks of the vessel's position to ensure the vessel is not dragging anchor.

(4) Vessels experiencing casualties such as a main propulsion, main steering or anchoring equipment malfunction or which are planning to perform main propulsion engine repairs or maintenance, shall immediately notify the Coast Guard Captain of the Port via the Coast Guard Group Miami on VHF–FM Channel 16.

(5) The Coast Guard Captain of the Port may close the anchorage area and direct vessels to depart the anchorage during periods of adverse weather or at other times as deemed necessary in the interest of port safety.

(6) Commercial vessels anchoring under emergency circumstances outside the anchorage area shall shift to new positions within the anchorage area immediately after the emergency ceases.

Dated: April 13, 1999.

G.W. Sutton,

Captain U.S. Coast Guard, Commander, Seventh Coast Guard District, Acting.

[FR Doc. 99–10429 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08–99–016]

Drawbridge Operating Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Norfolk Southern Railroad bascule span drawbridge across the Inner Harbor Navigation Canal, mile 4.5, at New Orleans, Orleans Parish, Louisiana. This deviation allows the Port of New Orleans to close the bridge to navigation from 8 a.m. until noon and from 1 p.m. until 5 p.m., Monday through Friday from May 17, 1999 through May 28, 1999. This temporary deviation is issued to allow for the replacement of the railroad ties on the bascule span deck. The draw will open at any time for a vessel in distress. Presently, the draw opens on signal at all times.

DATES: This deviation is effective from 8 a.m. on May 17, 1999 through 5 p.m. on May 28, 1999.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The Norfolk Southern Railroad bascule span drawbridge across the Inner Harbor Navigation Canal in New Orleans, Louisiana, has a vertical clearance of one foot above mean high water in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft. The Port of New Orleans requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the maintenance work, involving removal and replacement of the railroad ties on the bascule span deck.

The District Commander has, therefore, issued a deviation from the regulations in 33 CFR 117.5 authorizing the draw of the Norfolk Southern Railroad bascule span drawbridge across the Inner Harbor Navigation Canal, mile 4.5, at New Orleans, Orleans Parish, Louisiana to remain closed to navigation from 8 a.m. until noon and from 1 p.m. until 5 p.m., Monday through Friday from May 17, 1999 through May 28, 1999.

Dated: April 14, 1999.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard Commander Eighth Coast Guard District.

[FR Doc. 99–10430 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 20

Changes in International Postal Rates

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service, after considering the comments submitted in response to its request published in the **Federal Register** on December 4, 1998 (63 FR 67017–67026), for comments on proposed changes in international postage rates, hereby gives notice that it is implementing the proposed rates, except as explained below.

EFFECTIVE DATE: 12:01 a.m., Sunday, May 30, 1999.

FOR FURTHER INFORMATION CONTACT: John Alepa, (202) 268–4071 and John Reynolds, (202) 314–7334.

SUPPLEMENTARY INFORMATION: On December 4, 1998, the Postal Service published in the **Federal Register** a notice of proposed changes in international postage rates (63 FR 67017–67026). The Postal Service requested comments by January 4, 1999, and by that date received two comments: one from a private individual and one from a mailer using printed matter services.

Comments from the private individual expressed concern about rate relationships. The commenter identified five specific areas of interest.

First, it was suggested that there should be some equivalence in the postage rates for outbound international mail sent to Canada and Mexico. While this observation may appear intuitively correct, it is premised on the assumption that the cost basis for setting rates to Canada and Mexico are similar. On previous occasions, the Postal Service has addressed this concern indicating that the cost of providing international mail service to Canada and Mexico are each influenced by the cost of delivery assessed separately by each of the two administrations, and that their respective delivery costs are not the same. In addition, transportation cost, length of haul, and associated handling costs incurred to provide service to each of these destinations also differ. These cost differences underlie the rate differences in the proposed rate levels.

Second, the commenter questioned the rate relationships between letters and printed matter, asserting that they too, should be the same. The rates differences as proposed are the result of different mark-ups applied to the costs of providing letter and printed matter services and the market factors that influence them.

Third, the commenter noted the existence of cross-overs between air and surface parcel post rates. This condition is acknowledged and is attributed solely to the cost of providing the respective services. Because of the lower volume of surface parcels, non-transportation processing costs tend to be higher for surface parcels than the comparable processing costs for air parcels. These costs differences are reflected in the rate levels proposed, and in part are also influenced by the average parcel weight for the two services.

Fourth, the commenter asserted the belief that rate differences between weight steps for a given service should be uniform. Particular emphasis on this issue was directed to International Express Mail Service (EMS). Rate design does not require that differences between weight steps be uniform. Flexibility to design rates that have a taper effect better aligns rate levels with market characteristics, and takes into account, in this instance, the presence of document and merchandise within the same product stream. Where certain cross-overs between Global Priority Mail (GPM) and EMS appeared in the notice published on December 4, 1998 in section I A at 63 FR 67018, they have been revised such that the EMS rate is greater.

Fifth, the commenter did question the consistency in the proposed differences for the Bulk Letter Service to Canada and the corresponding single piece letter rates to Canada; namely, it is three or five cents. The published notice on December 4, 1998 contained an error in section IIB at 63 FR 67020. The difference between the Bulk Letter Service to Canada and the corresponding single piece letter rates is five cents.

The Postal Service is also modifying the notice published on December 4, 1998, in section IV A and IV B at 63 FR 67020 with respect to GPM. The rates for Canada also apply to Mexico. The rates applicable to all other countries, therefore, do not apply to Mexico.

The mailer using surface printed matter and publishers' periodical rates provide three main concerns. First, comment on the general size of the rate increase being proposed was offered. While the overall rate increase proposed for international mail is 3.3 percent, this mailer noted that he was facing a much larger increase. The rate levels for printed matter and publishers' periodicals are primarily the result of cost increases resulting from revisions in terminal dues. Second, this mailer gave his endorsement to the proposed drop ship rates for publishers' periodicals. The mailer observed that being able to take advantage of the drop ship option would lower his effective rate increase to levels equivalent to the domestic rate increases. Lastly, the mailer expressed concern that international mail rate changes may be timed with the January 10, 1999, implementation date for domestic postage and fee changes and therefore could be burdensome. The mailer suggested a later implementation date suggesting July 1, 1999 as a possibility. The Postal Service believes that the implementation date announced in this final rule is sensitive to this concern.

The notice published on December 4, 1998 contained errors. In section V C, Publishers' Periodicals, located at 63 FR 67021 the 3-pound weight was given as 2 pounds. In section VE 1, Air-Other Articles, located at 63 FR 67021 the rate for Mexico for 2 ounces is $1.07, not $0.89. In section VI B, Air Parcel Post, located at 63 FR 67022 the 1-pound rate for Canada is $12.61 since there is a 1-pound minimum weight for parcels to that country. It should be noted that, with the exception of air letter rates to Canada, the Postal Service is not changing air letter rates to the rest of the world.

After reviewing and considering the comments received, the Postal Service adopts the following postage rates and amends the International Mail Manual (IMM), which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, Incorporation by reference, International postal services.

PART 20—[AMENDED]

The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

The International Mail Manual is amended to incorporate the following postal rates:

New International Postage Rates

(See section VII for rate groups for individual countries.)

I. Express Mail International Service

A. On Demand Service

1. Country-Specific Rates

Weight not over (lbs.)	Country				
	Canada	Mexico	Great Britain	China	Japan
0.5	$15.50	$15.50	$18.50	$15.00	$15.00
1	18.00	18.00	22.50	18.00	17.50
2	21.50	21.50	26.50	21.00	21.50
3	25.00	25.00	30.50	28.00	28.00
4	28.50	28.50	34.50	34.00	34.00
5	32.00	32.00	38.50	37.00	37.00
6	34.50	34.50	42.50	39.50	39.00
7	37.00	37.00	46.50	44.00	43.50
8	39.50	39.50	50.50	48.50	48.00
9	42.00	42.00	54.50	53.00	52.50
10	44.50	44.50	58.50	57.50	57.00
Each additional pound or fraction of a pound	$2.50	$2.50	$4.00	$4.50	$4.50

2. Rate Group Countries

Weight not over (lbs.)	Rate group					
	1	2	3	4	5	6
0.5	$19.00	$21.00	$15.00	$19.00	$18.00	$20.00
1	21.50	24.50	19.00	23.00	21.00	22.50
2	25.50	28.50	23.00	27.50	24.50	26.50
3	29.50	32.50	28.00	32.00	28.00	30.50
4	34.00	37.00	34.00	36.50	34.00	35.00
5	39.00	41.50	38.00	41.00	35.00	39.50
6	43.50	45.50	42.50	45.00	38.00	44.00
7	48.00	49.50	47.00	49.00	41.00	48.50
8	52.50	53.50	51.50	53.00	44.00	53.00
9	57.00	57.50	56.00	57.00	47.00	57.50
10	61.50	61.50	60.50	61.00	50.00	62.00
Each additional pound or fraction of a pound	$4.50	$4.00	$4.50	$4.00	$3.00	$4.50

B. Custom Designed Service

1. Country-Specific Rates

Weight not over (lbs.)	Country				
	Canada [1]	Mexico	Great Britain	China	Japan
0.5	.....	$23.50	$26.50	$23.00	$23.00
1	.....	26.00	30.50	26.00	25.50
2	.....	29.50	34.50	29.00	28.50
3	.....	33.00	38.50	33.00	32.50
4	.....	36.50	42.50	38.00	37.50
5	.....	40.00	46.50	43.00	42.50
6	.....	42.50	50.50	47.50	47.00
7	.....	45.00	54.50	52.00	51.50
8	.....	47.50	58.50	56.50	56.00
9	.....	50.00	62.50	61.00	60.50
10	.....	52.50	66.50	65.50	65.00
Each additional pound or fraction of a pound	.....	$2.50	$4.00	$4.50	$4.50

[1] Custom designed service not available.

2. Rate Group Countries

Weight not over (lbs.)	Rate group					
	1	2	3	4	5	6
0.5	$27.00	$29.00	$23.00	$27.00	$26.00	$28.00
1	29.50	32.50	27.00	31.00	29.00	30.50
2	33.50	36.50	31.00	35.50	32.50	34.50
3	37.50	40.50	36.00	40.00	36.00	38.50
4	42.00	45.00	41.00	44.50	39.50	43.00
5	47.00	49.50	46.00	49.00	43.00	47.50
6	51.50	53.50	50.50	53.00	46.00	52.00
7	56.00	57.50	55.00	57.00	49.00	56.50
8	60.50	61.50	59.50	61.00	52.00	61.00
9	65.00	65.50	64.00	65.00	55.00	65.50
10	69.50	69.50	68.50	69.00	58.00	70.00
Each additional pound or fraction of a pound	$4.50	$4.00	$4.50	$4.00	$3.00	$4.50

II. Letters and Letter Packages

A. Canada

Weight Not Over (lbs.)	Weight Not Over (ozs.)	Rate
0	0.5	$0.48
0	1	0.55
0	1.5	0.67
0	2	0.76
0	3	1.00
0	4	1.20
0	5	1.40
0	6	1.60
0	7	1.80
0	8	2.00
0	9	2.19
0	10	2.39
0	11	2.59
0	12	2.79
1	0	3.59
1	8	4.52
2	0	5.44
2	8	6.36
3	0	7.29
3	8	8.21
4	0	9.14

A 4-pound maximum applies except for registered items sent to Canada. Canada-bound registered items may weigh up to 66 pounds. For registered items weighing over 4 pounds, the rate is $1.85 for each additional pound up to the 66-pound limit.

B. Bulk Letter Service to Canada

Weight not over ozs.	Rate
0.5	$0.43
1	0.50
1.5	0.62
2	0.71
3	0.95

III. Postal Cards/Postcards and Aerogrammes

A. Postal Cards/Postcards

Country	Rate
Canada	$0.45
Mexico	0.40
All others	0.55

B. Aerogrammes

All countries: $0.60 each.

IV. Global Priority Mail (GPM)

A. GPM—Flat-Rate Envelope Postage Rates

Destination [1]	Small	Large
Canada & Mexico	$4.00	$7.00
All other countries	5.00	9.00

[1] Maximum Weight: 4 lbs.

B. GPM—Variable Weight Option Postage Rates

Weight (lbs.) [1]	Canada & Mexico	All other countries
	Rate	Rate
0.5	$6.00	$8.00
1.0	10.00	13.00
1.5	15.00	18.00
2.0	17.00	21.00
2.5	19.00	25.00
3.0	21.00	28.00
3.5	23.00	32.00
4.0	25.00	34.00

[1] Maximum Weight: 4 lbs.

V. Other Articles (AO)

A. Regular Printed Matter and Small Packets—Surface

Weight not over (lbs.)	Weight not over (ozs.)	Mexico	All other Countries except Canada
		Rate	Rate
0	1	$0.60	$0.70
0	2	0.80	1.04
0	3	1.06	1.30
0	4	1.25	1.45
0	5	1.50	1.96
0	6	1.50	1.96
0	7	1.85	2.46
0	8	1.85	2.46
0	9	2.19	2.96
0	10	2.19	2.96
0	11	2.47	3.47
0	12	2.47	3.47
0	13	2.81	3.97
0	14	2.81	3.97
0	15	3.14	4.48
1	0	3.14	4.48
1	2	3.43	4.84
1	4	3.72	5.20
1	6	4.01	5.56
1	8	4.30	5.92
1	10	4.58	6.28
1	12	4.87	6.64
1	14	5.16	7.00
2	0	5.45	7.36
3	0	7.37	9.66
4	0	9.29	11.96
Each additional pound or fraction of a pound		$1.92	$2.30

B. Valuepost™/Canada

Weight	Rate
Letter-size:	
1 ounce or less.	$0.42
Over 1 ounce.	0.39 plus $0.51 per pound or fraction of a pound.

Weight	Rate
Flat-size:	
5 ounces or less.	0.71.
Over 5 ounces.	0.43 plus $1.16 per pound or fraction of a pound.

C. Publishers' Periodicals—Surface

Weight not over		Mexico	All other Countries except Canada
(lbs.)	(ozs.)	Rate	Rate
0	1	$0.40	$0.38
0	2	0.50	0.48
0	3	0.65	0.62
0	4	0.75	0.72
0	5	0.94	0.91
0	6	0.94	0.91
0	7	1.13	1.10
0	8	1.13	1.10
0	9	1.31	1.30
0	10	1.31	1.30
0	11	1.50	1.49
0	12	1.50	1.49
0	13	1.69	1.68
0	14	1.69	1.68
0	15	1.88	1.87
1	0	1.88	1.87
1	2	2.05	2.05
1	4	2.23	2.23
1	6	2.40	2.41
1	8	2.58	2.59
1	10	2.75	2.77
1	12	2.93	2.95
1	14	3.10	3.13
2	0	3.28	3.31
3	0	4.48	4.46
4	0	5.68	5.61
5	0	6.88	6.76
6	0	8.08	7.91
7	0	9.28	9.06
8	0	10.48	10.21
9	0	11.68	11.36
10	0	12.88	12.51
11	0	14.08	13.66

Note: There is a $0.25 per pound Drop Shipment Discount for publishers' periodicals that are made up to country and tendered at the New Jersey International and Bulk Mail Center (NJI & BMC).

D. Books and Sheet Music—Surface

Weight not over (lbs.)	Mexico	All other countries except Canada
	Rate	Rate
1	$1.88	$1.87
2	3.28	3.31
3	4.48	4.46
4	5.68	5.61
5	6.88	6.76
6	8.08	7.91
7	9.28	9.06
8	10.48	10.21
9	11.68	11.36
10	12.88	12.51
11	14.08	13.66

E. Air—Other Articles (Printed Matter, Matter for the Blind, and Small Packets)

1. Canada and Mexico—Air

Weight not over		Canada	Mexico
(lbs.)	(ozs.)	Rate	Rate
0	0.5	$0.60	$0.60
0	1	0.69	0.76
0	1.5	0.84	0.91
0	2	0.85	1.07
0	3	1.26	1.30
0	4	1.50	1.56
0	5	1.74	1.82
0	6	1.84	2.08
0	7	2.06	2.34
0	8	2.29	2.60
0	9	2.51	2.86
0	10	2.74	3.12
0	11	2.96	3.38
0	12	3.19	3.64
1	0	4.09	4.68
1	8	4.68	6.76
2	0	5.60	8.84
2	8	6.52	10.92
3	0	7.44	13.00
3	8	8.36	15.08
4	0	9.28	17.16
Each additional 1/2-pound or fraction of 1/2-pound		$0.92	$2.08

VI. Parcel Post

(**Note:** The weight limit for parcel post varies by country. Parcels mailed to Canada must weigh a minimum of 1 pound.)

A. Surface Parcel Post

Weight not over (lbs.)	Canada	Bahamas [1]	All other countries
	Rate	Rate	Rate
2	$11.33	$14.65	$15.70
3	11.69	15.34	16.60
4	13.13	16.01	17.47
5	13.51	16.65	18.32
6	13.90	18.85	20.88
7	14.28	19.52	21.75
8	15.88	20.17	22.59
9	16.30	20.80	23.42
10	16.71	21.42	24.22
11	18.45	23.86	27.10
12	18.89	24.51	27.93
13	19.34	25.14	28.76
14	19.79	25.77	29.57
15	20.23	26.38	30.36
16	20.68	26.99	31.15
17	21.13	27.59	31.93
18	21.57	28.18	32.69
19	22.02	28.77	33.45
20	22.47	29.35	34.20
21	22.91	29.93	34.94
22	23.36	30.50	35.68
23	23.81	31.07	36.41
24	24.25	31.63	37.14
25	26.03	33.42	39.09
26	26.48	33.98	39.80
27	26.92	34.53	40.51

Weight not over (lbs.)	Canada	Bahamas [1]	All other countries
	Rate	Rate	Rate
28	27.37	35.07	41.22
29	27.82	35.62	41.92
30	28.27	36.16	42.61
31	28.71	36.70	43.31
32	29.16	37.24	44.00
33	29.61	37.77	44.68
34	30.05	38.30	45.37
35	30.50	38.83	46.05
36	30.95	39.36	46.73
37	31.39	39.89	47.40
38	31.84	40.41	48.07
39	32.29	40.93	48.75
40	32.73	41.45	49.41
41	33.18	41.97	50.08
42	33.63	42.49	50.75
43	34.07	43.01	51.41
44	34.55	43.52	52.07
Each additional pound or fraction of a pound	$0.50	$0.60	$0.70

[1] Also Bermuda, Caribbean Islands, Central America, Mexico, and St. Pierre adn Miquelion.

B. Air Parcel Post

(See section VII for country rate groups.)

Rate groups	Weight not over (lbs.)						
	Canada	Mexico	A	B	C	D	E
1	$12.61	$9.98	$10.86	$11.76	$13.80	$15.11	$16.69
2	12.61	12.12	13.71	15.42	17.28	19.83	20.68
3	13.28	13.36	15.57	18.01	19.51	23.19	23.15
4	15.11	15.82	18.87	22.31	23.55	28.76	27.75
5	15.84	17.16	20.88	25.12	25.96	32.40	30.43
6	16.56	18.50	22.89	27.92	28.37	36.03	33.11
7	17.29	19.84	24.90	30.73	30.78	39.67	35.79
8	19.40	22.81	28.99	36.11	35.75	46.63	41.42
9	20.18	24.26	31.15	39.13	38.34	50.55	44.30
10	20.97	25.70	33.31	42.15	40.94	54.47	47.19
11	21.75	27.15	35.48	45.17	43.54	58.38	50.07
12	22.53	28.59	37.64	48.19	46.14	62.30	52.95
13	23.32	30.04	39.81	51.21	48.73	66.21	55.84
14	24.10	31.48	41.97	54.23	51.33	70.13	58.72
15	24.88	32.93	44.14	57.25	53.93	74.04	61.60
16	25.66	34.37	46.30	60.27	56.52	77.96	64.49
17	26.45	35.82	48.47	63.29	59.12	81.88	67.37
18	27.23	37.26	50.63	66.31	61.72	85.79	70.25
19	28.01	38.71	52.80	69.33	64.32	89.71	73.14
20	28.79	40.15	54.96	72.35	66.91	93.62	76.02
21	29.58	41.60	57.13	75.37	69.51	97.54	78.90
22	30.36	43.04	59.29	78.39	72.11	101.45	81.79
23	31.14	44.49	61.46	81.41	74.70	105.37	84.67
24	31.92	45.93	63.62	84.43	77.30	109.29	87.55
25	34.04	48.71	67.12	88.76	81.23	114.53	91.61
26	34.82	50.15	69.28	91.78	83.83	118.44	94.49
27	35.60	51.60	71.45	94.80	86.42	122.36	97.38
28	36.38	53.04	73.61	97.82	89.02	126.27	100.26
29	37.17	54.49	75.78	100.84	91.62	130.19	103.14
30	37.95	55.93	77.94	103.86	94.21	134.11	106.03
31	38.73	57.38	80.11	106.88	96.81	138.02	108.91
32	39.51	58.83	82.27	109.90	99.41	141.94	111.79
33	40.30	60.27	84.44	112.92	102.00	145.85	114.68
34	41.08	61.72	86.60	115.94	104.60	149.77	117.56
35	41.86	63.16	88.77	118.96	107.20	153.68	120.44
36	42.65	64.61	90.93	121.98	109.80	157.60	123.33
37	43.43	66.05	93.10	125.00	112.39	161.52	126.21
38	44.21	67.50	95.26	128.02	114.99	165.43	129.09
39	44.99	68.94	97.43	131.04	117.59	169.35	131.98
40	45.78	70.39	99.59	134.06	120.18	173.26	134.86
41	46.56	71.83	101.76	137.08	122.78	177.18	137.74
42	47.34	73.28	103.92	140.10	125.38	181.09	140.63
43	48.12	74.72	106.09	143.12	127.98	185.01	143.51

Rate groups	Weight not over (lbs.)						
	Canada	Mexico	A	B	C	D	E
44	48.91	76.17	108.25	146.14	130.57	188.95	146.39
Each additional pound or fraction of a pound	$0.80	.....	$1.50	$3.00	$2.60	$4.00	$3.00

[1] Minimum parcel post weight to Canada is 1 pound.

VII. Country Table

Country	Express mail rate group	Air parcel post rate group
Afghanistan [1]	.....	E
Albania	4 [2]	D
Algeria	6 [2]	D
Andorra	4	B
Angola	6	D
Anguilla	5	A
Antigua and Barbuda	.....	A
Argentina	5	E
Armenia	4	E
Aruba	5	B
Ascension	.....	
Australia	3	D
Austria	2	D
Azerbaijan	4	A
Azores	4	D
Bahamas	5	A
Bahrain	6	C
Bangladesh	1	B
Barbados	5	A
Belarus	4	C
Belgium	2	D
Belize	5	A
Benin	6	A
Bermuda	5	C
Bhutan	1 [2]	D
Bolivia	5	C
Bosnia-Herzegovina	2	A
Botswana	6	D
Brazil	5	E
British Virgin Islands	.....	A
Brunei Darussalam	1	A
Bulgaria	4	D
Burkina Faso	6	D
Burma	.....	B
Burundi [1]	6	B
Cambodia	1	B
Cameroon	6	D
Canada	Country-Specific Rate [2]	Country-Specific Rate
Cape Verde	6	D
Cayman Islands	5	A
Central African Republic	6	E
Chad	6	D
Chile	5	C
China	Country-Specific Rate	D
Colombia	5	B
Comoros	.....	B
Congo, Dem. Rep. of the [1]	6	B
Congo, Rep. of the (Brazzaville)	6	E
Corsica	4	D
Costa Rica	5	A
Côte d'Ivoire (Ivory Coast)	6	C
Croatia	4	C
Cuba	.....	
Cyprus	4	C
Czech Republic	4	C
Denmark	2	C
Djibouti	6	D
Dominica	.....	A
Dominican Republic	5	A
Ecuador	5	B
Egypt	6	D
El Salvador	5	A

Country	Express mail rate group	Air parcel post rate group
Equatorial Guinea	6	B
Eritrea	6	D
Estonia	4[2]	D
Ethiopia	6	B
Falkland Islands.		
Faroe Islands	2	C
Fiji	1[2]	A
Finland	2	A
France (incl. Monaco)	4[2]	D
French Guiana	5[2]	E
French Polynesia	1	E
Gabon	6	D
Gambia		A
Georgia, Republic of	4	E
Germany	2[2]	A
Ghana	6	D
Gibraltar		B
Great Britain and Northern Ireland	Country-Specific Rate	D
Greece	2	A
Greenland		C
Grenada	5	A
Guadeloupe	5[2]	E
Guatemala	5	A
Guinea	6	A
Guinea-Bissau [1]	6	A
Guyana	5	A
Haiti	5	A
Honduras	5	A
Hong Kong	3	D
Hungary	2	C
Iceland	2	A
India	1	D
Indonesia	1	D
Iran		E
Iraq	6.	
Ireland	4	A
Israel	6	D
Italy	2	A
Jamaica	5	A
Japan	Country-Specific Rate	D
Jordan	6	B
Kazakhstan	4	B
Kenya	6	D
Kiribati		A
Korea, Dem. People's Rep. (North).		
Korea, Republic of (South)	3	B
Kuwait	6	D
Kyrgyzstan	4	C
Laos	1	E
Latvia	4	B
Lebanon		A
Lesotho	6	D
Liberia [1]	6.	
Libya		
Liechtenstein	2	C
Lithuania	4	D
Luxembourg	4	C
Macao	1	D
Macedonia	4	C
Madagascar	6	E
Madeira Islands	4	D
Malawi	6	D
Malaysia	1	B
Maldives	1	E
Mali	6	D
Malta	2	D
Martinique	5[2]	E
Mauritania	6	A
Mauritius	6	B
Mexico	Country-Specific Rate	Country-Specific Rate
Moldova	4	D
Mongolia	1	D
Montserrat		A

Country	Express mail rate group	Air parcel post rate group
Morocco	6	C
Mozambique	6	E
Namibia	5	D
Nauru	1[2]	B
Nepal	1	D
Netherlands	2[2]	B
Netherlands Antilles	5	B
New Caledonia	1	E
New Zealand	1	D
Nicaragua	5	A
Niger	6	C
Nigeria	6	D
Norway	2	D
Oman	1	B
Pakistan	1	D
Panama	5	A
Papua New Guinea	1	E
Paraguay	5	C
Peru	5	C
Philippines	1	D
Pitcairn Island		D
Poland	4	C
Portugal	4	D
Qatar	6	B
Reunion		E
Romania	4	D
Russia	4	E
Rwanda	6	D
Saint Christopher (St. Kitts) and Nevis	5	B
Saint Helena		C
Saint Lucia	5	A
Saint Pierre and Miquelon		B
Saint Vincent and the Grenadines	5	C
San Marino		A
Sao Tome and Principe		B
Saudi Arabia	6	B
Senegal	6	D
Serbia-Montenegro [1]	4	B
Seychelles	6	C
Sierra Leone [1]	6	D
Singapore	3	D
Slovak Republic	4	B
Slovenia	2	C
Solomon Islands	1	B
Somalia [1]	6.	
South Africa	6	D
Spain	4	B
Sri Lanka	1	B
Sudan	6	B
Suriname		A
Swaziland	6	B
Sweden	2[2]	E
Switzerland	2	C
Syrian Arab Republic	6	C
Taiwan	3	D
Tajikistan	4	C
Tanzania	6	C
Thailand	3	B
Togo	6	D
Tonga		A
Trinidad and Tobago	5	A
Tristan da Cunha		A
Tunisia	6	B
Turkey	6	B
Turkmenistan	4	D
Turks and Caicos Islands		A
Tuvalu		A
Uganda	6	D
Ukraine	4	D
United Arab Emirates	6	C
Uruguay	5	C
Uzbekistan		E
Vanuatu	1[2]	A

Country	Express mail rate group	Air parcel post rate group
Vatican City	.....	A
Venezuela	5	A
Vietnam	1	B
Wallis and Futuna Islands	.....	E
Western Samoa	1	B
Yemen	6	C
Zambia	6	D
Zimbabwe	6	E

[1] All mail service is currently suspended.
[2] On Demand service only.

Stanley F. Mires,
Chief Counsel, Legislative.

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BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[GA–34–1–9805; FRL–6318–3]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the Georgia State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final conditional interim approval.

SUMMARY: EPA is granting final conditional interim approval of the State Implementation Plan (SIP) revision submitted by the State of Georgia through the Georgia Environmental Protection Division (EPD) on November 15, 1993, and amended on June 17, 1996, which included the 15 percent Rate-of-Progress Plan (15 percent plan). EPA is granting final conditional interim approval because achievement of the 15 percent reduction in emission of volatile organic compounds (VOCs) is dependent upon implementation of the enhanced inspection and maintenance (I/M) plan and the condition pertaining to the implementation of a low Reid Vapor Pressure (RVP) program of 7.0 psi. Full approval of Georgia's 15 percent plan will be granted after EPA reviews the State's demonstration that the enhanced I/M program actually achieved the emission reductions claimed as required by the National Highway Act, approves the Georgia enhanced I/M plan, and approves the low RVP program or other program that meets the same emission reduction requirements. In a **Federal Register** notice published on January 29, 1999, (64 FR 4568) EPA granted final interim approval to Georgia's I/M program. Full approval of the individual measures that comprise the 15 percent plan, except for the low RVP program, is being granted in this action. Additionally, EPA is approving Georgia's 1990 Baseline Emissions Inventory.

DATES: This final rule is effective May 26, 1999.

ADDRESSES: Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104. The telephone number is 404–562–9036.

SUPPLEMENTARY INFORMATION:

Clean Air Act Requirements for Serious Nonattainment Areas

The Atlanta area was classified as a serious ozone nonattainment area on November 6, 1991. The nonattainment area consists of the following thirteen counties: Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnet, Henry, Paulding, and Rockdale.

Section 182(b) of the Clean Air Act (CAA) requires that each state in which all or part of a serious nonattainment area is located submit, by November 15, 1992, an inventory of actual emissions from all sources, as described in section 172(c)(3) and 182(a)(1), in accordance with guidance provided by the Administrator. This inventory is for calendar year 1990 and is designated the baseline year inventory. The inventory must include both anthropogenic and biogenic sources of volatile organic compounds (VOCs), nitrogen oxides (NO_X), and carbon monoxide (CO), and must address actual emissions of these pollutants in the nonattainment area during the peak ozone season. The inventory must include all point and area sources, as well as all highway and non-highway mobile sources.

In addition, section 182(b)(1)(A) of the CAA requires ozone nonattainment areas classified as moderate and above to develop plans to reduce VOC emissions by 15 percent from the 1990 baseline. The plans were to be submitted by November 15, 1993, and the reductions were required to be achieved within six years of enactment or November 15, 1996. The CAA also set limitations on the creditability of certain types of reductions. Specifically, a state cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures promulgated prior to 1990, or for reductions resulting from requirements to lower the Reid Vapor Pressure (RVP) of gasoline promulgated prior to 1990 or required under section 211(h) of the CAA, which restricts gasoline RVP. Furthermore, the CAA does not allow credit for corrections to vehicle I/M programs or corrections to Reasonably Available Control Technology (RACT) rules as these programs were required prior to 1990.

Proposed Action on Submittal

The State of Georgia submitted the 15 percent plan SIP revision for the Atlanta nonattainment area on November 15, 1993, and amended it on June 17, 1996.

On September 12, 1997, EPA published a notice of proposed rulemaking (NPR) in the **Federal Register** proposing conditional interim approval (62 FR 48027). EPA's rationale for granting conditional approval and the details of the November 15, 1993, submittal are contained in the September 12, 1997, NPR and the accompanying technical support document and will not be restated here. EPA received no comments on the NPR. Further information regarding Georgia's I/M program can be found in a **Federal Register** notice published on January 29, 1999 (64 FR 4568).

In the proposed conditional interim approval notice for the 15 percent plan, it was stated that EPA would grant conditional approval of the RVP program. Section 211(c)(4)(C) of the CAA allows nonattainment areas to implement a more stringent RVP standard if the State can satisfy the requirements of this section. The State must demonstrate that the RVP program is necessary to achieve the National Ambient Air Quality Standards. In addition to this requirement, the State must demonstrate that there are no other measures available that are practicable and reasonable, and can be implemented by the needed timeframe. The EPD has committed in a September 29, 1997, letter to submit the necessary documentation that will support the need for a fuel waiver under Section 211(c)(4)(C) of the CAA. For this reason, EPA is granting final conditional interim approval of Georgia's 15 percent plan.

Final Action

EPA is granting final conditional interim approval of the State of Georgia's 15 percent plan contingent upon final full approval of the I/M plan and granting of a waiver and approving the RVP program or other plan that provides equivalent emission reductions. The proposed conditional interim approval was published in the **Federal Register** on September 12, 1997 (62 FR 48027) and no comments were received. EPA is approving Georgia's 1990 Baseline Emissions Inventory for the Atlanta nonattainment area as discussed in the NPR which was published on September 12, 1997 (62 FR 48027). The EPA also approves the rule revisions discussed in the NPR which was published on September 12, 1997 (62 FR 48027) to 391–3–1–.01(llll) "Volatile Organic Compound"; 391–3–1–.01(mmmm) "Hazardous Air Pollutant"; 391–3–1–.02(2)(ii) VOC Emissions from Surface Coating of Miscellaneous Metal Parts and Products; 391–3–1–.02(rr) Gasoline Dispensing Facility—Stage I; 391–3–1–.02(zz) Gasoline Dispensing Facilities—Stage II; 391–3–1–.02(2)(aaa) Consumer and Commercial Products; 391–3–1–.02(5) Open Burning; 391–3–1–.02(2)(ff) Solvent Metal Cleaning; 391–3–1–.02(7) Prevention of Significant Deterioration; 391–3–1–.03 Permits.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This

final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 25, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 16, 1999.

Michael V. Peyton,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42. U.S.C. 7401 *et seq.*

Subpart L—Georgia

2. Section 52.569 is added to read as follows:

§ 52.569 Identification of plan—conditional approval.

EPA is conditionally approving Rule 391–3–1–.02(2)(bbb) Gasoline Marketing-Reid Vapor Pressure (RVP) of the Georgia SIP contingent upon the State submitting documentation supporting the need for a 7.0 psi RVP program within one year of the subject conditional interim approval.

2. Section 52.570, is amended by adding paragraph (c)(41) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(41) Revisions to Chapters 391–3–1–.01, 391–3–1–.02, and 391–3–1–.03 of the Georgia Department of Natural Resources Rules for Air Quality Control, adopted on May 29, 1996, October 27, 1993, and August 23, 1995.

(i) Incorporation by reference.

(A) Rules of the Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391–3–1, Air Quality Control, adopted on May 29, 1996:

(*1*) 391–3–1–.01(llll).

(*2*) 391–3–1–.01(mmmm).

(*3*) 391–3–1–.02(2)(ff)4.

(*4*) 391–3–1–.02(2)(ff)5.

(*5*) 391–3–1–.02(7).

(*6*) 391–3–1–.03(6).

(*7*) 391–3–1–.03(6)(b)11.

(*8*) 391–3–1–.03(6)(b)13.

(*9*) 391–3–1–.03(6)(c).

(*10*) 391–3–1–.03(6)(g).

(*11*) 391–3–1–.03(6)(h).

(B) Rules of the Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391–3–1, Air Quality Control, adopted October 27, 1993:

(*1*) 391–3–1–.02(2)(aaa).

(*2*) 391–3–1–.02(5)(a)3.

(*3*) 391–3–1–.02(5)(a)13.

(*4*) 391–3–1–.02(5)(b).

(C) Rules of the Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391–3–1, Air Quality Control, adopted August 23, 1995:

(*1*) 391–3–1–.02(2)(ii)6.

(*2*) 391–3–1–.02(2)(rr)1.

(*3*) 391–3–1–.02(2)(rr)3(vii).

(*4*) 391–3–1–.02(2)(rr)6.

(*5*) 391–3–1–.02(2)(zz)3.

(*6*) 391–3–1–.02(2)(zz)7.

(*7*) 391–3–1–.02(2)(zz)8.

(*8*) 391–3–1–.02(2)(zz)9.

(*9*) 391–3–1–.02(2)(zz)10.

(*10*) 391–3–1–.02(2)(zz)11.

(*11*) 391–3–1–.02(2)(zz)13.

(*12*) 391–3–1–.02(2)(zz)20.

(*13*) 391–3–1–.02(2)(aaa)4.

(ii) Other material. None.

* * * * *

[FR Doc. 99–10235 Filed 4–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6330–3]

RIN 2060–AC19

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments.

SUMMARY: This document amends certain portions of the final regulation "National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks," which was published on January 17, 1997. This rule is commonly known as the Hazardous Organic NESHAP or the HON.

These amendments to the rule will not change the basic control requirements of the rule or the level of health protection it provides. The rule requires new and existing major sources to control emissions of hazardous air pollutants to the level reflecting application of the maximum achievable control technology.

EFFECTIVE DATE: April 26, 1999.

ADDRESSES: *Docket.* Docket Numbers A–90–19, A–90–20, A–90–21, A–90–22, and A–90–23 contain the supporting information for the original NESHAP and this action. These dockets are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, first floor, 401 M Street SW, Washington, DC 20460, or by calling (202) 260–7548 or 260–7549. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For questions, contact Dr. Janet S. Meyer, Coatings and Consumer Products Group, at telephone (919) 541–5254 or e-mail meyer.jan@epa.gov, or contact Mary Tom Kissell, Waste and Chemical Processes Group, at telephone (919) 541–4516 or e-mail kissell.mary@epa.gov. The mailing address for both contacts is Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities and Background Information

A. Regulated Entities

The regulated category and entities affected by this action include:

Category	Examples of regulated entities
Industry	Synthetic organic chemical manufacturing industry (SOCMI) units, e.g., producers of benzene, toluene, or any other chemical listed in Table 1 of 40 CFR part 63, subpart F.

This table is not intended to be exhaustive but, rather, provides a guide for readers regarding entities likely to be interested in the revisions to the regulation affected by this action. Entities potentially regulated by the HON are those which produce as primary intended products any of the chemicals listed in table 1 of 40 CFR part 63, subpart F and are located at facilities that are major sources as defined in section 112 of the Clean Air Act. Potentially regulated entities generally are companies that manufacture industrial organic chemicals and cyclic organic crude and intermediates. To determine whether your facility is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR 63.100. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Background on the Rule

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the EPA published in the **Federal Register** the NESHAP for the SOCMI, and for several other processes subject to the equipment leaks portion of the rule. These regulations were promulgated as subparts F, G, H, and I in 40 CFR part 63, and are commonly referred to as the hazardous organic NESHAP, or the HON. Since the April 22, 1994 notice, there have been several amendments to clarify various aspects of the rule. Readers should see the following **Federal Register** documents for more information: September 20, 1994 (59 FR 48175); October 24, 1994 (59 FR 53359); October 28, 1994 (59 FR 54131); January 27, 1995 (60 FR 5321); April 10, 1995 (60 FR 18020); April 10, 1995 (60 FR 18026); December 12, 1995 (60 FR 63624); February 29, 1996 (61 FR 7716); June 20, 1996 (61 FR 31435); August 26, 1996 (61 FR 43698); December 5, 1996 (61 FR 64571); January 17, 1997 (62 FR 2721); August 22, 1997 (62 FR 44608); and December 9, 1998 (63 FR 67787).

II. Summary of Corrections

Today's changes are described in Table 2 to this preamble for the convenience of the reader.

Section 40 CFR, part 63	Change
63.100(g)(4)	Changes "ceasing" to "ceases" for grammatical reasons and makes cross reference correction by revising "(g)(2)(i) and (g)(2)(iii) of this section" to "(g)(2)(i) and (g)(2)(ii) of this section."
63.100(h)(3)	Makes cross reference correction.
63.100(i)(5)	Makes cross reference correction.
63.116(c)(3)(iii)(B)	Text currently reads "[t]he concentration corrected to 3 percent oxygen (C_c) shall be computed using either of the following equations . . ." Only one equation follows this text and the sentence was changed to reflect this.
63.129(a)(4)(ii)	The first sentence was inadvertently omitted from the final rule. Today's amendments corrects this oversight.
63.133(h)	Delay of repair provisions are intended to apply to any inspection done for the section. Today's action removes cross references to specific paragraphs.
63.134(b)(2)(ii)(B)	Makes cross reference correction.
63.139(d)(4)	This paragraph exempted certain boilers, process heaters, and incinerators from performance test or design evaluation requirements. Today's revisions adds an exemption from the monitoring requirements of § 63.143 for these cases.
63.145(d)(6)	Removes an equation that is not used in the compliance demonstration.

Section 40 CFR, part 63	Change
63.145(i)	Adds paragraph (i) introductory text. This paragraph was inadvertently deleted in the December 9, 1998 FEDERAL REGISTER notice. This paragraph was previously incorrectly designated as § 63.145(h)(2)(iii).
63.145(c)(2)	Replaces "flow meter" with "flow measurement device." This makes it consistent with EPA's intent and terminology used elsewhere.
63.146(b)(8) introductory text	Makes cross reference corrections by revising "§ 63.138(b)(1)(iii)(C), (c)(1)(iii)(D), (d), or (e) of this subpart" to "§ 63.138(b)(1), (c)(1), (d), (e), (f), or (g) of this subpart."
63.146(b)(8)(i)	Adds a sentence clarifying that when using the design steam stripper option specified in § 63.138(d) to comply, some reports are not required.
63.147(b)(4)	Makes cross reference corrections by revising "Item 1 and Item 2 of table 12 of this subpart" to Item 1 and Item 3 of table 12 of this subpart."
63.147(b)(5)	Makes cross reference corrections by revising "paragraphs (e) and (g) of this subpart" to "paragraph (e) of this subpart" and revising "Item 3 of table 12 of this subpart" to Item 2 of table 12 of this subpart."
63.148(b)(3)	Removes the requirement for a Method 21 initial inspection. Initial visual inspection is still required. This makes it consistent with the requirements in §§ 63.133 through 63.137 and EPA's intent.
63.148(c), introductory text	Removes words "fixed roof," "cover," and "enclosure" from text to remove requirement for Method 21 initial inspection. Amendments make the rule text consistent with the requirements in table 11 of subpart G.
63.148(c)(4)(ii)	Makes cross reference corrections.
63.150(g)(5), (h)(5), and (j)(2)	Today's action: —Makes cross reference corrections throughout the wastewater portions of this section. —For consistency with the wastewater sections, replaces: "organic HAP" with "table 9 HAP"; "point of generation" with "point of determination"; and "VOHAP" with "table 9 HAP." —Replaces § 63.150(g)(5)(i)(A)(*1*) and (*2*) with a reference to the sampling plan requirements in § 63.144(b)(5)(ii). —Replaces equation in § 63.150(h)(5)(v)(A) with correct equation. The FEDERAL REGISTER printed the wrong equation; it printed the equation in § 63.150(h)(5)(v)(B) twice. —Adds reference to § 63.145(a)(3) and (a)(4) as to what is meant by "representative conditions."
§ 63.151(j)(3)	Changes the reference to "(e) of this section" to "(e)(1) through (e)(5) of this section" and specifies the information shall be submitted to the EPA regional office where the source is located.
§ 63.152(c)(2)(ii)(C)	Makes no conceptual changes: revisions are clarifying edits.
§ 63.152(d)(1)	Removes "semi-annual" from the second sentence and makes the corresponding cross reference change. This correction clarifies the reporting obligations for instances where a source does not follow its start-up, shut-down, and malfunction plan. The correction also makes this paragraph consistent with § 63.10(d)(5).
Table 4 to subpart G	Makes terms consistent with rule text by replacing "mass flow" with "mass or volumeric flow."
Table 7 to subpart G	Makes terms consistent with rule text by replacing "mass flow" with "mass or volumeric flow."
63.160(a)	Replaces the word "systems" with "closed vent systems." The change revises the paragraph to use a defined term and is the intended meaning of the text.
63.163(b)(1)	Makes cross reference correction.
63.164(h)	Makes cross reference correction.
63.173(j)	Makes cross reference correction.
63.181(b)(7)	Makes cross reference correction and corresponding grammatical change by replacing "through" with "and."
63.181(g)(3)	Makes cross reference correction and corresponding grammatical change by replacing "through" with "and."

III. Administrative Requirements

A. Good Cause Finding

By promulgating these technical corrections directly as a final rule, the EPA is foregoing an opportunity for public comment on a notice of proposed rulemaking. Section 553(b) of title 5 of the United States Code and section 307(b) of the CAA permit an agency to forego notice and comment when "the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." The EPA finds that notice and comment regarding these minor technical corrections are unnecessary due to their noncontroversial nature and because they do not substantively change the requirements of the HON. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b) for a determination that the issuance of a notice of proposed rulemaking is unnecessary.

B. Executive Orders 12866, 13045, 13083, 13084, Unfunded Mandates Reform Act, Regulatory Flexibility Act, and Administrative Procedure Act

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act

or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the December 9, 1998 **Federal Register** document.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of April 26, 1999. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

C. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (the NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The NTTAA requires the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This regulatory action makes technical amendments, such as cross reference corrections and does not involve any technical standards that would require the Agency to consider voluntary consensus standards pursuant to section 12(d) of the NTTAA.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 12, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40 chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 63.100 is amended as follows:

a. By revising paragraph (g)(4);

b. In paragraph (h)(3), by revising the reference to "(h)(2)(iv) of this section" to read "(h)(2)(iii) of this section'; and

c. In paragraph (i)(5), by revising the reference to "(i)(2)(iv) of this section" to read "(i)(2)(iii) of this section."

The revision to paragraph (g)(4) reads as follows:

§ 63.100 Applicability and designation of source.

* * * * *

(g) * * *

(4) If the storage vessel begins receiving material from (or sending material to) another chemical manufacturing process unit, or ceases to receive material from (or send material to) a chemical manufacturing process unit, or if the applicability of this subpart F and subpart G of this part to a storage vessel has been determined according to the provisions of paragraphs (g)(2)(i) and (g)(2)(ii) of this section and there is a change so that the predominant use may reasonably have changed, the owner or operator shall reevaluate the applicability of this subpart to the storage vessel.

* * * * *

3. Section 63.116 is amended by revising paragraph (c)(3)(iii)(B) to read as follows:

§ 63.116 Process vent provisions—performance test methods and procedures to determine compliance.

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(B) The concentration corrected to 3 percent oxygen (C_c) shall be computed using the following equation:

$$C_c = C_m\left(\frac{17.9}{20.9 - \%O_{2d}}\right)$$

Where:

C_c=Concentration of TOC or organic HAP corrected to 3 percent oxygen, dry basis, parts per million by volume.

C_m=Concentration of TOC (minus methane and ethane) or organic HAP, dry basis, parts per million by volume.

$\%O_{2d}$=Concentration of oxygen, dry basis, percent by volume.

* * * * *

4. Section 63.129 is amended by revising paragraph (a)(4)(ii) to read as follows:

§ 63.129 Transfer operations provisions—reporting and recordkeeping for performance tests and notification of compliance status.

(a)* * *

(4) * * *

(ii) The percent reduction of total organic HAP or TOC achieved by the control device determined as specified in § 63.128(a) of this subpart, or the concentration of total organic HAP or TOC (parts per million by volume, by compound) determined as specified in § 63.128(a) of this subpart at the outlet of the control device. For combustion devices, the concentration shall be reported on a dry basis corrected to 3 percent oxygen.

* * * * *

5. Section 63.133 is amended by revising the second sentence of paragraph (h) to read as follows:

§ 63.133 Process wastewater provisions—wastewater tanks.

* * * * *

(h) * * * If a failure that is detected during inspections required by this section cannot be repaired within 45 calendar days and if the vessel cannot be emptied within 45 calendar days, the owner or operator may utilize up to 2 extensions of up to 30 additional calendar days each. * * *

6. In § 63.134, paragraph (b)(2)(ii)(B) is amended by revising the reference to "(b)(2)(i) of this section" to read "(b)(2)(ii)(A) of this section."

7. Section 63.139 is amended by revising paragraph (d)(4) introductory text to read as follows:

§ 63.139 Process wastewater provisions—control devices.

* * * * *

(d) * * *

(4) An owner or operator using any control device specified in paragraphs (d)(4)(i) through (d)(4)(iv) of this section is exempt from the requirements in paragraphs (d)(1) through (d)(3) of this section and from the requirements in § 63.6(f) of subpart A of this part, and from the requirements of paragraph (e) of this section.

* * * * *

8. Section 63.145 is amended as follows:

a. In paragraph (d)(6), by removing and reserving equation WW5;

b. By adding paragraph (i) introductory text; and

c. By revising paragraph (c)(2).

The addition of paragraph (i) introductory text and the revision of paragraph (c)(2) read as follows:

§ 63.145 Process wastewater provisions—test methods and procedures to determine compliance.

* * * * *

(c) * * *

(2) *Flow rate.* The flow rate of the entering and exiting wastewater streams shall be determined using inlet and outlet flow measurement devices, respectively. Where the outlet flow is not greater than the inlet flow, a flow measurement device shall be used, and may be used at either the inlet or outlet. Flow rate measurements shall be taken at the same time as the concentration measurements.

* * * * *

(i) *Performance tests for control devices other than flares.* This paragraph applies to performance tests that are conducted to demonstrate compliance of a control device with the efficiency limits specified in § 63.139(c). If complying with the 95-percent reduction efficiency requirement, comply with the requirements specified in paragraphs (i)(1) through (i)(9) of this section. If complying with the 20 ppm by volume requirement, comply with the requirements specified in paragraphs (i)(1) through (i)(6) and (i)(9) of this section. The 20 ppm by volume limit or 95-percent reduction efficiency requirement shall be measured as either total organic hazardous air pollutants or as TOC minus methane and ethane.

* * * * *

9. Section 63.146 is amended by revising paragraph (b)(8) introductory text and by adding two sentences to the end of paragraph (b)(8)(i) introductory text to read as follows:

§ 63.146 Process wastewater provisions—reporting.

* * * * *

(8) For each treatment process used to comply with § 63.138(b)(1), (c)(1), (d), (e), (f), or (g) of this subpart, the owner or operator shall submit the information specified in paragraphs (b)(8)(i) and (b)(8)(ii) of this section.

(i) * * * An owner or operator using the design steam stripper compliance option specified § 63.138(d) of this subpart does not have to submit the information specified in paragraph (b)(8)(i)(A) or (b)(8)(i)(B) of this section. However, the monitoring requirements specified in Item 2 of table 12 of this subpart still apply.

* * * * *

10. Section 63.147 is amended by revising paragraphs (b)(4) and (b)(5) to read as follows:

§ 63.147 Process wastewater provisions—recordkeeping.

* * * * *

(b) * * *

(4) For Item 1 and Item 3 of table 12 of this subpart, the owner or operator shall keep the records approved by the Administrator.

(5) Except as provided in paragraph (e) of this section, continuous records of the monitored parameters specified in Item 2 of table 12 and table 13 of this subpart, and in § 63.143(e)(2) of this subpart.

* * * * *

11. Section 63.148 is amended by revising paragraph (b)(3); revising paragraph (c) introductory text and revising the second sentence in paragraph (c)(4)(ii) to read as follows:

§ 63.148 Leak inspection provisions.

* * * * *

(b) * * *

(3) For each fixed roof, cover, and enclosure, the owner or operator shall conduct initial visual inspections and semi-annual visual inspections for visible, audible, or olfactory indications of leaks as specified in §§ 63.133 through 63.137 of this subpart.

(c) Each vapor collection system and closed vent system shall be inspected according to the procedures specified in paragraphs (c)(1) through (c)(5) of this section.

(4) * * *

(ii) * * * A calibration gas other than methane in air may be used if the instrument does not respond to methane or if the instrument does not meet the performance criteria specified in paragraph (c)(2)(i) of this section. * * *

* * * * *

12. Section 63.150 is amended as follows:

a. By revising paragraphs (g)(5) and (h)(5);

b. By adding a sentence to the end of the introductory text to paragraph (j)(2); and

c. By revising paragraphs (j)(2)(ii)(B) and (m)(5)(i) to read as follows:

§ 63.150 Emissions averaging provisions.

* * * * *

(g) * * *

(5) Emissions from wastewater shall be calculated as follows:

(i) The following equation shall be used for each wastewater stream i to calculate EWW_{ic}:

$$EWW_{ic} = \left(6.0 * 10^{-8}\right) Q_i H_i \sum_{m=1}^{s} \left(1 - Fr_m\right) Fe_m HAP_{im} + (0.05)\left(6.0 * 10^{-8}\right) Q_i H_i \sum_{m=1}^{s} \left(Fr_m HAP_{im}\right)$$

where:

EWW_{ic} = Monthly wastewater stream emission rate if wastewater stream i is controlled by the reference control technology, megagrams per month.

Q_i = Average flow rate for wastewater stream i, as determined by the procedure in § 63.144(c)(3), liters per minute.

H_i = Number of hours during the month that wastewater stream i was generated, hours per month.

s = Total number of table 9 HAP in wastewater stream i.

Fr_m = Fraction removed of table 9 HAP m in wastewater, from table 9, dimensionless.

Fe_m = Fraction emitted of table 9 HAP m in wastewater, from table 34, dimensionless.

HAP_{im} = Average concentration of table 9 HAP m in wastewater stream i, parts per million by weight.

(A) HAP_{im} shall be determined for the point of determination or, at a location downstream of the point of determination and adjusted according as specified in § 63.144(b)(6) of this subpart, by developing and using the sampling plan specified in § 63.144(b)(5)(ii) of this subpart. The samples collected may be analyzed by any of the methods specified in § 63.144(b)(5)(i)(B) through (b)(5)(i)(F) of this subpart. Concentration measurements based on Method 305 shall be adjusted by dividing each concentration by the compound-specific Fm factor listed on table 34 of this subpart. Concentration measurements other than Method 305 shall not be adjusted by the compound-specific Fm factor listed in table 34 of this subpart.

(B) Values for Q_j, HAP_{im}, and C_{im} shall be determined during a performance test conducted under representative conditions as specified in § 63.145(a)(3) and (a)(4) of this subpart. The average value obtained from three test runs shall be used. The values of Q_j, HAP_{im}, and C_{im} shall be established in the Notification of Compliance Status and must be updated as provided in paragraph (g)(5)(i)(C) of this section.

(C) If there is a change to the process or operation such that the previously measured values of Q_j, HAP_{im}, and C_{im} are no longer representative, a new performance test shall be conducted to determine new representative values of Q_j, HAP_{im}, and C_{im}. These new values shall be used to calculate debits and credits from the time of the change forward, and the new values shall be reported in the next Periodic Report.

(ii) The following equation shall be used to calculate $EWW_{iACTUAL}$ for each wastewater stream i that is not managed according to the provisions for waste management units of §§ 63.133 through 63.137 of this subpart, as applicable, which specify equipment and work practices for suppressing and controlling vapors. Q_j, H_i, s, Fe_m, and HAP_{im} are as defined and determined according to paragraph (g)(5)(i) of this section.

$$EWW_{iACTUAL} = \left(6.0 \times 10^{-8}\right) Q_i H_i \sum_{m=1}^{s} Fe_m HAP_{im}$$

Where:

$EWW_{iACTUAL}$ = Monthly wastewater stream emission rate if wastewater stream i is uncontrolled or is controlled to a level less stringent than the reference control technology, megagrams per month.

(iii) The following equation shall be used to calculate $EWW_{iACTUAL}$ for each wastewater stream i that is managed according to the requirements of §§ 63.133 through 63.137 of this subpart, as applicable, and wastewater stream i is uncontrolled or is controlled to a level less stringent than the reference control technology (for the purposes of the wastewater emissions averaging provisions, the term control is used to mean treatment). Q_j, H_i, s, Fe_m, and HAP_{im} are as defined and determined according to paragraph (g)(5)(i) of this section.

$$EWW_{iACTUAL} = \left(6.0 * 10^{-8}\right) Q_i H_i \sum_{m=1}^{s} \left[Fe_m HAP_{im}\left(1 - PR_{im}\right)\right] + \left(1 - \frac{R_i}{100\%}\right)\left(6.0 * 10^{-8}\right) Q_i H_i \sum_{m=1}^{s} \left(HAP_{im} PR_{im}\right)$$

Where:

$EWW_{iACTUAL}$ = Monthly wastewater stream emission rate if wastewater stream i is uncontrolled or is controlled to a level less stringent than the reference control technology, megagrams per month.

PR_{im} = The efficiency of the treatment process, or series of treatment processes, which treat wastewater stream i, in reducing the emission potential of table 9 HAP m in wastewater, dimensionless, as calculated by:

$$PR_{im} = \frac{HAP_{im-in} - HAP_{im-out}}{HAP_{im-in}}$$

Where:

HAP_{im-in} = Average concentration of table 9 HAP m, parts per million by weight, as defined and determined according to paragraph (g)(5)(i) of this section, in the wastewater entering the first treatment process in the series.

HAP_{im-out} = Average concentration of table 9 HAP m, parts per million by weight, as defined and determined according to paragraph (g)(5)(i) of this section, in the wastewater exiting the last treatment process in the series.

R_i = Reduction efficiency of the device used to control any vapor streams emitted and collected from wastewater stream i during treatment, dimensionless, as determined according to the procedures in § 63.145(i) or (j) of this subpart.

* * * * *

(h) * * *

(5) Emissions from wastewater shall be determined as follows:

(i) $EWW1_{ic}$ shall be calculated according to the equation for EWW_{ic} in paragraph (g)(5)(i) of this section.

(ii) $EWW2_{iBASE}$ shall be calculated according to the equation for $EWW_{iACTUAL}$ in paragraph (g)(5)(ii) of this section for each Group 2 wastewater stream i, which on November 15, 1990, was not managed according to the requirements of §§ 63.133 through 63.137 of this subpart, as applicable.

(iii) $EWW2_{iBASE}$ shall be calculated according to the equation for $EWW_{iACTUAL}$ in paragraph (g)(5)(iii) of this section for each Group 2 wastewater stream i, which on November 15, 1990, was managed according to the requirements of §§ 63.133 through 63.137 of this subpart, as applicable, and was uncontrolled or controlled to a level less stringent than the reference control technology.

(iv) For Group 2 wastewater streams that are managed according to the requirements of §§ 63.133 through 63.137 of this subpart, as applicable, $EWW2_{iACTUAL}$ shall be calculated as follows:

(A) $EWW2_{iACTUAL}$ shall be calculated according to the equation for $EWW_{iACTUAL}$ in paragraph (g)(5)(iii) of this section for each Group 2 wastewater stream i that is controlled to a level less stringent than, or equivalent to, the reference control technology.

(B) $EWW2_{iACTUAL}$ shall be calculated according to the procedures for calculating $EWW1_{iACTUAL}$ in paragraph (h)(5)(v) of this section for each Group 2 wastewater stream that is controlled to a level more stringent than the reference control technology.

(v) The following equations for EWW1iACTUAL shall be used to calculate emissions from each Group 1 wastewater stream i that is managed according to the requirements of §§ 63.133 through 63.137 of this subpart, as applicable, and is controlled to a level more stringent than the reference control technology.

(A) If the Group 1 wastewater stream i is controlled using a treatment process or series of treatment processes with an approved nominal reduction efficiency in the concentration of table 9 HAP for stream i greater than that of the design steam stripper specified in § 63.138(d) of this subpart, and the control device used to reduce table 9 HAP emissions from the vapor stream(s) vented from the treatment process(es) achieves a percent reduction equal to 95 percent, the following equation shall be used. All terms in this equation are as defined and determined in paragraph (g)(5) of this section.

$$EWW1_{iACTUAL} = \left(6.0*10^{-8}\right) Q_i H_i \sum_{m=1}^{s}\left[Fe_m HAP_{im}\left(1-PR_{im}\right)\right] + 0.05\left(6.0*10^{-8}\right) Q_i H_i \sum_{m=1}^{s}\left[HAP_{im} PR_{im}\right]$$

(B) If the Group 1 wastewater stream i is not controlled using a treatment process or series of treatment processes with a nominal reduction efficiency in the table 9 HAP concentration greater than that of the design steam stripper specified in § 63.138(d) of this subpart, but the vapor stream(s) vented from the treatment process(es) are controlled using a device with an approved nominal efficiency greater than 95 percent, the following equation shall be used. All terms other than nominal efficiency are as defined and determined in paragraph (g)(5) of this section.

$$EWW1_{iACTUAL} = \left(6.0*10^{-8}\right) Q_i H_i \sum_{m=1}^{s}\left[Fe_m HAP_{im}\left(1-Fr_m\right)\right] + \left(1-\frac{\text{Nominal efficiency \%}}{100}\right)\left(6.0*10^{-8}\right) Q_i H_i \sum_{m=1}^{s}\left[HAP_{im} Fr_m\right]$$

(C) If the Group 1 wastewater stream i is controlled using a treatment process or series of treatment processes with an approved nominal reduction efficiency in the table 9 HAP concentration greater than that of the design steam stripper specified in § 63.138(d) of this subpart, and the vapor stream(s) vented from the treatment process are controlled using a device with an approved nominal efficiency greater than 95 percent, the following equation shall be used. All terms other than nominal efficiency are as defined and determined in paragraph (g)(5) of this section.

$$EWW1_{iACTUAL} = \left(6.0*10^{-8}\right) Q_i H_i \sum_{m=1}^{s}\left[Fe_m HAP_{im}\left(1-PR_{im}\right)\right] + \left(1-\frac{\text{Nominal efficiency \%}}{100}\right)\left(6.0*10^{-8}\right) Q_i H_i \sum_{m=1}^{s}\left[HAP_{im} PR_{im}\right]$$

* * * * *

(j) * * *

(2) * * * When the term "organic HAP" is used in § 63.150(j)(2) in reference to wastewater emission points, the term "table 9 HAP" shall apply for the purposes of this paragraph.

* * * * *

(ii) * * *

(B) For wastewater, E_B shall be calculated as follows:

$$E_B = \sum_{i=1}^{n}\left[\left(6.0*10^{-8}\right) Q_{Bi} H_{Bi} \sum_{m=1}^{s} Fe_m HAP_{Bim}\right]$$

Where:

n = Number of wastewater streams.

Q_{Bi} = Average flow rate for wastewater stream i before the pollution prevention measure, defined and determined according to paragraph

(g)(5)(i) of this section, liters per minute, before implementation of the pollution prevention measure.

H_{Bi} = Number of hours per month that wastewater stream i was discharged before the pollution prevention measure, hours per month.

s = Total number of table 9 HAP in wastewater stream i.

Fe_m = Fraction emitted of table 9 HAP m in wastewater of this subpart, dimensionless.

HAP_{Bim} = Average concentration of table 9 HAP m in wastewater stream i, defined and determined according to paragraph (g)(5)(i) of this section, before the pollution prevention measure, parts per million by weight, as measured before the implementation of the pollution measure.

* * * * *

(m) * * *

(5) * * *

(i) For wastewater treatment processes, conduct tests as specified in § 63.138(j) of this subpart.

* * * * *

13. Section 63.151 is amended by revising paragraph (j)(3) to read as follows:

§ 63.151 Initial notification.

* * * * *

(j) * * *

(3) Whenever an emission point or a chemical manufacturing process unit is added to a source, written information specified under paragraphs (e)(1) through (e)(5) of this section, containing information on the new emission point(s) shall be submitted to the EPA regional office where the source is located.

14. Section 63.152 is amended by revising paragraphs (c)(2)(ii)(C) and (d)(1) to read as follows:

§ 63.152 General reporting and continuous records.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(C) A monitored parameter that is outside its established range or monitoring data that are not collected are excursions. However, if the conditions in paragraph (c)(2)(ii)(C)(*1*) or (c)(2)(ii)(C)(*2*) of this section are met, these excursions are not violations and do not count toward the number of excused excursions for determining compliance.

(*1*) *Periods of start-up, shutdown, or malfunction.* During periods of start-up, shutdown, or malfunction when the source is operated during such periods in accordance with the source's start-up, shutdown, and malfunction plan as required by § 63.6(e)(3) of subpart A.

(2) *Periods of nonoperation.* During periods of nonoperation of the chemical manufacturing process unit, or portion thereof, that results in cessation of the emissions to which the monitoring applies.

* * * * *

(d) * * *

(1) Reports of start-up, shutdown, and malfunction required by § 63.10(d)(5) of subpart A. The start-up, shutdown and malfunction reports may be submitted on the same schedule as the Periodic Reports required under paragraph (c) of this section instead of the schedule specified in § 63.10(d)(5) of subpart A.

* * * * *

15. The appendix to subpart G is amended by revising tables 4 and 7 to read as follows:

Appendix to Subpart G—Tables and Figures

* * * * *

TABLE 4. PROCESS VENTS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS FOR MAINTAINING A TRE INDEX VALUE >1.0 AND ≤4.0

Final recovery device	Parameters to be monitored[a]	Recordkeeping and reporting requirements for monitored parameters
Absorber[b]	Exit temperature of the absorbing liquid [63.114(b)(1)], and.	1. Continuous records[c]. 2. Record and report the exit temperature of the absorbing liquid averaged over the full period of the TRE determination—NCS[d]. 3. Record the daily average exit temperature of the absorbing liquid for each operating day[e]. 4. Report all the daily average exit temperatures of the absorbing liquid that are outside the range established in the NCS or operating permit—PR[f].
	Exit specific gravity [63.114(b)(1)]	1. Continuous records. 2. Record and report the exit specific gravity averaged over the full period of the TRE determination—NCS. 3. Record the daily average exit specific gravity for each operating day[e]. 4. Report all daily average exit specific gravity values that are outside the range established in the NCS or operating permit—PR.
Condenser[d]	Exit (product side) temperature [63.114(b)(2)].	1. Continuous records. 2. Record and report the exit temperature averaged over the full period of the TRE determination—NCS. 3. Record the daily average exit temperature for each operating day[e]. 4. Report all daily average exit temperatures that are outside the range established in the NCS or operating permit—PR.
Carbon adsorber[d]	Total regeneration stream mass or volumetric flow during carbon bed regeneration cycle(s) [63.114(b)(3)], and.	1. Record of total regeneration stream mass or volumetric flow for each carbon bed regeneration cycle. 2. Record and report the total regeneration stream mass or volumetric flow during each carbon bed regeneration cycle during the period of the TRE determination—NCS. 3. Report all carbon bed regeneration cycles when the total regeneration stream mass or volumetric flow is outside the range established in the NCS or operating permit—PR.
	Temperature of the carbon bed after regeneration [and within 15 minutes of completing any cooling cycle(s)] [63.114(b)(3)].	1. Records of the temperature of the carbon bed after each regeneration. 2. Record and report the temperature of the carbon bed after each regeneration during the period of the TRE determination—NCS.

TABLE 4. PROCESS VENTS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS FOR MAINTAINING A TRE INDEX VALUE >1.0 AND >4.0—Continued

Final recovery device	Parameters to be monitored[a]	Recordkeeping and reporting requirements for monitored parameters
		3. Report all carbon bed regeneration cycles during which temperature of the carbon bed after regeneration is outside the range established in the NCS or operating permit—PR.
All recovery devices (as an alternative to the above).	Concentration level or reading indicated by an organic monitoring device at the outlet of the recovery device [63.114 (b)].	1. Continuous records. 2. Record and report the concentration level or reading averaged over the full period of the TRE determination—NCS. 3. Record the daily average concentration level or reading for each operating day[e]. 4. Report all daily average concentration levels or readings that are outside the range established in the NCS or operating permit—PR.

[a] Regulatory citations are listed in brackets.
[b] Alternatively, these devices may comply with the organic monitoring device provisions listed at the end of this table under "All Recovery Devices."
[c] "Continuous records" is defined in § 63.111 of this subpart.
[d] NCS = Notification of Compliance Status described in § 63.152 of this subpart.
[e] The daily average is the average of all values recorded during the operating day. If all recorded values during an operating day are within the range established in the NCS or operating permit, a statement to this effect can be recorded instead of the daily average.
[f] PR= Periodic Reports described in § 63.152 of this subpart.

* * * * *

TABLE 7.—TRANSFER OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS FOR COMPLYING WITH 98 WEIGHT-PERCENT REDUCTION OF TOTAL ORGANIC HAZARDOUS AIR POLLUTANTS EMISSIONS OR A LIMIT OF 20 PARTS PER MILLION BY VOLUME

Control device	Parameters to be monitored[a]	Recordkeeping and reporting requirements for monitored parameters
Thermal incinerator	Firebox temperature[b] [63.127(a)(1)(i)].	1. Continuous records[c] during loading. 2. Record and report the firebox temperature averaged over the full period of the performance test—NCS.[d] 3. Record the daily average firebox temperature for each operating day[e] 4. Report daily average temperatures that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected[f]—PR[g]
Catalytic incinerator	Temperature upstream and downstream of the catalyst bed [63.127(a)(1)(ii)].	1. Continuous records during loading. 2. Record and report the upstream and downstream temperatures and the temperature difference across the catalyst bed averaged over the full period of the performance test—NCS. 3. Record the daily average upstream temperature and temperature difference across catalyst bed for each operating day.[e] 4. Report all daily average upstream temperatures that are outside the range established in the NCS or operating permit—PR. 5. Report all daily average temperature differences across the catalyst bed that are outside the range established in the NCS or operating permit—PR. 6. Report all operating days when insufficient monitoring data are collected.[f]
Boiler or process heater with a design heat input capacity less than 44 megawatts and vent stream is not introduced with or as the primary fuel.	Firebox temperature[b] [63.127(a)(3)].	1. Continuous records during loading. 2. Record and report the firebox temperature averaged over the full period of the performance test—NCS. 3. Record the daily average firebox temperature for each operating day.[e] 4. Report all daily average firebox temperatures that are outside the range established in the NCS or operating permit and all operating days when insufficient data are collected[f]—PR.
Flare	Presence of a flame at the pilot light [63.127(a)(2)].	1. Hourly records of whether the monitor was continuously operating and whether the pilot flame was continuously present during each hour. 2. Record and report the presence of a flame at the pilot light over the full period of the compliance determination—NCS. 3. Record the times and durations of all periods when all pilot flames are absent or the monitor is not operating. 4. Report the duration of all periods when all pilot flames of a flare are absent—PR.

TABLE 7.—TRANSFER OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS FOR COMPLYING WITH 98 WEIGHT-PERCENT REDUCTION OF TOTAL ORGANIC HAZARDOUS AIR POLLUTANTS EMISSIONS OR A LIMIT OF 20 PARTS PER MILLION BY VOLUME—Continued

Control device	Parameters to be monitored[a]	Recordkeeping and reporting requirements for monitored parameters
Scrubber for halogenated vent streams (Note: Controlled by a combustion device other than a flare).	pH of scrubber effluent [63.127(a)(4)(i)], and.	1. Continuous records during loading. 2. Record and report the pH of the scrubber effluent averaged over the full period of the performance test—NCS. 3. Record the daily average pH of the scrubber effluent for each operating day.[e] 4. Report all daily average pH values of the scrubber effluent that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected[f]—PR.
	Scrubber liquid and gas flow rates [63.127(a)(4)(ii)].	1. Continuous records during loading of scrubber liquid flow rate. 2. Record and report the scrubber liquid/gas ratio averaged over the full period of the performance test—NCS. 3. Record the daily average scrubber liquid/gas ratio for each operating day.[e] 4. Report all daily average scrubber liquid/gas ratios that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected[f]—PR.
Absorber[h]	Exit temperature of the absorbing liquid [63.127(b)(1)], and.	1. Continuous records during loading. 2. Record and report the exit temperature of the absorbing liquid averaged over the full period of the performance test—NCS. 3. Record the daily average exit temperature of the absorbing liquid for each operating day.[e] 4. Report all daily average exit temperatures of the absorbing liquid that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected[f]—PR.
	Exit specific gravity [63.127(b)(1)]	1. Continuous records during loading. 2. Record and report the exit specific gravity averaged over the full period of the performance test—NCS. 3. Record the daily average exit specific gravity for each operating day.[e] 4. Report all daily average exit specific gravity values that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected[f]—PR.
Condenser[h]	Exit (product side) temperature [63.127(b)(2)].	1. Continuous records during loading. 2. Record and report the exit temperature averaged over the full period of the performance test—NCS. 3. Record the daily average exit temperature for each operating day.[e] 4. Report all daily average exit temperatures that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected[f]—PR.
Carbon adsorber[h]	Total regeneration stream mass or volumetric or volumetric flow during carbon bed regeneration cycle(s) [63.127(b)(3)], and.	1. Record of total regeneration stream mass or volumetric flow for each carbon bed regeneration cycle. 2. Record and report the total regeneration stream mass or volumetric flow during each carbon bed regeneration cycle during the period of the performance test—NCS. 3. Report all carbon bed regeneration cycles when the total regeneration stream mass or volumetric flow is outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected[f]—PR.
	Temperature of the carbon bed after regeneration [and within 15 minutes of completing any cooling cycle(s)] [63.127(b)(3)].	1. Records of the temperature of the carbon bed after each regeneration. 2. Record and report the temperature of the carbon bed after each regeneration during the period of the performance test—NCS. 3. Report all the carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration is outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected[f]—PR.
All recovery devices (as an alternative to the above).	Concentration level or reading indicated by an organic monitoring device at the outlet of the recovery device [63.127(b)].	1. Continuous records during loading. 2. Record and report the concentration level or reading averaged over the full period of the performance test—NCS. 3. Record the daily average concentration level or reading for each operating day.[d]

TABLE 7.—TRANSFER OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS FOR COMPLYING WITH 98 WEIGHT-PERCENT REDUCTION OF TOTAL ORGANIC HAZARDOUS AIR POLLUTANTS EMISSIONS OR A LIMIT OF 20 PARTS PER MILLION BY VOLUME—Continued

Control device	Parameters to be monitored[a]	Recordkeeping and reporting requirements for monitored parameters
All control devices and vapor balancing systems.		4. Report all daily average concentration levels or readings that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected[f]—PR.
	Presence of flow diverted to the atmosphere from the control device [63.127(d)(1)] or.	1. Hourly records of whether the flow indicator was operating and whether a diversion was detected at any time during each hour. 2. Record and report the duration of all periods when the vent stream is diverted through a bypass line or the monitor is not operating—PR.
	Monthly inspections of sealed valves [63.127(d)(2)].	1. Records that monthly inspections were performed. 2. Record and report all monthly inspections that show the valves are moved to the diverting position or the seal has been changed.

[a] Regulatory citations are listed in brackets.
[b] Monitor may be installed in the firebox or in the ductwork immediately downstream of the firebox before any substantial heat exchange is encountered.
[c] "Continuous records" is defined in § 63.111 of this subpart.
[d] NCS = Notification of Compliance Status described in § 63.152 of this subpart.
[e] The daily average is the average of all recorded parameter values for the operating day. If all recorded values during an operating day are within the range established in the NCS or operating permit, a statement to this effect can be recorded instead of the daily average.
[f] The periodic reports shall include the duration of periods when monitoring data are not collected for each excursion as defined in § 63.152(c)(2)(ii)(A) of this subpart.
[g] PR = Periodic Reports described in § 63.152 of this subpart.
[h] Alternatively, these devices may comply with the organic monitoring device provisions listed at the end of this table under "All Recovery Devices."

16. Section 63.160 is amended by revising paragraph (a) to read as follows:

§ 63.160 Applicability and designation of source.

(a) The provisions of this subpart apply to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or closed vent systems required by this subpart that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 CFR part 63 that references this subpart.

* * * * *

§ 63.163 [Amended]

17. Paragraph (b)(1) of § 63.163 is amended by revising the reference to "(e) through (i) of this section" to read "(e) through (j) of this section."

§ 63.164 [Amended]

18. Paragraph (h) of § 63.164 is amended by revising the reference to "(a) through (f) of this section" to read "(a) through (g) of this section."

§ 63.173 [Amended]

19. In § 63.173, paragraph (j) introductory text is amended by revising the reference to " (b) through (d) of this section" to read " (a) through (d) of this section."

20. Section 63.181 is amended by revising paragraph (b)(7) introductory text and revising paragraph (g)(3) introductory text to read as follows:

§ 63.181 Recordkeeping requirements.

* * * * *

(b) * * *

(7) The following information pertaining to all pumps subject to the provisions of § 63.163(j), valves subject to the provisions of § 63.168(h) and (i) of this subpart, agitators subject to the provisions of § 63.173(h) through (j), and connectors subject to the provisions of § 63.174(f) and (g) of this subpart shall be recorded:

* * * * *

(g) * * *

(3) Records of inspections of closed-vent systems subject to the provisions of § 63.172 of this subpart, as specified in paragraphs (g)(3)(i) and (g)(3)(ii) of this section.

* * * * *

[FR Doc. 99–10099 Filed 4–23–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS–400141; FRL–6075–3]

Revised Policy for Amending Form R and Form A Submissions; Toxic Chemical Release Inventory Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy statement.

SUMMARY: EPA is making a minor administrative change to the Agency's management of data submitted each year to EPA under the Toxic Release Inventory (TRI) reporting program pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA) of 1990. Specifically, EPA is revising the period during which the Agency will accept voluntary revisions to Form R and Form A submissions each year for inclusion in the annual data release for that year. Facilities must now submit voluntary revisions to their Form R and Form A submissions to EPA within 30 days of the reporting deadline each year. The statutory annual reporting deadline is July 1. Therefore, revisions received after July 31 of each year, will not be included in the annual release of the TRI data for that year. EPA

will, however, continue to accept these revisions for inclusion in the TRI data base. This administrative change in the annual revisions deadline is necessary to ensure that the data can be set, or locked by a date certain, thereby allowing the Agency to complete the preparation of the annual release of the TRI data in a timely fashion.

DATES: The amended revision period is effective April 26, 1999.

FOR FURTHER INFORMATION CONTACT: For technical information contact: Tim Crawford, Acting Branch Chief, TRI-Information Management Branch, OPPT-IMD, MC 7407, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–1558, fax: (202) 260–4655, e-mail: crawford.tim@epamail.epa.gov. For more information on section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), contact the EPCRA Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, toll free telephone number: 1–800–535–0202, in Virginia and in Alaska: 703–412–9877 or call toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, process, or otherwise use any of the chemicals subject to reporting under EPCRA section 313. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of Potentially Affected Entities (SIC codes)
Industry	Manufacturing (SIC codes 20-39); metal mining (SIC 10 except SIC codes 1011, 1081, and 1094); coal mining (SIC code 12 except SIC code 1241); electric utilities (SIC codes 4911, 4931, 4939); commercial hazardous waste treatment (SIC code 4953); chemicals and allied products-wholesale (SIC code 5169); petroleum bulk terminals and plants (SIC code 5171); and solvent recovery services (SIC code 7389).
Federal Government	Federal facilities that manufacture, process, or otherwise use EPCRA section 313 toxic chemicals.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. If available, the four-digit Standard Industrial Classification (SIC) codes have been provided to assist you and others in determining whether or not this notice applies to certain entities. Other types of entities not listed in the table could also be affected. To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in 40 CFR part 372, subpart B. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding "FOR FURTHER INFORMATION CONTACT" section.

II. How Can I Get Additional Information or Copies of this or Other Documents?

1. *Electronically.* You may obtain electronic copies of this document from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register - Environmental Documents." You can also go directly to the "Federal Register" listings at http://www.epa.gov/homepage/fedrgstr/.

2. *In person or by phone.* If you have any questions or need additional information about this action, you may contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section.

III. What is the Agency's Authority for this Action?

This action is related to section 313 of EPCRA, 42 U.S.C. 11023, and section 6607 of the PPA, 42 U.S.C. 13106, which require certain facilities manufacturing, processing, or otherwise using a listed toxic chemical in amounts above reporting threshold levels, to report their environmental releases of and other waste management activities associated with each chemical annually. These reports must be filed with EPA by July 1 of each year, and must contain the requested data for the previous calendar year.

Section 313 of EPCRA does not include any provision for correcting or otherwise revising TRI forms once they have been submitted to EPA. While not required by statute, EPA has allowed facilities an opportunity to make revisions to foster compliance and enhance data quality. In the past, EPA has set a deadline for receipt of revisions to be included in the next annual data release keyed to the time it takes the Agency to prepare the data release package and the release date for the package. Accordingly, in the **Federal Register** of September 26, 1991 (56 FR 48795), EPA announced that the deadline for voluntary revisions would be November 30, based on improvements in the amount of time it took to process revisions for inclusion in the annual data release. In a second announcement on August 12, 1994 (59 FR 41444) (FRL–4906–5), EPA announced that the deadline would be moved back to October 15 in the interests of further expediting the annual release date of the data. This action further amends the deadline for accepting revisions. Only the deadline provisions of the September 26, 1991 and August 12, 1994 notices are affected by this action.

IV. What Action is EPA Taking in this Policy Statement?

EPA is amending its policy with regard to the period during which revisions to the Forms submitted under EPCRA section 313 would be incorporated into the annual data release for that reporting year. Accordingly, facilities must now submit voluntary revisions to their Form R and Form A submissions to EPA within 30 days of the reporting deadline each year in order for those revisions to be

included in that years' data release. The statutory reporting deadline is July 1 of each year, unless specifically amended by the Agency, so all Form revisions must be received by EPA no later than July 31 of each year. If EPA were to extend the reporting deadline in any one year, then the Form revisions for that year must be received by EPA no later than 30 days after the amended reporting deadline. Revisions received after this date will not be included in the annual release of the TRI data for that reporting year, but will continue to be accepted for inclusion in the TRI data base at some later date.

V. Why is EPA Revising the Revisions Period?

While not required by statute, EPA has provided this revisions period as an opportunity to increase compliance and enhance data quality. Given EPA's experience in collecting information submitted under EPCRA section 313 since 1988, EPA does not believe the revisions period provided in 1994 continues to be appropriate. Instead, experience gained by EPA has resulted in a much more efficient data receipt and management process enabling EPA to make those data publicly available in a much shorter period of time. Hence, to promote a schedule of making EPCRA section 313 data available in a more timely fashion, EPA must reduce the period of time that it will accept revisions in order to ensure that those revised data will be considered for that year's data release. The new revisions period reflects: (1) The increased use of electronic submittals to EPA of TRI data; (2) EPA's continuing improvement in the ability to process and release TRI data earlier due to increased efficiencies in data management that have been put in place since the August 1994 Notice was published; and (3) the Agency's desire to make this right-to-know data available to the public as soon as feasible.

The administrative change in the annual revisions deadline is necessary to ensure that the data can be set, or locked by a date certain, thereby allowing the Agency to complete the preparation of the annual release of the TRI data in a timely fashion. This new revisions deadline is further warranted by the fact that 83% of all revisions received during the 1997 production period (July 1 to December 31, 1998) were already received by July 31–the new revisions deadline announced in this policy and now in effect.

VI. Can I Still Correct the Form R or Form A Which I Submitted to EPA After the Revisions Period?

Yes. As indicated previously, this revised policy only changes the date by which any voluntary revisions will be considered by the Agency for inclusion in the annual data release for that reporting year.

VII. Why Is EPA Amending this Policy Without Taking Comments?

EPA is publishing this action as a final policy without prior notice and opportunity to comment, because this policy is not a "rule" as defined by the Administrative Procedure Act (5 U.S.C. 551 *et seq*). This policy merely articulates internal procedural requirements that are necessary for the Agency's management and timely release of the submitted TRI data. The period established in this action is an internal Agency deadline by which EPA will consider the data submitted each year in Form R and Form A to be in final form for purposes of preparing the annual data release. Facilities are required by statute and regulations to use the best available information in preparing the data reported in their Form R or Form A, and are required to submit the data to EPA by the reporting deadline each year. The period established in this policy for voluntary revisions does not in any way change the facility's statutory obligations under EPCRA section 313, as implemented by 40 CFR part 372. It merely provides an opportunity for facilities to make voluntary revisions to correct the data they have submitted in time for the Agency to reflect the revision in the annual data release. In essence, it merely establishes a set time frame for the Agency to begin the preparation of the data submitted each year for the annual data release. In the future, EPA may determine that this revisions period should be further amended or not provided at all, and will amend this policy without prior notice. However, EPA will announce in the **Federal Register** any decision to eliminate or modify this revisions period.

VIII. Do Any of the Regulatory Assessment Requirements Apply to this Action?

No. This action merely describes an internal Agency deadline by which it will consider the data submitted each year in Form R and Form A to be in final form for purposes of preparing the annual data release. This action is not a "rule" and does not impose any new requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). In addition, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act (APA) or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

IX. Must EPA Submit this Action to Congress and the Comptroller General?

No. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: April 9, 1999.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 99–10388 Filed 4–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1509 and 1552

[FRL–631–3]

Acquisition Regulation: Contractor Performance Evaluations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the EPA Acquisition Regulation (48 CFR Chapter 15) to revise its policy and procedures regarding the evaluation of contractor performance on EPA contracts and to establish an EPA Acquisition Regulation clause to be used in solicitations and contracts with an estimated dollar value in excess of $100,000. This final rule applies to all large and small entities who perform or are interested in performing under EPA contracts.

DATES: This rule is effective on May 26, 1999.

FOR FURTHER INFORMATION CONTACT: Frances Smith, U.S. Environmental Protection Agency, Office of Acquisition Management, (3802R), 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 564–4368.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule implements the Office of Federal Procurement Policy Policy Letter 92–5, Past Performance Information. The Office of Federal Procurement Policy Policy Letter requires Federal agencies to evaluate contractor performance on contracts over $100,000, to use past performance information in making responsibility determinations in both sealed bid and competitively negotiated procurements, and to specify past performance as an evaluation factor in solicitations for competitively negotiated contracts expected to exceed $100,000.

The comment period for the proposed rule extended from September 16, 1998, to November 16, 1998. The Agency received a total of 33 comments and has reviewed them all. A detailed Summary and Analysis of Comments document detailing the comments and the responses regarding the proposed rule is available in the docket for this rule by contacting Frances Smith at (202) 564–4368 (E-mail: smith.frances@epamail.epa.gov).

The Agency has made minor changes to the proposed rule as a result of the comments received. This final rule reflects the following changes: (1) Deleted the word "rare" under each rationale for the numerical rating score of 5; (2) Added a statement in the Contractor Performance Report Instructions to include the following under number 10.: Identify the title of the contract and the dollar amount managed under the period for review; (3) Revised the definition for Summary Ratings in the Contractor Performance Report Instructions to coincide with the definition in the rule at 1509.170–4(e) as follows: Summary ratings refer to the ratings determined by one level above the contracting officer regarding disagreements between the contractor and the contracting officer. Summary ratings reflect the Agency's ultimate conclusion for the performance period being evaluated; (4) Revisions made throughout the rule to include "business days" in lieu of "calendar days"; (5) Revisions made to 1509.170–5, Policy and 1552.209–76, Contractor Performance Evaluations to reflect that past performance evaluations are to be completed after each 12 months of contract performance; and (6) Deleted paragraphs (c) and (d) of 1509.170–7, Release of Ratings and replaced paragraph (c) with the following: Freedom of Information Act requests shall be processed by the EPA Freedom of Information Act office where the contract is located. Requests for past performance evaluations during the period the information may be used to provide source selection information shall be rejected if the requests are made by other than Government personnel and the contractor whose performance is being evaluated.

B. Executive Order 12866

The final rule is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review was required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB). The word "not" was inadvertently omitted in the proposed rule to indicate that this rule is not a significant regulatory action. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) applies to this final rule, and the information collection request in this final rule has been evaluated by the Office of Management and Budget. The Office of Information and Regulatory Affairs within the Office of Management and Budget has issued OMB Clearance No. 9000–0142 for the collection of contractor performance information. Comments regarding Paperwork Reduction Act concerns should be sent to the Office of Management and Budget (Attn: EPA Desk Officer). The Office of Management and Budget is required to make a decision concerning the collection of information contained in the final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to the Office of Management and Budget is best assured of having its full effect if the Office of Management and Budget receives it within 30 days of publication.

D. Regulatory Flexibility Act

The EPA certifies that this final rule does not exert a significant economic impact on a substantial number of small entities.

This final rule formalizes EPA's contractor performance evaluation process, as an expansion of the government-wide requirements already established in the Federal Acquisition Regulation, 48 CFR 42.15. The final rule explains that EPA contracting officers will be recording the evaluations on simple and easy-to-understand report forms generated by the National Institutes of Health's Contractor Performance System. Likewise, the evaluation rating system that the contracting officers will be using is based on straightforward numerical scores with a narrative explanation to be provided by the contracting officers. An adverse economic impact upon a contractor (i.e., in the form of less future Federal business) as a result of a rating assessed by an EPA contracting officer would be attributable to the contractor's past performance itself, not to the rating system prescribed herein.

Further, the final rule requires no reporting or record-keeping by contractors. Rather, the final rule provides contractors with a formal opportunity, generally one time a year per contract, to review and comment on their specific performance evaluations as conducted by the cognizant EPA contracting officers. EPA estimates that the contractor's review and comment process will require a minimal amount of time to complete; therefore, to the extent that this does result in some contractor-incurred costs, EPA anticipates that these will be de minimus. In any event, any reasonable costs incurred by the contractor in connection with the process will be allowable and allocable to the contract under evaluation and thereby borne by EPA.

E. The National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

F. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities because this rule pertains to contractors who have been awarded EPA contracts. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statue, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments because this rule pertains to contractors who have been awarded EPA contracts. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and tribal governments, and the private sector. This final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in aggregate, or the private sector in one year. The rule is not subject to the requirements of sections 202 and 205 of the UMRA.

I. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety.

J. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804 (2).

List of Subjects in 48 CFR Parts 1509 and 1552

Environmental protection, Government procurement.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

1. The authority citation for Parts 1509 and 1552 continues to read as follows:

Authority: The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended.

2. Section 1509.170–1 is amended by adding the following after the first sentence:

1509.170–1 Scope of subpart.

* * * Contracting officers shall insert the contract clause at 1552.209–76 in all solicitations and contracts with an estimated dollar value in excess of $100,000. For acquisitions involving options, the total estimated value of the acquisition shall include the estimated base amount plus the option(s) amount(s).

3. Sections 1509.170–2, 1509.170–3, and 1509.170–4 are revised to read as follows:

1509.170–2 Purpose.

This subpart provides guidance to program and contracting personnel regarding the evaluation of contractor performance. It establishes a uniform method for determining and recording the effectiveness of contractors in meeting contractual obligations. Additionally, this subpart details a systematic approach for identifying and maintaining records of contractors' performance histories.

1509.170–3 Applicability.

(a) This subpart applies to all EPA acquisitions in excess of $100,000, except for construction acquisitions, architect-engineer acquisitions, acquisitions awarded under the Federal Acquisition Regulation (FAR) Subpart 8.6, Acquisitions from Federal Prison Industries, Incorporated, FAR Subpart 8.7, Acquisitions from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled, and FAR 13.5, Test Program for Certain Commercial Items. FAR 36.201 and 36.604 provide detailed instructions for construction and architect-engineer contractor performance evaluations.

(b) The acquisition of commercial items in accordance with FAR 13.106 is not applicable to this subpart because simplified acquisition procedures do not require the creation or existence of a formal database for past performance evaluations. In cases where simplified acquisition procedures are not used to acquire commercial items (see FAR 12.203), this subpart is applicable to acquiring commercial items in excess of $100,000.

(c) EPA Form 1900–26, Contracting Officer's Evaluation of Contractor Performance, and EPA Form 1900–27, Project Officer's Evaluation of Contractor Performance, shall apply to all performance evaluations completed prior to the effective date of this subpart. However, on the effective date of this rule, EPA Forms 1900–26 and 1900–27 are obsolete, and contracting officers shall complete all contractor performance evaluations by use of the National Institutes of Health's Contractor Performance System.

1509.170–4 Definitions.

(a) *Contractor Performance Report* is an evaluation of a contractor's performance for a specified period of time.

(b) *Interim Report* refers to a Contractor Performance Report that covers each 12 month period after contract award.

(c) *Final Report* refers to a Contractor Performance Report that covers the last 12 months (or less) of contract performance.

(d) *Ratings* refer to the numerical scores for each performance category. Ratings are defined as follows: 0 = unsatisfactory, 1 = poor, 2 = fair, 3 = good, 4 = excellent, and 5 = outstanding.

(e) *Summary ratings* refer to the ratings determined by one level above the contracting officer regarding disagreements between the contractor and the contracting officer. Summary ratings reflect the Agency's ultimate conclusion for the performance period being evaluated.

(f) *Performance Categories* refer to the measures used to evaluate a contractor's performance. Performance categories are defined as quality, cost control, timeliness of performance, and business relations.

4. Section 1509.170 is also amended by adding 1509.170–5, 1509.170–6, 1509.170–7, and 1509.170–8 to read as follows:

1509.170–5 Policy.

(a) Contracting officers are responsible for the timely completion of contractors' performance evaluations. The National Institutes of Health Contractor Performance System shall be used to record individual contractor performance histories on EPA contracts and to obtain contractor past performance information for use in EPA's source selection process.

(b) Contracting officers are required to use the National Institutes of Health Contractor Performance System to record evaluations for all contract performance periods expiring after the effective date of this subpart.

(c) Contractor evaluation information shall be recorded in Contractor Performance Reports (Report) which are generated by the National Institutes of Health system. Reports shall cover individual contractor evaluations at the contract level, which includes all work assignments, task orders, or delivery orders associated with the 12 month period being evaluated (interim Report) or the last 12 months (or less) of contract performance (final Report).

(d) The contracting officer must complete interim Reports covering each 12 month period after contract award for all contracts in excess of $100,000, except those acquisitions identified in 1509.170–3, Applicability. In addition to interim Reports, the contracting officer must complete a final Report which covers the last 12 months (or less) of contract performance.

(e) The contracting officer shall initiate the process for completing interim Reports within five (5) business days after the end of each 12 months of contract performance. The contracting officer shall initiate the process for completing a final Report within five (5) business days after the end of the last 12 months (or less) of contract performance. Final Reports must be completed prior to contract closeout.

(f) The contracting officer must complete interim and final Reports, including the project officer's evaluation of contractor performance, receipt of any contractor input, and resolution of summary ratings (if any) within 90 business days from the date the contracting officer initiates the evaluation.

(g) Reports shall be used to inform other agencies and departments (upon request) about a contractor's performance on an EPA contract, and to assist the contracting officer and the Technical Evaluation Panel with evaluating past performance for future EPA acquisitions.

(h) When evaluating proposals, contracting officers shall use the National Institutes of Health system to access Reports from other agencies or departments that are available in the National Institutes of Health database. Contracting Officers may need to access past performance information from other than the National Institutes of Health system if the National Institutes of Health system does not include applicable information.

(i) In accordance with FAR 42.1503(b), the ultimate conclusion on the performance evaluation is the decision of the Agency. The contracting officer must ensure the accuracy of ratings for each performance category by verifying that information in the contract file corresponds with the project officer's designated ratings. A contractor's performance evaluation should closely parallel award fee determinations made under the contract.

(j) In cases of novations involving successors-in-interest, a final evaluation of the predecessor contractor must be completed within five (5) business days after the end of the predecessor contractor's performance, and an interim evaluation of the successor contractor must be completed within five (5) business days after the end of each 12 months of contract performance after the successor began performing. In cases of change-of-name agreements, the system shall be changed to reflect the new contractor's name.

(k) Contracting officers must inform the Office of Debarment and Suspension of any repetitive unsatisfactory or poor (a score of 0 or 1) ratings encountered by the contractor.

1509.170–6 Filing of forms.

The original copy of completed Contractor Performance Reports (interim and final) shall be filed in each individual contractor's official contract file. The National Institutes of Health Contractor Performance System will retain all reports for three (3) years after contract completion.

1509.170–7 Release of ratings.

(a) Agencies and departments who subscribe to the National Institutes of Health's Contractor Performance System will have direct access to all Reports, including those of EPA, in the National Institutes of Health's database. Information on EPA contractors' performance ratings may also be obtained by contacting the EPA contracting officer responsible for the evaluation.

(b) Contractors' performance ratings may be released to other Federal, State, and local Governments upon written request. The release to other Federal, State, and local Governments must stipulate that the information provided shall not be released outside of the requesting Government agency. In cases where the Federal agency is part of the National Institutes of Health Contract Performance System, a written request is not applicable.

(c) Freedom of Information Act requests shall be processed by the EPA Freedom of Information Act office where the contract is located. Requests for past performance evaluations during the period the information may be used to provide source selection information shall be rejected if the requests are made by other than the Government personnel and the contractor whose performance is being evaluated.

1509.170–8 Contractor Performance Report.

(a) Contractor Performance Reports (interim and final) must be prepared electronically by use of the National Institutes of Health's Contractor Performance System. Hard copy preparation of Reports shall not be used unless specifically instructed by the National Institutes of Health. The National Institutes of Health will provide EPA's Office of Acquisition Management Internal Oversight Service Center with specific instructions if hard copy use becomes necessary.

(b) A copy of the National Institutes of Health Contractor Performance Report (including instructions) shall be included in each solicitation and contract with an estimated value in excess of $100,000.

5. Section 1552.2 is amended by adding 1552.209–76 as follows:

1552.209–76 Contractor performance evaluations.

As prescribed in section 1509.170–1, insert the following clause in all applicable solicitations and contracts.

Contractor Performance Evaluations

(MAY 1999)

The contracting officer shall complete a Contractor Performance Report (Report) within ninety (90) business days after the end of each 12 months of contract performance (interim Report) or after the last 12 months (or less) of contract performance (final Report) in accordance with EPAAR 1509.170–5. The contractor shall be evaluated based on the following ratings and performance categories:

Ratings: 0 = unsatisfactory, 1 = poor, 2 = fair, 3 = good, 4 = excellent, 5 = outstanding.

Performance Categories:

Quality: Compliance with contract requirements; accuracy of reports; effectiveness of personnel; and technical excellence.

Rating

0—Contractor is not in compliance and is jeopardizing achievement of contract objectives
1—Major problems have been encountered
2—Some problems have been encountered
3—Minor inefficiencies/errors have been identified
4—Contractor is in compliance with contract requirements and/or delivers quality products/services
5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

Cost Control: Record of forecasting and controlling target costs; current, accurate and complete billings; relationship of negotiated costs to actuals; cost efficiencies.

Rating

0—Contractor is unable to manage costs effectively
1—Contractor is having major difficulty managing costs effectively
2—Contractor is having some problems managing costs effectively
3—Contractor is usually effective in managing costs
4—Contractor is effective in managing costs and submits current, accurate, and complete billings
5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

Timeliness of Performance: Met interim milestones; reliability; responsive to technical direction; completed on time, including wrap-up and contract administration; met delivery schedules; no liquidated damages assessed.

Rating

0—Contractor delays are jeopardizing performance of contract objectives
1—Contractor is having major difficulty meeting milestones and delivery schedule
2—Contractor is having some problems meeting milestones and delivery schedule
3—Contractor is usually effective in meeting milestones and delivery schedule
4—Contractor is effective in meeting milestones and delivery schedule
5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

Business Relations: Effective management, including subcontracts; reasonable/cooperative behavior; responsive to contract requirements; notification of problems; flexibility; pro-active versus reactive; effective small/small disadvantage business subcontracting program.

Rating

0—Response to inquiries, technical/service/administrative issues is not effective
1—Response to inquiries, technical/service/administrative issues is marginally effective
2—Response to inquiries, technical/service/administrative issues is somewhat effective
3—Response to inquiries, technical/service/administrative issues is usually effective
4—Response to inquiries, technical/service/administrative issues is effective
5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

(a) The contracting officer shall initiate the process for completing interim Reports within five (5) business days after the end of each 12 months of contract performance by requesting the project officer to evaluate contractor performance for the interim Report. In addition, the contracting officer shall initiate the process for completing final Reports within five (5) business days after the last 12 months (or less) of contract performance by requesting the project officer to evaluate contractor performance for the final Report. The final Report shall cover the last 12 months (or less) of contract performance. Within thirty (30) business days after the project officer receives a request from the contracting officer to complete an evaluation, the project officer shall:

(1) Complete a description of the contract requirements;

(2) Evaluate contractor performance and assign a rating for quality, cost control, and timeliness of performance categories (including a narrative for each rating);

(3) Provide any information regarding subcontracts, key personnel, and customer satisfaction;

(4) Assign a recommended rating for the business relations performance category (including a narrative for the rating); and

(5) Provide additional information appropriate for the evaluation or future evaluations.

(b) The contracting officer shall:

(1) Ensure the accuracy of the project officer's evaluation by verifying that the information in the contract file corresponds with the designated project officer's ratings;

(2) Assign a rating for the business relations performance category (including a narrative for the rating);

(3) Concur with or revise the project officer's ratings after consultation with the project officer;

(4) Provide any additional information concerning the quality, cost control, and timeliness of performance categories if deemed appropriate for the evaluation or future evaluations (if any), and provide any information regarding subcontracts, key personnel, and customer satisfaction; and

(5) Forward the Report to the contractor within ten (10) business days after the contracting officer receives the project officer's evaluation.

(c) The contractor shall be granted thirty (30) business days from the date of the contractor's receipt of the Report to review and provide a response to the contracting officer regarding the contents of the Report. The contractor shall:

(1) Review the Report;

(2) Provide a response (if any) to the contracting officer on company letter head or electronically;

(3) Complete contractor representation information; and

(4) Forward the Report to the contracting officer within the designated thirty (30) business days.

(d) The contractor's response to the Report may include written comments, rebuttals (disagreements), or additional information. If the contractor does not respond to the Report within the designated thirty (30) business days, the specified ratings in the Report are deemed appropriate for the evaluation period. In this instance, the contracting officer shall complete the Agency review and sign the Report within three (3) business days after expiration of the specified 30 business days.

(e) If the contractor submits comments, rebuttals (disagreements), or additional information to the contracting officer which contests the ratings, the contracting officer, in consultation with the project officer, shall initially try to resolve the disagreement(s) with the contractor.

(f) If the disagreement(s) is (are) not resolved between the contractor and the contracting officer, the contracting officer shall provide a written recommendation to one level above the contracting officer for resolution as promptly as possible, but no later than five (5) business days after the contracting officer is made aware that the disagreement(s) has (have) not been resolved with the contractor. The individual who is one level above the contracting officer shall:

(1) Review the contracting officer's written recommendation; and

(2) Provide a written determination to the contracting officer for summary ratings (ultimate conclusion for ratings pertaining to the performance period being evaluated) within five (5) business days after the individual one level above the contracting officer receives the contracting officer's written recommendation.

(g) If the disagreement is resolved, the contracting officer shall complete the Agency review and sign the Report within three (3) business days after consultation.

(h) The contracting officer shall complete the Agency review and sign the Report within three (3) business days after the contracting officer receives a written determination for summary ratings from one level above the contracting officer.

(i) An interim or final Report is considered completed after the contracting officer signs the Report. The contracting officer must provide a copy of completed Reports (interim and final) to the contractor within two (2) business days after completion.

Note: Appendix to Preamble will not appear in the Code of Federal Regulations:

BILLING CODE 6560-50-P

APPENDIX TO PREAMBLE
COPY OF THE NIH CONTRACTOR PERFORMANCE REPORT

National Institutes of Health
CONTRACTOR PERFORMANCE REPORT

FINAL REPORT _____ INTERIM REPORT _____ *(Check one)*

REPORTING PERIOD: *(from)* *(to)*

CONTRACTING OFFICE *(Location):*

CONTRACT NUMBER: **TASK NO:**

CONTRACTOR NAME:
ADDRESS:
CITY: **STATE:** **ZIP CODE:**

CONTRACT AWARD DATE:
CONTRACT EXPIRATION DATE:

TIN:
CONTRACT VALUE: $
SIC:
CONTRACT TYPE:

DESCRIPTION OF REQUIREMENT *(Title and dollar amount managed under the period for review)*:

RATINGS

Summarize contractor performance and *circle* **the number which corresponds to the rating for each rating category.** *(See attached Rating Guidelines) At this time comments are limited to 2000 characters.*

QUALITY OF PRODUCT OR SERVICE Rating: 0 1 2 3 4 5
Comments:

COST CONTROL **Rating: 0 1 2 3 4 5**
Comments:

TIMELINESS OF PERFORMANCE **Rating: 0 1 2 3 4 5**
Comments:

BUSINESS RELATIONS **Rating: 0 1 2 3 4 5**
Comments:

SUBCONTRACTS

Are subcontracts involved? Yes No *(Circle one)*
Comments (*Please comment on those subcontractors that have provided a significant contribution to overall contract performance.)*

KEY PERSONNEL

PROJECT MANAGER/PRINCIPAL INVESTIGATOR *(name)*:
Comments:

KEY PERSON *(name)*:
Comments:

KEY PERSON *(name)*:
Comments:

CUSTOMER SATISFACTION

Is/was the contractor committed to customer satisfaction? Yes No *(Circle one)*
If this is the Final Report:
Would you recommend selection of this firm again? Yes No *(Circle one)*
Comments:

PROJECT OFFICER *(name)*:
SIGNATURE:_____
Phone: **FAX:**
Internet Address:
Date:

CONTRACTING OFFICER CONCURRENCE:*(Initial)* _____
Date:

CONTRACTOR'S REPRESENTATIVE *(name)*:
Phone: **FAX:**
Internet Address:
SIGNATURE:_____

SUMMARY RATINGS:

QUALITY: _____ **COST CONTROL:** _____

TIMELINESS OF PERFORMANCE: _____ **BUSINESS RELATIONS:** _____

CONTRACTING OFFICER *(name)*:
SIGNATURE: _____

Phone: **FAX:**
Internet Address:
Date:

CONTRACTOR'S REVIEW:

Were comments, rebuttal, or additional information provided? Yes No *(Circle one)*
(If yes: They are:
On file in: _____ _____
(Location) *(Phone))*
Attached ____ *(Check if attached)*

AGENCY REVIEW:

Were contractor comments reviewed at a level above the contracting officer?
Yes No *(Circle one)*
(If yes: They are:
On file in: _____ _____
(Location) *(Phone))*
Attached _____ *(Check if attached)*

BILLING CODE 6560–50–C

Contractor Performance Report Instructions

Top Section

1. Check the appropriate block to indicate the type of report (Interim, Final).

2. Indicate the period covered by the report.

3. List the name of the contracting officer and the location of the contracting office.

4. Identify the contract number of the contract being evaluated. Enter Task No. if applicable.

5. List the name and address of the contractor.

6. Enter TIN and SIC.

7. Enter Type of Contract (A—Fixed price re-determination; J—Firm fixed price; K—Fixed price with economic price adjustment; L—Fixed price incentive; R—Cost plus award fee; S—Cost no fee; T—Cost sharing; U—Cost plus fixed fee; V—Cost plus incentive fee; Y—Time and materials; Z—Labor hours).

8. Indicate the contract award date and contract expiration date.

9. State the contract value, including any option amounts.

10. Provide a brief description of the work being performed under the contract (the title of the contract and the dollar amount managed under the period for review).

Ratings

Using the rating guideline, assign each area a rating of 0 (unsatisfactory), 1 (poor), 2 (fair), 3 (good), 4 (excellent), or 5 (outstanding). Provide a brief narrative (2000 characters or less) for each of the categories to support the rating assigned. The categories are: quality of product or service, cost control, timeliness of performance, and business relations.

Subcontractors

Indicate whether subcontracts are/were involved. Briefly summarize (2000 characters or less) the performance of any subcontractors that have major responsibilities under the contract or are required to perform a significant part of the contract requirement. This space may also be used to evaluate a prime contractor's management of a subcontractor.

Key Personnel

List the name of the project manager/principal investigator (required) and the names of two other key personnel (optional). Briefly describe the performance of the key personnel listed. (2000 characters or less)

Customer Satisfaction

Circle the appropriate answer to indicate whether the contractor was committed to customer satisfaction. For the final report, indicate whether you would recommend selection of the firm again.

Project Officer Signature

The project officer signs this block.

Contracting Officer Concurrence

The contracting officer initials this block, indicating concurrence with the initial rating.

Contractor's Representative

The contractor signs this next block, indicating review of the rating.

Summary Ratings

Summary ratings refer to the ratings determined by one level above the contracting officer regarding disagreements between the contractor and the contracting officer. Summary ratings reflect the Agency's ultimate conclusion for the performance period being evaluated.

Contracting Officer Signature

The contracting officer signs the report when all actions are completed. If changes were made to the ratings or the narrative during the rebuttal process, a copy of the report, as revised, shall be promptly furnished to the contractor.

Contractor's Review

Indicate whether the contractor submitted a rebuttal or comments. Attach a copy of the contractor's rebuttal to this report, or indicate its location, if filed separately.

Agency Review

If the contracting officer and the contractor are unable to agree on a final rating, the matter is to be referred to an individual one level above the contracting officer. Attach a copy of the agency's decision to this report, or indicate its location, if filed separately.

Dated: March 19, 1999.

Betty L. Bailey,

Director, Office of Acquisition Management.

[FR Doc. 99–10096 Filed 4–23–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 575

[Docket No. NHTSA–98–3381, Notice 3]

RIN 2127–AG53

Consumer Information Regulations; Utility Vehicle Label

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Clarification of compliance date.

SUMMARY: This document relates to a final rule that amended the rollover warning currently required for small and mid-sized utility vehicles, to require a new label that uses graphics, bright colors, and short bulleted text messages. The final rule also required the inclusion in the owners' manuals of these vehicles of additional information related to rollover risks. The effective date for the final rule is September 1, 1999. The mandatory compliance date for the rule (i.e., the date on which manufacturers must begin complying with the amendments) is also September 1, 1999.

We typically include language in our regulations, when appropriate, to permit manufacturers the option of complying with new requirements before the compliance date of those requirements. However, we inadvertently omitted such language from the above-mentioned rulemaking document. Today's document corrects this oversight and announces the date on which it is permissible for manufacturers to begin voluntarily producing warning labels and owner's manuals that comply with the new requirements.

DATES: The effective date of the final rule published March 9, 1999 (64 FR 11724) remains September 1, 1999. The mandatory compliance date of that final rule is also September 1, 1999, however, voluntary compliance with the final rule is allowed as of April 26, 1999.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590:

For labeling issues: Mary Versailles, Office of Planning and Consumer Programs, NPS–31, telephone (202) 366–2057, facsimile (202) 366–4329

For legal issues: Nicole Fradette, Office of Chief Counsel, NCC–20, telephone (202) 366–2992, facsimile (202) 366–3820

SUPPLEMENTARY INFORMATION: On March 9, 1999 (64 FR 11724), we published a final rule amending the rollover warning label and owners' manual requirements for small and midsize utility vehicles (utility vehicles with a wheelbase of 110 inches or less).[1] The rule requires a new label that uses graphics, bright colors, and short bulleted text messages in place of the current, text-only warning label containing a paragraph of information. The rule also requires that additional information related to rollover risks be included in the owners' manuals of these utility vehicles. In addition, the final rule amended the air bag warning label requirements in Standard No. 208, Occupant crash protection, to allow the utility vehicle rollover warning label and the air bag warning label to be placed on the same side of the sun visor. The mandatory compliance date for the rule is September 1, 1999.

In our final rules, we normally discuss the issue of whether vehicles or equipment manufactured before the compliance date for new requirements may comply with those new requirements in lieu of complying with the existing requirements. However, in the rule establishing the upgraded requirements for the rollover warning label and owners' manual information requirements, we inadvertently omitted any discussion of early voluntary compliance. To correct that oversight, this document makes it clear that manufacturers of utility vehicles with a wheelbase of 110 inches or less may comply with the upgraded requirements in advance of the September 1, 1999, mandatory compliance date without violating any other provisions of 49 CFR 575.105, Vehicle rollover, 49 CFR 571.208, Occupant crash protection, or 49 U.S.C. 30101 *et seq.* (formerly the National Traffic and Motor Vehicle Safety Act). Any manufacturer choosing to comply with the new rule before September 1, 1999, must comply with the new rule in its entirety (i.e., they must comply with the new owners' manual information requirements as well as with the new, improved labeling requirements).

We find good cause to make voluntary compliance with the final rule published March 9, 1999 (64 FR 11724) effective upon publication of this document. This document does not impose any additional responsibilities on any vehicle manufacturer. Instead, it corrects an oversight in the rule of March 9, 1999. This document merely clarifies that manufacturers which wish to produce rollover warning labels and owner's manuals that comply with the upgraded requirements of 49 CFR 575.105 and 49 CFR 571.208 before September 1, 1999, may do so.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

Issued on: April 20, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–10318 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–59–P

[1] "Utility vehicles" are defined in 49 CFR Part 575 as multipurpose passenger vehicles (other than those which are passenger car derivatives) with a wheelbase of 110 inches or less and with special features for off-road operation. 49 CFR 575.105. These vehicles (regardless of wheelbase) are commonly referred to as sport utility vehicles in the media.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981221311–9096–02; I.D. 113098C]

RIN 0648-AL21

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a Final Rule to amend the regulations governing the Western Alaska Community Development Quota (CDQ) Program. This action is necessary to define how halibut CDQ fishing will be managed in 1999 and thereafter and to remove or revise regulations governing groundfish and halibut CDQ fishing to make them consistent with the combination of the management regimes for the fixed gear halibut and sablefish CDQ fisheries, the pollock CDQ fisheries, and the multispecies (MS) groundfish CDQ fisheries starting in fishing year 1999. In addition, this action makes miscellaneous technical and editorial revisions to the groundfish CDQ regulations. This action is intended to further the objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Effective May 26, 1999 except that § 679.50 (c)(4)(i) through § 679.50 (c)(4)(iv), is effective April 26, 1999.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action may be obtained from National Marine Fisheries Service, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Management Background and Need for Action

NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) according to the FMP. The North Pacific Fishery Management Council prepared the FMP under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels and implementing the FMP appear at 50 CFR parts 600 and 679. Regulations governing the 1999 halibut fishery were published in the **Federal Register** on March 19, 1999 (64 FR 13519).

The regulatory amendments implemented by this final rule fall into three categories: (1) Those governing vessels used to harvest halibut CDQ and the processors or registered buyers taking deliveries from these vessels; (2) those removing or revising sections of the regulations governing the fixed gear sablefish CDQ fishery; and (3) those executing other miscellaneous technical or editorial revisions to the MS groundfish CDQ regulations.

A proposed rule was published in the **Federal Register** on February 8, 1999 (64 FR 6025). The public comment period on the proposed rule ended on March 10, 1999. See the proposed rule for a more detailed description of the regulatory amendments and the reasons for their implementation. NMFS received no comments on the proposed rule.

Changes From the Proposed Rule

The following changes are made from the regulatory text of the proposed rule:

1. The proposed rule would have exempted all operators of vessels less than 60 ft (18.3m) length overall (loa) while halibut CDQ fishing from the existing requirement to retain all groundfish CDQ species and deliver them to a processor; and, would have exempted managers of shoreside processors taking deliveries of

groundfish caught by catcher vessels less than 60 ft (18.3 m) loa that had been halibut CDQ fishing from the existing requirement to report this groundfish on a CDQ delivery report. In addition, the proposed rule would not have counted groundfish caught by catcher vessels less than 60 ft (18.3 m) loa that had been halibut CDQ fishing against the CDQ group's CDQ allocations.

NMFS proposed the exemption because the cost of complying with these requirements for operators of vessels less than 60 ft (18.3 m) loa and, for managers of shoreside processors, would exceed the benefits that would be gained by tracking what are expected to be small amounts of retained groundfish. In addition, not accruing this incidental catch of groundfish against a CDQ group's CDQ allocation, and instead accruing it against the non-CDQ total allowable catch (TAC) specification, should not reduce the non-CDQ directed fisheries for the incidentally caught species.

NMFS believes that this justification remains valid and the final rule implements the proposed regulations for all groundfish, except sablefish, landed by vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing. Under existing regulations, shoreside processors are required to report this groundfish to NMFS on logbooks and weekly production reports and to the State of Alaska on fish tickets. This groundfish catch will accrue against the non-CDQ groundfish TAC limits. Although operators of vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing are not required to retain all groundfish CDQ species under the CDQ regulations, operators must comply with other regulations governing the open access fisheries for the specific species and area that may require retention of groundfish.

This final rule clarifies the accounting of sablefish CDQ caught by vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing. The BSAI fixed gear sablefish TACs are fully allocated to either Individual Fishing Quota (IFQ) or to CDQ fisheries. Therefore, unlike other groundfish caught by vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing, sablefish catch cannot accrue against a non-CDQ TAC. Therefore, proposed § 679.32(f)(3) is revised in the final rule to require that any sablefish CDQ retained while halibut CDQ fishing by vessels of any size (including those less than 60 ft (18.3 m) LOA) be reported by the shoreside processor on a CDQ delivery report.

2. The proposed rule included a new definition for "halibut CDQ fishing". A new definition is needed to distinguish between vessels halibut CDQ fishing and vessels groundfish CDQ fishing in order to allow operators of vessels less than 60 ft (18.3 m) while halibut CDQ fishing, managers of shoreside processors taking deliveries from these vessels, and the CDQ representative to account for the groundfish caught by these vessel operators while halibut CDQ fishing in a different manner than that required for operators of vessels less than 60 ft (18.3 m) LOA while groundfish CDQ fishing.

The proposed definition is revised in the final rule to distinguish between halibut CDQ fishing by catcher vessels and by catcher/processors. For both catcher vessels and catcher/processors, the definition is revised to clarify that both retained halibut CDQ and retained halibut IFQ (rather than just retained halibut CDQ) will be considered in determining whether retained halibut represents the largest proportion of the retained catch. This clarification is necessary because vessel operators are allowed to retain halibut IFQ while halibut CDQ fishing, and this retained halibut should be included in the total amount of retained halibut for purposes of determining whether a vessel is halibut CDQ fishing or groundfish CDQ fishing.

For catcher vessels, the definition is also revised to clarify that the determination of whether halibut is the predominant retained species may be made at any time while the vessel is CDQ fishing, not just when the fish are delivered to the processor. This revision is necessary so NMFS Enforcement or the U.S. Coast Guard can determine whether a catcher vessel is halibut CDQ fishing or groundfish CDQ fishing while it is fishing. In addition, the requirement that the round weight equivalent of non-CDQ groundfish not exceed the maximum retainable bycatch (MRB) amounts for these species is applied only to catcher vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing. Catcher vessels equal to or greater than 60 ft (18.3 m) LOA and catcher/processors may not combine CDQ groundfish and non-CDQ groundfish in the same delivery (catcher vessel) or set (catcher/processor), and they must account for all groundfish caught while halibut CDQ fishing against the CDQ group's CDQ allocation for that species. Therefore, it is not necessary or appropriate to apply MRB amounts to these vessels while halibut CDQ fishing.

3. The definition of "groundfish CDQ fishing" is amended so that a vessel is either groundfish CDQ fishing or halibut CDQ fishing, but not both at the same time. In addition, NMFS is correcting amendments to this definition that were made in the combined final rule and emergency interim rule that implemented Amendment 45 to the FMP and CDQ program-related requirements of the American Fisheries Act (64 FR 3877, January 26, 1999). NMFS intended to permanently amend the definition of groundfish CDQ fishing in the final rule for Amendment 45. However, because NMFS published a final rule and an emergency interim rule affecting this definition on the same day, the amendment to the definition of groundfish CDQ fishing was implemented under the emergency interim rule and is effective only through July 20, 1999. Furthermore, the groundfish CDQ fishing definition that was effective through December 31, 1998, was suspended rather than removed.

In this final rule, NMFS removes the definition of groundfish CDQ fishing that was suspended under the emergency interim rule because NMFS intended that this definition would be effective only through the end of 1998, and NMFS permanently implements a revised definition of groundfish CDQ fishing. The new definition of groundfish CDQ fishing states that "groundfish CDQ fishing means fishing by an eligible vessel listed on an approved CDP that results in the catch of any groundfish CDQ species, but that does not meet the definition of halibut CDQ fishing".

4. In § 679.32, NMFS removes paragraphs (a)(2), (a)(3), and (e), which expired on December 31, 1998. NMFS intended to remove these sections under the final rule and emergency interim rule for Amendment 45 to the FMP and the AFA. However, as discussed earlier, rather than being removed, these sections were suspended under the emergency interim rule. In this final rule, NMFS removes these sections and redesignates § 679.32(g) (regulations governing pollock CDQ fishing under the emergency interim rule) as § 679.32(e). Under the emergency interim rule, new § 679.32(e) will expire on July 20, 1999.

5. NMFS corrects a cross reference error in newly redesignated § 679.7(d)(20) (previously § 679.7(d)(21)). The requirements that apply to scales approved by the State of Alaska are at § 679.28(c) not § 679.28(b).

6. NMFS reinstates § 679.50 paragraphs (c)(4)(i) through (c)(4)(iv), which were inadvertently removed from the regulations under the final rule for Amendment 45 (64 FR 3877, January 26, 1999) due to an error in amendatory instruction number 8. This amendatory instruction should have revised only the

introductory paragraph to paragraph (c)(4) and should not have removed paragraphs (c)(4)(i) through (c)(4)(iv).

Compliance Guide for Small Entities

The Small Business Regulatory Enforcement Fairness Act requires NMFS to prepare a compliance guide that explains how small entities must comply with the regulations implemented in this final rule. Note that this compliance guide addresses only the specific regulatory changes implemented in this final rule and is not a complete description of all CDQ regulations in 50 CFR part 679 that affect these small entities.

The small entities affected by this rule are the six CDQ groups, the approximately 250 fishing vessel owners or operators who harvest halibut CDQ, and the approximately 20 processors or registered buyers who purchase halibut CDQ. See additional discussion of impacts in the Classification section and in the FRFA.

The CDQ group representative must obtain a halibut CDQ permit from NMFS each year. The CDQ group must ensure that a copy of the CDQ permit be onboard each vessel harvesting halibut CDQ on the CDQ groups behalf, and that each vessel operator that lands halibut CDQ on the CDQ group's behalf has a valid CDQ landing card onboard. In addition, the CDQ group representative must report on a CDQ catch report any groundfish CDQ harvested while halibut CDQ fishing with vessels equal to or greater than 60 ft (18.3 m) LOA and any sablefish CDQ retained with vessels of any size.

Individuals harvesting halibut CDQ must fish for halibut CDQ in compliance with the IFQ regulations and land halibut CDQ by or to a registered buyer who is required to submit a landing report under the IFQ regulations.

Halibut CDQ catch by vessels equal to or greater than 60 ft (18.3 m) LOA is not reported on the CDQ delivery report or CDQ catch report unless groundfish CDQ species also are landed. When groundfish CDQ species are landed with halibut CDQ catch by vessels equal to or greater than 60 ft (18.3 m) LOA, the weight of halibut CDQ and any halibut IFQ delivered at the same time and reported to Restricted Access Management (RAM) must also be reported on the CDQ delivery report and CDQ catch report in order to account for all catch in the delivery and to identify halibut CDQ, IFQ, and prohibited species quota (PSQ) separately.

In contrast to groundfish CDQ fishing, under this final rule, operators of catcher vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing are not required to retain all groundfish CDQ species caught and deliver them to a shoreside processor. However, these vessel operators may be required to retain this groundfish under other regulations such as the IFQ program or the Improved Retention/Improved Utilization regulations. Registered buyers taking deliveries from these vessels are not required to have a CDQ observer to monitor deliveries. Except for sablefish CDQ, any groumdfish catch retained onboard a catcher vessel less than 60 ft (18.3 m) LOA while halibut CDQ fishing and landed is not required to be reported by the manager of the shoreside processor on the CDQ delivery report and is not subtracted from the CDQ group's CDQ allocations. This groundfish catch accrues against the non-CDQ groundfish TAC limits. The vessel operator, IFQ cardholder, registered buyer, or manager of a shoreside processor, must report any sablefish retained while halibut CDQ fishing as either sablefish IFQ (under the IFQ regulations) or as sablefish CDQ. A shoreside processor must report the sablefish CDQ on a CDQ delivery report.

The catch accounting requirements for operators of catcher vessels equal to or greater than 60 ft (18.3 m) LOA and catcher/processors while groundfish CDQ fishing apply to the operators of these vessels while halibut CDQ fishing. These regulations accrue all groundfish CDQ catch against the CDQ group's groundfish CDQ allocations, and require catcher vessels to carry a CDQ observer, and for catcher/processors to carry two CDQ observers in order to monitor and verify the catch of groundfish CDQ species that accrue to the MS groundfish CDQs. In addition, the Community Development Plan (CDP) must specify which catcher vessels equal to or greater than 60 ft (18.3 m) LOA are going to (1) retain and deliver all groundfish CDQ species to a shoreside processor (Option 1 under § 679.32(c)(2)(ii)(A)), or (2) discard some groundfish CDQ species at sea (Option 2 under § 679.32(c)(2)(ii)(B)), in which case the owner or operator of the catcher vessel must provide an observer sampling station that complies with the requirements of § 679.28(d). The operator of the catcher vessels fishing under Option 2 still must comply with any other regulations that prohibit the discard of certain groundfish species which include, but are not limited to, Improved Retention/Improved Utilization and the IFQ Program, if any IFQ species also are onboard the vessel. Finally, shoreside processors are required to have deliveries by catcher vessels equal to or greater than 60 ft (18.3 m) LOA monitored by a CDQ observer at the shoreside processor.

Classification

The Administrator, Alaska Region, NMFS, (Regional Administrator) determined that this final rule is necessary for the conservation and management of the groundfish and halibut fisheries of the BSAI. The Regional Administrator also determined that this final rule is consistent with the Magnuson-Stevens Act, the Northern Pacific Halibut Act of 1982, and other applicable laws.

The final rule has been determined to be not significant for purposes of E.O. 12866.

The collection-of-information requirements in this rule have been approved by OMB, OMB control number 0648–0269. The public reporting burden for this collection of information is estimated to average 2 hours for the owner of a catcher vessel to submit a request for an observer sampling station inspection and to maintain a copy of the observer sampling station inspection report on the vessel; 15 minutes for the manager of a shoreside processor to print and retain the scale print-out; 2 minutes for the manager of a shoreside processor to notify the CDQ observer prior to the delivery of CDQ catch; 1 hour for the manager of a shoreside processor to complete the CDQ delivery report; and 15 minutes for the CDQ group to complete the CDQ catch report.

Send comments regarding the burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

NMFS prepared an FRFA that describes the impact this final rule would have on small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**). The analysis made the following conclusions with respect to impacts on small entities. All of the participants in the halibut CDQ fisheries are small entities, including the approximately 250 fishing vessel owners or operators who harvest halibut CDQ, the approximately 20 registered buyers who purchase halibut CDQ, the six CDQ groups who are allocated halibut CDQ, and the 56 western Alaska communities that are eligible for the CDQ program. All of these small entities incur some economic impact due to an increase in annual compliance costs as a result of recordkeeping and reporting requirements. For example, this final

rule requires the CDQ groups to incur costs associated with obtaining CDQ permits and submitting the CDQ catch reports. It also requires vessel operators and registered buyers to incur costs associated with CDQ landings reports as well as the requirement that owners or operators of vessel equal to or greater than 60 ft (18.3 m) LOA incur costs associated with the requirement to carry a CDQ observer.

NMFS has determined that a regulation has a significant economic impact for the purposes of the Regulatory Flexibility Act (RFA) if it is likely to result in more than a 5–percent decrease in annual gross revenues; annual compliance costs (e.g., annualized capital, operating, reporting) that increase total costs of production by more than 5 percent; compliance costs as a percent of sales that are 10 or more percent higher for small entities than compliance costs for large entities; capital costs of compliance that represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or is likely to result in 2 or more percent of the small entities affected being forced to cease business operations.

NMFS believes that this action will not reach these thresholds. However, the agency does not currently have sufficient information about the operating and production costs of the potentially affected small entities. Therefore, NMFS determines that the preferred alternative may have a significant impact on a substantial number of small entities and provided the requisite analytical information required for an IRFA.

NMFS considered the alternative of allowing the regulations to expire, which would result in no regulations governing the permitting, catching, recordkeeping, reporting, and monitoring of halibut CDQ catch. While this alternative may appear to minimize the economic impact of the proposed rule on small entities, it is not consistent with NMFS's fisheries management objectives and obligations under the Magnuson-Stevens Act and the Northern Pacific Halibut Act. Furthermore, it would not be supported by the fishing industry, the CDQ groups, the State of Alaska, or the International Pacific Halibut Commission, all of whom have an interest in the collection of catch data to manage the halibut CDQ fisheries.

The final rule satisfies NMFS's fisheries management obligations in a manner consistent with the RFA by removing some requirements and compliance costs for small entities. Specifically, it would remove the requirement that the CDQ groups (1) list in their CDPs the names of vessels less than 60 ft (18.3 m) LOA that conduct halibut CDQ fishing only and the processors taking deliveries from these vessels, and (2) submit technical amendments to their CDPs to add or remove these vessels and processors. NMFS also did not extend requirements that currently apply to vessels groundfish CDQ fishing to similar vessels while halibut CDQ fishing. Specifically, NMFS did not extend requirements for observers in shoreside processing plants that take deliveries from vessels less than 60 feet LOA who have been halibut CDQ fishing or requirements that these catcher vessels retain all groundfish species and report them under the MS groundfish CDQ reporting requirements.

This rule reinstates § 679.50 paragraphs (c)(4)(i) through (c)(4)(iv), which were inadvertently removed from the regulations under the final rule for Amendment 45 (64 FR 3877, January 26, 1999) due to an error in amendatory instruction number 8. This amendatory instruction should have revised only the introductory paragraph through paragraph (c)(4) and should not have removed paragraphs (c)(4)(i) through (c)(4)(iv). The Assistant Administrator for Fisheries, NMFS, finds for good cause under U.S.C. 553 (d)(3) that it would be contrary to the public interest to delay the effective date of the reinstatement of § 679.50 (c)(4)(i) through § 679.50 (c)(4)(iv). These sections must be effectively immediately to meet the catch monitoring and data collection goals of the FMP. Accordingly, § 679.50 (c)(4)(i) through § 679.50 (c)(4)(iv) is effective immediately upon the date of publication in the **Federal Register**.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: April 19, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.* and 3631 *et seq.*

2. In § 679.2, the definitions for "Fixed gear sablefish and halibut CDQ fishing (applicable through December 31, 1998)" and "Groundfish CDQ fishing (applicable through December 31, 1998)" are removed; the definitions for "Groundfish CDQ fishing" and "Prohibited species quota (PSQ)" are revised; and the definition for "Halibut CDQ fishing" is added in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Groundfish CDQ fishing means fishing by an eligible vessel listed on an approved CDP that results in the catch of any groundfish CDQ species, but that does not meet the definition of halibut CDQ fishing.

* * * * *

Halibut CDQ fishing means the following:

(1) *Catcher vessel.* The following conditions are met at all times:

(i) Halibut CDQ is retained and the weight of halibut CDQ plus halibut IFQ onboard the vessel at any time represents the largest proportion of the retained catch in round weight equivalent onboard the vessel at that time, and

(ii) For catcher vessels less than 60 ft (18.3 m) LOA, the round weight equivalent of non-CDQ groundfish does not exceed the maximum retainable bycatch amounts for these species or species groups as established in § 679.20(e) and (f).

(2) *Catcher/processor.* Halibut CDQ is retained from a set and the weight of halibut CDQ plus halibut IFQ represents the largest proportion of the retained catch in round weight equivalent from that set.

* * * * *

Prohibited species quota (PSQ) means the amount of a prohibited species catch limit established under § 679.21(e)(1) and (e)(2) that is allocated to the groundfish CDQ program under § 679.21(e)(1)(i) and (e)(2)(ii).

* * * * *

3. In § 679.7, paragraphs (d)(20), (d)(22), and (d)(25) are removed; paragraphs (d)(21), (d)(23), (d)(24), (d)(26), and (d)(27) are redesignated as paragraphs (d)(20), (d)(21), (d)(22), (d)(24), and (d)(25); a new paragraph (d)(23) is added; and paragraphs (d)(4), (d)(11), (d)(15), (d)(19), newly redesignated paragraph (d)(20), paragraphs (f)(3), (f)(5), (f)(6), and (f)(10) are revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(d) * * *

(4) Harvest groundfish CDQ on behalf of a CDQ group with a vessel that is not listed as an eligible vessel on an approved CDP for that CDQ group.

* * * * *

(11) For the operator of a catcher vessel using trawl gear or any vessel less than 60 ft (18.3 m) LOA that is groundfish CDQ fishing as defined at § 679.2, discard any groundfish CDQ species or salmon PSQ before it is delivered to an eligible processor listed on an approved CDP.

* * * * *

(15) For the operator of a catcher/processor or a catcher vessel required to carry a CDQ observer, combine catch from two or more CDQ groups in the same haul or set.

* * * * *

(19) For the operator of a catcher/processor using trawl gear or a mothership, sort, process, or discard CDQ or PSQ species before the total catch is weighed on a scale that meets the requirements of § 679.28(b), including the daily test requirements described at § 679.28(b)(3).

(20) For the manager of a shoreside processor or the manager or operator of a buying station that is required elsewhere in this part to weigh catch on a scale approved by the State of Alaska under § 679.28(c), fail to weigh catch on a scale that meets the requirements of § 679.28(c).

* * * * *

(23) For any person on a vessel using fixed gear that is fishing for a CDQ group with an allocation of fixed gear sablefish CDQ, discard sablefish harvested with fixed gear.

* * * * *

(f) * * *

(3)(i) *Halibut.* Retain halibut caught with fixed gear without a valid IFQ or CDQ permit and without an IFQ or CDQ card in the name of an individual aboard.

(ii) *Sablefish.* Retain sablefish caught with fixed gear without a valid IFQ permit and without an IFQ card in the name of an individual aboard, except as provided under an approved CDP.

* * * * *

(5) Possess, buy, sell, or transport IFQ or CDQ halibut or IFQ sablefish harvested or landed in violation of any provision of this part.

(6) Make an IFQ halibut, IFQ sablefish, or CDQ halibut landing without an IFQ or CDQ card in the name of the individual making the landing.

* * * * *

(10) Make an IFQ halibut, IFQ sablefish, or CDQ halibut landing other than directly to (or by) a registered buyer.

* * * * *

4. In § 679.21, paragraph (e)(2)(ii) is revised to read as follows.

§ 679.21 Prohibited species bycatch management.

* * * * *

(e) * * *

(2) * * *

(ii) The amount of 7.5 percent of the non-trawl gear halibut PSC limit set forth in paragraph (e)(2)(i) of this section is allocated to the groundfish CDQ program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

* * * * *

5. In § 679.23, paragraph (e)(4)(iii) is removed; and paragraph (e)(4)(iv) is redesignated as (e)(4)(iii) and revised to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(4) * * *

(iii) *Groundfish CDQ.* Fishing for groundfish CDQ species, other than fixed gear sablefish CDQ under subpart C of this part, is authorized from 0001 hours, A.l.t., January 1, through the end of each fishing year, except as provided in paragraph (c) of this section.

* * * * *

6. In § 679.30, paragraph (a)(5)(i)(C) is removed, paragraphs (a)(5) introductory text, paragraphs (a)(5)(i)(A)(*1*), (a)(5)(i)(A)(*2*)(*ii*), and (a)(5)(i)(B) are revised to read as follows:

§ 679.30 General CDQ regulations.

(a) * * *

(5) *Fishing plan for groundfish and halibut CDQ fisheries.* The following information must be provided for all vessels that will be groundfish CDQ fishing, all vessels equal to or greater than 60 ft (18.3 m) LOA that will be halibut CDQ fishing, and for all shoreside processors that will take delivery of groundfish CDQ species from these vessels.

(i) *List of eligible vessels and processors*—(A) *Vessels*—(*1*) *Information required for all vessels.* A list of the name, Federal fisheries permit number (if applicable), ADF&G vessel number, LOA, gear type, and vessel type (catcher vessel, catcher/processor, or mothership). For each vessel, report only the gear types and vessel types that will be used while CDQ fishing. Any CDQ vessel that is exempt from the moratorium under § 679.4(c)(3)(v) must be identified as such.

(*2*) * * *

(*ii*) Average and maximum number of hauls or sets that will be retrieved on any given fishing day while groundfish CDQ fishing.

* * * * *

(B) *Shoreside processors.* A list of the name, Federal processor permit number, and location of each shoreside processor that is required to have a Federal processor permit under § 679.4(f) and will take deliveries of, or process, groundfish CDQ catch from any vessel groundfish CDQ fishing or from vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing.

* * * * *

7. In § 679.31, paragraphs (d)(1) and (d)(2) are revised; paragraphs (d)(3) and (f) are removed, and paragraph (g) is redesignated as paragraph (f) as follows:

§ 679.31 CDQ reserves.

* * * * *

(d) * * *

(1) For calendar year 2000, and thereafter, 7.5 percent; and

(2) For calendar year 1999 (applicable through December 31, 1999), 5 percent.

* * * * *

8. In § 679.32, paragraphs (a)(1), (c) introductory text, (c)(3)(i), (c)(3)(v), and (f) are revised, paragraphs (a)(2), (a)(3), and (e) are removed, paragraph (a)(4) is redesignated as paragraph (a)(2) and revised, and paragraph (g) is redesignated as paragraph (e) to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

(a) *Applicability.* (1) The CDQ group, the operator of a vessel groundfish CDQ fishing as defined at § 679.2, the operator of a catcher/processor halibut CDQ fishing as defined at § 679.2, the operator of a catcher vessel equal to or greater than 60 ft (18.3 m) LOA halibut CDQ fishing, the operator of a mothership taking deliveries from these vessels, and the manager of a shoreside processor taking deliveries from these vessels must comply with the requirements of paragraphs (b) through (d) of this section for all groundfish CDQ and PSQ. For the catch of halibut CDQ or for vessels halibut CDQ fishing, the CDQ group, the operator of the vessel, the shoreside processor, and the registered buyer must comply with the requirements of paragraph (f) of this section. In addition, the CDQ group is responsible for ensuring that vessels and processors listed as eligible on the CDQ group's approved CDP comply with all requirements of this section while harvesting or processing CDQ species.

(2) *Pollock CDQ (applicable through July 20, 1999).* Requirements for the

accounting of pollock while CDQ fishing are at paragraph (e) of this section.

* * * * *

(c) *Requirements for vessels and processors.* In addition to complying with the minimum observer coverage requirements at § 679.50(c)(4), vessel operators and managers of shoreside processors must comply with the following requirements:

* * * * *

(3) * * *

(i) *Prior notice to observer of offloading schedule.* Notify the CDQ observer of the offloading schedule of each CDQ delivery at least 1 hour prior to offloading to provide the CDQ observer an opportunity to monitor the sorting and weighing of the entire delivery.

* * * * *

(v) *CDQ delivery report.* Submit a CDQ delivery report described at § 679.5(n)(1) for each delivery of groundfish CDQ.

* * * * *

(f) *Halibut CDQ*—(1) *Applicability.* The CDQ group, the operator of the vessel, the manager of a shoreside processor, and the registered buyer must comply with the requirements of this paragraph (f) for the catch of halibut CDQ or while halibut CDQ fishing.

(2) *Accounting for halibut CDQ catch*—(i) *Halibut CDQ permit.* The CDQ group must obtain a halibut CDQ permit issued by the Regional Administrator. The vessel operator must have a copy of the halibut CDQ permit on any fishing vessel operated by, or for, a CDQ group that will have halibut CDQ onboard and must make the permit available for inspection by an authorized officer. The halibut CDQ permit is non-transferable and is issued annually until revoked, suspended, or modified.

(ii) *Halibut CDQ card.* An individual must have onboard the vessel a valid halibut CDQ card issued by the Regional Administrator before landing any halibut CDQ. Each halibut CDQ card will identify a CDQ permit number and the individual authorized by the CDQ group to land halibut for debit against the CDQ group's halibut CDQ.

(iii) *Alteration.* No person may alter, erase, mutilate, or forge a halibut CDQ permit, landing card, registered buyer permit, or any valid and current permit or document issued under this part. Any such permit, card, or document that has been intentionally altered, erased, mutilated, or forged is invalid.

(iv) *Landings.* A person may land halibut CDQ only if he or she has a valid halibut CDQ card, and that person may deliver halibut CDQ only to a person with a valid registered buyer permit. The person holding the halibut CDQ card and the registered buyer must comply with the requirements of § 679.5(l)(1) and (l)(2).

(v) The CDQ group, vessel owner or operator, and registered buyer must comply with all of the IFQ prohibitions at § 679.7(f).

(3) *Accounting for catch of groundfish CDQ while halibut CDQ fishing.* The manager of a shoreside processor must report on a CDQ delivery report described at § 679.5(n)(1), all groundfish CDQ delivered by vessels equal to or greater than 60 ft (18.3 m) LOA while halibut CDQ fishing and all sablefish CDQ delivered by vessels of any size while halibut CDQ fishing. The CDQ group must report on a CDQ catch report described at § 679.5(n)(2), all groundfish CDQ caught by vessels equal to or greater than 60 ft (18.3 m) LOA while halibut CDQ fishing and all sablefish CDQ retained by vessels of any size while halibut CDQ fishing. This groundfish CDQ will accrue to the CDQ group's groundfish CDQ allocations. The manager of a shoreside processor and the CDQ group are not required to report on the CDQ delivery report, groundfish, except sablefish CDQ, that is caught by vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing, and this catch (except sablefish CDQ) will not accrue against the CDQ group's groundfish CDQ allocations.

(4) *Groundfish CDQ retention requirements.* Operators of vessels less than 60 ft (18.3 m) LOA are not required to retain and deliver groundfish CDQ species while halibut CDQ fishing, unless required to do so elsewhere in this part. Operators of vessels equal to or greater than 60 ft (18.3 m) LOA are required to comply with all groundfish CDQ and PSQ catch accounting requirements in paragraphs (b) through (d) of this section, including the retention of all groundfish CDQ, if option 1 under § 679.32(c)(2)(ii) is selected in the CDP.

(5) *Observer coverage requirements.* The owner or operator of a vessel equal to or greater than 60 ft (18.3 m) LOA halibut CDQ fishing as defined at § 679.2 or shoreside processors taking deliveries from vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing must comply with observer coverage requirements at § 679.50(c)(4) and (d)(4).

9. In § 679.50, paragraph (c)(4) and paragraph (d)(4) are revised to read as follows:

§ 679.50 Groundfish observer program (applicable through December 31, 2000).

* * * * *

(c) * * *

(4) *Groundfish and halibut CDQ fisheries.* The owner or operator of a vessel groundfish CDQ fishing or halibut CDQ fishing as defined at § 679.2 must comply with the following minimum observer coverage requirements each day that the vessel is used to harvest, transport, process, deliver, or take deliveries of CDQ or PSQ species. The time required for the CDQ observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24–hour period, and, the CDQ observer is required to sample no more than 11 hours in each 24–hour period.

(i) *Motherships or catcher/processors using trawl gear.* A mothership or catcher/processor using trawl gear must have at least two CDQ observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead CDQ observer.

(ii) *Catcher/processors using hook-and-line gear.* A catcher/processor using hook-and-line gear must have at least two CDQ observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessels, unless NMFS approves a CDP authorizing the vessel to carry only one lead CDQ observer. At least one of the CDQ observers must be certified as a lead CDQ observer. NMFS may approve a CDP authorizing the vessel to carry only one lead CDQ observer if the CDQ group supplies vessel logbook or observer data that demonstrates that one CDQ observer can sample each CDQ set for species composition in one 12–hour shift per fishing day. NMFS will not approve a CDP that would require the observer to divide a 12–hour shift into shifts of less than 6 hours.

(iii) *Catcher/processors using pot gear.* A catcher/processor using pot gear must have at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section aboard the vessel.

(iv) *Catcher vessel.* A catcher vessel equal to or greater than 60 ft (18.3 m), except a catcher vessel that delivers only unsorted codends to a processor or another vessel, must have at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section aboard the vessel.

* * * * *

(d) * * *

(4) *Groundfish and halibut CDQ fisheries.* Each shoreside processor required to have a Federal processor

permit under § 679.4(f) and taking deliveries of CDQ or PSQ from vessels groundfish CDQ fishing as defined at § 679.2 or taking deliveries from vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing must have at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section present at all times while CDQ is being received or processed. The time required for the CDQ observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24–hour period, and the CDQ observer is required to sample no more than 9 hours in each 24–hour period.

* * * * *

[FR Doc. 99–10295 Filed 4–23–99; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 100698A]
RIN 0648–AL40

Fisheries of the Exclusive Economic Zone Off Alaska; Amendments for Addressing Essential Fish Habitat (EFH) Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of approval of fishery management plan amendments.

SUMMARY: NMFS announces approval of the following fishery management plan (FMP) amendments: Amendment 55 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Amendment 55 to the FMP for Groundfish of the Gulf of Alaska; Amendment 8 to the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands; Amendment 5 to the FMP for Scallop Fisheries off Alaska; and Amendment 5 to the FMP for the Salmon Fisheries in the Exclusive Economic Zone (EEZ) off the Coast of Alaska (Amendments 55/55/8/5/5). These amendments describe and identify EFH in Alaska, and risks to that habitat, for groundfish, scallops, salmon, and king and Tanner crabs.

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Federal agencies must consult with NMFS, acting for the Secretary of Commerce (Secretary), on any activity, or proposed activity, authorized, funded, or undertaken, that may adversely affect EFH. This action is necessary to promote the protection and conservation of habitat used by FMP species at crucial stages of their life cycles. It is intended to promote the goals and objectives of these FMPs.

DATES: The amendments were approved on January 20, 1999.

ADDRESSES: Copies of Amendments 55/55/8/5/5 and the environmental assessment (EA) prepared for the amendments are available from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Cindy Hartmann, 907–586–7312, or Nina Mollett, 907–586–7492.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and the Gulf of Alaska under the FMPs for groundfish in their respective management areas. With Federal oversight, the State of Alaska (State) manages the commercial king crab and Tanner crab fisheries in the BSAI, and the scallop and salmon fisheries off Alaska, under the FMPs for those fisheries. The North Pacific Fishery Management Council (Council) prepared these FMPs in accordance with the Magnuson-Stevens Act. Regulations implementing the FMPs appear at 50 CFR part 679. General regulations at 50 CFR part 600 also apply.

The following EFH reports, which are referenced in the amendments, are also available from the Council (see Addresses):

1. Essential Fish Habitat Report for the Groundfish Resources of the Bering Sea and Aleutian Islands, April 1, 1998.
2. Essential Fish Habitat Report for the Groundfish Resources of the Gulf of Alaska Region, April 1, 1998.
3. Essential Fish Habitat Report for the King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands, March 31, 1998.
4. Essential Fish Habitat Report for the Salmon Fisheries in the EEZ off the Coast of Alaska, March 31, 1998.
5. Essential Fish Habitat Report for the Scallop Fisheries off the Coast of Alaska, March 31, 1998.

A Notice of Availability (NOA) of Amendments 55/55/8/5/5, which described the proposed action and solicited comments from the public through December 21, 1998, was published in the **Federal Register** on October 22, 1998 (63 FR 56601). Eleven letters were received within the 60-day comment period. They are summarized and responded to here.

After review of the amendments and comments received, the Administrator, Alaska Region, NMFS (Regional Administrator), determined that Amendments 55/55/8/5/5 are consistent with the Magnuson-Stevens Act and other applicable laws and approved the amendments on January 20, 1999. These FMP amendments became effective on approval. No regulatory changes are necessary to implement these FMP amendments.

Background

The Magnuson-Stevens Act mandates increased consideration of fish habitat in the process of managing and conserving the Nation's fisheries. Section 303(a)(7) of the Magnuson-Stevens Act requires all FMPs to describe and identify EFH, which it defines as "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity." In addition, FMPs must minimize adverse effects on EFH caused by fishing and identify other actions to conserve and enhance EFH.

As required by section 305(b) of the Magnuson-Stevens Act, NMFS published regulatory guidelines on December 19, 1997 (62 FR 66531, codified at 50 CFR part 600), to assist regional fishery management councils in their task of describing and identifying EFH, identifying adverse impacts on EFH, and identifying actions to conserve and enhance EFH. In accordance with these procedural guidelines, the Regional Administrator submitted draft EFH recommendations to the Council on April 3, 1998, for review and public comment. These draft recommendations were based on habitat assessment reports drafted by four technical teams, consisting of Federal and State biologists, working in cooperation with the Alaska Regional EFH Core Team, whose members were appointed by the NMFS Deputy Regional Administrator. NMFS submitted its final recommendations for the EFH amendments at the Council's June 1998 meeting. The Council adopted the recommended EFH amendments at that time. The Council submitted the amendments for Secretarial review on October 5, 1998. NMFS published an NOA for Amendments 55/55/8/5/5 on October 22, 1998 (63 FR 56601). The contents of the amendments were provided in the NOA and will not be repeated here. On January 20, 1999, the

Regional Administrator approved the five amendments.

EFH Consultation Requirements for Federal Agencies

Section 305(b)(2) of the Magnuson-Stevens Act requires each Federal agency to consult with the Secretary with respect to any action it has authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, that may adversely affect any EFH identified under the Magnuson-Stevens Act. On December 19, 1997 (62 FR 66531), NMFS established procedures under 50 CFR part 600, subpart K, for implementing the requirements of the Magnuson-Stevens Act for other agencies to coordinate and consult with NMFS, and to consider NMFS' recommendations for EFH conservation.

Effective January 20, 1999, Federal agencies must consult with the Secretary with respect to actions that may adversely affect EFH identified and described in Amendments 55/55/8/5/5. NMFS must provide conservation and enhancement recommendations on any action that would adversely affect EFH, and the Federal action agency must provide a detailed, written response to NMFS within 30 days of receiving the EFH recommendations.

Response to Comments

Eleven letters were received on Amendments 55/55/8/5/5 during the 60-day comment period ending December 21, 1998. Six letters were from non-fishing industry groups, three were from environmental organizations, one was from the State, and one was from the U.S. Coast Guard.

Comment 1. The scope of the EFH definition is too broad. Specific features should be identified for EFH designation. Instead, the definition in the amendments encompasses nearly all existing and potential fresh and saltwater habitat within and offshore Alaska. It includes all Alaska coastal and inland river, stream, and lake systems in which any of the five salmon species has been documented to occur.

Because the EFH area is so large, NMFS may not be able to adequately review and provide conservation recommendations on all Federal and State actions that might adversely affect EFH. The failure to rank or prioritize "truly essential" habitat areas is the logical equivalent of concluding that no habitat is essential.

According to one comment, the broadness of the definitions could invite third party lawsuits by "radical environmentalist groups."

Response: NMFS recommended a broad definition of EFH to the Council, and most of the other NMFS regions arrived at similar definitions. These definitions are consistent with a conservative approach to managing the fishery. NMFS considered the alternative of using known concentrations to define EFH for species' life stages for which Level 2 or higher information is available. At Level 2, quantitative data are available for the habitats occupied by a species or life history stage. This alternative was rejected, as explained in NMFS' Final Recommendations to the Council (May 11, 1998), for the following reasons:

1. Areas of known concentrations, based on current information, do not adequately address unpredictable annual differences in spatial distributions of a life stage, nor changes due to long-term shifts in oceanic regimes.

2. All habitats occupied by a species contribute to production at some level. Although contributions from individual locations may be small, collectively they can account for a significant part of total production. For example, fisheries for coho and pink salmon depend on the cumulative production from thousands of streams that are widely distributed across coastal Alaska.

3. A stock's long-term productivity is based on high and low levels of abundance. A broad range and diversity must be conserved to provide for periods of abundance, and to avoid severely reduced production during poor years. For example, high concentrations of rock sole were found in only two discrete areas of the southeastern Bering Sea during the early 1980s, but were found throughout regions with 100–m water depth during the mid-1990s, a period of much higher abundance.

4. The advice in the NMFS guidelines is to use the best scientific information available in a risk-averse fashion, employing an ecosystem approach. This suggests that, unless the information indicates otherwise, the more inclusive general distribution should be used to designate EFH. Observed concentrations do not necessarily reflect all the habitat required to maintain healthy stocks within the ecosystem.

From a scientific perspective, identifying areas outside of a known concentration as non-essential for maintaining healthy production levels would require extensive knowledge of habitat-related linkages to productivity and the ecosystem. Based on such knowledge, making a determination that portions of habitat encompassed by a general distribution definition are non-essential might be possible. However, NMFS does not have the information to make such a determination at this time.

5. In the case of juvenile and adult life stages of salmon in marine waters, scientists, through research and observation, have determined that salmon are distributed over a large expanse of the Pacific Ocean, Gulf of Alaska, Bering Sea, and Chukchi Sea, from the shoreline to beyond the limit of the U.S. EEZ. The fish actually require a much larger area than earlier had been expected. They require a broad geographical distribution of habitat to obtain the prey species needed for their growth, and to obtain the diversity necessary so that they can withstand changing environmental conditions.

NMFS disagrees that it will not be able to afford habitat protection with this broad definition and that it will not be able to adequately review and provide conservation recommendations on Federal and State agency actions. The process of providing such review will be incorporated into existing processes whenever possible, and will ensure that concerns are raised when an action is proposed that may have adverse impacts on EFH.

Comment 2. No basis exists in the Magnuson-Stevens Act for addressing habitat outside the EEZ regulatory authority of the Council (extending 3–200 nautical miles from shore), and therefore the EFH amendments exceed the scope of the Magnuson-Stevens Act.

Response: The Magnuson-Stevens Act requires the regional fishery management councils to describe and identify EFH based on all life stages of the species managed in their FMPs, with no limitations placed on the geographic location of EFH. Since provisions in statutes are not presumed to apply extraterritorially, NMFS has determined that waters beyond the U.S. EEZ are not to be identified as EFH. None of the Alaska EFH FMPs extend EFH seaward of the EEZ.

EFH may be in State and/or Federal waters, depending on a species' biological requirements. Identifying coastal and inland State waters as EFH authorizes NMFS to consult on actions that may adversely affect EFH, and to provide conservation recommendations. The description and identification of EFH in State waters does not authorize NMFS to regulate activities in these areas. The Magnuson-Stevens Act requires NMFS to work closely with other agencies and groups to ensure the conservation and enhancement of EFH in State and Federal waters.

Comment 3: No basis exists in the Magnuson-Stevens Act for the regional fishery management councils to address

non-fishing interests. The 1996 amendments to the Magnuson-Stevens Act do not authorize the promulgation of standards and regulations that affect non-fishing entities. The amendments exceed the authority of the Magnuson-Stevens Act by affecting resource management disciplines for which Council members do not have the required expertise. The affected industries have no representation on the Council.

Response: One of the stated purposes of the 1996 amendments to the Magnuson-Stevens Act is to promote the protection of EFH through the review of projects conducted under Federal permits, licenses, or other authorities that affect EFH, or have the potential to affect it (16 U.S.C. 1801(b)(7)). The Magnuson-Stevens Act does not limit review of projects to fishing activities, but also includes non-fishing activities. Additional evidence of the intent of the Magnuson-Stevens Act to include non-fishing activities is in 16 U.S.C. 1855(b)(3), which states that councils may comment on and make recommendations to the Secretary and to any Federal or state agency concerning any activity authorized or proposed that may affect the habitat of a fishery resource under the council's authority.

Furthermore, the Magnuson-Stevens Act requires that councils identify, in their FMPs, potential adverse impacts to EFH and measures that will encourage the conservation and enhancement of EFH. Amendments 55/55/8/5/5, in compliance with the Magnuson-Stevens Act, identify both fishing and non-fishing activities that may adversely affect EFH for those species.

The regulatory relationship of NMFS to non-fishing interests is not the same as it is to fishing interests. NMFS regulates fishing activities in the EEZ, whereas EFH recommendations to a Federal agency on its non-fishing activities are advisory. Amendments 55/55/8/5/5 do not authorize NMFS or the Council to regulate non-fishing activities. The amendments identify and describe EFH for FMP-managed species, and Federal agencies are required to consult with NMFS on activities that may adversely affect EFH for those species. If the Secretary makes EFH conservation recommendations concerning an action that has been determined as likely to cause adverse impacts to EFH, the responsible Federal agency is required to consider the recommendations and respond in writing within 30 days of receiving them.

NMFS does not anticipate that approval of Amendments 55/55/8/5/5 will substantively alter NMFS' interactions with other Federal agencies. NMFS currently provides comments and conservation recommendations for non-fishing activities under various legislative mandates, including the Rivers and Harbors Act, the Clean Water Act, the National Environmental Policy Act (NEPA), the National Fish and Wildlife Coordination Act, the Federal Power Act, and others.

In response to the comment about Council expertise to handle EFH requirements under the Magnuson-Stevens Act, councils may comment on and make recommendations to the Secretary and any Federal or state agency on any activity that is, or is proposed to be, authorized, funded, or undertaken that, in the view of the Council, may affect EFH of a managed species. The Secretary appoints members of regional councils, including the North Pacific Fishery Management Council, on the basis of their expertise and knowledge of the fishery resources of their geographic area. The current structure of the councils is sufficient to meet the EFH consultation requirements of the Magnuson-Stevens Act. The Council and its staff have the requisite expertise to judge whether an action may have adverse impacts on EFH and to make recommendations regarding those impacts.

Comment 4. The amendments do not go far enough in meeting the EFH requirements of the Magnuson-Stevens Act in that they fail to adequately analyze adverse effects from fishing, fail to devise adequate conservation measures to minimize such effects, and fail to undertake an adequate cumulative impacts analysis. Additionally, specific habitat areas of particular concern (HAPCs) should have been identified. NMFS and the Council stopped too soon by broadly listing types of HAPCs, but not by identifying specific places where these types of habitats exist. Because of these failings, the relevant portions of the amendments should be disapproved.

Response: NMFS has determined that these amendments meet statutory and regulatory requirements for incorporating information identifying EFH and potential adverse effects on EFH from fishing activities. NMFS agrees that impacts from fishing, measures to mitigate adverse impacts from fishing, and determining cumulative impacts to EFH are all important components of the amendments. These components will be expanded in future amendments to incorporate new information as it becomes available.

NMFS disagrees that parts of the amendments should be disapproved while further analysis is conducted and further mitigation measures developed. The amendments meet the EFH requirements, and by adopting them now, NMFS can address environmental concerns sooner than a partial approval would allow. NMFS and the Council have collated existing information, identified data gaps, and laid the groundwork for an ongoing process of further research. As further research is completed, the Council and NMFS will amend the FMPs to reflect new information, and it will be possible to undertake a more complex cumulative impacts analysis.

NMFS has recommended to the Council that the subject FMP amendments be considered a starting point, not an endpoint. Research on the effects of different kinds of fishing gear, mapping to better identify sensitive habitat, and additional analysis of cumulative impacts should be continued and strengthened, along with development of measures to mitigate harmful effects on habitat.

The FMPs have already set into motion the process of ensuring that understanding and protection of EFH will continue. The FMPs now require that (1) the annual review of existing and new EFH information be conducted during the annual Stock Assessment and Fishery Evaluation Report, (2) the Council utilize its annual FMP amendment cycle to solicit proposals on HAPCs and/or conservation and enhancement measures to minimize potential impacts from fishing, and (3) a complete review of all EFH components of each FMP be conducted once every 5 years.

NMFS will continue to work with the Council, as budget and staffing constraints allow, to identify HAPCs, and to further refine the criteria for identification of sites (see the EA, section 11.2). In the summer of 1998, the Council sought public proposals for HAPCs. The Council received six proposals, and the Council has requested technical support from NMFS to analyze some of them. The scientific fieldwork necessary to support HAPC designations cannot be conducted instantaneously; it will require a period of years. That is why NMFS developed criteria for identifying HAPCs, rather than attempting at this time, with insufficient information, to specify them geographically.

Comment 5: The EA is inconsistent with national standard 2 of the Magnuson-Stevens Act, which requires that conservation and management measures be based upon the best

scientific information available. The EFH amendments do not take into account the requirements of the Alaska Forest Resources and Practices Act and other protective laws and measures that must be followed by developers. The EA does not appear to recognize recent research and literature documenting the effectiveness of such practices.

In particular, Amendment 5 to the salmon FMP identifies all resource development projects, large and small, as "non-fishing related activities that may adversely affect EFH" and as "non-fishing threats to EFH." However, none of the references provided in support of identification of potential non-fishing threats to salmon EFH is less than 10 years old.

Regarding Amendments 55 and 55 to the two groundfish FMPs, commentors assert that current protective management practices are ignored in reaching conclusions regarding potential adverse effects on EFH. Such activities as timber harvests and impoundments are identified as potential threats to EFH for marine species such as groundfish, which do not use freshwater or estuary habitat. Again, few of the references listed as support for these generic conclusions are less than 10 years old.

Response: Scientists from NMFS's Alaska Fisheries Science Center were included in the development of the EFH amendments, and the description and identification of EFH is based on their knowledge of the current available science. Some of these NMFS scientists are noted for their expertise on logging issues and have been primary authors on research that led to the adoption of current forest practices legislation in Alaska. They are aware of current forest practices statutes and standards, including the Alaska Forest Resources and Practices Act and the Tongass Timber Reform Act, and they used this knowledge in identifying non-fishing activities that may affect EFH and in identifying conservation and enhancement measures.

Potential threats to habitat exist even with current forest management practices. The absence of some current literature citations in the EA and the salmon EFH amendment language may have been an oversight. However, including those citations would not affect the amendments' identification and description of EFH and the potential threats to it. The substantive information from that literature was considered in the development and approval of Amendments 55/55/8/5/5, and their omission from the list of cited literature is not sufficient grounds for disapproval of the amendments.

NMFS disagrees with the comment that groundfish do not use freshwater or estuarine habitat. Marine species such as eulachon, capelin, herring, sandlance, crab, sablefish, juvenile rockfish, Pacific cod, and English sole utilize freshwater and/or estuarine habitat during some part of their life cycles. Upland development activities may impact EFH for these species, and identifying such potential threats in the groundfish and crab FMPs is, therefore, relevant.

NMFS views the identification and description of EFH and the development of measures to safeguard it as an evolving process, and will continue to use the best available science to make improvements in the EFH amendments to the FMPs. To that end, the FMPs will be updated to include any important citations that may have been inadvertently omitted. Information on current industry standards and practices, such as those required by the Alaska Forest Resources and Practices Act, will be more explicitly incorporated into the non-fishing threats sections of the FMPs.

Comment 6: The EA is inconsistent with national standard 7 of the Magnuson-Stevens Act, which requires that conservation and management measures, where practicable, minimize costs and avoid unnecessary duplication. The inter-agency consultations required for activities that might affect EFH add a redundant layer of bureaucracy to the regulatory process with which non-fishing industries must already comply. The process will be cumbersome and unworkable, and unnecessary costs will accrue to a huge range of non-fishing entities. One letter stated, "This creates yet another program that, as best we can tell, adds nothing and duplicates other Federal and State programs all designated to protect habitat and water quality."

Response: Because the EA is an analytical document prepared under NEPA, it does not have to be consistent with national standard 7 of the Magnuson-Stevens Act. NMFS has determined that the EFH amendments are consistent with the Magnuson-Stevens Act, including national standard 7. Inter-agency consultations on Federal or State activities that may adversely affect EFH are required by the Magnuson-Stevens Act; they are not an optional aspect of the EFH amendments for any of the eight regional fishery management councils. Section 305(b)(2) of the Magnuson-Stevens Act states: "Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act."

Existing Federal statues, such as the Fish and Wildlife Coordination Act, the Endangered Species Act, and NEPA, already require consultation or coordination between NMFS and other Federal agencies. The EFH consultations will not be duplicative, as they will be subsumed to the greatest extent possible under an existing review process and within existing process time frames. The regulatory guidelines at 50 CFR part 600 suggest that NMFS be consulted as early as possible in project planning so that appropriate conservation measures can minimize the potential for adverse effects to EFH. The EFH amendments contain conservation recommendations that are appropriate for many Federal actions, and they can also serve as guidelines that should be considered during project planning.

NMFS does not agree that the EFH requirements merely add redundancy to an already overburdened regulatory system. The Sustainable Fisheries Act of 1996, amending the Magnuson-Stevens Act, was adopted after years of public criticism that the Federal Government was failing in its responsibility to adequately protect the Nation's fishery resources from unacceptable stock decreases due to overfishing and habitat degradation. The EFH requirements were meant to address the second of those concerns.

Comment 7: The EFH amendments fail to meet NEPA and Regulatory Flexibility Act (RFA) requirements. The EA is inadequate as a NEPA document, as it contains the unsupported conclusion that modification or relocation of non-fishing activities may result in short-term costs to users, but will result in long-term benefits to the economy. The assertion in the EA that the action proposed "is simply to describe and identify EFH for FMP species, which in and of itself will have no economic impact," is erroneous. The costly and delay-generating EFH consultation process will have significant socioeconomic, physical, and biological effects, which must be addressed in order to comply with NEPA. The effects on the human environment of the pervasive and cumbersome EFH program reflected in the proposed amendments are potentially huge and should be addressed in an Environmental Impact Statement.

Furthermore, the amendments do not incorporate any analysis of impacts on small entities and are not in compliance with the RFA and applicable executive orders.

Response: The analytical requirements of the RFA apply only to regulatory actions for which notice and comment rulemaking is required under the Administrative Procedure Act or other statute. If the action does not require notice and comment rulemaking, no further analysis is needed. Because there was no requirement for a proposed rule to implement Amendments 55/55/8/5/5, the analytical requirements of the RFA did not apply. During the EFH consultation process, NMFS will provide EFH conservation recommendations to other Federal or State agencies. The action agency will consider the recommendations in its decision making process and then decide whether it will impose any requirements on the entity seeking a permit or license. That is the point at which the action agency might be required to prepare an RFA analysis.

NMFS disagrees with the comment concerning the adequacy of the EA prepared for the EFH amendments. As stated in the EA, the EFH FMP amendments describe and identify EFH for all FMP-managed species off Alaska and include discussions of impacts on EFH from fishing and non-fishing activities, EFH research and information needs, and review and revision schedules for EFH components of the FMPs. These discussions, as approved, will be incorporated into the five Alaska FMPs. The EFH FMP provisions that were approved have no regulatory effect on fishing or non-fishing interests. A Finding of No Significant Impact for the EFH amendments is appropriate.

NMFS also disagrees with the commenter's predictions of costly delays. As previously mentioned in the response to Comment 6, EFH consultations will in most cases be combined with existing consultations that are required by NEPA and by other laws. NMFS recognizes that changes to a Federal action agency's proposal as a result of an EFH recommendation may generate costs or require additional analyses under such applicable Federal laws as NEPA or the RFA. However, the coordination, consultation, and recommendation process itself will not automatically impose additional restrictions, because NMFS' EFH conservation recommendations are not mandatory, and because NMFS has no authority to stop a project based on adverse effects on EFH.

Comment 8: The amendments include no apparent meaningful threshold of significance or way of gauging the likelihood of adverse effect on EFH, which would enable the Council, NMFS, and non-fishing entities to focus on activities with the potential for substantial harm to Council-managed fisheries. Blanket presumptions subject all types of coastal and inland developments or land use activities to cumbersome EFH consultations.

Response: "Adverse effects," as defined at § 600.810 of this title, means any impact which reduces the quality and/or quantity of EFH. Adverse effects may include, for example, direct effects through contamination or physical disruption, indirect effects such as loss of prey or reduction in species fecundity, and site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions. Only actions which have a reasonably foreseeable adverse effect require consultation. Thus, NMFS must comment on Federal or State actions that take place within riparian areas or hydrological basins only if they have a reasonably foreseeable impact on EFH. Furthermore, the regulations provide for streamlined consultation procedures, such as general concurrences and abbreviated consultations, that may be used when the activities at issue do not have the potential to cause substantial adverse effects on EFH.

Comment 9: NMFS should not finalize these amendments until the interim final rule is finalized. Amending FMPs to incorporate EFH in advance of that action would require redoing the process later, and would likely lead only to further disagreement and confusion in the meantime.

Response: The interim final rule has the effect of a final rule. As mentioned in the response to Comment 4, Amendments 55/55/8/5/5 all require periodic reviews of new and existing EFH information. Any updates necessary after the rule is finalized can be accomplished through this review process.

Comment 10: The State expressed "guarded support" of the amendments, but was concerned about the lack of information about the scope and mechanics of EFH coordination and consultations.

Response: NMFS has held meetings with representatives of several State agencies to work out procedures for coordination on EFH consultations, and will continue to schedule meetings as needed.

Comment 11: The U.S. Coast Guard commented that it will evaluate its activities for possible impacts once HAPCs are identified.

Response: NMFS will provide the U.S. Coast Guard with technical guidance on EFH consultation procedures.

Comment 12: NMFS is to be commended for tackling a difficult task by compiling and organizing the information contained in the amendments. The commentors support the goal of conserving and enhancing essential fish habitat, and were generally complimentary in terms of the hard work that went into the development of the EFH FMPs despite reservations covered in preceding comments and responses.

Response: NMFS appreciates constituent support in this important and challenging endeavor, and looks forward to working with all parties to make improvements.

Comment 13: The requirement in the NOA that comments be received by NMFS by the end of the comment period, and not simply postmarked by then, is unfair.

Response: NMFS understands that the EFH amendments and EA were lengthy and may have been difficult to review thoroughly within the 60-day comment period. In accordance with the Magnuson-Stevens Act requirements at section 304(a), NMFS must affirmatively approve, disapprove, or partially approve an FMP or FMP amendment within 30 days of the end of a comment period. NMFS typically needs the full 30 days to review public comments received and to complete the internal review and decision making process, particularly when the FMP or FMP amendment is complex and lengthy, as was the case with Amendments 55/55/8/5/5. NMFS asks that comments be received by the end of the comment period, so that they can be reviewed and considered during the decision making process.

Dated: April 20, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10408 Filed 4–23–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 79
Monday, April 26, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AH81

Prevailing Rate Systems; Changes in Federal Wage System Survey Jobs

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing a proposed rule that would change the Helper (Trades) WG–5 appropriated fund Federal Wage System survey job from required to optional, add the word "Heavy" to the name of the Janitor WG–2 FWS survey job, change the title of the Warehouseman WG–5 survey job to Warehouse Worker WG–5, and remove the Boiler Plant Operator WG–9 survey job from the list of optional survey jobs. These changes are being made to make Federal Wage System survey jobs more useful survey tools for local wage surveys.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Mark A. Allen, (202) 606–2848, FAX: (202) 606–0824, or email to maallen@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is engaged in an ongoing project to review the survey job descriptions used by Federal agencies during Federal Wage System (FWS) local wage surveys to determine prevailing rates of pay for FWS employees. The FWS is the pay system for the Federal Government's blue-collar workforce.

As a result of this review, OPM proposes to change the Helper (Trades) WG–5 appropriated fund FWS survey job from required to optional. In the past, the Helper (Trades) WG–5 survey job has produced adequate data for use in calculating FWS pay rates in only about one-quarter of the appropriated fund FWS wage areas. Because of this, OPM proposes that its use become optional rather than required. In addition, OPM proposes that the word "Heavy" be added to the title of the Janitor WG–2 appropriated fund FWS survey job and that the Warehouseman WG–5 survey job title be changed to Warehouse Worker WG–5. These changes would better distinguish the Janitor WG–2 survey job from the Janitor (Light) WG–1 survey job and modernize the Warehouseman WG–5 survey job title. Finally, OPM proposes that the Boiler Plant Operator WG–9 survey job be removed from the list of optional survey jobs. The Boiler Plant Operator WG–10 survey job would remain an optional survey job. This change is proposed because only 0.5 percent of FWS employment in WG–9 positions is represented by this survey job and because matching private sector jobs only at the WG–10 journey level would be more consistent with the other survey jobs used in FWS wage surveys. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has reviewed and concurred by consensus with these changes.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.
Janice R. Lachance,
Director.

Accordingly, the Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

§ 532.217 [Amended]

2. In Section 532.217, paragraph (a) is amended by adding the word "(Heavy)" after the job title "Janitor", by removing the job title "Warehouseman" and replacing it with "Warehouse Worker", by removing the job title and job grade for "Helper (Trades)" and adding it in grade order to paragraph (c), and amending paragraph (c) by removing the job title "Boiler Plant Operator" and job grade "9".

[FR Doc. 99–10401 Filed 4–23–99; 8:45 am]
BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–125–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Model 182S Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The document proposes to supersede Airworthiness Directive (AD) 98–13–10, which currently requires repetitively inspecting all engine exhaust muffler end plates (four total) for cracks on all Cessna Aircraft Company (Cessna) Model 182S airplanes, and replacing any muffler where an end plate is found cracked. AD 98–13–10 also requires fabricating and installing a placard that specifies immediately inspecting all engine exhaust muffler end plates any time the engine backfires upon start-up. The

proposed AD is the result of Cessna developing an improved design exhaust system for the Model 182S airplanes. The proposed AD would retain the actions of AD 98–13–10 on all affected airplanes, and would require replacing the exhaust system with an improved design exhaust system within a certain period of time, as terminating action for those requirements retained from AD 98–13–10. The proposed AD would also limit the effectivity to not include those airplanes manufactured with the improved design exhaust system. The actions specified by the proposed AD are intended to detect and correct damage to the engine exhaust mufflers caused by cracking and the high stresses imposed on the attachment of the exhaust at the area of the firewall, which could result in exhaust gases entering the airplane cabin with consequent crew and passenger injury.

DATES: Comments must be received on or before June 25, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–125–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Pendleton, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4143; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–125–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this MPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–125–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 98–13–10, Amendment 39–10598 (63 FR 32973, June 17, 1998), currently requires the following on all Cessna Model 1825 airplanes:

—Repetitively inspecting all engine exhaust muffler end plates (four total) for cracks;
—Replacing any muffler where an end plate is found cracked; and
—Fabricating and installing a placard that specifies immediately inspecting all engine exhaust muffler end plates any time the engine backfires upon start-up.

Actions Since Issuance of Previous Rule and Relevant Service Information

Cessna has developed a new exhaust system muffler that, when incorporated, would eliminate the need for the repetitive inspection required by AD 98–13–10.

Cessna Service Bulletin SB98–78–03, dated December 14, 1998, includes procedures for installing this improved design exhaust system muffler.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service information, the FAA has determined that AD action should be taken to detect and correct damage to the engine exhaust mufflers caused by cracking and the high stresses imposed on the attachment of the exhaust at the area of the firewall, which could result in exhaust gases entering the airplane cabin with consequent crew and passenger injury.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Cessna Model 182S airplanes of the same type design, the proposed AD would supersede AD 98–13–10. The proposed AD would retain the actions of AD 98–13–10 on all affected airplanes, and would require replacing the exhaust system with an improved design exhaust system within a certain period of time, as terminating action for the actions retained from AD 98–13–10. The proposed AD would also limit the effectivity to not include those airplanes manufactured with the improved design exhaust system. Accomplishment of the proposed replacement would be required in accordance with Cessna Service Bulletin SB98–78–03, dated December 14, 1998.

Cost Impact

The FAA estimates that 150 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $9,000, or $60 per airplane. These figures only take into account the cost of the proposed initial inspection and do not take into account the costs of any repetitive inspections or replacements needed if cracks were found.

The inspection cost of the proposed AD is the same as that presented in AD 98–13–10. Therefore, the proposed AD imposes no inspection cost impact on U.S. operators of the affected airplanes over that already required in AD 98–13–10.

The FAA estimates that it would take approximately 4 workhours per airplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $463 per muffler assembly (2 required) per airplane. Based on these figures, the total cost impact of the proposed replacement on U.S. operators is estimated to be $174,900, or $1,166 per airplane.

Parts credit and labor allowance credit for the actions proposed in this NPRM may be obtained by submitting the appropriate paperwork to Cessna before June 14, 1999. Any removed

mufflers should be returned with the paperwork.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, or a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contracting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 98–13–10, Amendment 39–10598, and by adding a new AD to read as follows:

Cessna Aircraft Company: Docket No. 98–CE–125–AD; Supersedes AD 98–13–10, Amendment 39–10598.

Applicability: Model 182S airplanes, serial numbers 18280001 through 18280286, certified in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect and correct damage to the engine exhaust mufflers caused by cracking and the high stresses imposed on the attachment of the exhaust at the area of the firewall, which could result in exhaust gases entering the airplane cabin with consequent crew and passenger injury, accomplish the following:

(a) Within 5 days after the effective date of this AD, unless already accomplished (compliance with AD 98–13–10), accomplish the following:

(1) Fabricate a placard that specifies immediately inspecting all engine exhaust muffler end plates when the engine backfires upon start-up, and install this placard on the instrument panel within the pilot's clear view. The placard should utilize letters of at least 0.10-inch in height and contain the following words:

"If the engine backfires upon start-up, prior to further flight, inspect and replace (as necessary) all engine exhaust muffler end plates."

(2) Insert a copy of this AD into the Limitations Section of the airplane flight manual (AFM).

(b) Within 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (compliance with AD 98–13–10), and thereafter at intervals not to exceed 25 hours TIS after each inspection (including any inspection accomplished after an engine backfire) until the replacement required by paragraphs (b)(1) and (d) of this AD are accomplished, inspect all engine exhaust muffler end plates (four total) for cracks on the forward (upstream) or aft (downstream) end of each muffler can.

(1) Prior to further flight, replace any engine exhaust muffler where an end plate is found cracked with one of improved design, part number (P/N) 1254017–19 or P/N 9954200–9 (or FAA-approved equivalent part number). Accomplish these replacements in accordance with Cessna Service Bulletin SB98–78–03, dated December 14, 1998.

(2) This replacement terminates the repetitive inspection required by this AD for that particular engine exhaust muffler. The repetitive inspections would still be required for any other engine exhaust muffler not replaced with the improved design parts.

(3) The placard requirements of this AD are still required until all engine exhaust system mufflers are replaced with the improved design parts.

Note 2: Cessna Service Bulletin SB98–78–02, Issued: June 6, 1998, depicts the area to be inspected. The actions of this service bulletin are different from those required by this AD. This AD takes precedence over the actions specified in this service bulletin. Accomplishment of Cessna Service Bulletin SB98–78–02, Issued: June 6, 1998, is not considered an alternative method of compliance to the actions of this AD.

(c) Fabricating and installing the placard and inserting this AD into the Limitations Section of the AFM, as required by paragraph (a) of this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(d) Within 12 calendar months after the effective date of this AD, replace the engine exhaust mufflers with ones of improved design, part number (P/N) 1254017–19 or P/N 9954200–9 (or FAA-approved equivalent part number). Accomplish these replacements in accordance with Cessna Service Bulletin SB98–78–03, dated December 14, 1998.

(1) These replacements terminate the repetitive inspection and placard requirements of this AD, as specified in paragraphs (a) and (b), including all subparagraphs, of this AD.

(2) The replacements may be accomplished prior to 12 calendar months after the effective date of this AD, as terminating action for the repetitive inspection and placard requirements of this AD.

(e) As of the effective date of this AD, no person may install, on any affected airplane, an engine exhaust muffler that is not of improved design, P/N 1254017–19 or P/N 9954200–9 (or FAA-approved equivalent part number).

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) Alternative methods of compliance approved in accordance with AD 98–13–10 are not considered approved as alternative methods of compliance for this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(h) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(i) This amendment supersedes AD 98–13–10, Amendment 39–10598.

Issued in Kansas City, Missouri, on April 20, 1999.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10348 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–21–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, and –200C series airplanes. This proposal would require inspections to detect corrosion and cracking of the inboard track of each outboard flap where the track attaches to the rear spar, and repair, if necessary. For certain airplanes, this proposal also provides for optional terminating action for the repetitive inspections required for those airplanes. This proposal is prompted by several reports of cracking of the inboard track of the outboard flap. The actions specified by the proposed AD are intended to detect and correct corrosion and cracking of the inboard track of the outboard flap, which could result in loss of the outboard trailing edge flap and consequent reduced controllability of the airplane.

DATES: Comments must be received by June 10, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–21–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–21–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–21–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that cracking of the inboard track of the outboard flap where the track attaches to the rear spar has been found on several airplanes. Such cracking has been attributed to stress corrosion. Corrosion in that area can be accelerated if a phenolic rub strip is installed at the interface between the flap track and wing skin. (The rub strip is intended to protect the surface of the wing skin from abrasion.) The phenolic rub strip may draw moisture into the interface, which could result in corrosion. Also, inadequate clamp-up of the attachment bolts can make the area where the flap track attaches to the rear spar more vulnerable to moisture absorption and, consequently, to corrosion. Such corrosion, if not corrected, could result in cracking of the inboard flap track, which could result in loss of the outboard trailing edge flap and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 737–57–1065, Revision 3, dated December 17, 1982. That service bulletin describes, among other things, procedures for a preventive modification of the interface between the inboard track of the outboard flap and the rear spar. The modification involves replacing the existing rub strip with an aluminum rub strip; replacing the existing shim, if necessary; and replacing certain attachment bolts with new attachment bolts. Accomplishment of the modification specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require, for certain airplanes, repetitive visual inspections to detect corrosion, and repetitive high frequency eddy current (HFEC) inspections to detect cracking, of the inboard track of each outboard flap where the track attaches to the rear spar, and repair, if necessary. For certain other airplanes, the proposed AD would require a one-time visual inspection to detect corrosion, and a one-time HFEC inspection to detect cracking, of the inboard track of each outboard flap where the track attaches to the rear spar, and repair, if necessary. The HFEC inspections would be required to be accomplished in accordance with the Boeing 737 Nondestructive Test Manual.

For certain airplanes, the proposed AD also provides an optional terminating action for the repetitive inspection requirement. This action would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Differences Between the Service Bulletin and the Proposed AD

Boeing Service Bulletin 737–57–1065, Revision 3, describes visual inspections of the outboard flap to detect looseness, gaps, and missing or damaged rub strips and shims. Operators should note that the proposed AD would not require these inspections. This decision is based on the fact that the intent of this proposed AD is to detect and correct corrosion and cracking of the inboard track of the outboard flap where the track attaches to the rear spar. The FAA finds that the visual inspections described in the service bulletin were not intended to detect corrosion or cracks, and therefore may not ensure that any corrosion or cracking is detected in a timely manner. Therefore, this proposed AD would require repetitive visual inspections to detect corrosion, and repetitive HFEC inspections to detect cracking, of the inboard track of each outboard flap in order to ensure that any corrosion cracking is detected in a timely manner.

In addition, the service bulletin describes a one-time visual inspection to determine if the inboard attachment bolt holes are aligned properly. Operators should note that this proposed AD does not require that inspection because the FAA finds that it is not relevant to detection of cracks.

Operators also should note that, although the actions described in the service bulletin are specified for both the inboard and outboard tracks of each outboard flap, this proposed AD is applicable only to the inboard track of each outboard flap. This decision is based upon the fact that the inboard track of the outboard flap is more heavily loaded than the outboard track, and corrosion cracking has been reported only on the inboard track.

Operators also should note that the effectivity listing of the service bulletin specifies only Boeing Model 737 series airplanes having line numbers (L/N) 1 through 869 inclusive. This AD is applicable to Boeing Model 737–100, –200, and –200C series airplanes having L/N's 1 through 869 inclusive; as well as Boeing Model 737–100, –200, and –200C series airplanes having L/N's 870 through 1585 inclusive, on which the #2 or #7 flap track has been replaced with a part having certain Boeing part numbers. The subject flap tracks may have been removed from an airplane having a L/N 1 through 869 and re-installed, without being inspected, on another airplane having a L/N 870 through 1585. Therefore, to ensure that cracking on the subject flap tracks is detected in a timely manner, the FAA finds it necessary to expand the applicability of this AD by mandating one-time inspections of airplanes with L/N's 870 through 1585 inclusive on which certain flap tracks have been installed.

Cost Impact

There are approximately 1,020 airplanes of the affected design in the worldwide fleet. The FAA estimates that 394 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 16 work hours per airplane to accomplish the proposed inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $378,240, or $960 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 96 work hours to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $548 per airplane. Based on these figures, the cost impact of the optional terminating action would be $6,308 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 99–NM–21–AD.

Applicability: Model 737–100, –200, and –200C series airplanes, line numbers (L/N) 1 through 869 inclusive; and Model 737–100, –200, and –200C series airplanes, L/N 870 through 1585 inclusive, on which the #2 or #7 flap track has been replaced with a part having a part number (P/N) listed in Table 1 of this AD; certificated in any category.

TABLE 1.—BOEING FLAP TRACKS SUBJECT TO THIS AD

Name	Part No.
Boeing	65–67158–2
	65–67158–3
	65–46428–2
	65–46428–3
	65–46428–5
	65–46428–7
	65–46428–9
	65–46428–11
	65–46428–15
	65–46428–17
	65–46428–19
	65–46428–21
	65–46428–23
	65–46428–25
	65–46428–27
	65–46428–33

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been

eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion or cracking of the inboard track of each outboard flap where the track attaches to the rear spar, which could result in loss of the outboard trailing edge flap and consequent reduced controllability of the airplane, accomplish the following:

Inspections

(a) Within 18 months after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Perform a detailed visual inspection to detect corrosion on the surface and edges of the inboard track of each outboard flap where the track attaches to the rear spar.

(2) Perform a high frequency eddy current (HFEC) inspection to detect cracking on the surface and edges of the inboard track of each outboard flap where the track attaches to the rear spar, in accordance with Subject 51–00–00, Figure 13, of the Boeing 737 Nondestructive Test (NDT) Manual (Boeing Document D6–37239); and remove the attachment bolts and perform an open-hole HFEC inspection of the bolt holes for cracking, in accordance with Subject 51–00–00, Figure 2 or 19, of the Boeing 737 NDT Manual.

(b) For airplanes having L/N 1 through 869 inclusive, on which no corrosion or cracking is detected during the inspections required by paragraph (a) of this AD: Prior to further flight, re-install the attachment bolts. Repeat both inspections thereafter at intervals not to exceed 18 months.

(c) For airplanes having L/N 870 through 1585 inclusive, on which replacement flap tracks are installed, and on which no corrosion or cracking is detected during the inspections required by paragraph (a) of this AD: No further action is required by this AD.

Repair

(d) If any corrosion or cracking is detected during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, as required by this paragraph, the approval letter must specifically reference this AD.

Optional Terminating Action

(e) Modification of the interface between the inboard track of each outboard flap and the rear spar in accordance with Boeing Service Bulletin 737–57–1065, Revision 3, dated December 17, 1982, constitutes terminating action for the repetitive inspection requirement of paragraph (b) of this AD.

Alternative Methods Of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 20, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10347 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–133–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), which would have superseded an existing AD that is applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. The existing AD currently requires an inspection of reworked aileron/elevator power control units (PCU's) and rudder PCU's to determine if reworked PCU manifold cylinder bores containing chrome plating are installed, and replacement of the cylinder bores with bores that have been reworked using the oversize method or the steel sleeve method, if necessary. This action, among other items, revises the previously proposed rule by expanding the applicability of the existing AD to include airplanes equipped with certain rudder PCU's. The actions specified by this new proposed AD are intended to prevent a reduced rate of movement of the elevator, aileron, or rudder due to contamination of hydraulic fluid from chrome plating chips; such reduced rate of movement, if not corrected, could result in reduced controllability of the airplane.

DATES: Comments must be received by May 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–133–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Don Kurle, Senior Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2798; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket Number 97–NM–133–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–133–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on February 19, 1998 (63 FR 8369). That NPRM would have superseded AD 97–09–14, amendment 39–10010 (62 FR 24008, May 2, 1997), to continue to require an inspection of reworked aileron/elevator power control units (PCU's) and rudder PCU's to determine if reworked PCU manifold cylinder bores containing chrome plating are installed, and replacement of the cylinder bores with bores that have been reworked using the oversize method or the steel sleeve method, if necessary. That NPRM would have expanded the applicability of the existing AD to include airplanes equipped with rudder PCU's having part number (P/N) 65C37052–(). That NPRM also would have revised the existing AD to exclude rudder PCU's (in addition to aileron/elevator actuators) having serial numbers that contain "ss" from the requirements of the proposed AD. That NPRM was prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified in that NPRM were intended to prevent a reduced rate of movement of the elevator, aileron, or rudder due to contamination of hydraulic fluid from chrome plating chips; such reduced rate of movement, if not corrected, could result in reduced controllability of the airplane.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the NPRM.

Two commenters support the proposed rule.

Requests To Add a Certain Rudder PCU to the Requirements of the Proposed AD

Several commenters state that rudder PCU's having P/N 65C37053-( ) are subject to the identified unsafe condition, and therefore, should be included in the applicability statement and paragraphs (d) and (f) of the proposed AD. The commenters note that AD 97–14–04, amendment 39–10061 (62 FR 35068, June 30, 1997), requires replacement of rudder PCU's having P/N 65C37052-( ) with PCU's having P/N 65C37053-( ). The commenters point out that PCU's having P/N 65C37053-( ) are upgraded from the same base PCU as the PCU's having P/N 65C37052-( ). The FAA concurs. The FAA inadvertently omitted PCU, P/N 65C37053-( ), from the requirements of the proposed AD. Therefore, the FAA has revised the applicability statement and paragraphs (d) and (f) of the supplemental NPRM accordingly.

Request To Allow Replacement With New Manifolds

One commenter requests that the FAA revise paragraphs (b) and (e) of the proposed AD to allow PCU manifolds containing chrome plated cylinder bores to be replaced with new manifolds, in addition to bores that have been reworked using the oversize method or the steel method. The commenter states that the original equipment manufacturer has not produced PCU manifolds with chrome plated cylinder bores since 1985. The FAA concurs. The FAA has confirmed with Boeing that manifolds with chrome plated bores have not been produced since 1985. Therefore, the FAA has revised the requirements of paragraphs (b) and (e) of the supplemental NPRM to include an option of replacing the cylinder bores containing chrome plating with PCU manifold cylinder bores that were manufactured after December 31, 1985, in lieu of replacing the cylinder bores that have been reworked using the oversize method or steel sleeve method. In addition, the proposed requirements of those paragraphs have been revised to allow operators to replace the rudder, aileron, or elevator PCU with a certain PCU, as applicable.

Request To Delete Reference to Incorrect Service Letter

One commenter requests that the sentence "accomplish the replacement in accordance with the service letter" be deleted from paragraphs (b) and (e) of the proposed AD. The commenter states the Boeing Service Letter 737–SL–27–30, dated April 1, 1985, does not contain any replacement instructions. The commenter contends that the service letter recommends the removal of the chrome bores and advises of alternative repair methods.

The FAA concurs partially. The FAA acknowledges that the subject service letter does not contain replacement procedures for accomplishment of the requirements of paragraphs (b) and (e) of the AD. The FAA has consulted with Boeing and determined that the following chapters of the Boeing 737 Airplane Maintenance Manual (AMM) contain the appropriate procedures for accomplishment of the actions specified in paragraphs (b) and (e) of this AD:

- Chapter 27–11–71 (for Model 737–100, –200, –300, –400, and –500 series airplanes) for replacement of the aileron PCU;
- Chapter 27–31–101 (for Model 737–100 and –200 series airplanes), and Chapter 27–31–14 (for Model 737–300, –400, and –500 series airplanes) for replacement of the elevator PCU; and
- Chapter 27–21–91 (for Model 737–100, –200, –300, –400, and –500 series airplanes) for replacement of the rudder PCU.

Therefore, the FAA has revised paragraphs (b) and (e) of the supplemental NPRM to reference these chapters of the AMM as the appropriate sources of service information for accomplishment of the actions specified in paragraphs (b)(1), (b)(2), (b)(3), (e)(1), and (e)(2), as applicable.

Requests To Accept Previously Approved Alternative Method of Compliance (AMOC)

Two commenters request that the inspection method specified in Boeing Service Letter 737–SL–27–120, dated January 28, 1998, be considered acceptable for compliance with the inspection requirements of paragraphs (a) and (d) of the proposed AD. One of these commenters states that the FAA approved this inspection method as an AMOC in accordance with AD 97–09–14. The other commenter states that the subject inspection method can be accomplished without removing the PCU's from the airplanes and disassembling them. The FAA concurs with the commenters' request. The FAA has added a new paragraph (g)(2) to the supplemental NPRM to include a statement that reflects this point.

Conclusion

Since some of these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 2,675 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA

estimates that 1,091 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 97–09–14, and retained in this proposed AD, take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $327,300, or $300 per airplane.

The new actions that are proposed in this AD action would take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $300 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10010 (62 FR 24008, May 2, 1997), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 97–NM–133–AD. Supersedes AD 97–09–14, Amendment 39–10010.

Applicability: Model 737–100, -200, -300, -400, and -500 series airplanes, certificated in any category; equipped with the following power control units (PCU):

- a rudder PCU, having part number (P/N) 65–44861-( ), P/N 65C37052-( ), or P/N 65C37053-( ) (except those having serial numbers that contain "ss"), and a serial number less than 1252A; or
- an aileron or elevator PCU having P/N 65–44761-( ) (except those having serial numbers that contain an "ss") and a serial number less than 5360A.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a reduced rate of movement of the elevator, aileron, or rudder, which, if not corrected, could result in reduced controllability of the airplane, accomplish the following:

(a) Perform an inspection of reworked or overhauled aileron and elevator PCU's having P/N 65–44761-( ) (except those having serial numbers that contain an "ss"), and a serial number less than 5360A; and rudder PCU's having P/N 65–44861-( ) and a serial number less than 1252A (except those having serial numbers that contain "ss"); to determine if reworked PCU manifold cylinder bores containing chrome plating are installed, in accordance with Boeing Service Letter 737-SL–27–30, dated April 1, 1985. Accomplish the inspection at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Within 5 years or 15,000 flight hours after June 6, 1997 (the effective date of AD 97–09–14, amendment 39–10010), whichever occurs first.

(2) At the next time the PCU is sent to a repair facility.

(b) If any reworked PCU manifold cylinder bores containing chrome plating are found to be installed during the inspection required by paragraph (a) of this AD: Prior to further flight, accomplish the actions specified in paragraph (b)(1), (b)(2), or (b)(3) of this AD in accordance with Chapter 27–11–71 (for Model 737–100, -200, -300, -400, and -500 series airplanes), Chapter 27–31–101 (for Model 737–100 and -200 series airplanes), or Chapter 27–31–14 (for Model 737–300, -400, and -500 series airplanes) of Boeing 737 Airplane Maintenance Manual (AMM); as applicable.

(1) Replace the cylinder bores with bores that were manufactured after December 31, 1985, or with bores that have been reworked using the oversize method or the steel sleeve method specified in Boeing Service Letter 737-SL–27–30, dated April 1, 1985.

(2) Replace the aileron or elevator PCU with a PCU containing the letters "ss" in its serial number or with a PCU having a serial number of 5306A or higher.

(3) Replace the rudder PCU with a PCU containing the letters "ss" in its serial number or with a PCU having a serial number of 1252A or higher.

(c) As of June 6, 1997, no person shall install a reworked PCU manifold cylinder bore containing chrome plating on an aileron or elevator PCU having P/N 65–44761-( ), or on a rudder PCU having P/N 65–44861-( ), on any airplane unless the cylinder bore has been reworked using the oversize method or the steel sleeve method specified in Boeing Service Letter 737-SL–27–30, dated April 1, 1985.

(d) Perform an inspection of reworked or overhauled rudder PCU's having P/N 65C37052-( ) or P/N 65C37053-( ) and a serial number less than 1252A (except those having serial numbers that contain "ss") to determine if reworked PCU manifold cylinder bores containing chrome plating are installed, in accordance with Boeing Service Letter 737-SL–27–30, dated April 1, 1985. Accomplish the inspection at the earlier of the times specified in paragraphs (d)(1) and (d)(2) of this AD.

(1) Within 5 years or 15,000 flight hours after the effective date of this AD, whichever occurs first.

(2) At the next time the PCU is sent to a repair facility.

(e) If any reworked PCU manifold cylinder bores containing chrome plating are found to be installed during the inspection required by paragraph (d) of this AD: Prior to further flight, accomplish the actions specified in paragraph (e)(1) or (e)(2) of this AD in accordance with Chapter 27–21–91 (for Model 737–100, -200, -300, -400, and -500 series airplanes) of Boeing 737 Airplane Maintenance Manual (AMM).

(1) Replace the cylinder bores with bores that were manufactured after December 31, 1985, or with bores that have been reworked using the oversize method or the steel sleeve method specified in Boeing Service Letter 737–SL–27–30, dated April 1, 1985.

(2) Replace the rudder PCU with a PCU containing the letters "ss" in its serial

number or with a PCU having a serial number of 1252A or higher.

(f) As of the effective date of this AD, no person shall install a reworked PCU manifold cylinder bore containing chrome plating on a rudder PCU having P/N 65C37052–( ) or P/N 65C37053–( ) on any airplane unless the cylinder bore has been reworked using the oversize method or the steel sleeve method specified in Boeing Service Letter 737–SL–27–30, dated April 1, 1985.

(g)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(g)(2) Alternative methods of compliance, approved previously in accordance with AD 97–09–14, amendment 39–10010, are approved as alternative methods of compliance with this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 20, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10346 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–07–AD]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Model S10–VT Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Stemme GmbH & Co. KG (Stemme) Model S10–VT sailplanes. The proposed AD would require modifying the wastegate control in order to eliminate heat damage. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent the wastegate control from malfunctioning because of heat damage, which could result in loss of automatic manifold pressure control and engine damage.

DATES: Comments must be received on or before May 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–07–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–07–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–07–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Stemme Model S10–VT sailplanes. The LBA reports instances of heat damage to the wastegate control cable with one malfunction of the wastegate control. This caused damage in the turbocharger pressure oil tubes and their mountings.

This condition, if not corrected in a timely manner, could result in loss of automatic manifold pressure control and engine damage.

Relevant Service Information

Stemme has issued Service Bulletin No. A31–10–034, Amendment 01.a, pages 3 and 4, dated July 24, 1998, which specifies procedures for modifying the wastegate control in order to eliminate heat damage.

The LBA classified this service bulletin as mandatory and issued German AD 1998–400, dated October 22,1998, in order to assure the continued airworthiness of these sailplanes in Germany.

The FAA's Determination

This sailplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or

develop in other Stemme Model S10-VT sailplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require modifying the wastegate control in order to eliminate heat damage. Accomplishment of the proposed action would be required in accordance with the service information previously referenced.

Cost Impact

The FAA estimates that 6 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 workhours per sailplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $150 per sailplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,340, or $390 per sailplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Stemme GMBH & Co. KG: Docket No. 99-CE-07-AD.

Applicability: Model S10-VT sailplanes, serial numbers 11–004 through 11–006 and 11–008 through 11–013, certificated in any category.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 3 calendar months after the effective date of this AD, unless already accomplished.

To prevent the wastegate control from malfunctioning because of heat damage, which could result in loss of automatic manifold pressure control and engine damage, accomplish the following:

(a) Modify the wastegate control in order to eliminate heat damage, in accordance with the Instructions section of Stemme Service Bulletin No. A31–10–034, Amendment 01.a, pages 3 and 4, dated July 24, 1998.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Stemme Service Bulletin No. A31–10–034, Amendment 01.a, dated July 24, 1998, should be directed to Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in German AD 1998–400, dated October 22, 1998.

Issued in Kansas City, Missouri, on April 19, 1999.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10311 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–06–AD]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASH 26E Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 98–09–09, which currently requires replacing the internal cooling air fan with a fan that incorporates a white impeller on all Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASH 26E sailplanes. The proposed AD would require inspecting the internal cooling air fan for damage, and replacing any fan that does not incorporate a black impeller with a fan that incorporates a black impeller either immediately or at a certain time period, depending on the results of the inspection. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent failure of the internal cooling system air fan caused by a certain design configuration of the impeller, which could cause the engine to overheat with possible engine failure.

DATES: Comments must be received on or before June 8, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–06–

AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–06–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–06–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 98–09–09, Amendment 39–10489 (63 FR 20308, April 24, 1998), currently requires replacing the internal cooling air fan with a fan that incorporates a white impeller, part number (P/N) R1K059, on all Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASH 26E sailplanes. Accomplishment of that action is required in accordance with Alexander Schleicher Technical Note No. 1, dated October 31, 1996; and Mid-West Engines Ltd. Service Bulletin No. 001, dated October 5, 1996.

AD 98–09–09 was a result of a report from the Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, that the impeller of the internal cooling air fan on the above-referenced sailplanes could slip and result in a reduction of pressure in the internal cooling system. The higher internal temperatures that will follow could cause the engine to overheat with possible engine failure.

Actions Since Issuance of Previous Rule

The LBA recently notified the FAA that an unsafe condition may exist on these Alexander Schleicher Model ASH 26E sailplanes. The LBA advises that the internal cooling air fan installed on the affected sailplanes as required by AD 98–09–09 incorporates a white impeller, P/N R1K059. This type of impeller was installed in one of the affected airplanes that had an in-flight malfunction. Research of this malfunction reveals that the design of the white impeller is not adequate and an improved design impeller should be installed.

This condition, if not corrected in a timely manner, could cause the engine to overheat with possible engine failure.

Relevant Service Information

Alexander Schleicher has issued Technical Note No. 5, dated July 23, 1998, which specifies procedures for inspecting the internal cooling air fan for damage. Mid-West Service Bulletin No. 02, dated November 13, 1997, includes procedures for replacing any fan that does not incorporate a black impeller, P/N R1K074, with a fan that incorporates a P/N R1K074 impeller.

The LBA classified this service bulletin as mandatory and issued German AD 1998–391, dated October 8, 1998, in order to assure the continued airworthiness of these sailplanes in Germany.

The FAA's Determination

This sailplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Alexander Schleicher ASH 26E sailplanes of the same type design registered in the United States, the FAA is proposing AD action to supersede AD 98–09–09. The proposed AD would require inspecting the internal cooling air fan for damage, and replacing any fan that does not incorporate a black impeller, P/N R1K074, with a fan that incorporates a P/N R1K074 impeller. The replacement would be accomplished either immediately or at a certain time period, depending on the results of the inspection.

Accomplishment of the proposed action would be required in accordance with the service information previously referenced.

Differences Between the Service Bulletin, the German AD, and This Proposed AD

Alexander Schleicher Technical Note No. 5, dated July 23, 1998, specifies inspecting the internal air cooling air fan prior to further flight, and German AD 1998–391, dated October 8, 1998, requires this inspection prior to further flight on sailplanes registered in Germany.

The FAA does not have justification to require this inspection prior to further flight. The FAA is proposing this inspection "within the next 30 calendar days after the effective date of the AD." The FAA is proposing the replacement "within the next 9 calendar months after the effective date of the AD", or if damage is found during the inspection, "prior to further flight."

Compliance Time of the Proposed AD

Although a damaged impeller blade is only unsafe while the affected sailplanes are in flight, the condition could occur at any time. For example, damage could occur on one sailplane with 25 hours time-in-service (TIS)

while not occurring on another until 250 hours TIS. This is due to different usage levels and the various ways sailplanes are operated and utilized. In addition, the average monthly usage of the affected sailplane ranges throughout the fleet. For example, one owner may operate the sailplane 25 hours TIS in one week, while another operator may operate the sailplane 25 hours TIS in one year. In order to assure that the unsafe condition is detected and corrected on all affected sailplanes in a timely manner without inadvertently grounding any affected sailplane, the FAA is proposing compliance based on calendar time instead of hours TIS.

Cost Impact

The FAA estimates that 9 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 14 workhours per sailplane to accomplish the proposed AD, and that the average labor rate is approximately $60 an hour. Parts are available from the manufacturer at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,560, or $840 per sailplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 98–09–09, Amendment 39–10489 (63 FR 20308, April 24, 1998), and by adding a new airworthiness directive (AD) to read as follows:

Alexander Schleicher Segelflugzeugbau:
Docket No. 99–CE–06–AD.

Applicability: Model ASH 26E sailplanes, all serial numbers, certificated in any category; that are equipped with an internal cooling system air fan that does not incorporate a black impeller, part number (P/N) R1K074.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the internal cooling system air fan caused by a certain design configuration of the impeller, which could cause the engine to overheat with possible engine failure, accomplish the following:

(a) Within the next 30 calendar days after the effective date of this AD, inspect the internal cooling air fan for damage in accordance with Alexander Schleicher Technical Note No. 5, dated July 23, 1998.

(b) Replace the internal cooling system air fan with a fan that incorporates a black impeller, P/N R1K074, at whichever of the compliance times below (paragraphs (b)(1) and (b)(2) of this AD) that applies. Accomplish this replacement in accordance with Mid-West Service Bulletin No. 02, dated November 13, 1997:

(1) Prior to further flight if damage is found in the internal cooling air fan during the inspection required by paragraph (a) of this AD; or

(2) Within the next 9 calendar months after the effective date of this AD if damage is not found during the inspection required by paragraph (a) of this AD.

(c) As of the effective date of this AD, no person may install, on any affected sailplane, an internal cooling system air fan that does not incorporate a black impeller, P/N R1K074, as specified in Mid-West Service Bulletin No. 02, dated November 13, 1997; and Alexander Schleicher Technical Note No. 5, dated July 23, 1998.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) Questions or technical information related to Alexander Schleicher Technical Note No. 5, dated July 23, 1998, should be directed to Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in German AD 1998–391, dated October 8, 1998.

Issued in Kansas City, Missouri, on April 19, 1999.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10312 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Chapter IX

[Docket No. FR–4459–N–03]

Section 8 Housing Certificate Fund Rule; Notice of Establishment of Negotiated Rulemaking Committee and Notice of First Meeting

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Establishment of Negotiated Rulemaking Advisory Committee and notice of first meeting.

SUMMARY: HUD announces the establishment of a negotiated

rulemaking advisory committee under the Federal Advisory Committee Act. The establishment of the committee is required by the Quality Housing and Work Responsibility Act of 1998, which requires issuance of regulations under the Negotiated Rulemaking Act of 1990. The purpose of the Committee is to discuss and negotiate a rule that would change the current method of distributing funds to public housing agencies (PHAs) for purposes of renewing assistance contracts in the tenant-based Section 8 program. The committee will consist of persons representing stakeholder interests in the outcome of the rule. This notice announces the committee members and the dates, location, and agenda for the first committee meeting.

DATES: The first committee meeting will be held on April 27 and 28, 1999. On both days, the meeting will begin at approximately 9:00 am and conclude at approximately 5:00 pm.

ADDRESSES: The first committee meeting will take place at the Hyatt Dulles Hotel (Concorde Ballroom), 2300 Dulles Corner Boulevard, Herndon, VA 22701.

FOR FURTHER INFORMATION CONTACT: Robert Dalzell, Senior Program Advisor, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4204, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–1380 (this telephone number is not toll-free). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 1998, the Congress enacted the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, 112 Stat. 2461) (the "1998 Act"). The 1998 Act made significant changes to HUD's public and assisted housing programs. These changes include the addition of a new section 8(dd) to the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

The new section 8(dd) specifies the method to be used by HUD in calculating assistance provided to public housing agencies (PHAs) to renew Section 8 tenant-based rental and voucher contracts. Specifically, section 8(dd) directs HUD to establish an allocation baseline amount of assistance (budget authority) to cover the renewals, and to apply an inflation factor (based on local or regional factors) to the baseline.

Section 556(b) of the 1998 Act requires HUD to implement section 8(dd) through notice not later than December 31, 1998, and to issue final regulations on this subject that are developed through the negotiated rulemaking process no later than October 21, 1999. On December 30, 1998, HUD issued Public and Indian Housing (PIH) Notice 98–65, which advised PHAs on how HUD is calculating the amount of assistance available for purposes of Section 8 tenant-based rental certificate and voucher contract renewals. On February 18, 1999 (64 FR 8188), HUD published a notice in the **Federal Register** providing, for the benefit of the public, the contents of PIH Notice 98–65.

On March 19, 1999 (64 FR 13531), HUD published a notice of intent to establish an advisory committee to discuss and negotiate a proposed rule that would implement new section 8(dd). The basic concept of negotiated rulemaking is to have the agency that is considering drafting a rule bring together representatives of affected interests for face-to-face negotiations that are open to the public. The give-and-take of the negotiation process is expected to foster constructive, creative and acceptable solutions to difficult problems. The March 19, 1999 notice: (1) Advised the public of HUD's intent to establish the negotiated rulemaking committee; (2) solicited public comments on the proposed membership of the committee; and (3) explained how persons could be nominated for membership on the committee.

II. The Negotiated Rulemaking Advisory Committee

This notice announces HUD's establishment of the Negotiated Rulemaking Advisory Committee on Section 8 Tenant-Based Contract Renewal Allocation. As noted above, the March 19, 1999 notice tentatively identified a list of possible interests and parties to be represented on the negotiated rulemaking committee, and requested public comment on the proposed committee membership. The public comment period on the March 19, 1999 notice closed on April 19, 1999. HUD has carefully considered the 10 comments received on the proposed committee membership.

The list of committee members includes representatives from PHAs, public interest groups, national/regional PHA associations, independent accounting firms, and HUD. Additionally, five members of the Consensus Building Institute, Inc. will serve as facilitators. The list of members for the Negotiated Rulemaking Advisory Committee on Section 8 Tenant-Based Contract Renewal Allocation is as follows:

Housing Agencies

1. Massachusetts Department of Housing and Community Development, Boston, MA
2. New Jersey Department of Community Affairs, Trenton, NJ
3. Southeastern Minnesota Multi-County Housing and Redevelopment Authority, Wabasha, MN
4. Oklahoma Housing Finance Agency, Oklahoma City, OK
5. Fort Worth Housing Authority, Fort Worth, TX
6. Minneapolis Metropolitan Council Housing and Redevelopment Agency, Saint Paul, MN
7. Santa Cruz County Housing Authority, Santa Cruz, CA
8. Burlington Housing Authority, Burlington, VT
9. Michigan State Housing Development Authority, Lansing, MI
10. New York City Housing Authority, NYC, NY
11. Atlanta Housing Authority, Atlanta, GA
12. Cincinnati Metropolitan Housing Authority, Cincinnati OH
13. Housing Authority of the City of Los Angeles, Los Angeles, CA
14. Stillwater Housing Authority, Stillwater, OK
15. Spokane Housing Authority, Spokane, WA
16. Jacksonville Housing Authority, Jacksonville, FL
17. FCHA, Bay County, FL
18. Alameda County Housing Authority, Alameda, CA
19. Housing Authority of New Orleans, New Orleans, LA
20. Stustman County Housing Authority, Stustman County, ND

Public Interest Groups

1. Center on Budget and Policy Priorities, Washington, D.C.
2. New Community Corporation, Newark, NJ
3. Disability Rights Action Coalition for Housing
4. Section 8 Residents Council of New Orleans, Inc., New Orleans, LA

Independent Accounting Firms

1. Fenton, Ewald & Associates, PC
2. Orion Consulting, Inc.

National/Regional PHA Associations

1. National Leased Housing Association (NLHA)
2. National Association of Housing and Redevelopment Officials (NAHRO)
3. Council of Large Public Housing Authorities (CLPHA)

4. Public Housing Authority Directors Association (PHADA)

Federal Government

1. U.S. Department of Housing and Urban Development

In addition to the list of committee members noted above, HUD has identified the following two organizations as possible alternate or additional members of the negotiated rulemaking committee:

1. Southeast Regional Section 8 Housing Association (SERSHA)
2. Richmond Better Housing Coalition, Richmond, VA

III. First Committee Meeting

The first meeting of the negotiated rulemaking committee will be held on April 27 and April 28, 1999. On both days, the meeting is expected to start at 9 am and run until approximately 5 pm. On both days, the meeting will take place at the Hyatt Dulles Hotel (Concorde Ballroom), 2300 Dulles Corner Boulevard, Herndon, VA 22701.

The agenda planned for the meeting includes: (1) orienting members to the negotiated rulemaking process; (2) establishing a basic set of understandings and ground rules (protocols) regarding the process that will be followed in seeking a consensus; and (3) discussion of the issues relating to the development of regulations implementing new section 8(dd).

The meeting will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the committee for its consideration. Written statements should be submitted to the address listed in the **FOR FURTHER INFORMATION** section of this document. Summaries of committee meetings will be available for public inspection and copying at the address in the same section.

In accordance with the General Services Administration (GSA) regulations implementing the Federal Advisory Committee Act, HUD normally publishes a **Federal Register** meeting document at least 15 calendar days before the date of an advisory committee meeting (see 41 CFR 105–54.301(i)). The GSA regulations, however, also provide that an agency may give less than 15 days document if the reasons for doing so are included in the **Federal Register** meeting document. (See 41 CFR 105–54.301(j).) Given the strict statutory deadline for implementation of new section 8(dd), HUD believes it is imperative that the negotiations for development of the regulations begin as soon as possible. Failure to publish the final rule on a timely basis will delay the provision of Section 8 tenant-based renewal funding to PHAs. Accordingly, rather than defer the start of the negotiations, HUD has decided to proceed with the committee meeting announced in the March 19, 1999 notice.

Dated: April 21, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–10461 Filed 4–23–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Chapter IX

[Docket No. FR–4423–N–02]

Capital Fund Rule; Notice of Establishment of Negotiated Rulemaking Committee and Notice of First Meeting

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Establishment of Negotiated Rulemaking Advisory Committee and notice of first meeting.

SUMMARY: HUD announces the establishment of a negotiated rulemaking advisory committee under the Federal Advisory Committee Act. The establishment of the committee is required by the Quality Housing and Work Opportunity Act of 1998, which requires issuance of regulations under the Negotiated Rulemaking Act of 1990. The purpose of the Committee is to discuss and negotiate a proposed rule that would change the current method of determining the allocation of capital funds to public housing agencies (PHAs). The committee consists of representatives with a definable stake in the outcome of a proposed rule. This document announces the committee members and the dates, location, and agenda for the first committee meeting.

DATES: The first committee meeting will be held on April 28–29, 1999. On April 28, 1999, the meeting will start at approximately 10:00 am and run until completion; on April 29, 1999, the meeting will start at 9:00 am and run until approximately 5:00 pm.

ADDRESSES: The first committee meeting will take place at the Tysons Corner Doubletree Hotel, 7801 Leesburg Pike, Falls Church, VA 22043; telephone (703) 893–1340.

FOR FURTHER INFORMATION CONTACT: William Flood, Director, Office of Capital Improvements, Public and Indian Housing, Room 4134, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–1640 ext. 4185 (this telephone number is not toll-free). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

HUD currently uses a formula approach called the Comprehensive Grant Program (CGP) to distribute capital funds to large public housing agencies (PHAs) (i.e. PHAs with 250 units or more) and a competitive program called the Comprehensive Improvement Assistance Program (CIAP) for small PHAs (i.e., PHAs with less than 250 units). A regulatory description of the CGP and CIAP can be found at 24 CFR part 968. Generally, the amount of capital funding received by a PHA is based on the number of units, type of units, condition of its units, cost of construction in the area and prior funding. While the amount can vary, it is the only source of capital funding that most PHAs receive to make major capital investments in its public housing stock. For example, in 1998, HUD distributed over $2.1 billion in capital funds for CGP and $307 million for CIAP to PHAs for 830 PHAs and over 900 PHAs respectively.

On March 19, 1999 (64 FR 13533), HUD published a notice of intent to establish an advisory committee to discuss and negotiate a proposed rule that would change the current method of determining the allocation of capital funds to PHAs. The establishment of the committee is required by the Quality Housing and Work Responsibility Act of 1996 (Pub.L. 105–276, approved October 21, 1998; 112 Stat. 2461) (the "1998 Act"). The 1998 Act makes extensive changes to HUD's public and assisted housing programs. These changes include the establishment of a Capital Fund for the purpose of making assistance available to PHAs for capital and management activities of public housing under Section 9(d) of the U.S. Housing Act of 1937, as amended.

The 1998 Act requires that the assistance to be made available from the new Capital Fund be determined using a formula developed through negotiated rulemaking procedures. The basic

concept of negotiated rulemaking is to have the agency that is considering drafting a rule bring together representatives of affected interests for face-to-face negotiations that are open to the public. The give-and-take of the negotiation process is expected to foster constructive, creative and acceptable solutions to difficult problems. The effective date of the Capital Fund formula (the beginning date of the fiscal year for which PHAs will determine their capital eligibility using the new formula) is October 1, 1999. Accordingly, HUD hopes to publish a final rule that will take effect by October 1, 1999 to implement the Capital Fund formula.

The March 19, 1999 notice: (1) advised the public of HUD's intent to establish the negotiated rulemaking committee; (2) solicited public comments on the proposed membership of the committee; and (3) explained how persons could be nominated for membership on the committee.

II. The Negotiated Rulemaking Advisory Committee

This notice announces HUD's establishment of the Negotiated Rulemaking Advisory Committee on Capital Fund Allocation. As noted above, the March 19, 1999 notice tentatively identified a list of possible interests and parties to be represented on the negotiated rulemaking committee, and requested public comment on the proposed committee membership. The public comment period on the March 19, 1999 notice closed on April 19, 1999. HUD has carefully considered the 13 comments received on the proposed committee membership.

The list of committee members includes representatives of PHAs, PHA organizations, tenant groups, public interest groups, and HUD. Additionally, two members of the Federal Mediation and Conciliation Service will serve as facilitators. The list of members for the Negotiated Rulemaking Advisory Committee on Capital Fund Allocation is as follows:

National PHA Associations

1. Council of Large Public Housing Authorities (CLPHA)
2. National Association of Housing Renewal Officials (NAHRO)
3. Public Housing Authority Directors Association (PHADA)
4. National Organization of African Americans in Housing (NOAAH)

Housing Authorities

1. Philadelphia Housing Authority, Philadelphia, PA
2. Chicago Housing Authority, Chicago, IL
3. Dallas Housing Authority, Dallas, TX
4. Puerto Rico Public Housing Administration, San Juan, PR
5. Seattle Housing Authority, Seattle, WA
6. New York City Housing Authority, New York, NY
7. Dayton Housing Authority, Dayton, OH
8. Jersey City Housing Authority, Jersey City, NJ
9. San Diego Housing Authority, San Diego, CA
10. Macon Housing Authority, Macon, GA
11. Sanford Housing Authority, Sanford, ME
12. Housing Authority of the City of San Benito, San Benito, TX
13. City of La Junta Housing Authority, La Junta, CO
14. Housing Authority of the Town of Laurinburg, Laurinburg, NC
15. Madison Housing Authority, Madison, NJ

Tenant and Community Organizations

1. Guinotte Manor Tenant Association, Kansas City, MO
2. Center for Community Change, Washington, DC
3. Hillside Family Resource Center, Milwaukee, WI
4. Mount Pleasant Estates Tenant Association, Newark, NJ

Other Groups

1. National Housing Conference
2. U.S. Conference of Mayors
3. Fannie Mae
4. National Low-Income Housing Coalition

Federal Government

1. U.S. Department of Housing and Urban Development

HUD will also invite a group of technical advisors to assist, where appropriate, in Committee deliberations. This group consists of non-profit and for-profit developers and other individuals who have had experience in mixed-finance development, the HOPE VI program, or other relevant experience.

III. First Committee Meeting

The first meeting of the Negotiated Rulemaking Advisory Committee on Capital Fund Allocation will be held on April 28 and April 29, 1999. On April 28, 1999, the meeting will start at 10 am and run until completion; on April 29, 1999, the meeting will start at 9 am and run until approximately 5 pm. On both days, the meeting will take place at the Tysons Corner Doubletree Hotel, 7801 Leesburg Pike, Falls Church, VA 22043; telephone (703) 893–1340.

The agenda planned for the meeting includes: (1) Orienting members to the negotiated rulemaking process; (2) establishing a basic set of understandings and ground rules (protocols) regarding the process that will be followed in seeking a consensus; and (3) discussion of the issues relating to the development of a Capital Fund formula.

The meeting will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the committee for its consideration. Written statements should be submitted to the address listed in the **FOR FURTHER INFORMATION** section of this document. Summaries of committee meetings will be available for public inspection and copying at the address in the same section.

In accordance with the General Services Administration (GSA) regulations implementing the Federal Advisory Committee Act, HUD normally publishes a **Federal Register** meeting document at least 15 calendar days before the date of an advisory committee meeting (see 41 CFR 105–54.301(i)). The GSA regulations, however, also provide that an agency may give less than 15 days document if the reasons for doing so are included in the **Federal Register** meeting document. (See 41 CFR 105–54.301(j).) Given the strict statutory deadline for implementation of the Capital Fund formula, HUD believes it is imperative that the negotiations for development of the formula begin as soon as possible. Failure to publish the Capital Fund final rule on a timely basis will delay the provision of capital funds to PHAs. Accordingly, rather than defer the start of the negotiations, HUD has decided to proceed with the committee meeting announced in the March 19, 1999 notice.

IV. Future Committee Meetings

Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Additional committee meetings are tentatively scheduled for May 11–12 and May 25–26, 1999, at a location within the Washington, DC area to be determined. Notices of future meetings will be published in the **Federal Register**.

Dated: April 21, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–10463 Filed 4–23–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Chapter I

[USCG–1998–4501]

RIN 2115–AF68

Improvements to Marine Safety in Puget Sound-Area Waters

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting and availability of Statement of Work.

SUMMARY: The Coast Guard announces a meeting to describe the methodology for a cost-benefit analysis of potential rules that would improve marine safety in Puget Sound-Area waters. The meeting is being held in conjunction with a meeting regarding the Port Access Routes Study; Strait of Juan de Fuca and Adjacent Waters (15 April 1999; 64 FR 18651).

DATES: The meeting will be held on May 12, 1999, from 9 a.m. to 12 p.m. The meeting may conclude early if all questions are addressed before the scheduled end of the meeting.

ADDRESSES: The meeting will be held at the National Oceanic and Atmospheric Administration's Western Regional Center's auditorium in Building 9, 7600 Sand Point Way NE, Seattle, WA 98115.

For a copy of the statement of work for the cost-benefit analysis, contact Commander Timothy M. Close under **FOR FURTHER INFORMATION CONTACT.**

If you would like to submit your questions on the statement of work before the meeting, they may be submitted by mail, fax, or electronic means to Commander Timothy M. Close at the address under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: For information concerning the meeting or to obtain a copy of the statement of work, contact Commander Timothy M. Close, Human Element and Ship Design Division (G–MSE–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, telephone 202–267–2997, fax 202–267–4816, email fldr–he@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION:

Public Participation

The Coast Guard encourages you to participate by attending the meeting.

Background and Purpose

On November 24, 1998, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) (63 FR 6437) seeking public comment on potential rules that would improve marine safety in Puget Sound-Area waters including Puget Sound, the Strait of Juan de Fuca, passages around and through the San Jan Islands, and the Olympic Coast National Marine Sanctuary. The ANPRM also announced the Coast Guard's intention to begin a comprehensive cost-benefit analysis to study the feasibility of implementing new safety measures, including extended tug escort requirements for certain vessels and a dedicated pre-positioned rescue vessel. In the ANPRM, the Coast Guard requested that comments addressing cost-benefit-analysis issues be submitted to the docket by December 24, 1998. The comments received helped us develop the statement of work. The statement outlines the scope, timeline, and methodology for the cost-benefit analysis. It is this statement that will be described at the meeting. Preparation of the cost-benefit analysis, itself, is still underway.

If regulatory changes are eventually proposed, the public will have an additional opportunity to comment on the cost-benefit analysis for the selected regulatory proposals.

Meeting

The meeting is open to the public. The purpose of the meeting is to describe the statement of work and, as time allows, respond to questions on the statement. Questions during the meeting should related to the statement of work. This meeting is being held at the same location and on the same day as a meeting regarding the Port Access Routes Study; Strait of Juan de Fuca and Adjacent Waters (64 FR 18651).

Information of Service for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Commander Timothy M. Close under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: April 21, 1999.

[FR Doc. 99–10381 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–020]

RIN 2115–AE46

Special Local Regulations for Marine Events; Special Olympics 1999 Summer Sailing Regatta, St. Mary's River, St. Mary's City, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations for the Special Olympics 1999 Summer Sailing Regatta, a marine event to be held on the waters of the St. Mary's River, St. Mary's City, Maryland. These special local regulations, which will be in effect 6 a.m. EDT (Eastern Daylight Time) to 5 p.m. EDT, daily from June 27 to July 2, 1999, are necessary to provide for the safety of life and property on U.S. navigable waters during the event. The effect will be to restrict general navigation in the regulated area for the safety of spectators, participants, and other vessels transiting the event area.

DATES: Comments must reach the Coast Guard on or before May 26, 1999.

ADDRESSES: You may mail comments to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or hand-deliver to Room 119 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6204. Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection and copying at the above address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S.L. Phillips, Project Manager, Operations Division, Auxiliary Section, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 05–99–020) and the specific

section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address listed under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

In order to provide notice and an opportunity to comment before issuing an effective rule, the Coast Guard is providing a shorter than normal comment period. A 30-day comment period is sufficient to allow those who might be affected by this rulemaking to submit their comments because extensive advisories will be made to the affected maritime community and there will be local republication in the Local Notice to Mariners.

Background and Purpose

Special Olympics International will sponsor the Special Olympics 1999 Summer Sailing Regatta on the waters of St. Mary's River, St. Mary's City, Maryland from June 27 to July 2, 1999. The event will involve 50 small racing sailboats conducting highly publicized, competitive races. The sailboats will each be crewed by one trained sailor and one Special Olympian. A large fleet of spectator vessels is anticipated. Due to the need for vessel control during the races, general navigation will be temporarily restricted to provide for the safety of spectators, participants and other vessels transiting the event area.

Discussion of Proposed Rule

The Coast Guard will establish temporary special local regulations on specified waters of the St. Mary's River. These special local regulations will be in effect 6 a.m. EDT (Eastern Daylight Time) to 5 p.m. EDT, daily from June 27 to July 2, 1999. The effect will be to restrict general navigation in the regulated area during the races. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area while the regulations are in effect. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators, and transiting vessels. Since the Coast Guard Patrol Commander may stop the event to assist transit of vessels through the regulated area, normal marine traffic should not be severely disrupted.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulated area will only be in effect for a limited amount of time, extensive advisories will be made to the affected maritime community so that they may adjust their schedules accordingly, and the event schedule will allow commercial interests to coordinate their activities to allow for minimum disruption to their enterprise.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small Entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard expects the impact of this proposed rule to be minimal. The regulated area will only be in effect for a limited amount of time, extensive advisories will be made to the affected maritime community so that they may adjust their schedules accordingly, and the event schedule will allow commercial interests to coordinate their activities to allow for minimum disruption to their enterprise.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b), that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this proposal will economically affect it.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact S. L. Phillips, Project Manager, Operations Division, Auxiliary Section, at (757) 398–6204.

Unfunded Mandates

Under section 201 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531), the Coast Guard assessed the effects of this proposal on State, local and tribal governments, in the aggregate, and the private sector. The Coast Guard determined that this regulatory action requires no written statement under section 202 of the UMRA (2 U.S.C. 1531) because it will not result in the expenditure of $100,000,000 in any one year by State, local and tribal governments, in the aggregate, or the private sector.

Collection of Information

This proposal does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under figure 2–2, paragraph (34)(h) of Commandant Instruction M16475.1C, this proposal is categorically excluded from further environmental documentation. Special local regulations issued in conjunction

with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, 100.35–T05–020 is added to read as follows:

§ 100.35–T05–020 Special Olympics 1999 Summer Sailing Regatta, St. Mary's River, St. Mary's City, Maryland.

(a) *Definitions:*

(1) *Regulated Area.* The waters of St. Mary's River from shoreline to shoreline, bounded on the north by a line drawn along latitude 38°12′00.0″ N and bounded on the south by a line drawn along latitude 38°09′00.0″ N. All coordinates reference Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(b) *Special Local Regulations:*

(1) All persons and vessels not authorized as participants or official patrol vessels are considered spectators. The "official patrol" consists of Coast Guard, public, state, or local law enforcement vessels assigned or approved by Commander, Coast Guard Activities Baltimore.

(2) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(3) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(4) Spectator vessels may enter and anchor in areas outside the regulated area without the permission of the Patrol Commander. They shall use caution not to enter the regulated area. No vessel shall anchor within a tunnel, cable or pipeline area shown on a Government chart.

(5) The Coast Guard Patrol Commander will announce the specific time periods during which the regulations will be enforced, by Broadcast Notice to Mariners on channel 22 VHF–FM marine band radio.

(c) *Effective Dates.* The regulated area is effective from 6 a.m. EDT (Eastern Daylight Time) to 5 p.m. EDT, daily from June 27 to July 2, 1999.

Dated: April 6, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99–10428 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–98, FCC 99–70]

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In response to the Supreme Court's January 25, 1999 decision, the Second Further Notice of Proposed Rulemaking (Second FNPRM) seeks public comment on issues related to how the Commission should identify the network elements incumbent local exchange carriers must make available to requesting carriers, pursuant to sections 251(c)(3) and 251(d)(2) of the Telecommunications Act of 1996. The ability of requesting carriers to use unbundled network elements is integral to achieving Congress' objective of promoting rapid competition in the local telecommunications marketplace. In this proceeding, we seek to move forward to resolve this issue in a timely manner, in order to further reduce uncertainties in the marketplace and to promote robust competition in local telecommunications markets.

DATES: Comments are due on or before May 26, 1999 and reply comments are due on or before June 10, 1999.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, S.W., Room TW–A325, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 445 12th Street, S.W., Room 5–C327, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20 St., N.W., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Jake Jennings or Claudia Fox, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580. Further information may also be obtained by calling the common Carrier Bureau's TTY number: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking adopted April 8, 1999, and released April 14, 1999 (FCC 99–70). The full text of this Second FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY–A257, Washington, D.C 20554. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc99070.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, In., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

I. Synopsis of Second Further Notice of Proposed Rulemaking

1. On January 25, 1999, the United States Supreme Court upheld all but one of the Commission's local competition rules that had been challenged before the United States Court of Appeals for the Eighth Circuit (Eighth Circuit). The Supreme Court rejected, in part, the Commission's implementation of the network element unbundling obligations set forth in section 251(c)(3) of the Telecommunications Act of 1996, and concluded that section 51.319 of the Commission's rules should be vacated. Section 51.319, which was adopted in the *Local Competition First Report and Order*, CC Docket No. 96–98, sets forth the minimum set of network elements that incumbent local exchange carriers (LECs) must make available on an unbundled basis to requesting carriers pursuant to sections 251(c)(3) and 251(d)(2). The Supreme Court found that the Commission, in determining which network elements must be unbundled pursuant to section 251(c)(3), had not adequately considered the "necessary" and "impair" standards of section 251(d)(2). By this Second Further NPRM, we seek to refresh the record in CC Docket 96–98, specifically on the issues of: (1) how, in light of the Supreme Court ruling, the Commission should interpret the standards set forth in section 251(d)(2); and (2) which specific network elements

the Commission should require incumbent LECs to unbundle under section 251(c)(3).

2. The ability of requesting carriers to use unbundled network elements, including combinations of unbundled network elements, is integral to achieving Congress' objective of promoting rapid competition in the local telecommunications market. Our identification of the network elements that must be unbundled pursuant to section 251 is therefore a critical tool for promoting the goals of the 1996 Act. In this proceeding, we seek to move forward quickly to resolve the issue of which network elements incumbent LECs must make available on an unbundled basis, in order to reduce uncertainties in the marketplace and to allow carriers to make informed and rational business decisions in order to provide service on a competitive basis to consumers.

3. We seek to build on industry experience and technological changes that have occurred in the telecommunications marketplace since the 1996 Act was enacted three years ago. Today, both incumbent LECs and requesting carriers are at the early stages of deploying innovative technologies to meet the ever-increasing demand for high-speed, high-capacity advanced services. In order to encourage competition among carriers to develop and deploy new advanced services, it is critical that the marketplace for these services be conducive to investment, innovation, and meeting the needs of consumers. Accordingly, as we revisit our rule implementing the network unbundling obligations of the Act, we will consider, as well, how the unbundling obligations of the Act can best facilitate the rapid and efficient deployment of *all* telecommunications services, including advanced services.

4. We need to move quickly in this proceeding but, as always, we must also move with precision. The Supreme Court's opinion requires the Commission to take a hard look at the question of when an incumbent local exchange carrier must make parts of its network available to competitors at cost-based rates. In the words of the Court, we are to "determine on a rational basis which network elements must be made available taking into account the objectives of the Act and giving some substance to the 'necessary' and 'impair' requirements." We therefore seek further comment to refresh the record in this proceeding in order to identify those network elements to which incumbent local exchange carriers must provide nondiscriminatory access—giving substance to the requirements of section 251(d)(2).

II. Background

5. On August 8, 1996, the Commission adopted the *Local Competition First Report and Order*, implementing the local competition provisions of the 1996 Act. In that order, the Commission established rules governing the obligations and responsibilities of incumbent LECs to open their local networks to competition pursuant to the requirements of section 251 of the 1996 Act. Among other things, the order adopted rules implementing the network unbundling requirements of sections 251(c)(3) and 251(d)(2) of the 1996 Act. Section 251(c)(3) imposes a duty on all incumbent LECs to provide to competitors access to network elements on an unbundled basis. Section 251(d)(2) provides that, in determining which network elements should be unbundled under section 251(c)(3), the Commission shall consider, "at a minimum, whether—(A) access to such network elements as are proprietary in nature is necessary; and (B) the failure to provide access to such network element would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer."

In the *Local Competition First Report and Order*, the Commission applied its interpretation of the "necessary" and "impair" standards of section 251(d)(2) to the unbundling requirements of section 251(c)(3). Specifically, the Commission defined "necessary" to mean "an element is a prerequisite for competition," and it defined "impair" to mean "to make or cause to become worse; diminish in value." The Commission also determined that a requesting carrier's ability to offer service is "impaired" ("diminished in value") if "the quality of the service the entrant can offer, absent access to the requested element, declines" or if "the cost of providing the service rises."

After addressing the "necessary" and "impair" standards, the Commission adopted rule 51.319, which sets forth the network elements that incumbent LECs must make available to requesting carriers on an unbundled basis. Section 51.319 of the Commission's rules required incumbent LECs to make available, on an unbundled basis, the following network elements: (1) local loops; (2) network interface devices; (3) local switching; (4) interoffice transmission facilities; (5) signaling networks and call-related databases; (6) operations support systems; and (7) operator services and directory assistance.

Following adoption of the *Local Competition First Report and Order*, incumbent LECs and state commissions filed various challenges to the Commission's rules; these appeals were consolidated in the Eighth Circuit. Among other holdings, the Eighth Circuit rejected incumbent LECs' argument that, in determining which elements were subject to the unbundling requirements, the Commission had not properly applied the "necessary" and "impair" standards of section 251(d)(2). Accordingly, the Eighth Circuit upheld section 51.319. A number of parties sought and were granted review of the Eighth Circuit's decision by the Supreme Court.

9. In its January 25, 1999 opinion, the Supreme Court reversed the Eighth Circuit's decision on this issue, stated that section 51.319 should be vacated, and remanded the matter for further proceedings. The Court concluded that the Commission had not adequately considered the "necessary" and "impair" standards of section 251(d)(2). The Court found, among other things, that the Commission, in deciding which elements must be unbundled, did not adequately take into consideration the "availability of elements outside the incumbent's network." The Court also faulted the Commission's "assumption that *any* increase in cost (or decrease in quality) imposed by a denial of a network element renders access to that element 'necessary,' and causes the failure to provide that element to 'impair' the entrant's ability to furnish its desired services." In addition, the Court criticized the Commission's interpretation of section 251(d)(2) because it "allows entrants, rather than the Commission, to determine" whether the requirements of that section are satisfied.

III. Request for Further Comments

10. In response to the Supreme Court ruling, we must further consider the "necessary" and "impair" standards of section 251(d)(2) in identifying network elements that are subject to the unbundling requirements of section 251(c)(3). Although we retain the right to consider and rely upon comments previously filed in this docket, any comments parties want the Commission to consider on this issue must be filed in response to *this* Notice, and commenters should not simply incorporate by reference previous arguments made in this proceeding.

11. We seek comment on a number of issues related to the interpretation of section 251(d)(2), including identification of unbundled network elements on a nationwide basis, the

interpretation of the "necessary" and "impair" standards of section 251(d)(2), and the criteria the Commission and states should consider in determining whether a network element is subject to the unbundling obligations of section 251(c)(3) of the 1996 Act. In determining which network elements are subject to the unbundling obligations of section 251(c)(3), we seek comment on an approach that would allow sunset or modification of the unbundling obligations as technology and market conditions evolve over time. Such an approach would allow the Commission and the states to identify particular network elements that should be sunsetted or removed from, or added to, the initial list of elements subject to the unbundling obligations of the Act, as warranted.

12. As we have stated, the Supreme Court found that the Commission, in deciding which elements must be unbundled, did not adequately take into consideration the availability of elements outside the incumbent's network. More generally, we note that application of the "necessary" and "impair" standards that we develop pursuant to section 251(d)(2) may be relatively fact-intensive. At the same time, we recognize that in resolving these fact-intensive questions, particularly in an expedited time frame, it may be beneficial to consider what evidentiary standards and presumptions are most appropriate, both in the context of the initial designation of network elements subject to unbundling requirements, and any subsequent proceedings to modify the unbundling obligations. We ask parties to comment on the types of evidentiary standards or approaches that should govern application of the section 251(d)(2) standards in determining which network elements must be unbundled. Commenters should address which parties should bear the burdens of proof and production, whether any presumptions should apply, and why. Commenters are also requested to justify the evidentiary standards or approaches they advocate, especially in light of the kinds of data that can be made available in this proceeding, the purposes and structure of the Act, and the identity of the parties most likely to be in control of relevant data.

A. Identification of Unbundled Network Elements on a Nationwide Basis

13. In the *Local Competition First Report and Order*, the Commission concluded that, by identifying a specific list of network elements that must be unbundled, applicable uniformly in all states and territories, we would best further the "national policy framework" established by Congress to promote competition. The Commission adopted a minimum list of network elements that must be unbundled on a national basis, and permitted states to impose additional unbundling requirements.

14. We find nothing in the Supreme Court's decision that calls into question our decision to establish minimum national unbundling requirements. We therefore tentatively conclude that the Commission should continue to identify a minimum set of network elements that must be unbundled on a nationwide basis. We seek comment on this tentative conclusion. We also seek comment on whether the existence of geographic variations in the availability of elements outside the incumbent LEC's network is relevant to a decision to impose minimum national unbundling requirements. We also seek comment on the relevance, if any, to the interpretation of the "necessary" and "impair" standard that we are reexamining these issues today, more than three years after passage of the Act. We note that, under our rules, the states have authority to impose additional unbundling requirements, pursuant to our interpretation of section 251(d)(2). We do not propose to eliminate the states' authority to impose additional unbundling requirements, pursuant to the standards and criteria we adopt in this proceeding. In addition, we seek comment on whether states may, consistent with the Supreme Court's decision, apply our interpretation of section 251(d)(2) to determine in the first instance that a network element need not be unbundled in light of the availability of that element outside the incumbent's network in that state. If so, under what circumstances, if any, should the Commission review state decisions?

B. Interpretation of the Term "Proprietary" in Section 251(d)(2)(A)

15. Section 251(d)(2)(A) refers to network elements that are "proprietary" in nature. We seek comment on the meaning of the term "proprietary" for purposes of this section. In the *Local Competition First Report and Order*, the Commission referred to proprietary network elements as including, for example, "those elements with proprietary protocols or elements containing proprietary information." The Commission also concluded that the incumbent LEC's signaling protocols that adhere to Bellcore standards are not proprietary in nature because they use industry-wide, rather than LEC-specific, protocols. We seek comment on whether we should consider network elements as non-proprietary if the interfaces, functions, features, and capabilities sought by the requesting carrier are defined by recognized industry standard-setting bodies (*e.g.*, ITU, ANSI, or IEEE), are defined by Bellcore general requirements, or otherwise are widely available from vendors. We also seek comment on whether non-carrier specific standards can be proprietary. What effect, if any, could Commission action have on whether a network element is proprietary? Commenters should discuss whether the term "proprietary" should be limited to information, software, or technology that can be protected by patents, copyrights, or trade secrecy laws, or whether it can also apply to materials that do not qualify for such legal protection. If a network element contains what parties assert to be proprietary information, but access to that information is not accessible by third parties seeking access to a particular element, should the entire element be considered "proprietary" for purposes of section 251(d)(2)(A)? We also seek comment on whether the term "proprietary" refers solely to proprietary interests the incumbent LEC may have in an element, or whether it may also refer to proprietary interests of third parties (*e.g.*, vendors).

C. Interpretation of "Necessary" in Section 251(d)(2)(A)

16. In the *Local Competition First Report and Order*, the Commission defined a "necessary" network element as one that is a "prerequisite" to competition. We seek comment on the definition of "necessary" for the purpose of determining proprietary network elements that must be unbundled pursuant to the requirements of section 251(d)(2)(A) and on the Commission's application of this term in the *Local Competition First Report and Order*.

D. Interpretation of "Impair" in Section 251(d)(2)(B)

17. Section 251(d)(2)(B) requires us to consider whether the failure to provide access to an element would "impair" the ability of a new entrant to provide a service it seeks to offer. In the *Local Competition First Report and Order*, the Commission adopted a dictionary definition of the term "impair" that means "to make or cause to become worse; diminish in value." The Commission stated that "generally * * * an entrant's ability to offer a telecommunications service is 'diminished in value' if the quality of the service the entrant can offer, absent access to the requested element,

declines and/or the cost of providing the service rises." We seek comment on the meaning of the term "impair." Should the Commission adopt a standard by which we examine whether the new entrant's ability to offer a telecommunications service in a competitive manner is materially diminished in value? Would a new entrant be "impaired" from providing service in a certain area if there is no additional collocation space available in the incumbent LECs' central office?

E. The Difference Between the "Necessary" and "Impair" Standards

18. We seek comment on the difference between the "necessary" standard under section 251(d)(2)(A) and the "impair" standard of section 251(d)(2)(B). Since the 1996 Act employs two different terms, must the Commission apply different criteria to determine whether a network element meets these standards? To the extent parties propose using the same criteria, we seek comment on the legal basis for applying the same criteria as well as on how we should apply the criteria to differentiate between the "necessary" and "impair" standards.

19. In the *Local Competition First Report and Order*, the Commission found that the "necessary" standard only applies to "proprietary" network elements, and that the "impair" standard applies to "nonproprietary" network elements. This construction was also applied by the Eighth Circuit and, apparently, by the Supreme Court in reviewing the Commission's analysis of unbundling requirements under section 251(d)(2). We seek comment on whether our understanding of the courts' interpretation should govern in this proceeding.

F. Criteria for Determining "Necessary" and "Impair" Standards

20. We seek more specific comment on what factors or criteria the Commission should adopt in determining whether access to network elements is necessary and whether failure to provide such access would impair an entrant's ability to provide service. The Supreme Court has provided some guidance in this respect. The Court stated that "the Act requires the FCC to apply some limiting standard, rationally related to the goals of the Act, which it has simply failed to do." The Court stated further that "[w]e cannot avoid the conclusion that, if Congress had wanted to give blanket access to incumbents' networks on a basis as unrestricted as the scheme the Commission has come up with, it would not have included section 251(d)(2) in the statute at all. It would simply have said (as the Commission in effect has) that whatever requested element can be provided must be provided."

21. Although the Supreme Court acknowledged incumbent LEC arguments that section 251(d)(2) codifies "something akin" to the essential facilities doctrine, the Court did not find that section 251(d)(2) mandates that standard. We nevertheless seek comment on the significance of the essential facilities standard under section 251(d)(2). Next, the Supreme Court concluded that we must take into account the availability of substitutes for incumbent LEC network elements outside of the incumbent's network. We thus seek comment on when we should deem a substitute sufficiently available so as to render access to the incumbent's network element unnecessary. Finally, the Court found that the Commission erred in concluding that "any" increase in cost or decrease in quality resulting from the failure to gain access to a network element satisfied the necessary and impair standard. We therefore seek comment on whether and the extent to which an increase in cost or decrease in quality caused by the inability of obtaining access to an incumbent's network element meets the "necessary" or "impairment" standard. In addressing these factors, commenters should distinguish between the "necessary" and "impair" standards if appropriate to do so in light of the factor being discussed.

1. Essential Facilities Doctrine

22. In their arguments before the Supreme Court, incumbent LECs asserted that section 251(d)(2) codifies a standard similar to the "essential facilities" doctrine, as defined in antitrust jurisprudence. We ask parties to describe this doctrine and how it should be applied, if at all, to the determination of which network elements incumbent LECs must provide on an unbundled basis pursuant to sections 251(c)(3) and 251(d)(2). Parties should also cite any relevant legislative history that would indicate Congress' views on this standard or any similar standard.

23. In discussing the "essential facilities" doctrine, the Supreme Court observed that "it may be that some other standard would provide an equivalent or better criterion for the limitation upon network-element availability that the statute has in mind." Accordingly, we seek comment on alternative standards that should be considered in determining which network elements must be unbundled pursuant to sections 251(c)(3) and 251(d)(2).

2. Availability and Cost of Network Elements Outside the Incumbent LEC's Network

24. The Supreme Court stated that, in determining the list of elements that incumbent LECs must provide on an unbundled basis pursuant to sections 251(c)(3) and 251(d)(2) of the Act, the Commission must take into consideration the availability of network elements outside the incumbent's network. We seek comment on how the Commission should consider the availability of network elements outside of the incumbent's network. We ask commenters to discuss potential alternative sources of network elements from other competing carriers, as well as availability of network elements through self-provisioning. We also ask commenters to provide information on the costs of alternatives, the length of time it takes to obtain alternatives, and the extent to which alternatives to unbundled elements are being utilized now. We also seek comment on how the Commission, in assessing potential alternative sources of network elements, should evaluate alternatives available from other competing carriers if those carriers are not subject to unbundling obligations of 251(c)(3).

25. In determining whether a requesting carrier's ability to provide a service would be impaired if it did not obtain a network element on an unbundled basis from the incumbent LEC, how should we assess and treat the additional cost of utilizing an alternative source for that element? The Supreme Court found insufficient the Commission's "assumption that *any* increase in cost would impair a requesting carrier's ability to provide service." We therefore seek comment on whether and the extent to which the Commission should consider differences in costs between obtaining the network element from the incumbent versus through self-provisioning or from an alternative source. Should the Commission adopt a standard under which we examine whether the difference in cost between obtaining a network element from an incumbent LEC as opposed to obtaining it through self-provisioning or from an alternative source is a "material" difference? If so, what constitutes a "material" difference? For example, if the cost of obtaining the network element from the incumbent LEC is half of the cost of obtaining it from another source, should the incumbent be required to unbundle it? How would

this work in practice? Should the threshold vary by the network element?

26. We also seek comment on what specific cost differences the Commission should include in evaluating the "necessary" and "impair" standards. In the *Local Competition First Report and Order*, the Commission stated that incumbent LECs "have economies of density, connectivity, and scale * * * [that must] be shared with entrants." We seek comment on the extent to which we should consider cost differences based on economies of density, connectivity, and scale in determining whether a network element must be unbundled pursuant to sections 251(c)(3) and 251(d)(2). We also seek comment on whether the Commission should evaluate "sunk" costs that would be incurred by requesting carriers if they were to obtain the network elements through self-provisioning or from other sources outside the incumbent LEC's network (*e.g.*, those costs associated with entry that are not fully recoverable if the requesting carrier exits the market).

27. We seek comment on the extent to which we should consider the quantity of facilities that may be necessary for competitors to obtain in order to compete effectively. For example, a competitor's ability to compete may not be "impaired" if it is required to self-provision only one switch. With respect to some entry strategies, however, in order to compete effectively, the new entrant may need to obtain multiple switches. Accordingly, we ask parties to comment on the extent to which such factors as economies of scale, penetration assumptions, and the requesting carrier's particular market entry strategies should be considered as part of the "necessary" and "impair" analysis.

28. In addition to cost, we seek comment on other factors that the Commission should consider in evaluating the availability of network elements from alternative sources. For example, how should the Commission assess factors such as the difference in the length of time it takes to obtain a network element from an incumbent LEC versus obtaining it from an alternative source. We seek comment, in particular, on whether and the extent to which the language of the statute and the Supreme Court's opinion constrain the factors that we can or should consider in evaluating the availability of elements outside the incumbent's network. We also seek comment on whether differences in quality that result from acquiring a network element from the incumbent LEC compared to an alternative source are relevant to our analysis of the "necessary" and "impair" standards of section 251(d)(2). Parties advocating the application of such factors for analyzing unbundling requirements under the "necessary" and "impair" standards of section 251(d)(2) should discuss specific methods for measuring and applying those differences to specific network elements.

G. Weight To Be Given to Various Factors

29. Section 251(d)(2) states that the Commission shall "consider, at a minimum" whether access is necessary or lack of access would impair a requesting carrier's ability to provide service. In explaining the Commission's duty when directed by Congress to "consider" a particular factor, the D.C. Circuit has held: "That means only that [the Commission] must 'reach an express and considered conclusion' about the bearing of a factor, but is not required 'to give any specific weight' to it." At the same time, the Supreme Court observed in its remand of the *Local Competition First Report and Order* that, in determining which network elements must be unbundled, "the Commission cannot consistent with the statute, blind itself to the availability of elements outside the incumbent's network." The Court also observed that "giving some substance to the 'necessary' and 'impair' requirements * * * is not achieved by disregarding entirely the availability of elements outside the network. * * *" What weight, then, should the Commission attach to the "necessary" and "impair" requirements of section 251(d)(2)? In particular, commenters should address how much weight the Commission must give to these requirements in order to satisfy section 251(d)(2) and the Supreme Court decision.

30. We also seek comment on what other factors the Commission should consider, in addition to the "necessary" and "impair" standards, in determining whether a particular network element should be unbundled, and on how any proposed additional criteria would interrelate with the "necessary" and "impair" standards set forth in the statute. Commenters should specifically identify any factors deemed sufficiently important in meeting the goals of the 1996 Act to require the unbundling of a network element, even if such unbundling did not otherwise meet the "necessary" or "impair" standards of sections 251(d)(2)(A) or (B) standing alone.

31. Finally, we ask commenters addressing particular standards and criteria for interpreting the "necessary" and "impair" standards of section 251(d)(2) to discuss how those standards and criteria are consistent with, and further the goals of the 1996 Act.

H. Application of Criteria to Previously Identified and Other Network Elements

32. In the *Local Competition First Report and Order*, the Commission identified seven network elements that were subject to the unbundling obligations of section 251(c)(3). We note that in the *Local Competition* proceeding, even incumbent LECs agreed that the local loop is a network element that must be unbundled pursuant to sections 251(c)(3) and 251(d)(2) of the Act. It is our strong expectation that under any reasonable interpretation of the "necessary" and "impair" standards of section 251(d)(2), loops will generally be subject to the section 251(c)(3) unbundling obligations. We seek comment on this analysis. We also see nothing in the statute or the Supreme Court's opinion that would preclude us from requiring that loops that must be unbundled must also be conditioned in a manner that allows requesting carriers supplying the necessary electronics to provide advanced telecommunications services, such as digital subscriber line technology (xDSL). We seek comment on this analysis.

33. Parties are requested to apply their proposed standards and criteria, as well as other proposed standards, to the loop and the other six network elements previously identified in the *Local Competition First Report and Order*. Parties should also apply their proposed standards and criteria to any other network elements they contend should be unbundled. For example, we seek comment on whether, due to technology changes, we should require sub-loop unbundling at the remote terminal or at other points within the incumbent LEC's network. Parties should also comment on situations where the incumbent LEC owns facilities on the end user's side of the network demarcation point and whether those facilities should be unbundled under section 251(c)(3). In light of the Supreme Court decision, we also seek comment on whether the Commission can require incumbent LECs to combine unbundled network elements that they do not already combine (*e.g.*, an unbundled loop combined with unbundled transport). To the extent parties advocate that certain network elements fail to meet the "necessary" or

"impair" standard, we ask that parties provide the Commission sufficient information regarding the competitive availability of alternatives to such network elements. Parties are requested to include specific costs and availability of such network elements, on an element-by-element basis. Additionally, we ask commenters to provide factual information comparing the quality of alternatives to those network elements that they request to be unbundled.

34. We also ask parties to comment on whether, in light of technological advances or experience in the marketplace since adoption of the *Local Competition First Report and Order*, the Commission should modify the definition of any of its previously identified network elements. For example, should we modify the definition of "loops" or "transport" to include dark fiber?

35. In light of the Supreme Court remand, we seek additional comment on whether network elements used in the provision of advanced services should be unbundled, as discussed in the *Advanced Services NPRM*. For example, parties should comment on whether digital subscriber line access multiplexers and/or packet switches should be unbundled pursuant to section 251(c)(3). Parties should also comment on whether there is any basis for treating network elements used in the provisioning of packet-switched advanced services any differently than those used in the provisioning of traditional circuit-switched voice services.

I. Modifications to Unbundling Requirements

36. Given that technological, competitive, and economic factors may, over time, affect the availability of network elements from sources outside the incumbent LEC's network, we seek comment on whether the Commission should adopt a mechanism by which network elements would no longer have to be unbundled at a future date. In particular, we seek comment on whether affirmative steps by the parties or the Commission should be necessary to remove a particular element from unbundling requirements, or whether affirmative action should be necessary to continue requiring the unbundling of particular elements. Commenters should address this question in light of the language and purposes of the statute, as well as the Supreme Court's opinion. If there subsequently is a modification to an unbundling requirement, should an incumbent LEC be required to continue to unbundle that element identified in an interconnection agreement until the date that the agreement expires? Under such a scenario, should an incumbent LEC be able to refuse to unbundle a network element that is no longer required when negotiating a new contract with other parties?

37. Parties advocating that we adopt a mechanism for removing particular elements from the unbundling requirements should provide specific details and explain the legal basis under section 251(d)(2) for doing so. Parties should discuss what factors the Commission should consider in determining whether to remove an element from the unbundling obligations of section 251(c)(3), how the Commission should apply those factors to the particular element, and what conditions would trigger removal from the unbundling requirements. If the Commission adopts a mechanism for removing the unbundling obligation for specified network elements, to what extent should the Commission consider whether to phase out the use of such unbundled network elements in a manner that avoids market disruptions? Should the incumbent LEC bear the burden of demonstrating to the Commission that a particular network element no longer need be unbundled, and what showing should be necessary to overcome any presumption in favor of continuing the unbundling requirement? Alternatively, should competing LECs bear the burden of demonstrating that unbundling is still required pursuant to section 251(d)(2)? Should we restrict incumbents from seeking removal of certain network elements from the unbundling requirements for a specific period of time following implementation of our new unbundling rules (*e.g.*, two years), or in the case of regional Bell Operating Companies (BOCs), until after section 271 authority is obtained?

38. We also seek comment on whether section 251(d)(2), or any other provision of the Act, provides the Commission with the authority to delegate to the states responsibility for removing network elements from any national unbundling requirements, applying the standards for section 251(d)(2) we adopt in this proceeding. If we were to delegate such responsibility to the states, what procedure should apply for appeals to the Commission from a state's determination that a network element no longer qualified for unbundling under section 251(c)(3)?

39. We also seek comment on whether the Commission has authority to adopt a "sunset" provision under which unbundling obligations for particular elements or all elements would no longer be required, upon the passage of time or occurrence of certain events, without any subsequent action by the Commission. Inasmuch as Congress included "sunset" provisions in other parts of the 1996 Act, how does the lack of reference to one here affect our authority to adopt such a provision? We seek comment on specific criteria that the Commission should consider in determining whether to "sunset" a requirement to provide unbundled network elements, if the Commission has such authority. Parties should comment on what predictive judgments about the future would be needed, if any, and they should provide the information the Commission would need in order to make a determination that a "sunset" provision is appropriate. Parties advocating a sunset provision should address any possible uncertainties and incentives created by such an approach and any possible effects on local competition and future new entrants.

40. We also seek comment on the extent to which adoption of a "sunset" provision would constitute forbearance prohibited under section 10(d) of the Act. Section 10(d) forbids the Commission from forbearing "from applying the requirements of section 251(c) or 271 * * * until it determines that those requirements have been fully implemented." We also seek comment on the meaning of "fully implemented" in this provision of the Act. Would it be considered forbearance if unbundling of a particular element were no longer required because that element no longer satisfied the requirements of section 251(d)(2)?

J. Additional Questions

41. We seek comment on what effect, if any, the fact that Congress required BOCs seeking in-region interLATA authority to unbundle certain network elements should have on our interpretation of section 251(d)(2). For example, should there be a presumption that the network elements set forth in the competitive checklist of section 271(c)(2)(B) are subject to the unbundling obligation contained in section 251(c)(3)? Conversely, what would be the effect on future 271 applications of concluding that a network element identified in section 271(c)(2)(B) is not subject to the 251(c)(3) unbundling obligations? For example, if after considering the "necessary" and "impair" standards of section 251(d)(2) we determine that a network element need not be unbundled pursuant to section 251(c)(3), what terms and conditions would still apply to that element if it must be provided as part of the competitive checklist of

section 271? Commenters should address what pricing standard, if any, would apply in such a situation, and what pricing rule would govern in arbitrations where the parties had been unable to negotiate a price.

42. In addition, we seek comment on whether the existence of a competitive market for a network element is necessary to demonstrate that an element is sufficiently available outside the incumbent's network so that failure of the incumbent to provide the element would not be "necessary" or would not "impair" a carrier's ability to provide service. What relevance is the fact that those entities that could provide alternative sources of the element do not have a legal obligation to unbundle that element? For example, section 251(b)(3) requires all local exchange carriers to provide operator services and directory assistance (OS/DA) to competing providers of telephone exchange carriers. Assuming there is a competitive market for OS/DA, and LECs are obligated to provide those services under section 251(b), is a competitor's ability to compete "impaired" if these functions are not provided by incumbent LECs as an unbundled network element under section 251(c)(3)?

43. In the *Local Competition First Report and Order*, the Commission explicitly rejected the argument that would allow incumbent LECs to deny access to unbundled elements if the element is equivalent to a service available at resale. The Commission stated that such a conclusion would lead to impractical results, because incumbents could completely avoid section 251(c)(3) unbundling obligations by offering unbundled elements to end users as retail services. In light of the Supreme Court decision, we seek comment on the extent to which, if any, the availability of resold services obtained from the incumbent LEC should be considered in determining whether a particular network element should be unbundled. More specifically, we ask parties to apply their interpretations of the "necessary" and "impair" standards in light of the availability of incumbent LEC resold services. Is there a legal or policy basis for concluding that the inability to obtain access to combinations of network elements could impair a requesting carrier's ability to provide service to residential customers, but not business customers?

44. Parties should submit the text of any proposed rules they urge the Commission to adopt as part of their filings in this proceeding.

IV. Procedural Issues

A. Ex Parte Presentations

45. The matter in Docket No. 96–98, initiated by this Second Further NPRM, shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well. Interested parties are to file with the Secretary, FCC, and serve Janice Myles and International Transcription Services (ITS) with copies of any written *ex parte* presentations or summaries of oral *ex parte* presentations in these proceedings in the manner specified below for filing comments.

B. Supplemental Initial Regulatory Flexibility Analysis

46. In the *Local Competition First Report and Order*, the Commission prepared a Final Regulatory Flexibility Analysis (FRFA) addressing the impact of the local competition rules on small businesses, including section 51.319. In *AT&T* v. *Iowa Utils. Bd.* the Supreme Court vacated section 51.319 because it found that the Commission had not properly considered and applied the "necessary" and "impair" standards of section 251(d)(2) when it identified network elements that must be unbundled pursuant to section 251(c)(3) of the Act. This proceeding will further consider, in light of the Supreme Court's decision in *AT&T* v. *Iowa Utils. Bd.*, how the Commission should interpret the standards set forth in section 251(d)(2), and which network elements should be unbundled under section 251(c)(3). This may require modification of the portion of the *Local Competition First Report and Order* FRFA addressing former section 51.319. Therefore, we have prepared this Supplemental Initial Regulatory Flexibility Analysis (SIRFA) to address any possible significant economic impact on small entities that may result from our further consideration. Written public comments are requested on this SIRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the Second Further NPRM, but they must have a separate and distinct heading, designating the comments as responses to the SIRFA. The Commission will send a copy of the Second Further NPRM, including this SIRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Second Further NPRM and SIRFA (or summaries thereof) will be published in the **Federal Register**.

47. *Reason for Action:* This further proceeding is required by the remand following the Supreme Court order vacating section 51.319.

48. *Objectives:* The objective of this Second Further NPRM is to afford the public the opportunity to supplement the record previously adduced concerning the "necessary" and "impair" standards of section 251(d)(2) and the identification of network elements that are subject to the unbundling requirements of section 251(c)(3).

49. *Legal Basis:* Sections 1–4, 10, 201, 202, 251–254, 271, and 303(r) of the Communications Act, as amended, 47 U.S.C. 151–154, 160, 201, 202, 251–254, 271, and 303(r).

50. *Description and estimate of the number of small entities affected:* We anticipate no change in the description and estimate of the number of small entities that might be affected by our further consideration from the description and estimate adopted in the *Local Competition Report and Order* FRFA.

51. *Description of projected reporting, recordkeeping, and other compliance requirements:* None are anticipated from the further consideration.

52. *Federal rules that may duplicate, overlap, or conflict with the proposed rule:* None.

53. *Any significant alternatives minimizing the impact on small entities consistent with the stated objectives:* We have outlined and sought comment on the many issues involved in the further consideration. We seek comment on any interpretation of the "necessary" and "impair" standards of section 251(d)(2) used to identify network elements that are subject to the unbundling requirements of section 251(c)(3) that would minimize the impact on small entities.

C. Comment Filing Procedures

54. Interested parties may file any comments in response to this Second Further NPRM no later than May 26, 1999, with the Secretary, FCC, at 445 12th Street, S.W., Washington, D.C. 20554. Reply comments may be filed with the Secretary, FCC, no later than June 10, 1999. All pleadings are to reference CC Docket No. 96–98. Interested parties should file an original and 12 copies of all pleadings. An

additional copy of all pleadings must also be sent to Janice M. Myles, Common Carrier Bureau, FCC, 445 12th Street, S.W., Room 5–C327, Washington, D.C. 20554, and to the Commission's contractor for public service records duplication, ITS, 1231 20th Street, N.W., Washington, D.C. 20036. Comments and reply comments will be available for inspection and copying during normal business hours in the FCC's Reference Center, 445 12th Street, S.W., Washington, D.C. 20554. Copies also can be obtained from ITS at 1231 20th Street, N.W., Washington, D.C. 20036, or by calling ITS at (202) 857–3800 or faxing ITS at (202) 857–3805.

55. Parties are required to file a copy of all pleadings electronically via the Internet to <http://www.fcc.gov/e-file-ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form, your e-mail address." A sample form and directions will be sent in reply.

56. We will treat this proceeding as permit-but-disclose for purposes of the Commission's *ex parte* rules. *See generally* 47 CFR 1.1200–1.1216. Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well. Interested parties are to file with the Secretary, FCC, and serve Janice Myles and ITS, with copies of any written *ex parte* presentations or summaries of oral *ex parte* presentations in these proceedings in the manner specified.

V. Ordering Clauses

57. Accordingly, *it is ordered* that pursuant to Sections 1, 3, 4, 201–205, 251, 252, 254, 256, and 271 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 251, 252, 256, and 271, the second further notice of proposed rulemaking is hereby *adopted*.

58. *It is further ordered* that, the Office of Public Affairs, Reference Operations Division shall send a copy of this second further notice of proposed rulemaking, including the SIRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1981).

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–10307 Filed 4–23–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket NHTSA 99–5546]

RIN 2127–AH30

Federal Motor Vehicle Safety Standards: Light Vehicle Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Withdrawal of rulemaking.

SUMMARY: This action withdraws a rulemaking action initiated with the issuance of a proposal in 1996. In that proposal, NHTSA proposed to extend the requirements of the passenger car brake system standard to trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less. In a 1997 final rule, NHTSA extended the passenger car brake requirements to trucks, buses, and multipurpose passenger vehicles with GVWRs of 3,500 kilograms (7,716 pounds) or less. At that time, the agency deferred its decision on the issue of whether to include vehicles with GVWRs between 3,501 kilograms and 4,536 kilograms.

NHTSA believes that the limited safety benefit that could be derived from requiring these vehicles to comply with Standard No. 135 would not be justified by the considerable costs and burden of redesigning their brake systems. In response to comments by the vehicle manufacturers about the proposal, NHTSA conducted the passenger car brake sequence tests on four late-model vehicles with GVWRs between 3,501 kilograms and 4,536 kilograms. All vehicles were tested to the hydraulic brake standard, which specifies performance standards for hydraulic braking systems on hydraulically-braked vehicles with a GVWR greater than 3,500 kilograms (7,716 pounds). All of the tested vehicles failed some aspect(s) of the test sequence, tending to confirm manufacturers' assertions that redesign of the braking systems of vehicles in this category may be necessary to meet the passenger car brake standard. Accordingly, NHTSA is withdrawing the rulemaking action initiated in 1996.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Samuel Daniel, Jr., Safety Standards Engineer, Office of Crash Avoidance Standards, Vehicle Dynamics Division, 400 Seventh Street, SW, room 5307, Washington, DC 20590; telephone (202) 366–2720; fax (202) 493–2739.

For legal issues: Mr. Walter Myers, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, room 5219, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

A. Background

(1) Rulemaking History

In order to harmonize U.S. brake standards with international brake standards, NHTSA published a final rule on February 2, 1995, establishing a new Federal Motor Vehicle Safety Standard (Standard) No. 135, *Passenger car brake systems* (60 FR 6411).[1] This new standard replaced Standard No. 105, *Hydraulic brake systems*, insofar as Standard No. 105 applied to passenger cars.

On May 2, 1996, NHTSA published a Notice of Proposed Rulemaking (NPRM) proposing to extend the applicability of Standard No. 135 to all multipurpose passenger vehicles, trucks, and buses with GVWRs of 4,536 kilograms (kg) (10,000 pounds (lbs)) or less (61 FR 19602) (hereinafter referred to as "LTVs," meaning light trucks and vans). The agency stated in the NPRM that the extension of the provisions of Standard No. 135 to LTVs would be consistent with the agency's policy of achieving international harmonization wherever possible and consistent with the agency's statutory mandate to increase motor vehicle safety in the U.S.

NHTSA received 8 comments in response to the NPRM, 5 from vehicle manufacturers, 2 from vehicle trade

[1] This standard was subsequently renamed Light Vehicle Brake Systems.

associations, and 1 from a safety advocacy group. Most of the vehicle manufacturers and the American Automobile Manufacturers Association commented that compliance with Standard No. 135 may require major modification of the brake systems of vehicles with GVWRs above 3,629 kg (8,000 lbs). They asserted that brake performance requirements in Standard No. 135 are more stringent than those in Standard No. 105. They argued that, because of the heavier weight range of these vehicles, they may not be able to meet the requirements of Standard No. 135 without substantial brake system redesign. They further commented that brake systems on vehicles with GVWRs greater than 8,000 lbs may have undesirable consumer characteristics such as increased noise, wear, and pedal travel if required to meet Standard No. 135 requirements.

In response to those comments, NHTSA decided to extend the applicability of Standard No. 135 only to those with GVWRs of 3,500 kg (7,716 lbs) or less, and reserved for possible later action the issue of whether to further extend those requirements to LTVs with GVWRs between 3,501 kg and 4,536 kg. Consequently, on September 30, 1997, NHTSA published a final rule in the **Federal Register** extending the provisions of Standard No. 135 to trucks, buses, and multipurpose passenger vehicles with GVWRs of 3,500 kg (7,716 lbs) or less, effective December 1, 1997, and becoming mandatory for these vehicles beginning September 1, 2002 (62 FR 51064). The agency stated, however, that the issue of extending the applicability of Standard No. 135 to vehicles with GVWRs between 3,501 kg (7,716 lbs) and 4,536 kg (10,000 lbs) would be separately addressed after reviewing brake test data submitted by Ford Motor Company (Ford) and the agency's own testing and analysis of vehicles in this weight range.

(2) Harmonization Considerations

The European equivalent of Standard No. 135 is ECE R13–H, which is applicable to passenger vehicles with a maximum seating capacity of nine. This category of vehicles is designated as the "M1" category. Although this category of vehicles has no weight classification, the weight of such vehicles rarely exceeds 3,175 kg (7,000 lbs). NHTSA's proposal to extend the applicability of Standard No. 135 to vehicles with GVWRs of 4,536 kg (10,000 lbs) or less would have extended the applicability of Standard No. 135 to vehicles in as many as 4 European vehicle classes not covered by R13–H, such as categories M2, M3, N2, and N3. In the interest of maintaining harmonization as nearly as possible with European standards, however, the agency believed 3,500 kg (7,716 lbs) rather than 3,629 kg (8,000 lbs) to be the logical breakpoint for the applicability of Standard No. 135 since this value is also used in the European system as the maximum GVWR for the "N1" category, which designates light non-passenger vehicles.

(3) Test Data

Because of the comments of vehicle manufacturers that some of their vehicles between 3,629 kg (8,000 lbs) and 4,536 kg (10,000 lbs) would not be able to comply with all the requirements of Standard No. 135, NHTSA conducted the current brake test sequence of Standard No. 135 on 4 late-model domestic trucks and vans in that GVWR range at the agency's Vehicle Research and Test Center (VRTC). Two pickup trucks and 2 full-size vans were leased for the testing. All had front disc and rear drum brakes, fixed proportioning valves, and front/rear hydraulic circuit splits. Two were equipped with rear-axle-only antilock brake systems (ABS), while the other two were equipped with 4-wheel ABS. The vehicles were instrumented as necessary to perform the Standard No. 135 test sequence, excluding the torque wheel portion of the sequence. Additional stops were made for certain portions of the test using a 700-Newton (N) pedal force in the cold effectiveness, engine off, hydraulic circuit failure, and failed power assist tests. These higher pedal force stops were made to collect data on stopping capability in response to the NPRM comments of some vehicle manufacturers. These additional stops were made only if there had been no wheel lockup during stops utilizing the currently-prescribed 500–N pedal force. Had there been wheel lockup with a pedal force of 500 N, higher pedal forces would not have improved the stopping performance of the vehicles concerned. The test report, entitled "Extension of FMVSS No. 135 to 8000–10,000 Pound Vehicles," has been placed in the agency's docket (Docket 85–06, Notice 13–001).

The tests confirmed that extending the current requirements of Standard No. 135 to vehicles in the 3,629 kg (8,000 lbs) to 4,536 kg (10,000 lbs) weight range would pose compliance problems for them unless their brake systems were modified, possibly extensively. NHTSA found that the tested vehicles were unable to achieve the specified passenger car brake performance level in a number of the test sections. The failed hydraulic circuit tests, S7.10 (front circuit), resulted in three of the four vehicles failing to meet the requirements for the lightly loaded condition, a stopping distance of 168 m from a speed of 100 km/h. The Ford E–350 stopped in approximately 210 m, the Ford F–350 stopped in approximately 280 m, and the Dodge Ram 2500 stopped in approximately 195 m.

The brake power assist unit inoperative test, S7.11, resulted in all four vehicles failing to meet the requirement of a 168 m stopping distance from a speed of 100 km/h with a maximum pedal force of 500 N. Both the Dodge Ram and the GM G30 had a stopping distance of over 300 m when tested with a maximum pedal force of 500 N. When tested with a pedal force of 700 N, the Dodge Ram had a stopping distance of approximately 280 m, and the GM G30 had a stopping distance of approximately 220 m. The remaining two vehicles passed the test with the 700 N pedal force allowance.

None of the vehicles passed all parts of the hot performance and recovery performance tests, S7.14 and S7.16, respectively. The performance requirements in S7.14 (first stop) and S7.16 are calculated for each vehicle based on its measured stopping distance and its average deceleration achieved during the shortest cold effectiveness stop in S7.5, Cold Effectiveness. With regard to the first of two hot stops required, the Ford F–350 stopped in a distance of approximately 116 m, thereby exceeding the required stopping distance of 104 m. The Dodge Ram stopped in approximately 118 m, exceeding the required stopping distance for the vehicle of 100 m. In the second hot performance stop, the Ford F–350, the Dodge Ram, and the GM G30 failed to meet the 89 m stopping requirement with a maximum pedal force of 500 N. The F–350 required approximately 115 m, the Ram required approximately 105 m, and the G30 required approximately 99 m to stop from 100 km/h. At a 700 N maximum pedal force allowance, the Dodge Ram and the GM G30 both failed the 89 m requirement, with the Ram requiring approximately 104 m, and the G30 requiring approximately 93 m to stop from 100 km/h.

The Dodge Ram was the only vehicle to fail the recovery test (upper limit) with both a 500 N and a 700 N pedal force limit. At 500 N, the Ram required approximately 102 m to stop from a speed of 100 km/h and this vehicle required approximately 100 m to stop with the 700 N pedal force limit thereby exceeding the required stopping distance of 86 m. The Ford F–350 failed

the recovery test when tested with the 500 N pedal force limit, with a stopping distance of 93 m, exceeding the maximum allowable distance of 91 m. At a maximum pedal force of 700 N, the F–350 stopping distance was approximately 83 m, passing the recovery test requirements. The Ford E–350 and the GM G30 met the stopping distance requirements for the recovery test at both 500 N and 700 N maximum pedal force.

B. Discussion

In the September 30, 1997 final rule, the agency estimated annual sales of LTVs with GVWRs between 3,500 kg (7,716 lbs) and 4,536 kg (10,000 lbs) to be 0.5 to 0.7 million, or about 10 to 13 percent of all LTVs sold with GVWRs less than 4,536 kg (10,000 lbs). The agency stated that, based on such a low production volume, brake system redesign for such vehicles without sufficient leadtime could be particularly burdensome. Based on the FMVSS No. 135 performance tests failed by these vehicles, it is apparent that several brake sub-systems would need modification to meet all the requirements of the standard. The failure to meet the requirements of the hydraulic circuit failure test, S7.10 (front circuit), indicates that more braking capacity is required by the front brakes or the circuits could be modified such that each circuit contains one front and one rear brake, a common design for passenger cars. In order to meet the brake power assist unit inoperative requirements, the braking capability of the foundation brake system would have to be improved, which would require larger surface areas for the friction components, larger force actuation components (calipers and wheel cylinders), or a modification to master cylinder to allow for lower pedal force. To meet the hot and recovery performance requirements, S7.14 and S7.16, additional heat venting of the primary braking components at each wheel, or larger components requiring less stress or pressure on force actuation and friction components would be required to reduce fade.

Further, virtually all brake sub-systems on the vehicles tested would have to undergo some modification to meet all the FMVSS 135 requirements, since their brake systems are not currently designed to meet the sub-system failure tests in the standard. As previously stated, the resulting brake systems could have undesirable consumer characteristics such as increased noise, wear, and pedal travel.

Review of the National Automotive Sampling System (NASS) crash data for the calendar years 1995–1997 indicates that light trucks and vans (LTVs) with a GVWR below 4,536 kg (10,000 lbs.) were involved annually in about 1,018,130 crashes that resulted in non-serious injuries. From the same data base, LTVs with a GVWR between 3,500 and 4,536 kg (7,716 and 10,000 lbs.) were involved annually in about 55,270 crashes that resulted in non-serious injuries, or about 5.4 percent of the total LTV non-serious crash experience. The total LTV population was involved annually in about 46,940 crashes that resulted in serious injuries, based on the NASS files. LTVs with a GVWR between 3,500 and 4,536 kg were involved in about 3,050 of these crashes, or about 6.5 percent of the total annual LTV crash experience in which serious injuries occurred. Regarding fatal crashes, data from the Fatality Analysis Reporting System (FARS) for the calendar year 1996 show that LTVs with a GVWR of 4,536 kg or less were involved in 11,035 crashes resulting in fatal injuries. LTVs with a GVWR between 3,500 and 4,536 kg were involved in 1,267 crashes that resulted in fatality in 1996, or about 11.5 percent of the total fatalities involving LTVs that year. The NASS data for 1995–1997 were also queried for evidence of brake performance problems that could be obtained from the crash experience data. The data indicate that braking was an LTV crash avoidance action in about 26.7 percent of tow away crashes involving LTVs with a GVWR of 4,536 kg or less. For LTVs with a GVWR between 3,500 and 4,536 kg, braking was an LTV crash avoidance action in about 21.8 percent of the tow away crashes. Braking was an LTV crash avoidance action in about 8.6 percent of crashes resulting in fatality, according to the 1996 FARS, while LTV braking was a crash avoidance action in about 12.2 percent of the fatal crashes involving with LTV in the 3,500 to 4,536 kg range.

The agency estimates that LTVs with a GVWR between 3,500 and 4,536 kg constitute about 10–13 percent of all registered LTVs, which is consistent with their annual production and sales figures in the recent past. The market share of LTVs has increased dramatically over the past five years when compared to the increase in total production of vehicles with a GVWR of 4,536 kg or less. However, the vast majority of the vehicles that are penetrating the passenger cars market are light trucks and vans with a GVWR under 3,500 kg, which are being driven as an alternative to passenger cars. Vehicles with a GVWR between 3,500 and 4,536 kg are primarily commercial vehicles, vans and pick-up trucks driven mostly by business organizations to deliver goods and services during business hours. The crash data and crash avoidance action data show that these vehicles are under represented in terms of crash frequency when compared to their portion of the LTV population. The fatal crash frequency for these vehicles is consistent with their estimated numbers as a percentage of the LTV population, as is the frequency in which braking is reported as a crash avoidance action. These data strongly indicate that there are no inordinate crash or braking problems associated with LTVs in the 3,500 to 4,536 kg weight range.

Although specific manufacturer design strategies are not known to the agency, and resulting costs cannot be precisely quantified, the agency believes that the potential safety benefits of modifying vehicles in the 3,500 to 4,536 kg weight range to meet the requirements of Standard No. 135 are not substantial enough to justify the expected costs of these modifications. As previously stated, vehicles in this weight range are estimated to represent about 10 to 13 percent of all trucks and vans with a GVWR below 10,000 lbs. Sport utility and passenger vehicles in this weight range, such as the Chevy Suburban are estimated to represent a small portion of the total vehicles in this weight range.

The two regulatory options available in selecting the appropriate brake system standard for vehicles in this weight range are: (1) keeping them in Standard No. 105, or (2) further extending the applicability of Standard No. 135 to include them. Keeping them under Standard No. 105 appears to be the more appropriate option, given that Standard No. 135 was originally developed to harmonize passenger car braking standards with vehicles under the ECE regulations for light passenger vehicles, which are in the M1 category. Even if Standard No. 135 is modified to permit a brake pedal force of 700 N, this would not improve sufficiently the performance of many of the vehicles in the 3,500–4,536 kg weight range to bring them into compliance with many of the stopping distance requirements in Standard No. 135. Standard No. 105 allows stopping distance requirements for vehicles with a GVWR between 3,500 and 4,536 kg in this weight range which are slightly longer than the distance allowed for smaller vehicles. Standard No. 135 specifies wheel lock sequence performance to address directional stability during braking, while Standard No. 105 has no similar requirements. On the other hand, the

pre-burnish test, the water test, and the dynamic emergency brake test of Standard No. 105 are not included in Standard No. 135.

C. Agency Decision

NHTSA has decided that Standard No. 105 should continue to apply to vehicles with GVWRs between 3,501 kg (7,716 lbs.) and 4,536 kg (10,000 lbs.) for continuity with current requirements. Continuing to require vehicles with a GVWR above 3,500 kg (7,716 lbs.) to comply with Standard No. 105 would provide most of the safety benefits of Standard No. 135, while eliminating the need for possibly significant brake system redesign if such vehicles were required to comply with Standard No. 135. NHTSA believes that, given the relatively low sales volume of these vehicles, redesign of their brake systems would be particularly burdensome and any safety benefits would be limited.

In addition, extending Standard No. 135 to vehicles in the 3,501–4,536 kg weight category would unnecessarily move the standard away from harmonization with its European counterpart, ECE R13–H. Standard No. 135 was established in the first instance pursuant to NHTSA's ongoing efforts to harmonize its passenger car braking standards with international standards, consistent with the agency's statutory mandate to increase motor vehicle safety. By continuing to align the vehicle applicability of Standard No. 135 with the ECE categories M1 and N1, the agency will ensure that future harmonization efforts will be easier to implement. The vehicles to which Standard No. 135 apply will continue to be equivalent to the vehicles covered by ECE categories M1 and N1. Standard No. 105 will continue to apply to trucks, buses, and multipurpose passenger vehicles, the equivalent to ECE categories M2, M3, N2, and N3. NHTSA believes, therefore, that alignment of its standards in that way will facilitate the implementation of future harmonization efforts.

In view of the above, the agency withdraws the rulemaking action that it initiated in its May 1996 NPRM.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on April 20, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99–10317 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223, 224, and 226

[I.D. 121198A and 033198A]

Endangered and Threatened Species; Extension of Comment Period and Notice of Public Hearings on Proposed Designation of Critical Habitat for West Coast Steelhead; Notice of Public Hearings on Proposed De-listing of Umpqua River Cutthroat Trout

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; public hearings and extension of public comment period.

SUMMARY: NMFS is extending the public comment period by 60 days and announcing public hearings in California, Washington, Oregon, and Idaho on the proposed designation of critical habitat for nine Evolutionarily Significant Units (ESUs) of west coast steelhead (*Oncorhynchus mykiss*). NMFS is also announcing public hearings on a proposal to de-list the Umpqua River ESU of coastal cutthroat trout (*Oncorhynchus clarki clarki*).

DATES: See **SUPPLEMENTARY INFORMATION** for dates and times of public hearings. The date of written comments on the steelhead proposed critical habitat designation is extended from May 6, 1999 to July 5, 1999. Comments on both the listing and de-listing proposals are due by July 6, 1999.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for locations of public hearings. Written comments on the proposed rules and requests for reference materials should be sent to Chief, Protected Species Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, (503) 231-2005, Craig Wingert, (562) 980-4021, or Chris Mobley (301) 713–1401. Copies of the **Federal Register** documents cited herein and additional salmon-related materials are available via the Internet at www.nwr.noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On February 5, 1999 (64 FR 5740), NMFS issued a proposed rule to designate critical habitat for nine ESUs of west coast steelhead listed as threatened or endangered under the Endangered Species Act (ESA) (62 FR 43937, August 18, 1997; 63 FR 13347, March 19, 1998; 64 FR 14517, March 25, 1999). Proposed critical habitat for all nine ESUs is the current freshwater and estuarine range (including all waterways, substrates, and adjacent riparian zones) below longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years) and several dams that block access to former anadromous habitats. Since the proposed designation, NMFS has received several requests for public hearings in affected communities within the range of the nine ESUs and is now announcing the dates and locations of these hearings. In addition, the agency is extending the May 6, 1999 comment period deadline by 60 days to allow additional time for public hearings and subsequent public responses to those hearings. Hence, July 5, 1999, is the new deadline for submitting written comments on the steelhead proposed critical habitat designation.

Also, on April 5, 1999, NMFS published a proposed rule to list one ESU of coastal cutthroat trout (Southwestern Washington/Columbia River) as a threatened species under the ESA and to de-list another ESU (Umpqua River) previously listed as an endangered species (64 FR 16397). The agency has received a request for a hearing on the latter proposal but none on the former. Therefore, NMFS is also announcing public hearings on the Umpqua River proposed de-listing; comments on both the listing and de-listing proposals are due by July 6, 1999.

Public Hearings

NMFS is soliciting specific information, comments, data, and/or recommendations on any aspect of these proposals from all concerned parties. Public hearings provide an additional opportunity for the public to give comments and to permit an exchange of information and opinion among interested parties. Department of Commerce ESA implementing regulations state that the Secretary of Commerce "shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list...species" (50 CFR 424.16 (c)(3)). NMFS has received several requests for public hearings in the areas affected by the proposals and has made every effort to accommodate the specific requests. While the agency was unable to hold hearings at every site requested, the locations selected should be reasonably accessible to most interested parties. The public will have the opportunity to

provide oral and written testimony at the scheduled public hearings. Interested parties unable to attend the public hearings are encouraged to send comments to NMFS (see **ADDRESSES**). The agency will consider all information, comments, and recommendations received before reaching a final decision on these listing and critical habitat proposals. Public hearings will be held as follows:

Public Hearings Regarding Steelhead Critical Habitat

1. Tuesday, May 11, 1999, 6:30 p.m. to 9:00 p.m., DoubleTree Hotel/Redding, 1830 Hilltop Drive, Redding, California.

2. Wednesday, May 12, 1999, 6:30 p.m. to 9:00 p.m., The Heritage Hotel and Convention Center (formerly The Beverly Garland Hotel), 1780 Tribute Road, Sacramento, California.

3. Thursday, May 13, 1999, 6:30 p.m. to 9:00 p.m., Modesto Irrigation District, 1231 11th Street, Modesto, California.

4. Tuesday, May 18, 1999, 6:30 p.m. to 9:00 p.m., DoubleTree Hotel Sonoma County; One DoubleTree Drive, Rohnert Park, California.

5. Wednesday, May 19, 1999, 6:30 p.m. to 9:00 p.m., Monterey Beach Hotel; 2600 Sand Dunes Drive, Monterey, California.

6. Thursday, May 20, 1999, 6:30 p.m. to 9:00 p.m., Fess Parker's Doubletree Resort; 633 East Cabrillo Boulevard, Santa Barbara, California.

7. Tuesday, May 25, 1999, 6:30 p.m. to 9:00 p.m., Umpqua Discovery Center, 409 Riverfront Way, Reedsport, Oregon.

8. Wednesday, May 26, 1999, 6:30 p.m. to 9:00 p.m., Douglas County Courthouse, Room 216, 1036 SE Douglas Avenue, Roseburg, Oregon.

9. Thursday, May 27, 1999, 6:30 p.m. to 9:00 p.m., Eugene City Hall, Council Chambers, 777 Pearl Street, Eugene, Oregon.

10. Tuesday, June 1, 1999, 6:30 p.m. to 9:00 p.m., Chelan Center, 317 East Johnson, Chelan, Washington.

11. Wednesday, June 2, 1999, 6:30 p.m. to 9:00 p.m., Yakima County Courthouse, Room 420, 128 North 2nd Street, Yakima, Washington.

12. Thursday, June 3, 1999, 6:30 p.m. to 9:00 p.m., Lewiston Community Center, 1424 Main Street, Lewiston, Idaho.

13. Friday, June 4, 1999, 6:30 p.m. to 9:00 p.m., Natural Resource Center, Bureau of Land Management, 1387 South Binnell Way, Boise, Idaho.

14. Monday, June 7, 1999, 6:30 p.m. to 9:00 p.m., Metro Regional Center, Council Chamber, 600 NE Grand Avenue, Portland, Oregon.

15. Thursday, June 10, 1999, 6:30 p.m. to 9:00 p.m., Wasco County Courthouse, 511 Washington Street, Courtroom 301, The Dalles, Oregon.

Public Hearings Regarding Umpqua River Cutthroat Trout Proposal

1. Tuesday, May 25, 1999, 6:30 p.m. to 9:00 p.m., Umpqua Discovery Center, 409 Riverfront Way, Reedsport, Oregon.

2. Wednesday, May 26, 1999, 6:30 p.m. to 9:00 p.m., Douglas County Courthouse, Room 216, 1036 SE Douglas Avenue, Roseburg, Oregon.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other aids should be directed to Garth Griffin or Craig Wingert (see **ADDRESSES**) by 7 days prior to each meeting date.

Dated: April 20, 1999.

Hilda Diaz-Soltero,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–10392 Filed 4–21–99; 4:06 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 79
Monday, April 26, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–027N]

National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will hold a public meeting May 26–May 28, 1999 to review and discuss ongoing and completed issues on meat and poultry, fresh produce, risk assessments, and Qualification Through Verification (QTV).

DATES: The Meat and Poultry Working Group and the Risk Assessment Working Group on *Vibrio parahaemolyticus* will hold a public meeting on Wednesday, May 26, 1999, beginning at 8:00 a.m. The QTV Working Group and the Risk Assessment Working Group on *Listeria* will meet on Thursday, May 27, 1999, beginning at 8:00 a.m. The full Committee will hold a public meeting on Friday, May 28, 1999, beginning at 8:00 a.m.

ADDRESSES: The meeting will be held at The Ambassador West Hotel, 1300 North State Parkway, Chicago, Illinois 60601; telephone (312) 787–3700.

FOR FURTHER INFORMATION CONTACT: Persons wishing to register for the meeting, schedule a presentation, submit technical papers, or provide comments should contact Ms. Mary Harris at (202) 501–7315, FAX (202) 501–7615, or e-mail address: mary.harris@usda.gov, or mailing address: FSIS, USDA, Room 6904E-Franklin Court, 1400 Independence Avenue, SW, Washington, DC 20250–3700. All papers submitted must be received no later than 4:30 p.m., May 6, 1999. All documents become part of the Committee records.

All other written comments must be submitted (one original and two copies) to the FSIS Docket Clerk, Docket #99–027N, 102 Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700. All written comments received in response to this notice will be considered part of the public record and will be available for viewing in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Harris by May 7, 1999.

SUPPLEMENTARY INFORMATION: The NACMCF provides advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services regarding the microbiological safety of foods. The Committee also provides advice to the Centers for Disease Control and Prevention and to the Departments of Commerce and Defense. Dr. I. Kaye Wachsmuth, Deputy Administrator, Office of Public Health and Science, FSIS is the Committee Chair.

During the full Committee meeting, the Fresh Produce Working Group will submit a white paper on sprouts for adoption by the full Committee. The Risk Assessment Working Group will discuss issues related to the risk assessments being developed to examine the relationships of *Listeria monocytogenes* and *Vibrio parahaemolyticus* and their consequences to human health. The Meat and Poultry Working Group will discuss very small plant Hazard Analysis and Critical Control Point (HACCP) guidelines and the potential for *Campylobacter* performance standards. A presentation will be made by the Agricultural Marketing Service (AMS) on its Qualification Through Verification program, a voluntary user fee audit and verification service to assist fresh-cut produce companies to ensure the safety of their products. AMS will seek scientific review from the Committee on the food safety elements of the program.

Done at Washington, DC, on April 20, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–10350 Filed 4–23–99; 8:45 am]
BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Intergovernmental Advisory Committee Subcommittee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee will meet on May 6, 1999, at the Double Tree Hotel, Columbia River, 1401 N. Hayden Island Drive, Portland, Oregon, 97217. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan. The meeting will begin at 9:15 a.m. and continue until 3:00 p.m. Agenda items to be discussed include, but are not limited to: information sharing on salmon restoration and recover from the Tribal perspective; continued discussion on integrating the forest plan into the management landscape; and progress reports on effectiveness monitoring and information issues. The IAC meeting will be open to the public and is fully accessible for people with disabilities. Interpreters are available upon request in advance. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTRACT: Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–808–2180).

Dated: April 20, 1999.

Donald R. Knowles,

Designated Federal Official.

[FR Doc. 99–10343 Filed 4–23–99; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.
ACTION: Notice of meeting.

SUMMARY: The Klamath Provincial Advisory Committee will meet on May 6–7, 1999, at the Six Rivers National Forest Conference Room, 1330 Bayshore Way, Eureka, California. On Thursday, May 6, the PAC will meet from 9:00 a.m. to 5:00 p.m. On Friday, May 7, the meeting will start at 8:00 a.m. and adjourn at 12:00 p.m. Agenda items for the meeting include: (1) Water Rights Adjudication Process in the Upper Klamath Basin; (2) Five County Coho Salmon Planning Effort; (3) Economic Impact of the Northwest Forest Plan on Two Small Communities in Oregon; (4) Subcommittee Reports; and (5) Public Comment Periods. All PAC meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Connie Hendryx, USDA, Klamath National Forest, 1312 Fairlane Road, Yreka, California 96097; telephone 530–841–4468 (voice), TDD 530–841–4573.

Dated: April 19, 1999.

Michael P. Lee,

Designated Federal Official.

[FR Doc. 99–10344 Filed 4–23–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Provincial Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.
ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on May 13 and 14, 1999. The meeting will begin at 1:00 p.m. on Thursday, May 13 which will be spent in the field visiting one of the Forestry Training Center's demonstration areas. The field trip will conclude approximately 5:00 p.m. The committee will assemble for the field trip at the Forestry Training Center on Industrial Way north of Forks. On Friday the 19th, the meeting will be held in the Olympic Natural Resource Center's conference room and will begin at 8:30 a.m. and continue until 2:00 p.m. Agenda topics are: (1) Introduction of new Forest Supervisor; (2) Forestry Training Center Stewardship Subcommittee report; (3) Olympic Natural Resource Center Update; (4) National Marine Fisheries Service update on Endangered Species Act listings of fish; (5) Wolf Recovery & Elk Protection update; (6) Status of Forest Roads; (7) Open Forum; and (8) Public Comments. All Olympic Province Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Ken Eldredge, Province Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA 98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor, at (360) 956–2301.

Dated: April 14, 1999.

Kathy O'Halloran,

Acting Forest Supervisor, Olympic National Forest.

[FR Doc. 99–10310 Filed 4–23–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–847]

Preliminary Determination of Critical Circumstances: Certain Cut-To-Length Carbon-Quality Steel Plate From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.
EFFECTIVE DATE: April 26, 1999.
FOR FURTHER INFORMATION CONTACT: Wendy J. Frankel at (202) 482–5849 (Japan), Irene Darzenta Tzafolias at (202) 482–0922 (Indonesia and the Former Yugoslav Republic of Macedonia (FYR Macedonia)), and James Maeder at (202) 482–3330 (Czech Republic), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.
PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1998).

Critical Circumstances

In antidumping (AD) petitions filed on February 16, 1999, petitioners alleged that certain cut-to-length plate from eight countries (the Czech Republic, Indonesia, Japan, FYR Macedonia, France, India, Indonesia, and the Republic of Korea) is being dumped in the United States and that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports from the Czech Republic, Indonesia, Japan, and FYR Macedonia. On March 8, 1999, the Department of Commerce (the Department) initiated investigations to determine whether imports of certain cut-to-length carbon-quality steel plate (CTL plate) from the eight countries subject to AD petitions are being, or are likely to be, sold in the United States at less than fair value (LTFV) (64 FR 12959, March 16, 1999). At that time we also initiated investigations to determine whether critical circumstances exist with respect to imports of CTL plate from the Czech Republic, Indonesia, Japan, and FYR Macedonia.

On April 2, 1999, the International Trade Commission (ITC) determined that imports of CTL plate from the Czech Republic and FYR Macedonia are negligible and, therefore, terminated the investigations regarding these countries. Thus, the issue of critical circumstances with regard to imports from these countries is moot. With respect to imports from Indonesia and Japan, however, the ITC determined that there is a reasonable indication of material injury to the domestic industry from imports of CTL plate from Japan.

In accordance with 19 CFR 351.206(c)(2)(i), because petitioners submitted a critical circumstances allegation at least 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination. In a policy bulletin issued on October 8, 1998, the Department stated that it may issue a preliminary critical circumstances determination prior to the date of the preliminary determination of dumping, assuming adequate evidence of critical circumstances is available (*See Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364). In accordance with this policy, at this time we are issuing a preliminary critical circumstances decision in the investigation of imports of CTL plate from Japan for the reasons discussed below and in the April 8,

1999, Memorandum from Holly A. Kuga to Bernard Carreau regarding: Antidumping Duty Investigation of Certain Cut-To-Length Carbon Quality Steel Plate from Japan—Preliminary Determination of Critical Circumstances (Critical Circumstances Preliminary Determination Memo). However, with respect to imports of CTL plate from Indonesia, at this time, there is insufficient evidence on the record that importers, exporters, or producers knew or should have known, at some time prior to the filing of the petition, that a proceeding concerning Indonesia was likely. Consequently, the appropriate comparison period for determining whether imports have been massive would begin at the time of filing of the petition. Because data for this period are not yet available, the Department will make its preliminary critical circumstances finding by the date of its preliminary determination regarding dumping.

Section 733(e)(1) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

History of Dumping and Importer Knowledge

We are not aware of any existing antidumping order in any country on CTL plate from Japan. However, on May 30, 1978, the Department of the Treasury published in the **Federal Register** (T.D. 78–150, 43 FR 22937) a dumping finding on carbon steel plate from Japan, which was revoked based on changed circumstances on April 17, 1986 (51 FR 13039). Thus there has been a history dumping of carbon steel plate from Japan.

Moreover, we examined whether there was importer knowledge. In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling CTL plate at LTFV and thereby causing material injury, the Department must rely on the facts before it at the time the determination is made. The Department normally considers margins of 25 percent or more and a preliminary ITC determination of material injury sufficient to impute knowledge of dumping and the likelihood of resultant material injury.

In the present case, since we have not yet made a preliminary finding of dumping, the most reasonable source of information concerning knowledge of dumping is the petition itself. In the petition, petitioners calculated estimated dumping margins for several Japanese producers, the levels of which ranged from 55 to 59 percent, all exceeding the 25 percent threshold. Therefore, we preliminarily determine that importers knew or should have known that the exporters were dumping the subject merchandise.

As to the knowledge of likely injury from such dumped imports, the ITC preliminarily found material injury to the domestic industry due to imports of CTL plate from Japan. Therefore, with respect to Japan, we preliminarily find that there is a reasonable basis to believe or suspect that importers knew or should have known that material injury from the dumped merchandise was likely.

Massive Imports

In determining whether there are "massive imports" over a "relatively short time period," the Department ordinarily bases its analysis on import data for at least the three months preceding (the "base period") and following (the "comparison period") the filing of the petition. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period. However, as stated in the Department's regulations, at section 351.206(i), if the Secretary finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time.

In this case, petitioners argue that importers, exporters, or producers of Japanese CTL plate had reason to believe that an antidumping proceeding was likely before the filing of the petition. The Department examined whether conditions in the industry and published reports and statements provide a basis for inferring knowledge that a proceeding was likely. For Japan, we found that such press reports, particularly throughout the summer of 1998, were sufficient to establish that by the end of August 1998, importers, exporters, or producers knew or should have known that a proceeding was likely concerning CTL plate from Japan. (*See* discussion in the Critical Circumstances Preliminary Determination Memo). Accordingly, we examined the increase in import volumes from September 1998 through January 1999 as compared to April 1998 through August 1998 and found that imports of CTL plate from Japan increased by more than 175 percent (*see* Attachment II to the Critical Circumstances Preliminary Determination Memo). Therefore, pursuant to section 733(e) of the Act and section 351.206(h) of the Department's regulations, we preliminarily determine that there have been massive imports of CTL plate from Japan over a relatively short time.

Conclusion

We preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of CTL plate from Japan.

Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, upon issuance of an affirmative preliminary determination of sales at LTFV in the Japan investigation, the Department will direct the U.S. Customs Service to suspend liquidation of all entries of CTL plate from Japan, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination of sales at LTFV. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins reflected in the preliminary determination of sales at LTFV published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for Japan when we make our final determination regarding sales at LTFV in that investigation, which will be 75 days (unless extended) after the preliminary determination regarding sales at LTFV.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. This notice is published pursuant to section 777(i) of the Act.

Dated: April 9, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–10418 Filed 4–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India; Notice of Extension of Time Limit for New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the new shipper review of the antidumping duty order on stainless steel bar from India. The period of review is February 1, 1998 through July 31, 1998. This extension is made pursuant to Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Stephanie Hoffman, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4198.

SUPPLEMENTARY INFORMATION: Because this case is extraordinarily complicated, the Department of Commerce ("the Department") is extending the time limit for completion of the preliminary results to not later than August 18, 1999, in accordance with section 751(a)(2)(B)(iv) of the Uruguay Round Agreements Act ("the Act"). *See* April 19, 1999, Memorandum from Richard W. Moreland to Robert LaRussa on file in the public file of the Central Records Unit, B–099 of the Department.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: April 20, 1999.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–10419 Filed 4–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–085]

Preliminary Results of Full Sunset Review: Sugar and Syrups From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of full sunset review: Sugar and Syrups from Canada.

SUMMARY: On October 1, 1998, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on sugar and syrups from Canada (63 FR 52683) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate filed on behalf of the domestic industry and adequate substantive comments filed on behalf of the domestic industry and a respondent interested party, the Department is conducting a full review. As a result of this review, the Department preliminarily finds that revocation of the antidumping duty order is not likely to lead to continuation or recurrence of dumping.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

Effective Date: April 26, 1999.

Statute and Regulations

This review is being conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

The merchandise subject to this antidumping duty order is sugar and syrups from Canada produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. [1] The subject merchandise is currently classified under Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 1701.99.0500, 1701.99.1000, 1701.99.5000, 1702.90.1000, and 1702.90.2000. Although the subheadings are provided for convenience and customs purposes, the written description remains dispositive.

On March 24, 1987, the Department revoked the order, in part, with respect to Redpath Sugar Ltd. ("Redpath") (52 FR 9322, March 24, 1987). On January 7, 1988, the Department revoked the order, in part, with respect to Lantic Sugar, Ltd. ("Lantic") (53 FR 434, January 7, 1988). In 1996, the Department determined that Rogers Sugar, Ltd. ("Rogers") was the successor in interest to British Columbia Sugar Refining Company, Ltd. ("BC Sugar"). [2] In its substantive response, the United States Beet Sugar Association ("the USBSA") stated that there are three companies in Canada that constitute the Canadian domestic industry: Lantic, Redpath, and Rogers. Further, all three companies, or their predecessors, were involved in the original investigation. Because the order was revoked for Lantic and Redpath, only Rogers is currently subject to the order.

Background

On October 1, 1998, the Department initiated a sunset review of the antidumping duty order on sugar and syrups from Canada (63 FR 52683), pursuant to section 751(c) of the Act. On October 16, 1998, the Department received a Notice of Intent to Participate on behalf of a domestic interested party, the USBSA, within the applicable deadline (October 16, 1998) specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* The USBSA claimed interested party status under section 771(9)(E) of the Act as a trade association whose members produce sugar in the United States and indicated that, although not the original petitioners, it had participated in several administrative reviews. We received complete substantive responses

[1] This order excludes icing sugar decorations as determined in the U.S. Customs Classification of January 31, 1983 (CLA–2 CO:R:CV:G).

[2] *See Sugar and Syrups from Canada; Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 61 FR 51275 (October 1, 1996).

to the notice of initiation on November 2, 1998, on behalf of the USBSA and Rogers. In its substantive response, Rogers claimed interested party status under section 771(9)(A) of the Act.

Based on the information submitted by Rogers concerning the volume of its exports and the volume of imports as reported in the U.S. Census Bureau IM146 Reports, Rogers accounted for significantly more than 50 percent of the value of total exports of the subject merchandise over the five calendar years preceding the initiation of the sunset review. Therefore, respondent interested parties provided an adequate response to the notice of initiation and the Department is conducting a full sunset review in accordance with section 351.218(e)(2)(i) of the *Sunset Regulations*.

The Department determined that the sunset review of the antidumping duty order on sugar and syrups from Canada is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). (*See* section 751(c)(6)(C) of the Act.) Therefore, on January 15, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than April 19, 1999, in accordance with section 751(c)(5)(B) of the Act.[3]

Determination

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Parties' Comments

In its substantive response, the USBSA argued that revocation of the antidumping duty order would likely result in the recurrence of dumping of refined sugar and syrups from Canada (*see* Substantive Response of the USBSA, November 2, 1998). The USBSA noted that refined sugar from Canada, and of Canadian origin, is subject to a tariff rate quota ("TRQ") allocation. The USBSA stated that the TRQ allows 10,300 metric tons ("MT") of refined sugar to enter the United States duty-free.[4] The USBSA stated that sugar from Canada entering the United States above the 10,300 MT level, also known as the tier 2 level, is currently subject to the tier 2 tariff rate.[5]

Additionally, the USBSA stated that only Rogers, which succeeded BC Sugar and consequently is subject to BC Sugar's zero percent *ad valorem* cash deposit rate, is currently subject to the order. The USBSA noted that Rogers is the owner of Canada's sole sugar beet processing facility; a facility that is being modernized and expanded.

The USBSA did not address whether dumping continued at any level above *de minimis* after the issuance of the order. Rather, the USBSA argued that imports of the subject merchandise fell dramatically immediately following the issuance of the order in 1980. The USBSA, citing U.S. Department of Agriculture publications, states that import volumes of the subject merchandise from Canada in 1979 were 89,521 short tons and, in 1980, the year of the imposition of the order, sugar and syrups imports from Canada fell to 639 short tons. Therefore, the USBSA argues that, based on the cessation of imports in the period immediately following the imposition of the order, the Department should find that revocation of the order would be likely to lead to the recurrence of dumping.

The USBSA stated that, in the past, the existence of the tier 2 tariff, in conjunction with the TRQ, has limited imports of sugar into the United States. However, the USBSA contended the decimation of the world sugar price over the past several years has eroded the tier 2 tariff's position as an impediment to imports. The USBSA concludes that, based on the trend in world market prices, by the year 2000 (the earliest possible effective date of revocation of the order pursuant to this sunset review) exporters of Canadian sugar will be able to ship refined sugar to the United States at less-than-fair value prices despite the TRQ.

Additionally, the USBSA stated that the legislative underpinning for current U.S. sugar policy is due to expire at the end of 2002. Therefore, it asserted, the TRQ will not be as significant an obstacle to future imports as it has in the past and the need to preserve the order is greater than it was a few years ago. Finally, the USBSA argued that the existence of the TRQ and the tier 2 tariff does not provide a rationale for revoking the order. The USBSA stated that, despite the intervention of the TRQ and the development of U.S. sugar policy, the U.S. sugar producing industry continued to support the order and regularly expressed to the Department opposition to any proposed revocation.

In its comments addressing the magnitude of dumping likely to prevail if the order were revoked, the USBSA estimated dumping margins based on current U.S. and Canadian prices. The USBSA calculated estimated dumping margins of 30.82 percent for sugar entering the United States within the TRQ limits[6] and 409 percent for sugar entering the United States subject to the tier 2 tariff.[7]

In its substantive response, Rogers argued that revocation of the order would precipitate no change in its current U.S. pricing. Rogers based this statement on the following facts: Rogers' current dumping margin is zero percent and, therefore, the dumping margin does not affect selling price; Rogers' exports to the United States are limited by quotas; Rogers supplies virtually all Canadian exports to the United States under both the global and Canada-specific quotas; and Rogers would not

[3] *See Sugar and Syrups from Canada: Extension of Time Limit for Preliminary Results of Five-Year Review*, 64 FR 3683 (January 25, 1999).

[4] Rogers, in its rebuttal comments, stated that the TRQ allocation of sugar from Canada for 1998 was actually 10,300 MT of raw sugar which, when converted, is 9,579 metric tons of refined sugar. Through telephone conversations with U.S. Department of Agriculture officials, the Department has confirmed that the TRQ allocation of sugar from Canada for 1998 was 10,300 MT of *refined* sugar.

[5] The tier 2 tariff rate is US$0.1716/lb (1998). The Department notes that a global TRQ, with a limit of 7,090 MT of refined sugar, also exists with tier 1 level duty exemptions. Because this global quota is filled on a first come, first served basis, Canada could, theoretically, export up to 17,390 MT of refined sugar to the United States under the current TRQ system at the tier 1 level.

[6] The Department notes that a global TRQ, with a limit of 7,090 MT refined sugar, also exists with tier 1 level duty exemptions established on a first come, first served basis.

[7] The tier 2 tariff rate is US$0.1716/lb (1998). The USBSA also estimated a dumping margin, based on constructed value calculations, for sugar entering the United States from Canada at the tier 1 tariff level and at the tier 2 tariff level. Those margins are 9.3 percent and 325 percent, respectively.

export to the United States below the Canadian domestic price given the current and historical spread between the supply-managed U.S. raw sugar price and the Canadian market price, which tracks world market prices.

With respect to import volumes, Rogers submitted information on the volume and value of its exports to the United States for fiscal years 1994–1998. In addition, Rogers submitted an approximation of the volume of direct exports to the United States during fiscal year 1979, the year preceding the imposition of the antidumping duty order. This volume was based on exports from BC Sugar. This information showed that the volume of imports in each fiscal year since 1994, exceeded the volume of imports during fiscal year 1979.

Additionally, Rogers argued that, as a result of the combined effect of the programs the United States has in place on the importation of raw and refined sugar, the U.S. price-supported sugar program, and customs rulings which resulted in cane sugar refined in Canada being excluded from the U.S. market, there is virtually no chance that revocation of the antidumping duty order would result in the resumption of dumping.

In its rebuttal comments, the USBSA stated that Rogers confirmed that it is the only beet sugar processing facility in Canada. Further, the USBSA argued that, given the downward trend in the world price of sugar and the coming economic feasibility of entering refined sugar into the United States notwithstanding the existence of the TRQ and the tier 2 tariff, the capacity being added at Rogers' beet sugar facility in Alberta must be viewed as a likely source of supply for the U.S. market.

In its rebuttal comments, Rogers stated that the USBSA's allegations concerning increases in sugar beet production capacity in Canada are factually incorrect. Rogers stated that current capacity in Canada is less than it has been historically and submitted production statistics for each facility. Rogers argued that increases in production capacity made in the recent past are meant to offset decreases in production capacity associated with the closure of its Winnipeg, Manitoba facility.

With respect to the volume of exports to the United States, Rogers notes that the TRQ is on the value of raw sugar and, as such, the volume of actual refined sugar allowed to enter the United States is 9,579 MTs, not 10,300 MTs. Rogers argued that its exports to the United States can hardly be considered a large volume when compared to the U.S. consumption of 10,225,000 short tons.

In its rebuttal comments, Rogers argued that the USBSA's reference to the world refined sugar price is irrelevant to this proceeding because Rogers only exports to the United States. Rather, it contended, the only prices relevant to this proceeding are the Canadian home market price and U.S. price of beet sugar. Further, Rogers argued that the USBSA's discussion of world refined pricing overtaking the TRQ is speculative. Rogers argued that lower world prices for raw sugar will lead to lower Canadian refined prices as compared to the high U.S. supported price and, thus, the chance of dumping would be less, not more.

Department's Determination

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3). In instances where none of the above criteria are met, the Department will normally determine that revocation of the order will not be likely to lead to continuation or recurrence of dumping.

The antidumping duty order on sugar and syrups from Canada was published in the **Federal Register** on April 9, 1980 (45 FR 24126). Since that time, the Department has conducted several administrative reviews of this order.[8] As noted above, the order has been revoked with respect to two of the three existing Canadian producers of sugar. Therefore, only Rogers is currently subject to the order.

Consistent with section 752(c) of the Act, the Department considered whether dumping continued at any level above *de minimis* after the issuance of the order. In the administrative review covering the period April 1, 1981 through March 31, 1982, BC Sugar (the predecessor to Rogers) was found to have a zero margin (*see Sugars and Syrups From Canada; Final Results of Administrative Review of Antidumping Duty Order*, 48 FR 49327 (October 25, 1983)) and its cash deposit rate for future entries was set at zero. Exports by BC Sugar, and its successor Rogers, have been subject to a zero deposit rate since that time. Therefore, we preliminarily determine that dumping did not continue at any level above *de minimis* after the issuance of the order.

In addition, consistent with section 752(c) of the Act, the Department also considered whether imports ceased after the issuance of the order. Citing a reduction in imports from about 90,000 short tons in 1979 to a little over 600 short tons in 1980, when the order was issued, the USBSA argued that imports ceased after the issuance of the order. The USBSA also noted that exports of sugar from Canada have been limited by quotas that have been in effect since 1982. Although there was a decrease in the volume of imports during 1980, imports of subject merchandise from Canada increased thereafter and have continued after the issuance of the order. Therefore, we preliminarily determine that imports did not cease after the issuance of the order.[9]

The Department also considered whether dumping was eliminated after

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[8] *See Sugar and Syrups from Canada; Final Results of Antidumping Duty Administrative Review*, 46 FR 27985 (May 22, 1981); *Sugar and Syrups from Canada; Final Results of Antidumping Duty Administrative Review*, 47 FR 25393 (June 11, 1982); *Sugar and Syrups from Canada; Final Results of Antidumping Duty Administrative Review*, 48 FR 49327 (October 25, 1983); *Sugar and Syrups from Canada; Final Results of Antidumping Duty Administrative Review*, 51 FR 20322 (June 4, 1986); *Sugar and Syrups from Canada; Final Results of Antidumping Duty Administrative Review and Revocation in Part*, 52 FR 9322 (March 24, 1987); *Sugar and Syrups from Canada; Final Results of Antidumping Duty Administrative Review*, 52 FR 21340 (June 5, 1987); and *Sugar and Syrups from Canada; Final Results of Antidumping Duty Administrative Review and Revocation in Part*, 53 FR 434 (January 7, 1988).

[9] Rogers submitted information on its exports to the United States since 1990 in its November 3, 1998 submission. The Department conducted administrative reviews of shipments between 1979 and 1987. Additionally, import statistics from the U.S. Census Bureau IM146 Reports, U.S. Department of Commerce statistics, U.S. Department of Treasury statistics, and information supplied by the U.S. International Trade Commission show imports of sugar from Canada from 1988 through the present. *See also* footnote 11.

the issuance of the order and import volumes for the subject merchandise declined significantly. Based on sales between April 1, 1981 through March 31, 1982, the margin of dumping for BC Sugar was determined to be zero. Neither BC Sugar nor its successor, Rogers, has been subject to an administrative review since that time. We agree with the USBSA that, since the imposition of the order, total annual exports of sugar from Canada have been below the pre-order level of total annual exports of sugar from Canada. However, because Rogers is the only Canadian sugar producer subject to the order, we examined specifically the volume of Rogers' exports. In its substantive response, Rogers' provided the volume of its exports of subject merchandise for the most recent five fiscal years. In addition, Rogers reconstructed data for fiscal year 1979 exports from its predecessor, BC Sugar, and provided an approximation of the direct exports to the United States for that time period. A comparison of the volume data demonstrates that Rogers exports have not declined significantly since the issuance of the order. To the contrary, export volumes have increased significantly. Therefore, the Department preliminarily determines that dumping was eliminated by the sole Canadian sugar producer currently subject to the order and its export volumes have not declined significantly since the issuance of the order.

With respect to the USBSA's arguments regarding the TRQ, and the tier 2 tariff, and the potential for the recurrence of dumping if the TRQ is lifted in 2002, we do not find these arguments persuasive for several reasons. First, the Department finds the USBSA's argument speculative. There is no evidence to suggest that the elimination of the TRQ is a certainty. In fact, from 1948 to the present, there has only been a total of seven years where the importation of sugar was completely unrestricted.[10]

Second, if the United States were to eliminate all import restrictions on sugar from Canada and establish a market which tracked world prices, the Department finds no evidence to suggest that Rogers would resume dumping. Prior to the first post-order restrictions imposed in 1982, the Department established a deposit rate of zero percent for BC Sugar as a result of the 1981/1982 administrative review (48 FR 49327, October 25, 1983). As noted by both the USBSA and Rogers, beginning in 1982, the United States imposed quotas on imports of sugar. However, starting with the quota year October 1, 1990 through September 30, 1991, the United States implemented a TRQ which did not apply to Canada. Thus, Canadian exports were unrestricted until January 1, 1995, when a separate global quota of 22,000 MT was established and Canada was made subject to that quota. We found that, during the period of unrestricted Canadian access to the U.S. market (1991–1994), the volume of imports of sugar from Canada increased; imports increased from 34.7 million in 1990 to 74.6 million in 1991.[11] If, as the USBSA argued in this sunset review, an increased volume of imports will be accompanied by increased dumping, the domestic industry could have requested an administrative review during the period of unrestricted Canadian access. However, the Department did not receive a request for administrative review despite the fact that exports by the only Canadian producer subject to the order were subject to a deposit rate of zero percent. Therefore, the Department finds no reason to believe that dumping was occurring during this period.

With respect to the USBSA's assertions regarding Rogers' planned expansion and modernization of its sugar beet processing facility, as noted above, Rogers provided production data which supports its assertion that increased capacity at its Taber facility replaces capacity at its recently closed Winnipeg facility. In fact, the sugar production information provided by Rogers supports its assertion that sugar production, although increasing since the low of 1997, continues to be, and is forecasted to be less than production in 1994.

The USBSA also stated that while the TRQ and tier 2 tariff have been effective in limiting imports into the United States, decreases in world prices will cause Rogers to increase exports to the United States above the quota level despite the tier 2 tariff. We agree that the TRQ and tier 2 tariff have been effective in limiting imports into the United States. Our review of data, including U.S. Census Bureau IM146 reports, indicates that Canadian exports of the subject merchandise have not exceeded the Canada-specific and/or global TRQ level since it was first applied to Canada in 1995.[12] Based on U.S. Census Bureau IM146 reports and import statistics provided by Rogers, the Department finds no evidence to suggest that Rogers' exports have ever exceeded the tier 1 tariff level.

As to future decreases in world market prices, we note that the information provided by the USBSA on world refined sugar prices since 1990, shows that prices have fluctuated over this time period, with prices in fiscal year 1998 being only marginally below fiscal year 1993 prices. Therefore, the recent decrease in the world refined sugar price is not unprecedented. Additionally, the USBSA asserted that the major catalysts in the rapid decline of world sugar prices are a drop in demand in Asia and Russia as a result of the financial crisis in those regions.[13] However, according to FAS Online, "[i]ndustry sources believe that sugar consumption will continue to grow in the Asian region, despite recent economic troubles, as sugar is seen as a staple commodity in the Asian diet."[14] Additionally, FAS Online notes that "if the Government of Russia retracts the new tariffs on sugar and banks are able to facilitate trade, Russia could resume it's position as the world's major sugar importer early in 1999."[15] Therefore, we are not persuaded that the world market price of sugar will continue to fall as asserted by the USBSA.

Furthermore, the USBSA suggested that the continued reduction in the world price of sugar will enable Canadian sugar exporters (as well as exporters from other countries) to ship subject merchandise into the United States and pay the tier 2 tariff, precipitating an influx of dumped sugar into the United States. However, given the absence of restrictions on imports of sugar into Canada, we agree with Rogers that, if the world price of sugar declines, we would expect a commensurate decline in the Canadian home market price. Therefore, a decrease in the world price of sugar does not, by itself, suggest that Rogers would resume dumping if the order were to be revoked.

[10] Although access to the U.S. market for sugar was unrestricted, we note that Cuba has been barred from trading with the United States since 1962.

[11] These statistics reflect imports of sugar under HTS item numbers 1701.11, 1701.12, 1701.91, 1701.99, 1702.90, and 2106.90, which are broader than the scope of the order. These statistics were obtained from the Commission (http://dataweb.usitc.gov) and were compiled from tariff and trade data from the U.S. Department of Commerce, the U.S. Treasury, and the Commission.

[12] In telephone conversations with U.S. Department of Agriculture officials, they indicated that it is highly unlikely that any Canadian sugar subject to this antidumping duty order has entered the United States at the tier 2 level.

[13] The USBSA cited to The Czarnikow Sugar Review, No. 1889 ("Fears of Slower Far East Demand Impact Prices") (February 1998), attached as part of Appendix 6 to USBSA's Substantive Response (November 2, 1998).

[14] FAS Online article "World Sugar Situation," available at "http://www.usda.gov/htp/sugar/1998/98-11/world.html'.

[15] *Id.*

Finally, with respect to the USBSA's arguments that current pricing information demonstrates dumping, we note that the USBSA did not provide evidence of "good cause" to support the Department's use of current pricing information (*see* section 351.218(d)(3)(iv) of the *Sunset Regulations*). However, even considering the substance of the USBSA's arguments, we note that there was a significant discrepancy between the values the USBSA and Rogers reported. Both the USBSA and Rogers supplied information related to Canadian and U.S. pricing and cost of production. The USBSA based its estimated dumping margins on U.S. wholesale prices, Canadian wholesale prices, and estimated transportation costs. The USBSA utilized a price from Rogers' Saskatchewan Price List as the Canadian wholesale price. In its rebuttal comments, however, Rogers argued that Canadian sellers operate on high list prices and high discounts and, because of this, the published list price of Rogers is much higher than its actual discounted price. Rogers submitted copies of record bulk sales invoices to Canadian customers, which supported its assertion that sales are discounted. These discounted prices were significantly below the price used by the USBSA to represent the Canadian market price. Rogers also provided its average annual prices into the United States for the past eight years. The value Rogers reported as its export price into the United States differed from the U.S. price used by the USBSA in its calculations. Finally, there was a significant difference in the cost of production values reported by both parties. [16] Therefore, we preliminarily determine that the information submitted by Rogers in its substantive and rebuttal responses refutes the more generalized data provided by the USBSA.

Based on this analysis, the Department preliminarily finds, consistent with the SAA at 889–90, and the House Report at 63, that declining (or no) dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to dump to maintain market share in the United States and that dumping is less likely to continue if the order were revoked." That is, the Department preliminarily finds that the continued absence of a dumping margin for Rogers and the continued existence of imports from Rogers in substantial quantities demonstrates that Rogers is capable of selling the subject merchandise in the United States without dumping. Further, the Department preliminarily finds no evidence to suggest that Rogers would begin dumping subject merchandise in the foreseeable future, regardless of the existence or absence of any outside importation restrictions. Therefore, the Department preliminarily determines that dumping is not likely to recur if the order were revoked.

Magnitude of the Margin

Parties' Comments

In its substantive response, the USBSA argued that the dumping margin likely to prevail is at least as large as the margin that prevailed at the time of the original investigation. The highest dumping margin established in the original investigation was US$0.0237/lb.[17] Further, based on current U.S. and Canadian pricing, the USBSA estimated dumping margins ranging from 9.3 percent to 409.0 percent.

In its substantive response, Rogers argued that, given the price spread between the U.S. supply-managed sugar market and the Canadian market based on world pricing, the dumping margin likely to prevail if the order were to be revoked is zero. Rogers argued that, because of its limited access to the U.S. market, it is motivated to sell at U.S. refined sugar prices to maximize returns. Rogers provided a chart depicting sugar prices in the Canadian and U.S. markets and its price into the United States for the past eight years, as well as a calculation for producing processed beet sugar at its facility in Canada. The chart indicates that Rogers' price into the United States has been above its prices in Western Canada.

Department's Determination

Because we preliminarily determine that dumping is not likely to recur were the order revoked, there is no magnitude of the margin of dumping to report to the Commission.

Preliminary Results of Review

The Department preliminarily finds that revocation of the order is not likely to lead to continuation or recurrence of dumping. As a result of this determination, the Department, pursuant to section 751(d)(2) of the Act, preliminarily intends to revoke the antidumping duty order on sugar and syrups from Canada. Pursuant to section 751(c)(6)(A)(iv) of the Act, this revocation would be effective January 1, 2000. The Department preliminarily intends to instruct the U.S. Customs service to liquidate without regard to dumping duties entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date), and to discontinue collection of cash deposits on entries of subject merchandise as of the same date.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on June 15, 1999. Interested parties may submit case briefs no later than June 8, 1999, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than June 14, 1999, in accordance with 19 CFR 351.309(d). The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than August 27, 1999.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–10287 Filed 4–23–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–408–046]

Preliminary Results of Full Sunset Review: Sugar From the European Community

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of full sunset review: Sugar from the European Community.

SUMMARY: On October 1, 1998, the Department of Commerce ("the Department") initiated a sunset review of the countervailing duty order on sugar from the European Community ("the Community") (63 FR 52683) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate filed on behalf of the domestic industry and adequate

[16] With respect to the USBSA's constructed value calculations, the Department finds these calculations to be speculative. Specifically, the calculations used 1994/95 data on the average total cost of production together with 1998 data on the U.S. wholesale price of sugar, 1998 data on the cost of transportation and, for one of the two constructed value calculations, the 1998 tier 2 tariff rate. The use of 1994/1995 data in 1998 dumping margin calculations suggests that findings from such calculations would be highly speculative.

[17] *See Antidumping Duty Order; Sugar and Syrups from Canada*, 45 FR 24128 (April 9, 1980).

substantive comments filed on behalf of the domestic industry and respondent interested parties, the Department is conducting a full review. As a result of this review, the Department preliminarily finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the "Preliminary Results of Review" section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: April 26, 1999.

Statute and Regulations

This review is being conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*") and in 19 C.F.R. part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

The merchandise subject to this countervailing duty order is sugar, with the exception of specialty sugars (e.g., cones, hats, pearls, loaves), from the European Community. Blends of sugar and dextrose, a corn-derived sweetener, containing at least 65 percent sugar are within the scope of this order. According to the final results of the Department's most recent administrative review, the merchandise subject to this order is currently classifiable under item numbers 1701.11.00, 1701.12.00, 1701.91.20, and 1701.99.00 of the Harmonized Tariff Schedule of the United States ("HTSUS") (*see Sugar From the European Community; Final Results of Countervailing Duty Administrative Review*, 55 FR 35703 (August 31, 1990). In their substantive response, the Associations stated that the merchandise subject to the order is currently classifiable under item numbers 1701.11.0025, 1701.11.0045, and 1702.90.300 of the HTSUS. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

Background

On July 31, 1978, the Department of the Treasury ("Treasury") issued its Final Countervailing Duty Determination, T.D. 78–53 (43 FR 33237). The Department has conducted several administrative reviews of this outstanding countervailing duty order.[1]

On October 1, 1998, the Department initiated a sunset review of the countervailing duty order on sugar from the European Community (63 FR 52683), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate from the United States Beet Sugar Association ("the USBSA") and the United States Cane Sugar Refiners" Association ("the USCSRA") (collectively "the Associations") on October 16, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. Both associations claimed interested party status under section 771(9)(E) of the Act, as trade associations, a majority of whose members produce sugar in the United States. We received complete substantive responses from the European Commission ("the Commission") and from the Associations on October 30, and November 2, 1998, respectively, within the 30-day deadline specified in section 351.218(d)(3)(i) of the *Sunset Regulations*.

In its substantive response, the USBSA and its member organizations, and the USCSRA and its member organizations, stated that they are comprised of members that produce refined sugar from sugar beets and raw cane sugar, respectively, and, therefore, their member organizations constitute domestic interested parties under section 771(9)(C) of the Act. The Associations stated that, together, they represent nearly all of the refined sugar production in the United States. The Associations stated that the petitioner in the original countervailing duty investigation was the Florida Sugar Marketing and Terminal Association Incorporated ("FSMTAI"), that the USCSRA requested the 1988 administrative review conducted by the Department, that the Associations requested a scope clarification in 1987, and that one or both have objected to various notices of intent to revoke issued by the Department. We received letters from the American Sugarbeet Growers Association and the FSMTAI on November 3 and November 5, 1998, respectively. Each of these associations indicated agreement with the conclusion reached in the Substantive Response of the Associations and expressed support for the order's continuation.

In its substantive response, the Commission stated that it represents the European Union ("EU"), which comprises Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the United Kingdom. In addition, the Commission stated that it is willing to participate in the sunset review as the authority responsible for administrating the sugar export restitution scheme and that it has, in the past, submitted responses to the Department with regard to the countervailing duty order. The Commission qualifies as an interested party under section 771(9)(B) of the Act.

On November 9, 1998, we received rebuttal comments from the Associations. We did not receive rebuttal comments from the Commission.

On the basis of the complete substantive responses filed by domestic interested parties and the Commission, and in accordance with section 351.218(e)(2) of the *Sunset Regulations*, the Department is conducting a full sunset review.

The Department determined that the sunset review of the countervailing duty order on sugar from the European Community is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). (*See* section 751(c)(6)(C) of the Act.) Therefore, on January 15, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than April 19,

[1] See *Sugar from the European Communities; Final Results of Administrative Review of Countervailing Duty Order*, 46 FR 46984 (September 23, 1981); *Sugar from the European Communities; Final Results of Administrative Review of Countervailing Duty Order*, 48 FR 35001 (August 2, 1983); *Sugar from the European Communities; Final Results of Administrative Review of Countervailing Duty Order*, 49 FR 45039 (November 14, 1984); and *Sugar From the European Community; Final Results of Countervailing Duty Administrative Review*, 55 FR 35703 (August 31, 1990).

1999, in accordance with section 751(c)(5)(B) of the Act.[2]

Determination

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy has occurred that is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission ("the ITC") the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide the ITC information concerning the nature of the subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement").

The Department's preliminary determinations concerning continuation or recurrence of a countervailable subsidy, the net countervailable subsidy likely to prevail if the order is revoked, and nature of the subsidy are discussed below. In addition, parties' comments with respect to each of these issues are addressed within the respective sections.

Continuation or Recurrence of a Countervailable Subsidy

Party Comments

In their substantive response, the Associations stated that the EU continues to make restitution payments to sugar exporters under the Common Agricultural Policy ("CAP"). The Associations argued that, although the CAP has been modified and reformed in minor respects since the original countervailing duty order was issued in 1978, it continues to provide a system of production quotas, guarantees, and export restitution payments like those addressed in the earlier countervailing duty determination.

The Associations stated that during the last twenty years, the CAP sugar regime has repeatedly been held to violate U.S. countervailing duty laws and GATT principles. In support of this statement, the Associations referred to several determinations, including the 1982 injury determination by the ITC,[3] a 1996 sunset review by the Canadian International Trade Tribunal,[4] and two GATT panel reports.[5]

Further, the Associations argued that the import performance following the publication of the order establishes the likelihood that countervailable subsidies on sugar from the EU will continue. The Associations explained that, immediately after the imposition of the order, imports of subject merchandise disappeared from the U.S. market, thereby demonstrating that sugar can be sold in the United States only with the aid and benefit of subsidies. Although acknowledging that access to the U.S. market for foreign-origin sugar has been limited by quota since 1982, the Associations argued that the downward trend in the world price of refined sugar will shortly make it feasible to ship refined sugar into the United States despite the operation of the tariff rate quota ("TRQ") on sugar imports. Further, the Associations stated that the TRQ rate is scheduled to be reduced in 1998, 1999, and 2000, with the underpinning for current U.S. sugar policy due to expire at the end of 2002.

In its substantive response, the Commission stated that the system of granting sugar export refunds in the Community is still in force as part of the Community's CAP. The Commission argued that the system is WTO-compatible and that the export refund is determined in such a way as not to undermine the world market price of sugar. The Commission explained that the export refund bridges the gap between the world market price (as quoted in the future white sugar quotations in London or Paris) and the Community effective support price (composed of the intervention price plus the storage levy) plus a lump sum amount to cover the transport costs for bringing the sugar to the Community port. Further, the Commission argued that, if the countervailing duty order is revoked, the U.S. market would not be in any way "targeted" by the export refund program as export refunds are the same for all destinations outside the EU. Finally, the Commission argued that, in view of the existence of quotas on sugar imports into the United States, revocation of the order is unlikely to have any effect on the U.S. market as actual exports to the United States are minimal.

In their rebuttal comments, the Associations stated that the trend in the world price of sugar assures that the world price of sugar will be below the EU intervention prices for the foreseeable future. Additionally, the Associations argued that, contrary to the Commission's argument that the existence of the quota on sugar effectively prevents the recurrence of any countervailable subsidy, it is now economically feasible to ship sugar to the United States despite the quota. In conclusion, the Associations requested that, based on the information contained in their substantive response and the Commission's own admission that restitution payments will continue to be made on exports of the subject merchandise to compensate European producers for the difference between the world price of sugar and the EU intervention price, the Department find that, in the event of revocation, countervailable subsidies will continue or recur.

Department's Preliminary Determination

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department

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[2] *See Sugar From the European Community: Extension of Time Limit for Preliminary Results of Five-Year Review*, 64 FR 3683 (January 25, 1999).

[3] The ITC determined that revocation of the countervailing duty order will threaten material injury to the U.S. sugar industry based primarily on its assessment that the European Community ("EC") will continue to subsidize exports. *See* Associations' Substantive Response, at 25 (November 2, 1998), referring to *Sugar from the European Communities*, ITC Investigation No. 104–TAA–7, 47 Fed. Reg. 23057 (1982).

[4] The EU's export restitution payments under the CAP were again determined to be countervailable subsidies. *See* Associations' Substantive Response, at 26 (November 2, 1998), referring to *The Dumping in Canada of Refined Sugar Originating in or Exported From the United States of America, Denmark, the Federal Republic of Germany, the Netherlands, the United Kingdom and the Republic of Korea, and the Subsidizing of Refined Sugar Originating in or Exported From the European Union*, Review No. RD–95–001, 1 T.T.R. (2d) 355 (July 26, 1996).

[5] The panels determined that the Community system [for granting refunds on exports of sugar] and its application constitutes a threat of serious prejudice in terms of Article XVI:1. *See* Associations' Substantive Response, at 25 (November 2, 1998), referring to *GATT Dispute Panel Report on Complaint By Brazil Concerning EC Refunds on Exports of Sugar*, L/5011–27S/69, at part V (adopted November 10, 1980) and *GATT Dispute Panel Report on Complaint By Australia Concerning EC Refunds on Exports of Sugar*, L/4833—26S/290, at part V (adopted November 6, 1979).

clarified that determinations of likelihood will be made on an order-wide basis (*see* section III.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) a subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (*see* section III.A.3.a of the *Sunset Policy Bulletin*). Exceptions to this policy are provided where a company has a long record of not using a program (*see* section III.A.3.b of the *Sunset Policy Bulletin*).

In its final determination, Treasury determined that the restitution payments made upon exportation to sugar growers and processors in the EC under the CAP constitute a bounty or grant, the net amount of which was determined to be 10.8 cents/pound of sugar (*see Final Countervailing Duty Determination*, 43 FR 33237 (July 31, 1978)). The Department has conducted several administrative reviews of this outstanding countervailing duty order and, in each review, determined a net subsidy rate from this program (*see* footnote 1).

Because the Commission specifically acknowledged that the export restitution program remains in place, and on the basis of the information presented by the parties, the Department preliminarily determines that the program continues to exist and, therefore, if the order were to be revoked, a countervailable subsidy would continue or recur.

Net Countervailable Subsidy

Party Comments

In their substantive response, the Associations argued that the countervailing duty rate likely to prevail if the order is revoked would be at least as large as that existing at the time of the original order, and would probably be significantly larger since the difference between the EU and world price has increased. The Associations argued that since the restitution payments are provided to compensate sugar producers for the difference between the higher EU price and the lower prevailing world market price, as the world market sugar price declines, there is a corresponding increase in the amount of the export subsidies payable to European sugar producers under the CAP. Specifically, the Associations stated that, if the order were to be revoked, the net countervailable subsidy that is likely to prevail, based on current subsidy levels and pricing, would be 27.97 cents per pound of sugar.[6]

In its substantive response, the Commission provided the average export refund per marketing year for the years 1995/96 through 1997/98. The average export refund for marketing years 1997/98 was reported as 44.01 ECU per 100 kg (which is 18.61 cents per pound). This is consistent with information provided by the Associations.[7]

In its substantive response, the Commission stated that the export refund bridges the gap between the world market price (as quoted in the future white sugar quotations in Paris or London) and the Community effective support price (composed of the intervention price plus a storage levy) plus a lump sum amount to cover the transport costs for bringing the sugar to a Community port. Further, although this calculation results in the maximum theoretical export refund that can be granted, the actual refund granted to exporters (normally fixed on a weekly basis) is always at a lower level. The Commission noted that not all sugar exported from the EU is entitled to an export refund; specifically, sugar produced in excess of production quotas is not entitled to export refunds. The Commission noted that if the world market price exceeds the internal EU price, no refunds are paid; on the contrary, an export levy is charged on all export shipments from the EU. The Commission concluded by stating that because the export refund covers the difference between the internal EU price and the world price for sugar, it is not feasible to establish the level of export restitution in advance.

Department's Preliminary Determination

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rept. No. 103–826, pt.1 (1994), and the Senate Report, S. Rept. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for determinations of the net countervailable subsidy. In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, "the Department normally will select a rate 'from the investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place.'" The Department noted that this rate may not be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, if there has been a program-wide change, or if the rate ignores a program found to be countervailable in a subsequent administrative review. (*See* section III.B.3 of the *Sunset Policy Bulletin*).

In its final countervailing duty determination, Treasury determined that the net amount of the bounty or grant provided by this program was 10.8 cents/pound of sugar. This amount represented the average maximum restitution level set by the EC for sugar exports during the first half of 1978. Although noting that sugar exporters could, on particular shipments, receive less than the maximum restitution, the level of which was set at least every three weeks by the EC, Treasury determined that this figure represented an accurate approximation of the subsidy being paid on recent shipments to the United States (*see Final Countervailing Duty Determination*, 43 FR 33237 (July 31, 1978)).

As noted above, the Department has conducted several administrative reviews of this order (*see* footnote 1). In the first administrative review conducted by the Department, the Department noted that export restitution payments on sugar are adjusted constantly to reflect the movement in world market sugar prices (*see Sugar From the European Communities; Final Results of Administrative Review of Countervailing Duty Order*, 46 FR 46984 (September 23, 1981)). Since that time, the Department determined the level of subsidy on the basis of information obtained from various independent statistical gathering organizations as well as from the United States Department of Agriculture, the Federal Republic of Germany, and the Journals of the EC (*see* footnote 1). The Department never calculated an *ad valorem* subsidy rate. Rather, the

[6] The Associations cite an October 28, 1998, article from Bloomberg News, in which the EU's sugar management committee is reported as agreeing to pay traders an export subsidy of 513.00 European currency units per ton on 120,250 tons of sugar exported to non-EU markets. Using the Federal Reserve Bank of New York October 28, 1998, exchange rate of ECU 1 = $1.1918, the Associations calculated the subsidy to be $61.66 per 220.46 pounds or $0.2797 per pound. *See* Associations' Substantive Response, at 35 and Appendix 12 (November 2, 1998).

[7] In their substantive response, the Associations provided copies of The Czarnikow Sugar Review published September 9, 1998, which reported the "weighted average of export refunds at the tenders was 44.012 ecu per 100 kg." *See* Substantive response at Appendix 6.

subsidy was always expressed in terms of cents per pound of sugar. We note that in the *Sunset Policy Bulletin* we clarified that, in a sunset review of a countervailing duty order where the original investigation was conducted by Treasury, the Department normally will provide to the Commission the net countervailable subsidy from the first final results of administrative review published in the **Federal Register** by the Department, where the net countervailable subsidy was first calculated on an *ad valorem* basis. (*See* section III.B.1 of the *Sunset Policy Bulletin*.) As discussed above, however, the Department has never calculated an *ad valorem* subsidy rate in this proceeding.

As discussed in the *Sunset Policy Bulletin*, the Department normally will report to the ITC an original subsidy rate as adjusted to take into account terminated programs, program-wide changes, programs found to be countervailable in subsequent reviews. Since the original investigation the export restitution program has not been terminated. Further, the changes in the world market and EU prices of sugar do not constitute a program-wide change. Finally, no other countervailable programs have been found in subsequent administrative reviews of the countervailing duty order. Therefore, consistent with the *Sunset Policy Bulletin*, we preliminarily determine that the 10.80 cents/pound rate from the investigation is the net countervailable subsidy likely to prevail if the order were revoked.

Nature of the Subsidy

In the *Sunset Policy Bulletin*, the Department stated that, consistent with section 752(a)(6) of the Act, the Department will provide information to the Commission concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. Neither party specifically addressed this issue, although the Commission did state that the system for granting sugar export refunds is WTO-compatible.

Although the export restitution payments on sugar fall within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement, Article 3.1 does not apply to products covered by the Agreement on Agriculture. Similarly, in accordance with Article 13(c) of the Agreement on Agriculture, export subsidies that conform fully to the provisions of Part V of the Agreement on Agriculture, are exempt from the provisions of Article 6 of the Subsidies Agreement. However, export subsidies, including the export restitution payments, are subject to countervailing duties, as provided in Article 13(c) of the Agreement on Agriculture.

Preliminary Results of Review

As a result of this review, the Department preliminarily finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy likely to prevail if the order were revoked is 10.80 cents per pound. Although qualifying as a countervailable export subsidy, Article 3 of the Subsidies Agreement does not apply to the export restitution payments program under the EC's CAP.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on June 15, 1999. Interested parties may submit case briefs no later than June 8, 1999, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than June 14, 1999, in accordance with 19 CFR 351.309(d). The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than August 27, 1999.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–10288 Filed 4–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend certificate.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104, Washington, DC 20230. Business confidential information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 90–6A007".

United States Surimi Commission's ("USSC") original Certificate was issued on August 22, 1990 (55 FR 35445, August 30, 1990) and subsequently amended on December 12, 1990 (55 FR 53031, December 26, 1990); June 11, 1991 (56 FR 27946, June 18, 1991); May 22, 1992 (57 FR 23078, June 1, 1992); August 12, 1993 (58 FR 44504, August 23, 1993); and August 3, 1995 (60 FR 41879, August 14, 1995).

Summary of the Application

Applicant: United States Surimi Commission, C/o Mundt MacGregor LLP, 999 Third Avenue, Suite 4200, Seattle, Washington 98104–4082.

Contact: Paul MacGregor, Attorney at Law, Telephone: (206) 624–5950.

Application No.: 90–6A007.

Date Deemed Submitted: April 13, 1999.

Proposed Amendment: USSC seeks to amend its Certificate to add Tyson Seafood Group (a division of Tyson Foods, Inc.) of Kirkland, WA as a new "Member" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)).

Dated: April 20, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–10286 Filed 4–23–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990309066–9066–01; I.D. 030299A]

RIN 0648–ZA62

Financial Assistance for Research and Development Projects in the Northeastern Coastal States; Marine Fisheries Initiative (MARFIN)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Availability of Funds.

SUMMARY: NMFS announces that funding will be available to assist persons in carrying out research and development projects that optimize the management of fisheries in the Northeastern Coastal States, focusing on the New England region. Priority funding consideration in 1999 is given to research on stock identification and applied research to facilitate analyses of resource management strategies for finfish and shellfish being managed by fishery management plans in the Northeast Region. NMFS issues this notice describing the conditions under which applications will be accepted and selected for funding.

DATES: Applications for funding under this program will be accepted between April 26, 1999 and 5 p.m. eastern standard time on May 26, 1999. Applications received after that time will not be considered for funding. No facsimile applications will be accepted.

ADDRESSES: Send applications to: Harold C. Mears, Director, State, Federal & Constituent Programs Office, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Beal, 978-281-9267.

SUPPLEMENTARY INFORMATION:

I. Authority

The Secretary of Commerce (Secretary) is authorized under 15 U.S.C. 713c–3 to conduct any biological, technological, or other research pertaining to American fisheries and, under 16 U.S.C. 742f, to take such steps as may be required for the development, advancement, management, conservation, and protection of the fisheries resources.

II. Catalog of Federal Domestic Assistance

This program is described in the "Catalog of Federal Domestic Assistance," under program number 11.433, Marine Fisheries Initiative.

III. Program Description

MARFIN financial assistance began in FY 1986 in the NMFS Southeast Region and was expanded to New England for the first time in FY 1998. MARFIN is a competitive Federal assistance program that promotes and endorses programs which seek to optimize benefits from U.S. marine fishery resources through cooperative research and development efforts. Projects to be funded under the Northeastern MARFIN Program are envisioned as multi-sector partnerships to complement the goals and objectives of the NOAA Fisheries Strategic Plan, a copy of which is available from the Northeast Regional Office (see **ADDRESSES**). The Plan's elements include shared stewardship responsibilities relating to sustainable fisheries, recovered protected species, and healthy living marine resource habitat.

The overall MARFIN program emphasizes projects that have the greatest probability of recovering, maintaining, improving, or developing fisheries; improving the understanding of factors affecting recruitment success; and/or generating increased values and opportunities for commercial and recreational marine fishery industries. During this second year of the Northeastern MARFIN Program, priority funding consideration will be given to projects involving new methods and/or technology to improve stock identification and the associated knowledge base upon which to develop management strategies for selected species of fish and shellfish currently under fishery management plans in the Northeast Region. Projects will be evaluated as to the likelihood of achieving these benefits through both short-term and long-term research efforts, with consideration of the magnitude of the eventual economic or social benefits that may be realized. However, short-term projects which emphasize immediate benefits will receive priority consideration.

IV. Funding Availability

This solicitation announces that funding of approximately $500,000 will be available in FY 1999. There is no guarantee that sufficient funds will be available to make awards for all approved projects. Publication of this notice does not obligate NMFS to award any specific project or to obligate all or any parts of the available funds.

V. Matching Requirements

Cost-sharing is not required for the MARFIN program. If an applicant chooses to share costs, and if that application is selected for funding, the applicant will be bound by the percentage of the cost share reflected in the award document signed by the Grants Officer.

VI. Type of Funding Instrument

The cooperative agreement has been determined to be the preferred and most appropriate funding instrument, dependent upon the nature and scope of the submitted project(s). NMFS is substantially involved in developing program research priorities, conducting cooperative activities with recipients, and evaluating the performance of recipients for effectiveness in meeting national and regional goals for fishery research in the northeastern United States.

VII. Eligibility Criteria

A. Applications for MARFIN projects may be made in accordance with the procedures set forth in this document by:

1. Any individual who is a citizen or national of the United States.

2. Any individual who is a citizen of the Northern Mariana Islands, being an individual who qualifies as such under Section 8 of the Schedule on Transitional Matters attached to their constitution.

3. Any individual who is a citizen of the Republic of the Marshall Islands, Republic of Palau, or the Federated States of Micronesia.

4. States or local governments, universities, corporations, partnerships, or other entities, non-profit or otherwise, if such an entity is a citizen

of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (46 app. U.S.C. 802).

B. Federal agencies, Federal instrumentalities, Federal employees, including NOAA employees (full-time, part-time, and intermittent personnel or their immediate families), and NOAA offices or centers are not eligible to submit an application under this solicitation, or aid in the preparation of an application during the 30-day solicitation period, except to provide information about the MARFIN program and the priorities and procedures included in this solicitation. However, NOAA employees are permitted to provide information about ongoing and planned NOAA programs and activities that may have implications for an application. Potential applicants are encouraged to contact Harold C. Mears at the NMFS Northeast Regional Office (see **ADDRESSES**) for information on NOAA grant programs.

VIII. Award Period

Generally, the awards will be for a period of 1 year, but no more than 18 months at a time. If an application is selected for funding, NMFS has no obligation to provide any additional prospective funding in connection with that award in subsequent years. Any subsequent proposal to continue work on an existing project must be submitted to the competitive process for consideration and will not receive preferential treatment. Renewal of an award to increase funding or to extend the period of performance is at the total discretion of the Department of Commerce (DOC).

IX. Indirect Costs

The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal government. The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award. However, the Federal share of the indirect costs may not exceed 25 percent of the total proposed direct costs. Applicants with indirect cost rates above 25 percent may use the amount above the 25–percent level as part of the non-Federal share. Information must be included with the application of the current, approved, negotiated Indirect Cost Agreement with the Federal Government by indicating a web site address or by providing a current copy, if no web site is available.

X. Application Forms and Kit

Before submitting an application under this program, applicants should contact the NMFS Northeast Regional Office for a copy of this solicitation's MARFIN Application Package (see **ADDRESSES**).

Applications for project funding under this program must be complete and in accordance with instructions in the MARFIN Application Package. Each application must include all specified sections as listed in the Application Package, including, but not limited to the following: Cover sheet (SF 424), Budget (SF 424A), and Narrative Project Description (Goals & Objectives; Impacts; Evaluation; Need for Governmental Assistance; Participation by Persons Other Than the Applicant; Federal, State and Local Government Activities and Permits; Project Statement of Work; and Project Management). Project applications must identify the principal participants and include copies of any agreements describing the specific tasks to be performed by all participants. Applications should give a clear presentation of the proposed work, the methods for carrying out the project, its relevance to managing and enhancing the use of fishery resources in the New England Coastal States, and cost estimates as they relate to specific aspects of the project. Budgets must include a detailed breakdown by category of expenditures with appropriate justification for both the Federal and non-Federal shares. Applicants should not assume prior knowledge on the part of NMFS as to the relative merits of the project described in the application. Applications are not to be bound in any manner and must be printed on one side, only. All incomplete applications will be returned to the applicant. Three copies (one signed original and two signed copies) of each application are required and must be submitted to the NMFS Northeast Regional Office, State, Federal & Constituent Programs Office (see **ADDRESSES**). You may opt to submit additional copies (ten are needed for reviewing purposes). This is especially helpful if your proposal contains color or hard-to-duplicate material.

XI. Project Funding Priorities

Proposals should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multi-disciplinary. Coordinated efforts involving multiple institutions or persons are encouraged. The area of emphasis for FY 1999 is new methods and/or techniques to improve the ability of scientists to identify the stock structure of selected species of fish and shellfish to improve fisheries management. In addition to referencing specific area(s) of special interest, proposals should state whether the research will apply to the New England coastal states only, or to other areas as well.

Successful applicants may be required to collect and manage the data in accordance with standardized procedures and formats approved by NMFS and to participate with NMFS in specific cooperative activities which will be determined by consultations between NMFS and successful applicants before project grants are awarded. Research methods may involve some of the following techniques, although new approaches to improve stock identification methodology will be welcomed.

A. Genetic techniques:
1. Allozyme analyses
2. Mitochondrial DNA (mtDNA) analyses
a. Mitochondrial DNA restriction fragment length polymorphism (mtDNA RFLP)
b. mtDNA d-loop
c. Amplified fragment length polymorphism (AFLP)
d. Microsatellite DNA markers
e. Cytogenetics
B. Microconstituent analysis (MCA)
1. Laser ablation
2. Reference material (RM)
3. Isotope dilution
4. Preconcentration techniques
C. Fatty acid profiles
D. Neural nets as a classification tool
E. Image processing tools

The following species have been identified for stock identification purposes, and a synopsis of the most important research issue is listed for each species:

Silver hake, *Merluccius bilinearis*: How much mixing occurs on and around Georges Bank? Are there distinct spawning stocks? Where does reproduction take place?

Atlantic herring, *Clupea harengus*: Are there separate spawning stocks in the Gulf of Maine and Georges Bank? Are larval distribution and larval growth patterns different?

Yellowtail flounder, *Limanda ferruginea*: How discrete are the mid-Atlantic and southern New England stocks? How much mixing exists among stocks, for both larvae and adults?

Cod, *Gadus morhua*: How much migration and mixing occurs between Georges Bank, Gulf of Maine, Browns Bank and Scotian Shelf stocks? Are there resident fish which do not migrate in the Gulf of Maine?

Haddock, *Melanogrammus aeglefinus*: Are there separate stocks on Georges Bank (east vs. west)?

Striped bass, *Morone saxatilis*: How much do individual stocks (e.g. Roanoke) contribute to coastal fisheries? What are emigration patterns from spawning/nursery areas? Do large females return to their natal rivers to spawn annually?

Sea scallop, *Placopecten magellanicus*: Are Mid-Atlantic and Georges Bank stocks separate? Are closed areas a source of larvae to other areas?

Goosefish (monkfish), *Lophius americanus*: Is the population composed of one or two stocks?

Northern shortfin squid, *Illex illecebrosus*: Where is the spawning migration route from the north to Florida? Is this species hybridizing with congeners south of New Jersey?

Ocean quahog, *Arctica islandica*: Is the population off the coast of Maine genetically distinct from populations to the south? Is the Maine population a source of larvae to southern areas? Is the Georges Bank population a source of larvae to the Mid-Atlantic?

Atlantic surfclam, *Spisula solidissima*: What is the southern boundary of this species in relation to the northern boundary of *Spisula solidissima similis* and *Spisula raveneli*?

American lobster, *Homarus americanus*: Where are migrations to/from with respect to management areas, and are these areas defined properly? What are the inshore/offshore linkages between larvae and adults?

American shad, *Alosa sapidissima*: Stocks have been transported and introduced to different rivers. What is the present population structure across the Northeast Region?

Blueback herring, *Alosa aestivalis*: How much gene flow exists between rivers, with respect to distance? How much genetic variation exists in reestablished populations?

Alewife, *Alosa pseudoharengus*: How much gene flow exists between rivers, with respect to distance? How much genetic variation exists in reestablished populations?

XII. Evaluation Criteria

Cooperatively developed applications that propose activities of two or more qualified applicants to address important fishery conservation and management issues or problems identified in the Project Funding Priorities for this solicitation may be evaluated as a group by NMFS. If selected for funding, individual cooperative awards may be made to each individual applicant. Application procedures for this type of proposal are also included in the FY 1999 MARFIN Application Package.

A. Unless otherwise specified by statute, in reviewing applications for cooperative agreements, including those that include consultants and contracts, NOAA will make a determination regarding the following:

1. Is the involvement of the applicant necessary to the conduct of the project and the accomplishment of its goals and objectives?

2. Is the proposed allocation of the applicant's time reasonable and commensurate with the applicant's involvement in the project?

3. Are the proposed costs for the applicant's involvement in the project reasonable and commensurate with the benefits to be derived from the applicant's participation?

B. Applications meeting the above requirements will be forwarded for technical evaluation. Applicants submitting applications not meeting the above requirements will be notified. Evaluations may involve experts from NOAA organizations as well as from non-NOAA entities (such as universities, state fishery agencies, and members of the fishing industry). All reviewers will be required to sign non-disclosure and conflict of interest statements concerning the application they are reviewing. The reviewers will assign scores to applications based on the following evaluation criteria:

1. Does the proposal have a clearly stated goal(s) with associated objectives that meet the needs outlined in the Narrative Project Description? (30 points)

2. Does the proposal clearly identify and describe, in the Project Outline and Statement of Work, scientifically valid methodologies and analytical procedures that will adequately address project goals and objectives? (30 points)

3. How and to what degree would attainment of the project objectives contribute to enhancement of the knowledge base for fishery management? (20 points)

4. Are the proposed costs appropriate for the scope of work proposed? (10 points)

5. Do the principal investigators provide a scientifically realistic timetable to enable full accomplishment of all aspects of the Statements of Work? (10 points)

XIII. Selection Procedures

All applications will be considered by a NMFS Science Group composed of 3 or more NMFS employees, and ranked into two categories: "Recommended," and "Not Recommended." This group will consider the proposals based on technical review comments, technical review scores, and the project funding priorities (Section XI), using each member's expertise in the problem areas. This group will rank proposals on a consensus basis. Proposals ranked as "Not Recommended" will not be given further consideration for selection and funding, and will be returned to the respective applicants. Proposals ranked as "Recommended" will be presented to a Constituent Panel of non-NOAA fishery experts who will individually consider the problem addressed in each project proposal, the technical evaluation, the need for funding, funds available, and the priority areas for research listed in Section XI.(Project Funding Priorities). These Constituent Panel members will provide individual recommendations to NMFS on each proposal classified as "Recommended." No consensus advice will be given by the panel. The individual comments, recommendations and evaluations of the non-NOAA Constituent Panel members, and recommendations of the NMFS Science Group, will be presented to the Northeast Region, NMFS' Regional Administrator. The Regional Administrator, in consultation with the Assistant Administrator for Fisheries, will (a) Determine which projects do not substantially duplicate other projects which are currently being funded by NOAA or are approved for funding by other Federal offices, (b) select the projects to be funded, (c) determine the amount of funds available for each project, and (d) determine which components of the selected projects shall be funded. The exact amount of funds awarded, the final scope of activities, the project duration, and specific NMFS cooperative involvement with the activities of each project will be determined in pre-award negotiations among the applicant, the NOAA Grants Office, and the NMFS Program Staff. Projects must not be initiated by recipients until a signed financial assistance award is received from the NOAA Grants Office. Successful applicants will be generally recommended within 210 days from the date of publication of this document. The earliest start date of awards will be approximately 90 days after each project is selected and after all NMFS/applicant negotiations of cooperative activities have been completed (the earliest start date of awards will be approximately 300 days after the date of publication of this document). Applicants should consider this selection and processing time in developing requested start dates for their applications.

XIV. Other Requirements

A. *Federal policies and procedures.* Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards. Women and minority individuals and groups are encouraged to submit applications under this program.

B. *Past performance.* Any first-time applicant for Federal grant funds under this announcement is subject to a pre-award accounting survey prior to execution of the award. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

C. *Pre-award activities.* If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

D. *No obligation of future funding.* If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

E. *Delinquent Federal debts.* No award of Federal funds shall be made to an applicant or to its subrecipients who have any outstanding delinquent Federal debt or fine until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received; or

3. Other arrangements satisfactory to DOC are made.

F. *Name check review.* All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing, such criminal charges as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management, honesty, or financial integrity. Potential non-profit and for-profit recipients may also be subject to reviews of Dun and Bradstreet data or other similar credit checks.

G. *Primary applicant certifications.* All primary applicants must submit a completed Form CD 511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

1. *Nonprocurement debarment and suspension.* Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension," and the related section of the certification form prescribed earlier applies;

2. *Drug-free workplace.* Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)," and the related section of the certification form prescribed earlier applies; also please enter the Principal Place of Performance, i.e. where the work will be done, on the form.

3. *Anti-lobbying.* Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, contracts for more than $100,000, loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. *Anti-lobbying disclosures.* Any applicant who has paid or will pay for lobbying using any funds must submit a Form SF-LLL, "Disclosure Form to Report Lobbying," as required under 15 CFR part 28, appendix B.

H. *Lower tier certifications.* Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD 512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF-LLL, "Disclosure of Lobbying Activities." Form CD 512 is intended for the use of recipients and should not be transmitted to DOC. A form SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

I. *False statements.* A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

J. *Intergovernmental review.* Applications under this program are subject to the provisions of E.O. 12372, "Intergovernmental Review of Federal Programs."

K. *American-made equipment and products.* Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program.

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or by any other law for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This action has been determined to be not significant for purposes of E.O. 12866.

Cooperative agreements awarded pursuant to pertinent statutes shall be in accordance with the Fisheries Research Plan (comprehensive program of fisheries research) in effect on the date of the award.

Federal participation under the MARFIN Program may include the assignment of DOC scientific personnel and equipment. Reasonable, negotiated financial compensation will be provided under awards for the work of eligible grantee workers.

This notice contains information-collection requirements which are subject to the Paperwork Reduction Act and which have been approved by the Office of Management and Budget under OMB control numbers –0043 and –0046. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Dated: April 20, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10407 Filed 4–23–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041999A]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: The meetings will be held from May 10 through May 13, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: These meetings will be held at the Omni Austin Hotel, 700 San Jacinto, Austin, Texas; telephone: 512–476–3700.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: The public meetings will be held on:

Monday, May 10, 1999

12:00 noon - 1:30 p.m.—Convene the Shrimp Management Committee to review a draft amendment options paper addressing reduction of shrimp trawl bycatch in the eastern Gulf of Mexico. The options paper will be revised into a draft amendment at a subsequent Council meeting and be presented at public hearings in the late summer or fall.

1:30 p.m. - 3:00 p.m.—Convene the Joint Shrimp/Reef Fish Management Committees to hear a presentation by NMFS scientists on the results of their study on the effectiveness of bycatch reduction devices (BRDs) in reducing the bycatch of juvenile red snapper in shrimp trawls.

3:00 p.m. - 5:30 p.m.—Convene the Reef Fish Management Committee to approve Draft Reef Fish Amendment 17 for public hearings that will be held in June. The amendment proposes to extend the moratorium on issuance of commercial reef fish vessel permits. The committee will hear and may act on a report on the recommendations of the red snapper recreational workshop participants on actions that could be taken to extend the recreational red snapper season. The committee will also hear and may act on a NMFS report on the status of approval of the Council's regulatory amendment to set red snapper total allowable catch (TAC) for 1999.

Tuesday, May 11, 1999

8:00 a.m. - 12:00 noon—Convene the Mackerel Management Committee to review stock assessment and socioeconomic information and to develop their TAC recommendations to the Council, which can include bag limits, size limits, trip limits, and seasons. The committee will also approve Draft Mackerel Amendment 12 for public hearings to be held in June. The amendment proposes to extend the moratorium on issuance of commercial king mackerel vessel permits.

1:00 p.m. - 3:00 p.m.—Convene the Marine Reserves Committee to review a draft scoping document that will be presented at workshops in the fall.

3:00 p.m. - 5:30 p.m.—Convene the Administrative Policy Committee to consider amendments to the Magnuson-Stevens Act.

Wednesday, May 12, 1999

Council

8:30 a.m.—Convene.

8:45 a.m. - 9:00 a.m.—Receive a report on completion of the Federal Billfish Amendment and Highly Migratory Species Fishery Management Plan.

9:00 a.m. - 12:00 noon—Receive public testimony on the total allowable catch (TAC) for mackerels and coastal pelagics.

1:30 p.m. - 4:00 p.m—Receive the Mackerel Management Committee Report.

4:00 p.m. - 5:00 p.m.—Receive the Shrimp Management Committee Report.

Thursday, May 13, 1999

8:30 a.m. - 9:00 a.m.—Receive the Reef Fish Management Committee Report.

9:00 a.m. - 9:45 a.m.—Receive the Administrative Policy Committee Report.

9:45 a.m. - 10:15 a.m.—Receive the Marine Reserves Committee Report.

10:15 a.m. - 10:45 a.m.—Receive the Joint Shrimp/Reef Fish Committee Report.

10:45 a.m. - 11:00 a.m.—Receive the International Commission for the Conservation of Atlantic Tunas Advisory Committee (ICCAT) meeting report.

11:00 a.m. - 11:15 a.m.—Receive the South Atlantic Fishery Management Council Liaison Report.

11:15 a.m. - 11:30 a.m.—Receive Enforcement Reports.

11:30 a.m. - 11:45 a.m.—Receive Director's Reports.

11:45 a.m.- 12:00 noon—Other Business.

The General Accounting Office (GAO) is currently reviewing implementation of the Magnuson-Stevens Fishery Conservation and Management Act. As part of this effort, two GAO staff will be attending the Council meeting the week of May 10th and will be available to talk to anyone who wishes to provide information or examples on the subjects detailed here.

Magnuson-Stevens Fishery Conservation and Management Act

Senate Report 105–235 mandates that GAO review National Marine Fisheries Service compliance with the national standards to base conservation and management measures on the best scientific information available and that such measures take into account the importance of fishery resources to fishing communities. The report also mandates that GAO review NMFS' implementation of the essential fish habitat provisions. GAO is interested in interviewing anyone who wishes to provide information or examples with respect to these three areas.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by May 3, 1999.

Dated: April 19, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10294 Filed 4–23–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041999B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for a scientific research permit (1215); receipt of applications to modify permits (1102, 1136, 1140); issuance of modifications to existing permits (1058, 1174).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened

species for the purposes of scientific research and/or enhancement:

NMFS has received a permit application from the Washington Department of Natural Resources in Olympia, WA (WDNR); NMFS has received applications for modifications to existing permits from: Washington Department of Fish and Wildlife at Vancouver, WA (WDFW) (1102), Oregon Cooperative Fishery and Wildlife Research Unit at Corvallis, OR (OCFWRU) (1136), and Northwest Fisheries Science Center, NMFS at Seattle, WA (NWFSC) (1140); NMFS has issued a permit to Mr. Harold Brundage III, of Environmental Research and Consulting, Inc. (ERCI) (1174); and NMFS has issued modifications to a scientific research permit to the U.S. Fish and Wildlife Service at Ahsahka, ID (USFWS) (1058).

DATES: Written comments or requests for a public hearing on any of the new applications or modification requests must be received on or before May 26, 1999.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permits 1058, 1102, 1136, 1140, 1215: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

For permit 1174: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (301–713–1401).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT:

For permits 1058, 1102, 1136: Leslie Schaeffer, Portland, OR (503–230–5433).

For permits 1140, 1215: Tom Lichatowich, Portland, OR (503–230–5438).

For permit 1174: Terri Jordan, Silver Spring, MD (301–713–1401).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Snake River (SnR) fall, SnR spring/summer, Upper Columbia River (UCR) spring.

Coho salmon (*Oncorhynchus kisutch*): Oregon Coastal (OC), Southern Oregon/northern California coast (SONCC).

Sockeye salmon (*Oncorhynchus nerka*): SnR.

Steelhead trout (*Oncorhynchus mykiss*): UCR.

Shortnose sturgeon (*Acipenser brevirostrum*).

To date, protective regulations for threatened OC coho salmon under section 4(d) of the ESA have not been promulgated by NMFS. This notice of receipt of an application requesting a take of this species is issued as a precaution in the event that NMFS issues protective regulations that prohibit takes of threatened OC coho salmon. The initiation of a 30-day public comment period on the application, including its proposed take of threatened OC coho salmon, does not presuppose the contents of the eventual protective regulations.

New Applications Received

WDNR (1215) requests a 5-year permit for takes of juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with salmonid presence/absence surveys in proposed timber sale areas. The proposed stream surveys will determine the correct stream classification and place the stream in the correct Riparian Management Zones (RMZ). The correct RMZ designation will protect listed fish by requiring proper riparian buffers be left along streams. ESA-listed juvenile fish are proposed to be captured using electrofishing, netted, quickly identified without being removed from the water, and immediately released to calm water to recover. Indirect mortalities of ESA-listed juvenile fish associated with the research are also requested.

Modification Requests Received

WDFW requests a modification to scientific research permit 1102. Permit 1102 authorizes WDFW annual direct takes of adult, endangered, UCR steelhead; adult, threatened, SnR spring/summer chinook salmon; and adult, threatened, SnR fall chinook salmon associated with studies designed to determine the stock composition of steelhead passing Bonneville Dam on the Columbia River and the stock composition of salmon and steelhead harvested in Columbia River fisheries. For the modification, WDFW requests an increase in the annual take of adult, threatened, SnR spring/summer chinook salmon associated with the handling of ESA-listed adult fish at Bonneville Dam. The increased annual take is requested because more adult spring chinook salmon are expected to pass Bonneville Dam in 1999 and future years. WDFW also requests an annual take of adult, endangered, UCR spring chinook salmon associated with the research. ESA-listed adult fish are proposed to be captured, anesthetized, measured and sampled for tissues and scales, allowed to recover from the anesthetic, and released. The modification is requested to be valid for the duration of the permit, which expires on January 31, 2003.

OCFWRU requests a modification to scientific research permit 1136. Permit 1136 authorizes OCFWRU annual direct takes of juvenile, endangered, SnR sockeye salmon; juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon; juvenile, threatened, SnR fall chinook salmon; and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with research designed to compare biological and physiological indices of wild and hatchery fish exposed to stress from bypass, collection, and transportation activities at dams on the Snake and Columbia Rivers in the Pacific Northwest. For the modification, OCFWRU requests annual takes of juvenile, endangered, naturally produced and artificially propagated, UCR spring chinook salmon associated with the research. OCFWRU also requests that ESA-listed juvenile fish be captured at two additional locations: Little Goose Dam on the Snake River and John Day Dam on the Columbia

River. ESA-listed juvenile fish are proposed to be captured or acquired from Smolt Monitoring Program personnel, anesthetized, examined, allowed to recover from the anesthetic, and released. ESA-listed juvenile fish indirect mortalities are also requested. The modification is requested to be valid for the duration of the permit, which expires on December 31, 2000.

NWFSC requests a modification to permit 1140. Permit 1140 authorizes annual direct takes of juvenile, endangered, SnR fall chinook salmon and juvenile, threatened, SONCC coho salmon associated with a research study designed to assess the relationship between environmental variables, selected anthropogenic stresses, and bacterial and parasitic pathogens on disease-induced mortality of juvenile salmon in selected coastal estuaries in Oregon and Washington. Annual incidental takes of ESA-listed anadromous fish are also authorized by the permit. The results of the study will benefit ESA-listed species by providing a better understanding of how environmental factors influence disease. For the modification, NWFSC requests an annual direct take of juvenile, threatened, OC coho salmon. NWFSC proposes to collect ESA-listed juvenile coho salmon with seines, purse seines, and/or fyke nets in Salmon River and Tillamook, Yaquina, Alsea and Coos Bays. ESA-listed juvenile coho salmon are proposed to be lethally taken and analyzed for pathogen prevalence and intensity, chemical analyses, histopathology and stomach contents. NWFSC also requests an annual incidental take and incidental mortalities of juvenile, endangered, UCR spring chinook salmon. The modification is requested to be valid for the duration of the permit, which expires on December 31, 2002.

Permits and Modifications Issued

Notices were published on September 25, 1998 (63 FR 5134), and February 2, 1999 (64 FR 5030), that the USFWS had applied for modifications to scientific research permit 1058. Modification 1 to permit 1058 was issued on April 19, 1999, authorizing an increase in the annual take of adult, threatened, SnR fall chinook salmon associated with an effort to collect biological information from returning adults at Lower Granite Dam on the Snake River in Washington. Data from the larger sample will be used to estimate age composition of the run to provide better information for regulating Columbia River harvest. FWS is also authorized annual takes of juvenile, threatened, SnR fall chinook salmon associated with a new study designed to examine hatchery steelhead residualism in the Clearwater River Basin of ID. The purpose of the research is to gain a better understanding of factors leading to residualism and interactions between residuals and wild or natural stocks of fish. Modification 1 is valid for the duration of the permit, which expires on December 31, 2001.

On April 15, 1999, NMFS issued modification 2 to scientific research permit 1174 to ERCI. Permit 1174 authorizes sampling for and collection of shortnose sturgeon in the Delaware River and Estuary system and in the lower Susquehanna River/Chesapeake Bay Complex. This sampling program is under contract to the NMFS Northeast Region, Protected Resources Division. The objectives of the study are to collect data on current distribution, abundance, length structure and movements of shortnose sturgeon in the Delaware River Estuary and in the lower Susquehanna River and Chesapeake Bay. Modification 2 increases the authorized annual incidental take of shortnose sturgeon in the Delaware River Estuary and in the lower Susquehanna River and Chesapeake Bay, due to evidence that the population of shortnose sturgeon in the Delaware River may be substantially higher than previously thought. This modification follows modification 1, which increased the authorized annual non-lethal take of shortnose sturgeon in the Delaware River. Modification 2 is valid for the duration of the permit, which expires on August 31, 2003.

Dated: April 20, 19999.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–10406 Filed 4–23–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 033099A]

Marine Mammals; Permit No. 917 (P774#2)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Scientific research permit amendment.

SUMMARY: Notice is hereby given that a request for amendment of scientific research permit no. 917 submitted by The Northeast Fisheries Science Center, National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543–1097, has been granted.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298 (508/281–9250); and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (813/570–5312).

SUPPLEMENTARY INFORMATION: On February 9, 1999, notice was published in the **Federal Register** (64 FR 6326) that an amendment of permit no. 917, issued May 12, 1994 (59 FR 25892), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Issuance of this amendment, as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 16, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–10293 Filed 4–23–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–07]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99–07, with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: April 20, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–01–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

12 APR 1999
In reply refer to:
I-99/02104

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-07, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Australia for defense articles and services estimated to cost $500 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 99-07

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Australia

(ii) Total Estimated Value:

Major Defense Equipment*	$ 215 million
Other	$ 285 million
TOTAL	$ 500 million

(iii) Description of Articles or Services Offered:
Eleven excess F-111 aircraft, 130 F-111 TF-30 excess engines, ALR-621 Radar Warning Receiver systems, aircraft storage, the repair, maintenance and testing of aircraft and engines for a one time flight in-country, cartridge/propellant actuated devices, support equipment, publications and technical data, spare and repair parts and other elements of logistics to ensure program supportability.

(iv) Military Department: Air Force (QBD, Amendment 1 and QBF)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.

(vii) Date Report Delivered to Congress: 12 APR 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia - F-111 Aircraft

The Government of Australia has requested a possible sale of 11 excess F-111 aircraft, 130 F-111 TF-30 excess engines, ALR-62I Radar Warning Receiver systems, aircraft storage, the repair, maintenance and testing of aircraft and engines for a one time flight in-country, cartridge/propellant actuated devices, support equipment, publications and technical data, spare and repair parts and other elements of logistics to ensure program supportability. The estimated cost is $500 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Australia while enhancing weapon system standardization and interoperability.

The proposed sale will provide Australia the ability to safely and economically maintain and operate their F-111s. Australia, which already has F-111 aircraft in its inventory, will have no difficulty absorbing these aircraft.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

A prime contractor will not be required for the proposed sale. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 99-07

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The F-111 weapon system is unclassified except as stated below. It does, however, contain sensitive, state-of-the-art technology. Sensitive elements of the F-111 include the AN/APQ-169 attack radar, the AN/APQ-171 terrain-following radar, the AN/APN-236 Doppler radar, the AN/ALR-62 radar warning receiver, the AN/ALE-40 and AN/ALE-28 countermeasures dispenser sets, the AN/ARC-164 ultra-high frequency (UHF) Have Quick radio, the AN/AYK-18 mission computer, and the TF-30P-100 series engines.

2. Classified elements up to Secret of the F-111 include the stored software for the AN/ALR-62 radar warning receiver, the stored software for the AN/AYK-18 mission computer, the crypto communication codes for the AN/ARC-164 UHF Have Quick radio, and operating manuals and maintenance technical orders containing performance information, operating and test procedures, weapons delivery information, and other data related to support operation and repair. The software and data identified are classified to protect vulnerabilities, design, performance parameters, and munitions-related data.

3 If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Australia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 99–10300 Filed 4–23–99; 8:45 am]
BILLING CODE 5001–01–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–13]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 26(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99–13, with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: April 20, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

12 APR 1999
In reply refer to:
I-99/03653

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-13, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost $1.2 billion. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 99-13

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Egypt**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 700 million
Other	$ 500 million
TOTAL	$1,200 million

(iii) **Description of Articles or Services Offered: Twenty-four F-16C/D Block 40 aircraft; 28 F110-GE-100B engines; 24 AN/APG-68 radar; Block 40 upgrade configuration to include integration capability to employ the HARPOON, Heads Up Display, Multiple Boresight Indicator, Egyptian Identification Friend or Foe, and Tactical Airborne Reconnaissance System. Associated support equipment, software development/integration, spares and repair parts, flight test instrumentation, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related requirements to ensure full program supportability will also be provided.**

(iv) **Military Department: Air Force (STR)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.**

(vii) **Date Report Delivered to Congress: 12 APR 1999**

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt - F-16C/D Aircraft

The Government of Egypt has requested a possible sale of 24 F-16C/D Block 40 aircraft; 28 F110-GE-100B engines; 24 AN/APG-68 radar; Block 40 upgrade configuration to include integration capability to employ the HARPOON, Heads Up Display, Multiple Boresight Indicator, Egyptian Identification Friend or Foe, and Tactical Airborne Reconnaissance System. Associated support equipment, software development/integration, spares and repair parts, flight test instrumentation, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related requirements to ensure full program supportability will also be provided. The estimated cost is $1.2 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Egypt needs these aircraft to augment their present operational inventory and to enhance their air-to-air and air-to-ground self-defense capability. The addition of these F-16 aircraft will allow the Egyptian Air Force to maintain a strong defense while it continues its plans to reduce its inventory of aging Eastern bloc aircraft. Egypt, which already has F-16 aircraft in its inventory, will have no difficulty absorbing these additional aircraft.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Corporation, Fort Worth, Texas. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this proposed sale will require the assignment of one Weapons System Liaison Officer for two years and 13 Extended Training Service Specialists up to five years in-country. Five U.S. contractor representatives will be required in Egypt to conduct Contractor Engineering Technical Services for a three-year period after aircraft delivery.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 99-13

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The F-16C/D Block 40 weapon system is unclassified, except as noted below. It contains current technology representing the General Electric F-110-GE-100B engine, AN/APG-68 radar, AN/ALR-56AA Radar Warning Receiver, ALE-47 chaff/flare dispenser, fly-by-wire flight control system, the diagnostics in Avionics Intermediate Shops, and the ARC-164 radio. All critical avionics on the F-16C/D will be sold on an end-item only basis via FMS, as well as computer software. Based on the policy to sell critical F-16C/D avionics and computer software on an end-item basis, this sale will not result in the transfer of any U.S. developmental technology or critical manufacture/process technology to Egypt's suppliers or other parties.

2. Sensitive and/or classified (up to Secret) elements of the F-16C/D Block 40 aircraft include hardware, accessories, components, and associated software for the following:

- **AN/APG-68 Radar (FMS Version)**
- **AN/ALR-56AA Radar Warning Receiver**
- **AN/ARC-164 UHF Radio**
- **ALE-47 Chaff/Flare Dispenser**
- **Operational Flight Program of the Fire Control Computer**

3. If a technologically advanced adversary were to obtain knowledge of the above systems, such knowledge could be used in an attempt to develop component countermeasures or systems with similar or advanced capabilities.

4. A determination has been made that Egypt can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 99–10301 Filed 4–23–99; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Advisory Group on Electron Devices, Department of Defense.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, May 25, 1999.

ADDRESS: The meeting will be held at the Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Timothy Doyle, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director, Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director, Defense Advance Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. § 10(d)(1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1994), and that accordingly, this meeting will be closed to the public.

Dated: April 20, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–10296 Filed 4–23–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Advisory Group on Electron Devices, Department of Defense.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, May 27, 1999.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Cox, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d)(1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1994), and that accordingly, this meeting will be closed to the public.

Dated: April 20, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–10297 Filed 4–23–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Advisory Group on Electron Devices, Department of Defense.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed season meeting.

DATES: The meeting will be held at 0900, Tuesday, June 15, 1999.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: April 20, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–10298 Filed 4–23–99; 8:45 am]

BILLING CODE 5000–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Advisory Group on Electron Devices, Department of Defense.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, May 26, 1999.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Eliot Cohen, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: April 20, 1999.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–10299 Filed 4–23–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF ENERGY

[Docket No. EA–208]

Application To Export Electric Energy; Williams Energy Marketing and Trading Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Williams Energy Marketing and Trading Company (Williams) has applied for authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before May 11, 1999.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202–586–4708 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On April 5, 1999, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from Williams to transmit electric energy from the United States to Mexico. Williams is a full-service energy marketing, trading, and price-risk management company. Williams does not own, control, or operate any facilities for the transmission or distribution of electric power, nor does it have a franchised service area. Although Williams is affiliated with entities which own two electric power generating facilities, the electric power to be exported to Mexico would be purchased from electric utilities and Federal power marketing agencies within the United States.

Williams proposes to arrange for the delivery of electric energy to Mexico over the international transmission facilities owned by San Diego Gas and Electric Company, El Paso Electric Company, Central Power and Light Company, and Comision Federal de Electricidad, the national electric utility of Mexico.

The construction of each of the international transmission facilities to be utilized by Williams, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters: Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the Williams application to export electric energy to Mexico should be clearly marked with Docket EA–208. Additional copies are to be filed directly with Charlene K. Stanford, Regulatory Analyst, Williams Energy Marketing & Trading Company, P.O. Box 2848, Tulsa, OK 74101 and Hillary E. Howard, Esq., The Williams Companies, Inc., One Williams Center, Suite 4100, Tulsa, OK 74172.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select "Regulatory Programs," then "Electricity Regulation," and then "Pending Proceedings" from the options menus.

DOE has granted the applicant's request for an expedited notice and comment period of fifteen (15) days so that Williams may avail itself of an opportunity to export to Mexico within three weeks.

Issued in Washington, DC, on April 20, 1999.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 99–10409 Filed 4–23–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. PP–206]

Notice of Floodplain and Wetlands Involvement, Frontera Generation Limited Partnership

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of floodplain/wetland involvement.

SUMMARY: Frontera Generation Limited Partnership (Frontera) has applied for a Presidential permit to construct, connect, operate, and maintain electric transmission facilities across the U.S. border with Mexico. In accordance with DOE regulations for compliance with floodplain/wetlands environmental review requirements (10 CFR Part 1022), a floodplain or wetlands assessment will be performed for this proposed action in a manner so as to avoid or minimize potential harm to or within potentially affected floodplain and wetlands.

DATES: Comments are due to the address below no later than May 11, 1999.

ADDRESSES: Written comments, questions about the proposed action, and requests to review the draft environmental assessment should be directed to: Ellen Russell, Office of Coal & Power Import and Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0350. Fax: (202) 287–5736. E-mail: Ellen.Russell@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael T. Skinker (Program Attorney) 202–586–6667.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN AND WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0119; Phone: 202–586–4600 or leave a message at 800–472–2756.

SUPPLEMENTARY INFORMATION: Under Executive Order 11988, Floodplain Management, and 10 CFR Part 1022, Compliance with Floodplain-Wetlands Environmental Review Requirements (http://tis-nt.eh.doe.gov/nepa/tools/regulate/nepa—reg/1022/1022.htm), notice is given that DOE is considering an application from Frontera for a Presidential permit to construct, connect, operate, and maintain electric transmission facilities across the U.S. border with Mexico. Frontera proposes to construct a temporary 138,000-volt (138-kV) transmission line across the U.S. border with Mexico, near Mission, Texas, in June, 1999. The line would be approximately two miles long and constructed on wooden poles. At a later date, Frontera proposes to construct a permanent, double-circuit 230-kV transmission line on steel towers along the same right-of-way and subsequently remove the temporary 138-kV facilities. Notice of Frontera's application for a Presidential permit appeared in the **Federal Register** on March 9, 1999 (64 FR 11457).

Before making a final decision on granting or denying a Presidential permit to Frontera, DOE will prepare an environmental assessment (EA) to address the environmental impacts that would accrue from the proposed project and reasonable alternatives. The EA will be prepared in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). The EA will include a floodplain and wetlands assessment. DOE expects to have a draft of the EA available for public review in May, 1999. Copies may be requested by telephone, facsimile, or e-mail from the address given above. A floodplain statement of findings will be included in any Finding of No Significant Impact that may be issued following completion of the EA.

Issued in Washington, D. C., on April 19, 1999.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Fossil Energy.

[FR Doc. 99–10410 Filed 4–23–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Floodplain Statement of Findings for the Transfer of Parcel H at the Miamisburg Environmental Management Project

AGENCY: Department of Energy (DOE), Ohio Field Office, Miamisburg Environmental Management Project (MEMP).

ACTION: Floodplain statement of findings.

SUMMARY: This is to give notice of DOE's proposal to transfer ownership of approximately 14 acres of property in the northeast corner of the MEMP site, commonly referred to as "Parcel H;" the MEMP site is located approximately 10 (ten) miles southwest of Dayton, Ohio. A small portion of Parcel H lies within the 100-year floodplain, i.e., the area is subject to a 1% chance per year of inundation from a nearby tributary of the Great Miami River. In accordance with 10 CFR 1022.5(d), DOE has identified those uses that are restricted under Federal, state, and local floodplain regulations. Several restrictions are found in state and local codes; these restrictions would apply to any future land owner, and are aimed exclusively at future development within the floodplain (e.g., construction of a building, modification of an existing public water system, operation of a hazardous waste management facility). There are no state or local floodplain protection standards governing the transfer (e.g., sale) of property that lies within a floodplain. As a part of the transfer, however, the DOE will make the future owner of Parcel H aware of the applicable governing regulations for development within or adjacent to the 100-year floodplain. It is the responsibility of the future land owner to comply with those regulations.

Consistent with 10 CFR 1022.12(a), an assessment describing the effects of the proposed action on the floodplain and other alternatives to the proposed action was prepared. Other options which were considered included sale of the property to another landlord or the Government Services Agency, long term lease, and no action (i.e., the land would continue in its current use under DOE ownership). The assessment concluded that these alternatives would be less successful or unsuccessful in meeting DOE's objective of quickly dispositioning real property. These alternatives also provide limited support for joint community/DOE goals to transition the site to an end-use that provides for economic redevelopment.

Relative to 10 CFR 1022.15(b)(4), the proposed action conforms to the appropriate floodplain protection standards, in the sense that any development of Parcel H by future landowners would be subject to all applicable Federal, state and local statutes, regulations and/or restrictions governing development activities within a floodplain. No such restrictions apply to the transfer of the floodplain property itself. Given the extent to which floodplain management is regulated (e.g., through design and construction constraints), it is reasonable to assume that potential harm to or within the floodplain would be minimized and that future development would not have an adverse effect on lives, property, or the environment. Therefore, no short-or long-term effects are expected as a result of the proposed action. Nor would the proposed action adversely affect the natural and beneficial values of the bulk of the 100-year floodplain that lies

outside Parcel H and the MEMP site as a whole.

DATES: Written comments must be received by the DOE at the following address on or before May 11, 1999.

ADDRESSES: For further information on this proposed action, including a site map and/or copy of the Floodplain Assessment, contact: Mr. Frank Schmaltz, Project Manager, U. S. Department of Energy, Miamisburg Environmental Management Project, P.O. Box 66, Miamisburg, OH 45343–0066, Phone: (937) 865–3620, Facsimile: (937) 865–4489.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE floodplain and wetland environmental review requirements, contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U. S. Department of Energy 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone: (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: This Floodplain Statement of Findings for the Transfer of Parcel H at the MEMP has been prepared in accordance with Executive Order 11988, Floodplain Management, and 10 CFR 1022, DOE Regulations for Compliance with Floodplain/Wetland Environmental Review Requirements. A Notice of Floodplain Involvement was published in the **Federal Register** on January 12, 1999 (64 FR 1797). The DOE received no public comments on the Notice, and the proposed action remains the same. The proposed action would support ultimate disposition of the MEMP site. The MEMP site has been determined to be excess to DOE's long-term needs. This decision is supported by the Nonnuclear Consolidation Environmental Assessment (DOE/EA–0792) and associated Finding of No Significant Impact (FONSI) dated September 14, 1993, and the Memorandum of Understanding (MOU) between the DOE Defense Programs, Environmental Management and Nuclear Energy Programs, dated August 1, 1995. In order to meet DOE's programmatic need to disposition land determined to be excess to its needs, ownership of the entire MEMP site will eventually be transferred to a non-Federal entity. The property will be released in phases, since certain parcels of property are still in use or are not yet suitable for transfer. This Statement of Findings addresses one parcel of land, comprising approximately 14 acres of property in the northeast corner of the MEMP site. Transfer of the subject parcel conforms to state or local floodplain protection standards, in so much as any future land owner will be subject to the applicable state and local codes governing development activities in property that lies within a floodplain.

Issuance: Issued in Miamisburg, Ohio on April 15, 1999.

Susan L. Smiley,

NEPA Compliance Officer, Ohio Field Office.

[FR Doc. 99–10411 Filed 4–23–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–262–002]

Algonquin Gas Transmission Company; Notice of Errata Filing

April 20, 1999.

Take notice that on April 15, 1999, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets to become effective May 1, 1999:

Sub Fourth Revised Sheet No. 103
Sub Fourth Revised Sheet No. 118
Sub Fourth Revised Sheet No. 137
Sub Fourth Revised Sheet No. 154

Algonquin asserts that the purpose of this filing is to correct an inadvertency in Algonquin's filing on April 9, 1999 to comply with the Joint Stipulation and Agreement (Settlement) filed on March 4, 1999 in Docket No. RP99–262–000 and approved by the Commission's letter order issued April 1, 1999.

Algonquin states that Algonquin's April 9, 1999 filing contained revised tariff sheets which did not reflect the pro forma tariff sheets included in Exhibit C of the Settlement. Algonquin states that the substitute tariff sheets are filed for the sole purpose of correcting those certain tariff sheets in the April 9 Filing to reflect the language included in the pro forma tariff sheets in Exhibit C of the Settlement.

Algonquin states that copies of the filing were mailed to all parties on the service list in this proceeding and all other affected customers of Algonquin and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10334 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–255–002]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 20, 1999.

Take notice that, on April 15, 1999, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, to be effective April 1, 1999:

Fourth Revised Sheet No. 87

ANR states that this filing is made in compliance with Ordering Paragraph E of the Commission's Order dated March 31, 1999 in the captioned proceeding to redefine its definition of the Joliet Hub.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10333 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–254–001]

Destin Pipeline Company, L.L.C.; Notice of Proposed Changes to FERC Gas Tariff

April 20, 1999.

Take notice that on April 15, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following Tariff sheets to become effective April 1, 1999:

Original Sheet No. 94a
Substitute First Revised Sheet No. 136

Destin states that the purpose of this filing is to implement certain modifications to its tariff sheets in compliance with the Commission's Order issued on March 31, 1999, in the captioned proceeding. In accordance with the March 31, 1999 Order, Destin has requested that these sheets be made effective as of April 1, 1999.

Destin states that copies of the filing will be served upon its shippers and interested state commissions, and upon each party designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10332 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–19–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing

April 20, 1999.

Take notice that on April 15, 1999, East Tennessee Natural Gas Company (East Tennessee), tendered for filing (1) a Gas Transportation Agreement between East Tennessee and Archer Daniels Midland Company (ADM) pursuant to Rate Schedule FT–A (ADM Agreement) and (2) First Revised Sheet No. 177 of East Tennessee's FERC Gas Tariff, Second Revised Volume No. 1. East Tennessee proposes that the attached revised tariff sheet be made effective on April 1, 1999.

East Tennessee states that it is submitting the ADM Agreement for Commission approval because it contains language which differs from the Form of Firm Transportation Agreement contained in East Tennessee's Volume No. 1 Tariff (Pro Forma FT–A Agreement). Specifically, the ADM Agreement grants ADM the option to terminate the ADM Agreement, effective no earlier than five years after the commencement of service, provided certain conditions are met.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10323 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–205–003]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

April 20, 1999.

Take notice that on April 16, 1999, Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed below for effectiveness on May 1, 1999:

Nineteenth Revised Sheet No. 21
Twentieth Revised Sheet No. 22
Thirteenth Revised Sheet No. 23

Granite State states that the revised tariff sheets listed above reflect the removal of the surcharge on its firm and interruptible transportation rate schedules which was authorized in Docket No. RP98–205–000 to recover the costs related to the third extension of the lease of the Portland Pipe Line. According to Granite State, on May 1, 1998, it filed tariff sheets to establish a surcharge on its transportation rates to recover the costs for the one-year extension of the Portland Pipe Line lease from May 1, 1998, to April 30, 1999. Granite State further states that the Commission, in an order issued May 28, 1998 (83 FERC ¶ 61,217), authorized the surcharge for a period coterminus with the lease extension from May 1, 1998, to April 30, 1999.

Granite State further states that its filing in Docket No. RP98–205–000 also included a new provision in the General Terms and Conditions of its Gas Tariff: Section 34, related to the lease extension surcharge. According to Granite State, Section 34 has continuing effectiveness because it provides for reports to the Commission on costs incurred during the lease extension and revenues collected through the surcharge, for refunds for overcollections, a one-time surcharge for any undercollections and a final true-up report to the Commission. Granite State says that it will cancel Section 34 when the final report is filed with the Commission.

Granite State further states that copies of its filing have been served on its firm and interruptible transportation customers and on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission,

888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10326 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–318–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

April 19, 1999.

Take notice that on April 15, 1999, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed a request with the Commission in Docket No. CP99–318–000 pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act for approval to abandon certain inactive delivery facilities, under the blanket certificate issued in Docket No. CP82–430–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is open to the public for inspection. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Koch Gateway proposes to abandon in place approximately 4,810 feet of 4-inch pipeline and abandon by removal approximately 100 feet of 4-inch pipeline and two 1-inch taps, all located in Lafayette Parish, Louisiana. Koch Gateway states that these facilities formerly served two farm tap customers on behalf of Reliant Energy Entex, a Division of Reliant Energy Resources Corporation (Entex), a local distribution company. Koch Gateway further states that Entex has tied these farm tap customers to their local distribution system; and as a result, Koch Gateway no longer provides natural gas service to these farm tap customers for Entex from the facilities proposed herein for abandonment.

Any person or the Commission's Staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the allowed time, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Secretary.

[FR Doc. 99–10403 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–248–001]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

April 20, 1999.

Take notice that on April 15, 1999, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A: Substitute Third Revised Sheet No. 119 and Substitute Third Revised Sheet No. 121. PG&E GT–NW requests that the above-referenced tariff sheets become effective April 1, 1999.

PG&E GT–NW asserts that the purpose of this filing is to comply with the Commission's Order of March 31, 1999 (86 FERC ¶ 61,315 (1999)), by clarifying the language of Sections 29.1 (b) and (d) of its tariff to the effect that a shipper's rights to change primary receipt and delivery points cannot be used to change the direction of flow of the shipper's Primary Path.

PG&E GT–NW further states that a copy of this filing has been served on all parties on the official service list for this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10331 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–298–000]

Portland Natural Gas Transmission System; Notice of Application

April 20, 1999.

Take notice that on April 13, 1999, Portland Natural Gas Transmission System (PNGTS), One Harbour Place, Portsmouth, New Hampshire 03801, filed in Docket No. CP99–298–000, an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Specifically, PNGTS proposes to construct and operate a tap in Windham, Maine to serve CMP Natural Gas, L.L.C. (CMP Gas). PNGTS states that the estimated cost of the project is $287,000 construction from CMP Gas.

Any person desiring to be heard or to protest with reference to said application should on or before April 27, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties

to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonments and a grant of the certificate are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for PNGTS to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–10321 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–3–31–001]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 20, 1999.

Take notice that on April 14, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective May 1, 1999:

Substitute Seventeenth Revised Sheet No. 5
Substitute Sixteenth Revised Sheet No. 6

REGT state that the purpose of this filing is to reflect the reduction of its Electric Power Costs Tracker in its Minimum Commodity and Overrun rates on the subject tariff sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10335 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–364–002 and RP99–251–002]

South Georgia Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

April 20, 1999.

Take notice that on April 15, 1999, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective April 1, 1999:

First Revised Sheet No. 17a
Second Revised Sheet No. 18
First Revised Sheet No. 35a
Third Revised Sheet No. 36
First Revised Sheet No. 88
First Substitute Fifth Revised Sheet No. 98

South Georgia states that the purpose of this filing is to comply with the Commission's letter order dated March 31, 1999 in the above-referenced dockets.

South Georgia states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10329 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–237–001]

South Georgia Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

April 20, 1999.

Take notice that on April 15, 1999, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to become effective April 1, 1999:

First Substitute Original Sheet No. 98b

South Georgia states that the purpose of this filing is to comply with the Commission's March 31, 1999 letter order in the above-referenced docket by correcting a typographical error in Section 30 of its Tariff.

South Georgia states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10330 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–314–000]

Southern Natural Gas Company; Notice of Application

April 20, 1999.

Take notice that on April 14, 1999, Southern Natural Gas Company (Southern) filed in the above-captioned docket and application pursuant to the provisions of Section 7 of the Natural Gas Act (NGA), as amended, and pursuant to the Federal Energy Regulatory Commission's (Commission) Regulations under the NGA for an order approving the abandonment of certain pipeline and appurtenant facilities and for a certificate of public convenience and necessity authorizing the construction, installation and operation of approximately 2.304 miles of 22-inch replacement pipeline and related appurtenant facilities, as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at: http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.

Southern requests authorization to abandon in place approximately 3.341 miles of its North Main Line extending from Mile Post 52.030 to Mile Post 54.312 and 0.873 miles of a North Main auxiliary river crossing pipeline extending from Mile Post 54.171 to Mile Post 55.044 in East Carroll Parish, Louisiana and to construct, install, and operate approximately 2.304 miles of 22-inch North Main Replacement Line in the existing right-of-way of the North Main Line in East Carroll Parish, Louisiana. Southern will tie-in the North Main Replacement Line to the North Main Line at Mile Post 52.030 and Mile Post 54.493. The total cost of the abandonment and replacement is estimated to be $2.5 million. Southern requests Commission approval of the application by May 31, 1999 so that construction can begin on August 1, 1999.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 11, 1999, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214, and the Regulations under the Natural Gas Act, 18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein or if the Commission on its own review of the matter finds that a grant of the subject authorization is required by the public convenience and necessity. If a motion for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–10322 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–363–002 and RP99–253–003]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

April 20, 1999.

Take notice that on April 15, 1999, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective April 1, 1999:

First Substitute Third Revised Sheet No. 44a
First Substitute Sixth Revised Sheet No. 58
First Substitute First Revised Sheet No. 90
First Substitute First Revised Sheet No. 92
First Substitute First Revised Sheet No. 118
First Revised Sheet No. 130a
Fourth Revised Sheet No. 131
First Revised Sheet No. 155
First Substitute Fourth Revised Sheet No. 212h

Southern states that the purpose of this filing is to comply with the Commission's letter order dated March 31, 1999 in the above-referenced dockets.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests

will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10328 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–10–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 20, 1999.

Take notice that on April 14, 1999, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Fifth Revised Sheet No. 401, with an effective date of May 14, 1999.

Tennessee states that the tariff sheet updates the name of the operating personnel that Tennessee shares with its marketing affiliates and deletes an outdated reference to Tenneco Gas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10324 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–290–002]

Viking Gas Transmission Company; Notice of Filing

April 20, 1999.

Take notice that on April 15, 1999, Viking Gas Transmission Company (Viking) tendered for filing a Motion To Place Settlement Rates into Effect on an Interim Basis Subject To Conditions (Motion) and tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective January 1, 1999 subject to the conditions set forth in Viking's Motion:

Fifteenth Revised Sheet No. 6
Ninth Revised Sheet No. 6A

Viking states that the purpose of this filing is to place the Settlement Rates into effect on an interim basis subject to certain conditions in accordance with the Offer of Settlement filed in this proceeding on March 16, 1999 and certified to the Commission as uncontested on April 7, 1999.

Viking states that copies of this filing have been served on all parties designated on the official service list in this proceeding, on all Viking's jurisdictional customers and to affected state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10327 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2284–004, et al.]

MEG Marketing, LLC, et al.; Electric Rate and Corporate Regulation Filings

April 19, 1999.

Take notice that the following filings have been made with the Commission:

1. MEG Marketing, LLC

[Docket No. ER98–2284–004]

Take notice that on April 14, 1999, MEG Marketing, LLC (MEG), tendered for filing a proposed change in its market-based rate schedule to permit MEG to sell energy and capacity to affiliates that are not franchised electric utilities and to provide for the reassignment of transmission capacity. MEG also filed a copy of its Code of Conduct, which was adopted prior to the recent acquisition of an indirect interest in MEG by Sempra Energy Trading Corp., and affiliate San Diego Gas & Electric Company.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. New Century Services, Inc.

[Docket No. ER99–1610–001]

Take notice that on April 14, 1999, New Century Services, Inc., on behalf of Public Service Company of Colorado, Southwestern Public Service Company, and e prime, inc., tendered for filing a compliance filing in response to the Commission's Order Granting Waiver of Notice, Denying Motion to Reject, Rejecting Answers, and Conditionally Accepting for Filing Tariffs for Market-Based Power Sales issued on March 30, 1999 in this docket.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Mt. Wheeler Power, Inc.

[Docket No. ER99–2483–000]

Take notice that on April 13, 1999, Mt. Wheeler Power, Inc. (Mt. Wheeler), tendered for filing an Application for Acceptance of Initial Rate Filing and Waiver of Notice Requirement for an Excess Power Sales Agreement, as amended, under which Mt. Wheeler provides energy at wholesale to the Cities of Burbank, Glendale, and Pasadena, California, and the Los Angeles Department of Water and Power. Mt. Wheeler is a non-profit distribution cooperative that retired its outstanding Rural Utilities Service debt on September 25, 1997.

Mt. Wheeler seeks Commission acceptance of its Excess Power Sales Agreement, as amended, effective September 25, 1997. Mt. Wheeler seeks no changes in the rates, charges, terms or conditions of the Excess Power Sales Agreement, as amended. Accordingly, Mt. Wheeler seeks a waiver pursuant to 18 CFR 35.11 of the 60-day prior notice requirement of 18 CFR 35.3.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Flowell Electric Association

[Docket No. ER99–2484–000]

Take notice that on April 13, 1999, Flowell Electric Association (Flowell), tendered for filing an Application for Acceptance of Initial Rate Filing and Waiver of Notice Requirement for an Excess Power Sales Agreement, as amended, under which Flowell provides energy at wholesale to the Cities of Burbank, Glendale, and Pasadena, California, and the Los Angeles Department of Water and Power. Flowell is a non-profit distribution cooperative that retired its outstanding Rural Utilities Service debt on October 16, 1996.

Flowell seeks Commission acceptance of its Excess Power Sales Agreement, as amended, effective October 16, 1996. Flowell seeks no changes in the rates, charges, terms or conditions of the Excess Power Sales Agreement, as amended. Accordingly, Flowell seeks a waiver pursuant to 18 CFR 35.11 of the 60-day prior notice requirement of 18 CFR 35.3.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. UtiliCorp United Inc.

[Docket No. ER99–2485–000]

Take notice that on April 14, 1999, UtiliCorp United Inc., tendered for filing, a Service Agreement under its Market-Based Power Sales Tariff, FERC Electric Tariff Original Volume No. 28, with St. Joseph Power & Light Company. The Service Agreement provides for the sale of capacity and energy by UtiliCorp United Inc., to St. Joseph Power & Light Company pursuant to the tariff.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Moon Lake Electric Association

[Docket No. ER99–2486–000]

Take notice that on April 13, 1999, Moon Lake Electric Association (Moon Lake), tendered for filing an Application for Acceptance of Initial Rate Filing and Waiver of Notice Requirement for an Excess Power Sales Agreement, as amended, under which Moon Lake provides energy at wholesale to the Cities of Burbank, Glendale, and Pasadena, California, and the Los Angeles Department of Water and Power. Moon Lake is a non-profit distribution cooperative that retired its outstanding Rural Utilities Service debt on October 16, 1996.

Moon Lake seeks Commission acceptance of its Excess Power Sales Agreement, as amended, effective October 16, 1996. Moon Lake seeks no changes in the rates, charges, terms or conditions of the Excess Power Sales Agreement, as amended. Accordingly, Moon Lake seeks a waiver pursuant to 18 CFR 35.11 of the 60-day prior notice requirement of 18 CFR 35.3.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Dixie-Escalante Rural Electric Association

[Docket No. ER99–2487–000]

Take notice that on April 13, 1999, Dixie-Escalante Rural Electric Association (Dixie-Escalante), tendered for filing an Application for Acceptance of Initial Rate Filing and Waiver of Notice Requirement for an Excess Power Sales Agreement, as amended, under which Dixie-Escalante provides energy at wholesale to the Cities of Burbank, Glendale, and Pasadena, California, and the Los Angeles Department of Water and Power. Dixie-Escalante is a non-profit distribution cooperative that retired its outstanding Rural Utilities Service debt on October 16, 1996.

Dixie-Escalante seeks Commission acceptance of its Excess Power Sales Agreement, as amended, effective October 16, 1996. Dixie-Escalante seeks no changes in the rates, charges, terms or conditions of the Excess Power Sales Agreement, as amended. Accordingly, Dixie-Escalante seeks a waiver pursuant to 18 CFR 35.11 of the 60-day prior notice requirement of 18 CFR 35.3.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Bridger Valley Electric Association

[Docket No. ER99–2488–000]

Take notice that on April 13, 1999, Bridger Valley Electric Association (Bridger Valley), tendered for filing an Application for Acceptance of Initial Rate Filing and Waiver of Notice Requirement for an Excess Power Sales Agreement, as amended, under which Bridger Valley provides energy at wholesale to the Cities of Burbank, Glendale, and Pasadena, California, and the Los Angeles Department of Water and Power. Bridger Valley is a non-profit distribution cooperative that retired its outstanding Rural Utilities Service debt on January 31, 1997.

Bridger Valley seeks Commission acceptance of its Excess Power Sales Agreement, as amended, effective January 31, 1997. Bridger Valley seeks no changes in the rates, charges, terms or conditions of the Excess Power Sales Agreement, as amended. Accordingly, Bridger Valley seeks a waiver pursuant to 18 CFR 35.11 of the 60-day prior notice requirement of 18 CFR 35.3.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Green Mountain Energy Resources L.L.C.

[Docket No. ER99–2489–000]

Take notice that on April 14, 1999, Green Mountain Energy Resources L.L.C. (Green Mountain Energy), petitioned the Commission for acceptance of Green Mountain Energy Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Green Mountain Energy intends to engage in wholesale electric power and Energy purchases and sales as a marketer. Green Mountain Energy is not in the business of generating or transmitting electric power. Green Mountain Energy is involved in electric Energy marketing, with its primary purpose of serving Energy customers in the developing "green" power markets.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. PECO Energy Company

[Docket No. ER99–2490–000]

Take notice that on April 14, 1999, PECO Energy Company (PECO), tendered for filing a Service Agreement dated October 7, 1998 with PSEG Energy Technologies, Inc. (PSEG ET), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds PSEG ET as a customer under the Tariff.

PECO requests an effective date of April 13, 1999, for the Service Agreement.

PECO states that copies of this filing have been supplied to PSEG ET and to the Pennsylvania Public Utility Commission.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. MidAmerican Energy Company

[Docket No. ER99–2492–000]

Take notice that on April 14, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing with the Commission a Non-Firm Transmission Service Agreement with Cordova Energy Company LLC, dated April 5, 1999, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of April 5, 1999, for the Agreement with Cordova, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Cordova, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PacifiCorp

[Docket No. ER99–2493–000]

Take notice that on April 14, 1999, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, the Generation Interconnection Agreement between PacifiCorp and Foote Creek III, LLC (Foot Creek III) dated March 24, 1999.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Company

[Docket No. ER99–2495–000]

Take notice that on April 14, 1999, Southern California Edison Company (SCE), tendered for filing executed Service Agreements for Wholesale Distribution Service with Mountainview Power Company and Riverside Canal Power Company under SCE's Wholesale Distribution Access Tariff.

SCE respectfully requests waiver of the 60-day prior notice requirements and requests the Commission to assign an effective date of April 20, 1999, to the Service Agreements and the index of subscribers.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Southern Indiana Gas and Electric Company

[Docket No. ER99–2496–000]

Take notice that on April 14, 1999, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing the following agreement concerning the provision of electric service to DukeSolutions, Inc., as a umbrella service agreement under its market-based Wholesale Power Sales Tariff:

1. Wholesale Energy Service Agreement dated March 12, 1999 by and between Southern Indiana Gas and Electric Company and DukeSolutions, Inc.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Consumers Energy Company

[Docket No. ER99–2497–000]

Take notice that on April 14, 1999, Consumers Energy Company (Consumers), tendered for filing executed service agreements for Non-Firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service with PG&E Energy Trading and for Firm Point-to-Point Transmission Service with Duke Power, a division of Duke Energy Corporation.

All three agreements are pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison) and have effective dates of April 12, 1999.

Copies of the filing were served upon the Michigan Public Service Commission, Detroit Edison and the two customers listed above.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. New York State Electric & Gas Corporation

[Docket No. ER99–2498–000]

Take notice that on April 14, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing executed Network Service and Network Operating Agreements between NYSEG and Central Hudson Enterprises Inc. These Agreements specify that the Transmission Customer has agreed to the rates, terms and conditions of NYSEG's currently effective open access transmission tariff and other revisions to the OATT applicable to all customers who take service under its retail access program.

NYSEG requests waiver of the Commission's 60-day notice requirements and an effective date of the Agreements of one day after receipt of the filing of the agreements with the Commission.

NYSEG has served copies of the filing on the New York State Public Service Commission and the Transmission Customer.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

[Docket No. ER99–2499–000]

Take notice that on April 14, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Non-Firm and a Short-Term Firm Point-to-Point Transmission Service Agreement between NSP and The Energy Authority.

NSP requests that the Commission accept both the agreements effective March 24, 1999, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Commonwealth Edison Company

[Docket No. ER99–2501–000]

Take notice that on April 14, 1999, Commonwealth Edison Company (ComEd), tendered for filing a revised Index of Customers reflecting name changes for current customers AIG Trading Corporation, renamed Sempra Energy Trading Corp. (SETC); Vastar Power Marketing, Inc., renamed Southern Company Energy Marketing L.P. (SCEM); Duke/Louis Dreyfus L.L.C., renamed Duke Energy Trading and Marketing, L.L.C. (DETM); Heartland Energy Services, Inc., renamed Cargill-Alliant, L.L.C. (CALT); Market Responsive Energy, Inc., renamed First Energy Trading & Power Marketing, Inc. (FETM); Noram Energy Services, renamed Reliant Energy Services, Inc. (RESI); Catex Vitol Electric L.L.C., renamed Vitol Gas & Electric L.L.C. (VGE); and Plum Street Marketing, Inc., renamed Niagara Mohawk Energy Marketing, Inc. (NME). The new names are now reflected as customers under the terms of ComEd's under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of April 13, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on SETC, SCEM, DETM, CALT, FETM, RESI, VGE and NME.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10319 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–191–000]

Northern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Elk River Loop '99 Project and Request for Comments on Environmental Issues

April 13, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Elk River Loop '99 Project involving the construction and operation of facilities by Northern Natural Gas Company (Northern) in Anoka and Sherburne Counties, Minnesota.[1] These facilities would consist of about 15 miles of 16-inch-diameter pipeline loop. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity. The application and other supplemental filings in this docket are available for viewing on the FERC Internet website (www.ferc.fed.us). Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.[2]

Summary of the Proposed Project

Northern wants to construct and operate 15 miles of 16-inch-diameter pipeline and appurtenances, to loop the Elk River Branch in Anoka and Sherburne Counties, Minnesota. Northern states that the facilities would allow it to meet third through fifth year Peak Day 2000 firm obligations to Minnegasco, a Division of NorAm Energy Corporation, and to Northern States Power Company—Minnesota.

The location of the project facilities is shown in appendix 2.

Land Requirements for Construction

Construction of the proposed facilities would require about 192.5 acres of land including 132.4 acres of existing permanent right-of-way (ROW), and 60.1 acres of temporary construction ROW for extra work spaces and storage yards. The new 16-inch pipeline would typically be offset 20 feet from the existing 6-inch to 8-inch-diameter Elk River Branchline. Northern states that it has existing multiple-line rights with defined and blanket easements for greater than 99 percent of the proposed route, but it would need to acquire new ROW for the loop where it currently has only a single pipeline easement, and/or in areas where it needs temporary extra workspace outside of the existing ROW. Northern proposes to use a 75-foot-wide construction ROW measured from the centerline of its Elk River Branchline on either the north or south side, depending on the location along the route. Extra workspaces would also be used that typically range from 25 by 100 feet to 225 by 300 feet along the ROW. Most of the extra workspaces are located near road and stream crossings.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Public safety
- Land use
- Cultural resources
- Endangered and threatened species

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest

[1] Northern's application was filed with the Commission under Section 157.208(b) of the Natural Gas Act, but was protested by the Commission's staff and others, and will convert to a Section 7(c) filing on April 26, 1999.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 4 of this notice.

Currently Identified Environmental Issues

We have already identified the following issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Northern. This preliminary list of issues may be changed based on your comments and our analysis.

- Thirty-nine wetlands would be crossed by the project route, with 26.2 acres of potential wetland impacts.
- Seventy residences in the project area would be within 50 feet of the construction ROW.
- One hundred and twelve drinking water supply wells would be within 150 feet of the construction ROW.
- About 9.8 miles of prime farmland soils would be crossed by the project route.
- Alternative route(s) may be available to mitigate impact on sensitive areas.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Sent two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.2;
- Reference Docket No. CP99–191–000; and
- Mail your comments so that they will be received in Washington, DC on or before May 14, 1999.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the "RIMS" link to information in this docket number. For assistance with access to RIMS, the RIMS help line can be reached at (202) 208–2222. Access to the texts of formal documents issued by the Commission with regard to this docket, such as orders and notices, is also available on the FERC website using the "CHIP" link. FOr assistance with access to CIPS, the CIPS help line can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10336 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

April 19, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 2368–026.

c. *Date Filed:* March 23, 1999.

d. *Applicants:* Maine Public Service Company.

e. *Name of Project:* Squa Pan.

f. *Location:* On the Colella River, in Aroostook County, Maine. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Mr. Russell Smith, Maine Public Service Company, P.O. Box 1209, Presque Isle, ME 04769, (207) 768–5811.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Papsidero at (202) 219–2715, or e-mail address: Thomas.Papsidero@ferc.fed.us.

j. *Deadline for Filing Comments and/or Motions:* May 6, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

Please include the project number (2368–026) on any comments or motions filed.

k. Description of Transfer: Maine Public Service Company requests to transfer the license to PDI New England, Inc. as part of its divestiture of assets mandated by the State of Maine.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTESTS", or

"MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–10320 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Reservoir Drawdown and Soliciting Comments, Motions To Intervene, and Protests

April 20, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request to drawdown reservoir to facilitate spillway rehabilitation.

b. *Project No.:* 2587–025.

c. *Date Filed:* April 7, 1999.

d. *Applicant:* Northern States Power Company.

e. *Name of Project:* Superior Falls Project.

f. *Location:* The project is located on the Montreal River in Iron County, Wisconsin, and Gogebic County, Michigan. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR § 45.200.

h. *Applicant Contact:* Mr. Lloyd Everhart, Northern States Power Company, P.O. Box 8, Eau Claire, WI 54702–0008 (715) 839–2692.

i. *FERC Contact:* Any questions on this notice should be addressed to Diana Shannon at (202) 208–7774, or e-mail address diana.shannon@ferc.fed.us.

j. *Deadline for Filing Comments and or Motions:* May 7, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Mail Code: DLC, HL–11.1, 888 First Street, NE., Washington, DC 20426.

Please include the Project Number (2587–025) on any comments or motions filed.

k. *Description of Amendment:* The licensee plans spillway rehabilitation work that includes replacing the three wooden spill gates with one large steel gate. The work will also involve surface repairs of the concrete spillway and other improvements. To facilitate this work, the licensee plans to drawdown the reservoir to a depth of one foot below the sill of the spillway gates, approximately 21 feet. The work is planned from May 1999–October 1999. The licensee has initiated consultation with the resource agencies regarding the drawdown.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be reviewed on the website at http/www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. The determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comments date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–10325 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Notice

April 21, 1999.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: April 28, 1999, 10:00 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro; 718th Meeting—April 28, 1999; Regular Meeting (10:00 a.m.)

CAH–1.

DOCKET# P–2680, 050, Consumers Energy Company and the Detroit Edison Company

CAH–2.

DOCKET# P–2842, 029, City of Idaho Falls, Idaho

OTHER#S P–553, 066, City of Seattle, Washington

P–619, 077, City of Santa Clara, California
P–637, 015, Public Utility District No. 1 of Chelan County, Washington
P–943, 068, Public Utility District No. 1 of Chelan County, Washington
P–1417, 052, The Central Nebraska Public Power and Irrigation District
P–1862, 041, City of Tacoma, Washington
P–2000, 019, New York Power Authority
P–2016, 033, City of Tacoma, Washington
P–2042, 009, Public Utility District No. 1 of Pend Oreille County, Washington
P–2101, 057, Sacramento Municipal Utility District
P–2144, 020, City of Seattle, Washington
P–2145, 035, Public Utility District No. 1 of Chelan County, Washington
P–2149, 072, Public Utility District No. 1 of Chelan County, Washington
P–2216, 037, New York Power Authority
P–2409, 098, Calaveras County Water District
P–2442, 032, City of Watertown, New York
P–2685, 006, New York Power Authority
P–2705, 012, City of Seattle, Washington
P–2952, 061, City of Idaho Falls, Idaho
P–2959, 076, City of Seattle, Washington
P–2997, 019, South Sutter Water District
P–3083, 085, Oklahoma Municipal Power Authority
P–3190, 009, City of Santa Clara, California
P–3193, 009, City of Santa Clara, California
P–6842, 097, Cities of Aberdeen and Tacoma, Washington
P–10551, 069, City of Oswego, New York

CAH–3.
DOCKET# P–4376, 004, High Country Resources
OTHER#S P–4437, 009, Glacier Energy Company

CAH–4.
DOCKET# P–10536, 004, Public Utility District No. 1 of Okanogan County, Washington
OTHER#S P–10536, 005, Public Utility District No. 1 of Okanogan County, Washington

CAH–5.
DOCKET# P–2496, 039, Eugene Water and Electric Board

CAH–6.
DOCKET# P–4656, 013, Boise-Kuna Irrigation District, Nampa & Meridian Irrigation District and New York Irrigation District, et al.

Consent Agenda—Electric

CAE–1.
DOCKET# ER99–1983, 000, Geyers Power Company, LLC
OTHER#S ER99–1993, 000, Geyers Power Company, LLC
ER99–2043, 000, Southern Energy Lovett, L.L.C.
ER99–2044, 000, Southern Energy Bowline, L.L.C.
ER99–2045, 000, Southern Energy NY-GEN, L.L.C.
ER99–2108, 000, LG&E Capital Corporation
ER99–2156, 000, Cordova Energy Company LLC

CAE–2.
DOCKET# ER99–2251, 000, Consolidated Edison Company of New York, Inc.
OTHER#S ER99–2252, 000, Orange and Rockland Utilities, Inc.

CAE–3.
DOCKET# ER99–2025, 000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

CAE–4.
DOCKET# ER98–3594, 000, California Independent System Operator Corporation

CAE–5.
DOCKET# ER99–994, 000, Wisconsin Public Service Corporation

CAE–6.
DOCKET# ER98–4635, 001, Niagara Mohawk Power Corporation

CAE–7.
DOCKET# OA97–140, 000, Seminole Electric Cooperative, Inc.

CAE–8.
DOCKET# OA96–70, 000, Boston Edison Company
OTHER#S OA96–70, 002, Boston Edison Company

CAE–9.
DOCKET# EL98–52, 000, North American Electric Reliability Council
OTHER#S ER99–1957, 000, Northeast Power Coordinating Council
ER99–1967, 000, Commonwealth Edison Company and Commonwealth Edison Company of Indiana
ER99–1968, 000, Illinois Power Company
ER99–1969, 000, Entergy Services, Inc.
ER99–1972, 000, Southern Indiana Gas and Electric Company
ER99–1973, 000, Member Systems of New York Power Pool
ER99–1984, 000, Alliant Energy Corporate Services
ER99–1986, 000, Virginia Electric and Power Company
ER99–1987, 000, Dayton Power & Light Company
ER99–1991, 000, American Electric Power Service Corporation
ER99–1994, 000, Carolina Power & Light Company
ER99–1996, 000, Madison Gas & Electric Company
ER99–1997, 000, Cinergy Services, Inc.
ER99–1998, 000, Western Resources, Inc.
ER99–1999, 000, Central Illinois Light Company
ER99–2000, 000, Southern Company Services, Inc.
ER99–2001, 000, Ohio Valley Electric Corporation
ER99–2002, 000, Allegheny Power Service Company
ER99–2003, 000, Florida Power Corporation, Florida Power & Light Company and Tampa Electric Company
ER99–2004, 000, WPS Resources Corporation
ER99–2008, 000, East Texas Electric Cooperative, Inc.
ER99–2009, 000, Maine Public Service Company
ER99–2010, 000, PJM Interconnection, L.L.C.
ER99–2011, 000, Duke Energy Corporation
ER99–2012, 000, North American Electric Reliability Council
ER99–2014, 000, The Detroit Edison Company and Consumers Energy Company
ER99–2015, 000, Duquesne Light Company
ER99–2016, 000, South Carolina Electric & Gas Company
ER99–2018, 000, Ameren Services Company
ER99–2019, 000, Wisconsin Electric Power Company
ER99–2031, 000, Wolverine Power Supply Cooperative, Inc.
ER99–2032, 000, Louisville Gas and Electric Company and Kentucky Utilities Company
ER99–2033, 000, Cleco Corporation
ER99–2035, 000, Public Service Company of Oklahoma and Southwestern Electric Power Company
ER99–2036, 000, Oklahoma Gas & Electric Company
ER99–2037, 000, Empire District Electric Company
ER99–2038, 000, Southwest Power Pool, Inc.
ER99–2040, 000, United Illuminating Company
ER99–2042, 000, Firstenergy Corporation
ER99–2074, 000, Electric Energy, Inc.
ER99–2075, 000, Northern Indiana Public Service Company

CAE–10.
OMITTED

CAE–11.
DOCKET# ER98–3760, 000, California Independent System Operator Corporation
OTHER#S EC96–19, 006, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
EC96–19, 008, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
EC96–19, 009, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
EC96–19, 010, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
EC96–19, 011, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
EC96–19, 013, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
EC96–19, 014, California Independent System Operator Corporation
EC96–19, 015, California Independent System Operator Corporation
EC96–19, 016, California Independent System Operator Corporation
EC96–19, 017, California Independent System Operator Corporation
EC96–19, 018, California Independent System Operator Corporation
EC96–19, 021, California Independent System Operator Corporation
EC96–19, 023, California Independent System Operator Corporation
EC96–19, 029, California Independent System Operator Corporation
EC96–19, 030, California Independent System Operator Corporation
ER96–1663, 007, California Independent System Operator Corporation

ER96–1663, 009, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
ER96–1663, 010, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
ER96–1663, 011, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
ER96–1663, 012, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
ER96–1663, 014, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company
ER96–1663, 015, California Independent System Operator Corporation
ER96–1663, 016, California Independent System Operator Corporation
ER96–1663, 017, California Independent System Operator Corporation
ER96–1663, 018 California Independent System Operator Corporation
ER96–1663, 019, California Independent System Operator Corporation
ER96–1663, 022, California Independent System Operator Corporation
ER96–1663, 024, California Independent System Operator Corporation
ER96–1663, 030, California Independent System Operator Corporation
ER96–1663, 031, California Independent System Operator Corporation
ER96–1971, 000, California Independent System Operator Corporation
ER96–3760, 003, California Independent System Operator Corporation

CAE–12.
DOCKET# ER97–1523, 000, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. and Long Island Lighting Company, et al.
OTHER#S EC99–31, 000, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. and Long Island Lighting Company, et al.
ER97–1523, 001, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. and Long Island Lighting Company, et al.
OA97–470, 000, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. and Long Island Lighting Company, et al.
OA97–470, 002 Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. and Long Island Lighting Company, et al.

CAE–13.
DOCKET# ER99–723, 001, Florida Power & Light Company

CAE–14.
DOCKET# EL98–52, 002, North American Electric Reliability Council

CAE–15.
DOCKET# EL99–17, 000, Central Illinois Light Company v. Central Illinois Public Service Company, Union Electric Company and Ameren Services Company

CAE–16.
DOCKET# EL98–41, 000, Committee of Certain Members of Cajun Electric Power Cooperative, Inc.

CAE–17.
DOCKET# EL99–36, 000, Montaup Electric Company

CAE–18.
DOCKET# EL99–43, 000, New York Power Pool

CAE–19.
DOCKET# OA98–6, 002, First Energy Corporation, Centerior Energy Corporation and Cleveland Electric Illuminating Company, et al.
OTHER#S OA97–276, 002, Portland General Electric Company
OA97–312, 003, Western Resources, Inc.
OA97–436, 002, Tucson Electric Power Company

CAE–20.
DOCKET# OA97–271, 003, Ameren Services Company, Central Illinois Public Service Company and Union Electric Company
OTHER#S OA97–196, 003, Central Vermont Public Service Corporation and Connecticut Valley Electric Company, Inc.
OA97–196, 004, Central Vermont Public Service Corporation and Connecticut Valley Electric Company, Inc.
OA97–398, 003, Southern Company Services, Alabama Power Company, Georgia Power Company and Gulf Power Company, et al.
OA97–416, 004, South Carolina Electric and Gas Company
OA97–450, 004, Duke Power Company and Nantahala Power and Light Company
OA97–510, 003, Ameren Services Company, Central Illinois Public Service Company and Union Electric Company

CAE–21.
DOCKET# ER96–1208, 000, Interstate Power Company
OTHER#S ER96–1208, 002, Interstate Power Company
OA96–213, 000, Interstate Power Company

Consent Agenda—Gas and Oil

CAG–1.
DOCKET# RP99–266, 000, Destin Pipeline Company, L.L.C.

CAG–2.
DOCKET# RP99–272, 000, Transcontinental Gas Pipe Line Corporation

CAG–3.
DOCKET# RP99–278, 000, Transcontinental Gas Pipe Line Corporation

CAG–4.
DOCKET# SA98–6, 000, Wenert Trich

CAG–5.
OMITTED

CAG–6.
DOCKET# RP99–271, 000, Williams Gas Pipelines Central, Inc.
OTHER#S RP89–183, 092, Williams Gas Pipelines Central, Inc.

CAG–7.
DOCKET# RP99–274, 000, Kern River Gas Transmission Company

CAG–8.
OMITTED

CAG–9.
DOCKET# SA98–3, 000, Edgar W. White
OTHER#S SA98–4, 000, Edgar W. White
SA98–5, 000, Edgar W. White

CAG–10.
DOCKET# PR99–5, 000, DOW Pipeline Company

CAG–11.
DOCKET# PR99–3, 000, Bay Gas Storage Company, LTD.
OTHER#S PR99–3, 001, Bay Gas Storage Company, LTD.

CAG–12.
DOCKET# RP95–64, 004, Tennessee Gas Pipeline Company
OTHER#S RP96–292, 000, Tennessee Gas Pipeline Company
RP98–14, 000, Tennessee Gas Pipeline Company
RP98–238, 000, Tennessee Gas Pipeline Company
RP99–209, 000, Tennessee Gas Pipeline Company

CAG–13.
DOCKET# RP99–229, 000, National Fuel Gas Supply Corporation

CAG–14.
DOCKET# OR99–1, 000, Explorer Pipeline Company

CAG–15.
DOCKET# RP95–363, 002, EL Paso Natural Gas Company

CAG–16.
DOCKET# RP97–346, 018, Equitrans, L.P.
OTHER#S RP97–346, 019, Equitrans, L.P.
RP97–346, 020, Equitrans, L.P.
RP98–123, 005, Equitrans, L.P.
TM97–3–24, 006, Equitrans, L.P.

CAG–17.
DOCKET# RP99–215, 001, Wyoming Interstate Company, LTD.

CAG–18.
DOCKET# RP99–176, 005, Natural Gas Pipeline Company of America

CAG–19.
DOCKET# RP98–310, 004, Natural Gas Pipeline Company of America

CAG–20.
OMITTED

CAG–21.
DOCKET# RP97–408, 007, Trailblazer Pipeline Company
OTHERS#S RP97–408, 006, Trailblazer Pipeline Company

CAG–22.
DOCKET#6 RP96–129, 004, Trunkline Gas Company

CAG–23.
DOCKET# OR96–14, 000, EXXON Company, U.S.A. v. Amerada Hess Pipeline Corporation, Arco Transporation Alaska, Inc. and BP Pipe-Lines (Alaska), Inc. et al.

CAG–24.
DOCKET# OR98–24, 000, Tesoro Alaska Petroleum Company v. Amerada Hess Pipeline Corporation and Arco Transportation Alaska, Inc., et al.

CAG–25.
DOCKET# CP98–21, 001, Transcontinental Gas Pipe Line Corporation

CAG–26.
DOCKET# CP96–53, 002, NE Hub Partners, L.P.
CP96–53, 000, NE Hub Partners, L.P.
CP96–53, 003, NE Hub Partners, L.P.
CP96–53, 004, NE Hub Partners, L.P.

CP96–53, 005, NE Hub Partners, L.P.
CP96–53, 006, NE Hub Partners, L.P.
CP96–53, 007, NE Hub Partners, L.P.
CP96–53, 008, NE Hub Partners, L.P.
CAG–27.
DOCKET# CP92–741, 001, Williston Basin Interstate Pipeline Company
CAG–28.
DOCKET# CP98–236, 000, Transcontinental Gas Pipe Line Corporation
OTHER#S CP98–242, 000, Williams Gas Processing-Gulf Coast Gathering Company, L.P.
CAG–29.
DOCKET# CP99–76, 000, Transcontinental Gas Pipe Line Corporation
CAG–30.
DOCKET# CP99–102, 000, Wyoming Interstate Company, LTD.
CAG–31.
OMITTED
CAG–32.
DOCKET# CP99–175, 000, Mississippi Canyon Gas Pipeline, LLC
CAG–33.
OMITTED
CAG–34.
OMITTED
CAG–35.
OMITTED

Hydor Agenda

H–1.
RESERVED

Electric Agenda

E–1.
RESERVED

Oil and Gas Agenda

I.
Pipeline Rate Matters
PR–1.
RESERVED
II.
Pipeline Certificate Matters
PC–1.
OMITTED
PC–2.
DOCKET# RM98–9, 000, Revision of Existing Regulations Under Part 157 and Related Sections of the Commission's Regulations Under the Natural Gas Act
FINAL RULE.
PC–3.
DOCKET# RM98–17, 000, Landowner Notification, Residential Area Designation and Environmental Filing Requirements
NOTICE of PROPOSED RULEMAKING.

David P. Boergers,

Secretary.

[FR Doc. 99–10508 Filed 4–22–99; 1:52 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6331–2]

California State Motor Vehicle Pollution Control Standards; Within the Scope Request; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction of date for submission of written comments.

SUMMARY: This document contains a correction to the notice of opportunity for public hearing and public comment which was published Friday, March 26, 1999 (64 FR 14715). This document clarifies that the deadline date for submission of written comments for the matter noted at 64 FR 14715 is May 10, 1999.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Group Manager, Vehicle Programs and Compliance Division (6405J), U.S. Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Telephone: (202) 564–9256.

SUPPLEMENTARY INFORMATION: In the initial notice of opportunity for public hearing and written comment (64 FR 14715), EPA published two different dates for when the close of the written comment period would occur. Under the **DATES** section EPA listed May 10, 1999 for the deadline by which any party may submit written comment. Under the "PROCEDURES FOR PUBLIC PARTICIPATION" section EPA listed May 24, 1999 for the deadline by which any party may submit written comment. Therefore, this document clarifies the notice of opportunity for pubic hearing and written comment (64 FR 14715) so that the date by which all written comments must be submitted is May 10, 1999.

Dated: April 19, 1999.

Robert A. Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99–10413 Filed 4–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6331–3]

National Advisory Council for Environmental Policy and Technology: Full Council Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Cancellation of notice of public meeting.

SUMMARY: This is a cancellation notice for the April 28–29, 1999 meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues. The meeting was being held to formally present reports and recommendations to EPA and to discuss future activities and projects of NACEPT.

DATES: The public meeting was to be held on Wednesday, April 28, 1999 from 1:00 p.m. to 5:30 p.m., and Thursday, April 29, 1999 from 8:30 a.m. to 3:00 p.m. On both days, the meeting was to be held at the Ramada Plaza Hotel, 901 Fairfax Street, Alexandria, Virginia. This meeting was open to the public.

ADDRESSES: Written comments should be sent to Joseph A. Sierra, Designated Federal Officer, NACEPT, U.S. EPA, Office of Cooperative Environmental Management (1601–F), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Joseph A. Sierra at the address shown above and 202–260–9741; Fax 202–260–6882.

Dated: April 20, 1999.

Gordon Schisler,

Deputy Director, Office of Cooperative, Environmental Management.

[FR Doc. 99–10414 Filed 4–23–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–871; FRL–6074–8]

Notice of Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by the docket control number PF–871, must be received on or before May 26, 1999.

ADDRESSES: By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Susanne Cerrelli, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 912, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8077; e-mail: cerrelli.susanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–871] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF–871) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 12, 1999,

Janet L. Andersen,

Director, Biopesticide and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the views of the petitioner. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

AgraQuest,Inc.

PP 8F5032

EPA has received a pesticide petition 8F5032 from AgraQuest, Inc., 1105 Kennedy Place, Davis, California 95616, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the microbial pesticide *Bacillus subtilis* QST 713 strain in or on all raw agricultural commodities (RAC).

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, AgraQuest, Inc. has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by AgraQuest, Inc. and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

Serenade™ WP is being submitted for use as a biofungicide on the following crop groupings:

Curcurbits; Grapes; Hops; Leafy Vegetables (except Brassica); Mushrooms; Peanuts; Peppers; Pome Fruits; Potatoes; Stone Fruits; Strawberries; Tomatoes; Tree Nuts (almonds and pistachios)

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* Serenade™ contains the QST 713 strain of dried *Bacillus subtilis* as the active ingredient. QST 713 Technical is used to formulate Serenade™ WP.

2. *Magnitude of residue at the time of harvest and method used to determine the residue.* Since *Bacillus subtilis* is a ubiquitous organism, it is commonly recovered from soil, water and decomposing plant residue. It is found at population levels of 10^{+6} to 10^{+7} per gram of soil (EPA Risk Assessment of Bacillus subtilis, February, 1997).

3. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* As formulated in Serenade™ WP, *Bacillus subtilis* will be delivered at $1.0 \times 10^{+6}$ per gram of Serenade™ WP. Therefore, analysis for the organism from use of Serenade™ WP would not be specific and is therefore, not necessary.

C. Mammalian Toxicological Profile

1. *Acute toxicity*—i. Serenade™ WP has been evaluated in an Acute Oral study in male and female Sprague-Dawley Crl:CD (SD)BR rats. No treatment related effects in body weight (bwt) or body weight gain was noted. No clinical signs were noted during the study. Necropsy findings were normal for all male and female rats. The results of this study indicated that the estimated acute oral LD_{50} was greater than 5,000 milligram kilogram (mg/kg).

ii. Serenade™ WP was evaluated as a single dermal dose of 2,000 mg/kg in an acute dermal study in male and female New Zealand White rabbits. There was

no mortality observed during the study. Erythema, edema, necrosis, fissuring and/or sloughing of the skin at the application site was noted in all animals. All treated animals exhibited increases in bwt. There were no visible lesions noted in any animal at terminal necropsy. The dermal LD_{50} was estimated to be greater than 2,000 mg/kg.

iii. Serenade™ WP was evaluated in a 4-hour, whole body, acute inhalation study in male and female Sprague-Dawley rats. The maximum concentration (MC) which could be aerosolized was 0.63 milligrams per liter (mg/L), which gave a median aerodynamic particle size of less than 0.4 . No mortality was noted during the study. Some of the clinical abnormalities noted in one or more animals were transient incidences of salvation, breathing abnormalities, decreased activity, wobbly gait, apparent hypothermia, hunched posture, decreased defecation, urine stain, decreased food consumption, and dark material around the facial area. Bwt loss was noted for three female rats (one during the 0-7 day interval, and two during the 7-14 day interval). However, this was a slight bwt loss and was not considered to be biologically significant. No significant gross findings were observed at necropsy. The acute inhalation LC_{50} was estimated to be greater than 0.63 mg/L.

iv. Administration of Serenade™ WP to the eye of New Zealand white rabbits, in a Primary Eye Irritation study, resulted in irritation of the conjunctivae (redness, chemosis, and/or discharge) in all treated animals within 1-hour post-dose. All scores returned to normal by 72 hours post-dose. Therefore, Serenade™ WP is considered to be a mild irritant.

v. In a Primary Dermal Irritation study using New Zealand White rabbits, Serenade™ WP, after a 4-hour exposure, resulted in very slight edema and/or very slight erythema. No other dermal signs were observed. Therefore, Serenade™ WP is considered to be a very slight irritant after 4-hours of exposure.

vi. Serenade™ WP was evaluated in a standard Hypersensitivity study (Buehler) in Guinea Pigs, using Serenade™ WP as received (without any dilution). There were no signs of systemic toxicity in any dose group, and all animals gained weight during the study. Under the conditions of this study, Serenade™ WP elicited a delayed mild contact hypersensitivity response in guinea pigs when challenged and rechallenged at 100%.

vii. The active ingredient in Serenade™ WP, *Bacillus subtilis*, QST 713 strain, has been evaluated in several pathogenicity studies (acute oral, intravenous, and intratracheal). In the acute oral pathogenicity study there were no deaths noted during the study and necropsy findings were normal for all rats. There was no evidence of pathogenicity or toxicity related to treatment. In the intravenous study in rats, no deaths occurred during the study. There were no treatment related effects noted. The organism was found to significantly clear the body within 35 days. No evidence of toxicity or pathogenicity related to treatment was noted during the course of the study. In the intratracheal study in rats, there was no evidence of toxicity or pathogenicity related to treatment noted during the course of the study.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food.* Due to the ubiquitous nature of the organism, the concentrations of the organism that already exists in the environment, and the fact that food is already in contact with the organism, the likelihood of increased risk to humans or animals from the use of Serenade™ WP is low.

ii. *Drinking water.* Similarly, exposure to humans from residues of Serenade™ WP in consuming drinking water would be low. The organism is already present in this medium.

2. *Non-dietary exposure.* Exposure to *Bacillus subtilis* in the manufacturing plant (fermentation facility) will be minimal due to rigorous GMP's and quality controls put in place to minimize contamination, cross contamination, and exposure to the workers, and also due to protective equipment worn by manufacturing plant workers. Therefore, inadvertent releases in the workplace would not be expected to increase the risk, especially since high levels of the organism already exist in this environment.

The EPA Risk Assessment of Bacillus subtilis (February, 1997) concludes that "human health and environmental hazards of *Bacillus subtilis* are low" and "the number of microorganisms released from the fermentation facility is low".

E. Cumulative Exposure

Exposure to *Bacillus subtilis* in the manufacturing plant (fermentation facility) will be minimal due to rigorous GMP's and quality controls put in place to minimize contamination, cross contamination, and exposure to the workers, and also due to protective equipment worn by manufacturing plant workers. Therefore, inadvertent releases in the workplace would not be expected to increase the risk, especially since high levels of the organism already exist in this environment. The EPA Risk Assessment of *Bacillus subtilis* (February, 1997) concludes that "human health and environmental hazards of *Bacillus subtilis* are low" and "the number of microorganisms released from the fermentation facility is low".

F. Safety Determination

1. *United States population. Bacillus subtilis* is not pathogenic and pathogenicity data indicate that the organism clears the body significantly within 35 days. Therefore, there would be no increased risk to humans from the expected use of Serenade™ WP.

Serenade™ WP is produced under strict quality controls. The active ingredient is routinely screened for contaminants, including human pathogens. Fermentation raw materials are sterilized before use to eliminate potential contaminants. Antimicrobial agents are included in the formulation to reduce/eliminate any potential contaminants.

2. *Infants and children.* Since *Bacillus subtilis* is ubiquitous, not pathogenic, causes no human disease, and is considered to be of low risk by the United States EPA, it is unlikely that any harmful effects on children or infants would be expected.

G. Effects on the Immune and Endocrine Systems

Bacillus subtilis is a naturally occurring, non-pathogenic organism which has fungicidal properties. There is no indication that this organism has ever or will ever produce any adverse effect on the human immune or endocrine system. It can be concluded that based upon the existing toxicology, which indicates minimal effects, that there would be no adverse effects on the immune or endocrine systems from the use of Serenade™.

H. Existing Tolerances

Bacillus subtilis GB03 and MBI600 are exempted from the requirements of a tolerance in or on all agricultural commodities when applied as a seed treatment on seeds used for growing crops in accordance with good agricultural practices.

[FR Doc. 99–10391 Filed 4–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42205C; FRL–6052–4]

RIN 2070–AD28

Methyl Isobutyl Ketone; Final Enforceable Consent Agreement and Testing Consent Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under section 4 of the Toxic Substances Control Act (TSCA), EPA has issued a testing consent order (Order) that incorporates an enforceable consent agreement (ECA) with Eastman Chemical Company, Celanese, Ltd., Shell Chemical Company, and Union Carbide Corporation (the "Companies"). The Companies have agreed to perform reproductive toxicity testing on methyl isobutyl ketone (MIBK). This notice announces the ECA and Order for MIBK and summarizes the terms of the ECA.

DATES: The effective date of the ECA and Order is April 26, 1999.

FOR FURTHER INFORMATION CONTACT: *For general information*: Christine M. Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. ET–541, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (202) 554–1404; TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov.

For technical information: John E. Schaeffer, Jr., Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (202) 260–1266; fax: (202) 260–1096; e-mail address: schaeffer.john@epa.gov.

SUPPLEMENTARY INFORMATION: This notice announces the ECA and Order for MIBK and summarizes the terms of the ECA.

I. General Information

A. Does This Notice Apply To Me?

The ECA and Order announced in this notice only affect those companies that signed the ECA for MIBK (Eastman Chemical Company, Celanese, Ltd., Shell Chemical Company, and Union Carbide Corporation). However, as a result of the ECA and Order, EPA has initiated a rulemaking under TSCA section 12(b)(1) which, when finalized, will require all persons who export or intend to export MIBK to comply with the Agency's export notification regulations at 40 CFR 707, subpart D (see 63 FR 54649 (FRL–6023–9), October 13, 1998).

B. How Can I Get Additional Information, Including Copies of This Document and Other Documents for This Notice?

1. *Electronically.* You may obtain electronic copies of this document and other documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page, select "Laws and Regulations" and then look up the entry for this document under "**Federal Register**—Environmental Documents" (http://www.epa.gov/fedrgstr/EPA-TOX/1999/).

2. *In person or by telephone.* If you have any questions or need additional information about this action, you may contact the project manager identified in the FOR FURTHER INFORMATION CONTACT section. In addition, the official record for this notice, including the public version, has been established under docket control number OPPTS–42205B. The public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in the TSCA Nonconfidential Information Center, EPA, Rm. NE–B607, Waterside Mall, 401 M St., SW., Washington, DC, from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

II. Background

A. What Is MIBK?

As described in the findings document in support of the proposed rule requiring health effects testing for a number of hazardous air pollutants ("HAPs" or "HAPs chemicals"), including MIBK (Ref. 1), MIBK is an important chemical solvent for vinyl, epoxy acrylic, and natural resins and for nitrocellulose and dyes. It is also used as an extraction solvent. Its solvent uses break out as follows: Surface coatings (66%); process solvent for pharmaceuticals, adhesives, and pesticides (15%); chemical production, including rubber-processing chemicals (15%); and miscellaneous (4%). Approximately 467,000 workers may be exposed to MIBK. The Chemical Abstract Service (CAS) registry number for MIBK is 108–10–1.

B. Why Is EPA Requiring Health Effects Testing on MIBK?

EPA has proposed health effects testing under TSCA section 4(a) for a number of HAPs chemicals, including MIBK (61 FR 33178, June 26, 1996 (FRL–4869–1), as amended by 62 FR 67466, December 24, 1997 (FRL–5742–2) and 63 FR 19694, April 21, 1998 (FRL–5780–6). In the HAPs proposal, the Agency made preliminary findings for MIBK (61 FR 33178, 33190, 33192; Ref. 1) that:

1. This chemical substance may present an unreasonable risk of injury to human health;

2. There is substantial production and environmental release of MIBK and there is or may be substantial human exposure to the chemical;

3. There are inadequate data to determine the effects of activities involving MIBK; and

4. Testing is necessary to develop health effects data. The HAPs rule proposed testing MIBK for acute toxicity, reproductive toxicity and immunotoxicity (61 FR 33178, 33198; 62 FR 67466, 67483).

III. ECA Development and Conclusion

A. How Is EPA Going To Obtain Health Effects Testing on MIBK?

In the proposed HAPs test rule, EPA invited the submission of proposals for pharmacokinetics (PK) studies for the HAPs chemicals, which could provide the scientific basis for alternative testing to the testing proposed and could provide the basis for negotiation of ECAs (61 FR 33178, 33189). EPA uses ECAs to accomplish testing where a consensus exists among EPA, affected manufacturers and/or processors, and interested members of the public concerning the need for and scope of testing (40 CFR 790.1(c)).

On December 24, 1997, in an amendment to the proposed HAPs test rule (62 FR 67466, 67474), EPA again provided the opportunity for the submission of ECA proposals for alternative testing of HAPs that could fulfill certain or all of the testing needs described in the proposed test rule, as amended. These ECA proposals did not need to include PK and mechanistic data development as a component of the alternative testing proposal. The procedures for ECA negotiations are described at 40 CFR 790.22(b).

In response to EPA's request for proposals for ECAs, the Chemical Manufacturers Association (CMA) Ketones Panel submitted a proposal for a testing program on December 11, 1996, as revised by their submission of March 30, 1998 (Refs. 2 and 3). EPA responded to this proposal in May 1998 (Ref. 4), indicating that this approach offered sufficient merit to proceed with ECA negotiations. Consequently, EPA

published a document soliciting interested parties to monitor or participate in these negotiations (63 FR 32656, June 15, 1998 (FRL–5798–3)).

EPA held a public meeting to negotiate an ECA for MIBK on July 16, 1998. Representatives of the Companies and other interested parties attended this meeting. The participants reached consensus on the testing to be required under the ECA. On November 25, 1998, EPA received the ECA signed by the Companies. On April 16, 1999, EPA signed the ECA and accompanying Order.

B. What Testing Does the ECA for MIBK Require?

This ECA requires 2-generation reproductive effects testing by the inhalation route of exposure, as described in Table 1 in this unit. This testing will allow EPA to characterize the potential reproductive health hazards resulting from inhalation exposure to MIBK. Table 1 sets forth the required testing, test standard, and reporting requirements under the ECA for MIBK.

TABLE 1.—REQUIRED TESTING, TEST STANDARD, AND REPORTING REQUIREMENTS FOR MIBK

Required testing	Test standard	Deadline for final report[1] (Months)	Interim reports required[2] (Number)
Reproductive effects testing by inhalation	§ 799.9380 (as modified in Appendix 1 to the ECA)	29	4

[1] Number of months after the effective date of the Order.
[2] Interim reports are required every 6 months from the effective date until the final report is submitted.

C. What Are the Uses for the Test Data for MIBK?

As indicated in the proposed HAPs test rule, EPA would use the data obtained from testing to implement several provisions of section 112 of the Clean Air Act (CAA), including the determination of residual risk, the estimation of the risks associated with accidental releases of chemicals, and determinations whether substances should be removed from the CAA section 112 (b)(1) list of hazardous air pollutants (delisting) (61 FR 33178, 33179). The data also would be used by other Federal agencies (e.g., the Agency for Toxic Substances and Disease Registry (ATSDR), the National Institute for Occupational Safety and Health (NIOSH), the Occupational Safety and Health Administration (OSHA), and the Consumer Product Safety Commission (CPSC)) in assessing chemical risks and in taking appropriate actions within their programs (61 FR 33178, 33179).

D. Does the ECA for MIBK Meet All the Testing Requirements for MIBK That Were Contained in the Proposed HAPs Test Rule, As Amended?

In the proposed HAPs test rule, as amended, EPA required testing of MIBK for reproductive toxicity, as well as other health effects (namely acute toxicity, which includes an appraisal of pulmonary irritation, and immunotoxicity). The ECA for MIBK requires testing for reproductive toxicity. The other health effects for which testing is necessary for MIBK will be included in the final HAPs rule.

Testing for reproductive effects for MIBK that was contained in the HAPs proposal, as amended, will not be included in the final HAPs test rule because the Companies will fulfill this testing requirement by implementing the ECA and Order. The issuance of the ECA and Order constitutes final EPA action for purposes of 5 U.S.C. 704.

E. What if EPA Should Require Additional Reproductive Effects Testing on MIBK?

If EPA decides in the future that it requires additional reproductive effects data on MIBK, the Agency will initiate a separate action.

IV. Other Impacts of the ECA for MIBK

The issuance of the ECA and Order under TSCA section 4 subjects the Companies that signed the ECA to export notification requirements under TSCA section 12(b)(1), as set forth at 40 CFR part 707, subpart D, if they export or intend to export MIBK.

On October 13, 1998 (63 FR 54649 (FRL–6023–9)), EPA proposed to amend 40 CFR 799.5000 by adding MIBK to the list of chemicals subject to testing consent orders. The listing of a chemical substance at 40 CFR 799.5000 serves as notification to all persons who export or intend to export the chemical substance that:

1. The chemical substance is the subject of an ECA and Order; and
2. EPA's export notification regulations at 40 CFR part 707, subpart D, apply to those exporters who have signed the ECA, as well as those exporters who have not signed the ECA. 40 CFR 799.19.

When a final rule based on the October 13, 1998, proposed rule is published in the **Federal Register**, all persons who export or who intend to export MIBK will be subject to export notification requirements.

V. Paperwork Reduction Act Notice

The ECA and Order announced in this notice do not contain any information collection requirements that require additional approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The information collection requirements related to test rules and ECAs issued under TSCA section 4 have already been approved by OMB under OMB control number 2070–0033 (EPA ICR No. 1139). The one-time public burden for this collection of information is estimated to be approximately 7500 hours total, of which the majority are due to laboratory activities as opposed to administration. Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For this collection it includes the time needed to review instructions; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the final rule, are listed in 40 CFR part 9. EPA will issue a final rule related to export notification requirements for MIBK. That rule will amend the listing at 40 CFR part 799, as well as the table at 40 CFR part 9.

VI. References

1. U.S. EPA. OPPT. "TSCA Section 4 Findings for 21 Hazardous Air Pollutants: A Supporting Document for Proposed Hazardous Air Pollutants (HAPs) Test Rule." (June 25, 1996).

2. The Ketones Panel of the Chemical Manufacturers Association. Letter from Langley A. Spurlock to Charles M. Auer, EPA, with attachment entitled:

"Alternative Testing Proposal for Methyl Isobutyl Ketone." Arlington, VA. (December 11, 1996).

3. The Ketones Panel of the Chemical Manufacturers Association. Letter from Courtney M. Price to the U.S. EPA Document Control Office entitled: "Comments of the Chemical Manufacturers Association Ketones Panel on EPA's Proposed Test Rule for Hazardous Air Pollutants." Arlington, VA. (March 30, 1998).

4. U.S. EPA. Letter from Charles M. Auer to Barbara O. Francis, CMA Ketones Panel, re: ECA Proposal for MIBK HAPs Testing. Washington, DC. (May 28, 1998).

List of Subjects

Environmental protection, Hazardous chemicals.

Dated: April 16, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–10390 Filed 4–23–99; 8:45 am]

BILLING CODE 6560–60–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission

April 12, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 25, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, 445 12th Street, S.W., Room 1-A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0801.

Title: Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications (PCS) Licensees.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 750.

Estimated Time per Response: 0.25 hours.

Frequency of Responses: On occasion reporting requirements.

Total Annual Burden: 187.5 hours

Total Annual Costs: None.

Needs and Uses: The Fourth Report and Order, in WT Docket No. 97–82, 47 CFR 1.2105(a)(2)(xi), 24.709(a)(5), requires each applicant for C Block Broadband PCS Spectrum to attach to its short-form application a statement indicating (under penalty of perjury) whether or not the applicant has ever been in default on any FCC licensees or has ever been delinquent on any non-tax debt owed to any Federal agency. This information allows the FCC to determine the amount of the upfront payment to be paid by each applicant and will help ensure that C Block Auctions are conducted fairly and efficiently, thereby speeding the flow of payments to the U.S. Treasury and accelerating the provision of PCS Spectrum to the public.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–10361 Filed 4–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

April 19, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 25, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0400.

Title: Tariff Review Plan.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 52.

Estimated Time Per Response: 61 hours (avg.).

Frequency of Response: Annually; biennially; and on occasion reporting requirements.

Total Annual Burden: 3,172 hours.

Total Annual Cost: $0.

Needs and Uses: Certain local exchange carriers are required annually or biennially to submit a Tariff Review Plan in partial fulfillment of cost support material required by 47 CFR Part 61. The information is used by FCC and the public to determine the justness and reasonableness of rates, terms, and conditions in tariffs as required by the Communications Act of 1934, as amended.

OMB Control Number: 3060–0233.

Title: Part 36, Separations.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 3,090.

Estimated Time Per Response: 20.64 hours (avg.).

Frequency of Response: Annually; and on occasion reporting requirements.

Total Annual Burden: 63,800 hours.

Total Annual Cost: $0.

Needs and Uses: Local exchange carriers (LECs) are required to submit data annually to the national Exchange Carrier Association for the filing of access tariffs. State or local telephone companies which want to participate in the federal assistance program must make certain informational showings to demonstrate eligibility. In a Notice of Proposed Rulemaking issued in CC Docket No. 80–286 (released 10/7/97), the Commission sought comment on a proposed rule allowing incumbent LECs to separate joint and common costs on an individual basis, showing that competition exists in the local markets.

OMB Control Number: 3060–0712.

Title: Petition for Declaratory Ruling by the Inmate Calling Services providers Task Force, RM 8181.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 60.

Estimated Time Per Response: 1 hour (avg.).

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 60 hours.

Total Annual Cost: $0.

Needs and Uses: In the Declaratory Ruling issued in RM–8181, the Commission requires that LECs, among other things, notify their customers of the change in status of inmate-only customer premises equipment (CPE). This is necessary to ensure that correctional facility customers are aware of the change in regulatory status of inmate-only payphones.

OMB Control Number: 3060–0725.

Title: Annual Filing of Nondiscrimination Reports (on quality of service, installation, and maintenance) by Bell Operating Companies.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 7.

Estimated Time Per Response: 50 hours (avg.).

Frequency of Response: Annually.

Total Annual Burden: 350 hours.

Total Annual Cost: $0.

Needs and Uses: Bell Operating Companies (BOCs) must submit a nondiscrimination report with regard to payphones. Without this information, the Commission would not be able to ascertain whether the BOCs were providing competing payphone providers with equal access to all the basic underlying network services that are provided to their own payphones.

OMB Control Number: 3060–0737.

Title: Disclosure Requirements for Information Services Provided Under a Presubscription or Comparable Arrangement.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,000 respondents.

Estimated Time Per Response: 5 hours (avg.).

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 5,000 hours.

Total Annual Cost: $0.

Needs and Uses: 47 CFR 64.1501(b) imposes disclosure requirements on information providers which offer "presubscribed" information services. The requirements are intended to ensure that consumers receive information regarding the terms and conditions associated with these services before they enter into a contract to subscribe to them.

OMB Control Number: 3060–0741.

Title: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96–98, Second Report and Order and Memorandum Opinion and Order.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,350 respondents.

Estimated Time Per Response: 150.3 hours (avg.).

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 202,980 hours.

Total Annual Cost: $0.

Needs and Uses: In the Second Report and Order and Memorandum Opinion and Order issued in CC Docket No. 96–98, the Commission adopted rules and regulations to implement the portions of the Telecommunications Act of 1996 which were enacted to open local telephone markets by eliminating legal and technical barriers to competition. The item addressed provisions related to local exchange carriers' obligations to provide their competitors with dialing parity and nondiscriminatory access to certain services; incumbent local exchange carriers' duty to make network information disclosures; and numbering administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–10362 Filed 4–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

April 20, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility;

(b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 25, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th St., S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Lesmith at 202–418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0546.

Title: Section 76.59, Modification of Television Market.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 150.

Estimated Time Per Response: 4–40 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 3,300 hours.

Total Annual Costs: $450,750.

Needs and Uses: Written requests to modify a television station's must-carry market may be filed by television stations or cable operators pursuant to Section 76.59 of the Commission's rules. Information furnished in the filings is used by the Commission to determine whether a television station's must-carry market should be modified.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–10363 Filed 4–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled "Notification of Performance of Bank Services."

DATES: Comments must be submitted on or before June 25, 1999.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room 4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to "Notification of Performance of Bank Services". Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Notification of Performance of Bank Services.

Form Number: 6120/06.

OMB Number: 3064–0029.

Frequency of Response: Occasional.

Affected Public: Financial institutions with bank services performed by a third party.

Estimated Number of Respondents: 150.

Estimated Time per Response: ½ hour.

Estimated Total Annual Burden: 75 hours.

General Description of Collection: Form 6120/06 is used by insured state nonmember banks to notify the FDIC of the existence of a relationship with a bank service corporation as required by section 7 of the Bank Service Company Act (12 USC 1867).

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 19th day of April, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–10354 Filed 4–23–99; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: New collection

Title: Deposit Broker Status Survey.

OMB Number: New collection

Annual Burden

Estimated annual number of respondents:—1,200.

Estimated time per response—10 minutes.

Average annual burden hours—200 hours.

Expiration Date of OMB Clearance: New collection.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before [insert date 30 days after date of publication in the **Federal Register**] to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Deposit Broker Status Survey is targeted to deposit brokers who have notified the FDIC of their activity: securities and investment firms, financial institutions, financial planners, insurance agents, etc. The survey is designed to update FDIC records to ensure that brokers are active in the field, purge files of brokers no longer operating, update information on the activities of active brokers and correct addresses and contact information.

Dated: April 19, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–10355 Filed 4–23–99; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Thursday, April 29, 1999 at 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

The following items have been added to the agenda:

Advisory Opinion 1999–6: National Rural Letter Carriers' Association, by Ken Parmelee, Vice President (continued from meeting of April 21, 1999)

Report of the Audit Division on Clinton/Gore '96 Primary Committee, Inc.

Report of the Audit Division on Clinton/Gore '96 General Committee, Inc. and Clinton/Gore '96 General Election Legal and Accounting Compliance Fund

Report of the Audit Division on the Dole for President Committee, Inc. (Primary)

Report of the Audit Division on the Dole/Kemp '96, Inc. and Dole/Kemp Compliance Committee, Inc. (General)

Report of the Audit Division on Kemp for Vice President

PERSON TO CONTACT FOR INFORMATION: Ron Harris, Press Officer, Telephone (202) 694–1220.

Majorie W. Emmons,

Secretary of the Commission.

[FR Doc. 99–10482 Filed 4–22–99; 11:46 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1269–DR]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1269–DR), dated April 9, 1999, and related determinations.

EFFECTIVE DATE: April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 9, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Louisiana, resulting from severe storms, tornadoes and flooding on April 3–7, 1999, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert E. Hendrix of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster:

Bossier Parish for Public Assistance.

All parishes within the State of Louisiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–10397 Filed 4–23–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1269–DR]

Louisiana; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana, (FEMA–1269–DR), dated April 9, 1999, and related determinations.

EFFECTIVE DATE: April 16, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Louisiana is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 9, 1999:

Claiborne Parish for Individual Assistance (already designated for Public Assistance).

De Soto Parish for Individual Assistance.

Webster Parish for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–10398 Filed 4–23–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Applicability of Hotel and Motel Fire Safety Act to Colleges and Universities

AGENCY: U.S. Fire Administration (FEMA).

ACTION: Notice.

SUMMARY: We (FEMA) give notice of the applicability of the Hotel and Motel Fire Safety Act to colleges and universities. Colleges and universities that hold meetings, conferences, seminars and other activities sponsored or funded in whole or part by Federal monies must comply with the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act, including installation of smoke detectors, and sprinkler systems where applicable.

FOR FURTHER INFORMATION CONTACT: John Ottoson, Project Officer, Hotel and Motel Fire Safety, USFA, 16825 S. Seton Avenue, Emmitsburg, MD 21727. Inquiries may also be made by telephone (301) 447–1272, by facsimile (301) 447–1102, or by email: john.ottoson@fema.gov.

SUPPLEMENTARY INFORMATION:

Policy

Colleges and universities that hold meetings, conferences, seminars and other activities sponsored or funded in whole or part by Federal monies must comply with the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act, including installation of fire and smoke detectors, and sprinkler systems where applicable.

Background

The Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2225a *et seq.*, set standards for fire prevention and control in places of public accommodation affecting commerce. The Act requires federal employees on travel to stay in public accommodations that adhere to the life safety requirements in the legislation guidelines. The Act also states that federally funded meetings and conferences cannot be held in properties that do not comply with the law. These requirements include installation of hard-wired, single station smoke detectors in each guest room of each place of public accommodation, and an automatic sprinkler system in each place of public accommodation that is more than three stories in height. Properties three stories or lower in height are exempt from the sprinkler requirement.

The Act further requires each State to submit to the Director of the Federal Emergency Management Agency (FEMA) a list of places of public accommodation in the State that comply with the Act's fire safety standards. FEMA compiles, maintains, and publishes a National Master List of Fire Safe Hotels and Motels on the Internet at *http://www.fema.gov/hotel*. Under the Act a property is in compliance when it is included in the National Master List.

We list facilities when their owners or proprietors certify that they meet the requirements of the Act and send the certificate to the State Project Officer in the jurisdiction where the facility is located. When the State Project Officer approves, we add the name of the facility to the list. You can obtain forms for certification and a list of State Project Officers from Project Officer John Ottoson. (See **FOR FURTHER INFORMATION CONTACT**, above).

Applicability to Colleges and Universities

We asked the General Counsel of FEMA whether colleges and universities that hold meetings, conferences, seminars and other activities sponsored or funded in whole or part by Federal monies must comply with the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act, including installation of fire and smoke detectors, and sprinkler systems where applicable. In a formal opinion the General Counsel determined that the Act applies to those circumstances.

Provisions From the Hotel and Motel Fire Safety Act

Section 6(a) of the Hotel and Motel Fire Safety Act, 15 U.S.C. 2225a provides: "no Federal funds may be used to sponsor or fund in whole or in part a meeting, convention, conference, or training seminar that is conducted in, or that otherwise uses the rooms, facilities, or services of, a place of public accommodation that does not meet the requirements of the fire prevention and control guidelines described in section 2225 of this title."

A "place of public accommodation" or "place of public accommodation affecting commerce" is defined in 15 U.S.C. 2203(7) as: "any inn, hotel, or other establishment not owned by the Federal Government that provides lodging to transient guests, except that such term does not include an establishment treated as an apartment building for purposes of any State or local law or regulation or an establishment located within a building that contains not more than 5 rooms for rent or hire and that is actually occupied as a residence by the proprietor of such establishment."

Facilities Included

The facilities would include any dormitories or other college- or university-owned buildings used to house and serve attendees at the meeting, conference, seminar, or other activity that is funded in whole or in part by Federal funds. If the college or university elects to hold such activities without Federal funding or sponsorship, the requirement of the Act would not apply. However, if the Master List does not include the facilities in accordance with the Act, the Act encourages Federal agencies not to have their employees attend or stay in such facilities.

Exceptions

The only exceptions are for: (1) facilities owned by the Federal Government; (2) facilities treated as an apartment building for purposes of any State or local law or regulation; or (3) buildings that contain not more than 5 rooms for rent or hire and are occupied as a residence by the proprietor. Neither the Act nor any part of the legislative history makes any exception to this requirement for colleges and universities.

Dated: April 19, 1999.

Carrye B. Brown,

United States Fire Administrator.

[FR Doc. 99–10395 Filed 4–23–99; 8:45 am]

BILLING CODE 6718–08–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting of the Federal Interagency Committee on Emergency Medical Services (FICEMS)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: FEMA announces the following open meeting.

NAME: Federal Interagency Committee on Emergency Medical Services (FICEMS).

DATE OF MEETING: June 3, 1999.

PLACE: Room N–309, Building N, National Emergency Training Center (NETC), 16825 South Seton Avenue in Emmitsburg, Maryland 21727.

TIME: 10:00 a.m.

PROPOSED AGENDA: Review and submission for approval of previous FICEMS Committee Meeting Minutes: Ambulance Design Subcommittee and Technology Subcommittee Reports; presentation of member agency reports; reports of other Interested parties; and a presentation regarding the proposed American Standards on Testing and Materials Standard on Ambulance Equipment.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public with limited seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact William Troup, United States Fire Administration, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, (301) 447–1231, on or before Tuesday, June 1, 1999.

Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved at the next FICEMS Committee Meeting on September 2, 1999.

Carrye B. Brown,

U.S. Fire Administrator.

[FR Doc. 99–10394 Filed 4–23–99; 8:45 am]

BILLING CODE 6718–08–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee; Notice of Intent To Request Clearance for Extension of Collection of Information; Opportunity for Public Comment

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of intent to request clearance for extension of a currently approved collection of information and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") is soliciting comments on the need for the collection of information contained in 12 CFR Part 1102, Subpart B, Rules of Practice for Proceedings. The ASC also requests comments on the practical utility of the collection of information; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

DATES: Comments on this information collection must be received on or before June 25, 1999.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2000 K Street, NW., Suite 310, Washington, DC 20006.

FOR FURTHER INFORMATION CONTRACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, at 2000 K Street, NW, Suite 310, Washington, DC 20006 or 202–872–7520.

SUPPLEMENTARY INFORMATION:

Title: 12 CFR part 1102, Subpart B; Rules of Practice for Proceedings.

ASC Form Number: None.

OMB Number: 3139–0005.

Expiration Date: To be requested.

Type of Request: Extension of currently approved collection of information.

Description of Need: The information is used by the ASC in determining whether the ASC should initiate a non-recognition proceeding or "take further action" against a State appraisal regulatory agency ("State agency") and other persons under § 1118 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3337). The collection of information also sets out detailed procedures for such actions.

Automated Data Collection: None.

Description of Respondents: State, local or tribal government.

Estimated Average Number of Respondents: 2 respondents.

Estimated Average Number of Responses: Each respondent will be required to respond throughout the single proceeding initiated under 12 CFR Part 1102, Subpart.

Estimated Average Burden Hours Per Response: 60 hours each proceeding.

Estimated Annual Reporting Burden: 120 hours.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Dated: April 20, 1999.

Marc L. Weinberg,

Acting Executive Director & General Counsel.

[FR Doc. 99–10404 Filed 4–23–99; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL APPRAISAL SUBCOMMITTEE

60-Day Notice of Intent To Request Clearance for Extension of Collection of Information; Opportunity for Public Comment

AGENCY: Appraisal Subcommittee, Federal Financial institutions Examination Council.

ACTION: Notice of intent to request clearance for extension of a currently approved collection of information and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") is soliciting comments on the need for the collection of information contained in 12 CFR Part 1102, Subpart C, Rules Pertaining to the Privacy of individuals and Systems of Records Maintained by the Appraisal Subcommittee. The ASC also requests comments on the practical utility of the collection of information; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

DATES: Comments on this information collection must be received on or before June 25, 1999.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2000 K Street, N.W., Suite 310, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, at 2000 K Street, N.W., Suite 310, Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

Title: 12 CFR part 1102, subpart C; Rules Pertaining to the Privacy of

Individuals and Systems of Records Maintained by the Appraisal Subcommittee.

ASC Form Number: None.

OMB Number: 3139–0004.

Expiration Date: To be requested.

Type of Request: Extension of currently approved collection of information.

Description of Need: The information is used by the ASC and its staff in determining whether to grant to an individual access to records pertaining to that individual and whether to amend or correct ASC records pertaining to that individual under the Privacy Act of 1974 (5 U.S.C. 552a).

Automated Data Collection: None.

Description of Respondents: Individuals and households.

Estimated Average Number of Respondents: 50 respondents.

Estimated Average Number of Responses: 50. Once per respondent.

Estimated Average Burden Hours Per Response: .33 hours.

Estimated Annual Reporting Burden: 16.67 hours.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Dated: April 20, 1999.

Marc L. Weinberg,

Acting Executive Director & General Counsel.

[FR Doc. 99–10405 Filed 4–23–99; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL MARITIME COMMISSION

Notice of Items Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following items have been submitted to the Office of Management and Budget (OMB) for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.), as amended. Requests for information, including copies of the collection of information and supporting documentation, may be obtained from Edward P. Walsh, Managing Director, Federal Maritime Commission, 800 N. Capitol Street, N.W., Washington, D.C. 20573–0001, telephone number (202) 523–5800. Comments may be submitted to the agency and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Office for the Federal Maritime Commission, within 15 days after the date of the **Federal Register** in which this notice appears.

Summary of Items Submitted for OMB Review 46 CFR Part 540 and Related Application Form FMC–131

FMC requests an extension of clearance for 46 CFR part 540 which implements sections 2 and 3 of Public Law 89–777 (46 U.S.C. 817(d) and (e)) and related application Form FMC–131. P.L. 89–777 requires vessel owners, charterers, and operators of passenger vessels having 50 or more berth or stateroom accommodations and embarking passengers at United States ports and territories to establish their financial responsibility to meet liability incurred for death or injury and to indemnify passengers in the event of nonperformance of a voyage or cruise. The Commission estimates an annual respondent universe of 60 cruise line operators who possess Certificates (Performance and Casualty) for 150 vessels. Total estimated respondent burden is 1888 manhours: 1600 manhours for complying with the regulation and 288 manhours for completion of the form. Total cost to the Federal Government is estimated at $177,000; total cost to respondents is estimated at $110,000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10421 Filed 4–23–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–000050–068.

Title: United States/Australia New Zealand Association.

Parties: Columbus Line P&O Nedlloyd Limited Australia-New Zealand Direct Line.

Synopsis: The parties are revising the agreement's independent action and service contract provisions consistent with the requirements of the Ocean Shipping Reform Act of 1998. The parties request expedited review.

Agreement No.: 202–011375–0048.

Title: Trans-Atlantic Conference Agreement ("TACA").

Parties: A.P. Moller-Maersk Line, Atlantic Container Line AB, Hapag Lloyd Container Line GmbH, Mediterranean Shipping Co., S.A., Nippon Yusen Kaisha, Orient Overseas Container Line (UK) Ltd., P&O Nedlloyd Limited, Sea-Land Service, Inc.

Synopsis: The proposed Amendment reduces the independent action notice period applicable to ocean port/port rates and U.S. inland portions of through intermodal rates from three business days to one business day.

Agreement No.: 202–011407–004.

Title: Australia/United States ContainerLine Association.

Parties: Columbus Line, P&O Nedlloyd Limited, Australia-New Zealand Direct Line.

Synopsis: The proposed amendment would revise Agreement provisions related to independent action and service contracts to conform to the provisions of the Ocean Shipping Reform Act of 1988. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: April 21, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10420 Filed 4–23–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Primeship Agencies, Inc. d/b/a Primeship, 80 St. Michael Street, Suite 201, Mobile, AL 36602, Officers: Victor A. Lopez-Lindo, President, Beatriz E. Lopez-Lindo, Secretary.

KSG Exports, Inc. d/b/a KSG International, Forwarding Consultants, 290 N.E. 95th Street, Miami Shores, FL 33138, Officers: Stephen K. Gonzales, President, Lisette M. Reid, Secretary.

Dated: April 21, 1999.
Bryant L. VanBrakle,
Secretary.
[FR Doc. 99–10353 Filed 4–23–99; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 99–07]

A.P. Moller-Maersk Line, Possible Violations of Sections 10(b)(1), 10(b)(2), and 10(b)(4) of the Shipping Act of 1984; Order of Investigation and Hearing

A.P. Moller-Maersk Line ("Maersk") is a vessel-operating common carrier headquartered in Copenhagen, Denmark. In the United States, Maersk operates through Maersk, Inc., a wholly owned subsidiary. Maersk offers worldwide container services with approximately 70 vessels and offices in approximately 70 countries. As relevant here, Maersk provides regular liner service between the United States and South America and between the United States and points throughout the Far East and Asia.

Based on evidence available to the Commission, it appears that during the period from 1996 to 1998, Maersk was involved in malpractice activities both in the South American as well as the Pacific Trades. In particular, it appears that in the South American Trades, Maersk paid rebates and made other freight concessions to several persons, including Non-Vessel-Operating Common Carriers ("NVOCCs"). It appears that Maersk engaged in such malpractices on hundreds of shipments over a significant period of time. In the Pacific Trades, it appears that Maersk collaborated with persons, including NVOCCs, in arrangements involving commodity and measurement misdescriptions thereby allowing those entities to obtain very substantial freight savings to which they were not entitled, in many instances, by misuse of rules and practices relating to equipment substitution.

Section 10(b)(1) of the 1984 Act, 46 U.S.C. app. 1709(b)(1), prohibits a common carrier from charging, collecting or receiving greater, less or different compensation for the transportation of property than the rates and charges set forth in its tariffs or service contracts. Section 10(b)(2) of the 1984 Act, 46 U.S.C. app. 1709(b)(2), provides that no common carrier may rebate, refund or remit in any manner, or by any device, any portion of its rates except in accordance with its tariffs or service contracts. Section 10(b)(4) of the 1984 Act, 46 U.S.C. app. 1709(b)(4), prohibits any common carrier from allowing any person by means of false billings, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means, to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable.

Under section 13 of 1984 Act, 46 U.S.C. app. 1712, a person is subject to a civil penalty of not more than $25,000 for each violation knowingly and willfully committed, and not more than $5,000 for other violations.[1] Section 13 further provides that a common carrier's tariffs may be suspended for violations of sections 10(b)(1), 10(b)(2) or 10(b)(4) for a period not to exceed one year.

Now therefore, it is Ordered, That pursuant to sections 10, 11 and 13 of the 1984 Act, 46 U.S.C. app 1709, 1710, and 1712, an investigation is instituted to determine:

(1) Whether Maersk violated section 10(b)(1) of the 1984 Act by charging , demanding, collecting or receiving less or different compensation for the transportation of property than the rates and charges shown in its tariffs or service contracts;

(2) Whether Maersk violated section 10(b)(2) of the 1984 Act by rebating, refunding or remitting a portion of its tariff or service contract rates;

(3) Whether Maersk violated section 10(b)(4) of the 1984 Act by allowing persons to obtain transportation at less than the rates and charges otherwise applicable by an unjust or unfair device or means;

(4) Whether, in the event violations of sections 10(b)(1), 10(b)(2) or 10(b)(4) of the 1984 Act are found, civil penalties should be assessed against Maersk and, if so, the amount of penalties to be assessed;

(5) Whether, in the event violations of sections 10(b)(1), 10(b)(2) or 10(b)(4) of the 1984 Act are found, the tariff(s) of Maersk should be suspended;

(6) Whether, in the event violations are found, an appropriate cease and desist order should be issued.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only after consideration has been given by the parties and the Presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is Further Ordered, That A.P. Moller-Maersk Line is designated Respondent in this proceeding;

It is Further Ordered, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is Further Ordered, That notice of this Order be published in the **Federal Register**, and a copy be served on parties of record;

It is Further Ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is Further Ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is Further Ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 or the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record; and

It is Further Ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by April 20, 2000, and the final decision of the Commission shall be issued by August 18, 2000.

By the Commission.
Bryant L. VanBrakle,
Secrtary.
[FR Doc. 99–10351 Filed 4–23–99; 8:45 am]
BILLING CODE 6730–01–M

[1] These penalties are increased 10 percent for any violations occurring after November 7, 1996. *See, Inflation Adjustment of Civil Penalties,* 61 Fed. Reg. 52704 (October 8, 1996).

FEDERAL MARITIME COMMISSION

[Docket No. 99–06]

Direct Container Line Inc. and Owen Glenn, Possible Violations of Section 10(a)(1) of the Shipping Act of 1984; Order of Investigation and Hearing

Respondent Direct Container Line Inc. ("DCL") is a tariffed and bonded non-vessel-operating common carrier ("NVOCC") based in Carson, California, DCL holds out to furnish transportation services worldwide, including NOVOCC services, *inter alia*, from ports and points in the United States to ports and points in South America. According to DCL's webpage, DCL operates 13 offices and 25 receiving terminals in the United States and Canada, with branches or subsidiaries in 86 countries worldwide. DCL claims to have over 500 employees, with over 350 based in the United States.

Respondent Owen Glenn is Chairman and Chief Executive Officer of DCL. Mr. Glenn is a resident of California.

It appears that subsequent to October 1994, DCL, by receiving rebates and other freight rate concessions, knowingly and willfully obtained transportation for less than applicable tariff or service contract rates from one or more ocean common carriers providing service to Chile, Peru and destinations on the East Coast of South America. The receipt of these alleged rebates appears to have been arranged by DCL's principal, Owen Glenn.

Now therefore, it is ordered, That pursuant to sections 10, 11, 13 and 23 of the 1984 Act ("1984 Act"), 46 U.S.C. app. 1709, 1710, 1712 and 1721, an investigation is instituted to determine:

(1) Whether Direct Container Line, Inc., either alone or in conjunction with other persons, violated section 10(a)(1) of the 1984 Act by obtaining or attempting to obtain ocean transportation of property at less than the rates and charges shown in applicable tariffs or service contracts;

(2) Whether Owen Glen, either alone or in conjunction with other persons, violates section 10(a)(1) of the 1984 Act by obtaining or attempting to obtain ocean transportation of property at less than the rates and charges shown in applicable tariffs or service contracts;

(3) Whether, in the event violations of section 10(a)(1) of the 1984 Act are found, civil penalties should be assessed against DCL and Owen Glenn and, if so, the amount of such penalties;

(4) Whether, in the event violations of section 10(a)(1) of the 1984 Act are found, the Commission should cancel or suspend any or all tariffs of DCL or revoke any Commission issued license authorizing DCL to operate as an Ocean Transportation Intermediary; and

(5) Whether, in the event violations of section 10(a)(1) of the 1984 Act are found, an appropriate cease and desist order should be issued.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only after consideration has been given by the parties and the Presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That Direct Container Line Inc. and Owen Glenn are designated as Respondents in this proceeding;

It is further ordered, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served on parties or record;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of any hearing or prehearing conference, shall be served on parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record; and

It is further ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the initial decision of the Administrative Law Judge shall be issued by April 20, 2000, and the final decision of the Commission shall be issued by August 18, 2000.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10352 Filed 4–23–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 21, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Banco Espirito Santo e Comercial; Espirito Santo Financial (Portugal) Sociedade Gestora de Participacoes Sociais, S.A.; Bespar Sociedade Gestora de Participacoes Sociais, S.A., all of Lisbon, Republic of Portugal, and E.S. Control Holding S.A.; Espirito Santo Financial Group, S.A.; E.S. International

Holding S.A., all of Luxembourg; to become bank holding companies by acquiring 100 percent of the voting shares of Espirito Santo Bank, Miami, Florida.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Frontier Financial Corporation, Everett, Washington; to acquire up to 20 percent of the voting shares of AEA Bancshares, Inc., Seattle, Washington, and thereby indirectly acquire Asia Europe Americans Bank, Seattle, Washington.

Board of Governors of the Federal Reserve System, April 21, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10427 Filed 4–23–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 21, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Old Kent Financial Corporation, Grand Rapids, Michigan; to acquire CFSB Bancorp, Inc., Lansing, Michigan, and thereby indirectly acquire Community First Bank, Lansing, Michigan; Community First Mortgage Company, Lansing, Michigan; and Capital Consolidated Financial Corporation, Lansing, Michigan, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y; in performing secondary marketing activities for real estate mortgages, pursuant to § 225.28(b)(1) of Regulation Y, and in credit life insurance activities, pursuant to § 225.28(b)(11)(i)(A) of Regulation Y.

Board of Governors of the Federal Reserve System, April 21, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10426 Filed 4–23–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science

Withdrawal of Standing Announcement of Opportunities for Research on Adolescent Family Life; Investigator-Initiated Research Grants and New Investigator Research Awards

AGENCY: Office of Adolescent Pregnancy Programs, Office of Population Affairs, OPHS, DHHS.

ACTION: Notice—Withdrawal of standing announcement.

SUMMARY: This notice withdraws the standing announcement of opportunities for research on adolescent family life made available through the Office of Adolescent Pregnancy Programs, Office of Population Affairs, OPHS, DHHS. The withdrawal is being done to permit re-evaluation of current program research priorities.

DATES: Effective April 26, 1999.

SUPPLEMENTARY INFORMATION: Section 2008 of Title XX of the Public Health Service Act, 42 U.S.C. 300z–7, authorizes the Secretary of Health and Human Services to make grants and enter into the contracts with public agencies or private organizations of higher education to support research and dissemination activities relating to adolescent premarital sexual relations and adolescent childbearing. This research program is described in the Catalog of Federal Domestic Assistance No. 13.111, Adolescent Family Life Research Grants.

A standing announcement providing detailed information and inviting research applications in six topical areas was published on November 18, 1985. 50 FR 47502. The Office of Population Affairs is reviewing the AFL research priorities and may revise those priorities. Accordingly, the November 18, 1985 standing announcement is hereby withdrawn.

FOR FURTHER INFORMATION CONTACT: Eugenia Eckard, (301) 594–6534.

Dated: April 12, 1999.

Denese O. Shervington,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 99–10306 Filed 4–23–99; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science

Withdrawal of Standing Announcement of Opportunities for Research in Family Planning Service Delivery Improvement; Investigator-Initiated Research Grants and New Investigator Research Awards

AGENCY: Office of Family Planning, Office of Population Affairs, OPHS, DHHS.

ACTION: Notice—withdrawl of standing announcement.

SUMMARY: This notice withdraws the standing announcement of opportunities for research in family planning services delivery improvement (SDI) made available through the Office of Family Planning, Office of Population Affairs, OPHS, DHHS. The withdrawal is being done to permit a re-evaluation of current program research priorities.

DATES: Effective April 26, 1999.

SUPPLEMENTARY INFORMATION: Section 1004 of Title X of the Public Health Service Act, 42 U.S.C. 300a–2, authorizes the Secretary of Health and Human Services to make grants and enter into contracts with public or non-profit private entities for projects for research in the biomedical, contraceptive development, behavioral and program implementation fields related to family planning and population. The services delivery research grants are described in the Catalog of Federal Domestic Assistance No. 13.974, Family Planning—Services Delivery Improvement Research Grants.

A standing announcement soliciting applications for services delivery improvement research in ten identified research problem areas was published on November 18, 1985. 50 FR 47506.

The Office of Population Affairs is reviewing the family planning services delivery improvement research priorities and may revise those priorities. Accordingly, the November 18, 1985 standing announcement is hereby withdrawn.

FOR FURTHER INFORMATION CONTACT: Eugenia Eckard, (301) 594–6534.

Dated: April 12, 1999.

Denese O. Shervington,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 99–10305 Filed 4–23–99; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Family Preservation and Family Support (FP/FS) Services Implementation Study—State Level Data Collection.

OMB: 0970–0137.

Description: The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) established title IV–B, subpart 2 of the Social Security Act (42 U.S.C. 62–628) to provide funds to states for the development of family preservation and family support programs and services. Subpart 2, Section 435 of OBRA 93 requires the Secretary of HHS to evaluate the effectiveness of programs carried out under the legislation. The Adoption and Safe Families Act of 1997, P.L. 105–89, reauthorized the family preservation and family support programs and services and amended Section 431 [42 U.S.C. 629a] to add two new services: Time-Limited Family Reunification Services and Adoption Promotion and Support Services.

In this second phase of data collection, the five data collection instruments, which were used during the previous phase (1996–1999) will be used. Each instrument is geared toward obtaining information from individuals/agencies who will have a slightly different perspective on the context, planning, and implementation of the legislation. The data collection instruments will seek information on the programs and services funded, the goals of the planning process, populations targeted, reform efforts initiated, the relationship between family preservation, family support and child welfare, staffing and training, information systems.

Data collection on states' planning and implementation experiences will be accomplished through semi-structured interviews with state officials and other key stakeholders who are knowledgeable about child welfare.

Both qualitative and quantitative analyses will be completed to highlight the process states employ to implement the legislation, coordinate with other funding sources, develop new systems, and improve service delivery systems. Data analyses also will focus on the impact of legislative changes on the state implementation of the program and comparisons of state implementation before and after the legislative reauthorization. Information obtained from data analyses will provide feedback to ACF in the determination of future policy guidance and the scope and nature of technical assistance to be provided to states. The information will also provide direct feedback to states concerning successful implementation strategies.

Respondents: State, Local or Tribal Government and Not-for-Profit Institutions.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden house per response	Total burden hours
State Level Data Collection	150	1	.0849	127.40

Estimated Total Annual Burden Hours: 127.40.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C., 20503, Attn: Ms. Lori Schack.

Dated: April 19, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–10304 Filed 4–23–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0672]

Iatric Corp.; Revocation of U.S. License No. 0416

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 0416) and the product license issued to Iatric Corp. for the manufacture of Allergenic Extracts. In letters to FDA dated June 26 and June 30, 1998, the firm voluntarily requested revocation of its establishment and product licenses. In a letter dated August 28, 1998, FDA informed the firm that the establishment and product licenses were revoked.

DATES: The revocation of the establishment license (U.S. License No. 0416) and the product license became effective August 28, 1998.

FOR FURTHER INFORMATION CONTACT: Astrid L. Szeto, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 0416) and the product license for the manufacture of Allergenic Extracts issued to Iatric Corp., 2330 South Industrial Park Dr., Tempe, AZ 85282.

FDA inspected Iatric Corp. from April 7 through April 11, 1997. The inspection of the facility revealed

serious deviations from applicable Federal regulations and the standards established in the firm's license. The deficiencies noted included, but were not limited to, the following: (1) Failure of each person engaged in the manufacture, processing, packing, or holding of a drug product to have the necessary education, training, and experience to perform that person's assigned functions (21 CFR 211.25(a)); (2) failure to thoroughly investigate any unexplained discrepancy in drug product production and control records or the failure of a batch to meet any of its specifications (21 CFR 211.192); (3) failure to establish separate or defined areas or other control systems for manufacturing and processing operations to prevent contamination or mixups (§ 211.42(c) (21 CFR 211.42(c) and 600.11(a))); (4) failure to establish and follow appropriate written procedures designed to prevent microbiological contamination of drug products purporting to be sterile and to ensure that such procedures include validation of any sterilization processes (21 CFR 211.113(b)); (5) failure to report adverse experience information (21 CFR 600.80(c)); (6) failure to establish laboratory controls that include scientifically sound and appropriate specifications, standards, sampling plans, and test procedures designed to ensure that components, drug product containers, closures, in-process materials, labeling, and drug products conform to appropriate standards of identity, strength, quality, and purity (21 CFR 211.160(b)); (7) failure to provide adequate space for the orderly placement of equipment and materials to prevent mixups between different components, drug product containers, closures, labeling, in-process materials, or drug products, and to prevent contamination (§ 211.42(b)); (8) failure to establish and/or follow written procedures for production and process controls designed to ensure that the drug products have the identity, strength, quality, and purity they purport or are represented to possess and to ensure that such procedures, including any changes, are drafted, reviewed and approved by the appropriate organizational units and reviewed and approved by quality control (21 CFR 211.100); (9) failure to maintain buildings used in the manufacture, processing, packing, or holding of a drug product in a good state of repair (21 CFR 211.58); and (10) failure to demonstrate that adequate ventilation is provided (21 CFR 211.46(a)).

These deficiencies demonstrated the management's failure to exercise control over the establishment in all matters relating to compliance and to ensure that personnel are adequately trained and supervised and have a thorough understanding of the procedures that they perform, as required by 21 CFR 600.10(b) and 211.25. FDA determined that these deficiencies constitute a danger to the public health that warranted suspension under §§ 601.5(b) and 601.6(a) (21 CFR 601.5(b) and 601.6(a)). By letter dated April 25, 1997, to Iatric Corp., FDA suspended the firm's establishment license (U.S. License No. 0416) and product licenses for Coccidioidin U.S.P. and Allergenic Extracts. The letter stated that FDA intended to proceed under § 601.6(b) to revoke the establishment license and the product licenses. By letter dated May 13, 1997, Iatric Corp., voluntarily revoked their product license for Coccidioidin U.S.P. (BioCox). In a letter to FDA dated May 14, 1997, Iatric Corp., requested that the matter of license revocation for Allergenic Extracts be held in abeyance.

In the **Federal Register** of November 14, 1997 (62 FR 61129), FDA announced the voluntary revocation of the product license for the firm for the manufacturer of Coccidioidin, U.S.P (BioCox), which resulted from the same deficiencies noted previously. In a letter to Iatric Corp., dated June 24, 1998, FDA stated that the extensive failure of the firm to maintain control over the manufacturing process of the licensed products; and the continual failure of the firm, after numerous verbal and written promises, to provide an adequate corrective action plan subsequent to the April 25, 1997, suspension letter demonstrated a distinct pattern of noncompliance with those requirements designed to ensure the safety, purity, identity, and quality of licensed product and, therefore, could no longer grant the firm's May 14, 1997, request that the revocation of license be held in abeyance. In the same letter, FDA provided notice to the firm of FDA's intent to initiate proceedings to revoke all establishment and product licenses encompassed under U.S. License No. 0416 issued to Iatric Corp. and to issue a notice of opportunity for hearing under § 601.5(b). In letters dated June 26 and June 30, 1998, Iatric Corp. requested voluntary revocation of U.S. License No. 0416, and thereby waived its opportunity for a hearing.

FDA has placed copies of the letters relevant to the license revocation on file under the docket number found in brackets in the heading of this document with the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Accordingly, under 21 CFR 601.5(a), section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.68), the establishment license (U.S. License No. 0416) and the product license for the manufacture of Allergenic Extract issued to Iatric Corp., Tempe, AZ 85282, were revoked effective August 28, 1998.

This notice is issued and published under 21 CFR 601.8 and the redelegation at CFR 5.67(c).

Dated: April 12, 1999.

Mark Elengold,

Deputy Director, Operations, Center for Biologics Evaluation and Research.

[FR Doc. 99–10289 Filed 4–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–0187]

Monsanto Co.; Filing of Food Additive Petition; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of February 8, 1999 (64 FR 6100). The document announced that Monsanto Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of L-Phenylalanine, *N*-[*N*-(3,3-dimethylbutyl)-*L*-α-aspartyl]-,1-methyl ester as a general use sweetener. The name of the additive appeared incorrectly in the **SUMMARY** section. This document corrects that error.

DATES: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3106.

SUPPLEMENTARY INFORMATION: In FR Doc. 99–2851, appearing on page 6100 in the **Federal Register** of Monday, February 8, 1999, the following correction is made:

1. On page 6100, in the first column, under the **SUMMARY** section, in line six, "L-Phenylalanine,*N*-[*N*-(3,3-dimethylbutyl)-*L*-α-aspartyl]-,1-methyl ester" is corrected to read "*N*-[*N*-(3,3-dimethylbutyl)-*L*-α-aspartyl]-*L*-phenylalanine 1-methyl ester".

Dated: March 30, 1999.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10292 Filed 4–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0924]

Food and Drug Administration Modernization Act of 1997; List of Documents Issued by the Food and Drug Administration That Apply to Medical Devices Regulated by the Center for Biologics Evaluation and Research

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of documents issued in response to the Food and Drug Administration Modernization Act of 1997 (FDAMA), and clarifying their applicability to medical devices regulated by the Center for Biologics Evaluation and Research (CBER). This notice is intended to inform the public of the availability of these documents, clarify their scope of applicability, and to provide instructions on ways to access them.

ADDRESSES: Submit written requests for single copies of the document to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your requests, or fax your request to 301–443–8818. The document may also be obtained by fax by calling the CDRH Facts-on-Demand at 1–800–899–0381 or 301–827–0111. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the documents.

FOR FURTHER INFORMATION CONTACT: Astrid L. Szeto, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1997, the President signed into law FDAMA (Pub. L. 105–115). CBER is working closely with CDRH in the implementation of the provisions of FDAMA applicable to medical devices. However, early in the implementation of FDAMA, several documents were issued with explicit applicability to CDRH regulated devices, but for which applicability to CBER regulated devices was unclear. To clarify that these documents are also applicable to medical devices regulated by CBER, FDA is providing the public with this list of documents in section II of this document, acknowledging that the documents are utilized by CBER in its review of medical devices, and providing instructions on ways to access them. The documents in this list are applicable to any device regulated under the medical device amendments of the Federal Food, Drug, and Cosmetic Act (e.g., 510(k) exempt, 510(k), premarket approval). CBER has endorsed these documents and intends to follow the procedures as appropriate.

This list is organized by: (1) Guidances, (2) notices, and (3) rulemakings. Guidance documents that do not have a date and cite of publication in the **Federal Register** were issued directly on the Internet. Although certain documents on the list may reference specific organizational elements and contact points in CDRH, this should not be interpreted to mean that those are also the contact points for CBER. The general contact point in CBER for medical device issues will be the Associate Director for Regulatory Affairs in the Office of Blood Research and Review, CBER.

II. Document References

Name of Document	Date of Issuance[1]	Date of Publication in the FEDERAL REGISTER	FEDERAL REGISTER cite
Guidances			
Guidance on IDE Policies and Procedures[2] (Level 2)	January 20, 1998	N/A	N/A
FDA Modernization Act of 1997: Guidance for the Device Industry on Implementation of Highest Priority Provisions	February 6, 1998	February 6, 1998	63 FR 6193
Determination of Intended Use for 510(k) Devices—Guidance for Industry and CDRH Staff	January 30, 1998	February 25, 1998	63 FR 9570
Guidance on the Recognition and Use of Consensus Standards	February 20, 1998	February 25, 1998	63 FR 9561
Early Collaboration Meetings Under the FDA Modernization Act (FDAMA), Guidance for Industry and CDRH Staff	February 19, 1998	February 25, 1998	63 FR 9570
Guidance on PMA Interactive Procedures for Day-100 Meetings and Subsequent Deficiencies—For Use by CDRH and Industry	February 19, 1998	February 25, 1998	63 FR 9570
30-Day Notices and 135-Day PMA Supplements for Manufacturing Method or Process Changes, Guidance for Industry and CDRH	February 19, 1998	February 25, 1998	63 FR 9570
New Section 513(f)(2)—Evaluation of Automatic Class III Designation, Guidance for Industry and CDRH Staff	February 19, 1998	February 25, 1998	63 FR 9570
Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff	February 19, 1998	February 25, 1998	63 FR 9570
Guidance On Procedures to Determine Application of Postmarket Surveillance Strategies	February 19, 1998	February 25, 1998	63 FR 9571
Guidance on Procedures for Review of Postmarket Surveillance Submissions	February 19, 1998	February 25, 1998	63 FR 9571
Guidance on Medical Device Tracking	February 19, 1998	March 4, 1998	63 FR 10640
PMA/510(k) Expedited Review—Guidance for Industry and CDRH Staff	March 20, 1998	March 31, 1998	63 FR 15427

Name of Document	Date of Issuance[1]	Date of Publication in the FEDERAL REGISTER	FEDERAL REGISTER cite
Guidance to Industry Supplements to Approved Applications for Class III Medical Devices: Use of Published Literature, Use of Previously Submitted Materials, and Priority Review	May 20, 1998	May 21, 1998	63 FR 27988
List of Devices for Third Party Review Under the FDA Modernization Act of 1997[2]	February 8, 1999 (list updated periodically)	N/A	N/A
List of Accredited Persons For 510(k) Review under the FDA Modernization Act of 1997[2]	October 2, 1998 (list updated periodically)	N/A	N/A
Guidance for Staff, Industry, and Third Parties: Implementation of Third Party Programs Under the FDA Modernization Act of 1997	October 30, 1998	November 2, 1998	63 FR 58746
Guidance on Criteria and Approaches for Postmarket Surveillance	November 2, 1998	November 3, 1998	63 FR 59315
Guidance for Industry: General/Specific Intended Use	November 4, 1998	November 5, 1998	63 FR 59793
Guidance on Frequently Asked Questions on the Recognition and Use of Consensus Standards[2] (Level 2)	December 21, 1998	N/A	N/A
Notices			
Medical Devices; Exemptions From Premarket Notification; Class II Devices		January 21, 1998	63 FR 3142
Medical Devices; Exemptions From Premarket Notification and Reserved Devices; Class I		February 2, 1998	63 FR 5387
Medical Devices; Device Tracking; New Orders to Manufacturers		March 4, 1998	63 FR 10638
Prompt Review of Supplemental Applications for Approved Devices		May 21, 1998	63 FR 27987
Modifications to the List of Recognized Standards; Availability; Withdrawal of Draft Guidance "Use of IEC 60601 Standards; Medical Electrical Equipment"		October 16, 1998	63 FR 55617
Rulemakings			
Medical Devices; Reports of Corrections and Removals; Direct Final Rule		August 7, 1998	63 FR 42229
Medical Devices; Reports of Corrections and Removals; Companion to Direct Final Rule; Proposed Rule		August 7, 1998	63 FR 42300
Medical Devices; Exemptions from Premarket Notification ; Class II Devices		November 3, 1998	63 FR 59222
Medical Devices; Exemption from Premarket Notification and Reserved Devices; Class I		November 12, 1998	63 FR 63222
Medical Devices; Investigational Device Exemptions; Final Rule		November 23, 1998	63 FR 64617

[1] The "Date of Issuance" is the date that the guidance was announced on the Internet.
[2] Not applicable (N/A)—this document was not announced in the FEDERAL REGISTER. It was issued directly on the Internet.

III. Electronic Access

Persons with access to the Internet may obtain the documents using the World Wide Web (WWW). For WWW access, connect to CBER at "http://www.fda.gov/cber/guidelines.htm" for the guidance documents only. Connect to CDRH at "http://www.fda.gov/cdrh" for all of the documents listed.

Dated: April 19, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10290 Filed 4–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Biologic Specimen-Based Study of Dietary Measurement Error for Nutritional Epidemiology and Surveillance

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH), National Cancer Institute (NCI) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June 23, 1998 page 34190–34191 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

Proposed Collection

Title: Biologic specimen-based study of dietary measurement error for nutritional epidemiology and surveillance. *Type of Information Collection Request:* New. *Need and use of Information Collection:* The agency conducts and funds studies examining the relationship between diet and chronic diseases. The study will collection a sample of 400 free-living men and women, 40–69 years of age, two 24-hour dietary recalls, two food frequency questionnaires, a physical activity questionnaire, a dietary screener questionnaire, and an opinion form. Respondents will receive a dose of doubly labeled water and provide spot urine samples to measure energy expenditure, will collect two 24-hour urines to measure urinary nitrogen, and

provide blood samples to measure biochemical measures of dietary intake. The data will be used to assess the magnitude and structure of dietary measurement error in dietary surveillance and nutritional. epidemiologic studies. *Frequency of response:* One-time study. *Affected public:* Individuals or households. *Types of Respondents:* US adults 40–69 years of age. The annual reporting burden is as follows:

Data collection	Estimated Number of respondents	Estimated Number of responses per respondent	Average burden hours per response	Estimated total hour burden	Estimated total annual burden hours requested
Screener	400	1	0.167	67	67
24-hour recall #1	400	1	0.5	200	200
24-hour recall #2	400	1	0.5	200	200
Food frequency questionnaire #1	400	1	1	400	400
Food frequency questionnaire	400	1	1	400	400
Physical activity questionnaire	400	1	0.25	100	100
Opinion forms	400	1	0.25	100	100
Dietary screener questionnaire	400	1	0.167	67	67
Dosing with DLW/initial urine collections	400	1	4	1600	1600
Spot urine collections	400	1	0.25	100	100
24 hr urine collection #1	400	1	0.167	67	67
24 hr urine collection #2	400	1	0.167	67	67
Blood collection	400	1	0.25	100	100
Total	400	1	0.67	3,468	3,468

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimate public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Amy F. Subar, Ph.D., Project Officer, National Cancer Institute, EPN 313,6130 Executive Blvd MSC 7344, Bethesda MD 20892–7344, or call non-toll-free number (301) 496–8500, or FAX your request to (301) 435–4710, or E-mail your request, including your address, to amy__subar@nih.gov.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: April 15, 1999.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 99–10372 Filed 4–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Sickle Cell Disease Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sickle Cell Disease Advisory Committee.

Date: June 7, 1999.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: For discussion of program policies and issues.

Place: National Institute of Health, Two Rockledge Center, Suite 9104, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Charles L. Peterson, Director, Blood Diseases Program, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, NIH, Two Rockledge Center, Room 10158, MSC 7950, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0050.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research, 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 16, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10368 Filed 4–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: April 26, 1999.

Time: 4:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gerald E. Calderone, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 19, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10364 Filed 4–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Tuberculosis Research Unit.

Date: June 7–9, 1999.

Time: June 7, 1999, 7:30 p.m. to recess.

Agenda: To review and evaluate grant proposals.

Place: Bethesda Ramada Hotel and Conference Center, Embassy I Room, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Time: June 8, 1999, 8:30 a.m. to adjournment.

Agenda: To review and evaluate grant proposals.

Place: Bethesda Ramada Hotel and Conference Center, Embassy I Room, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Allen C. Stoolmiller, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C05, 6003 Executive Boulevard, MSC 7610, Bethesda, MD 20892–7610, 301–496–7966.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 16, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–10365 Filed 4–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Tuberculosis Drug Development: Tuberculosis Technology Transfer Support.

Date: May 12, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Ramada Hotel and Conference Center, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Allen C. Stoolmiller, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C05, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–496–7966.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 16, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–10366 Filed 4–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal property.

Name of Committee: National Advisory Council on Drug Abuse.

Date: May 25, 1999.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892.

Contact Person: Teresa Levitin, Director, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, Bethesda, MD 20892–9547, (301) 443–2755.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist

Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: April 16, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10367 Filed 4–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communications Disorders; Notice of Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meetings will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: May 26–27, 1999.

Open: May 27, 1999, 8:30 a.m. to 11:30 a.m.

Agenda: Staff reports on divisional, programmatic, and special activities.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Closed: May 27, 1999, 11:30 AM to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: Craig A. Jordan, Acting Director, NIH/NIDCD/DEA, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8693.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council Planning Subcommittee.

Date: May 26, 1999.

Open: 2:00 p.m. to 3:00 p.m.

Agenda: Program documents.

Place: National Institutes of Health Building, 31, Conference Room 7, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Craig A. Jordan, Acting Director NIH/NIDCD/DEA, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8693.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: April 16, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10370 Filed 4–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: May 10, 1999.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Craig A. Jordan, Acting Director, NIH/NIDCD/DEA, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8693.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: April 16, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10371 Filed 4–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given to the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 AARR–1 (04).

Date: April 20, 1999.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sami A. Mayyasi, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 28, 1999.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert Weller, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701

Rockledge Drive, Room 3160, MSC 7848, Bethesda, MD 20892, (301) 435–0694.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 29–30, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Joe Marwah, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, (301) 435–1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 29, 1999.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Timothy J. Henry, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 30, 1999.

Time: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: J. Terrell Hoffeld, DDS, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 16, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10369 Filed 4–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments Are Invited on

(a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: 2000 National Household Survey on Drug Abuse—(0930–0110, Revision)

The National Household Survey on Drug Abuse (NHSDA) is a survey of the civilian, noninstitutionalized population of the United States 12 years old and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, ONDCP, Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

For the 2000 NHSDA, additional questions in the following substantive areas are planned: mental health; mental health service utilization; industry and occupation; youth access to tobacco products and the cost of the last cigarettes purchased for adults as well as youth; and, substance abuse and treatment need. The remaining modular components of the NHSDA questionnaire will remain essentially unchanged except for minor modifications to wording and selective elimination of sufficient questions to allow for the additional burden of the questions and modules listed above.

As in 1999, the sample size of the survey for 2000 will be sufficient to permit prevalence estimates for each of the fifty states and the District of Columbia. The total annual burden estimate is 83,200 hours as shown below:

	Number of respondents	Responses per respondent	Average burden per response (hour)	Total burden (hours)
Household Screener	263,991	1	0.05	13,200
NHSDA Questionnaire	70,000	1	1.0	70,000
Total				83,200

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 20, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–10345 Filed 4–23–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 1999 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS), announces the availability of FY 1999 funds for one cooperative agreement for the following activity. This activity is discussed in more detail under section 4 of this notice. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA) before preparing an application.

Activity	Application deadline	Estimated funds available (millions)	Estimated number of awards	Project period
NTTAC for children	06/24/99	$2.5	1	Up to 5 yrs.

Note: SAMHSA will publish additional notices of available funding opportunities for FY 1999 in subsequent issues of the **Federal Register**.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 1999 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 105–277. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–512–1800).

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 5/96; OMB No. 0937–0189). The application kit contains the GFA (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for the activity covered by this notice (see Section 4).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161–1 application form and the full text of the activity (i.e., the GFA) described in Section 4 are available electronically via SAMHSA's World Wide Web Home Page (address: http://www.samhsa.gov).

Application Submission: Applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC–7710, Bethesda, Maryland 20892–7710*. (*Applicants who wish to use express mail or courier service should change the zip code to 20817.)

Application Deadlines: The deadline for receipt of applications is listed in the table above.

Competing applications must be received by the indicated receipt date to be accepted for review. An application received after the deadline may only be accepted if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing.

Applications received after the deadline date and those sent to an address other than the address specified above will be returned to the applicant without review.

FOR FURTHER INFORMATION CONTACT: Requests for activity-specific technical information should be directed to the program contact person identified for the activity covered by this notice (see Section 4).

Requests for information concerning business management issues should be directed to the grants management contact person identified for the activity covered by this notice (see Section 4).

1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

SAMHSA's FY 1999 Knowledge Development and Application (KD&A) agenda is the outcome of a process whereby providers, services researchers, consumers, National Advisory Council members and other interested persons participated in special meetings or responded to calls for suggestions and

reactions. From this input, each SAMHSA Center developed a "menu" of suggested topics. The topics were discussed jointly and an agency agenda of critical topics was agreed to. The selection of topics depended heavily on policy importance and on the existence of adequate research and practitioner experience on which to base studies. While SAMHSA's FY 1999 KD&A programs will sometimes involve the evaluation of some delivery of services, they are services studies and application activities, not merely evaluation, since they are aimed at answering policy-relevant questions and putting that knowledge to use.

SAMHSA differs from other agencies in focusing on needed information at the services delivery level, and in its question-focus. Dissemination and application are integral, major features of the programs. SAMHSA believes that it is important to get the information into the hands of the public, providers, and systems administrators as effectively as possible. Technical assistance, training, preparation of special materials will be used, in addition to normal communications means.

SAMHSA also continues to fund legislatively-mandated services programs for which funds are appropriated.

2. Special Concerns

SAMHSA's legislatively-mandated services programs do provide funds for mental health and/or substance abuse treatment and prevention services. However, SAMHSA's KD&A activities do not provide funds for mental health and/or substance abuse treatment and prevention services except sometimes for costs required by the particular activity's study design. Applicants are required to propose true knowledge application or knowledge development and application projects. Applications seeking funding for services projects under a KD&A activity will be considered nonresponsive.

Applications that are incomplete or nonresponsive to the GFA will be returned to the applicant without further consideration.

3. Criteria for Review and Funding

Consistent with the statutory mandate for SAMHSA to support activities that will improve the provision of treatment, prevention and related services, including the development of national mental health and substance abuse goals and model programs, competing applications requesting funding under the specific project activity in Section 4 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures.

3.1. General Review Criteria

As published in the **Federal Register** on July 2, 1993 (Vol. 58, No. 126), SAMHSA's "Peer Review and Advisory Council Review of Grant and Cooperative Agreement Applications and Contract Proposals," peer review groups will take into account, among other factors as may be specified in the application guidance materials, the following general criteria:

- Potential significance of the proposed project;
- Appropriateness of the applicant's proposed objectives to the goals of the specific program;
- Adequacy and appropriateness of the proposed approach and activities;
- Adequacy of available resources, such as facilities and equipment;
- Qualifications and experience of the applicant organization, the project director, and other key personnel; and
- Reasonableness of the proposed budget.

3.2 Funding Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process.

Other funding criteria will include:

- Availability of funds.

Additional funding criteria specific to the programmatic activity may be included in the application guidance materials.

4. Special FY 1999 SAMHSA Activity

4.1. National Training and Technical Assistance Center for Children Who Have or Are At-Risk of Emotional Disturbances and Their Families (NTTAC for Children, SM 99–008)

- Application Deadline: June 24, 1999.
- Purpose: Under the authority of Sections 501(d)(5) and 565(b) of the Public Health Service Act, one cooperative agreement will be awarded to improve developmentally and culturally appropriate service delivery and outcomes for children who have or are at-risk of emotional disturbances. The goal will be achieved by operating a NTTAC to assist States, cities, counties, communities, Indian tribes and tribal organizations, Pacific Island jurisdictions, and Freely Associated States to build and implement community-based systems of care that are child- and family-centered, culturally competent, and coordinated across child-serving disciplines.
- Eligible Applicants: Applications may be submitted by public organizations, such as units of State, County, or local governments, by Indian Tribes or Tribal organizations (as defined in Section 4(b) and Section 4(c) of the Indian Self-Determination and Education Assistance Act), and by domestic private nonprofit organizations such as community-based organizations, universities, colleges, and hospitals.

The cooperative agreement awarded under this GFA is authorized under Sections 501(d)(5) and 565(b) of the Public Health Service Act. Eligibility is limited to public and non-profit entities because the legislative language from Section 565(2) restricts awards to these entities. Combined funding of a single grant will increase the efficiency of technical assistance services and permit sharing of technical assistance resources among grant sites funded under the Comprehensive Community Mental Health Services for Children and Their Families Program and other communities serving children with serious emotional disturbances around the nation.

- Amount: Approximately $2.5 million will be available to support one (1) award under this GFA in FY 1999. Actual funding will depend upon the availability of funds at the time of award. This cooperative agreement is for a period of up to 5 years.
- Catalog of Federal Domestic Assistance Number: 93.104.
- Program Contact: For programmatic or technical assistance, contact:

Gary De Carolis, Chief, Child, Adolescent, and Family Branch, Division of Knowledge Development and Systems Change, Center for Mental Health Services/SAMHSA, Room 18–49, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1333/ FAX (301) 443–3693, Internet: gdecarol@samhsa.gov

For grants management issues, contact: Steve Hudak, Grants Management Officer, Office of Program Services/SAMHSA, Room 15C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4456/ FAX (301) 594–2336, Internet: shudak@samhsa.gov

- For application kits, contact: Nicole Haliburton, IQ Solutions, Inc., 11300 Rockville Pike, Suite 801, Rockville, Maryland 20852.

Voice: (301) 984–1471
FAX: (301) 984–1333
Email: nhaliburton@iqsolutions.com

- CMHS will sponsor a one-day technical assistance workshop for

potential applicants if at least seven organizations express interest in attending. The workshop is scheduled to take place on May 7, 1999, in Rockville, Maryland. For more information, potential applicants may contact the following: Danielle Voss, IQ Solutions, 11300 Rockville Pike, Suite 801, Rockville, Maryland 20852, (301) 984–1471, (301) 984–1473, FAX, E-Mail: vossd@iqsolutions.com

5. Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

6. PHS Non-Use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Dated: April 20, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–10360 Filed 4–23–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Listing of Goldenseal (Hydrastis canadensis) in Appendix II and its Implementation by the United States; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public meeting.

SUMMARY: With this notice the U.S. Fish and Wildlife Service (Service) announces a public meeting to discuss the implementation of the listing of goldenseal (*Hydrastis canadensis*) in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This listing decision was reached at the Tenth Conference of the CITES Parties (COP10) which was held in June of 1997. The listing became effective September 18, 1997. The CITES listing covers live plants as well as whole and sliced roots and parts of roots, excluding manufactured parts or derivatives such as powders, pills, extracts, tonics, teas, and confectionary. By listing goldenseal in CITES, the live plants and roots are now covered by the Service's regulations regarding import or export of wildlife. The focus of the meeting will be the export process for goldenseal roots from the United States to comply with the requirements of the CITES listing.

DATES: A public meeting in St. Louis, Missouri, will be held on May 18, 1999, from 1:00–4:00 p.m.

ADDRESSES: The public meeting will be held in St. Louis, Missouri, at the Holiday Inn Oakland Park/St. Louis Airport. Please note that the room for this meeting is accessible to the handicapped.

FOR FURTHER INFORMATION CONTACT: Dr. Rosemarie Gnam, Office of Management Authority, U.S. Fish and Wildlife, 4401 N. Fairfax Drive, Room 700, Arlington Virginia, 22203. Telephone (703) 358–2095, fax (703) 358–2298, email: r9oma_cites@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereafter referred to as CITES, is an international treaty designed to control international trade in certain animal and plant species that are or may become threatened with extinction, and are listed in Appendices to the Convention. Currently, 145 countries, including the United States, are CITES Parties.

The Service is the lead agency for the implementation of CITES. As such, we are responsible for implementing decisions from past meetings of the Conference of the Parties to CITES (COPs). COP10, the most recent COP, was held in Harare, Zimbabwe, in June, 1997. Among the decisions taken at COP10, was to include goldenseal (*Hydrastis canadensis*) in Appendix II of CITES. This listing became effective September 18, 1997 (see 63 FR 63210).

Goldenseal is a North American perennial herb valued for its medicinal properties; it occurs in one Canadian province and approximately 27 States in the United States. Goldenseal is highly valued in the U.S. medicinal market, and is becoming increasingly popular in Europe and elsewhere. The species suffered severe population decreases during the second half of the 19th century due to over-harvesting for the commercial trade. It is considered to have some degree of threat in Canada and 11 U.S. States, and it is classified as "very threatened rangewide" by The Nature Conservancy.

Much of the goldenseal on the medicinal plant market is wild-harvested. There appears to be very little legal protection afforded this species within its natural range except within designated protected areas. Furthermore, management plans for harvesting this species appear to be currently lacking, although researchers are beginning to undertake field studies of goldenseal ecology. Due to concern regarding the over-collection of wild goldenseal within the range States of the United States and Canada, the United States proposed listing this species in Appendix II of CITES at COP10. The species, including parts and derivatives such as finished pharmaceutical products, was proposed for listing. The final listing was for live plants as well as whole and sliced roots and parts of roots, excluding manufactured parts or derivatives such as powders, pills, extracts, tonics, teas, and confectionary.

The listing of goldenseal will provide a regulatory mechanism for the export of fresh and dried roots. The aim of this listing is to ensure sustainable use and management of wild goldenseal populations.

With the listing of goldenseal in CITES at COP10, this species is now covered by the Service's regulations regarding import or export of wildlife. All goldenseal root will now require export permits prior to being shipped out of the United States. All goldenseal must be exported through ports designated by the U.S. Department of Agriculture (USDA). Each shipment will be inspected by a USDA Animal and Plant Health Inspection Service, Division of Plant Protection and Quarantine (APHIS/PPQ) inspector at the designated port.

This public meeting will provide an opportunity for the Service to meet with goldenseal exporters and other persons interested in the CITES listing. The Service will explain the wildlife regulations that will now affect goldenseal exports, and how these requirements will be implemented.

The public meeting will be held in St. Louis because of its proximity to much of the goldenseal industry in the United States, and the corresponding concentration of affected members of the general public.

The Service has prepared a fact sheet, "What you need to know about exporting Goldenseal" to help answer questions on the listing and its implementation. It is available from the Office of Management Authority upon

request. Written requests should be sent to: Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia, 22203.

Paperwork Reduction Act

This Notice does not contain new or revised information collection for which Office of Management and Budget approval is required under the Paperwork Reduction Act. The referenced information collection is covered by an existing OMB approval, and has been assigned clearance No. 1018–0093, Form 3–200–32, with an expiration date of January 31, 2001; implementing regulations for the CITES documentation appear in 50 CFR 23. The Service may not conduct or sponsor, and a person is not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

Author: This notice was prepared by Anne St. John, Office of Management Authority, U.S. Fish and Wildlife Service.

Dated: April 16, 1999.

Jamie Rappaport Clark,

Director.

[FR Doc. 99–10342 Filed 4–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–200–09–1020–00]

Science Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Land Management (BLM) announces a public meeting of the Science Advisory Board to examine the use of science for improving the management of the Nation's public land and resources. Topics of discussion will include the BLM's National Applied Resource Sciences Center, long-term monitoring, and update on wild horses and burros management.

DATES: BLM will hold the public meeting on Tuesday, May 25, 1999, from 8:30 am to 4:30 pm, local time.

ADDRESSES: BLM will hold the public meeting in the East and Center Conference Rooms of the Denver Federal Center at 6th Street and Kipling Street, Denver, Colorado. Receptionist: (303) 236–6454.

FOR FURTHER INFORMATION CONTACT: Christine Jauhola, Bureau of Land Management, 1849 C Street, NW, LSB–204, Washington, D.C. 20240, (202) 452–7761.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Public Law 920463).

I. The Agenda for the Public Meeting is as Follows:

8:30 am—Welcome, introductions Review Minutes of Previous Meeting, Report from Deputy Assistant Secretary for Land and Minerals Management (Acting).
9:00 am—Report from the Bureau of Land Management Director.
9:30 am—Inventory and Long-term Monitoring.
10:15 am—Update on Executive Order on Weeds.
10:45 am—Break.
11:00 am—Wild Horse and Burro Advisory Committee.
11:30 am—Review of Military Withdrawal and Status of Area A.
12:00 Noon—Future Science Advisory Board Meetings, Dates and Places.
12:30 pm—Lunch: The Nature Conservancy Ecoregional Planning.
1:30 pm—National Applied Resource Sciences Center.
4:30 pm—Adjourn.

II. Public Comment Procedures

Participation in the public meeting is not a prerequisite for submittal of written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. BLM appreciates any and all comments, but those most useful and likely to influence decisions on BLM's use of science are those that are either supported by quantitative information or studies or those that include citations to and analyses of applicable laws and regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments, where practicable. BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information ACT (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations of businesses, will be released in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address: Commenters may transmit comments electronically via the Internet to: cjauhola@wo.blm.gov. Please include the identifier "Science4" in the subject of your message and your name and address in the body of your message.

III. Accessibility

The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled meeting date. Although BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Dated: April 20, 1999.

Peggy Olwell,

Acting Group Manager, Fish, Wildlife and Forest Group.

[FR Doc. 99–10338 Filed 4–23–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submission for Office of Management and Budget Review; Comment Request; Extension

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of a currently approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), we are notifying you that MMS is planning to submit an information collection request to the Office of Management and Budget (OMB) to request an extension of a currently approved collection. Under the PRA, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed

extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to Directed Third Party Communications Between Operators and Purchasers of Royalty-in-Kind (RIK)—Federal Oil and Gas Purchase System (OMB Control Number 1010–0126).

DATES: Written comments should be received on or before June 25, 1999.

ADDRESSES: Submit written comments on the collection of information to the Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS–3021, Denver, Colorado 80225–0165; courier address is Building 85, Room A613, Denver Federal Center, Denver, Colorado 80225; e:mail address is RMP.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: For questions concerning this collection of information, please contact Larry Barker, RIK Study Team, telephone (303) 231–3157. You may also obtain copies of this collection of information by contacting MMS's Information Collection Clearance Officer at (202) 208–7744.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. Section 3506(c)(2)(A) of the PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, MMS is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, MMS invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of MMS's functions, including whether the information will have practical utility; (2) the accuracy of MMS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping "cost" burden to respondents or recordkeepers resulting from the collection of information. We need to know if you have costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

Title: Directed Third Party Communications Between Operators and Purchasers of RIK—Federal Oil and Gas Purchase System—Extension.

OMB Control Number: 1010–0126.

Abstract: The Secretary of the Interior, under the Mineral Leasing Act (30 U.S.C. 192) and the Outer Continental Shelf Lands Act (43 U.S.C. 1353), is responsible for the management of royalties on minerals produced from leased Federal lands. MMS carries out these responsibilities for the Secretary. Most royalties are now paid in value—when a company or individual enters into a contract to develop, produce, and dispose of minerals from Federal lands, that company or individual agrees to pay the United States a share (royalty) of the full value received for the minerals taken from leased lands. MMS has undertaken several pilot programs to study the feasibility of taking the Government's royalty in the form of production, that is, as RIK.

Collection of RIK requires communication between the operators of a lease and the purchaser of RIK from that lease to assure accurate and timely delivery of MMS' royalty share of production volumes. On January 29, 1999, OMB granted emergency approval for MMS to instruct lessees (or their operators), through a letter to operators which contains reporting and recordkeeping requirements, to conduct all necessary communications with RIK purchasers during RIK pilot activities.

The three kinds of directed communication between operators and purchasers of RIK are: (1) Information about the volumes made available as RIK; (2) information about transportation of the RIK; and (3) information about correcting volumes made available as RIK. Experience with the Wyoming and Texas 8(g) Pilots demonstrates that the directed communication requirements differ according to the needs of each pilot situation. For example, in the Wyoming Pilot, RIK is delivered to the purchaser at the lease. Therefore, the direction to make transportation arrangements was not included in letters issued to those operators. For these reasons, we are not requesting approval of specific letters to operators but, instead, approval for the three kinds of reporting requirements concerning communications between operators and purchasers of RIK. By obtaining approval for these three kinds of reporting requirements, MMS will be able to select the types of directed communications needed for each pilot and include only those types in a letter appropriate to the operation of that pilot.

The types of communication and supporting data MMS will require operators to use in setting up the monthly delivery of RIK to the purchaser are standard business practices in the oil and gas industry. The information in the directed communication is essential to the delivery and acceptance of verifiable quantities and qualities of oil and gas and is exchanged as a normal part of the conduct of those business activities, even when operators are not directed to do so. No proprietary information will be submitted to MMS under this collection. No items of a sensitive nature are collected. The requirement to respond is mandatory.

The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Burden Statement: The reporting burden is estimated to average 2 minutes per response (oral, telefax communication) including the time for reviewing the instructions, gathering and maintaining supporting data (commonly maintained through electronic spreadsheets of balancing accounts).

This direction of RIK communication does not represent a significant increase in burden, as it is standard industry practice to carry out this kind of information exchange when selling oil

and gas production, regardless of whether directed to do so.

In calculating the burden, we assume that respondents perform many of the requirements and maintain records in the normal course of their activities. We consider these usual and customary and take that into account in estimating the burden.

Respondents/Affected Entities: Lessees or operators of Federal oil or gas leases participating in RIK pilot programs.

Frequency of Collection: Monthly.

Estimated Number of Respondents: 60 in Year 1; 75 in Year 2; and 120 in Year 3.

Estimated Total Annual Burden on Respondents: 97 hours in Year 1; 280 in Year 2; and 410 in Year 3.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach (202) 208–7744.

Dated April 21, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–10425 Filed 4–23–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Minerals Management Service Government Performance and Results Act Strategic Plan; Comment Solicitation

AGENCY: Minerals Management Service, Interior.

ACTION: Notice, request for comments.

SUMMARY: The Government Performance and Results Act (GPRA) of 1993 requires that agencies update and revise their strategic plans at least every 3 years. GPRA also states that agencies must consult with the Congress and solicit and consider the views and suggestions of other parties that could be affected by, or are interested in, the agency's plan during the plan's development. Minerals Management Service (MMS) will revise its strategic plan this year, and would welcome comments from interested parties. We will consider these comments while drafting the revision to our strategic plan this summer.

MMS will provide several forums for its customers, stakeholders, and other interested parties to provide input during the revision of its strategic plan, including:

- Commenters may input electronically through the MMS web site presented in the Supplementary Information section.
- Commenters may provide feedback with written correspondence to the addresses in the Addresses section.
- MMS may hold public consultation sessions (see Supplementary Information).

DATES: You are requested to provide electronic and written comments no later than June 1, 1999. You should submit your expressions of interest in MMS holding public consultation sessions by May 7, 1999.

ADDRESSES: Send written comments to Mr. James McNamee, Minerals Management Service, PO Box 25165, MS 9200, Denver, CO 80225. Send E-mail comments to Strategic.Planning.Team@MMS.Gov (you also may submit comments through the Internet by using the link available at the web site in Supplementary Information). Contact Mr. McNamee at (303) 275–7126 or Mrs. Bernadette Osolnick, Minerals Management Service, 381 Elden Street, Herndon, VA 20170, at (703) 787–1240 to indicate your interest in public consultation sessions.

FOR FURTHER INFORMATION CONTACT: Mr. James McNamee at (303) 275–7126.

SUPPLEMENTARY INFORMATION: *Strategic Plan Availability:* See the MMS web site at http://www.mms.gov/eod/stratpln.htm for the MMS GPRA Strategic Plan, as well as its Fiscal Years 1999 and 2000 Annual Performance Plans. If you do not have electronic access, please request a copy of the plan from the addresses in the Addresses section.

Public Consultation Sessions: MMS will schedule public consultation sessions in the latter part of May 1999 in Washington, DC, and Denver, Colorado, if there is sufficient interest. Interested parties should reply to the addresses in the Addresses section no later than May 7, 1999. Session participants should be familiar with the current plan. The intent of the sessions will be to have free-flowing discussions about the direction and goals established in the existing strategic plan and to hear your suggestions and expectations for the revised plan. MMS will establish logistics after expressions of interest have been received, and will notify respondents of dates, locations, and times no later than May 14, 1999.

Dated: April 20, 1999.

Walter D. Cruickshank,

Associate Director, Policy and Management Improvement.

[FR Doc. 99–10376 Filed 4–23–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 17, 1999. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St., NW, NC400, Washington, DC 20240. Written comments should be submitted by May 11, 1999.

Beth Boland,

Acting Keeper of the National Register.

ARKANSAS

Pulaski County

Bush—Dubisson House, (Historically Black Properties in Little Rock's Dunbar School Neighborhood MPS), 1500 S. Ringo St., Little Rock, 99000549

Green House, (Historically Black Properties in Little Rock's Dunbar School Neighborhood MPS), 1224 W. 21st St., Little Rock, 99000544

Henderson House, (Historically Black Properties in Little Rock's Dunbar School Neighborhood MPS), 1510 S. Ringo St., Little Rock, 99000548

Hubble Funeral Home, (Historically Black Properties in Little Rock's Dunbar School Neighborhood MPS), 924 S. Cross St., Little Rock, 99000542

Jones, Scipio A., House, (Historically Black Properties in Little Rock's Dunbar School Neighborhood MPS), 1872 S. Cross St., Little Rock, 99000545

Miller House, (Historically Black Properties in Little Rock's Dunbar School Neighborhood MPS), 1853 S. Ringo St., Little Rock, 99000547

Thornton House, (Historically Black Properties in Little Rock's Dunbar School Neighborhood MPS), 1420 W. 15th St., Little Rock, 99000543

Womack House, (Historically Black Properties in Little Rock's Dunbar School Neighborhood MPS), 1867 S. Ringo St., Little Rock, 99000546

CALIFORNIA

Los Angeles County

Hollywood Memorial Park Cemetery, 6000 Santa Monica Blvd., Los Angeles, 99000550

Orange County

French Park Historic District, Roughly bounded by N. Bush, E. Washington, and N. Garfield Sts., and Civic Center Dr. E., Santa Ana, 99000551

GEORGIA

Camden County, Woodbine Historic District, Jct. of Bedell Ave. and 3rd and 4th Sts., Woodbine, 99000553

Chatham County

Daffin Park—Parkside Place Historic District, Bounded by Victory Dr., Waters Ave., Dee St. and 51st Street Ln., Savannah, 99000554

Fulton County

Griffith School of Music, 650 Bonaventore Ave., NE, Atlanta, 99000552

Jones County

Jones County High School, Clinton St., Gray, 99000555

LOUISIANA

St. Landry Parish

Sunset High School, 223 Marie St., Sunset, 99000556

MASSACHUSETTS

Barnstable County

Cove Burying Ground, Jct. of MA 6 and Pine Woods Rd., Eastham, 99000561
Eatham Center Historic District, Depot, Mill, and Samoset Rds., and MA 6, Eastham, 99000560

Hampden County

Cabotville Common Historic District, School, Chestnut, Park and West Sts., Chicopee, 99000558

Middlesex County

Dunstable Town Hall, 511 Main St., Dunstable, 99000557

Plymouth County

East Bridgewater Common Historic District, Central and Plymouth Sts, and Morse Ave., East Bridgewater, 99000559

NEW YORK

Delaware County

Christ Episcopal Church, 41 Gardiner Pl., Walton, 99000563

New York County

Stonewall, Roughly bounded by Greenwich Ave., Seventh Ave., Washington St., and Sixth Ave., New York, 99000562

Seneca County

Queen's Castle, NY 414, Lodi, 99000564

TEXAS

Martin County

Carmelite Monastery, 200 E. Carpenter St., Stanton, 99000566

Tarrant County

Fairmount—Southside Historic District (Boundary Increase), Roughly bounded by Magnolia, Hemphill, Allen, Travis and Morphy St., Fort Worth, 99000565

WASHINGTON

Columbia County

Downtown Dayton Historic District, Roughly along Main St., from Front to third Sts., Dayton, 99000567

A Request for REMOVAL was made for the following resource:

TEXAS

Travis County

Smith, B.J., House, 700 W. 6th St. Austin, 78002992

[FR Doc. 99–10399 Filed 4–23–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Supplementation of an Approved Plan of Operations for Western Geophysical 3–D Seismic Survey; Padre Island National Seashore, Kleberg County, TX

The National Park Service has received, from Western Geophysical, a request to supplement an approved Plan of Operations for conducting a 3–D seismic survey at Padre Island National Seashore, Kleberg County, Texas. Western Geophysical has acquired from the state a permit to conduct a geophysical seismic survey on four (4) additional state tracts (state tracts 180, 188, 193, and 194) located within the boundaries of Padre Island National Seashore. Impacts associated with the seismic survey have been mitigated and adequately addressed in the April 7, 1999 approved Plan of Operations and Environmental Assessment.

Pursuant to § 9.52(b) of Title 36 of the Code of Federal Regulations, part 9, subpart B; the Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Padre Island National Seashore, 20301 Park Road 22, Corpus Christi, Texas.

Jock Whitworth,

Superintendent.

[FR Doc. 99–10203 Filed 4–23–99; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–406]

Certain Lens-Fitted Film Packages; Notice of Commission Determination to Review-in-Part a Final Initial Determination Finding a Violation of Section 337; Schedule for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the final initial determination (ID) issued by the presiding administrative law judge (ALJ) on February 24, 1999, finding a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the above-captioned investigation. Specifically, the Commission has determined to review the standard for the burden of proof applied in the ID for establishing repair versus reconstruction of a patented product and the ID's determination of no infringement of the design patents asserted in this investigation. The Commission has also determined to review the infringement issues insofar as necessary to correct certain clerical errors brought to the Commission's attention by the Office of Unfair Import Investigations.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3104. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on March 25, 1998, based on a complaint by Fuji Photo Film Co., Ltd. (Fuji) of Tokyo, Japan. 63 FR 14474. Fuji's complaint alleged unfair acts in violation of section 337 in the importation and sale of certain lens-fitted film packages (*i.e.*, disposable cameras). The complaint alleged that 27 respondents had infringed one or more claims of 15 patents held by complainant Fuji. On October 23, 1998, the Commission determined not to review two IDs finding a total of eight respondents, *viz.*, Boshi Technology Ltd., Fast Shot, Haichi International, Innovative Trading Company, Labelle Time, Inc., Linfa Photographic Ind. Co. Ltd., Forcecam, Inc. and Rino Trading Co. Ltd., in default for failure to respond to the complaint and notice of investigation. An evidentiary hearing was held November 2–13, 1998. Eight respondents participated in the hearing, Achiever Industries Limited, Argus Industries, China Film Equipment, Dynatec International Inc., Jazz Photo Corp., Opticolor Camera, P.S.I. Industries, and Sakar International, Inc. On December 4, 1998, the Commission determined not to review an ID granting complainant's oral motion to withdraw

a single claim of one patent from the investigation. 63 FR 67918 (December 9, 1998). Ten respondents that had filed responses to the complaint and notice of investigation failed to appear at the hearing, *viz.*, Ad-Tek Specialties Inc., AmerImage, Inc. d/b/a/ Rainbow Products, Boecks Camera LLC, BPS Marketing, E.T. Trading d/b/a Klikit, Penmax, Inc., PhilmEx Photographic Film, T.D.A. Trading Corp., Vantage Sales, Inc. and Vivitar Corp.

On February 24, 1999, the ALJ issued his final ID, finding a violation of section 337 by 26 of 27 named respondents. (Complainant Fuji admitted at closing argument that one named respondent, Opticam Inc, was not violating section 337). He found that Fuji had not carried its burden of proof in showing infringement of three design patents. The ALJ also issued his recommendations on remedy and bonding. The ALJ recommended that the Commission issue a general exclusion order directing that disposable cameras that infringe the claims of the 12 utility patents at issue be excluded from entry into the United States. He also recommended that cease and desist orders be issued to the 21 domestic respondents found in violation. Finally, he recommended a 100 percent bond during the period of Presidential review.

On March 8, 1999, the eight respondents that appeared at the hearing, complainant Fuji, and the Commission investigative attorney (IA) filed petitions for review of the ID. On March 15, 1999, the private parties filed responses. The IA filed his response to the petitions on March 17, 1999.

Having examined the record in this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review: (1) the standard for the burden of proof applied in the ID for establishing repair versus reconstruction of a patented product, and (2) the ID's determination that the design patents asserted in this investigation were not infringed. The Commission has also determined to review the infringement issues insofar as necessary to correct certain clerical errors brought to the Commission's attention by the Office of Unfair Import Investigations. The Commission requires no further briefing on these issues.

In connection with the final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair action in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions

The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on remedy, the public interest, and bonding. Such submissions should address the February 24, 1999, recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than close of business on April 29, 1999. Reply submissions must be filed no later than the close of business on May 6, 1999. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and sections 210.45–210.51 of the Commission's Rules of Practice and Procedure, 19 CFR 210.45–210.51.

Copies of the public version of the ID, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000.

Issued: April 19, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10519 Filed 4–23–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Extension of a currently approved collection.

Problem Solving Partnerships: Analysis and Assessment Surveys

Office of Management and Budget (OMB) approval is being sought for the

information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 16, 1998 to allow 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the **Federal Register.** This process is conducted in accordance with 5 Code of Federal Regulation, part 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530.

Written comments may also be submitted to the COPS Office, PPSE Division, 1100 Vermont Avenue, NW, Washington, DC 20530, or via facsimile at (202) 633–1386.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency=s/components=s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed collection is listed below:

Problem Solving Partnerships; Analysis and Assessment Surveys

(1) *Type of information collection.* Extension of a currently approved collection.

(2) *The title of the form/collection.* Problem Solving Partnerships; Analysis and Assessment Surveys

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection.* Form: COPS 29/01. Office of Community Oriented Policing Services, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Local law enforcement agencies that received grant funding for the Problem Solving Partnerships (PSP) grant from the COPS Office will be surveyed regarding the activities and outcomes of the analysis and assessment phases of the grant project.

The agencies implementing the problem-solving process through their PSP grants vary significantly in terms of population size, primary problems, location, partners, evaluators, and demographics. The agencies and their partners are working together to target either specific property crimes, violent crimes, problems associated with drugs and/or alcohol, or crimes related to public disorder.

The COPS Office is looking to provide documentation that may stimulate the promotion of problem solving as a way of addressing crime/disorder problems for both current and future grantees looking to implement the problem-solving approach. Copies of the survey instruments to be used by the contractor to obtain information from the PSP grantees are attached. The *Analysis Survey* will be distributed to grantees once OMB approval is obtained. The *Assessment Survey* will be distributed to grantees at a later date, once agencies have completed evaluating the impact of their tailor-made responses. Information obtained from these surveys will be disseminated to other departments to promote the adoption of problem-solving approaches.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond.* Each survey, the Analysis Survey and the Assessment Survey, will be administered one time: Approximately 470 respondents per survey administration, at 55 minutes per respondent per survey (including record-keeping).

(6) *An estimate of the total public burden (in hours) associated with the collection.* Approximately 861.6 hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: April 20, 1999.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 99–10302 Filed 4–23–99; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Eastern Poly Packaging Co., Inc.*, CV–96–4079, was lodged on April 9, 1999, with the United States District Court for the Eastern District of New York. The Consent Decree addresses violations of the Clean Air Act (the "Act"), 42 U.S.C. 7401–7671, and the State Implementation Plan for the State of New York ("SIP") promulgated pursuant to Section 110 of the Act, 42 U.S.C. 7410 at Defendant Eastern Poly's printing facility located at 149 47th Street, Brooklyn, New York. The Consent Decree requires the Defendant to pay a civil penalty of $135,000 and to submit quarterly monitoring reports for one year.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Eastern Poly Packaging Co., Inc.*, DOJ Ref. #90–5–2–1–2022.

The proposed consent decree may be examined at the office of the Untied States Attorney for the Eastern District of New York, Pierrepont Plaza, 14th Floor, Brooklyn, New York, 11201 (contact Assistant United States Attorney Jennifer Boal); the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, 10007–1866 (contact Assistant Regional Counsel Kate Donnelly); and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction costs) for the consent

Decree, payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–10383 Filed 4–23–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act ("CAA")

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *Standard Chlorine of Delaware, Inc.*, No. 98–268–RRM (D. Del.) has been lodged on March 26, 1999, with the United States District Court for the District of Delaware. The consent decree resolves the claims of the United States pursuant to Section 113(b)(2) of the CAA, 42 U.S.C. 7413(b)(2), for civil penalties and injunctive relief, based on alleged violations of regulatory requirements for leak detection and repair of equipment used in the manufacture of chlorine products, and leak repair requirements for industrial refrigeration equipment.

The consent decree provides that the defendant shall pay $349,000 in civil penalties. Because all the violations pleaded in the Complaint have been remedied, and the Defendant has sold the facility where the violations occurred to a non-party to this action, no injunctive relief is requested in the consent decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC, 20530, and should refer to DJ #90–5–2–1–2109. Comments may also be addressed to the United States Attorney, District of Delaware, c/o Ms. Patricia Hannigan, 1201 Market Street, Suite 1100, Wilmington, DE 19899–2046.

The consent decree may be examined and copied at the Office of the Clerk, U.S. District Court for the District of Delaware; or at the Region III Office of the Environmental Protection Agency, c/o Mr. Charles McPhedran, 1650 Arch Street, Philadelphia, PA 19103–2029. A copy of the consent decree may also be obtained in person or by mail from the Department of Justice Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $3.00 (25 cents per page reproduction cost), payable to the Consent Decree Library.

Joel Gross,

Section Chief, Environmental Enforcement Section.

[FR Doc. 99–10384 Filed 4–23–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; Request for Information

This document is a request for information regarding a study being conducted by the Department of Labor on the economic benefits that would result from the elimination of abusive and exploitative child labor and increased enrollment of children in school. The Department is now accepting written information on this subject matter from all interested parties preparing written submissions.

The Department of Labor is currently undertaking a Congressionally-mandated study on the economic benefit to individual countries and to possible global benefits (pursuant to Senate Report 105–300, p.35, accompanying the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriation Bill, 1999). The report for this annual Appropriations law reads, in part:

> The Committee recognizes the value of the reports completed by the Bureau of International Labor Affairs in recent years documenting the incidence of international child labor in various industries and countries, and some of the innovative approaches to reduce the use of abusive and exploitative child labor such as codes of conduct and labeling initiatives. While obstacles such as poverty and limited family income contribute to child labor, it is clear that child labor imposes large economic cost by continuing the cycle of poverty and denying educational opportunities to millions of children. Consequently, the Committee requests that the Bureau undertake a study on the economic benefits that could be realized from the elimination of abusive and exploitative child labor and the increased enrollment of these children in school. The study should look at the economic benefits to individual countries and to possible global benefits, in particular U.S. trade, that would result from the elimination of abusive and exploitative child labor. The analysis could include appropriate case or country studies, as appropriate.

Information provided through public submission will be considered by the Department of Labor in preparing its report. Materials submitted should be confined to the specific topic of the study. In particular, the Department's Bureau of International Labor Affairs is seeking written submissions on the topics noted below:

1. Factors that determine whether a child works, particularly the relationship between the availability and quality of schooling and the incidence of child labor.
2. Description of government policy decisions that affect the quality or availability of schooling, either to all children or to specific groups.
3. Studies on the economic cost associated with child labor and possible return from transitioning children from work to school.

This notice is a general solicitation of comments from the public.

DATES: Submitters of information are requested to provide two (2) copies of their written submission to the Child Labor Program by 5:00 p.m., on May 26, 1999.

ADDRESSES: Written testimony should be addressed to Kevin Willcutts at the International Child Labor Program, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S–5303, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Kevin Willcutts, International Child Labor Program, Bureau of International Labor Affairs at (202)208–4843; fax (202)219–4923. The Department of Labor's prior child labor reports can be accessed on the Internet at http://www.dol.gov/dol/ilab/public/programs/iclp/ or can be obtained from the International Child Labor Program.

Signed at Washington, DC this 20th day of April, 1999.

Andrew J. Samet,

Deputy Under Secretary.

[FR Doc. 99–10377 Filed 4–23–99; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council; Notice of Meetings and Agenda

The Spring meetings of committees of the Labor Research Advisory Council will be held on May 11, 12, and 13. All of the meetings will be held in the Postal Square Building (PSB), 2 Massachusetts Avenue, NE., Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical

matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Tuesday, May 11, 1999

9:30 a.m.—Committee on Employment and Unemployment Statistics—Meeting Room 1, PSB

1. Report on Y2K status
2. New 1997 Occupational Employment Statistics data
3. Status of Job Openings and Labor Turnover Survey
4. Report on pilot study of collecting all employee earnings and hours in the Current Employment Statistics program

1:00 p.m.—Committee on Occupational Safety and Health Statistics—Meeting Room 1, PSB

1. Review of the worker demographic and case characteristic data from the 1997 Survey of Occupational Injuries and Illnesses
2. Demonstration of worker demographic and case characteristics profiles system
3. Review and discussion of potential followback/special studies
4. Report on fatal and non-fatal injuries to young workers
5. Status of FY 2000 safety and health statistics budget

Wednesday, May 12, 1999

9:30 a.m.—Committee on Productivity, Technology and Growth—Room 2195, 2nd Floor, PSB

1. Recent developments in the Office of Productivity and Technology
2. Presentation of research results on the accuracy of BLS productivity data for major sectors
   —Overview of the research
   —Role of prices in measuring business sector productivity
   —Analysis of industry multifactor productivity series, in relation to possible measurement bias
3. New employment projections, 1998–2008
4. Special projections-related projects
5. Long-term labor force projections
6. New study of high-tech employment

Thursday, May 13, 1999

9:30 a.m.—Committee on Compensation and Working Conditions—Meeting Room 1, PSB

1. Demonstration of the National Compensation Survey (NCS) occupational wage estimator
2. Discussion of stock option test plans
3. Update on the status of National Compensation Survey national data

1:30 p.m.—Committee on Prices and Living Conditions Meeting Room 1, PSB

1. Status of the Consumer Price Index research series
2. Status of the joint initiative on pharmaceutical price measurement issues
3. Report on recent Import and Export Price Indexes results

The meetings are open to the public. Persons planning to attend these meetings as observers may want to contact Wilhelmina Abner on (Area Code 202) 606–5970.

Signed at Washington, DC, this 16th day of April, 1999.

Katharine G. Abraham,

Commissioner.

[FR Doc. 99–10378 Filed 4–23–99; 8:45 am]

BILLING CODE 4510–24–M

NUCLEAR REGULATORY COMMISSION

[Docket No. IA 98–006; ASLBP No. 99–765–02–EA]

Atomic Safety and Licensing Board, Gary Isakoff, Order Prohibiting Involvement in NRC-Licensed Activities; Notice of Hearing

April 20, 1999.

Before Administrative Judges: Charles Bechhoefer, Chairman, Dr. Richard F. Cole, Dr. Charles N. Kelber.

Notice is hereby given that, by Memorandum and Order (Granting Request for Hearing and Scheduling Prehearing Conference), dated April 6, 1999, the Atomic Safety and Licensing Board has granted the request of Gary Isakoff for a hearing in the above-titled proceeding. The hearing concerns the Order Prohibiting Involvement in NRC-Licensed Activities, issued by the NRC Staff on February 14, 1999 (published at 64 Fed. Reg. 11954 (March 10, 1999). The parties to the proceeding are Mr. Isakoff and the NRC Staff. The issue to be considered at the hearing is whether the Staff's Order should be sustained.

Materials concerning this proceeding are on file at the Commission's Public Document Room, 2120 L St. N.W., Washington, D.C. 20555, and at the Commission's Region I office, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415.

During the course of this proceeding, the Licensing Board, as necessary, will conduct one or more prehearing conferences and evidentiary hearing sessions. The time and place of these sessions will be announced in Licensing oard Orders. Members of the public are invited to attend any such sessions.

For the Atomic Safety and Licensing Board.

Rockville, Maryland, April 20, 1999.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 99–10356 Filed 4–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–458 and 50–440; License Nos. NPF–47 and NPF–58]

Entergy Operations, Inc. FirstEnergy Nuclear Operating Company Notice of Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision with regard to Petitions dated September 25, 1998, and November 9, 1998, filed by Mr. David A. Lochbaum on behalf of the Union of Concerned Scientists (UCS), hereinafter referred to as the "Petitioner." The Petitions concern the operation of the River Bend Station (River Bend) located in St. Francisville, Louisiana, and the Perry Nuclear Power Plant (Perry) located in Perry, Ohio.

The Petitions requested that River Bend and Perry should be immediately shut down and their respective operating licenses suspended or modified until the facilities' design and licensing bases were updated to permit operation with failed fuel assemblies, or until all failed fuel assemblies were removed from the reactor core. The Petitioner also requested that a public hearing be held to discuss this matter in the Washington, DC, area.

As the basis for the September 25, 1998, request, the Petitioner raised concerns stemming from the Nuclear Regulatory Commission (NRC) Daily Event Report No. 34815, dated September 21, 1998, whereby Entergy Operations, Inc. (the licensee for River Bend) reported a possible fuel cladding defect. The Petitioner referred to concerns raised in a UCS report of April 2, 1998, regarding nuclear plant operation with fuel cladding leakage. The UCS considers such operation to be potentially unsafe and to be in violation of Federal regulations. In the Petition, a number of references to the River Bend Updated Safety Analysis Report (USAR) were cited that the UCS believes prohibit operation of the facility with known fuel leakage.

The Petition of November 9, 1998, raises concerns originating from the NRC's Weekly Information Report for the week ending October 30, 1998, in

which the staff discussed the licensee's findings of possible fuel cladding defects. The Perry Petition also referred to concerns raised in the UCS report of April 2, 1998.

In its report of April 2, 1998, the UCS expresses the opinion that existing design and licensing requirements for nuclear power plants preclude their operation with known fuel cladding leakage. The UCS position is based on the assessment of updated final safety analysis reports (UFSARs or USARs) of four plants, vendor documentation, standard technical specifications, and pertinent NRC correspondence. In addition to recommending that the NRC take steps to prohibit nuclear power plants from operating with fuel cladding damage, the report specifically recommends plant shutdowns upon detection of fuel leakage and that safety evaluations be included in plant licensing bases, which consider the effects of operating with leaking fuel to justify operation under such circumstances.

Finally, the two Petitions also stated that the licensing basis for worker radiation protection was violated whenever the licensee operated the plant with potential fuel cladding failures. The Petitions references included various USAR Sections and NRC Information Notice 87–39, "Control of Hot Particle Contamination at Nuclear Plants," and stated that industry experience has demonstrated that reactor operation with failed fuel cladding increased radiation exposures for plant workers.

On February 22, 1999, the NRC conducted an informal public hearing regarding the River Bend Petition as well as a similar petition submitted pursuant to 10 CFR 2.206 involving Perry, operated by the FirstEnergy Nuclear Operating Company. The hearing gave the Petitioner, the licensees, and the public an opportunity to provide additional information and to clarify issues raised in the Petitions.

The Director of the Office of Nuclear Reactor Regulation has determined that the two requests, to require River Bend and Perry to be immediately shut down and their operating licenses suspended or modified until the facilities' design and licensing bases were updated to permit operation with failed fuel assemblies, or until all failed fuel assemblies were removed from the reactor core, be denied. The reasons for this decision are explained in the Director's Decision pursuant to 10 CFR 2.206 (DD–99–08), the complete text of which follows this notice and is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document rooms located at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana, and the Perry Public Library, 3753 Main Street, Perry, Ohio.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance, unless the Commission, on its own motion, institutes a review of the Decision in that time.

Dated at Rockville, Maryland, this 18th day of April 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Director's Decision Under 10 CFR 2.206

I. Introduction

By Petitions submitted pursuant to 10 CFR 2.206 on September 25, 1998, and November 9, 1998, respectively, Mr. David A. Lochbaum, on behalf of the Union of Concerned Scientists (UCS or Petitioner), requested that the U.S. Nuclear Regulatory Commission (NRC) take immediate action with regard to the River Bend Station (River Bend) and the Perry Nuclear Power Plant (Perry).

In the Petitions, the Petitioner requested that the NRC take immediate enforcement action by suspending the operating license for River Bend and Perry until all leaking fuel rods were removed from the reactor core or until the facilities' design and licensing bases were updated to permit operation with leaking fuel assemblies. Accompanying the Petitions was the UCS report "Potential Nuclear Safety Hazard—Reactor Operation With Failed Fuel Cladding," dated April 2, 1998. Entergy Operations, Inc. (the River Bend licensee), provided the NRC with its response to its Petition in a letter dated February 11, 1999. FirstEnergy Nuclear Operating Company (the Perry licensee) provided a response to its Petition in a letter also dated February 11, 1999. On February 22, 1999, the NRC held an informal public hearing at which the Petitioner presented information related to the safety concerns in the Petitions. The NRC staff has determined that the information presented in the Petitions and at the informal public hearing did not support the action requested by the Petitioner. The basis for my decision in this matter follows.

II. Background

In support of the requests presented in the Petition dated September 25, 1998, the Petitioner raised concerns stemming from NRC Daily Event Report No. 34815, filed on September 21, 1998, in which Entergy Operations, Inc., reported a possible fuel cladding defect at River Bend. The Petitioner repeated the concerns raised in the UCS report of April 2, 1998, regarding nuclear plant operation with fuel cladding leakage. The UCS considers such operation to be potentially unsafe and to be in violation of Federal regulations. In addition, the Petitioner cites instances in the licensing basis for River Bend that it believes prohibit operation of the facility with leaking fuel.

In the November 9, 1998, Petition, the Petitioner raised similar concerns originating from the NRC Weekly Information Report for the week ending October 30, 1998, in which fuel leaks detected at Perry on September 2, 1998, and on October 28, 1998, were discussed. The Petitioner also repeated the concerns raised in the UCS report of April 2, 1998. The matters raised in support of the Petitioner's requests are discussed herein.

III. Discussion

The September 25, 1998, Petition presents safety concerns for River Bend along with the associated generic concerns addressed in the UCS report of April 2, 1998. The plant-specific concerns are based on portions of the River Bend Updated Safety Analysis Report (USAR) cited in the Petition. The November 9, 1998, Petition presents safety concerns for Perry arising essentially from the associated generic concerns addressed in the UCS report of April 2, 1998. The Perry Petition does not reference plant-specific licensing basis documentation.

Since the generic concerns presented in the UCS report bear upon the plant-specific concerns cited in the two Petitions, the staff's evaluation first considers the UCS report and follows with a discussion of the plant-specific concerns.

A. Generic Safety Concerns

In the UCS report of April 2, 1998, UCS expresses the opinion that existing design and licensing requirements for nuclear power plants preclude their operation with known fuel cladding leakage. The UCS position is based on the assessment of updated final safety analysis reports (UFSARs) of four plants, vendor documentation, standard technical specifications, and pertinent NRC correspondence. The report states

that the following regulatory and safety concerns exist for plants operating with leaking fuel:

• 10 CFR 50.59, "Changes, tests and experiments," is violated because operation with fuel cladding leakage constitutes an unapproved change to the licensing basis for a plant. The report states that such operation is an unresolved safety question because the criteria of 10 CFR 50.59(a)(2) are satisfied (e.g., probability and consequences of an accident may be increased by operating with leaking fuel).

• 10 CFR 50.71, "Maintenance of records, making of reports," is violated because the licensing basis as documented in the technical specifications and the analyses contained in the UFSAR for the facility do not accommodate operation with leaking fuel.

• Safety analyses for postulated accidents assume intact fuel cladding before the event; therefore, plants with known fuel leakage could have accidents with more severe consequences than predicted as a result of fuel damage. The report further states that no information was available showing that operation with leaking fuel has been previously evaluated.

• 10 CFR 50.34a, "Design objectives for equipment to control releases of radioactive material in effluents—nuclear power reactors," and other regulations related to the as low as is reasonably achievable (ALARA) principle for radioactive materials release are violated since plant workers are exposed to a greater risk than necessary because of higher coolant activity levels attributable to leaking fuel.

In addition to requesting that the NRC take steps to prohibit nuclear power plants from operating with fuel cladding damage, the report specifically requests that plants be shut down upon detection of fuel leakage, and that safety evaluations be included in plant licensing bases that consider the effects of operating with leaking fuel to justify operation under such circumstances.

Before addressing the regulatory concerns raised in the April 1998 UCS report, the following discussion provides background and bases for current NRC guidance and practices with regard to fuel defects.

1. Defense-in-Depth and ALARA Considerations

In order to protect public health and safety from the consequences of potential uncontrolled releases of radioactive fission products resulting from the operation of nuclear power plants, plants are designed with multiple barriers to fission-product release. This traditional "defense-in-depth" philosophy is key to assuring that radiological doses from normal operation and postulated accidents will be acceptably low, as outlined in 10 CFR Part 100, "Reactor Site Criteria." Fuel cladding is integral to the defense-in-depth approach to plant safety, serving as the first barrier to fission-product release.

The premise of the defense-in-depth philosophy with regard to the potential for fission-product release is that plant safety does not rely on a single barrier for protection. In this way, a limited amount of leakage from each of the barriers—the fuel cladding, the reactor coolant system pressure boundary, and the containment—is a design consideration and some leakage from each barrier, within prescribed limits, is acceptable during operation. These limits, defined within the technical specifications, are established as a key component of a plant's design and licensing basis. The leakage associated with fuel cladding defects is accounted for in plant safety analyses, as discussed later in this evaluation under "Safety Analysis Assumptions."

Therefore, to meet its defense-in-depth objectives, fuel is not required to be leak-free. A limited amount of fuel cladding leakage is acceptable during operation since (1) In the event of an accident, other fission-product barriers besides the fuel cladding (i.e., the reactor coolant system pressure boundary and the containment) help prevent uncontrolled releases, (2) limits for reactor coolant system activity, as prescribed in the technical specifications, limit the level of fuel leakage that is permitted so that the release guidelines of 10 CFR Part 100, "Reactor Site Criteria," will not be exceeded during accidents, and (3) plant design features and operating procedures anticipate leaking fuel and provide means to deal with the effects.

Sources of activity in reactor coolant are fission products released from fuel, corrosion products activated in the reactor during operation, and fission products released from impurities in fuel cladding, tritium produced from the irradiation of water, lithium, and boron. Although reactor operators should strive to maintain low levels of coolant activity from all of these sources, the staff has long recognized that reactor coolant activity cannot be entirely eliminated and that some fission products from leaking fuel could be present (see Standard Review Plan (SRP), NUREG–0800, Section 4.2, "Fuel System Design"). Thus, plant design considerations, such as reactor coolant cleanup systems, shielding, and radwaste controls, have been devised to minimize risk to plant workers from exposure to radiation from reactor coolant. Plants also implement procedures to respond to leaking fuel when leakage is discovered, as was demonstrated by the example of the follow-up actions taken by the River Bend and Perry operators to limit the production of fission products in the vicinity of the leaking fuel rods.

By containing fuel and fission products, cladding also helps maintain radioactive releases to as low a level as is reasonably achievable. As previously stated, the technical specifications contain limits for the maximum level of coolant activity so that the dose guidelines in 10 CFR Part 100 are not exceeded during accidents. These are the maximum levels of activity assumed to exist in the reactor coolant from normal operating activities. The limits on reactor coolant system specific activity are also used for establishing standardization in radiation shielding and procedures for protecting plant personnel from radiation (see Section B3.4.16 of NUREG–1431, "Standard Technical Specifications, Westinghouse Plants"). Thus, they are consistent with NRC regulations requiring licensees to follow an ALARA approach to radiation protection.

The connection between technical specification limits for coolant activity and ALARA requirements is key to demonstrating that limited fuel leakage during operation is consistent with safe plant operation. The ALARA requirement is given in 10 CFR 50.34a and 50.36a. The Statement of Considerations for these NRC regulations (35 FR 18385, December 3, 1970) contains a discussion of the "reasonableness" aspect of the ALARA approach. When the Statement of Considerations was written, the Commission believed that releases of radioactivity in plant effluents were generally within the range of "as low as practicable." The Commission also stated, therein, that "as a result of advances in reactor technology, further reduction of those releases can be achieved." Advances in fuel integrity, design of waste treatment systems, and appropriate procedures were cited as areas in which the plants had taken steps to meet the reasonableness standard. It is important to note that the Commission did not require leak-free fuel as a means to satisfy ALARA requirements. In addition to the physical barriers to the release cited above, other factors, such as radwaste cleanup and plant procedures, provide

confidence that fission-product release from the fuel can be controlled so as to prevent undue risks.

Later in the same Statement of Considerations, the Commission acknowledged the need to allow flexibility of plant operation. "Operating flexibility is necessary to take into account some variation in the small quantities of radioactivity, as a result of expected operational occurrences, which may temporarily result in levels of radioactive effluents in excess of the low levels normally released" but still within regulatory limits. The Commission recognized that a balance should be maintained between limiting exposure to the public and plant operational requirements. Therefore, the NRC regulations allow the possibility of increased reactor coolant activity levels that might result from limited fuel cladding leaks, but require the use of plant equipment to maintain control over radioactive materials in gaseous and liquid effluents produced during normal reactor operations, including expected operational occurrences. The Commission went as far as to define "as low as practicable" (the phrase later replaced with "as low as is reasonably achievable" in 40 FR 19440, May 5, 1975) in terms of the state of technology, the economics of improvements in relation to benefits to public health and safety that could be derived by improved technology and methods of controlling radioactive materials, and "in relation to the utilization of atomic energy in the public interest." This definition appears in Section 50.34a itself, mandating that the Commission maintain the balance between safety and plant operational requirements.

By publishing 10 CFR Part 50, Appendix I, "Numerical Guides for Design Objectives and Limiting Conditions for Operation To Meet the Criterion 'As Low As Is Reasonably Achievable' for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents," the Commission took steps to provide more definitive guidance for licensees to meet the "as low as practicable" requirement. Appendix I was published as guidance that presented an acceptable method of establishing compliance with the "as low as practicable" requirement of 10 CFR 50.34a and 50.36a. In the Statement of Considerations for Appendix I (40 FR 19439, May 5, 1975), the Commission characterized the guidance as the "quantitative expression of the meaning of the requirement that radioactive material in effluents released to unrestricted areas from light-water nuclear power reactors be kept 'as low as practicable'." The technical basis for Appendix I contained assumptions for a small fraction of leaking fuel rods, as is stated in the Atomic Energy Commission's report of July 1973, WASH–1258, "Final Environmental Statement Concerning Proposed Rule Making Action: Numerical Guides for Design Objectives and Limiting Conditions for Operation To Meet the Criterion "As Low as Practicable' for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents."

2. Associated Regulations and Guidance

Fuel integrity is explicitly addressed in NRC regulations in several instances, and plant licensing bases specifically discuss fuel performance limits. To implement NRC regulations, the staff developed a number of guidance documents for licensees to use in developing their licensing basis. This section outlines the regulatory framework on fuel integrity during normal plant operation and discusses instances in which the staff has considered the safety implications of fuel integrity.

a. Regulatory Requirements

The General Design Criteria (GDC) of 10 CFR Part 50, Appendix A, "General Design Criteria for Nuclear Power Plants," contain references to fuel design criteria. When fuel performance is used as a criterion for a safety function, system, or component, the phrase "specified acceptable fuel design limits" (SAFDLs) appears in the following GDC:

- GDC 10, "Reactor Design"
- GDC 12, "Suppression of Reactor Power Oscillations"
- GDC 17, "Electric Power Systems"
- GDC 20, "Protection System Functions"
- GDC 25, "Protection System Requirements for Reactivity Control Malfunctions"
- GDC 26, "Reactivity Control System Redundancy and Capability"
- GDC 33, "Reactor Coolant Makeup"
- GDC 34, "Residual Heat Removal"

GDC 10, 17, 20, and 26 use this wording in conjunction with anticipated operational occurrences and conditions of normal operation. For example, GDC 10 requires "appropriate margin to assure that specified acceptable fuel design limits are not exceeded during any condition of normal operation, including the effects of anticipated operational occurrences." As discussed later in this section, SAFDLs for a plant are described in plant documentation, typically the UFSAR or the FSAR, and are met by operating within technical specifications limits.

NRC regulations also specify that certain conditions beyond steady-state operation be included in evaluations of the normal operating regime for a plant. These are called anticipated operational occurrences (AOOs) and are sometimes referred to as "anticipated operating transients." In Appendix A to 10 CFR Part 50, the staff defines AOOs as "those conditions of normal operation which are expected to occur one or more times during the life of the nuclear power unit." GDC 29, "Protection Against Anticipated Operational Occurrences," gives a general requirement for protection system and reactivity control system performance during AOOs, but does not mention fuel integrity. Examples of AOOs are the loss of all reactor coolant pumps, turbine trip events, and loss of control power. Such occurrences are distinct from events termed "accidents," such as a loss-of-coolant accident (LOCA) or a main steamline break. The references to fuel integrity requirements related to accidents and those regarding emergency core cooling system (ECCS) performance are beyond conditions of normal operation.

The UCS report relates other regulations beyond the GDC to fuel integrity during normal operation as follows:

- 10 CFR 50.34a, "Design objectives for equipment to control releases of radioactive material in effluents—nuclear power reactors"
- 10 CFR 50.36, "Technical specifications"
- 10 CFR 50.59, "Changes, tests and experiments"
- 10 CFR 50.71, "Maintenance of records, making of reports"
- Appendix I to 10 CFR Part 50, "Numerical Guides for Design Objectives and Limiting Conditions for Operation To Meet the Criterion 'As Low As Is Reasonably Achievable' for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents"

Although 10 CFR 50.36a, "Technical specifications on effluents from nuclear power reactors," was not directly referenced in the report, by citing 10 CFR 50.36, the staff inferred that Section 50.36a is linked to fuel integrity when considering the discussion on the UCS report.

b. NRC Staff Guidance Documents

To implement NRC regulations, several NRC staff guidance documents are used, including the following:

- Regulatory Guide 1.3, "Assumptions Used for Evaluating the Potential Radiological Consequences of a Loss

of Coolant Accident for Boiling Water Reactors"
- Regulatory Guide 1.4, "Assumptions Used for Evaluating the Potential Radiological Consequences of a Loss of Coolant Accident for Pressurized Water Reactors"
- Regulatory Guide 1.77, "Assumptions Used for Evaluating a Control Rod Ejection Accident for Pressurized Water Reactors"
- Regulatory Guide 1.112, "Calculation of Releases of Radioactive Materials in Gaseous and Liquid Effluents From Light-Water-Cooled Power Reactors"
- SRP Section 4.2, "Fuel System Design"
- SRP Section 4.4, "Thermal and Hydraulic Design"

Along with the regulations, licensees use the guidance documents listed above to form the licensing basis for fuel integrity at their plant. The licensing basis for a nuclear power plant, as defined in 10 CFR Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Reactors," is "the set of NRC requirements applicable to a specific plant and a licensee's written commitments for ensuring compliance with and operation within applicable NRC requirements and the plant-specific design basis * * * that are docketed and in effect." The definition continues by listing elements of the licensing basis, such as technical specifications, the FSAR, and licensee commitments documented in NRC safety evaluations. Several components form the plant's licensing basis for fuel performance: (1) NRC regulations that specifically refer to fuel integrity; (2) technical specification limits on coolant activity; (3) fuel rod performance specifications and analysis assumptions defined in the plant's FSAR and referenced topical reports; and (4) commitments to NRC regulatory guidance and to generic communications addressing fuel performance.

Acceptance criteria in the SRP sections, which may be adopted by licensees to implement the regulations, are based on meeting the requirements of GDC 10 with appropriate margin to ensure that SAFDLs are not exceeded during normal operation, including AOOs. Specifically, SRP Section 4.2 has as an objective of the safety review "to provide assurance that the fuel system is not damaged as a result of normal operation and anticipated operational occurrences." The reviewer should ensure that fuel does not leak as a result of specific causes during normal operation and AOOs, and that leaking fuel is accounted for in the dose analyses for postulated design-basis accidents. Further, fuel rod failure is defined in SRP Section 4.2 as "the loss of fuel rod hermiticity," meaning fuel rod leakage. However, in SRP Section 4.2, the staff also states that "it is not possible to avoid all fuel rod failures and that cleanup systems are installed to handle a small number of leaking rods." Such leaks typically occur as a result of manufacturing flaws or loose parts wear. Therefore, on the basis of this review guidance, the staff accepts the possibility that fuel may leak during normal operation.

In the case of the Calvert Cliffs Nuclear Plant, a plant cited as an example in the UCS report, the plant's licensing basis contains a commitment to adhere to the guidance in the SRP. The following four objectives for fuel design given in SRP Section 4.2 may be used as fuel design objectives within a plant's licensing basis as is done in the Calvert Cliffs FSAR:

- Fuel is not damaged as a result of normal operation and AOOs.
- Fuel damage is never so severe as to prevent control rod insertion when required.
- The number of fuel rod failures is not underestimated for postulated accidents.
- Coolability is always maintained.

SRP Section 4.4 has as an objective that the thermal and hydraulic design of the core should provide acceptable margins of safety from conditions that would lead to fuel damage during normal reactor operation, including anticipated operational transients. It gives two examples of acceptable approaches to meet the acceptance criteria: one based on a 95-percent probability at a 95-percent confidence level that the hottest rod in the core does not exceed prescribed thermal limits during normal operation, including AOOs, and the other using a limiting value for thermal limits so that at least 99.9 percent of the fuel rods are not expected to exceed thermal limits during normal operation, including AOOs. These criteria are limits that strive to maintain a very low likelihood of fuel damage during operation; however, they do not preclude the possibility that some fuel defects could occur.

A plant's licensing basis contains fuel performance criteria that are specified for normal operation, including AOOs, and analyses are conducted to ensure that these criteria will not be exceeded. The criteria are related to the SAFDLs mentioned in the GDC and are normally presented in terms of prescribed thermal limits, which can be calculated and are reliable predictors of the onset of fuel damage. For boiling-water reactors (BWRs), critical heat flux or the critical power ratio is used as the predictor of fuel damage onset, and for pressurized-water reactors (PWRs), the criterion is the departure from nucleate boiling (DNB), or the DNB ratio (DNBR).

An example of fuel design limits given in plant documentation is found in the FSAR for Calvert Cliffs Units 1 and 2. Section 3.6 of the FSAR presents fuel design and analysis bases. Fuel rod cladding is designed to stress and strain limits, considering the operating temperature, the cladding material, the expected property changes as a result of irradiation, and the predicted life span of the fuel. Extensive fuel mechanical analyses are detailed, along with pertinent fuel test data, which help to confirm the analysis results. The calculations are used to demonstrate that the criteria are satisfied for limiting cases under limiting assumptions. Chapter 14 of the Calvert Cliffs FSAR gives the fuel behavior acceptance criteria for each category of design-basis event analyzed. For AOOs, the minimum DNBR is chosen to provide at least a 95-percent probability with a 95-percent confidence level that DNB will not be experienced along the fuel rod with that DNBR (i.e., the SRP Section 4.4 criteria). This limit ensures that there is a low probability of fuel rod damage as a result of overheated cladding. The fuel temperature SAFDL is set so that no significant fuel melting will occur during steady-state operation or during a transient. Compliance with the limit offers assurance that the fuel rod will not be damaged as a result of material property changes and increases in fuel pellet volume, which could be associated with fuel melting. Again, as with the limits discussed in SRP Section 4.4, these limits are set to prevent fuel damage, but the possibility of fuel leakage is recognized.

The key to plant licensing bases regarding fuel integrity is the technical specification limiting the concentration of activity allowed in reactor coolant during plant operation. These limits are based on maintaining a margin to the dose guidelines in 10 CFR Part 100 for steam generator tube rupture (SGTR) accidents in PWRs and main steamline break (MSLB) accidents in BWRs. The specific activity limits of the reactor coolant system are stated in terms of dose equivalent iodine-131, which is attributable solely to fuel leaks. That is distinct from gross coolant activity, which is the aggregate activity from all sources, including fuel leaks and corrosion product activation. The technical basis for these limits can be traced to the guidance given in

Appendix I, which is, in turn, based on assumptions that fuel leaks would exist during operation. Technical specifications for reactor core safety limits, including the reactor protection system setpoints, are set so that the SAFDLs are not exceeded during normal operation or AOOs. The technical specifications for protection system action are intended to prevent fuel damage, but the specifications for coolant activity levels recognize that some small amount of fuel leakage is allowable during operation. The technical specifications concerning coolant activity are based on meeting the dose acceptance criteria in the SRP for the limiting design-basis accident (usually SGTR or MSLB for PWRs and MSLB for BWRs). These limits are used as assumptions in design-basis accident dose analyses to show compliance with dose acceptance criteria for the control room operators and the public. By maintaining the levels of coolant activity within these limits during normal operation, the continued validity of the design-basis analyses is maintained.

The staff has addressed fuel performance problems in several generic communications to licensees. Prominent among these were NRC Information Notice (IN) 93–82, "Recent Fuel and Core Performance Problems in Operating Reactors," and Generic Letter (GL) 90–02, "Alternative Requirements for Fuel Assemblies in Design Features Section of Technical Specifications." In IN 93–82, the staff discussed fuel leaks occurring during normal operation from a specific cause—fretting wear in PWR fuel, which was partly attributed to mixed fuel core designs. The staff alerted licensees to the introduction of modified fuel designs that requires added attention to ensure that the core design basis is not violated. This information notice is an example of staff action to use operating information gathered from fuel leaks at a few plants to avoid similar problems at other reactors, thus reducing the potential for more widespread fuel leakage. In GL 90–02, the staff provided licensees with added flexibility to take actions to reduce fission-product releases during operation by removing defective fuel rods during refueling outages.

The staff has previously considered the safety implications of operation with fuel leakage on a generic basis. Generic Safety Issue (GSI) B–22, "LWR [Light Water Reactor] Fuel," which is related to fuel leakage, is discussed in NUREG–0933, "A Prioritization of Generic Safety Issues," Supplement 22, March 1998. In GSI B–22, the staff considered the ability to accurately predict fuel performance under normal and accident conditions. The GSI review was conducted to determine if predictions of fuel behavior under normal operating and accident conditions were sufficient to demonstrate that regulatory requirements were being met. In its evaluation of the issue, the staff concluded that releases during normal operation would be increased because of fuel defects, but would not be increased beyond regulatory limits. The staff also stated that, "additional requirements would not decrease the number of fuel defects significantly." Furthermore, the staff concluded that the release from fuel damaged during design-basis accidents and severe accidents would be much larger than the release attributed to preexisting fuel defects, and the magnitude of the release would not be significantly affected by preexisting fuel defects. Thus, the consequence from leaking fuel was determined to be very small. The staff concluded that because fuel manufacturers have taken an active role to improve fuel performance, fuel leaks are now rare, and the significance of the issue has diminished. Therefore, the issue was dropped from further consideration.

In the resolution of GSI B–22, the staff concluded that the influence of additional restrictions to operation with fuel leaks on core damage frequency and public consequence would be insignificant. Thus, operation with a limited number of fuel defects and leaks under normal operating conditions is not associated with an excessive level of risk, provided that the plant continues to operate within technical specifications limits for reactor coolant activity.

3. Evaluation of Generic Concerns

The staff evaluated the generic concerns associated with fuel leakage identified previously by the Petitioner, as follows:

a. 10 CFR 50.59, "Changes, Tests and Experiments"

A premise of the UCS report is that 10 CFR 50.59 is violated because reactor operation with limited fuel leakage constitutes an unapproved change to the licensing basis for a plant. The report states that "Federal regulations require formal NRC approval prior to any nuclear plant operating with fuel cladding failures." The attachment to the report is an assessment of operation with fuel leaks as an unreviewed safety question on the basis of the criteria in 10 CFR 50.59. The report states that such operation is an unreviewed safety question because operation with leaking fuel (1) increases the probability and consequences of an accident, (2) creates an accident different from any in the safety analysis for the plant, and (3) reduces safety margins.

The staff does not agree that operation with leaking fuel necessarily constitutes a change to or violation of the licensing basis for a plant. A small amount of fuel leakage during operation is permitted by NRC staff guidance implementing NRC regulations and is accounted for in plant licensing bases. A key component of the licensing basis regarding fuel performance is the technical specification limiting reactor coolant system activity. The fission-product release from the level of leaking fuel associated with the technical specification limit is included in the design-basis accident dose analyses described in the FSAR for a plant to show compliance with the dose acceptance criteria in the SRP. Therefore, operating with leaking fuel, within the coolant activity technical specification limits, does not constitute a change in the plant licensing basis, and 10 CFR 50.59 does not apply.

b. 10 CFR 50.71, "Maintenance of Records, Making of Reports"

The Petitioner states in the report that "any plant operating with fuel cladding failures is violating its design and licensing bases requirements, a condition not allowed by Federal safety regulations." The Petitioner further states that when plants operate with leaking fuel, 10 CFR 50.71 is violated since the licensing basis for a plant, as documented in the technical specifications and in the analyses contained in the FSAR, does not accommodate such operation.

This concern is closely linked to the previous discussion regarding 10 CFR 50.59, in that FSARs for plants operating with leaking fuel should, in the view of the UCS, include safety analyses accounting for the effects of fuel leaks. As previously discussed, plant licensing bases do incorporate assumptions for limited levels of fuel leakage through technical specifications requirements and designs for plant reactor water cleanup systems. Plant FSARs, including the example discussed earlier in this evaluation, typically contain information on fuel leakage effects, and the safety analyses explicitly allow for coolant activity levels attributable to leaking fuel under normal operation. Thus, the staff does not consider 10 CFR 50.71 to be violated by operation with fuel leakage.

c. Safety Analysis Assumptions

The UCS report states that "safety analyses assume that *all* three barriers

[to radioactive material release] are intact prior to any accident." Therefore, according to the UCS, plants with known fuel leakage could have accidents with more severe consequences than predicted. The report also states the following: "Pre-existing fuel cladding failures have not been considered in the safety analyses for this accident [LOCA], or any other accident."

In the discussion that follows, the staff explains that preexisting fuel cladding leaks are accounted for in plant licensing bases and that safety analyses do not assume that all the fission-product barriers are fully intact before an accident.

The analyses of limiting postulated design-basis releases do not assume that all the fission-product barriers are fully intact before an accident. For the loss-of-coolant accident, which typically yields the most limiting postulated releases, all three barriers are assumed to allow the release of some fission products. The methodology used to analyze this accident is given in Regulatory Guides 1.3 and 1.4, and SRP Section 15.6.5, "Loss-of-Coolant Accidents Resulting From Spectrum of Postulated Piping Breaks Within the Reactor Coolant Pressure Boundary."

For the containment and reactor coolant system (RCS) barriers, these assumptions are explicitly given. The containment is assumed to leak at the leak rate incorporated in the plant technical specifications when the containment is at positive pressure. The RCS inside the containment is assumed to completely fail as a fission-product barrier at the beginning of the accident. Systems outside the containment that interface with the RCS are also assumed to experience failures.

The assumption of preexisting leakage for the fuel cladding barrier, although not explicitly given, is inherent in the assumption of a conservative nonmechanistic release from the fuel. The entire iodine and noble gas inventory of the core is assumed to be released to the reactor coolant. A conservative fraction of this inventory is assumed to be released into the containment and subsequently released to the environment. Assuming that this release occurs instantaneously further enhances the conservatism of these analyses. This assumption disregards the fission-product containment function of the fuel cladding at the beginning of the accident.

Accidents, which may not be bounded by the radiological consequences of a LOCA, include the control rod drop accident for BWRs and MSLB outside of containment for PWRs. However, the conservatism of the source term assumptions for these analyses parallels those for a LOCA. Some of the same assumptions used for radiological consequence evaluation of a LOCA are used for the analysis of MSLB outside of containment. Appendix A to SRP Section 15.1.5, "Radiological Consequences of Main Steam Line Failures Outside Containment of a PWR," contains an acceptance criterion that references Regulatory Guide 1.4. The radiological assumptions for the control rod drop analysis are similar to those for a LOCA, as stated in Appendix A to SRP Section 15.4.9, "Radiological Consequences of Control Rod Drop Accident (BWR)," and Regulatory Guide 1.77. For example, the guidelines assume that the nuclide inventory in the potentially breached fuel elements should be calculated and it should be assumed that all gaseous constituents in the fuel cladding gaps are released.

The radioactivity assumed for release from the LOCA is much greater than that associated with preexisting fuel leakage allowed by plant technical specifications. The staff has compared releases from preexisting defects with the release resulting from fuel damage during an accident. In its consideration of GSI B–22, the staff concluded that, "the magnitude of a release from failed fuel during an accident is much larger than the release from a preexisting fuel defect" and that "the resultant consequence from failed fuel was determined to be very small" (NUREG–0933). These assumptions are made despite the provisions of 10 CFR 50.46 requiring an ECCS that must be designed to prevent exceeding thermal limits that cause such gross fuel failure. In addition, for design-basis accidents in which fuel damage is not assumed, the preexisting fuel cladding defects are typically assumed to serve as release paths facilitating a spike in radioiodine concentration in the coolant.

Additional NRC fuel design requirements complement the conservative defense-in-depth assumptions as previously described to prevent an unanalyzed large release of fission products. To illustrate its concern about fuel leakage influences on accident progression, the UCS report describes a LOCA sequence and postulates that hydraulic loads on the fuel rods could lead to cladding failures, which would result in a large release of fission products into the coolant and prevent control rod insertion. Fuel design requirements and guidance specifically address the ability to insert control rods, and staff review guidance recognizes that preexisting fuel cladding defects could have an effect on fuel performance during accidents. In GDC 27, "Combined Reactivity Control Systems Capability," the staff requires that reactivity control systems, including the control rod system, have the capability to control reactivity changes under postulated accident conditions in order to assure core cooling. SRP Section 4.2 includes the objective that "fuel system damage is never so severe as to prevent control rod insertion when it is required."

To ensure that the preceding objective is met, fuel designs consider external loads on fuel rods. This is discussed in the appendix to SRP Section 4.2, "Evaluation of Fuel Assembly Structural Response to Externally Applied Forces." The basis for much of the appendix to SRP Section 4.2 is contained in NUREG/CR–1018, "Review of LWR Fuel System Mechanical Response With Recommendations for Component Acceptance Criteria," prepared by EG&G Idaho in September 1979. This report states that "Cyclic fatigue and material degradation may cause a failure [of a fuel system component] at any point in the transient [i.e., a LOCA]." Thus, material degradation that could lead to fuel leakage during operation is considered in accident analyses. Furthermore, design considerations, such as control guide tubes in PWRs and fuel channel boxes in BWRs, help separate control rods from the fuel. The separation provided protects control rods from material degradation of fuel that might occur in accidents, thus helping to prevent control rod obstruction. Such safety analysis assumptions as these (which assume preexisting failures of the fission-product barriers) provide confidence that the preexisting cladding defects allowed by technical specifications limits on coolant activity will not erode the safety margin assumed for accident analyses.

d. 10 CFR 50.34a, "Design Objectives for Equipment To Control Releases of Radioactive Material in Effluents—Nuclear Power Reactors"

In its report, the UCS claims that 10 CFR 50.34a and other regulations related to the ALARA principle for radioactive materials release are violated since plant workers are exposed to a greater risk than necessary because of higher coolant activity levels attributable to leaking fuel. The UCS report continues: "Federal regulations require nuclear plant owners to keep the release of radioactive materials as low as reasonably achievable. Therefore, it is both an illegal activity and a serious health hazard for nuclear plants to continue operating with fuel cladding

damage." The UCS report cites Appendix I to 10 CFR Part 50 when contending that fuel releases pose an undue risk to plant workers. Appendix I contains the numerical dose guidelines for power reactor operation to meet the ALARA criterion. These dose values are a small fraction of the 10 CFR Part 20 annual public dose limit of 100 millirem (i.e., 3 millirem from liquid effluents and 5 millirem from gaseous effluents).

The bases for the guidelines in Appendix I are given in WASH–1258, which acknowledges that radioactive material from a number of sources, including fission-product leakage to the coolant from defects in the fuel cladding, will be present in the primary coolant during normal operation. Further, in the "Bases" section on RCS specific activity in NUREG–1431, "Standard Technical Specifications, Westinghouse Plants," April 1995, the limits on specific activity are linked to exposure control practices at plants. The section clearly states that the limits on RCS specific activity are used in the design of radiation shielding and plant personnel radiation protection practices.

In addition, occupational dose considerations were discussed in the resolution of GSI B–22. The staff acknowledged that localized dose rates were expected to increase as a result of fuel defects, but effects are limited by requirements for plants to operate within their technical specifications for coolant activity and releases. In some cases, plants will often stay within allowable release limits and coolant activity levels by operating at reduced power until the next refueling outage allows the problem to be corrected.

On the basis of the preceding discussion, operation with a limited amount of leaking fuel is within a plant's licensing basis and, in itself, does not violate ALARA-related regulations. Operation involving leaking fuel, however, will likely require plant operators to take additional measures in order to ensure that ALARA requirements are being met, but these would need to be considered on a case-by-case basis.

4. UCS Report Recommendations

In the report, the UCS recommends that the NRC take steps to prohibit nuclear power plants from operating with fuel cladding damage until the safety concerns raised by the report are resolved. The following steps are specifically recommended: (1) requiring plant shutdown upon detection of fuel leakage, and (2) requiring that safety evaluations that consider the effects of operating with leaking fuel be included in plant licensing bases to justify operation under such circumstances. Further, the UCS recommends that UFSARs be revised to establish safe operating limits to accommodate operation with leaking fuel.

On the basis of the staff's consideration of the stated safety concerns in the report, there is no technical or regulatory basis to require that plants operating with leaking fuel be shut down, provided they are operating within their technical specifications limits and in accordance with their licensing basis. The UCS report, in raising its concerns, does not offer any new information to demonstrate that the overall risk of operating with fuel defects presents an undue hazard to plant workers or the public.

Further, since the staff does not consider plants operating with leaking fuel to be violating 10 CFR 50.59 or 50.71, there is no basis for requiring plants to perform additional safety analyses to model the effects of fuel defects on accident progressions to update plant safety analysis documentation.

B. Plant-Specific Concerns—River Bend Station

On the basis of the reported fuel leakage at River Bend, the Petitioner states that the generic concerns contained in its report apply to River Bend. The September 25, 1998, Petition then presents a number of references to the River Bend USAR as instances in which, in the opinion of the Petitioner, plant licensing bases do not permit operation of the plant with known fuel leakage.

A reference to the USAR in the Petition is the USAR definition of unacceptable consequences (USAR Table 15A.2–4), which lists as an unacceptable consequence "Failure of the fuel barrier as a result of exceeding mechanical or thermal limits." The Petitioner considers this criterion violated since a fuel failure exists in advance of any design-basis accident that may now occur.

The Petition then discusses USAR Chapter 15 accident analysis descriptions, which state either (1) that fuel cladding integrity will be maintained as designed or (2) radioactive material is not released from the fuel for the event. The following events cited in the Petition have event descriptions in the River Bend USAR, which state that fuel cladding will function and maintain its integrity as designed:

- Loss of Feedwater Heating (USAR Section 15.1.1.4)
- Feedwater Controller Failure—Maximum Demand (USAR Section 15.1.2.4)
- Pressure Regulator Failure—Open (USAR Section 15.1.3.4)
- Pressure Regulator Failure—Closed (USAR Section 15.2.1.4)

The following two events cited in the Petition have event descriptions in the River Bend USAR, which state that "no radioactive material is released from the fuel" during the event:

- Control Rod Withdrawal Error at Power (USAR Section 15.4.2.5)
- Recirculation Flow Control Failure with Increasing Flow (USAR Section 15.4.5.5)

The Petitioner also states that the River Bend licensing basis for worker radiation protection is violated by operation with leaking fuel. Again, the Petition cites the USAR (Sections 12.1.1 and 12.1.2.1) as the pertinent reference to the licensing basis.

Evaluation of Plant-Specific Concerns

As discussed in the consideration of generic safety concerns, the staff does not agree that preexisting fuel cladding defects and resultant fuel leakage violate plant licensing bases. The staff also considers that conclusion valid for River Bend. The basis for this conclusion is supported in the following discussion.

a. USAR Appendix 15A

The Petitioner referenced two sections of USAR Appendix 15A, "Plant Nuclear Safety Operational Analysis (NSOA)" (as stated):

UFSAR 15A.2.8, "General Nuclear Safety Operational Criteria," stated:

The plant shall be operated so as to avoid unacceptable consequences.

UFSAR Table 15A.2–4, "Unacceptable Consequences Criteria Plant Event Category: Design Basis Accidents," defined "unacceptable consequences" as follows:

4–1 Radioactive material release exceeding the guideline values of 10CFR100.
4–2 Failure of the fuel barrier as a result of exceeding mechanical or thermal limits.
4–3 Nuclear system stresses exceeding that allowed for accidents by applicable industry codes.
4–4 Containment stresses exceeding that allowed for accidents by applicable industry codes when containment is required.
4–5 Overexposure to radiation of plant main control room personnel.

The current operating condition at the River Bend Station apparently violates the spirit, if not the letter, of Criterion 4–2 since the fuel barrier has already failed, albeit to a limited extent. This UFSAR text does not accept a low level of fuel barrier failure based on meeting the offsite and onsite radiation protection limits. Integrity of the fuel barrier is an explicit criterion in addition to the radiation requirements.

In the Petition, the UCS highlights the table concerning the consequences for the design-basis accident. This plant condition is a highly improbable event, and safety analyses ensure that safety limits and regulatory requirements are not exceeded as a result of the accident occurring. This is why USAR Table 15A.2–4, Item 4–2 states, "Failure of a fuel barrier *as a result of exceeding mechanical or thermal limits*" (emphasis added). The unacceptable consequences of this type of event are independent of preexisting fuel cladding defects. The unacceptable consequences of this event are additional fuel failures as a result of the accident occurring.

Within the framework of the USAR, "unacceptable consequences" are specified measures of safety and analytically determinable limits on the consequences of different classifications of plant events. They are used for performing a nuclear safety operational analysis. Unacceptable consequences are described for various plant conditions, including "Normal (Planned) Operation," "Anticipated (Expected) Operational Transients," "Abnormal (Unexpected) Operational Transients," "Design Basis (Postulated) Accidents," and "Special (Hypothetical) Events." USAR Tables 15A.2–1 through 15A.2–5 identify the unacceptable consequences for each of the five plant conditions, and are different for each of the cases.

The USAR text clearly documents the acceptability of a low level of fuel cladding failures based on meeting the offsite and onsite radiation protection limits. For example, USAR Table 15A.2–1 discusses the unacceptable consequences for normal operation. This USAR table defines unacceptable consequences for normal operation as follows:

4–1 Release of radioactive material to the environs that exceeds the limits of either 10 CFR Part 20 or 10 CFR Part 50.

4–2 Fuel failure to such an extent that were the freed fission products released to the environs via the normal discharge paths for radioactive material, the limits of 10 CFR Part 20 would be exceeded.

4–3 Nuclear system stress in excess of that allowed for planned operation by applicable industry codes.

4–4 Existence of a plant condition not considered by plant safety analysis.

Item 4–2 in Table 15A.2–1 implies that fuel cladding failures are not an unanticipated condition during normal operations and is, therefore, consistent with other parts of the River Bend licensing-basis. Fuel cladding defects are acceptable to the extent that they do not jeopardize radiation protection limits established in the plant technical specifications and other licensing-basis documents. USAR Table 15A.2–4 does not apply for normal operations; only USAR Table 15A.2–1 applies. Furthermore, the provisions found in USAR Table 15A.2–4 would continue to be met for postulated design-basis accidents.

USAR Section 15.0.3.1.1 provides further clarification in its list of unacceptable safety consequences for "moderate frequency" events, which lists: "Reactor operation induced fuel-cladding failure as a direct result of the transient analysis above the minimum critical power ratio (MCPR) uncertainty level (0.1 percent)." Accordingly, preexisting cladding defects are considered during some postulated transients. In fact, the acceptance criteria for moderate-frequency event analyses, based on the GDC (10 CFR Part 50, Appendix A) and the Standard Review Plan, and described in the Safety Evaluation Report (SER) for River Bend (NUREG–0989), state the following expectations for fuel cladding performance: "An incident of moderate frequency . . . should not result in a loss of function of any fission product barrier other than the fuel cladding. A limited number of fuel rod cladding perforations are acceptable."

USAR Chapter 11, "Radioactive Waste Management," Section 11.1, "Source Terms," details the expected reactor coolant and main steam activities to be used to form the basis for estimating the average quantity of radioactive material released to the environment during normal operations, including operational occurrences. This section further addresses that the offgas release rate of 304,000 μCi/sec at a 30-minute delay time corresponds to design failed fuel conditions, that is, maximum acceptable cladding failure for normal operation, and is also conservatively based upon 105 percent of rated thermal power. This is consistent with limits prescribed in Technical Specification 3.7.4, "Main Condenser Offgas," which requires that the gross gamma activity rate of the noble gases shall be <290 mCi/sec (or <290,000 μCi/sec) after a decay time of 30 minutes.

In addition, two other parts of the fuel system licensing basis for River Bend show that limited fuel leakage during plant operation is a design consideration:

The fuel system design basis for River Bend is given in USAR Section 4.2.1 by reference to the generic topical report "General Electric Standard Application for Reactor Fuel," NEDE–24011–P–A. The generic topical report details fuel cladding operating limits to ensure that fuel performance is maintained within fuel rod thermal and mechanical design and safety analysis criteria. The limits are given for normal operating conditions and AOOs in terms of specific mechanical and thermal specifications. Evaluations of specific fuel failure mechanisms under normal operation and AOOs were discussed, such as stress/strain, hydraulic loads, fretting, and internal gas pressure to ensure that fuel failure did not result from these causes. The design basis did not preclude the possibility that fuel could fail for other reasons, such as preexisting cladding flaws leading to leakage.

The Technical Specifications (Section 3.4.8) for River Bend contain a limit for reactor coolant system specific activity. The basis for this limit is the same as that discussed in the consideration of the generic safety concerns. Section B 3.4.8 of the River Bend Technical Specifications "Bases" acknowledges that "the reactor coolant acquires radioactive materials due to release of fission products from fuel leaks." Thus, fission products released during plant operation are clearly considered to be contributors to the source term used for safety analysis of the MSLB release consequences. The Technical Specifications state that the limit is set to ensure that any release as a consequence of an MSLB is less than a small fraction of the 10 CFR Part 100 guidelines. These portions of the River Bend licensing basis are consistent with NRC regulations regarding fuel performance and the associated NRC guidance used by licensees to implement those NRC regulations that were covered earlier in the discussion regarding generic concerns.

The River Bend licensing-basis items listed by the Petitioner are consistent with the parts of the fuel licensing basis discussed above with the exception of some minor inconsistencies in documentation (as discussed below). That is, fuel leakage during plant operation is not precluded by licensing-basis provisions requiring that fuel integrity be maintained as designed. The design basis itself allows the possibility of leakage while ensuring that cladding damage does not result from specific operationally related causes. Fuel is also designed to maintain its structural integrity to ensure core coolability and to ensure that control rods can be inserted.

b. Chapter 15 Accident Analysis

The Petitioner also cited references taken from accident analyses described in River Bend USAR Chapter 15 (as stated):

UCS reviewed the UFSAR Chapter 15 description of accident analyses performed for the River Bend Station. UFSAR Section 15.1.1.4, "Barrier Performance," for the loss of feedwater heating event stated:

The consequences of this event do not result in any temperature or pressure transient in excess of the criteria for which the fuel, pressure vessel, or containment are designed; therefore, these barriers maintain their integrity and function as designed.

UFSAR Sections 15.1.2.4 for the feedwater controller failure—maximum event, 15.1.3.4 for the pressure regulator failure—open event, and 15.2.1.4 for the pressure regulator failure—closed event all contain comparable statements that barrier performance was not performed because the fuel remained intact.

These analyzed events appear to be valid only when the River Bend Station is operated with no failed fuel assemblies. Operation with pre-existing fuel failures (i.e., the current plant configuration) appear to be outside of the design and licensing bases for these design bases events.

UFSAR Section 15.4.2.5, "Radiological Consequences," for the control rod withdrawal error at power event stated:

An evaluation of the radiological consequences was not made for this event since no radioactive material is released from the fuel.

UFSAR Section 15.4.5.5, "Radiological Consequences," for the recirculation flow control failure with increasing flow event stated:

An evaluation of the radiological consequences is not required for this event since no radioactive material is released from the fuel.

These analyzed events also appear valid only when the River Bend Station is operated with no failed fuel assemblies. Operation with pre-existing fuel failures (i.e., the current plant configuration) appear to be outside of the design and licensing bases for these design bases events.

The effect from pre-existing fuel failures was considered, at least partially, for one design bases event. UFSAR Section 15.2.4.5.1, "Fission Product Release from Fuel," for the main steam isolation valve closure event stated:

While no fuel rods are damaged as a consequence of this event, fission product activity associated with normal coolant activity levels as well as that released from previously defective rods is released to the suppression pool as a consequence of SRV [safety relief valve] actuation and vessel depressurization.

The aforementioned design bases events (e.g., control rod withdrawal error at power, loss of feedwater heating, et al.) are *not* bound by these results because the radioactive material is not "scrubbed" by the suppression pool water as it is in the MSIV [main steam isolation valve] closure event.

As previously stated, the Petitioner cited four references to the USAR accident analysis section entitled "Barrier Performance." At issue are essentially equivalent statements made where the USAR stated, in part, that the defense-in-depth "barriers maintain their integrity and function as designed." The UCS concluded that operation with preexisting fuel failures is, therefore, outside the River Bend design and licensing bases. In stating that barriers are "maintained," the USAR clearly implies that the events themselves do not result in additional fuel cladding failures. To further support this conclusion, the radiological consequences described for three of the four events (Section 15.1.2, "Feedwater Controller Failure—Maximum Demand"; Section 15.1.3, "Pressure Regulator Failure—Open"; and Section 15.2.1, "Pressure Regulator Failure—Closed") are, indeed, bounded by an event that takes into consideration the effects of preexisting cladding failures. The three preceding events all result in actuation of the safety relief valves (SRVs) to the suppression pool. The USAR discussion (see USAR section titled "Radiological Consequences") notes that radioactivity is discharged to the suppression pool, and that the activity discharged is much less than those consequences identified in USAR Section 15.2.4.5 (for the MSIV closure event).

The MSIV closure event, as described in the USAR, clearly considers the activity released from "previously defective rods" in determining dose consequences. The source term used in these calculations assumes the same iodine and noble gas activity as an initial condition as is used in the basis for determining RCS activity technical specifications limits. USAR Section 15.2.4.5.1, "Fission Product Release from Fuel," also explains, "Since each of those transients identified previously which cause SRV actuation results in various vessel depressurization and steam blowdown rates, the transient evaluated in this section [the MSIV closure event] is that one which maximizes the radiological consequences for all transients of this nature." Thus, the USAR explicitly describes how "the aforementioned design-basis events" are bounded by the results for the MSIV closure event, for those events resulting in an SRV actuation. Furthermore, USAR Section 15.1.1.5 describing the fourth event, the loss of feedwater heating, also states that "this event does not result in any additional fuel failures," further reinforcing the staff's position.

The quotation taken from the control rod withdrawal error from power and recirculation flow control error event descriptions—"[a]n evaluation of the radiological consequences was not made for this event since no radioactive material is released from the fuel"—appears to be taken out of context. Considering the many references ostensibly permitting operation with preexisting fuel cladding failures found within the USAR, technical specifications, NRC regulations, staff implementing guidelines, and other licensing-basis documents, the intent of this statement is clearly that no *additional* radioactive material is released from the fuel as a consequence of the event.

Finally, in each of the accident analysis cases listed in the Petition, the event is classified as a "moderate frequency" event (or an "anticipated operational transient"). Specific criteria for unacceptable consequences are delineated in USAR Table 15A.2–2. For this type of anticipated transient, unacceptable performance of the fuel is described as, "[r]eactor operation induced *fuel cladding failure as a direct result of the transient* analysis above the MCPR [Minimum Critical Power Ratio] uncertainty level (0.1%)" (emphasis added). Therefore, fuel cladding defects existing before the accident are not precluded from consideration.

c. Fuel Cladding Defect Propagation

The Petition then raised concerns regarding the possibility that preexisting fuel cladding defects could propagate under design-basis transients (as stated):

As detailed in UCS's April 1998 report on reactor operation with failed fuel cladding, it has not been demonstrated that the effects from design basis transients and accidents (i.e., hydrodynamic loads, fuel enthalpy changes, etc.) prevent pre-existing fuel failures from propagating. It is therefore possible that significantly more radioactive material will be released to the reactor coolant system during a transient or accident than that experienced during steady state operation. Thus, the existing design bases accident analyses for River Bend Station do not bound its current operation with known fuel cladding failures.

As previously stated in the evaluation of generic issues raised by the April 1998 UCS report, the staff has previously considered the safety implications of operation with fuel leakage on a generic basis. In GSI B–22, the staff considered the ability to accurately predict fuel performance under normal and accident conditions. In its evaluation of the issue, the staff concluded that releases during normal operation would be increased because of fuel defects, but would not be increased beyond regulatory limits. The staff also concluded that the release from fuel damage during design-basis accidents and severe accidents would be much larger than the release attributed to preexisting fuel defects, and the magnitude of the release would not be

significantly affected by preexisting fuel defects. Therefore, the consequence from leaking fuel was determined to be very small.

The Petitioner has, however, noted some apparent inconsistencies in documentation of the licensing basis as found in the USAR for River Bend that could be taken out of context. The statements cited for two events—the control rod withdrawal error from power and recirculation flow control error—are not consistent with the other parts of the River Bend licensing basis discussed in this evaluation. The technical basis for coolant activity limits clearly permits operation with a limited amount of fuel leakage and, as discussed, the design basis does not preclude the possibility of limited fuel leakage during operation. Therefore, although these events should not cause fuel damage, preexisting leakage could still be a consideration, and only the activity in the reactor system coolant up to the technical specification limit would be available for release. The MSLB is considered the limiting event with respect to release of coolant activity from leaking fuel. The staff expects that the consequences of the MSLB would bound those that would be predicted for the control rod withdrawal error from power or the recirculation flow control error events. Thus, the minor discrepancies uncovered by the Petitioner in the documentation of the plant licensing basis do not constitute a safety concern requiring NRC action.

The licensee has taken actions to limit the effects of the minor fuel rod defects at River Bend reported on September 21, 1998. The control rod pattern has been altered to achieve a depressed flux profile in the vicinity of the leaking rods, thereby suppressing the production of fission products as the plant continues operation at slightly less than full power. Following the initial detection of a leaking rod, the licensee reduced the activity in the pretreatment offgas sample from 22.5 mCi/sec to 1.8 mCi/sec, which was very close to the prefuel-leak level of 1 mCi/sec. The peak value was never more than a small fraction of the technical specification limit of 290 mCi/sec. The offgas treatment system has been effectively eliminating any detectable radioactivity in offgas effluent, and only small dose rate increases were observed in areas of the plant in which offgas system components are located. Since work is not normally performed in those areas, the licensee did not institute any additional exposure controls. However, the licensee is continuing to closely monitor the offgas system to ensure that the coolant activity concentration remains within technical specifications limits.

d. ALARA Concerns

The Petitioner further stated that Entergy Operations, Inc., was violating its licensing basis with regard to the ALARA worker protection program (as stated):

> In addition to operating with non-bounding design bases accident analyses, it appears that the River Bend licensee is also violating its licensing basis for worker radiation protection. UFSAR Section 12.1.1, "Policy Consideration," stated:
>
> The purpose of the ALARA [as low as reasonably achievable] program is to maintain the radiation exposure of plant personnel as far below the regulatory limits as is reasonably achievable.
>
> UFSAR Section 12.1.2.1, "General Design Considerations for ALARA Exposures," stated that River Bend's efforts to maintain in-plant radiation exposure as low as is reasonably achievable included:
>
> Minimizing radiation levels in routinely occupied plant areas and in vicinity of plant equipment expected to require the attention of plant personnel.
>
> According to the NRC Information Notice No. 87–39, "Control of Hot Particle Contamination at Nuclear Plants:"
>
> A plant operating with 0.125 percent pin-hole fuel cladding defects showed a five-fold increase in whole-body radiation exposure rates in some areas of the plant when compared to a sister plant with high-integrity fuel (<0.01 percent leakers). Around certain plant systems the degraded fuel may elevate radiation exposure even more.
>
> Industry experience demonstrated that reactor operation with failed fuel cladding increased radiation exposures for plant workers. The River Bend licensee has a licensing basis requirement to maintain radiation exposures for plant workers as low as is reasonably achievable. The River Bend licensee informed the NRC about potential fuel cladding failures. It could shut down the facility and remove the failed fuel assemblies from the reactor core. Instead, it continues to operate the facility with higher radiation levels.

In its letter to the NRC dated February 11, 1999, the River Bend licensee stated that if the plant were to shut down solely to remove leaking fuel bundles, worker exposure would be increased since additional exposure would later be incurred for normal shutdown and maintenance activities. Also, during the February 22, 1999, informal public hearing on the Petition, the River Bend licensee stated that dose rates in the general plant areas are essentially unchanged and that the average daily dose to plant workers has remained at the historical level of approximately 0.14 person-rem per day during normal operations. River Bend has seen some increased levels in dose rates in isolated areas, such as in rooms containing offgas system equipment; however, these areas are not routinely occupied and access to the rooms are controlled by the health physics department. The licensee stated that if a 14-day outage were conducted to remove defective fuel bundles, the outage would incur a worker dose on the order of 9 person-rem for reactor disassembly, reassembly, and refueling activities. This exposure would be in addition to that incurred from activities planned for the scheduled refueling outage. The licensee contends that shutting down in this situation to replace leaking fuel would be an action contrary to ALARA. The staff agrees that conducting plant shutdown only to address the current situation at River Bend would be contrary to the ALARA principle for plant workers, provided exposure levels remain at their current values.

River Bend has two independent radiation-detection systems capable of sensing fission-product release from leaking fuel rods—main steam line radiation monitors and offgas system radiation monitors. The main steam line radiation monitors are used to detect high radiation levels from gross fuel failure. The offgas system radiation monitors can detect low-level emissions of noble gases, which are indicative of minor fuel damage. The offgas system monitor indication signaled the recent fuel damage found at River Bend.

The actions taken by the licensee to limit further fuel damage, as well as the continued attention to reactor coolant activity and offgas radiation levels, provide confidence that River Bend can continue safe operation, within its licensing basis, with the limited fuel leakage recently detected.

C. Plant-Specific Concerns—Perry Nuclear Power Plant

On the basis of the reported fuel leakage at Perry, the Petitioner states that the generic concerns contained in the UCS report apply to the Perry plant. In the opinion of the Petitioner, plant licensing bases do not permit operation of the plant with known fuel leakage.

As discussed in the consideration of generic safety concerns, the staff does not agree that pre-existing fuel cladding defects and resultant fuel leakage violate plant licensing bases. The staff also considers that conclusion valid for Perry. Fuel leakage during plant operation is not precluded by licensing basis provisions requiring that fuel integrity be maintained as designed. The Perry design basis itself allows the possibility of leakage while ensuring that cladding damage does not result because of specific operationally related causes. Fuel is also designed to

maintain its structural integrity to ensure core coolability and to ensure that control rods can be inserted.

The Updated Safety Analysis report (USAR) for Perry contains unacceptable consequences criteria for different event categories (USAR Tables 15A.2–1 through 15A.2–4). The unacceptable consequences for normal operation do not preclude fuel leakage. The second criterion listed precludes fuel failure to the extent that the limits of 10 CFR Part 20 would be exceeded. The unacceptable consequences for anticipated operational transients prohibit fuel failure predicted as a direct result of transient analysis. For abnormal transients and design-basis accidents, widespread fuel cladding perforations and fuel cladding fragmentation are prohibited.

Two parts of the fuel system licensing basis for Perry show that limited fuel leakage during plant operation is a design consideration. The fuel system design basis for Perry is given in the USAR Section 15B by reference to the generic topical report "General Electric Standard Application for Reactor Fuel," NEDE–24011–P–A. The generic topical report details fuel cladding operating limits to ensure that fuel performance is maintained within fuel rod thermal and mechanical design and safety analysis criteria. The limits are given for normal operating conditions and AOOs in terms of specific mechanical and thermal specifications. Evaluations of specific fuel failure mechanisms under normal operation and AOOs were discussed, such as stress and strain, hydraulic loads, fretting, and internal gas pressure, to ensure that fuel failure did not result from these causes. The design bases did not preclude the possibility that fuel failure could occur for other reasons, such as pre-existing cladding flaws leading to leakage.

The Technical Specifications for Perry (Section 3.4.8) contain a limit for RCS specific activity. The basis for this limit is the same as that discussed in the consideration of the generic safety concerns. Section B3.4.8 of the Perry Technical Specification "Bases" acknowledges that "the reactor coolant acquires radioactive materials due to release of fission products from fuel leaks." Thus, fission products released during plant operation are clearly considered to be contributors to the source term used for safety analysis of the main steamline break release consequences. The technical specifications state that the limit is set to ensure that any release as a consequence of a main steamline break is less than a small fraction of the 10 CFR Part 100 guidelines. These portions of the Perry licensing basis are consistent with NRC regulations regarding fuel performance and the associated NRC guidance used by licensees to implement those NRC regulations that were covered earlier in the discussion regarding generic concerns.

The licensee has taken actions to limit the effects of the existing minor fuel leaks at Perry. The control rod pattern has been altered to achieve a depressed flux profile in the vicinity of the leaking rods, thereby suppressing the production of fission products as the plant continues operation. The off-gas treatment system has been effectively eliminating radioactivity in off-gas effluent, and there has been no change in general radiation area dose rates. However, the licensee is continuing to closely monitor the off-gas system pre-treatment radiation levels and is ensuring that the coolant activity concentration remains within technical specifications limits.

Perry has two independent radiation detection systems capable of sensing fission product release from leaking fuel rods: main steamline radiation monitors and off-gas system radiation monitors. The main steamline radiation monitors are used to detect high radiation levels from gross fuel failure. The off-gas system radiation monitors can detect low-level emissions of noble gases, which are indicative of minor fuel damage.

In its letter to the NRC dated February 11, 1999, the Perry licensee stated that if the plant were to shut down solely to remove fuel bundles exhibiting leakage, plant worker exposure would be increased since additional exposure would later be incurred for normal shutdown and maintenance activities. The licensee contends that shutting down in this situation to replace leaking fuel would be an action contrary to ALARA. The staff agrees that conducting plant shutdown only to address the current situation at Perry would be contrary to the ALARA principle for plant workers, provided exposure levels remain at their current values.

The actions taken by the licensee to limit further fuel damage, as well as the continued attention to reactor coolant activity and off-gas radiation levels, provide confidence that Perry can continue safe operation, within its licensing basis, with the limited fuel leakage detected.

IV. Conclusion

The Petitioner's requests are denied for the reasons specified in the preceding sections that discuss the Petitioner's information supporting the request. The Petitioner did not submit any significant new information about safety issues. Neither the information presented in the Petition nor any other subsequent information of which the NRC is aware warrants the actions requested by the Petitioner.

A copy of this Director's Decision will be filed with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c). This Decision will become the final action of the Commission 25 days after its issuance unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 18th day of April 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10357 Filed 4–23–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 25–15

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 25–15, Notice of Change In Student's Status, is used to collect sufficient information from adult children of deceased Federal employees or annuitants to assure that the child continues to be eligible for payments from OPM.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection

techniques or other forms of information technology.

Approximately 2,500 certifications are processed annually. Each form takes approximately 30 minutes to complete. The annual estimated burden is 1250 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before June 25, 1999.

ADDRESSES: Send or deliver comments to Dennis A. Matteotti, Acting Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Phyllis R. Pinkney, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–10400 Filed 4–23–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

January 1999 Pay Adjustments

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The rates of basic pay and locality payments for certain categories of Federal employees were adjusted in January 1999, as authorized by the President. This notice documents those pay adjustments for the public record.

FOR FURTHER INFORMATION CONTACT: Denise Jenkins, Office of Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, (202) 606–2858, FAX (202) 606–0824, or email to payleave@opm.gov.

SUPPLEMENTARY INFORMATION: On December 7, 1998, the President signed Executive Order 13106 at 63 FR 68151, published on December 9, 1998, which established the January 1999 across-the-board adjustments for the statutory pay systems and the 1999 locality pay adjustments for General Schedule (GS) employees in the 48 contiguous States and the District of Columbia. These adjustments were made in accordance with section 647 of the Treasury and General Government Appropriations Act, 1999, as contained in Division A, section 101(h), of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277, October 21, 1998). The 1999 General Schedule, reflecting a 3.1 percent general increase, was published as Schedule 1 of Executive Order 13106. Executive Order 13106 also included the percentage amounts of the 1999 locality payments. (See Section 5 and Schedule 9 of Executive Order 13106.) The publication of this notice satisfies the requirement in section 5(b) of Executive Order 13106 that the Office of Personnel Management (OPM) publish appropriate notice of the 1999 locality payments in the **Federal Register**.

Locality payments are authorized for General Schedule employees under 5 U.S.C. 5304. They apply in the 48 contiguous States and the District of Columbia. In 1999, there are 32 separate locality pay areas with locality payments ranging from 5.87 percent to 13.06 percent. These 1999 locality pay percentages, which replaced the locality pay percentages that were applicable in 1998, became effective on the first day of the first applicable pay period beginning on or after January 1, 1999. An employee's locality-adjusted annual rate of pay is computed by increasing his or her scheduled annual rate of basic pay (as defined in 5 U.S.C. 5302(8) and 5 CFR 531.602) by the applicable locality pay percentage. (See 5 CFR 531.604 and 531.605.)

On December 7, 1998, the President's Pay Agent extended the 1999 locality-based comparability payments to the same Governmentwide and single-agency categories of non-GS employees that were authorized to receive the 1998 locality payments. The Governmentwide categories include members of the Senior Executive Service (SES), the Foreign Service, the Senior Foreign Service, employees in senior-level (SL) and scientific or professional (ST) positions, administrative law judges, and members of Boards of Contract Appeals.

In accordance with section 621 of the Treasury and General Government Appropriations Act, 1999, Executive Order 13106 provided no increase in the rates for the Executive Schedule. The Executive order reflects a decision by the President to increase the rates of basic pay for SES members by 3.1 percent (rounded to the nearest $100) at levels ES–1 through ES–4. Since the maximum rate of basic pay for SES members is limited by law to the rate for level IV of the Executive Schedule, which was not increased, the ES–5 and ES–6 rates of basic pay were not increased in 1999.

The rates of basic pay for administrative law judges (ALJs) and Board of Contract Appeals (BCA) members are calculated as a percentage of the rate for level IV of the Executive Schedule. (See 5 U.S.C. 5372 and 5372a.) Therefore, the ALJ and BCA rates of basic pay were not increased. Also, the maximum rate of basic pay for senior-level (SL) and scientific or professional (ST) positions was not increased because it is tied to the rate for level IV of the Executive Schedule. The minimum rate of basic pay for SL/ST positions is equal to 120 percent of the minimum rate of basic pay for GS–15, and it was increased by 3.1 percent (to $89,728) because of the 3.1 percent across-the-board GS pay adjustment. (See 5 U.S.C. 5376.)

OPM has published "Salary Tables for 1999" (OPM Doc. 124–48–6, March 1999), which provides complete salary tables incorporating the 1999 pay adjustments, information on general pay administration matters, locality pay area definitions, Internal Revenue Service withholding tables, and other related information. The rates of pay shown in "Salary Tables for 1999" are the official rates of pay for affected employees and are hereby incorporated as part of this notice. Copies of "Salary Tables for 1999" may be purchased from the Government Printing Office (GPO) by calling (202) 512–1800 or FAX (202) 512–2250. Copies of "Salary Tables for 1999" may also be ordered directly from GPO on the Internet at *http://www.gpo.gov/su_docs/sale/prf/prf.html*. In addition, pay tables may be downloaded from OPM's Internet website at *http://www.opm.gov/oca/payrates/index.htm*. Pay schedules also may be downloaded directly from OPM's electronic bulletin board, OPM ONLINE, which is reached by dialing (202) 606–4800 via modem.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–10402 Filed 4–23–99; 8:45 am]

BILLING CODE 6325–01–P

POSTAL SERVICE

Periodicals Rate Anomaly

AGENCY: Postal Service.

ACTION: Notice of procedure for periodicals rate anomaly.

SUMMARY: This notice will advise Periodicals mailers of Nonprofit and Classroom publications of a procedure that has been established by the Postal Service to track differences between

postage paid at Nonprofit and Classroom Periodicals rates on a mailing and postage that is calculated to be less at Regular Periodicals rates as a result of an anomaly in the rate structure. These procedures coincide with a request for a Recommended Decision, submitted by the Postal Service to the Postal Rate Commission, which will propose to amend the Domestic Mail Classification Schedule (DMCS) to allow Nonprofit and Classroom mailers to use Regular rates for issues for which the applicable postage would be lower under the Regular rate schedules.

EFFECTIVE DATE: April, 9, 1999.

ADDRESSES: Manager, Business Mail Acceptance, U.S.P.S. Headquarters, 475 L'Enfant Plaza SW, Washington, DC 20260–6808.

FOR FURTHER INFORMATION CONTACT: Jerome M. Lease, (202) 268–5188.

SUPPLEMENTARY INFORMATION: The procedure to be followed is similar to the pending procedures that exist for mailings of publications at Regular Periodicals rates while an application for special Periodicals privileges is pending action by the Postal Service. See Domestic Mail Manual (DMM) E270.8.0–9.0. The new procedures will allow the mailer to submit postage and a properly completed PS Form 3541–N, Postage Statement—Periodicals Nonprofit Rates, for mailings at nonprofit Periodicals rates (or PS Form 3541–NC, Postage Statement—Periodicals Classroom Rates, for Classroom), while simultaneously submitting a completed PS Form 3541–R, Postage Statement—Periodicals Regular and Science of Agriculture Rates, (annotated with the words "Pending Application") for postage computed at regular rates on the same mailing, if it is determined to be less than nonprofit postage. At the time of mailing, postage will be paid as computed on the appropriate Nonprofit or Classroom mailing statement. If the proposed DMCS change is implemented, subsequent to a Recommended Decision by the Postal Rate Commission and a decision by the Governors, instructions will be issued to grant refunds to publishers for mailings for which an application and both relevant mailing statements were submitted at the time of mailing, and for which the Nonprofit or Classroom postage paid was higher than the otherwise applicable Regular postage. For these purposes, an application will consist of a written statement that the mailer is currently authorized to use either Classroom or Nonprofit Periodicals rates and wishes to retain that authorization, but also wishes to be considered under these procedures for a refund to be calculated with reference to the Regular and preferred rate mailing statements submitted with the application. Once such a DMCS change is implemented, Nonprofit and Classroom mailers will be able to pay postage initially at the Regular Periodicals rates, and this procedure for determining subsequent refunds will no longer be necessary.

In general, all mailings of the same issue are expected to be uniformly entered, either with an application for a subsequent refund (i.e., so that the mailer ultimately may pay the Regular rate), or without an application for a subsequent refund (i.e., so that the mailer pays the Nonprofit or Classroom rates). Within any 10-day period, mailers are not allowed to split mailings of the same issue in order to obtain a rate advantage. During the time the procedures are in effect, it may be possible that a publisher will wish to present an application for a subsequent refund for a mailing (or mailings) which constitute the main run of an issue, but will not wish to submit a similar application for a later supplementary mailing of the same issue. This might occur if the Regular Periodicals rates were lower for the main run mailing(s), but the Nonprofit rates were lower for a supplementary mailing because, for example, the depth of sort was not comparable to the original mailing. The only circumstances under which this would be permissible would be if no mailing of copies of the same issue had been submitted with an application for refund on the date of mailing or in the previous 9 days. If mailers submit a mailing of copies of an issue without a refund application, and have on the same day or within the previous 9 days submitted a mailing of copies of the same issue with a refund application, the refund application will be denied.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 99–10281 Filed 4–23–99; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23791; 812–11028]

American AAdvantage Funds, et al.; Notice of Application

April 19, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under section 12(b)(1)(J) of the Investment Company Act of 1940 ("Act") exempting applicants from section 12(d)(1) of the Act, sections 6(c) and 17(b) of the Act exempting applicants from section 17(a) of the Act, and section 17(d) of the Act and rule 17d–1 under the Act permitting certain joint transactions.

Summary of Application: The order would permit certain registered open-end investment companies to use their cash reserves ("Uninvested Cash") to purchase shares of affiliated money market funds and to use cash collateral from securities lending transactions ("Cash Collateral") to purchase shares of affiliated money market funds or affiliated private investment funds. The order also would permit certain registered investment companies to pay fees based on a share of the revenue generated from securities lending transactions to an affiliated lending agent. The order would supersede a prior order ("Prior Order").[1]

Applicants: American AAdvantage Funds (the "AAdvantage Trust"), American AAdvantage Mileage Funds (the "Mileage Trust" and, together with the AAdvantage Trust, the "American Trusts"), AMR Investment Service Trust (the "AMR Trust" and, together with the American Trusts, the "Trusts"), AMR Investments Strategic Cash Business Trust (the "Strategic Cash Trust"), AMR Investments Enhanced Yield Business Trust (the "Enhanced Yield Trust" and, together with Strategic Cash Trust, the "Private Funds"), and AMR Investment Services, Inc. (the "Adviser").

Filing Dates: The application was filed on February 25, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 13, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

[1] American AAdvantage Funds, Investment Company Act Release Nos. 22336 (Nov. 15, 1996) (notice) and 22390 (Dec. 11, 1996) (order).

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, 4333 Amon Carter Boulevard, MD 5645, Fort Worth, Texas 76155.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, at (202) 942–7120, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The AAdvantage Trust and the Mileage Trust are Massachusetts business trusts registered under the Act as open-end management investment companies. The AAdvantage Trust and the Mileage Trust each have nine series (each series, individually, a "Fund" and, collectively, "Funds"). Under a master-feeder operating structure, each Fund, with one exception, invests its investable assets in a corresponding series ("Portfolio") of the AMR Trust, a New York common law trust registered under the Act as an open-end management investment company.[2] The AMR Trust currently consists of eight Portfolios. The AMR Trust sells its shares to the AAdvantage Trust, the Mileage Trust, and other institutions pursuant to section 4(2) of the Securities Act of 1993. State Street Bank and Trust Company ("State Street") serves as custodian ("Custodian") for the assets for each Trust, and each Trust has the same board of trustees ("Board").

2. The Private Funds, both organized as Massachusetts business trusts, are private investment companies relying on section 3(c)(1) of the Act. The Private Funds offer daily redemption of their shares. The Strategic Cash Trust values its portfolio using the amortized cost method and complies with the requirements of rule 2a–7 under the Act. The Enhanced Yield Trust seeks to achieve its objective by investing in high quality money market instruments and variable rate obligations and maintains a maximum average maturity of its portfolio of not more than one year.

3. The adviser, a wholly-owned subsidiary of AMR Corporation, the parent corporation of American Airlines, Inc., is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser serves as investment adviser and provides administrative services to the AMR Trust, and provide administrative services to the American Trusts.[3] The Adviser also serves as sole trustee to the Private Funds.

4. Each of the Portfolios has, or may be expected to have, Uninvested Cash held by its Custodian. Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions, dividend payments, or new monies received from investors.

5. Applicants propose that the Portfolios use Uninvested Cash to purchase shares of one or more existing or future money market series of AMR Trust, or any other money market fund advised by the Adviser ("Money Market Portfolios") (each Portfolio, including a Money Market Portfolio, that purchases shares of the Money Market Portfolios, an "Investing Portfolio"). An Investing Portfolio's aggregate investment of Uninvested Cash in Money Market Portfolios will not exceed 25% of the Investing Portfolio's total assets and will be in accordance with the Investing Portfolio's investment restrictions and policies described in its prospectus and statement of additional information.

6. Each Fund, through its corresponding Portfolio, has the ability to increase its income by lending portfolio securities to registered broker-dealers or other institutional investors deemed by the Adviser to be of good standing ("Borrowers"). Under the Prior Order, the Trusts may invest Cash Collateral received from Borrowers in Private Funds. Applicants now seek an order that would supersede the Prior Order and permit the Investing Portfolios to invest Cash Collateral in shares of the Money Market Portfolios or the Private Funds or any future private fund advised by the Adviser (together, the "Underlying Funds"). No Money Market Portfolio that is an Investing Portfolio will be an Underlying Fund.

7. Pursuant to a securities lending agreement ("Securities Lending Agreement"), State Street, which currently is not affiliated with the Adviser or any affiliate of the Adviser, acts as the securities lending agent for each Portfolio ("Securities Lending Program"). A majority of the Board of each Trust (including a majority of the trustees who are not "interested persons" within the meaning of the Act) ("Independent Trustees") approved the participation of the Portfolios in the Securities Lending Program and will review the program annually.

8. As collateral for the securities loaned, State Street is authorized to accept cash and, upon consent of the Portfolio, may accept other types of instruments such as U.S. Government securities or irrevocable letters of credit. Under the Securities Lending Agreement, Cash Collateral may be invested in shares of registered or unregistered investment companies that are approved by the Board and are consistent with the investment restrictions and guidelines of the participating Portfolios (except as the investment may be limited by section 12(d)(1) of the Act).

9. The Adviser provides certain services in connection with the Securities Lending Program and ensures compliance with applicable regulatory and investment guidelines. The Adviser determines which securities are available for loan and has the discretion and power to prevent any loan from being made or to terminate any loan. The Adviser also monitors State Street to ensure that securities loans are effected in accordance with its instructions and within the procedures adopted by the Board of the AMR Trust.

10. Each Portfolio earns interest and dividend income from the investment of Cash Collateral ("Cash Collateral Income"), from which it pays the Borrower an agreed-upon fee. The Portfolio then splits the remaining Cash Collateral Income with State Street and the Adviser.[4] When the collateral is not cash, the Borrower pays the Portfolio a loan fee equal to a percentage of the market value of the loaned securities and State Street receives a portion of the loan fee as compensation for its services in connection with the Securities Lending Program.

[2] The American AAdvantage S&P Index Fund invests all of its investable assets in the Equity 500 Index Portfolio, a registered open-end investment company advised by Bankers Trust Company.

[3] Applicants request relief for the Trusts, and all subsequently registered open-end investment companies that are advised by the Adviser or any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with the Adviser. All existing investment companies that currently intend to rely on the order have been named as applicants. Any entities that rely on the requested order in the future will do so in accordance with the terms and conditions in the application.

[4] Applicants state that this compensation to the Adviser is for services provided in connection with the Securities Lending Program pursuant to a supplement to the investment advisory agreement for each Trust approved in accordance with section 15 of the Act.

11. State Street also acts as securities lending agent for other institutions that loan their portfolio securities. State Street may purchase shares of the Underlying Funds on behalf of, and with Cash Collateral from, these institutions. As a result, State Street may hold directly or through a nominee more than 5% of the outstanding shares of an Underlying Fund and thus could be an affiliated person (or an affiliated person to an affiliated person) of the Portfolios. Accordingly, applicants request relief to permit the Portfolios to pay fees based on a share of the revenue generated from securities lending transactions to State Street when it becomes an affiliated person solely by holding more than 55 of the shares of an Underlying Fund.

Applicant's Legal Analysis

A. Investment of Uninvested Cash and Cash Collateral in Money Market Portfolios and Private Funds

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company representing more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or, together with the securities of other investment companies, more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the SEC many exempt any person or transaction from any provision of section 12(d)(1) if and to the extent that the exemption is consistent with the public interest and the protection of investors.

3. Applicants request an exemption under section 12(d)(1)(J) to permit each Investing Portfolio to use Uninvested Cash and Cash Collateral to acquire shares of a Money Market Portfolio in excess of the limits imposed by section 12(d)(1)(A) of the Act, so long as the Investing Portfolio's aggregate investment of Uninvested Cash in shares of Money Market Portfolios does not exceed 25% of the Investing Portfolio's total assets at any time. Applicants' proposal also would permit the Money Market Portfolios to sell their securities to an Investing Portfolio in excess of the percentage limitations in section 12(d)(1)(B). Applicants represent that no Money Market Portfolio which is an Underlying Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

4. Applicants state that none of the abuses meant to be addressed by section 12(d)(1) of the Act is created by the proposed investment of Uninvested Cash and Cash Collateral in Money Market Portfolios. Applicants further state that access to the Money Market Portfolios and Private funds will enhance each Investing Portfolio's ability to manage and invest Uninvested Cash and Cash Collateral. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because the Money Market Portfolios and Private Funds will not charge a sales load, redemption fee, distribution fee adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers, Inc. ("NASD") conduct Rules). In addition, in connection with approving any advisory contract, the Investing Portfolio's Board, including a majority of the Independent Trustees, will consider to what extent, if any, the advisory fees charged to the Investing Portfolio by the Adviser should be reduced to account for reduced services provided when Uninvested Cash is invested in Money Market Portfolios.

5. Sections 17(a)(1) and 17(a)(2) of the Act prohibit an affiliated person of a registered investment company, or any affiliated person of the affiliated person ("Second Tier Affiliate"), acting as principal, from selling any security to, or purchasing any security from the registered investment company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include: any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; any person directly or indirectly controlling, controlled by, or under common control with, the other person; and, in the case of an investment company, its investment adviser.

6. Applicants state that the Adviser, by serving as investment adviser to the Funds, Portfolios, and Private Funds, is an affiliated person of each of these entities and that, by virtue of having the same Adviser, the Funds, Portfolios, and Private Funds may be considered affiliated persons of each other under section 2(a)(3) of the Act. As a result, the sale of shares of Money Market Portfolios and Private Funds to the Investing Portfolios and the redemption of the shares would be prohibited under section 17(a) of the Act.

7. Section 17(b) of the Act authorizes the SEC to exempt a transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

8. Section 6(c) of the Act authorizes the SEC to exempt any person or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

9. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Investing Portfolios to use their Invested Cash to purchase shares of the Money Market Portfolios and to use their Cash Collateral to purchase shares of the Underlying Funds and to permit the redemption of the shares. Applicants maintain that the terms of the proposed transactions are reasonable and fair because the Investing Portfolios will be treated like any other investors in the Money Market Portfolios and Private Funds, and will purchase and sell shares on the same terms and on the same basis as shares are purchased and sold by all other shareholders of the Money Market Portfolios and Private Funds. Applicants assert that the proposed transactions comply with each Portfolio's investment restrictions and policies. Applicants state that Cash Collateral of an Investing Portfolio that is a Money Market Portfolio will not be used to acquire shares of any Private Fund that does not comply with rule 2a–7 under the Act. Applicants further state that the investment of Cash Collateral will comply with all present and future SEC and staff positions concerning securities lending. Applicants also state that the Private Funds will comply with the major substantive provisions of the Act, including the prohibitions against affiliated transactions, leveraging and issuing senior securities, and rights of redemption.

10. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person or principal underwriter for a registered investment company, or a Second Tier Affiliate,

acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, without an order of the SEC.

11. Applicants state that, upon acquiring 5% or more of an Underlying Fund, State Street could become an affiliated person or a Second Tier Affiliate of the Portfolio. Applicants also state that the Investing Portfolios (by purchasing shares of the Money Market Portfolios and Private Funds), the Adviser (by managing the assets of the Investing Portfolios invested in the Money Market Portfolios and Private Funds), and the Money Market Portfolios and Private Funds (by selling shares to and redeeming them from the Investing Portfolios) could be deemed to be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d) of the Act and rule 17d–1 under the Act. Applicants request an order in accordance with section 17(d) and rule 17d–1 to permit certain transactions incident to investment in the Money Market Portfolios and the Private Funds.

12. Under rule 17d–1, in passing on applications for orders under section 17(d), the SEC considers whether the company's participation in the joint enterprise is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet these standards.

13. Applicants state the investment by the Investing Portfolios in shares of Money Market Portfolios and Private Funds will be on the same basis and will be indistinguishable from any other shareholder account maintained by the Money Market Portfolios and Private Funds. Applicants also maintain that, to the extent any of the Investing Portfolios invests in the Money Market Portfolios and Private Funds as proposed, each Investing Portfolio will participate on a fair and reasonable basis in the returns and expenses of the Money Market Portfolios and Private Funds.

B. Payment of Lending Agent Fees to State Street

1. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving registered investment companies and certain of their affiliates unless the SEC has approved the transaction. Applicants state that State Street may hold with power to vote 5% or more of an Underlying Fund's shares and, thus, may be an affiliated person or a Second Tier Affiliate of the Portfolios. Applicants further state that a lending agent agreement between the Portfolios and State Street, under which compensation is based on a share of the revenue generated by State Street's lending agent activities, may be a joint enterprise or other joint arrangement or profit sharing plan within the meaning of section 17(d) and rule 17d–1. Consequently, applicants request an order to permit State Street, if it becomes an affiliated person of the Portfolios solely by holding over 5% of the shares of an Underlying Fund, to receive a portion of the revenue generated by the Investing Portfolios' securities lending activities.

2. Applicants represent that in no event will the Investing Portfolios' lending fee arrangement with State Street be influenced by State Street's investment of its client's Cash Collateral in the Underlying Funds. Each Portfolio that has entered into the Securities Lending Program ("Lending Portfolio") also has adopted the following procedures to ensure that the proposed fee arrangement and other terms governing the relationship with State Street, as lending agent, met the standards of rule 17d–1:

(a) In connection with the approval of State Street as lending agent for a Lending Portfolio and implementation of the arrangement whereby State Street would be compensated as lending agent based on a percentage of the revenue generated by a Lending Portfolio's participation in the Securities Lending Program, a majority of the Board (including a majority of the Independent Trustees) determined that (i) the contract with State Street was in the best interests of the Lending Portfolio and its shareholders; (ii) the services to be performed by State Street were appropriate for the Lending Portfolio; (iii) the nature and quality of the services provided by State Street were at least equal to those provided by others offering the same or similar services for similar compensation; and (iv) the fees for State Street's services were fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

(b) Each Lending Portfolio's contract with State Street for lending agent services will be reviewed annually by the Board and will be approved for continuation only if a majority of the Board (including a majority of the Independent Trustees) makes the findings referred to in paragraph (a) above.

(c) In connection with the initial implementation of the agreement whereby State Street would be compensated as lending agent based on a percentage of the revenue generated by a Lending Portfolio's participation in the Securities Lending Program, the Adviser obtained price quotes from at least three independent lending agents and presented the Board with summary information regarding the proposed securities lending arrangements and related price quotes to assist the Board in making the findings referred to in paragraph (a) above. All of the information provided to the Adviser, including each price quote, was available to the Board. The findings and the basis upon which the findings were made are set forth in the amended minutes of the meeting held to consider the arrangement with State Street and will be maintained as part of the books and records described in paragraph (e) below.

(d) The Board, including a majority of the Independent Trustees, will: (i) at each regular quarterly meeting determine that the loan transactions during the prior quarter were conducted in compliance with the conditions and procedures set forth in the application, and (ii) review no less frequently than annually the conditions and procedures set forth in the application for continuing appropriateness.

(e) Each Lending Portfolio will: (i) Maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and modifications thereto) described in the application or otherwise followed in connection with lending securities under the Securities Lending Program, and (ii) maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan transaction under the Securities Lending Program occurred, the first two years in an easily accessible place, a written record of each loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, and the terms of the loan transaction. In addition, each Lending Portfolio will maintain all information or materials upon which a determination was made that each loan was made in accordance with the procedures set forth above and the conditions to the application.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions.

Securities Lending Program

1. Before a Portfolio may participate in the Securities Lending Program, a majority of the Board, including a majority of the Independent Trustees, will approve of the Portfolio's participation in the Securities Lending Program. Such trustees also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Underlying Funds is in the best interest of the shareholders of the Funds and their corresponding Portfolios.

2. Cash Collateral of the Money Market Portfolios will not be used to acquire shares of any Private Fund that does not comply with the requirements of rule 2a–7 under the Act.

3. The approval of an Investing Portfolio's Board, including a majority of the Independent Trustees, will be required for the initial and subsequent approvals of State Street's service as lending agent for the Investing Portfolios under the Securities Lending Program, for the institution of all procedures relating to the Securities Lending Program as it relates to the Investing Portfolios, and for any period review of loan transactions for which State Street acts as lending agent under the Securities Lending Program.

4. The Securities Lending Program of each Portfolio will comply with all present and future applicable SEC and staff positions regarding securities lending arrangements.

Private Funds

5. The Private Funds will comply with the requirements of sections 17(a), (d), (e), and 18 of the Act as if the Private Funds were registered open-end investment companies. With respect to all redemption requests made by a Lending Portfolio, the Private Funds will comply with section 22(e) of the Act. The Adviser, as sole trustee of the Private Funds, will adopt procedures designed to ensure that the Private Funds comply with sections 17(a), (d), (e), 18 and 22(e) of the Act. The Adviser will periodically review and periodically update as appropriate such procedures and will maintain books and records describing such procedures, and maintain the records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii) and 31a–1(b)(9) under the Act. All books and records required to be made pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the SEC and its staff.

6. The Strategic Cash Trust, which will use the "amortized cost method" of valuation as defined in rule 2a–7 under the Act, will comply with rule 2a–7. With respect to the Strategic Cash Trust, the Adviser will adopt and monitor the procedures described in rule 2a–7(c)(7) under the Act and will take such other actions as are required to be taken under those procedures. The Investing Portfolios may only purchase shares of the Strategic Cash Trust using the amortized cost method of valuation if the Adviser determines on an ongoing basis that the Strategic Cash Trust is in compliance with rule 2a–7. The Adviser will preserve for a period of not less than six years from the date of determination, the first two years in an easily accessible place, a record of the determination and the basis upon which the determination was made. This record will be subject to examination by the SEC and its staff.

7. Each Lending Portfolio will purchase and redeem shares of the Private Funds as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the Private Funds. A separate account will be established in the shareholder records of each Private Fund for the account of each Lending Portfolio.

8. The net asset value per share with respect to shares of the Private Funds will be determined separately for each Private Fund by dividing the value of the assets belonging to that Private Fund, less the liabilities of that Private Fund, by the number of shares outstanding with respect to that Private Fund.

Other Conditions

9. Investment of Uninvested Cash in the Money Market Portfolios and Cash Collateral in the Underlying Funds will be in accordance with each Portfolio's respective investment restriction, if any, and will be consistent with its corresponding Fund's policies as recited in such Fund's prospectuses and statements of additional information.

10. Shares of the Money Market Portfolios and Private Funds will not be subject to a sales load, redemption fee, distribution fee adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules).

11. Before the next meeting of the Board of an Investing Portfolio is held for the purpose of voting on an advisory contract under section 15 of the Act, the Adviser will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory fee attributable to, managing the Uninvested Cash of the Investing Portfolio that can be expected to be invested in the Money Market Portfolio. In connection with approving any advisory contract for an Investing Portfolio, the Board of the Investing Portfolio, including a majority of the Independent Trustees, will consider to what extent, if any, the advisory fees charged to the Investing Portfolio by the Adviser should be reduced to account for reduced services provided to the Investing Portfolio by the Adviser as a result of Uninvested Cash being invested in the Money Market Portfolio. The minute books of the Investing Portfolio will record fully the Board's consideration in approving the advisory contract, including the considerations referred to above.

12. Each Investing Portfolio will invest Uninvested Cash in, and hold shares of, the Money Market Portfolios only to the extent that the Investing Portfolio's aggregate investment in the Money Market Portfolios does not exceed 25% of the Investing Portfolio's total assets.

13. Each Investing Portfolio, each Money Market Portfolio, and any future Portfolio that may rely on the order will be advised by the Adviser, or a person controlling, controlled by, or under common control with the Adviser.

14. No Money Market Portfolio or Private Fund that is an Underlying Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)A) of the Act.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10309 Filed 4–23–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 26,1999.

A closed meeting will be held on Wednesday, April 28, 1999, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries

will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, April 28, 1999, at 11:00 a.m., will be:

Institution and settlement of administrative proceedings of an enforcement nature

Institution and settlement of injunctive actions

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: April 22, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10563 Filed 4–22–99; 3:56 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41303; File No. SR–GSCC–99–01]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Granting Approval of Proposed Rule Change Regarding the Expansion of GSCC's GCF Repo Service

April 16, 1999.

On January 27, 1999, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission"), and on February 11, 1999, amended [1] the proposed rule change (File No. SR–GSCC–99–01) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[2] Notice of the proposed rule change was published in the **Federal Register** on February 17, 1999.[3] The Commission received one comment letter in response to the proposed rule change.[4] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The GCF Repo service allows GSCC members that are not interdealer brokers to trade general collateral repos involving U.S. Government securities throughout the day without requiring trade for trade settlement on a delivery versus payment ("DVP") basis.[5] This change expands GSCC's GCF Repo service to allow participating dealers to engage in GCF Repo trading with participating dealers that use different clearing banks.[6]

Currently, not all of GSCC's dealer members clear at the same bank. As a result of free and unrestricted trading among all GSCC members, on any particular business day net securities and cash positions with respect to GFC Repo transactions will most likely not balance within each GFC Repo clearing bank. That is, the net securities borrowed position will not match the net securities loaned position across dealers intrabank.

GSCC has been discussing with the staff of the Federal Reserve Bank of New York ("FRBNY") and the Board of Governors of the Federal Reserve System ("Board of Governors") the possibility of reopening the securities Fedwire for a brief period of time after the normal 3:30 p.m. close to accomplish after-hours DVP movement of securities between the GFC Repo clearing banks. However, GSCC understands that an after-hours DVP window cannot be established until FRBNY completes its Year 2000 systems changes and the Board of Governors issues a proposal for public comment to help determine if establishing such a window is in the public interest.

As a result, GSCC and its two clearing banks, The Bank of New York ("BONY") and The Chase Manhattan Bank ("Chase"), have agreed to establish a mechanism to permit after-hours movements of cash and securities between the two clearing banks. Each clearing bank will establish a special clearance account in the name of GSCC to be used exclusively to effect this after-hour movement of securities. At the end of each business day, GSCC will establish the net GCF Repo settlement position and collateral allocation obligation or entitlement for each participating dealer with respect to each generic CUSIP number, and each clearing bank will make all possible internal cash and securities GCF Repo deliveries between GSCC and the dealers that clear at that bank. At this stage, the dealers that clear through one of the two banks will be in an aggregate net funds borrower position and aggregate net short securities position. The dealers that clear through the other bank will be in an aggregate net funds lender position and aggregate net long securities position.

GSCC will establish on its own books and records two "securities accounts" as defined in Article 8 of the New York Uniform Commercial Code ("NYUCC"): one in the name of Chase and one in the name of BONY. The Chase securities account will be comprised of the securities in GSCC's special clearance account maintained by BONY, and the BONY securities account will be comprised of the securities in GSCC's special clearance account maintained by Chase. GSCC will appoint Chase as its agent to maintain GSCC's books and records with respect to the BONY securities account, and GSCC will appoint BONY as its agent to maintain GSCC's books and records with respect to the Chase securities account.

The securities accounts will enable the bank that is in the net long securities position to receive securities after the close of the securities Fedwire. Once the bank has received the securities, it will credit them by book-entry movement to a GSCC account and then to the dealers that clear at that bank that are net long securities. The establishment of the securities accounts by GSCC also will give each clearing bank a "securities entitlement" under Article 8 of the NYUCC and the comfort of relying on GSCC as its "securities intermediary" as defined in Article 8 of the NYUCC.

As an example, assume that after all intrabank cash and securities movements, the dealers that clear through Chase are in an aggregate net funds borrow/short securities position and the dealers that clear through BONY are in an aggregate net funds lender/long securities position. GSCC will then instruct Chase to allocate to the special GSCC clearance account at Chase securities in an amount equal to the net

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[1] The February 11, 1999, amendment represents a technical amendment to the proposed rule change and as such does not require republication of notice.

[2] 15 U.S.C. 78s(b)(1).

[3] Securities Exchange Act Release No. 41022 (February 5, 1999), 64 FR 7932.

[4] Letter from Scott C. Rankin, Assistant General Counsel, The Bond Market Association (March 10, 1999).

[5] For a detailed description of the GFC Repo Service, refer to Securities Exchange Act Release No. 40623 (October 30, 1998) 63 FR 59831 (November 5, 1998) [File No. SR–GSCC–98–02] (order approving proposed rule).

[6] Currently, there are two banks approved by GSCC to provide GCF Repo settlement services. In the future, other banks that GSCC in its sole discretion determines to have met its operational requirements may be approved to provide GCF Repo settlement services.

short securities position. Chase will then transmit to BONY a description of the securities in the BONY securities account (which will be the same securities as in the GSCC special clearance account at Chase). Based on this transmission, BONY will transfer funds equal to the aggregate net funds borrowed position to a demand deposit account in the name of GSCC that is maintained by Chase. Upon Chase's receipt of the funds, Chase will release any liens it may have on the securities in the special GSCC clearance account, and GSCC will release any liens it may have on the securities in the BONY securities account (which accounts are comprised of the same securities). BONY will credit the securities in the BONY securities account to GSCC's regular GCF Repo clearance account at BONY and to the dealers that clear at BONY that are in a net long securities position.

All securities and funds movements occurring on a particular business day between the participating clearing banks will be reversed the next business day within a timeframe established by GSCC and the clearing banks. This timeframe will correspond to the timeframe already established by GSCC's Rule 20 for the reversal of GCF Repo transactions between GSCC and its participating netting members.

II. Comment Letters

The Commission received one comment letter.[7] The Bond Market Association ("Association") supports the approval of the proposed rule change because the Association believes the change would provide a wide array of market participants with an increased flexibility in satisfying their funding needs as well as the funding needs of their customers.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule change is consistent with these obligations. The proposed rule change should increase the number of transactions that can be cleared through the GCF Repo service and therefore should facilitate the prompt and accurate clearance and settlement of general collateral repo transactions by increasing the number of such transactions that are cleared and settled through the facilities of GSCC. In addition, the Commission believes the procedures and arrangements GSCC has established for the movements between GSCC's clearing banks of securities and funds related to GCF Repo transactions should help to assure the safeguarding of securities and funds which are in GSCC's custody or control or for which it is responsible.

[7] *Supra* note 4.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–99–01) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10308 Filed 4–23–99; 8:45 am]

BILLING CODE 8010–01–M

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41311; File No. SR–NASD–99–15]

Self-Regulatory Organization; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the National Adjudicatory Council's Call for Review of Membership Decisions

April 20, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 19, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. On April 16, 1999, the NASD filed an amendment to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Change

The NASD is proposing to amend NASD Rule 1015 to temporarily suspend the authority of the NAC to call for review membership decisions issued by district staff. The text of the proposed rule change is available at the NASD Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Association included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to temporarily suspend the NAC's authority under NASD Rule 1015 to call for review of membership decisions while the Association considers other options for review of the membership admittance process. Currently, NASD Rule 1015(a)(2) provides that a membership decision rendered by the Department of Member Regulation shall be subject to a call for review by the NAC. Since the Association has not been able to adequately implement this authority, it proposes to suspend NAC review of membership decisions from the date of approval by the Commission until October 31, 1999, for the reasons set forth below.

[3] *See* letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission (April 16, 1999) ("Amendment No. 1"). In Amendment No. 1, the NASD changes the date the suspension of the national Adjudicatory Council's ("NAC's") call for review of membership decisions will end from June 1, 1999 to October 31, 1999. In Amendment No. 1, the NASD also deletes a description of the activities and composition of the Membership Admissions Review Committee.

In August 1997, the SEC approved substantial revisions to the Rule 1010 Series [4] to conform the rules to the requirements of the SEC's August 8, 1996, Order with respect to the NASD ("Order").[5] One of the main changes required by the order was a transfer of authority to render decisions on membership applications from the district business conduct committees to NASD Regulation staff, subject to appeals by applicants to the National Business Conduct Committee ("NBCC"), the NAC's predecessor.

The Association asserts that during consideration of the revisions to the NASD Rule 1010 Series in 1997, the NBCC requested that a call for review provision for the NBCC be included in the Rule 1010 Series so that members would have a mechanism to provide input on membership decisions. The NBCC was not particularly concerned with decisions to deny or restrict an applicant because such applicants would have a strong incentive to appeal if they believed that the rules had been inconsistently applied. The NBCC was primarily concerned about decisions to grant applications without restriction. The successful applicant would have no basis or incentive to appeal the decision, and the NBCC was concerned that there would not be a mechanism to review the decision if a review appeared to be warranted. Thus, the Association submitted a proposed rule change including the call for review authority in November 1977 which the Commission approved in December 1997.[6]

Since receiving Commission approval, the Association has encountered significant practical problems in implementing this call for review authority. As of November 30, 1998, approximately 1100 membership decisions—including new member application decisions under NASD Rule 1014, decisions to modify or remove a business restriction under NASD Rule 1017, and decisions on continuing member applications under NASD Rule 1018—have been issued under the new membership rules. While the Association has tried several procedures to implement the call for review authority for these decisions, it does not believe that any of these procedures has been particularly effective. For example, reading the decisions, without review of the entire file, has not proven to be useful. The NASD also believes that it would be duplicative of district staff work and inefficient to review every record in its entirety to determine if it supports the decision. While NASD Regulation staff has found that decisions that deny or restrict an applicant appear to be well-supported by their rationale (in most districts the district director (often a vice president) reviews such decisions before issuing them), the process does not work for decisions that grant a membership application without restriction because they do not contain rationale for the district staff's membership determination. Instead they simply state that the applicant has met all applicable standards. Unlike a call for review of a regular disciplinary decision under the NASD Rule 9000 Series, there is no hearing panel vote and decision that might indicate a close or difficult issue.

The Association also contemplated limiting the number of staff decisions to be considered for a call for review by focusing the process on certain categories of decisions, such as only new member application decisions or certain types of business expansions. The NASD determined, however, that such a procedure might be perceived as biased against those firms that fell within a selected category.

Only one decision has been called for review by the NAC. This decision involved a new issue about the appropriate use of unadjudicated violations and an interpretation of an SEC order against an applicant. The staff believes that the issues raised in this call for review could have been resolved by consultation with the Office of General Counsel ("OGC") prior to the issuance of the district decision and by the issuance of guidelines to district staff on the appropriate consideration of unadjudicated matters in rendering a decision on a membership application.

After discussing the matter with staff, members, and practitioners, the Association has concluded that it is not possible yet to implement a fair and effective call for review mechanism for all Rule 1010 Series decisions. In view of this determination, the NAC and the Board agreed to propose temporary suspension of the NAC's call for review authority until the Association has more fully reviewed the NASD Rule 1010 Series in its entirety, including the role of the NAC in that process.

The Association proposes to make the proposed rule change effective upon approval by the Commission and remain effective until October 31, 1999.

(2) Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(8) of the Act,[7] which requires, among other things, that the Association's rules must be designed to provide fair procedures for the denial of membership to any person seeking membership therein. According to the NASD, the proposed rule change would not result in any change to a membership applicant's ability to seek NAC review of a membership decision and thus in no way prejudices a membership applicant's rights under the NASD Rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Person making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

[4] Securities Exchange Act Release No. 38908 (Aug. 7, 1997), 62 FR 43385 (Aug. 13, 1997).

[5] Securities Exchange Act Release No. 37538 (Aug. 8, 1996) (SEC Order Instituting Public Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, In the Matter of national Association of Securities Dealers, Inc.).

[6] Securities Exchange Act Release Nos. 39350 (Nov. 21, 1997), 62 FR 64000 (Dec. 3, 1997), (File No. SR–NASD–97–81) and 39470 (Dec. 19, 1997), 62 FR 67927 (Dec. 30, 1997), respectively.

[7] 15 U.S.C. 78*o*–3(b)(8).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of NASD Regulation. All submissions should refer to File No. SR–NASD–99–15 and should be submitted by May 17, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10423 Filed 4–23–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41307; File No. SR–PCX–99–09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Customer Transaction Charges and On-Line Comparison Charges

April 16, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to change its Schedule of Fees and Charges for Exchange Services by eliminating customer transaction charges[3] for Pacific Options Exchange Trading System ("POETS")[4] automated executions and modifying its on-line comparison charges. The text of the proposed rule change is available at the Office of the Secretary, PCX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background. Currently, the Exchange charges a customer transaction fee of $0.12 per contract for trade-related transactions, including POETS automated executions (*i.e.*, market and marketable limit orders transacted through POETS). The Exchange also charges an on-line comparison charge of $0.25 per trade plus $0.025 per contract for all trades.

Proposal. With regard to customer transaction charges, the Exchange proposes to eliminate the transaction charge of $0.12 per contract on all customer POETS automated executions until such time that Exchange technology can modify the billing system to allow for transaction charges to be applied based on order size (*i.e.*, $0.00 for orders of 30 contracts or less). The Exchange proposes this change to remain competitive in the market place.

With regard to on-line comparison charges, the Exchange proposes to change its on-line comparison charges to $0.05 per contract and to eliminate the per trade charge of $0.25. The Exchange proposes these changes in an effort to simplify the fee schedule and remain competitive.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(4) of the Act,[6] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organizations' Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f) of Rule 19b–4 thereunder.[8] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange represents that customer transaction charges are fees charged to members. As a result, the Commission notes that, as this filing relates exclusively to member fees this proposed rule change is properly filed under Section 19(b)(3)(A)(ii) of the Act. 15 U.S.C. 78s(b)(3)(A)(ii).

Telephone conversation between Robert P. Pacileo, Staff Attorney, Regulatory Policy, PCX, and Joseph P. Morra, Attorney, Division of Market Regulation, Commission, on April 8, 1999.

[4] POETS is the Exchange's automated options trading systems. *See generally* Securities Exchange Act Release No. 27633 (January 18, 1990), 55 FR 2466 (January 24, 1990) (Order approving File No. SR–PSE–89–26).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f).

[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to file number SR–PCX–99–09, and should be submitted by May 17, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10422 Filed 4–23–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–1999–5381]

Fiscal Year (FY) 2000 Implementation Guidance for Ferry Boat Discretionary Program Funds

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; FHWA solicitation memorandum for FY 2000 funds; request for comments on selection criteria for FY 2001 and beyond.

SUMMARY: This document provides implementation guidance on the Ferry Boat Discretionary (FBD) program for FY 2000 and beyond. A memorandum on this topic was issued to division offices soliciting candidate projects from State transportation agencies for FY 2000 Ferry Boat Discretionary (FBD) funding. The memorandum also contains information on the selection criteria used by the FHWA in evaluating candidate projects. This document seeks comments from all interested parties on the selection criteria and their continued use by the FHWA for FY 2001 and beyond.

DATES: Comments on the selection criteria for FBD funding for FY 2001 and beyond must be received on or before June 25, 1999.

ADDRESSES: Your signed, written comments on project selection criteria for FBD funding for FY 2001 and beyond must refer to the docket number appearing at the top of this document and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments should include a self-addressed, stamped envelope or postcard.

Applications for candidate projects for FY 2000 funding should be submitted to the FHWA Division Office in the State of the applicant in accordance with the guidance provided in the solicitation memorandum.

FOR FURTHER INFORMATION CONTACT: Jack Wasley, Office of Program Administration, (202) 366–4658; or Wilbert Baccus, Office of the Chief Counsel, (202) 366–1396; Federal Highway Administration, 400 Seventh Street SW., Washington D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://www.dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

The solicitation memorandum is available on the FHWA web site at *http://www.fhwa.dot.gov/discretionary.*

Background

On March 4, 1999, the FHWA issued a memorandum to its division offices, located in each State, the District of Columbia and Puerto Rico, soliciting from the State transportation agencies candidate projects for FY 2000 FBD funding. This memorandum is published for informational purposes. The memorandum contains information on the FBD program, eligible activities, the application process, and the selection criteria used by the FHWA in evaluating candidate projects.

Also, the purpose of this document is to invite comments on the selection criteria used by the FHWA for evaluating candidate projects for FY 2001 and beyond. The attachment to the March 4, 1999, memorandum presents the selection criteria that the FHWA will be using for FY 2000. These criteria reflect areas which are given preference when evaluating candidate projects; however, any project submitted by a State transportation agency which meets the eligibility requirements for this discretionary program can potentially be selected for funding. These are the same general selection criteria that the FHWA has used for several years to evaluate candidates for this discretionary program. Occasionally, a selection criterion may be added for an individual year that reflects a special emphasis area, but for the most part the selection criteria have remained unchanged.

The FHWA plans to continue to use these same basic selection criteria for FY 2001 and beyond for this discretionary program. However, before doing so, the FHWA is interested in the views of the States or others on these selection criteria. Accordingly, comments are invited to this docket on the selection criteria that the FHWA will use for the FBD program for funding available during FY 2001 and beyond.

Publication of the implementation guidance for the ferry boat discretionary program satisfies the requirement of section 9004(a) of the TEA–21 Restoration Act, Pub. L. 105–206, 112 Stat. 685, 842 (1998).

Authority: 23 U.S.C. 129(c) and 315; 49 CFR 1.48.

Issued on: April 16, 1999.

Gloria J. Jeff,

Federal Highway Deputy Administrator.

The text of the FHWA solicitation and implementation guidance memorandum follows:

Action: Ferry Boat Discretionary (FBD) Program, Request for Projects for FY 2000 Funding, March 4, 1999 (Reply Due: July 1, 1999)

Henry H. Rentz for Vincent F. Schimmoller, Program Manager, Infrastructure, HIPA, Division Administrators

Section 1207 of the Transportation Equity Act for the 21st Century (TEA–21) reauthorizes the funding category for the construction of ferry boats and ferry terminal facilities created by section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991. With this memorandum, we are requesting submission of eligible candidate projects for FY 2000 FBD funding.

The TEA–21 authorizes $38 million for the FBD program for FY 2000. The TEA–21 requires that $20 million be set-aside for marine highway systems that

[10] 17 CFR 200.30–3(a)(12).

are part of the National Highway System for use by the States of Alaska, New Jersey, and Washington. As a result, only $18 million is authorized for open competition among all States. Estimating the deduction for section 1102(f) of TEA–21 and the increase due to the revenue aligned budget authority (RABA) under section 1105 of TEA–21, approximately $14 million of FBD funds will be available for open competition among all States in FY 2000.

Attached to this memorandum are the program guidelines that contain information on eligibility, selection criteria, and submission requirements. Please provide this information to your State and work with them to identify viable, quality candidate projects for this program.

We ask that you pay particular attention to the submission requirements listed in the attached guidelines. Many of the candidates submitted last year did not provide all of the necessary information. With the elimination of the region offices, we are relying on you to ensure that all of the applications from your State are completed in accordance with the appropriate submission requirements. This is important to ensure that all candidates receive a fair evaluation. Due to the shortened time frame last year because of the late passage of TEA–21, we were not able to return incomplete applications, and our evaluation was based on insufficient information in some cases. This year we will return incomplete applications, which could jeopardize consideration of the candidate projects if the applications are not resubmitted in time.

We are requesting that candidate project submissions be received in Headquarters no later than July 1, 1999. *Projects received after this date may not receive full consideration.*

Because the available funding is always far less than the demand, we ask that submissions include only candidate projects that, if funded, can be obligated in FY 2000. Any allocations in FY 2000 will be made on the assumption that the proposed projects are viable and the implementation schedules are realistic. Any unobligated balances remaining on September 15, 2000, will be withdrawn and used for funding future fiscal year requests.

If there are any questions, please contact Mr. Jack Wasley (202–366–4658) of our Office of Program Administration.

Attachment

Ferry Boat Discretionary Program: Program Guidelines

Background

The Ferry Boat Discretionary (FBD) Program, which provides a special funding category for the construction of ferry boats and ferry terminal facilities, was created by Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (1991 ISTEA, Public Law 102–240). Section 1207 of the Transportation Equity Act for the 21st Century (TEA–21, Public Law 105–178) reauthorized the FBD funding category through FY 2003.

Statutory References

23 U.S.C. 129(c); sec 1064, Pub. L. 102–240, 105 Stat. 1914 (1991) (ISTEA); sec. 1207, Pub. L. 105–178, 112 Stat. 107 (1998) (TEA–21).

FUNDING

[In millions]

Fiscal Year	1998	1999	2000	2001	2002	2003
Competitive	$30	$18	$18	$18	$18	$18
NHS Set-aside	.....	20	20	20	20	20

TEA–21 provides $30 million in fiscal year 1998 and $38 million in each of fiscal years 1999 through 2003 for the construction of ferry boats and ferry terminals in accordance with 23 U.S.C. 129(c). The TEA–21 requires that $20 million from each of fiscal years 1999 through 2003 be set-aside for marine highway systems that are part of the National Highway System for use by the States of Alaska ($10 million), New Jersey ($5 million), and Washington ($5 million). As a result, for each of fiscal years 1999 through 2003, the amount of FBD funding available for open competition among all States is $18 million with a non-competitive amount of $20 million set-aside for Alaska, New Jersey, and Washington.

The $18 million available for open competition is also impacted by any obligation limitation imposed on the Federal-aid highway program under the provisions of TEA–21 Section 1102(f), Redistribution of Certain Authorized Funds. Under this provision, any funds authorized for the program for the fiscal year, which are not available for obligation due to the imposition of an obligation limitation, are not allocated for the FBD program, but are redistributed to the States by formula as STP funds.

After these reductions, it is expected that approximately $14 million will be available for candidate projects each of fiscal years 2000 through 2003. This available funding may also increase or decrease each year depending on the obligation limitation calculation and on the estimated receipts to the Highway Trust Fund.

Federal Share

In accordance with section 1064(b) of the 1991 ISTEA, the Federal share of the costs for any project eligible under this program is 80 percent.

Obligation Limitation

The FBD discretionary funds are subject to obligation limitation; however, 100 percent obligation authority is normally provided with the allocation of funds for the selected projects. The obligation limitation reduces the available funding for the program under the provisions of TEA–21 section 1102(f) discussed above. For FY 1999, obligation of the FBD funds is controlled by a special requirement included in the FY 1999 Omnibus Appropriations Act (Public Law 105–277). The Act limits obligation of FBD funds during FY 1999 to $38 million. Consequently, there is not enough obligation authority to cover both fiscal years 1998 and 1999 funding allocated to the States. Therefore, distribution of the FY 1999 obligation authority is on an "as needed" basis.

Eligibility

As specified in section 1064(b) of the 1991 ISTEA, this program is for the construction of ferry boats and ferry terminal facilities in accordance with 23 U.S.C. 129. Proposals should meet the basic eligibility criteria in 23 U.S.C. 129(c).

Competitive FBD funds are available for improvements to ferry boats or ferry boat terminals where:

- The ferry facility is providing a link on a public road (other than Interstate) or the ferry facility is providing passenger only ferry service.
- The ferry and/or ferry terminal to be constructed or improved is either publicly owned, publicly operated, or a public authority has majority ownership interest where it is demonstrated that the ferry operation provides substantial public benefits.

• The ferry does not operate in international water except for Hawaii, Puerto Rico, Alaska and for ferries between a State and Canada.

The set-aside discretionary funds for marine highway systems for use by the States of Alaska, New Jersey and Alaska are available for the construction or refurbishing of ferry boats and ferry terminals and their approaches that are part of the NHS. In general, a proposed project must meet the eligibility criteria set forth in 23 U.S.C. 129(b) and (c), with the following requirements specifically applying to location of the projects and the type of activity eligible for funding:

• For a ferry facility that provides a direct link on the NHS, both the ferry boat (must transport four wheel vehicles) and the ferry terminals, including approaches, are eligible for funding.

• For a ferry facility that lies at the end of an approved connector to the NHS, only the ferry terminal (can serve either vehicle or passengers) and approach is eligible for funding. The ferry boats serving the ferry terminal are not eligible for funding.

Selection Criteria

Several criteria are used to evaluate the submitted candidates for selection for the competitive portion of the FBD program. Although there are no statutory criteria and FHWA has not established regulatory criteria for selection of FBD projects, the following criteria are considered in the evaluation of candidates for this program:

• Expeditious completion of project—Consideration is given to requests that will expedite the completion of a viable project. This is a project's ability to expeditiously complete usable facilities within the limited funding amounts available.

• Leveraging of private or other public funding—Because the annual requests for funding far exceed the available FBD funds, commitment of other funding sources to complement the requested FBD funding is an important factor.

• Amount of FBD funding—The requested amount of funding is a consideration. Realizing the historically high demand of funding under this program, modest sized requests for funding (generally less than $2 million) to allow more States to receive funding under this program are given added consideration.

• State priorities—For States submitting more than one project, consideration is given to the individual States priorities, if specified.

• National geographic distribution of funding within the FBD program—Consideration is given to selecting projects over time among all the States competing for funding.

Because the concept of equity was important in the development of TEA–21, project selection will also consider national geographic distribution among all of the discretionary programs as well as congressional direction or guidance provided on specific projects or programs.

Solicitation Procedure

Each year, usually around March, a memorandum is sent from the FHWA Headquarters Office of Program Administration to the FHWA division offices requesting the submission of candidate projects for the following fiscal year's funding. This solicitation is also published in the **Federal Register**. The FHWA division offices provide this solicitation request to the State transportation departments, who are the only agencies that can submit candidates. The State transportation departments coordinate with local agencies within their respective States in order to develop viable candidate projects. The State transportation departments submit the candidate applications to the FHWA division offices, who send them in to the Office of Program Administration. Candidate projects are due in FHWA Headquarters usually around the first of July.

The specific timetable for the solicitation process for any particular fiscal year is provided in the solicitation memorandum. The most recent solicitation is provided in these Guidelines for reference.

The candidate project applications are reviewed and evaluated by the Office of Program Administration and an allocation plan is prepared for presentation of the candidate projects to the Office of the Federal Highway Administrator, where the final selection of projects for funding is made. The announcement of the selected projects and the allocation of funds is usually accomplished by the middle of November.

Set-aside FBD funds are allocated directly to the three named States with no solicitation.

Submission Requirements

Only State transportation departments may submit applications for funding under this program. Although there is not a prescribed format for a project submission, the following information must be included to properly evaluate the candidate projects. With the exception of the project area map, all of the following must be included to consider the application complete. Those applications that do not include these items are considered incomplete and returned.

1. State(s) in which the project is located.

2. County(ies) in which the project is located.

3. U.S. Congressional District No.(s) in which the project is located.

4. U.S. Congressional Member's Name(s) for each District.

5. Facility or Project Name commonly used to describe the facility or project.

6. Service Termini and Ports.—Describe the ferry boat operation including the name of water crossing. A statement must be included for ferry boat operations carrying motorized vehicles, describing the link in the roadway system. Clearly identify any "passenger only" ferry service, and explain how the ferry service is linked to public transportation or is part of a transit system. Also, for each project indicate if the project is part of an existing link or service or if it is new service. Also identify if the ferry operates in domestic, foreign or international waters.

7. Ownership/Operation—Specify which of the following apply:

• The boat or terminal is publicly owned. The term "publicly owned" means that the title for the boat or terminal must be vested in a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality.

• The boat or terminal is publicly operated. The term "publicly operated" means that a public entity operates the boat or terminal.

• The boat or terminal is "majority publicly owned" (as opposed to public owned). This means that more than 50 percent of the ownership is vested in a public entity. If so, does it provide substantial public benefits? Documentation of substantial public benefits, concurred in by the division office, is required for ferry facilities that are in majority public ownership.

8. Current and Future Traffic—Provide the functional classification of the route that the project is located on along with a general description of the type and nature of traffic, both current and design year average daily traffic or average daily passenger volumes, on the route if available. The general description could include information on year round or seasonal service; commuter, recreational or visitor ridership; traffic generators and attractions.

9. Proposed Work—Describe the project work to be completed under this

particular request, and whether this is a complete project or part of a larger project.

10. Amount of Federal FBD Discretionary Funds Requested—The total cost for the proposed work should be shown along with the requested amount of FBD funding (this should reflect that the maximum Federal share for this program is 80 percent). A State's willingness to accept partial funding should be indicated.

11. Commitment of Other Funds—Indicate the amounts and sources of any private or other public funding being provided as part of this project. Only indicate those amounts of funding that are firm and documented commitments. The submission must include written confirmation of these commitments from the entity controlling the funds.

12. Previous FBD Discretionary Funding—Indicate the amount and fiscal year of any previous FBD discretionary funds received for this project, terminals or ferry boats operating on this route or transit system.

13. Future Funding Needs—Indicate the estimated future funding needs for the project or facility, if known. Also, provide estimated time schedules for implementing future projects. This information will be used to identify funding commitments beyond the presently proposed project and in outlying years.

14. Talking Points Briefing—Each State's request for ferry boat discretionary funds must be accompanied by a talking points paper for use by the Office of the Secretary for the congressional notification process should a project be selected for funding. A sample paper is included in these Guidelines.

15. Project Area Map—A readable location/vicinity map showing the ferry route and terminal connections is helpful if available.

State Transportation Agency Responsibilities

1. Coordinate with State and local agencies within the State to develop viable candidate projects.

2. Ensure that the applications for candidate projects meet the submission requirements outlined above.

3. Establish priorities for their candidate projects if desired.

4. Submit the applications to the local FHWA division office on time so that the submission deadline can be met.

FHWA Division Office Responsibilities

1. Provide the solicitation memorandum and this program information to the State transportation agency.

2. Request candidate projects be submitted by the State to the FHWA division office to meet the submission deadline established in the solicitation.

3. Review all candidate applications submitted by the State prior to sending them to FHWA Headquarters to ensure that they are eligible, complete and meet the submission requirements.

4. Submit the candidate applications to FHWA Headquarters by the established submission deadline.

FHWA Headquarters Program Office Responsibilities

1. Solicit candidates from the States through annual solicitation memorandum.

2. Review candidate project submissions and compile program and project information for preparation of allocation plan.

3. Submit allocation plan to the Office of the Federal Highway Administrator for use in making final project selections.

4. Allocate funds for the selected projects.

FHWA Headquarters Program Offoce Contact

Jack Wasley, Highway Engineer, Office of Program Administration, Phone: (202) 366–4658, Fax: (202) 366–3988, E-mail: jack.wasley@fhwa.dot.gov

Sample Talking Points Briefing for Secretary

Note: These talking points will be used by the Office of the Secretary in making congressional notification contacts. Since some of the recipients of the calls may not be closely familiar with the highway program, layman's language should be used to the extent possible. Information contained in the talking points may be used by a member of Congress in issuing a press release announcing the discretionary allocation.

Ferry Boat (FBD) Discretionary Funds

Grantee: State Transportation Agency <List full name>.

Project: Nouthport to Fort Bischer Ferry—purchase of a ferry boat, construction of necessary docking facilities, and approach work. <short name/description of project>.

FHWA Funds: $1,500,000. <requested FBD funds>.

• This project is needed to replace the MV Good Times which is currently running at the Nouthport Operation. This operation provides service across the Little Pike River <add name of the body of water> and is a link between SR 21 and U.S. 52. <add the name of roads/or public transit>.

• This project is part of Nouthport's $12 million waterfront development project. <add name of larger undertaking—note FBD projects are stand alone and its overall cost is separate but it may also be an element of a much larger undertaking>.

• The project will be advertised for construction in June/2001<month/year> and is scheduled for completion in February/2002 <month/year>.

• This high speed ferry boat will incorporate the latest technology to eliminate backwash and beach erosion. <If there is anything innovative about the project be sure and mention in layman's terms>.

• The project is part of the State's ferry boat program. Annually the State spends $19 million to operate seven ferry routes, and receives an average of $1.5 million annually in tolls from three of these routes.

[FR Doc. 99–10379 Filed 4–23–99; 8:45 am]
BILLING CODE 4010–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 99–5541; Notice 1]

Vectrix Corporation, Receipt of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 123

Vectrix Corporation of New Bedford, Massachusetts, has applied for a temporary exemption of two years from a requirement of S5.2.1 (Table 1) of Federal Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*. The basis of the request is that "the exemption would make the development or field evaluation of a low-emission vehicle easier and would not unreasonably lower the safety level of that vehicle," 49 U.S.C. Sec. 30113(b)(3)(B)(iii).

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

According to the application, the Vectrix Electric Scooter is "powered exclusively by an electric motor which draws current from ten 12-volt lead-acid batteries wired in series," and is a "low-emission vehicle" within the meaning of the statute.

If a motorcycle is produced with rear wheel brakes, S5.2.1 of Standard No. 123 requires that the brakes be operable through the right foot control, though the left handlebar is permissible for motor driven cycles (Item 11, Table 1). Vectrix would like to use the left handlebar as the control for the rear

brakes of its Electric Scooter whose "peak motor output of 26 horsepower" produces more than the 5 hp maximum that separates motor driven cycles from motorcycles. The Electric Scooter can attain speeds up to 60 mph. The gear ratio of the vehicle is fixed, and "there is no need for the rider to shift gears, as on a standard motorcycle." Because of this, the Electric Scooter "is equipped with neither a clutch nor a clutch lever, and the left hand of the rider is free to operate a brake lever." Vectrix states that it prefers this design, given its focus on European and Asian markets "where rear brake controls for scooters of all horsepower ratings are typically mounted on the left handlebar."

Vectrix argues that a left handlebar rear-brake control "will not 'unreasonably degrade the safety of the vehicle,' compared to a fully compliant vehicle equipped with a right foot, rear brake pedal." It believes that "vehicle safety might be somewhat enhanced with the left hand brake lever, as the hand (bare or gloved) is generally more capable of sensitive modulation of the braking force than the foot." It also argues that the prevalence of this design in other countries attests to the fact that this type of vehicle "can be operated safely."

Vectrix intends to field test "a small fleet" of Electric Scooters, to assess "any weaknesses in the design before production begins in summer, 1999." Requiring it to redesign the Electric Scooter to incorporate a rear brake foot pedal would delay the road test program by six months. While an exemption is in effect, Vectrix would consider whether the U.S. scooter market offered sufficient sales potential to justify creation of a U.S.-specific design incorporating a right foot brake pedal. Alternatively, it might petition NHTSA for rulemaking to "allow the rear brake to be operated by a lever mounted on the left handlebar for all motorcycles designed without a clutch."

The applicant anticipates sales of 600 Electric Scooters while an exemption is in effect. It believes that an exemption would be in the public interest and consistent with the objectives of traffic safety "because it would maintain an acceptable level of safety while accelerating the advancement of an important new class of vehicles for use by consumers and businesses."

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and the notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. The Docket Room is open from 10:00 a.m. until 5:00 p.m. To the extent possible, comments filed after the closing date will also be considered.

Notice of final action on the application will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: May 26, 1999. (49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on April 16, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–10315 Filed 4–23–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33739]

Illinois Central Railroad Company—Trackage Rights Exemption—Indiana Harbor Belt Railroad Company

Indiana Harbor Belt Railroad Company (IHB) has agreed to grant overhead trackage rights to Illinois Central Railroad Company (IC) over IHB's trackage from milepost 33.9, in Broadview, IL, to milepost 39.3, in Franklin Park, IL, a total distance of 5.4 miles.

The parties report that they intend to consummate the transaction as of April 30, 1999. The earliest the transaction can be consummated is April 21, 1999, the effective date of the exemption (7 days after the exemption was filed).

The purpose of the trackage rights is to facilitate economical and efficient operation of IC's overhead traffic through Broadview and Franklin Park.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33739, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Cynthia A. Bergmann, Esq., Illinois Central Railroad Company, 455 North Cityfront Plaza Drive, Chicago, IL 60611–5318.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: April 16, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–10415 Filed 4–23–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 19, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 26, 1999 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0129.

Form Number: ATF F 4473 (5300.9) Part I.

Type of Review: Extension.

Title: Firearms Transaction Record, Part I, Over the Counter.

Description: This form is used to determine the eligibility (under the Gun Control Act) of a person to receive a firearm from a Federal firearms licensee. It is also used to establish the identity of the buyer. The form is also used in law enforcement investigations/inspections to trace firearms.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 9,248,000.

Estimated Burden Hours Per Recordkeeper: 19 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 2,821,568 hours.

OMB Number: 1512–0141.

Form Number: ATF F 2635 (5620.8).

Type of Review: Extension.

Title: Claim—Alcohol, Tobacco and Firearms Taxes.

Description: This form is used by taxpayers to show the basis for a credit remission and allowance of tax on loss of taxable articles. To request a refund or abatement on taxes excessively or erroneously collected. To request a drawback of tax paid on distilled spirits used in the production of non-beverage products. This form is submitted along with supporting documents to indicate the reason of a credit of Federal tax should be made.

Respondent: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 10,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion, Quarterly.

Estimated Total Reporting Burden: 10,000 hours.

OMB Number: 1512–0178.

Form Number: ATF F 4483 (5300.35).

Type of Review: Extension.

Title: Report of Firearms Transaction.

Description: This form is used to evaluate firearms transactions by licensee when the Division Industry Officer determines the need to do so. It is prepared from existing records and submitted to the official.

Respondent: Business or other for-profit.

Estimated Number of Respondents: 250.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 250 hours.

OMB Number: 1512–0216.

Form Number: ATF F 5120.17.

Type of Review: Extension.

Title: Report of Wine Premises Operations.

Description: This report is used to monitor wine operations, insure collection of wine tax revenue, and insure wine is produced in accordance with law and regulations. Report also provides raw data for ATF's monthly statistical release on wine.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,755.

Estimated Burden Hours Per Respondent: 1 hour, 6 minutes.

Frequency of Response: Monthly, Annually.

Estimated Total Reporting Burden: 10,642 hours.

OMB Number: 1512–0369.

Recordkeeping Requirement ID Number: ATF F REC 5300/1.

Type of Review: Extension.

Title: Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data.

Description: Firearms manufacturers records of firearms manufactured and records of their disposition. These records are vital to support ATF's mission to inquire into the disposition of any firearm in the course of a criminal investigation.

Respondent: Business or other for-profit.

Estimated Number of Recordkeepers: 1,694.

Estimated Burden Hours Per Recordkeeper: 3 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 76,611 hours.

OMB Number: 1512–0386.

Recordkeeping Requirement ID Number: ATF REC 7570/1.

Type of Review: Extension.

Title: Records of Acquisition and Disposition-Requested Importers of Arms, Ammunition and Implements of War on the U.S. Munitions Imports List.

Description: These records of items that are listed on the U.S. Munitions List are used to account for the items by the Registered Import and this Bureau in investigations to insure compliance with the Federal Law.

Respondent: Business or other for-profit.

Estimated Number of Recordkeepers: 50.

Estimated Burden Hours Per Recordkeeper: 5 hours.

Estimated Total Recordkeeping Burden: 250 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW, Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–10385 Filed 4–23–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 19, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 26, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0004.

Form Number: IRS Form SS–8.

Type of Review: Extension.

Title: Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

Description: Form SS–8 is used by employers and workers to furnish information to IRS in order to obtain a determination as to whether a worker is an employee for purposes of Federal employment taxes and income withholding. IRS uses this information to make the determination.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 9,730.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—34 hr., 55 min.

Learning about the law or the form—18 min.

Preparing and sending the form to the IRS—53 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 351,253 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 99–10386 Filed 4–23–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 19, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 26, 1999 to be assured of consideration.

Bureau of the Public Debt (PD)

OMB Number: 1535–0001.
Form Number: SB 60 and SB 60A.
Type of Review: Extension.
Title: Payroll Savings Report.
Description: SB 60 and SB 60A are used to determine the total number of participants purchasing U.S. Savings Bonds through the Payroll Savings Plan.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 25,910.
Estimated Burden Hours Per Respondent: 41 minutes.
Frequency of Response: Semi-annually.
Estimated Total Reporting Burden Hours: 17,871 hours.

OMB Number: 1535–0059.
Form Number: PD F 1832.
Type of Review: Extension.
Title: Special Form of Assignment for U.S. Registered Definitive Securities.
Description: PD F 1832.
Respondents: Individuals or households, Business or not-for-profit, Federal Government, State, Local or Tribal Government.
Estimated Number of Respondents: 10,000.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden Hours: 2,500 hours.

OMB Number: 1535–0113.
Form Number: PD F 1849.
Type of Review: Extension.
Title: Disclaimer and Consent With Respect to United States Savings Bonds/Notes.
Description: PD F 1849 is used to obtain a disclaimer and consent as the result, refund of the purchase price, or reissue as requested by one person would appear to affect the right, title or interest of some other person.
Respondents: Individuals or households.
Estimated Number of Respondents: 7,000.
Estimated Burden Hours Per Respondent: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden Hours: 700 hours.

OMB Number: 1535–0114.
Form Number: PD F 2001.
Type of Review: Extension.
Title: Release.
Description: PD F 2001 is used by the owner, co-owner, or other person entitled to ratify payment of savings bonds/notes and release the United States of America from any liability.
Respondents: Individuals or households.
Estimated Number of Respondents: 200.
Estimated Burden Hours Per Respondent: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden Hours: 20 hours.
Clearance Officer: Vicki S. Thorpe (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106–1328.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–10387 Filed 4–23–99; 8:45 am]

BILLING CODE 4810–40–P

UNITED STATES INFORMATION AGENCY

Program Title Small Grants Competition on Women's Leadership Training; Request for Proposals

SUMMARY: The Office of Citizen Exchanges of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for Small Grant Awards on Women's Leadership Training. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501c may submit proposals to provide leadership training to women active in communities in Sub-Saharan Africa, the Middle East or Latin America.

Program Information

Overview

The Office of Citizen Exchanges of the United States Information Agency's Bureau of Educational and Cultural Affairs announces a new small grants competition for local community-based organizations interested in internationalizing their educational, professional and cultural efforts or gaining support for ongoing international exchange programs. This competition is aimed at local-level grassroots organizations that have not received prior funding directly from USIA. It is expected that a large number of submissions will be received. Creative and innovative ideas are sought.

In this new outreach, USIA solicits proposals from a diverse grassroots audience, including local chapters of national non-governmental organizations. The goal of the initiative is to encourage smaller organizations or local units of national groups to expand the scope of their work by building linkages with counterparts in certain other countries.

USIA seeks proposals that provide professional experience and exposure to American life and culture through internships hosted by local institutions and home stays with members of the community. The experience also provides Americans the opportunity to learn about different cultures. Travel under these grants may constitute an exchange or provide only for foreigners to visit the United States. The program is not academic in nature; it is designed to provide practical, hands-on experience in U.S. public/private sector settings that may be adapted to an individual's institution upon return home. Proposals may combine elements of professional enrichment, job shadowing and internships appropriate to the language ability and interests of the participants. Since most civic activities are concerned with community-based issues that directly affect individuals' lives, local issues and institutions should be the focus of the program.

Exchanges should be two-to-three weeks in length. It is anticipated that programs will be conducted between October 1999 and October 2000. Successful projects will enhance the

participants' skills in leadership, participatory democracy, NGO development, and open the potential for longer-term partnerships.

Women's Leadership Training

In much of the world, women and women's groups have become the leaders of grassroots activism and the spark for social change. They have worked persistently to establish themselves in both the private and public sectors. Women's groups have shown a willingness to cooperate with local and global organizations and to mentor young women looking for directions as they strive for greater participation in the decision making process.

USIA recognizes, however, that there are many places in the world where women want to do more and welcome opportunities to work with women in the United States. They could benefit from training and development of skills in areas such as: NGO development, political campaign management, credit and financè, conflict management and resolution, or knowledge and reform of legal systems. USIA is looking for proposals that offer leadership training to women active in their communities. These programs are intended to provide women with opportunities to capitalize on their potential and to strengthen their collective voice in the political, social and economic arena.

Guidelines

This year's small grants competition will center on women's leadership in Africa, the Middle East and Latin America. All projects should focus on one country, promote local community contacts with that country and address one or more of the priority topics described below. Applicants should carefully note the following restrictions/recommendations for proposals in specific geographic areas:

Africa (AF)

Proposals for any Sub-Saharan African country will be considered.

Civic Education and NGOs: publicizing and educating the public on issues that are important to women; building coalitions; networking; lobbying elected officials; media strategy; fund raising; volunteerism; participating in the elections process.

Educating Girls: Providing training opportunities for young women educators and community leaders to develop skills in leadership, advocacy, and conflict resolution; promoting understanding of women's effective role in society including educational institutions, economic development, civic responsibility, history, culture, and political life. These projects will not involve student/youth exchanges. Emphasis will be on exchanges for community leaders in the various sectors.

Women and Politics: running for elective office and/or managing electoral campaigns; developing a media strategy; campaign finance/fund raising; effective leadership and communications skills.

USIA contact for AF Citizen Exchanges programs: Orna Tamches, 202/260–2754; E-Mail [otamches@usia.gov].

Middle East (NEA)

Proposals for Egypt, Israel, Jordan, Lebanon, the Palestinian Authority or Syria will be considered.

Civic Education and NGOs: publicizing and educating the public on issues that are important to women; building coalitions; networking; lobbying elected officials; media strategy; fund raising; volunteerism; addressing civic values.

Women in Politics: campaigning; advocacy; educational efforts; lobbying; and meeting the challenges and responsibilities of leadership.

Equal Treatment of Women Under Law: educating women about existing non-discriminatory laws, including domestic violence legislation; understanding legal rights and options; addressing attitudes of the judiciary.

USIA contact for NEA Citizens Exchange programs: Tom Johnston, 202/619–5325, E-Mail {tjohnsto@usia.gov}

Latin America (WHA)

Women and Municipal Government: working with local governments on issues of decentralization, involving the community in local government, obtaining citizen feedback on service, setting priorities, creating partnerships with local academic institutions and research centers, and creating appropriate relationships with federal and state authorities. Countries: Mexico, Peru, Paraguay, Dominican Republic, Honduras.

Women and Politics: running for elected office and/or managing electoral campaigns; developing a media strategy; campaign finance/fund raising; effective leadership and communication skills. Countries: Brazil, Colombia, Bolivia, El Salvador, Guatemala, Jamaica, Trinidad. E/P contact for WHA programs: Laverne Johnson, 202/619–5337; E-Mail [ljohnson@usia.gov].

Guidelines

Program participants will travel to the U.S. under the Office of Citizen Exchanges' J–1 visa authority. Please refer to Solicitation Package for further information.

Budget Guidelines

The grant-making process will be specifically streamlined to accommodate first-time applicants. Priority will be given to grant proposals with budgets ranging from $15,000 to $40,000. No proposal above $50,000 will be eligible. Approximately, two hundred and fifty-thousand dollars has been allotted for this competition. Awards will be announced around August 1, 1999.

Allowable costs include the following:

(1) Program Expenses.

(2) Administrative Expenses including indirect costs. Please refer to the Solicitation Package for complete budget guidelines for formatting instructions.

Announcement Title and Number: All correspondence with USIA concerning this RFP should reference the above title and number E/P/99/50.

FOR FURTHER INFORMATION CONTACT: The Office of Citizen Exchanges, E/P, Room 216, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, telephone number 202/619–5348, fax number 202/260–0440 to request a Solicitation Package. The Solicitation Package contains detailed application information, required certification forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify USIA Program Officer's *Name* on all other inquiries and correspondence.

TO DOWNLOAD A SOLICITATION PACKAGE VIA INTERNET: The entire Solicitation Package may be downloaded from USIA's website at http://e.usia.gov/education/rfps. Please read all information before downloading.

DEADLINE FOR PROPOSALS: All proposal copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Friday, May 21, 1999. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline. Applicants must follow all instructions in the Solicitation Package. Please include attachments of relevant resumes and two letters of indorsement.

The original and 10 copies of the application should be sent to: U.S. Information Agency, Ref.: E/P–99–50, Office of Grants Management, E/XE, Room 326, 301 4th Street, S.W., Washington, D.C. 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and program content. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy, USIA shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with USIA. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

USIA therefore requires that all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at: http://www.itpolicy.gsa.gov.

Review Process

In support of first-time applicants, the grant proposal, budget and review process has been modified for this competition. The proposal narrative should not exceed six pages double-spaced and be developed around the review criteria below. Budget should be contained on one page. Please follow the enclosed Request for Proposal (RFP) Proposal Submission Instructions (PSI). Proposals will be reviewed in two tiers. First, all proposals will be read and reviewed by a qualified staff team from the Office of Citizen Exchanges and the respective USIA Area Office. Second, the most competitive will be forwarded to USIA posts overseas and to panels of Agency-wide USIA officers for formal advisory review. Non-finalists will be advised at this point in the process. Final funding decisions will be made at the discretion of USIA's Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA Grants Officer.

Review Criteria

Applications will be competitively reviewed according to the criteria stated below:

1. *Quality of program idea and ability to achieve objectives:* Program objectives should be clearly and precisely stated. Applications should respond to priorities in this announcement and articulate the organization's ability to successfully carry out objectives. Staff and participant responsibilities and timetable should be clearly designated.

2. *Cost effectiveness and Cost sharing:* Administrative costs should be kept low. Proposals should maximize cost-sharing through support and in-kind contributions.

3. *Monitoring/Reporting:* Proposals should provide a brief plan for submitting written reports midway through the program and at the end. Reports should include accomplishments, problems encountered, and impact on American and overseas communities.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: April 20, 1999.

Judith Siegel,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 99–10375 Filed 4–23–99; 8:45 am]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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To extend the tax benefits available with respect to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes. (Apr. 19, 1999; 113 Stat. 34)

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

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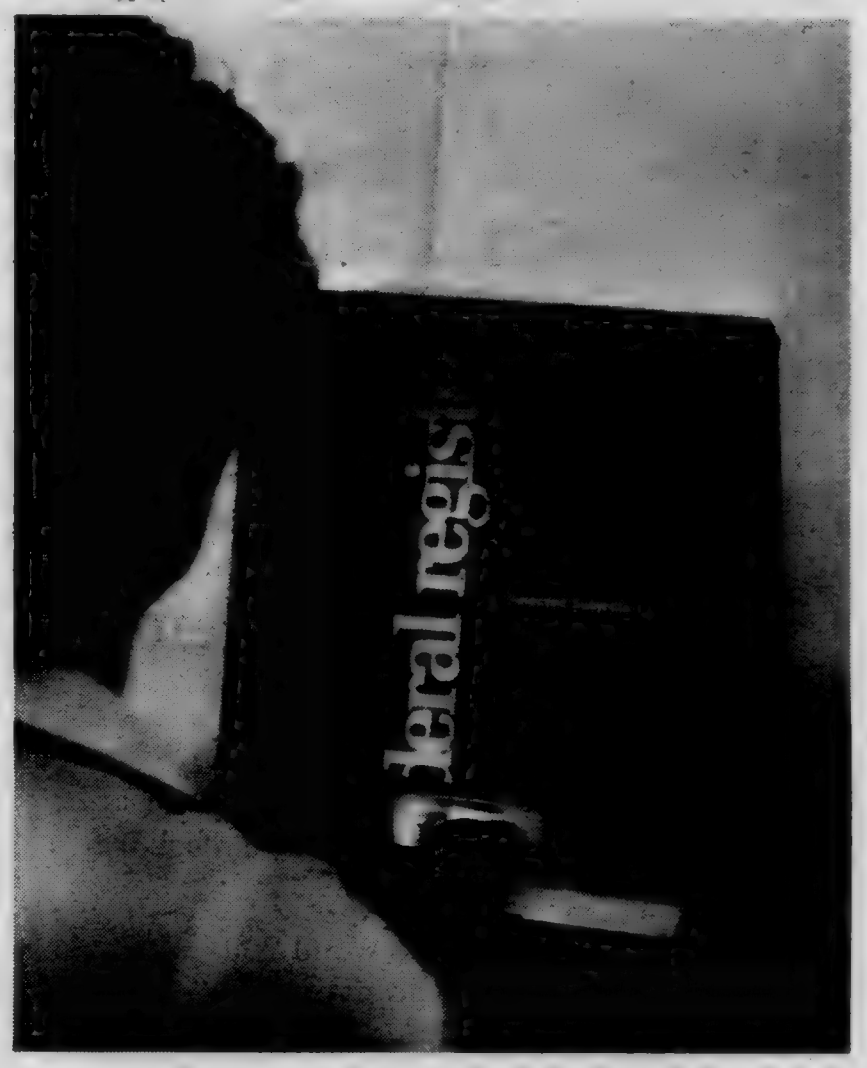

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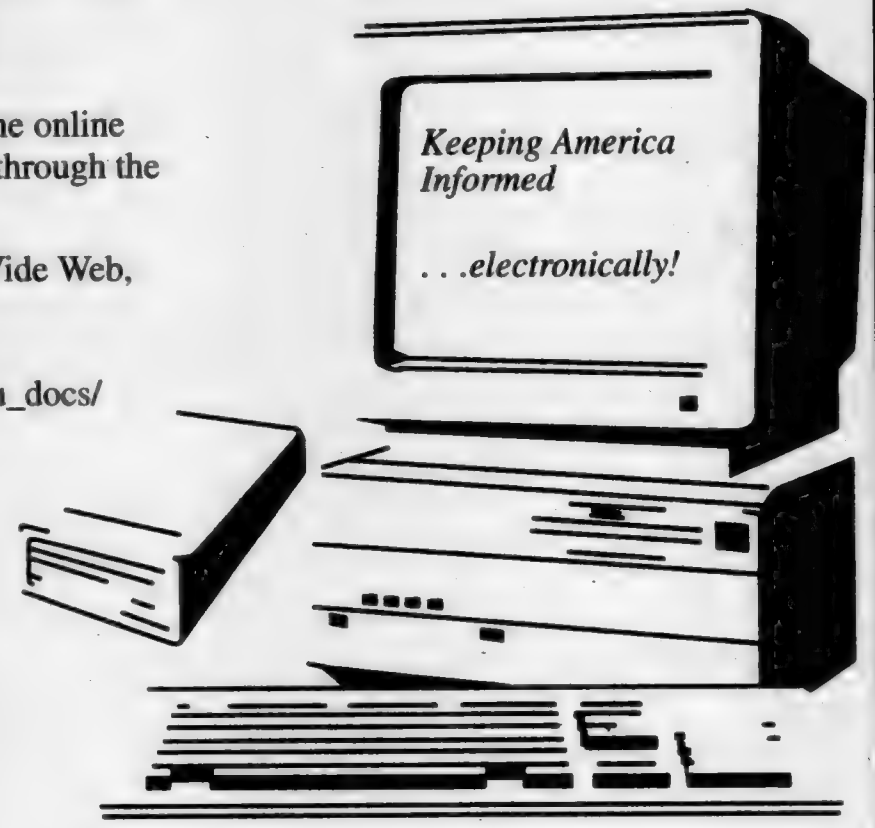

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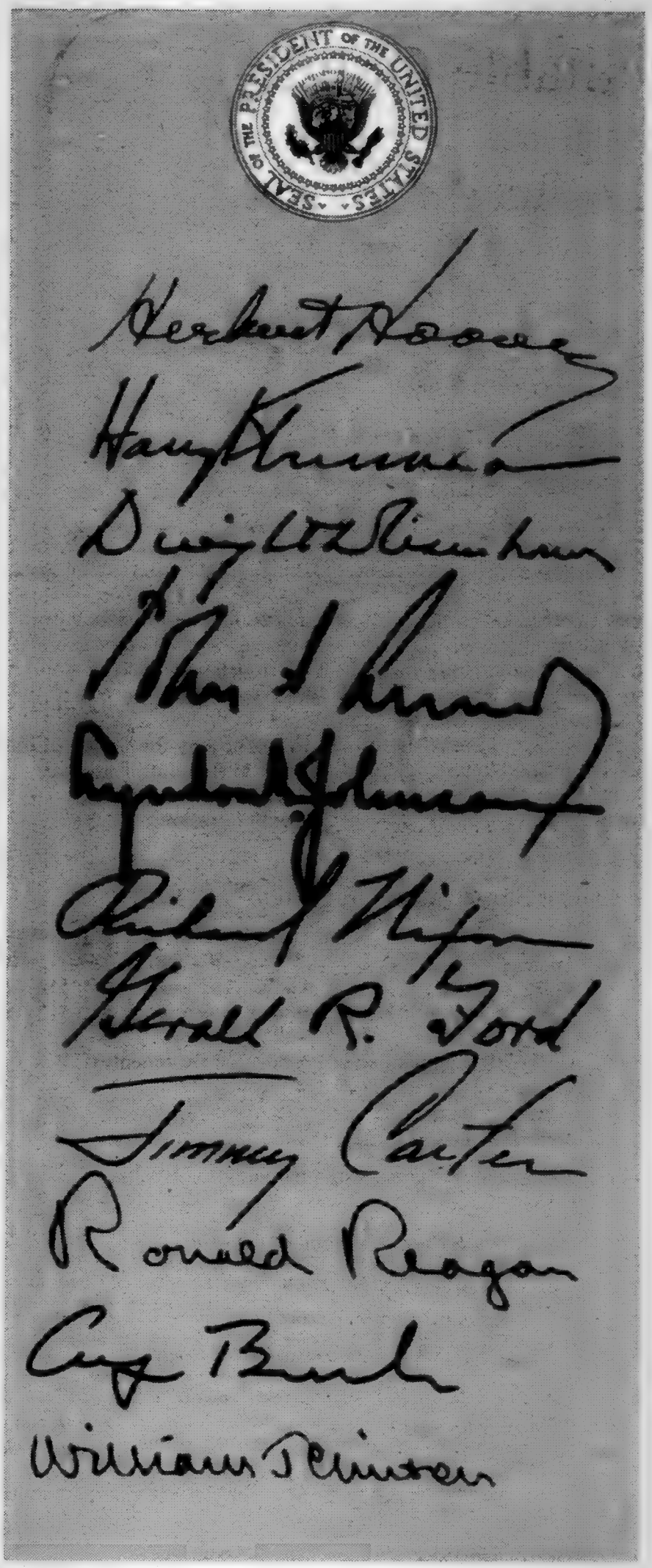

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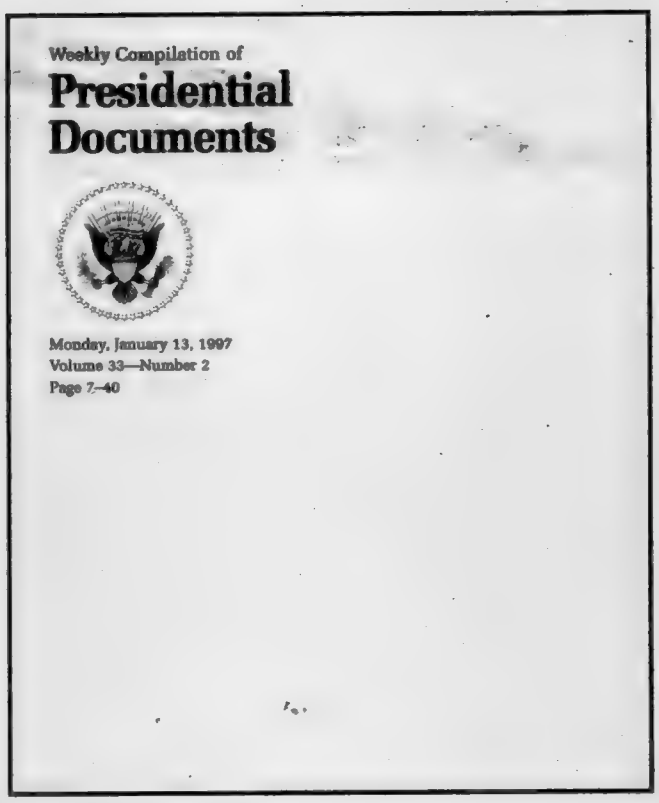

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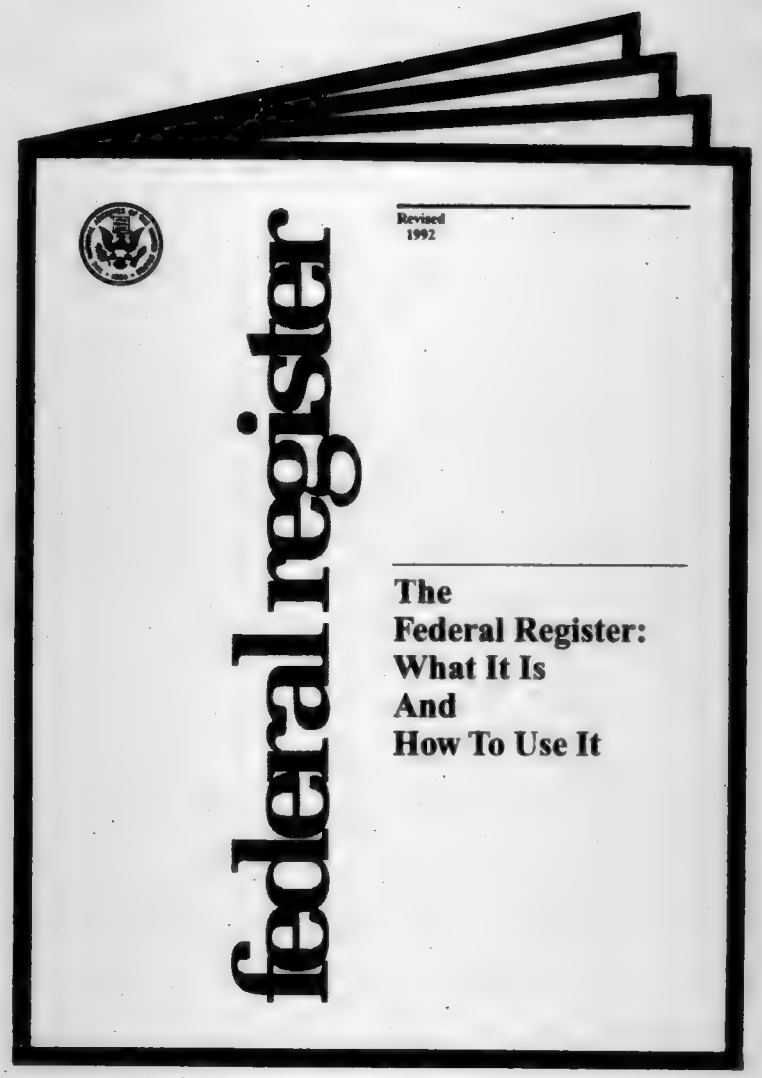

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Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

REGULATORY INFORMATION SERVICE CENTER

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing (5 U.S.C. 602). Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies' agendas, including specific types of information for each entry.

The Unified Agenda helps agencies fulfill all of these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication.

Section 4 of Executive Order 12866 also directs that, as part of their submissions to the October edition of the Unified Agenda, agencies prepare a regulatory plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. The agency plans appear only as part of the October publication. They are not included in the April publication.

The following separate parts in this issue of the **Federal Register** are the agency agendas, followed by indexes to the entries. Together, these comprise the April 1999 edition of the semiannual Unified Agenda. We welcome your comments on this publication and your suggestions for improving future ones.

ADDRESSES: Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405.

Electronic Availability

All editions of the **Unified Agenda of Federal Regulatory and Deregulatory Actions** and **The Regulatory Plan** since October 1995 are available in electronic form. You can search the Agenda and the Plan on the World Wide Web at:

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FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: Ronald C. Kelly, Executive Director, Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405, (202) 482-7340. You may also send comments to us by e-mail at:

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INTRODUCTION TO THE UNIFIED AGENDA OF FEDERAL REGULATORY AND DEREGULATORY ACTIONS

I. What Is the Unified Agenda?

The **Unified Agenda of Federal Regulatory and Deregulatory Actions** (Unified Agenda) provides information, in a uniform format, about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983. This edition includes regulatory agendas from 63 Federal departments and agencies. Agencies of the United States Congress are not included.

The Regulatory Plan, required under Executive Order 12866, is part of the October edition of the Unified Agenda. The Plan provides additional information about the most important significant regulatory actions that agencies reasonably expect to issue in proposed or final form during the upcoming fiscal year.

The Regulatory Information Service Center (the Center) compiles the Unified Agenda for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of E.O. 12866. The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last agenda. The agendas do not contain regulations that were excluded under Executive Order 12866, such as those concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

A. What Are the Limitations of the Information?

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed.

The Unified Agenda does not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in this publication. The information in this edition is accurate as of April 1, 1999, in the judgment of the submitting agencies, except as otherwise noted by the agencies. In addition, some agencies submitted updates after that date.

Where applicable, individual actions will be subject to review for compliance with applicable Executive orders, the Regulatory Flexibility Act, and the Paperwork Reduction Act at appropriate points in the regulatory process.

II. Why Is the Unified Agenda Published?

The Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

Regulatory Flexibility Act

The *Regulatory Flexibility Act* requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610).

Executive Order 12866

Executive Order 12866 entitled "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their "most important significant regulatory actions," which appears as part of the October Unified Agenda.

Executive Order 12875

Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (58 FR 58093; October 26, 1993) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. The Order directs agencies that are proposing to impose nonstatutory unfunded mandates to consult with affected governmental officials and document their concerns, report those concerns to the Director of the Office of Management and Budget, and explain the agency's position supporting the continuing need to issue the regulation in light of those concerns. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government.

Unfunded Mandates Reform Act of 1995

The *Unfunded Mandates Reform Act of 1995* (P.L. 104-4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions "that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more . . . in any 1 year . . . ." The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

Small Business Regulatory Enforcement Fairness Act

The *Small Business Regulatory Enforcement Fairness Act* (P.L. 104-121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 *et seq.*), which defers, unless exempted, the effective date of a "major" rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is "major" if it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. If the issuing agency believes that a rule may be major, it indicates this under the "Priority" heading of the entry. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

III. How Is the Unified Agenda Organized?

Each agency's agenda appears as a separate part in this edition of the **Federal Register**. The parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority; and independent regulatory agencies. Departments may in turn be divided into subagencies.

Each department or agency introduces its part of the Agenda with a preamble providing information specific to that part. For each agency that requests it,

the Center provides a table of contents that appears in the Agenda after the agency preamble.

Each agency presents its entries under one of five headings according to the rulemaking stage of the entry. The stages are:

1. *Prerule Stage*—actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage*—actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage*—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. *Long-Term Actions*—items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions*—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

An agency may use subheadings to identify regulations that it has grouped according to particular topics. When these subheadings are used, they appear above the title of the first regulation in each group.

A bullet (•) preceding an entry indicates that the entry appears in this publication for the first time.

All entries are numbered sequentially from the beginning to the end of the Unified Agenda. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The same number is used in the indexes to enable readers to find entries on specific subjects.

This publication contains five indexes. Index A lists entries for which agencies have indicated that they are conducting a periodic review under section 610(c) of the Regulatory Flexibility Act. Index B lists the regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis. Index C lists additional regulatory actions for which agencies have chosen to indicate that some impact on small entities is likely though a Regulatory Flexibility Analysis may not be required. Index D lists entries that agencies believe may have effects on levels of government. Index E is a subject index based on the **Federal Register Thesaurus of Indexing Terms**.

IV. What Information Appears for Each Entry?

All entries in the Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation. The notation "Section 610 Review" following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)).

Priority. Agencies assign each entry to one of the following five categories of significance.

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an "economically significant" rule is similar but not identical to the definition of a "major" rule under 5 U.S.C. 801 (P.L. 104-121). (See below.)

(2) Other Significant

A rulemaking action that is not economically significant that the agency anticipates will be reviewed under E.O. 12866. This category also includes rules that are not economically significant and will not be reviewed under E.O. 12866, but are considered important by the agency and a priority of the agency head. These rules may or may not be included in the agency's regulatory plan.

(3) Substantive, Nonsignificant

A rulemaking action that has substantive impacts but the magnitude of the impact is less than significant.

(4) Routine and Frequent

A rulemaking action that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

(5) Informational/Administrative/ Other

A rulemaking action that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

In addition, if an agency believes that a rule may be "major" under 5 U.S.C. 801 (P.L. 104-121) because it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act, the agency indicates this under the "Priority" heading. (The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.)

Unfunded Mandates—whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate. If the agency believes the entry is not subject to the Act, this data element will not be printed.

Reinvention—whether the action is part of the Administration's Reinventing Government effort and, if so, whether the result will be elimination of existing text in the Code of Federal Regulations (CFR) or revision of text in the CFR to reduce burden or duplication or to streamline requirements. If the action is not specifically part of this effort, the data element will not be printed.

Legal Authority—the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation—the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline—whether the action is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract—a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

Timetable—the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date printed in the form 10/00/99 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is "To Be Determined." "Next Action Undetermined" indicates the agency does not know what action it will take next. Dates after 1999 are printed in the same form as other dates, using the last two digits of the year.

Regulatory Flexibility Analysis Required—whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rulemaking action is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

Small Entities Affected—the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rulemaking action is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe that a Regulatory Flexibility Analysis will not be required.

Government Levels Affected—whether the action is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Agency Contact—the name, title, address, and phone number of a person in the agency who is knowledgeable about the rulemaking action. If available, the agency may also provide the fax number, e-mail address, and TDD for the agency contact.

Procurement—whether the action is related to procurement and, if so, whether it is required by statute and whether it involves a paperwork burden. The Procurement heading appears only if the entry is related to procurement.

Some agencies have provided the following optional information:

Compliance Cost to the Public—the estimated gross compliance cost of the action.

Affected Sectors—the industrial sectors that the action may most affect, either directly or indirectly. Affected Sectors are identified by North American Industry Classification System (NAICS) codes.

Some of the agencies that participated in the October 1998 edition of **The Regulatory Plan** have chosen to include the following information for those entries that appeared in the Plan:

Statement of Need—a description of the need for the regulatory action.

Summary of the Legal Basis—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives—a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of E.O. 12866.

Anticipated Costs and Benefits—a description of preliminary estimates of the anticipated costs and benefits of the action.

Risks—a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

V. Abbreviations

The following abbreviations appear throughout this publication:

ANPRM—An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles, and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO—An Executive order is a directive from the President to executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY—The Federal fiscal year runs from October 1 to September 30.

NPRM—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- a statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL—A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 105-4 is the fourth public law of the 105th Congress.

RFA—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify

each regulatory action listed in the Unified Agenda and **The Regulatory Plan**, as directed by E.O. 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No.—The Sequence Number identifies the location of an entry in this publication. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers in different editions of the Unified Agenda and **The Regulatory Plan**.

USC—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, and each title covers a broad area of Federal law.

VI. How Can Users Get Copies of the Agenda and the Plan?

Printed copies of this edition of the **Federal Register** are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, (202) 512-1800.

Copies of individual agency materials may be available directly from the agency. Please contact the particular agency for further information.

All editions of the **Unified Agenda of Federal Regulatory and Deregulatory Actions** and **The Regulatory Plan** since October 1995 are also available in electronic form. You can search the Agenda and the Plan on the World Wide Web at:

http://reginfo.gov

or through the U.S. Business Advisor at:

http://www.business.gov

You may also search the Agenda and the Plan on the Goverment Printing Office's GPO Access, which is accessible through:

http://www.access.gpo.gov

Dated: April 12, 1999.

Ronald C. Kelly,

Executive Director.

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Monday
April 26, 1999

Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, April 1999

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not-significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 "Regulatory Planning and Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354. Further, this agenda identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication, except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 118-E, Jamie Whitten Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

Dated: March 8, 1999.

Marvin J. Shapiro,

Chief, Legislative, Regulatory, and Automated Systems Division.

Agricultural Marketing Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1	Voluntary Shell Egg Regulations; Repackaging of Shell Eggs Under USDA's Grading Program	0581-AB56

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2	National Laboratory Accreditation Program	0581-AB42
3	Federal Milk Order Consolidation and Reform	0581-AB49
4	Cotton Classification Services to Growers; Revision of User Fees for 1999 Crop	0581-AB57

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
5	Kiwifruit Research, Promotion, and Consumer Information Order	0581-AB46
6	Federal Seed Act; Amendments	0581-AB55

Agricultural Marketing Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
7	National Organic Program	0581-AA40

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Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
8	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products	0581-AA45
9	Egg, Poultry, and Rabbit Grading: Fee Increase	0581-AB54

Agricultural Research Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
10	National Agricultural Library Fees for Loans and Copying	0518-AA01

Farm Service Agency—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
11	Debt Settlement for Indian Tribal Land Acquisition Loans	0560-AF43

Farm Service Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
12	Low Documentation Loan	0560-AF71

Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
13	Amendment to the Cotton Warehouse Regulations Regarding the Definition of "Unnecessary Delay"	0560-AF13
14	1999-Crop Marketing Quotas and Price Support Levels for Five Kinds of Tobacco	0560-AF51
15	End-Use Certificate Program	0560-AF64
16	Modification of Collateral Requirements for Emergency Loans	0560-AF72

Farm Service Agency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
17	Program Ineligibility for Noncompliance With Boll Weevil Eradication Program	0560-AD57
18	Sugar and Crystalline Fructose Information and Recordkeeping Requirements	0560-AD88
19	Small Farmer Outreach Training and Technical Assistance Program	0560-AE17
20	Part 1946 Mediation; Subpart A—Agricultural Loan Mediation Program	0560-AE26
21	Selection and Functions of Farm Service Agency State and County Committees	0560-AE33
22	Implementation Procedures for Highly Erodible Land and Wetlands Conservation Provisions of the Food Security Act	0560-AE38
23	Amendments to the Farmer Account Servicing Policies	0560-AE42
24	Amendments to the Standards for Approval of Warehouse for Commodity Credit Corporation Storage Contracts	0560-AE50
25	Deletion of FSA Regulations Regarding Colorado River Basin Salinity Control Program	0560-AE54
26	Amendment to the Conservation Reserve Program Regarding Early Contract Terminations	0560-AE56
27	Amendments to the Regulations for Cotton Warehouses Under the United States Warehouse Act—Electronic Block Warehouse Receipts, Insurance Requirements, and Other Provisions	0560-AE60
28	Suspension of the Emergency Livestock Assistance Regulations for Crop Years 1996 to 2002	0560-AE86

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Farm Service Agency—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
29	Direct Line of Credit Program	0560-AE90
30	Revision of Regulations Pertaining to Indian Tribes and Tribal Corporations	0560-AE91
31	Amendments To Update the Tobacco Program Regulations	0560-AF05
32	Amendments To Update the Peanut Program Regulations	0560-AF06
33	Amendments To Update Farm Program Payment Limitation and Disaster Regulations Under the National Performance Review	0560-AF10
34	1998-Crop Marketing Quotas and Price Support Levels for Eight Kinds of Tobacco	0560-AF20
35	Lender Buyback of Repurchased Guaranteed Loans	0560-AF21
36	Amendments to the Debt Settlement Policies and Procedures To Conform to the Debt Collection Improvement Act of 1996	0560-AF22
37	Amendments to the Forage Provisions of the Noninsured Crop Disaster Assistance Program	0560-AF23
38	Refund of Marketing Quota Penalties and Tobacco Auction Warehouse Records and Reports	0560-AF26
39	Refund of Marketing Quota Penalties and Other Peanut Program Provisions	0560-AF27
40	Contracting Additional Peanuts by Type and Segregation	0560-AF28
41	American Indian Livestock Feed Program	0560-AF29
42	Sugar Program Information Reporting and Recordkeeping Requirements	0560-AF31
43	Upland Cotton User Marketing Certificate Program; Revision of Regulations	0560-AF32
44	Cooperative Marketing Associations	0560-AF33
45	Inapplicability to FSA's Farm Loan Programs of Redundant Instructions Regarding the Collection and Depositing of Program Payments	0560-AF34
46	Revision of FSA-Guaranteed Loan Regulations—Interest Subsidy for Guaranteed Borrowers	0560-AF35
47	Amendment to the Farm Reconstitution Regulations	0560-AF36
48	Change in Warehouse Receipt Requirements for CCC's Cotton Loan and Loan Deficiency Payment Programs	0560-AF39
49	Chemical Testing of Farmers' Stock Peanuts for Aflatoxin Content	0560-AF40
50	Dairy Recourse Loan Program	0560-AF41
51	Noninsured Crop Disaster Assistance Program Regulations for the 1998 and Succeeding Crop Years	0560-AF46
52	Amendments to the Regulations Regarding Suspension and Debarment From Commodity Credit Corporation Programs	0560-AF47
53	1999-Crop Peanuts National Poundage Quota, National Average Loan Rates and Minimum Export-Edible Sales Price for Additional Peanuts	0560-AF48
54	1999-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AF49
55	1999-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF50
56	Remove Internal Agency Provision From FSA Farm Credit Program Regulation—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property	0560-AF53
57	Debt Settlement of the Farm Loan Program's Nonprogram Loans	0560-AF54
58	Cleaning and Reinspection of Farmers' Stock Peanuts	0560-AF56
59	Disaster Reserve Flood Compensation Program	0560-AF57
60	Disaster Set-Aside Program Second Installment	0560-AF59
61	Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs	0560-AF60
62	Amendments to the Regulations Governing the Peanut Poundage Quota and Price Support Programs	0560-AF61
63	Accelerated Production Flexibility Contract Payments	0560-AF65
64	Dairy Indemnity Payment Program	0560-AF66
65	Dairy Market Loss Assistance Program	0560-AF67
66	Nonrecourse Marketing Assistance Loans for Crambe	0560-AF68
67	Streamlining of Regulations for Real Estate Appraisals and Chattel Appraisals	0560-AF69
68	Small Hog Operation Payment Plan	0560-AF70

Farm Service Agency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
69	Amendment to the Warehouse Regulations Regarding Auction Tobacco Warehouses	0560-AD92
70	Farmer Credit Program Account Servicing Policies for Section 1816 and Other Related Sections for the 1990 FACT Act	0560-AE02
71	Implement Section 1818 (Borrower Training) of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act)	0560-AE04
72	Implementation of Certified Lender Program	0560-AE07

USDA

Farm Service Agency—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
73	Insured and Guaranteed Operating and Farm Ownership Loan and Related Instructions To Implement Sections 4, 5, 7, 8, 9, and 19 of the Agricultural Credit Improvement Act of 1992	0560-AE09
74	Section 14 of the Agricultural Credit Improvement Act of 1992 (Graduation) and Sections 1819 (Loan Assessment) and 1821 (Market Placement) of the "FACT Act"	0560-AE11
75	The Agricultural Credit Improvement Act of 1992	0560-AE13
76	Implement Sections 11 and 13 of the Agriculture Credit Improvement Act of 1992 (Application Processing Timeframe)	0560-AE14
77	Acquisition and Management of Real and Chattel Property	0560-AE15
78	Amendment to Conservation Program Appeal Regulations Regarding Jurisdiction	0560-AE30
79	Revision to the Direct Loanmaking Regulations	0560-AE87
80	Revision of the Inventory Property Management Regulations	0560-AE88
81	Revisions to the Delinquent Account Servicing Regulations	0560-AE89
82	Amendments to the Tobacco Marketing Quota Regulations	0560-AE96
83	Disaster Set-Aside Program	0560-AE98
84	Boll Weevil Eradication Loan Program	0560-AE99
85	1998-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF18
86	1998-Crop Marketing Quotas and Price Support Level for Flue-Cured Tobacco	0560-AF19
87	Flood Risk Reduction Program	0560-AF24
88	Implementation of Preferred Lender Program and Streamlining of Guaranteed Loan Regulations	0560-AF38
89	1998 Dairy Production Disaster Assistance Program, Livestock Indemnity Program, and Tree Assistance Program	0560-AF44
90	Amendment to the Tobacco Importer Assessment Regulations Regarding the Definition of De Minimis Special Entries	0560-AF52
91	Fee Schedule; Aerial Photographic Reproductions	0560-AF55
92	Livestock Assistance Program	0560-AF58
93	Honey Recourse Loan Program	0560-AF62
94	Mohair Recourse Loan Program	0560-AF63

Animal and Plant Health Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
95	Noxious Weeds; Weed Categories and Priorities	0579-AB07
96	Aquaculture; Farm-Raised Fin Fish	0579-AB09

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
97	Plant Pest Regulations; Update of Current Provisions	0579-AA80
98	Karnal Bunt	0579-AA83
99	Veterinary Services Multi-Year User Fees	0579-AA87
100	Interstate Movement of Sheep and Goats From States That Do Not Quarantine Scrapie-Infected and Source Flocks	0579-AA90
101	Importation of Pork From Yucatan, Mexico	0579-AA91
102	Licensing Requirements for Dogs and Cats	0579-AA95
103	Importation of Poultry From Sinaloa and Sonora, Mexico	0579-AA96
104	Irradiation Phytosanitary Treatment of Imported Fresh Fruits and Vegetables	0579-AA97
105	Importation Of Solid Wood Packing Material	0579-AA99
106	Importation of Unmanufactured Wood From Mexico	0579-AB02
107	Establishment of Regions in the European Union for Hog Cholera, Foot-and-Mouth Disease, and Swine Vesicular Disease	0579-AB03
108	Horse Protection; Horse Industry Organizations	0579-AB04
109	User Fees—Rate Revisions for Agricultural Quarantine and Inspection Service	0579-AB05
110	Interstate Movement of Equines to Slaughter	0579-AB06

USDA

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
111	Animal Welfare—Standards for Marine Mammals	0579-AA59
112	Importation of Logs, Lumber, and Other Unmanufactured Wood Articles	0579-AA82
113	Importation of Grapefruit, Lemons, and Oranges From Argentina	0579-AA92
114	Restrictions on the Importation of Ruminants, Meat and Meat Products From Ruminants, and Certain Other Ruminant Products	0579-AA98
115	Importation of Rhododendron in Growing Media	0579-AB00
116	Noxious Weeds; Restrictions on Interstate Movement	0579-AB08
117	Pseudorabies in Swine; Payment of Indemnity	0579-AB10

Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
118	Importation of Fruits and Vegetables	0579-AA58
119	Importation of Certain Embryos and Animal Semen	0579-AA63
120	Importation of Fuji Apples From the Republic of Korea	0579-AA93
121	Revisions to Licensing Requirements: Animal Welfare	0579-AA94
122	Requiring Treatment of Solid Wood Packing Material From China	0579-AB01

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
123	Addition of Cervidae to the Regulations Concerning Tuberculosis in Livestock	0579-AA53
124	HSTAIC Repair and Maintenance Fees	0579-AA69
125	Phytosanitary Export Certification; Accreditation of Nongovernment Facilities	0579-AA75

Cooperative State Research, Education, and Extension Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
126	Higher Education Multicultural Scholars Program; Administrative Provisions	0524-AA09
127	Hispanic Serving Institutions Education Grants Program Administrative Provisions	0524-AA17
128	Community Food Projects Administrative Provisions	0524-AA19
129	Small Business Innovation Research Program Administrative Provisions	0524-AA20
130	Biotechnology Risk Assessment Research Grants Program Administrative Provisions	0524-AA21
131	National Research Initiative Competitive Grants Program Administrative Provisions	0524-AA22
132	Stakeholder Input to Research, Education, and Extension Formula Funds	0524-AA23
133	Matching Funds Requirement for Formula Funds for Agricultural Research and Extension Activities at 1890 Land Grant Institutions and Tuskegee University	0524-AA24

Cooperative State Research, Education, and Extension Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
134	Agricultural Telecommunications Program Administrative Provisions	0524-AA12

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Rural Housing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
135	Civil Rights Compliance Requirements—1901-E to 1940-D	0575-AA83
136	Multi-Family Housing Reinvention	0575-AC13
137	Guaranteed Rural Housing Loan Single Family	0575-AC18
138	Farm Labor Housing—Competitive Funding	0575-AC19

Rural Housing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
139	Denying Credit to Applicants Delinquent on Any Federal Debt	0575-AA66
140	Reengineering and Reinvention of the Direct Section 502 and 504 Single-Family Housing Program	0575-AB99
141	Community Facility Grants	0575-AC10
142	Direct Single-Family Housing Loans and Grants	0575-AC11
143	Servicing Community Programs Loans and Grants	0575-AC12
144	Section 538 Guarantee Rural Rental Housing Program	0575-AC14
145	Community Programs Guaranteed Loans	0575-AC17

Rural Housing Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
146	Environmental Program Streamline Environmental Process	0575-AB98
147	National Flood Insurance Regulations	0575-AC07

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
148	General Administrative Regulations; High Risk Land Regulations	0563-AA98
149	General Administrative Regulations; Subpart D; Application for Crop Insurance	0563-AB00
150	Common Crop Insurance Regulations; Small Grains Crop Insurance Provisions and Wheat Winter Coverage Endorsement	0563-AB63
151	Common Crop Insurance Regulations; Coarse Grains Crop Insurance Provisions	0563-AB64
152	General Administrative Regulations; Premium Reductions; Payments of Rebates, Dividends, and Patronage Refunds; and Payments to Insured-Owned and Record-Controlling Entities	0563-AB70
153	General Administrative Regulations; Movement of Business Among Insurance Providers	0563-AB71
154	General Administrative Regulations; Reinsurance Agreement—Standards for Approval	0563-AB72
155	General Administrative Regulations; Sanctions	0563-AB73
156	Common Crop Insurance Regulations; Florida Fruit Tree Crop Insurance Provisions	0563-AB75

Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
157	Group Risk Plan Crop Insurance Provisions; Part 407	0563-AB06
158	General Administrative Regulations; Subpart S; Regulations for Insurance Coverage by Written Agreement	0563-AB07
159	General Administrative Regulations; Subpart V; Submission of Policies and Provisions of Policies and Rates of Premium	0563-AB15
160	General Administrative Regulations; Subpart J; Appeal Procedure Regulations	0563-AB17
161	General Administrative Regulations; Subpart N; Disaster Assistance Act of 1988	0563-AB20
162	Federal Crop Insurance on Highly Erodible Land and Wetlands—Part 400	0563-AB59

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Federal Crop Insurance Corporation—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
163	Federal Crop Insurance on Highly Erodible Land and Wetlands—Part 401	0563-AB60
164	General Administrative Regulations; Nonstandard Underwriting Classification System	0563-AB66
165	General Administrative Regulations; Subpart T—Regulations for the 1999 and Subsequent Reinsurance Years	0563-AB67
166	General Administrative Regulations; Subpart U; and Catastrophic Risk Protection Endorsement—Regulations for the 1999 and Subsequent Reinsurance Years	0563-AB68
167	General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions	0563-AB74

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
168	Dairy Options Pilot Program	0563-AB61
169	Common Crop Insurance Regulations; Cotton and ELS Cotton Crop Insurance Provisions	0563-AB62
170	Common Crop Insurance Regulations; Basic Provisions	0563-AB69

Grain Inspection, Packers and Stockyards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
171	Review Inspection Requirements	0580-AA58
172	Regulations Issued Under Packers and Stockyards Act (Feed Weight)	0580-AA64
173	Official Testing Service for Barley Protein Analysis	0580-AA68

Grain Inspection, Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
174	Tolerances for Dividers	0580-AA57

Grain Inspection, Packers and Stockyards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
175	Poultry Grower Contracts, Scales, Weighing	0580-AA51
176	Regulations Under Packers and Stockyards Act (Price Reporting)	0580-AA65

Grain Inspection, Packers and Stockyards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
177	Grain Inspection General Regulations	0580-AA53
178	Clear Title for Purchasers of Farm Products	0580-AA63
179	Fees for Official Inspection and Official Weighing Services (1999)	0580-AA66
180	Fees for Rice Inspection Services	0580-AA67

USDA

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
181	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity	0584-AA80
182	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions	0584-AB10
183	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem	0584-AB51
184	Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance	0584-AB90
185	Food Stamp Program: Retailer Application Processing	0584-AC05
186	Disclosure of Free and Reduced Price Eligibility Information Under the School Nutrition and Child and Adult Care Food Programs	0584-AC21
187	Food Stamp Program: Welfare Reform and Regulatory Review of Program Management	0584-AC22
188	Improving Management and Program Integrity in the Child and Adult Care Food Program	0584-AC24
189	Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools: Provision 2 and Provision 3	0584-AC25
190	Part 240, Cash In Lieu of Donated Foods and Part 250, Food Distribution Regulations	0584-AC31
191	Food Stamp Program Regulatory Review: FSP Standards for Approval and Operation of Food Stamp Electronic Benefit Transfer Systems	0584-AC37
192	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC39
193	FSP: State Flexibility and Certification Provisions of Public Law 104-193	0584-AC40
194	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC41
195	Electronic Benefit Transfer (EBT) Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC44
196	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC45
197	Regulatory Reform: Provisions Relating to Firms Participating in the Food Stamp Program	0584-AC48
198	Food Distribution Program: Regulatory Implementation of Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193, 110 Stat 2105)	0584-AC49 0584-AC56
199	Food Distributions Programs: Commodity Acceptability Report	0584-AC65
200	Food Distribution Program on Indian Reservations: Disqualification Penalties for Intentional Program Violations	0584-AC66
201	Commodity Supplemental Food Program: Program Streamlining, Flexibility, and Miscellaneous Amendments	0584-AC68
202	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula	0584-AC69
203	Maximum Allotments for 48 States & DC & Income Eligibility Standards for 48 States, DC, AK, GU and VI	0584-AC70
204	FSP: Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands	0584-AC71
205	FSP: EBT System SAS70 Audit Requirements	0584-AC75
206	FSP: Civil Rights Data Collections	

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
207	Child and Adult Care Food Program: Authority To Collect Overclaims	0584-AB19
208	Food Stamp Program: 1995 Quality Control Technical Amendments	0584-AB38
209	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts	0584-AB52
210	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies	0584-AB66
211	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household	0584-AB67
212	Amendments to the Infant Meal Pattern	0584-AB81
213	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards	0584-AB88
214	Summer Food Service Program: Program Meal Service During the School Year	0584-AC06
215	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments and Healthy Meals for Healthy Americans Act of 1994	0584-AC20
216	Implementation of Legislative Reforms in the Summer Food Service Program	0584-AC23
217	WIC: Bloodwork Requirements	0584-AC30
218	National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives	0584-AC38
219	Food Stamp Program: Retailer Integrity, Fraud Reduction and Penalties	0584-AC46
220	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program	0584-AC50
221	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC51
222	Implementation of Legislative Changes in the Child and Adult Care Food Program	0584-AC52

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Food and Nutrition Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
223	Food Stamp Program: Electronic Benefits Transfer (EBT) Benefit Adjustments	0584-AC61
224	Food Stamp Provisions of the Balanced Budget Act of 1997	0584-AC63
225	After School Snacks Under the NSLP and CACFP	0584-AC72
226	WIC: Local Agency Expenditure Reports	0584-AC74
227	WIC: Certification Integrity	0584-AC76
228	WIC: WIC Funding Provisions of Public Law 105-336	0584-AC77

Food and Nutrition Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
229	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements	0584-AB11
230	Permanent Agreements/Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs	0584-AB35
231	Food Stamp Program: Anticipating Income and Reporting Changes	0584-AB57
232	School Nutrition Programs: Technical and Nondiscretionary Amendments	0584-AC01
233	Amendment To Remove Formulated Grain—Fruit Product Section	0584-AC09
234	Consolidation of National School Lunch Program, School Breakfast Program and Summer Food Service Program Into a Comprehensive School Meal Program	0584-AC10
235	Food Stamp Program Regulatory Review: Certification of Eligible Households	0584-AC28
236	WIC: Food Package Adjustments and Corrections	0584-AC29
237	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule	0584-AC64
238	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Soy-Base Beverages (Soymilk) in WIC	0584-AC67

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
239	Food Distribution Programs—Implementation of 1990 Farm Bill	0584-AB28
240	Food Distribution Program on Indian Reservations—Oklahoma Waiver Authority	0584-AB56
241	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Implementation of WIC Mandates of the Healthy Meals for Healthy Americans Act of 1994	0584-AC02
242	NSLP: Amds. to Requirements for Meal Supplements Served in After School Care Programs	0584-AC73

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
243	Elimination of Accredited Laboratory Program for Food Chemistry and Residue Chemistry	0583-AC48

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
244	Transportation, Storage, and Other Handling of Potentially Hazardous Foods	0583-AC05
245	Grant and Inauguration of Inspection	0583-AC07
246	Performance Standard for the Chilling of Ready-to-Cook Poultry	0583-AC21
247	Elimination of Requirements for Partial Quality Control Programs	0583-AC35
248	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry	0583-AC43

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Food Safety and Inspection Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
249	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products	0583-AC44
250	Performance Standards for Shelf-Stable, Ready-to-Eat Products	0583-AC45
251	Performance Standards for Perishable, Ready-to-Eat Products	0583-AC46
252	Performance Standards for Bacon	0583-AC49
253	Irradiation of Meat and Meat Products	0583-AC50
254	Reworking of Meat and Poultry Carcasses Accidentally Contaminated During Evisceration	0583-AC53
255	Fee Increase for Inspection Services of Meat and Poultry Products	0583-AC54
256	Labeling of Food Under the Voluntary Nutrition Labeling Program; 1996 Retail Survey Compliance Results	0583-AC55

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
257	Substances Approved for Use in the Preparation of Meat and Poultry Products	0583-AB02
258	Use of Soy Protein Concentrate, Food Starch-Modified and Gelatin as Binders in Certain Meat Products	0583-AB82
259	Retained Water in Raw Meat and Poultry Products; Poultry Chilling Performance Standards	0583-AC26
260	Addition of Mexico to List of Countries Eligible To Export Poultry Products to the United States	0583-AC33
261	Rules of Practice	0583-AC34
262	Sanitation Requirements for Official Meat and Poultry Establishments	0583-AC39
263	Meat Produced by Advanced Meat/Bone Separation Machinery and Recovery Systems	0583-AC51

Food Safety and Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
264	Nutrition Labeling of Ground Beef and Hamburger	0583-AB74
265	Beef or Pork With Barbecue Sauce; Revision of Standards	0583-AC09
266	Labeling Standards for Ovine Carcasses, Parts of Carcasses, Meat and Meat Food Products	0583-AC41
267	Salmonella Enteritidis in Eggs	0583-AC52

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
268	Performance Standards for Certain Meat Products and Poultry Products	0583-AB94
269	Elimination of Prior Approval Requirements for Egg Product Plant Drawings, Specifications, and Equipment	0583-AC06

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
270	Proposed Regulations Governing Implementation of the Cooperator Foreign Market Development Program Overseas	0551-AA26
271	Export Sales Reporting Requirement	0551-AA51

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Foreign Agricultural Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
272	CCC Supplier Credit Guarantee Program	0551-AA30
273	Facility Guarantee Program	0551-AA35
274	Reform of Export Bonus Program	0551-AA41
275	Dairy Tariff-Rate Import Quota Licensing	0551-AA53

Foreign Agricultural Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
276	Dairy Tariff Rate Import Quota Licensing	0551-AA27
277	Sugar Import Licensing	0551-AA39
278	Regulation Governing Implementation of the Market Access Program	0551-AA52
279	Regulations Governing the Financing of Commercial Sales of Agricultural Commodities	0551-AA54
280	Changes to the Regulation To Achieve More Effective Management of Foreign Donations of Agricultural Commodities	0551-AA56
281	Amend Regulations Governing Procedures for Procuring Ocean Transportation for Agricultural Commodities	0551-AA57

Forest Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
282	Disposal of National Forest Timber: Timber Sale Contract Revisions	0596-AB52

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
283	Hydropower Applications	0596-AA47
284	National Forest Prohibitions	0596-AA75
285	Small Tracts Act Regulations	0596-AA79
286	National Forest System Land and Resource Management Planning	0596-AB20
287	Species Surplus to Domestic Manufacturing Needs	0596-AB27
288	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AB36
289	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands	0596-AB45
290	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber	0596-AB48
291	National Environmental Policy Act; Revised Policy and Procedures; Categorical Exclusions	0596-AB54
292	Law Enforcement Support Activities	0596-AB61
293	Administration of the Forest Development Transportation System	0596-AB67
294	Noncompetitive Sale of Timber	0596-AB70
295	Small Business Timber Sale Set-Aside Recomputation Basis	0596-AB72
296	Categorical Exclusion for Certain Special Uses Permit Actions (FSH 1909.15, chapter 30)	0596-AB73
297	Clarification of Exemptions From Special-Use Authorizations	0596-AB74

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
298	Indian Allotments on National Forest System Lands	0596-AA52
299	Disposal of National Forest Timber; Cancellation of Timber Sale Contracts	0596-AB21

USDA

Forest Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
300	State and Private Forestry Assistance Stewardship Incentive Program	0596-AB32
301	Preference for Visitor Service; Alaska National Forest Conservation System Units	0596-AB57
302	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands; Mediation of Grazing Permit Disputes	0596-AB59 0596-AB63
303	Administrative, Cooperative Funds Agreements	0596-AB69
304	Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities	

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
305	Special-Use Applications and Administration of Special-Use Authorizations	0596-AB35
306	Small Business Timber Sale Set-Aside Program; Appeal Procedure on Recomputation of Shares	0596-AB62
307	Categorical Exclusion for Certain Ski Area Permit Actions	0596-AB65
308	Administration of the Forest Development Transportation System: Temporary Suspension of Road Construction in Roadless Areas	0596-AB68 0596-AB71
309	Ski Area Permit Fee System	

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
310	Designation of Rural Empowerment Zones and Enterprise Communities	0503-AA20

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
311	Uniform Procedures for the Acquisition and Transfer of Excess Personal Property	0503-AA19

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
312	Nondiscrimination in USDA-Conducted Programs and Activities	0503-AA15
313	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	0503-AA16

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
314	Designation of Rural Empowerment Zones and Enterprise Communities	0503-AA18

USDA

Rural Business-Cooperative Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
315	Rural Economic Development Loan and Grant Program	0570-AA19
316	Business and Industry Direct Loan Program	0570-AA22
317	Business and Industrial Guaranteed Loan Program—Miscellaneous Changes	0570-AA23
318	Affirmative Fair Housing Marketing Plan	0570-AA24
319	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock	0570-AA26
320	Rural and Rural Area Under the Rural Community Advancement Program	0570-AA27

Rural Business-Cooperative Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
321	Rural Business Opportunity Grants	0570-AA05

Rural Business-Cooperative Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
322	Rural Venture Capital Demonstration Program	0570-AA25

Rural Business-Cooperative Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
323	Rural Business Enterprise Grants and Television Demonstration Grants	0570-AA08
324	National Sheep Industry Improvement Center	0570-AA21

Rural Utilities Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
325	Amending the Rural Utilities Service Water and Waste Program Regulations	0572-AB44

Rural Utilities Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
326	Preservation of Records Accounting Requirements for RUS Electric Borrowers	0572-AA92
327	Load Forecasts	0572-AB05
328	Water and Waste Loan and Grant Servicing	0572-AB23
329	Telecommunications Standards and Specifications for Materials, Equipment, and Construction	0572-AB40
330	Seismic Safety	0572-AB47
331	Revision of RUS Telecommunications Program and RTB Loan Documents	0572-AB48

USDA

Rural Utilities Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
332	Telecommunications System Construction Policies and Procedures	0572-AB34
333	Distance Learning and Telemedicine Loan and Grant Program	0572-AB45
334	Construction Work Plans and Related Studies	0572-AB46

Rural Utilities Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
335	Electric Standards and Specifications for Materials and Construction	0572-AA67
336	Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans	0572-AA71
337	Civil Rights Policies Applicable to RUS Borrowers	0572-AA75
338	Loan Documents—Bank Program	0572-AA76
339	Depreciation Rates and Procedures	0572-AA80
340	Use of General Funds Investments, Loan Guarantees, and Retirement of Capital Credits by Electric Borrowers	0572-AB01
341	RUS Approval of Sale of Capital Assets by Electric Borrowers	0572-AB02
342	Community Facility Loans—Timber-Dependent Communities	0572-AB11
343	Solid Waste Management Grants	0572-AB14
344	Technical Assistance and Training Grants	0572-AB15
345	Special Equipment Contract (Including Installation)	0572-AB35
346	RUS Approval of Additions and Extensions to Electric Plants	0572-AB38
347	Telecommunications System Construction Contract and Specifications	0572-AB41

Rural Utilities Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
348	Loan Security Document—Telecommunications Program	0572-AA30
349	Loan Account Computations, Policies, and Procedures	0572-AA65
350	RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers	0572-AA86
351	Environmental Policies and Procedures	0572-AB33
352	Electric Program Standard Contract Forms	0572-AB42

Natural Resources Conservation Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
353	Forestry Incentives Program	0578-AA26

Natural Resources Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
354	Wetland Categorical Minimal Effects Exemptions	0578-AA27

Natural Resources Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
355	Highly Erodible Land and Wetland Conservation	0578-AA17

USDA

Natural Resources Conservation Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
356	7 CFR Part 610 Technical Assistance	0578-AA22

Office of Procurement and Property Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
357	Agriculture Acquisition Regulation (AGAR); Simplified Acquisition Procedures	0599-AA04
358	Agriculture Acquisition Regulation (AGAR); Contractor Employment of Migrant and Seasonal Agricultural Workers	0599-AA05
359	Department of Agriculture Priorities and Administrative Guideline for Donation of Excess Research Equipment	0599-AA06

Office of Procurement and Property Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
360	New Restrictions on Lobbying	0599-AA03

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Prerule Stage

1. • VOLUNTARY SHELL EGG REGULATIONS; REPACKAGING OF SHELL EGGS UNDER USDA'S GRADING PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 56

Legal Deadline: None

Abstract: Currently about one-third of the Nation's table eggs are marketed under the voluntary shell egg-grading program. Shell egg processors that choose to use this service pay a fee to have graders in their plants monitor processing operations and verify the grade and size of eggs packaged into packages bearing the USDA grade shield. The proposal would provide that in order to be officially identified with a USDA consumer grade shield, shell eggs must not be more than 15 days old (or some other period between 15 and 30 days if justified by public comment) and must not have been previously shipped for retail sale.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Douglas C. Bailey, Chief, Standardization Branch, Poultry Programs, Department of Agriculture, Agricultural Marketing Service, STOP 0259, Room 3944-South, 1400 Independence Avenue SW., Washington, DC 20250-0259
Phone: 202 720-3506
Fax: 202 690-0941

RIN: 0581–AB56

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Proposed Rule Stage

2. NATIONAL LABORATORY ACCREDITATION PROGRAM

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 138 to 138i

CFR Citation: 7 CFR 100

Legal Deadline: None

Abstract: The 1990 Farm Bill authorized the creation of a National Laboratory Accreditation Program (NLAP) for laboratories that request accreditation and conduct residue testing of agricultural products concerning chemical residue levels on agricultural products. The program is designed to protect human health by ensuring that laboratories which make claims to the public concerning pesticide residue levels meet minimum quality and reliability standards. The standards for the NLAP will be provided by the Food and Drug Administration with the operation of the program under the Agricultural Marketing Service, USDA. The program costs will be offset by a fee schedule. The one-time appropriation was used to provide for a fully equipped pesticide laboratory to verify the findings of those laboratories applying for accreditation.

USDA—AMS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	11/20/92	57 FR 54727
ANPRM Comment Period End	01/19/93	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: I-Pin Ho, Chemist, Technical Services Branch, Department of Agriculture, Agricultural Marketing Service, Science and Technology, P.O. Box 96456, Room 3521-South, Washington, DC 20090-6456
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RIN: 0581–AB42

3. FEDERAL MILK ORDER CONSOLIDATION AND REFORM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 601 to 674

CFR Citation: 7 CFR 1139

Legal Deadline: Final, Statutory, January 1, 1999.
Required by Public Law 104-127

Abstract: The Federal Agriculture Improvement and Reform Act required that the current 32 Federal milk marketing orders be consolidated into between 10 to 14 orders by 4/4/99. Congress extended that date to 10/1/99--with a final decision to be issued between February 1 and April 4, 1999. The 1996 Farm Bill also directed the Secretary to designate the State of California as a Federal order if California as dairy producers petition for and approve such an order. The Act specifies that USDA use informal rulemaking such to implement these reforms.

Timetable:

Action	Date	FR Cite
NPRM	01/30/98	63 FR 4802
NPRM Comment Period End	04/30/98	63 FR 12417
Second NPRM	04/02/99	64 FR 16026
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local

Agency Contact: John F. Borovies, Branch Chief, Department of Agriculture, Agricultural Marketing Service, Dairy-Order Formulation Branch, P.O. Box 96456, Room 2971-So. Bldg., Washington, DC 20090-6456
Phone: 202 720-6274
Fax: 202 690-0552
Email: john_f_borovies@usda.gov

RIN: 0581–AB49

4. • COTTON CLASSIFICATION SERVICES TO GROWERS; REVISION OF USER FEES FOR 1999 CROP

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 471 to 476

CFR Citation: 7 CFR 28

Legal Deadline: NPRM, Statutory, April 1999. Final, Statutory, May 1999.

Abstract: The user fee for 1999 crop cotton classification services to growers is expected to generate about $25 million in revenues. The Agricultural Marketing Service will adjust the user fees for cotton producers for 1999 crop cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula specified in the Uniform Cotton Classing Fees Act of 1987. The formula takes into account the inflationary rate, the estimated volume of the crop, and the level of the reserve fund of the Cotton Programs. The actual adjustment in the fee will be calculated in early 1999, when all three of the factors required by legislation for the formula become available. Since the user fee is equal - to much less than 1 percent of the value of a bale of cotton, any minor adjustment in the fee is expected to have nominal effect on cotton growers.

Timetable:

Action	Date	FR Cite
NPRM	04/02/99	64 FR 15937
NPRM Comment Period End	05/03/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lee Cliburn, Chief, Program Appraisal Staff, Department of Agriculture, Agricultural Marketing Service, Cotton Program, Rm. 2641-So., Washington, DC 20250
Phone: 202 720-2145

RIN: 0581–AB57

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Final Rule Stage

5. KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7461 to 7473

CFR Citation: 7 CFR 1214

Legal Deadline: None

Abstract: Two proposals were submitted to the Department of Agriculture for a Kiwifruit Research, Promotion, and Consumer Information Order. Under the proposals, producers and importers would pay an assessment not to exceed 10 cents per 7-pound tray of kiwifruit. The assessments would be used to conduct a general program to maintain, expand, and develop markets for kiwifruit. Seventy-five comments were received on the proposals. Most of which were negative. Therefore, the proposed program was held in abeyance until the Act could be amended. The Act was amended on 6/23/98. Another proposed rule to reflect the Act's amendments was published on November 10, 1998. The comment period closed on January 11, 1999. A National Referendum will be held to determine if the proposed program will be implemented.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/96	61 FR 51378
ANPRM Comment Period End	12/02/96	
NPRM	10/17/97	62 FR 54314
Final Action	06/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

USDA—AMS

Final Rule Stage

Agency Contact: Martha B. Ransom, Chief, Research and Promotion Branch, Department of Agriculture, Agricultural Marketing Service, F&V Division, P.O. Box 96456, Room 2535-So. Bldg., Washington, DC 20090-6456
Phone: 202 720-9915
Fax: 202 205-2800

RIN: 0581–AB46

6. FEDERAL SEED ACT; AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1551 to 1611

CFR Citation: 7 CFR 201

Legal Deadline: None

Abstract: The objective of this proposal is to update the Federal Seed Act (FSA) regulations to incorporate current seed testing and seed certification procedures, and the proposal would also make seeds of Federal Noxious Weed Act (FNWA) species noxious, in interstate shipments of seed. This amendment would keep the FSA regulations consistent with present technology and prevent conflicts between Federal and State regulations that could inhibit the free movement of seed. Making the FNWA species noxious would provide the States and AMS a means to regulate and prevent the spread of these highly destructive weeds.

Timetable:

Action	Date	FR Cite
NPRM	10/20/98	63 FR 55964
NPRM Comment Period End	02/04/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard C. Payne, Acting Chief, Seed Regulatory and Testing Branch, Department of Agriculture, Agricultural Marketing Service, Room 209, Building 306, BARC-East, Beltsville, MD 20705-2325
Phone: 301 504-9430
Fax: 301 504-5454
Email: richard.payne2@usda.gov

RIN: 0581–AB55

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Long-Term Actions

7. NATIONAL ORGANIC PROGRAM

Priority: Economically Significant

CFR Citation: 7 CFR 205

Timetable:

Action	Date	FR Cite
Organic Livestock Hearings	12/30/93	58 FR 69315
Notice - Procedure To Submit Names of Substances for National List	03/27/95	60 FR 15744
NPRM	12/16/97	62 FR 65850
NPRM Comment Period End	10/01/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Agency Contact: Eileen Stommes
Phone: 202 720-3252

RIN: 0581–AA40

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Completed Actions

8. REVISION OF REGULATIONS GOVERNING THE INSPECTION AND GRADING SERVICES OF MANUFACTURED OR PROCESSED DAIRY PRODUCTS

Priority: Routine and Frequent

CFR Citation: 7 CFR 58

Completed:

Reason	Date	FR Cite
Withdrawn - Final Action Delayed	02/04/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: F. Tracy Schonrock
Phone: 202 690-0530

RIN: 0581–AA45

9. EGG, POULTRY, AND RABBIT GRADING: FEE INCREASE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 70

Completed:

Reason	Date	FR Cite
Final Action	09/30/98	63 FR 52131
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Holbrook
Phone: 202 720-4476

RIN: 0581–AB54

BILLING CODE 3410-02-F

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Research Service (ARS)

Proposed Rule Stage

10. NATIONAL AGRICULTURAL LIBRARY FEES FOR LOANS AND COPYING

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624, sec 104

CFR Citation: 7 CFR 505

Legal Deadline: None

Abstract: The Department of Agriculture seeks comments on a proposed rule establishing a fee schedule for loans of materials and copying of materials in the collections of the National Agricultural Library.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Ditzler, Head, Document Delivery Services Branch, Department of Agriculture, Agricultural Research Service, Room 300 National Agricultural Library, 10301 Baltimore Avenue, Beltsville, MD 20705
Phone: 301 504-6503
TDD: 301 504-6856
Fax: 301 504-7593
Email: userfees@nal.usda.gov

RIN: 0518–AA01

BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Prerule Stage

11. DEBT SETTLEMENT FOR INDIAN TRIBAL LAND ACQUISITION LOANS

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 1480

CFR Citation: 7 CFR 1823; 7 CFR 1951

Legal Deadline: None

Abstract: Indian tribes have experienced loss of Federal assistance in the last 5 years due to reorganization of the Bureau of Indian Affairs (BIA) and the shifting of responsibilities from the BIA to the tribes themselves. These have included waste management, as well as other mandates. The funding to fully meet these mandates has been insufficient, requiring tribes to use other financial resources to meet them. Funding for tribal priority allocations, which include law enforcement, housing, education, natural resource management, and other tribal services, was reduced in FY 1996. This action will allow for a reduction of debt commensurate with reductions from other Federal sources. Action will be taken on a case-by-case basis in determining the amount and timing of any debt reduction. This action is intended to head off further repayment difficulties and strengthen tribal operations. Outlays are expected to be $22 million.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/99	64 FR 10235
ANPRM Comment Period End	04/02/99	
NPRM	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig, Acting Chief, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF43

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Proposed Rule Stage

12. • LOW DOCUMENTATION LOAN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1910; 7 CFR 1941

Legal Deadline: None

Abstract: The Farm Service Agency (FSA), is amending the direct operating loan program application requirements for small loans under $20,000 to current FSA borrowers with total FSA indebtedness of less than $100,000, and for recurring annual operating loans to existing borrowers. The amendment will streamline the application process for those loans, but will not change the eligibility requirements. This change will not impact the number of farmers eligible for FSA loans nor the dollar amount of loans made by FSA. This abbreviated application will result in more efficient application processing by field office employees. This amendment will not increase losses for the Agency. Farmers eligible for this lo-doc loan will be served in a more efficient and timely manner while keeping them in business, thus minimizing losses to the Government.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF71

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)
Final Rule Stage

13. AMENDMENT TO THE COTTON WAREHOUSE REGULATIONS REGARDING THE DEFINITION OF "UNNECESSARY DELAY"

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 262

CFR Citation: 7 CFR 735

Legal Deadline: None

Abstract: This action will amend the regulations for cotton warehouses under the U.S. Warehouse Act to establish a regulatory guideline for the statutory phrase "without unnecessary delay," which pertains to the shipping times between shipper-merchants and warehouse operators in order to resolve differences regarding this issue. A charge of 1 to 2 cents per warehouse receipt would be necessary to pay for monitoring the guideline. Total annual cost is expected to be $80,000 to $120,000.

Timetable:

Action	Date	FR Cite
NPRM	05/26/98	63 FR 28488
NPRM Comment Period End	07/27/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF13

14. 1999-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1312; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, March 1, 1999, Marketing Quota Announcement

Abstract: Marketing quotas and price support are required by statute for these kinds of tobacco: Fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), and cigar filler and binder (types 42-44 and 53-55). Quotas and allotments are determined by statutory formula to balance supply with demand to assure stable supplies for domestic and export. Marketing quotas are implemented if approved by producers in referenda. Producers approved quotas for the 1999 crops of fire-cured (types 21-23), dark air-cured (types 35-36), and sun-cured (type 37) in March 1997 and 1998. Referenda for the other kinds are scheduled for March 1999. Producers of these types have historically voted for quotas. Price support levels are set by statutory formula. The Secretary may reduce the level at the request of producer associations and may limit increases to 65 percent of the formula increase. Gross loan outlays of $1 million in FY 2000 are expected to be offset by loan repayments and no-net-cost assessments in FY 2000 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
NPRM	02/26/99	64 FR 9452
NPRM Comment Period End	03/01/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF51

15. • END-USE CERTIFICATE PROGRAM

Priority: Other Significant

Legal Authority: 19 USC 3391(f)

CFR Citation: 7 CFR 782

Legal Deadline: None

Abstract: This action will revise the regulations regarding the filing of documentation by importers of Canadian wheat to require filers to provide additional information with respect to each shipment of wheat. Changes are also necessary to coincide with regulations being promulgated by the U.S. Customs Service. The proposed changes will require the importer of record to file the End-Use Certificates within 10 days of entry. It will also provide for electronic filing instead of the submission of paper documents. No significant economic impact is expected.

Timetable:

Action	Date	FR Cite
NPRM	01/13/99	64 FR 2152
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF64

16. • MODIFICATION OF COLLATERAL REQUIREMENTS FOR EMERGENCY LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1980

CFR Citation: 7 CFR 1945

Legal Deadline: None

Abstract: As a result of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, the requirement that the portion of an emergency loan secured by repayment ability will be repaid in 3 years has been eliminated. The Agency needs to remove this language from 7 CFR, part 1945, subpart D, and establish new regulations for securing loans using repayment ability. This action will increase the number of producers who will be able to obtain emergency loans while allowing the Agency to protect its interest when securing loans using the applicant's repayment ability as collateral.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

USDA—FSA

Final Rule Stage

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF72

DEPARTMENT OF AGRICULTURE (USDA)

Long-Term Actions

Farm Service Agency (FSA)

17. PROGRAM INELIGIBILITY FOR NONCOMPLIANCE WITH BOLL WEEVIL ERADICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AD57

18. SUGAR AND CRYSTALLINE FRUCTOSE INFORMATION AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AD88

19. SMALL FARMER OUTREACH TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1943 subpart C

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/27/94	59 FR 66441
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Tom Witzig
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RIN: 0560–AE17

20. PART 1946 MEDIATION; SUBPART A—AGRICULTURAL LOAN MEDIATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946 subpart A

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Tom Witzig
Phone: 202 205-5851
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RIN: 0560–AE26

21. SELECTION AND FUNCTIONS OF FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Priority: Info./Admin./Other

CFR Citation: 7 CFR 7

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE33

22. IMPLEMENTATION PROCEDURES FOR HIGHLY ERODIBLE LAND AND WETLANDS CONSERVATION PROVISIONS OF THE FOOD SECURITY ACT

Priority: Other Significant

CFR Citation: 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 0560–AE38

23. AMENDMENTS TO THE FARMER ACCOUNT SERVICING POLICIES

Priority: Economically Significant

CFR Citation: 7 CFR 1900; 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/88	53 FR 35638
NPRM	10/23/91	56 FR 54970
Interim Final Rule	04/30/92	57 FR 18612
Interim Final Rule	10/15/92	57 FR 47257
Interim Final Rule	03/23/93	58 FR 15418
Interim Final Rule	05/26/93	58 FR 30104
Interim Final Rule	12/30/93	58 FR 69190
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE42

USDA—FSA

Long-Term Actions

24. AMENDMENTS TO THE STANDARDS FOR APPROVAL OF WAREHOUSE FOR COMMODITY CREDIT CORPORATION STORAGE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1421; 7 CFR 1423; 7 CFR 1427

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE50

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25. DELETION OF FSA REGULATIONS REGARDING COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 702; 7 CFR 703; 7 CFR 752

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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Fax: 202 720-5233
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RIN: 0560–AE54

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26. AMENDMENT TO THE CONSERVATION RESERVE PROGRAM REGARDING EARLY CONTRACT TERMINATIONS

Priority: Other Significant

CFR Citation: 7 CFR 704

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/96	61 FR 10671
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE56

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27. AMENDMENTS TO THE REGULATIONS FOR COTTON WAREHOUSES UNDER THE UNITED STATES WAREHOUSE ACT—ELECTRONIC BLOCK WAREHOUSE RECEIPTS, INSURANCE REQUIREMENTS, AND OTHER PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 735

Timetable:

Action	Date	FR Cite
NPRM	11/29/96	61 FR 60637
NPRM Comment Period End	01/28/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE60

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28. SUSPENSION OF THE EMERGENCY LIVESTOCK ASSISTANCE REGULATIONS FOR CROP YEARS 1996 TO 2002

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1475

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE86

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29. DIRECT LINE OF CREDIT PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE90

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30. REVISION OF REGULATIONS PERTAINING TO INDIAN TRIBES AND TRIBAL CORPORATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1823; 7 CFR 1942-F; 7 CFR 1956-C

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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Fax: 202 720-5233
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RIN: 0560–AE91

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31. AMENDMENTS TO UPDATE THE TOBACCO PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 711; 7 CFR 714; 7 CFR 717; 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig

USDA—FSA **Long-Term Actions**

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Fax: 202 720-5233
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RIN: 0560–AF05

32. AMENDMENTS TO UPDATE THE PEANUT PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1446

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF06

33. AMENDMENTS TO UPDATE FARM PROGRAM PAYMENT LIMITATION AND DISASTER REGULATIONS UNDER THE NATIONAL PERFORMANCE REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 777; 7 CFR 795; 7 CFR 1400

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF10

34. 1998-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR EIGHT KINDS OF TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
NPRM	02/02/98	63 FR 5285
NPRM Comment Period End	02/13/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF20

35. LENDER BUYBACK OF REPURCHASED GUARANTEED LOANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1980 subpart B

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0560–AF21

36. AMENDMENTS TO THE DEBT SETTLEMENT POLICIES AND PROCEDURES TO CONFORM TO THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

Priority: Other Significant

CFR Citation: 7 CFR 792; 7 CFR 1403; 7 CFR 1404

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF22

37. AMENDMENTS TO THE FORAGE PROVISIONS OF THE NONINSURED CROP DISASTER ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1437

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/17/97	62 FR 53929
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF23

38. REFUND OF MARKETING QUOTA PENALTIES AND TOBACCO AUCTION WAREHOUSE RECORDS AND REPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 714; 7 CFR 723; 7 CFR 729

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF26

39. REFUND OF MARKETING QUOTA PENALTIES AND OTHER PEANUT PROGRAM PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 729

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

USDA—FSA

Long-Term Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF27

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40. CONTRACTING ADDITIONAL PEANUTS BY TYPE AND SEGREGATION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1446

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF28

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41. AMERICAN INDIAN LIVESTOCK FEED PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1439

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/27/98	63 FR 65524
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF29

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42. SUGAR PROGRAM INFORMATION REPORTING AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF31

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43. UPLAND COTTON USER MARKETING CERTIFICATE PROGRAM; REVISION OF REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1427

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67806
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF32

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44. COOPERATIVE MARKETING ASSOCIATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1425

Timetable:

Action	Date	FR Cite
NPRM	04/09/98	63 FR 17311
NPRM Comment Period End	05/11/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF33

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45. INAPPLICABILITY TO FSA'S FARM LOAN PROGRAMS OF REDUNDANT INSTRUCTIONS REGARDING THE COLLECTION AND DEPOSITING OF PROGRAM PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF34

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46. REVISION OF FSA-GUARANTEED LOAN REGULATIONS—INTEREST SUBSIDY FOR GUARANTEED BORROWERS

Priority: Other Significant

CFR Citation: 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/91	56 FR 8257
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF35

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47. AMENDMENT TO THE FARM RECONSTITUTION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 718

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF36

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48. CHANGE IN WAREHOUSE RECEIPT REQUIREMENTS FOR CCC'S COTTON LOAN AND LOAN DEFICIENCY PAYMENT PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1427

USDA—FSA **Long-Term Actions**

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF39

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49. CHEMICAL TESTING OF FARMERS' STOCK PEANUTS FOR AFLATOXIN CONTENT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 729; 7 CFR 1446

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF40

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50. DAIRY RECOURSE LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1430

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF41

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51. NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 1998 AND SUCCEEDING CROP YEARS

Priority: Economically Significant

CFR Citation: 7 CFR 1437

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF46

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52. AMENDMENTS TO THE REGULATIONS REGARDING SUSPENSION AND DEBARMENT FROM COMMODITY CREDIT CORPORATION PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1407

Timetable:

Action	Date	FR Cite
NPRM	12/30/98	63 FR 71796
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF47

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53. 1999-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE LOAN RATES AND MINIMUM EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

CFR Citation: 7 CFR 729; 7 CFR 1446; 7 CFR 1421

Timetable:

Action	Date	FR Cite
NPRM	11/25/98	63 FR 56133
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF48

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54. 1999-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF49

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55. 1999-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF50

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56. REMOVE INTERNAL AGENCY PROVISION FROM FSA FARM CREDIT PROGRAM REGULATION—LIQUIDATION OF LOANS SECURED BY REAL ESTATE AND ACQUISITION OF REAL AND CHATTEL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1955

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF53

57. DEBT SETTLEMENT OF THE FARM LOAN PROGRAM'S NONPROGRAM LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1956

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF54

58. CLEANING AND REINSPECTION OF FARMERS' STOCK PEANUTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1446

Timetable:

Action	Date	FR Cite
NPRM	08/05/98	63 FR 41711
NPRM Comment Period End	09/04/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF56

59. DISASTER RESERVE FLOOD COMPENSATION PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1439

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF57

60. • DISASTER SET-ASIDE PROGRAM SECOND INSTALLMENT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 7 USC 1989; 31 USC 3716; 42 USC 1480

CFR Citation: 7 CFR 1951

Legal Deadline: None

Abstract: The Farm Service Agency (FSA) is amending the disaster set-aside program requirement to allow farm borrowers to set aside portions of payments that could not be made as scheduled due to a natural disaster as declared by the President or Secretary of Agriculture between January 1, 1998, and December 31, 1998, or because of the adverse economic conditions and low commodity prices which were determined to have occurred in 1998. Applications for economic disaster set-aside must be received on or before August 31, 1999. Also, those borrowers who have loans with set-aside payments as of the publication date of this regulation may set aside a second payment on the same loans if determined eligible based on criteria established by this rule. To receive consideration for a second set-aside due to a natural disaster, the borrower's request must be received within 8 months from the date of the disaster designation, in accordance with FmHA Instruction 1945-A. The impact of these provisions will allow the agency to serve farmers who have experienced losses due to a natural disaster or adverse economic conditions in an efficient and timely manner while helping them stay in business. This rule will not increase losses for the Agency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/99	64 FR 392
Final Action	To Be Determined	
Final Action Effective	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF59

61. • REGULATORY STREAMLINING OF THE FARM SERVICE AGENCY'S DIRECT FARM LOAN PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR ch 7; 7 CFR ch 18

Legal Deadline: None

Abstract: The Farm Service Agency (FSA) direct farm loan programs are still using the regulations and handbooks from the former Farmers Home Administration and still share many of its regulations, forms, and handbooks with the Rural Housing Service, Rural Utilities Service, and the Rural Business-Cooperative Services of the Rural Development Agency. This is very cumbersome and confusing to both Agency employees and the general public. This action will move all the direct farm loan program regulations from 7 CFR Chapter 18 to 7 CFR chapter 7 and will allow FSA the opportunity to rewrite and reengineer its direct farm loan program regulations. This action will consolidate a number of actions that were included in the Regulatory Agenda under separate RIN's: 0560-AE04, 0560-AE07, 0560-AE09, 0560-AE11, 0560-AE13, 0560-AE14, 0560-AE15, 0560-AE37, 0560-AE87, 0560-AE88, 0560-AE90, 0560-AE98, and 0560-AE99.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF60

62. • AMENDMENTS TO THE REGULATIONS GOVERNING THE PEANUT POUNDAGE QUOTA AND PRICE SUPPORT PROGRAMS

Priority: Other Significant

Legal Authority: 7 USC 1301 et seq; 15 USC 714b and 714c

CFR Citation: 7 CFR 714; 7 CFR 729; 7 CFR 1446

Legal Deadline: None

Abstract: This rule makes changes in the regulations to: (1) Change references not previously changed to reflect USDA reorganization, (2) make several changes clarifying administrative provisions, (3) move regulations at 7 CFR part 714 into each of parts 729 and 1446 to improve peanut program administration, (4) ease the tolerance for miscertification of acres planted, (5) ease the restrictions on buyback provisions applicable to additional peanuts, (6) remove restrictions on operator transfer of peanut poundage quota, (7) clarify that a farm that is ineligible for quota allocation is also ineligible for allocation of a tenant's share of any quota increase, (8) lengthen the base period for selecting the highest yield with respect to determining eligibility to transfer peanut quota, and (9) correct several references required to reflect USDA reorganization and CFR parts that have been moved or deleted. No costs are expected.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF61

63. • ACCELERATED PRODUCTION FLEXIBILITY CONTRACT PAYMENTS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: PL 105-228; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1412

Legal Deadline: None

Abstract: This action is needed to authorize revised FY 1999 Production Flexibility Contract (PFC) payment schedules in accordance with the Emergency Farm Financial Relief Act (The Act), which was signed by President Clinton on August 12, 1998. The Act, as a special rule for FY 1999, provides producers the option to receive FY 1999 PFC payments as two 50-percent payments or as a single 100-percent payment at any time during FY 1999. The objective of the revised PFC payment schedule is to allow producers to receive FY 1999 PFC payments as soon as practicable after October 1, 1998. The accelerated payment schedule may relieve financial burdens on producers suffering from low 1998 commodity prices and crop losses. The change does not impact the amount of FY 1999 PFC payments, nor does the revised payment schedule allow for any PFC expenditures to deviate from the FY in which they are scheduled to be issued. No additional cost is expected. This rule will not increase losses for the Agency.

Timetable:

Action	Date	FR Cite
NPRM	01/05/99	64 FR 392
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF65

64. • DAIRY INDEMNITY PAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-277

CFR Citation: 7 CFR 760

Legal Deadline: None

Abstract: The Dairy Indemnity Payment program indemnifies dairy farmers for milk dumped because of contamination that was not the fault of the producer and indemnifies dairy manufacturers for dairy products removed from the market through no fault of their own. This action is needed to reauthorize the program through 9/30/99 in accordance with the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. Reauthorization of the program is mandatory. $450,000 has been authorized for FY 1999.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF66

65. • DAIRY MARKET LOSS ASSISTANCE PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 105-277

CFR Citation: 7 CFR 1430

Legal Deadline: None

Abstract: The Omnibus Consolidated and Emergency Supplemental Act, 1999 (1999 Act) designates that $200 million shall be available to provide assistance to dairy farmers in a manner determined by the Secretary. A Decision Memorandum to the Under Secretary provides numerous options for determining the form of the assistance. When the decision has been made, the regulation governing the Dairy Market Loss Assistance Program will be drafted. It is estimated that there are 117,000 dairy operations in existence that will be eligible for this type of assistance. This action is needed to establish the regulations

implementing the Dairy Market Loss Assistance Program in accordance with the 1999 Act. Payments will be made by September 30, 1999. $200 million was appropriated for FY 1999.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0560–AF67

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66. • NONRECOURSE MARKETING ASSISTANCE LOANS FOR CRAMBE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7231

CFR Citation: 7 CFR 1421

Legal Deadline: None

Abstract: This action is needed to establish: 1) Crambe as an oilseed and eligible commodity for nonrecourse marketing assistance loans; 2) March 31 as the final availability date for requesting crambe loans; 3) quality standards for crambe; and 4) loan repayment provisions. The 1998 loan rate for crambe would be established at $0.0877 per pound (on a pound-per-pound basis of the 1998 soybean loan rate of $5.26 per bushel), the minimum level at which the loan rate may be set. The production is grown under contract by approximately 400 producers at a price that is well above the loan rate. Thus, no forfeitures, marketing loan gains or loan deficiency payments are expected.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF68

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67. • STREAMLINING OF REGULATIONS FOR REAL ESTATE APPRAISALS AND CHATTEL APPRAISALS

Priority: Info./Admin./Other

Legal Authority: 5 USC 30101; 7 USC 1989; 31 USC 3716; 42 USC 1480

CFR Citation: 7 CFR 761; 7 CFR 1922

Legal Deadline: None

Abstract: This change will standardize the process of appealing appraisals between all aspects of Farm Loan Programs within the Agency. This action is expected to reduce costs paid by applicants/borrowers to appeal an Agency appraisal.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0257, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF69

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68. • SMALL HOG OPERATION PAYMENT PLAN

Priority: Other Significant

Legal Authority: 7 USC 612c

CFR Citation: 7 CFR 761

Legal Deadline: None

Abstract: Small Hog Operation Payment Program will make approximately $50 million in direct cash payments to small hog operations to help them weather the current economic crisis. The Farm Service Agency will provide a direct payment to producers of small hog operations if they marketed fewer than 1,000 hogs during the last 6 months of 1998, are in operation during the time of sign up, did not market the hogs under fixed-price or cost-plus contracts, and whose operation or producer did not exceed gross income of $2.5 million during 1998. If applications exceed $50 million, a national factor will be used to reduce each payment so that the national total is no more than $50 million.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/10/99	64 FR 6495
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF70

DEPARTMENT OF AGRICULTURE (USDA)

Farm Service Agency (FSA)

Completed Actions

69. AMENDMENT TO THE WAREHOUSE REGULATIONS REGARDING AUCTION TOBACCO WAREHOUSES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 723; 7 CFR 737

Completed:

Reason	Date	FR Cite
Final Action	11/09/98	63 FR 60203

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AD92

70. FARMER CREDIT PROGRAM ACCOUNT SERVICING POLICIES FOR SECTION 1816 AND OTHER RELATED SECTIONS FOR THE 1990 FACT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1900 subpart B; 7 CFR 1924 subpart B; 7 CFR 1951 subpart S

Completed:

Reason	Date	FR Cite
Withdrawn	05/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 0560–AE02

71. IMPLEMENT SECTION 1818 (BORROWER TRAINING) OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990 (FACT ACT)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910 subpart A; 7 CFR 1943 subpart B; 7 CFR 1924 subpart B; 7 CFR 1941 subpart A; 7 CFR 1945 subpart D; 7 CFR 1943 subpart A; 7 CFR 1951 subpart S; 7 CFR 1980 subpart B; 7 CFR 1962 subpart A; 7 CFR 1965 subpart A

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE04

72. IMPLEMENTATION OF CERTIFIED LENDER PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE07

73. INSURED AND GUARANTEED OPERATING AND FARM OWNERSHIP LOAN AND RELATED INSTRUCTIONS TO IMPLEMENT SECTIONS 4, 5, 7, 8, 9, AND 19 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980; 7 CFR 1955

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE09

74. SECTION 14 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992 (GRADUATION) AND SECTIONS 1819 (LOAN ASSESSMENT) AND 1821 (MARKET PLACEMENT) OF THE "FACT ACT"

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1951; 7 CFR 1980; 7 CFR 1943; 7 CFR 1945; 7 CFR 1962

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE11

75. THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946; 7 CFR 1980

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE13

76. IMPLEMENT SECTIONS 11 AND 13 OF THE AGRICULTURE CREDIT IMPROVEMENT ACT OF 1992 (APPLICATION PROCESSING TIMEFRAME)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1980

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: No

USDA—FSA

Completed Actions

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE14

77. ACQUISITION AND MANAGEMENT OF REAL AND CHATTEL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 2.23; 7 CFR 2.70; 7 CFR 1955A; 7 CFR 1955C

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE15

78. AMENDMENT TO CONSERVATION PROGRAM APPEAL REGULATIONS REGARDING JURISDICTION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 780

Completed:

Reason	Date	FR Cite
Withdrawn - Transferred to the National Appeals Division.	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE30

79. REVISION TO THE DIRECT LOANMAKING REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1910; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE87

80. REVISION OF THE INVENTORY PROPERTY MANAGEMENT REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1955

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE88

81. REVISIONS TO THE DELINQUENT ACCOUNT SERVICING REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1951; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE89

82. AMENDMENTS TO THE TOBACCO MARKETING QUOTA REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 723

Completed:

Reason	Date	FR Cite
Final Action	03/10/98	63 FR 11581

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE96

83. DISASTER SET-ASIDE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1951, subpart S

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE98

84. BOLL WEEVIL ERADICATION LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1941, subpart C

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AE60	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE99

85. 1998-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	10/20/98	63 FR 55939

USDA—FSA

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF18

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86. 1998-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	10/20/98	63 FR 55937
Final Action Effective	12/15/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF19

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87. FLOOD RISK REDUCTION PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1471

Completed:

Reason	Date	FR Cite
Withdrawn - No Action To Be Taken	04/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF24

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88. IMPLEMENTATION OF PREFERRED LENDER PROGRAM AND STREAMLINING OF GUARANTEED LOAN REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980

Completed:

Reason	Date	FR Cite
Final Action	02/12/99	64 FR 7358
Final Action Effective	02/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF38

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89. 1998 DAIRY PRODUCTION DISASTER ASSISTANCE PROGRAM, LIVESTOCK INDEMNITY PROGRAM, AND TREE ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 783; 7 CFR 1439

Completed:

Reason	Date	FR Cite
Withdrawn	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF44

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90. AMENDMENT TO THE TOBACCO IMPORTER ASSESSMENT REGULATIONS REGARDING THE DEFINITION OF DE MINIMIS SPECIAL ENTRIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1464.101

Completed:

Reason	Date	FR Cite
Final Action	01/19/99	64 FR 2802

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF52

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91. FEE SCHEDULE; AERIAL PHOTOGRAPHIC REPRODUCTIONS

Priority: Info./Admin./Other

CFR Citation: 7 CFR 1

Completed:

Reason	Date	FR Cite
Final Action	01/22/99	64 FR 3395

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF55

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92. LIVESTOCK ASSISTANCE PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1439

Completed:

Reason	Date	FR Cite
Final Action	03/19/99	64 FR 13497

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF58

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93. • HONEY RECOURSE LOAN PROGRAM

Priority: Other Significant

Legal Authority: PL 105-277

CFR Citation: 7 CFR 1434

Legal Deadline: None

Abstract: The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105-277) (the Act) requires the Secretary to make available recourse loans to producers of the 1998 crop of honey. The Act provides a formula for the determination of the loan rate and requires that the program be operated on a no net cost basis. Primary provisions to be determined are: a) Producer and honey eligibility; b) issuing of loan proceeds; and c) repayment of loans. The program will be operated so there are no net outlays although 1-2 percent may be expected to be repaid in FY 2000.

Timetable:

Action	Date	FR Cite
Final Action	03/08/99	64 FR 10429

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

USDA—FSA **Completed Actions**

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom_witzig@wdc.fsa.usda.gov

RIN: 0560–AF62

94. • MOHAIR RECOURSE LOAN PROGRAM

Priority: Other Significant

Legal Authority: PL 105-277

CFR Citation: 7 CFR 1434

Legal Deadline: None

Abstract: The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (the Act) requires the Secretary to make available during FY 1999 recourse loans to producers of mohair produced during or before FY 1999. The Act provides for a no-interest loan at a rate of $2.00 per pound for a term of 1 year. Primary provisions to be determined are: a) Producer and mohair eligibility; b) issuing of loan proceeds; and c) repayment of loans. Loan outlays of $16 to $22 million are expected.

Timetable:

Action	Date	FR Cite
Final Action	03/08/99	64 FR 10923

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom-witzig@wdc.fsa.usda.gov

RIN: 0560–AF63

BILLING CODE 3410-05-F

DEPARTMENT OF AGRICULTURE (USDA)

Prerule Stage

Animal and Plant Health Inspection Service (APHIS)

95. • NOXIOUS WEEDS; WEED CATEGORIES AND PRIORITIES

Priority: Other Significant

Legal Authority: 7 USC 2803; 7 USC 2809

CFR Citation: 7 CFR 360

Legal Deadline: None

Abstract: We are soliciting public input on the manner in which Federal noxious weeds are characterized and categorized. Specifically, we are seeking public comment on a four-tier categorization scheme for noxious weeds that would provide for varying levels of response to weeds based on their pest risk potential. The information gathered through this advance notice of proposed rulemaking will be used by the Animal and Plant Health Inspection Service as we consider regulatory changes and weigh alternative approaches to addressing the problem of noxious weeds.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/99	
ANPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Polly Lehtomen, Botanist, BATS, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 133, Riverdale, MD 20737-1236
Phone: 301 734-8896

RIN: 0579–AB07

96. • AQUACULTURE; FARM-RAISED FIN FISH

Priority: Other Significant

Legal Authority: 5 USC 5542; 7 USC 147b; 21 USC 111 to 114a; 21 USC 114b to 114c; 21 USC 114h; 21 USC 115; 21 USC 117 to 130; 21 USC 134; 21 USC 134(a) to 134(h); 21 USC 135a; 21 USC 136; 21 USC 136a

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: We have received many petitions asking us to regulate farm-raised fin fish. Based on these petitions, we are asking for comments from the public on whether we should regulate farm-raised fin fish, and if so, what services we should offer. We are considering programs designed to prevent the importation of diseases and pests of cultured aquatic species. We are also considering programs to prevent the interstate movement of diseases and pests of cultured aquatic species.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	
ANPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Otis Miller, National Aquaculture Coordinator, NAHP, Veterinary Services, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 43, Riverdale, MD 20737-1231
Phone: 301 734-7679

RIN: 0579–AB09

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

97. PLANT PEST REGULATIONS; UPDATE OF CURRENT PROVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 149; 7 USC 150bb; 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 154; 7 USC 159; 7 USC 160; 7 USC 162; 7 USC 2260; 21 USC 136; 21 USC 136a; 31 USC 9701

CFR Citation: 7 CFR 330

Legal Deadline: None

Abstract: APHIS is developing a proposal to amend its plant pest regulations by: (1) Setting out the criteria that will be used by APHIS when considering whether an organism is a plant pest; (2) adding a permit category for organisms that would be released into the environment for purposes such as the biological control of weeds; (3) establishing a notification system that could be used in place of permits for the importation and interstate movement of certain low-risk organisms; and (4) revising or amending existing portions of the regulations to clarify or update requirements, eliminate redundancy, and make the regulations easier for the public to use. These proposed changes will serve as a follow-up to the advance notice of proposed rulemaking that APHIS published in the Federal Register on September 27, 1996, to solicit input on the need for regulatory changes and alternative methods of addressing plant pest risk.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/96	61 FR 50767
ANPRM Comment Period End	12/26/96	
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Robert Flanders, Entomologist, Scientific Services, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 133, Riverdale, MD 20737-1236
Phone: 301 734-8896
Email: robert.v.flanders@usda.gov

RIN: 0579–AA80

98. KARNAL BUNT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 7 USC 147a; 7 USC 150bb; 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136 to 136a

CFR Citation: 7 CFR 301; 7 CFR 319

Legal Deadline: None

Abstract: Karnal bunt is a fungal disease of wheat (Triticum aestivum), durum wheat (Triticum durum), and triticale (Triticum aestivum x Secale cereale), a hybrid of wheat and rye. In the absence of measures taken by the U.S. Department of Agriculture, the establishment of Karnal bunt in the United States would have significant consequences with regard to the export of wheat to international markets. Prior to March 8, 1996, Karnal bunt was not known to exist in the United States. Since March 8, 1996, Karnal bunt has been detected within several States. In response, we have established regulations that define regulated areas in certain States because of Karnal bunt, restrict the the movement of certain articles from the regulated areas to prevent the spread of Karnal bunt, and provide compensation for certain growers, handlers, and other individuals in the regulated areas to mitigate losses and expenses incurred because of actions taken by the Secretary to prevent the spread of Karnal bunt. As part of a continuing Karnal bunt program, we anticipate that the regulations concerning regulated areas, movement restrictions, and compensation will be revised as more is known about the Karnal bunt situation in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35102
NPRM	08/02/96	61 FR 40354
NPRM Comment Period End	09/03/96	
Final Rule Classifying Regulated Areas, Movement of Regulated Articles	10/04/96	61 FR 52190
Interim Final Rule Change Classification of Regulated Areas	05/01/97	62 FR 23620
Final Rule Compensation for 1995-96 Crop Season	05/06/97	62 FR 24746
NPRM Compensation for 1996-97 Crop Season	07/11/97	62 FR 37159
NPRM Compensation for Wheat Seed and Straw, 1995-96 Crop Season	07/30/97	62 FR 40756
Interim Final Rule Additions to Regulated Areas	11/24/97	62 FR 62504
Interim Final Rule Approved Treatments	12/05/97	62 FR 64263
Final Rule Compensation for Wheat Seed and Straw, 1995-96 Crop Season	01/09/98	63 FR 1321
NPRM Movement from Regulated Areas	01/28/98	63 FR 4198
Final Rule Compensation for 1996-97 Crop Season	06/10/98	63 FR 31593
AIR as Final Rule Approved Treatments	09/04/98	63 FR 47127
Final Rule Movement from Regulated Areas	09/23/98	63 FR 50747
NPRM Compensation for the 1997-98 Crop Season	12/17/98	63 FR 69563
NPRM Reclassification of Regulated Areas	03/09/99	64 FR 11392
NPRM Reclassification of Regulated Areas Comment Period End	04/08/99	
Final Rule Compensation for the 1997-98 Crop Season	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 134, Riverdale, MD 20737-1236
Phone: 301 734-8247
Email: stephen.r.poe@usda.gov

RIN: 0579–AA83

USDA—APHIS **Proposed Rule Stage**

99. VETERINARY SERVICES MULTI-YEAR USER FEES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 5542; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114 to 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136 to 136a

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: We are proposing to amend the user fee regulations by adjusting the fees charged for veterinary services we provide for import and export related activities. We are proposing to adopt user fees for these services for fiscal years 1998 through 2003. Costs to operate the Veterinary Services import-export program increase slightly from year to year due to increase in employee costs (i.e., cost of living, etc.) and changes in other operational costs. Therefore, we have determined that the fees must be adjusted to reflect the anticipated cost of providing these services through fiscal year 2003.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Louise Lothery, Director, VS, Resource Management Support Staff, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 44, Riverdale, MD 20737
Phone: 301 734-7517

Donna Ford, Section Head, M&B, Budget and Accounting Division, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737
Phone: 301 734-5785

RIN: 0579–AA87

100. INTERSTATE MOVEMENT OF SHEEP AND GOATS FROM STATES THAT DO NOT QUARANTINE SCRAPIE-INFECTED AND SOURCE FLOCKS

Priority: Other Significant

Legal Authority: 21 USC 111 to 114; 21 USC 114a; 21 USC 115; 21 USC 117; 21 USC 120 to 121; 21 USC 123 to 126; 21 USC 134a to 134h

CFR Citation: 9 CFR 54; 9 CFR 79

Legal Deadline: None

Abstract: After soliciting public comment to help us develop options for potential changes to our regulations for the interstate movement of sheep and goats, we believe changes are necessary to improve control and limit the spread of scrapie, a serious disease of sheep and goats. We are developing a proposal to correlate Federal interstate movement restrictions with the effectiveness of individual State scrapie programs.

Timetable:

Action	Date	FR Cite
ANPRM	01/26/98	63 FR 3671
ANPRM Comment Period End	03/27/98	
NPRM	04/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Diane Sutton, Senior Staff Veterinarian, VS, National Animal Health Programs, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-7716

RIN: 0579–AA90

101. IMPORTATION OF PORK FROM YUCATAN, MEXICO

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 147a; 7 USC 150cc; 7 USC 161 to 162; 7 USC 450; 19 USC 1306; 21 USC 111; 21 USC 114a; 21 USC 134a to 134c; 21 USC 134f; 21 USC 136 to 136a; 31 USC 9701; 42 USC 4331 to 4332

CFR Citation: 9 CFR 94

Legal Deadline: None

Abstract: We are proposing to amend the regulations concerning the importation of animal products to relieve certain restrictions on the importation of pork and pork products from the Mexican State of Yucatan. Currently, because of the existence of hog cholera in Mexico, pork and pork products from Yucatan must be heated or cured and dried to certain specifications to be eligible for entry into the United States. This proposal would establish conditions for the importation of fresh pork and pork products, and other pork that has not been treated to current specifications, from Yucatan into the United States. We are also proposing to allow the importation of pork products from the Mexican State of Sonora in addition to the importation of Sonoran pork and to amend the conditions under which pork and pork products from Sonora may be imported so that these conditions parallel those proposed for pork and pork products from Yucatan. These amendments would establish conditions for the in-transit movement of pork and pork products from Sonora to the United States through areas where hog cholera may exist, and clarify that the pork and pork products from Sonora must come from commercially raised swine slaughtered at federally inspected slaughter plants.

Timetable:

Action	Date	FR Cite
NPRM	02/23/99	64 FR 8755
NPRM Comment Period End	04/26/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. John Cougill, Senior Staff Veterinarian, VS, National Center for Import and Export, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 40, Riverdale, MD 20737-1231
Phone: 301 734-3399
Email: john.w.cougill@usda.gov

RIN: 0579–AA91

102. LICENSING REQUIREMENTS FOR DOGS AND CATS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 1; 9 CFR 2

Legal Deadline: None

Abstract: We are considering several changes to the Animal Welfare regulations to ensure the humane handling, care, and treatment of dogs and cats, while concentrating our regulatory efforts on those facilities that present the greatest risk of

USDA—APHIS **Proposed Rule Stage**

noncompliance with the regulations. Specifically, we are considering revising the definition of "retail pet store" so that it includes only nonresidential, commercial retail stores, rather than any pet retailer. Retail pet stores are not required to be licensed and inspected under the Animal Welfare Act (AWA). If the definition were revised, many pet retailers now exempt from licensing and inspection requirements would have to be licensed and inspected. We are also considering regulating dealers of hunting, breeding, and security dogs in the same manner as other dealers of dogs. Because these changes could severely strain available Federal resources for carrying out inspections and other enforcement activities under the AWA, we are considering increasing the total number of breeding female dogs and/or cats that a person may maintain on his or her premises and be exempt from licensing and inspection requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/98	63 FR 34333
ANPRM Comment Period End	09/23/98	
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Bettye Walters, Veterinary Medical Officer, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA95

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103. IMPORTATION OF POULTRY FROM SINALOA AND SONORA, MEXICO

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 147a; 7 USC 150cc; 7 USC 161 to 162; 7 USC 450; 19 USC 1306; 21 USC 111; 21 USC 114a; 21 USC 134a to 134c; 21 USC 134f; 21 USC 136; 21 USC 136a; 31 USC 9701

CFR Citation: 9 CFR 94.22

Legal Deadline: None

Abstract: We are proposing to amend 9 CFR part 94 to allow for the importation of fresh (chilled or frozen) poultry meat from the States of Sinaloa and Sonora, Mexico, under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Michael David, Senior Staff Veterinarian, Animals Program, Department of Agriculture, Animal and Plant Health Inspection Service, National Center for Import and Export, VS, 4700 River Road Unit 39, Riverdale, MD 20737
Phone: 301 734-5034

RIN: 0579–AA96

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104. IRRADIATION PHYTOSANITARY TREATMENT OF IMPORTED FRESH FRUITS AND VEGETABLES

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136 to 136a

CFR Citation: 7 CFR 305; 7 CFR 319.56

Legal Deadline: None

Abstract: This proposed rule would establish irradiation as a new treatment alternative for the importation of certain fresh fruits and vegetables. Irradiation would be allowed as an alternative to other treatments that are required to control certain species of fruit flies in a variety of imported fruits and vegetables. If this proposal is adopted, importers of certain fruits and vegetables will have an additional alternative to the currently approved treatments such as fumigation and cold treatment for treating their articles. No net societal gains and losses other than small price-related changes are expected from this proposed rule change.

Timetable:

Action	Date	FR Cite
Policy Statement for Irradiation Treatment of Fresh Fruits and Vegetables	05/15/98	63 FR 24433
NPRM	08/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter M. Grosser, Senior Import Specialist, PIMT, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 140, Riverdale, MD 20737-1236
Phone: 301 734-6799
Email: peter.grosser@usda.gov

RIN: 0579–AA97

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105. IMPORTATION OF SOLID WOOD PACKING MATERIAL

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319.40

Legal Deadline: None

Abstract: We are seeking public input on what actions to take to reduce the risk of solid wood packing materials (e.g., crates, dunnage, wooden spools, pallets, packing blocks) introducing exotic plant pests into the United States. Currently, 9 CFR 319.40-3 requires 100 percent removal of bark from solid wood packing material entering the United States from any part of the world except Canada and the States of Mexico adjacent to the U.S. border. This reduces the risk of pests associated with bark entering the United States, but it has limited effects against other pests, such as deep wood-boring pests and pathogenic fungi. Recent introductions into the United States of exotic plant pests such as pine shoot beetle and Asian long horned beetle have been linked with the importation of solid wood packing material. These and other plant pests pose a serious threat to U.S. agriculture and to natural, cultivated, and urban forests.

Timetable:

Action	Date	FR Cite
ANPRM	01/20/99	64 FR 3049
ANPRM Comment Period End	03/22/99	
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

USDA—APHIS **Proposed Rule Stage**

Government Levels Affected: Undetermined

Agency Contact: Mr. Richard Orr, Senior Entomologist, Risk Analysis Systems, PPD, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 117, Riverdale, MD 20737-1238
Phone: 301 734-8939

RIN: 0579–AA99

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106. • IMPORTATION OF UNMANUFACTURED WOOD FROM MEXICO

Priority: Other Significant

Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319.40-3

Legal Deadline: None

Abstract: We are proposing to add restrictions on the importation of pine and fir logs and lumber, as well as other unmanufactured wood articles, from Mexico. This change would require that these wood articles from Mexico meet certain treatment and handling requirements to be eligible for importation into the United States. We believe this action is necessary to prevent the introduction into the United States of dangerous plant pests, including forest pests, with unmanufactured wood articles from Mexico.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Orr, Senior Entomologist, Department of Agriculture, Animal and Plant Health Inspection Service, Risk Analysis Systems, PPD, 4700 River Road Unit 117, Riverdale, MD 20737-1238
Phone: 301 734-8939
Email: richard.l.orr@usda.gov

RIN: 0579–AB02

107. • ESTABLISHMENT OF REGIONS IN THE EUROPEAN UNION FOR HOG CHOLERA, FOOT-AND-MOUTH DISEASE, AND SWINE VESICULAR DISEASE

Priority: Other Significant

Legal Authority: 7 USC 147a; 7 USC 150ee; 7 USC 161 to 162; 7 USC 450; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135 to 136a; 31 USC 9701; 42 USC 4331 to 4332

CFR Citation: 9 CFR 92; 9 CFR 94; 9 CFR 98

Legal Deadline: None

Abstract: We are proposing to recognize certain regions in the European Union as regions where hog cholera is not known to exist, and from which live swine, swine semen, and pork and pork products may be imported into the United States under certain conditions. Additionally, we are proposing to recognize Greece as free of foot-and-mouth disease and swine vesicular disease. We are also proposing to recognize 8 regions in Italy as free of swine vesicular disease.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export/VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, MD 20737-1231
Phone: 301 734-8590

RIN: 0579–AB03

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108. • HORSE PROTECTION; HORSE INDUSTRY ORGANIZATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1823 to 1825; 15 USC 1828; 44 USC 3506

CFR Citation: 9 CFR 11

Legal Deadline: None

Abstract: We are proposing to amend the horse protection regulations as follows: To require that horse industry organizations (HIO) officers meet standards of conduct similar to those required for a designated qualified person (DQP); to require that HIOs submit horse show schedules to APHIS at least 30 days prior to a show; to require APHIS approval of those portions of HIO rule books relevant to the Horse Protection Act; to require that HIO rule books define what constitutes a conflict of interest for HIO officers and DQPs; and to require that each HIO annually submit to APHIS a financial statement or otherwise demonstrate financial solvency.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Richard Watkins, Initiative Coordinator, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-4981

RIN: 0579–AB04

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109. • USER FEES—RATE REVISIONS FOR AGRICULTURAL QUARANTINE AND INSPECTION SERVICE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 2260; 21 USC 136; 21 USC 136a; 40 USC 1741

CFR Citation: 7 CFR 354.3

Legal Deadline: None

Abstract: We are proposing to amend agricultural quarantine inspection service (AQI) international air passenger, commercial aircraft, commercial vessel, commercial truck, and commercial railroad car user fees to properly recover the cost of providing these services.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

USDA—APHIS **Proposed Rule Stage**

Agency Contact: Donna Ford, User Fee Section Head, FSSB, BASE, ABS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737
Phone: 301 734-8351

RIN: 0579–AB05

110. • INTERSTATE MOVEMENT OF EQUINES TO SLAUGHTER

Priority: Other Significant

Legal Authority: 7 USC 1901 note 1996 Farm Bill

CFR Citation: 9 CFR 88 (New)

Legal Deadline: None

Abstract: We are proposing to establish regulations pertaining to the commercial transportation of equines to slaughter. The purpose of these regulations is to establish minimum standards to ensure the humane movement of equines to slaughter via commercial transportation. The regulations would establish requirements regarding, among other things, the food, water, and rest provided to such equines. The regulations would further prohibit certain equines from being commercially shipped to slaughter and would prohibit the use of electric prods and, within 5 years, double-deck trailers for such movement. The regulations would require the owner or shipper of the equines to certify that the commercial transport meets the requirements of the regulations. We are proposing these regulations to fulfill our responsibility under the 1996 Farm Bill to regulate the commercial transportation of equines to slaughter by persons regularly engaged in that activity within the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Timothy R. Cordes, Senior Staff Veterinarian, National Animal Health Programs, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 43, Riverdale, MD 20737-1231
Phone: 301 734-3279
Email: timothy.r.cordes@usda.gov

RIN: 0579–AB06

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS) **Final Rule Stage**

111. ANIMAL WELFARE—STANDARDS FOR MARINE MAMMALS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: The Department regulates the treatment of certain marine mammals under the Animal Welfare Act. The present standards for treatment of these animals have been in effect for over 10 years. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. The Department has given notice of its review of the present standards to determine what revisions or additions might be necessary and has requested comments on appropriate specific standards for treatment of marine mammals. The Department has conducted negotiated rulemaking (Reg Neg) and is developing proposed changes to the regulations. In addition to identifying regulatory provisions for revision based on negotiated rulemaking, the Department is conducting separate rulemaking to establish standards governing "swim with the dolphins" (SWTD) programs.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/93	58 FR 39458
ANPRM Comment Period End	10/06/93	
NPRM	01/23/95	60 FR 4383
NPRM Comment Period End	02/22/95	
NPRM Comment Period Extended Swim with the Dolphins (SWTD)	02/28/95	60 FR 10810
NPRM Comment Period Extended (SWTD)	03/09/95	60 FR 12908
NPRM Comment Period Extended (SWTD)	03/24/95	60 FR 15524
Notice, Establish a Committee (Reg Neg)	05/22/95	60 FR 27049
Correction (Reg Neg)	06/02/95	60 FR 28834
Final Rule Animal Welfare; Marine Mammals, Swim with the Dolphins	09/04/98	63 FR 47128
NPRM Applicability of Regulations	10/14/98	63 FR 55012
Suspension for Enforcement of September 1998 SWTD Final Rule	04/02/99	64 FR 15918
Suspension for Enforcement of September 1998 SWTD Final Rule Effective	04/02/99	
NPRM Animal Welfare; Marine Mammals	05/00/99	
Suspension for Enforcement of September 1998 SWTD Final Rule Comment Period End	06/01/99	64 FR 15918
NPRM Comment Period Ends	06/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Barbara Kohn, Veterinary Medical Officer, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA59

USDA—APHIS **Final Rule Stage**

112. IMPORTATION OF LOGS, LUMBER, AND OTHER UNMANUFACTURED WOOD ARTICLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319

Legal Deadline: None

Abstract: This rule would amend the importation options for importing wood chips from Chile. We have determined that a surface pesticide treatment is effective in rendering large shipments of Pinus radiata wood chips from Chile free of plant pests and have approved a surface pesticide treatment for use on Pinus radiata wood chips from Chile. Therefore, this rule would allow the importation of Pinus radiata wood chips from Chile if the surfaces of the wood chips are treated with a pesticide approved by the Administrator. This rule would also allow solid wood packing materials used with nonregulated articles to be imported without an importer document.

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40193
NPRM Comment Period End	09/28/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ronald Campbell, Operations Officer, Program Support Staff, PPQ, APHIS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 60, Riverdale, MD 20737-1236
Phone: 301 734-8295
Email: rcampbell@aphis.usda.gov

RIN: 0579–AA82

113. IMPORTATION OF GRAPEFRUIT, LEMONS, AND ORANGES FROM ARGENTINA

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 300; 7 CFR 319.28; 7 CFR 319.56

Legal Deadline: None

Abstract: APHIS is proposing to amend its citrus fruit regulations by recognizing a citrus-growing area within Argentina as being free from citrus canker. Surveys conducted by Argentine plant health authorities in that area of Argentina have shown the area to be free from citrus canker, and Argentine authorities are enforcing restrictions designed to protect the area from the introduction of that disease. APHIS is also proposing to amend its fruits and vegetables regulations to allow the importation of grapefruit, lemons, and oranges from the citrus canker-free area of Argentina under conditions designed to prevent the introduction into the United States of two other diseases of citrus, sweet orange scab and citrus black spot, and other plant pests. These proposed changes would modify the citrus fruits regulations to recognize the citrus canker-free area of Argentina and would add provisions to the fruits and vegetables regulations that would allow the importation, from Argentina, of grapefruit, lemons, and oranges subject to certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43117
NPRM Comment Period End	02/11/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ronald Campbell, Import Specialist, Department of Agriculture, Animal and Plant Health Inspection Service, PPQ, Phytosanitary Issues Management Team, 4700 River Road Unit 140, Riverdale, MD 20737-1236
Phone: 301 734-6799
Fax: 301 734-5786
Email: rcampbell@aphis.usda.gov

RIN: 0579–AA92

114. RESTRICTIONS ON THE IMPORTATION OF RUMINANTS, MEAT AND MEAT PRODUCTS FROM RUMINANTS, AND CERTAIN OTHER RUMINANT PRODUCTS

Priority: Other Significant

Legal Authority: 7 USC 147a; 7 USC 150ee; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135 to 136; 21 USC 136a; 31 USC 9701

CFR Citation: 9 CFR 93.404(c); 9 CFR 94.18; 9 CFR 95.4(a); 9 CFR 96.2(b)

Legal Deadline: None

Abstract: This action recognizes levels of risk for bovine spongiform encephalopathy (BSE) in foreign regions, based on the incidence of BSE in each region and the monitoring and surveillance conducted for BSE in that region. This action also relieves restrictions with regard to BSE on the importation from certain countries of ruminants and meat, meat products, and other edible products of ruminants, and relieves restrictions under certain conditions on the importation of meat from ruminants of the family Cervidae.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, MD 20737-1231
Phone: 301 734-8590

RIN: 0579–AA98

115. IMPORTATION OF RHODODENDRON IN GROWING MEDIA

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

USDA—APHIS — **Final Rule Stage**

CFR Citation: 7 CFR 319.37-8

Legal Deadline: None

Abstract: We are amending our regulations to allow the importation from Europe of rhododendron established in growing media.

Timetable:

Action	Date	FR Cite
NPRM	09/07/93	58 FR 47074
NPRM Comment Period End	12/06/93	
Final Rule on All of 9/7/93 NPRM Except Rhododendron (Effective 2/13/95)	01/13/95	60 FR 3067
NPRM Comment Period Extended - Rhododendron	04/30/98	63 FR 23683
NPRM Comment Period Extended - Rhododendron	06/01/98	63 FR 29675
NPRM Comment Period End - Rhododendron	07/30/98	
Final Rule - Rhododendron	07/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter M. Grosser, Senior Import Specialist, PIMT, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 140, Riverdale, MD 20737-1236
Phone: 301 734-6799
Email: peter.grosser@usda.gov

RIN: 0579–AB00

116. • NOXIOUS WEEDS; RESTRICTIONS ON INTERSTATE MOVEMENT

Priority: Other Significant

Legal Authority: 7 USC 147a; 7 USC 150bb; 7 USC 150dd to 105ff; 7 USC 161 to 162; 7 USC 164 to 167; 7 USC 2803; 7 USC 2809

CFR Citation: 7 CFR 360.300

Legal Deadline: None

Abstract: We are amending the noxious weed regulations so that they clearly state that a permit is required for the movement of noxious weeds into or through the United States or interstate. The regulations currently provide for the issuance of permits, but do not explicitly state that a permit must be obtained before a noxious weed may be moved into or through the United States or interstate. These actions are necessary to update the regulations and prevent the artificial spread of noxious weeds into the United States and into noninfested areas of the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Randy Westbrooks, Invasive Plant Liaison, PPQ, Interagency Field Office for Invasive Species, Department of Agriculture, Animal and Plant Health Inspection Service, 233 Border Belt Drive, PO Box 279, Whiteville, NC 28472
Phone: 910 648-6762
Fax: 910 648-6763

RIN: 0579–AB08

117. • PSEUDORABIES IN SWINE; PAYMENT OF INDEMNITY

Priority: Other Significant

Legal Authority: 21 USC 111 to 114a; 21 USC 120 to 121; 21 USC 125; 21 USC 134

CFR Citation: 9 CFR 52

Legal Deadline: None

Abstract: We are amending the animal health regulations to provide for the payment of indemnity by the United States Department of Agriculture for the voluntary depopulation of herds of swine known to be infected with pseudorabies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/99	64 FR 2545
Interim Final Rule Comment Period End	04/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Keith Hand, Senior Staff Veterinarian, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231
Phone: 301 734-8073

RIN: 0579–AB10

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS) — **Long-Term Actions**

118. IMPORTATION OF FRUITS AND VEGETABLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 319.56

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jane Levy
Phone: 301 734-8259

RIN: 0579–AA58

119. IMPORTATION OF CERTAIN EMBRYOS AND ANIMAL SEMEN

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 98

Timetable:

Action	Date	FR Cite
ANPRM	07/08/93	58 FR 36625
ANPRM Comment Period End	09/07/93	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Roger Perkins
Phone: 301 734-8419

USDA—APHIS **Long-Term Actions**

Email: roger.w.perkins@usda.gov
RIN: 0579–AA63

120. IMPORTATION OF FUJI APPLES FROM THE REPUBLIC OF KOREA

Priority: Other Significant
CFR Citation: 7 CFR 319
Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Peter M. Grosser
Phone: 301 734-6799
Email: peter.m.grosser@usda.gov
RIN: 0579–AA93

121. REVISIONS TO LICENSING REQUIREMENTS: ANIMAL WELFARE

Priority: Other Significant
CFR Citation: 9 CFR 2
Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
NPRM Comment Period End	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: None
Agency Contact: Dr. Bettye Walters
Phone: 301 734-8100
RIN: 0579–AA94

122. • REQUIRING TREATMENT OF SOLID WOOD PACKING MATERIAL FROM CHINA

Priority: Economically Significant. Major under 5 USC 801.
Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 161 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a
CFR Citation: 7 CFR 319.40
Legal Deadline: None

Abstract: We are amending the regulations for importing logs, lumber, and other unmanufactured wood articles by adding treatment and documentation requirements for solid wood packing material imported from China. This change means that wooden pallets, crating, dunnage, and other wooden packing material imported into the United States from China will have to be heat treated, fumigated, or treated with preservatives prior to departure from China. This action will affect anyone who uses solid wood packing material in connection with exporting commodities from China to the United States. This action is necessary to control the risk that solid wood packing material from China could introduce dangerous plant pests, including forest pests, into the United States, a risk demonstrated by many recent incidents where exotic pests were detected in solid wood packing material from China.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/18/98	63 FR 50100
Interim Final Rule	12/17/98	63 FR 69539
Interim Final Rule Effective	12/17/98	
Interim Final Rule Comment Period End	02/16/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No
Small Entities Affected: Businesses
Government Levels Affected: None
Agency Contact: Ronald Campbell, Import Specialist, Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236
Phone: 301 734-6799
RIN: 0579–AB01

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Completed Actions

123. ADDITION OF CERVIDAE TO THE REGULATIONS CONCERNING TUBERCULOSIS IN LIVESTOCK

Priority: Substantive, Nonsignificant
CFR Citation: 9 CFR 77; 9 CFR 91
Completed:

Reason	Date	FR Cite
Final Action	12/31/98	63 FR 72104
Final Action Effective	02/01/99	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Dr. Joseph Van Tiem
Phone: 301 734-7716
RIN: 0579–AA53

124. HSTAIC REPAIR AND MAINTENANCE FEES

Priority: Other Significant
CFR Citation: 9 CFR 92.430; 9 CFR 92.522
Completed:

Reason	Date	FR Cite
Final Action - Facility Closed	12/21/98	63 FR 64173
Final Action Effective	12/21/98	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Joan Montgomery
Phone: 301 734-8172
RIN: 0579–AA69

125. PHYTOSANITARY EXPORT CERTIFICATION; ACCREDITATION OF NONGOVERNMENT FACILITIES

Priority: Other Significant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 7 CFR 353
Completed:

Reason	Date	FR Cite
Final Action	01/08/99	64 FR 1098
Final Action Effective	02/08/99	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Narcy G. Klag
Phone: 301 734-8262

USDA—APHIS **Completed Actions**

Email: narcy.g.klag@usda.gov
RIN: 0579–AA75
BILLING CODE 3410-34-F

DEPARTMENT OF AGRICULTURE (USDA) **Proposed Rule Stage**
Cooperative State Research, Education, and Extension Service (CSREES)

126. HIGHER EDUCATION MULTICULTURAL SCHOLARS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3152(b)(5); PL 103-111; PL 103-330; PL 104-37; PL 104-180

CFR Citation: 7 CFR 3409

Legal Deadline: None

Abstract: Regulations will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Multicultural Scholars Program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Stop 2299, 1400 Independence Avenue SW., Washington, DC 20250-2299
Phone: 202 720-9181
Fax: 202 401-7752
Email: pcarter@reeusda.gov

RIN: 0524–AA09

127. HISPANIC SERVING INSTITUTIONS EDUCATION GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3241

CFR Citation: 7 CFR 3412

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Hispanic Education Partnership Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Stop 2299, 1400 Independence Avenue SW., Washington, DC 20250-2299
Phone: 202 720-9181
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Email: pcarter@reeusda.gov

RIN: 0524–AA17

128. COMMUNITY FOOD PROJECTS ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2034

CFR Citation: 7 CFR 3416

Legal Deadline: None

Abstract: This regulation proposes to establish administrative provisions for the Community Food Projects to institute procedures to be followed in preparing proposals, to outline requirements which grant recipients must meet, to provide instructions on how to apply for a grant, and to provide general information about post-award administration of grants under the program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Stop 2299, 1400 Independence Avenue SW., Washington, DC 20250-2299
Phone: 202 720-9181
Fax: 202 401-7752
Email: pcarter@reeusda.gov

RIN: 0524–AA19

129. SMALL BUSINESS INNOVATION RESEARCH PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 638

CFR Citation: 7 CFR 3403

Legal Deadline: None

Abstract: The Cooperative State Research Education and Extension Service (CSREES) proposes to modify the Small Business Innovation Research Program Administrative Provisions by changing the language of when a Phase I awardee is eligible to apply for a Phase II award. Currently a Phase I awardee may apply for a Phase II award in the next fiscal year funding cycle or the second fiscal year funding cycle. CSREES intends to revise this language to allow Phase I awardees to apply in either of the two fiscal years following the end of the initial project period; this does not include any no-cost extensions of time. This revision will allow an 18-month Phase I awardee the same privileges as that of a 6-month Phase I awardee. Privileges as used herein refers to the opportunity for a no-cost extension of time, if necessary, and two options of when a Phase I

USDA—CSREES **Proposed Rule Stage**

awardee may apply for a Phase II award.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	
Interim Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Stop 2299, 1400 Independence Avenue SW., Washington, DC 20250-2299
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RIN: 0524–AA20

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130. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 5921; 5 USC 301

CFR Citation: 7 CFR 3415

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service (CSREES) proposes to revise and modify the Biotechnology Risk Assessment Research Grants Program Administrative Provisions. The revision and modification updates 7 CFR part 3415 to delete references to the Office of Agricultural Biotechnology and the Agricultural Biotechnology Research Advisory Committee clarifying the requirements for the pre-proposals, clarifying what is to be included in the 15-page limit on proposals, and revising the language regarding conflicts of interests (3415.12).

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Stop 2299, 1400 Independence Avenue SW., Washington, DC 20250-2299
Phone: 202 720-9181
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Email: pcarter@reeusda.gov

RIN: 0524–AA21

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131. NATIONAL RESEARCH INITIATIVE COMPETITIVE GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 450i(b)

CFR Citation: 7 CFR 3411

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service (CSREES) proposes to revise and modify the National Research Initiative Competitive Grants Program administrative provisions. The revision and modification will update 7 CFR 3411 to reflect changes in the Agricultural Research, Extension, and Education Reform Act of 1998 (PL 105-185), and to comply with a recent OIG audit. Specifically, the equipment grant eligibility requirements need to be revised, along with other administrative changes. In addition, CSREES plans to comply with the proposed plain language requirements set out in the Presidential Memo dated June 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Stop 2299, 1400 Independence Avenue SW., Washington, DC 20250-2299
Phone: 202 720-9181
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Email: pcarter@reeusda.gov

RIN: 0524–AA22

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132. • STAKEHOLDER INPUT TO RESEARCH, EDUCATION, AND EXTENSION FORMULA FUNDS

Priority: Other Significant

Legal Authority: 7 USC 7612(c)(2); 5 USC 301

CFR Citation: 7 CFR 3419

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service proposes a rule to implement Section 102(c) of the Agricultural Research Extension and Education Reform Act of 1998 (AREERA) & 7 U.S.C. 7612(c)) which requires 1862 land grant institutions 1890 land-grant institutions, and 1994 land grant institutions that receive agricultural research extension or education formula funds to establish a process for stakeholder input on the uses of such funds.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Interim Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Stop 2299, 1400 Independence Avenue SW., Washington, DC 20250-2299
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RIN: 0524–AA23

USDA—CSREES **Proposed Rule Stage**

133. • MATCHING FUNDS REQUIREMENT FOR FORMULA FUNDS FOR AGRICULTURAL RESEARCH AND EXTENSION ACTIVITIES AT 1890 LAND GRANT INSTITUTIONS AND TUSKEGEE UNIVERSITY

Priority: Other Significant

Legal Authority: 7 USC 3222(d)

CFR Citation: 7 CFR 3418

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service (CSREES) proposes a rule to implement section 226 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) (7 U.S.C. 7612(c)) which amends subtitle G of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). This section requires matching funds from non-Federal sources for formula funds authorized under sections 1444 and 1445 of NAREPTA for agricultural research and extension activities at the 1890 land-grant institutions and Tuskegee University.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Interim Final Rule	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Stop 2299, 1400 Independence Avenue SW., Washington, DC 20250-2299
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RIN: 0524–AA24

DEPARTMENT OF AGRICULTURE (USDA) **Completed Actions**

Cooperative State Research, Education, and Extension Service (CSREES)

134. AGRICULTURAL TELECOMMUNICATIONS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3417

Completed:

Reason	Date	FR Cite
Withdrawn - This Program Is No Longer Funded	01/15/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter
Phone: 202 720-9181
Fax: 202 401-7752
Email: pcarter@reeusda.gov

RIN: 0524–AA12

BILLING CODE 3410-22-F

DEPARTMENT OF AGRICULTURE (USDA) **Proposed Rule Stage**

Rural Housing Service (RHS)

135. CIVIL RIGHTS COMPLIANCE REQUIREMENTS—1901-E TO 1940-D

Priority: Other Significant

Legal Authority: PL 100-259; PL 88-352; 42 USC 2000d et seq; PL 90-284; 42 USC 3601 to 3619; PL 100-430; PL 92-318; 20 USC 1681 et seq; PL 93-112; 29 USC 794; PL 94-135; 42 USC 6101 et seq; PL 94-239; 15 USC 1601 et seq; EO 11246

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14; 7 CFR 1940 subpart D; 7 CFR 1901 subpart E

Legal Deadline: None

Abstract: This ruling will effectuate a comprehensive civil rights regulation implementing the following laws: The Equal Credit Opportunity Act (ECOA); title VI of the Civil Rights Act of 1964; title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (The Fair Housing Act); section 504 Federally Conducted and Federally Assisted Programs; title IX of the Education Amendments of 1972; Age Discrimination Act of 1975; and Executive Orders 11246 and 12898 (Environmental Justice). The revised regulations will provide detailed guidelines for field offices for improved enforcement and compliance with these laws which heavily impact the Agency's programs. Mechanisms for monitoring compliance by field offices and recipients of Federal financial assistance at all levels will decrease the Agency's vulnerability that exist due to noncompliance with recently enacted Civil Rights legislation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Carlton L. Lewis, Chief, Program Compliance Branch, Department of Agriculture, Rural Housing Service, Stop 0703, 1400 Independence Avenue SW., Washington, DC 20250
Phone: 202 692-0097
TDD: 202 692-0107
Fax: 202 962-0095

RIN: 0575–AA83

USDA—RHS **Proposed Rule Stage**

136. MULTI-FAMILY HOUSING REINVENTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1475; 42 USC 1479; 42 USC 1480; 42 USC 1481; 42 USC 1484; 42 USC 1485; 42 USC 1486; 42 USC 1490a

CFR Citation: 7 CFR 1806 subpart A; 7 CFR 1930 subpart C; 7 CFR 1944 subpart D; 7 CFR 1944 subpart E; 7 CFR 1951 subpart C; 7 CFR 1951 subpart D; 7 CFR 1951 subpart K; 7 CFR 1951 subpart N; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart B; 7 CFR 1965 subpart B; 7 CFR 1965 subpart E

Legal Deadline: None

Abstract: Reinvention of the Rural Housing Service's Multi-Family Housing Programs will consolidate regulations pertaining to section 515 Rural Rental Housing, section 514 Farm Labor Housing Loans, section 516 Farm Labor Housing Grants, and section 521 Rental Assistance Payments. Fourteen published regulations will be reduced to one regulation and handbooks for program administration. This will simplify loan origination and portfolio management for applicants, borrowers, and housing operators as well as Rural Development field staff. This will also provide flexibility for program modifications to reflect current and foreseeable changes. It will also reduce regulations that address solely internal agency program administration. Finally, the regulation will be more customer friendly and responsive to the needs of the public.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Allen, Special Assistant to Deputy Administrator, Multi-Family Housing Processing Div., Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., Washington, DC 20250
Phone: 202 690-4499
Fax: 202 690-3444
Email: jallen@rdmail.rural.usda.gov

RIN: 0575–AC13

137. GUARANTEED RURAL HOUSING LOAN SINGLE FAMILY

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 3555; 7 CFR 1980 subpart D

Legal Deadline: None

Abstract: Reinvention of the Agency's regulations for guaranteeing loans on single family housing.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: David Villano, Special Assistant to the Administrator, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., STOP 0701, Washington, DC 20250-0701
Phone: 202 720-1628
Fax: 202 690-0500
Email: david.villano@usda.gov

RIN: 0575–AC18

138. FARM LABOR HOUSING—COMPETITIVE FUNDING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 42 USC 1484; 42 USC 1486

CFR Citation: 7 CFR 1944 subpart D

Legal Deadline: None

Abstract: Implement a simplified application process in conjunction with an annual competitive funding cycle for the Farm Labor Housing loan and grant program. This program finances housing that serves migrant seasonal and year-round farm laborers who are U.S. citizens or admitted for permanent residency and who work a substantial portion of their time as farm workers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Allen, Special Assistant to Deputy Administrator, Multi-Family Housing, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., Washington, DC 20250
Phone: 202 690-4499
Fax: 202 690-3441
Email: jallen@rdmail.rural.usda.gov

RIN: 0575–AC19

DEPARTMENT OF AGRICULTURE (USDA)
Rural Housing Service (RHS)

Final Rule Stage

139. DENYING CREDIT TO APPLICANTS DELINQUENT ON ANY FEDERAL DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1942 subpart C; 7 CFR 1944 subpart E; 7 CFR 1948 subpart B; 7 CFR 1951 subpart E; 7 CFR 1942 subpart A; 7 CFR 1942 subpart G; 7 CFR 1944 subpart D; 7 CFR 1948 subpart C; 7 CFR 1980 subpart E; 7 CFR 1980 subpart I

Legal Deadline: None

Abstract: OMB Circular A-129 dated November 25, 1988, recommends that the processing of applications for Federal direct loans be suspended and requires private lenders to suspend processing of loan guarantee applications when an applicant is found to be delinquent on a Federal debt. The Federal Debt Collections Procedures Act of 1990 also requires that credit be denied if an outstanding judgment lien obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, is found.

Timetable:

Action	Date	FR Cite
NPRM	05/04/94	59 FR 23018
NPRM Comment Period End	07/05/94	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, Tribal, Federal

Agency Contact: Sherie Hinton Henry, Director, Financial Management Division, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., Stop 0707, Washington, DC 20250
Phone: 202 692-0080
Fax: 202 692-0088

RIN: 0575–AA66

140. REENGINEERING AND REINVENTION OF THE DIRECT SECTION 502 AND 504 SINGLE-FAMILY HOUSING PROGRAM

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480; 31 USC 3700

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1965; 7 CFR 3550

Legal Deadline: None

Abstract: Rural Housing Service (RHS) has purchased a state-of-the-art dedicated loan origination servicing system (DLOSS) which includes escrow capability. To conform to this new system, RHS proposes to make further amendments to the regulations to allow the Agency to provide escrow services to Single-Family Housing borrowers which follow industry standards. In addition, the Agency proposes to amend its regulations to conform to processes and techniques currently utilized by the private sector.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15395
NPRM Comment Period End	06/07/96	
Interim Final Rule	11/22/96	61 FR 59762
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Betsy Fletcher, Senior Loan Specialist, Single Family Housing, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., Stop 0783, Washington, DC 20250
Phone: 202 720-1486

RIN: 0575–AB99

141. COMMUNITY FACILITY GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 16 USC 1005; 5 USC 301

CFR Citation: 7 CFR 3570 subpart B

Legal Deadline: None

Abstract: The Agency is establishing a new grant program for community facilities. Grant purposes are the same as the Community Facilities direct and guaranteed programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/07/97	62 FR 16465
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Barton, Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., Stop 3222, Washington, DC 20250
Phone: 202 720-1504

RIN: 0575–AC10

142. DIRECT SINGLE-FAMILY HOUSING LOANS AND GRANTS

Priority: Other Significant

Legal Authority: 42 USC 1472

CFR Citation: 7 CFR 1924 subpart A; 7 CFR 1944 subpart E; 7 CFR 1980 subpart D; 7 CFR 3550 subpart B

Legal Deadline: None

Abstract: The Agency is changing the thermal requirements for manufactured housing. Manufactured homes are no longer required to meet the RHS's thermal requirements. The recent HUD increase in the thermal requirements of the building envelope for manufactured home is substantial. The thermal performance of a unit built to the requirements is comparable to the thermal performance of a unit built to the requirements of RHS climatic zones.

Timetable:

Action	Date	FR Cite
NPRM	10/06/98	63 FR 53616
NPRM Comment Period End	12/07/98	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Hodges, III, Architect, Program Support Staff, Department of Agriculture, Rural Housing Service, Stop 0761, Rm. 6309 South Building, 1400 Independence Avenue SW., Washington, DC 20250
Phone: 202 720-9653

USDA—RHS **Final Rule Stage**

Fax: 202 690-4335
RIN: 0575–AC11

143. SERVICING COMMUNITY PROGRAMS LOANS AND GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 31 USC 3711; 42 USC 1480

CFR Citation: 7 CFR 3570 subpart E; 7 CFR 1951 subpart E; 7 CFR 1951 subpart O; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart C; 7 CFR 1951 subpart F

Legal Deadline: None

Abstract: The Agency is combining seven regulations affecting the servicing of Community Program loans and grants into one regulation. Justification: This is part of the Reinventing Government Initiative. There are no policy or procedural changes. The published regulation will be simplified by removing the administrative portion and will only contain the information affecting the public. Agency field staff will receive an instruction which will include the administrative portion and the published regulations.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beth Jones, Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., Stop 0787, Washington, DC 20250
Phone: 202 720-1604
Fax: 202 690-3444
Email: epjones@rdasun2.rurdev.usda.gov
RIN: 0575–AC12

144. SECTION 538 GUARANTEE RURAL RENTAL HOUSING PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 1490p-2; 5 USC 301; 7 USC 1

CFR Citation: 7 CFR 3565

Legal Deadline: None

Abstract: Implement the Rural Rental Housing Guarantee Loan Program authorized by section 538 of the Housing Act of 1949 as amended. This program will serve moderate income rural families with incomes up to 115 percent of area median. This will increase the stock of affordable, decent, safe, and sanitary housing for such families and individuals at reduced cost to the Government. Where current direct lending costs $50 per $100 lent, the guarantee program will cost approximately $4 per $100 guaranteed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/98	63 FR 39451
Final Action	07/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wagner, Senior Loan Officer, Multi-Family Housing Processing Div., Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., Stop 0787, Washington, DC 20250
Phone: 202 720-1498
Fax: 202 690-0471
Email: cwagner@usda.gov
RIN: 0575–AC14

145. COMMUNITY PROGRAMS GUARANTEED LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart I

Legal Deadline: None

Abstract: To amend subject regulation to provide more comprehensive guidance to lenders, borrowers, and Agency staff. These changes will better organize the regulation and make the program more accessible to rural lenders. Finally these changes will reflect our new Agency structure under USDA's reorganization.

Timetable:

Action	Date	FR Cite
NPRM	10/07/97	62 FR 52277
NPRM Comment Period End	12/08/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mel Padgett, Senior Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., Stop 3222, Washington, DC 20250
Phone: 202 720-1495
Fax: 202 690-0471
RIN: 0575–AC17

DEPARTMENT OF AGRICULTURE (USDA)
Rural Housing Service (RHS)

Long-Term Actions

146. ENVIRONMENTAL PROGRAM STREAMLINE ENVIRONMENTAL PROCESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400; 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan Wieferich
Phone: 202 720-9647

RIN: 0575–AB98

USDA—RHS **Long-Term Actions**

147. NATIONAL FLOOD INSURANCE REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1926 subpart B; 7 CFR 1806 subpart B

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Don Lander
Phone: 202 720-9656

RIN: 0575–AC07

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA) **Proposed Rule Stage**

Federal Crop Insurance Corporation (FCIC)

148. GENERAL ADMINISTRATIVE REGULATIONS; HIGH RISK LAND REGULATIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation adds new regulations to be known as High Risk Land Regulations. The intended effect of this rule is to set forth rates apart from those prescribed by standard actuarial tables and coverage procedures for acreage on which actual or expected frequency and severity of loss does not reasonably conform to standard insurance coverage and rating determination methods.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AA98

149. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART D; APPLICATION FOR CROP INSURANCE

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations by revising the "Collection of Information and Data (Privacy Act)" statement found on the general crop insurance application. The proposed amendments to the statement include defining "substantial beneficial interest" as those persons whose interest in the policyholder is in excess of 10 percent. Other minor changes have been made to more fully comply with provisions of the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB00

150. COMMON CROP INSURANCE REGULATIONS; SMALL GRAINS CROP INSURANCE PROVISIONS AND WHEAT WINTER COVERAGE ENDORSEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.101; 7 CFR 457.102

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to revise and clarify existing policy provisions, establish winter wheat coverage in certain South Dakota and Wisconsin counties, reduce coverage under Option B of the Wheat Winter Coverage Endorsement, and to require insurance on spring wheat planted to replace damaged winter wheat covered under the Wheat Winter Coverage Endorsement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB63

151. COMMON CROP INSURANCE REGULATIONS; COARSE GRAINS CROP INSURANCE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.113

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to make changes to the Coarse Grains Crop Insurance Provisions for corn, grain, sorghum, and soybeans for the 2000 crop year specific to the way corn grain versus corn silage is insured and to clarify the insurability of specialty corn and soybeans.

USDA—FCIC **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW., Washington, DC 20250-0801
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Fax: 202 690-5879

RIN: 0563–AB64

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152. GENERAL ADMINISTRATIVE REGULATIONS; PREMIUM REDUCTIONS; PAYMENTS OF REBATES, DIVIDENDS, AND PATRONAGE REFUNDS; AND PAYMENTS TO INSURED-OWNED AND RECORD-CONTROLLING ENTITIES

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p); 7 USC 1508(e)(3)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To allow approved insurance providers to apply to the Federal Crop Insurance Corporation for authority to reduce the premium charged producers in accordance with section 508(e)(3) of the Federal Crop Insurance Act, as amended, and to provide the limitations and requirements applicable to the payment of rebates, dividends, and patronage refunds to insureds, and payments to insured-owned and record-controlling entities.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Heyward Baker, Director, Reinsurance Services Division, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW., Washington, DC 20250-0804
Phone: 202 720-4286

RIN: 0563–AB70

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153. GENERAL ADMINISTRATIVE REGULATIONS; MOVEMENT OF BUSINESS AMONG INSURANCE PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To ensure that the interests of policyholders are protected, and that the policies and policyholder data are transferred in an orderly manner, the Risk Management Agency is providing comprehensive regulations that will apply to agents, managing general agents, policy issuing companies, and reinsured companies. The objective of this regulation is to prescribe uniform administrative requirements for the movement or assumption of crop insurance policies.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB71

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154. GENERAL ADMINISTRATIVE REGULATIONS; REINSURANCE AGREEMENT—STANDARDS FOR APPROVAL

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To provide regulatory authority for the issuance of final determinations by the Administrator. Final determinations are currently being issued by the agency official responsible for entering into Standard Reinsurance Agreements with private sector insurance companies. Final determinations made by the agency cite contract violations and also require that corrective action be taken.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB72

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155. GENERAL ADMINISTRATIVE REGULATIONS; SANCTIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(m); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To add a new section to the Sanction regulation that will specify the conditions under which a person and affiliate may qualify for a waiver or reduction of a civil penalty imposed by the Agency.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB73

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156. • COMMON CROP INSURANCE REGULATIONS; FLORIDA FRUIT TREE CROP INSURANCE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to convert the

USDA—FCIC **Proposed Rule Stage**

Florida fruit tree pilot insurance program to a permanent insurance program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 9435 Holmes Road, Kansas City, MO 64141 Phone: 816 926-7743

RIN: 0563–AB75

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Final Rule Stage

157. GROUP RISK PLAN CROP INSURANCE PROVISIONS; PART 407

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 407

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes to issue provisions which will outline a new risk management tool to be known as the Group Risk Plan of Insurance (GRP). This plan will insure against the widespread loss of production of certain crops in a county and is intended primarily for use by those farmers whose yields tend to follow the county average yield. GRP pays only when the average yield of the entire county drops below the expected county yield for the insured crop set by the FCIC. Payment is based on the percentage of county or area wide loss below the insured's trigger yield. Specific GRP Crop Insurance Provisions will be proposed for cotton, wheat, barley, corn, grain, sorghum, soybeans, forage production, and peanuts.

Timetable:

Action	Date	FR Cite
NPRM	10/08/96	61 FR 52717
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525 Phone: 202 690-2803 Fax: 202 690-2818

RIN: 0563–AB06

158. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART S; REGULATIONS FOR INSURANCE COVERAGE BY WRITTEN AGREEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes regulations to allow insurance coverage by written agreement for crops in counties which have no actuarial table. Currently, FCIC provides insurance by written agreement for only program crops. By providing insurance by written agreement, FCIC will provide a risk management tool to a broader base of producers.

Timetable:

Action	Date	FR Cite
NPRM	06/20/97	62 FR 33575
NPRM Comment Period End	08/19/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525 Phone: 202 690-2803 Fax: 202 690-2818

RIN: 0563–AB07

159. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART V; SUBMISSION OF POLICIES AND PROVISIONS OF POLICIES AND RATES OF PREMIUM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This rule proposes to add a new subpart to the General Administrative Regulations which will provide guidelines for FCIC approval of supplemental and alternative crop insurance policies and policy provisions developed by FCIC approved insurance providers.

Timetable:

Action	Date	FR Cite
NPRM	09/11/97	62 FR 47772
NPRM Comment Period End	11/10/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525 Phone: 202 690-2803 Fax: 202 690-2818

RIN: 0563–AB15

160. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART J; APPEAL PROCEDURE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This proposed rule will amend FCIC appeal procedures by outlining provisions that producers must follow when appealing decisions which deny them program benefits or eligibility.

USDA—FCIC **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/95	60 FR 67298
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525 Phone: 202 690-2803 Fax: 202 690-2818

RIN: 0563–AB17

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161. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART N; DISASTER ASSISTANCE ACT OF 1988

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This rule proposes to revise subpart N of the General Administrative Regulations by repealing obsolete disaster guidelines and requiring the mandatory purchase of catastrophic crop insurance for program crops as a prerequisite for obtaining benefits under any commodity price subpart, production adjustment, or conservation program administered by USDA, or any farmer loan program, whether these programs are administered by FCIC or CFSA.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525 Phone: 202 690-2803 Fax: 202 690-2818

RIN: 0563–AB20

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162. FEDERAL CROP INSURANCE ON HIGHLY ERODIBLE LAND AND WETLANDS—PART 400

Priority: Other Significant

Legal Authority: 16 USC 3811; 16 USC 3821

CFR Citation: 7 CFR 400.47

Legal Deadline: Final, Statutory, July 3, 1996.

Abstract: This action will implement requirements of the Federal Agriculture Improvement and Reform Act of 1996 to provide that producers will no longer be required to be in compliance with the highly erodible land and wetland conservation provisions of the Food Security Act of 1985 in order to be eligible to obtain crop insurance. No cost is expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/23/96	61 FR 38057
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525 Phone: 202 690-2803 Fax: 202 690-2818

RIN: 0563–AB59

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163. FEDERAL CROP INSURANCE ON HIGHLY ERODIBLE LAND AND WETLANDS—PART 401

Priority: Other Significant

Legal Authority: 16 USC 3811; 16 USC 3821

CFR Citation: 7 CFR 401.8

Legal Deadline: Final, Statutory, July 3, 1996.

Abstract: This action will implement requirements of the Federal Agricultural Improvement and Reform Act of 1996 to provide that producers will no longer be required to be in compliance with the highly erodible land and wetland conservation provisions of the Food Security Act of 1985 in order to be eligible to obtain crop insurance. No cost is expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/96	61 FR 39048
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525 Phone: 202 690-2803 Fax: 202 690-2818

RIN: 0563–AB60

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164. GENERAL ADMINISTRATIVE REGULATIONS; NONSTANDARD UNDERWRITING CLASSIFICATION SYSTEM

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to remove and reserve subpart O of the General Administrative Regulations, effective for the 1999 (2000 for Texas and Arizona and California Citrus) and succeeding crop years. This proposed action is intended to eliminate the unintended adverse effects of the Nonstandard Classification System (NCS), simplify and update program underwriting rules consistent with the program's current and future anticipated experience, and ensure that crop insurance premiums are applied to all producers in a fair and consistent manner.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/97	62 FR 48798
ANPRM Comment Period End	10/17/97	
NPRM	09/02/98	63 FR 46703
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance

USDA—FCIC **Final Rule Stage**

Corporation, 1400 Independence Avenue SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB66

165. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART T—REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400; 7 CFR 457

Legal Deadline: Final, Statutory, July 1, 1998.

Abstract: The Federal Crop Insurance Corporation (FCIC) amends subpart T in the General Administrative Regulations and the Common Crop Insurance Regulations, Basic Provisions, to conform with the statutory mandates of the Agricultural Research, Extension, and Education Reform Act of 1998 and to move those provisions that are terms of insurance from subpart T into the Basic Provisions. FCIC will also remove those provisions of subpart T that have been moved to the Basic Provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/98	63 FR 40632
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave SW., Washington DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB67

166. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART U; AND CATASTROPHIC RISK PROTECTION ENDORSEMENT—REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400; 7 CFR 402

Legal Deadline: Final, Statutory, July 1, 1998.

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations, subpart U--Ineligibility for Programs Under the Federal Crop Insurance Act and the Catastrophic Risk Protection Endorsement to conform with the statutory mandates of the Agricultural Research, Extension, and Education Reform Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/98	63 FR 40630
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave SW., Washington DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB68

167. • GENERAL ADMINISTRATIVE REGULATIONS; INTERPRETATIONS OF STATUTORY AND REGULATORY PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p); PL 105-185, sec 533

CFR Citation: 7 CFR 400

Legal Deadline: Final, Statutory, December 20, 1998.

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations to implement the statutory mandates of section 533 of the Agricultural Research, Extension, and Education Reform Act of 1998. The intended effect is to provide procedures for responding to requests for final agency interpretations regarding any provision of the Federal Crop Insurance Act or any regulation promulgated thereunder.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/21/98	63 FR 70312
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marian Jenkins, Assistant Deputy Administrator for Regional Service Offices, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW., Washington, DC 20250-0805
Phone: 202 720-5290

RIN: 0563–AB74

DEPARTMENT OF AGRICULTURE (USDA)

Federal Crop Insurance Corporation (FCIC) **Completed Actions**

168. DAIRY OPTIONS PILOT PROGRAM

Priority: Other Significant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action	11/06/98	63 FR 59930
Final Action Effective	12/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB61

USDA—FCIC **Completed Actions**

169. COMMON CROP INSURANCE REGULATIONS; COTTON AND ELS COTTON CROP INSURANCE PROVISIONS

Priority: Other Significant

CFR Citation: 7 CFR 457.104; 7 CFR 457.105

Completed:

Reason	Date	FR Cite
Final Action	12/03/98	63 FR 66715
Final Action Effective	11/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB62

170. COMMON CROP INSURANCE REGULATIONS; BASIC PROVISIONS

Priority: Other Significant

CFR Citation: 7 CFR 457

Completed:

Reason	Date	FR Cite
Final Action	12/03/98	63 FR 66706
Final Action Effective	11/30/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB69

BILLING CODE 3410-08-F

DEPARTMENT OF AGRICULTURE (USDA) **Proposed Rule Stage**

Grain Inspection, Packers and Stockyards Administration (GIPSA)

171. REVIEW INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.125; 7 CFR 800.135

Legal Deadline: None

Abstract: GIPSA is proposing to revise regulations under the US Grain Standards Act to allow interested persons to stipulate the quality factors that would be redetermined during a reinspection or appeal inspection for grade. Currently reinspections and appeal inspections for grade must include a review for all factors that (1) may determine the grade; (2) are reported on the original certificate; or (3) are required to be shown. GIPSA has determined that mandating all quality factors be reexamined during a review inspection is inefficient, time consuming and costly. Further, such a complete review of the preceding inspection service is usually not needed to confirm the true quality of the grain. This proposed action will allow interested parties to specify which official factors should be redetermined during the reinspection or appeal inspection service. However, to safeguard against inadvertent misgrading, official personnel may determine other factors, when deemed necessary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623A, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA58

172. REGULATIONS ISSUED UNDER PACKERS AND STOCKYARDS ACT (FEED WEIGHT)

Priority: Other Significant

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 201.49; 9 CFR 201.55; 9 CFR 201.71; 9 CFR 201.72; 9 CFR 201.73

Legal Deadline: None

Abstract: The Agency is proposing to amend existing scales and weighing regulations under the Packers and Stockyards Act to include feed when the weight of the feed is a factor in determining payment to growers. The proposed amendments to existing regulations would require that scale tickets be issued containing certain required information and that the weight be printed by a printing device; the actual weight be printed on scale tickets or otherwise explained; scales be installed, maintained, operated, and tested in accordance with National Institute of Standards and Technology Handbook 44, 1996; scales be tested twice each calendar year at intervals of approximately 6 months by competent persons; and scales be operated by qualified persons in accordance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/02/99	64 FR 15938
NPRM Comment Period End	06/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 South, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA64

173. • OFFICIAL TESTING SERVICE FOR BARLEY PROTEIN ANALYSIS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 800.71; 7 CFR 801.9

Legal Deadline: None

Abstract: GIPSA is proposing to offer testing of barley for protein content as an official service at selected field locations. This will be a further expansion of the use of currently approved Near-Infrared Spectroscopy (NIRS) technology in its national official inspection program. Upon

USDA—GIPSA **Proposed Rule Stage**

request of an applicant, official inspection personnel will determine protein in barley under authority of the US Grain Standards Act (USGSA) as an official criterion. Percent protein will be reported to the nearest tenth percent on dry matter basis (zero moisture basis) unless another moisture basis is requested. GIPSA believes that this service will enhance the marketability of US barley traded in the domestic and export markets. To cover the cost of this service, GIPSA proposes to amend regulations to provide fees similar to those already in place for this type testing.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623-S, 1400 Independence Avenue SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA68

DEPARTMENT OF AGRICULTURE (USDA) — Final Rule Stage
Grain Inspection, Packers and Stockyards Administration (GIPSA)

174. TOLERANCES FOR DIVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 801.10

Legal Deadline: None

Abstract: GIPSA proposes to remove section 801.10, Tolerance for Dividers, from the CFR. Since GIPSA no longer tests dividers, the rule is no longer needed. By using the direct final rule process, GIPSA will give the public general notice of its intent to remove the rule and provide interested persons an opportunity to participate in the rulemaking through submission of comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 S, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA57

DEPARTMENT OF AGRICULTURE (USDA) — Long-Term Actions
Grain Inspection, Packers and Stockyards Administration (GIPSA)

175. POULTRY GROWER CONTRACTS, SCALES, WEIGHING

Priority: Other Significant

CFR Citation: 9 CFR 201

Timetable:

Action	Date	FR Cite
ANPRM	02/10/97	62 FR 5935
ANPRM Comment Period End	05/12/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA51

176. REGULATIONS UNDER PACKERS AND STOCKYARDS ACT (PRICE REPORTING)

Priority: Other Significant

CFR Citation: 9 CFR 200

Timetable:

Action	Date	FR Cite
ANPRM	09/10/98	63 FR 48450
ANPRM Comment Period End	12/09/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA65

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions
Grain Inspection, Packers and Stockyards Administration (GIPSA)

177. GRAIN INSPECTION GENERAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 800

Completed:

Reason	Date	FR Cite
Withdrawn	10/28/98	

Regulatory Flexibility Analysis Required: No

USDA—GIPSA **Completed Actions**

Government Levels Affected: None

Agency Contact: George W. Wollam
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA53

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178. CLEAR TITLE FOR PURCHASERS OF FARM PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 205.209

Completed:

Reason	Date	FR Cite
Final Action	12/03/98	63 FR 66720
Final Action Effective	01/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA63

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179. FEES FOR OFFICIAL INSPECTION AND OFFICIAL WEIGHING SERVICES (1999)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 800.71

Completed:

Reason	Date	FR Cite
Final Action	12/23/98	63 FR 70990
Final Action Effective	02/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA66

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180. • FEES FOR RICE INSPECTION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621

CFR Citation: 7 CFR 868.91

Legal Deadline: None

Abstract: The Agency proposed to increase fees for Federal rice inspection services performed under the Agricultural Marketing Act. This fee increase is intended to recover operational costs created by the January 1, 1999, increase to Federal salaries.

Timetable:

Action	Date	FR Cite
NPRM	11/25/98	63 FR 65134
NPRM Comment Period End	01/25/99	
Final Action	02/12/99	64 FR 7057
Final Action Effective	03/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623-S, 1400 Independence Avenue SW., Washington, DC 20250
Phone: 202 720-0290
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA67

BILLING CODE 3410-EN-F

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Proposed Rule Stage

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181. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS INTEGRITY

Priority: Other Significant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: NPRM, Statutory, March 1, 1999. Final, Statutory, March 31, 2000.

Abstract: A proposed rule addressing WIC Food Delivery Systems was published on December 28, 1990 (55 FR 53446). The Department provided a 120-day comment period for the proposed rule, which closed on April 28, 1991. Nearly 1,100 comments were received from a wide variety of sources. Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters responding during the formal comment period suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems. Therefore, the Department intends to issue a second proposed rule addressing WIC food delivery systems and requirements. This second rule will address all of the provisions contained in the previous rulemaking, but will contain significant modifications to some of the proposed provisions, as well as clarifications of several provisions that may not have been clearly understood in the earlier rule. See also RIN 0584-AC50 for related provisions that fulfill the statutory deadline.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	09/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Sectors Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AA80

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182. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): MISCELLANEOUS PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

USDA—FNS **Proposed Rule Stage**

Legal Deadline: None

Abstract: This proposed rule responds to a variety of program concerns, most of which have been expressed by WIC State agencies. The proposal strengthens the provision of services to participants in the areas of eligibility determination and nutrition education and increases State agency flexibility regarding the sharing of participant information with other programs. Several minor clarifications and technical corrections are also made. (89-515)

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	01/00/00	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AB10

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183. PROVISIONS OF COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988, AMENDMENTS OF 1990, AND IMPLEMENTATION OF THE DISQUALIFIED RECIPIENT SUBSYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552(a) Computer Matching and Privacy Protection Act; 7 USC 2015(b) Food Stamp Act

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: In accordance with the Computer Matching and Privacy Protection Act, PL 100-503, and the Computer Matching and Privacy Protection Amendments of 1990, PL 101-508, the Food Stamp Program must extend certain protections to persons whose benefits could be adversely affected by computer matches. These protections include independent verification of computer information, notification to the affected individual and provision of an opportunity to respond to the information before an adverse action becomes effective.

In addition, this proposed rule describes requirements for State agencies to report information on individuals disqualified from the program for intentional program violations to FCS and the related FCS computer matching program known as the Disqualified Recipient Subsystem (DRS). (89-010)

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	07/00/00	
Final Action Effective	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB51

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184. FOOD STAMP PROGRAM: REVISIONS TO THE RETAIL FOOD STORE DEFINITION AND PROGRAM AUTHORIZATION GUIDANCE

Priority: Other Significant

Legal Authority: PL 103-225; 7 USC 2012; 7 USC 2018

CFR Citation: 7 CFR 271; 7 CFR 278

Legal Deadline: Final, Statutory, March 25, 1994.

Abstract: This proposed rule would implement provisions of Public Law 103-225 requiring firms to offer a variety of staple food items for sale or to have more than 50 percent of gross retail sales in staple foods. This rule also addresses the requirement in Public Law 103-225 to provide periodic notices to participating firms, clarifying certain eligibility criteria. (95-003)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AB90

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185. FOOD STAMP PROGRAM: RETAILER APPLICATION PROCESSING

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032; PL 104-193

CFR Citation: 7 CFR 278.1

Legal Deadline: None

Abstract: This rule would increase from 30 to 60 days the initial application processing time frame for stores that apply for authorization. It would also allow FCS to request specific documentation to verify applicant firms' eligibility. Such information would include, but would not be limited to, business licenses, photographic identification cards, bills of sale, deeds, leases, sales contracts, certificates of incorporation, sales records, invoice records, and tax records. This documentation would be used to confirm self-reported information provided on the application form and to obtain third-party verification. This rule also includes two provisions dealing with disclosure of retailer tax information based on changes made by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). (95-008)

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC05

USDA—FNS

Proposed Rule Stage

186. DISCLOSURE OF FREE AND REDUCED PRICE ELIGIBILITY INFORMATION UNDER THE SCHOOL NUTRITION AND CHILD AND ADULT CARE FOOD PROGRAMS

Priority: Other Significant

Legal Authority: PL 103-448, sec 108

CFR Citation: 7 CFR 226; 7 CFR 245

Legal Deadline: None

Abstract: This rule would allow limited disclosure of children's free and reduced price meal eligibility status or information, as authorized under Public Law 103-448, to persons directly connected with the administration or enforcement of (1) programs under the National School Lunch Act or Child Nutrition Act of 1966; (2) Federal education programs; (3) State health and education programs; (4) means-tested nutrition programs; and (5) the Comptroller General and certain law enforcement officials. The rule also proposes safeguards to protect the free and reduced price application and personal information from misuse and includes penalties for unauthorized disclosures. (95-022)

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC21

187. FOOD STAMP PROGRAM: WELFARE REFORM AND REGULATORY REVIEW OF PROGRAM MANAGEMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273.15; 7 CFR 274; 7 CFR 275; 7 CFR 276; 7 CFR 281

Legal Deadline: None

Abstract: The Department of Agriculture is proposing substantial revisions to the Food Stamp Program regulations governing State agency administrative and management requirements. This action is being taken to incorporate certain provisions from the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform) and in response to the President's Regulatory Reform effort and as part of the Department's ongoing effort to expand State flexibility. This action will provide the State agencies with more flexibility in operating the Food Stamp Program by eliminating outdated or overly prescriptive requirements. This rule also proposes to implement provisions of the Government Performance and Results Act of 1993 (GPRA), which shifts the focus of Federal agencies from managing processes to achieving results. (95-023)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	
Final Action	09/00/00	
Final Action Effective	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC22

188. IMPROVING MANAGEMENT AND PROGRAM INTEGRITY IN THE CHILD AND ADULT CARE FOOD PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1758; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This rulemaking proposes to incorporate in the Child and Adult Care Food Program regulations several recommendations suggested by the Department's Office of Inspector General as a result of recently conducted audits. The audits revealed high levels of noncompliance by sponsors and family day care homes in several areas of Program operations.

The Department also proposes to incorporate in the regulations several recommendations from a State-Federal task force in the areas of (1) State approval of both new and renewing institutions; (2) State oversight of institutions; and (3) training and operational requirements for child care institutions, sponsors of family day care homes, outside-school-hours care centers, and family day care home providers.

As a result of the task force's recommendations, this rulemaking also proposes other changes to the CACFP regulations which are intended to streamline the operation of the program at the State and local levels, improve its integrity, and strengthen oversight control. (95-024)

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	01/00/00	
Final Action	07/00/00	
Final Action Effective	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC24

189. DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS: PROVISION 2 AND PROVISION 3

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

USDA—FNS **Proposed Rule Stage**

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 245

Legal Deadline: None

Abstract: Under an alternative known as Provision 2, schools that serve all meals at no charge for 3 consecutive years may distribute applications and make free and reduced price meal eligibility determinations once every 3 years. During year 1 of the 3-year cycle, they count and claim meals by category (free, reduced price and paid) and use these counts to develop claiming percentages to use during years 2 and 3. P.L. 103-448 amended the NSLA to allow schools to extend these procedures an additional 2 years and allow subsequent 5-year cycles, without making new free and reduced price eligibility determinations, provided the income level of the school's population remained stable. P.L. 103-448 also added a new Provision 3 for schools that serve all meals free for 4 consecutive years. These schools receive the same level of cash and commodity assistance they received in the last year free and reduced price eligibility determinations and actual meal counts were taken. Additional 4-year cycles were permitted, without making new free and reduced price eligibility determinations, provided the income level of the school's population remained stable. For both provisions, schools must make up the difference between Federal reimbursement and meal costs. Public Law 105-336 subsequently amended the timeframe for Provision 2 so that both Provisions 2 and 3 are 4-year cycles, which may be extended, without making new eligibility determinations, if the income level of the school's population remains stable. The rule will codify these provisions and specify technical aspects, such as the measurement of the income level of the school's population and the types of data that may be used. (96-003)

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC25

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190. PART 240, CASH IN LIEU OF DONATED FOODS AND PART 250, FOOD DISTRIBUTION REGULATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 240; 7 CFR 250

Legal Deadline: None

Abstract: This rule will incorporate provisions of the Healthy Meals for Healthy Americans Act of 1994 relative to schools participating in the National School Lunch Program. (96-010)

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 0584–AC31

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191. FOOD STAMP PROGRAM REGULATORY REVIEW: FSP STANDARDS FOR APPROVAL AND OPERATION OF FOOD STAMP ELECTRONIC BENEFIT TRANSFER SYSTEMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 TO 2034

CFR Citation: 7 CFR 274.12

Legal Deadline: None

Abstract: This rule proposes revisions to food stamp regulations affecting the standards and administration of EBT systems for food stamp issuance. Current regulations at 7 CFR 274.12 delineate the standards that EBT systems must meet in order to be approved for operation. This rule will revise those regulations to provide the State agency more flexibility in implementing and operating those systems. Clarifications and FNS settlement improvements will also be incorporated into the rule. (96-016)

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC37

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192. FSP: PERSONAL RESPONSIBILITY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-193

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273

Legal Deadline: Other, Statutory, August 22, 1996.

Stat. implementation deadline of 8/22/96 for sec 813, 814, 820, 821, 837, and 911 of PL 104-193; stat. implementation deadline of 7/1/97 for sec 115, and 11/22/96 for sec 824 of PL 104-193.

Abstract: This rule will implement 13 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. (96-019)

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC39

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193. FSP: STATE FLEXIBILITY AND CERTIFICATION PROVISIONS OF PUBLIC LAW 104-193

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-193; PL 104-208; 7 USC 2011 to 2032

CFR Citation: 7 CFR 272.3; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.4; 7 CFR 273.9(c); 7 CFR 273.9(d); 7 CFR 273.10(a); 7 CFR 273.10(c) to 273.10(f); 7 CFR 273.11(a) to 273.11(c); 7 CFR 273.11(e); 7 CFR 273.11(j); 7 CFR 273.13; 7 CFR 273.14(b); 7 CFR 273.14(e)

Legal Deadline: Other, Statutory, August 22, 1996.
For provisions effective upon enactment, the statutory implementation date is August 22, 1996.

Abstract: This rule proposes to amend Food Stamp Program regulations to implement 14 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and one provision of the Omnibus Consolidated Appropriations Act of 1996. These provisions would increase State agency flexibility in processing applications for the Food Stamp Program and allow greater use of standard amounts for determining deductions and self-employment expenses. The provisions would also give State agencies options to issue partial allotments for households in treatment centers, count all of the income of an ineligible noncitizen in determining the benefits of the rest of the household, issue combined allotments to certain expedited service households, and certify elderly or disabled households for 24 months. Other changes would revise requirements for determining noncitizen eligibility and the eligibility and benefits of sponsored noncitizens, eliminate the exclusion of certain transitional housing payments and State and local energy assistance, exclude the earnings of students under 18, and require proration of benefits following any break in certification. (96-020)

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC40

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194. FSP: NONDISCRETIONARY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-193, sec 803; PL 104-193, sec 804; PL 104-193, sec 805; PL 104-193, sec 809; PL 104-193, sec 810; PL 104-193, sec 838; PL 104-193, sec 109; PL 104-193, sec 826

CFR Citation: 7 CFR 271.2; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.8; 7 CFR 273.9; 7 CFR 273.10; 7 CFR 276.2(e)

Legal Deadline: Other, Statutory. Statutory Implementation Dates: PL 104-193, sec 809 - 1/1/97; PL 104-193, sec 803, 805 and 838 - 08/22/96; PL 104-193, sec 804 and 810 - 10/01/96.

Abstract: This proposed rule amends the Food Stamp Program regulations to implement eight provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. These provisions require no interpretation or discretion: 1) Freeze the minimum allotment at $10; 2) change the way the maximum allotments are calculated to use 100% of the Thrifty Food Plan as opposed to 103%; 3) freeze the standard deduction at current level and eliminate the adjustment procedures; 4) cap the excess shelter expense deduction; 5) change the household composition definition so that children under 22 years of age and living with their parents cannot be a separate household; 6) increase the time frame from 5 to 7 days for expedited service; 7) set a time limit of not more than 90 days living in another person's house for considering a person homeless; and 8) set the fair market value of vehicles at $4,600 through 9/30/96 and raise it to $4,650 effective 10/1/96 and eliminate future adjustments. (96-021)

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC41

USDA—FNS **Proposed Rule Stage**

195. ELECTRONIC BENEFIT TRANSFER (EBT) PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant

Legal Authority: PL 104-193, sec 825

CFR Citation: 7 CFR 274.3; 7 CFR 274.12

Legal Deadline: Other, Statutory, October 1, 2002.
Statutory implementation date of EBT systems per section 825.

Abstract: On August 22, 1996, the President signed the Personal Responsibility and Work Opportunity Act of 1996 (Pub. L. 104-193). This rule proposes to implement the Electronic Benefit Transfer (EBT) provisions found in section 825 of this law which affect the Food Stamp Program. These provisions are meant to encourage implementation of EBT systems to replace food stamp coupons. (96-024)

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC44

196. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-193

CFR Citation: 7 CFR 273.7; 7 CFR 273.22

Legal Deadline: None

Abstract: This proposed rule will implement revisions to the Food Stamp Program's work and employment and training requirements, as well as new provisions for a work supplementation or support program and an employment initiative program. (96-025)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302-1594
Phone: 703 305-2246

RIN: 0584–AC45

197. REGULATORY REFORM: PROVISIONS RELATING TO FIRMS PARTICIPATING IN THE FOOD STAMP PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 278; 7 CFR 279

Legal Deadline: None

Abstract: In response to the President's regulatory reform effort, the Food and Nutrition Service is proposing to revise or eliminate certain sections of parts 278 and 279 of the Food Stamp Program (FSP) regulations which govern the authorization and sanctioning of firms which participate in the FSP. The proposed changes which will be made to parts 278 and 279 are discretionary. (96-028)

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC48

198. FOOD DISTRIBUTION PROGRAM: REGULATORY IMPLEMENTATION OF PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (PL 104-193, 110 STAT 2105)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-193

CFR Citation: 7 CFR 250(Revision); 7 CFR 251(Revision)

Legal Deadline: None

Abstract: This rule proposes to amend provisions of the Food Distribution Program regulations and the Emergency Food Assistance Program regulations to implement the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly known as Welfare Reform, while generally streamlining and providing greater clarity to these regulations. In accordance with the Welfare Reform legislation, the proposals contained in this rule would address various program changes required by the repeal of section 110 of the Hunger Prevention Act of 1988, which authorized the former Soup Kitchens/Food Banks Program (SK/FB) and the amendment of definitional terms regarding organizational eligibility in the Emergency Food Assistance Program (TEFAP), contained in the Emergency Food Assistance Act of 1983, accompanying the absorption of SK/FB into TEFAP. Changes to term definitions are also proposed in order to provide greater clarity to the regulations. As required by Welfare Reform, this rule also proposes changes in the required contents and frequency of submission of the TEFAP State plan of operation, an encouragement for States to create advisory boards comprised of public and private entities with an interest in the distribution of TEFAP commodities, broadening the definition of allowable usage of TEFAP administrative funds at the State level, and greater flexibility for States in meeting the TEFAP maintenance of effort requirement. In order to reduce the paperwork burden and afford the States greater flexibility, this rule also proposes changes in TEFAP recordkeeping, monitoring, and reporting requirements. (96-029)

USDA—FNS **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
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RIN: 0584–AC49

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199. FOOD DISTRIBUTIONS PROGRAMS: COMMODITY ACCEPTABILITY REPORT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 100-237

CFR Citation: 7 CFR 250.13(k)

Legal Deadline: None

Abstract: Food Distribution Programs--Reduction of the Paperwork Burden Associated with this Requirement for State and Local Agencies. This rule proposes to reduce the paperwork burden for State and local agencies administering Food Distribution Programs by reducing the sample size needed for collecting commodity acceptability report information for the National School Lunch Program, Child and Adult Care Food Program, Commodity Supplemental Food Program, and the Food Distribution Program on Indian Reservations. A 60-day comment period will be provided. (97-004)

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC56

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200. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: DISQUALIFICATION PENALTIES FOR INTENTIONAL PROGRAM VIOLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 253

Legal Deadline: None

Abstract: This rule proposes the establishment of disqualification penalties under the Food Distribution Program for Indian Reservations (FDPIR) for intentional program violations (IPV). It will include provisions that define IPV, establish disqualification penalties for initial and subsequent violations, and address the procedures and requirements for disqualification hearings and notices. The proposed rule will also address the establishment and handling of claims against households. This proposed rulemaking is in response to a recent audit recommendation by USDA's Office of Inspector General to adopt disqualification penalty procedures for IPVs. FDPIR is an alternative to the Food Stamp Program for eligible households living on or near Indian reservations. Food Stamp Program regulations at 7 CFR 273.16 establish disqualification penalties for IPVs and require State agencies to take appropriate action on alleged cases of IPVs. In proposing similar requirements under FDPIR, we expect to deter program abuse, thereby improving program integrity. (97-012)

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

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RIN: 0584–AC65

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201. COMMODITY SUPPLEMENTAL FOOD PROGRAM: PROGRAM STREAMLINING, FLEXIBILITY, AND MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624; PL 104-127

CFR Citation: 7 CFR 247

Legal Deadline: None

Abstract: The rule will affect program streamlining by proposing to: 1) Make the State plan and Federal/State agreement permanent, with amendments as needed; 2) Reduce the on-site review requirement of local agencies by States; 3) Change the caseload cycle to the period from January 1 to December 31; 4) Amend the determination of base caseload to consider a State's participation in the previous fiscal year or in the final quarter of the previous fiscal year, but not in the month of September; and 5) Consolidate a number of regulatory sections for the purpose of clarification and removal of redundancy.

The rule will propose to allow States to discontinue participants for physical abuse or the threat of physical abuse of program staff, for a period not to exceed three months.

The rule will incorporate legislative provisions that have been implemented through program policy including a revision of the percentage of appropriated funds and funds carried over from the previous year, for program administration, to 20 percent; and a requirement that State and local agencies provide to participants information on other programs providing assistance to low-income households. (98-001)

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC66

USDA—FNS **Proposed Rule Stage**

202. WIC FARMERS MARKET NUTRITION PROGRAM (FMNP): EXPANSION FUNDS ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786(m)

CFR Citation: 7 CFR 248

Legal Deadline: None

Abstract: The Child Nutrition Act of 1966 as amended (42 USC 1786(m)(6)) sets forth funding requirements of State agencies currently operating the program and for State agencies wishing to start a new program. The law leaves it to the discretion of the Secretary to determine the method of allocating funds to currently operating State agencies. This interim rule would implement a funding formula for the allocation of such expansion funds to existing FMNP State agencies. (98-003)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	01/00/00	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC68

203. • MAXIMUM ALLOTMENTS FOR 48 STATES & DC & INCOME ELIGIBILITY STANDARDS FOR 48 STATES, DC, AK, GU AND VI

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: CFR 000

Legal Deadline: NPRM, Statutory, October 1, 1999.
Allotments are updated and required to be implemented every October 1.

Abstract: This notice updates the maximum Food Stamp allotments for the 48 States and DC and the income eligibility guidelines for the 48 States, DC, Alaska, Hawaii, Guam, and the Virgin Islands for FY 1999. (98-004)

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22303
Phone: 703 305-2246

RIN: 0584–AC69

204. • FSP: MAXIMUM ALLOTMENTS FOR ALASKA, HAWAII, GUAM, AND THE VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: CFR 000

Legal Deadline: NPRM, Statutory, October 1, 1999.
Allotments are required to be updated and implemented every October 1.

Abstract: This notice updates the Food Stamp Program maximum allotments for Alaska, Hawaii, Guam, and the Virgin Islands for FY 1999. (98-005)

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman; Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22303
Phone: 703 305-2246

RIN: 0584–AC70

205. • FSP: EBT SYSTEM SAS70 AUDIT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 274.12

Legal Deadline: None

Abstract: This rule will add a requirement that each State agency ensure that their EBT system is audited annually in accordance with the: 1) AICPA Statement of Auditing Standards 70 (SAS 70); and 2) Audit Guidelines for Service Organizations Providing EBT Services for Government Programs produced by the President's Council on Integrity and Efficiency (PCIE) in consultation with interested parties in State agencies and National Associations concerned with EBT systems. (98-006)

Timetable:

Action	Date	FR Cite
NPRM	02/23/99	64 FR 8733
NPRM Comment Period End	05/24/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC71

206. • FSP: CIVIL RIGHTS DATA COLLECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 88-352, sec 601

CFR Citation: 7 CFR 272

Legal Deadline: None

Abstract: Title VI of the Civil Rights Act of 1964 requires the collection of racial/ethnic data for all programs utilizing Federal funds. State agencies are required to collect the data by racial/ethnic categories set by the Federal Government. In 1997, those categories changed. This proposed rule would change the racial categories for State Food Stamp Program reporting to comply with the new Federal racial categories. (98-010)

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	
Final Action	07/00/00	
Final Action Effective	10/00/00	

USDA—FNS — Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22303
Phone: 703 305-2246

RIN: 0584–AC75

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Final Rule Stage

207. CHILD AND ADULT CARE FOOD PROGRAM: AUTHORITY TO COLLECT OVERCLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: Establishes the Department's authority to collect overclaims where participating institutions fail to comply with regulatory recordkeeping requirements. (96-009)

Timetable:

Action	Date	FR Cite
NPRM	12/05/95	60 FR 62227
NPRM Comment Period End	02/05/96	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB19

208. FOOD STAMP PROGRAM: 1995 QUALITY CONTROL TECHNICAL AMENDMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271.2; 7 CFR 275.3; 7 CFR 275.10; 7 CFR 275.11; 7 CFR 275.12; 7 CFR 275.13; 7 CFR 275.23

Legal Deadline: None

Abstract: The Food and Nutrition Service is making technical changes to the Food Stamp Program's Quality Control System, which will reduce the workload on State agencies and improve the efficiency of the quality control system. The proposed changes will: (1) Permit State agencies to reduce their sample sizes; (2) clarify the minimum size of the Federal subsample; (3) clarify State sampling procedures; (4) change the formulas for calculating Federal subsample sizes; (5) clarify the process of conducting a quality control review of negative subsystem cases and add suspended cases, those cases that are certified for the Program but do not receive benefits, to the sample universe of cases that are reviewed under the negative subsystem; (6) change the error dollar tolerance level; (7) modify the requirements regarding a home visit in active quality control reviews; and (8) adjust the case completion standard. (92-006)

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47680
NPRM Comment Period End	11/12/96	
Final Action	07/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: RIN 0584-AB07 has been withdrawn, and the actions in that proposed rule have been included in this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB38

209. WIC: REQUIREMENTS FOR AND EVALUATION OF WIC PROGRAM REQUESTS FOR BIDS FOR INFANT FORMULA REBATE CONTRACTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: At the time the current cost containment regulations were published in 1989, there were only minor differences in infant formula wholesale prices and few differences in types of infant formulas offered by manufacturers, i.e., milk- and soy-based infant formula. However, current wholesale prices vary considerably among manufacturers for similar formulas and several new infant formulas have emerged on the market over the last decade. Therefore, to reflect market changes in the infant formula industry and to optimize competition in the WIC Program's infant formula rebate contracts, this proposed rule would require WIC State agencies to award infant formula rebate contracts based on the lowest net price, allowing highest gross rebate as a basis of award only when retail prices of the different brands of infant formula vary, on average, by 5 percent or less. Additionally, this proposed rule would define the types and forms of infant formula that must be included in cost containment systems. It would also expand on conditions that must be met for the issuance of infant formulas not covered by rebate contracts. (92-013)

Timetable:

Action	Date	FR Cite
NPRM	07/16/98	63 FR 38343
NPRM Comment Period End	09/14/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

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Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB52

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210. FOOD STAMP PROGRAM: PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032; PL 103-66, sec 13961

CFR Citation: 7 CFR 277

Legal Deadline: Other, Statutory, April 1, 1994.
The Act requires funding rate reduction effective 04/01/94.

Abstract: State agencies are reimbursed by FNS at standard or enhanced Federal reimbursement level for all allowable costs incurred in the State's operation of the Food Stamp Program. This proposed rule would reduce the Federal reimbursement rate for State agencies for fraud control, system development, and immigration status verification to the standard 50 percent rate. It would also limit the time period during which State agencies may file a claim for retroactive funding, and allows the cost of certifying aid to families with dependent children to be charged to the Food Stamp Program for purposes of Federal reimbursement. (93-010)

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60079
NPRM Comment Period End	01/23/95	
Final Action	09/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB66

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211. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: DEFINITION OF INDIAN TRIBAL HOUSEHOLD

Priority: Other Significant

Legal Authority: PL 88-525; PL 97-98, sec 1338; PL 95-113

CFR Citation: 7 CFR 253; 7 CFR 254

Legal Deadline: None

Abstract: This final rule will amend part 253 to permit households containing a Native American living in "near areas" to participate in the Food Distribution Program on Indian Reservations (FDPIR) regardless of the Native American's tribal affiliation or age. It will also amend part 254 to permit households containing a Native American to participate in FDPIR in Oklahoma regardless of the Native American's age. (82-217)

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39158
Interim Final Rule	01/11/94	59 FR 1447
Final Action	08/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB67

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212. AMENDMENTS TO THE INFANT MEAL PATTERN

Priority: Other Significant

Legal Authority: 42 USC 1751 to 1760; 42 USC 1762a; 42 USC 1765; 42 USC 1766; 42 USC 1773; 42 USC 1779

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 226

Legal Deadline: None

Abstract: This rule amends the regulations for the National School Lunch Program (7 CFR 210), School Breakfast Program (7 CFR 220) and the Child and Adult Care Food Program (7 CFR 226) to (1) eliminate the option of serving whole cow's milk to infants between the ages of 8 months and 1 year instead of infant formula or breast milk and (2) permit reimbursement for meals containing only breast milk. The first provision responds to scientific evidence indicating that whole cow's milk is nutritionally deficient compared to breast milk and formula and is not recommended for children less than 1 year old. The second provision is intended to remove a potential disincentive to breast feeding. A related provision would permit providers to give infants that are less than 4 months old an amount of breast milk less than the minimum requirement when the infants consistently do not want the full minimum amount. (95-005)

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB81

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213. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: The Food and Nutrition Service is revising Food Stamp Program regulations which cover the establishment and collection of recipient claims. This action is the result of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)

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and is consistent with the President's regulatory reform effort. In addition, this rule revises existing discretionary areas to improve claim establishment and promote effective management. The inability of State agencies to establish and collect claims has continuously been cited as a deficiency by the Department's Office of Inspector General. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. In addition, the current rule has been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims.

Timetable:

Action	Date	FR Cite
NPRM	05/28/98	63 FR 29303
NPRM Comment Period End	08/26/98	
Final Action	12/00/99	
Final Action Effective	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB88

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214. SUMMER FOOD SERVICE PROGRAM: PROGRAM MEAL SERVICE DURING THE SCHOOL YEAR

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-448; 42 USC 1769a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Implements provision of PL 103-448 which permits Summer Food Service Program (SFSP) meal service to be provided at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause. Rule also simplifies the SFSP sponsor application and State monitoring requirements in order to eliminate unnecessary paperwork and reduce administrative burden for sponsors and State agencies. (95-011)

Timetable:

Action	Date	FR Cite
NPRM	10/13/98	63 FR 54617
NPRM Comment Period End	12/14/98	
Final Action	06/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC06

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215. CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT AMENDMENTS AND HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Other Significant

Legal Authority: 42 USC 1758; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: Final, Statutory, January 1, 1997.
Only the two provisions related to administrative funds are mandated by Pub. L. 104-193 to be implemented into regulations by 01/01/97.

Abstract: This interim rule incorporates changes to the Child and Adult Care Food Program (CACFP) as required by the Child Nutrition and WIC Reauthorization Act of 1989 and the Healthy Meals for Healthy Americans Act of 1994 by: (1) Providing administrative funds to family day care home sponsors for expansion into low-income or rural areas; (2) granting federally funded income-eligible Head Start participants automatic eligibility for free CACFP meals without further application or eligibility determination; and (3) allowing the use of administrative funds to assist unlicensed day care homes in becoming licensed. These revisions are intended to encourage program participation in low-income and rural areas and to reduce the level of administrative and paperwork burden for Federal, State, and local program administrators and for program participants. (90-508)

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/98	63 FR 9721
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC20

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216. IMPLEMENTATION OF LEGISLATIVE REFORMS IN THE SUMMER FOOD SERVICE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; 42 USC 1761; 42 USC 1762a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Recent legislative actions have made a number of changes to conditions affecting reimbursement, participation of certain service organizations, and State administration under the Summer Food Service Program (SFSP). This interim rule implements several nondiscretionary amendments to SFSP that are prescribed by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193). This rule also formalizes categorical eligibility for households participating in the Food Distribution Program on Indian reservations, and makes a number of technical corrections to part 225. (95-025)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department

USDA—FNS **Final Rule Stage**

of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC23

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217. WIC: BLOODWORK REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would propose revisions to the bloodwork requirements for WIC applicants. Currently, to be certified as eligible for the program, applicants must be determined at nutritional risk. In determining nutritional risk, at a minimum height or length and weight must be measured, and a hematological test for anemia must be performed. This rule would eliminate the requirement for a hematological test for anemia as part of the certification process if another risk factor is present that would qualify the applicant as nutritionally at risk. Hematological test data for anemia would still be required for counseling and food package purposes. (96-008)

Timetable:

Action	Date	FR Cite
NPRM	11/19/98	63 FR 64211
NPRM Comment Period End	01/19/99	
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC30

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218. NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM: ADDITIONAL MENU PLANNING ALTERNATIVES

Priority: Other Significant

Legal Authority: PL 104-149

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: None

Abstract: Public Law 104-149, enacted on May 29, 1996, establishes additional menu planning alternatives for the school meals programs and requires the secretary to establish guidelines for the use of these additional alternatives. One alternative specified in the statute was the meal pattern in effect for the 1994-95 school year; the other was "any reasonable approach." This regulation would reestablish the meal pattern as a menu planning alternative and provide guidelines for school food authorities to develop a different approach to menu planning. (96-017)

Timetable:

Action	Date	FR Cite
NPRM	05/04/98	63 FR 24686
NPRM Comment Period End	11/02/98	
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC38

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219. FOOD STAMP PROGRAM: RETAILER INTEGRITY, FRAUD REDUCTION AND PENALTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-193; PL 104-127

CFR Citation: 7 CFR 271; 7 CFR 278; 7 CFR 279

Legal Deadline: None

Abstract: This rulemaking will implement the three-tiered legislative initiative for combating retailer fraud in the Food Stamp Program: (1) Pre-authorization screening--tightens applicant retailer verification requirements to ensure only legitimate stores are authorized; (2) post-authorization controls--allows FNS to: move quickly to immediately suspend stores that are caught trafficking; access more information from more sources about business integrity; and better track stores using up-to-date technology; (3) stiffer penalties--will impose tougher penalties on retailers found violating the program. (96-026)

Timetable:

Action	Date	FR Cite
NPRM	05/06/98	63 FR 24985
NPRM Comment Period End	07/06/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC46

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220. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): DISQUALIFICATION OF WIC VENDORS WHO ARE DISQUALIFIED FROM THE FOOD STAMP PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would establish criteria for the disqualification of WIC vendors who are disqualified from the Food Stamp Program, as required by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. As mandated in Public Law 104-193, such disqualifications are for the same period of time as the Food Stamp Program disqualification and are not subject to judicial or administrative review. This rule would also establish mandatory sanctions for the most

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serious WIC program violations. (96-030)

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19415
NPRM Comment Period End	07/20/98	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC50

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221. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WIC: IMPLEMENTATION OF WIC-RELATED PROVISIONS OF PL 104-193, PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would implement the WIC-related provisions of Public Law 104-193, the Personal Responsibility and Work Opportunity Act of 1996. These provisions include: Sharing of WIC information with the Immigration and Naturalization Service; revision to the definition of homeless individual; and the elimination of several current requirements including annual evaluation of nutrition education and breastfeeding promotion and support efforts, provision of written information on certain programs, and timeframes for action on local agency applications for program participation. (96-031)

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC51

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222. IMPLEMENTATION OF LEGISLATIVE CHANGES IN THE CHILD AND ADULT CARE FOOD PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-193

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This interim rulemaking will implement non-discretionary changes to the Child and Adult Care Food Program regulations mandated by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This rule will not implement changes to section 708(e) of Public Law 104-193, targeting reimbursement for meals served in family day care homes, which were addressed in separate rulemakings published on January 7, 1997 (62 FR 889) and February 24, 1998 (63 FR 9087). (96-032)

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC52

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223. FOOD STAMP PROGRAM: ELECTRONIC BENEFITS TRANSFER (EBT) BENEFIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 273; 7 CFR 274

Legal Deadline: None

Abstract: This proposed rule will allow States and/or their EBT processors to make adjustments to an EBT household's food stamp account under certain circumstances. Current regulations do not allow adjustments to a household's EBT account balance once the benefits have been made available to the household. Occasionally, however, system errors and other malfunctions result in out-of-balance settlement conditions which must be adjusted manually. This proposed rule describes the conditions under which an adjustment is allowed, and the accompanying notice requirements. The rule also makes changes to the representation formula. (97-009)

Timetable:

Action	Date	FR Cite
NPRM	05/19/98	63 FR 27511
NPRM Comment Period End	07/20/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC61

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224. FOOD STAMP PROVISIONS OF THE BALANCED BUDGET ACT OF 1997

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 105-33, sec 1001; PL 105-33, sec 1002; PL 105-33, sec 1005

CFR Citation: 7 CFR 272.1(g); 7 CFR 273.7(c); 7 CFR 273.7(d); 7 CFR 273.24

Legal Deadline: Final, Statutory, August 5, 1998.
PL 105-33, sec 1005 requires publication of a rule implementing Title I provisions of that Act no later than 1 yr. after date of enactment. PL 105-33 was enacted 8/5/97.

Abstract: This rule will implement two food stamp provisions of the Balanced Budget Act of 1997. The first provision

USDA—FNS **Final Rule Stage**

provides State agencies the authority to exempt from the food stamp time-limit at section 6(o)(2) of the Food Stamp Act up food stamp time-limit up to 15 percent of the State's caseload that is subject to the requirement. The second provision provides additional funding for administration of the Food Stamp Employment and Training (E&T) Programs. These two provisions enhance State flexibility in exempting portions of a State agency's caseload from the food stamp time limit and increase significantly the funding available to create work opportunities for recipients that are subject to the time limit. (97-011)

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC63

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225. • AFTER SCHOOL SNACKS UNDER THE NSLP AND CACFP

Priority: Other Significant

Legal Authority: PL 105-336

CFR Citation: 7 CFR 210; 7 CFR 226

Legal Deadline: None

Abstract: This rule will amend the Child and Adult Care Food Program regulations to allow reimbursement for snacks to "at-risk" children up to age 18 in after-school care programs. To qualify, the after-school programs must be organized primarily to provide care for children and have an educational or enrichment purpose. Additionally, snacks must be served free to all children enrolled in after-school care programs located in low-income areas in which at least 50 percent of the children are eligible for free or reduced price school meals. Thus, individual free and reduced price eligibility determinations will not be required for these programs. Finally, outside-school-hours care programs will be permitted to participate, if they meet health and safety standards where no State or local licensing or approval is required. The rule will also authorize reimbursement for snacks under the NSLP to certain after school care programs operated by schools. (98-007)

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC72

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226. • WIC: LOCAL AGENCY EXPENDITURE REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This direct final rule amends the regulations for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to give State agencies greater flexibility in the way they collect nutrition services and administration (NSA) expenditure data from local agencies. State agencies will be allowed to permit local agencies to submit NSA expenditure reports up to quarterly, rather than monthly as is currently required. (98-009)

Timetable:

Action	Date	FR Cite
Final Action	09/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22303
Phone: 703 305-2246

RIN: 0584–AC74

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227. • WIC: CERTIFICATION INTEGRITY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This interim rule implements three WIC certification requirements contained in Public Law 105-336, the William F. Goodling Child Nutrition Reauthorization Act of 1998, enacted October 31, 1998. Public Law 105-336 requires: (1) The physical presence of applicants at certification, except in certain circumstances; (2) documentation of an applicant's income, except in certain circumstances; and (3) State agencies to implement a system designed to identify participants participating at more than one WIC site. (98-011)

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22303
Phone: 703 305-2246

RIN: 0584–AC76

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228. • WIC: WIC FUNDING PROVISIONS OF PUBLIC LAW 105-336

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: The William F. Goodling Child Nutrition Reauthorization Act of 1998 sets forth new funding requirements and revises existing funding provisions for WIC State agencies. The changes incorporated in this final rule are mandated by

USDA—FNS **Final Rule Stage**

Congress and require little or no agency discretion. The major funding provisions set forth in WIC's reauthorization included in this final regulation are expanded backspend authority for both food and nutrition services and administration (NSA) funds, the elimination of food spend forward, the expansion of NSA spend forward authority, new requirements for conversion of food funds to NSA funds, a decrease in the NSA spending standard from 15 to 10 percent, the authority to use food funds to purchase breast pumps, and expands the use of vendor and participant collections in the year following collection. (98-012)

Timetable:

Action	Date	FR Cite
Final Action	09/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22303 Phone: 703 305-2246

RIN: 0584–AC77

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Long-Term Actions

229. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD COST CONTAINMENT REQUIREMENTS

Priority: Other Significant

CFR Citation: 7 CFR 246

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/90	55 FR 9709
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sheri Ackerman Phone: 703 305-2246

RIN: 0584–AB11

230. PERMANENT AGREEMENTS/DIRECT CERTIFICATION IN NATIONAL SCHOOL LUNCH, SCHOOL BREAKFAST, AND SPECIAL MILK PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 245

Timetable:

Action	Date	FR Cite
NPRM	05/28/91	56 FR 24033
NPRM Comment Period End	07/29/91	
Final Action	To Be	Determined
Final Action Effective	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman Phone: 703 305-2246

RIN: 0584–AB35

231. FOOD STAMP PROGRAM: ANTICIPATING INCOME AND REPORTING CHANGES

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 272; 7 CFR 273

Timetable:

Action	Date	FR Cite
NPRM	12/17/96	61 FR 66233
NPRM Comment Period End	02/18/97	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman Phone: 703 305-2246

RIN: 0584–AB57

232. SCHOOL NUTRITION PROGRAMS: TECHNICAL AND NONDISCRETIONARY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 235; 7 CFR 245

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined
Final Action Effective	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman Phone: 703 305-2246

RIN: 0584–AC01

233. AMENDMENT TO REMOVE FORMULATED GRAIN—FRUIT PRODUCT SECTION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 220

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

USDA—FNS **Long-Term Actions**

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC09

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234. CONSOLIDATION OF NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM AND SUMMER FOOD SERVICE PROGRAM INTO A COMPREHENSIVE SCHOOL MEAL PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 225

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
NPRM Comment Period End	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC10

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235. FOOD STAMP PROGRAM REGULATORY REVIEW: CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 273

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC28

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236. WIC: FOOD PACKAGE ADJUSTMENTS AND CORRECTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
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RIN: 0584–AC29

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237. WIC: FOOD AND NUTRITION SERVICES AND ADMINISTRATION (NSA) FUNDING FORMULA RULE

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 246

Timetable:

Action	Date	FR Cite
NPRM	10/13/98	63 FR 54629
NPRM Comment Period End	01/11/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sharon Ackerman
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC64

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238. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): SOY-BASE BEVERAGES (SOYMILK) IN WIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 246

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC67

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS) **Completed Actions**

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239. FOOD DISTRIBUTION PROGRAMS—IMPLEMENTATION OF 1990 FARM BILL

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 250; 7 CFR 251

Completed:

Reason	Date	FR Cite
Withdrawn - Included in RIN 0584-AC49	02/02/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB28

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240. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS—OKLAHOMA WAIVER AUTHORITY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 253; 7 CFR 254

Completed:

Reason	Date	FR Cite
Final Action - Direct Final Rule	01/08/99	64 FR 1097
Final Action Effective	03/09/99	

Regulatory Flexibility Analysis Required: No

USDA—FNS **Completed Actions**

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB56

241. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): IMPLEMENTATION OF WIC MANDATES OF THE HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Final Action	11/18/98	63 FR 63969
Final Action Effective	01/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC02

242. • NSLP: AMDS. TO REQUIREMENTS FOR MEAL SUPPLEMENTS SERVED IN AFTER SCHOOL CARE PROGRAMS

Priority: Other Significant

Legal Authority: PL 105-336

CFR Citation: 7 CFR 210

Legal Deadline: None

Abstract: This rule will amend the National School Lunch Program regulations to allow reimbursement for snacks to children up to age 18 in after-school care programs. To qualify, the after-school program must be organized primarily to provide care for children and have an educational or enrichment purpose. Additionally, snacks must be served free to all children enrolled in after-school care programs operated by schools in areas served by a school in which at least 50 percent of the enrolled children are certified for free or reduced price school meals. (98-008)

Timetable:

Action	Date	FR Cite
Withdrawn - Included in RIN 0584-AC72	02/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC73

BILLING CODE 3410-30-F

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) **Prerule Stage**

243. ELIMINATION OF ACCREDITED LABORATORY PROGRAM FOR FOOD CHEMISTRY AND RESIDUE CHEMISTRY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 601; 21 USC 451

CFR Citation: 9 CFR 318.21; 9 CFR 381.153

Legal Deadline: None

Abstract: FSIS is proposing to eliminate its Accredited Laboratory Program (ALP). The ALP was established in 1987 to enable meat and poultry establishments to obtain timely analytic results for product suspected of noncompliance with regulatory requirements (9 CFR 318.21 and 381.153). In such "hold-and-test" situations, plants can have samples analyzed by laboratories accredited by FSIS for certain residue chemistry analyses (e.g., chlorinated hydrocarbons) and/or four food chemistry analyses (protein, moisture, fat, and salt content). These analyses by accredited laboratories are paid for by the meat or poultry plant, whereas samples analyzed by FSIS laboratories are at Agency expense. Despite this, accredited laboratories appeal to industry because there are only three FSIS laboratories and they carry a heavy analytic burden. Product held for testing is highly perishable, and obtaining rapid test results is frequently a high priority for plants. FSIS believes, however, that the ALP is no longer the best way to provide this service to industry and the public and that its functions would be better performed by independent third-party accreditation authorities. The implementation of HACCP systems in all FSIS-inspected plants is expected to preclude many "hold-and-test" situations and thereby reduce the primary need for the ALP. Plants needing to obtain accredited laboratory results for whatever reasons can consult an independent, third party accreditation service to determine if a specific laboratory meets appropriate standards. Such standards are increasingly being harmonized internationally as a result of widespread adoption of the ISO 9000 Series of Standards for quality evaluation of industry performance (the ISO 9000 Standard for analytic laboratories is contained in Guide 25). The European Community, for example, has recently required that quality systems of many suppliers of products related to health, safety, and the environment be formally registered by a third party according to the ISO 9000 Standards. Moreover, such accreditation can be performed by third parties at a lower cost than the FSIS ALP, which charges each laboratory $2500 per year. Eliminating the ALP would not cause any additional expense or burden for industry, and it would place the responsibility on industry to obtain credible sample results for whatever purposes. FSIS will request comment on this proposed action.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	

USDA—FSIS **Prerule Stage**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700 Phone: 202 720-5627

RIN: 0583–AC48

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

244. TRANSPORTATION, STORAGE, AND OTHER HANDLING OF POTENTIALLY HAZARDOUS FOODS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 to 695; 21 USC 451 to 470

CFR Citation: 9 CFR 325; 9 CFR 381; 9 CFR 317; 9 CFR 308

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS), in conjunction with the Food and Drug Administration (FDA), published an advance notice of proposed rulemaking (ANPRM) that addressed possible regulatory approaches to the transportation and storage of potentially hazardous foods (including meat and poultry products) and solicited comments and information from the public. FSIS and FDA have been considering various efforts to ensure that potentially hazardous foods outside of food processing establishments will be handled in a way that will minimize the growth of pathogenic organisms or other hazards. FSIS now anticipates rulemaking under the Federal Meat Inspection Act and the Poultry Products Inspection Act on proposed handling standards and information to assure that the public is informed of the manner of handling required to maintain these products in a wholesome condition.

Timetable:

Action	Date	FR Cite
ANPRM	11/22/96	61 FR 59372
ANPRM Comment Period End	02/20/97	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700 Phone: 202 720-5627

RIN: 0583–AC05

245. GRANT AND INAUGURATION OF INSPECTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 304; 9 CFR 305

Legal Deadline: None

Abstract: FSIS is proposing to streamline and clarify the regulations in 9 CFR parts 304 and 305, which provide for grant and inauguration of inspection in meat and poultry establishments.

Under the current regulations, prior to commercial operation, establishments must apply for grant of inspection by submitting for FSIS review and approval establishment floor plans and blueprints, equipment specifications, and other information. If FSIS approves this information and grants inspection, a circuit supervisor visits the establishment to inform the operator of the applicable regulations. Subsequently, FSIS inspection is inaugurated and the establishment may begin manufacturing product for commercial distribution.

FSIS is proposing to streamline and clarify these requirements in light of (1) new section 304.3, under which compliance with requirements in the Agency's regulations on sanitation standard operating procedures and hazard analysis and critical control point systems (parts 416 and 417) are conditions for receiving inspection, and (2) eliminate the requirement that floor plans, blueprints, and equipment specifications be preapproved by FSIS before inspection is granted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 720-5627

RIN: 0583–AC07

246. PERFORMANCE STANDARD FOR THE CHILLING OF READY-TO-COOK POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to amend the regulations in 9 CFR 381.66 governing the chilling of poultry by replacing the specific time/temperature requirements for chilling poultry of various sizes with a performance standard based on the capability of the chilling process to extend the lag-phase of bacterial growth on the raw product. Poultry that has been slaughtered and eviscerated would have to be processed by a method that would ensure that bacterial multiplication on the poultry

USDA—FSIS **Proposed Rule Stage**

is minimized from the time of evisceration until further processing by cooking or freezing or until shipment from the establishment. The proposal would remove the overly prescriptive features of the current poultry chilling regulations and make these regulations more consistent with the HACCP regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 205-5627

RIN: 0583–AC21

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247. ELIMINATION OF REQUIREMENTS FOR PARTIAL QUALITY CONTROL PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the meat and poultry inspection regulations by removing most requirements pertaining to partial quality control (PQC) programs. A PQC program controls a single product, operation, or part of an operation in a meat or poultry establishment. The proposal would remove the design requirements affecting most PQC programs that establishments have and most requirements for establishments to have PQC programs for certain products or processes. The proposal would also remove from the thermal processing regulations the requirements for FSIS prior approval, or approval before use, of systems and devices not specified in the regulations and all requirements concerning PQC programs. The proposal would expand the alternatives available to establishments under the thermal processing regulations for ensuring the safety of their products. However, the requirements for establishments to have quality control programs to control food irradiation processing and certain slaughtering inspection systems for poultry and the requirements concerning the design and content of those programs would be unaffected by this rulemaking. This proposal is intended to allow establishments under inspection additional flexibility, consistent with the Pathogen Reduction/Hazard Analysis and Critical Control Points (HACCP) regulations, to adopt new technologies and methods that will improve food safety and other consumer protections.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Penod End	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700 Phone: 202 720-5627

RIN: 0583–AC35

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248. ANTE-MORTEM AND POST-MORTEM INSPECTION OF LIVESTOCK AND POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 to 695 et seq; 7 USC 138 et seq; 21 USC 450 et seq; 7 USC 2.18 to 2.53 et seq; 21 USC 451 to 470 et seq

CFR Citation: 9 CFR 309; 9 CFR 310; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to reform the regulations governing ante-mortem and post-mortem inspection of livestock and poultry. A number of the current regulations are no longer appropriate for the conditions under which meat and poultry products are produced and distributed today (e.g., splitting of sterna, prohibition of inflating carcasses). Others are duplicative regulations (e.g., those dealing with bruises and contamination) applying separately to meat and to poultry that could be combined into single regulations applying to both meat and poultry. Most emphasize the procedures for achieving regulatory objectives rather than the objectives themselves. This proposal would remove these prescriptive, detailed, or obsolete regulations or convert them to performance standards that are consistent with FSIS requirements for establishment-operated hazard analysis and critical control points (HACCP) systems and with the Agency's food safety regulatory strategy.

Under the proposal, the current ante-mortem requirements, listing objectionable diseases or conditions and corresponding actions to be taken, would be replaced by performance standards intended to ensure that only "normal," healthy animals that do not pose an evident hazard to public health are permitted to enter a slaughtering establishment. "Normal" animals would include those, for example, that are not running a temperature or that do not exhibit lesions of disease or behaviors characteristic of central nervous system disorders. Similarly, the post-mortem regulations, with their lists of conditions and detailed, command-and-control procedures, would be streamlined. The prescriptive provisions would be replaced by performance standards relating to food safety (prevention of economic adulteration).

This proposal would also recodify the ante-mortem and post-mortem inspection regulations for livestock and poultry. To the extent possible, consistent with Federal Meat Inspection Act and the Poultry Products Inspection Act, regulations concerning livestock and meat carcasses and parts, and those concerning poultry carcasses and parts would be designated to the same parts and sections of the Code of Federal Regulations. These changes would be part of the ongoing Agency effort to make the regulations more streamlined and user-friendly.

USDA—FSIS **Proposed Rule Stage**

This proposal would focus on the performance standards that establishments should meet through operation of their HACCP systems for slaughtering and dressing operations. It would remove impediments to the development and operation of HACCP plans by making the current regulations compatible with the HACCP approach to food safety.

Besides the proposed action, FSIS considered the alternative of no rulemaking and the alternative of eliminating all regulations on livestock, poultry, and the carcasses and parts of livestock and poultry, affected by specific diseases and conditions. The first alternative would leave in place numerous detailed prescriptions and procedural requirements inconsistent with, or duplicative of, HACCP systems. The second would risk exposing the public to products that may be unwholesome or otherwise adulterated.

The Agency believes the alternative represented by this proposal--converting to performance standards the ante-mortem and post-mortem inspection regulations--would offer the best prospect for the efficient and effective implementation of HACCP. It would also maximize the flexibility establishments have to adopt technological innovations that would increase the assurance of food safety.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700 Phone: 202 720-5627

RIN: 0583–AC43

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249. REQUIREMENTS FOR DISPOSITION AND DISPOSAL OF INSPECTED RAW MEAT AND POULTRY PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 450; 21 USC 451 to 470 et seq; 21 USC 601 to 695 et seq; 7 USC 1901 to 1906

CFR Citation: 9 CFR 311; 9 CFR 314; 9 CFR 320; 9 CFR 325; 9 CFR 381; 9 CFR 428; 9 CFR 455

Legal Deadline: None

Abstract: FSIS is proposing to reform the regulations governing the disposition of inspected raw meat and poultry products and the disposal of such products that are condemned or otherwise inedible. A number of the current regulations are no longer appropriate for the conditions under which meat and poultry products are produced and distributed today. Others are duplicative regulations applying separately to meat and to poultry that should be combined into single regulations applying to both meat and poultry. Most emphasize the procedures for achieving regulatory objectives rather than the objectives themselves. The proposal would remove these prescriptive, detailed, or obsolete regulations or convert them to performance standards that are consistent with FSIS requirements for establishment-operated hazard analysis and critical control points (HACCP) systems and with the Agency's food safety regulatory strategy.

Besides the proposed action, FSIS considered the alternative of no rulemaking and the alternative of eliminating all regulations on the disposition and disposal of inspected raw products. Among these regulations are those concerning the handling of raw product moving between official establishments and the disposal of condemned or inedible carcasses and parts. The first alternative would leave in place numerous detailed prescriptions and procedural requirements inconsistent with, or duplicative of, HACCP systems. The second would risk exposing the public to products that may be unwholesome or otherwise adulterated.

This proposal would convert to performance standards the regulations governing the disposition, handling, and disposal of raw carcasses and parts. The Agency believes this alternative would offer the best prospect of permitting the efficient and effective implementation of HACCP and of maximizing the flexibility official establishments and other entities have to adopt technological and other innovations that could increase the assurance of food safety.

This proposal would also recodify the regulations on the disposition, handling, and disposal of raw meat and poultry products. To the extent possible, consistent with the Federal Meat Inspection Act and the Poultry Products Inspection Act, regulations affecting both meat and poultry would be designated to the same parts and sections of the Code of Federal Regulations. These changes would be part of the ongoing Agency effort to make the regulations more streamlined and user-friendly.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700 Phone: 202 720-5276

RIN: 0583–AC44

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250. PERFORMANCE STANDARDS FOR SHELF-STABLE, READY-TO-EAT PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry inspection regulations by establishing food safety performance standards for shelf-stable, ready-to-eat meat and poultry products. The proposed performance standards spell out the objective level of pathogen reduction meat and poultry establishments must meet during their operations in order to produce safe products, but allow the

USDA—FSIS **Proposed Rule Stage**

use of customized, plant-specific processing procedures. Although FSIS routinely samples and tests some shelf-stable, ready-to-eat products for the presence of pathogens prior to distribution, currently there are no specific regulatory requirements for pathogen reduction in place for these products. Further, a 1994 outbreak of disease linked to consumption of dry fermented salami contaminated with the pathogen E. coli 0157:H7 indicates a need for performance standards for these products. The proposed performance standards would improve the safety of these products, give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls, and provide objective, measurable standards that can be verified by Agency inspectional oversight.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC45

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251. PERFORMANCE STANDARDS FOR PERISHABLE, READY-TO-EAT PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 430

Legal Deadline: None

Abstract: FSIS is proposing to establish pathogen reduction performance standards for all perishable, ready-to-eat meat and poultry products. The performance standards spell out the objective level of pathogen reduction that establishments must meet during their operations in order to produce safe products, but allow the use of customized, plant-specific processing procedures other than those prescribed in the earlier regulations. Along with HACCP, food safety performance standards will give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls, while providing objective, measurable standards that can be verified by Agency inspectional oversight. This set of performance standards will include and be consistent with those soon to be in place for ready-to-eat poultry products.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC46

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252. PERFORMANCE STANDARDS FOR BACON

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 601

CFR Citation: 9 CFR 318.7(b)

Legal Deadline: None

Abstract: FSIS is proposing to revise the regulatory provisions concerning the production and testing of bacon (9 CFR 318.7(b)). FSIS is proposing to remove provisions that require the Agency to test bacon for nitrosamines and to remove provisions that prescribe the substances and amounts of such substances that must be used to produce bacon. FSIS is proposing to replace these provisions with performance standards that establishments producing bacon must meet. To meet these proposed performance standards, the process used would be required to prevent the multiplication of Clostridium botulinum and limit the multiplication Clostridium perfringens. In addition, the process would be required to limit the presence of nitrosamines when the product is cooked.

All establishments not yet operating under the Hazard Analysis and Critical Control Point (HACCP) system requirements would be required to develop and have on file a process schedule documenting the control, monitoring, verification, validation, and corrective action activities associated with bacon production. Once all establishments are operating according to HACCP system requirements, a separate process schedule for producing bacon would no longer be necessary. Establishments under HACCP would be required to incorporate the proposed performance standards into their HACCP plans.

FSIS is proposing these regulations in order to allow establishments to develop alternative means of producing bacon. In addition, FSIS is proposing these regulations to remove the Agency's testing responsibilities and to require establishments producing bacon, instead, to control and monitor their own processes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia F. Stolfa, Assistant Deputy Administrator, Regulations Development and Analyst Division, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC49

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253. IRRADIATION OF MEAT AND MEAT PRODUCTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 7 USC 450; 21 USC 601

USDA—FSIS **Proposed Rule Stage**

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the meat inspection regulations to permit the use of ionizing radiation for treating fresh or frozen uncooked meat, meat byproducts, and certain meat food products to reduce levels of pathogens. FSIS is proposing this action in light of the Food and Drug Administration's recent final rule amending the food additive regulations to provide for the safe use of irradiation sources to treat these same meat products. FSIS also is proposing to revise for consistency the current regulations governing the irradiation of poultry.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700
Phone: 202 720-5627

RIN: 0583–AC50

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254. REWORKING OF MEAT AND POULTRY CARCASSES ACCIDENTALLY CONTAMINATED DURING EVISCERATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 450; 21 USC 451 to 470; 21 USC 601 to 695; 7 CFR 2.18; 7 CFR 2.53

CFR Citation: 9 CFR 310; 9 CFR 381; 9 CFR 433

Legal Deadline: None

Abstract: The Food Safety and Inspection Service is proposing to amend the mandatory meat and poultry products inspection regulations concerning the reworking of carcasses accidentally contaminated during evisceration. The proposal would replace with performance standards the current prescriptive provisions governing the handling of meat carcasses and the reprocessing of poultry carcasses that have been so contaminated and would permit the on-line reprocessing of carcasses, provided the applicable performance standards are met. The proposal would permit establishments to reprocess contaminated meat and poultry carcasses on the evisceration line, rather than at separate stations, if the establishments can scientifically demonstrate a substantial improvement in the microbiological quality of the carcasses. The amended regulations would be consistent with the Agency's pathogen reduction (PR) and hazard analysis and critical control point (HACCP) regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Office of Policy Development and Evaluation, Washington, DC 20250-3700
Phone: 202 720-5276

RIN: 0583–AC53

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255. • FEE INCREASE FOR INSPECTION SERVICES OF MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Legal Authority: 7 USC 1381; 7 USC 394; 7 USC 16221; 21 USC 451; 21 USC 601

CFR Citation: 9 CFR 391

Legal Deadline: None

Abstract: FSIS is proposing to increase the fees that it charges meat and poultry establishments, plants, importers, and exporters for providing voluntary inspection, identification, and certification services; laboratory services; and overtime and holiday services. These fee increases are based on the Agency's analysis of its projected costs for fiscal year 1999. The fee increases are being proposed in order to generate the additional revenue that FSIS is required to recover as a result of its projected increased costs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael B. Zimmerer, Director, Financial Management Division, Department of Agriculture, Food Safety and Inspection Service
Phone: 202 720-3367

RIN: 0583–AC54

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256. • LABELING OF FOOD UNDER THE VOLUNTARY NUTRITION LABELING PROGRAM; 1996 RETAIL SURVEY COMPLIANCE RESULTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 - 695; 21 USC 451 - 470

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service is proposing a change in its voluntary nutrition labeling program for single ingredient, raw meat and poultry products. A retail survey indicated that less than 60 percent of retailers were participating in the voluntary program. Therefore, FSIS is proposing to require the nutrition labeling of the 45 major cuts of single-ingredient, raw meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

USDA—FSIS **Proposed Rule Stage**

Agency Contact: William J. Hudnall, Assistant Deputy Administrator, OPPDE, Department of Agriculture, Food Safety and Inspection Service Phone: 202 205-0495 Fax: 202 401-1760

RIN: 0583–AC55

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) **Final Rule Stage**

257. SUBSTANCES APPROVED FOR USE IN THE PREPARATION OF MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to simplify the procedures by which FSIS approves food additives and Generally Recognized as Safe substances to be used as ingredients in meat food products and poultry products. The final rule will be developed in cooperation with the Food and Drug Administration to make the Federal regulation of food additives and other substances that may be used as ingredients in meat food and poultry products more efficient and uniform.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67459
NPRM Comment Period End	05/06/96	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 720-5276

RIN: 0583–AB02

258. USE OF SOY PROTEIN CONCENTRATE, FOOD STARCH-MODIFIED AND GELATIN AS BINDERS IN CERTAIN MEAT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) plans to increase the permitted use level of food starch-modified and approve the use of soy protein concentrate in certain cured pork products. The technical effect of these substances when added to product is to reduce water purge (pumped brine) from the product. Both of these substances are listed in the Food and Drug Administration regulations as Generally Recognized as Safe for use in foods in accordance with good manufacturing practice. The technical data and information supplied by the petitioners have been received and it has been determined that the use of these substances is functional and suitable for the intended purpose. This rule only makes minor, technical changes to the chart of substances approved for use in meat products.

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Post, Department of Agriculture, Food Safety and Inspection Service, Labeling and Additives Policy Division, Washington, DC 20250 Phone: 202 205-0279

RIN: 0583–AB82

259. RETAINED WATER IN RAW MEAT AND POULTRY PRODUCTS; POULTRY CHILLING PERFORMANCE STANDARDS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 440

Legal Deadline: None

Abstract: FSIS is developing a proposal to limit the amount of water absorbed and retained by single-ingredient raw meat and poultry products to the amount that is unavoidable in carrying out washing or chilling procedures. Such products include immersion-chilled poultry carcasses and raw meat byproducts that are chilled in water. A requirement for raw products to bear a labeling statement on absorbed water content is being considered. However, establishments having data that demonstrate their raw products do not gain weight as a result of washing or chilling would not have to label the products with such a statement. The proposal also would replace the command-and-control provisions of the regulations on poultry chilling and moisture control with performance standards. This proposal is being made in furtherance of the Agency's regulatory reform effort and in response to a July 23, 1997, U.S. District Court order setting aside current moisture limits for frozen, cooked, or consumer-packaged whole poultry. The labeling provisions of this proposal would be intended to provide consumers with additional information for making purchasing decisions.

Affected establishments would have to bear the minimal costs associated with any required labeling modifications.

USDA—FSIS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48961
NPRM Comment Period End	01/13/99	63 FR 68700
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Division, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC26

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260. ADDITION OF MEXICO TO LIST OF COUNTRIES ELIGIBLE TO EXPORT POULTRY PRODUCTS TO THE UNITED STATES

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 138f; 7 USC 450; 21 USC 451; 21 USC 470

CFR Citation: 9 CFR 381.196

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is adding Mexico to the list of countries eligible to export poultry products listed in the Poultry Products Inspection Act (PPIA) into the United States. Reviews of Mexico's laws, regulations, and other materials indicate that its poultry processing system is acceptable under the PPIA and its implementing regulations. Poultry slaughtered in Mexico are not permitted to be imported into the United States. Only poultry products that have been slaughtered in federally inspected establishments in the United States and processed in certified Mexican establishments are permitted to be imported into the United States. This action will enable processed poultry products from certified processing establishments in Mexico to be imported into the United States.

Timetable:

Action	Date	FR Cite
NPRM	11/26/97	62 FR 63284
NPRM Comment Period End	01/27/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 720-5276

RIN: 0583–AC33

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261. RULES OF PRACTICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 601; 21 USC 451

CFR Citation: 9 CFR 304; 9 CFR 305; 9 CFR 306; 9 CFR 327; 9 CFR 335; 9 CFR 381; 9 CFR 500

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is amending the regulations concerning the rules of practice that apply to Agency enforcement actions.In response to comments received on the proposed rule and its experience under the Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems, FSIS is defining each type of enforcement action that it may take, the conditions under which it is likely to take each of these actions, and the procedures that it will follow in doing so. This rule is part of FSIS's ongoing efforts to consolidate, streamline, and clarify the meat and poultry product inspection regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/12/98	63 FR 1797
NPRM Comment Period End	03/13/98	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20240-3700
Phone: 202 205-0699

RIN: 0583–AC34

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262. SANITATION REQUIREMENTS FOR OFFICIAL MEAT AND POULTRY ESTABLISHMENTS

Priority: Other Significant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 303; 9 CFR 308; 9 CFR 381; 9 CFR 416

Legal Deadline: None

Abstract: FSIS is consolidating the sanitation regulations into a single part applicable to both meat and poultry establishments, eliminating unnecessary differences between the meat and poultry sanitation requirements, and converting many of the highly prescriptive sanitation requirements to performance standards.

Timetable:

Action	Date	FR Cite
NPRM	08/25/97	62 FR 45045
NPRM Comment Period End	10/24/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development, and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington DC 20250-3700
Phone: 202 720-5627

RIN: 0583–AC39

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263. MEAT PRODUCED BY ADVANCED MEAT/BONE SEPARATION MACHINERY AND RECOVERY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 to 695

CFR Citation: 9 CFR 301.2; 9 CFR 318.24 (Revision); 9 CFR 320.1(b)(10)

Legal Deadline: None

USDA—FSIS **Final Rule Stage**

Abstract: In 1994, the Food Safety and Inspection Service amended its regulations to recognize that product resulting from advanced meat/bone separation machinery comes within the definition of meat when recovery systems are operated to assure that the characteristics and composition of the resulting product are consistent with those of meat. Subsequent compliance problems and other concerns have made it apparent that the regulations are confusing and inadequate to prevent misbranding and economic adulteration. Therefore, FSIS is developing a proposed rule to clarify the regulations and supplement the rules for assuring compliance. The Agency is reviewing information obtained since publication of the proposal and further rulemaking on the noncompliance criterion for bone marrow.

Timetable:

Action	Date	FR Cite
NPRM	04/13/98	63 FR 17959
NPRM Comment Period End	06/12/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700
Phone: 202 720-5627

RIN: 0583–AC51

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Long-Term Actions

264. NUTRITION LABELING OF GROUND BEEF AND HAMBURGER

Priority: Other Significant

CFR Citation: 9 CFR 317; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	05/24/94	59 FR 26916
NPRM Extension of Comment Period	07/05/94	59 FR 34396
NPRM Comment Period End	07/08/94	
NPRM Extension of Comment Period End	08/22/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AB74

265. BEEF OR PORK WITH BARBECUE SAUCE; REVISION OF STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 319

Timetable:

Action	Date	FR Cite
NPRM	09/03/97	62 FR 46450
NPRM Comment Period End	11/03/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AC09

266. LABELING STANDARDS FOR OVINE CARCASSES, PARTS OF CARCASSES, MEAT AND MEAT FOOD PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 9 CFR 319

Timetable:

Action	Date	FR Cite
NPRM	11/21/97	62 FR 62271
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alfred Liepold
Phone: 202 205-0292

RIN: 0583–AC41

267. SALMONELLA ENTERITIDIS IN EGGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 59; 21 CFR 100

Timetable:

Action	Date	FR Cite
ANPRM	05/19/98	63 FR 27502
ANPRM Comment Period End	08/17/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5627

RIN: 0583–AC52

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Completed Actions

268. PERFORMANCE STANDARDS FOR CERTAIN MEAT PRODUCTS AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 301; 9 CFR 318; 9 CFR 320; 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	01/06/99	64 FR 732
Final Action Effective	03/08/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5627

RIN: 0583–AB94

269. ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR EGG PRODUCT PLANT DRAWINGS, SPECIFICATIONS, AND EQUIPMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 55; 7 CFR 59

Completed:

Reason	Date	FR Cite
Withdrawn - FSIS is revisiting the proposed policy.	01/21/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC06

BILLING CODE 3410-DM-F

DEPARTMENT OF AGRICULTURE (USDA)

Foreign Agricultural Service (FAS)

Proposed Rule Stage

270. PROPOSED REGULATIONS GOVERNING IMPLEMENTATION OF THE COOPERATOR FOREIGN MARKET DEVELOPMENT PROGRAM OVERSEAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 1704

CFR Citation: 7 CFR 1550

Legal Deadline: None

Abstract: These regulations are promulgated to provide minimum requirements and criteria for parties interested in participating in the Cooperator Market Development Program, as authorized by title VII of the Agricultural Trade Act of 1978, 7 USC 5721, et seq.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly Chisley, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 6087 South Building, Washington, DC 20250
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RIN: 0551–AA26

271. EXPORT SALES REPORTING REQUIREMENT

Priority: Other Significant

Legal Authority: 7 USC 5712

CFR Citation: 7 CFR 20

Legal Deadline: None

Abstract: Consideration of a proposal to add meat and meat products to the list of commodities for which advanced notice of export is reported, and a streamlined electronic reporting system as the means to accomplish that reporting. A proposed rule will solicit public comments.

Timetable:

Action	Date	FR Cite
ANPRM	11/14/96	61 FR 58343
ANPRM Comment Period End	01/13/97	
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kimberly Chisley, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 6087 South Building, Washington, DC 20250
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RIN: 0551–AA51

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Long-Term Actions

272. CCC SUPPLIER CREDIT GUARANTEE PROGRAM

Priority: Economically Significant

CFR Citation: 7 CFR 1493

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37025
NPRM Comment Period End	09/18/95	
Interim Final Rule	07/01/96	61 FR 33825
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0551–AA30

273. FACILITY GUARANTEE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 17; 7 CFR 1493

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/93	58 FR 11786
Interim Final Rule Comment Period End	06/01/93	
Interim Final Rule	08/08/97	62 FR 42651
Interim Final Rule Comment Period End	10/07/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0551–AA35

274. REFORM OF EXPORT BONUS PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1494; 7 CFR 1570

Timetable:

Action	Date	FR Cite
ANPRM	06/26/95	60 FR 32923
ANPRM Comment Period End	07/26/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 0551–AA41

275. DAIRY TARIFF-RATE IMPORT QUOTA LICENSING

Priority: Other Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 6.20 to 6.36

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 0551–AA53

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Completed Actions

276. DAIRY TARIFF RATE IMPORT QUOTA LICENSING

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 6.20 to 6.34

Completed:

Reason	Date	FR Cite
Final Action	10/09/96	61 FR 53002
Final Action Effective	10/09/96	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0551–AA27

277. SUGAR IMPORT LICENSING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1530; 7 CFR 1530 subpart A; 7 CFR 1530 subpart B; 7 CFR 1530 subpart C

Completed:

Reason	Date	FR Cite
Final Action	02/12/99	64 FR 7059

USDA—FAS

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0551–AA39

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278. REGULATION GOVERNING IMPLEMENTATION OF THE MARKET ACCESS PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1485

Completed:

Reason	Date	FR Cite
Final Action	06/02/98	63 FR 29938
Final Action Effective	06/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0551–AA52

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279. REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	11/05/98	63 FR 59691
Final Action Effective	11/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0551–AA54

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280. CHANGES TO THE REGULATION TO ACHIEVE MORE EFFECTIVE MANAGEMENT OF FOREIGN DONATIONS OF AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1499.1; 7 CFR 1499.7(e); 7 CFR 1499.8(b); 7 CFR 1499.8(g); 7 CFR 1499.10; 7 CFR 1499.15; 7 CFR 1499.16

Completed:

Reason	Date	FR Cite
Final Action	11/06/98	63 FR 59876
Final Action Effective	11/06/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0551–AA56

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281. AMEND REGULATIONS GOVERNING PROCEDURES FOR PROCURING OCEAN TRANSPORTATION FOR AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1499.8; 7 CFR 1499.8(c)(2)

Completed:

Reason	Date	FR Cite
Final Action	11/06/98	63 FR 59876
Final Action Effective	11/06/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0551–AA57

BILLING CODE 3410-10-F

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Prerule Stage

282. DISPOSAL OF NATIONAL FOREST TIMBER: TIMBER SALE CONTRACT REVISIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This advance notice of proposed policy requests comment on recommended changes to forms FS-2400-6 and FS-2400-6T, timber sale contracts currently used by the Forest Service to sell National Forest System timber. An advance proposal of timber sale contract provisions will be included as part of the notice. This proposed contract reflects recent court decisions and recent natural resource and environmental legislation and would clarify the rights, responsibilities, and obligations of the contracting parties. The revised contract also would address specific provisions in the current contract that have generated costly litigation in the past between the Government and the purchaser and would address the concerns regarding timber theft and log accountability. After reviewing public comment on the advance notice, the Agency will develop and publish a proposed contract for public comment.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	
ANPRM Comment Period End	06/00/99	

USDA—FS **Prerule Stage**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0596–AB52

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Proposed Rule Stage

283. HYDROPOWER APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: The Forest Service is revising its current policy and procedures implemented in February 1987, concerning administration of hydropower authorizations and the processing of proposals for hydropower projects affecting National Forest System lands. These revisions are necessary to make agency policy and procedures consistent with regulatory changes by the Federal Energy Regulatory Commission (FERC). The proposed policy was published in the Federal Register on May 22, 1995 (60 FR 27153) for a 60-day public comment period, which was extended for another 45 days (60 FR 36401). As a result of the comments received, substantial changes were made to the proposed policy (60 FR 36401). Therefore, the Forest Service is publishing a revised proposed policy for public comment.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27153
NPRM Comment Period Extended	07/17/95	60 FR 36401
NPRM Comment Period End	09/05/95	
Second NPRM	08/00/99	
Second NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AA47

284. NATIONAL FOREST PROHIBITIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(i); 16 USC 1133(c) to 1133(d)(1); 16 USC 4306 to 4307

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: Regulations at 36 CFR 261, subpart A, set out the acts prohibited on National Forest System (NFS) lands. These prohibitions derive from either statutes governing National Forest programs or other regulations. The regulations at subpart B authorize Regional Foresters, Forest Supervisors, or Station Directors to close National Forest System lands under their jurisdiction to certain uses or to restrict some uses of NFS lands. These closures are issued by order. Because of the high level of public interest in this rulemaking the Agency has decided to issue a second proposed rule for comment. This action no longer includes the minor revisions to part 262, Law Enforcement Support Activities, which is now described as a separate action.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/18/94	
Second NPRM	02/00/00	
Second NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RIN 0596-AA65 was combined with RIN 0596-AA75

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RIN: 0596–AA75

285. SMALL TRACTS ACT REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 521(c) to 521(i)

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: Implementation of the Agency's Small Tracts regulations (adopted in 1984) has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

USDA—FS **Proposed Rule Stage**

Action	Date	FR Cite
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AA79

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286. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1600 et seq; 5 USC 301

CFR Citation: 36 CFR 219

Legal Deadline: None

Abstract: The President's environmental program includes incorporation of the principles of ecosystem management in natural resource planning for all units of the National Forest System. In support of that effort, proposed regulations will be published governing how future changes in direction will be made and how those changes will be documented. Guided by the recommendations of a recently chartered Committee of Scientists, the regulation also will streamline planning and update planning procedures and requirements to reflect the Agency's and public's experience gained over the last 15 years. Emphasis will be placed on assessing ecosystem health through ecoregional and watershed-level assessments. The rule also will strengthen public participation opportunities in planning, as well as give greater emphasis to interaction and dialog with Federal, State, local, and Indian tribal governments.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/91	56 FR 6508
NPRM	04/13/95	60 FR 18886
NPRM Comment Period End	08/17/95	60 FR 36767
Second NPRM	06/00/99	
Second NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 0596–AB20

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287. SPECIES SURPLUS TO DOMESTIC MANUFACTURING NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 620 et seq

CFR Citation: 36 CFR 223.200

Legal Deadline: None

Abstract: This proposed rule would amend 36 CFR 223.200, to list species proposed to be surplus to domestic manufacturing needs. This proposed rule would implement a portion of section 620a(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 USC 620 et seq). Section 620a(a) of the Act provides that no person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange or otherwise convey such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States. Section 620a(b) of the Act provides that the prohibition contained in section (a) shall not apply to specific quantities of grades and species of unprocessed timber originating in Federal lands which the Secretary determines, through rulemaking, to be surplus to domestic manufacturing needs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 0596–AB27

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288. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 1764; 30 USC 181

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The objective of this proposal is to incorporate into regulation the authority contained in the Mineral Leasing Act and the Federal Land Policy and Management Act to reimburse the United States for reasonable administrative costs associated with the issuance and administration of special-use authorizations on National Forest System lands. It responds to a recommendation contained in GAO Audit Report RCED-97-16 (12/96).

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Cost reimbursement for processing special-use applications and administration of special-use authorizations was originally included under RIN 0596-AA36. All provisions pertaining to the special-use application and

administration process have been merged with RIN 0596-AB35. Thus, this rulemaking addresses only the cost-reimbursement provisions.

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RIN: 0596–AB36

289. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 251; 36 CFR 214

Legal Deadline: None

Abstract: These proposed regulations would redesignate these appeals rules as a new part 214, thus placing all appeals and notices and comment rules in close proximity. Additionally, this proposed rule would revise a number of existing provisions. For example, changes to part 251 would clarify the application of this rule to the issuance of permits for occupancy and use of National Forest System lands. When 36 CFR part 251, subpart C, regulations were promulgated in 1989, NEPA analysis and documentation was not consistently applied to the authorization of special uses. Now the authorization and the issuance of permits and other authorization requires application of the NEPA process prior to issuance. In addition, since these regulations were implemented, Congress has passed the Appeal Reform Act. The proposed changes to the permit related appeal rules are needed to make this regulation consistent with regulations at 36 CFR part 215. Among specific proposed changes being considered are removing the second level of appeal opportunity, removing the discretionary review option, shortening timeframes for scheduling oral presentations, and changes to conform terminology and definitions with 36 CFR part 215.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB45

290. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; EXTENSION OF TIMBER SALE CONTRACTS TO PERMIT URGENT REMOVAL OF OTHER TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620

CFR Citation: 36 CFR 223.50; 36 CFR 223.53

Legal Deadline: None

Abstract: This rule and policy change will provide for extension of National Forest System (NFS) timber sale contracts when such extension will permit the prompt removal and utilization of non-NFS-owned timber damaged by catastrophic events. The change will define the responsibilities of the parties for requesting and approving such extensions and specify when such extension should be approved. This change will also allow for the use of scarce timber resources and the recovery of economic benefits from timber that might otherwise be lost because of contractual obligations to harvest undamaged timber.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 0596–AB48

291. NATIONAL ENVIRONMENTAL POLICY ACT; REVISED POLICY AND PROCEDURES; CATEGORICAL EXCLUSIONS

Priority: Other Significant

Legal Authority: 42 USC 4371

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: The proposed revision to Forest Service Manual and Handbook direction would be revised to clarify the environmental analysis process used by the Forest Service to implement the NEPA regulations at 40 CFR part 1500. The proposal will focus on better defining the process for determining when projects are categorically excluded and expanding the categories of action that can be excluded under NEPA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB54

292. LAW ENFORCEMENT SUPPORT ACTIVITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1011(f); 16 USC 472; 16 USC 551; 16 USC 559(a) to 559(g); 40 USC 484(m)

CFR Citation: 36 CFR 262

Legal Deadline: None

Abstract: In February 1994, the Forest Service published proposed rule

USDA—FS **Proposed Rule Stage**

changes for parts 261 and 262 of title 36 of the Code of Federal Regulations. Due to the high level of interest in and comment on part 261, the decision was made to publish a second proposed rule. The majority of the public comment on part 262 referred to the definition section which has been revised to respond to those comments. The Forest Service has decided to issue a second proposed rule for comment on part 262, Law Enforcement Support Activities. Proposed revisions to part 261 will proceed separately.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/18/94	
Second NPRM	10/00/99	
Second NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB61

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293. ADMINISTRATION OF THE FOREST DEVELOPMENT TRANSPORTATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 23 USC 205

CFR Citation: 36 CFR 212

Legal Deadline: None

Abstract: The Forest Service proposes to revise 36 CFR part 212 to address changes in how the National Forest System transportation road system is developed, used, maintained, and funded. The proposed revisions at 36 CFR part 212 will include a comprehensive science-based policy for the future. Expected features of the proposed revision will include (1) guidance for decommissioning unneeded roads; (2) expanded policy to update road construction, design, and maintenance requirements; and (3) guidance on expenditure priorities for limited funds. The intended effect of the proposed revisions will be to reduce environmental impacts from road construction and reconstruction activities and improve the efficiency and effectiveness of road maintenance and expenditure of limited road dollars.

Timetable:

Action	Date	FR Cite
ANPRM	01/28/98	63 FR 4350
ANPRM Comment Period End	03/30/98	
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB67

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294. NONCOMPETITIVE SALE OF TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472(a)

CFR Citation: 36 CFR 223.85

Legal Deadline: None

Abstract: This proposed rule would revise 36 CFR 223.85 by removing references to section 2001(k) of Public Law 104-19 (109 Stat. 246) and define "extraordinary conditions" to allow forest officers, without advertisement, to make modifications to timber and forest product sales, which result in the substitution of timber or forest products from outside the sale area specified in the contract. Under the proposed rule, substitute timber or forest products would have to come from the same administrative national forest and meet agency requirements for compliance with the National Environmental Policy Act and other environmental laws. This proposed rule would not compel a timber purchaser to accept a timber sale modification offered under this rule. The rule only authorizes the Forest Service to propose modifications and to enter into discussions with purchasers on such modifications.

This proposed rule will reduce timber sale cancellations and partial cancellations, thus reducing future damage claims on timber sales.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB70

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295. • SMALL BUSINESS TIMBER SALE SET-ASIDE RECOMPUTATION BASIS

Priority: Info./Admin./Other

Legal Authority: 16 USC 472; 16 USC 618; 16 USC 620

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service is proposing to revise policy and procedures that will make timber sale set-aside recomputations, required by industry changes, easier to implement and more responsive to the actual conditions in the market area. Two changes are proposed. The first would revise the formula used to calculate the timber sale set-aside program recomputation by removing timber harvest data and instead use only timber sale purchased volume data. The second proposed change would be to modify the timing of a structural change implementation from 3 years to 1.5 years. Structural change recalculations are needed when a business's characteristics change, such as the size of the operation. This will simplify the process and give appropriate weight to small and big businesses.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

USDA—FS **Proposed Rule Stage**

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RIN: 0596–AB72

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296. • CATEGORICAL EXCLUSION FOR CERTAIN SPECIAL USES PERMIT ACTIONS (FSH 1909.15, CHAPTER 30)

Priority: Routine and Frequent

Legal Authority: 42 USC 4321 to 4346

CFR Citation: None

Legal Deadline: None

Abstract: In April 1997, the Forest Service completed a reengineering study of its special uses program. One finding in that study was that the Forest Service is conducting extensive National Environmental Policy Act (NEPA) analysis and documentation for the renewal or transfer of ownership of special use authorizations having no significant effect on the human environment, either individually or cumulatively. This level of NEPA compliance is costly, time consuming and not commensurate with the risk attributed to the activity. Therefore, the Forest Service proposes to add a new category of categorical exclusions from NEPA documentation section 31.1b of FSH 1909.15, Environmental Policy and Procedures Handbook, to provide clearer direction regarding the NEPA obligation in the transfer of and amendment to special use authorizations. Also, a new category would be added to section 31.2 that applies to the renewal of special use authorizations.

Further, the Forest Service proposes to amend section 30.3 to clarify the NEPA documentation that is needed for processing applications and authorizations under a categorical exclusion when extraordinary circumstances exist. The existing definition in section 30.3 implies that the "mere presence" of an extraordinary circumstance would require that an Environmental Assessment (EA) or Environmental Impact Statement (EIS) be completed for actions that would otherwise be categorically excluded. The Forest Service proposes to amend this section to provide that an identified extraordinary circumstance must clearly have an impact on the National Forest resource to merit preparation of an EA or EIS.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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Fax: 703 605-5111
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RIN: 0596–AB73

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297. • CLARIFICATION OF EXEMPTIONS FROM SPECIAL-USE AUTHORIZATIONS

Priority: Routine and Frequent

Legal Authority: 16 USC 477 to 482; 16 USC 551; 43 USC 1761 to 1771

CFR Citation: 36 CFR 251.50(c)

Legal Deadline: None

Abstract: In April 1997, the Forest Service completed a reengineering study of its special uses program on how to manage the program in a more business-like, customer-service-oriented way. The Agency proposes the following revisions to 36 CFR 251.50 that would implement recommendations from this study. The study determined that many units are issuing special use authorizations unnecessarily, thereby increasing workloads. The study concluded that the Agency should clarify the special uses rules at section 251.50(a) to make explicitly clear that special use authorizations should not be issued for activities that are regulated by other Forest Service regulations; for example, those governing the disposal of timber (part 223); minerals (part 228); the use of forest development roads and trails (part 212 and section 251.110); and the grazing of cattle (part 222). The study also concluded that section 251.50(d) should be revised to direct that special use authorizations should not be issued where such authorization would serve no land or resource management objective and would have nominal effects on National Forest System lands; for example, where activities are adequately regulated by other governmental entities or where an authorized officer determines that normal operation and maintenance by the holder is within the scope of a right-of-way, easement, or other valid existing real property interest. Further, the rule at section 251.50(c) would be revised to clarify that, in emergency situations, a special use authorization should be sought at the earliest opportunity following the emergency to ensure that appropriate measures are carried out to protect National Forest System lands after the emergency situation no longer exists.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB74

DEPARTMENT OF AGRICULTURE (USDA)

Final Rule Stage

Forest Service (FS)

298. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: This rule sets forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Litigation and a decision by the Interior Board of Land Appeals require the Forest Service to set forth its own regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	
Final Action	07/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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Email: mconnoll/wo@fs.fed.us

RIN: 0596–AA52

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299. DISPOSAL OF NATIONAL FOREST TIMBER; CANCELLATION OF TIMBER SALE CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 472a; 16 USC 551; 16 USC 618

CFR Citation: 36 CFR 223.30; 36 CFR 223.40; 36 CFR 223.116

Legal Deadline: None

Abstract: Current regulations governing cancellation of National Forest timber sale contracts do not adequately protect the Government's financial interests in the event the Forest Service is forced to cancel contracts due to events beyond its control arising from compliance with environmental statutes. This rulemaking would remove an unworkable compensation-of-damages formula and establish a termination-for-environmental-protection clause in timber sale contracts, a standard in most Federal procurement contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68690
NPRM Comment Period End	02/13/97	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
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Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB21

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300. STATE AND PRIVATE FORESTRY ASSISTANCE STEWARDSHIP INCENTIVE PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 2101 et seq

CFR Citation: 36 CFR 230

Legal Deadline: None

Abstract: This final rule would incorporate streamlined procedural changes in response to public comments on the interim rule published December 4, 1991. The interim rule established the interim procedures for administration of the Stewardship Incentive program. The program is intended to encourage private landowners, through cost-share assistance, to manage their forest lands for economic, environmental, and social benefits. Only two alternatives were considered in detail: (1) To implement the program in accordance with 16 USC 2101, et seq., and (2) not to implement the program, in which case there would be no accelerated program for multiple resource management on nonindustrial private forest lands. The overall effects of the program over time will be environmentally beneficial by enhancing wetlands, wildlife habitat, forest health, forest productivity, and recreation. The program will help meet future demand for commodity and noncommodity forest resources. There are no potential negative impacts anticipated for the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/91	56 FR 63581
Interim Final Rule Public Comment Period End	01/21/92	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
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Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB32

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301. PREFERENCE FOR VISITOR SERVICE; ALASKA NATIONAL FOREST CONSERVATION SYSTEM UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3197

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service is issuing regulations to define and establish procedures for administering the statutory rights and preferences established by the Alaska National Interest Lands Conservation Act of 1980 for historical operators, Native Corporations, and local residents to conduct revenue producing visitor services on certain National Forest System Lands in Alaska. The regulations are necessary to comply with section 1307 of the Alaska

USDA—FS

Final Rule Stage

National Interest Lands Conservation Act which requires the Secretary of Agriculture to give preference to persons he determines by rule are local residents. The regulations, which have been developed in close consultation with the other Federal land managing agencies in Alaska, will apply only to Conservation System Units administered by the Forest Service. As applied to these regulations, administered Conservation System Units are Forest Service national monuments units of the National Wild and Scenic River Systems, National Trails System, and the National Wilderness Preservation System in Alaska. Procedures for administering the statutory rights and preferences established by the Alaska National Interest Lands Act of 1980 for historical operators, Native Corporations, and local residents to conduct revenue producing visitor services on certain National Forest System Lands in Alaska. The regulations are necessary to comply with section 1307 of the Alaska National Interest Lands Act which requires the Secretary of Agriculture to give preference to persons he determines by rule are local residents. The regulations, which have been developed in close consultation with the other Federal land managing agencies in Alaska, will apply only to Conservation System Units administered by the Forest Service.

Timetable:

Action	Date	FR Cite
NPRM	04/25/97	62 FR 20140
NPRM Comment Period End	06/24/97	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB57

302. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS; MEDIATION OF GRAZING PERMIT DISPUTES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 5101 to 5106

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: Under section 282 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, the Secretary of Agriculture is required to offer mediation of grazing permit disputes on National Forest System lands in those States which have USDA-certified mediation programs. In response to the Act, the Forest Service published proposed modifications of the Agency's administrative appeal rule at 36 CFR part 251, subpart C, to allow for mediation of grazing permit disputes on February 27, 1998 (63 FR 9987). Thirteen comments were received from six groups and individuals representing private organizations, agricultural mediation programs, State agencies, and private citizens.

Timetable:

Action	Date	FR Cite
NPRM	02/27/98	63 FR 9987
NPRM Comment Period End	04/28/98	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB59

303. ADMINISTRATIVE, COOPERATIVE FUNDS AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 16 USC 498; 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 211

Legal Deadline: None

Abstract: The Forest Service published a proposed revision to 36 CFR part 211 in the Federal Register on May 18, 1998 (63 FR 27245), to implement recent amendments to the Act of June 30, 1914 (16 USC 498 et seq.). The amendments to the Act (1) expand the Forest Service's authority to use contributions on the entire National Forest System for cooperative work, (2) add the word "management" to the list of activities for which contributions for cooperative work may be accepted, (3) allow reimbursable payments to the agency by cooperators, (4) provide specific authority to accomplish cooperative work using Forest Service funds prior to reimbursement by the cooperator pursuant to a written agreement, and (5) adequately protect the Government's interests.

The agency received six responses to the proposed rule: Three from national conservation organizations, one from a State fish and wildlife agency, one from a utility company, and one from a Member of Congress.

The Department has considered all comments and is proceeding to publish the final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27245
NPRM Comment Period End	07/17/98	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB63

304. NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-381, sec 322

CFR Citation: 36 CFR 215

Legal Deadline: None

Abstract: A recent lawsuit brought by a Forest Service employee challenging this regulation led to a reassessment of the employee appeal limitation 36 CFR

USDA—FS **Final Rule Stage**

215.11(c). The Department agreed to repeal the employee prohibition provision to allow the agency time to consider the issues related to employees filing appeals. After additional consideration of relevant factors, the Department may decide to publish a new proposed rule to address the matter of appeals by employees. If so, public comment would be requested at the time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/28/98	63 FR 4187
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB69

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Completed Actions

305. SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 251

Completed:

Reason	Date	FR Cite
Final Action	11/30/98	63 FR 65950
Final Action Effective	12/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly
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RIN: 0596–AB35

306. SMALL BUSINESS TIMBER SALE SET-ASIDE PROGRAM; APPEAL PROCEDURE ON RECOMPUTATION OF SHARES

Priority: Info./Admin./Other

CFR Citation: 36 CFR 223.118

Completed:

Reason	Date	FR Cite
Final Action	01/05/99	64 FR 406
Final Action Effective	01/20/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 605-4533
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Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB62

307. CATEGORICAL EXCLUSION FOR CERTAIN SKI AREA PERMIT ACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	09/09/98	63 FR 48170
Final Action Effective	09/24/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly
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RIN: 0596–AB65

308. ADMINISTRATION OF THE FOREST DEVELOPMENT TRANSPORTATION SYSTEM: TEMPORARY SUSPENSION OF ROAD CONSTRUCTION IN ROADLESS AREAS

Priority: Other Significant

CFR Citation: 36 CFR 212.13

Completed:

Reason	Date	FR Cite
Final Action	02/12/99	64 FR 7290
Final Action Effective	03/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 605-4533
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Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB68

309. • SKI AREA PERMIT FEE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 497 (b)

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service proposes to issue final policy in the Forest Service Manual (FSM) and Forest Service Handbook (FSH) to guide its employees in administering the provisions of section 701 of the Omnibus Parks and Public Lands Management Act of 1996 that relate to ski area permit fees on National Forest System lands. The statutory provisions, which amended the National Forest Ski Area Permit Act of 1986, were designed to streamline permit administration for both the Forest Service and the ski areas. The policy would be issued to chapter FSM 2720, Special Uses Administration, and chapters 30 and 50 of FSH 2709.11, Special Uses Handbook. The policy would implement the permit fee calculation method as set forth in this statute, which allows very little agency discretion and which supersedes the proposed fee system the Forest Service had published for notice and comment in the Federal Register on July 13, 1995. The Congressional Budget Office has determined the implementation of the fee provisions in the 1996 statute to be revenue neutral.

Timetable:

Action	Date	FR Cite
Final Action	02/22/99	64 FR 8682
Final Action Effective	02/26/99	

USDA—FS — **Completed Actions**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB71

BILLING CODE 3410-11-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Proposed Rule Stage

310. • DESIGNATION OF RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Priority: Other Significant

Legal Authority: PL 105-277, sec 766

CFR Citation: 7 CFR 25

Legal Deadline: None

Abstract: This rule sets forth the policies and procedures for designating twenty additional rural enterprise communities. This rule also sets forth the policies and procedures for a newly authorized grant program for Round II rural empowerment zones and Round II's enterprise communities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Victor Vasquez, Deputy Administrator, Office of Community Development, Department of Agriculture, Office of the Secretary, Room 701, Reporters Building, Washington, DC 20024-3203
Phone: 202 619-7980
Fax: 202 690-1395

RIN: 0503–AA20

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Final Rule Stage

311. UNIFORM PROCEDURES FOR THE ACQUISITION AND TRANSFER OF EXCESS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2206(a); 7 USC 301; 20 USC 1059c(b)

CFR Citation: 7 CFR 3200; 7 CFR 3201; 7 CFR 3202; 7 CFR 3203; 7 CFR 3204; 7 CFR 3205; 7 CFR 3206; 7 CFR 3208; 7 CFR 3209; 7 CFR 3210; 7 CFR 3211

Legal Deadline: None

Abstract: This action will set forth uniform procedures for the acquisition and transfer of excess personal property to the 1890 Land Grant Institutions (including Tuskegee University), the 1994 Land Grant Institutions, and the Hispanic Serving Institutions in support of research, educational, technical, and scientific activities or for related purposes.

Timetable:

Action	Date	FR Cite
NPRM	01/23/98	63 FR 3481
NPRM Comment Period End	02/23/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Linda W. Oliphant, Property Utilization Specialist, Department of Agriculture, Office of the Secretary
Phone: 202 720-3141
Fax: 202 720-3747

RIN: 0503–AA19

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Long-Term Actions

312. NONDISCRIMINATION IN USDA-CONDUCTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	04/23/96	61 FR 17851
Second NPRM	11/10/98	63 FR 62962
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosalind D. Gray
Phone: 202 720-5212

RIN: 0503–AA15

313. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Other Significant

CFR Citation: 7 CFR 3016

Timetable:

Action	Date	FR Cite
NPRM	02/17/98	63 FR 7734
NPRM Comment Period End	06/18/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Gerald Miske
Phone: 202 720-1553

USDA—AgSEC **Long-Term Actions**

Fax: 202 690-1529
RIN: 0503–AA16

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC) **Completed Actions**

314. DESIGNATION OF RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Priority: Other Significant

CFR Citation: 7 CFR 25

Completed:

Reason	Date	FR Cite
Final Action	10/07/98	63 FR 53779
Final Action Effective	10/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Victor Vasquez
Phone: 202 619-7980
Fax: 202 690-1395

RIN: 0503–AA18

BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS) **Proposed Rule Stage**

315. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 940c

CFR Citation: 7 CFR 1703 subpart B; 7 CFR 4280 subpart A

Legal Deadline: None

Abstract: This action is part of a reinvention laboratory initiative of the Department of Agriculture and Rural Business-Cooperative Service. The regulations will be written in a "Plain Language" style. The proposed regulation will be simpler and improve the ease of use by the public and program beneficiaries. The regulations will be written in a question and answer format from the perspective of questions from the applicant under this program. The regulations will simplify the application format, review and selection process, and recipient's recordkeeping requirements. It will also add a section on the appeal of adverse decisions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $25,000; Yearly Recurring Cost: $25,000; Base Year for Dollar Estimates: 1995

Sectors Affected: None

Agency Contact: Mark Wyatt, Team Leader, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 5413 South Building, Washington, DC 20250
Phone: 202 720-1400

RIN: 0570–AA19

316. BUSINESS AND INDUSTRY DIRECT LOAN PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart E; 7 CFR 1942 subpart A; 7 CFR 1951 subpart E; 7 CFR 4274 subpart I; 7 CFR 4287 subpart H

Legal Deadline: None

Abstract: The Agency currently utilizes RD Instructions 1980-A and E, 1942-A, 1951-E to make and service new and existing direct B&I loans. These regulations contain very limited direction in direct B&I loan making. The Agency is writing new regulations to replace the instructions for direct loan making and servicing. This program will complement the Agency's existing guaranteed (B&I) loan program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Richard Bonnet, Senior Loan Specialist, Business Program Processing Division, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Avenue SW., Room 6864 South Building, STOP 3221, Washington, DC 20250
Phone: 202 720-1804
Fax: 202 690-3808
Email: rbonnet@rurdev.usda.gov

RIN: 0570–AA22

317. BUSINESS AND INDUSTRIAL GUARANTEED LOAN PROGRAM—MISCELLANEOUS CHANGES

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 4287 subpart B; 7 CFR 4279 subpart A; 7 CFR 4279 subpart B

Legal Deadline: None

Abstract: Revisions are proposed in the following areas: Exclusion of financing agriculture production, limiting debt

refinancing, definition of rural and rural area, criteria for reducing percent of guarantee, revising loan priority criteria, eligibility issues when an applicant is delinquent on Federal debt, title IX provisions, additional administrative guidance, tightening eligibility criteria for non-bank lenders, removing the need for a Regional Attorney review for transfers and assumptions of existing loans, limiting debt refinancing, limiting packaging fees, adjusting loan priorities, additional application requirements for certain applicants, and various other minor editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bonnet, Senior Loan Specialist, Business Program Processing Division, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Avenue SW., Room 6864 South Building, STOP 3221, Washington, DC 20250
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RIN: 0570–AA23

318. AFFIRMATIVE FAIR HOUSING MARKETING PLAN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1703 subpart B; 7 CFR 1942 subpart G; 7 CFR 4284 subpart D; 7 CFR 4287 subpart B; 7 CFR 4279 subpart B; 7 CFR 4274 subpart D

Legal Deadline: None

Abstract: This action will incorporate the requirement for housing-related projects (such as apartment buildings, nursing homes, group homes, and assisted living type facilities) to develop an Affirmative Fair Housing Marketing Plan (plan) when receiving funding from the Intermediary Relending Program, Rural Business Enterprise Grant Program, Rural Economic Development Loan and Grant Programs, and the Business and Industry Direct Loan Program. The plan will describe strategies to attract applications from all groups in a housing market area and efforts to reach those persons in the market area who traditionally would not be expected to apply for housing. The Rural Housing Service Multi-Family Housing Program regulations currently include this borrower requirement. We estimate this action will impact a total of 100 housing related projects not previously required to complete a plan.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Lewis, Loan Specialist, Business Program Servicing Division, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Avenue SW., Room 5425 South Building, Washington, DC 20250
Phone: 202 690-0797

RIN: 0570–AA24

319. BUSINESS AND INDUSTRY GUARANTEED LOAN PROGRAM—FINANCING COOPERATIVE STOCK

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 4279 subpart B; 7 CFR 4279 subpart A

Legal Deadline: None

Abstract: The Agency proposes to revise the Business and Industry Program regulations to incorporate additional guidance and eliminate or reduce certain requirements when financing cooperative stock. It also purposes to develop a streamlined application form when financing working capital, which includes cooperative stock.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Richard Bonnet, Senior Loan Specialist, Business Programs Processing Division, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Avenue SW., Room 5419 South, STOP 3201, Washington, DC 20250
Phone: 202 720-1804
Fax: 202 690-3808
Email: rbonnet@rurdev.usda.gov

RIN: 0570–AA26

320. RURAL AND RURAL AREA UNDER THE RURAL COMMUNITY ADVANCEMENT PROGRAM

Priority: Other Significant

Legal Authority: PL 104-130

CFR Citation: 7 CFR 4279; 7 CFR 1980; 7 CFR 1942; 7 CFR 4284

Legal Deadline: None

Abstract: A new statutory definition of rural and rural area for programs financed under the Rural Community Advancement Program must be implemented. The new definition was contained in the 1996 Farm Bill, PL 104-130. The definition applies to the Business and Industry Direct and Guaranteed Loan Programs, Rural Business Enterprise Grant Program and the Rural Business Opportunity Grant Program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Don Scruggs, Director, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, 1400

USDA—RBS **Proposed Rule Stage**

Independence Avenue SW., Stop 1521, Washington, DC 20250-1521
Phone: 202 720-1400
Fax: 202 720-2213
RIN: 0570–AA27

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS) **Final Rule Stage**

321. RURAL BUSINESS OPPORTUNITY GRANTS

Priority: Other Significant

Legal Authority: 7 USC 1989; 7 USC 1926

CFR Citation: 7 CFR 4284; 7 CFR 1951

Legal Deadline: None

Abstract: The Rural Business-Cooperative Service proposes to add a new regulation implementing a grant program to fund local technical assistance and planning activities in rural areas for the purpose of improving economic conditions. Grants will be available to public bodies and nonprofit organizations. This action is necessary to comply with Pub. L. 104-127. Grants may be used for technical assistance and training for small businesses, identifying and analyzing business opportunities in rural areas establishing business support centers, conducting local or multi-county economic development planning, coordination of economic development activities, and leadership development training of local government officials.

Timetable:

Action	Date	FR Cite
NPRM	02/03/98	63 FR 5474
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Wayne Stansbery, Loan Specialist, Business Programs, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Avenue SW., Room 6868-South, STOP 1521, Washington, DC 20250
Phone: 202 720-6819
Fax: 202 720-2213
Email: wstansbe@rus.usda.gov

RIN: 0570–AA05

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS) **Long-Term Actions**

322. RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 4279 subpart A; 7 CFR 4279 subpart F; 7 CFR 4287 subpart G

Timetable:

Action	Date	FR Cite
ANPRM	04/09/97	62 FR 17107
ANPRM Comment Period End	05/09/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Brenda Griffin
Phone: 202 720-6802
Fax: 202 690-3808
Email: bgriffin@rurdev.usda.gov

RIN: 0570–AA25

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS) **Completed Actions**

323. RURAL BUSINESS ENTERPRISE GRANTS AND TELEVISION DEMONSTRATION GRANTS

Priority: Other Significant

CFR Citation: 7 CFR 1942 subpart G; 7 CFR 4284 subpart B

Completed:

Reason	Date	FR Cite
Withdrawn - Substantial Changes Require New Proposed Rule	01/28/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Carole Boyko
Phone: 202 720-0661

RIN: 0570–AA08

324. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER

Priority: Other Significant

CFR Citation: 7 CFR 4286 subpart A

Completed:

Reason	Date	FR Cite
Withdrawn - Separate Rule for Center Unnecessary	12/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas H. Stafford
Phone: 202 690-0368
Fax: 202 690-2723
Email: thomas.stafford@usda.gov

RIN: 0570–AA21

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Prerule Stage

325. • AMENDING THE RURAL UTILITIES SERVICE WATER AND WASTE PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 301; 7 USC 1989; 16 USC 1005

CFR Citation: 7 CFR 1780

Legal Deadline: None

Abstract: This proposed action combines the various servicing regulations of the water and waste program into one. The new regulation will codify and codify RUS policy relating to servicing water and waste loans and grants.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB44

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Proposed Rule Stage

326. PRESERVATION OF RECORDS ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1767 D

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend its regulation by adding a new subpart on Preservation of Records. Current RUS policy on this subject is set forth in RUS Bulletin 180-2, Manual for Preservation of Borrower's Records. In addition to codifying these policies and procedures, revisions are being proposed to the existing policy that will establish the proper record media forms for record retention. Once the final is effective, RUS Bulletin 180-2 will be rescinded.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA92

327. LOAD FORECASTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 to 950(b); PL 99-591

CFR Citation: 7 CFR 1710 E

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is proposing to amend its regulations to revise requirements for borrowers load forecasts (previously referred to as power requirements studies) and load forecast work plans. The proposed changes would reduce the level of detail required in load forecasts filed by smaller power supply borrowers and their members and by distribution borrowers unaffiliated with a large power supply borrower.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB05

328. WATER AND WASTE LOAN AND GRANT SERVICING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1782

Legal Deadline: None

Abstract: This proposed action combines the various servicing regulations of the water and waste program into one. The new regulation will codify and clarify RUS policy relating to servicing water and waste loans and grants.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development,

USDA—RUS **Proposed Rule Stage**

Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB23

329. TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT, AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend 7 CFR 1755 to include requirements presently contained in RUS Bul. 345-3. This rule would establish and codify provisions for the inclusion and removal for products from I.P. 344-2. This rule also proposes to integrate the existing section on field trials in the procedures for product acceptance and inclusion in this codification, as well as clarifying the reorganizing the field trials section.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB40

330. • SEISMIC SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 42 USC 7701 et seq; EO 12699

CFR Citation: 7 CFR 1792 C

Legal Deadline: None

Abstract: This revision is being made to update and simplify the requirements of RUS. This revised rule will provide RUS borrowers, grant recipients, RTB borrowers, and the public with updated rules for compliance with seismic safety requirements for new building construction using RUS or RTB loan, grant or guaranteed funds or funds provided through lien accommodations or subordinations approved by RUS or RTB.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB47

331. • REVISION OF RUS TELECOMMUNICATIONS PROGRAM AND RTB LOAN DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 941 et seq; 7 USC 6941 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1610; 7 CFR 1744

Legal Deadline: None

Abstract: As part of the Rural Utilities Service's (RUS) continuing effort to streamline and simplify regulations and to reduce burdens on borrowers, RUS and RTB intend to revise and reform their loan contract and mortgage documents.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB48

DEPARTMENT OF AGRICULTURE (USDA) **Final Rule Stage**

Rural Utilities Service (RUS)

332. TELECOMMUNICATIONS SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921; PL 103-354

CFR Citation: 7 CFR 1753

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to revise its regulations on telecommunications system construction policies and procedures. This revision includes empowering the telephone borrowers by reducing oversight by RUS with respect to preparation of plans and specifications, bid approvals and final document approvals. In addition to reducing the requirements for facilities construction, RUS will also make technical

USDA—RUS — **Final Rule Stage**

corrections and clarifications, and minor technical changes.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38503
NPRM Comment Period End	09/15/98	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB34

333. • DISTANCE LEARNING AND TELEMEDICINE LOAN AND GRANT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; PL 103-354; 7 USC 6941 et seq

CFR Citation: 7 CFR 1703 D

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is amending its regulations for its Distance Learning and Telemedicine (DLT) Loan and Grant Program. These amendments will clarify the requirements for the different types of financial assistance offered; streamline policies and procedures for obtaining loans and expanding purposes for which loans can be used; and administer the grant program on a competitive basis.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB45

334. • CONSTRUCTION WORK PLANS AND RELATED STUDIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; PL 99-591; 7 USC 6941 et seq

CFR Citation: 7 CFR 1710 F

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is amending its regulations to revise the method of determining loan fund eligibility for "ordinary replacements," and authorized use of minor projects for guaranteed financing.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB46

DEPARTMENT OF AGRICULTURE (USDA) — Long-Term Actions

Rural Utilities Service (RUS)

335. ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1728

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA67

336. POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717, subparts A-F; 7 CFR 1717, subparts J-K

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA71

337. CIVIL RIGHTS POLICIES APPLICABLE TO RUS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1790

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA75

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338. LOAN DOCUMENTS—BANK PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1620

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA76

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339. DEPRECIATION RATES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767 C

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA80

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340. USE OF GENERAL FUNDS INVESTMENTS, LOAN GUARANTEES, AND RETIREMENT OF CAPITAL CREDITS BY ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717 O

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB01

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341. RUS APPROVAL OF SALE OF CAPITAL ASSETS BY ELECTRIC BORROWERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717 P

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	
NPRM Comment Period End	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB02

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342. COMMUNITY FACILITY LOANS—TIMBER-DEPENDENT COMMUNITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 1942 subpart A

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB11

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343. SOLID WASTE MANAGEMENT GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpart B

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB14

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344. TECHNICAL ASSISTANCE AND TRAINING GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpart A

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB15

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345. SPECIAL EQUIPMENT CONTRACT (INCLUDING INSTALLATION)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1755.397

USDA—RUS

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	02/20/98	63 FR 8582
NPRM Comment Period End	04/21/98	
SNPRM	07/06/98	63 FR 36377
SNPRM Comment Period End	09/04/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB35

346. RUS APPROVAL OF ADDITIONS AND EXTENSIONS TO ELECTRIC PLANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717.603

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB38

347. TELECOMMUNICATIONS SYSTEM CONSTRUCTION CONTRACT AND SPECIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1755

Timetable:

Action	Date	FR Cite
ANPRM	09/16/98	63 FR 49504
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB41

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Completed Actions

348. LOAN SECURITY DOCUMENT—TELECOMMUNICATIONS PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1744

Completed:

Reason	Date	FR Cite
Withdrawn	02/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA30

349. LOAN ACCOUNT COMPUTATIONS, POLICIES, AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1785; 7 CFR 1786 A

Completed:

Reason	Date	FR Cite
Withdrawn	02/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA65

350. RUS FIDELITY AND INSURANCE REQUIREMENTS FOR ELECTRIC AND TELECOMMUNICATIONS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1788

Completed:

Reason	Date	FR Cite
Final Action	01/04/99	64 FR 1
Final Action Effective	01/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA86

351. ENVIRONMENTAL POLICIES AND PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1794

Completed:

Reason	Date	FR Cite
Final Action	12/11/98	63 FR 68648
Final Action Effective	12/11/98	

USDA—RUS **Completed Actions**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB33

352. ELECTRIC PROGRAM STANDARD CONTRACT FORMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1724; 7 CFR 1726

Completed:

Reason	Date	FR Cite
Final Action	10/30/98	63 FR 58283
Final Action Effective	10/30/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB42

BILLING CODE 3410-15-F

DEPARTMENT OF AGRICULTURE (USDA) **Prerule Stage**
Natural Resources Conservation Service (NRCS)

353. FORESTRY INCENTIVES PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 2103

CFR Citation: 7 CFR 635

Legal Deadline: None

Abstract: The Forestry Incentives Program (FIP) supports good forest management practices on privately owned, non-industrial forest lands nationwide. FIP is designed to benefit the environment while meeting future demands for wood products. The Cooperative Forestry Assistance Act of 1978, as amended by Public Law 95-313 is the source of authority for FIP. FIP was reauthorized for fiscal year 2002 by Public Law 104-127. The interim rule sets forth FIP policies and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	
ANPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890 Cotton Annex, Mezz 1, Washington, DC 20013
Phone: 202 720-0450
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Email: peggy.willis@usda.gov

RIN: 0578–AA26

DEPARTMENT OF AGRICULTURE (USDA) **Proposed Rule Stage**
Natural Resources Conservation Service (NRCS)

354. • WETLAND CATEGORICAL MINIMAL EFFECTS EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3801 et seq

CFR Citation: 7 CFR 12

Legal Deadline: None

Abstract: The 1985 Farm Bill , as amended, gives producers a major incentive to conserve wetlands by tying eligibility for most USDA program benefits to conservation of wetlands. However, producers can convert wetlands based on available exemptions, including a minimal effect exemption. A minimal effect applies if the action, individually and cumulatively, will have minimal effect on the functional hydrological and biological value of the wetlands in the area. A categorical minimal effect is one that, when carried out, will always have a minimal effect on the hydrologic and biological functions of wetlands in the area. These activities will be identified on a regional basis.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Cotton Annex Mezz 1, Washington, DC 20013
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RIN: 0578–AA27

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Final Rule Stage

355. HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

Priority: Other Significant

Legal Authority: 16 USC 3801 et seq

CFR Citation: 7 CFR 12

Legal Deadline: NPRM, Statutory, July 3, 1996.

Abstract: Soil erosion and its results, including damage to water quality and air quality, loss of productive capacity of the land, and offsite damages, is caused in part by inadequate or inappropriate systems. Loss of wetlands due to conversion for agricultural production destroys wildlife habitat, reduces the lands ability to slow runoff, and affects water quality and quantity. The 1985 Food Security Act required producers who farm highly erodible land to do so by using a conservation system that controls erosion at an acceptable amount and requires producers to not convert and produce crops on the areas, in order to remain eligible for most USDA program benefits. This act gave producers a major incentive to conserve wetlands and to install conservation practices on the country's most fragile lands. The 1996 Farm Bill refines these requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47019
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Cotton Annex Mezz 1, Washington, DC 20013
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RIN: 0578–AA17

356. 7 CFR PART 610 TECHNICAL ASSISTANCE

Priority: Other Significant

Legal Authority: PL 104-129

CFR Citation: 7 CFR 610

Legal Deadline: None

Abstract: Section 342 subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (FAIRA) expands the membership and roles of State Technical Committees set forth in section 1261 of subtitle G of the Food Security Act of 1985, as amended. Under these guidelines, the Secretary is required to establish a technical committee in each State to assist in making technical considerations relating to the implementation of conservation provisions. The Natural Resources Conservation Service (NRCS) uses these State Technical Committees in an advisory capacity. The rule will set forth the policies and procedures for the use of State Technical Committees by the United States Department of Agriculture, membership criteria, and the responsibilities assigned to these committees.

The NRCS has delivered the majority of the technical assistance provided to private landowners through the authorities provided in 7 CFR part 610.2. Section 610.2 has not yet been revised to provide for the responsibilities assigned to the NRCS beyond that of soil conservation. To more accurately reflect the broader mission of NRCS, particularly as it relates to technical assistance provided to private grazing land, section 610.2 is being amended to acknowledge that one of NRCS's missions is to improve the quality of all agricultural lands, including grazing land, pastureland, rangeland, forestland, and cropland so that the long-term sustainability of the resource base is achieved.

Timetable:

Action	Date	FR Cite
NPRM	12/04/97	
NPRM Comment Period End	01/23/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: 0578-AA23 has been withdrawn and incorporated into this regulation.

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, PO Box 2890, Cotton Annex Mezz 1, Washington, DC 20013
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RIN: 0578–AA22

BILLING CODE 3410-16-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Procurement and Property Management (OPPM)

Proposed Rule Stage

357. AGRICULTURE ACQUISITION REGULATION (AGAR); SIMPLIFIED ACQUISITION PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 413; 48 CFR 453

Legal Deadline: None

Abstract: USDA is rewriting AGAR part 413, Simplified Acquisition Procedures, Federal Acquisition Regulation part 13, which AGAR part 413 supplements, was rewritten in December 1997. USDA is reorganizing AGAR part 413 to reflect the revision of FAR part 13.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: USDA intends to issue the revision of AGAR part 413 as a direct final rule. The revision is routine and nonsubstantive.

Agency Contact: Joseph J. Daragan, Procurement Analyst, Department of Agriculture, Office of Procurement and Property Management, Room 1566

USDA—OPPM **Proposed Rule Stage**

South Building, 14th and Independence Ave SW., Washington, DC 20250
Phone: 202 720-5729
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Email: joseph.daragan@usda.gov

RIN: 0599–AA04

358. AGRICULTURE ACQUISITION REGULATION (AGAR); CONTRACTOR EMPLOYMENT OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 422; 48 CFR 452

Legal Deadline: None

Abstract: USDA proposes to add clauses to the AGAR to inform offerors and contractors for forestry service contracts about immigration and labor laws applicable to employment of migrant and seasonal agricultural workers.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph J. Daragan, Procurement Analyst, Department of Agriculture, Office of Procurement and Property Management, Room 1566 South Building, Washington, DC 20250
Phone: 202 720-5729
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Email: joseph.daragan@usda.gov

RIN: 0599–AA05

359. • DEPARTMENT OF AGRICULTURE PRIORITIES AND ADMINISTRATIVE GUIDELINE FOR DONATION OF EXCESS RESEARCH EQUIPMENT

Priority: Info./Admin./Other

Legal Authority: PL 102-45; EO 12999

CFR Citation: 7 CFR 2812

Legal Deadline: None

Abstract: The Office of Procurement and Property Management of the Department of Agriculture proposed to amend its procedures for the donation of excess research equipment for technical and scientific education research activities to educational institutions and nonprofit organizations under section 11(1) of the Stevenson-Wydler Technology Act (15 U.S.C 3710 (I)). This amendment would expand the list of entities eligible to receive such equipment, establish a priority list for eligible entities seeking transfer of such equipment, and clarify administrative rules regarding equipment transfer.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Kathleen N. Fay, Property Utilization Specialist, Department of Agriculture, Office of Procurement and Property Management, Room 1520, 1400 Independence Avenue SW., Washington, DC 20250
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RIN: 0599–AA06

DEPARTMENT OF AGRICULTURE (USDA) **Long-Term Actions**

Office of Procurement and Property Management (OPPM)

360. NEW RESTRICTIONS ON LOBBYING

Priority: Routine and Frequent

CFR Citation: 7 CFR 3018

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Joseph J. Daragan
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RIN: 0599–AA03

[FR Doc. 99-7007 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

April 1999 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, as amended, the Department of Commerce, in April and October of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the October 1999 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's April 1999 regulatory agenda includes regulatory activities that are expected to be conducted during the period April 1, 1999, through March 31, 2000.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-0846.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of January 8, 1999, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the April 1999 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to publish, in April and October of each year, a regulatory flexibility agenda which contains a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. The agenda also identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the Bureau of Export Administration, the International Trade Administration, the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office, issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The DOC April 1999 regulatory agenda follows.

Dated: February 19, 1999.

Kathryn R. Lunney,

Deputy General Counsel.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
361	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance	0690-AA28

DOC

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
362	Standards of Ethical Conduct—Department of Commerce Supplemental Regulations	0690-AA23

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
363	Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons—1999	0691-AA35
364	Benchmark Survey of U.S. Direct Investment Abroad—1999	0691-AA36
365	Change in Reporting Requirements for BE-577, Direct Transactions of U.S. Reporter With Foreign Affiliate	0691-AA37

Bureau of Economic Analysis—Completed Actions

Sequence Number	Title	Regulation Identifier Number
366	Change in Reporting Requirements for BE-15, Annual Survey of Foreign Direct Investment in the United States	0691-AA32

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
367	Amendment to the Foreign Trade Statistical Regulations: Provisions for Filing Shippers Export Data Electronically Using the Automated Export System (AES)	0607-AA19
368	Changes to the Foreign Trade Statistical Regulations (FTSR) To Clarify the Definition of Exporter	0607-AA20
369	Special Services and Studies by the Bureau of the Census; General	0607-AA24
370	Furnishing Personal Census Data From Census of Population Schedules; General Requirements	0607-AA25
371	Furnishing Personal Census Data From Census of Population Schedules: General Requirements	0607-AA26
372	Special Services and Studies by the Bureau of the Census; Fee Structure for Age Search and Citizenship Information	0607-AA27

Bureau of the Census—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
373	Reporting Value on Shipper's Export Declaration for Inland Freight and Insurance Charges	0607-AA29
374	Reporting the Value of Repairs and Replacement Parts on the Shipper's Export Declaration	0607-AA30
375	Notation of the Shipper's Export Declaration Filing Exemption Statement on Manifest Documents	0607-AA31

Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
376	Regulations To Implement the Economic Development Administration Reform Act of 1998	0610-AA56
377	Civil Rights Guidelines	0610-AA59

DOC

Economic Development Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
378	Trade Act—Adjustment Assistance for Communities	0610-AA57

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
379	Public Information, Freedom of Information and Privacy	0605-AA14

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
380	Uniform Administrative Requirement for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofits and Commercial Organizations	0605-AA09
381	Solicitation Provisions and Contract Causes: Women-Owned Small Business Sources	0605-AA13
382	Agency-Level Protest Procedures—Level Above the Contracting Officer	0605-AA15

General Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
383	Uniform Audit Requirements	0605-AA12

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
384	Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders	0625-AA51

International Trade Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
385	Export Trade Certificates of Review (15 CFR 325)	0625-AA52

International Trade Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
386	Antidumping Duties; Countervailing Duties	0625-AA45

DOC

Bureau of Export Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
387	Implementation of Chemical Weapons Convention	0694-AB06

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
388	Revisions to the Export Administration Regulations; Additions to the Entity List	0694-AB60
389	Implementation of the Chemical Weapons Convention; Revisions to the Export Administration Regulations	0694-AB67
390	Clarification of Reporting Requirements Under the Wassenaar Arrangement	0694-AB72
391	India and Pakistan Sanctions	0694-AB73
392	Revisions to the Commerce Control List: Changes in Missile Technology Controls	0694-AB75
393	Revisions and Clarifications to the Export Administration Regulations; Commerce Control List	0694-AB77
394	Exports and Reexports of Explosive Materials; Revision of Foreign Policy Controls	0694-AB79
395	Encryption Items	0694-AB80
396	Editorial Clarification and Revision to the Export Administration Regulations (EAR)	0694-AB81
397	Removal of Commercial Communications Satellites and Related Items From the Department of Commerce's Commerce Control List for Transfer to the Department of State's U.S. Munitions List	0694-AB84
398	Revisions to the Commerce Control List; Medical Products Containing Biological Agents	0694-AB85
399	Revisions to the Commerce Control List Based on Wassenaar Arrangement Review	0694-AB86
400	Exports and Reexports of Explosive Detection Systems; Expansion of Foreign Policy Controls	0694-AB87
401	Revisions of Export Clearance Requirements	0694-AB88

Bureau of Export Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
402	Revision of Foreign Boycott Provisions of Export Administration Regulations	0694-AA11
403	Transfer of Dual-Use Items From U.S. Munitions List to the Commerce Control List	0694-AA52
404	Clarification of Enhanced Proliferation Control Initiative (EPCI) "Catch-All" Provision and Validated License Requirements	0694-AB10
405	Administration of State Log Exports Ban	0694-AB25
406	Libya: Expansion of Foreign Policy Controls	0694-AB28
407	Change the Commerce Control List To Revise Controls on Communication Intercepting Devices (Export Commerce Control Number ECCN 5A980)	0694-AB41
408	Licensing of, and Expansion of National Security and Foreign Policy Controls on, Recoverable Encryption Software	0694-AB47
409	Clarification of License Exception GFT (Humanitarian Donations)	0694-AB49
410	Revisions to EAR as a Result of the Addition of Brazil and Ukraine to the Nuclear Suppliers Group	0694-AB50
411	Revisions to Commerce Control List: Addition of Technology and Software Controls for Certain Crime Control Commodities	0694-AB53
412	Exports of Technology and Software; Release of Technology or Source Code to Foreign Nationals in the United States	0694-AB59
413	De Minimis Exclusion for Technology and Software	0694-AB62
414	Exports of Firearms, Ammunition, Explosives, and Other Related Materials: Implementation of Firearms Convention	0694-AB68
415	Revisions to the Export Administration Regulations; Country Groups D:1 and E:2; License Exception TMP	0694-AB76

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
416	Transfer of Certain Remote Sensing Satellites From the U.S. Munitions List to the CCL	0694-AB09

DOC

Bureau of Export Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
417	Revisions to the EAR: Exports and Reexports to Specially Designated Terrorists and Foreign Terrorist Organizations	0694-AB63
418	Establishment of 24-Month Validity Period for Certain Reexport Authorizations and Revocation of Other Authorizations	0694-AB74
419	Exports of High Performance Computers; Revisions	0694-AB78
420	Export of High Performance Computers to the Peoples Republic of China	0694-AB82
421	Expansion of License Exception CIV Eligibility for Microprocessors Controlled by ECCN 3A001	0694-AB83

National Institute of Standards & Technology—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
422	Guidance on Federal Conformity Assessment Activities	0693-AB49

National Institute of Standards & Technology—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
423	Implementation of the Fastener Quality Act	0693-AB47

National Institute of Standards & Technology—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
424	National Type Evaluation Program	0693-AB45
425	NIST Traceable Reference Materials Program	0693-AB46

National Institute of Standards & Technology—Completed Actions

Sequence Number	Title	Regulation Identifier Number
426	Amendments to Advanced Technology Program Regulations	0693-AB48

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
427	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels: Pacific Coast Groundfish	0648-AE01
428	Fishery Management Plan for Tilefish	0648-AF87
429	Regulatory Amendment To Impose Restrictions on Fishing Black Rockfish Off Oregon	0648-AG81
430	Regulatory Amendment for Managing Pelagic Fisheries by U.S. Vessels Beyond EEZ Throughout Pacific	0648-AG85
431	Amendment 3 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AG87
432	Amendment 1 to the Fishery Management Plan for Corals and Reef-Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands	0648-AG88
433	Amendment 1 to the Fishery Management Plan for Atlantic Bluefish	0648-AH63
434	Amendment to the Observer Program	0648-AI69
435	Fishery Management Plan for the Atlantic Herring Fishery	0648-AI78

DOC

National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
436	Fishery Data Reporting for Western Pacific Fisheries	0648-AJ08
437	Amendment 10 to the Pacific Coast Groundfish FMP Regarding Salmon Bycatch in Groundfish Trawl	0648-AJ22
438	Regulatory Amendment To Establish a Program for the Collection and Use of Fees in the Individual Fishing Quota Program	0648-AJ52
439	Implementation of Pacific Insular Area Fishing Agreement Provisions of the Magnuson-Stevens Act	0648-AJ60
440	Proposed Rule To Implement Procedures for Issuance of Permits Under Section 204(d) of the Magnuson-Stevens Fishery Conservation and Management Act	0648-AJ70
441	Fisheries Obligation Guarantee Program—Statutory Amendments To Establish "Central Title and Lien Registry for Limited Access Permits"	0648-AJ77
442	Regulatory Amendment To Change Membership Requirements for the Regional Fishery Management Councils	0648-AJ82
443	Rulemaking To Establish the North Pacific Loan Program	0648-AK07
444	Adjustment of Management Program for Pelagic Species Fisheries in the Western Pacific	0648-AK11
445	Regulatory Amendment To Specify Minimal Vessel Ownership Requirements for the Hired Skipper Provision in the IFQ Fisheries	0648-AK20
446	Adjustment of the Management Program for Precious Corals Fisheries in the Western Pacific	0648-AK23
447	Regulatory Amendment To Implement Observer Requirements for Processing Vessels Over 125 Feet: Pacific Coast Groundfish	0648-AK26
448	Amendment to Portions of Individual Fishing Quota Program Regulations	0648-AK50
449	Modification of Harvest Guideline System for Hawaiian Lobster Fishery	0648-AK61
450	Regulatory Amendment To Establish Application Period for License Limitation Program	0648-AK69
451	Amendment 54 to FMP for Groundfish Fishery of Bering Sea and Aleutian Islands Area and Amendment 54 to FMP for Groundfish of Gulf of Alaska	0648-AK70
452	Amendment 52 to FMP for Groundfish Fishery of Bering Sea and Aleutian Islands Area and Amendment 52 to FMP for Groundfish of Gulf of Alaska	0648-AK73
453	Amendment 59 to the Fishery Management Plan for Groundfish in the Gulf of Alaska To Close an Area	0648-AK74
454	Fishing Capacity Reduction Program	0648-AK76
455	Rule To Implement a Fishery Management Plan for the Spiny Dogfish Fishery	0648-AK79
456	Rule To Implement Amendment 9 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AK80
457	Regulatory Amendment To Initiate Control for the Harvest of Bottomfish in the Exclusive Economic Zone Around the Main Hawaiian Islands	0648-AK82
458	Amendment 13 to the Pacific Coast Salmon Plan	0648-AK83
459	Revise Exempted Fishing Regulations To Specify Compensatory Fishing Under Exempted Fishing	0648-AK84
460	Amendment 9 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AK89
461	Amendment 17 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AK96
462	Amend the Bluefin Statistical Document To Allow for the Attachment of Re-export Certificates	0648-AL02
463	Regulatory Amendment To Change the Limited Entry, Sablefish Fishery Season Structure Fixed Gear	0648-AL12
464	Regulatory Amendment To Establish a Sitka Sound Halibut Management Plan	0648-AL18
465	Amendment 48 to the BSAI FMP and Amendment 48 to the GOA FMP - Streamline Annual Specification Process	0648-AL19
466	Regulatory Amendment To Revise the Recordkeeping and Reporting Requirements for 1999	0648-AL23
467	Amendment 12 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AL27
468	Management of U.S. Purse Seine Fishery in the Eastern Pacific Ocean	0648-AL28
469	Amendment 57 to the Fishery Management Plan for Groundfish in the BSAI Prohibiting Directed Fishing for Pollock With Bottom Trawl Gear	0648-AL30
470	Amendment 9 to the Northeast Multispecies FMP To Address New Sustainable Fisheries Act Requirements, and Other Management Measures	0648-AL31
471	Regulatory Amendment To Prohibit Fishing by Vessels Over 50 Feet Within 50 Nautical Miles of American Samoa	0648-AL41
472	Comprehensive Amendment Addressing Sustainable Fishery Act Definitions and Other Required Provisions in Fishery Management Plans of the South Atlantic Region	0648-AL42
473	Proposed Guidelines for Defining Serious Injury; Request for Comments	0648-AL44
474	Implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan	0648-AL48
475	Regulatory Amendment To Allow "Stocking" of Multiple Limited Entry Permits in the Pacific Coast Groundfish Fisheries	0648-AL50
476	Amendment 14 to the Pacific Coast Salmon Plan	0648-AL51
477	Amend 12 Summer Flounder, Scup & Black Sea Bass Fisheries FMP; Amend 8 to FMP for Atlantic Mackerel, Squid & Butterfish; and Amend 12 to FMP for Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AL56
478	Amendment 16B to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AL57

DOC

National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
479	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries	0648-AL62
480	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet	0648-AL66
481	Adjustment of Management Program: Crustacean Fisheries in the Western Pacific	0648-AL67
482	Regulatory Amendment To Establish Program for Collection and Use of Fees in Community Development Quota Program	0648-AL71
483	Framework To Implement Annual Management Measures for Northeast Multispecies Fishery Management Plan	0648-AL72
484	Recreational Measures for 1999 Summer Flounder, Scup, and Black Sea Bass Fisheries	0648-AL75
485	Amendment Addressing Sustainable Fisheries Act Requirements Regarding Overfishing, Bycatch, Fishing Communities, and other Provisions for Fishery Management Plan for the Gulf of Mexico	0648-AL81
486	Comprehensive Amendment Addressing Sustainable Fisheries Act Requirements Regarding Overfishing, Bycatch, Fishing Communities and provisions for Fishery Management Plans for the Caribbean	0648-AL86
487	Regulatory Amendment to the Alaska Groundfish Regulations Pertaining to Scales Performance Criteria	0648-AL88
488	Crab Community Development Quota Reserves	0648-AL92
489	Regulatory Amendment To Adjust the Gulf of Mexico Red Snapper TAC and Associated Management Measures Under the Framework Procedure of the FMP for the Reef Fish Resources of the Gulf of Mexico	0648-AL94
490	Amendments to the Alaska Groundfish and Crab FMPs for the License Limitation Program	0648-AL95
491	Regulatory Amendment To Reinstate 6000 Pound Trip Limit of Halibut in Area Northeast of the Bering Sea	0648-AL97
492	Definition of Overfishing for Salmon Fisheries off Alaska	0648-AL98
493	American Fisheries Act—FMP Amendment—PR/FR To Implement AFA Measures for 2000-2004	0648-AL99
494	Amendment to Individual Fishing Quota Survivorship Provision	0648-AM00
495	Regulatory Amendment To Establish Total Allowable Catch Limits for the Atlantic and Gulf Groups of King and Spanish Mackerel for the 1999-2000 Fishing Year	0648-AM01
496	Regulatory Amendment To Adjust the Gulf of Mexico Red Snapper TAC and Associated Management Measures for 2000 Under the Framework	0648-AM04
497	Fishery Management Plan Amendment To Revise CDQ Regulations	0648-AM07
498	Fishery Management Plan for Pelagic Sargassum Habitat of the South Atlantic Region	0648-AM15
499	Fleet Capacity Limits for U.S. Purse Seine Fishery in the Eastern Pacific Ocean	0648-AM22
500	Adjustment of Management Program; Crustacean Fisheries of the Hawaiian Islands	0648-AM26
501	Effects of Spotter Aircraft Assistance in Atlantic Bluefin Tuna (BFT) Fishery	0648-AM27
502	List of Fisheries for 2000	0648-AM28
503	Fishery Management Plan Amendment to Rebuild C. Bairdi Stocks	0648-AM29
504	Enhanced Measures To Mitigate Seabird Bycatch in the Alaska Hook-and-Line Fisheries	0648-AM30
505	Steller Sea Lion Conservation Measures for the BSAI and GOA Pollock Fisheries	0648-AM32
506	PR/FR Vessel Monitoring System for Aleutian Island Atka Mackerel Fishery	0648-AM34
507	Gulf of Alaska Groundfish Regulatory Amendment	0648-AM36
508	Revise BSAI Bycatch Management Program for Chinook Salmon	0648-AM38
509	Alaska Groundfish Fishery Management Plan Amendment To Revise Improved Retention/Improved Utilization Program (IR/IU)	0648-AM39
510	Scallop License Limitation Program	0648-AM42
511	Recordkeeping and Reporting Requirements for 2000	0648-AM43
512	Regulatory Amendment To Change the Regulations Implementing the North Pacific Observer Program	0648-AM44
513	Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2000	0648-AM46
514	Quotas for the Atlantic Bluefish Fishery for Fishing Year 2000	0648-AM47
515	Specifications for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2000	0648-AM48
516	Initial Specifications for the Atlantic Mackerel, Squid, and Butterfish Fisheries for Fishing Year 2000	0648-AM49
517	Fishing Quotas for Fishing Year 2000 for Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AM50
518	FMP Amendment to Require Full Retention of Demersal Shelf Rockfish	0648-AM51
519	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries	0648-AE54
520	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses	0648-AG35
521	Proposed Rule To Provide Regulations for Permits for Capture, Transport, Import and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory	0648-AH26
522	Proposed Rule Governing the Issuance of Permits for Marine Mammal Photography	0648-AH31
523	Amend Regulations Governing the Taking and Importing of Marine Mammals	0648-AH83
524	Implementation of 1997 MMPA Amendments Affecting Yellowfin Tuna Purse Seine Fishing in the Eastern Tropical Pacific	0648-AI85
525	Endangered and Threatened Species: Proposed Rule Governing Take of West Coast Steelhead	0648-AK94
526	Determination of Critical Habitat for Johnson's Seagrass	0648-AL82

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
527	Draft Policy for Evaluation of Conservation Efforts in Making Listing Decisions	0648-AL91
528	Rulemaking for the Taking of Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Platforms in the U.S. Beaufort Sea	0648-AM09
529	Redesignation of Critical Habitat for Snake River Spring/Summer Chinook	0648-AM41
530	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act	0648-AD83
531	Revision of Overflight Regulations	0648-AI91
532	Operations of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary	0648-AK01
533	Interagency Consultation for the National Marine Sanctuary Program	0648-AL06
534	Policies and Procedures Regarding Program Evaluation and Competitive Funding Requirements Within the Office of Oceanic and Atmospheric Research	0648-AL45

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
535	Implement Regulations Under ACFCMA To Provide for Coordinated Management of the American Lobster Resource Throughout Its Range, End Overfishing, and Rebuild the American Lobster Stock	0648-AH41
536	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ	0648-AJ21
537	Interim Final Rule To Consolidate the Rules for Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic and Stone Crab Fishery of the Gulf of Mexico With 50 CFR 622	0648-AJ28
538	Guidelines for the Description, Identification, Conservation, and Enhancement of Essential Fish Habitat	0648-AJ30
539	Implementation of a Fishery Management Plan for Monkfish	0648-AJ44
540	Fishery Management Plan for Atlantic Highly Migratory Species	0648-AJ67
541	Final Definition of the Zero Mortality Rate Goal	0648-AJ84
542	Endangered and Threatened Species: Take of Threatened Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU) Coho Salmon	0648-AJ91
543	Proposed Rule on Taking Marine Mammals Incidental to Power Plant Operations at Seabrook, New Hampshire	0648-AK00
544	Implementation of Amendment 5 to the Fishing Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region	0648-AK21
545	Additional Measures of Amendment 2 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic—Procedures for Testing and Certification of Bycatch Reduction Devices (BRDS)	0648-AK29
546	Amendment 16A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AK31
547	Regulatory Amendment for a Bycatch Reduction Device (BRD) Testing and Certification Protocol Under Amendment 9 to the FMP for the Shrimp Fishery of the Gulf of Mexico	0648-AK32
548	Proposed Highly Migratory Species Process	0648-AK40
549	Endangered and Threatened Species: Proposed Threatened Status and Designated Critical Habitat for West Coast Sockeye Salmon	0648-AK52
550	Endangered and Threatened Species: Proposed Endangered Status and Designated Critical Habitat for Coastwide Chum Salmon	0648-AK53
551	VMS Pilot Program for Atlantic Swordfish	0648-AK90
552	Fishery Disaster Relief	0648-AL13
553	Regulatory Amendment to the Halibut Community Development Quota Program - Definition of Management Measures	0648-AL21
554	Vessel Permit Consistency Amendment	0648-AL36
555	Atlantic Sturgeon EEZ Regulations	0648-AL38
556	BSAI/GOA/KTC/Scallop Fishery Management Plan (FMP) Amendments 55/55/8/5 Essential Fish Habitat Definitions	0648-AL40
557	Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans of the South Atlantic Region	0648-AL43
558	Implementation of Amendments to Four Western Pacific Fishery Management Plans To Address New Requirements of the Magnuson-Stevens Fishery Conservation and Management Act	0648-AL49
559	Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan	0648-AL52
560	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AL64
561	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species	0648-AL65

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National Oceanic and Atmospheric Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
562	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken in Excess of Cumulative Trip Limits	0648-AL68
563	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries	0648-AL69
564	Fishery Management Plan for Calico Scallop Fishery in the South Atlantic Region	0648-AL78
565	Regulatory Amendment To Establish Total Allowable Catch Limits for the Atlantic and Gulf of Mexico Groups of King and Spanish Mackerel for the 1998-99 Fishing Year	0648-AL80
566	FMP Amendment for the Commercial King and Tanner Crab Fisheries of the BSAI and Scallop Fisheries off Alaska	0648-AL89
567	Amendment To Require a Specific Vessel Name be Included on a License for a Vessel	0648-AL96
568	Framework Adjustment 28 to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) To Provide Consistency Between the Harbor Porpoise Take Reduction Plan and the FMP	0648-AM10
569	Amendment 1 to the Atlantic Salmon Fishery Management Plan (FMP)	0648-AM13
570	2000 Harvest Guidelines for the Northwestern Hawaiian Islands Lobster Fishery	0648-AM16
571	Addendum to Fishery Management Plan for Highly Migratory Species (HMSFMP)	0648-AM17
572	Fishing Participation in 1999 in Non-Salmon Fishery	0648-AM18
573	Regulatory Amendment To Allocate a Portion of the 1999 Optimum Yield Specification for Pacific Whiting to Washington Coastal Tribal Fisheries	0648-AM19
574	Northern Anchovy Fishing; Quotas for the 1999 and 2000 Fishing Year (Annual Specifications)	0648-AM20
575	Pacific Coast Groundfish Fishery; Announcement of the 2000 Groundfish Fishery Specifications and Management Measures	0648-AM21
576	Framework Adjustment to the Fishery Management Plan for the Northeast Multispecies Fishery To Allow Controlled Access to the Georges Bank Groundfish Closed Areas by Scallop Vessels	0648-AM24
577	Framework Adjustment to the Fishery Management Plan for the Atlantic Sea Scallops To Allow Controlled Access to the Georges Bank Groundfish Closed Areas by Scallop Vessels	0648-AM25
578	Emergency Rule for Steller Sea Lion Conservation Measures for BSAI and GOA Pollock Fisheries During Second Half of 1999	0648-AM33
579	Performance Standards for Tuna Vessel Operators	0648-AD03
580	Taking and Importing of Marine Mammals; Dolphin Mortality Limits During Purse Seine Sets on Marine Mammals in the Eastern Tropical Pacific	0648-AF07
581	Taking and Importing of Marine Mammals; "Dolphin-Safe" Tuna Labeling	0648-AF08
582	Designated Critical Habitat; Pacific Steelhead	0648-AG49
583	Designated Critical Habitat; Central California Coast and Southern Oregon/Northern California Coast Coho Salmon	0648-AG56
584	Taking and Importing of Marine Mammals: Proposed Rule Prohibiting U.S. Citizens From Encircling Marine Mammals During Tuna Fishing Operations	0648-AH04
585	Final Rule To Establish Guidelines for Nonlethally Deterring Marine Mammals From Endangering Personal Safety or Damaging Public or Private Property	0648-AH19
586	General Authorization for Scientific Research Involving Level B Harassment	0648-AH20
587	North Atlantic Right Whale Protection; Interim Final Rule	0648-AH47
588	Final Policies for Safe Harbor and Candidate Conservation Agreements	0648-AJ54
589	Endangered and Threatened Species; Status of Chinook Salmon in Washington, Idaho, Oregon and California	0648-AK02
590	North Atlantic Right Whale Protection	0648-AK41
591	Definition of Harm Under the ESA	0648-AK55
592	Sea Turtle Conservation; Shrimp Trawling Requirements	0648-AK66
593	Pacific Offshore Cetacean Take Reduction Plan	0648-AL70
594	Thunder Bay National Marine Sanctuary	0648-AE41
595	Olympic Coast National Marine Sanctuary—Addition of Definition for Seabirds	0648-AL09
596	Licensing of Private Remote-Sensing Satellite Systems	0648-AC64
597	NOAA Procedures for Implementing the National Environmental Policy Act	0648-AL58

National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
598	General Provisions for Domestic Fisheries—Standard Definitions	0648-AG46
599	Regulatory Amendment To Require Electronic Submission by Alaska Groundfish Processors of Weekly Production Reports and Check In/Out Reports	0648-AI66

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National Oceanic and Atmospheric Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
600	Regulatory Amendment To Revise the Product Recovery Rate Codes for Certain Alaska Groundfish Products	0648-AI87
601	Regulatory Amendment To Implement Bycatch Reduction Measures	0648-AJ47
602	Implementation of Data Collection and Reporting Requirements to the Fishery Management Plan for the American Lobster Fishery	0648-AJ75
603	Regulatory Amendment To Develop a C. Bairdi Vessel Incentive Program	0648-AK08
604	Regulatory Amendment To Allocate Pacific Halibut to the Halibut Subsistence Fishery	0648-AK16
605	Regulatory Amendment To Allocate Pacific Halibut to the Charter Boat Fleet	0648-AK17
606	Observer Funding Policy	0648-AL08
607	ANPR for Control Date for Recreational-for-Hire Sectors in Gulf of Mexico (GOM) Coastal Migratory Pelagics and Reef Fish Fisheries	0648-AM03
608	Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AM23
609	Revisions to the License Limitation Program for the Commercial Crab Fisheries of the BSAI	0648-AM31
610	Alaska Groundfish License Limitation Program Amendments	0648-AM40
611	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba	0648-AF32
612	Taking of Marine Mammals Incidental to Fisheries-Related Research	0648-AF50
613	Direct Take of Threatened Salmon by Native Americans	0648-AG15
614	Proposed Rule To Authorize Lethal Takings of Marine Mammals by State Authorities	0648-AG79
615	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238	0648-AG80
616	Section 4(d) of ESA Protective Regulations for Johnson Seagrass, a Threatened Species	0648-AL59
617	Monterey Bay National Marine Sanctuary—Minor Boundary Revision	0648-AL07
618	Regional Marine Research Program	0648-AF20
619	National Undersea Research Program Funding Regulations	0648-AH90

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
620	Amendment 1 to the Fishery Management Plan for Atlantic Billfish	0648-AF88
621	Financial Disclosure of Fishery Management Council Nominees, Members, and Executive Directors	0648-AG16
622	Amendment 39 to the FMP for Groundfish Fishery of BSAI, Amendment 41 to the FMP for Groundfish of the GOA and Amendment 5 to the FMP for Commercial King & Tanner Crab Fisheries of the BSAI	0648-AH65
623	Regulatory Amendment To Adjust the Annual Total Allowable Catch for Royal Red Shrimp in the Gulf of Mexico	0648-AI39
624	Proposed Rule To Implement Vessel Identification and Reporting Requirements under the High Seas Fishing Compliance Act of 1995	0648-AI99
625	Amendment 7 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery	0648-AJ33
626	BSAI/GOA Amendments 56/56 Overfishing Definitions for Groundfish	0648-AJ50
627	Atlantic Tuna Fisheries; Regulatory Adjustments	0648-AJ66
628	Atlantic Highly Migratory Species; Measures To Manage the Drift Gillnet Section of the Atlantic Swordfish Fishery	0648-AJ68
629	Appointment of Members to the Regional Fishery Management Councils	0648-AJ95
630	Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AK05
631	Regulatory Amendment To Implement Rolling Closures During the Sablefish Fishery in the Gulf of Alaska	0648-AK10
632	FMP Amendments for the Groundfish Fishery of the Bering Sea and Aleutian Islands and for the Groundfish of the Gulf of Alaska	0648-AK12
633	Endangered and Threatened Species; Regulations Consolidation	0648-AK34
634	Options for 1997 Rulemaking for Banning the Sale of Undersized Atlantic Swordfish	0648-AK39
635	Regulatory Amendment to Fishery Management Plan for Golden Crab Fishery of Southern Atlantic States	0648-AK43
636	Amendment 6 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico	0648-AK48
637	List of Gear and Fisheries Under Jurisdiction of Each Fishery Management Council or the Secretary of Commerce for Highly Migratory Species	0648-AK49
638	Atlantic Billfish Size Limits and Tournament Notification Requirements	0648-AK88
639	Emergency Interim Rule To Reduce Daily Bag Limit for Red Snapper in the Gulf of Mexico Exclusive Economic Zone	0648-AK97
640	Establish 10 SMZs in Federal Waters Off SC and Prohibit Use of Powerheads in the Ft. Pierce, FL, Offshore SMZ in the Snapper-Grouper Fishery of the South Atlantic Region	0648-AL00

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National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
641	Interim Rule To Certify Three Bycatch Reduction Devices (BRDs) Under Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AL14
642	Interim Rule To Require Shrimp Trawl Vessel Observers, Logbooks, and Monitoring Systems in the Exclusive Economic Zone of the Gulf of Mexico	0648-AL15
643	Amendment 59 to the BSAI FMP, Amendment 57 to the GOA FMP, and Amendment 9 to the BSAI KTC FMP - Moratorium Extension	0648-AL20
644	Amendment 45 to the Fishery Management Plan for the Bering Sea and Aleutian Islands Area	0648-AL22
645	Regulatory Amendment To Implement Stand-Down Requirement for Catcher Vessels Transiting Between Bering Sea and Aleutian Islands and Gulf of Alaska	0648-AL26
646	Regulatory Amendment To Implement Atka Mackerel Fishing Restrictions in the BSAI for Steller Sea Lion Conservation Purposes	0648-AL29
647	Amdt. 11 to Northeast Multispecies FMP; Amdt. 9 to Atlantic Sea Scallop FMP; Amdt. 1 to Monkfish FMP; and Amdt. 1 to Atlantic Salmon FMP; Components of Atlantic Herring FMP	0648-AL32
648	Vessel Tracking System Power Down Exemption Rule	0648-AL35
649	Amendment 8 to the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish (FMP)	0648-AL54
650	Amendment 12 to the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahogs (FMP)	0648-AL55
651	Emergency Interim Rule To Release the Remaining 1998 Recreational and Commercial Quota Reserves for Gulf of Mexico Red Snapper	0648-AL61
652	1999 Harvest Guideline for the Northwestern Hawaiian Islands Lobster Fishery	0648-AL63
653	Final Specifications for 1999 Summer Flounder, Scup, and Black Sea Bass Fisheries	0648-AL74
654	1999 Initial Specifications for Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AL76
655	1999 Fishing Quotas for Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AL77
656	Atlantic Tuna Fisheries; 1999 Quotas and Effort Controls	0648-AL79
657	Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans of the South Atlantic Region	0648-AL84
658	Comprehensive Amendment Addressing Sustainable Fisheries Act Definitions and Other Required Provisions in Fishery Management Plans of the South Atlantic Region	0648-AL85
659	Pacific Coast Groundfish; Advance Notice of Proposed Rulemaking	0648-AL87
660	Atlantic Billfish Size Limit and Tournament Notification	0648-AM02
661	Emergency Interim Rule To Establish Additional Observer Coverage for 20 Catcher Processors and Inseason Authority To Manage Non-Pollock Harvest	0648-AM06
662	Emergency Rule To Implement Reasonable and/or Prudent Measures To Protect the Critical Habitat of the Steller Sea Lion	0648-AM08
663	Pacific Halibut Fisheries; Catch Sharing Plan	0648-AM11
664	FR: Groundfish Annual Specifications and Management Measures for 1999	0648-AM12
665	Framework 26 to the Northeast Multispecies Fishery Management Plan	0648-AM14
666	Pacific Halibut Fisheries, Catch Sharing Plan	0648-AM35
667	Interim Final Rule for Atlantic Sea Scallop Fishery	0648-AK68
668	Civil Procedures	0648-AF96
669	Take of Marine Mammals by the U.S. Navy Incidental to Military Activities in the South Atlantic of the United States	0648-AG55
670	Shrimp Vessel Registration Requirement	0648-AH87
671	Designated Critical Habitat; Green and Hawksbill Sea Turtle	0648-AH88
672	Taking of Marine Mammals Incidental to Commercial Fishing Operations; Take Reduction Plan Regulations and Emergency Regulations	0648-AI84
673	Taking of Marine Mammals Incidental to Activities at Vandenberg Air Force Base, CA	0648-AK42
674	List of Fisheries for 1999	0648-AK95
675	Prohibiting Anchoring by Vessels 50 Meters or Greater in Length on Tortugas Bank Within the Florida Keys National Marine Sanctuary	0648-AK45
676	Administrative Changes to Coastal Nonpoint Pollution Control Program	0648-AK62

National Telecommunications and Information Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
677	Improvement of Technical Management of Internet Names and Addresses	0660-AA11

DOC

Patent and Trademark Office—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
678	Official Insignia of Native American Tribes: Statutorily Required Study	0651-AB02

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
679	Changes To Implement the Patent Business Goals	0651-AA98
680	Trademark Law Treaty Implementation Rules Changes	0651-AB00

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
681	Revision of Patent and Trademark Fees for Fiscal Year 2000	0651-AB01
682	Consideration of Interlocutory Rulings at Final Hearing in Interference Processings	0651-AB03

Patent and Trademark Office—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
683	Patent Application Electronic Submission Rules	0651-AA50
684	Changes To Implement 18-Month Publication of Patent Applications	0651-AA75
685	Rules of Practice in Patent Cases; Reexamination Proceedings	0651-AA79
686	Requirements for Registration To Practice Before the PTO in Patent Cases	0651-AA93
687	Technical Requirements for Registration To Practice Before the PTO in Patent Cases	0651-AA95

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
688	Miscellaneous Changes to Trademark Trial and Appeal Board Rules	0651-AA87
689	Limitations in Patent Claims	0651-AA91
690	Revision of Patent and Trademark Fees for Fiscal Year 1999	0651-AA96
691	Changes To Implement the Standard Format for Patent Applications	0651-AA99

Technology Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
692	Promotion of Private Sector Industrial Technology Partnerships	0692-AA13
693	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA14
694	Acquisition and Protection of Foreign Rights in Inventions	0692-AA15
695	Licensing of Government-Owned Inventions	0692-AA17

DEPARTMENT OF COMMERCE (DOC) — **Proposed Rule Stage**
Office of the Secretary (OS)

361. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: PL 92-318, sec 901 and 902

CFR Citation: 15 CFR 8a

Legal Deadline: None

Abstract: The Department of Commerce plans to join with the Department of Justice and other agencies in a Governmentwide common rule to enforce title IX of the Education Amendments of 1972. The rule will provide guidelines for enforcing nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly Walton, Director, Office of Civil Rights, Department of Commerce, Office of the Secretary, Room 6010, Washington, DC 20230
Phone: 202 482-5691

RIN: 0690–AA28

DEPARTMENT OF COMMERCE (DOC) — **Long-Term Actions**
Office of the Secretary (OS)

362. STANDARDS OF ETHICAL CONDUCT—DEPARTMENT OF COMMERCE SUPPLEMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lucy Chang
Phone: 202 482-8041

RIN: 0690–AA23

DEPARTMENT OF COMMERCE (DOC) — **Proposed Rule Stage**
Bureau of Economic Analysis (BEA)

363. BENCHMARK SURVEY OF FINANCIAL SERVICES TRANSACTIONS BETWEEN U.S. FINANCIAL SERVICES PROVIDERS AND UNAFFILIATED FOREIGN PERSONS—1999

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Intl Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 801.11 to provide for the conduct of the BE-80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons--1999, as required in the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially section 4(b) of the Act). The existing rule covers a similar survey for 1994, which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), Washington, DC 20230
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RIN: 0691–AA35

364. BENCHMARK SURVEY OF U.S. DIRECT INVESTMENT ABROAD—1999

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Intl Investment and Trade Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing 15 CFR 806.16 to provide for the conduct of the BE-10, Benchmark Survey of U.S. Direct Investment Abroad--1999, as required in the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially section 4(b) of the Act). The existing rule covers a similar survey for 1994 which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), Washington, DC 20230
Phone: 202 606-9800

DOC—BEA **Proposed Rule Stage**

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RIN: 0691–AA36

365. • CHANGE IN REPORTING REQUIREMENTS FOR BE-577, DIRECT TRANSACTIONS OF U.S. REPORTER WITH FOREIGN AFFILIATE

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.14 to bring reporting on the BE-577, Direct Transactions of U.S. Reporter With Foreign Affiliate, into conformity with the proposed BE-10, Benchmark Survey of U.S. Direct Investment Abroad - 1999.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, Washington, DC 20230
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RIN: 0691–AA37

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA) **Completed Actions**

366. CHANGE IN REPORTING REQUIREMENTS FOR BE-15, ANNUAL SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 806

Completed:

Reason	Date	FR Cite
Final Action	03/04/99	64 FR 10387
Final Action Effective	04/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: R. David Belli
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RIN: 0691–AA32

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS) **Proposed Rule Stage**

367. AMENDMENT TO THE FOREIGN TRADE STATISTICAL REGULATIONS: PROVISIONS FOR FILING SHIPPERS EXPORT DATA ELECTRONICALLY USING THE AUTOMATED EXPORT SYSTEM (AES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.60

Legal Deadline: None

Abstract: The Census Bureau is amending the Foreign Trade Statistics Regulations (FTSR) to incorporate provisions and requirements for the electronic reporting of export data via the Automated Export System (AES) and to conform changes and requirements with U.S. Customs Service regulations implementing and supporting operation of the AES. The AES will provide the trade community with a single automated system through which they can provide the export information required by the U.S. Government.

Timetable:

Action	Date	FR Cite
NPRM	02/12/99	64 FR 7412
NPRM Comment Period End	04/13/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB-3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA19

368. CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) TO CLARIFY THE DEFINITION OF EXPORTER

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.4; 15 CFR 30.7

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR definition of exporter for purposes of clarifying responsibility to report trade information. The FTSR also will be amended to reinforce the requirement for filing a power of attorney when an agent acts for an exporter specifying the essential provisions to be included with additional requirements if the exporter does not have a permanent U.S. residence.

Timetable:

Action	Date	FR Cite
NPRM	08/06/98	63 FR 41979
NPRM Comment Period End	10/05/98	
Second NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB3, Room 3148, Washington, DC 20233

DOC—CENSUS **Proposed Rule Stage**

Phone: 301 457-2238
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RIN: 0607–AA20

369. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; GENERAL

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.1(d)

Legal Deadline: None

Abstract: Chapter 1, part 50.1(d) should be amended to read as follows: If a search is unsuccessful and additional information for a further search is requested by the Bureau, such information must be received within 90 days of the request or the case will be considered closed. Additional information received after 90 days must be accompanied by a new fee and will be considered a new request.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA24

370. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES; GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(c)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(c): Change the address from Pittsburg, Kansas 66762 to Jeffersonville, Indiana 47131.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA25

371. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES: GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(g)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(g): The language may be clarified by changing it to read: Census information will not be furnished to another person unless the person to whom the information relates authorizes such release in the space provided on the Form BC-600.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA26

372. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; FEE STRUCTURE FOR AGE SEARCH AND CITIZENSHIP INFORMATION

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.5

Legal Deadline: None

Abstract: Chapter 1, part 50.5: the note following the chart of the fee structure can be eliminated since we have not had a fee increase since February 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA27

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Final Rule Stage

373. REPORTING VALUE ON SHIPPER'S EXPORT DECLARATION FOR INLAND FREIGHT AND INSURANCE CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.7(q)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify the provisions for reporting the value of merchandise on the Shipper's Export Declaration (SED) when the inland and freight and insurance charges are not known. Current provisions define the value to be reported on the SED as the value at the U.S. port of export including inland freight and insurance charges. In situations where inland freight and

DOC—CENSUS

Final Rule Stage

insurance charges are not known the Census Bureau will require that the exporter add 3 percent of the value of the commodity to the value to determine the total value to be reported on the SED.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB-3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA29

374. REPORTING THE VALUE OF REPAIRS AND REPLACEMENT PARTS ON THE SHIPPER'S EXPORT DECLARATION

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.30(c)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify provisions for reporting the value of exports that were previously imported for repairs or alterations, and the value of replacement parts. This amendment will clarify provisions for reporting the cost of repairs and/or alterations and reporting the value of replacement parts on the Shipper's Export Declaration.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB-3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA30

375. NOTATION OF THE SHIPPER'S EXPORT DECLARATION FILING EXEMPTION STATEMENT ON MANIFEST DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.50

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations (FTSR) to clarify provisions for notating the Shipper's Export Declaration (SED) filing exemption statement on the bill of lading, air waybill, or other loading document for carrier use, in all cases, when an SED is not required to be filed. This amendment will require the exporter to reference the specific FTSR section, explaining the exemption criteria, whenever an SED is not required to be filed with the statement "No SED Required, FTSR 30.XX" on the manifest document.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB-3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA31

DEPARTMENT OF COMMERCE (DOC)

Final Rule Stage

Economic Development Administration (EDA)

376. REGULATIONS TO IMPLEMENT THE ECONOMIC DEVELOPMENT ADMINISTRATION REFORM ACT OF 1998

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3121 et seq

CFR Citation: 13 CFR 300 to 318

Legal Deadline: Final, Statutory, February 11, 1999.

Abstract: EDA will implement the requirements of the Economic Development Administration Reform Act of 1998 establishing criteria and procedures for the award of grants under the legislation, a comprehensive revision of the Public Works and Economic Development Act of 1965.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/99	64 FR 5348
Interim Final Rule Effective	02/11/99	
Interim Final Rule Comment Period End	04/05/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Sectors Affected: Multiple

Agency Contact: Edward M. Levin, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street and Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4687
Fax: 202 482-5671
Email: elevin@doc.gov

RIN: 0610–AA56

377. CIVIL RIGHTS GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000d et seq; 42 USC 3123; 29 USC 794; 42 USC 6101

CFR Citation: None

Legal Deadline: None

Abstract: The Economic Development Administration is revising its civil rights guidelines. In accordance with Department of Justice regulations (28 CFR 42.404), all agencies with title VI responsibilities (title VI of the Civil

DOC—EDA **Final Rule Stage**

Rights Act of 1964, as amended) must have civil rights guidelines. EDA developed its original guidelines in April 1979. Since that time, minor revisions were made and now EDA is updating and streamlining its guidelines to provide current civil rights requirements for its programs.

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank J. Monteferrante, Director, Compliance Review Division, Department of Commerce, Economic Development Administration, Room H-7816, Washington, DC 20230
Phone: 202 482-5575

RIN: 0610–AA59

DEPARTMENT OF COMMERCE (DOC) **Completed Actions**
Economic Development Administration (EDA)

378. TRADE ACT—ADJUSTMENT ASSISTANCE FOR COMMUNITIES

Priority: Substantive, Nonsignificant

CFR Citation: 13 CFR 315

Completed:

Reason	Date	FR Cite
Withdrawn - Due to Removal of Presidential Initiative	02/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Edward M. Levin
Phone: 202 482-4687
Fax: 202 482-5671

RIN: 0610–AA57

DEPARTMENT OF COMMERCE (DOC) **Proposed Rule Stage**
General Administration (ADMIN)

379. • PUBLIC INFORMATION, FREEDOM OF INFORMATION AND PRIVACY

Priority: Other Significant

Legal Authority: 5 USC 301; 5 USC 552 to 553; 44 USC 3101; 44 USC 3717; Reorganization Plan No. 5 of 1950

CFR Citation: 15 CFR 4; 15 CFR 4a; 15 CFR 4b

Legal Deadline: None

Abstract: The Department of Commerce plans to amend the regulations pertaining to the Freedom of Information Act, Privacy Act, and declassification and public availability of national security information. The proposed rule contains new provisions implementing the Electronic Freedom of Information Act Amendment of 1996, reflects the principles established by the President and Attorney General in the FOIA Policy Memoranda of October 4, 1993, incorporates updated cost figures to be used in charging fees, and streamlines and clarifies the present regulations at 15 CFR parts 4, 4a and 4b.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andy McCready, Attorney Advisor, Department of Commerce, Washington, DC 20230
Phone: 202 482-8044

RIN: 0605–AA14

DEPARTMENT OF COMMERCE (DOC) **Final Rule Stage**
General Administration (ADMIN)

380. UNIFORM ADMINISTRATIVE REQUIREMENT FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFITS AND COMMERCIAL ORGANIZATIONS

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 14

Legal Deadline: None

Abstract: On November 29, 1993, Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements, with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" was published in the Federal Register (58 FR 62992). In the published revised circular, OMB specified as "required action" that Federal agencies responsible for awarding and administering grants and other agreements to recipients described therein, shall adopt the language of the Circular unless other provisions are required by Federal Statute or exceptions or deviations are approved by OMB. This interim final rule adopts the provisions of the Circular and its language to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/04/98	63 FR 47155
Interim Final Rule Effective	10/01/98	

DOC—ADMIN **Final Rule Stage**

Action	Date	FR Cite
Interim Final Rule Comment Period End	11/03/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan L. Sutherland, Acting Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA09

381. • SOLICITATION PROVISIONS AND CONTRACT CAUSES: WOMEN-OWNED SMALL BUSINESS SOURCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 4186

CFR Citation: 48 CFR 1352

Legal Deadline: None

Abstract: The Department of Commerce is removing a section of the Commerce Acquisition Regulation (CAR) pertaining to the Federal Acquisition Regulation (FAR) contract clause "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan." The FAR contains requirements for where the clause "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan" is required in solicitations and contracts. Since the CAR is intended to supplement and implement the FAR without paraphrasing or duplicating FAR language, the Department is removing the section of the CAR which duplicates the FAR requirement.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Lisa Jandovitz, Director, Policy, Office of the Secretary, Department of Commerce, Room 6422, Office of Acquisition Management, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-0202
Fax: 202 482-1711

RIN: 0605–AA13

382. • AGENCY-LEVEL PROTEST PROCEDURES—LEVEL ABOVE THE CONTRACTING OFFICER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12372; EO 12979

CFR Citation: 48 CFR 1333.100

Legal Deadline: None

Abstract: The Department of Commerce amends the Commerce Acquisition Regulation (CAR) to include its final rules of Agency Protest Procedures-Level Above the Contracting Officer. The Department of Commerce has an urgent need to publish its final rule stating the policy governing protest at the level above the contracting officer. These rules are currently being used by all Department of Commerce contracting activities. Accordingly, they provide uniform policy and procedures governing the filing and disposition of all pre-award and post-award agency protests of contracting actions at the level above the contractor officer emphasized that the current rules and procedures pertaining to ordinary agency protest filed directly with the contracting officer remain in effect. These provisions include establishment of the protest decision authority for all Agency protests filed at level above the contracting officer, the election of forum, the procedures for filing such protest, the minimal filing contents for a valid protest of this type, procedures for the protest disposition, the effects of protest filing on contract awards, and potential remedies available for resolution of these protests.

These rules have been designed to create an additional avenue for resolving third-party grievances in connection with the acquisition process and to avoid resolving these types of disputes through formal judicial processes. To this extent, they implement the requirements of Executive Order No. 12979 and the Federal Acquisition Regulations (FAR), part 33, section 103.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: All

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Lisa Jandovitz, Director, Policy, Department of Commerce, Room 6422, Office of Acquisition Management, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-0202
Fax: 202 482-1711

RIN: 0605–AA15

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Completed Actions

383. • UNIFORM AUDIT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 29a; 15 CFR 29b

Legal Deadline: None

Abstract: This rule removed part 29a, "Audit Requirements for State and Local Governments," and part 29b, "Audit Requirements for Institutions of Higher Education and Other Non-Profit Organizations" from title 15 of the Code of Federal Regulations. The two CFR parts were obsolete because uniform audit requirements for non-Federal entities that administer Federal awards are contained in the Department's regulations codified at 15 CFR part 14, "Uniform Administrative Requirements for Grants and Agreements With Institution of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations," and part 24, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

Timetable:

Action	Date	FR Cite
Final Action	10/06/98	63 FR 53564
Final Action Effective	10/06/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan L. Sutherland, Acting Director, Office of Executive Assistance Management, Department of Commerce, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA12

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Final Rule Stage

384. PROCEDURES FOR CONDUCTING FIVE-YEAR (SUNSET) REVIEWS OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1671 et seq; 19 USC 1673 et seq; 19 USC 1303

CFR Citation: 19 CFR 351

Legal Deadline: None

Abstract: On May 19, 1997 (62 FR 27296), the Department of Commerce (the Department) published final rules on, inter alia, procedures for conducting antidumping and countervailing duty proceedings to conform the Department's existing regulations to the Uruguay Round Agreements Act (URAA). Although these regulations contain provisions on the conduct of sunset reviews, the Department is planning to amend the regulations to provide more guidance on the procedures for conducting sunset reviews. Specifically, the Department proposes to amend the procedural regulations for participation in, and conduct of, sunset reviews to add two definitions to provide shorthand expressions for 120-day and 240-day sunset reviews; provide deadlines for certain submissions; clarify the information to be provided by parties participating in a sunset review; clarify when the Department will conduct a 120-day or a 240-day sunset review, and provide time limits for actions to be taken by the Department.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/98	63 FR 13516
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stacy Ettinger, Attorney, Department of Commerce, International Trade Administration, Room 3828, Washington, DC 20230
Phone: 202 482-4618

RIN: 0625–AA51

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Long-Term Actions

385. EXPORT TRADE CERTIFICATES OF REVIEW (15 CFR 325)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 325

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Dr. Morton Schnabel
Phone: 202 482-5131
Fax: 202 482-1790

RIN: 0625–AA52

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Completed Actions

386. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 351; 19 CFR 353; 19 CFR 355

Completed:

Reason	Date	FR Cite
Final Action	11/25/98	63 FR 65348

Regulatory Flexibility Analysis Required: No

DOC—ITA

Completed Actions

Government Levels Affected: None

Agency Contact: Robert LaRussa
Phone: 202 482-1780

RIN: 0625–AA45

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Proposed Rule Stage

387. IMPLEMENTATION OF CHEMICAL WEAPONS CONVENTION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Bureau of Export Administration is developing regulations and procedures that specify industry obligations under the Chemical Weapons Convention.

This rule will also set forth the acts which constitute a violation under the Chemical Weapons Convention and the penalties for violators.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/94	59 FR 66291
ANPRM Comment Period End	01/23/95	
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB06

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

388. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; ADDITIONS TO THE ENTITY LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 10 USC 7429; 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 744

Legal Deadline: None

Abstract: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contains a list of such entities. This rule adds entities to the Entity List, and requires a license for all exports and reexports of all items subject to the EAR.

Timetable:

Action	Date	FR Cite
Addition to Entity List	05/16/97	62 FR 26922
Addition to Entity List	06/30/97	62 FR 35334
Addition to Entity List	06/30/97	62 FR 35335
Revision to Entity List	10/01/97	62 FR 51369
Addition to Entity List Russian Entities	07/29/98	63 FR 40363
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB60

389. IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION; REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule implements the Chemical Weapons Convention (CWC) that affect exports and reexports subject to the jurisdiction of the Commerce Department by amending the Export Administration Regulations. Specifically, this rule modifies an existing License Exception to permit the export of technology to foreign nationals during inspections of chemical facilities in the U.S. pursuant to the CWC and to permit the export or reexport of equipment for use in inspections in countries party to the CWC, adds licensing requirements for certain chemicals listed in the CWC, adds a requirement for an End-Use Certificate for exports of certain chemicals to those countries that are not a party to the CWC, and adds a notification and annual report requirement.

Timetable:

Action	Date	FR Cite
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230

DOC—BXA

Final Rule Stage

Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB67

390. CLARIFICATION OF REPORTING REQUIREMENTS UNDER THE WASSENAAR ARRANGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: On January 15, 1998, the Bureau of Export Administration (BXA) published an interim final rule (63 FR 4252) implementing the Wassenaar Arrangement list of dual-use items and reporting requirements under the Wassenaar Arrangement. This rule provides clarification on the reporting requirements under the Wassenaar Arrangement.

Timetable:

Action	Date	FR Cite
Interim Final Rule - Clarification of Reporting Requirements Under Wassenaar Arr.	10/14/98	63 FR 55017
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB72

391. INDIA AND PAKISTAN SANCTIONS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: On June 18, 1998, the Administration announced additional details of the sanctions imposed on India and Pakistan in response to their recent detonation of nuclear devices. The President had previously determined and reported to Congress, under the authority of section 102 of the Arms Export Control Act, that the Indian and Pakistani activities had violated the Act and sanctions were required.

Under the provisions of the Arms Export Control Act, the Department of Commerce's Bureau of Export Administration (BXA) is revising the Export Administration Regulations (EAR) to expand the license requirements and set forth licensing policy for exports and reexports of most items controlled for nuclear nonproliferation and missile technology to India and Pakistan. Under the provisions of the Export Administration Act (EAA), BXA is revising the EAR to expand the license requirements and set forth licensing policy for exports and reexports of high performance computers to India and Pakistan. In addition, Indian and Pakistani government entities involved in nuclear or missile activities will be added to the Entity List. Additional military and private entities located in India and Pakistan will be added to the Entity List in the near future.

Timetable:

Action	Date	FR Cite
Interim Final Rule - India and Pakistan Sanctions and Other Measures	11/19/98	63 FR 64322
Interim Final Rule - Correction to India and Pakistan Sanctions and Other Measures	11/27/98	63 FR 65352
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB73

392. REVISIONS TO THE COMMERCE CONTROL LIST: CHANGES IN MISSILE TECHNOLOGY CONTROLS

Priority: Substantive, Nonsigni

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends the CCL by revising a number of items subject to control for missile technology reasons. These changes to the CCL are the result of the Missile Technology Control Regime (MTCR) Technical Experts Meeting in November 1997. The changes made by this rule are intended to conform the list of missile technology-related items controlled by the United States to the list agreed to and adopted by the countries participating in the MTCR.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB75

393. REVISIONS AND CLARIFICATIONS TO THE EXPORT ADMINISTRATION REGULATIONS; COMMERCE CONTROL LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

DOC—BXA

Final Rule Stage

CFR Citation: 15 CFR 730 to 744

Legal Deadline: None

Abstract: On January 15, 1998, the Bureau of Export Administration (BXA) published an interim final rule (63 FR 2452) that implemented the Wassenaar Arrangement list of dual-use items and reporting requirements under the Wassenaar Arrangement. The interim final rule revised the Commerce Control List by making revisions to implement the Wassenaar Arrangement. This rule amends the Commerce Control List by making revisions and clarifications and, in some cases, inserts material inadvertently omitted from the January 15 interim.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB77

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394. EXPORTS AND REEXPORTS OF EXPLOSIVE MATERIALS; REVISION OF FOREIGN POLICY CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations by imposing a new licensing requirement on the export and reexport of explosive material (not elsewhere controlled on the Commerce Control List), and products incorporating those materials as described by Export Control Classification Number 1C998 to Iran, Sudan, and Syria for antiterrorism reasons. License applications to Iran and Sudan will be subject to a general policy of denial in accordance with the comprehensive U.S. embargoes to those countries. License applications to Syria will be reviewed on a case-by-case basis, with a policy of denial to military end-uses and end-users.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB79

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395. • ENCRYPTION ITEMS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(e); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations (EAR) for exports and reexports of encryption commodities and software to U.S.-subsidized insurance companies, health and medical end-users, on-line merchants, and foreign commercial firms. This rule implements the Administration's initiative to update its encryption policy and will streamline U.S. encryption policy and will streamline U.S. encryption export and reexport controls.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/98	63 FR 72156
Interim Final Rule Correction	01/21/99	64 FR 3213
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2446
Fax: 202 482-3355

RIN: 0694–AB80

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396. • EDITORIAL CLARIFICATION AND REVISION TO THE EXPORT ADMINISTRATION REGULATIONS (EAR)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administrations Regulations (EAR) by making certain editorial corrections and revisions and in some cases, inserts material inadvertently omitted from earlier regulatory revisions.

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2446
Fax: 202 482-3355

RIN: 0694–AB81

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397. • REMOVAL OF COMMERCIAL COMMUNICATIONS SATELLITES AND RELATED ITEMS FROM THE DEPARTMENT OF COMMERCE'S COMMERCE CONTROL LIST FOR TRANSFER TO THE DEPARTMENT OF STATE'S U.S. MUNITIONS LIST

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 74301(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: Final, Statutory, March 15, 1999.

DOC—BXA

Final Rule Stage

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by removing commercial communications satellites and related items, including satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines, from the Commerce Control List (CCL) and transferring these items to the United States Munitions List (USML).

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB84

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398. • REVISIONS TO THE COMMERCE CONTROL LIST; MEDICAL PRODUCTS CONTAINING BIOLOGICAL AGENTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 74301(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This final rule amends the Commerce Control List (CCL) of the Export Administration Regulations to implement an October 1998 Australia Group agreement to amend controls on toxic gas monitoring systems and dedicated detectors. This final rule also amends the CCL to authorize, without a license, exports of medical products containing biological agents that are developed, packaged and sold for medical treatment. This rule will result in a decreased licensing burden on U.S. industry.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB85

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399. • REVISIONS TO THE COMMERCE CONTROL LIST BASED ON WASSENAAR ARRANGEMENT REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration maintains the Commerce Control List, which identifies those items subject to Department of Commerce export controls. This final rule revises certain entries controlled for national security reasons to conform with changes in the Wassenaar Arrangement's List of Dual-Use Goods and Technologies maintained and agreed to by governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). The Wassenaar Arrangement controls strategic items with the objective of improving regional and international security and stability.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB86

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400. • EXPORTS AND REEXPORTS OF EXPLOSIVE DETECTION SYSTEMS; EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations by expanding the current scope of control of explosive detection systems controlled by Export Control Classification Number (ECCN) 2A993 to include all types of systems that detect the presence of explosives or explosive residue. In addition, this rule establishes a new licensing requirement on the export and reexport of software designed or modified for the development, production, or use of explosive detection systems to Iran, Sudan, and Syria for antiterrorism reasons.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB87

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401. • REVISIONS OF EXPORT CLEARANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

DOC—BXA **Final Rule Stage**

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations by clarifying and updating the procedures to the export clearance requirements.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AB88

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Long-Term Actions

402. REVISION OF FOREIGN BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 760

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39415
NPRM Comment Period End	10/26/89	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dexter M. Price
Phone: 202 482-5914
Fax: 202 482-0913

RIN: 0694–AA11

403. TRANSFER OF DUAL-USE ITEMS FROM U.S. MUNITIONS LIST TO THE COMMERCE CONTROL LIST

Priority: Other Significant

CFR Citation: 15 CFR 799.1

Timetable:

Action	Date	FR Cite
Transfer of Communications Satellites	10/23/92	57 FR 48312
Navigation and Avionics	06/23/93	58 FR 34211
Final Rule: Transfer of Commercial Communication Satellites	09/08/93	58 FR 47322
Transfer of Items From the USMI to the CCL; Imposition of Certain Foreign Policy Controls	10/26/93	58 FR 57549
Satellite Fuel	09/29/97	62 FR 50865
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Lewis
Phone: 202 482-4196
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Email: jlewis@bxa.doc.gov

RIN: 0694–AA52

404. CLARIFICATION OF ENHANCED PROLIFERATION CONTROL INITIATIVE (EPCI) "CATCH-ALL" PROVISION AND VALIDATED LICENSE REQUIREMENTS

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB10

405. ADMINISTRATION OF STATE LOG EXPORTS BAN

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
ANPRM	06/07/95	60 FR 30030
ANPRM Comment Period End	07/07/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Bernard Kritzer
Phone: 202 482-0894
Fax: 202 482-0751

RIN: 0694–AB25

406. LIBYA: EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB28

407. CHANGE THE COMMERCE CONTROL LIST TO REVISE CONTROLS ON COMMUNICATION INTERCEPTING DEVICES (EXPORT COMMERCE CONTROL NUMBER ECCN 5A980)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Lewis
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Email: jlewis@bxa.doc.gov

RIN: 0694–AB41

408. LICENSING OF, AND EXPANSION OF NATIONAL SECURITY AND FOREIGN POLICY CONTROLS ON, RECOVERABLE ENCRYPTION SOFTWARE

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

DOC—BXA

Long-Term Actions

Timetable:

Action	Date	FR Cite
Licensing of Key Escrow Encryption Equipment and Software	12/13/96	61 FR 65460
Encryption Items Transferred From the USMC to the CCL	12/30/96	61 FR 68572
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB47

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409. CLARIFICATION OF LICENSE EXCEPTION GFT (HUMANITARIAN DONATIONS)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 740

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB49

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410. REVISIONS TO EAR AS A RESULT OF THE ADDITION OF BRAZIL AND UKRAINE TO THE NUCLEAR SUPPLIERS GROUP

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB50

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411. REVISIONS TO COMMERCE CONTROL LIST: ADDITION OF TECHNOLOGY AND SOFTWARE CONTROLS FOR CERTAIN CRIME CONTROL COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB53

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412. EXPORTS OF TECHNOLOGY AND SOFTWARE; RELEASE OF TECHNOLOGY OR SOURCE CODE TO FOREIGN NATIONALS IN THE UNITED STATES

Priority: Other Significant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB59

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413. DE MINIMIS EXCLUSION FOR TECHNOLOGY AND SOFTWARE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB62

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414. EXPORTS OF FIREARMS, AMMUNITION, EXPLOSIVES, AND OTHER RELATED MATERIALS: IMPLEMENTATION OF FIREARMS CONVENTION

Priority: Other Significant

CFR Citation: 15 CFR 730 to 774

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB68

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415. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; COUNTRY GROUPS D:1 AND E:2; LICENSE EXCEPTION TMP

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB76

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Completed Actions

416. TRANSFER OF CERTAIN REMOTE SENSING SATELLITES FROM THE U.S. MUNITIONS LIST TO THE CCL

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Withdrawn	01/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Lewis
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Email: jlewis@bxa.doc.gov

RIN: 0694–AB09

417. REVISIONS TO THE EAR: EXPORTS AND REEXPORTS TO SPECIALLY DESIGNATED TERRORISTS AND FOREIGN TERRORIST ORGANIZATIONS

Priority: Other Significant

CFR Citation: 15 CFR 730 to 799

Completed:

Reason	Date	FR Cite
Final Action	01/08/99	64 FR 1120

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB63

418. ESTABLISHMENT OF 24-MONTH VALIDITY PERIOD FOR CERTAIN REEXPORT AUTHORIZATIONS AND REVOCATION OF OTHER AUTHORIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Final Action	09/16/98	63 FR 49425

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB74

419. EXPORTS OF HIGH PERFORMANCE COMPUTERS; REVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Final Action	11/12/98	63 FR 63141

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB78

420. • EXPORT OF HIGH PERFORMANCE COMPUTERS TO THE PEOPLES REPUBLIC OF CHINA

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by revising the requirements for exports to the People's Republic of China. This rule requires that exports of high performance computers, regardless of value to the People's Republic of China under License Exception CTP, be supported by a PRC End-User Certificate. The PRC End-User Certificate must be obtained by the exporter prior to export. In addition, this rule removes the $5000 End-User Certification exemption for license applications for exports of high performance computers to the People's Republic of China.

Timetable:

Action	Date	FR Cite
Final Action	01/14/99	64 FR 2429

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB82

421. • EXPANSION OF LICENSE EXCEPTION CIV ELIGIBILITY FOR MICROPROCESSORS CONTROLLED BY ECCN 3A001

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: Consistent with technological changes, this interim rule adjusts the License Exception CIV eligibility level for microprocessors controlled by ECCN 3A001 from a composite theoretical performance (CTP) of equal to or less than 500 million theoretical operations per second (MTOPS) to a CTP of equal to or less than 1200 MTOPS. License Exception CIV is available for exports and reexports to civil end-users for civil end-uses in Country Group D:1.

Timetable:

Action	Date	FR Cite
Final Action	12/29/98	63 FR 71580
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB83

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Proposed Rule Stage

422. • GUIDANCE ON FEDERAL CONFORMITY ASSESSMENT ACTIVITIES

Priority: Other Significant

Legal Authority: 15 USC 272 et seq

CFR Citation: 15 CFR 287

Legal Deadline: None

Abstract: The National Technology Transfer and Advancement Act of 1995 and the Office of Management and Budget Circular A-119 require the National Institute of Standards and Technology (NIST) to coordinate Federal, State, and local conformity assessment activities with private sector conformity assessment activities. NIST is issuing guidance to outline Federal agencies' responsibility for evaluating the efficacy and efficiency of their conformity assessment activities. Agencies are also responsible for coordinating their conformity assessment activities with those of other Government agencies at all levels and with those of the private sector to make more productive use of the increasingly limited Federal resources available for the conduct of conformity assessment activities and to reduce unnecessary duplication.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Belinda Collins, Director, Office of Standards Services, Department of Commerce, National Institute of Standards & Technology, Room 282, Building 820, Gaithersburg, MD 20899
Phone: 301 975-4000

RIN: 0693–AB49

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Final Rule Stage

423. IMPLEMENTATION OF THE FASTENER QUALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-113; PL 101-592, sec 13; PL 105-234

CFR Citation: 15 CFR 280

Legal Deadline: None

Abstract: The Fastener Quality Act (P.L. 101-592, as amended by P.L. 104-113 and P.L. 105-234) requires that certain fasteners sold in commerce conform to the standards and specifications to which they are represented to be manufactured and have been inspected, tested, and certified. The final rule implementing the Fastener Quality Act (FQA) became effective on November 25, 1996, and was to apply to fasteners manufactured on or after May 27, 1997, the "implementation date." On April 18, 1997, NIST announced a one-year extension of the implementation date, because there was an insufficient number of laboratories accredited to perform the volume of inspection and testing required by the FQA and regulations. During the one-year extension, NIST published for public comment proposed amendments to the rule implementing the FQA. On April 14, 1998, based on the public comments received, NIST published amendments to the 1996 final rule, effective May 14, 1998, with an implementation date of July 26, 1998. On June 30, 1998, NIST again determined that there would not be a sufficient number of laboratories accredited to perform the volume of inspection and testing required by the FQA, and extended the implementation date of the FQA until October 25, 1998. On August 24, 1998, P.L. 105-234 amended the FQA to exempt certain aircraft fasteners. The law also requires the Department of Commerce to submit a study on the FQA to Congress. P.L. 105-234 also delayed implementation of the FQA until the later of June 1, 1999, or 120 days after the Secretary of Commerce submits the required report.

Timetable:

Action	Date	FR Cite
Final Rule	06/30/98	63 FR 35507
Final Rule	09/28/98	63 FR 51525
Study	04/00/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Subhan G. Malghan, FQA Manager, Technology Services, Department of Commerce, National Institute of Standards & Technology, Building 820, Room 306, Gaithersburg, MD 20894
Phone: 301 995-5120

RIN: 0693–AB47

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Long-Term Actions

424. NATIONAL TYPE EVALUATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Butcher
Phone: 301 975-2196

RIN: 0693–AB45

425. NIST TRACEABLE REFERENCE MATERIALS PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas E. Gills
Phone: 301 975-2016

RIN: 0693–AB46

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Completed Actions

426. AMENDMENTS TO ADVANCED TECHNOLOGY PROGRAM REGULATIONS

Priority: Other Significant

CFR Citation: 15 CFR 295

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64411
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Lambis
Phone: 301 975-4447

RIN: 0693–AB48

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Proposed Rule Stage

NATIONAL MARINE FISHERIES SERVICE

427. REGULATORY AMENDMENT TO IMPLEMENT PERMIT, REPORTING, AND RECORDKEEPING REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET AND THEIR CATCHER VESSELS: PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would implement a comprehensive data collection and regulatory program for all processing vessels longer than 125 feet and for all harvesting vessels that deliver their catch to those vessels in the groundfish fishery off Washington, Oregon, and California. This program would consist of: (1) a requirement for a mandatory Federal permit; (2) recordkeeping and reporting requirements; and (3) a definition for "fishing trip" for processing vessels over 125 feet in length for the purpose of applying trip landing and frequency limits.

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54552
Comment Period End	12/21/92	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AE01

428. FISHERY MANAGEMENT PLAN FOR TILEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP would manage tilefish (Lopholatilus chamaeleonticeps) in the EEZ along the Atlantic Coast north of the Virginia/North Carolina border to rebuild the stock.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9300
Fax: 978 281-9135

RIN: 0648–AF87

429. REGULATORY AMENDMENT TO IMPOSE RESTRICTIONS ON FISHING BLACK ROCKFISH OFF OREGON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would impose trip limits and time/area closures on black rockfish fishing off the coast of Oregon in order to preserve declining stocks of black rockfish. Restrictions on harvest and areas fished would adversely affect fishermen in the short term, but these measures are designed to protect black rockfish and encourage the rebuilding of stocks in the long term. These measures will be developed by the State of Oregon and complement measures in state waters.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AG81

430. REGULATORY AMENDMENT FOR MANAGING PELAGIC FISHERIES BY U.S. VESSELS BEYOND EEZ THROUGHOUT PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would extend permit, reporting, and

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Proposed Rule Stage

observer placement requirements on longline vessels of the U.S. that are fishing stocks in the management unit for the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region beyond the exclusive economic zone in the Pacific Ocean. The rule is necessary for comprehensive monitoring of all vessels fishing common stocks and possibly affecting the status of the shared stocks, other fishery interests, or protected resources so that the need for conservation and management measures can be determined.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90804-4213
Phone: 562 980-4001

RIN: 0648–AG85

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431. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the comment period.

Abstract: Amendment 3 would restrict the use of gillnets, fish traps, and other gear in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AG87

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432. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND REEF-ASSOCIATED PLANTS AND INVERTEBRATES FOR PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 1 would establish marine conservation districts to conserve representative reef areas and fishery habitat in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AG88

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433. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BLUEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would revise the management of the fishery and include measures which will be specified annually for commercial quotas and recreational possession limits for Atlantic Bluefish in the U.S. EEZ.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AH63

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434. AMENDMENT TO THE OBSERVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendments to FMP Amendment 47 to the Groundfish of the BSAI and FMP Amendment 47 to the Gulf of Alaska Groundfish to implement an observer program, replacing the interim Observer Program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI69

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435. FISHERY MANAGEMENT PLAN FOR THE ATLANTIC HERRING FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

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Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This fishery management plan would supersede the preliminary management plan and regulate fishing activity in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AI78

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436. FISHERY DATA REPORTING FOR WESTERN PACIFIC FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will ensure collection and availability of data on catch, effort, and economic values needed to develop, implement, evaluate, and modify fisheries management measures for Western Pacific fisheries under the Magnuson-Stevens Fishery Conservation and Management Act. The regulations will require fishery participants to report to NMFS if existing State/Territory/Commonwealth data systems are not providing data when, where, and in the format needed for management decisions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AJ08

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437. AMENDMENT 10 TO THE PACIFIC COAST GROUNDFISH FMP REGARDING SALMON BYCATCH IN GROUNDFISH TRAWL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations implementing Amendment 10 to the Pacific Coast Groundfish FMP would require retention, landing, and reporting of salmon caught in whiting and other groundfish trawl fisheries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-070
Phone: 206 526-6150

RIN: 0648–AJ22

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438. REGULATORY AMENDMENT TO ESTABLISH A PROGRAM FOR THE COLLECTION AND USE OF FEES IN THE INDIVIDUAL FISHING QUOTA PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would establish a program for the collection and use, including the procedures, of fees in the Individual Fishing Quota (IFQ) program. The collection of fees would recover the costs of managing and enforcing IFQ program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ52

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439. IMPLEMENTATION OF PACIFIC INSULAR AREA FISHING AGREEMENT PROVISIONS OF THE MAGNUSON-STEVENS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.

Abstract: This rule would implement provisions of the Sustainable Fisheries Act that authorizes the Secretary of State to negotiate Pacific Insular Areas Fishing Agreements (PIAFAs) under which foreign vessels could have access to portions of the U.S. exclusive economic zone around insular "States" such as Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, or around U.S. Possessions in the Pacific. Fees paid to the U.S. for such access would revert to the government of the insular area around which the fishing occurred. PIAFAs could only be entered into with the agreement of the Governor of the relevant insular area. Conservation plans, which must be prepared in consultation with the Western Pacific Fishery Management Council and must be consistent with relevant fishery management plans, would specify such things as allowable levels of fishing and activities for which funds collected would be spent. Foreign fishing permits would specify conditions and

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restrictions governing foreign vessel activities. The rule would revise the foreign fishing regulations at 50 CFR part 600 to allow fishing under a PIAFA and might also establish terms and conditions common to fishing under PIAFAs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AJ60

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440. PROPOSED RULE TO IMPLEMENT PROCEDURES FOR ISSUANCE OF PERMITS UNDER SECTION 204(D) OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1824

CFR Citation: 50 CFR 600F

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The Sustainable Fisheries Act amended the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) to, among other things, provide for the issuance of transshipment permits under the newly established section 204(d) of the MSFCMA. This action will specify procedures to be used to issue permits.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ70

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441. FISHERIES OBLIGATION GUARANTEE PROGRAM—STATUTORY AMENDMENTS TO ESTABLISH "CENTRAL TITLE AND LIEN REGISTRY FOR LIMITED ACCESS PERMITS"

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1271 to 1279

CFR Citation: 50 CFR 253; 50 CFR 600

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking and Request for Comments regarding establishment of a central title and lien registry as required by the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/97	62 FR 24897
ANPRM Comment Period End	08/05/97	
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles L. Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396
Fax: 301 589-2686

RIN: 0648–AJ77

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442. REGULATORY AMENDMENT TO CHANGE MEMBERSHIP REQUIREMENTS FOR THE REGIONAL FISHERY MANAGEMENT COUNCILS

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Regulations governing the operation and membership of the Regional Fishery Management Councils will be revised based on provisions in the Sustainable Fisheries Conservation and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ82

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443. RULEMAKING TO ESTABLISH THE NORTH PACIFIC LOAN PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rulemaking would establish a North Pacific Loan Program which would provide financing for loans to fishermen who fish from small vessels or entry level fishermen fishing IFQ fisheries.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK07

DOC—NOAA **Proposed Rule Stage**

444. ADJUSTMENT OF MANAGEMENT PROGRAM FOR PELAGIC SPECIES FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would modify the management program for the fisheries for swordfish, tuna, and associated species in the western Pacific region. Possible changes include measures to prevent or mitigate the take of seabirds or turtles in the longline fishery and to address bycatch of sharks.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AK11

445. REGULATORY AMENDMENT TO SPECIFY MINIMAL VESSEL OWNERSHIP REQUIREMENTS FOR THE HIRED SKIPPER PROVISION IN THE IFQ FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final requirements to be published within 30 days of end of NPRM comment period.

Abstract: Specify minimal vessel ownership requirements for the hired skipper provision in the IFQ fisheries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK20

446. ADJUSTMENT OF THE MANAGEMENT PROGRAM FOR PRECIOUS CORALS FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulation would modify the management program for the fisheries for precious corals in the western Pacific region. In response to new information on changes that may occur in the fishery, possible changes to the management program include the establishment of or adjustments to fishing seasons, permit requirements, quotas, closures, area limitations, gear and coral size restrictions, etc.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AK23

447. REGULATORY AMENDMENT TO IMPLEMENT OBSERVER REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET: PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would require processing vessels 125 feet and longer to carry fishery observers approved by NMFS for the purpose of monitoring catch and gathering data.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AK26

448. AMENDMENT TO PORTIONS OF INDIVIDUAL FISHING QUOTA PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to amend portions of the regulations implementing the Individual Fishing Quota Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802

DOC—NOAA

Proposed Rule Stage

Phone: 907 586-7228

RIN: 0648–AK50

449. MODIFICATION OF HARVEST GUIDELINE SYSTEM FOR HAWAIIAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulation will establish permanent bank-specific harvest guidelines for Hecker Island, Gardner Pinnacle, Mero Reef, and all other remaining Northwestern Hawaiian Islands lobster grounds contained during the 1999 fishing year and subsequent years.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AK61

450. REGULATORY AMENDMENT TO ESTABLISH APPLICATION PERIOD FOR LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: Regulatory amendment to establish application period under the License Limitation Program (LLP). This regulatory amendment would establish the procedures for submitting applications to the agency for the LLP, would clarify what type of information would be necessary for a completed application, procedures for the transfer of licenses once those licenses were issued, and the policy for interim use licenses when an application has been denied and appealed. This action is necessary for further clarification for the exact policy and procedures of the application process for the LLP, and those particulars were not included in the original action that established the overall concept of the LLP.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK69

451. AMENDMENT 54 TO FMP FOR GROUNDFISH FISHERY OF BERING SEA AND ALEUTIAN ISLANDS AREA AND AMENDMENT 54 TO FMP FOR GROUNDFISH OF GULF OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: These FMP amendments would change sablefish use limits from percentages to quota share units; add a leasing provision to allow initial recipients of quota shares to lease 10% of their individual fishing quota pooled across all areas, with an option to restrict this allowance to the Bering Sea; and modify plan language to allow an individual who holds an initial allocation of quota share to hire a skipper to fish individual IFQ on a collectively owned vessel.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK70

452. AMENDMENT 52 TO FMP FOR GROUNDFISH FISHERY OF BERING SEA AND ALEUTIAN ISLANDS AREA AND AMENDMENT 52 TO FMP FOR GROUNDFISH OF GULF OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: These FMP amendments would establish a vessel registration program for critical fisheries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK73

453. AMENDMENT 59 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH IN THE GULF OF ALASKA TO CLOSE AN AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

DOC—NOAA **Proposed Rule Stage**

Legal Deadline: Final, Statutory. Final regulations must be published within 30 days of end of NPRM comment period.

Abstract: Amendment 59 for GOA would create a groundfish refuge by closing a small area off Cape Edgecumbe to commercial fishing for groundfish and halibut. The closure would protect a unique habitat and protect rockfish and lingcod during critical phase of their life cycle.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK74

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454. FISHING CAPACITY REDUCTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1861(b) to 1861(e)

CFR Citation: 50 CFR 253

Legal Deadline: None

Abstract: To establish a fishing capacity reduction program, commonly called a buyback, as required by the Sustainable Fisheries Act to address the problem of excess fishing capacity in most fisheries. This will involve paying fishermen to either surrender their fishing permits or both surrender their permits and scrap their fishing vessels.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael L. Grable, Chief, Financial Services Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 Eaast-West Highway, Silver Spring, MD 20910
Phone: 301 713-2390
Fax: 301 713-1939

RIN: 0648–AK76

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455. RULE TO IMPLEMENT A FISHERY MANAGEMENT PLAN FOR THE SPINY DOGFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: The Fishery Management Plan will include management measures for the Spiny Dogfish Fishery.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-0135

RIN: 0648–AK79

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456. RULE TO IMPLEMENT AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory. Final, Statutory. Final regulations to be published within 30 days of NPRM comment period.

Abstract: Amendment 9 would implement controlled entry for the Atlantic Mackerel Fishery. Amendment 9 may include real-time monitoring for squids and controlled entry for the Atlantic Mackerel Fishery.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AK80

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457. REGULATORY AMENDMENT TO INITIATE CONTROL FOR THE HARVEST OF BOTTOMFISH IN THE EXCLUSIVE ECONOMIC ZONE AROUND THE MAIN HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulation will implement an amendment to the Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region. It will initiate control of the harvest of bottomfish in the exclusive economic zone around the main Hawaiian Islands to ensure rebuilding of some stocks and maintenance of other healthy stocks. Possible measures include area closures, harvest limits, size limits, and season closures. These measures will complement action by the State of Hawaii to limit fishing in State waters to prevent overfishing and rebuild stocks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AK82

DOC—NOAA

Proposed Rule Stage

458. AMENDMENT 13 TO THE PACIFIC COAST SALMON PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations implementing Amendment 13 to the Pacific Coast Salmon Plan would change the management of Oregon coastal natural (OCN) coho salmon to use the most recent estimates of spawning escapements abundance and anticipated marine survival to ensure the protection and timely rebuilding of the stock consistent with the Oregon Coastal Salmon Initiative.

Timetable:

Action	Date	FR Cite
NPRM	03/04/99	64 FR 10439
NPRM Comment Period End	04/05/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AK83

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459. REVISE EXEMPTED FISHING REGULATIONS TO SPECIFY COMPENSATORY FISHING UNDER EXEMPTED FISHING

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: This action would revise current exempted fishing regulations to specifically authorize the use of an exempted fishing permit as the method of allowing the compensation of private vessels for their conduct of resource assessment. Specific methodology for vessel compensation would be developed on a fishery-by-fishery basis. The rule would also make other minor changes in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AK84

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460. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 9 proposes more than 14 management options. For Gulf group king mackerel, actions are proposed to (1) change the start of the fishing year, (2) prohibit the sale of fish caught under the bag limit, (3) revise the allocation of TAC between the commercial and recreational sectors, and (4) increase the minimum size limit from 20 inches to 24 or 26 inches fork length. Also, for the eastern zone (off Florida), (5) revise the allocation of the commercial quota between the Florida east (North) and west coast (South/West Area) subzones. For the Florida west coast subzone, (6) subdivide the commercial hook-and-line quota into two separate quotas for proposed northern and southern subzones; and for the commercial run-around gillnet fishery, (7) restrict/reduce/phase-out the number of vessels holding gillnet endorsements to fish under the quota, (8) restrict the area of operation to southwest Florida, and (9) restrict the transfer of gillnet endorsements to vessels owned by the endorsement holder or his/her family members. For the western zone (Texas through Alabama), (10) subdivide the commercial quota on a seasonal or areal basis, and (11) establish a trip limit (harvest/possession/landing limit) for commercial vessels. For both Gulf and Atlantic groups of king mackerel, (12) allow the sale of cut-off (damaged) fish taken and possessed within the established trip limits. Finally, for Gulf group Spanish mackerel, (13) establish a purse seine allocation and (14) vessel trip limits.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK89

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461. AMENDMENT 17 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: Amendment 17 would address expiration of the commercial reef fish permit moratorium (December 31, 2000). Measures may be implemented prior to the moratorium expiration date, and would apply to all species in the FMP management unit, except red snapper. Management options include: extending the current moratorium for an additional 3 years, or replacing the current provisions with a system of various classes of transferable vessel licenses or endorsements, similar to that approved for red snapper under Amendment 15.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

DOC—NOAA **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK96

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462. AMEND THE BLUEFIN STATISTICAL DOCUMENT TO ALLOW FOR THE ATTACHMENT OF RE-EXPORT CERTIFICATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: The International Commission for the Conservation of Atlantic Tuna (ICCAT) recommends that ICCAT Bluefin Tuna Re-export Certificates be validated by government organizations that are accredited by a contracting party's government to validate the ICCAT Bluefin Statistical Document.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AL02

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463. REGULATORY AMENDMENT TO CHANGE THE LIMITED ENTRY, SABLEFISH FISHERY SEASON STRUCTURE FIXED GEAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would implement a framework to allow the Pacific Fishery Management Council to designate each year whether the limited entry, fixed gear, regular sablefish fishery would consist of a single opening, or of three separate openings. If the regular fishery is set at three separate openings, a participant would have to choose to participate in just one of the three openings.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115-0700
Phone: 206 526-6150

RIN: 0648–AL12

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464. REGULATORY AMENDMENT TO ESTABLISH A SITKA SOUND HALIBUT MANAGEMENT PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This regulatory amendment would create a local area halibut management plan for Sitka Sound. This management plan will include specified boundaries by latitude and longitude. Halibut longliners and halibut charter vessels would be prohibited from harvesting halibut in some areas of the Sitka Sound Halibut Management Area during specified times of the year. In addition, the amount of halibut on board a halibut longliner may be restricted during specified times of the year. Halibut catch in the Sitka Sound Management Area would be monitored for growth rate.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL18

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465. AMENDMENT 48 TO THE BSAI FMP AND AMENDMENT 48 TO THE GOA FMP - STREAMLINE ANNUAL SPECIFICATION PROCESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq; 16 USC 773 et seq; 16 USC 3631 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This action would improve the annual process of setting total allowable catch for Alaska groundfish in the Bering Sea and Aleutian Islands and Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th Street, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL19

DOC—NOAA

Proposed Rule Stage

466. REGULATORY AMENDMENT TO REVISE THE RECORDKEEPING AND REPORTING REQUIREMENTS FOR 1999

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This regulatory amendment would include the following issues suggested by NMFS Management, Enforcement, the U.S. Coast Guard, and the fishing industry: revise language for surrendering fisheries or processor permit; document "pumping" of fish; combine Steller sea lion tables; create revised figures for Bering Sea and Aleutian Islands Management Area; remove Improved Retention/Improved Utilization columns in catcher vessel logbook; develop code and recording procedure for experimental fisheries; develop a new discard category for adulterated fish and for research fish; develop secondary product code level that defines condition of end product (i.e., frozen blocks, grades of surimi); add CDQ delivery number to logbooks; and develop combined NMFS/IPHC catcher vessel and catcher/processor logbooks for fixed gear.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th Street, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL23

467. AMENDMENT 12 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 12 to the NE Multispecies FMP proposes to define silver hake (whiting) red hake and offshore hake as small mesh multispecies. Revised overfishing definitions for whiting, red hake, and offshore hake are also proposed. In addition to the new overfishing definitions, this action would implement: 1) moratorium permit qualifications to fish for whiting, red hake, ocean pout and offshore hake; 2) possession limits and minimum mesh sizes; 3) an allowance for transfer of fish at sea; 4) additional framework measures for future management possibilities; and 5) a monitoring mechanism for continued response to changing conditions in the fishery.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9300

RIN: 0648–AL27

468. MANAGEMENT OF U.S. PURSE SEINE FISHERY IN THE EASTERN PACIFIC OCEAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 955 et seq

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: This rule would establish authority and procedures for the Southwest Regional Administrator, NMFS, to implement measures to carry out management recommendations of the Inter-American Tropical Tuna Commission and approved by the Department of State as provided in the Tuna Conventions Act of 1950. Actions could include closure of the purse seine fishery for yellowfin tuna, closure of the purse seine fishery for tuna associated with floating objects, prohibiting the use of tender vessels used to service fish-aggregating devices, and prohibiting the transfer-at-sea of purse seine-caught tuna in the Eastern Pacific Ocean.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AL28

469. AMENDMENT 57 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH IN THE BSAI PROHIBITING DIRECTED FISHING FOR POLLOCK WITH BOTTOM TRAWL GEAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This FMP amendment would prohibit directed fishing for pollock with bottom trawl gear in the BSAI. This amendment would also reduce the trawl prohibited species catch limits for halibut, king crab, and tanner crab in the BSAI to account for the projected PSC bycatch savings associated with a ban on bottom trawl gear for pollock.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region,

DOC—NOAA

Proposed Rule Stage

Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th Street, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL30

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470. AMENDMENT 9 TO THE NORTHEAST MULTISPECIES FMP TO ADDRESS NEW SUSTAINABLE FISHERIES ACT REQUIREMENTS, AND OTHER MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory, October 11, 1998.
(See Additional Information)

Abstract: Amendment 9 to the FMP was developed by the New England Fishery Management Council primarily to address the new requirements of the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act. To meet these requirements, this proposed rule adds Atlantic halibut to the Northeast Multispecies FMP, implement measures to rebuild halibut and stocks of winter flounder, and implement new or revised overfishing definitions and revised specifications of optimum yield for 12 groundfish species. In summary, this rule proposed a one-fish halibut possession limit of 36 inches or greater, an increase of one inch in the minimum size of winter flounder; postponement of the Vessel Monitoring System requirement beyond May 1, 1999; a modification of the framework process to allow for aquaculture projects and changes to the overfishing definitions; and a prohibition of baush-sweep trawl gear when fishing for multispecies.

Timetable:

Action	Date	FR Cite
NPRM	03/23/99	64 FR 13952
NPRM Comment Period End	05/03/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: LEGAL DEADLINE CONT: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Jon Rittgers, Acting Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL31

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471. REGULATORY AMENDMENT TO PROHIBIT FISHING BY VESSELS OVER 50 FEET WITHIN 50 NAUTICAL MILES OF AMERICAN SAMOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would prohibit fishing by vessels over 50 feet within 30 nautical miles of American Samoa.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AL41

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472. COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERY ACT DEFINITIONS AND OTHER REQUIRED PROVISIONS IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: The comprehensive Sustainable Fishery Act (SFA) amendment will amend existing fishery management plans (FMPs) for shrimp, red drum, snapper-grouper, coastal migratory pelagics, coral, coral reefs, and live/hard bottom resources, spiny lobster, and golden crab to ensure (1) they are in conformance with SFA section 102 definitions, (2) that bycatch provisions are in conformance with SFA section 108 provisions, (3) they address fishery impact statements that describe the likely effects of management measures on fishing communities, (4) they address overfishing provisions specifying objective and measurable criteria for identifying whether a fishery is overfished, and (5) they propose measures to rebuild overfished stocks in fisheries of the South Atlantic Region.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AL42

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473. PROPOSED GUIDELINES FOR DEFINING SERIOUS INJURY; REQUEST FOR COMMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: Under the Marine Mammal Protection Act (MMPA), the National Marine Fisheries Service (NMFS) is responsible for assessing and reducing the level of serious injury and mortality that occurs incidental to commercial fishing operations. NMFS is issuing proposed guidelines for determining what constitutes a serious injury to a

DOC—NOAA

Proposed Rule Stage

marine mammal. If finalized, NMFS will use these guidelines in assessing fisheries beginning in 2000.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376

RIN: 0648–AL44

474. IMPLEMENTATION OF AMENDMENT 8 TO THE NORTHERN ANCHOVY FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See "Additional Information"

Abstract: This action would amend the Northern Anchovy Fishery Management Plan (FMP) to comply with new requirements of the Sustainable Fisheries Act. The amendment would rename the FMP, add several species (Pacific mackerel, jack mackerel, and Pacific sardine) to the management unit, establish procedures for annual specification of harvest limits for managed species, and implement limited entry for fishing for small coastal pelagic species of fish in the management area. The amendment provides definitions and criteria to determine if any stocks are overfished and if rebuilding plans are needed. An annual review of the fisheries is conducted to make this determination.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AL48

475. REGULATORY AMENDMENT TO ALLOW "STOCKING" OF MULTIPLE LIMITED ENTRY PERMITS IN THE PACIFIC COAST GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would link groundfish cumulative trip limits to limited entry permits instead of to vessels. This linkage would allow limited entry permit holders to associate more than one limited entry permit with a vessel without having to combine those permits. A vessel attached to multiple limited entry permits would be able to pursue multiple cumulative trip limits.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL50

476. AMENDMENT 14 TO THE PACIFIC COAST SALMON PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See "Additional Information"

Abstract: Amendment 14 would provide a change in the management of salmon fisheries in the Exclusive Economic Zone (EEZ) (3 to 200 miles offshore) off Washington, Oregon, and California, which are managed by the Pacific Fishery Management Council (PFMC, Council) and NMFS under the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California (FMP) as revised and updated in 1996 for implementation in 1997. The Amendment will revise in FMP to bring it into compliance with the recently amended Magnuson-Stevens Fishery Conservation and Management Act. The primary changes relate to issues of optimum yield, overfishing, essential fish habitat, and bycatch specifications. Editorial and organizational changes to improve and update the FMP and its environmental impact statement, in addition to refinements harvest allocation standards among the recreational fisheries north of Cape Falcon, are also part of amendment effort.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published

DOC—NOAA **Proposed Rule Stage**

within 30 days of NPRM comment period.

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL51

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477. AMEND 12 SUMMER FLOUNDER, SCUP & BLACK SEA BASS FISHERIES FMP; AMEND 8 TO FMP FOR ATLANTIC MACKEREL, SQUID & BUTTERFISH; AND AMEND 12 TO FMP FOR ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of NPRM comment period end.

Abstract: The proposed rule to implement the three Fishery Management Plan (FMP) amendments would implement framework provisions for amending management measures for these fisheries, restrict the size of domestic harvesting vessels permitted in the Atlantic mackerel fishery without restricting the size of processing vessels, and implement an operator permit requirement for the surf clam and ocean quahog fisheries. These amendments are intended to meet the requirements of the Sustainable Fisheries Act of October 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL56

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478. AMENDMENT 16B TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Gulf of Mexico Fishery Management Council (Council).

Abstract: Amendment 16B would: (1) establish a "slot limit" of 14 inches (minimum) and 22 inches (maximum) fork length for the commercial and recreational harvest of lesser amberjack and banded rudderfish; (2) establish a 5-fish aggregate bag limit; (3) remove queen triggerfish from the FMP and thus allow more conservative management measures in Florida state waters to extend into the EEZ; (4) eliminate the distinction in the FMP between reef fish species in the management unit and those in the fishery but not in the management unit with the intent of excluding sand perch and dwarf sand perch from the 20-fish aggregate bag limit; (5) implement minimum size limits on cubera snapper (12 inches, total length (TL)), dog snapper (12 inches, TL), mahogany snapper (12 inches, TL), schoolmaster (12 inches, TL), mutton snapper (16 inches, TL), scamp (20 inches, TL), gray triggerfish (12 inches, TL), and hogfish (12 inches, fork length); (6) establish a 5-fish bag limit for hogfish and exclude hogfish from the 20-fish aggregate reef fish bag limit; and (7) establish a recreational bag limit of 1 speckled hind and 1 warsaw grouper per vessel. Setting bag limits for speckled hind and warsaw grouper would prohibit the sale of these species by the recreational sector because the FMP and existing regulations prohibit sale of reef fish subject to bag limits.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL57

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479. REGULATORY AMENDMENT TO ALLOCATE CERTAIN GROUNDFISH SPECIES BETWEEN THE TRAWL AND FIXED GEAR COMMERCIAL GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would set allocations of certain groundfish species (primarily rockfish) between the trawl and fixed gear commercial fisheries for Pacific Coast groundfish.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0700
Phone: 206 526-6150

RIN: 0648–AL62

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480. REGULATORY AMENDMENT TO FUND PURCHASE OF LIMITED ENTRY TRAWL PERMITS TO REDUCE EXCESS CAPACITY IN PACIFIC COAST GROUNDFISH FLEET

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would authorize Federal purchase of Pacific Coast

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groundfish limited entry trawl permits, under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act, "Fishing Capacity Reduction Program." Federal purchase of trawl permits would be considered a "loan" to the trawl fleet, which would be repaid by that fleet through a tax on groundfish landings by limited entry trawl vessels. The goal of this program would be to match effort within the fishery more closely with available resources.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0700
Phone: 206 526-6150

RIN: 0648–AL66

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481. ADJUSTMENT OF MANAGEMENT PROGRAM: CRUSTACEAN FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would include the waters off the U.S. Island Possessions in the Pacific within Permit Area 3 (Guam and American Samoa).

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AL67

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482. REGULATORY AMENDMENT TO ESTABLISH PROGRAM FOR COLLECTION AND USE OF FEES IN COMMUNITY DEVELOPMENT QUOTA PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would establish a program for the collection and use, including the procedures, of fees in the Community Development Quota Program. The collection of fees would recover the costs of managing and enforcing the CDQ program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL71

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483. FRAMEWORK TO IMPLEMENT ANNUAL MANAGEMENT MEASURES FOR NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This regulation would implement annual management measures for the Northeast Multispecies fishery for the fishing year beginning May 1, 1999.

Timetable:

Action	Date	FR Cite
NPRM	03/29/99	64 FR 14846
NPRM Comment Period End	04/13/99	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL72

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484. RECREATIONAL MEASURES FOR 1999 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the possession limit, size limit, and other management measures for the recreational fisheries for 1999.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	05/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
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RIN: 0648–AL75

DOC—NOAA

Proposed Rule Stage

485. AMENDMENT ADDRESSING SUSTAINABLE FISHERIES ACT REQUIREMENTS REGARDING OVERFISHING, BYCATCH, FISHING COMMUNITIES, AND OTHER PROVISIONS FOR FISHERY MANAGEMENT PLAN FOR THE GULF OF MEXICO

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The generic Sustainable Fishery Act (SFA) Amendment, prepared by the Gulf of Mexico Fishery Management Council, will amend existing fishery management plans (FMPs) for Gulf coral and coral reef resources, coastal migratory pelagics, red drum, reef fish, shrimp, spiny lobster, and stone crab to ensure (1) they are in conformance with SFA section 102 definitions, (2) that bycatch provisions are in conformance with SFA section 108 provisions, (3) they address fishery impact statements that describe the likely effects of management measures on fishing communities, (4) they address overfishing provisions specifying objective and measurable criteria for identifying whether a fishery is overfished, and (5) they propose measures to rebuild overfished stocks in fisheries of the Gulf of Mexico.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL81

486. COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERIES ACT REQUIREMENTS REGARDING OVERFISHING, BYCATCH, FISHING COMMUNITIES AND PROVISIONS FOR FISHERY MANAGEMENT PLANS FOR THE CARIBBEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory, October 11, 1998.
See Additional Information.

Abstract: The comprehensive amendment will amend the Caribbean Fishery Management Council's existing fishery management plans for queen conch, coral resources, spiny lobster, and reef fish to address the Sustainable Fisheries Act requirements regarding section 102 definitions, bycatch provisions, fishery impact statements, effects on fishing communities, and preventing overfishing and rebuilding overfished stocks.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL86

487. • REGULATORY AMENDMENT TO THE ALASKA GROUNDFISH REGULATIONS PERTAINING TO SCALES PERFORMANCE CRITERIA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: At the suggestion of the industry and NMFS observer program, this regulatory amendment would modify the technical requirements for the at-sea scales program, clarify the meaning of some terms, revise observer sampling station specifications, and allow flexibility in designing sampling stations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL88

488. • CRAB COMMUNITY DEVELOPMENT QUOTA RESERVES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Regulatory amendment to specify crab community development quota reserves by calendar year.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOC—NOAA

Proposed Rule Stage

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL92

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489. • REGULATORY AMENDMENT TO ADJUST THE GULF OF MEXICO RED SNAPPER TAC AND ASSOCIATED MANAGEMENT MEASURES UNDER THE FRAMEWORK PROCEDURE OF THE FMP FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: For 1999, this action would: Maintain the red snapper TAC at status quo - 9.12 million pounds, with 4.47 million pounds allocated to the recreational fishery and 4.65 million pounds allocated to the commercial fishery; set the recreational daily bag limit for red snapper at 4 fish for recreational fishermen, and set a bag limit of zero fish for the captain and crew of for-hire vessels; set the opening date of the recreational red snapper fishing season at March 1; reduce the minimum size limit for red snapper from 15 inches total length (TL) to 14 inches TL for both commercial and recreational fisheries; and change the opening criteria for the second commercial red snapper fishing season from the first 15 days of each month, beginning September 1, to the first 10 days of each month, beginning September 1, until the second-season suballocation is met or the season closes on December 31.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL94

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490. • AMENDMENTS TO THE ALASKA GROUNDFISH AND CRAB FMPS FOR THE LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amend the Alaska License Limitation Program by adding a participation requirement to qualify for a license in the Bering Sea crab fisheries and limit processing on catcher vessels.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL95

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491. • REGULATORY AMENDMENT TO REINSTATE 6000 POUND TRIP LIMIT OF HALIBUT IN AREA NORTHEAST OF THE BERING SEA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would reinstate a 6000 pound halibut trip limit in the halibut management area northeast of the Bering Sea.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL97

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492. • DEFINITION OF OVERFISHING FOR SALMON FISHERIES OFF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amend the Fishery Management Plan for salmon fisheries in the EEZ off Alaska to define overfishing.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL98

DOC—NOAA

Proposed Rule Stage

493. • AMERICAN FISHERIES ACT—FMP AMENDMENT—PR/FR TO IMPLEMENT AFA MEASURES FOR 2000-2004

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-277

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, January 2000.

Abstract: Fishery Management Plan amendment to comply with the requirements of the American Fisheries Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL99

494. • AMENDMENT TO INDIVIDUAL FISHING QUOTA SURVIVORSHIP PROVISION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to the Individual Fishing Quota to revise the survivorship provision about a surviving spouse.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM00

495. • REGULATORY AMENDMENT TO ESTABLISH TOTAL ALLOWABLE CATCH LIMITS FOR THE ATLANTIC AND GULF GROUPS OF KING AND SPANISH MACKEREL FOR THE 1999-2000 FISHING YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment prepared under the framework rulemaking procedure of the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), would amend the regulations implementing the FMP to establish the total allowable catch limits and associated measures (e.g., trip and bag limits) for Atlantic and Gulf groups of King and Spanish mackerel for the 1999-2000 fishing year.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM01

496. • REGULATORY AMENDMENT TO ADJUST THE GULF OF MEXICO RED SNAPPER TAC AND ASSOCIATED MANAGEMENT MEASURES FOR 2000 UNDER THE FRAMEWORK

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would amend the regulations implementing the FMP to establish management measures for the 2000 fishing season, in accordance with the FMP's framework procedure for setting annual total allowable catch limits and associated measures. The FMP regulates commercial and recreational fishing in the exclusive economic zone of the Gulf of Mexico and was developed by the Gulf of Mexico Fishery Management Council and approved/implemented by the National Marine Fisheries Service (NMFS). Annual management changes are proposed by the council; NMFS publishes a proposed rule to obtain public comment on these proposals for consideration in approving/disapproving/partially approving them. Approved measures are implemented by final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM04

DOC—NOAA

Proposed Rule Stage

497. • FISHERY MANAGEMENT PLAN AMENDMENT TO REVISE CDQ REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revisions to the CDQ regulations that would include: overage/underage provisions, pooling, and removing species from CDQ; revise observer coverage requirements shoreside; crab CDQ regulations change to allow start in September crab management year instead of calendar year; change start date for CDQ trawl fisheries.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM07

498. • FISHERY MANAGEMENT PLAN FOR PELAGIC SARGASSUM HABITAT OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: The Fishery Management Plan (FMP) and associated rule would: (1) define the management unit for pelagic Sargassum; (2) specify optimum yield as zero harvest; (3) define overfishing levels; (4) identify essential fish habitat for pelagic Sargassum; (5) identify essential fish habitat-areas of special concern for pelagic Sargassum; (6) prohibit all harvest and possession of Sargassum from the South Atlantic EEZ south of the latitude line representing the North Carolina/South Carolina border; (7) limit the harvest to 50,000 pounds wet weight in the area bounded by the North Carolina/Virginia border, the North Carolina/South Carolina border, and the longitude line 100 miles (or greater) seaward from the North Carolina shoreline until January 1, 2001; (8) prohibit the harvest and possession of pelagic Sargassum after January 1, 2001; and (9) describe research and data needs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM15

499. • FLEET CAPACITY LIMITS FOR U.S. PURSE SEINE FISHERY IN THE EASTERN PACIFIC OCEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: This rule would implement purse seine fleet capacity limits for the U.S. purse seine fleet in the eastern tropical Pacific for 1999, consistent with management recommendations of the Inter-American Tropical Tuna Commission and approved by the Department of State as provided in the Tuna Conventions Act of 1950. This action would limit the active purse seine fleet to a total of 8,969 metric tons carrying capacity.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AM22

500. • ADJUSTMENT OF MANAGEMENT PROGRAM; CRUSTACEAN FISHERIES OF THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would facilitate and enable adjustments to management measures for the crustacean fisheries in the Northwestern and main Hawaiian Islands. Possible regulatory changes could include modification of closed areas, gear restrictions, seasons, notification/reporting requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AM26

501. • EFFECTS OF SPOTTER AIRCRAFT ASSISTANCE IN ATLANTIC BLUEFIN TUNA (BFT) FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

DOC—NOAA **Proposed Rule Stage**

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS proposes measures to manage the use of spotter aircraft to assist in the fishery for BFT.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2347
Fax: 301 713-0596

RIN: 0648–AM27

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502. • LIST OF FISHERIES FOR 2000

Priority: Routine and Frequent

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: Final, Statutory, December 31, 1999.

Abstract: The list of fisheries, published pursuant to section 118 of the Marine Mammal Protection Act, classifies all U.S. commercial fisheries into one of three categories based on the level of incidental serious injuries and mortalities to marine mammals. Participants in fisheries placed in Category I, II, or III are subject to different regulatory requirements under 50 CFR 229.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele, Fishery Biologist, Office of Protected Resources, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376
Email: cathy.eisele@noaa.gov

RIN: 0648–AM28

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503. • FISHERY MANAGEMENT PLAN AMENDMENT TO REBUILD C. BAIRDI STOCKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. One year from approval of overfishing definitions.

Abstract: This amendment to the FMP for the Commercial King and Tanner Crab Fisheries in the BSAI would define a rebuilding plan for C. bairdi.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM29

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504. • ENHANCED MEASURES TO MITIGATE SEABIRD BYCATCH IN THE ALASKA HOOK-AND-LINE FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would enhance measures designed to mitigate seabird bycatch in the longline fisheries off Alaska.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM30

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505. • STELLER SEA LION CONSERVATION MEASURES FOR THE BSAI AND GOA POLLOCK FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: PR/FR to implement Steller Sea Lion conservation measures for the BSAI and GOA Pollock Fisheries; TAC allocation system for inside/outside critical habitat and E/W 170, overage/underage rollover provisions, revise trip limit regulations for W/C GOA, additional pollock exclusion zones and reductions inside critical habitat A seasons catch.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM32

DOC—NOAA

Proposed Rule Stage

506. • PR/FR VESSEL MONITORING SYSTEM FOR ALEUTIAN ISLAND ATKA MACKEREL FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would implement the vessel monitoring system requirements for Aleutian Island Atka Mackerel to monitor fishery activity inside and outside Steller Sea Lion critical habitat areas.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM34

507. • GULF OF ALASKA GROUNDFISH REGULATORY AMENDMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to reduce maximum retainable bycatch percentages in order to reduce industry incentives for target operations on Gulf of Alaska shortrake/rougheye rockfish when the fishery is closed to directed fishing.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM36

508. • REVISE BSAI BYCATCH MANAGEMENT PROGRAM FOR CHINOOK SALMON

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This Fishery Management Plan amendment would revise the BSAI bycatch management program for chinook salmon.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM38

509. • ALASKA GROUNDFISH FISHERY MANAGEMENT PLAN AMENDMENT TO REVISE IMPROVED RETENTION/IMPROVED UTILIZATION PROGRAM (IR/IU)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revise regulations implementing IR/IU.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM39

510. • SCALLOP LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This Fishery Management Plan (FMP) amendment to the FMP for scallop fisheries off Alaska would implement a license limitation program for scallop fisheries.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Yes

DOC—NOAA

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM42

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511. • RECORDKEEPING AND REPORTING REQUIREMENTS FOR 2000

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would revise the recordkeeping and reporting requirements for the year 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM43

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512. • REGULATORY AMENDMENT TO CHANGE THE REGULATIONS IMPLEMENTING THE NORTH PACIFIC OBSERVER PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This would change the regulations implementing the North Pacific Observer program, including authority to place NMFS personnel onboard fish or processing vessels, revised requirements for shoreside accomodations for observers, and revisions to observe coverage levels.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM44

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513. • RECREATIONAL MEASURES FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would establish the possession limit, size limit, and other management measures for the recreational fisheries for fishing year 2000.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM46

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514. • QUOTAS FOR THE ATLANTIC BLUEFISH FISHERY FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would establish the quotas for Atlantic Bluefish in the exclusive economic zone for fishing year 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM47

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515. • SPECIFICATIONS FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would establish the allowed commercial catch limits as well as other management measures for these fisheries for 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast

DOC—NOAA

Proposed Rule Stage

Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM48

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516. • INITIAL SPECIFICATIONS FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would specify the initial annual amounts of the initial optimum yield as well as the amounts for allowable biological catch, domestic annual harvest, domestic annual processing, joint venture processing, and total allowable levels of foreign fishing for these species.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM49

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517. • FISHING QUOTAS FOR FISHING YEAR 2000 FOR ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone for fishing year 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM50

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518. • FMP AMENDMENT TO REQUIRE FULL RETENTION OF DEMERSAL SHELF ROCKFISH

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP amendment is to require full retention of demersal shelf rockfish to provide State of Alaska fishery managers an enhanced estimate of bycatch rates.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM51

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519. SEA TURTLE MONITORING AND CONSERVATION MEASURES FOR NONSHRIMP FISHERIES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 217; 50 CFR 222; 50 CFR 227

Legal Deadline: None

Abstract: NMFS proposes to protect sea turtles through the implementation of sea turtle conservation measures on nonshrimp fisheries. Bottom trawlers in the mid-Atlantic take sea turtles when not using turtle excluder devices (TEDs) and may jeopardize the continued existence of endangered sea turtles. NMFS proposes to require TEDs in all bottom trawlers operating from Texas through Delaware. Other non-shrimp fisheries using tow lines, gill nets, or other gear probably take significant numbers of sea turtles. In order to better quantify that level of take, NMFS proposes to require observers in all fisheries suspected of taking turtles in all U.S. waters.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Therese Conant, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, SSMC#1, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AE54

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520. TAKING AND IMPORTING OF MARINE MAMMALS: TUNA PURSE SEINE VESSEL OBSERVER EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: NMFS proposes to amend its regulations governing the reimbursement of tuna vessel owners for the cost of carrying NMFS observers (50 CFR 216.24(f)(4)). The regulations require that a U.S.-flag tuna purse seine vessel holding a certificate of inclusion under the general permit issued to the American Tunaboat Association carry an observer when assigned by the Director, Southwest Region, NMFS. The regulations currently require that NMFS reimburse vessel operators for all costs associated with carrying the observers.

DOC—NOAA **Proposed Rule Stage**

The proposed rule change would require that "the vessel owner shall incur all reasonable costs directly related to the quartering and maintaining of such observers on board such vessels."

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 301 980-4001

RIN: 0648–AG35

521. PROPOSED RULE TO PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1372 (c)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This proposed rule would revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Hochman, Permits Analyst, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH26

522. PROPOSED RULE GOVERNING THE ISSUANCE OF PERMITS FOR MARINE MAMMAL PHOTOGRAPHY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will provide for the issuance of permits to take marine mammals by only level B harassment for the purpose of educational or commercial photography.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Trevor Spradlin, Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH31

523. AMEND REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1371 (a)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: The proposed rule implements certain changes in the prohibitions on importing or exporting marine mammals or marine mammal parts and products that occurred with the enactment of the Marine Mammal Protection Act Amendments of 1994 (Pub. L. 104-238). This action prohibits the export of marine mammals or marine mammal products for purposes other than public display, scientific research, or enhancing the survival of a species or stock and establishes three new categories of exceptions to the prohibition on importing marine mammal parts and products. This is a noncontroversial action that is not significant as it will have only minor effects on a small number of people, most of whom will benefit by the new exceptions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom McIntyre, Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH83

524. IMPLEMENTATION OF 1997 MMPA AMENDMENTS AFFECTING YELLOWFIN TUNA PURSE SEINE FISHING IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This rule would implement the 1997 amendments to the Marine Mammal Protection Act (MMPA) regarding regulation of the US yellowfin tuna fishery in the eastern tropical Pacific Ocean, and the regulation of yellowfin tuna into the United States from other nations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Legislation amending the MMPA regarding the yellowfin tuna fishery will require implementation of regulations 3 months after the effective date of the legislation.

DOC—NOAA

Proposed Rule Stage

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI85

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525. ENDANGERED AND THREATENED SPECIES: PROPOSED RULE GOVERNING TAKE OF WEST COAST STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: The regulation will propose section 9(a) prohibitions for endangered species, with certain exceptions for certain benign and beneficial actions for threatened species of west coast steelhead.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: kelly.f.carter@noaa.gov

RIN: 0648–AK94

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526. DETERMINATION OF CRITICAL HABITAT FOR JOHNSON'S SEAGRASS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 227

Legal Deadline: Final, Statutory. The Endangered Species Act requires the designation of critical habitat, if any is designated, within one year of listing a species as threatened or endangered.

Abstract: The Endangered Species Act requires that critical habitat for a threatened or endangered species be designated within one year of listing that species under the Act. NMFS will determine if it will designate critical habitat for Johnson's seagrass, and if so, will designate it.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, SSMC-3, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: marta.nammack@noaa.gov

RIN: 0648–AL82

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527. • DRAFT POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN MAKING LISTING DECISIONS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 16 USC 1531

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A policy to evaluate conservation efforts in making listing decisions under the Endangered Species Act. Policy identifies considerations to be used in determining whether conservation plans and agreements, management plans or other efforts provide sufficient protections to preclude or remove the need to list a species under the ESA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Margaret Lorenz, ESA Policy Coordinator, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: margaret.lorenz@noaa.gov

RIN: 0648–AL91

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528. • RULEMAKING FOR THE TAKING OF MARINE MAMMALS INCIDENTAL TO CONSTRUCTION AND OPERATION OF OFFSHORE OIL AND GAS PLATFORMS IN THE U.S. BEAUFORT SEA

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS has received an application from an oil exploration and development company for an authorization to take marine mammals incidental to oil development in the U.S. Beaufort Sea. This authorization can be granted under the Marine Mammal Protection Act provided the taking of marine mammals is incidental, is having no more than a negligible impact on small numbers of marine mammals and is not having an unmitigable adverse impact on Arctic subsistence needs. If authorization is granted, monitoring and reporting all takings will be required.

Timetable:

Action	Date	FR Cite
ANPRM	02/01/99	64 FR 9965
ANPRM Comment Period End	03/31/99	
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Hollingshead, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055
Fax: 301 713-4060
Email: ken.hollingshead@noaa.gov

RIN: 0648–AM09

DOC—NOAA

Proposed Rule Stage

529. • REDESIGNATION OF CRITICAL HABITAT FOR SNAKE RIVER SPRING/SUMMER CHINOOK

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533 et seq

CFR Citation: 50 CFR 226

Legal Deadline: None

Abstract: On December 28, 1993, the National Marine Fisheries Service (NMFS) designated all river reaches presently or historically accessible to listed Snake River spring/summer chinook salmon (except river reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) as critical habitat. On January 6, 1997, NMFS received a petition to revise critical habitat for Snake River spring/summer chinook salmon in Napias Creek, Idaho. On January 30, 1998, NMFS denied the petition based on information submitted in the petition and NMFS' own analysis. However, new information has since been submitted and NMFS is now proposing to redesignate critical habitat to exclude areas above Napias Creek Falls.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
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RIN: 0648–AM41

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

530. REVISION OF FEDERAL CONSISTENCY REGULATIONS UNDER THE COASTAL ZONE MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1451 et seq

CFR Citation: 15 CFR 930

Legal Deadline: None

Abstract: This rulemaking will revise the Federal consistency regulations to streamline and clarify procedural requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Karl Gleaves, Asst. General Counsel for Ocean Services, Office of General Counsel, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway, 6th Floor, Silver Spring, MD 20910
Phone: 301 713-2967

RIN: 0648–AD83

531. REVISION OF OVERFLIGHT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations are being revised to clarify that they are for resource protection purposes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Moore, Sanctuaries and Resources Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM 2), Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AI91

532. OPERATIONS OF MOTORIZED PERSONAL WATERCRAFT IN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: The National Oceanic and Atmospheric Administration's Sanctuaries and Reserves Division is considering prohibiting the operation of motorized personal watercraft in the marshland areas of the Gulf of the Farallones National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephanie R. Thornton, Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AK01

533. INTERAGENCY CONSULTATION FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 1434(d)

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA plans to issue regulations to implement the Federal-agency requirements of the National Marine Sanctuaries Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Campbell, Attorney-Adviser, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910
Phone: 301 713-2967
Fax: 301 713-4408

RIN: 0648–AL06

DOC—NOAA

Proposed Rule Stage

OFFICE OF THE ADMINISTRATOR

534. POLICIES AND PROCEDURES REGARDING PROGRAM EVALUATION AND COMPETITIVE FUNDING REQUIREMENTS WITHIN THE OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 313; 15 USC 2901 et seq; 33 USC 883e; 33 USC 1121 et seq; 49 USC 44720

CFR Citation: 15 CFR 919 (New)

Legal Deadline: None

Abstract: The Office of Oceanic and Atmospheric Research (OAR) proposes regulations on its policies and procedures for program evaluation, the solicitation, review, and approval of proposals, and conflict of interest. These proposed regulations will provide the basic principles, objectives, and procedural framework for the evaluation of OAR programs, standardize the procedures for generating, evaluating, and selecting proposals sponsored within OAR that are subject to open competition, and establish procedures for identifying and handling conflicts of interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Eugene S. Fritz, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Oceanic and Atmospheric Research, Program Development and Coordination, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-0460
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Email: gene.fritz@noaa.gov

RIN: 0648–AL45

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

NATIONAL MARINE FISHERIES SERVICE

535. IMPLEMENT REGULATIONS UNDER ACFCMA TO PROVIDE FOR COORDINATED MANAGEMENT OF THE AMERICAN LOBSTER RESOURCE THROUGHOUT ITS RANGE, END OVERFISHING, AND REBUILD THE AMERICAN LOBSTER STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1851 et seq

CFR Citation: 50 CFR 697

Legal Deadline: Final, Statutory.

Abstract: Action proposes measures in Federal waters to complement regulations in Amendment 3 to the Interstate Fishery Management Plan for American lobster under the authority of the Atlantic Coastal Fisheries Cooperative Management Act. Action proposes to transfer existing measures currently identified in the American Lobster Fishery Management Plan developed by the New England Fishery Management Council under the authority of the Magnuson-Stevens Act. In addition, this action proposes to address the Sustainable Fisheries Act requirements to end overfishing of American lobster by all methods of harvest in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	01/15/99	64 FR 2708
NPRM Comment Period End	02/10/99	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: The measures previously contained in Amendment 7 are contained in this action. Amendment 7 to the Fishery Management Plan for American Lobster will contain measures for the vessel permit consistency amendment (0648-AL36).

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AH41

536. REGULATORY AMENDMENT TO EXTEND CALIFORNIA GILLNET REGULATIONS TO THE EEZ

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.

Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Potential extension to Federal waters of California regulations closing certain areas to use of set (gill) nets.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AJ21

537. INTERIM FINAL RULE TO CONSOLIDATE THE RULES FOR SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC AND STONE CRAB FISHERY OF THE GULF OF MEXICO WITH 50 CFR 622

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

DOC—NOAA **Final Rule Stage**

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS had proposed to withdraw the Fishery Management Plans for Spiny Lobster and Stone Crab (FMPs). The regulations implementing these FMPs were not included in the consolidated regulations for Fisheries of the Caribbean, Gulf, and South Atlantic at 50 CFR part 622. Recently, NMFS withdrew the proposed rules that would have withdrawn the FMPs. This final rule will incorporate the rules implementing these FMPs in the consolidated regulations without substantive change.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301
Fax: 727 570-5300

RIN: 0648–AJ28

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538. GUIDELINES FOR THE DESCRIPTION, IDENTIFICATION, CONSERVATION, AND ENHANCEMENT OF ESSENTIAL FISH HABITAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: Final, Statutory, April 11, 1997.

Abstract: Guidelines to assist Fishery Management Councils in the description and identification of essential fish habitat (EFH), including adverse impacts on EFH, and in the consideration of actions to conserve and enhance EFH, in fishery management plans.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/96	61 FR 57843
ANPRM Comment Period End	12/09/96	
ANPRM	01/09/97	62 FR 1306
ANPRM Comment Period End	02/12/97	
NPRM	04/23/97	62 FR 19723
NPRM Comment Period End	07/08/97	
Interim Final Rule	12/19/97	62 FR 66531
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James P. Burgess, Director, Office of Habitat Conservation, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3282
Phone: 301 713-2325
Fax: 301 713-1043
Email: james.burgess@noaa.gov

RIN: 0648–AJ30

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539. IMPLEMENTATION OF A FISHERY MANAGEMENT PLAN FOR MONKFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Action to implement management measures for monkfish in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7601
NPRM Comment Period End	03/26/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AJ44

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540. FISHERY MANAGEMENT PLAN FOR ATLANTIC HIGHLY MIGRATORY SPECIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: This action will implement a new Fishery Management Plan for Atlantic tunas, sharks, and swordfish; Amendment 1 to the Fishery Management Plan for Billfish; and requirements of the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	01/20/99	64 FR 3154
NPRM Comment Period End	03/04/99	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ67

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541. FINAL DEFINITION OF THE ZERO MORTALITY RATE GOAL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 229

Legal Deadline: None
NMFS must initiate a report to Congress on fisheries progress towards the Zero Mortality Rate Goal by April 30, 1997.

Abstract: The Marine Mammal Protection Act, as amended in 1994, requires that commercial fisheries reduce incidental serious injury and mortality of marine mammals to insignificant levels approaching a zero mortality and serious injury rate by April 30, 2001. This interim final rule provides the regulatory definition of the

DOC—NOAA

Final Rule Stage

Zero Mortality Rate Goal as part of the new management regime for the unintentional taking of marine mammals incidental to commercial fishing operators.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 31666
NPRM Comment Period End	09/14/95	
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Hwy., Silver Spring, MD 20910
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Fax: 301 713-0376
Email: cathy.eisele@noaa.gov

RIN: 0648–AJ84

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542. ENDANGERED AND THREATENED SPECIES: TAKE OF THREATENED SOUTHERN OREGON/NORTHERN CALIFORNIA COAST EVOLUTIONARILY SIGNIFICANT UNIT (ESU) COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq to 16 USC 1543 et seq subpart B Sec 227.12; 16 USC 1361 et seq

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: On May 6, 1997, NMFS listed the Southern Oregon/Northern California Coast ESU of coho salmon as threatened. NMFS is now issuing protective regulations under section 4(d) of the ESA which will apply section 9(a) prohibitions to all activities within this ESU unless: in compliance with section 10 or other exemptions under the ESA; in accordance with a timely application for a permit for scientific purposes to enhance propagation or survival of the species; or within carefully circumscribed harvest hatchery, research and monitoring, or habitat restoration activity exceptions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/18/97	62 FR 38479
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kellie Carter, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: kelly.f.carter@noaa.gov

RIN: 0648–AJ91

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543. PROPOSED RULE ON TAKING MARINE MAMMALS INCIDENTAL TO POWER PLANT OPERATIONS AT SEABROOK, NEW HAMPSHIRE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS has received an application under the Marine Mammal Protection Act for the taking of seals incidental to power plant operations from North Atlantic Energy Corporation over the next five year period. In order to authorize the taking, NMFS must determine that the mortality of several species of seals will not be more than negligible.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/97	62 FR 39799
ANPRM Comment Period End	08/25/97	
NPRM	08/25/98	63 FR 45213
NPRM Comment Period End	10/09/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055
Fax: 301 713-0376

RIN: 0648–AK00

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544. IMPLEMENTATION OF AMENDMENT 5 TO THE FISHING MANAGEMENT PLAN FOR THE BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES OF THE WESTERN PACIFIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 5 would establish a permanent limited access program for the Mau Zone Bottomfish fishery in the Northwestern Hawaiian Islands. The intent of this action is to conserve and to support the long-term productivity of the bottomfish stocks by preventing the potential for excessive harvest capacity and to improve the low economic returns in the fishery.

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 823
NPRM Comment Period End	02/22/99	
Final Action	04/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AK21

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545. ADDITIONAL MEASURES OF AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC—PROCEDURES FOR TESTING AND CERTIFICATION OF BYCATCH REDUCTION DEVICES (BRDS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory.

DOC—NOAA

Final Rule Stage

Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: All measures of Amendment 2 were approved by the National Marine Fisheries Service (NMFS) on February 24, 1997. Under Amendment 2, BRDs certified by the NMFS are required to be used in all penaeid shrimp trawls in the exclusive economic zone (EEZ) in the South Atlantic (EEZ off North Carolina to Florida inclusive). The final rule to implement Amendment 2, effective April 21, 1997, certified three BRDs for such use (73 FR 18536). Amendment 2 specifies that a testing protocol would be developed so that additional BRDs could be tested and implemented, if they meet the bycatch reduction criterion for Spanish mackerel and weakfish (must reduce bycatch by 40 percent in number of weakfish and Spanish mackerel). The testing protocol was not completed when the proposed rule to implement Amendment 2 was published but was published with the final rule. This action would implement that part of Amendment 2 allowing testing of new BRDs and would specify that a person who proposes a BRD for certification must test such BRD and submit the results to the Regional Administrator, Southeast Region, NMFS, in accordance with the "Bycatch Reduction Device Testing Protocol Manual" which contains the testing protocol and the specific reporting requirements for the test results.

Timetable:

Action	Date	FR Cite
NPRM	06/03/98	63 FR 30174
NPRM Comment Period End	07/06/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK29

546. AMENDMENT 16A TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 16A would: (1) prohibit the use of fish traps south of 25 degree north latitude (near Cape Sable, FL) on February 7, 2001; (2) prohibit the possession of reef fish exhibiting the condition of trap rash on board a reef fish vessel that is fishing spiny lobster or stone crab traps without a valid fish trap endorsement; (3) specify that NMFS establish a system design, implementation schedule, and protocol for a vessel monitoring system for the fish trap fishery. The system design, including costs and implementation schedule, would have to be approved by the Council prior to implementation through additional proposed and final rules; (4) provide a 1-month fish trap inspection/compliance/education period; and (5) require fish trap vessels to submit trip initiation and trip termination reports.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK31

547. REGULATORY AMENDMENT FOR A BYCATCH REDUCTION DEVICE (BRD) TESTING AND CERTIFICATION PROTOCOL UNDER AMENDMENT 9 TO THE FMP FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 9: Requires the use of BRDs certified by the National Marine Fisheries Service (NMFS) in most shrimp trawls used in the exclusive economic zone of the Gulf of Mexico shoreward of the 100-fathom depth contour west of Cape San Blas, Florida; sets the bycatch reduction criterion for the certification of BRDs (BRDs must reduce the bycatch mortality of juvenile red snapper by at least 44 percent from a prescribed baseline level); and establishes an FMP framework procedure for modifying the bycatch reduction criterion, for establishing and modifying the BRD testing protocol and its specifications, and for certifying and decertifying BRDs. Amendment 9 is intended to significantly reduce the shrimp fishery bycatch of red snapper (and other finfish) to allow rebuilding of this valuable, overfished species. The subject action would amend the final rule to implement Amendment 9 to establish, consistent with the FMP's framework procedure, a BRD testing and certification protocol to be used by NMFS for certifying new or modified BRDs.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive No., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK32

DOC—NOAA

Final Rule Stage

548. PROPOSED HIGHLY MIGRATORY SPECIES PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: NMFS proposes to revise the administrative procedures it follows to prepare and issue highly migratory species (HMS) management plans (FMPs), FMP amendments and implementing regulations for the Atlantic Ocean, Gulf of Mexico and Caribbean Sea in response to recent amendments to the Magnuson-Stevens Fishery Management Act.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 48990
NPRM Comment Period End	10/15/97	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AK40

549. ENDANGERED AND THREATENED SPECIES: PROPOSED THREATENED STATUS AND DESIGNATED CRITICAL HABITAT FOR WEST COAST SOCKEYE SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 226; 50 CFR 227

Legal Deadline: Final, Statutory.

Abstract: NMFS has completed a comprehensive review of west coast sockeye salmon in Washington, Oregon and California and has identified 6 evolutionarily significant units (ESUs) within this range. NMFS is now fashioning a proposed rule to list one ESU as threatened under the Endangered Species Act. NMFS is also proposing critical habitat which will encompass the species current freshwater and estuarine range.

Timetable:

Action	Date	FR Cite
NPRM	03/10/98	63 FR 11750
NPRM Comment Period End	06/30/98	63 FR 30455
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: kelly.f.carter@noaa.gov

RIN: 0648–AK52

550. ENDANGERED AND THREATENED SPECIES: PROPOSED ENDANGERED STATUS AND DESIGNATED CRITICAL HABITAT FOR COASTWIDE CHUM SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 226; 50 CFR 227

Legal Deadline: Final, Statutory, March 10, 1999.

Abstract: NMFS has completed a comprehensive status review for chum salmon populations in Washington, Oregon and California and has identified evolutionarily significant units (ESUs) within the range. NMFS is now issuing a proposed rule to list appropriate ESUs under the Endangered Species Act. NMFS is also proposing critical habitat for ESUs proposed for listing.

Timetable:

Action	Date	FR Cite
NPRM	03/10/98	63 FR 11773
NPRM Comment Period End	06/30/98	63 FR 30455
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
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Fax: 301 713-0376
Email: kelly.f.carter@noaa.gov

RIN: 0648–AK53

551. VMS PILOT PROGRAM FOR ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: NMFS proposes to implement a vessel monitoring system (VMS) pilot program for Atlantic swordfish in 1998. Vessels with a standard-C VMS unit on board will be issued a special permit to retain on board swordfish greater than the incidental catch limit after the directed fishery has been closed.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AK90

552. FISHERY DISASTER RELIEF

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: NOAA plans to issue an interpretative rule on disaster assistance under section 312(a) of the Magnuson-Stevens Act.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOC—NOAA **Final Rule Stage**

Agency Contact: Michael L. Grable, Chief, Financial Services Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2390
Fax: 301 713-1939

RIN: 0648–AL13

553. REGULATORY AMENDMENT TO THE HALIBUT COMMUNITY DEVELOPMENT QUOTA PROGRAM - DEFINITION OF MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This regulatory amendment would define management measures for the halibut CDQ fisheries after 1998 and remove regulations in the multispecies groundfish CDQ regulations that expire on December 31, 1998. These regulatory amendments are necessary to integrate the three CDQ fisheries that are being managed separately in 1998 (fixed gear halibut and sablefish, pollock, and the multispecies groundfish) into one CDQ program starting in 1999.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th Street, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL21

554. VESSEL PERMIT CONSISTENCY AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment to achieve consistency among Northeast Region Fishery Management Plans regarding fishing vessel permits transfer, replacement, and upgrade provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/13/98	63 FR 63436
NPRM Comment Period End	12/28/98	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL36

555. ATLANTIC STURGEON EEZ REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 5101 et seq

CFR Citation: 50 CFR 697

Legal Deadline: None

Abstract: NMFS is issuing protective regulations for Atlantic Sturgeon in the exclusive economic zone (EEZ) under the Atlantic Coastal Fisheries Cooperative Management Act. These regulations would prohibit the harvest and possession of Atlantic Sturgeon in the EEZ.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Meyer, Fisheries Biologist, Office of Intergovernmental/Recreational Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910
Phone: 301 427-2014
Fax: 301 427-2313

RIN: 0648–AL38

556. BSAI/GOA/KTC/SCALLOP FISHERY MANAGEMENT PLAN (FMP) AMENDMENTS 55/55/8/5 ESSENTIAL FISH HABITAT DEFINITIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final Regulations to be published within 30 days of end of NPRM Comment Period

Abstract: This action would amend each FMP to include definitions of essential fish habitat for each managed species or species complex included within the FMP. For the Alaska Region, these amendments are not considered controversial and are expected to be supported by the fishing community. A significant majority of oral and written comments received thus far has supported the amendments and suggest the inclusion of additional species within the definition. None of the EFH amendments contain regulatory measures with which the fishing and non-fishing communities must comply. If the EFH amendments are approved, Federal action agencies must consult with NMFS if a Federal Action may adversely affect EFH.

Timetable:

Action	Date	FR Cite
NPRM	10/22/98	63 FR 56601
NPRM Comment Period End	12/21/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL40

DOC—NOAA

Final Rule Stage

557. COMPREHENSIVE AMENDMENT ADDRESSING ESSENTIAL FISH HABITAT IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: The comprehensive habitat amendment will identify essential fish habitat (EFH) for the shrimp, red drum, snapper-grouper, coastal migratory pelagics, coral, coral reefs, and live/hard bottom resources, spiny lobster, golden crab, sargassum, and calico scallop fisheries of the South Atlantic Region. EFH-habitat areas of particular concern will be identified and regulations designed to reduce or eliminate the impact of fisheries on EFH will be presented.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AL43

558. IMPLEMENTATION OF AMENDMENTS TO FOUR WESTERN PACIFIC FISHERY MANAGEMENT PLANS TO ADDRESS NEW REQUIREMENTS OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See "Additional Information"

Abstract: This action will ensure that the definitions in all the Western Pacific Fishery Management Plans (four) conform with the Magnuson-Stevens Fishery Conservation & Management Act definitions; the FMPs address bycatch and bycatch mortality issues; the FMPs describe the likely effects of management measures on fishing communities affected by the FMPs; the FMPs include measurable criteria to determine whether a fishery is overfished; the FMPs identify commercial, recreational, and charter fishing activity in each sector, and identify pertinent data associated with the fishing activity in each sector; and the FMPs identify essential fish habitat/areas of particular concern for management unit species.

Timetable:

Action	Date	FR Cite
NPRM	11/05/98	63 FR 58758
NPRM Comment Period End	01/04/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AL49

559. AMENDMENT 11 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See "Additional Information"

Abstract: Draft Amendment 11 proposes to redefine "overfishing," "overfished," "optimum yield," and other terms; and would revise the procedures for setting annual harvest levels. The amendment would describe and identify essential fish habitat and establish procedures for implementing regulations to minimize adverse effects of fishing on such habitat. The amendment would also identify procedures for implementing regulations to reduce bycatch and to establish permits for fishing for or processing groundfish should the Council determine that additional permit requirements would be beneficial. The amendment would also authorize reserving a portion of the acceptable biological catch for use in scientific research.

Timetable:

Action	Date	FR Cite
NPRM	02/10/99	64 FR 6597
NPRM Comment Period End	03/29/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C157000, Bldg 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL52

560. 1999-2000 MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

DOC—NOAA **Final Rule Stage**

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: Annual management measures for the 1999-2000 fishing year would specify allowable ocean harvest levels (including quotas), allocations, management boundaries and zones, minimum size limits, gear definitions, seasons, selective fisheries, and in-season notice procedures.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL64

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561. REGULATORY AMENDMENT TO IMPLEMENT A LIMITED ACCESS PROGRAM THAT REQUIRES SPECIES ENDORSEMENTS TO PARTICIPATE IN FISHERIES TARGETING CERTAIN GROUNDFISH SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would implement species-specific permit endorsement requirements for commercial groundfish fisheries. Limited entry permit holders would be either allowed to or prohibited from landing those species, based on historic dependence on those species.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL65

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562. REGULATORY AMENDMENT TO ALLOW LIMITED ENTRY TRAWLERS TO RETAIN GROUNDFISH TAKEN IN EXCESS OF CUMULATIVE TRIP LIMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would allow limited entry groundfish trawlers to retain groundfish taken in excess of cumulative trip limits. Groundfish in excess of trip limits, "overage," would be sold to designated processors, at no profit to the fisher. Proceeds from the sale of groundfish overages would be placed in a fund managed by the Pacific States Marine Fisheries Commission. This fund will be used to conduct research on Pacific coast groundfish stocks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0700
Phone: 206 526-6150

RIN: 0648–AL68

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563. REGULATORY AMENDMENT TO ALLOCATE LINGCOD AND BOCACCIO ROCKFISH BETWEEN COMMERCIAL AND RECREATIONAL GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would set allocations of lingcod and bocaccio rockfish between the commercial and recreational fisheries for Pacific Coast groundfish.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL69

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564. FISHERY MANAGEMENT PLAN FOR CALICO SCALLOP FISHERY IN THE SOUTH ATLANTIC REGION

Priority: Economically Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The FMP could include the following measures: (1) Definitions of management unit, MSY, OY, and overfishing, (2) requiring a vessel permit to harvest or possess calico scallops in or from the South Atlantic EEZ, (3) establishment of Essential Fish Habitat for Calico Scallops, (4) prohibit harvest of calico scallops in the area bounded to the West by 80 degrees W. Longitude, to the North by 28 degrees 30' N. Latitude, to the South by 27

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degrees 30' N. Latitude, and to the East by the 100 fathom depth contour, and (5) require use of transponders by calico scallop vessels.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL78

565. REGULATORY AMENDMENT TO ESTABLISH TOTAL ALLOWABLE CATCH LIMITS FOR THE ATLANTIC AND GULF OF MEXICO GROUPS OF KING AND SPANISH MACKEREL FOR THE 1998-99 FISHING YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment prepared under the framework rulemaking procedure of the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), would amend the regulations implementing the FMP to establish the total allowable catch limits and associated measures (e.g., trip and bag limits) for Atlantic and Gulf groups of King and Spanish mackerel for the 1998-1999 fishing year.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL80

566. • FMP AMENDMENT FOR THE COMMERCIAL KING AND TANNER CRAB FISHERIES OF THE BSAI AND SCALLOP FISHERIES OFF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Regulations to be published within 30 days of the end of NPRM comment period.

Abstract: This action would amend the Fishery Management Plans for Scallop and Commercial King and Tanner Crabs in the BSAI to comply with the Sustainable Fisheries Act overfishing definition requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/24/98	63 FR 66112
NPRM Comment Period End	02/01/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th Street, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL89

567. • AMENDMENT TO REQUIRE A SPECIFIC VESSEL NAME BE INCLUDED ON A LICENSE FOR A VESSEL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to require a specific vessel name be issued under the license limitation program.

Timetable:

Action	Date	FR Cite
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL96

568. • FRAMEWORK ADJUSTMENT 28 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY (FMP) TO PROVIDE CONSISTENCY BETWEEN THE HARBOR PORPOISE TAKE REDUCTION PLAN AND THE FMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: Framework Adjustment 28 would implement management measures to provide for consistency between the Harbor Porpoise Take Reduction Plan recently implemented by NMFS under the MMPA and the FMP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM10

DOC—NOAA **Final Rule Stage**

569. • AMENDMENT 1 TO THE ATLANTIC SALMON FISHERY MANAGEMENT PLAN (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1851 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rule would establish a framework process to add or adjust Atlantic salmon aquaculture management measures, if necessary, to meet the goals and objectives of the Atlantic Salmon Fishery Management Plan.

Timetable:

Action	Date	FR Cite
NPRM	02/05/99	64 FR 5754
NPRM Comment Period End	03/22/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM13

570. • 2000 HARVEST GUIDELINES FOR THE NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: This action announces the 2000 harvest guidelines for the Northwestern Hawaiian Islands crustacean fishery. The guidelines are calculated according to the formula in the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region.

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AM16

571. • ADDENDUM TO FISHERY MANAGEMENT PLAN FOR HIGHLY MIGRATORY SPECIES (HMSFMP)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 285; 50 CFR 630; 50 CFR 635; 50 CFR 644; 50 CFR 678

Legal Deadline: None

Abstract: NMFS proposes to implement an addendum to the draft HMS FMP, specifically to set Atlantic bluefin tuna (EFT) quotas and effort controls and to close off certain areas to pelagic longline gear.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AM17

572. • FISHING PARTICIPATION IN 1999 IN NON-SALMON FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Anyone participating in any non-salmon fishery in the North Pacific EEZ during 1999 will not be assured of participation credit for future access under a limited access regime.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/99	64 FR 2870
ANPRM Comment Period End	02/18/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM18

573. • REGULATORY AMENDMENT TO ALLOCATE A PORTION OF THE 1999 OPTIMUM YIELD SPECIFICATION FOR PACIFIC WHITING TO WASHINGTON COASTAL TRIBAL FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rule would allocate a portion of the 1999 optimum yield specification (formerly called "harvest guideline") for Pacific whiting to Washington coastal tribal fisheries. This rule is intended to accommodate the Washington coastal treaty tribes rights to Pacific whiting and to provide equitable allocation of the whiting resource and thereby promote the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan.

Timetable:

Action	Date	FR Cite
NPRM	01/08/99	64 FR 1341
NPRM Comment Period End	02/08/99	
Final Action	04/00/99	

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Final Rule Stage

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, Washington 98115-0070
Phone: 206 526-6150

RIN: 0648–AM19

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574. • NORTHERN ANCHOVY FISHING; QUOTAS FOR THE 1999 AND 2000 FISHING YEAR (ANNUAL SPECIFICATIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: This final rule would implement harvest quotas for the northern anchovy fishery for the 1999-2000 season. These specifications would include quotas for the reduction and non-reduction fisheries and a total allowable level of foreign fishing. These harvest quotas are issued in accordance with procedures for annual specifications under the Northern Anchovy Fishery Management Plan as recommended by the Pacific Fishery Management Council.

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90804-4213
Phone: 562 980-4001

RIN: 0648–AM20

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575. • PACIFIC COAST GROUNDFISH FISHERY; ANNOUNCEMENT OF THE 2000 GROUNDFISH FISHERY SPECIFICATIONS AND MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: This action will announce the 2000 fishery specifications and management measures for groundfish taken in the exclusive economic zone and state waters off the coasts of Washington, Oregon and California. The specifications will include the levels of the acceptable biological catch and optimum yields, including the distribution between domestic and foreign fishing operations.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0700
Phone: 206 526-6150

RIN: 0648–AM21

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576. • FRAMEWORK ADJUSTMENT TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY TO ALLOW CONTROLLED ACCESS TO THE GEORGES BANK GROUNDFISH CLOSED AREAS BY SCALLOP VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1851 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This Framework Adjustment would exempt scallop vessels from certain areas of the Georges Bank closure areas. Groundfish bycatch will be taken into account when considering the areas to be opened.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM24

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577. • FRAMEWORK ADJUSTMENT TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOPS TO ALLOW CONTROLLED ACCESS TO THE GEORGES BANK GROUNDFISH CLOSED AREAS BY SCALLOP VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1851 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This framework action would implement management measure to allow scallop vessels into certain areas of the Georges Bank closure areas. This action would ensure that sea scallop conservation is not compromised, while taking into consideration both multispecies bycatch and habitat concerns.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM25

DOC—NOAA **Final Rule Stage**

578. • EMERGENCY RULE FOR STELLER SEA LION CONSERVATION MEASURES FOR BSAI AND GOA POLLOCK FISHERIES DURING SECOND HALF OF 1999

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This emergency rule will implement reasonable and prudent alternatives to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller Sea Lions or adversely modify their critical habitat.

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM33

579. PERFORMANCE STANDARDS FOR TUNA VESSEL OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NOAA has established a system of performance standards for operators of U.S.-flag tuna purse seine fishing vessels that catch yellowfin tuna associated with marine mammals in the eastern tropical Pacific Ocean.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	54 FR 46086
NPRM Comment Period End	12/01/89	
Interim Final Rule	05/17/90	55 FR 20458
Interim Final Rule Comment Period End	09/03/90	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4018

RIN: 0648–AD03

580. TAKING AND IMPORTING OF MARINE MAMMALS; DOLPHIN MORTALITY LIMITS DURING PURSE SEINE SETS ON MARINE MAMMALS IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This interim final rule will amend the current performance standards in the Marine Mammal Protection Act (MMPA) regulations to ensure that U.S. vessels can be legally prevented from making sets on tuna associated with dolphins in the eastern tropical Pacific Ocean once the vessel's dolphin mortality limit is reached. This rule also implements portions of the International Dolphin Conservation Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/93	58 FR 29127
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AF07

581. TAKING AND IMPORTING OF MARINE MAMMALS; "DOLPHIN-SAFE" TUNA LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216; 50 CFR 247

Legal Deadline: None

Abstract: This rule will finalize the interim final rule implementing the Dolphin Protection Consumer Information Act. The interim final rule: (1) identified fish and fish products subject to importation requirements mandated by the Marine Mammal Protection Act, as amended by the DPCIA; (2) specified the use and contents of a new NOAA form required to import into the United States certain fish and fish products potentially harvested with methods injurious to marine mammals; (3) required importers of certain fish and fish products harvested by nations that engage in high seas large-scale driftnet fishing to provide certification by a responsible government official of the harvesting nation that the items to be imported were not harvested with large-scale driftnets in certain areas of the high seas; and (4) regulated the use of labels suggesting that tuna products are "dolphin safe." This rule also implements portions of the High Seas Driftnet Fisheries Enforcement Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/91	56 FR 47418
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4018

RIN: 0648–AF08

582. DESIGNATED CRITICAL HABITAT; PACIFIC STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

DOC—NOAA

Final Rule Stage

Legal Deadline: NPRM, Statutory, February 16, 1995. Final, Statutory, August 18, 1998.
Endangered Species Act section 4(b)(3)(D)(ii). If steelhead are listed under the ESA by 8/9/97, then critical habitat designation will be due 8/9/98.

Abstract: This rule will propose critical habitat for 9 stocks of Pacific Steelhead as follows: 5 stocks listed under Endangered Species Act on 8/18/97 2 stocks listed on 3/18/98, and 2 stocks proposed for listing on 3/10/98. (62 FR 43937, 63 FR 13347, 63 FR 11798 respectively)

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Lierheimer, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR3, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: lisa.lierheimer@noaa.gov

RIN: 0648–AG49

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583. DESIGNATED CRITICAL HABITAT; CENTRAL CALIFORNIA COAST AND SOUTHERN OREGON/NORTHERN CALIFORNIA COAST COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: Final, Statutory, October 31, 1997.
Critical habitat designation for central California coast coho salmon is due one year after the listing, or 10/31/97.
Critical habitat designation for Southern Oregon/Northern (cont)

Abstract: NMFS proposed to designate critical habitat for two Evolutionarily Significant Units (ESUs) of coho salmon (Oncorhynchus kisutch) pursuant to the Endangered Species Act (ESA) of 1973. Critical habitat for the Central California Coast ESU encompasses accessible reaches of all rivers (including estuarine areas and tributaries) between Punta Gorda and the San Lorenzo River (inclusive) in California. Also included are two rivers entering San Francisco Bay: Mill Valley Creek and Corte Madera Creek. Critical habitat for the Southern Oregon/Northern California Coast ESU encompasses accessible reaches of all rivers (including estuarine areas and tributaries) between the Mattole River in California and the Elk River in Oregon, inclusive.

Timetable:

Action	Date	FR Cite
NPRM	06/10/98	63 FR 23710
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: LEGAL DEADLINE CONT: California coast coho salmon is due one year after the listing, or 5/6/98.

Agency Contact: Kellie Carter, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR3, Silver Spring, MD 20910
Phone: 301 713-1401
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RIN: 0648–AG56

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584. TAKING AND IMPORTING OF MARINE MAMMALS: PROPOSED RULE PROHIBITING U.S. CITIZENS FROM ENCIRCLING MARINE MAMMALS DURING TUNA FISHING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: NPRM, Statutory. Final, Statutory, March 1, 1994.

Abstract: This rule proposes implementation of section 307 (a)(2) of the International Dolphin Conservation Act, which makes it unlawful for any person or vessel that is subject to the jurisdiction of the United States, intentionally to set a purse seine net or to encircle any marine mammal during any tuna fishing operation, with certain exceptions.

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51552
NPRM Comment Period End	11/14/94	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4018

RIN: 0648–AH04

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585. FINAL RULE TO ESTABLISH GUIDELINES FOR NONLETHALLY DETERRING MARINE MAMMALS FROM ENDANGERING PERSONAL SAFETY OR DAMAGING PUBLIC OR PRIVATE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law implemented a new section 101(a)(4) to authorize the nonlethal harassment takings by citizens of the United States to deter marine mammals from: (1) Damaging commercial fishing gear or catch; (2) damaging private property; (3) endangering public safety; or (4) damaging public property. The amendments require a list of guidelines for use in safely deterring marine mammals and provide for prohibiting certain deterrent measures that may have a significant adverse impact on marine mammals.

Timetable:

Action	Date	FR Cite
NPRM	05/05/95	60 FR 22345
NPRM Comment Period End	07/05/95	
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOC—NOAA

Final Rule Stage

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055

RIN: 0648–AH19

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586. GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH INVOLVING LEVEL B HARASSMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 16 USC 1151 et seq Fur Seal Act; 16 USC 1631 et seq Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, August 30, 1994.

Abstract: This final rule is required by the 1994 amendments to the Marine Mammal Protection Act. These regulations establish a general authorization for bona fide scientific research on non-endangered and non-threatened marine mammals that may result in harassment with only the potential to disturb. Inclusion under the general authorization is achieved by letter of intent to the National Marine Fisheries Service and a letter of confirmation from the Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/94	59 FR 50372
Interim Final Rule Comment Period End	11/17/94	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Ruth Johnson, Marine Resources Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2289

RIN: 0648–AH20

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587. NORTH ATLANTIC RIGHT WHALE PROTECTION; INTERIM FINAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 742 et seq; 16 USC 1361 et seq; 16 USC 1531 et seq

CFR Citation: 50 CFR 222; 50 CFR 217

Legal Deadline: Final, Judicial, February 7, 1997.
This deadline is motivated by the Strahan v. Linnon litigation.

Abstract: Disturbance has been identified in the Final Recovery Plan for the Northern Right Whale (Recovery Plan) as among the principal human-induced factors impeding right whale recovery. Accordingly, as recommended in the Recovery Plan, NMFS is establishing a minimum approach distance to northern right whales in an attempt to reduce the current level of disturbance and potential for vessel interaction and injury. Specifically, this interim final rule will prohibit approaches within 500 yards (460m) of a right whale, whether by vessel, aircraft or other means. The rule will require right whale avoidance measures if a vessel or aircraft is within the restricted area. Generally, vessels are required to immediately depart from the whale. Exceptions are provided for emergency situations, where certain authorizations are provided, for aircraft operations (unless the aircraft is conducting whale watch activities), for certain right whale disentanglement/rescue efforts and investigations, and for a vessel restricted in its ability to maneuver and unable to comply with the right whale avoidance measures.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/94	59 FR 66513
ANPRM Comment Period End	02/27/95	
NPRM	08/07/96	61 FR 41116
NPRM Comment Period End	11/07/96	
Interim Final Rule	02/13/97	62 FR 6729
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margot Bohan, Marine Mammal Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322

RIN: 0648–AH47

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588. FINAL POLICIES FOR SAFE HARBOR AND CANDIDATE CONSERVATION AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 222

Legal Deadline: None

Abstract: The National Marine Fisheries Service and the Fish and Wildlife Service jointly proposed these policies to allow non-Federal landowners to obtain ESA section 10(a)(1)(A) enhancement of survival permits associated with a Safe Harbor or CSC Agreement. They would be between the Services and non-Federal landowners to provide a net conservation benefit to endangered species. After terms of the Agreement are completed, the enrolled lands could be returned to the baseline or agreed upon conditions through incidental taking authorized in the permit. These enhancement permits will provide non-Federal landowners, who take voluntary conservation activities agreed to in the agreements, assurances that future land use will not be restricted as a result of their conservation efforts. The enhancement of survival permits would authorize the incidental taking in performing management actions to achieve the net conservation benefit as well as incidental take authorized to return the land to target conditions upon the completion of all the management actions. Participating landowners will derive regulatory certainty, because the ESA will not prohibit them from returning their land to original or agreed upon conditions once the Agreement is fulfilled. The Agreements encourage beneficial land-use, which helps imperiled species. The FWS has its own permit regulations and has made a similar request under E.O. 12866; the request number is RIN 108-AD95.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 32189
NPRM Comment Period End	08/11/97	
Final Action	05/00/99	
Final Action Effective	06/00/99	

DOC—NOAA

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Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Margaret Lorenz, ESA Policy Coordinator, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AJ54

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589. ENDANGERED AND THREATENED SPECIES; STATUS OF CHINOOK SALMON IN WASHINGTON, IDAHO, OREGON AND CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 222; 50 CFR 226; 50 CFR 227

Legal Deadline: NPRM, Judicial, February 26, 1998. Final, Statutory, March 9, 1999.

Abstract: NMFS has completed a comprehensive status review of west coast chinook salmon populations in Washington, Oregon, Idaho and California. NMFS has identified 15 Evolutionarily Significant Units (ESUs) of chinook within this range. Seven ESUs are proposed for listing and critical habitat is proposed for designation for the ESUs proposed for listing.

Timetable:

Action	Date	FR Cite
NPRM	03/09/98	63 FR 11482
NPRM Comment Period End	06/30/98	63 FR 30455
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This rule was formerly under RIN 0648-AK65.

Agency Contact: Lisa Lierheimer, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: lisa.lierheimer@noaa.gov

RIN: 0648–AK02

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590. NORTH ATLANTIC RIGHT WHALE PROTECTION

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: Final, Statutory, July 15, 1997.
Court mandated deadline.

Abstract: NMFS issued an interim final rule implementing a take reduction plan to reduce serious injury and mortality to large whale species on July 22, 1997 (62 FR 3915). Fisheries covered by the plan are the multispecies groundfish gillnet fisheries in the Gulf of Maine; the Gulf of Maine lobster fisheries; the mid-Atlantic coastal gillnet fisheries; and the shark driftnet fishery.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/97	62 FR 3915
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Greg Silber, Fisheries Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322

RIN: 0648–AK41

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591. DEFINITION OF HARM UNDER THE ESA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: This proposed rule defines the term "harm" which is contained in the Endangered Species Act. The purpose of this rulemaking is to help resolve uncertainty concerning the type of harm that may result in a take of a listed species under the ESA.

Timetable:

Action	Date	FR Cite
NPRM	05/01/98	63 FR 24148
NPRM Comment Period End	06/30/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Mobley, Salmon Coordinator, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: chris.mobley@noaa.gov

RIN: 0648–AK55

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592. SEA TURTLE CONSERVATION; SHRIMP TRAWLING REQUIREMENTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 222; 50 CFR 223

Legal Deadline: None

Abstract: The interim final rule allows the use of Soft Turtle Excluder Devices (TEDs) in the Southeastern and Gulf of Mexico Shrimp fishery.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/13/98	63 FR 17948
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Therese Conant, Fisheries Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: therese.conant@noaa.gov

RIN: 0648–AK66

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593. PACIFIC OFFSHORE CETACEAN TAKE REDUCTION PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: This interim final rule would allow vessel operators participating in

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Final Rule Stage

the California/Oregon drift gillnet fishery for thresher shark and swordfish to use longer lines to attach pingers to the nets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/22/99	64 FR 3431
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AL70

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

594. THUNDER BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations will protect the ecological, historical, recreational, and esthetic resources of the waters surrounding Thunder Bay if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33768
NPRM Comment Period End	09/22/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie R. Thornton, Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AE41

595. OLYMPIC COAST NATIONAL MARINE SANCTUARY—ADDITION OF DEFINITION FOR SEABIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA plans to issue regulations to add a definition of the term "seabirds" for the Olympic Coast National Marine Sanctuary. The term "seabird" is used in that sanctuary's regulatory prohibitions. The regulations will define seabird to mean a member of any avian species that spends part or all of its life cycle (e.g., feeding) in or over the sanctuary, including shorebirds, waterfowl, and birds of prey.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45191
NPRM Comment Period End	09/24/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Thornton, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AL09

OFFICE OF THE ADMINISTRATOR

596. LICENSING OF PRIVATE REMOTE-SENSING SATELLITE SYSTEMS

Priority: Other Significant

Legal Authority: 15 USC 5601 et seq

CFR Citation: 15 CFR 960.1 et seq

Legal Deadline: None

Abstract: The final regulations would update the 1987 regulations to reflect the intervening events and information gathered through the public process, as well as the experience gained during recent licensing procedures. The intent of the regulations is to help promote the development of the commercial remote-sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S. national security and foreign policy interests and by making that role predictable and transparent to the affected applicants and licensees. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry to lead this emerging market.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/95	60 FR 62054
Notice of Public Meeting	05/14/96	61 FR 24480
NPRM	11/03/97	62 FR 59317
Notice of Public Meeting	03/05/98	63 FR 10785
NPRM Comment Period End	04/02/98	62 FR 65384
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Charles Wooldridge, Licensing Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA/NESDIS, Silver Spring, MD 20910
Phone: 301 713-2024
Fax: 301 713-2032

RIN: 0648–AC64

597. NOAA PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: None

Legal Deadline: None

Abstract: NOAA plans to issue proposed revised environmental review procedures for implementing the National Environmental Policy Act (NEPA) within the National Oceanic and Atmospheric Administration. The proposed revisions will update the Agency's procedures published in 1984, based on changing Agency direction, laws, and public concerns. The revisions reflect new initiatives and mandates for NOAA, particularly involving the Magnuson-Stevens Act, Endangered Species Act, and Marine Mammal Protection Act. The revisions provide information on preparing NEPA documents and streamlining of

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NEPA and other analyses or documents within NOAA.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57664
NPRM Comment Period End	12/14/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Fruchter, Acting NEPA Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, Room 5805, Washington, DC 20230
Phone: 202 482-5916

RIN: 0648–AL58

DEPARTMENT OF COMMERCE (DOC) — Long-Term Actions

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

598. GENERAL PROVISIONS FOR DOMESTIC FISHERIES—STANDARD DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014
Fax: 301 427-2313

RIN: 0648–AG46

599. REGULATORY AMENDMENT TO REQUIRE ELECTRONIC SUBMISSION BY ALASKA GROUNDFISH PROCESSORS OF WEEKLY PRODUCTION REPORTS AND CHECK IN/OUT REPORTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI66

600. REGULATORY AMENDMENT TO REVISE THE PRODUCT RECOVERY RATE CODES FOR CERTAIN ALASKA GROUNDFISH PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI87

601. REGULATORY AMENDMENT TO IMPLEMENT BYCATCH REDUCTION MEASURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ47

602. IMPLEMENTATION OF DATA COLLECTION AND REPORTING REQUIREMENTS TO THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 649

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers
Phone: 978 281-9200

RIN: 0648–AJ75

603. REGULATORY AMENDMENT TO DEVELOP A C. BAIRDI VESSEL INCENTIVE PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK08

DOC—NOAA

Long-Term Actions

604. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE HALIBUT SUBSISTENCE FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 300

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK16

605. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE CHARTER BOAT FLEET

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 300

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK17

606. OBSERVER FUNDING POLICY

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 679

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AL08

607. • ANPR FOR CONTROL DATE FOR RECREATIONAL-FOR-HIRE SECTORS IN GULF OF MEXICO (GOM) COASTAL MIGRATORY PELAGICS AND REEF FISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: This ANPR announces that the Gulf of Mexico Fishery Management Council (Council) is considering whether there is a need to impose additional management measures limiting entry into the recreational-for-hire (i.e., charter vessel and headboat fisheries for reef fish and coastal migratory pelagic fish in the exclusive economic zone (EEZ) of the Gulf of Mexico and, if there is a need, what management measures should be imposed. If the Council determines that there is a need to impose additional management measures, it may initiate a rulemaking to do so. Possible measures include the establishment of a limited entry program to control participation or effort in the recreational-for-hire fisheries for reef fish and coastal migratory pelagics. If a limited entry program is established, the Council is considering November 18, 1998, as a possible control date. Consideration of a control date is intended to discourage new entry into the fisheries based on economic speculation during the Council's deliberation on the issues.

Timetable:

Action	Date	FR Cite
ANPRM	11/18/98	63 FR 64031
ANPRM Comment Period End	12/18/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM03

608. • AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: Amendment 10 would extend the BRD requirement from Cape San Blas, Florida to the border with the South Atlantic Council in South Florida.

Timetable:

Action	Date	FR Cite
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33202-2432
Phone: 727 570-5301
Fax: 717 570-5300

RIN: 0648–AM23

609. • REVISIONS TO THE LICENSE LIMITATION PROGRAM FOR THE COMMERCIAL CRAB FISHERIES OF THE BSAI

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment to the FMP for Commercial King and Tanner Crab Fisheries in the BSAI would establish recent participation requirements for qualification under the License Limitation Program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

DOC—NOAA

Long-Term Actions

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM31

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610. • ALASKA GROUNDFISH LICENSE LIMITATION PROGRAM AMENDMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Alaska groundfish License Limitation Program amendments to establish species endorsement.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM40

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611. PROPOSED RULE TO REQUIRE CERTAIN FISH FROM MEXICO TO RETAIN HEADS AND TAILS INTACT IN ORDER TO PROTECT THE ENDANGERED TOTOABA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055

RIN: 0648–AF32

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612. TAKING OF MARINE MAMMALS INCIDENTAL TO FISHERIES-RELATED RESEARCH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 228; 50 CFR 216

Timetable:

Action	Date	FR Cite
ANPRM	12/09/91	56 FR 64234
ANPRM Comment Period End	01/08/92	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead
Phone: 301 713-2055

RIN: 0648–AF50

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613. DIRECT TAKE OF THREATENED SALMON BY NATIVE AMERICANS

Priority: Other Significant

CFR Citation: 50 CFR 227.21

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Lierheimer
Phone: 301 713-1401
Fax: 301 713-0376
Email: lisa.lierheimer@noaa.gov

RIN: 0648–AG15

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614. PROPOSED RULE TO AUTHORIZE LETHAL TAKINGS OF MARINE MAMMALS BY STATE AUTHORITIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055

RIN: 0648–AG79

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615. FINAL RULE TO AMEND MARINE MAMMAL REGULATIONS TO AUTHORIZE INCIDENTAL TAKINGS OF MARINE MAMMALS BY HARASSMENT AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28379
NPRM Comment Period End	10/16/95	60 FR 35891
Interim Final Rule	04/10/96	61 FR 15884
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055

RIN: 0648–AG80

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616. SECTION 4(D) OF ESA PROTECTIVE REGULATIONS FOR JOHNSON SEAGRASS, A THREATENED SPECIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack
Phone: 301 713-1401
Fax: 301 713-0376
Email: marta.nammack@noaa.gov

RIN: 0648–AL59

DOC—NOAA

Long-Term Actions

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

617. MONTEREY BAY NATIONAL MARINE SANCTUARY—MINOR BOUNDARY REVISION

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 922

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Thornton
Phone: 301 713-3155

RIN: 0648–AL07

OFFICE OF THE ADMINISTRATOR

618. REGIONAL MARINE RESEARCH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Don Scavia
Phone: 301 713-3338

RIN: 0648–AF20

619. NATIONAL UNDERSEA RESEARCH PROGRAM FUNDING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Henry Frey
Phone: 301 713-2448

RIN: 0648–AH90

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

620. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BILLFISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 644

Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AJ67	01/29/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock
Phone: 301 713-7334

RIN: 0648–AF88

621. FINANCIAL DISCLOSURE OF FISHERY MANAGEMENT COUNCIL NOMINEES, MEMBERS, AND EXECUTIVE DIRECTORS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	11/19/98	63 FR 64182
Final Action Effective	02/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AG16

622. AMENDMENT 39 TO THE FMP FOR GROUNDFISH FISHERY OF BSAI, AMENDMENT 41 TO THE FMP FOR GROUNDFISH OF THE GOA AND AMENDMENT 5 TO THE FMP FOR COMMERCIAL KING & TANNER CRAB FISHERIES OF THE BSAI

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	10/01/98	63 FR 52642
Final Action Effective	01/01/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AH65

623. REGULATORY AMENDMENT TO ADJUST THE ANNUAL TOTAL ALLOWABLE CATCH FOR ROYAL RED SHRIMP IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Withdrawn - Gulf Council Decision To Combine With Gulf SFA	01/15/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AI39

624. PROPOSED RULE TO IMPLEMENT VESSEL IDENTIFICATION AND REPORTING REQUIREMENTS UNDER THE HIGH SEAS FISHING COMPLIANCE ACT OF 1995

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	01/04/99	64 FR 00013
Final Action Effective	02/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Matlock
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AI99

625. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOP FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

DOC—NOAA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	03/29/99	64 FR 14835
Final Action Effective	04/28/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jon Rittgers
Phone: 978 281-9200

RIN: 0648–AJ33

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626. BSAI/GOA AMENDMENTS 56/56 OVERFISHING DEFINITIONS FOR GROUNDFISH

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	03/08/99	64 FR 10952

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ50

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627. ATLANTIC TUNA FISHERIES; REGULATORY ADJUSTMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 285

Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AJ67	01/29/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ66

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628. ATLANTIC HIGHLY MIGRATORY SPECIES; MEASURES TO MANAGE THE DRIFT GILLNET SECTION OF THE ATLANTIC SWORDFISH FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 630

Completed:

Reason	Date	FR Cite
Final Action	01/27/99	64 FR 4055
Final Action Effective	02/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ68

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629. APPOINTMENT OF MEMBERS TO THE REGIONAL FISHERY MANAGEMENT COUNCILS

Priority: Info./Admin./Other

Unfunded Mandates: This action may affect State, local or tribal governments.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 50 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	01/29/99	64 FR 4599

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Matlock
Phone: 301 713-2334

RIN: 0648–AJ95

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630. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	01/25/99	64 FR 3624
Final Action Effective	02/24/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AK05

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631. REGULATORY AMENDMENT TO IMPLEMENT ROLLING CLOSURES DURING THE SABLEFISH FISHERY IN THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Withdrawn	02/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK10

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632. FMP AMENDMENTS FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND FOR THE GROUNDFISH OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	01/25/99	64 FR 3653
Final Action Effective	01/20/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK12

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633. ENDANGERED AND THREATENED SPECIES; REGULATIONS CONSOLIDATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 50 CFR 217; 50 CFR 220; 50 CFR 221; 50 CFR 222; 50 CFR 223;

DOC—NOAA

Completed Actions

50 CFR 225; 50 CFR 226; 50 CFR 227; 50 CFR 402; 50 CFR 424; 50 CFR 648; 50 CFR 679; 50 CFR 697

Completed:

Reason	Date	FR Cite
Final Action	03/23/99	64 FR 14052

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Therese Conant
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AK34

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634. OPTIONS FOR 1997 RULEMAKING FOR BANNING THE SALE OF UNDERSIZED ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 630

Completed:

Reason	Date	FR Cite
Final Action	03/16/99	64 FR 12903
Final Action Effective	06/14/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AK39

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635. REGULATORY AMENDMENT TO FISHERY MANAGEMENT PLAN FOR GOLDEN CRAB FISHERY OF SOUTHERN ATLANTIC STATES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	10/28/98	63 FR 57589
Final Action Effective	10/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AK43

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636. AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR THE STONE CRAB FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	08/20/98	63 FR 44595
Final Action Effective	08/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AK48

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637. LIST OF GEAR AND FISHERIES UNDER JURISDICTION OF EACH FISHERY MANAGEMENT COUNCIL OR THE SECRETARY OF COMMERCE FOR HIGHLY MIGRATORY SPECIES

Priority: Info./Admin./Other

CFR Citation: 50 CFR 600; 50 CFR 622; 50 CFR 630; 50 CFR 644; 50 CFR 648; 50 CFR 649; 50 CFR 654; 50 CFR 660; 50 CFR 678; 50 CFR 679; 15 CFR 902

Completed:

Reason	Date	FR Cite
Final Action	01/27/99	64 FR 4030
Final Action Effective	02/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AK49

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638. ATLANTIC BILLFISH SIZE LIMITS AND TOURNAMENT NOTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 644

Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AJ67	02/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AK88

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639. EMERGENCY INTERIM RULE TO REDUCE DAILY BAG LIMIT FOR RED SNAPPER IN THE GULF OF MEXICO EXCLUSIVE ECONOMIC ZONE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	12/31/98	63 FR 72200
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AK97

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640. ESTABLISH 10 SMZS IN FEDERAL WATERS OFF SC AND PROHIBIT USE OF POWERHEADS IN THE FT. PIERCE, FL, OFFSHORE SMZ IN THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	12/30/98	63 FR 71793
Final Action Effective	01/29/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AL00

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641. INTERIM RULE TO CERTIFY THREE BYCATCH REDUCTION DEVICES (BRDS) UNDER AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	05/14/98	63 FR 27499
Final Action Effective	05/14/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

DOC—NOAA

Completed Actions

Government Levels Affected: None
Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301
RIN: 0648–AL14

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642. INTERIM RULE TO REQUIRE SHRIMP TRAWL VESSEL OBSERVERS, LOGBOOKS, AND MONITORING SYSTEMS IN THE EXCLUSIVE ECONOMIC ZONE OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 622
Completed:

Reason	Date	FR Cite
Final Action	05/14/98	63 FR 27485
Final Action Effective	05/14/98	

Regulatory Flexibility Analysis Required: Yes
Small Entities Affected: Businesses
Government Levels Affected: None
Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301
RIN: 0648–AL15

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643. AMENDMENT 59 TO THE BSAI FMP, AMENDMENT 57 TO THE GOA FMP, AND AMENDMENT 9 TO THE BSAI KTC FMP - MORATORIUM EXTENSION

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 679
Completed:

Reason	Date	FR Cite
Final Action	01/19/99	64 FR 3651
Final Action Effective	01/19/99	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Steven Pennoyer
Phone: 907 586-7228
RIN: 0648–AL20

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644. AMENDMENT 45 TO THE FISHERY MANAGEMENT PLAN FOR THE BERING SEA AND ALEUTIAN ISLANDS AREA

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 679
Completed:

Reason	Date	FR Cite
Final Action	01/26/99	64 FR 3877
Final Action Effective	01/21/99	

Regulatory Flexibility Analysis Required: Yes
Small Entities Affected: Businesses
Government Levels Affected: None
Agency Contact: Steven Pennoyer
Phone: 907 586-7228
RIN: 0648–AL22

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645. REGULATORY AMENDMENT TO IMPLEMENT STAND-DOWN REQUIREMENT FOR CATCHER VESSELS TRANSITING BETWEEN BERING SEA AND ALEUTIAN ISLANDS AND GULF OF ALASKA

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 679
Completed:

Reason	Date	FR Cite
Final Action	09/11/98	63 FR 48641
Final Action Effective	09/08/98	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Steven Pennoyer
Phone: 907 586-7228
RIN: 0648–AL26

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646. REGULATORY AMENDMENT TO IMPLEMENT ATKA MACKEREL FISHING RESTRICTIONS IN THE BSAI FOR STELLER SEA LION CONSERVATION PURPOSES

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 679
Completed:

Reason	Date	FR Cite
Final Action	01/22/99	64 FR 3446
Final Action Effective	01/20/99	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Steven Pennoyer
Phone: 907 586-7228
RIN: 0648–AL29

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647. AMDT. 11 TO NORTHEAST MULTISPECIES FMP; AMDT. 9 TO ATLANTIC SEA SCALLOP FMP; AMDT. 1 TO MONKFISH FMP; AND AMDT. 1 TO ATLANTIC SALMON FMP; COMPONENTS OF ATLANTIC HERRING FMP

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 648
Completed:

Reason	Date	FR Cite
Withdrawn - Amdt. 1 to Atlantic Salmon FMP is RIN 0648-AM13	02/01/99	

Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: Undetermined
Agency Contact: Jon Rittgers
Phone: 978 281-9200
RIN: 0648–AL32

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648. VESSEL TRACKING SYSTEM POWER DOWN EXEMPTION RULE

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 648
Completed:

Reason	Date	FR Cite
Final Action	10/30/98	63 FR 58328
Final Action Effective	11/30/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Jon Rittgers
Phone: 978 281-9200
RIN: 0648–AL35

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649. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH (FMP)

Priority: Other Significant
CFR Citation: 50 CFR 648
Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AL56	02/04/99	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Undetermined
Agency Contact: Jon Rittgers
Phone: 978 281-9200
Fax: 978 281-9135
RIN: 0648–AL54

DOC—NOAA

Completed Actions

650. AMENDMENT 12 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC SURF CLAM AND OCEAN QUAHOGS (FMP)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AL56	02/04/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL55

651. EMERGENCY INTERIM RULE TO RELEASE THE REMAINING 1998 RECREATIONAL AND COMMERCIAL QUOTA RESERVES FOR GULF OF MEXICO RED SNAPPER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	12/31/98	63 FR 72200
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AL61

652. 1999 HARVEST GUIDELINE FOR THE NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	03/11/99	64 FR 12092
Final Action Effective	07/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AL63

653. FINAL SPECIFICATIONS FOR 1999 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	12/31/98	63 FR 72203

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jon Rittgers
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL74

654. 1999 INITIAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	01/08/99	64 FR 1139
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jon Rittgers
Phone: 978 281-9200
Fax: 978 281-9135

RIN; 0648–AL76

655. 1999 FISHING QUOTAS FOR ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	12/30/98	63 FR 71794
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Rittgers
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL77

656. ATLANTIC TUNA FISHERIES; 1999 QUOTAS AND EFFORT CONTROLS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 285

Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AM17	01/29/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Gary Matlock
Phone: 301 713-2334

RIN: 0648–AL79

657. COMPREHENSIVE AMENDMENT ADDRESSING ESSENTIAL FISH HABITAT IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0648-AL43	02/01/99	

RIN: 0648–AL84

658. COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERIES ACT DEFINITIONS AND OTHER REQUIRED PROVISIONS IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0648-AL42	02/01/99	

RIN: 0648–AL85

659. PACIFIC COAST GROUNDFISH; ADVANCE NOTICE OF PROPOSED RULEMAKING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	10/06/98	63 FR 53636
Final Action Effective	11/05/98	

Regulatory Flexibility Analysis Required: No

DOC—NOAA

Completed Actions

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AL87

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660. • ATLANTIC BILLFISH SIZE LIMIT AND TOURNAMENT NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 644

Legal Deadline: None

Abstract: By the interim final rule published in the Federal Register on March 24, 1998, NMFS increased the minimum size limits for Atlantic blue marlin (BUM) and Atlantic white marlin (WHM), respectively, and required operators of Atlantic billfish sport fishing tournaments to notify NMFS at least 4 weeks prior to tournament commencement. On September 29, 1998, NMFS extended the period of the interim rule for an additional 180 days and amended it to increase the minimum size limit for Atlantic BUM to 99 inches lower jaw-fork length (LJFL)(251 cm), to establish a recreational bag limit of one Atlantic BUM or WHM per vessel per trip and to grant the Assistant Administrator for Fisheries, NOAA (AA) authority to adjust the bag limit, including adjusting it to zero. The current action amends the interim rule to remove the provision allowing the AA to adjust the bag limit.

Timetable:

Action	Date	FR Cite
Final Action	11/13/98	63 FR 63421

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-7334

RIN: 0648–AM02

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661. • EMERGENCY INTERIM RULE TO ESTABLISH ADDITIONAL OBSERVER COVERAGE FOR 20 CATCHER PROCESSORS AND INSEASON AUTHORITY TO MANAGE NON-POLLOCK HARVEST

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: The American Fisheries Act specifies the manner in which the BSAI pollock fishery must be managed, as well as measures to limit activity of pollock vessels in non-pollock fisheries. These harvest limitations will be established for 1999 as part of the 1999 groundfish specification process authorized under regulations at 50 CFR 679.20. NMFS must implement additional observer coverage and inseason management authority necessary to monitor and manage these harvest limitations at the start of the 1999 fishing season.

Timetable:

Action	Date	FR Cite
Final Action	01/22/99	64 FR 3435
Final Action Effective	01/20/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM06

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662. • EMERGENCY RULE TO IMPLEMENT REASONABLE AND/OR PRUDENT MEASURES TO PROTECT THE CRITICAL HABITAT OF THE STELLER SEA LION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 773 et seq; 16 USC 1801 et seq; 16 USC 3631 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Revision to 1999 Interim harvest specifications. Technical amendment to steller sea lion no-trawl zones.

Timetable:

Action	Date	FR Cite
Final Action	01/22/99	64 FR 3437
Final Action Effective	01/20/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th Street, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM08

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663. • PACIFIC HALIBUT FISHERIES; CATCH SHARING PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 773c

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: Adjustment of Area 2A Pacific Halibut Catch Sharing Plan for 1999.

Timetable:

Action	Date	FR Cite
Final Action	03/19/99	64 FR 13519
Final Action Effective	03/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AM11

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664. • FR: GROUNDFISH ANNUAL SPECIFICATIONS AND MANAGEMENT MEASURES FOR 1999

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: NMFS announces the 1999 fishery specifications and management

DOC—NOAA

Completed Actions

measures for groundfish, with the exception of whiting, taken in the U.S. exclusive economic zone and state waters off the coasts of Washington, Oregon and California, as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). The specifications include the levels of the acceptable biological catch and optimum yields (OYs), including the distribution between domestic and foreign fishing operations. The commercial OYs (formerly called "harvest guidelines," or quotas) are allocated between the limited entry and open access fisheries. The management measures for 1999 are designed to keep landings within the OYs for those species for which there are OYs, and to achieve the goals and objectives of the FMP and its implementing regulations. The intended effect of these actions is to establish allowable harvest levels of Pacific Coast groundfish and to implement management measures designed to achieve but not exceed those harvest levels, while extending fishing and processing opportunities as long as possible during the year. NMFS also announces partial disapproval of a particular open access monthly cumulative limit for Sebastes complex species.

Timetable:

Action	Date	FR Cite
Final Action	01/08/99	64 FR 1316

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AM12

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665. • FRAMEWORK 26 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: Framework Adjustment 26 implements management measures that expand the April Gulf of Maine (GOM) closure area and adds an inshore GOM closure area and an offshore Georges Bank closure area for the month of February.

Timetable:

Action	Date	FR Cite
Final Action	01/15/99	64 FR 2601
Final Action Effective	01/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM14

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666. • PACIFIC HALIBUT FISHERIES, CATCH SHARING PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 773 to 773K

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: The action publishes the regulations for the Pacific halibut fishing in 1999 approved by the International Pacific Halibut Commission and announces revisions to the catch sharing plan for regulatory 2A.

Timetable:

Action	Date	FR Cite
Final Action	03/19/99	64 FR 13519
Final Action Effective	03/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM35

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667. INTERIM FINAL RULE FOR ATLANTIC SEA SCALLOP FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Interim Final Rule - (Eff. Date Extended to 3/26/99 on 9/28/98, 63 FR 51862)	03/31/98	63 FR 15324

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9300

RIN: 0648–AK68

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668. CIVIL PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 904

Completed:

Reason	Date	FR Cite
Withdrawn - Obviated by Statutory and Subsequent Regulatory Amendment	02/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hugh Schratwieser
Phone: 301 427-2202

RIN: 0648–AF96

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669. TAKE OF MARINE MAMMALS BY THE U.S. NAVY INCIDENTAL TO MILITARY ACTIVITIES IN THE SOUTH ATLANTIC OF THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	12/01/98	63 FR 66070
Final Action Effective	05/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead
Phone: 301 713-2055

RIN: 0648–AG55

DOC—NOAA

Completed Actions

670. SHRIMP VESSEL REGISTRATION REQUIREMENT

Priority: Other Significant

CFR Citation: 50 CFR 227

Completed:

Reason	Date	FR Cite
Withdrawn - No Longer an ESA Requirement	02/03/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Therese Conant
Phone: 301 713-1401

RIN: 0648–AH87

671. DESIGNATED CRITICAL HABITAT; GREEN AND HAWKSBILL SEA TURTLE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 226

Completed:

Reason	Date	FR Cite
Final Action	09/02/98	63 FR 46693
Final Action Effective	10/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Barbara Schroeder
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AH88

672. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS; TAKE REDUCTION PLAN REGULATIONS AND EMERGENCY REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 229

Completed:

Reason	Date	FR Cite
Final Action	12/02/98	63 FR 66464

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vicki Cornish
Phone: 301 713-2322
Fax: 301 713-0376
Donna Wieting
Phone: 301 713-2322
Fax: 301 713-0376

RIN: 0648–AI84

673. TAKING OF MARINE MAMMALS INCIDENTAL TO ACTIVITIES AT VANDENBERG AIR FORCE BASE, CA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	03/01/99	64 FR 9925
Final Action Effective	03/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Hollingshead
Phone: 301 713-2055

RIN: 0648–AK42

674. LIST OF FISHERIES FOR 1999

Priority: Routine and Frequent

CFR Citation: 50 CFR 229

Completed:

Reason	Date	FR Cite
Final Action	02/24/99	64 FR 9067

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele
Phone: 301 713-2322
Fax: 301 713-0376
Email: cathy.eisele@noaa.gov

RIN: 0648–AK95

675. PROHIBITING ANCHORING BY VESSELS 50 METERS OR GREATER IN LENGTH ON TORTUGAS BANK WITHIN THE FLORIDA KEYS NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 922

Completed:

Reason	Date	FR Cite
Final Action	08/17/98	63 FR 43870
Final Action Effective	08/19/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Billy Causey
Phone: 305 743-2437

RIN: 0648–AK45

676. ADMINISTRATIVE CHANGES TO COASTAL NONPOINT POLLUTION CONTROL PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/21/98	63 FR 56146
Final Action Effective	10/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph A. Uravilch
Phone: 301 713-3155

RIN: 0648–AK62

DEPARTMENT OF COMMERCE (DOC)

National Telecommunications and Information Administration (NTIA)

Final Rule Stage

677. IMPROVEMENT OF TECHNICAL MANAGEMENT OF INTERNET NAMES AND ADDRESSES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1512; 47 USC 902(b)(2)(H); 47 USC 902(b)(2)(I); 47 USC 904(c)(1)

CFR Citation: None

Legal Deadline: None

Abstract: Consistent with the President's Electronic Commerce Directive of July 1, 1997, this proposed rule sets forth ways to improve technical management of the Internet Domain Name System (DNS). It describes the process by which the Federal Government will transfer management of the Internet DNS to a private, not-for-profit corporation and proposes a method for introducing competition in the administration and addition of new Internet top-level domains. It further proposes the introduction of competition into the domain name registration business and

DOC—NTIA

Final Rule Stage

recommends guidelines under which domain name business and registration would operate. Further information available at http://www.doc.gov.

Instead of a final rule, a statement of policy was published in the Federal Register. (See 63 FR 31741, June 10, 1998.) The statement of policy announced that the Department of Commerce would subsequently seek public input on how best to make the .us domain space more attractive to commercial users. On August 4, 1998, a request for public comments regarding the .us domain name was published in the Federal Register. (See 63 FR 41547, August 4, 1998.) Comments were due September 3, 1998.

Another notice was published in the Federal Register on August 27, 1998, to extend the comment period to October 5, 1998. The agency will submit a Federal Register notice in February 1999 which will announce a public meeting to explore the future administration and management of the .us domain name space. The public meeting will be held in March 1999.

Timetable:

Action	Date	FR Cite
Notice: Request for Comment on Registration and Administration of Internet Domain	07/02/97	62 FR 35896
NPRM	02/20/98	63 FR 8826
NPRM Comment Period End	03/23/98	
Notice: Policy Statement	06/10/98	63 FR 31741
Notice: Request for Public Comment	08/04/98	63 FR 41547
Notice: Extension of Comment Period to 10/05/98	08/27/98	63 FR 45800
Notice: Public Meeting	02/10/99	64 FR 6633
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: J. Beckwith Burr, Associate Administrator, Office of International Affairs, Department of Commerce, National Telecommunications and Information Administration, Room 4701, 14th Street and Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-1304
Fax: 202 482-1865
Email: bburr@ntia.doc.gov

RIN: 0660–AA11

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Prerule Stage

678. • OFFICIAL INSIGNIA OF NATIVE AMERICAN TRIBES: STATUTORILY REQUIRED STUDY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-330, sec 302

CFR Citation: None

Legal Deadline: Other, Statutory, September 30, 1999.
Statutory deadline is for report to Congress.

Abstract: PL 105-330 requires that the Patent and Trademark Office study a variety of issues surrounding trademark protection for the official insignia of federally and/or State-recognized American Indian tribes. The new law requires that the Commissioner of Patents and Trademarks complete the study and submit a report not later than September 30, 1999.

The report, including the findings and conclusions, must be submitted to the chairmen of the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

Timetable:

Action	Date	FR Cite
Request for Comments	12/29/98	63 FR 71619
Public Hearings - April to July	04/00/99	
Second Request for Comments	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Eleanor Meltzer, Attorney-Advisor, Department of Commerce, Patent and Trademark Office, Suite 902, 2121 Crystal Drive, Arlington, VA 22202
Phone: 703 306-2960
Fax: 703 305-8885
Email: eleanor.meltzer@uspto.gov

RIN: 0651–AB02

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

679. CHANGES TO IMPLEMENT THE PATENT BUSINESS GOALS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1; 37 CFR 3; 37 CFR 5; 37 CFR 10

Legal Deadline: None

Abstract: The Patent and Trademark Office (PTO) has established business goals for the organizations reporting to the Assistant Commissioner for Patents (Patent Business Goals). The Patent Business Goals have been established in response to the Vice President's designation of the PTO as an agency that has a high impact on the public, and they are designed to make the PTO a more businesslike agency. The focus of the Patent Business Goals is to increase the level of service to the public by raising the efficiency and effectiveness of the PTO's business processes. The PTO is considering a number of changes to the rules of

DOC—PTO — Proposed Rule Stage

practice and procedure to support the Patent Business Goals.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/98	63 FR 53497
ANPRM Comment Period End	12/04/98	
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Hiram H. Bernstein, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AA98

680. TRADEMARK LAW TREATY IMPLEMENTATION RULES CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1123; 35 USC 6

CFR Citation: 37 CFR 2.6; 37 CFR 2.20 to 2.21; 37 CFR 2.31 to 2.35; 37 CFR 2.37 to 2.39; 37 CFR 2.45; 37 CFR 2.51 to 2.59; 37 CFR 2.66; 37 CFR 2.71 to 2.72; 37 CFR 2.76; 37 CFR 2.86; 37 CFR 2.88 to 2.89; 37 CFR 2.160 to 2.168; 37 CFR 2.181 to 2.186; 37 CFR 3.1 to 3.16; 37 CFR 3.24 to 3.25; ...

Legal Deadline: NPRM, Statutory, March 1, 1999. Final, Statutory, October 30, 1999.
Rules implement statutory changes that become effective October 30, 1999.

Abstract: The purpose of the rules change is to implement the Trademark Law Treaty (TLT) and the Trademark Law Treaty Implementation Act, Pub. L. 105-330, 112 Stat. 3064 (15 U.S.C. 1051), and to otherwise simplify and clarify procedures for registering trademarks and for maintaining and renewing trademark registrations. The purpose of TLT is to make the procedural requirements of the different international trademark offices more consistent by limiting the requirements that each country can set for trademark applications, trademark application filing dates, renewal applications, recording assignments, changing names and addresses, powers of attorney, and signatures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Hannon, Staff Attorney, Department of Commerce, Patent and Trademark Office, 2900 Crystal Drive, Arlington, VA 22202-3513
Phone: 703 308-8900
Fax: 703 308-9395
Email: mary.hannon@uspto.gov

RIN: 0651–AB00

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

681. REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL YEAR 2000

Priority: Routine and Frequent

Legal Authority: 35 USC 41; 15 USC 1115; 35 USC 6; 35 USC 376; 15 USC 1051; 15 USC 1113; 15 USC 1123; PL 105-358

CFR Citation: 37 CFR 1.16 to 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Legal Deadline: Final, Statutory, October 1, 1999.

Abstract: This rulemaking revises certain patent and trademark fees to reflect fluctuations in the Consumer Price Index (CPI) consistent with the Patent and Trademark Authorization Act (PL 105-358).

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Matthew Lee, Systems Analyst, Department of Commerce, Patent and Trademark Office, Washington, DC 20231
Phone: 703 305-8051

RIN: 0651–AB01

682. • CONSIDERATION OF INTERLOCUTORY RULINGS AT FINAL HEARING IN INTERFERENCE PROCESSINGS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 6(a); 35 USC 135(a)

CFR Citation: 37 CFR 1.655(a)

Legal Deadline: None

Abstract: The Patent and Trademark Office is amending its interference rules to clarify the standard under which the Board of Patent Appeals and Interferences considers interlocutory decisions entered by a single administrative patent judge at the time of the final hearing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Fred E. McKelvey, Senior Administrative Patent Judge, Department of Commerce, Patent and Trademark Office, Box Interference, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 308-9797
Fax: 703 305-0942
Email: interference.rules@uspto.gov

RIN: 0651–AB03

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Long-Term Actions

683. PATENT APPLICATION ELECTRONIC SUBMISSION RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1; 37 CFR 2

Timetable:

Action	Date	FR Cite
ANPRM	11/30/92	57 FR 56537
ANPRM Comment Period End	03/01/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Fowler
Phone: 703 305-8600

RIN: 0651–AA50

684. CHANGES TO IMPLEMENT 18-MONTH PUBLICATION OF PATENT APPLICATIONS

Priority: Other Significant

CFR Citation: 37 CFR 1

Timetable:

Action	Date	FR Cite
Notice of Public Hearing and Request for Public Comments	12/12/94	59 FR 63966
NPRM	08/15/95	60 FR 42352
NPRM Comment Period End	09/19/95	
Procedures for Amending Patent Applications		
Final Rule 08/19/96 (61 FR 42790)		
Final Rule Effective 09/23/96		
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr
Phone: 703 305-8850
Fax: 703 305-8825

RIN: 0651–AA75

685. RULES OF PRACTICE IN PATENT CASES; REEXAMINATION PROCEEDINGS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.901 to 1.907; 37 CFR 1.909; 37 CFR 1.911; 37 CFR 1.913; 37 CFR 1.915; 37 CFR 1.917; 37 CFR 1.919; 37 CFR 1.921; 37 CFR 1.923

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41035
NPRM Comment Period End	09/22/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald A. Dost
Phone: 703 305-9282
Fax: 703 305-8825

RIN: 0651–AA79

686. REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.21; 37 CFR 10.7; 37 CFR 10.11

Timetable:

Action	Date	FR Cite
ANPRM	09/30/96	61 FR 51072
ANPRM Comment Period End	12/06/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen L. Bovard
Phone: 703 306-4097

RIN: 0651–AA93

687. TECHNICAL REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 10.7

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen L. Bovard
Phone: 703 306-4097

RIN: 0651–AA95

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Completed Actions

688. MISCELLANEOUS CHANGES TO TRADEMARK TRIAL AND APPEAL BOARD RULES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 2.76; 37 CFR 2.85; 37 CFR 2.87; 37 CFR 2.101; 37 CFR 2.102; 37 CFR 2.111; 37 CFR 2.119; 37 CFR 2.120; 37 CFR 2.121; 37 CFR 2.123; 37 CFR 2.125; 37 CFR 2.127; 37 CFR 2.134; 37 CFR 2.146; 37 CFR 3.141

Completed:

Reason	Date	FR Cite
Final Action	09/09/98	63 FR 48081
Final Action Effective	10/09/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Sams
Phone: 703 308-9300
Fax: 703 308-9333

RIN: 0651–AA87

689. LIMITATIONS IN PATENT CLAIMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1.75

Completed:

Reason	Date	FR Cite
Withdrawn	01/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Corsello
Phone: 202 305-9041
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Email: kenneth.corsello@uspto.gov

RIN: 0651–AA91

DOC—PTO

Completed Actions

690. REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL YEAR 1999

Priority: Routine and Frequent

CFR Citation: 37 CFR 1.16 to 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Completed:

Reason	Date	FR Cite
Final Action	12/08/98	63 FR 67578

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Matthew Lee
Phone: 703 305-8051

RIN: 0651–AA96

691. CHANGES TO IMPLEMENT THE STANDARD FORMAT FOR PATENT APPLICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1; 37 CFR 5; 37 CFR 10

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr
Phone: 703 305-9285
Fax: 703 308-6906

RIN: 0651–AA99

DEPARTMENT OF COMMERCE (DOC)

Technology Administration (TA)

Long-Term Actions

692. PROMOTION OF PRIVATE SECTOR INDUSTRIAL TECHNOLOGY PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 1160 subpart A

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Bohannon
Phone: 202 482-1984

RIN: 0692–AA13

693. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Other Significant

CFR Citation: 37 CFR 401

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/95	60 FR 41811
Comment Period End	09/13/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jon Paugh
Phone: 202 482-2100

RIN: 0692–AA14

694. ACQUISITION AND PROTECTION OF FOREIGN RIGHTS IN INVENTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 101; 37 CFR 501

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 40997
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek
Phone: 202 482-8010
Fax: 202 482-0523

RIN: 0692–AA15

695. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 404

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John H. Raubitschek
Phone: 202 482-8010
Fax: 202 482-0523

RIN: 0692–AA17

[FR-Doc. 99-4894 Filed 04-23-99; 8:45 am]
BILLING CODE 3510-BW-F

federal register

Monday
April 26, 1999

Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 "Regulatory Planning and Review." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

The agenda portion of this document updates the report published on November 9, 1998, and includes regulations expected to be issued and under review over the next 12 months. The next agenda and annual regulatory plan are scheduled to be published in October 1999. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-604-4582, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, or e-mail: cushingr@osd.pentagon.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Mr. Dan Cragg, telephone 703-697-4111, or write to Directives and Records Division, Directorate for Correspondence and Directives, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or e-mail: dcragg@osd.pentagon.mil.

For general information on Office of the Secretary agenda items which are procurement-related, contact Ms. Kathleen Fenk, telephone 703-602-0131, or write to Defense Acquisition Regulations Directorate, 3062 Defense Pentagon, Washington, DC 20301-3062, or e-mail: fenkk@acq.osd.mil.

For general information on Department of the Army regulations, contact Mr. Gregory D. Showalter, telephone 703-806-3708, or write to the U.S. Army Records Management Division, Component Programs Branch, ATTN: TAPC-PDD-RP, 6000 6th Street, Stop C55, Fort Belvoir, Virginia 22060-5576, or e-mail: showalterg@rmpo.belvoir.army.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Michael L. Davis, telephone 703-695-1370, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310-0108, or e-mail: davisml@hqda.army.mil.

For general information on Department of the Navy regulations, contact Commander Ralph Corey, telephone 703-604-8217, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374-5066, or e-mail: corey.ralph@hq.navy.mil.

For general information on Department of the Air Force regulations, contact Ms. Carolyn A. Lunsford, telephone 703-697-9057, or write to Department of the Air Force, SAF/AAX, 1720 Air Force Pentagon, Washington, DC 20330-1720, or e-mail: lunsforc@af.pentagon.mil.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

To ease identification and to differentiate among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act of 1995;

c. Unfunded Mandates Reform Act of 1995.

Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain

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regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: February 12, 1999.

D. O. Cooke,

Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
696	Commercial Activities Program Procedures (DoD Instruction 4100.33)	0790-AG44
697	Personnel and General Claims	0790-AG47

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
698	Science, Mathematics, and Engineering (SME) Education	0790-AF27
699	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)	0790-AF59
700	Collection From Third Party Payers of Reasonable Costs of Healthcare Services	0790-AG51
701	Personnel Security Policies for Granting Access to Classified Information	0790-AG54
702	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity	0790-AG55
703	National Policy on Technical Surveillance Countermeasures	0790-AG56
704	Screening the Ready Reserve (DoD Directive 1200.7)	0790-AG57
705	Freedom of Information Act Program (NSA/CSS)	0790-AG59
706	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)	0790-AG60

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
707	Teacher and Teacher's Aide Placement Assistance Program (Troops to Teachers)(DoD Instruction 1404.13)	0790-AF71
708	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns	0790-AF72
709	DLA Acquisition Regulation; Fuel Allocation Procedures	0790-AF73
710	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)	0790-AG21
711	Former Spouse Payments From Retired Pay; Amendment (DoD Directive 1340.16 and DoD 7000.14-R, Vol 7, Part B)	0790-AG22
712	University Research Initiative Support Program (URISP)	0790-AG26
713	Restoration Advisory Board (RABs)	0790-AG31
714	Closed, Transferred, and Transferring Ranges Containing Military Munitions	0790-AG46
715	Compensation of Certain Former Operatives Incarcerated by the Democratic Republic of Vietnam; Amendment	0790-AG67

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
716	Military Recruiting and Reserve Officer Training Corps Program Access to Institutions of Higher Education	0790-AG42
717	DoD Freedom of Information Act Program Regulation (DoD 5400.7-R)	0790-AG58
718	Enlisted Administrative Separations (DoD Directive 1332.14)	0790-AG61
719	Sale or Rental of Sexual Explicit Material on DOD Property (DoD Instruction 4105.70)	0790-AG66
720	Defense Contract Audit Agency (DCAA) Freedom of Information Act Program	0790-AG68

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Office of the Secretary—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
721	Conduct on the Pentagon Reservation; Amendment	0790-AG69
722	Defense Threat Reduction Agency (DTRA)	0790-AG70

Defense Acquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
723	Contracting for Commercial Construction (DFARS Case 98-D013)	0750-AC44
724	Cargo Preference—Subcontracts for Commercial Items (DFARS Case 98-D014)	0750-AC45
725	Rewrite of DFARS Part 225 (DFARS Case 98-D028)	0750-AC60
726	Overseas Use of the Purchase Card (DFARS Case 99-D002)	0750-AC72
727	Streamlined Payment Practices (DFARS Case 98-D026)	0750-AC74

Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
728	IR&D/B&P Costs for FY96 and Beyond (DFARS Case 95-D040)	0750-AB04
729	Antiterrorism Training (DFARS Case 96-D016)	0750-AB26
730	FAR Part 30 Deviations (DFARS Case 97-D016)	0750-AB91
731	Single Process Initiative (DFARS Case 97-D014)	0750-AB94
732	Employment Prohibition on Persons Convicted of Fraud (DFARS Case 97-D020)	0750-AB96
733	Contract Administration and Audit Services (DFARS Case 98-D003)	0750-AC02
734	Commercial Ball or Roller Bearings—Components of Noncommercial Items (DFARS Case 97-D028)	0750-AC13
735	DD Form 2631, Performance Evaluation (A-E) (DFARS Case 97-D035)	0750-AC14
736	Veterans Employment Emphasis (DFARS Case 97-D314)	0750-AC20
737	Contractor Use of Nonimmigrant Aliens—Guam (DFARS Case 97-D318)	0750-AC21
738	Multiyear Contracting (DFARS Case 97-D308)	0750-AC31
739	Television-Audio Support Activity (T-ASA) (DFARS Case 98-D008)	0750-AC39
740	DD Forms 350 and 1057 Changes To Capture FSS Orders (DFARS Case 98-D017)	0750-AC40
741	Revisions to DD Form 1707, Instructions to Offerors or Quoters (DFARS Case 98-D020)	0750-AC49
742	Flexible Progress Payments (DFARS Case 98-D400)	0750-AC51
743	Electronic Funds Transfer (DFARS Case 98-D012)	0750-AC52
744	Para-Aramid Fibers and Yarns (DFARS Case 98-D310)	0750-AC57
745	Singapore Accession to GPA (DFARS Case 98-D029)	0750-AC58
746	People's Republic of China (DFARS Case 98-D305)	0750-AC59
747	Applicability of DFARS Buy American Clauses to Simplified Acquisitions (DFARS Case 98-D031)	0750-AC61
748	Improved Accounting for Defense Contract Services (DFARS Case 98-D312)	0750-AC62
749	Congressional Medal of Honor (DFARS Case 98-D304)	0750-AC63
750	Manufacturing Technology Program (DFARS 98-D306)	0750-AC64
751	DoD Purchases Through Other Agencies (DFARS Case 98-D311)	0750-AC67
752	Revisions to DD Form 1425, Specifications and Standards Requisition (DFARS Case 98-D022)	0750-AC68
753	Electronic Publication of DFARS (DFARS Case 98-D024)	0750-AC69

Defense Acquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
754	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)	0750-AA07
755	Demilitarization (DFARS Case 92-D024)	0750-AA09
756	Acquisition of Commercial Items (DFARS Case 95-D712)	0750-AB00
757	DFARS Commercially Available Off-the-Shelf Items (DFARS Case 96-D316)	0750-AB40
758	Distribution of Contract Financing Payment (DFARS Case 97-D011)	0750-AB87

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Defense Acquisition Regulations Council—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
759	Uniform Procurement Instrument Identification (DFARS Case 97-D033)	0750-AC29
760	Reform of Affirmative Action in Federal Government Procurement (DFARS Case 98-D007)	0750-AC38
761	Restructuring Savings Repricing Clause (DFARS Case 98-D018)	0750-AC53
762	Reform of Affirmative Action in Federal Procurement DFARS—Phase II (DFARS Case 98-D021)	0750-AC54
763	Evaluation of Duty (DFARS Case 98-D030)	0750-AC56
764	Weighted Guidelines and Performance-Based Payments (DFARS Case 99-D001)	0750-AC65
765	Part 204 and Related Changes (DFARS Case 98-D027)	0750-AC66
766	Limitation on the Use of Price Preference Upon Achievement of Contract Goal for Small and Disadvantaged Businesses (DFARS Case 98-D307)	0750-AC71
767	DD Form 1057, Work Stoppage (DFARS Case 99-D003)	0750-AC73

Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identifier Number
768	Streamlined R&D Test Results (DFARS Case 97-D002)	0750-AB52
769	DD Form 1155 (DFARS Case 97-D024)	0750-AB82
770	DFARS Part 215 Rewrite (DFARS Case 97-D018)	0750-AB90
771	Weighted Guidelines—Federally Funded Research and Development Centers (DFARS Case 97-D025)	0750-AB99
772	DFARS Part 213 Rewrite (DFARS Case 97-D306)	0750-AC00
773	Quality Assurance Among North Atlantic Treaty Organization Countries (DFARS Case 97-D038)	0750-AC05
774	Compliance With Spanish Laws and Insurance (DFARS Case 98-D002)	0750-AC08
775	Construction in Foreign Countries (DFARS Case 97-D307)	0750-AC12
776	Short Form Research Contract (DFARS Case 97-D030)	0750-AC17
777	List of Firms Not Eligible for Defense Contracts (DFARS Case 97-D325)	0750-AC22
778	Service Contracts That Cross Fiscal Years (DFARS Case 97-D328)	0750-AC23
779	Comprehensive Subcontracting Plans (DFARS Case 97-D323)	0750-AC27
780	Waiver Authority to Humanitarian or Peacekeeping Operations (DFARS Case 97-D319)	0750-AC32
781	Requirement Under Competition Exception for International Agreements (DFARS Case 97-D324)	0750-AC33
782	Allowability of Costs for Restructuring Bonuses (DFARS Case 97-D312)	0750-AC34
783	Restructuring Costs (DFARS Case 97-D313)	0750-AC36
784	Electronic Signature on Receiving Reports (DFARS Case 98-D001)	0750-AC37
785	Direct Award of 8(a) Contracts (DFARS Case 98-D011)	0750-AC41
786	Contract Action Reporting—1998 (DFARS Case 98-D009)	0750-AC42
787	E-Mail/Internet Addresses on Contracts and Modifications (DFARS Case 98-D010)	0750-AC43
788	Letter of Offer and Acceptance (DFARS Case 98-D015)	0750-AC46
789	Waiver of 10 USC 2534—United Kingdom (DFARS Case 98-D016)	0750-AC47
790	Hazardous Waste Disposal (DFARS Case 98-D301)	0750-AC48
791	DD Form 350 Changes Supporting Reform of Affirmative Action (DFARS Case 98-D018)	0750-AC50
792	Architectural and Engineering Services and Construction Design (DFARS Case 98-D313)	0750-AC55
793	Technical Amendments To Update Activity Names and Addresses (DFARS Case 98-D032)	0750-AC70

Department of the Army—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
794	The Department of the Army Freedom of Information Act Program	0702-AA30

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Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
795	Army Board for Correction of Military Records	0702-AA32

Department of the Army—Completed Actions

Sequence Number	Title	Regulation Identifier Number
796	Radiation Sources on Army Land	0702-AA31

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
797	Regulatory Programs of the Corps of Engineers, Endangered Species Act; Scope of Analysis	0710-AA43

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
798	Regulatory Program of the Corps of Engineers—Administrative Appeals	0710-AA41

U.S. Army Corps of Engineers—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
799	Regulatory Programs of the Corps of Engineers	0710-AA30
800	Regulatory Programs of the Corps of Engineers, Wetland Delineator Certification Program	0710-AA38
801	Environmental Quality; Procedures for Implementing the National Environmental Policy Act (NEPA)	0710-AA42

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
802	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft	0703-AA48
803	Shipbuilding Capability Preservation Agreements	0703-AA50
804	Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy	0703-AA51
805	Availability of the Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public	0703-AA52

Department of the Air Force—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
806	Environmental Impact Analysis Process	0701-AA56
807	Appointment to the United States Air Force Academy	0701-AA58

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Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identifier Number
808	Air Force Rule of Professional Conduct and Standards for Criminal Justice	0701-AA57

Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number.	Title	Regulation Identifier Number
809	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Revisions to the Eligibility Requirements	0720-AA39

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
810	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Former Spouse/Widow(er) and Federal Claims Collection Act (DoD 6010.8-R)	0720-AA07
811	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care (DoD 6010.8-R)	0720-AA20
812	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Provider Certification Requirements—Corporate Services Provider Class; Occupational Therapists (DoD 6010.8-R)	0720-AA27
813	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Transplants (DoD 6010.8-R)	0720-AA28
814	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Extension of the Active Duty Dependents Dental Plan to Overseas Areas	0720-AA36
815	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Exception to the CHAMPUS Dual Compensation/Conflict of Interest Provisions	0720-AA41
816	Civilian Health and Medical Program for the Uniformed Services (CHAMPUS); TRICARE Prime Enrollment Procedures	0720-AA48

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
817	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Individual Case Management (DoD 6010.8-R)	0720-AA30
818	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Reimbursement	0720-AA37
819	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); State Victims of Crime Compensation Programs; Voice Prostheses	0720-AA42
820	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Balance Billing	0720-AA46

DEPARTMENT OF DEFENSE (DOD)

Proposed Rule Stage

Office of the Secretary (OS)

696. COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 32 CFR 164

Legal Deadline: None

Abstract: OMB issued a revised Circular No. A-76 supplemental handbook that contained streamlined cost comparison guidance. This rule updates DoD unique policies and assigns responsibility for commercial activities as contained in OMB Circular No. A-76, Revised Supplemental Handbook, "Performance of Commercial Activities." This rule also removes 32 CFR part 169a.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

DOD—OS

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Horsfall, Department of Defense, Office of the Secretary
Phone: 703 604-6735

RIN: 0790–AG44

697. PERSONNEL AND GENERAL CLAIMS

Priority: Other Significant

Legal Authority: 5 USC 5584; 10 USC 2575; 10 USC 2771; 10 USC 2774; 24 USC 420; 31 USC 3702; 32 USC 714; 32 USC 716; 37 USC 554

CFR Citation: 32 CFR 153

Legal Deadline: None

Abstract: The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding $1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members to DoD and the authority to waive employee debts to the employee's agency (non-DoD agencies may request an advisory opinion from DoD). The Secretary of Defense further delegated his claims settlement authority to the Defense Office of Hearings and Appeals (DOHA). This proposed rule seeks public comments on the procedures that DOHA proposes to use to implement these authorities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: Pending analysis of public comments and issuance of final regulations, DOHA intends to use the procedures and practices applicable to claims and waiver applications before the effective dates of the transfers of authority, June 30, 1996, and December 18, 1996, respectively, which are published in title 4, Code of Federal Regulations, chapter 1, subchapters C and G. See also 61 FR 50285, September 25, 1996; and 62 FR 5387, February 5, 1997.

Agency Contact: Michael Hipple, Department of Defense, Office of the Secretary
Phone: 703 696-8524
Fax: 703 696-6865

RIN: 0790–AG47

DEPARTMENT OF DEFENSE (DOD)

Final Rule Stage

Office of the Secretary (OS)

698. SCIENCE, MATHEMATICS, AND ENGINEERING (SME) EDUCATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 301

CFR Citation: 32 CFR 118

Legal Deadline: None

Abstract: This rule provides support to institutions of higher education through infrastructure assistance to historically black colleges and universities and minority institutions. It also defines minority institutions and establishes procedures for DoD programs and activities in science, mathematics, and engineering (SME) education.

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 65956
NPRM Comment Period End	02/15/94	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith Thompson, Department of Defense, Office of the Secretary
Phone: 703 696-0378
Fax: 703 696-0569
Email: thompsonk@acq.osd.mil

RIN: 0790–AF27

699. NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION (DOD INSTRUCTION 1025.5)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1141(a)

CFR Citation: 32 CFR 206

Legal Deadline: Final, Statutory, April 5, 1994.

Abstract: The National Security Education Act provided for the National Security Education Program, the National Security Education Board, and a trust fund in the U.S. Treasury to provide all resources for the program. Under the Act the Secretary is directed to carry out a program to award undergraduate scholarships, graduate fellowships, and grants to institutions of higher education. This rule is to inform those concerned with institutional grants to be offered under the 1994-1995 pilot grants program of the preliminary guidelines.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/05/94	59 FR 26116
Interim Final Rule	05/19/94	59 FR 26116
Interim Final Rule Comment Period End	07/18/94	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Steve Door, Department of Defense, Office of the Secretary
Phone: 703 696-1991
Fax: 703 696-5667
Email: nsep@nsep.policy.osd.mil

RIN: 0790–AF59

DOD—OS

Final Rule Stage

700. COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 1095

CFR Citation: 32 CFR 220

Legal Deadline: None

Abstract: This proposed rule implements several recent statutory changes and makes other revisions to the Third Party Collection Program. The primary matters include: a new initiative to identify third party payer situations, similar to an activity currently in effect for the Medicare Program; implementation of new statutory authority to include worker's compensation programs under the Third Party Collection Program; the addition of special rules for collections from preferred provider organizations; and other program revisions.

Timetable:

Action	Date	FR Cite
NPRM	03/10/98	63 FR 11635
NPRM Comment Period End	05/11/98	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Edmund Chan, Department of Defense, Office of the Secretary
Phone: 703 681-8910

RIN: 0790–AG51

701. PERSONNEL SECURITY POLICIES FOR GRANTING ACCESS TO CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 147

Legal Deadline: None

Abstract: This rule is published to streamline security practices throughout the Government. Uniform adjudicative guidelines, investigative standards and guidelines for temporary access are being established. This initiative will simplify security processing and allow the deserving public to obtain a security clearance in a faster, more efficient manner.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/98	63 FR 4572
Interim Final Rule Effective	03/24/98	
Interim Final Rule Comment Period End	03/31/98	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: T. Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG54

702. NATIONAL POLICY ON RECIPROCITY OF FACILITIES AND GUIDELINES FOR IMPLEMENTATION OF RECIPROCITY

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 148

Legal Deadline: None

Abstract: This rule is published to make physical facilities available for reciprocal use in the storage of classified information. Once a facility has been certified as suitable for classified use by one organization, it may also be used by another for like purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4580
Interim Final Rule	01/30/98	63 FR 4580
Interim Final Rule Comment Period End	03/31/98	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: T. Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG55

703. NATIONAL POLICY ON TECHNICAL SURVEILLANCE COUNTERMEASURES

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 149

Legal Deadline: None

Abstract: This rule is published to limit the use of technical surveillance countermeasures within the boundaries of the U.S. to cases where there is a reasonable showing of threat.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4582
Interim Final Rule	01/30/98	63 FR 4582
Interim Final Rule Comment Period End	03/31/98	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: T. Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG56

704. SCREENING THE READY RESERVE (DOD DIRECTIVE 1200.7)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 10145; 10 USC 10146; 10 USC 10149; 10 USC 10150; 10 USC 10205; 10 USC 12301; 10 USC 12302; 10 USC 12304; 10 USC 12306; 10 USC 12317; 10 USC 12645; EO 11190

CFR Citation: 32 CFR 44

Legal Deadline: None

Abstract: This rule establishes guidance governing the screening of Reserve component members of the United States Military Departments relative to their civilian employment. The requirement for screening the Ready Reserve is established in law. The purpose of the screening program is to ensure the availability of Ready Reserve members for military mobilization purposes. The intended effect of the screening is to preclude conflicts between Reserve mobilization obligations and Federal civilian employment requirements during times of war or national emergency.

DOD—OS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/28/98	63 FR 45975
NPRM Comment Period End	10/27/98	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Daniel Kohner, Department of Defense, Office of the Secretary
Phone: 703 693-7479
Fax: 703 695-3659
Email: dkohner@osd.pentagon.mil

RIN: 0790–AG57

705. FREEDOM OF INFORMATION ACT PROGRAM (NSA/CSS)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 299

Legal Deadline: None

Abstract: This rule proposes to revise the National Security Agency/Central Security Service (NSA/CSS) regulation governing disclosure of information under the Freedom of Information Act of 1986 (Pub. L. 99-570). As a component of the Department of Defense, the Departmental rules and schedules with respect to the Freedom of Information Reform Act will also be the policy of the NSA/CSS. The effect of the proposed rule is to conform to the requirements of the Electronic Freedom of Information Act Amendments of 1996, 5 USC 552, as amended by Public Law 104-231. It also incorporates guidance provided by the Department of Defense on implementation of this amended law.

Timetable:

Action	Date	FR Cite
NPRM	09/30/98	63 FR 52208
NPRM Comment Period End	11/30/98	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Paisley, Department of Defense, Office of the Secretary
Phone: 301 688-6527

RIN: 0790–AG59

706. IMPLEMENTATION OF THE WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996 (PUB. L. 104-307)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-307

CFR Citation: 32 CFR 171

Legal Deadline: Final, Statutory, September 30, 1998.

Abstract: The Wildfire Suppression Aircraft Transfer Act of 1996 states that, notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 USC 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning October 1, 1996, and ending on September 30, 2000, sell certain aircraft and aircraft parts to persons or entities that contract with the Federal Government for the delivery of fire retardant by air to suppress wildfire. The Act states that, as soon as practicable after the date of the enactment of the Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. Regulations have been drafted as a new part of 32 CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Michael Stubblebine, Department of Defense, Office of the Secretary
Phone: 703 767-1537

RIN: 0790–AG60

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Long-Term Actions

707. TEACHER AND TEACHER'S AIDE PLACEMENT ASSISTANCE PROGRAM (TROOPS TO TEACHERS)(DOD INSTRUCTION 1404.13)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 254

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/94	59 FR 7213
Interim Final Rule Effective	02/22/94	
Interim Final Rule Comment Period End	04/18/94	
Interim Final Rule; Amendment Effective	11/25/94	
Interim Final Rule; Amendment	06/08/95	60 FR 30188
Interim Final Rule; Amendment Comment Period End	08/07/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Otto Thomas
Phone: 703 614-4074
Fax: 703 697-2519
Email: thomaso@pr.osd.mil

RIN: 0790–AF71

708. DLA ACQUISITION REGULATION; SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5419; 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21954
NPRM Comment Period End	06/27/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF72

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709. DLA ACQUISITION REGULATION; FUEL ALLOCATION PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21956
NPRM Comment Period End	06/27/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF73

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710. MILITARY ASSISTANCE FOR CIVIL DISTURBANCES (MACDIS) (DOD DIRECTIVE 3025.12)

Priority: Other Significant

CFR Citation: 32 CFR 215

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: G. Warren
Phone: 703 697-5454

RIN: 0790–AG21

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711. FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT (DOD DIRECTIVE 1340.16 AND DOD 7000.14-R, VOL 7, PART B)

Priority: Info./Admin./Other

CFR Citation: 32 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17507
NPRM Comment Period End	06/06/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fiti Malufau
Phone: 703 607-5061
Fax: 702 602-5271
Email: malufauf@cleveland.dfas.mil

RIN: 0790–AG22

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712. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM (URISP)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 209

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11642
NPRM Comment Period End	05/01/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Evelyn Kent
Phone: 703 696-0368
Fax: 703 696-0569
Email: kente@acq.osd.mil

RIN: 0790–AG26

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713. RESTORATION ADVISORY BOARD (RABS)

Priority: Other Significant

CFR Citation: 32 CFR 202

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40764
NPRM Comment Period End	11/04/96	61 FR 40765
NPRM Extension of Comment Period	11/19/96	61 FR 58803
NPRM Comment Period End	01/20/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marcia Read
Phone: 703 697-9793
Fax: 703 695-4981
Email: readmw@acq.osd.mil

RIN: 0790–AG31

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714. CLOSED, TRANSFERRED, AND TRANSFERRING RANGES CONTAINING MILITARY MUNITIONS

Priority: Other Significant

CFR Citation: 32 CFR 178

Timetable:

Action	Date	FR Cite
NPRM	09/26/97	62 FR 50796
Public Meetings Begin	10/22/97	
Public Meetings End	12/10/97	
NPRM Comment Period End	12/26/97	62 FR 50796
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Lydia Sanchez
Phone: 703 325-1373
Fax: 703 325-6227

RIN: 0790–AG46

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715. • COMPENSATION OF CERTAIN FORMER OPERATIVES INCARCERATED BY THE DEMOCRATIC REPUBLIC OF VIETNAM; AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-201

CFR Citation: 32 CFR 270

Legal Deadline: None

Abstract: This rule amends part 270 to reflect changes necessary as a result of new language in section 658 of the FY99 National Defense Authorization ACt. Section 658 expands the field of beneficiaries of the Vietnamese Commandos Compensation Commission to parents and siblings of deceased Commandos. It also adds words "notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement" must be made directly to the person who is eligible for the payment. This rule also amends part 270 to reflect necessary technical changes to accommodate the new language.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/10/98	63 FR 68194
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

DOD—OS

Long-Term Actions

Government Levels Affected: None

Agency Contact: Mr. Chuck Witschonke, Department of Defense, Office of the Secretary
Phone: 703 693-1059

LTC Frank Hudson, Department of Defense, Office of the Secretary
Phone: 703 588-6570

RIN: 0790–AG67

DEPARTMENT OF DEFENSE (DOD)

Office of the Secretary (OS)

Completed Actions

716. MILITARY RECRUITING AND RESERVE OFFICER TRAINING CORPS PROGRAM ACCESS TO INSTITUTIONS OF HIGHER EDUCATION

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	10/23/98	63 FR 56819
Final Action Effective	03/29/97	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Carr
Phone: 703 697-8444

RIN: 0790–AG42

717. DOD FREEDOM OF INFORMATION ACT PROGRAM REGULATION (DOD 5400.7-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 286

Completed:

Reason	Date	FR Cite
Final Action	11/25/98	63 FR 65420
Final Action Effective	09/04/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charlie Talbott
Phone: 703 697-1171
Fax: 703 693-7341

RIN: 0790–AG58

718. ENLISTED ADMINISTRATIVE SEPARATIONS (DOD DIRECTIVE 1332.14)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 32 CFR 41

Completed:

Reason	Date	FR Cite
Final Action	10/21/98	63 FR 56081
Final Action Effective	10/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Angelia Farnell
Phone: 703 695-6312
Fax: 703 614-6058
Email: farnella@pr.osd.mil

RIN: 0790–AG61

719. • SALE OR RENTAL OF SEXUAL EXPLICIT MATERIAL ON DOD PROPERTY (DOD INSTRUCTION 4105.70)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2489a

CFR Citation: 32 CFR 235

Legal Deadline: None

Abstract: This rule concerns sexually explicit audio recordings, films, video recordings, or periodicals with visual depictions available for sale or rental on property under the jurisdiction of the Department of Defense. It implements 10 USC 2489a.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/29/98	64 FR 6218
Final Action	02/09/99	64 FR 6218

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: LTC Bernard Ingold, Department of Defense, Office of the Secretary
Phone: 703 697-3387

RIN: 0790–AG66

720. • DEFENSE CONTRACT AUDIT AGENCY (DCAA) FREEDOM OF INFORMATION ACT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 290

Legal Deadline: None

Abstract: This administrative amendment is a result of the provisions of the Electronic Freedom of Information Act Amendments of 1996, updates to the address listing in appendix B, and other minor administrative changes.

Timetable:

Action	Date	FR Cite
Final Action	01/08/99	64 FR 1130
Final Action Effective	01/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mr. Dave Henshall, Department of Defense, Office of the Secretary
Phone: 703 767-1005

RIN: 0790–AG68

721. • CONDUCT ON THE PENTAGON RESERVATION; AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 131; 10 USC 2674(c)

CFR Citation: 32 CFR 234

Legal Deadline: None

Abstract: This rule makes administrative amendments to the Department of Defense rule on "Conduct on the Pentagon Reservation." The amendments are intended to ensure that DoD regulations are consistent with the statutory authority on which they are based, and to promote the safer, more efficient, and more secure operation of the Pentagon Reservation.

Timetable:

Action	Date	FR Cite
Final Action	09/14/98	63 FR 49003
Final Action Effective	10/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOD—OS

Completed Actions

Agency Contact: Thomas Brooke, Department of Defense, Office of the Secretary
Phone: 703 693-7374
Fax: 703 697-1068

RIN: 0790–AG69

722. • DEFENSE THREAT REDUCTION AGENCY (DTRA)

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 32 CFR 318

Legal Deadline: None

Abstract: This rule changes the name "Defense Special Weapons Agency" to "Defense Threat Reduction Agency (DTRA)." This name change is made to reflect the organization restructuring as defined in DoD Directive 5105.62.

Timetable:

Action	Date	FR Cite
Final Action	11/09/98	63 FR 60212
Final Action Effective	11/09/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ralph Kennedy, Department of Defense, Office of the Secretary
Phone: 703 695-4281
Fax: 703 614-2447
Email: kennedyr@osd.pentagon.mil

RIN: 0790–AG70

DEPARTMENT OF DEFENSE (DOD)

Proposed Rule Stage

Defense Acquisition Regulations Council (DARC)

723. CONTRACTING FOR COMMERCIAL CONSTRUCTION (DFARS CASE 98-D013)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 212; 48 CFR 236.101; 48 CFR 252.212

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide guidance for construction using commercial procedures as outlined in FAR Part 12 and part 212 of the Defense FAR Supplement.

Timetable:

Action	Date	FR Cite
Case opened	04/07/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC44

724. CARGO PREFERENCE—SUBCONTRACTS FOR COMMERCIAL ITEMS (DFARS CASE 98-D014)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 212.504; 48 CFR 247.572; 48 CFR 252.247

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide exceptions to the waiver of the Cargo Preference Act for commercial subcontracts.

Timetable:

Action	Date	FR Cite
Case opened	05/05/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC45

725. • REWRITE OF DFARS PART 225 (DFARS CASE 98-D028)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 208.72; 48 CFR 209.1; 48 CFR 209.4; 48 CFR 225; 48 CFR 252.209; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to conform DFARS part 225 and associated clauses to the proposed rewrite of FAR part 25 and to incorporate other improvements.

Timetable:

Action	Date	FR Cite
Case opened	11/02/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC60

DOD—DARC — Proposed Rule Stage

726. • OVERSEAS USE OF THE PURCHASE CARD (DFARS CASE 99-D002)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 213

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to permit the use of the Governmentwide commercial purchase card on a stand-alone basis, for purchases valued at or below $25,000, that are made and used outside the United States.

Timetable:

Action	Date	FR Cite
Case opened	01/15/99	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC72

727. • STREAMLINED PAYMENT PRACTICES (DFARS CASE 98-D026)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 202.101; 48 CFR 208.405; 48 CFR 212.303; 48 CFR 213; 48 CFR 214.2; 48 CFR 215.2

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide additional guidance on the use of the purchase card to pay for goods and services valued at or below $2,500.

Timetable:

Action	Date	FR Cite
Case opened	10/08/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC74

DEPARTMENT OF DEFENSE (DOD)
Defense Acquisition Regulations Council (DARC)

Final Rule Stage

728. IR&D/B&P COSTS FOR FY96 AND BEYOND (DFARS CASE 95-D040)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.771; 48 CFR 225.7303; 48 CFR 231.205

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to treat independent research and development/bid and proposal costs for fiscal year 1996 and beyond as fully allowable, subject only to the FAR normal standards of reasonableness and allocability.

Timetable:

Action	Date	FR Cite
Case opened	12/06/95	
NPRM	01/03/97	62 FR 374
NPRM Comment Period End	03/04/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB04

729. ANTITERRORISM TRAINING (DFARS CASE 96-D016)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.7400; 48 CFR 225.7401; 48 CFR 225.7402; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add guidance pertaining to DoD antiterrorism/force protection policy. The rule requires DoD contractors and their subcontractors to take appropriate security precautions when performing or traveling outside the United States.

Timetable:

Action	Date	FR Cite
Case opened	08/14/96	
Interim Final Rule	06/11/98	63 FR 31936
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD

DOD—DARC **Final Rule Stage**

3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB26

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730. FAR PART 30 DEVIATIONS (DFARS CASE 97-D016)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 201

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to conform to Cost Accounting Standards recodification and allow the Government to deviate from its own policies and procedures.

Timetable:

Action	Date	FR Cite
Case opened	04/30/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB91

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731. SINGLE PROCESS INITIATIVE (DFARS CASE 97-D014)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 211.273; 48 CFR 243.302; 48 CFR 252.211

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to establish policy and procedures to facilitate the Single Process Initiative.

Timetable:

Action	Date	FR Cite
Case opened	04/14/97	
Interim Final Rule	08/20/97	62 FR 44223
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AB94

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732. EMPLOYMENT PROHIBITION ON PERSONS CONVICTED OF FRAUD (DFARS CASE 97-D020)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2408; 41 USC 421

CFR Citation: 48 CFR 203.570; 48 CFR 252.203

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide the flexibility for agencies to prohibit defense-related contract felons from working on defense contracts beyond the 5-year minimum provided in 10 USC 2408.

Timetable:

Action	Date	FR Cite
Case opened	05/13/97	
NPRM	10/02/97	62 FR 51623
NPRM Comment Period End	12/01/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AB96

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733. CONTRACT ADMINISTRATION AND AUDIT SERVICES (DFARS CASE 98-D003)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204; 28 CFR 225; 48 CFR 242; 48 CFR 247

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to conform to FAR revisions regarding policies and procedures for assigning contract administration and audit responsibilities.

Timetable:

Action	Date	FR Cite
Case opened	01/15/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC02

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734. COMMERCIAL BALL OR ROLLER BEARINGS—COMPONENTS OF NONCOMMERCIAL ITEMS (DFARS CASE 97-D028)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

DOD—DARC

Final Rule Stage

CFR Citation: 48 CFR 225.7019; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to reconcile inconsistencies pertaining to ball and roller bearings and the exemption from 10 USC 2534 for commercial components of noncommercial end products in acquisitions above the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
Case opened	09/08/97	
NPRM	11/04/97	62 FR 59641
NPRM Comment Period End	01/05/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC13

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735. DD FORM 2631, PERFORMANCE EVALUATION (A-E) (DFARS CASE 97-D035)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise DD Form 2631, Performance Evaluation (A-E).

Timetable:

Action	Date	FR Cite
Case opened	10/09/97	
NPRM	07/08/98	63 FR 36883
NPRM Comment Period End	09/08/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC14

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736. VETERANS EMPLOYMENT EMPHASIS (DFARS CASE 97-D314)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-56, sec 8117

CFR Citation: 48 CFR 209.104; 48 CFR 212.503; 48 CFR 213.005; 48 CFR 217.207; 48 CFR 222.1304; 48 CFR 252.209

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement a prohibition on obligation or expenditure of funds with a contractor who has not submitted a required report on employment of Vietnam veterans.

Timetable:

Action	Date	FR Cite
Case opened	10/17/97	
Interim Final Rule	03/11/98	63 FR 11850
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC20

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737. CONTRACTOR USE OF NONIMMIGRANT ALIENS—GUAM (DFARS CASE 97-D318)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 390

CFR Citation: 48 CFR 222.73; 48 CFR 252.222

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to prohibit contracts for base operations support on Guam from being performed by certain nonimmigrant aliens.

Timetable:

Action	Date	FR Cite
Case opened	11/14/97	
Interim Final Rule	06/11/98	63 FR 31935
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC21

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738. MULTIYEAR CONTRACTING (DFARS CASE 97-D308)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-56, sec 8008(b); PL 105-85, sec 806

CFR Citation: 48 CFR 217.1

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to clarify the procedure for authorizing the use of multiyear contracts for certain acquisitions.

Timetable:

Action	Date	FR Cite
Case opened	10/17/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

DOD—DARC **Final Rule Stage**

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC31

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739. TELEVISION-AUDIO SUPPORT ACTIVITY (T-ASA) (DFARS CASE 98-D008)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR ch 2, app B

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to move the responsibility for the partial assignments of Federal Stock Class 5820 from the Army to the Defense Logistics Agency.

Timetable:

Action	Date	FR Cite
Case opened	02/09/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC39

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740. DD FORMS 350 AND 1057 CHANGES TO CAPTURE FSS ORDERS (DFARS CASE 98-D017)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to change the DD Form 350 and DD Form 1057 to collect information regarding awards made by DoD small businesses, small disadvantaged businesses, and women-owned businesses under Federal Supply Schedule contracts.

Timetable:

Action	Date	FR Cite
Case opened	07/22/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 1D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC40

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741. REVISIONS TO DD FORM 1707, INSTRUCTIONS TO OFFERORS OR QUOTERS (DFARS CASE 98-D020)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.303

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to update the content of DD Form 1707, Instructions to Offerors or Quoters.

Timetable:

Action	Date	FR Cite
Case opened	07/29/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC49

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742. FLEXIBLE PROGRESS PAYMENTS (DFARS CASE 98-D400)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 232.5; 48 CFR 252.232

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to remove the flexible progress payments type of financing.

Timetable:

Action	Date	FR Cite
Case opened	07/06/98	
NPRM	09/08/98	63 FR 47460
NPRM Comment Period End	11/09/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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DOD—DARC

Final Rule Stage

Fax: 703 602-0350

RIN: 0750–AC51

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743. ELECTRONIC FUNDS TRANSFER (DFARS CASE 98-D012)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 232.11; 48 CFR 252.232

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to remove policy and procedures for the use of the electronic funds transfer (EFT) method of contract payment when the payment office uses the central contractor registration database as its source of EFT information.

Timetable:

Action	Date	FR Cite
Case opened	04/08/98	
Interim Final Rule	05/20/98	63 FR 27682
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 0750–AC52

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744. • PARA-ARAMID FIBERS AND YARNS (DFARS CASE 98-D310)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-261, Sec 807

CFR Citation: 48 CFR 225.70; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 807 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261). Section 807 sets forth conditions under which the Department of Defense may procure articles containing para-aramid fibers and yarns manufactured in certain foreign countries.

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Interim Final Rule	01/15/99	64 FR 2599
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC57

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745. • SINGAPORE ACCESSION TO GPA (DFARS CASE 98-D029)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.408; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to remove the limitation on the eligibility of Singapore under the Trade Agreements Act.

Timetable:

Action	Date	FR Cite
Case opened	12/14/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC58

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746. • PEOPLE'S REPUBLIC OF CHINA (DFARS CASE 98-D305)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-262, Sec 8120

CFR Citation: 48 CFR 212.301; 48 CFR 225.7; 48 CFR 252.212; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 8120 of the Defense Appropriations Act for Fiscal Year 1999. Section 8120 restricts contracts with companies owned or partially owned by the People's Republic of China or the People's Liberation Army of the People's Republic of China.

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC59

DOD—DARC

Final Rule Stage

747. • APPLICABILITY OF DFARS BUY AMERICAN CLAUSES TO SIMPLIFIED ACQUISITIONS (DFARS CASE 98-D031)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 213.302

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to clarify the use of Defense FAR Supplement Buy American clauses in simplified acquisitions.

Timetable:

Action	Date	FR Cite
Case opened	12/15/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC61

748. • IMPROVED ACCOUNTING FOR DEFENSE CONTRACT SERVICES (DFARS CASE 98-D312)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-261, Sec 911

CFR Citation: 48 CFR 237.201

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to reflect revised statutory definitions of types of defense contract services.

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC62

749. • CONGRESSIONAL MEDAL OF HONOR (DFARS CASE 98-D304)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-262, Sec 8118

CFR Citation: 48 CFR 209.104

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement restrictions on award of contracts and subcontracts to any person convicted of the unlawful manufacture or sale of the Congressional Medal of Honor.

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC63

750. • MANUFACTURING TECHNOLOGY PROGRAM (DFARS 98-D306)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-261, sec 213

CFR Citation: 48 CFR 235

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 213 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261). Section 213 amends 10 USC 2525(d)(i) to require the ratio of contract recipient cost to Government cost to be determined by competitive procedures for each grant awarded and each contract entered into on a cost-share basis under the program.

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC64

751. • DOD PURCHASES THROUGH OTHER AGENCIES (DFARS CASE 98-D311)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-261, sec 814

CFR Citation: 48 CFR 217.5

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261). Section 814 requires that the Defense

DOD—DARC **Final Rule Stage**

FAR Supplement be changed to state that the Economy Act applies to any purchase by a Department of Defense agency from other agency under a multiple award task or delivery order contract that is over the micropurchase threshold.

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC67

752. • REVISIONS TO DD FORM 1425, SPECIFICATIONS AND STANDARDS REQUISITION (DFARS CASE 98-D022)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 211.201; 48 CFR 253.3

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to delete the DD Form 1425, Specifications and Standards Requisition, and guidance pertaining to the form's use.

Timetable:

Action	Date	FR Cite
Case opened	09/10/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 0750–AC68

753. • ELECTRONIC PUBLICATION OF DFARS (DFARS CASE 98-D024)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 201.1; 48 CFR 201.3

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to update guidance on publication of the Defense FAR Supplement to reflect electronic publication.

Timetable:

Action	Date	FR Cite
Case opened	09/16/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC69

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Long-Term Actions

754. INCREMENTAL FUNDING, FIXED PRICE CONTRACTS (DAR CASE 90-037)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.7; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 0750–AA07

755. DEMILITARIZATION (DFARS CASE 92-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245; 48 CFR 252.245

Timetable:

Action	Date	FR Cite
Case opened	07/22/92	
NPRM	03/16/94	59 FR 12223
NPRM Comment Period End	06/30/94	
NPRM	03/23/95	60 FR 15276
NPRM Comment Period End	05/22/95	
NPRM	06/05/97	62 FR 30832
NPRM Comment Period End	08/04/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 0750–AA09

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756. ACQUISITION OF COMMERCIAL ITEMS (DFARS CASE 95-D712)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 211.70; 48 CFR 212; 48 CFR 227.7102; 48 CFR 252.211; 48 CFR 252.212; 48 CFR 252.227

Timetable:

Action	Date	FR Cite
Case opened	10/04/95	
Interim Final Rule	11/30/95	60 FR 61585
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AB00

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757. DFARS COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS (DFARS CASE 96-D316)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212

Timetable:

Action	Date	FR Cite
Case opened	08/28/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB40

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758. DISTRIBUTION OF CONTRACT FINANCING PAYMENT (DFARS CASE 97-D011)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 48 CFR 214.201; 48 CFR 215.406

Timetable:

Action	Date	FR Cite
Case opened	03/12/97	
NPRM	06/05/97	62 FR 30829
NPRM Comment Period End	08/04/97	
NPRM	11/26/97	62 FR 63047
NPRM Comment Period End	01/26/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB87

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759. UNIFORM PROCUREMENT INSTRUMENT IDENTIFICATION (DFARS CASE 97-D033)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204.70

Timetable:

Action	Date	FR Cite
Case opened	10/07/97	
ANPRM	12/16/97	62 FR 65782
ANPRM Comment Period End	02/17/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC29

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760. REFORM OF AFFIRMATIVE ACTION IN FEDERAL GOVERNMENT PROCUREMENT (DFARS CASE 98-D007)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 205; 48 CFR 206; 48 CFR 217; 48 CFR 219; 48 CFR 225; 48 CFR 226; 48 CFR 235; 48 CFR 236; 48 CFR 252; 48 CFR 253

Timetable:

Action	Date	FR Cite
Case opened	02/09/98	
Interim Final Rule	08/06/98	63 FR 41972
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC38

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761. RESTRUCTURING SAVINGS REPRICING CLAUSE (DFARS CASE 98-D018)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Timetable:

Action	Date	FR Cite
Case opened	07/28/98	
NPRM	11/30/98	63 FR 65727
NPRM Comment Period End	01/29/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AC53

762. REFORM OF AFFIRMATIVE ACTION IN FEDERAL PROCUREMENT DFARS—PHASE II (DFARS CASE 98-D021)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 215; 48 CFR 217; 48 CFR 219; 48 CFR 226; 48 CFR 236; 48 CFR 252.212; 48 CFR 252.219

Timetable:

Action	Date	FR Cite
Case opened	08/05/98	
Interim Final Rule	11/20/98	63 FR 64427
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC54

763. • EVALUATION OF DUTY (DFARS CASE 98-D030)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225; 48 CFR 242.302; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to simplify the evaluation of duty.

Timetable:

Action	Date	FR Cite
Case opened	12/14/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
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RIN: 0750–AC56

764. • WEIGHTED GUIDELINES AND PERFORMANCE-BASED PAYMENTS (DFARS CASE 99-D001)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215.404

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise the weighted guidelines method of computing the profit objective to accommodate performance-based payments type of financing.

Timetable:

Action	Date	FR Cite
Case opened	01/14/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC65

765. • PART 204 AND RELATED CHANGES (DFARS CASE 98-D027)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204; 48 CFR 212.301; 48 CFR 213.106; 48 CFR 252.204; 48 CFR 253.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add procedures for reporting payment information to the Internal Revenue Service; and to revise the procedures for obtaining Taxpayer Identification Numbers and Commercial and Government Entity codes when contractors are required to register in the Central Contractor Registration database.

Timetable:

Action	Date	FR Cite
Case opened	10/29/98	
NPRM	01/15/99	64 FR 2617
NPRM Comment Period End	03/16/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
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RIN: 0750–AC66

766. • LIMITATION ON THE USE OF PRICE PREFERENCE UPON ACHIEVEMENT OF CONTRACT GOAL FOR SMALL AND DISADVANTAGED BUSINESSES (DFARS CASE 98-D307)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-261, sec 801

CFR Citation: 48 CFR 219.2

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to suspend the use of the price evaluation adjustment for small disadvantaged businesses in Department of Defense procurement, as prescribed in FAR subpart 19.11.

DOD—DARC **Long-Term Actions**

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC71

767. • DD FORM 1057, WORK STOPPAGE (DFARS CASE 99-D003)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 222.101

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to amend the requirements for reporting contractor labor disputes to the agency labor advisor on the DD Form 1057.

Timetable:

Action	Date	FR Cite
Case opened	02/03/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
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RIN: 0750–AC73

DEPARTMENT OF DEFENSE (DOD)
Defense Acquisition Regulations Council (DARC)

Completed Actions

768. STREAMLINED R&D TEST RESULTS (DFARS CASE 97-D002)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 235.70

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64426
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB52

769. DD FORM 1155 (DFARS CASE 97-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 253.213

Completed:

Reason	Date	FR Cite
Final Action	01/15/99	64 FR 2600
Final Action Effective	01/15/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB82

770. DFARS PART 215 REWRITE (DFARS CASE 97-D018)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212.503; 48 CFR 217; 48 CFR 215; 48 CFR 225.872; 48 CFR 227.7203; 48 CFR 230; 48 CFR 237.7204; 48 CFR 242.7205; 48 CFR 247.572; 48 CFR 252.217; 48 CFR 252.219; 48 CFR 252.243; 48 CFR 253.204

Completed:

Reason	Date	FR Cite
Final Action	10/14/98	63 FR 55040
Final Action Effective	10/14/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AB90

771. WEIGHTED GUIDELINES—FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (DFARS CASE 97-D025)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 215.404; 48 CFR 253.215

Completed:

Reason	Date	FR Cite
Final Action	11/17/98	63 FR 63799
Final Action Effective	11/17/98	

DOD—DARC

Completed Actions

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB99

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772. DFARS PART 213 REWRITE (DFARS CASE 97-D306)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204; 48 CFR 208; 48 CFR 213; 48 CFR 216.203; 48 CFR 217; 48 CFR 219.201; 48 CFR 223.570; 48 CFR 225; 48 CFR 237.7302; 48 CFR 242.203; 48 CFR 247; 48 CFR 253

Completed:

Reason	Date	FR Cite
Final Action	01/15/99	64 FR 2595
Final Action Effective	01/15/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC00

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773. QUALITY ASSURANCE AMONG NORTH ATLANTIC TREATY ORGANIZATION COUNTRIES (DFARS CASE 97-D038)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.406

Completed:

Reason	Date	FR Cite
Final Action	08/17/98	63 FR 43890
Final Action Effective	08/17/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AC05

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774. COMPLIANCE WITH SPANISH LAWS AND INSURANCE (DFARS CASE 98-D002)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 228.370; 48 CFR 252.228

Completed:

Reason	Date	FR Cite
Final Action	12/15/98	63 FR 69006
Final Action Effective	12/15/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC08

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775. CONSTRUCTION IN FOREIGN COUNTRIES (DFARS CASE 97-D307)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 236.102; 48 CFR 236.274; 48 CFR 236.570; 48 CFR 252.236

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64426
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC12

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776. SHORT FORM RESEARCH CONTRACT (DFARS CASE 97-D030)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 235.015; 48 CFR 253.303

Completed:

Reason	Date	FR Cite
Final Action	12/15/98	63 FR 69007
Final Action Effective	12/15/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AC17

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777. LIST OF FIRMS NOT ELIGIBLE FOR DEFENSE CONTRACTS (DFARS CASE 97-D325)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.104; 48 CFR 209.405; 48 CFR 209.409; 48 CFR 252.209

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64426
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC22

DOD—DARC

Completed Actions

778. SERVICE CONTRACTS THAT CROSS FISCAL YEARS (DFARS CASE 97-D328)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 237.106

Completed:

Reason	Date	FR Cite
Final Action	12/09/98	63 FR 67804
Final Action Effective	12/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC23

779. COMPREHENSIVE SUBCONTRACTING PLANS (DFARS CASE 97-D323)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.702

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64426
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC27

780. WAIVER AUTHORITY TO HUMANITARIAN OR PEACEKEEPING OPERATIONS (DFARS CASE 97-D319)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 217.7404

Completed:

Reason	Date	FR Cite
Final Action	12/09/98	63 FR 67803
Final Action Effective	12/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AC32

781. REQUIREMENT UNDER COMPETITION EXCEPTION FOR INTERNATIONAL AGREEMENTS (DFARS CASE 97-D324)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 206.302

Completed:

Reason	Date	FR Cite
Final Action	12/09/98	63 FR 67803
Final Action Effective	12/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AC33

782. ALLOWABILITY OF COSTS FOR RESTRUCTURING BONUSES (DFARS CASE 97-D312)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64426
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AC34

783. RESTRUCTURING COSTS (DFARS CASE 97-D313)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64426
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC36

784. ELECTRONIC SIGNATURE ON RECEIVING REPORTS (DFARS CASE 98-D001)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.905

Completed:

Reason	Date	FR Cite
Final Action	12/15/98	63 FR 69006
Final Action Effective	12/15/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk

Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC37

785. DIRECT AWARD OF 8(A) CONTRACTS (DFARS CASE 98-D011)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 213.70; 48 CFR 219.8; 48 CFR 252.219; 48 CFR 253.204

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64426
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC41

786. CONTRACT ACTION REPORTING—1998 (DFARS CASE 98-D009)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 253.204

Completed:

Reason	Date	FR Cite
Final Action	11/09/98	63 FR 60217
Final Action Effective	11/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC42

787. E-MAIL/INTERNET ADDRESSES ON CONTRACTS AND MODIFICATIONS (DFARS CASE 98-D010)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204.101

Completed:

Reason	Date	FR Cite
Final Action	12/15/98	63 FR 69005
Final Action Effective	12/15/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC43

788. LETTER OF OFFER AND ACCEPTANCE (DFARS CASE 98-D015)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 225.73; 48 CFR 253.303

Completed:

Reason	Date	FR Cite
Final Action	08/17/98	63 FR 43889
Final Action Effective	08/17/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 730 602-0131
Fax: 703 602-0350

RIN: 0750–AC46

789. WAIVER OF 10 USC 2534—UNITED KINGDOM (DFARS CASE 98-D016)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.70; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64426
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC47

790. HAZARDOUS WASTE DISPOSAL (DFARS CASE 98-D301)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 223.70; 48 CFR 252.223

Completed:

Reason	Date	FR Cite
Final Action	12/09/98	63 FR 67804
Final Action Effective	12/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC48

DOD—DARC

Completed Actions

791. DD FORM 350 CHANGES SUPPORTING REFORM OF AFFIRMATIVE ACTION (DFARS CASE 98-D018)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 253.204

Completed:

Reason	Date	FR Cite
Final Action	11/09/98	63 FR 60216
Final Action Effective	11/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC50

792. • ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN (DFARS CASE 98-D313)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 105-261, Sec 2801

CFR Citation: 48 CFR 236.601

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 2801 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261). Section 2801 amends 10 U.S.C. 2807(b) to increase the dollar threshold for Congressional notification prior to award of a contract for architect-engineer services or construction design.

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Final Action	12/15/98	63 FR 69007
Final Action Effective	12/15/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC55

793. • TECHNICAL AMENDMENTS TO UPDATE ACTIVITY NAMES AND ADDRESSES (DFARS CASE 98-D032)

Priority: Info./Admin./Other

Legal Authority: 41 USC 421

CFR Citation: 48 CFR app G

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to update names and addresses of Department of Defense activities.

Timetable:

Action	Date	FR Cite
Case opened	12/17/98	
Final Action	12/24/98	63 FR 71230
Final Action Effective	12/24/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC70

DEPARTMENT OF DEFENSE (DOD)

Proposed Rule Stage

Department of the Army (DOA)

794. THE DEPARTMENT OF THE ARMY FREEDOM OF INFORMATION ACT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 518

Legal Deadline: None

Abstract: This proposed rule updates the Army FOIA program. This change incorporates DoD policies as required by public law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, Records Management Division, ATTN: TAPC-PDD-RP, 6000 6th Street, Stop C55, Fort Belvoir, VA 22060-5576
Phone: 703 806-3708
Fax: 703 806-3230
Email: showalterg@rmpo.belvoir.army.mil

RIN: 0702–AA30

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Final Rule Stage

795. • ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 1552; 10 USC 1553; 10 USC 1554; 10 USC 3012; 38 USC 3103a

CFR Citation: 32 CFR 581

Legal Deadline: None

Abstract: This rule updates the policy and procedures for consideration of applications and corrections of the military records process. It also implements DoD Instruction 1336.6, Correction of Military Records, and streamlines portions of the application process by transferring the information into a Department of the Army pamphlet.

Timetable:

Action	Date	FR Cite
NPRM	09/29/98	63 FR 51875
NPRM Comment Period End	10/29/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, Records Management Division, ATTN: TAPC-PDD-RP, 6000 6th Street, Stop C55, Fort Belvoir, VA 22060-5576
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RIN: 0702–AA32

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Completed Actions

796. RADIATION SOURCES ON ARMY LAND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 655

Completed:

Reason	Date	FR Cite
Final Action	10/07/98	63 FR 53809

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Gregory D. Showalter
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RIN: 0702–AA31

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

797. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, ENDANGERED SPECIES ACT; SCOPE OF ANALYSIS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325

Legal Deadline: None

Abstract: The regulation will clarify the scope of analysis that the Corps has responsibility for under the Endangered Species Act (ESA). This regulation will adopt the Corps ESA scope of analysis consistent with the ESA, the ESA regulations, and the Corps authorities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN; CECW-OR, Washington, DC 20314-1000
Phone: 202 761-0199

RIN: 0710–AA43

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

798. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—ADMINISTRATIVE APPEALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 331

Legal Deadline: None

Abstract: The regulation establishes an administrative appeal process for permit denials by permit applicants. This process is included in the

DOD—COE **Final Rule Stage**

President's Wetland Protection Plan to increase fairness in the permitting process by allowing landowners to seek a speedy recourse of these decisions without having to go to court.

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37280
NPRM Comment Period End	09/05/95	
Final Action	04/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-0199

RIN: 0710–AA41

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Long-Term Actions

799. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 33 CFR 320 to 330

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Collinson
Phone: 202 761-0199

RIN: 0710–AA30

800. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, WETLAND DELINEATOR CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 33 CFR 320; 33 CFR 323; 33 CFR 325; 33 CFR 328; 33 CFR 333

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13654
NPRM Comment Period End	04/13/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Collen Charles
Phone: 202 761-1784

RIN: 0710–AA38

801. ENVIRONMENTAL QUALITY; PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 230

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Forrester Einarsen
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Fax: 703 428-6529

RIN: 0710–AA42

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Final Rule Stage

802. USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Priority: Info./Admin./Other

Legal Authority: 49 USC 1507

CFR Citation: 32 CFR 766

Legal Deadline: None

Abstract: This part establishes the policy and procedures for the use of Navy and Marine Corps aviation facilities by aircraft other than United States Department of Defense aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61561
NPRM Comment Period End	01/03/95	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lt Col Stephen G. Harris, USMC, Department of Defense, Department of the Navy, Office of the Chief of Naval Operations, (N885) 2000 Navy Pentagon, Washington, DC 20350-2000
Phone: 703 604-7707
Fax: 703 604-6969
Email: harris.stephen@hq.navy.mil

RIN: 0703–AA48

803. SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2501(b); 10 USC 7315; PL 105-85, sec 1027

CFR Citation: 48 CFR 5231 (New)

Legal Deadline: Other, Statutory, December 18, 1997.
The Navy was given 30 days from enactment of Public Law 105-85 to establish application procedures.

Abstract: This interim rule adds part 5231 to the Dept. of Navy Acquisition Regulations (48 CFR chapter 52) to implement section 1027 of the National Defense Authorization Act for fiscal year 1998 (Public Law 105-85). Section 1027 permits the Navy to enter into a shipbuilding capability preservation

DOD—NAVY **Final Rule Stage**

agreement where it would facilitate the achievement of the policy objectives set forth in 10 USC 2501(b). Such an agreement would permit the contractor to claim certain indirect costs attributable to its private sector work on its shipbuilding contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66826
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Clarence Belton, Office of the Asst. Secretary of the Navy, Acquisition and Business Management, Department of Defense, Department of the Navy, 2211 South Clark Place, Arlington, VA 22244-5104
Phone: 703 602-2807
Fax: 703 602-2117
Email: belton.clarence@hq.navy.mil

RIN: 0703–AA50

804. • POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 44502

CFR Citation: 32 CFR 775 (Revision)

Legal Deadline: None

Abstract: The Department of the Navy is revising its regulations which establish the responsibilities and procedures for complying with the National Environmental Policy Act (NEPA). This revision clarifies when certain Department of the Navy actions must be studied to determine their effect on the human environment and what types of activities are excluded from the NEPA documentation requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Lew Shotten, Office of the Assistant Secretary of the Navy (Installations and Environment), Department of Defense, Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350-2000
Phone: 703 588-6671

RIN: 0703–AA51

805. • AVAILABILITY OF THE DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 701 (Revision)

Legal Deadline: None

Abstract: The Department of the Navy is revising its regulations pertaining to its Freedom of Information Act (FOIA) program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doris Lama, Head, DON PA/FOIA Policy Branch, Office of the Chief of Naval Operations, Department of Defense, Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350-2000
Phone: 202 685-6545

RIN: 0703–AA52

DEPARTMENT OF DEFENSE (DOD) — Final Rule Stage

Department of the Air Force (AF)

806. ENVIRONMENTAL IMPACT ANALYSIS PROCESS

Priority: Info./Admin./Other

Legal Authority: PL 91-190; EO 12114

CFR Citation: 32 CFR 989

Legal Deadline: None

Abstract: This rule provides policy and guidance for consideration of environmental matters in the Air Force decisionmaking process.

Timetable:

Action	Date	FR Cite
NPRM	12/24/97	62 FR 67305
NPRM Comment Period End	02/23/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth L. Reinerton, Department of Defense, Department of the Air Force, HQ USAF/ILEV, 1260 Air Force Pentagon, Washington, DC 20330-1260
Phone: 703 607-0221

RIN: 0701–AA56

807. APPOINTMENT TO THE UNITED STATES AIR FORCE ACADEMY

Priority: Info./Admin./Other

Legal Authority: 10 USC 903; 10 USC 8013

CFR Citation: 32 CFR 901

Legal Deadline: None

Abstract: This rule provides instructions on processing nominations and appointments to the United States Air Force Academy.

Timetable:

Action	Date	FR Cite
NPRM	12/01/97	62 FR 63485
NPRM Comment Period End	01/30/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Parker, Department of Defense, Department of the Air Force, HQ USAFA/RRA, 1040

DOD—AF **Final Rule Stage**

Air Force Pentagon, Washington, DC 20330-1040
Phone: 703 697-7116
RIN: 0701–AA58

DEPARTMENT OF DEFENSE (DOD) **Completed Actions**
Department of the Air Force (AF)

808. AIR FORCE RULE OF PROFESSIONAL CONDUCT AND STANDARDS FOR CRIMINAL JUSTICE

Priority: Info./Admin./Other

CFR Citation: 32 CFR 847

Completed:

Reason	Date	FR Cite
Withdrawn	01/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lt Col Stephen Suetterlein
Phone: 703 697-0413

RIN: 0701–AA57

DEPARTMENT OF DEFENSE (DOD) **Proposed Rule Stage**
Office of Assistant Secretary for Health Affairs (DODOASHA)

809. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); REVISIONS TO THE ELIGIBILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule revises the comprehensive CHAMPUS regulation pertaining to basic CHAMPUS benefits in accordance with several statutory changes. This rule sets forth the requirements for reinstatement of CHAMPUS eligibility for beneficiaries under age 65 who would otherwise have lost eligibility for CHAMPUS due to eligibility for Medicare as a result of disability or end-stage renal disease (ESRD); establishes new classes of CHAMPUS eligibles; establishes the Transitional Assistance Management Program which provides transitional health care for members (and their dependents) who served on active duty in support of a contingency operation and for members (and their dependents) who are involuntarily separated from active duty; allows former spouses who buy a conversion health policy to keep CHAMPUS eligibility for twenty-four (24) months for preexisting conditions that are not covered by the conversion policy; and makes minor technical revisions to the double coverage provisions. In order to expedite compliance with the statutory requirements, all of these provisions have been implemented under interim instructions. This proposed rule also adds a new category of eligible beneficiary under the Continued Health Care Benefit Program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Ortega, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA39

DEPARTMENT OF DEFENSE (DOD) **Final Rule Stage**
Office of Assistant Secretary for Health Affairs (DODOASHA)

810. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); FORMER SPOUSE/WIDOW(ER) AND FEDERAL CLAIMS COLLECTION ACT (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule updates regulation changes to stipulate that annulled remarriages of former spouses or widows or widowers will be regarded as if the remarriage had never taken place and will reinstate their eligibility effective 12:01 a.m. of the day following the annulment; will clarify the effect of Medicare entitlement of former spouses; and will adopt the Federal Claims Collection Act and the Federal Claims Collection Standards by reference.

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48135
NPRM Comment Period End	10/24/91	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Federal Claims Collection portion of this rule was published as a final rule in the Federal Register on June 30, 1997 (62 FR 30586). The Former Spouse portion of this rule has been incorporated into another proposed rule (CHAMPUS; Revisions to the Eligibility Requirements) currently pending OMB review.

Agency Contact: Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs

DOD—DODOASHA **Final Rule Stage**

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RIN: 0720–AA07

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811. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes a new payment method for ambulatory care (other than ambulatory surgery) provided by hospitals to CHAMPUS beneficiaries, under which payment amounts would be based on the cost of the service rather than on the billed charge, as at present.

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA20

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812. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROVIDER CERTIFICATION REQUIREMENTS—CORPORATE SERVICES PROVIDER CLASS; OCCUPATIONAL THERAPISTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule presents requirements to permit payment of professional or technical health care services rendered by certain corporate providers; makes amendments to clarify the general requirements for individual professional providers; and adds standard provider participation agreement provisions when such agreements are otherwise required.

Timetable:

Action	Date	FR Cite
NPRM	03/08/95	60 FR 12717
NPRM Comment Period End	05/08/95	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Occupational Therapists portion of this rule was published in the Federal Register as a final rule on June 30, 1997 (62 FR 35086).

Agency Contact: David Bennett, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA27

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813. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRANSPLANTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes coverage for heart-lung, single or double lung, and combined liver-kidney transplantation for those patients who meet specific patient selection criteria; establishes preauthorization requirements for heart, liver, heart-lung, single or double lung, combined liver-kidney transplantation, high dose chemotherapy and stem cell transplantation, and air ambulance (in conjunction with lung or heart-lung transplantation preauthorizations); extends coverage of cardiac rehabilitation to those patients who have had heart valve surgery, heart or heart-lung transplantation; authorizes an exception to the ambulance benefit to allow organ transplantation candidates to be transported to a certified CHAMPUS organ transplant center instead of the closest appropriate facility; authorizes pulmonary rehabilitation for beneficiaries whose conditions are considered appropriate for pulmonary rehabilitation according to guidelines adopted by the Director, OCHAMPUS, or a designee; recognizes certain transplant centers that meet specific criteria as an authorized CHAMPUS institutional provider; and clarifies the CHAMPUS position on consortium programs for organ transplantation to allow individual hospitals which are members of a consortium to use the combined (pooled) experience and survival data of the consortium team to meet CHAMPUS requirements for authorization as a certified CHAMPUS organ transplant center.

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14403
NPRM Comment Period End	05/16/95	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Speight, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 681-1745
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RIN: 0720–AA28

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814. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXTENSION OF THE ACTIVE DUTY DEPENDENTS DENTAL PLAN TO OVERSEAS AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements recently enacted statutory authority for the extension of the Active Duty Dependents Dental Plan to overseas areas. This rule provides for adjustments in the program in overseas areas. This rule details the implementation and operation of the program which will ensure access to dental care for family members

accompanying their active duty sponsors overseas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/25/97	62 FR 39940
Interim Final Rule Administrative Correction	08/11/97	62 FR 42905
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Ortega, Department of Defense, Office of Assistant Secretary for Health Affairs
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Fax: 703 681-3678
Email: carol.ortega@tma.osd.mil

RIN: 0720–AA36

815. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXCEPTION TO THE CHAMPUS DUAL COMPENSATION/CONFLICT OF INTEREST PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: Currently, any individual who is a civilian employee of the United States Government cannot be authorized by CHAMPUS as a provider of medical services. We propose to provide an exception to this prohibition to permit these individuals to be authorized CHAMPUS providers if they meet three conditions. First, they must be employed by the Government agency on a part-time basis, that is, less than twenty (20) hours per week. Second, the agency must certify that unique or special circumstances detrimental to the delivery of quality health care exist that can be overcome only by employing part-time, non-Government physicians. Third, the agency and the physician must certify that they understand and have taken appropriate measures to avoid violation of Standards of Conduct, dual compensation, and conflict of interest requirements including protection against referral of patients to the employee's private practice.

Timetable:

Action	Date	FR Cite
NPRM	08/26/97	62 FR 45196
NPRM Comment Period End	10/27/97	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA41

816. CIVILIAN HEALTH AND MEDICAL PROGRAM FOR THE UNIFORMED SERVICES (CHAMPUS); TRICARE PRIME ENROLLMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199*

Legal Deadline: None

Abstract: This rule modifies the TRICARE Prime enrollment for active duty families by specifying that the enrollment period is continuous rather than a 12 month enrollment period and it allows monthly installment payments of enrollment fees for those beneficiaries required to pay an annual fee in order to enroll in TRICARE Prime. These modifications are being made because TRICARE will soon be available worldwide for active duty family members.

Timetable:

Action	Date	FR Cite
NPRM	07/07/98	63 FR 36651
NPRM Comment Period End	09/08/98	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LtCol Kathleen Larkin, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA48

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Completed Actions

817. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); INDIVIDUAL CASE MANAGEMENT (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	02/12/99	64 FR 7084
Final Action Effective	03/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tracy Malone
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RIN: 0720–AA30

818. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PROGRAM; REIMBURSEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	09/10/98	63 FR 48439
Final Action Effective	10/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LtCol Kathleen Larkin
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RIN: 0720–AA37

DOD—DODOASHA

Completed Actions

819. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); STATE VICTIMS OF CRIME COMPENSATION PROGRAMS; VOICE PROSTHESES

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	11/03/98	63 FR 59231
Final Action Effective	09/13/94	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Constance Kiese
Phone: 303 676-3578
Fax: 303 676-3579
Email: constance.kiese@pma.osd.mil

RIN: 0720–AA42

820. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PRIME BALANCE BILLING

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	10/21/98	63 FR 56081
Final Action Effective	03/16/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LtCol Kathleen Larkin
Phone: 703 681-1745
Fax: 703 681-3678
Email: kathleen.larkin@tma.osd.mil

RIN: 0720–AA46

[FR Doc. 99-4895 Filed 04-23-99; 8:45 am]
BILLING CODE 5000-04-F

federal register

Monday
April 26, 1999

Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations. The agenda is issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Questions or comments related to preparation of this agenda should be directed to Kenneth C. Depew, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 6E109, FB-6, 400 Maryland Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, OMB, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda. The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, addresses, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.

In accordance with the Secretary's Principles for Regulating, listed in the Department's regulatory plan (63 FR 61235; published November 9, 1998), the Department of Education is committed to regulating that improves the quality and equality of services to its customers, learners of all ages. ED will regulate only when absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating. Members of the public are also invited to comment on regulations listed on this agenda that are designated for periodic review under the Regulatory Flexibility Act (5 U.S.C. 610).

The Department also will review all regulations that will be published to ensure that, if appropriate, those regulations support the National Education Goals.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. The Department may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

Electronic Access to the Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) via Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf, you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512-1530 or, toll free, at 1-888-293-6498.

Note: The official version of a document is the document published in the **Federal Register**.

Dated: March 23, 1999.

Judith A. Winston,

General Counsel.

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
821	Protection of Human Subjects (Classified Research)	1880-AA79

ED

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
822	Student Rights in Research, Experimental Programs, and Testing	1880-AA66
823	Privacy Act Regulations	1880-AA78

Office of the Chief Financial Officer—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
824	Education Department General Administrative Regulations (EDGAR)	1890-AA00
825	Education Department General Administrative Regulations (EDGAR)	1890-AA02

Office of Educational Research and Improvement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
826	Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement— Evaluation of the Performance of Recipients of Grants	1850-AA54

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
827	Institutional Eligibility Under the Higher Education Act of 1965, as Amended **(Section 610 Review)**	1840-AC64
828	Teacher Quality Enhancement Grant Programs (State Grant Program; Teacher Recruitment Grant Program)	1840-AC65
829	Student Assistance General Provisions; Federal Work-Study Programs; Federal Supplemental Education Opportunity Grant Programs; Federal Pell Grant Program **(Section 610 Review)**	1840-AC63
830	Federal Family Education Loan (FFEL) Program **(Section 610 review)**	1840-AC61
831	Federal Family Education Loan (FFEL) Program; William D. Ford Federal Direct Loan Program; and Federal Perkins Loan Program **(Section 610 Review)**	1840-AC62

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
832	Federal Family Education Loan Program	1840-AC55
833	William D. Ford Federal Direct Loan Program	1840-AC57

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
834	Institutional Eligibility Under the Higher Education Act of 1965, Student Assistance General Provisions, and Federal Pell Grant Program	1840-AC54
835	Student Assistance General Provisions	1840-AC52
836	Gaining Early Awareness and Readiness for Undergraduate Programs	1840-AC59

ED

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
837	Personnel Preparation To Improve Services and Results for Children With Disabilities	1820-AB46
838	The State Vocational Rehabilitation Services Program—Evaluation Standards and Performance Indicators	1820-AB14
839	Projects With Industry	1820-AB45

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
840	Assistance for Education of All Children With Disabilities **(Section 610 Review)**	1820-AB40

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Proposed Rule Stage

821. PROTECTION OF HUMAN SUBJECTS (CLASSIFIED RESEARCH)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 300v-1(b)

CFR Citation: 34 CFR 97

Legal Deadline: None

Abstract: These amendments would revise existing regulations to eliminate certain waiver and expedited review provisions by adopting additional protection pertaining to human subjects in classified research.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Helen Deromond, Department of Education, 400 Maryland Avenue SW., Room 3652, ROB-3, Washington, DC 20202
Phone: 202 260-5353

RIN: 1880–AA79

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Final Rule Stage

822. STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232h

CFR Citation: 34 CFR 098

Legal Deadline: None

Abstract: These regulations are needed to implement section 1017 of the Goals 2000: Educate America Act (Pub. L. 103-227, 20 U.S.C. 1232h). That provision amends the Protection of Pupil Rights Amendment (PPRA) to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amends the PPRA to prohibit schools from requiring a student to submit to certain surveys, analyses, or evaluations without prior parental consent. The regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ellen Campbell, Family Policy Compliance Office, Department of Education, 400 Maryland Avenue SW., Room 2W101, FB-6, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA66

823. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552a

CFR Citation: 34 CFR 5b

Legal Deadline: None

Abstract: These amendments are needed to exempt a new system of records from certain provisions of the Privacy Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	11/24/97	62 FR 62670
NPRM Comment Period End	01/28/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gale Hoes, Department of Education, 400 Maryland

ED—EDMAN **Final Rule Stage**

Avenue SW., Room 4200, Switzer Bldg., Washington, DC 20202-1530
Phone: 202 205-5786
Fax: 202 205-8238
RIN: 1880–AA78

DEPARTMENT OF EDUCATION (ED)

Long-Term Actions

Office of the Chief Financial Officer (OCFO)

824. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 77

Legal Deadline: None

Abstract: These proposed regulations would reinvent key parts of EDGAR by eliminating unnecessary, obsolete, or duplicative provisions; replacing some provisions with non-regulatory guidance; and revising other sections to improve clarity and ease of use by the Department's customers.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/96	61 FR 43640
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tony Cavataio, Management Analyst, Grants Policy and Oversight Staff, Department of Education, Office of the Chief Financial Officer, 400 Maryland Avenue SW., Room 3652, ROB-3, Washington, DC 20202-4248
Phone: 202 708-7802
TDD: 800 877-8339
Fax: 202 205-0667
Email: tony__cavataio@ed.gov

RIN: 1890–AA00

825. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These regulations are needed to implement features of the Department's redesigned discretionary grants process. These regulations will establish the procedures the Secretary may use for reviewing and selecting applications submitted for new grants under the discretionary grant programs. Several new review and selection procedures will be established and defined. These regulations will also propose a new policy to give special consideration to novice applicants and will define the procedures for reviewing and selecting applications submitted under a novice set-aside.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Valerie A. Sinkovits, Management Analyst, Department of Education, Office of the Chief Financial Officer, 400 Maryland Avenue SW., Room 3652, ROB-3, Washington, DC 20202-4248
Phone: 202 708-7568
TDD: 800 877-8339
Fax: 202 205-0667
Email: valerie__sinkovits@ed.gov

RIN: 1890–AA02

DEPARTMENT OF EDUCATION (ED)

Completed Actions

Office of Educational Research and Improvement (OERI)

826. STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT—EVALUATION OF THE PERFORMANCE OF RECIPIENTS OF GRANTS

Priority: Other Significant

CFR Citation: 34 CFR 702

Completed:

Reason	Date	FR Cite
Final Action	10/27/98	63 FR 57575

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon Bobbitt
Phone: 202 219-2126

RIN: 1850–AA54

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Proposed Rule Stage

827. • INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1088; 20 USC 1091; 20 USC 1094; 20 USC 1099b; 20 USC 1099c

CFR Citation: 34 CFR 600

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The proposed changes concern a variety of institutional eligibility issues listed in the notice of negotiated rulemaking published on December 23, 1998 (63 FR 71206).

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian Kerrigan, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3060, ROB-3, Washington, DC 20202-5257
Phone: 202 708-5217

RIN: 1840–AC64

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828. • TEACHER QUALITY ENHANCEMENT GRANT PROGRAMS (STATE GRANT PROGRAM; TEACHER RECRUITMENT GRANT PROGRAM)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1021 et seq

CFR Citation: 34 CFR 611

Legal Deadline: None

Abstract: These regulations are needed to implement 1) a limitation on State and local educational agency indirect cost rates under the State Grant Program and 2) the statutory "teach or pay" requirements under the Teacher Recruitment Grant Program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Louis J. Venurto, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 6234, Portals Building, Washington, DC 20202
Phone: 202 708-8596

RIN: 1840–AC65

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829. • STUDENT ASSISTANCE GENERAL PROVISIONS; FEDERAL WORK-STUDY PROGRAMS; FEDERAL SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT PROGRAMS; FEDERAL PELL GRANT PROGRAM (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1070a; 20 USC 1070b to 1070b-3; 20 USC 1070c to 1070c-4; 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094

CFR Citation: 34 CFR 668; 34 CFR 675; 34 CFR 676; 34 CFR 690; 34 CFR 692; 34 CFR 693

Legal Deadline: None

Abstract: The regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The proposed changes concern refunds, student eligibility, and various program issues listed in the notice of negotiated rulemaking published on December 23, 1998 (63 FR 71206).

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian Kerrigan, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3060, ROB-3, Washington, DC 20202-5257
Phone: 202 708-5217

RIN: 1840–AC63

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830. • FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244 enacted October 7, 1998) and are subject to negotiated rulemaking. The proposed changes concern lender and guaranty agency issues described in the notice of negotiated rulemaking published on December 23, 1998 (63 FR 71206).

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian Kerrigan, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3060, ROB-3, Washington, DC 20202-5257
Phone: 202 708-5217

RIN: 1840–AC61

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831. • FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM; WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM; AND FEDERAL PERKINS LOAN PROGRAM (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1071 to 1087-2; 20 USC 1087 (a) et seq

CFR Citation: 34 CFR 682; 34 CFR 685; 34 CFR 574

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The proposed changes concern cohort default rate, repayment, discharge and forgiveness, and other issues described in the notice of negotiated rulemaking published on December 23, 1998. (63 FR 71206)

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

ED—OPE **Proposed Rule Stage**

Agency Contact: Brian Kerrigan, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3060, ROB-3, Washington, DC 20202-5257
Phone: 202 708-5217
RIN: 1840–AC62

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Final Rule Stage

832. FEDERAL FAMILY EDUCATION LOAN PROGRAM

Priority: Substantive, Nonsignificant
Legal Authority: 20 USC 1071 to 1087z
CFR Citation: 34 CFR 682
Legal Deadline: None
Abstract: These regulations contain corrections and other technical amendments.
Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Pamela Moran, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3053, ROB-3, Washington, DC 20202
Phone: 202 708-8242
RIN: 1840–AC55

833. • WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Info./Admin./Other
Legal Authority: 20 USC 1087a et seq
CFR Citation: 34 CFR 685
Legal Deadline: None
Abstract: These amendments remove appendix A to the regulations and cross-references to appendix A. Future references to appendix A information will be published as an annual notice.
Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Donald Watson, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3045, ROB-3, Washington, DC 20202-5400
Phone: 202 708-8242
RIN: 1840–AC57

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Completed Actions

834. INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, STUDENT ASSISTANCE GENERAL PROVISIONS, AND FEDERAL PELL GRANT PROGRAM

Priority: Other Significant
CFR Citation: 34 CFR 600; 34 CFR 668; 34 CFR 690
Completed:

Reason	Date	FR Cite
Withdrawn	03/03/99	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Cheryl Leibovitz
Phone: 202 708-9900
TDD: 800 877-8339
RIN: 1840–AC54

835. STUDENT ASSISTANCE GENERAL PROVISIONS

Priority: Other Significant
CFR Citation: 34 CFR 668
Completed:

Reason	Date	FR Cite
Final Action	10/22/98	63 FR 56756

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Kenneth Smith
Phone: 202 708-8242
TDD: 800 877-8339
RIN: 1840–AC52

836. • GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS

Priority: Substantive, Nonsignificant
Legal Authority: 20 USC 1070a-21 to 1070a-28
CFR Citation: 34 CFR 694
Legal Deadline: None
Abstract: These regulations implement certain provisions of the Higher Education Amendments of 1998 establishing Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), a program designed to give more low-income students the skills, encouragement, and preparation needed to pursue postsecondary education, and to strengthen academic programs and student services at participating schools.
Timetable:

Action	Date	FR Cite
Final Action	03/02/99	64 FR 10184

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Lisa Aserkoff, Office of the General Counsel, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 6E205, FOB-6, Washington, DC 20202-2110
Phone: 202 401-6296
Fax: 202 401-9533
RIN: 1840–AC59

DEPARTMENT OF EDUCATION (ED)

Final Rule Stage

Office of Special Education and Rehabilitative Services (OSERS)

837. PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 20 USC 1473

CFR Citation: 34 CFR 304

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Individuals with Disabilities Education Act Amendments of 1997 (Pub. L. 105-17, enacted June 4, 1997).

Timetable:

Action	Date	FR Cite
NPRM	07/10/98	63 FR 37465
NPRM Comment Period End	09/08/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Renee Bradley, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Washington, DC 20202-2641
Phone: 202 358-2849

RIN: 1820–AB46

838. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—EVALUATION STANDARDS AND PERFORMANCE INDICATORS

Priority: Other Significant

Legal Authority: 29 USC 726; PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These proposed revisions to existing regulations are needed because of changes in the authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569) and the Rehabilitation Act Amendments of 1998 (Pub. L. 105-220). The Amendments require the development of standards and performance indicators. The proposed regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/93	58 FR 9458
NPRM	10/14/98	63 FR 55291
NPRM Comment Period End	11/30/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3014, Switzer Building, Washington, DC 20202-2531
Phone: 202 205-8299

RIN: 1820–AB14

839. PROJECTS WITH INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 711(c); 29 USC 795

CFR Citation: 34 CFR 379

Legal Deadline: None

Abstract: These amendments change the performance indicators for this program in order to improve project performance, enhance project accountability, better reflect statutory intent and reduce grantee burden.

Timetable:

Action	Date	FR Cite
NPRM	06/23/98	63 FR 34218
NPRM Comment Period End	08/24/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas E. Finch, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Bldg., Washington, DC 20202-2575
Phone: 202 205-8292
Fax: 800 877-8339

RIN: 1820–AB45

DEPARTMENT OF EDUCATION (ED)

Completed Actions

Office of Special Education and Rehabilitative Services (OSERS)

840. ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES (SECTION 610 REVIEW)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 300; 34 CFR 301; 34 CFR 303

Completed:

Reason	Date	FR Cite
Final Action	03/12/99	64 FR 12406

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Irvin
Phone: 202 205-8825

RIN: 1820–AB40

[FR Doc. 99-7749 Filed 04-23-99; 8:45 am]
BILLING CODE 4000-01-F

federal register

Monday
April 26, 1999

Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Energy has prepared and today is publishing its semiannual regulatory agenda pursuant to instructions of the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).

FOR FURTHER INFORMATION CONTACT: For further information about any particular item on the regulatory agenda, please contact the individual listed under that item. For further information on the regulatory agenda in general, please contact: Richard L. Farman, Room 6E-078, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8145.

SUPPLEMENTARY INFORMATION: Entries appended to this notice reflect the status of activities as of approximately February 26, 1999. They are divided into categories, first by subagencies and then according to their stage of rulemaking action: Prerule, proposed rulemaking, final rulemaking, long-term action, or completed action.

A draft of this regulatory agenda has been transmitted to the Chief Counsel for Advocacy of the U.S. Small Business Administration for comment, if any; pursuant to 5 U.S.C. 602(b).

Issued in Washington, DC, on March 2, 1999.

Mary Anne Sullivan,

General Counsel.

Energy Efficiency and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
841	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps	1904-AA77

Energy Efficiency and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
842	Equivalent Petroleum-Based Fuel Economy Calculation for Electric and Hybrid Electric Vehicles	1904-AA40
843	Test Procedures for Central Air Conditioners and Heat Pumps—Amendments	1904-AA46
844	Energy Efficiency Standards for Clothes Washers	1904-AA67
845	Energy Efficiency Standards for Lamp Ballasts	1904-AA75
846	Energy Efficiency Standards for Water Heaters	1904-AA76
847	Test Procedures for Commercial Water Heaters	1904-AA95
848	Test Procedures for Warm Air Furnaces	1904-AA96
849	Test Procedures for Commercial Air Conditioning Equipment	1904-AA97
850	Alternate Fueled Vehicle Acquisition Requirements for Private and Local Government Fleets	1904-AA98
851	Test Procedures for Commercial Package Boilers	1904-AB02

Energy Efficiency and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
852	Energy Efficiency Code for New Federal Residential Low Rise Buildings	1904-AA53
853	State and Local Incentives Program: Alternative Fuels	1904-AA66
854	Energy Code for New Federal Commercial and Multi-Family High Rise Residential Buildings	1904-AA69
855	Energy Conservation Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors	1904-AA82
856	Test Procedures for Electric Distribution Transformers	1904-AA85
857	Alternative Fuel Transportation Program: P-Series Fuels	1904-AA99
858	Alternate Fuel Program: Biodiesel	1904-AB00
859	State Energy Program	1904-AB01

Energy Efficiency and Renewable Energy—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
860	National Voluntary Residential Energy Efficiency Rating Guidelines	1904-AA74

DOE

Energy Efficiency and Renewable Energy—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
861	Energy Efficiency Standards for Residential Furnaces and Boilers and Mobile Home Furnaces	1904-AA78
862	Determination for High Intensity Discharge Lamps	1904-AA86
863	Determination for Small Electric Motors	1904-AA87
864	Energy Efficiency Standards for Clothes Dryers and Dishwashers	1904-AA89
865	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment	1904-AA90
866	Energy Efficiency Standards for 1-200 HP Electric Motors	1904-AA91
867	Energy Efficiency Standards for Fluorescent and Incandescent Lamps	1904-AA92

Defense and Security Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
868	General Criteria and Procedures for Determining Eligibility for Access to Classified Matters or Special Nuclear Material	1992-AA22
869	Physical Protection of Security Interests	1992-AA23

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
870	Freedom of Information Act	1901-AA32
871	Enforcement of Employee Safety Standards at Nuclear Weapons Facilities	1901-AA44
872	Privacy Act System of Records Update	1901-AA69
873	Environmental Management Financial Assistance Program	1901-AA71
874	Community Transition Activities	1901-AA77
875	Economic Development Transfers of Real Property	1901-AA82

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
876	Nuclear Safety Management	1901-AA34
877	Radiation Protection of the Public and the Environment	1901-AA38
878	Chronic Beryllium Disease Prevention Program	1901-AA75
879	Criteria and Procedures for Contractor Employee Protection Program	1901-AA78

Departmental and Others—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
880	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)	1901-AA57
881	Payments for Special Burdens and in Lieu of Taxes	1901-AA58
882	General Guidelines for the Recommendation of Sites for Nuclear Waste Repository	1901-AA72

DOE

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identifier Number
883	Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions	1901-AA19
884	Office of Energy Research Financial Assistance Program	1901-AA54
885	Occupational Radiation Protection—Amendment	1901-AA59
886	Procedural Rules for DOE Nuclear Activities	1901-AA80
887	Price Competitive Sale of Strategic Petroleum Reserve Petroleum Standard Sales Provisions	1901-AA81

Office of Procurement and Assistance Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
888	DEAR: Management and Operating Contract Whistleblower Costs	1991-AB36
889	Acquisition Regulation: Project Management	1991-AB39
890	Classified National Security Information—E.O. 12958	1991-AB42
891	DEAR: Mentor-Protege Program	1991-AB45
892	DEAR: Cost Principles	1991-AB46
893	DEAR: Recycling	1991-AB47
894	DEAR: Work for Others	1991-AB48
895	DEAR: Part 970 Rewrite	1991-AB49
896	DEAR: Management and Operating Contract Clause Updates	1991-AB50
897	DEAR: Purchasing by DOE Management and Operating Contractors From Affiliated Sources	1991-AB52

Office of Procurement and Assistance Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
898	DEAR: Financial Management Clauses	1991-AB02
899	Fee Policy	1991-AB32
900	Acquisition Regulations: Guarantees of Performance	1991-AB44
901	DEAR: Technical Amendments	1991-AB51

Office of Procurement and Assistance Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
902	Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA90
903	Acquisition Regulation: Technical Amendment	1991-AB40

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
904	Conduct of Employees	1990-AA19

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Prerule Stage

841. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for central air conditioners and heat pumps.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Screening Workshop	06/30/98	
Supplemental ANPRM	10/00/99	
NPRM	07/00/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, the regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is actively working on this action.

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA77

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Proposed Rule Stage

842. EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION FOR ELECTRIC AND HYBRID ELECTRIC VEHICLES

Priority: Other Significant

Legal Authority: PL 96-185, sec 18; PL 94-413, sec 13(c); PL 94-163, sec 503(a)(3); PL 103-272

CFR Citation: 10 CFR 474

Legal Deadline: None

Abstract: The final rule on the inclusion of electric vehicles in the Corporate Average Fuel Economy (CAFE) program was issued by DOE on April 15, 1981. It established a methodology for determining the equivalent petroleum-based fuel economy (PEF) for electric vehicles so that they could be included in a manufacturer's overall CAFE program. This methodology was based on several factors including the energy efficiency of the vehicle, the efficiency of electric generation and transmission, the fuels used to generate electricity, and the driving patterns of electric vehicles. It established a method for determining the PEF of electric vehicles that are recharged from stationary sources only. Hybrid electric vehicles, a type of electric vehicle, are electrically recharged by an on-board mobile generator. Hybrid vehicles are not covered by this action. This rulemaking would update the methodology for calculating the CAFE credits for electric vehicles that are recharged by stationary sources. Rulemaking authority for establishing PEF values for electric and hybrid electric vehicles is provided under Public Law 103-272 (49 USC 32904).

Timetable:

Action	Date	FR Cite
NPRM	02/04/94	59 FR 5336
Revised NPRM	04/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rogelio Sullivan, Program Manager, Electric and Hybrid Propulsion Division, Department of Energy, Energy Efficiency and Renewable Energy, EE-32, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8042
Fax: 202 586-1600

RIN: 1904–AA40

843. TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for central air conditioners and heat pumps in accordance with the Energy Policy and Conservation Act will reorganize the document in a logical order and update the references. The revisions include an updated nomenclature compatible with the eventual test procedure for combined (domestic hot water and central air conditioners or heat pumps) appliances, additional tables listing tests tolerances, a clearer specification for the demand defrost credit, and test methods for ECM (electronically commutated motor) blowers and history-dependent defrosts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable

DOE—EE

Proposed Rule Stage

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RIN: 1904–AA46

844. ENERGY EFFICIENCY STANDARDS FOR CLOTHES WASHERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, May 14, 1996.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the current standard for a covered product should be amended.

This is the second review of the standard for clothes washers.

Timetable:

Action	Date	FR Cite
ANPRM	11/14/94	59 FR 56423
Screening Workshop	11/15/96	
Supplemental ANPRM	11/19/98	63 FR 64343
Workshop	12/15/98	
NPRM	09/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

Agency Contact: Byran Berringer, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-0371

RIN: 1904–AA67

845. ENERGY EFFICIENCY STANDARDS FOR LAMP BALLASTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for fluorescent lamp ballasts.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Ballast Analysis Workshop	03/18/97	
Reissue NPRM	08/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

Agency Contact: Carl Adams, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA75

846. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for electric water heaters.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Screening Workshop	06/24/97	
Notice of Availability	01/14/98	63 FR 2186
Impact Workshop	11/09/98	
Reissue NPRM	09/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue

DOE—EE

Proposed Rule Stage

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RIN: 1904–AA76

847. TEST PROCEDURES FOR COMMERCIAL WATER HEATERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial water heaters, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial water heaters. This action will incorporate by reference energy conservation standards and test procedures, revised by the Air Conditioning and Refrigerating Institute or by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ARI/ASHRAE), and will establish certification and labeling requirements for storage water heaters, instantaneous water heaters, and unfired hot water storage tanks.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA95

848. TEST PROCEDURES FOR WARM AIR FURNACES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial heating equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial heating equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), and will establish certification and labeling requirements warm air furnaces.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA96

849. TEST PROCEDURES FOR COMMERCIAL AIR CONDITIONING EQUIPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial air conditioning equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial air conditioning equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the Air Conditioning and Refrigerating Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers (ARI/ASHRAE), and will establish certification and labeling requirements for small and large commercial package air conditioning equipment and packaged terminal air conditioners and heat pumps.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA97

850. ALTERNATE FUELED VEHICLE ACQUISITION REQUIREMENTS FOR PRIVATE AND LOCAL GOVERNMENT FLEETS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 13257

CFR Citation: 10 CFR 490

Legal Deadline: NPRM, Statutory, May 1, 1999. Final, Statutory, January 1, 2000.

Abstract: The Energy Policy Act of 1992 requires DOE to initiate a rulemaking to determine whether a private and local fleet program is

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deemed necessary to meet the fuel displacement goals of the Act. The criteria for making this determination is mandated by the Act. The Department held discussions with stakeholders as to whether the rule will be promulgated or whether the Department will pursue other voluntary or incentive programs.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/98	63 FR 19372
NPRM	05/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Kenneth Katz, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA98

851. • TEST PROCEDURES FOR COMMERCIAL PACKAGE BOILERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial heating equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify these provisions. It would also incorporate by reference energy conservation standards and test procedures revised by the American Society of Heating Refrigerating, and Air Conditioning Engineers, and would establish certification and labeling requirements for warm air furnaces.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1904–AB02

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Final Rule Stage

852. ENERGY EFFICIENCY CODE FOR NEW FEDERAL RESIDENTIAL LOW RISE BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24164
NPRM Comment Period End	07/14/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stephen P. Walder, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA53

853. STATE AND LOCAL INCENTIVES PROGRAM: ALTERNATIVE FUELS

Priority: Other Significant

Legal Authority: 42 USC 13235

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, April 24, 1993.

Abstract: The Energy Policy Act of 1992 requires DOE to issue regulations establishing the State and Local Incentives Program. Under this Program DOE may grant financial assistance to States for projects in DOE-approved State plans to promote use of alternative fuels and alternative-fueled vehicles. With the publication of an integrated State Energy Program (61 FR 35890), the alternative fuel grant programs may be a part of the State grant special projects, depending on funding availability. The next action will be a cancellation notice of any separate State grant program.

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 15020
NPRM Comment Period End	05/22/95	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Marcy A. Rood (EE-34), Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave SW., Washington, DC 20585
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RIN: 1904–AA66

DOE—EE

Final Rule Stage

854. ENERGY CODE FOR NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 434; 10 CFR 435 subpart A

Legal Deadline: Final, Statutory, November 14, 1997.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40882
NPRM Comment Period End	11/04/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ronald B. Majette, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA69

855. ENERGY CONSERVATION PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT: TEST PROCEDURES, LABELING, AND CERTIFICATION REQUIREMENTS FOR ELECTRIC MOTORS

Priority: Other Significant

Legal Authority: 42 USC 6311 to 6316

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1997.

Abstract: The Energy Policy and Conservation Act, as amended, establishes energy efficiency standards for commercial and industrial electric motors, prescribes test procedures, and requires labeling for such equipment. The Department proposes to create a new part (10 CFR part 431) in the Code of Federal Regulations. This action will establish procedures for energy efficiency testing, labeling, and certification requirements for certain commercial and industrial electric motors.

Timetable:

Action	Date	FR Cite
NPRM	11/27/96	61 FR 60440
NPRM Comment Period End	03/10/97	62 FR 6888
NPRM Comment Period Reopened	06/25/98	63 FR 34758
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Raba, Energy Technology Program Specialist, Department of Energy, Energy Efficiency and Renewable Energy, EE-43, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA82

856. TEST PROCEDURES FOR ELECTRIC DISTRIBUTION TRANSFORMERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995.
Determination Notice

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe testing requirements for electric distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	10/22/97	62 FR 54809
NPRM	11/12/98	63 FR 63359
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

Agency Contact: Kathi Epping, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
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RIN: 1904–AA85

857. ALTERNATIVE FUEL TRANSPORTATION PROGRAM: P-SERIES FUELS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13211(2)

CFR Citation: 10 CFR 490

Legal Deadline: None

Abstract: In response to a petition filed by Pure Energy Corporation, the Department proposes to amend the rules for the statutory program requiring alternative fuel providers and State government fleets to acquire an annually increasing percentage of alternative fueled vehicles from among their purchases of light duty vehicles.

The proposed revisions would add certain blends of methyltetrahydrocarbon, ethanol and hydrocarbons known as P-series fuels to the definition of "alternative fuel".

DOE—EE

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Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40202
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Kenneth Katz, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA99

858. ALTERNATE FUEL PROGRAM: BIODIESEL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13211(2); 42 USC 13211(14); 42 USC 13252(b)(2)

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, January 1, 1999.

Abstract: This action would implement the the biodiesel fuel use credit created by the Energy Conservation Reauthorization Act of 1998. It would provide for the allocation of an alternative fuel vehicle acquisition credit for a specified amount of biodiesel fuel use by those required to purchase alternative fuel vehicles under titles III and V of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul McArdle, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4445
Fax: 202 586-1610
Email: paul.mcardle@ee.doe.gov

RIN: 1904–AB00

859. • STATE ENERGY PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 6321; 42 USC 7101

CFR Citation: 10 CFR 420

Legal Deadline: None

Abstract: This action would clarify the applicability of requirements under parts B and C.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas P. Stapp, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., EE-44, Washington, DC 20585
Phone: 202 586-2096
Fax: 202 586-1233

RIN: 1904–AB01

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Long-Term Actions

860. NATIONAL VOLUNTARY RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 8236

CFR Citation: 10 CFR 437

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: DOE is required to establish by rule national voluntary guidelines for home energy rating system. The guidelines are designed to encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings. The guidelines may be used to enable and encourage the assignment of energy efficiency ratings to residential buildings and the development of criteria for attractive financial instruments for energy efficient homes.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37949
NPRM Comment Period End	05/09/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael T. McCabe, Program Manager, EE-40, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9155

RIN: 1904–AA74

861. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES AND BOILERS AND MOBILE HOME FURNACES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for furnaces.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, or low priority based on significant input from the public. This action is low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA78

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862. DETERMINATION FOR HIGH INTENSITY DISCHARGE LAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995.
Determination Notice

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures and efficiency standards for high intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. While this action is a medium priority, the Department does not plan to begin work on it until next year.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-1689
Fax: 202 586-4617

RIN: 1904–AA86

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863. DETERMINATION FOR SMALL ELECTRIC MOTORS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995.
Determination Notice

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures for small electric motors for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a medium priority, and the Department plans to begin work on this action later this year.

Agency Contact: Jim Raba, Energy Technology Program Specialist, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-8654
Fax: 202 586-4617

RIN: 1904–AA87

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864. ENERGY EFFICIENCY STANDARDS FOR CLOTHES DRYERS AND DISHWASHERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, May 14, 1996.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Bryan Berringer, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Room 1J-018, Washington, DC 20585
Phone: 202 586-0371
Fax: 202 586-4617

RIN: 1904–AA89

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865. ENERGY EFFICIENCY STANDARDS FOR POOL HEATERS AND DIRECT HEATING EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

DOE—EE

Long-Term Actions

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-9138
Fax: 202 586-4617
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA90

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866. ENERGY EFFICIENCY STANDARDS FOR 1-200 HP ELECTRIC MOTORS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 6313

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1999.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: James Raba, Energy Technology Program Specialist, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-8654
Fax: 202 586-4617

RIN: 1904–AA91

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867. ENERGY EFFICIENCY STANDARDS FOR FLUORESCENT AND INCANDESCENT LAMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, November 15, 1998.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-1689
Fax: 202 586-4617

RIN: 1904–AA92

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Proposed Rule Stage

868. GENERAL CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTERS OR SPECIAL NUCLEAR MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968; 42 USC 2201

CFR Citation: 10 CFR 710 subpart A

Legal Deadline: None

Abstract: 10 CFR part 710, which stipulates DOE access authorization "due process" procedures, will be revised to comply with section 5.2(a) of EO 12968. This section requires three decision levels in the process of determining whether an individual's access to classified matter will be denied or revoked, with the final decision being made by a three member high level appeal panel. While the DOE decision structure will be revised, the DOE will continue to offer the individual the right to a hearing before a hearing officer in such cases. These revisions are not expected to significantly impact the costs, time intervals, or risks associated with DOE's administrative review process. There are no alternatives to the Department for assuring full compliance with the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barry Dalinsky, Personnel Security Specialist, Office of Safeguards and Security, Department of Energy, Germantown, MD 20874-1290
Phone: 301 903-5010
Fax: 301 903-6545

RIN: 1992–AA22

869. PHYSICAL PROTECTION OF SECURITY INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2011; 42 USC 7101

CFR Citation: 10 CFR 1046 subpart A; 10 CFR 1046 subpart B

Legal Deadline: None

Abstract: 10 CFR part 1046, subparts A and B, establishes DOE contractor requirements in the areas of protective force medical, physical fitness, and firearms qualifications and training. The proposed revisions are to ensure protective force personnel receive quality medical services that are consistent with the Americans with Disabilities Act of 1990. They also will enhance communications between Designated Physicians and personnel responsible for supervising physical fitness training and certification to assure better understanding of the risk of injury to Security Police Officers and Security Officers participating in physical fitness activities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell Showers, Security Specialist, Office of Safeguards and Security, Department of Energy, Germantown, MD 20874-1290
Phone: 301 903-5122
Fax: 301 903-8717

RIN: 1992–AA23

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

870. FREEDOM OF INFORMATION ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 10 CFR 1004

Legal Deadline: None

Abstract: On October 23, 1991, DOE proposed to amend the procedures and principles to be applied in responding to requests for records under the Freedom of Information Act (FOIA) 5 USC 552. The proposal updated names and addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests. A proposed section on policies clarified DOE's operation of a first-in, first-out policy in responding to FOIA requests, and the role of the Office of Hearings and Appeals was clarified. The proposal also included a statement of DOE policy on contractor records.

On December 12, 1994, DOE adopted the contractor records policy, with certain modifications. DOE expects to take final action on the remainder of the proposal in the near future.

The new regulations will clarify the FOIA process by clearly defining the roles of the FOIA Officer and the Denying Official and comply with the new requirements of the Electronic Freedom of Information Act Amendment of 1996. The new regulations will be written in a more customer-friendly manner in plain English.

Timetable:

Action	Date	FR Cite
Final Rule (Contractor Records)	12/12/94	59 FR 63882
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Abel Lopez, Acting Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA32

871. ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS AT NUCLEAR WEAPONS FACILITIES

Priority: Other Significant

Legal Authority: PL 102-190, sec 3131

DOE—ENDEP

Proposed Rule Stage

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Public Law 102-190, section 3131, directs the Department of Energy to assess civil penalties against contractors at DOE nuclear weapons facilities who fail either to provide training to employees engaged in hazardous substance response and emergency response or fail to certify that such workers have been adequately trained.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/94	59 FR 44139
NPRM	10/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harry Pettengill, Director, Occupational Health and Safety Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-4343
Fax: 301 903-2582

RIN: 1901–AA44

872. PRIVACY ACT SYSTEM OF RECORDS UPDATE

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action will amend the Department's Privacy Act Regulations, 10 CFR 1008, by deleting Privacy Act system notices no longer used by the Department. It will also update the remaining systems, many of which require minor amendments to location, authority, purpose, storage, or system manager.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Abel Lopez, Acting Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955
Fax: 202 586-0575
Email: abel.lopez@hq.doe.gov

RIN: 1901–AA69

873. ENVIRONMENTAL MANAGEMENT FINANCIAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 6301 to 6308; 42 USC 7254; 42 USC 7256

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: The purpose of this action is to establish and implement policies and procedures applicable to the award and administration of grants and cooperative agreements by the Office of Environmental Management (EM) in the areas of: environmental waste management, environmental restoration, pollution prevention and supporting technologies, decommissioning and decontamination activities, technology integration and transfer, environmental education and transportation technologies as it relates to environmental restoration and waste management.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Malika S. Hobbs, Contract Management Specialist, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-6174
Fax: 202 586-9469

RIN: 1901–AA71

874. COMMUNITY TRANSITION ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7274h

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, 42 U.S.C. 7274h, provides authority for DOE to provide impact assistance to communities that are adversely affected by work force restructuring. This action would establish the regulations governing the community transition program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Swichkow, Deputy Director, Office of Worker and Community Transition, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-0876
Fax: 202 586-8403

RIN: 1901–AA77

875. • ECONOMIC DEVELOPMENT TRANSFERS OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 3158

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action would establish procedures for identifying and disposing of real property by sale or lease at the Department's defense nuclear facilities for the purpose of permitting economic development. It would also establish procedures for reporting actions to Congress, informing those acquiring the property of the availability of indemnification for injury to people or property from releases or threatened releases of hazardous materials, requesting indemnification, and making claims for indemnification.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew Duran, General Engineer, Office of Field Management, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4548
Fax: 202 586-4500

DOE—ENDEP **Proposed Rule Stage**

Email: andrew.duran@hq.doe.gov
RIN: 1901–AA82

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) **Final Rule Stage**

876. NUCLEAR SAFETY MANAGEMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 830

Legal Deadline: None

Abstract: This action will add regulations under 10 CFR 830 to establish nuclear safety management requirements for the Department's nuclear facilities. These requirements stem from the Department's obligations to assure adequate protection and to hold contractors who manage and operate these facilities accountable and responsible for safe operations. Under phase 1 of this action, major requirements will include conduct of operations, safety analysis reports, technical safety requirements training, maintenance, unreviewed safety questions and occurrence reporting. Under phase 2 of this action, major requirements will include nuclear design criteria, fire protection, natural phenomena hazards mitigation, and nuclear criticality safety. An initial phase adopted a quality assurance rule and definitions.

Timetable:

Initial Phase
NPRM 12/09/91 (56 FR 64316)
Final Action 04/05/94 (59 FR 15843)
Phase 1
NPRM 12/09/91 (56 FR 64316)
Notice Reopening Comment Period 08/31/95 (60 FR 45381)
Final Action 12/00/99
Phase 2
NPRM 06/00/00
Final Action 06/00/01

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Stark, Nuclear Safety and Policy Standards (EH-31), Department of Energy, Washington, DC 20545
Phone: 301 903-4407

RIN: 1901–AA34

877. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 834

Legal Deadline: None

Abstract: This action would add a new 10 CFR 834 to DOE's regulations establishing a body of rules setting forth the basic requirements for ensuring radiation protection of the public and environment in connection with DOE nuclear activities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear, radiological, and chemical hazards posed by these DOE activities. Major elements of the proposal included a dose limitation system for protection of the public; requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
NPRM Comment Period End	06/22/93	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Andrew Wallo, III, Director, Air, Water and Radiation Division (EH-232), Office of Environmental Guidance, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4996

RIN: 1901–AA38

878. CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 850

Legal Deadline: None

Abstract: This action will add requirements for the control of occupational exposures to beryllium at DOE and DOE contractor facilities and operations. This action reflects the Department's ongoing commitment to strengthen the protection of health, safety, and the environment from the hazards posed by its facilities.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66940
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: C. Rick Jones, Director, Office of Worker Protection Programs and Hazards Management, Department of Energy, 19901 Germantown Road, EH-521/270CC, Germantown, MD 20874
Phone: 301 903-6061
Fax: 301 903-7773

RIN: 1901–AA75

879. CRITERIA AND PROCEDURES FOR CONTRACTOR EMPLOYEE PROTECTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 708

Legal Deadline: None

Abstract: This action will amend the Department's contractor employee protection program to include employees who perform work directly related to the operation of programs and activities at DOE-owned and -leased sites, even if the contractor is located, or the work is performed, off-site.

DOE—ENDEP — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 374
Interim Final Rule	03/15/99	64 FR 12861
Interim Final Rule Effective	04/14/99	
Interim Final Rule Comment Period End	05/14/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard S. Fein, Department of Energy, Office of Employee Concerns, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4043

RIN: 1901–AA78

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Long-Term Actions

880. ANNOTATION OF LAND RECORDS FOR REMEDIATED PROPERTIES IN THE URANIUM MILL TAILINGS REMEDIAL ACTION PROJECT (UMTRA)

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-604, sec 104(d); PL 104-259, sec 4(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Under section 104(d) of the Uranium Mill Tailings Radiation Control Act of 1978, the Department of Energy (DOE) is required to issue appropriate rules and regulations concerning the annotation of land records of designated inactive uranium mill sites and vicinity properties included for remedial action under the Act. The annotation is intended to ensure that future purchasers of remediated inactive uranium mill sites and vicinity properties will be notified, prior to such purchase, of the condition of the land.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 29732
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: Public Law 104-259, signed into law on October 9, 1996, amended the annotation requirement to provide for States to receive certification from the Secretary for "a program which would achieve the purposes" of the annotation under section 104(d) of the UMTRCA in regards to vicinity properties. Letters have been sent to the affected States regarding the amendment language.

Agency Contact: Loretta Fahy, Environmental Protection Spec. UMTRA Team, Department of Energy, Cloverleaf Building, 19901 Germantown Road, Germantown, MD 20874-1290
Phone: 301 903-3895
Fax: 301 903-3877

RIN: 1901–AA57

881. PAYMENTS FOR SPECIAL BURDENS AND IN LIEU OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2208 Atomic Energy Act of 1954, sec 168

CFR Citation: 10 CFR 610

Legal Deadline: None

Abstract: This action will revise the Department of Energy's policy on making payments for special burdens and in lieu of taxes to State and local taxing jurisdictions pursuant to the Atomic Energy Act of 1954. Prior to the 1987 issuance of DOE Order 2100.12, the Department and its predecessor agencies approved such payment requests on an ad hoc basis. To ensure all eligible taxing jurisdictions are provided appropriate opportunity to comment, the revised policy is being established through the rulemaking process. The Department anticipates no added costs by issuing the revised policy as a regulation rather than as an internal directive revision.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Agency Contact: Helen O. Sherman, Director, Office of Financial Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4860

RIN: 1901–AA58

882. GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORY

Priority: Other Significant

Legal Authority: 42 USC 10132

CFR Citation: 10 CFR 960

Legal Deadline: None

Abstract: This action would amend the guidelines that will be used by the Department in deciding whether to recommend a site for the development of the geologic repository for the disposal of high-level radioactive waste and spent nuclear fuel. The amended guidelines would reflect statutory and policy changes that have occurred since the Nuclear Waste Policy Act was passed in 1982. The amendments would also be based on the experience the Department has gained over the last decade of investigative efforts.

Timetable:

Action	Date	FR Cite
NPRM	12/16/96	61 FR 66158
NPRM Comment Period End	05/17/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Susan Rives, Counsel, Department of Energy, Yucca Mountain Site Characterization Office, PO Box 98608, Las Vegas, NV 89193
Phone: 702 794-5519
Fax: 702 794-7907

RIN: 1901–AA72

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Completed Actions

883. ELECTRIC POWER SYSTEM PERMITS AND REPORTS; APPLICATIONS; ADMINISTRATIVE PROCEDURES AND SANCTIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 95-91; PL 66-280; EO 12038

CFR Citation: 10 CFR 205.300

Legal Deadline: None

Abstract: These regulations would streamline the existing procedures for applying to the DOE for Presidential permits and electricity export authorizations by eliminating the use of FERC "trial-type" procedures and establishing a less adversarial process of decisionmaking. These regulations may also establish that DOE's decisional criterion is only electric power system reliability and not the economic or commercial viability of projects.

This action is currently being reviewed in light of open access and restructuring issues in the electric power industry.

Timetable:

Action	Date	FR Cite
Withdrawn	02/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ellen Russell, Electricity Analyst, (FE-27), Office of Coal and Power Systems, Department of Energy, Room 3H-087, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9624
Fax: 202 586-5736
Email: ellen.russell@hq.doe.gov

RIN: 1901–AA19

884. OFFICE OF ENERGY RESEARCH FINANCIAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901 et seq; 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None

Abstract: Action to be taken will improve grants administration by providing a more streamlined and uniform approach to post-award requirements, yet maintain stewardship and accountability responsibilities.

Timetable:

Action	Date	FR Cite
Withdrawn	02/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: John A. Alleva, Director, Grants and Contracts Division, Department of Energy, Office of Energy Research, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-5212

RIN: 1901–AA54

885. OCCUPATIONAL RADIATION PROTECTION—AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 835

Legal Deadline: None

Abstract: 10 CFR part 835 establishes the basic requirements for DOE contractor and subcontractor activities to ensure radiation protection of occupational workers at DOE facilities. See 58 FR 65458 (December 14, 1993). The proposed amendment to part 835 would include items not previously covered such as sealed radioactive source accountability and control, posting of areas where radioactive material is present, and surface contamination values for tritium. Several additional changes are proposed to ensure continuity in DOE's system of radiation protection standards by codifying in part 835 critical provisions of the "DOE Radiological Control Manual" which is no longer a mandatory document. DOE also proposes to exclude explicitly from part 835 radiological transportation conducted in compliance with applicable DOE Orders and certain activities conducted on foreign soil. This rulemaking stems from DOE's ongoing effort to strengthen the protection of health and safety from the nuclear and radiological hazards that may exist at these DOE facilities.

Timetable:

Action	Date	FR Cite
NPRM	12/23/96	61 FR 67600
NPRM Comment Period End	03/31/97	
Final Action	11/04/98	63 FR 59661

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Joel Rabovsky, Health Physicist (EH-52), Office of Worker Protection Programs and Hazards Management, Department of Energy, 19901 Germantown Road, Germantown, MD 20874-1290
Phone: 301 903-2135

RIN: 1901–AA59

886. PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 820

Legal Deadline: None

Abstract: This action will delete the exemption in section 820.20(d) for the automatic remission of any civil penalty for DOE contractors that are educational institutions but are not exempt under the Price-Anderson Amendments Act, and require Revised Rule Implementation Plans to be filed with the Office of Docketing clerk.

Timetable:

Action	Date	FR Cite
Withdrawn	02/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Howard Wilchins, Attorney (EH-10), Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-0107

RIN: 1901–AA80

DOE—ENDEP — Completed Actions

887. PRICE COMPETITIVE SALE OF STRATEGIC PETROLEUM RESERVE PETROLEUM STANDARD SALES PROVISIONS

Priority: Routine and Frequent

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 625

Legal Deadline: None

Abstract: This action is a periodic update of certain appendices to the Strategic Petroleum Reserves regulations that govern the contract terms to be used by the Federal government when selling petroleum from the reserves in response to severe energy supply interruptions or other energy obligations of the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/08/98	63 FR 17260
Final Action	10/08/98	63 FR 54257

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy T. Marland, Department of Energy, Strategic Petroleum Reserve (FE-43), 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4691
Fax: 202 586-7919
Email: nancy.marland@hq.doe.gov

RIN: 1901–AA81

DEPARTMENT OF ENERGY (DOE) — Proposed Rule Stage

Office of Procurement and Assistance Management (PR)

888. DEAR: MANAGEMENT AND OPERATING CONTRACT WHISTLEBLOWER COSTS

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 922; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: The Department's acquisition regulation is being amended to implement a recommendation of its Department-wide contract reform initiative concerning allowability of costs in whistleblower actions.

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 386
Revised NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8250

RIN: 1991–AB36

889. ACQUISITION REGULATION: PROJECT MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Revises the contractual language for management of the Department's projects and facilities by contractors to more closely reflect industry practices.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8189

RIN: 1991–AB39

890. CLASSIFIED NATIONAL SECURITY INFORMATION—E.O. 12958

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 904; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This action implements Executive Order 12958, which prescribes a uniform system for classifying, safeguarding, and declassifying national security information.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247

RIN: 1991–AB42

891. • DEAR: MENTOR-PROTEGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 919

Legal Deadline: None

Abstract: This action would amend the Department of Energy Acquisition Regulations (DEAR) to formally encourage DOE prime contractors to assist small disadvantaged firms certified by the Small Business Administration under section 8(a) of the Small Business Act, other small disadvantaged businesses, and small businesses owned and controlled by

DOE—PR

Proposed Rule Stage

women in enhancing their capabilities to perform contracts and subcontracts for DOE and other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Webb, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB45

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892. • DEAR: COST PRINCIPLES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 49 CFR 970

Legal Deadline: None

Abstract: This action would amend various clauses that address cost principles.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Terry Sheppard, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8193

RIN: 1991–AB46

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893. • DEAR: RECYCLING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 923; 48 CFR 970.52; 48 CFR 970.23

Legal Deadline: None

Abstract: This action would implement E.O. 13101, Greening the Government Through Recycling, Waste Prevention, and Federal Acquisition. It would increase the procurement of products containing recycled materials and reduce waste generation at DOE facilities.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247
Fax: 202 586-0545
Email: richard.langston@hq.doe.gov

RIN: 1991–AB47

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894. • DEAR: WORK FOR OTHERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would provide policies and procedures governing work for others by DOE contractors and would ensure that authorization is consistent and uniform.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: A. Scott Geary, Program Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, Dc 20585
Phone: 202 586-3299

RIN: 1991–AB48

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895. • DEAR: PART 970 REWRITE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 2201

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would revise part 970 of the Department of Energy Acquisition Regulations to eliminate provisions that are unnecessary, obsolete, or duplicated elsewhere in title 48.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John R. Bashita, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8192
Email: john.bashita@hq.doe.gov

RIN: 1991–AB49

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896. • DEAR: MANAGEMENT AND OPERATING CONTRACT CLAUSE UPDATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would update management and operating contract clauses to eliminate unnecessary or obsolete provisions. It would also standardize commonly-used alterations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

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Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB50

897. • DEAR: PURCHASING BY DOE MANAGEMENT AND OPERATING CONTRACTORS FROM AFFILIATED SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 909; 48 CFR 970

Legal Deadline: None

Abstract: This action would amend provisions that cover organizational conflicts of interest and purchases from affiliated sources to protect the Department in transactions involving a DOE M&O contractor and its affiliates.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB52

DEPARTMENT OF ENERGY (DOE)

Office of Procurement and Assistance Management (PR)

Final Rule Stage

898. DEAR: FINANCIAL MANAGEMENT CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This rule revises selected financial management clauses and clarifies language in existing clauses. It will strengthen M&O contractor financial management and make the regulation easier to understand.

Timetable:

Action	Date	FR Cite
NPRM	11/18/98	63 FR 64024
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB02

899. FEE POLICY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action will redefine the Department's policy regarding fees paid to nonprofit entities, incentives paid to contractors for cost avoidance and cost reduction, and the use of multiple fee arrangements. It is an integral part of the Department's contract reform initiative to improve contractor performance and reduce overall program costs.

Timetable:

Action	Date	FR Cite
NPRM	04/10/98	63 FR 17800
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175
Fax: 202 586-0545

RIN: 1991–AB32

900. ACQUISITION REGULATIONS: GUARANTEES OF PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 909.970

Legal Deadline: None

Abstract: This action is to amend the Department's acquisition regulations to deal with contracting officer's determinations of responsibility in cases where the prospective awardee has been created solely for performance of the instant contract in the award of all contracts, including management and operating contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60268
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no

DOE—PR **Final Rule Stage**

statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB44

901. • DEAR: TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 900 to 970

Legal Deadline: None

Abstract: This action would make corrections and technical changes to the Department of Energy Acquisition Regulations.

Timetable:

Action	Date	FR Cite
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 596-8189

RIN: 1991–AB51

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR) **Completed Actions**

902. AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Priority: Other Significant

Legal Authority: 42 USC 2012 et seq, Atomic Energy Act of 1954

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: This action will amend the Department's rule governing the use of illegal drugs at DOE sites to ensure that substance abuse programs include provisions that also address misuse and abuse of alcohol. DOE expects to mitigate the potential for harm to the environment and to the public health and safety at DOE sites by contractor employees and other individuals performing health or safety sensitive functions. Cost incurred will affect primarily cost reimbursement type contracts for managing, operating, constructing, and servicing DOE facilities and certain other on-site contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	07/22/92	57 FR 32664
NPRM Comment Period End	09/21/92	
Withdrawn	03/10/99	64 FR 11819

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Edmondson, Director, Office of Contractor Personnel Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9008

RIN: 1991–AA90

903. ACQUISITION REGULATION: TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 901 to 970

Legal Deadline: None

Abstract: This action makes corrections and technical changes to the regulation.

Timetable:

Action	Date	FR Cite
Final Action	01/23/98	63 FR 56849

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8250

RIN: 1991–AB40

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC) **Final Rule Stage**

904. CONDUCT OF EMPLOYEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7211 et seq; PL 103-160, sec 3161; EO 12674

CFR Citation: 10 CFR 1010; 5 CFR 2635

Legal Deadline: None

Abstract: The DOE regulation on conduct of employees needs to be revised to reflect the issuance of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635) and the repeal of conflict-of-interest provisions formerly applicable to DOE employees.

DOE—OGC **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35085
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Susan Beard, Deputy Assistant General Counsel for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Ave SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA19

[FR Doc. 99-5642 Filed 04-23-99; 8:45 am]
BILLING CODE 6450-01-F

federal register

Monday
April 26, 1999

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: The President's Executive Order 12866 and the Regulatory Flexibility Act of 1980 require the semiannual publication of an agenda which summarizes all current, projected, and recently completed rulemakings. The agenda thus informs the public about regulatory actions under development within the Department, and it provides an opportunity for all concerned with the impact of the regulations to participate at an early stage. The last such agenda was published on November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Ann White, Department of Health and Human Services, Washington, DC 20201, (202) 690-6824, or the contact person for a specific component of the Department as listed below.

SUPPLEMENTARY INFORMATION: The regulatory actions described below continue to reflect the Department's efforts to exemplify in its rulemaking practices the President's initiative to streamline the Federal regulatory system so that it helps bring important benefits to the American people while creating fewer burdens. These regulatory actions also are an indication of emerging policy mandates for HHS involving such national priorities as: Strengthening and modernizing the Medicare program; assuring the safety of the American food supply; establishing improved access to health services for children; shoring up recent advances in welfare reform and health-insurance reform; and eliminating waste, fraud, and abuse from the health care system. Underlying the Department's pursuit of its regulatory responsibilities in all of the above-mentioned programmatic areas, there endures the focus and discipline with which the principles of Executive Order 12866 and the many subsequent regulatory reform initiatives of the Clinton Administration have energized the Department's regulatory functions. Public comments are invited to assist the Department in continuing these efforts.

Comments should be sent to the addresses listed below, depending on the specific agenda entry that is of interest. Comments may be sent to the Office of the Secretary if the responsible component of the Department is not apparent or if a comment covers subjects crossing agency lines.

Health Care Financing Administration: Sue Brown, Director, Division of Regulations and Issuances, 7500 Security Boulevard, C5-09-27, Baltimore, Maryland 21244; phone 410-786-4473.

Food and Drug Administration: Ed Dutra, Director, Regulatory Policy and Management Staff, 5600 Fishers Lane, Rockville, Maryland 20857; phone 301-443-3480.

Administration on Children and Families: Madeline Mocko, Director, Division of Policy and Legislation, 7th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447; phone 202-401-9223.

Administration on Aging: David Bunoski, Executive Secretariat, Room 4753, 330 Independence Avenue SW., Washington, DC 20201; phone 202-260-0669.

Agency for Health Care Policy and Research: Nancy Werbel, 2101 East Jefferson Street, Suite 603, Rockville, Maryland 20852; phone 301-594-1455.

Centers for Disease Control: Thena Durham, Executive Secretariat, 1600 Clifton Road, Building 16, Atlanta, Georgia 30333; phone 404-639-7120.

Health Resource Services Administration: Dolores R. Etherith, 5600 Fishers Lane, Room 14-A-08, Rockville, Maryland 20857; phone 301-443-1786.

Indian Health Service: Betty Penn, 12300 Twinbrook Parkway, Suite 450, Rockville, Maryland 20857; phone 301-443-1116.

National Institutes of Health: Jerry Moore, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, Maryland 20852; phone 301-496-4606.

Substance Abuse and Mental Health Services Administration: Joe Faha, 5600 Fishers Lane, Room 12-A-17, Rockville, Maryland 20857; phone 301-443-4640.

Office of the Secretary: Jacquelyn Y. White, Deputy Executive Secretary to the Department, Office of the Executive Secretariat, Room 603H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Dated: March 22, 1999.

LaVarne Burton,

Executive Secretary to the Department.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
905	Privacy Act Exempt Record System from the Healthcare Integrity and Protection Data Bank	0991-AA99
906	Revision of HHS Freedom of Information Act Regulations	0991-AB01
907	Civil Money Penalties for Medicare+Choice Organizations and Medicaid Managed Care Organizations	0991-AB03

HHS

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
908	Clarification of the Initial OIG Safe Harbor Provisions and Establishment of Additional Safe Harbor Provisions Under the Anti-Kickback Statute	0991-AA66
909	Reproduction and Sale of Official Forms and Publications	0991-AA83
910	Revised OIG Civil Money Penalties Resulting From Public Law 104-191	0991-AA90
911	Shared Risk Exception to the Safe Harbor Provisions	0991-AA91
912	Revised OIG Sanction Authorities Resulting From Public Law 105-33	0991-AA95
913	Block Grant Programs	0991-AA97
914	Health Care Fraud and Abuse Data Collection Program	0991-AA98

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
915	Civil Money Penalties (CMPs) for Certain Hospital Physician Incentive Plans	0991-AA45
916	Civil Money Penalties (CMPs) for Certain Practices Relating to Medicare Supplemental Policies	0991-AA53
917	Civil Money Penalties for Notifying a Home Health Agency, or a Home or Community-Based Health Care Center or Provider, of a Standard Survey	0991-AA79
918	Civil Money Penalties for False Information on Drug Manufacturer Price Surveys and Rebate Agreements	0991-AA80
919	Senior Biomedical Research Service	0991-AA82

Substance Abuse and Mental Health Services Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
920	Block Grants for Prevention and Treatment of Substance Abuse	0930-AA01

Centers for Disease Control and Prevention—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
921	Interstate Shipment of Biological Materials That Contain or May Contain Infectious Substances	0920-AA02

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
922	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
923	Blood Initiative	0910-AB26
924	Pregnancy Labeling Revision	0910-AB44
925	Natural Rubber-Containing Drugs; User Labeling	0910-AB56

HHS

Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
926	Over-the-Counter (OTC) Drug Review	0910-AA01
927	Hearing Aids; Professional and Patient Labeling; Conditions for Sale	0910-AA39
928	Drugs Used for Treatment of Narcotic Addicts	0910-AA52
929	Investigational New Drugs: Export Requirements for Unapproved New Drug Products	0910-AA61
930	Adverse Drug Reaction Reporting and Recordkeeping Requirements for Marketed OTC Drugs	0910-AA86
931	Informed Consent for Human Drugs and Biologics; Determination That Informed Consent Is Not Feasible	0910-AA89
932	Direct-to-Consumer Promotion Regulations	0910-AA90
933	Labeling for Human Prescription Drugs; Revised Format	0910-AA94
934	Adverse Drug Reaction Reporting Requirements for Human Drug and Biological Products	0910-AA97
935	Use of Ozone-Depleting Substances	0910-AA99
936	Radioactive Drugs for Basic Research	0910-AB00
937	Veterinary Feed Directives	0910-AB09
938	Administrative Practices and Procedures; Advisory Opinions and Guidelines	0910-AB14
939	Exports; Reporting and Recordkeeping Requirements	0910-AB16
940	Registration of Foreign Establishments and Product Listing	0910-AB21
941	Suitability Determination for Donors of Human Cellular and Tissue-Based Products	0910-AB27
942	Current Good Tissue Practice for Manufacturers of Human Cellular and Tissue-Based Products	0910-AB28
943	Shell Eggs: Warning, Notice and Safe Handling Labeling Statements and Refrigeration Requirements	0910-AB30
944	Antibiotic Drug Approval and Exclusivity	0910-AB33
945	Applications for FDA Approval To Market a New Drug or Antibiotic Drug; Complete Response Letter; Amendments to Unapproved Applications	0910-AB34
946	Expanded Access to Investigational Therapies	0910-AB37
947	Amendment of Regulations Regarding Certain Label Statements on Prescription Drugs	0910-AB39
948	Electronic Submission of Adverse Drug Reaction Reports	0910-AB42
949	Distinguishing Marks for Drug Products Containing Insulin	0910-AB43
950	Progestational Drug Products for Human Use; Requirements for Labeling Directed to the Patient	0910-AB45
951	Supplemental Manufacturing Changes for New Animal Drugs	0910-AB49
952	Requirements for Liquid Medicated Feed and Free-Choice Medicated Feed	0910-AB50
953	Pharmacy Compounding; General Regulations	0910-AB58
954	Drug Products That Present Demonstrable Difficulties for Compounding Because of Reasons of Safety or Effectiveness	0910-AB59
955	Discontinuation of a Life-Saving Product	0910-AB60
956	Manufacturing Changes for Drugs	0910-AB61
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962	Classification of Sheep as a Minor Species for All Data Collection Purposes	0910-AB69
963	Current Good Manufacturing Practice for Medicated Feeds	0910-AB70
964	Implementation of the Import Tolerance Provisions of the Animal Drug Availability Act of 1996 and the Safe Level Provisions of the Animal Medicinal Drug Clarification Act of 1994	0910-AB71
965	Mandatory HACCP Regulations for Manufacturers of Rendered Products	0910-AB72
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967	Current Good Manufacturing Practices for Blood and Blood Components: Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HCV Infection	0910-AB76
968	Antibiotic Resistance Labeling	0910-AB78
969	Fixed-Combination Dosage Form Prescription Drugs for Human Use	0910-AB79
970	180-Day Generic Drug Exclusivity for Abbreviated New Drug Applications	0910-AB80
971	Repackaging Approval Requirements	0910-AB81
972	Stability Testing of Drug Substances and Drug Products	0910-AB82
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975	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)	0910-AA02
976	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications	0910-AA06
977	Fruit and Vegetable Juices: Development of HACCP and Label Warning Statements for Juices	0910-AA43
978	Current Good Manufacturing Practice; Amendment of Certain Requirements for Finished Pharmaceuticals	0910-AA45
979	Bioavailability and Bioequivalence Requirements	0910-AA51
980	Parenteral Drug Products Containing Aluminum as an Ingredient or Contaminant; Labeling Requirements; Warning Statement	0910-AA74
981	New Drug Applications; Drug Master File	0910-AA78
982	Over-the-Counter Human Drugs; Labeling Requirements	0910-AA79
983	Investigational New Drug Applications; Clinical Holds for Drugs for Life-Threatening Illnesses	0910-AA84
984	Sterility Requirements for Inhalation Solution Products	0910-AA88
985	Current Good Manufacturing Practice; Revision of Certain Labeling Controls	0910-AA98
986	Definition of Substantial Evidence	0910-AB06
987	New Drugs for Human Use; Clarification of Requirements for Patent Holder Notification	0910-AB12
988	Medicated Feed Mill Licenses	0910-AB18
989	Public Information; Communications With State and Foreign Government Officials	0910-AB22
990	FDA Export Reform and Enhancement Act of 1996; Reporting and Recordkeeping Requirements for Unapproved or Violative Products Imported for Further Processing or Incorporation and Later Export	0910-AB24
991	Biological Products Regulated Under Section 351 of the Public Health Service Act; Implementation of Biologics License; Elimination of Establishment License and Product License	0910-AB29
992	Revisions to the General Safety Requirements for Biological Products; Direct Final Rule	0910-AB51
993	Radiopharmaceuticals Used for In Vivo Diagnosis and Monitoring	0910-AB52
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Food and Drug Administration—Long-Term Actions

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996	Biological Products: Reporting of Errors and Accidents in Manufacturing	0910-AA12
997	Food Labeling Review	0910-AA19
998	Medical Foods	0910-AA20
999	Classification of Computer Software Programs That Are Medical Devices	0910-AA41
1000	Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution	0910-AA49
1001	Reinventing FDA Food Regulations	0910-AA58
1002	Dietary Supplement Regulations in Response to DSHEA	0910-AA59
1003	Debarment Certification Regulations for Drug Applications	0910-AA76
1004	Investigational New Drug Applications; Request for Information and Comments	0910-AA83
1005	Investigational Use New Animal Drug Regulations	0910-AB02
1006	Establishment Registration and Listing of Human Cellular and Tissue-Based Products	0910-AB05
1007	Requirements Pertaining to the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents; Use of Nontobacco Trade or Brand Names	0910-AB17
1008	Exemption From Preemption of State and Local Cigarette and Smokeless Tobacco Requirements; Applications for Exemption Submitted by Various State Governments; Group 1; Group 2	0910-AB19
1009	Citizen Petitions; Actions That Can Be Requested by Petition; Summary Denial; and Referral for Other Administrative Action	0910-AB73

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Sequence Number	Title	Regulation Identifier Number
1010	Review of Warnings, Use Instructions, and Precautionary Information Under Section 314 of the National Childhood Vaccine Injury Act of 1986	0910-AA14

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Food and Drug Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1011	Tamper-Evident Packaging Requirements for Over-the-Counter Human Drug Products	0910-AA26
1012	Amalgam Ingredient Labeling	0910-AA33
1013	Prescription Drug Product Labeling; Medication Guide	0910-AA37
1014	Long-Term Contraceptive Drug Products and Medical Devices; Informed Consent Requirements	0910-AA75
1015	Animal Drug Approvals for Minor Species and Minor Usage	0910-AB07
1016	Regulations Requiring Manufacturers To Assess the Safety and Effectiveness of New Drugs and Biological Products in Pediatric Patients	0910-AB20
1017	Dissemination of Treatment Information on Unapproved Uses for Marketed Drugs and Devices	0910-AB23
1018	Revocation of Antibiotic Certification Requirements; Conforming Revisions to Regulations	0910-AB32
1019	List of Drugs That Have Been Withdrawn or Removed From the Market for Reasons of Safety and Effectiveness	0910-AB40
1020	Clinical Hold; Streamlining Clinical Research	0910-AB41
1021	Medical Devices; IDE Modifications	0910-AB53
1022	Dispute Resolution	0910-AB54
1023	Effective Date of Approval of an Abbreviated New Drug Application	0910-AB64
1024	Mutual Recog. of Pharmaceutical Good Manufacturing Inspection Rpts., Med. Device Quality Sys. Audit Rpts., and Certain Medical Device Product Eval. Rpts.; the U.S. and the European Community	0910-AB75
1025	Financial Disclosure by Clinical Investigators	0910-AB77

Health Resources and Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1026	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Corporate Shield	0906-AA41
1027	Designation of Medically Underserved Populations and Health Professional Shortage Areas	0906-AA44

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Sequence Number	Title	Regulation Identifier Number
1028	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Charge for Self-Queries	0906-AA42
1029	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Reporting Adverse and Negative Actions	0906-AA43
1030	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Providers: Clarification and Modernization of Regulatory Terms	0906-AA48

Indian Health Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1031	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character	0917-AA02

Indian Health Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1032	Currently Effective Indian Health Service Eligibility Regulations	0917-AA03

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National Institutes of Health—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1033	National Institutes of Health AIDS Research Loan Repayment Program	0925-AA02
1034	Undergraduate Scholarship Program Regarding Professions Needed by the NIH	0925-AA10
1035	National Research Service Awards	0925-AA16
1036	Removal of National Cancer Institute Clinical Cancer Education Program	0925-AA17
1037	National Institutes of Health Loan Repayment Program for Research	0925-AA18
1038	National Institute of Child Health and Human Development Contraception and Infertility Research Loan Repayment Program	0925-AA19

National Institutes of Health—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1039	National Institutes of Health Construction Grants	0925-AA04
1040	Traineeships	0925-AA11
1041	Additional DHHS Protections for Pregnant Women and Human Fetuses Involved as Subjects in Research, and Pertaining to Human In Vitro Fertilization	0925-AA14
1042	Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects	0925-AA20
1043	Federal Policy (Common Rule) for the Protection of Human Subjects	0925-AA21
1044	Service Fellowships	0925-AA22

National Institutes of Health—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1045	National Institutes of Health Clinical Research Loan Repayment Program for Individuals From Disadvantaged Backgrounds	0925-AA09

Office of Public Health and Science—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1046	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers	0940-AA01

Office of Public Health and Science—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1047	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects	0940-AA00

Office of Assistant Secretary for Health—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1048	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects	0937-AA00

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Public Health Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1049	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers	0905-AE71

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1050	Medicare Coverage of Heart, Liver, and Lung Transplantation (HCFA-3835-PN)	0938-AH17
1051	Children's Health Insurance: Program Implementation; State Plan Approval; State Payment; Coordination With State Medicaid Program (HCFA-2006-P)	0938-AI28
1052	Appeals of Carrier Determination That a Supplier Fails To Meet the Requirements for Medicare Billing Privileges (HCFA-6003-P)	0938-AI49
1053	Prospective Fee Schedule for Ambulance Services (HCFA-1002-NR)	0938-AI72
1054	Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests; Intent To Form Negotiated Rulemaking Committee (HCFA-3250-NOI)	0938-AI92
1055	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—Third Quarter, 1998 (HCFA-9000-N)	0938-AJ37
1056	Recognition of the Community Health Accreditation Program, Inc., (CHAP), (HCFA-2029-FN)	0938-AJ42

Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1057	Medicare Program: Limitations on Medicare Coverage of Intermittent Positive Pressure Breathing Machine Therapy (HCFA-3781-FN)	0938-AG44
1058	Telephone Requests for Review of Part B Initial Claim Determinations (HCFA-4121-F)	0938-AG48
1059	CLIA Program: Categorization of Waived Tests (HCFA-2225-FC)	0938-AG99
1060	Additional Supplier Standards (HCFA-6004-F)	0938-AH19
1061	Requirements for Enrollment of Medicaid Recipients Under Cost Effective Employer-Based Group Health Plans (HCFA-2047-FC)	0938-AH48
1062	Terms, Definitions, and Addresses: Technical Amendments (HCFA-9877-FC)	0938-AH53
1063	Utilization Control and Discontinued Review Activities; Medicaid (HCFA-2101-FC)	0938-AH64
1064	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)	0938-AH75
1065	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers Effective for Calendar Year 1998 (HCFA-1885-F)	0938-AH81
1066	Medically Needy Determinations Under Welfare Reform (HCFA-2109-IFC)	0938-AH92
1067	Medicare+Choice Program (HCFA-1030-F)	0938-AI29
1068	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities. (HCFA-1913-IFC)	0938-AI47
1069	Surety Bond Requirements for Comprehensive Outpatient Rehab. Facilities, Rehab. Agencies, Community Mental Health Centers, and Independent Diagnostic Testing Facilities (HCFA-6005-P)	0938-AI48
1070	Medicaid Program; Home and Community-Based Services (HCFA-2010-FC)	0938-AI67
1071	Solvency Standards for Provider-Sponsored Organizations (HCFA-1011-F)	0938-AI83
1072	Coverage of Religious Non-Medical Health Care Institutions (HCFA-1909-IFC)	0938-AI93
1073	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA-3006-IFC)	0938-AJ10
1074	Establishment of a Program To Collect Suggestions for Improving Medicare Program Efficiency and To Reward Suggestors (HCFA-4000-FC)	0938-AJ30

Health Care Financing Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1075	Payment for Clinical Diagnostic Laboratory Tests (HCFA-1309-F)	0938-AB50

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Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1076	Changes to Peer Review Organization Regulations (HCFA-3135-F)	0938-AD38
1077	Omnibus Nursing Home Reform Requirements (HCFA-3488-F)	0938-AD81
1078	"Without Fault" and Beneficiary Waiver of Recovery As It Applies to Medicare Overpayment Liability (HCFA-1719-P)	0938-AD95
1079	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (HCFA-2023-P)	0938-AE12
1080	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)	0938-AE39
1081	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (HCFA-2028-F)	0938-AE72
1082	Payment for Nursing and Allied Health Science Education (HCFA-1685-F)	0938-AE79
1083	Coverage of Screening Pap Smears (HCFA-3705-F)	0938-AE98
1084	Changes to the Long-Term Care Facility Survey Process (HCFA-3175-FC)	0938-AF02
1085	Case Management (HCFA-2027-F)	0938-AF07
1086	Requirements for Certain Health Insuring Organizations and OBRA '90 Technical Amendments (HCFA-1018-F)	0938-AF15
1087	Provider Reimbursement Determinations and Appeals (HCFA-1727-P)	0938-AF28
1088	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)	0938-AF32
1089	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (HCFA-2046-FC)	0938-AF42
1090	Referral to Child Support Enforcement Agencies of Medicaid Families (HCFA-2051-F)	0938-AF68
1091	Medicaid: Outstationed Intake Locations for Certain Low-Income Pregnant Women, Infants, and Children Under Age 19 (HCFA-2052-F)	0938-AF69
1092	Assessing Interest Against Medicare Secondary Payer (MSP) Debts (HCFA-6108-P)	0938-AF87
1093	Revised Medicaid Management Information Systems (HCFA-2038-FN)	0938-AG10
1094	Alternative Sanctions for Renal Dialysis Facilities (HCFA-3204-P)	0938-AG31
1095	Description of HCFA's Evaluation Methodology for the Peer Review Organizations Fifth Scope of Work Contracts (HCFA-3207-N)	0938-AG32
1096	Disclosure of Confidential PRO and ESRD Network Organization Information for Research Purposes (HCFA-3208-P)	0938-AG33
1097	Effect of Change of Ownership on Provider and Supplier Penalties, Sanctions, Underpayments and Overpayments (HCFA-2215-P)	0938-AG59
1098	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected With Tuberculosis (HCFA-2082-P)	0938-AG72
1099	Revision of Medicare/Medicaid Hospital Conditions of Participation (HCFA-3745-F)	0938-AG79
1100	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships—Expanded to Designated Health Services (HCFA-1809-F)	0938-AG80
1101	Home Health Agency (HHA) Conditions of Participation (HCFA-3819-F)	0938-AG81
1102	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-P)	0938-AG82
1103	Distinct Part Requirements for Nursing Homes and Prohibition of Financial Screening of Applicants for Nursing Home Admission (HCFA-3815-P)	0938-AG84
1104	Liability for Third Parties To Pay for Care and Services (HCFA-2080-P)	0938-AH01
1105	Adjustment in Payment Amounts for New Technology Intraocular Lenses (HCFA-3831-F)	0938-AH15
1106	Definition of Skilled Nursing Facility (SNF) for Coverage of Durable Medical Equipment (DME) and Home Health (HCFA-1834-P)	0938-AH16
1107	State Plan Amendment (SPA) Reconsideration Process (HCFA-2096-P)	0938-AH24
1108	Hospice Care—Conditions of Participation (HCFA-3844-P)	0938-AH27
1109	CLIA Program; Cytology Proficiency Testing (HCFA-2233-N)	0938-AH35
1110	Medicare Coverage of Services of Speech-Language Pathologists and Audiologists (HCFA-1843-P)	0938-AH37
1111	Payment Amount if Customary Charges Are Less Than Reasonable Costs (HCFA-1860-FC)	0938-AH49
1112	Limitations on Liability (HCFA-4859-FC)	0938-AH51
1113	Medicare Secondary Payer Clarifications and Amendments (HCFA-1865-P)	0938-AH52
1114	Revision to Accrual Basis of Accounting Policy (HCFA-1876-F)	0938-AH61
1115	Medicaid; Estate Recoveries (HCFA-2083-P)	0938-AH63
1116	Medicaid Hospice Care (HCFA-2016-P)	0938-AH65
1117	Provider and Supplier Billing When Medicare Is Secondary Payor to Liability Insurance (HCFA-1848-P)	0938-AH66
1118	Medicare Technical Conforming Amendments (HCFA-1858-FC)	0938-AH67
1119	Elimination of Certain Requirements for Peer Review Organizations in the Utilization and Quality Review Process and a Change in the Length of Peer Review Organization Contracts (HCFA-3235-FC)	0938-AH68
1120	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)	0938-AH69
1121	Waiver of Staffing Requirements for End Stage Renal Disease (ESRD) Facilities Participating in an Experiment (HCFA-2236-GNC)	0938-AH72
1122	Provider and Supplier Enrollment Periodic Renewal of Eligibility Requirements (HCFA-6002-P)	0938-AH73
1123	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (HCFA-3887-P)	0938-AH83
1124	Disclosure of Peer Review Organization Information in Response to Beneficiary Complaints (HCFA-3241-P)	0938-AH85

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Health Care Financing Administration—Long-Term Actions (Continued)

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1125	National Standard for Identifiers of Health Plans (HCFA-4145-P)	0938-AH87
1126	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)	0938-AH89
1127	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)	0938-AH95
1128	Revision to the Definition of an Unemployed Parent (HCFA-2106-FC)	0938-AH98
1129	National Standard Health Care Provider Identifier (HCFA-0045-F)	0938-AH99
1130	Portability and Nondiscrimination in the Group Health Insurance Market (HCFA-2890-F)	0938-AI08
1131	Medicare Program; Medicare Integrity Program (HCFA-7020-F)	0938-AI09
1132	Medicare Program; Improvements to the Appeals Process for Medicare Beneficiaries Enrolled in HMOs, CMPs, and HCPPs (HCFA-4024-P)	0938-AI11
1133	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Coverage Decisions—Second Quarter, 1998 (HCFA-9002-N)	0938-AI13
1134	Medicare Program; Physician Fee Schedule Conversion Factor for Calendar Year 1998 and Sustainable Growth Rate for Fiscal Year 1998 (HCFA-1893-FN)	0938-AI16
1135	Medicaid: Medical Child Support (HCFA-2081-P)	0938-AI21
1136	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-IFC)	0938-AI27
1137	Medicare Program: Physicians' Referrals; Issuance of Advisory Opinions (HCFA-1902-F)	0938-AI38
1138	Medicare/Medicaid Program; User Fees (HCFA-6021-P)	0938-AI46
1139	Security and Electronic Signature Standards (HCFA-0049-F)	0938-AI57
1140	Standards for Electronic Transactions (HCFA-0149-F)	0938-AI58
1141	National Standard Employer Identifier (HCFA-0047-F)	0938-AI59
1142	State Plan Requirements for Durable Medical Equipment Providers (HCFA-2007-P)	0938-AI63
1143	Recognition of the Community Health Accreditation Program, Inc. (CHAP) and Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for Hospices (HCFA-2029-PN)	0938-AI69
1144	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)	0938-AI70
1145	Elimination of Application of Federal Financial Participation Limits (HCFA-2111-IFC)	0938-AI73
1146	Medicaid Program; Changes to Eligibility of Non-U.S. Citizens (HCFA-2108-P)	0938-AI74
1147	Medicare Program; Advance Refunding of Debt and Methodology for Repayment of Loan (HCFA-1777-P)	0938-AI75
1148	Medicare Hospice Care (HCFA-1022-P)	0938-AI77
1149	Revision of Procedures for Requesting Exceptions to Cost Limits for SNFs and Elimination of Reclassifications (HCFA-1883-P)	0938-AI80
1150	Medicare Program; Standardization of Medicare Coverage for Bone Mass Measurements (HCFA-3004-IFC)	0938-AI89
1151	Health Insurance Reform Universal Health Care Identifier (HCFA-0048-NOI)	0938-AI91
1152	Peer Review Organization Contracts: Solicitation of Statements of Interest From In-State Organizations (HCFA-3009-N)	0938-AI99
1153	Replacement of Reasonable Charge Methodology by Fee Schedules (HCFA-1010-P)	0938-AJ00
1154	External Quality Review of Medicaid Managed Care Organizations (HCFA-2015-P)	0938-AJ06
1155	HHS' Recognition of NAIC Model Standards for Regulation of Medigap Policy (HCFA-2025-N)	0938-AJ07
1156	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—First Quarter 1998 (HCFA-9879-N)	0938-AJ12
1157	Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance: Millennium Compliance (HCFA-4002-GNC)	0938-AJ15
1158	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (HCFA-1910-P)	0938-AJ17
1159	Home Health Prospective Payment System (HCFA-1102-FC)	0938-AJ24
1160	Medicare Program State Allotments for Payments of Medicare Part B Premium for Qualifying Individuals: Federal Fiscal Year for 1999 (HCFA-2032-N)	0938-AJ28
1161	Hospital Conditions of Participation: Laboratory Services (HCFA-3 014-P)	0938-AJ29
1162	Medicare Program; Procedures for Making Medical Services National Coverage Decisions (HCFA-3432-FNC)	0938-AJ31
1163	Medicare Program; Special Payment Limits for Certain Durable Medical Equipment and Prosthetic Devices (HCFA-1050-PN)	0938-AJ34
1164	Medicaid Program; Civil Money Penalties for Nursing Homes (SNF/NF), Change in Notice Requirements, and Expansion of Discretionary Remedy (HCFA-2035-FC)	0938-AJ35
1165	Medicare Hospice Care (HCFA-1022-P)	0938-AJ36
1166	Emergency Medical Treatment and Labor Act (EMTALA) (HCFA-1063-FC)	0938-AJ39
1167	Recognition of the Joint Commission for Accreditation of Healthcare Organizations (JCAHO for Hospices) (HCFA-2039-FN)	0938-AJ41
1168	Decision on the Funding for the AIDS Healthcare Foundation START Program, (HCFA-2041-N)	0938-AJ43
1169	Protection for Women Who Elect Reconstruction After a Mastectomy (HCFA-2040-IFC)	0938-AJ44

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Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1170	Accelerated Payments to Providers Furnishing Services Under Medicare Part A and Part B and Advance Payments to Suppliers Furnishing Items or Services Under Medicare Part B (HCFA-1066-FC)	0938-AJ45
1171	Medicare/Medicaid and CLIA Programs: Clinical Laboratory Improvement Amendments of 1988 Exemption of Laboratories in the State of California (HCFA-2245-N)	0938-AJ47
1172	Federal Enforcement in Group and Individual Health Insurance Markets (HCFA-2019-FC)	0938-AJ48
1173	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 2000 Rates (HCFA-1053-P)	0938-AJ50

Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1174	Deduction of Incurred Medical Expenses (Spenddown) (HCFA-2020-F)	0938-AB07
1175	Participation in CHAMPUS and CHAMPVA, Hospital Admissions for Veterans, Discharge Rights Notice, and Hospital Responsibility for Emergency Care (HCFA-1393-IFC)	0938-AC58
1176	Criteria and Procedures for Developing Medical Services Coverage Policy (HCFA-3546-F)	0938-AD07
1177	Medicare Secondary Payer for Disabled Individuals (HCFA-1482-F)	0938-AD73
1178	Revisions to Regulations Implementing CLIA (HCFA-2226-F)	0938-AE47
1179	Medicare Coverage of, and Application of the Outpatient Mental Health Treatment Limitation to, Clinical Psychologist and Clinical Social Worker Services (HCFA-3706-F)	0938-AE99
1180	Revisions to Rules on Health Care Prepayment Plans (HCFA-1016-P)	0938-AF97
1181	Retroactive Enrollment and Disenrollment in Risk Health Maintenance Organizations and Competitive Medical Plans (HCFA-1015-F)	0938-AF98
1182	Payment for Preadmission Services (HCFA-1731-F)	0938-AG00
1183	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions and Establishment of a Quality Assessment and Performance Improvement Program (HCFA-1910-P)	0938-AG05
1184	Request for Assessment on the Salitron System for the Treatment of Xerostomia Secondary to Sjogren's Syndrome (HCFA-3782-NC)	0938-AG45
1185	Clinical Laboratory Improvement Amendment (CLIA) Fee Schedule Revision (HCFA-3219-GNC)	0938-AG87
1186	Categorization and Certification Requirements for a New Subcategory of Moderate Complexity Testing (HCFA-2222-F)	0938-AG98
1187	Ambulance Services (HCFA-1813-F)	0938-AH13
1188	Criteria and Procedures for Extending Coverage to Certain Devices and Related Services (HCFA-3841-F)	0938-AH21
1189	Delegation of Civil Money Penalties (HCFA-6135-FC)	0938-AH22
1190	Supplier Participation Agreements and Limits on Actual Charges of Nonparticipating Physicians (HCFA-1862-P)	0938-AH50
1191	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1998 Rates (HCFA-1878-F)	0938-AH55
1192	Conditions for Certification of Community Mental Health Centers and Coverage Requirements for Partial Hospitalization Services (HCFA-1871-P)	0938-AH58
1193	Medicaid Program; Redeterminations of Medicaid Eligibility Due to Welfare Reform (HCFA-2105-IFC)	0938-AH76
1194	Medicare Program; Beneficiary Incentive Programs (HCFA-6144-FC)	0938-AH86
1195	Allocation of Enhanced Federal Matching Funds for Increased Administrative Costs (MB-103-N)	0938-AH90
1196	Final Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1998 (HCFA-2110-N)	0938-AH93
1197	Medicare Coverage of Certified Nurse-Midwife Services (HCFA-1496-P)	0938-AH96
1198	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (HCFA-2891-IFC)	0938-AI05
1199	Part A Premium for 1998 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (HCFA-5056-N)	0938-AI10
1200	Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1998 (HCFA-5057-N)	0938-AI12
1201	Health Insurance Portability: Newborns' and Mothers' Health Protection (HCFA-2892-IFC)	0938-AI17
1202	Medicaid Program: Charges for Vaccine Administration Under the Vaccines for Children (VCF) Program (HCFA-2084-FNC)	0938-AI20
1203	Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1999 Rates (HCFA-1003-P)	0938-AI22
1204	Medicare Program; Notice for the Solicitation for Proposals for a Case Management Demonstration Project Focused on Congestive Heart Failure or Diabetes Mellitus (HCFA-1104-N)	0938-AI26
1205	Collection of User Fees From Medicare+Choice Plans and Risk-Sharing Contractors (HCFA-1911-IFC)	0938-AI35
1206	Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualified Individuals: Federal Fiscal Year 1998 (HCFA-2005-NC)	0938-AI39

HHS

Health Care Financing Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1207	Medicare Program: Payments for Teleconsultations in Rural Health Professional Shortage Areas (HCFA-1906-F) ..	0938-AI44
1208	Review and Payment for Claims Filed on Behalf of Medicare/Medicaid Dually Eligible Beneficiaries (HCFA-2097-3)	0938-AI50
1209	Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 1999 (HCFA-1006-FC) (HCFA-1006-P)	0938-AI52
1210	Medicare Program; Prospective Payment System for Hospital Outpatient Services (HCFA-1005-P)	0938-AI56
1211	Medicare Program; Definition of Provider-Sponsored Organization and Related Requirements (HCFA-1027-IFC)	0938-AI60
1212	Child Health Insurance Allotments FY 1999 (HCFA-2014-N)	0938-AI64
1213	State Children's Health Insurance Program Allotments and Payments to States (HCFA-2114-P)	0938-AI65
1214	DSH Payments - Institution for Mental Disease (HCFA-2012-N)	0938-AI66
1215	New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act July, August, September, October, and November 1997	0938-AI71
1216	Medicare Program; Advertising Costs (HCFA-1880-P)	0938-AI76
1217	State Allotments for Additional Federal Funding of Emergency Health Services Furnished to Undocumented Aliens: Federal Fiscal Years 1998 Through (HCFA-2000-N)	0938-AI78
1218	Medicaid Program; Extension of Waiver To Extend Medicaid Eligibility Timeframes (HCFA-2009-N)	0938-AI79
1219	Medicare and Medicaid Programs; Surety Bond Requirements for Home Health Agencies (HCFA-1038-NC)	0938-AI82
1220	Schedule of Per-Beneficiary Limitations on Home Health Agency Costs for Cost Reporting Periods Beginning On or After October 1, 1997 (HCFA-1905-FC)	0938-AI84
1221	Expanded Coverage of Blood Glucose Monitors and Test Strips (HCFA-3003-IFC)	0938-AI85
1222	Medicare Program; Hospice Wage Index (HCFA-1039-N)	0938-AI87
1223	Recognition of the American Association for Accreditation of Ambulatory Surgery Facilities, Inc. for Ambulatory Surgical Centers Program (HCFA-2008-PN)	0938-AI90
1224	Medicaid, Medicare CLIA Program; Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA (HCFA 2024-IFC)	0938-AI94
1225	Hospital Conditions of Participation, Identification of Potential Organ, Tissue, and Eye Donor and Transplant Hospitals Provisions of Transplant Related Data (HCFA-3005-F)	0938-AI95
1226	Expanded Coverage for Diabetes Outpatient Self-Management Training Services (HCFA-3002-P)	0938-AI96
1227	Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1999 (HCFA-8003-N)	0938-AI98
1228	Notice Announcing Revised Positron Emission Tomography (PET) Policy (HCFA-3008-NC)	0938-AJ01
1229	Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1999 (HCFA-8001-N)	0938-AJ02
1230	Medicare Program; Part A Premium for 1999 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (HCFA-8000-N)	0938-AJ03
1231	Inpatient Psychiatric Services Benefit for Individuals Under Age 21 (HCFA-2060-F)	0938-AJ05
1232	Physician Sustainable Growth Rate of Increase for FY 1999 (HCFA-1021-FN)	0938-AJ09
1233	Comprehensive Assessment and Use of OASIS as Part of Conditions of Participation for Home Health Agencies (HCFA-3007-F)	0938-AJ11
1234	Request for Public Comments on Implementation of Risk Adjusted Payment for the Medicare+Choice Program and Notice of Public Meeting	0938-AJ16
1235	Adjustments to Payment Amount for Erythropoietin/Epoietin for End-Stage Renal Disease Patients (HCFA-1098-PN)	0938-AJ18
1236	Recognition of the Commission for Accreditation of Rehabilitation Facilities (HCFA-2036-NC)	0938-AJ25
1237	Medicare Program; Limited Additional Opportunity to Request Certain Hospital Wage Data Revisions for FY 1999 (HCFA-1049-FC)	0938-AJ26
1238	Request for Nominations for Members for Practicing Physicians Advisory Council (HCFA-1048-N)	0938-AJ27
1239	Medicare and Medicaid Programs; Announcement of Additional Application From Hospitals Requesting Waivers for Organ Procurement Service Area (HCFA-1062-N)	0938-AJ32
1240	Medicare Program; January 6, 1999, Meeting of the Competitive Pricing Advisory Committee (HCFA-1061-N)	0938-AJ33
1241	Medicare Program; March 15, 1999, Meeting of the Practicing Physician Advisory Council (HCFA-1064-N)	0938-AJ38
1242	March 9, April 8, and May 12, 1999 Meetings of the Kansas City Metropolitan Area, Competitive Pricing Demonstration Area Advisory Committee (HCFA-1068-N)	0938-AJ46
1243	Medicare Coordinated Care Demonstration Project and Request for Comments on Potential Best Practices of Coordinated Care (HCFA-1100-N)	0938-AJ49

HHS

Administration for Children and Families—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1244	Construction of Head Start Facilities	0970-AB54
1245	Bonus To Reward High Performance States Under the Temporary Assistance for Needy Families Block Grant	0970-AB66
1246	Child Support Enforcement for Indian Tribes	0970-AB73
1247	Incentive Payments and Audit Penalties to States and Political Subdivisions	0970-AB85
1248	Family Child Care Program Option for Head Start Programs	0970-AB90
1249	Implementation of AFCARS Corrective Action and Penalties and CAPTA Amendments	0970-AB94
1250	State Self Assessments To Determine Compliance With Federal Regulations	0970-AB96
1251	Priority for Previously Selected Headstart Agencies	0970-AB98
1252	Program Performance Standards for the Operation of Head Start Programs	0970-AB99
1253	Safeguarding Child Support and Expanded FPLS Information	0970-AC01
1254	Assets for Independence Reserve Account	0970-AC02

Administration for Children and Families—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1255	Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, MEPA Implementation, and ASFA Implementation	0970-AA97
1256	Standards for Safe Transportation	0970-AB24
1257	Methodology for Determining Whether an Increase in a State's Child Poverty Rate Is the Result of the TANF Program	0970-AB65
1258	Temporary Assistance for Needy Families (TANF)	0970-AB77
1259	Requirements for the Tribal Programs	0970-AB78
1260	Bonus to Reward Decrease in Illegitimacy Ratio	0970-AB79
1261	Child Support Enforcement Program Omnibus Conforming Regulation	0970-AB81
1262	Refugee Resettlement Program: Public/Private Partnership	0970-AB83
1263	Head Start Appeal Timelines	0970-AB87
1264	Welfare-to-Work Data Collection	0970-AB92
1265	National Medical Support Notice	0970-AB97
1266	Technical Revision of Head Start Regulations to Make Them Conform to Recent Statutory Revisions	0970-AC00

Administration for Children and Families—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1267	Standards for Purchase of Facilities	0970-AB31
1268	State Law Concerning Paternity Establishment	0970-AB69
1269	Grants to States for Access and Visitation Programs	0970-AB72
1270	Case Closure	0970-AB82

Administration on Aging—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1271	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians	0985-AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

905. • PRIVACY ACT EXEMPT RECORD SYSTEM FROM THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a

CFR Citation: 45 CFR 56

Legal Deadline: None

Abstract: This proposed rule would exempt the new system of records for the Healthcare Integrity and Protection Data Bank (HIPDB) from certain provisions of the Privacy Act (5 U.S.C. 552a). The proposed exemption being set forth would apply to investigative materials compiled for law enforcement purposes in anticipation of civil, criminal or administrative proceedings.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of the Inspector General, OIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA99

906. • REVISION OF HHS FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Other Significant

Legal Authority: 5 USC 552; 18 USC 1905; 42 USC 1306(C)

CFR Citation: 45 CFR 5

Legal Deadline: None

Abstract: This proposal responds to 1996 statutory amendments and it reflects organizational changes within HHS. Under the proposal, we will make records available in the form and format identified by the requester regardless of how the record already exists, when the requested record is "readily reproducible" in the requested form or format.

Timetable:

Action	Date	FR Cite
NPRM	03/26/99	64 FR 14668
NPRM Comment Period End	05/26/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosario Cirrincione, Director, Freedom of Information and Privacy, Acts Division, OASPA, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 690-7453
Fax: 202 690-8320

RIN: 0991–AB01

907. • CIVIL MONEY PENALTIES FOR MEDICARE+CHOICE ORGANIZATIONS AND MEDICAID MANAGED CARE ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320a-7a; 42 USC 1395mm; 42 USC 1395w-27; 42 USC 1396b; 42 USC 1396u-2

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would reflect OIG's authority to impose civil money penalties against health maintenance organizations and competitive medical plans that engage in certain abusive practices, including failure to provide medically necessary care and discriminatory enrollment procedures. This rule would specifically address the Medicare+Choice provisions set forth in Public Law 105-33 (the Balanced Budget Act of 1997), and the Medicaid managed care provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulatory Officer, Department of Health and Human Services, Office of the Secretary, Office of the Inspector General, OIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AB03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Final Rule Stage

908. CLARIFICATION OF THE INITIAL OIG SAFE HARBOR PROVISIONS AND ESTABLISHMENT OF ADDITIONAL SAFE HARBOR PROVISIONS UNDER THE ANTI-KICKBACK STATUTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, sec 2; PL 100-93, sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This final rule serves both to clarify various aspects of the original safe harbor provisions and to add new safe harbors as authorized under section 14 of PL 100-93. Specifically, this rule modifies the original set of final safe harbor provisions (56 FR 35952, 7/29/91) to give greater clarity to the rulemaking's original intent. In addition, this rule sets forth an expanded listing of safe harbor provisions designed to protect additional payment and business practices from criminal prosecution and civil sanctions under the anti-kickback statute.

HHS—OS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49008
NPRM Comment Period End	11/22/93	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This final rule incorporates the safe harbor clarification provisions previously addressed in RIN 0991-AA74 and set forth in proposed rulemaking (59 FR 37202, July 21, 1994).

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AA66

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909. REPRODUCTION AND SALE OF OFFICIAL FORMS AND PUBLICATIONS

Priority: Info./Admin./Other

Legal Authority: PL 103-296, sec 312 (42 USC 1320b-10)

CFR Citation: 45 CFR 101

Legal Deadline: None

Abstract: This interim final rule with comment period will establish procedures for implementation of section 312 of the Social Security Independence Act. That section amends existing prohibitions against "misuse of symbols, emblems, or names in reference to Social Security or Medicare." Section 312 prohibits the "unauthorized reproduction, reprinting, or distribution for fee" of a "form, application, or other publication of the Social Security Administration or of the Department of Health and Human Services." It requires prior written authorization for any such activity in accordance with the Secretary's regulations. The Department plans to distinguish between forms and publications that potentially involve misuse in contrast to benign or desirable reproductions and distributions, and to provide pre-authorization for the latter. The rule will be developed in consultation with the Social Security Administration.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Herrell, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Washington, DC 20201 Phone: 202 690-8291

RIN: 0991–AA83

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910. REVISED OIG CIVIL MONEY PENALTIES RESULTING FROM PUBLIC LAW 104-191

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-191, sec 231(a); PL 104-191, sec 231(b); PL 104-191, sec 231(c); PL 104-191, sec 231(d); PL 104-191, sec 231(e); PL 104-191, sec 231(h); PL 104-191, sec 232

CFR Citation: 42 CFR 1003; 42 CFR 1005; 42 CFR 1006

Legal Deadline: None

Abstract: This final rule will revise the OIG's civil money penalty provisions in conjunction with new and revised authorities set forth in the Health Insurance Portability and Accountability Act of 1996. Among other provisions, this final rulemaking would codify new civil money penalties for (1) excluded individuals retaining ownership or control interest in an entity; (2) upcoding and claims for medically unnecessary services; (3) offering inducements to beneficiaries; and (4) false certification of eligibility for home health services.

Timetable:

Action	Date	FR Cite
NPRM	03/25/98	63 FR 14393
NPRM Comment Period End	05/26/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AA90

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911. SHARED RISK EXCEPTION TO THE SAFE HARBOR PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302, sec 216; 42 USC 1320a-7b; 42 USC 1395hh

CFR Citation: 41 CFR 1001

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This interim final rule will establish a new statutory exception for risk-sharing arrangements under the Federal health care programs' anti-kickback provisions. The rule sets forth an exception from liability for remuneration between an eligible organization and an individual or entity providing items or services in accordance with a written agreement between these parties. The rule would allow remuneration between an organization and an individual or entity if a written agreement places the individual or entity at "substantial financial risk" for the cost or utilization of the items or services which the individual or entity is obligated to provide.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/97	62 FR 28410
ANPRM Comment Period End	06/09/97	
Interim Final Rule	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AA91

HHS—OS

Final Rule Stage

912. REVISED OIG SANCTION AUTHORITIES RESULTING FROM PUBLIC LAW 105-33

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33, sec 4301; PL 105-33, sec 4303; PL 105-33, sec 4304; PL 105-33, sec 4331(c); PL 105-33, sec 4331(d)

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will revise the OIG's exclusion and civil money penalty (CMP) authorities resulting from the Balanced Budget Act of 1997, Public Law 105-33. This rule will protect and strengthen Medicare and other Federal health care programs by increasing the OIG's anti-fraud and abuse authorities through new or revised exclusion and CMP provisions, including new CMPs (1) against institutional health care providers that employ, or enter into contracts for medical services with, excluded individuals; (2) for failure to report information to the Healthcare Integrity and Protection Data Bank; and (3) for health care providers who violate the anti-kickback statute.

Timetable:

Action	Date	FR Cite
NPRM	09/02/98	63 FR 46736
NPRM Comment Period End	11/02/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, OCIG, Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA95

913. BLOCK GRANT PROGRAMS

Priority: Info./Admin./Other

Legal Authority: 42 USC 300w et seq; 42 USC 300x et seq; 42 USC 300y et seq; 42 USC 701 et seq; 42 USC 1243 et seq; 42 USC 1397 et seq; 42 USC 8621 et seq; 42 USC 9901 et seq

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: The rule amends the regulations governing the administration on block grants. It updates current regulations to reflect current name and statutory petitions. It establishes submission and completion dates for funding applications from LIHEAP, CSBG and SSSBG. It clarifies that the department may specify the form of an application where this is authorized by statute. It requires to submit a obligation and expenditure for all block grants.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mike Herrell, Director, Division of Decision Systems, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Room 447D, Washington, DC 20201
Phone: 202 690-8774
Fax: 202 690-8252

RIN: 0991–AA97

914. HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320a-7e

CFR Citation: 42 CFR 61 (New)

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This final rule would implement the requirements of section 1128E of the Social Security Act, as added by section 221(a) of the Health Insurance Portability and Accountability Act of 1996. Section 1128E of the Act directs the Department to establish a national health care fraud and abuse data collection program for the reporting and disclosure of certain final adverse actions taken against health care providers, suppliers and practitioners. The statute also requires the Department to implement the national health care fraud and abuse data collection program in such a manner as to avoid with reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58341
NPRM Comment Period End	01/11/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Was previously 0906-AA46.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA98

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Completed Actions

915. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN HOSPITAL PHYSICIAN INCENTIVE PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 1001; 42 CFR 1003

Completed:

Reason	Date	FR Cite
Withdrawn	02/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer
Phone: 202 619-0089

RIN: 0991–AA45

HHS—OS

Completed Actions

916. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN PRACTICES RELATING TO MEDICARE SUPPLEMENTAL POLICIES

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 1003

Completed:

Reason	Date	FR Cite
Withdrawn	02/18/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer
Phone: 202 619-0089

RIN: 0991–AA53

917. CIVIL MONEY PENALTIES FOR NOTIFYING A HOME HEALTH AGENCY, OR A HOME OR COMMUNITY-BASED HEALTH CARE CENTER OR PROVIDER, OF A STANDARD SURVEY

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 1003

Completed:

Reason	Date	FR Cite
Withdrawn	02/18/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer
Phone: 202 619-0089

RIN: 0991–AA79

918. CIVIL MONEY PENALTIES FOR FALSE INFORMATION ON DRUG MANUFACTURER PRICE SURVEYS AND REBATE AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 1003

Completed:

Reason	Date	FR Cite
Withdrawn	02/18/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer
Phone: 202 619-0089

RIN: 0991–AA80

919. SENIOR BIOMEDICAL RESEARCH SERVICE

Priority: Info./Admin./Other

CFR Citation: 42 CFR 24

Completed:

Reason	Date	FR Cite
Withdrawn	03/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rosemary Taylor
Phone: 202 690-7358
Fax: 202 690-6758

RIN: 0991–AA82

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Substance Abuse and Mental Health Services Administration (SAMHSA)

Completed Actions

920. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Priority: Other Significant

CFR Citation: 45 CFR 96

Completed:

Reason	Date	FR Cite
Withdrawn	02/18/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal

Agency Contact: Joseph D. Faha
Phone: 301 443-4640
Jim Sayers
Phone: 301 443-3820

RIN: 0930–AA01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Centers for Disease Control and Prevention (CDC)

Proposed Rule Stage

921. • INTERSTATE SHIPMENT OF BIOLOGICAL MATERIALS THAT CONTAIN OR MAY CONTAIN INFECTIOUS SUBSTANCES

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 264; 42 USC 271; 42 USC 262 note; 31 USC 9701; 18 USC 3559; 18 USC 3571

CFR Citation: 42 CFR 72.6 (Renumbered); 42 CFR 72.7 (Renumbered); 42 CFR 72.1-5 (Revision); 42 CFR 72.1; 42 CFR 72.2

Legal Deadline: None

Abstract: The Centers for Disease Control and Prevention proposes to amend existing regulations located at 42 CFR Part 72 concerning the interstate shipment of infectious substances in order to clarify and expand the existing requirements for proper packaging and handling of these agents. One purpose of the proposed rule is to ensure that all biological materials that are known or suspected of containing an infectious substance are packaged for interstate shipment to minimize the potential for leakage of contents that could contaminate the environment or come into direct physical contact with persons handling such packages during transit. A second purpose is to insure receipt of certain infectious substances. This new regulation will harmonize CDC regulations with other Federal agencies' regulations and with international regulations. See "A" for additional information.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

HHS—CDC

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The purpose of this NPRM is to update regulations governing the packaging, labeling, and shipment of infectious agents. It is critical that infectious agents be transferred between labs for high priority diagnostic and research activities. Materials must be packaged in such a way as to prevent damage and leakage during transport in order to protect workers and the public from exposure. This NPRM is also a critical element of CDC's bioterrorism plan.

Agency Contact: Dr. Jonathan Richmond, Director, Office on Health and Safety, Department of Health and Human Services, Centers for Disease Control and Prevention, MS F05, 1600 Clifton Road NE., Atlanta, GA 30333
Phone: 404 639-2453

RIN: 0920–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Departmental Management (HHSDM)

Proposed Rule Stage

922. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay fees to parties prevailing against the government in certain administrative proceedings. The Act has been amended several times since its 1980 enactment, most recently by the Contract with America Advancement Act of 1996, which increased the amount of the hourly fees payable. The proposed rule revises 45 CFR Part 13 (HHS' regulation implementing the Equal Access to Justice Act) to conform with statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Second NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy M. White, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0150

RIN: 0990–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Prerule Stage

923. BLOOD INITIATIVE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264; 42 USC 300aa-25

CFR Citation: 21 CFR 600; 21 CFR 601; 21 CFR 606; 21 CFR 607; 21 CFR 610; 21 CFR 640; 21 CFR 660; 21 CFR 680

Legal Deadline: None

Abstract: In multiple rulemakings, the Food and Drug Administration is proposing to amend the biologics regulations by removing, revising, or updating specific regulations applicable to blood derivative products to be more consistent with current practices and to remove unnecessary or outdated requirements. This action is based on a comprehensive review of the regulations that has been performed by FDA. It is also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations; the General Accounting Office; the Institute of Medicine; as well as public comments. Some of the subjects intended to be addressed in the rulemakings include: "Lookback" requirements for hepatitis C virus; notification of consignees and end users of product safety information for plasma derivative products; and notification of permanently deferred donors; requirements for donor suitability and testing; viral inactivation. These actions are intended to help ensure the continued safety of the nation's blood supply.

Timetable:

Minor Changes to Reqs. for CGMP for Blood and Blood Components
Direct Final Rule 06/00/99

Notification of End Users of Plasma Derivative Products
ANPRM 06/00/99

Notification of Permanently Deferred Donors
NPRM 06/00/99

Reqs. Applicable to Albumin (Human), Plasma Protein Fraction
Direct Final Rule 06/00/99

Requirements for Donor Testing
NPRM 06/00/99

Suitability Reqs. for Whole Blood and Source Plasma Donors
NPRM To Be Determined

Viral Inactivation
NPRM To Be Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: See RIN 0910-AB76.

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852

HHS—FDA

Prerule Stage

Phone: 301 827-6210

RIN: 0910–AB26

924. PREGNANCY LABELING REVISION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking will announce that the Food and Drug Administration is considering ways to revise the regulatory requirements for the pregnancy labeling subsection of the labeling requirements for human drugs and biologics. The notice will make available preliminary proposals for changing the current requirements and will invite comments on all aspects of the notice.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia G. Beakes, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB44

925. NATURAL RUBBER-CONTAINING DRUGS; USER LABELING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking requests comments on requirements under consideration for labeling statements on products regulated as drugs (including combination products regulated under drug labeling provisions) that contain natural rubber that contacts humans.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/99	
ANPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB56

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Proposed Rule Stage

926. OVER-THE-COUNTER (OTC) DRUG REVIEW

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321p; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360a; 21 USC 371a

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" was included in revised NPRM for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" was included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" was updated and split into two sections: First Aid Products and Health Care Antiseptic Products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the Agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

HHS—FDA

Proposed Rule Stage

Timetable:

Acne (Topical) Products
ANPRM 03/23/82 (47 FR 12430)
NPRM 01/15/85 (50 FR 2172)
NPRM (Amendment) 08/07/91 (56 FR 37622)
Final Action 08/16/91 (56 FR 41008)

Alcohol (Oral) in OTC Drug Products
NPRM 10/21/93 (58 FR 54466)
Final Action 03/13/95 (60 FR 13590)
NPRM (Amendment) 05/10/96 (61 FR 21392)
Final Action (Amendment) 11/18/96 (61 FR 58629)

Anorectal Products
ANPRM 06/27/80 (45 FR 35576)
NPRM 08/15/88 (53 FR 30756)
Final Action 08/03/90 (55 FR 31776)
Final Action (LYCD) 09/02/93 (58 FR 46746)
Final Action (Witch Hazel) 06/03/94 (59 FR 28766)

Antacid Drug Products
ANPRM 04/05/73 (38 FR 8714)
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 9862)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66754)
Final Action (Amendment) (Warning) 08/26/93 (58 FR 45204)
NPRM (Amendment) (Testing) 09/23/93 (58 FR 49826)
NPRM (Amendment)(Sodium Bicarb.) 02/02/94 (59 FR 5060)
Final Action (Technical Amendment) 11/25/94 (59 FR 60555)
Final Action (Amendment) (Testing) 02/08/96 (61 FR 4822)
Final Action (Amendment)(Sodium B.) 09/00/99

Anthelmintic Products
ANPRM 09/09/80 (45 FR 59541)
NPRM 08/24/82 (47 FR 37062)
Final Action 08/01/86 (51 FR 27756)

Antibiotic First Aid Products
ANPRM 04/01/77 (42 FR 17642)
NPRM 07/09/82 (47 FR 29986)
Final Action 12/11/87 (52 FR 47312)
NPRM (Amendment) 08/18/89 (54 FR 34188)
Final Action 03/15/90 (55 FR 9721)
NPRM (Amendment) 05/11/90 (55 FR 19868)
NPRM (Amendment) 06/08/90 (55 FR 23450)
Final Action (Amendment) 10/03/90 (55 FR 40379)
Final Action (Amendment) 12/05/90 (55 FR 50171)
NPRM (Amendment) (Warning) 02/14/96 (61 FR 5918)
Final Action (Amendment)(Warning) 11/15/96 (61 FR 58471)

Anticaries Products
ANPRM 03/28/80 (45 FR 20666)
NPRM 09/30/85 (50 FR 39854)
NPRM 06/15/88 (53 FR 22430)
Final Action 10/06/95 (60 FR 52474)
Final Action (Technical Amendment) 10/07/96 (61 FR 52285)

Antidiarrheal Products
ANPRM 03/21/75 (40 FR 12924)
NPRM 04/30/86 (51 FR 16138)
NPRM (Amendment)(Trav. Diar.) 10/00/99
Final Action 10/00/99

Antidotes, Toxic Ingestion Prdts (New Poison Treatment Prdts)
ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
ANPRM 03/21/75 (40 FR 12934)
NPRM 07/13/79 (44 FR 41064)
Final Action 04/30/87 (52 FR 15886)
NPRM (Amendment) 08/26/93 (58 FR 45216)
Final Action 04/11/94 (59 FR 16981)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)

Antiflatulent Drug Products
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 19877)
NPRM (Amendment) 01/29/88 (53 FR 2716)
Final Action (Amendment) 03/05/96 (61 FR 8836)

Antifungal (Topical) Products
ANPRM 03/23/82 (47 FR 12480)
NPRM 12/12/89 (54 FR 51136)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25240)
Final Action (Amdt.)(Diaper Rash) 12/18/92 (57 FR 60430)
Final Action (Partial) 09/02/93 (58 FR 46744)
Final Action 09/23/93 (58 FR 49890)

Antimicrobial Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25246)
Final Action (Diaper Rash) 03/00/04

Antiperspirant Products
ANPRM 10/10/78 (43 FR 46694)
NPRM 08/20/82 (47 FR 36492)
Final Action 12/00/99

Aphrodisiac Products
ANPRM 10/01/82 (47 FR 43572)
NPRM 01/15/85 (50 FR 2168)
Final Action 07/07/89 (54 FR 28780)

Aspirin (Heart Labeling Warning)
NPRM 10/20/93 (58 FR 54224)
Final Action 06/00/00

Aspirin (Heart Labeling)
Final Action 10/23/98 (63 FR 56802)

Astringent (Wet Dressings) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
ANPRM 10/01/82 (47 FR 43566)
NPRM 02/20/87 (52 FR 5406)
Final Action 02/27/90 (55 FR 6926)

Boil Ointments
ANPRM 06/29/82 (47 FR 28306)
NPRM 01/26/88 (53 FR 2198)
Final Action 11/15/93 (58 FR 60332)

Camphorated Oil Drug Products
ANPRM 09/26/80 (45 FR 63869)
Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9286)
NPRM 08/24/82 (47 FR 37068)
Final Action 06/10/83 (48 FR 27004)
NPRM (Amendment) 08/15/88 (53 FR 30786)
Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 02/20/87 (52 FR 5412)
Final Action 08/14/90 (55 FR 33258)

Cough/Cold (Anticholinergic) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 12/09/92 (57 FR 58356)
Final Action (Amendment)(Warning) 01/28/94 (59 FR 4216)
NPRM (Amendment)(Diphenhydramine) 08/29/97 (62 FR 45767)
Final Action 06/00/99

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) 07/06/89 (54 FR 28442)
NPRM (Amendment) 10/02/89 (54 FR 40412)
Final Action (Amendment) 07/06/90 (55 FR 27806)
Final Action (Amendment) 10/03/90 (55 FR 40381)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27666)
NPRM (Amendment)(Ingredients) 12/09/92 (57 FR 58378)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54232)
Final Action (Amdt.)(Ingredients) 06/03/94 (59 FR 29172)
NPRM (Amendment)(Diphenhydramine) 08/29/97 (62 FR 45767)
NPRM (Amendment)(Flammability) 07/20/98 (63 FR 38762)
Final Action 09/00/99

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27662)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54238)
NPRM (Amendment)(MDI) 03/09/95 (60 FR 13014)
NPRM (Amendment)(Ephedrine) 07/27/95 (60 FR 38643)
Final Action (Amendment) (MDI) 05/20/96 (61 FR 25142)
NPRM (Amendment)(Ephedrine) 06/00/99

HHS—FDA

Proposed Rule Stage

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 08/12/88 (53 FR 30522)
NPRM (Amendment)(DPH Combinations) 02/23/95 (60 FR 10286)
Final Action (Theophylline) 07/27/95 (60 FR 38636)
Final Action (Ephedrine Combo) 06/00/99
Final Action 06/00/99

Cough/Cold (Diphenhydramine) Products
Final Action/Enforcement Policy 04/09/96 (61 FR 15700)

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)
Final Action (Technical Changes) 06/30/92 (57 FR 29176)

Cough/Cold (Expectorant/Ipecac) Products
Final Action 09/14/92 (57 FR 41857)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
NPRM (Amendment) 06/19/92 (57 FR 27658)
Final Action 08/23/94 (59 FR 43386)
Final Action; Partial Stay 03/08/96 (61 FR 9570)
NPRM (Phenylpropanolamine) To Be Determined

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 12/04/91 (56 FR 63554)
NPRM (Amendment) 04/05/93 (58 FR 17554)
Final Action 01/28/94 (59 FR 4000)

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 10/21/93 (58 FR 54450)

Eligibility Criteria for Additional Conditions
ANPRM 10/03/96 (61 FR 51625)
NPRM 05/00/99

Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)
Final Action To Be Determined

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
NPRM (Reproposed) 07/15/91 (56 FR 32282)
Final Action 04/24/95 (60 FR 20162)

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40818)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3370)
NPRM (Amendment) (1%Hydrocortisone) 02/27/90 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25234)
Final Action (Diaper Rash) 12/18/92 (57 FR 60426)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
Final Action To Be Determined

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 06/30/92 (57 FR 29166)

First Aid Antiseptic
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 07/22/91 (56 FR 33644)
Final Action To Be Determined

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Healthcare Antiseptic Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 06/17/94 (59 FR 31402)

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 10/02/89 (54 FR 40618)
Final Action 09/09/93 (58 FR 57608)

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 05/11/90 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69126)
NPRM 09/03/82 (47 FR 39120)
Final Action 09/09/93 (58 FR 47602)

Insect Bite & Sting (Relief) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 06/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66762)
NPRM (Amdt.)(Sodium Bicarbonate) 02/02/94 (59 FR 5068)
NPRM (Prof. Labeling)(Acute MI) 06/13/96 (61 FR 30002)
NPRM (Amendment)(Alcohol Warning) 11/14/97 (62 FR 61041)
Final Action (Alcohol Warning) 10/23/98 (63 FR 56789)
Final Action (Aspirin Prof Label) 10/23/98 (63 FR 56802)
Final Action (Sodium Bicarbonate) 09/00/99
NPRM (Labeling-revised indications) 12/00/99
Final Action (Labeling-rev. ind.) 12/00/01

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 05/11/90 (55 FR 19862)

Labeling of Drug Products for OTC Human Use
NPRM (Sodium Labeling) 04/25/91 (56 FR 19222)
NPRM 04/05/93 (58 FR 17553)
Final Action 01/28/94 (59 FR 3998)
NPRM (Do not mix drugs) 08/03/94 (59 FR 39499)
NPRM (Amendment) (Do not mix drugs) 10/04/95 (60 FR 52058)
NPRM (Unless a doctor tells you) 03/04/96 (61 FR 8450)
Final Action (Sodium Labeling) 04/22/96 (61 FR 17798)
NPRM (Calcium/Magnesium/Potassium) 04/22/96 (61 FR 17807)
NPRM (Unless a doc. tells you)(Wi.) 02/27/97 (62 FR 9024)
Final Action (Format/Examples) 03/17/99 (64 FR 13254)
Final Action (Ca/Mg/K/Na) 08/00/99

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) (Directions/Bulk) 10/01/86 (51 FR 35136)
NPRM (Amendment) (Docusate Salts) 09/02/93 (58 FR 46589)
NPRM (Amendment)(Sodium Phosphates) 03/31/94 (59 FR 15139)
NPRM (Phenolphthalein) 09/02/97 (62 FR 46223)
Final Action (Sodium Phosphates) 05/21/98 (63 FR 27836)
NPRM (Amendment)(Phosphates Label) 05/21/98 (63 FR 27886)
NPRM (Amendment)(Stim. Laxative) 06/19/98 (63 FR 33592)
Final Action; stay (Na Phos. Enema) 12/07/98 (63 FR 67399)
Part. With. (Na Phos. Prof. Lab.) 12/09/98 (63 FR 67817)
Final Action (Phenolphthalein) 01/29/99 (64 FR 4535)
Final Action 10/00/99
Final Action (Stim. Laxative) 06/00/00

HHS—FDA

Proposed Rule Stage

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 08/22/94 (59 FR 43234)
Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 06/19/92 (57 FR 27654)
Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)
Final Action 12/00/01
Mercurial (Active/Inactive)
NPRM To Be Determined
Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)
Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 09/02/93 (58 FR 46749)
Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)
NPRM (Amendment) 08/26/93 (58 FR 45217)
Final Action (Amendment) 04/11/94 (59 FR 16982)
NPRM (Amendment) (Warning) 08/29/97 (62 FR 45767)
Final Action To Be Determined
NDA Labeling Exclusivity
NPRM 11/09/93 (58 FR 59622)
Final Action To Be Determined
Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/28/83 (48 FR 29788)
Final Action 03/04/88 (53 FR 7076)
Final Action (Anti-infective) 12/18/92 (57 FR 60416)
Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 09/24/91 (56 FR 48302)
Final Action 06/00/02
Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/88 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 02/09/94 (59 FR 6084)
ANPRM (Plaque/Gingivitis) 08/00/99
Final Action 12/00/00
Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)
Otic Products (Dry Water-Clogged Ears)
NPRM (Amendment) To Be Determined
Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)
Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 02/15/95 (60 FR 8916)
Final Action Partial Stay 08/16/95 (60 FR 42435)
Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 12/24/91 (56 FR 66742)
Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)
Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)
Final Action 12/14/93 (58 FR 65452)
NPRM (Labeling Amendment) 12/00/99
Phenylpropanolamine Products (Labeling)
NPRM 02/14/96 (61 FR 3912)
Final Action To Be Determined
Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)
Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
NPRM (Amendment) 04/00/99
Final Action 06/00/99
Quinine for Malaria
NPRM 04/19/95 (60 FR 19650)
Final Action 03/20/98 (63 FR 13526)
Reporting of Adverse Reactions
NPRM 06/00/99
Salicylate (Reye Syndrome)
NPRM (Amendment)(Warning) 05/05/93 (58 FR 26886)
ANPRM 10/20/93 (58 FR 54228)
Final Action (Warning) 10/00/99
Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
NPRM (Reproposed) 12/00/99
Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40808)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3362)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25204)
Final Action (Astringent) 10/21/93 (58 FR 54466)
Final Action (Witch Hazel) 06/03/94 (59 FR 28767)
Final Action (Poison Ivy) 06/00/99
Final Action 06/00/99
Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 06/01/93 (58 FR 31236)
Status of Certain Category II and III Ingredients
NPRM 05/16/90 (55 FR 20434)
Final Action 11/07/90 (55 FR 46914)
NPRM 08/25/92 (57 FR 38568)
Final Action 05/10/93 (58 FR 27636)
NPRM 04/22/98 (63 FR 19799)
Stimulant (Overindulgence) Products
NPRM (Amendment) 12/24/91 (56 FR 66758)
Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)
Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 08/17/88 (53 FR 31270)
Sunscreen Products
ANPRM 08/25/78 (43 FR 38206)
NPRM 05/12/93 (58 FR 28194)
NPRM (Amendment) 06/08/94 (59 FR 29706)
NPRM (Amendment)(Avobenzone) 09/16/96 (61 FR 48645)
Final Action (Avobenzone Enf. Pol.) 04/30/97 (62 FR 23350)
Final Action 05/00/99
Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11846)
Final Action 06/27/80 (45 FR 43400)
Topical Drug Products Containing Benzoyl Peroxide (Labeling)
NPRM 02/17/95 (60 FR 9554)
Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 02/03/95 (60 FR 6892)
NPRM (Amendment) 12/00/99
Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
Withdrawal 02/03/95 (60 FR 5226)
NPRM (Douches) 06/00/00
Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)
Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 08/14/90 (55 FR 33246)
NPRM (Amendment)(Directions) 01/28/94 (59 FR 4015)
Final Action (Amdt.)(Directions) 11/23/94 (59 FR 60315)
Water Soluble Gums
NPRM 10/30/90 (55 FR 45782)
Final Action 08/26/93 (58 FR 45194)
Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 10/30/90 (55 FR 45788)
Final Action 08/08/91 (56 FR 37792)
NPRM (Amendment) To Be Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA06.

NOTE: Reinventing government applies only to the Antacid Drug Products final action.

Agency Contact: Rosemary Cook, Supervisor, Project Management Staff, Office of Drug Evaluation V, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-105), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2222

RIN: 0910–AA01

927. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 351; 21 USC 352; 21 USC 360d; 21 USC 371; 21 USC 360j(e)

CFR Citation: 21 CFR 801.420; 21 CFR 801.421

Legal Deadline: None

Abstract: FDA is considering revising its present regulation governing the labeling and conditions for sale of hearing aids. The present rule requires an examination by a physician before purchase of a hearing aid, but permits an informed adult to waive that requirement. There is some evidence that this waiver provision is being misused.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/93	58 FR 59695
ANPRM Comment Period End	01/10/94	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AE46.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-215), 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA39

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928. DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 355; 21 USC 371; 21 USC 823; 42 USC 241; 42 USC 257a; 42 USC 290; 42 USC 300

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: The proposed rule will revise the regulations under part 291 and title 42 to provide for the certification of narcotic treatment programs as a basis for fulfilling the Department's requirements of the Narcotic Addict Treatment Act of 1974. Certification will be based on accreditation by non-profit accrediting bodies. This new system will replace the current system which relies solely on direct FDA approval and inspection for determining whether narcotic treatment programs comply with Federal treatment standards. The proposed rule will provide for a transition period for programs operating under the existing regulatory system.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nicholas Reuter, Associate Director for International and Domestic Drug Control, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AA52

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929. INVESTIGATIONAL NEW DRUGS: EXPORT REQUIREMENTS FOR UNAPPROVED NEW DRUG PRODUCTS

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 241; 42 USC 243; 42 USC 262

CFR Citation: 21 CFR 312.110

Legal Deadline: None

Abstract: The proposed rule would amend the regulations on the exportation of unapproved new drug products, including biological products, for investigational use. In general, the proposed rule would provide four different routes for exporting an unapproved new drug product for investigational use. One route would permit exportation if the drug is the subject of an investigational new drug application (IND) and is being exported for use in the investigation. A second route would permit exportation, without prior Food and Drug Administration (FDA) approval and without an IND, if the product is to be exported for use in a clinical investigation and has received marketing authorization in certain developed countries. The third route would permit exportation, without prior FDA approval and without an IND, if the product is to be exported for use in a clinical investigation in certain specified developed countries. The fourth route would permit exportation without an IND, to any country provided that the exporter sends a written certification to FDA at the time the drug is first exported. Drugs exported under any of the first three routes would, however, be subject to certain statutory requirements, such as not conflicting with the foreign country's laws and not being sold or offered for sale in the United States. Drugs exported under either the second or third routes would be subject to additional statutory requirements, such as being in substantial conformity with the current good manufacturing practices and certain labeling requirements. These provisions would implement recent changes in FDA's export authority resulting from the FDA Export Reform and Enhancement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-

HHS—FDA

Proposed Rule Stage

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RIN: 0910–AA61

930. ADVERSE DRUG REACTION REPORTING AND RECORDKEEPING REQUIREMENTS FOR MARKETED OTC DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379; 42 USC 216

CFR Citation: 21 CFR 201; 21 CFR 211; 21 CFR 327; 21 CFR 330

Legal Deadline: None

Abstract: The proposed rule would require manufacturers of marketed nonprescription human drug products to report to FDA information they receive about adverse drug reactions, maintain records of adverse drug reactions, and permit access by FDA to adverse drug reaction records.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA86

931. INFORMED CONSENT FOR HUMAN DRUGS AND BIOLOGICS; DETERMINATION THAT INFORMED CONSENT IS NOT FEASIBLE

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 357; 21 USC 360; 21 USC 371; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262

CFR Citation: 21 CFR 50; 21 CFR 314; 21 CFR 601

Legal Deadline: None

Abstract: The Food and Drug Administration is proposing to revoke the interim final rule which permitted the Commissioner to determine, based on a request by the Department of Defense, that obtaining informed consent from military personnel for the use of investigational products is not feasible in certain military combat situations. The rule was used to permit a waiver from the informed consent requirements for pyridostigmine bromide and the botulinum toxoid vaccine during the Gulf War. The agency is proposing this action after reviewing comments it received in response to a July 1997 Request for Comment as to whether the agency should revise or revoke the rule.

At the same time, it will propose to amend its new drug and biological product regulations to identify the kind of evidence needed to demonstrate the efficacy of drug and biological products used to treat or prevent the toxicity of potentially devastating chemical or biological substances when efficacy studies in humans ethically cannot be conducted because they would involve administering a lethal or permanently disabling toxic substance to healthy human volunteers without a proven treatment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bonnie M. Lee, Senior Policy Analyst, Office of the Executive Secretariat (HF-40), Department of Health and Human Services, Food and Drug Administration, Office of the Commissioner, 5600 Fishers Lane, Rockville, MD 20857
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Fax: 301 443-1863

RIN: 0910–AA89

932. DIRECT-TO-CONSUMER PROMOTION REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 334; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360e to 360i; 21 USC 360k; 21 USC 361; 21 USC 362; 21 USC 371

CFR Citation: 21 CFR 200; 21 CFR 800

Legal Deadline: None

Abstract: The Food and Drug Administration will issue proposed regulations for direct-to-consumer promotion of human and animal prescription drugs, biologics, and restricted devices. The regulations will set forth the requirements for what information shall be contained in the consumer directed advertisements for these products and how the information shall be presented.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Ostrove, Division of Drug Marketing, Advertising, and Communications, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-40), Room 17B-04, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2828

RIN: 0910–AA90

933. LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISED FORMAT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

HHS—FDA

Proposed Rule Stage

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed regulation would amend the regulations governing the format and content of professional labeling for human prescription drug and biologic products, 21 CFR 201.56 and 201.57. The proposal would require that professional labeling include a section containing highlights of prescribing information, a section containing an index to prescribing information, reorder currently required information and make minor changes to its content, and establish minimum graphical requirements for professional labeling. The proposal would also eliminate certain unnecessary statements that are currently required to appear on prescription drug labels and move certain information to patient labeling.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Legal Authority continued: 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

Agency Contact: Nancy Ostrove, Division of Drug Marketing, Advertising, and Communications, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-40), 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AA94

934. ADVERSE DRUG REACTION REPORTING REQUIREMENTS FOR HUMAN DRUG AND BIOLOGICAL PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The proposed rule would amend the expedited and periodic safety reporting regulations for human drugs and biological products to revise certain definitions and reporting formats as recommended by the International Conference on Harmonization and to define new terms; to add to or revise current reporting requirements; to revise certain reporting time frames; and to make other revisions to these regulations to enhance the quality of adverse drug reaction reports received by FDA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA97

935. USE OF OZONE-DEPLETING SUBSTANCES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 402; 15 USC 409; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 342; 21 USC 346a; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 2

Legal Deadline: None

Abstract: FDA is proposing to amend the regulation that permits the use of ozone-depleting substances in particular circumstances to set the standard FDA will use to determine when the use of ozone-depleting substances (ODS) is no longer essential under the Clean Air Act (CAA) and set a new standard to determine when a new essential-use designation should be granted after the effective date of the rule. FDA is also proposing to amend the regulations to better conform to other statutes and regulations relating to ozone-depleting substances to eliminate potential confusion and conflicts. FDA is proposing to eliminate out-of-date transitional provisions and make other nonsubstantive housekeeping changes to its regulations on ozone-depleting substances. The intended effect of the proposed rule is to protect the health and safety of medical device users while complying with the CAA and the Montreal Protocol.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/97	62 FR 10242
ANPRM Comment Period End	05/05/97	
NPRM	09/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041

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RIN: 0910–AA99

936. RADIOACTIVE DRUGS FOR BASIC RESEARCH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 361

Legal Deadline: None

Abstract: The proposed rule would update FDA's regulations on the use of radioactive drugs for basic research to reflect technological changes in the field of radiopharmaceuticals. The proposed rule would also clarify and correct certain provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB00

937. VETERINARY FEED DIRECTIVES

Priority: Other Significant

Legal Authority: PL 104-250

CFR Citation: 21 CFR 510; 21 CFR 514; 21 CFR 558

Legal Deadline: None

Abstract: The Animal Drug Availability Act (ADAA) amended the Federal Food, Drug, and Cosmetic Act (the act) to create a new section 504, Veterinary Feed Directive Drugs (VFD drugs). VFD drugs are animal drugs intended for use in or on animal feed which are limited by an approved application filed pursuant to section 512(b) of the act for use under the professional supervision of a licensed veterinarian in the course of the veterinarian's professional practice. This section requires, among other things, that the labeling, distribution and use of a VFD drug be consistent with its approval; that persons involved in the distribution and use of a VFD drug maintain copies of the VFD; and that persons distributing animal feed provide a one time notice upon first engaging in the distribution of VFD drugs. The proposed rule will provide guidance to the industry about how to comply with section 504 of the act and will serve as a basis for enforcement action.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: George Graber, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-220), 7500 Standish Place, Rockville, MD 20855
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Fax: 301 594-1812

RIN: 0910–AB09

938. ADMINISTRATIVE PRACTICES AND PROCEDURES; ADVISORY OPINIONS AND GUIDELINES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 394; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 42 USC 201; 42 USC 262; 42 USC 263b; 42 USC 264

CFR Citation: 21 CFR 10; 21 CFR 808

Legal Deadline: NPRM, Statutory, July 1, 2000.

Abstract: This proposed rule would amend FDA regulations in 21 CFR part 10 concerning advisory opinions and guidelines to implement the Food and Drug Administration Modernization Act of 1997 requirement in 21 U.S.C. 371(h) to issue regulations on good guidance practices.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB14

939. EXPORTS; REPORTING AND RECORDKEEPING REQUIREMENTS

Priority: Routine and Frequent

Legal Authority: 15 USC 1453 to 1455; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 243; 42 USC 262

CFR Citation: 21 CFR 1

Legal Deadline: None

Abstract: The proposed rule would establish the recordkeeping and notification requirements for persons exporting human drugs, animal drugs, biologics, and devices under the FDA Export Reform and Enhancement Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
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RIN: 0910–AB16

HHS—FDA

Proposed Rule Stage

940. REGISTRATION OF FOREIGN ESTABLISHMENTS AND PRODUCT LISTING

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 360b to 360c; 21 USC 360e; 21 USC 360i to 360j; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262

CFR Citation: 21 CFR 207; 21 CFR 607; 21 CFR 807

Legal Deadline: None

Abstract: The proposal would amend the establishment registration and product listing regulations for human drugs, biologics, animal drugs, and devices to require foreign establishments engaged in the manufacture, preparation, propagation, compounding, or processing of such products that are imported or offered for import into the United States to register and to register the name of a United States agent for the foreign establishment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
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RIN: 0910–AB21

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941. SUITABILITY DETERMINATION FOR DONORS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 262; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 210.1(c); 21 CFR 210.2(a); 21 CFR 210.2(b); 21 CFR 211.1(b); 21 CFR 820.1(a)(1); 21 CFR 820.1(c); 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cellular and tissue-based products, the Food and Drug Administration is proposing to require manufacturers of human cellular and tissue-based products to screen and test the donors of cells and tissues used in those products for evidence of or risk factors for relevant communicable disease. As part of this action, the agency is proposing to amend the current good manufacturing practice regulations that apply to human cellular and tissue-based products regulated as drugs, medical devices, and/or biological products in order to incorporate the new donor suitability requirements into existing good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852
Phone: 301 827-6210

RIN: 0910–AB27

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942. CURRENT GOOD TISSUE PRACTICE FOR MANUFACTURERS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 262; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cellular and tissue-based products, the Food and Drug Administration (FDA) is proposing to require manufacturers of human cellular and tissue-based products to follow current good tissue practice (GTP), which includes proper handling, processing, and storage of human cellular and tissue-based products, recordkeeping, and the maintenance of a quality program. FDA is also proposing to amend the current good manufacturing practice regulations that apply to human cellular and tissue-based products regulated as drugs, medical devices, and/or biological products in order to incorporate the new GTP requirements into existing good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike Suite 200N, Rockville, MD 20852
Phone: 301 827-6210

RIN: 0910–AB28

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943. SHELL EGGS: WARNING, NOTICE AND SAFE HANDLING LABELING STATEMENTS AND REFRIGERATION REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 42 USC 264

CFR Citation: 21 CFR 101.17(g); 21 CFR 115.50; 21 CFR 16.5

Legal Deadline: None

Abstract: There have been numerous foodborne outbreaks of salmonellosis, principally due to Salmonella Enteritidis (SE), that have been traced to the consumption of temperature abused and/or undercooked shell eggs. The Food and Drug Administration has received petitions from Rose Acres Farm, Inc., and the Center for Science in the Public Interest that request, in part, that FDA establish safe handling statements for shell eggs. FDA intends

to propose to require safe handling statements on labeling of shell eggs that have not been treated to destroy Salmonella microorganisms that may be present. In accordance with amendments to the Egg Products Inspection Act, USDA published on August 27, 1998, a final rule to require that shell eggs be stored at an ambient temperature of 7 degrees Celsius (45 degrees Fahrenheit). However, the USDA rulemaking does not include refrigeration at retail. FDA intends to propose regulations to mandate that shell eggs be stored for retail sale at 7 degrees celsius (45 degrees Fahrenheit) or less. FDA is proposing this measure to ensure that shell eggs are handled in a manner to decrease the possible growth of any SE that may be present in shell eggs. All of these actions are intended to reduce the occurrence of illnesses and deaths associated with the consumption of improperly cooked shell eggs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Geraldine A. June, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS-158), 200 C Street SW., Washington, DC 20204
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Email: gaj@vm.cfsan.fda.gov

RIN: 0910–AB30

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944. ANTIBIOTIC DRUG APPROVAL AND EXCLUSIVITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 105-115, sec 125

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would implement the incorporation of antibiotics, which were formerly regulated under authority of section 507 of the Federal Food, Drug, and Cosmetic Act, into the new drug regulatory scheme under section 505 of the Act. The regulation will describe which antibiotics are excepted under section 125(d) of the Food and Drug Administration Modernization Act of 1997 from certain provisions in section 505, including the exclusivity provisions under sections 505(c) and 505(j) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne Mitchell, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB33

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945. APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR ANTIBIOTIC DRUG; COMPLETE RESPONSE LETTER; AMENDMENTS TO UNAPPROVED APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 312; 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would amend the regulations on marketing approval of new drugs to discontinue the use of approvable and not approvable letters when taking action on a marketing application and instead use complete response letters.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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Fax: 301 827-5562

RIN: 0910–AB34

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946. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360bbb

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The proposed rule would revise the investigational new drug regulations to clarify the conditions under which individual patients may receive investigational drugs for treatment use; to clarify the conditions under which a small group of patients may receive investigational drugs for treatment use under an expanded access protocol; and to clarify the criteria under which sponsors can recover costs for providing investigational drugs to patients for certain treatment uses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451

HHS—FDA

Proposed Rule Stage

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RIN: 0910–AB37

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947. AMENDMENT OF REGULATIONS REGARDING CERTAIN LABEL STATEMENTS ON PRESCRIPTION DRUGS

Priority: Other Significant

Legal Authority: PL 105-115, sec 126

CFR Citation: 21 CFR 201; 21 CFR 250; 21 CFR 310; 21 CFR 329; 21 CFR 361; 21 CFR 369

Legal Deadline: None

Abstract: This proposed rule would revise 21 CFR parts 201, 250, 310, and 361 by removing the requirement that prescription drugs be labeled "Caution: Federal law prohibits the dispensing without prescription" and substituting a requirement that prescription drugs be labeled "Rx only". The rule would also revise parts 201, 329, and 369 by removing the requirement that certain habit-forming narcotics or hypnotics bear the statement "Warning--May be habit forming."

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB39

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948. ELECTRONIC SUBMISSION OF ADVERSE DRUG REACTION REPORTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 251 to 353; 21 USC 355; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The proposed rule would set forth requirements on the electronic submission of adverse drug reaction reports using international medical terminology, electronic data format, and electronic transmission standards.

Timetable:

Action	Date	FR Cite
ANPRM	11/05/98	63 FR 59746
ANPRM Comment Period End	02/03/99	
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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Fax: 301 827-5562

RIN: 0910–AB42

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949. DISTINGUISHING MARKS FOR DRUG PRODUCTS CONTAINING INSULIN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would set forth a new system of distinctive colors and marks to identify different types of insulin-containing drug products.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB43

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950. PROGESTATIONAL DRUG PRODUCTS FOR HUMAN USE; REQUIREMENTS FOR LABELING DIRECTED TO THE PATIENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360b to 360f; 21 USC 360j; 21 USC 361(a); 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379e

CFR Citation: 21 CFR 310

Legal Deadline: None

Abstract: The proposed rule would revoke 21 CFR 310.516 which requires that progestational drug products be dispensed with a patient package insert containing a discussion of the risks of birth defects resulting from the use of these drugs during the first four months of pregnancy. The Food and Drug Administration is proposing to revoke this labeling requirement because of changes in the currently available scientific information.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451

HHS—FDA

Proposed Rule Stage

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RIN: 0910–AB45

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951. SUPPLEMENTAL MANUFACTURING CHANGES FOR NEW ANIMAL DRUGS

Priority: Other Significant

Legal Authority: PL 105-115, sec 116

CFR Citation: 21 CFR 514.8

Legal Deadline: Final, Statutory, November 21, 1999.

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 added a new section to the Federal Food, Drug, and Cosmetic Act that sets forth categories for the reporting of manufacturing changes to a drug product. These categories are based on the potential of the change to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of the drug. The rulemaking will propose the procedures for determining what information the agency would require before drugs manufactured subject to these changes may be distributed. The Center for Veterinary Medicine is proposing to amend the regulations regarding supplementary new animal drug regulations to incorporate the requirements of section 116.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Marnane, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-140), 7500 Standish Place, Rockville, MD 20855
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Fax: 301 594-2297

RIN: 0910–AB49

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952. REQUIREMENTS FOR LIQUID MEDICATED FEED AND FREE-CHOICE MEDICATED FEED

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-25; 21 USC 360b

CFR Citation: 21 CFR 558.5; 21 CFR 510.455

Legal Deadline: None

Abstract: In response to a citizen petition filed by the American Feed Industry Association, the Food and Drug Administration (FDA) is proposing to amend the requirements for liquid medicated animal feed to clarify what information and data are required to demonstrate chemical and positional stability. The amended regulations would also clarify the provisions for the submission of such data through a master file and the reference to master files by subsequent applicants. Additionally, FDA is proposing to amend the regulations for free-choice medicated feed in order to ensure consistency with the requirements for liquid medicated feed. Finally, FDA is proposing to amend the regulations for free -choice medicated feed and liquid medicated feed so that these provisions comply with the terms of the Animal Drug Availability Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Price, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-200), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6652

RIN: 0910–AB50

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953. PHARMACY COMPOUNDING; GENERAL REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 USC 353A). Section 503A governs the application of Federal law to the practice of pharmacy compounding. This rule will propose regulations for the interpretation and enforcement of section 503A. The proposed regulations will delineate the conditions under which compounding is exempt from the manufacturing, misbranding, and new drug provisions of the Food, Drug, and Cosmetic Act. The proposed regulations will also set forth other definitions and conditions for distinguishing legitimate pharmacy compounding from pharmaceutical drug manufacturing performed under the guise of compounding.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB58

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954. DRUG PRODUCTS THAT PRESENT DEMONSTRABLE DIFFICULTIES FOR COMPOUNDING BECAUSE OF REASONS OF SAFETY OR EFFECTIVENESS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 USC 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding, and exempts

compounded drug products, under certain circumstances, from several key provisions of the Food, Drug, and Cosmetic Act. Section 503A(b)(3)(A) directs FDA to issue by regulation a list of drug products that, if compounded, will not qualify for these exemptions because their compounding would be demonstrably difficult in terms of assuring the safety or effectiveness of the compounded product.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Schwartzbard, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB59

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955. DISCONTINUATION OF A LIFE-SAVING PRODUCT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 131

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 131 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506C to the Food, Drug, and Cosmetic Act (21 USC 356C). This proposed rule would set forth requirements on issues related to the implementation of section 131, which requires that the sole manufacturer of certain life-saving drug products notify the Secretary of the discontinuance of the manufacture of the product at least six months prior to the discontinuance of the drug.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB60

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956. MANUFACTURING CHANGES FOR DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 116

CFR Citation: 21 CFR 314

Legal Deadline: Final, Statutory, November 21, 1999.

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506A to the Food, Drug, and Cosmetic Act (21 USC 356A). Pursuant to section 116, the rulemaking will propose to revise current procedures for approving manufacturing changes and generally classify such changes into three categories. Major manufacturing changes, which are of a type determined by the Secretary to have a substantial potential to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of a drug, require prior approval of a supplemental application. Other changes may be made pending review of a supplemental application if FDA has not notified the company within 30 days after the submission of a supplement that prior approval is required. The proposed rule would also identify another category of changes that may be made without the submission of a supplement but which must be reported in an annual report.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB61

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957. PEDIATRIC STUDIES OF DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 111

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 111 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 505A to the Food, Drug, and Cosmetic Act (21 USC 355A). Section 505A permits certain applications to obtain an additional six months of marketing exclusivity if, in accordance with the requirements of the statute, the sponsor submits information relating to the use of the drug in the pediatric population. The proposed regulations would implement the pediatric exclusivity provisions of section 111. FDA is proposing to amend 21 CFR part 314 to add pediatric exclusivity to FDA's new drug product exclusivity regulations. FDA is also proposing to add new regulations describing the requirements an applicant must fulfill in order to qualify for pediatric exclusivity.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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HHS—FDA

Proposed Rule Stage

Fax: 301 827-5562

RIN: 0910–AB62

958. POSITRON EMISSION TOMOGRAPHY DRUGS; CURRENT GOOD MANUFACTURING PRACTICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 121

CFR Citation: 21 CFR 220

Legal Deadline: Final, Statutory, November 21, 1999.

Abstract: Section 121 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) directs FDA to establish requirements for current good manufacturing practices (CGMPs) for positron emission tomography (PET) drugs, a type of radiopharmaceutical. The proposed rule would adopt CGMPs that reflect the unique characteristics of PET drugs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB63

959. FOOD LABELING: TRANS FATTY ACIDS IN NUTRITION LABELING AND NUTRIENT CONTENT CLAIMS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 343; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: Section 403(q) of the Federal Food, Drug, and Cosmetic Act, which was added by the Nutrition Labeling and Education Act of 1990, requires that the label or labeling of food products bear nutrition information. Among other things, section 403(q) authorizes the Food and Drug Administration (FDA) to add or delete nutrients that are to be declared on the labels or labeling of food products by regulation if it finds such action necessary to assist consumers in maintaining healthy dietary practices. In response to this section, FDA published a proposal on November 27, 1991 (56 FR 60366). Among other things, FDA discussed including trans fatty acids among the nutrients that could voluntarily be listed on the nutrition label but concluded that there was no basis for doing so. On January 6, 1993, FDA issued a final rule entitled "Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label" (58 FR 2079) prescribing how nutrition labeling is to be provided on the food. Based on its review of the comments to the proposal, the agency stated that it was premature to consider the listing of trans fatty acids on the nutrition label because of a lack of consensus on the dietary implications of trans fatty acids intake. However, the agency acknowledged that it might be necessary to readdress the labeling of trans fatty acids in the future. FDA subsequently received a citizen petition requesting that FDA amend the definition of saturated fatty acid in section 101.9(c)(2)(i) to include trans fatty acid. In response to this petition and based on new evidence, FDA is proposing to amend its regulations to provide for the declaration of trans fatty acids in nutrition labeling, to add a requirement that prevents foods from bearing nutrient content claims for saturated fat (i.e., saturated fatty acids) and cholesterol if they contain trans fatty acids above a specified level, and to define a "trans fatty acids free" nutrient content claim.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Susan Thompson, Chemist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS-165), 200 C Street SW., Washington, DC 20204
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RIN: 0910–AB66

960. DESIGNATED JOURNALS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 510.95

Legal Deadline: None

Abstract: FDA intends to remove this rule. The current rule lists the veterinary and scientific journals available in FDA's library and allows sponsors to reference an article from a listed journal in applications rather than submitting a copy of the article. FDA is taking this action because the list of journals is outdated and is no longer being used by sponsors except on an extremely limited basis. Also, the application of this rule is not an efficient use of agency resources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Margaret Miller, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AB67

961. PRESUBMISSION CONFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514

Legal Deadline: None

Abstract: This rule will implement section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act (the act). This section of the act states that any person intending to file a new animal drug application or supplemental new animal drug application, or to investigate a new animal drug is entitled to one or more conferences with the agency prior to submission to

reach an agreement establishing a submission or investigational requirement. This rule would describe how to request a presubmission conference and describe the procedures for the conduct of presubmission conferences.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gail Schmerfeld, Special Assistant, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0205
Fax: 301 594-2297

RIN: 0910–AB68

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962. CLASSIFICATION OF SHEEP AS A MINOR SPECIES FOR ALL DATA COLLECTION PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514.1

Legal Deadline: None

Abstract: This rule would amend 21 CFR 514.1(d) to state that sheep are minor species for all data collection purposes, thereby allowing extrapolation from major species data and limited studies to fulfill the human food safety data requirements for New Animal Drug Applications. Sheep were originally classified as major species for human food safety requirements based upon certain expectations of consumption levels. However, over the years, domestic production of sheep for food has declined drastically.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Oeller, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-130), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-7581

RIN: 0910–AB69

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963. CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 225

Legal Deadline: None

Abstract: Proposal is in response to a citizen petition request to merge the separate requirements of the current good manufacturing practice (CGMP) regulations, 21 CFR part 225 applicable to licensed and unlicensed feed manufacturing facilities, respectively. The merger would produce a single set of updated, streamlined CGMPs that apply to all medicated feed manufacturers. This consolidation of existing CGMPs would preserve and strengthen food safety, be more appropriate given the changing structure of the medicated feed industry, and enhance uniformity and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: George Graber, Director, Division of Animal Feeds, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-220), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6651
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Email: ggraber@bangate.fda.gov

RIN: 0910–AB70

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964. IMPLEMENTATION OF THE IMPORT TOLERANCE PROVISIONS OF THE ANIMAL DRUG AVAILABILITY ACT OF 1996 AND THE SAFE LEVEL PROVISIONS OF THE ANIMAL MEDICINAL DRUG CLARIFICATION ACT OF 1994

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 556

Legal Deadline: None

Abstract: Section 4 of the Animal Drug Availability Act of 1996 (Pub. L. 104-250) permits the Secretary of HHS establish tolerances for animal drugs used or intended for use in animals grown in an exporting nation from which an edible portion is imported into the United States. The standards used to establish tolerances are to be similar to the food safety criteria used by the Secretary to establish tolerances for drugs administered to animals grown in the United States. The data used for establishing the tolerances may be from the manufacturer and include data upon which a foreign approval is based or data available to an international organization such as the Codex Alimentarius Commission. The Animal Medicinal Drug Clarification Act of 1994 (Pub. L. 103-396) allows the Secretary to establish a safe level for a residue of an animal drug when the drug is used in an extralabel manner; if the Secretary finds that there is a reasonable probability that an extralabel use may present a risk to the public health.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Miller, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AB71

HHS—FDA

Proposed Rule Stage

965. MANDATORY HACCP REGULATIONS FOR MANUFACTURERS OF RENDERED PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 589

Legal Deadline: None

Abstract: During the notice and comment rulemaking for 21 CFR part 589, "Listing of Specific Substances Prohibited from Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed;" FDA received several comments supporting the application of mandatory Hazard Analysis Critical Control Point (HACCP) regulations for renderers. Some of these comments were from renderers. Because of the need to expedite the rulemaking for 21 CFR part 589, FDA stated that it would take up the HACCP regulations for renderers as a separate initiative. This rulemaking is to address the need expressed in the comments to 21 CFR part 589 by promulgating mandatory HACCP regulations for renderers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel G. McChesney, Team Leader, Feed Safety Team, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-222), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6653

RIN: 0910–AB72

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966. SURGEON'S AND PATIENT EXAMINATION GLOVES; RECLASSIFICATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 352; 21 USC 357; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j; 21 USC 360l; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 801.440; 21 CFR 878.4460; 21 CFR 878.4461; 21 CFR 880.6250; 21 CFR 880.6251

Legal Deadline: None

Abstract: FDA is considering revising its present regulations governing the classification of surgeon's and patient examination gloves. The present rule classifies surgeon's and patient examination gloves as class I devices. FDA is considering reclassifying surgeon's and patient examination gloves as class II devices subject to special controls. FDA is also considering requiring additional labeling concerning powder and protein levels for these devices.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-215), 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AB74

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967. CURRENT GOOD MANUFACTURING PRACTICES FOR BLOOD AND BLOOD COMPONENTS: NOTIFICATION OF CONSIGNEES RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK FOR TRANSMITTING HCV INFECTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264; 42 USC 300aa-25

CFR Citation: 21 CFR 606; 21 CFR 610

Legal Deadline: None

Abstract: This rulemaking is one of a number of actions being taken to amend the biologics regulations to remove, revise, or update the regulations applicable to blood, blood components, and blood derivatives. These actions are based on a comprehensive review of the regulations performed by FDA, and are also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations; the General Accounting Office; the Institute of Medicine, as well as public comments. In this rulemaking, FDA will propose to amend the biologics regulations to require that blood establishments prepare and follow written procedures for appropriate action when it is determined that blood and blood components at increased risk for transmitting hepatitis C virus (HCV) infection have been collected from a donor who, at a later date, tested repeatedly reactive for evidence of HCV.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See RIN 0910-AB26.

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852
Phone: 301 827-6210

RIN: 0910–AB76

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968. • ANTIBIOTIC RESISTANCE LABELING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 262; ...

CFR Citation: 21 CFR 201.57

Legal Deadline: None

Abstract: The proposed rule would require the inclusion of statements on

antibiotic prescription drug labeling concerning inappropriate antibiotic use and the prevalence of drug resistant microorganisms.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Schwartzbard, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB78

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969. • FIXED-COMBINATION DOSAGE FORM PRESCRIPTION DRUGS FOR HUMAN USE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 300.50

Legal Deadline: None

Abstract: The proposed rule would amend 21 CFR 300.50 which states that two or more drugs may be combined in a single dosage form when each component makes a contribution to the claimed effects and the dosage of each component is such that the combination is safe and effective for a significant patient population requiring such concurrent therapy as defined in the labeling for the drug. The proposed rule would state how this provision will apply to fixed combination prescription drugs derived from two or more botanical raw materials.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB79

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970. • 180-DAY GENERIC DRUG EXCLUSIVITY FOR ABBREVIATED NEW DRUG APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314.107

Legal Deadline: None

Abstract: The proposed rule would amend regulations governing 180-day generic drug exclusivity to clarify existing eligibility requirements and conditions for abbreviated new drug application sponsors, to modify current eligibility requirements, and to impose new eligibility conditions. These revisions are the result of a court decision in Mova Pharmaceutical v. Shalala, 140 F. 3d 1060 (D.C. Cir. 1998), invalidating an eligibility requirement for exclusivity.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia G. Beakes, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB80

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971. • REPACKAGING APPROVAL REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would set forth requirements for FDA prior approval of certain types of repackaging of approved drug products by persons who are not holders of approved applications for the products. The proposed rule would ensure that FDA approves changes to drug product containers and closure systems by both application holders and repackagers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB81

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972. • STABILITY TESTING OF DRUG SUBSTANCES AND DRUG PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would specify required stability data that must be submitted with new drug applications.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Schwartzbard, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB82

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973. • POSTMARKETING STUDIES FOR HUMAN DRUGS AND LICENSED BIOLOGICAL PRODUCTS: STATUS REPORTS

Priority: Other Significant

Legal Authority: PL 105-115

CFR Citation: 21 CFR 314.81; 21 CFR 601.70

Legal Deadline: Other, Statutory, October 1, 2001.
Section 130(b) requires the FDA to report by 10/01/01 to the House and Senate committees summarizing submitted postmarketing study reports evaluating sponsor performance and the timeliness

Abstract: Section 130(a) of the Food and Drug Administration Modernization Act of 1997 adds a new section 506B to the Federal Food, Drug, and Cosmetic Act requiring a drug sponsor that has agreed to conduct a postmarketing study to submit within one year after the drug's approval and annually thereafter until the study's conclusion, (1) A progress report or, (2) an explanation of why no study has been conducted.

Any information pertaining to postmarketing study reports will be considered public to identify the sponsor or explain the status of the study or why it has not been carried out. FDA is required to publish annually in the Federal Register the status of postmarketing studies that sponsors have agreements to conduct and those with filed reports.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Description of Legal Deadline continued... of FDA review.

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB83

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974. • AMENDMENT OF VARIOUS FOOD ADDITIVE AND DEVICE REGULATIONS TO REFLECT CURRENT AMERICAN SOCIETY FOR TESTING AND MATERIALS CITATIONS

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 346; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 373; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 172.210; 21 CFR 172.250; 21 CFR 172.615; 21 CFR 172.862; 21 CFR 172.864; 21 CFR 172.882; 21 CFR 173.25; 21 CFR 175.250; 21 CFR 175.270; 21 CFR 175.300; 21 CFR 176.170; 21 CFR 176.180; 21 CFR 177.1040; 21 CFR 177.1200; 21 CFR 177.1210; ...

Legal Deadline: None

Abstract: The proposed rule would amend various food additive and medical device regulations. The amendments would update the references in those regulations to various standards of the American Society for Testing and Materials (ASTM) to reflect the current standards designations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
Phone: 301 827-3380
Fax: 301 443-6906
Email: pchao@oc.fda.gov

RIN: 0910–AB84

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Final Rule Stage

975. NEW ANIMAL DRUG APPROVAL PROCESS; IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT (GADPTRA)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 379e; 21 USC 381

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 16, 1989.
The deadline applies to the GADPTRA sections. There is no deadline relating to the other sections.

Abstract: On December 17, 1991, the Agency published a proposed revision of the existing regulations that is consistent with the current procedural regulations for human drugs, where appropriate. The New Animal Drug Application (NADA) revisions articulate general requirements in regulations containing performance standards and would complement these regulations through detailed guidances on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule for reporting requirements for marketed animal drugs also was published on that date. The agency intends to repropose the NADA proposed rule to incorporate some recent changes in procedure. The NADA revisions are expected to include regulations to implement the provisions of the Animal Drug Availability Act of 1996, specifically the definition of flexible labeling, and implement parts of the President's National Performance Report "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will maintain safety and effectiveness of new animal drugs and enable a more streamlined animal drug application review and approval process which will result in less regulatory burden upon industry and FDA. The Agency also proposes to amend its regulations to implement title I of the Generic Animal Drug and Patent Term Restoration Act, which established new standards for marketing approval of generic copies of animal drugs approved after 1962.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
New Animal Drug Approval Process		
NPRM 12/17/91 (56 FR 65544)		
NPRM To Be Determined		
Reporting Requirements for Marketed Animal Drugs		
NPRM 12/17/91 (56 FR 65581)		
Final Action 12/00/99		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA96.

For information concerning reporting requirements for marketed animal drugs, contact William C. Keller, Director, Division of Epidemiology and Surveillance, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 594-6642. For further information concerning generic animal drugs, contact Lonnie W. Luther, Chief, Quality Assurance Support Team, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 827-0209.

Agency Contact: Margaret Miller, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AA02

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976. PRESCRIPTION DRUG MARKETING ACT OF 1987; POLICY INFORMATION, GUIDANCE, AND CLARIFICATIONS

Priority: Other Significant

Legal Authority: PL 100-293 Prescription Drug Marketing Act of 1987

CFR Citation: 21 CFR 203

Legal Deadline: None

Abstract: The Prescription Drug Marketing Act of 1987 (PDMA) amended the Federal Food, Drug, and Cosmetic Act to: (1) require State licensing of wholesale distributors of prescription human drugs under Federal guidelines including minimum standards for storage, handling, and recordkeeping; (2) ban the reimportation of prescription human drugs produced in the United States, except when reimported by the manufacturer or for emergency use; (3) ban the sale, trade, or purchase of drug samples; (4) ban trafficking in or counterfeiting of drug coupons; (5) mandate storage, handling, and recordkeeping requirements for drug samples; (6) require licensed practitioners to request drug samples in writing; (7) prohibit, with certain exceptions, the resale of prescription human drugs purchased by hospitals or health care facilities; and (8) set forth criminal and civil penalties for violations of these provisions. In the Federal Register of September 14, 1990 (55 FR 38012), FDA issued a final rule setting forth Federal guidelines for State licensing of wholesale drug distributors. This final rule would provide information, guidance, and clarification of those sections of PDMA that are not related to State licensing of wholesale distributors.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11842
NPRM Comment Period End	08/01/94	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD44.

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041

HHS—FDA

Final Rule Stage

Fax: 301 827-5562

RIN: 0910–AA08

977. FRUIT AND VEGETABLE JUICES: DEVELOPMENT OF HACCP AND LABEL WARNING STATEMENTS FOR JUICES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 21 USC 321 et seq; 42 USC 264

CFR Citation: 21 CFR 120

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) announced in an advance notice of proposed rulemaking of August 4, 1994, its plans to consider the development of regulations establishing requirements for a new comprehensive food safety assurance program that would be based on the principles of Hazard Analysis Critical Control Points (HACCP). The new food safety program would respond to new challenges, such as new food processing and packaging technologies, new food distribution and consumption patterns, exposure to industrial chemicals and chemical waste, the increasing importation of foods, new microbial pathogens, and resource constraints. Current information shows that the most serious of these challenges is presented by food-borne pathogens. The number of recognized food-borne pathogens has broadened considerably, as has the awareness of long-term complications from certain food-borne illnesses--such as arthritis, heart disease, and kidney and neurological damage. To meet such challenges, FDA intends to shift the focus of its food safety assurance program away from periodic visual inspection and end-product testing and toward prevention of food safety risks and problems, utilizing the state-of-the-art HACCP preventive approach. A first step was taken when FDA published a HACCP regulation for fish and fishery products on December 18, 1995. Consistent with FDA's HACCP efforts, USDA published a HACCP regulation for meat and poultry on July 25, 1996. FDA proposed on April 24, 1998 to adopt a HACCP regulation for the processing of juice. The agency simultaneously proposed to require a warning statement on the labels or in labeling for juice products that have not been processed to reduce, control, or eliminate the presence of harmful bacteria. Such labeling would serve to reduce the risk of food-borne illness, pending development of a final HACCP rule for juice. As part of the development of the HACCP proposal, FDA considered information obtained during agency HACCP pilot activities, and comments and scientific and technological information relating to fresh juices provided during and after an agency public meeting on juice held on December 16 and 17, 1996. On July 8, 1998, the agency finalized the warning statement requirement. FDA held two technical scientific workshops, one November 12, 1998, in Lake Alfred, Florida and the other November 29, 1998, in Irvine, California, to discuss and clarify issues related to the implementation of the agency's rule requiring a warning statement for certain juice products. The workshops addressed citrus juice production and the methods for measuring and validating such systems.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39888
ANPRM Comment Period End	12/02/94	
Economic Analysis for Juice HACCP and Labeling		
PRIA 05/01/98 (63 FR 24254)		
PRIA Comment Period End 06/22/98		
HACCP for Juice		
NPRM 04/24/98 (63 FR 20450)		
NPRM Comment Period End 08/07/98		
NPRM Comment Period Reopened 12/17/98 (63 FR 69579)		
NPRM Reopened Comment Period End 01/19/99		
Final Action 01/00/00		
Label Warning Statements for Juice		
Notice of Intent 08/28/97 (62 FR 45593)		
NPRM 04/24/98 (63 FR 20496)		
NPRM Comment Period End 06/21/98		
Final Action 07/08/98 (63 FR 37029)		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE60.

Agency Contact: John E. Kvenberg, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-10), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4020
Fax: 202 205-4018
Email: john.kvenberg@bangate.fda.gov

RIN: 0910–AA43

978. CURRENT GOOD MANUFACTURING PRACTICE; AMENDMENT OF CERTAIN REQUIREMENTS FOR FINISHED PHARMACEUTICALS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 351 to 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210.3; 21 CFR 211.22; 21 CFR 211.68; 21 CFR 211.82; 21 CFR 211.84; 21 CFR 211.101; 21 CFR 211.103; 21 CFR 211.110; 21 CFR 211.111; 21 CFR 211.113; 21 CFR 211.115; 21 CFR 211.160; 21 CFR 211.166; 21 CFR 211.192; 21 CFR 211.220; ...

Legal Deadline: None

Abstract: FDA is finalizing revisions to the current good manufacturing practice (CGMP) regulations at 21 CFR parts 210 and 211 regarding finished pharmaceuticals. The new regulations codify current agency policies or current industry practices. Among other things, the rule will create or clarify requirements for process and methods validation, appropriate laboratory testing procedures, and protection against contamination. The rule is designed to update the CGMP regulations in response to technological changes and the agency's experience with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/03/96	61 FR 20104
NPRM Comment Period End	09/30/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE63.

Agency Contact: Richard Schwartzbard, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA45

HHS—FDA

Final Rule Stage

979. BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 320

Legal Deadline: None

Abstract: The final rule revises and clarifies certain sections of part 320 and eliminate duplication and inconsistencies.

Timetable:

Action	Date	FR Cite
NPRM	11/19/98	63 FR 64222
NPRM Comment Period End	02/02/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA51

980. PARENTERAL DRUG PRODUCTS CONTAINING ALUMINUM AS AN INGREDIENT OR CONTAMINANT; LABELING REQUIREMENTS; WARNING STATEMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 21 USC 262; 21 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The rule will establish a maximum level of aluminum permitted in large volume parenterals used in total parenteral nutrition therapy; require that the maximum aluminum content present at the time of release be stated on the immediate container label of certain small volume parenterals and pharmacy bulk packages; require that the package insert of all parenterals include a warning statement on the effects of aluminum toxicity in patients with impaired kidneys receiving total parenteral nutrition therapy; and require manufacturers to develop validated assay methods for determining the aluminum content.

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 176
NPRM Comment Period End	04/06/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA74

981. NEW DRUG APPLICATIONS; DRUG MASTER FILE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The final rule eliminates Type I Drug Master Files, which contain information about manufacturing sites, facilities, operating procedures, and personnel, because these files contain outdated information, duplicate information contained in marketing applications, and are not used by application review divisions or field inspectors.

Timetable:

Action	Date	FR Cite
NPRM	07/03/95	60 FR 34486
NPRM Comment Period End	10/02/95	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee D. Korb, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA78

982. OVER-THE-COUNTER HUMAN DRUGS; LABELING REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 201; 21 CFR 330

Legal Deadline: None

Abstract: The final rule will provide standardized format and content requirements for over-the-counter (OTC) drug product labeling, including legibility and design features for the presentation of such information as the uses for the drug, directions for use, warnings, drug interactions, active ingredients, and other information that the consumer would need to know to use the product safely and effectively.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 9024
NPRM Comment Period End	10/06/97	62 FR 33379
Reopening of Comment Period (Study B)	12/30/97	62 FR 67770
Reopening of Comment Period (Study A)	02/13/98	63 FR 7331
Final Action	04/00/99	

HHS—FDA

Final Rule Stage

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Debra Bowen, M.D., Division of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-560), 9201 Corporate Blvd., Rockville, MD 20850
Phone: 301 827-2222

RIN: 0910–AA79

983. INVESTIGATIONAL NEW DRUG APPLICATIONS; CLINICAL HOLDS FOR DRUGS FOR LIFE-THREATENING ILLNESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The final rule amends the provisions governing investigational new drug applications to permit FDA to place a clinical hold on one or more studies under an IND involving a drug that is intended to treat a life-threatening disease affecting both genders if men or women with reproductive potential who have the disease are excluded from eligibility in any phase of the investigation because of a risk or potential risk of reproductive or developmental toxicity from use of the investigational drug.

Timetable:

Action	Date	FR Cite
NPRM	09/24/97	62 FR 49946
NPRM Comment Period End	12/23/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea Masciale, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-5), 1451 Rockville Pike, Suite 6027, Rockville, MD 20852
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RIN: 0910–AA84

984. STERILITY REQUIREMENTS FOR INHALATION SOLUTION PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374 to 375

CFR Citation: 21 CFR 200

Legal Deadline: None

Abstract: The final rule requires that all inhalation solution products be manufactured to be sterile. Based on reports of adverse drug experiences from contaminated nonsterile inhalation solution products and recalls of these products, FDA is taking this action to prevent future additional adverse health consequences.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49638
NPRM Comment Period End	12/22/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA88

985. CURRENT GOOD MANUFACTURING PRACTICE; REVISION OF CERTAIN LABELING CONTROLS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210; 21 CFR 211

Legal Deadline: None

Abstract: The final rule amends the labeling control provisions in the current good manufacturing practice regulations to make the provisions less burdensome while still reducing the frequency of drug product mislabeling and associated drug product recalls associated with cut labeling.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40489
NPRM Comment Period End	10/27/97	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Schwartzbard, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA98

986. DEFINITION OF SUBSTANTIAL EVIDENCE

Priority: Other Significant

Legal Authority: 21 USC 360b; PL 104-250

CFR Citation: 21 CFR 514.4

Legal Deadline: NPRM, Statutory, October 9, 1997. Final, Statutory, October 9, 1998.

Abstract: The Animal Drug Availability Act (ADAA) requires FDA to issue within 24 months after the date of its enactment final regulations to encourage dose range labeling and to further define the term "substantial evidence," as the term is defined in section 512(d)(3) of the Federal Food, Drug, and Cosmetic Act, as amended by the ADAA, in a manner that encourages the submission of applications and supplemental applications.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
NPRM	11/05/97	62 FR 59830
Final Action	07/00/99	

HHS—FDA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gail Schmerfeld, Special Assistant, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0205
Fax: 301 594-2297

RIN: 0910–AB08

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987. NEW DRUGS FOR HUMAN USE; CLARIFICATION OF REQUIREMENTS FOR PATENT HOLDER NOTIFICATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: This final rule will clarify the methods by which application holders may provide notice to patent holders.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 11174
NPRM Comment Period End	06/04/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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Fax: 301 827-5562

RIN: 0910–AB12

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988. MEDICATED FEED MILL LICENSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-250

CFR Citation: 21 CFR 5; 21 CFR 207; 21 CFR 225; 21 CFR 510; 21 CFR 514; 21 CFR 515; 21 CFR 558

Legal Deadline: None

Abstract: The Animal Drug Availability Act of 1996 (ADAA) amends sections 512(a) and 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) to require a single facility license for the manufacture of feeds containing approved new animal drugs, rather than multiple medicated feed applications (MFAs) for each feed mill, as previously required by the act. Prior to the passage of the ADAA, an approved medicated feed application was required by the act for the manufacture of medicated feed. The ADAA eliminates the requirement that a feed mill submit a separate medicated feed application for the manufacture of each type of medicated feed and instead provides for feed mills to be licensed and allows a licensed facility to manufacture any feed containing an approved new animal drug. Additionally, the act, as amended by the ADAA, provides the agency with the authority to exempt facilities that manufacture certain types of medicated feed from the requirement of a medicated feed mill license.

The Food and Drug Administration published on July 30, 1997, a proposed rule to amend the animal drug regulations and add a new part (21 CFR 515) to provide for feed mill licensing in accordance with the ADAA. The proposed regulation implements the requirements for feed mill licensing set forth in the ADAA. Under this proposal, those medicated feeds exempted from the MFA requirement under 21 CFR 558.4 will also be exempt from the requirement of a medicated feed mill license.

Timetable:

Action	Date	FR Cite
NPRM	07/30/97	62 FR 40765
NPRM Comment Period End	10/28/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William D. Price, Special Assistant, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-200), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6652
Fax: 301 594-4512

RIN: 0910–AB18

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989. PUBLIC INFORMATION; COMMUNICATIONS WITH STATE AND FOREIGN GOVERNMENT OFFICIALS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 18 USC 1905; 19 USC 2531 to 2582; 21 USC 321 to 393; 21 USC 1401 to 1403; 42 USC 241; 42 USC 242; 42 USC 242a; 42 USC 242e; 42 USC 242l; 42 USC 242n; 42 USC 243; 42 USC 262; 42 USC 263; 42 USC 263b to 263n

CFR Citation: 21 CFR 20.88; 21 CFR 20.89

Legal Deadline: None

Abstract: The final rule would amend the regulations governing communications with State and foreign government officials. The proposed rule would permit the Food and Drug Administration (FDA) to disclose confidential commercial information to international organizations having responsibility to facilitate global or regional harmonization of standards and requirements. These disclosures would, in almost all instances, occur only with the consent of the person providing the confidential commercial information to FDA. The proposed rule would also eliminate the need for a written statement by a State or foreign government official establishing that government's ability to protect from public disclosure nonpublic, predecisional documents (such as draft rules and guidance documents) provided by FDA that do not include confidential commercial information. These changes are intended to facilitate information exchanges with State and foreign governments.

Timetable:

Action	Date	FR Cite
NPRM	07/27/98	63 FR 40069
NPRM Comment Period End	10/13/98	
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: 5 USC 552

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
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HHS—FDA

Final Rule Stage

Email: pchao@bangate.fda.gov

RIN: 0910–AB22

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990. FDA EXPORT REFORM AND ENHANCEMENT ACT OF 1996; REPORTING AND RECORDKEEPING REQUIREMENTS FOR UNAPPROVED OR VIOLATIVE PRODUCTS IMPORTED FOR FURTHER PROCESSING OR INCORPORATION AND LATER EXPORT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1453 to 1455; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 374; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216

CFR Citation: 21 CFR 1.84

Legal Deadline: None

Abstract: The proposed rule would establish reporting and recordkeeping requirements to implement sections 801(d)(3) and 801(d)(4) of the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Food and Drug Administration (FDA) Export Reform and Enhancement Act of 1996. Section 801(d)(3) of the act provides that, under prescribed conditions, drug and device components, food and color additives, and dietary supplements may be imported if they are to be further processed or incorporated into products that are to be exported from the United States in accordance with sections 801(e) or 802 of the act or section 351(h) of the Public Health Service (PHS) Act. Section 801(d)(4) of the act provides that blood, blood components, source plasma, or source leukocytes, or a component, accessory, or part thereof, may not be imported under section 801(d)(3) of the act unless the importation complies with section 351(a) of the PHS Act or FDA permits the importation under FDA-determined appropriate circumstances and conditions. Additionally, section 801(d)(4) of the act prohibits the importation of tissue or a component or part of tissue under section 801(d)(3) of the act unless the importation complies with section 361 of the PHS Act.

Timetable:

Action	Date	FR Cite
NPRM	11/24/98	63 FR 64930
NPRM Comment Period End	02/08/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
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RIN: 0910–AB24

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991. BIOLOGICAL PRODUCTS REGULATED UNDER SECTION 351 OF THE PUBLIC HEALTH SERVICE ACT; IMPLEMENTATION OF BIOLOGICS LICENSE; ELIMINATION OF ESTABLISHMENT LICENSE AND PRODUCT LICENSE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 262; PL 105-115

CFR Citation: 21 CFR 3; 21 CFR 5; 21 CFR 10; 21 CFR 20; 21 CFR 207; 21 CFR 310; 21 CFR 312; 21 CFR 316; 21 CFR 600; 21 CFR 601; 21 CFR 607; 21 CFR 610; 21 CFR 640; 21 CFR 660

Legal Deadline: None

Abstract: As a "Reinventing Government" initiative and to amend regulations to implement section 123 of the Food and Drug Administration Modernization Act of 1997, FDA is eliminating the requirement and use of establishment licenses and product licenses for biological products regulated under section 351 of the Public Health Service Act. In lieu of product licenses and establishment licenses, FDA will require submission and approval of a biologics license application in order to market these biologic products in interstate commerce.

Timetable:

Action	Date	FR Cite
NPRM	07/31/98	63 FR 40858
Public Workshop	08/11/98	63 FR 42773
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert A. Yetter, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-10), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852
Phone: 301 827-0373

RIN: 0910–AB29

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992. REVISIONS TO THE GENERAL SAFETY REQUIREMENTS FOR BIOLOGICAL PRODUCTS; DIRECT FINAL RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 351

CFR Citation: 21 CFR 610.11(g)

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) issued a direct final rule and companion proposed rule to amend the biologics regulations by adding "cellular therapy products" to the list of products excepted from the general safety test (GST) and by adding an administrative procedure for obtaining an exemption from the GST requirements for other biological products. Because the agency received significant adverse comment on the administrative procedure portion of the direct final rule, FDA withdrew that portion of the rule and confirmed the remaining portion. FDA intends to finalize the companion proposed rule to respond to the significant adverse comment on the administrative procedure portion of the rule. FDA is taking this action because the GST may not be relevant or necessary for all biological products, including cellular therapy products, currently in various stages of development. This action is part of FDA's continuing effort to achieve the objectives of the President's "Reinventing Government" initiative, and is intended to reduce the burden of unnecessary regulations on biological products without diminishing the protection of the public health.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/20/98	63 FR 19399

HHS—FDA

Final Rule Stage

Action	Date	FR Cite
Proposed Rule - Companion Document to Direct Final Rule	04/20/98	63 FR 19431
Direct Final Rule Confirmation in Part	08/05/98	63 FR 41718
Direct Final Rule Withdrawal in Part	08/05/98	63 FR 41718
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen M. Ripley, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB51

993. RADIOPHARMACEUTICALS USED FOR IN VIVO DIAGNOSIS AND MONITORING

Priority: Other Significant

Legal Authority: PL 105-115, sec 122

CFR Citation: 21 CFR 315; 21 CFR 601

Legal Deadline: NPRM, Statutory, May 20, 1998. Final, Statutory, May 20, 1999.

Abstract: Section 122 of FDAMA, Requirements for Radiopharmaceuticals, requires the Secretary, HHS, after consultation with patient advisory groups, associations, physicians licensed to use radiopharmaceuticals, and the regulated industry, to issue proposed regulations governing the approval of radiopharmaceuticals. The regulations shall provide that the determination of safety and effectiveness of a radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) shall include consideration of the proposed use of the radiopharmaceutical in the practice of medicine, the pharmacological and toxicological activity of the radiopharmaceutical (including any carrier or ligand component of the radiopharmaceutical), and the estimated radiation dose of the radiopharmaceutical. In addition, the indication for which a radiopharmaceutical is approved for marketing may, in appropriate cases, refer to manifestations of disease (such as biochemical, physiological, anatomical, or pathological processes) common to, or present in, one or more disease states.

Timetable:

Action	Date	FR Cite
NPRM	05/22/98	63 FR 28301
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
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RIN: 0910–AB52

994. BULK DRUG SUBSTANCES FOR USE IN PHARMACY COMPOUNDING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 USC 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding. Section 503A(b)(1)(A) directs FDA to issue by regulation a list of bulk drug substances that may be used in compounding that are not covered by a United States Pharmacopeia (USP) or National Formulary (NF) monograph and are not components of FDA-approved drugs. Bulk drug substances that do not appear on the list may not be used in compounding under section 127 unless such substances are covered by a USP or NF monograph or are components of approved drugs.

Timetable:

Action	Date	FR Cite
NPRM	01/07/99	64 FR 996
NPRM Comment Period End	03/23/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Schwartzbard, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB57

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Long-Term Actions

995. INFANT FORMULA: GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, NOTIFICATION REQUIREMENTS, AND RECORDS AND REPORTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 343; 21 USC 350a; 21 USC 371

CFR Citation: 21 CFR 106; 21 CFR 107

Legal Deadline: None

Abstract: The agency published a proposed rule on July 9, 1996, that will establish current good manufacturing practice regulations, quality control procedures, quality factors, notification requirements, and records and reports for the production of infant formulas. This proposal was issued in response to the Infant Formula Act of 1986.

Timetable:

Current Good Mfg. Practices; Qual Control Proc
NPRM 07/09/96 (61 FR 36154)
NPRM Comment Period End 12/06/96
Final Rule To Be Determined

Infant Form Cons Comp, Micro Test & Recd Retention Req
NPRM 01/26/89 (54 FR 3783)
NPRM Comment Period End 03/27/89
Final Rule 12/24/91 (56 FR 66566)

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC46.

Agency Contact: Nicholas Duy, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
Phone: 202 205-5374

RIN: 0910–AA04

996. BIOLOGICAL PRODUCTS: REPORTING OF ERRORS AND ACCIDENTS IN MANUFACTURING

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262 to 264; 42 USC 300aa-25

CFR Citation: 21 CFR 600; 21 CFR 606

Legal Deadline: None

Abstract: FDA is amending the regulations that require licensed manufacturers of biological products to report errors and accidents in manufacturing that may affect the safety, purity, or potency of a product. FDA defines terms used; establishes a reporting period for all licensed biological products; and amends the current good manufacturing practice (CGMP) regulations for blood and blood components to require error and accident reporting by unlicensed registered blood establishments and transfusion services currently reporting on a voluntary basis. The reporting requirements will expedite reporting of errors and accidents in manufacturing of biological products; provide FDA with a more accurate surveillance of the Nation's blood supply enabling FDA to monitor actions taken in response to the errors and accidents detected for all establishments involved in the manufacture of blood and blood components; and facilitate a rapid response where public health may be at risk. The cost to licensed establishments would be minimal, since they already are required to report. Unlicensed establishments would only have to make some changes in standard operating procedures. Unlicensed establishments are already required to keep records and conduct investigations. Under the final rule they would have to establish reporting procedures and report to FDA. The transfusion services would have to assure that their recordkeeping and investigation procedures are sufficient, and establish reporting procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49642
NPRM Comment Period End	12/22/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD67.

Agency Contact: Valerie A. Butler, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
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RIN: 0910–AA12

997. FOOD LABELING REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 100; 21 CFR 101; 21 CFR 102; 21 CFR 161

Legal Deadline: None

Abstract: The Nutrition Labeling and Education Act of 1990 (NLEA) requires that most foods bear nutrition labeling. The agency issued final rules implementing most of the provisions contained in the NLEA on January 6, 1993. Subsequently, however, the agency has identified additional areas that should be the subject of rulemaking. FDA issued a proposal on January 6, 1993, to establish requirements for the identification of certain ingredients on food labels. FDA proposed on June 15, 1993, to amend its January 6, 1993, final rules on nutrient content and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. The agency proposed on January 4, 1994, to establish reference daily intakes based on the 9th and 10th editions of the National Research Council's Recommended Dietary Allowances. On March 14, 1994, FDA published a proposal implementing the provisions for exemptions from nutrition labeling for low-volume food products of small businesses that were established by the Nutrition Labeling and Education Act Amendments of 1993. On August 18, 1993, FDA published a proposal concerning the placement of the nutrition facts panel on food labels. Finally, on July 18, 1994, FDA published proposed revised guidelines for the voluntary declaration of nutrition labeling for raw produce and fish. A final rule concerning the placement of the nutrition facts panel was published on April 5, 1995. A final rule establishing reference daily intakes based on the 9th and 10th editions of Recommended Dietary Allowances was published on December 28, 1995.

FDA published a final rule on August 2, 1996, on nutrient content claims and health claims to remove the provisions

that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. FDA published a final rule on August 7, 1996, implementing the exemption for small businesses from the requirements for nutrition labeling and providing instructions on how to file a notice claiming the exemption. FDA published on August 16, 1996, final guidelines on the voluntary declaration of nutrition labeling for raw produce and fish.

Timetable:

Amend Standard of Identity for Grain Products (Folic Acid)
NPRM 10/14/93 (58 FR 53305)
Final Action 03/05/96 (61 FR 8781)
Health Claims and Label Statements
NPRM Folic Acid and Neural Tube Def 10/14/93 (58 FR 53254)
Final Action 03/05/96 (61 FR 8752)
Misleading Containers; Nonfunctional Slack Fill
NPRM 01/06/93 (58 FR 2957)
Final Action 12/06/93 (58 FR 64123)
Nutrient Content Claims and Health Claims; Restaurant Foods
NPRM 06/15/93 (58 FR 33055)
Final Action 08/02/96 (61 FR 40320)
Nutrient Content, Definition of the Term, Healthy
NPRM 01/06/93 (58 FR 2944)
Final Action 05/10/94 (59 FR 24232)
Placement of Nutrition Facts Panel
NPRM 08/18/93 (58 FR 44091)
Final Action 04/05/95 (60 FR 17202)
Final Action Effective 05/05/95
Final Action Correction 06/12/95 (60 FR 30788)
Protein Hydrolysates; Broth in Tuna; and/or Labeling
NPRM (Declaration of Ingredients) 01/06/93 (58 FR 2950)
Final Action (Dec. of Ingredients) To Be Determined
Reference Daily Intakes
NPRM 01/04/94 (59 FR 427)
Final Action 12/28/95 (60 FR 67164)
Small Business Exemption, Nutrition Labeling
NPRM 03/14/94 (59 FR 11872)
Final Action 08/07/96 (61 FR 40963)
Voluntary Guidelines for Nutrition Labeling Produce
NPRM 07/18/94 (59 FR 36379)
Final Action 08/16/96 (61 FR 42742)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD89.

Agency Contact: Gerard L. McCowin, Acting Deputy Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4561
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RIN: 0910–AA19

998. MEDICAL FOODS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360ee; 21 USC 371

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Food and Drug Administration is considering development of regulations for medical foods, as defined by the Orphan Drug Act Amendments of 1988 (21 USC 360ee(b)(3)) to assure, among other things, the safety and effectiveness of these products, proper labeling of the nutrient content and purported uses, including adequate and appropriate directions for use, and quality control and good manufacturing practices.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60661
ANPRM Comment Period End	04/28/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD91.

Agency Contact: Robert Moore, Senior Regulatory Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
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RIN: 0910–AA20

999. CLASSIFICATION OF COMPUTER SOFTWARE PROGRAMS THAT ARE MEDICAL DEVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321(h); 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360c to 360l; 21 USC 371 to 374

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: FDA is considering whether to classify stand-alone computer software products that fit the definition of a medical device under the Federal Food, Drug, and Cosmetic Act. Although the Secretary has not made a final decision to initiate such a program, the agency is considering classifying these devices by using a risk-based approach as required under the Medical Device Amendments to the act. In addition, the agency would use existing exemptions from regulation where appropriate. Under this approach, low risk medical software devices would be subject only to the adulteration and misbranding provisions of the act. Moderate risk devices would additionally be subject to the registration, listing, good manufacturing practice requirements, and reporting and recordkeeping requirements. High risk devices would be the only products to require premarket submissions. FDA is also seeking comment on potential criteria related to the intended uses of medical software devices that might be used in determining the level of risk.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE58.

Agency Contact: Chuck Furfine, Regulatory Review Scientist/Software Expert, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 443-2536

RIN: 0910–AA41

1000. REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 207

Legal Deadline: None

Abstract: The proposed rule would revise the regulations under part 207 to clarify the burden on manufacturers, packers, and distributors and to consolidate, reorganize, and streamline the requirements.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA49

1001. REINVENTING FDA FOOD REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321 et seq

CFR Citation: 21 CFR 101; 21 CFR 102; 21 CFR 103; 21 CFR 131; 21 CFR 133; 21 CFR 135; 21 CFR 136; 21 CFR 137; 21 CFR 139; 21 CFR 145; 21 CFR 146; 21 CFR 150; 21 CFR 152; 21 CFR 155; 21 CFR 156; ...

Legal Deadline: None

Abstract: In response to President Clinton's memorandum to heads of departments and agencies entitled "Regulatory Reinvention Initiative," FDA has initiated rulemaking to retain, revise, or revoke certain of its regulations for food. FDA published an advance notice of proposed rulemaking (ANPRM) on December 29, 1995, requesting information on the need to retain, revise, or revoke its food standards of identity regulations and its common or usual name regulations. In the same issue of the Federal Register FDA proposed to improve the coordination of the food additive, GRAS, and color additive approval process with USDA for substances used in meat and poultry products. FDA proposed to revoke several lower fat milk standards on November 9, 1995. On June 12, 1996, FDA published an ANPRM announcing its intention to review (1) its human food labeling regulations pertaining to the exemption for soft drinks from requirements for the type size and placement of certain information on the information panel, requirements for listing "statements of identity," and requirements for flavor labeling; (2) its infant formula regulations to ensure that they fully reflect the Federal Food, Drug, and Cosmetic Act; (3) its regulations pertaining to the discharge of waste aboard casino ships, passenger ships, and ferries; and (4) its food additive regulations to consolidate certain existing regulations. In the same June 12 issue of the Federal Register, FDA published a second ANPRM seeking public comment on possible ways to streamline various food additive regulations. FDA also proposed on June 12, 1996, to revoke certain food labeling regulations pertaining to labeling of food with number of servings and labeling Kosher and Kosher-style foods and to revoke the agency's voluntary filing of cosmetic product experiences. The latter was published August 12, 1997.

On October 13, 1995, FDA proposed to revoke certain agency regulations that were obsolete or no longer necessary to achieve public health goals. The final rule (pertaining to food regulations only) was published on June 3, 1996. A confirmation of effective date (CED) on those regulations promulgated under the formal rulemaking procedures of section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 USC 371(e)) pertaining to diabetic labeling (21 CFR 105.67) and sodium intake labeling (21 CFR 105.69) was published on August 27, 1996.

In the Federal Register of April 17, 1997 (62 FR 18938), FDA proposed to establish a notification procedure for companies to use to inform FDA of a company's determination that use of a substance in food is generally recognized as safe (GRAS).

Timetable:

Exempt Infant Formula; Plan for Revisions
ANPRM 06/12/96 (61 FR 29701)
Comment Period Ended 10/10/96
NPRM To Be Determined

Food Standards of Identity, Quality, and Fill of Container
ANPRM 12/29/95 (60 FR 67492)
Comment Period Ended 06/28/96
NPRM To Be Determined

Food, Color Additive, GRAS Regulations
ANPRM 06/12/96 (61 FR 29701)
Comment Period Ended 09/10/96
NPRM To Be Determined

Food, Color, and GRAS; Simult. Pet. Rev. by USDA (Meat/Poultry)
NPRM 12/29/95 (60 FR 67490)
Comment Period Ended 03/14/96
Extension of Comment Period 06/03/96
Final Action To Be Determined

Notification Procedures for Independent GRAS Determinations
NPRM 04/17/97 (62 FR 18938)
NPRM Comment Period Ended 07/16/97
Final Action To Be Determined

Revocation of Certain Food Labeling and Cosmetic Regulations
NPRM 06/12/96 (61 FR 29708)
Comment Period Ended 08/26/96
Final Action 08/12/97 (62 FR 43071)

Revocation of Lower Fat Milk Standards
NPRM 11/09/95 (60 FR 56541)
Comment Period Ended 01/23/96
Partial Final 11/20/96 (61 FR 58991)
Confirmation of Effective Date 02/24/97 (62 FR 8163)

Revocation of Lower Fat Yogurt Standards
NPRM 11/09/95 (60 FR 56541)
Confirmation of Effective Date To Be Determined
Final Action (Yogurt) To Be Determined

Revocation of Obsolete Regulations
NPRM 10/13/95 (60 FR 53480)
Comment Period Ended 01/11/96
Final Action 06/03/96 (61 FR 27771)
Confirmation of Eff. Date 08/27/96 (61 FR 43963)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: ABSTRACT CONT: labeling (21 CFR 105.69) was published on August 27, 1996.

In the Federal Register of April 17, 1997 (62 FR 18938), FDA proposed to establish a notification procedure for companies to use to inform FDA of a company's determination that use of a substance in food is generally recognized as safe (GRAS).

Agency Contact: L. Robert Lake, Director, Office of Policy Planning and Strategic Initiatives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4561
Fax: 202 401-7739

RIN: 0910–AA58

1002. DIETARY SUPPLEMENT REGULATIONS IN RESPONSE TO DSHEA

Priority: Other Significant

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: On January 4, 1994, FDA published final rules relative to nutrition labeling, nutrient content claims and health claims for dietary supplements. The Dietary Supplement Health and Education Act (DSHEA) was enacted on October 25, 1994, modifying the statutory provisions governing labeling of dietary supplements. FDA has initiated rulemaking to modify its regulations for dietary supplements accordingly. One proposal would modify the nutrition labeling and ingredient declaration requirements. A second proposal would provide for the use of nutrient content claims and health claims on dietary supplements and establish procedures for the use of a disclaimer to accompany statements of nutritional support. A third proposal would define the terms "high potency" and "antioxidant." These three proposals were published in the Federal Register on December 28, 1995. An ANPRM was published in February 1997 seeking public comments on issues related to the establishment of current good manufacturing practices for dietary supplements. FDA published three final rules on September 23, 1997, responding to the proposals of December 28, 1995, and entitled: (1) "Food Labeling; Statement of Identity, Nutrition Labeling and Ingredient Labeling of Dietary Supplements; Compliance Policy Guide, Revocation;" (2) "Food Labeling; Requirements for Nutrient Content Claims, Health Claims, and Statements of Nutritional Support for Dietary Supplements;" and (3) "Food Labeling; Nutrient Content Claims: Definition for "High Potency" and Definition for "Antioxidant" for Use in Nutrient Content Claims for Dietary Supplements and Conventional Foods." The agency received several petitions for reconsideration of aspects of the final rule on nutrition labeling and ingredient declaration for dietary supplements. In response to these petitions, FDA published a final rule revising the nutrition labeling requirements for dietary supplements that contain liquid or dried extracts.

DSHEA provides that FDA may, by regulation, prescribe current good manufacturing practices (CGMPs) for dietary supplements. On February 6, 1997, FDA announced in an advance notice of proposed rulemaking that it was considering whether it should develop CGMPs for dietary supplements, and if so, what constitutes CGMPs for these products. The ANPR included an industry-sponsored outline for the development of CGMP regulations and requested public comment on the outline and other issues raised by the agency.

DHSEA also established an independent agency within the Executive Branch known as the Commission on Dietary Supplement Labels. The Commission was charged with conducting a study on, and providing recommendations for, regulating label claims and statements for dietary supplements, including the use of literature in connection with the sale of dietary supplements and procedures for evaluating such claims. On November 24, 1997, the Commission's final report was released. On April 29, 1998, FDA issued a notice on its views on the Commission's report and a proposed rule that responds to guidance in the report concerning statements about the effect of dietary supplements on the structure or function of the body.

Timetable:

Comments on Report of the Commission on Dietary Supp. Labels	
	Notice 04/29/98 (63 FR 23633)
CGMPs in the Manufacturing, Packing, or Holding of Dietary Suppe.	
	ANPRM 02/06/97 (62 FR 5700)
	Comment Period End 06/06/97
	NPRM To Be Determined
High Potency and Antioxidant Terms; Dietary Supplements	
	NPRM 12/28/95 (60 FR 67184)
	Comment Period End 06/10/96
	Final Action 09/23/97 (62 FR 49606)
Nutrient Content and Health Claims; Dietary Supplements	
	NPRM 12/28/95 (60 FR 67176)
	Comment Period End 06/10/96
	Final Action 09/23/97 (62 FR 49859)
Nutrient Labeling and Ingredient Labeling; Dietary Supplements	
	NPRM 12/28/95 (60 FR 67194)
	Comment Period End 06/10/96
	Final Action 09/23/97 (62 FR 49826)
	Final Action 06/05/98 (63 FR 30615)
Regs on Statements Made for Diet. Suppe re Effect of Product	
	NPRM 04/29/98 (63 FR 23624)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Elizabeth A. Yetley, Director, Office of Special Nutritionals, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-450), 200 C Street SW. Washington, DC 20204
Phone: 202 205-4168
Fax: 202 205-5295

RIN: 0910–AA59

1003. DEBARMENT CERTIFICATION REGULATIONS FOR DRUG APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 21 USC 381 to 382; 42 USC 216; 42 USC 241; 42 USC 262 to 263

CFR Citation: 21 CFR 314; 21 CFR 514; 21 CFR 601

Legal Deadline: None

Abstract: The proposed rule would amend the regulations to require applicants to submit a debarment certification statement in accordance with 21 U.S.C. 335a(k).

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA76

1004. INVESTIGATIONAL NEW DRUG APPLICATIONS; REQUEST FOR INFORMATION AND COMMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 56; 21 CFR 312

Legal Deadline: None

Abstract: The rulemaking would permit certain uses of investigational new drugs by individual investigators who are not included in a commercial sponsor's application provided that, among other things, the drugs are in Phase 2 of commercial development.

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 594-5562

RIN: 0910–AA83

1005. INVESTIGATIONAL USE NEW ANIMAL DRUG REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 353; 21 USC 360b; 21 USC 371; 21 USC 381

CFR Citation: 21 CFR 511; 21 CFR 512

Legal Deadline: None

Abstract: FDA is proposing to revise its regulations governing investigational use of new animal drugs by proposing to delete 21 CFR 511 and establish in 21 CFR part 512 revised investigational use new animal drug regulations. The investigational use new animal drug regulations are expected to include regulations to implement provisions of the Animal Drug Availability Act of 1996, specifically presubmission conferences, and implement parts of the President's National Performance Report, "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will enable a more streamlined animal drug application review and approval process, and which would result in less regulatory burden upon industry and FDA while maintaining safety and effectiveness of new animal drugs.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marty Schoenemann, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-126), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0220

RIN: 0910–AB02

1006. ESTABLISHMENT REGISTRATION AND LISTING OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 264

CFR Citation: 21 CFR 207; 21 CFR 807; 21 CFR 1271

Legal Deadline: None

Abstract: This action is a continuation of FDA's approach for the regulation of human tissues and is part of FDA's reinventing government initiative. The final rule requires manufacturers of human cellular and tissue-based products to register with the agency and submit a list of all such products produced. Future regulations would include the promulgation of good tissue practices (GTP) that will provide good manufacturing standards and regulations for donor screening and testing, and compliance and procedural issues. The proposed approach would provide a rational, comprehensive, and clear framework under which tissue processors can develop and market their products without being subjected to unnecessary regulation and without sacrificing the protection of the public health.

Timetable:

Action	Date	FR Cite
NPRM	05/14/98	63 FR 26744
NPRM Comment Period End	08/12/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville MD 20852
Phone: 301 827-6210

RIN: 0910–AB05

1007. REQUIREMENTS PERTAINING TO THE SALE AND DISTRIBUTION OF CIGARETTES AND SMOKELESS TOBACCO TO PROTECT CHILDREN AND ADOLESCENTS; USE OF NONTOBACCO TRADE OR BRAND NAMES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352; 21 USC 360; 21 USC 360(j); 21 USC 371; 21 USC 372

CFR Citation: 21 CFR 897

Legal Deadline: None

Abstract: The proposed rule would clarify the restrictions on the use of nontobacco product names and other identification on tobacco products and would modify the list of established names for smokeless tobacco products.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
Phone: 301 827-3380
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Email: pchao@bangate.fda.gov

RIN: 0910–AB17

1008. EXEMPTION FROM PREEMPTION OF STATE AND LOCAL CIGARETTE AND SMOKELESS TOBACCO REQUIREMENTS; APPLICATIONS FOR EXEMPTION SUBMITTED BY VARIOUS STATE GOVERNMENTS; GROUP 1; GROUP 2

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360k; 21 USC 371

CFR Citation: 21 CFR 808

Legal Deadline: None

Abstract: FDA published a notice of proposed rulemaking on November 7, 1996, announcing that the agency would be accepting applications for exemption from Federal preemption for State and local cigarette and smokeless tobacco requirements. The notice explained that FDA would consider the applications in two groups and set deadlines for submitting applications. Group 1 applications, due December 9, 1996, pertain to State and local requirements governing the sale and distribution of cigarettes and smokeless tobacco that are different from, or in addition to, FDA requirements under section 897.14(a) and section 897.14(b) of the final tobacco rule (the age and identification requirements). Group 2 applications, due May 6, 1997, pertain to State and local requirements governing the sale and distribution of cigarettes and smokeless tobacco that are different from, or in addition to, all other requirements under the final tobacco rule.

Timetable:

Group 1
NPRM 02/19/97 (62 FR 7390)
NPRM Comment Period End 06/23/97
Final Action 11/28/97 (62 FR 63271)
Group 2
NPRM To Be Determined
Groups 1 and 2
Notice 11/07/96 (61 FR 57685)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Formerly listed under RIN 0910-AB03.

Agency Contact: Anne M. Kirchner, Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HFD-11), 5600 Fishers Lane, Room 14-72, Rockville, MD 20857
Phone: 301 827-5321
Fax: 301 443-5169

RIN: 0910–AB19

1009. CITIZEN PETITIONS; ACTIONS THAT CAN BE REQUESTED BY PETITION; SUMMARY DENIAL; AND REFERRAL FOR OTHER ADMINISTRATIVE ACTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 551 to 558; 5 USC 701 to 706; 15 USC 1451 to 1461; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 393; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 28 USC 2112; 42 USC 201; 42 USC 262; 42 USC 263b to 263n; 42 USC 264

CFR Citation: 21 CFR 10

Legal Deadline: None

Abstract: The proposed rule would amend the agency's regulations pertaining to citizen petitions by specifying the types of actions that could be requested through a petition. The proposal would also revise the content requirements for citizen petitions and would establish a mechanism for receiving and filing citizen petitions. These changes are intended to improve the citizen petition mechanism by focusing FDA's resources on important public health issues.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0910–AB73

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Completed Actions

1010. REVIEW OF WARNINGS, USE INSTRUCTIONS, AND PRECAUTIONARY INFORMATION UNDER SECTION 314 OF THE NATIONAL CHILDHOOD VACCINE INJURY ACT OF 1986

Priority: Other Significant

CFR Citation: 21 CFR 601

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans to Issue A Guidance	03/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Steven F. Falter
Phone: 301 827-6210

RIN: 0910–AA14

1011. TAMPER-EVIDENT PACKAGING REQUIREMENTS FOR OVER-THE-COUNTER HUMAN DRUG PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 211

Completed:

Reason	Date	FR Cite
Final Action	11/04/98	63 FR 59463
Final Action Effective	12/04/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Howard P. Muller
Phone: 301 594-2041
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RIN: 0910–AA26

1012. AMALGAM INGREDIENT LABELING

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 801

Completed:

Reason	Date	FR Cite
Withdrawn - No action planned at this time	03/12/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan
Phone: 301 594-4765

RIN: 0910–AA33

1013. PRESCRIPTION DRUG PRODUCT LABELING; MEDICATION GUIDE

Priority: Other Significant

CFR Citation: 21 CFR 201; 21 CFR 208; 21 CFR 314; 21 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	12/01/98	63 FR 66378
Final Action Effective	06/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Nancy M. Ostrove
Phone: 301 594-6828

RIN: 0910–AA37

1014. LONG-TERM CONTRACEPTIVE DRUG PRODUCTS AND MEDICAL DEVICES; INFORMED CONSENT REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 21 CFR 201; 21 CFR 801

Completed:

Reason	Date	FR Cite
Withdrawn	01/28/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine M. Everett
Phone: 301 827-0938

RIN: 0910–AA75

1015. ANIMAL DRUG APPROVALS FOR MINOR SPECIES AND MINOR USAGE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time	03/12/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Linda Wilmot
Phone: 301 827-0135

RIN: 0910–AB07

1016. REGULATIONS REQUIRING MANUFACTURERS TO ASSESS THE SAFETY AND EFFECTIVENESS OF NEW DRUGS AND BIOLOGICAL PRODUCTS IN PEDIATRIC PATIENTS

Priority: Other Significant

CFR Citation: 21 CFR 200; 21 CFR 312; 21 CFR 314; 21 CFR 601

Completed:

Reason	Date	FR Cite
Final Action	12/02/98	63 FR 66632
Final Action Effective	04/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula Botstein
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RIN: 0910–AB20

1017. DISSEMINATION OF TREATMENT INFORMATION ON UNAPPROVED USES FOR MARKETED DRUGS AND DEVICES

Priority: Other Significant

CFR Citation: 21 CFR 99

Completed:

Reason	Date	FR Cite
Final Action	11/20/98	63 FR 64556

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Dotzel
Phone: 301 827-5321
Fax: 301 443-5169

RIN: 0910–AB23

1018. REVOCATION OF ANTIBIOTIC CERTIFICATION REQUIREMENTS; CONFORMING REVISIONS TO REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 21 CFR 2; 21 CFR 3; 21 CFR 5; 21 CFR 10; 21 CFR 12; 21 CFR

16; 21 CFR 20; 21 CFR 25; 21 CFR 50; 21 CFR 54; 21 CFR 56; 21 CFR 58; 21 CFR 60; 21 CFR 70; 21 CFR 71; ...

Completed:

Reason	Date	FR Cite
Final Action	01/05/99	64 FR 396
Final Action Effective	05/20/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB32

1019. LIST OF DRUGS THAT HAVE BEEN WITHDRAWN OR REMOVED FROM THE MARKET FOR REASONS OF SAFETY AND EFFECTIVENESS

Priority: Other Significant

CFR Citation: 21 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	03/08/99	64 FR 10944

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB40

1020. CLINICAL HOLD; STREAMLINING CLINICAL RESEARCH

Priority: Other Significant

CFR Citation: 21 CFR 312

Completed:

Reason	Date	FR Cite
Final Action	12/14/98	63 FR 68676
Final Action Effective	04/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrea Masciale
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB41

1021. MEDICAL DEVICES; IDE MODIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 812

Completed:

Reason	Date	FR Cite
Final Action	11/23/98	63 FR 64617

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan
Phone: 301 827-2974

RIN: 0910–AB53

1022. DISPUTE RESOLUTION

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	11/18/98	63 FR 63978

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne O'Shea
Phone: 301 827-3390

RIN: 0910–AB54

1023. EFFECTIVE DATE OF APPROVAL OF AN ABBREVIATED NEW DRUG APPLICATION

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 314

Completed:

Reason	Date	FR Cite
Final Action	11/05/98	63 FR 59710
Final Action Effective	11/10/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Virginia G. Beakes
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB64

1024. MUTUAL RECOG. OF PHARMACEUTICAL GOOD MANUFACTURING INSPECTION RPTS., MED. DEVICE QUALITY SYS. AUDIT RPTS., AND CERTAIN MEDICAL DEVICE PRODUCT EVAL. RPTS.; THE U.S. AND THE EUROPEAN COMMUNITY

Priority: Other Significant

CFR Citation: 21 CFR 26

Completed:

Reason	Date	FR Cite
Final Action	11/06/98	63 FR 60122

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Merton V. Smith
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RIN: 0910–AB75

1025. • FINANCIAL DISCLOSURE BY CLINICAL INVESTIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360; 21 USC 360c to 360j; 21 USC 371; 21 USC 372; 21 USC 373; 21 USC 374; 21 USC 375; 21 USC 376; ...

CFR Citation: 21 CFR 54

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is revising the requirements regarding financial disclosure by clinical investigators in order to add material to the codified language that was inadvertently omitted and to clarify the compliance dates to, in some cases, restrict the retroactive application of certain requirements of the rule. This final rule amends a final rule which published in the Federal Register on February 2, 1998, and appeared in previous Unified Agendas under RIN 0910-AA30.

FDA is making these changes in order to respond to concerns raised by the Pharmaceutical Research Manufacturers Association (hereinafter referred to as "PhRMA"). By making these changes, FDA will be reducing the administrative burden for manufacturers and other affected parties while, at the same time, ensuring that the agency obtains the information that is most relevant to its review of clinical data submitted in marketing applications.

Timetable:

Action	Date	FR Cite
Final Action	12/31/98	63 FR 72171

Regulatory Flexibility Analysis Required: No

HHS—FDA

Completed Actions

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary C. Gross, Office of External Affairs, Department of Health and Human Services, Food and Drug Administration, Office of the Commissioner, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3440

RIN: 0910–AB77

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Final Rule Stage

1026. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: CORPORATE SHIELD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11131

CFR Citation: 45 CFR 60.7

Legal Deadline: None

Abstract: This NPRM proposes to require that, in addition to reporting to the National Practitioner Data Bank medical malpractice payments made where physicians or other health care practitioners are named in medical malpractice actions or claims, judgments or settlements, payments be reported where they are made for the benefit of physicians or other health care practitioners not named in the judgments or settlements but who furnished or failed to furnish the health care services upon which the actions or claims were based. The purpose of this NPRM is to prevent the evasion of the medical malpractice payment reporting requirement of the Data Bank through the agreement of the parties to a lawsuit to use the corporate health care entity to "shield" the parties.

It would also require malpractice payers, in very limited circumstances, when it is impossible to identify the practitioner who furnished or failed to furnish the health care services upon which the actions or claims were based, to report why the practitioner could not be identified, the name of the hospital or health care organization for whose benefit the payment was made.

Timetable:

Action	Date	FR Cite
NPRM	12/24/98	63 FR 71255
NPRM Comment Period End	02/22/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, HRSA, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8A-55, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA41

1027. DESIGNATION OF MEDICALLY UNDERSERVED POPULATIONS AND HEALTH PROFESSIONAL SHORTAGE AREAS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 254b; 42 USC 254e

CFR Citation: 42 CFR 5; 42 CFR 51c

Legal Deadline: None

Abstract: This rule would consolidate the process for designating areas of health professional shortage and medical underservice that apply in several department programs, and would improve the criteria for designating medically underserved populations (MUPs) and Primary Care Health Professional Shortage Areas (HPSAs).

Timetable:

Action	Date	FR Cite
NPRM	09/01/98	63 FR 46538
NPRM Comment Period End	01/04/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Lee, Public Health Analyst, Bureau of Primary Health Care, Department of Health and Human Services, Health Resources and Services Administration, 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-4280

RIN: 0906–AA44

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Completed Actions

1028. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: CHARGE FOR SELF-QUERIES

Priority: Info./Admin./Other

CFR Citation: 45 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	03/01/99	64 FR 9921

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas C. Croft
Phone: 301 443-2300

RIN: 0906–AA42

HHS—HRSA — Completed Actions

1029. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: REPORTING ADVERSE AND NEGATIVE ACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 60

Completed:

Reason	Date	FR Cite
Withdrawn	02/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas C. Croft
Phone: 301 443-2300

RIN: 0906–AA43

1030. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PROVIDERS: CLARIFICATION AND MODERNIZATION OF REGULATORY TERMS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 60

Completed:

Reason	Date	FR Cite
Withdrawn	02/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas C. Croft
Phone: 301 443-2300

RIN: 0906–AA48

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Indian Health Service (IHS)

1031. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT MINIMUM STANDARDS OF CHARACTER

Priority: Info./Admin./Other

Legal Authority: 25 USC 3201 et seq

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: The Indian Health Service (IHS) is proposing to establish regulations as mandated by the Indian Child Protection and Family Violence Protection Act, P.L. 101-630, 25 U.S.C. 3201-3211, that prescribe minimum standards of character for individuals whose duties and responsibilities involve regular contact with, or control over, Indian children.

Timetable:

Action	Date	FR Cite
NPRM	03/25/99	64 FR 14559
NPRM Comment Period End	05/24/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Ramona D. Williams, Child Protection Coordinator, Department of Health and Human Services, Indian Health Service, 5300 Homestead Road NE., Albuquerque, NM 87110
Phone: 505 837-4245

RIN: 0917–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Indian Health Service (IHS)

1032. CURRENTLY EFFECTIVE INDIAN HEALTH SERVICE ELIGIBILITY REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 2001; 42 USC 2003

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: The Department of Health and Human Services is publishing in the Federal Register, final regulations governing eligibility for Indian Health Service. The regulations currently codified at 42 CFR 36 are under moratorium of undetermined length. For the convenience of the public and in conformance with the Administrative Procedures Act, 5 USC 552(a) that the CFR contain currently effective regulations, these regulations are to be codified side by side with the regulation under moratorium.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Betty J. Penn, Regulations Officer, Department of Health and Human Services, Indian Health Service, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20857
Phone: 301 443-1116
Fax: 301 443-2316
Email: bpenn@hqe.ihs.gov

RIN: 0917–AA03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Proposed Rule Stage

National Institutes of Health (NIH)

1033. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: Section 487A of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of educational loans by conducting AIDS research as NIH employees.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD18.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: jm40z@nih.gov

RIN: 0925–AA02

1034. UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY THE NIH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-4

CFR Citation: 42 CFR 68b

Legal Deadline: None

Abstract: Section 487D of the Public Health Service Act, as added by the National Institutes of Health Revitalization Act of 1993, creates a program offering scholarships, in an amount not to exceed $20,000 per year of academic study, to individuals from disadvantaged backgrounds who are enrolled as full-time students at accredited institutions pursuing academic programs appropriate for careers in professions needed by the NIH. For each year of scholarship support, the recipient agrees to service (employment) after graduation, at the NIH, for one year. Additionally, the individual agrees to at least ten consecutive weeks of service (employment) at the NIH during which the individual is attending the institution and receiving the NIH scholarship. The proposed new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE57.

Agency Contact: Jerry Moore, NIH Regulations Officer Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169

RIN: 0925–AA10

1035. NATIONAL RESEARCH SERVICE AWARDS

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 288

CFR Citation: 42 CFR 66

Legal Deadline: None

Abstract: Current HHS regulations will be amended to reflect provisions of the ADAMHA Reorganization Act and the National Institutes of Health Revitalization Act of 1993. New language concerning the service payback obligation will set forth, specifically, that a service payback obligation is incurred only during the first twelve months of postdoctoral support and individuals may pay back this service obligation by engaging in an equal period of health-related teaching or, if the individual finished the first twelve months of support, by engaging in a second year of NRSA supported research training.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: jm40z@nih.gov

RIN: 0925–AA16

1036. REMOVAL OF NATIONAL CANCER INSTITUTE CLINICAL CANCER EDUCATION PROGRAM

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 216

CFR Citation: 42 CFR 52d

Legal Deadline: None

Abstract: Current regulations relating to the National Cancer Institute (NCI) Clinical Cancer Education Program will be rescinded because the regulations are obsolete. Current guidelines by NCI with respect to the care of cancer patients no longer reflect the type of program described in the current regulations. This action will not affect the authority of the Director, NCI, to support appropriate programs of education and training, including clinical research training set forth in section 414 of the Public Health Service Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: jm40z@nih.gov

RIN: 0925–AA17

HHS—NIH **Proposed Rule Stage**

1037. NATIONAL INSTITUTES OF HEALTH LOAN REPAYMENT PROGRAM FOR RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-3

CFR Citation: 42 CFR 68d

Legal Deadline: None

Abstract: Regulations will be issued to govern the awarding of educational loan repayments for research authorized under section 487C of the Public Health Service Act, as added by provisions of the National Institutes of Health Revitalization Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 496-0125
Email: jm40z@nih.gov

RIN: 0925–AA18

1038. NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT CONTRACEPTION AND INFERTILITY RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-2

CFR Citation: 42 CFR 68c

Legal Deadline: None

Abstract: Section 487B of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of education loans by conducting research with respect to contraception and/or infertility.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: jm40z@nih.gov

RIN: 0925–AA19

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH) **Final Rule Stage**

1039. NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 285a-2; 42 USC 285a-3; 42 USC 285b-3; 42 USC 285b-4; 42 USC 285d-6; 42 USC 285i; 42 USC 285m-3; 42 USC 285o-4; 42 USC 287a-2; 42 USC 287a-3; 42 USC 300cc-41

CFR Citation: 42 CFR 52b

Legal Deadline: None

Abstract: Regulations concerning NCI construction grants will be amended to make them generally applicable to all NIH extramural programs with construction grant authority. Additionally, the regulations will be amended to show new administrative and technical requirements, add new procedures for the recovery of grant funds for facilities no longer used for biomedical research, show new Public Health Service Act section numbers, and update the listing of other HHS regulations relevant to construction grants.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35266
NPRM Comment Period End	09/05/95	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD49.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: jm40z@nih.gov

RIN: 0925–AA04

1040. TRAINEESHIPS

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 283g(d)(2); 42 USC 284(b)(1)(C); 42 USC 286b-3

CFR Citation: 42 CFR 63

Legal Deadline: None

Abstract: Regulations governing NIH traineeships will be amended to set forth additional conditions under which awards may be terminated.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58336
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE62.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: jm40z@nih.gov

RIN: 0925–AA11

HHS—NIH

Final Rule Stage

1041. ADDITIONAL DHHS PROTECTIONS FOR PREGNANT WOMEN AND HUMAN FETUSES INVOLVED AS SUBJECTS IN RESEARCH, AND PERTAINING TO HUMAN IN VITRO FERTILIZATION

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 289

CFR Citation: 45 CFR 46, subpart B

Legal Deadline: None

Abstract: Current regulations which have been in effect for two decades will be revised to reflect provisions of Public Law 103-43 and recent changes in NIH and FDA policies on the involvement of women and human fetuses in research.

Timetable:

Action	Date	FR Cite
NPRM	05/20/98	63 FR 27794
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michele Russell-Einhorn, J.D., Director of Regulatory Affairs, Department of Health and Human Services, National Institutes of Health, Office for Protection from Research Risks, 6100 Executive Blvd., Ste. 3B01, MSC 7507, Rockville, MD 20892-7507
Phone: 301 435-5649
Fax: 301 402-2071

RIN: 0925–AA14

1042. SCIENTIFIC PEER REVIEW OF RESEARCH GRANT APPLICATIONS AND RESEARCH AND DEVELOPMENT CONTRACT PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 282(b)(6); 42 USC 284(c)(3); 42 USC 289a; 42 USC 290aa-3

CFR Citation: 42 CFR 52h

Legal Deadline: None

Abstract: NIH staff have been reexamining the peer review process as part of its reinvention initiatives and have found ambiguities, misstatements, and voids in the existing regulations. These regulations, which govern the first level of review, are being amended to reflect current policies and procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: jm40z@nih.gov

RIN: 0925–AA20

1043. FEDERAL POLICY (COMMON RULE) FOR THE PROTECTION OF HUMAN SUBJECTS

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 289; 42 USC 300v-1(b)

CFR Citation: 45 CFR 46

Legal Deadline: None
The President's Memorandum prohibits agencies from conducting or supporting classified human subject research without having proposed and promulgated the common rule and the changes.

Abstract: In compliance with the President's Memorandum of March 27, 1997, this interim final rule would amend the Federal Policy (common rule) for the Protection of Human Subjects to add a new section that applies only to classified research involving human subjects. The new section would modify the Federal Policy by (1) prohibiting any executive branch agency from engaging in classified research involving human subjects unless the agency has adopted the Federal Policy and the interim final rule; (2) eliminating the availability of waiver of informed consent and expedited review for classified research involving human subjects; (3) enhancing the informed consent requirements and allowing for disclosure of classified information if necessary; and (4) changing the composition of the institutional review board (IRB) and establishing a process for individual IRB approvals of classified research.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michele Russell-Einhorn, J.D., Director of Regulatory Affairs, Department of Health and Human Services, National Institutes of Health, Office for Protection from Research Risks, 6100 Executive Blvd., Room 3B01, MSC 7505, Rockville, MD 29852
Phone: 301 496-7005
Fax: 301 402-2071

RIN: 0925–AA21

1044. SERVICE FELLOWSHIPS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 209; 42 USC 210; 42 USC 216

CFR Citation: 42 CFR 61, subpart B

Legal Deadline: None

Abstract: This interim final rule would amend the regulations governing service fellowships by revising the current authority citation, extending the time limitation on initial appointments from 2 to 5 years, permitting extensions of appointments for up to 5 years rather than year-to-year, and removing obsolete references to the Surgeon General and obsolete requirements regarding the qualifications of applicants. These changes are being made to provide HHS health agencies with greater flexibility to recruit and retain their talented scientists and to update obsolete references.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/27/98	63 FR 9949
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

HHS—NIH **Final Rule Stage**

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: jm40z@nih.gov

RIN: 0925–AA22

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions
National Institutes of Health (NIH)

1045. NATIONAL INSTITUTES OF HEALTH CLINICAL RESEARCH LOAN REPAYMENT PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 68a

Completed:

Reason	Date	FR Cite
Final Action	10/30/98	63 FR 58312

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore
Phone: 301 496-4606
Fax: 301 402-0169
Email: jm40z@nih.gov

RIN: 0925–AA09

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Office of Public Health and Science (OPHS)

1046. PUBLIC HEALTH SERVICE STANDARDS FOR THE PROTECTION OF RESEARCH MISCONDUCT WHISTLEBLOWERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 94

Legal Deadline: None

Abstract: To implement section 493(e) of the Public Health Service Act (added by section 163 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43), the Department is proposing to add new part 94 to title 42 of the Code of Federal Regulations. Under this proposed regulation, covered institutions must follow certain requirements for preventing and responding to occurrences of retaliation against whistleblowers. The purpose of this part is to protect: (1) persons who make a good faith allegation that a covered institution or member thereof engaged in, or failed to adequately respond to an allegation of, research misconduct, and (2) persons who cooperate in good faith with an investigation of research misconduct.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Barbara Bullman, Policy Analyst, Office of Research Integrity, Department of Health and Human Services, 5515 Security Lane, Suite 700, Rockville, MD 20852
Phone: 301 443-5300
Fax: 301 443-5351

RIN: 0940–AA01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Long-Term Actions
Office of Public Health and Science (OPHS)

1047. STANDARDS OF COMPLIANCE FOR ABORTION-RELATED SERVICES IN FAMILY PLANNING SERVICE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300a-4

CFR Citation: 42 CFR 59

Legal Deadline: None

Abstract: This rule would return the Family Planning Service Program, funded under title X of the Public Health Service Act, to the regulatory standard operative prior to February 2, 1988, with regard to the statutory provision prohibiting abortion as a method of family planning in projects funded under that title.

Timetable:

Action	Date	FR Cite
NPRM	02/05/93	58 FR 7464
NPRM Comment Period End	08/09/93	58 FR 34024
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AE03.

Agency Contact: Denise Shervington, Acting Deputy Assistant Secretary for Population Affairs, Department of Health and Human Services, East-West Towers, Suite 200, West Bldg., 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-4001

RIN: 0940–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Completed Actions**
Office of Assistant Secretary for Health (OASH)

1048. STANDARDS OF COMPLIANCE FOR ABORTION-RELATED SERVICES IN FAMILY PLANNING SERVICE PROJECTS

Completed:

Reason	Date	FR Cite
Transfer Development to - RIN 0940-AA00	04/15/99	

RIN: 0937–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Completed Actions**
Public Health Service (PHS)

1049. PUBLIC HEALTH SERVICE STANDARDS FOR THE PROTECTION OF RESEARCH MISCONDUCT WHISTLEBLOWERS

Completed:

Reason	Date	FR Cite
Transfer Development to - RIN 0940-AA01	04/15/99	

RIN: 0905–AE71

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Proposed Rule Stage**
Health Care Financing Administration (HCFA)

1050. MEDICARE COVERAGE OF HEART, LIVER, AND LUNG TRANSPLANTATION (HCFA-3835-PN)

Priority: Other Significant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This notice proposes to revise the criteria for approval of a facility to perform Medicare covered transplants. The revised criteria would focus on a facility's ability to perform successful transplants, rather than on a facility's policies and procedures.

Timetable:

Action	Date	FR Cite
Proposed Notice	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-3835-PN

Agency Contact: Jacqueline Sheridan, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244 Phone: 410 786-4653

RIN: 0938–AH17

1051. CHILDREN'S HEALTH INSURANCE: PROGRAM IMPLEMENTATION; STATE PLAN APPROVAL; STATE PAYMENT; COORDINATION WITH STATE MEDICAID PROGRAM (HCFA-2006-P)

Priority: Economically Significant

Legal Authority: PL 105-33, sec 4901 to 4913

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: Several proposed rules will include regulations for States on the implementation of the new State Children's Health Insurance Program (CHIP) under title XXI of the Social Security Act and corresponding changes to title XIX (Medicaid). The CHIP program was established to provide Federal funding to help States to initiate and expand child health assistance to uninsured, low-income children. The regulations will address a variety of aspects of CHIP, including but not limited to the procedure for approving State child health plans, policies on the issuance of grants and the distribution of payments to States with approved plans and the coordination of a State's approved child health plan with its Medicaid program. The following changes related to title XIX will be included among the regulations: (1) the Medicaid option for targeted low-income children; (2) Medicaid optional presumptive eligibility for children; and (3) the Medicaid option to accelerate phase-in of poverty level group for children up to 19. The regulations will also establish financial rules that would apply to the treatment of various program expenditures.

Timetable:

Action	Date	FR Cite
NPRM Allotments and State Payment Policies	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

HHS—HCFA

Proposed Rule Stage

Government Levels Affected: State, Local, Federal

Agency Contact: Rick Fenton, Center for Medical and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5647

RIN: 0938–AI28

1052. APPEALS OF CARRIER DETERMINATION THAT A SUPPLIER FAILS TO MEET THE REQUIREMENTS FOR MEDICARE BILLING PRIVILEGES (HCFA-6003-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395u(b)(3)(C); 42 USC 1395ff(b)

CFR Citation: 42 CFR 405.874

Legal Deadline: None

Abstract: This rule would establish an administrative appeal process whereby suppliers can request an appeal for a determination that affects their Medicare part B billing number. The purpose of this rule is to update and clarify our policy and extend administrative appeal rights to all current and prospective suppliers who are denied enrollment in the Medicare program or whose Medicare billing privileges are revoked. This rule does not apply to those suppliers covered under the appeals provisions for our regulations at 42 CFR 498.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Waldhauser, Division of Provider/Supplier Enrollment, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244-1850
Phone: 410 786-6140

RIN: 0938–AI49

1053. PROSPECTIVE FEE SCHEDULE FOR AMBULANCE SERVICES (HCFA-1002-NR)

Priority: Other Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 105-33, sec 4531(b)

CFR Citation: 42 CFR 410

Legal Deadline: Final, Statutory, January 1, 2020.

Abstract: The Balanced Budget Act of 1997 requires that the Secretary establish a fee schedule for ambulance services through negotiated rulemaking. The fee schedule is to be effective beginning with services furnished on or after January 1, 2000. In addition to setting the payment rates, the Secretary is to ensure that the aggregate amount of payment made for ambulance services in 2000 may not exceed the amount of payment that would have been made absent the fee schedule. This is a cap on payment, not a budget neutrality adjustment. The Secretary is to consult with national organizations representing individuals and entities that furnish and regulate ambulance services and share relevant data with these organizations. This provision will be met through the negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
Notice of Intent To Negotiate	01/22/99	64 FR 3474
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Edwards, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4531
Email: nedwards@hcfa.gov

RIN: 0938–AI72

1054. COVERAGE AND ADMINISTRATIVE POLICIES FOR CLINICAL DIAGNOSTIC LABORATORY TESTS; INTENT TO FORM NEGOTIATED RULEMAKING COMMITTEE (HCFA-3250-NOI)

Priority: Other Significant

Legal Authority: PL 105-33, sec 4554(b)(i)

CFR Citation: 42 CFR ch IV

Legal Deadline: Final, Statutory, January 1, 1999.

Abstract: The Balanced Budget Act of 1997 requires the Secretary to establish a negotiated rulemaking committee under the Negotiated Rulemaking Act and Federal Advisory Committee Act. The Negotiated Rulemaking Committee's (the Committee's) purpose will be to negotiate national coverage and administrative policies for clinical diagnostic laboratory tests under part B of the Medicare program. The Committee will consist of representatives of interested parties that are likely to be significantly affected by the proposed rule. The Committee will be assisted by a neutral facilitator. This notice outlines the scope of issues to be negotiated by the Committee and requests public comments as to whether we have identified the interests that will be affected by the key issues.

Timetable:

Action	Date	FR Cite
Notice of Intent to Negotiate	06/03/98	63 FR 30166
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Jackie Sheridan, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4635

RIN: 0938–AI92

1055. • MEDICARE AND MEDICAID PROGRAMS; QUARTERLY LISTING OF PROGRAM ISSUANCES—THIRD QUARTER, 1998 (HCFA-9000-N)

Priority: Routine and Frequent

Legal Authority: PL 105-33, sec 1871

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice lists HCFA manual instructions, substantive and interpretive regulations, and other Federal Register notices that were published during July, August and September of 1998 that relate to the Medicare and Medicaid programs. It also identifies certain devices with investigational device exemption numbers approved by the Food and Drug Administration that may be potentially covered under Medicare.

HHS—HCFA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kristy Nishimoto, OCOS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C5-16-03, Baltimore, MD 21244
Phone: 410 786-8517

RIN: 0938–AJ37

1056. • RECOGNITION OF THE COMMUNITY HEALTH ACCREDITATION PROGRAM, INC., (CHAP), (HCFA-2029-FN)

Priority: Routine and Frequent

Legal Authority: 42 USC 1395bb

CFR Citation: 42 CFR ch IV

Legal Deadline: Other, Statutory, February 5, 1999.
On 12/10/98 CHAP, rather than be denied and have to reapply, requested an extension of the time period to all resolution of outstanding issues. Extension was granted.

Abstract: This notice recognizes the Community Health Accreditation Program Inc. (CHAP) as a national accreditation organization for hospices that request participation in the Medicare program. We believe that accreditation of hospices by CHAP demonstrates that all Medicare hospice conditions of participation are met or exceeded. Thus, we grant deemed status to those hospices accredited by CHAP.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Joan Berry, CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-7233

RIN: 0938–AJ42

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Final Rule Stage

1057. MEDICARE PROGRAM: LIMITATIONS ON MEDICARE COVERAGE OF INTERMITTENT POSITIVE PRESSURE BREATHING MACHINE THERAPY (HCFA-3781-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395y(a)(1)(A)

CFR Citation: 45 CFR 500

Legal Deadline: None

Abstract: Intermittent positive pressure breathing (IPPB) machine therapy is currently covered under Medicare as durable medical equipment for patients whose ability to breathe is severely impaired. Based on an Office of Health Technology Assessment recommendation, we will place limitations on Medicare coverage of IPPB machine therapy.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/29/94	59 FR 33520
Comment Period End	08/29/94	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-781

Agency Contact: Francine Spencer, Office of Clinical Standards and Quality, Coverage and Analysis Group, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4614

RIN: 0938–AG44

1058. TELEPHONE REQUESTS FOR REVIEW OF PART B INITIAL CLAIM DETERMINATIONS (HCFA-4121-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395ff(b); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395u(b)(3)(C)

CFR Citation: 42 CFR 405.802; 42 CFR 405.807

Legal Deadline: None

Abstract: This rule will make it easier for beneficiaries, providers, and suppliers, who are entitled to appeal Medicare part B initial claim determinations to request a review of the carrier's initial determination. Currently, these initial claim requests must be in writing. This final rule will allow those requests to be made by telephone, which will expedite the appeals process, and save time and costs for all parties. Allowing the use of telephone requests will supplement, not replace, the current procedures for initiating appeals. By providing quick and easy access to the appeals process, this rule will also improve carrier relationships with the beneficiary, physician and other suppliers.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35544
NPRM Comment Period End	09/08/95	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPO-121

Agency Contact: Rosalind Little, Center for Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, S1-05-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6972

RIN: 0938–AG48

HHS—HCFA

Final Rule Stage

1059. CLIA PROGRAM: CATEGORIZATION OF WAIVED TESTS (HCFA-2225-FC)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.2; 42 CFR 493.7; 42 CFR 493.8; 42 CFR 493.9; 42 CFR 493.15; 42 CFR 493.20; 42 CFR 493.25; 42 CFR 493.35; 42 CFR 493.37; 42 CFR 493.39; 42 CFR 493.45; 42 GFR 493.47; 42 CFR 493.49; 42 CFR 493.53; 42 CFR 493.1775

Legal Deadline: None

Abstract: As part of the CLIA program (see RIN: 0938-AE47), this rule will revise our current process of evaluating tests against generic criteria. A waiver will be granted to any test that meets the statutory criteria, provided that scientifically valid data are submitted verifying that the criteria were met.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47534
NPRM Comment Period End	11/13/95	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-225

Agency Contact: Judy Yost, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-09-28, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3531

RIN: 0938–AG99

1060. ADDITIONAL SUPPLIER STANDARDS (HCFA-6004-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 424.57

Legal Deadline: None

Abstract: This rule will establish additional standards for entities seeking to qualify as Medicare suppliers for purposes of submitting claims for durable medical equipment and supplies. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	01/20/98	63 FR 2926
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-1864-P

Agency Contact: Charles Waldhauser, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-13-03, 7500 Security Boulevard, Baltimore, MD 21214
Phone: 410 786-6140

RIN: 0938–AH19

1061. REQUIREMENTS FOR ENROLLMENT OF MEDICAID RECIPIENTS UNDER COST EFFECTIVE EMPLOYER-BASED GROUP HEALTH PLANS (HCFA-2047-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(u)(1); 42 USC 1396d(a); 42 USC 1396a(a)(25); 42 USC 1396a(e); 42 USC 1396e

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This final rule with comment period amends our regulations to incorporate an optional statutory requirement that States may require, as a condition of Medicaid eligibility, enrollment of certain Medicaid eligibles in employer-based group health plans determined cost-effective by States under guidelines approved by HCFA. If this option is elected by the State, it also requires States to pay all premiums, deductibles, coinsurance, and other cost-sharing obligations under these group health plans for services otherwise covered under the approved Medicaid State plans. In addition, this final rule with comment period provides for Medicaid payment of premiums for certain individuals who are entitled to elect continuation coverage provided for in the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), Public Law 99-272, under a group health plan provided by an employer with 75 or more employees.

This final rule with comment period conforms our regulations to sections 4402 and 4713 of the Omnibus Budget Reconciliation Act of 1990 and section 4741 of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31569
NPRM Comment Period End	08/19/94	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: MB-047

Previously published under RIN 0938-AF64.

Agency Contact: Gwendolyn Talvert, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-15-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5928
Email: gtalvert@hcfa.gov

RIN: 0938–AH48

1062. TERMS, DEFINITIONS, AND ADDRESSES: TECHNICAL AMENDMENTS (HCFA-9877-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1)(A); 42 USC 1395hh

CFR Citation: 42 CFR 400 to 420; 42 CFR 421 to 430; 42 CFR 431 to 440; 42 CFR 442 to 447; 42 CFR 455 to 456; 42 CFR 462 to 466; 42 CFR 473 to 476; 42 CFR 482 to 489; 42 CFR 491 to 498

Legal Deadline: None

Abstract: This is a technical final rule with comment period that will initiate the rationalization of our system of definitions, correct outdated addresses and formulas, clarify which steps of the appeals process are binding and which

are final, remove content that is duplicative or unnecessary, and make other clarifying editorial changes.

Timetable:

Action	Date	FR Cite
Final With Comment Period	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-877

Agency Contact: Luisa V. Iglesias, Division of Regulation and Issuances, Department of Health and Human Services, Health Care Financing Administration, Room 409-B, Hubert H. Humphrey Bldg., 200 Independence Avenue SW., Washington, DC
Phone: 202 690-6383

RIN: 0938–AH53

1063. UTILIZATION CONTROL AND DISCONTINUED REVIEW ACTIVITIES; MEDICAID (HCFA-2101-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(26); 42 USC 1396a(a)(30); 42 USC 1396a(a)(31); 42 USC 1396a(a)(44); 42 USC 1396b(g)

CFR Citation: 42 CFR 400; 42 CFR 431; 42 CFR 456

Legal Deadline: None

Abstract: This final rule with comment period amends current regulations to reflect statutory changes under which physician certification, plan of care, and utilization review requirements become State plan requirements and are no longer included in the quarterly "showings" of compliance that States must submit. Those showings are now limited to inspection of care reviews in institutions for mental diseases and intermediate care facilities for the mentally retarded. The rule also reflects the discontinuance of the State-operated claims processing assessment system and of regional office review of a subsample of each State's Medicaid quality control sample.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: MB-101

Agency Contact: Pamelia Butler, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6776

RIN: 0938–AH64

1064. INDIVIDUAL MARKET HEALTH INS. REFORM PORTABILITY FROM GROUP TO INDIV. COVERAGE; FEDERAL RULES FOR ACCESS IN THE INDIV. MARKET; STATE ALTERNATIVE MECHANISMS TO FEDERAL RULES (HCFA-2882-F)

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 300gg-41 et seq

CFR Citation: 45 CFR 148

Legal Deadline: None

Abstract: This final rule will address comments received on the interim final rule published on April 8, 1997 and further clarifies the Departmental position on HIPAA requirements in the individual market.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16985
Interim Final Rule Effective Date	04/08/97	
Interim Final Rule Comment Period End	07/07/97	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: BPD-882-F

Agency Contact: Gertrude Saunders, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5888

RIN: 0938–AH75

1065. UPDATE OF RATESETTING METHODOLOGY, PAYMENT RATES AND THE LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS EFFECTIVE FOR CALENDAR YEAR 1998 (HCFA-1885-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 13951(i)(2)(A)

CFR Citation: 42 CFR 416.61(b); 42 CFR 416.65(a)(4); 42 CFR 416.65(c); 42 CFR 416.120(c)(1); 42 CFR 416.125; 42 CFR 416.130; 42 CFR 416.140(a); 42 CFR 416.140(b); 42 CFR 488.1

Legal Deadline: None

Abstract: This proposed rule discusses several policy changes affecting coverage of and payment for Ambulatory Surgical Center (ASC) facility services as provided under sections 1833(i)(1A) and (2A) of the Social Security Act. It would include the criteria for identifying procedures that are appropriate and safely performed in an ASC; the method used to set ASC payment rates; and the schedule for publishing and implementing payment and coverage updates.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32290
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-885-P

Agency Contact: Joan Sanow, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5723

RIN: 0938–AH81

HHS—HCFA

Final Rule Stage

1066. MEDICALLY NEEDY DETERMINATIONS UNDER WELFARE REFORM (HCFA-2109-IFC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(10)(C)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This interim final rule with comment period will revise our rules to allow States to include individuals who are described as categorically needy to be covered as medically needy. The State must specify the income and resources criteria for the medically needy group in the State plan. If an individual is also described as categorically needy, the individual would receive Medicaid as categorically needy if the State elected to cover the categorically needy group into which the individual fits. If the State has not elected to cover that group, the individual would be medically needy. This change will allow more individuals to become eligible for Medicaid as medically needy and eliminate an inequity in current regulations. This revision also allows some individuals who would otherwise lose their Medicaid benefits to retain their eligibility.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: MB-109

Agency Contact: Jackie Wilder, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S2-16-17, Baltimore, MD 21244
Phone: 410 786-4579

RIN: 0938–AH92

1067. MEDICARE+CHOICE PROGRAM (HCFA-1030-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395(w)21 to 27; 42 USC 1395hh

CFR Citation: 42 CFR 422

Legal Deadline: None

Abstract: The purpose of this final rule is to set forth limited changes to the Medicare+Choice regulations published in our June 26, 1998 interim final rule (63 FR 34968). Those regulations implemented section 4001 of the Balanced Budget Act of 1997 (BBA), which established the Medicare+Choice (M+C) program. This final rule addresses selected issues raised by commenters on the June 26, 1998 interim final rule where we have identified the need for changes or where we believe that clarifications are needed as soon as possible. Among these issues are provider participation procedures, beneficiary enrollment options, and several access-related issues, including initial care assessment requirements, notification requirements when specialists are terminated from an M+C plan, and several coordination of care requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/98	63 FR 34968
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anthony Hausner, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1093

RIN: 0938–AI29

1068. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES. (HCFA-1913-IFC)

Priority: Economically Significant

Legal Authority: PL 105-33, sec 4432(a)

CFR Citation: 42 CFR 409; 42 CFR 410; 42 CFR 411; 42 CFR 413; 42 CFR 483; 42 CFR 489

Legal Deadline: None

Abstract: This interim final rule implements provisions in section 4432 of the Balanced Budget Act of 1997 related to Medicare payment for skilled nursing facility services. These include the implementation of a Medicare prospective payment system for skilled nursing facilities, consolidated billing, and a number of related changes. The prospective payment system described in this rule replaces the retrospective reasonable cost based system currently utilized by Medicare for payment of skilled nursing facility services under part A of the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/12/98	63 FR 26252
Final Action	07/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Laurence Wilson, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-7-04, Baltimore, MD 21244
Phone: 410 786-4603

RIN: 0938–AI47

1069. SURETY BOND REQUIREMENTS FOR COMPREHENSIVE OUTPATIENT REHAB. FACILITIES, REHAB. AGENCIES, COMMUNITY MENTAL HEALTH CENTERS, AND INDEPENDENT DIAGNOSTIC TESTING FACILITIES (HCFA-6005-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x(v); 42 USC 1395hh

CFR Citation: 42 CFR 413; 42 CFR 489

Legal Deadline: None

Abstract: The Balanced Budget Act of 1997 (BBA 1997) requires suppliers of durable medical equipment, home health agencies, comprehensive outpatient rehabilitation facilities, and rehabilitation agencies to furnish us with a surety bond in order to participate in the Medicare Program. The BBA 1997 also affords us the discretion to require other health care providers (other than physicians or

other practitioners) to furnish us with a surety bond to participate in the Medicare program. This proposed rule discusses the implementation of these provisions to require comprehensive outpatient rehabilitation facilities, rehabilitation agencies, and certain other providers and suppliers we have selected to furnish us with a surety bond on a continuing basis in order to participate in the Medicare program.

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ralph Goldberg, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@hcfa.gov

RIN: 0938–AI48

1070. MEDICAID PROGRAM; HOME AND COMMUNITY-BASED SERVICES (HCFA-2010-FC)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1302; PL 105-33, sec 4743

CFR Citation: 42 CFR 440; 42 CFR 441

Legal Deadline: None

Abstract: This final rule with comment period expands State flexibility in providing prevocational, educational and supported employment services under the Medicaid home and community-based services waiver provisions of section 1915(c) of the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Bill Coons, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5921

RIN: 0938–AI67

1071. SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS (HCFA-1011-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395w-21 to 1395w-27; 42 USC 1395hh

CFR Citation: 42 CFR 422

Legal Deadline: None

Abstract: This final rule establishes solvency standards for provider-sponsored organizations (PSOs) under the new Medicare+Choice Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/07/98	63 FR 25360
Interim Final Rule Effective	05/07/98	
Interim Final Rule Comment Period End	07/06/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marty Abeln, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1032

RIN: 0938–AI83

1072. COVERAGE OF RELIGIOUS NON-MEDICAL HEALTH CARE INSTITUTIONS (HCFA-1909-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-5; 42 USC 1395x(e), (y), and (ss); 42 USC 1395ff; 42 USC 1395oo; 42 USC 1302

CFR Citation: 42 CFR 403; 42 CFR 412.90; 42 CFR 412.98; 42 CFR 431.610; 42 CFR 440.155; 42 CFR 442.12; 42 CFR 456.351; 42 CFR 456.601; 42 CFR 466.1; 42 CFR 440.170; 42 CFR 488.2; 42 CFR 488.6; 42 CFR 489.102

Legal Deadline: Final, Statutory, July 1, 1998.

Abstract: This final rule with comment period implements section 4454 of the Balanced Budget Act of 1997 (BBA 1997), which amended section 1861 of the Social Security Act (the Act) and added a new section 1821 to the Act. Section 4454 of BBA 1997 removed all references to Christian Science and Christian sanatoria from the Act and substituted religious nonmedical health care institutions in their place. This change permits any religious organization to apply to be paid for furnishing nonmedical services under Medicare. Section 4454 also authorizes payment for such services as an option benefit under State Medicaid plans. The rule sets forth minimum requirements and conditions of participation to qualify as a religious nonmedical health care institution for purposes of receiving payment for services furnished under Medicare and Medicaid.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jean Marie Moore, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3508

RIN: 0938–AI93

1073. REPORTING OUTCOME AND ASSESSMENT INFORMATION SET (OASIS) DATA AS PART OF THE CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES (HCFA-3006-IFC)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 1302; 42 USC 1395(hh)

CFR Citation: 42 CFR 484.11; 42 CFR 484.20; 42 CFR 488.68

Legal Deadline: None

Abstract: This interim final rule with comment period requires electronic reporting of data from the Outcome and Assessment Information Set (OASIS) as a condition of participation for HHAs.

HHS—HCFA **Final Rule Stage**

Specifically, this rule provides guidelines for HHAs for the electronic transmission of the OASIS data set as well as responsibilities of the State agency or contractor in collecting and transmitting this information to HCFA. This interim final rule also sets forth provisions concerning the privacy of patient identifiable information generated by the OASIS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/25/99	64 FR 3748
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Tracey Mummert, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD
Phone: 410 786-3398

RIN: 0938–AJ10

1074. • ESTABLISHMENT OF A PROGRAM TO COLLECT SUGGESTIONS FOR IMPROVING MEDICARE PROGRAM EFFICIENCY AND TO REWARD SUGGESTORS (HCFA-4000-FC)

Priority: Other Significant

Legal Authority: PL 104-191, sec 203(c)1; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 420.410

Legal Deadline: None

Abstract: This rule establishes a suggestion program as a means of (1) encouraging individuals to submit suggestions and (2) rewarding individuals who make suggestions for improving the efficiency of the Medicare program in those instances in which HCFA deems that it is appropriate and when a reward is not otherwise provided by law. The rule describes the program, lists information requirements and eligibility criteria, establishes an upper limit for payments, and outlines the process and time limitations for obtaining a reward.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sam Della Vecchia, CBS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4481

RIN: 0938–AJ30

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA) **Long-Term Actions**

1075. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS (HCFA-1309-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395k; 42 USC 1395l; 42 USC 1395x; 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395tt; 42 USC 1395ww; 42 USC 1396b

CFR Citation: 42 CFR 405; 42 CFR 413; 42 CFR 414; 42 CFR 424; 42 CFR 431; 42 CFR 447

Legal Deadline: None

Abstract: This rule will incorporate provisions of the Deficit Reduction Act of 1984, COBRA '85, OBRA '86, OBRA '87, TMRA '88, OBRA '89, and OBRA '90 regarding payment and "assignment" for diagnostic clinical laboratory tests establishing in regulations the methods for implementing fee schedules. This rule will set forth the methods by which the fee schedules will be updated and will allow certain adjustments for exceptions to the fee schedule. It will also reflect a statutory revision mandated by OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	08/18/93	58 FR 43156
NPRM Comment Period End	10/18/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-309

Agency Contact: Cathy Black, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4544

RIN: 0938–AB50

1076. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS (HCFA-3135-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1320c; 42 USC 1396a(a)(30); 42 USC 1395cc(a)

CFR Citation: 42 CFR 400.200; 42 CFR 411.15; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 462.1; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 42 CFR 466.1; 42 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83

Legal Deadline: None

Abstract: This rule will set forth several changes to regulations that govern Peer Review Organizations (PROs) and is based on statutory changes contained in COBRA '85 and OBRA '86. In addition, several technical changes will be included as a result of experience gained with the PRO program by HCFA. This rule also implements the new quality review requirements for certain Medicaid health maintenance organization contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HSQ-135

Agency Contact: Bill Roskey, Office of Clinical Standards and Quality, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Blvd., Baltimore, MD 21244 Phone: 410 786-0433

RIN: 0938–AD38

1077. OMNIBUS NURSING HOME REFORM REQUIREMENTS (HCFA-3488-F)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395i-3; 42 USC 1395x; 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 431; 42 CFR 482; 42 CFR 483; 42 CFR 488

Legal Deadline: None

Abstract: This final rule will implement several provisions of OBRA '87 that concern services to residents of nursing homes. This rule will implement provisions that include Federal standards for evaluating State waivers of nursing facility nurse staffing requirements, use of physical and chemical restraints in nursing facilities, qualifications of facility administrators, notice of Medicaid rights to be given to persons admitted to nursing facilities, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	02/05/92	57 FR 4516
NPRM Comment Period End	04/06/92	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-488

Agency Contact: Nancy Archer, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244 Phone: 410 786-0596

RIN: 0938–AD81

1078. "WITHOUT FAULT" AND BENEFICIARY WAIVER OF RECOVERY AS IT APPLIES TO MEDICARE OVERPAYMENT LIABILITY (HCFA-1719-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395gg

CFR Citation: 42 CFR 401; 42 CFR 403.310; 42 CFR 405; 42 CFR 410.1; 42 CFR 411.23; 42 CFR 411.28; 42 CFR 413.20; 42 CFR 413.153; 42 CFR 447.31; 42 CFR 466.86; 42 CFR 466.94; 42 CFR 473.14; 42 CFR 493.1834

Legal Deadline: None

Abstract: This rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, supplier, and beneficiary liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries. Additionally, this rule would amend the Medicare regulations governing liability for overpayments to eliminate application of certain regulations of the Social Security Administration and to replace them with HCFA regulations more specific to circumstances involving Medicare overpayments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-719

Agency Contact: David Walczak, Center for Health Plans and Providers, Plan & Provider Purchasing Policy Group, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Blvd., Baltimore, MD 21244 Phone: 410 786-4475

RIN: 0938–AD95

1079. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSES OF INSTITUTIONALIZED INDIVIDUALS (HCFA-2023-P)

Priority: Other Significant

Legal Authority: 42 USC 1396r-5; 42 USC 1302

CFR Citation: 42 CFR 435.650 to 674; 42 CFR 435.750 to 754

Legal Deadline: None

Abstract: This rule would interpret statutory changes made in 1988, 1989, 1990 and 1993 that allocate income and resources between an institutionalized spouse and the spouse remaining in the community. It would also provide special post-eligibility rules for institutionalized individuals who have spouses in the community to retain more income to meet living expenses.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Additional Information: HCFA-2023

Agency Contact: Roy Trudel, Center for Medicaid & State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-20-15, 7500 Security Boulevard, Baltimore, MD 21244 Phone: 410 786-3417

RIN: 0938–AE12

1080. SURVEY REQUIREMENTS AND ALTERNATIVE SANCTIONS FOR HOME HEALTH AGENCIES (HCFA-2169-F)

Priority: Other Significant

Legal Authority: 42 USC 1395bbb; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: These rules will establish periodic, unannounced surveys of home health agencies (HHAs) and other survey requirements and also will specify sanctions that could be used when an HHA is out of compliance with Federal requirements (as an alternative or in addition to terminating an HHA's participation in the Medicare program).

Timetable:

Action	Date	FR Cite
NPRM	08/02/91	56 FR 37054
NPRM Comment Period End	10/01/91	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: HSQ-169

Pending completion of RIN 0938-AG81 (HCFA-3819-P)

Agency Contact: Patricia Miller, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-19-14, 7500 Security Blvd., Baltimore, MD 21244 Phone: 410 786-6780

RIN: 0938–AE39

1081. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) SERVICES (HCFA-2028-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(43); 42 USC 1396d(r)

CFR Citation: 42 CFR 441.50; 42 CFR 440.40

Legal Deadline: None

Abstract: Section 1905(r) of the Social Security Act, added by section 6403 of OBRA '89, defines the following EPSDT services: screening services, vision services, dental services and hearing services. EPSDT services also are defined to include such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) of the Act to correct or ameliorate defects, illnesses and conditions discovered by the screening services whether or not the services are covered under the State plan. Section 1902(a)(43) of the Act requires States to report to the Secretary certain information about EPSDT services provided under the plan during each fiscal year. This rule would set forth requirements to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51288
NPRM Comment Period End	11/30/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Additional Information: MB-028

Agency Contact: Cindy Ruff, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-16-08, 7500 Security Boulevard, Baltimore, MD 21244 Phone: 410 786-5916

RIN: 0938–AE72

1082. PAYMENT FOR NURSING AND ALLIED HEALTH SCIENCE EDUCATION (HCFA-1685-F)

Priority: Other Significant

Legal Authority: PL 101-239, Sec 6205; PL 101-508, Sec 4004; PL 101-508, Sec 4159; 42 USC 1395x

CFR Citation: 42 CFR 413

Legal Deadline: Final, Statutory, June 30, 1990.

Abstract: This rule will set forth our policy for the payment of the costs of approved nursing and allied health science programs, as directed by section 6205(b)(2) of OBRA '89. For the most part, the provisions set forth in this rule restate or clarify our current policies governing these costs, which were previously set forth in the provider reimbursement manual and other documents, but have never been included in the regulations. In addition, we are amending the list of approved programs and clarifying payment rules for certified registered nurse anesthetist programs. This rule will also address section 4004 of OBRA '90 which provides that, effective with cost reporting periods beginning on or after October 1, 1990, under certain conditions, costs incurred by a hospital or educational institution related to the hospital for clinical training are treated as pass-through costs and paid on the basis of reasonable cost even though the hospital does not operate the education programs.

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43659
NPRM Comment Period End	11/23/92	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HCFA-1685

Agency Contact: Marc Hartstein, Center for Health Plans & Providers, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Blvd., Baltimore, MD 21244 Phone: 410 786-4539

RIN: 0938–AE79

1083. COVERAGE OF SCREENING PAP SMEARS (HCFA-3705-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 410.10; 42 CFR 410.32; 42 CFR 410.56; 42 CFR 411.15

Legal Deadline: None

Abstract: This rule establishes regulations under section 6115 of OBRA '89 to govern Medicare part B coverage of screening pap smears (including a physician's interpretation of the test results) provided to a woman for the early detection of cervical cancer.

Timetable:

Action	Date	FR Cite
NPRM	11/26/93	58 FR 62312
NPRM Comment Period End	01/24/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-705

Agency Contact: Joyce Eng, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Blvd., Baltimore, MD 21244 Phone: 410 786-4619

RIN: 0938–AE98

1084. CHANGES TO THE LONG-TERM CARE FACILITY SURVEY PROCESS (HCFA-3175-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 101-239, Sec 6901(a); 42 USC 1395i-3; 42 USC 1395aa(d); 42 USC 1396r

CFR Citation: 42 CFR 442; 42 CFR 488

Legal Deadline: None

Abstract: This final rule with comment period will amend the Medicare and Medicaid regulations by removing obsolete long-term care survey forms, guidelines, and procedures used by State agencies when they evaluate a Medicare skilled nursing facility or a Medicaid nursing facility for compliance with Federal certification requirements. Effective October 1, 1990, the application of new Federal participation requirements for these facilities with an increased focus on actual or potential resident outcomes has made the survey forms and process in existing regulations outdated. Retention of the outdated items can cause confusion in connection with directions State survey agencies must follow in determining facility compliance. This rule is part of the Administration's reinventing government and regulatory reform initiatives. Publication of this regulation is dependent upon court approval which has been sought.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HSQ-175

This regulation may be published only with the concurrence of the U.S. District Court in Smith v. Shalala.

Agency Contact: Helene Fredeking, Director, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-21-28, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7304

RIN: 0938–AF02

1085. CASE MANAGEMENT (HCFA-2027-F)

Priority: Other Significant

Legal Authority: 42 USC 1396d; 42 USC 1396n

CFR Citation: 42 CFR 431.51(c); 42 CFR 431.54; 42 CFR 440.169; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.18; 42 CFR 447.327

Legal Deadline: None

Abstract: This rule will incorporate provisions of COBRA '85, OBRA '86, TEFRA '86, OBRA '87 and TMRA '88 dealing with case management services. It will provide for optimal Medicaid coverage of case management services furnished to specific groups in specific geographic areas or political subdivisions within a State.

Timetable:

Action	Date	FR Cite
NPRM	10/15/93	58 FR 53481
NPRM Comment Period End	12/14/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: HCFA-2027-F

Agency Contact: Bob Weaver, Disabled & Elderly Health Program Group, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-14-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5914

RIN: 0938–AF07

1086. REQUIREMENTS FOR CERTAIN HEALTH INSURING ORGANIZATIONS AND OBRA '90 TECHNICAL AMENDMENTS (HCFA-1018-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(m); 42 USC 1396a(e)(2)(A)

CFR Citation: 42 CFR 434.20 to 72; 42 CFR 435.212; 42 CFR 435.326

Legal Deadline: None

Abstract: This final rule amends the Medicaid regulations to apply Medicaid regulations governing prepaid health plans to those health insuring organizations that provide or arrange for health care services to Medicaid recipients but are not subject to the requirements for health maintenance organizations (HMOs) set forth in section 1903(m)(2)(A) of the Social Security Act. It also incorporates technical amendments relating to HMO and/or competitive medical plan enrollment, disenrollments, guaranteed eligibility, and provisional status included in OBRA '90 and the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/09/94	59 FR 23820
NPRM Comment Period End	07/08/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: OMC-018

Agency Contact: Betty Stanton, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-25-13, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3247

RIN: 0938–AF15

1087. PROVIDER REIMBURSEMENT DETERMINATIONS AND APPEALS (HCFA-1727-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g(a); 42 USC 1395l; 42 USC 1395x(v); 42 USC 1395x(v)(1)(A); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395oo; 42 USC 1395ww; 42 USC 405; 42 USC 300e; 42 USC 300e-5; 42 USC 300e-9; 31 USC 9701

CFR Citation: 42 CFR 405.1801 to 405.1889; 42 CFR 413.30 to 413.64; 42 CFR 417.576; 42 CFR 417.810

Legal Deadline: None

Abstract: Section 1878 of the Social Security Act and 42 CFR part 405, subpart R, provide for administrative and judicial review, in accordance with prescribed requirements, of certain disputes regarding Medicare reimbursement for participating providers of services. This proposed rule would revise, update, and clarify various provisions of the regulations pertaining to provider appeals and make conforming changes to other regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-727

Agency Contact: Morty Marcus, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-26-22, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4477

RIN: 0938–AF28

1088. ALTERNATIVE SANCTIONS FOR PSYCHIATRIC HOSPITALS (HCFA-2191-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395cc; 42 USC 1396a

CFR Citation: 42 CFR 488

Legal Deadline: None

Abstract: This proposed rule would provide an alternative to terminating a psychiatric hospital's participation in the Medicare and Medicaid programs for facilities found to be out of compliance with participation requirements. Alternative sanctions could be imposed instead of, or in addition to, terminating a psychiatric hospital's participation in the Medicare and Medicaid programs when deficiencies do not pose immediate jeopardy to the health and safety of psychiatric hospital patients. These amendments are necessary to conform HCFA regulations to changes made by OBRA '89 and OBRA '90. The statutory and regulatory revisions are intended to encourage correction of deficiencies that do not jeopardize patient health and safety before termination of a facility becomes necessary.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Additional Information: HSQ-191

Agency Contact: Terry Derville, Center for Medicaid and State Operations, Disabled and Elderly Health Program Group, Department of Health and Human Services, Health Care Financing Administration, S2-14-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6810

RIN: 0938–AF32

1089. MEDICAID PAYMENT FOR COVERED OUTPATIENT DRUGS UNDER REBATE AGREEMENTS (HCFA-2046-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396a(a); 42 USC 1396r-8; 42 USC 1396b(a); 42 USC 1302

CFR Citation: 42 CFR 447; 42 CFR 441

Legal Deadline: None

Abstract: This final rule with comment period will incorporate section 4401 of OBRA '90 to add specific requirements for Medicaid payment for covered outpatient drugs. The requirements concern: denial of Federal financial participation unless rebate agreements and drug use review are in effect; prohibiting some State plan drug access limitations for drugs covered under a rebate agreement; and the content of the rebate agreements. (The drug rebate agreement was previously published in the Federal Register on February 21, 1991 (56 FR 7049)). This rule will reflect statutory revisions mandated by the Veteran's Health Care Act of 1992 and OBRA '93. Revision of the drug rebate dispute resolution process is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/19/95	60 FR 48442
NPRM Comment Period End	11/20/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: HCFA-2046-FC

Agency Contact: Tami Bruce, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1519

RIN: 0938–AF42

1090. REFERRAL TO CHILD SUPPORT ENFORCEMENT AGENCIES OF MEDICAID FAMILIES (HCFA-2051-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396k; 42 USC 1302

CFR Citation: 42 CFR 433.135; 42 CFR 433.137; 42 CFR 433.151; 42 CFR 433.160

Legal Deadline: None

Abstract: This rule will require State Medicaid agencies to refer Medicaid families with an absent parent to child support enforcement (CSE) agencies. Section 9142 of OBRA '87 required CSE agencies to provide all CSE services to such Medicaid families who have assigned to the State their rights to medical support. The purpose of these rules is to require States to make this referral to State CSE agencies to ensure that those recipients requiring CSE services receive them.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49272
NPRM Comment Period End	11/22/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: HCFA-2051-F

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4466

RIN: 0938–AF68

1091. MEDICAID: OUTSTATIONED INTAKE LOCATIONS FOR CERTAIN LOW-INCOME PREGNANT WOMEN, INFANTS, AND CHILDREN UNDER AGE 19 (HCFA-2052-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(55)

CFR Citation: 42 CFR 435.901; 42 CFR 435.902; 42 CFR 435.903; 42 CFR

435.904; 42 CFR 435.907; 42 CFR 436.2; 42 CFR 436.3; 42 CFR 435.3

Legal Deadline: None

Abstract: This rule will finalize the interim final rule that requires State Medicaid agencies to provide for receipt and initial processing of Medicaid applications filed by certain low-income pregnant women, infants, and children under age 19, at locations which are other than those used for receipt and processing of applications for cash assistance under title IV-A of the Social Security Act. The rule is based on section 1902(a)(55) of the Social Security Act, as added by section 4602 of OBRA '90, PL 101-508.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/94	59 FR 48805
Effective Date	10/24/94	
Comment Period End	11/22/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: HCFA-2052-F

Agency Contact: Robert Tomlinson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-08-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AF69

1092. ASSESSING INTEREST AGAINST MEDICARE SECONDARY PAYER (MSP) DEBTS (HCFA-6108-P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 42 USC 1395y(b)(2)(B)

CFR Citation: 42 CFR 405.378; 42 CFR 411.24(m); 42 CFR 411.39

Legal Deadline: None

Abstract: This proposed rule would amend the regulations concerning interest charges on amounts owed to the Federal government when an overpayment occurs because Medicare was billed and made payment as the primary payer, rather than as the secondary payer. We also propose to clarify the date of determination that an overpayment has occurred so that all parties would have a clear understanding of the period subject to payment of interest charges.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BP0-108

Agency Contact: John Albert, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, S3-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7457

RIN: 0938–AF87

1093. REVISED MEDICAID MANAGEMENT INFORMATION SYSTEMS (HCFA-2038-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(r)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice sets forth revised general functional requirements for the Medicaid Management Information Systems (MMIS). The MMIS consists of software and hardware used to process Medicaid claims and to retrieve and produce utilization and management information about services that are required by the Medicaid agency or Federal Government for administrative or audit purposes. The revised requirements allow States more flexibility to exercise variations in the implementation.

Timetable:

Action	Date	FR Cite
Proposed Notice	11/22/93	58 FR 61692
Comment Period End	01/21/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: MB-038

Agency Contact: Richard Friedman, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4451

RIN: 0938–AG10

1094. ALTERNATIVE SANCTIONS FOR RENAL DIALYSIS FACILITIES (HCFA-3204-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395rr(c); 42 USC 1395rr(g)

CFR Citation: 42 CFR 405; 42 CFR 488; 42 CFR 498

Legal Deadline: None

Abstract: This proposed rule would set forth circumstances under which HCFA could impose denial of payment sanction as an alternative to terminating coverage of the facilities services when an end-stage renal dialysis (ESRD) facility is not in substantial compliance with the conditions for coverage, but its deficiencies do not pose immediate jeopardy to patient health or safety. Before section 1881 of the Social Security Act was amended by section 12 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), HCFA was authorized to impose alternative sanctions only when an ESRD facility failed to cooperate in the goals and activities of the ESRD network for the area in which the facility is located.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: HSQ-204

Agency Contact: Judith Kari, Center for Medicaid and State Operations, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6829

RIN: 0938–AG31

1095. DESCRIPTION OF HCFA'S EVALUATION METHODOLOGY FOR THE PEER REVIEW ORGANIZATIONS FIFTH SCOPE OF WORK CONTRACTS (HCFA-3207-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320c; 42 USC 1320c-(2)(h)(2)

CFR Citation: 42 CFR 462

Legal Deadline: None

Abstract: This notice with a comment period would provide general criteria and standards that will be used to evaluate the effective and efficient performance of Utilization and Quality Control Peer Review Organizations (known as PROs) for contracts entered into on or after April 1, 1996.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35824
NPRM Comment Period End	09/02/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HSQ-207-NC

Agency Contact: Heidi Gelzer, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-08-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9352

RIN: 0938–AG32

1096. DISCLOSURE OF CONFIDENTIAL PRO AND ESRD NETWORK ORGANIZATION INFORMATION FOR RESEARCH PURPOSES (HCFA-3208-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320c-9; 42 USC 1302

CFR Citation: 42 CFR 405.2115; 42 CFR 476.144

Legal Deadline: None

Abstract: This rule would allow Peer Review Organizations (PROs) to disclose confidential information to researchers without the consent of the individuals who would be identified. The research must be directly related to the purposes of the PRO or ESRD program. Currently, PROs can only disclose to the public nonconfidential aggregate data where no one is specifically identified. The statute, however, provides for limited disclosure and allows the Secretary to provide for disclosure in the regulations while assuring adequate protection of the rights and interests of patients, health care practitioners, and providers. HCFA is now emphasizing the sharing of PRO data for educational and research purposes as evidenced by the implementation of the Uniform Clinical Data Set and the Health Care Quality Improvement Initiative. This regulatory revision would make confidential PRO information accessible to researchers while still protecting the identities of beneficiaries and practitioners from unwarranted disclosure.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HSQ-208

Agency Contact: Bill Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AG33

1097. EFFECT OF CHANGE OF OWNERSHIP ON PROVIDER AND SUPPLIER PENALTIES, SANCTIONS, UNDERPAYMENTS AND OVERPAYMENTS (HCFA-2215-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g(a); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395oo; 42 USC 1395xx; 42 USC 1395x(v); 42 USC 13951; 42 USC 405; 42 USC 1395ww

CFR Citation: 42 CFR 405.1803; 42 CFR 405.1811; 42 CFR 405.1835; 42 CFR 405.1843; 42 CFR 405.1805; 42 CFR 489.2; 42 CFR 489.18

Legal Deadline: None

Abstract: This rule would amend the regulations on provider and certain supplier agreements by clarifying the effect a change of ownership has on penalties and sanctions incurred by the former provider or supplier. It also would clarify our policy on changes involving leased departments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HSQ-215

Agency Contact: Mike Goldman, Division of Integrated Health Systems, Department of Health and Human Services, Health Care Financing Administration, S2-14-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6813

RIN: 0938–AG59

1098. MEDICAID: OPTIONAL COVERAGE OF TB-RELATED SERVICES FOR INDIVIDUALS INFECTED WITH TUBERCULOSIS (HCFA-2082-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(10)(A)(ii); PL 103-66, Sec 13603; 42 USC 1396a(z)

CFR Citation: 42 CFR 435.219; 42 CFR 435.201; 42 CFR 440.250; 42 CFR 436.201; 42 CFR 436.219; 42 CFR 440.164

Legal Deadline: None

Abstract: This rule would provide for optional Medicaid coverage of low-income individuals infected with tuberculosis (TB). These individuals would be eligible only for specified tuberculosis related services. The rule would incorporate and interpret provisions of section 13603 of OBRA '93.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: HCFA-2082-P

Agency Contact: Ingrid Osborne, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-16-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4461

RIN: 0938–AG72

1099. REVISION OF MEDICARE/MEDICAID HOSPITAL CONDITIONS OF PARTICIPATION (HCFA-3745-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395(cc); 42 USC 1395(hh); 42 USC 1320(b)(8)

CFR Citation: 42 CFR 416; 42 CFR 482; 42 CFR 485; 42 CFR 489

Legal Deadline: None

Abstract: This final rule will revise the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The revised requirements focus on patient care and the outcomes of that care, reflect a cross-functional view of patient treatment, encourage flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are necessary to reflect advances in health care practices since the requirements were last revised in 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66726
NPRM Comment Period End	03/20/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3745-F

Agency Contact: Doris Jackson, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S3-05-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4656

RIN: 0938–AG79

1100. PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS—EXPANDED TO DESIGNATED HEALTH SERVICES (HCFA-1809-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395nn

CFR Citation: 42 CFR 411.1; 42 CFR 411.350 to 411.361; 42 CFR 424.22; 42 CFR 435.1002; 42 CFR 435.1012; 42 CFR 455.100 to 455.109

Legal Deadline: None

Abstract: This rule provides that a physician who has (or whose immediate family member has) a financial relationship with a health care entity may not make referrals to that entity for certain services (designated health services) under the Medicare program except under specified circumstances. In the Medicaid context, this rule would deny payment to a State for expenditures for designated health services furnished on the basis of a physician referral that, all things being equal, would result in denial of payment under Medicare. The provisions of the rule are based on sections 13562 and 13624 of OBRA '93 and section 152 of SSAA '94.

Timetable:

Action	Date	FR Cite
NPRM	01/09/98	63 FR 1659
NPRM Comment Period End	05/11/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: BPD-1809-P

Agency Contact: Joanne Sinsheimer, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-04, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4620

RIN: 0938–AG80

1101. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (HCFA-3819-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395bb

CFR Citation: 42 CFR 484

Legal Deadline: None

Abstract: This final rule will revise home health agency conditions of participation to center on the patient, using outcome-oriented measures. Most of the current HHA conditions of participation have remained unchanged since home health services became a Medicare benefit in 1966. Some limited modifications have been made over the years to comply with legislative changes. As a result, most of the conditions of participation continue to be structure and process oriented. In addition, this final rule will require that HHAs use a standard core assessment data set, the "Outcome and Assessment Information Set" (OASIS), when evaluating adult, non-maternity patients receiving home health care.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11005
NPRM Comment Period End	06/09/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3819-F

Agency Contact: Mary Vienna, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6940

RIN: 0938–AG81

1102. END STAGE RENAL DISEASE (ESRD) CONDITIONS FOR COVERAGE (HCFA-3818-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 406; 42 CFR 409; 42 CFR 410; 42 CFR 412; 42 CFR 413; 42 CFR 414; 42 CFR 489; 42 CFR 492

Legal Deadline: None

Abstract: This proposed rule would revise the current conditions for coverage for end stage renal disease (ESRD) facilities approved to provide ESRD service under Medicare. It would

update the conditions to reflect developments in technology and equipment, emphasize the total patient experience and develop performance expectations for the facility that result in quality, comprehensive care for the dialysis patient.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3818-P

Agency Contact: Lynn Merritt-Nixon, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S3-04-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4652

RIN: 0938–AG82

1103. DISTINCT PART REQUIREMENTS FOR NURSING HOMES AND PROHIBITION OF FINANCIAL SCREENING OF APPLICANTS FOR NURSING HOME ADMISSION (HCFA-3815-P)

Priority: Other Significant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 409; 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would define "distinct part" by specifying that a distinct part is a physically identifiable unit of an institution (that is, an entire ward, wing, floor, or building) including all beds in the unit. This proposed rule would also prohibit nursing homes from financially screening private pay applicants for admission. Instead, nursing homes would be permitted to charge private pay applicants up to a 2-month deposit before admission to ensure that sufficient funds are available to pay for care which the individual may receive before discharge.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-815

Agency Contact: Nancy Archer, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, S3-05-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 401 786-0596

RIN: 0938–AG84

1104. LIABILITY FOR THIRD PARTIES TO PAY FOR CARE AND SERVICES (HCFA-2080-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(25)(A); 42 USC 1396b(o)

CFR Citation: 42 CFR 433.135 to 433.152

Legal Deadline: None

Abstract: This rule would incorporate provisions of OBRA '93 by amending the regulations governing third party liability. It would add ERISA plans, service benefit plans, and health maintenance organizations to the definition of liable third parties. It would require States to prohibit any health insurer from taking into account, when enrolling or making payments, that an individual is eligible for or receiving Medicaid. It would also require States to enact a law under which the State is deemed to have acquired a recipient's right to payment by a third party.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: MB-080

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-21-01, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4466

RIN: 0938–AH01

1105. ADJUSTMENT IN PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES (HCFA-3831-F)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395k(a)(2); 42 USC 1395l

CFR Citation: 42 CFR 416

Legal Deadline: NPRM, Statutory, October 31, 1995.

Abstract: This rule establishes a process under which interested parties could request, with respect to a class of new technology intraocular lenses (IOLs), a review of the appropriateness of the current payment amount for IOLs furnished by Medicare-participating ambulatory surgical centers. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/04/97	62 FR 46698
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HCFA-3831-F

Agency Contact: Claude Mone, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C5-04-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5666

RIN: 0938–AH15

1106. DEFINITION OF SKILLED NURSING FACILITY (SNF) FOR COVERAGE OF DURABLE MEDICAL EQUIPMENT (DME) AND HOME HEALTH (HCFA-1834-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395i-3(a)(1); 42 USC 1396r(a)(1)

CFR Citation: 42 CFR 409; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would define skilled nursing facilities (SNFs) under section 1819(A)(1) of the Social Security Act for purposes of Medicare coverage of durable medical equipment (DME) and home health services. A Medicare SNF (as defined under section 1819 of the Social Security Act) cannot be considered a home under Medicare part B for DME and home

health coverage. This proposed rule would presume that all Medicare nursing facilities are section 1819(A)(1) facilities and thus would not be considered a home for DME coverage. This would define non-Medicare nursing homes as skilled facilities based upon the receipt of skilled care at least once a week by a proportion of its residents population.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-834

Agency Contact: Thomas Hoyer, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4605

RIN: 0938–AH16

1107. STATE PLAN AMENDMENT (SPA) RECONSIDERATION PROCESS (HCFA-2096-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1316; 42 USC 1396a(a)

CFR Citation: 42 CFR 430.18; 42 CFR 430.60

Legal Deadline: None

Abstract: This proposed rule would revise and streamline the State Plan Amendment (SPA) reconsideration process. Currently, when a State requests reconsideration of a denied SPA, a hearing is held in all cases, even when the only dispute is over the interpretation of the statute. Under the proposed regulation, the State and HCFA could avoid the cost and delay of the hearing process when the only issue is interpretation of the statute by permitting the State expedited judicial review, without a full administrative hearing, after HCFA has a brief opportunity to reconsider its decision.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HCFA-2096-P

Agency Contact: Robert Tomlinson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-20-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AH24

1108. HOSPICE CARE—CONDITIONS OF PARTICIPATION (HCFA-3844-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395x(dd); 42 USC 1395hh

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would revise the Medicare conditions of participation for hospices to help ensure the provision of quality care through an emphasis on patient-centered outcomes. Areas of change would include, among others, assessment of patient needs, clarification of physician roles, coordination of care for hospice patients residing in nursing homes, clarification of nursing roles, patient rights, and provision of services.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3844

Agency Contact: Lynn Merritt-Nixon, Office of Clinical Standard & Quality, Department of Health and Human Services, Health Care Financing Administration, S3-04-25, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4652

RIN: 0938–AH27

1109. CLIA PROGRAM; CYTOLOGY PROFICIENCY TESTING (HCFA-2233-N)

Priority: Other Significant

Legal Authority: 42 USC 263a(f)(4)(B)(iv)

CFR Citation: 42 CFR 493.855

Legal Deadline: None

Abstract: This notice announces the withdrawal of a proposed rule on cytology proficiency testing that was published in the Federal Register November 30, 1995, and instead, announces a supplement to the rulemaking record of a final rule published February 28, 1992. In publishing the proposed rule, HHS complied with a Federal court order requiring publication of a proposal that would require that cytology proficiency testing be conducted to the extent practicable, under normal working conditions. As required, we proposed to revise regulations to require that proficiency testing be conducted at a pace corresponding to the maximum workload rate for individuals examining slides. We also solicited comments on the use of computer facsimile representations of cytology specimens, as an alternative to glass-slide proficiency testing. After the proposed rule was published, the appeals court revised the lower court's order, allowing us to withdraw the proposed rule and supplement the record to the final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/30/95	60 FR 61509
NPRM Comment Period End	01/29/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-233-N. We are publishing a notice to advise the public that no final rule is necessary because the court decided the case in our favor.

Agency Contact: Rhonda Whalen, Senior Health Scientist, Department of Health and Human Services, Centers for Disease Control and Prevention, 4770 Buford Highway, NE., MS F 11, Atlanta, GA 30341-3724
Phone: 770 488-8155

RIN: 0938–AH35

1110. MEDICARE COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS (HCFA-1843-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395x(cc)(1); 42 USC 1395x(ll)

CFR Citation: 42 CFR 484; 42 CFR 485

Legal Deadline: None

Abstract: This proposed rule would implement SSA '94 provisions to provide coverage for speech-language pathology services furnished by a qualified pathologist.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-843

Agency Contact: Jackie Gordon, Division of Cost Reporting, Department of Health and Human Services, Health Care Financing Administration, C4-07-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4517

RIN: 0938–AH37

1111. PAYMENT AMOUNT IF CUSTOMARY CHARGES ARE LESS THAN REASONABLE COSTS (HCFA-1860-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1395f(b); 42 USC 1395l(a); 42 USC 1395m(a)

CFR Citation: 42 CFR 413.13

Legal Deadline: None

Abstract: A provider whose charges are lower than its reasonable costs for those services in any cost reporting period beginning January 1, 1974, but before April 28, 1988, may carry forward costs that are unreimbursed for two succeeding cost reporting periods. Sufficient time has passed since the publication of this provision to warrant the deletion from the regulation text of any reference to the carryover provision. Since payment for durable medical equipment (DME) provided by home health agencies (HHAs) is no longer based on the lesser of the reasonable cost or reasonable charge but rather on 80 percent of the lesser of the actual charge for the item or the payment amount recognized under the DME fee schedule and, for nominal charge HHAs, on 80 percent of the DME fee schedule amount, the lesser of costs or charges provision no longer applies and should be deleted from the CFR.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: BPD-860

Agency Contact: Ward Pleines, Chronic Care Purchasing Policy Group, Division of Cost Reporting, Department of Health and Human Services, Health Care Financing Administration, C5-02-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4528

RIN: 0938–AH49

1112. LIMITATIONS ON LIABILITY (HCFA-4859-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395pp

CFR Citation: 42 CFR 411.404

Legal Deadline: None

Abstract: This final rule with comment period will implement section 1879 (h) of the Social Security Act, which limits beneficiary liability for certain medical equipment and supplies. This rulemaking is part of the Reinventing Government effort. We are working with industry representatives to develop guidelines that will streamline requirements, reduce burden and duplication, and give beneficiaries the opportunity to make informed consumer decisions regarding certain medical equipment and supplies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-859

Agency Contact: Denis Garrison, Division of Beneficiary Protections, Department of Health and Human Services, Health Care Financing Administration, C4-06-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5643

RIN: 0938–AH51

1113. MEDICARE SECONDARY PAYER CLARIFICATIONS AND AMENDMENTS (HCFA-1865-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This proposed rule would codify in regulations policies regarding liability insurance, such as structured liability settlements, future medical expenses, provider malpractice, wrongful death, and Federal Tort Claims Act policy. It would also clarify the rules dealing with group health plan bankruptcies, religious orders, and foreign group health plans, and make numerous other changes.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-865

Agency Contact: Herb Pollock, Center for Health Plans & Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-08-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4474

RIN: 0938–AH52

1114. REVISION TO ACCRUAL BASIS OF ACCOUNTING POLICY (HCFA-1876-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(v); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 413.100

Legal Deadline: None

Abstract: The proposed rule would specify the providers' share of the costs of FICA and other employee payroll taxes that will be allowable under Medicare when the payroll period ends subsequent to the end of the reporting period. The proposed rule would provide that if payment would be made to an employee during a cost reporting period but for the fact that the regularly scheduled payment date is after the end of the period, that portion of employees FICA or other taxes that have accrued up to the end of the reporting period will be treated as allowable costs in the current reporting period.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-1876-P

Agency Contact: John Eppinger, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C5-03-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4518

RIN: 0938–AH61

1115. MEDICAID; ESTATE RECOVERIES (HCFA-2083-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a; 42 USC 1396p

CFR Citation: 42 CFR 433.36

Legal Deadline: None

Abstract: This proposed rule is being developed as a result of the OBRA 1993 provisions that mandated States to seek adjustment or recovery from the estates of Medicaid beneficiaries for amounts correctly spent by Medicaid on permanently institutionalized individuals (any age) and individuals age 55 or older for certain services. The OBRA 1993 provision also defines "estate," and further requires States to establish hardship procedures, in accordance with standards specified by the Secretary for waiver of recovery in cases where undue hardship would result.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: HCFA-2083-P

Agency Contact: Ingrid Osborne, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-16-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4461

RIN: 0938–AH63

1116. MEDICAID HOSPICE CARE (HCFA-2016-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 418.24; 42 CFR 418.28; 42 CFR 418.98; 42 CFR 440.167; 42 CFR 440.250(q); 42 CFR 441; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would provide for optional Medicaid coverage of hospice care for terminally ill recipients who elect to receive care from a participating hospice, establish eligibility requirements, covered services, reimbursement procedures, and conditions that a hospice must meet to provide services to Medicaid recipients. It would make conforming technical revisions to the Medicare regulations governing hospice care.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: HCFA-2016-P

Agency Contact: Tom Shenk, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3295

RIN: 0938–AH65

1117. PROVIDER AND SUPPLIER BILLING WHEN MEDICARE IS SECONDARY PAYOR TO LIABILITY INSURANCE (HCFA-1848-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395cc; 42 USC 1395dd; 42 USC 1395hh; 42 USC 1395ww; 42 USC 1395x; 42 USC 1395aa

CFR Citation: 42 CFR 411; 42 CFR 489

Legal Deadline: None

Abstract: This proposed rule would revise current regulations to require that providers and suppliers attempt to collect payment from the proceeds of liability insurance during the "promptly period." This rule would also permit providers and suppliers to choose either to pursue collection of payment from the proceeds of liability insurance after the "promptly period" has ended or to bill Medicare.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-848

Agency Contact: Anita Heygster, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-08-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4486

RIN: 0938–AH66

1118. MEDICARE TECHNICAL CONFORMING AMENDMENTS (HCFA-1858-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395k

CFR Citation: 42 CFR 409.50; 42 CFR 409.61; 42 CFR 410.152

Legal Deadline: None

Abstract: This final rule with comment period will update our regulations to reflect that payment for durable medical equipment is on the basis of a fee schedule.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-858

Agency Contact: Martha Kuespert, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4605

RIN: 0938–AH67

1119. ELIMINATION OF CERTAIN REQUIREMENTS FOR PEER REVIEW ORGANIZATIONS IN THE UTILIZATION AND QUALITY REVIEW PROCESS AND A CHANGE IN THE LENGTH OF PEER REVIEW ORGANIZATION CONTRACTS (HCFA-3235-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 462.107; 42 CFR 466.71; 42 CFR 466.73

Legal Deadline: None

Abstract: This rule would eliminate the requirement that Peer Review Organizations (PROs) conduct quarterly random sample reviews of hospital discharges. It would also change the period for PRO contracts from 2 years to 3 years and would eliminate certain notification requirements regarding contract awards.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-235-FC

Agency Contact: Bill Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AH68

1120. DETERMINATION OF SUBSTANDARD CARE IN SNFS AND NFS (HCFA-2240-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r

CFR Citation: 42 CFR 488.301

Legal Deadline: None

Abstract: This proposed rule would revise the definition of "substandard quality of care" as it applies to skilled nursing facilities, in the Medicare program, and nursing facilities, in the Medicaid program. "Substandard quality of care" is one type of noncompliance with Federal participation requirements that carries with it statutory consequences to facilities providing such care. The purpose of this proposed revision is to improve the definition of substandard quality of care so that the process can make a more meaningful distinction between facility noncompliance that warrants the consequences mandated by the statute for a finding of substandard quality of care and noncompliance that does not.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: HSQ-240

Agency Contact: Pat Miller, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-19-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6780

RIN: 0938–AH69

1121. WAIVER OF STAFFING REQUIREMENTS FOR END STAGE RENAL DISEASE (ESRD) FACILITIES PARTICIPATING IN AN EXPERIMENT (HCFA-2236-GNC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1320; 42 USC 1395x; 42 USC 1395y; 42 USC 1395hh; 42 USC 1395rr

CFR Citation: 42 CFR 405.2136; 42 CFR 405.2161; 42 CFR 405.2162; 42 CFR 405.2163

Legal Deadline: None

Abstract: This general notice with comment period announces our intention to conduct a demonstration that would grant selected ESRD facilities a 2-year waiver of staffing requirements. The ESRD staffing requirements pertain to: the governing body and management, director of a facility, on-duty licensed health care professionals, and providing adequate laboratory, social, and dietetic services. Facilities would be given flexibility to deviate from specified regulation requirements, provided assurances are in place ensuring that quality of care standards are not being compromised.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-236

Agency Contact: William Roskey, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S1-09-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AH72

1122. PROVIDER AND SUPPLIER ENROLLMENT PERIODIC RENEWAL OF ELIGIBILITY REQUIREMENTS (HCFA-6002-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 424; 42 CFR 489

Legal Deadline: None

Abstract: This proposed rule would establish conditions for enrolling providers and suppliers that furnish items or services to Medicare beneficiaries. These conditions would improve current enrollment procedures to more accurately identify providers and suppliers, and secure information and documentation necessary for the effective and efficient administration of

the Medicare program. The improved identification of providers and suppliers, coupled with the collection of certain information, would facilitate the administration of many aspects of the Medicare program including, but not necessarily limited to, monitoring for compliance with program rules and combating fraud and abuse. Improvements in enrolling providers and suppliers would afford both the Medicare Trust Funds and program beneficiaries with greater protection.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Formerly known as HCFA-1023-P

Agency Contact: Michael Collett, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6121

RIN: 0938–AH73

1123. REVISIONS TO CONDITIONS FOR COVERAGE FOR AMBULATORY SURGICAL CENTERS (HCFA-3887-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 416

Legal Deadline: None

Abstract: This proposed rule would revise the ambulatory surgical center conditions for coverage to reflect current innovations in healthcare delivery, quality assessment, and performance improvement. The focus would be to improve outcomes of health care and satisfaction for Medicare beneficiaries, while streamlining structural and procedural requirements where possible.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-887

Agency Contact: Judy Goldfarb, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, S2-199.06, Baltimore, MD 21244
Phone: 410 786-6747

RIN: 0938–AH83

1124. DISCLOSURE OF PEER REVIEW ORGANIZATION INFORMATION IN RESPONSE TO BENEFICIARY COMPLAINTS (HCFA-3241-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 466.70(a); 42 CFR 476.101; 42 CFR 476.107; 42 CFR 476.132; 42 CFR 476.133(b)(4)

Legal Deadline: None

Abstract: This proposed rule would change our policy regarding the disclosure of peer review organization (PRO) information in responding to beneficiary complaints about physicians, other practitioners, and other institutional and non-institutional providers of health care, including Health Maintenance Organizations and Competitive Medical Plans. Under the proposal, we would permit the disclosure of PRO information about physicians and other individual practitioners without their permission to the extent necessary to comply with section 1154(a)(14) of the Social Security Act. This section requires PROs to conduct reviews of beneficiary complaints about the quality of services that do not meet professionally recognized standards of health care and inform each beneficiary of the final disposition of his or her complaint.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-241-P

Agency Contact: William Roskey, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S1-09-07, Baltimore, MD 21244-1850
Phone: 410 786-0433

RIN: 0938–AH85

1125. NATIONAL STANDARD FOR IDENTIFIERS OF HEALTH PLANS (HCFA-4145-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule would implement a standard identifier to identify health plans that process and pay certain electronic health care transactions. It would implement one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: BPO-145

Agency Contact: Faye Broseker, Center for Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, S1-07-06, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3342

RIN: 0938–AH87

1126. MEDICAID PROGRAM; AMENDMENT TO THE PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW PROGRAM (HCFA-2107-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396r(e); 42 USC 1396r(b)

CFR Citation: 42 CFR 405; 42 CFR 431; 42 CFR 433; 42 CFR 441; 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would make changes to the preadmission screening and annual resident review program in accordance with the provisions of Public Law 104-315, which were included in the Reinventing Government effort. The

rule would repeal the Medicaid program requirement for an annual review of nursing facility (NF) residents with mental illness or mental retardation. This proposed rule also would add the requirement for NFs to notify the State when there is a significant change in the physical or mental condition of a resident and add a statutory requirement that the State conduct a review promptly after notification of the resident's change in condition.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: HCFA-2107-P

Agency Contact: Jan Earle, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S2-15-10, Baltimore, MD 21244
Phone: 410 786-9004
Fax: 410 786-3262

RIN: 0938–AH89

1127. MEDICAID PROGRAM; COVERAGE AND PAYMENT FOR FEDERALLY QUALIFIED HEALTH CENTER SERVICES (HCFA-2043-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(13); 42 USC 1396d(a)

CFR Citation: 42 CFR 431; 42 CFR 440; 42 CFR 441; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would incorporate and interpret in regulations coverage and payment requirements for services furnished by a federally qualified health center (FQHC) under the Medicaid program. This rule will include changes in the payment provisions to FQHCS made by section 4712 of the Balanced Budget Act of 1997 PL-105-33.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Additional Information: MB-43

Agency Contact: David Worgo, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-15-18, Baltimore, MD 21244
Phone: 410 786-5919

RIN: 0938–AH95

1128. REVISION TO THE DEFINITION OF AN UNEMPLOYED PARENT (HCFA-2106-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 607; 42 USC 1396u-1

CFR Citation: 45 CFR 233

Legal Deadline: None

Abstract: This final rule with comment period will make a change necessary for a State to further facilitate coordination of its Medicaid and foster care program in cases where coverage has been expanded under its Temporary Assistance for Needy Families beyond the definition of unemployed parent contained in existing Aid to Families with Dependent Children regulations. This rule revises the definition of unemployment of a principal wage earner for purposes of coverage of dependent children of unemployed parents. It will also allow States to eliminate inequitable policies that are a disincentive to family unity.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	08/07/98	63 FR 42270

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: HCFA-2106-FC

Agency Contact: Judith Rhoades, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., S2-08-05, Baltimore, MD 21244
Phone: 410 786-4462
Fax: 410 786-3252

RIN: 0938–AH98

1129. NATIONAL STANDARD HEALTH CARE PROVIDER IDENTIFIER (HCFA-0045-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule addresses the health care industry's need for a standardized provider identifier. It implements one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996. A standard provider identifier will save the health insurance industry significant costs incurred in maintaining multiple identifier systems.

Timetable:

Action	Date	FR Cite
NPRM	05/07/98	63 FR 25340
NPRM Comment Period End	07/06/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: HCFA-0045-P

Agency Contact: Pat Peyton, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., N3-20-05, Baltimore, MD 212244
Phone: 410 786-1812

RIN: 0938–AH99

1130. PORTABILITY AND NONDISCRIMINATION IN THE GROUP HEALTH INSURANCE MARKET (HCFA-2890-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 300gg et seq

CFR Citation: 45 CFR 146

Legal Deadline: None

Abstract: This final rule will address comments received on the interim final rule published April 8, 1997. It will also further clarify the Department's position on the minimum requirements applicable with respect to group health plans and health insurance issuers

offering group health insurance coverage. A group health plan or health insurance issuer offering group health coverage may provide greater rights to participants and beneficiaries than those currently provided. This rule will include the following: (1) limitations on preexisting condition exclusion periods; (2) certification and disclosure of previous coverage; (3) special enrollment periods for individuals (and dependents) losing other coverage; (4) use of affiliation period by HMOs as alternative to preexisting condition exclusion; (5) prohibited discrimination against individual participants and beneficiaries based on health status; (6) guaranteed availability in the small group market; and (7) guaranteed renewability in the large and small group markets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: BPD-890-IFC

Agency Contact: Dave Holstein, Insurance Standards Team, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1564

RIN: 0938–AI08

1131. MEDICARE PROGRAM; MEDICARE INTEGRITY PROGRAM (HCFA-7020-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: PL 104-191

CFR Citation: 42 CFR 400; 42 CFR 421

Legal Deadline: None

Abstract: This rule implements section 1893 of the Social Security Act (added by section 202 of the Health Insurance Portability and Accountability Act of 1996) by establishing the Medicare Integrity Program to carry out Medicare payment integrity activities. Under this program HCFA may enter into new contracts with entities to perform these activities. This rule will identify the services to be procured; competitive requirements; procedures for identification, evaluation, and resolution of conflicts of interest; and rules regarding contractor liability. In addition, this rule will revise the list of intermediary and carrier functions set forth in existing regulations to make them consistent with sections 1816, 1842, and 1893 of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	05/19/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: OFH-020-P, PL 104-191, sec. 202

Agency Contact: Brenda Thew, OICS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4889

RIN: 0938–AI09

1132. MEDICARE PROGRAM; IMPROVEMENTS TO THE APPEALS PROCESS FOR MEDICARE BENEFICIARIES ENROLLED IN HMOS, CMPS, AND HCPPS (HCFA-4024-P)

Priority: Other Significant

Legal Authority: 42 USC 1395mm(c)(5)

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This proposed rule would establish new administrative review requirements for Medicare beneficiaries enrolled in health maintenance organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans. This rule would implement section 1876(c)(5) of the Social Security Act, which specifies the appeal and grievance rights of Medicare enrollees in HMOs and CMPs. This rule would reduce time lines for nonurgent denials of care and make other improvements. We will also address related requirements of the Balanced Budget Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cheryl Slay, Director, Division of Beneficiary Protections, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244-1850
Phone: 410 786-6478

RIN: 0938–AI11

1133. MEDICARE AND MEDICAID PROGRAMS; QUARTERLY LISTING OF PROGRAM ISSUANCES AND COVERAGE DECISIONS—SECOND QUARTER, 1998 (HCFA-9002-N)

Priority: Routine and Frequent

Legal Authority: 42 USC 1395hh(c)(1)

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice lists HCFA manual instructions, substantive and interpretive regulations, and other Federal Register notices that were published during April, May, and June of 1998 that relate to Medicare and Medicaid programs.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kristy Nishimoto, Office of Communications and Operations, Support, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-8517

RIN: 0938–AI13

1134. MEDICARE PROGRAM; PHYSICIAN FEE SCHEDULE CONVERSION FACTOR FOR CALENDAR YEAR 1998 AND SUSTAINABLE GROWTH RATE FOR FISCAL YEAR 1998 (HCFA-1893-FN)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395w-4

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice announces the calendar year 1998 Medicare physician

fee schedule conversion factor and the fiscal year 1998 sustainable growth rate for expenditures for physicians' services under the Medicare Supplementary Medical Insurance (part B) program as required by sections 1848(d) and (f) of the Social Security Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/31/97	62 FR 59261
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Terrence Kay, Center for Health Plans and Providers, Division of Practitioner and Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-10-26, Baltimore, MD 21244
Phone: 410 786-4497

RIN: 0938–AI16

1135. MEDICAID: MEDICAL CHILD SUPPORT (HCFA-2081-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(60); 42 USC 1396g

CFR Citation: 42 CFR 433

Legal Deadline: None

Abstract: This proposed rule would require States to provide assurances satisfactory to the Secretary that the State has in effect laws relating to medical child support. This requirement would implement section 13623 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), commonly cited as OBRA 1993. The medical child support laws that the States must have in effect are set forth in section 1908 of the Social Security Act (the Act). These laws would impose requirements on insurers, employers, and State Medicaid agencies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: HCFA-2081-P

Agency Contact: Sue Knefley, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0488

RIN: 0938–AI21

1136. GME: INCENTIVE PAYMENTS UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS (HCFA-1001-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1395ww(h); PL 105-33, Sec 4626

CFR Citation: 42 CFR 413

Legal Deadline: Other, Statutory, February 5, 1998.
Interim final regulations with comment period must be published within 6 months of the date of enactment of the Balanced Budget Act 1997 (August 5, 1997).

Abstract: Under current law and regulations, hospitals are paid for direct medical education based on the number of residents participating in accredited graduated medical education programs. This interim final rule would implement section 4626 of the Balanced Budget Act of 1997 which allows hospitals to apply to receive incentive payments for reducing the number of residents in training. The hospital must submit a plan to the Secretary outlining how it will make voluntary residency reductions.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: HCFA-1003-IFC

Agency Contact: Marc Hartstein, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244-1850
Phone: 410 786-4539

RIN: 0938–AI27

1137. MEDICARE PROGRAM: PHYSICIANS' REFERRALS; ISSUANCE OF ADVISORY OPINIONS (HCFA-1902-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395nn(g)(6); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 411.370 to 411.389

Legal Deadline: None

Abstract: This final rule will set forth the procedures HCFA will use to issue written advisory opinions to outside parties concerning whether a physician's referral of a Medicare beneficiary for certain designated health services is prohibited under section 1877 of the Social Security Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/98	63 FR 1646
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joanne Sinsheimer, Technical Assistant, CHPPS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4620

RIN: 0938–AI38

1138. MEDICARE/MEDICAID PROGRAM; USER FEES (HCFA-6021-P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701

CFR Citation: 42 CFR 401

Legal Deadline: None

Abstract: This proposed rule would establish regulations relating to user fees for services we provide that confer benefits on specific individuals that are over and above those benefits received by the general public.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Escobedo, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244

Phone: 410 786-5401

RIN: 0938–AI46

1139. SECURITY AND ELECTRONIC SIGNATURE STANDARDS (HCFA-0049-F)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule would implement some of the requirements of the administrative simplification subtitle of the Health Insurance Portability and Accountability Act of 1996. It proposes standards for the security of individual health information and electronic signature use by health plans, health care clearing houses, and health care providers.

Timetable:

Action	Date	FR Cite
ANPRM	08/12/98	63 FR 43242
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: John Parmigiani, Office of Internal Customer Support, Department of Health and Human Services, Health Care Financing Administration, N3-14-14, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-2976

RIN: 0938–AI57

1140. STANDARDS FOR ELECTRONIC TRANSACTIONS (HCFA-0149-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 1, 1998.

Abstract: The rule puts in place code-set standards and standards for eight electronic transactions to be used by health plans, certain health care providers, and health care clearing houses. It would implement requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996. The standards will significantly reduce costs for processing health care transactions.

Timetable:

Action	Date	FR Cite
NPRM	05/07/98	63 FR 25277
NPRM Comment Period End	07/06/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara Redding, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, S1-03-27, 7500 Security Blvd., Baltimore, MD 21228
Phone: 410 786-6165
Email: bredding@hcfa.gov

RIN: 0938–AI58

1141. NATIONAL STANDARD EMPLOYER IDENTIFIER (HCFA-0047-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule institutes the employer identification number as the standard for identifying employers for purposes of administrative simplification, as required by the Health Insurance Portability and Accountability Act of 1996. Use of one standard in the health care industry will reduce the cost of identifying employers in electronic health care transactions.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32784
NPRM Comment Period End	08/17/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Mary Emerson, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., N2-12-22, Baltimore, MD 21244
Phone: 410 786-7065
Email: memerson@hcfa.gov

RIN: 0938–AI59

1142. STATE PLAN REQUIREMENTS FOR DURABLE MEDICAL EQUIPMENT PROVIDERS (HCFA-2007-P)

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1396a(a)(65)(B)

CFR Citation: 42 CFR 441

Legal Deadline: None

Abstract: This proposed rule would establish in regulations a requirement that durable medical equipment suppliers be required to furnish Medicaid State agencies with a surety bond in order to participate in the Medicaid program. This proposed rule would implement section 4724(g) of the Balanced Budget Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Mary Linda Morgan, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., S2-26-12, Baltimore, MD 21244
Phone: 410 786-2011
Email: mmorgan@hcfa.gov

RIN: 0938–AI63

1143. RECOGNITION OF THE COMMUNITY HEALTH ACCREDITATION PROGRAM, INC. (CHAP) AND JOINT COMMISSION FOR ACCREDITATION OF HEALTHCARE ORGANIZATIONS (JCAHO) FOR HOSPICES (HCFA-2029-PN)

Priority: Routine and Frequent

Legal Authority: 42 USC 1395bb

CFR Citation: 42 CFR ch IV

Legal Deadline: Other, Statutory, September 8, 1998.

The statue requires us to publish a notice within 60 days of receipt of a completed application.

Abstract: This notice announces the receipt of an application from the Community Health Accreditation Program, Inc. (CHAP) and Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for recognition as a national accreditation program for hospices that wish to participate in the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48735

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joan Barry, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244-1850
Phone: 410 786-7233
Email: jberry@hcfa.gov

RIN: 0938–AI69

1144. MEDICAID MANAGED CARE; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICAID PROVISIONS OF THE BALANCED BUDGET ACT OF 1997 (HCFA-2001-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: PL 105-33, sec 4701 to 4710

CFR Citation: 42 CFR 438; 42 CFR 430; 42 CFR 431; 42 CFR 434; 42 CFR 435; 42 CFR 438; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This notice of proposed rulemaking establishes rules for Medicaid managed care programs which involve quality of care and services under Medicaid managed care programs. It implements certain provisions in sections 4701 through 4710 of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105-33).

Statement of Need: The BBA significantly modifies Medicaid managed care programs by providing a new state plan amendment vehicle for States to furnish managed health care to beneficiaries, enhanced enrollee protections; and an emphasis on the quality of health care delivered to Medicaid enrollees.

Summary of the Legal Basis: Section 1903(m) of the Social Security Act and implementing regulations at 42 CFR part 434 contain a number of requirements related to Medicaid managed care contracts. Among other things, the requirements relate to contract provisions involving enrollment and disenrollment in a Medicaid managed care organization (MCO), marketing, choice of health professionals within an MCO, quality assurance systems, grievance procedures, and plan solvency. Statutory amendments made by sections 4701 through 4710 of the BBA modify those requirements.

To control cost while enhancing quality of care, States are increasingly delivering services to their Medicaid populations through Medicaid managed care organizations (MCOs) and other managed care arrangements. These arrangements vary according to the comprehensiveness of the services they provide and the degree to which they accept risk. Fully capitated plans contract on a risk basis to provide beneficiaries with a comprehensive set of covered services in return for a monthly capitation payment. In general, partially capitated plans provide a less than comprehensive set of services on a risk basis; services not included in the contract are reimbursed on a fee-for-service basis. In addition, some States implement a primary care case management (PCCM) system in which a Medicaid beneficiary selects or is assigned to a single primary care provider that provides or arranges for all covered services and is reimbursed on a fee-for-service basis. Under each of these managed care arrangements, beneficiaries have a regular source of coordinated care and States have predictable, controlled spending per beneficiary.

The BBA creates a new section of the Social Security Act relating to managed care arrangements. The new section 1932 establishes increased enrollee protections, quality assessment and performance improvement strategies for States, and enrollee rights and responsibilities.

Alternatives: If this rule is not published, we would not implement many of the provisions in the Balanced Budget Act of 1997 related to Medicaid managed care.

Anticipated Costs and Benefits: Estimates of the economic impact (if any) that will stem from these rules have not yet been completed.

Risks: This rule will potentially improve the quality of health care provided to Medicaid managed care enrollees and provide States with new tools to become more effective purchasers of health care services. Failure to publish this rule would jeopardize broad-based improvement in the quality of care our beneficiaries receive and would deprive States of many tools that would improve their managed care programs.

Timetable:

Action	Date	FR Cite
NPRM	09/29/98	63 FR 52021
NPRM Comment Period End	11/30/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Mike Fiore, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-0623

RIN: 0938–AI70

1145. ELIMINATION OF APPLICATION OF FEDERAL FINANCIAL PARTICIPATION LIMITS (HCFA-2111-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435

Legal Deadline: None

Abstract: This interim final rule with comment period eliminates the requirement that Federal financial participation income limits be applied when States use less restrictive income and resource methodologies to determine eligibility for aged, blind and disabled individuals, as well as for the optional categorically needy and the medically needy. This rule conforms the application of the FFP limits to the policy that the use of less restrictive

income methodologies are not subject to FFP limits. This change will give States additional flexibility in setting Medicaid eligibility requirements.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jackie Wilder, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-22-06, Baltimore, MD 21244
Phone: 410 786-4579
Email: jwilder@hcfa.gov

RIN: 0938–AI73

1146. MEDICAID PROGRAM; CHANGES TO ELIGIBILITY OF NON-U.S. CITIZENS (HCFA-2108-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; PL 104-193, sec 401 to 403

CFR Citation: 42 CFR 435; 42 CFR 436; 42 CFR 440

Legal Deadline: None

Abstract: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created changes in Federal law making most non-U.S. citizens ineligible for Supplemental Security Income (SSI). In most States, receipt of SSI confers automatic Medicaid eligibility. Although many States have elected optional eligibility groups that provide a basis for covering persons who do not receive SSI, some States have not done so. In these States, these individuals would be left without access to Medicaid (including emergency services). To conform with the new law, we are proposing regulations that would result in the loss of Medicaid for qualified aliens in those States that cover only SSI recipients. We are also seeking comments on whether there remains any statutory basis to continue Medicaid coverage for these individuals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Bob Tomlinson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AI74

1147. MEDICARE PROGRAM; ADVANCE REFUNDING OF DEBT AND METHODOLOGY FOR REPAYMENT OF LOAN (HCFA-1777-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)

CFR Citation: 42 CFR 413

Legal Deadline: None

Abstract: This proposed rule would amend current regulations to clarify our policies regarding the treatment of interest expense. The rule would require that, when only part of the interest on a loan is allowable, repayment would be made first to that portion of the loan on which expense is allowable. This rule also would clarify how this policy is to be applied in situations in which there are multiple loans and one or more of the loans are not related to patient care. In addition, we would define the allowable costs associated with advance refunding of debt, and clarify the treatment of revenue and expenses.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Ann Pash, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4516
Email: apash@hcfa.gov

RIN: 0938–AI75

1148. MEDICARE HOSPICE CARE (HCFA-1022-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-33, sec 4441(a); PL 105-33, sec 4442 to 4446; PL 105-33, sec 4448

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would implement section 4441(a), 4442-4446, and 4448 of the Balanced Budget Act of 1997. Specific changes include: updating hospice payment rates, specifying payment according to the site of service, modifying the hospice benefit periods, clarifying the services covered under the benefit, allowing hospices to contract for physician services, allowing waivers of certain staffing requirements for hospice care programs in non-urbanized areas, and extending the period for physician certification of an individual's terminal illness. Additionally, the proposed rule would also clarify other current policies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Blackford, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5909
Email: cblackford@hcfa.gov

RIN: 0938–AI77

1149. REVISION OF PROCEDURES FOR REQUESTING EXCEPTIONS TO COST LIMITS FOR SNFS AND ELIMINATION OF RECLASSIFICATIONS (HCFA-1883-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 413.30

Legal Deadline: None

Abstract: This proposed rule would revise the procedures for granting exceptions to the cost limits for skilled nursing facilities and retain the current procedures for exceptions to the cost limits for home health agencies. It would remove the provision allowing reclassification for all providers.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 42797
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Steve Raitzyk, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4599

RIN: 0938–AI80

1150. MEDICARE PROGRAM; STANDARDIZATION OF MEDICARE COVERAGE FOR BONE MASS MEASUREMENTS (HCFA-3004-IFC)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395rr(b)(1); 42 USC 4106

CFR Citation: 42 CFR 410; 42 CFR 414

Legal Deadline: Other, Statutory, July 1, 1998.
BBA Section 4106

Abstract: This interim final rule with comment period provides for the standardization of coverage of bone mass measurements for qualified Medicare beneficiaries for services furnished on or after July 1, 1998. It implements provisions in section 4106 of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/24/98	63 FR 34320
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Larson, Office of Communications & Operations Support, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4639

RIN: 0938–AI89

1151. HEALTH INSURANCE REFORM UNIVERSAL HEALTH CARE IDENTIFIER (HCFA-0048-NOI)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1320d-2

CFR Citation: 42 CFR ch IV

Legal Deadline: Final, Statutory, February 28, 1998.

Abstract: This notice announces our intent to publish a proposed rule on requirements for a unique health identifier for individuals. These requirements are mandated by law and are part of a national framework for health data standards and health information privacy that will support the efficient electronic exchange of specified administrative and financial health care transactions. This notice discusses the options for the identifier that have been put forward for consideration and asks for public comments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Emerson, Office of Information Services, Information Management, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-7065

RIN: 0938–AI91

1152. PEER REVIEW ORGANIZATION CONTRACTS: SOLICITATION OF STATEMENTS OF INTEREST FROM IN-STATE ORGANIZATIONS (HCFA-3009-N)

Priority: Other Significant

Legal Authority: 44 USC 35

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice, in accordance with section 1153(i) of the Social Security Act, gives at least 6 months' advance notice of the expiration dates of contracts with out-of-state utilization and quality control peer review organizations. It also specifies the period of time in which in-state organizations may submit a statement of interest so that they may be eligible to compete for these contracts.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Udo Nwachukwu, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 75OO Security Blvd., Baltimore, MD 21244
Phone: 410 786-7234

RIN: 0938–AI99

1153. REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE SCHEDULES (HCFA-1010-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13945u

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: We are proposing to implement fee schedules to be used for payment of services, excluding ambulance services, still subject to the reasonable charge payment methodology.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joel Kaiser, Center for Health Plan and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4499

RIN: 0938–AJ00

1154. EXTERNAL QUALITY REVIEW OF MEDICAID MANAGED CARE ORGANIZATIONS (HCFA-2015-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 438

Legal Deadline: None

Abstract: This proposed rule would amend the regulation to conform with the provisions of section 4705 of the Balanced Budget Act of 1997. It would require State agencies that contract with managed care organizations to implement quality improvement strategies that address access and other aspects of care and services directly related to the quality of care provided by these managed care organizations and performance through annual external, independent reviews conducted by accrediting organizations that are approved by HCFA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Sharon Gilles, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1177

RIN: 0938–AJ06

1155. HHS' RECOGNITION OF NAIC MODEL STANDARDS FOR REGULATION OF MEDIGAP POLICY (HCFA-2025-N)

Priority: Other Significant

Legal Authority: 42 USC 1395ss

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice describes changes made by the Balanced Budget Act of 1997 and the Health Insurance Portability and Accountability Act of 1996 to section 1882 of the Social Security Act, which governs Medicare supplemental insurance. It also provides notice that the model regulation adopted by the National Association of Insurance Commissioners (NAIC) on April 29, 1998, and reprinted in its entirety as an addendum to this notice, constitutes the applicable NAIC model regulation that is incorporated by reference in section 1882.

Timetable:

Action	Date	FR Cite
Notice	09/30/98	63 FR 67078
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Cutler, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5903

RIN: 0938–AJ07

1156. MEDICARE AND MEDICAID PROGRAMS; QUARTERLY LISTING OF PROGRAM ISSUANCES—FIRST QUARTER 1998 (HCFA-9879-N)

Priority: Routine and Frequent

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 42 USC 1395hh(c)(1)

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice lists regulations and notices that relate to the Medicare and Medicaid programs that were published during January, February, and March of 1998.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kristy Nichimoto, OCOS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-8517

RIN: 0938–AJ12

1157. MEDICARE PROGRAM; CRITERIA AND STANDARDS FOR EVALUATING INTERMEDIARY AND CARRIER PERFORMANCE: MILLENNIUM COMPLIANCE (HCFA-4002-GNC)

Priority: Info./Admin./Other

Legal Authority: 42 USC 1395(h); 42 USC 1395 (u)

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice revises the criteria and standards to be used for evaluating the performance of our contractors in administering the Medicare program. The revisions establish a performance standard requiring contractors to meet requirements for millennium compliance. We require contractors to certify that they have made all necessary system(s) changes and have tested those systems in accordance with our guideline.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sue Lathroum, Center for Beneficiary Service, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-7409

RIN: 0938–AJ15

1158. RURAL HEALTH CLINICS: AMENDMENTS TO PARTICIPATION REQUIREMENTS AND PAYMENT PROVISIONS, AND ESTABLISHMENT OF A QUALITY ASSESSMENT AND IMPROVEMENT PROGRAM (HCFA-1910-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405

Legal Deadline: None

Abstract: This proposed rule would amend our requirements to revise certification and payment requirements for rural health clinics (RHCs) as required by section 4205 of the Balanced Budget Act of 1997 (BBA 1997). It would include new refinements of what constitutes a qualifying rural shortage area in which a Medicare RHC must be located; establish criteria for identifying RHCs essential to delivery of primary care services that can continue to be approved as Medicare RHCs in areas no longer designated as medically underserved; and include recent statutory provisions that provide a temporary waiver of certain nonphysician practitioner staffing requirements. It would impose payment limits on provider based RHCs, prohibit commercial use, the use of space equipment, and other resources of an RHC by another entity. The rule also requires establishment of a quality assessment and performance improvement program.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David Worgo, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5919
Email: dworgo@hcfa.gov

RIN: 0938–AJ17

1159. HOME HEALTH PROSPECTIVE PAYMENT SYSTEM (HCFA-1102-FC)

Priority: Other Significant

Legal Authority: PL 105-33, sec 4603

CFR Citation: 42 CFR ch IV

Legal Deadline: NPRM, Statutory, October 1, 2000.

Abstract: This interim final rule will establish requirements for the new prospective payment system (PPS) for home health agencies as governed by section 4603 of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105-33).

Statement of Need: The BBA significantly changed the way we pay for Medicare home health services. It requires the establishment of a facility-specific PPS and provide for interim steps until the PPS is established. Under the interim system HHAs will receive payment under the interim payment system in accordance with section 4602 of the Balanced Budget Act of 1997. The interim payment system establishes two sets of cost limits for home health agencies. The long-standing home health per visit cost limits are reduced from 112 percent of the mean labor-related and non-labor per visit costs for freestanding agencies to 105 percent of the median. In addition, home health agency costs will be subject to an aggregate per beneficiary cost limitation. For those providers with a cost report ending in Federal fiscal year 1994, the per-beneficiary cost limitation is based on a blend of costs (75 percent on 98 percent of the agency-specific costs and 25 percent on 98 percent of the standardized regional average of the costs for the agency's census region). For new providers and those providers without a 12-month cost reporting period ending in fiscal year 1994, the per beneficiary limitation will be the national median of the per beneficiary limits for HHAs. Under the interim system, HHAs will be paid the lesser of 1) actual costs; 2) the per visit limits; 3) the per beneficiary limits. The result of the interim system will be to create a strong incentive for HHAs to reduce utilization to at least 1994 levels to fall within the aggregate cost limit. Effective 10/1/97, the interim payment system will exist until prospective payment for home health agencies is implemented.

Section 4603 of the BBA establishes section 1895 of the Social Security Act, which specifies the authority for the development of a prospective payment system for home health services effective 10/1/99 which will ultimately be based on units of payment, most likely episodes of care. In developing the PPS, the Secretary will consider: an appropriate unit of service, the number of visits provided within the unit, and their cost. Payment for a unit of home health service will be modified by a case mix adjustor, set by the Secretary, to explain a significant amount of the variation in the cost of different units of service. The HHA would have the potential of profit or loss on each individual patient. Over many patients, the HHA would presumably make or lose money based on its ability to provide needed care effectively and efficiently.

Summary of the Legal Basis: Section 1861(v)(1)(A) of the Social Security Act requires the limits that comprise the interim system. Under this authority, HCFA has maintained limitations on home health agency per visit costs since 1975. Additional statutory provisions specifically governing limitations applicable to home health agencies are contained at section 1861(v)(1)(L) of the Social Security Act. These limits will be replaced by the establishment of a prospective payment system as defined in section 4603 of the BBA that requires the Secretary to establish and implement the prospective payment system for home health services.

Alternatives: Section 4603 of the BBA specifies the authority for the development of a prospective payment system for home health services effective 10/1/99. However, there is contingency language for the home health prospective payment system provided in BBA. If the Secretary for any reason does not establish and implement the prospective payment system for home health services, the Secretary shall provide for a reduction by 15 percent of the per visit cost limits and per beneficiary limits, as those limits would otherwise be in effect on September 30, 1999.

Anticipated Costs and Benefits: The Congress anticipates that the implementation of a PPS for home health services will achieve the combined benefits of establishing a system which will enable HCFA to find the provision of medically necessary HHA care to beneficiaries consistent with the HHA's own case mix and will also prevent the development of further unsustainable growth in HHA costs. The combined effects of the "interim" and final systems are required to achieve this result.

Risks: The statutory contingency for reducing cost caps under the interim system by 15 percent, if the PPS is not timely implemented, is not the preferred method for achieving the desired savings because the interim system does not adjust fully for case mix, as the PPS is required to do. Therefore, the longer the delay in implementation of the PPS, the greater the potential disparity between the case

mix of an individual HHA and its payments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bob Wardwell, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3254

RIN: 0938–AJ24

1160. • MEDICARE PROGRAM STATE ALLOTMENTS FOR PAYMENTS OF MEDICARE PART B PREMIUM FOR QUALIFYING INDIVIDUALS: FEDERAL FISCAL YEAR FOR 1999 (HCFA-2032-N)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1396(a)(10)•(IV); 42 USC 1396(u)(3)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Social Security Act provides for the Medicaid program to pay all or part of the Medicare part B premiums for beneficiaries belonging to two specific eligibility groups of low-income Medicare beneficiaries. This notice announces the Federal fiscal year 1999 allotments that are available for State agencies to pay Medicare part B premiums for these two eligibility groups.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Miles McDermott, CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-3722

RIN: 0938–AJ28

1161. • HOSPITAL CONDITIONS OF PARTICIPATION: LABORATORY SERVICES (HCFA-3 014-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 482.27

Legal Deadline: None

Abstract: This proposed rule would require hospitals that transfuse blood and blood products to (1) prepare and follow written procedures for appropriate action when it is determined that blood and blood products are at increased risk for transmitting hepatitis C virus (HCV); (2) quarantine prior collections from a donor who is at increased risk for transmitting HCV infection; (3) notify transfusion recipients, as appropriate, of the need for HCV testing and counseling; and (4) maintain records for at least 10 years.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Mary Collins, OCSQ, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-3189

RIN: 0938–AJ29

1162. • MEDICARE PROGRAM; PROCEDURES FOR MAKING MEDICAL SERVICES NATIONAL COVERAGE DECISIONS (HCFA-3432-FNC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1302; 40 USC 1395hh

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice withdraws the proposed rule that we published in the Federal Register on January 30, 1989 (54 FR 4302), in which we proposed to establish in regulations generally applicable criteria and procedures for HCFA decisions regarding whether and under what circumstances specific health care technologies could be considered "reasonable" and "necessary" and, therefore, covered under Medicare. We are withdrawing the proposed rule and announcing our intention to issue a new notice of proposed rulemaking concerning the criteria to be used in making national coverage decisions.

This notice also describes the procedures we use for making national decisions regarding the coverage of a payment for specific medical items and services under Medicare.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ron Milhorn, OCSQ, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD
Phone: 410 786-5563

RIN: 0938–AJ31

1163. • MEDICARE PROGRAM; SPECIAL PAYMENT LIMITS FOR CERTAIN DURABLE MEDICAL EQUIPMENT AND PROSTHETIC DEVICES (HCFA-1050-PN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395m; 42 USC 1395u

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice proposes special payment limits, for five items of durable medical equipment and one prosthetic device, to replace the current fee schedule amounts for these items.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Kaiser, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4499

RIN: 0938–AJ34

1164. • MEDICAID PROGRAM; CIVIL MONEY PENALTIES FOR NURSING HOMES (SNF/NF), CHANGE IN NOTICE REQUIREMENTS, AND EXPANSION OF DISCRETIONARY REMEDY (HCFA-2035-FC)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395i-3; 42 USC 1396r

CFR Citation: 42 CFR 488.402; 42 CFR 488.408; 42 CFR 488.430; 42 CFR 488.432; 42 CFR 488.434; 42 CFR 488.438; 42 CFR 488.440; 42 CFR 488.442; 42 CFR 488.454; 42 CFR 435.1001(c)

Legal Deadline: None

Abstract: This rule will add a new type of civil money penalty that HCFA may impose on nursing homes. HCFA will be able to impose a penalty for each instance of noncompliance, by a nursing home facility or skilled nursing facility, that we find as a result of an inspection (survey). The rule also will change the maximum number of days there are between the time we notify a nursing home of a deficiency and when we may impose a penalty.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Fred Galdden, CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3033

RIN: 0938–AJ35

1165. • MEDICARE HOSPICE CARE (HCFA-1022-P)

Priority: Routine and Frequent

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: PL 105-33, sec 4441(a); PL 105-33, sec 4442 to 4446; PL 105-33, sec 4448

CFR Citation: 48 CFR 418

Legal Deadline: None

Abstract: This proposed rule would implement sections 4441(a), 4442 to 4446, and 4448 of the Balanced Budget Act of 1997. Specific changes include updating hospice payment rates, specifying payment according to the site of service, modifying the hospice benefit periods, clarifying the services covered under the benefit, allowing hospices to contract for physician services, allowing waivers of certain staffing requirements for hospice care provided in non-urbanized areas, and extending the period for physician certification of an individual's terminal illness. Additionally, the proposed rule would clarify other current policies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Blackford, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5909

RIN: 0938–AJ36

1166. • EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA) (HCFA-1063-FC)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1395cc, sec 1866; 42 USC 1395dd

CFR Citation: 42 CFR 489.24

Legal Deadline: None

Abstract: This final rule with comment period clarifies the extent of the Emergency Medical Treatment and Labor Act (EMTALA) application.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George Morey, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4653

RIN: 0938–AJ39

1167. • RECOGNITION OF THE JOINT COMMISSION FOR ACCREDITATION OF HEALTHCARE ORGANIZATIONS (JCAHO FOR HOSPICES) (HCFA-2039-FN)

Priority: Routine and Frequent

Legal Authority: 42 USC 1395bb

CFR Citation: 42 CFR ch IV

Legal Deadline: Other, Statutory, February 5, 1999.
On 12/14/98, rather than be denied and have to reapply, JCAHO requested an extension of the time period to allow resolution of outstanding issues.

Abstract: This notice recognizes the Joint Commission for Accreditation of Healthcare Organizations (JCAHO) as a national accreditation organization for hospices that request participation in the Medicare program. We believe that accreditation of hospices by JCAHO demonstrates that all Medicare hospice conditions of participation are met or exceeded. Thus, we grant deemed status to those hospices accredited by JCAHO.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joan Berry, CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-7233

RIN: 0938–AJ41

1168. • DECISION ON THE FUNDING FOR THE AIDS HEALTHCARE FOUNDATION START PROGRAM, (HCFA-2041-N)

Priority: Info./Admin./Other

Legal Authority: PL 105-33, sec 1110

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the award of a grant in the sum of $2 million to the AIDS Healthcare Foundation of Los Angeles, California, for a demonstration project entitled, "START PROGRAM: Success Through Anti-Retroviral Therapy."

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Wayne Smith, CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6762

RIN: 0938–AJ43

1169. • PROTECTION FOR WOMEN WHO ELECT RECONSTRUCTION AFTER A MASTECTOMY (HCFA-2040-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300gg-6

CFR Citation: 45 CFR 146; 45 CFR 148

Legal Deadline: None

Abstract: This IFC will implement the requirements of the Women's Health and Cancer Rights Act of 1998 (WHCRA). It will provide protection for patients who elect breast reconstruction following a mastectomy.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Suzanne Long, CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-0970

RIN: 0938–AJ44

1170. • ACCELERATED PAYMENTS TO PROVIDERS FURNISHING SERVICES UNDER MEDICARE PART A AND PART B AND ADVANCE PAYMENTS TO SUPPLIERS FURNISHING ITEMS OR SERVICES UNDER MEDICARE PART B (HCFA-1066-FC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 91-190; 42 USC 1302; 42 USC 1395g; 42 USC 1395l; 42 USC 1395hh

CFR Citation: 42 CFR 412.116; 42 CFR 413.64; 42 CFR 421.214

Legal Deadline: None

Abstract: This final rule would ensure continued payments to providers and suppliers in the event of a national, regional, or a local emergency, such as national disasters including fire, flood, earthquake and the year 2000 computer system difficulties and related breakdowns. The intent of the final rule is to give HCFA broad discretion in implementing procedures to provide appropriate payments to providers and suppliers in the event of a national, regional, or a local emergency that may prevent the submission or processing of Medicare claims.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Geraldine Nicholson, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6967

RIN: 0938–AJ45

1171. • MEDICARE/MEDICAID AND CLIA PROGRAMS: CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 EXEMPTION OF LABORATORIES IN THE STATE OF CALIFORNIA (HCFA-2245-N)

Priority: Other Significant

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: This notice grants all State-licensed or approved laboratories in California exemption from the requirements of the Clinical Laboratory Improvement Amendments of 1988, based on the State's demonstrated compliance with all the exemption requirements.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Jim Cometa, CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6720

RIN: 0938–AJ47

1172. • FEDERAL ENFORCEMENT IN GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS (HCFA-2019-FC)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300gg

CFR Citation: 45 CFR 150

Legal Deadline: None

Abstract: This rule adds more specific requirements for enforcing legislative requirements concerning the portability and availability of health insurance. It specifies the Federal Government's role in enforcing the insurance requirements in States that do no enforce the requirements. It also specifies how the government will impose civil money penalties on health insurance issuers in those states and states appeal rights and procedures.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Rochelle Shevitz, CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S3-16-26, Baltimore, MD 21244
Phone: 410 786-1570

RIN: 0938–AJ48

1173. • CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 2000 RATES (HCFA-1053-P)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 412; 42 CFR 413; 42 CFR 483; 42 CFR 485

Legal Deadline: NPRM, Statutory, April 1, 1999. Final, Statutory, August 1, 1999.

Abstract: We are proposing to revise the Medicare hospital inpatient prospective payment systems for

operating costs and capital-related costs to implement changes arising from our continuing experience with the systems. In addition, in the addendum to this proposed rule, we are describing proposed changes in the amounts and factors necessary to determine rates for Medicare hospital inpatient services for operating costs and capital-related costs. These changes would be applicable to discharges occurring on or after October 1, 1999. We are also setting forth proposed rate-of-increase limits as well as proposed policy changes for hospitals and hospital unites excluded from the prospective payment systems. Finally, we are proposing changes to the policies governing payment to hospitals for the direct costs of graduate medical education.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tzvi Hefter, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-07-17, Baltimore, MD 21244
Phone: 410 786-4487

RIN: 0938–AJ50

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Completed Actions

1174. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN) (HCFA-2020-F)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 42 CFR 435.831; 42 CFR 436.831

Completed:

Reason	Date	FR Cite
Final Action	01/12/94	59 FR 1659
Final Action Effective	03/14/94	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Jackie Wilder
Phone: 410 786-4579
Email: jwilder@hfca.gov

RIN: 0938–AB07

1175. PARTICIPATION IN CHAMPUS AND CHAMPVA, HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE (HCFA-1393-IFC)

Priority: Other Significant

CFR Citation: 42 CFR 488.18; 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.26; 42 CFR 489.27; 42 CFR 489.53; 42 CFR 1003

Completed:

Reason	Date	FR Cite
Final Action - Published	08/15/88	53 FR 22513
Final Action Effective	08/15/88	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tzvi Hefter
Phone: 410 786-1304

RIN: 0938–AC58

1176. CRITERIA AND PROCEDURES FOR DEVELOPING MEDICAL SERVICES COVERAGE POLICY (HCFA-3546-F)

Priority: Other Significant

CFR Citation: 42 CFR 400.404; 42 CFR 405.201; 42 CFR 405.203; 42 CFR 405.205; 42 CFR 405.207; 42 CFR 405.211

Completed:

Reason	Date	FR Cite
Withdrawn - Scheduled to Merge with Another Regulation	02/10/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ron Milhorn
Phone: 410 786-5663

RIN: 0938–AD07

1177. MEDICARE SECONDARY PAYER FOR DISABLED INDIVIDUALS (HCFA-1482-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 400; 42 CFR 411

Completed:

Reason	Date	FR Cite
Final Action	08/31/95	60 FR 45344
Final Action Effective	10/02/95	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eve Fisher
Phone: 410 786-5641

RIN: 0938–AD73

1178. REVISIONS TO REGULATIONS IMPLEMENTING CLIA (HCFA-2226-F)

Priority: Other Significant

CFR Citation: 42 CFR 493

Completed:

Reason	Date	FR Cite
Final Action	02/28/92	57 FR 7002

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Cade
Phone: 410 786-3870

RIN: 0938–AE47

1179. MEDICARE COVERAGE OF, AND APPLICATION OF THE OUTPATIENT MENTAL HEALTH TREATMENT LIMITATION TO, CLINICAL PSYCHOLOGIST AND CLINICAL SOCIAL WORKER SERVICES (HCFA-3706-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 410; 42 CFR 417; 42 CFR 424

HHS—HCFA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	04/23/98	63 FR 20110

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Regina Walker-Wren
Phone: 410 786-6735

RIN: 0938–AE99

1180. REVISIONS TO RULES ON HEALTH CARE PREPAYMENT PLANS (HCFA-1016-P)

Priority: Other Significant

CFR Citation: 42 CFR 471.800; 42 CFR 417.801; 42 CFR 417.806; 42 CFR 417.812; 42 CFR 417.814; 42 CFR 417.816; 42 CFR 417.818; 42 CFR 417.820; 42 CFR 417.822; 42 CFR 417.824

Completed:

Reason	Date	FR Cite
Withdrawn - Superceded by Medicare+Choice Rules	06/26/98	63 FR 34968

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tracy Jensen
Phone: 410 786-1033

RIN: 0938–AF97

1181. RETROACTIVE ENROLLMENT AND DISENROLLMENT IN RISK HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS (HCFA-1015-F)

Priority: Other Significant

CFR Citation: 42 CFR 417.448; 42 CFR 417.450; 42 CFR 417.456; 42 CFR 417.460; 42 CFR 417.461; 42 CFR 417.462; 42 CFR 417.464; 42 CFR 417.584; 42 CFR 417.436

Completed:

Reason	Date	FR Cite
Withdrawn - Superceded by Medicare+Choice Rules	06/26/98	63 FR 34968

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anne Manley
Phone: 410 786-1096

RIN: 0938–AF98

1182. PAYMENT FOR PREADMISSION SERVICES (HCFA-1731-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 412.2(c); 42 CFR 413.40

Completed:

Reason	Date	FR Cite
Final Action	02/11/98	63 FR 6864

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy Edwards
Phone: 410 786-4531

RIN: 0938–AG00

1183. RURAL HEALTH CLINICS: AMENDMENTS TO PARTICIPATION REQUIREMENTS AND PAYMENT PROVISIONS AND ESTABLISHMENT OF A QUALITY ASSESSMENT AND PERFORMANCE IMPROVEMENT PROGRAM (HCFA-1910-P)

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0938-AJ17	02/08/99	

RIN: 0938–AG05

1184. REQUEST FOR ASSESSMENT ON THE SALITRON SYSTEM FOR THE TREATMENT OF XEROSTOMIA SECONDARY TO SJOGREN'S SYNDROME (HCFA-3782-NC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	06/01/98	63 FR 29743

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Francine Spencer
Phone: 410 786-4614

RIN: 0938–AG45

1185. CLINICAL LABORATORY IMPROVEMENT AMENDMENT (CLIA) FEE SCHEDULE REVISION (HCFA-3219-GNC)

Priority: Other Significant

CFR Citation: 42 CFR 493.638; 42 CFR 493.639

Completed:

Reason	Date	FR Cite
Final Action	02/10/99	62 FR 45815

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Judy Yost
Phone: 410 786-3531

RIN: 0938–AG87

1186. CATEGORIZATION AND CERTIFICATION REQUIREMENTS FOR A NEW SUBCATEGORY OF MODERATE COMPLEXITY TESTING (HCFA-2222-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 493.2; 42 CFR 493.3; 42 CFR 493.5; 42 CFR 493.18; 42 CFR 493.20; 42 CFR 493.21; 42 CFR 493.25; 42 CFR 493.43; 42 CFR 493.45; 42 CFR 493.48; 42 CFR 493.49; 42 CFR 493.51; 42 CFR 493.53; 42 CFR 493.638

Completed:

Reason	Date	FR Cite
Withdrawn - Scheduled to Merge with Another Regulation	02/10/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Judy Yost
Phone: 410 786-3531

RIN: 0938–AG98

1187. AMBULANCE SERVICES (HCFA-1813-F)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 42 CFR 410.40; 42 CFR 410.41; 42 CFR 424.124

Completed:

Reason	Date	FR Cite
Final Action	01/25/99	64 FR 3648

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Margot Blige
Phone: 410 786-4642

RIN: 0938–AH13

1188. CRITERIA AND PROCEDURES FOR EXTENDING COVERAGE TO CERTAIN DEVICES AND RELATED SERVICES (HCFA-3841-F)

Priority: Other Significant

CFR Citation: 42 CFR 405.201 to 215; 42 CFR 411.15; 42 CFR 411.406

Completed:

Reason	Date	FR Cite
Final Action	09/19/95	60 FR 48417

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Hippler
Phone: 410 786-4633

RIN: 0938–AH21

1189. DELEGATION OF CIVIL MONEY PENALTIES (HCFA-6135-FC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 402

Completed:

Reason	Date	FR Cite
Final Action	12/14/98	63 FR 68687

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Cohen
Phone: 410 786-3349

RIN: 0938–AH22

1190. SUPPLIER PARTICIPATION AGREEMENTS AND LIMITS ON ACTUAL CHARGES OF NONPARTICIPATING PHYSICIANS (HCFA-1862-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 400; 42 CFR 414

Completed:

Reason	Date	FR Cite
Merged With HCFA-1006-P	11/30/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anita Heygster
Phone: 410 786-4486

RIN: 0938–AH50

1191. CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1998 RATES (HCFA-1878-F)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 412; 42 CFR 413; 42 CFR 489

Completed:

Reason	Date	FR Cite
Final Action	05/12/98	63 FR 26318

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Tzvi Hefter
Phone: 410 786-4487

RIN: 0938–AH55

1192. CONDITIONS FOR CERTIFICATION OF COMMUNITY MENTAL HEALTH CENTERS AND COVERAGE REQUIREMENTS FOR PARTIAL HOSPITALIZATION SERVICES (HCFA-1871-P)

Priority: Other Significant

CFR Citation: 42 CFR 410.43; 42 CFR 410.110; 42 CFR 410.150; 42 CFR 410.172

Completed:

Reason	Date	FR Cite
Merged With HCFA-3736-F	02/10/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janet Samen
Phone: 410 786-9161

RIN: 0938–AH58

1193. MEDICAID PROGRAM; REDETERMINATIONS OF MEDICAID ELIGIBILITY DUE TO WELFARE REFORM (HCFA-2105-IFC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 435.1003; 42 CFR 457

Completed:

Reason	Date	FR Cite
Final Action	01/13/97	62 FR 1682
Final Action Effective	01/13/97	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Bob Tomlinson
Phone: 410 786-4463

RIN: 0938–AH76

1194. MEDICARE PROGRAM; BENEFICIARY INCENTIVE PROGRAMS (HCFA-6144-FC)

Priority: Other Significant

CFR Citation: 42 CFR 420.400; 42 CFR 420.405; 42 CFR 420.410

Completed:

Reason	Date	FR Cite
Final Action	06/08/98	63 FR 31123

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Delilah Schmitt
Phone: 410 786-4300

RIN: 0938–AH86

1195. ALLOCATION OF ENHANCED FEDERAL MATCHING FUNDS FOR INCREASED ADMINISTRATIVE COSTS (MB-103-N)

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	05/14/97	62 FR 26545

Regulatory Flexibility Analysis Required: No

HHS—HCFA

Completed Actions

Government Levels Affected: State

Agency Contact: Richard Strauss
Phone: 410 786-2019

RIN: 0938–AH90

1196. FINAL LIMITATIONS ON AGGREGATE PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS: FEDERAL FISCAL YEAR 1998 (HCFA-2110-N)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 447.297; 42 CFR 447.298; 42 CFR 447.299

Completed:

Reason	Date	FR Cite
Merged With HCFA-2012	10/08/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Richard Strauss
Phone: 410 786-2019

RIN: 0938–AH93

1197. MEDICARE COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES (HCFA-1496-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405.2411; 42 CFR 405.2414; 42 CFR 405.2415; 42 CFR 410.10; 42 CFR 410.77

Completed:

Reason	Date	FR Cite
Merged With HCFA-1006-P	11/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roberta Epps
Phone: 410 786-4475

RIN: 0938–AH96

1198. HEALTH INSURANCE REFORM: PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS (HCFA-2891-IFC)

Priority: Other Significant

CFR Citation: 45 CFR 146

Completed:

Reason	Date	FR Cite
Final Action	12/22/97	62 FR 66932

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Marc Thomas
Phone: 410 786-7154

RIN: 0938–AI05

1199. PART A PREMIUM FOR 1998 FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (HCFA-5056-N)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 45 CFR 300

Completed:

Reason	Date	FR Cite
Notice - (Effective 01/01/99)	10/21/98	63 FR 56212

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Wandishin
Phone: 410 786-6389

RIN: 0938–AI10

1200. INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1998 (HCFA-5057-N)

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/21/98	63 FR 56199

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Wandishin
Phone: 410 786-6389

RIN: 0938–AI12

1201. HEALTH INSURANCE PORTABILITY: NEWBORNS' AND MOTHERS' HEALTH PROTECTION (HCFA-2892-IFC)

Priority: Other Significant

CFR Citation: 45 CFR 146.136; 45 CFR 148.151

Completed:

Reason	Date	FR Cite
Final Action	10/26/98	63 FR 57546

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marc Thomas
Phone: 410 786-7154

RIN: 0938–AI17

1202. MEDICAID PROGRAM: CHARGES FOR VACCINE ADMINISTRATION UNDER THE VACCINES FOR CHILDREN (VCF) PROGRAM (HCFA-2084-FNC)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	04/10/95	60 FR 18136

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joan Mahanes
Phone: 410 786-4583

RIN: 0938–AI20

1203. CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEMS AND FISCAL YEAR 1999 RATES (HCFA-1003-P)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 412; 42 CFR 413

Completed:

Reason	Date	FR Cite
Final Action	07/31/98	63 FR 40954

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

HHS—HCFA

Completed Actions

Government Levels Affected: Federal

Agency Contact: Tzvi Hefter
Phone: 410 786-4487

RIN: 0938–AI22

1204. MEDICARE PROGRAM; NOTICE FOR THE SOLICITATION FOR PROPOSALS FOR A CASE MANAGEMENT DEMONSTRATION PROJECT FOCUSED ON CONGESTIVE HEART FAILURE OR DIABETES MELLITUS (HCFA-1104-N)

Priority: Info./Admin./Other

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action	06/11/98	63 FR 32015

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine Jansto
Phone: 410 786-7762
Email: cjansto@hcfa.gov

RIN: 0938–AI26

1205. COLLECTION OF USER FEES FROM MEDICARE+CHOICE PLANS AND RISK-SHARING CONTRACTORS (HCFA-1911-IFC)

Priority: Other Significant

CFR Citation: 42 CFR 417.470; 42 CFR 417.472

Completed:

Reason	Date	FR Cite
Final Action	12/02/97	62 FR 63669

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marty Abeln
Phone: 410 786-1032

RIN: 0938–AI35

1206. MEDICAID PROGRAM; STATE ALLOTMENTS FOR PAYMENT OF MEDICARE PART B PREMIUMS FOR QUALIFIED INDIVIDUALS: FEDERAL FISCAL YEAR 1998 (HCFA-2005-NC)

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0938-AJ28	02/11/99	

RIN: 0938–AI39

1207. MEDICARE PROGRAM: PAYMENTS FOR TELECONSULTATIONS IN RURAL HEALTH PROFESSIONAL SHORTAGE AREAS (HCFA-1906-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 410.75; 42 CFR 414.1; 42 CFR 414.62

Completed:

Reason	Date	FR Cite
Merged With HCFA-1006-P	11/30/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Craig Dobyski
Phone: 410 786-4584

RIN: 0938–AI44

1208. REVIEW AND PAYMENT FOR CLAIMS FILED ON BEHALF OF MEDICARE/MEDICAID DUALLY ELIGIBLE BENEFICIARIES (HCFA-2097-3)

Priority: Other Significant

CFR Citation: 42 CFR 489.53

Completed:

Reason	Date	FR Cite
Withdrawn	01/26/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Robert Nakielng
Phone: 410 786-4466

RIN: 0938–AI50

1209. MEDICARE PROGRAM; REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 1999 (HCFA-1006-FC) (HCFA-1006-P)

Priority: Other Significant

CFR Citation: 42 CFR 410; 42 CFR 414

Completed:

Reason	Date	FR Cite
Final Action	11/02/98	63 FR 58814
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Weintraub
Phone: 410 786-4498

RIN: 0938–AI52

1210. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES (HCFA-1005-P)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 42 CFR 409.10; 42 CFR 410.2; 42 CFR 410.27; 42 CFR 410.28; 42 CFR 410.30; 42 CFR 411.15; 42 CFR 412.50; 42 CFR 413.118; 42 CFR 413.122; 42 CFR 413.124; 42 CFR 413.130; 42 CFR 413; 42 CFR 489.20; 42 CFR 1003.101 to 102; 42 CFR 1003.105

Completed:

Reason	Date	FR Cite
Final Action	09/08/98	63 FR 47552

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janet Wellham
Phone: 410 786-4510

RIN: 0938–AI56

1211. MEDICARE PROGRAM; DEFINITION OF PROVIDER-SPONSORED ORGANIZATION AND RELATED REQUIREMENTS (HCFA-1027-IFC)

Priority: Other Significant

CFR Citation: 42 CFR 422.350; 42 CFR 422.352; 42 CFR 422.354; 42 CFR 422.356

Completed:

Reason	Date	FR Cite
Merged With HCFA-1031-F	02/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Maureen Miller
Phone: 410 786-1097
Email: mmiller@hcfa.gov

RIN: 0938–AI60

HHS—HCFA

Completed Actions

1212. CHILD HEALTH INSURANCE ALLOTMENTS FY 1999 (HCFA-2014-N)

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	02/08/99	64 FR 6102

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Richard Strauss
Phone: 410 786-2014
Email: rstrauss@hcfa.gov

RIN: 0938–AI64

1213. STATE CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS AND PAYMENTS TO STATES (HCFA-2114-P)

Priority: Economically Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 42 CFR 457.200; 42 CFR 457.202; 42 CFR 457.204; 42 CFR 457.206; 42 CFR 457.208; 42 CFR 457.210; 42 CFR 457.212; 42 CFR 457.216; 42 CFR 457.218; 42 CFR 457.600; 42 CFR 457.602; 42 CFR 457.606; 42 CFR 457.608; 42 CFR 457.610; 42 CFR 457.614

Completed:

Reason	Date	FR Cite
Final Action	03/04/99	64 FR 12404

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Richard Strauss
Phone: 410 786-2019
Email: rstrauss@hcfa.gov

RIN: 0938–AI65

1214. DSH PAYMENTS - INSTITUTION FOR MENTAL DISEASE (HCFA-2012-N)

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	10/08/98	63 FR 54142

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Christine Hinds
Phone: 410 786-4578

RIN: 0938–AI66

1215. NEW AND PENDING DEMONSTRATION PROJECT PROPOSALS SUBMITTED PURSUANT TO SECTION 1115(A) OF THE SOCIAL SECURITY ACT JULY, AUGUST, SEPTEMBER, OCTOBER, AND NOVEMBER 1997

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action	02/04/98	63 FR 5809

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gloria Smiddy
Phone: 410 786-7723

RIN: 0938–AI71

1216. MEDICARE PROGRAM; ADVERTISING COSTS (HCFA-1880-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with another regulation per CHPP	10/27/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Gill
Phone: 410 786-7156
Fax: 410 786-0594

RIN: 0938–AI76

1217. STATE ALLOTMENTS FOR ADDITIONAL FEDERAL FUNDING OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS: FEDERAL FISCAL YEARS 1998 THROUGH (HCFA-2000-N)

Priority: Other Significant

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	03/03/98	63 FR 10400

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Miles McDermott
Phone: 410 786-3722
Email: mmcdermott@hcha.gov

RIN: 0938–AI78

1218. MEDICAID PROGRAM; EXTENSION OF WAIVER TO EXTEND MEDICAID ELIGIBILITY TIMEFRAMES (HCFA-2009-N)

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	11/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Mark Ross
Phone: 410 786-5855
Email: mross@hcfa.gov

RIN: 0938–AI79

1219. MEDICARE AND MEDICAID PROGRAMS; SURETY BOND REQUIREMENTS FOR HOME HEALTH AGENCIES (HCFA-1038-NC)

Priority: Routine and Frequent

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	03/04/98	63 FR 10732

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

HHS—HCFA

Completed Actions

Agency Contact: Ralph Goldberg
Phone: 410 786-4870

RIN: 0938–AI82

1220. SCHEDULE OF PER-BENEFICIARY LIMITATIONS ON HOME HEALTH AGENCY COSTS FOR COST REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1997 (HCFA-1905-FC)

Priority: Other Significant

CFR Citation: 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Final Action	03/31/98	63 FR 15718

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mike Bussacca
Phone: 410 786-4602

RIN: 0938–AI84

1221. EXPANDED COVERAGE OF BLOOD GLUCOSE MONITORS AND TEST STRIPS (HCFA-3003-IFC)

Priority: Other Significant

CFR Citation: 42 CFR 410.38

Completed:

Reason	Date	FR Cite
Withdrawn	07/09/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Betty S. Burrier
Phone: 410 786-4649

RIN: 0938–AI85

1222. MEDICARE PROGRAM; HOSPICE WAGE INDEX (HCFA-1039-N)

Priority: Other Significant

CFR Citation: 42 CFR 418.306(c)

Completed:

Reason	Date	FR Cite
Final Action	10/05/98	63 FR 53446

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Blackford
Phone: 410 786-5909
Fax: 410 786-0169
Email: cblackford@hcfa.gov

RIN: 0938–AI87

1223. RECOGNITION OF THE AMERICAN ASSOCIATION FOR ACCREDITATION OF AMBULATORY SURGERY FACILITIES, INC. FOR AMBULATORY SURGICAL CENTERS PROGRAM (HCFA-2008-PN)

Priority: Info./Admin./Other

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action	12/02/98	63 FR 66554

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Joan C. Berry
Phone: 410 786-7233

RIN: 0938–AI90

1224. MEDICAID, MEDICARE CLIA PROGRAM; EXTENSION OF CERTAIN EFFECTIVE DATES FOR CLINICAL LABORATORY REQUIREMENTS UNDER CLIA (HCFA 2024-IFC)

Priority: Other Significant

CFR Citation: 42 CFR 493

Completed:

Reason	Date	FR Cite
Final Action	10/14/98	63 FR 55031

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Judy Yost
Phone: 410 786-3531

RIN: 0938–AI94

1225. HOSPITAL CONDITIONS OF PARTICIPATION, IDENTIFICATION OF POTENTIAL ORGAN, TISSUE, AND EYE DONOR AND TRANSPLANT HOSPITALS PROVISIONS OF TRANSPLANT RELATED DATA (HCFA-3005-F)

Priority: Other Significant

CFR Citation: 42 CFR 482

Completed:

Reason	Date	FR Cite
Final Action	06/22/98	63 FR 33856

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Marcia Newton
Phone: 410 786-5265

RIN: 0938–AI95

1226. EXPANDED COVERAGE FOR DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES (HCFA-3002-P)

Priority: Economically Significant

CFR Citation: 42 CFR 410; 42 CFR 414; 42 CFR 424; 42 CFR 476; 42 CFR 498

Completed:

Reason	Date	FR Cite
Final Action	02/11/99	64 FR 6827

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Claude Mone
Phone: 410 786-5666

RIN: 0938–AI96

1227. MEDICARE PROGRAM; MONTHLY ACTUARIAL RATES AND MONTHLY SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATE BEGINNING JANUARY 1, 1999 (HCFA-8003-N)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	10/21/98	63 FR 56201

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

HHS—HCFA

Completed Actions

Government Levels Affected: None

Agency Contact: Carter S. Warfield
Phone: 410 786-6396

RIN: 0938–AI98

1228. NOTICE ANNOUNCING REVISED POSITRON EMISSION TOMOGRAPHY (PET) POLICY (HCFA-3008-NC)

Priority: Other Significant

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Withdrawn	01/22/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Ron Milhourn
Phone: 410 786-5666
Email: rmilhourn@hcfa.gov

RIN: 0938–AJ01

1229. MEDICARE PROGRAM; INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1999 (HCFA-8001-N)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	10/21/98	63 FR 56199

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Clare McFarland
Phone: 410 786-6390

RIN: 0938–AJ02

1230. MEDICARE PROGRAM; PART A PREMIUM FOR 1999 FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (HCFA-8000-N)

Priority: Other Significant

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	10/21/98	63 FR 56212

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Clare McFarland
Phone: 410 786-6390
Fax: 410 786-1295

RIN: 0938–AJ03

1231. INPATIENT PSYCHIATRIC SERVICES BENEFIT FOR INDIVIDUALS UNDER AGE 21 (HCFA-2060-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	11/19/98	63 FR 64195

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Winona Hocutt
Phone: 410 786-4666

RIN: 0938–AJ05

1232. PHYSICIAN SUSTAINABLE GROWTH RATE OF INCREASE FOR FY 1999 (HCFA-1021-FN)

Priority: Other Significant

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	11/02/98	63 FR 59188

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elizabeth Holland
Phone: 410 786-1309

RIN: 0938–AJ09

1233. COMPREHENSIVE ASSESSMENT AND USE OF OASIS AS PART OF CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES (HCFA-3007-F)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 42 CFR 484.18; 42 CFR 484.55

Completed:

Reason	Date	FR Cite
Final Action	01/25/99	64 FR 3764
Final Action Effective	02/24/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janice Stevenson
Phone: 410 786-4882
Mary Weakland
Phone: 410 786-6835

RIN: 0938–AJ11

1234. REQUEST FOR PUBLIC COMMENTS ON IMPLEMENTATION OF RISK ADJUSTED PAYMENT FOR THE MEDICARE+CHOICE PROGRAM AND NOTICE OF PUBLIC MEETING

Priority: Info./Admin./Other

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Final Action	09/08/98	63 FR 47506

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cynthia Tudor
Phone: 410 786-6499

RIN: 0938–AJ16

1235. ADJUSTMENTS TO PAYMENT AMOUNT FOR ERYTHROPOIETIN/EPOIETIN FOR END-STAGE RENAL DISEASE PATIENTS (HCFA-1098-PN)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 42 CFR 413.174

HHS—HCFA

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn - Action on this notice not anticipated during this cycle.	02/01/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Henry E. Richter
Phone: 410 786-4562

RIN: 0938–AJ18

1236. RECOGNITION OF THE COMMISSION FOR ACCREDITATION OF REHABILITATION FACILITIES (HCFA-2036-NC)

Priority: Info./Admin./Other

CFR Citation: 42 CFR 785

Completed:

Reason	Date	FR Cite
Final Action	12/24/98	63 FR 71296

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Susan Cuerdon
Phone: 410 786-1146

RIN: 0938–AJ25

1237. MEDICARE PROGRAM; LIMITED ADDITIONAL OPPORTUNITY TO REQUEST CERTAIN HOSPITAL WAGE DATA REVISIONS FOR FY 1999 (HCFA-1049-FC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 412

Completed:

Reason	Date	FR Cite
Final Action	11/19/98	63 FR 64191

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Phillips
Phone: 410 786-4548

RIN: 0938–AJ26

1238. • REQUEST FOR NOMINATIONS FOR MEMBERS FOR PRACTICING PHYSICIANS ADVISORY COUNCIL (HCFA-1048-N)

Priority: Info./Admin./Other

Legal Authority: 42 USC 1395ee; PL 101-508

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice requests nominations from physician medical organizations for individuals to serve on the Practicing Physicians Advisory Council.

Timetable:

Action	Date	FR Cite
Notice - No Further Action Planned	11/10/98	63 FR 63068

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Aaron Primack, MD, CHPP, Department of Health and Human Services, Health Care Financing Administration, Room 435-H, HHH Bldg., Washington, DC 20201
Phone: 202 205-2505

RIN: 0938–AJ27

1239. • MEDICARE AND MEDICAID PROGRAMS; ANNOUNCEMENT OF ADDITIONAL APPLICATION FROM HOSPITALS REQUESTING WAIVERS FOR ORGAN PROCUREMENT SERVICE AREA (HCFA-1062-N)

Priority: Routine and Frequent

Legal Authority: 42 USC 1138(a)(2)(A)

CFR Citation: 42 CFR 316(a) to 486

Legal Deadline: None

Abstract: This notice announces additional applications that we have received from hospitals requesting waivers from entering into agreements with their designated organ procurement organizations (OPOs) in accordance with section 1138(a)(2) of the Social Security Act. It supplements notices published in the Federal Register on January 19, 1996, May 17, 1996, November 8, 1996, April 21, 1997, and September 17, 1997, that announced hospital waiver requests received by us. This notice requests comments from OPOs and the general public for our consideration in determining whether these waivers should be granted.

Timetable:

Action	Date	FR Cite
Notice - No Further Action Planned	01/12/99	64 FR 1811

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Horney, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4554

RIN: 0938–AJ32

1240. • MEDICARE PROGRAM; JANUARY 6, 1999, MEETING OF THE COMPETITIVE PRICING ADVISORY COMMITTEE (HCFA-1061-N)

Priority: Info./Admin./Other

Legal Authority: PL 103-33, sec 4011

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice announces a meeting of the Competitive Pricing Advisory Committee on January 6, 1999.

Timetable:

Action	Date	FR Cite
Meeting Notice - No Further Action Planned	12/17/98	63 FR 69638

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Arnold, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD
Phone: 410 786-0291

RIN: 0938–AJ33

1241. • MEDICARE PROGRAM; MARCH 15, 1999, MEETING OF THE PRACTICING PHYSICIAN ADVISORY COUNCIL (HCFA-1064-N)

Priority: Routine and Frequent

Legal Authority: PL 105-33, sec 1868

CFR Citation: None

Legal Deadline: None

Abstract: In accordance with section 10(a) of the Federal Advisory

Committee Act, this notice announces a meeting of the Practicing Physician Advisory Council (the Council) on March 15, 1999. This meeting is open to the public. The Council was mandated by section 1868 of the Social Security Act and meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary of the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
Meeting Notice - No Further Action Planned	02/12/99	64 FR 7198

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Lanigan, Department of Health and Human Services, Health Care Financing Administration, HHH Building, Wasnington, DC 20201
Phone: 202 690-7418

RIN: 0938–AJ38

1242. • MARCH 9, APRIL 8, AND MAY 12, 1999 MEETINGS OF THE KANSAS CITY METROPOLITAN AREA, COMPETITIVE PRICING DEMONSTRATION AREA ADVISORY COMMITTEE (HCFA-1068-N)

Priority: Info./Admin./Other

Legal Authority: PL 105-33, sec 4012(b)

CFR Citation: None

Legal Deadline: None

Abstract: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces three meetings of the Competitive Pricing Demonstration Area Advisory Committee for the Kansas City metropolitan area. Section 4011 of the Balanced Budget Act of 1997 (BBA) requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology. After an area is designated as a demonstration site, section 4012(b) of the BBA requires the Secretary to appoint an Area Advisory Committee (AAC). The AAC is directed to advise the Secretary on the marketing and pricing of the plan in the area and other salient factors.

Timetable:

Action	Date	FR Cite
Meeting Notice - No Further Action Planned	03/11/99	64 FR 12172

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard P. Brummel, CHPP, Deputy Regional Administrator, Department of Health and Human Services, Health Care Financing Administration, Room 235, 601 East 12th Street, Kansas City, MO 64106
Phone: 816 426-5233

RIN: 0938–AJ46

1243. • MEDICARE COORDINATED CARE DEMONSTRATION PROJECT AND REQUEST FOR COMMENTS ON POTENTIAL BEST PRACTICES OF COORDINATED CARE (HCFA-1100-N)

Priority: Info./Admin./Other

Legal Authority: PL 105-33

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice announces HCFA's intent to conduct a Medicare Coordinated Care Demonstration and solicit comments on potential best practices of coordinated care and on aspects of the overall demonstration.

Timetable:

Action	Date	FR Cite
Notice - No Further Action Planned	03/23/99	64 FR 13998

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Catherine Jansto, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-7762

RIN: 0938–AJ49

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Administration for Children and Families (ACF)

1244. CONSTRUCTION OF HEAD START FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This rule establishes procedures to be used by Head Start agencies in requesting to use Head Start grant funds to construct or renovate a Head Start facility.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 6013
NPRM Comment Period End	04/09/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB54

1245. BONUS TO REWARD HIGH PERFORMANCE STATES UNDER THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT

Priority: Other Significant

Legal Authority: 42 USC 603 (a)(4)

CFR Citation: 45 CFR 270 (New)

HHS—ACF

Proposed Rule Stage

Legal Deadline: None

Abstract: The Administration for Children and Families, in consultation with the National Governor's Association and the American Public Human Services Association (formerly the American Public Welfare Association), will propose specific performance measures and a funds allocation formula for measuring State performance under the Temporary Assistance for Needy Families Block Grant as the basis for payment of a bonus to high performing States.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., 7th Floor West, Washington, DC 20447
Phone: 202 401-9220
Fax: 202 205-3598

RIN: 0970–AB66

1246. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES

Priority: Other Significant

Legal Authority: 42 USC 655(f)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This NPRM will specify how tribes can obtain direct payments from the Department of Health and Human Services for provision of child support enforcement services if they submit a plan meeting the objectives of title IV-D, including establishment of paternity, modification and enforcement of support orders, and location of absent parents.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Paige Biava, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, OCSE, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5635
Fax: 202 401-5559
Email: phbiava@acf.dhhs.gov

RIN: 0970–AB73

1247. INCENTIVE PAYMENTS AND AUDIT PENALTIES TO STATES AND POLITICAL SUBDIVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 609(a)(8); 42 USC 658A

CFR Citation: 45 CFR 305; 45 CFR 302.55; 45 CFR 304.12

Legal Deadline: NPRM, Statutory, April 1999.

Abstract: This regulation proposes to implement the requirements in 42 USC 609(a)(8) which provide for a penalty of 1 percent to 5 percent of a State's Temporary Assistance for Needy Families (TANF) funds if the Secretary of HHS determines that the State failed to meet the paternity establishment percentages or other performance measures established by the Secretary. It would also implement a new incentive system, enacted under Pub.L. 105-200. Based on 42 USC 658A States will receive incentives according to their performance on key statutory indicators and performance standards from a capped pool of funds beginning in FY 2000. These funds must be reinvested in the IV-D program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Joyce Pitts, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop OCSE/DPP, Washington, DC 20447
Phone: 202 401-5374
Fax: 202 401-5559
Email: jpitts@acf.dhhs.gov

RIN: 0970–AB85

1248. FAMILY CHILD CARE PROGRAM OPTION FOR HEAD START PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1304,1306

Legal Deadline: None

Abstract: This rule would allow Head Start programs to choose Family Child Care as a Head Start program option.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, ACYF, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB90

1249. IMPLEMENTATION OF AFCARS CORRECTIVE ACTION AND PENALTIES AND CAPTA AMENDMENTS

Priority: Other Significant

Legal Authority: 42 USC 5101 et seq; 42 USC 674 to 679; 42 USC 1320a-2a

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1340

Legal Deadline: None

Abstract: This NPRM will: revise the Child Abuse and Neglect Prevention and Treatment regulation to implement the requirements of the Child Abuse Prevention and Treatment Act Amendments of 1996 (Pub. L. 104-235); address the adoption and foster care analysis and reporting system correction action and penalties; make changes to the collection of data; and make other technical changes, including, reporting dates in century date format.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

HHS—ACF

Proposed Rule Stage

Government Levels Affected: State

Additional Information: Merge RIN 0970-AB86 with RIN 0970-AB94

Agency Contact: Kathleen McHugh, Director, Policy Division, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Wasington, DC 20201
Phone: 202 401-5789
Email: kmchugh@acf.dhhs.gov

RIN: 0970–AB94

1250. STATE SELF ASSESSMENTS TO DETERMINE COMPLIANCE WITH FEDERAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 654(15)(A)

CFR Citation: 45 CFR 306

Legal Deadline: None

Abstract: Would require States to conduct annual reviews on certain aspects of the State Title IV-D Programs and provide a report to the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Jan Rothstein, Program Specialist, Office of Child Support Enforcement/DHHS, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5073
Fax: 202 401-5559
Email: jrothstein@acf.dhhs.gov

RIN: 0970–AB96

1251. • PRIORITY FOR PREVIOUSLY SELECTED HEADSTART AGENCIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1302.12

Legal Deadline: None

Abstract: NPRM proposes to amend 45 CFR part 1302 by removing section 1302.12 for clarification purposes.

Timetable:

Action	Date	FR Cite
NPRM	03/24/99	64 FR 14202
NPRM Comment Period End	05/24/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local, Tribal

Agency Contact: James Kolb, Head Start Bureau, ACYF, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20201
Phone: 202 205-8580

RIN: 0970–AB98

1252. • PROGRAM PERFORMANCE STANDARDS FOR THE OPERATION OF HEAD START PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9831 et seq; sec 641A of the Head Start Act

CFR Citation: 45 CFR 1304

Legal Deadline: None

Abstract: The education component of the Head Start Performance Standards will be revised to ensure the school readiness of children participating in a Head Start program and to assure that Head Start children have certain understandings in the areas of language and numeracy.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Doug Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C St SW., Washington, DC 20447
Phone: 202 205-8569

RIN: 0970–AB99

1253. • SAFEGUARDING CHILD SUPPORT AND EXPANDED FPLS INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 452 to 454A

CFR Citation: 45 CFR 303.21

Legal Deadline: None

Abstract: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 made far-reaching amendments to Title IV-D of the Social Security Act, which governs the child support enforcement program. The Balanced Budget Act of 1997, the Adoption and Safe Families Act of 1997 and the Child Support Performance and Incentive Act of 1998 further amended Title IV-D. A significant result of this legislation is an expansion in the scope of information available to State IV-D child support enforcement agencies. The legislation has rendered obsolete or inconsistent several regulations at 45 CFR chapter III, Office of Child Support Enforcement, including the regulations on the Federal Parent Locator Service, the State Parent Locator Services, offset of Federal payments for purposes of collecting child support, and safeguarding of information. This regulation would update various sections in 45 CFR Chapter III to reflect the statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Eileen C. Brooks, Program Specialist, DHHS/OCSE, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., 4th Floor East, OCSE/DPP, Washington, DC 20447
Phone: 202 401-5369
Fax: 202 401-5559
Email: ebrooks@acf.dhhs.gov

RIN: 0970–AC01

1254. • ASSETS FOR INDEPENDENCE RESERVE ACCOUNT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-285

CFR Citation: Not yet determined

HHS—ACF

Proposed Rule Stage

Legal Deadline: None

Abstract: The Office of Community Services (OCS) is administering a new demonstration project that will establish, support, and participate in the evaluation of Individual Development Accounts (IDA) for lower income individuals and families, as enacted in Title IV, Human Services Reauthorization Act of 1998 (P.L. 105-285). Section 407(b)(2) of Title IV, Human Services Reauthorization Act of 1998 (P.L. 105-285), states that the Secretary is to prescribe regulations on accounting for amounts in the IDA reserve fund. This regulation would address that requirement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard Saul, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., 5th Floor - OCS, Washington, DC 20447
Phone: 202 401-9341
Fax: 202 401-4687
Email: rsaul@acf.dhhs.gov

RIN: 0970–AC02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Final Rule Stage

1255. TITLE IV-E FOSTER CARE ELIGIBILITY REVIEWS AND CHILD AND FAMILY SERVICES STATE PLAN REVIEWS, MEPA IMPLEMENTATION, AND ASFA IMPLEMENTATION

Priority: Other Significant

Legal Authority: 42 USC 622; 42 USC 671; 42 USC 1302; 42 USC 1320a-2a

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: Final, Statutory, July 1, 1995.

Abstract: This rule will contain requirements that implement the Social Security Act Amendments of 1994 on review of State programs under parts B and E of the Social Security Act for conformity with State Plan requirements as well as Adoption and Safe Families Act requirements related to State plan issues. It will contain requirements that govern on-site eligibility reviews that the Administration for Children and Families conducts to assure State agencies' compliance with the statutory requirements under Title IV-E of the Social Security Act for the eligibility of foster care providers and the eligibility of children in foster care. The rule will provide for enforcement of the prohibition on race-based discrimination in foster care and adoptive placements.

Timetable:

Action	Date	FR Cite
NPRM	09/18/98	63 FR 50058
NPRM Comment Period End	12/17/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0970-AB60.

Agency Contact: Kathleen McHugh, ACYF/Children's Bureau, Department of Health and Human Services, Administration for Children and Families, Washington, DC 20013
Phone: 202 401-5789
Email: kmchugh@acf.dhhs.gov

RIN: 0970–AA97

1256. STANDARDS FOR SAFE TRANSPORTATION

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1310

Legal Deadline: None

Abstract: This rule establishes Head Start Performance Standards for the safe transportation of Head Start children, including vehicle requirements, driver qualifications and training and safety rules for children and staff while en route and loading and unloading of vehicles.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 31612
NPRM Comment Period End	08/14/95	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB24

1257. METHODOLOGY FOR DETERMINING WHETHER AN INCREASE IN A STATE'S CHILD POVERTY RATE IS THE RESULT OF THE TANF PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 613(i)

CFR Citation: 45 CFR 284 (New)

Legal Deadline: None

Abstract: This rule will set forth a methodology to determine whether an increase in a State's child poverty rate is the result of the TANF Program.

Timetable:

Action	Date	FR Cite
NPRM	09/23/98	63 FR 50837
NPRM Comment Period End	11/23/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, 7th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9220
Fax: 202 205-3598

RIN: 0970–AB65

HHS—ACF

Final Rule Stage

1258. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

Priority: Other Significant

Legal Authority: 42 USC 601; 42 USC 601 note; 42 USC 603 to 604; 42 USC 606 to 611; 42 USC 613; 42 USC 617; 42 USC 619; 42 USC 862a; 42 USC 1302; 42 USC 1308

CFR Citation: 45 CFR 260 to 265 (New)

Legal Deadline: None

Abstract: This regulation governs key provisions of the new welfare block grant program enacted in August 1996 as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). This new program, called the Temporary Assistance for Needy Families -- or TANF -- program, replaced the national welfare program known as Aid to Families with Dependent Children (AFDC) and the related programs known as the Job Opportunities and Basic Skills Training Program (JOBS) and the Emergency Assistance (EA) program. The regulation addresses the five-year time limit, work, accountability, and data collection and reporting provisions of the new TANF program.

Statement of Need: This regulation is necessary to provide States with a basic set of rules which will assist them in implementing the TANF program.

Alternatives: There are no viable alternatives.

Anticipated Costs and Benefits: This regulation reflects the intent of PRWORA to achieve a balance between granting States the flexibility they need to develop and operate effective and responsive programs, and ensuring that the objectives of the programs are met. The financial impact of these rules should be minimal because of the fixed level of funding provided through the block grant. A State's Federal grant could be affected by the penalty decisions made under the law in these rules, and State expenditures on needy families could be affected by the rules on caseload reduction. Otherwise, the regulation should not affect the overall level of expenditures. However, it could have minor impacts on the nature and distribution of such expenditures. The impacts of these rules on needy individuals and families will depend on the choices the State makes in implementing the new law.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	11/20/97	62 FR 62124
NPRM Comment Period End	02/18/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Additional Information: This action includes information previously reported under RIN 0970-AB64 and RIN 0970-AB76. The CFR citation for the NPRM was 45 CFR 270 to 275.

Agency Contact: Mack Storrs, Director, Division of Self-Sufficiency Programs, Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9289
Fax: 202 205-5887
Email: mstorrs@acf.dhhs.gov

RIN: 0970–AB77

1259. REQUIREMENTS FOR THE TRIBAL PROGRAMS

Priority: Other Significant

Legal Authority: 42 USC 612

CFR Citation: 45 CFR 286 (New); 45 CFR 287 (New)

Legal Deadline: None

Abstract: This rule sets forth a process for: the completion and submission of tribal TANF plans; the determination of funding levels for tribal TANF grants; the establishment of criteria to determine minimum work participation requirements and time limits for tribal TANF programs; and the review and approval of tribal TANF plans. This rule sets forth program requirements for the application of penalties and for data collection and reporting.

The rule also sets forth procedures for planning and operating a program to make work activities available to tribal members. Funds for this program are available to Indian tribes and Alaska Native organizations that operated a Job Opportunities and Basic Skills Training (JOBS) program in fiscal year 1995. This tribal work activities program is called the Native Employment Works (NEW) Program.

Timetable:

Action	Date	FR Cite
NPRM	07/22/98	63 FR 39366
NPRM Comment Period End	11/20/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: John Bushman, Director, Division of Tribal Services, Department of Health and Human Services, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-2418
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Email: jbushman@acf.dhhs.gov

RIN: 0970–AB78

1260. BONUS TO REWARD DECREASE IN ILLEGITIMACY RATIO

Priority: Other Significant

Legal Authority: 42 USC 603(a)(2)

CFR Citation: 45 CFR 283 (New)

Legal Deadline: None

Abstract: This regulation describes how bonuses will be awarded to those States that experience the largest decreases in out-of-wedlock childbearing and also reduce their abortion rates. The total amount of the bonus will be $100 million in each of fiscal years 1999 through 2002.

Timetable:

Action	Date	FR Cite
NPRM	03/02/98	63 FR 10264
NPRM Comment Period End	05/01/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kelleen Kaye, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Administration for Children and Families, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 401-6634
Fax: 202 690-6562
Email: kkaye@osaspe.dhhs.gov

RIN: 0970–AB79

HHS—ACF

Final Rule Stage

1261. CHILD SUPPORT ENFORCEMENT PROGRAM OMNIBUS CONFORMING REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 304; 45 CFR 305; 45 CFR 301; 45 CFR 302; 45 CFR 303

Legal Deadline: None

Abstract: This rule eliminates child support enforcement program regulations rendered obsolete or inconsistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/99	64 FR 6237
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Marilyn R. Cohen, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5366
Fax: 202 401-5559
Email: mcohen@acf.dhhs.gov

RIN: 0970–AB81

1262. REFUGEE RESETTLEMENT PROGRAM: PUBLIC/PRIVATE PARTNERSHIP

Priority: Other Significant

Legal Authority: 8 USC 1522(a)(9)

CFR Citation: 45 CFR 400

Legal Deadline: None

Abstract: This regulation will establish the refugee cash assistance program as a public/private partnership between States and local resettlement agencies, make several revisions to the Refugee Medical Assistance Program, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	01/08/99	64 FR 1159
NPRM Comment Period End	03/09/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Toyo Biddle, Director, Division of Refugee Self-Sufficiency, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9250

RIN: 0970–AB83

1263. HEAD START APPEAL TIMELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1303

Legal Deadline: None

Abstract: This amendment to part 1303 will provide timelines and selected procedural changes for conducting administrative hearings on adverse actions taken against Head Start agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35554
NPRM Comment Period End	08/31/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, ACYF, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB87

1264. WELFARE-TO-WORK DATA COLLECTION

Priority: Other Significant

Legal Authority: 42 USC 611

CFR Citation: 45 CFR 276

Legal Deadline: None

Abstract: This interim final rule specifies the data elements that grantees must report for the Welfare-to-Work program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/98	63 FR 57919
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., 7th Floor West, Washington, DC 20447
Phone: 202 401-9220
Fax: 202 205-3598

RIN: 0970–AB92

1265. NATIONAL MEDICAL SUPPORT NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 666(19); PL 105-200, sec 401(b)(4); Child Support Performance and Incentive Act of 1998

CFR Citation: 45 CFR 303.32

Legal Deadline: Final, Statutory, May 16, 2000.

Abstract: Joint DHHS/DOL regulations mandating use of a national medical support notice and including procedures for issuance and transmittal to employers by States to enforce health care coverage in a child support order.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: John Seneta, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5154
Fax: 202 401-5559
Email: jseneta@acf.dhhs.gov

RIN: 0970–AB97

HHS—ACF

Final Rule Stage

1266. • TECHNICAL REVISION OF HEAD START REGULATIONS TO MAKE THEM CONFORM TO RECENT STATUTORY REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9831 et seq

CFR Citation: 45 CFR 1301; 45 CFR 1302; 45 CFR 1303; 45 CFR 1308

Legal Deadline: None

Abstract: This rule will correct several Head Start regulations which define Head Start programs as "non-profit" agencies. Recent statutory changes now allow "for-profit" agencies to receive Head Start grant funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Doug Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, ACYF-HSB, 330 C St SW., Washington, DC 20447
Phone: 202 205-8569

RIN: 0970–AC00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Completed Actions

1267. STANDARDS FOR PURCHASE OF FACILITIES

Priority: Other Significant

CFR Citation: 45 CFR 1309

Completed:

Reason	Date	FR Cite
Final Action	02/08/99	64 FR 5939

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn
Phone: 202 205-8569

RIN: 0970–AB31

1268. STATE LAW CONCERNING PATERNITY ESTABLISHMENT

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 302.70; 45 CFR 303.5; 45 CFR 304.20

Completed:

Reason	Date	FR Cite
Final Action	03/10/99	64 FR 11802

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Jan Rothstein
Phone: 202 401-5073
Fax: 202 401-5559
Email: jrothstein@acf.dhhs.gov

RIN: 0970–AB69

1269. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 303.109 (New)

Completed:

Reason	Date	FR Cite
Final Action	03/30/99	64 FR 15132

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: David Arnaudo
Phone: 202 401-5364
Fax: 202 401-5559
Email: darnaudo@acf.dhhs.gov

RIN: 0970–AB72

1270. CASE CLOSURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 45 CFR 303.11

Completed:

Reason	Date	FR Cite
Final Action	03/10/99	64 FR 11810

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Paige Biava
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RIN: 0970–AB82

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Proposed Rule Stage

Administration on Aging (AOA)

1271. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, INTRASTATE FUNDING FORMULAS; TRAINING, RESEARCH AND DISCRETIONARY PROGRAMS; VULNERABLE ELDER RIGHTS; AND GRANTS TO INDIANS & NATIVE HAWAIIANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3001 et seq

CFR Citation: 45 CFR 1321; 45 CFR 1324; 45 CFR 1326; 45 CFR 1327; 45 CFR 1328

Legal Deadline: None

Abstract: The Administration on Aging in consultation with the Office of Management and Budget, has determined that it is no longer necessary to pursue final action on rules earlier proposed to implement the 1992 amendments to the Older Americans Act. The provisions of the Act remain in force and need no further regulations to implement them. AoA anticipates promulgating rules in the latter part of 1999 to implement the provisions to the next reauthorization of the Older Americans Act, if necessary.

Timetable:

Action	Date	FR Cite
NPRM - OAA Amendments in FY '98	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Additional Information: The Administration on Aging, in consultation with the Office of Management and Budget, has determined that it is no longer necessary to pursue final action on rules earlier proposed to implement the 1992 amendments to the Older Americans Act. The provisions of the Act remain in force and need no further regulations to implement them. AoA anticipates promulgating rules in the latter part of 1998 to implement the provisions to the next reauthorization of the Older Americans Act, if necessary.

Agency Contact: Edwin Walker, Director, Office of Program Operations and Development, Department of Health and Human Services, Administration on Aging, 330 Independence Avenue SW., Room 4733, Cohen Bldg., Washington, DC 20201
Phone: 202 619-0011

RIN: 0985--AA00

[FR Doc. 99-7567 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. FR-4481-N-01]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with section 4(b) of Executive Order 12866 "Regulatory Planning and Review," the Department is publishing its agenda of (1) regulations already issued or expected to be issued and (2) currently effective rules that are under review. Additionally, in accordance with section 602 of the Regulatory Flexibility Act, the Department also has prepared an agenda of regulations expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12866 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-3055. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1-800-877-8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review," published on October 4, 1993 (58 FR 51735), requires each agency to publish semiannually an agenda of (1) regulations that the agency has issued or expects to issue and (2) currently effective regulations that are under agency review. Consistent with the principles set forth in Executive Order 12866 to reduce and streamline regulations and in response to President Clinton's memorandum to Federal agencies to examine all regulations and eliminate those that are obsolete, the Department continues to examine those rules proposed to be issued under these principles.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires each agency to publish semiannually a regulatory agenda of rules expected to be proposed or promulgated that are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12866 and the Regulatory Flexibility Act each permits incorporation of the agenda required with any other prescribed agenda. The agenda set out below combines the information required by Executive Order 12866 and the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive order or by the Act, which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

Section 610 of the Regulatory Flexibility Act requires each agency to publish annually a list of the rules that have a significant economic impact upon a substantial number of small entities and that are to be reviewed in accordance with section 610 during the succeeding 12 months. All rules under development, published in each HUD agenda, are reviewed in accordance with the principles of section 610 of the Regulatory Flexibility Act. The Department specifically invites comments from the public on any rule listed in this agenda that the public may believe will have a significant economic impact on a substantial number of small entities.

The Department also is subject to certain rulemaking requirements set forth in the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight of HUD (the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking and Financial Services) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. If, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual agenda published today is the agenda transmitted to the committees in compliance with this requirement.

For purposes of Executive Order 12866, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency," subject to certain exceptions. The agenda published below focuses on regulatory material contained or expected to be contained in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the **Federal Register**. As appropriate, however, issuances in the nature of general statements of policy may be published in the **Federal Register** but not for codification in the CFR.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number.

The agenda reflects that some rules have been withdrawn by the Department since issuance of the previous agenda. On further examination of the subject matters of these rules, the Department may determine that certain rules listed as withdrawn under this agenda are necessary, and if that determination is made, the rules will be included in a succeeding semiannual agenda.

Items listed in this agenda are from the following offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity;

HUD

Office of Administration; Office of Policy Development and Research; and the Government National Mortgage Association.

The Department invites all interested members of the public to comment on the rules listed in this spring 1999 agenda to assist the Department in improving its regulatory products and procedures.

Dated: February 18, 1999.

Gail W. Laster,

General Counsel.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1272	24 CFR 3 Common Rule: Nondiscrimination in Educational Activities (FR-4301)	2501-AC42
1273	24 CFR 5 Sanctions for Underreporting of Income in the Assisted Housing Programs (FR-4334)	2501-AC55
1274	24 CFR 5 Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Administrative Process for Assessment of Insured and Assisted Properties (FR-4452)	2501-AC58
1275	24 CFR 15 Revisions to HUD's Freedom of Information Act (FOIA) Regulations (FR-4292)	2501-AC51
1276	24 CFR 17 Procedures for the Collection of Claims by the Government (FR-4318)	2501-AC48
1277	24 CFR 24 Limited Denial of Participation in HUD Programs; Clarifying Amendments (FR-3975)	2501-AC08
1278	24 CFR 30 Amendments to HUD's Civil Money Penalty Regulations (FR-4399)	2501-AC56
1279	24 CFR 42 Revisions to Regulations Implementing Uniform Relocation Act and Other Relocation Requirements in HUD Programs (FR-4122)	2501-AC31
1280	24 CFR 56 Flood Insurance and HUD-Assisted Buildings Located Within Special Flood Hazard Areas (FR-4273)	2501-AC40
1281	24 CFR 58 Regulations Governing the Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities; Miscellaneous Amendments (FR-4326)	2501-AC52
1282	24 CFR 81 Secretary of HUD's Regulation of Fannie Mae and Freddie Mac (FR-4297)	2501-AC41
1283	24 CFR 91 Clarifying Amendments to Consolidated Submission for Community Planning and Development Programs (FR-4333)	2501-AC54
1284	24 CFR 92 HOME Investment Partnerships Program (FR-4329)	2501-AC53

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1285	24 CFR 000 Adoption of Revised OMB Circular A-133; Administrative Requirements for Grantees To Reflect the Single Audit Act Amendments of 1996; Technical Amendments (FR-4296)	2501-AC43
1286	24 CFR 5, subpart E Revised Restriction on Assistance to Noncitizens (FR-4154)	2501-AC36
1287	24 CFR 8 Nondiscrimination Based on Disability; Multifamily Homeownership Projects (FR-4317)	2501-AC47
1288	24 CFR 25 Conforming Amendments to HUD's FHA-Single Family Housing and Multifamily Housing Enforcement Regulations (FR-4308)	2501-AC44
1289	24 CFR 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482)	2501-AB57
1290	24 CFR 45 Administrative Requirements for Grantees To Reflect Single Audit Act Amendments (FR-4258)	2501-AC39
1291	24 CFR 55 Floodplain Management and Protection of Wetlands (FR-4142)	2501-AC33
1292	24 CFR 92 HOME Investment Partnerships Program—Additional Streamlining (FR-4111)	2501-AC30
1293	24 CFR 401 Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298)	2501-AC57

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1294	24 CFR 6 Nondiscrimination in HUD Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974 (FR-4092)	2501-AC28

HUD

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1295	24 CFR 200 Single Family Mortgage Insurance Clarification of Floodplain Requirements Applicable to New Construction (FR-4323)	2502-AH16
1296	24 CFR 200 Use of Materials Bulletins Used in the HUD Building Products and Certification Program (FR-4391)	2502-AH28
1297	24 CFR 200 Single Family Mortgage Insurance; Appraiser Roster Removal Procedures (FR-4429)	2502-AH29
1298	24 CFR 201 Strengthening the Title I Property Improvement Loan Insurance Program (FR-4246)	2502-AG95
1299	24 CFR 203 Single Family Appraisal Assessment (FR-4395)	2502-AH27
1300	24 CFR 203 Sources of Homebuyer Downpayment (FR-4469)	2502-AH38
1301	24 CFR 207 Partial Payment of Claims for Health Care Facilities, Hospitals and Group Practice Facilities (FR-4387)	2502-AH25
1302	24 CFR 236 Rehabilitation Grants for Certain Multifamily Projects (FR-4465)	2502-AH35
1303	24 CFR 245 Tenant Participation in Multifamily Housing Projects (FR-4403)	2502-AH32
1304	24 CFR 270 Use of Federal Surplus Property for Self-Help Housing (FR-4464)	2502-AH34
1305	24 CFR 290 Up-Front Grants in the Disposition of Multifamily Projects (FR-4310)	2502-AH12
1306	24 CFR 291 Disposition of HUD-Owned Single Family Assets in Revitalization Areas (FR-4471)	2502-AH40
1307	24 CFR 880 Section 8 Housing Assistance Payments Programs (New Construction, Substantial Rehabilitation, State Housing Agencies and Special Allocations) (FR-4479)	2502-AH41
1308	24 CFR 891 Duration of Capital Advance (FR-4466)	2502-AH36
1309	24 CFR 3282 Special Procedures Permitting Limited Completion of Manufactured Homes On-Site (FR-4216)	2502-AG92
1310	24 CFR 3500 Real Estate Procedures Settlement Act (RESPA): Escrow Account Statement Itemization of Charges (FR-4390)	2502-AH26

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1311	24 CFR 200 Delegation of Insuring Authority To Direct Endorsement Mortgagees (FR-4169)	2502-AG87
1312	24 CFR 200 Use of Material Bulletins (FR-4265)	2502-AH02
1313	24 CFR 200 Update of the Model Energy Code (MEC) (FR-4272)	2502-AH03
1314	24 CFR 201 Title I Property Improvement and Manufactured Home Loan Insurance Programs (FR-4242)	2502-AG94
1315	24 CFR 203 Mortgage Insurance Premium Reduction in Central Cities (FR-4284)	2502-AH07
1316	24 CFR 203 Builder Warranty for High Ratio Single Family Mortgages (FR-4288)	2502-AH08
1317	24 CFR 203 Single Family Mortgage Insurance; Direct Endorsement and Automated Underwriting (FR-4311)	2502-AH15
1318	24 CFR 203 Single Family Mortgage Insurance Informed Consumer Choice Disclosure (FR-4411)	2502-AH30
1319	24 CFR 203 Single Family Claim Reform and Sale of Property (FR-4470)	2502-AH39
1320	24 CFR 206.45(e) Home Equity Conversion Mortgages; Right of First Refusal Permitted for Condominium Associations (FR-4267)	2502-AG93
1321	24 CFR 242 Risk-Sharing Hospital Mortgage Insurance Program (FR-3914)	2502-AG53
1322	24 CFR 291 Officer Next Door Program (FR-4277)	2502-AH37
1323	24 CFR 3280 Manufactured Home Construction and Safety Standards (FR-4376)	2502-AH23
1324	24 CFR 3500 RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780)	2502-AG40
1325	24 CFR 3500 Amendment to RESPA; Exemption for Employer Payments to Employees Who Make Like-Provider Referrals, and Other Amendments (FR-4173)	2502-AG88
1326	24 CFR 3500 RESPA Statements of Policy Regarding Certain Private Mortgage Insurance Arrangements (FR-4342)	2502-AH19

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1327	24 CFR 200 Electronic Submission of Required Data by Multifamily Mortgages (FR-4303)	2502-AH11
1328	24 CFR 203 Suspension of FHA Single Family Mortgage Insurance Program for Mortgages on Indian Reservations Insured Pursuant to Section 248 of the National Housing Act (FR-4251)	2502-AH00
1329	24 CFR 203 FHA Single Family Mortgage Insurance; Statutory Changes for Maximum Mortgage Limit and Downpayment Requirements (FR-4431)	2502-AH31

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Office of Housing—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1330	24 CFR 206 Home Equity Conversion Mortgages; Consumer Protection Measures Against Excessive Fees (FR-4306)	2502-AH10
1331	24 CFR 291 Single Family Property Disposition (FR-4244)	2502-AG96
1332	24 CFR 891 Supportive Housing for the Elderly and Persons With Disabilities; Clarification of Exemption from Rent Control (FR-4346)	2502-AH21
1333	24 CFR 3280 Updating Manufactured Housing Reference Standards (FR-4337)	2502-AH17
1334	24 CFR 3282 Procedural and Enforcement Regulations for the Manufactured Home Construction and Safety Program (FR-4319)	2502-AH14
1335	24 CFR 3500 Real Estate Settlement Procedures Act (RESPA) Statement of Policy 1999-1 Regarding Lender Payments to Mortgage Brokers (FR-4450)	2502-AH33

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1336	* 24 CFR 570 Community Development Block Grant Program; National Objective and Streamlining Changes (FR-4144)	2506-AB90
1337	24 CFR 570 CDBG Slum/Blight National Objective Rule (FR-4260)	2506-AB94
1338	24 CFR 570 Community Development Block Grant Program: Eligibility and Record Keeping Prohibition on Use of Assistance for Employment Relocation Activities (FR-4468)	2506-AC01
1339	24 CFR 574 HOPWA Rental Assistance Options and Technical Changes (FR-4467)	2506-AC02

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1340	24 CFR 91 CDBG Program for States; Community Revitalization Strategy Requirements & Miscellaneous Technical Amendments (FR-4081)	2506-AB83
1341	24 CFR 570 Community Development Block Grant Program; Section 108 Application Requirements (FR-3298)	2506-AB43
1342	24 CFR 570 Section 108 Loan Guarantee Program (FR-4039)	2506-AB80
1343	24 CFR 570 Community Development Block Grant Programs for States; Program Income (FR-4067)	2506-AB82
1344	24 CFR 570 Community Development Block Grant Program; Clarification of the Nature of Required CDBG Expenditure Documentation (FR-4449)	2506-AC00
1345	24 CFR 576 Emergency Shelter Grants Program (FR-4330)	2506-AB99

Office of Community Planning and Development—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1346	00 CFR 000 Administrative Guidelines for CPD Programs; Section 102(d) Limitation on Combining Other Government Assistance With CPD Housing Assistance (FR-3135)	2506-AB74

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1347	24 CFR 570.200 Clarification of the Nature of Required CDBG Expenditure Documentation (FR-4261)	2506-AB95

HUD

Government National Mortgage Association—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1348	24 CFR 300.3 Ginnie Mae—Finance—NAHASDA Implementation (FR-4215)	2503-AA11

Government National Mortgage Association—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1349	24 CFR 320 Ginnie Mae—Financial Reporting (FR-4331)	2503-AA12

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1350	24 CFR 115 Certification and Funding of State and Local Fair Housing Enforcement Agencies (FR-4392)	2529-AA85

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1351	24 CFR 91 Fair Housing Planning Performance Standard (FR-4133)	2529-AA81
1352	24 CFR 103 Fair Housing Complaint Processing—Plain Language Revision and Reorganization (FR-4433)	2529-AA86
1353	24 CFR 135 Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)	2529-AA49
1354	24 CFR 180 Civil Money Penalties for Fair Housing Act Violations (FR-4302)	2529-AA83

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1355	24 CFR 100 Implementation of the Housing for Older Persons Act of 1995 (FR-4094)	2529-AA80

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1356	48 CFR 2409 HUD Acquisition Regulation (FR-4291)	2535-AA25

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1357	48 CFR 2401 HUD Acquisition Regulation—II (FR-4115)	2535-AA24

HUD

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1358	24 CFR 5 Pet Ownership in Public Housing (FR-4437)	2577-AB94
1359	24 CFR 761 Public Housing Drug Elimination Program—Formula Allocation (FR-4451)	2577-AB95
1360	24 CFR 901 Resident Survey Information Disclosure Requirements—Privacy Act (FR-4393)	2577-AB84
1361	24 CFR 901 Quality Assurance Review of Independent Public Auditors by Real Estate Assessment Center Staff (FR-4394)	2577-AB85
1362	24 CFR 941 Capital Fund Allocation Formula (FR-4423)	2577-AB87
1363	24 CFR 943 Joint Venture and Consortia of Public Housing Agencies (FR-4474)	2577-AC00
1364	24 CFR 945 Designated Housing Program Amendments (FR-3964)	2577-AB57
1365	24 CFR 960 Public Housing Admission and Occupancy Reforms and Streamlining (FR-4084)	2577-AB67
1366	24 CFR 968 Formula Funding for Comprehensive Improvement Assistance (CIAP) Agencies (FR-4462)	2577-AB97
1367	24 CFR 972 Conversion of Public Housing to Vouchers (Tenant-Based Assistance) (FR-4476)	2577-AC02
1368	24 CFR 973 Required Conversion of Distressed Public Housing to Tenant-Based Assistance (FR-4475)	2577-AC01
1369	24 CFR 982 Section 8 Homeownership (FR-4427)	2577-AB90
1370	24 CFR 985 Section 8 Management Assessment Program (SEMAP) New Performance Indicators (FR-4388)	2577-AB83
1371	24 CFR 990 Operating Fund Allocation Formula (FR-4425)	2577-AB88
1372	24 CFR 1000 Dwelling Construction and Equipment Costs for Indian Housing (FR-4478)	2577-AC04

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1373	24 CFR 791 Review of Applications for Housing Assistance and Allocations of Housing Assistance Funds (FR-4477)	2577-AC03
1374	24 CFR 882 Housing Opportunity Program Extension Act of 1996 Implementation Provisions and Section 8 Certificate, Voucher, & Moderate Rehabilitation Admission & Occupancy Policies Revisions (FR-4159)	2577-AB72
1375	24 CFR 882 Section 8 Moderate Rehabilitation Program Executing or Terminating Leases on Moderate Rehabilitation Units (FR-4472)	2577-AB98
1376	24 CFR 882 Moderate Rehabilitation Comparability (FR-4473)	2577-AB99
1377	24 CFR 903 Public Housing Agency Plan (FR-4426)	2577-AB89
1378	24 CFR 941 Public Housing Development Regulations (FR-3569)	2577-AB37
1379	24 CFR 941 Public Housing Mixed-Finance Partnership Development—Streamlining (FR-4113)	2577-AB69
1380	24 CFR 971 Assessment of the Reasonable Revitalization Potential of Certain Public Housing Required by Law (FR-4120)	2577-AB79
1381	24 CFR 982 Section 8 Tenant Based Assistance: Statutory Merger (FR-4428)	2577-AB91
1382	24 CFR 982 Renewal of Section 8 Tenant-Based Assistance Contracts (FR-4459)	2577-AB96
1383	24 CFR 1005 Loan Guarantee for Indian Housing; Direct Guarantee Processing (FR-4241)	2577-AB78

Office of Public and Indian Housing—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1384	00 CFR 000 Administrative Guidelines for PIH Regarding Section 102(d) Limitations on Combining Other Government Assistance ("Subsidy Layering") (FR-3100)	2577-AB53

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1385	24 CFR 5, subpart F Ceiling Rents for Public Housing (FR-3880)	2577-AB75
1386	24 CFR 901 Public Housing Assessment System (FR-4313)	2577-AB81
1387	24 CFR 968 Replacement Housing Factor in Modernization Funding (FR-4125)	2577-AB71
1388	24 CFR 982 Tenant-Based Assistance Renewals (FR-4418)	2577-AB86

HUD

Office of Public and Indian Housing—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1389	24 CFR 985 Section 8 Rental Voucher and Certificate Programs—Section 8 Management Assessment Program (SEMAP) (FR-3986)	2577-AB60
1390	24 CFR 990 Public Housing Performance Funding System: Incentives (FR-4072)	2577-AB65
1391	24 CFR 1000 Due Date of First Annual Performance Report Under the Native American Housing Assistance and Self-Determination Act of 1996 (FR-4419)	2577-AB93

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of the Secretary (HUDSEC)

1272. COMMON RULE: NONDISCRIMINATION IN EDUCATIONAL ACTIVITIES (FR-4301)

Priority: Other Significant

Legal Authority: 20 USC 1681 to 1683; 20 USC 1685 to 1688

CFR Citation: 24 CFR 3

Legal Deadline: None

Abstract: This is HUD's component of a common rule coordinated by the Department of Justice to implement amendments made to title IX of the Education Amendments of 1972 to prohibit discrimination on the basis of sex in all federally funded educational activities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Betsy Ryan, Office of Enforcement, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 619-8041

RIN: 2501–AC42

1273. SANCTIONS FOR UNDERREPORTING OF INCOME IN THE ASSISTED HOUSING PROGRAMS (FR-4334)

Priority: Other Significant

Legal Authority: 42 USC 3543; 42 USC 3544; 42 USC 11901 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 5

Legal Deadline: None

Abstract: This rule proposes to amend HUD's regulations for disclosure and verification of income information submitted by participants in its assisted housing programs to include sanctions for inaccurate reporting. For participants whose rental payment is dependent on their income, any underpayment of rent by them generally results in overpayment of housing assistance by HUD. This rule is being undertaken to assure that there are adequate measures in place to assure that participants in these programs will fully report their income and to reduce overpayments by HUD from scarce taxpayer dollars. It would require housing agencies or owners to take action against program participants who pay income-based rents when the agencies/owners find a discrepancy between the amount of annual income reported by the participant and by another reliable source, if the discrepancy exceeds a threshold amount.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Patricia Arnaudo, Senior Housing Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2501–AC55

1274. • UNIFORM PHYSICAL CONDITION STANDARDS AND PHYSICAL INSPECTION REQUIREMENTS FOR CERTAIN HUD HOUSING; ADMINISTRATIVE PROCESS FOR ASSESSMENT OF INSURED AND ASSISTED PROPERTIES (FR-4452)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 5

Legal Deadline: None

Abstract: On September 1, 1998, HUD published a final rule that established uniform physical condition standards for public housing and housing that is insured and/or assisted under certain HUD programs. These standards are intended to ensure that the housing is decent, safe, sanitary and in good repair. The September 1, 1998 final rule also established uniform physical inspection procedures by which HUD determines compliance with the physical condition standards. For certain multifamily housing, the September 1, 1998 final rule represented the first step towards comprehensive assessment of the physical condition of multifamily housing. This proposed rule proceeds to the next stage which is to establish for multifamily housing an administrative process by which (1) HUD will notify owners, mortgagees or contract administrators of HUD's assessment of the physical condition of their multifamily housing; (2) the owners, mortgagees or contract administrators will be provided an opportunity to review and comment on HUD's physical condition assessment of the multifamily housing; and (3) HUD will take action in cases where the housing is found not to be in

compliance with the physical condition standards.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth Hannon, Supervisor Portfolio Manager, Western District, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0547

RIN: 2501–AC58

1275. REVISIONS TO HUD'S FREEDOM OF INFORMATION ACT (FOIA) REGULATIONS (FR-4292)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 42 USC 3535(d)

CFR Citation: 24 CFR 15

Legal Deadline: None

Abstract: This rule would revise HUD's FOIA regulations to include the Electronic Freedom of Information Act requirements and to simplify them. It would also make changes to reflect the Department's reorganization of the handling of production and disclosure of documents.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Barth, Managing Attorney for FOIA, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-3866

RIN: 2501–AC51

1276. PROCEDURES FOR THE COLLECTION OF CLAIMS BY THE GOVERNMENT (FR-4318)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3701

CFR Citation: 24 CFR 17

Legal Deadline: None

Abstract: This rule would amend the Department's procedures for the collection of claims by (1) moving the designation of the Department's Claims Officer from the Office of Administration to the Office of the Chief Financial Officer, and (2) revising the regulations at 24 CFR part 17 pertaining to administrative offset, tax refund offset, and salary offset.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wallace Garner, Director, Finance Planning & Analysis Div., Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-0654

RIN: 2501–AC48

1277. LIMITED DENIAL OF PARTICIPATION IN HUD PROGRAMS; CLARIFYING AMENDMENTS (FR-3975)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This rule would streamline and clarify the causes for a limited denial of participation (LDP) in most HUD programs; conform the provisions with Governmentwide regulations; clarify calculation of a time period; and make other technical corrections.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Dane Narode, Deputy Chief Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2350

RIN: 2501–AC08

1278. AMENDMENTS TO HUD'S CIVIL MONEY PENALTY REGULATIONS (FR-4399)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q to 1; 12 USC 1703; 12 USC 1723i; 12 USC 1735f to 14; 12 USC 1735f to 15; 15 USC 1717a; 28 USC 2461 note; 42 USC 1437z to 1; 42 USC 3535(d)

CFR Citation: 24 CFR 30

Legal Deadline: None

Abstract: The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998; Pub. L. 105-65, approved October 27, 1997) (the Act) made several amendments to strengthen HUD's enforcement authority. This rule addresses those amendments that require rulemaking for implementation, as follows. The Act expands the list of persons and types of violations subject to a civil money penalty under HUD's multifamily insured housing programs. The Act also amends the United States Housing Act of 1937 (the statutory authority for HUD's public and assisted housing programs) to provide for the imposition of civil money penalties for noncompliance with section 8 Housing Assistance Payment contracts. In accordance with the Act, HUD is implementing these statutory amendments through issuance of a proposed rule. The rule would incorporate these amendments in HUD's civil money penalty regulations located at 24 CFR part 30.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dane Narode, Deputy Chief Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel

HUD—HUDSEC

Proposed Rule Stage

Phone: 202 708-2350

RIN: 2501–AC56

1279. REVISIONS TO REGULATIONS IMPLEMENTING UNIFORM RELOCATION ACT AND OTHER RELOCATION REQUIREMENTS IN HUD PROGRAMS (FR-4122)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 4601; 42 USC 5304; 42 USC 12705(b)

CFR Citation: 24 CFR 42; 24 CFR 92; 24 CFR 215; 24 CFR 219; 24 CFR 221; 24 CFR 236; 24 CFR 290; 24 CFR 882; 24 CFR 511; 24 CFR 570; 24 CFR 574; 24 CFR 576; 24 CFR 582; 24 CFR 583; 24 CFR 585; ...

Legal Deadline: None

Abstract: In an effort to comply with the President's regulatory reform initiatives, HUD proposes streamlining its regulations for displacement, relocation assistance, and real property acquisition, by consolidating into part 42 similar provisions appearing throughout title 24 of the Code of Federal Regulations and by eliminating provisions that repeat statutory language or are otherwise unnecessary. HUD also proposes to include in part 42 technical corrections to certain regulations implementing Section 104(d) of Housing and Community Development Act of 1974. Finally, HUD proposes to issue regulations in part 42 that would implement Section 922 of the Housing and Community Development Act of 1992 which prohibits lump sum payments for relocation compensation, and Public Law 105-117 which prohibits payment of relocation benefits to illegal aliens.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/96	61 FR 53341
ANPRM Comment Period End	12/10/96	
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marcia Dodge, Director, Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2685

RIN: 2501–AC31

1280. FLOOD INSURANCE AND HUD-ASSISTED BUILDINGS LOCATED WITHIN SPECIAL FLOOD HAZARD AREAS (FR-4273)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 56; 24 CFR 511.16(d); 24 CFR 570.605; 24 CFR 570.640; 24 CFR 572.425(f); 24 CFR 574.640; 24 CFR 583.330(a); 24 CFR 761.40(b); 24 CFR 882.407(c)(2); 24 CFR 886.313(c)(8); 24 CFR 891.155(c); 24 CFR 941.202(j); 24 CFR 968.110(d); 24 CFR 983.7(a)(6)

Legal Deadline: None

Abstract: This rulemaking is part of the Reinventing Government effort to remove redundancy throughout title 24 of CFR for flood insurance requirements as currently cited in the affected HUD program regulations. The rule would streamline, consolidate, and codify into a single CFR part all the flood insurance and disaster assistance requirements described separately in each of the individual HUD program regulations of title 24 of the CFR. The flood insurance and disaster assistance requirements are general and cross-cutting and applicable to all HUD programs that provide financial assistance for buildings located within Special Flood Hazard Areas. As presently described in each of the affected individual HUD program regulations, the text is redundant, sometimes outdated or incomplete, uninformative, and less than user-friendly.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Walter Prybyla, Deputy Director for Policy Environmental Review Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC40

1281. REGULATIONS GOVERNING THE ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD'S ENVIRONMENTAL RESPONSIBILITIES; MISCELLANEOUS AMENDMENTS (FR-4326)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1707; 42 USC 3535(d)

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: This rule proposes revisions to 24 CFR part 58 that could not be made as part of the technical corrections final rule (see RIN 2501-AC32; FR-4138) because that rule did not provide for prior public comment. Among other matters, this rule would revise notice requirements when funds are needed for an emergency. In addition, the rule would list other HUD programs for which specific statutory authority now exists for recipients of these programs or other responsible entities to assume environmental responsibilities under this part. The specific statutory authorities to be cited are: (1) Indian Housing Block Grant Program under the Native American Housing Assistance and Self-Determination Act of 1996 as required by Section 105(b)(2); (2) HOPE VI Revitalization Program (1999 Appropriations Act which covers previous HOPE VI appropriations not committed); and (3) Loan Guarantees for Indian Housing under Section 184 of the Housing and Community Development Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Richard Broun, Director, Office of Community Viability, Department of Housing and Urban Development, Office of Community Planning and Development

HUD—HUDSEC **Proposed Rule Stage**

Phone: 202 708-2894

RIN: 2501–AC52

1282. SECRETARY OF HUD'S REGULATION OF FANNIE MAE AND FREDDIE MAC (FR-4297)

Priority: Other Significant

Legal Authority: PL 101-73; 12 USC 4501 to 4641

CFR Citation: 24 CFR 81

Legal Deadline: None

Abstract: Through a notice published on 12/30/97, HUD sought comments from the public regarding a possible future proposed rule on non-mortgage investments to amend HUD's regulations at 24 CFR part 81 governing the Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Corporation (Fannie Mae) (both are known as Government Sponsored Enterprises or GSEs). Under their respective Charters, the GSEs have broad authority to invest their funds. At the same time, the Secretary has general regulatory power over the GSEs to ensure that the purposes of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, and the Federal Home Loan Mortgage Corporation Act are accomplished. HUD's current GSE regulations do not contain specific provisions concerning non-mortgage investments by the GSEs. Based on comments received and its analysis, HUD may issue a proposed rule on this subject.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/97	62 FR 68060
ANPRM Comment Period End	03/30/98	
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet Tasker, Director, Office of Government Sponsored Enterprise Oversight, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2224

RIN: 2501–AC41

1283. CLARIFYING AMENDMENTS TO CONSOLIDATED SUBMISSION FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS (FR-4333)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 91

Legal Deadline: None

Abstract: This rule would amend 24 CFR part 91 to address comments and issues raised by members of the public on the Consolidated Plan regulations in part 91. Because certain comments require further proposed rulemaking, they could not be addressed in the technical corrections to the final rule.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Salvatore Sclafani, Acting Director, Policy Division, Office of Executive Services, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1283

RIN: 2501–AC54

1284. HOME INVESTMENT PARTNERSHIPS PROGRAM (FR-4329)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12701 to 12839; 42 USC 3535(d)

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rulemaking will propose certain revisions to the HOME Program regulations in an effort to improve and simplify program administration.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Program Policy Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC53

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage

Office of the Secretary (HUDSEC)

1285. ADOPTION OF REVISED OMB CIRCULAR A-133; ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT THE SINGLE AUDIT ACT AMENDMENTS OF 1996; TECHNICAL AMENDMENTS (FR-4296)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: On June 30, 1997, OMB published revised Circular A-133 to implement the Single Audit Act Amendments of 1996. The Act sets forth requirements for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards. HUD adopted the revised circular in November 1997. This final rule makes technical amendments throughout title 24 of the Code of Federal Regulations to correct references outdated as a result of the revised circular.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Heist, Director, Financial Audits Division, Department of Housing and Urban Development, Office of the Inspector General
Phone: 202 708-0383

RIN: 2501–AC43

HUD—HUDSEC **Final Rule Stage**

1286. REVISED RESTRICTION ON ASSISTANCE TO NONCITIZENS (FR-4154)

Priority: Other Significant

Legal Authority: 42 USC 1436a; 42 USC 3535(d)

CFR Citation: 24 CFR 5, subpart E

Legal Deadline: None

Abstract: Section 214 of the Housing and Community Development Act of 1980 prohibits HUD from making certain financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens. On November 29, 1996 (62 FR 60535), HUD published an interim rule revising HUD's regulations governing assistance to noncitizens to incorporate the statutory amendments made to section 214 by the Use of Assisted Housing by Aliens Act of 1996 ("Immigration Reform Act"). This rule finalizes the policies and procedures described in the November 29, 1996 interim rule and addresses the public comments received on the interim rule. The final rule also updates HUD's noncitizens regulations to incorporate the amendments made by section 592 of the Quality Housing and Work Responsibility Act of 1998 ("QHWRA").

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/29/96	61 FR 60535
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo, Senior Housing Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2501–AC36

1287. NONDISCRIMINATION BASED ON DISABILITY; MULTIFAMILY HOMEOWNERSHIP PROJECTS (FR-4317)

Priority: Other Significant

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 8

Legal Deadline: None

Abstract: This rule will clarify the applicability of HUD's requirements under section 504 of the Rehabilitation Act of 1973 to multifamily homeownership projects. It will also replace the term "handicap" with "disability" to conform to the Rehabilitation Amendments of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl Kent, Director, Program Compliance and Disability Rights Support Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2333

RIN: 2501–AC47

1288. CONFORMING AMENDMENTS TO HUD'S FHA-SINGLE FAMILY HOUSING AND MULTIFAMILY HOUSING ENFORCEMENT REGULATIONS (FR-4308)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q to 1701q1; 12 USC 1703; 12 USC 1708(c) to 1708(d); 12 USC 1709(s); 12 USC 1715b; 12 USC 1723i; 12 USC 1735f to 1735f14; 12 USC 1735f to 1735f15; 15 USC 1717a; 28 USC 2461 note; 42 USC 3535(d)

CFR Citation: 24 CFR 25; 24 CFR 30

Legal Deadline: None

Abstract: The Multifamily Assisted Housing Reform and Affordability Act of 1997 (title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998; Pub. L. 105-65, approved October 27, 1997) (Multifamily Housing Reform Act) made several amendments to strengthen the enforcement provisions of the National Housing Act (12 U.S.C. 1701 et seq.). Certain of these amendments become effective upon enactment of the statute and this rule adopts those amendments as follows. The Multifamily Housing Reform Act provides that a suspension issued by the HUD Mortgagee Review Board is effective upon issuance, if there is sufficient evidence that immediate action is required to protect the financial interests of HUD or the public. Currently, such a suspension is effective only after HUD's issuance of 30-day written notice to the mortgagee. The Multifamily Housing Reform Act also expanded the list of persons subject to a civil money penalty for violations of Federal Housing Administration (FHA) program requirements. This rule updates HUD's FHA enforcement regulations at 24 CFR parts 25 and 30 to incorporate the amendments made by the Multifamily Housing Reform Act.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dane Narode, Deputy Chief Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2350

RIN: 2501–AC44

1289. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3482)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4822; 42 USC 3535(d)

CFR Citation: 24 CFR 35

Legal Deadline:
Final, Statutory, January 1, 1995.

Abstract: The Office of Lead Hazard Control was established by Congress within the Office of the Secretary of HUD. The Office provides overall direction to HUD's lead-based paint activities.

Currently, 24 CFR part 35 addresses the Department's requirements on lead hazards in housing. Additional requirements are specified for each housing program in the CFR part pertaining to each program. Sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of

1992, which is title X of the Housing and Community Development Act of 1992 (title X) require substantial revisions to HUD's current regulations for the evaluation and control of lead-based paint hazards in federally assisted and federally owned housing. The legislation evidences a concern with developing a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all pre-1978 housing that may be occupied by young children. Because of the scope of the problem, the strategy will be implemented on a priority basis and, in part, is to be based on guidelines issued by the Department on August 25, 1995, on the conduct of federally supported work involving risk assessments inspections, interim controls and abatement of lead-based paint hazards ("Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing"). The revisions required by title X will affect HUD's housing programs and the housing programs of other Federal agencies.

HUD is consolidating in a revised part 35 of title 24 of the Code of Federal Regulations the multitude of lead-based paint regulations found throughout HUD programs and will make them consistent, creating a single point of reference for the Department's lead-based paint requirements. Proposed regulations were published for public comment on June 7, 1996.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29170
NPRM Comment Period End	09/05/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: David E. Jacobs, Director, Office of Lead Hazard Control, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-1785

RIN: 2501–AB57

1290. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS (FR-4258)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); PL 104-156

CFR Citation: 24 CFR 45

Legal Deadline: None

Abstract: This rule adopts the final revision of OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" to establish uniform audit requirements for non-Federal entities that administer Federal awards and to implement the Single Audit Act Amendments of 1996. OMB Circular A-128 "Audits of States and Local Governments" is rescinded as a result of the consolidation of audit requirements under Circular A-133.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/97	62 FR 61616
Interim Final Rule Effective	12/18/97	
Interim Final Rule Comment Period End	01/20/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Heist, Director Financial Audits Division, Department of Housing and Urban Development, Office of the Inspector General
Phone: 202 708-0383

RIN: 2501–AC39

1291. FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS (FR-4142)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); EO 11990

CFR Citation: 24 CFR 55

Legal Deadline: None

Abstract: This rule adopts procedures to implement Executive Order 11990 "Protection of Wetlands." This rule amends part 55 to implement the procedures for wetlands protection in accordance with Executive Order 11990. The rule makes several other changes including expanding the number of HUD programs that are subject to the four-step decision-making process for ensuring compliance with part 55.

Timetable:

Action	Date	FR Cite
NPRM	06/02/98	63 FR 30046
NPRM Comment Period End	08/03/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Walter Prybyla, Deputy Director for Policy Environmental Review Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC33

1292. HOME INVESTMENT PARTNERSHIPS PROGRAM—ADDITIONAL STREAMLINING (FR-4111)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 12701 to 12839

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule corrects oversights in the final rule; makes changes to reflect the self-implementing provisions of recent legislation; and streamlines the consortia requalification process. In addition, this rule makes final a provision published as an interim rule on August 22, 1997, with respect to rents for over-income tenants in HOME-assisted units that "float."

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65298
NPRM Comment Period End	02/10/97	
Final Rule	08/22/97	62 FR 44838
Final Rule Effective	09/22/97	
Comment Period End	10/21/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

HUD—HUDSEC **Final Rule Stage**

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Program Policy Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC30

1293. MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK TO MARKET) AND RENEWAL OF EXPIRING SECTION 8 PROJECT-BASED ASSISTANCE (FR-4298)

Priority: Other Significant

Legal Authority: 12 USC 1715z-1; 42 USC 1436f note.

CFR Citation: 24 CFR 401; 24 CFR 402

Legal Deadline:

Final, Statutory, October 27, 1998, Final rule issued by the later of 10/27/98 or 3 months following the appointment of a Director of OMHAR.

Abstract: This rule follows an interim rule that implemented recently enacted legislation that created a Mark-to-Market Program through which section 8 rents for multifamily projects with HUD-insured or HUD-held mortgages will be reduced in order to preserve low-income rental housing affordability while reducing the long-term costs of project-based rental assistance and minimizing the adverse effect on the FHA insurance funds. The interim rule also implemented legislation for renewal of section 8 project-based assistance contracts for projects outside of the Mark-to-Market Program. This final rule takes into consideration the public comments received on the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/98	63 FR 48926
Interim Final Rule Effective	10/13/98	
Interim Final Rule Comment Period End	10/26/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Dan Sullivan, Housing Project Manager, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-3856

RIN: 2501–AC57

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

1294. NONDISCRIMINATION IN HUD PROGRAMS AND ACTIVITIES RECEIVING ASSISTANCE UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (FR-4092)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 6; 24 CFR 8; 24 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	01/25/99	64 FR 3796

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Betsy Ryan
Phone: 202 619-8041

RIN: 2501–AC28

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Proposed Rule Stage

1295. SINGLE FAMILY MORTGAGE INSURANCE CLARIFICATION OF FLOODPLAIN REQUIREMENTS APPLICABLE TO NEW CONSTRUCTION (FR-4323)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701 to 1715z18; 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 203; 24 CFR 234

Legal Deadline: None

Abstract: This proposed rule would amend HUD's Single Family Mortgage Insurance Minimum Property Standards concerning flood hazard exposure. The rule would clarify that it is the location of the dwelling and any related structures/equipment that determines whether the flood hazard exposure and National Flood Insurance purchase requirements apply. If the property improvements are located within the 100-year floodplain, the proposed rule would permit mortgagees to submit an Elevation Certificate in place of a final Letter of Map Amendment or a final Letter of MAP Revision. The proposed rule would also remove obsolete provisions concerning subdivisions and improved area processing, and would make a number of clarifying revisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark W. Holman, Chief, Mortgage Underwriting and Insurance Branch, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH16

1296. USE OF MATERIALS BULLETINS USED IN THE HUD BUILDING PRODUCTS AND CERTIFICATION PROGRAM (FR-4391)

Priority: Routine and Frequent

Legal Authority: 12 USC 1701 to 1715z to 18; 42 USC 3535(d)

CFR Citation: 24 CFR 200

HUD—OH **Proposed Rule Stage**

Legal Deadline: None

Abstract: This proposed rule would adopt several Use of Materials Bulletins and references related to national voluntary consensus standards in accordance with OMB Circular No. A-119. The proposed rule would also supplement the HUD Building Product Standards and Certification Program by requiring that additional information be included on the label, tag, or mark that each manufacturer affixes to the certified product. The labeling of these products is in the public interest because it will allow consumers to readily identify those products that comply with existing voluntary consensus standards. In addition, the proposed rule would eliminate the need for manufacturers of these building products to seek HUD acceptance for individual products. Under the proposed rule, HUD would accept these products on a generic basis for use in properties covered under the HUD mortgage insurance programs. This would result in the streamlining of existing HUD requirements. The proposed rule would also specify the frequency with which products must be tested in order to be acceptable to HUD.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David C. Nimmer, Deputy Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH28

1297. • SINGLE FAMILY MORTGAGE INSURANCE; APPRAISER ROSTER REMOVAL PROCEDURES (FR-4429)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701 to 1715z-18; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This proposed rule would establish the procedure by which an appraiser may be removed from HUD's Appraiser Roster. The Roster identifies those appraisers who are eligible to perform Federal Housing Administration (FHA) single family appraisals. Lenders must select an appraiser from the Roster for property appraisals involving the FHA single family mortgage insurance program. This proposed rule is part of HUD's Homebuyer Protection Plan, which is designed to ensure that homebuyers seeking FHA-insured mortgages receive accurate and complete appraisals of homes they are interested in purchasing.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AH29

1298. STRENGTHENING THE TITLE I PROPERTY IMPROVEMENT LOAN INSURANCE PROGRAM (FR-4246)

Priority: Other Significant

Legal Authority: 12 USC 1703; 42 USC 1436a; 42 USC 3535(d)

CFR Citation: 24 CFR 201

Legal Deadline: None

Abstract: This rule proposes to amend HUD's regulations for the title I Property Improvement Loan Insurance Program. This rule would require that at least some of the loan proceeds must be used for correcting code violations, health and safety defects accessibility improvements, or energy improvements. This rule would also require the lender to certify that no party that is debarred or subject to a limited denial of participation will be involved in connection with the loan; that the property has been inspected and the proposed work meets the eligibility requirements; and that a post-completion inspection and verification of completion of the work has occurred. This rule would also establish time limits for completing improvements and streamline requirements, where appropriate. HUD anticipates that this rule will be finalized in conjunction with FR-3718.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AG95

1299. SINGLE FAMILY APPRAISAL ASSESSMENT (FR-4395)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1708; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This proposed rule would set standards and the process under which HUD will assess the accuracy of appraisals performed by the single family industry. HUD seeks to increase the efficiency of receipt of appraisals and to monitor the appraisals' accuracy through standardization and superior quality control of the end product. Appraisals are performed for approximately 1,000,000 home purchases annually.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2502–AH27

1300. • SOURCES OF HOMEBUYER DOWNPAYMENT (FR-4469)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203

Legal Deadline: None

HUD—OH

Proposed Rule Stage

Abstract: Section 203(b)(9) of the National Housing Act requires mortgagors to pay on account of the property at least 3 percent of the cost of acquisition in order for the mortgage to be eligible for insurance by FHA. The implementing regulations at 24 CFR 203.19 generally require that borrowers pay as downpayment in cash or its equivalent at least 3 percent of the acquisition cost. However, both the statute and the regulations are silent about permissible and/or impermissible sources of the downpayment (except for legislation in 1996 to permit family members to provide gifts and loans to other family members). This rule will clarify acceptable sources of homebuyer downpayment on FHA-insured mortgages.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AH38

1301. PARTIAL PAYMENT OF CLAIMS FOR HEALTH CARE FACILITIES, HOSPITALS AND GROUP PRACTICE FACILITIES (FR-4387)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1735f to 19

CFR Citation: 24 CFR 207; 24 CFR 232; 24 CFR 242; 24 CFR 244

Legal Deadline: None

Abstract: This rule would implement a statutory amendment which extended HUD's authority to make partial payments of claims on insured mortgages covering health care facilities, hospitals and group practice facilities.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Donald Kaplan, Deputy Director for Office of Insured Health Facilities, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AH25

1302. • REHABILITATION GRANTS FOR CERTAIN MULTIFAMILY PROJECTS (FR-4465)

Priority: Other Significant

Legal Authority: PL 105-65, sec. 531

CFR Citation: 24 CFR 236

Legal Deadline: None

Abstract: This rule implements a new statutory program of grants to owners of certain multifamily housing projects in need of rehabilitation that cannot be funded from project income. The grants are funded from recaptured or uncommitted funds originally intended for interest reduction payments (IRP) by HUD.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH35

1303. • TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS (FR-4403)

Priority: Other Significant

Legal Authority: 12 USC 1715z-1b; 42 USC 3535(d)

CFR Citation: 24 CFR 245

Legal Deadline: None

Abstract: This proposed rule would amend HUD's regulations for tenant participation in multifamily housing projects. Specifically, the proposed rule would expand the number of categories of multifamily housing projects in which tenants have the right to establish and operate tenant organizations. The proposed rule would clarify the reasonable activities that the owner of a multifamily housing project, covered under this proposed rule, must allow tenants and tenant organizers to engage in while organizing their co-tenants and operating a tenant organization. The proposed rule would also clarify the requirements for establishing and operating a tenant organization.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH32

1304. • USE OF FEDERAL SURPLUS PROPERTY FOR SELF-HELP HOUSING (FR-4464)

Priority: Other Significant

Legal Authority: PL 105-50m 111 Stat. 1167

CFR Citation: 24 CFR 270

Legal Deadline: None

Abstract: This rule will establish a program to transfer surplus Federal property to a governmental entity or a nonprofit organization to develop as self-help housing for low-income individuals or families. HUD will operate the transfer program in cooperation with the General Services Administration which has an ongoing program of transferring surplus Federal property for public benefit.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elizabeth Burdock, Special Assistant to the Assistant Secretary for Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1490

RIN: 2502–AH34

HUD—OH

Proposed Rule Stage

1305. UP-FRONT GRANTS IN THE DISPOSITION OF MULTIFAMILY PROJECTS (FR-4310)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701z-11; 12 USC 1701z-12; 12 USC 1713; 12 USC 1715b; 12 USC 1715z-1b; 42 USC 3535(d)

CFR Citation: 24 CFR 290

Legal Deadline: None

Abstract: This proposed rule would codify requirements governing the use of up-front grants in the disposition of HUD-owned multifamily properties. Specifically, it addresses eligibility for up-front grants and establishes limits on up-front grant amounts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc Harris, Office of Portfolio Management, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0216

RIN: 2502–AH12

1306. • DISPOSITION OF HUD-OWNED SINGLE FAMILY ASSETS IN REVITALIZATION AREAS (FR-4471)

Priority: Other Significant

Legal Authority: 12 USC 1701 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 291

Legal Deadline:
Final, Statutory, October 21, 2000.

Abstract: This proposed rule would implement section 602 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998). Section 602 directs HUD to carry out a program under which HUD-owned homes and mortgages are made available in a manner that promotes expanded homeownership opportunities in designated revitalization areas. Under section 602, the Secretary will designate revitalization areas, in consultation with affected units of general local government and interested nonprofit organizations. Section 602 provides that the Secretary shall provide a preference in the sale of HUD-owned homes and mortgages to nonprofit organizations or to the unit of general local government having jurisdiction in the revitalization area.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AH40

1307. • SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS (NEW CONSTRUCTION, SUBSTANTIAL REHABILITATION, STATE HOUSING AGENCIES AND SPECIAL ALLOCATIONS) (FR-4479)

Priority: Routine and Frequent

Legal Authority: PL 105-276, secs. 549, 575, 576, 577

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 886

Legal Deadline: None

Abstract: This rule will start the rulemaking process to implement the following sections of the Quality Housing and Work Responsibility Act of 1998: sections 549, 575, 576 and 577. These sections provide, among other things, for a 5-year contract renewal subject to funding availability; "one-strike" provisions; and notification of contract expiration or termination.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH41

1308. • DURATION OF CAPITAL ADVANCE (FR-4466)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q; 42 USC 1437f; 42 USC 535(d)

CFR Citation: 24 CFR 891

Legal Deadline: None

Abstract: Several years ago, the Department decided to reduce the duration of the Section 202/811 fund reservation to 24 months for Sponsors selected in Fiscal Year 1996 and later years as one measure to facilitate the more timely development of Section 202/811 projects. Now that the 24-month period has expired for the first affected Sponsors, HUD is finding that the majority of these Sponsors are taking longer than 24 months to get their projects under construction. Thus, limiting the duration of the fund reservation is not achieving the desired result. The purpose of the regulatory change is to extend the fund reservations of Section 202 and Section 811 projects up to 36 months.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH36

1309. SPECIAL PROCEDURES PERMITTING LIMITED COMPLETION OF MANUFACTURED HOMES ON-SITE (FR-4216)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This rule proposes a new process, under which manufacturers

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and State and private inspection agencies could agree to permit limited site work, under certain conditions, to complete production of manufactured homes, without prior approval by the Secretary. This new process would supplement the current process for approving alternative construction methods.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David C. Nimmer, Deputy Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AG92

1310. REAL ESTATE PROCEDURES SETTLEMENT ACT (RESPA): ESCROW ACCOUNT STATEMENT ITEMIZATION OF CHARGES (FR-4390)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2609; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This rule would clarify that municipal or local taxes would be separately itemized from charges for late fee penalties in the annual escrow account statements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Rebecca Holtz, Director, ILS/RESA Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AH26

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Housing (OH)

Final Rule Stage

1311. DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES (FR-4169)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d); PL 104-204

CFR Citation: 24 CFR 200; 24 CFR 202; 24 CFR 203; 24 CFR 206

Legal Deadline: None

Abstract: This rule implements the Lender Insurance program, which reflects the Secretary's new authority to delegate the issuance of Mortgage Insurance Certificates (MICs) to mortgagees that are approved under the Direct Endorsement program. This rule will provide that eligible mortgagees that participate in the Lender Insurance program will be responsible for conducting a pre-endorsement review during the origination of their single family mortgage loans, and they will be responsible for endorsing the mortgages for insurance. HUD intends that delegating this insurance authority through the Lender program will be consistent with HUD's efforts to reinvent the Federal Housing Administration (FHA) by creating a more efficient and less burdensome process for providing single family mortgage insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/02/97	62 FR 30222
Interim Final Rule Effective	07/02/97	
Interim Final Rule Comment Period End	08/01/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Morris Carter, Acting Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AG87

1312. USE OF MATERIAL BULLETINS (FR-4265)

Priority: Routine and Frequent

Legal Authority: 12 USC 1701 to 1715z-18; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule, the second of its type in two years, will permit generic acceptances of additional building products or systems. These acceptances are called Use of Material Bulletins (UMs) and they supersede separate approvals for individual products without having each manufacturer apply for a separate Materials Release on a specific product.

Timetable:

Action	Date	FR Cite
NPRM	02/10/98	63 FR 6798
NPRM Comment Period End	04/13/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David C. Nimmer, Deputy Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH02

1313. UPDATE OF THE MODEL ENERGY CODE (MEC) (FR-4272)

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-486 Energy Policy Act of 1992; 42 USC 12709 Cranston-Gonzalez National Affordable Housing Act

CFR Citation: 24 CFR 200

Legal Deadline: None

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Abstract: The Energy Policy Act of 1992 (EPAct) modified section 109 of the National Affordable Housing Act so that HUD must require improved energy efficiency standards for new construction in certain HUD-insured and -assisted housing programs. HUD must adopt the updated MEC unless its requirements do not significantly increase energy efficiency or are not technologically feasible or economically justified.

Timetable:

Action	Date	FR Cite
NPRM	04/16/98	63 FR 32958
NPRM Comment Period End	08/17/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: David C. Nimmer, Deputy Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH03

1314. TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOAN INSURANCE PROGRAMS (FR-4242)

Priority: Other Significant

Legal Authority: 12 USC 1703; 42 USC 1436a; 42 USC 3535 (d); 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 201; 24 CFR 202

Legal Deadline: None

Abstract: This rule will amend HUD's regulations for the title I Property Improvement and Manufactured Home Loan Insurance Programs. In this rule, HUD will eliminate the portion of the program through which sellers, contractors, or suppliers of goods or services assist borrowers in preparing credit applications or otherwise obtaining title I property improvement loans from HUD-insured lenders. Property improvement loans will still, however, be available directly from lenders. This rule will attempt to end the abuses and excessive claims that HUD has experienced in the dealer loan portion of the title I Property Loan Program.

Timetable:

Action	Date	FR Cite
NPRM	07/03/97	62 FR 36194
NPRM Comment Period End	09/02/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AG94

1315. MORTGAGE INSURANCE PREMIUM REDUCTION IN CENTRAL CITIES (FR-4284)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule will amend HUD's regulations in 24 CFR part 203 to reduce the Up-Front Mortgage Insurance Premium from 1.75 percent to 1.50 percent for qualified first-time homebuyers with counseling located in "central cities."

Housing and Urban Development and Independent Agencies Appropriations Act of 1997 mandated that the Up-Front Mortgage Insurance Premium not exceed 2.00 percent for first-time homebuyers. The further reduction from 1.75 to 1.50 is consistent with the Administration's homeownership strategy.

Timetable:

Action	Date	FR Cite
NPRM	05/04/98	63 FR 24736
NPRM Comment Period End	07/06/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Stephen Semelsberger, Single Family Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH07

1316. BUILDER WARRANTY FOR HIGH RATIO SINGLE FAMILY MORTGAGES (FR-4288)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1709(b)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule permits FHA insurance for a single family mortgage with a loan-to-value ratio over 90 percent for a new home if the builder provides an acceptable 1-year warranty.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14572
Interim Final Rule Effective	04/27/99	
Interim Final Rule Comment Period End	05/24/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Morris Carter, Acting Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AH08

1317. SINGLE FAMILY MORTGAGE INSURANCE; DIRECT ENDORSEMENT AND AUTOMATED UNDERWRITING (FR-4311)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: On May 29, 1998, the Department issued an interim rule which amended the regulations on Single Family Mortgage Insurance to allow the lender to accept the classification from an automated underwriting system approved by FHA that a borrower is an accepted risk. The prior regulatory provision required the

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Direct Endorsement underwriter to certify that the underwriter had personally reviewed the credit application and appraisal report.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/29/98	63 FR 29506
Final Action Effective	06/29/98	
Comment Period End	07/28/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Morris Carter, Acting Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AH15

1318. • SINGLE FAMILY MORTGAGE INSURANCE INFORMED CONSUMER CHOICE DISCLOSURE (FR-4411)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule would implement a statutory amendment to HUD's Single Family Mortgage Insurance Program. The statutory amendment requires HUD to develop, through rulemaking, an informed consumer choice disclosure form. Lenders would give this form to a borrower who is seeking an FHA insured mortgage. The disclosure notice would compare the costs and fees associated with the FHA insured loan to the costs of conventional loans offered by the lender and for which the borrower would qualify. The notice must also include a statement regarding when the borrower's obligation to pay mortgage insurance premiums terminates.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7726
NPRM Comment Period End	03/18/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AH30

1319. • SINGLE FAMILY CLAIM REFORM AND SALE OF PROPERTY (FR-4470)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden.or duplication, or streamline requirements.

Legal Authority: 12 USC 1710; 12 USC 1735f-14; 42 USC 3535(d); PL 105-276

CFR Citation: 24 CFR 203

Legal Deadline:
Final, Statutory, October 21, 2000.

Abstract: The interim rule will eliminate redundant and obsolete provisions of the National Housing Act; provide a new authority to take assignment of notes and transfer these notes to third parties for servicing and foreclosure avoidance and will provide the authority to pay assignment claims for those cases. In addition, the rule will make loss mitigation mandatory for lenders (except for assignments), and will provide the authority for HUD to assess a new civil money penalty for a lender's failure to engage in loss mitigation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AH39

1320. HOME EQUITY CONVERSION MORTGAGES; RIGHT OF FIRST REFUSAL PERMITTED FOR CONDOMINIUM ASSOCIATIONS (FR-4267)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715b; 12 USC 1715z-20; 42 USC 3535(d)

CFR Citation: 24 CFR 206.45(e)

Legal Deadline: None

Abstract: This rule removes the current restriction on FHA mortgage insurance for the Home Equity Conversion Mortgage (HECM) program for a dwelling unit in a condominium project where the condominium association has a right of first refusal to purchase units that are offered for sale.

Timetable:

Action	Date	FR Cite
NPRM	04/09/98	63 FR 17654
NPRM Comment Period End	06/08/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Morris Carter, Acting Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AG93

1321. RISK-SHARING HOSPITAL MORTGAGE INSURANCE PROGRAM (FR-3914)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1715z

CFR Citation: 24 CFR 242

Legal Deadline: None

Abstract: This rule implements a program under which the Secretary will be authorized to enter into risk-sharing agreements with mortgagees to facilitate the financing of hospitals. The concept of risk-sharing is one of the underpinnings of the Federal Housing Administration's (FHA's) reinvention

efforts and is critical to our intensified focus on customer service. The hospital risk-sharing initiative is one component of a comprehensive risk-sharing strategy for all FHA program types to assure that FHA has a method of reducing its exposure and strengthening its financial and actuarial positions.

Timetable:

Action	Date	FR Cite
NPRM	12/04/96	61 FR 64414
NPRM Comment Period End	02/03/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald Kaplan, Deputy Director for Office of Insured Health Facilities, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AG53

1322. • OFFICER NEXT DOOR PROGRAM (FR-4277)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701 et seq; 42 USC 1441; 42 USC 1441a; 42 USC 1551a; 42 USC 3535(d)

CFR Citation: 24 CFR 291

Legal Deadline: None

Abstract: This rule extends HUD's regulations concerning the disposition of HUD acquired single family properties to implement the Officer Next Door Sales Program (OND Program). The OND Program has been operating since August 11, 1997 as a temporary program and renewed on a yearly basis. This rule establishes the OND Program as a permanent program. The OND Program enables law enforcement officers to purchase, through a direct sale, HUD-acquired single family homes at a significant discount. Homes must be located in HUD-designated Revitalization Areas or HUD-approved except areas, and law enforcement officers must agree to occupy a home, purchased through the OND Program, as their sole residence for at least 3 years. Governmental entities and private nonprofit organizations may also purchase homes, through the OND Program, if they intend to resell these homes directly to law enforcement officers under the terms and conditions of the OND Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Art Orton, Deputy Director, Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AH37

1323. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (FR-4376)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5403; 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This rule will amend the Federal Manufactured Home Construction and Safety Standards (FMHCSS) to update many of the standards that are incorporated by reference therein. These reference standards, which are developed by voluntary consensus or industry groups, provide necessary technical standards for the FMHCSS. These amendments will keep the FMHCSS current with the industries that use these reference standards by incorporating the latest edition of these standards and new relevant standards.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58570
NPRM Comment Period End	12/29/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David C. Nimmer, Deputy Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH23

1324. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3780)

Priority: Economically Significant

Legal Authority: 12 USC 2601; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: A final rule will provide consumers with increased disclosure concerning the mortgage broker's function and fees and would provide mortgage brokers with greater clarity regarding application of the Real Estate Settlement Procedures Act (RESPA) to mortgage broker fees. Confusion about how RESPA applies to mortgage broker fees has led to litigation and numerous requests for clarification. The proposed rule was developed after receiving comments on a prior proposed rule and after parties to a negotiated rulemaking process, including consumer and industry groups, could not reach a consensus.

In order to benefit from greater clarity about permissibility of fees, mortgage brokers would be encouraged to provide information to the consumer early in a mortgage financing transaction. The information would include a statement regarding information about the mortgage broker's duties and compensation.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47650
Notice	10/25/95	60 FR 54794
NPRM Comment Period End	11/13/95	
Notice Comment Period End	11/24/95	
NPRM	10/16/97	62 FR 53912
NPRM Comment Period End	12/15/97	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Rebecca Holtz, Director, ILS/RESA Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AG40

HUD—OH

Final Rule Stage

1325. AMENDMENT TO RESPA; EXEMPTION FOR EMPLOYER PAYMENTS TO EMPLOYEES WHO MAKE LIKE-PROVIDER REFERRALS, AND OTHER AMENDMENTS (FR-4173)

Priority: Other Significant

Legal Authority: 12 USC 2601 to 2617; 42 USC 3535(d); PL 104-208

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: The Department is considering a new exemption under Regulation X, its regulation implementing the Real Estate Settlement Procedures Act of 1974 (RESPA). The exemption would allow payments by an employer to its own bona fide employees for the referral of settlement service business to an affiliated settlement service provider, provided that the settlement service business that is referred is the category of settlement service as provided by the employer of the employee making the referral, the employee makes the affiliated business arrangement disclosure as provided in 24 CFR section 3500.15, and the employee making the referral does not perform any other category of settlement service in the same transaction. This rule also implements two amendments to RESPA in recent legislation. One concerns referrals of settlement service business through telemarketing, in writing, or through electronic media. The other concerns mortgage servicing sales or transfers. The primary part of the rulemaking is withdrawn due, in part, to congressional action within the Omnibus Consolidated Appropriation Act, 1997. The rule will implement two amendments to RESPA.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25740
NPRM Comment Period End	07/08/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Director, ILS/RESA Division, Department of Housing and Urban Development, Office of Housing Phone: 202 708-0502

RIN: 2502–AG88

1326. RESPA STATEMENTS OF POLICY REGARDING CERTAIN PRIVATE MORTGAGE INSURANCE ARRANGEMENTS (FR-4342)

Priority: Other Significant

Legal Authority: 12 USC 2601 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: These four statements of policy set forth the Department's interpretation under the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2601 et seq.) of the legality of certain arrangements involving private mortgage insurers and lenders, and are issued under the authority of RESPA and Regulation X (24 CFR 3500.4(a)(ii)). These statements of policy analyze the applicability of section 8 of RESPA to Lender Paid Mortgage Insurance, to captive reinsurance arrangements, to the Performance Notes program and to agency pool insurance.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Director, ILS/RESA Division, Department of Housing and Urban Development, Office of Housing Phone: 202 708-0502

RIN: 2502–AH19

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Housing (OH)

Completed Actions

1327. ELECTRONIC SUBMISSION OF REQUIRED DATA BY MULTIFAMILY MORTGAGES (FR-4303)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 200; 24 CFR 207

Completed:

Reason	Date	FR Cite
Final Action	01/29/99	64 FR 4768

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willie Spearmon Phone: 202 708-3000

RIN: 2502–AH11

1328. SUSPENSION OF FHA SINGLE FAMILY MORTGAGE INSURANCE PROGRAM FOR MORTGAGES ON INDIAN RESERVATIONS INSURED PURSUANT TO SECTION 248 OF THE NATIONAL HOUSING ACT (FR-4251)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/99	64 FR 8532

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Morris Carter Phone: 202 708-3046

RIN: 2502–AH00

1329. • FHA SINGLE FAMILY MORTGAGE INSURANCE; STATUTORY CHANGES FOR MAXIMUM MORTGAGE LIMIT AND DOWNPAYMENT REQUIREMENTS (FR-4431)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-276, amended 12 USC 1709

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: Public Law 105-276 (approved October 21, 1998) amended the provisions of the National Housing Act regarding the maximum amount of a mortgage eligible for FHA single family mortgage insurance, and the minimum downpayment required from the borrower. This final rule amended the current regulations to reflect the statutory changes.

HUD—OH

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	03/25/99	64 FR 14568
Final Action Effective	04/26/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AH31

1330. HOME EQUITY CONVERSION MORTGAGES; CONSUMER PROTECTION MEASURES AGAINST EXCESSIVE FEES (FR-4306)

Priority: Other Significant

CFR Citation: 24 CFR 206

Completed:

Reason	Date	FR Cite
Final Action	01/19/99	64 FR 2984

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandy Allison
Phone: 202 708-2733

RIN: 2502–AH10

1331. SINGLE FAMILY PROPERTY DISPOSITION (FR-4244)

Priority: Other Significant

CFR Citation: 24 CFR 291

Completed:

Reason	Date	FR Cite
Final Action	02/09/99	64 FR 6470

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey
Phone: 202 708-1672

RIN: 2502–AG96

1332. SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES; CLARIFICATION OF EXEMPTION FROM RENT CONTROL (FR-4346)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 891

Completed:

Reason	Date	FR Cite
Final Action	11/23/98	63 FR 64802

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willie Spearmon
Phone: 202 708-3000

RIN: 2502–AH21

1333. UPDATING MANUFACTURED HOUSING REFERENCE STANDARDS (FR-4337)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 3280

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David C. Nimmer
Phone: 202 708-6401

RIN: 2502–AH17

1334. PROCEDURAL AND ENFORCEMENT REGULATIONS FOR THE MANUFACTURED HOME CONSTRUCTION AND SAFETY PROGRAM (FR-4319)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 3282

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David C. Nimmer
Phone: 202 708-6401

RIN: 2502–AH14

1335. • REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA) STATEMENT OF POLICY 1999-1 REGARDING LENDER PAYMENTS TO MORTGAGE BROKERS (FR-4450)

Priority: Other Significant

Legal Authority: 12 USC 2601 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This statement of policy describes HUD's position on the legality of lender payments to mortgage brokers under the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq) (RESPA). The Conference Report on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (H.R. Conf. No. 105-769, 105th Cong., 2d Sess. 260 (1998)) directs that HUD clarify its position on lender payments to mortgage brokers within 90 days after enactment of the Appropriations Act. As described in the statement of policy, it is HUD's position that a payment by a lender to a mortgage broker in connection with settlement services involving a federally-related mortgage loan may be legally permissible under section 8 of RESPA and HUD's implementing regulations at 24 CFR part 3500. However, the payment must be a bona fide payment for goods or facilities actually furnished or for services actually performed which are reasonably related to the value of the services provided.

Timetable:

Action	Date	FR Cite
Statement of Policy	03/01/99	64 FR 10080

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth Markison, Assistant General Counsel for GSE/RESPA, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-1552

RIN: 2502–AH33

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of Community Planning and Development (CPD)

1336. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; NATIONAL OBJECTIVE AND STREAMLINING CHANGES (FR-4144)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5321

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would make a variety of changes and clarifications to the regulations for the Community Development Block Grant (CDBG) Entitlement program. This rule would, in part, codify statutory changes made by section 225 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 and section 807(a) of the Housing and Community Development Act of 1992. This rule would also make further changes necessary to conform the CDBG and HOME programs, particularly in regard to national objective requirements, and make other changes to the national objectives regarding job retention for low- and moderate-income persons. This rule would further advise grantees and subrecipients regarding the need to net all applicable credits from costs to be paid with CDBG funds. An Office of Inspector General (OIG) audit found that applicable credits have not always been properly netted from costs before the costs were paid with CDBG funds. Other changes are needed to codify new eligible activities and to make it easier for grantees to carry out joint CDBG and HOME activities.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Deirdre Maguire-Zinni, Director, Entitlement Communities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AB90

1337. CDBG SLUM/BLIGHT NATIONAL OBJECTIVE RULE (FR-4260)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535; 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule will be a key step in the implementation of the Department's Brownfields Initiative. (The Brownfields Initiative will stimulate economic development through the redevelopment of contaminated industrial properties.) It will increase Community Development Block Grant (CDBG) recipients' flexibility to undertake activities which meet the national objective of preventing or eliminating slums or blighting conditions. The criteria for meeting the slum/blight national objective will be revised to specifically recognize economic obsolescence of buildings and the presence of environmental contaminants as blighting influences on an area or property. This rule also will propose clarifications of the standards for meeting the slum/blight national objective criteria on a spot basis. This rule will also implement new statutory eligibility provisions regarding cleanup and redevelopment of brownfields.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Steve Johnson, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB94

1338. • COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: ELIGIBILITY AND RECORD KEEPING PROHIBITION ON USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES (FR-4468)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5305; 42 USC 3535(d)

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: Section 888 of Pub. L. 105-275 "Prohibition on Use of Assistance for Employment Relocation Activities" amended 42 USC 5305 to add a new paragraph (h) to prohibit the use of CDBG funds beginning in fiscal year 1999 or later to be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from one area to another, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs. This proposed rule would amend the CDBG program's eligibility section at 24 CFR 570, subpart C, the CDBG States' program eligibility section at 24 CFR 570, subpart I, and the recordkeeping section at 24 CFR 570, subpart J.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Duncan, Deputy Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AC01

1339. • HOPWA RENTAL ASSISTANCE OPTIONS AND TECHNICAL CHANGES (FR-4467)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12901 et seq

CFR Citation: 24 CFR 574

Legal Deadline: None

Abstract: The regulatory changes by this rule include revisions on rental assistance requirements in order to specify additional options available to

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grantees in responding to client needs, such as use of shallow rent subsidies that are offered in connection with other rental assistance options and allowance for client selection of units that are above area FMRs. Other revisions will update and clarify the regulation and address current requirements for performance reporting.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Vos, Director, Office of HIV/AIDS, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1934

RIN: 2506–AC02

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Final Rule Stage

1340. CDBG PROGRAM FOR STATES; COMMUNITY REVITALIZATION STRATEGY REQUIREMENTS & MISCELLANEOUS TECHNICAL AMENDMENTS (FR-4081)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 3601 to 3619; 42 USC 5300 to 5320; 42 USC 11331 to 11388; 42 USC 12701 to 12711; 42 USC 12741 to 12756; 42 USC 12901 to 12912

CFR Citation: 24 CFR 91; 24 CFR 570

Legal Deadline: None

Abstract: This rule implements the Community Revitalization Strategies concept into the State CDBG program. This concept will provide States additional flexibility in meeting certain requirements regarding the program's national objectives and public benefit. This rule also makes several technical amendments to correct errors from previous rulemaking and to enhance and clarify the regulation. These amendments are consistent with recent changes to the Entitlement CDBG program. This rule will be merged with the "CDBG Program for States: Program Income" rule (FR-4067) when published as a final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/96	61 FR 54914
Interim Final Rule Effective	11/21/96	
Interim Final Rule Comment Period End	02/16/97	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Johnson, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB83

1341. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; SECTION 108 APPLICATION REQUIREMENTS (FR-3298)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule amends the application procedures of the section 108 Loan Guarantee program in order to conform those procedures to the Consolidated Plan submission process.

Timetable:

Action	Date	FR Cite
NPRM	11/12/93	58 FR 60088
NPRM Comment Period End	01/11/94	
Second NPRM	09/26/96	61 FR 50654
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Webster, Director, Financial Management Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1871

RIN: 2506–AB43

1342. SECTION 108 LOAN GUARANTEE PROGRAM (FR-4039)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule removes misleading and unnecessary language from the regulations that govern security requirements for loans guaranteed under the section 108 Loan Guarantee Program.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Webster, Director, Financial Management Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1871

RIN: 2506–AB80

1343. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS FOR STATES; PROGRAM INCOME (FR-4067)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

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Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule will make many small changes and clarifications to the regulations for the State CDBG Program. This rule will allow States to apply additional requirements to units of general local government that are not inconsistent with statutes and regulations. It will clarify the standards for spending funds outside the recipient's jurisdiction. It will clarify the conflict of interest provisions, and update the national objective of benefit to low- and moderate-income persons. It will also make conforming changes to update the regulations based on recent statutory amendments. This rule will be merged with the "CDBG Program for States: Community Revitalization Strategy Requirements" rule (FR-4081) when published as a final rule.

Timetable:

Action	Date	FR Cite
NPRM	03/11/97	62 FR 11284
NPRM Comment Period End	05/12/97	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Steve Johnson, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB82

1344. • COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; CLARIFICATION OF THE NATURE OF REQUIRED CDBG EXPENDITURE DOCUMENTATION (FR-4449)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule clarifies the level of expenditure documentation that is needed to meet the financial management requirement that grantees and subrecipients maintain adequate records to identify the use of funds provided for assisted activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Deirdre Maguire-Zinni, Director, Entitlement Communities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AC00

1345. EMERGENCY SHELTER GRANTS PROGRAM (FR-4330)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11371 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 576

Legal Deadline: None

Abstract: The regulatory changes to be made by this rule include technical corrections to the Emergency Shelter Grants (ESG) Program final rule published on October 2, 1996, and also revisions to CPD's implementation of IDIS, an automated payment and reporting system.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: John Garrity, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-4300

RIN: 2506–AB99

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Long-Term Actions

1346. ADMINISTRATIVE GUIDELINES FOR CPD PROGRAMS; SECTION 102(D) LIMITATION ON COMBINING OTHER GOVERNMENT ASSISTANCE WITH CPD HOUSING ASSISTANCE (FR-3135)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This document sets forth the administrative guidelines the Office of Community Planning and Development will follow in determining on a case-by-case basis, that the amount of assistance being provided by HUD for a specific housing project for which other government assistance is also being made available, is not more than is necessary to make the assisted activity feasible after taking into account the other government assistance. HUD is required to make these determinations, and to so certify, under section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 for certain CPD programs.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Duncan, Deputy Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AB74

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

1347. CLARIFICATION OF THE NATURE OF REQUIRED CDBG EXPENDITURE DOCUMENTATION (FR-4261)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 570.200; 24 CFR 570.502; 24 CFR 570.506

Completed:

Reason	Date	FR Cite
Merged With RIN 2506-AC00 (FR-4449)	02/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Deirdre Maguire-Zinni
Phone: 202 708-1577

RIN: 2506–AB95

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Proposed Rule Stage

1348. GINNIE MAE—FINANCE—NAHASDA IMPLEMENTATION (FR-4215)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-330

CFR Citation: 24 CFR 300.3; 24 CFR 320; 24 CFR 330; 24 CFR 340

Legal Deadline: None

Abstract: Section 701(c) of the Native American Housing Assistance and Self-Determination Act of 1996 permits Ginnie Mae to securitize loans guaranteed by the Secretary. This rule will make amendments to the Ginnie Mae regulations to reflect this change and to make certain technical amendments to the Ginnie Mae regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nicholas Shelley, Acting Vice President for Policy Planning and Risk Management, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-4141

RIN: 2503–AA11

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Final Rule Stage

1349. GINNIE MAE—FINANCIAL REPORTING (FR-4331)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1721(g)(1); 42 USC 3535(d)

CFR Citation: 24 CFR 320

Legal Deadline: None

Abstract: This final rule follows an interim rule that eliminated the physical certificate backing for each Ginnie Mae-guaranteed security and permits a true book entry system. The final rule will address any comments received on the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/98	63 FR 51249
Interim Final Rule Effective	10/26/98	
Interim Final Rule Comment Period End	11/23/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland, Vice President for Program Administration, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-2884

RIN: 2503–AA12

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1350. CERTIFICATION AND FUNDING OF STATE AND LOCAL FAIR HOUSING ENFORCEMENT AGENCIES (FR-4392)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3601 to 19; 42 USC 3535(d)

CFR Citation: 24 CFR 115

Legal Deadline: None

Abstract: This proposed rule will amend the regulation to allow for changes caused by departmental reform and FHEO reorganization, and improve program implementation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

HUD—FHEO **Proposed Rule Stage**

Agency Contact: Ivy Davis, Director, FHIP/FHAP Support Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-1992

RIN: 2529–AA85

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage
Office of Fair Housing and Equal Opportunity (FHEO)

1351. FAIR HOUSING PLANNING PERFORMANCE STANDARD (FR-4133)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 3600 to 3620

CFR Citation: 24 CFR 91; 24 CFR 570

Legal Deadline: None

Abstract: This rule will assist communities in complying with the legal requirement to certify that they are affirmatively furthering fair housing. It will provide a standard for determining the accuracy of the certification so that communities will have a clear idea of what is expected of them and how HUD will review their certifications as well as measure performance for determining compliance with fair housing requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57882
NPRM Comment Period End	12/28/98	
NPRM Comment Period Extended	12/28/98	63 FR 71405
NPRM Comment Period End	02/26/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Deirdre Maguire-Zinni, Director, Entitlement Communities Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-1577

William Dudley Gregorie, Acting Director, Office of Programs Operations and Standards, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2288

RIN: 2529–AA81

1352. • FAIR HOUSING COMPLAINT PROCESSING—PLAIN LANGUAGE REVISION AND REORGANIZATION (FR-4433)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 3600 to 3619

CFR Citation: 24 CFR 103

Legal Deadline: None

Abstract: This proposed rule would revise subpart B (Complaints) of the fair housing complaints processing regulations in two ways. First, the current regulations relating to the filing of complaints would be rewritten using plain language. Plain language is an approach to writing that promotes responsive, accessible, and understandable written communication. Second, sections relating to the investigation of complaints, currently in subpart B, would be moved to subpart D (Investigation Procedures). HUD is proposing these revisions in order to make the procedures for filing housing discrimination complaints more accessible to the public. The proposed rule would not alter the substance of the existing regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter Kaplan, Office of Investigations, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-0836

RIN: 2529–AA86

1353. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY-LOW-INCOME PERSONS (FR-2898)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1450; 42 USC 3301; 12 USC 1701u; 42 USC 3535(d)

CFR Citation: 24 CFR 135

Legal Deadline:
Final, Statutory, April 28, 1993.

Abstract: The regulations at 24 CFR 135 were revised substantially to incorporate the statutory amendments in the Housing and Community Development Act of 1992, to reflect certain changes in the design of the Department's programs that are subject to the section 3 regulations to clarify the obligations of individuals and entities subject to the requirements of section 3, and to simplify the Department's administration of section 3 requirements. The final rule may make further revisions in response to public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/08/93	58 FR 52534
Notice	11/09/93	58 FR 59423
Notice Comment Period End	12/08/93	
Interim Final Rule	06/30/94	59 FR 33886
Interim Final Rule Effective	08/01/94	
Interim Final Rule Comment Period End	08/29/94	
Extension of Effective Period of Interim Rule	05/31/95	60 FR 28325
Extension Effective	06/30/96	
Final Action	06/00/99	

HUD—FHEO **Final Rule Stage**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John Waller, Program Manager, Office of Economic Development, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-3633

RIN: 2529–AA49

1354. CIVIL MONEY PENALTIES FOR FAIR HOUSING ACT VIOLATIONS (FR-4302)

Priority: Other Significant

Legal Authority: 29 USC 794; 42 USC 2000d-1; 42 USC 3601 to 3619; 42 USC 5301 to 5320; 42 USC 6103; 42 USC 3535(d)

CFR Citation: 24 CFR 180

Legal Deadline: None

Abstract: This rule finalizes the policies and procedures described in HUD's December 18, 1997 proposed rule. Specifically, the final rule interprets the Fair Housing Act to clarify that an Administrative Law Judge (ALJ) may assess more than one maximum civil penalty against a respondent in a given case, where the respondent has committed separate and distinct acts of discrimination. The final rule is also part of President Clinton's "Make 'Em Pay" initiative, which is designed to fight housing-related acts of hate violence and intimidation with increased enforcement and monetary penalties. The rule describes how ALJs apply in determining the amount of a civil penalty to assess against a respondent found to have committed a discriminatory housing practice.

Timetable:

Action	Date	FR Cite
NPRM	12/18/97	62 FR 66488
NPRM Comment Period End	01/20/98	
Interim Final Rule	02/10/99	64 FR 6744
Interim Final Rule Effective	03/12/99	
Interim Final Rule Comment Period End	04/12/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Shaw, Trial Attorney, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-1042

RIN: 2529–AA83

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Completed Actions

1355. IMPLEMENTATION OF THE HOUSING FOR OLDER PERSONS ACT OF 1995 (FR-4094)

Priority: Other Significant

CFR Citation: 24 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	04/02/99	64 FR 16324
Final Action Effective	05/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Kaplan
Phone: 202 708-0836

RIN: 2529–AA80

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Proposed Rule Stage

1356. HUD ACQUISITION REGULATION (FR-4291)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 42 USC 3535(d)

CFR Citation: 48 CFR 2409; 48 CFR 2452

Legal Deadline: None

Abstract: This proposed rule would amend the HUD Acquisition Regulation (HUDAR) to make conforming and streamlining changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Division, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA25

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Final Rule Stage

Office of Administration (OA)

1357. HUD ACQUISITION REGULATION—II (FR-4115)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 42 USC 3535(d); 41 USC 251

CFR Citation: 48 CFR 2401

Legal Deadline: None

Abstract: This rule will implement changes stemming from the "Federal Acquisition Reform Act of 1996" and subsequent revisions to the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Division, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA24

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of Public and Indian Housing (PIH)

1358. • PET OWNERSHIP IN PUBLIC HOUSING (FR-4437)

Priority: Other Significant

Legal Authority: 42 USC 1437 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 5

Legal Deadline: None

Abstract: Section 526 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998) ("QHWRA") added a new section 31 to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (the "1937 Act"). New section 31 of the 1937 Act provides that a public housing resident may have one or more common household pets in the resident's dwelling unit, subject to reasonable requirements established by the Public Housing Agency and in accordance with applicable State and local laws. This proposed rule would amend HUD's regulations regarding pet ownership in public and HUD-assisted housing (24 CFR part 5, subpart C) to implement the statutory amendments to the 1937 Act made by section 526 of QHWRA. In accordance with section 526(d) of QHWRA, HUD is implementing these statutory amendments using notice and comment rulemaking procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gloria Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1380

RIN: 2577–AB94

1359. • PUBLIC HOUSING DRUG ELIMINATION PROGRAM—FORMULA ALLOCATION (FR-4451)

Priority: Other Significant

Legal Authority: 42 USC 11901; 42 USC 3535(d)

CFR Citation: 24 CFR 761

Legal Deadline: None

Abstract: This proposed rule would provide for a formula allocation of Public Housing Drug Elimination Program funding. The proposed rule would provide a formula funding for eligible public housing agencies (PHAs) that meet ongoing performance criteria and certain need standards to be further described in the rule.

Timetable:

Action	Date	FR Cite
ANPRM	02/18/99	64 FR 8210
ANPRM Comment Period End	03/22/99	
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: Sonia Burgos, Dir., Community Safety and Security Div., Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1197

RIN: 2577–AB95

1360. RESIDENT SURVEY INFORMATION DISCLOSURE REQUIREMENTS—PRIVACY ACT (FR-4393)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 42 USC 3535(d)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This proposed rule would amend HUD's Privacy Act regulations by describing under what circumstances HUD may release information obtained from a resident survey. This rule would also describe the privacy requirements for public or private entities that have access to this data.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Christine Jenkins, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2577–AB84

1361. QUALITY ASSURANCE REVIEW OF INDEPENDENT PUBLIC AUDITORS BY REAL ESTATE ASSESSMENT CENTER STAFF (FR-4394)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC ch 35; 42 USC 3535(d)

HUD—PIH **Proposed Rule Stage**

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This proposed rule would establish generally applicable requirements for HUD Quality Assurance reviews of parties that audit the books and records of HUD program recipients. The rule would address HUD inspections, HUD review of work paper prepared by Independent Public Auditors, and HUD enforcement of its right to such reviews.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter Bell, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2577–AB85

1362. • CAPITAL FUND ALLOCATION FORMULA (FR-4423)

Priority: Other Significant

Legal Authority: 42 USC 1437g(d); 42 USC 1437g(f); 42 USC 3535(d)

CFR Citation: 24 CFR 941; 24 CFR 968

Legal Deadline:
Final, Statutory, October 1, 1999.

Abstract: This rule will replace the current rules on public housing development and modernization. The Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998) replaces existing funding for capital needs of public housing with a single Capital Fund, to be allocated in accordance with a formula developed through the process of negotiated rulemaking, with proposed and final rules. Although recent appropriations acts have permitted PHAs to use modernization funding in connection with development of new construction, the framework capital funding has involved separate funds and separate procedures for these two functions. This rule is significant in that funding from a single source will be available to fund any development of public housing units, whether modernization or new construction.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AB87

1363. • JOINT VENTURE AND CONSORTIA OF PUBLIC HOUSING AGENCIES (FR-4474)

Priority: Other Significant

Legal Authority: 42 USC 1437k

CFR Citation: 24 CFR 943

Legal Deadline: None

Abstract: This rule will begin the process of implementing section 515 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) which will permit two or more PHAs to participate in a consortium to administer their housing programs, and permits a PHA, in accordance with its PHA Plan, to form a subsidiary or joint venture to administer programs or provide supportive or social services.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gloria Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1380

RIN: 2577–AC00

1364. DESIGNATED HOUSING PROGRAM AMENDMENTS (FR-3964)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1473e; 42 USC 3535(d)

CFR Citation: 24 CFR 945

Legal Deadline: None

Abstract: The proposed rule would amend HUD's Designated Housing Program regulations at 24 CFR part 945 to implement certain new requirements made to this program by the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, approved March 28, 1996). In addition to implementing these requirements the regulations would be streamlined to allow autonomy and flexibility.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gloria Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1380

RIN: 2577–AB57

1365. PUBLIC HOUSING ADMISSION AND OCCUPANCY REFORMS AND STREAMLINING (FR-4084)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437d; 42 USC 1437n; 42 USC 3535(d)

CFR Citation: 24 CFR 960; 24 CFR 966

Legal Deadline: None

Abstract: This rule builds on the previous rule published on May 9, 1997 (62 FR 25728) and proposes further amendments to HUD's admission, continued occupancy, termination, as well as lease and grievance regulations, to implement certain provisions of the Quality Housing and Work Responsibility Act of 1998 and the Housing Opportunity Program Extension Act of 1996, and to continue streamlining these program rules.

HUD—PIH **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25728
NPRM Comment Period End	07/08/97	
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Patricia Arnaudo, Senior Housing Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2577–AB67

1366. • FORMULA FUNDING FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE (CIAP) AGENCIES (FR-4462)

Priority: Other Significant

Legal Authority: 42 USC 1437d; 42 USC 1437l; 42 USC 3535(d)

CFR Citation: 24 CFR 968

Legal Deadline: None

Abstract: This proposed rule would amend the regulations for the Comprehensive Improvement Assistance Program (CIAP) to permit the noncompetitive distribution of CIAP funds to all eligible public housing authorities (PHAs) on a fair-share basis. The purpose of this amendment is to provide PHAs the opportunity of a transition process for using capital improvement funding in accordance with new statutory authority.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AB97

1367. • CONVERSION OF PUBLIC HOUSING TO VOUCHERS (TENANT-BASED ASSISTANCE) (FR-4476)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1437f

CFR Citation: 24 CFR 972

Legal Deadline:
Final, Statutory, October 1, 1999.

Abstract: This rule will begin the process to implement section 533 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) (Pub. L. 105-276) which allows PHAs to convert any public housing project owned by the PHA to tenant-based assistance if after conducting a conversion assessment the PHA determines that conversion will not be more expensive than continued operation of the project, will benefit residents, and will not adversely affect the availability of affordable housing in the community. Every PHA must conduct, and submit to HUD, a conversion assessment no later than two years after the effective date o the Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC02

1368. • REQUIRED CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE (FR-4475)

Priority: Other Significant

Legal Authority: 42 USC 1437 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 973

Legal Deadline:
Final, Statutory, September 30, 1999.

Abstract: This rule will begin the process of implementing section 537 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) (Pub. L. 105-276) which will require each PHA, in consultation with residents and local government, to identify public housing projects that are distressed and to develop a plan for removal of such projects over a 5-year period, which may be extended an additional 5 years if HUD determines such a deadline is impracticable. PHA's must use HUD guidelines that have been established after taking into account the criteria established by the National Commission on Severely Distressed Public Housing, in determining which projects are distressed.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC01

1369. • SECTION 8 HOMEOWNERSHIP (FR-4427)

Priority: Other Significant

Legal Authority: 42 USC 1437f(y); 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: None

Abstract: This interim rule amends the regulations for the Section 8 tenant-based voucher program at 24 CFR part 982. These amendments implement Section 8(y) of the United Stated Housing Act of 1937, as amended by Section 555 of the Quality Housing and Work Responsibility Act of 1998 (42 USC 1437f(y)). Section 8(y) authorizes a public housing agency to provide tenant-based assistance for an eligible family that purchases a dwelling unit that will be occupied by the family.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

HUD—PIH **Proposed Rule Stage**

Government Levels Affected: None

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AB90

1370. SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) NEW PERFORMANCE INDICATORS (FR-4388)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 985

Legal Deadline: None

Abstract: Under the section 8 Management Assessment Program (SEMAP), HUD assesses whether local agencies operate the tenant-based rental assistance programs effectively. SEMAP currently measures housing agency performance under indicators representing 14 key program areas. This rule would add three new performance indicators to SEMAP: timeliness of housing assistance payments (HAPs) to owners; implementation of screening and termination policies for certain evictions, for drug-related criminal activity, and for disruptive alcohol abuses; and for deconcentration of assisted families.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AB83

1371. • OPERATING FUND ALLOCATION FORMULA (FR-4425)

Priority: Other Significant

Legal Authority: 42 USC 1437g(e); 42 USC 1437g(f); 42 USC 3535(d)

CFR Citation: 24 CFR 990

Legal Deadline:
Final, Statutory, October 1, 1999.

Abstract: This rule will replace the current rules that allocate public housing operating subsidy under the Performance Funding System. Section 518(e) of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998) replaces existing funding for public housing operations with the Operating Fund, to be allocated in accordance with a formula developed through the process of negotiated rulemaking.

Timetable:

Action	Date	FR Cite
Notice	02/03/99	64 FR 5570
Notice Comment Period End	03/05/99	
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joan DeWitt, Director, Finance & Budget Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-1872

RIN: 2577–AB88

1372. • DWELLING CONSTRUCTION AND EQUIPMENT COSTS FOR INDIAN HOUSING (FR-4478)

Priority: Other Significant

Legal Authority: 25 USC 4101; 42 USC 3535(d)

CFR Citation: 24 CFR 1000

Legal Deadline: None

Abstract: Pursuant to the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996, HUD entered into negotiated rulemaking with Indian tribes to formulate a comprehensive regulation for the new Indian Housing Block Grant Program authorized by NAHASDA. Final regulations altered the method formerly used for determining the Total Development Costs (TDC) associated with developing housing projects to one which used Dwelling Construction and Equipment Costs (DCE). When tribes actually began using DCE in place of TDC, they discovered that the new DCE limits were inadequate. The proposed regulation will resolve this problem by providing alternative methods for determining development costs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce Knott, Director, Office of Housing and Comm. Development, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing, 1999 Broadway, Suite 3390, Denver, CO 90202
Phone: 303 675-1600

RIN: 2577–AC04

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage

Office of Public and Indian Housing (PIH)

1373. • REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS (FR-4477)

Priority: Other Significant

Legal Authority: 42 USC 1439; 42 USC 3535(d)

CFR Citation: 24 CFR 791

Legal Deadline: None

Abstract: This rule would revise the current program regulations to implement the statutory language which eliminates the requirements for comment from local governments in non-housing assistance payment communities on applications for Section 8 funding and eliminates the non-metropolitan funding set-asides, imposed by section 213 of the Housing and Community Development Act of 1974.

HUD—PIH

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AC03

1374. HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1996 IMPLEMENTATION PROVISIONS AND SECTION 8 CERTIFICATE, VOUCHER, & MODERATE REHABILITATION ADMISSION & OCCUPANCY POLICIES REVISIONS (FR-4159)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 882; 24 CFR 982

Legal Deadline: None

Abstract: This rule amends the admission and occupancy requirements for the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation Programs as follows: makes certain applicants ineligible for admission if evicted from housing assisted under the United States Housing Act of 1937; terminates assistance to tenant-based certificate and voucher participants evicted for serious lease violations; screens out illegal drug users and alcohol abusers; and terminates assistance to illegal drug users and alcohol abusers.

Timetable:

Action	Date	FR Cite
NPRM	03/31/97	62 FR 15346
NPRM Comment Period End	05/30/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AB72

1375. • SECTION 8 MODERATE REHABILITATION PROGRAM EXECUTING OR TERMINATING LEASES ON MODERATE REHABILITATION UNITS (FR-4472)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: Section 8(d)(1)(B)(i) of the United States Housing Act requires that the initial lease between the tenant and the owner be for at least one year or the term of the HAP contract, whichever is shorter. Current program regulations state that the initial term between an owner and a family must be for at least one year. The regulation is silent on the requisite lease term when the HAP contract term expires in less than one year. The purpose of this regulation revision is to implement the statutory language which requires that any initial lease term not extend beyond the term of the housing assistance payment contract.

This rule also will revise existing regulations to allow an owner and a public housing agency (PHA) to mutually agree to terminate a unit from the HAP contract if a unit becomes vacant and the term of the HAP contract is for less than one year.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AB98

1376. • MODERATE REHABILITATION COMPARABILITY (FR-4473)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule would revise the current regulations in 24 CFR 882 on adjusting section 8 Moderate Rehabilitation Contracts rents. The rule would implement legislation which requires housing agencies (HA) to conduct comparability studies for moderate rehabilitation projects, to prevent the application of the annual adjustment factors from resulting in a material difference between rents charged for assisted units and similar unassisted units. The rule also would provide for special rent adjustments to cover the cost when an exemption from real property tax expires under certain circumstances, if appropriations are available. The rule also would add insurance to the categories of cost increases that may result in a special adjustment.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51658
NPRM Comment Period End	12/01/95	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AB99

1377. • PUBLIC HOUSING AGENCY PLAN (FR-4426)

Priority: Other Significant

Legal Authority: 42 USC 1437cA; 42 USC 3535(d)

CFR Citation: 24 CFR 903

Legal Deadline:
Other, Statutory, February 18, 1999, Interim Rule.
Final, Statutory, October 21, 1999, Final Rule.

Abstract: In accordance with section 511 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998), this rule will establish the procedures and requirements for development, submission and implementation of the PHA plan, which will include such elements specified by other sections of the Act

HUD—PIH **Final Rule Stage**

as an admission policy to promote deconcentration of low-income families, the plan for demolition/disposition of projects and restrictions on pets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/18/99	64 FR 8170
Interim Final Rule Effective	03/22/99	
Interim Final Rule Comment Period End	04/19/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AB89

1378. PUBLIC HOUSING DEVELOPMENT REGULATIONS (FR-3569)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437c

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule finalizes a comprehensive revision of the public housing development and acquisition program regulation at 24 CFR 941. This rule will respond to comments received on three interim rules. The first of those rules redesigned the public housing development process to give housing authorities and localities maximum flexibility in developing public housing in their communities. The second of those rules (FR-3919, RIN 2577-AB54) provided procedures to permit housing agencies to enter a partnership with an entity to develop and own public housing properties in mixed-income developments using a mixed-financed development method. The third rule (FR-4113, RIN 2577-AB69) streamlined and modified this mixed finance component.

Timetable:

Action	Date	FR Cite
Interim Final Rule (FR-3919)	05/02/96	61 FR 19708
Interim Final Rule Effective (FR 3919)	07/01/96	
Interim Final Rule (FR 3569)	07/22/96	61 FR 38014
Interim Final Rule Effective	08/21/96	
Interim Final Rule Comment Period End (FR 3569)	09/20/96	
Interim Final Rule (FR-4113)	06/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AB37

1379. PUBLIC HOUSING MIXED-FINANCE PARTNERSHIP DEVELOPMENT—STREAMLINING (FR-4113)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1427b; 42 USC 1437c; 42 USC 3535(d)

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule will streamline the provisions of the new subpart F of part 941, which provides for mixed-finance partnerships to develop public housing. The rule is needed due to new legislation and because questions have arisen during implementation of the existing regulations in subpart F. The clarification afforded by this removal of duplicative language will be highly beneficial.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Sowell, Director, Office of Public Housing Partnerships, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AB69

1380. ASSESSMENT OF THE REASONABLE REVITALIZATION POTENTIAL OF CERTAIN PUBLIC HOUSING REQUIRED BY LAW (FR-4120)

Priority: Other Significant

Legal Authority: PL 104-134 Sec. 202 of the OCRA of 1996

CFR Citation: 24 CFR 971

Legal Deadline: None

Abstract: Section 202 of the Omnibus Consolidated Rescissions Act (OCRA) of 1996 requires PHAs to identify certain distressed public housing developments which may be required to be converted to section 8 vouchers or certificates. The requirement covers developments that are on the same or contiguous sites, are more expensive than tenant-based assistance, and cannot be revitalized through reasonable programs. To be subject to these requirements, the developments must have more than 300 dwelling units and have a vacancy rate of at least ten percent for dwelling units not in funded on-schedule modernization programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/22/97	62 FR 49572
Interim Final Rule Effective	10/22/97	
Interim Final Rule Comment Period End	11/21/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary, Office of Policy, Program and Legislative

HUD—PIH **Final Rule Stage**

Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AB79

1381. • SECTION 8 TENANT BASED ASSISTANCE: STATUTORY MERGER (FR-4428)

Priority: Other Significant

Legal Authority: 42 USC 1437f(o); 42 USC 1437f(c)(a); 42 USC 1437f(r); 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline:
Final, Statutory, October 21, 1999.

Abstract: This rule will effect a complete merger of the Section 8 Certificate and Voucher programs, creating a single Section 8 tenant-based assistance program, effective on October 21, 1999. This rule will include changes made by sections 545, 549(b), and 553 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 246, approved October 21, 1998). The rule will implement statutory requirements for the merged Voucher program, including provisions governing calculation of subsidy, family eligibility and income targeting, disapproval of owners, PHA screening of applicants, lease and tenant requirements, housing quality standards and unit inspections, PHA administrative fees, portability, and conversion from certificate to voucher assistance. The rule also will implement requirements for project-based voucher assistance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB91

1382. • RENEWAL OF SECTION 8 TENANT-BASED ASSISTANCE CONTRACTS (FR-4459)

Priority: Other Significant

Legal Authority: 42 USC 1437f(dd); PL 105-276, sec 556; 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline:
Final, Statutory, October 21, 1999.

Abstract: This notice follows issuance of a HUD notice to PHAs on December 30, 1998 to tell them how the Department is calculating the amount of assistance available to them to renew Section 8 rental certificate and voucher contracts. Section 556 of the Quality Housing and Work Responsibility Act, added paragraph (dd) to Section 8 of the U.S. Housing Act of 1937, which describes the procedure for allocating funds available for renewing expiring Section 8 tenant-based assistance contracts.

Since the statute requires implementation by notice followed by negotiation of a final rule, this Federal Register publication of a notice precedes the beginning of the process of a negotiated rulemaking, to modify program regulations to cover this subject.

Timetable:

Action	Date	FR Cite
Notice	02/18/99	64 FR 8188
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Dalzell, Senior Program Advisor, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1380

RIN: 2577–AB96

1383. LOAN GUARANTEE FOR INDIAN HOUSING; DIRECT GUARANTEE PROCESSING (FR-4241)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715z-13a

CFR Citation: 24 CFR 1005

Legal Deadline: None

Abstract: This final rule would authorize a processing alternative known as "direct guarantee" under which HUD would not issue guarantee commitments and would not review an application for guarantee until after a loan has closed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/98	63 FR 48988
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Johnson, Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0950

RIN: 2577–AB78

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Long-Term Actions

1384. ADMINISTRATIVE GUIDELINES FOR PIH REGARDING SECTION 102(D) LIMITATIONS ON COMBINING OTHER GOVERNMENT ASSISTANCE ("SUBSIDY LAYERING") (FR-3100)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This notice sets forth the PIH administrative guidelines which HUD, or in certain circumstances Housing Credit Agencies (HCAs), will follow in implementing "subsidy layering" reviews in accordance with section 102(d) of the HUD Reform Act of 1989 and section 911 of the Housing and Community Development Act of 1992 for public and Indian housing programs. Such reviews are necessary to ensure that the amount of assistance being provided by HUD for a specific housing project is not more than is necessary to make the assisted activity feasible after taking into account assistance from other government sources.

HUD—PIH **Long-Term Actions**

Timetable:

Action	Date	FR Cite
Notice	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Wilson, Office of Public Housing Investments, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0614

RIN: 2577–AB53

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Completed Actions

1385. CEILING RENTS FOR PUBLIC HOUSING (FR-3880)

Priority: Other Significant

CFR Citation: 24 CFR 5, subpart F

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo
Phone: 202 708-0744

RIN: 2577–AB75

1386. PUBLIC HOUSING ASSESSMENT SYSTEM (FR-4313)

Priority: Other Significant

CFR Citation: 24 CFR 901

Completed:

Reason	Date	FR Cite
Final Action	09/01/98	63 FR 46596

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: William Thorson
Phone: 202 755-0102

RIN: 2577–AB81

1387. REPLACEMENT HOUSING FACTOR IN MODERNIZATION FUNDING (FR-4125)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 968

Completed:

Reason	Date	FR Cite
Final Action	08/28/98	63 FR 46104

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Rod J. Solomon
Phone: 202 708-0713

RIN: 2577–AB71

1388. • TENANT-BASED ASSISTANCE RENEWALS (FR-4418)

Priority: Other Significant

Legal Authority: 42 USC 1437f(dd); 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: None

Abstract: HUD is authorized to renew all expiring tenant-based Annual Contributions Contracts. This action will establish an allocation baseline amount of assistance to cover the renewals, and to apply an inflation factor to the baseline.

Timetable:

Action	Date	FR Cite
Merged With RIN 2577-AB96 (FR-4459)	02/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Cheryl Teninga, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0440

RIN: 2577–AB86

1389. SECTION 8 RENTAL VOUCHER AND CERTIFICATE PROGRAMS—SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) (FR-3986)

Priority: Other Significant

CFR Citation: 24 CFR 985

Completed:

Reason	Date	FR Cite
Final Action	09/10/98	63 FR 48548
Final Action Effective	10/13/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Gerald Benoit
Phone: 202 708-0477

RIN: 2577–AB60

1390. PUBLIC HOUSING PERFORMANCE FUNDING SYSTEM: INCENTIVES (FR-4072)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 990

Completed:

Reason	Date	FR Cite
Merged With RIN 2577-AB88 (FR-4425)	02/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joan DeWitt
Phone: 202 708-1872

RIN: 2577–AB65

HUD—PIH

Completed Actions

1391. • DUE DATE OF FIRST ANNUAL PERFORMANCE REPORT UNDER THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996 (FR-4416)

Priority: Info./Admin./Other

Legal Authority: 25 USC 4101 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 1000

Legal Deadline: None

Abstract: This final rule sets January 31, 1999 as the due date for recipients of Indian Housing Block Grant funds to submit the first annual performance reports under the Native American Housing Assistance and Self-Determination Act of 1996. This date provides an additional 60-day period that was assumed to apply, and allows recipients and HUD more time to work out the difficulties of the first performance report submissions.

Timetable:

Action	Date	FR Cite
Final Action	01/20/99	64 FR 3014
Final Action Effective	02/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce Knott, Director, Office of Housing and Comm. Development, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing, 1999 Broadway, Suite 3390, Denver, CO 90202
Phone: 303 675-1600

RIN: 2577–AB93

[FR Doc. 99-4896 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between April 1999 and October 1999. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You should direct all comments and inquiries with regard to these rules to the appropriate agency contact. You should direct general comments relating to the agenda to the Office of Regulatory Affairs, Department of the Interior, at the address above or on 202-208-5257 or 202-208-3071.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

Dated: March 26, 1999.

Richard A. Stephan,

Federal Register Liaison Officer.

Assistant Secretary for Policy, Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1392	Natural Resource Damage Assessments: Type B Procedures	1090-AA29
1393	Records and Testimony; Freedom of Information Act	1090-AA61
1394	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities	1090-AA64
1395	Department Hearings and Appeals; Special Rules Applicable to Public Land Hearings and Appeals	1090-AA68

Assistant Secretary for Policy, Management and Budget—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1396	Revised Statute 2477 Rights-of-Way	1090-AA44
1397	Administrative and Audit Requirements and Cost Principles for Assistance Programs; Buy American Act	1090-AA66
1398	Administrative and Audit Requirements and Cost Principles for Assistance Programs, Seat Belt Usage	1090-AA67
1399	Rules Applicable in Indian Affairs Hearings and Appeals	1090-AA70

Assistant Secretary for Policy, Management and Budget—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1400	Department Hearings and Appeals Procedures	1090-AA69

Office of the Special Trustee—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1401	Special Deposits	1035-AA01
1402	Appealing Administrative Actions of the Office of the Special Trustee	1035-AA03

DOI

United States Fish and Wildlife Service—Prerule Stage

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1403	Injurious Wildlife; Addition of the Asian Swamp Eel	1018-AF53

United States Fish and Wildlife Service—Proposed Rule Stage

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1404	Convention on International Trade in Endangered Species (CITES)	1018-AD87
1405	Proposed Special Rule With the Reclassification of the Vicuna From Endangered to Threatened	1018-AE04
1406	Revise and Amend Hunting and Disturbance Regulations on Units of the National Wildlife Refuge System	1018-AE50
1407	Humane and Healthful Transport of Wild Mammals, Birds, Reptiles and Amphibians to the United States	1018-AF27
1408	Endangered and Threatened Wildlife and Plants; Prebles Meadow Jumping Mouse	1018-AF30
1409	National Boating Infrastructure Grant Program	1018-AF38
1410	Endangered and Threatened Wildlife and Plants; Columbia White-tailed Deer	1018-AF43
1411	Endangered and Threatened Wildlife and Plants; Coastal Cutthroat Trout	1018-AF45
1412	Importation, Exportation, and Transportation of Wildlife	1018-AF46
1413	Administration of the National Coastal Wetlands Conservation Grant Program	1018-AF51
1414	1999-2000 Refuge-Specific Hunting and Sport Fishing Regulations	1018-AF52
1415	Marine Mammals; Incidental Take of Polar Bear and Pacific Walrus During Specified Activities	1018-AF54
1416	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making	1018-AF55

United States Fish and Wildlife Service—Final Rule Stage

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1418	Endangered and Threatened Wildlife and Plants: Intercross Progeny Policy and Definitions	1018-AC54
1419	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule	1018-AD67
1420	Migratory Bird Special Purpose Canada Goose Permit	1018-AE46
1421	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards	1018-AE65
1422	Subsistence Management Regulations for Public Lands in Alaska - Subparts C and D—1999-2000 Subsistence Taking of Fish and Wildlife Regulations	1018-AE69
1423	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Yreka Phlox	1018-AE82
1424	Endangered and Threatened Species; Proposal To List as Endangered or Threatened Blumer's Dock	1018-AE89
1425	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered in the United States the Short-Tailed Albatross	1018-AE91
1426	Endangered and Threatened Wildlife and Plants; Delist Dismal Swamp Southeastern Shrew	1018-AF00
1427	Endangered and Threatened Wildlife and Plants; Proposal To List Contiguous U.S. Distinct Population Segments of Canada Lynx as Threatened	1018-AF03
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1429	Endangered and Threatened Wildlife and Plants; Armored Snail and Campeloma	1018-AF29
1430	Endangered and Threatened Wildlife and Plants; Desert Yellowhead	1018-AF31
1431	Endangered and Threatened Wildlife and Plants; Santa Ana Sucker	1018-AF34
1432	Endangered and Threatened Wildlife and Plants; Mountain Plover	1018-AF35
1433	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Cactus Ferriginous Pigmy Owl	1018-AF36
1434	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Huachuca Water Umbel, a Plant	1018-AF37

United States Fish and Wildlife Service—Long-Term Actions

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United States Fish and Wildlife Service—Long-Term Actions (Continued)

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1437	List of Migratory Birds	1018-AB72
1438	Endangered and Threatened Wildlife and Plants	1018-AB97
1439	Endangered and Threatened Wildlife and Plants; Reclassification of the Loch Lomond Coyote Thistle	1018-AC14
1440	Export of American Ginseng Harvested in 1994-1996	1018-AC55
1441	General Provisions and General Permit Procedures	1018-AC57
1442	Endangered and Threatened Wildlife and Plants: Tropical Birds	1018-AC77
1443	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AC88
1444	Seizure and Forfeiture Procedures	1018-AC89
1445	Critical Habitat Designation for the Lost River and Shortnose Suckers	1018-AC90
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1447	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20	1018-AD01
1448	Endangered and Threatened Wildlife and Plants: Critical Habitat Designation for the Western Snowy Plover	1018-AD10
1449	Marine Mammal Protection Act; Unintentional Take of Marine Mammals by Harassment Only in Activities Other Than Commercial Fishing	1018-AD18
1450	Marine Mammal Protection Act; Measures To Safely Deter Marine Mammals, Including Threatened and Endangered Marine Mammals	1018-AD19
1451	Endangered and Threatened Wildlife and Plants; Special Rule for the Northern Spotted Owl	1018-AD20
1452	Taxonomic Change From Subspecies to Vertebrate Population Segment for the Virgin River Chub	1018-AD22
1453	Critical Habitat Proposal for Virgin River Fishes	1018-AD23
1454	Export of Appendix I Specimens That Were Bred for Commercial Purposes	1018-AD64
1455	Consolidation of Lists of Wildlife of Federal Concern	1018-AD66
1456	Migratory Bird Hunting: Regulations Regarding Prohibition Against Artificially Altering/Manipulating Natural Vegetation in Moist Areas To Attract Waterfowl	1018-AD74
1457	Federal Aid in Sport Fish Restoration Program for Participation for District of Columbia and Insular Territories and Commonwealths	1018-AD83
1458	Endangered and Threatened Species: Removal of Lloyd's Hedgehog Cactus From Federal List of Endangered and Threatened Plants	1018-AD91
1459	Rescission of Administrative Procedures for Grants in Aid (Marine Mammal Protection Act of 1972)	1018-AD92
1460	Safe Harbor Policy and Guidance for Candidate Agreements	1018-AD95
1461	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana	1018-AE00
1462	Endangered and Threatened Wildlife and Plants; Proposed Establishment of Nonessential Experimental Population of Ten Freshwater Mussels in Holston River System in TN and VA	1018-AE01
1463	Revision to Subchapter C—The National Wildlife Refuge System	1018-AE02
1464	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999	1018-AE03
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1466	Export of American Alligator for the 1998-2000 Harvest Seasons	1018-AE15
1467	Revisions to the Federal Aid Administrative Requirements	1018-AE17
1468	Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for Blackburn's Sphinx Moth from the Hawaiian Islands	1018-AE20
1469	Endangered and Threatened Wildlife and Plants; Proposed Status for Ten Plant Taxa From Maui Nui, Hawaii	1018-AE22
1470	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Larkspurs From Coastal Northern California	1018-AE23
1471	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Ione Buckwheat and Threatened Status for Ione Manzanita	1018-AE25
1472	Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Newcomb's Snail From the Hawaiian Islands	1018-AE27
1473	Endangered and Threatened Wildlife and Plants; Proposal to List Klamath River Population Segment of Bull Trout as Endangered and Columbia River Population Segment as Threatened	1018-AE29
1474	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Keck's Sidalcea From Tulare County, California	1018-AE30
1475	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Plant in Wenatchee Mountains of Washington	1018-AE32
1476	Exportation of Marine Mammal Products for Cultural Exchange	1018-AE33
1477	Injurious Wildlife; Addition of Brush-Tailed Possum	1018-AE34
1478	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Cave Animals From Hawaiian Islands	1018-AE39

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United States Fish and Wildlife Service—Long-Term Actions (Continued)

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1480	Endangered and Threatened Wildlife and Plants; Proposed Determination of Threatened Status for Koala	1018-AE43
1481	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Plant Rough Popcornflower	1018-AE44
1482	Endangered and Threatened Wildlife and Plants; Proposed Revision of Special Regulations for Gray Wolf	1018-AE45
1483	Update of Addresses for Endangered Species Permit Applications	1018-AE49
1484	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Oahu Elepaio from the Hawaiian Islands	1018-AE51
1485	Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Plant Howell's Spectacular Thelypody	1018-AE52
1486	Endangered and Threatened Wildlife and Plants; Endangered Status for Willamette Daisy, Fender's Blue Butterfly and Threatened Status for Kincaid's Lupine	1018-AE53
1487	Endangered and Threatened Wildlife and Plants; List Plant Zapata Bladderpod as Endangered	1018-AE54
1488	Endangered and Threatened Wildlife and Plants; Endangered Status for the Plant Prairie Penny Cress From Coastal Northern California	1018-AE55
1489	Endangered and Threatened Wildlife and Plants; Determination of the Pecos Pupfish To Be Endangered	1018-AE56
1490	Endangered and Threatened Wildlife and Plants; List Desert Milk Vetch as Threatened	1018-AE57
1491	Public Use Regulations for Kodiak National Wildlife Refuge Alaska	1018-AE60
1492	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting	1018-AE61
1493	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests	1018-AE62
1494	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits	1018-AE63
1495	Migratory Bird Permits; Introduction, General Requirements and Exceptions	1018-AE64
1496	1998-99 Refuge-Specific Hunting and Fishing Regulations	1018-AE68
1497	Importation, Exportation and Transportation of Wildlife Concerning International Mail, Pet Birds, Border Ports, Shellfish and Fishery Products Exemption	1018-AE70
1498	Implementation of the 1994 Amendments to the Marine Mammals Protection Act	1018-AE72
1499	Reclassification of the Namibian Population of Cheetah From Endangered to Threatened	1018-AE73
1500	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Gentner's Fritilaria (Mission Bells)	1018-AE75
1501	Endangered and Threatened Wildlife and Plants; Proposal To List Camatta Canyon Amole as Endangered or Threatened	1018-AE76
1502	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened La Graciosa Thistle, Lompoc Yerba Santa, Gaviota Tarplant, Nipoma Mesa Lupine & Santa Cruz Tarplant	1018-AE81
1503	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Mariana Fruit Bat	1018-AE83
1504	Endangered and Threatened Species; Proposal To List Northern Idaho Ground Squirrel as Endangered or Threatened	1018-AE84
1505	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Cowhead Lake Tui Chub	1018-AE85
1506	Endangered and Threatened Wildlife and Plants, Proposal To List Devil's River Minnow as Endangered or Threatened	1018-AE86
1507	Endangered and Threatened Wildlife and Plants; Proposal To List Colorado Butterfly Plant as Endangered or Threatened	1018-AE87
1508	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Puzzle Sunflower	1018-AE88
1509	Endangered and Threatened Wildlife and Plants; Proposed Establishment of Nonessential Experimental Population Status for 16 Freshwater Mussels and 1 Freshwater Snail	1018-AE92
1510	Endangered and Threatened Wildlife and Plants; Listing of Several Evolutionary Significant Units of West Coast Steelhead	1018-AE97
1511	Refuge Compatibility Regulations Pursuant to the National Wildlife Refuge System Implementation Act of 1997	1018-AE98
1512	Endangered and Threatened Wildlife and Plants; List Coastal-Puget Sound Jarbidge River and St. Mary's-Belly River Population Segments of Bull Trout as Threatened	1018-AF01
1513	Update of Addresses and Office of Management and Budget Information Collection Numbers for FWS Permit Applications	1018-AF07
1514	Consideration of Listing the Green Iguana (Iguana Iguana) as Injurious, Pursuant to the Lacey Act	1018-AF08
1515	Listing of U.S. Species in Appendix III to CITES	1018-AF09
1516	Reclassification of Morelet's Crocodile (Crocodylus moreleti) From Endangered to Threatened	1018-AF10
1517	Announcement of Draft Policy for Evaluation of Conservation Efforts in Making Listing Decisions	1018-AF11
1518	Endangered and Threatened Wildlife and Plants; Proposal To List the Alabama Sturgeon as Endangered	1018-AF12

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United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1519	Endangered and Threatened Wildlife and Plants; Proposal To List the Scaleshelled Mussel as Endangered or Threatened	1018-AF14
1520	Endangered and Threatened Wildlife and Plants; Proposal To List Sclerocactus Brevispinus (Pariette Cactus) as Endangered or Threatened	1018-AF15
1521	Endangered and Threatened Wildlife and Plants; Proposal To List Fourteen Hawaiian Pomace Flies as Endangered or Threatened	1018-AF16
1522	Endangered and Threatened Wildlife and Plants; Proposal To List Six Hawaiian Damselflies as Endangered or Threatened	1018-AF17
1523	Endangered and Threatened Wildlife and Plants; Proposal To List the Wet Canyon Talussnail as Endangered or Threatened	1018-AF19
1524	Proposed Reclassification and Delisting of the Gray Wolf in Certain Parts of Its Range	1018-AF20
1525	Proposed Delisting of the Bald Eagle Throughout the Lower 48 States	1018-AF21
1526	Proposed Delisting of the Grizzly Bear in the Yellowstone Ecosystem	1018-AF22
1527	Export of River Otters Taken in Missouri in 1998-1999 and Subsequent Seasons	1018-AF23
1528	Migratory Bird Hunting; Proposed 1999-2000 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Proposals	1018-AF24
1529	Taking of Marine Mammals by Level B Harassment; Issuance of General Authorization for Scientific Research and Permits for Photography, Educational, and Commercial Purposes	1018-AF26
1530	Migratory Bird Permits; Specific Permit Provisions; Special Purpose Permits	1018-AF28
1531	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Coastal California Gnatcatcher	1018-AF32
1532	Endangered and Threatened Wildlife and Plants; Nine Bexar County, Texas, Invertebrates	1018-AF33
1533	Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Arkansas River Shiner	1018-AF39
1534	Endangered and Threatened Wildlife and Plants; Establishment of a Special Rule for the Canada Lynx	1018-AF40
1535	Endangered and Threatened Wildlife and Plants; Special Rule for the Chiricahua Leopard Frog	1018-AF41
1536	Endangered and Threatened Wildlife and Plants; Aleutian Canada Goose	1018-AF42
1537	Importation of Captive-Bred Exotic Birds Into the United States from Breeding Facilities in Other Countries	1018-AF44
1538	Amendment by Mexico to Appendix III Listing of Bigleaf Mahogany	1018-AF47
1539	Endangered and Threatened Wildlife and Plants; Asian Bonytongue	1018-AF48
1540	Endangered and Threatened Wildlife and Plants; Tibetan Antelope	1018-AF49
1541	Proposed Guidance for Conducting Consultations for the Indiana Bat	1018-AF50

United States Fish and Wildlife Service—Completed Actions

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1543	Endangered and Threatened Wildlife and Plants: Parish's Alkali Grass	1018-AC21
1544	Endangered and Threatened Species: Sacramento Splittail	1018-AC26
1545	Endangered and Threatened Wildlife and Plants: Arkansas River Shiner	1018-AC62
1546	Endangered and Threatened Wildlife and Plants: Ten Plants From the California Sierra Nevada Mountains Foothills	1018-AC99
1547	Seven Plants From the Mountains of Southern California	1018-AD34
1548	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AD38
1549	Endangered and Threatened Wildlife and Plants: Four Plants From Interior Chaparral of Southwestern California and Northwestern Baja California, Mexico	1018-AD60
1550	Subsistence Management Regulations for Public Lands in Alaska	1018-AD68
1551	Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in Northwestern Colorado and Northeastern UT	1018-AD99
1552	Announcement of CITES Action Concerning Changes to Appendices to Listed Species; Service Announcement Concerning Reservations	1018-AE16
1553	Regulations for Administrative and Visitor Facility Sites on National Wildlife Refuges	1018-AE21
1554	Importation of Polar Bear Trophies From Canada; Addition of Populations to the List of Areas Approved for Import	1018-AE26
1555	Endangered and Threatened Wildlife and Plants; Proposed Rule to List the Illinois Cave Amphipod as Endangered	1018-AE31
1556	Migratory Bird Hunting; Extension of Temporary Approval of Tungsten-Iron Shot as Nontoxic for the 1998-99 Season	1018-AE35
1557	Endangered and Threatened Wildlife and Plants; List 3 Aquatic Snails as Endangered; 3 Aquatic Snails as Threatened in Mobile River Basin, Alabama	1018-AE36

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United States Fish and Wildlife Service—Completed Actions (Continued)

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1559	Endangered and Threatened Wildlife and Plants; Proposal To List St. Andrew Beach Mouse as Endangered	1018-AE41
1560	Endangered and Threatened Wildlife and Plants; List Topeka Shiner as Endangered	1018-AE42
1561	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Catesbaea Melanocarpa	1018-AE48
1562	Seasonal Closure of the Moose Range Meadows Public Access Easements in the Kenai National Wildlife Refuge	1018-AE58
1563	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting	1018-AE67
1564	Migratory Bird Hunting; Reduction of the Mid-Continent Lesser Snow Goose Population	1018-AE74
1565	Migratory Bird Harvest Information Programs; Participating States for the 1998-1999 Season	1018-AE96
1566	Amendment by Brazil to Appendix III Listing of Bigleaf Mahogany	1018-AE99
1567	Marine Mammals; Incidental Take During Specified Activities of Polar Bear and Pacific Walrus	1018-AF02
1568	Migratory Bird Permits; Addition of Subpart for Management of Overabundant Migratory Bird Population and Establishment of Conservation Order for Mid-Continent Light Goose Population	1018-AF05
1569	Endangered and Threatened Wildlife and Plants; Proposal To List the Slender Campeloma and Armored Snail as Endangered	1018-AF13
1570	Endangered and Threatened Wildlife and Plants; Proposal To List Allium Gooddingii (Goodding's Onion) as Endangered or Threatened	1018-AF18
1571	Migratory Bird Hunting; Regulations To Increase Harvest of Mid-Continent Light Geese	1018-AF25

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
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1573	Applicability and Resource Protection Revisions	1024-AC38
1574	Non-Federal Oil and Gas Rights	1024-AC53
1575	Denali National Park and Preserve, Special Regulations	1024-AC58
1576	Vehicles and Traffic Safety; Operating Under the Influence of Alcohol or Drugs	1024-AC69
1577	Solid Waste Sites in Units of the National Park System	1024-AC70
1578	Concession Contracts	1024-AC72
1579	Canaveral National Seashore; Public Nudity	1024-AC73
1580	World Heritage Convention	1024-AC74

National Park Service—Final Rule Stage

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1581	National Natural Landmarks Program	1024-AB96
1582	Glacier Bay National Park, Alaska Fishing Regulations	1024-AB99
1583	Rights-of-Way	1024-AC01
1584	Voyageurs National Park: Aircraft Operations	1024-AC23
1585	Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway: Snowmobile and Snowplane Routes and Regulations	1024-AC34
1586	Big Cypress National Preserve; Recreational Frogging	1024-AC54
1587	Delaware Water Gap NRA, Bicycle Trail	1024-AC62
1588	Personal Watercraft	1024-AC65
1589	Kaloko-Honokohou National Historic Park: Public Nudity	1024-AC66
1590	Appalachian National Scenic Trail—Snowmobiles	1024-AC67
1591	Land and Water Conservation Fund of Assistance to States; Post-Completion Compliance Responsibilities	1024-AC68
1592	Information Collection Activities	1024-AC71

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National Park Service—Completed Actions

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1594	Native American Graves Protection and Repatriation Act Regulations Future Applicability	1024-AC57
1595	Hydroelectric Power Projects in the National Park System	1024-AC64

Bureau of Indian Affairs—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1596	Use or Distribution of Indian Judgement Funds	1076-AD94

Bureau of Indian Affairs—Proposed Rule Stage

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1597	Indian School Equalization Program	1076-AD09
1598	Leasing Restricted Lands of Members of the Five Civilized Tribes, Oklahoma, for Mining	1076-AD33
1599	Exploration, Mining, and Reclamation of Lands	1076-AD36
1600	Tribal Reorganization Under a Federal Statute	1076-AD46
1601	Petitioning Procedures	1076-AD47
1602	Academic and Dormitory Standards	1076-AD55
1603	Education Contracts Under the Johnson-O'Malley Act	1076-AD58
1604	Loans to Indians From the Revolving Loan Fund	1076-AD59
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1606	School Construction Contracts for Public Schools	1076-AD69
1607	Adult Vocational Training	1076-AD72
1608	Loan Guarantee Program	1076-AD73
1609	Employment Assistance for Adult Indians	1076-AD75
1610	Certificates of Degree of Indian Blood	1076-AD78
1611	Mortgages and Deeds of Trust on Individually Owned Trust Land or Land Subject to a Restriction on Alienation	1076-AD85
1612	Acquisition of Title to Land in Trust	1076-AD90
1613	Financial Assistance and Social Services Program	1076-AD91
1614	Land Acquisitions for Gaming	1076-AD93

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1615	Leasing and Permitting	1076-AA29
1616	Navajo Partitioned Lands Grazing Regulations	1076-AC81
1617	Preference in Employment	1076-AD05
1618	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AD08
1619	Indian Tribal Justice Support	1076-AD15
1620	Tribal Self-Governance	1076-AD20
1621	Leasing Osage Reservation Lands for Mining of Minerals Other Than Oil and Gas	1076-AD34
1622	Lead and Zinc Mining Operations and Leases on Quapaw Indian Lands	1076-AD35
1623	Irrigation Projects and Systems	1076-AD44
1624	Indian Electric Power Utilities	1076-AD45
1625	Appeals From Administrative Actions	1076-AD50
1626	Indian Business Development Program	1076-AD70
1627	Tribal Revenue Allocation Plans	1076-AD74
1628	Courts of Indian Offenses	1076-AD76
1629	Use of Columbia River Fish Access Sites	1076-AD83
1630	Use of Columbia River In-Lieu Fishing Sites	1076-AD86

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Bureau of Indian Affairs—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1631	Class III Gaming Procedures	1076-AD87
1632	Preparation of Rolls of Indians	1076-AD89

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1633	Correction of Codification Errors in 25 CFR	1076-AD88

Minerals Management Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1634	Exploration or Development and Production Plans	1010-AC47

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1635	Refunds and Recoupment of Overpayments on OCS	1010-AC27
1636	Takes vs. Entitlements Reporting	1010-AC29
1637	Prepayment of Royalties	1010-AC31
1638	Chronic Erroneous Reporting	1010-AC34
1639	Training Lessee and Contractor Employees Engaged in Oil and Gas Operations in the Outer Continental Shelf	1010-AC41
1640	Reviewing Exploration Plans and Development and Production Plans for Coastal Zone Consistency	1010-AC42
1641	Oil and Gas Drilling Operations	1010-AC43
1642	Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf	1010-AC48
1643	Leasing Sulphur or Oil and Gas in the Outer Continental Shelf	1010-AC49
1644	Change to Delegated State Audit Functions	1010-AC51
1645	Royalty in Kind for Oil and Gas	1010-AC52
1646	Deep Water Emergency Well Control Operations	1010-AC54
1647	Update of Documents Incorporated by Reference	1010-AC55

Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1648	Valuation of Gas From Indian Leases	1010-AB57
1649	Valuation of Oil From Federal Mineral Leases	1010-AC09
1650	Administrative Appeals Process	1010-AC21
1651	Valuation of Oil From Indian Leases	1010-AC24
1652	Accounting Relief for Marginal Properties	1010-AC30
1653	Postlease Operations	1010-AC32
1654	Electronic Reporting	1010-AC40
1655	Update of Industry Electrical Standards	1010-AC50

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Minerals Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1656	Royalty Payment Liability	1010-AB45
1657	Credit Adjustments	1010-AB73

Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1658	Filing Fees for Required Records	1010-AC44
1659	Oil and Gas Production Rates	1010-AC53

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1660	Abandoned Coal Refuse Sites—Title I	1029-AB70
1661	Contemporaneous Reclamation	1029-AB79
1662	Indian Lands	1029-AB83
1663	Dam Safety Rules	1029-AB92
1664	Electronic Filing of the OSM-1 Form	1029-AB95

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1665	Definition and Criteria for Valid Existing Rights	1029-AB42
1666	Prohibitions Under Section 522(e) of SMCRA	1029-AB82
1667	Enhancing AML Reclamation	1029-AB89
1668	Ownership and Control—Redesign	1029-AB94

Bureau of Reclamation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1669	Revenues Management	1006-AA30
1670	Recovering the Value of Rights of Use and Related Administrative Costs	1006-AA39

Bureau of Reclamation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1671	Acreage Limitation Rules for Trusts	1006-AA38
1672	Offstream Storage of Colorado River Water and Interstate Marketing of Storage Credits in the Lower Division States	1006-AA40

DOI

Bureau of Reclamation—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1673	Central Valley Project of California—Purposes, Uses, and Allocation of Water Supplies	1006-AA34

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1674	Leases, Permits, and Easements	1004-AB51
1675	Sales—Federal Land Policy and Management Act	1004-AB77
1676	Oil and Gas Leasing; Drainage	1004-AC54
1677	Desert Land Entries	1004-AC56
1678	Disposal of Reserved Minerals Under the Stock Raising Homestead Act	1004-AC59
1679	Land Withdrawals	1004-AC63
1680	Cost Recovery; Mineral Filings and Operations	1004-AC64
1681	Rights-of-Way, Principles and Procedures; Rights-of-Way Under the Mineral Leasing Act	1004-AC74
1682	Land Classification	1004-AC78
1683	Carey Act Grants	1004-AC80
1684	Segregation and Opening of Lands	1004-AC84
1685	Oil and Gas Leasing and Operations	1004-AC94
1686	Appeals Procedures; Hearings Procedures	1004-AC99
1687	Color of Title and Omitted Lands	1004-AD00
1688	Paleontological Resources	1004-AD03
1689	Geothermal Resource Unit Agreement	1004-AD10
1690	Coal Management	1004-AD11
1691	Oil and Gas Leasing; National Petroleum Reserve, Alaska—Unit Agreements	1004-AD13
1692	Surface Management (Locatable Minerals)	1004-AD22
1693	Financial Assistance; Local Governments	1004-AD23
1694	Use Authorizations (Recreation)	1004-AD25
1695	Advisory Committees	1004-AD26
1696	Coal Management: General (Public Participation)	1004-AD27
1697	Mineral Materials Disposal	1004-AD29
1698	Emergency Fire and Disaster Rehabilitation	1004-AD30
1699	Location Recording, and Maintenance of Mining Claims and Sites	1004-AD31
1700	Mineral Patent Applications; Adverse Claims, Protests, and Conflicts	1004-AD32
1701	Alaska Native Veterans Allotments	1004-AD34

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1702	Management of Designated Wilderness Area	1004-AB69
1703	Management of Solid Minerals Other Than Coal	1004-AC49
1704	Definitions	1004-AC73
1705	Indian Allotments	1004-AC77
1706	Application Procedures	1004-AC83

Bureau of Land Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1707	Coalbed Methane Development	1004-AC27
1708	Railroad Grants	1004-AC76

DOI

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1709	Mineral Materials Disposal	1004-AC68
1710	Conveyances, Disclaimers, and Correction Documents	1004-AC82
1711	Helium Contracts	1004-AD24

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1712	Wild and Scenic Rivers	1093-AA08

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

Assistant Secretary for Policy, Management and Budget (ASPMB)

1392. NATURAL RESOURCE DAMAGE ASSESSMENTS: TYPE B PROCEDURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance. CERCLA requires that natural resource damage assessment regulations be promulgated and that the regulations be reviewed, and revised as appropriate, every two years. This rulemaking is the biennial review of the administrative process for conducting assessments as well as the so-called "type B" procedures for determining injury and damages through scientific and economic studies. This rulemaking will also address the calculation of lost non-use values of natural resources, in compliance with State of Ohio v. Department of the Interior, 880 F.2d 432 (D.C. Cir. 1989), which ordered the Department to allow for the assessment of all reliably calculated values lost as a result of a natural resource injury.

Timetable:

Action	Date	FR Cite
ANPRM	07/16/96	61 FR 37031
ANPRM Comment Period End	09/16/96	
NPRM	09/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 208-3891

RIN: 1090–AA29

1393. RECORDS AND TESTIMONY; FREEDOM OF INFORMATION ACT

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 43 CFR 2

Legal Deadline: None

Abstract: 43 CFR part 2, subparts A and B, are being revised in their entirety to reflect the provisions of the new FOIA law "Electronic FOIA Amendments of 1996," Pub. L. 104-231, the recommendations of the National Performance Review lab, and other changes as necessary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alexandra Mallus, DOI FOIA Officer (OIRM), Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 208-5342

RIN: 1090–AA61

1394. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATION PROGRAMS OR ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 92-318; PL 93-568, sec 3; 20 USC 1681; 20 USC 1682; 20 USC 1683; 20 USC 1685; 20 USC 1686

CFR Citation: 43 CFR 41

Legal Deadline: None

Abstract: The purpose of this regulatory action is to proscribe discrimination on the basis of sex in federally assisted education programs or activities of the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Melvin C. Fowler, Civil Rights Staff Assistant, Department of the Interior, Assistant Secretary for Policy, Management and Budget

DOI—ASPMB **Proposed Rule Stage**

Phone: 202 208-3455

RIN: 1090–AA64

1395. DEPARTMENT HEARINGS AND APPEALS; SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.415; 43 CFR 4.404; 43 CFR 4.403; 43 CFR 4.405; 43 CFR 4.406; 43 CFR 4.414; 43 CFR 4.401(c)(2); 43 CFR 4.422(c)(2); 43 CFR 4.450-5; 43 CFR 4.407; 43 CFR 4.408

Legal Deadline: None

Abstract: This document proposes to amend procedural rules governing hearings and appeals in public lands cases. The amendments are necessary to conform the rules to procedural practices contained in decisions of the Interior Board of Land Appeals. The amended rules would provide parties more complete information and more up-to-date procedures than the existing rules.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Interior Board of Appeals, 4015 Wilson Blvd., Arlington, VA 22203
Phone: 703 235-3750

RIN: 1090–AA68

DEPARTMENT OF THE INTERIOR (DOI) **Long-Term Actions**

Assistant Secretary for Policy, Management and Budget (ASPMB)

1396. REVISED STATUTE 2477 RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1201; 43 USC 1732(b); 43 USC 1740; 43 USC 1457; 43 USC 1782(c); 16 USC 668dd; 16 USC 460k-3; 16 USC 1 to 4

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This proposed rule would implement the Secretary of the Interior's June 1, 1993, recommendation to Congress that the Department promulgate regulations addressing rights-of-way pursuant to R.S. 2477 across lands now administered by the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service. R.S. 2477--a provision adopted in 1866 that granted a right-of-way for the construction of highways across public land not reserved for public uses--was repealed in 1976 but valid existing rights-of-way were not terminated. This proposed rule is intended to clarify the meaning of the statute and provide a workable administrative process and standards for recognizing valid claims.

Timetable:

Action	Date	FR Cite
NPRM	08/01/94	59 FR 39216
NPRM Comment Period End	08/01/95	60 FR 4135
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 452-7782

RIN: 1090–AA44

1397. ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS; BUY AMERICAN ACT

Priority: Info./Admin./Other

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 5 USC 301; 31 USC 6101 note; 31 USC 7501; 41 USC 252a; 41 USC 701 et seq; PL 104-256, sec 501; PL 105-62, sec 503; PL 105-62, sec 303; PL 105-83, sec 307; EO 12549; EO 12674; EO 12689; EO 12731; OMB Circular A-102; OMB Circular A-110

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This final rule is in response to the "Department of the Interior and Related Agencies Appropriations Act, 1998," and the "Energy and Water Development Appropriations Act, 1998." It implements provisions regarding lobbying restrictions; denial of funds for preventing ROTC access to campuses; and the purchase of American-made equipment and products.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Debra E. Sonderman, Director, Procurement and Property Management Systems, Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 208-3336

RIN: 1090–AA66

1398. ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS, SEAT BELT USAGE

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 6101 note; 31 USC 7501; 41 USC 252a; 41 USC 701 et seq; PL 104-256, sec 501; PL 105-62, sec 503; PL 105-62, sec 303; PL 105-83, sec 307; EO 12549; EO 12674; EO 12689; EO 12731; EO 13043; OMB Circular A-102

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This final rule will implement sections 1(c) and 2 in Executive Order 13043 of April 16, 1997, "Increasing Seat Belt Use in the United States." This rule will amend section 12.2 of subpart A of 43 CFR part 12 to add these provision and will

DOI—ASPMB — Long-Term Actions

apply to grants and cooperative agreements awarded by the Department.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: LEGAL AUTHORITY CONT: OMB Circular A-110; OMB Circular A-133

Agency Contact: Debra E. Sonderman, Director, Procurement and Property Management Systems, Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 208-3336

RIN: 1090–AA67

1399. • RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 372

CFR Citation: 43 CFR 4.271; 43 CFR 4.320

Legal Deadline: None

Abstract: This action will amend the Office of Hearings and Appeals rules at 43 CFR 4.271 to clarify who has authority to make distributions in cash or trust personal property, and under what circumstances this authority can be exercised. This action will amend the regulations to clarify that BIA Superintendents will have the responsibility for making distribution determinations when an Indian dies intestate leaving only trust personal property or cash. The regulation will also amend the current regulation to increase the amount of cash or trust property that the Superintendent has jurisdiction to distribute to less than $5,000 not including interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles E. Breece, Deputy Director, Office of Hearings and Appeals, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240
Phone: 703 235-3810

RIN: 1090–AA70

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Completed Actions

1400. DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Priority: Info./Admin./Other

CFR Citation: 43 CFR 4.350

Completed:

Reason	Date	FR Cite
Final Action	03/18/99	64 FR 13362
Final Action Effective	03/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles E. Breece
Phone: 703 235-3810

RIN: 1090–AA69

BILLING CODE 4310-RK-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Special Trustee (OST)

Proposed Rule Stage

1401. SPECIAL DEPOSITS

Priority: Info./Admin./Other

Legal Authority: 42 USC 4043

CFR Citation: 25 CFR 115; 25 CFR 123; 25 CFR 124; 25 CFR 114; 25 CFR 125

Legal Deadline: None

Abstract: This rule transfers from the Bureau of Indian Affairs to the Office of the Special Trustee for American Indians (OST) five CFR parts relating to management of Indian trust funds. The Department is making this change to implement title II of the American Indian Trust Fund Management Reform Act of 1994. This change will clarify the questions that have arisen since the passage of the Act about the responsibilities of BIA and OST regarding trust resources and assets.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sarah Yepa, Chief, Division of Quality Assurance, Department of the Interior, Office of the Special Trustee, Suite 1000, 505 Marquette Avenue NW., Albuquerque, NM 87102
Phone: 505 248-5751
Fax: 505 248-5782

RIN: 1035–AA01

1402. APPEALING ADMINISTRATIVE ACTIONS OF THE OFFICE OF THE SPECIAL TRUSTEE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-412

CFR Citation: 25 CFR 1202

Legal Deadline: None

Abstract: This rule will establish a procedure for appealing decisions of the Office of the Special Trustee and the Office of Trust Funds Management.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION

DOI—OST **Proposed Rule Stage**

Agency Contact: Sarah Yepa, Chief, Division of Quality Assurance, Department of the Interior, Office of the Special Trustee, Suite 1000, 505 Marquette Avenue NW., Albuquerque, NM 87102
Phone: 505 248-5751
Fax: 505 248-5782

RIN: 1035–AA03

BILLING CODE 4310-53-F

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Prerule Stage

1403. • INJURIOUS WILDLIFE; ADDITION OF THE ASIAN SWAMP EEL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: We will review economic and biologic information on the Asian swamp eel (tentatively identified as Monopterus albus) for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
ANPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AF53

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1404. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This will be a revision to an existing rule that will incorporate decisions/interpretations made at the last nine Conferences of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief Branch of Permits, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2093
Fax: 703 358-2280
Email: teiko__saito@fws.gov

RIN: 1018–AD87

1405. PROPOSED SPECIAL RULE WITH THE RECLASSIFICATION OF THE VICUNA FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This special rule will be associated with the proposed reclassification of vicuna from endangered to threatened under the Endangered Species Act. The rule will provide for the conservation of the species and will stipulate conditions that must be met to allow for the importation of commercial specimens of the species (i.e., wool and wool products).

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AE04

1406. REVISE AND AMEND HUNTING AND DISTURBANCE REGULATIONS ON UNITS OF THE NATIONAL WILDLIFE REFUGE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460K; 16 USC 664; 16 USC 668dd; 16 USC 685; 16 USC 690d; 16 USC 715i; 16 USC 715s; 16 USC 725; 43 USC 315a; 5 USC 301; 5 USC 685; 5 USC 752; 5 USC 690d; PL 105-57

CFR Citation: 50 CFR 25; 50 CFR 27; 50 CFR 32

Legal Deadline: None

Abstract: The Service proposes to revise nontoxic shot provisions for hunting upland game on Waterfowl Production Areas and other units of the National Wildlife Refuge System (System), and modify certain disturbance regulations against plants, animals, and nonwildlife property on all units of the System.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service

Phone: 703 358-2029

RIN: 1018–AE50

1407. HUMANE AND HEALTHFUL TRANSPORT OF WILD MAMMALS, BIRDS, REPTILES AND AMPHIBIANS TO THE UNITED STATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 42; 16 USC 3371 to 3378

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The proposed rule contains amendments designed to add numerous transport standards to part 14 for reptiles and amphibians. Standards have already been promulgated for mammals and birds.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rosemarie Gnam, Chief, Branch of Operations, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095
Fax: 703 358-2280

RIN: 1018–AF27

1408. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PREBLES MEADOW JUMPING MOUSE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: We will propose a special rule under the Endangered Species Act allowing limited incidental take of the Prebles Meadow jumping mouse in Colorado.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66777
NPRM Comment Period Reopened	03/06/99	64 FR 12924
NPRM Comment Period End	04/30/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF30

1409. • NATIONAL BOATING INFRASTRUCTURE GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 7404

CFR Citation: 50 CFR 86

Legal Deadline: None

Abstract: We are establishing the rules for the Boating Infrastructure Grant Program and the survey of boaters and access providers to determine facilities and needs for transient boaters.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Bob Lange, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS-140, 4401 N. Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2156
Email: bob__lange@fws.gov

RIN: 1018–AF38

1410. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; COLUMBIA WHITE-TAILED DEER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will determine whether to remove the Douglas County, Oregon, population of the Columbia white-tailed deer from the list of endangered and threatened species.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF43

1411. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; COASTAL CUTTHROAT TROUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Together with the National Marine Fisheries Service, we will determine whether to list the southeastern Washington/Columbia River population of the coastal cutthroat trout under the provisions of the Endangered Species Act. We will also determine whether to remove from the list the Umpqua River population.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF45

1412. • IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704, 712, 1382, 1538(d)-(f), and 1540(f); 16 USC 3371-3378, 4223-4244, and 4901-4916; 18 USC 42; 31 USC 483(a)

CFR Citation: 50 CFR 14

Legal Deadline: None

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

DOI—FWS

Proposed Rule Stage

Abstract: We will review our wildlife exportation and importation regulations pertaining to domesticated species, certain captive-bred and captive-born species.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/98	63 FR 38143
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Fax: 703 358-1947
Email: kevin__adams@fws.gov

RIN: 1018–AF46

1413. • ADMINISTRATION OF THE NATIONAL COASTAL WETLANDS CONSERVATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3951 et seq

CFR Citation: 50 CFR 87

Legal Deadline: None

Abstract: We will establish the requirements of the National Coastal Wetlands Conservation Grant Program, authorized by section 305 of the Coastal Wetlands Planning, Protection and Restoration Act. The program is designed to assist coastal States by providing grants to State agencies to protect and restore their coastal wetland ecosystems. The proposed rule includes the goals of the program, eligibility requirements,ranking criteria, and grant administration procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Dr. Benjamin Tuggle, Chief, Division of Habitat Conservation, Department of the Interior, United States Fish and Wildlife Service, Room 400, 4401 N. Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2161
Fax: 703 358-2232

RIN: 1018–AF51

1414. • 1999-2000 REFUGE-SPECIFIC HUNTING AND SPORT FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 664; 16 USC 668 dd-ee; 16 USC 715i

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: We will propose to open additional national wildlife refuges for hunting and/or sport fishing, and to provide refuge-specific regulations for such activities. We will also propose to amend certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 1999-2000 season.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2029

RIN: 1018–AF52

1415. • MARINE MAMMALS; INCIDENTAL TAKE OF POLAR BEAR AND PACIFIC WALRUS DURING SPECIFIED ACTIVITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: We will propose regulations that would authorize for the next five years the incidental, unintentional take of small numbers of polar bear and Pacific walrus during year-round oil and gas industry operations (exploration, development, and production) in the Beaufort Sea and adjacent northern coast of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AF54

1416. • POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN ENDANGERED SPECIES DECISION-MAKING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We would provide guidance concerning the evaluation of conservation agreements, conservation plans, management plans, and other formalized conservation efforts in making listing decisions under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF55

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1417. EAGLE PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: Presently, the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the religious use of Native Americans is a permitted activity. The Service proposes to revise 50 CFR 22.22 to provide an import or export mechanism for eagle feathers legally possessed by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	06/16/94	59 FR 30892
NPRM Comment Period End	08/15/94	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin Adams, Chief Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
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RIN: 1018–AB81

1418. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: INTERCROSS PROGENY POLICY AND DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service propose to amend the regulations implementing the Endangered Species Act by adding definitions for intercross and intercross progeny (to include hybrids). Also, 50 CFR 17.11(g) and 17.12(g) will be amended by adding wording to indicate that the listing of a taxon as endangered or threatened would include all individuals that share characteristic traits of that taxon including individuals produced under conditions of confinement. The amendments are necessary in order to proceed with the evaluation and implementation of intercrossing as a recovery technique for the Florida panther.

Timetable:

Action	Date	FR Cite
NPRM	02/07/96	61 FR 4710
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AC54

1419. RECLASSIFICATION OF YACARE CAIMAN FROM ENDANGERED TO THREATENED WITH SPECIAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will declassify populations of the Yacare caiman in South America. Also included in this rulemaking is a special rule to allow commercial trade in skins other parts, and products of Yacare caimans from South America. The combination of actions proposed will have the effect of stimulated legal and responsible trade in Yacare caiman hides and, in this respect, constitutes removal of a barrier to trade.

Timetable:

Action	Date	FR Cite
NPRM	09/23/98	63 FR 50850
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AD67

1420. MIGRATORY BIRD SPECIAL PURPOSE CANADA GOOSE PERMIT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes, in cooperation with State wildlife agencies, to establish a Canada goose wildlife damage management program. This program is designed to provide a more cost-effective and efficient method for the control of locally breeding (resident) Canada geese that pose a threat to health and human safety and are responsible for damage to personal and public property.

Timetable:

Action	Date	FR Cite
NPRM	03/31/98	63 FR 15698
NPRM Comment Period End	06/01/98	
NPRM Comment Period Reopened	07/23/98	63 FR 39553
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Paul R. Schmidt, Chief Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1714

RIN: 1018–AE46

1421. MIGRATORY BIRD PERMITS; FEDERAL FALCONRY STANDARDS; DETERMINATION THAT VERMONT AND WEST VIRGINIA MEET OR EXCEED FEDERAL FALCONRY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the Federal falconry standards to add Vermont and West Virginia as falconry States. This approval will lift a prohibition for these States to practice falconry. The Service is also republishing the entire list of States approved for falconry. The Service proposes to administratively correct the regulations concerning the procedures for certification of compliance. The

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present procedures do not clearly outline the procedures followed for the certification process.

Timetable:

Action	Date	FR Cite
NPRM	08/18/98	63 FR 44229
NPRM Comment Period End	09/17/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1714

RIN: 1018–AE65

1422. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA - SUBPARTS C AND D—1999-2000 SUBSISTENCE TAKING OF FISH AND WILDLIFE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3111 to 3126

CFR Citation: 50 CFR 100

Legal Deadline: None

Abstract: This rule would revise the customary and traditional use determinations and establish regulations for hunting and trapping seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses during the 1999-2000 regulatory year. The rulemaking is necessary because subpart D regulations require annual public review, and customary and traditional use determinations are also open to the same annual regulatory revision process. When final this rulemaking will replace hunting and trapping regulations in "Subsistence Management Regulations for Public Lands in Alaska; subparts C and D--1998-1999 Subsistence Taking of Fish and Wildlife Regulations," which expires on June 30, 1999. This is a joint program with the Departments of Interior and Agriculture.

Timetable:

Action	Date	FR Cite
NPRM	08/17/98	63 FR 43990
NPRM Comment Period End	10/23/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Pospahala, Chief, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 907 786-3467

RIN: 1018–AE69

1423. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED YREKA PHLOX

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Yreka phlox (Phlox hirsuta). This species is known from Siskiyou County, northern CA. Threats include development and road maintenance activities.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 15820
NPRM Comment Period End	06/01/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE82

1424. ENDANGERED AND THREATENED SPECIES; PROPOSAL TO LIST AS ENDANGERED OR THREATENED BLUMER'S DOCK

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Blumer's dock (Rumex orthoneurus). This species is known from Gila and Cochise Counties, AZ. Threats include habitat modification and destruction caused by mining, cattle grazing, recreation, and road construction.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 15813
NPRM Comment Period Reopened	07/29/98	63 FR 40389
NPRM Comment Period End	07/30/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE89

1425. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED IN THE UNITED STATES THE SHORT-TAILED ALBATROSS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered in the United States the short-tailed albatross. Due to an oversight when the foreign and native species lists of the 1969 Endangered Species Conservation Act were merged, the U.S. population of this species was not listed. This proposed listing, if made final, would extend endangered status throughout the species' range. The species nests on certain Japanese islands but ranges into U.S. coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE91

1426. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELIST DISMAL SWAMP SOUTHEASTERN SHREW

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove the Dismal Swamp Southeastern Shrew from the list of endangered and threatened wildlife. The Dismal Swamp Southeastern Shrew was listed as a threatened species in 1986 under the Endangered Species Act of 1973, as amended. New data indicate that this species is more widely distributed than previously believed, is fairly abundant within its range, occurs in a wide variety of habitats, and is genetically secure. The Service concludes that the data supporting the original classification were incomplete and that the new data indicate removing the Dismal Swamp Southeastern Shrew from the list of endangered and threatened wildlife is warranted.

Timetable:

Action	Date	FR Cite
NPRM	10/21/98	63 FR 56128
NPRM Comment Period End	12/21/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF00

1427. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST CONTIGUOUS U.S. DISTINCT POPULATION SEGMENTS OF CANADA LYNX AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline:
Final, Statutory, July 8, 1999.

Abstract: The Service proposes to list the contiguous States population of the Canada lynx as threatened, with a special rule, pursuant to the Endangered Species Act of 1973, as amended. This population segment includes the States of Washington, Oregon, Idaho, Montana, Utah, Wyoming, Colorado, Minnesota, Wisconsin, Michigan, Maine, New Hampshire, Vermont, New York, Pennsylvania, and Massachusetts. The contiguous U.S. population segment of the Canada lynx is threatened by human alteration of forests, low numbers as a result of past overexploitation, expansion of the range of competitors (bobcats, coyotes), and elevated levels of human access into lynx habitat. This rule also lists the captive population of Canada lynx within the coterminous U.S. (lower 48) as threatened due to similarity of appearance with a special rule.

Timetable:

Action	Date	FR Cite
NPRM	07/08/98	63 FR 36994
NPRM Comment Period End	09/30/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF03

1428. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO REMOVE PEREGRINE FALCON IN NORTH AMERICA FROM LIST OF ENDANGERED AND THREATENED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove the peregrine falcon in North America from the list of Endangered and Threatened Wildlife. The Service proposes this action because the available data indicate that this species has recovered following restrictions on organochlorine pesticides in the U.S. and Canada and following implementation of successful management activities, including the reintroduction of captive bred and relocated wild hatchling peregrine falcons. Currently, a minimum of 1,204 American peregrine falcon pairs are found in Alaska, Canada, and the western U.S., and a minimum of 173 falcon pairs are found in the eastern U.S. At least 31 pairs occur in 6 midwestern States not covered by the Peregrine Falcon Recovery Plan or the two recovery plans for the American peregrine falcon in the western United States. The proposed action will remove the American peregrine falcon as an endangered species and will remove the designation of endangered due to similarity of appearance for any free-flying peregrine falcons within the 48 coterminous States from the list of endangered and threatened wildlife. The proposed action removes all Endangered Species Act protections from all subspecies and populations of North American Flaco Peregrinus. There is a mandatory five-year monitoring program that follows delisting.

Timetable:

Action	Date	FR Cite
NPRM	08/26/98	63 FR 45446
NPRM Comment Period End	11/24/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species,

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Final Rule Stage

Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF04

1429. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ARMORED SNAIL AND CAMPELOMA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: The armored snail occurs in Piney and Limestone Creeks, Alabama. Threats include a general deterioration of water quality resulting from siltation and other pollutants. The slender campeloma is also a snail and is currently believed to occur only in the middle to lower reaches of Round Island, Piney, and Limestone Creeks, Alabama. Threats also include a general deterioration of water quality.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57642
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF29

1430. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESERT YELLOWHEAD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the desert yellowhead, a plant in Wyoming, under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	12/22/98	63 FR 70745
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF31

1431. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SANTA ANA SUCKER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the Santa Ana sucker under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	01/26/99	64 FR 3915
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF34

1432. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; MOUNTAIN PLOVER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the mountain plover under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7587
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF35

1433. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE CACTUS FERRIGINOUS PIGMY OWL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.95

Legal Deadline: None

Abstract: We propose to designate critical habitat in Arizona for the cactus ferriginous pigmy owl under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	12/30/98	63 FR 71820
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Nσ

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF36

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Final Rule Stage

1434. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE HUACHUCA WATER UMBEL, A PLANT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.96

Legal Deadline: None

Abstract: We propose to designate critical habitat in Arizona for the Huachuca water umbel (a plant) under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	12/30/98	63 FR 71838
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF37

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Long-Term Actions

1435. CAPTIVE-BRED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service regulates certain activities involving non-native endangered or threatened wildlife species that are born in captivity in the United States. Currently, this is accomplished by requiring persons who wish to conduct otherwise prohibited activities with such wildlife to register with the Service to obtain a captive-bred wildlife or CBW registration. These regulations will be reviewed to determine if further action is necessary to relieve certain restrictions on the public that may have become burdensome, counterproductive, or outmoded.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/92	57 FR 548
ANPRM Comment Period End	03/09/92	
NPRM	06/11/93	58 FR 32632
NPRM Comment Period End	09/09/93	
NPRM	12/27/93	58 FR 68323
Interim Final Rule	12/27/93	58 FR 68323
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: On June 11, 1993, the Service published a proposed rule that would revise the captive-bred wildlife regulations and the definitions of the terms "harass" and "enhance the propagation or survival." During the 90-day comment period, extensive comments on the proposal were received. The Service has decided to eliminate education as the sole basis for justifying issuance of a captive-bred wildlife registration, and a final rule to that effect was published on December 27, 1993 (58 FR 68323). The Service will split this action into three final rules and reopen the comment period on the balance of the issues in the proposals including the question of the value of education as it relates to endangered species permits.

Agency Contact: Teiko Saito, Chief Branch of Permits, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2093
Fax: 703 358-2280
Email: teiko__saito@fws.gov

RIN: 1018–AB10

1436. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Addax antelope
NPRM 11/05/91 (56 FR 56491)
Final Action To Be Determined
Dama gazelle
NPRM 11/05/91 (56 FR 56491)
Ohio emerald dragonfly
Final Action 01/26/95 (60 FR 5267)
Oryx antelope
NPRM 11/05/91 (56 FR 56491)
NPRM Comment Period Reopened 06/08/92 (57 FR 24220)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AB66

1437. LIST OF MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704; 16 USC 712

CFR Citation: 50 CFR 10.13

Legal Deadline: None

Abstract: The List of Migratory Birds found at 50 CFR 10.13 is being revised to (1) bring the list into conformity with generally accepted taxonomy and nomenclature--English (common) and scientific names, as reflected in four published supplements to the 6th (1983) edition of the American Ornithologists' Union Checklist of North American Birds; and (2) add species that are of regular occurrence in the United States that are not included on the current list.

Timetable:

Action	Date	FR Cite
NPRM	05/09/95	60 FR 24686
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1714

RIN: 1018–AB72

1438. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Appalachian elktoe
NPRM 09/03/93 (58 FR 46940)
Final Action 11/23/94 (59 FR 60324)
Arroyo southwestern toad
NPRM 08/03/93 (58 FR 41378)
NPRM Comment Period Reopened 09/09/93 (58 FR 47428)
Final Action 12/16/94 (59 FR 64859)
Dugong
NPRM 08/05/93 (58 FR 41688)
Louisiana black bear
NPRM 12/03/93 (58 FR 63560)
NPRM Comment Period Reopened 03/07/94 (59 FR 10607)
Notice of Draft 08/17/98 (63 FR 43954)
Final Action To Be Determined
McFarlane's four-o'clock
NPRM 08/26/93 (58 FR 45085)
Final Action 03/15/96 (61 FR 10693)
Pahrump poolfish
Final Action 08/05/93 (58 FR 41688)
NPRM 09/22/93 (58 FR 49279)
Southwestern willow flycatcher
Final Action 07/22/97 (62 FR 39129)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AB97

1439. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF THE LOCH LOMOND COYOTE THISTLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed which will list, reclassify, or delist, as appropriate, the Loch Lomond coyote thistle under the Endangered Species Act. Where prudent, critical habitat will be identified for the species. Such actions are taken upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	11/29/93	58 FR 62629
NPRM Comment Period End	01/28/94	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AC14

1440. EXPORT OF AMERICAN GINSENG HARVESTED IN 1994-1996

Priority: Routine and Frequent

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This proposed rule will announce findings on the export of American ginseng from the 1994-96 harvest season in 21 States. The Service reviews information and data as a basis for determining whether to continue approval of export from specified States for this harvest season, or to initiate changes. Also North Dakota has applied to export cultivated ginseng under a State program, and Michigan has submitted draft legislation and is intending to apply soon to export ginseng. Acceptance of information provided by State ginseng management programs allows the Service to expedite the issuance of permits as required by the CITES treaty.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49046
NPRM Comment Period End	10/26/94	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Marshall Jones, Assistant Director International Affairs, Department of the Interior, United States Fish and Wildlife Service
Phone: 202 208-6393

RIN: 1018–AC55

1441. GENERAL PROVISIONS AND GENERAL PERMIT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 10; 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR part 13 which provides uniform permit procedures relating to the application, issuance renewal, suspension, revocation, and general administration of Service permits. The Service's criteria for suspension and revocation of permits and its review procedures will also be revised. Permit fee rates are amended to increase rates for the cost of processing certain permits. This change is necessary in order to recover a larger percentage of the cost of processing the permits. Several new permit fee exemptions will be added.

Timetable:

Action	Date	FR Cite
NPRM	09/05/95	60 FR 46087
NPRM Correction	09/27/95	60 FR 49976
NPRM Comment Period Reopened	11/15/95	60 FR 57386
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin Adams, Chief Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
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RIN: 1018–AC57

1442. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed that will determine the appropriate status for up to 38 species of tropical birds.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AC77

1443. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed to determine the appropriate status for four plants found in southwestern California and northwestern Baja California, Mexico. These species are: Munz's onion, San Jacinto Valley crownscale, Thread-leaved brodiaea, and Spreading navarretia. These four plants occur in vernal pools and other wetlands or on clay soils and moist grasslands throughout their range. Critical habitat will be proposed only for the San Jacinto Valley crownscale, at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	59 FR 64794
NPRM Comment Period End	02/13/95	
NPRM Comment Period Reopened	03/07/95	60 FR 12531
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AC88

1444. SEIZURE AND FORFEITURE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 4222 to 4241; 16 USC 4901 to 4916; 18 USC 42

CFR Citation: 50 CFR 12

Legal Deadline: None

Abstract: The Service proposes to amend regulations in 50 CFR part 12 that establish procedures relating to property seized or subject to administrative forfeiture under various laws enforced by the Service. This revision is intended to provide uniform guidance for the bonded release, appraisement, administrative proceeding petition for remission, and disposal of items subject to forfeiture. Also these revisions are intended to provide for greater consistency of Service seizure and forfeiture procedures with those of the U.S. Customs Service.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58468
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kevin Adams, Chief Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
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RIN: 1018–AC89

1445. CRITICAL HABITAT DESIGNATION FOR THE LOST RIVER AND SHORTNOSE SUCKERS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed that will identify critical habitat for the Lost River and Shortnose suckers, two species federally listed as endangered. Both species are endemic to the Upper Klamath River Basin of Oregon and California.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61744
NPRM Comment Period End	01/30/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AC90

1446. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: LEAST CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed that will determine the appropriate status for the Least chub under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50518
NPRM Comment Period End	11/28/95	
NPRM Comment Period Reopened	06/07/96	61 FR 29047
Notice	09/25/97	62 FR 50394
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AC91

1447. REVISION OF MIGRATORY BIRD HUNTING REGULATIONS, 50 CFR PART 20

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 742d; 16 USC 742e to 742j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to revise and update regulations governing migratory bird hunting. Changes will be proposed that will clarify and include all the specific prohibitions in part 20 to apply to migratory game hunting during closed and open hunting seasons.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Kevin Adams, Chief Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
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Email: kevin_adams@fws.gov

RIN: 1018–AD01

1448. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT DESIGNATION FOR THE WESTERN SNOWY PLOVER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to designate critical habitat for the Pacific coast population of the Western snowy plover. The plover was listed as a threatened species on March 5, 1993. Critical habitat for the plover is proposed in coastal areas of Washington, Oregon, and California.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11768
NPRM Comment Period Reopened	05/15/95	60 FR 25882
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AD10

1449. MARINE MAMMAL PROTECTION ACT; UNINTENTIONAL TAKE OF MARINE MAMMALS BY HARASSMENT ONLY IN ACTIVITIES OTHER THAN COMMERCIAL FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act, as amended in April 1994 authorizes the Secretary to allow U.S. citizens to incidentally unintentionally take small numbers of marine mammals by harassment only for periods up to 1 year during specified activities other than commercial fishing. This regulatory action would implement this statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AD18

1450. MARINE MAMMAL PROTECTION ACT; MEASURES TO SAFELY DETER MARINE MAMMALS, INCLUDING THREATENED AND ENDANGERED MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Act as amended in April 1994, requires the Service to develop a list of guidelines to safely deter marine mammals for which the Service has statutory management responsibility, including threatened and endangered species. Such measures of deterrence are for use in protecting: (1) fishing gear or catch; (2) private property; (3) personal human safety; or (4) public property. This regulatory action would implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AD19

1451. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE NORTHERN SPOTTED OWL

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service will propose a section 4(d) rule for the northern spotted owl under the Endangered Species Act that will define the conditions under which incidental take of the species through habitat modification would not be a violation of section 9 of the Act. An environmental impact statement is also being prepared and will be available for review concurrent with the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9484
NPRM Comment Period End	05/18/95	
NPRM Comment Period Reopened	05/18/95	60 FR 26712
NPRM Comment Period Reopened	07/17/95	60 FR 36382
NPRM Comment Period Reopened	09/25/95	60 FR 49358
NPRM Comment Period Reopened	11/27/95	60 FR 58323
NPRM Comment Period Reopened	01/31/96	61 FR 3369
NPRM Comment Period Reopened	02/23/96	61 FR 6964
NPRM Comment Period Reopened	04/08/96	61 FR 15452
NPRM Comment Period Reopened	05/10/96	61 FR 21426
NPRM Comment Period Reopened	06/17/96	61 FR 30588
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AD20

1452. TAXONOMIC CHANGE FROM SUBSPECIES TO VERTEBRATE POPULATION SEGMENT FOR THE VIRGIN RIVER CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Recent taxonomic work concluded that specific rank is warranted for the Virgin River chub, a federally listed endangered species found in the Virgin River system of Arizona, Nevada, and Utah. Additionally, researchers concluded that the chub in the Muddy River of Nevada is conspecific with the Virgin River chub. Previously this distinctive population of the Virgin River chub a category 2 candidate for Federal listing, was considered a separate, unnamed subspecies of roundtail chub, and was referred to as the Moapa roundtail chub. Because of this recent taxonomic work, the Service accepts that specific rank is warranted for the Virgin River chub and proposes to change the listing of the Virgin River chub in the Virgin River from a subspecies to a vertebrate population-segment in the List of Endangered and Threatened Wildlife. In addition, the Service initiates a status review of the Virgin River chub in the Muddy River to determine whether this vertebrate population warrants listing as a threatened or endangered species.

Timetable:

Action	Date	FR Cite
NPRM	07/24/95	60 FR 37866
NPRM Comment Period End	09/22/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AD22

1453. CRITICAL HABITAT PROPOSAL FOR VIRGIN RIVER FISHES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to designate critical habitat for the Virgin River Chub, the Woundfin, and Virgin spinedace. The Virgin River chub and Woundfin are listed as endangered; the Virgin spinedace has been proposed for listing as threatened (May 18, 1994), but the listing has not been finalized as yet.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17296
NPRM Comment Period End	06/05/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: This rulemaking was inadvertently published as RIN 1018-AD22. The final rule will be published with the correct RIN 1018-AD23. The rulemaking action(s) listed under this RIN has (have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AD23

1454. EXPORT OF APPENDIX I SPECIMENS THAT WERE BRED FOR COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The regulations need to be updated to clarify the process of obtaining export permits for appendix I specimens that are bred for commercial purposes, including the procedure for becoming registered with the Convention on International Trade in Endangered Species (CITES) Secretariat.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104

RIN: 1018–AD64

1455. CONSOLIDATION OF LISTS OF WILDLIFE OF FEDERAL CONCERN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq; 16 USC 703; 16 USC 1361; 16 USC 4901; 18 USC 42; 16 USC 3371

CFR Citation: 50 CFR 10

Legal Deadline: None

Abstract: The Service proposes to consolidate into part 10 lists of plants and wildlife currently contained in various parts of subchapter B (parts 14, 15, 16, 17, 18, and 23).

Timetable:

Action	Date	FR Cite
ANPRM	03/19/96	61 FR 11180
ANPRM Comment Period End	05/03/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marshall Jones, Assistant Director International Affairs, Department of the Interior, United States Fish and Wildlife Service
Phone: 202 208-6393

RIN: 1018–AD66

1456. MIGRATORY BIRD HUNTING: REGULATIONS REGARDING PROHIBITION AGAINST ARTIFICIALLY ALTERING/MANIPULATING NATURAL VEGETATION IN MOIST AREAS TO ATTRACT WATERFOWL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 et seq; 16 USC 712; 16 USC 742

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: This action notifies the public and invites comments regarding promulgation of a separate rulemaking that will govern the manner in which or if at all natural vegetation in moist soil areas may be altered or manipulated artificially to attract waterfowl for hunting purposes. Previously, the subject regulations had been part of the ongoing review of 50 CFR 20 but now will be considered separately.

Timetable:

Action	Date	FR Cite
ANPRM	03/22/96	61 FR 11805
ANPRM Comment Period End	06/20/96	
NPRM	03/25/98	63 FR 14415
NPRM Comment Period Reopened	05/22/98	63 FR 28343
NPRM Comment Period Reopened	10/06/98	63 FR 53635
NPRM Correction	10/13/98	63 FR 54753
NPRM Comment Period End	10/22/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Adams, Chief Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
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Email: kevin__adams@fws.gov

RIN: 1018–AD74

1457. FEDERAL AID IN SPORT FISH RESTORATION PROGRAM FOR PARTICIPATION FOR DISTRICT OF COLUMBIA AND INSULAR TERRITORIES AND COMMONWEALTHS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 669i; 16 USC 777i

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service is proposing to define new standards for the District of Columbia and Insular Territories and Commonwealths for participation in the Federal Aid in Sport Fish Restoration program by waiving the 10 percent cap on use of these funds for education.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Lange, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS-140, 4401 N. Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2156
Email: bob__lange@fws.gov

RIN: 1018–AD83

1458. ENDANGERED AND THREATENED SPECIES: REMOVAL OF LLOYD'S HEDGEHOG CACTUS FROM FEDERAL LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove Lloyd's hedgehog cactus from the Federal list of endangered and threatened plants. Lloyd's hedgehog cactus was listed as endangered on October 26, 1979, due to threats of collection and highway projects. Recent evidence indicates that Lloyd's hedgehog cactus is not a distinct species but rather a hybrid. Lloyd's hedgehog cactus is presently known from four counties in west Texas and one county in New Mexico and from Chihuahua, Mexico.

Timetable:

Action	Date	FR Cite
NPRM	06/14/96	61 FR 30209
NPRM Comment Period End	08/13/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AD91

1459. RESCISSION OF ADMINISTRATIVE PROCEDURES FOR GRANTS IN AID (MARINE MAMMAL PROTECTION ACT OF 1972)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 82

Legal Deadline: None

Abstract: The Service is rescinding 50 CFR 82, Administrative Procedures for Grants-in-Aid (Marine Mammal Protection Act of 1972). This regulation was determined unnecessary because funding has not been provided for many years and adequate instructions are contained in the Act and in existing regulations to disseminate funds if they become available in the future. This action is part of the regulatory reinvention effort.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Lange, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS-140, 4401 N. Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2156
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RIN: 1018–AD92

1460. SAFE HARBOR POLICY AND GUIDANCE FOR CANDIDATE AGREEMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes technical amendments to its general regulations implementing its permitting program. The proposed revisions would explain and clarify applicable general permit conditions to the permitting procedures associated with habitat conservation plans and safe harbor agreements issued under section 10 of the Endangered Species Act of 1973. The Service also announces a safe harbor policy under the Act, providing incentives for private and other non-Federal landowners to restore, enhance, or maintain habitat for endangered and threatened species. The Service, in cooperation with the appropriate State agencies, may enter into safe harbor agreements with non-Federal landowners to enhance the survival of listed species with the concurrence of the landowner, include proposed or candidate species in such agreements. A procedure and guidance for providing assurances to non-Federal landowners involved in candidate conservation also is proposed.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 32189
NPRM Comment Period End	08/11/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AD95

1461. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED REINTRODUCTION OF A NONESSENTIAL EXPERIMENTAL POPULATION OF GRIZZLY BEARS IN IDAHO AND MONTANA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to establish a nonessential experimental population of grizzly bears into the Bitterroot ecosystem in central Idaho and western Montana. This experimental population is proposed to be designated a nonessential experimental population in accordance with section 10(j) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35762
NPRM Comment Period End	10/09/97	
NPRM Comment Period Reopened	10/28/97	62 FR 55774
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE00

1462. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION OF TEN FRESHWATER MUSSELS IN HOLSTON RIVER SYSTEM IN TN AND VA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to reintroduce ten mussels (Appalachian monkeyface pearlymussel, cracking pearlymussel, Cumberland monkeyface pearlymussel, dromedary pearlymussel, fanshell orange-foot, pimpleback pearlymussel, ring pink mussel, rough pigtoe, and tan riffleshell) into historic habitat in the next 2 to 3 years. The mussels to be used in the reintroduction will include artificially propagated juveniles and adults taken from the wild, under certain circumstances. Mussel propagation technology currently is being developed using nonendangered surrogate species. The 4(d) rule will exempt unavoidable and unintentional take, such as fishing, boating, trapping, or wading.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE01

1463. REVISION TO SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 25; 50 CFR 26; 50 CFR 27; 50 CFR 28; 50 CFR 29; 50 CFR 30; 50 CFR 31; 50 CFR 32; 50 CFR 34; 50 CFR 35; 50 CFR 36; 50 CFR 37

Legal Deadline: None

Abstract: The Service plans to rewrite subchapter C to include new public recreation policy on National Wildlife Refuges to include opening refuges to all public recreation (hunting, fishing, wildlife observation, photography, boating, hiking, camping, and picnicking) at the time of purchase. This is an administrative action and will not involve compliance cost to the public.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2029

RIN: 1018–AE02

1464. PROPOSED APPROVAL OF SELECTED STATE PROGRAMS ALLOWING THE EXPORT OF GINSENG HARVESTED IN 1997-1999

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This rule will announce findings on the export of American ginseng from the 1997-1999 harvest season in 25 states. The Service reviews information and data as a basis for determining whether to continue approval of export from specific States for this harvest season or to initiate changes. The State of Oregon intends to apply soon to export ginseng. Acceptance of information provided by State ginseng management programs allows the Service to expedite the issuance of permits as required by the CITES treaty.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1708
Fax: 703 358-2276
Email: susan__lieberman@fws.gov

RIN: 1018–AE03

1465. IMPORTATION, EXPORTATION, TRANSPORTATION OF WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This rule would revise the Service regulations providing for user fee collections from commercial importers and exporters of wildlife and wildlife products. The Service proposes a licensing and fee scheme which will exempt certain commercial importers and exporters from our inspection fee, based upon specific criteria including country of origin, numbers of items, and permitting requirements. We propose to modify our user fee regulations to grant relief to certain individuals and small businesses, meeting the outlined criteria, from the designated port inspection fee and nondesignated administrative fee and hourly minimums only. This proposal, if implemented, will allow us to continue to collect data on fee collections in order to analyze the impact of user fees on small businesses for future decision making.

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3298
NPRM Comment Period End	03/23/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Kevin Adams, Chief Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Fax: 703 358-1947
Email: kevin__adams@fws.gov

RIN: 1018–AE08

1466. EXPORT OF AMERICAN ALLIGATOR FOR THE 1998-2000 HARVEST SEASONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23.57; 50 CFR 17.42(a)

Legal Deadline: None

Abstract: This rule will make minor changes in the tagging requirements for American alligator skins to conform with the CITES tagging resolution and announces proposed findings on the effects of the export of American alligator under CITES for the 1998-2000 harvest seasons. This rule provides for the export of American alligator parts and products under CITES.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Rosemarie Gnam, Chief, Branch of Operations, Department of the Interior, United States Fish and Wildlife Service, MS 700 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2095
Fax: 703 358-2280
Email: rosemarie__gnam@fws.gov

RIN: 1018–AE15

1467. REVISIONS TO THE FEDERAL AID ADMINISTRATIVE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 777i; 16 USC 669i; 18 USC 701

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise part 80 to clarify the language in the administrative requirements section and simplify some of the procedures to enable the States and the public to better understand the procedures and requirements for obtaining and administering grants under the Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Bob Lange, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS-140, 4401 N. Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2156
Email: bob_lange@fws.gov

RIN: 1018–AE17

1468. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSED ENDANGERED STATUS FOR BLACKBURN'S SPHINX MOTH FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is proposing to add the Blackburn's sphinx moth to the list of endangered and threatened wildlife. The single remaining population is found on the island of Maui in the Hawaiian Islands. It is the largest (in adult form) native insect with a wing span of 5 inches.

Timetable:

Action	Date	FR Cite
NPRM	04/02/97	62 FR 15640
NPRM Comment Period End	06/02/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE20

1469. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED STATUS FOR TEN PLANT TAXA FROM MAUI NUI, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for 10 plant taxa without critical habitat designation. All 10 taxa are endemic to the Maui Nui group of islands in the Hawaiian Islands. This group includes Maui Molokai, Lanai, and Kahoolawe and are found in a wide range of vegetative communities, elevation zones, and moisture regimes. The 10 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: competition, predation or habitat degradation from alien species natural disasters, and random environmental events.

Timetable:

Action	Date	FR Cite
NPRM	05/15/97	62 FR 26757
NPRM Comment Period End	07/14/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE22

1470. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO LARKSPURS FROM COASTAL NORTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for two plants (Baker's larkspur and yellow larkspur). These species grow in a variety of habitats including coastal prairie, coastal scrub or chaparral in Sonoma and Marin counties in northern California. Habitat loss and degradation sheep grazing, road maintenance activities, and overcollection imperil the continued existence of these plants. Random events increase the risk of extinction to the extremely small plant populations.

Timetable:

Action	Date	FR Cite
NPRM	06/19/97	62 FR 33383
NPRM Comment Period End	08/18/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE23

1471. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR IONE BUCKWHEAT AND THREATENED STATUS FOR IONE MANZANITA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Desdline: None

Abstract: The Service proposed endangered status for ione buckwheat (a perennial herb) and threatened status for ione manzanita (an evergreen shrub of the heath family). These two species

occur primarily on gravelly clay soils with iron oxide crust within chaparral (derived from the iron formation) in Amador or Calaveras counties in the central Sierra Nevada foothills of California. They are imperiled by one or more of the following factors: mining, clearing of vegetation for agriculture and fire protection, disease, inadequate regulatory mechanisms, habitat fragmentation, residential and commercial development, changes in fire frequency, and continued erosion due to prior off-road vehicle use. Random events increase the risk to the few, small populations of ione buckwheat. Ownership of most occurrences of these two species is private. One population of each occurs on Federal land managed by the Bureau of Land Management. Other potential Federal involvement includes the use of Federal highway funds, the permitting of lignite or coal mines through the Office of Surface Mining Reclamation and Enforcement, and the relicensing of hydro-electric projects by the Federal Energy Regulatory Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/25/97	62 FR 34190
NPRM Comment Period End	08/25/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE25

1472. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED THREATENED STATUS FOR NEWCOMB'S SNAIL FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes threatened status pursuant to the Endangered Species Act of 1973, as amended, for Newcomb's snail. This freshwater snail is restricted to the Hawaiian Island of Kauai. The known historic distribution of this snail has greatly decreased and extant populations are presently limited to restricted habitats on five perennial streams on State land. The five known populations of this snail and its habitat are currently threatened by predation by a species of non-native predatory snail and two species of non-native marsh flies. These populations are also subject to an increased likelihood of extirpation from naturally occurring events, including natural disasters such as hurricanes and landslides. All populations of this species occur on State-owned lands.

Timetable:

Action	Date	FR Cite
NPRM	07/21/97	62 FR 38953
NPRM Comment Period End	09/19/97	
NPRM Comment Period Reopened	11/12/97	62 FR 60676
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE27

1473. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST KLAMATH RIVER POPULATION SEGMENT OF BULL TROUT AS ENDANGERED AND COLUMBIA RIVER POPULATION SEGMENT AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Klamath River population segment of bull trout (members of the char subgroup in the salmon family) as endangered from south-central Oregon and the Columbia River population segment of bull trout as threatened from the northwestern United States and British Columbia, Canada, with a special rule pursuant to the Endangered Species Act of 1973. The Klamath River population segment, comprised of seven bull trout populations from south-central Oregon, is threatened by habitat degradation, passage restrictions at dams, and competition from non-native lake and brook trout. The special rule allows for take of bull trout within the Columbia River population segment if in accordance with applicable State fish and wildlife conservation laws and regulations. Pursuant to a court order, this rule is based on the 1994 administrative record. All available information, including current data, will be considered prior to promulgation of a final rule.

Timetable:

Action	Date	FR Cite
NPRM	06/13/97	62 FR 32268
NPRM Comment Period Reopened	08/05/97	62 FR 42092
NPRM Comment Period End	08/12/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE29

1474. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR THE PLANT KECK'S SIDALCEA FROM TULARE COUNTY, CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list Sidalcea keckii (Keck's sidalcea) as endangered pursuant to the Endangered Species Act of 1973. This annual herb (belonging to the mallow family) is threatened by urban development, agricultural land conversion, and random events. The species (found on sparsely vegetated slopes of serpentine-derived clay in annual grasslands) is known only from one population in the south-central Tulare County on private land and is not in an approved habitat conservation plan. The likelihood of any Federal involvement is small, however, the Bureau of Reclamation's

renewal of the Central Valley Project Friant water contracts may affect the species.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40325
NPRM Comment Period Reopened	09/24/97	62 FR 49954
NPRM Comment Period End	09/26/97	
NPRM Comment Period Reopened	01/22/98	63 FR 3301
NPRM Comment Period Reopened	08/29/98	63 FR 44417
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE30

1475. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR PLANT IN WENATCHEE MOUNTAINS OF WASHINGTON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered species status pursuant to the Endangered Species Act of 1973 for the Wenatchee Mountains checker-mallow (Sidalcea oregana var calva). This plant is endemic to meadows that have surface water on saturated soil in the spring and early summer at middle elevations in the Wenatchee Mountains of Chelan county, Washington. Although five populations of this plant are known, three of these have very few individuals. The estimated total number of plants is about 3,300. The primary threats to this plant include alterations of hydrology, rural residential development and associated activities, competition from native and alien plants, recreation fire suppression and activities associated with fire suppression. To a lesser extent, the taxon is threatened by livestock grazing road construction and timber harvesting and associated impacts including changes in surface-runoff in the small watersheds in which the plant occurs. This proposal, if made final, would implement the Federal protection and recovery programs of the Act for this plant.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41328
NPRM Comment Period End	09/30/97	
Final Action	09/03/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE32

1476. EXPORTATION OF MARINE MAMMAL PRODUCTS FOR CULTURAL EXCHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This regulatory action concerns a modification to export marine mammal products and to Native exemption provisions in the Marine Mammal Protection Act. The action will be made to allow for cultural exchange of marine mammal products between Natives of Alaska, Greenland, Russia and Canada.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Kevin Adams, Chief Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
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RIN: 1018–AE33

1477. INJURIOUS WILDLIFE; ADDITION OF BRUSH-TAILED POSSUM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Service proposes to review the economic and biological information on the brush-tailed possum of genus Trichosurus for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
ANPRM	01/24/96	61 FR 1893
ANPRM Comment Period End	03/25/96	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AE34

1478. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO CAVE ANIMALS FROM HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for two animals, the Kauai Cave Wolf Spider and the Kauai Cave Amphipod. These two species are found on the Hawaiian Island of Kauai. The Kauai Cave Wolf Spider is known from two populations and the Kauai Cave Amphipod is known from four populations. These animals and their habitats have been variously affected or are currently threatened by the following: habitat degradation/loss from development; competition for space water, and nutrients by naturalized introduced animals; biological/chemical pesticide use; and an increased likelihood of

extinction from proposed development activities and naturally occurring events. This proposal, if made final, would extend Federal protection and recovery provisions of the Act for these animal taxa. Additionally, Hawaii State regulations protecting these animals would be triggered. All populations of these species occur on privately owned lands.

Timetable:

Action	Date	FR Cite
NPRM	12/05/97	62 FR 64340
NPRM Comment Period End	02/03/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE39

1479. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO SAN JOAQUIN VALLEY MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Riparian Brush Rabbit and Woodrat pursuant to the Endangered Species Act of 1973. The Brush Rabbit and Woodrat inhabit riparian communities along the lower portions of the San Joaquin and Stanislaus Rivers (within Caswell State Park) in the Northern San Joaquin Valley, California. Only a single remaining population of each species has been confirmed. Potential threats to these species include flooding, wildlife predation, and other factors.

Timetable:

Action	Date	FR Cite
NPRM	11/21/97	62 FR 62276
NPRM Comment Period End	01/20/98	
NPRM Comment Period Reopened	04/13/98	63 FR 17981
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE40

1480. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DETERMINATION OF THREATENED STATUS FOR KOALA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will propose threatened status for the Australian koala. The eucalyptus forest and woodland ecosystem on which this arboreal marsupial depends has been reduced by more than half and is continuing to deteriorate. The species also is threatened by habitat fragmentation and consequent potential loss of genetic viability, disease, and other factors. Any final rule resulting from this proposal could classify the koala or certain populations thereof as endangered or could exempt certain populations from any classification.

Timetable:

Action	Date	FR Cite
NPRM	09/22/98	63 FR 50547
NPRM Comment Period End	12/21/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AE43

1481. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR PLANT ROUGH POPCORNFLOWER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the plant rough popcornflower as an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. This species is restricted to wet swales and meadows in Douglas County, Oregon where only 10 occurrences are known. Most populations are small with few individuals. The total estimated number of plants is 3,000 within a combined area of about 10 acres (most on private land). Threats to this species include destruction and/or alteration of habitat by development and hydrological changes (e.g., wetland fills, draining, construction); spring and summer grazing by domestic cattle, horses, and sheep; roadside maintenance; and competition from native and alien plant species.

Timetable:

Action	Date	FR Cite
NPRM	11/20/97	62 FR 61953
NPRM Comment Period End	01/20/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE44

1482. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED REVISION OF SPECIAL REGULATIONS FOR GRAY WOLF

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: On November 22, 1994, the Service published special rules to establish nonessential experimental populations of gray wolves in Yellowstone National Park and central Idaho. The nonessential experimental population areas include all of Wyoming, most of Idaho, and much of central and southern Montana. This proposed revision is to amend a section of the special regulations so that it clearly applies within the Yellowstone

nonessential experimental population area and the central Idaho nonessential experimental population area as described in 7(ii). Ongoing litigation requires the clarification of the Service's need and authority to remove these animals from the area through live capture or lethal means in the interest of attaining gray wolf recovery goals. This proposed change will not affect any of the assumptions and earlier analysis made in the environmental impact statement or other portions of the special rules.

Timetable:

Action	Date	FR Cite
NPRM	12/11/97	62 FR 65237
NPRM Comment Period End	01/12/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE45

1483. UPDATE OF ADDRESSES FOR ENDANGERED SPECIES PERMIT APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service amends the regulations for endangered and threatened wildlife and plants to update the addresses for submission of endangered species permit applications.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE49

1484. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR OAHU ELEPAIO FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, for the Oahu elepaio. This bird is endemic to the Island of Oahu, HI, where it was formerly found in all forested areas on the island. It is currently found in greatly reduced numbers and range in six isolated populations occurring in mid-elevation forests in the southern Koolau mountain range and parts of the Waianae mountain range. The Oahu elepaio is now thought to occupy less than 8 percent of its original, prehistoric range. It may have been affected in the past or continue to be threatened by one or more of the following: habitat degradation, including habitat fragmentation; population fragmentation; predation by introduced alien mammals; competition from introduced alien birds, and introduced avian disease. The Oahu elepaio is also subject to an increased likelihood of extinction from naturally occurring events including natural disasters.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE51

1485. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED THREATENED STATUS FOR PLANT HOWELL'S SPECTACULAR THELYPODY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list Howell's spectacular thelypody as threatened pursuant to the Endangered Species Act of 1973, as amended. This plant is known from 11 sites in Baker and Union Counties, OR, all on privately-owned land. This taxon is threatened by a variety of factors including habitat destruction and fragmentation from agricultural and urban development grazing by domestic livestock, competition from non-native vegetation, and alterations of wetland hydrology.

Timetable:

Action	Date	FR Cite
NPRM	01/13/98	63 FR 1948
NPRM Comment Period Reopened	03/05/98	63 FR 10817
NPRM Comment Period End	03/16/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE52

1486. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR WILLAMETTE DAISY, FENDER'S BLUE BUTTERFLY AND THREATENED STATUS FOR KINCAID'S LUPINE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, for Willamette daisy and Fender's blue butterfly and threatened status for Kincaid's lupine. These species are restricted to native prairie in the Willamette Valley in Oregon and currently are known from a few small remnants of a formerly widespread distribution. In addition to its Oregon occurrences, Kincaid's lupine also is known from one small site in southern Washington. The three taxa are threatened by one or more of the following: commercial and/or

residential development, agriculture, silviculture, road improvement, over-collection, herbicide use, and naturally occurring demographic and random environmental events.

Timetable:

Action	Date	FR Cite
NPRM	01/27/98	63 FR 3863
NPRM Comment Period End	03/30/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE53

1487. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST PLANT ZAPATA BLADDERPOD AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the plant Zapata bladderpod as an endangered species under the Endangered Species Act of 1973, as amended. It is known from four locations in Zapata and Starr Counties, Texas (private land, highway right-of-way, and NWR land). This species is threatened by increased urban development highway construction, increased oil and gas activities alteration and conversion of native plant communities to improved pastures, overgrazing, and potential vulnerability from lowered genetic diversity due to presently low population numbers.

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3301
NPRM Comment Period End	03/23/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE54

1488. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR THE PLANT PRAIRIE PENNY CRESS FROM COASTAL NORTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, for one plant, Kneeland prairie pennycress. This plant is known from Kneeland prairie in Humboldt County, CA, where it grows in coastal prairie on serpentine outcrops. Habitat loss, potential road realignment and proposed airport expansion activities imperil the continued existence of this plant. The restricted range of this species limited to a single population, increases the risk of extinction from naturally occurring events such as fire.

Timetable:

Action	Date	FR Cite
NPRM	02/12/98	63 FR 7112
NPRM Comment Period End	04/13/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE55

1489. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATION OF THE PECOS PUPFISH TO BE ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Pecos pupfish as an endangered species under the authority of the Endangered Species Act of 1973, as amended. The historical range of the Pecos pupfish included the mainstream Pecos River from the vicinity of Roswell Chaves County, New Mexico, downstream to the vicinity of Sheffield, Pecos County, Texas, and included various lakes gypsum sinkholes, saline springs, and tributaries associated with the river. The primary reason for the rapid range reduction is hybridization with and/or replacement by the Sheepshead minnow, a nonnative species introduced into the Pecos River between 1980 and 1984.

Timetable:

Action	Date	FR Cite
NPRM	01/30/98	63 FR 4608
NPRM Comment Period End	03/31/98	
NPRM Comment Period Extended to	11/20/98	63 FR 14892
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AE56

1490. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST DESERT MILK VETCH AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list desert milk vetch, a low-growing herbaceous plant in the bean family with white flowers and compound leaves, as threatened. This species is restricted to a sandstone outcropping near the town of Birdeye, Utah County, UT. It is threatened by cattle grazing and trampling, residential development and low numbers.

Timetable:

Action	Date	FR Cite
NPRM	01/28/98	63 FR 4207
NPRM Comment Period End	03/30/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE57

1491. PUBLIC USE REGULATIONS FOR KODIAK NATIONAL WILDLIFE REFUGE ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460(k) et seq; 16 USC 668dd et seq; 16 USC 3101 et seq

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service will propose regulations to implement portions of the Public Use Management Plan (PUMP) for the Kodiak National Wildlife Refuge. Proposed regulations will include access restrictions and specific requirements and limitations related to commercial and administrative structures, camping, snow machines pack animals, tent platforms, food containers, and fish cleaning. The PUMP was prepared with an environmental assessment and was reviewed in an appropriate public involvement process. The final document was released in November 1993. By implementing the PUMP compatible public uses will be allowed while protecting the refuge resources.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Stevens, Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503
Phone: 907 786-3499

RIN: 1018–AE60

1492. MIGRATORY BIRD HUNTING; NONTOXIC SHOT; APPROVAL OF TIN SHOT AS NONTOXIC FOR WATERFOWL AND COOT SHOOTING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20.21

Legal Deadline: None

Abstract: The Service proposes to amend section 20.21(j) and approve tin shot as nontoxic for waterfowl and coot hunting. A toxicological report that includes an extensive literature review and an analysis of tin suggests that these compounds are nontoxic under assumed use and in the environment. The toxicity study reveals no adverse effects over a 30-day period on mallard ducks (Anas platyrhynehus) dosed with 8 bb-size tin shot pellets.

Timetable:

Action	Date	FR Cite
NPRM	12/04/98	63 FR 67037
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1714

RIN: 1018–AE61

1493. EAGLE PERMITS; PERMITS FOR FALCONRY PURPOSES; PERMITS TO TAKE GOLDEN EAGLE NESTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668a

CFR Citation: 50 CFR 22.24; 50 CFR 22.25

Legal Deadline: None

Abstract: The Service proposes to amend the eagle permit regulations providing for the taking, possession, and transportation of bald and golden eagles. The Service is revising the requirements for falconry purposes. The Service is adding additional requirements to allow a limited amount of take (relocation or destruction) of inactive bald eagle nests in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1714

RIN: 1018–AE62

1494. MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; IMPORT AND EXPORT PERMITS; BANDING OR MARKING PERMITS; AND SCIENTIFIC COLLECTING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the Migratory Bird Permit Regulations providing permits for the taking, possession transportation, sale, purchase, importation, exportation, and banding or marking of migratory birds. The Service is revising the requirements for scientific collecting, banding or marking permits and import and export permits.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a

paperwork burden associated with this action.

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1714

RIN: 1018–AE63

1495. MIGRATORY BIRD PERMITS; INTRODUCTION, GENERAL REQUIREMENTS AND EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the migratory bird permit regulations providing permits for the taking, possession transportation, sale, purchase, and barter of migratory birds. The Service is revising these permit calculations to update simplify language, clarify and ensure consistency in text between all parts and sections.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1714

RIN: 1018–AE64

1496. 1998-99 REFUGE-SPECIFIC HUNTING AND FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 664; 16 USC 668dd; 16 USC 715i

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: Refuge hunting and fishing programs are reviewed annually to determine whether additional refuges should be added or whether individual refuge regulations governing existing programs should be modified, deleted, or have additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitat may warrant modifications ensuring continued compatibility of hunting and fishing with the purposes for which the individual refuges and the National Wildlife Refuge System were established.

Timetable:

Action	Date	FR Cite
NPRM	07/27/98	63 FR 40080
NPRM Comment Period End	08/26/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2029

RIN: 1018–AE68

1497. IMPORTATION, EXPORTATION AND TRANSPORTATION OF WILDLIFE CONCERNING INTERNATIONAL MAIL, PET BIRDS, BORDER PORTS, SHELLFISH AND FISHERY PRODUCTS EXEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service proposes this regulatory action that will make changes to part 14, Importation, Exportation and Transportation of Wildlife concerning international mail, pet birds, border ports and shellfish and fishery products exemption. Changes will involve requiring a declaration of commercial mail wildlife shipments, requiring Wild Bird Conservation Act permitted shipments to go through a designated port, clarifying use of border ports, and clarifying current exemptions for shellfish and fishery products.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Fax: 703 358-1947
Email: kevin_adams@fws.gov

RIN: 1018–AE70

1498. IMPLEMENTATION OF THE 1994 AMENDMENTS TO THE MARINE MAMMALS PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1374

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: Section 104 of the Marine Mammal Protection Act authorizes the Director of the Service, acting on behalf of the Secretary of the Interior, to issue permits for activities otherwise prohibited by the Act. Per the 1994 amendments to the Act, regulations will be developed for issuance of general authorizations and permits.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104

RIN: 1018–AE72

1499. RECLASSIFICATION OF THE NAMIBIAN POPULATION OF CHEETAH FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361; 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: The Service proposes to reclassify the cheetah in Namibia from endangered to threatened based on a review of the population status and management, including protected status, of the species within that country. Namibia has one of the largest populations of the cheetahs within the species' extensive range (much of Africa and Iran).

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AE73

1500. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED GENTNER'S FRITILARIA (MISSION BELLS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Gentner's fritilaria (missionbells). This species is known from Josephine and Jackson Counties, Oregon. Threats include housing development, succession, logging and collection.

Timetable:

Action	Date	FR Cite
NPRM	03/23/98	63 FR 13819
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE75

1501. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST CAMATTA CANYON AMOLE AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list Camatta Canyon amole (Chlorogalum purpureum var. reductum) as endangered or threatened. This species is known from San Luis Obispo County, CA. Threats include CRV activity, cattle grazing, and predation by rodents.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15158
NPRM Comment Period End	05/29/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE76

1502. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED LA GRACIOSA THISTLE, LOMPOC YERBA SANTA, GAVIOTA TARPLANT, NIPOMA MESA LUPINE & SANTA CRUZ TARPLANT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Nipoma Mesa lupine (Lupinus nipomensis). This species is known from San Luis Obispo, CA. Threats include habitat modification, hazardous waste clean-up and off-road vehicle impacts.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15142
NPRM	03/30/98	63 FR 15164
NPRM Comment Period End	05/29/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE81

1503. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED MARIANA FRUIT BAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened the Mariana fruit bat (Pteropus mariannus mariannus). This species is known from the Commonwealth of the Northern Mariana Islands Saipan, Tinian, and Agiguan Islands. Threats include deforestation, overhunting, poaching, and snake predation.

Timetable:

Action	Date	FR Cite
NPRM	03/26/98	63 FR 14641
NPRM Comment Period Reopened	05/29/98	63 FR 29367
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE83

1504. ENDANGERED AND THREATENED SPECIES; PROPOSAL TO LIST NORTHERN IDAHO GROUND SQUIRREL AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened the Northern Idaho ground squirrel (Spermophilus brunneus brunneus). This species is known from Adams County, ID. Threats include agricultural land conversion, meadow invasion of conifers grazing by domestic livestock, off-road and on-road vehicle use campground expansion and recreational shooting.

Timetable:

Action	Date	FR Cite
NPRM	03/23/98	63 FR 13825
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE84

1505. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED COWHEAD LAKE TUI CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Cowhead Lake tui chub (Gila bicolor vaccaceps). This species is known from Modoc County, CA. Threats include diversion of water reduction of riparian vegetation, and predation from snakes and birds and pesticides.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15152
NPRM Comment Period End	05/29/98	
NPRM Comment Period Reopened	06/17/98	63 FR 33033
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE85

1506. ENDANGERED AND THREATENED WILDLIFE AND PLANTS, PROPOSAL TO LIST DEVIL'S RIVER MINNOW AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Devil's River minnow (Dionda diaboli). This species is known from Val Verde County, TX. Threats include habitat loss from inundation at Amistad Reservoir and reduced instream flow caused by diversions or drought.

Timetable:

Action	Date	FR Cite
NPRM	03/27/98	63 FR 14885
NPRM Comment Period Reopened	05/14/98	63 FR 26764
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE86

1507. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST COLORADO BUTTERFLY PLANT AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened the Colorado butterfly plant (Gaura neoexicana ssp. coloradensis). This species is known from Laramie County, WY, and northern Weld County, CO. Threats include herbicide application for noxious weeds and natural succession/competition from shrubs, forbs and introduced weeds.

Timetable:

Action	Date	FR Cite
NPRM	03/24/98	63 FR 14060
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE87

1508. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED PUZZLE SUNFLOWER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list Puzzle sunflower (Helianthus paradoxus) as endangered or threatened. This species is known from TX and NM. Threats include falling water tables and depleted springs.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 15808
NPRM Comment Period End	06/01/98	
NPRM Comment Period Reopened	06/15/98	63 FR 32635
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE88

1509. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR 16 FRESHWATER MUSSELS AND 1 FRESHWATER SNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to establish nonessential experimental population (NEP) status for 16 freshwater mussels and 1 freshwater snail in the free-flowing reach of the Tennessee River below Wilson Dam, Colbert and Lauderdale Counties, Alabama. None of these species are currently known to exist in this river reach or its tributaries. Thus, to ensure that any reintroduced species that may move into the tributaries are covered by these NEP designations, we also propose that the geographic boundaries of the NEPs include the lower 5 miles (8km) of all tributaries that enter the Wilson Dam tailwater.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE92

1510. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF SEVERAL EVOLUTIONARY SIGNIFICANT UNITS OF WEST COAST STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is adding several evolutionary significant units (ESU) of west coast steelhead to the list of endangered and threatened wildlife in accordance with the Endangered Species Act of 1973, as amended. The southern California and Upper Columbia River Basin ESU are added as endangered, and the central California coast, south-central California coast Snake River Basin, lower Columbia River, and Central Valley California ESUs are added as threatened. This amendment is based on determinations by the National Marine Fisheries Service, National Oceanic Atmospheric Administration, Department of Commerce, which has jurisdiction over this species.

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AE97

1511. REFUGE COMPATIBILITY REGULATIONS PURSUANT TO THE NATIONAL WILDLIFE REFUGE SYSTEM IMPLEMENTATION ACT OF 1997

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 668dd; 16 USC 742a; 16 USC 3101; 44 USC 3501

CFR Citation: 50 CFR 25; 50 CFR 26; 50 CFR 27; 50 CFR 29; 50 CFR 32; 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes to revise compatibility regulations improving management of the National Wildlife Refuge System in accordance with requirements in the National Wildlife System Improvement Act of 1997 that amends the National Wildlife System Administration Act of 1966. Its purpose is to provide guidance for determining compatibility of proposed and existing uses on units of the system and procedures for documentation and periodic review of such uses. It also ensures that proposed and existing refuge uses are administered according to laws, regulations, and policies concerning compatibility.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2029

RIN: 1018–AE98

1512. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST COASTAL-PUGET SOUND JARBIDGE RIVER AND ST. MARY'S-BELLY RIVER POPULATION SEGMENTS OF BULL TROUT AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Coastal-Puget Sound population segment of Bull Trout from the coastal drainages and Puget Sound in western Washington; the Jarbidge River population segment of Bull Trout from the Jarbidge River Basin in Southern Idaho and Northern Nevada; and the St. Mary-Belly River population segment of Bull Trout in St. Mary and Belly Rivers in Northwestern Montana as threatened with a special rule, pursuant to the Endangered Species Act of 1973. The fish is threatened by one or more of the following: habitat degradation from past and ongoing land management activities such as mining, road construction and maintenance, and grazing. The special rule allows for take of Bull Trout within three population segments if in accordance with applicable State and Native American tribal fish and wildlife conservation laws and regulations, and conservation plans.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species,

Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF01

1513. UPDATE OF ADDRESSES AND OFFICE OF MANAGEMENT AND BUDGET INFORMATION COLLECTION NUMBERS FOR FWS PERMIT APPLICATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 16 USC 703 to 712; 16 USC 668(a) to 668(d); 16 USC 742a; 16 USC 742(j) to 742(l); 16 USC 1361 to 1384; 16 USC 1401 to 1407; 16 USC 1531 to 1543; 16 USC 3371 to 3378; 18 USC 42; 19 USC 1202

CFR Citation: 50 CFR 10; 50 CFR 13; 50 CFR 14; 50 CFR 15; 50 CFR 17

Legal Deadline: None

Abstract: The Service amends the regulations for wildlife and plant permits to update the addresses for submission of permit applications. Recently revised Office of Management and Budget Information Collection Numbers also are provided.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF07

1514. CONSIDERATION OF LISTING THE GREEN IGUANA (IGUANA IGUANA) AS INJURIOUS, PURSUANT TO THE LACEY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Humane Society of the United States requested that the Service list the green iguana as injurious under the Lacey Act. Iguanas are released into the wild by their owners for various reasons. These iguanas may be carriers of Salmonella bacteria and could negatively impact native populations. A notice requesting information will be published so that data can be gathered as to the injurious nature of the iguanas. This information will be analyzed to determine whether listing is warranted.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service.
Phone: 703 358-1718

RIN: 1018–AF08

1515. LISTING OF U.S. SPECIES IN APPENDIX III TO CITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: Listing of native U.S. species in appendix III to CITES for more effective monitoring of trade, to ensure that traded specimens are legally acquired in their State(s) of origin, and to obtain the cooperation of other countries that are parties to CITES, in controlling the trade in such specimens.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AF09

1516. RECLASSIFICATION OF MORELET'S CROCODILE (CROCODYLUS MORELETI) FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Reclassify Morelet's crocodile from endangered to threatened with a special rule to allow for the importation of specimens from captive-breeding operations that have been registered with the CITES Secretariat. Only one such facility in Mexico has been registered. Reclassification will be based on a review of the population status and management, including protected status of the species in range countries.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AF10

1517. ANNOUNCEMENT OF DRAFT POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN MAKING LISTING DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service announce a draft policy for the evaluation of conservation efforts in making listing decisions under the Endangered Species Act of 1973, as amended (Act). The policy identifies criteria to be used in determining whether conservation agreements, conservation plans, management plans, or other formalized conservation efforts remove the need to list a species as threatened or endangered under the Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AF11

1518. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE ALABAMA STURGEON AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Alabama sturgeon occurs in Alabama. The primary threat to the continued survival of the Alabama sturgeon is its limited numbers, and its apparent inability to increase its population size and range.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AF12

1519. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE SCALESHELLED MUSSEL AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The scaleshelled mussel is known to occur in Missouri, Arkansas and Oklahoma. Threats include a general deterioration of water quality.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AF14

1520. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST SCLEROCACTUS BREVISPINUS (PARIETTE CACTUS) AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This species was recently described as a new species in 1994. It was previously included in Sclerocactus glaucus (Vinta Basin Hookless Cactus), a threatened species under the Endangered Species Act. This proposal is to address this change in taxonomy.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AF15

1521. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST FOURTEEN HAWAIIAN POMACE FLIES AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline:
Final, Judicial, December 31, 1998.

Abstract: These fourteen species of insects are native to Hawaii and have experienced dramatic declines in abundance. Some of the primary threats facing these species are ongoing and threatened destruction and adverse modification of habitat by feral animals and alien plants.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AF16

1522. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST SIX HAWAIIAN DAMSELFLIES AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline:
Final, Judicial, December 31, 1998.

Abstract: These Hawaiian damselflies are all confined to the Hawaiian Islands. Historically, damselflies were among the most common and conspicuous native Hawaiian insects. Threats include the severe alteration of freshwater habitats because of past and present land and water management practices, including agriculture, urban development of groundwater, perched aquifer and surface water resources, and the introduction of alien animals.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service Phone: 703 358-2171

RIN: 1018–AF17

1523. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE WET CANYON TALUSSNAIL AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline:
Final, Judicial, December 31, 1998.

Abstract: This species is known from a single population in Arizona. The exceptionally small range of this snail makes it vulnerable to minimal human activity as well as any natural catastrophic event.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF19

1524. PROPOSED RECLASSIFICATION AND DELISTING OF THE GRAY WOLF IN CERTAIN PARTS OF ITS RANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is currently undertaking a status review and preparing a proposed rule to reclassify certain populations of the gray wolf from endangered to threatened status under the Endangered Species Act, based on the recent recovery achievements, and to delist the wolf in other parts of its range where recovery has been accomplished.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF20

1525. PROPOSED DELISTING OF THE BALD EAGLE THROUGHOUT THE LOWER 48 STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The bald eagle was reclassified to threatened status throughout the lower 48 States in 1995. Continued recovery gains and increasing population trends now make it possible to propose the removal of the eagle from the endangered species list. A comprehensive status review of eagle population data and existing protections is currently underway.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF21

1526. PROPOSED DELISTING OF THE GRIZZLY BEAR IN THE YELLOWSTONE ECOSYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The grizzly bear is classified as a threatened species in the lower 48 States. Six distinct recovery zones have been established in the States of Wyoming, Montana, Idaho and Washington. The Yellowstone Ecosystem (Yellowstone Recovery Zone) supports a growing population of grizzly bears and recovery planning efforts there are expected to result in a secure management scheme by early 1999 that will allow the Service to proceed with a proposal to delist the Yellowstone grizzly population. Other grizzly population will retain threatened status under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF22

1527. EXPORT OF RIVER OTTERS TAKEN IN MISSOURI IN 1998-1999 AND SUBSEQUENT SEASONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The purpose of this rule is to announce proposed findings by CITES Scientific and Management Authorities of the United States on the export of river otters taken in the State of Missouri, and to propose to add Missouri to the list of States and Indian Nations for which the export of river otter skins is approved. This approval is on a multi-year basis. The Service proposes to apply these findings to river otters taken in Missouri during the 1998-1999 season, and subsequent seasons, subject to the conditions applying to other approved States.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AF23

1528. MIGRATORY BIRD HUNTING; PROPOSED 1999-2000 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUESTS FOR INDIAN PROPOSALS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to establish annual hunting regulations for certain migratory game birds. The Service also requests proposals from Indian tribes that wish to establish special migratory bird hunting regulations. The establishment of these regulations will permit the taking of the designated species during the 1999-2000 hunting season. The Service annually prescribes outside limits within which States may select hunting seasons. The Service has also employed guidelines to establish special migratory bird hunting regulations on Federal Indian reservations and ceded lands. These seasons provide hunting opportunities for recreation and subsistence; aid Federal, State, and tribal governments in the management of migratory game birds; and are designed to permit harvests at levels compatible with migratory bird population status and habitat conditions.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1714

RIN: 1018–AF24

1529. TAKING OF MARINE MAMMALS BY LEVEL B HARASSMENT; ISSUANCE OF GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH AND PERMITS FOR PHOTOGRAPHY, EDUCATIONAL, AND COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-238; 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to issue regulations which would allow us to authorize harassment but not injury or death of polar bear Northern sea otter, and walrus for scientific research photography, and for educational or commercial purposes. This rule would further implement the 1994 Amendments to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104

RIN: 1018–AF26

1530. MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; SPECIAL PURPOSE PERMITS'

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2); PL 95-616

CFR Citation: 50 CFR 27; 50 CFR 31; 50 CFR 32; 50 CFR 33; 50 CFR 34

Legal Deadline: None

Abstract: The Service proposes to amend the migratory bird permit regulations providing permits for the taking, possession transportation, sale, purchase, and barter of migratory birds. The Service is revising and updating the requirements for special purpose permits. Due to the large number of permits issued under "Special purpose," the Service proposes to create four new sections for specific types of the most frequently issued special purpose permit: Rehabilitation, Possession, Salvage, and Migratory Game Birds.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1714

RIN: 1018–AF28

1531. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE COASTAL CALIFORNIA GNATCATCHER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 95

Legal Deadline: None

Abstract: We will determine whether to designate critical habitat for the coastal California gnatcatcher under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF32

1532. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; NINE BEXAR COUNTY, TEXAS, INVERTEBRATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list nine invertebrate species in Bexar County, Texas, under the provisions of the Endangered Species Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF33

1533. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED SPECIAL RULE FOR THE ARKANSAS RIVER SHINER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.44

Legal Deadline: None

Abstract: We will propose a special rule for the threatened Arkansas River Basin population of the Arkansas River shiner under the provisions of the Endangered Species Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF39

1534. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF A SPECIAL RULE FOR THE CANADA LYNX

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: We will propose a special rule for the Canada lynx under the provisions of the Endangered Species Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF40

1535. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE CHIRICAHUA LEOPARD FROG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the Chiricahua leopard frog (AZ & NM) under the Endangered Species Act, with a special rule.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF41

1536. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ALEUTIAN CANADA GOOSE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the Aleutian Canada goose under the Endangered Species Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF42

1537. • IMPORTATION OF CAPTIVE-BRED EXOTIC BIRDS INTO THE UNITED STATES FROM BREEDING FACILITIES IN OTHER COUNTRIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 4901 to 4916

CFR Citation: 50 CFR 15.41; 50 CFR 15.42

Legal Deadline: None

Abstract: We will establish the information requirements and approval criteria for the import of captive-bred wild exotic birds from overseas breeding facilities. This rule applies primarily to species listed in the appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which are otherwise prohibited from import by the Wild Bird Conservation Act of 1992. The rule also describes the process for handling petitions to approve qualifying facilities, establishes the duration of approval, provides for the suspension and revocation of approval, and provides for notice of approved facilities in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/99	
NPRM	03/31/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Gabel, Chief, Branch of Consultation and Monitoring, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 N. Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Fax: 703 358-2276
Email: roddy_gabel@fws.gov

RIN: 1018–AF44

1538. • AMENDMENT BY MEXICO TO APPENDIX III LISTING OF BIGLEAF MAHOGANY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

DOI—FWS

Long-Term Actions

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: We will announce an amendment to the Appendix III listing of bigleaf mahogany under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) by the Government of Mexico for its population of this species. This species has been included in Appendix III since November 1995, when the Government of Costa Rica initially listed its populations. The Governments of Bolivia and Brazil added their populations in 1998. We will consider comments on whether to enter a reservation on Mexico's action for its population.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AF47

1539. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ASIAN BONYTONGUE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will determine whether to reclassify the Asian bonytongue, a freshwater fish popular in the aquarium trade, from endangered to threatened with a special rule to allow the importation of specimens from operations that are registered with the CITES Secretariat. Several facilities have been registered in Indonesia, Malaysia, and Singapore. Our decision on whether to reclassify the species, only some of the populations, or to take no action at all, will be based upon a review of the population status and management, including the protected status of the species in the the range countries.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF48

1540. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; TIBETAN ANTELOPE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will propose endangered status for the Tibetan antelope, of chira (Pantholops hodgsoni). The antelope is a wild ungulate native to Tibet, Kashmir, and north-central China. It is threatened by illegal trade in its wool, known as shah toosh, which is exceptionally fine. The wool and shawls made from it are in great demand on the black market, resulting in the slaughter of thousands of these animals annually. The species has experienced dramatic declines in recent years despite efforts by range countries to control poaching, as well as a prohibition on international commercial trade through listing in Appendix I of CITES.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2095

RIN: 1018–AF49

1541. • PROPOSED GUIDANCE FOR CONDUCTING CONSULTATIONS FOR THE INDIANA BAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: CFR 00

Legal Deadline: None

Abstract: We will propose guidance to assist our field offices in addressing whether: 1) the Indiana bat is present, 2) a proposed project is likely to affect the species directly, and 3) the project is likely to affect the species' habitat.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF50

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1542. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SAN XAVIER TALUSSNAIL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	10/06/98	63 FR 53620

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC13

1543. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PARISH'S ALKALI GRASS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/25/98	63 FR 51329

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC21

1544. ENDANGERED AND THREATENED SPECIES: SACRAMENTO SPLITTAIL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	02/08/99	64 FR 5963

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC26

1545. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ARKANSAS RIVER SHINER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	11/23/98	63 FR 64771

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC62

1546. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TEN PLANTS FROM THE CALIFORNIA SIERRA NEVADA MOUNTAINS FOOTHILLS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/14/98	63 FR 49065

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC99

1547. SEVEN PLANTS FROM THE MOUNTAINS OF SOUTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/14/98	63 FR 49063

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AD34

1548. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/13/98	63 FR 54937

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AD38

1549. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR PLANTS FROM INTERIOR CHAPARRAL OF SOUTHWESTERN CALIFORNIA AND NORTHWESTERN BAJA CALIFORNIA, MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	10/13/98	63 FR 54972

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AD60

1550. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 242; 50 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	01/08/99	64 FR 1275

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Boyd
Phone: 907 786-3447

RIN: 1018–AD68

1551. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF BLACK-FOOTED FERRETS IN NORTHWESTERN COLORADO AND NORTHEASTERN UT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/01/98	63 FR 52824

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AD99

1552. ANNOUNCEMENT OF CITES ACTION CONCERNING CHANGES TO APPENDICES TO LISTED SPECIES; SERVICE ANNOUNCEMENT CONCERNING RESERVATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 23

Completed:

Reason	Date	FR Cite
Final Action	11/12/98	63 FR 63210

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Federal

Agency Contact: Dr. Susan Lieberman
Phone: 703 358-2095

RIN: 1018–AE16

1553. REGULATIONS FOR ADMINISTRATIVE AND VISITOR FACILITY SITES ON NATIONAL WILDLIFE REFUGES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 36

Completed:

Reason	Date	FR Cite
Final Action	03/24/99	64 FR 14149

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman
Phone: 703 358-2029

RIN: 1018–AE21

1554. IMPORTATION OF POLAR BEAR TROPHIES FROM CANADA; ADDITION OF POPULATIONS TO THE LIST OF AREAS APPROVED FOR IMPORT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	01/11/99	64 FR 1529

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Tieger
Phone: 703 358-2104

RIN: 1018–AE26

1555. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED RULE TO LIST THE ILLINOIS CAVE AMPHIPOD AS ENDANGERED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	09/03/98	63 FR 46900

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AE31

1556. MIGRATORY BIRD HUNTING; EXTENSION OF TEMPORARY APPROVAL OF TUNGSTEN-IRON SHOT AS NONTOXIC FOR THE 1998-99 SEASON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	10/07/98	63 FR 54016

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AE35

1557. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST 3 AQUATIC SNAILS AS ENDANGERED; 3 AQUATIC SNAILS AS THREATENED IN MOBILE RIVER BASIN, ALABAMA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/28/98	63 FR 57610

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AE36

1558. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; THREATENED STATUS FOR VIRGINIA SNEEZEWEED, A PLANT FROM THE SHENANDOAH VALLEY OF VIRGINIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	11/03/98	63 FR 59239

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AE37

1559. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST ST. ANDREW BEACH MOUSE AS ENDANGERED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	12/18/98	63 FR 70053

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AE41

1560. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST TOPEKA SHINER AS ENDANGERED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	12/15/98	63 FR 69008

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AE42

1561. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR CATESBAEA MELANOCARPA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	03/17/99	64 FR 13116

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AE48

DOI—FWS

Completed Actions

1562. SEASONAL CLOSURE OF THE MOOSE RANGE MEADOWS PUBLIC ACCESS EASEMENTS IN THE KENAI NATIONAL WILDLIFE REFUGE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 36

Completed:

Reason	Date	FR Cite
Final Action	03/24/99	64 FR 14151

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Pospahala
Phone: 907 786-3467

RIN: 1018–AE58

1563. MIGRATORY BIRD HUNTING; NONTOXIC SHOT; APPROVAL OF MOLYSHOT AS NONTOXIC FOR WATERFOWL AND COOT HUNTING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	12/08/98	63 FR 67619

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AE67

1564. MIGRATORY BIRD HUNTING; REDUCTION OF THE MID-CONTINENT LESSER SNOW GOOSE POPULATION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Withdrawn	11/09/98	63 FR 60278

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AE74

1565. MIGRATORY BIRD HARVEST INFORMATION PROGRAMS; PARTICIPATING STATES FOR THE 1998-1999 SEASON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	09/01/98	63 FR 46399

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AE96

1566. AMENDMENT BY BRAZIL TO APPENDIX III LISTING OF BIGLEAF MAHOGANY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 23

Completed:

Reason	Date	FR Cite
Final Action	10/30/98	63 FR 58325
Final Action Effective	10/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman
Phone: 703 358-2095

RIN: 1018–AE99

1567. MARINE MAMMALS; INCIDENTAL TAKE DURING SPECIFIED ACTIVITIES OF POLAR BEAR AND PACIFIC WALRUS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	01/28/99	64 FR 4328

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hannibal Bolton
Phone: 703 358-1718

RIN: 1018–AF02

1568. MIGRATORY BIRD PERMITS; ADDITION OF SUBPART FOR MANAGEMENT OF OVERABUNDANT MIGRATORY BIRD POPULATION AND ESTABLISHMENT OF CONSERVATION ORDER FOR MID-CONTINENT LIGHT GOOSE POPULATION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 21

Completed:

Reason	Date	FR Cite
Final Action	02/16/99	64 FR 7517
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AF05

1569. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE SLENDER CAMPELOMA AND ARMORED SNAIL AS ENDANGERED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AF29	04/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AF13

1570. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST ALLIUM GOODDINGII (GOODDING'S ONION) AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	04/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AF18

DOI—FWS

Completed Actions

1571. MIGRATORY BIRD HUNTING; REGULATIONS TO INCREASE HARVEST OF MID-CONTINENT LIGHT GEESE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	02/16/99	64 FR 7507
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AF25

BILLING CODE 4310-55-F

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

National Park Service (NPS)

1572. NATIONAL PARK SERVICE SYMBOLS: UNITED STATES PARK POLICE INSIGNIA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 11

Legal Deadline: None

Abstract: The rule will recognize an official United States Park Police insignia, provide for its future protection and prevent the unauthorized use of the insignia. The rule proposes to amend sections regarding authorized use and protection of the arrowhead symbol, add a section regarding the use and protection of the Park Ranger badge, and delete reference to the "Parkscape Symbol."

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: chip__h.__davis@rad.nps.gov

RIN: 1024–AB94

1573. APPLICABILITY AND RESOURCE PROTECTION REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462

CFR Citation: 36 CFR 2

Legal Deadline: None

Abstract: A major revision of 36 CFR part 2 was completed in 1983. This current review is to address clarification of the applicability of these regulations in National Park Service areas, and to update existing resource protection and visitor use regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: chip__h.__davis@rad.nps.gov

RIN: 1024–AC38

1574. NON-FEDERAL OIL AND GAS RIGHTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 230a; 16 USC 450kk; 16 USC 459d-3; 16 USC 459h-3; 16 USC 460ee; 16 USC 460cc-2(i); 16 USC 460m; 16 USC 698c; 16 USC 698f; 16 USC 3101; 18 USC 3571; 18 USC 3581; 43 USC 600d

CFR Citation: 36 CFR 9

Legal Deadline: None

Abstract: This rule will update existing regulations that were promulgated in 1978 to make them consistent with existing laws, policies, and practices and will improve their clarity and workability. The rule will implement Congressional mandates for park resource protection contained in the Big Cypress National Preserve Act of 1988. The rule will strengthen the ability of the NPS to protect the natural, cultural, and historic resources of system units from non-Federal oil and gas and geothermal operations within park boundaries.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol McCoy, Chief, Policy and Regulations Section, Mining and Minerals Branch, Department of the Interior, National Park Service
Phone: 303 969-2096

RIN: 1024–AC53

1575. DENALI NATIONAL PARK AND PRESERVE, SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 462(k); 16 USC 3101 et seq

CFR Citation: 36 CFR 13.63

Legal Deadline: None

Abstract: This proposed rule will change out-of-date references to Mount McKinley National Park to Denali National Park. It will also consolidate in the special regulations existing designations closures, permit requirements, and other restrictions regarding vehicle use, vehicle traffic, oversize vehicles, snowmachines and public health, safety, and resource protection postings and closures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

DOI—NPS

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russ Wilson, Alaska Desk Officer, Department of the Interior, National Park Service
Phone: 202 208-6381

RIN: 1024–AC58

1576. VEHICLES AND TRAFFIC SAFETY; OPERATING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462k

CFR Citation: 36 CFR 4.23

Legal Deadline: None

Abstract: The National Park Service (NPS) is proposing to amend its regulations concerning motor vehicle operation under the influence of alcohol within units of the NPS. Current NPS regulations prohibit operation with a blood alcohol concentration (BAC) of 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath. On March 3, 1998, President Clinton directed the NPS to promulgate regulations adopting a stricter limit of 0.08 grams BAC within units of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: chip__h.__davis@rad.nps.gov

RIN: 1024–AC69

1577. SOLID WASTE SITES IN UNITS OF THE NATIONAL PARK SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 460l-22(c)

CFR Citation: 36 CFR 6.7

Legal Deadline: None

Abstract: The National Park Service (NPS) proposes to amend 36 CFR 6.7 to clarify its applicability to mining-generated solid wastes in units of the NPS. The proposed amendments are not intended to change the substantive scope and goals of 36 CFR 6, which has been in effect since January 25, 1995.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julia Brunner, Ecologist, Department of the Interior, National Park Service
Phone: 303 969-2012

RIN: 1024–AC70

1578. • CONCESSION CONTRACTS

Priority: Other Significant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 20

CFR Citation: 36 CFR 51

Legal Deadline: None

Abstract: The National Park Service is proposing to revise existing regulations governing the award of concession contracts. Title IV of Public Law 105-391 (the National PArk Service Concessions Management Improvement Act of 1998) became effective on November 13, 1998, and repealed Public Law 89-249, the Concessions Policies Act of 1965. The new Act mandates revised procedures for issuing concession contracts as well as revised terms and conditions to be included in concession contracts. Section 417 of Public Law 105-391 requires the Secretary to issue implementing regulations as soon as practicable after the effective date of the Act. Existing regulations governing the concession contracting process are in conflict with several provisions of the new law and must be revised to reflect new statutory requirements. The proposed rule will affect approximately 625 concessioners operating within areas administered by NPS.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wendy Mann, Senior Contract Analyst, Concessions Management Program, Department of the Interior, National Park Service, MS 7313, 1849 C Street NW., Washington, DC 20240
Phone: 202 565-1219
Email: wendy__mann@nps.gov

RIN: 1024–AC72

1579. • CANAVERAL NATIONAL SEASHORE; PUBLIC NUDITY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7

Legal Deadline: None

Abstract: This rule will close portions of Canaveral National Seashore to public nudity within the Volusia County boundaries of the Seashore. All of the Volusia County portion of the Seashore would be closed to public nudity except an area of approximately one-half mile by 2 miles of beach south of parking lot #5. Visitor conflicts due to friction between clothed and nude bathers currently exist and are increasing in the Volusia County section of the Seashore.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: chip__h.__davis@rad.nps.gov

RIN: 1024–AC73

DOI—NPS **Proposed Rule Stage**

1580. • WORLD HERITAGE CONVENTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 470a-1; 16 USC 470a-2

CFR Citation: 36 CFR 73

Legal Deadline: None

Abstract: This rule will revise the existing World Heritage regulations to make necessary changes, such as correcting or eliminating the annual calendar for preparing and submitting U.S. nominations (now outdated), correcting the criteria for selecting sites (also outdated), and providing more explicit procedures for public participation. The underlying treaty (World Heritage Convention) and law (Historic Preservation Act Amendments of 1980) will remain in place unchanged.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James Charleton, International Cooperation Specialist, Office of International Affairs, Department of the Interior, National Park Service, MS 2252, 1849 C Street NW., Washington, DC 20240
Phone: 202 565-1280

RIN: 1024–AC74

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Final Rule Stage

1581. NATIONAL NATURAL LANDMARKS PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 461 et seq

CFR Citation: 36 CFR 62

Legal Deadline: None

Abstract: This proposed rulemaking will amend the current regulations for the National Natural Landmarks Program. Proposed changes include strengthening and clarifying provisions for landowner notification, adding requirements for voluntary landowner consent for natural landmark designation, and providing for review of natural landmark nominations by the National Park System Advisory Board.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/90	55 FR 43384
NPRM	11/21/91	56 FR 58790
NPRM Comment Period End	02/19/92	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Craig Shafer, NNL WASO Coordinator, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 219-8934

RIN: 1024–AB96

1582. GLACIER BAY NATIONAL PARK, ALASKA FISHING REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 3101 et seq

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: The proposed regulations would allow several exemptions for specific commercial fishing activities in Glacier Bay National Park's marine waters from the existing Nationwide National Park Service prohibition on such activities. Some commercial fishing activities would cease at the end of their exemption period.

Timetable:

Action	Date	FR Cite
NPRM	08/05/91	56 FR 37262
NPRM Comment Period End	11/03/91	56 FR 46589
Reproposal	04/16/97	62 FR 18547
Comment Period End	06/01/98	63 FR 23706
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James M. Brady, Superintendent, Department of the Interior, National Park Service
Phone: 907 697-2230

RIN: 1024–AB99

1583. RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 3; 16 USC 5; 16 USC 79

CFR Citation: 36 CFR 14

Legal Deadline: None

Abstract: The regulations for rights-of-way found at 36 CFR part 14 subparts A to H were promulgated as interim regulations in 1980. The regulations no longer meet the needs of the Service or of rights-of-way applicants. Final regulations need to be developed through a revision of part 14.

Timetable:

Action	Date	FR Cite
NPRM	12/01/97	62 FR 63488
NPRM Comment Period End	01/30/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Young, Park Ranger, Department of the Interior, National Park Service
Phone: 757 898-7846

RIN: 1024–AC01

1584. VOYAGEURS NATIONAL PARK: AIRCRAFT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.33

Legal Deadline: None

DOI—NPS

Final Rule Stage

Abstract: This proposed rulemaking amends the current special regulations for Voyageurs National Park by adding a section designating areas open to aircraft use within the Park. This addition is necessary because National Park Service general regulations require such special regulatory designations for areas in parks open to the operation or use of aircraft. The intended effects are to increase safety, protect resources, and provide appropriate enjoyment to park users.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/95	60 FR 39257
NPRM	01/31/96	61 FR 3360
NPRM Comment Period End	09/05/96	61 FR 20775
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce McKeeman, Chief Ranger, Department of the Interior, National Park Service
Phone: 218 283-9821

RIN: 1024–AC23

1585. GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY: SNOWMOBILE AND SNOWPLANE ROUTES AND REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.22

Legal Deadline: None

Abstract: The National Park Service proposes to change the special regulations relating to the use of and designated routes for snowmobiles and snowplanes within Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway. The proposed rule will define more clearly the use of snowmobiles, snowplanes, and designated routes. This rule can eliminate the use of snowmobiles in the Potholes-Baseline Flats area at the discretion of the Superintendent and establish special regulations allowing snowmobile use on the Continental Divide Snowmobile Trail. The proposed rule will also establish a requirement for operators of snowmobiles within Grand Teton National Park to have a valid driver's license or learner's permit.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54633
NPRM Comment Period End	12/26/95	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: chip__h.__davis@rad.nps.gov

RIN: 1024–AC34

1586. BIG CYPRESS NATIONAL PRESERVE; RECREATIONAL FROGGING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.86

Legal Deadline: None

Abstract: This rule will allow the recreational, non-commercial taking of the pig frog (Rana grylio) in the Preserve. The rule will designate seasons, times, locations, methods, and means of taking, and establish harvest limits and permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/22/96	61 FR 59393
NPRM Comment Period End	01/21/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Kacer, Chief Ranger, Department of the Interior, National Park Service, Big Cypress National Preserve
Phone: 941 695-2000

RIN: 1024–AC54

1587. DELAWARE WATER GAP NRA, BICYCLE TRAIL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.71

Legal Deadline: None

Abstract: This rule will designate certain routes within a nondeveloped area of Delaware Water Gap NRA as open to bicycle use, and will regulate their use in this area.

Timetable:

Action	Date	FR Cite
NPRM	11/13/97	62 FR 60815
NPRM Comment Period End	01/12/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doyle Nelson, Supervisory Park Ranger, Department of the Interior, National Park Service
Phone: 908 841-9533

RIN: 1024–AC62

1588. PERSONAL WATERCRAFT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 3

Legal Deadline: None

Abstract: This rule will provide a process for authorizing the use of personal watercraft in units of the NPS through area designations by the Superintendent using the criteria, procedures, and standards adopted by this rule. This rule will enable the NPS to better manage the burgeoning use of personal watercraft in units of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	09/15/98	63 FR 49312
NPRM Comment Period End	11/16/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities Division,

DOI—NPS

Final Rule Stage

Department of the Interior, National Park Service, MS 7408, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4874
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Email: chip__h.__davis@rad.nps.gov

RIN: 1024–AC65

1589. KALOKO-HONOKOHOU NATIONAL HISTORIC PARK: PUBLIC NUDITY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.87

Legal Deadline: None

Abstract: This rule will prohibit public nudity within the boundaries of Kaloko-Honokohou National Historic Park, Hawaii. The existing practice of recreational public nudity is in conflict with the enabling legislation of the Park (16 U.S.C. 396d) and the traditional values of native Hawaiian culture which the Park was created to perpetuate and preserve.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19436
NPRM Comment Period End	06/19/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street NW., Washington, DC 20240
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Email: chip__h.__davis@rad.nps.gov

RIN: 1024–AC66

1590. APPALACHIAN NATIONAL SCENIC TRAIL—SNOWMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(l); 16 USC 462 (k)

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: This rule will designate trail crossings of snowmobile trails at three locations along the Appalachian National Scenic Trail. These trail crossings are part of a State-approved network of snowmobile routes that exist on adjacent State lands. These crossings existed prior to the NPS assuming management of the National Scenic Trail. Designating these crossings fulfills assurances made by the NPS at the time of land acquisition that establishment of the permanent linear trail corridor would not sever established snowmobile routes.

Timetable:

Action	Date	FR Cite
NPRM	03/19/98	63 FR 13383
NPRM Comment Period End	05/18/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street NW., Washington, DC 20240
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RIN: 1024–AC67

1591. LAND AND WATER CONSERVATION FUND OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 460l-4

CFR Citation: 36 CFR 59

Legal Deadline: None

Abstract: This amendment to 36 CFR 59 modifies Land and Water Conservation Fund (L&WCF) post-completion requirements by: (1) clarifying the "State" planning prerequisite for conversion approval; (2) allowing the recipient of an L&WCF grant to use non-recreation land it currently owns, or non-recreation land that is transferred from one public agency to another without payment, to satisfy the replacement requirement when land acquired with L&WCF assistance is proposed for conversion to other than public outdoor recreation uses, assuming all other eligibility criteria are met; (3) eliminating the requirement to notify NPS of all instances of obsolescence and facility use changes; and (4) establishing standards for resolving premature conversions to ensure their timely resolution.

Timetable:

Action	Date	FR Cite
NPRM	12/08/98	63 FR 67638
NPRM Comment Period End	02/08/99	
Final Action*	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Wayne Strum, Outdoor Recreation Planner, Recreation Programs Division, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 565-1129

RIN: 1024–AC68

1592. INFORMATION COLLECTION ACTIVITIES

Priority: Info./Admin./Other

Legal Authority: 16 USC 1; 16 USC 3; 44 USC 3506

CFR Citation: 36 CFR 15

Legal Deadline: None

Abstract: This final rule is an administrative change to 36 CFR to condense and clarify NPS information collection activities. This change will remove references to OMB approvals for collections of information presently scattered throughout NPS regulations and consolidate them in one part of 36 CFR. These changes do not increase the burden of information collection as described in the Paperwork Reduction Act of 1995 or its implementing regulations at 5 CFR 1320.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National

DOI—NPS **Final Rule Stage**

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RIN: 1024–AC71

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)
Completed Actions

1593. PROCEDURES FOR STATE, TRIBAL, AND LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAMS

Priority: Other Significant

CFR Citation: 36 CFR 61

Completed:

Reason	Date	FR Cite
Final Action	03/09/99	64 FR 11736
Final Action Effective	06/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: John W. Renaud
Phone: 202 343-1059

RIN: 1024–AC44

1594. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS FUTURE APPLICABILITY

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 10.13

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action To Be Taken	01/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Francis P. McManamon
Phone: 202 343-4101

RIN: 1024–AC57

1595. HYDROELECTRIC POWER PROJECTS IN THE NATIONAL PARK SYSTEM

Priority: Other Significant

CFR Citation: 36 CFR 19

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action To Be Taken	01/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chip H. Davis
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RIN: 1024–AC64

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)
Prerule Stage

1596. • USE OR DISTRIBUTION OF INDIAN JUDGEMENT FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1401 et seq

CFR Citation: 25 CFR 87

Legal Deadline: None

Abstract: This rule will update the existing provisions to reflect the changes to the Indian Judgement Funds Distribution Act that were made in 1992 by Public Law 102-572.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daisy West, Tribal Relations Officer, Department of the Interior, Bureau of Indian Affairs, Room 4603 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2475
Fax: 202 501-0679

RIN: 1076–AD94

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)
Proposed Rule Stage

1597. INDIAN SCHOOL EQUALIZATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2008

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: This rule will change the definitions of some disabling conditions so that they are consistent with Department of Education definitions of some disabling conditions and adjust the way schools are reimbursed for student transportation services.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod Young, Chief, Branch of Administrative Services, Department of the Interior, Bureau of Indian Affairs, MS 3512 MIB, 1849 C Street NW., Washington, DC 20240

Phone: 202 208-4555

RIN: 1076–AD09

1598. LEASING RESTRICTED LANDS OF MEMBERS OF THE FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 356

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: BIA is revising this rule to ensure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, processing lease payments through the Minerals Management Service, and the approval process for division orders.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Robertson, Realty Officer, Muskogee Area Office, Department of the Interior, Bureau of Indian Affairs, 101 North Fifth Street, Muskogee, OK 74401
Phone: 918 687-2324

RIN: 1076–AD33

1599. EXPLORATION, MINING, AND RECLAMATION OF LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 355; 25 USC 396; 25 USC 473; 25 USC 501; 25 USC 396; 5 USC 301

CFR Citation: 25 CFR 216

Legal Deadline: None

Abstract: This rule will update part 216 to incorporate changes in regulations as well as the mining industry. It will bring the bureau into conformance with the standards of the Bureau of Land Management and the Office of Surface Mining and will protect the Indian mineral owners by giving them no less protection than what is given to Federal lands. Indian mineral owners will be protected through the regulation of exploration for minerals by adequate measures that avoid, minimize, or correct damage to the environment, land, water, and the public safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pete Aguilar, Geologist, Department of the Interior, Bureau of Indian Affairs
Phone: 303 969-5270

RIN: 1076–AD36

1600. TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 81

Legal Deadline: None

Abstract: This rule contains uniform procedures for conducting Secretarial elections for voting on proposed constitutions when tribes wish to reorganize, adopt constitutional amendments, ratify and amend charters, or revoke existing constitutions. This revision will incorporate changes to comply with Public Law 100-581.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Delores Springer, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Minneapolis Area Office, 331 S. Second Avenue, Minneapolis, MN 55401
Phone: 612 373-1125

RIN: 1076–AD46

1601. PETITIONING PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 82

Legal Deadline: None

Abstract: This rule contains procedures for submitting petitions that request the Secretary to call elections to amend tribal constitutions, issue charters, and other actions. The revision will allow the petitioners' spokesman to make technical changes to petitions in consultation with the Bureau and to change the petition format.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Delores Springer, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Minneapolis Area Office, 331 S. Second Avenue, Minneapolis, MN 55401
Phone: 612 373-1125

RIN: 1076–AD47

1602. ACADEMIC AND DORMITORY STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2001; 25 USC 2002; 25 USC 2003; PL 95-561; 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 36

Legal Deadline: None

Abstract: This rule will eliminate subparts A through G of 25 CFR 36. Of 189 Bureau schools, 179 have adopted State or regional academic standards. BIA will assist the remaining schools to achieve State or regional accreditation. This will render the rules in subparts A through G obsolete.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOI—BIA

Proposed Rule Stage

Agency Contact: James C. Martin, Division Chief, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-5810

RIN: 1076–AD55

1603. EDUCATION CONTRACTS UNDER THE JOHNSON-O'MALLEY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 455 to 457

CFR Citation: 25 CFR 273

Legal Deadline: None

Abstract: The rule will include guidelines and responsibilities related to agreements under the provisions of the Indian Self Determination Act Amendments of 1994. The new provisions will reduce the burden of reporting requirements by the tribes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-3478

RIN: 1076–AD58

1604. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 25 USC 1469

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: The direct loan program is being eliminated. We will eliminate most of 25 CFR 101 and will rewrite the rest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4796

RIN: 1076–AD59

1605. ARRANGEMENT WITH STATES, TERRITORIES, OR OTHER AGENCIES FOR SOCIAL WELFARE AND RELIEF OF DISTRESS OF INDIANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 454

CFR Citation: 25 CFR 21

Legal Deadline: None

Abstract: The Bureau has never used this regulation. Other regulations in 25 CFR provide adequate authority for the Bureau to contract with other organizations to provide social services for eligible Indians. Because this regulation is not needed, we will remove it from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/01/96	61 FR 33876
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, MS 4641 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AD61

1606. SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: PL 104-4

CFR Citation: 25 CFR 277

Legal Deadline: None

Abstract: This rule is being eliminated because the program it governs has never been funded.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joann Sebastian Morris, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, MS 3512 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-6123

RIN: 1076–AD69

1607. ADULT VOCATIONAL TRAINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 309; PL 88-230

CFR Citation: 25 CFR 27

Legal Deadline: None

Abstract: The rule for BIA's adult vocational training program is being rewritten in plain English as part of the President's regulatory reform initiative

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dean Poleahla, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, MS 4660 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2671

RIN: 1076–AD72

1608. LOAN GUARANTEE PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1451

CFR Citation: 25 CFR 103

Legal Deadline: None

Abstract: The rule for the guaranteed loan program is being rewritten in plain English as part of the President's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

DOI—BIA

Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4796

RIN: 1076–AD73

1609. EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 26

Legal Deadline: None

Abstract: The rule for BIA's employment assistance program for adult Indians is being rewritten in plain English as part of the President's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dean Poleahla, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, MS 4660 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2671

RIN: 1076–AD75

1610. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rule establishes procedures for processing certificates of degree of Indian blood.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, PO Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD78

1611. MORTGAGES AND DEEDS OF TRUST ON INDIVIDUALLY OWNED TRUST LAND OR LAND SUBJECT TO A RESTRICTION ON ALIENATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 483a

CFR Citation: 25 CFR 152

Legal Deadline: None

Abstract: Indians may mortgage or give deeds of trust to their restricted land with approval of the Secretary of the Interior. The regulation will state the conditions under which approval will be given.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4796

RIN: 1076–AD85

1612. ACQUISITION OF TITLE TO LAND IN TRUST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 2719

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: On September 18, 1980, we issued the first regulations for acquisition of title to land in trust by the United States for Indian tribes and individual Indians. This rule clarifies the process and criteria by which we determine whether to acquire title to land in trust.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Terry Virden, Director, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs, MS 4513 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5831

RIN: 1076–AD90

1613. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is updating this rule to reflect changes in welfare programs. The principal changes are due to Public Law 104-193 which enacted welfare reform and removed welfare as an entitlement. The revised rule will reflect changes resulting from this law and other developments in national welfare policy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, MS 4641 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AD91

1614. • LAND ACQUISITIONS FOR GAMING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 2719

CFR Citation: 25 CFR 292

Legal Deadline: None

Abstract: This rule establishes the procedures that the Secretary will use to review tribal applications for trust acquisition of lands for gaming purposes. It applies only to trust acquisitions for gaming purposes.

DOI—BIA **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: George Skibine, Director, Indian Gaming Management Staff, Department of the Interior, Bureau of Indian Affairs, MS 2070 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4066

RIN: 1076–AD93

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA) **Final Rule Stage**

1615. LEASING AND PERMITTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: This rule will reorganize the existing leasing and permitting rule into subparts and incorporate the provisions on range permits and leasing required by Public Law 103-177.

Timetable:

Action	Date	FR Cite
NPRM	06/17/96	61 FR 30560
NPRM Comment Period End	10/15/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, MS 4513 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3598

RIN: 1076–AA29

1616. NAVAJO PARTITIONED LANDS GRAZING REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 640(d)

CFR Citation: 25 CFR 161

Legal Deadline: None

Abstract: These regulations are necessary for implementation of the livestock and grazing control provisions of 25 USC 640(d). In 1982 the Federal District Court for Arizona abolished 25 CFR 153 Grazing Regulation for the Joint Use Administrative Area and ordered the Secretary to promulgate new regulations for the control of grazing and livestock for the former Joint Use Administrative Area. Due to a lack of tribal concurrence regulations were not promulgated for lands partitioned to the Navajo tribe. Navajo tribal concurrence has been recently obtained; therefore, the BIA needs to move forward with publication of these regulations. Any cost associated with the implementation of these regulations will be assumed within the BIA annual budget. Cost associated with compliance of the provisions of these regulations will be borne by the Navajo tribe or its members. There is no associated cost to the general public.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	60 FR 55506
NPRM Comment Period End	09/06/96	61 FR 29327
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, MS 4513 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3598

RIN: 1076–AC81

1617. PREFERENCE IN EMPLOYMENT

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The Bureau is proposing to eliminate provisions relating to preference in employment because they expired on January 5, 1990.

Timetable:

Action	Date	FR Cite
NPRM	07/12/96	61 FR 36671
NPRM Comment Period End	09/10/96	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, PO Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD05

1618. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1801 to 1852; 25 USC 640; 25 USC 1831

CFR Citation: 25 CFR 41

Legal Deadline: None

Abstract: This rule applies to the provision of financial assistance technical assistance, and endowments to tribal colleges and Navajo Community College and will strengthen requirements relating to: (1) Criteria for satisfactory programs; (2) counting Indian students; (3) developing planning grants; (4) forward funding; (5) renovation and construction of facilities; and (6) preparing construction feasibility reports.

Timetable:

Action	Date	FR Cite
NPRM	04/01/97	62 FR 15446
NPRM Comment Period End	06/02/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

DOI—BIA

Final Rule Stage

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs Phone: 202 208-3478

RIN: 1076–AD08

1619. INDIAN TRIBAL JUSTICE SUPPORT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-176; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200; 25 USC 3601 et seq

CFR Citation: 25 CFR 92

Legal Deadline: None

Abstract: This rule will establish a base funding formula for the distribution of appropriations under the Indian Tribal Justice Act. BIA will use this formula to determine the funding levels to be awarded to eligible Indian tribes for use in establishing or enhancing traditional or contemporary justice systems.

Timetable:

Action	Date	FR Cite
Tribal Consultation	06/20/95	
NPRM	07/30/96	61 FR 39607
NPRM Comment Period End	09/30/96	
Final Action	06/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, PO Box 1887, Albuquerque, NM Phone: 505 248-6082

RIN: 1076–AD15

1620. TRIBAL SELF-GOVERNANCE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-413

CFR Citation: 25 CFR 1000

Legal Deadline: None

Abstract: This rule will clarify how the Department and tribes will carry out their respective responsibilities under the Tribal Self-Governance Act of 1994. At the request of a majority of Indian tribes with self-governance agreements, the Secretary has established a negotiated rulemaking committee to negotiate and promulgate such regulations as are necessary to carry out the Act.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish a Negotiated Rulemaking Committee	02/15/95	60 FR 8806
NPRM	02/12/98	63 FR 7202
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, PO Box 1887, Albuquerque, NM Phone: 505 248-6082

RIN: 1076–AD20

1621. LEASING OSAGE RESERVATION LANDS FOR MINING OF MINERALS OTHER THAN OIL AND GAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 59-321

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: This revision eliminates royalties for minerals not found within the Osage Mineral Estate and gives the Osage tribal Council authority for setting applicable royalty rates. This revision also replaces outmoded methods of exchange with modern methods and designates officials responsible for management of non-oil and gas minerals within the Osage Mineral Estate. The revisions will enhance the Department's management of the production of these minerals and eliminate inaccuracies in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/08/96	61 FR 41365
NPRM Comment Period End	10/07/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: De Sloan, Acting Superintendent, Osage Agency, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1539, Pawhuska, OK 74056 Phone: 918 287-1351

RIN: 1076–AD34

1622. LEAD AND ZINC MINING OPERATIONS AND LEASES ON QUAPAW INDIAN LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 66-359; PL 75-39

CFR Citation: 25 CFR 215

Legal Deadline: None

Abstract: This rule will update the procedures for leasing and discovery testing, processing, developing, and mining lead and zinc on lands under the jurisdiction of BIA's Miami Agency in Ottawa County, Oklahoma. The revisions will assist affected Indians with the efficient development of their lead and zinc deposits without waste, avoidable loss, or damage to their natural resources, the environment, or other resources. The rule will also retitle 25 CFR 215.

Timetable:

Action	Date	FR Cite
NPRM	08/27/96	61 FR 44019
NPRM Comment Period End	10/28/96	
Final Action	04/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Dalgarn, Supervisory Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Miami Agency, P.O. Box 391, Miami, OK 74355 Phone: 918 542-3396

RIN: 1076–AD35

1623. IRRIGATION PROJECTS AND SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 171

Legal Deadline: None

DOI—BIA

Final Rule Stage

Abstract: This rule governs the operation and maintenance of BIA-owned irrigation projects. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35167
NPRM Comment Period End	09/03/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-5480

RIN: 1076–AD44

1624. INDIAN ELECTRIC POWER UTILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 175

Legal Deadline: None

Abstract: This rule contains procedures governing the operation of BIA-owned power utilities. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29040
NPRM Comment Period End	08/06/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-5480

RIN: 1076–AD45

1625. APPEALS FROM ADMINISTRATIVE ACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: This rule changes the BIA delegations of authority and appeals process. The change will reduce burden on the tribes since there will be less confusion about how to file appeals and the processing of appeals within the Bureau. The revision will also clarify the rule and make it consistent with Bureau policy.

Timetable:

Action	Date	FR Cite
NPRM	06/21/96	61 FR 31875
NPRM Comment Period End	09/19/96	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, PO Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD50

1626. INDIAN BUSINESS DEVELOPMENT PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1524

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: The Indian Business Development Program is being discontinued. Entities already having received grants must submit business financial statements. The rule is being rewritten in plain English to reflect this situation.

Timetable:

Action	Date	FR Cite
NPRM	01/30/97	62 FR 4497
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4796

RIN: 1076–AD70

1627. TRIBAL REVENUE ALLOCATION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 2710; 5 USC 301

CFR Citation: 25 CFR 290

Legal Deadline: None

Abstract: This rule notifies the public of how tribal revenues are allocated.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29044
NPRM Comment Period End	08/06/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Skibine, Director, Indian Gaming Management Staff, Department of the Interior, Bureau of Indian Affairs, MS 2070 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4066

RIN: 1076–AD74

1628. COURTS OF INDIAN OFFENSES

Priority: Routine and Frequent

Major: Undetermined

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: This rule will add offenses and clarify the authority of Courts of Indian Offenses.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35158
NPRM Comment Period End	09/04/96	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, PO Box 1887, Albuquerque, NM

DOI—BIA

Final Rule Stage

Phone: 505 248-6082

RIN: 1076–AD76

1629. USE OF COLUMBIA RIVER FISH ACCESS SITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 100-581

CFR Citation: 25 CFR 247

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of fishing access sites on the Columbia River. These sites are required to allow tribes boat access to the river so that they may exercise their treaty fishing rights. The rule defines who may use the sites, permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities located on the sites.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD83

1630. USE OF COLUMBIA RIVER IN-LIEU FISHING SITES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 248

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of in-lieu fishing sites on the Columbia River. These sites are owned by the Federal government and are necessary to allow boat access to the river so that Indian fishers can exercise their treaty fishing rights. The rule defines who may use the sites permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities on the site.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD86

1631. CLASS III GAMING PROCEDURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 2710; 25 USC 9; 25 USC 301

CFR Citation: 25 CFR 291

Legal Deadline: None

Abstract: This rule establishes procedures that the Secretary of the Interior will use to promulgate rules for the conduct of Class III Indian gaming when a State and Indian tribe are unable to voluntarily agree to a compact; and the State has asserted its immunity from suit brought by an Indian tribe under 25 USC 2710(d)(7)(b).

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3289
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula L. Hart, Department of the Interior, Bureau of Indian Affairs, Room 2070 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 219-4066

RIN: 1076–AD87

1632. PREPARATION OF ROLLS OF INDIANS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1300d-3(b)

CFR Citation: 25 CFR 61

Legal Deadline: None

Abstract: We must reopen the enrollment application process authorized under 25 USC 1300d-3 (b) to give individuals another opportunity to file applications to share in the Sisseton and Wahpeton Mississippi Sioux Judgment Fund distribution.

Timetable:

Action	Date	FR Cite
NPRM	07/08/98	63 FR 36866
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daisy West, Tribal Relations Officer, Department of the Interior, Bureau of Indian Affairs, Room 4603 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2475
Fax: 202 501-0679

RIN: 1076–AD89

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Indian Affairs (BIA)

Completed Actions

1633. CORRECTION OF CODIFICATION ERRORS IN 25 CFR

Priority: Info./Admin./Other

CFR Citation: 25 CFR 11; 25 CFR 256; 25 CFR 700; 25 CFR 11; 25 CFR 151; 25 CFR 160; 25 CFR 140

Completed:

Reason	Date	FR Cite
Final Action	03/23/99	64 FR 13894

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1076–AD88

BILLING CODE 4310-02-F

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Prerule Stage

1634. EXPLORATION OR DEVELOPMENT AND PRODUCTION PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 25 CFR 250

Legal Deadline: None

Abstract: MMS requires companies to submit for approval their exploration and development plans for activities on the Outer Continental Shelf. The companies must submit these plans before they can begin any activities, except preliminary activities. This rule would rewrite the requirements into clearer language and organize them into discrete sections by topic, to make them easier to follow.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/99	
ANPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC47

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1635. REFUNDS AND RECOUPMENT OF OVERPAYMENTS ON OCS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 25 USC 181 et seq; 25 USC 351 et seq; 25 USC 1001 et seq; 25 USC 1701 et seq; 25 USC 1735; 25 USC 3716; 25 USC 3720a; 25 USC 9701; 25 USC 1301 et seq; 25 USC 1331 et seq; 25 USC 1801 et seq

CFR Citation: 30 CFR 206; 30 CFR 218; 30 CFR 230

Legal Deadline: None

Abstract: This rule allows MMS to pay interest on Federal onshore and offshore oil and gas royalty overpayments and makes interest charges more equitable between the payor and the recipient. Interest will be paid on overpayments related to royalty, rent and estimates resulting from sales of Federal onshore and offshore oil and gas production.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: david.guzy@mms.gov

RIN: 1010–AC27

1636. TAKES VS. ENTITLEMENTS REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 205

Legal Deadline: None

Abstract: This rule addresses reporting and payment requirements for production removed and sold from a Federal lease, unit participating area, or communitization agreement beginning September 1996.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
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RIN: 1010–AC29

1637. PREPAYMENT OF ROYALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows payors to prepay royalty in lieu of monthly royalty payments for their marginal properties with approval from the affected States. It will establish the criteria used by payors, States, and MMS to calculate, report, and monitor royalty prepayments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
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RIN: 1010–AC31

1638. CHRONIC ERRONEOUS REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et

DOI—MMS

Proposed Rule Stage

seq; 43 USC 1801 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq

CFR Citation: 30 CFR 216; 30 CFR 218

Legal Deadline: None

Abstract: This rule eliminates assessments for late reporting and failure to report and modifies incorrect assessments. The new rule will define what is considered a chronic erroneous reporter and applicable assessments. Penalties for failure to report are also addressed.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
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RIN: 1010–AC34

1639. TRAINING LESSEE AND CONTRACTOR EMPLOYEES ENGAGED IN OIL AND GAS OPERATIONS IN THE OUTER CONTINENTAL SHELF

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 133

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would require operators and lessees to ensure that their workers (including contractors) are properly trained and can demonstrate their proficiency to MMS. Operators and lessees will determine the type of training, teaching methods, training length, and frequency. MMS will develop appropriate performance measures and indicators. These measures may include: written testing; hands-on and simulator testing; audits, interviews, or cooperative reviews; and incidence of noncompliance for civil penalty and events data.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC41

1640. REVIEWING EXPLORATION PLANS AND DEVELOPMENT AND PRODUCTION PLANS FOR COASTAL ZONE CONSISTENCY

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule proposes to amend provisions specifying how States will review exploration plans and development and production plans for coastal zone consistency.

Timetable:

Action	Date	FR Cite
NPRM	02/17/99	64 FR 7837
NPRM Comment Period End	04/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC42

1641. OIL AND GAS DRILLING OPERATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: The rule will be written in plain English, substantive changes will be incorporated, and the rule will reflect the results of the blowout preventer study.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC43

1642. PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 280

Legal Deadline: None

Abstract: This rule will expand the provisions governing research by requiring everyone conducting geological and geophysical scientific research without a permit to file a notice with MMS. These revisions respond to changes in technology and practice.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior,

DOI—MMS

Proposed Rule Stage

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RIN: 1010–AC48

1643. LEASING SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 280

Legal Deadline: None

Abstract: This rule would update and clarify sections dealing with notices of sale, submission of bids, and lease awards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC49

1644. CHANGE TO DELEGATED STATE AUDIT FUNCTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735; PL 104-185; PL 104-200

CFR Citation: 30 CFR 227

Legal Deadline: None

Abstract: The revised rule would allow States to conduct audits and investigations of all or selected Federal oil and gas leases within State boundaries.

Timetable:

Action	Date	FR Cite
NPRM	02/10/99	64 FR 6586
NPRM Comment Period End	04/12/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
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RIN: 1010–AC51

1645. ROYALTY IN KIND FOR OIL AND GAS

Priority: Other Significant

Legal Authority: 30 USC 192; 43 USC 1353

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This revision will establish a process for the Federal Government to accept oil and gas in lieu of royalty payments from selected Federal leases.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Bonn Macy, Special Assistant to the Director, Department of the Interior, Minerals Management Service, Room 4230 MIB
Phone: 202 208-3827

RIN: 1010–AC52

1646. DEEP WATER EMERGENCY WELL CONTROL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would require an operator to have available a drilling unit capable of drilling a relief well in deep water. This unit could be available either through direct control or contractual arrangement. The rule would also require an operator to provide evidence of financial capability to carry out emergency operations in deep water.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC54

1647. • UPDATE OF DOCUMENTS INCORPORATED BY REFERENCE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule incorporates by reference the following American Petroleum Institute Recommended Practices: Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2 (API RP 500) and Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone2 ((API RP 505). By incorporating these documents, we will ensure that lessees use the best available and safest technologies while operating in the outer continental shelf.

Timetable:

Action	Date	FR Cite
NPRM	03/19/99	64 FR 13535
NPRM Comment Period End	06/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Joseph Levine, Chief, Operations Analysis Branch, Department of the Interior, Minerals Management Service, MS 4024, 381 Eldon Street, Herndon, VA 20170-4817

DOI—MMS

Proposed Rule Stage

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RIN: 1010–AC55

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Final Rule Stage

1648. VALUATION OF GAS FROM INDIAN LEASES

Priority: Other Significant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The rule will amend the regulations governing the valuation of gas produced from Indian leases. The primary purpose of these amendments is to ensure that Indian mineral lessors receive maximum revenues from mineral resources on their land consistent with the Department's trust responsibility and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39712
NPRM	09/23/96	61 FR 49894
NPRM Comment Period End	04/04/97	62 FR 10247
Final Action Effective	08/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Additional Information: This rule was developed using the negotiated rulemaking process which included representatives of MMS, Indian tribes, States, and industry.

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RIN: 1010–AB57

1649. VALUATION OF OIL FROM FEDERAL MINERAL LEASES

Priority: Other Significant

Legal Authority: 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1701 et seq; 30 USC 1001 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule would modify the valuation procedures for both arm's-length and non-arm's-length crude oil transactions establish a new MMS form for collecting value differential data and amend the valuation procedures for the sale of Federal royalty oil. These changes would decrease reliance on oil posted prices and assign a value to crude oil that better reflects market value.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	01/24/97	62 FR 3742
Comment Period Extended	02/18/97	62 FR 7189
NPRM Comment Period Extended	02/24/97	62 FR 19966
NPRM Comment Period End	03/25/97	
Supplemental NPRM	07/03/97	62 FR 36030
Comment Period End	08/04/97	
NPRM Comment Period Extended	09/22/97	62 FR 49460
Comment Period Extended	10/23/97	62 FR 49460
Comment Period Extended	10/23/97	62 FR 55198
Supplementary NPRM	02/06/98	63 FR 6113
Comment Period Extended	03/24/98	63 FR 14057
Comment Period Extended	07/08/98	63 FR 36868
Supplementary Proposed Rule	07/16/98	63 FR 38355
Comment Period Extended	07/27/98	63 FR 40073
NPRM Comment Period End	07/31/98	
Final Action	06/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: david.guzy@mms.gov

RIN: 1010–AC09

1650. ADMINISTRATIVE APPEALS PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 2; 25 USC 9; 30 USC 189; 30 USC 285; 30 USC 359; 30 USC 1023; 30 USC 1702 et seq; 31 USC 9701; 43 USC 1334; 43 USC 1335

CFR Citation: 30 CFR 290; 30 CFR 241; 30 CFR 243; 30 CFR 250; 43 CFR 4

Legal Deadline: None

Abstract: This rule will eliminate the current regulations for MMS appeals and replace them with new regulations for appeals to the IBLA of actions taken by MMS officials. The rule will establish requirements for developing the administrative record, holding settlement consultations, paying a processing fee, and presenting arguments and documentation for use in deciding appeals.

Timetable:

Action	Date	FR Cite
NPRM	10/28/96	61 FR 55607
NPRM Comment Period End	03/27/97	
NPRM	01/12/99	64 FR 1930

DOI—MMS **Final Rule Stage**

Action	Date	FR Cite
NPRM Comment Period End	03/15/99	
Final Action	05/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Platte Clark, Acting Chief, Appeals Division, Department of the Interior, Minerals Management Service
Phone: 202 208-2394

RIN: 1010–AC21

1651. VALUATION OF OIL FROM INDIAN LEASES

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 25 USC 396 et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule would modify the regulations that establish royalty value for oil produced from Indian leases and create a new form for collecting value and value differential data. These changes would decrease reliance on oil posted prices and make Indian oil royalty valuation more consistent with the terms of Indian leases.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	02/12/98	63 FR 7089
NPRM Comment Period Extended	04/09/98	63 FR 17349
NPRM Comment Period End	05/13/98	
Supplementary NPRM	04/00/99	
Comment Period End	05/00/99	
Final Action	06/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Tribal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
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Email: david.guzy@mms.gov

RIN: 1010–AC24

1652. ACCOUNTING RELIEF FOR MARGINAL PROPERTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows reporters to seek accounting, reporting, and auditing relief for their marginal properties in accordance with section 117(c) of the Federal Oil and Gas Royalty Management Act of 1982 as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3360
NPRM Comment Period End	03/22/99	
Final Action	11/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: david.guzy@mms.gov

RIN: 1010–AC30

1653. POSTLEASE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1 to 250.29; 30 CFR 218.154; 30 CFR 256.1; 30 CFR 256.4; 30 CFR 256.55; 30 CFR 256.73

Legal Deadline: None

Abstract: This rule is a complete rewrite in plain English and changes the current regulation by both adding and deleting language. Although some of these changes could be considered significant when compared to the current regulations, they support the policies and procedures now in place. The proposed rule is revised to be as broad and general in scope as feasible.

Timetable:

Action	Date	FR Cite
NPRM	02/13/98	63 FR 7335
NPRM Comment Period End	06/17/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum.ray@mms.gov

RIN: 1010–AC32

1654. ELECTRONIC REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 3101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 210; 30 CFR 216

Legal Deadline: None

Abstract: This rule would modify the requirements governing forms that MMS requires for reporting sales, royalties, and production information. The revisions will specify the media required for submission of reports and broaden the use of electronic commerce reporting.

Timetable:

Action	Date	FR Cite
NPRM	04/08/98	63 FR 17133
NPRM Comment Period End	06/08/98	
Final Action	04/00/99	
Final Action Effective	05/00/99	

DOI—MMS

Final Rule Stage

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: david.guzy@mms.gov

RIN: 1010–AC40

1655. UPDATE OF INDUSTRY ELECTRICAL STANDARDS

Priority: Routine and Frequent

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would update a document incorporated by reference that pertains to electrical installations at petroleum facilities.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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Email: kumkum.ray@mms.gov

RIN: 1010–AC50

DEPARTMENT OF THE INTERIOR (DOI)

Long-Term Actions

Minerals Management Service (MMS)

1656. ROYALTY PAYMENT LIABILITY

Priority: Other Significant

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 211

Legal Deadline: None

Abstract: Responsibilities of Minerals Management Service include the collection of royalties, bonuses, rentals, and related revenues from Federal and Indian mineral leases. These monies are, for the most part, collected from the current designated payor on the lease. However, if MMS is unable to collect from the current payor, it must pursue collections from prior payor(s), the lessee, or an assignee of the lease. Existing regulations are unclear as to the responsibilities and liabilities of the parties involved. Therefore, MMS is amending its regulations to clarify payor, lessee, and assignee requirements and responsibilities for Indian mineral leases and Federal solid mineral and geothermal leases.

Timetable:

Action	Date	FR Cite
NPRM	04/13/94	59 FR 17504
NPRM	06/09/95	60 FR 30492
Comment Period Extended	08/30/95	60 FR 45112
Comment Period Extended	10/03/95	60 FR 56033
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: david.guzy@mms.gov

RIN: 1010–AB45

1657. CREDIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This rule will limit adjustments on royalty payments and determine the use of administrative offset for certain collections. This rule was expanded to include post-Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 impacts on credit adjustments and administrative offsets after the initial proposed rule was published, so a new proposed rule will be issued.

Timetable:

Action	Date	FR Cite
NPRM	08/17/93	58 FR 43588
NPRM Comment Period End	11/01/93	58 FR 50301
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
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Email: david.guzy@mms.gov

RIN: 1010–AB73

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Completed Actions

1658. FILING FEES FOR REQUIRED RECORDS

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 256

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken.	02/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
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Email: kumkum.ray@mms.gov

RIN: 1010–AC44

1659. OIL AND GAS PRODUCTION RATES

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 250

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	01/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray
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Email: kumkum.ray@mms.gov

RIN: 1010–AC53

BILLING CODE 4310-MR-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1660. ABANDONED COAL REFUSE SITES—TITLE I

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785; 30 CFR 829; 30 CFR 830; 30 CFR 845; 30 CFR 870

Legal Deadline: None

Abstract: OSM will propose new regulations governing permitting and performance standards for on-site processing of abandoned coal refuse piles and operations for removal of abandoned coal refuse piles. The rules are required to implement section 2503(e) of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Douglas Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10 SIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2634

RIN: 1029–AB70

1661. CONTEMPORANEOUS RECLAMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 780; 30 CFR 773

Legal Deadline: None

Abstract: This rule will amend regulations to ensure that coal mine operators reclaim their operations in a contemporaneous manner using site-based contemporaneous standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Craynon, Chief, Technology Development Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2866

RIN: 1029–AB79

1662. INDIAN LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 25 CFR 200; 30 CFR 700; 30 CFR 740; 30 CFR 746; 30 CFR 750

Legal Deadline: None

Abstract: This rule will amend regulations to allow OSM to contract to the Navajo and Hopi tribes certain functions relating to permitting mine plan review, bonding, and other functions authorized by the Indian land provisions of SMCRA. The rule is being proposed pursuant to a settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Suzy Hudak, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10 SIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2713

RIN: 1029–AB83

1663. DAM SAFETY RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule requires the surface coal mining permittee to have an emergency action plan (EAP) at the time a dam is placed in service. This would bring OSM's regulations on EAPs into compliance with the Federal guidelines for dam safety and the Department Manual. It ensures that EAPs are in place for all Class "B" and Class "C" hazard structures that may not necessarily be regulated by the Mine Safety and Health Administration but for which OSM is responsible.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

DOI—OSMRE

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Ruchi Kohli, Civil Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2971

RIN: 1029–AB92

1664. ELECTRONIC FILING OF THE OSM-1 FORM

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: This rule would allow operators the option of electronically filing the information required by the OSM-1 Form. The form is used by coal operators to report the amount of coal sold, used or transferred during the calendar quarter; the method of coal removal; the type of coal removal; and other required information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Dennis Dechmerowski, Accountant, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Denver Federal Center, Building 20, Room B-2005, Denver, CO 80225
Phone: 303 236-0330
Email: dechmer@osmre.gov

RIN: 1029–AB95

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

1665. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 740; 30 CFR 745; 30 CFR 761; 30 CFR 772

Legal Deadline: None

Abstract: This rule will amend the portions of the permanent program which address the circumstances which constitute valid existing rights to mine coal in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977. This revision is in response to a court decision in round III of the litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4836
Comment Period Extended	05/30/97	62 FR 29368
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Dennis Rice, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2829

RIN: 1029–AB42

1666. PROHIBITIONS UNDER SECTION 522(E) OF SMCRA

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 761

Legal Deadline: None

Abstract: This rule will clarify the applicability of section 522 (e) of SMCRA to subsidence resulting from underground coal mining. Section 522 (e) prohibits surface coal mining operations in certain areas designated by Congress, subject to existing rights.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4864
Comment Period Extended to 08/01/97	05/30/97	62 FR 29368
NPRM Comment Period End	06/02/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Broderick, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10 SIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2700

RIN: 1029–AB82

1667. ENHANCING AML RECLAMATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 707; 30 CFR 874

Legal Deadline: None

Abstract: This rule will amend the definition of Government-financed construction in section 707. The definition concerns an exemption from the Surface Mining Control and Reclamation Act that is currently limited to construction funded with 50 percent or more by Government funds. This proposed change would have two impacts. It would create greater efficiency by allowing OSM to leverage limited Abandoned Mine Land Funds. It would also provide a means to address the abandoned unreclaimed refuse piles. The rule would facilitate reclamation through a new cooperative effort using resources and financing from the private sector.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/97	62 FR 59639
NPRM	06/25/98	63 FR 34768
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Douglas Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10 SIB, 1849 C Street NW., Washington, DC 20240

DOI—OSMRE **Final Rule Stage**

Phone: 202 208-2634

RIN: 1029–AB89

1668. OWNERSHIP AND CONTROL—REDESIGN

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 12012 et seq

CFR Citation: 30 CFR 773; 30 CFR 778; 30 CFR 843; 30 CFR 701; 30 CFR 724; 30 CFR 774; 30 CFR 842; 30 CFR 846

Legal Deadline: None

Abstract: This rule would succeed the April 21, 1997, interim rule promulgated to comply with the January 31, 1997, decision of the U.S. Court of Appeals. It will further clarify the definition and application of "owned and controlled" and "owns or controls" in permitting and enforcement processes. In developing this rule, we will examine current permitting and enforcement issues that may be ripe for review in order to ensure continued effective implementation of section 520(c) of the Surface Mining Control and Reclamation Act of 1977.

Timetable:

Action	Date	FR Cite
ANPRM	11/26/97	62 FR 63044
NPRM	12/21/98	63 FR 70580
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Earl Bandy, Team Leader, Ownership and Control, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 606 233-2796

RIN: 1029–AB94

BILLING CODE 4310-05-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB) **Proposed Rule Stage**

1669. REVENUES MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 191; 43 USC 375(e); 43 USC 391; 43 USC 392a; 16 USC 835; 30 USC 355; 30 USC 1019; 43 USC 374; 43 USC 375; 43 USC 394; 43 USC 521; 43 USC 501; 43 USC 562; 43 USC 525

CFR Citation: 43 CFR 403

Legal Deadline: None

Abstract: This rule specifies the appropriate crediting methods used for revenues generated by incidental use of Reclamation project lands and facilities in accordance with Federal law. It is being published so that water users have access to the legal requirements that the Bureau of Reclamation applies in the crediting of these revenues.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46801
NPRM Comment Period End	01/13/95	59 FR 58808
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alonzo D. Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver Federal Center, Denver, CO 80225-0007
Phone: 303 445-2889

RIN: 1006–AA30

1670. RECOVERING THE VALUE OF RIGHTS OF USE AND RELATED ADMINISTRATIVE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 387; 31 USC 9701

CFR Citation: 43 CFR 429

Legal Deadline: None

Abstract: This rule will include new requirements to comply with OMB Circular A-25, specify procedures for appealing decisions made by the Bureau, and include administrative procedures for concession contracts and cabin site leases.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Schluntz, Economist, Reclamation Law, Contracts and Repayments Office, Department of the Interior, Bureau of Reclamation
Phone: 303 445-2901

RIN: 1006–AA39

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB) **Final Rule Stage**

1671. ACREAGE LIMITATION RULES FOR TRUSTS

Priority: Other Significant

Legal Authority: 43 USC 390aa to 390zz

CFR Citation: 43 CFR 428

Legal Deadline: None

Abstract: During the recently completed Reclamation Reform Act of 1982 (RRA) rulemaking, the Department of the Interior received a number of comments regarding the compliance of certain large trusts with the acreage limitation provisions of the RRA. Comments expressed a variety of viewpoints, including the assertion that some trusts with landholdings (owned and leased land) in excess of 960 acres may circumvent the requirements of Federal reclamation law. The Department has received comments on this issue from various parties and is now determining how best to proceed.

DOI—RB

Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	12/18/96	61 FR 66827
ANPRM Comment Period End	04/17/97	62 FR 7431
NPRM	11/18/98	63 FR 64154
NPRM Comment Period Extended	01/19/99	64 FR 2870
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Richardson, Director, Policy and External Affairs, Department of the Interior, Bureau of Reclamation
Phone: 202 208-4291

RIN: 1006–AA38

1672. OFFSTREAM STORAGE OF COLORADO RIVER WATER AND INTERSTATE MARKETING OF STORAGE CREDITS IN THE LOWER DIVISION STATES

Priority: Other Significant

Legal Authority: 43 USC 617; 43 USC 391; 5 USC 553; 43 USC 1501; 43 USC 485; 43 USC 546; 43 USC 340

CFR Citation: 43 CFR 414

Legal Deadline: None

Abstract: This proposed rule establishes procedures for the Secretary of the Interior to follow in administering interstate storage agreements among the Lower Division States (Arizona, Colorado and Nevada). These agreements will permit State-authorized entities to store Colorado River water offstream, develop intentionally created unused apportionment, and make intentionally unused apportionment available to be used in another Lower Division State. The rule will help satisfy regional water demands by increasing the efficiency, flexibility, and certainty in Colorado River water management.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68491
NPRM Comment Period End	04/04/98	
NPRM Comment Period Extended	09/21/98	63 FR 50183
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dale Ensminger, Contract and Repayment Specialist, Department of the Interior, Bureau of Reclamation
Phone: 702 293-8659

RIN: 1006–AA40

DEPARTMENT OF THE INTERIOR (DOI)

Long-Term Actions

Bureau of Reclamation (RB)

1673. CENTRAL VALLEY PROJECT OF CALIFORNIA—PURPOSES, USES, AND ALLOCATION OF WATER SUPPLIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 551; 5 USC 553

CFR Citation: 43 CFR 432; 50 CFR 1

Legal Deadline: None

Abstract: The rule will address water measurement, water conservation standards, water transfers, tiered pricing, renewal of long-term contracts, water banking and collection of payments into the restoration fund created by the Central Valley Project Improvement Act. This rule is being developed jointly by the Bureau of Reclamation and the Fish and Wildlife Service.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39316
ANPRM Comment Period End	02/01/95	59 FR 67265
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Betty Riley Simpson, Repayment Specialist, Department of the Interior, Bureau of Reclamation
Phone: 916 978-5196

RIN: 1006–AA34

BILLING CODE 4310-09-F

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

Bureau of Land Management (BLM)

1674. LEASES, PERMITS, AND EASEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of leases, permits and easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/90	55 FR 48810
NPRM Comment Period End	01/22/91	
Second NPRM	02/09/95	60 FR 7878
Second NPRM Comment Period End	04/10/95	
Final Rule for Minimum Impact Land Use Permits Only	06/24/96	61 FR 32351
Final Rule Effective	07/24/96	
Third NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

DOI—BLM

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AB51

1675. SALES—FEDERAL LAND POLICY AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management
Phone: 202 452-5042
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RIN: 1004–AB77

1676. OIL AND GAS LEASING; DRAINAGE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3100

Legal Deadline: None

Abstract: This rule will specify who has the responsibility for drainage protection, what it constitutes, and when it begins.

Timetable:

Action	Date	FR Cite
NPRM	01/13/98	63 FR 1936
NPRM Comment Period End	05/15/98	63 FR 9171
NPRM Comment Period End	04/05/99	63 FR 66776
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donnie Shaw, Fluid Minerals Group, Department of the Interior, Bureau of Land Management
Phone: 202 452-0382
Email: dshaw@wo.blm.gov

RIN: 1004–AC54

1677. DESERT LAND ENTRIES

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2520

Legal Deadline: None

Abstract: This rule will transfer much of the regulation on entries of desert land to the BLM Manual if the underlying statute is not repealed as no longer practical.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC56

1678. DISPOSAL OF RESERVED MINERALS UNDER THE STOCK RAISING HOMESTEAD ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 299

CFR Citation: 43 CFR 3814

Legal Deadline:
Final, Statutory, October 13, 1993.

Abstract: This rule will establish new procedures for mineral exploration and development under the General Mining Law of 1872 on lands where the surface was patented under the Stock Raising Homestead Act of 1916 and the mineral estate remains reserved to the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355

RIN: 1004–AC59

1679. LAND WITHDRAWALS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1714; 43 USC 1740

CFR Citation: 43 CFR 2091; 43 CFR 2310; 43 CFR 2370

Legal Deadline: None

Abstract: This rule will revise the regulations on withdrawals and revocations of withdrawals to streamline operations and clarify the regulations. It will also amend the regulations to expedite the opening of formerly withdrawn lands to the operation of the public land laws.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC63

1680. COST RECOVERY; MINERAL FILINGS AND OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 360; 30 USC 1001 et seq; 30 USC 22; 5 USC app; 31 USC 9701; 43 USC 1734

CFR Citation: 43 CFR 3100; 43 CFR 3200; 43 CFR 3400; 43 CFR 3500; 43 CFR 3600; 43 CFR 3700; 43 CFR 3800

Legal Deadline: None

Abstract: This rule will amend regulations for user fees for locatable

minerals, mineral materials, and leasable minerals (solids and fluids) to adjust current fees or establish new fees in accordance with title V of the Independent Offices Appropriations Act of 1952 (user charges), OMB Circular A-25 "User Charges" and section 304 of the Federal Land Policy and Management Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0350
Email: drimal@wo.blm.gov

RIN: 1004–AC64

1681. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES; RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2800; 43 CFR 2880

Legal Deadline: None

Abstract: This rule will move much of the existing regulations to manuals notices to applicants, etc. This action will ease update of cost recovery schedules. Materials will be combined with other rights-of-way guidance.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-7782

RIN: 1004–AC74

1682. LAND CLASSIFICATION

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 315; EO 6910; EO 6964; 43 USC 1411 to 1418; 43 USC 869

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: This rule will revise 43 CFR group 2400 and redesignate it as part 1620. Most of these regulations are no longer needed because they contain either statutory reiteration or internal procedures best suited to the BLM Manual. Land classification can be accomplished through the BLM planning process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC78

1683. CAREY ACT GRANTS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 641 et seq

CFR Citation: 43 CFR 2610

Legal Deadline: None

Abstract: This rule will update these regulations as they are inconsistent with present day management policies. Application of these provisions of the Carey Act is rarely feasible due to limited water and suitable lands.

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47725
NPRM Comment Period End	10/10/96	
Supplementary NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC80

1684. SEGREGATION AND OPENING OF LANDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2091

Legal Deadline: None

Abstract: This rule will simplify and modernize the existing regulations on segregation and opening public lands that are involved in various transactions such as sales or exchanges.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC84

1685. OIL AND GAS LEASING AND OPERATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3100 to 3160

Legal Deadline: None

Abstract: This rule will revise BLM's current Federal oil and gas leasing and operations regulations, except those concerning drainage (section 3100.2-2),

combined hydrocarbon leasing (part 3140), and oil and gas leasing in the National Petroleum Reserve--Alaska (part 3130), to: (1) use performance standards in certain places instead of prescriptive requirements, to allow more flexibility for operators and protect the environment and Federal royalty interests; (2) cite industry standards and incorporate them by reference rather than repeating those standards in the rule itself; (3) incorporate the requirements of the Onshore Oil and Gas Orders and national notices to lessees into the regulations to eliminate their overlap with the current regulations; (4) revise and replace BLM's current unitization regulations with a more flexible unit agreement process; and (5) eliminate redundancies, clarify procedures and regulatory requirements and streamline procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66840
NPRM Comment Period End	06/04/99	64 FR 14666

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Ian Senio, Regulatory Analyst, Regulatory Management Team (WO-630), Department of the Interior, Bureau of Land Management, Mail Stop 401 L St., 1849 C Street NW., Washington, DC 20240
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Email: isenio@wo.blm.gov

RIN: 1004–AC94

1686. APPEALS PROCEDURES; HEARINGS PROCEDURES

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 1701; 43 USC 1740

CFR Citation: 43 CFR 1840; 43 CFR 1850

Legal Deadline: None

Abstract: BLM proposes to amend its regulations that govern administrative review procedures for protests of proposed decisions, contests appeals of BLM decisions, and hearings on the record. The proposed regulations would provide more consistent procedures for administrative review of BLM decisions, and would clarify when and how BLM decisions go into effect and whether an appeal will stay the effectiveness of a BLM decision.

Timetable:

Action	Date	FR Cite
NPRM	10/17/96	61 FR 54120
NPRM Comment Period End	01/17/97	61 FR 58160
Second NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management
Phone: 202 452-5012
Fax: 202 653-5287
Email: cfontecc@wo.blm.gov

RIN: 1004–AC99

1687. COLOR OF TITLE AND OMITTED LANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2540

Legal Deadline: None

Abstract: As part of its reinventing government effort, BLM proposes to rewrite the current color of title and omitted lands regulations in plain English. No substantive changes are proposed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management
Phone: 202 452-5042
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Email: thudson@wo.blm.gov

RIN: 1004–AD00

1688. PALEONTOLOGICAL RESOURCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3622; 43 CFR 8365; 43 CFR 6600

Legal Deadline: None

Abstract: This rule will consolidate into one part of the CFR various BLM regulatory provisions relating to paleontological resource management and rewrite them in plain English.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Barna, Paleontological Program Coordinator, Department of the Interior, Bureau of Land Management
Phone: 202 452-0325

RIN: 1004–AD03

1689. GEOTHERMAL RESOURCE UNIT AGREEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 30 USC 1001 et seq

CFR Citation: 43 CFR 3280

Legal Deadline: None

Abstract: This rule will rewrite unit agreement regulations, reduce and streamline information and permitting requirements, provide BLM maximum flexibility in permitting decision making to accommodate the full range of unitization scenarios, and reorganize the regulations to make specific requirements easier to find and understand.

DOI—BLM

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management
Phone: 202 452-5012
Fax: 202 653-5287
Email: cfontecc@wo.blm.gov

RIN: 1004–AD10

1690. COAL MANAGEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 1266; 43 USC 1733; 43 USC 1740

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will clarify and streamline policy on coal exploration and post-lease operations. It will reorganize and revise portions of the Federal coal management program regulations, including exploration licenses, lease suspensions, lease administration diligence, and exploration and mining operations on leased Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Radden-LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management
Phone: 202 452-0360

RIN: 1004–AD11

1691. OIL AND GAS LEASING; NATIONAL PETROLEUM RESERVE, ALASKA—UNIT AGREEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6503; 43 USC 1740

CFR Citation: 43 CFR 3130; 43 CFR 3135

Legal Deadline: None

Abstract: This rule would make clear that lessees may enter into unit agreements involving lands in the National Petroleum Reserve Alaska. It would also allow for subsurface storage agreements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Senior Specialist, Operations and Inspection, Department of the Interior, Bureau of Land Management
Phone: 202 452-0341

RIN: 1004–AD13

1692. SURFACE MANAGEMENT (LOCATABLE MINERALS)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 18 USC 1001; 30 USC 22; 30 USC 42; 30 USC 612; 43 USC 1061 et seq; 18 USC 3571 et seq

CFR Citation: 43 CFR 3809

Legal Deadline: None

Abstract: The proposed rule would: (1) redefine "unnecessary and undue degradation" to require the use of the "best available technology and practices" or other technology-based standards during the mining of locatable minerals and during the reclamation of mined lands, (2) incorporate performance standards for locatable mineral exploration and development, and (3) treat mining operations involving disturbance to 5 acres or less in a more stringent fashion.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6422
NPRM Comment Period End	05/10/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Robert Anderson, Deputy Assistant Director, Energy and Minerals Resources, Department of the Interior, Bureau of Land Management
Phone: 202 208-4201

RIN: 1004–AD22

1693. FINANCIAL ASSISTANCE; LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 31 USC 1601 et seq

CFR Citation: 43 CFR 1880

Legal Deadline: None

Abstract: This rule will update the regulations on payments to State and local governments in lieu of taxes to reflect changes in law.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Bill Howell, Accountant, Department of the Interior, Bureau of Land Management
Phone: 202 452-7721

RIN: 1004–AD23

1694. USE AUTHORIZATIONS (RECREATION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 16 USC 460l-6a

CFR Citation: 43 CFR 8370

Legal Deadline: None

Abstract: This rule will revise the regulations on the issuance of special recreation permits for purposes of clarification and updating and will add regulations on the issuance of recreation use permits for the use of fee areas.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lee Larson, Recreation Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-5168

RIN: 1004–AD25

1695. ADVISORY COMMITTEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC app 1; 43 USC 1739; 43 USC 1740

CFR Citation: 43 CFR 1784

Legal Deadline: None

Abstract: This rule will remove most or all of the regulation because it duplicates advisory committee regulations elsewhere in the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shirlean Beshir, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5033
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Email: sbeshir@wo.blm.gov

RIN: 1004–AD26

1696. COAL MANAGEMENT: GENERAL (PUBLIC PARTICIPATION)

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3420

Legal Deadline: None

Abstract: This rule will amend the Federal coal management regulations by listing all opportunities for public comment in the coal leasing process.

Timetable:

Action	Date	FR Cite
NPRM	03/11/99	64 FR 12142
NPRM Comment Period End	05/10/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip Allard, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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Email: pallard@wo.blm.gov

RIN: 1004–AD27

1697. MINERAL MATERIALS DISPOSAL

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600; 43 CFR 3610; 43 CFR 3620

Legal Deadline: None

Abstract: This rule will revise completely the regulations on mineral materials disposal to make them easier to understand. It will add provisions on recordkeeping and audit inspection, inspection and production verification, cancellation and suspension, appeals and clarification of the rights of competitive or noncompetitive purchasers against subsequent claims on and users of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0350
Email: drimal@wo.blm.gov

RIN: 1004–AD29

1698. EMERGENCY FIRE AND DISASTER REHABILITATION

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 315a et seq; 43 USC 1740

CFR Citation: 43 CFR 9240

Legal Deadline: None

Abstract: This rule will make emergency rehabilitation project decisions effective upon issuance to minimize unnecessary delay in repairing damage caused by fire and other natural disasters, and avoiding erosion and other adverse impacts on public lands resulting from natural disasters.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Roberts, Range Conservationist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7769
Email: troberts@wo.blm.gov

RIN: 1004–AD30

1699. LOCATION RECORDING, AND MAINTENANCE OF MINING CLAIMS AND SITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing

DOI—BLM

Proposed Rule Stage

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 22 to 54; 43 USC 1740; 43 USC 1201

CFR Citation: 43 CFR 3710; 43 CFR 3730; 43 CFR 3810; 43 CFR 3820; 43 CFR 3830; 43 CFR 3840; 43 CFR 3850

Legal Deadline: None

Abstract: This rule will amend the mining claim recordation and annual fee collection procedures to conform to the Fiscal Year 1999 Interior and Related Agencies Appropriations Act. It will also consolidate duplicative portions of 43 CFR part 3700 et seq. into 43 CFR part 3800 et seq., and remove the duplicative portions of these regulations from title 43.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: The $100 annual maintenance fee and related provisions expired on 9/30/98. The fee and related provisions were extended in the FY 1999 budget legislation. The existing regulations must be amended to conform to the legislation. BLM will take the opportunity to do long-delayed but necessary housekeeping of these parts of title 43 to consolidate duplicative sections.

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355

RIN: 1004–AD31

1700. MINERAL PATENT APPLICATIONS; ADVERSE CLAIMS, PROTESTS, AND CONFLICTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 22 to 54; 43 USC 1201; 43 USC 1740

CFR Citation: 43 CFR 3730; 43 CFR 3740; 43 CFR 3860; 43 CFR 3870; 43 CFR 3820

Legal Deadline: None

Abstract: This rule will revise the filing and administrative procedures for mineral patent applications. It will also revise the procedures for filing adverse claims or protests against mineral patent applications and for mineral-in-character challenges to non-mineral land entries.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This rulemaking was ordered by the Secretary of the Interior on November 14, 1997. Much of the language of these regulations has remained unchanged since 1939 and needs modernization.

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355

RIN: 1004–AD32

1701. • ALASKA NATIVE VETERANS ALLOTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-276; 43 USC 1740

CFR Citation: 43 CFR 2568

Legal Deadline:
Final, Statutory, April 21, 2000.

Abstract: This rule will implement recently enacted legislation to allow for an 18-month open season in which certain Alaska Native veterans would be eligible for a 160-acre allotment under the 1906 Native Allotment Act. Such a veteran must have served between January 1, 1969, and December 31, 1971, and otherwise qualified under the 1906 Act as it was in effect before September 18, 1971.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	10/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management
Phone: 202 452-0352
Email: fbruno@wo.blm.gov

RIN: 1004–AD34

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Bureau of Land Management (BLM)

1702. MANAGEMENT OF DESIGNATED WILDERNESS AREA

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701 et seq; 16 USC 1131 et seq

CFR Citation: 43 CFR 8560; 43 CFR 6300

Legal Deadline: None

Abstract: This rule will amend the existing regulations to remove obsolete provisions, clarify and simplify the regulations, and add provisions on access to inholdings, rights-of-way, use of mechanized equipment by certain individuals, access by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	12/19/96	61 FR 66968
NPRM Comment Period End	02/18/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOI—BLM **Final Rule Stage**

Agency Contact: Jeff Jarvis, Wilderness Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-5189

RIN: 1004–AB69

1703. MANAGEMENT OF SOLID MINERALS OTHER THAN COAL

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3500

Legal Deadline: None

Abstract: This rule will remove repetitive introductory material and combine the common provisions of the series of regulations of leasing of specific non-coal minerals.

Timetable:

Action	Date	FR Cite
NPRM	10/18/96	61 FR 54384
NPRM Comment Period End	03/07/97	62 FR 5373
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management
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Email: cfontecc@wo.blm.gov

RIN: 1004–AC49

1704. DEFINITIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1201; 43 USC 1740

CFR Citation: 43 CFR 1300

Legal Deadline: None

Abstract: This rule will relocate definitions from various sections of BLM's portion of 43 CFR into a central section for general definitions. The new location will be in 43 CFR 1800. Several definitions that had been formerly repeated in various sections will appear as one consolidated definition.

Timetable:

Action	Date	FR Cite
NPRM	11/19/96	61 FR 58843
NPRM Comment Period End	01/21/97	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management
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Email: thudson@wo.blm.gov

RIN: 1004–AC73

1705. INDIAN ALLOTMENTS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 1201; 25 USC 334; 25 USC 336

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule will convert existing regulations to plain English and remove those portions that relate to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	10/16/96	61 FR 53887
NPRM Comment Period End	11/15/96	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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Fax: 202 452-7708

RIN: 1004–AC77

1706. APPLICATION PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 251; 43 USC 263; 43 USC 689; 43 USC 690; 43 USC 1201; 43 USC 1374; 43 USC 1740

CFR Citation: 43 CFR 1820

Legal Deadline: None

Abstract: This rule will revise the existing regulation to consolidate certain business practice rules and update to recognize modern technology.

Timetable:

Action	Date	FR Cite
NPRM	10/01/97	62 FR 51402
NPRM Comment Period End	12/01/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shirlean Beshir, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5033
Fax: 202 653-5287
Email: sbeshir@wo.blm.gov

RIN: 1004–AC83

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Long-Term Actions

1707. COALBED METHANE DEVELOPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 13368

CFR Citation: 43 CFR 3170

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: The rule will implement section 1339 of the Energy Policy Act of 1992. It will prevent conflicts in ownership of coalbed methane from impeding development of that resource by requiring pooling of development and payment of the proceeds into an escrow account until the ownership issue is resolved by a State entity of competent jurisdiction. The rule will also allow States to avoid the Federal regulations by promulgating their own regulations that substantially comply with Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47920
NPRM Comment Period End	11/14/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: David R. Stewart, Assistant Deputy State Director for Mineral Resources, Department of the Interior, Bureau of Land Management
Phone: 703 440-1728

RIN: 1004–AC27

1708. RAILROAD GRANTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1201; 49 USC 65

CFR Citation: 43 CFR 2630

Legal Deadline: None

Abstract: This rule will remove these regulations in their entirety due to their limited usage.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ian Senio, Regulatory Analyst, Regulatory Management Team (WO-630), Department of the Interior, Bureau of Land Management, Mail Stop 401 L St., 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC76

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1709. MINERAL MATERIALS DISPOSAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 3600; 43 CFR 3610; 43 CFR 3620

Completed:

Reason	Date	FR Cite
Combined With RIN 1004-AD29	01/15/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal
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Email: drimal@wo.blm.gov

RIN: 1004–AC68

1710. CONVEYANCES, DISCLAIMERS, AND CORRECTION DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 1860

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Planned at This Time	01/15/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ted Hudson
Phone: 202 452-5042
Fax: 202 653-5287
Email: thudson@wo.blm.gov

RIN: 1004–AC82

1711. HELIUM CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 3750; 30 CFR 602

Completed:

Reason	Date	FR Cite
Final Action	12/03/98	63 FR 66760

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shirlean Beshir
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RIN: 1004–AD24

BILLING CODE 4310-84-F

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Office of the Secretary (OS)

1712. WILD AND SCENIC RIVERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1278

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This rule would establish uniform standards and procedures by which the Department of the Interior, through its agencies that administer rivers in the National Wild and Scenic Rivers System (Bureau of Land Management, Fish and Wildlife Service, and National Park Service), will consider Federal licensing of, or assistance to, water resources projects affecting designated Wild and Scenic Rivers or congressionally authorized Study Rivers.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67834
NPRM Comment Period End	02/08/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Haubert, Outdoor Recreation Planner, Department of the Interior, Office of the Secretary, 1849 C Street NW., Room 3230, Washington, DC 20240
Phone: 202 208-4290
Email: john__haubert@nps.gov

RIN: 1093–AA08

[FR Doc. 99-8296 Filed 04-23-99; 8:45 am]
BILLING CODE 4310-10-F

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federal register

Monday
April 26, 1999

Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

8 CFR Ch. I

21 CFR Ch. I

28 CFR Ch. I

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its April 1999 regulatory agenda pursuant to E.O. 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

The Regulatory Flexibility Act (RFA) requires that, each year, the Department publish a list of those regulations that have a significant economic impact upon a substantial number of small entities and are to be reviewed under section 610 of the Act during the succeeding 12 months. This edition of the Department's unified agenda includes one regulation requiring such a review: "Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements" (RIN 1115-AB73). In accordance with the RFA, comments are specifically invited on this regulation. Those comments should be addressed to the contact person listed in the entry for this item.

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Policy Development, Department of Justice, Room 4256, 950 Pennsylvania Avenue NW., Washington, DC 20530, (202) 514-8059.

Dated: March 9, 1999.

Eleanor D. Acheson,

Assistant Attorney General, Office of Policy Development.

Bureau of Prisons—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1713	Postsecondary Education Programs	1120-AA25
1714	Correspondence: Excludable Mail	1120-AA65
1715	Administrative Remedy Program: Excluded Matters	1120-AA72
1716	Visiting Regulations: Prior Relationship	1120-AA77
1717	Inmate Discipline: Prohibited Acts	1120-AA78
1718	Over-the-Counter (OTC) Medications	1120-AA81
1719	Federal Prison Industries, Inc. (FPI) Standards and Procedures Which Facilitate FPI's Ability To Accomplish Its Mission	1120-AA84
1720	Inmate Commissary Account Deposit Procedures	1120-AA86
1721	Drug Abuse Treatment Programs: Disincentives and Enhanced Incentives	1120-AA88
1722	Searches of Housing Units, Inmates, Inmate Work Areas, and Persons Other Than Inmates: Electronic Devices	1120-AA90
1723	Occupational Educational Programs	1120-AA92
1724	Classification and Program Review	1120-AA93

Bureau of Prisons—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1725	Volunteer Community Service Projects	1120-AA03
1726	Intensive Confinement Centers	1120-AA11
1727	Incoming Publications/Inmate Legal Activities	1120-AA15
1728	Infectious Diseases	1120-AA23
1729	Literacy Program	1120-AA33
1730	Inmate Personal Property	1120-AA46
1731	Telephone Regulations and Inmate Financial Responsibility	1120-AA49
1732	Federal Prison Industries (FPI) Work Program: Deportation Orders	1120-AA57
1733	Incoming Publications: Nudity and Sexually Explicit Material or Information	1120-AA59
1734	Good Conduct Time	1120-AA62
1735	Drug Abuse Treatment and Intensive Confinement Center Programs: Early Release Consideration	1120-AA66
1736	Visiting: Notification to Visitors	1120-AA67
1737	Correspondence: Return Address	1120-AA69
1738	Acceptance of Donations	1120-AA71
1739	Cost of Incarceration Fee	1120-AA75
1740	Smoking/No Smoking Areas	1120-AA79
1741	Victim and/or Witness Notification: State Custody Transfers	1120-AA80
1742	Administrative Safeguards for Psychiatric Treatment and Medication; Military Prisoners and District of Columbia Code Violators	1120-AA83
1743	Designation of Offenses Subject to Sex Offender Release Notification	1120-AA85

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Bureau of Prisons—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1744	Civil Contempt of Court Commitments	1120-AA87

Bureau of Prisons—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1745	Telephone Regulations and Inmate Financial Responsibility	1120-AA39

Bureau of Prisons—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1746	Birth Control, Pregnancy, Child Placement, Abortion	1120-AA31
1747	Classification and Program Review: Team Meetings	1120-AA64
1748	Inmate Work and Performance Pay: Work Evaluation	1120-AA74
1749	Inmate Recreation Programs and Manuscripts	1120-AA76

Civil Rights Division—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1750	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972	1190-AA28
1751	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities	1190-AA44

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1752	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards	1190-AA26
1753	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA36
1754	Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities; Children's Facilities	1190-AA38

Civil Rights Division—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1755	Amendment to Nondiscrimination in Federally Assisted Programs and Activities—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA31
1756	Amendment to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA32

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Civil Rights Division—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1757	Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups	1190-AA39
1758	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities (Detectable Warnings)	1190-AA45

Drug Enforcement Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1759	Guidelines for Providing Controlled Substances to Ocean Vessels	1117-AA40
1760	Sale by Federal Departments or Agencies of Chemicals Usable to Manufacture a Controlled Substance	1117-AA47

Drug Enforcement Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1761	Definition and Registration of Disposers	1117-AA19
1762	Exemption of Chemical Mixtures	1117-AA31
1763	Registration and Reregistration Application Fees	1117-AA34
1764	Establishment of Freight Forwarding Facilities	1117-AA36
1765	Listed Chemicals; Proposed Thresholds for Iodine and Hydrochloric Gas (Hydrogen Chloride Gas)	1117-AA43
1766	Implementation of the Methamphetamine Control Act; Regulation of Pseudoephedrine, Phenylpropanolamine, and Comb. Ephedrine Drug Products; Reports of Certain Transactions to Non-regul. Persons	1117-AA44
1767	Temporary Exemption From Chemical Registration for Distributors of Pseudoephedrine and Phenylpropanolamine and Products	1117-AA46
1768	Anhydrous Hydrogen Chloride: Categories of Distribution Regarded as Nonregulated	1117-AA48
1769	Special Surveillance List of Chemical, Products, Materials and Equipment	1117-AA49

Executive Office for Immigration Review—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1770	Authority of Immigration Judges To Issue Civil Money Penalties	1125-AA18

Executive Office for Immigration Review—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1771	Discipline of Attorneys and Representatives	1125-AA13
1772	Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges	1125-AA17
1773	Adjustment of Status to That of Person Admitted for Permanent Residence	1125-AA20
1774	Board of Immigration Appeals: Streamlining	1125-AA22
1775	Suspension of Deportation and Cancellation of Removal	1125-AA25

Executive Office for Immigration Review—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1776	Rules Concerning Conditional Permanent Residence for Alien Entrepreneurs in Deportation Proceedings	1125-AA02
1777	Conditional Grants of Suspension of Deportation and Cancellation of Removal	1125-AA19

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Executive Office for Immigration Review—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1778	Motion to Reopen: Suspension of Deportation and Cancellation of Removal	1125-AA23

Immigration and Naturalization Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1779	Special Immigrant Juvenile Petitions	1115-AF35

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1780	Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions	1115-AB45
1781	Inspection of Persons Applying for Admission	1115-AD17
1782	Update to Transit Without Visa (TWOV) Listing	1115-AD96
1783	Employment Authorization Document Applications and Process	1115-AE06
1784	Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements Liquidated Damages	1115-AE37
1785	Definition of the Term "Lawfully Present" for Purposes of Eligibility for Public Benefits	1115-AE51
1786	Corporate Reorganizations (Mergers and Acquisitions) and E, H, L Nonimmigrant Classification	1115-AE55
1787	Petition for Employment Creation Aliens	1115-AE56
1788	Filing Factual Statements About Alien Prostitutes	1115-AE60
1789	Nonimmigrant Overstays	1115-AE62
1790	F-1 Visa Abusers and Foreign Students	1115-AE63
1791	Employment Verification by Employers That Are Members of a Multi-Employer Association	1115-AE67
1792	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress	1115-AE68
1793	Collection of Fees Under the Dedicated Commuter Lane Program, Port Passenger Accelerated Service System (PORTPASS) Program	1115-AE71
1794	Regulations Pertaining to Battered Aliens and to Mail Order Bride Businesses, as Mandated by IIRIRA	1115-AE77
1795	Public Charge Bond Pilot Program	1115-AE78
1796	Proceedings To Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing, and Appeal	1115-AE83
1797	Clarification of Age Requirements for Fingerprinting Naturalization Applicants	1115-AE86
1798	Control of Aliens Departing From the United States	1115-AE89
1799	En Route Inspections and Reimbursement for Immigration and Naturalization Service Costs	1115-AE98
1800	Change in Business Practices: Non-Acceptance of Cash as Remittance for Fees and Applications in Immigration and Naturalization Services Offices	1115-AF07
1801	Examinations Fee Account Schedule—Small Volume Applications	1115-AF10
1802	Jurisdictional Change for the Los Angeles and San Francisco Asylum Offices	1115-AF18
1803	Powers of the Attorney General To Authorize State or Local Law Enforcement Officers To Carry Out Immigration Enforcement	1115-AF20
1804	Progressive Clearance Stopovers	1115-AF23
1805	Documentary Requirements for Returning Residents	1115-AF26
1806	Availability of Material Under Freedom of Information Act and Privacy Act	1115-AF32
1807	Effect of Unexcused Failure to Appear for a Scheduled Asylum Interview With an Asylum Officer on Eligibility for Employment Authorization	1115-AF38
1808	H-1B Nonimmigrant Worker Complaints Regarding U.S. Employer Violations Under the American Competitiveness and Workforce Improvement Act	1115-AF40
1809	American Competitiveness and Workforce Improvement Act	1115-AF41

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Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1810	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**	1115-AB73
1811	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s	1115-AC70
1812	Nonimmigrant Classes; B Visitor for Business or Pleasure	1115-AC89
1813	Petitions for Employment-Based Immigrants	1115-AD55
1814	Admission of Certain Nurses Seeking Nonimmigrant Classification Under the H-1A Category	1115-AD74
1815	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program	1115-AD82
1816	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions on Eligibility	1115-AD83
1817	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses	1115-AD86
1818	90-Day Modified Inspection of Alien Crew Members	1115-AD95
1819	Petition To Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Alien Spouses and Children	1115-AE04
1820	Miscellaneous Modifications to Naturalization Regulations	1115-AE07
1821	Conditions on Nonimmigrant Status; Disclosure of Information	1115-AE17
1822	Employer Sanctions Modifications	1115-AE21
1823	Regulations Pertaining to Adjudications Processing	1115-AE31
1824	Orphan Petitions; Petitions To Classify Alien as Immediate Relative of a United States Citizen or Preference Immigrant; Change in Definition of Child	1115-AE33
1825	Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures	1115-AE47
1826	Agreement Promising Non-Deportation or Other Immigration Benefits	1115-AE50
1827	Petitioning Requirements for the H Nonimmigrant Classification	1115-AE52
1828	Canadian Border Boat Landing Program	1115-AE53
1829	Affidavits of Support on Behalf of Immigrants	1115-AE58
1830	Suspension of Privilege To Transport Aliens to the United States	1115-AE59
1831	Rights of Habitual Residence Between the United States and the Governments of the Marshall Islands, Micronesia and Palau	1115-AE61
1832	Limiting Liability for Certain Technical and Procedural Violations of Paperwork Requirements	1115-AE70
1833	Ineligibility of Certain Juvenile Offenders for Family Unity Program	1115-AE72
1834	Certification of Certain Health Care Workers	1115-AE73
1835	Adjustment of Status for Certain Polish or Hungarian Parolees	1115-AE74
1836	Establishment of Preinspected Automated Lane (PAL) Program at Immigration and Naturalization Service	1115-AE80
1837	Surrender of Aliens Ordered Removed From the United States	1115-AE82
1838	Amendment of the Regulatory Definition of Arriving Alien	1115-AE87
1839	New Rules Regarding Procedures for Asylum and Withholding of Removal	1115-AE93
1840	Adjustment of Status, Continued Validity of Nonimmigrant Status and Unexpired Employment Authorization for Applicants Maintaining Nonimmigrant H or L Status	1115-AE96
1841	Verification of Eligibility for Public Benefits	1115-AE99
1842	Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service	1115-AF03
1843	Adjustment of Status; Certain Nationals of Nicaragua and Cuba	1115-AF04
1844	Processing, Detention, and Release of Juveniles	1115-AF05
1845	Special Immigrant Juvenile—Special Immigrant Status for Certain Aliens Declared Dependent on a Juvenile Court	1115-AF11
1846	Immigrant Petitions; Religious Workers	1115-AF12
1847	Suspension of Deportation and Special Rule Cancellation of Removal for Certain Nationals of Guatemala, El Salvador, and Former Soviet Bloc Countries	1115-AF14
1848	Authorizing Suspension of Employment Authorization Requirements on the Basis of Severe Economic Hardship for F-1 Students and Emergent Circumstances	1115-AF15
1849	Change in Business Practices: Collection of Interest, Penalties, and Handling Charges for Delinquent Payment of Employer Sanctions Fines	1115-AF17
1850	Elimination of Immigration and Naturalization Service Issued Mexican and Canadian Border Crossing Cards	1115-AF24
1851	Filing of Proposals for Designation as a Regional Center Approved To Participate in the Immigrant Investor Pilot Program	1115-AF27
1852	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands	1115-AF28
1853	Delegation of the Adjudication of Certain H-2A Petitions to the Department of Labor	1115-AF29
1854	Addition of Commercial Delivery Service as a Form of Personal Service	1115-AF30

DOJ

Immigration and Naturalization Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1855	Implementing Certain Portions of the American Competitiveness and Workforce Improvement Act (ACWIA) Relating to the H-1B Nonimmigrant Classification	1115-AF31
1856	Adjustment of Status for Certain Nationals of Haiti	1115-AF33
1857	Temporary Protected Status Amendments to the Requirements for Employment Authorization Fee and Other Technical Amendments	1115-AF37
1858	Regulations Concerning the Convention Against Torture	1115-AF39

Immigration and Naturalization Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1859	Visa Waiver Pilot Program	1115-AB93
1860	Expansion of Direct Mail Program	1115-AD73
1861	Regulations Relating to Temporary Protected Status	1115-AE26
1862	Interim Designation of Acceptable Receipts for Employment Eligibility Verification	1115-AF42

Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1863	Seizure and Forfeiture of Conveyances	1115-AA95
1864	Nonimmigrant Classes; NATO-1, 2, 3, 4, 5, 6, and 7; Control of Employment of Aliens (Special Requirement for Admission, Extension and Maintenance of Status; NATO)	1115-AB52
1865	F, J, and M Nonimmigrant Student Requirements for Admission, Tracking, Maintenance of Status and for Employment Authorization	1115-AD16
1866	Exceptions to the Educational Requirements for Naturalization for Certain Applicants	1115-AE02
1867	Judicial Review of Decisions of the Executive Office for Immigration Review and the Immigration and Naturalization Service	1115-AE46
1868	Delegation of Immigration Enforcement Authority	1115-AE76
1869	Changing the Name of the Alien Registration Receipt Card to the Permanent Resident Card	1115-AF01
1870	Delegation of General Authority by the Commissioner to Certain Immigration Officers	1115-AF02
1871	Procedure for Accepting Applications for Benefits Submitted With Insufficient or Excess Fees	1115-AF06
1872	Change in Business Practices: Collection of Interest, Penalties, and Handling Charges for Delinquent Payment of Employer Sanction Fines	1115-AF09
1873	Changes in the Immigration and Naturalization Service Regional Office Organization	1115-AF13
1874	Classes of Aliens Authorized To Accept Employment	1115-AF16
1875	Revocation of Naturalization	1115-AF34
1876	Immigration Petitions; Employment Creation Aliens; Regional Centers Designated Under the Immigrant Investor Pilot Program	1115-AF36

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1877	Implementation of the National Stolen Passenger Motor Vehicle Information System (NSPMVIS)	1105-AA44
1878	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law	1105-AA45
1879	Operation of the National Instant Criminal Background Check System	1105-AA51
1880	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act	1105-AA56
1881	Revision of 28 CFR Part 15 Pertaining to the Defense of Certain Suits Against Federal Employees To Conform to the Federal Employees Liability Reform and Tort Compensation Act	1105-AA62
1882	FBI Criminal Justice Information Services Division Systems and Procedures	1105-AA63
1883	United States Marshals Service Fee for Services	1105-AA64

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Legal Activities—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1884	Designation of Agencies to Receive and Investigate Reports Required Under the Protection of Children From Sexual Predators Act	1105-AA65
1885	Waiver for Firearm Prohibition On Non-Immigrant Visa Holders	1105-AA66

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1886	Federal Claims Collection Standards (FCCS)	1105-AA31
1887	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act	1105-AA39
1888	Civil Monetary Penalties Inflation Adjustment	1105-AA48
1889	Police Recruitment Program Guidelines	1105-AA58
1890	Whistleblower Protection for Federal Bureau of Investigation Employees	1105-AA60

Legal Activities—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1891	Criminal Fines Enforcement	1105-AA16
1892	Violent Crime and Drug Emergency Areas	1105-AA29
1893	False Claims Amendments Act of 1986—Civil Investigative Demands	1105-AA42
1894	Federal Convicted Offender DNA Database Program	1105-AA52

Legal Activities—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1895	Radiation Exposure Compensation Act: Evidentiary Requirements; Definitions and Number of Times Claims May Be Filed	1105-AA49
1896	Guidelines for Megan's Law and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act	1105-AA50

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1897	Grants to Combat Violence Against Women on Campuses	1121-AA49
1898	Public Safety Officers' Educational Assistance Program	1121-AA51

Office of Justice Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1899	Grants Program for Indian Tribes	1121-AA41
1900	Juvenile Accountability Incentive Block Grants	1121-AA46
1901	Bulletproof Vest Partnership Grant Act of 1998	1121-AA48
1902	Timing of Police Corps Reimbursements of Educational Expenses	1121-AA50

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Proposed Rule Stage

1713. POSTSECONDARY EDUCATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This document provides for the operation of a postsecondary education program in which the inmate has the opportunity to participate in courses (other than courses which are part of a vocational or occupational education program which are appropriately administered through the Bureau's occupational education program) which have been determined to be appropriate under the institution's need for discipline, security, and good order. The inmate must possess a high school diploma or a GED, and the inmate is responsible for payment of any tuition either through personal funds, community resources, or other assistance available to the inmate.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA25

1714. CORRESPONDENCE: EXCLUDABLE MAIL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document clarifies what are considered to be acceptable enclosures for general correspondence, defines excludable mail, i.e., mail which is suspected of containing a device which poses a threat to safety or which does not contain a return address, and establishes procedures for handling such excludable mail.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA65

1715. ADMINISTRATIVE REMEDY PROGRAM: EXCLUDED MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 542

Legal Deadline: None

Abstract: This document amends Bureau regulations on the Administrative Remedy Program to provide for the processing of certain requests or appeals which previously had been excluded. This amendment is intended to comply with provisions of the Prisoner Litigation Reform Act pertaining to exhaustion of available administrative remedies.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA72

1716. VISITING REGULATIONS: PRIOR RELATIONSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540.44

Legal Deadline: None

Abstract: This document revises regulations on visiting to require that visiting privileges at all institutions ordinarily shall be extended to friends and associates only when the relationship had been established prior to confinement. Previously this requirement was applicable only at Medium Security Level, High Security Level, and Administrative Institutions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA77

DOJ—BOP

Proposed Rule Stage

1717. INMATE DISCIPLINE: PROHIBITED ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 541.13

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on inmate discipline by establishing prohibited acts addressing use of the telephone to further criminal activity, abuses of the telephone for other than criminal activity, and violations of the no-smoking policy.

Timetable:

Action	Date	FR Cite
NPRM	02/25/99	64 FR 9432
NPRM Comment Period End	04/26/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA78

1718. OVER-THE-COUNTER (OTC) MEDICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549.30 to 549.31

Legal Deadline: None

Abstract: This document establishes procedures governing inmate access to Over-The-Counter (OTC) medications. Selected OTC medications are currently available to the inmate population through commissary purchase. The Bureau will continue to dispense OTC medications at sick call only if the inmate does not already have the OTC medications and health services staff determine the inmate has an immediate medical need which needs to be addressed before the inmate's regularly scheduled commissary visit or that the inmate is without funds.

Timetable:

Action	Date	FR Cite
NPRM	03/01/99	64 FR 10094
NPRM Comment Period End	04/30/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA81

1719. FEDERAL PRISON INDUSTRIES, INC. (FPI) STANDARDS AND PROCEDURES WHICH FACILITATE FPI'S ABILITY TO ACCOMPLISH ITS MISSION

Priority: Other Significant

Legal Authority: 18 USC 4122; 18 USC 4124

CFR Citation: 28 CFR 302

Legal Deadline: None

Abstract: This document codifies various Federal Prison Industries (FPI) standards and procedures which facilitate FPI's ability to accomplish its mission. These provisions include: Statement of purpose and scope; definition; a mission statement; roles and responsibilities of FPI's Board of Directors, Chief Executive Officer, Chief Operating Officer, and the Ombudsman; agency meeting procedures; inmate employment levels; provision of products as a mandatory source; provision of products as a preferential source; services to the commercial market; waiver and appeal procedures; pricing; and new product development or expansion.

Timetable:

Action	Date	FR Cite
NPRM	01/07/99	64 FR 1082
NPRM Comment Period End	03/08/99	
NPRM Comment Period Reopened	03/10/99	64 FR 11821
Reopened Comment Period End	05/10/99	64 FR 11821

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Marianne Cantwell, Corporate Counsel, Department of Justice, Bureau of Prisons, Room 8017/400, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA84

1720. • INMATE COMMISSARY ACCOUNT DEPOSIT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 18 USC 509 to 510; 31 USC 725

CFR Citation: 28 CFR 506; 28 CFR 540.23; 28 CFR 540.51

Legal Deadline: None

Abstract: This document specifies how an inmate may receive funds from family, friends, and other sources. Any funds sent from family or friends will be sent directly to a centralized inmate commissary account for receipt and posting. Funds received from other sources such as tax refunds, dividends from stocks, or state benefits will be forwarded for deposit to the centralized inmate commissary account.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

DOJ—BOP

Proposed Rule Stage

Action	Date	FR Cite
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA86

1721. • DRUG ABUSE TREATMENT PROGRAMS: DISINCENTIVES AND ENHANCED INCENTIVES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document broadens the eligibility criteria for the drug abuse education program. In addition, this document establishes disincentives which may be imposed for the purpose of encouraging inmates to participate in the residential drug treatment program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA88

1722. • SEARCHES OF HOUSING UNITS, INMATES, INMATE WORK AREAS, AND PERSONS OTHER THAN INMATES: ELECTRONIC DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 751 to 752; 18 USC 1791 to 1793; 18 USC 3050; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4012; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 511; 28 CFR 552

Legal Deadline: None

Abstract: This document clarifies provisions in the Bureau's regulations which pertain to the use of electronic devices in searches of inmates and persons other than inmates.

Timetable:

Action	Date	FR Cite
NPRM	02/25/99	64 FR 9431
NPRM Comment Period End	04/26/99	
Final Action	07/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Bldg., Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 541-6655
Fax: 202 307-0828

RIN: 1120–AA90

1723. • OCCUPATIONAL EDUCATIONAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This rule revises the Bureau's regulations on occupational educational programs to remove obsolete or redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA92

1724. • CLASSIFICATION AND PROGRAM REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 21 USC 848; 28 USC 509 to 510

CFR Citation: 28 CFR 524; 28 CFR 571

Legal Deadline: None

Abstract: This rule revises the Bureau's regulations on classification and program review in order to restate the provisions more plainly and to integrate into the regulations provisions pertinent to the inmate's release preparation needs. This amendment is intended to remove unnecessary regulations and to ensure that classification and program review procedures adequately address the apparent needs of the inmate.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Bldg., Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 541-6655
Fax: 202 307-0828

RIN: 1120–AA93

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Final Rule Stage

1725. VOLUNTEER COMMUNITY SERVICE PROJECTS

Priority: Info./Admin./Other

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.60

Legal Deadline: None

Abstract: This document finalizes provisions for Volunteer Community Service Projects. A volunteer community service project is a project designed to provide for the public good which has been developed by local government or by a nonprofit charitable organization for approval by the Bureau.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 5210
Final Action	05/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA03

1726. INTENSIVE CONFINEMENT CENTERS

Priority: Info./Admin./Other

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 524.31 to 524.34

Legal Deadline: None

Abstract: This document finalizes procedures for the operation of a specialized program combining features of a military boot camp with the traditional correctional values of the Bureau of Prisons. Inmates who successfully complete this program may be placed in community-based programs for longer periods of time than ordinarily permitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/26/96	61 FR 18658
Final Action	05/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA11

1727. INCOMING PUBLICATIONS/INMATE LEGAL ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 28 USC 1346(b); 28 USC 2671 to 2680

CFR Citation: 28 CFR 540.71; 28 CFR 543.11

Legal Deadline: None

Abstract: This document amends Bureau regulations on Incoming Publications to require that inmates in medium security, high security, and administrative institutions may receive softcover publications only from the publisher, book club, or bookstore. A conforming amendment is made to the Bureau's regulations on Inmate Legal Activities.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2668
NPRM Comment Period End	03/21/94	
Final Action	07/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA15

1728. INFECTIOUS DISEASES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document finalizes regulations on the correctional management of tuberculosis,HIV, and hepatitis B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/95	60 FR 52278
Interim Final Rule Comment Period End	12/04/95	
Final Action	08/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA23

1729. LITERACY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.70 to 544.76

Legal Deadline: None

Abstract: This document implements statutory provisions which make an inmate's vesting of good conduct time contingent upon the inmate's obtaining or making satisfactory progress toward obtaining a General Educational Degree or high school diploma. Additional

DOJ—BOP

Final Rule Stage

changes to the regulations on the Bureau's literacy program are made for the sake of clarification or simplification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/97	62 FR 50791
Final Action	10/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA33

1730. INMATE PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 553.10 to 553.15

Legal Deadline: None

Abstract: This document revises procedures governing the transfer of inmate personal property between institutions.

Timetable:

Action	Date	FR Cite
NPRM	04/01/96	61 FR 14440
NPRM Comment Period End	05/31/96	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA46

1731. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3013; 18 USC 3571; 18 USC 3572; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; ...

CFR Citation: 28 CFR 540.105; 28 CFR 545.11

Legal Deadline: None

Abstract: This document establishes limitations on telephone privileges and commissary privileges for inmates who refuse to participate in the inmate financial responsibility program.

Timetable:

Action	Date	FR Cite
NPRM	01/02/96	61 FR 92
NPRM Comment Period End	03/04/96	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA49

1732. FEDERAL PRISON INDUSTRIES (FPI) WORK PROGRAM: DEPORTATION ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 4126

CFR Citation: 28 CFR 345

Legal Deadline: None

Abstract: This document limits from consideration for any FPI assignment any inmate for whom a final order for deportation, removal, or exclusion has been issued. In addition, any inmate already in an FPI assignment who is currently under a final order for deportation, removal, or exclusion shall be removed immediately and shall be re-assigned to a non-FPI work assignment for which the inmate is eligible. Exceptions to these provisions may be made in instances where the Attorney General has determined that the inmate cannot be removed from the United States because the designated country of removal will not accept the inmate's return.

Timetable:

Action	Date	FR Cite
NPRM	04/30/97	62 FR 23536
NPRM Comment Period End	06/30/97	
Final Action	05/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA57

1733. INCOMING PUBLICATIONS: NUDITY AND SEXUALLY EXPLICIT MATERIAL OR INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; PL 104-208

CFR Citation: 28 CFR 540.70 to 540.72

Legal Deadline: None

Abstract: This rule modifies the Bureau of Prisons rule on Incoming Publications in order to implement the provisions of the Fiscal Year 1997 Omnibus Budget Act (Public Law 104-208) prohibiting use of appropriated funds for distributing or making available to an inmate any commercially published information or material when such information or material is sexually explicit or features nudity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/96	61 FR 57568
Final Action	10/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

DOJ—BOP

Final Rule Stage

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA59

1734. GOOD CONDUCT TIME

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3568; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 523

Legal Deadline: None

Abstract: This document notes the statutory requirements for the awarding of good conduct time, including the Bureau's consideration in instances where the inmate does not have a high school diploma or GED and is not making satisfactory progress toward earning a high school diploma or GED.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/27/97	62 FR 50786
Final Action	06/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA62

1735. DRUG ABUSE TREATMENT AND INTENSIVE CONFINEMENT CENTER PROGRAMS: EARLY RELEASE CONSIDERATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 848; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 524; 28 CFR 550

Legal Deadline: None

Abstract: This document adjusts criteria for receiving a sentence reduction under the drug abuse treatment program and the intensive confinement center program to demonstrate more clearly the discretion available to the Director of the Bureau of Prisons in making sentence reductions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/97	62 FR 53690
Final Action	05/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA66

1736. VISITING: NOTIFICATION TO VISITORS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540.51

Legal Deadline: None

Abstract: This document requires that, in instances where a background investigation is necessary for a proposed visitor, the inmate is responsible for having a release authorization form mailed to the proposed visitor.

Timetable:

Action	Date	FR Cite
NPRM	09/11/97	62 FR 47894
NPRM Comment Period End	11/10/97	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA67

1737. CORRESPONDENCE: RETURN ADDRESS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document ensures that return address information on an envelope used for outgoing inmate correspondence will be completely and consistently filled out by the inmate.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA69

1738. ACCEPTANCE OF DONATIONS

Priority: Info./Admin./Other

Legal Authority: 18 USC 3621; 18 USC 4001; 18 USC 4003; 18 USC 4042; 18 USC 4044; 28 USC 509 to 510

CFR Citation: 28 CFR 504

Legal Deadline: None

Abstract: This document removes obsolete regulations concerning the acceptance of donations.

DOJ—BOP

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA71

1739. COST OF INCARCERATION FEE

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 3621 to 3622

CFR Citation: 28 CFR 505

Legal Deadline: None

Abstract: This document revises the Bureau's regulations to remove obsolete references and redundant provisions.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA75

1740. SMOKING/NO SMOKING AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; EO 13058

CFR Citation: 28 CFR 551.160 to 551.163

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on smoking to limit smoking in Bureau facilities to visibly designated outdoor locations, unless an indoor area has been designated as a smoking area to be used exclusively for authorized religious activities.

Timetable:

Action	Date	FR Cite
NPRM	11/25/98	63 FR 65502
NPRM Comment Period End	01/25/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA79

1741. VICTIM AND/OR WITNESS NOTIFICATION: STATE CUSTODY TRANSFERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.150 to 551.151

Legal Deadline: None

Abstract: This document provides for notification when an inmate is transferred to a State or local detention facility for service of sentence.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA80

1742. ADMINISTRATIVE SAFEGUARDS FOR PSYCHIATRIC TREATMENT AND MEDICATION; MILITARY PRISONERS AND DISTRICT OF COLUMBIA CODE VIOLATORS

Priority: Info./Admin./Other

Legal Authority: 10 USC 876b; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549.43

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on involuntary psychiatric treatment and medication to conform with statutory authority pertaining to military prisoners and District of Columbia (DC) Code violators.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA83

1743. • DESIGNATION OF OFFENSES SUBJECT TO SEX OFFENDER RELEASE NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3565; 18 USC 2568 to 3569; 18 USC 3582; 18 USC 3621 to 3622; 18 USC 4001; 18 USC

DOJ—BOP — Final Rule Stage

4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510

CFR Citation: 28 CFR 571

Legal Deadline: None

Abstract: This document designates various offenses as sexual offenses for purposes of 18 USC 4042(c). The designations ensure that notifications can be made for military offenders, for District of Columbia Code offenders, and for these and other federal inmates with a sex offense in their criminal history.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/16/98	63 FR 69386
Final Action	08/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA85

1744. • CIVIL CONTEMPT OF COURT COMMITMENTS

Priority: Info./Admin./Other

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 522

Legal Deadline: None

Abstract: This document amends regulations on civil contempt of court commitments to note the statutory distinction between the order of service of a sentence for offenses committed before November 1, 1987, and those committed on or after November 1, 1987.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA87

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Long-Term Actions

1745. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Info./Admin./Other

CFR Citation: 28 CFR 540

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/96	61 FR 90
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA39

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Completed Actions

1746. BIRTH CONTROL, PREGNANCY, CHILD PLACEMENT, ABORTION

Priority: Info./Admin./Other

CFR Citation: 28 CFR 551.22 to 551.24

Completed:

Reason	Date	FR Cite
Final Action	02/25/99	64 FR 9429
Final Action Effective	02/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA31

1747. CLASSIFICATION AND PROGRAM REVIEW: TEAM MEETINGS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 524

Completed:

Reason	Date	FR Cite
Final Action	02/25/99	64 FR 9428
Final Action Effective	02/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA64

1748. INMATE WORK AND PERFORMANCE PAY: WORK EVALUATION

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 545.26

Completed:

Reason	Date	FR Cite
Final Action	12/07/98	63 FR 67560
Final Action Effective	12/07/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA74

DOJ—BOP **Completed Actions**

1749. INMATE RECREATION PROGRAMS AND MANUSCRIPTS

Priority: Info./Admin./Other

CFR Citation: 28 CFR 544; 28 CFR 551

Completed:

Reason	Date	FR Cite
Withdrawn	02/02/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA76

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT) **Proposed Rule Stage**

1750. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

Legal Authority: 20 USC 1682 et seq

CFR Citation: 28 CFR 54 (New)

Legal Deadline: None

Abstract: On June 17, 1980, the Department published a proposed regulation to implement the requirements of title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of an individual's sex in federally assisted educational programs. That regulation was never issued in final form. As a result of subsequent statutory amendments, it is necessary to revise the prior proposed title IX regulation and begin a new rulemaking process. The Department's regulation will be published as a common rule with other agencies that need title IX regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Merrily A. Friedlander, Chief, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66560, Washington, DC 20035-6560
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA28

1751. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: In 1991, the Department of Justice published regulations to implement title III of the Americans with Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board is currently in the process of revising ADAAG, and it expects to publish a Notice of Proposed Rulemaking (NPRM) in 1998. In order to maintain consistency between ADAAG and the ADA Standards, the Department anticipates reviewing its ADA regulations during fiscal year 1999. In addition to maintaining the consistency between ADAAG and the Standards, the purpose of these revisions will be to more closely coordinate with voluntary standards, to clarify areas which, through inquiries and comments to the Department's technical assistance phone lines, have been shown to cause confusion, and to reflect evolving technologies in areas affected by the Standards.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 202 307-1198
Fax: 800 514-0383

RIN: 1190–AA44

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1752. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Priority: Other Significant

Legal Authority: 42 USC 12134; 42 USC 12186; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation: 28 CFR 35; 28 CFR 36; 28 CFR 38

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines required for facilities covered by title III -- the ADA Standards for Accessible Design (ADA Standards) -- but did not specifically include guidelines for facilities covered by title II, such as courthouses or prisons. Title II entities now have the option of using the ADA Standards (without certain exceptions applicable only to title III facilities) or another existing standard, the Uniform Federal Accessibility Standards.

The final rule will amend titles II and III to adopt a revised version of the ADA Standards, which incorporates new guidelines for facilities typically covered by title II. The new guidelines were issued as the interim final ADA Accessibility Guidelines (ADAAG) by the Architectural and Transportation Barriers Compliance Board (Access Board) and were published on the same day as the Department's proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31808
NPRM Comment Period End	08/19/94	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: John Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA26

1753. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 12134; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation: 28 CFR 35

Legal Deadline: None

Abstract: This proposed amendment would revise the Department's regulation implementing title II to clarify the requirement for installation of curb ramps at existing pedestrian walkways and to extend the time period for compliance beyond the current deadline of January 26, 1995. This amendment responds to public concerns about the unique and significant capital expense involved in the installation of curb ramps.

The amendment would establish a two-tier system under which public entities would be required to provide access to pedestrian walkways serving government offices, public transportation, public accommodations, places of employment, and the residences of individuals with disabilities by January 26, 2000. Access to existing pedestrian walkways in other areas would be required by January 26, 2005. The proposed rule would require public entities to include a schedule for the implementation of these requirements in their transition plans.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58462
NPRM Comment Period End	01/26/96	
Comment Period Extended to 3/1/96	02/06/96	61 FR 4389
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA36

1754. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES; CHILDREN'S FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12186; 5 USC 301; 28 USC 509; PL 101-336; 28 USC 510

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines but did not specifically include guidelines for facilities designed for children.

This rule amends the ADA Standards for Accessible Design to include guidelines based on children's dimensions and anthropometrics and applies to newly constructed and altered facilities that are designed for use primarily by children. The rule ensures that newly constructed and altered children's facilities are readily accessible to and usable by children with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	07/22/96	61 FR 37964
NPRM Comment Period End	10/21/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738

DOJ—CRT **Final Rule Stage**

Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198
RIN: 1190–AA38

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT) **Long-Term Actions**

1755. AMENDMENT TO NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.101 to 42.112

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA31

1756. AMENDMENT TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.401 to 42.415

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA32

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT) **Completed Actions**

1757. IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 55

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: David H. Hunter
Phone: 202 307-2898
Fax: 202 307-3961
Email: david.h.hunter@usdoj.gov

RIN: 1190–AA39

1758. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES (DETECTABLE WARNINGS)

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 36

Completed:

Reason	Date	FR Cite
Final Action	11/23/98	63 FR 64836
Final Action Effective	12/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John L. Wodatch
Phone: 800 514-0301
TDD: 202 307-1198
Fax: 800 514-0383

RIN: 1190–AA45

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA) **Proposed Rule Stage**

1759. GUIDELINES FOR PROVIDING CONTROLLED SUBSTANCES TO OCEAN VESSELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 871(b)

CFR Citation: 21 CFR 1301.28

Legal Deadline: None

Abstract: DEA is considering whether to propose amending its regulations regarding the supply of controlled substances to ocean vessels to provide a means of supply more consistent with current industry practices for other materials. The decision on whether to propose amendments will be based on the information and comments submitted in response to this notice of proposed rulemaking and DEA's experience with the existing procedures and practices for supplying controlled substances to ocean vessels.

Timetable:

Action	Date	FR Cite
ANPRM	09/18/96	61 FR 49086
ANPRM Comment Period End	11/18/96	
NPRM	09/00/99	

DOJ—DEA **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA Number 142N

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA40

1760. SALE BY FEDERAL DEPARTMENTS OR AGENCIES OF CHEMICALS USABLE TO MANUFACTURE A CONTROLLED SUBSTANCE

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 880; 21 USC 958(f); 21 USC 965

CFR Citation: 21 CFR 1310; 21 CFR 1316

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to provide that a Federal department or agency may not sell from the stocks of the department or agency any chemical which could be used in the manufacture of a controlled substance unless the Administrator of DEA certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance. The proposed rulemaking provides regulatory guidelines and establishes a procedure for prospective bidder and/or broker to appeal if they are aggrieved by DEA's failure to provide such certification.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA47

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA) **Final Rule Stage**

1761. DEFINITION AND REGISTRATION OF DISPOSERS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In years past, most pharmaceutical manufacturers and wholesalers, as a service to their customers, accepted returns of outdated/damaged merchandise. Also, agencies such as DEA and state Boards of Pharmacy accepted surrendered drugs or witnessed their disposal by controlled substance registrants. Over the past several years, environmental concerns and regulations have eliminated many of the disposal options which had been available. As a result, drug producers and government agencies alike are increasingly reluctant to be involved in the disposal process. Due to these factors and the time and resources expended by DEA and manufacturers, DEA is proposing the establishment of this essential link in the legitimate distribution chain.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43732
NPRM Comment Period End	10/23/95	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA 108

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA19

1762. EXEMPTION OF CHEMICAL MIXTURES

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Domestic Chemical Diversion Control Act of 1993 removed the exemption from regulation for chemical mixtures. Chemical mixtures are now regulated, unless specifically exempted by the Administrator. In the proposed rule regarding the implementation of the Domestic Chemical Diversion Control Act of 1993, DEA proposed regulations regarding exemption of chemical mixtures. Based on industry comments, the proposed regulations were subsequently withdrawn for reassessment and consultation with industry. Based on extensive consultations with industry, DEA will publish proposed regulations intended to establish the least possible burden on industry while remaining consistent with the requirements of the law.

Timetable:

Action*	Date	FR Cite
NPRM	09/16/98	63 FR 49506
NPRM Comment Period Extended to 04/16/99	02/12/99	64 FR 7144
NPRM Comment Period End	02/15/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-137

DOJ—DEA

Final Rule Stage

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control
Phone: 202 307-7183

RIN: 1117–AA31

1763. REGISTRATION AND REREGISTRATION APPLICATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In furtherance of the DEA's 1992 final rule regarding the increase of application fees (57 FR 60148), DEA is publishing this explanation of the components of the diversion control program.

Timetable:

Action	Date	FR Cite
Final Rule Republished for Further Comment	12/30/96	61 FR 68624
Comment Period End	03/31/97	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA Number 140P

Agency Contact: Patricia M. Good, Chief Liaison, Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA34

1764. ESTABLISHMENT OF FREIGHT FORWARDING FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 821 to 824; 21 USC 827; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 958(d); 21 USC 965

CFR Citation: 21 CFR 1301; 21 CFR 1304

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to define the term Freight Forwarding Facility and to exempt such facilities from the requirement of registration, in response to industry requests for recognition of such facilities. The proposed amendments will establish the regulatory guidelines under which registrants may utilize a freight forwarding facility while shipping controlled substances to another registrant.

Timetable:

Action	Date	FR Cite
NPRM	12/18/96	61 FR 66637
NPRM Comment Period End	02/28/97	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA Number 143P

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA36

1765. LISTED CHEMICALS; PROPOSED THRESHOLDS FOR IODINE AND HYDROCHLORIC GAS (HYDROGEN CHLORIDE GAS)

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Comprehensive Methamphetamine Control Act of 1996 (MCA) establishes that, effective October 3, 1996, Iodine (in its pure crystal form; mixtures such as tincture of iodine and other household products remain exempt from regulation) and Hydrochloric Gas are List II chemicals under the Controlled Substances Act (CSA). The inclusion of these chemicals under the CSA requires that each regulated person must keep records and make reports as specified in title 21, Code of Federal Regulations part 1310. The MCA applied the recording and reporting requirements to all transactions involving Iodine and Hydrochloric Gas.

This notice proposes to establish a domestic threshold of 0.4 kilograms for iodine, thus providing an exemption for transactions below this level, which would include the vast majority of retail sales. Legitimate commerce in Hydrochloric Gas consists almost exclusively of large volume transactions to commercial customers. However, clandestine methamphetamine laboratories often make use of small volumes of this gas, and, therefore, an effective threshold could not be established. In those rare cases where legitimate users purchase small quantities, principally for research or scientific purposes, the recordkeeping and reporting requirements will apply only to the distributor; the purchasers will not be subject to the requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/30/97	62 FR 51072
NPRM Comment Period End	12/01/97	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-156P

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control
Phone: 202 307-7183
Fax: 202 307-8570

RIN: 1117–AA43

1766. IMPLEMENTATION OF THE METHAMPHETAMINE CONTROL ACT; REGULATION OF PSEUDOEPHEDRINE, PHENYLPROPANOLAMINE, AND COMB. EPHEDRINE DRUG PRODUCTS; REPORTS OF CERTAIN TRANSACTIONS TO NON-REGUL. PERSONS

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 821 TO 824; 21 USC 830; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 951; 21 USC 958

CFR Citation: 21 CFR 1300; 21 CFR 1309; 21 CFR 1310

DOJ—DEA

Final Rule Stage

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to implement the requirements of the Comprehensive Methamphetamine Control Act of 1996 (MCA) establishing pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products as List I chemicals, and the MCA requirement that reports be submitted for certain distributions to nonregulated persons involving pseudoephedrine, phenylpropanolamine, and ephedrine, including drug products containing those chemicals. The MCA establishes pseudoephedrine, phenylpropanolamine, and combination ephedrine products as regulated List I chemicals, and requires that reports of certain distributions to nonregulated persons be reported each month.

To minimize the impact of the new law, DEA is proposing to exempt retail distributors from the registration requirement. This exemption will provide the estimated 750,000 retail distributors with relief from the chemical control requirements of the regulations, including registration. Additionally, the existing exemptions from registration for CSA registrants and for distributors of prescription drug products will help minimize the impact of the requirements on other handlers of the products.

Timetable:

Action	Date	FR Cite
NPRM	10/07/97	62 FR 52294
NPRM Comment Period End	12/08/97	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: DEA number 163P

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA44

1767. TEMPORARY EXEMPTION FROM CHEMICAL REGISTRATION FOR DISTRIBUTORS OF PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE AND PRODUCTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 823; 21 USC 824; 21 USC 830; 21 USC 817(b); 21 USC 875; 21 USC 877; 21 USC 958

CFR Citation: 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: Pursuant to the MCA effective October 3, 1997 persons who distribute pseudoephedrine and phenylpropanolamine drug products shall be subject to the chemical registration requirement. To avoid interruption in the legitimate distribution of the drug products pending promulgation of final regulations DEA is amending its regulations to provide certain temporary exemptions from the registration requirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/17/97	62 FR 53959
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA46

1768. ANHYDROUS HYDROGEN CHLORIDE: CATEGORIES OF DISTRIBUTION REGARDED AS NONREGULATED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Comprehensive Methamphetamine Control Act of 1996 established hydrogen chloride as a List II chemical. In response to comments submitted in connection with DEA's proposed rulemaking to establish a threshold for hydrogen chloride, DEA has determined that regulation of certain types of transactions involving hydrogen chloride is unnecessary for purposes of enforcement of the chemical controls under the Controlled Substances Act. However, exempting the transactions from regulation could not be' accomplished through the system of thresholds. This rulemaking will exempt the transactions from the definition of Regulated Transaction, thus removing them from regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Related to RIN 1117-AA43/DEA-156F Assigned DEA-177I

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control
Phone: 202 307-7183
Fax: 202 307-8570

RIN: 1117–AA48

1769. SPECIAL SURVEILLANCE LIST OF CHEMICAL, PRODUCTS, MATERIALS AND EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-237, sec 205 Comp. Methamphetamine Control Act of 1996

CFR Citation: None

Legal Deadline: None

Abstract: On October 3, 1996, the Comprehensive Methamphetamine Control Act of 1996 (MCA) (PL 104-237) was signed into law. The MCA

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provides for a civil penalty of not more than $250,000 for the distribution of a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, if that distribution was made with reckless disregard for the illegal uses to which such laboratory supply will be put. The MCA defines the term "laboratory supply" as "a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals." The MCA further establishes that there is a rebuttable presumption of reckless disregard at trial if a firm is notified in writing that a laboratory supply sold by the firm has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals and that firm continues to distribute a laboratory supply to the customer. In developing the Special Surveillance List, the DEA consulted with both Federal and State/local law enforcement and forensic laboratory authorities. DEA also considered the legitimate uses and markets for these chemicals and materials.

Although the Special Surveillance List applies to all individuals and firms which distribute the laboratory supplies on the list, there are no record keeping or reporting requirements imposed on these firms. Additionally, the number of chemicals has been limited to those most frequently used in the illicit production of controlled substances. Thus the Special Surveillance List will have a negligible impact on affected parties. The notice informs individuals and firms of the potential use of the items on the list for the production of controlled substances and listed chemicals and it also advises them that civil penalties may be imposed on them if they continue to distribute one or more of the items listed to a person after receiving notification from the DEA that the person has used or distributed the item for use in an illicit laboratory.

Timetable:

Special Surveillance List Notice		
Publication of Notice for Comment	12/01/98	63 FR 66199
Comment Period End	12/31/98	
Publication of Final Notice	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control
Phone: 202 307-7183

RIN: 1117–AA49

DEPARTMENT OF JUSTICE (DOJ) — Proposed Rule Stage
Executive Office for Immigration Review (EOIR)

1770. AUTHORITY OF IMMIGRATION JUDGES TO ISSUE CIVIL MONEY PENALTIES

Priority: Other Significant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 1; 8 CFR 3

Legal Deadline: None

Abstract: This rule proposes to amend the regulations by implementing the statutory authority given to Immigration Judges to sanction by civil money penalty any action or inaction in contempt of the Judge's proper exercise of authority. This statutory authority is derived from section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208 (IIRIRA), signed by President Clinton on September 30, 1996. This rule sets forth the types of conduct for which civil money penalty sanctions may be imposed, the procedures for imposing these sanctions, the affirmative defenses which may excuse the imposition of a civil money penalty sanction, and the procedures for appealing such sanctions. The rule also adds an additional ground for disciplinary sanctions under 8 CFR section 3.52 for engaging in a pattern and practice of conduct which has been found to be in contempt of the Immigration Judge's proper exercise of authority. In addition, this rule amends the definition of "Immigration Judge" in part 1 to reflect the new definition in section 371(a) of IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA18

DEPARTMENT OF JUSTICE (DOJ) — Final Rule Stage
Executive Office for Immigration Review (EOIR)

1771. DISCIPLINE OF ATTORNEYS AND REPRESENTATIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1252b; 8 USC 1362

CFR Citation: 8 CFR 3; 8 CFR 292

Legal Deadline: None

Abstract: This rule amends 8 CFR parts 3 and 292 by changing both the present procedures for disciplining attorneys

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and representatives who practice before the Executive Office for Immigration Review, which includes the Board of Immigration Appeals and the Immigration Courts, and the procedures for disciplining attorneys and representatives who practice before the Immigration and Naturalization Service (INS). This rule also includes a provision which was promulgated as an interim rule on April 6, 1992, pursuant to section 545 of the Immigration Act of 1990, Public Law 101-649 (IMMACT), concerning sanctions against attorneys or representatives who engage in frivolous behavior in immigration proceedings. This rule outlines the authority of EOIR to investigate and impose disciplinary sanctions against attorneys and representatives who practice before its tribunals. The rule clarifies the authority of the INS to investigate complaints regarding attorneys and representatives who practice before the INS and outlines the procedures by which the INS may initiate disciplinary proceedings before EOIR against practitioners who practice before the INS.

Timetable:

Action	Date	FR Cite
NPRM	01/20/98	63 FR 2901
NPRM Comment Period End	03/23/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA13

1772. RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 554; 8 USC 1103; 8 USC 1324a; 8 USC 1324b; 8 USC 1324c

CFR Citation: 28 CFR 68.1 to 54

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), enacted on September 30, 1996, amends the employer sanctions,unfair immigration-related employment practices and document fraud sections of the Immigration and Nationality Act (INA) in several ways (sections 274A, 274B and 274C of the INA, respectively). The Debt Collection Improvement Act mandates that the civil penalties in each of these three sections of the INA be adjusted to reflect inflation. Finally, the Office of the Chief Administrative Hearing Officer has examined its regulations and is making various changes perceived as necessary in light of case-by-case experience since the 1991 amendments to its regulations. All of the changes to the OCAHO regulations set forth herein are designed to make the regulations comport with one of the aforementioned statutes, clarify an existing ambiguity, and/or similarly contribute to the fair and efficient administration of sections 274A, 274B and 274C of the INA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/12/99	64 FR 7066
Interim Final Rule Effective	03/15/99	
Interim Final Rule Comment Period End	04/13/99	
Final Rule	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA17

1773. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: On July 23, 1997, the Service published an interim rule with request for comment (62 FR 39417) concerning adjustment of status applications filed pursuant to section 245(i) of the Act. This interim rule amends the date by which aliens must file and pay for their applications for adjustment of status pursuant to section 245(i) of the Immigration and Nationality Act. Such applications are adjudicated by the Executive Office for Immigration Review, including the Board of Immigration Appeals and the Immigration Courts, or the Immigration and Naturalization Service (Service). This rule also clarifies the procedure for paying for such adjustment applications when filed in conjunction with motions to reopen or reconsider.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/97	62 FR 55152
Interim Final Rule Comment Period End	12/23/97	
Final Rule	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA20

1774. BOARD OF IMMIGRATION APPEALS: STREAMLINING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1324b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec. 2; 3 CFR, 1949 to 1953, Comp, p 1002; PL 105-100, sec 203

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: This proposed rule would establish a streamlined appellate review procedure for the Board of Immigration Appeals. The proposed rule is in response to the enormous and unprecedented increase in the number of appeals being filed with the Board. The rule recognizes that in a significant number of the cases the Board decides, the result reached by the adjudicator below is correct and will not be changed on appeal. In these cases, a single permanent Board Member will be given authority to review the record

DOJ—EOIR **Final Rule Stage**

and affirm the result reached below without issuing an opinion in the case. This procedure will promote fairness by enabling the Board to render decisions in a more timely manner, whole allowing it to concentrate its resources primarily on those cases in which the decision below may be incorrect, or where a new or significant legal or procedural issue is presented. In addition, the proposed rule provides that a single Board Member or the Chief Attorney Examiner may adjudicate certain additional types of cases, motions, or other procedural or ministerial appeals, where the result is clearly dictated by the statute, regulations, or precedent decisions.

Timetable:

Action	Date	FR Cite
NPRM	09/14/98	63 FR 49043
NPRM Comment Period End	11/13/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA22

1775. • SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224 to 1227; 8 USC 1251 to 1252; 8 USC 1362; PL 105-100, sec 202

CFR Citation: 8 CFR 240

Legal Deadline: None

Abstract: This rule amends the regulations of the Executive Office for Immigration Review and the Immigration and Naturalization Service by eliminating the conditional grant process at 8 CFR 240.21, and establishing a permanent procedure for processing suspension of deportation and cancellation of removal cases. This rule is necessary to implement the numerical limitation on suspension of deportation and cancellation of removal and adjustment of status imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/98	63 FR 52134
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule supersedes rule published October 3, 1997, in the Federal Register at 62 FR 51760 through 51762 (RIN 1125-AA19).

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA25

DEPARTMENT OF JUSTICE (DOJ)

Executive Office for Immigration Review (EOIR) **Completed Actions**

1776. RULES CONCERNING CONDITIONAL PERMANENT RESIDENCE FOR ALIEN ENTREPRENEURS IN DEPORTATION PROCEEDINGS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 3

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin
Phone: 703 305-0470

RIN: 1125–AA02

1777. CONDITIONAL GRANTS OF SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 240

Completed:

Reason	Date	FR Cite
Withdrawn - Superseded by RIN 1125-AA25	09/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin
Phone: 703 527-0470

RIN: 1125–AA19

1778. MOTION TO REOPEN: SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 3

Completed:

Reason	Date	FR Cite
Final Action	03/22/99	64 FR 13663
Final Action Effective	03/22/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA23

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Prerule Stage

1779. • SPECIAL IMMIGRANT JUVENILE PETITIONS

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: Advance notice of proposed rulemaking announces the intent of the Immigration and Naturalization Service promulgate regulations relating to special immigrant juveniles and solicits recommendations from interested persons and entities.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1948-98

Agency Contact: Ann Palmer, Adjudications Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AF35

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1780. REVISED GROUNDS OF INADMISSIBILITY, WAIVERS FOR IMMIGRANTS AND NONIMMIGRANTS, AND EXCEPTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1157; 8 USC 1158; 8 USC 1159; 8 USC 1160; 8 USC 1182; 8 USC 1183; 8 USC 1184

CFR Citation: 8 CFR 103; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 210; 8 CFR 212; 8 CFR 214; 8 CFR 232; 8 CFR 235; 8 CFR 240; 8 CFR 241; 8 CFR 245; 8 CFR 245a; 8 CFR 248; 8 CFR 249; ...

Legal Deadline: None

Abstract: This regulation covers the grounds of inadmissibility applicable to those aliens seeking admission to the United States temporarily or permanently. On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) which substantially revised most grounds of inadmissibility under section 212 of the Act and the waivers available to both immigrants and nonimmigrants. The Immigration and Naturalization Service will publish regulations implementing these new grounds of inadmissibility and new/revised waiver provisions. In addition, this rule will incorporate the changes made to the grounds of inadmissibility and waivers provided for in the Immigration Act of 1990 (IMMACT 90), Pub. L. 101-649; the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA), Pub. L. 102-232; the National Institutes of Health Revitalization Act of 1993, Pub. L. 103-43; the Immigration and Nationality Technical Corrections Act of 1991 (INTCA), Pub. L. 103-416; and the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. 104-132.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1232) Comment Period End 2/5/90	01/05/90	55 FR 438
NPRM	05/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1413-92

Consolidated INS Rules 1304, RIN 1115-AC01; 1235, RIN 1115-AB39; 1232, RIN 1115-AB45; and 1648, RIN 1115-AD62.

8 CFR 274a, 8 CFR 299.

Agency Contact: Sophia Cox, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AB45

1781. INSPECTION OF PERSONS APPLYING FOR ADMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1353a; 8 USC 1353b; 31 USC 9701

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule provides for the reimbursement to the INS for certain direct salary costs and administrative overhead charges in its overtime billing for arriving trains and vessels under 8 USC 1353b, for all immigration inspection services rendered to crews, and for services rendered to passengers not exempt under 8 USC 1353b or 1356(g).

Timetable:

Action	Date	FR Cite
NPRM	12/22/92	57 FR 60741
NPRM Comment Period End	01/21/93	
2nd NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1512-92

Agency Contact: Brenda Garland, Office of Financial Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6010, Washington, DC 20536
Phone: 202 616-7683

RIN: 1115–AD17

DOJ—INS

Proposed Rule Stage

1782. UPDATE TO TRANSIT WITHOUT VISA (TWOV) LISTING

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This interim rule amends regulations by removing the list of countries ineligible to participate in the Transit Without Visa (TWOV) Program at 212.1(f)(2) and (3). Instead, the Service proposes to publish and update future lists of countries ineligible to TWOV by FEDERAL REGISTER notice. The rule also establishes new criteria for determining countries whose nationals are ineligible for the TWOV program. This rule will allow the Service to waive the passport and visa requirement for citizens of former Soviet Socialist Republics and former Warsaw Pact countries who request transit privileges through the United States under the TWOV program. This rule proposes that the citizens of the following countries now restricted from using the TWOV program be allowed to apply for TWOV privileges: Albania, Armenia, Azerbaijan, Bulgaria, Croatia, the Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Kyrgystan, Latvia, Lithuania, The Former Yugoslav Republic of Macedonia, Moldova, Mongolia, Poland, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam. This rule also makes citizens of certain other countries ineligible for TWOV privileges because of that country's past abuse of the TWOV program, high nonimmigrant visa refusal rate by the department of State, instability or insurrection, lack of reciprocity, high level of crime and/or narcotics production, state sponsor of terrorism, or restrictions imposed by the President of the United States because the entry of its citizens would be detrimental to the interests of the United States. Therefore the citizens of the following countries would be added to the list of countries restricted from using the TWOV program for the aforementioned reasons: Angola, Burma, Burundi, Central African Republic, Congo (Brazzaville), Nigeria, Sierra Leone, Somalia, and Sudan. Lastly, this rule amends the Service regulations to reflect changes to the Immigration and Nationality Act by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 which changed section 238 of the Act to new section 233 of the Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1696-95

Negotiations are under way between the Department of State and the Immigration and Naturalization Service.

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD96

1783. EMPLOYMENT AUTHORIZATION DOCUMENT APPLICATIONS AND PROCESS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: A final rule (INS No. 1399-96) introducing and authorizing centralized production of a new more secure and fraud-resistant EAD Card or Form I-766 was published in the Federal Register at 61 FR 46534 on September 4, 1996. Centralized production of this new EAD card will be performed by one or more INS Service Centers. Also, an employment authorization document (EAD) application and proposed rule is planned pending Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) regulatory initiatives and related policy actions. The proposed rule will provide a more efficient process for centralized production of the new EAD card.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1707-95 The employment authorization document (EAD) applications and process proposed rule has been pending for some time due to document reduction issues. The Service published a proposed rule (I-9) on 2/2/98 at 63 FR 5287. The remaining policy issues on the I-765 proposed rule are expected to be worked out during the next few months. With refocused resources, the Service is optimistic and is working to meet a December 1999 publication date for the I-765 proposed rule.

Agency Contact: Robert Wiemann, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AE06

1784. INSPECTION OF PERSONS APPLYING FOR ADMISSION; TRANSIT WITHOUT VISA (TWOV) AND INTERNATIONAL-TO-INTERNATIONAL AGREEMENTS LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: This notice proposes that carriers must charge and collect a user fee from every International-to-International (ITI) passenger arriving in the United States, except those individuals exempted under section 286(e)(1) of the Immigration and Nationality Act (Act). Furthermore, this notice informs concerned parties that the Service shall increase to $2500 from $500 the amount of liquidated damages imposed on carriers for failure to timely transport any alien brought to the United States under the Immediate and Continuous Transit Agreement, better known as the Transit Without Visa (TWOV) Agreement, on Form I-426, or under the International-to-International (ITI) Agreement, formerly known as the Immediate and continuous Transit Agreement (with provisions for control of uninspected passengers and In-Transit Lounge Use) and also known as the In-Transit Lounge (ITL)

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Proposed Rule Stage

Agreement. This notice also notifies carriers that the Service is amending both the TWOV and ITL Agreements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1757 Changes to section 235 by IIRIRA of 1996 requires regulations to be altered.

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7499

RIN: 1115–AE37

1785. DEFINITION OF THE TERM "LAWFULLY PRESENT" FOR PURPOSES OF ELIGIBILITY FOR PUBLIC BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252B; 8 USC 1304; 8 USC 1356; 31 USC 9701; EO 12356; 47 FR 14874 to 15557; 3 CFR 1982 comp.; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: Section 401(a) of the Personal Responsibility and Work Reconciliation Act of 1996 (PRWORA) provides that, with limited exceptions, only qualified aliens, as defined under section 431, may receive certain Federal public benefits. Section 401(b)(2) provides an exception which allows aliens who are "lawfully present in the United States" as determined by the Attorney General to receive Social Security benefits under title II of the Social Security Act. PRWORA, and other laws, use the term "lawfully present" in other benefit-related contexts as well.

The interim final rule published September 6, 1996 amended the Immigration and Naturalization Service (Service) regulations to define the term "an alien who is lawfully present in the United States" so that the Social Security Administration may determine which aliens are eligible for benefits under title II of the Social Security Act. It is necessary to define "lawfully present" for broader purposes than just the title II benefits. Therefore, rather than issue a final rule pertaining to title VI only, the Service intends to publish a proposed rule covering all other applications of the term as well. The resulting final rule, after notice and comment, will include title II within the rule's broader coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47039
Interim Final Rule Comment Period End	11/05/96	
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: INS No. 1792-96

Agency Contact: Miriam Hetfield, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street, Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE51

1786. CORPORATE REORGANIZATIONS (MERGERS AND ACQUISITIONS) AND E, H, L NONIMMIGRANT CLASSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214.1(h)

Legal Deadline: None

Abstract: The Service solicits comments on establishing policy and administrative procedure for simplifying the processing of nonimmigrant temporary workers involved in mergers, acquisitions consolidations or other corporate restructurings. Streamlining Service Center procedures in this respect is in the public interest in light of increased numbers of corporate reorganizations anticipated in the future.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1797-96

Agency Contact: Katherine A. Lorr, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 353-8177
Fax: 202 514-0198

RIN: 1115–AE55

1787. PETITION FOR EMPLOYMENT CREATION ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1183; 8 USC 1184; 8 USC 1186a; 8 USC 1186b; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226

CFR Citation: 8 CFR 204; 8 CFR 216; 8 CFR 235

Legal Deadline: None

Abstract: The Service solicits comments on necessary policy and administrative procedure for resolving current regulatory concerns regarding immigrant investors. (INS No. 1798-98)

The Service will also solicit comments on proposed regulations for regional center participation in the Immigrant Investor who seek to invest in approved regional centers. This role is obtaining significant pre-clearance comment and is subject to the results of the agency's review of the Immigrant Investor Pilot Program. (INS No. 1969-98)

Timetable:

Action	Date	FR Cite
NPRM INS No. 1798-96	05/00/99	
Final Rule INS No. 1798-96	07/00/99	
NPRM INS No. 1969-98	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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Government Levels Affected: None

Additional Information: This rule will be divided into two separate rulemakings, INS No. 1798-98 pertaining to the petition for employment- creation aliens and the other INS No. 1969-98 pertaining to regional centers. Both rules will have forms attached.

Agency Contact: Katharine A. Lorr, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 353-8177
Fax: 202 514-0198

RIN: 1115–AE56

1788. FILING FACTUAL STATEMENTS ABOUT ALIEN PROSTITUTES

Priority: Other Significant

Legal Authority: 18 USC 2424; PL 104-208

CFR Citation: 28 CFR 94

Legal Deadline: None

Abstract: On September 30, 1996, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) was enacted. This law not only amended significant portions of title 8 of the United States Code, but also changed the provisions of title 18 United States Code (Crimes and Criminal Procedures). Because section 325 amends 18 USC, the Immigration and Naturalization Service will publish an implementing regulation dealing with the filing of statements by individuals who keep, maintain, control, support or harbor alien prostitutes.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1810-96)	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1810-96

Agency Contact: Elizabeth L. Dolan, Senior Special Agent, Headquarters Investigations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-2998

RIN: 1115–AE60

1789. NONIMMIGRANT OVERSTAYS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1201; 8 USC 1202; 8 USC 1221; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1258; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214.2; 8 CFR 214.2(f); 8 CFR 236; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 632 of IIRIRA concerns authorized stay, voiding/cancellation of visas and eligibility for readmission to the United States as a nonimmigrant. The INS will amend current regulations to provide for the exclusion of nonimmigrants who have previously over stayed their nonimmigrant status in the United States to reflect the 3-year and 5-year bars to admission specified at section 222(g) of the Immigration and Nationality Act as amended by IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1812-96)	06/00/99	
Final Rule (INS No. 1812-96)	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re INS No. 1812-96

Agency Contact: Donna Crump, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AE62

1790. F-1 VISA ABUSERS AND FOREIGN STUDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1258; 8 USC 1362; PL 104-208

CFR Citation: 8 CFR 214.1; 8 CFR 214.2 (f); 8 CFR 214.3; 8 CFR 214.4; 8 CFR 221.1; 8 CFR 235; 8 CFR 236; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will amend current regulations governing F-1 foreign students and the schools authorized to enroll F-1 students. The purpose is to bar F-1 eligibility and status from attendance at a public elementary school and publicly funded adult education programs. In addition, this rulemaking will establish the reimbursement requirements and 12 month limit for F-1 eligibility and status to attend an INS approved public secondary school. The rulemaking will implement the statutorily mandated foreign student tracking provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re INS No. 1813-96

Agency Contact: Sophia Cox, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE63

1791. EMPLOYMENT VERIFICATION BY EMPLOYERS THAT ARE MEMBERS OF A MULTI-EMPLOYER ASSOCIATION

Priority: Other Significant

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The INS will publish amendatory regulations regarding when an employer that is a member of a multi-employer association employing an individual

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under a collective bargaining agreement entered into between one or more employee organizations and the multi-employer association may rely upon a Form I-9 completed for the individual by a previous employer that is a member of the same multi-employer association.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Rule INS No. 1817-96	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re INS No. 1817-96; PL 104-208, title 4

Agency Contact: Marguerite Przbylski, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE67

1792. USE OF PAROLE FOR HUMANITARIAN REASON OR SIGNIFICANT PUBLIC BENEFIT AND REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212

Legal Deadline: NPRM, Statutory, September 11, 1997.

Abstract: Changes to the current regulations are necessitated by section 602 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. This section has reworded certain parole authority by stipulating parole on a case-by-case basis for urgent humanitarian reasons or significant public benefit. Furthermore, this section mandates a Report to Congress stating numbers of such parolees, commencing on January 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1840-97

This rule effects the following section of the I&NA - section 212, as amended by sections 602 IIRIRA.

Agency Contact: James Kicfer, Acting, Director Parole Unit, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000D, Washington, DC 20536
Phone: 202 305-2455

RIN: 1115–AE68

1793. COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM, PORT PASSENGER ACCELERATED SERVICE SYSTEM (PORTPASS) PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 2869q; PL 104-208

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will publish amendatory regulations to remove restrictions currently in place which will limit the locations where the Service can implement dedicated commuter lanes. In addition, the proposed rule will incorporate other projects designed to enhance border security and effective traffic management at Ports-of-Entry. Finally, the regulations may adjust the fee structure in order to administer these projects.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1820-96)	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re INS No. 1820-96; Pub. L. 104-208, title I.

Agency Contact: Thomas C. Campbell, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 4214, Washington, DC 20536
Phone: 202 305-9246

RIN: 1115–AE71

1794. REGULATIONS PERTAINING TO BATTERED ALIENS AND TO MAIL ORDER BRIDE BUSINESSES, AS MANDATED BY IIRIRA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1641(c); PL 104-208

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) included a number of provisions relating to battered aliens and to mail order bride businesses. At present, INS anticipates rulemaking in the following areas.

INS No. 1845-97 is necessitated by the section 501 of IIRIRA, which provides certain types of public benefits for those aliens who have made a prima facie case for eligibility pursuant to the INS' interim rule on self-petitions by battered aliens, published at 61 FR 13061 (March 26, 1995; INS No. 1705-95). This new interim rule will define what constitutes a prima facie case.

INS No. 1838-97, an advance notice of proposed rulemaking to solicit public input into the regulation of certain functions of the international matchmaking industry (also referred to as "mail order bride businesses"), as required by section 652 of IIRIRA, was published on 7/16/97 (62 FR 38041).

The Service is currently working with DOJ on the Trafficking in People Task Force to develop a cohesive policy in this area.

Timetable:

Action	Date	FR Cite
ANPRM-INS No. 1838-97 Comments Due 09/15/97	07/16/97	62 FR 38041
Interim Rule-INS No. 1845-97	11/13/97	62 FR 60769
NPRM-INS No. 1838-97	05/00/99	
Final Rule-INS NO. 1845-97	06/00/99	
Final Rule-INS No. 1838-97	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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Additional Information: INS No. 1838-97 In addition, the Service was asked to conduct a study of mail-order managers. This report to Congress may impact the rule-making.

Agency Contact: Karen Fitzgerald, Staff Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE77

1795. PUBLIC CHARGE BOND PILOT PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1183; PL 104-208

CFR Citation: 8 CFR 213

Legal Deadline: Final, Statutory, November 1999.

Abstract: This rule will amend the Immigration and Naturalization Service regulations by naming five district offices of the Service which will establish and conduct a pilot program to require aliens to post a bond in addition to the affidavit requirements under section 213A of the Immigration and Nationality Act and the deeming requirements under section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This rule will establish the criteria and procedures for certifying bonding companies for participation in the program and the debarment of any such company that fails to pay a bond. It will also establish the criteria for setting the amount of the bond. This rule will stipulate that the pilot program will terminate after 3 years of operation.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1843-97)	05/00/99	
Final Rule (INS No. 1843-97)	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1843-97; PL 104-208, title 5, Secs. 502 and 564.

Agency Contact: Miriam Hetfield, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

Lisa Roney, Policy Analyst, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6052, Washington, DC 20536
Phone: 202 514-3242

RIN: 1115–AE78

1796. PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1251; 8 USC 1253; 8 USC 1255; 8 USC 1330; 8 CFR 2

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: This rule establishes an administrative process whereby criminal aliens in State custody convicted of nonviolent offenses may be deported prior to completion of their sentence to imprisonment pursuant to: section 241(a)(4)(B) of the Immigration and Nationality Act, as amended by section 438 of the Antiterrorism and Effective Death Penalty Act and section 305(a)(4)(B) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1848-97)	09/00/99	
Final Action (INS No. 1848-97)	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: INS No.1848-97

Agency Contact: Joan S. Lieberman, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE83

1797. CLARIFICATION OF AGE REQUIREMENTS FOR FINGERPRINTING NATURALIZATION APPLICANTS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1443; 8 USC 1447; 8 CFR 2.1

CFR Citation: 8 CFR 316

Legal Deadline: None

Abstract: This proposed rule amends Immigration and Naturalization Service regulations relating to requirements for fingerprinting naturalization applicants. This rule is necessary to clarify the age at which naturalization applicants are required to be fingerprinted. The rule requires naturalization applicants 18 age or older to be fingerprinted in connection with their applications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: INS No. 1860-97

Agency Contact: Ann Palmer, Staff Officer, Office of Naturalization Operations, Department of Justice, Immigration and Naturalization Service, 801 I Street NW., Room 900, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE86

1798. CONTROL OF ALIENS DEPARTING FROM THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 8 CFR 215

Legal Deadline: None

Abstract: IIRIRA requires the Service to implement an arrival/departure management system by October 1, 1998. This regulation will implement that system by requiring that all aliens seeking to enter the United States on or after that date, unless otherwise exempted by Service regulation, be in possession of a machine readable travel document acceptable to the Service. The regulation will establish a

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requirement that every person seeking to depart from the United States must travel through a Service designated Port-of-Departure and must conform to Service procedures prior to or upon departure. The regulation also will establish penalties for persons who fail to comply with the requirements of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Additional Information: INS No. 1869-97

Agency Contact: Andrew Taub, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-3019
Fax: 202 514-8345

RIN: 1115–AE89

1799. EN ROUTE INSPECTIONS AND REIMBURSEMENT FOR IMMIGRATION AND NATURALIZATION SERVICE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356(i)

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to define an en route inspection. The rule will also notify all affected parties that the Service will begin to bill cruise ship, train, and bus lines or other modes of transportation, or their designated shipping agents or representatives, for all expenditures of government funds which the Service obligates in connection with the performance of en route inspections on board transportation carriers. This action is necessary in order for the Service to more accurately account for the costs associated with providing special immigration inspection services on an en route basis, and to ensure their full recoupment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1784-96

Agency Contact: Catherine Paler-Amaya, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AE98

1800. CHANGE IN BUSINESS PRACTICES: NON-ACCEPTANCE OF CASH AS REMITTANCE FOR FEES AND APPLICATIONS IN IMMIGRATION AND NATURALIZATION SERVICES OFFICES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5103; 31 USC 4(c)(1)

CFR Citation: 8 CFR 103.7

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations that govern payment methods for fees and applications by eliminating the acceptance of cash as an acceptable form of payment. This rule clarifies that the Service will only accept payments by credit card, personal check, certified check or money order in all offices, except where access to alternative payment methods is limited and where payment by cash remains the preferable method.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl Kaminski, Chief, Travel and Cash Management Section, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 307-2879
Fax: 202 514-7860

RIN: 1115–AF07

1801. EXAMINATIONS FEE ACCOUNT SCHEDULE—SMALL VOLUME APPLICATIONS

Priority: Other Significant

Legal Authority: PL 82-137; PL 100-459; PL 101-515; PL 101-576; 8 USC 1356; 31 USC 9701

CFR Citation: 8 CFR 103.7

Legal Deadline: None

Abstract: This rule proposes to adjust the fee schedule of the Immigration Examinations Fee Account for four low volume applications which are the Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant; Form N-300, Application to File Declaration of Intention; Form N-336, Request for Hearing on a Decision in Naturalization Procedures; and Form N-470, Application to Preserve Residence for Naturalization Purpose. The fee adjustments are necessary to comply with Federal statutes and Federal cost accounting standards. These statutes and standards require Federal Agencies to charge fees for specific services that provide a private benefit that does not accrue to the public. Federal Agencies are required to review their fees bi-annually to ensure that the fees charged recover the full cost to the Government for providing specific services. Implementation of this rule will ensure that sufficient funds are available to the Federal Government to provide the services for applications and petitions.

Timetable:

Action	Date	FR Cite
NPRM INS No. 1909-98	05/00/99	
Final Rule INS No. 1909-98	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1909-98

Agency Contact: Paul Schlesinger, Fee Policy and Rate Setting Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6240, Washington, DC 20536
Phone: 202 616-0563

RIN: 1115–AF10

DOJ—INS

Proposed Rule Stage

1802. JURISDICTIONAL CHANGE FOR THE LOS ANGELES AND SAN FRANCISCO ASYLUM OFFICES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations to change the jurisdiction for the Los Angeles Asylum Office to include the State of Hawaii and the Territory of Guam. Asylum claims filed by people residing in the State of Hawaii and the Territory of Guam will no longer be handled by the San Francisco Asylum Office.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1949-98)	05/00/99	
Final Rule (INS No. 1949-98)	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1949-98

Agency Contact: Marta Rothwarf, Asylum Officer, Office of International Affairs, Department of Justice, Immigration and Naturalization Service, 111 Massachusetts Avenue NW., 3rd Floor, Washington, DC 20001
Phone: 202 305-2792

RIN: 1115–AF18

1803. POWERS OF THE ATTORNEY GENERAL TO AUTHORIZE STATE OR LOCAL LAW ENFORCEMENT OFFICERS TO CARRY OUT IMMIGRATION ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 8 USC 1101; 8 USC 1103; 8 USC 1201

CFR Citation: 28 CFR 65

Legal Deadline: None

Abstract: In order to provide a more effective and efficient response to a mass migration event, this interim rule implements provisions in the Immigration and Nationality Act allowing the Attorney General to authorize any State and local law enforcement officer to perform certain functions related to the enforcement of the immigration laws during the period of an actual or imminent mass influx of aliens. This rule would place designated State/local law enforcement officers under the direction of the INS when enforcing immigration law. This rule also allows the Commissioner of Immigration to enter into advance written agreements with State and local law enforcement officials setting forth the terms and conditions of the functions to be performed during a Federal response to a mass influx of aliens, including reimbursement of expenses and ties such reimbursement to the Immigration Emergency Fund as the primary source of such funding.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: INS No. 1924

Agency Contact: George Waldroup, Field Operations, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-4567

RIN: 1115–AF20

1804. PROGRESSIVE CLEARANCE STOPOVERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231.1; 8 CFR 231.4

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations by establishing passenger and carrier requirements with regard to progressive clearance and stopovers. This includes passenger and carrier obligations and liabilities and the charging and collection of a user fee for each subsequent inspection of stopover passengers. This rule is intended to facilitate travel while continuing to ensure the welfare, safety and security of the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: INS No. 1930-98

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7499
Fax: 202 514-8345
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AF23

1805. DOCUMENTARY REQUIREMENTS FOR RETURNING RESIDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1203; 8 USC 1225; 8 USC 1257

CFR Citation: 8 CFR 211

Legal Deadline: None

Abstract: This rule proposes to amend INS regulations to specify how an alien admitted for permanent residence, on returning to the United States, may prove that he or she is not to be considered an applicant for admission. This rule is necessary to implement section 101(a)(13)(c) of the Act and to clarify the responsibility for carriers who transport to the United States aliens who claim to be to be returning residents. This rule will ensure that aliens who present themselves as lawful permanent residents are properly documented as such.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1932-98)	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: INS No. 1932-98

Agency Contact: Una Brien, Director National Fines, National Fines Office, Department of Justice, Immigration and

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Proposed Rule Stage

Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 305-7060
Fax: 202 305-7049

RIN: 1115–AF26

1806. • AVAILABILITY OF MATERIAL UNDER FREEDOM OF INFORMATION ACT AND PRIVACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 552; 8 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1103; 8 USC 1201; 8 USC 1252

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This revised regulation is necessary to amend the Immigration and Naturalization Service regulations by providing procedures implementing the new provisions of the Electronic Freedom of Information Act (EFOIA) Amendments of 1996. New provisions implementing EFOIA require that we maintain, and provide to the public, a record in either paper or electronic format; maintain an electronic reading room; and comply with the timing of responses to requests. This regulation reflects current Service procedures for the public to request and obtain access to Service records through the Freedom of Information Act and Privacy Act. It is being updated to include the handling of requests referred from another agency to ensure that requesters are not penalized by waiting in another agency's backlog, and reflects the Department of Justice's updated cost for calculating and changing fees. It further contains new provisions that implement the new Federal discretionary release policy.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No.1942-98

Agency Contact: Mildred Carter, FOIA/PA Program Specialist, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-1722

RIN: 1115–AF32

1807. • EFFECT OF UNEXCUSED FAILURE TO APPEAR FOR A SCHEDULED ASYLUM INTERVIEW WITH AN ASYLUM OFFICER ON ELIGIBILITY FOR EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2; 8 USC 1101; 8 USC 1329a

CFR Citation: 8 CFR 208; 8 CFR 274a

Legal Deadline: None

Abstract: On March 6, 1997, the Service published an interim rule to implement the asylum provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The interim regulation amended provisions regarding the effect of unexcused failure to appear for an asylum interview or hearing before an immigration judge on eligibility for employment authorization and also provided that unexcused failure to appear may result in dismissal of an asylum application on eligibility for employment authorization. This rule amends the current interim rule to clarify that dismissal of an asylum application will result in ineligibility for asylum-based employment authorization.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joanna Ruppel, Asylum Officer, International Affairs, Department of Justice, Immigration and Naturalization Service, 111 Massachusetts Avenue NW., ULLICO 3rd Floor, Washington, DC 20001
Phone: 202 305-2741

RIN: 1115–AF38

1808. • H-1B NONIMMIGRANT WORKER COMPLAINTS REGARDING U.S. EMPLOYER VIOLATIONS UNDER THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1184; 8 USC 1258; 8 USC 1324; 8 USC 1255

CFR Citation: 8 CFR 214; 8 CFR 248; 8 CFR 274a

Legal Deadline: None
Section 413 of Public Law 105-277 was effective upon enactment, October 21, 1998.

Abstract: The Attorney General and Secretary of Labor shall devise a process under which an H-1B nonimmigrant may file a complaint regarding the U.S. employer for intimidation, coercion, threats, blacklisting, or other discrimination. The regulatory action will describe the process and enable the H-1B worker to remain and seek authorization to work in the United States for a temporary period.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1974-99

Agency Contact: Jacquelyn A. Bednarz, Special Assistant, Office of Programs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7309, Washington, DC 20536
Phone: 202 514-8223
Fax: 202 305-0134

RIN: 1115–AF40

1809. • AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214.2(h); 8 CFR 103.7

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Legal Deadline: None

Abstract: This rule proposes to amend the INS regulations to implement the remaining statutory provisions contained in the ACWIA. The proposed rule will contain a definition of U.S. employer and will discuss the new penalties for misstatement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1975-99

Agency Contact: John Brown, Adjudication Officer, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 616-7435
Fax: 202 514-0198

RIN: 1115–AF41

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Final Rule Stage

1810. REDUCTION OF THE NUMBER OF ACCEPTABLE DOCUMENTS AND OTHER CHANGES TO EMPLOYMENT VERIFICATION REQUIREMENTS (SECTION 610 REVIEW)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: Final, Statutory, March 31, 1998.
An interim rule, published Sept. 30, 1997, makes the minimal changes required by statute. The provisions will remain in effect until completion of this rulemaking.

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 412(a) of IIRIRA requires a reduction in the number of documents that may be accepted in the employment verification process. Section 412(d) clarifies the applicability of section 274A to the Federal Government. Section 610 of the Regulatory Flexibility Act requires agencies to review rules that have a significant economic impact on a substantial number of small entities every 10 years. The Service is conducting this review in conjunction with IIRIRA implementation. The proposed rulemaking published 2/12/98 implements sections 212(a) and (d) of IIRIRA and proposes other changes to the employment verification process identified through that review. A revised Form I-9 was included with the proposed rulemaking.

The comment period closed on 4/3/98. The Service is analyzing the comments. It should be noted that this action supersedes the previously published regulatory plan titled "Reduction in the Number of Documents Accepted for Employment Verification." In order to avoid confusion, this regulatory action is being referenced under the current RIN, which captures all prior actions related to employment verification.

INS No. 1947-98, Interim Rule published 02/09/99 (64 FR 6187) The "Receipt Rule" permits employees to present their employer certain types of "receipts" in lieu of a document listed on the Form I-9. (Previously under RIN 1115-AE94 which was withdrawn and placed under AB73 due to the relationship of the regulations.)

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1399 Comment Period End 12/23/93	11/23/93	58 FR 61846
NPRM-INS No. 1339S Comment Period End 07/24/95	06/22/95	60 FR 32472
Notice-INS No. 1713 INS No. 1713 Applications Due 01/29/96	11/30/95	60 FR 61630
Appl. Extension Through 3/8/96 Notice Pilot Demonstration Program-INS No. 1713	02/06/96	61 FR 4378
Final Rule INS No. 1399E	09/04/96	61 FR 46534
Interim Final Rule INS No. 1818	09/30/97	62 FR 51001
NPRM-INS No. 1890-97 Comment Period End 04/03/98	02/02/98	63 FR 5287
Interim Rule INS No. 1947-98	02/09/99	64 FR 6187
Final Rule INS No. 1980-97	05/00/99	
Final Rule INS No. 1947-98	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: The deadline for implementing section 412(a) of IIRIRA was extended to March 31, 1998 by P.L. 105-54. This rulemaking has been delayed by the need to coordinate implementation with other provisions of IIRIRA, by several complex policy and regulatory issues that have taken time to resolve, and by the review required by section 610 of the Regulatory Flexibility Act.

INS No. 1890-97; PL 104-208, title 4.

INS Nos. 1399 and 1399S-94, Control of Employment of Aliens, Supplemental Rule; Action for INS No. 1399 and 1399S is canceled as a result of IIRIRA requirements.

INS No. 1399E is an extracted portion of INS No. 1399, published separately to allow for the production of a new, more secure Employment Authorization Document.

INS No. 1713-95, Demonstration Project for Electronic I-9s, contact Bob Reed, (202) 514-2998.

Interim Rule INS No. 1818 was published on 9/30/97 at 62 FR 51001 to maintain the status quo as much as possible until the Service completes the more comprehensive document

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reduction initiative designated by INS No. 1890-97.

Agency Contact: Linda Dodd-Major, Director, Office of Business Liaison, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 305-2529

RIN: 1115–AB73

1811. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: CONDITIONAL RESIDENTS AND FIANCE(E)S

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This rule clarifies procedures for fiance(e)s who marry after the 90-day period of fiance(e) admission has ended; and also clarifies that persons who have had conditional residence terminated are not eligible to adjust status.

Timetable:

Action	Date	FR Cite
NPRM	08/20/96	61 FR 43028
NPRM Comment Period End	10/21/96	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1353-91

Agency Contact: Suzy Nguyen, Staff Officer, Programs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AC70

1812. NONIMMIGRANT CLASSES; B VISITOR FOR BUSINESS OR PLEASURE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282; 8 CFR 2; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule incorporates into current regulations the information contained in the Service's Operations Instructions (OIs) and the interpretive note material to Volume 9 of the Department of State's Foreign Affairs Manual (FAM) relating to the B-1 (visitor for business) and B-2 (visitor for pleasure) classifications, with appropriate modifications due to the passage of the Immigration Act of 1990 and the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991. This rule clarifies the criteria for according B-1 or B-2 classification to applicants for admission to the United States. In addition, by incorporating the applicable portions of the instructions presently contained in the OIs and the FAM notes into regulations such information will be more readily available to the public.

Timetable:

Action	Date	FR Cite
NPRM	11/05/93	58 FR 58982
NPRM Comment Period End	12/06/93	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1441-93

Agency Contact: Robert P. Wiemann, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AC89

1813. PETITIONS FOR EMPLOYMENT-BASED IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186A; 8 USC 1255; 8 CFR 2; 8 USC 1153(b)

CFR Citation: 8 CFR 204; 8 CFR 214

Legal Deadline: None

Abstract: This proposed rule will make changes to the regulations governing employment-based immigrant petitions. These regulations were promulgated in November of 1991. Since then, the Service has discovered certain provisions in the regulations which need clarification or revision. The Service also needs to incorporate certain changes made by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/06/95	60 FR 29771
NPRM Comment Period End	08/07/95	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1633-93

Agency Contact: John Brown, Adjudications Officer, Office of Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AD55

1814. ADMISSION OF CERTAIN NURSES SEEKING NONIMMIGRANT CLASSIFICATION UNDER THE H-1A CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The H-1A nonimmigrant classification, which provided for the temporary admission of registered nurses to the United States, expired on September 1, 1995. However, in response to concerns that geographic locations in the United States continued to experience a shortage of registered nurses after the sunset date of the H-1A classification, the president signed Pub. L. 104-302 which provided for the granting of an extension of stay until September 30, 1997, to certain H-1A nurses. On March 7, 1997, the Immigration and naturalization Service published an interim rule in the Federal Register at 62 FR 10422-10425 in order to amend the Service's

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regulations to reflect the provisions contained in the Pub. L. 104-302.

Since the H-1A classification and the extension period under Pub. L. 104-302 have now expired, this final rule removes all references to the H-1A classification.

Timetable:

Action	Date	FR Cite
Interim Final Rule Comment Period End 12/06/94	10/07/94	59 FR 51101
Interim Final Rule	03/07/97	62 FR 10422
Interim Final Rule-INS No. 1806 Comment Period End 5/06/97	03/07/97	62 FR 10422
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1663-94.

Cross Reference INS No. 1654-94, RIN 1115-AD66

Agency Contact: John Brown, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AD74

1815. FEES FOR PARTICIPATION IN DEDICATED COMMUTER LANES AT SELECTED PORTS OF ENTRY; COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1182; 8 USC 1183; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: These rules provide for the collection of a fee at the time of application for participation in a Dedicated Commuter Lane (DCL), instead of at the time of approval of the application. The DCL program is a pilot project established at selected land border ports of entry to expedite the transborder movement of eligible, pre-screened, low-risk groups through designated traffic lanes. The first rule clarifies the requirements for the use of the DCL. (INS No. 1675). A second rule will set forth the fee required of participants in order to cover the technological costs (INS No. 1794).

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1675 Eff. 9/29/95; Comment Period End 11/28/95	09/29/95	60 FR 50386
Interim Rule-INS No. 1794	10/11/96	61 FR 53303
Final Rule-INS No.1675-94 Effective 10/16/96	10/16/96	61 FR 53830
Final Rule-INS No.1794-96	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1675 and 1794-96

Agency Contact: Thomas C. Campbell, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 305-9246

RIN: 1115–AD82

1816. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE; TEMPORARY REMOVAL OF CERTAIN RESTRICTIONS ON ELIGIBILITY

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 217; 8 CFR 245

Legal Deadline: None

Abstract: This rule allows certain persons in the United States to adjust status to that of a lawful permanent resident if the application was filed before November 25, 1997 or, if the adjustment application is based on a visa petition or labor certification filed between November 26, 1997 and January 14, 1998. These persons, although eligible for immigrant visa issuance abroad, have been barred from adjustment of status because they had entered the United States without inspection or had violated the conditions of temporary nonimmigrant status. The rule allows prospective lawful permanent or conditional residents to avoid the difficulties and expense of travel to a U.S. consulate or embassy abroad. It continues to penalize these violators of the immigration laws by requiring most adult applicants to pay an additional sum in excess of the standard adjustment filing fee. After adjusting status they may lawfully live and work in the United States and may later be eligible to seek United States citizenship through naturalization. This rule also implements the new section 245(k) of the INA which permits certain employment-based immigrants who are out of status to file for adjustment under section 245(a) of 8 CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 10-1-94; Com. Due 12-6-94	10/07/94	59 FR 51091
Interim Final Rule Correction	10/20/94	59 FR 53020
Interim Rule INS No. 1676-94 Effective 07/23/97	07/23/97	62 FR 39417
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1676 EOIR Interim Rule published 9/30/97 at 62 FR 50999. For more information, see RIN 1125-AA20.

Agency Contact: Pearl Chang, Branch Chief, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AD83

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1817. NONIMMIGRANT CLASSES; S CLASSIFICATION; LAW ENFORCEMENT INITIATIVES; ALIEN WITNESSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299; 8 CFR 103

Legal Deadline: None

Abstract: Two regulatory initiatives dealing with the processing of alien witnesses have been prepared by the INS. INS No. 1683-94 provides the application and approval process for the admission of aliens in S nonimmigrant classification. It provides guidance to the various law enforcement agencies needing alien witnesses and informants to complete critical law enforcement initiatives in the United States. INS No. 1728-95 establishes a fee for the processing of Form I-854, Inter-Agency Alien Witness and Informant Record, for Law Enforcement Agency (LEA) requests for S nonimmigrant classification for eligible alien witnesses and informants. The fee recovers the costs of the processing of requests for immigration benefits, and is needed to comply with specific Federal immigration laws and Federal user fee statute and regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1683 Eff. 8/25/95; Comment Period End 12/4/95	08/25/95	60 FR 44260
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52068
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52248
Final Rule-INS No. 1683	10/00/99	
NPRM-INS No. 1728	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1683-94; and INS No. 1728-95. Form I-854 is in the initial stages of being revised and the effect of IIRIRA is being assessed. Once the form is revised, the fee can be reassessed and the fee regulation will move forward.

Agency Contact: Katherine A. Lorr, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD86

1818. 90-DAY MODIFIED INSPECTION OF ALIEN CREW MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1184; 8 USC 1258; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 235; 8 CFR 252

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (the Service) regulations by establishing a procedure whereby bona fide alien crewmen actively serving on board a maritime ferry or a maritime commercial cruise ship may, at the discretion of the Service, be inspected one time during every 90-day period during which the cruise ship conducts operations between Ports-of-Entry (POEs) in the United States and a foreign country. This rule is necessary in order for the Service to formally codify the long-standing practice of authorizing certain maritime crewmen landing privileges in the United States without further inspection during the intervening time between 90-day full-crew inspections.

Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43676
NPRM Comment Period End	10/14/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1695-95

Agency Contact: Catherine Paler-Amaya, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD95

1819. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT; SELF-PETITIONING FOR CERTAIN BATTERED OR ABUSED ALIEN SPOUSES AND CHILDREN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2; PL 103-322

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule allows battered and abused spouses and children of United States Citizens and Lawful Permanent Residents to petition for immigrant classification. The consent of the abuser would not be required.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/26/96	61 FR 13061
Interim Final Rule Effective	03/26/96	
Interim Final Rule Comment Period End	05/28/96	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1705-95

Agency Contact: Karen FitzGerald, Staff Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE04

1820. MISCELLANEOUS MODIFICATIONS TO NATURALIZATION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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Legal Authority: 8 USC 1103; 8 USC 1433; 8 USC 1443; 8 USC 1448

CFR Citation: 8 CFR 322; 8 CFR 337

Legal Deadline: None

Abstract: These regulations implement provisions of the Immigration and Nationality Technical Amendments Act of 1994.

INS No. 1712 implements changes to 8 CFR 322 by establishing procedures for a U.S. citizen parent to apply for the expeditious naturalization of his or her children born outside the U.S. It allows certain U.S. parents who do not meet physical presence requirements to use the physical presence of their U.S. parent (the child's U.S. grandparent). The purpose of the rule is to relax the requirements of U.S. citizenship for children born to or adopted by U.S. citizens abroad.

INS No. 1764 reserves the authority to schedule all administrative oath-taking ceremonies with the District Director. The rule will not impact the Immigration Judges' authority to administer the oath at ceremonies conducted by the Service.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1712	09/10/96	61 FR 47690
Final Rule-INS No. 1712	10/00/99	
Final Rule-INS No. 1764	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1712 Contact, Jody Marten

INS No. 1764 Contact, Susan Arroyo

Agency Contact: Jody Martin, Staff Officer, Office of Naturalizations Operations, Department of Justice, Immigration and Naturalization Service, 801 I Street NW., Room 900, Washington, DC 20536
Phone: 202 305-4770

RIN: 1115–AE07

1821. CONDITIONS ON NONIMMIGRANT STATUS; DISCLOSURE OF INFORMATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule removes the current regulatory language conditioning an alien's nonimmigrant status on his or her providing full and truthful information requested by the INS, regardless of the requested information's materiality. This rule would clarify that the nonimmigrant's stay is conditioned on, among other things, the provision of all information deemed necessary to ensure that the alien has acquired, and is maintaining, lawful nonimmigrant status during the entire period of his or her stay, or is eligible to receive any other benefit under the INA.

Timetable:

Action	Date	FR Cite
NPRM	06/14/96	61 FR 30188
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1732-95

Agency Contact: Miriam Jawitz Hetfield, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE17

1822. EMPLOYER SANCTIONS MODIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 1

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: The Service is considering further changes to streamline the verification and enforcement process requirements related to the Employer Sanctions provisions of the Immigration Reform and Control Act.

INS No. 1738 will allow INS to issue and serve a warning Notice upon an alleged violator after the INS has determined that a person or entity has violated section 274a of the Act. This rule will also allow interested parties to electronically generate blank copies of the Employment Eligibility Verification Form, (Form I-9).

The INS Policy Council decided to withdraw the proposed rule (INS Rule No. 1737), that would allow the INS to discontinue its practice of providing any person or entity required to retain forms I-9 with at least 3 days notice prior to an inspection of the form I-9.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1738	10/07/96	61 FR 52235
Correction (Final Rule)	10/29/96	61 FR 55840
Final Rule-INS No. 1738	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: INS Nos. 1737 and 1738.

Agency Contact: Angelo Sorrento, Special Agent, Investigations Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AE21

1823. REGULATIONS PERTAINING TO ADJUDICATIONS PROCESSING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1155; 8 USC 1160; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1186b; 8 USC 1187

CFR Citation: 8 CFR 101; 8 CFR 103; 8 CFR 204; 8 CFR 210; 8 CFR 212; 8 CFR 214; 8 CFR 216; 8 CFR 240; 8 CFR 245a; 8 CFR 249; 8 CFR 336

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Legal Deadline: None

Abstract: In response to the President's direction to each agency to undertake a review of its regulations for the purpose of reducing the regulations or, when possible, rendering them more readable and comprehensible, the Immigration and Naturalization Service engaged in a thorough line-by-line review of all regulations in title 8 of the Code of Federal Regulations (8 CFR). As a result, the Service is amending its regulations consistent with the President's directive by publishing a series of separate rulemakings in the Federal Register. Over the course of the next two fiscal years, these rulemakings will address all parts of 8 CFR by updating obsolete references; by eliminating portions dealing with terminated programs; by removing language relating to purely procedural matters involving only internal Service processes; by elimination of references which unnecessarily duplicate language contained in the statute or in other portions of the regulations; and by streamlining awkward and confusing language.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: INS Nos. 1753-96; 1754-96 and 1789-96 Additional Legal Authority: 8 USC 1201; 8 USC 1221; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252 note; 8 USC 1252b; 8 USC 1254; 8 USC 1254a note; 8 USC 1255; 8 USC 1255 note; 8 USC 1259; 8 USC 1281; 8 USC 1282; 8 USC 1304; 1356; 8 USC 1443; 8 USC 1447; 8 USC 1448; 31 USC 9701; EO 12356; 47 FR 14874; 47 FR 15557; 3 CFR; 1982 Comp., 166; 8 CFR 2.

Agency Contact: Lawrence J. Weinig, Director, Field Manual Project Office, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO 4th Floor, Washington, DC 20536
Phone: 202 616-7425

RIN: 1115–AE31

1824. ORPHAN PETITIONS; PETITIONS TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR PREFERENCE IMMIGRANT; CHANGE IN DEFINITION OF CHILD

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-51

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends the Service's existing regulations by replacing the phrase "legitimate child" with "child born in wedlock." This change also makes the criteria for immigration, based on orphan classification and on certain other parent-child relationships, much easier to understand and apply.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1761 (Additional INS contact Ramonia Law-Hill)

Agency Contact: Ann Palmer, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE33

1825. INSPECTION AND EXPEDITED REMOVAL OF ALIENS; DETENTION AND REMOVAL OF ALIENS; CONDUCT OF REMOVAL PROCEEDINGS; ASYLUM PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1154; 8 USC 1158; 8 USC 1181; 8 USC 1182; 8 USC 1183; 8 USC 1184; 8 USC 1185; 8 USC 1186a; 8 USC 1187

CFR Citation: 8 CFR 1; 8 CFR 3; 8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 211; 8 CFR 212; 8 CFR 213; 8 CFR 214; 8 CFR 216; 8 CFR 217; 8 CFR 221; 8 CFR 223; ...

Legal Deadline: Final, Statutory, March 1, 1997.
The statute requires the Attorney General to promulgate implementing regulations by March 1, 1997.

Abstract: Many of the provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) became effective April 1, 1997. Some provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) that were not superseded by IIRIRA became effective November 1, 1996. On March 6, 1997, INS and EOIR published an interim rule revising the asylum process; providing a mechanism for the determination and review of certain applicants who demonstrate a credible fear of persecution if returned to their own country; defining the inspection and admission process including new expedited removal procedures for aliens attempting to enter the United States through fraud or misrepresentation apprehension, detention, and removal of aliens; addressing conduct of removal proceedings; and revising many other sections of the regulations to conform with the new laws. INS is currently reviewing comments received on the interim rule prior to issuing a final rule.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1788-96) Comment Period End 2/3/97	01/03/97	62 FR 444
Interim Final Rule (INS No. 1788-96) Comment Period End 7/15/97	03/06/97	62 FR 10312
Interim Final Rule Correction (Effective 04/01/97)	04/01/97	62 FR 15362
Interim Final Rule (INS No. 1788-96) Correction	04/09/97	62 FR 17048
Final Rule (INS No. 1920-98) Correction	07/22/98	63 FR 39217
Final Action (INS No. 1788-96)	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1788-96 and 1790-96

CFR CITATIONS CONT: 8 CFR 232, 233, 234, 235, 236, 237, 238, 239, 240,

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241, 242, 243, 244, 245, 246, 248, 251, 252, 253, 274a, 286, 287, 299, 316, 318 and 329.

LEGAL AUTHORITY CONT: 8 USC 1186b, 1187, 1201, 1203, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1251, 1252, 1252note, 1252a, 1252b, 1253, 1254, 1254a note, 1255, 1256, 1258, 1259, 1281, 1282, 1304, 1324a, 1330, 1356, 1357, 1362, 1429, 1440, 1443, 1447; 28 USC 509, 510, 1746; 31 USC 9701; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

INS Rule No. 1920-98 makes a technical correction to the services regulations that govern the documentary requirements for immigrants and corresponding waivers.

Agency Contact: Linda Loveless, Assistant Chief Inspector, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7489

Peggy Philbin, General Counsel, Executive Office of Immigration Review, Department of Justice, Immigration and Naturalization Service, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1115–AE47

1826. AGREEMENT PROMISING NON-DEPORTATION OR OTHER IMMIGRATION BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 28 USC 515; 28 USC 516; 28 USC 517; 28 USC 518; 28 USC 519

CFR Citation: 28 CFR 0.197

Legal Deadline: None

Abstract: This final rule requires federal prosecutors, law enforcement agencies, and other officials to obtain written consent from the Immigration and Naturalization Service when entering into a plea agreement, cooperation agreement, or similar agreement promising an alien favorable treatment by the Service. This rule ensures that favorable treatment under the Immigration laws is extended only after a full consideration of its affect on overall immigration enforcement, alleviates confusion over the authority to enforce the immigration laws, and prevents the Service from being bound by agreements undertaken without its knowledge and approval. The rule codifies a long-standing position of the Department of Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/96	61 FR 48405
Comment Period End	11/12/96	
Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1791-96

Agency Contact: Cristina Hamilton, Chief Enforcement Division, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895
Fax: 202 514-0455

RIN: 1115–AE50

1827. PETITIONING REQUIREMENTS FOR THE H NONIMMIGRANT CLASSIFICATION

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214; 8 CFR 274

Legal Deadline: None

Abstract: This rule proposes to amend the INS regulations to accommodate the need of certain U.S. workers. Specifically, this rule proposes to amend the Service's regulations with respect to the submission of itineraries and labor condition applications.

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30419
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: INS No. 1769-96

Agency Contact: John W. Brown, Adjudications Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AE52

1828. CANADIAN BORDER BOAT LANDING PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 235.1(e)

Legal Deadline: None

Abstract: This rule clarifies and standardizes procedures for the application, issuance and use of Form I-68, Canadian Border Boat Landing Card.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/97	62 FR 47749
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1796-96

Agency Contact: Jennifer Sava, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 307-1942

RIN: 1115–AE53

1829. AFFIDAVITS OF SUPPORT ON BEHALF OF IMMIGRANTS

Priority: Other Significant

Legal Authority: 8 USC 1183a; PL 104-208; PL 104-193; 8 CFR 2

CFR Citation: 8 CFR 213a; 8 CFR 299

Legal Deadline: Final, Statutory, November 1999.

Abstract: This rule will amend the INS regulations by establishing that an individual (the sponsor) who files an affidavit of support under section 213A of the INA on behalf of an intending immigrant incurs an obligation that may be enforced by a civil action. This rule also specifies the requirements that Federal, State, or local agencies or

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private entities must meet to request reimbursement from the sponsor for provision of means-tested public benefits and provides procedures for imposing the civil penalty provided for under section 213A of the INA, if the sponsor fails to give notice of any change of address. This rule is necessary to ensure that sponsors of aliens meet their obligations under section 213A of the INA.

Timetable:

Action	Date	FR Cite
Interim Final Rule - INS No. 1807-96; Comment Period End 02/7/98	10/20/97	62 FR 52346
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re INS No. 1807-96; PL 104-208, title IV and PL 104-193, title IV

Agency Contact: Miriam Hetfield, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

Lisa Roney, Policy Analyst, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6052, Washington, DC 20536
Phone: 202 353-0249

RIN: 1115–AE58

1830. SUSPENSION OF PRIVILEGE TO TRANSPORT ALIENS TO THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252

CFR Citation: 8 CFR 103; 8 CFR 273

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) added a provision to the Immigration and Nationality Act that allows INS to suspend a commercial airline's privilege to transport aliens to the United States if the carrier has a record of bringing in aliens who have fraudulent documents. After consultation with other interested government agencies, INS is proposing to implement appropriate standards and procedures governing the use of this power to suspend a carrier's privilege to transport aliens to the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/23/98	63 FR 56869
Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: This rule has required coordination with several other government agencies. Re INS No. 1809-96

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Department of Justice, Immigration and Naturalization Service, 1400 Wilson Blvd., Suite 210, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AE59

1831. RIGHTS OF HABITUAL RESIDENCE BETWEEN THE UNITED STATES AND THE GOVERNMENTS OF THE MARSHALL ISLANDS, MICRONESIA AND PALAU

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204; 8 CFR 214.2

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The statute, among other things, requires that INS issue regulations governing the rights of "habitual residence" under 1) the Compact of Free Association between the United States and the Governments of the Marshall Islands and the Federated States of Micronesia; and 2) the Compact of Free Association between the United States and the Government of Palau.

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30415
NPRM Comment Period End	08/03/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re INS No. 1811-96

Agency Contact: Robert Wiemann, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AE61

1832. LIMITING LIABILITY FOR CERTAIN TECHNICAL AND PROCEDURAL VIOLATIONS OF PAPERWORK REQUIREMENTS

Priority: Other Significant

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This rule will implement section 411 of IIRIRA which allows employers that have made a good faith attempt to comply with a particular employment verification requirement to correct technical or procedural failures to meet the requirement before such failures are deemed to be violations of the Act. This rule will explain the good faith rule, define the term technical or procedural failure to meet such requirement, and explain how an employer can correct technical or procedural failures.

Timetable:

Action	Date	FR Cite
NPRM	04/07/98	63 FR 16909
NPRM Comment Period End	06/08/98	
Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re INS No. 1819-96 and Public Law 104-208, title IV.

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Agency Contact: Marguerite Przybylski, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE70

1833. INELIGIBILITY OF CERTAIN JUVENILE OFFENDERS FOR FAMILY UNITY PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1225a note; PL 104-208

CFR Citation: 8 CFR 236.23

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will publish a regulation implementing a new basis of ineligibility for Family Unity benefits for certain juvenile offenders.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1823-96)	05/00/99	
Final Rule (INS No. 1823-96)	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re INS No. 1823-96; PL 104-208, title III, section 38; and this regulation will affect 8 CFR 242.5 that will be renumbered 8 CFR 236.25.

Agency Contact: Joanna London, Attorney, Office of the General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE72

1834. CERTIFICATION OF CERTAIN HEALTH CARE WORKERS

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5); PL 104-208

CFR Citation: 8 CFR 204; 8 CFR 212; 8 CFR 214.2; 8 CFR 245; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 343 provides that certain foreign health care workers are inadmissible unless they present a certificate from the Commission on Graduates of Foreign Nursing Schools (CGFNS) (or another equivalent certifying agency as determined by the Attorney General) to the Department of State, or in the case of adjustment of status, to the Attorney General, in order to enter the United States. The certificate must address such issues as licensure, training, language skills, and education. The Service published an interim rule (INS 1879) to address shortages in key health care occupations on October 14, 1998 and plans to issue additional interim rules as necessary to address other occupations or credentialing organizations. The Service will be publishing a proposed rule (INS 1824) to fully implement these requirements, including a designation of covered health care occupations, the procedures and requirements for certifying organizations, the content of the certificates, and the process for presentation of the certificates. The Service will issue an interim rule (INS 1979) to grant temporary authority to the Commission on Graduates of Foreign Nursing Schools (CGFNS) to issue certificates to aliens coming to the U.S. to perform labor in the occupations of occupational therapists and physical therapists.

Timetable:

INS 1824
NPRM 09/00/99
Final Rule 03/00/00
INS 1879
Interim Final Rule 10/14/98 (63 FR 55007)
Interim Final Rule Effective 12/14/98
INS 1979
Interim Final Rule 06/00/99
Final Rule 03/00/00

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Brown, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AE73

1835. ADJUSTMENT OF STATUS FOR CERTAIN POLISH OR HUNGARIAN PAROLEES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1182

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: Section 646 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (PL 104-208) requires the Attorney General to establish procedures by which certain nationals of Poland or Hungary who were paroled into the United States from 1989 to 1991 may apply for adjustment to permanent resident status in the United States. An implementation policy memorandum and an interim rule are needed to make this new law effective.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1825-97)	05/23/97	62 FR 28314
Final Rule (INS No. 1825-97)	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pearl Chang, Staff Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE74

1836. ESTABLISHMENT OF PREINSPECTED AUTOMATED LANE (PAL) PROGRAM AT IMMIGRATION AND NATURALIZATION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulation by establishing a Preinspected Automated Lane (PAL) Program for the use of eligible persons and vehicles at immigration checkpoints within the United States.

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Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments by 06/17/97	04/18/97	62 FR 19024
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1830-97

Agency Contact: William Carter, Border Patrol Agent, Office of Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4226, Washington, DC 20536
Phone: 202 514-3072

RIN: 1115–AE80

1837. SURRENDER OF ALIENS ORDERED REMOVED FROM THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1245a note

CFR Citation: 8 CFR 240.13; 8 CFR 240.14; 8 CFR 240.15; 8 CFR 240.16

Legal Deadline: None
Although there is no formal legal deadline, the rule is an integral part of implementing PL 104-208.

Abstract: This rule requires aliens subject to a final order of removal to surrender to the INS. This rule also establishes procedures for surrender, and bars persons violating these procedures from obtaining discretionary immigration benefits.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47205
NPRM Comment Period End	11/03/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1847-97

Agency Contact: Kyle Latimerett, Assistant General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 616-2604

RIN: 1115–AE82

1838. AMENDMENT OF THE REGULATORY DEFINITION OF ARRIVING ALIEN

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 CFR 2

CFR Citation: 8 CFR 1

Legal Deadline: None

Abstract: This rule amends the INS regulations by changing the regulatory definition of an arriving alien. Under section 235(b)(1)(A)(i) of the INA, which was effective on April 1, 1997, certain arriving aliens are subject to expedited removal procedures. The existing regulatory definition of arriving aliens includes parolees. As a matter of policy, the Department has decided that it is appropriate to exempt from the new expedited removal procedures aliens who were paroled into the United States before April, 1997. This rule clarifies that aliens who were paroled before April 1, 1997 will not be subjected to expedited removal. The rule also makes several changes in the wording of 1.1(q) to use language that is clearer and more consistent with the wording of the new statute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/98	63 FR 19382
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re: INS No. 1868-97

Agency Contact: Linda Loveless, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7489

RIN: 1115–AE87

1839. NEW RULES REGARDING PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Services regulations that govern asylum and withholding of removal. This rule clarifies that, in cases where the applicant has established past persecution, the Attorney General may deny asylum in the exercise of discretion, if it is established by a preponderance of the evidence that the applicant does not face a reasonable possibility of future persecution in the applicant's country of nationality or, if stateless, the applicant's country of last habitual residence.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1865-97)	06/11/98	63 FR 31945
NPRM Comment Period Extended to 09/11/98	08/04/98	63 FR 41478
Final Rule (INS No. 1865-97)	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1865-97; AG Order No. 2164-98

Agency Contact: Christine Davidson, Senior Policy Analyst, Asylum Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Attn: Ullico Bldg. 3rd Floor, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AE93

1840. ADJUSTMENT OF STATUS, CONTINUED VALIDITY OF NONIMMIGRANT STATUS AND UNEXPIRED EMPLOYMENT AUTHORIZATION FOR APPLICANTS MAINTAINING NONIMMIGRANT H OR L STATUS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1255; 8 USC 1281; 8 USC 1282; 8 CFR 2

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CFR Citation: 8 CFR 214; 8 CFR 245

Legal Deadline: None

Abstract: Over the last several years, the Service has issued numerous policy statements regarding its position on employment authorization, advance parole, and extension of nonimmigrant status for certain skilled nonimmigrant workers who have filed for adjustment to permanent resident status. This rulemaking intends to: (1) codify existing Service policy statements by incorporating them into the Service's regulations, and (2) eliminate the requirement for service permission for overseas travel for adjustment applicants who are maintaining H-1 or L nonimmigrant status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1881-97

Agency Contact: Frances A. Murphy, Adjudications Officer, Office of Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE96

1841. VERIFICATION OF ELIGIBILITY FOR PUBLIC BENEFITS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1642

CFR Citation: 8 CFR 104

Legal Deadline: NPRM, Statutory, November 3, 1997. Final, Statutory, February 22, 1998.
Statutory deadline to promulgate regulations for state and local public benefits was previously 11/03/98. Deadlines for regulations for Federal public benefits is 02/22/98.

Abstract: This regulatory action requires entities (other than nonprofit charitable organizations) providing Federal public benefits (with certain exceptions) to verify by examining documents and using an INS automated verification system that alien applicants are eligible for the benefits under Federal benefit reform legislation. This rule also sets forth provisions by which State or local governments can verify whether aliens applying for State or local public benefits are eligible for such benefits under Federal laws. In addition, the rule establishes procedures for verifying the U.S. nationality of individuals applying for benefits in a fair and nondiscriminatory manner.

The Interim Verification Guidelines were published as a notice on 11/17/97 at 62 FR 61344. The guidelines set forth procedures that benefit providers can use to verify citizenship, qualified alien status, and eligibility under title IV of the PRWORA prior to issuance of the final regulations.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1902-98)	08/04/98	63 FR 41662
Final Rule (INS No. 1902-98)	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: INS # 1902-98 should be referenced for any inquiries concerning this rulemaking action.

Agency Contact: John Nahan, Director, SAVE Branch, Files and Forms Management Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Ullico Bldg., 4th Floor, Washington, DC 20536
Phone: 202 514-2317
Fax: 202 514-9981

RIN: 1115–AE99

1842. FINGERPRINTING APPLICANTS AND PETITIONERS FOR IMMIGRATION BENEFITS; ESTABLISHING A FEE FOR FINGERPRINTING BY THE SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 299; 8 CFR 316; 8 CFR 335

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations relating to fingerprinting applicants and petitioners for benefits under the Immigration and Nationality Act by: canceling the Designated Fingerprinting Service program; requiring applicants and petitioners for benefits to be fingerprinted at either a Service Office, a State or local law enforcement agency, or at a United States consular or military office; establishing a fee for fingerprinting by the Service; and requiring confirmation from the Federal Bureau of Investigation (FBI) that a full criminal background check has been completed before adjudication of a naturalization application is completed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/98	63 FR 12979
Interim Final Rule Effective	03/29/98	
Interim Final Rule Correction	04/09/98	63 FR 17489
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: INS No. 1891-97

Agency Contact: Ann Palmer, Adjudications Officer, Office of Naturalization, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 935, Washington, DC 20536
Phone: 202 307-0891

RIN: 1115–AF03

1843. ADJUSTMENT OF STATUS; CERTAIN NATIONALS OF NICARAGUA AND CUBA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 245; 8 CFR 3; 8 CFR 240; 8 CFR 247a; 8 CFR 299

Legal Deadline: None

Abstract: This rule implements the Nicaraguan Adjustment and Central American Relief Act (NACARA) by establishing procedures for certain nationals of Nicaragua and Cuba who have been temporarily residing in the United States to become lawful permanent residents of this country. It allows them to obtain lawful permanent resident status without applying for an immigrant visa at a United States

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consulate abroad and waives many of the usual requirements for this benefit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/98	63 FR 27823
Correction (INS No. 1893-97)	06/29/98	63 FR 35309
Correction (INS No. 1893-97)	07/21/98	63 FR 39121
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No.1893-97

Agency Contact: Suzy Nguyen, Adjudications Officer, Adjudications Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AF04

1844. PROCESSING, DETENTION, AND RELEASE OF JUVENILES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1362

CFR Citation: 8 CFR 236.3

Legal Deadline: None
The court-approved settlement agreement in Flores v. Reno (C.D. C al.) required INS to publish regulations last July. However, the changes brought by AEDPA and IIRIRA delayed issuance of regs.

Abstract: The rule amends the Immigration and Naturalization Service regulations by establishing the procedures for processing alien juveniles from custody and the detention of unreleased juveniles in state-licensed programs and detention facilities. This rule also governs the transportation and transfer of juveniles in Service custody.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1906-98)	07/24/98	63 FR 39759
NPRM Comment Period End	09/22/98	
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1906-98.

Agency Contact: John J. Pogash, Juvenile Coordinator (Headquarters), Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3008, Washington, DC 20536
Phone: 202 514-1970

RIN: 1115–AF05

1845. SPECIAL IMMIGRANT JUVENILE—SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-119

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends the Service's existing regulations by clarifying the special immigrant juvenile provisions. This rule limits the juvenile courts from considering dependency orders that would qualify juveniles for special immigrant status, without the expressed consent of the Attorney General. This rule also limits the jurisdiction of juvenile courts to consider the custody status for placement of an alien in the actual custody of the Attorney General, unless the Attorney General specifically consents to such jurisdiction.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ann Palmer, Staff Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF11

1846. IMMIGRANT PETITIONS; RELIGIOUS WORKERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule will amend the Service's regulations by providing that all persons, other than ministers, immigrating to the United States as religious workers must immigrate or adjust status to permanent resident before October 1, 2000. This rule implements section 101(a)(27)(c)(ii) of the Immigration and Nationality Act (Act), which provides that religious workers who have 2 years of membership and experience in a religious occupation or vocation may qualify as special immigrant religious workers. By statute, this immigrant category for religious workers expires on October 1, 2000. This rule codifies, in regulatory form, the October 1, 2000 statutory deadline.

Timetable:

Action	Date	FR Cite
Final Rule (INS No. 1436-94)	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1436-94

Agency Contact: John Brown, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF12

1847. SUSPENSION OF DEPORTATION AND SPECIAL RULE CANCELLATION OF REMOVAL FOR CERTAIN NATIONALS OF GUATEMALA, EL SALVADOR, AND FORMER SOVIET BLOC COUNTRIES

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1186a; 8 USC 1201b; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1251; 8 USC 1252 note; 8 USC 1252a

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 208; 8 CFR 299

Legal Deadline: None

Abstract: On November 19, 1997, President Clinton signed the Nicaraguan Adjustment and Central American Relief Act (NACARA),

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enacted as title 2 of Pub. L. No. 105-100, 111 Stat. 2160, 2193 (1997) (as amended by Technical Corrections to the Nicaraguan Adjustment and Central American Relief Act, Pub. L. 105-139, Stat. 2644, (1997)). Section 203 of NACARA provides that certain Guatemalans, Salvadorans, and nationals of former soviet Bloc countries are eligible to apply for cancellation of removal under the standards for suspension of deportation that existed prior to enactment of the Illegal Immigration and Immigrant Responsibility Act of 1996 (IIRIRA).

To implement the new cancellation of removal provisions efficiently and expeditiously, the Attorney General has decided to integrate adjudication of cancellation of removal requests into the affirmative asylum process. Traditionally, only immigration judges have had authority to grant suspension of deportation and, after implementation of IIRIRA, cancellation of removal, to eligible aliens in the context of deportation or removal proceedings. The proposed rule authorizes asylum officers to grant cancellation of removal under section 203 of NACARA to certain qualified aliens who have asylum applications pending with the Service, and to their qualified dependents. The rule also sets forth the process for the new adjudication program.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1915-98)	11/24/98	63 FR 64895
NPRM Comment Period End (INS No. 1915-98)	01/25/99	
Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1915-98

Agency Contact: Joanna Ruppel, Asylum Officer, International Affairs, Department of Justice, Immigration and Naturalization Service, 111 Massachusetts Avenue NW., Ullico Bldg., 3rd Floor, Washington, DC 20001
Phone: 202 305-2741

RIN: 1115–AF14

1848. AUTHORIZING SUSPENSION OF EMPLOYMENT AUTHORIZATION REQUIREMENTS ON THE BASIS OF SEVERE ECONOMIC HARDSHIP FOR F-1 STUDENTS AND EMERGENT CIRCUMSTANCES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule amends the regulations of the INS applying to on-campus employment, off-campus employment authorization, and duration of status for nonimmigrant F-1 students. The rule permits the commissioner to suspend some or all of the requirements for on-campus or off-campus employment where emergent circumstances exist as provided through notice in the Federal Register. The rule also amends the regulations to provide that an F-1 student who carries less than a full course of study as a result of this special employment authorization will be deemed to be maintaining status for the duration of the authorization, as long as the student carries a minimum course load of 6 credit hours if the student is an undergraduate, or 3 credit hours if the student is in graduate school.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1914-98)	06/10/98	63 FR 31872
Final Rule (INS No. 1914-98)	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1914-98 (Employment Authorization for Certain F-1 Nonimmigrant Students Whose Means of Financial Support Comes From Indonesia, South Korea, Malaysia, Thailand, or the Philippines)

Agency Contact: Morrie R. Berez, Adjudications Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service
Phone: 202 353-8177

RIN: 1115–AF15

1849. CHANGE IN BUSINESS PRACTICES: COLLECTION OF INTEREST, PENALTIES, AND HANDLING CHARGES FOR DELINQUENT PAYMENT OF EMPLOYER SANCTIONS FINES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1324(b)

CFR Citation: 8 CFR 274

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by subjecting employers who are delinquent in paying employer sanctions fines, to charges for interest, handling costs, and penalties associated with late payments of the fines. The Service has previously imposed fines against employers who violate section 274A of the Immigration and Nationality Act, but has yet to charge the employer for interest and handling costs, or to impose penalties for failure to promptly pay the fines. Accordingly, to ensure consistency and comprehensive implementation of the provisions contained in the Debt Collection Improvement Act (DCIA), the Service will begin to issue bills for the fines assessed against employers who violate section 274a of the Act, and impose charges for interest, handling costs, and penalties associated with late payments of the fines.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: INS No. 1875-97

Agency Contact: Jim Landolt, Chief, Debt Management Branch, Office of Financial Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 353-0229

RIN: 1115–AF17

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1850. ELIMINATION OF IMMIGRATION AND NATURALIZATION SERVICE ISSUED MEXICAN AND CANADIAN BORDER CROSSING CARDS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1201; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1304; 8 USC 1356; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 235; 8 CFR 247; 8 CFR 264; 8 CFR 286; 8 CFR 299

Legal Deadline: Final, Statutory, October 1, 1999.

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to eliminate the use of Form I-175, Application for Nonresident Alien Canadian Border Crossing Card, and Form I-190, Application for Nonresident Alien Mexican Border Crossing Card. It also terminates the production of Form I-185, Nonresident Alien Canadian Border Crossing Card, and Form I-586, Nonresident Alien Mexican Border Crossing Card. In addition, this rule prohibits the use of Form I-186 (previous version of Mexican Border Crossing Card), Form I-185 and Form I-586 Border Crossing Cards (BCC's) after September 30, 1999, or whatever other date may be enacted for required use of a card containing a machine readable biometric identifier for entry (such as the fingerprint or handprint of the alien). Under the provisions of this rulemaking, an alien seeking entry into the United States by presentation of a BCC must complete a biometric verification upon each entry.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1931-98

Agency Contact: Paul M. Morris, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 305-2970
Fax: 202 514-8345

RIN: 1115–AF24

1851. FILING OF PROPOSALS FOR DESIGNATION AS A REGIONAL CENTER APPROVED TO PARTICIPATE IN THE IMMIGRANT INVESTOR PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This regulation changes the location for the filing, and adjudication of, proposals to participate in the Immigrant Investor Pilot Program from Headquarters, Adjudication to the Texas and California Service Centers. This change is necessary to ensure the uniform and effective adjudication of these complex proposals related to economic development, export trade, and job creation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1944-98

Agency Contact: Katherine A. Lorr, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service
Phone: 202 353-8177

RIN: 1115–AF27

1852. NONIMMIGRANT VISA EXEMPTION FOR NATIONALS OF THE BRITISH VIRGIN ISLANDS ENTERING THE UNITED STATES THROUGH ST. THOMAS, UNITED STATES VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service's regulations to allow nonimmigrant visitors for business or pleasure who are nationals of the British Virgin Islands to apply for admission to the United States without a visa at the ports-of-entry of St. Thomas, United States Virgin Islands. Since visas are no longer issued from the British Virgin Islands by the Department of State all persons needing a nonimmigrant visa have to either travel or mail their applications to Barbados, the nearest visa issuing location. The Service's action will facilitate travel to the United States for nationals of the British Virgin Islands while still ensuring that the proper application provisions of the INA Act are met.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/18/99	64 FR 7989
Interim Final Rule Comment Period End	04/18/99	
Final Rule (INS No. 1956-98)	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1956-98

Agency Contact: William Plunges, Senior Immigration Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7992

RIN: 1115–AF28

1853. DELEGATION OF THE ADJUDICATION OF CERTAIN H-2A PETITIONS TO THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service's regulations by delegating the adjudication of certain H-2A petitions

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to the United States Department of Labor (DOL). The H-2A petitions affected by this action would involve only those petitions filed for initial H-2A employment where the alien is not physically present in the United States. The Service has proposed these changes in order to streamline the existing H-2A petitioning process for certain foreign agricultural workers. The proposals contained in this rule will make it easier and less burdensome for United States employers to file petitions for foreign agricultural workers.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1946-98)	12/07/98	63 FR 67431
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1946-98

Agency Contact: Irene Hoffman, Adjudications Officer, Programs Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF29

1854. • ADDITION OF COMMERCIAL DELIVERY SERVICE AS A FORM OF PERSONAL SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by adding the use of commercial delivery service as a form of personal service for the delivery of notices, decisions and other papers by the Service. A commercial delivery service allows for the registered signature of the addressee or other responsible party to be on record, allows Service personnel to be able to track the mailing status of the copy on a computer information system, and allows the addressee to receive the copy in a timely and efficient manner. The change is intended to facilitate and improve personal service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1952-98

Agency Contact: Marylena S. Kruszka, Fines Officer, National Fines Office, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 305-7018

RIN: 1115–AF30

1855. • IMPLEMENTING CERTAIN PORTIONS OF THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT (ACWIA) RELATING TO THE H-1B NONIMMIGRANT CLASSIFICATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1104; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214.2h; 8 CFR 103.7

Legal Deadline: None

Abstract: This interim rule amends the Service's fee schedule and regulations regarding the filing of Form I-129 to reflect that certain employers must pay an additional $500.00 fee. The fee was added by the American Competitiveness and Workforce Improvement Act of 1998. The $500 must accompany and H-1B petition filed by a United States employer for new employment and for the alien's first extension of stay. Institutions of higher learning, nonprofit research institutions, and government research institutions are exempt from the $500 fee.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1962-98)	11/30/98	63 FR 65657
Interim Final Rule Correction (INS No. 1962-98)	12/24/98	63 FR 71342
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: INS NO. 1962-98

Agency Contact: John Brown, Adjudications Officer, Benefits Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 616-7435
Fax: 202 514-0198

RIN: 1115–AF31

1856. • ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF HAITI

Priority: Other Significant

Legal Authority: PL 105-277, sec 902

CFR Citation: 8 CFR 3; 8 CFR 240; 8 CFR 245; 8 CFR 274a; 8 CFR 299

Legal Deadline: None

Abstract: This interim rule implements section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA) by establishing procedures for certain nationals of Haiti who have been residing in the United States to become lawful permanent residents of this country. This rule allows them to obtain lawful permanent residence status without applying for an immigrant visa at a United States consulate abroad and waives many of the usual requirements for this benefit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS NO. 1963-98

Agency Contact: Michael L. Shaul, Examinations Officer, Office of Programs, Department of Justice, Immigration and Naturalization Service, 4th Floor ULLB, Washington, DC 20536
Phone: 202 616-7439
Fax: 202 305-1496

RIN: 1115–AF33

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1857. • TEMPORARY PROTECTED STATUS AMENDMENTS TO THE REQUIREMENTS FOR EMPLOYMENT AUTHORIZATION FEE AND OTHER TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1254; 8 USC 1254a

CFR Citation: 8 CFR 244

Legal Deadline: None

Abstract: This Interim Rule amends the INS regulations by removing outdated language that certain El Salvadorans must pay a fee for temporary protected status (TPS)-related employment authorization Documents (EADs). Removing this language will make INS regulations conform to current INS policy as provided in the instructions to the Form I-765. The instructions on the form I-765 instruct all applicants for TPS who desire employment authorization to pay the fee.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/99	64 FR 4780
Interim Final Rule Comment Period End	04/02/99	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1972-99

Agency Contact: Michael Valverde, Program Analyst, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3040, Washington, DC 20536
Phone: 202 514-2763
Fax: 202 514-0198

RIN: 1115–AF37

1858. • REGULATIONS CONCERNING THE CONVENTION AGAINST TORTURE

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282

CFR Citation: 8 CFR 3; 8 CFR 208; 8 CFR 235; 8 CFR 238; 8 CFR 240; 8 CFR 241

Legal Deadline: Other, Statutory, February 18, 1999.
The Act requires promulgation by 02/18/99.

Abstract: This rule implements Article 3 of the United Nations Convention Against Torture or Other Forms of Cruel, Inhuman, or Degrading Treatment, or Punishment for persons who may be subject to removal from the United States Under the provisions of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/99	64 FR 8478
Interim Final Rule Corrections	03/22/99	64 FR 13881
Interim Final Rule Effective	03/22/99	
Interim Final Rule Comment Period End	04/20/99	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Kelly Ryan, Chief, Refugee and Asylum Branch, Department of Justice, Immigration and Naturalization Service, 425 "I" Street NW., Washington, DC 20536
Phone: 202 514-2895

Peggy Philbin, EOIR General Council, Department of Justice, Immigration and Naturalization Service, 5107 Leesburg Pike, Falls Church, VA
Phone: 703 305-0470

RIN: 1115–AF39

DEPARTMENT OF JUSTICE (DOJ)

Immigration and Naturalization Service (INS)

Long-Term Actions

1859. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 217

Timetable:

Action	Date	FR Cite
NPRM INS No. 1406-91 Comment Period End 5/22/91	05/07/91	56 FR 21101
Interim Final Rule-INS No. 1447 Eff. 10/1/91; Comment Period End 10/15/91	09/13/91	56 FR 46716
Public Notice-INS No. 1674 Eff. 10/25/94, Comment Period End 09/30/96	02/21/95	60 FR 9699
Interim Final Rule-INS No. 1685 Eff. 4/1/95; Comment Period End 5/30/95	03/28/95	60 FR 15855
Interim Final Rule-INS No. 1777	07/08/96	61 FR 35598
Interim Final Rule-INS No. 1782-96 With Comments (Australia)	07/29/96	61 FR 39721
Interim Final Rule-INS 1786-96 With Comments (Slovenia)	09/30/97	62 FR 50998
Final Rule-INS No. 1799	12/30/98	63 FR 71726

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Dominica Gutierrez
Phone: 202 305-2969

RIN: 1115–AB93

1860. EXPANSION OF DIRECT MAIL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 103; 8 CFR 245; 8 CFR 264; 8 CFR 274a; 8 CFR 245a

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1660 Direct Mail Prog. Expan. Eff. 7/1/94; Comment Period End 8/30/94	07/01/94	59 FR 33903

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Long-Term Actions

Action	Date	FR Cite
Notice-INS No. 1660N Pilot Direct Mail Prog. Baltimore Office, Imple. Date 7/1/94	07/01/94	59 FR 33985
Notice-INS No. 1745 Effective 01/31/96 Comments due 04/24/96	01/25/96	61 FR 2266
Notice-INS No. 1734	10/30/96	61 FR 56060
Correction-INS No. 1887-97	04/06/98	63 FR 16909
Interim Rule-INS No. 1829-96	06/03/98	63 FR 30105
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael Aytes
Phone: 202 514-5014

RIN: 1115–AD73

1861. REGULATIONS RELATING TO TEMPORARY PROTECTED STATUS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 8 CFR 103; 8 CFR 240; 8 CFR 299

Timetable:

Action	Date	FR Cite
TPS Final Rule (INS No. 1612) Removal of Obsolete Sections Covering TPS for Salvadorans	09/10/96	61 FR 47667
TPS Notice (INS No. 1832-97) Designation of Liberia	04/07/97	62 FR 16608
TPS Notice (INS No. 1853-97) Designation of Rwanda Eff. 06/07/97	06/19/97	62 FR 33442
TPS Notice (INS No. 1862-97) Designation of Bosnia-Hercegovina	08/01/97	62 FR 41420
TPS Notice (INS No. 1863-97) Designation of Somalia	08/01/97	62 FR 41421
TPS Notice (INS No. 1878-97) TPS Designation of Montserrat	08/28/97	62 FR 45685
TPS Notice (INS No. 1775-96) TPS Designation of Burundi	11/04/97	62 FR 59735
TPS Notice (INS No. 1780-97) TPS Designation of Sudan	11/04/97	62 FR 59737
TPS Notice (INS No. 1877-97) TPS Designation of Sierra	11/04/97	62 FR 59736
TPS Notice (INS No. 1910-98) Termination of Designation of Liberia	03/31/98	63 FR 15437
TPS Notice (INS No. 1929-98) TPS Designation of Kosovo	06/09/98	63 FR 31527
TPS Notice (INS No. 1945-98) Extension of Designation of Somalia	09/28/98	63 FR 51602
TPS Notice (INS No. 1953-98) Redesignation of Liberia	09/29/98	63 FR 51958
TPS Notice (INS No. 1957-98) TPS Extension of Designation of Burundi	11/03/98	63 FR 59334
TPS Notice (INS No. 1958-98) TPS Extension of Designation of Sierra Leone	11/03/98	63 FR 59336
TPS Notice (INS No. 1959-98) Extension of Designation of Sudan	11/03/98	63 FR 59337
TPS Final Rule (INS No. 1608) Exceptions to Registration	11/16/98	63 FR 63593
TPS Notice (INS No. 1964-98) TPS Designation of Honduras	01/05/99	64 FR 524
TPS Notice (INS No. 1965-98) TPS Designation of Nicaragua	01/05/99	64 FR 526
TPS Notice (INS No. 1960-98) TPS Designation of Guinea-Bissau	03/11/99	64 FR 12181
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Raferty
Phone: 202 514-5014

RIN: 1115–AE26

1862. • INTERIM DESIGNATION OF ACCEPTABLE RECEIPTS FOR EMPLOYMENT ELIGIBILITY VERIFICATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) made several amendments to the employment eligibility verification provisions of the INA. An Interim Rule implementing some of these amendments was issued on September 30, 1997. This rule included amendments to the "Receipt Rule", which permits employees to present a "Receipt" in lieu of a document listed on the employment eligibility verification form (Form I-9). Circumstances that have become apparent since publication of the September 30, 1997 rule require that rule to be amended by another Interim Rule. Such an Interim Rule is also necessary to facilitate employer and employee compliance with the regulations. The rule revised the amount of time a receipt remains valid where the employee presents a Form I-94 marked with a temporary I-551 stamp. Where the employee presents a Form I-94 marked with a refugee admission stamp, the rule adds Form I-66B to the list of documents that the employee can present at the end of the receipt validity period.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule was published in the Federal Register as RIN 1115-AE94. This RIN has now been changed to 1115-AF42, INS No. 1947-98.

Agency Contact: Marguerite Przybylski, Associate General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF42

DEPARTMENT OF JUSTICE (DOJ)

Immigration and Naturalization Service (INS)

Completed Actions

1863. SEIZURE AND FORFEITURE OF CONVEYANCES

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274.13; 8 CFR 274.14; 8 CFR 274.15; 8 CFR 274.16; 8 CFR 274.17; 8 CFR 274.18; 8 CFR 274.19; 8 CFR 274.8 (Revision); 8 CFR 274.9

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan T. Czerwinski
Phone: 202 616-2737

RIN: 1115–AA95

1864. NONIMMIGRANT CLASSES; NATO-1, 2, 3, 4, 5, 6, AND 7; CONTROL OF EMPLOYMENT OF ALIENS (SPECIAL REQUIREMENT FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS; NATO)

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 214; 8 CFR 274a; 8 CFR 248; 8 CFR 299

Completed:

Reason	Date	FR Cite
Final Action	06/12/98	63 FR 32113

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Donna Crump
Phone: 202 353-8177

RIN: 1115–AB52

1865. F, J, AND M NONIMMIGRANT STUDENT REQUIREMENTS FOR ADMISSION, TRACKING, MAINTENANCE OF STATUS AND FOR EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 214; 8 CFR 274a

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Morrie R. Berez
Phone: 202 353-8177

RIN: 1115–AD16

1866. EXCEPTIONS TO THE EDUCATIONAL REQUIREMENTS FOR NATURALIZATION FOR CERTAIN APPLICANTS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1423; 8 USC 1443; 8 USC 1447; 8 USC 1448; PL 103-416

CFR Citation: 8 CFR 299; 8 CFR 312; 8 CFR 499

Legal Deadline: None

Abstract: This rule is a follow-on to the rule that was published by the INS on March 19, 1997, that established an administrative process to adjudicate requests for exemptions from the English and civics requirements of section 312 of the Immigration and Nationality Act (Act) by persons with physical or developmental disabilities or mental impairments. Based on comments to that rule and current naturalization quality procedures, the Service has determined that a separate appeals process and additional quality procedures are unnecessary at this time. The Service, however, has amended the rule to include licensed doctors of osteopathy (DOs) as health care providers who are authorized to complete Form N-648, Medical Certification for Disability Exceptions.

Timetable:

Action	Date	FR Cite
Final Action	02/18/99	64 FR 7990

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1702-95

Agency Contact: Jody Marten, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE02

1867. JUDICIAL REVIEW OF DECISIONS OF THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AND THE IMMIGRATION AND NATURALIZATION SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 3; 8 CFR 103

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Margaret M. Philbin
Phone: 703 305-0470

RIN: 1115–AE46

1868. DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 2; 8 CFR 287

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Gary D. Witt
Phone: 202 305-2445

RIN: 1115–AE76

1869. CHANGING THE NAME OF THE ALIEN REGISTRATION RECEIPT CARD TO THE PERMANENT RESIDENT CARD

Priority: Info./Admin./Other

CFR Citation: 8 CFR 100; 8 CFR 101; 8 CFR 103; 8 CFR 204; 8 CFR 209; 8 CFR 210; 8 CFR 211; 8 CFR 216; 8 CFR 247; 8 CFR 264; 8 CFR 274a; 8 CFR 299; 8 CFR 316; 8 CFR 338; 8 CFR 341; ...

Completed:

Reason	Date	FR Cite
Final Action	12/21/98	63 FR 70313

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Valverde

DOJ—INS

Completed Actions

Phone: 202 514-2763
Fax: 202 514-8661
Email:
michael.valverde@justice.usdoj.gov

RIN: 1115–AF01

1870. DELEGATION OF GENERAL AUTHORITY BY THE COMMISSIONER TO CERTAIN IMMIGRATION OFFICERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 8 CFR 287

Completed:

Reason	Date	FR Cite
Withdrawn - Limited to Agency Organization	03/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James R. Hesse
Phone: 703 285-2482

RIN: 1115–AF02

1871. PROCEDURE FOR ACCEPTING APPLICATIONS FOR BENEFITS SUBMITTED WITH INSUFFICIENT OR EXCESS FEES

Priority: Other Significant

CFR Citation: 8 CFR 103

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	01/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Valverde
Phone: 202 514-2763
Fax: 202 514-8661
Email:
michael.valverde@justice.usdoj.gov

RIN: 1115–AF06

1872. CHANGE IN BUSINESS PRACTICES: COLLECTION OF INTEREST, PENALTIES, AND HANDLING CHARGES FOR DELINQUENT PAYMENT OF EMPLOYER SANCTION FINES

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274A

Completed:

Reason	Date	FR Cite
Withdrawn - Replaced by RIN 1115-AF17	01/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eugene Schulman
Phone: 202 616-9177
Fax: 202 514-7860

RIN: 1115–AF09

1873. CHANGES IN THE IMMIGRATION AND NATURALIZATION SERVICE REGIONAL OFFICE ORGANIZATION

Priority: Info./Admin./Other

CFR Citation: 8 CFR 100; 8 CFR 103; 8 CFR 215; 8 CFR 231; 8 CFR 245a; 8 CFR 271; 8 CFR 274; 8 CFR 286; 8 CFR 292; 8 CFR 299; 8 CFR 332; 8 CFR 335

Completed:

Reason	Date	FR Cite
Withdrawn by Office of Management	02/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shiela Magruder
Phone: 202 514-3182
Fax: 202 514-8045

RIN: 1115–AF13

1874. CLASSES OF ALIENS AUTHORIZED TO ACCEPT EMPLOYMENT

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274a.12

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	01/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Valverde
Phone: 202 514-2763

RIN: 1115–AF16

1875. • REVOCATION OF NATURALIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1443

CFR Citation: 8 CFR 340

Legal Deadline: None

Abstract: This rule amends the INS regulations relating to administrative revocation of naturalization by changing the burden of proof the INS must satisfy in order to administratively revoke a grant of naturalization and clarifying the 180-day period for the rendering of the district directors decision. This rule clarifies these issues in the final rule that was published in the Federal Register on October 28, 1996, at 61 FR 55550.

Timetable:

Action	Date	FR Cite
Consolidated With RIN 1115-AE73	03/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1858-97

Agency Contact: Janice Podolny, Associate General, Chief Examinations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF34

1876. • IMMIGRATION PETITIONS; EMPLOYMENT CREATION ALIENS; REGIONAL CENTERS DESIGNATED UNDER THE IMMIGRANT INVESTOR PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1183; 8 USC 1184; 8 USC 1186a; 8 USC 1186b; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226

CFR Citation: 8 CFR 204; 8 CFR 216; 8 CFR 235

Legal Deadline: None

Abstract: The Service solicits comments on proposed regulations for regional center participation in the Immigrant Investor who seek to invest in approved regional centers. This role is obtaining significant pre-clearance comment and is subject to the results of the agency's review of the Immigrant Investor Pilot Program.

DOJ—INS

Completed Actions

Timetable:

Action	Date	FR Cite
Consolidated With RIN 1115-AE56	03/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1929-98

Agency Contact: Katharine A. Lorr, Staff Officer, Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-3228
Fax: 202 514-0198

RIN: 1115–AF36

DEPARTMENT OF JUSTICE (DOJ)

Proposed Rule Stage

Legal Activities (LA)

1877. IMPLEMENTATION OF THE NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM (NSPMVIS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33109 to 33111

CFR Citation: 28 CFR 89

Legal Deadline: None

Abstract: The Attorney General is required to establish a National Stolen Passenger Motor Vehicle Information System pursuant to the Anti Car Theft Act of 1992 (49 USC 33109 to 33111). The FBI is coordinating efforts in this matter and, under delegated authority from the Attorney General, the FBI is issuing this rule to establish a national system to verify the theft status of major motor vehicle component parts. The system will include certain information about each passenger motor vehicle reported to a law enforcement agency as stolen and not recovered. The rule provides how an individual or entity may obtain information from the system on whether a vehicle or part is listed as stolen. The rule also provides verification procedures to be followed by insurance carriers and certain motor vehicle part businesses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven P. Polifko, Planning Unit Chief, Department of Justice, Federal Bureau of Investigation, CJIS Division, Module C-3, 1000 Custer Hollow Road, Clarksburg, WV 26306
Phone: 304 625-2710
Fax: 304 625-3875

RIN: 1105–AA44

1878. FOREIGN AGENTS REGISTRATION ACT; REGULATIONS REVISED AND CLARIFIED TO REFLECT CHANGES IN THE LAW

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 611 et seq Foreign Agents Registration Act of 1938

CFR Citation: 28 CFR 5.5(d)(10); 28 CFR 5.5(d)(11); 28 CFR 5.100(c); 28 CFR 5.100(d); 28 CFR 5.200(b); 28 CFR 5.201(a)(1); 28 CFR 5.201(a)(2); 28 CFR 5.202(b); 28 CFR 5.202(e); 28 CFR 5.203(a); 28 CFR 5.204(a); 28 CFR 5.205(a); 28 CFR 5.206(b); 28 CFR 5.304(c); 28 CFR 5.306(a); ...

Legal Deadline: None

Abstract: As a result of the passage of the Lobbying Disclosure Act of 1995 (LDA) and the Lobbying Disclosure Technical Amendments Act of 1998 (LDTAA), the Foreign Agents Registration Unit of the Criminal Division is issuing new regulations concerning changes in the Foreign Agents Registration Act of 1938, as amended, 22 USC 611, et seq (FARA). These regulations replace the term "political propaganda" in the existing regulations with "informational materials" as provided in the LDA and make other changes to the FARA regulations required by the passage of the LDA and the LDTAA. The regulations also make other modifications to the existing regulations to facilitate the administration of FARA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: CFR CITATIONS CONT: 28 CFR 5.307; 28 CFR 5.400(a) to (c); 28 CFR 5.401; 28 CFR 5.402(a) to (g); 28 CFR 5.500(a)(4); 28 CFR 5.600; 28 CFR 5.601(a); 28 CFR 5.601(b).

Agency Contact: Marshall R. Williams, Chief, Registration Unit, Internal Security Section, Criminal Division, Department of Justice, Room 9300, 1400 New York Avenue NW., Washington, DC 20530
Phone: 202 514-1216
Fax: 202 514-2836

RIN: 1105–AA45

1879. OPERATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 18 USC 922 to 925 Brady Handgun Violence Prevention Act

CFR Citation: 28 CFR 16; 28 CFR 20; 28 CFR 25

Legal Deadline: Other, Statutory, November 30, 1998.
The Brady Handgun Violence Prevention Act requires the NICS be established not later than 60 months after enactment (11/30/93).

Abstract: This rule notifies State and local law enforcement agencies and Federal Firearms Licensees of the establishment of the National Instant Check System (NICS). On June 4, 1998, the FBI published an NPRM setting forth the policies and procedures regarding use of the system, including regulations pertaining to the security and privacy of information.

DOJ—LA

Proposed Rule Stage

On August 8, 1998, the FBI published an NPRM proposing the user fee to be charged for use of the NICS. On October 30, 1998 the FBI published a Final rule noting that the user fee would not be charged pursuant to congressional action. The Final rule also provides that by February 28, 1999 the Department will issue a notice of proposed revision of the regulation setting forth a further reduced period of retention of information relating to approved transfers.

Timetable:

NICS Privacy & Security Policies
NPRM 06/04/98 (63 FR 30430)
Comment Period End 09/02/98
NICS User Fee
NPRM 08/17/98 (63 FR 43893)
Comment Period End 09/16/98
Privacy & Security Policies and User Fee
Final Rule 10/30/98 (63 FR 58303)
Reduction of Retention Period
NPRM 03/03/99 (64 FR 10262)
NPRM Comment Period End 06/01/99 (64 FR 10263)
Final Rule 10/00/99

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Emmet A. Rathbun, Unit Chief, Research and Development Unit, Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Div., 1000 Custer Hollow Road, Clarksburg, WV 26306-0147
Phone: 304 625-2000
Fax: 304 625-3875

RIN: 1105–AA51

1880. IMPLEMENTATION OF THE PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-236, sec 9

CFR Citation: Not yet determined

Legal Deadline: Other, Statutory, October 3, 1999.
The Act does not distinguish between NPRM and Final regulations.

Abstract: The FBI is issuing regulations to carry out the Pam Lychner Sexual Offender Tracking and Identification Act of 1996. These regulations include guidelines as to the operation and use of the interim national sex offender registry established by the FBI, and the notice to be provided to the FBI in the event a registered sex offender moves interstate.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7562
NPRM Comment Period End	04/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: (See also RIN 1105-AA50)

Agency Contact: Charles Marciano, Assistant General Counsel, Department of Justice, Federal Bureau of Investigation, 935 Pennsylvania Avenue NW., Washington, DC 20530
Phone: 202 324-4523
Fax: 202 324-1039

RIN: 1105–AA56

1881. REVISION OF 28 CFR PART 15 PERTAINING TO THE DEFENSE OF CERTAIN SUITS AGAINST FEDERAL EMPLOYEES TO CONFORM TO THE FEDERAL EMPLOYEES LIABILITY REFORM AND TORT COMPENSATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2679(b)

CFR Citation: 28 CFR 15

Legal Deadline: None

Abstract: This rule revises 28 CFR part 15, pertaining to the defense of certain suits against Federal employees, to conform the regulations to changes made by the Federal Employee Liability Reform and Tort Compensation Act, PL 100-694. Under prior law, the defense of suits against Federal employees for torts committed in the scope of their employment was limited to claims involving the operation of motor vehicles. PL 100-694 expanded the coverage of the immunity provisions to include all common law torts committed by Federal employees in the scope of their employment. This rule conforms the Department's regulations to the expanded coverage of the statute.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James G. Touhey, Jr., Trial Attorney, Torts Branch, Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20004
Phone: 202 616-4292
Fax: 202 616-5200

RIN: 1105–AA62

1882. FBI CRIMINAL JUSTICE INFORMATION SERVICES DIVISION SYSTEMS AND PROCEDURES

Priority: Other Significant

Legal Authority: 28 USC 534

CFR Citation: 28 CFR 0.85; 28 CFR 16 (Revision); 28 CFR 20 (Revision); 28 CFR 50.12

Legal Deadline: None

Abstract: This rule updates existing regulations in 28 CFR part 16 "Production or Disclosure of Material or Information" and in part 20 "Criminal Justice Information Systems" which contain old terms and addresses. Additionally, the increasing prevalence of outsourcing by criminal justice agencies of technical and administrative functions warrants establishing express authority for contractor access to criminal history record information (CHRI) where the contractor is acting on behalf of an authorized agency and appropriate security and privacy protections exist.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: W. A. Miller, Assistant General Counsel, FBI, Department of Justice, J. Edgar Hoover Bldg., Room 7338, 935 Pennsylvania Avenue NW., Washington, DC 20535-0001
Phone: 202 324-4523
Fax: 202 324-1039

RIN: 1105–AA63

DOJ—LA

Proposed Rule Stage

1883. UNITED STATES MARSHALS SERVICE FEE FOR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 1921(b)

CFR Citation: 28 CFR 0.114 (Revision)

Legal Deadline: None

Abstract: This rule revises the United States Marshals Service fees pursuant to 28 USC 1921(b). This statute requires the Attorney General to establish fees to be taxed and collected for certain services rendered by the United States Marshals Service in connection with Federal court proceedings. These services include, but are not limited to, the serving of writs, subpoenas, or summonses, the preparing of notices or bills of sale, the keeping of attached property, and certain necessary travel. To the extent practicable, these fees shall reflect the actual and reasonable costs of the services provided. The Attorney General initially established the fee schedule in 1991, based on the actual costs, salaries, overhead, etc. of the services rendered and the hours expended. Due to an increase in the salaries and benefits of United States Marshals Service personnel over time, the current fee schedule is inadequate and no longer reflects actual and reasonable costs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joe Lazar, Associate General Counsel, United States Marshals Service, Department of Justice, 600 Army Navy Drive, CS-3, Arlington, VA 22202
Phone: 202 307-9054
Fax: 202 307-9456

RIN: 1105–AA64

1884. • DESIGNATION OF AGENCIES TO RECEIVE AND INVESTIGATE REPORTS REQUIRED UNDER THE PROTECTION OF CHILDREN FROM SEXUAL PREDATORS ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 13032

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory, April 28, 1999.

Abstract: On October 30, 1998, Congress passed the Protection of Children from Sexual Predators Act of 1998 (PCSPA). The PCSPA requires providers of an electronic communication service or a remote computing service to the public, through a facility or means of interstate commerce, to report incidents of child pornography as defined by sections 2251, 2251A, 2252, 2252A, or 2260 of Title 18, United States Code to the appropriate Federal agency. In order to facilitate effective reporting, the PCSPA requires the Attorney General to "designate an agency" to receive and investigate such reports of child pornography. The proposed rule sets forth the Attorney General's proposed designations and certain other matters covered by the PCSPA's reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Terry R. Lord, Chief, Child Exploitation and Obscenity Section, Department of Justice, 1331 F Street NW., 6th Floor, Washington, DC 20530
Phone: 202 514-5780

RIN: 1105–AA65

1885. • WAIVER FOR FIREARM PROHIBITION ON NON-IMMIGRANT VISA HOLDERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-277, sec 121; 18 USC 922

CFR Citation: 28 CFR 25

Legal Deadline: None

Abstract: The Gun Control Act of 1968 established categories of individuals who are prohibited from possessing a firearm. A provision of PL 105-277, the Omnibus Appropriations Act of 1999, added non-immigrant visa holders as an additional prohibited category. In the same Act, the Attorney General was authorized to grant a waiver for individuals disqualified by this new prohibited category. The waiver petition will be granted upon an applicant showing proof of 180 days of residency, a statement of character from the applicant's embassy or consulate, and upon a determination by the Attorney General that the waiver should be granted in the interests of justice so as not to jeopardize public safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jay Hoover, Senior Counsel, Department of Justice, Main Building, Room 4519, Washington, DC 20530
Phone: 202 514-3737
Fax: 202 307-3137

RIN: 1105–AA66

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Final Rule Stage

1886. FEDERAL CLAIMS COLLECTION STANDARDS (FCCS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3711(e)(2)

CFR Citation: 31 CFR 900 to 904

Legal Deadline: None

Abstract: The Federal Claims Collection Standards (FCCS) are issued jointly by the Secretary of the Treasury and the Attorney General. These regulations prescribe the standards for the administrative collection, compromise, termination of agency collection, and the referral to the Department of Justice for litigation, of civil claims by the Federal Government for money or property. The Department of Justice and the Department of the Treasury are issuing this rule to revise and update the FCCS in order to reflect changes in the substantive law and in government procedures that have taken place since the standards were last issued in March 1984.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68476
NPRM Comment Period End	03/02/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Kathleen A. Haggerty, Director, Debt Collection Management, Department of Justice, Liberty Place Bldg., Second Floor South, 325 7th Street NW., Washington, DC 20530
Phone: 202 514-5343
Fax: 202 514-1965

RIN: 1105–AA31

1887. IMPLEMENTATION OF SECTIONS 104 AND 109 OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant

Legal Authority: PL 103-414 Communications Assistance for Law Enforcement Act; PL 104-208 Omnibus Consolidated Appropriations Act of 1997

CFR Citation: 28 CFR 100

Legal Deadline: Other, Statutory, October 25, 1998.
While CALEA required telecommunications carriers to be in compliance with section 103 by October 25, 1998, the FCC has since exercised (continued in Additional Information)

Abstract: As required by section 109 of the Communications Assistance for Law Enforcement Act (CALEA), the FBI promulgated Cost Recovery Regulations allowing telecommunications carriers to recover certain costs associated with implementing CALEA. The final rule was published on March 20, 1997 (62 FR 13307) and became effective on April 21, 1997. In response to public comment received during this rulemaking, the FBI published an ANPRM on November 19, 1996 (61 FR 58799), which solicited input on the definition of the term "significant upgrade or major modification" as used by CALEA. The "significant upgrade or major modification" NPRM was published on April 28, 1998 (63 FR 23231) and the FBI is currently reviewing the comments received.

Additionally, CALEA section 104 requires the Attorney General to publish a Notice of Actual and Maximum Capacity in order to provide telecommunications carriers with the information they will need to meet law enforcement's future simultaneous electronic surveillance requirements. For local exchange, cellular, and broadband PCS, the FBI published an Initial Notice of Capacity on October 16, 1995 (60 FR 53643) and a Second Notice of Capacity on January 14, 1997 (62 FR 1902). The FBI published the Final Notice of Capacity for local exchange, cellular, and broadband PCS on March 12, 1998 (63 FR 12218). Additionally, the FBI published a Notice of Inquiry (NOI) in the Federal Register on December 18, 1998 (63 FR 70160) which solicited information on and suggestions for developing reasonable methodologies for characterizing capacity requirements for telecommunications services and technologies other than local exchange, cellular, and broadband PCS. Comments were due on February 16, 1999. Information gathered in response to the NOI will be used in the development and promulgation of future Notices of Capacity for those services.

Timetable:

"Significant upgrade or major modification"
- ANPRM Soliciting Input on Term 11/19/96 (61 FR 58799)
- NPRM Proposing Definition 04/28/98 (63 FR 23231)
- Final Rule Defining Term 06/00/99

Cost Recovery Rule (Telecom. Carriers)
- NPRM 05/10/96 (61 FR 21396)
- NPRM Comment Period End 07/09/96
- Final Rule 03/20/97 (62 FR 13307)
- Final Rule Effective 04/21/97

Notice of Actual and Max. Cap.-local exch, cellular, broadb PCS
- Initial Notice 10/16/95 (60 FR 53643)
- Second Notice 01/14/97 (62 FR 1902)
- Final Notice 03/12/98 (63 FR 12217)

Notice of Actual and Max. Cap.-paging, non-bb PCS, MSS, SMR, etc.
- Notice of Inquiry (Cap Methodology) 12/18/98 (63 FR 70160)
- Proposed Notice of Capacity 03/00/00

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: STATUTORY DEADLINE CONT: its authority under section 107 of CALEA to grant telecommunications carriers extensions of this compliance date. As a result of the FCC's order, carriers must now be in compliance with section 103 by June 30, 2000. Additionally, as a result of the publication of the Final Notice of Capacity for local exchange, cellular and broadband PCS carriers, these carriers must be in compliance with section 104 by March 12, 2001.

Agency Contact: Walter V. Meslar, Unit Chief, Telecommunications Contracts and Audit Unit, Department of Justice, Federal Bureau of Investigation, 14800 Conference Center Dr., Suite 300, Chantilly, VA 20151
Phone: 703 814-4900
Fax: 703 814-4730

Rozanne R. Worrell, SSA, CALEA Implementation Section, Department of Justice, Federal Bureau of Investigation, 14800 Conference Center Drive, Suite 300, Chantilly, VA 20151
Phone: 703 814-4804
Fax: 703 814-4720

RIN: 1105–AA39

1888. CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT

Priority: Info./Admin./Other

Legal Authority: PL 101-410 Fed. Civ. Monetary Penalties Inflation Adj. Act-

DOJ—LA

Final Rule Stage

1990; PL 104-134, sec 31001 Debt Collection Improvement Act of 1996

CFR Citation: 28 CFR 50.22 (New)

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, PL 101-410, hereinafter, Adjustment Act, provided for the regular evaluation of civil monetary penalties to ensure that they continued to maintain their deterrent value and that penalty amounts due the Federal Government were properly accounted for and collected. On April 26, 1996, President Clinton signed into law the Omnibus Consolidated Rescissions and Appropriations Act of 1996, PL 104-134, hereinafter, Omnibus Act. Section 31001 of the Omnibus Act (also known as the Debt Collection Improvement Act of 1996, hereinafter, Improvement Act) amended section 4 of the Adjustment Act to require the head of each agency to, by regulation, adjust each civil monetary penalty provided by law within the jurisdiction of the agency and to publish such regulation in the Federal Register.

Any increase in a civil monetary penalty made pursuant to the Improvement Act shall apply only to violations which occur after the date the increase takes effect. The first adjustment of a civil monetary penalty made pursuant to the Improvement Act may not exceed 10 percent of such penalty. The adjustment for inflation required by the Adjustment Act must be done every four years. This regulation fulfills the Attorney General's obligations under the Improvement Act.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Hinchman, Attorney-Advisor, Department of Justice, Room 4256, Office of Policy Development, 10th Street and Constitution Avenue NW., Washington, DC 20530
Phone: 202 514-8059
Fax: 202 514-8639

RIN: 1105–AA48

1889. POLICE RECRUITMENT PROGRAM GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13811(i)Police Recruitment, Violent Crime Control; Law Enforcement Act of 1994

CFR Citation: 28 CFR 92

Legal Deadline: None

Abstract: The Police Recruitment Program Guidelines establish programs for training individuals to enter police department instructional programs. The Guidelines include requirements for individuals providing recruiting services, tutorials and other academic assistance programs, and retention services. The Guidelines also set forth the content and duration of recruitment, retention, and counseling programs and the means and devices used to publicize such programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/21/98	63 FR 50145
Interim Final Rule Comment Period End	10/21/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Rob Chapman, Social Science Analyst, Department of Justice, COPS Office, 1110 Vermont Avenue NW., Washington, DC 20530
Phone: 202 633-1295
Fax: 202 633-1386

RIN: 1105–AA58

1890. WHISTLEBLOWER PROTECTION FOR FEDERAL BUREAU OF INVESTIGATION EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 315; 5 USC 2303; 28 USC 509; 28 USC 510; 28 USC 515 to 519; Memorandum for the Attorney General (cont. in Additional Info.)

CFR Citation: 28 CFR 101

Legal Deadline: None

Abstract: This interim rule establishes procedure under which employees of the Federal Bureau of Investigation may make disclosures of information protected by the Civil Service Reform Act of 1978 (Pub. L. 95-454) and the Whistleblower Protection Act of 1989 (Pub. L. 101-12), codified at 5 USC 2303. It also establishes procedures under which the Department of Justice will investigate allegations by FBI employees of retaliation for making such disclosures and provide appropriate corrective action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/10/98	63 FR 62937
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: LEGAL AUTHORITY CONT: from the President, April 14, 1997, Delegation of Responsibilities Concerning FBI Employees Under the Civil Service Reform Act of 1978.

Agency Contact: Stuart Frisch, General Counsel, Justice Management Division, Department of Justice, National Place Building, 1331 Pennsylvania Avenue NW., Washington, DC 20530
Phone: 202 514-3452
Fax: 202 514-4317

RIN: 1105–AA60

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Long-Term Actions

1891. CRIMINAL FINES ENFORCEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 72

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Lynne Solien

DOJ—LA

Long-Term Actions

Phone: 202 616-6444

RIN: 1105–AA16

Fax: 202 514-8639

RIN: 1105–AA29

1892. VIOLENT CRIME AND DRUG EMERGENCY AREAS

Priority: Other Significant

CFR Citation: 28 CFR 92 (New)

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Hinchman
Phone: 202 514-8059

1893. FALSE CLAIMS AMENDMENTS ACT OF 1986—CIVIL INVESTIGATIVE DEMANDS

Priority: Info./Admin./Other

CFR Citation: 28 CFR 28

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael F. Hertz
Phone: 202 514-7179

RIN: 1105–AA42

1894. FEDERAL CONVICTED OFFENDER DNA DATABASE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Joseph Dizinno
Phone: 202 324-4354
Fax: 202 324-5823
Email: lab-fssu@fbi.gov

RIN: 1105–AA52

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Completed Actions

1895. RADIATION EXPOSURE COMPENSATION ACT: EVIDENTIARY REQUIREMENTS; DEFINITIONS AND NUMBER OF TIMES CLAIMS MAY BE FILED

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 28 CFR 79

Completed:

Reason	Date	FR Cite
Final Action	03/22/99	64 FR 13686
Final Action Effective	04/21/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerard W. Fischer
Phone: 202 616-4090

RIN: 1105–AA49

1896. GUIDELINES FOR MEGAN'S LAW AND THE JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION ACT

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	01/05/99	64 FR 572

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Bonnie J. Campbell
Phone: 202 616-8894

RIN: 1105–AA50

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

1897. • GRANTS TO COMBAT VIOLENCE AGAINST WOMEN ON CAMPUSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-244, sec 829

CFR Citation: 28 CFR 90

Legal Deadline: NPRM, Statutory, February 4, 1999. Final, Statutory, April 5, 1999.

Abstract: This rule governs the provision of funds to institutions of higher education to develop and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, particularly domestic violence, sexual assault, and stalking. Funds are authorized for developing, enlarging, and strengthening victim services in cases involving violent crimes against women on campuses.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathy Schwartz, Administrator, Violence Against Women Grants Office, Department of Justice, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531
Phone: 202 307-6026
Fax: 202 305-2589

RIN: 1121–AA49

1898. • PUBLIC SAFETY OFFICERS' EDUCATIONAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3796 et seq; PL 104-238

CFR Citation: 28 CFR 32

Legal Deadline: None

DOJ—OJP

Proposed Rule Stage

Abstract: The Bureau of Justice Assistance of the Department of Justice is amending the regulations governing the Federal Law Enforcement Dependents' Assistance (FLEDA) program, found at 28 CFR Part 32, Subpart B, to comply with the amendments to its authorizing statute, 42 USC 3896, et seq, enacted by the Police, Fire and Emergency Officers' Educational Assistance Act of 1998, PL 104-238 (Nov. 13, 1998)(the PSOE Act). The PSOE Act expands the scope of eligibility for financial assistance for higher education to the dependents of all public safety officers, including state and local, who are killed or permanently and totally disabled in the line of duty. The regulatory amendments allow the spouses and children of all public safety officers who are killed or permanently and totally disabled in the line of duty and with respect to whom a claim has been approved under the Public Safety Officers' Benefits (PSOB) program, to receive these educational benefits. To reflect the expansion of the program, this rulemaking changes the program name from the "Federal Law Enforcement Dependents' Assistance" (FLEDA) program to the "Public Safety Officers' Educational Assistance" (PSOB) program. Likewise, the references in 28 CFR Part 32, subpart B are changing from "civilian Federal law enforcement" or "Federal law enforcement" to "public safety."

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ashton Flemmings, Director, Public Safety Officers' Benefits Program, Bureau of Justice Assistance, Department of Justice, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531
Phone: 202 616-9045
Fax: 202 307-3373

RIN: 1121–AA51

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Final Rule Stage

1899. GRANTS PROGRAM FOR INDIAN TRIBES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13701 et seq

CFR Citation: 28 CFR 91

Legal Deadline: None

Abstract: This rule outlines the requirements and procedures to award grants to Indian tribes for purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction. This rule implements provisions of the Violent Offender Incarceration and Truth-In-Sentencing Grants Program for Indian tribes as required by section 114 of the Fiscal Year 1998 Omnibus Consolidated Rescissions and Appropriations Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/96	61 FR 49969
Correction	10/18/96	61 FR 54333
Interim Final Rule Comment Period End	10/24/96	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal

Agency Contact: Dr. Stephen Amos, Deputy Director, Department of Justice, Office of Justice Programs, Correction Program Office, 810 7th Street NW., Washington, DC 20531
Phone: 202 307-2019

RIN: 1121–AA41

1900. JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-119

CFR Citation: 28 CFR 31; 28 CFR 31.500; 28 CFR 31.501

Legal Deadline: None

Abstract: This part proposes procedures under which an eligible State, or unit of local government that receives a subgrant from the State, is required to provide notice to the Attorney General regarding the proposed use of funds available under the Juvenile Accountability Incentive Block Grant (JAIBG) program.

Timetable:

Action	Date	FR Cite
NPRM	10/14/98	63 FR 55069
NPRM Comment Period End	11/13/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rodney Albert, Deputy Director, State Relations and Assistance Division, Department of Justice, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531
Phone: 202 307-5924
Fax: 202 307-2819
Email: albertr@ojp.usdoj.gov

RIN: 1121–AA46

1901. BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 3796ll

CFR Citation: 28 CFR 33

Legal Deadline: NPRM, Statutory, September 14, 1998.

Abstract: This part proposes the process by which BJA will provide funds to eligible States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/98	63 FR 50759
Interim Final Rule Effective	09/23/98	
Interim Final Rule Comment Period End	11/23/98	
Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

DOJ—OJP

Final Rule Stage

Government Levels Affected: State, Local, Tribal

Agency Contact: Lluana McCann, Program Manager, Department of Justice, Office of Justice Programs, 810 7th Street NW., Washington, DC 20053
Phone: 202 305-1772

RIN: 1121–AA48

1902. • TIMING OF POLICE CORPS REIMBURSEMENTS OF EDUCATIONAL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 14091, et seq

CFR Citation: 28 CFR 92

Legal Deadline: None

Abstract: Regulations at 28 CFR 92.5 specify what educational expenses the Police Corps covers and how those expenses will be paid. Subsection (7) of 92.5 currently provides that financial aid reimbursements to college students who agree to serve as police in specifically designated areas for at least four years are made through four equal payments--one upon completion of each of the four years of required service. This rule changes the current provision to accelerate reimbursement. Under the revised provision, participants will be reimbursed in full by the time they successfully complete their first year of required service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Dalich, Director, Office of the Police Corps and Law Enforcement Education, Department of Justice, Office of Justice Programs, 810 7th Street, Room 6424, Washington, DC 20531
Phone: 202 616-3603

RIN: 1121–AA50

[FR Doc. 99-7008 Filed 04-23-99; 8:45 am]
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Unified Agenda of Federal Regulatory and Deregulatory Actions

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Monday
April 26, 1999

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between April 1999 and April 2000, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 219-6197.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

Executive Order 12866 became effective September 30, 1993, and in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. The focus of all departmental regulatory activity will be on the development of effective rules that advance the Department's goals and that are understandable and usable to the employers and employees in all affected workplaces.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It requires the Department of Labor to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602).

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Alexis M. Herman,

Secretary of Labor.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1903	Production or Disclosure of Information or Materials	1290-AA17
1904	Equal Access to Justice Act	1290-AA18

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1905	Supplemental Standards of Ethical Conduct for Employees of the Department of Labor	1290-AA15
1906	Process for Electing State Employment Statistics Agency Representatives for Consultations With Department of Labor	1290-AA19

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1907	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) **(Section 610 Review)**	1215-AA01
1908	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H)	1215-AA09
1909	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
1910	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)	1215-AA94
1911	Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206	1215-AA96
1912	Records To Be Kept by Employers Under the Fair Labor Standards Act	1215-AB03

DOL

Employment Standards Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1913	Assessment and Collection of User Fees	1215-AB06
1914	Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act	1215-AB11
1915	Implementation of the 1996 Amendments to the Fair Labor Standards Act	1215-AB13
1916	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act	1215-AB21
1917	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities	1215-AB23
1918	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB24
1919	Amendment to Section 5333(b) Guidelines To Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century	1215-AB25

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1920	Standards for Waivers Under Section 503 of the Rehabilitation Act	1215-AA84
1921	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09
1922	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation	1215-AB20

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1923	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)	1215-AA14
1924	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act	1215-AA43
1925	Benefits Under the Federal Coal Mine Safety and Health Act of 1977, as Amended Affecting the Black Lung Benefits Act	1215-AA99
1926	Reporting by Labor Relations Consultants and Other Persons	1215-AB14

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1927	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AA62
1928	Federal Employees' Compensation Act; Claims for Compensation for Work-Related Injury/Death	1215-AB07
1929	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities	1215-AB19

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1930	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02
1931	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10

DOL

Employment and Training Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1932	Airline Deregulation: Employee Benefit Program	1205-AB17

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1933	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
1934	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07
1935	Welfare-to-Work (WTW) Grants	1205-AB15
1936	Federal-State Unemployment Compensation Program; Confidentiality and Disclosure of State Records	1205-AB18
1937	Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the U.S.; Administrative Measures to Improve Program Performance	1205-AB19
1938	Workforce Investment Act of 1998	1205-AB20

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1939	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37
1940	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
1941	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration	1205-AB14
1942	Indian and Native American Welfare-to-Work Program	1205-AB16

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1943	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
1944	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage	1210-AA60
1945	Elimination of Filing Requirements for Summary Plan Descriptions	1210-AA66
1946	Requirement to Furnish Plan Documents Upon Request by the Secretary of Labor	1210-AA67
1947	Civil Penalty for Failure to Furnish Certain Plan Documents	1210-AA68
1948	Amendment of Small Plan Exemption from Audit Requirement	1210-AA73
1949	Request for Information Relating to the Women's Health and Cancer Rights Act of 1998	1210-AA75
1950	Voluntary Fiduciary Correction Program	1210-AA76

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1951	Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA)	1210-AA52
1952	Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996	1210-AA54
1953	Amendment of Summary Plan Description and Related ERISA Regulations to Implement Statutory Changes in the Health Insurance Portability and Accountability Act of 1996	1210-AA55
1954	Limitation of Liability for Insurers and Others Under Part 4 of Title I of ERISA and Section 4975 of the Internal Revenue Code	1210-AA58
1955	Amendments to Employee Benefit Plan Claims Procedures Regulation	1210-AA61
1956	Mental Health Benefits Parity	1210-AA62
1957	Health Care Standards for Mothers and Newborns	1210-AA63

DOL

Pension and Welfare Benefits Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1958	Reporting Requirements for MEWAs Providing Medical Care Benefits	1210-AA64
1959	Amendments to Summary Plan Description Regulations	1210-AA69
1960	Payroll Deduction Programs for Contributions to Individual Retirement Accounts (Interpretive Bulletin)	1210-AA70
1961	Electronic Disclosure of Employee Benefit Plan Information	1210-AA71
1962	National Medical Support Notice	1210-AA72
1963	Soft Dollar (Interpretive Bulletin)	1210-AA74
1964	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status	1210-AA77

Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1965	Adequate Consideration	1210-AA15
1966	Civil Penalties Under ERISA Section 502(1)	1210-AA37
1967	Individual Benefits Reporting Requirements for Defined Contribution Plans	1210-AA65

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1968	Reporting and Disclosure Under the Employee Retirement Income Security Act of 1974	1210-AA44
1969	Enforcement Policy On AICPA SOP 92-6	1210-AA57

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1970	Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit)	1219-AB08
1971	Underground Coal Mining; Self-Contained Self-Rescuer Service Life Approval and Training	1219-AB19

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1972	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
1973	Metal/Nonmetal Impoundments	1219-AA83
1974	Surface Haulage	1219-AA93
1975	Training and Retraining of Miners	1219-AB02
1976	Verification of Dust Control Plan and Continuous Monitoring	1219-AB14
1977	Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines	1219-AB17
1978	Determination of Concentration of Respirable Coal Mine Dust	1219-AB18

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1979	Hazard Communication	1219-AA47
1980	Noise Standard	1219-AA53

DOL

Mine Safety and Health Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1981	Longwall Equipment (Including High-Voltage)	1219-AA75
1982	Independent Laboratory Testing	1219-AA87
1983	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92
1984	Improving and Eliminating Regulations	1219-AA98
1985	Safety Standards for Underground Coal Mine Ventilation—Preshift Examination Intervals	1219-AB10

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1986	Confined Spaces	1219-AA54
1987	Diesel Particulate Matter (Exposure of Underground Coal Miners)	1219-AA74
1988	Belt Entry Use as Intake Aircourse To Ventilate Working Sections	1219-AA76
1989	Safety Standards for Methane in Metal and Nonmetal Mines	1219-AA90
1990	Safety Standards for the Use of Roof-Bolting Machines	1219-AA94
1991	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96
1992	Electrical Standards for Metal and Nonmetal Mines	1219-AB01
1993	Diesel Particulate Matter (Exposure of Underground Metal and Nonmetal Miners)	1219-AB11
1994	Respirable Crystalline Silica Standard	1219-AB12

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1995	Carbon Monoxide Monitor Approval	1219-AA72
1996	Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines	1219-AB06
1997	X-Ray Surveillance Program for Surface Coal Miners	1219-AB09
1998	Training and Retraining of Miners: Supervisor Training	1219-AB16

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1999	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance	1291-AA28

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2000	Audits of States, Local Governments, and Nonprofit Organizations	1291-AA26
2001	Audit Requirements for Grants, Contracts, and Other Agreements	1291-AA27
2002	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29

DOL

Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2003	Department of Labor Acquisition Regulation	1291-AA20
2004	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2005	Standards Advisory Committee on Metalworking Fluids	1218-AB58
2006	Control of Hazardous Energy Sources (Lockout/Tagout)**(Section 610 Review)**	1218-AB59
2007	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**	1218-AB60
2008	Fall Protection in the Construction Industry	1218-AB62
2009	Process Safety Management of Highly Hazardous Chemicals	1218-AB63
2010	Safety Standards for Scaffolds Used in the Construction Industry—Part II	1218-AB68
2011	Grain Handling Facilities **(Section 610 Review)**	1218-AB73
2012	Cotton Dust **(Section 610 Review)**	1218-AB74

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2013	Access and Egress in Shipyards (Part 1915, Subpart E) (Phase I) (Shipyards: Emergency Exits and Aisles)	1218-AA70
2014	Prevention of Work-Related Musculoskeletal Disorders	1218-AB36
2015	Safety and Health Programs (for General Industry and the Maritime Industries)	1218-AB41
2016	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
2017	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces	1218-AB47
2018	General Working Conditions for Shipyard Employment	1218-AB50
2019	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Phase II) (Shipyards: Fire Safety)	1218-AB51
2020	Permissible Exposure Limits (PELs) for Air Contaminants	1218-AB54
2021	Nationally Recognized Testing Laboratories Programs: Fees	1218-AB57
2022	Flammable and Combustible Liquids	1218-AB61
2023	Revocation of Certification Records for Tests, Inspections, and Training	1218-AB65
2024	Plain Language Revision of the Mechanical Power-Transmission Apparatus Standard	1218-AB66
2025	Electric Power Transmission and Distribution; Electrical Protective Equipment in the Construction Industry	1218-AB67
2026	Safety and Health Programs for Construction	1218-AB69
2027	Requirement To Pay for Personal Protective Equipment	1218-AB77
2028	Consultation Agreements	1218-AB79

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2029	Respiratory Protection (Proper Use of Modern Respirators)	1218-AA05
2030	Steel Erection (Part 1926) (Safety Protection for Ironworkers)	1218-AA65
2031	Scaffolds in Shipyards (Part 1915—Subpart N) (Phase I)	1218-AA68
2032	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements)	1218-AB24
2033	Plain Language Revision of Existing Standards (Phase I)	1218-AB55

DOL

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2034	Longshoring and Marine Terminals (Parts 1917 And 1918)— Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
2035	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health	1218-AA84
2036	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
2037	Indoor Air Quality in the Workplace	1218-AB37
2038	Occupational Exposure to Tuberculosis	1218-AB46
2039	Fire Brigades	1218-AB64
2040	Occupational Exposure to Crystalline Silica	1218-AB70
2041	Control of Hazardous Energy (Lockout) in Construction (Part 1926) (Preventing Construction Injuries/Fatalities; Lockout)	1218-AB71
2042	Occupational Exposure to Beryllium	1218-AB76
2043	Consolidation of Records Maintenance Requirements in OSHA Standards	1218-AB78
2044	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips and Fall Prevention)	1218-AB80

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2045	Powered Industrial Truck Operator Training (Industrial Truck Safety Training)	1218-AB33
2046	Permit Required Confined Spaces (General Industry: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB52

DEPARTMENT OF LABOR (DOL)

Office of the Secretary (OS)

Proposed Rule Stage

1903. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552 as amended; 5 USC Reorganization Plan No. 6 of 1950; EO 12600, 52 FR 23781 (June 25, 1987)

CFR Citation: 29 CFR 70

Legal Deadline: None

Abstract: The regulation will incorporate the provisions of the 1996 FOIA amendments. These include extending DOL processing time from 10 to 20 days for most FOIA requests and requiring that all reading room materials created since November 1, 1996, be made available by electronic means such as the Internet.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Division of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428 FP Building, Washington, DC 20210
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RIN: 1290–AA17

1904. EQUAL ACCESS TO JUSTICE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 28 USC 2412

CFR Citation: 29 CFR 16

Legal Deadline: None

Abstract: The regulation will incorporate the 1996 amendments to the Equal Access to Justice Act and revise the existing regulation to conform with the case law which has evolved since 1981.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert A. Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428 FP Building, Washington, DC 20210
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RIN: 1290–AA18

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Final Rule Stage

1905. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF LABOR

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC 7353; 5 USC app (Ethics in Government Act); EO 12674; 18 USC 208

CFR Citation: 5 CFR 5201; 29 CFR 0; 3 CFR 1989 Comp; 5 CFR 2634; 5 CFR 2635; 3 CFR 1990

Legal Deadline: None

Abstract: The Department of Labor is developing a rule for its employees that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (OGE). The rule would designate certain components of the Department as separate agencies for the purposes of provisions in the Executive Branch-wide standards regarding gifts from outside sources, the receipt of compensation for teaching, speaking, or writing, and fundraising in a personal capacity. The rule would also restrict the outside financial interests for employees of the Mine Safety and Health Administration and require approval of outside employment for employees of the Office of Inspector General. It repeals existing regulations governing outside employment and financial interests. Issuance of this rule would require OGE concurrence.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/96	61 FR 57281
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert A. Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428 FP Building, Washington, DC 20210
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RIN: 1290–AA15

1906. • PROCESS FOR ELECTING STATE EMPLOYMENT STATISTICS AGENCY REPRESENTATIVES FOR CONSULTATIONS WITH DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 927(c); 29 USC 49e-2; 5 USC 301

CFR Citation: 29 CFR 44

Legal Deadline: Final, Statutory, December 31, 1999.

Abstract: This interim final rule establishes a process for the election of State representatives to participate in formal consultations with the Department of Labor relating to the development of an annual employment statistics plan and to address other employment statistics issues. Section 15(d)(2) of the Wagner-Peyser Act, as recently amended by section 309 of the Workforce Investment Act of 1998, requires the Secretary to establish a process for the election of representatives from each of the 10 Federal regions of the Department. This provision requires that the representatives be elected by and from the directors of the State employment statistics agencies designed to carry at employment statistics responsibilities under section 15 of the Wagner-Peyser Act. The interim final rule addresses the election cycles, the tenure of representatives, the process for the distribution of ballots, tie-breaking procedures, methods of transmitting ballots and votes, and the filling of vacancies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/18/98	63 FR 70260
Interim Final Rule Comment Period End	03/18/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Mark Morin, Senior Attorney Adviser, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428, FP Building, Washington, DC 20210
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RIN: 1290–AA19

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

1907. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 11246, as amended

CFR Citation: 41 CFR 60-1; 41 CFR 60-2

Legal Deadline: None

Abstract: These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246 as amended. The part 60-1 final rule, published 8/19/97, revised parts of the regulations implementing E.O. 11246. OFCCP's review of regulatory options continues with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated with compliance. OFCCP plans to propose revisions to written affirmative action program (AAP) requirements to reduce burdens on the regulated community and to improve the enforcement of the Executive order.

Statement of Need: Parts of the regulations implementing Executive Order 11246 need to be revised to reflect changes in the law that have occurred over time, streamlined, and clarified. Executive Order 11246 requires all Federal contractors and subcontractors and federally assisted construction contractors and

subcontractors to apply a policy of nondiscrimination and affirmative action in employment with respect to race, color, religion, sex, and national origin. The regulatory revisions are necessary in order to allow the DOL to effectively and efficiently enforce the provisions of the Executive order. As a first step in updating its Executive order regulations, the Department published changes to the provisions that govern preaward review requirements; recordkeeping and record retention requirements; certification requirements; and related provisions. In addition, other revisions have been made that conform Executive Order 11246 regulations to the recent changes made in the Department's regulations implementing section 503 of the Rehabilitation Act.

A second phase of revision will contain proposals to change provisions that govern requirements for written affirmative action plans and the provisions concerning evaluation of contractor procedures.

Summary of the Legal Basis: No aspect of this action is required by statute or court order.

Alternatives: After careful review, it was decided that the most effective way to improve compliance with the Executive Order 11246 provisions and reduce burdens on contractors, was to propose revisions to these regulations. Administrative actions alone could not produce the desired results.

Anticipated Costs and Benefits: It is anticipated that the net effect of the proposed changes will increase compliance with the nondiscrimination and affirmative action requirements of the Executive Order and reduce compliance costs to Federal contractors. The Department will also be able to utilize its resources more efficiently and more effectively.

Risks: Failure to move forward with OFCCP's regulatory agenda would cause the continuation of outdated methods of evaluating contractor compliance and impede effective enforcement of the E.O. 11246.

Timetable:

Action	Date	FR Cite
NPRM Affirmative Action Plans (60-2)	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Under the reinventing government initiative, OFCCP's emphasis is on regulatory reform, e.g., to revise the Executive Order 11246 regulations to reduce paperwork burdens, eliminate unnecessary regulations, and simplify and clarify the regulations while improving the efficiency and effectiveness of the contract compliance program.

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RIN: 1215–AA01

1908. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 203(e)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders, and whether changes are needed in some of the applicable hazardous occupation orders. Comment has also been solicited on whether revisions should be considered in the permissible hours and time-of-day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs. Additionally, Congress enacted Public Law 104-174 (August 6, 1996), which amended FLSA section 13(c) and requires changes in the regulations under Hazardous Occupation Order No. 12 regarding power-driven paper balers and compactors, to allow 16- and 17-year-olds to load, but not operate or unload, machines meeting applicable American National Standards Institute (ANSI) safety standards and certain other conditions.

Statement of Need: Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

DOL—ESA

Proposed Rule Stage

Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When developing regulatory proposals (after receipt of public comment on the advance notice of proposed rulemaking), the Department's focus will be on assuring healthy, safe and fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Summary of the Legal Basis: These regulations are issued under sections 3(1), 11, and 12 of the Fair Labor Standards Act, 29 USC secs. 203(1), 211, and 212 which require the Secretary of Labor to issue regulations prescribing permissible time periods and conditions of employment for minors between 14 and 16 years old so as not to interfere with their schooling, health, or well-being, and to designate occupations that may be particularly hazardous or detrimental to the health or well-being of minors under 18 years old.

Alternatives: Regulatory alternatives will be developed based on the public comments responding to the advance notice of proposed rulemaking. Alternatives likely to be considered include specific additions or modifications to the hazardous occupation orders and changes to the hours 14- and 15-year-olds may work.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on particular proposed changes in the child labor regulations. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks: An assessment of the magnitude of the risk addressed by this action will be prepared once decisions are reached on particular proposed changes in the child labor regulations.

Timetable:

Action	Date	FR Cite
Final Action HOS 2, 10 and 12	11/20/91	56 FR 58626
Final Rule Effective	12/20/91	56 FR 58626
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AA09

1909. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88 Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify that these exemptions are applicable to third-party employers or temporary help agencies only where the domestic service worker is jointly employed by the third-party employer or temporary help agency and the family or household using their services (58 FR 69310). After reviewing the public comments, the Department adopted technical changes to update the regulations, including a revision necessitated by recently-enacted amendments to title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act) 10/22/94, (see 60 FR 46766) and reopened the public comment period on proposed revisions affecting third-party employers (section 552.109).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
NPRM Second	09/08/95	60 FR 46797
Final Rule	09/08/95	60 FR 46766
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

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RIN: 1215–AA82

1910. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Priority: Other Significant

Legal Authority: 40 USC 276a to 276a(7)

CFR Citation: 29 CFR 1; 29 CFR 5

Legal Deadline: None

Abstract: The Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act in May 1982 (see 47 FR 23644, 23658 (May 28, 1982); 47 FR 32090 (July 20, 1982)). After protracted litigation, a final rule was published in January 1989 (see 54 FR 4234) which became effective on February 4, 1991. Thereafter, on two occasions Congress acted to prevent the Department from expending any funds

to implement these revised helper regulations--through the Dire Emergency Supplemental Appropriations Act of 1991, PL 102-27, 105 Stat. 130,151 (1991), and then through section 104 of the DOL Appropriations Act of 1994, PL 103-112. There is no such prohibition in the DOL's Appropriations Act for fiscal year 1999 Public Law 105-277 (October 21, 1998). Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking. A notice inviting public comment on a proposal to continue the suspension of the former helper regulations while the Department conducts additional rulemaking proceedings was published August 2, 1996 (61 FR 40366). A final rule continuing the suspension while further rulemaking is considered was published December 30, 1996 (61 FR 68641).

Statement of Need: The current helper rules are difficult to administer and enforce and--as evidenced by the prolonged litigation history and subsequent Congressional actions--are highly controversial. In May 1982, the Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act. After protracted litigation, a final rule was published in January 1989 and became effective on February 4 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations through appropriations riders. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking.

Summary of the Legal Basis: These regulations are issued under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 USC appendix) and the Copeland Act (40 USC 276c) in order to provide coordinated enforcement of the prevailing wage provisions of the Davis-Bacon Act (40 USC 276a-276a-7) and several additional Federal statutes that require payment of prevailing wages as determined by the Secretary of Labor according to the Davis-Bacon Act to laborers and mechanics working on federally funded or assisted construction contracts (see list of statutes in 29 CFR sec. 5.1).

Alternatives: The Administration has determined that there are only limited alternatives to addressing this issue through rulemaking, in addition to possible legislative changes.

Anticipated Costs and Benefits: A new rulemaking regarding the helper criteria will seek to make administration of the Davis-Bacon Act more efficient by establishing reasonable "helper" criteria and methodology--thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised "helper" regulations will be prepared for inclusion in the NPRM.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM Continue Suspension	08/02/96	61 FR 40367
Final Continue Suspension	12/30/96	61 FR 68641
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AA94

1911. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994, 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355, 108 Stat. 3243

CFR Citation: 29 CFR 4; 29 CFR 5; 41 CFR 50 to 201; 41 CFR 50 to 206

Legal Deadline:
NPRM, Statutory, May 11, 1995.
Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amends several Acts administered by the Department of Labor: (1) It amends the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of $100,000 or greater. (2) It amends the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance. (3) It also amends the Walsh-Healey Public Contracts Act (PCA) to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." A final rule implementing the CWHSSA and PCA changes was published on August 5, 1996 (61 FR 40714).

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
Final Rule - Walsh-Healey/CWHSSA Rule	08/05/96	61 FR 40714
Second NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: These legislative amendments will require revisions to Regulations, 29 CFR parts 4 and 5 with respect to CWHSSA and DB and Regulations, 41 CFR part 50-201 and part 50-206 with respect to PCA.

Agency Contact: John R. Fraser, Deputy Administrator (WHD),

DOL—ESA

Proposed Rule Stage

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RIN: 1215–AA96

1912. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulation was included in the Department's regulatory reinvention initiative as a candidate for possible simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB03

1913. ASSESSMENT AND COLLECTION OF USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-470; 96 Stat 2583; 29 USC 1801 to 1872; Secretary's Order No. 1-93 (58 FR 21190); PL 99-603, sec 210A(f); 100 Stat 3359; 8 USC 1161(f); 52 Stat 1068, sec 11 and 14; 75 Stat 74, sec 11; 29 USC 211; 29 USC 214; 52 Stat 1066, sec 11; 63 Stat 910, sec 9; 29 USC 211(d); 80 Stat 843 to 844, sec 501 and 602

CFR Citation: 29 CFR 500.45; 29 CFR 500.52; 29 CFR 519.3; 29 CFR 519.13; 29 CFR 530.4; 29 CFR 530.102

Legal Deadline: None

Abstract: In accordance with the authority provided by title V of the Independent Offices Appropriations Act of 1952, often referred to as the "user fee statute," and the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1995 (PL 103-333), the Department is proposing to establish and collect user fees to recover the costs of providing certain services that are required by law and without which, the recipients of the services would not legally be allowed to engage in particular employment practices. The services for which user fees are to be collected include processing applications and issuing farm labor contractor certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act; processing applications and issuing certificates authorizing employers to employ certain students at special minimum wages under section 14(b) of the Fair Labor Standards Act; and processing applications and issuing certificates authorizing employers to employ homeworkers under section 11(d) of the Fair Labor Standards Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB06

1914. EXEMPTIONS APPLICABLE TO AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES, AND RELATED SUBJECTS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 201 et seq

CFR Citation: 29 CFR 780

Legal Deadline: None

Abstract: This regulation interprets various exemptions applicable to employees in agriculture, processing of agricultural commodities and related issues under the Fair Labor Standards Act (FLSA). The regulation has been targeted for updating and streamlining as part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB11

DOL—ESA

Proposed Rule Stage

1915. IMPLEMENTATION OF THE 1996 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: PL 104-188, sec 2101 to 2105; 29 USC 201 et seq

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50-202

Legal Deadline: None

Abstract: The "Small Business Job Protection Act of 1996" (H.R. 3448) was enacted on August 20, 1996, as Public Law 104-188. Title II of this enactment amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) increase the $4.25 Federal minimum hourly wage by $.90 in two steps over two years (i.e., to $4.75 on October 1, 1996, and to $5.15 on September 1, 1997); (2) provide a $4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at $2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at not less than $27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB13

1916. LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5) DEFINITION OF "SITE OF THE WORK" UNDER THE DAVIS-BACON ACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 276a to 276a-7; 40 USC 276c

CFR Citation: 29 CFR 5

Legal Deadline: None

Abstract: Two appellate court decisions have ruled that the Department of Labor's definition of "site of the work" in section 5.2(l) of the Davis-Bacon Act regulations does not conform to the statutory language of the Davis-Bacon Act, which requires payment of prevailing wages as determined under the Act to all laborers and mechanics "employed directly upon the site of the work." (See e.g., Ball, Ball and Brosamer v. Reich, 24 F.3d 1447, (D.C. Cir. 1994); L.P. Cavett Company v. U.S. Department of Labor, 101 F.3d 1111 (6th Cir. 1996).) The Department is proposing technical clarifications of Davis-Bacon coverage based on the site of the work definition as interpreted by these court decisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB21

1917. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: OFCCP proposes to revise the regulation implementing section 503 of the Rehabilitation Act of 1973, as amended, to conform to the recently revised section 60-1.20(a) of the regulation implementing E.O. 11246, as amended. The section authorizes OFCCP to use a range of methods to evaluate a contractor's compliance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD: 202 693-1308
Fax: 202 693-1304

RIN: 1215–AB23

1918. • AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4211; 38 USC 4212; PL 93-508, Amended; PL 94-502; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127; PL 102-484; PL 95-520

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP proposes to amend the regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) 38 USC 4212, to conform with the newly enacted Veterans Employment Opportunities Act of 1998. The Act increases the current threshold for coverage from $10,000 to $25,000. The Act expands the existing definition of Veterans, i.e., special disabled veterans and veterans of the Vietnam Era, to

DOL—ESA **Proposed Rule Stage**

include any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The Act also requires the contractor to add additional information to its annual VETS-100 report to provide the maximum and minimum number of employees of such contractor's workforce during the period covered by the report.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD: 202 693-1308
Fax: 202 693-1304

RIN: 1215–AB24

1919. • AMENDMENT TO SECTION 5333(B) GUIDELINES TO CARRY OUT NEW PROGRAMS AUTHORIZED BY THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Priority: Substantive, Nonsignificant

Legal Authority: Secretary's Order 5-96, 62 FR 107, January 2, 1997

CFR Citation: 29 CFR 215.3(a); 29 CFR 215.8

Legal Deadline: None

Abstract: The Transportation Equity Act for the 21st Century provides for three new transportation programs which require employee protection under section 5333(b) -- a Job Access and Reverse Commute Program, an Over-the-Road Bus Accessibility Program, and a State Infrastructure Bank Program. As a condition of release of assistance by FTA, the Department must certify that protective arrangements pursuant to section 5333(b) are in place. The Department is proposing to amend its guidelines to identify which of the new programs will be covered under the certification processes set forth therein.

Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15276
NPRM Comment Period End	04/29/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Kelley Andrews, Director, Statutory Programs Division, Office of Labor Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N5603, FP Building, Washington, DC 20210
Phone: 202 693-1182
Fax: 202 693-1342

RIN: 1215–AB25

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Final Rule Stage

1920. STANDARDS FOR WAIVERS UNDER SECTION 503 OF THE REHABILITATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793, as amended by PL 99-506; PL 100-630; PL 100-259; PL 101-336; PL 102-569; EO 11758

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to issue regulations that will set forth standards for waivers (from provisions of section 503 of the Rehabilitation Act) sought by Federal contractors for facilities that they deem totally separate from and not involved in Government contract work. OFCCP is required to issue these regulations by the 1992 Rehabilitation Act amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/14/96	61 FR 5902
NPRM Comment Period End	04/15/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD: 202 693-1308
Fax: 202 693-1304

RIN: 1215–AA84

1921. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; 29 USC 49 et seq; PL 102-232

CFR Citation: 20 CFR 655, subparts H & I

Legal Deadline: None

Abstract: This proposed rule is a republication for notice and public comment of various provisions of the Department's final rule implementing provisions of the Immigration and Nationality Act as it relates to the temporary employment in the United States of nonimmigrants admitted under H-1B visas. As part of the DOL regulatory reinvention efforts, Regulations, 29 CFR part 507 which duplicate 20 CFR part 655, subparts H and I, have been removed from title 29. (See 61 FR 51013.) In addition, amendments are proposed to implement the American Competitiveness and Workforce Improvement Act of 1998 (Title IV, Public Law 105-277, October 21, 1998; 112 Stat. 2681).

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	

DOL—ESA

Final Rule Stage

Action	Date	FR Cite
NPRM	01/05/99	64 FR 628
NPRM Comment Period End	02/04/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB09

1922. MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 578); CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 579); ADJUSTMENT OF CIVIL MONEY PENALTIES FOR INFLATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 216(e); PL 101-410; PL 104-134

CFR Citation: 29 CFR 578; 29 CFR 579

Legal Deadline:
Final, Statutory, October 23, 1996.

Abstract: The Debt Collection Improvement Act of 1996 (PL 104-134) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (PL 101-410) to require Federal agencies to adjust certain civil money penalties for inflation. The Department is proposing adjustments in the civil money penalties that may be assessed under section 16(e) of the Fair Labor Standards Act for (1) repeated or willful violations of the minimum wage or overtime provisions; and (2) child labor violations. Any increase in the penalty amounts shall apply only to violations which occur after the effective date of the increase.

Timetable:

Action	Date	FR Cite
NPRM	12/28/98	63 FR 71405
NPRM Comment Period End	01/27/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
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RIN: 1215–AB20

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Long-Term Actions

1923. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which provided, in part, that an otherwise exempt public sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In addition, a number of court rulings have caused confusion on the factors to consider in meeting the regulation's "salary basis" criteria, in both the public and private sectors.

Statement of Need: These regulations set forth the criteria used in the determination of the application of the FLSA exemption for "executive," "administrative," "professional," and "outside sales employees." The existing salary test levels used in determining which employees qualify as exempt from the minimum wage and overtime rules were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in the application of the exemption. In addition numerous

comments and petitions have been received in recent years from industry groups regarding the duties and responsibilities tests in the regulations. These factors, as well as recent case law developments, have led the Department to conclude that a review of these regulations is needed.

These regulations have been revised in recent years to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employees. This interim final rule provided, in part, that an otherwise exempt public-sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In 1992, the Department issued its final rule on this matter.

Because of the limited nature of these revisions, the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors.

Summary of the Legal Basis: These regulations are issued under the statutory exemption from minimum wage and overtime pay provided by section 13(a)(1) of the Fair Labor Standards Act, 29 USC 213(a)(1), which requires the Secretary of Labor to issue regulations that define and delimit the terms "any employee employed in a bona fide executive administrative, or professional capacity ..., or in the capacity of outside salesman...," for purposes of applying the exemption to employees who meet the specified criteria.

Alternatives: The Department will involve affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in the Congress to address certain aspects of these regulations, the Department will continue to pursue revisions to the regulations as the appropriate response to the concerns raised. Alternatives likely to be considered include particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Costs and Benefits: Some 23 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are causing progressive loss of control of the guiding interpretations under this exemption and are creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. These court rulings are creating apprehension in both the private and public sectors. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate this apprehension. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s, and that they do not readily adapt to contemporary government functions. The Federal government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA14

1924. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline:
Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524), that incorporates the labor standards issued by the Employment and Training Administration (ETA) and

sets forth procedures for enforcement of these labor standards.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	
Interim Final Rule	06/01/87	52 FR 20524
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA43

1925. BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED AFFECTING THE BLACK LUNG BENEFITS ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline: None

Abstract: The Division of Coal Mine Workers' Compensation reviewed its existing regulations, pursuant to Executive Order 12866, with a goal of eliminating outdated and unnecessary rules and streamlining the processes. The result is a proposal to revise existing rules to facilitate alternative dispute resolution during the informal conference; streamline the litigation process by encouraging the early development and submission of evidence; reduce the costs of copying and mailing; raise the dollar limit for prior approval for medical equipment; and rewrite existing rules to make them more customer-oriented.

There will be no additional administrative costs associated with these changes, but savings can be expected through streamlining.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3338
NPRM Comment Period End	03/24/97	
NPRM Comment Period End Extended to 8/22/97	05/24/97	62 FR 8201
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. DeMarce, Director, Coal Mine Workers' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3520, FP Building, Washington, DC 20210
Phone: 202 693-0046
Fax: 202 693-1395

RIN: 1215–AA99

1926. REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 433; 29 USC 438

CFR Citation: 29 CFR 406.3

Legal Deadline: None

Abstract: The Office of Labor-Management Standards (OLMS) is proposing to amend Receipts and Disbursements Report (Form LM-21) to narrow the scope of reporting. A Receipts and Disbursements Report is required in the circumstances specified in section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). It is required to be filed by any labor relations consultant, or other individual or organization, who has made or received payment as a party to an agreement or arrangement with an employer, pursuant to which he has undertaken persuader or information-supplying activities on behalf of the employer. The proposed amendment would reflect reporting guidelines established in Donovan v. The Rose Law Firm, 768 F.2d 964 (8th Cir. 1985). This judicial decision narrowed the scope of reporting to eliminate reporting of receipts and disbursements in connection with labor relations advice and services rendered to employers for whom no persuader or information-supplying activities were undertaken.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, OLMS, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210
Phone: 202 693-1233
Fax: 202 693-1340

RIN: 1215–AB14

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Completed Actions

1927. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 4211; 38 USC 4212; PL 93-508 Amended; PL 94-502; PL 95-520; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127; PL 102-484

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing 38 USC 4212 (formerly 2012) the affirmative action provision of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 to: (1) make its provisions for special disabled veterans consistent with section 503 of the Rehabilitation Act of 1973 (2) incorporate some legislative and other changes that have occurred, and (3) generally clarify 38 USC 4212 Affirmative Action Program (AAP) requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule Invitation to Self-Identify (41 CFR 60-250.5(d))	05/01/96	61 FR 19336
NPRM	09/24/96	61 FR 50079
NPRM Comment Period End	12/27/96	
Final Action	11/04/98	63 FR 59630
Final Action Effective	01/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD: 202 693-1308
Fax: 202 693-1304

RIN: 1215–AA62

1928. FEDERAL EMPLOYEES' COMPENSATION ACT; CLAIMS FOR COMPENSATION FOR WORK-RELATED INJURY/DEATH

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 8101 et seq

CFR Citation: 20 CFR 1; 20 CFR 10; 20 CFR 25

Legal Deadline: None

Abstract: The Office of Workers' Compensation Programs will carry out a comprehensive review of and revision to the regulations implementing the Federal Employees' Compensation Act (FECA) to eliminate outdated or unnecessary rules reflecting a streamlining of the claims process, update rules to reflect legislative changes, modify the medical fee schedule to include hospital and pharmacy charges and simplify language.

Timetable:

Action	Date	FR Cite
NPRM	12/23/97	62 FR 67120
NPRM Comment Period End	02/23/98	
Final Action	11/25/98	63 FR 65284
Final Action Effective	01/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas M. Markey, Director for Federal Employees' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3229, FP Building, Washington, DC 20210
Phone: 202 693-0040
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RIN: 1215–AB07

1929. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: This final rule revises appendix C to the regulations implementing section 503 of the Rehabilitation Act of 1973. Appendix C contains procedures that Government contractors may use to review their personnel processes to ensure that the processes are fair to disabled applicants and employees. The existing appendix recommends that contractors attach or include a description of accommodations considered or used for individuals with disabilities to application forms or personnel records. As revised, the appendix recommends that the description of accommodations be maintained in separate confidential medical files.

The revision results from a comment submitted by the Equal Employment Opportunity Commission in response to OFCCP's NPRM under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), which contains a similar appendix. The EEOC submitted that in most instances descriptions of accommodations constitute medical information that, under the Americans with Disabilities Act, must be maintained in separate files and treated as confidential medical records.

Accordingly, the revision is required in order to ensure that contractors complying with section 503 will not inadvertently violate the Americans with Disabilities Act. The revision also ensures continued consistency between OFCCP's rules under section 503 and VEVRAA, which minimizes contractor burdens and confusion.

Timetable:

Action	Date	FR Cite
Final Action	11/04/98	63 FR 59657
Final Action Effective	01/04/99	63 FR 59658

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD: 202 693-1308
Fax: 202 693-1304

RIN: 1215–AB19

DEPARTMENT OF LABOR (DOL) **Proposed Rule Stage**

Employment and Training Administration (ETA)

1930. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625

Legal Deadline: None

Abstract: Experience in several recent disasters has highlighted the complexity and time-consuming nature of the monetary benefit provisions of the current regulations and brought into question other provisions of the current regulations which are perceived to be unduly restrictive and/or result in perceived inequities in some disaster situations. These issues will be addressed in two stages. First, an ANPRM was published, with a 60-day comment period, on 12/08/94 at 59 FR 63670. This ANPRM outlined provisions in the Disaster Unemployment Assistance (DUA) program regulations (20 CFR part 625), other than the monetary benefit provisions, that have come into question and solicits public comment and suggestions relative to these provisions and on other provisions for review and potential revision in a future NPRM. Second, an interim final rule was published May 11, 1995, with a 60-day comment period. This rule simplified the monetary assistance provisions by removing cumbersome administrative provisions and inconsistencies in the computation of a weekly amount.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63670
ANPRM Comment Period End	02/06/95	
Interim Final Rule	05/11/95	60 FR 25560
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Robert Gillham, Team Leader, Federal Programs Team, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 219-5616

RIN: 1205–AB02

1931. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 503(a)(1); 42 USC 503(a)(6); 42 USC 503(b); 42 USC 1302

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650; 20 CFR 609.6(f); 20 CFR 614.6(f)

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily. This regulation will be as brief and general as possible; detail and measures, standards, criteria and plans will be contained in implementing handbooks.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2543
ANPRM Comment Period End	03/17/97	
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Sandra King, Chief, Division of Performance Review, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4321, FP Building, Washington, DC 20210
Phone: 202 219-5223
Fax: 202 219-8506
Email: sking@doleta.gov

RIN: 1205–AB10

1932. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: U.S. District Court for the District of Columbia held that section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that employee protection provisions of section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987, that the legislative veto provisions were unconstitutional but the employee protection provisions were constitutional; therefore, rulemaking on the monetary benefits aspect of the employee protection program can proceed. In 1991 DOT determined there were no job losses due to deregulation. In September 1993, the U.S. District Court for the District of Columbia ordered DOT to develop broader guidelines to apply to air carriers, which may result in a finding of job losses. DOL has reinstituted clearance on the proposed rule. No benefits are payable to eligible workers until DOT determines that an air carrier experienced a qualifying dislocation and Congress appropriates the money to award benefits. To date, neither of these actions has occurred.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Betty E. Castillo, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4514, FP Building, Washington, DC 20210
Phone: 202 219-5616
Fax: 202 219-8506

RIN: 1205–AB17

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Final Rule Stage

1933. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 Amendments to the TAA program was published in the Federal Register on January 6, 1994. Although published as final, comments were requested on several material changes being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Grant D. Beale, Acting Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555
Fax: 202 219-5753

RIN: 1205–AB05

1934. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-182, title V

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: Title V of the North American Free Trade Agreement Implementation Act (PL 103-182) amends chapter 2 of title II of the Trade Act of 1974 by adding a new Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of increased imports from or a shift of production to Mexico and Canada. Most of the provisions of title V are in the form of amendments to chapter 2, title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3472
NPRM Comment Period End	03/20/95	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Grant D. Beale, Acting Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555
Fax: 202 219-5555

RIN: 1205–AB07

1935. WELFARE-TO-WORK (WTW) GRANTS

Priority: Other Significant

Legal Authority: 42 USC 601 to 619

CFR Citation: 20 CFR 645

Legal Deadline:
Final, Statutory, November 3, 1997, 90 days from enactment.

Abstract: The Employment and Training Administration published interim final regulations on November 18, 1997, implementing the Welfare-to-Work Grants Program. The Personal Responsibility and Work Opportunity Reconciliation Act reformed the Nation's welfare laws, when enacted in August 1996, by creating a new system of block grants to the States for Temporary Assistance for Needy Families (TANF). Moving people from welfare to work is one of the primary goals of Federal welfare policy as well as one of five goals the Secretary of Labor has identified for the Department of Labor. section 5001 of the Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF. The Welfare-to-Work Grants will be provided to the States through the use of a formula, and in a competitive process to local communities. A small amount of total grant funds will be set aside for special purposes: one percent for Indian tribes; 0.8 percent for evaluation; and $100 million for performance bonuses to successful States.

The interim final regulations and other guidance focus on providing maximum local flexibility. Guidance and regulations reflect minimal amplification of the law and provide further information or clarification as needed to make the program operational. Existing regulations and systems are used wherever possible. Reporting requirements will assure program integrity and provide timely information for tracking performance. Performance measures will be established and will serve as the basis for the award of FY 2000 bonus grants to the States based on successful performance. Products provided link welfare agencies and workforce development system agencies at the operational level in order to maximize resources available and avoid duplication and overlap. Leveraging of non-Federal resources at the State and local level is encouraged.

These funds will allow States and local communities to help move eligible individuals into jobs by: job creation through public or private sector wage subsidies; on-the-job training; contracts with public or private providers of job readiness, job placement, and post-employment services; job vouchers for similar services; community service or work experience; or job retention and supportive services (if such services are not otherwise available).

Statement of Need: Since the passage of the Personal Responsibility and Work Opportunity Reconciliation Act, the President and the Congress recognized the need for a measure to complement the Temporary Assistance for Needy Families (TANF) block grant created as a result of the Act. On August 5, 1997, President Clinton signed into law the Balanced Budget Act of 1997, which authorized the

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Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF. The basic goal of the program is to move welfare recipients into unsubsidized jobs with good career potential for economic self-sufficiency. Welfare-to-Work formula and competitive grants provide States and local communities with an array of tools to help them accomplish this goal in ways that make sense and are most effective for their particular population needs. The Employment and Training Administration will issue final regulations and other guidance, provide technical assistance, and establish performance standards which will drive State and local efforts towards the program's goal while still allowing maximum local flexibility.

Summary of the Legal Basis: Promulgation of these regulations is authorized by SSA section 403 (a)(1)(5)(C)(viii).

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date. Welfare recipients will receive job placement and temporary, transitional employment opportunities leading to lasting employment and self-sufficiency. Employers will have ready access to a large pool of motivated hard-working entry-level workers who will be eligible for job retention and support services to maintain employment. Businesses will be eligible to receive wage and on-the-job training subsidies when they hire the hard-to-employ welfare recipients.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/97	62 FR 61587
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Dennis Lieberman, Director, Office of Welfare to Work, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., C4524, FP Building, Washington, DC 20210
Phone: 202 219-0181

RIN: 1205–AB15

1936. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF STATE RECORDS

Priority: Other Significant

Legal Authority: 42 USC 1302 (a); 42 USC 503; 42 USC 1320b-7; 26 USC chapter 23; Secretary's Orders 4-75 and 14-75

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration of the Department of Labor is preparing to issue a final rule on confidentiality and disclosure of State records in the Federal-State Unemployment Compensation program. The final rule modifies and expands the regulations implementing the Income and Eligibility Verification System (IEVS) to include the statutory requirements in title III of the Social Security Act, the Federal Unemployment Tax Act, and the Wagner-Peyser Act concerning confidentiality and disclosure of State records compiled or maintained for purposes of the Federal-State Unemployment Compensation Program.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An NPRM was published 3/23/92 at 57 FR 100064 with comment period ending 5/22/92.

Agency Contact: Anne Vogel, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., C4512, FP Building, Washington, DC 20210
Phone: 202 219-5201
Fax: 202 219-8506

RIN: 1205–AB18

1937. LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE IN THE U.S.; ADMINISTRATIVE MEASURES TO IMPROVE PROGRAM PERFORMANCE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 8 USC 1101 (a); 8 USC 1184 (c) (1); 8 USC 1188

CFR Citation: 20 CFR 655 subpart B; 20 CFR 654 subpart E

Legal Deadline: None

Abstract: The Amendments would improve and streamline the operation of the temporary program for the temporary employment of nonimmigrant agricultural workers in the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/02/98	63 FR 53243
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
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Fax: 202 208-5844
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RIN: 1205–AB19

1938. WORKFORCE INVESTMENT ACT OF 1998

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Workforce Investment Act of 1998, section 189(2)-506(c); 29 USC 939(a)

CFR Citation: 20 CFR 660 to 671; 20 CFR 652

Legal Deadline:
Other, Statutory, February 7, 1999, Interim Final Rule.
Final, Statutory, December 31, 1999.

Abstract: The Workforce Investment Act of 1998 was signed into law by President Clinton on August 7, 1998. Titles I, III, and V of the Act fall under

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the purview of the Employment and Training Administration. The Act makes significant changes in the way this country's employment and training programs do business. The Act will ensure that Americans have the information and training they need to qualify for good jobs and successfully manage their careers. The interim final regulations, final regulations, and other guidance will focus on providing maximum local flexibility. Guidance and regulations will reflect minimal amplification of the law and will provide further information or clarification as needed to make the program operational. Reporting requirements will assure program integrity and provide timely information for tracking performance.

Statement of Need: The purpose of title I of the Workforce Investment Act of 1998 is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and skill attainment of participants, and as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation. The Employment and Training Administration will issue regulations and other guidance and provide technical assistance that will focus State and local efforts towards the program's goal while allowing maximum local flexibility. The Department of Labor and its partners must move quickly to implement the reforms contained in the legislation. The law requires that interim final regulations be published no later than 180 days after the date of enactment and that final regulations be published no later than December 31, 1999.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance necessary to carry out new provisions under the new legislation, the Workforce Investment Act of 1998.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs of this newly enacted legislation have not been determined at this time, but will be at a later date. It is anticipated, however, that successful implementation of this legislation will result in changes in the way this country's employment and training programs do business, and will ensure that Americans have the training they need to qualify for good jobs and successfully manage their careers. The Act consolidates more than 60 Federal programs. It will significantly enhance the ability of State and local areas to effectively implement welfare reform and move welfare recipients from welfare to work. It establishes a single delivery system for adult employment and training and for dislocated worker employment and training that maximizes choice in the selection of occupations and training providers. Under the Act, individuals with disabilities will have access to a comprehensive job training system capable of serving all. Unemployed individuals with disabilities will have broader job opportunities allowing them to re-enter or in some cases enter the workforce for the first time.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Eric Johnson, Director, WIA Implementation Team, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S5513, FP Building, Washington, DC 20210
Phone: 202 219-0316
Fax: 202 219-0323

RIN: 1205–AB20

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Long-Term Actions

1939. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under title VI of the Job Training Partnership Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Beverly, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 219-5257

RIN: 1205–AA37

1940. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: INA 212(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor (DOL) is currently re-engineering the labor certification process that is set forth in DOL regulations at 20 CFR 656. DOL's goals are to make fundamental changes and refinements that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort is a collaborative effort of Federal and State staff who are involved in the administration of alien certification programs. The re-engineering effort also involves

consultation throughout the process with sponsors, stakeholders State partners, and outside interest groups to solicit ideas and suggestions for change.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263
Fax: 202 219-5844
Email: jnorris@doleta.gov

RIN: 1205–AA66

1941. ESTABLISHMENT OF FEES FOR IMMIGRATION PROGRAMS ADMINISTERED BY THE EMPLOYMENT AND TRAINING ADMINISTRATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The regulation would establish a new fee charged to employers for processing of alien labor certification and attestation applications by the Department of Labor (DOL) and State Employment Security Agencies. The user fee would be proposed in the FY 2000 Appropriations. The user fee would be a government receipt and would be applied to Federal and State expenditures for Federal and State program administration in the State Unemployment Insurance and Employment Service account and the Program Operations Account in DOL's Employment and Training Administration (ETA).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Funding of ETA immigration programs has been reduced by 39 percent since FY 1995. The fee proceeds would be used to offset the costs of administering the alien labor certification program. However, in each of Fiscal Years 1999 and 2000 regular appropriations of $41 million would be required in addition to user fees to work off a large backlog of applications already in the pipeline and future growing backlogs created primarily by appropriations reduction in FY 1996 and 1997.

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
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RIN: 1205–AB14

1942. INDIAN AND NATIVE AMERICAN WELFARE-TO-WORK PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 612(a)(3)(c)(iii), The Social Security Act, as amended

CFR Citation: 20 CFR 646

Legal Deadline:
Final, Statutory, November 4, 1997, Citation mandates Secretary to prescribe regulations within 90 days of enactment to publish Interim Final rule by 10/31/98.

Abstract: These are program regulations needed to implement the Indian and Native American set-aside under the Welfare-to-Work program authorized by section 412(a)(3) of the Social Security Act, as amended.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/98	63 FR 15985
Interim Final Rule Effective	04/01/98	
Interim Final Rule Comment Period End	06/01/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Gregory Gross, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-8502
Fax: 202 219-6338
Email: ggross@doleta.gov

RIN: 1205–AB16

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Proposed Rule Stage

1943. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from State regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish health benefit arrangements which are maintained by legitimate unions pursuant to bona fide collective bargaining agreements from health insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from State insurance regulation. The regulation will also serve to limit the extent to which health plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements. The Department has determined to develop

a revised proposal utilizing the negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
NPRM Comment Period End	10/02/95	60 FR 39208
NPRM Second	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Goodman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA48

1944. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1135; 29 USC 1136

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rulemaking will provide guidance concerning the notification requirements pertaining to continuation coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Section 606 of ERISA requires that group health plans provide employees notification of the continuation coverage provisions of the plan and imposes notification obligations upon plan administrators, employers, employees, and qualified beneficiaries relating to certain qualifying events.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49894
ANPRM Comment Period End	11/24/97	
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA60

1945. ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, section 1503

CFR Citation: 29 CFR 2520.104a-2; 29 CFR 2520.104a-3; 29 CFR 2520.104a-4; 29 CFR 2520.104a-7

Legal Deadline: None

Abstract: This rulemaking will remove from the CFR certain regulations that have been superseded by amendments to title I of ERISA effected by the Taxpayer Relief Act of 1997 (PL 105-34) that eliminate the requirement for plan administrators to file summary plan descriptions (SPDs), summaries material modifications (SMMs), and updated SPDs with the Department of Labor. Under the amendments plan administrators must continue to furnish participants and beneficiaries with copies of these documents. A separate rulemaking (RIN: 1210-AA67 and 1210-AA68) will implement the Taxpayer Relief Act amendments that require plan administrators to furnish copies of SPDs and any other documents relating to the plan to the Department on request, and authorize the Secretary of Labor to assess a civil penalty for failure to do so.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA66

1946. REQUIREMENT TO FURNISH PLAN DOCUMENTS UPON REQUEST BY THE SECRETARY OF LABOR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, section 1503

CFR Citation: 29 CFR 2520.104a-8

Legal Deadline: None

Abstract: This rulemaking will implement an amendment to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (PL 105-34) which requires plan administrators to furnish copies of any documents relating to the plan to the Department on request.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA67

1947. CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN PLAN DOCUMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-34, section 1503; 29 USC 1135; 29 USC 1132

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None

Abstract: This rulemaking will implement the enforcement aspects of amendments to title I of ERISA made by section 1503 of the Taxpayer Relief

Act of 1997 (Public Law 105-34) which, while eliminating the requirement that plan administrators file summary plan descriptions (SPDs), summaries of material modifications (SMMs) and updated SPDs with the Department of Labor, also provided that administrators must furnish copies of any documents relating to the plan, including but not limited to SPDs, to the Department on request. In particular, this rulemaking will implement the amendments that authorize the Secretary of Labor to assess a civil penalty of up to $100 a day, up to a maximum of $1,000 per request, against a plan administrator who fails to furnish the requested documents on a timely basis.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA68

1948. AMENDMENT OF SMALL PLAN EXEMPTION FROM AUDIT REQUIREMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1024; 29 USC 1191c; Secretary of Labor's Order No. 1-87, April 21,1987

CFR Citation: 29 CFR 2520.104-41; 29 CFR 2520.104.46

Legal Deadline: None

Abstract: This initiative would amend the conditions under which small pension plans (i.e., those with fewer than 100 participants) will be exempt from the requirements of section 103(a)(3)(A) to engage an independent qualified public accountant and to include the report of such accountant as part of the plan's annual report. Specifically, the amendment would condition the availability of the exemption on plan assets being held by an approved institution, the approved institution providing a certification of the assets held, and the availability of such certifications to plan participants and beneficiaries. This initiative is being undertaken to improve security and accountability with respect to assets of small employee pension benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John Keene, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA73

1949. • REQUEST FOR INFORMATION RELATING TO THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1185; PL 105-277; 112 Stat 2681; 29 USC 1135; 29 USC 1194

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department is requesting information from the public on a number of issues arising under the provisions of the Women's Health and Cancer Rights Act of 1998 (WHCRA), enacted on October 21, 1998 (P.L. 105-277). WHCRA amended the Employee Retirement Income Security Act of 1974, as amended (ERISA) and the Public Health Service Act (PHS Act) to provide protection for patients who elect breast reconstruction in connection with a mastectomy. The WHCRA provisions are set forth in part 7 of Subtitle B of title I of ERISA and in title XXVII of the PHS Act. The Department has statutory authority to publish this rule as an interim final rule with a request for comments. A determination has yet to be made with regard to whether the rule should be promulgated on an interim basis.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	04/00/99	
RFI Comment Period End	05/00/99	
Interim Final Rule	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mila Kofman, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA75

1950. • VOLUNTARY FIDUCIARY CORRECTION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1132; 29 USC 1134

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Section 409 of ERISA provides that an employee benefit plan fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon him or her by part 4 of title I of ERISA shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits that such fiduciary may have made through use of assets of the plan. The Department has the authority under section 504 of ERISA to conduct investigations to deter and correct violations of title I of ERISA and under section 502(a)(2) and 502(a)(5) to bring civil actions to enforce the provisions thereof. Section 502(l) of ERISA requires the assessment of a civil penalty in an amount equal to 20 percent of the applicable recovery amount with respect to any breach of fiduciary responsibility under (or other violation of) part 4 by a fiduciary.

To encourage and facilitate voluntary correction of certain breaches of fiduciary responsibility, PWBA is considering a Voluntary Fiduciary Correction Program (VFC Program) that would be implemented on a pilot basis. Under this VFC Program, plan officials would be relieved of the possibility of investigation and civil action by the Department and imposition of civil

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penalties, to the extent that plan officials satisfy the conditions for correcting breaches to be described in the Program. PWBA anticipates that the Program would assist plan officials in understanding the requirements of part 4 of title I of ERISA and their legal responsibilities in correcting fiduciary breaches. PWBA intends to invite public comment on the VFC Program prior to its implementation on a pilot basis.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Goodman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA76

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Pension and Welfare Benefits Administration (PWBA)

1951. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1021; 29 USC 1022; 29 USC 1023; 29 USC 1024; 29 USC 1025; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1059; 29 USC 1135; 29 USC 1166; 29 USC 1168

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: Under title I of ERISA, title IV of ERISA, and the Internal Revenue Code, as amended, pension and other employee benefit plans are generally required to file returns/reports annually concerning, among other things, the financial condition and operations of the plan. These annual reporting requirements are satisfied generally by filing the Form 5500 Series in accordance with its instructions and related regulations. The Department of Labor, IRS, and PBGC have undertaken a comprehensive review of the annual return/report forms in an effort to streamline the information required to be reported and the methods by which such information is filed and processed.

Statement of Need: This project was included in prior PWBA regulatory plans. The Form 5500 Series is the primary source of information concerning the operation, funding, assets and investments of pension and other employee benefit plans, and is both an important compliance and research tool for the Department, and a disclosure document for plan participants and beneficiaries and a source of information and data for use by other Federal agencies, Congress and the private sector in assessing employee benefit, tax, and economic trends and policies.

Summary of the Legal Basis: Title I of ERISA, sections 101 through 105, 107, 209, and 606 impose specific reporting and disclosure obligations on administrators of employee benefit plans. Sections 104(a)(2) 104(a)(3) and 110 of ERISA provide the Secretary with the authority to prescribe simplified reports, exemptions and alternative methods of compliance for employee welfare benefit plans and employee pension benefit plans. Section 505 provides the Secretary with general authority to prescribe regulations necessary or appropriate to carry out the provisions of title I of ERISA.

Alternatives: Amendments to the annual report regulations implementing the revisions to the Form 5500 Series are in development.

Anticipated Costs and Benefits: By simplifying the Form 5500 Series and creating an automated processing system for the filed reports, it is anticipated that filer costs of preparing forms and Government processing costs will be reduced. These measures will eliminate reporting requirements for information that is not needed for the discharge of the Department's statutory responsibilities, while ensuring that participants and beneficiaries have access to the information they need to protect their rights and benefits under ERISA.

Risks: Failure to revise the Form 5500 Series Annual Reports for Employee Benefit Plans could deprive plans, sponsors and participants and beneficiaries, as well as the Government, of the cost savings and related benefits associated with streamlining the forms and their processing.

Timetable:

Action	Date	FR Cite
Proposed Forms Revisions	09/03/97	62 FR 46556
Proposed Forms Comment Period End	11/03/97	
NPRM Implementing/ Related Regulations	12/10/98	63 FR 68370
NPRM Comment Period End	02/08/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Public hearing held November 17, 1997. Hearing comment period ended 12/03/97.

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA52

DOL—PWBA

Final Rule Stage

1952. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-91 section 101; 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1172; 29 USC 1177

CFR Citation: 29 CFR 2590

Legal Deadline:
Other, Statutory, April 1, 1997, Per Section 734 of ERISA as added by Section 101 of HIPAA.

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA by adding a new part 7, designed to improve health care access, portability and renewability. This rulemaking will provide regulatory guidance to implement these provisions.

Statement of Need: HIPAA added a new part 7 to title I of ERISA, containing provisions designed to improve the availability and portability of health insurance coverage. Part 7 includes provisions limiting exclusions for preexisting conditions and providing credit for prior coverage, guaranteeing availability of health coverage for small employers, prohibiting discrimination against employees and dependents based on health status, and guaranteeing renewability of health coverage to employers and individuals.

Summary of the Legal Basis:
Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made, in conjunction with other concerned agencies with regard to the scope and nature of the final regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits:
Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks: Failure to provide regulatory guidance necessary to carry out these important health care reforms would adversely impact the availability and portability of health insurance coverage for American families.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	
Final Rule	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Daniel J. Maguire, Director, Health Care Task Force, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5677, FP Building, Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA54

1953. AMENDMENT OF SUMMARY PLAN DESCRIPTION AND RELATED ERISA REGULATIONS TO IMPLEMENT STATUTORY CHANGES IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-191 section 101; PL 104-204 section 603

CFR Citation: 29 CFR 2520.102-3; 29 CFR 2520.104b-1; 29 CFR 2520.104b-3

Legal Deadline:
NPRM, Statutory, April 1, 1997, Per Section 707 of ERISA as added by Section 101 of HIPAA.

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended ERISA's summary plan description (SPD) and related reporting and disclosure provisions to require that participants and beneficiaries receive from their group health plans: (i) more timely notice if there is a material reduction in services or benefits under the plan; (ii) more information regarding the financing and administration of the plan; and (iii) specific identification of Department of Labor offices through which they can seek assistance or information about HIPAA. The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) also amended ERISA's SPD and related reporting and disclosure provisions. This rulemaking will amend the Department's SPD and related regulations to implement those statutory changes.

Statement of Need: The existing SPD and related reporting and disclosure provisions need to be revised to reflect the changes made by HIPAA. HIPAA's statutory changes modify the requirements concerning the manner and timing of how certain important plan information is communicated to participants and beneficiaries by plan administrators. Without revised regulatory guidance administrators may not be able to improve the timely disclosure of plan information on both a quantitative and qualitative basis. HIPAA also requires the Secretary to issue regulations within 180 days after its enactment providing alternative mechanisms to delivery by mail through which group health plans may notify participants and beneficiaries of material reductions in covered services or benefits.

Summary of the Legal Basis:
Promulgation of these regulations is authorized by sections 104(b), 505 and 734 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits: There is estimated to be no capital/start-up cost. Total burden cost for operating maintenance is to average $73,000,000 annually for the years 1997, 1998, and 1999. However, the Department believes that the regulation assures that participants have better access to more complete information about their benefit plans.

Risks: The SPD is a critical plan document for participants and beneficiaries. Without access to accurate and timely information participants and beneficiaries will not be able to protect their rights under ERISA. Improved disclosure requirements also should serve to facilitate compliance by plan administrators, thereby reducing litigation and penalty risks to plan

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administrators. The failure to issue revised disclosure regulations also may result in a failure to achieve HIPAA's objective of improving the disclosure of plan information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16979
Interim Final Rule Comment Period End	05/31/97	
Interim Final Rule Effective	06/01/97	
Interim Final Rule Second	09/09/98	63 FR 48372
Interim Final Rule Effective	11/09/98	
Comment Period End	11/09/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA55

1954. LIMITATION OF LIABILITY FOR INSURERS AND OTHERS UNDER PART 4 OF TITLE I OF ERISA AND SECTION 4975 OF THE INTERNAL REVENUE CODE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-188, Sec 1460; 29 USC 1101(c)(1); 29 USC 1135; 29 USC 1021

CFR Citation: 29 CFR 2550.401(c-1); 29 CFR 2510.3-101

Legal Deadline:
NPRM, Statutory, June 30, 1997.
Other, Statutory, September 30, 1997, Specifies 6/30/99 as latest date for the regulation to take effect. Regulation not effective until 18 months after final.
Final, Statutory, December 31, 1997.

Abstract: Section 1460 of the Small Business Job Protection Act of 1991 (Public Law 104-188) amended ERISA section 401 to limit the liability of insurers and others under part 4 of title I of ERISA and section 4975 of the Internal Revenue Code with regard to certain policies or contracts issued to or for the benefit of employee benefit plans which are supported by assets in the insurers' general accounts. Subsection 401(c) specifies the timetable by which the Secretary must issue regulatory guidance concerning this provision.

Timetable:

Action	Date	FR Cite
Request for Information	11/25/96	61 FR 59845
NPRM	12/22/97	62 FR 66908
NPRM Comment Period End	03/23/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ivan L. Strasfeld, Director, of Exemption Determinations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5649, FP Building, Washington, DC 20210
Phone: 202 219-8194
Fax: 202 219-7291

RIN: 1210–AA58

1955. AMENDMENTS TO EMPLOYEE BENEFIT PLAN CLAIMS PROCEDURES REGULATION

Priority: Other Significant

Legal Authority: 29 USC 1133; 29 USC 1135

CFR Citation: 29 CFR 2560.503-1

Legal Deadline: None

Abstract: The Department has proposed to amend the regulation governing the establishment and maintenance of benefit claims procedures by employee benefit plans covered by title I of the Employee Retirement Income Security Act (ERISA). The proposal would establish new standards for the processing of group health and other employee benefit plan claims filed by participants and beneficiaries. In the case of group health plans, as well as certain plans providing disability benefits, the new standards are intended to ensure more timely benefit determinations, improved access to information on which a benefit determination is based, and greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Statement of Need: This regulation is necessary to insure more timely benefit determinations, improve access to information on which a benefit determination is made, and provide greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Summary of the Legal Basis: Promulgation of this regulation is authorized by sections 503 and 505 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the amendments which are necessary to update the rules which implement section 503 of ERISA.

Anticipated Costs and Benefits: On the basis of available data, the Department believes that the projected benefits of this proposed regulation would outweigh its projected costs. In particular, updating the existing regulation to address recent changes in the delivery and financing of health care services would improve health care quality by averting harmful, inappropriate delays and denials of health benefits thereby yielding substantial social benefits.

Risks: Failure to issue this regulation would deprive many plan participants and beneficiaries of the benefits of an improved claims review process.

Timetable:

Action	Date	FR Cite
Request for Information--Amendment of Regulations on Plan Claims Procedures	09/08/97	62 FR 47262
Comment Period End	11/07/97	
Notice of Public Hearing Held on Feb. 17,18 & 19, 1999	01/04/99	64 FR 65
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA61

DOL—PWBA

Final Rule Stage

1956. MENTAL HEALTH BENEFITS PARITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1182 (PL 104-204; 110 Stat 2944); 29 USC 1194

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (P.L. 104-204). MHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to provide for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits. MHPA provisions are set forth in chapter 100 of subtitle K of the Code, title XXVII of the PHSA, and part 7 of subtitle B of title I of ERISA. The interim rules will provide guidance with regard to the provisions of the MHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: LEGAL AUTHORITIES CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Mark Connor, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA62

1957. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1181 (PL 104-204; 110 Stat 2935); 29 USC 1135; 29 USC 1194

CFR Citation: 29 CFR 2590.711

Legal Deadline: None

Abstract: The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) was enacted on September 26, 1996 (PL 104-204). NMHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provide protection for mothers and their newborn children with regard to the length of hospital stays following the birth of a child. NMHPA provisions are set forth in title XXVII of the PHSA and part 7 of subtitle B of title I of ERISA. The interim rules will provide guidance with regard to the provisions of the NMHPA.

Statement of Need: These regulations are needed to provide guidance to the public concerning the application of the provisions of section 711 of ERISA, which establishes requirements for group health plan standards for minimum hospital stays following birth.

Summary of the Legal Basis: Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement section 711 of ERISA.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks: Failure to issue these regulations would be likely to impair compliance by group health plans with the new standards established by section 711 of ERISA for mothers' and newborns' health care.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/98	63 FR 57546
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), and amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA63

1958. REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1021(g)(h) (PL 104-191; 110 Stat 1952); 29 USC 1194

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: These proposed rules will govern certain reporting requirements under title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA) for multiple employer welfare arrangements (MEWAs) that provide benefits consisting of medical care. In part, the rules will implement recent changes made to ERISA by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The proposed rules will also set forth elements that MEWAs would be required to file with the Department of Labor for the purpose of determining compliance with the portability nondiscrimination, renewability and other requirements of part 7 of subtitle B of title I of ERISA including the requirements of the Mental Health Parity Act of 1996 and the Newborns' and Mothers' Protection Act of 1996. The proposed rules would also provide guidance with respect to section 502(c)(5) of ERISA which authorizes the Secretary of Labor to assess a civil penalty of up to $1,000 a day for failure to comply with the new reporting requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/99	

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Final Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: The Department has statutory authority to publish this rule as an interim final rule, with a request for comments. A determination has yet to be made with regard to whether the rule should be promulgated on an interim basis.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA64

1959. AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1024; 29 USC 1135

CFR Citation: 29 CFR 2520.102-3; 29 CFR 2520.102-5

Legal Deadline: None

Abstract: These proposed amendments to the regulations governing the contents of summary plan descriptions are intended to ensure that all participants in group health plans are provided, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, understandable information concerning their plan; provider network composition; preauthorization and utilization review procedures; whether, and under what circumstances, coverage is provided for existing and new drugs; and whether, and under what circumstances, coverage is provided for experimental drugs, devices, and procedures. These amendments will include the repeal of special rules limiting the information that must be included in summary plan descriptions with respect to certain health maintenance organizations. In addition, the proposed amendments will include provisions that are intended to update or clarify the application of certain SPD content requirements affecting both pension and welfare benefit plans.

Statement of Need: This regulation is necessary to improve the disclosure of group health plan benefit information, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, as set forth in its November 20, 1997, report. The amendments will also update the general SPD content requirements and update other relevant regulatory provisions.

Summary of the Legal Basis: Promulgation of this regulation is authorized by sections 101(a) 102(b), and 505 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the amendments which are necessary to improve the disclosure of benefit information to participants and beneficiaries of group health plans under the applicable ERISA regulations.

Anticipated Costs and Benefits: The Department estimates that the aggregate additional costs associated with the proposed regulation would average approximately $76 million per year for the years 1999, 2000, and 2001, although the Department believes that this estimate may be conservatively high. However, the Department believes that the proposed regulation would assure that participants have better access to more complete information on their benefit plans. Better information will lead both participants and plan sponsors to make more economically efficient decisions regarding benefit plans. This enhanced value and efficiency from better information constitute the benefits of the regulation.

Risks: Failure to issue the regulation would deprive participants, beneficiaries, and plan sponsors of the improvements in health care market efficiency which would be generated by the regulatory amendments specified therein.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48376
NPRM Comment Period End	11/09/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA69

1960. PAYROLL DEDUCTION PROGRAMS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS (INTERPRETIVE BULLETIN)

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 29 USC 1002 (2); 29 USC 1135

CFR Citation: 29 CFR 2509

Legal Deadline: None

Abstract: This interpretive bulletin will compile for ease of reference the views of the Department of Labor (the Department) concerning the circumstances under which the use of a payroll deduction program for forwarding employee monies to an individual retirement account annuity will not constitute an employee pension benefit plan subject to title I of the Employee Retirement Security Act of 1974 (ERISA). This guidance is intended to assist employers in their efforts to provide retirement savings opportunities to employees by clarifying the circumstances under which the use of payroll deduction programs will not implicate provisions of parts 1 (Reporting and Disclosure), 4 (Fiduciary Responsibility) and 5 (Administration and Enforcement) of title I of ERISA.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-0521

RIN: 1210–AA70

DOL—PWBA

Final Rule Stage

1961. ELECTRONIC DISCLOSURE OF EMPLOYEE BENEFIT PLAN INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, Taxpayer Relief Act; Secretary of Labor's Order No. 1-87, April 21,1987

CFR Citation: 29 CFR 2520.104b

Legal Deadline:
NPRM, Statutory, December 31, 1998.

Abstract: This rulemaking will improve the ability of sponsors and administrators of all employee benefit plans covered by title I of ERISA to make certain disclosures of plan information to participants and beneficiaries through electronic means. The rule will provide guidance with respect to the conditions under which electronic disclosures will be deemed to satisfy the disclosure requirements under title I of ERISA. The rule also will establish recordkeeping standards for maintaining or storing data in electronic form.

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4506
NPRM Comment Period End	03/29/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected:
Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA71

1962. NATIONAL MEDICAL SUPPORT NOTICE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 105-200, section 401(b); 29 USC 1135; 29 USC 1169

CFR Citation: 29 CFR 2565

Legal Deadline:
Other, Statutory, May 16, 1999, Interim Final Rule.
Final, Statutory, May 16, 2000.

Abstract: The purpose of this rulemaking is to develop regulations which establish a model qualified medical child support order for use by State child support agencies to facilitate the extension of health care coverage to children under their jurisdiction. This initiative is mandated by the Child Support Performance and Incentive Act of 1998, P.L. 105-200.

Statement of Need: These regulations are needed to provide guidance to the public concerning the application of the provisions of section 401 of the Child Support Performance and Incentive Act of 1998 (CSPIA) and section 609 of ERISA, which require, respectively, the promulgation of a National Medical Support Notice to be used by State child support agencies to order health care coverage for children under their jurisdiction, and that such notice is to be deemed a qualified medical child support order for purposes of section 609 of ERISA.

Summary of the Legal Basis:
Promulgation of these regulations is mandated by section 401 of CSPIA, and authorized by sections 505 and 609 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement section 401 of CSPIA and section 609 of ERISA. Section 401 of CSPIA mandates the promulgation of a National Medical Support Notice.

Anticipated Costs and Benefits:
Preliminary estimates of the anticipated costs and benefits of the regulatory actions found necessary to implement the new provisions will be developed once decisions are reached on which specific actions are necessary.

Risks: Failure to issue these regulations would be likely to impair compliance by State child support agencies with the new standards established by section 401 of CSPIA and by group health plans with the requirements of section 609 of ERISA for the extension of health care coverage to children of plan participants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected:
Undetermined

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RIN: 1210–AA72

1963. • SOFT DOLLAR (INTERPRETIVE BULLETIN)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1103; 29 USC 1104; 29 USC 1106; 29 USC 1108; 29 USC 1135

CFR Citation: 29 CFR 2509.98-2

Legal Deadline: None

Abstract: This Interpretive Bulletin will codify the guidance provided by the Department concerning "soft dollar" and directed commission arrangements, for ease of reference by employee benefit plan fiduciaries, plan service providers, and others.

Timetable:

Action	Date	FR Cite
Interpretive Bulletin	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected:
Undetermined

Agency Contact: David J. Lurie, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
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RIN: 1210–AA74

1964. • PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1167; 29 USC 1194; PL 104-191 SEC 101'; 29 USC 1181, 101 Stat 1936; Secretary of Labor's Order No. 1-37; 52 FR 13139, April 21, 1987

CFR Citation: 29 CFR 2590.702

Legal Deadline: None

DOL—PWBA **Final Rule Stage**

Abstract: Section 702 of the Employee Retirement Income Security Act of 1974, amended by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes that a group health plan or a health insurance issuer may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any health status-related factor. These provisions are also contained in the Internal Revenue Code under the jurisdiction of the Department of the Treasury, and the Public Health Service Act within the jurisdiction of the Department of Health and Human Services.

On April 8, 1997, the Department, in conjunction with the Departments of the Treasury and Health and Human Services (collectively, the Departments) published interim final regulations implementing the nondiscrimination provisions of HIPAA. These regulations can be found at 26 CFR 54.9802-1 (Treasury), 29 CFR 2590.702 (Labor), and 45 146.121 (HHS). That notice of rulemaking also solicited comments on the nondiscrimination provisions and indicated that the Departments intend to issue further regulations on the nondiscrimination rules. This rulemaking will contain additional regulatory guidance under HIPAA's nondiscrimination provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Comment Period End	07/07/97	
Interim Final Rule	11/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This item is being split off from RIN 210-AA54 in order to provide focused guidance on section 702 of ERISA, which prohibits discrimination against participants and beneficiaries by group health plans and health insurance issuers based on health status.

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RIN: 1210–AA77

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Pension and Welfare Benefits Administration (PWBA)

1965. ADEQUATE CONSIDERATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1002(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/17/88	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA15

1966. CIVIL PENALTIES UNDER ERISA SECTION 502(1)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-l (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order." The Department intends to finalize these two regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	55 FR 25284
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4638, FP Building, Washington, DC 20210
Phone: 202 219-8610

RIN: 1210–AA37

1967. INDIVIDUAL BENEFITS REPORTING REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520.105-1

Legal Deadline: None

Abstract: ERISA sections 105 and 209 require the furnishing of statements of

DOL—PWBA — Long-Term Actions

accrued and vested pension benefits upon request of a participant or beneficiary, upon a participant's termination of service with an employer, and upon a participant's incurring a one-year break in service. This regulation will provide guidance with respect to the furnishing of individual benefit reports to participants and beneficiaries in defined contribution pension plans.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Debra M. Golding, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., N5669, FP Building, Washington, DC 20210
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RIN: 1210–AA65

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Completed Actions

1968. REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1135; 29 USC 1029; 29 USC 1143; 29 USC 1021; 29 USC 1022; 29 USC 1024; 29 USC 1025; 29 USC 1059

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: PWBA has undertaken a comprehensive review of the current reporting and disclosure framework to identify changes that will serve to assure the disclosure of useful and timely information while eliminating any unnecessary administrative burdens and costs on plans and plan sponsors attendant to compliance with these requirements. On the basis of recommendations and information from the public concerning the need for regulatory and legislative changes in the disclosure area. PWBA concluded that only marginal changes to the disclosure requirements can be accomplished through the regulatory process and, therefore reform efforts should focus on regulatory changes relating to the streamlining of the Form 5500 Series, and related annual reporting regulations, in addition to possible legislative changes to both the reporting and disclosure provisions.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/93	58 FR 68339
ANPRM Comment Period End	02/25/94	
Complete Review	06/30/95	
Withdrawn	02/01/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA44

1969. ENFORCEMENT POLICY ON AICPA SOP 92-6

Priority: Other Significant

Legal Authority: 29 USC 1021; 29 USC 1023; 29 USC 1024; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1135

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department received requests not to reject multiemployer welfare plan annual reports (Form 5500) or assess civil penalties solely because the opinion of an independent qualified public accountant, that is required to be included with the Form 5500 either is adverse or qualified due to a failure to comply with the American Institute of Certified Public Accountants (AICPA) Statement of Position 92-6 (SOP 92-6). Under SOP 92-6, the AICPA has modified generally accepted accounting principles to require health and other welfare plans to calculate and disclose, as part of their financial statements, the present value of their future post-retirement benefit obligations. After considering comments received from the public on the burdens costs, and benefits of accounting for post-retirement welfare benefit obligations in accordance with SOP 92-6 prior to adopting a formal position on this matter for 1999 and future plan years, the Department determined not to adopt the proposed enforcement policy.

Timetable:

Action	Date	FR Cite
Request for Comments	03/13/97	62 FR 11424
NPRM Comment Period End	05/12/97	
Final Action	11/25/98	63 FR 65506

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eric A. Raps, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
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RIN: 1210–AA57

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Prerule Stage

1970. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING EXPOSURE LIMIT)

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 90

Legal Deadline: None

Abstract: The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In September 1995, NIOSH issued a Criteria Document in which it recommended that the respirable coal mine dust permissible exposure limit (PEL) be cut in half. In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor, industry, and academic communities. The Committee submitted its report to the Secretary of Labor in November 1996, with the majority of the recommendations unanimously supported by the Committee members. The Committee recommended that MSHA consider lowering the coal dust PEL.

Statement of Need: Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. Coal workers exposed after the implementation of the current PEL continue to develop pneumoconiosis. In response to this concern MSHA undertook an extensive review of the Agency's respirable coal mine dust program. The MSHA Coal Mine Respirable Dust Task Group, which issued its report in June 1992, found that vulnerabilities exist which could impact miner health protection and made recommendations for improving the monitoring program. The Advisory Committee also addressed this issue and made recommendations.

The Agency has carefully reviewed the NIOSH Criteria Document on Occupational Exposure to Respirable Coal Mine Dust and the recommendations of the Advisory Committee on Elimination of Pneumoconiosis among Coal Mine Workers. MSHA finds that there remains unacceptable risk to miners' health at the current exposure limit for dust in coal mines.

Alternatives: MSHA will consider all recommendations carefully and will seek the public's input into alternatives through the use of an advance notice of proposed rulemaking (ANPRM). In the ANPRM, the Agency includes suggestions of alternative approaches, e.g., operation specific PEL, or an action level to trigger certain protective measures to lower this risk to miners' health.

Anticipated Costs and Benefits: Benefits sought are reduced dust levels over a miner's working lifetime, the key to eliminating black lung and silicosis as a risk to coal miners. Enhanced protection of miners from these diseases also will reduce the cost of future black lung benefits and lead to lower operator insurance premiums. MSHA is considering a rule to reduce the amount of respirable coal mine dust permitted in mines but has not yet developed cost estimates. As the Agency proceeds with the rulemaking, however, estimates will be developed and made available for public review.

Risks: Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are both potentially disabling and can cause death.

Timetable:

Action	Date	FR Cite
Recommendations Completed	11/26/96	61 FR 60120
Policy Document-Phase 2	02/03/98	63 FR 5664
ANPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AA81.

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RIN: 1219–AB08

1971. • UNDERGROUND COAL MINING; SELF-CONTAINED SELF-RESCUER SERVICE LIFE APPROVAL AND TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 42 CFR 84; 30 CFR 48.8

Legal Deadline: None

Abstract: Self-contained self-rescuers (SCSRs) are closed circuit breathing apparatuses that provide a source of oxygen and greatly increase a miner's chance of surviving a mine emergency involving an irrespirable atmosphere. Recent experience involving SCSRs stored or used in underground coal mines has revealed instances where SCSRs have not functioned properly and other instances where the devices have not been donned properly, rendering them ineffective. The Agency intends to publish a proposed rule to address the appropriate service life of SCSRs and the adequacy of training.

During a recent emergency evacuation of a coal mine, the use of SCSRs was supplemented by personal emergency devices (PEDs). PEDs are communication devices that inform individual miners underground of an emergency situation. The use of PEDs during this mine emergency enabled all of the miners underground (approximately 70) to escape safely, even when one SCSR could not be used. The Agency intends to publish an advance notice of proposed rulemaking (ANPRM) to explore the viability of implementing a PED type device in underground mines for use in mine emergencies. In addition,

DOL—MSHA **Prerule Stage**

MSHA would address in the ANPRM other issues relating to the effective design, implementation and use of SCSRs in underground mines, whether metal and nonmetal or coal mines.

Timetable:

Action	Date	FR Cite
ANPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This rulemaking includes the metal and nonmetal rulemaking RIN 1219-AB06 (Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines). This new rulemaking addresses SCSRs at both coal and metal and nonmetal mines.

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RIN: 1219–AB19

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Proposed Rule Stage

1972. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: MSHA's current air quality standards for exposure to hazardous airborne contaminants were promulgated over 25 years ago. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, including lead, cyanide, arsenic benzene, asbestos, and other well-documented hazards. Some miners have developed occupational illness (e.g., lead poisoning, acute cyanide poisoning, and silicosis) as a result of their exposure. MSHA has concluded that a gradual phase-in of provisions in the air quality rulemaking will be less burdensome for the industry and provide more immediate protection for the miners exposed to the most serious hazards. MSHA will be issuing the final rule in phases. Phase 2 addresses respiratory protection. Phase 3 will address selected PELs. MSHA is also considering subsequent phases to update PELs applicable to hazards encountered in metal and nonmetal and coal mines, revise requirements for exposure monitoring, improve precautions for handling restricted use chemicals, provide for observation of monitoring, and establish provisions for medical surveillance and transfer of miners required to use respirators and miners exposed to certain carcinogens.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
NPRM Phase 3 - PELs	12/00/99	
NPRM Phase 2 - Respiratory Protection - Reproposal	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA48

1973. METAL/NONMETAL IMPOUNDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country and some are within flood range of homes and well-traveled roads. Failure of an impoundment could endanger lives and cause property damage. This rulemaking addresses, among other issues, proper design and construction of impoundments. MSHA may explore negotiated rulemaking to address this action.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA83

1974. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: Accidents involving surface haulage equipment are a leading safety problem in the mining industry. A review of fatal mining accidents during the past 3 years shows that 30% of the deaths involved surface haulage equipment. This equipment includes large 240-ton haulage vehicles, over-the-road trucks, front-end loaders, and other equipment. The Agency issued an Advance Notice of Proposed Rulemaking (ANPRM) in July 1998 to share its ideas and to seek suggestions to reduce these surface haulage

accidents. MSHA will consider all comments received on the ANPRM in developing the proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	07/30/98	63 FR 40800
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA93

1975. TRAINING AND RETRAINING OF MINERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: The Mine Act and 30 CFR part 48 require all mine operators to have approved training plans. Those plans set forth requirements for training miners. MSHA reviewed these training requirements as part of its Regulatory Flexibility review to determine if changes are appropriate. Based on comments and MSHA's experience, the Agency will develop a proposal rule to reflect more flexible requirements.

In 1991, MSHA published a proposed rule to revise portions of the existing part 48 regulations. In response to that proposal, we received numerous comments from both industry and labor representatives. Some commenters recommended that supervisors who are exposed to mine hazards receive training under part 48 beyond that required for other miners. These comments raised concerns that extended beyond the scope of that proposed rule. MSHA has evaluated the merits of these concerns and is considering a proposal which would increase the number of hours of annual refresher training for supervisors from 8 hours to 12 hours. The training needs of supervisors are broader in scope and require a greater depth of understanding than that needed by other miners. MSHA expects that better trained, more knowledgeable supervisors will contribute to their own safety and that of the miners under their supervision.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
Complete Review	10/30/98	
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: RIN 1219-AB16 (Training and Retraining of Miners: Supervisor Training) is combined with this rulemaking.

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RIN: 1219–AB02

1976. VERIFICATION OF DUST CONTROL PLAN AND CONTINUOUS MONITORING

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 812

CFR Citation: 30 CFR 70; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: The Federal Mine Safety and Health Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor industry, and academic communities. The committee submitted its report to the Secretary of Labor in November 1996, with the majority of the recommendations unanimously supported by the Committee members.

MSHA has completed an in-depth review of the Advisory Committee's recommendations. There are 20 principal recommendations set out in the Advisory Committee report, which are further subdivided into a total of approximately 100 distinct action items. The recommendations are both extensive and significant. The Agency is giving each recommendation careful consideration and has prioritized them for regulatory or administrative action.

The Agency will provide information to the mining community as it determines how to implement the Advisory Committee recommendations.

Statement of Need: Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. MSHA regulations require that all underground coal mine operators develop and follow a mine ventilation plan approved by the Agency. The dust control portion of the mine ventilation plan is the key element of an operator's strategy to control respirable dust in the work environment. Although such plans are required to be designed to control respirable dust, there is no current requirement that provides for early in-mine verification of the proposed plan's effectiveness under typical mining conditions. Consequently, plans may be implemented that may later be shown as inadequate to control respirable dust. To minimize this from occurring, the Advisory Committee recommended that

DOL—MSHA **Proposed Rule Stage**

MSHA should require coal mine operators to verify the adequacy of the dust control provisions in new or revised plans by demonstrating that the plan will be effective under typical mining conditions.

Therefore, MSHA is considering regulatory actions which would require mine operators to verify a plan's adequacy in controlling respirable dust. Operators are presented with an alternative program to assure that miners' exposures are below the applicable standard on each and every shift by measuring respirable coal dust exposures at specified approved locations on each and every shift. Continuous monitoring is an option which would be conducted in lieu of sampling and reporting requirements specified in subpart C of 30 CFR part 70 and 90, as well as removing elements of ventilation verification plans.

Alternatives: In developing the proposed rule, MSHA will consider alternatives related to typical production levels and the use of appropriate dust control strategies.

Anticipated Costs and Benefits: Benefits sought are reduced dust levels over a miner's working lifetime by the elimination of over-exposures to respirable coal dust on each and every production shift, the key to eliminating black lung and silicosis as a risk to coal miners. Enhanced protection of miners from these diseases will reduce the cost of future black lung benefits and lead to lower operator insurance premiums. MSHA is in the early stages of developing proposed rules and does not have cost estimates. As we proceed, however, we will develop estimates and make them available for public review.

Risks: Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are both potentially disabling and can cause death. MSHA is pursuing both regulatory and nonregulatory actions to eliminate pneumoconiosis through the control of coal mine respirable dust levels in mines and the reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
Recommendations Completed	11/26/96	61 FR 60120
Policy Document-Phase 2	02/03/98	63 FR 5664
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AB18.

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RIN: 1219–AB14

1977. • TRAINING AND RETRAINING OF MINERS ENGAGED IN SHELL DREDGING OR EMPLOYED AT SAND, GRAVEL SURFACE STONE, SURFACE CLAY, COLLOIDAL PHOSPHATE, OR SURFACE LIMESTONE MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 46

Legal Deadline: Final, Statutory, September 30, 1999.

Abstract: Section 115 of the Federal Mine Safety and Health Act of 1977 requires that each mine operator have a health and safety training program, and that new miners at surface mines receive no less than 24 hours of health and safety training. On October 13, 1978, MSHA published regulations at 30 CFR part 48 that implemented the miner training provisions. In 1979, various segments of the metal and nonmetal mining industry raised concerns with Congress regarding the appropriateness of applying the requirements of part 48 to their operations. Congress responded by inserting language in the Department of Labor's appropriations bill for fiscal year 1980 that prohibited the expenditure of appropriated funds to carry out Section 115 of the Mine Act relating to the enforcement of any training requirements with respect to shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mines ("exempted industries").

Over the last several years, the number of fatalities at the exempted industries has increased steadily. In addition, MSHA's fatal accident investigations have shown that the majority of victims at the exempted industries have not received safety and health training in accordance with the Mine Act. Congress has included language in MSHA's Fiscal Year 1999 appropriation that directs MSHA to promulgate training regulations that are appropriate for the exempted industries. The proposed rule would implement the training and retraining requirements contained in the Mine Act for the identified segments of the mining industry.

Timetable:

Action	Date	FR Cite
Notice of Public Hearings	11/03/98	63 FR 59258
NPRM	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

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RIN: 1219–AB17

1978. • DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 90

Legal Deadline: None

Abstract: This proposal will address the United States Court of Appeals' final decision and order in National Mining Association v. Secretary of Labor, issued September 4, 1998. This NPRM will include a joint finding

DOL—MSHA **Proposed Rule Stage**

between the National Institute for Occupational Safety and Health and MSHA that single, full-shift measurements will accurately represent the average dust concentrations to which miners are exposed. This proposal will address the Mine Act's requirement that miners' exposure to respirable coal dust be below the applicable standard on each and every shift. This proposal will present the use of single, full-shift respirable dust exposure measurements collected by MSHA to determine noncompliance when the applicable respirable coal dust standard is exceeded.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AB18

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA) **Final Rule Stage**

1979. HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 120

Legal Deadline: None

Abstract: Today's complex mining environment subjects miners to well-known hazards, such as coal mine dust and crystalline silica; to emerging hazards, including hazardous wastes burned as fuel supplements at cement kilns; and to changing hazards from the many chemicals brought onto mine property. This rule would provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the actions necessary to protect them from such hazards. In developing this rule, MSHA has reviewed OSHA's hazard communication standard, information collected by NIOSH, and public comments. For its final rule, MSHA intends to publish a user-friendly regulation which will facilitate compliance by mine operators, while providing increased health and safety protection to miners.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	01/31/92	56 FR 48720
Reopen Record	03/30/99	64 FR 15144
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219–AA47

1980. NOISE STANDARD

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 62; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: Notwithstanding MSHA's firm enforcement of its current noise regulations, miners are continuing to incur hearing impairment. Data indicate that hearing impairment can be reduced significantly, however, if effective protective action is used both to reduce or eliminate the noise and to minimize exposure to the noise. MSHA has published a proposed rule applicable to all types of mining which would require that protective measures be taken where exposure to noise is at a level lower than that which is currently permitted. The final rule would address, for example, a hearing conservation plan and an "action level." Consistent with the Mine Act and in response to comments, the final rule would include a new provision providing affected miners and their representatives with an opportunity to observe required operator monitoring.

Statement of Need: MSHA's existing standards, in spite of enforcement efforts, do not provide adequate protection against exposure to hazardous occupational noise levels. Several factors have shown that there is a need to replace the existing standards so that miners are adequately protected. One factor is that miners are continuing to incur occupational, noise-induced hearing loss. Another factor is that existing MSHA standards no longer reflect the opinions of experts or the current scientific evidence. In addition, MSHA's current noise standards for coal mines differ from those for metal and nonmetal mines. MSHA's final rule will provide consistent requirements for all mines.

Section 103(c) of the Mine Act requires, among other things that when the Secretary issues regulations requiring operator monitoring, such regulations "shall provide the miners' or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof." The final rule would implement section 103(c) of the Mine Act.

Summary of the Legal Basis: Section 101(a) of the Mine Act requires that MSHA's promulgation of health standards adequately assure, on the basis of the best available evidence, that no miner will suffer material impairment of health or functional capacity over the miner's working lifetime. In addition to the attainment

of the highest degree of health and safety protection for the miner, the Mine Act requires that factors, such as the latest scientific data in the field, the feasibility of the standard, and the experience gained under the Mine Act and other health and safety laws, be considered when promulgating mandatory standards pertaining to toxic materials or harmful physical agents.

Alternatives: MSHA published a proposed rule which requested comments and data on a number of regulatory alternatives. In addition, MSHA held six public hearings providing the public an opportunity to comment on the noise proposal and submit data. Based upon its own research and experience, and data and information submitted to the record, MSHA is considering the respective roles of engineering controls and administrative controls and the use of personal hearing protection in controlling noise exposure; lowering the permissible exposure level and implementing a new action level; the lowering of the exchange rate; and the parameters and criteria for audiometric testing, exposure monitoring, and miner training. The proposed rule reflected the Agency's tentative decisions on these alternatives, mindful of their economic impact on small mines. The final rule will derive from MSHA's deliberations and decisions on the issues and alternatives.

Anticipated Costs and Benefits: MSHA prepared an analysis of benefits which compared the numbers of miners projected to incur a material impairment of hearing under the existing standards and under the proposal. At this stage in the development of the final rule, MSHA anticipates that the rule would prevent about 709 incidents of occupationally related material impairments of hearing per year. MSHA anticipates that the incremental annual cost of the final rule would be about $8.7 million. Since the final rule is still under development, these estimates are preliminary.

Risks: Noise is a serious occupational hazard in the mining industry. Occupational exposure to loud noises results in hearing loss and hearing impairment, which affect both quality of life and functional capacity. In addition, cases of hearing loss reported to MSHA indicate that a significant number of these miners received all of their noise exposure under existing standards. The Agency believes that the health evidence forms a reasonable basis for revising MSHA's existing noise standards.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50209
ANPRM Comment Period End	06/22/90	55 FR 6011
NPRM	12/17/96	61 FR 66348
Extension of Comment Period to 4/21/97; Notice of Public Hearings	02/06/97	62 FR 5554
Hearings - Date Change Extension of Comment Period to 6/20/97	03/03/97	62 FR 9404
Extension of Comment Period to 8/1/97	06/13/97	62 FR 32252
NPRM Comment Period End	08/01/97	62 FR 32252
Availability of Report	12/16/97	62 FR 65777
Request for Comments Availability	12/23/97	62 FR 67013
Extension of Comment Period	01/16/98	63 FR 2642
National Environmental Policy Act	05/26/98	63 FR 28496
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Additional Information: On December 31, 1997, MSHA issued a proposed rule on Observation of Operator Noise Monitoring (RIN 1219-AB05) (62 FR 68468). On April 10, 1998, the Agency issued a notice announcing extension of comment period and close of record (63 FR 17781). The Agency has combined this rulemaking with the Noise rule (RIN 1219-AA53).

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RIN: 1219–AA53

1981. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, MSHA regulations have required that high-voltage cables and transformers be kept at least 150 feet from the coal extraction area. The objective of this requirement is to prohibit the use of high-voltage cables and equipment that could serve as an ignition source for methane and coal dust in close proximity to the work area.

The modern development of highly productive longwall mining systems has resulted in their widespread use in the mining industry. Mine operators, however, currently must apply to MSHA for a variance from the existing standards in order to use this high-voltage equipment. The increased use of high-voltage longwalls in underground coal mines in recent years has led to the design of safe high-voltage electrical equipment and associated cables. These improvements have occurred specifically in the area of design and construction of explosion-proof equipment; insulation, short circuit, ground fault, and mechanical protection of cables; and equipment for safe handling of cables. For these reasons, in August 1992, MSHA published a proposed rule to establish safety requirements for the design construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables. The final rule will eliminate the need for a variance to use this equipment.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
NPRM Comment Period End	11/13/92	57 FR 46350
Reopen Record	10/18/95	60 FR 53891
Extension of Comment Period	11/14/95	60 FR 57203
Comment Period End	12/18/95	

DOL—MSHA

Final Rule Stage

Action	Date	FR Cite
Reopen Record	04/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: MSHA reopened the record on October 18, 1995. The comment period finally closed on December 18, 1995.

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RIN: 1219–AA75

1982. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 22; 30 CFR 23; 30 CFR 26; 30 CFR 27; 30 CFR 28; 30 CFR 29; 30 CFR 33; 30 CFR 35

Legal Deadline: None

Abstract: To ensure that only safe products are used in mines, MSHA sets approval requirements and tests products itself. This rulemaking would allow MSHA to accept testing of certified mine equipment performed by independent laboratories which will improve the health and safety of miners. It also would allow MSHA to approve products which satisfied alternative testing and evaluation requirements, provided that the alternative requirements were equivalent to MSHA's own, or could be enhanced to be equivalent. By reducing its testing activities, MSHA could direct more resources toward verifying that products in use have been manufactured in compliance with the relevant approval. This rulemaking is consistent with a recommendation of the National Performance Review.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period End	02/21/95	
Public Hearing Notice	10/10/95	60 FR 52640
Public Hearing	04/30/96	61 FR 15743
Comment Period End	05/31/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 1219–AA87

1983. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: The final rule would implement new procedures and requirements for testing and approval of flame-resistant conveyor belts to be used in underground mines. These revisions would replace the existing flame test for conveyor belts. Current regulations require that conveyor belts be flame-resistant in accordance with specifications of the Secretary. As part of this rulemaking, the Agency also would promulgate conforming amendments to relevant safety standards.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
NPRM Comment Period End	03/26/93	58 FR 8028
Public Hearing	05/02/95	60 FR 16589
Record Closed	06/05/95	60 FR 16558
Extension of Comment Period	02/05/96	60 FR 65509
Reopen Record	04/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA92

1984. IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 1 to 199

Legal Deadline: None

Abstract: In response to the President's directive, MSHA conducted a review of its existing regulations to identify provisions that are outdated, redundant, unnecessary, or otherwise in need of changing. Many of the changes require notice and comment rulemaking while other non-substantive changes can be implemented upon publication. So far, the Agency has identified nine regulations that could be removed entirely without any adverse impact on miner safety and health. In general, these regulations are obsolete or redundant. MSHA has identified provisions in over 80 other regulations that need overhauling or the cleanup of non-substantive language. MSHA will also be considering new regulations that reflect "best practices" which are used widely in the mining industry to protect miners' safety and health. MSHA views this project to be an evolving, ongoing process and will continue to accept recommendations from the public.

DOL—MSHA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM - Phase 1 Removal of 30 CFR 21 and 24	08/30/96	61 FR 45925
Final Rule - Phase 1 Removal of 30 CFR 21, 24, and 75	09/03/98	63 FR 47118
Final Rule Effective - Phase 1 Removal of 30 CFR 21 and 24	11/02/98	
Final Rule - Phase 2 Removal of 30 CFR 26 and 29	04/00/99	
Final Rule - Phase 3 Update of Reference IR 1240	04/00/99	
Final Rule - Phase 4 Part 75 Subpart S	04/00/99	
NPRM - Phase 5 Miscellaneous Technology Improvements	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: As part of its regulatory improvement project, MSHA published final technical amendments updating addresses in 30 CFR chapter 1 on July 11, 1995 (60 FR 35692).

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RIN: 1219–AA98

1985. SAFETY STANDARDS FOR UNDERGROUND COAL MINE VENTILATION—PRESHIFT EXAMINATION INTERVALS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.360(a)(1)

Legal Deadline: None

Abstract: MSHA is proposing to amend section 75.360(a)(1) by requiring preshift examinations to be conducted within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground. MSHA's 1996 final rule revising its standards for ventilation of underground coal mines was challenged in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). The D.C. Circuit reviewed the validity of the rule and issued an order invalidating, on procedural grounds only, section 75.360(a)(1).

In response to the order, the Agency published a notice in the Federal Register reinstating the portion of the previous regulation requiring a preshift examination to be conducted prior to the beginning of any shift. This proposed rule is identical to the standard promulgated in the 1996 final rule which was invalidated by the D.C. Circuit.

The general practice in the mining industry at the time the Mine Act was enacted was for coal miners to work in shifts of 8 hours. Thus, the effect of the preshift examination requirement was that examiners conducted preshift examinations every 8 hours. However, over a period of time, overlapping work shifts and work shifts exceeding 8 hours have become common. MSHA continues to believe that it is necessary to address the issues surrounding the preshift examination interval. The proposal would clarify and standardize the application of the preshift examination requirements to assure that these examinations are concluded within appropriate time frames.

MSHA has determined that this proposed rule does not meet the criteria of a significant regulatory action. The proposal would cost under $1 million and will only affect approximately 230 underground coal mines.

Timetable:

Action	Date	FR Cite
NPRM	07/14/98	63 FR 38066
Comment Period End	09/14/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: MSHA published a notice reinstating the portion of the previous regulation requiring a preshift examination be conducted prior to the beginning of any shift. June 30, 1997 (62 FR 35085).

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RIN: 1219–AB10

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Long-Term Actions

1986. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: In mining operations, the majority of the fatalities associated with confined spaces occur in storage bins, hoppers, tanks, and stockpiles. The primary hazards to miners occur from being trapped by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Due to the many chemicals used and stored in mining, the toxic and physical hazards encountered in mining are identical to those confined space hazards that exist in general industry. MSHA intends to explore both regulatory and non-regulatory options to address the hazards associated with working in confined spaces at mines.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364
ANPRM Comment Period End	05/01/92	57 FR 8102
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

DOL—MSHA

Long-Term Actions

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RIN: 1219–AA54

1987. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND COAL MINERS)

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813; 30 USC 957; 30 USC 961

CFR Citation: 30 CFR 72; 30 CFR 75

Legal Deadline: None

Abstract: Several epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer. In 1988, the National Institute for Occupational Safety and Health recommended that "whole diesel exhaust be regarded as a potential occupational carcinogen." In addition, in 1989 the International Agency for Research on Cancer concluded that "diesel engine exhaust is probably carcinogenic to humans."

In 1988, an advisory committee made recommendations to the Secretary of Labor concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was that the Secretary of Labor set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, MSHA published an advance notice of proposed rulemaking, in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. In April 1998, MSHA issued a proposed rule to control diesel particulate matter in underground coal mines.

Statement of Need: The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. MSHA estimates that approximately 13,000 miners are occupationally exposed to diesel exhaust emissions in underground mines. Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual acuity, and forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, MSHA is concerned about the potential health risk to miners. The proposed rule would control exposure of miners to diesel particulate matter by requiring the installation of high-efficiency filters on diesel powered equipment to trap diesel particulates before they enter the mine atmosphere.

Alternatives: In the fall of 1995, MSHA held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter.

MSHA considered establishing a PEL for diesel particulate, but found that technology for measuring it in the presence of coal mine dust is not currently feasible. MSHA encourages the mining community to continue to voluntarily use protective measures to address exposure to diesel exhaust. In addition, the proposal provides for MSHA technical assistance to operators and a phased-in period for compliance.

Anticipated Costs and Benefits: MSHA estimates that the per year compliance costs are just over $10 million, of which underground coal mine operators would incur about $10 million and manufacturers of diesel engines and equipment would incur about $14,000. The proposed rule would reduce a significant health risk to underground miners, reducing the potential for acute sensory irritations and respiratory symptoms, lung cancer, and premature death, along with the attendant suffering and costs thereof to their employees, their families, and society.

Risks: Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. In addition, laboratory tests have shown diesel exhaust to be carcinogenic in rats, as well as toxic and mutagenic. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. The Agency believes that the health evidence forms a reasonable basis for exploring possible methods to reduce miners' exposure to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	04/09/98	63 FR 17492
Notice Significant Environment Impact	07/14/98	63 FR 37796
Extension of Comment Period Extension of Comment Period	08/05/98	63 FR 41755
Hearing Close of Record	10/19/98	63 FR 55811
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1219–AA74

1988. BELT ENTRY USE AS INTAKE AIRCOURSE TO VENTILATE WORKING SECTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, MSHA regulations have generally prohibited belt haulage entries from being used to ventilate active working places. The intention of this prohibition is to prevent smoke from a belt conveyor fire from being coursed to miners in their workplace. Improved technology, including sophisticated atmospheric monitoring systems, has since made it possible to safely use "belt air" to ventilate active working places. This rulemaking would permit the use of belt air, provided that certain safety requirements are met. In many cases, the use of belt air may result in more efficient and effective ventilation systems, enhancing the health and safety of miners. Additionally because this regulation will eliminate the need for mine operators to seek regulatory variances from MSHA, costs and burdens on both industry and MSHA will be reduced.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held in April 1990.

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RIN: 1219–AA76

1989. SAFETY STANDARDS FOR METHANE IN METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Current MSHA regulations place metal and nonmetal mines with a history of, or a potential for, methane liberation (gassy mines) into several categories. Safety standards for methane detection and prevention apply to a mine depending on its category. Recent legal decisions have narrowed the application of existing gassy mine standards, leading MSHA to conclude that the standards may need to be revised to protect adequately all miners who work in gassy mines. This action would revise the existing safety standards for methane in metal and nonmetal mines to address dangerous levels of methane in outburst cavities in abandoned idled, and worked-out areas of category II-A mines. It would further address the use of approved equipment in category III mines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1219–AA90

1990. SAFETY STANDARDS FOR THE USE OF ROOF-BOLTING MACHINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC-811

CFR Citation: 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: Recent fatalities in underground coal mines involving roof-bolting machines indicate the need to both modify the design of such machines and take additional precautions in their use. MSHA has evaluated roof-bolting machines currently in use focusing on potential hazards to the machine operators during the drilling and roof-bolt installation procedures. MSHA believes that machine design features may contribute to or cause accidents and that changes in machine design and operating procedures would make operating the equipment safer for the machine operator. The Agency issued an Advance Notice of Proposed Rulemaking (ANPRM) to obtain additional information and data on mine operators' experiences with these machines. MSHA will consider all comments received on the ANPRM and will determine if rulemaking or some other alternative other than rulemaking can address the problem with roof-bolting machines.

Timetable:

Action	Date	FR Cite
ANPRM	12/09/97	62 FR 64789
ANPRM Comment Period End	02/09/98	
Extension of Comment Period to 3/9/98	02/12/98	63 FR 7089
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA94

1991. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: There are two major types of coal mines -- bituminous and anthracite. The mining methods used and hazards encountered in underground anthracite mines are different from those in underground bituminous coal mines. Mining methods in anthracite mines include minimal use of mechanized equipment, slow rate of advance into the coal seam, and pitching and undulating seams. Because of these differences, some mine operators find it difficult to comply with existing safety standards at their anthracite mines. These anthracite mine operators must request a variance from existing standards to change the requirements. The variance process costs time and money. Because anthracite mines are usually small operations, this burden can be significant. MSHA has received over 300 variance requests from anthracite mine operators since January 1993. MSHA intends to issue a proposed rule to modify several existing safety standards to address more appropriately the specific conditions of the anthracite mining industry.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arliington, VA 22203
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RIN: 1219–AA96

1992. ELECTRICAL STANDARDS FOR METAL AND NONMETAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Electric power is widely used in the mining and processing of minerals. Large, highly productive mining equipment, such as continuous miners, loaders, shuttle cars, draglines, shovels and drills, are electrically powered. In addition, electricity is used for the transportation of material on conveyors, for electric railroads, and for processing plants. MSHA's accident records related to inadequate equipment grounding support the need for improved safety standards. The number of electrical accidents could be reduced by proper equipment grounding. The proposed rule would revise MSHA's existing safety standards addressing hazards associated with the grounding of circuits equipment, and metal enclosures at surface and underground metal and nonmetal mines. The proposed standard would specify requirements for grounding conductors to ensure that safe methods of grounding are used.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB01

1993. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS)

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813(h); 30 USC 961; 30 USC 957

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Several epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer. In 1988, the National Institute for Occupational Safety and Health recommended that "whole diesel exhaust be regarded as a potential occupational carcinogen." In addition, in 1989, the International Agency for Research on Cancer concluded that "diesel engine exhaust is probably carcinogenic to humans."

In 1988, an advisory committee made recommendations to the Secretary of Labor concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was that the Secretary of Labor set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. In April 1998, MSHA issued a proposed rule to control diesel particulate matter in underground coal mines. The underground coal proposal would require the use of a very effective control technology (filters) to reduce exposures, because of a problem with measuring diesel particulate matter in coal mines.

In October 1998, MSHA published a proposed rule for underground metal nonmetal mines that would establish a concentration limit for diesel particulate matter. The proposed rule would also require the use of engineering and work practice controls to reduce diesel particulate matter. Underground metal and nonmetal mine operators would also be required to implement certain "best practice" work controls.

Statement of Need: The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. MSHA estimates that about 7,500 miners working in production or development areas are occupationally exposed to diesel exhaust emissions in underground metal and nonmetal mines.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual activity, and decreased forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any

occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, MSHA is concerned about the potential health risk to miners. The proposed rule for underground metal and nonmetal mines would establish a concentration limit for diesel particulate matter.

Alternatives: In the fall of 1995, MSHA held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter.

MSHA encourages the mining community to continue to voluntarily use protective measures to address exposure to diesel exhaust. In addition, the proposal provides for MSHA technical assistance to operators and a phase-in period for compliance.

Anticipated Costs and Benefits: MSHA estimates that the compliance costs for underground metal and nonmetal operators would be approximately $19 million. The compliance costs to manufacturers are assumed to be passed through to underground metal and nonmetal operators and therefore, they would not incur any direct costs as a result on the rule. The proposed rule would reduce a significant health risk to underground miners, reducing the potential for acute sensory irritations and respiratory symptoms, lung cancer, and premature death, along with the attendant suffering and costs thereof to their employees, their families, and society. In addition to savings related to acute health effects, MSHA estimates that some lung cancer would also be avoided.

Risks: Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. Laboratory tests have shown diesel exhaust to be carcinogenic in rats, as well as toxic and mutagenic. Potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. The Agency believes that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	10/29/98	63 FR 58104
Extension of Comment Period	02/12/99	64 FR 7144
Comment Period End	02/26/99	63 FR 58104
Public Hearings	03/24/99	64 FR 14200
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AB11

1994. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70.101 et seq; 30 CFR 90.101 et seq; 30 CFR 71.101 et seq; 30 CFR 72.101 et seq

Legal Deadline: None

Abstract: Existing respirable dust standards limit respirable dust when quartz (crystalline silica) is present. MSHA is considering a new standard specifying a separate exposure limit for silica (not tied to the respirable dust standard). This is in response to recommendations of the Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers who felt that separate standards for coal mine dust and for silica "should aid in targeting mining situations where silica exposure constitutes a significant hazard."

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB12

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Completed Actions

1995. CARBON MONOXIDE MONITOR APPROVAL

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 12

Legal Deadline: None

Abstract: The use of carbon monoxide monitoring systems in underground coal mines can be effective in monitoring mine atmospheres to detect fires in the early stages of development. This rulemaking would address minimum performance criteria for these systems. MSHA may explore the use of negotiated rulemaking to address this regulatory action.

Timetable:

Action	Date	FR Cite
Withdrawn	02/18/99	

DOL—MSHA

Completed Actions

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is withdrawn from the agenda and combined with RIN 1219-AA76, Belt Entry Ventilation.

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA72

1996. SELF-CONTAINED SELF-RESCUE DEVICES IN UNDERGROUND METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: The proposed rule would revise existing standards and add new standards to require certain operators of underground metal and nonmetal mines to make self-contained self-rescue devices (SCSRs) available to miners. SCSRs are emergency breathing units that generate oxygen. Existing MSHA standards require that SCSRs be available for emergencies at all underground coal mines. MSHA expects that this proposed rule would affect fewer than 20 metal and nonmetal mines where methane has been detected.

Timetable:

Action	Date	FR Cite
Integrated With RIN 1219-AB19	02/18/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is withdrawn from agenda and combined with RIN 1219-AB19-Underground Coal Mining; Self-Contained Self-Rescuer Approval Requirements Service Life Approval and Training and Use; Personal Emergency Devices.

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RIN: 1219–AB06

1997. X-RAY SURVEILLANCE PROGRAM FOR SURFACE COAL MINERS

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 812

CFR Citation: 30 CFR 70; 30 CFR 72; 30 CFR 90

Legal Deadline: None

Abstract: The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor industry, and academic communities. The Committee submitted its report to the Secretary of Labor in November 1995, with the majority of the recommendations unanimously supported by the Committee members.

MSHA has completed an indepth review of the Advisory Committee's recommendations. There are 20 principal recommendations set out in the Advisory Committee report, which are further subdivided into a total of approximately 100 distinct action items. The recommendations are both extensive and significant. The Agency is giving each careful consideration and has prioritized them for regulatory or administrative action.

The Agency will provide information to the mining community as it determines how to implement the Advisory Committee recommendations.

Timetable:

Action	Date	FR Cite
Recommendations Completed	11/26/96	61 FR 60120
Policy Document-Phase 2	02/03/98	63 FR 5664
Withdrawn	02/18/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB09

1998. TRAINING AND RETRAINING OF MINERS: SUPERVISOR TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: In 1991, MSHA published a proposed rule to revise portions of the existing part 48 regulations. In response to that proposal, MSHA received numerous comments from both industry and labor representatives. Some commenters recommended that supervisors who are exposed to mine hazards should receive training under part 48 beyond that required for other miners. While these comments raised concerns that extended beyond the scope of that proposed rule, MSHA has evaluated the merits of these concerns and determined that they warrant Agency consideration. For this reason, MSHA is addressing them in this proposal. MSHA is proposing to increase the number of hours of annual refresher training for supervisors from 8 hours to 12 hours. The training needs of supervisors are broader in scope and require a greater depth of understanding than that needed by

DOL—MSHA — Completed Actions

other miners. MSHA expects that better trained, more knowledgeable supervisors will contribute to their own safety and that of the miners under their supervision.

Timetable:

Action	Date	FR Cite
Integrated With RIN 1219-AB02	02/18/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: This rulemaking is withdrawn from the agenda and is combined with RIN 1219-AB02.

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RIN: 1219–AB16

DEPARTMENT OF LABOR (DOL) — Proposed Rule Stage

Office of the Assistant Secretary for Administration and Management (OASAM)

1999. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 32

Legal Deadline: None

Abstract: Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in federally financed programs and activities. The Department last published a final rule implementing section 504 on October 7, 1980. Since that time, section 504 has been amended several times, generally to update terminology and provide new definitions. The Department is undertaking this rulemaking to update 29 CFR part 32 to incorporate those changes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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RIN: 1291–AA28

DEPARTMENT OF LABOR (DOL) — Final Rule Stage

Office of the Assistant Secretary for Administration and Management (OASAM)

2000. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: PL 104-156 110 Stat.136; OMB Circular A-110; OMB Circular A-133

CFR Citation: 29 CFR 99

Legal Deadline: None

Abstract: The Department of Labor hereby adds title 29 CFR 99 "Audits of States, Local Governments, and Non-Profit Organizations" as a new regulation which codifies the revised Office of Management and Budget (OMB) Circular A-133 in its entirety. The Single Audit Act Amendments of 1996 (Public Law 104-156, 110 Stat. 136) and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," required agencies to adopt in codified regulations the standards in the revised OMB Circular A-133 by August 29, 1997, so that they will apply to audits of fiscal years beginning after June 30, 1996. The revised OMB Circular A-133 co-located audit requirements for States, local governments, and non-profit organizations. As a consequence, the OMB rescinded OMB Circular A-128, "Audits of States and Local Governments." On August 29, 1997, the Department of Labor amended its grants common rules at 29 CFR 95 and 29 CFR 97 in accordance with OMB guidance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Al Stewart, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room S5520, FP Building, Washington, DC 20210
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RIN: 1291–AA26

2001. AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7500 et seq; OMB Circular A-183

CFR Citation: 29 CFR 96

Legal Deadline: None

DOL—OASAM **Final Rule Stage**

Abstract: The Department of Labor hereby revises title 29 of the Code of Federal Regulations (CFR) part 96 "Audit Requirements for Grants, Contracts, and Other Agreements" to consolidate various provisions and ensure consistency, continuity, and ameliorate conflicts with subtitle A of 29 CFR parts 95 and 97.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 1291–AA27

2002. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-220, sec 188 Workforce Investment Act

CFR Citation: 29 CFR 37

Legal Deadline:
Final, Statutory, August 7, 1999.

Abstract: The Workforce Investment Act of 1988 (WIA) was signed into law by President Clinton on August 7, 1998. Section 188 prohibits discrimination on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain noncitizens. Section 188(e) requires that the Secretary of Labor issue regulations necessary to implement section 188 not later than one year after the date of the enactment of the WIA. Such regulations will include standards for determining compliance and procedures for enforcement that are consistent with the Acts referred to in section 188(a)(1), as well as procedures to ensure that complaints filed under section 188 and such acts processed in a manner that avoids duplication of effort.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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RIN: 1291–AA29

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Office of the Assistant Secretary for Administration and Management (OASAM)

2003. DEPARTMENT OF LABOR ACQUISITION REGULATION

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to the DOLAR reflect changes in the Federal Acquisition Regulations and organizational changes within DOL.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Revision of the Department of Labor Acquisition Regulation is awaiting the final publication of revisions to the Federal Acquisition Regulations as a result of changes being implemented pursuant to passage of the Federal Acquisition Streamlining Act of 1994 enacted October 13, 1994 and the Federal Acquisition Reform Act of 1995.

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RIN: 1291–AA20

2004. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq Age Discrimination Act of 1975

CFR Citation: 45 CFR 90

Legal Deadline:
NPRM, Statutory, September 10, 1979, Requires publication of the NPRM within 90 days of publication and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the Act). The Act and the general, Governmentwide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the Governmentwide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age

DOL—OASAM **Long-Term Actions**

Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under section 167 of the Job Training Partnership Act of 1982 and the implementing regulations at 29 CFR 34.

Timetable:

Action	Date	FR Cite
NPRM	12/29/98	63 FR 71714
NPRM Comment Period End	03/01/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210 Phone: 202 219-8927

RIN: 1291–AA21

DEPARTMENT OF LABOR (DOL) **Prerule Stage**

Occupational Safety and Health Administration (OSHA)

2005. STANDARDS ADVISORY COMMITTEE ON METALWORKING FLUIDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)(1); 29 USC 656(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In December 1993, the International Union, United Automobile Aerospace and Agricultural Implement Workers of America petitioned OSHA to take emergency regulatory action to protect workers from the risks of occupational cancers and respiratory illnesses due to exposure to metalworking fluids. OSHA sent an interim response to the UAW stating that the decision to proceed with rulemaking would depend on the results of the OSHA Priority Planning Process. Following the Priority Planning Process report, which identified metalworking fluids as an issue worthy of Agency action, the Assistant Secretary asked the National Advisory Committee on Occupational Safety and Health (NACOSH) for a recommendation about how to proceed with metalworking fluids. NACOSH unanimously recommended that OSHA form a Standards Advisory Committee (SAC) to address the health risks caused by occupational exposure to metalworking fluids. The Assistant Secretary accepted the recommendation of NACOSH; OSHA has established a 15-member SAC to make recommendations regarding a standard, a guideline, or other appropriate response to the dangers of occupational exposures to metalworking fluids. The Committee has a balanced membership, including individuals appointed to represent the following affected interests: industry; labor; Federal and State safety and health organizations; professional organizations; and national standards-setting groups.

Statement of Need: Under table Z-1 of the 1971 air contaminants rule, OSHA enforces a permissible exposure limit of 5 mg/m3 for mineral oil mists but evidence suggests this level is outdated and that exposure to metalworking fluids can lead to cancer, nonmalignant lung disease, and dermatitis. Giving a SAC the opportunity to examine and comment upon current studies and data concerning the risks associated with all metalworking fluid mixtures (straight oils, synthetic, and semisynthetic) will provide valuable information the Agency can use to develop a proposed rule for metalworking fluids or other appropriate response to hazards posed by occupational exposure to metalworking fluids. The SAC will also report on related issues such as fluid management, engineering controls, medical surveillance, and economic and technological feasibility.

Summary of the Legal Basis: The legal basis for convening this standards advisory committee is found at section 7(b) of the OSH Act.

Alternatives: The Agency recognizes the complex and difficult nature of the issues surrounding the regulation of metalworking fluids and believes a SAC can best alleviate some areas of confusion. The Committee has a unique opportunity to provide needed data and academic and professional expertise, as well as large and small industry and labor perspectives. Through OSHA's exhaustive Priority Planning Process and NACOSH recommendations, metalworking fluids were identified as a regulatory candidate that could be handled most successfully through a SAC. The option of going directly to 6(b) rulemaking has been bypassed in favor of a SAC, which will give beneficial input to the agency as to how best to deal with the problems and the opportunity to build some consensus before a proposal is issued.

Anticipated Costs and Benefits: Because the SAC is still considering the issues, the form of the Committee's recommendations is unknown at the present time. However, once the SAC report is written, OSHA will review it and determine whether to proceed with a proposed rule and other actions to protect employees. Quantitative estimates of costs and benefits will be made only after the proposed rule has been drafted.

Risks: OSHA has not yet assessed the risks confronting workers exposed to metalworking fluids, although the National Institute for Occupational Safety and Health has published risk estimates for some of the adverse health effects of interest to the SAC.

Timetable:

Action	Date	FR Cite
Appointed Members	07/11/97	
Charter Approved	08/15/97	
Committee Meeting	09/18/98	
SAC Information to Asst Secy	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: The Agency is particularly concerned with the potential impact a metalworking fluids rule would have on small businesses. OSHA has been working closely with the Small Business Administration to reach small employers in order to involve them in the process at the earliest possible time. At least 30 small

DOL—OSHA Prerule Stage

business interests have been identified to date. The Agency is required to have balanced committee representation and small business is represented on the SAC.

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RIN: 1218–AB58

2006. CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT)(SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.147

Legal Deadline: None

Abstract: As required by section 610 of the Regulatory Flexibility Act and section 5 of Executive Order 12866, OSHA has reviewed the Agency's standard for the protection of employees from exposure to lockout/tagout hazards, 29 CFR 1910.147, to determine whether the rule should be continued without change or should be amended or rescinded, consistent with the objectives of the rule and of the Occupational Safety and Health Act, to minimize any significant impact on a substantial number of small entities. After a thorough review of the Agency's experience in enforcing this standard, the available literature, and comments received in connection with this review, OSHA has determined that there is a continued need for the rule, that the rule does not appear to overlap, duplicate, or conflict with other Federal rules or with other State and local rules, and that no technological, economic or other factors have arisen since the rule was published that would necessitate amendment or rescission of the rule at this time. OSHA has also concluded that no change that is consistent with the objectives of the OSH Act can be made to the rule that will further minimize any significant impact on a substantial number of small entities. OSHA will be responding to comments received during this review of the standard by preparing materials to assist employers in complying with the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
Complete Review	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
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RIN: 1218–AB59

2007. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review has considered the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in 1999.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
Complete Review	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB60

2008. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA intends to issue an ANPRM to gather information on the feasibility of fall protection in certain construction processes, such as residential home building, precast concrete operations, and post frame construction. OSHA is preparing to raise a number of issues about the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and vendors delivering materials to construction projects. These issues have arisen since OSHA revised the fall protection standard in August 1994. These issues will be raised in an advance notice of proposed rulemaking, which will be published this year.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210
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RIN: 1218–AB62

2009. PROCESS SAFETY MANAGEMENT OF HIGHLY HAZARDOUS CHEMICALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

DOL—OSHA **Prerule Stage**

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.119

Legal Deadline: None

Abstract: OSHA is considering two regulatory actions concerning the Process Safety Management of Highly Hazardous Chemicals (PSM) standard. One action is to publish an advance notice of proposed rulemaking to address the issue of covering additional reactive chemicals that are not currently covered by PSM. Another action is a proposal to add chemicals that were not included in the OSHA standard but were included in the Environmental Protection Agency's (EPA) Risk Management Program (RMP) rule (one part of the RMP rule addresses compliance with the OSHA Process Safety Management rule). OSHA has been asked by representatives of the regulated community to bring its chemical list into closer alignment with the RMP rule.

Timetable:

Action	Date	FR Cite
ANPRM Reactives	04/00/99	
NPRM Process Safety Management	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
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RIN: 1218–AB63

2010. SAFETY STANDARDS FOR SCAFFOLDS USED IN THE CONSTRUCTION INDUSTRY—PART II

Priority: Info./Admin./Other

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1926.453; 29 CFR 1926.454

Legal Deadline: None

Abstract: Since the promulgation of a final rule for scaffolds used in construction in August 1996, OSHA has learned of several issues that have arisen under the new standard. The agency is gathering information on scaffolds to address these issues. These issues include: (1) providing access to platforms where decking extends past the ends of the scaffold; (2) changing the minimum width for roof brackets to less than 12 inches; (3) changing the requirements for grounding of the scaffold during welding operations; and (4) requiring the use of scaffold grade planks. This advance notice of proposed rulemaking will raise these issues for informational purposes.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB68

2011. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.272

Legal Deadline: None

Abstract: OSHA is undertaking a review of its grain handling standard (29 CFR 1910.272) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
Complete Review	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Eisenbrey, Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
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RIN: 1218–AB73

2012. COTTON DUST (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655 (b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1043

Legal Deadline: None

Abstract: OSHA is undertaking a review of its cotton dust standard (29 CFR 1910.1043) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
Complete Review	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Eisenbrey, Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210

DOL—OSHA **Prerule Stage**

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RIN: 1218–AB74

DEPARTMENT OF LABOR (DOL) **Proposed Rule Stage**
Occupational Safety and Health Administration (OSHA)

2013. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (PHASE I) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: In the 1980s, OSHA embarked on a project to update and consolidate OSHA standards that applied to the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both the "shipyard" standards and OSHA's general industry standards. This has resulted in inconsistent and contradictory requirements for essentially the same operations.

Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six subparts (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). The remaining subparts were categorized as Phase II of the consolidation project (including general working conditions and fire protection). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular standard will revise the existing shipyard employment standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions. 75,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Reopen Record	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AA70

2014. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 651; 29 USC 652; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910; 29 CFR 1915

Legal Deadline: None

Abstract: Work-related musculoskeletal disorders (MSDs) are a leading cause of pain, suffering, and disability in American workplaces. Since the 1980's, the Occupational Safety and Health Administration (OSHA) has had a number of initiatives related to addressing these problems, including enforcement under the general duty clause, issuance of guidelines for the meatpacking industry, and development of other compliance-assistance materials.

Ultimately, the Agency decided that, given the magnitude of the problem, a regulatory approach should be explored to ensure that the largest possible number of employers and employees become aware of the problems and ways of preventing work-related musculoskeletal disorders. OSHA has examined and analyzed the extensive scientific literature documenting the problem of work-related musculoskeletal disorders, the causes of the problem, and effective solutions; conducted a telephone survey of over 3,000 establishments regarding their current practices to prevent work-related musculoskeletal disorders; and completed a number of site visits to facilities with existing programs. The Agency has also held numerous stakeholder meetings to solicit input from individuals regarding the possible contents of a standard to prevent work-related musculoskeletal disorders. Agency representatives have delivered numerous outreach presentations to people who are interested in this subject and consulted professionals in the field to obtain expert opinions on the options considered by the Agency. Information obtained from these activities is undergoing Agency review. Options for regulatory action are being developed.

The Agency believes that the scientific evidence supports the need for a standard and that the availability of effective and reasonable means to control these hazards has been demonstrated. The criteria that have been developed for setting OSHA priorities support the need to reduce the incidence of work-related musculoskeletal disorders. The Agency is currently developing a proposed rule for ergonomics. The National Institute for Occupational Safety and Health (NIOSH) has issued a report evaluating the scientific basis for the relationship

of workplace stressors to MSDs. The report concludes that such a relationship exists for many stressors.

Statement of Need: OSHA estimates that work-related musculoskeletal disorders in the United States account for over 600,000 injuries and illnesses (34 percent of all lost workdays reported to the Bureau of Labor Statistics (BLS)). These disorders now account for one out of every three dollars spent on workers' compensation. It is estimated that employers spend as much as $20 billion a year on direct costs for MSD-related workers' compensation, and up to five times that much for indirect costs, such as those associated with hiring and training replacement workers. In addition to these monetary effects, MSDs often impose a substantial personal toll on affected workers who can no longer work or perform simple personal tasks like buttoning their clothes or brushing their hair.

Scientific evidence associates MSDs with stresses to various body parts caused by the way certain tasks are performed. The positioning of the body and the type of physical work that must be done to complete a job may cause persistent pain and lead to deterioration of the affected joints, tissues, and muscles. The longer the worker must maintain a fixed or awkward posture, exert force, repeat the same movements, experience vibration, or handle heavy items, the greater the chance that such a disorder will occur. These job-related stresses are referred to as "workplace risk factors," and the scientific literature demonstrates that exposure to these risk factors, particularly in combination, significantly increases an employee's risk of developing a work-related musculoskeletal disorder. Jobs involving exposure to workplace risk factors appear in all types of industries and in all sizes of facilities.

Musculoskeletal disorders occur in all parts of the body--the upper extremity, the lower extremity, and the back. An example of the increasing magnitude of the problem involves repeated trauma to the upper extremity, or that portion of the body above the waist, in forms such as carpal tunnel syndrome and shoulder tendinitis. In 1996, employers reported 281,000 repeated trauma cases to the BLS. As a point of comparison, the number of reported cases in this category was only 22,700 in 1981. When the data are adjusted to reflect changes in the size of the employee population, they indicate that such cases have increased more than 7-fold in the last ten years. In industries such as meatpacking and automotive assembly, approximately 10 out of 100 workers report work-related MSDs from repeated trauma each year. The number of work-related back injuries occurring each year is even larger than the number of upper extremity disorders. Industries reporting a large number of cases of back injuries include hospitals and personal care facilities.

The evidence OSHA has assembled and analyzed indicates that technologically and economically feasible measures are available to significantly reduce exposures to workplace risk factors and the risk of developing work-related musculoskeletal disorders. Many companies that have voluntarily implemented ergonomics programs have demonstrated that effective ergonomic interventions are available to reduce MSDs. Many of these interventions are simple and inexpensive, but nevertheless have a significant effect on the occurrence of work-related musculoskeletal disorders. Benefits include substantial savings in workers' compensation costs, increased productivity, and decreased turnover.

Summary of the Legal Basis: The legal basis for this proposed rule is a preliminary finding by the Secretary of Labor that workers in workplaces within OSHA's jurisdiction are at significant risk of incurring work-related musculoskeletal disorders.

Alternatives: OSHA is considering many different regulatory alternatives. These include variations in the scope of coverage, particularly with regard to industrial sectors, work processes, and degree of hazard. The Agency has also considered various phase-in options related to the size of the facility. The agency is still developing and refining its regulatory alternatives.

Anticipated Costs and Benefits: Implementation costs of a regulation would include those related to identifying and correcting problem jobs using engineering and administrative controls. Benefits expected include reduced pain and suffering, both from prevented disorders as well as reduced severity in those disorders that do occur, decreased numbers of workers' compensation claims, and reduced lost work time. Secondary benefits may accrue from improved quality and productivity due to better designed work systems.

Risks: The data OSHA has obtained and analyzed indicate that employees are at a significant risk of developing or aggravating musculoskeletal disorders due to exposure to risk factors in the workplace. In addition, information from site visits, the scientific literature, the Agency's compliance experience, and other sources indicates that there are economically and technologically feasible means of addressing and reducing these risks to prevent the development or aggravation of such disorders, or to reduce their severity. These data and analyses will be presented in the preamble to any proposed standard published in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/92	57 FR 34192
ANPRM Comment Period End	02/01/93	
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

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RIN: 1218–AB36

2015. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY AND THE MARITIME INDUSTRIES)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 651; 29 USC 657

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

DOL—OSHA **Proposed Rule Stage**

Abstract: The Occupational Safety and Health Administration (OSHA), many of the States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Program, and many proactive employers in all industries have recognized the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The effectiveness of these programs is seen most dramatically in the reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs. To assist employers in establishing safety and health programs, OSHA in 1989 (54 FR 3904) published nonmandatory guidelines that were based on a distillation of the best safety and health management practices observed by OSHA in the years since the Agency was established. OSHA's decision to expand on these guidelines by developing a safety and health programs rule is based on the Agency's recognition that occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate; for example, an average of about 17 workers were killed each day in 1997 in occupational fatalities, and this number does not reflect the estimated 50,000 job-related chronic illness deaths believed to occur annually.

The safety and health programs required by the proposed rule will include at least the following elements: management leadership of the program; active employee participation in the program; analysis of the worksite to identify serious safety and health hazards of all types; and requirements that employers eliminate or control those hazards in an effective and timely way. In addition, in response to extensive stakeholder involvement, OSHA has, among other things, focused the rule on significant hazards and reduced burdens on small business to the extent consistent with the goals of the OSH Act.

Statement of Need: Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Many States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been dramatic. In addition, all of the companies in OSHA's Voluntary Protection Program have established such programs and are reporting injury and illness rates that are sometimes only 20 percent of the average for other establishments in their industry. Safety and health programs apparently achieve these results by actively engaging front-line employees, who are closest to operations in the workplace and have the highest stake in preventing job-related accidents, in the process of identifying and correcting occupational hazards. Finding and fixing workplace hazards is a cost-effective process, both in terms of the avoidance of pain and suffering and the prevention of the expenditure of large sums of money to pay for the direct and indirect costs of these injuries and illnesses. For example, many employers report that these programs return between $5 and $9 for every dollar invested in the program, and almost all employers with such programs experience substantial reductions in their workers' compensation premiums. OSHA believes that having employers evaluate the job-related safety and health hazards in their workplace and address any hazards identified before they cause occupational injuries, illnesses, or deaths is an excellent example of "regulating smarter," because all parties will benefit: workers will avoid the injuries and illnesses they are currently experiencing; employers will save substantial sums of money and increase their productivity and competitiveness; and OSHA's scarce resources will be leveraged as employers and employees join together to identify, correct, and prevent job-related safety and health hazards.

Summary of the Legal Basis: The legal basis for the proposed rule is a preliminary finding by the Secretary of Labor that unacceptably high injury, illness, and fatality rates can be substantially reduced by getting employers to systematically comply with the existing duty to control hazards under sections 5(a)(1) and 5(a)(2) of the OSH Act.

Alternatives: In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First, OSHA published, in 1989, a set of voluntary management guidelines designed to assist employers to establish and maintain programs such as the one envisioned by the proposed safety and health programs rule. Although these guidelines have received widespread praise from many employers and professional safety and health associations, they have not been adequately effective in reducing job-related deaths, injuries, and illnesses, which have continued to occur at unacceptably high levels. Many of the States have also recognized the value of these programs and have mandated that some or all covered employers establish them; this has led to inconsistent coverage from State to State, with many States having no coverage and others imposing stringent program requirements.

Anticipated Costs and Benefits: Costs and benefits have not been determined at this time.

Risks: Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. In 1996 the Bureau of Labor Statistics reports that 6.2 million injuries and illnesses occurred within private industry, and in 1997, 6,218 workers lost their lives on the job. There is increasing evidence that addressing hazards in a piecemeal fashion, as employers tend to do in the absence of a comprehensive safety and health program, is considerably less effective in reducing accidents than a systematic approach. Dramatic evidence of the seriousness of this problem can be found in the staggering workers' compensation bill paid by America's employers and employees: approximately $54 billion annually. These risks can be reduced by the implementation of safety and health programs, as evidenced by the experience of OSHA's Voluntary Protection Program participants, who regularly achieve injury and illness rates averaging one-fifth to one-third those of competing firms in their industries. Other benefits of reducing accidents include enhanced productivity, improved employee morale, and reduced absenteeism. Because these programs address all significant job-related hazards--including those that are covered by OSHA standards as well as those currently addressed by the General Duty Clause --the proposed rule will be

DOL—OSHA

Proposed Rule Stage

effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, and emerging hazards, such as lasers and violence in the workplace.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: A separate rule is being developed for the construction industry (29 CFR 1926). OSHA will coordinate the development of the two rules.

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RIN: 1218–AB41

2016. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In July 1993, the Occupational Safety and Health Administration (OSHA) was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for chromium (CrVI) compounds to 0.5 micrograms per cubic meter of air (ug/m3) as an eight-hour, time-weighted average (TWA). This represents a significant reduction in the current PEL. The current PEL in general industry is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m3 for "Chromic acid and chromates (as CrO3)." These are measured as chromium (VI) and reported as chromic anhydride (CrO3). The amount of chromium in the compound equates to a PEL of 52 ug/m3 of chromium (VI) measured and reported as chromium (VI). This ceiling limit applies to all forms of hexavalent chromium (VI) including chromic acid and chromates, lead chromate, and zinc chromate. The current PEL for chromium (VI) in the construction industry is 100 ug/m3 as a TWA PEL, which also equates to a PEL of 52 ug/m3. HRG and OCAW were unable to persuade the courts to impose legal deadlines on the rulemaking.

The major illnesses associated with occupational exposures to hexavalent chromium are lung cancer and dermatoses. OSHA estimates that approximately one million workers are exposed to hexavalent chromium on a regular basis in all industries. The major uses of hexavalent chromium are: as a structural and anti-corrosive element in the production of stainless steel, ferrochromium, iron and steel, and in electroplating, welding and painting. After reviewing the petition, OSHA denied the request for an ETS and initiated a section 6(b) rulemaking. Work on a proposed rule continues.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB45

2017. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.36

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does not apply to the construction industry because of differences in the nature of the worksite. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment. One million construction workers are exposed to the hazards of confined space entry each year. OSHA intends to issue a proposed rule addressing this construction industry hazard in this year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210
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RIN: 1218–AB47

2018. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

DOL—OSHA

Proposed Rule Stage

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915, subpart F

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both the "shipyard" standards and OSHA's general industry standards for landside operations. Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). The remaining subparts were categorized as Phase II of the consolidation project (including general working conditions and fire protection). This action was endorsed by the Shipyard Advisory Committee, which was chartered in 1989 to update and consolidate existing shipyard standards.

The operations that are addressed in this particular rulemaking relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218–AB50

2019. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (PHASE II) (SHIPYARDS: FIRE SAFETY)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915, supbart P

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer is subject to both the "shipyard" standards and OSHA's general industry standards. Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general working conditions and fire protection in shipyard employment). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

The operations that are addressed in this particular rulemaking relate to fire brigades, fire extinguishers, sprinkler systems, detection systems, alarm systems, fire watches, and emergency plans. One hundred thousand workers are potentially exposed to these hazards annually. This proposed standard is being developed using the negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
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RIN: 1218–AB51

2020. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910.1000; 29 CFR 1915.1000; 29 CFR 1917.1(a)(2)(ii); 29 CFR 1918.1(b)(a); 29 CFR 1929.55

Legal Deadline: None

Abstract: OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. The air contaminant limits were adopted by OSHA in 1971 from recommendations issued by the American Conference of Governmental Industrial Hygienists and the American National Standards Institute. These PELs, which have not been updated since 1971, thus reflect the results of research conducted in the 1950s and 1960s. Since then, much new information has become available that indicates that, in many cases, these early limits are outdated and insufficiently protective of worker health. To correct this situation, OSHA issued a final rule in 1989 (54 FR 2332); it lowered the existing PELs for 212 toxic air contaminants and established PELs for 164 previously unregulated air contaminants. On June 12, 1992 (57 FR 26001), OSHA proposed a rule that would have extended these limits to workplaces in the construction, maritime, and agriculture industries. However, on July 10, 1992, the Eleventh Circuit Court of Appeals vacated the 1989 final rule on the grounds that "(1) OSHA failed to establish that existing exposure limits in the workplace presented significant risk of material health impairment or that new standards eliminated or

substantially lessened the risk; (2) OSHA did not meet its burden of establishing that its 428 new permissible exposure limits (PELs) were either economically or technologically feasible." The Court's decision forced the Agency to return to the earlier, insufficiently protective limits.

OSHA continues to believe that establishing a rulemaking approach that will permit the Agency to update existing air contaminant limits and establish new ones as toxicological evidence of the need to do so becomes available is a high priority. The rulemaking described in this Regulatory Plan entry reflects OSHA's intention to move forward with this process. In determining how to proceed, OSHA is being guided by the OSH Act and the Eleventh District Court decision regarding quantifying the risk and feasibility analyses required to support revised and new air contaminant limits. State-of-the-art risk assessment methodologies will be utilized for both carcinogens and noncarcinogens, and the determinations of feasibility contained in the economic analysis accompanying the proposal will be extensive. OSHA published (61 FR 1947) the candidate substances from which the proposed new PELs for the first update will be chosen: carbon disulfide, carbon monoxide, chloroform, dimethyl sulfate, epichlorohydrin, ethylene dichloride, glutaraldehyde, n-hexane, 2-hexanone, hydrazine, hydrogen sulfide, manganese and compounds, mercury and compounds, nitrogen dioxide, perchloroethylene, sulfur dioxide, toluene, toluene diisocyanate, trimellitic anhydride, and vinyl bromide. The specific hazards associated with the air contaminants preliminarily selected for regulation include cancer, neurotoxicity, respiratory sensitivity, etc. Using the same criteria as those used in the Priority Planning Process, OSHA evaluated each substance: severity of the health effect, the number of exposed workers, toxicity of the substance, uses and prevailing exposure levels of the substance, the potential risk reduction, availability and quality of information useful in quantitative risk assessment to ensure that significant risks are addressed and that workers will experience substantial benefits in the form of enhanced health and safety. Publication of the proposal will allow OSHA to institutionalize a mechanism for updating and extending its air contaminant limits, which will, at the same time, provide added protection to many workers who are currently being overexposed to toxic substances in the workplace. OSHA is also considering supplemental mechanisms proposed by stakeholders to increase the effectiveness of the process.

Statement of Need: OSHA has permissible exposure limits for approximately 470 toxic substances, many of which are widely used in industrial settings. These PELs, which were adopted wholesale by OSHA in 1971 and have not been revised since then, often lead to adverse effects when workers are exposed to the contaminants at these levels. In addition, new chemicals are constantly being introduced into the working environment, and exposure to these substances can result in both acute and chronic health effects. Acute effects include respiratory and sensory irritation, chemical burns, and ocular damage; chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. For these reasons, it is a high OSHA priority to establish an ongoing regular process that will allow OSHA routinely to update existing PELs and establish limits for previously unregulated substances. The first step in achieving this goal is to publish an air contaminants proposal for a number of substances that will establish streamlined but scientifically sound and defensible procedures for conducting risk assessments and performing feasibility analyses that will permit regular updating and review of permissible exposure limits for air contaminants. The ability to lower existing limits and establish limits for new contaminants is an essential component of OSHA's mandate to protect the health and functional well-being of America's workers.

Summary of the Legal Basis: The legal basis for the proposed PELs for selected air contaminants is a preliminary determination by the Secretary of Labor that the substances for which PELs are being proposed pose a significant risk to workers and that the new limits will substantially reduce that risk.

Alternatives: OSHA has considered a variety of nonregulatory approaches to address the problem of the Agency's outdated exposure limits for air contaminants. These include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of serious physical harm, and the issuance of hazard alerts. OSHA believes, however, that the problem of overexposure to hazardous air contaminants is so widespread, and the Agency's current limits are so out of date, that only a regulatory approach will achieve the necessary level of protection. The regulatory approach also has advantages for employers, because it gives them the information they need to establish appropriate control strategies to protect their workers and reduce the costs of job-related illnesses. This first phase of an ongoing air contaminants updating and revision process will begin to resolve a problem of long standing and major occupational health import.

Anticipated Costs and Benefits: The scope of the proposed rule is currently under development and thus quantitative estimates of costs and benefits have not been determined at this time. Implementation costs associated with the proposed standard include primarily those related to identifying and correcting overexposures using engineering controls and work practices. Additional costs may be incurred for the implementation of administrative controls and the purchase and use of personal protective equipment. Estimates of the magnitude of the problem of occupational illnesses, both acute and chronic, vary considerably. In 1989, OSHA concluded that its Air Contaminants rule in general industry, which lowered 212 exposure limits and added 164 where none had previously existed, would result in a reduction of approximately 700 deaths, 55,000 illnesses, and over 23,300 lost-workday illnesses annually. Chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. Acute effects include respiratory and sensory irritation, chemical burns, and ocular effects.

Risks: Risk assessments for the substances under consideration for this first phase of the air contaminants updating and revision process have not yet been completed.

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Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: During the rulemaking, OSHA will meet with small business stakeholders to discuss their concerns, and will conduct an initial Regulatory Flexibility Screening Analysis to identify any significant impacts on a substantial number of small entities.

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RIN: 1218–AB54

2021. NATIONALLY RECOGNIZED TESTING LABORATORIES PROGRAMS: FEES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.7

Legal Deadline: None

Abstract: A number of OSHA standards require that certain products and equipment used in the workplace be tested and certified by a laboratory that has been recognized and accredited by OSHA. Through the Nationally Recognized Testing Laboratory (NRTL) Program OSHA has, to date, recognized 17 laboratories operating 40 sites in the U.S., Canada, and the Far East as NRTLs. OSHA is proposing to revise 29 CFR 1910.7 to allow OSHA to charge fees to NRTLs for services that are provided to the NRTLs. The fees will be computed on the basis of the cost of the services to the Government. In determining the amount of such fees, OSHA will follow the guidelines established by the Office of Management and Budget in Circular Number A-25.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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Fax: 202 693-1644

RIN: 1218–AB57

2022. FLAMMABLE AND COMBUSTIBLE LIQUIDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.106

Legal Deadline: None

Abstract: This project responds to the President's Executive Memo of June 1998 regarding the use of plain language in Federal regulations. With this project, OSHA is initiating rulemaking that will revise the regulations contained in 29 CFR 1910.106 addressing flammable and combustible liquid storage. The purpose of this rulemaking will be to revise this standard into plain language.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Flammable and Combustible Liquids Plain Language Revision Project 29 CFR 1910.106 was originally one of four projects listed under RIN 1218-AB55.

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RIN: 1218–AB61

2023. REVOCATION OF CERTIFICATION RECORDS FOR TESTS, INSPECTIONS, AND TRAINING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b); 40 USC 333; 33 USC 941

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1926; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: OSHA is proposing to revoke certain requirements for employers to prepare and maintain records (certification records) which certify that employers have performed certain tests or inspections of equipment or machinery or that the employer has conducted certain training specified in the standards. The purpose of proposing to revoke these certification records is to minimize the paperwork burdens imposed on employers. OSHA preliminarily finds that there will be no reduction in employee safety and health as a result of reducing requirements to fill out and maintain these certification records.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB65

2024. PLAIN LANGUAGE REVISION OF THE MECHANICAL POWER-TRANSMISSION APPARATUS STANDARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.219

Legal Deadline: None

Abstract: OSHA has identified one standard in part 1910 that needs to be revised as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor Report of June 15, 1995 and to respond to the President's June 1998 Executive Memo on Plain Language. This standard is 29 CFR 1910.219, Mechanical Power-Transmission Apparatus. OSHA intends to issue a plain language rule that will address the following: Mechanical power-transmission apparatus guarding and maintenance.

Timetable:

Action	Date	FR Cite
NPRM - Mechanical Power-Transmission Apparatus	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218–AB66

2025. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926.97; 29 CFR 1926.950 to 968

Legal Deadline: None

Abstract: The annual fatality rate for power line workers is over 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 20 years old. OSHA is developing a revision of this standard that will prevent many of these fatalities, that will add flexibility to the standard, and that will update and streamline the standard. In addition, OSHA intends to amend the corresponding standard for general industry so that requirements for work performed during maintenance of electric power transmission and distribution installations are the same as those for similar work in construction.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB67

2026. SAFETY AND HEALTH PROGRAMS FOR CONSTRUCTION

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: In response to industry requests and OSHA's Advisory Committee on Construction Safety and Health (ACCSH) recommendation, OSHA has determined that the current safety and health program standards contained in subpart C of the construction standards, 29 CFR 1926, need to be revised to provide construction employers with a more comprehensive set of requirements to assist them in establishing safety and health programs. Safety and health programs have proven to be an effective, systematic method of identifying and correcting existing workplace safety and health hazards, as well as preventing those that might arise in the future.

The ACCSH has been working to develop recommendations for OSHA on safety and health programs and training in construction for many years. After its April 1996 meeting, ACCSH began to develop language and concepts to submit to OSHA for consideration as a proposed rule. Over 130 stakeholders representing small, medium and large contractors and host employers and stakeholders (such as petroleum producers; contractor associations; labor unions; other governmental agencies; and non-profit institutions) have participated in these ACCSH discussions.

Although OSHA is still developing the details of a new proposed safety and health program standard, the proposal will require employers to set up a program for managing workplace safety and health in order to reduce the incidence of occupational deaths, injuries, and illnesses. The standard will not impose duties on employers to control hazards that they are not already required to control. Instead, the standard will provide a basic framework for systematically identifying and controlling workplace hazards already covered by the OSH Act under section 5(a)(1) and current OSHA standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: A separate standard is being developed for general industry (29 CFR 1910) and the maritime (29 CFR 1915, 1917 and 1918) industries.

Agency Contact: Russell B. Swanson, Director, Directorate Of Construction,

DOL—OSHA **Proposed Rule Stage**

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RIN: 1218–AB69

2027. REQUIREMENT TO PAY FOR PERSONAL PROTECTIVE EQUIPMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910 .132; 29 CFR 1915.152; 29 CFR 1917.96; 29 CFR 1918.106; 29 CFR 1926.95

Legal Deadline: None

Abstract: Generally, OSHA standards require that protective equipment (including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards which can cause them injury, illness, or physical harm. In this discussion OSHA uses the abbreviation "PPE" to cover both personal protective equipment and other protective equipment. The Agency is proposing to revise its PPE standards to clarify who is required to pay for required PPE and under what circumstances. According to the proposal, employers would be required to provide all OSHA-required PPE at no cost to employees, with the following exceptions: the employer would not need to pay for safety-toe protective footwear or prescription safety eyewear if all three of the following conditions are met: (1) the employer permits such footwear or eyewear to be worn off the job-site; (2) the footwear or eyewear is not used in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and (3) such footwear or eyewear is not designed for special use on the job. Employers are also not required to pay for the logging boots required by 29 CFR 1910.266(d)(1)(v).

Statement of Need: OSHA has been issuing health, safety, and construction standards requiring appropriate PPE over a 28-year period. The regulatory language used in OSHA standards has generally clearly stated that the employer must provide PPE and ensure that employees wear it. However, the regulatory language used regarding the employer's obligation to pay for the PPE has varied.

OSHA attempted to clarify its position on the issue of payment for required PPE in a compliance memorandum to its field staff dated October 18, 1994. The memorandum stated that it was the employer's obligation to provide and pay for PPE except in limited situations.

Very recently, the Occupational Safety and Health Review Commission declined to accept this interpretation (Secretary of Labor v. Union Tank Car, OSHRC No. 96-0563). The Commission vacated a citation against an employer who failed to pay for OSHA-required PPE, finding that the Secretary had failed to adequately explain the policy outlined in the 1994 memorandum in light of several inconsistent earlier letters of interpretation from OSHA.

Therefore, the Agency needs to clarify who is to pay for PPE under what conditions, to eliminate any confusion and unnecessary litigation.

Summary of the Legal Basis: The legal basis for this proposed rule is the need to clarify OSHA's intent with regard to the payment for protective equipment required by OSHA standards promulgated under section 6 of the OSH Act.

Alternatives: OSHA has considered several alternative approaches to resolving this issue, including leaving this as a labor-management issue, issuing compliance directives to identify what PPE the employer must pay for, or requiring the employer to pay for all PPE. OSHA believes that, in this case, revising the standard to clarify who is to pay for the PPE is the most appropriate way to proceed. It is the only approach that will assure significant public participation in the resolution of this issue, and the codification of that resolution.

Anticipated Costs and Benefits: At this stage of rulemaking, the Agency has only preliminary costs and benefits. A survey has been conducted to obtain additional data.

Risks: Substantive requirements for protective equipment are impacted by other standards. This proposed rule is designed solely to clarify OSHA's intent as to what protective equipment must be paid for by the employer. Accordingly, no assessment of risk is required for this proposal.

Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15401
NPRM Comment Period End	06/14/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

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RIN: 1218–AB77

2028. CONSULTATION AGREEMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 670

CFR Citation: 29 CFR 1908

Legal Deadline: None

Abstract: This proposed amendment to 29 CFR 1908 is intended to provide for full employee involvement in the consultative process in line with the President's directive to enhance worker participation in the 7(c)(1) consultation program (The New OSHA: Reinventing Worker Safety and Health, May 1995).

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula O. White, Director, Directorate of Federal State Operations, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3700, FP Building, Washington, DC 20210
Phone: 202 693-2213

RIN: 1218–AB79

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Final Rule Stage

2029. RESPIRATORY PROTECTION (PROPER USE OF MODERN RESPIRATORS)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: In January 1998, OSHA published the final respiratory protection standard, except for the reserved provision on assigned protection factors (APFs). APFs are numbers that estimate the degree of performance of the various classes of respirators. OSHA has developed a statistical model for analyzing available data that will be used to derive APFs. Accordingly, OSHA will request further public comment on the analyses conducted using that model, the ANSI Z88.2-1992 APFs, the NIOSH Respirator Decision Logic APFs and other relevant methods for deriving APFs. This will assure that OSHA receives and fully considers public input before issuing final APFs. OSHA expects to complete the rulemaking on APFs in 1999.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
NPRM	11/15/94	59 FR 58884
Final Rule	01/08/98	63 FR 1152
Final Rule Effective	01/08/98	
Final Rule - Assigned Protection Factors	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1218–AA05

2030. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.750 (Revision); 29 CFR 1926.751 (Revision); 29 CFR 1926.752 (Revision)

Legal Deadline: None

Abstract: On December 29, 1992, the Occupational Safety and Health Administration (OSHA) announced its intention to form a negotiated rulemaking advisory committee to negotiate issues associated with a revision of the existing steel erection standard. The Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC), a 20-member committee, was established, and the SENRAC charter was signed by Secretary Reich on May 26, 1994. The primary issues the committee negotiated included the need to expand the scope and application of the existing standard to include construction specifications and work practices, written construction safety erection plans, and fall protection. The Committee met 11 times over an 18-month period and completed work on the draft regulatory text for the proposed steel erection standard on December 1, 1995.

The negotiated rulemaking process brought together the interested parties that will be affected by a revision to the steel erection rule. They found common ground on the major issues and developed language for a proposed rule. The use of this process allowed the stakeholders to develop an ownership stake in the proposal that they would not otherwise have had.

The process has led to a proposed revision to subpart R of 29 CFR 1926 that contains innovative provisions to help reduce the major causes of steel erection injuries and fatalities. OSHA issued the proposal on August 13, 1998. A public hearing was held from December 1-11, 1998.

Statement of Need: In 1989, OSHA was petitioned by the Ironworkers Union and National Erectors Association to revise its construction safety standard for steel erection through the negotiated rulemaking process. OSHA asked an independent consultant to review the issues involved in a steel erection revision, render an independent opinion, and recommend a course of action to revise the standard. The consultant recommended that OSHA address the issues through negotiated rulemaking. Based on the consultant's findings and the continued requests for negotiated rulemaking, OSHA decided to use the negotiated rulemaking process to develop a proposed revision of subpart R. The use of negotiated rulemaking was thought to be the best approach to resolving steel erection safety issues, some of which had proven intractable in the past.

Summary of the Legal Basis: The legal basis for the proposed steel erection rule is a preliminary finding that workers engaged in steel erection work are at significant risk of serious injury or death as a result of that work.

Alternatives: An alternative to using the negotiated rulemaking process was to publish a notice of proposed rulemaking developed by Agency staff. OSHA anticipated that this alternative would result in an extremely long and contentious rulemaking proceeding, with subsequent challenge in the Court of Appeals. Another alternative would be not to revise the Agency's current steel erection rules for construction. This alternative was rejected because it would permit steel erection-related injuries and fatalities to continue.

Anticipated Costs and Benefits: The estimated annualized compliance costs of the proposal are approximately $50 million per year, and the Agency believes that the benefits of the standard would include the prevention of an estimated 14 fatalities and 824 lost workday injuries per year.

Risks: The risk associated with steel erection activities is great. OSHA estimates that 28 workers are killed every year during steel erection activities. Falls are currently the number one killer of construction workers, and since the erection of

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buildings necessarily involves high exposure to fall hazards, the central focus of this rule will be to eliminate or reduce the risks associated with falls.

Timetable:

Action	Date	FR Cite
Notice of Committee Establishment	05/11/94	59 FR 24389
NPRM	08/13/98	63 FR 43451
NPRM Comment Period End	11/17/98	
Public Hearing	02/11/99	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1218–AA65

2031. SCAFFOLDS IN SHIPYARDS (PART 1915—SUBPART N) (PHASE I)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both shipyard and general industry standards.

Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). The remaining subparts were categorized as Phase II of the consolidation project (including general working conditions and fire protection). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular regulatory action will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions. It will develop, in part, performance-oriented standards, address current gaps in coverage, and address new technologies.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ended 6/13/94	04/12/94	59 FR 17290
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AA68

2032. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 657; 29 USC 673

CFR Citation: 29 CFR 1904; 29 CFR 1952.4

Legal Deadline: None

Abstract: OSHA requires employers to keep records of illnesses and injuries. These records are used by OSHA and the Bureau of Labor Statistics (BLS), among others, to develop data on workplace safety and health by industry and across industries. Over the years concerns about the reliability and utility of these data have been raised by Congress, the National Institute for Occupational Safety and Health (NIOSH), the National Academy of Sciences, the Office of Management and Budget (OMB), the General Accounting Office, business and labor, as well as BLS and OSHA. In the late 1980's, OSHA contracted with the Keystone Center to bring together representatives of industry, labor, government, and academia in a year-long effort to discuss problems with OSHA's injury and illness recordkeeping system. Keystone issued a report with specific recommendations on how to improve the system. In 1995, OSHA held several meetings with stakeholders from business, labor and government in order to obtain feedback on a draft OSHA recordkeeping proposal and to gather related information.

OSHA published a Notice of Proposed Rulemaking (NPRM) in the February 2, 1996 Federal Register that contained revised recordkeeping requirements and recordkeeping forms. The original 90-day public comment period was extended another 60 days and ended July 2, 1996. In addition, two public meetings were held in Washington, DC (March 26-29 and April 30-May 1). Over 450 written comments were entered into the Docket R-02, along with 1,200 pages of input derived from nearly 60 presentations given at the public meetings.

OSHA is now planning to issue a final rule that incorporates changes based on an analysis of the public comments and testimony.

Statement of Need: The occupational injury and illness records maintained by employers are an important component of OSHA's program. The records are used by employers and employees to identify and evaluate workplace safety and health hazards, and they provide OSHA personnel with necessary information during

DOL—OSHA

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workplace inspections. The records also provide the source data for the Annual Survey of Occupational Injuries and Illnesses conducted by the BLS.

All of these uses of the data are affected by the quality of the records employers maintain. Higher quality data lead to higher quality analyses, which in turn lead to better decisions about occupational safety and health matters. To improve the quality of the records and enhance the utility of the information for all the entities using the data, OSHA needs to provide clearer guidance to employers, simplify the recordkeeping forms and provide employees with access to the information.

Summary of the Legal Basis: The legal basis for issuance of this final rule is Section 8(c)(1) of the Act, which requires employers to record and report such records as are necessary for the enforcement of the Act and for developing information on the causes and prevention of occupational accidents and illnesses, as required by regulation and section 24(a) of the Act, which requires OSHA to develop an effective program of occupational safety and health statistics to further the purposes of the Act.

Alternatives: One alternative to publication of a final rule is to take no action and continue to administer the injury and illness recordkeeping system using the current regulation, forms and guidelines. Another alternative is to revise the current rule to expand its coverage and scope (i.e., eliminate the current rule's small employer and Standard Industrial Classification exemptions).

The first alternative is unacceptable because it does not address the problems with the current system identified by participants in the Keystone dialogue and other OSHA stakeholders. The second alternative is also unacceptable because it would require many employers, especially small-business employers, in low hazard industries to keep OSHA injury and illness data. This could impose a substantial paperwork burden on those employers without commensurate benefit.

Anticipated Costs and Benefits: The costs and benefits of the final rule have not yet been determined.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4030
NPRM Comment Period End	07/02/96	
Final Action	06/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Sectors Affected: All

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RIN: 1218–AB24

2033. PLAIN LANGUAGE REVISION OF EXISTING STANDARDS (PHASE I)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.107; 29 CFR 1910.94(c); 29 CFR 1910.94(d); 29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) adopted its initial package of workplace safety and health standards in the 1970's. Many of these standards have been identified by the regulated community as being overly complex, difficult to read and follow, and out of date with current technology.

OSHA is initiating separate rulemakings to revise two of OSHA's most complex and out-of-date section 6(a) standards. The purpose of these rulemakings is to simplify and clarify these standards and to write them in "plain language," as directed by the President's report and the June 1998 Executive Memorandum on Plain Language. The two standards address means of egress, section 1910.37 and spray finishing using flammable and combustible liquids, section 1910.107. Section 1910.107 also contains substantive ventilation requirements that duplicate ventilation requirements contained in section 1910.94, paragraphs (c) and (d).

Statement of Need:

These two OSHA standards are being revised as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor report of June 15, 1995 and in response to the June 1998 Executive Memorandum on Plain Language.

Exposure to flammable and combustible liquids during spray applications creates a variety of safety and health problems including thermal burns, chemical burns, smoke inhalation, respiratory inflammations and infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, and other serious injuries and illnesses. In case of an emergency, proper exit routes are needed both to protect employees from being trapped in hazardous work areas and to guide employees to safety.

Summary of the Legal Basis: The legal basis for issuing these plain language rules derives from the OSH Act and responds to the Executive Memo issued by the President in June 1998.

Alternatives: OSHA has considered two alternatives to rewriting these rules in plain language: (1) leaving the rules unchanged; and (2) initiating a comprehensive revision and updating of these rules. The first alternative has been rejected because it would leave these complex and specification-driven rules in place, a situation that has led to confusion and misinterpretations of the rules. The second alternative--conducting comprehensive rulemaking--would take many years, during which the current, poorly-written standards would remain in place. The approach OSHA has taken--conducting rulemaking for the limited but important purpose of rewriting these rules in plain language--is the fastest and least resource-intensive approach to address the serious problems presented by these rules.

Anticipated Costs and Benefits: Because these plain language revisions do not substantively change these rules,

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no cost impacts are associated with these revisions.

Risks: Because these revisions are designed solely to simplify and clarify these standards, no assessment of risks is required.

Timetable:

Action	Date	FR Cite
NPRM Exit Routes (Means of Egress)	09/10/96	61 FR 47712
Hearing on Exit Routes	04/29/97	62 FR 9402
Final Action Dipping and Coating Operations	03/23/99	64 FR 13897
Final Action Effective Dipping and Coating Operations	04/22/99	
NPRM Spray Finishing	12/00/99	
Final Action Exit Routes (Means of Egress)	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Means of Egress, 29 CFR 1910 subpart E, and Spray Finishing Using Flammable and Combustible Materials, 29 CFR 1910.107, are two standards selected for revision under a Presidential Initiative to revise outdated, duplicative, or obsolete Federal regulations. These standards will be rewritten in plain language to make them easier to read. 29 CFR 1910.94(c) will be combined with 29 CFR 1910.107 to eliminate duplicative standards. Another plain language initiative, the rewrite of Flammable and Combustible Liquids, 29 CFR 1910.106, has been moved to RIN 1218-AB61.

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RIN: 1218–AB55

DEPARTMENT OF LABOR (DOL) **Long-Term Actions**

Occupational Safety and Health Administration (OSHA)

2034. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918)—REOPENING OF THE RECORD (VERTICAL TANDEM LIFTS (VTLS))

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 941; 29 USC 655

CFR Citation: 29 CFR 1918.11; 29 CFR 1918.85

Legal Deadline: None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, OSHA is considering the issue of vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two intermodal containers, secured together with twist locks, at the same time. Because some commenters to the record questioned the safety of allowing such tandem lifts and the record does not contain adequate information to allow the Agency to address this issue, OSHA is gathering additional information on this issue.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring	07/25/97	62 FR 40142
Public Meeting	01/27/98	62 FR 52671
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AA56

2035. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES: PROTECTING REPRODUCTIVE HEALTH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 29 USC 651

CFR Citation: 29 CFR 1910.1000; 29 CFR 1910.1031

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under section 9(a) of the Toxic Substance Control Act, stating that EPA had reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use was unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed Rulemaking (ANPRM) on April 2, 1987 (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal, March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to these substances. OSHA is working toward promulgation of a final rule in 2000.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	

Action	Date	FR Cite
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AA84

2036. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 553

CFR Citation: 29 CFR 1910.121

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) established the criteria under which OSHA should develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), Congress amended section 126(d)(3) of SARA to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing this issue. OSHA received public comments following the issuance of the proposal. OSHA also reopened the record in June 1992 to allow additional public comment on an effectiveness of training study that the Agency had conducted. OSHA has also developed nonmandatory guidelines to further address minimum training criteria.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB27

2037. INDOOR AIR QUALITY IN THE WORKPLACE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA was petitioned in May 1987 by Action on Smoking and Health (ASH), Public Citizen, and the American Public Health Association to issue an emergency temporary standard on environmental tobacco smoke (ETS) in the workplace. In March 1992, OSHA was petitioned by the AFL-CIO to establish workplace IAQ standards. In December 1992, ASH again petitioned for rulemaking on ETS.

Every day, more than 20 million American workers face an unnecessary health threat because of indoor air pollution in the workplace. Thousands of heart disease deaths, hundreds of lung cancer deaths, respiratory disease, Legionnaire's disease, asthma, and other ailments are estimated to be linked to this occupational hazard. Further, America's workers are at risk of developing thousands of upper respiratory tract symptoms from indoor air pollutants. EPA estimates that 20 to 35 percent of all workers in modern mechanically ventilated buildings may experience air-quality problems.

After reviewing and analyzing available information, OSHA published a proposed rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed, the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling, and similar activities. The provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. ETS provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA's jurisdiction. OSHA preliminarily estimates that the proposed standard will prevent a substantial number of air-quality related illnesses per year.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	08/13/94	59 FR 30560
Record Closed	02/09/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB37

2038. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1035

Legal Deadline: None

Abstract: On August 25, 1993, the Occupational Safety and Health Administration (OSHA) was petitioned by the Labor Coalition to Fight TB in the Workplace to initiate rulemaking for a permanent standard to protect workers against occupational transmission of tuberculosis (TB). Although the Centers for Disease Control and Prevention (CDC) have developed recommendations for controlling the spread of TB in several work settings (e.g., correctional institutions, health-care facilities, and homeless shelters), the petitioners stated that in every recent TB outbreak investigated by the CDC, noncompliance with CDC's TB control guidelines was evident. After reviewing the available information, OSHA preliminarily concluded that a significant risk of occupational transmission of TB exists for some workers and has accordingly issued a proposed rule. OSHA already regulates the exposure to the biological hazard of bloodborne pathogens (e.g., HIV, hepatitis B) under 29 CFR 1910.1030 and believes that development of a TB standard is consistent with the Agency's mission and previous activity. On October 17, 1997, OSHA published its proposed standard for occupational exposure to tuberculosis (62 FR 54160). The proposed rule covers workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings where workers are at significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures. The proposed standard would require employers to protect TB-exposed employees by means of infection prevention and control measures that have been demonstrated to be highly effective in reducing or eliminating job-related TB infections. Such measures include procedures for early identification of individuals with infectious TB, isolation of individuals with infectious TB using appropriate ventilation, use of respiratory protection in certain situations, skin testing and training of employees with occupational exposure, and medical management and follow-up after exposure incidents or skin test conversions.

The written comment period ended on February 17, 1998. Subsequently, informal public hearings were held in Washington, DC (April 7-17), Los Angeles, CA (May 5-7), New York City, NY (May 19-21) and Chicago, IL (June 2-4). At the end of the hearings a post-hearing comment period was established. The deadline for final summation, briefs and written comments was October 5, 1998.

In addition to the public hearings, OSHA consulted with parties outside of the Agency with regard to the proposal. The preliminary Risk Assessment was peer-reviewed by four individuals with specific knowledge in the areas of tuberculosis and risk assessment. In addition, OSHA conducted stakeholder meetings with representatives of relevant professional organizations, trade associations, labor unions, and other groups. The proposal was also reviewed and commented on by affected small business entities under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). In addition, the draft proposed standard and preamble were reviewed by the Office of Management and Budget. OSHA is working on a final rule, which is expected in 2000.

OSHA will be reopening the rulemaking record for the limited purpose of placing a newly completed survey on homeless shelters, some new studies on respirator fit factors and another document in the record. The Agency will publish a notice in the Federal Register informing the public of the limited reopening and requesting public comment on the Agency submission.

Statement of Need: For centuries, TB has been responsible for the deaths of millions of people throughout the world. TB is a contagious disease caused by the bacterium *Mycobacterium tuberculosis*. Infection is generally acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary or laryngeal tuberculosis in the infectious state of the disease cough, sneeze, speak, or sing. In some individuals exposed to droplet nuclei, TB bacilli enter the alveoli and establish an infection. In most cases, the bacilli are contained by the individual's immune response. However, in some cases, the bacilli are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. Although in most cases this organ is the lung (i.e., pulmonary tuberculosis), other organs outside of the lung may also be infected and become diseased (i.e., extrapulmonary tuberculosis).

From 1953, when active cases began to be reported in the United States, until 1984, the number of annual reported cases declined 74 percent, from 84,304 to 22,255. However, this steady decline in TB cases did not continue. Instead, from 1985 through 1992 the number of reported TB cases increased 20.1 percent. In 1992 more than 26,000 new cases of active TB were reported in the United States. In New York City alone, 3,700 cases of active TB were reported in 1991. While a decrease in active cases has been observed recently, there were still 19,851 reported cases in 1996. A large portion of the decrease occurred in high incidence areas where intervention efforts have been focused. However, over thirteen states showed an increase or no change in the number of reported cases in 1997. In addition, the factors that led to the recent resurgence of TB (e.g., increases in homelessness, HIV infection, immigration from countries with high rates of infection) still exist and the job duties of certain workers require them to be exposed to patients and clients with suspected or confirmed infectious TB. In addition, outbreaks of multidrug-resistant TB (MDR-TB) continue to occur. These strains of TB are resistant to several of the first-line anti-TB drugs. This multidrug-resistant TB (MDR-TB) is often fatal due to the difficulty of halting the progression of the disease. Individuals with MDR-TB often remain infectious for longer periods of time due to delays in diagnosing resistance patterns and initiating proper treatment. This lengthened period of infectiousness increases the risk that the organism will be transmitted to other persons coming in contact with such individuals.

Providing health care for individuals with TB increases the risk of

occupational exposure among health care workers. In fact, several outbreaks of tuberculosis, including MDR-TB, have occurred in health care facilities, resulting in transmission to both patients and health care workers. CDC found that factors contributing to these outbreaks included delayed diagnosis of TB, delayed recognition of drug resistance, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation in TB isolation rooms, lapses in TB isolation practices, inadequate precautions for cough-inducing procedures, and lack of adequate respiratory protection. CDC analyzed data from three of the health care facilities involved in the outbreaks, and determined that transmission of TB decreased significantly or ceased entirely in areas where recommended TB control measures were implemented. In addition, workers outside of health care may provide services to patient or client populations that have an increased rate of TB. For example, occupational transmission of TB has been documented in correctional facilities.

Summary of the Legal Basis: The legal basis for the proposed TB standard is a preliminary finding by the Secretary of Labor that workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings are at significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures.

Alternatives: Prior to a decision to publish a proposal, OSHA considered a number of options, including whether or not to develop an emergency temporary standard, publish an advance notice of proposed rulemaking, or to enforce existing regulations.

Anticipated Costs and Benefits: Costs will be incurred by employers for engineering controls, respiratory protection, medical surveillance, training, exposure control, recordkeeping, and work practice controls. Benefits will include the prevention of occupationally-related TB transmissions and infections, and a corresponding reduced risk of exposure among the general population. OSHA estimates that more than 5 million workers are exposed to TB in the course of their work. The Agency estimates that the proposed provisions will result in an annual cost of 245 million dollars. Implementation of the standard is estimated to reduce the number of job-related cases of TB by 70-90 percent in the work settings covered, thus preventing approximately 21,400 to 25,800 work-related infections per year, 1,500 to 1,700 active cases of TB resulting from these infections, and 115 to 136 deaths resulting from these active cases.

Risks: From 1985 to 1992, the number of reported cases of TB in the U.S. increased, reversing a previous 30-year downward trend. While there has been a recent decrease in the reported number of cases of TB in the general population, a large part of this decrease can be attributed to focused intervention efforts in areas of high incidence of TB. Thirteen states showed an increase or no change in the number of reported TB cases in 1997, and the factors that contributed to the resurgence continue to exist along with exposure of certain workers to patient and client populations with an increased rate of TB. In addition, outbreaks of multidrug-resistant TB, a more fatal form of the disease, continue to occur. Therefore, employees in work settings such as health care or correctional facilities, who have contact with infectious individuals, are at high risk of occupational transmission. TB is a contagious disease spread by airborne particles known as droplet nuclei. Active disease can cause signs and symptoms such as fatigue, weight loss, fever, night sweats, loss of appetite, persistent cough, and shortness of breath, and may possibly result in serious respiratory illness or death.

Timetable:

Action	Date	FR Cite
SBREFA Panel	09/10/96	
NPRM	10/17/97	62 FR 54160
NPRM Comment Period End	02/17/98	62 FR 65388
Post Hearing Comment End	10/05/98	
Final Rule	12/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: During the rulemaking, OSHA met with small business stakeholders to discuss their concerns, and conducted an initial Regulatory Flexibility Analysis to identify any significant impacts on a substantial number of small entities. In addition, OSHA conducted a special study of homeless shelters and set aside certain hearing dates for persons who wished to testify on homeless shelter issues.

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RIN: 1218–AB46

2039. FIRE BRIGADES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.156

Legal Deadline: None

Abstract: Firefighting exposes members of fire brigades to a significant risk of harm. To mitigate these risks, OSHA promulgated a standard for fire brigades in 1980. However, the standard is now more than 18 years old, and does not reflect current advances in technology and safety. This action would revise the existing fire brigade standard to reflect the latest technology in safety, particularly with respect to personal protective equipment and emergency procedures. It would also address gaps in coverage since the existing fire brigade standard does not cover wildland fire fighting or crash-rescue type fire fighting. OSHA will be working closely with State Plan States to assess the potential impact of the proposed rule on municipal fire departments.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB64

2040. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910; 29 CFR 1926; 29 CFR 1915; 29 CFR 1916; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: Silica exposure remains a serious threat to nearly 2 million U.S. workers, including more that 100,000 workers in high risk jobs such as abrasive blasting, foundry work, stonecutting, rock drilling, quarry work and tunneling. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur in sandblasters and rock drillers and by recent studies that demonstrate a statistically significant increase in lung cancer among silica-exposed workers. In October 1996, the International Agency for Research on Cancer classified crystalline silica as "carcinogenic to humans." Exposure studies indicate that some workers are still exposed to very high levels of silica. Although OSHA currently has a permissible exposure limit for crystalline silica (10mg/m3 divided by the percent of silica in the dust + 2 respirable), more than 30 percent of OSHA-collected silica samples from 1982 through 1991 exceeded this limit. Additionally recent studies suggest that the current OSHA standard is insufficient to protect against silicosis. For example, a recent study concluded that a 45-year exposure under the current OSHA standard would lead to a lifetime risk of silicosis of 35 percent to 47 percent.

OSHA plans to publish a proposed rule on crystalline silica because the agency has preliminarily concluded that there will be no significant progress in the prevention of silica-related diseases without the adoption of a full and comprehensive silica standard, including provisions for exposure monitoring, engineering and work practice controls, training and education, respiratory protection, and medical surveillance. A comprehensive standard will improve worker protection, ensure adequate prevention programs, and further reduce the incidence of silica-related diseases.

Statement of Need: The current OSHA permissible exposure limit for silica is 10mg/m3 divided by the percent of silica in the dust + 2 (respirable) and 30 mg/m3 divided by the percent of silica in the dust + 2 (total dust). In the interval since this limit was promulgated there have been a number of studies of workers that have estimated that close to 50 percent of workers exposed to silica at the current limit for a 45-year working lifetime would develop silicosis, a disabling, progressive and sometimes fatal disease involving scarring of the lung, coughing, and shortness of breath. There are currently about 300 deaths reported per year from silicosis. However, the actual number of cases and the true risk is unknown due to inadequate case ascertainment, which means that the number of deaths is probably underreported. Also, since the promulgation of OSHA's permissible exposure limit, studies have demonstrated a statistically significant, dose-related increase in lung cancer in several occupational groups.

Because of these recent findings, OSHA believes that it will be necessary to conduct a risk assessment to determine whether the current permissible exposure limit is protective of worker health. OSHA also believes that, in addition to the permissible exposure limit, the ancillary provisions, such as engineering controls, provided by a comprehensive standard will be necessary to reduce worker exposure to crystalline silica.

Summary of the Legal Basis: The legal basis for the proposed rule is a preliminary determination by the Secretary of Labor that exposure to silica at the Agency's current permissible exposure limits poses a significant risk of material impairment of health and that a standard will substantially reduce that risk.

Alternatives: OSHA has considered or conducted several programs designed to reduce worker exposure to crystalline silica. The OSHA Special Emphasis Program for Silicosis provides inspection targeting to reduce or eliminate workplace exposures to crystalline silica. The National Campaign to Eliminate Silicosis being conducted by OSHA (in conjunction with the National Institute for Occupational Safety and Health, the Mine Safety and Health Administration, and the American Lung Association) is an ongoing program involving outreach and education and the dissemination of materials on methods to reduce worker exposure to crystalline silica. Other nonregulatory approaches might include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of death or serious physical harm, and the issuance of hazard alerts. Although these approaches may be partially effective in reducing worker exposure to crystalline silica and reducing disease risk, OSHA believes that progress in the prevention of silica-related diseases demands the issuance of a comprehensive silica standard.

Anticipated Costs and Benefits: The scope of the proposed rule is currently under development and thus quantitative estimates of costs and benefits have not been determined at this time.

Risks: OSHA has not yet completed an assessment of the risks of exposure to crystalline silica. Other studies have shown risks ranging from 35 to 47 percent among workers exposed over a working lifetime and have additionally identified silica as a potential occupational carcinogen.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB70

2041. CONTROL OF HAZARDOUS ENERGY (LOCKOUT) IN CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES; LOCKOUT)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA issued a general industry rule on September 1, 1989 (54 FR 36644) to address the hazards posed to workers by the failure to control hazardous energy (i.e., the failure to properly lock out or tag out machines and equipment) during repair and servicing activities. OSHA has not yet issued a standard to prevent these accidents during equipment repair and maintenance activities in the construction industry. Four million workers annually may be exposed to this hazard in construction workplaces. As a result OSHA intends to issue a proposal to address this hazard in this industry.

Construction sites often do not have effective lockout/tagout procedures to control hazardous energy because of several factors, all associated with the nature of the construction industry. These factors basically relate to the types of machines and equipment found in construction; the makeup of the industry (i.e., employment is relatively "short term," lasting only as long as the length of the current project); multiple employers having different employer/employee relationships are present at the same site; and "in-the-field" maintenance activity is usually temporary.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689

RIN: 1218–AB71

2042. OCCUPATIONAL EXPOSURE TO BERYLLIUM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Beryllium is a lightweight metal that is used for nuclear weapons, for atomic energy, and for metal alloys such as beryllium-copper and beryllium-aluminum. The metal alloys are used in dental appliances, golf clubs, non-sparking tools, wheel chairs, etc. Beryllium is also used in the ceramics industry. The current permissible exposure limits for beryllium are: an 8-hour TWA of 2 ug/m3; a 5 ug/m3 ceiling concentration not to be exceeded over a 30-minute period; and a 25 ug/m3 maximum peak exposure never to be exceeded.

In 1977, OSHA proposed to reduce the 8-hour TWA exposure to beryllium from 2 ug/m3 to 1 ug/m3 based on evidence that beryllium caused lung cancer in exposed workers. A hearing followed the proposal, but a final standard was never published. Since the previous OSHA hearing, NIOSH has updated its studies on beryllium exposed workers. The study results again demonstrate a significant excess of lung cancer among exposed workers. The International Agency for Research on Cancer (IARC) has concluded that beryllium is a carcinogen in humans. (Category I)

In addition to lung cancer, a new OSHA beryllium standard would address chronic beryllium disease (CBD), a fatal disease involving lung fibrosis and other organ toxicity. Based on several recent studies involving workers employed in the beryllium ceramics industry, in beryllium production, and in Department of Energy facilities, there is now evidence that very low level beryllium exposure (less than 0.5 ug/m3) may cause CBD. A recent (1997) study from Japan concludes that the level necessary to protect workers from developing CBD cannot exceed 0.01 ug/m3. A new medical surveillance tool is now available that allows for the early detection of workers with CBD prior to any signs of clinical disease or symptoms. Beryllium-sensitized workers convert to CBD at an estimated rate of about 10 percent per year. This "beryllium sensitization" test is being used in clinical studies of current and past exposed workers. Recent study results indicate that between 5 percent and 15 percent of beryllium-exposed workers are sensitized and will eventually develop CBD. In 1997, DOE issued interim guidelines to protect beryllium-exposed workers at all DOE facilities. The guidelines include provisions for exposure monitoring, medical surveillance and relocation of beryllium-sensitized workers.

The DOE guidelines, however, do not affect workers outside DOE facilities. Thus, OSHA needs to initiate rulemaking to protect beryllium-exposed workers from contracting CBD and lung cancer.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB76

2043. CONSOLIDATION OF RECORDS MAINTENANCE REQUIREMENTS IN OSHA STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

DOL—OSHA **Long-Term Actions**

Legal Authority: 40 USC 333; 29 USC 655; 33 USC 941; 5 USC 553

CFR Citation: 29 CFR 1910; 29 CFR 1915 to 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA is initiating a rulemaking to simplify and consolidate many of its requirements for employers to maintain records of training, testing, medical surveillance, and other activities conducted to comply with OSHA health and safety standards. These records maintenance requirements appear in many OSHA standards and are codified at 29 CFR 1910 (General Industry), 29 CFR 1915-1918 (Maritime), 29 CFR 1926 (Construction), and 29 CFR 1928 (Agriculture). The final rule, when published, will facilitate compliance with these requirements and reduce the amount of paperwork associated with these records, but will leave employee protections unchanged.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AB78

2044. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS AND FALL PREVENTION)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910, subpart D

Legal Deadline: None

Abstract: OSHA has had under consideration standards for walking working surfaces and personal fall protection systems. OSHA is analyzing the record to determine if it is appropriate to repropose the standard or issue a final rule based on the existing record.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AB80

DEPARTMENT OF LABOR (DOL) **Completed Actions**

Occupational Safety and Health Administration (OSHA)

2045. POWERED INDUSTRIAL TRUCK OPERATOR TRAINING (INDUSTRIAL TRUCK SAFETY TRAINING)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 655; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.178; 29 CFR 1915.120; 29 CFR 1917.1; 29 CFR 1918.1; 29 CFR 1926.602

Legal Deadline: None

Abstract: Operation of powered industrial trucks, such as forklifts, is one of the leading causes of fatalities in the private sector. On average, there are 110 fatalities and 95,000 injuries annually in the workplace from this cause.

The former standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. As a result, there has been strong interest that OSHA issue a new standard to more effectively address this hazard. OSHA has revised the former standard to increase its effectiveness by requiring, in performance language, initial and refresher training and evaluation as necessary. The frequency of the refresher training is based upon the vehicle operator's knowledge, skills, and abilities to perform the job safely. OSHA also states in the revised rule what information the training should include. This rule applies to general industry, the maritime industries and construction.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13782
NPRM Second and Hearing	01/30/96	61 FR 3092
NPRM Comment Period End	08/15/96	
Final Action	12/01/98	63 FR 66238

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The final rule will prevent an estimated 11 deaths and 9500 injuries per year. Compliance with the new rule is required by November 11, 1999.

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AB33

DOL—OSHA

Completed Actions

2046. PERMIT REQUIRED CONFINED SPACES (GENERAL INDUSTRY: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.146

Legal Deadline: None

Abstract: OSHA issued a final standard governing employee entry into confined spaces in general industry on January 14, 1993 (58 FR 4462). The standard was challenged by a number of parties including the United Steelworkers of America. OSHA reached a settlement agreement with the Steelworkers in June 1994. As part of this settlement agreement, OSHA issued a proposal on November 28, 1994 (59 FR 60735), to clarify paragraph (k) of the rule, Rescue and Emergency Services. OSHA also proposed to allow more flexibility in the point of retrieval line attachment and asked whether the standard should provide affected employees or their representatives with the opportunity to observe the evaluation of confined spaces, including atmospheric testing, and to have access to evaluation results. Hearings were held September 27-28 1995. The post-hearing comment period ended on December 20, 1995. In February 1996, the record was closed. The final rule was issued on December 1, 1998 (63 FR 66018).

Timetable:

Action	Date	FR Cite
NPRM	11/28/94	59 FR 60735
NPRM Comment Period End	02/27/95	
Final Action	12/01/98	63 FR 66018

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AB52

[FR Doc. 99-7009 Filed 04-23-99; 8:45 am]
BILLING CODE 4510-23-F

federal register

Monday
April 26, 1999

Part XIII

Department of State

Semiannual Regulatory Agenda

DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Public Notice 2982]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of State.

ACTION: Semiannual regulatory agenda.

SUMMARY: Consistent with the Regulatory Flexibility Act of 1980, 5 U.S.C. 602, and OMB guidance to the Department of State pursuant to Executive Order 12866, the April 1999 agenda of the Department of State is set forth below. The purpose of this publication is to provide information to the public on the Department's regulatory plans. Consistent with OMB guidance, this agenda includes active continuing items from prior agendas.

FOR FURTHER INFORMATION CONTACT: D. Stephen Mathias, Assistant Legal Adviser for Legislation and General Management, Department of State, Room 5425, 2201 C Street NW., Washington, DC 20520-6310; telephone (202) 647-5154.

Dated: March 2, 1999.

Bonnie Cohen,

Under Secretary of State for Management.

DEPARTMENT OF STATE (STATE) — Prerule Stage

2047. • TERMINATION OF DV REGISTRATION AT NVX

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42.83

Legal Deadline: None

Abstract: This regulatory action amends regulations to allow consular personnel to terminate DV regulations.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulation Division, Department of State, 2401 E Street NW., SA-1, Washington, DC 20520-0106
Phone: 202 663-1204

RIN: 1400–AA98

2048. • TEMPORARY VISITORS—ACCEPTANCE OF HONORARIA AND INCIDENTAL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-277, sec 431; 8 USC 1104

CFR Citation: 22 CFR 41.31

Legal Deadline: None

Abstract: This regulatory action permits acceptance of honoraria and incidental expenses for "Usual Academic Activities" in certain instances.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulation Division, Department of State, 2401 E Street NW., SA-1, Washington, DC 20520-0106
Phone: 202 663-1204

RIN: 1400–AA99

DEPARTMENT OF STATE (STATE) — Proposed Rule Stage

2049. FOREIGN PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(d)

CFR Citation: 22 CFR 89 (Revision)

Legal Deadline: Final, Statutory, December 31, 1998.
Legal deadline reflects the statutory requirement that the list be updated on an annual basis.

Abstract: The above-mentioned statute requires the Secretary of State to compile, and update annually through notice-and-comment rulemaking procedures, a list, by particular longshore activity, of countries where performance of such activity is prohibited by law, regulation, or in practice in the country concerned. According to the statute cited above, the Attorney General will use this list for enforcing restrictions on work performed by crewmembers of vessels from such countries. Compilation of the list itself does not involve any significant costs and is based upon information being provided to the Department of State by U.S. diplomatic missions overseas as well as by the public. Questions regarding the policy justification for the list and its use are best directed to the Departments of Labor, Transportation, and Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/91	56 FR 24338
Final Rule	12/27/91	56 FR 66970
Final Rule Effective	01/01/92	
Final Rule Correction	01/04/92	57 FR 1384
Updated List of Countries		
NPRM 11/04/92 (57 FR 52600)		
NPRM Comment Period End 12/04/92		
Final Rule 12/13/93 (58 FR 65118)		
Final Rule Effective 12/13/93		
NPRM 03/24/94 (59 FR 13904)		
NPRM Comment Period End 04/25/94		
NPRM 11/24/95 (60 FR 58026)		
NPRM Comment Period End 12/26/95		
NPRM Comment Period Extended to 01/26/96 (60 FR 65609)		
NPRM Comment Period Extended to 02/02/96 (61 FR 2915)		
NPRM 06/06/96 (61 FR 29115)		
Final Rule 06/13/96 (61 FR 29941)		
NPRM 06/00/99		
Final Rule 12/00/99		

STATE

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: In accordance with the mandate to maintain annually the list of countries, the Department will issue Final Rules to amend the list as appropriate.

Agency Contact: Stephen Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-6961

RIN: 1400–AA34

DEPARTMENT OF STATE (STATE)

Final Rule Stage

2050. TRANSIT WITHOUT VISA (TWOV)

Priority: Substantive, Nonsignificant

Legal Authority: Section 212(d)(4)(C) of the Immigration & Nationality Act (INA)

CFR Citation: 22 CFR 41.2(i)

Legal Deadline: None

Abstract: Under the provision of section 212(d)(4)(C), the Secretary of State and the Attorney General acting jointly have the authority to waive nonimmigrant visa requirements for aliens in continuous and direct transit through the United States. Yugoslavia was removed from the list of countries participating in this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/93	58 FR 43438
Interim Final Rule Comment Period End	09/15/93	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA48

2051. B-1 VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Immigration Act of 1990

CFR Citation: 22 CFR 41.31

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: B Visa Regulation revisions, which incorporate 9FAM notes and INS OI, reflect changes in interpretation of B Visa classes resulting from enactment of Immigration and Naturalization Act of 1990 and MATINA.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 40024
NPRM Comment Period Extended to 11/23/93	09/23/93	58 FR 49456
NPRM Comment Period End	09/24/93	
NPRM Comment Period Extended to 12/06/93	11/23/93	58 FR 61856
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA54

2052. REVISION OF U.S. MUNITIONS LIST

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 121.1; 22 CFR 121.16

Legal Deadline: None

Abstract: Review and revision as appropriate of USML on compliance with AECA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip Rhoads, Chief, Compliance and Enforcement Branch, Department of State, Room 200, SA-6, Washington, DC 20522-0602
Phone: 703 875-6650
Fax: 703 875-5663

RIN: 1400–AA64

2053. INADMISSIBLE GROUNDS: PUBLIC CHARGE

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 551; 8 USC 1104

CFR Citation: 22 CFR 40.41

Legal Deadline: None

Abstract: This rule incorporates provisions making petitioning sponsor contractually responsible.

Timetable:

Action	Date	FR Cite
ANPRM	12/29/97	62 FR 67563
ANPRM Comment Period End	02/27/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA79

2054. DOCUMENTATION OF NONIMMIGRANTS: BORDER CROSSING IDENTIFICATION CARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 104

STATE

Final Rule Stage

CFR Citation: 22 CFR 41.2(a); 22 CFR 41.32; 22 CFR 41.122

Legal Deadline: None

Abstract: This regulation implements sec. 104 of PL 104-208 which requires the inclusion of a machine-readable identifier in Border Crossing cards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/07/98	63 FR 16892
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20520-0113
Phone: 202 663-1204

RIN: 1400–AA90

2055. ADDITION OF "S" NONIMMIGRANT VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.83

Legal Deadline: None

Abstract: Implements sec. 130003 of Pub. L. 103-322 by adding a new nonimmigrant visa classification (S) under INA 101(a)(15)(S). This visa classification provides for the admission of certain alien witnesses and informants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/24/96	61 FR 1837
Interim Final Rule Comment Period End	03/25/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA91

2056. ENTITLEMENT TO IR STATUS FOR SPOUSE (AND CHILD OF SPOUSE) OF DECEASED U.S. CITIZEN AND FOR SELF-PETITIONING SPOUSE/CHILD OF ABUSIVE U.S. CITIZEN

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42.21

Legal Deadline: None

Abstract: Entitlement to IR status for spouse of deceased U.S. citizen (and the child of the spouse) and for the self-petitioned spouse/child of an abusive U.S. citizen.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA93

2057. INTERNATIONAL TRAFFIC IN ARMS REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2278

CFR Citation: 22 CFR 126.5, "Canadian exemption"

Legal Deadline: None

Abstract: Change will require prior written approval from Office of Defense Trade Controls for defense trade transactions which do not involve exports for the Canadian government or certain temporary exports to U.S. facilities in Canada. Expect to publish the final rule change in August 1999.

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rose Biancaniello, Deputy Director, Office of Defense Trade Controls, Department of State, Room 200, SA-6, PM-DTC, Washington, DC 20522-0602
Phone: 703 812-2568
Fax: 703 875-6647

RIN: 1400–AA95

2058. AUTHORITY TO ISSUE VISAS: ISSUANCE OF O&P VISAS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.111

Legal Deadline: None

Abstract: Authorizes officers in the visa office of the Department of State to revalidate O&P visas in the United States.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA96

2059. • FEES FOR BORDER CROSSING CARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-177, sec 410; 8 USC 1104

CFR Citation: 22 CFR 41.107

Legal Deadline: None

Abstract: This regulation reduces the fee for border crossing cards for aliens under age 15.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulation Division, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0106

STATE **Final Rule Stage**

Phone: 202 663-1204

RIN: 1400–AA97

2060. • ALIENS INELIGIBLE TO RECEIVE VISAS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 308(d); PL 105-292, sec 604; PL 105-277; 8 USC 1104

CFR Citation: 22 CFR 40.25; 22 CFR 40.26; 22 CFR 40.103; 22 CFR 40.207; 22 CFR 40.208; 22 CFR 40.209

Legal Deadline: None

Abstract: This regulation adds new grounds of visa ineligibility under the provisions of Public Laws 104-208, 105-292, and 105-277.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulation Division, Department of State, 2401 E Street NW., SA-1, Washington, DC 20520-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AB00

2061. • DELEGATION OF INS AUTHORITY TO DOA TO APPROVE H-2A PETITIONS FOR AGRICULTURAL LABORERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.53

Legal Deadline: None

Abstract: This regulatory action gives the Department of State authority to issue H-2A visas based on petitions approved by the Department of Agriculture.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulation Division, Department of State, 2401 E Street NW., SA-1, Washington, DC 20520-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AB01

2062. • Q2 VISAS FOR IRISH NATIONALS PARTICIPATING IN WORK/TRAINING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-319; 8 USC 1104

CFR Citation: 22 CFR 41.57

Legal Deadline: None

Abstract: This regulation establishes a work/training program for Irish nationals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulation Division, Department of State, 2401 E Street NW., SA-1, Washington, DC 20520-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AB02

2063. • DEFINITION OF ACCOMPANYING

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 40.1(a)

Legal Deadline: None

Abstract: This regulation amends the definition of accompanying from 4 months to 6 months.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulation Division, Department of State, 2401 E Street NW., SA-1, Washington, DC 20520-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AB03

2064. • FEES FOR BORDER CROSSING CARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-277, sec 410; 8 USC 1104

CFR Citation: 22 CFR 41.107

Legal Deadline: None

Abstract: This regulation reduces the fee for border crossing cards for aliens under age 15.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulation Division, Department of State, 2401 E Street NW., SA-1, Washington, DC 20520-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AB04

DEPARTMENT OF STATE (STATE)

Long-Term Actions

2065. ESTABLISHING OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Priority: Substantive, Nonsignificant

Legal Authority: International Legal Material, vol XII, no. 6, Nov. 1973, p 1302

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the 1973 convention on the forms of international wills, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29). The Senate gave advice and consent on August 2, 1991. Implementing legislation (the International Wills Act) is required before the United States can take further action to ratify the convention.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: U.S. ratification of the 1973 convention providing a uniform law on the form of an international will provides the basis for establishment of the registry.

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA56

2066. REVISION TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: The Department is revising the DOSAR to comply with changes to the procurement system as a result of the Federal Acquisition Streamlining Act and the Federal Acquisition Reform Act. The Department also plans to make several administrative changes and technical corrections.

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive, Room 603, SA-6, Washington, DC 20520-0602
Phone: 703 516-1691
Fax: 703 875-6155
Email: gladys.g.gines@dos.us-state.gov

RIN: 1400–AA71

2067. ADDITION OF COUNTRIES ELIGIBLE TO PARTICIPATE IN THE VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

Abstract: Addition of countries eligible to participate in the Visa Waiver Pilot Program.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA75

2068. HAGUE INTERCOUNTRY ADOPTION CONVENTION IMPLEMENTATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Regulations will implement the Hague Convention on protection of children and cooperation in respect of intercountry adoption and the Hague intercountry adoption convention and legislation will be sent to the Senate and Congress sometime during the next Congressional session. Health and Human Services and the Immigration and Naturalization Service will also write regulations regarding this convention and legislation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA88

DEPARTMENT OF STATE (STATE)

Completed Actions

2069. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.2(l)

Completed:

Reason	Date	FR Cite
Final Action	01/04/99	64 FR 35

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA49

2070. IMMIGRATION AND NATURALIZATION ACT: GROUNDS OF INELIGIBILITY, 212(G) WAIVER

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 40.11; 22 CFR 40.66; 22 CFR 40.67; 22 CFR 40.91; 22 CFR 40.92; 22 CFR 40.93; 22 CFR 40.104; 22 CFR 40.105

Completed:

Reason	Date	FR Cite
Final Action	11/23/98	63 FR 64626
Final Action Effective	11/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA78

2071. WAIVER OF VISA FEES FOR ALIENS COMING TO ENGAGE IN CHARITABLE ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.107

Completed:

Reason	Date	FR Cite
Final Action	10/02/98	63 FR 52969
Final Action Effective	10/02/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA92

2072. PHOTOGRAPHS FOR NONIMMIGRANT VISA APPLICANTS

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.105

Completed:

Reason	Date	FR Cite
Final Action	03/19/99	64 FR 13510

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA94

[FR Doc. 90-7010 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part XIV

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I-III

23 CFR Chs. I-III

33 CFR Chs. I and IV

46 CFR Chs. I-III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I-VI

[OST Docket 99-5129]

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

You should direct all comments and inquiries on the agenda in general to Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-4723.

Specific

You should direct all comments and inquiries on particular items in the agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in Appendix B.

Individuals who use a telecommunications device for the deaf (TDD) may call (202) 755-7687.

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Supplementary Information:
- Background
- Significant/Priority Rulemakings
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- Appendix C - Public Rulemaking Dockets
- Appendix D - Review Plans for Section 610 and Other Requirements

Agenda

SUPPLEMENTARY INFORMATION:

Background

Improvement of Government regulations is a prime goal of the Clinton Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation (Department) achieve these goals and in accordance with Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulatory agenda. It summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the offices initiating the rulemaking and are reviewed by the Department Regulations Council. The Department's last agenda was published in the **Federal Register** on November 9, 1998 (63 FR 62026). The next one is scheduled for publication in the **Federal Register** in October 1999.

Last fall, the Department's most significant regulatory actions were included in The Regulatory Plan, which was published together with the agenda and cross referenced in the agenda. This agenda includes those entries with the extra information included for the plan entry, since the Plan is only published annually.

The Department has created an Internet site that provides general information about its rulemaking responsibilities and activities. It includes hypertext links to numerous other departmental sites providing helpful information about DOT regulation. The web address for this site is http://regs.dot.gov.

Significant/Priority Rulemakings

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. We have classified rules as a DOT agency priority in the agenda if they are, essentially, very costly, controversial, or of substantial public interest under Executive Order 12866. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation. If the Office of Management and Budget (OMB) decides a rule is subject to its review, we have it classified as significant in the agenda.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget memorandum of January 8, 1999.

First, the agenda is divided by initiating offices. Then, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) Its "significance"; (2) a short descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for a decision on whether to take the action; (8) whether the rulemaking will affect small entities and/or levels of government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities; (10) a listing of any analyses an office will prepare or has prepared for the

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action (With minor exceptions, DOT requires an economic analysis for all its rulemakings.); (11) an agency contact office or official who can provide further information; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue; (13) whether the item is part of the Reinventing Government effort and, if so, whether it would revise existing text in the Code of Federal Regulations or eliminate text; (14) whether the action is subject to the Unfunded Mandates Act; and (15) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act. If there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information."

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the "Timetable" column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which we expect to make a decision on whether to issue it. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

Request for Comments

General

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

Reviews

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in Appendix D.

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a "significant economic impact on a substantial number of small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (Section 610 Review) appears at the end of the title for these reviews. Please see Appendix D for the Department's section 610 review plans.

Plain Language

The President's "Plain Language in Government Writing" memorandum of June 1, 1998, requires that we use plain language in rulemaking documents. We try to write clearly. However, we solicit your comments and suggestions for how to improve the clarity of our regulations and specific existing or proposed rules that need improvement.

Year 2000 Computer Problem

We are requesting public comment to assist us in identifying rulemaking actions that would affect the private sector's or governmental entities' ability to fix their year 2000 computer date problem. If we consider a requirement that would mandate business process changes and require modifications to computer systems between September 30, 1998, and July 1, 2000, as part of the development of the proposed and final rule, we will analyze the effect of our action and our discretion to consider other approaches. If we impose a requirement, a summary of the analysis will be included in the preamble that will clearly explain why we are imposing it, why there are no acceptable alternatives, and why it cannot be delayed. If you see actions identified in this agenda that you believe would impose such requirements, we encourage you to let us know.

Purpose

The Department is publishing this regulatory agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded.

Issued in Washington, DC, on April 6, 1999.

Rodney E. Slater,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the agenda, you should communicate directly with the contact person listed with the regulation at the address below.

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 2nd Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

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Federal Transit Administration (FTA)

(Name of contact person), Federal Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

Joel C. Richard, Secretary, Maritime Administration, 400 7th Street SW., Room 7210, Washington, DC 20590, (202) 366-5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for notices and advance notices of proposed rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling (202) 267-3484 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

To obtain a copy of a specific regulatory document or to receive future copies of the Department's regulatory agenda write to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - Pam Pelcovits, Office of Chief Counsel, USCG Headquarters Building, Room 3406, 2100 2nd Street SW., Washington, DC 20593; telephone: (202) 267-1534.

FAA - Donald Byrne, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone: (202) 267-3073.

FHWA - Thomas Holian, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1383.

FRA - Colleen Brennan, Office of Chief Counsel, 400 7th Street SW., Room 8128, Washington, DC 20590; telephone: (202) 632-3169.

NHTSA - Nicole H. Fradette, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366-2992.

FTA - Nancy Zaczek, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366-0108.

RSPA - Edward Bonekemper, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366-4400.

MARAD - Edmund T. Sommer, Jr., Assistant Chief Counsel, Maritime Administration, 400 7th Street SW., Room 7230, Washington, DC 20590; telephone: (202) 366-5746.

BTS - David Mednick, 400 7th Street SW., Room 3430, Washington, DC 20590; telephone: (202) 366-8871.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366-4723.

Appendix C - Public Rulemaking Dockets

The rulemaking and adjudicatory dockets for all of DOT are Internet accessible at the following address: http://dms.dot.gov. Examples of documents that may be in the dockets are proposed rules, public comments received, supporting analysis, studies, and reports.

The public may review regulatory dockets and hand-deliver comments on proposed rulemakings to the Dockets Office at 400 7th Street SW., Room PL 401, Washington, DC 20590, 1-800-647-5527. Working Hours: 9:00-5:00.

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Appendix D - Review Plans for Section 610 and Other Requirements

Part I - The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our 1979 Regulatory Policies and Procedures require such reviews. We also have responsibilities under E.O. 12866 ("Regulatory Planning and Review") and section 610 of the Regulatory Flexibility Act to conduct such reviews. Finally, on June 1, 1998, the President also directed agencies to use plain language in new rules and to consider rewriting existing rules when we have the opportunity and resources permit. The Department is currently conducting a number of reviews of existing rules and is engaged in rulemaking actions resulting from reviews.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that (1) have been published within the last ten years and (2) have a "significant economic impact on a substantial number of small entities" (SEIOSNOSE). It also requires that we publish in the Federal Register each year a list of any such rules that we will review during the next year. To better comply with section 610, the Department is updating its regulatory review plan published on June 29, 1981, to accomplish a more systematic review of all of its regulations. The Office of the Secretary and each of the Department's Operating Administrations, except for the Federal Highway Administration (FHWA), developed a 10-year plan for the analysis and review of all their rules. The agencies with smaller regulatory programs expect to complete their reviews over a shorter period of time. These reviews will comply with section 610 of the Regulatory Flexibility Act. FHWA's approach to section 610 reviews is described in Part II to this Appendix.

Other Review Plans

All elements of the Department, except for FHWA and the Federal Aviation Administration (FAA), have also elected to use this 10-year plan process to comply with the review requirements of the Department's Regulatory Policies and Procedures, Executive Order 12866, and the President's directive on plain language. FHWA and FAA are using different approaches, which are described in Part II to this Appendix.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a Presidentially-mandated review. If there is any change to the review plan, we will note the change in the following Unified Agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II - The Review Process

Except as specifically noted for FHWA and FAA at the end of this part of the Appendix, each element of the DOT will use the following process to review its existing rules.

Year 1 - Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. The analysis for group 1 will take place from fall 1998 to fall 1999, group 2 from fall 1999 to fall 2000, and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or particular analyses can be submitted to the regulatory contacts listed in Appendix B, General Rulemaking Contact Persons.

Section 610

The agency will analyze each of the rules in that year's group to determine whether any rule published in the last ten years has a SEIOSNOSE, which triggers the need for a review under section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations. In each October's Agenda, the agency will publish information on the results of the analyses that it has completed during the previous year. For rules that had a negative finding on SEIOSNOSE, we will give a short explanation (e.g., "these rules only establish petition processes that have no cost impact" or "these rules do not apply to any small entities"). For parts, subparts or other discrete sections of rules that do have a SEIOSNOSE, we will indicate that during the next twelve months, we are going to do a section 610 review to determine whether we can lessen the impact. At this stage, we will add an entry to the Agenda in the prerulemaking section describing the review in more detail. We also will ask for public comment on how best to lessen the impact for specific rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

During this analysis year, the agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each October's Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

Year 2 - Section 610 Review

During this year we will conduct the review to determine whether to revise or revoke the rule to lessen the impact or whether we must keep the rule unchanged. At the end of the review year, we plan to publish the results of our review. If no changes are warranted, we will publish a short explanation. If we are going to make a change, we will explain that. In most cases, this will involve changing the review entry to the Unified Agenda noting that we now plan rulemaking action.

FHWA

Because of its ongoing zero-based review of its safety rules and the need to review many of its financial assistance rules in response to the Transportation Efficiency Act for the 21st Century, FHWA has not developed a 10-year review plan. In Part IV, it describes its ongoing or planned reviews.

FAA

The Federal Aviation Administration, rather than review a portion of its rules

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each year, has established a process by which the public is asked for its comments on which rules need review the most. Any information that the FAA receives in connection with its annual section 610 analyses would, of course, also be reviewed in the spirit of E.O. 12866. In addition, in response to a recommendation of the White House Commission on Aviation Safety and Security, the FAA has completed a review of all its existing regulations to identify those in need of rewriting as performance-based or plain language regulations. The agency also reviewed ongoing regulatory projects and proposals to identify additional candidates for revision. In all, the agency reviewed 68 parts of the CFR, containing 3,884 sections, appendices, and Special Federal Aviation Regulations. In addition to using plain language in its future regulations, the FAA intends to revise those regulations identified in its study when it has the opportunity and resources to do so.

Part III - List of Pending Section 610 Reviews

The Agenda identifies the pending DOT section 610 reviews by inserting "(Section 610 Review)" after the title for the specific entry. Also, a Governmentwide list of section 610 reviews can be located in an Index at the end of the Agenda. For further information on the pending reviews, see the Agenda entries.

Part IV - The Schedules

OFFICE OF THE SECRETARY
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 200 through 212	1998	1999
2	14 CFR parts 213 through 232	1999	2000
3	14 CFR parts 234 through 254	2000	2001
4	14 CFR parts 255 through 298 and part 40	2001	2002
5	14 CFR parts 300 through 373	2002	2003
6	14 CFR parts 374 through 398	2003	2004
7	14 CFR part 399 and 49 CFR parts 1 through 11	2004	2005
8	49 CFR parts 17 through 28	2005	2006
9	49 CFR parts 29 through 39 and parts 41 through 89	2006	2007
10	49 CFR parts 91 through 99, 48 CFR parts 1201 through 1253, and new parts and subparts	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
14 CFR part 200 - Definitions and instructions
14 CFR part 201 - Air carrier authority under subtitle VII of title 49 USC
14 CFR part 203 - Waiver of Warsaw Convention liability limits and defenses
14 CFR part 204 - Data to support fitness determinations
14 CFR part 205 - Aircraft accident liability insurance
14 CFR part 206 - Certificates of public convenience and necessity: Special authorizations and exemptions
14 CFR part 211 - Applications for permits to foreign air carriers
14 CFR part 212 - Charter rules for U.S. and foreign air carriers

UNITED STATES COAST GUARD
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR parts 1 through 124	1998	1999
2	33 CFR parts 125 through 199	1999	2000
3	46 CFR parts 41 through 69	2000	2001
4	46 CFR parts 1 though 49	2001	2002
5	46 CFR parts 70 through 89	2002	2003
6	46 CFR parts 90 through 139	2003	2004
7	46 CFR parts 140 through 155	2004	2005
8	46 CFR parts 156 through 165	2005	2006
9	46 CFR parts 166 through 199	2006	2007
10	New parts and subparts	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
33 CFR part 1 - General Provisions
33 CFR part 2 - Jurisdiction
33 CFR part 3 - Coast Guard areas, districts, marine inspection zones, and captain of the port zones
33 CFR part 4 - OMB control numbers assigned pursuant to the Paperwork Reduction Act
33 CFR part 5 - Coast Guard Auxiliary
33 CFR part 6 - Protection and security of vessels, harbors, and waterfront facilities
33 CFR part 8 - United States Coast Guard Reserve
33 CFR part 13 - Decorations, medals, ribbons, and similar devices

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33 CFR part 17 - United States Coast Guard general gift fund
33 CFR part 19 - Waivers of navigation and vessel inspection laws and regulations
33 CFR part 20 - Class II Civil Penalties
33 CFR part 23 - Distinctive markings for Coast Guard vessels and aircraft
33 CFR part 25 - Claims
33 CFR part 26 - Vessel bridge-to-bridge radiotelephone regulations
33 CFR part 27 - Adjustment of civil monetary penalties for inflation
33 CFR part 40 - Cadets of the Coast Guard
33 CFR part 45 - Enlistment of personnel
33 CFR part 49 - Payment of amounts due mentally incompetent Coast Guard personnel
33 CFR part 50 - Coast Guard Retiring Review Board
33 CFR part 51 - Coast Guard Discharge Review Board
33 CFR part 52 - Board for Correction of Military Records of the Coast Guard
33 CFR part 53 - Coast Guard whistleblower protection
33 CFR part 54 - Allotments from active duty pay for certain support obligations
33 CFR part 60 - [Reserved]
33 CFR part 62 - United States aids to navigation system
33 CFR part 64 - Marking of structures, sunken vessels, and other obstructions
33 CFR part 66 - Private aids to navigation
33 CFR part 67 - Aids to navigation on artificial islands and fixed structures
33 CFR part 70 - Interference with or damage to aids to navigation
33 CFR part 72 - Marine information
33 CFR part 74 - Charges for Coast Guard aids to navigation work
33 CFR part 76 - Sale and transfer of aids to navigation equipment
33 CFR part 80 - COLREGS demarcation lines
33 CFR part 81 - 72 COLREGS: Implementing rules
33 CFR part 82 - 72 COLREGS: Interpretative rules
33 CFR part 84 - Annex I: Positioning and technical details of lights and shapes
33 CFR part 85 - Annex II: Additional signals for fishing vessels fishing in close proximity
33 CFR part 86 - Annex III: Technical details of sound signal appliances
33 CFR part 87 - Annex IV: Distress signals
33 CFR part 88 - Annex V: Pilot Rules
33 CFR part 89 - Inland navigation rules: Implementing rules
33 CFR part 90 - Inland rules: Interpretative rules
33 CFR part 95 - Operating a vessel while intoxicated
33 CFR part 100 - Marine Events
33 CFR part 109 - General
33 CFR part 110 - Anchorage regulations
33 CFR part 114 - General
33 CFR part 115 - Bridge locations and clearances; administrative procedures
33 CFR part 116 - Alteration of unreasonably obstructive bridges
33 CFR part 117 - Drawbridge operation regulations
33 CFR part 118 - Bridge lighting and other signals
33 CFR part 120 - Security of passenger vessels

FEDERAL AVIATION ADMINISTRATION
SECTION 610 REVIEW PLAN

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 1 through 21	1998	1999
2	14 CFR parts 23 through 34	1999	2000
3	14 CFR parts 35 through 49	2000	2001
4*	14 CFR parts 61 through 77	2001	2002
5	14 CFR parts 91 through 10	2002	2003
6	14 CFR parts 107 through 133	2003	2004
7	14 CFR parts 135 through 147	2004	2005
8	14 CFR parts 150 through 169	2005	2006
9	14 CFR parts 170 through 198	2006	2007
10	14 CFR parts 400 through 415	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
14 CFR part 1 - Definitions and abbreviations
14 CFR part 11 - General rulemaking procedures
14 CFR part 13 - Investigative and enforcement procedures

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14 CFR part 14 - Rules implementing the Equal Access to Justice Act of 1980
14 CFR part 15 - Administrative claims under Federal Tort Claims Act
14 CFR part 16 - Rules of practice for Federally-assisted airport enforcement proceedings
14 CFR part 21- Certification procedures for products and parts
*FAA will also review all other rules dealing with alcohol and drugs.

FEDERAL HIGHWAY ADMINISTRATION

SECTION 610 AND OTHER REVIEWS

I. Federal-Aid Highway Program

The FHWA has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-aid highway program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter 1 of title 23 of the USC. Section 145 of title 23 expressly provides that chapter 1 provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to requirements that States must meet to receive Federal funds for the construction and other work related to highways.

Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities, with limited exceptions discussed below. The FHWA solicits public comment on this preliminary conclusion.

In title 23 of the CFR, part 450, "Planning assistance and standards," and part 500, "Management and monitoring systems," may impact small local governments. The FHWA intends to review parts 450 and 500 of title 23 during the next year as part of its efforts to implement the Transportation Equity Act for the 21st Century (Pub. L. 105-78, June 9, 1998, TEA-21), which reauthorizes Federal surface transportation programs. The FHWA solicits public comment on whether and how parts 450 and 500 may be amended to reduce or eliminate burdens on small entities, including small governments.

Similarly, part 657, "Certification of size and weight enforcement," Part 658, "Truck size and weight, route designations - length, width and weight limitations," and part 669, "Enforcement of heavy vehicle use tax," of title 23 may have impacts on small governments or small businesses. The FHWA also intends to review these regulations in 1999, and public comment is solicited on whether and how these regulations may be revised to reduce burdens on small entities.

Implementation of TEA-21 may offer further opportunities to reduce the burden of existing regulations on small entities, and comment on this possibility is requested.

II. Federal Motor Carrier Safety Regulations

The FHWA has underway a comprehensive, multi-year project to develop modern, uniform safety regulations that are up-to-date, clear, concise, easier to understand, and more performance oriented. The FHWA has held 11 public outreach meetings, announced in the Federal Register, to solicit public involvement in this review; a total of 110 industry and government safety representatives participated in 14 one-day focus group sessions; over 2,000 comments have been received in the public docket so far.

On November 23, 1994, the FHWA published a final rule removing obsolete and redundant regulations identified through this review. In addition, on June 18, 1998, the FHWA published another final rule (63 FR 33254) removing and amending additional provisions of the Federal Motor Carrier Safety Regulations identified through the zero-base review.

The FHWA is now developing a notice of proposed rulemaking that would propose a complete revision of the Federal Motor Carrier Safety Regulations implementing the results of the FHWA's zero-base review of those regulations. The FHWA intends to propose a complete reorganization of the safety regulations and a rewrite of those regulations using plain language and a question and answer format to enhance the clarity and understandability of those regulations. In addition, the FHWA intends to better focus the regulations on safety while adopting a performance-based approach to the regulations and reducing the paperwork associated with compliance with the regulations. The FHWA believes that this effort will produce regulations which are simpler to understand and to comply with, especially for small motor carriers. Small entities will be specifically invited in this rulemaking to comment on the agency's proposal and to suggest additional ways in which the FHWA can reduce burdens on small entities through this or related rulemakings to revise the Federal Motor Carrier Safety Regulations.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR parts 501 through 526 and 571.213	1998	1999
2	49 CFR parts 571.131 and 571.220 through 571.222	1999	2000
3	49 CFR parts 591 through 594	2000	2001
4	49 CFR parts 571.101 through 571.110 and 571.135	2001	2002
5	49 CFR parts 529 through 579, except part 571	2002	2003
6	49 CFR parts 571.111 through 571.129 and parts 580 through 590	2003	2004
7	49 CFR parts 571.201 through 571.212	2004	2005
8	49 CFR parts 571.214 through 571.219	2005	2006
9	49 CFR parts 571.223 through 571.304, part 500 and new parts and subparts under 49 CFR	2006	2007

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NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
10	23 CFR parts 1200's and 1300's and new parts and subparts under 23 CFR	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
49 CFR part 501 - Organization and delegation of powers and duties
49 CFR part 509 - OMB control numbers for information collection requirements
49 CFR part 510 - Information gathering powers
49 CFR part 511 - Adjudicative procedures
49 CFR part 512 - Confidential business information
49 CFR part 520 - Procedures for considering environmental impacts
49 CFR part 523 - Vehicle Classification
49 CFR part 525 - Exemptions from average fuel economy standards
49 CFR part 526 - Petitions and plans for relief under the Automobile Fuel Efficiency Act of 1980

FEDERAL RAILROAD ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR parts 200 through 201	1998	1999
2	49 CFR parts 207, 209, 211, 215, and 256	1999	2000
3	49 CFR parts 210, 212, 214, and 217	2000	2001
4	49 CFR part 219	2001	2002
5	49 CFR parts 218 and 221	2002	2003
6	49 CFR parts 216 and 228 through 229	2003	2004
7	49 CFR parts 223 and 233	2004	2005
8	49 CFR parts 225, 231, and 234	2005	2006
9	49 CFR parts 235 through 236, 250, 260, and 266	2006	2007
10	49 CFR parts 213, 220, 230, 232, 239, 240, and 265	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
49 CFR part 200 - Informal rules of practice for passenger service
49 CFR part 201 - Formal rules of practice for passenger service

FEDERAL TRANSIT ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	None	1998	1999
2	None	1999	2000
3	49 CFR part 661	2000	2001
4	49 CFR parts 653 and 654	2001	2002
5	49 CFR part 665	2002	2003

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR sections 171.15, 171.16 (incident reports) and parts 172, 173, 178, and 180 (cylinders)	1998	1999
2	49 CFR parts 106 and 107 (hazardous materials safety procedures); 171 (general hazmat requirements), and 190 (pipeline safety procedures)	1999	2000
3	49 CFR parts 174, 177 (rail and highway carriage) and 191 (gas pipeline transportation reports)	2000	2001
4	49 CFR parts 176 (vessel carriage) and 199 (pipeline employee drug and alcohol testing)	2001	2002
5	49 CFR parts 172 through 178 (radioactive materials) and 192 (gas pipeline transportation minimum safety standards)	2002	2003
6	49 CFR parts 172, 173, 174, 176, and 178 (explosives) and 193 (liquefied natural gas facilities)	2003	2004
7	49 CFR parts 173 (shipper requirements) and 194 (onshore oil pipeline response plans)	2004	2005
8	49 CFR parts 178 (non-bulk packaging) and 195 (hazardous liquid pipeline transportation)	2005	2006

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RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
9	49 CFR parts 178 through 180 (bulk packaging) and 198 (State pipeline safety grants)	2006	2007
10	49 CFR parts 172 (communications, emergency response, training and hazmat table) and 175 (air carriage)	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
49 CFR sections 171.15 and 171.16 - Hazardous Materials Incident Reports
49 CFR parts 172, 173, 178, 180 - Requirements for Cylinders
A section 610 review was initiated in 1997, and publication of an NPRM is anticipated in 1998. See RIN 2137-AA92.

MARITIME ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	46 CFR parts 201 through 207	1998	1999
2	46 CFR parts 221 through 232	1999	2000
3	46 CFR parts 249 through 295	2000	2001
4	46 CFR part 298	2001	2002
5	46 CFR parts 307 through 310	2002	2003
6	46 CFR parts 315 through 339	2003	2004
7	46 CFR parts 340 and 347	2004	2005
8	46 CFR parts 349 through 380	2005	2006
9	46 CFR parts 381 through 387	2006	2007
10	46 CFR parts 390 through 391	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
46 CFR part 201 - Rules of practice and procedure
46 CFR part 202 - Procedures relating to review by DOT Secretary of actions by Maritime Subsidy Board
46 CFR part 203 - Procedures relating to conduct of certain hearings under the Merchant Marine Act, 1936, as amended
46 CFR part 204 - Claims against the Maritime Administration under the Federal Tort Claims Act
46 CFR part 205 - Audit appeals; policy and procedure
46 CFR part 207 - Statistical data for use in operating-differential subsidy application hearings

BUREAU OF TRANSPORTATION STATISTICS
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR part 241, Form 41	1998	1999
2	14 CFR part 241, Schedule T-100, and part 217	1999	2000
3	14 CFR part 298, 49 CFR 1249	2000	2001
4	14 CFR part 241, section 19-7	2001	2002
5	14 CFR part 291	2002	2003
6	14 CFR part 234	2003	2004
7	14 CFR part 249	2004	2005
8	14 CFR part 248	2005	2006
9	14 CFR part 250	2006	2007
10	14 CFR part 374a, ICAO	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
14 CFR part 241, Form 41 - Report of Financial and Operating Statistics for Large Certificated Air Carriers

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR parts 401 through 403	1998	1999

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Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
33 CFR part 401 - Seaway regulations and rules
33 CFR part 402 - Tariff of Tolls
33 CFR part 403 - Rules of procedure of the Joint Tolls Review Board

DOT

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2073	Domestic Baggage Liability	2105-AC07
2074	+ Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**	2105-AC49
2075	+ Computer Reservations System Regulations Comprehensive Review	2105-AC65
2076	Amendment to Traffic Restrictions to North Korea	2105-AC70
2077	+ Aviation Data Requirements Review and Modernization Program	2105-AC71
2078	Filing Periods for Responsive Pleadings; Rules of Practice in Aviation Economic Proceedings	2105-AC73
2079	+ Participation by Disadvantaged Business Enterprises in Airport Concessions	2105-AC76
2080	Compensation for Damage of Expensive Mobility Aids in Air Travel	2105-AC77

+ DOT-designated significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2081	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
2082	Air Travelers: Age Discrimination	2105-AA45
2083	Direct Flights	2105-AA73
2084	Diversion of Flights Within a Metropolitan Area	2105-AA78
2085	Simplified Aviation Exemption Procedures	2105-AA82
2086	Baggage Liability Notices in International Air Transportation	2105-AA84
2087	Simplified Airline Counter-Sign Notices	2105-AA88
2088	+ Price Advertising	2105-AB50
2089	+ New Restrictions on Lobbying	2105-AB57
2090	+ Procedures for Transportation Workplace Drug-Testing Programs	2105-AB71
2091	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2105-AC02
2092	Use of Direct Final Rulemaking	2105-AC11
2093	Overbooking of Flights: Elimination of Airport Notice Signs	2105-AC45
2094	Fees and Charges for Special Services: Reinvention	2105-AC47
2095	Rules of Practice in Aviation Economic Proceedings: Reinvention	2105-AC48
2096	Amendments to Modal Alcohol Testing Rules: Pre-Employment Testing	2105-AC50
2097	Passenger Tariff-Filing Requirements Exemption	2105-AC61
2098	Uniform Administrative Requirements for Grants and Cooperative Agreements: Common Rule	2105-AC66

+ DOT-designated significant regulation.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2099	Policy Statement on Airline Preemption	2105-AA46
2100	+ Statement of Enforcement Policy on Rebating	2105-AB39
2101	Smoking Aboard Aircraft	2105-AB58
2102	+ Accessibility of Passenger Vessels to Individuals With Disabilities	2105-AB87
2103	+ Transportation for Individuals With Disabilities (Accessibility Guidelines)	2105-AC06
2104	Use of Oxygen by Air Carrier Passengers	2105-AC29
2105	+ Domestic Passenger Manifest Information	2105-AC62
2106	+ Enforcement Policy: Unfair Exclusionary Conduct in the Air Transportation Industry	2105-AC72

+ DOT-designated significant regulation.

DOT

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2107	+ Disadvantaged Business Enterprise (DBE) Regulation; General Update	2105-AB92
2108	+ Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases	2105-AC10
2109	Disclosure of Change-of-Gauge Services	2105-AC17
2110	Amendments to Opiate Threshold Levels	2105-AC74
2111	Second Extension of Computer Reservations System Rules	2105-AC75

+ DOT-designated significant regulation.

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2112	+ Improvements to Maritime Safety Puget Sound-Area Waters (USCG-1998-4501)	2115-AF68
2113	Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (USCG-1999-5040)	2115-AF69
2114	Certification of Navigation Lights on Recreational Vessels (CGD 97-060)	2115-AF70
2115	Barges Carrying Bulk Liquid Hazardous Material (USCG-1999-5117)	2115-AF77

+ DOT-designated significant regulation.

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2116	Vessel Identification System (CGD 89-050)	2115-AD35
2117	Reporting Marine Casualties (CGD 91-216)	2115-AD98
2118	+ Facility Response Plans for Hazardous Substances (CGD 94-048)	2115-AE87
2119	+ Tank Vessel Response Plans for Hazardous Substances (CGD 94-032) (USCG-1998-4354)	2115-AE88
2120	Numbering of Undocumented Barges (CGD 93-091) (USCG-1998-3798)	2115-AF13
2121	Outer Continental Shelf Activities (CGD 96-068)	2115-AF39
2122	Carriage of Bulk Solid Materials Requiring Special Handling (CGD 97-037)	2115-AF47
2123	+ Towing Vessel Safety (Fire Suppression Systems and Other Measures for Towing Vessels) (CGD 97-064)	2115-AF53
2124	Pollution Prevention for Oceangoing Ships and Certain Vessels in Domestic Service (CGD 97-072)	2115-AF56
2125	+ Salvage and Firefighting Equipment; Vessel Response Plans (USCG-1998-3417)	2115-AF60
2126	Revise Fees To Number Undocumented Vessels in Alaska (USCG-1998-3386)	2115-AF62
2127	Deep Water Ports (CGD 97-050) **(Section 610 Review)**	2115-AF63
2128	Commercial Diving Operations (USCG-1998-3786) **(Section 610 Review)**	2115-AF64
2129	Vessel Documentation (USCG-1998-4784)	2115-AF71
2130	+ Revised Blood Alcohol Concentration (BAC) Limit (USCG-1998-4593)	2115-AF72
2131	Frequency of Inspection, Hull Examination Alternative for Certain Passenger Vessels, and Underwater Surveys for Passenger Vessels (USCG-1999-4976)	2115-AF73
2132	+ Vessel Traffic Service Lower Mississippi/Automatic Identification System Carriage Requirement (USCG-1998-4399)	2115-AF75
2133	Vapor Control Systems **(Section 610 Review)** (USCG-1999-5150)	2115-AF78
2134	+ Response Plans For Marine Transportation Related Facilities Handling Non-Petroleum Oils (1999-USCG-5149)	2115-AF79

+ DOT-designated significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2135	Safety/Security Zone Regulations	2115-AA97
2136	Special Anchorage Areas/Anchorage Grounds Regulations	2115-AA98
2137	+ State Access to the Oil Spill Liability Trust Fund (CGD 92-014)	2115-AE19
2138	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (CGD 92-026)(USCG-1998-4302)	2115-AE22

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U.S. Coast Guard—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2139	Regatta Regulations	2115-AE46
2140	Drawbridge Regulations	2115-AE47
2141	Regulated Navigation Areas	2115-AE84
2142	Regattas and Marine Parades (CGD 95-054)	2115-AF17
2143	Licensing and Manning for Officers of Towing Vessels (CGD 94-055)	2115-AF23
2144	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (CGD 95-015) (USCG-1998-4623)	2115-AF38
2145	Traffic Separation Scheme in the Approaches to Delaware Bay (CGD 97-004)	2115-AF42
2146	User Fees for Marine Licensing, Certificates of Registry, and Merchant Mariner Documents (USCG-1997-2799)	2115-AF49
2147	Implementation of the National Invasive Species Act of 1996 (CGD 97-068)(USCG-1999-3423)	2115-AF55
2148	Maritime Course Approval Procedures (USCG-1998-3824)	2115-AF58
2149	Consolidation of Rules for Proceedings Against Merchant Mariners' Licenses, Certificates, and Documents (94-111)	2115-AF59
2150	+ Fire Protection Measures for Towing Vessels (USCG-1998-4445)	2115-AF66
2151	Chemical Testing; Management Information System Reporting Requirements (USCG-1998-4469)	2115-AF67
2152	Incorporations by Reference for Alternate Compliance Program (ACP)(USCG-1999-5004)	2115-AF74
2153	Standard Measurement System Exemption From Gross Tonnage (USCG-1999-5118)	2115-AF76
2154	Update of American Society of Testing and Materials (ASTM) Standards (USCG-1999-5151)	2115-AF80

+ DOT-designated significant regulation.

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2155	Permits for the Transportation of Municipal and Commercial Wastes (CGD 89-014)	2115-AD23
2156	+ Discharge-Removal Equipment for Vessels Carrying Oil (CGD 90-068) (USCG-1998-4858)	2115-AD66
2157	Tank Level or Pressure Monitoring Devices (CGD 90-071)	2115-AD69
2158	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)	2115-AD90
2159	+ Escort Vessels for Certain Tankers (CGD 91-202)	2115-AE10
2160	Amendments to Hull Identification Number Regulations (CGD 92-065)	2115-AE37
2161	+ Escort Vessels in Certain U.S. Waters (91-202a)	2115-AE56
2162	+ Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (CGD 95-062)	2115-AF26
2163	Propeller Injury Prevention Aboard Rental Boats (CGD 95-041)	2115-AF28
2164	+ Emergency Response Plans for Passenger Vessels (USCG-1998-3473)	2115-AF61
2165	+ Emergency Control Measures for Tank Barges (USCG-1998-4443)	2115-AF65

+ DOT-designated significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2166	Streamlined Inspection Program (CGD 96-055)	2115-AF37
2167	Coast Guard Vessel Inspection User Fees (CGD 96-067)	2115-AF40
2168	Child Development Services (CGD 97-039)	2115-AF48
2169	Amendment of State Waters for Private Aids to Navigation in Wisconsin and Alabama (USCG-1998-3604)	2115-AF50
2170	Advance Notice of Arrivals, Vessels Bound for Ports or Places in the United States (CGD 97-067)	2115-AF54
2171	Federal Pilotage for Vessels in Foreign Trade (USCG-1998-3323)	2115-AF57

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Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2172	+ Part 145 Review: Repair Stations	2120-AC38
2173	+ Drug Enforcement Assistance	2120-AD16
2174	+ Aging Aircraft Safety	2120-AE42
2175	+ Corrosion Control Program	2120-AE92
2176	+ Flight Operational Quality Assurance Program	2120-AF04
2177	+ Air Tour Standards	2120-AF07
2178	+ Overflights of Units of the National Park System	2120-AF46
2179	+ Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements	2120-AF63
2180	+ Submission to Drug Tests	2120-AF64
2181	+ Passenger Facility Charges	2120-AF69
2182	Operational and Structural Difficulty Reports	2120-AF71
2183	+ Duration Between Examinations for First- and Second-Airman Medical Certificates	2120-AG06
2184	Fees for Aeromedical Education Training Services	2120-AG07
2185	+ False and Misleading Statements Regarding Aircraft Parts	2120-AG08
2186	+ License Requirements for Operation of a Launch Site	2120-AG15
2187	+ Protection of Voluntarily Submitted Information	2120-AG36
2188	+ Licensing and Safety Requirements for Launch From a Non-Federal Launch Site	2120-AG37
2189	Civil Penalties: Streamlined Enforcement Test and Evaluation Program; Security; Drug and Alcohol Abatement	2120-AG49
2190	+ Screening of Checked Baggage on Flights Within the United States	2120-AG51
2191	Parachute Operations	2120-AG52
2192	Flight Plan Requirements for Helicopter Operations Under Instrument Flight Rules	2120-AG53
2193	Revision of Air Carrier Crewmember and Training Regulations	2120-AG57
2194	+ Transport Airplane Fleet Fuel Tank Ignition Source Review; Flammability Reduction, and Maintenance and Inspection Requirements	2120-AG62
2195	Use of Electronic Signatures	2120-AG63
2196	Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulations	2120-AG71
2197	Revised Landing Gear Shock Absorption Test Requirements	2120-AG72
2198	+ Grand Canyon National Park; Limits on Air Tour Operations	2120-AG73
2199	+ Modification of the Airspace for Grand Canyon National Park	2120-AG74
2200	Training in the Recognition of Hazardous Material	2120-AG75
2201	+ Financial Responsibility Requirements for Licensed Reentry Activities	2120-AG76

+ DOT-designated significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2202	Objects Affecting Navigable Airspace	2120-AA09
2203	Miscellaneous Amendments	2120-AA50
2204	IFR Altitudes; Miscellaneous Amendments	2120-AA63
2205	Airworthiness Directives	2120-AA64
2206	Standard Instrument Approach Procedures; Miscellaneous Amendments	2120-AA65
2207	Airspace Actions	2120-AA66
2208	+ Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
2209	+ Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
2210	+ Sole Radio Navigation System; Minimum Standards for Certification	2120-AD26
2211	+ Revision of Part 108, Airplane Operator Security	2120-AD45
2212	+ Revision of Part 107, Airport Security	2120-AD46
2213	+ Aircraft Ground Deicing and Anti-Icing Program	2120-AE70
2214	Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System	2120-AE81
2215	Civil Penalty Assessment Procedures	2120-AE84
2216	Flight Attendant English Language Proficiency	2120-AE98
2217	+ Revised Access to Type III Exits	2120-AF01
2218	+ Training and Checking in Ground Icing Conditions	2120-AF09
2219	Los Angeles, CA, Class B Airspace	2120-AF16
2220	Revision of Certification Requirements: Mechanics and Repairmen	2120-AF22

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Federal Aviation Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2221	+ Suspension of Certain Aircraft Operations From the Transponder With Automatic Pressure Altitude Reporting Capability Requirement	2120-AF30
2222	Normal Category Rotorcraft Maximum Weight and Passenger Seat Limitation	2120-AF33
2223	+ Type Certification Procedures for Changed Products	2120-AF68
2224	Miscellaneous Cabin Safety Changes	2120-AF77
2225	Repair Assessment for Pressurized Fuselages	2120-AF81
2226	+ Commercial Space Transportation Licensing Regulations	2120-AF99
2227	Revision of Certification Requirements: Aircraft Dispatchers	2120-AG04
2228	+ Security Programs of Foreign Air Carriers and Foreign Operators of U.S. Registered Air Carriers Engaged in Common Carriage	2120-AG13
2229	Revised Precision Approach Landing Systems Policy	2120-AG16
2230	+ Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace and for Aeronautical Studies	2120-AG17
2231	Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations	2120-AG19
2232	+ Prohibition of the Transportation of Devices Designed as Chemical Generators as Cargo in Aircraft	2120-AG35
2233	+ Air Tour Operations in the State of Hawaii	2120-AG44
2234	Part 93 Subpart D—Anchorage, Alaska, Terminal Area	2120-AG45
2235	+ Terrain Awareness and Warning System	2120-AG46
2236	+ High Density Airports; Allocation of Slots	2120-AG50
2237	+ Policy Regarding Airport Rates and Charges	2120-AG58
2238	Rotorcraft Load Combination Safety Requirements	2120-AG59
2239	Harmonization of Critical Parts Rotorcraft Regulations	2120-AG60
2240	Noise Certification Standards for Propeller-Driven Small Airplanes	2120-AG65
2241	Licensing and Training of Pilots, Flight Instructors, and Ground Instructors Outside the United States	2120-AG66
2242	Night Flying Takeoff and Landing Currency	2120-AG77

+ DOT-designated significant regulation.

Federal Aviation Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2243	+ Fuel System Vent Fire Protection	2120-AA49
2244	Airworthiness Standards; Crash-Resistant Fuel Systems	2120-AA57
2245	Low Fuel Quantity Alerting System	2120-AB46
2246	Aircraft Engines: Fuel and Induction Systems	2120-AB76
2247	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents	2120-AC17
2248	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
2249	Airplane Engine Cowling Retention	2120-AD34
2250	1-G Stalling Speed as a Basis for Compliance With Part 25 of the Federal Aviation Regulations	2120-AD40
2251	+ Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143	2120-AD91
2252	Type Certificates for Some Surplus Aircraft of the Armed Forces	2120-AE41
2253	+ Airport Noise Compatibility Planning	2120-AE64
2254	+ Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities	2120-AE79
2255	+ Revision of Emergency Evacuation Demonstration Procedures To Improve Participant Safety	2120-AF21
2256	+ Controlled Rest on the Flight Deck	2120-AF54
2257	Revision of Hydraulics Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AF79
2258	Bird Strike	2120-AF80
2259	Bird Ingestion Standards	2120-AF84
2260	+ Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park	2120-AG34
2261	+ Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes	2120-AG42
2262	+ Child Restraint Systems	2120-AG43

+ DOT-designated significant regulation.

DOT

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2263	Cincinnati, OH, Class B Airspace	2120-AE97
2264	Revision of Gate Requirements for High-Lift Device Controls	2120-AF82
2265	+ Policy and Procedures Concerning the Use of Airport Revenue	2120-AG01
2266	Harmonization of Miscellaneous Rotorcraft Regulations	2120-AG23
2267	+ Employment History, Verification and Criminal History Records Check	2120-AG32
2268	Special Federal Aviation Regulation No. 36, Development of Major Repair Data	2120-AG64
2269	Emission Standards for Turbine Engine Powered Airplanes	2120-AG68
2270	Special Flight Rules in the Vicinity of the Grand Canyon National Park	2120-AG69
2271	Crewmember Interference, Portable Electronic Devices and Other Passenger Related Requirements	2120-AG70

+ DOT-designated significant regulation.

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2272	+ Advanced Technology in Commercial Motor Vehicle Operations **(Section 610 Review)**	2125-AD65
2273	Mitigation of Impacts to Wetlands	2125-AD78
2274	+ General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers	2125-AE40
2275	+ Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the National Park Service, Including the Park Roads and Parkways Program	2125-AE52
2276	+ Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Bureau of Indian Affairs, Including the Indian Reservations Road Program	2125-AE53
2277	+ Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Fish and Wildlife Service, Including the Refuge Roads Program	2125-AE54
2278	+ Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Forest Service, Including the Forest Highways Program	2125-AE55

+ DOT-designated significant regulation.

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2279	Acquisition of Real Property for Rights-of-Way	2125-AC17
2280	Commercial Learner Permits and CDL Effectiveness	2125-AC54
2281	Certification of Size and Weight Enforcement	2125-AC60
2282	+ Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	2125-AC92
2283	+ Training for Entry-Level Drivers of Commercial Motor Vehicles	2125-AD05
2284	+ Commercial Driver Physical Fitness as Part of the CDL Process	2125-AD20
2285	+ Department of Transportation (FHWA and FTA) NEPA and Related Procedures for Transportation Decision-making	2125-AD32
2286	Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties	2125-AD64
2287	Safety Performance History of New Drivers	2125-AD66
2288	Parts and Accessories Necessary for Safe Operation; Television Receivers and Data Display Units	2125-AD76
2289	+ Hours of Service of Drivers **(Section 610 Review)**	2125-AD93
2290	Electronic Filing of Surety Bonds, Trust Fund Agreements, Insurance Certificates; Cancellations	2125-AD94
2291	+ Development of a North American Standard for Protection Against Shifting and Falling Cargo	2125-AE05
2292	+ Qualifications of Motor Carriers to Self-Insure Their Operations and Fees To Support the Approval and Compliance Process	2125-AE06
2293	+ Federal Motor Carrier Safety Regulations; Hours-of-Service and CDL Exemptions	2125-AE09
2294	Minimum Levels of Financial Responsibility for Mexican Motor Carriers	2125-AE14
2295	+ Application of the National Transportation Communications for ITS Protocol (NTCIP) Standards in ITS Projects	2125-AE21
2296	+ Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle	2125-AE22
2297	Emergency Relief Program—$500,000 Disaster Eligibility Threshold	2125-AE27
2298	Commercial Driver Disqualification Provisions	2125-AE28
2299	Work Zone Safety	2125-AE29

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Federal Highway Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2300	+ Revision of Application Form for Mexican Motor Carriers: Commercial Zones	2125-AE31
2301	+ Revision of Application Form for Mexican Motor Carriers: NAFTA	2125-AE32
2302	+ Accelerated Safety Monitoring System and Compliance Initiative for Mexican Motor Carriers Operating in the United States	2125-AE33
2303	Safety Fitness Procedures	2125-AE37
2304	+ Federal Motor Carrier Safety Regulations; Zero-Base Revision	2125-AE42
2305	Administration of Engineering and Design Related Services Contracts	2125-AE45
2306	Motor Carrier Safety Assistance Program (MCSAP)	2125-AE46
2307	Revision of the Manual on Uniform Traffic Control Devices; Tourist Oriented Directional Signs, Recreation and Cultural Interest Signs, and Traffic Controls for Bicycle Facilities	2125-AE50
2308	Procedures for Abatement of Highway Traffic Noise and Construction Noise	2125-AE51
2309	+ Safety Fitness Procedures—Unsatisfactory Safety Ratings	2125-AE56

+ DOT-designated significant regulation.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2310	Revision of Medical Examination Form and Procedures	2125-AC63
2311	+ Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment	2125-AD27
2312	+ Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AD49
2313	National Standards for Traffic Control Devices; Metric Conversion	2125-AD63
2314	Standards for Center Line and Edge Line Markings on Streets and Highways	2125-AD68
2315	Federal-Aid Highway Systems	2125-AD74
2316	+ Railroad Grade Crossing Safety	2125-AD75
2317	Uniform Procedures for State Highway Safety Programs	2125-AD79
2318	Railroad Highway Projects	2125-AD86
2319	Registration of For-Hire Motor Carriers, Property Brokers, and Freight Forwarders	2125-AE01
2320	+ Parts and Accessories Necessary for Safe Operation; Rear Impact Guards and Rear Impact Protection	2125-AE15
2321	Transportation of Household Goods; Consumer Protection Regulations	2125-AE30
2322	Truck Size and Weight; Definitions; Nondivisible	2125-AE43
2323	Right-of-Way Program Administration	2125-AE44
2324	+ Credit Assistance for Surface Transportation Projects	2125-AE49

+ DOT-designated significant regulation.

Federal Highway Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2325	+ Qualification of Drivers; Diabetes	2125-AB91
2326	+ Commercial Driver's License Standards; Biometric Identifier	2125-AC24
2327	+ Federal Motor Carrier Safety Regulations; General; Periodic Registration Requirements for Motor Carriers	2125-AC28
2328	Truck Length and Width Exclusive Devices	2125-AC30
2329	Periodic Inspection Requirements	2125-AC47
2330	+ Qualification of Drivers; Vision	2125-AC62
2331	Parts and Accessories Necessary for Safe Operation: Intermodal Cargo Containers	2125-AC74
2332	+ Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	2125-AC78
2333	+ Qualifications of Drivers: Hearing Deficiencies	2125-AD22
2334	Highway Beautification	2125-AD24
2335	Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motor Coaches	2125-AD25
2336	Motor Carrier Safety Assistance Program (MCSAP) Allocation Formula	2125-AD30
2337	+ Hours of Service of Drivers; Supporting Document Recordkeeping	2125-AD52
2338	Advanced Construction of Federal Aid Projects	2125-AD59
2339	+ Transportation of Migrant Workers	2125-AD81
2340	Inspection, Repair, and Maintenance	2125-AD82

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Federal Highway Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2341	+ Motor Carrier Replacement Information/Registration System	2125-AD91
2342	General Jurisdiction Over Freight Forwarder Service	2125-AE00
2343	Traffic Control Devices, Markings, Signals, and Systems for Railroad-Highway Grade Crossings	2125-AE11
2344	+ English Language Requirement; Qualifications of Drivers	2125-AE19
2345	Revision of Manual on Uniform Traffic Control Devices; General Provisions and Traffic Control for School Areas	2125-AE25
2346	Out-of-Service Criteria	2125-AE35
2347	Revision of the Manual on Uniform Traffic Control Devices; Part II—Signs	2125-AE38
2348	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs	2125-AE39
2349	Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs; Rules and Procedures	2125-AE48

+ DOT-designated significant regulation.

Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2350	Regulations Governing Fees for Services Performed in Connection With Motor Carrier Licensing and Insurance	2125-AE24
2351	Exemption of Commonly Owned Motor Carriers From Equipment Identification and Receipt Requirements Applicable to Leased and Interchanged Vehicles	2125-AE26
2352	Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs	2125-AE34
2353	Truck Size and Weight; National Network; North Dakota	2125-AE36
2354	Truck Size and Weight; Technical Corrections	2125-AE47

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2355	Certification Requirements of Multistage Vehicles	2127-AE27
2356	Review: Passenger-Car Back Seat Occupant Protection	2127-AE95
2357	Add-On Seat Belt Devices	2127-AG49
2358	Booster Seats for Older Children	2127-AH14
2359	Ejection Mitigation Using Advanced Glazing	2127-AH50

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2360	Procedures for Considering Environmental Impacts	2127-AB79
2361	+ Rollover Protection	2127-AC64
2362	+ Wheelchair Lifts	2127-AD50
2363	Radiator Safety Cap	2127-AE59
2364	Upgrade Performance Requirements	2127-AF36
2365	Door Latch Exemption for Vehicles Equipped With Wheelchair Lifts and Ramps	2127-AG16
2366	Dealer Notification of Defect or Noncompliance Determination	2127-AG27
2367	Convex Cross-View Mirrors	2127-AG41
2368	Upgrade Roof Crashworthiness	2127-AG51
2369	+ Advanced Air Bags	2127-AG70
2370	Advanced Air Bag Dummy Rule for CRABI 12-Month-Old Size	2127-AG78
2371	Advanced Air Bag Dummy Rule for Hybrid III 95th Percentile Male	2127-AG79
2372	Administrative Rewrite for Headlamp Requirements	2127-AG87
2373	Motorcycle Mounted Reflex Reflector Height	2127-AG92
2374	+ Allocation of Fuel Economy Credits	2127-AG97
2375	Buy American Requirements	2127-AG99

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National Highway Traffic Safety Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2376	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency	2127-AH00
2377	Placement of Wheelchair Restraints on Buses	2127-AH03
2378	Incorporate the 1996 Revision of the American National Standards Institute (ANSI)	2127-AH08
2379	Harmonization of Head Restraints	2127-AH09
2380	Truck Air Braking Requirements	2127-AH11
2381	Motorcycle Braking Requirements	2127-AH15
2382	Heavy Vehicle Antilock Brake System (ABS) Performance Requirement	2127-AH16
2383	Definition of Community Transportation Vehicles	2127-AH23
2384	Metric Conversion—Phase III	2127-AH27
2385	Public Participation in Activities Relating to the Agreement on Global Technical Regulations: Statement of Policy	2127-AH29
2386	Motor Vehicle Content Labeling Calculation	2127-AH33
2387	Upgrade Door Retention Performance	2127-AH34
2388	Theft Data for Calendar Year 1997	2127-AH35
2389	Administrative Rewrite of the Lighting Requirements Other Than Headlamps	2127-AH37
2390	Importation of Vehicles and Equipment Suppliers—Technical Amendment	2127-AH45
2391	Use of Universal Child Seats in Aircraft	2127-AH56
2392	Parking Brake Warning System on School Buses	2127-AH57
2393	Exemption for Inconsequential Defect or Noncompliance	2127-AH58
2394	Upper Interior Impact	2127-AH61
2395	Insurer Reporting Requirements for October 1999	2127-AH62

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2396	Brake Lining	2127-AC66
2397	Seating Systems Performance	2127-AD08
2398	Seat Adjustment Position	2127-AE22
2399	Test Device Placement	2127-AF40
2400	Electric Vehicle Safety	2127-AF43
2401	Alternative Geometric Visibility Requirements for Lamps	2127-AF75
2402	Power-Operated Windows: Roof Panels	2127-AF83
2403	Automotive Fuel Economy Reports	2127-AG00
2404	Power Window Safety Switches	2127-AG36
2405	Modified Vehicles To Accommodate a Person's Disability	2127-AG40
2406	Pelvic Restraints	2127-AG48
2407	Fifth Percentile Female Dummy	2127-AG66
2408	Consumer Information on Tire Grading	2127-AG67
2409	Transition Procedures From Current to New National Driver Register	2127-AG68
2410	Advanced Air Bag Dummy Rule for Hybrid III Type 6-Year-Old Size	2127-AG76
2411	Advanced Air Bag Dummy Rule for Hybrid III Type 3-Year-Old Size	2127-AG77
2412	Glare Reduction From Daytime Running Lamps	2127-AG86
2413	Signal Lamps Used With Light Emitting Diodes	2127-AG88
2414	Extend Participation in the National Driver Register Program	2127-AG90
2415	Fuel Economy Calculations	2127-AG95
2416	Uniform Tire Quality Grading Test Procedures	2127-AG96
2417	Tire Identification Symbols	2127-AH10
2418	Functional Equivalence of Headlamp Concealment With European Regulations	2127-AH18
2419	Functional Equivalence of Windshield Washing and Wiping Systems with European Regulations	2127-AH20
2420	Functional Equivalence of Windshield Defrosting and Defogging Systems With European Regulations	2127-AH22
2421	Extension of Passenger Car Brake System Standard to Light Trucks and Vans (LTVs) With Gross Vehicle Weight Rating Between 3,500 and 4,536 Kg	2127-AH30
2422	High-Theft Lines for Model Year 2000	2127-AH36
2423	+ Safety Incentive Grants for Use of Seat Belts	2127-AH38
2424	+ State Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons	2127-AH39
2425	Occupant Protection Incentive Grants	2127-AH40

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National Highway Traffic Safety Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2426	Open Container Requirements	2127-AH41
2427	Alcohol-Impaired Driving Countermeasures Incentive Grants	2127-AH42
2428	State Highway Safety Data Improvements Incentive Grants	2127-AH43
2429	+ Uniform Criteria for State Observational Surveys of Seat Belt Use	2127-AH46
2430	Minimum Penalties for Repeat Offenders	2127-AH47
2431	Adjustment of Civil Penalties	2127-AH48
2432	Certification Requirements for Vehicle Alterers	2127-AH49
2433	+ Light Truck Fuel Economy Standards for Model Year 2001	2127-AH52
2434	Uniform Procedures for State Highway Safety Programs	2127-AH53
2435	Procedures for Participation in and Receiving Data From the National Driver Register Problem Driver Pointer System	2127-AH54
2436	Extension of Compliance Date for ABS Malfunction Indicator Lamp	2127-AH55
2437	Bumper Standard Requirements	2127-AH59
2438	Dynamically Deploying Head Protection Systems	2127-AH60

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2439	+ Crashworthiness Ratings	2127-AA03
2440	+ Flammability of Interior Materials—School Buses	2127-AA44
2441	Review: Odometer Fraud	2127-AF53
2442	+ Review: Side Impact Protection	2127-AF54
2443	Review: American Automobile Labeling Act	2127-AG18
2444	Review: Heavy Truck Conspicuity	2127-AG19
2445	State Issued Identification Documents	2127-AG91
2446	Review: Child Safety Seat Registration	2127-AG93
2447	Review: Air Bag On-Off Switches	2127-AH12
2448	Review: Depowered Air Bags	2127-AH13
2449	Transmission Control Levers	2127-AH21

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2450	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
2451	+ School Bus Body Joint Strength	2127-AC19
2452	Driving Range Determination for Dual Fuel Electric Passenger Automobiles	2127-AF37
2453	Cylinder Requirements	2127-AF51
2454	Review: Theft Prevention—5-Year Report to Congress	2127-AF55
2455	Auxiliary Signal Lamps	2127-AG38
2456	Hybrid III Dummy Specifications—Clothing	2127-AG39
2457	+ Uniform Child Anchorages	2127-AG50
2458	Utility Vehicle Label	2127-AG53
2459	Certification Labels for Multipurpose Passenger Vehicles and Light Duty Trucks	2127-AG65
2460	Uniform Procedures for State Highway Safety Programs	2127-AH01
2461	Insurer Reporting Requirements for October 1998	2127-AH05
2462	Depowering of Air Bags: Technical Amendment	2127-AH24
2463	Warning Light Requirements for Air Bag On-Off Switch	2127-AH25
2464	List of Nonconforming Vehicles Eligible for Importation	2127-AH28
2465	Thermal Test Procedure for Passenger Car Brake System Standard	2127-AH31
2466	Temporary Exemption From Federal Motor Vehicle Safety Standards and Bumper Standard	2127-AH51

+ DOT-designated significant regulation.

DOT

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2467	+ Hours of Service Electronic Recordkeeping Project	2130-AB04
2468	Tourist and Historic Working Group Regulatory Review	2130-AB12

+ DOT-designated significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2469	+ Whistle Bans at Highway-Rail Grade Crossings	2130-AA71
2470	+ Locomotive Cab Working Conditions	2130-AA89
2471	+ Environmental Impact and Related Procedures (FRA, FTA, FHWA)	2130-AA93
2472	+ Positive Train Control	2130-AA94
2473	+ Locomotive Crashworthiness	2130-AB23
2474	+ Amendment of Regulations Governing Railroad Rehabilitation and Improvement Financing	2130-AB26
2475	Roadway Maintenance Machine Safety	2130-AB28
2476	Track Safety Standards Amendment To Address Gage Restraint Measurement Systems	2130-AB32
2477	+ Joint Statement of Safety Policy for Shared Use of General Railroad System Trackage by Conventional Railroad and Rail Transit Trains	2130-AB33
2478	Event Recorder Crashworthiness	2130-AB34

+ DOT-designated significant regulation.

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2479	Local Rail Freight Assistance to States	2130-AA60
2480	+ Freight Car Safety Standards: Maintenance-of-Way Equipment	2130-AA68
2481	Qualification and Certification of Locomotive Engineers	2130-AA74
2482	+ Passenger Equipment Safety Standards	2130-AA95
2483	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems	2130-AA97
2484	Statement of Policy Regarding Safety of Railroad Bridges	2130-AA99
2485	Reinvention of Regulations Addressing Discontinuance or Modification of Signal Systems	2130-AB05
2486	Reinvention of Signal System Reporting Requirements	2130-AB06
2487	Reinvention of Steam Locomotive Inspection Regulations	2130-AB07
2488	Florida Overland Express High Speed Rail Rule of Particular Applicability	2130-AB14
2489	Small Railroads; Policy Statement on Enforcement Program	2130-AB15
2490	+ Power Brake Regulations: Freight Power Brake Revisions	2130-AB16
2491	Use of Remotely Controlled Locomotives in Rail Operations	2130-AB17
2492	Use of One-Person Crews in Rail Operations	2130-AB18
2493	+ Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control and Start-Up Operations	2130-AB24
2494	Bridge Worker Safety Standards	2130-AB25
2495	Planning Activities Under the Magnetic Levitation Transportation Technology Deployment Program	2130-AB29
2496	Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents	2130-AB30
2497	Determination of Minimum Testing Rate for Random Drug and Alcohol Testing	2130-AB31

+ DOT-designated significant regulation.

Federal Railroad Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2498	AMTRAK Waste Disposal	2130-AA84
2499	Protection of Utility Employees	2130-AA90

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Federal Railroad Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2500	Crane Safety Standards	2130-AB27

Federal Transit Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2501	Proposed Expanded Reporting of Safety and Security Portion of the National Transit Database	2132-AA60

Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2502	+ Department of Transportation (FTA, FHWA) and Related Procedures for Transportation Decisionmaking	2132-AA43
2503	Buy America Requirements; Amendment to Certification Procedures	2132-AA62
2504	+ Major Capital Investment Projects	2132-AA63
2505	Clean Fuels Formula Grant Program	2132-AA64
2506	Planning	2132-AA66
2507	School Bus Operations	2132-AA67

+ DOT-designated significant regulation.

Federal Transit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2508	+ Bus Testing	2132-AA30
2509	Charter Services Demonstration Program	2132-AA58

+ DOT-designated significant regulation.

Federal Transit Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2510	Prevention of Alcohol Misuse in Transit Operations; Prevention of Prohibited Drug Use in Transit Operations	2132-AA56
2511	"Maintenance" Under Definition of Safety-Sensitive Functions in Drug and Alcohol Rules	2132-AA61
2512	Capital Leases	2132-AA65

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2513	Applicability of the Hazardous Materials Regulations	2137-AC68
2514	Hazardous Materials: Revision of Requirements for Carriage by Aircraft	2137-AD18
2515	Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form 5800.1	2137-AD21
2516	Hazardous Materials: Air Carrier Emergency Telephone Number Requirements	2137-AD29

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Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2517	+ Requirements for Cylinders **(Section 610 Review)**	2137-AA92
2518	Pipeline Safety: Gas Gathering Line Definition	2137-AB15
2519	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2520	Pipeline Safety: Underwater Abandoned Pipeline Facilities	2137-AC33
2521	Areas Unusually Sensitive to Environmental Damage (USAs)	2137-AC34
2522	+ Increased Inspection Requirements	2137-AC38
2523	+ Emergency Flow Restricting Devices	2137-AC39
2524	Pipeline Safety: Periodic Underwater Inspections	2137-AC54
2525	Hazardous Materials: Requirements for Cargo Tanks	2137-AC90
2526	+ Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service	2137-AD07
2527	Hazardous Materials: Revisions to Standards for Infectious Substances	2137-AD13
2528	Transportation of Hazardous Materials; Miscellaneous Amendments	2137-AD16
2529	+ Hazardous Materials Transportation: Registration and Fee Assessment Program	2137-AD17
2530	Hazardous Materials: Revision and Consolidation of Requirements for Carriage by Rail Car and Motor Vehicle	2137-AD19
2531	Pipeline Safety: Enforcement Procedures	2137-AD22
2532	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1998)	2137-AD23
2533	Pipeline Safety: Corrosion Control on Gas and Hazardous Liquid Pipelines	2137-AD24
2534	Pipeline Safety: Gas and Hazardous Liquid Pipeline Repair	2137-AD25
2535	Pipeline Safety: Pressure Testing Older Pipelines in Terminals	2137-AD26
2536	Hazardous Materials: Hazard Communication Requirements— Petitions for Rulemaking and Miscellaneous Amendments	2137-AD28
2537	Hazardous Materials: Revised and Clarified Hazardous Materials Exemptions Procedures	2137-AD30

+ DOT-designated significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2538	Quantity Limitations Aboard Aircraft	2137-AA85
2539	+ Pipeline Safety: Qualification of Pipeline Personnel	2137-AB38
2540	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2541	Passage of Internal Inspection Devices	2137-AB71
2542	Pipeline Safety: Adoption of Industry Standards for Breakout Tanks	2137-AC11
2543	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements	2137-AC24
2544	+ Response Plans for Onshore Oil Pipelines	2137-AC30
2545	Filling of Propane Cylinders	2137-AC86
2546	+ Prohibition of Oxidizers Aboard Aircraft	2137-AC92
2547	Pipeline Safety: Adoption of Industry Standards for Liquefied Natural Gas Facilities	2137-AD11
2548	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures	2137-AD20

+ DOT-designated significant regulation.

Research and Special Programs Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2549	+ Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2550	+ Safeguarding Food From Contamination During Transportation	2137-AC00
2551	Regulated Gas and Hazardous Liquid Gathering Lines	2137-AC53
2552	Retention of Shipping Papers	2137-AC64
2553	Further Regulatory Review; Gas Pipeline Safety Standards	2137-AD01
2554	+ Pipeline Safety: Recommendations To Change Hazardous Liquid Pipeline Safety Standards	2137-AD10
2555	1998 Harmonization of Hazardous Materials Regulations With International Standards	2137-AD15

+ DOT-designated significant regulation.

DOT

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2556	Hazardous Materials: Labeling Requirements for Poisonous Materials	2137-AC47
2557	+ Risk-Based Alternative to Pressure Testing Rule	2137-AC78
2558	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1997)	2137-AD03
2559	Hazardous Materials: Editorial Corrections and Clarifications	2137-AD27
2560	Hazardous Materials: Authorization for Continued Manufacture of Certain MC-331 Cargo Tank Motor Vehicles With Specified Shortages	2137-AD31

+ DOT-designated significant regulation.

Maritime Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2561	+ Eligibility of U.S.-Flag Vessels of 100 Feet or Greater To Obtain Commercial Fisheries Documents	2133-AB38

+ DOT-designated significant regulation.

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2562	Putting Customers First in the Title XI Program: Ship Financing Guarantees	2133-AB32
2563	+ Cargo Preference Regulations—Carriage of Agricultural Exports	2133-AB37

+ DOT-designated significant regulation.

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2564	Approval of Certain Transactions Before Vessel Documentation	2133-AB30
2565	Use of Brokerage Firms as Depositories Under the Capital Construction Fund Program	2133-AB35
2566	Approval of Underwriters for Marine Hull Insurance	2133-AB36

Bureau of Transportation Statistics—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2567	Modernizing the Passenger Origin-Destination Survey	2139-AA01

Bureau of Transportation Statistics—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2568	Modernizing the Motor Carriers of Property Financial Data Collections	2139-AA05

DOT

Bureau of Transportation Statistics—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2569	+ Amendments to the On-Time Disclosure Rule	2139-AA00

+ DOT-designated significant regulation.

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

2073. DOMESTIC BAGGAGE LIABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101 et seq

CFR Citation: 14 CFR 254.4; 14 CFR 254.5

Legal Deadline: None

Abstract: The Department is proposing to amend its rule governing the amount by which certain U.S. air carriers may limit their liability to passengers for lost, damaged, and delayed baggage. This action is in response to a petition by Public Citizen and Aviation Consumer Action Project to increase the minimum liability limit from $1,250 to $1,850 per passenger. The Department is also requesting comment on two alternate proposals: (1) to raise the limit to $1,850 with a mechanism that automatically provides for periodic future increases, or (2) to raise the minimum liability limit to $2,000. On May 1, 1998, the Aviation Consumer Action Project filed a supplemental petition for a higher limitation that would be periodically updated for inflation.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 49867
NPRM Comment Period End	11/29/94	
Comment Period Extended	11/29/94	59 FR 60926
Notice Summarizing Aggregated Data	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Carrier data was due 11/29/94. The comment period would end 30 days after the data has been aggregated and placed in the docket.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC07

2074. +UPDATE OF DRUG AND ALCOHOL PROCEDURAL RULES (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The Department is reviewing its procedural rules for drug and alcohol testing. This review is intended to lead to a notice of proposed rulemaking that will not include major substantive changes to how we test but rather to update and clarify provisions of the rules. This ANPRM asked for suggestions for possible changes to the regulation and the focus is expected to be on drug testing. As part of this action, a small entities review under 5 USC section 610 will be included.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/96	61 FR 18713
ANPRM Comment Period End	07/29/96	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: This change would apply to regulated parties through each of the six DOT operating administrations' rules (FAA, FHWA, FTA, FRA, USCG, and RSPA). It is expected that the NPRM to be issued in this action will withdraw an NPRM in a related action, RIN 2105-AB71, Procedures for Transportation Workplace Drug-Testing Programs.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC49

2075. +COMPUTER RESERVATIONS SYSTEM REGULATIONS COMPREHENSIVE REVIEW

Priority: Other Significant

Legal Authority: 49 USC 41712; 49 USC 40101(a); 49 USC 40113(a); 49 USC 40105

CFR Citation: 14 CFR 255

Legal Deadline:
Final, Statutory, December 31, 1997.

Abstract: The Department regulates computer reservations systems owned by airlines or airline affiliates that are used by travel agencies. The current rules are designed to prevent the systems from unreasonably prejudicing the competitive position of other airlines and to ensure that travel agencies can provide accurate and unbiased information to the public. The Department is reexamining its rules to see whether they should be readopted and, if so, whether they should be changed. As part of this action, we will

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be looking at ways to lessen impacts on small entities.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/97	62 FR 47606
Notice Extending Comment Period	10/30/97	62 FR 58700
Request for Comments	11/07/97	62 FR 60195
ANPRM Comment Period End	11/10/97	
Extended Comment Period End	12/09/97	
Notice Extending Reply Comment Period	01/23/98	63 FR 3491
Extended Comment Period End	02/03/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731
Fax: 202 366-7152

RIN: 2105–AC65

2076. AMENDMENT TO TRAFFIC RESTRICTIONS TO NORTH KOREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 1653; 50 USC app 2154; 50 USC app 2071; EO 12919

CFR Citation: 44 CFR 403; 49 CFR 1

Legal Deadline: None

Abstract: The Departments of Commerce and Transportation are proposing to amend their restrictions on shipping to North Korea. Currently, United States ships and aircraft are prohibited from traveling to or transporting goods to, or destined for, North Korea. In view of the U.S. policy to facilitate the gradual improvement of relations with North Korea, the two departments are proposing to provide for waivers under narrowly defined circumstances such as shipments for humanitarian relief. Shipments such as routine commercial trade would remain prohibited. This action includes a delegation of authority from the Secretary of Transportation to the Assistant Secretary of Transportation for Aviation and International Affairs to grant waivers of these restrictions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff D. Rupp, Office of the General Counsel for International Law, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20593
Phone: 202 366-2972

RIN: 2105–AC70

2077. +AVIATION DATA REQUIREMENTS REVIEW AND MODERNIZATION PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 41101; 49 USC 41708; 49 USC 41709; 49 USC 41301; 49 USC 41501; 49 USC 41701

CFR Citation: 14 CFR 234; 14 CFR 241; 14 CFR 250; 14 CFR 298; 14 CFR 374a

Legal Deadline: None

Abstract: The Department is instituting an aviation data requirements review and modernization program. The review is designed to harmonize the Department's aviation data systems with current regulatory and statutory needs; improve the quality of the Department's aviation databases; and eliminate obsolete data reporting and processing systems. This is the first step in an outreach program to review aviation data collected by the Department and the measures that should be taken to modernize and improve aviation data reporting and processing systems. The Department is soliciting public comments from aviation data users on the nature, scope, source, and means for collecting, processing, and distributing airline traffic, fare, and financial data. Specifically, the Department is inviting comments to determine whether existing aviation data should be amended, supplemented, or replaced; whether selected forms and reports should be retained, modified, or eliminated; whether the Department should require all aviation data to be filed electronically; and how the aviation data system should be reengineered to enhance efficiency and to reduce costs for both the Department and airline industry. This action is significant due to substantial public and industry interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/98	63 FR 38128
ANPRM Comment Period End	09/14/98	
Reply Comment Period End	10/13/98	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Regis P. Milan, Chief, Economic and Financial Analysis Division, X-55, Office of Aviation Analysis, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2344
Fax: 202 366-7638

RIN: 2105–AC71

2078. FILING PERIODS FOR RESPONSIVE PLEADINGS; RULES OF PRACTICE IN AVIATION ECONOMIC PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5111; 39 USC 5402; 42 USC 4321; 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701; 49 USC 41901; 49 USC 46101; 49 USC 46301

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This action stems from an NPRM to revise rules of practice in aviation economic proceedings published 2/3/97 (63 FR 5094) RIN 2105-AC48. The Department received a number of comments seeking changes in filing periods for responsive pleadings to various types of applications. Based on comments there will be a reevaluation of the time periods for filing documents. Since changes in the time periods were outside the scope of the original notice, a supplemental notice will be published on this narrow question.

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Timetable:

Action	Date	FR Cite
SNPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC73

2079. • +PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN AIRPORT CONCESSIONS

Priority: Other Significant

Legal Authority: PL 102-581; PL 97-248

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This action would implement changes to the Airport and Airway Improvement Act to allow airport sponsors to count new forms of disadvantaged business enterprise (DBE) participation toward the overall goals of a DBE concession plan. These new forms include purchases from DBEs of goods and services used in operating a concession, as well as management contracts and subcontracts with DBEs. This action was initially begun in an NPRM 10/6/93, 58 FR 52050, RIN 2105-AB99. It was then combined in the DBE general update. However, when the general update rule was published 2/2/99, 64 FR 5096, RIN 2105-AB92, the airport concessions issue was once again separated. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC76

2080. • COMPENSATION FOR DAMAGE OF EXPENSIVE MOBILITY AIDS IN AIR TRAVEL

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41702; 49 USC 41705; 49 USC 41712

CFR Citation: 14 CFR 382; 14 CFR 254

Legal Deadline: None

Abstract: This action would amend rules implementing the Air Carrier Access Act of 1986 to lift an existing cap on the amount of compensation airlines would have to pay to passengers for loss or damage of their wheelchairs and other mobility devices. It is intended to provide additional relief to passengers using expensive mobility aids when those aids are seriously damaged or destroyed in the course of airline travel.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC77

DEPARTMENT OF TRANSPORTATION (DOT)

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2081. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This action proposed to make direct air carriers responsible for returning charter passengers stranded by strikes or other service interruptions, by eliminating the force majeure clause from charter contracts. However, the CAB subsequently issued an interpretive rule (ER-1387, 49 FR 33436) which was affirmed in court. (Arrow Air, Inc. v. Dole, 784 F2d 1118 (1986)) Therefore, this action is now moot; the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: EDR 405, Docket 37169.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA40

2082. AIR TRAVELERS: AGE DISCRIMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376

Legal Deadline: None

Abstract: This rulemaking action was initiated by the Civil Aeronautics Board to implement the Age Discrimination Act of 1975. A draft final rule was submitted to HHS, as required by that Act, and was approved. However, in

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view of current airline practices with respect to travel by the elderly, and the absence of complaints of discrimination based on age, there no longer appears to be a need for further rulemaking action, and the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule With Changes	07/13/84	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA45

2083. DIRECT FLIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA73

2084. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given to passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is withdrawing the NPRM as unnecessary since it appears that carriers no longer have the policies that promoted the CAB's concern.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601. Docket 41683, EDR 468/PSDR-81.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA78

2085. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA82

2086. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481 to 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed

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to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41690; EDR-477.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA84

2087. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International, and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. A CAB NPRM proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted, and whether a smoking notice should be included. DOT decided not to act on these "counter signs" separately, but rather to consider whether there should be a comprehensive re-examination of all forms of notice to passengers, including notices on tickets. This NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41971; EDR-474

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA88

2088. +PRICE ADVERTISING

Priority: Other Significant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380; 14 CFR 399

Legal Deadline: None

Abstract: The Department proposed in 1989 to amend its rule and policy statement with respect to air transportation price advertising. This rulemaking is significant because of substantial public interest. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
Extended Comment Period End 9/25/89	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 07/26/89, 54 FR 31052

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB50

2089. +NEW RESTRICTIONS ON LOBBYING

Priority: Other Significant

Legal Authority: 49 USC 322(a); 31 USC 1352

CFR Citation: 49 CFR 20

Legal Deadline:
Final, Statutory, March 22, 1990.

Abstract: This regulation will implement the provisions of a new section 1352 to title 31, United States Code, that prohibits the use of appropriated funds to influence certain Federal contracting and financial transactions. Organizations that use their own funds to pay for lobbying activities are required to disclose such activity. Guidance was issued by the Office of Management and Budget 12/20/89 (54 FR 52305). Additional OMB guidance based on changes to section 1352 in the Lobbying Disclosure Act of 1995 was published 1/19/96 (61 FR 1412). This action is considered significant because it involves agencies or departments governmentwide.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Comment Period End	04/27/90	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: OMB has control of development of the final rule.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-

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62, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AB57

2090. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The NPRM in 1990 concerned the question of to whom reports of negative drug test results may be sent. It will be formally withdrawn when the Department issues an NPRM under RIN 2105-AC49, Update of Drug and Alcohol Procedural Rules. This action is significant because of substantial public and congressional interest, and multimodal impact.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A small entities review under section 5 USC 610 will be conducted as part of the action being taken under a similar rulemaking title, RIN 2105-AC49, for which an ANPRM was published 4/29/96 (61 FR 18713).

ANALYSIS: Regulatory Evaluation, 07/13/90, 55 FR 28782

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB71

2091. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 19

Legal Deadline: None

Abstract: This action implements OMB Circular A-110, providing uniform guidance for administering grants to institutions of higher education, hospitals, and other nonprofit organizations. The regulation is essentially a word-for-word issuance of the requirements in OMB Circular A-110. An interim final rule was issued because of the limited ability to change the requirements from those in the Circular.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/04/94	59 FR 15637
Comment Period End	06/03/94	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC02

2092. USE OF DIRECT FINAL RULEMAKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1657

CFR Citation: 49 CFR 5.21; 49 CFR 5.35

Legal Deadline: None

Abstract: The Department is considering a new rulemaking procedure to expedite the processing of noncontroversial changes to its regulations. Rules that the Secretary judges to be unlikely to result in public comment would be published as "direct final" rules. Such direct final rules would advise the public that no adverse comment is anticipated and that, unless written adverse comment or notice of intent to submit such comment is received within a specified number of days, the rule will become effective 60 days from the date of publication in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39919
NPRM Comment Period End	10/03/95	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC11

2093. OVERBOOKING OF FLIGHTS: ELIMINATION OF AIRPORT NOTICE SIGNS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 401; 49 USC 411; 49 USC 413; 49 USC 417

CFR Citation: 14 CFR 250

Legal Deadline: None

Abstract: This action would eliminate a consumer notice about airline overbooking of flights that is required to appear on signs at airports, city ticket offices, and travel agencies. However, that information would be available to consumers because it must accompany every ticket.

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Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27818
NPRM Comment Period End	07/18/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Other rulemakings: RIN 2105-AA88, Simplified Airline Counter-Sign Notices, and RIN 2105-AC36, Ticketless Travel: Passenger Notices.

Agency Contact: Tim Kelly, Aviation Consumer Protection Division, Office of the General Counsel, C-75, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5952

RIN: 2105–AC45

2094. FEES AND CHARGES FOR SPECIAL SERVICES: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 9701; 49 USC 40101; 49 USC 46101

CFR Citation: 14 CFR 389

Legal Deadline: None

Abstract: This action would remove or update obsolete provisions and organizational references, and adjust the fee schedule for certain special services related to aviation economic proceedings that the Department makes available to the public. The regulation has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 389.

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3229
NPRM Comment Period End	03/22/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John Miller, Analyst, Planning and Special Projects Office, X-60, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4868

RIN: 2105–AC47

2095. RULES OF PRACTICE IN AVIATION ECONOMIC PROCEEDINGS: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 511; 39 USC 5402; 42 USC 4321; 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701; 49 USC 41901; 49 USC 46101; 49 USC 46301

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This action would reorganize in a more logical fashion, regulations that govern the conduct of all aviation economic proceedings before the Department. It would also streamline the regulation to remove redundancies. Procedures relating only to oral evidentiary hearings are being grouped together separate from procedures pertaining only to non-hearing cases. Updates to terminology will be made to reflect the revision and recodification of the Federal Aviation Act. This rule has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 302. In response to the NPRM, comments were received. They seek changes in the filing periods for responsive pleadings to various types of applications. Since these were outside the scope of the original notice, a supplemental notice will be issued. See RIN 2105-AC73.

Timetable:

Action	Date	FR Cite
NPRM	02/03/97	62 FR 5094
NPRM Comment Period End	04/04/97	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Garol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC48

2096. AMENDMENTS TO MODAL ALCOHOL TESTING RULES: PRE-EMPLOYMENT TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 121; 49 CFR 219; 49 CFR 382; 49 CFR 653; 49 CFR 654

Legal Deadline: None

Abstract: This rule would implement a recent statutory change required by the National Highway Systems Act of 1995, section 342, to the existing pre-employment alcohol testing provisions. It would make pre-employment testing voluntary for employers.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21149
NPRM Comment Period End	07/08/96	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action involves four operating administrations: FAA, FHWA, FTA, and FRA. On May 10, 1995 (60 FR 24765), DOT suspended its pre-employment alcohol testing requirements after a court decision vacated the requirements of the FHWA alcohol testing rule.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590

DOT—OST **Final Rule Stage**

Phone: 202 366-9306

RIN: 2105–AC50

2097. PASSENGER TARIFF-FILING REQUIREMENTS EXEMPTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 41504; 49 USC 41701; 49 USC 41707 to 41709; 49 USC 41712; 49 USC 46101

CFR Citation: 14 CFR 221; 14 CFR 156(j)

Legal Deadline: None

Abstract: This action would exempt U.S. and foreign air carriers from the statutory and regulatory duty to file with DOT international passenger tariffs in certain instances subject to the reimposition of the duty in specific cases when consistent with the public interest. In addition, the Department proposes to reissue a new version of part 221 that eliminates most of the traditional paper format and filing procedures set forth in the present version.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 10758
NPRM Comment Period End	05/09/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 03/10/97, 62 FR 10758

Agency Contact: John H. Kiser, Chief, Pricing and Multilateral Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2435

RIN: 2105–AC61

2098. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS: COMMON RULE

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7501 to 7507

CFR Citation: 49 CFR 18.26; 49 CFR 19.26; 49 CFR 322(a)

Legal Deadline: None

Abstract: The Department is participating in a voluntary Governmentwide common regulatory effort to amend its regulations because OMB amended its circular A-133 regarding audits of States, local governments, and non-profit organizations, and also rescinded its circular A-128. OMB made these changes to comply with the Single Audit Act Amendments of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Comment Period End	10/28/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The interim final rule was required to be published not later than 60 days from June 30, 1997, the date of publication of OMB's notice of revision of OMB circular A-133 and rescission of circular A-128.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC66

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Long-Term Actions

2099. POLICY STATEMENT ON AIRLINE PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41713

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Civil Aeronautics Board in 1979 issued an interim Policy Statement on preemption. It discusses the policy of the Department with respect to three areas in which State law has been preempted by the Airline Deregulation Act of 1978: regulation of commuter air carriers and air taxis, the rights of airport proprietors, and general State authority as it directly or indirectly affects air transportation competition. The Supreme Court subsequently ruled that section 105 of the ADA preempts even indirect State regulation that "has a connection with or reference to" airline rates, routes, or services. Recently the Supreme Court issued another decision on this provision of the law, ruling that it does not preempt State contract law with respect to interpretation and enforcement of agreements voluntarily entered into by air carriers. The Department is considering the effect of these two holdings on the future course and content of the Policy Statement and whether there is a need for such a policy statement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for Comments on Interim Rule	02/15/79	44 FR 9953
Comment Period End	04/16/79	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: PSDR-56, Docket 34684 The 1995 decision issued by the Supreme Court is American Airlines v. Wolens (S. Ct. No. 93-1286).

Agency Contact: Paul Smith, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9285

RIN: 2105–AA46

DOT—OST

Long-Term Actions

2100. +STATEMENT OF ENFORCEMENT POLICY ON REBATING

Priority: Other Significant

Legal Authority: 5 USC 601; 49 USC 1301 to 1302; 49 USC 1305; 49 USC 1324(a); 49 USC 1371 to 1379; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
Extended Comment Period End 2/21/89	02/03/89	54 FR 5497
Correction	02/10/89	54 FR 6475
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 10/21/88, 53 FR 41353

Agency Contact: Betsy Wolf, Senior Trial Attorney, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9349

RIN: 2105–AB39

2101. SMOKING ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1386; PL 101-164

CFR Citation: 14 CFR 252

Legal Deadline: None

Abstract: This interim final rule amends the rules governing smoking aboard aircraft to incorporate a statutory ban on smoking aboard most U.S. flight segments. The statutory ban applies to both U.S. and foreign air carriers. This rulemaking proposed to clarify the current rule and make other minor changes. The interim final rule was significant because of substantial public interest. The present action would merely finalize that already taken and is, therefore, not considered significant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/90	55 FR 4991
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The interim final rule was effective 02/25/90; the comments were due by 04/16/90.

ANALYSIS: Regulatory Evaluation, 02/13/90, 55 FR 4991

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB58

2102. +ACCESSIBILITY OF PASSENGER VESSELS TO INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 42 USC 12101 et seq; PL 101-336, Americans with Disabilities Act

CFR Citation: 49 CFR 37

Legal Deadline: None

Abstract: The Department's Americans with Disabilities Act (ADA) final rule, published September 6, 1991 (56 FR 45584), reserved portions of the rule concerning passenger vessels. The ADA covers passenger vessels, but issuing accessibility requirements for vessels involves complex issues unlike those affecting land transportation. This action will address these issues and propose feasible requirements to make passenger vessels accessible to, and usable by, individuals with disabilities. DOT is participating in an ongoing advisory committee effort convened by the Access Board to study passenger vessel accessibility issues. September and November 1998 meetings were held. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB87

2103. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (ACCESSIBILITY GUIDELINES)

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: This action would amend the rules implementing the Americans with Disabilities Act by adopting the revised accessibility guidelines issued by the Architectural and Transportation Barriers Compliance Board, published June 20, 1994 (59 FR 31676) as interim final rules. The proposed rule would also conform the Department's rule implementing section 504 of the Rehabilitation Act of 1973. Further DOT action is pending ATBCB/Justice Department action. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31818
NPRM Comment Period End	08/19/94	
Next Action Undetermined		

DOT—OST

Long-Term Actions

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC06

2104. USE OF OXYGEN BY AIR CARRIER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41705

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is considering the use of regulatory negotiation to seek consensus among air carriers, consumers, airports, equipment manufacturers, oxygen suppliers, and safety regulators concerning the use of oxygen by passengers on air carriers when individuals need special private supplies. The need for action stems from a current situation where all carriers do not allow passengers to bring their own oxygen aboard. Issues involve conformance with RSPA and FAA hazardous materials rules and the question of providing oxygen during long layovers. The Department is considering whether to begin a regulatory negotiation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC29

2105. +DOMESTIC PASSENGER MANIFEST INFORMATION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 40101; 49 USC 40113 to 40114; 49 USC 41702; 49 USC 41708 to 41709; 49 USC 41711; 49 USC 46301; 49 USC 46310; 49 USC 46316

CFR Citation: 14 CFR 243

Legal Deadline: None

Abstract: This notice requested comments concerning operational and cost issues related to U.S. air carriers collecting information such as full name, date of birth and/or social security number, emergency contact and telephone number from passengers traveling on flights within the United States. This notice was issued on the Department's initiative in response to difficulties with notification in the aftermath of domestic aviation disasters and to comply with a recommendation contained in the initial report of the White House Commission on Aviation Safety and Security (1996) that urged the Department to explore immediately the costs and effects of a comprehensive passenger manifest requirement on the domestic aviation system. DOT will review the implementation of the international passenger manifest requirements (RIN 2105-AC78, 2/18/98, 63 FR 8258) as it determines how to proceed with this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11789
ANPRM Comment Period End	05/12/97	
Comment Period Reopened	05/30/97	62 FR 29313
Comment Period End	06/20/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Gaillard, Director, Office of International Transportation and Trade, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4368

RIN: 2105–AC62

2106. +ENFORCEMENT POLICY: UNFAIR EXCLUSIONARY CONDUCT IN THE AIR TRANSPORTATION INDUSTRY

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This proposed statement was developed in consultation with the Department of Justice and sets forth tentative findings and guidelines for use by DOT in evaluating whether major air carriers' competitive responses to new entry warrant enforcement action. This action is significant because it is a major policy initiative of the Department.

Timetable:

Action	Date	FR Cite
Request for Comments	04/10/98	63 FR 17919
Comment Period Extended	05/21/98	63 FR 28021
Comment Period End	06/09/98	
Extended Comment Period End	07/24/98	
Reply Comment Period End	09/08/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jim Craun, Director, Office of the Assistant Secretary for Aviation and International Affairs, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1053

RIN: 2105–AC72

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Completed Actions

2107. +DISADVANTAGED BUSINESS ENTERPRISE (DBE) REGULATION; GENERAL UPDATE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Intermodal Surface Transportation Efficiency Act; PL 102-240; 49 USC 47017(e); 49 USC 47113

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This rule revises the Department's regulations for the disadvantaged business enterprise program to clarify regulatory provisions and revise program elements in light of experience in administering the program since 1980 and the Administration's review of affirmative action programs. The rule meets legal requirements for narrow tailoring of affirmative action programs, responds to concerns of Congress and the public, increases flexibility and improves efficiency in the administration of the DBE program. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/09/92	57 FR 58288
Extended NPRM Comment Period End 4/8/93	03/03/93	58 FR 12207
NPRM Comment Period End	03/09/93	
SNPRM	05/30/97	62 FR 29548
SNPRM Comment Period Extended	07/18/97	62 FR 38952
Extended SNPRM Comment Period End	09/29/97	
Final Action	02/02/99	64 FR 5096
Final Action Effective	03/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: This action addresses the requirements of the Supreme Court's Adarand v. Pena decision. A related RIN 2105-AB99, concerning Airport Concessions had a statutory deadline of 4/30/93 for a final rule. Its legal authority came from PL 102-581 and PL 97-248. An NPRM had been issued on 10/6/93 58 FR 52050). It was combined with this action in the October 29, 1997 Agenda. However, the airport concessions issue has again been separated and will be addressed in a new RIN 2105-AC76.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB92

2108. +DISCLOSURE OF CODE-SHARING ARRANGEMENTS AND LONG-TERM WET LEASES

Priority: Other Significant

Legal Authority: 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 257

Legal Deadline: None

Abstract: The action strengthens the Department's current rules requiring airlines to notify passengers of a code-sharing arrangement or long-term wet lease on domestic and international flights. These arrangements can offer significant economic benefits. However, they can also confuse and mislead customers. When selecting, purchasing, and completing trips, consumers will be better informed of the fact that the airline operating the aircraft will be different from the airline selling the ticket. Consumers will also be informed of the identity of the airline operating the aircraft including the corporate name. This regulation now applies directly to travel agents and foreign air carriers. This is significant because of congressional and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	08/10/94	59 FR 40836
NPRM Comment Period End	10/11/94	
SNPRM	01/17/95	60 FR 3359
SNPRM Comment Period End	02/16/95	
Final Action	03/15/99	64 FR 12838
Final Action Effective	07/13/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See related action, Disclosure of Change-of-Gauge Services, RIN 2105-AC17.

ANALYSIS: Regulatory Evaluation, 03/15/99, 64 FR 12838

Agency Contact: Laura Trejo, Attorney Advisor, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9183

RIN: 2105–AC10

2109. DISCLOSURE OF CHANGE-OF-GAUGE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41712

CFR Citation: 14 CFR 257

Legal Deadline: None

Abstract: This action codifies and augments current disclosure requirements for itineraries with one flight number that involve a change of aircraft. The problem is that passengers may be misled to believe they are receiving nonstop service because there is only one flight number when in fact they have to change planes. The requirements, which would apply to U.S. air carriers, foreign air carriers, and, where appropriate, ticket agents (including travel agents) doing business in the United States are: (1) that transporting carriers include notice of aircraft changes in their written or electronic schedule information provided to the public, in the Official Airline Guide, and in computer reservation systems; (2) that consumers be given reasonable and timely oral notice that a single flight number that they are considering booking entails a change of aircraft en route; and (3) that written notice of the aircraft change be provided along with each ticket. This proposal, in part, responds to the petition of American Airlines in Docket 47546.

Timetable:

Action	Date	FR Cite
NPRM	01/19/95	60 FR 3778
NPRM Comment Period End	03/20/95	
Final Action	03/15/99	64 FR 12854
Final Action Effective	07/13/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

DOT—OST **Completed Actions**

Additional Information: See related action, Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases, RIN 2105-AC10.

ANALYSIS: Regulatory Evaluation, 03/15/99, 64 FR 12854

Agency Contact: Betsy L. Wolf, Senior Trial Attorney, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9356

RIN: 2105–AC17

2110. • AMENDMENTS TO OPIATE THRESHOLD LEVELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC app 1301 note; 49 USC 102; 49 USC 301; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This final rule makes conforming changes to the Department's drug testing procedures to incorporate changes made by the Department of Health and Human Services (DHHS) in the threshold levels of opiates. The amendments raise the opiate threshold level from 300 to 2,000 nanograms per milliliter. The current opiate testing cutoff levels used by laboratories are identifying too many individuals who are not opiate abusers. The final rule also establishes a new requirement to test for a metabolite that comes only from heroin. This is an effort to shift the emphasis of testing for opiates back to the proper deterrence and detection of heroin use.

Timetable:

Action	Date	FR Cite
Final Action	11/25/98	63 FR 65128
Final Action Effective	12/01/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Department determined that the opportunity for prior notice and comment was unnecessary, impractical and contrary to public interest since DHHS solicited and responded to public comment on identical provisions. Legal Deadline: DHHS amended its Mandatory Guidelines for Federal Workplace Testing Programs to change the opiate testing levels, with an implementation date of December 1, 1998. The Department's drug testing procedures are to remain consistent with the DHHS Guidelines, as Congress provided in the Omnibus Transportation Employee Testing Act of 1991.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC74

2111. • SECOND EXTENSION OF COMPUTER RESERVATIONS SYSTEM RULES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101; 49 USC 40102; 49 USC 40105; 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 255

Legal Deadline: None

Abstract: This action extends the expiration date of DOT's rules regulating computer reservations systems owned by airlines or airline affiliates that are used by travel agencies from March 31, 1999 to March 31, 2000. The Department is conducting a reexamination of the rules to see whether they should be continued or modified. That action is being taken under RIN 2105-AC65. The extension is necessary so that the current rules will remain in force.

Timetable:

Action	Date	FR Cite
NPRM	02/26/99	64 FR 9457
NPRM Comment Period End	03/12/99	
Final Action	03/30/99	64 FR 15127
Final Action Effective	03/31/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: An earlier extension from December 31, 1997 to March 31, 1999 was published 12/18/97, 62 FR 66272, under RIN 2105-AC67.

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731
Fax: 202 366-7152

RIN: 2105–AC75

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG) **Prerule Stage**

2112. • +IMPROVEMENTS TO MARITIME SAFETY PUGET SOUND-AREA WATERS (USCG-1998-4501)

Priority: Other Significant

Legal Authority: 33 USC 1223 to 1224

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: The Coast Guard seeks public comments on potential rules that would improve maritime safety in Puget Sound-Area waters including Puget Sound, the Strait of Juan de Fuca, passages around and through the San Juan Islands, and the Olympic Coast National Marine Sanctuary. Based on a recent determination by the Secretary of Transportation regarding the status of maritime safety in the Puget Sound-area, the Coast Guard has initiated a comprehensive cost-benefit analysis to study the feasibility of implementing new safety measures, including extended tug escort requirements and a dedicated response vessel. Public input will help focus this cost-benefit analysis and develop any future proposed rules, if deemed necessary. This rulemaking supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protection of natural resources. This is a significant action due to substantial public interest.

DOT—USCG

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	11/24/98	63 FR 64937
ANPRM Comment Period End	05/24/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: CDR T. M. Close, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0177

RIN: 2115–AF68

2113. • SAFETY OF UNINSPECTED PASSENGER VESSELS UNDER THE PASSENGER VESSEL SAFETY ACT OF 1993 (USCG-1999-5040)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2101; 46 USC 2113; 46 USC 3306; 46 USC 4105

CFR Citation: 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183; 46 CFR 10; 46 CFR 15; 46 CFR 24 to 28; 46 CFR 70; 46 CFR 169; 46 CFR 175

Legal Deadline: None

Abstract: This rulemaking implements the Passenger Vessel Safety Act (PVSA) (Pub. L. 103-206) by amending the rules for Uninspected Passenger Vessels (UPVs). Specifically, the Coast Guard is considering amending existing UPV definitions to create a new class of UPV of at least 100 gross tons carrying not more that 12 passengers. The Coast Guard is considering operating, equipment, licensing and special permit application requirements appropriate for the new class of vessel. The Coast Guard is also considering adding definitions of "passenger," "passenger for hire," and "consideration" to bring its rules into conformity with the PVSA. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Keith B. Janssen, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1055

RIN: 2115–AF69

2114. • CERTIFICATION OF NAVIGATION LIGHTS ON RECREATIONAL VESSELS (CGD 97-060)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2071; 33 USC 1602

CFR Citation: 33 CFR 84; 46 CFR 111

Legal Deadline: None

Abstract: This project will place navigation lights for recreational and uninspected vessels under regulatory control similar to that already in place for inspected vessels. Specifically, the rule will propose regulations requiring certification that navigation lights are in compliance with the Navigation Rules specifications, as evidenced by laboratory testing to a performance standard; this level of control is currently in place for all other items of safety equipment. This action is in accordance with recommendations made by the National Boating Safety Advisory Council (NBSAC), and the National Association of Boating Law Administrators (NASBLA). This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Randolph J. Doubt, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Steet SW., Washington, DC 20593-0001
Phone: 202 267-6810

RIN: 2115–AF70

2115. • BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL (USCG-1999-5117)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151

Legal Deadline: None

Abstract: This rulemaking project will update the regulations for barges carrying bulk hazardous material to account for modernization of the industry. The current regulations for barges carrying bulk liquid hazardous materials were originally published in 1970. Over the past three decades, technology has advanced and industry practices have changed. This project will first ask for public comment to identify the rules which need to be updated. Once those rules are identified, the project will propose appropriate revisions to the Code of Federal Regulations. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Felleisen, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0085

RIN: 2115–AF77

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Proposed Rule Stage

2116. VESSEL IDENTIFICATION SYSTEM (CGD 89-050)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 12501

CFR Citation: 33 CFR 187

Legal Deadline: None

Abstract: 46 U.S.C. 12501 requires the Secretary of Transportation to establish a Vessel Identification System (VIS). This rulemaking prescribes the manner and form for participating States to make information available for VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines. This rulemaking supports the Coast Guard's strategic goal of mobility of commercial and recreational vessels.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358
Comment Period End	12/14/89	
NPRM	10/05/93	58 FR 51920
Correction	10/15/93	58 FR 53624
Comment Period End	01/03/94	
Reopening of Comment Period	02/24/94	59 FR 8881
Comment Period End	03/28/94	
Interim Rule	04/25/95	60 FR 20310
Comment Period End	07/24/95	
Reopening of Comment Period	10/17/95	60 FR 53727
Comment Period End	12/31/95	
Interim Rule Change in Effective Date	02/23/96	61 FR 6943
Interim Rule Re-Opening of Comment Period	10/20/97	62 FR 54385
Interim Rule Change in Effective Date	04/21/98	63 FR 19657
SNPRM	04/00/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The effective date of April 24, 1996, applies to all provisions in this interim final rule other than 33 CFR part 187, subpart D, which is suspended through April 24, 1999. The change in effective date of the interim final rule was published April 21, 1998, 63 FR 19657

ANALYSIS: Regulatory Evaluation, 10/05/93, 58 FR 51920

Agency Contact: ENS Brian Ly, Project Manager, G-MRI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0452

RIN: 2115–AD35

2117. REPORTING MARINE CASUALTIES (CGD 91-216)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101; 33 USC 1901 et seq

CFR Citation: 33 CFR 151; 46 CFR 4

Legal Deadline: None

Abstract: This action would add to the definition of a reportable marine casualty "significant harm to the environment." Some casualty reporting requirements are extended to include foreign tank vessels operating in U.S. waters, including the exclusive economic zone. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the consequence of pollution incidents and further supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Notice of Meeting; Request for Comments	12/20/94	59 FR 65522
Comment Period End	02/20/95	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LT Glen Mine, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1100

RIN: 2115–AD98

2118. +FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1321(j); PL 101-380

CFR Citation: 33 CFR 154

Legal Deadline: None

Abstract: This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. A separate rulemaking under RIN 2115-AE88 would address hazardous response plan requirements for tank vessels. This project supports Coast Guard strategic goals of marine safety and protection of the marine environment by reducing the amount of chemicals entering the environment, as well as reducing the consequence of pollution incidents. This action is considered significant because of substantial public and industry interest.

Statement of Need: This rulemaking is intended to reduce the impact from hazardous substance spills from vessels and marine transportation-related facilities.

Summary of the Legal Basis: Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although section 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under 33 U.S.C. 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 84 hazardous substances currently carried in bulk by vessels, and transferred to or from marine transportation-related facilities.

Alternatives: The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the

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appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For facilities, a "worst case discharge" is "the largest foreseeable discharge in adverse weather conditions."

Anticipated Costs and Benefits: The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk of human exposure and enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances. The draft analysis indicates that this project will not be economically significant. A regulatory assessment addressing costs and benefits of this rule will be available in the public docket when the NPRM is published.

Risks: Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of facilities involved in transferring hazardous substances in bulk or have a significant impact on the volume of hazardous substances shipped by marine transportation-related facilities. Most facilities involved in transferring hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Public hearings regarding this rulemaking were held in Washington, DC on July 30, 1996; Houston, TX on August 5, 1996; and in Houston, TX on February 26 and 27, 1997.

Agency Contact: LT Michael Roldan, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0756

RIN: 2115–AE87

2119. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-032) (USCG-1998-4354)

Priority: Other Significant

Legal Authority: 33 USC 1231; 33 USC 1321(j); PL 101-380

CFR Citation: 33 CFR 155

Legal Deadline: None

Abstract: This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the U.S. that carry bulk hazardous substances. A separate rulemaking under RIN 2115-AE87 would address hazardous substances response plan requirements for marine transportation-related facilities. This project supports Coast Guard strategic goals by reducing the amount of chemicals entering the environment, as well as reducing the consequences of pollution incidents. This project is considered significant because of substantial public and industry interest.

Statement of Need: This rulemaking is intended to reduce the impact from hazardous substance spills from vessels.

Summary of the Legal Basis: Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 84 hazardous substances currently carried in bulk.

Alternatives: The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For vessels, a "worst case discharge" is "a discharge in adverse weather conditions of its entire cargo."

Anticipated Costs and Benefits: The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for spill-response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk to human health, enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. A regulatory assessment addressing costs and benefits fo this rule will be available in the public docket when the NPRM is published.

Risks: Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of vessels involved in transferring hazardous substances in bulk, or have a significant impact on the volume of hazardous substances shipped by vessel. Most vessels carrying hazardous substances

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in bulk have developed response plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Michael Roldan, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0756

RIN: 2115–AE88

2120. NUMBERING OF UNDOCUMENTED BARGES (CGD 93-091) (USCG-1998-3798)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12301

CFR Citation: 33 CFR 189

Legal Deadline: None

Abstract: Title 46 U.S.C. 12301, as amended by the Abandoned Barge Act of 1992, requires all undocumented barges more than 100 gross tons operating on the navigable waters of the United States be numbered. This rulemaking would establish a numbering system for these barges. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help prevent future marine pollution. This rulemaking supports the Coast Guard's strategic goal of protection of the marine environment.

Timetable:

Action	Date	FR Cite
Request for Comments	10/18/94	59 FR 52646
Comment Period End	01/17/95	
ANPRM	07/06/98	63 FR 36384
Comment Period End	11/03/98	
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Willis, Project Manager, National Vessel Documentation Center, Department of Transportation, U.S. Coast Guard, 2039 Stonewall Jackson Drive, Falling Waters, WV 25419-9502
Phone: 304 271-2506

RIN: 2115–AF13

2121. OUTER CONTINENTAL SHELF ACTIVITIES (CGD 96-068)

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1333(d)(1); 43 USC 1348(c); 43 USC 1356

CFR Citation: 33 CFR 140 to 147

Legal Deadline: None

Abstract: This project would revise the regulations on Outer Continental Shelf (OCS) activities to: add new requirements for lifesaving, fire protection, training, hazardous materials used as stores on fixed OCS facilities, and accommodation spaces; require foreign vessels engaged in OCS activities to comply with requirements similar to those imposed on U.S. vessels similarly engaged; and allow all mobile inland drilling units (MIDUs) to operate on the OCS out to a defined boundary line, if they meet requirements for lifesaving, firefighting, operations similar to those for fixed OCS facilities. This project would affect the owners and operators of facilities and vessels engaged in offshore activities associated with the exploration for, or development or production of, the resources of the OCS. The preliminary estimate of costs imposed by these amendments would vary according to the unit. The Coast Guard is consulting with the Minerals Management Service, part of the Department of the Interior. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing deaths and injuries and the amount of oil discharged into the marine environment. It also supports the Coast Guard's strategic goal of safety.

Timetable:

Action	Date	FR Cite
Request for Comments	06/27/95	60 FR 33185
Comment Period End	09/25/95	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Notice of Request for Comments published 27 June 1995, was assigned Coast Guard docket number 95-016. Following the request for comments this docket was terminated. This project continues under docket CGD 96-068, and RIN number 2115-AF39.

Agency Contact: James Magill, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AF39

2122. CARRIAGE OF BULK SOLID MATERIALS REQUIRING SPECIAL HANDLING (CGD 97-037)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321; 46 USC 3306; 46 USC 3703; 46 USC 5111; 46 USC 6101; 49 USC 1804; EO 11735; EO 12234

CFR Citation: 46 CFR 90; 46 CFR 97; 46 CFR 148

Legal Deadline: None

Abstract: This project will add materials carried with Special Permits issued under Coast Guard regulations and other materials contained in the International Maritime Organization Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code, or "BC Code"), including coal, to the list of materials permitted under the regulations. The special handling procedures associated with these materials are also included in the new rules. The revisions will harmonize U.S. regulations with recommended international practice, and eliminate the need to apply for Special Permits, except for newly classified hazardous materials. This project supports the Coast Guard's strategic goal of safety and improved service to the United States shipping industry.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $168,000; Yearly Recurring Cost: $400,000; Base Year for Dollar Estimates: 1999

Additional Information: This project was initiated with an ANPRM (28 April 1989), and further developed in an NPRM (12 April 1994). In prioritizing resources, it was terminated on April 13, 1995. With resources available, it can now be completed as a direct final rule. Based on comments to the docket (previously CGD 87-069), this is a non-controversial and welcome amendment to existing regulations.

Agency Contact: Brian Robinson, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0018

RIN: 2115–AF47

2123. +TOWING VESSEL SAFETY (FIRE SUPPRESSION SYSTEMS AND OTHER MEASURES FOR TOWING VESSELS) (CGD 97-064)

Priority: Other Significant

Legal Authority: 46 USC 3719; 46 USC 4102

CFR Citation: 33 CFR 157; 46 CFR 27

Legal Deadline:
NPRM, Statutory, October 1, 1997.

Abstract: The Coast Guard proposes requirements for total flooding or other installed systems for suppressing fires on towing vessels and voyage planning. The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled barges. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. The measures in this rule could enable towing vessel crews to maintain or regain control of their barges before they run aground. This project was developed in cooperation with the Towing Safety Advisory Committee. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment, and the Coast Guard's strategic goals of marine safety and protection of the marine environment. This project is classed significant by DOT due to congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/06/97	62 FR 52057
Comment Period End	01/05/98	
Notice of Public Meeting	02/27/98	63 FR 9980
Reopening of Comment Period	02/27/98	63 FR 9980
Comment Period End	05/11/98	
SNPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking originally proposed requirements for three sets of towing vessel safety issues: Fire suppression systems and other measures, Control measures for tank barges, and Fire protection measures for towing vessels. The latter two components have developed into separate rulemakings: Emergency Control Measures for Tank Barges (USCG-1998-4443) (RIN 2115-AF65) and Fire Protection Measures for Towing Vessels (USCG-1998-4445) (RIN 2115-AF66).

Agency Contact: Randall Eberly, Project Manager, G-MSE-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AF53

2124. POLLUTION PREVENTION FOR OCEANGOING SHIPS AND CERTAIN VESSELS IN DOMESTIC SERVICE (CGD 97-072)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 3703; 33 USC 1231; 33 USC 1321(j); 33 USC 1903

CFR Citation: 33 CFR 151; 33 CFR 155; 33 CFR 157; 46 CFR 170; 46 CFR 172

Legal Deadline: None

Abstract: This rulemaking concerns pollution prevention and the operational discharge of oil from vessels. It will align existing regulations on oil-water separators, operational discharge, damage and intact stability, and term of validity of International Oil Pollution Prevention Certificates with recent amendments under the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL). It will affect U.S.-flagged tank ships of 150 gross tons or more and other U.S.-flagged ships of four hundred gross tons or more. It will eliminate or reduce requirements for shore connections on certain vessels of one hundred gross tons or more. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into United States waters from maritime sources by 20 percent, and the Coast Guard's strategic goals of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Diane Kalina, Project Manager, G-M, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0226

RIN: 2115–AF56

2125. +SALVAGE AND FIREFIGHTING EQUIPMENT; VESSEL RESPONSE PLANS (USCG-1998-3417)

Priority: Other Significant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 155

Legal Deadline: None

Abstract: Current vessel response plan regulations require that the owners or operators of vessels carrying groups I through V petroleum oil as a primary cargo identify in their response plans a salvage company with expertise and equipment, and a company with firefighting capability that can be deployed to a port nearest to the vessel's operating area within 24 hours of notification (groups I-IV) or a discovery of a discharge (group V). Numerous requests for clarification revealed widespread misunderstanding and confusion regarding the regulatory language, which will make the implementation of this requirement difficult. Based on comments received after the vessel response plan final rule publication (61 FR 1052; January 12,

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1996) and during a Coast Guard hosted workshop, the Coast Guard intends to better define the terms "salvage expertise and equipment" and "vessel firefighting capability" requirements and will reconsider the 24-hour deployment requirement which was scheduled to go into effect on February 18, 1998. Therefore, the Coast Guard suspended the effective dates of the deployment requirements as published in the final rule. The Coast Guard will continue with this project to better define the requirements. This rulemaking supports the Coast Guard's strategic goals of marine safety and protection of the marine environment.

Timetable:

Action	Date	FR Cite
Final Rule: Partial Suspension	02/12/98	63 FR 7069
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Partial suspension of regulations created through the vessel response plan final rule, docket No. 91-034, RIN 2115-AD81

Agency Contact: LCDR Roger Laferriere, Project Manager, G-MOR-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0448

RIN: 2115–AF60

2126. REVISE FEES TO NUMBER UNDOCUMENTED VESSELS IN ALASKA (USCG-1998-3386)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12307

CFR Citation: 33 CFR 173

Legal Deadline: None

Abstract: This rule would revise the current fees the Coast Guard charges for numbering undocumented vessels in Alaska. The fees were promulgated in 1972 and do not reflect the costs that the Coast Guard incurs to issue the vessel numbers. All fees collected go to the Treasury's General Fund. The rule should result in an increased fee that reflects the current costs for the Coast Guard to issue the vessel numbers in Alaska. This rulemaking is required by the Coast Guard Authorization Act of 1996 (Pub. L. 104-324).

Timetable:

Action	Date	FR Cite
NPRM	02/01/99	64 FR 4816
NPRM Comment Period End	04/02/99	
Final Rule	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janice Giles, Project Manager, G-OPB-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0911

RIN: 2115–AF62

2127. DEEP WATER PORTS (CGD 97-050) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1503

CFR Citation: 33 CFR 148 to 150

Legal Deadline: None

Abstract: The purpose of this rulemaking is to update the Deepwater Port Regulations. Section 502 of the Coast Guard Authorization Act of 1996 prescribes changes to the regulations found in 33 CFR parts 148-150 developed in accordance with the Deepwater Port Act of 1974. These regulations were developed in the 1970's when there were no deepwater ports in the United States. The Coast Guard will be revising the regulations to: remove from the regulations, and place in the license conditions, those requirements which belong in the license conditions; and remove from the regulations those things which can be addressed in an operations manual. The Coast Guard may also consider revising the regulations to address technological advancements and operational experience gained over the last twenty years. In accordance with section 610 of the Regulatory Flexibility Act, the Coast Guard is also reviewing these regulations for their impacts on small businesses and the potential to reduce any such impacts. Public comment on small business impacts is specifically requested. This project supports the Coast Guard's strategic goal of marine safety. This rulemaking will encompass a complete review of the Deepwater Port Regulations.

Timetable:

Action	Date	FR Cite
ANPRM	08/29/97	62 FR 45774
Comment Period End	10/13/97	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: LT Diane Kalina, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1181

RIN: 2115–AF63

2128. COMMERCIAL DIVING OPERATIONS (USCG-1998-3786) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1509; 43 USC 1333; 46 USC 3306; 46 USC 3703; 46 USC 6101

CFR Citation: 46 CFR 197; 49 CFR 1.46

Legal Deadline: None

Abstract: This project involves reviewing and updating the commercial diving regulations in 46 CFR 197, subpart B, which are over 20 years old. A review of the commercial diving regulations needs to be done to determine what parts should be updated or changed based on the current standards of safety, technology, and industry practices and, in accordance with 5 U.S.C. 610, to evaluate and minimize any significant economic impact of the rules upon a substantial number of small entities. The project supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce deaths and injuries on U.S. commercial vessels and the Coast Guard's strategic goal of safety.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/98	63 FR 34840
ANPRM Comment Period End	11/09/98	63 FR 50848
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

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Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Diane Kalina, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1181

RIN: 2115–AF64

2129. • VESSEL DOCUMENTATION (USCG-1998-4784)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12103(d); 46 USC 31321(a)

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This rulemaking will propose regulations to: (1) combine a Manufacturer's Certificate of Origin (MCO) with the Builder's Certificate (form CG12-1261); (2) require that the Hull Identification Number (HIN) be included on the Application for Documentation of recreational vessels for those vessels required to have an assigned HIN; (3) require the submission of the original State title, or if not a title State, the original State registration and/or official replacements issued by a titling/registering authority when documentation is based on those methods of establishing title and; (4) establish procedures for electronic submission of instruments. These four initiatives offer increased efficiency of the vessel documentation process and increased fraud protection for vessel owners.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dennis Nelson, Project Manager, Department of Transportation, U.S. Coast Guard, National Vessel Documentation Center, U. S. Coast Guard, 2039 Stonewall Jackson Dr, Falling Waters, WV 25419
Phone: 304 271-2400

RIN: 2115–AF71

2130. • +REVISED BLOOD ALCOHOL CONCENTRATION (BAC) LIMIT (USCG-1998-4593)

Priority: Other Significant

Legal Authority: 46 USC 2302; 46 USC 4302

CFR Citation: 33 CFR 95; 33 CFR 177; 46 CFR 4; 46 CFR 4311

Legal Deadline: None

Abstract: This rulemaking will revise the Federal Blood Alcohol concentration(BAC) limit from .10 to .08 percent by weight to determine whether operators of recreational vessels are under the influence of alcohol or an illegal drug. With respect to recreational vessels on navigable waters within State boundaries, the Coast Guard will continue to adopt BAC limits enacted by respective State jurisdictions. This rulemaking will revise the rule adopting State BAC limits to account for recent developments in State boating legislation by removing language referencing state statutory schemes that no longer exist. The new rule will add language to reference statutory schemes that have come into existence since the promulgation of the .10 Federal BAC limit for recreational vessels. This rulemaking will also insert the words "under the influence of alcohol, or a dangerous drug in violation of a law of the United States" in place of the word "intoxication" where it appears in Titles 33 and 46 of the Code of Federal Regulations. That change will affect sections involving operators of both recreational and commercial vessels. The purpose of that change is to bring those regulations into conformity with the language of 46 USC 2302(c), as amended by the Oil Pollution Act of 1990. This rulemaking supports the Coast Guard's strategic goal of marine safety. This project is significant due to substantial Departmental and public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-0979

RIN: 2115–AF72

2131. • FREQUENCY OF INSPECTION, HULL EXAMINATION ALTERNATIVE FOR CERTAIN PASSENGER VESSELS, AND UNDERWATER SURVEYS FOR PASSENGER VESSELS (USCG-1999-4976)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 3305 to 3308

CFR Citation: 46 CFR 2; 46 CFR 31; 46 CFR 71; 46 CFR 91; 46 CFR 107; 46 CFR 115; 46 CFR 126; 46 CFR 131; 46 CFR 167; 46 CFR 169; 46 CFR 176; 46 CFR 189

Legal Deadline: None

Abstract: The regulatory project will harmonize the inspection/survey system that will enable vessel owners and operators to receive their certificates of inspection, SOLAS certificates, and load line certificates simultaneously. It would also implement the 1988 Protocol to the 1974 SOLAS Convention. It will facilitate international progress in maritime safety and environmental protection. For the purpose of continuity, non-convention vessels will comply with the new inspection frequency. The proposed regulations would also establish hull examination alternatives and a drydock extension policy for qualifying passenger vessels that operate exclusively on benign, low-risk environments, and that have a limited time underway. In addition, the proposed regulations would provide the option of alternating drydock examinations with underwater surveys for passenger vessels. This project supports the Coast Guard's Marine Safety and Environmental Protection Program's goal of mobility by facilitating commerce and eliminating interruptions and impediments to the economical movement of goods and people.

DOT—USCG

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James Cratty, Project Manager (G-MSR-2), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-6742

RIN: 2115–AF73

2132. • +VESSEL TRAFFIC SERVICE LOWER MISSISSIPPI/AUTOMATIC IDENTIFICATION SYSTEM CARRIAGE REQUIREMENT (USCG-1998-4399)

Priority: Other Significant

Legal Authority: 33 USC 1223(a)

CFR Citation: 33 CFR 161; 33 CFR 164; 33 CFR 165

Legal Deadline: None

Abstract: This project proposes to establish a new Vessel Traffic Service (VTS) area in the Lower Mississippi River region and proposes the implementation of an Automatic Identification System (AIS) carriage requirement for certain vessels operating in the new VTS area. The VTS Lower Mississippi area of responsibility will span from 20 miles north of Baton Rouge (mile marker 255) to the sea buoy at Southwest Pass. The proposed AIS carriage requirement is needed because of the technology to be employed in VTS Lower Mississippi River. Unlike traditional VTSs, which are based on radar and video surveillance and rely on voice communications by VHF-FM radio, VTS Lower Mississippi will use AIS transponder technology to perform the majority of both surveillance and information exchange. AIS transponders automatically exchange navigational and positional information in ship-to-ship and ship-to-shore-to-ship modes. AIS will improve a mariner's situational awareness, should reduce the cost of operating a VTS, and will eliminate much of the potentially distracting voice communications associated with traditional VTS operations. This project will also solicit public comments on a potential nationwide AIS carriage requirement, which may be implemented at some point in the future. This rulemaking supports the Coast Guard's strategic goals of marine safety and protecting the marine environment. This rulemaking is significant due to public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Diane Schneider, Project Manager, G-MOV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AF75

2133. • VAPOR CONTROL SYSTEMS (SECTION 610 REVIEW) (USCG-1999-5150)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1225; 33 USC 1231; 33 USC 1321; 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 39; 33 CFR 154.8

Legal Deadline: None

Abstract: This project will revise the facility marine vapor control systems (VCS) safety regulations and the vessel VCS safety regulations. These existing regulations require revision to reflect new Federal and State air emissions control requirements, VCS technology developments, and, to evaluate and minimize any significant economic impacts of the rules upon small entities. The revisions will also incorporate Coast Guard policies and guidelines developed to support the existing regulations and a Navigation and Vessel Inspection Circular which provides safety standards for the design and operation of a marine VCS at tank barge cleaning facilities. This project supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce crewmember deaths and injuries on U.S. commercial vessels, it seeks to reduce the amount of oil and chemicals discharged into the nation's waterways,and it promotes the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sara Ju, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1217

RIN: 2115–AF78

2134. • +RESPONSE PLANS FOR MARINE TRANSPORTATION RELATED FACILITIES HANDLING NON-PETROLEUM OILS (1999-USCG-5149)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 154.12

Legal Deadline:
NPRM, Statutory, March 1999.

Abstract: This rulemaking project would revise regulations for response plans for animal fats and vegetable oils facilities to address a congressional mandate. Revisions will downgrade facilities from a significant and substantial harm classification to a substantial harm classification and clarify planning and equipment requirements. This regulatory project supports the Coast Guard's strategic goal to reduce the amount of oil discharged into the marine environment. This regulatory project is a significant rulemaking due to public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

DOT—USCG

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Meza, Project Manager, G-MOR, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0518

RIN: 2115–AF79

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Final Rule Stage

2135. SAFETY/SECURITY ZONE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish limited access zones in which the Coast Guard exercises control of all vessels to ensure the safety or security of events, vessels or individuals. They are usually of short duration, ranging from a few hours to a few days. Safety zones are established for events such as fireworks displays, high speed races, or the transit of dangerous cargoes such as explosives or liquefied petroleum gas. Security zones are established for presidential or vice presidential visits, high profile events such as the Olympics, or controversial events such as transport of spent nuclear fuel. Safety and security zones are promulgated by Captains of the Port or District Commanders in response to requests or notifications from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management and marine safety. Total actions expected 10/01/98 to 10/01/99: 250. The Coast Guard is currently evaluating Y2K computer issues and whether they will alter the number of safety/security zones implemented during fiscal year 1999.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Barbara Marx, Project Manager, G-MOV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0574

RIN: 2115–AA97

2136. SPECIAL ANCHORAGE AREAS/ANCHORAGE GROUNDS REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: These routine and frequent regulations are established where maritime and commercial interests require them for safety of navigation. Special anchorage areas are areas in which vessels of not more than 65 feet may anchor without displaying the required lights or sound signals. These special anchorage areas are limited geographically, and depending upon the purpose, establish both long and short-term anchorages. Anchorage grounds are limited geographically, delineate the types and size of vessel which may use the anchorage, and may place time and other restrictions on its use. Special anchorage areas and anchorage grounds are promulgated by District Commanders in response to requests from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goal of waterways management and marine safety. Total actions expected 10/01/98 to 10/01/99: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Barbara Marx, Project Manager, G-MOV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0574

RIN: 2115–AA98

2137. +STATE ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-014)

Priority: Other Significant

Legal Authority: 33 USC 2712

CFR Citation: 33 CFR 133

Legal Deadline:
NPRM, Statutory, February 18, 1991.

Abstract: Pursuant to the Oil Pollution Act of 1990 (OPA 90), this action specifies how the authority to obligate the pollution trust fund for oil spill response and cleanup efforts and to enter into agreements with the States will be exercised. The Coast Guard is evaluating the performance of the interim rule and expects to publish a final rule by December, 1999. This rulemaking supports the Coast Guard's strategic goal of the protection of natural resources. This rulemaking is considered significant because of substantial State interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/13/92	57 FR 53968
Comment Period End	02/11/93	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 11/13/92, 57 FR 53968

Agency Contact: Al Thuring, Project Manager, National Pollution Funds Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804

DOT—USCG **Final Rule Stage**

Phone: 703 235-4746

RIN: 2115–AE19

2138. HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES (CGD 92-026)(USCG-1998-4302)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This rulemaking is intended to revise existing regulations covering waterfront facilities handling dangerous cargoes. The present regulations are outdated and do not reflect improved safety procedures and modern transportation methods, such as the use of containers. Where appropriate, the regulations would incorporate industry standards regarding the handling of hazardous materials at waterfront facilities. This project also supports the Vice Commandant's workload reduction initiative, and also supports Coast Guard strategic goals by reducing deaths and injuries in the maritime industry.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4127
Comment Period End	04/13/93	
NPRM	10/29/98	63 FR 57964
Comment Period End	12/28/98	
NPRM Reopening of Comment Period	01/12/99	64 FR 1770
Comment Period End	03/01/99	
Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Independent study has been completed and incorporated with comments from the public in the preparation of the proposed rulemaking.

Agency Contact: LCDR John Farthing, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0567

RIN: 2115–AE22

2139. REGATTA REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: These routine and frequent special local regulations ensure the safety of participants and spectators in regattas and marine parades. They specify such things as separate participant and spectator areas, separation schemes for water craft in the area of the event, and temporary restrictions on waterways to accommodate the event. These rules are short-term, usually applying to a single event not exceeding 8 hours in duration, and usually encompassing only a small portion of a navigable waterway. These rules are promulgated by District Commanders in response to a request from a sponsoring organization. These routine and frequent rulemakings support the Coast Guard's strategic goal of marine safety, and mobility of commercial and recreational vessel traffic. Total actions expected 10/01/98 to 10/01/99: 75.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AE46

2140. DRAWBRIDGE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating schedules, and notice requirements, for drawbridges across navigable waterways. Drawbridge regulations establish the permanent draw operation schedules for bridges and specify what notice mariners must give to request an opening. Short-term deviations from the permanent schedule may be issued for bridge repairs or to test the effectiveness of a proposed new opening schedule. Drawbridge regulations are promulgated by District Commanders usually at the request of the bridge owner or operator, or of local officials or local Coast Guard bridge administration officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management, marine safety, and mobility of commercial and recreational vessel traffic. Total actions expected 10/01/98 to 10/01/99: 40.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Alesia Steinberger, Project Manager, G-OPT-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6215

RIN: 2115–AE47

2141. REGULATED NAVIGATION AREAS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating requirements for vessels within specified geographic areas to ensure safety on the navigable waters where some special or unusual circumstance exists. Regulated navigation areas are limited areas in which the Coast Guard specifies operational or vessel restrictions such as vessel entry, movement or departure; and vessel size, speed, horsepower, or draft limitations. Regulated navigation areas

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are promulgated by District Commanders, usually at the request of Coast Guard marine safety or local maritime safety officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management, marine safety, and mobility of commercial and recreational vessel traffic. Total actions expected 10/01/98 to 10/01/99: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Barbara Marx, Project Manager, G-MOV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0574

RIN: 2115–AE84

2142. REGATTAS AND MARINE PARADES (CGD 95-054)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: In keeping with the National Performance Review and the President's Regulatory Reinvention Initiative, the Coast Guard reviewed its regatta and marine parade permitting regulations and determined that certain revisions are needed to eliminate overly burdensome, unnecessary, and obsolete requirements. The rule establishes various categories of events: those which do not require any notice or a permit because they clearly pose no extra or unusual hazard to safety of life; those which require written notice because they may pose such a hazard; and those which require a permit because they clearly pose such a hazard. This rule eliminates the need for permits, and associated paperwork burden on the public, unless they are necessary to advance the statutory purpose of promoting safety of life during marine events. The effective date has been delayed until the Coast Guard completes the Environmental Assessment and Finding of No Significant Impact. This rulemaking supports the Coast Guard's strategic goal of marine safety and mobility of commercial and recreational vessels.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/95	60 FR 67345
Comment Period End	02/09/96	
NPRM	04/17/96	61 FR 16732
Comment Period End	05/17/96	
Interim Rule	06/28/96	61 FR 33027
Comment Period End	08/27/96	
Interim Rule Delay Effective Date to 01/01/98	11/26/96	61 FR 60027
Interim Rule Delay Effective Date to 01/01/99	12/29/97	62 FR 67570
Interim Rule Delay Effective Date to 01/02/00	12/30/98	63 FR 71753
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This rulemaking will benefit small entities, and state and local governments by reducing the number of submitted permits. The rulemaking should reduce the information which is required to be submitted from 3,100 permits to 1,500 notifications, 20 of which may require additional information.

ANALYSIS: Regulatory Evaluation, 06/26/96, 61 FR 33031

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF17

2143. LICENSING AND MANNING FOR OFFICERS OF TOWING VESSELS (CGD 94-055)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 633; 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7106; 46 USC 7107; 46 USC 7701

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This rulemaking is necessary as part of an overall initiative by the Coast Guard to improve navigational safety for towing vessels. It will help ensure that the mariner piloting a towing vessel has the proper training and qualifications to handle the tug and tow. It will introduce an additional level of license where there has been only two licenses. Each level will require greater experience and proficiency. This will prevent a new operator with minimal experience from commanding the largest flotillas; it will prevent any operator with any experience from commanding the large flotillas until he or she has gained, and shown, the necessary competence. This rulemaking also introduces a requirement for demonstration of proficiency as a prerequisite to being issued a license. This will be in addition to the current requirements for sea service physical examination, drug testing, and successful testing. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the number of casualties, and the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	06/19/96	61 FR 31332
Correction	07/11/96	61 FR 36608
Correction	08/07/96	61 FR 41208
Notice of Meeting	08/26/96	61 FR 43720
Comment Period End	10/17/96	
Notice of Intent	12/18/96	61 FR 66642
SNPRM	10/27/97	62 FR 55548
Notice of Public Meeting Boston 02/18/98	01/21/98	63 FR 3070
Notice of Public Meeting Houston 02/13/98	01/21/98	63 FR 3070
Notice of Public Meeting Memphis 02/11/98	01/21/98	63 FR 3070
Notice of Public Meeting Seattle 02/24/98	01/21/98	63 FR 3070

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Action	Date	FR Cite
Comment Period End	02/24/98	
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LCDR Don Darcy, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0221

RIN: 2115–AF23

2144. LIMITED SERVICE DOMESTIC VOYAGE LOAD LINES FOR RIVER BARGES ON LAKE MICHIGAN (CGD 95-015) (USCG-1998-4623)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 51

CFR Citation: 46 CFR 45

Legal Deadline: None

Abstract: This regulatory project will allow certain unmanned dry cargo river barges operating on Lake Michigan to be exempted from the normal Great Lakes load line requirements provided instead that they obtain a limited domestic service load line for two specific routes (Chicago to Milwaukee, and Chicago to Muskegon). This will allow certain non-hazardous cargoes originating at inland river ports to be transported as far as Milwaukee and Muskegon by river barge, thereby benefiting from the relatively low cost per ton-mile of river barge transportation. Compliance is not mandatory other than for those river barge operators who voluntarily seek this special load line for their barges. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58679
NPRM Extension of Comment Period	12/28/98	63 FR 71411
Comment Period End	03/04/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Thomas Jordan, Project Manager, G-MSE-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2988

RIN: 2115–AF38

2145. TRAFFIC SEPARATION SCHEME IN THE APPROACHES TO DELAWARE BAY (CGD 97-004)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: This rule amends the Traffic Separation Scheme in approaches to Delaware Bay by shifting eastern approach lanes southward; establishing a two-way route for use by tug and tow traffic; and reconfiguring the precautionary area to exclude shoal areas too shallow for deep draft vessels. This rulemaking supports the Coast Guard's Marine Safety and Environmental Protection goal of reducing the number of collisions, allisions, and groundings, and the Coast Guard's strategic goal of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25576
Comment Period End	08/07/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane Schneider, Project Manager, G-MOV-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AF42

2146. USER FEES FOR MARINE LICENSING, CERTIFICATES OF REGISTRY, AND MERCHANT MARINER DOCUMENTS (USCG-1997-2799)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2110; 14 USC 664; 31 USC 9701

CFR Citation: 46 CFR 10; 46 CFR 12; 49 CFR 1.46

Legal Deadline: None

Abstract: This project would revise user fees for Coast Guard services relating to the issuance of merchant mariner licenses, certificates of registry and MMDs. This rulemaking was ordered by the District Court for the D.C. Circuit. The litigation was settled on September 17, 1997, but the terms of the settlement require the Coast Guard to complete the rulemaking. The user fees are based on direct and indirect personnel costs and overhead costs associated with specific services, and will affect all mariners obtaining or renewing marine licenses, certificates of registry and Merchant Mariner Documents.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 16024
NPRM Comment Period End	09/28/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: The previous docket number for this rulemaking was CGD 97-049. Annual compliance costs to the public are $9.2 million. Related Dockets are CGD 96-053 and USCG-97-2798.

Agency Contact: CDR Mark McEwen, Project Manager, G-MRP-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1409

RIN: 2115–AF49

2147. IMPLEMENTATION OF THE NATIONAL INVASIVE SPECIES ACT OF 1996 (CGD 97-068)(USCG-1999-3423)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4701; 16 USC 4702; 16 USC 4711 to 4714; 16 USC 4721 to 4728; 16 USC 4741; 16 USC 4751

CFR Citation: 33 CFR 151

Legal Deadline: NPRM, Statutory, October 26, 1997.

Abstract: This project will establish regulations and guidelines to prevent the introduction of nonindigenous

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species into waters of the United States. Ballast water has been identified as a major pathway for the introduction and spread of Aquatic Nuisance Species (ANS). This rulemaking will establish voluntary ballast water exchange guidelines applicable to all vessels entering U.S. waters, as well as reporting and sampling procedures to monitor compliance. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the volume of untreated ballast water discharged into United States waters, and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	04/10/98	63 FR 17782
NPRM Comment Period End	06/09/98	
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LT M. Pat McKeown, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0500

RIN: 2115–AF55

2148. MARITIME COURSE APPROVAL PROCEDURES (USCG-1998-3824)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 46 USC 2101; 46 USC 2103; 46 USC 2110; 46 USC 7101 et seq; 46 USC 7502; 46 USC 7505; 46 USC 7701

CFR Citation: 46 CFR 10; 49 CFR 1.45; 49 CFR 1.46

Legal Deadline: None

Abstract: This rulemaking will permit the Coast Guard to suspend or revoke its approval of courses for merchant mariners. Current regulations do not contain provisions to suspend or revoke course approvals. This rulemaking will affect training schools which offer Coast Guard approved courses, when those schools fail to comply with the terms of course approval. By ensuring that schools maintain uniformly high standards, this rulemaking supports the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing injuries and deaths aboard commercial vessels, and reducing the amount of pollution being discharged into the marine environment, and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	05/13/98	63 FR 26566
NPRM Comment Period End	07/13/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Cavo, Project Manager, National Maritime Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 510, Arlington, VA 22203-1801
Phone: 703 235-0010

RIN: 2115–AF58

2149. CONSOLIDATION OF RULES FOR PROCEEDINGS AGAINST MERCHANT MARINERS' LICENSES, CERTIFICATES, AND DOCUMENTS (94-111)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 7701; 46 USC 7702; 33 USC 1321; 42 USC 9609

CFR Citation: 33 CFR 20; 46 CFR 5; 46 CFR 4

Legal Deadline: None

Abstract: The Coast Guard maintains two separate sets of procedural rules for administrative adjudications against merchant mariners' license, certificates, and documents, and the adjudication of class II civil penalties. The rules for suspension and revocation, contained in part 5 of title 46 of the Code of Federal Regulations (CFR), date from 1948 and are based on criminal procedure. The rules for class II civil penalties, contained in part 20 of title 33 of the CFR, date from 1994 and are based on the Model Rules of Administrative Procedure and on other modern rules for civil procedure. Neither set implements the authority of the Oil Pollution Act of 1990 (OPA 90): which provides for the temporary suspension of a license, certificate, or document for up to 45 days without a hearing, in certain circumstances, and a hearing within 30 days of any such suspension. This rulemaking would consolidate all procedural rules for administrative adjudications for class II civil penalties, and allow the Coast Guard to implement the OPA 90 authority. This project supports two goals: the strategic goal of the Coast Guard to promote safety, and the goal of its program in Marine Safety and Environmental Protection to reduce injuries and deaths of crewmembers aboard commercial vessels of the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/06/98	63 FR 16731
NPRM Comment Period End	05/06/98	
Reopening of Comment Period	05/20/98	63 FR 27700
Reopened Comment Period End	06/19/98	
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking revises in part the previous docket of CGD 94-101 (RIN 2115-AD94), which was terminated on December 20, 1995.

Agency Contact: George Jordan, Project Manager, G-CJ, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2940

RIN: 2115–AF59

2150. +FIRE PROTECTION MEASURES FOR TOWING VESSELS (USCG-1998-4445)

Priority: Other Significant

Legal Authority: 46 USC 4102

CFR Citation: 46 CFR 25; 46 CFR 27

Legal Deadline:
NPRM, Statutory, October 1, 1997.

Abstract: This rulemaking will require fire protection measures such as fire detectors, alarms, portable extinguishers, and periodic crew training on towing vessels. The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled tank vessels. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. This

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rulemaking supports the Coast Guard's strategic goals of marine safety and protection of the marine environment. This project is classed significant by DOT due to congressional & public interest.

Timetable:

Action	Date	FR Cite
NPRM (RIN 2115-AF53)	10/06/97	62 FR 52057
NPRM Comment Period End	01/05/98	
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking was one component of the proposed regulations for Towing Vessel Safety (CGD 97-064) (RIN 2115-AF53) concerning tank barges. To expedite the publication of regulations mandated by statute, the Towing Vessel Safety rulemaking was separated into additional rulemakings. The other former components of the Towing Vessel Safety rulemaking are Emergency Control Measures for Tank Barges (USCG-1998-4443) (RIN 2115-AF65) and Towing Vessel Safety(Fire Suppression systems and other Measures for Towing Vessels) (CGD-97-064)(RIN-2115-AF53).

Agency Contact: Randall Eberly, Project Manager, G-MSE-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1861

RIN: 2115–AF66

2151. • CHEMICAL TESTING; MANAGEMENT INFORMATION SYSTEM REPORTING REQUIREMENTS (USCG-1998-4469)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 2115

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: The Office of Management and Budget requested that the Coast Guard reduce its reporting requirements for chemical drug testing program data, contained in entitled Management Information System (MIS) requirements. The Coast Guard will eliminate the MIS reporting requirements for those employers with ten or fewer covered employees who have provided the required MIS reports for three consecutive years. These employers will continue to collect and retain the drug testing data; but will not have to compile and report the data annually to Coast Guard. This rulemaking supports the Coast Guard's strategic goal of mobility of commercial vessels.

Timetable:

Action	Date	FR Cite
NPRM	12/24/98	63 FR 71257
NPRM Comment Period End	02/22/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: LT Jennifer Ledbetter, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0684

RIN: 2115–AF67

2152. • INCORPORATIONS BY REFERENCE FOR ALTERNATE COMPLIANCE PROGRAM (ACP)(USCG-1999-5004)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3116

CFR Citation: 46 CFR 8.110(b)

Legal Deadline: None

Abstract: The purpose of this rulemaking is to add the following recently approved sets of classification society rules and U.S. supplements for those rules to the ACP regulations: The American Bureau of Shipping (ABS) 1997 and 1998 Rules for Building and Classing Steel Vessels; The 1997 U.S. Supplement to ABS Rules for Steel Vessels; ABS 1998 Rules for building and Classing Mobile Offshore Drilling Units (MODUs); The 1998 U.S. Supplement to ABS Rules for MODUs; 1998 Lloyd's Register (LR) of Shipping Rules and Regulations for Classification of Ships; and the 1998 U.S. Supplement to LR Rules for Cargo Ship Safety Construction. Adding these rules and supplements through incorporation by reference is essential to the continued viability and validity of the Alternate Compliance Program for vessel inspection. This rulemaking is noncontroversial because it is administrative in nature and unlikely to result in adverse public comment. Accordingly, the Coast Guard intends to issue this rule as a direct final rule. This rulemaking supports the Coast Guard's strategic goal of facilitating maritime commerce.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Spears, Project Manager, G-MSR, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AF74

2153. • STANDARD MEASUREMENT SYSTEM EXEMPTION FROM GROSS TONNAGE (USCG-1999-5118)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2301; 46 USC 14103

CFR Citation: 46 CFR 69

Legal Deadline: None

Abstract: The purpose of this rulemaking is to permit a crosspiece and bolting arrangement to hold bulkhead board or plates in place. Coast Guard tonnage regulations provide an exemption from gross tonnage of superstructure spaces that are open to weather. To qualify as "open to the weather," the end bulkhead of the structure must be open, although the opening may be fitted with shifting boards dropped into channel sections, or a temporary cover plate or boards held in place with hook bolts meeting specific criteria. Prior to 1989, the tonnage regulations permitted a crosspiece and bolting arrangement to hold bulkhead boards or plates in place. The associated bulkhead was essentially "sandwiched" between the

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boards or plates and cross pieces. In 1989, this crosspiece bolting arrangement alternative was deleted from the regulation text in error while the tonnage regulations were being revised. This rulemaking will proceed directly to a final rule because it relieves a burden by reinstating a previously allowed alternative. Accordingly, this rule is noncontroversial and unlikely to spur adverse public comment. This rulemaking supports the Coast Guard's strategic goal of facilitating maritime commerce.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter Earekson, Project Manager, Marine Safety Center, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 366-6441

RIN: 2115–AF76

2154. • UPDATE OF AMERICAN SOCIETY OF TESTING AND MATERIALS (ASTM) STANDARDS (USCG-1999-5151)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 1 CFR 51.5; 33 CFR 127; 33 CFR 154 to 155; 33 CFR 159; 33 CFR 164; 33 CFR 183; 46 CFR 20; 46 CFR 28; 46 CFR 30; 46 CFR 32 to 35; 46 CFR 38 to 39; 46 CFR 54; 46 CFR 56; 46 CFR 58; 46 CFR 61; ...

Legal Deadline: None

Abstract: The purpose of this regulation is to update 143 of the 170 American Society of Testing and Materials (ASTM) standards that have been incorporated by reference in Titles 33 and 46 of the Code Federal Regulations. Some of the existing standards are 20 years old. By ensuring that industry is using the latest standards technology available, the Coast Guard will improve maritime safety and ensure the adequacy of oil spill response equipment. Because this project is expected to be noncontroversial and is unlikely to spur adverse public comment, the Coast Guard will promulgate the regulations as a direct final rule. This project supports the Coast Guard's goals of marine safety and the protection of natural resources.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: John Natale, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6220

RIN: 2115–AF80

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG) **Long-Term Actions**

2155. PERMITS FOR THE TRANSPORTATION OF MUNICIPAL AND COMMERCIAL WASTES (CGD 89-014)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline:
Final, Statutory, June 15, 1989, See discussion in the Abstract.

Abstract: In May 1989, the Coast Guard began a rulemaking to incorporate into regulation certain elements of the Shore Protection Act. Its objective was to help prevent trash, medical debris, and other unsightly and potentially harmful materials from being deposited into the coastal waters of the United States as a result of sloppy waste-handling procedures. This project supported the Coast Guard's Marine Safety and Environmental Protection program goal of reducing discharge of plastics/garbage into the marine environment and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Correction	06/05/89	54 FR 24078
Comment Period End	08/24/89	54 FR 22546
Notice	12/13/95	60 FR 64001
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This project was formerly known as Implementation of the Shore Protection Act of 1988.

ANALYSIS: Regulatory Evaluation, 05/24/89, 54 FR 22546

Agency Contact: LCDR John Farthing, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AD23

2156. +DISCHARGE-REMOVAL EQUIPMENT FOR VESSELS CARRYING OIL (CGD 90-068) (USCG-1998-4858)

Priority: Other Significant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 155

Legal Deadline:
Final, Statutory, August 18, 1992.

Abstract: The Oil Pollution Act of 1990 directed the President by August 18, 1992, to: require periodic inspection of discharge-removal equipment to ensure that it is available in an emergency, and to require carriage of discharge-removal equipment by vessels operating in the navigable waters of the U.S. and carrying oil or hazardous substances. This action implemented those provisions. This project supported the Coast Guard's Marine Safety and Environmental Protection goal to reduce the consequence of pollution incidents and the Coast Guard's strategic goal of protection of natural resources. This project is considered

significant because of expected costs and substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
Comment Period End	10/16/91	
NPRM	09/29/92	57 FR 44912
Extension of Comment Period	10/26/92	57 FR 48489
Comment Period End	10/29/92	
Comment Period End	11/16/92	
Interim Rule	12/22/93	58 FR 67988
Interim Rule Effective	01/22/94	
Correction	01/26/94	59 FR 3749
Comment Period End	02/22/94	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 12/22/93, 58 FR 67988

Agency Contact: David DuPont, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0971

RIN: 2115–AD66

2157. TANK LEVEL OR PRESSURE MONITORING DEVICES (CGD 90-071)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 32

Legal Deadline:
Final, Statutory, December 1, 1991.

Abstract: The Coast Guard established minimum performance standards for tank level or pressure monitoring devices for single-hull tank vessels that carry oil in bulk as cargo. These standards are effective until April 28, 1999. These devices reduce the size and impact of an oil spill by alerting the tank vessel operator that a level or pressure change has occurred in a cargo tank. The Coast Guard will evaluate the performance and cost effectiveness of any device which meets the standards set in this rule, if that device is submitted to the Coast Guard during the effective period of this rule. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/91	56 FR 21116
Comment Period End	10/04/91	
Notice of Availability Technical Feasibility Study	02/05/93	58 FR 2292
Notice of Public Meeting	11/15/94	59 FR 58810
NPRM	08/21/95	60 FR 43427
Comment Period End	11/20/95	
Temporary Rule	03/28/97	62 FR 14828
Temporary Rule Effective	04/28/97	
Temporary Rule Expires	04/28/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly titled Overfill and Tank Level or Pressure Monitoring Devices.

Agency Contact: LT Chris Carter, Project Manager, G-MSE-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0027

RIN: 2115–AD69

2158. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (CGD 91-035)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2713; 33 USC 2714

CFR Citation: 33 CFR 136

Legal Deadline: None

Abstract: This rulemaking implements section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement) of the Oil Pollution Act of 1990. This rulemaking was designated significant because of anticipated public interest. The interim rule provides the requirements for the filing of claims for uncompensated removal costs or damages resulting from the discharge of oil, for the designation of the sources of the discharge, and for the advertisement of where claims are to be filed. The interim rule also included the processing of natural resource damage (NRD) claims. The NRD claims, however, were not processed until September 25, 1997, when the Department of Justice issued an opinion that the Oil Spill Liability Trust Fund (OSTLF) is available without further appropriation to pay trustee NRD claims under the general claims provisions of the Oil Pollution Act of 1990, 33 U.S.C. 2712(a)(4). Release of the final rule will be delayed until additional experience is gained on the adjudication of these NRD claims. This rulemaking supports the Coast Guard's strategic goal of the protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Correction	09/09/92	57 FR 41104
Comment Period End	12/10/92	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/12/92, 57 FR 36314

Agency Contact: Don Calkin, Project Manager, National Pollution Funds Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804
Phone: 703 235-4761

RIN: 2115–AD90

2159. +ESCORT VESSELS FOR CERTAIN TANKERS (CGD 91-202)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This rulemaking developed standards which implement section 4116(c) of the Oil Pollution Act of 1990. It addressed the areas of Prince William and Puget Sounds and requires a two-vessel escort for single-hull tankers greater than 5,000 gross tons. On November 1, 1994, the crash stop criteria were suspended because of industry concerns about meeting the criteria. On February 1, 1995, a notice of availability of a two part study assessing the capability of escort tugs to control disabled tankers in Prince William Sound was published. This

project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protecting natural resources. This project is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 30058
Comment Period End	09/08/92	
Reopening of Comment Period	03/26/93	58 FR 16391
ANPRM	04/27/93	58 FR 25766
Notice of Public Hearings	04/29/93	58 FR 25959
Notice of Public Hearings Correction	05/19/93	58 FR 29157
Comment Period End ANPRM	06/28/93	
Comment Period End NPRM	07/24/93	
Notice of Availability Part 1 of Study	01/10/94	59 FR 1411
Final Action	08/19/94	59 FR 42962
Final Action Partial Suspension Crash Stop Criteria	11/01/94	59 FR 54519
Final Action Effective Partial Suspension	11/17/94	
Notice of Availability Part II of Study	02/01/95	60 FR 6345
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The Coast Guard, in cooperation with the Prince William Sound Regional Citizens Advisory Council, PWS Tanker Association, and Alaska Pipeline, conducted a disabled-tanker towing study. The result of the study was incorporated into this rulemaking. Tug escort requirements in areas other than Prince William Sound and Puget Sound are addressed in the project listed under RIN 2115-AE56.

ANALYSIS: Regulatory Evaluation, 08/19/94, 59 FR 42962

Agency Contact: LT Michael Roldan, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0756

RIN: 2115–AE10

2160. AMENDMENTS TO HULL IDENTIFICATION NUMBER REGULATIONS (CGD 92-065)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 12501

CFR Citation: 33 CFR 181

Legal Deadline: None

Abstract: This rulemaking would expand the existing 12 character Hull Identification Number (HIN) applicable to manufacturers of recreational boats by at least two characters to indicate the country of origin (to align to the HIN format with the newly adopted International Organization for Standards format). Several minor amendments to the HIN regulations are also proposed. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	05/06/94	59 FR 23651
Comment Period End	09/06/94	
Notice of Workshop	11/09/94	59 FR 55823
Reopening of Comment Period	11/09/94	59 FR 55823
Comment Period End	01/09/95	
SNPRM	02/21/97	62 FR 7971
Comment Period End	05/22/97	
Request for Comments	11/16/98	63 FR 63638
Comment Period End	02/16/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 02/21/97, 62 FR 7975

Agency Contact: Alston Colihan, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0984

RIN: 2115–AE37

2161. +ESCORT VESSELS IN CERTAIN U.S. WATERS (91-202A)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This regulation would designate those U.S. waters, other than Prince William Sound and Puget Sound, where tankers and other vessels must be escorted by a towing vessel or other appropriate vessel. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protecting natural resources. This action is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/93	58 FR 25766
Comment Period End	06/28/93	
Notice of Meeting Request for Comments	12/21/94	59 FR 65741
Comment Period End	02/13/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is a companion to 2115-AE10, which concerns Prince William Sound and Puget Sound.

Agency Contact: LT John White, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6885

RIN: 2115–AE56

2162. +IMPLEMENTATION OF THE 1995 AMENDMENTS TO THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978 (STCW) (CGD 95-062)

Priority: Other Significant

Legal Authority: 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7107

CFR Citation: 46 CFR 10; 46 CFR 12; 46 CFR 15

Legal Deadline:
Other, Statutory, February 1, 1997, International Convention deadline.

Abstract: The International Maritime Organization (IMO) comprehensively

amended the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), in 1995. The amendments came into force on February 1, 1997. This project is intended to implement them by revising 46 CFR Parts 10, 12, and 15 to ensure that the United States complies with their requirements on: the training of merchant mariners, the documenting of their qualifications, and watch-standing and other arrangements aboard seagoing merchant ships of the United States. This rulemaking is considered significant due to potential impact on industry and potential effect on international interests. This project supports the Coast Guard's strategic goal of safety, and the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing deaths and injuries of crewmembers on domestic merchant vessels and eliminating substandard vessels from the navigable waters of the United States.

Timetable:

Action	Date	FR Cite
Notice of Meeting	08/02/95	60 FR 39306
Comment Period End	09/29/95	
Notice of Inquiry	11/13/95	60 FR 56970
Comment Period End	01/12/96	
NPRM	03/26/96	61 FR 13284
Notice of Public Meetings	04/08/96	61 FR 15438
Comment Period End	07/24/96	
Notice of Intent	02/04/97	62 FR 5197
Interim Final Rule	06/26/97	62 FR 34505
Interim Final Rule Effective	07/28/97	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christopher Young, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0216

RIN: 2115–AF26

2163. PROPELLER INJURY PREVENTION ABOARD RENTAL BOATS (CGD 95-041)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302

CFR Citation: 33 CFR 173; 33 CFR 174; 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183; 33 CFR 187

Legal Deadline: None

Abstract: The Coast Guard published a notice of inquiry on this subject on May 11, 1995. It received 1983 comments, most of which were very general. It is clear that two boating accidents involving fatalities caused by propeller strikes on rented houseboats on Lake Shasta, Lake Havasu and several instances of crippling injuries in the last several years have generated a great deal of concern. This rulemaking would examine the number and nature of injuries sustained from vessel propellers and help the Coast Guard to determine the need for Federal or State regulation of these vessels, the livery companies leasing these vessels, or the operators of these vessels. Any regulation issued would be implemented to reduce future injuries and fatalities involving rented boats. Future action is partially dependent upon results of a Technology Comparison and testing of propellers, propeller guards, etc. conducted under a Coast Guard grant. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
Request for Comments	05/11/95	60 FR 25191
Comment Period End	07/10/95	
Reopening of Comment Period	08/09/95	60 FR 40545
Comment Period End	11/07/95	
ANPRM	03/26/96	61 FR 13123
Comment Period End	09/01/96	
Request for Comments	04/28/97	62 FR 22991
Comment Period End	07/28/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Randolph Doubt, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6810

RIN: 2115–AF28

2164. +EMERGENCY RESPONSE PLANS FOR PASSENGER VESSELS (USCG-1998-3473)

Priority: Other Significant

Legal Authority: 14 USC 633; 33 USC 1221; 33 USC 1223; 33 USC 1224; 33 USC 1231; 33 USC 1232; 46 USC 3306

CFR Citation: 46 CFR 1; 46 CFR 7 to 10; 46 CFR 199

Legal Deadline: None

Abstract: This rulemaking would require vessel owners or operators operating small passenger vessels and passenger vessels in domestic service to develop, maintain, and exercise emergency response plans. The first step in this process is to publish an advance notice of proposed rulemaking to seek feedback from vessel owners and operators. Emergency response plans would establish a process that initiates and maintains actions to prevent injury and loss of life during collisions, allisions, groundings, fires, and other emergencies. The plans would address issues such as passenger egress, crew training, and available emergency resources both on a vessel and in a vessel's operating area. This rulemaking supports the Coast Guard's strategic goal of national security. This rulemaking is significant due to important Department of Transportation policy and public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/98	63 FR 9916
ANPRM Comment Period End	06/28/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: LT John White, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6885

RIN: 2115–AF61

2165. +EMERGENCY CONTROL MEASURES FOR TANK BARGES (USCG-1998-4443)

Priority: Other Significant

Legal Authority: 46 USC 3719

DOT—USCG — Long-Term Actions

CFR Citation: 33 CFR 155; 46 CFR 32

Legal Deadline:
NPRM, Statutory, October 1, 1997.

Abstract: This rulemaking will require anchor systems and retrieval systems or measures for all single-hull tank barges operating on the waters listed in the rule (primarily offshore). The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled tank vessels. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. This rulemaking is classed as significant due to congressional and public interest. This rulemaking supports the Coast Guard's strategic goals of marine safety and protection of the marine environment.

Timetable:

Action	Date	FR Cite
NPRM (RIN 2115-AF53)	10/06/97	62 FR 52057
NPRM Comment Period End	01/05/98	
Interim Final Rule	12/30/98	63 FR 71754
Interim Final Rule Effective	03/30/99	
Interim Final Rule Effective 33 CFR 155.230(b)(1) and 33 CFR 32.15-15(e)	12/11/00	63 FR 71754

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking was one component of the original proposed regulations for Towing Vessel Safety (CGD 97-064) (RIN 2115-AF53) concerning tank barges. To expedite the publication of regulations mandated by statute, two of the components for the original Towing Vessel Safety rulemaking separated into additional rulemakings. The other former component of the Towing Vessel Safety rulemaking is Fire Protection Measures for Towing Vessels (USCG-98-4443) (RIN 2115-AF66). The original rulemaking is Towing Vessel Safety (Fire Suppression and Other Measures for Towing Vessels)(CGD 97-064).

Agency Contact: Robert Spears, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AF65

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Completed Actions

2166. STREAMLINED INSPECTION PROGRAM (CGD 96-055)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 8

Legal Deadline: None

Abstract: This project established a Streamlined Inspection Program (SIP). The SIP allows owners or operators of inspected vessels to have their own personnel perform many of the tests and requirements currently done by Coast Guard marine inspectors. Owners and operators of inspected vessels work with the Coast Guard to develop written inspection procedures for each of their vessels enrolled in the program. The SIP is conducted with Coast Guard oversight, and while Coast Guard marine inspectors still conduct required inspections, their time on board the vessel is substantially reduced. The SIP raises the overall level of safety of a vessel by allowing vessels to meet inspection requirements through a combination of: increased participation of the vessel's crew in continuous vessel maintenance; trained and qualified company personnel conducting specific pre-inspection tasks throughout the vessel inspection cycle; and scheduled inspections conducted on board by Coast Guard marine inspectors. This rulemaking supports the Coast Guard's Marine Safety and Environmental goals of increased level of vessel and operational safety and reduced costs of regulatory compliance; and the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	04/08/97	62 FR 17008
Comment Period End	07/07/97	
Final Action	08/18/98	63 FR 44346
Final Action Effective	09/17/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Paul Arnett, Project Manager, G-MOC-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0498

RIN: 2115–AF37

2167. COAST GUARD VESSEL INSPECTION USER FEES (CGD 96-067)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2110; 46 USC 3317; 14 USC 664; 31 USC 9701

CFR Citation: 46 CFR 2

Legal Deadline: None

Abstract: This project implements the Congressional mandate, contained in the Coast Guard Authorization Act of 1996 (Pub. L. 104-324) to cap fees that may be charged for the inspection or examination of small passenger vessels, and to exempt publicly owned ferries from vessel inspection user fees. The Act limits annual fees for small passenger vessels less than 65 feet in length to not more than $300, and for small passenger vessels 65 feet or over in length to not more than $600. Fees for vessels in these categories currently range from $450 to $2,585 depending on the length and capacity of the vessel. This rule reduces published fees to the levels established under the caps imposed by the Coast Guard Authorization Act of 1996. This rule also exempts publicly-owned ferries from vessel inspection user fees. Additional revisions to the exemption criteria will expand exemptions in certain instances where it is clearly within the public interest to do so, but which are not included under current regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/21/97	62 FR 19229
Interim Final Rule Effective	04/21/97	
Comment Period End	08/19/97	
Final Action	11/04/98	63 FR 59472
Final Action Effective	12/04/98	

DOT—USCG

Completed Actions

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: CDR Mark McEwen, Project Manager, G-MRP-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1409

RIN: 2115–AF40

2168. CHILD DEVELOPMENT SERVICES (CGD 97-039)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 515

CFR Citation: 33 CFR 55

Legal Deadline: None

Abstract: This project will establish a fee subsidy that will result in lower fees for child care provided by Coast Guard Child Development Centers and Coast Guard certified Family Child Care Providers. This project is mandated by 14 U.S.C. 515, which requires development of regulations that establish fees for child care, which take into account total family income. The rulemaking will make child care more affordable for Coast Guard members and civilian employees.

Timetable:

Action	Date	FR Cite
NPRM	09/29/98	63 FR 51878
NPRM Comment Period End	10/29/98	
Final Action	02/10/99	64 FR 6527
Final Action Effective	03/12/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: It is necessary to establish the Child Development Services program immediately because funds are currently available, and eligible members and employees can take advantage of the program at the earliest possible date.

Agency Contact: Elaine Sweetland, Project Manager, G-WPW-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6727

RIN: 2115–AF48

2169. AMENDMENT OF STATE WATERS FOR PRIVATE AIDS TO NAVIGATION IN WISCONSIN AND ALABAMA (USCG-1998-3604)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 83; 43 USC 1333

CFR Citation: 33 CFR 66

Legal Deadline: None

Abstract: The Coast Guard has reestablished Federal jurisdiction over certain waterways in the States of Alabama and Wisconsin for the purposes of private aids to navigation. This action has been taken to implement a request from the State of Alabama and an agreement between the State of Wisconsin and the Coast Guard, and to ensure safe navigation on the affected waterways. This rulemaking supports the Coast Guard's strategic goals of marine safety, and mobility of commercial and recreational vessel traffic.

Timetable:

Action	Date	FR Cite
NPRM	04/15/98	63 FR 18349
NPRM Comment Period End	06/15/98	
Final Action	10/20/98	63 FR 55946
Final Action Effective	11/19/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dan Andrusiak, Project Manager, G-OPN-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0327

RIN: 2115–AF50

2170. ADVANCE NOTICE OF ARRIVALS, VESSELS BOUND FOR PORTS OR PLACES IN THE UNITED STATES (CGD 97-067)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 160.207

Legal Deadline: None

Abstract: The Coast Guard amended its advance notice of arrival requirements to require vessels subject to the International Safety Management (ISM) Code to provide notice of their compliance with the ISM Code when they enter U.S. waters. This rule was promulgated because certain vessels are required to comply with the ISM Code by July 1, 1998, and the Coast Guard is required by statute to deny vessels entry into U.S. ports if they do not comply with the ISM Code. This rule affects passenger vessels that transport more than 12 passengers internationally, and tank vessels, bulk freight vessels or high speed freight vessels of 500 gross tons or more on foreign voyages. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to eliminate substandard vessels from United States waters, and the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/11/97	62 FR 65203
Comment Period End	01/10/98	
Interim Final Rule Effective	01/25/98	
Final Action	08/17/98	63 FR 44113
Final Action Effective	09/16/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Coast Guard issued an interim rule in order to begin collecting ISM Code information from the affected vessels well in advance of the ISM Code implementation date of July 1, 1998, for international, safety, and port management concerns. The interim rule provided a 30-day comment period before the rule took effect, to balance the need for public participation with the Coast Guard's need to document compliance with the ISM Code.

Agency Contact: Robert Gauvin, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1053

RIN: 2115–AF54

DOT—USCG **Completed Actions**

2171. FEDERAL PILOTAGE FOR VESSELS IN FOREIGN TRADE (USCG-1998-3323)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 8503

CFR Citation: 46 CFR 15

Legal Deadline: None

Abstract: This rule adds a new section to subpart I of 46 CFR part 15. The new section requires foreign-trade vessels to be under the direction and control of federally-licensed pilots in designated waters of the Cape Fear River and North Cape Fear River, North Carolina, unless under the direction and control of state-licensed pilots. This ensures that vessels are navigated by competent qualified persons, knowledgeable in the local area and accountable to either the state or the Coast Guard. This project supports two goals: the strategic goal of the Coast Guard to promote safety, and the goal of its program in Marine Safety and Environmental Protection to reduce the numbers of collisions, allisions, and groundings on the waters of the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/20/98	63 FR 2939
Comment Period End	02/19/98	
Final Action	10/27/98	63 FR 57252

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The previous docket number for this rulemaking was CGD 97-073.

Agency Contact: Anthony Murray, Project Manager, National Maritime Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd., Suite 510, Arlington, VA 22203-1801 Phone: 703 235-1729

RIN: 2115–AF57

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA) **Proposed Rule Stage**

2172. +PART 145 REVIEW: REPAIR STATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44703; 49 USC 44705; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44713; 49 USC 44717; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 43; 14 CFR 65; 14 CFR 145

Legal Deadline: None

Abstract: The FAA proposes to update and revise the regulations for repair stations. This action is necessary because many portions of the current repair station regulations do not reflect technical advances in aircraft maintenance practices or aircraft technology. The revisions would reorganize the repair station rules to reduce duplication of regulatory language and eliminate obsolete information. The proposal also would establish new requirements that relate to repair station ratings and classes, manual requirements, recordkeeping, and personnel. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-87-045R. This project was formerly entitled Review and Revision of Repair Station Requirements, and Repair Station and Repairmen Certification Rules.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Richard Nowak, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7228

RIN: 2120–AC38

2173. +DRUG ENFORCEMENT ASSISTANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44702 to 44703; 49 USC 44704; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline: Final, Statutory, September 18, 1989, FAA Drug Enforcement Assistance Act of 1988.

Abstract: This action would revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announced new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9270
NPRM Comment Period End	05/11/90	
Extended NPRM Comment Period End Comment Period End 7/11/90	05/16/90	55 FR 20394
SNPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

DOT—FAA **Proposed Rule Stage**

Government Levels Affected: None

Additional Information: Project No. AFS-89-035R.

ANALYSIS: Regulatory Evaluation, 03/12/90, 55 FR 9270

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 MacArthur Boulevard, Oklahoma City, Oklahoma 73125
Phone: 405 954-7038

RIN: 2120–AD16

2174. +AGING AIRCRAFT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135; 14 CFR 183

Legal Deadline:
Other, Statutory, April 24, 1992, Aging Aircraft Safety Act of 1991; action must be initiated by 04/24/92.

Abstract: On October 5, 1993, the FAA published an NPRM that proposed to require air carriers of certain aircraft used in air transportation to demonstrate that the aircraft's maintenance has been adequate to ensure the highest degree of safety. After further review, and taking into consideration public comments to the NPRM, the FAA considers it appropriate to withdraw that NPRM. The FAA is developing a new NPRM that would ensure the continuing airworthiness of the most significant aging airplanes operating in air transportation by mandating aging aircraft records reviews and inspections for certain air carriers and certain aircraft and also by applying modern damage-tolerance analyses and inspection techniques to older airplane structures that were certificated before such techniques were available. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51944
NPRM Comment Period End	02/02/94	
Extended NPRM Comment Period; Comment Period End 3/4/94	02/08/94	59 FR 5741
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number AFS-92-029R.

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE42

2175. +CORROSION CONTROL PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This project would ensure that airplanes used or not used in common carriage in air transportation have a comprehensive corrosion prevention program within their maintenance or inspection programs. In April 1988, a commercial transport airplane experienced an in-flight decompression and separation of approximately 18 feet of the fuselage skin and structure at the top of the airplane. The airplane had been in service for 19 years and had flown almost 90,000 flights. The National Transportation Safety Board concluded that the failure of the airline to detect skin disbonding resulted in corrosion and metal fatigue leading to separation of the airplane's skin structure. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-382R

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE92

2176. +FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action would codify the Federal Aviation Administration's policy not to use information from voluntary Flight Operational Quality Assurance programs in any enforcement actions taken against operators or pilots. The proposed amendment responds to industry groups that have been reluctant to participate. These programs benefit aviation safety by providing information that can lead to improvements in training and operations. In 1995 the FAA initiated a two-year concept demonstration study in partnership with industry. Based on the study, the FAA will issue an Advisory Circular. The FAA will use the information from the study to determine if it is appropriate to codify in the rules the immunity provisions. This rulemaking is significant because of substantial public interest.

DOT—FAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Policy Statement	12/07/98	63 FR 67505
Policy Statement Effective Date	12/07/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-154R

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Dan Meier, Flight Standards Service, Regulations Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3789

RIN: 2120–AF04

2177. +AIR TOUR STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: FAA will propose new regulations for air tour and sightseeing operations that are currently allowed to operate under less stringent regulations than those applied to other types of commercial operations. Over the past decade the number of these operations and the number of accidents and incidents associated with these operations have increased. Hot air balloons and gliders would not be included in this amendment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-91-012R. RIN 2120-AF61 which was proposed as a new item for this agenda was a duplicate of this rulemaking and has been terminated. This rulemaking was previously titled "Sightseeing Operations."

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Dave Metzbower, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3724

RIN: 2120–AF07

2178. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91; 14 CFR 93; 14 CFR 121; 15 CFR 135

Legal Deadline: None

Abstract: The FAA and National Park Service (NPS) have established a joint working group which is tasked with developing a notice of proposed rulemaking to reduce or prevent adverse effects of aircraft noise over our national park system. At the same time, the working group is charged with affording those persons who wish to visit our national parks from the air the opportunity to do so. The working group met from May to November 1997, and developed a concept paper that was approved by the Aviation Rulemaking Advisory Committee and the NPS Advisory Board in December 1997. The working group is now developing a notice of proposed rulemaking with the FAA and NPS. This rulemaking is significant because of substantial public interest.

Statement of Need: The need to reduce or prevent the adverse effects of aircraft noise over the national parks is apparent for the preservation of a valuable national resource. In its Report to Congress, the National Park Service identified 98 parks that potentially have an overflight problem. The FAA recognizes its role both to provide for the safe and efficient use of airspace and to enhance the environment by minimizing the adverse effects of aviation in the national parks.

Summary of the Legal Basis: The FAA has broad authority and responsibility to regulate the operation of aircraft and the use of the airspace and to establish safety standards for and regulate the certification of airmen, aircraft, and air carriers. (49 U.S.C. 40101, et. seq.) The FAA also has responsibility to protect persons and property on the ground. The President's Memorandum of April 22, 1996, directed the FAA, working with the National Park Service, to issue a notice of proposed rulemaking for the management of sightseeing aircraft in those National Parks where it is deemed necessary to reduce or prevent the adverse effects of noise from such aircraft.

Alternatives: During its working sessions, the working group considered a variety of criteria for defining an air tour, various triggering events for determining which parks are at risk, and various means for the NPS and FAA to work together to develop an air tour management plan.

Anticipated Costs and Benefits: Undetermined.

Risks: This rulemaking addresses the risk of destruction of valuable national resources: the right to enjoy the natural quiet in our national parks. At the same time, taking this risk has to be balanced against any potential safety problems that restrictions on overflights might create. Both the National Park Service and FAA are confident that a solution can be reached whereby all visitors to the park may be accommodated through an agreed upon park airspace management plan.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/94	59 FR 12740
ANPRM Correction	04/01/94	59 FR 15350
ANPRM Comment Period End	06/15/94	
Extended ANPRM Comment Period; Comment Period End 07/15/94	06/20/94	59 FR 31883
Notice: Formation of Working Group	05/22/97	62 FR 28100
Notice of Public Meeting	06/06/97	62 FR 31187
Notice of Public Meeting	04/07/98	63 FR 17040
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

DOT—FAA

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Refer to 1996 Regulatory Plan entry RIN 2120-AF93, Airspace Management: Special Flight Rules in the Vicinity of the Grand Canyon and also RIN 2120-AG11, Special Flight Rules in the Vicinity of the Rocky Mountain National Park. Project Number: ARM-97-318A

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Linda L. Williams, Office of Rulemaking, ARM-100, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9685

RIN: 2120–AF46

2179. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking would amend the regulations to establish one set of duty period limitations, flight time limitations, and rest requirements for flight crewmembers engaged in air transportation. The FAA has determined that rulemaking is required as a result of public and congressional interest in regulating flight crewmember rest requirements, NTSB Safety Recommendations, petitions for rulemaking, and scientific data. The FAA has asked the Aviation Rulemaking Advisory Committee (ARAC) to accept the task of proposing recommendations for pilots on reserve status. At the same time, an internal FAA team will be developing a supplemental notice of proposed rulemaking. This action is considered significant because of substantial public interest.

Statement of Need: The aviation community requires 24-hour activities to meet operational demands. Growths in long-haul, regional, overnight cargo, and short-haul domestic operations are increasing. Therefore, shift work, night work, irregular work schedules, and time zone changes will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. Some of the scientific knowledge has indicated that aviators experience performance-impairing fatigue from sleep loss resulting from current flight and duty practices. A primary purpose is to base the rule on scientific knowledge.

In addition, industry and individuals have told the FAA that the current regulations are confusing and difficult to enforce. Therefore, a second purpose of the rulemaking is to establish consistent and clear duty period limitations and rest requirements for all types of operations.

Summary of the Legal Basis: Section 44701, Title 49 of the United States Code states that the Administrator shall promote safety of flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety.

Alternatives: One obvious alternative would be to continue with the current rules, which would be very expensive for the industry. In reviewing the comments, the FAA is also considering other reserve alternatives that would not penalize certain segments of the industry, such as the air ambulance operators. There is no overall alternative to rest and duty regulations; however, there may be some alternatives that would lend flexibility for operators. To explore these alternatives, the FAA has established a Reserve Duty/Rest Requirements Working Group under the Aviation Rulemaking Advisory Committee.

Anticipated Costs and Benefits: Undetermined.

Risks: Although there has been only one identifiable accident due to pilot fatigue, fatigue is increasingly becoming the focus of possible causes following all accidents. Pilot reports of being fatigued to the point of incapacity are not uncommon, and intuitively, it is reasonable, given the sheer volume of air traffic, to expect fatigue to be a factor in future accidents if the regulations are not corrected.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65951
NPRM Comment Period End	03/19/96	
Extended NPRM Comment Period; Comment Period End 6/19/96	03/20/96	61 FR 11492
SNPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-94-443R

ANALYSIS: Regulatory Evaluation, 12/20/95, 60 FR 65951

Agency Contact: Alberta Brown, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8221

RIN: 2120–AF63

2180. +SUBMISSION TO DRUG TESTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 45102 to 45103

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 91

Legal Deadline: None

Abstract: This action would propose amendments to require aircraft crewmembers to submit to tests that show the presence of alcohol, drugs, or drug metabolites when requested by Federal, State, or local law enforcement officers investigating violations of Federal, State, or local law. The proposed amendments are intended to reduce aircraft accidents and incidents attributed to the use of drugs by

DOT—FAA

Proposed Rule Stage

crewmembers. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-90-082

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Thomas K. Glista, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8150

RIN: 2120–AF64

2181. +PASSENGER FACILITY CHARGES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40116 to 40117; 49 USC 47111; 49 USC 47114 to 47116

CFR Citation: 14 CFR 158

Legal Deadline: None

Abstract: This action proposes to increase the amount of compensation that a carrier may earn for collecting and remitting a passenger facility charge from eight cents to ten cents. In addition, the NPRM proposes to clarify that monthly remittances must be received by airport public agencies collecting PFCs on the last day of each month. The NPRM also proposes to amend the regulation to reflect the statutory prohibition on collection of PFCs from passengers using frequent flyer bonus awards. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/16/96	61 FR 16678
ANPRM Comment Period End	05/16/96	
Extended Comment Period End 6/16/96	05/21/96	61 FR 25420
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: APP-94-568P.

Agency Contact: Sheryl Scarborough, Airport Financial Assistance Division, Office of Airports Planning and Programming, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8825

RIN: 2120–AF69

2182. OPERATIONAL AND STRUCTURAL DIFFICULTY REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend the reporting requirements for air carrier certificate holders and certificated domestic and foreign repair stations concerning failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components. The proposed rule would clarify and standardize the reporting requirements for the type of information submitted to the FAA, allowing the FAA to identify trends that may affect aviation safety. This action was prompted by an internal FAA review of industry concern over the quality of the data being reported by air carriers. The objective of the proposed rule is to update and improve the reporting system to effectively collect and disseminate clear and concise information, particularly with regard to aging aircraft, to the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	08/14/95	60 FR 41992
NPRM Comment Period End	11/13/95	
SNPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-95-237A. This is a recommendation from the Aviation Rulemaking Advisory Committee.

ANALYSIS: Regulatory Evaluation, 08/14/95, 60 FR 41992

Agency Contact: Robert Corcoran, Flight Standards Service, Department of Transportation, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125
Phone: 405 954-6508

RIN: 2120–AF71

2183. +DURATION BETWEEN EXAMINATIONS FOR FIRST- AND SECOND-AIRMAN MEDICAL CERTIFICATES

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This proposed action would reduce the required frequency of medical examinations for many holders of first- and second-class airman medical certifications, based on the age of the airman. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AAM-95-065R.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Dennis McEachen, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 493-4075

RIN: 2120–AG06

DOT—FAA

Proposed Rule Stage

2184. FEES FOR AEROMEDICAL EDUCATION TRAINING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 49 USC 106(g); 49 USC 40104; 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44702; 49 USC 45301 to 45303

CFR Citation: 14 CFR 187

Legal Deadline: None

Abstract: This action would establish (1) a schedule of fees for all aeromedical education training services, (2) the methodology for computing user fees, and (3) a timetable for periodic updates of established fees. The proposal is necessary to permit the FAA to recover the costs incurred in sponsoring aeromedical education training services.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AAM-95-065R.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: B. J. Hudson, Aeromedical Standards Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 493-4077

RIN: 2120–AG07

2185. +FALSE AND MISLEADING STATEMENTS REGARDING AIRCRAFT PARTS

Priority: Other Significant

Legal Authority: 49 USC 44913

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action proposes additional rules that would prohibit certain false or misleading statements regarding civil aircraft, airframes, aircraft engines, propellers, appliances, component parts, and materials, including standard parts, that are used, or may be used, on civil aircraft. The proposals would also permit increased inspection by the FAA of records regarding the quality of aircraft parts. The additional rules are needed to help prevent persons from representing parts as suitable for use on civil aircraft when in fact they may not be. The proposals are intended to provide assurance that aircraft owners and operators, and persons who maintain aircraft, have truthful information on which to determine whether a part may be used in a given civil aircraft application. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AGC-94-549R.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Mardi Ruth Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3073

RIN: 2120–AG08

2186. +LICENSE REQUIREMENTS FOR OPERATION OF A LAUNCH SITE

Priority: Other Significant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the operation of a launch site. The law requires anyone who proposes to operate a launch site within the U.S., or a U.S. citizen proposing to operate a launch site outside the U.S., to obtain a license from DOT. This action would govern obtaining a license to operate such a launch site. Currently, commercial rocket launches take place from Federal government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to operate a launch site. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: AST-96-341R.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Randy Repcheck, Licensing and Safety Division, AST-200, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8379

RIN: 2120–AG15

2187. +PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Administrator has been tasked, under the Federal Aviation Reauthorization Act of 1996, to develop regulations to protect safety and security related information voluntarily disclosed by industry. The FAA is in the process of determining what voluntarily submitted information should be given protection under the statute. This rulemaking is significant because of substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: ARM-97-040.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Mardi Thompson, Regulations Division, Office of the

DOT—FAA

Proposed Rule Stage

Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3073

RIN: 2120–AG36

2188. +LICENSING AND SAFETY REQUIREMENTS FOR LAUNCH FROM A NON-FEDERAL LAUNCH SITE

Priority: Other Significant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the conduct of a launch from a non-Federal launch site. The law requires anyone who proposes to conduct a launch within the United States, or a U.S. citizen proposing to conduct a launch site outside the United States, to obtain a license from DOT. This action would govern obtaining a license to conduct such a launch. Currently, commercial rocket launches take place from Federal Government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related licensing rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to conduct a launch from a commercial launch site, where DOT, rather than NASA or the military has primary responsibility. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AST-97-088R.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Michael Dook, Licensing and Safety Division, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9305

RIN: 2120–AG37

2189. CIVIL PENALTIES: STREAMLINED ENFORCEMENT TEST AND EVALUATION PROGRAM; SECURITY; DRUG AND ALCOHOL ABATEMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122; ...

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action proposes to establish a two-year test and evaluation program designed to streamline the procedures used to process certain civil penalty enforcement actions. This program was recommended as a result of the Deputy Administrator's 90-day system safety review.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Brian Reed, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7158

RIN: 2120–AG49

2190. +SCREENING OF CHECKED BAGGAGE ON FLIGHTS WITHIN THE UNITED STATES

Priority: Economically Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: The FAA is proposing the screening or bag matching of passenger checked baggage on domestic flights by utilizing an FAA-approved Computer Assisted Passenger Screening (CAPS) system. This is in response to a recommendation from the White House Commission on Aviation Safety and Security (The Commission) "Final Report to President Clinton." The Commission recommended that one of the steps that should be taken to improve airline passenger security is the implementation by the FAA of a computerized system for profiling airline passengers flying out of airports located in the United States. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Lon M. Siro, Civil Aviation Security Office of Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3414

RIN: 2120–AG51

2191. PARACHUTE OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44701 to 44702; 49 USC 44721

CFR Citation: 14 CFR 105

Legal Deadline: None

Abstract: This rulemaking proposes to clarify and update the Federal Aviation Regulations by defining terms applicable to parachute operations and issues concerning coordinating parachute operations with air traffic control, tandem parachute operations, and packing and equipment requirements for foreign parachutists when parachuting in the United States. Also, this proposed action is necessary to reflect recent airspace reclassification and parachuting equipment applications.

DOT—FAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Project Number: ATA-91-202R.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Ellen Crum, Air Traffic Airspace Management Program, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 493-4563

RIN: 2120–AG52

2192. FLIGHT PLAN REQUIREMENTS FOR HELICOPTER OPERATIONS UNDER INSTRUMENT FLIGHT RULES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This rulemaking is needed because current rules discourage helicopter operations under Instrument Flight Rules (IFR) in marginal weather conditions. This rulemaking would increase safety by allowing helicopter operators access into the IFR system commensurate with the unique flight characteristics of helicopters. This rulemaking project is a recommendation of the Aviation Rulemaking Advisory Committee, forwarded to the FAA on November 18, 1997.

Timetable:

Action	Date	FR Cite
NPRM	09/02/98	63 FR 46834
NPRM Comment Period End	10/02/98	
SNPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 09/02/98, 63 FR 46834

Agency Contact: William H. Wallace, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3771

RIN: 2120–AG53

2193. REVISION OF AIR CARRIER CREWMEMBER AND TRAINING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 60; 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise title 14 of the Code of Federal Regulations part 121 subparts N, O, P, and create part 60. The proposed revision and creation will address Advanced Qualification Programs and additional training programs. The rulemaking is needed to enhance crew resource management training, to permit rapid changes to training and checking requirements for emerging technologies, to improve safety, and to respond to numerous recommendations from various sources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-97-335R.

ANALYSIS: Regulatory Evaluation, 12/00/99

Agency Contact: Jan Demuth, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8922

RIN: 2120–AG57

2194. +TRANSPORT AIRPLANE FLEET FUEL TANK IGNITION SOURCE REVIEW; FLAMMABILITY REDUCTION, AND MAINTENANCE AND INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action will develop a Special Federal Aviation Regulation (SFAR) to require type certificate holders of certain turbojet and turbofan-powered transport category airplanes to conduct a design review of fuel tank systems and develop fuel system inspection and maintenance instructions. It will also allow a certificate holder to submit documentation that the type design of the fuel system of a previously certificated airplane precludes existence of ignition sources within the airplane's fuel tanks. This action is significant because of substantial public interest in the prevention of fire and explosion in airplane fuel tanks.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-98-158R.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AG62

DOT—FAA

Proposed Rule Stage

2195. USE OF ELECTRONIC SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101 to 40103; 49 USC 40105; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44105 to 44106; 49 USC 44111; 49 USC 44701 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 44906; ...

CFR Citation: 14 CFR 21; 14 CFR 43; 14 CFR 91; 14 CFR 119

Legal Deadline: None

Abstract: This action proposes to amend the regulations to permit the use of electronic signatures to satisfy maintenance, operational, and type certification record preparation and retention requirements. Although this action will encourage the use of electronic recordkeeping systems, it will not discourage the use of paper documents and records to satisfy regulatory requirements. The proposed rule will provide cost savings and regulatory relief to owners, manufacturers, operators and repair stations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-226A.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Wayne Nutsch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 493-4291

RIN: 2120–AG63

2196. • COMMERCIAL SPACE TRANSPORTATION REUSABLE LAUNCH VEHICLE AND REENTRY LICENSING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2601

CFR Citation: 14 CFR 401; 14 CFR 404; 14 CFR 406; 14 CFR 413; 14 CFR 417; 14 CFR 431; 14 CFR 433

Legal Deadline: None

Abstract: This action will amend the commercial space transportation licensing regulations by establishing operational requirements for launches of reusable launch vehicles and the authorized conduct of commercial space reentry activities. The proposed rule would respond to advancements in the development of commercial reentry capability and enactment of legislation extending the FAA's licensing authority to reentry activities.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AST-98-174R.

Agency Contact: Stewart W. Jackson, Office of the Associate Administrator for Commercial Space Transportation, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7903

RIN: 2120–AG71

2197. • REVISED LANDING GEAR SHOCK ABSORPTION TEST REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the landing gear shock absorption test requirements for transport category airplanes to be consistent with other requirements, to reflect modern technology and to achieve common requirements and language between the Federal aviation requirements and the European joint aviation requirements without reducing the level of safety provided by the regulations and industry practices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-98-182A.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: James Haynes, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Rind Avenue SW., Renton, WA 98055 Phone: 425 227-2131

RIN: 2120–AG72

2198. • +GRAND CANYON NATIONAL PARK; LIMITS ON AIR TOUR OPERATIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: The FAA, in cooperation with the National Park Service, will propose to limit the number of air tour operations that can be conducted in Grand Canyon National Park. This rulemaking is consistent with the National mandate of Pub. L. 100-91 to substantially restore the natural quiet in the Park. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-98-376R.

ANALYSIS: Regulatory Evaluation, 06/00/99

Agency Contact: Alberta Brown, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8321

RIN: 2120–AG73

DOT—FAA

Proposed Rule Stage

2199. • +MODIFICATION OF THE AIRSPACE FOR GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: The FAA is proposing to modify the airspace of the Special Flight Rules Area (SFRA), Grand Canyon National Park, to add a corridor for quiet technology aircraft and to extend the eastern boundary of the SFRA to accommodate Native American concerns. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATA-98-482R.

ANALYSIS: Regulatory Evaluation, 06/00/99

Agency Contact: Joseph White, Airspace and Air Traffic Management Program, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AG74

2200. • TRAINING IN THE RECOGNITION OF HAZARDOUS MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 4711; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: The FAA will clarify the requirement for "will not carry" certificate holders in parts 121 and 135 to provide hazardous material recognition training so that such materials are not inadvertently placed onboard aircraft.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-375R.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Donell Pollard, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8321

RIN: 2120–AG75

2201. • +FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED REENTRY ACTIVITIES

Priority: Other Significant

Legal Authority: 42 USC 2601

CFR Citation: 14 CFR 450

Legal Deadline: None

Abstract: This proposal will establish financial responsibility requirements covering risks associated with the licensed reentry of a reentry vehicle. This action will provide general rules for demonstrating compliance with insurance requirements and implementing statutory-based Government/industry risk sharing provisions in manner comparable to that currently utilized for commercial launches.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AST-99-055R.

Agency Contact: Esta Rosenberg, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2120–AG76

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Final Rule Stage

2202. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would amend the standards, aeronautical studies, scope, and notice provisions concerning objects affecting navigable airspace. The notice consisted primarily of changes required by recent legislation or recommended by a government/industry task group of the National Airspace Review Advisory Committee. This action would also cover electromagnetic interference phenomenon that could create a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	
NPRM	08/03/90	55 FR 31722
NPRM Correction	08/13/90	55 FR 32999
NPRM Correction	08/16/90	55 FR 33577
NPRM Correction	08/28/90	55 FR 35152
NPRM Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/90	

DOT—FAA

Final Rule Stage

SNPRM	10/16/95	60 FR 53680
SNPRM Comment Period End	11/30/95	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATO-85-015R.

ANALYSIS: Regulatory Evaluation, 08/03/90, 55 FR 31722

Agency Contact: Ellen Crum, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AA09

2203. MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 5103; 49 USC 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44703; 49 USC 44705; 49 USC 44706; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44712

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to amend various sections of the regulations. The proposal was to clarify language, correct improper or obsolete references, and to relax certain existing requirements. Since publication of the NPRM, many other completed, in-process, or planned actions have addressed or will address many of the issues involved. The FAA has determined that all unresolved issues should be included in more recent actions dealing with the specific sections of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. 23781. Project Number: ARM-81-128R.

ANALYSIS: Regulatory Evaluation, 10/03/83, 48 FR 45214

Agency Contact: Jean Casciano, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9683

RIN: 2120–AA50

2204. IFR ALTITUDES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113; 49 USC 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44719; 49 USC 44721

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which prescribes altitudes for the operation of aircraft under instrument flight rules (IFR) on Federal airways, jet routes, area navigation low or high routes, or other direct routes for which a minimum en route IFR altitude is designated in 14 CFR part 95. In addition, mountainous areas and changeover points are designated. These regulations are an established body of technical requirements that are issued routinely and frequently to maintain operational efficiency. Total actions expected--400. 10/00/98 - 10/00/99.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8212

RIN: 2120–AA63

2205. AIRWORTHINESS DIRECTIVES

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: The FAA issues type certificates for "products," which are aircraft, engines, propellers, and some appliances. The FAA issues a regulation called an "Airworthiness Directive" (AD) to address an unsafe condition in a type certificated product, if that unsafe condition is likely to exist or develop in products of the same type design. Part 39 of title 14 requires each operator of a product affected by an AD to comply with the terms of the AD, in order to operate that product; the AD may mandate operational limitations, maintenance, or alterations for the affected product. The vast majority of routine and frequent Airworthiness Directives are nonsignificant. Total actions expected-700. 10/00/98 to 10/00/99.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Jack McGrath, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9580

RIN: 2120–AA64

2206. STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113 to 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 44721 to 44722

DOT—FAA

Final Rule Stage

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Standard Instrument Approach Procedures (SIAP) provide for instrument letdown to airports in the United States. They are a nonsignificant body of regulations that are complex and technical in nature and require routine and frequent rulemaking to maintain efficiency. The FAA issues, revises, and cancels SIAPs by adopting amendments that are incorporated into 14 CFR part 97. Contemporaneously with publication in the Federal Register, the SIAPs are made available to the Aeronautical Charting and Cartography Office in the Department of Commerce, and other publishers of aeronautical charts where they are published as approach procedure charts or "approach plates". These charts are made available to the members of the aviation community for use by pilots in making instrument approaches. Total actions expected--2,200. 10/00/98 - 10/00/99.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8212

RIN: 2120–AA65

2207. AIRSPACE ACTIONS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which designates airspace areas, airways, routes, and reporting points to facilitate safe navigation. These regulations are technical in nature and are issued routinely and frequently to maintain operational efficiency. Total actions expected--330. 10/00/98 through 10/00/99.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pat Crawford, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AA66

2208. +IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would add new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This action is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AIR-85-265R.

ANALYSIS: Regulatory Evaluation, 06/30/88, 53 FR 24890

Agency Contact: John Petrakis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9574

RIN: 2120–AC72

2209. +RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline:
NPRM, Statutory, April 28, 1988, PL 100-223 Sec 303.

Abstract: This action would require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	

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Action	Date	FR Cite
Notice of Public Meeting and Reopening of Comment Period	10/30/98	63 FR 58331
NPRM Comment Period End	01/08/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 25611. Project Number: AIR-88-136R.

ANALYSIS: Regulatory Evaluation, 05/17/88, 53 FR 17650

Agency Contact: John Petrakis, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9274

RIN: 2120–AC84

2210. +SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: Final, Statutory, September 30, 1989, Airway Safety and Capacity Expansion Act of 1987 (PL 100-223).

Abstract: The FAA is withdrawing a previously published Advance Notice of Proposed Rulemaking (ANPRM) that proposed to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft conducting Instrument Flight Rules en route and terminal area operations, including nonprecision approach, in controlled airspace of the United States. This rulemaking was considered to be significant because of a congressional mandate. However, the provision was repealed in 1994 as part of the recodification of Title 49. The provision was originally enacted as section 310(c) in FAA's 1987 Reauthorization bill, Pub. L. No. 100-123.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/90	55 FR 2206
ANPRM Comment Period End	05/22/90	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-89-215R. This project was formerly entitled Sole Means Radio Navigation System.

Agency Contact: James Crowling, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-5215

RIN: 2120–AD26

2211. +REVISION OF PART 108, AIRPLANE OPERATOR SECURITY

Priority: Other Significant

Legal Authority: 40 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This action would amend part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41730
Notice of Public Meeting	09/15/97	62 FR 48190
NPRM Comment Period End	12/01/97	
Notice of Public Meeting	04/21/98	63 FR 19691
Reopening of NPRM Comment Period; Comment Period End 6/26/98	04/21/98	63 FR 19691
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-87-107R.

ANALYSIS: Regulatory Evaluation, 08/01/97, 62 FR 41730

Agency Contact: Rhoda Hatmaker, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3946

RIN: 2120–AD45

2212. +REVISION OF PART 107, AIRPORT SECURITY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44706; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This action proposes to amend part 107 of the Federal Aviation Regulations to incorporate new requirements in response to the worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41760
Notice of Public Meeting	09/15/97	62 FR 48190
NPRM Comment Period End	12/01/97	
Notice of Public Meeting	04/21/98	63 FR 19691
Reopening of Comment Period; Comment Period End 6/26/98	04/21/98	63 FR 19691
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-87-106R.

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ANALYSIS: Regulatory Evaluation, 08/01/97, 62 FR 41760

Agency Contact: Bob Comonaroto, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8553

RIN: 2120–AD46

2213. +AIRCRAFT GROUND DEICING AND ANTI-ICING PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action establishes a requirement for part 121 certificate holders to develop an FAA-approved ground deicing/anti-icing program and to comply with that program any time conditions are such that frost, ice, or snow could adhere to the aircraft's wings, control surfaces, or propellers. This action is necessary because several accidents and the recent International Conference on Airplane Ground Deicing indicate that, under present procedures, the pilot in command may be unable to effectively determine whether critical airplane components are free of all frost, ice, or snow prior to attempting a takeoff. The action provides an added level of safety to flight operations in adverse weather conditions, and is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32846
NPRM Comment Period End	08/07/92	
Interim Final Rule	09/29/92	57 FR 44924
Interim Final Rule Effective	11/01/92	
Interim Final Rule Correction	11/09/92	57 FR 53385
Interim Final Rule Comment Period End	04/15/93	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-280-R.

A proposed advisory circular providing guidance on the program elements that should be included in an air carrier's approved ground deicing and anti-icing program was published September 29, 1992, requesting comments (57 FR 44944).

Various documents of this proceeding were erroneously published under RIN 2120-AE51.

ANALYSIS: Regulatory Evaluation, 09/29/92, 57 FR 44924

Agency Contact: James Gardner, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9579

RIN: 2120–AE70

2214. AIR TRAFFIC CONTROL RADAR BEACON SYSTEM AND MODE S TRANSPONDER REQUIREMENTS IN THE NATIONAL AIRSPACE SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Mode S transponder requirement for all aircraft operating under part 135 and certain aircraft operating under part 121 based on the expected availability of operational capabilities of Mode S ground sensors. For part 121 operators, the action would affect only those aircraft not required to have Traffic Alert and Collision Avoidance System II. An aviation rulemaking advisory committee has recommended that the FAA conduct a study of the installed Mode S ground sensor to determine the extent of the benefits derived and the costs involved in equipage. This action is a relieving action made necessary by the fact that ground sensors are not in place to support the requirement. Further, FAA is studying the need for Mode S transponders in part 135 and certain part 121 operations in light of the fact that transponders may not substantially increase ATC ability to view air traffic.

Timetable:

Action	Date	FR Cite
NPRM	05/23/96	61 FR 26036
NPRM Correction	06/17/96	61 FR 30551
NPRM Comment Period End	07/22/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-297R.

ANALYSIS: Regulatory Evaluation, 05/23/96, 61 FR 26036

Agency Contact: Daniel V. Meier, Jr., Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AE81

2215. CIVIL PENALTY ASSESSMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action would revise the procedures for the assessment of civil penalties for violations of the Federal Aviation Regulations and other provisions. The procedures proposed would implement the requirements of

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the FAA Civil Penalty Administrative Assessment Act of 1992, as they modify the procedures for adjudicating a civil penalty against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman.

Timetable:

Action	Date	FR Cite
NPRM	08/05/94	59 FR 40192
NPRM Comment Period End	10/04/94	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-93-076R. This rulemaking was considered significant; however, after receiving only two comments on the NPRM issued in 8/94, and the lack of controversy regarding this rule, the FAA does not consider this a significant rulemaking.

ANALYSIS: Regulatory Evaluation, 08/05/94, 59 FR 40192

Agency Contact: Joyce Redos, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7158

RIN: 2120–AE84

2216. FLIGHT ATTENDANT ENGLISH LANGUAGE PROFICIENCY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA has reviewed the Aviation Rulemaking Advisory Committee recommendation to proceed with this rulemaking. The FAA has determined that it would be most appropriate to address the flight attendant English language issue in the overall context of crew training. Therefore, because the FAA will incorporate the flight attendant English language issue into the proposed revision of part 121 subpart N and O notice of proposed rulemaking, this rulemaking entry will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	04/18/94	59 FR 18456
ANPRM Comment Period End	07/18/94	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-93-745A

Agency Contact: Donell Pollard, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3735

RIN: 2120–AE98

2217. +REVISED ACCESS TO TYPE III EXITS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would adjust recently adopted requirements for access to type III emergency exits in transport category airplanes with 60 or more passenger seats. The adjustments would reflect new data from tests conducted at the FAA's Civil Aeromedical Institute and are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/30/95	60 FR 5794
NPRM Comment Period End	05/01/95	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-93-005R

Agency Contact: Charles Huber, Regulations Branch, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2114

RIN: 2120–AF01

2218. +TRAINING AND CHECKING IN GROUND ICING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44710 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This amendment requires parts 125 and 135 certificate holders to provide pilot training or testing in ground deicing/anti-icing procedures and to check the airplane for contamination by frost, ice, or snow during ground icing conditions. The proposal is intended to provide an added level of safety to flight operations in adverse weather conditions under parts 125 and 135. This rulemaking is significant because it affects a substantial portion of the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49164
NPRM Comment Period End	10/06/93	
Interim Final Rule	12/30/93	58 FR 69620
Advisory Circular Published	12/30/93	58 FR 69631
Interim Final Rule Effective	01/31/94	58 FR 69620
Interim Final Rule Comment Period End	04/15/94	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-459R

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ANALYSIS: Regulatory Evaluation, 12/30/93, 58 FR 69620

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9579

RIN: 2120–AF09

2219. LOS ANGELES, CA, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to alter the Los Angeles, CA, Class B airspace area. The proposal would have lowered certain ceilings while raising others to provide more visual flight rules altitudes to circumnavigate the Los Angeles Class B airspace and to provide for better containment of arriving turbojets. This action will be handled as a routine airspace action.

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60244
NPRM Comment Period End	01/23/95	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATP-94-035T RIN 2120-AF38 was inadvertently used when this rulemaking was published in the Federal Register on November 22, 1994. The correct RIN is 2120-AF16.

ANALYSIS: Regulatory Evaluation, 11/22/94, 59 FR 60244

Agency Contact: William Nelson, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9295

RIN: 2120–AF16

2220. REVISION OF CERTIFICATION REQUIREMENTS: MECHANICS AND REPAIRMEN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45303

CFR Citation: 14 CFR 65; 14 CFR 66

Legal Deadline: None

Abstract: This action would revise the Federal Aviation Regulations that prescribe the certification and training requirements for mechanics and repairmen. Current regulations prescribing these certification requirements do not reflect the significant technological advances that have occurred in the aviation industry and the enhancements in training and instructional methods that have affected all aviation maintenance personnel. The proposed rule would consolidate and clarify 11 certification, training, experience, and currency requirements for aviation maintenance personnel in a newly established part 66. The proposal would enhance aviation safety by establishing new training programs for aviation maintenance personnel and would decrease the regulatory burden on these personnel by providing alternatives for meeting experience and currency requirements. This is an ARAC project that has 2 phases; phase 1 was addressed in the first NPRM and phase 2 will be addressed in the second NPRM as well as addressing comments received from the first NPRM.

Timetable:

Action	Date	FR Cite
NPRM	08/17/94	59 FR 42430
NPRM Comment Period End	10/17/94	
NPRM	07/09/98	63 FR 37172
Withdrawal of 8/17/94 NPRM	07/09/98	63 FR 37210
NPRM Correction	08/05/98	63 FR 41743
Extended NPRM Comment Period	10/14/98	63 FR 55290
NPRM Comment Period End	11/06/98	
Extended Comment Period End	01/08/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-96-492A. This rulemaking is a recommendation from the Aviation Rulemaking Advisory Committee.

ANALYSIS: Regulatory Evaluation, 08/17/94, 59 FR 42430

Agency Contact: Leslie Vipond, Aircraft Maintenance Service, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3269

RIN: 2120–AF22

2221. +SUSPENSION OF CERTAIN AIRCRAFT OPERATIONS FROM THE TRANSPONDER WITH AUTOMATIC PRESSURE ALTITUDE REPORTING CAPABILITY REQUIREMENT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The FAA is withdrawing the proposed Special Federal Aviation Regulation (SFAR) because data shows that adequate time has passed since 1988 for aircraft operators to purchase and install automatic altitude reporting transponders, and those without an operating transponder may use the ATC authorization procedures. In addition, according to an FAA survey, the majority of general aviation aircraft owners have installed automatic altitude encoding transponders. The FAA, therefore, finds that the provision proposed in the NPRM are no longer necessary and is withdrawing the proposal to reinstate SFAR 62. This action would have reinstated and modified expired SFAR No. 62. SFAR No. 62 suspended certain provisions of the regulations requiring the installation and use of a transponder with automatic altitude reporting capability within 30 nautical miles of a Class B airspace primary airport. This rulemaking was significant because of substantial public interest.

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Timetable:

Action	Date	FR Cite
NPRM	08/25/94	59 FR 43994
NPRM Correction	09/14/94	59 FR 47210
Extended NPRM Comment Period: Comment Period End 11/25/94	09/28/94	59 FR 49360
NPRM Comment Period End	10/11/94	
Withdrawal	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATP-93-474R. As this action merely involves extension of a suspension of a requirement, it is not a rulemaking requiring OMB review in the context of EO 12866. However, it is significant under DOT's regulatory policies and procedures.

ANALYSIS: Regulatory Evaluation, 08/25/94, 59 FR 43994

Agency Contact: Ellen Crum, Air Traffic Branch, Airspace Rules and Aeronautical Info. Div., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 493-4562

RIN: 2120–AF30

2222. NORMAL CATEGORY ROTORCRAFT MAXIMUM WEIGHT AND PASSENGER SEAT LIMITATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This rulemaking proposes to amend the airworthiness standards for normal category rotorcraft by increasing the maximum weight limit from 6,000 to 7,000 pounds and add a passenger seat limitation of nine. The increase in maximum weight is proposed to compensate for the increased weight resulting from additional regulatory requirements, particularly recent requirements intended to improve occupant survivability in the event of a crash.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	02/05/94	59 FR 554
NPRM	06/25/98	63 FR 34610
NPRM Comment Period End	09/23/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ASW-98-200A.

ANALYSIS: Regulatory Evaluation, 06/25/98, 63 FR 34610

Agency Contact: Lance Gant, Rotorcraft Standards Staff, Rotorcraft Directorate, Department of Transportation, Federal Aviation Administration, ASW-110, FAA, Fort Worth, TX 76193-0110
Phone: 817 222-5114

RIN: 2120–AF33

2223. +TYPE CERTIFICATION PROCEDURES FOR CHANGED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715

CFR Citation: 14 CFR 11; 14 CFR 21; 14 CFR 25

Legal Deadline: None

Abstract: This action amends the procedural regulations for certification of changes to type certificated products. The amendments affect changes accomplished through either an amended type certificate or a supplemental type certificate. The amendments are needed to address the trend toward fewer products that are of completely new design and more products with multiple changes to previously approved designs. This action will enhance safety by applying the latest airworthiness standards, to the greatest extent practicable, for the certification of significant design changes of aircraft, aircraft engines, and propellers. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24288
NPRM Comment Period End	09/02/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Project Number: AIR-99-0393A. This action is the result of an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 05/02/97, 62 FR 24288

Agency Contact: Randall Peterson, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9583

RIN: 2120–AF68

2224. MISCELLANEOUS CABIN SAFETY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes relating to flight attendant assist space, flight attendant assist handles, door hold open features, outside viewing means, interior compartment doors and portable oxygen equipment. With one exception, these proposals are not the result of any specific incident or recommendation, but are part of the FAA's continuing effort to upgrade the

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regulations to improve the overall level of safety in areas where the state-of-the-art and good design practice have indicated that such upgrades are warranted. These proposals would result in both new type design regulations as well as requirements applicable to existing designs implemented via the operating rules.

Timetable:

Action	Date	FR Cite
NPRM	07/24/96	61 FR 38552
NPRM Comment Period End	11/21/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-90-016R.

ANALYSIS: Regulatory Evaluation, 07/24/96, 61 FR 38552

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 425 227-2136

RIN: 2120–AF77

2225. REPAIR ASSESSMENT FOR PRESSURIZED FUSELAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 40711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44912

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129

Legal Deadline: None

Abstract: This rulemaking would require incorporation of repair assessment guidelines for external fuselage pressure boundary into the FAA-approved maintenance programs of each operator of certain transport category airplane models. The purpose of the repair assessment guidelines is to establish a damage-tolerance based supplemental inspection program for repairs to detect damage, which may develop in a repaired area, before that damage degrades the load carrying capability of the structure below the levels required by the applicable airworthiness standards.

Timetable:

Action	Date	FR Cite
NPRM	01/02/98	63 FR 126
NPRM Comment Period End	04/02/98	
Extended NPRM Comment Period; Comment Period End 7/2/98	04/03/98	63 FR 16452
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Project Number: ANM-97-309A. This is an Aviation Rulemaking Advisory Committee project.

ANALYSIS: Regulatory Evaluation, 01/02/98, 63 FR 126

Agency Contact: Dorenda Baker, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 425 227-2109

RIN: 2120–AF81

2226. +COMMERCIAL SPACE TRANSPORTATION LICENSING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 400 to 415

Legal Deadline: None

Abstract: The Commercial Space Launch Act of 1984, as amended, grants the Department of Transportation authority to license and otherwise regulate commercial launches and the commercial operation of launch sites. In accordance with this authority, delegated to the FAA, the Associate Administrator for Commercial Space Transportation (AST) must ensure that commercial space launch activities are conducted in a manner that does not jeopardize public health and safety and the safety of property, without imposing unnecessary regulatory burdens on the commercial launch industry. The industry has grown in size and complexity since the original regulations were published in 1988, and AST's licensing program continues to evolve to reflect these changes. This rulemaking modifies the current regulations to reflect a streamlined and more mature licensing regime developed over the past few years. Such changes would benefit the industry by reducing regulatory burdens, thus reducing costs. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020
Extended Comment Period; Comment Period End 12/16/94	12/05/94	59 FR 62359
NPRM	03/19/97	62 FR 13216
NPRM Comment Period End	05/19/97	
Correction	05/23/97	62 FR 28391
Reopening of NPRM Comment Period; Comment Period End 8/4/97	07/03/97	62 FR 36027
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This action first appeared in the Agenda under RIN 2105-AB85. However, it was transferred from the Office of the Secretary, Department of Transportation, to the Federal Aviation Administration due to Transfer of Delegations. See 60 FR 62762, December 7, 1995, for information of the delegation.

Project Number: AST-96-142R.

ANALYSIS: Regulatory Evaluation, 03/19/97, 62 FR 13216

Agency Contact: Laura Montgomery, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AF99

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2227. REVISION OF CERTIFICATION REQUIREMENTS: AIRCRAFT DISPATCHERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 65

Legal Deadline: None

Abstract: This action proposes to amend the regulations that prescribe the certification and training requirements for aircraft dispatchers. Current regulations prescribing these certification requirements do not reflect the significant technological advances that have occurred in the aviation industry and the enhancements in training and instructional methods that have affected all aircraft dispatchers. The proposal would consolidate and clarify all certification, training, and experience requirements for aircraft dispatchers in newly revised part 65, subpart C, and appendix A of part 65.

Timetable:

Action	Date	FR Cite
NPRM	10/19/98	63 FR 55920
NPRM Comment Period End	02/16/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-94-171A.

ANALYSIS: Regulatory Evaluation, 10/19/98, 63 FR 55920

Agency Contact: Tom Toula, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8166

RIN: 2120–AG04

2228. +SECURITY PROGRAMS OF FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S. REGISTERED AIR CARRIERS ENGAGED IN COMMON CARRIAGE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44712; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 129

Legal Deadline: None

Abstract: As an action intended to implement the Antiterrorism and Effective Death Penalty Act of 1996 (PL 104-132, 4/14/96), the FAA is proposing to amend existing airplane operator security rules for foreign air carriers and foreign operators of U.S. registered aircraft. The proposed amendment would require the Administrator to accept a foreign air carrier's program only if the Administrator finds that the security program provides for identical security measures to those provided by U.S. air carriers serving the same airport. The proposed rule will establish the obligation to use identical security measures. The actual measures to be used will be identified through changes to the nonpublic security program of the foreign air carriers. This rule is considered significant due to substantial public interest and concern of foreign governments.

Timetable:

Action	Date	FR Cite
NPRM	11/23/98	63 FR 64764
Notice of Public Meeting	11/23/98	63 FR 64764
NPRM Comment Period End	03/23/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACP-96-363R.

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Moira Lozada, Civil Aviation Security Division, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3373

RIN: 2120–AG13

2229. REVISED PRECISION APPROACH LANDING SYSTEMS POLICY

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This statement announces the FAA's proposed policy for acquisition, installation, maintenance, and decommissioning of the instrument landing system (ILS) and the microwave landing system (MLS) during the transition to the global positioning system (GPS). The policy statement of December 1989 announced the transition from the ILS to the MLS for precision approach service in the National Airspace System. Since that time, advancement of GPS-based landing system technology has provided a more economical means of providing approach services.

Timetable:

Action	Date	FR Cite
Policy Statement	12/27/89	54 FR 53231
Policy Statement	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Wedge, Airway Facilities Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7848

RIN: 2120–AG16

2230. +FEES FOR AIR TRAFFIC SERVICES FOR CERTAIN FLIGHTS THROUGH U.S.-CONTROLLED AIRSPACE AND FOR AERONAUTICAL STUDIES

Priority: Other Significant

Legal Authority: 49 USC 9701; 49 USC 106 (g); 49 USC 40103; 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44702; 49 USC 44718; 49 USC 45301 to 45303; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77; 14 CFR 187

Legal Deadline: None

Abstract: Pursuant to the 1996 FAA Reauthorization Act, the FAA is issuing another interim rule to establish fees

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and collection procedures for FAA air traffic and related services provided to certain aircraft that transit U.S.-controlled airspace but neither take off from, nor land in, the United States. Previously, the FAA issued an Interim Final Rule that was remanded back to FAA by the United States Court of Appeals for the District of Columbia. That Interim Final Rule was withdrawn by the Final Rule issued on July 24, 1998. The new Interim Final Rule complies with the Courts decision. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13496
Correction	04/29/97	62 FR 23295
Correction and Technical Amendment	05/02/97	62 FR 24286
Correction	05/05/97	62 FR 24552
Interim Final Rule Effective	05/19/97	
Interim Final Rule Comment Period End	07/18/97	
Interim Final Rule	10/02/97	62 FR 51736
Interim Final Rule Effective	10/02/97	
Final Rule Effective	07/21/98	
Interim Final Rule	07/24/98	63 FR 40000
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: APO-96-172R.

ANALYSIS: Regulatory Evaluation, 03/20/97, 62 FR 13496

Agency Contact: Tim Lawler, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7052

RIN: 2120–AG17

2231. PROCEDURES FOR PROTESTS AND CONTRACT DISPUTES; AMENDMENT OF EQUAL ACCESS TO JUSTICE ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(f)

CFR Citation: 14 CFR 17

Legal Deadline: None

Abstract: This rulemaking would formally establish procedures the FAA will use to settle contract disputes and protests.

The FAA Office of Dispute Resolution (ODR) was established as an organization that has broad discretion to resolve protests and contract disputes, utilize administrative or alternative dispute resolution techniques and provide fair and impartial decisions or recommendations, supported by the facts and law. In order for this office to carry out its function, while providing for appropriate due process, it is necessary that certain of its procedures uniformly have the force and effect of law. This would include matters such as the establishment of filing deadlines; the power to issue subpoenas and protective orders; the power to levy sanctions; and the discretion to establish schedules, and to limit discovery, length of presentations, numbers of exhibits, and other similar matters.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45372
NPRM Comment Period End	10/26/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Project Number: AGC-96-353R. This entry was formerly titled, "Dispute Resolution Regulations."

ANALYSIS: Regulatory Evaluation, 08/25/98, 63 FR 45372

Agency Contact: Marie Collins, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6400

RIN: 2120–AG19

2232. +PROHIBITION OF THE TRANSPORTATION OF DEVICES DESIGNED AS CHEMICAL GENERATORS AS CARGO IN AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44722; 49 USC 46301

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking proposes to ban the transportation of devices designed to chemically generate oxygen in certain aircraft, with limited exceptions. This proposed ban applies to newly-manufactured chemical oxygen generators that have never been filled with chemicals. It would also apply to devices designated as chemical oxygen generators that have been discharged (spent) or that are past their expiration dates. The FAA believes that newly-manufactured chemical oxygen generators might be manufactured in one location and transported to another location to be filled. This could lead to human factors errors in determining whether the device designed as a chemical oxygen generator is actually empty.

The Research and Special Programs Administration (RSPA) proposed a ban that applies to "spent" chemical oxygen generators to the extent that such generators have residue chemicals in the canisters. (See RIN 2137-AC92)

This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/27/98	63 FR 45912
Correction	09/24/98	63 FR 51048
NPRM Comment Period End	10/26/98	
Correction	11/10/98	63 FR 29276
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-065R

ANALYSIS: Regulatory Evaluation, 08/27/98, 63 FR 45912

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AG35

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2233. +AIR TOUR OPERATIONS IN THE STATE OF HAWAII

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking disposes of comments received in response to the final rule published on September 26, 1994 (59 FR 49138), for certain procedural, operational, and equipment requirements for air tour operations in the State of Hawaii, codified as Special Federal Aviation Regulation (SFAR 71). It also extends SFAR 71 until the FAA publishes a final rule regulating all air tour operations. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/26/97	
Interim Final Rule	10/30/97	62 FR 58854
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-94-453R

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AG44

2234. PART 93 SUBPART D—ANCHORAGE, ALASKA, TERMINAL AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposes to amend regulations regarding the Anchorage, Alaska, Terminal Area by revising the description of the Anchorage, Alaska, Terminal Area and the communication requirements for operating in the area. The FAA is proposing this action to enhance safety and simplify aircraft operating procedures in the Anchorage, Alaska, Terminal Area.

Timetable:

Action	Date	FR Cite
NPRM	10/01/97	62 FR 51564
NPRM Comment Period End	11/17/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: Bill Nelson, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9295

RIN: 2120–AG45

2235. +TERRAIN AWARENESS AND WARNING SYSTEM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44712; 49 USC 44715; 49 USC 44716 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking would issue rules that would prohibit the operation of turbine-powered U.S.-registered civil airplanes of six or more passenger seats, exclusive of pilot and copilot seating, unless that airplane is equipped with an FAA-approved enhanced ground proximity warning system (GPWS). This proposed rule is intended to further reduce the risk of controlled flight into terrain (CFIT) accidents. This rule is significant because of substantial public interest.

Statement of Need: As a result of the Gore Commission and NTSB recommendations and a number of studies, it was found that CFIT accidents could have been avoided if an enhanced warning device was used.

Summary of the Legal Basis: 49 USC 44701 empowers the Administrator to prescribe regulations and minimum standards in the interest of safety for aircraft and equipment.

Alternatives: The FAA considered regulatory options to identify the least intrusive and most cost-effective means of achieving the goal of reducing the probability of CFIT accidents. The alternatives considered fall under two general groupings: 1) require different levels of TAWS or GPWS technologies for different subsegments of the regulated population; and, 2) impose different compliance deadlines on different subsegments of the regulated population.

Anticipated Costs and Benefits: The discounted costs of this rule are estimated at $774 million; the benefits are estimated at $2.8 billion. The benefit/cost ratio is 3.65 to 1. This total includes adding the equipment to all in-service airplanes and to all newly manufactured airplanes over the next 10 years.

Risks: The purpose of this rulemaking is to expand and enhance the safety benefits of the current ground proximity warning system. TAWS provides an earlier time for verbal warning along with a visual warning (situational display) that will allow the flight crew to see approaching terrain. The combination of the increased warning times and situational awareness of flight crews decreases the risk of controlled-flight-into-terrain accidents.

Timetable:

Action	Date	FR Cite
NPRM	08/26/98	63 FR 45628
NPRM Comment Period End	11/24/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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Additional Information: Project Number: AIR-96-354R.

ANALYSIS: Regulatory Evaluation, 08/26/98, 63 FR 45628

Agency Contact: Manny Macedo, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9566

RIN: 2120–AG46

2236. +HIGH DENSITY AIRPORTS; ALLOCATION OF SLOTS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposes to codify the provision of the U.S./Canadian Bilateral Agreement, which was signed on February 24, 1995, with the current provisions of the High Density Rule. The agreement allows for a three-year phase-in period to "Open Skies" between the two countries. Service between the two countries would convert from international service to domestic service. To achieve the mandate; Canadian carriers have been allocated additional slots that would be subject to the restrictions currently mandated for domestic operations of U.S. carriers. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/12/99	64 FR 2086
Correction	01/20/99	64 FR 3054
NPRM Comment Period End	02/11/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-97-474R.

ANALYSIS: Regulatory Evaluation, 01/12/99, 64 FR 2086

Agency Contact: Lorelei Peter, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3134

RIN: 2120–AG50

2237. +POLICY REGARDING AIRPORT RATES AND CHARGES

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A statement of policy, Policy Regarding Airport Rates and Charges (Policy Statement), which was required by Congress as part of the DOT Authorization Act of 1994, was published in the Federal Register (61 FR 31994) on June 21, 1996. That Policy Statement announced DOT and FAA policy on the fees charged by Federally-assisted airports to air carriers and other aeronautical users. This proposed action requests comments on replacement provisions for the portions of the Policy Statement vacated by the United States Court of Appeals for the District of Columbia Circuit. The Court disallowed a portion of the policy that had to do with historic cost valuation of airport property. DOT and FAA are beginning this proceeding in order to carry out its responsibility to establish reasonableness guidelines for airport fees. This policy is significant due to substantial industry interest.

Timetable:

Action	Date	FR Cite
Advanced Notice of Proposed Policy	08/12/98	63 FR 43228
Comment Period End	10/13/98	
Comment Period Extended to 1/31/99	12/22/98	63 FR 70834
Final Policy	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Cite per reference in Abstract paragraph, United States Court of Appeals for the District of Columbia Circuit in Air Transport Association of America v. Department of Transportation, 119 F.3d 38 (D.C. Cir. 1997), as modified on rehearing, Order of Oct. 15, 1997. Previous RIN for the Policy Statement published in the Federal Register is 2120-AF90.

Agency Contact: Barry Molar, Office of Airport Safety and Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3053

RIN: 2120–AG58

2238. ROTORCRAFT LOAD COMBINATION SAFETY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The FAA proposes to amend the airworthiness standards for rotorcraft load combination (RLC) certification. This proposal would revise the safety requirements for RLC to address advances in technology and to provide an increased improvement in the safety standards for RLC certification and lead to a harmonized international standard.

Timetable:

Action	Date	FR Cite
NPRM	07/13/98	63 FR 37746
NPRM Comment Period End	10/13/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ASW-98-198A.

ANALYSIS: Regulatory Evaluation, 08/00/99

Agency Contact: Mike Mathias, Rotorcraft Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193-0111
Phone: 817 222-5123

RIN: 2120–AG59

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2239. HARMONIZATION OF CRITICAL PARTS ROTORCRAFT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This action proposes to amend the airworthiness standards to define critical parts and to require a critical parts plan. The critical parts plan would establish procedures that would allow for the control of the design, substantiation, manufacture, maintenance, and modification of critical parts.

Timetable:

Action	Date	FR Cite
NPRM	08/24/98	63 FR 45130
NPRM Comment Period End	11/23/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ASW-98-202A

ANALYSIS: Regulatory Evaluation, 08/24/98, 63 FR 45130

Agency Contact: Carroll Wright, Rotorcraft Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193-0111 Phone: 817 222-5120

RIN: 2120–AG60

2240. NOISE CERTIFICATION STANDARDS FOR PROPELLER-DRIVEN SMALL AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: The FAA is proposing changes to the noise certification standards for propeller-driven small airplanes. These proposals are based on the joint effort of the FAA, the European Joint Aviation Authorities (JAA), and Aviation Rulemaking Advisory Committee (ARAC), to harmonize the US noise and certification regulations and the JAR for propeller-driven small airplanes. The proposed changes would provide nearly uniform noise certification standards for airplanes certificated in the US and in the JAA countries. The harmonization of the noise certification standards would simplify airworthiness approvals for import and export purposes.

Timetable:

Action	Date	FR Cite
NPRM	11/18/98	63 FR 64146
NPRM Comment Period End	01/19/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Project Number: AEE-94-366A.

ANALYSIS: Regulatory Evaluation, 11/18/99, 63 FR 64146

Agency Contact: Mehmet Marsan, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7703

RIN: 2120–AG65

2241. LICENSING AND TRAINING OF PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707 to 44711; 49 USC 45102 to 45104; 49 USC 45301 to 45303

CFR Citation: 14 CFR 61; 14 CFR 141; 14 CFR 142

Legal Deadline: None

Abstract: The FAA is issuing a final rule versus an NPRM because the FAA does not believe there is any interest by the public and any delay could be detrimental to U.S. Pilot Schools and Training Centers. This rulemaking is needed to remove language restricting licensing for persons outside the U.S. who are not U.S. citizens and remove language restricting the operation of airmen training institutions outside the U.S. Efforts between the FAA, Joint Aviation Authorities (JAA), and European Civil Aviation Commission have identified these subject areas as obstructionist to harmonization efforts and detrimental to U.S. pilot schools, which seek to continue to train students from the JAA member states. The harmonization working groups, set up by the above organizations, are expected to recommend that the JAA remove similarly restrictive language from its Joint Aviation Regulations.

Timetable:

Action	Date	FR Cite
Final Rule	10/05/98	63 FR 53532
Final Rule Effective	10/05/98	
Final Rule Comment Period End	11/04/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-338R.

Agency Contact: John Lynch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3844

RIN: 2120–AG66

2242. • NIGHT FLYING TAKEOFF AND LANDING CURRENCY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: The FAA will issue a final rule to recognize the training programs that pilots of certain corporate operators undergo and the aeronautical experience requirements that these pilots possess as they relate to night takeoff and landing currency. Specifically, this rule will recognize alternative methods of compliance for night currency requirements based on previously granted exemptions.

Timetable:

Action	Date	FR Cite
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

DOT—FAA **Final Rule Stage**

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: John Lynch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3844

RIN: 2120–AG77

DEPARTMENT OF TRANSPORTATION (DOT) **Long-Term Actions**

Federal Aviation Administration (FAA)

2243. +FUEL SYSTEM VENT FIRE PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44721; 49 USC 44722; 49 USC 44901

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require fuel vent system protection during post-crash ground fires. This proposed rule would apply to air carriers, air taxi operators, and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes. This action is considered significant because of substantial public interest and the safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	02/02/95	60 FR 6632
NPRM Comment Period End	06/02/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project Number: ANM-82-050R.

ANALYSIS: Regulatory Evaluation, 02/02/95, 60 FR 6632

Agency Contact: Mike McRae, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056 Phone: 425 227-2116

RIN: 2120–AA49

2244. AIRWORTHINESS STANDARDS; CRASH-RESISTANT FUEL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 40 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposes changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	06/28/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly titled "Amend Part 23 To Include Requirements for Crash-Resistant Fuel Systems." Project Number: ACE-82-005R.

ANALYSIS: Regulatory Evaluation, 02/28/90, 55 FR 7280

Agency Contact: Norman Vetter, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106 Phone: 816 426-5688

RIN: 2120–AA57

2245. LOW FUEL QUANTITY ALERTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require a means to alert the flight crew of potentially unsafe low fuel quantities. There have been several fuel depletion incidents involving loss of power or thrust on all engines that could have resulted in forced landings and injury or loss of life. Most of these incidents resulted from improper fuel management techniques. This proposed amendment would require new transport category airplane designs to incorporate a low fuel quantity alert system that would allow for correction of certain fuel management errors or provide the flightcrew the opportunity to make a safe landing prior to engine fuel starvation.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. 25213. Project Number: ANM-83-039R.

ANALYSIS: Regulatory Evaluation, 05/12/87, 52 FR 17890

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056 Phone: 425 227-2112

RIN: 2120–AB46

2246. AIRCRAFT ENGINES: FUEL AND INDUCTION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action would add a new section 33.35(f) to the Federal Aviation Regulations which would incorporate a requirement for the fuel mixture and throttle controls to automatically move to a position allowing continued safe flight if either control becomes disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	10/20/92	57 FR 47934
NPRM Comment Period End	02/17/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-85-002R. Former title: Engine Fuel and Induction Systems.

ANALYSIS: Regulatory Evaluation, 10/20/92, 57 FR 47934

Agency Contact: Locke Easton, Engine and Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803 Phone: 617 273-7088

RIN: 2120–AB76

2247. REVIEW OF PART 47, AIRCRAFT REGISTRATION, AND PART 49, RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44713; 49 USC 45302; 49 USC 46104; 49 USC 46301

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This notice would propose to update parts 47 and 49 of the Federal Aviation Regulations to reflect changes in the law, legal interpretations, other recent rulemaking actions, and the FAA's current aircraft registry practices. The intent of these proposed changes is to articulate, modernize, and simplify the existing regulations rather than alter established procedures.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-89-201R.

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125 Phone: 405 954-7038

RIN: 2120–AC17

2248. INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline:
NPRM, Statutory, February 3, 1989, Public Law 100-591 Aviation Safety Research Act of 1988.

Abstract: This preliminary action was initiated to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicited public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-89-005R.

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 425 227-2132

RIN: 2120–AC87

2249. AIRPLANE ENGINE COWLING RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require improved cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610

Action	Date	FR Cite
NPRM Comment Period End	03/19/90	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-87-004R.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2133

RIN: 2120–AD34

2250. 1-G STALLING SPEED AS A BASIS FOR COMPLIANCE WITH PART 25 OF THE FEDERAL AVIATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to redefine the airplane reference stalling speed as the 1-g stalling speed in lieu of the minimum stalling speed. It would: (1) provide for a consistent, repeatable reference stalling speed; (2) ensure consistent and dependable maneuvering margins; (3) clarify the requirement for the use of 1-g stalling speeds in determining structural design speeds; (4) increase the head-on gust structural design requirement; and (5) provide for adjusted multiplying factors to maintain essentially equivalent requirements in areas where the use of minimum stalling speed has proven adequate. These changes are needed since the stalling characteristics of modern jet transports as determined by current methods can result in inconsistent reference stalling speeds. These changes may result in a higher level of safety where current methods have resulted in artificially low reference stalling speeds.

Timetable:

Action	Date	FR Cite
NPRM	01/18/96	61 FR 1260
Correction	02/26/96	61 FR 7157
NPRM Comment Period End	05/17/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-86-041R.

ANALYSIS: Regulatory Evaluation, 01/18/96, 61 FR 1260

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-1320

RIN: 2120–AD40

2251. +COST OF SERVICES AND TRANSFER OF FEES TO PART 187 FROM PARTS 47, 49, 61, 63, 65, AND 143

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44701; 49 USC 44702; 49 USC 44703 to 44704; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 45102 to 45103; 49 USC 45106; 49 USC 45301; ...

CFR Citation: 14 CFR 47; 14 CFR 49; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 143; 14 CFR 187

Legal Deadline: None

Abstract: This action would assess reasonable charges for certain services provided by the FAA. The charges would be set at a level approximating the cost to the Government to provide these services and would be adjusted periodically as the cost of these services change or as prescribed in the Anti-Drug Abuse Act of 1988. The cost of providing services for aircraft registration and recording and replacement of airmen certificates is not being fully recouped in accordance with the changes reflected in the Consumer Price Index of All Urban Consumers, which was published by the Bureau of Labor Statistics of the Department of Labor, or as set by the Anti-Drug Abuse Act of 1988. This rulemaking would also consolidate all service fees by placing them in part 187 of the Federal Aviation Regulations. This rulemaking is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-90-347R.

Agency Contact: Sharon Ashford, Registry Modernization Staff, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125-4939
Phone: 405 954-7038

RIN: 2120–AD91

2252. TYPE CERTIFICATES FOR SOME SURPLUS AIRCRAFT OF THE ARMED FORCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: Following World War II, a substantial number of surplus military airplanes were offered for sale to the public in order to meet an increased demand for civilian-use aircraft not being met by the civil aircraft industry. The current regulation permits both type and airworthiness certification for surplus military aircraft based on the particular aircraft's safety record and condition. As military aircraft have become increasingly complex and sophisticated, that practice is no longer acceptable. This action would remove the regulations for issuing type certificates for these surplus aircraft and eliminate references to obsolete standards. Surplus military aircraft would still be certificated in the normal, utility, acrobatic, commuter, transport, and restricted categories upon compliance with the applicable regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/21/94	59 FR 19114
NPRM Comment Period End	06/20/94	
Reopening of Comment Period; Comment Period End 08/26/94	07/07/94	59 FR 34779

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Project Number: AIR-91-354R.

ANALYSIS: Regulatory Evaluation, 04/21/94, 59 FR 19114

Agency Contact: Brian Yanez, Policy and Procedures Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-6561

RIN: 2120–AE41

2253. +AIRPORT NOISE COMPATIBILITY PLANNING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44715; 49 USC 471-1; 49 USC 47501 to 47504

CFR Citation: 14 CFR 150

Legal Deadline: None

Abstract: This action would revise the requirements for developing noise exposure maps and noise compatibility programs and submitting them for FAA approval. The revisions are intended to expedite and simplify the part 150 process. Under the revised process, the mandatory set of noise abatement measures which are presently required to be considered by each airport sponsor would be limited in scope depending on the characteristics of each airport and its surrounding community. The new process would be supported by appropriate guidance, training, review, standardization, and consultation requirements. This project is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: AEE-90-410R.

Agency Contact: Alan V. Trickey, Policy and Regulations Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3496

RIN: 2120–AE64

2254. +ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR EMPLOYEES OF FOREIGN AIR CARRIERS ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902; 49 USC 44903

CFR Citation: 14 CFR 121; 14 CFR 129

Legal Deadline:
Final, Statutory, October 28, 1992.

Abstract: The Omnibus Transportation Employee Testing Act of 1991 directs the FAA Administrator to prescribe regulations that require foreign air carriers to establish drug and alcohol testing programs for employees performing safety-sensitive aviation functions. These regulations must be consistent with the international obligations of the United States and take into consideration any applicable laws and regulations of foreign countries. Comments were invited on a variety of issues related to the application of drug and alcohol testing requirements to employees of foreign air carriers operating within the territory of the United States. This action was taken in lieu of a notice of proposed rulemaking to seek the public's view on a variety of issues and to obtain responses to questions that may arise in addressing drug and alcohol testing by foreign air carriers. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59473
ANPRM Comment Period End	02/16/93	
Extended ANPRM Comment Period; Comment Period End 4/1/93	02/18/93	58 FR 8917

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Project Number: AAM-93-173R

Agency Contact: Patrice M. Kelly, Drug Abatement Division, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8442

RIN: 2120–AE79

2255. +REVISION OF EMERGENCY EVACUATION DEMONSTRATION PROCEDURES TO IMPROVE PARTICIPANT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25; 49 CFR 1.47

Legal Deadline: None

Abstract: This action would amend part 25 of the FAR by revising Appendix J, Emergency Evacuation, to allow certain alternative procedures in conducting full-scale emergency evacuation demonstrations for transport category airplanes. This is in response to recommendations from the Aviation Rulemaking Advisory Committee. The changes, which are intended to make full-scale emergency evacuation demonstrations safer for participants and to codify existing practices, would also affect manufacturers and operators of transport category airplanes. This action is considered significant because

of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36932
Correction	08/25/95	60 FR 44387
NPRM Comment Period End	10/16/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-94-124A

ANALYSIS: Regulatory Evaluation, 07/18/95, 60 FR 36932

Agency Contact: Franklin Tiangsing, Regulations Branch, ANM-114, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2121

RIN: 2120–AF21

2256. +CONTROLLED REST ON THE FLIGHT DECK

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposal would allow part 121 certificate holders who operate aircraft that require three flight crewmembers, two pilots and a flight engineer, to implement a controlled rest on the flight deck program. Under the program, when cockpit workload permits, one flight crewmember at a time would be given the opportunity to sleep for a brief period of time at his or her duty station during the cruise portion of a flight. Before using the controlled rest concept, however, the certificate holder would have to obtain approval for its program from the FAA. This proposal originated as a recommendation from the Aviation Rulemaking Advisory Committee and responds to industry interest in developing a controlled rest program that is approved by the FAA. This rulemaking is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-764A

Agency Contact: James Gardner, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9579

RIN: 2120–AF54

2257. REVISION OF HYDRAULICS SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the European Joint Aviation Requirements. These proposals were developed in cooperation with the Joint Aviation Authorities of Europe and the US and European aviation industries through the Aviation Rulemaking Advisory Committee (ARAC). These changes are intended to benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards without reducing and potentially enhancing the current level of safety.

Timetable:

Action	Date	FR Cite
NPRM	07/03/96	61 FR 35056
Correction	07/29/96	61 FR 39515
Correction	08/12/96	61 FR 41924
NPRM Comment Period End	10/01/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-97-374A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 07/03/96, 61 FR 35056

Agency Contact: Manhidner Wahi, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2142
Fax: 206 227-1320

RIN: 2120–AF79

2258. BIRD STRIKE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to revise the bird strike requirements of part 25 of the Federal Aviation Regulations. These changes are intended to harmonize the bird strike requirement of the FAR and the Joint Aviation Requirements. The proposed changes would revise sections 25.631, 25.571(e), and 25.775(b).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-93-762A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Bill Perrella, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056

Phone: 425 227-2116

RIN: 2120–AF80

2259. BIRD INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to amend the type certification standards for aircraft turbine engines that concern bird ingestion. This proposal updates the current bird ingestion standards to reflect recent analysis defining the actual bird threat encountered by turbine engines. This proposal also harmonizes the FAA's type certification standards on this issue with requirements being drafted by the Joint Aviation Authorities (JAA). The proposed changes, if adopted, would establish one set of common requirements, and thereby reduce the regulatory hardship on the aviation industry by eliminating the need for manufacturers to comply with different sets of standards when seeking type certification from the FAA and validation from the JAA.

Timetable:

Action	Date	FR Cite
NPRM	12/11/98	63 FR 68636
NPRM Comment Period End	03/11/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-97-476A. This is an Aviation Rulemaking Advisory Committee project.

ANALYSIS: Regulatory Evaluation, 12/11/98, 63 FR 68636

Agency Contact: John Golinski, Engine and Propeller Directorate, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 781 238-7119

RIN: 2120–AF84

2260. +NOISE LIMITATIONS FOR AIRCRAFT OPERATIONS IN THE VICINITY OF GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This rulemaking will establish noise limitations for certain aircraft operated in the vicinity of Grand Canyon National Park. This action is one part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law 100-91 to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park. The supplemental amendment removes two sections from the December 31, 1996, notice of proposed rulemaking (NPRM) that proposed to establish a corridor through the National Canyon area as an incentive route for quiet technology aircraft. The FAA and NPS have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/31/96	61 FR 69334
NPRM Comment Period End	03/31/97	
Supplemental Amendment	07/15/98	63 FR 38232

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: A final rule, which was published on 12/31/96 (61 FR 69302), establishes new operating restrictions at Grand Canyon National Park. See RIN 2120-AF93 published elsewhere in this Agenda.

ANALYSIS: Regulatory Evaluation, 12/31/96, 61 FR 69334

Agency Contact: Thomas L. Connor, Office of Environmental and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8933

RIN: 2120–AG34

2261. +REVISED STANDARDS FOR CARGO OR BAGGAGE COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44711 to 44713; 49 USC 44715 to 44717

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action upgrades the fire safety standards for cargo or baggage compartments in certain transport category airplanes by eliminating Class D compartments altogether. Compartments that could no longer be designated as Class D would have to meet the standards for Class C or Class E compartments, as applicable. Certain other transport category airplanes that would not have to meet these new standards for type certification would have to meet them for use in air carrier, commuter, on-demand, or commercial service. These improved standards are needed to increase protection from possible in-flight fires. This rulemaking is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/13/97	62 FR 32412
NPRM Comment Period End	09/11/97	
Final Rule Request for Comments	02/17/98	63 FR 8032
Final Rule Effective	03/19/98	
Final Rule Comment Period End	06/17/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-97-009R

DOT—FAA

Long-Term Actions

ANALYSIS: Regulatory Evaluation, 06/13/97, 62 FR 32412, Regulatory Evaluation, 02/17/98, 63 FR 8032

Agency Contact: Charles Huber, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue, Renton, WA 98055-4056 Phone: 206 227-2114

RIN: 2120–AG42

2262. +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46502; ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action sought public comment on issues relating to the use of child restraint systems in aircraft during all phases of flight (i.e., taxi, takeoff, landing, or any other time the seat belt sign is illuminated). Specifically, the agency sought information about existing child restraint systems, the development of new and improved child restraint systems, the ease with which existing or new child restraint systems can be used, and the effectiveness of changing the current child restraint system regulations. The advance notice gathered information in response to a recommendation made by the White House Commission on Aviation Safety and Security (Gore Commission). Approximately 130 comments were received on the ANPRM. This information is needed so that the FAA can determine the best way to ensure the safety of children while on board aircraft. After such a determination is made, the FAA may issue a Notice of Proposed Rulemaking with specific regulatory proposals that respond to the Commission's recommendations regarding the use of child restraint systems. This action is considered significant because of safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	02/18/98	63 FR 8324
ANPRM Comment Period End	06/18/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-261R

Agency Contact: Donell Pollard, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3735

RIN: 2120–AG43

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Completed Actions

2263. CINCINNATI, OH, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44711; 49 USC 46102

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action alters the Cincinnati, OH, Terminal Control Area (TCA) to redefine the airspace around the Cincinnati/Northern Kentucky International Airport. The objective of this rule is to substantially increase safety while accommodating the legitimate concerns of airspace users.

Timetable:

Action	Date	FR Cite
NPRM	02/10/98	63 FR 6818
NPRM Comment Period End	04/13/98	
Reopening of NPRM Comment Period; Comment Period End 7/14/98	05/15/98	63 FR 27160
Final Action	11/30/98	63 FR 65972
Final Action Effective	12/31/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATP-93-476T

Agency Contact: Patricia Crawford, Airspace and Obstruction Evaluation Branch, Airspace Rules & Aeronautical Info Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9255

RIN: 2120–AE97

2264. REVISION OF GATE REQUIREMENTS FOR HIGH-LIFT DEVICE CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This rulemaking revises the requirements concerning gated positions on the control used by the pilot to select the position of an airplane's high-lift devices. It updates the current standards to take into account the multiple configurations of the high-lift devices provided on current airplanes to perform landings and go-around maneuvers. This rulemaking also harmonizes these standards with those being proposed for the European Joint Aviation Requirements (JAR).

Timetable:

Action	Date	FR Cite
NPRM	06/09/97	62 FR 31482
Correction	07/10/97	62 FR 37124

DOT—FAA

Completed Actions

Action	Date	FR Cite
NPRM Comment Period End	09/08/97	
Final Action	02/08/99	64 FR 6160
Final Action Effective	03/10/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-96-284A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 06/09/97, 62 FR 31482, Regulatory Evaluation, 64 FR 6160

Agency Contact: Don Stimson, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-1129

RIN: 2120–AF82

2265. +POLICY AND PROCEDURES CONCERNING THE USE OF AIRPORT REVENUE

Priority: Other Significant

Legal Authority: 49 USC 47107

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This document announces the final publication of the Federal Aviation Administration policy on the use of airport revenue and maintenance of a self-sustaining rate structure by Federally-assisted airports. This statement of policy discusses in detail the requirement that revenue at public airports that have received Federal grants generally be used only for airport purposes. A statement of policy is required by the Federal Aviation Administration Authorization Act of 1994. The FAA is issuing a proposed policy and requesting public comment because of substantial public and industry interest in the subject matter.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy: Comment Period End	02/26/96	61 FR 7134
	04/26/96	
Final Policy Effective	02/16/99	
Final Policy	02/16/99	64 FR 7696

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barry Molar, Manager, Airport Compliance Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3446

RIN: 2120–AG01

2266. HARMONIZATION OF MISCELLANEOUS ROTORCRAFT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The rule makes changes to the type certification requirements for both normal and transport category rotorcraft to increase the regulatory safety level and standardize terminology. These changes to 14 CFR parts 27 and 29 are harmonized with the European Joint Aviation Requirements (JAR).

Timetable:

Action	Date	FR Cite
NPRM	06/09/97	62 FR 31476
Correction	06/30/97	62 FR 35247
NPRM Comment Period End	09/08/97	
Final Action	08/12/98	63 FR 43282
Final Action Effective	09/11/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ASW-97-031A.

ANALYSIS: Regulatory Evaluation, 06/09/97, 62 FR 31476, Regulatory Evaluation, 08/12/98, 63 FR 43282

Agency Contact: Carroll Wright, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Drive, Fort Worth, TX 76137
Phone: 817 222-5120

RIN: 2120–AG23

2267. +EMPLOYMENT HISTORY, VERIFICATION AND CRIMINAL HISTORY RECORDS CHECK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44912; 49 USC 44912; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 107; 14 CFR 108

Legal Deadline: None

Abstract: This rule requires an employment background investigation for persons who screen passengers and cargo in airports. The employment background investigation includes a fingerprint-based criminal history record check in certain cases, for unescorted access privileges to security areas at airports. The purpose of this rule is to help ensure the integrity and safety of the airport environment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/19/97	62 FR 13262
Correction	04/08/97	62 FR 16892
NPRM Comment Period End	05/19/97	
Final Action	09/24/98	63 FR 51204
Correction	10/26/98	63 FR 57161
Correction	11/04/98	63 FR 64267
Correction	11/09/98	63 FR 60448
Final Action Effective	11/23/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACP-96-557R.

ANALYSIS: Regulatory Evaluation, 03/19/97, 62 FR 13262

Agency Contact: Linda Valencia, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7158

RIN: 2120–AG32

DOT—FAA

Completed Actions

2268. SPECIAL FEDERAL AVIATION REGULATION NO. 36, DEVELOPMENT OF MAJOR REPAIR DATA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This rule amends and extends Special Federal Aviation Regulation (SFAR) No. 36, which expires January 23, 1999. The SFAR allows certificated domestic repair stations, air carriers, air taxi operators of large aircraft, and commercial operators of large aircraft that have the authority to return products to service to accomplish major repairs using self-developed repair data that have not been specially approved by the FAA. These amendments clarify conditions under which the SFAR authorization can be used. Extension of the regulation continues to provide, for those who qualify, an alternative from the requirement to obtain additional time for the FAA to incorporate the SFAR provisions into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 59192
NPRM Comment Period End	12/02/98	
Final Action	01/06/99	64 FR 958
Final Action Effective	01/23/99	
Correction	01/26/99	64 FR 3836

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AIR-98-347R.

ANALYSIS: Regulatory Evaluation, 01/06/99, 64 FR 958

Agency Contact: Carol Martineau, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9568

RIN: 2120–AG64

2269. • EMISSION STANDARDS FOR TURBINE ENGINE POWERED AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq 7572; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44714

CFR Citation: 14 CFR 34

Legal Deadline: None

Abstract: This action incorporates the current standards of the International Civil Aviation Organization (ICAO) for gaseous emissions of oxides of nitrogen (Nox) and carbon monoxide (CO), and the adoption of revised test procedures for gaseous emissions. This rule will bring the United States emissions standards into alignment with the standards of ICAO. Because this rule is consistent with international standards, an emission certification test that meets U.S. requirements will meet ICAO requirements.

Timetable:

Action	Date	FR Cite
Final Action	02/03/99	64 FR 5556
Final Action Effective	02/03/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AEE-98-124R.

ANALYSIS: Regulatory Evaluation, 02/03/99, 64 FR 5555

Agency Contact: Edward McQueen, Research and Engineering Branch, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3560

RIN: 2120–AG68

2270. • SPECIAL FLIGHT RULES IN THE VICINITY OF THE GRAND CANYON NATIONAL PARK

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44722; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46316; 49 USC 46502; ...

CFR Citation: 14 CFR 91; 14 CFR 93; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This final rule delays the effective date for 14 CFR 93.301, 93.305, and 93.307 of a final rule that was published December 31, 1996. Additionally, this action amends the expiration date of those portions of Special Federal Aviation Regulation 50-2 that were reinstated in the December 1996 rule. The new effective date for the December 31, 1996, final rule is January 31, 2000.

Timetable:

Action	Date	FR Cite
NPRM	12/07/98	63 FR 67544
NPRM Comment Period End	01/06/99	
Final Action Effective	01/29/99	
Final Action	02/03/99	64 FR 5152

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The referenced final rule in the abstract paragraph refers to RIN 2120-AF93, which was a completed action in the October 1998 Semi-Annual Agenda.

Agency Contact: Ellen Crum, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AG69

2271. • CREWMEMBER INTERFERENCE, PORTABLE ELECTRONIC DEVICES AND OTHER PASSENGER RELATED REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46512; ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action adopts certain technical amendments to the

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applicability provisions of parts 91, 121, 125, and 135 to clarify that certain provisions contained in these parts apply to persons on board aircraft operating under these parts. The provisions affected by these amendments concern portable electronic devices, use of safety belts, shoulder harnesses and child restraint systems, prohibition on interference with crewmembers, and certain other provisions. This final rule makes clear that these provisions apply as follows: to all aircraft, unless otherwise specified, when those aircraft are operating within the U.S. or within the airspace over the waters extending 12 nautical miles from the U.S. coastline; and on all U.S. registered aircraft operating outside of the U.S., so long as the application of these rules is not inconsistent with applicable regulations of the foreign country where the aircraft is operated or annex 2 of the Convention on International Civil Aviation.

Timetable:

Action	Date	FR Cite
Final Rule Effective	01/07/99	
Final Rule; Technical Amendment	01/07/99	64 FR 1076
Correction	02/12/99	64 FR 7066

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Toft, Attorney, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AG70

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage

Federal Highway Administration (FHWA)

2272. +ADVANCED TECHNOLOGY IN COMMERCIAL MOTOR VEHICLE OPERATIONS (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 395

Legal Deadline: None

Abstract: Current Federal Motor Carrier Safety Regulations limit the hours of service of commercial motor vehicle (CMV) drivers in order to reduce fatigue-related accidents. These regulations include substantial recordkeeping requirements to monitor drivers' hours of service. The Federal Highway Administration (FHWA) is considering ways to reduce the recordkeeping burden while maintaining or improving safety. The FHWA will focus on ways to reduce burdens on small entities. As part of this action, a small entities review under 5 USC section 610 will be included. This rulemaking is significant because of the broad industry impacts.

Timetable:

Action	Date	FR Cite
Notice: Request for Information	09/07/95	60 FR 46682
Comment Period End	11/06/95	
Study To Be Completed	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Neill L. Thomas, Chief, Vehicle and Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AD65

2273. MITIGATION OF IMPACTS TO WETLANDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109(h); 23 USC 138; 23 USC 315(i); 23 USC 133(b); EO 11990

CFR Citation: 23 CFR 777; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA is further supplementing its June 17, 1996, notice of proposed rulemaking (NPRM), Mitigation of Impacts to Wetlands, and June 18, 1997, supplemental notice of proposed rulemaking (SNPRM) on the same subject. The recently enacted Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107) added the term "natural habitat" to those provisions of title 23 , United States Code (U.S.C.), making wetlands mitigation banking efforts eligible for National Highway System (NHS) and Surface Transportation Program (STP) funds. This second SNPRM would update the FHWA's wetlands regulation to make it consistent with the authority established in TEA-21 by including mitigation of impacts to natural habitat, as well as wetlands within the scope of the regulation, specifying that it applies to all projects funded pursuant to the provisions of title 23, U.S.C. This SNPRM would also include a provision requiring that existing mitigation banks be used to provide mitigation for these highway impacts to wetlands and natural habitat when they are available and practicable.

Timetable:

Action	Date	FR Cite
NPRM	06/17/96	61 FR 30553
NPRM Comment Period End	08/16/96	
SNPRM	06/18/97	62 FR 33047
SNPRM Comment Period End	08/18/97	
Second SNPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Additional authority DOT Order 5660.1A

Agency Contact: Paul Garrett, Water and Ecosystems Team, Department of Transportation, Federal Highway

DOT—FHWA

Prerule Stage

Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 303 969-5772
Fax: 303 969-6727
Email: paul.garrett@fhwa.dot.gov

RIN: 2125–AD78

2274. +GENERAL REQUIREMENTS; INSPECTION, REPAIR, AND MAINTENANCE; INTERMODAL CONTAINER CHASSIS AND TRAILERS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 1.48; 49 CFR 390; 49 CFR 396

Legal Deadline: None

Abstract: In response to a petition for rulemaking filed by the American Trucking Association, Inc. (ATA) and the ATA Intermodal Conference (the petitioners), the FHWA agreed to consider revisions to the requirements in parts 390 and 396 of the Federal Motor Carrier Safety regulations (FMCSRs) that place upon motor carriers the responsibility for maintaining intermodal container chassis and trailers. These regulations provide the requirements for the inspection, repair and maintenance of commercial motor vehicles. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/99	64 FR 7849
ANPRM Comment Period End	04/19/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard H. Singer, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE40

2275. • +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE NATIONAL PARK SERVICE, INCLUDING THE PARK ROADS AND PARKWAYS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. It is also given the authority to develop safety, bridge pavement, and congestion management systems for roads funded under the Federal lands highways program. The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

In four related ANPRMs, the FHWA will seek public comment concerning these matters. Specifically in this ANPRM, the FHWA invites comment on an approach to implementing section 1115(d) under which the FHWA's Federal lands Highway, in consultation with the National Park Service (NPS) would develop a rule to meet the transportation planning and management systems requirements for the NPS including park roads and parkways program. Each of the ANPRMs is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved programs.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6799

RIN: 2125–AE52

2276. • +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE BUREAU OF INDIAN AFFAIRS, INCLUDING THE INDIAN RESERVATIONS ROAD PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. FHWA is also given the authority to develop safety, bridge pavement, and congestion management systems for roads funded under the Federal lands highways program. The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

In four related ANPRMs, the FHWA will seek public comment concerning these matters. Specifically, In this ANPRM, the FHWA invites comment on an approach to implementing section 1115(d) under which the FHWA's Federal Lands Highway, in consultation with the Bureau of Indian Affairs (BIA), would develop a rule to meet the transportation planning and management system requirements for the BIA, including the Indian reservations road program. Each of the ANPRMs is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved programs.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

DOT—FHWA **Prerule Stage**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6799

RIN: 2125–AE53

2277. • +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE FISH AND WILDLIFE SERVICE, INCLUDING THE REFUGE ROADS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA is also required to develop safety, bridge pavement, and congestion management systems for roads funded under the Federal lands highways program. The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

In four related ANPRMs, the FHWA will seek public comment concerning these matters. Specifically, in this ANPRM, the FHWA invites comment on an approach to implementing section 1115(d) under which the FHWA's Federal Lands Highway, in consultation with the Fish and Wildlife Service (FWS), would develop a rule to meet the transportation planning and management systems requirement for the FWS, including refuge roads. Each of the ANPRMs is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved programs.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6799

RIN: 2125–AE54

2278. • +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE FOREST SERVICE, INCLUDING THE FOREST HIGHWAYS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA is also required to develop safety, bridge pavement, and congestion management systems for roads funded under the Federal lands highways program. The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

In four related ANPRMs, the FHWA will seek public comment concerning these matters. Specifically in this ANPRM, the FHWA invites comment on an approach to implementing section 1115(d) under which the FHWA's Federal Lands Highway, in consultation with the Forest Service (FS), would develop a rule to meet the transportation planning and management systems requirements for the FS, including the forest highway program. Each of the ANPRMs is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved programs.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6799

RIN: 2125–AE55

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

2279. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; PL 100-17, sec 126; PL 100-17, sec 146; 42 USC 4601 et seq

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740; 23 CFR 620; 23 CFR 635; 23 CFR 645

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the

DOT—FHWA

Proposed Rule Stage

organization of the subject matter and update the content. This action will also implement the Right-of-Way portions of Sections 1301 and 1303 of TEA-21.

Timetable:

Action	Date	FR Cite
ANPRM	11/06/95	60 FR 56004
ANPRM Comment Period End	01/05/96	
Interim Final Rule	04/25/96	61 FR 18246
Interim Final Rule Effective	05/28/96	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: Two related rulemaking actions are: (1) a proposed rule entitled "Right-of-Way" which appeared in a prior Agenda under RIN 2125-AB58 and (2) a proposed rule entitled "Property Management; Disposals and Airspace" which appeared in a prior Agenda under RIN 2125-AB60. Those entries have been consolidated into this rulemaking. The FHWA has determined that several right-of-way regulations are duplicated or otherwise covered elsewhere in DOT regulations. Accordingly, the FHWA has decided to remove these provisions from its regulations. RIN 2125-AD87 was completed and changes contemplated in that rulemaking were consolidated into the interim final rule published under this RIN.

ANALYSIS: Regulatory Evaluation

Agency Contact: James E. Ware, Realty Specialist, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2019

RIN: 2125–AC17

2280. COMMERCIAL LEARNER PERMITS AND CDL EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC 31136

CFR Citation: 49 CFR 383; 49 CFR 384; 49 CFR 386; 49 CFR 395; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA has reviewed the effectiveness and efficiency of the requirements in the Commercial Driver's License (CDL) program. Areas that may be addressed further include: (a) minimum licensing and information system standards for drivers learning to operate a commercial motor vehicle; and (b) increased flexibility in locations where drivers may obtain training and the final CDL. Other general issues under review include treatment of various types of violations (i.e. railroad grade crossings, serious traffic offenses, etc.), defining terms, responsibilities when hiring new drivers, and processing information related to CDL convictions. Finally, there are issues specifically pertaining to the States under review, such as: (a) flexibility in States sharing test results to assist new drivers in the licensing process; (b) requirements for notification of the licensing State when a driver is convicted; (c) appropriate measures to be taken when a driver is found to be unqualified or disqualified according to Federal standards; and (d) adding a provision for enforcement of violations of an out-of-service order to State responsibilities in 49 CFR 384.

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	
NPRM Comment Period Extended to 11/30/90	10/23/90	55 FR 42741
SNPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Because other regulatory changes have been made since the NPRM was published in 1990, the FHWA intends to issue a supplemental NPRM to solicit comments on including additional requirements consistent with changes in the CDL program.

ANALYSIS: Regulatory Evaluation, 08/22/90, 55 FR 34478

Agency Contact: David Goettee, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AC54

2281. CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 127; 23 USC 141; 23 USC 315

CFR Citation: 23 CFR 657

Legal Deadline: None

Abstract: The FHWA has resumed consideration of changes in the guidance provided to state agencies for preparing the annual size and weight enforcement plans and certifications. Previous efforts in this area were suspended by the agency in 1994 as a result of a commitment by the Federal Highway Administrator to Congress in June 1994 to conduct a comprehensive study of all aspects of the truck size and weight issue. That study is nearly completed. Accordingly, public comment is again requested on the type of information and data that should be submitted by the states in support of their annual certification of enforcement, and how the FHWA should use the information.

Timetable:

Action	Date	FR Cite
ANPRM	12/16/93	58 FR 65830
ANPRM Comment Period Extended to 05/18/94	03/15/94	59 FR 11956
ANPRM Comment Period End	03/16/94	
Supplemental ANPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kathy Busby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2976

RIN: 2125–AC60

DOT—FHWA

Proposed Rule Stage

2282. +MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 102-240, sec 4007(b)(2)

CFR Citation: 49 CFR 383

Legal Deadline:
Final, Statutory, December 18, 1993.

Abstract: This action proposes minimum training requirements for operators of multiple trailer combination vehicles and the instructors who train these operators. The training would include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation. This action is significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4638
ANPRM Comment Period End	03/16/93	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Redmond, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2125–AC92

2283. +TRAINING FOR ENTRY-LEVEL DRIVERS OF COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

Legal Authority: PL 102-240, sec 4007

CFR Citation: 49 CFR 383

Legal Deadline:
NPRM, Statutory, December 18, 1992.
Final, Statutory, December 18, 1993.
Other, Statutory, January 18, 1994, Other deadline is for a report to Congress.

Abstract: This action is in response to section 4007 of the Motor Carrier Act of 1991 (title IV of the Intermodal Surface Transportation Efficiency Act of 1991). The Department has initiated a rulemaking on the need to require training of all entry-level drivers of commercial motor vehicles. The agency has submitted a report to Congress (02/05/96) on the effectiveness of private sector efforts to ensure adequate training of all entry-level drivers. This report included a cost-benefit study of requiring training of entry-level drivers. Public comments have been solicited on the report. This rulemaking action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/93	58 FR 33874
ANPRM Comment Period End	08/20/93	
Report to Congress	02/05/96	
Notice of Availability	04/25/96	61 FR 18355
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The report is available through the National Technical Information Service (Order #PB96-141536). For further information, please call 703-487-4650.

Agency Contact: Ron Finn, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0647

RIN: 2125–AD05

2284. +COMMERCIAL DRIVER PHYSICAL FITNESS AS PART OF THE CDL PROCESS

Priority: Other Significant

Legal Authority: 49 USC 2704(a); 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391; 49 CFR 383; 49 CFR 1.48; 49 CFR 391.11; 49 CFR 391.45

Legal Deadline: None

Abstract: The FHWA is proposing to include the certification of fitness to operate a CMV in the commercial driver's license (CDL) process. Incorporating the commercial driver fitness determination into State-administered CDL procedures could allow elimination of the requirement that CMV drivers carry a separate medical certificate. The CDL would be evidence that the CMV driver is physically fit as well as operationally qualified to operate CMVs safely. This action addresses the driver's physical qualifications as they relate to the CDL process; it does not address whether those standards are correct or should be changed. The FHWA has determined that the negotiated rulemaking process will be used to develop regulations governing the proposed merger of the State-administered CDL procedures and the driver physical qualifications requirements. This action is significant due to anticipated substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/94	59 FR 36338
ANPRM Comment Period End	11/14/94	
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: Please note the following notice publications with respect to the advisory committee: 04/29/96 at 61 FR 18713; 07/26/96 at 61 FR 38133; 08/26/96 at 61 FR 43725; 10/07/96 at 61 FR 52401; 11/05/96 at 61 FR 56936; 12/17/96 at 61 FR 66250; and 02/13/97 at 62 FR 6753.

Agency Contact: Teresa Doggett, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AD20

2285. +DEPARTMENT OF TRANSPORTATION (FHWA AND FTA) NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

DOT—FHWA **Proposed Rule Stage**

Legal Authority: 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; PL 102-240; 49 USC 303(c); 49 USC 1602(d); 49 USC 1604(h); 49 USC 1604(i); 49 USC 1610; 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq

CFR Citation: 23 CFR 771; 49 CFR 622; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline: None

Abstract: The Federal Highway Administration and the Federal Transit Administration have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures." Nevertheless, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FHWA and FTA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FHWA and FTA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an increased emphasis on intermodal planning and proposals to advance a high speed rail program, the proposed, new joint regulations will include the Federal Railroad Administration (FRA) and the United States Coast Guard (USCG) bridge permit program. Section 134(h)(4) of title 23, United States Code and section 8(h)(4) of the Federal Transit Act, as amended, direct the Secretary of Transportation to initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements for highway projects. This action is considered significant because of potential public, congressional and environmental concerns and because it involves several interested departmental modes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: Related actions are FTA RIN 2132-AA43 and FRA RIN 2130-AA93.

Agency Contact: Fred Skaer, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2058

RIN: 2125–AD32

2286. RULES OF PRACTICE FOR MOTOR CARRIER PROCEEDINGS; INVESTIGATIONS; DISQUALIFICATIONS AND PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 104; 49 USC 307

CFR Citation: 49 CFR 301; 49 CFR 302; 49 CFR 303; 49 CFR 304; 49 CFR 385; 49 CFR 386

Legal Deadline: None

Abstract: The FHWA proposes to amend its rules of practice for motor carrier safety, hazardous materials, and other enforcement proceedings, motor carrier safety ratings, driver qualification proceedings and its schedule of penalties for violations of the FMCSRs and the Hazardous Materials Regulations. The FHWA further proposes to add provisions on investigative authority and procedures and general motor carrier responsibilities. These rules would increase the efficiency of the procedures, enhance due process and the awareness of the public and regulated community, and accommodate recent programmatic changes. The rules would apply to all motor carriers, other business entities and individuals involved in motor carrier safety and hazardous materials administrative actions on the effective date of the final rule. The rules would constitute the major part of the administrative/procedural portion of the agency's zero-base revision of the entire FMCSRs.

Timetable:

Action	Date	FR Cite
NPRM	04/29/96	61 FR 18866
NPRM Comment Period End	07/29/96	
Extended Comment Period End 9/13/96	08/06/96	61 FR 40781
SNPRM	10/21/96	61 FR 54601
SNPRM Comment Period End	11/20/96	
SNPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A final rule published on November 6, 1997, (RIN 2125-AC71), incorporated the proposed provision designated as section 362.107 in the April 29 NPRM. This section with minor changes was incorporated as section 385.17. A final rule regarding adjustments to civil penalties due to inflation was published under a separate rulemaking action (RIN 2105-AC63) on 3/13/98.

Agency Contact: Paul Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0834

RIN: 2125–AD64

2287. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; PL 103-311

CFR Citation: 49 CFR 382; 49 CFR 383; 49 CFR 390; 49 CFR 391; 49 CFR 1.48

Legal Deadline:
NPRM, Statutory, January 1999.

Abstract: This action proposes amending FHWA regulations to specify minimum safety information that new or prospective employers must seek from former employers during the investigation of a driver's employment record. This action also proposes to increase the period of time for which carriers must record accident information in the accident register from one to three years. This proposal was mandated by the Hazardous Materials Reauthorization Act of 1994. This rule is also impacted by TEA-21, Section 4014 and given a new statutory deadline of 1/99. Public Law 105-347 may affect this rule because it discusses the release of employment information by consumer reporting agencies currently investigating this issue.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10548
NPRM Comment Period End	05/13/96	
SNPRM	05/00/99	

DOT—FHWA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Valerie Height, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD66

2288. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; TELEVISION RECEIVERS AND DATA DISPLAY UNITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA proposed to amend the provision of the Federal Motor Carrier Safety Regulations (FMCSRs) concerning television viewers or screens in commercial motor vehicles. The FHWA is concerned that the current restrictions on the locations of such devices may have the unintended effect of discouraging the use of certain Intelligent Transportation System (ITS) technologies such as collision avoidance and traveler information systems which could improve the safety and efficiency of commercial vehicle operations. In response to comments to the April 3, 1993, notice of proposed rulemaking (61 FR 14733) to rescind the regulation concerning television viewers or screens, the FHWA is considering an SNPRM to propose retaining an explicit prohibition against television viewers or screens but revising the regulation to ensure that it does not impede the development and use of ITS-related technologies.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14733
NPRM Comment Period End	06/03/96	
SNPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD76

2289. +HOURS OF SERVICE OF DRIVERS (SECTION 610 REVIEW)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 104-88

CFR Citation: 49 CFR 395

Legal Deadline:
Other, Statutory, March 1, 1996, for ANPRM.
NPRM, Statutory, November 5, 1997, See sections 103 and 408 of PL 104-88.
Final, Statutory, November 5, 1999.

Abstract: This action would propose revision of the FHWA's hours of service regulations. This action is mandated by the ICC Termination Act of 1995. The rulemaking also will address NTSB Safety Recommendations, petitions for rulemaking, and scientific data. The rulemaking has a great deal of public and congressional interest in regulating medium-and heavy-duty truck and bus drivers' sleep, off-duty, and working periods of time. The FHWA will propose new rules based upon comments and scientific data submitted to the advance notice of proposed rulemaking docket, an initial regulatory flexibility analysis, a cost-benefit analysis, and an unfunded mandates analysis, and a paperwork reduction analysis. This action is considered significant because of substantial public and congressional interest.

Statement of Need: The motor carrier industry requires 24-hour activities to meet the operational demands of a healthy U.S. economy. Growth in long-haul, regional, overnight, and local operations is increasing with the growth of the U.S. economy. Therefore, night work, shift work, and irregular work schedules will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. Some of the scientific knowledge has indicated that medium- and heavy-duty truck and bus drivers may experience performance-impairing fatigue from sleep loss resulting from current motor carrier duty and operational practices. One of the purposes of this rulemaking is to incorporate as much of the scientific knowledge as possible into the applicable regulations.

In addition, industry, safety advocates, and individuals have told the FHWA that the current regulations constrain productivity, are confusing, and focus enforcement on sloppy recordkeeping practices rather than on violations of the underlying hours-of-service rules. Therefore, another purpose of the rulemaking is to establish enforceable, consistent, and clear work duty periods and sleep requirements for all types of operations.

Summary of the Legal Basis: Title 49 United States Code, Section 31502 allows the Secretary of Transportation to prescribe maximum hours-of-service regulations for employees of motor carriers when needed to promote the safety of operations.

Section 408 of the ICC Termination Act of 1995 (Pub. L. 104-88, December 29, 1995) requires the Federal Highway Administration to issue an advance notice of proposed rulemaking, a notice of proposed rulemaking, and a final rule dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle safety (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver-alertness).

Alternatives: One alternative is to continue the current rules. Other alternatives may include replacing the current daily maximum 15-hour on-duty, maximum 10-hour-driving, minimum 8-hour-off-duty periods and weekly 60-hour-in-seven-day sliding week with an alternative set of rules based upon scientific knowledge and submitted comments. The FHWA will consider "one-size-does-not-fit-all" types of regulations. The FHWA will consider different regulations for different types of drivers, operations, or classification of vehicles.

Finally, the FHWA will consider modifying the information collection

burdens that have been placed upon the motor carrier industry, including the following types of record keeping methods. 1. Reducing the required items on the record of duty status (log book), 2. Adding automated on-board recording devices to commercial motor vehicles, 3. Adding global positioning system on-board recording devices to commercial motor vehicles. 4. Eliminating all FHWA hours-of-service record keeping requirements while relying exclusively on the duplicative hours-of-service record keeping system of records required by the U.S. Department of Labor under the Fair Labor Standards Act of 1938, as amended.

The FHWA is exploring the feasibility of conducting a negotiated rulemaking to revise the drivers' hours-of-service rules and has hired two convenors for that purpose. Until that process is complete and a decision is made concerning negotiated rulemaking, the FHWA will continue to move forward with its traditional rulemaking process which began with the publication of an advance notice of proposed rulemaking in the Federal Register on November 5, 1996.

The neutral convenors will interview affected interests, including drivers, motor carriers, safety advocacy groups, enforcement officials, insurers, and others. The convenors will, among other things, examine the potential for adequate and balanced representation of these varied interests on an advisory committee that would be convened to negotiate the regulations. the convenors will then submit a written report of findings and recommendations to the agency. The convenors' report will provide a basis for the FHWA to decide whether to proceed with negotiated rulemaking, and, if so, to determine the scope of the issues the committee would be charged with addressing. In the alternative, the FHWA may decide to proceed with traditional informal rulemaking. Toward this latter end, the agency continues to consider and evaluate various options for revising the hours-of-service rules.

Should the FHWA decide to proceed with a negotiated rulemaking process, the agency would follow the procedures set forth in the Negotiated Rulemaking Act of 1996, 5 U.S.C. 561 et seq. This would include the establishment of a negotiating committee under the Federal Advisory Committee Act (5 U.S.C.Appendix 2), and a Federal Register notice setting forth full particulars about the process and public participation.

Anticipated Costs and Benefits: Undetermined. A cost-benefit analysis completed in 1981 and based upon a 1978 notice of proposed rulemaking calculated national costs between $10.6 and $11.5 billion with possible societal benefits of about $450 million, a benefit to cost ratio under one. (In 1997 dollars, this would be national costs between $20.67 and $22.43 billion with possible societal benefits of about $878 million.) A new cost-benefit analysis is underway and will be conducted and reported in compliance with OMB Circular A-94, "Discount Rates to be Used in Evaluating Time-Distributed Costs and Benefits." The FHWA believes it can develop a rule with a benefit-to-cost ratio of more than one for this rulemaking. The FHWA is planning to develop a rule that will produce a "win-win" outcome (increased safety and unchanged or increased productivity).

The FHWA will also attempt to analyze additional costs resulting from higher transportation rates and disruptions on ongoing business operations, though these costs will be difficult to assess. These might include rates and disruptions to just-in-time deliveries, manufacturing, warehousing, distribution, wholesale and retail deliveries, and individual participants' lives (e.g., increases in consumer prices and road congestion).

Risks: The U.S. Department of Transportation's National Highway Traffic Safety Administration's databases show fatigue as a contributing factor in 306 to 1,163 annual police-reported crashes for all vehicles nationally. Some scientific research suggests the number may be closer to 364 to 4,070 of all crashes (police-reported and non-police-reported). Fatigue is increasingly becoming the focus of possible causes contributing to all crashes. Driver reports of being tired and sleepy to the point of incapacity are not uncommon, and it is reasonable, given the sheer volume of motor carrier traffic, to expect drowsy, unalert drivers to be a factor in future crashes.

Timetable:

Action	Date	FR Cite
ANPRM	11/05/96	61 FR 57251
Notice of Meeting	02/11/97	62 FR 6161
ANPRM Comment Period End	03/31/97	
ANPRM Extension of Comment Period	03/31/97	62 FR 15150
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: Section 408 mandates that the FHWA issue an ANPRM dealing with a variety of fatigue related issues.

Agency Contact: David Miller, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-1790

RIN: 2125–AD93

2290. ELECTRONIC FILING OF SURETY BONDS, TRUST FUND AGREEMENTS, INSURANCE CERTIFICATES; CANCELLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-88

CFR Citation: 49 CFR 387

Legal Deadline: None

Abstract: This action proposes requiring all filings of surety bonds, trust fund agreements, insurance certificates and cancellations of these instruments to be accomplished electronically. Optional electronic filing has proven economical and efficient for both the FHWA and for electronic filers. Given this success, cost of processing paper filings can no longer be justified. Mandatory electronic filings should not impose any significant costs or burdens on either the FHWA or the filers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia A. Burke, Department of Transportation, Federal

DOT—FHWA

Proposed Rule Stage

Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7041

RIN: 2125–AD94

2291. +DEVELOPMENT OF A NORTH AMERICAN STANDARD FOR PROTECTION AGAINST SHIFTING AND FALLING CARGO

Priority: Other Significant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is considering proposing amendments to its regulations concerning cargo securement requirements for commercial motor vehicles engaged in interstate commerce. The FHWA intends to consider adopting new cargo securement guidelines that will be based upon the results of a multi-year comprehensive research program to evaluate current regulations and industry practices. The FHWA is also requesting comments on the process to be used in developing these preliminary cargo securement guidelines. The FHWA recently completed work on this research program with the Canadian Council of Motor Transport Administrators (CCMTA), State and Provincial agencies responsible for motor carrier safety activities, the Commercial Vehicle Safety Alliance (CVSA), and U.S. and Canadian industry groups.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/96	61 FR 54142
ANPRM Comment Period End	12/16/96	
Notice of Meeting	04/21/97	62 FR 19252
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE05

2292. +QUALIFICATIONS OF MOTOR CARRIERS TO SELF-INSURE THEIR OPERATIONS AND FEES TO SUPPORT THE APPROVAL AND COMPLIANCE PROCESS

Priority: Other Significant

Legal Authority: 49 USC 31138; 49 USC 31139; 49 USC 13906

CFR Citation: 49 CFR 1043; 49 CFR 387; 49 CFR 1.48

Legal Deadline: None

Abstract: This action proposes to amend the regulations governing qualifications for motor carriers that seek authorization to self-insure their transportation operations. Also, the FHWA is proposing technical amendments necessitated by the ICC Termination Act of 1995 (Pub. L. 104-88), which transferred the ICC's authority to qualify motor carriers as self-insurers to DOT. The agency is also requesting comments regarding the need for additional backup collateral or security to protect the public against uncompensated losses. The FHWA believes that this will be a significant regulatory action because of substantial congressional and public interest in the insurance requirements for motor carriers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49654
Correction	09/29/97	62 FR 50892
ANPRM Comment Period End	11/24/97	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of the Chief Counsel, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE06

2293. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; HOURS-OF-SERVICE AND CDL EXEMPTIONS

Priority: Other Significant

Legal Authority: PL 104-59, sec 345

CFR Citation: 49 CFR 382; 49 CFR 395

Legal Deadline: None

Abstract: In this action, the FHWA is proposing to clarify its rule incorporating certain exemptions from the hours-of-service and commercial driver's license requirements of the Federal Motor Carrier Safety Regulations, created by section 345 of the National Highway System Designation Act of 1995.

The FHWA is also proposing a monitoring program to measure the safety impact of the exemptions. The FHWA would use information obtained from the monitoring program to determine whether the exemptions granted in the NHS Act should be modified or revoked under the standard provided in the authorizing legislation. The FHWA requests comment on the public interest and safety impacts of the exemptions, as well as in the proposed monitoring program.

The final rule that incorporated the exemptions created by section 345 of the NHS Act was issued under RIN 2125-AD83, 4/3/96 (61 FR 14677).

This action is significant because of substantial public interest. The FHWA is reconsidering the need for this action in light of the amendments to its exemption authority in the TEA-21.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Paul Brennan, Director, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AE09

2294. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MEXICAN MOTOR CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31138; 49 USC 31139

CFR Citation: 49 CFR 387; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend part 387, Minimum Levels of

DOT—FHWA **Proposed Rule Stage**

Financial Responsibility for Motor Carriers to clarify and amend the financial responsibility requirement for Mexican motor carriers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Lehrman, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW:, Washington, DC 20590
Phone: 202 366-0994

RIN: 2125–AE14

2295. +APPLICATION OF THE NATIONAL TRANSPORTATION COMMUNICATIONS FOR ITS PROTOCOL (NTCIP) STANDARDS IN ITS PROJECTS

Priority: Other Significant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402; PL 102-240

CFR Citation: 23 CFR 625; 23 CFR 655; 49 CFR 1.48

Legal Deadline: None

Abstract: This action is proposing to amend FHWA regulations to require application of Intelligent Transportation System (ITS) Standards for ITS projects using Federal-aid highway funds. In the ISTEA of 1991, Congress directed the Department to develop and implement standards and protocols to promote widespread use of ITS. The proposed regulations will apply ITS standards to ITS systems, subsystems, devices, equipment and software to be acquired with Federal-aid highway funds, including ITS funds. This action is significant because it represents new and changed policy under DOT Order 2100.5.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William S. Jones, ITS Joint Program Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2128

RIN: 2125–AE21

2296. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; DEFINITION OF COMMERCIAL MOTOR VEHICLE

Priority: Other Significant

Legal Authority: 49 USC 31132; 49 USC 31136; 49 USC 31502; PL 104-88, sec 104(f)

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 395; 49 CFR 396; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is initiating this action to consider whether to amend the definition of commercial motor vehicle in the Federal Motor Carrier Safety Regulations to make those safety regulations applicable to vehicles designed to transport less than 18 passengers including the driver. The Congress granted the authority to regulate such vehicles in the Interstate Commerce Commission Termination Act of 1995, but did not require the agency to exercise this authority.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/98	63 FR 41766
ANPRM Comment Period End	10/05/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Lehrman, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2125–AE22

2297. EMERGENCY RELIEF PROGRAM—$500,000 DISASTER ELIGIBILITY THRESHOLD

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 120(e); 23 USC 125; 23 USC 315

CFR Citation: 23 CFR 668; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA has initiated this rulemaking to evaluate the need to revise the FHWA's regulation pertaining to the $500,000 threshold established to distinguish between heavy maintenance or routine emergency repair and serious damage, which is used as one of the criteria to qualify a disaster under the FHWA emergency relief program for repair of Federal-aid highways. The FHWA has published an ANPRM with the intention of generating discussion and comments on the appropriateness of the current threshold value as well as any additional options regarding establishment of a disaster eligibility threshold. An NPRM is scheduled to be published proposing to increase the threshold to $700,000.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/98	63 FR 8377
ANPRM Comment Period End	04/20/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mohan Pillay, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4655

RIN: 2125–AE27

2298. COMMERCIAL DRIVER DISQUALIFICATION PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31301; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 383; 49 CFR 1.48

Legal Deadline:
NPRM, Statutory, December 29, 1996.

Abstract: Section 403 of the ICC Termination Act of 1995 (ICCTA) requires the FHWA to issue regulations specifying that commercial motor vehicle drivers who are convicted of violating railroad-highway grade crossing laws or regulations must be disqualified from operating a CMV. The ICCTA also requires that penalties be assessed against employers found to have knowingly allowed, permitted, authorized, or required an employee to

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operate a CMV in violation of a law or regulation pertaining to railroad-highway grade crossings. This rulemaking proposes disincentives for drivers and motor carriers from engaging in such dangerous operating practices. Such disincentives would include long periods (60 to 120 days) of disqualification from operating CMVs for drivers and monetary fines for employers.

Timetable:

Action	Date	FR Cite
NPRM	03/02/98	63 FR 10180
NPRM Comment Period End	05/04/98	
NPRM Reopening of the Comment Period	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Goettee, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AE28

2299. WORK ZONE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 105; 23 USC 106; 23 USC 109; 23 USC 110; 23 USC 115; 23 USC 315; 23 USC 320; PL 102-240, sec 1051; PL 104-59, sec 358

CFR Citation: 23 CFR 630; 23 CFR 636; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend its regulations on traffic safety in highway and street work zones. Section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires the Secretary of Transportation (Secretary) to develop and implement a highway work zone safety program which would improve work zone safety at highway construction sites. This action is necessary to update the existing regulation, clarify the current policy, and emphasize important issues affecting the safety of highway workers and highway users. This action proposes to transfer and redesignate the regulations currently found in 23 CFR part 630, subpart J, to a new part 636.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlie L. Sears, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AE29

2300. +REVISION OF APPLICATION FORM FOR MEXICAN MOTOR CARRIERS: COMMERCIAL ZONES

Priority: Other Significant

Legal Authority: 49 USC 13907

CFR Citation: 49 CFR 368

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican motor carriers that operate in the U.S. This class of carriers operates in the U.S.-Mexico border commercial zones which existed prior to NAFTA. This action is intended to increase the information available concerning these Mexican property carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of the Chief Counsel, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE31

2301. +REVISION OF APPLICATION FORM FOR MEXICAN MOTOR CARRIERS: NAFTA

Priority: Other Significant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 et seq; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 1.48

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican carriers that operate in the U.S. This class of carriers has operations that go beyond the established border commercial zones. This proposed unified application form would be used by both Mexican property and passenger carriers who provide services pursuant to provisions of NAFTA. This action is intended to increase the information available concerning these Mexican carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of the Chief Counsel, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE32

2302. +ACCELERATED SAFETY MONITORING SYSTEM AND COMPLIANCE INITIATIVE FOR MEXICAN MOTOR CARRIERS OPERATING IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 31502

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: This action would implement an accelerated safety fitness screen as

part of the Motor Carrier Management Information System (MCMIS). A new screening program is being targeted to collect more information on Mexican carriers. The data will be collected and stored using the existing systems and information gathering structures that are used for domestic carriers. The data collected will be used to oversee operations of both classes of Mexican motor carriers, those operating in the U.S.-Mexico border commercial zones and those operating in the U.S. pursuant to the various entry provisions of NAFTA. This action is significant due to anticipated public interest and safety-related issues.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of the Chief Counsel, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 358-7035

RIN: 2125–AE33

2303. SAFETY FITNESS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 3144

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: The FHWA published a final rule of RIN 2125-AC71 at 62 FR 60035 on November 6, 1997, which incorporated the safety fitness rating methodology (SFRM) into 49 CFR 385 as appendix B. In that document the FHWA identified its ultimate goal as creating a more performance-based means of determining the fitness of carriers to conduct commercial motor vehicle (CMV) operations in interstate commerce. The ANPRM requested comments on the future of a rating system that could be used both in making safety fitness determinations and meeting the demands of shippers, insurers and other present and potential users interested in evaluating motor carrier performance.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38788
ANPRM Comment Period End	09/18/98	
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William Hill, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AE37

2304. • +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; ZERO-BASE REVISION

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 49 USC 104; 49 USC 501; 49 USC 504; 49 USC 13101; 49 USC 13301; 49 USC 13902; 49 USC 31101; 49 USC 31132; 49 USC 31136; 49 USC 31301; 49 USC 31502; PL 104-88

CFR Citation: 49 CFR 301 to 399; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is revising the Federal Motor Carrier Safety Regulations (FMCSRs) and related regulations. In 1992, a "Zero-Base Review" was launched to improve the organization, format and clarity of the FMCSRs and collateral regulations. This proposal represents the most recent phase of a six-year "zero-based" review of motor carrier safety regulations to establish more effective, enforceable requirements. This action is the product of that review. It proposes provisions that could affect public safety and potentially raises novel policy issues concerning federalism. The changes proposed here constitute a major rewrite of the FMCSRs, including significant format and organizational changes, as well as a significant decrease in administration, recordkeeping, and paperwork burdens (an estimated reduction of 37 million burden hours). This action is significant under the regulatory policies and procedures of the DOT because of the substantial public interest concerning motor carrier safety issues.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previous rulemakings from this comprehensive effort have included removing and redesignating redundant or obsolete safety regulations (RIN 2125-AD55 and RIN 2125-AD28) and more substantive and complex revisions of the FMCSRs (RIN 2125-AD72).

Agency Contact: Robert Schultz, Jr., Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AE42

2305. • ADMINISTRATION OF ENGINEERING AND DESIGN RELATED SERVICES CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 112(b); 23 USC 114(a); 23 USC 302; 23 USC 315; 23 USC 402; 41 USC 253; 41 USC 259

CFR Citation: 23 CFR 172; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: This action would amend procurement procedures on administration of engineering and design related services contracts to reflect the changes made by section 307 of Public Law 204-59, National Highway System Designation Act and section 1205 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, June 9, 1998.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gary E. Moss, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4654

RIN: 2125–AE45

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2306. • MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 49 USC 31100; 49 USC 31108; 49 USC 31136; 49 USC 31140 to 31141; 49 USC 31161; 49 USC 31310 to 31311; 49 USC 31502

CFR Citation: 49 CFR 350; 49 CFR 1.48

Legal Deadline:
Final, Statutory, October 1, 1999.

Abstract: This action would amend the Motor Carrier Safety Assistance Program (MCSAP) as required by the Transportation Equity Act for the 21st Century (TEA-21). The changes will incorporate those applicable provisions. The MCSAP provides grants to the States to enforce the Federal Motor Carrier Safety and Hazardous Materials Regulations or compatible State regulations.

The FHWA must implement these revisions before FY 2000, beginning October 1, 1999. The revisions will include requirement for all participating States to develop performance-based programs. This will allow States to have greater flexibility to design programs addressing national, regional, and State needs in reducing the number and severity of commercial motor vehicle crashes.

Timetable:

Action	Date	FR Cite
NPRM	03/09/99	64 FR 11414
NPRM Comment Period End	05/10/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Brian McLaughlin, Chief, State Programs Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9579

RIN: 2125–AE46

2307. • REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; TOURIST ORIENTED DIRECTIONAL SIGNS, RECREATION AND CULTURAL INTEREST SIGNS, AND TRAFFIC CONTROLS FOR BICYCLE FACILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administrator, and recognized as the national standard for traffic control on all public roads

This document proposes new text for the MUTCD in Chapter 2G-Tourist Oriented Directional Signs (TODS), Chapter 2H-Recreation and Cultural Interest Area Signs, and Part 9, Traffic Controls for Bicycle Facilities. The purpose of this rewrite effort is to reformat the text to clarify intended meanings, to include metric dimensions and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The proposed changes to the MUTCD are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Linda Brown, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE50

2308. • PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 23 USC 109(h); 23 USC 109(i); 49 USC 4331; 49 USC 4332; PL 104-59

CFR Citation: 23 CFR 772

Legal Deadline: None

Abstract: This action proposes to amend the FHWA regulation which specifies the traffic noise prediction method to be used in traffic noise analyses. This revision would allow the use of the FHWA Traffic Noise Model, which was released on March 30, 1998. It would update the specific references to acceptable traffic noise prediction methodology and vehicle noise emission levels. It would also remove references to specific noise prediction and measurement reports and vehicle noise emission levels that have been or will be superseded.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Armstrong, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2073

RIN: 2125–AE51

2309. • +SAFETY FITNESS PROCEDURES—UNSATISFACTORY SAFETY RATINGS

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521 (b)(5)(A); 49 USC 31136; 49 USC 31144; 49 USC 31502

CFR Citation: 49 CFR 385; 49 CFR 1.48

Legal Deadline: None

Abstract: This action would expand the prohibition against interstate operations by carriers with "unsatisfactory" safety ratings. The existing "unsatisfactory" safety rating prohibition, applicable to motor carriers of passengers and hazardous materials,

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would be extended to all motor carriers. This action would implement section 4009 of the Transportation Equity Act for the 21st Century which prohibits motor carriers found to be unfit according to a safety fitness determination from operating commercial motor vehicles in interstate commerce. This action is considered a significant regulatory action because of the substantial public interest in the provision of safe interstate motor freight and passenger transportation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Debbie Freund, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-5541

RIN: 2125–AE56

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2310. REVISION OF MEDICAL EXAMINATION FORM AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: Substantial changes in medical technology and the technology, operating practices, and economics of the motor carrier industry have affected the physical and mental demands on commercial motor vehicle (CMV) drivers and in turn, have rendered portions of the current medical examination form used to assess drivers' physical qualifications outdated, difficult to use, or irrelevant. This action redesigns the existing medical examination form and amends the examination procedures to reflect the latest medical and technological advances.

Timetable:

Action	Date	FR Cite
NPRM	08/05/98	63 FR 41769
NPRM Comment Period End	11/03/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: This action was formerly titled "Qualification of Drivers; Medical Examination Form."

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2981

RIN: 2125–AC63

2311. +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; LIGHTING DEVICES, REFLECTORS, AND ELECTRICAL EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: Final, Statutory, June 9, 1999.

Abstract: The FHWA intends to adopt measures for reducing the incidence and severity of collisions with large trailers during conditions of darkness or reduced visibility. Specifically, the agency is proposing requiring the use of retroreflective sheeting or reflex reflectors for certain trailers manufactured prior to December 1, 1993, the effective date of the National Highway Traffic Safety Administration's final rule on conspicuity for newly manufactured trailers. This action is considered significant due to substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2811
ANPRM Comment Period End	03/21/94	
Notice of Intent To Issue NPRM	08/06/96	61 FR 40781
NPRM	06/19/98	63 FR 33611
NPRM Comment Period End	09/17/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The FHWA intends to consider carefully the costs and benefits associated with various alternative requirements, including the economic impacts of potential changes on small entities.

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AD27

2312. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 31502; 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 5113

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is proposing to revise its regulations dealing with the identification and marking of commercial motor vehicles (CMVs). Five changes are being proposed which would: (1) Apply the marking requirements to all CMVs operated in interstate commerce, including those common and contract motor carriers of property or passengers formerly authorized by the Interstate Commerce Commission (ICC); (2) require motor carriers to mark both sides of each CMV with a specific legal name or name under which it does business (DBA name); (3) require motor carriers to mark each CMV with the city and State of its principal place of business; (4) require all new motor carriers to file Form MCS-150 before beginning operations; and (5) move sec. 385.23

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and the appendix to part 385 to a new section in part 390. The States would also be allowed and encouraged to use USDOT identification numbers to identify intrastate motor carriers. These changes will improve the identification of motor carriers and CMVs, aid enforcement, and enhance data collection and analysis.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32801
NPRM Comment Period End	08/17/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Phillip J. Forjan, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6817

RIN: 2125–AD49

2313. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; METRIC CONVERSION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: Based on the National Highway System (NHS) Designation Act of 1995, the Federal Highway Administration (FHWA) no longer requires metric legends on highway signs. After FY 1996, if a State desires to install metric legend signs, the FHWA will not restrict the use of Federal-aid funds. The NHS Designation Act also revises the Metric Conversion Policy to extend the compliance date to September 30, 2000, for having plans, specifications, and estimates (PS&Es) in metric units (prior to September 30, 1996). It is the intent of this rulemaking action to assure that those States and other FHWA partners desiring to convert to metric units will have available a source for formulating their plans in a consistent manner. Therefore, the FHWA is adopting the following two American Association of State Highway and Transportation Officials (AASHTO) publications as its policy for metric conversion: "Guide to Metric Conversion" and "Traffic Engineering Metric Conversion Factors." The FHWA has determined that the interim metric values selected by the AASHTO documents are functionally equivalent to English system measurements previously adopted by notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/96	61 FR 29624
Comment Period End	08/11/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The FHWA initiated a phased five-year plan to convert its activities and business operations to the metric system of weights and measures as required by the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007), as amended by sec. 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107, 1451).

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD63

2314. STANDARDS FOR CENTER LINE AND EDGE LINE MARKINGS ON STREETS AND HIGHWAYS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 CFR part 655, subpart F, and recognized as the national standard for traffic control on all public roads. The DOT and Related Agencies Appropriations Act of 1992, Pub. L. 102-388, sec. 406, requires that the MUTCD include a national standard to define the roads that must have center line or edge line markings or both. The MUTCD amendments in this action will improve traffic operations and safety, provide national standards and guidance to establish uniform application and use of center line and edge line markings on streets and highways.

Timetable:

Action	Date	FR Cite
NPRM	08/02/96	61 FR 40484
NPRM Comment Period End	05/02/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Ernest D. L. Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD68

2315. FEDERAL-AID HIGHWAY SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 103(b); 23 USC 103(c); 23 USC 315

CFR Citation: 23 CFR 470

Legal Deadline: None

Abstract: This regulatory action amends 23 CFR 470 in accordance with legislation enacted in 1991, 1995, and 1998. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) rescinded the Federal-aid Primary and Secondary and Urban Systems; established an interim National Highway System (NHS); and defined Federal-aid highways. The NHS Designation Act of 1995 (NHS Act) authorized the initial National Highway System and also authorized the Secretary to approve modifications. The Transportation Equity Act for the 21st

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Century (TEA-21) authorized the initial NHS connectors to major intermodal terminals and recodified 23 U.S.C. 103 (Federal-aid systems). The action also consolidates in appendices all nonregulatory guidance material issued previously by the FHWA on Federal-aid highway systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/19/97	62 FR 33351
Interim Final Rule Effective	07/21/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The FHWA issued an interim final rule with an opportunity for public comment. The FHWA believes that prior notice and opportunity for comment were unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B) because this rule amends existing regulations in accordance with the requirements of the ISTEA and the NHS Act and will simplify administrative procedures, minimize regulatory burdens, and provide flexibility for accomplishing required system actions. This rule amends regulations that the states comply with as part of the Federal-aid highway program. The FHWA has worked closely with the States, and the States have operated under the basic policies covered by this regulation for many years. A number of technical revisions are required as a result of the TEA-21 recodification of 23 U.S.C. 103, including incorporation of the provisions of former 23 U.S.C. 139 (Additions to Interstate System).

Agency Contact: Jill Hochman, Director, Office of Intermodal and Statewide Programs, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-5370

RIN: 2125–AD74

2316. +RAILROAD GRADE CROSSING SAFETY

Priority: Other Significant

Legal Authority: PL 102-240; PL 103-311; 49 USC 5101; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 392; 49 CFR 1.48

Legal Deadline: Final, Statutory, February 26, 1995, See P.L. 103-311; sec. 112.

Abstract: This action prohibits operators of commercial motor vehicles from driving onto a railroad grade crossing unless there is sufficient space to drive completely through the crossing without stopping. The intent of this action is to reduce the incidence of collisions between trains and CMVs. This action is required by the Hazardous Materials Transportation Authorization Act of 1994 (PL 103-311; sec. 112). This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/30/98	63 FR 40691
NPRM Comment Period End	11/27/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Lehrman, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-0994

RIN: 2125–AD75

2317. UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1200

Legal Deadline: None

Abstract: The FHWA has streamlined the Sec. 402 grant approval process. In a separate notice (60 FR 47418) the FHWA announced the creation of a pilot highway safety program for FY 1996 State highway programs under 23 USC 402 and the waiver of certain procedures for States that have elected to participate in the pilot program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/97	62 FR 34397
Interim Final Effective	06/26/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mila Plosky, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6902

RIN: 2125–AD79

2318. RAILROAD HIGHWAY PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; 23 USC 109(e); 23 USC 120(c); 23 USC 130

CFR Citation: 23 CFR 140; 23 CFR 646

Legal Deadline: None

Abstract: The FHWA amends its regulations on railroad highway projects. The amendments now require railroads to submit final billings within one year following completion of work, delete the requirements of a State's certification that work was completed, increase the ceiling for lump sum agreements from $25,000 to $100,000 and incorporate changes brought about by ISTEA. The FHWA believes these changes will conform railroad/highway regulations to more recent laws or regulations, and provide State highway agencies clarification and more flexibility in implementing them.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/97	62 FR 45326
Comment Period End	10/27/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

DOT—FHWA

Final Rule Stage

Government Levels Affected: State, Local

Additional Information: The FHWA intends to dispense with prior notice and opportunity for comment and to publish an interim final rule. The FHWA believes that prior notice and opportunity for comments are unnecessary because the changes it is making to existing regulations deal with billing procedures to be followed by the States and provide States greater flexibility with respect to an option already available to them to use lump sum agreements. The FHWA does not expect to receive useful comment on these changes. Nevertheless, in issuing an interim final rule, the FHWA is affording interested persons an opportunity to comment on these changes, and the FHWA will carefully consider any comments it receives before making this regulation final.

Agency Contact: Robert Winans, Federal-Aid and Design Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4656

RIN: 2125–AD86

2319. REGISTRATION OF FOR-HIRE MOTOR CARRIERS, PROPERTY BROKERS, AND FREIGHT FORWARDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 to 13905; 49 USC 14708; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 385

Legal Deadline: None

Abstract: This action governs registration of for-hire motor property and passenger carriers, property brokers, and freight forwarders. This action is required by 49 USC 13901 to 13905, which mandates that a registration system be administered by the Secretary of Transportation to replace the former Interstate Commerce Commission's licensing system for motor carriers, property brokers, and freight forwarders. The registration system prescribed in 49 USC 13901 to 13905 is intended to be a temporary and stand-alone procedure while the FHWA undertakes to design and implement the revised system through the 49 USC 13908 rulemaking mandated by Congress to be completed by January 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	02/13/98	63 FR 7362
NPRM Comment Period End	04/14/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia Burke, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 358-7041

RIN: 2125–AE01

2320. +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; REAR IMPACT GUARDS AND REAR IMPACT PROTECTION

Priority: Other Significant

Legal Authority: PL 102-240, sec 1041(b); 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action would require that certain trailers and semitrailers with a gross vehicle weight rating (GVWR) greater than 10,000 pounds and manufactured on or after January 26, 1998, be equipped with rear impact guards and meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 223. This action is intended to ensure that the rear impact protection requirements of the FMCSRs are consistent with the FMVSSs and to improve the safety of operation of commercial motor vehicles by reducing the incidence of underride accidents in which the rear end of the trailer strikes and enters the passenger compartment. This action is significant because of the substantial public interest in the prevention of rear underride accidents involving commercial motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	05/14/98	63 FR 26759
NPRM Comment Period End	07/13/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rule is not considered to be significant under Executive Order 12866, but is significant under DOT Order because the FHWA expects that there will be significant public interest in the prevention of rear-underride accidents involving commercial motor vehicles.

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AE15

2321. TRANSPORTATION OF HOUSEHOLD GOODS; CONSUMER PROTECTION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 49 USC 13301; 49 USC 14104

CFR Citation: 49 CFR 375; 49 CFR 377

Legal Deadline: None

Abstract: The FHWA amends the regulations governing the transportation of household goods. These regulations protect consumers who ship household goods by motor vehicle. This action is necessary to implement the ICC Termination Act of 1995, (ICCTA), Pub. L. 104-88, 109 Stat. 803, and to update the regulations. The intended effect of this proposal is to make the regulations easier to read and understand, remove an outdated report, address hostage freight problems (situations where non-binding estimates are lower than actual charges and the carrier refuses to deliver freight even after 110 percent of the estimate is paid at the time of delivery), modify a consumer protection publication, consider industry requests to change the rules, and propose conforming and technical amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/15/98	63 FR 27126
NPRM Comment Period End	07/14/98	
NPRM Extension and Reopening of Comment Period	08/12/98	63 FR 43128

DOT—FHWA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	10/13/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Janet Nunn, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AE30

2322. • TRUCK SIZE AND WEIGHT; DEFINITIONS; NONDIVISIBLE

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 31111 to 31114

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This action modifies the definition of nondivisible load or vehicle to include marked military vehicles. This will allow, but not require, States to issue overweight permits for such vehicles to operate on the Interstate System. States must adopt and enforce Federal weight standards for the Interstate System or risk the loss of certain Federal-aid highway funds. These standards are 20,000 pounds on a single axle, 34,000 pounds on a tandem axle, and the weights specified by the bridge formula, up to a maximum gross vehicle weight of 80,000 pounds. In addition, all States may issue permits allowing nondivisible loads or vehicles that cannot be easily dismantled or divided, to use Interstate highways at weights above the normal Interstate limits.

Timetable:

Action	Date	FR Cite
NPRM	11/20/98	63 FR 64434
NPRM Comment Period End	01/19/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Thomas Klimek, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2212

RIN: 2125–AE43

2323. • RIGHT-OF-WAY PROGRAM ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 107; 23 USC 108; 23 USC 111; 23 USC 114; 23 USC 133; 23 USC 142(f)

CFR Citation: 23 CFR 710; 23 CFR 712; 23 CFR 713

Legal Deadline: None

Abstract: This action amends right-of-way regulations for federally assisted transportation programs. The regulations are arranged to follow the same sequence as the development and implementation of a Federal-aid project to assist the public and State transportation agency (STA) in locating regulations applicable to a specific point of interest. The amendments should clarify the State-Federal partnership.

Timetable:

Action	Date	FR Cite
NPRM	12/24/98	63 FR 71238
NPRM Comment Period End	03/24/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James E. Ware, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2019

RIN: 2125–AE44

2324. • +CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 105-178, sec 1501

CFR Citation: 23 CFR 180

Legal Deadline: None

Abstract: This action is required by the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA). It would establish a new credit assistance program for surface transportation projects; and the process by which the DOT, through the FHWA, the FRA, and the FTA, will administer the credit assistance. TIFIA authorizes DOT to provide secured (direct) loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. Projects will be evaluated and selected by the Secretary of Transportation. The Unfunded Mandates Reform Act does not apply to the type of credit assistance involved in the TIFIA. "Federal mandate" as defined in the act, excludes financial assistance of the type involved in the TIFIA program. This action is considered economically significant because of highway, transit, and rail projects to be assisted under the TIFIA program.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 5996
NPRM Comment Period End	03/10/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Max Inman, Chief, Federal-Aid Financial Management Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0673

RIN: 2125–AE49

DEPARTMENT OF TRANSPORTATION (DOT) **Long-Term Actions**

Federal Highway Administration (FHWA)

2325. +QUALIFICATION OF DRIVERS; DIABETES

Priority: Other Significant

Legal Authority: 49 USC 3102; 49 USC 2505; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: None

Abstract: The FHWA is considering revising the driver qualification requirements to allow certain insulin-using diabetics to operate commercial motor vehicles in interstate commerce. The FHWA issued a final disposition accepting waiver applications under certain conditions. The deadline for submitting applications was April 30, 1994. The waiver program ended March 31, 1996. It was instituted to permit the FHWA to observe and collect data on the driving experience of a group of insulin-using drivers. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	
ANPRM Comment Period Extended to 02/01/88	01/04/88	53 FR 42
NPRM	10/05/90	55 FR 41028
NPRM Comment Period Extended to 01/03/91	11/01/90	55 FR 46080
NPRM Comment Period End	12/04/90	
Notice of Intent To Issue Waivers: Comment Request	10/21/92	57 FR 48011
Final Action To Accept Waivers	07/29/93	58 FR 40690
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Under RIN 2125-AD73, the FHWA adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule); 61 FR 17253 (April 19, 1996) (final rule; technical correction). With the closing of the diabetes waiver study (03-31-96), no definitive empirical results were produced. Therefore, the FHWA initiated a retrospective case-referent study to assess the level of risk associated with the operation of commercial motor vehicles by insulin-using diabetic drivers. This is not a waiver study. Further rulemaking on diabetes is deferred until the completion of the retrospective case-referent study, expert panel review and the TEA-21 feasibility study (12-31-99).

Section 4019 of the Transportation Equity Act for the 21st Century (TEA-21), directs the FHWA to determine if it is practical and cost effective to have a program that allows insulin-treated diabetic drivers to operate CMVs in interstate commerce.

The FHWA will establish a panel of medical experts to develop medically-based recommendations for amending the current Federal diabetes standard and for establishing, if appropriate, a screening protocol for qualifying insulin-treated diabetic commercial drivers.

ANALYSIS: Regulatory Evaluation, 10/05/90, 55 FR 41028

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2981

RIN: 2125–AB91

2326. +COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Priority: Other Significant

Legal Authority: PL 100-690, sec 9105

CFR Citation: 49 CFR 383

Legal Deadline:
Final, Statutory, December 31, 1990.

Abstract: This action was initiated to improve identification systems for truck and bus drivers as identified by the Congress in the Truck and Bus Regulatory Reform Act of 1988. Alternatives that were considered included retinal eye scans and advanced fingerprint technologies. After (1) further review, (2) a careful analysis of public comments submitted to the ANPRM, and (3) a review of demonstration project results, the FHWA has determined that current technology has not progressed to the point where an identification system could be established nationwide in a cost-effective manner and still provide the benefits for which a system was intended. Therefore, the FHWA has published an informational notice to summarize the results of the pilot study and the comments to the ANPRM to demonstrate how the technologies studied fall short of the demands in a commercial licensing environment. Additional studies are being conducted to assess the current state of the art of technology in biometric identification systems. The public docket will remain open while this research is being conducted. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	
Information Notice	03/08/91	56 FR 9925
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions-

Government Levels Affected: State

Additional Information:

ANALYSIS: Regulatory Evaluation

Agency Contact: Phil Forjan, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AC24

2327. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; PERIODIC REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS

Priority: Other Significant

Legal Authority: 49 USC 31502; 49 USC 31103; 49 USC 31136

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is proposing to require all motor carriers subject to the Federal Motor Carrier Safety Regulations (FMCSRs) to periodically update certain company information maintained by the agency in a national interstate motor carrier census file. This proposal delineates the information

which motor carriers may be required to update every 2 years, as well as the methods motor carriers may have available to them to provide such information.

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Please note that this action (2125-AC28) was previously titled "Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking." A new RIN has been assigned for this subject. See 2125-AD49 for further information about motor vehicle marking 1992 Agenda.

ANALYSIS: Regulatory Evaluation

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5884

RIN: 2125–AC28

2328. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; PL 97-424, sec 411; PL 97-424, sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA requested public comment on how, under section 411(h) and 416(b) of the Surface Transportation Act of 1982 (STA) (PL 97-424, 96 Stat. 2097), the Secretary may determine which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system of employing rulemaking proceedings is too time-consuming and cumbersome to meet the needs of industry and is needlessly burdensome for FHWA. Therefore, a new approach will be proposed.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period Extended to 06/01/90	03/21/90	55 FR 10468
ANPRM Comment Period End	03/26/90	
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	06/22/90	55 FR 25673

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Tom Klimek, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2212

RIN: 2125–AC30

2329. PERIODIC INSPECTION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31131; 49 USC 31137; 49 USC 31142

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is proposing to amend its periodic inspection requirements for commercial motor vehicles operated in interstate commerce. The periodic inspection final rule was published on December 7, 1988, at 53 FR 49402, and amended on December 8, 1989, at 54 FR 50722. The December 8, 1989, amendment included a request for comments. In response to the comments received and requests for interpretations from the States and industry, the FHWA has determined that the rule should be amended to clarify the requirements for periodic inspection decals; evidence of the inspector's qualifications; the response time for a motor carrier to transmit a copy of a self-inspection report to an authorized Federal, State or local enforcement official; identity of the motor carrier or other entity offering a vehicle for inspection; and documentation of a State periodic inspection, including proof of inspection on vehicles. The FHWA is also proposing amendments concerning the inspection criteria for brake readjustment limits, brake lining thickness, coupling devices, steering mechanism, tires marked "Not for Highway Use", and regrooved tires on steering axles.

Timetable:

Action	Date	FR Cite
Notice: Request for Comments	03/16/89	54 FR 11020
Final Rule: Delay in Compliance Date	12/08/89	54 FR 50722
Notice: State Inspection Programs	12/08/89	54 FR 50726
Petition: Comment Period End 07/02/90	05/02/90	55 FR 18355
Notice: State Inspection Programs	09/23/91	56 FR 47982
Denial of Petition	07/02/92	57 FR 29457

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Larry W. Minor, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC47

2330. +QUALIFICATION OF DRIVERS; VISION

Priority: Other Significant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: As part of a review of the medical qualification standards applicable to interstate CMV drivers, the FHWA requested comments on the need, if any, to amend its driver qualification requirements relating to the vision standard. A temporary waiver program was initiated and was concluded on March 31, 1996, to permit the FHWA to observe and collect data on the driving experience of a group of vision--deficient drivers who meet certain preconditions. Additionally, the FHWA considered further research to develop

comprehensive performance-based visual standards for all commercial drivers. Information about the proposed research plan and public hearing on the subject was published in the Federal Register on June 5, 1996, at 61 FR 28547. The FHWA has awarded a contract with a medical center to develop medically-based recommendations for amending the current Federal vision requirements. Recommendations were delivered in October, 1998. These recommendations are being evaluated and considered in deciding what, if any, further proposals should be made concerning the vision standard.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/92	57 FR 6793
ANPRM Comment Period End	04/28/92	
Notice Request for Comments	06/05/96	61 FR 28547
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Under RIN 2125-AD73, the FHWA adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule) 61 FR 17253 (April 19, 1996) (final rule; technical correction). (See notices published at 57 FR 6793, February 28, 1992; 57 FR 10295, March 25, 1992; 57 FR 22370, June 3, 1992; 59 FR 50887, October 6, 1994; 59 FR 59386, November 17, 1994.

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2981

RIN: 2125–AC62

2331. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION: INTERMODAL CARGO CONTAINERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: This rulemaking action addresses the requirements of the Federal Motor Carrier Safety Regulations for securing intermodal cargo containers to trailers.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/93	58 FR 44485
ANPRM Comment Period End	11/22/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4012

RIN: 2125–AC74

2332. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL TRANSPORTATION OF HAZARDOUS MATERIALS

Priority: Other Significant

Legal Authority: 49 USC 5105; 49 USC 5109

CFR Citation: 49 CFR 390.3; 49 CFR 397; 49 CFR 1.48

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: This rulemaking will implement the statutory requirements of 49 USC 5109 and 49 USC 5105. Section 5109 addresses the establishment of motor carrier safety permit regulations for motor carriers transporting Class A or B explosives, liquefied natural gases, hazardous materials designated as extremely toxic by inhalation, or highway route controlled quantity radioactive materials. Section 5105 requires inspection of vehicles transporting those radioactive materials before each trip. The proposed rule will incorporate those provisions into the safety permit regulations. This action is considered significant because of substantial public and congressional interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/17/93	58 FR 33418
NPRM Comment Period End	08/16/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/17/93, 58 FR 33418

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AC78

2333. +QUALIFICATIONS OF DRIVERS: HEARING DEFICIENCIES

Priority: Other Significant

Legal Authority: 49 USC 3102; 49 USC 2505

CFR Citation: 49 CFR 391; 49 CFR 1.48

Legal Deadline: None

Abstract: FHWA is considering amending its driver qualification requirements relating to the hearing standard found at 49 CFR 391.41(b)(11). FHWA believes that a review of the standard is necessary to assess the effect advances in medical science and technology may have on the standard. Such advances may lead to amending the current standard. The FHWA published an ANPRM (FHWA Docket No. MC-93-30) seeking comment on the hearing standard. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/93	58 FR 65634
ANPRM Comment Period Extended to 04/05/94	02/04/94	59 FR 5376
ANPRM Comment Period End	02/14/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

DOT—FHWA

Long-Term Actions

Government Levels Affected: Undetermined

Additional Information: A related notice regarding possible waivers was published at 58 FR 65638 (Dec. 15, 1993). The FHWA has decided not to issue waivers in light of the recent decision of the U.S. Court of Appeals for the DC Circuit in Advocates for Highway and Auto Safety v. the Federal Highway Administration, No. 92-1411, August 2, 1994. In that case, the FHWA rule allowing commercial drivers with impaired vision in one eye to apply for waivers from the Federal vision standard was struck down because the Court of Appeals held that the agency lacked the data necessary to support its determination that the vision waiver program "is consistent with the safe operation of commercial motor vehicles." The FHWA initiated research in FY 1995 to determine if the hearing requirement is necessary and if so, what criteria it should encompass in relationship to driving tasks. The research was completed in August 1997 and the FHWA is not amending the current hearing standard at this time.

Agency Contact: Albert Alvarez, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4706

RIN: 2125–AD22

2334. HIGHWAY BEAUTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750

Legal Deadline: None

Abstract: The revision of these subparts will reduce their complexity, recognize the existence of State laws, regulations, and organizations implementing 23 USC 131, and emphasize the position of the State as the initial, primary, and principal focal point regarding the requirement of effective control. Potential costs should be reduced, albeit minimally. The principal benefit will be to give the States greater ability, in the context of the broad requirements of 23 USC 131, to respond to concepts and issues relevant to the States. We have been reviewing these regulations with the intent to focus on changes necessitated by ISTEA. We are continuing this review in order to be able to accommodate additions or changes effected by reauthorization of ISTEA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FHWA intends to continue review and analysis of all aspects of the HBA under RIN 2125-AD24 to propose changes to reduce the complexity of the highway beautification regulations and to emphasize the role of the State in its implementation. Intended changes which appeared in a prior Agenda under RIN 2125-AD88 related to the Dire Emergency Supplemental Appropriations Act of 1992 have been suspended and consolidated under this rulemaking.

Agency Contact: Robert A. Johnson, Chief, Program Services Division, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2020

RIN: 2125–AD24

2335. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; SLEEPER BERTHS ON MOTOR COACHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: Comments have been sought on the suitability of existing driver sleeper berth regulations for motor coaches and possible amendment to account for design differences between trucks and motor coaches.

Timetable:

Action	Date	FR Cite
ANPRM	01/12/94	59 FR 1706
ANPRM Comment Period End	03/14/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD25

2336. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP) ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 4002

CFR Citation: 49 CFR 350

Legal Deadline: None

Abstract: This action would modify the Motor Carrier Safety Assistance Program (MCSAP) distribution formula to allow States with incompatible intrastate regulations limited participation in the basic grant program beyond October 1, 1994. It does not change the distribution formula pertaining to those States that have achieved compatibility with respect to both interstate and intrastate transportation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/94	59 FR 5262
Interim Final Rule Effective	03/07/94	
Interim Final Rule Comment Period End	04/04/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Taylor, Office of Motor Carrier Field Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6308

RIN: 2125–AD30

2337. +HOURS OF SERVICE OF DRIVERS; SUPPORTING DOCUMENT RECORDKEEPING

Priority: Other Significant

Legal Authority: PL 103-311

CFR Citation: 49 CFR 395.8

Legal Deadline: NPRM, Statutory, August 26, 1995.

Final, Statutory, February 26, 1996.

Abstract: A record of duty status is required to be prepared for each day a driver operates a commercial motor vehicle in interstate commerce. All motor carriers are required to maintain the record of duty status for at least 6 months along with all documents that support the accuracy of the record of duty status. The Hazardous Materials Transportation Authorization Act of 1994 mandates the FHWA to specify what documents must be maintained to support the accuracy of the record of duty status. This rule will implement the statutory mandate that requires the agency to describe the type of supporting documents to be generated and maintained, as well as specify the quantity and length of time to maintain the supporting documents.

The FHWA is analyzing the comments. The FHWA is also analyzing the extent to which the rule overlaps, duplicates, and conflicts existing regulations. Comments predominantly suggest FHWA delay this action until the FHWA has proposed new hours of service rules and new recordkeeping systems under RIN 2125-AD93.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19457
NPRM Comment Period End	06/19/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD52

2338. ADVANCED CONSTRUCTION OF FEDERAL AID PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104 to 106; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 118; 23 USC 120(e); 23 USC 121(c); 23 USC 125; 23 USC 134; 23 USC 315; 23 USC 320

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is amending its regulation on advance construction of Federal-aid highway projects to incorporate changes made by the Dire Emergency Supplemental Appropriations Act, 1992, Pub. L. 102-302, 106 Stat. 248, and to provide more flexible funding arrangements for the States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/95	60 FR 36991
Comment Period End	09/18/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Max Inman, Office of Budget and Finance, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AD59

2339. +TRANSPORTATION OF MIGRANT WORKERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5901 to 5907; 49 USC 31132; 49 USC 31133; 49 USC 31136; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 390; 49 CFR 392; 49 CFR 398; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is considering the continued need, if any, for its specific regulations on the transportation of migrant workers under 49 CFR 398. This action also proposes transferring certain definitions and driving requirements from part 398 to parts 390 and 392. These changes would eliminate redundant regulations in part 398 and enhance the safety of migrant workers transported in interstate commerce. This action is considered significant due to substantial public interest. The FHWA is analyzing whether to add this to the RIN 2125-AE42.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD81

2340. INSPECTION, REPAIR, AND MAINTENANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: This action involves the use of technology to reduce recordkeeping. The FHWA issued a notice (60 FR 46682) requesting comments from motor carriers, vehicle and component manufacturers, technology vendors and the public on the use of advanced driver, vehicle and inspection technology. The FHWA plans to evaluate existing technologies to determine if they could be used to simplify or automate compliance with any of the FMCSRs without compromising public safety.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AD82

DOT—FHWA

Long-Term Actions

2341. +MOTOR CARRIER REPLACEMENT INFORMATION/REGISTRATION SYSTEM

Priority: Other Significant

Legal Authority: 49 USC 13908

CFR Citation: 49 CFR 36

Legal Deadline:
Final, Statutory, January 1, 1998, See 49 U.S.C. 13908 for more detailed information.

Abstract: This action is in response to the requirements of section 103 of the Interstate Commerce Commission Termination Act of 1995, which added 49 USC 13908. This section requires the Secretary to initiate a rulemaking proceeding to replace the current DOT identification number system, single State registration system, the registration/licensing system, and the financial responsibility system, with a single, on-line Federal system. This action is considered significant due to substantial public interest. Statutory deadline not met due to range and depth of issues involved.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/96	61 FR 43816
ANPRM Comment Period End	10/25/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dixie E. Horton, Office of Motor Carrier Planning and Customer Liaison, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4340

RIN: 2125–AD91

2342. GENERAL JURISDICTION OVER FREIGHT FORWARDER SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13701; 49 USC 13709; 49 USC 13906; 49 USC 14101; 49 USC 14706

CFR Citation: 49 CFR 373

Legal Deadline: None

Abstract: This action gives notice of the FHWA's general jurisdiction over all segments of the freight forwarding industry (not just household good freight forwarders), in accordance with the ICC Termination Act of 1995, proposes changes to existing regulations to comport with those mandated by Congress, and clarifies the FHWA's jurisdiction over freight forwarders in other areas.

Timetable:

Action	Date	FR Cite
NPRM	01/28/97	62 FR 4096
NPRM Comment Period End	03/31/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research & Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AE00

2343. TRAFFIC CONTROL DEVICES, MARKINGS, SIGNALS, AND SYSTEMS FOR RAILROAD-HIGHWAY GRADE CROSSINGS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This document adds new text for the Manual on Uniform Traffic Control Devices (MUTCD) in part III, markings; in part IV, signals; and in part VIII, traffic control systems for railroad-highway grade crossings. The purpose of these amendments is to include metric dimensions and values for the design and installation of traffic control devices and to improve the organization and discussion of the contents of the MUTCD.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	01/06/97	62 FR 691
Comment Period End	08/30/97	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda L. Brown, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE11

2344. +ENGLISH LANGUAGE REQUIREMENT; QUALIFICATIONS OF DRIVERS

Priority: Other Significant

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 391; 49 CFR 1.48

Legal Deadline: None

Abstract: The current regulation is little changed from the original rule adopted in 1936. The American Civil Liberties Union (ACLU) has written to the Department asserting that the regulation, as written, is overly broad and subject to arbitrary enforcement, causing potential interference with constitutional guarantees of due process and equal protection. The ACLU requested an opportunity to submit a comprehensive analysis of this issue. This ANPRM is intended to provide the ACLU with such an opportunity and to open this issue for public comment. The FHWA seeks to modify its current regulation to require drivers to possess the basic functional communication/comprehension ability necessary to ensure safety, consistent with applicable law. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/97	62 FR 45200
ANPRM Comment Period End	10/27/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard H. Singer, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE19

DOT—FHWA

Long-Term Actions

2345. REVISION OF MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; GENERAL PROVISIONS AND TRAFFIC CONTROL FOR SCHOOL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action, new text for the MUTCD, part 1, General Provisions and part 7, Traffic Control for School Areas, is proposed. The purpose of such revision is to reformat the text for clarity of intended meanings, to include metric dimensions and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The proposed changes in this action are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device applications.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendment	12/05/97	62 FR 64324
Comment Period End	09/08/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Linda Brown, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2192

RIN: 2125–AE25

2346. OUT-OF-SERVICE CRITERIA

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31310; 49 USC 31502; PL 104-59

CFR Citation: 49 CFR 395; 49 CFR 396; 49 CFR 1.48

Legal Deadline: None

Abstract: This action seeks public comment on the "North American Uniform Out-of-Service Criteria" (OOS Criteria). During roadside inspections, Federal, State, and local safety inspectors use the OOS Criteria as a guide in determining whether to place commercial motor vehicles (CMVs), or their drivers, "out of service." Such a status means that the CMVs or drivers are so unsafe that corrections must be undertaken before operations can resume. The FHWA is seeking public comment on the future scope and effect of the OOS Criteria, which are not part of the Federal Motor Carrier Safety Regulations (FMCSRs). In addition, the FHWA is seeking information regarding whether it needs to formalize these guidelines pursuant to a notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38791
ANPRM Comment Period End	09/18/98	
Extension of Comment Period	10/09/98	63 FR 54432
Comment Period End	12/08/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert F. Schultz, Jr., Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AE35

2347. REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; PART II—SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114 (a); 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 655; 23 CFR 1.32; 23 CFR 1.48

Legal Deadline: None

Abstract: Revision of the MUTCD is being done in phases due to the voluminous amount of text. This notice of proposed amendment represents the third phase of the rewrite effort and embraces proposed changes for part II -- signs. This action is intended to rewrite and reformat the text for clarity of intended meanings; to include metric dimensions and values for the design and installation of traffic control devices; to improve the overall organization and discussion; and to propose changes that will enhance the mobility of all road users, promote uniformity, improve traffic safety by reducing the potential for run-off-road incidents, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
NPRM	06/11/98	63 FR 31950
Comment Period End	03/11/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Linda Brown, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2192

RIN: 2125–AE38

2348. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MUTCD; MINIMUM RETROREFLECTIVITY REQUIREMENTS FOR TRAFFIC SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: Revisions to the MUTCD are being done in phases due to the voluminous amount of text. This notice of proposed amendment is intended to revise the MUTCD to include a standard for a minimum level of retroreflectivity that must be maintained for traffic signs. This minimum level is to ensure that highway users can detect and read the sign during nighttime conditions. Although the MUTCD states that regulatory and warning signs, and some guide signs, need to reflectorize, no level of retroreflectivity is specified. In recognition of this situation, the United States Congress directed the U.S.

DOT—FHWA

Long-Term Actions

Department of Transportation, through the 1993 Department of Transportation Appropriations Act, to revise the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Ernest D.L. Huckaby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AE39

2349. • FEDERAL MOTOR CARRIER SAFETY REGULATIONS; WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS; RULES AND PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 49 USC 31315; PL 105-178, sec 4007

CFR Citation: 49 CFR 381

Legal Deadline:
Final, Statutory, December 9, 1998.

Abstract: The FHWA is adopting regulations to implement section 4007 of the Transportation Equity Act for the 21st Century (TEA-21), concerning waivers and exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), and the Administration of pilot programs to evaluate innovative alternatives to the regulations. The regulations establish the procedures persons must follow to request waivers and to apply for exemptions from the FMCSRs, and the procedures the FHWA will use to process the requests for waivers and applications for exemptions. The regulations also codify statutory requirements concerning the agency's administration of pilot programs. This rulemaking is intended to provide procedures to ensure the timely processing of requests for waivers and applications for exemptions, and public disclosure of the procedures the agency would use in initiating and managing pilot programs. The FHWA has issued an interim final rule, with an opportunity for public comment after publication in order to meet the statutory deadline for issuance of a final rule (180 days after date of enactment of TEA-21).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/98	63 FR 67600
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Larry W. Minor, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE48

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2350. REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH MOTOR CARRIER LICENSING AND INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 49 USC 13908(c)

CFR Citation: 49 CFR 360; 49 CFR 1.48

Legal Deadline: None

Abstract: This final rule adopts filing fees and fee collection regulations for the motor carrier registration and insurance functions transferred to the FHWA as a result of the enactment of the ICC Termination Act of 1995. The FHWA believes that prior notice and opportunity for comment are unnecessary under 5 USC 553(b)(3)(B). The FHWA is not exercising discretion in a way that could be meaningfully affected by public comments. In this action, the ICC's filing fee regulations related to the motor carrier functions transferred to the FHWA are being recodified as FHWA regulations. The FHWA has concluded that it is in the public interest to implement the transfer of the fee regulations as expeditiously as possible to ensure that there is no disruption of the involved motor carrier activities. The effect of this rule is to make these fees and regulations applicable to registration and insurance filings made with the FHWA.

Timetable:

Action	Date	FR Cite
Final Action	02/12/99	64 FR 7134
Final Action Effective	03/15/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas T. Vining, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7028

RIN: 2125–AE24

2351. EXEMPTION OF COMMONLY OWNED MOTOR CARRIERS FROM EQUIPMENT IDENTIFICATION AND RECEIPT REQUIREMENTS APPLICABLE TO LEASED AND INTERCHANGED VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13301; 49 USC 14102

CFR Citation: 49 CFR 376; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA has modified its regulations governing the lease and interchange of motor vehicle equipment by exempting commonly-owned and controlled motor carriers from the vehicle identification and exchange of receipt requirements and of the identification of equipment requirement. The FHWA routinely

grants waivers from these requirements on an individual basis. This action eliminates the need for carriers to obtain individual waivers from the FHWA.

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 67821
NPRM Comment Period End	03/02/98	
Final Action	07/31/98	63 FR 40837
Final Action Effective	08/31/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael J. Falk, Motor Carrier Law Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-1384

RIN: 2125–AE26

2352. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION REGULATIONS FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-117

CFR Citation: 49 CFR 24

Legal Deadline:
Final, Statutory, November 21, 1998.

Abstract: This action would implement several amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act that were made by P.L. 105-117 enacted on November 21, 1997. These amendments provide that an alien not lawfully present in the United States shall not be eligible to receive relocation payments or other assistance unless such ineligibility would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child and such spouse , parent, or child is a citizen or an alien admitted for permanent residence. The amendments direct DOT to promulgate implementing regulations within one year of their enactment. The Department has delegated this responsibility to the FHWA.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32175
NPRM Comment Period End	08/11/98	
Final Action	02/12/99	64 FR 7127
Final Action Effective	03/15/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Marshall Schy, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2035

RIN: 2125–AE34

2353. TRUCK SIZE AND WEIGHT; NATIONAL NETWORK; NORTH DAKOTA

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 31111 to 31115

CFR Citation: 23 CFR 658; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA has modified the National Network for commercial motor vehicles by adding a route in North Dakota. The National Network was established by a final rule on truck size and weight published on June 5, 1984, as since modified. This rulemaking adds one segment to the National Network as requested by the State of North Dakota.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27228
NPRM Comment Period End	07/17/98	
Final Action	12/30/98	63 FR 71746
Final Action Effective	01/29/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Thomas Klimek, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2212

RIN: 2125–AE36

2354. • TRUCK SIZE AND WEIGHT; TECHNICAL CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 31111 to 31114

CFR Citation: 23 CFR 658; 49 CFR 1.48

Legal Deadline: None

Abstract: This document amends the rule on truck size and weight in Part 658 to change the definition of automobile transporters to include those transporting towed vehicles and truck camper units; extend the Interstate System axle weight exemption for public transit buses to October 1, 2003; add Alligator Alley (I-75) to the National Network (NN) listing in Florida; clarify that a State's grandfathered weight limits for divisible vehicles or loads on the Interstate System are permanently vested; amend the regulations published to implement the freeze on the length of cargo carrying units of vehicles promulgated by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to clarify that cargo carrying units are measured from the front of the first unit to the rear of the last; clarify that the prohibition against an overall length limit on truck tractor-semitrailers or truck tractor-semitrailer-trailer combinations is not affected by grandfather semitrailer lengths or kingpin settings; and correct the routes available under the ISTEA freeze in Utah for truck-trailer-trailer combinations.

Timetable:

Action	Date	FR Cite
Final Action	12/22/98	63 FR 70650
Final Action Effective	12/22/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Klimek, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2212

RIN: 2125–AE47

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

National Highway Traffic Safety Administration (NHTSA)

2355. CERTIFICATION REQUIREMENTS OF MULTISTAGE VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 567; 49 CFR 568; 49 CFR 1.50

Legal Deadline: None

Abstract: This action amends the certification requirements that apply to incomplete vehicles other than chassis-cabs. Incomplete vehicles are vehicles that include at least a frame and chassis structure, power train, steering system, suspension system, and brake system, but need further manufacturing performed on them to become completed vehicles. This action extends the certification requirements currently applying to chassis-cabs to all types of incomplete vehicles. The agency recognizes that manufacturers who build vehicles in more than one stage are faced with somewhat different problems than manufacturers who build vehicles in a single stage, especially when it comes to certifying vehicles to meet Federal Motor Vehicle Safety Standards. The agency held a public meeting to listen to the views of these groups and others with respect to improving the vehicle certification process, and now seeks to implement the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/03/91	56 FR 61392
NPRM Comment Period End	01/31/92	
Comment Period Extended to 03/02/92	02/03/92	57 FR 3983
Announced Public Meeting	11/17/95	60 FR 57694
Notice of Intent	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The agency plans to issue a Notice of Intent to establish a negotiated rulemaking for this action.

ANALYSIS: Regulatory Evaluation, 12/03/91, 56 FR 61392

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AE27

2356. REVIEW: PASSENGER-CAR BACK SEAT OCCUPANT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 208 requires passenger cars manufactured after December 11, 1989, to have Type 2 (lap-and-shoulder) belts at the rear outboard seats. The agency will analyze the actual on-the-road experience of vehicles equipped with lap-and-shoulder belts in the rear seats to measure the reduction of fatalities and injuries relative to cars equipped only with lap belts. The regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	07/01/93	
Complete Review	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AE95

2357. ADD-ON SEAT BELT DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments to determine whether it should regulate seat belt positioning devices, such as by a labeling requirement warning consumers regarding the suitability of these devices for a particular height/weight/age of child.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AG49

2358. BOOSTER SEATS FOR OLDER CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments on whether the child restraint standard should be amended to facilitate the production of lap belt-installed booster seats for children weighing over 18 kilograms, such as by allowing use of a tether in some of the compliance tests.

Timetable:

Action	Date	FR Cite
Request for Comment	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400

DOT—NHTSA **Prerule Stage**

Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AH14

2359. • EJECTION MITIGATION USING ADVANCED GLAZING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to the Intermodal Surface Transportation Efficiency Act of 1991, the agency is requesting comments on the agency's "Ejection Mitigation Using Advanced Glazing: Status Report II." The agency believes that alternative glazing concepts for the front side windows of light vehicles are capable of preventing approximately 1,300 fatalities per year.

Timetable:

Action	Date	FR Cite
Request for Comments	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH50

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2360. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Atelsek, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AB79

2361. +ROLLOVER PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; 49 USC 322

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency has initiated research to focus on exploring whether it can develop a practicable, repeatable and appropriate dynamic emergency handling test that assesses a vehicle's propensity for involvement in an on-road, un-tripped rollover crash. The agency also has granted a petition for rulemaking on this subject. This action is considered significant because of substantial public interest.

Statement of Need: Rollover crashes account for over 9,000 traffic fatalities annually. A portion of all rollover crashes are un-tripped or "maneuver-induced." Although past agency efforts have addressed all types of rollovers, the agency is focusing its current rollover activities on un-tripped rollover crashes. Currently, there is a requirement that most sport utility vehicles of under 10,000 pounds gross vehicle weight rating (GVWR) have a warning label. On April 13, 1998 (63 FR 17974 - RIN 2127-AG53) in a separate rulemaking, the agency proposed upgrading the label with better graphics and stronger wording. However, there is no safety standard or rating test for rollovers.

Summary of the Legal Basis: Section 30111, Title 49 of the United States Code states that the Secretary shall prescribe motor vehicle safety standards. Section 30117, Title 49 of the United States Code states that the Secretary may require each manufacturer of a motor vehicle to provide technical information related to performance and safety to purchasers. Authority to take these actions has been delegated to the NHTSA Administrator by 49 CFR 501.2

Alternatives: In addition to a potential safety standard, the rollover prevention effort could result in a consumer information or rating program which would involve notices and public comment. Another alternative might be long term research on rollover dynamics. Long-term research would be necessary if the current effort indicates that existing test methods are inadequate for measuring rollover propensity.

Anticipated Costs and Benefits: The anticipated costs and benefits of this action have not yet been estimated.

Risks: Crash data (1992-1996 NASS CDS annualized national estimates) indicate that, on average, 23 percent of single vehicle crashes involving all types of light vehicles are rollovers, or approximately 178,000 rollover crashes per year. For particular types of light vehicles, the percentage of single vehicle crashes that are rollovers varies significantly: for passenger cars, it is below average (17%); for vans, it is about average (22%); and for both pickups and SUVs, it is above average (38% and 49%, respectively). Pickups and SUVs together account for 41 percent of the rollovers per year

(73,500) even though they account for only 24 percent of single vehicle crashes. It is anticipated that a new rollover safety standard or consumer rating program would bring the pickup and SUV rollover rates down closer to the rates for other typers of light vehicles.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/92	57 FR 242
ANPRM Comment Period End	04/03/92	
NPRM	06/28/94	59 FR 33254
Correction	07/26/94	59 FR 38038
Comment Period Extended to 10/21/94	08/26/94	59 FR 44121
Comment Period Extended to 08/05/96	06/05/96	61 FR 28560
NPRM Comment Period End	08/05/96	
Petition Grant	05/20/97	62 FR 27578
Agency Decision	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A notice of availability of a planning document for this rulemaking was published 09/29/92 (57 FR 44721). As part of its comprehensive efforts to address the problem of light vehicle rollover, the agency proposed a new consumer information regulation that would require that passenger cars, and light multipurpose passenger vehicles and trucks be labeled with information about their resistance to rollover. In the NPRM, the agency terminated rulemaking to establish a vehicle stability standard. The agency denied petitions for reconsideration of this termination on 06/05/96 (61 FR 28560). The comment period for the NPRM was reopened after publication of a related study by the National Academy of Sciences (NAS). (This notice was inadvertently published under RIN 2127-AC54.) At the same time the agency published the grant notice on the petition for rulemaking, NHTSA published, in a separate notice, its response to the NAS study and requested comments by 08/18/97 (05/20/97 62 FR 27578). See RIN 2127-AG53 for related information on warning labels for sport utility vehicles.

ANALYSIS: Regulatory Evaluation, 06/28/94, 59 FR 33254

Agency Contact: Mike Pyne, Safety Standards Engineer, Office of Crash Avoidance, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4171
Fax: 202 366-4329

RIN: 2127–AC64

2362. +WHEELCHAIR LIFTS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: With a Supplemental Notice of Proposed Rulemaking (SNPRM), the agency proposes to establish two new safety standards specifying requirements for platform lifts and for buses and multipurpose passenger vehicles equipped with such lifts. The equipment standard would set minimum platform dimensions and would limit the size of platform protrusions and gaps between the platform and either the vehicle floor or the ground. The standard would also require handrails, warning signals and retaining barriers. The proposed vehicle standard would require vehicle manufacturers to install lifts in accordance with the lift manufacturer's instructions and ensure that specific information is made available to lift users. The standards are intended to prevent injuries and fatalities during lift operation and to promote uniformity of Federal standards and guidelines for platform lifts. This action is considered significant due to substantial public interest in transportation of individuals with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	02/26/93	58 FR 11562
NPRM Comment Period End	04/27/93	
SNPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 02/26/93, 58 FR 11562

Agency Contact: Gayle Dalrymple, Safety Standards Engineer, Office of Crash Avoidance, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6559
Fax: 202 366-4329

RIN: 2127–AD50

2363. RADIATOR SAFETY CAP

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has requested comments on the feasibility of and necessity for rulemaking to require the installation of thermal locking radiator caps or other devices on motor vehicles with water-cooled engines to prevent scalding injuries. Although the notice referred only to thermal locking radiator caps, comments were solicited on any device or technology designed to prevent such scalding injuries. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	06/10/93	58 FR 32503
Comment Period End	08/09/93	
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AE59

DOT—NHTSA

Proposed Rule Stage

2364. UPGRADE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: This action announces the agency's plan to consider upgrading the standard by making the current crash requirements more stringent and by broadening the standard's focus to include mitigation concepts related to fuel system components and environmental and aging tests related to components. This action also requests comments on the agency's plan to explore a three-phase approach to upgrading the standard, data, methods, and strategies which may assist in the agency's regulatory decisions in defining specific requirements and test procedures for upgrading the standard.

Timetable:

Action	Date	FR Cite
Request for Comments	12/14/92	57 FR 59041
Comment Period End	02/12/93	
ANPRM	04/12/95	60 FR 18566
ANPRM Comment Period End	06/12/95	
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action will respond to RIN 2127-AE83.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF36

2365. DOOR LATCH EXEMPTION FOR VEHICLES EQUIPPED WITH WHEELCHAIR LIFTS AND RAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the "Door Locks and Door Retention Components" requirements by exempting vehicles with wheelchair ramps and to establish uniform requirements for vehicles with wheelchair lifts and ramps. These modifications are necessary because of changes in the types of vehicles equipped with wheelchair lifts/ramps and changes in lift/ramp structural designs which have come to pass in recent years. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On 05/31/96 (61 FR 27325), the agency published a grant notice. The agency believes that the suggested changes made by the petitioner merit additional study and research. The agency is currently conducting research to determine if door latch exemptions are still necessary. Simultaneously, the agency is developing a door latch procedure for sliding doors.

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RIN: 2127–AG16

2366. DEALER NOTIFICATION OF DEFECT OR NONCOMPLIANCE DETERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102; 49 USC 30103; 49 USC 30111; 49 USC 30112; 49 USC 30115; 49 USC 30116; 49 USC 30118; 49 USC 30119; 49 USC 30120; 49 USC 30163; 49 USC 30165; 49 USC 30166

CFR Citation: 49 CFR 577

Legal Deadline: None

Abstract: The proposed rule would implement an amendment to 49 USC Chapter 301 which prohibits dealers from selling motor vehicles or motor vehicle equipment that have been determined to contain a safety-related defect or noncompliance with a Federal motor vehicle safety standard until the defect or noncompliance is remedied. It would set forth criteria to govern the timing and content of notifications of defects and noncompliances that manufacturers must send to their dealers. Given the length of time that has passed since issuance of the NPRM (9/27/93), the agency is issuing a supplemental notice of proposed rulemaking to provide an opportunity for additional public comment on the most appropriate regulatory scheme for notifying dealers of safety-related defects and noncompliances with Federal motor vehicle safety standards.

Timetable:

Action	Date	FR Cite
NPRM	09/27/93	58 FR 50314
NPRM Comment Period End	10/27/93	
SNPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jonathan D. White, Defects Investigator, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5227

RIN: 2127–AG27

2367. CONVEX CROSS-VIEW MIRRORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments on the issue of rear mounted

cross view mirrors on light and medium duty trucks for the purpose of eliminating the blind spot directly behind the vehicle. The petitioner requested that these mirrors be mandated to eliminate backing accidents where children could be seriously injured or killed. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	06/17/96	61 FR 30586
Comment Period End	10/15/96	
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG41

2368. UPGRADE ROOF CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to upgrade the roof crashworthiness particularly since a larger percentage of American vehicles consist of light duty and utility vehicles, a class of vehicles more prone to rollover accidents. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG51

2369. +ADVANCED AIR BAGS

Priority: Economically Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is proposing to upgrade its occupant protection standard to require advanced air bags. The proposal includes performance tests for advanced air bags. The proposal would require that advancements be made in the ability of air bags to cushion and protect occupants of different sizes, belted and unbelted, and would require air bags to be designed to minimize risks to infants, children, and other occupants. This action is considered significant because of the degree of congressional and public interest in this subject and because of potential costs.

Statement of Need: While current air bags have been shown to be highly effective in reducing overall fatalities, they sometimes cause fatalities to out-of-position occupants, especially children. As part of NHTSA's program to mitigate adverse effects of current-design air bags, the agency has stated that the next step in the evolution of air bags would be systems that automatically prevent those effects. As of January 1, 1999, the agency was aware of 69 children and 56 adults who had been killed by current air bags. The agency has already required more graphic warning labels on all new air-bag-equipped vehicles, enhanced manufacturers' flexibility to quickly reduce the aggressivity of current-design air bags, allowed consumers in certain defined risk groups to install retrofit on-off switches for air bags, and participated in public programs to increase safety belt and child restraint use, to reduce fatalities. This program will pursue the next step: air bags incorporating advanced technologies.

Summary of the Legal Basis: Section 30111, Title 49 of the United States Code, states that the Secretary shall prescribe motor vehicle safety standards. Section 7103 of the National Highway Traffic Safety Administration Reauthorization Act of 1998 requires the Secretary to issue amendments to improve occupant protection for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags. Authority to prescribe such standards is delegated to the Administrator by 49 CFR 1.50.

Alternatives: The agency has been participating with motor vehicle manufacturers, equipment suppliers, the insurance industry, and academia through the Advanced Air Bag Technology Working Group of NHTSA's Motor Vehicle Research Advisory Committee. The agency has been utilizing the resources of this partnership in identifying alternatives for this proposed rulemaking. Moreover, the agency joined with the National Aeronautics and Space Administration in a comprehensive state-of-the-art assessment for near-term air bag technology. As a result of these partnerships and due to its own internal research efforts, the agency is aware of the various advanced air bag technologies currently being seriously considered by the vehicle manufacturers. The proposed rule would permit the use of these technologies which include: suppression systems that could include weight sensors and/or proximity or positioning sensors, low-risk air bags that could include dual or multi-stage inflators, added or redesigned crash sensors, and/or modified fold patterns.

Anticipated Costs and Benefits: The agency estimates that the costs of proposed rule would be in the range of $22 to $162 per vehicle, for an estimated total of up to $2.5 billion for 15.5 million vehicles per year. Property damage savings could exceed $2.4 billion annually depending on the extent to which manufacturers use air bag suppression systems. Several hundred lives could be saved annually, as well as a currently-unquantified number of serious injuries.

Risks: Air bags have been shown to substantially reduce fatalities in traffic crashes. When fully implemented, NHTSA estimates that air bags will save 3,000 lives per year and prevent

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Proposed Rule Stage

about 34,000 moderate-to-critical injuries. However, current air bags deploy the same way for all occupants, regardless of their size or location at the time of deployment and regardless of crash severity. As a result of the designs of current air bags, there have been adult and child fatalities caused by the air bag. Therefore, the development and introduction of advanced air bags is being pursued aggressively by both the industry and the agency.

Timetable:

Action	Date	FR Cite
NPRM	09/18/98	63 FR 49957
Notice of Public Meeting	10/26/98	63 FR 57091
NPRM Comment Period End	12/17/98	
SNPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A technical workshop was held February 11 and 12, 1997, in Washington, DC. The NPRM will respond to the petitions received for reconsideration on the final rule published for Depowering of Air Bags, RIN 2127-AG59 and Passenger-Side Manual Cutoff Switch for Air Bags, RIN 2127-AG60.

Public meeting to discuss technical issues relating to this NPRM was held on November 23 and 24, 1998.

ANALYSIS: Regulatory Evaluation, 09/18/98, 63 FR 49957

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG70

2370. ADVANCED AIR BAG DUMMY RULE FOR CRABI 12-MONTH-OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing specifications for a new CRABI 12-month-old size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard Nos. 208 and 213. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced forward and rearward facing child restraints technologies, as well as protection of smaller size children in car beds in a variety of automobile crash impacts.

Timetable:

Action	Date	FR Cite
NPRM	03/08/99	64 FR 10965
NPRM Comment Period End	04/22/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 03/08/99, 64 FR 10965

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG78

2371. ADVANCED AIR BAG DUMMY RULE FOR HYBRID III 95TH PERCENTILE MALE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is proposing specifications for a new 95th percentile male Hybrid III size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard No. 208. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection in frontal impacts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
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RIN: 2127–AG79

2372. ADMINISTRATIVE REWRITE FOR HEADLAMP REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency has proposed to rewrite the sections relating to headlighting. The rewrite is important because of the standard's age and numerous amendments which have made it difficult to read and interpret. The revised standard should reduce burden especially to small manufacturers because of improved clarity. The reorganization of the sections relating to other lamps will be addressed in a separate rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/12/98	63 FR 63258
NPRM Comment Period End Extended to	04/11/99	64 FR 6021

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 11/12/98, 63 FR 63258

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control

DOT—NHTSA

Proposed Rule Stage

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RIN: 2127–AG87

2373. MOTORCYCLE MOUNTED REFLEX REFLECTOR HEIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering allowing a lower minimum mounting height for side reflex reflectors on motorcycles. The intent is to harmonize United States lighting safety standards with European and Asian reflector position regulations and improve the flow of trade by creating "windows of harmonization" that will allow manufacturers to market "common" vehicles in global markets.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG92

2374. +ALLOCATION OF FUEL ECONOMY CREDITS

Priority: Other Significant

Legal Authority: 49 USC 32903

CFR Citation: 49 CFR 534

Legal Deadline: None

Abstract: The agency is proposing rulemaking to clarify the allocation of fuel economy credits between predecessor and successor automobile manufacturers. The use of carry forward or carry back credits will be specified for manufacturers that merge. This action is considered significant because it will affect the treatment of the Corporate Average Fuel Economy (CAFE) penalties.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
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RIN: 2127–AG97

2375. BUY AMERICAN REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-424

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The agency is proposing to exempt certain purchases by grantees from the requirements of the Department of Transportation's Buy American provisions to streamline and improve the grant process. These proposed exemptions will include small purchases not to exceed the current small purchase threshold.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834
Fax: 202 366-3820

RIN: 2127–AG99

2376. POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS AND STATE HIGHWAY SAFETY AGENCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1250; 23 CFR 1251

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is proposing to amend certain provisions concerning the State Highway Safety Programs to streamline them and delete obsolete or unnecessary requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834
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RIN: 2127–AH00

2377. PLACEMENT OF WHEELCHAIR RESTRAINTS ON BUSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: To prevent blocking of the emergency exits, the agency is proposing to add a new section to the standard to not allow the placement of wheelchair securement anchorages or other devices that protrude into the aisle of an emergency exit in all buses.

DOT—NHTSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/05/99	64 FR 10604
NPRM Comment Period End	05/04/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 03/05/99, 64 FR 10604

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AH03

2378. INCORPORATE THE 1996 REVISION OF THE AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to incorporate the 1996 revision of the American National Standards Institute (ANSI) standard for safety glazing used in motor vehicles and other minor revisions into the agency's current standard for safety glazing used in motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
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RIN: 2127–AH08

2379. HARMONIZATION OF HEAD RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: The agency is proposing to modify the current head restraint height requirements to correspond to the Economic Commission for Europe (ECE) Regulation No. 25 and to propose performance requirements which are intended to assure that the head restraint, if adjusted, will remain locked in specific backseat and height positions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Fax: 202 366-4329

RIN: 2127–AH09

2380. TRUCK AIR BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the air brake requirements for five of the ten recommended modifications. These areas are to provide consistency between table I., Stopping Sequence, item 4(b) and S5.7.3(b); provide wording for single-unit vehicles to prevent single-unit axle overloading; clarify emergency brake requirements for trucks and buses; address the misconceptions about the wheel lock provisions as they apply to vehicles with tandem axles; and correct two minor typographical errors. The other five recommendations will be denied.

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5259
NPRM Comment Period End	04/05/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 02/03/99, 64 FR 5259

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH11

2381. MOTORCYCLE BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.122

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering eliminating the requirements for the minimum hand lever force (5 pounds) and the minimum foot pedal force (10 pounds) for fade and water recovery tests.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics

DOT—NHTSA

Proposed Rule Stage

Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH15

2382. HEAVY VEHICLE ANTILOCK BRAKE SYSTEM (ABS) PERFORMANCE REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: The agency is proposing performance tests for ABS-equipped single unit trucks and buses. ABS equipment requirements became effective for air-braked single unit trucks, buses, and trailers on March 1, 1998, and for hydraulic-braked trucks and buses becomes effective on March 1, 1999. The agency indicated in prior rulemaking notices that it would consider supplementing these ABS equipment requirements with performance requirements after conducting tests to determine if such testings are practicable and repeatable for trucks and buses.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH16

2383. DEFINITION OF COMMUNITY TRANSPORTATION VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 9 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency will propose to amend various sections of part 571 to create a new vehicle type, tentatively called community transportation vehicles, that will have to meet the crashworthiness standards applicable to school buses, but will not have to meet some of the crash avoidance standards (i.e., stop arms, flashing lights, etc.). This would allow manufacturers to certify vehicles that will be less expensive and as safe as a school bus for transportation of Head Start students because we have tentatively decided that the school bus crash avoidance features are unnecessary when there is no curb-side pickup.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Atelsek, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC20590
Phone: 202 366-2992
Fax: 202 366-3820

RIN: 2127–AH23

2384. METRIC CONVERSION—PHASE III

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; PL 100-418, sec 5164

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is amending selected Federal motor vehicle safety standards by converting English measurements in those standards to metric measurements. This rulemaking is the third and final in a series that the agency will undertake to implement the Federal policy that the metric system is the preferred system of weights and measures for U.S. trade and commerce. The conversions are not intended to change the stringency of the affected Federal motor vehicles safety standards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Noble Bowie, Director, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AH27

2385. PUBLIC PARTICIPATION IN ACTIVITIES RELATING TO THE AGREEMENT ON GLOBAL TECHNICAL REGULATIONS: STATEMENT OF POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 551

Legal Deadline: None

Abstract: The agency is soliciting public comments on a draft statement of policy concerning procedures for facilitating public participation in the agency's activities relating to the implementation of the pending United Nations/Economic Commission for Europe (UN/ECE) Agreement on Global Technical Regulations. On February 3, 1999, the agency held a public workshop to solicit views from the public on the draft policy statement. The agency will determine what its next action will be once it has reviewed all of the public comments it receives.

Timetable:

Action	Date	FR Cite
Notice of Public Workshop	01/05/99	64 FR 563
Comment Period End	02/18/99	
Agency Decision	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Abraham, Acting Director, Office of International Harmonization, Department of

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Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1455

RIN: 2127–AH29

2386. MOTOR VEHICLE CONTENT LABELING CALCULATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The agency is proposing several changes in its content labeling regulation to implement provisions included in the Transportation Equity Act of the 21st Century. Content calculation procedures to provide vehicle manufacturers added flexibility in making content determinations where outside suppliers have not responded to requests for content information which are now temporary will be made permanent. This flexibility will be available for up to ten percent, by value, of a carline's total parts content from outside suppliers. Outside suppliers of parts will count U.S./Canadian content where it is less than 70 percent. Engine and transmission countries of origin will be determined by including assembly labor. Certain small parts value will be assigned to the country of the assembly plant.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 6021
NPRM Comment Period End	04/09/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AH33

2387. UPGRADE DOOR RETENTION PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: Based upon annual average estimates from the 1988 through 1996 Fatal Analysis Reporting System (FARS) and the National Automotive Sampling System (NASS), there is an annual average of 2,515 fatalities and 1,882 serious injuries due to door ejections. Side door ejections are the second leading cause of ejections in all crashes, superseded only by ejections through fixed glazing. One of the activities of agency rollover research focuses on reducing injuries and fatalities resulting from side door ejections. This research has led the agency to potential significant solutions to mitigating a substantial number of these fatalities and injuries by improving side door retention performance. Therefore, the agency is proposing to upgrade the door retention requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AH34

2388. THEFT DATA FOR CALENDAR YEAR 1997

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action will publish the preliminary data on passenger motor vehicles that occurred in calendar year (CY) 1997 for model year (MY) 1997 vehicles. The theft data will indicate the overall vehicles' theft rate in 1997. Publication of this data will fulfill the agency's obligation to periodically obtain accurate and timely data and publish the information for review and comment.

Timetable:

Action	Date	FR Cite
Request for Comments	02/17/99	64 FR 7945
Request for Comments Period End	04/19/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Group Leader, Motor Vehicle Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 493-2739

RIN: 2127–AH35

2389. ADMINISTRATIVE REWRITE OF THE LIGHTING REQUIREMENTS OTHER THAN HEADLAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rewrite the reflective devices and associated equipment requirements to make the standard more readable and understandable. The standard has grown over the last 30 years by the incorporation of hundreds of amendments. The document has become unwieldy in use and the agency decided to rewrite it to segregate it into chapters that address each lighting function separately. These

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sections will state the basic performance necessary for each lighting function and for lamp installation on various vehicle types. The rewrite will continue to reference Society of Automotive Engineers (SAE) and other standards and recommended practices for test procedures if too lengthily to incorporate changes. However, it will codify various agency interpretations of its rules to make the standard more explicit and objective. The administrative rewrite of the headlamp regulations can be found under RIN 2127-AG87.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH37

2390. IMPORTATION OF VEHICLES AND EQUIPMENT SUPPLIERS—TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178; 49 USC 30114

CFR Citation: 49 CFR 591

Legal Deadline: None

Abstract: The agency proposes to amend its regulation on the importation of vehicles and equipment that do not comply with applicable safety standards to include vehicles and equipment that are imported for "Show or Display" as a category the agency may exempt from compliance with the safety standards. The amendment is being proposed pursuant to a statutory mandate to include the "Show or Display" category and will not otherwise affect the agency's regulatory requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AH45

2391. • USE OF UNIVERSAL CHILD SEATS IN AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action responds to a concern expressed by the Federal Aviation Administration (FAA) regarding some new universal child seats that may be equipped with rigid connectors or prongs. FAA believes that if a universal child seat equipped with non-folding, non-retracting rigid connectors or prongs were installed on an aircraft seat, the connectors or prongs might damage the aircraft seat cushions and might protrude into the leg space and egress path of the passenger sitting immediately behind the child seat.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: See RIN No. 2127-AG50 for the Uniform Child Anchorages rule.

Agency Contact: George Mouchahoir, Group Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329

RIN: 2127–AH56

2392. • PARKING BRAKE WARNING SYSTEM ON SCHOOL BUSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to require school buses be equipped with a parking brake warning system that activates when the school bus engine is turned off, the transmission is in neutral, and the parking brake has not been applied. This request for comments notice seeks to obtain information to help the agency determine the magnitude of the problem and the potential effectiveness of the proposed warning system.

Timetable:

Action	Date	FR Cite
Request for Comments	03/01/99	64 FR 9961
Comment Period End	04/30/99	
Agency Decision	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH57

2393. • EXEMPTION FOR INCONSEQUENTIAL DEFECT OR NONCOMPLIANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30113

CFR Citation: 49 CFR 556

Legal Deadline: None

Abstract: Present regulation requires a petitioner to submit data "supporting its petition" which advocates excusing it from its notification and remedial obligations. Because the petitioner may have pertinent data relevant to the agency's decision that would not support granting it, the agency is

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proposing a clarification that all data pertaining to the subject in the possession of the petitioner be part of the petition. The agency also is proposing the petitioner provide a full and accurate analysis of its petition and certify that it is accurate and complete.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AH58

2394. • UPPER INTERIOR IMPACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: At the request of the manufacturers' organizations, the agency is proposing to amend the upper interior impact requirements (1) to modify the minimum distance between certain targets on vertical surfaces inside a vehicle and (2) add new definitions and test procedures for new-style door frames and vertical seat belt mounting structures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AH61

2395. • INSURER REPORTING REQUIREMENTS FOR OCTOBER 1999

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency is proposing to update its lists in the appendices of the passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experience. If these revised appendices are adopted in a final rule, each insurer included in any of these appendices must file a report for the 1996 calendar year not later than October 25, 1999. Further, as long as the insurer remains listed, it must submit reports by each subsequent October 25. Pursuant to the insurer reports and information, the agency requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: See RIN 2127-AH05 for October 1998 updated appendices.

Agency Contact: Rosalind Proctor, Group Leader, Motor Vehicle Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-2739

RIN: 2127–AH62

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage

National Highway Traffic Safety Administration (NHTSA)

2396. BRAKE LINING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requested initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steve Kratzke, Director, Office of Crash Avoidance Standards, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AC66

2397. SEATING SYSTEMS PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.207

Legal Deadline: None

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Abstract: Environmental Research and Safety Technologists of Flagstaff, AZ, petitioned the agency to reexamine the seatback performance requirements of the standard in rear impact crashes.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	
Request for Comments	11/23/92	57 FR 54958
Comment Period End	01/22/93	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Petitions for rulemaking were granted 07/24/89. See a related rulemaking action involving these petitioners under RIN 2127-AC57. The first part of the research is complete. A computer model and a prototype seat were developed. Information on this research is available in the docket along with a report on crash data analysis. The agency is currently evaluating the research results and conducting vehicle seat testing.

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AD08

2398. SEAT ADJUSTMENT POSITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: The agency solicited comments on a proposal to amend the performance requirements of the standard to provide that the lap belt angle would be measured for rear adjustable seats with the seats in the rearmost adjustment position. This proposal is intended to resolve ambiguities regarding the seat adjustment position for the current requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/04/91	56 FR 63473
Correction	12/17/91	56 FR 65541
NPRM Comment Period End	02/03/92	
To Be Terminated	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 12/04/91, 56 FR 63473

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AE22

2399. TEST DEVICE PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to petitions for rulemaking, the agency is revising the test procedures to make them more suitable to testing vehicles with highly sloped roofs or raised roofs. This action is being taken after reviewing the comments the agency received from the published Request for Comments. An NPRM was issued proposing to use a smaller test plate when testing certain vehicles with raised roofs and aligning the leading edge of the plate with the forwardmost point of the roof.

Timetable:

Action	Date	FR Cite
Request for Comments Due 2/10/95	12/27/94	59 FR 66504
NPRM	02/27/97	62 FR 8906
NPRM Comment Period End	04/28/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 02/27/97, 62 FR 8906

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AF40

2400. ELECTRIC VEHICLE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 1.50; 49 CFR 501.8; 49 CFR 571.305

Legal Deadline: None

Abstract: The agency has proposed to regulate electric vehicles (EVs) with respect to battery electrolyte spillage in a crash or rollover, and electric shock hazard in a crash or rollover, and during repair and maintenance and establish a new Federal motor vehicle safety standard no. 305 titled "Electric-powered vehicles: electrolyte spillage and electric shock protection.

Timetable:

Action	Date	FR Cite
Request for Comments	09/30/94	59 FR 49901
Comment Period End	11/29/94	
NPRM	10/13/98	63 FR 54652
NPRM Comment Period End	11/27/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 10/13/98, 63 FR 54652

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF43

DOT—NHTSA

Final Rule Stage

2401. ALTERNATIVE GEOMETRIC VISIBILITY REQUIREMENTS FOR LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to harmonize the lighting standard's geometric visibility requirements for signal lamps and rear side marker color with those of the ECE. Harmonization of the standard worldwide, without reducing safety, would allow manufacturers to reduce costs by producing to a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade.The agency is issuing additional/alternative proposals.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54833
NPRM Comment Period End	12/26/95	
Comment Period Extended to 05/16/96	12/27/95	60 FR 66953
SNPRM	12/10/98	63 FR 68233
SNPRM Comment Period End	03/10/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: On February 27, 1997 (62 FR 8883), the agency terminated rulemaking in which the agency had asked for comments on whether the performance and installation of front and rear fog lamps should be regulated. In response to these comments, the SAE has established a Fog Lamp Task Force to develop an internationally-acceptable fog lamp standard, on which a Federal standard could be based. The agency is continuing to review comments on the other issues stated in the October 26, 1995, notice.

ANALYSIS: Regulatory Evaluation, 10/26/95, 60 FR 54833

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF75

2402. POWER-OPERATED WINDOWS: ROOF PANELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the test procedure used to demonstrate compliance by adding an alternative testing specification for a non-contact automatic reversal system, in order to provide a more meaningful and realistic method for evaluating the compliance of such systems which do not rely on contact to sense an obstruction. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	06/04/96	61 FR 28124
Correction	06/14/96	61 FR 30209
NPRM Comment Period End	08/05/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/04/96, 61 FR 28124

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF83

2403. AUTOMOTIVE FUEL ECONOMY REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 32907

CFR Citation: 49 CFR 537

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove obsolete reporting requirements. These submission requirements include factors such as "breakover angles" for light trucks, which are essentially never used by NHTSA. Revising this part would reduce the costs to the industry of reporting to NHTSA . This action will not inhibit the agency's ability to comply with its statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/13/96	61 FR 22010
NPRM Comment Period End	07/12/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 05/13/96, 61 FR 22010

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AG00

2404. POWER WINDOW SAFETY SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposed to require each power operated window, interior partition, and roof panel in a motor vehicle to be equipped with a switch designed so that contact by a form representing a small child's knee would not close window, partition, or panel. The agency is withdrawing the

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proposal because it could not find sufficient evidence of a safety problem.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58504
NPRM Comment Period End	01/14/97	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 11/15/96, 61 FR 58504

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG36

2405. MODIFIED VEHICLES TO ACCOMMODATE A PERSON'S DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30122(c)

CFR Citation: 49 CFR 595

Legal Deadline: None

Abstract: The agency is proposing to establish new conditions under which a vehicle may be modified to accommodate a person's disability so that the modifier will not be subjected to the statutory prohibition against the "making inoperative" requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/28/98	63 FR 51547
NPRM Comment Period End	12/28/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 09/28/98, 63 FR 51547

Agency Contact: Gayle Dalrymple, Safety Engineer, Rollover and Adapted Vehicle Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5559
Fax: 202 366-4329

RIN: 2127–AG40

2406. PELVIC RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to delete the requirement that the lap belt portion of a safety belt system be designed to remain on the pelvis under all conditions. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	07/07/97	62 FR 36251
NPRM Comment Period End	09/05/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 07/07/97, 62 FR 36251

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG48

2407. FIFTH PERCENTILE FEMALE DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is proposing to adopt the Hybrid III small female size dummy. The notice will specify instrumentation, calibration test procedures, and calibration performance criteria for the Hybrid III small female.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46981
NPRM Comment Period End	12/02/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking action is an additional part of the Adverse Side Effects of Air Bags (RIN 2127-AG14).

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG66

2408. CONSUMER INFORMATION ON TIRE GRADING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30123

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is eliminating the requirement that new car manufacturers provide their dealers consumer information on the tire grading of new car tires. This action will alleviate a paperwork burden on automobile manufacturers and dealers that has little benefit to consumers.

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 27911
NPRM Comment Period End	07/20/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

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ANALYSIS: Regulatory Evaluation, 05/21/98, 63 FR 27911

Agency Contact: P. L. Moore, Standards Engineer, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5222
Fax: 202 366-4327

RIN: 2127–AG67

2409. TRANSITION PROCEDURES FROM CURRENT TO NEW NATIONAL DRIVER REGISTER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 23 USC 401

CFR Citation: 23 CFR 1325

Legal Deadline:
Final, Statutory, February 6, 1997.

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is removing the regulation on procedures for transition to the National Driver Register (NDR). It is also amending portions of the regulation on participation in the NDR Problem Driver Pointer System (PDPS). These portions pertain to the steps States were to follow to notify the NDR of their interest in participating in the NDR under PDPS. The agency will remove these provisions when the transition to the new NDR has been completed.

Timetable:

Action	Date	FR Cite
NPRM	04/17/96	61 FR 16729
NPRM Comment Period End	06/03/96	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: NPRM incorrectly printed under RIN 2127-AG21.

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2729

RIN: 2127–AG68

2410. ADVANCED AIR BAG DUMMY RULE FOR HYBRID III TYPE 6-YEAR-OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing design and performance specifications for a new, more advanced 6-year old child dummy. The agency believes that the new dummy, part of the family of Hybrid III test dummies, is more representative of humans than the existing 6-year old child dummy specified by the agency and allows the assessment of more types of potential injuries. The new dummy is especially needed to evaluate the effects of air bag deployment on children, but would also provide greater and more useful information in a variety of environments to better evaluate child safety.

Timetable:

Action	Date	FR Cite
NPRM	06/29/98	63 FR 35170
Correction	09/03/98	63 FR 46979
NPRM Comment Period End	09/28/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/29/98, 63 FR 35170

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG76

2411. ADVANCED AIR BAG DUMMY RULE FOR HYBRID III TYPE 3-YEAR-OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing specifications for a new Hybrid III type 3-year-old size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard Nos. 208 and 213. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection of smaller size children in a variety of automobile crash impacts.

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4385
NPRM Comment Period End	03/29/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG77

2412. GLARE REDUCTION FROM DAYTIME RUNNING LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is proposing to amend the lighting standard to reduce glare from daytime running lamps (DRLs). It would do this in three stages.

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One year after publication of the final rule, DRLs utilizing the upper headlamp beam would not be permitted to exceed 3,000 candela (cd) at any point, thus becoming subject to the maximum candela permitted for DRLs other than headlamps. This same limit would be applied to the upper half of lower beam DRLs two years after publication of the final rule. Finally, four years after publication of the final rule, all DRLs, except lower beam DRLs, would be subject to a flat 1,500 cd limit. Lower beam DRLs would be limited to 1,500 cd at horizontal or above. This action is intended to provide the public with all the conspicuity benefits of DRLs while reducing glare and is based on research that has become available since the final rule establishing DRLs was published in 1993.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42348
Comment Period Extended to 11/05/98	09/18/98	63 FR 49891
NPRM Comment Period End	09/21/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/07/98, 63 FR 42348

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG86

2413. SIGNAL LAMPS USED WITH LIGHT EMITTING DIODES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to revise the requirements for signal lamps equipped with 3 or more light emitting diodes (LED). The current requirements have become design restrictive and a service burden for vehicle and signal lamp manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	06/24/98	63 FR 34350
Extension of Comment Period	08/03/98	63 FR 41222
NPRM Comment Period End	10/09/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/24/98, 63 FR 34350

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG88

2414. EXTEND PARTICIPATION IN THE NATIONAL DRIVER REGISTER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 303

CFR Citation: 23 CFR 1327

Legal Deadline: None

Abstract: This interim final rule authorizes the Commandant of the Coast Guard to request and receive information from the National Driver Register (NDR) regarding the motor vehicle driving records of any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing, and any member of a uniformed service who is assigned to the Coast Guard). This interim final rule establishes the procedures for such individuals to request, and for the Commandant to receive, NDR information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/02/97	62 FR 63655
Interim Final Rule Effective	12/02/97	
Comment Period End	02/02/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: This action was inadvertently published under RIN No. 2127-AG21.

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2746

RIN: 2127–AG90

2415. FUEL ECONOMY CALCULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32904

CFR Citation: 49 CFR 531

Legal Deadline: None

Abstract: Provisions of the North American Free Trade Agreement (NAFTA) Implementation Act of 1993 modified the calculation of average fuel economy by permitting Mexican content of passenger cars to be included with United States and Canadian content. This was for assigning passenger cars to domestic or import fleets for computation of corporate average fuel economy (CAFE). The revision of the code permits the declaration of Mexican content to occur during the period January 1, 1997, through January 1, 2004, at the manufacturers' option. This rulemaking provides instructions on making the content declaration and relates to the Environmental Protection Agency's regulation at 40 CFR 600.511.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Agency Contact: Henrietta Spinner, Program Analyst, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4802
Fax: 202 366-4329

RIN: 2127–AG95

2416. UNIFORM TIRE QUALITY GRADING TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30123

CFR Citation: 49 CFR 575.104

Legal Deadline: None

Abstract: The agency is proposing modifications to the test procedures for tire treadwear under the Uniform Tire Quality Grading (UTQG) Standard. This change is intended to stabilize the unwarranted increases in treadwear grades by modifying the procedures for calibrating and selecting course monitoring tires. No change to the existing treadwear grade levels is anticipated.

Timetable:

Action	Date	FR Cite
NPRM	06/05/98	63 FR 30695
Extension of Comment Period	08/04/98	63 FR 41538
NPRM Comment Period End	10/05/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/05/98, 63 FR 30695

Agency Contact: Sanjay Patel, Engineer, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0307
Fax: 202 366-4329

RIN: 2127–AG96

2417. TIRE IDENTIFICATION SYMBOLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 574

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has proposed to require that the date of manufacture of a tire be expressed in four digits instead of the currently-required three digits. This will bring the agency's tire date code regulation into harmony with the United Nations' Economic Commission for Europe (ECE) regulation and the International Organization for Standardization (ISO). The agency has also proposed to reduce the size of the date code lettering from a minimum of 6 mm to a minimum of 4mm. This will reduce the cost impact to tire manufacturers while still providing a readable date code symbol.

Timetable:

Action	Date	FR Cite
NPRM	10/19/98	63 FR 55832
NPRM Comment Period End	12/18/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 10/19/98, 63 FR 55832

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH10

2418. FUNCTIONAL EQUIVALENCE OF HEADLAMP CONCEALMENT WITH EUROPEAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether the headlamp concealment requirements of the standard are functionally equivalent from a safety perspective to similar European requirements and determining whether it is possible to permit vehicle manufacturers to certify to either the current US performance or to the current European performance. If this is possible, the standard will be amended to permit such certification.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57638
NPRM Comment Period End	12/28/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 10/28/98, 63 FR 57638

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH18

2419. FUNCTIONAL EQUIVALENCE OF WINDSHIELD WASHING AND WIPING SYSTEMS WITH EUROPEAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.104

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency will determine whether the windshield washing and wiping requirements of the standard are functionally equivalent from a safety perspective to similar European requirements and determine whether it is possible to permit vehicle manufacturers to certify to either the current US performance or to the current European performance. If this is possible, the standard will be amended to permit such certification.

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Timetable:

Action	Date	FR Cite
Agency Decision	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH20

2420. FUNCTIONAL EQUIVALENCE OF WINDSHIELD DEFROSTING AND DEFOGGING SYSTEMS WITH EUROPEAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.103

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency will determine whether the windshield defrosting and defogging requirements of the standard are functionally equivalent from a safety perspective to similar European requirements and determine whether it is possible to permit vehicle manufacturers to certify to either the current US performance or to the current European performance. If this is possible, the standard will be amended to permit such certification.

Timetable:

Action	Date	FR Cite
Agency Decision	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH22

2421. EXTENSION OF PASSENGER CAR BRAKE SYSTEM STANDARD TO LIGHT TRUCKS AND VANS (LTVS) WITH GROSS VEHICLE WEIGHT RATING BETWEEN 3,500 AND 4,536 KG

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.135

Legal Deadline: None

Abstract: In a final rule published September 30, 1997 (62 FR 51064 - RIN 2127-AG35), the agency extended the applicability of Federal Motor Vehicle Safety Standard No. 135, Passenger Car Brake Systems, to light trucks and vans (LTVs) with a gross vehicle weight rating (GVWR) of 3,500 kg or less. The rule also stated that the agency would publish a separate notice addressing the appropriateness of extending the requirements of Standard No. 135 to LTVs with a GVWR between 3,500 and 4,536 kg. After reviewing additional brake test data designed to assess the performance of vehicles with the increased GVWR, however, the agency has decided to withdraw rulemaking. Safety benefits resulting from extending the application of Standard No. 135 to LTVs with GVWRs between 3,501 and 4,536 kg are questionable and would be further limited by substantial costs to manufacturers and by low sales volumes.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH30

2422. HIGH-THEFT LINES FOR MODEL YEAR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action will list the agency's determination for model year (MY) 2000 high-theft vehicle lines that will be subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and the high-theft lines that will be exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria for MY 2000, pursuant to the statute relating to motor vehicle theft prevention.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Group Leader, Motor Vehicle Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 493-2739

RIN: 2127–AH36

2423. +SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 105-178, sec 1403

CFR Citation: 23 CFR 1240

Legal Deadline: None

Abstract: Section 1403 of TEA-21 established a new program of incentive grants (under Section 157 of chapter 1 of Title 23) to encourage States to increase seat belt use rates. This rulemaking action establishes the criteria and procedures to be followed to implement this incentive grant program. A State is eligible for an incentive grant if: (1) The State had a seat belt use rate greater than the national average for the two preceding calendar years, OR (2) The State's seat belt use rate in the previous calendar year was higher than the State's "base seat belt use rate." (The " base seat belt

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use rate" is defined as the State's highest use rate for any calendar year from 1996 through the calendar year preceding the previous calendar year.) The amount of funding each State is awarded will be based on calculations by the Secretary of the annual savings to the Federal Government in medical costs (including savings under the medicare and medicaid programs). According to the statute, on September 1 of each year, beginning in 1998, the Department will determine which States meet the eligibility criteria, and on October 1 of each year, the Department will allocate the incentive grant funds. This rule sets forth the procedures the agency will use to evaluate seat belt use rates and to allocate funds. It was published as an interim final rule with immediate effectiveness because the first evaluations of seat belt use information were required on September 1, 1998, and the first allocations of funds were required on October 1, 1998. In the next action, the agency expects to evaluate and respond to comments, as appropriate.

The statute authorizes a total of $500 million for grants under this section for fiscal years 1999 through 2003. A State may use these grant funds for any project eligible for assistance under Title 23. If there are any unallocated funds available in FY 1999, the excess amounts will be apportioned to the states for expenditure on the Surface Transportation Program (STP). If there are any unallocated funds available in FY 2000 through FY 2003, the Secretary is directed to allocate the funds to selected States to carry out innovative projects that promote increased seat belt use rates. States will be selected based on plans submitted to the Secretary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/98	63 FR 57904
Interim Final Rule Effective	10/29/98	
Comment Period End	01/29/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Joan Tetrault, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH38

2424. +STATE INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

Priority: Other Significant

Legal Authority: PL 105-178, sec 1404

CFR Citation: 23 CFR 1225

Legal Deadline: None

Abstract: Section 1404 of TEA-21 established a new program of incentive grants (under section 163 of chapter 1 of title 23) to encourage States to establish 0.08 percent blood alcohol concentration (BAC) as the legal limit for drunk driving offenses. This rulemaking action establishes the criteria and procedures to be followed to implement this incentive grant program. Any State that has in effect and is enforcing a 0.08 percent BAC law, before the end of the fiscal year, is eligible to receive incentive funds for that fiscal year. The law must provide that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the state shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense). A state may use these grant funds for any project eligible for assistance under title 23. The statute authorizes a total of $500 million for grants under this section for fiscal years 1998 through 2003. Available funding each year is apportioned among all eligible States according to the Section 402 formula. This rule must be published as an interim final rule, with immediate effectiveness, because its criteria apply for States seeking to receive FY 1998 funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/03/98	63 FR 46881
Interim Final Rule Effective	09/03/98	
Comment Period End	10/19/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH39

2425. OCCUPANT PROTECTION INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2003

CFR Citation: 23 CFR 1345

Legal Deadline: None

Abstract: TEA-21 established a new program of incentive grants to encourage States to adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. This rulemaking action will establish criteria and procedures to be followed to implement this incentive grant program. A State may become eligible to receive a grant under this section by demonstrating that it has implemented at least four of the following six criteria: 1) a law requiring safety belt use by all front seat passengers (and beginning in FY2001, in any seat in the vehicle); 2) a primary safety belt law; 3) minimum fines or penalty points for belt and child seat violations; 4) a special traffic enforcement program; 5) a child passenger protection education program; and 6) a child passenger protection law - requiring minors to be properly secured. The statute authorizes a total of $68 million for grants under this section over 5 years beginning in fiscal year 1999. Each State that qualifies for a grant receives up to 25 % of its FY1997 section 402 apportionment. This rule is published as an interim final rule, with immediate effectiveness, because its criteria apply for States seeking to receive funds beginning on October 1, 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/01/98	63 FR 52592
Interim Final Rule Effective	11/02/98	

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Action	Date	FR Cite
Comment Period End	11/30/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: John Oates, Chief, Implementation, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
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RIN: 2127–AH40

2426. OPEN CONTAINER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-206, 112 Stat 834

CFR Citation: 23 CFR 1230

Legal Deadline: None

Abstract: Section 5 of the TEA-21 Restoration Act established a new program (under section 154 of chapter 1 of title 23) to encourage States to enact Open Container laws. A State which does not have an Open Container law will have certain Federal-aid highway funds transferred to the State's section 402 State and Community Highway Safety grant program. This rulemaking action established the criteria and procedures to be followed to implement this transfer program.

Each State shall have in effect an Open Container law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing an Open Container law, 1-1/2 percent of the Federal-aid highway funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) will be transferred to the State's section 402 apportionment. On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing an Open Container Law, the transferred amount increases to 3 percent. Funds transferred to section 402 must be used for alcohol-impaired driving countermeasures or enforcement of driving while intoxicated (DWI) or driving under the influence (DUI) and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

This rule was published as an interim final rule with immediate effectiveness because some state legislatures are not scheduled to meet in 2000, so they are preparing their legislative agendas now for their 1999 legislative sessions. The states have a need to know what the criteria will be as soon as possible so they can enact conforming legislation and avoid the transfer of funds on October 1, 2000. The agency concluded, therefore, that prior notice and opportunity to comment on the rule is both impracticable and contrary to the public interest and found good cause to publish an interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/06/98	63 FR 53580
Interim Final Action Effective	11/05/98	
Comment Period End	12/07/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH41

2427. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2004

CFR Citation: 23 CFR 1313

Legal Deadline: None

Abstract: This rulemaking implements changes mandated by TEA 21 to the Section 410 impaired driving countermeasures grant program. New incentive grant programs include incentives for graduated licensing programs, anti-drunk driving programs aimed at young adults, increased sanctions for drivers with high blood alcohol levels, and increased alcohol testing for drivers involved in fatal accidents. The rulemaking will also establish an alternative incentive program in which states may qualify for grants by demonstrating reductions in fatally injured drivers with blood alcohol concentrations above .10. The rulemaking will also provide for supplemental grants for those states qualifying for a basic grant. These supplemental grant programs will add provisions aimed at reducing operation with suspended licenses and improving detection and conviction of drunk drivers. Appropriated for use in this program are the following: $30.6 million for FY 1998, $28.5 million for FY 1999, $29.3 million for FY 2000, $30.1 million for FY 2001, $38.7 million for FY 2002, and $39.8 million for FY 2003. This rule is being published as an interim final rule, with immediate effectiveness, because its criteria apply for States seeking to receive funds beginning on October 1, 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/98	63 FR 71687
Interim Final Rule Effective	01/28/99	
Comment Period End	03/01/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH42

DOT—NHTSA

Final Rule Stage

2428. STATE HIGHWAY SAFETY DATA IMPROVEMENTS INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2005

CFR Citation: 23 CFR 1335

Legal Deadline: None

Abstract: TEA 21 established a new program of incentive grants to encourage States to adopt and implement programs to improve highway safety data. This rulemaking action establishes criteria and procedures to be followed to implement this incentive grant program to encourage States to adopt and implement effective programs to improve the timeliness, accuracy, completeness, uniformity, and accessibility of State data that is needed to identify priorities for national, State, and local highway and traffic and State programs. A State may become eligible to receive a grant under this section by demonstrating that it has met one of the following three options: 1)establish a multi-disciplinary highway safety data and traffic records coordination committee; complete a highway safety data and traffic records assessment or audit within the last five years and initiate development of a multi-year highway safety data and traffic records strategic plan. Upon completion of this option the State may receive $125,000. 2) certify that the State has met the criteria of option 1 and submit a data and traffic record multi-year plan, identifying goals, performance-based measures, and priorities; and specify how incentive funds will be used. Upon completion of this option the State may receive $250,000. 3) the Secretary may award grants of up to $25,000 for 1 year to any State that does not meet the criteria for option 1. In subsequent years a State must submit or update a data and traffic records multi-year plan, identifying goals, performance-based measures and priorities; and the specifics of how incentive funds will be used. The State must certify that the coordinating committee continues to support the multi-year plan and report annually on the progress made to implement the plan. States meeting these conditions in subsequent years may receive $225,000 or more, based on the population and road mileage in the state. A total of $32,000,000 is authorized for fiscal years 1999 through 2002, and all grant amounts are subject to the availability of funds. This rule is published as an interim final rule, with immediate effectiveness, because its criteria apply for States seeking to receive funds beginning on October 1, 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/08/98	63 FR 54044
Interim Final Rule Effective	11/09/98	
Comment Period End	12/07/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: John Oates, Chief, Implementation, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH43

2429. +UNIFORM CRITERIA FOR STATE OBSERVATIONAL SURVEYS OF SEAT BELT USE

Priority: Other Significant

Legal Authority: PL 105-178, sec 1403

CFR Citation: 23 CFR 1340

Legal Deadline:
Final, Statutory, December 8, 1998.

Abstract: This rulemaking action establishes the criteria and procedures to be followed by the States to determine their seat belt use rates. Section 1403 of TEA-21 established a new program of incentive grants (under Section 157 of chapter 1 of title 23) that provides funds to States if: (1) The State had a seat belt use rate greater than the national average for the two preceding calendar years, OR (2) The State's seat belt use rate in the previous calendar year was higher than the State's "base seat belt use rate." (The " base seat belt use rate" is defined as the State's highest use rate for any calendar year from 1996 through the calendar year preceding the previous calendar year.) For calendar years 1996 and 1997, the legislation directs the Department to weigh State-submitted use rates to insure national consistency in methods of measurement. For calendar years 1998 and beyond, States must establish their seat belt use rates in accordance with guidelines issued by the Secretary. This rulemaking provides the States with the required guidelines. These uniform criteria replace the "Guidelines for State Observational Surveys of Safety Belt and Motorcycle Helmet Use," published in 1992, and rescinded by this rule.

The results of the survey conducted in accordance with this rule will be used in making allocations of a total of $418 million during fiscal years 2000 through 2003. This rule is being published as an interim final rule, with immediate effectiveness, because the criteria apply to surveys that the States must conduct during calendar year 1998. Moreover, most States conduct these types of surveys during the summer/fall months.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/98	63 FR 46389
Interim Final Rule Effective	09/01/98	
Interim Final Rule Comment Period End	01/29/99	
Comment Period Extended to 03/01/99	02/23/99	64 FR 8714
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Joan Tetrault, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
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RIN: 2127–AH46

2430. MINIMUM PENALTIES FOR REPEAT OFFENDERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-206, 112 Stat 834

CFR Citation: 23 CFR 1235

Legal Deadline: None

Abstract: Section 5 of the TEA-21 Restoration Act established a new program (under section 164 of chapter

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1 of title 23) to encourage States to enact Repeat Intoxicated Driver laws. A State which does not have a Repeat Intoxicated Driver law will have certain Federal-aid highway funds transferred to the States section 402 State and Community Highway Safety grant program. This rulemaking action establishes the criteria and procedures to be followed to implement this transfer program.

Each State shall have in effect a Repeat Intoxicated Driver law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated (DWI) or driving under the influence (DUI) after a previous conviction for that offense shall (A) receive a driver's license suspension for not less than 1 year; (B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles; (C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and (D) receive (i) for 2nd offense, not less than 30 days community service or 5 days of imprisonment; and (ii) for 3rd and subsequent offense, not less than 60 days community service or 10 days of imprisonment. On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, 1-1/2 percent of the Federal-aid highway funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) will be transferred to the State's section 402 apportionment. On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, the transferred amount increases to 3 percent. Funds transferred to section 402 must be used for alcohol-impaired driving countermeasures or enforcement of driving while intoxicated (DWI) or driving under the influence (DUI) and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

This rule was published as an interim final rule, with immediate effectiveness, because some state legislatures are not scheduled to meet in the year 2000, so they are preparing their legislative agendas now for their 1999 legislative sessions. The states have a need to know what the criteria will be as soon as possible so they can enact conforming legislation and avoid the transfer of funds on October 1, 2000. The agency concluded, therefore, that prior notice and opportunity to comment on the rule was both impracticable and contrary to the public interest and found good cause to publish an interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/19/98	63 FR 55796
Interim Final Rule Effective	11/18/98	
Comment Period End	12/18/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH47

2431. ADJUSTMENT OF CIVIL PENALTIES

Priority: Info./Admin./Other

Legal Authority: PL 101-410

CFR Citation: 49 CFR 578

Legal Deadline:
Final, Statutory, January 1, 1999.

Abstract: The agency is adjusting the civil penalty amounts as required at least once every four years to reflect changes in consumer price index due to inflation.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AH48

2432. • CERTIFICATION REQUIREMENTS FOR VEHICLE ALTERERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 33101 to 33104

CFR Citation: 49 CFR 567

Legal Deadline: None

Abstract: The agency is proposing to amend the vehicle certification regulations that specify requirements for vehicle alterers. Under the existing regulations, an alterer is required to affix a label to any vehicle it alters certifying that the vehicle, as altered, conforms to all applicable Federal motor vehicle safety and bumper standards affected by the alteration. A vehicle manufacturer must certify that any vehicle it manufacturers conforms not only to the Federal motor vehicle safety and bumper standards, but, depending on the vehicle's classification and its date of manufacture, to the theft prevention standard as well. The proposed amendment would make the certification requirements for alterers consistent with those for manufacturers by requiring alterers to specify on their certification label, where appropriate, that the vehicle, as altered, conforms to all applicable Federal motor vehicle safety, bumper, and theft prevention standards affected by the alteration.

Timetable:

Action	Date	FR Cite
NPRM	02/11/99	64 FR 6852
NPRM Comment Period End	03/29/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Coleman R. Sachs, Trial Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5238

DOT—NHTSA

Final Rule Stage

Fax: 202 366-3820

RIN: 2127–AH49

2433. • +LIGHT TRUCK FUEL ECONOMY STANDARDS FOR MODEL YEAR 2001

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 49 USC 329

CFR Citation: 49 CFR 533

Legal Deadline:
Final, Statutory, March 31, 1999, The statutory date requires that a standard be issued at least 18 months before the start of the affected model year.

Abstract: The agency is establishing the fuel economy standards for manufacturers of light truck fleets for model year 2001. At the direction of Congress, the standard is the same as the 20.7 mpg previously established for MY 2000. Therefore, there is no need for a notice of proposed rulemaking. This action is considered significant because of substantial public interest.

Section 322 of the FY 1999 DOT Appropriations Act precludes the agency from expending any funds to prepare, propose, or promulgate any fuel economy standard that differs from those currently in effect. The agency cannot consider any other alternative standards that may result in lower costs, lesser burdens, or more cost-effectiveness for state, local or tribal governments or the private sector. The agency has, therefore, not prepared a written assessment of this rule for the purposes of the Unfunded Mandates Act.

Timetable:

Action	Date	FR Cite
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-2739

RIN: 2127–AH52

2434. • UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC ch 4

CFR Citation: 23 CFR 1200; 23 CFR 1205

Legal Deadline: None

Abstract: The agency established new uniform procedures governing the implementation of State highway safety programs by amending previous requirements to provide a more flexible system under which States are responsible for setting highway safety goals and implementing programs to achieve those goals. These new procedures are issued to provide guidance to the States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/97	62 FR 34397
Interim Final Rule Effective	06/26/97	
Comment Period End	08/11/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Additional Information: The RIN 2127-AG69 under which the action was originally opened was inadvertently closed in association with another unrelated action.

Agency Contact: John Donaldson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834
Fax: 202 366-3820

RIN: 2127–AH53

2435. • PROCEDURES FOR PARTICIPATION IN AND RECEIVING DATA FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30301

CFR Citation: 23 CFR 1327

Legal Deadline: None

Abstract: The agency is adopting as final changes made to the National Driver Register (NDR) regulations through an interim final rule that authorized the United States Coast Guard to request and receive NDR information. The interim final rule was published under RIN 2127-AG21. That RIN number was used for an interim final rule regarding air carrier access to the NDR. A final rule adopting the changes made in that interim final rule, which authorized air carrier access to the NDR, was published 01/05/98 (63 FR 149). This action will finalize the changes that authorize the Coast Guard to request and receive NDR information. This action will also amend the agency's regulations to reflect technical changes enacted in the Transportation Equity Act for the 21th Century (TEA-21).

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Heidi L. Coleman, Assistant Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834
Fax: 202 366-3820

RIN: 2127–AH54

2436. • EXTENSION OF COMPLIANCE DATE FOR ABS MALFUNCTION INDICATOR LAMP

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: In response to a petition for rulemaking received on October 20, 1998, the agency is extending the compliance date of the antilock brake system (ABS) malfunction indicator lamp activation protocol from March 1, 1999, to September 1, 1999. Because the original compliance date is so close, this action is being issued as an interim final rule in order to notify interested parties as quickly as possible of the extension of that compliance date.

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Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/99	64 FR 9446
Interim Final Rule Effective	02/26/99	
Interim Final Rule Comment Period End	04/27/99	
Agency Decision	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH55

2437. • BUMPER STANDARD REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 301; 49 USC 325

CFR Citation: 49 CFR 571.108; 49 CFR 581

Legal Deadline: None

Abstract: This technical amendment is to remove from the bumper standard the protective criteria referring to visibility requirements of the lighting standard. This section of the lighting standard no longer exists. The references to SAE standards are also obsolete. A final rule is appropriate.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AH59

2438. • DYNAMICALLY DEPLOYING HEAD PROTECTION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of the final rule published on August 4, 1998 (63 FR 41466 RIN No. 2127-AG74). The final rule amended the upper interior impact requirements to allow, but not require, the installation of dynamically deploying head protection systems. The petitioners requested changes to regulation definitions and test procedures.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AH60

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA) **Long-Term Actions**

2439. +CRASHWORTHINESS RATINGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 5

Legal Deadline: None

Abstract: This action would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. The agency has requested public comments on the National Academy of Sciences (NAS) study titled "Shopping for Safety - Providing Consumer Automotive Safety Information," (TRB Special Report 248) and how that study should be reflected in the agency's decision on whether, and if so, how, to proceed with a crashworthiness rating for automobiles.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Comment Period Extended to 10/22/81	04/02/81	46 FR 19947
NPRM Comment Period End	04/22/81	46 FR 7025
Request for Comments	05/20/97	62 FR 27648
Comment Period End	08/18/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 01/22/81, 46 FR 7025

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057
Fax: 202 366-4329

RIN: 2127–AA03

2440. +FLAMMABILITY OF INTERIOR MATERIALS—SCHOOL BUSES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

DOT—NHTSA

Long-Term Actions

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard 302 to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	
Request for Comments	02/26/91	56 FR 7826
Comment Period End	04/29/91	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AA44

2441. REVIEW: ODOMETER FRAUD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: This review involves analysis of the incident rates and costs of odometer fraud and an assessment of State and Federal efforts to combat odometer fraud. To complete this review, the agency has requested permission to collect a sample of odometer readings of registered passenger cars that are less than 10 years old from vehicle dealers, distributors, vehicle title files, and State Department of Motor Vehicle agencies. Congress has directed the agency to conduct this review.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/95	
Request for Comment; Collection of Information	09/23/96	61 FR 49809
Comment Period End	11/11/96	
Request for Comment; Collection of Information	06/06/97	62 FR 31186
Comment Period End	07/07/97	
Complete Review	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AF53

2442. +REVIEW: SIDE IMPACT PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: This standard requires passenger cars manufactured after September 1, 1996, to provide occupant protection when impacted in the side by a moving deformable barrier. The agency will compare the actual risk of occupant injury in side impact crashes of cars meeting the standard to the risk in pre-standard cars. The cost of the standard will also be estimated. This regulation was selected for review because of its costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/94	
Complete Review	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Fax: 202 366-2559

RIN: 2127–AF54

2443. REVIEW: AMERICAN AUTOMOBILE LABELING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The American Automobile Labeling Act requires new passenger cars and light trucks, beginning October 1, 1994, to bear labels providing information on the extent to which their parts are of domestic origin. The objective of this review is to determine the extent to which new-vehicle buyers know about, understand and use this information, and to estimate the effect of the labels on vehicle production and sales.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/95	
Request for Comment; Collection of Information	07/24/97	62 FR 39886
Comment Period End	09/22/97	
Request for Comment; Collection of Information	02/18/98	63 FR 8249
Request for Comment; Collection of Information	02/26/98	63 FR 9897
Complete Review	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AG18

2444. REVIEW: HEAVY TRUCK CONSPICUITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is initiating a study to evaluate the safety effects of the conspicuity systems requirement (section 5.7) of Federal Motor Vehicle Safety Standard No. 108. To carry out the study, the agency is having special motor vehicle crash data collected by the Florida Highway Patrol and the Pennsylvania State Police.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/95	
Request for Comment; Collection of Information	07/01/96	61 FR 33891
Comment Period End	08/30/96	
Complete Review	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG19

2445. STATE ISSUED IDENTIFICATION DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 656

CFR Citation: 23 CFR 1331

Legal Deadline:
NPRM, Statutory, September 30, 1997.

Abstract: The agency issued a notice of proposed rulemaking to implement the requirements contained in section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. This section of the Act entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that a Federal agency may only accept as proof of identity a driver's license or identification document that conforms to specific requirements, in accordance with regulations issued by the Department of Transportation. The agency received over 2000 comments to this notice. The agency's appropriations act imposed a restriction on the use of FY 99 funds to issue a final rule implementing the proposed requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 33220
Comment Period Extended to	08/19/98	63 FR 44415
NPRM Comment Period End	10/02/98	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2746

RIN: 2127–AG91

2446. REVIEW: CHILD SAFETY SEAT REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213; 49 CFR 588

Legal Deadline: None

Abstract: This evaluation involves analysis of the effectiveness of registering child safety seats to increase response to reports of recalled seats. This regulation was selected for review because of public interest in child passenger safety.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
Complete Review	03/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AG93

2447. REVIEW: AIR BAG ON-OFF SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 40 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard allows passenger vehicles to be equipped with an on-off switch for the right front passenger air bag if the rear seat cannot accommodate a rear-facing infant seat. The standard also enables vehicle owners to obtain an on-off switch for their passenger and/or driver air bag if they transport people who should not be exposed to an air bag deployment. The agency will determine, by observation of vehicles in use, the percentage of on-off switches that are being correctly used. This regulation was selected for review because of its public interest and potential benefit.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/98	
Complete Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AH12

2448. REVIEW: DEPOWERED AIR BAGS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard was temporarily amended to make the unbelted test for vehicles with air bags less stringent and, in effect, make it easier for manufacturers to quickly depower their air bags. Depowered air bags are likely to benefit out-of-position

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occupants and reduce drivers' arm injuries, but they might be less effective than earlier air bags for some occupants. This regulation was selected for review because of public interest, potential benefits, and possibility of higher risk for some vehicle occupants.

Timetable:

Action	Date	FR Cite
Begin Review	05/01/98	
Complete Review	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AH13

2449. TRANSMISSION CONTROL LEVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to issue a proposal to add requirements for vehicles without conventional mechanical transmission shift levers. The petitioner would like to use new interfaces that do not use the mandated linear sequence of PRNDL for automatic transmission gear selection indicated and to use push button switches, joy stick switches or voice activation as new driver interfaces with the transmission gear selection.

Timetable:

Action	Date	FR Cite
Request for Comments	06/04/98	63 FR 30449
Comment Period End	09/02/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH21

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Completed Actions

2450. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Standard 108 requires passenger cars sold after October 1, 1985, to be equipped with center high-mounted stop lamps (CHMSLs). NHTSA undertook a staff evaluation of the safety effectiveness, benefits, and cost of CHMSLs. A preliminary report was published in March 1987, an interim report in August 1989, and a final report in April 1998.

Timetable:

Action	Date	FR Cite
Preliminary Evaluation Report Published	03/20/87	52 FR 9609
Interim Evaluation Report Published	08/04/89	54 FR 32153
Interim Evaluation Report Comments Reviewed and Docketed	02/21/90	
Final Evaluation Report	04/07/98	63 FR 17043
Comment Period End	08/05/98	
End Review	12/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The final evaluation report indicated that cars and light trucks equipped with center high-mounted stop lamps were 4.3 percent less likely to be struck in the rear while braking than cars and light trucks without the lamps. Comments on final report placed in Docket 12/28/98.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AB76

2451. +SCHOOL BUS BODY JOINT STRENGTH

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: In response to NTSB recommendations on body joint strength and maintenance access panels as well as the agency's own analyses, this rulemaking action improves the test requirements and test procedures for the body joints of school buses and limits the number and size of maintenance access panels that are excluded from the requirements of the standard. The agency believes that this rule will prevent 26-35 AIS 3 injuries per year when fully implemented. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/87	52 FR 23314
ANPRM Comment Period End	08/03/87	

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Completed Actions

Action	Date	FR Cite
Comment Period Extended to 10/15/87	08/12/87	52 FR 29873
NPRM	03/15/91	56 FR 11142
NPRM Comment Period End	05/14/91	
Final Action	11/05/98	63 FR 59732
Final Action Effective	05/05/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 11/05/98, 63 FR 59732

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AC19

2452. DRIVING RANGE DETERMINATION FOR DUAL FUEL ELECTRIC PASSENGER AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905; 49 USC 32906

CFR Citation: 49 CFR 538

Legal Deadline: None

Abstract: After reviewing comments received in response to the September 22, 1994 (59 FR 48589) notice, the agency has set the minimum driving range only for dual fueled electric passenger automobiles, otherwise known as hybrid electric vehicles (HEVs), at 7.5 miles on the EPA highway cycle and 10.2 miles on the EPA city cycle when operating on electricity alone. The purpose of establishing the range is to meet a statutory requirement intended to encourage the production of HEVs. An HEV which meets the range requirement would qualify to have its fuel economy calculated according to a special procedure that would facilitate the efforts of its manufacturer to comply with the corporate average fuel economy standard. The agency has also established a procedure through which manufacturers of HEVs that do not meet the minimum driving range requirements may petition the agency for relief.

Timetable:

Action	Date	FR Cite
Request for Comments	09/22/94	59 FR 48589
Comment Period End	11/24/94	
NPRM	01/03/97	62 FR 375
NPRM Comment Period End	03/04/97	
Final Action	12/01/98	63 FR 66064
Final Action Effective	02/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 12/01/98, 63 FR 66064

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AF37

2453. CYLINDER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.304

Legal Deadline: None

Abstract: In response to petitions for rulemaking, the agency has deleted the material and manufacturing process requirements for compressed natural gas fuel containers. This amendment is based on the most recent proposed voluntary industry standard. The agency also believes that such this amendment will facilitate technological innovation, without any detriment to safety.

Timetable:

Action	Date	FR Cite
NPRM	05/30/97	62 FR 29323
NPRM Comment Period End	07/14/97	
Final Action	12/03/98	63 FR 66762
Final Action Effective	01/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 12/03/98, 63 FR 66762

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF51

2454. REVIEW: THEFT PREVENTION—5-YEAR REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112; 49 USC 33113(b)

CFR Citation: 49 CFR 541

Legal Deadline:
Other, Statutory, October 25, 1997, The Anti Car Theft Act of 1992 was enacted on October 25 1992.

Abstract: The standard requires certain passenger motor vehicles to have identifying numbers or symbols to be placed on major parts to reduce the incidence of motor vehicle thefts by facilitating the tracking and recovering of parts from stolen vehicles. Five years after enactment of the Anti Car Theft Act of 1992, the Secretary of Transportation shall submit to Congress a report on the effects of the standard on motor vehicle thefts and recoveries.

Timetable:

Action	Date	FR Cite
Preliminary Evaluation Report	06/26/97	62 FR 34494
Comment Period End	08/11/97	
End Review	07/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Report to Congress indicated that theft rates, which increased during the 1980's, leveled off or even began to decline after 1989-90. Recovery rates changed little during 1984-95. Parts marking and anti-theft devices have had beneficial effects on auto thefts and/or recoveries. The provisions of the 1984 and 1992 Theft Acts along with parts marking and anti-theft devices have given law

enforcement tools to deter thefts, trace stolen vehicles and parts, and apprehend and convict thieves. This Report to Congress completed July 28, 1998.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AF55

2455. AUXILIARY SIGNAL LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency published a request for comments from the driving public on the value of several signal lamp ideas which have been suggested to the agency and on whether the agency should permit auxiliary signal lamps in addition to those required by the standard. The agency also requested comments on a policy for the disposition of petitions for rulemaking that request the agency to require or permit safety lighting inventions and which are submitted without proof of their effectiveness. The agency has withdrawn rulemaking initiated on this Advance Brake Warning System (ABWS). However, the agency will participate in an international effort under the aegis of the United Nations' Meeting of Experts on Lighting to develop a process for evaluating new ideas for signal lamps on vehicles.

Timetable:

Action	Date	FR Cite
Request for Comments	12/13/96	61 FR 65510
Comment Period End	03/13/97	
Comment Period Extended to 11/26/97	10/27/97	62 FR 55562
Withdrawn	11/04/98	63 FR 59482

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG38

2456. HYBRID III DUMMY SPECIFICATIONS—CLOTHING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency has clarified the Hybrid III dummy clothing and shoes specifications that are to be worn during testing, defined an opening in the femur flesh, and the use of the lumbar spine load cell.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42469
NPRM Comment Period End	10/06/97	
Final Action	10/07/98	63 FR 53848
Final Action Effective	11/06/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 10/07/98, 63 FR 53848

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG39

2457. +UNIFORM CHILD ANCHORAGES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213; 49 CFR 571.225

Legal Deadline: None

Abstract: In response to several petitions for rulemaking, the agency has established a new Federal motor vehicle safety standard that requires motor vehicle manufacturers to provide motorists with a new way of installing child restraints. In the future, vehicles will be equipped with child restraint anchorage systems that are standardized and independent of the vehicle seat belts. This final rule was issued because the full effectiveness of child restraint systems was not being realized. The reasons for this included design features affecting the compatibility of child restraints and both vehicle seats and vehicle seat belts, this action makes possible more effective child restraint installation and will thereby increase child restraint effectiveness and child safety. This action was considered significant because of public interest. Petitions were granted.

Timetable:

Action	Date	FR Cite
Public Workshop: Request for Comments	09/10/96	61 FR 47728
Correction	09/20/96	61 FR 49427
Comment Period End	10/25/96	
NPRM	02/20/97	62 FR 7858
NPRM Comment Period End	05/22/97	
Final Action	03/05/99	64 FR 10785
Final Action Effective	09/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 03/05/99, 64 FR 10785

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AG50

DOT—NHTSA

Completed Actions

2458. UTILITY VEHICLE LABEL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575.105

Legal Deadline: None

Abstract: The agency has revised the content and format of the utility vehicle label requirements for multipurpose passenger vehicles with a wheelbase of 110 inches or less to improve the effectiveness of the label. This action is an effort to reduce the rollover rate of utility vehicles by modifying the existing rollover warning label for those vehicles so that it will more effectively alert their drivers to the risk that the vehicle will roll over, the steps they can take to avoid that risk, and the steps they can take to reduce the chance of injury in a rollover.

Timetable:

Action	Date	FR Cite
NPRM	04/13/98	63 FR 17974
NPRM Comment Period End	06/12/98	
Final Action	03/09/99	64 FR 11723
Final Action Effective	09/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 03/09/99, 64 FR 11723

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057
Fax: 202 366-4329

RIN: 2127–AG53

2459. CERTIFICATION LABELS FOR MULTIPURPOSE PASSENGER VEHICLES AND LIGHT DUTY TRUCKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 33101; 49 USC 33102; 49 USC 33103; 49 USC 33104

CFR Citation: 49 CFR 567

Legal Deadline: None

Abstract: The agency has amended the vehicle certification regulation that specifies the contents of certification labels that manufacturers are required to affix to new motor vehicles. This amendment requires the certification label for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of not more than 6,000 pounds to specify that the vehicle complies with all applicable Federal motor vehicle safety and theft prevention standards. The current regulation only requires a statement of compliance with safety standards. The Anti Car Theft Act of 1992 extended the theft prevention standard to multipurpose passenger vehicles and trucks rated at not more than 6,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34623
NPRM Comment Period End	08/10/98	
Final Action	02/11/99	64 FR 6815
Correction	02/26/99	64 FR 9445
Final Action Effective	06/11/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Coleman Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263

RIN: 2127–AG65

2460. UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1200

Legal Deadline: None

Abstract: The agency is proposing to amend the regulation for the State Highway Safety Program to change the submission date for the State's Highway Safety Plan documents. This action has been terminated because the proposed change was included under RIN No. 2127-AH53.

Timetable:

Action	Date	FR Cite
Action Terminated	02/24/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834
Fax: 202 366-3820

RIN: 2127–AH01

2461. INSURER REPORTING REQUIREMENTS FOR OCTOBER 1998

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency is updating its lists in the appendices of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experience. Each insurer included in any of these appendices must file a report for the 1995 calendar year not later than 30 days after publication of the final rule in the Federal Register. Further, as long as the insurer remains listed, it must submit reports by each subsequent October 25. Pursuant to the insurer reports and information, the agency requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft.

DOT—NHTSA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	05/04/98	63 FR 24519
NPRM Comment Period End	07/06/98	
Final Action	12/18/98	63 FR 70051
Final Action Effective	12/18/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: See RIN 2127-AH62 for October 1999 proposed update requirements.

Agency Contact: Rosalind Proctor, Group Leader, Motor Vehicle Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-2739

RIN: 2127–AH05

2462. DEPOWERING OF AIR BAGS: TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is amending the final rule that was published March 19, 1997 (RIN 2127-AG59) that allows the depowering of air bags. This technical amendment clarifies that: (1) the "corridor" defining the permissible range of acceleration with respect to time can itself be shifted with respect to time to contain the time at which the sled acceleration first reaches 0.5 g; (2) the neck injury criteria for flexion bending moment and extension bending moment are intended to be measured by the six axis load cell and corrected to reflect the corresponding values at the occipital condyles; and (3) prior to testing the engine, transmission, axles, exhaust, vehicle frame, and vehicle body should be rigidly secured and adequately attached to the vehicle and/or the sled. Fluids, batteries and unsecured components may be removed.

Timetable:

Action	Date	FR Cite
Final Action	12/28/98	63 FR 71390
Final Action Effective	12/28/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AH24

2463. WARNING LIGHT REQUIREMENTS FOR AIR BAG ON-OFF SWITCH

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has amended the location requirement for the telltale warning light provided with air bag on-off switches to relieve a design restriction and to allow more flexibility in the placement of the warning light.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38795
NPRM Comment Period End	09/03/98	
Final Action	01/14/99	64 FR 2446
Final Action Effective	01/14/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 01/14/99, 64 FR 2446

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AH25

2464. LIST OF NONCONFORMING VEHICLES ELIGIBLE FOR IMPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30141

CFR Citation: 49 CFR 593

Legal Deadline: None

Abstract: This final action amends the list of vehicles not originally manufactured to conform to all applicable Federal motor vehicle safety standards that the agency has decided to be eligible for importation. This list is published as an appendix to this regulation which established the procedures through which the agency makes import eligibility decisions. The amendment will add to the list all vehicles that the agency has decided to be eligible for importation since the list was last published on October 1, 1997.

Timetable:

Action	Date	FR Cite
Final Action	09/21/98	63 FR 51534
Final Action Effective	09/21/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Because this rule only furnishes information and imposes no regulatory requirement, the agency had good cause to dispense with a notice of proposed rulemaking.

Agency Contact: Coleman R. Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5238
Fax: 202 366-3820
Email: csachs@nhtsa.dot.gov

RIN: 2127–AH28

2465. THERMAL TEST PROCEDURE FOR PASSENGER CAR BRAKE SYSTEM STANDARD

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

DOT—NHTSA **Completed Actions**

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.135

Legal Deadline: None

Abstract: The agency granted a petition for rulemaking requesting that three constant deceleration stops be added at the onset of the thermal test sequence for purposes of establishing performance requirements for the subsequent "hot performance" and "recovery performance" test. Based on available information, the agency believes that the practicability testing problems cited by the petitioner will not result in vehicle non-compliance unless a given vehicle's brake system is severely degraded by heating. Therefore, the agency has decided to withdraw further rulemaking on this issue.

Timetable:

Action	Date	FR Cite
Action Terminated	02/24/99	64 FR 9115

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH31

2466. • TEMPORARY EXEMPTION FROM FEDERAL MOTOR VEHICLE SAFETY STANDARDS AND BUMPER STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30113; 49 USC 32506; PL 105-277

CFR Citation: 49 CFR 555; 49 CFR 581

Legal Deadline: None

Abstract: The agency has implemented statutory amendments authorizing the agency to provide temporary exemptions from the bumper standard in the same manner as exemptions from the Federal motor vehicle safety standards.

Timetable:

Action	Date	FR Cite
Final Action	01/19/99	64 FR 2858
Final Action Effective	01/19/99	
Correction	02/05/99	64 FR 5866

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AH51

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA) **Prerule Stage**

2467. +HOURS OF SERVICE ELECTRONIC RECORDKEEPING PROJECT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 228

Legal Deadline: None

Abstract: In 1994, the Federal Railroad Administration (FRA) launched a major project to facilitate maintenance of hours-of-service records and submission of "excess service" reports in an electronic, rather than a paper, format. FRA is proposing a model waiver to railroads interested in maintaining electronic records for train and engine service employees. These employees compose the vast majority of those subject to the statutory limitations on hours of service. This project will eventually lead to the formal revision of 49 CFR 228. This is considered significant due to public interest.

Timetable:

Action	Date	FR Cite
Grant or Deny Waiver Application	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Several mergers in the railroad industry, and difficulties in adapting computer systems have delayed this action.

Agency Contact: David Kasminoff, Trial Attorney, Mail Stop 10, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6043

RIN: 2130–AB04

2468. TOURIST AND HISTORIC WORKING GROUP REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: None

Legal Deadline: None

Abstract: The Tourist and Historic Working Group of the Railroad Safety Advisory Committee was established to review existing and proposed regulations for their appropriate applicability to one segment of FRA's small business customers, the tourist and historic railroads. In addition, the group is examining FRA's policy with respect to exercise of jurisdiction over railroads off the general system of rail transportation.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/96	
Complete Review	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

DOT—FRA — Prerule Stage

Government Levels Affected: Undetermined

Additional Information: This rulemaking represents a long-term effort to review existing and proposed regulations for their appropriate applicability to tourist and historic railroads. The group was created in April of 1996 and met on June 17 - 18, 1996. Thus far, the group has reviewed the Steam Locomotive standards and FRA's Accident/Incident Reporting standards and provided recommendations regarding their applicability to the tourist and historic railroad industry. (See Notice of Meeting, 61 FR 54698.) The group is anticipated to next review the final rules on Track Safety Standards and Rail Passenger Service: Emergency Preparedness.

Agency Contact: Lawrence Wagner, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6052

RIN: 2130–AB12

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

2469. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 222

Legal Deadline:
Final, Statutory, November 2, 1996.
Final, Statutory, November 2, 1998.

Abstract: This action would govern the use of train whistles at grade crossings. This action is considered significant because of substantial public interest. This action is being taken pursuant to statutory mandate. FRA has issued notice of intent to prepare an environmental impact statement (EIS) for the proposed rule.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare EIS	05/26/98	63 FR 28549
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information:

ANALYSIS: Regulatory Evaluation

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6061

RIN: 2130–AA71

2470. +LOCOMOTIVE CAB WORKING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline:
Final, Statutory, March 3, 1995.

Abstract: The agency has proposed to address crew working conditions on locomotives, pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated a variety of locomotive working conditions, including sanitation, noise and temperature, and reported its findings to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues, and established the Locomotive Crew Safety Working Group. The Working Group created a Noise Task Group and a Temperature Task Group, and those task groups are meeting regularly to address employee exposure to noise and temperature extremes. The Working Group has met on several occasions and is addressing sanitation in locomotive cabs. This project is considered significant because of substantial public interest. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: As originally proposed, this rulemaking addressed both crew working conditions on locomotives and the crashworthiness of locomotives. However, in anticipation of issuing two distinct rulemakings, FRA has separated crashworthiness of locomotives out from the original proposal (RIN 2130-AB23).

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6027

RIN: 2130–AA89

2471. +ENVIRONMENTAL IMPACT AND RELATED PROCEDURES (FRA, FTA, FHWA)

Priority: Other Significant

Legal Authority: 49 USC 322; 42 USC 4332

CFR Citation: 49 CFR 267; 49 CFR 622; 23 CFR 771

Legal Deadline: None

Abstract: The Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures," that outlines requirements for complying with the National Environmental Policy Act and related laws and regulations. The Federal Railroad Administration (FRA) has "Procedures for Considering Environmental Impacts" (45 FR 40854, June 16, 1980) which serve the same purposes. FTA and FHWA are revising their regulation to serve program needs. In order to achieve consistency in environmental analysis for surface transportation modes and to update its existing environmental procedures which were issued in 1980, the FRA will join with FTA and FHWA in developing an environmental regulation that applies to all three modal Administrations. This action is

considered significant because of public, congressional, and environmental concerns and because it involves several departmental modes. The FTA RIN is 2132-AA43; the FHWA RIN is 2125-AD32.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information:

ANALYSIS: Economic Assessment

Agency Contact: William R. Fashouer, Senior Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC. 20590
Phone: 202 493-6033

RIN: 2130–AA93

2472. +POSITIVE TRAIN CONTROL

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 220; 49 CFR 236

Legal Deadline: None

Abstract: Consistent with Congressional mandate, FRA has continued its commitment to identifying high risk corridors which may better support PTC investment; supporting PTC technology development, testing and compatibility; and promoting deployment of PTC technology on high risk corridors in the near future. In September, 1997, FRA initiated joint fact finding efforts through the Railroad Safety Advisory Committee (RSAC) Working Group on PTC. The advice and recommendations of RSAC will form the basis for proceeding to an NPRM. The initial rulemaking will address technical standards for PTC, amending 49 CFR part 236.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: FRA has separated out of this rulemaking its action entitled Radio Communication, which revised its radio rules for more flexibility and to include requirements for the presence of radios and/or some means of wireless communication (RIN 2130-AB19).

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6064

RIN: 2130–AA94

2473. +LOCOMOTIVE CRASHWORTHINESS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline:
Final, Statutory, March 3, 1995.

Abstract: The agency has proposed to address the crashworthiness of locomotives pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated locomotive crashworthiness, as well as a variety of locomotive working conditions (See RIN 2130-AA89) and reported its finding to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues. The Locomotive Crew Safety Working Group met on January 23, 1997 to develop task statements that were forwarded to the full RSAC and accepted on June 24, 1997. This project is considered significant because of substantial public interest. FRA is awaiting advice and recommendations from RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking was originally included in RIN 2130-AA89, Locomotive Cab Working Conditions.

Agency Contact: David T. Matsuda, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6046

RIN: 2130–AB23

2474. +AMENDMENT OF REGULATIONS GOVERNING RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

Priority: Other Significant

Legal Authority: 45 USC 821 et seq; PL 105-78

CFR Citation: 49 CFR 260

Legal Deadline: None

Abstract: This action would amend the current regulations by replacing the railroad financing programs with a new loan and loan guarantee program. Section 7203 of the Transportation Equity Act for the 21st Century authorizes the Secretary of Transportation to provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures, that include at least one railroad. This is significant because a total of $3.5 billion has been authorized for the program and the rule may have an annual effect on the economy of $100 million or more until the principal cap of $3.5 billion is reached.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: JoAnne McGowan, Chief, Freight Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-3290

RIN: 2130–AB26

DOT—FRA

Proposed Rule Stage

2475. ROADWAY MAINTENANCE MACHINE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: FRA proposes to publish regulations governing operational and design safety of on-track equipment used by railroads for track maintenance. The regulations would cover self-propelled rail-mounted non-highway machines where light weight exceeds 7500 pounds. This rulemaking was requested by the Brotherhood of Maintenance-of-Way Employees (BMWE) as part of the organization's petition requesting revision of the track safety standards. FRA decided to respond to this portion of the BMWE petition in a rulemaking separate from the track safety standards revision. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking is an off-shoot of the rulemaking to revise the track safety standards.

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6047

RIN: 2130–AB28

2476. • TRACK SAFETY STANDARDS AMENDMENT TO ADDRESS GAGE RESTRAINT MEASUREMENT SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: A Gage Restraint Measurement System (GRMS) is a non-destructive performance-based technology that objectively measures track gauge restraint capacity of crossties and rail fasteners by applying known lateral and vertical loads to track structure, measuring the gauge deflection under those loads, and then projecting what the gauge would become under severe track loading conditions. From this data, a gauge widening ratio is calculated as a measure of overall track strength. In the NPRM to revise the Track Safety Standards (62 FR 36138, July 3, 1997), FRA acknowledged that the Track Working Group which helped draft the NPRM was unable to agree upon a proposal that would permit railroads to use GRMS to determine compliance with crosstie fastener requirements. FRA requested public comments regarding the use of GRMS as an alternative or additional track inspection method. In the final rule revising the Track Safety Standards (63 FR 33992, June 22, 1998), FRA reported that it had received various comments about the use of GRMS and that an amendment to the Track Safety Standards addressing GRMS would be published later in a separate final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: This action was originally contemplated as part of the Track Safety Standards (RIN 2130-AA75) which were issued June 22, 1998 (63 FR 33992).

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6047

RIN: 2130–AB32

2477. • +JOINT STATEMENT OF SAFETY POLICY FOR SHARED USE OF GENERAL RAILROAD SYSTEM TRACKAGE BY CONVENTIONAL RAILROAD AND RAIL TRANSIT TRAINS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 209

Legal Deadline: None

Abstract: The Joint Policy Statement of the Federal Railroad Administration (FRA) and the Federal Transit Administration (FTA) will explain the nature of the most important safety issues related to joint use of the general railroad system by conventional and light rail equipment. It will briefly summarize FRA's exercise of its jurisdiction over these operations, help transit authorities, railroads and other interested parties understand how the respective safety authority of the two agencies will be coordinated, and express both FRA's and FTA's commitment to work together closely to ensure the safety and viability of these operations. It is considered significant under DOT Order 2100.5 because it involves multiple departmental modes.

Timetable:

Action	Date	FR Cite
Proposed Policy Statement	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David H. Kasminoff, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6046

RIN: 2130–AB33

2478. • EVENT RECORDER CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: None

Abstract: FRA will propose improvements in the crashworthiness of event recorders and will propose additional requirements for data capture and recording for event recorders installed in new and rebuilt locomotives. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

DOT—FRA

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Thomas A. Phemister, Trail Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6050

RIN: 2130–AB34

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Final Rule Stage

2479. LOCAL RAIL FREIGHT ASSISTANCE TO STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 22101

CFR Citation: 49 CFR 266

Legal Deadline: None

Abstract: This action is to revise the procedures and requirements for the receipt of financial assistance contained in part 266. These changes are required to reflect statutory modifications resulting from the Local Rail Service Reauthorization Act of 1989. The Local Freight Assistance Program has not been reauthorized after FY 1995. However, final regulations are necessary because States continue to submit applications for new projects to be funded from loan funds repaid to States by previous borrowers. FRA is reconsidering the need for these regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	55 FR 49648
NPRM Comment Period End	12/31/90	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: While this action was to be terminated in October of 1995, the agency reconsidered and has decided to move forward with a final rule.

ANALYSIS: Regulatory Evaluation, 11/30/90, 55 FR 49648

Agency Contact: JoAnne McGowan, Chief, Freight Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-3290

RIN: 2130–AA60

2480. +FREIGHT CAR SAFETY STANDARDS: MAINTENANCE-OF-WAY EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 215

Legal Deadline: None

Abstract: This action proposes to amend the freight car safety standards to subject all maintenance-of-way vehicles to FRA's safety standards, with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	03/10/94	59 FR 11238
NPRM Comment Period End	02/27/95	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The original NPRM comment period ended on 4/11/94 but was twice extended; first, to 11/28/94 (59 FR 49374) and then to 02/27/95 (59 FR 67266). Due to various contentious issues raised during the NPRM comment period, FRA believed it might be advantageous to resolve differences in an open forum. Therefore, on September 30, 1997, FRA formally proposed this rulemaking as a new task (Task 97-8) for the Railroad Safety Advisory Committee (RSAC). After discussion, the RSAC declined to accept the task at that time. Staff turnover, combined with the press of other business, has slowed further action on this rulemaking.

ANALYSIS: Regulatory Evaluation, 03/10/94, 59 FR 11238

Agency Contact: Billie Stultz, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6053

RIN: 2130–AA68

2481. QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 240

Legal Deadline: None

Abstract: Based on petitions to reconsider several aspects of its previous rules addressing locomotive engineer qualifications, the agency is proposing to revise certain aspects of part 240: (1) the application of this rule to service vehicles; and (2) the process for revoking the certification of locomotive engineers.

Timetable:

Action	Date	FR Cite
NPRM	09/22/98	63 FR 50626
NPRM Comment Period End	11/23/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On October 31, 1996, FRA tasked the revisions of these qualifications to the Railroad Safety Advisory Committee (RSAC), which the agency established on March 26, 1996 (61 FR 9740). See Notice of RSAC Meeting, 61 FR 54698, Oct. 21, 1996. On May 14, 1998, FRA received the advice and recommendations of the RSAC, which submitted consensus recommendations for issuance of an NPRM.

ANALYSIS: Regulatory Evaluation, 04/09/93, 58 FR 18982

Agency Contact: Alan Nagler, Trial Attorney, Department of

DOT—FRA

Final Rule Stage

Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6049

RIN: 2130–AA74

2482. +PASSENGER EQUIPMENT SAFETY STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20133; 49 USC 20111 to 20113; 49 USC 20301 to 21311; PL 103-440, sec 215

CFR Citation: 49 CFR 238

Legal Deadline:
Final, Statutory, November 2, 1997.
Final, Statutory, November 2, 1999.

Abstract: This action will establish comprehensive Federal safety standards for railroad passenger equipment in a two-phased rulemaking effort, pursuant to the Federal Railroad Safety Authorization Act of 1994. This action will address inspection, testing, and maintenance of passenger equipment; equipment design and performance criteria related to passenger and crew survivability in the event of a train accident; and the safe operation of passenger train service, supplementing existing railroad safety standards. This is considered significant due to public interest. A final rule in the first phase of the rulemaking is expected to be published by mid-1999. FRA will then convene a working group to help develop a second Notice of Proposed Rulemaking. The second phase of the rulemaking will draw on the results of ongoing research and industry-led passenger safety efforts.

Statement of Need: Effective Federal safety standards for freight equipment have long been in place, but equivalent Federal standards for key aspects of railroad passenger equipment do not exist. Further, the rail passenger environment is changing. Operating speeds are increasing.and new rail passenger operations have been proposed in the United States. A clear set of Federal safety standards for passenger equipment is needed to provide for the safety of the nation's rail passenger service.

Summary of the Legal Basis: This rulemaking is required by section 215 of the Federal Railroad Safety Authorization Act of 1994, PL 103-440.

Alternatives: There was no alternative to initiating this rulemaking, as it is required by Federal statute. Nevertheless, FRA considers what specific safety standards to prescribe in the context of the rail passenger industry's own safety efforts. In particular, FRA expects that its consideration of what safety standards to prescribe in the second phase of the rulemaking will be significantly influenced by the American Public Transit Association's own safety standards for rail passenger equipment, currently under development.

Anticipated Costs and Benefits: The first phase of the rulemaking is not expected to have any significant net economic impact on the rail passenger industry. FRA expects that costs will be offset by economic savings resulting in part from reducing current regulatory burdens involving the inspection, testing and maintenance of power brakes for passenger trains, while still ensuring safety. Further, safety benefits will accrue as rail accidents are prevented or their effects are mitigated due to the rule's requirements, including restrictions on operating passenger equipment not having necessary structural or emergency features for the safety of passengers and crewmembers.

Risks: In the past years there have been several passenger train accidents which resulted in more than one train occupant fatality. Notably, on February 16, 1996, a Maryland Rail Commuter Service (MARC) train collided with an Amtrak train near Silver Spring, Maryland, resulting in the deaths of three crewmembers and eight passengers on board the MARC train. Further, passenger trains are exposed to risks from operating commingled with very heavy and long freight trains, as well as from operating over track with frequent grade crossings used by heavy highway equipment. However, comprehensive Federal safety standards governing the design, maintenance, and safety planning of rail passenger equipment do not currently exist.

Timetable:

Action	Date	FR Cite
ANPRM	06/17/96	61 FR 30672
NPRM	09/23/97	62 FR 49728
Notice of Public Hearing	10/23/97	62 FR 55204
NPRM Comment Period End	11/24/97	
Final Action (First Phase)	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing on this rulemaking was held on November 21, 1997.

Agency Contact: Daniel Alpert, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6026

RIN: 2130–AA95

2483. MAINTENANCE, INSPECTION, AND TESTING OF GRADE-CROSSING SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 234

Legal Deadline:
Final, Statutory, June 22, 1989.

Abstract: FRA is making technical changes and minor amendments to final regulations which were published on September 30, 1994. These regulations require that railroads take specific and timely actions to protect the travelling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems, and that railroads follow specific standards for maintenance, inspection, and testing of those systems. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/96	61 FR 31802
Comment Period End	07/22/96	
Interim Final Rule Effective	08/19/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

DOT—FRA

Final Rule Stage

Additional Information: The final rule, RIN 2130-AA70, was published 9/30/94 (59 FR 50086), and was effective 1/1/95. In response to a petition for reconsideration, FRA conducted a review, together with rail labor and rail management, to address various implementation issues that had surfaced since the rule was enacted. After meeting with these parties in March 1995, FRA issued an Implementation Manual on April 14, 1995. An interim final rule intended to clarify implementation issues by making minor technical amendments was published on June 20, 1996, effective August 19, 1996. Response to the comments on that interim rule may result in further amendment of the rule.

Agency Contact: Mark H. Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AA97

2484. STATEMENT OF POLICY REGARDING SAFETY OF RAILROAD BRIDGES

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: FRA proposes to publish a policy statement containing maintenance guidelines based on certain common, basic principles that characterize effective bridge management practices. The guidelines are meant to be advisory in nature. They will not have the force of regulations under which FRA ordinarily issues violations and assesses civil penalties.

Timetable:

Action	Date	FR Cite
Statement of Interim Policy	04/27/95	60 FR 20654
Comment Period End	06/26/95	
Final Policy Statement	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6047

RIN: 2130–AA99

2485. REINVENTION OF REGULATIONS ADDRESSING DISCONTINUANCE OR MODIFICATION OF SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 235

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA intends to revise part 235 by reducing the list of circumstances for which signal system discontinuance approval is required. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB05

2486. REINVENTION OF SIGNAL SYSTEM REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 233

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA is amending its signal system reporting requirements (part 233) to reduce signal system reporting burdens on the rail industry. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB06

2487. REINVENTION OF STEAM LOCOMOTIVE INSPECTION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20701

CFR Citation: 49 CFR 230

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, and at the initiative of several industry members, FRA has undertaken to modernize part 230 to reflect current operating realities and, perhaps, to allow greater flexibility in the steam locomotive inspection waiver process. On July 24-25, 1996, the agency tasked the revision of these standards to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996

DOT—FRA

Final Rule Stage

(61 FR 9740). (See Notice of RSAC Meeting, July 10, 1996, 61 FR 36415.) On February 17, 1998, the RSAC submitted to FRA consensus recommendations for issuance of an NPRM.

Timetable:

Action	Date	FR Cite
NPRM	09/25/98	63 FR 51404
NPRM Comment Period End	11/24/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held on February 4, 1999.

Agency Contact: Paul F. Byrnes, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6032

RIN: 2130–AB07

2488. FLORIDA OVERLAND EXPRESS HIGH SPEED RAIL RULE OF PARTICULAR APPLICABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 243

Legal Deadline: None

Abstract: FRA published a proposed rule of particular applicability for a high speed rail project in Florida. As proposed, the system would operate from Miami to Tampa via Orlando, and would be modeled on the French TGV. A consortium of engineering and design firms, and the state of Florida entered into an agreement to develop the project, which they anticipated would commence operations in 2004. However, FRA has been informed that the State has withdrawn support and funding for the project. Therefore, FRA has suspended work on final standards.

Timetable:

Action	Date	FR Cite
NPRM	12/12/97	62 FR 65478
NPRM Comment Period End	02/10/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: A Public Regulatory Conference was held on November 23, 1998.

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20593
Phone: 202 493-6027

RIN: 2130–AB14

2489. SMALL RAILROADS; POLICY STATEMENT ON ENFORCEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 601 et seq; PL 104-121; 49 USC 20101 et seq

CFR Citation: 49 CFR 209

Legal Deadline:
Other, Statutory, March 29, 1997, Policy on Small Entities Subject to Railroad Safety Laws.

Abstract: The Small Business Regulatory Enforcement Act (SBREFA) of 1996 requires, among other things, that Federal agencies establish communication and enforcement programs to address the unique concerns and operations of small entities.

Pursuant to SBREFA, FRA published communication and enforcement policies with respect to small entities in a Statement of Agency Policy and undertook an interim definition of "small entity" in this process. Also, FRA invited comment from the public for the purpose of adopting a new definition of "small entity" in the future.

Timetable:

Action	Date	FR Cite
Interim Policy Statement: Effective 10/10/97	08/11/97	62 FR 43024
Comment Period End	11/30/97	
Final Policy Statement	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20593
Phone: 202 493-6027

RIN: 2130–AB15

2490. +POWER BRAKE REGULATIONS: FREIGHT POWER BRAKE REVISIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 232; 49 CFR 231; 49 CFR 229

Legal Deadline:
Final, Statutory, December 31, 1993.

Abstract: Pursuant to the Federal Railroad Safety Enforcement and Review Act of 1992, FRA is revising the power brake rules. After separating proposed revisions regarding freight power brakes from passenger power brakes, FRA tasked the revision of freight power brake standards on April 1-2, 1996 to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740). On June 24, 1997, this task was withdrawn from RSAC and FRA is proceeding on its own initiative. This rulemaking is considered significant because of its potential economic impact and congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48294
Notice of Public Hearing	10/08/98	63 FR 54104
Extension of Comment Period	01/21/99	64 FR 3273
NPRM Comment Period End	03/01/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A portion of the task to revise the power brake rules has been completed. FRA revised the existing power brake regulations to mandate the use of two-way end-of-train telemetry devices, RIN 2130-AA73, in a final rule published on January 2, 1997 (62 FR 278).

DOT—FRA **Final Rule Stage**

Furthermore, proposed rules regarding the inspection and testing of passenger equipment and brake systems were developed with the assistance of a passenger equipment standards working group, and were issued September 23 1997 (62 FR 49278). FRA is in the process of completing the final rule in this matter (see RIN-No. 2130-AA95).

Agency Contact: Thomas Herrmann, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6036

RIN: 2130–AB16

2491. USE OF REMOTELY CONTROLLED LOCOMOTIVES IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229.7

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of remotely controlled locomotives, FRA proposes to promulgate an interim final rule to conduct a nationwide pilot program on remote control operations. FRA will require all railroads which propose to use remote control locomotives to enroll in a pilot program and agree to conform to the safety conditions set forth by FRA. The purpose of the pilot program is to determine under what conditions, if any, remote control operations can be operated safely.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of remote control operations and one-person crews was held by FRA on December 4 and 5, 1997 (61 FR 58736, November 18, 1996).

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB17

2492. USE OF ONE-PERSON CREWS IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of one-person crews, FRA proposes to promulgate an interim final rule to prohibit, except in carefully controlled instances, the use of one-person operations. FRA will require all railroads which propose to use one-person crew operations to enroll in a pilot program and agree to conform to the safety conditions set forth by FRA. The purpose of the pilot program is to determine under what conditions, if any, one-person crew operations can be safely operated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of one-person crew and remote control operations was held by FRA on December 4 and 5, 1996 (61 FR 58736, November 18, 1996).

Agency Contact: Lawrence Wagner, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6052

RIN: 2130–AB18

2493. +REGULATIONS ON SAFETY INTEGRATION PLANS GOVERNING RAILROAD CONSOLIDATIONS, MERGERS, ACQUISITIONS OF CONTROL AND START-UP OPERATIONS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 21301; 28 USC 2461

CFR Citation: 49 CFR 244; 49 CFR 1.49

Legal Deadline: None

Abstract: This proposed rule would require a railroad to file a Safety Integration Plan with the Federal Railroad Administration (1) whenever a Class I railroad, the National Railroad Passenger Corporation, or a railroad providing commuter service proposes to merge, consolidate or acquire control of one another; (2) whenever an entity proposes to start operations as a railroad; (3) whenever a Class II railroad proposes to consolidate, merge, or acquire control of another Class II railroad with which it would directly interchange freight, or (4) whenever a railroad merger, consolidation or acquisition of control would result in operations that generate revenue in excess of the Class I threshold. The proposed rule would prescribe content and subject matter areas that must be addressed in each plan before FRA may approve of such plan. FRA is working with the Surface Transportation Board to conduct coordinated rulemaking actions covering these transactions within the framework of each agency's jurisdiction.

Statement of Need: This rule is necessary to ensure advance planning of operations to promote rail safety. Given the safety problems encountered in previous transactions and the need for the merging or acquiring railroad to integrate and harmonize information systems, training, operational practices and safety procedures on a massive scale, the need to require detailed plans setting forth the manner in which the parties intend to safely implement integration plans became apparent to FRA.

Summary of the Legal Basis: Because this rule concerns rail safety, FRA is vested with statutory authority to issue regulations governing these regulated transactions. See 49 USC 20101 et seq.

Alternatives: The proposed rule would authorize a railroad carrying out a regulated transaction to petition for a waiver of compliance. The railroad would have to follow the procedures prescribed in 49 CFR 211 in filing such a petition. FRA may grant the petition if waiver of compliance is consistent with the public interest and railroad safety.

Anticipated Costs and Benefits: FRA has not yet determined the anticipated costs and benefits of this action.

DOT—FRA

Final Rule Stage

Risks: The problems that surfaced after the merger of the Union Pacific and the Southern Pacific indicated that safety could be significantly compromised in implementing a consolidation unless the parties addressed the safety issues specifically, formally and systematically, particularly if the merger was large and complex. To address safety-related problems stemming from a merger, FRA needed a projection into the future of the safety consequences of consolidating the systems. To accomplish this, in response to the proposed acquisition of Conrail by Norfolk Southern and CSX Transportation, FRA suggested, and the STB required, that the merger applicants develop and submit well-defined Safety Integration Plans (SIPs) as part of the merger application process. The proposed rule would require, as a matter of FRA regulations, that such Plans be filed by certain railroads in the context of proposed mergers and acquisitions and similar circumstances.

Timetable:

Action	Date	FR Cite
NPRM	12/31/98	63 FR 72225
NPRM Comment Period End	03/01/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jon Kaplan, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6042

RIN: 2130–AB24

2494. BRIDGE WORKER SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will amend the Bridge Worker Safety Rules through promulgation of an interim final rule. The interim final rule will likely prohibit the use of safety belts as fall protection, but would continue to require the use of harnesses, which are more commonly used in present industry practice. The interim final rule would also make technical clarifications to the existing standards. This action is supported by the industry and is consistent with new policies of the Occupational Safety and Health Administration. The need for prompt action is based on data showing an immediate safety concern.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gordon Davids, Bridge Engineer, Office of Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6320

RIN: 2130–AB25

2495. PLANNING ACTIVITIES UNDER THE MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 322

CFR Citation: 49 CFR 268

Legal Deadline:
Other, Statutory, December 9, 1998, See Additional Information.

Abstract: This action is required by section 1218(a) of the Transportation Equity Act for the 21st Century ("TEA 21"). This section, codified at 23 USC 322, provides a total of $55 million for Fiscal Years 1999 through 2001 for preconstruction planning activities, final design, engineering, and construction activities for the deployment of Magnetic Levitation technology ("Maglev Deployment Program"). Section 322 requires FRA to establish Project selection criteria, to solicit applications for funding, to select one or more Projects to receive financial assistance for preconstruction planning activities, and after completion of such activities, to select one of the Projects to receive financial assistance for final design, engineering, and construction activities. This Interim Final Rule, as amended, solicits applications for the initial planning funds under the Maglev Deployment Program, with a deadline of February 15, 1999 for receipt of applications for preconstruction planning grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/13/98	63 FR 54600
Interim Final Rule Effective	11/16/98	
Interim Final Rule Amendment	02/12/99	64 FR 7133
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: 180 days after enactment of section 322 (12/09/98) the Secretary is to solicit applications from states. 90 days after the deadline for receipt of applications, (05/15/99) the Secretary is to evaluate applications and select one or more eligible projects to receive financial assistance for preconstruction planning activities. Potential grantees must know what is expected of them to start the process and for the Secretary to meet these deadlines.

Agency Contact: Neil E. Moyer, Chief, Program Development Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6365

RIN: 2130–AB29

2496. • ANNUAL ADJUSTMENT OF MONETARY THRESHOLD FOR REPORTING RAIL EQUIPMENT ACCIDENTS/INCIDENTS

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: This annual determination establishes the monetary threshold for reporting rail equipment accidents/incidents involving railroad property damage. This action ensures and maintains comparability between different years of data by having the threshold keep pace with fluctuations in equipment and labor costs. It is required by statute. The reporting threshold is based on the formula adopted in a final rule 5/18/96, 61 FR 60632. This agenda entry will be updated each year to show the latest annual determination. Cites for

determinations already issued are provided below.

Timetable:

Action	Date	FR Cite
Annual Determination	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The 1998 final rule of 12/30/98, 63 FR 71790 established at $6,600 the monetary threshold for accidents/incidents that occur during calendar year 1999. There is no change from calendar year 1998. The 1997 final rule of 2/2/97, 62 FR 63675 increased the monetary threshold from $6,500 to $6,600. The 1996 final rule of 11/29/96, 61 FR 60632 increased the monetary threshold from $6,300 to $6,500.

Agency Contact: Nancy Friedman, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6034

RIN: 2130–AB30

2497. • DETERMINATION OF MINIMUM TESTING RATE FOR RANDOM DRUG AND ALCOHOL TESTING

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 219

Legal Deadline: None

Abstract: Each year FRA announces the minimum random drug and alcohol testing rates for the following year for the railroad industry. This determination is based on a review of rail industry drug and alcohol management information system data, as well as data from compliance reviews of rail industry drug and alcohol testing programs. Procedures were established in a final rule 12/2/94, 59 FR 62218. The minimum random drug testing rate continues to be 25 percent of covered railroad employees for 1999. This agenda entry will be updated each year to show the latest annual determination. Cites for determinations already issued are provided below.

Timetable:

Action	Date	FR Cite
Annual Determination	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: In the notice of determination of 12/30/98, 63 FR 71789 the minimum random drug and alcohol testing rate for calendar year 1999 remained at 25 percent of covered railroad employees. In the notice of determination of 2/18/98, 63 FR 8143 the minimum rate remained at 25 percent for calendar year 1998.

Agency Contact: David H. Kasminoff, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6043

RIN: 2130–AB31

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Long-Term Actions

2498. AMTRAK WASTE DISPOSAL

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-610

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The National and Community Service Act requires the Secretary of Transportation to promulgate such regulations as may be necessary to mitigate the impact of discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation

Agency Contact: Mark Yachmetz, Department of Transportation, Federal Railroad Administration, Office of Safety, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6289

RIN: 2130–AA84

2499. PROTECTION OF UTILITY EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 218

Legal Deadline: None

Abstract: FRA is in the process of reconsidering amendments to its "Blue Signal" regulations, which prescribe minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment. The original "blue signal" rule did not include train and yard crews in this protection, with limited exceptions. The final rule, intended to redress this problem, allowed augmentation of a crew by using a "utility" employee, which would increase a railroad's efficient use of its employees. Based on petitions to reconsider several aspects of its final rule treating this subject, FRA issued amendments to this rule. Based on comments received, the agency suspended those amendments and reopened the comment period to further develop this proposal.

Timetable:

Action	Date	FR Cite
Final Rule	03/01/95	60 FR 11047
Amendments: Comment Period End 5/1/95		
Final Rule Suspended: Comment Period Reopened	06/09/95	60 FR 30469
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The final rule on utility employees was published August 16, 1993 (58 FR 43287), RIN 2130-AA77.

Agency Contact: Daniel Alpert, Trial Attorney, Department of Transportation, Federal Railroad

DOT—FRA **Long-Term Actions**

Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6026

RIN: 2130–AA90

2500. CRANE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will consider whether to adopt regulations governing functional and design safety of on-track railroad cranes used for track maintenance. Railroad crane safety is currently regulated by the Department of Labor. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Edward R. English, Director, Office of Safety Assurance and Compliance, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6321

RIN: 2130–AB27

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA) **Prerule Stage**

2501. PROPOSED EXPANDED REPORTING OF SAFETY AND SECURITY PORTION OF THE NATIONAL TRANSIT DATABASE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5335

CFR Citation: 49 CFR 630

Legal Deadline: None

Abstract: The FTA is evaluating Form 405, Transit Safety and Security, of the National Transit Database to determine its future direction. In this evaluation, FTA will consider the objectives of the form, the current potential usefulness of the data, and the overall strengths and weaknesses of it. Based on the evaluation, FTA will identify and implement improvements to the collection of Transit Safety and Security data.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Judy Meade, Director, Office of Safety and Security, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2896

RIN: 2132–AA60

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA) **Proposed Rule Stage**

2502. +DEPARTMENT OF TRANSPORTATION (FTA, FHWA) AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5304(e); 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; 49 USC 303(c); 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq; 33 USC 535

CFR Citation: 49 CFR 622; 23 CFR 771; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline:
Final, Statutory, May 18, 1992.

Abstract: The Federal Transit Administration and the Federal Highway Administration currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures." The agencies first issued an environmental regulation together in 1980. The joint regulation was amended in 1987 and again in 1991. Even though FTA and FHWA have joint regulations, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FTA and FHWA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FTA and FHWA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an increased emphasis on intermodal planning and proposals to advance a high-speed rail program, the proposed, new joint regulations will include the Federal Railroad Administration (FRA) and the United States Coast Guard (USCG) bridge permit program. Further, FTA and FHWA agencies will propose to make changes to conform this rule to the requirements of the Transportation Equity Act for the 21st Century (P.L. 105-178). Most notably, FTA and FHWA will propose to integrate the major investment study of the metropolitan and statewide planning rules with this rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

DOT—FTA

Proposed Rule Stage

Government Levels Affected: State, Local

Additional Information: Section 134(h)(4) of title 23, United States Code, and section 8(h)(4) of the Federal Transit Act, as amended (now 49 USC 5304(e)), direct the Secretary of Transportation to initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements for highway projects. This action is considered significant because of potential public, congressional, and environmental concerns, and because it involves several interested departmental modes.

ANALYSIS: Regulatory Evaluation

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952

RIN: 2132–AA43

2503. BUY AMERICA REQUIREMENTS; AMENDMENT TO CERTIFICATION PROCEDURES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-178, sec 3020(b)

CFR Citation: 49 CFR 661.11; 49 CFR 661.13

Legal Deadline: None

Abstract: This action would amend FTA's Buy America regulation, 49 CFR 661 in accordance with section 3020(b) of the Transportation Equity Act for the 21st Century. Section 3020(b) allows a bidder on an FTA-funded contract to correct an incomplete certification or a certification of noncompliance with Buy America resulting from an inadvertent or clerical error.

Timetable:

Action	Date	FR Cite
NPRM	02/18/99	64 FR 8051
NPRM Comment Period End	04/19/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Rita Daguillard, Acting Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Fax: 202 366-3809

RIN: 2132–AA62

2504. +MAJOR CAPITAL INVESTMENT PROJECTS

Priority: Other Significant

Legal Authority: 49 USC 5309; PL 105-178, Sec 3009(e)

CFR Citation: 49 CFR 611

Legal Deadline:
NPRM, Statutory, October 7, 1998.
Final, Statutory, December 7, 1998.

Abstract: This rulemaking will establish the criteria by which FTA will evaluate major capital investment mass transportation projects and rate those projects in comparison with one another, based on an analyses of alternatives, justifications for projects, and degrees of local financial commitment. This rulemaking will also codify the procedures applicants for Federal transit capital funding must follow in developing fixed guideway ("New Starts") projects. This action is considered significant because of potential public, congressional, and environmental concerns.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard P. Steinmann, Director, Office of Policy Development, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1739
Fax: 202 366-7116

RIN: 2132–AA63

2505. CLEAN FUELS FORMULA GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 3008; 49 USC 5308

CFR Citation: 49 CFR 624

Legal Deadline: None

Abstract: Section 3008 of the Transportation Equity Act for the 21st Century establishes the Clean Fuels Formula Grant Program. This grant program will assist transit systems in purchasing or leasing clean fuel programs; constructing clean fuel or electrical re-charging facilities; modifying existing garage facilities to accommodate clean fuel vehicles; repowering pre-1993 engines with clean fuel technology which meets the current bus emission standards; and retrofitting or rebuilding pre-1993 engines before their half-life for rebuilding. This provision requires the Secretary to issue an implementing regulation that sets forth eligibility requirements and an apportionment formula for eligible projects. In FY 1999, all funds were apportioned to earmarked projects.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: Scheryl Portee, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Fax: 202 366-3809
Email: scheryl.portee@fta.dot.gov

RIN: 2132–AA64

2506. PLANNING

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 1309

CFR Citation: 49 CFR 613; 23 CFR 450

Legal Deadline: None

Abstract: FTA and FHWA will be issuing a joint rule implementing the planning requirements of the Transportation Equity Act for the 21st Century (P.L. 105-178). Changing the planning factors, adding illustrative project provisions, addressing consultation requirements with local officials, and integrating the major investment study into the Environmental Impact and Related Procedures rule are among the changes FTA may propose to make. FTA and

DOT—FTA **Proposed Rule Stage**

FHWA will undertake this rule in conjunction with amending the Environmental Impact and Related Procedures rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952

RIN: 2132–AA66

2507. SCHOOL BUS OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5323(f)

CFR Citation: 49 CFR 605

Legal Deadline: None

Abstract: This rulemaking proposes to amend the definition of "tripper" service, which is mass transit service modified to meet the needs of school students and personnel. The amended definition would prohibit the use of certain signage without the express written permission of the FTA Administrator, and provides that tripper buses must stop only at stops that are marked as available to the public.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Rita Daguillard, Acting Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Fax: 202 366-3809

RIN: 2132–AA67

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA) **Final Rule Stage**

2508. +BUS TESTING

Priority: Other Significant

Legal Authority: 49 USC 5323(c)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established by the Secretary in Altoona, PA. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Interim Final Rule: Comment Period Reopened	11/30/89	54 FR 49297
Interim Final Rule: Second	10/09/90	55 FR 41174
Interim Final Rule Extending Interim Procedures	09/13/91	56 FR 46572
Interim Final Rule New Vehicle Types	07/28/92	57 FR 33394
Interim Final Rule Partial Effectiveness Postponed	10/13/92	57 FR 46814
Interim Final Rule Comment Period Reopened to 01/29/93	01/07/93	58 FR 2989
Interim Final Rule Partial Effectiveness Postponed	02/23/93	58 FR 10989
Notice of Meeting	02/26/93	58 FR 11549
Interim Final Rule Small Vehicle Testing, Phase-in of Effective Date	11/03/93	58 FR 58732
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Former section 12(h) of the FT Act, as amended (now 49 USC 5302(a)(9)), defines a "new bus model" as a bus model which has not been used in mass transportation service in the United States before the date of production of such model, or a bus model which has been used in such service, but which is being produced with a major change in configuration or components. A third interim final rule, published on 07/28/92, added two new categories of buses required to be tested. On 10/13/92 FTA published a notice postponing the application of the interim final rule for these vehicle types until 02/10/93. The FTA's fourth interim final rule, issued on 11/3/93, established four subcategories of small vehicles to facilitate the phase-in of testing. The final rule will add the two tests mandated by ISTEA, brake performance and emissions, to the seven tests currently performed at the bus testing facility. In addition, the final rule will clarify the partial testing with regard to what constitutes a "major change" on a bus that has been fully tested, but is later produced with a change in configuration or component.

ANALYSIS: Regulatory Evaluation, 07/28/92, 57 FR 33394

Agency Contact: Richard Wong, Attorney-Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA30

2509. CHARTER SERVICES DEMONSTRATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 3040

CFR Citation: 49 CFR 604

Legal Deadline:
Final, Statutory, September 18, 1992.

DOT—FTA **Final Rule Stage**

Abstract: This rulemaking presents the results and conclusions drawn from the charter services demonstration program, previously reported under RIN 2132-AA40, which was mandated by section 3040 of the Intermodal Surface Transportation Efficiency Act. That provision directed FTA to conduct a demonstration program in four states to permit public operators to provide needed charter services to certain civic and community groups. In addition to setting forth program results, this rulemaking seeks recommendations regarding improvements to the charter service regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33793
NPRM Comment Period End	08/22/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Rita Daguillard, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA58

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Completed Actions

2510. PREVENTION OF ALCOHOL MISUSE IN TRANSIT OPERATIONS; PREVENTION OF PROHIBITED DRUG USE IN TRANSIT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 653; 49 CFR 654

Legal Deadline: None

Abstract: FTA is amending its drug and alcohol rules to allow employers to use the results of a drug or alcohol test administered by State and local law enforcement personnel after an accident has occurred. The existing drug and alcohol rule was published on February 15, 1994, and previously reported under RIN 2132-AA37 and 2132-AA38. This change will make FTA's rule parallel with FHWA's and responds to a request from a transit authority.

Timetable:

Action	Date	FR Cite
NPRM	09/30/97	62 FR 51076
NPRM Comment Period End	12/01/97	
Final Action	12/08/98	63 FR 67612
Final Action Effective	01/07/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Nancy Zaczek, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA56

2511. "MAINTENANCE" UNDER DEFINITION OF SAFETY-SENSITIVE FUNCTIONS IN DRUG AND ALCOHOL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 653; 49 CFR 654

Legal Deadline: None

Abstract: The Federal Transit Administration is expanding its definition of safety-sensitive functions to require drug and alcohol testing of maintenance workers engaged in rebuilding or overhauling engines, revenue service vehicles, and parts. This change eliminates the distinction between maintenance workers involved in on-going, daily maintenance and repair work and those who, on a routine basis, perform rebuilding and overhauling work.

Timetable:

Action	Date	FR Cite
NPRM	03/02/98	63 FR 10183
NPRM Comment Period End	06/01/98	
Final Action	01/05/99	64 FR 425
Final Action Effective	02/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Judy Meade, Director, Office of Safety and Security, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2896
Fax: 202 366-7951

RIN: 2132–AA61

2512. CAPITAL LEASES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 3003

CFR Citation: 49 CFR 639

Legal Deadline: None

Abstract: Section 3003 of the Transportation Equity Act for the 21st Century (TEA-21) expanded the definition of capital projects to include the leasing of equipment or facilities for use in mass transportation when it is cost-effective to do so. Prior to enactment of TEA-21, the option to lease instead of purchase was available only to recipients of FTA's formula grant program for urbanized areas, section 5307 recipients through the capital lease rule. In implementing this expanded definition, which benefits most of FTA 's recipients, FTA is amending its capital lease rule by expanding it to include all FTA recipients of capital assistance. This rule will allow all FTA recipients of capital assistance to choose to purchase or lease equipment or facilities depending on which option is more cost-effective. Because this rule is non-controversial and beneficial to all FTA recipients of capital assistance, FTA issued a final rule, thus, quickly implementing the change mandated by TEA-21. The publication of this rule relieves recipients of capital assistance of an administrative burden they must meet under OMB guidance.

Timetable:

Action	Date	FR Cite
Final Action	12/10/98	63 FR 68366
Final Action Effective	01/11/99	

Regulatory Flexibility Analysis Required: No

DOT—FTA — Completed Actions

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Daguillard, Acting Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2132–AA65

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage
Research and Special Programs Administration (RSPA)

2513. APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes to better define the applicability of Federal Hazardous Materials Regulations, 49 CFR parts 171-180, thereby clarifying the relationship among Federal, State, local and tribal agencies in the regulation of hazardous materials transportation. RSPA has held three public hearings on this rulemaking and is evaluating input from those meetings and numerous public comments.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/96	61 FR 39522
Comment Period End	11/30/96	
SANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: Docket No. HM-223.

Agency Contact: Nancy Machado, Attorney, Room 8407, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AC68

2514. HAZARDOUS MATERIALS: REVISION OF REQUIREMENTS FOR CARRIAGE BY AIRCRAFT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 48 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: Part 175 is being revised and rewritten in order to simplify and clarify the requirements, further align them with the international requirements (ICAO) and eliminate obsolete requirements.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-228.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD18

2515. HAZARDOUS MATERIALS: REVISIONS TO THE INCIDENT REPORTING REQUIREMENTS AND THE DETAILED HAZARDOUS MATERIALS INCIDENT REPORT DOT FORM 5800.1

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5105 to 5127

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: This rulemaking will review the hazardous materials incident reporting regulations in 49 CFR part 171 including the hazardous materials incident report (form 5800.1). The goal of this rulemaking is to simplify, update and review the requirements while enhancing the ability of the Research and Special Programs Administration and the DOT modal administrations to gather information vital to increase safety of transporting hazardous materials.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: Docket No. HM-229.

Agency Contact: Diane LaValle, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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DOT—RSPA

Prerule Stage

Email: rules@rspa.dot.gov

Kevin Coburn, Information Systems Manager, Department of Transportation, Research and Special Programs Administration
Phone: 202 366-8553

RIN: 2137–AD21

2516. • HAZARDOUS MATERIALS: AIR CARRIER EMERGENCY TELEPHONE NUMBER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 175

Legal Deadline: None

Abstract: The notice solicits comments on the merits of safety recommendations from the National Transportation Safety Board to require that air carriers transporting hazardous materials have the means, 24 hours per day, to quickly retrieve and provide consolidated specific information about the identify and location of all hazardous materials on an aircraft in a timely manner to emergency responders.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-206C

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC
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RIN: 2137–AD29

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Proposed Rule Stage

2517. +REQUIREMENTS FOR CYLINDERS (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking proposes amendments to the Hazardous Materials Regulations (HMR) to update and consolidate requirements for the manufacture, maintenance, requalification, repair, and use of compressed gas cylinders. RSPA is proposing changes affecting the manufacture of compressed gas cylinders, certain new DOT specifications for and to revise requirements applicable to the maintenance, requalification, and repair of all DOT specification cylinders (including those cylinders that may no longer be manufactured). RSPA also proposed to simplify the requirements for filling cylinders and consolidate and revise requirements applicable to persons who requalify cylinders. This rulemaking recognizes advances in cylinder manufacturing technology and will clarify and simplify regulatory requirements. This rulemaking, which affects persons who manufacture, requalify, repair, refill and use compressed gas cylinders, is of significant interest to the compressed gas industry. As part of this action, a small entities review under 5 USC section 610 will be included.

Statement of Need: This rulemaking action is the first comprehensive review and revision of the cylinder requirements since the first cylinder specification was adopted in the early 1900's. Since that time, additional cylinder specifications and related requirements for cylinder requalification and use have been added on a piece-meal basis in response to the development of new construction materials, accidents and incidents, shipping experience, and the development of industry consensus standards. RSPA seeks to improve the integrity of cylinders by adopting manufacturing and testing standards based more on performance than detailed design requirements. RSPA has received over 25 petitions for rulemaking and has issued numerous exemptions relating to requirements for cylinders and for the transportation of hazardous materials in cylinders. The merits of these petitions and the need to convert provisions of exemptions into regulations of general applicability will be considered in this rulemaking action.

Summary of the Legal Basis: Section 5103 of Title 49 U.S.C. specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. These regulations apply to persons transporting or causing to transport hazardous materials in commerce, and persons manufacturing, fabricating, marking, maintaining, repairing or testing packagings that are represented, marked, certified, or sold by such persons as qualified for use in transporting hazardous materials in commerce.

Alternatives: The proposed rule is expected to incorporate a variety of alternatives to provide greater flexibility to cylinder manufacturers, refillers and users. There will be proposals to allow harmonizing of the manufacturing practices between the U.S. and other countries, to provide greater flexibility in the filling of cylinders based on performance criteria, and to simplify the regulations by streamlining the commodity sections and by standardizing the new cylinder specifications.

Anticipated Costs and Benefits: A preliminary regulatory evaluation is being developed. The potential costs and benefits of this action have not yet been determined. A major industry association has indicated that this rulemaking could result in significant cost reductions for the cylinder manufacturing industry.

Risks: Improving the integrity of cylinders will reduce the risk of leakage in overturns and other accidents. In addition, simplifying the regulations will reduce misunderstandings and the possibility of processing errors that may adversely affect safety.

DOT—RSPA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58460
Extension of Comment Period and Notice of Public Meeting Published	12/31/98	63 FR 72224
NPRM Comment Period End	05/28/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders. Docket No. HM-220.

Agency Contact: Charles Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AA92

2518. PIPELINE SAFETY: GAS GATHERING LINE DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline:
Final, Statutory, October 24, 1994.

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48505
NPRM Comment Period End	11/25/91	
Electronic Public Meeting	04/13/99	
SNPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-4868 (Formerly PS-122).

ANALYSIS: Regulatory Evaluation, 09/25/91, 56 FR 48505

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AB15

2519. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 have been discovered developing cracks during service, and occasionally leaks developed that resulted in loss of contents. The ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks. The NPRM will address the safety issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-176A. Some safety issues originally considered by this action are being addressed with Docket HM-220, RIN 2137-AA92.

ANALYSIS: Regulatory Evaluation

Agency Contact: Ryan Posten, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AB51

2520. PIPELINE SAFETY: UNDERWATER ABANDONED PIPELINE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, April 24, 1994.

Abstract: This action will require operators of gas and hazardous liquid pipeline facilities to report certain information about abandoned underwater pipelines, including location, size, date of abandonment, and compliance with applicable laws. The information will be available for use by other Federal agencies and state authorities.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-2094.

Agency Contact: L. E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AC33

2521. AREAS UNUSUALLY SENSITIVE TO ENVIRONMENTAL DAMAGE (USAS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1994.

Abstract: In response to a statutory mandate, this action will establish criteria for identifying areas near hazardous liquid pipelines that are unusually sensitive to environmental damage if a pipeline accident occurs.

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The criteria are being developed in consultation with the Environmental Protection Agency and other agencies. Criteria for identification of unusually sensitive areas will be pilot-tested in 1999. Pipelines located in areas identified under the criteria will be the subject of other rulemaking proceedings: Pipe Inventory (RIN 2137-AB48) and Increased Inspection Requirements (RIN 2137-AC38).

Timetable:

Action	Date	FR Cite
Notice of Public Meeting and Supplemental Notice	06/22/94	59 FR 32178
Public Meeting Comment Period End	08/01/94	
Extended Comment Period End	06/26/95	
Extended Comment Period End 8/25/95	07/10/95	60 FR 35549
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-140. Was originally Docket PS-130B, "Environmentally Sensitive Areas," for part 194. Changed to address part 195. A series of public workshops were conducted in 1996 and 1997. Additional workshops will be scheduled as necessary.

Agency Contact: Christina Sames, Petroleum Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4561

RIN: 2137–AC34

2522. +INCREASED INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: This rulemaking would address the need for additional periodic inspection of gas and hazardous liquid pipelines in high-density, environmentally sensitive, or navigable waterway areas.The regulations would prescribe circumstances under which such inspections must be conducted by internal inspection devices or equivalent means. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Workshop	10/18/95	60 FR 44821
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-141.

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4559

RIN: 2137–AC38

2523. +EMERGENCY FLOW RESTRICTING DEVICES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1996.

Abstract: This rulemaking would specify those circumstances under which operators of hazardous liquid pipelines are required to use emergency flow restricting devices (EFRDs) or other procedures, systems, and equipment to detect and locate pipeline ruptures and minimize releases. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2802
ANPRM Comment Period End	04/19/94	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-133. A public workshop was held on 10/19/95 (60 FR 44822). This action is being coordinated with other rulemakings on onshore oil spill response plans (Docket No. PS-130; RIN 2137-AC30), areas unusually sensitive to environmental damage (Docket No PS-140; RIN 2137-AC34), and pipeline leak detection systems (Docket No. RSPA 97-2362; RIN 2137-AD05). These actions are being pursued in coordination with, and as part of the response to, the EFRD mandate.

First, RSPA has required pipeline operators to develop and carry out onshore oil spill response plans under the Oil Pollution Act of 1990 (Docket No. PS-130; RIN 2137-AC30). The operators have filed response plans under an interim final rule, and numerous tabletop exercises and area exercises have been conducted to validate the planning process. Work is proceeding on a 'one plan' approach that would allow an operator to file only one oil spill response plan with the various interested agencies. A final rule will be directed toward improving operators' accident response capabilities and minimizing accident consequences.

Second, RSPA published a proposed rule to adopt the American Petroleum Institute's (API) pipeline leak detection system technical standard (Standard API 1130, Computational Pipeline Monitoring) to guide industry implementation of computer-based leak detection systems (Docket No. RSPA-97-2362, RIN 2137-AD06). This proposal would require that operators of hazardous liquid pipelines use API 1130 in conjunction with other information in the design, evaluation, operation, maintenance, and testing of their software-based leak detection systems. This will result in a significant advancement toward the acceptance of leak detection technology on hazardous liquid pipelines. This is a necessary precedent to the possible adoption of regulations on emergency flow restricting devices.

Third, RSPA is working with the Environmental Protection Agency, the U.S. Coast Guard, and others to develop a definition of "areas unusually sensitive to environmental damage from pipeline spills" (Docket No. PS-140; RIN 2137-AC34). This effort will define areas that are candidates for the application of EFRDs.

Agency Contact: L. Ulrich, General Engineer, Department of Transportation, Research and Special

DOT—RSPA

Proposed Rule Stage

Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4556

RIN: 2137–AC39

2524. PIPELINE SAFETY: PERIODIC UNDERWATER INSPECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: This action would require operators of natural gas and hazardous liquid pipelines to conduct periodic underwater inspections of offshore pipelines and those in navigable waterways. This action would also define what constitutes an exposed underwater pipeline and what constitutes a hazard to navigation.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-3001.

Agency Contact: L. E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AC54

2525. HAZARDOUS MATERIALS: REQUIREMENTS FOR CARGO TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking proposes to revise and clarify certain manufacturing, maintenance and use requirements pertaining to cargo tank motor vehicles in the Hazardous Materials Regulations. FHWA inspections have resulted in a preliminary determination that these regulations need to be amended to make them more practical, understandable, and enforceable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: HM-213.

Agency Contact: Jennifer Karim, Senior Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AC90

2526. +HAZARDOUS MATERIALS: SAFETY STANDARDS FOR UNLOADING CARGO TANK MOTOR VEHICLES IN LIQUEFIED COMPRESSED GAS SERVICE

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking enhances the safety of cargo tank motor vehicles in liquefied compressed gas service by clarifying and revising existing hazardous materials regulations and by adding new requirements and alternatives regarding emergency discharge control systems, hose management, and vehicle attendance requirements. This action will affect all operators of cargo tank motor vehicles in liquefied compressed gas service and is expected to generate substantial public interest; it is therefore a significant rulemaking.

Statement of Need: This rulemaking action responds to numerous incidents involving the release of liquefied compress gas during the unloading of cargo tank motor vehicles and resulting in injuries and deaths. It is based on comments received to an advance notice of proposed rulemaking, published in the Federal Register, on August 18, 1997, and on a Convening Report, by the Mediation Consortium, that recommended RSPA use regulatory negotiation to develop alternative safety standards for preventing and mitigating unintentional releases of hazardous materials during the unloading of cargo tank motor vehicles in liquefied compressed gas service. The negotiated rule will reflect the consensus of those persons who represent the interests affected by this action, such as businesses that transport and deliver propane, anhydrous ammonia, and other liquefied compressed gases; manufacturers of DOT specification MC 330 and MC 331 cargo tank motor vehicles used to transport liquefied compressed gases; Federal safety regulatory agencies; and state and local public safety and emergency response agencies. Section 5103 of title 49 U.S.C. requires the Secretary to prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate and foreign commerce. Section 5102(a) specifies that transportation includes unloading incidental to the movement of hazardous materials.

Summary of the Legal Basis: The negotiated rulemaking process is conducted in accordance with the Federal Advisory Committee Act and the Negotiated Rulemaking Act of 1990.

Alternatives: The negotiated rule is expected to improve the safe unloading of liquefied compressed gases. This rulemaking action is key to proposing recommendations that can achieve DOT's safety goal as well as providing regulations that recognize industry practices. RSPA has rejected the alternative of proceeding to write a proposed regulation itself because it believes the negotiated rulemaking process is more likely to result in a safety-promoting, practical, cost-beneficial rule. In addition this negotiated rulemaking will make it less likely that petitions for reconsideration are filed and that the final rule is legally challenged.

Anticipated Costs and Benefits: The negotiated rulemaking committee will develop a preliminary regulatory evaluation to assess the potential costs and benefits of the negotiated rule.

Risks: This rulemaking is intended to save lives and prevent injuries, property damages and environmental degradation by reducing the rise of accidental release of compressed gases

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and of fires or explosions that can result from such releases.

Timetable:

Action	Date	FR Cite
ANPRM	08/18/97	62 FR 44059
ANPRM Comment Period End	10/17/97	
Notice of Intent to Establish a Negotiated Rulemaking Committee	06/04/98	63 FR 30572
Notice of Establishment of Advisory Committee for Negotiated Rulemaking and Notice of First Meeting	07/16/98	63 FR 38456
Notice of Negotiated Rulemaking Committee Meetings	08/20/98	63 FR 44601
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-225A. This rulemaking is related to docket HM-225 (DMS Docket No. RSPA 97-2133, RIN 2137-AC97). RSPA is establishing an advisory committee to address issues in this rulemaking (negotiated rulemaking).

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RIN: 2137–AD07

2527. HAZARDOUS MATERIALS: REVISIONS TO STANDARDS FOR INFECTIOUS SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking proposes to amend the Hazardous Materials Regulations to provide for the transport of infectious medical waste in bulk packagings, modify the exceptions for transporting biological products and diagnostic specimens without being subject to the regulations, and revise the definition, hazardous communication, and packaging requirements for other infectious substances to make them consistent with international transportation requirements. RSPA held a public meeting on the rulemaking via the internet.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/98	63 FR 46844
ANPRM Comment Period End	12/01/98	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-226. DMS Docket No. RSPA- 98-3971.

Agency Contact: Eileen Mack, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AD13

2528. TRANSPORTATION OF HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: RSPA proposes to make routine, technical, and minor miscellaneous amendments to the Hazardous Materials Regulations based on petitions for rulemaking and RSPA initiative. Because some of the changes are substantive, RSPA will publish an NPRM to obtain public comments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-218. This is a continuation of the rulemakings previously published under the miscellaneous HM-166 rulemaking docket series e.g., HM-166Z, Final Rule; 6/2/94 (59 FR 28487).

Agency Contact: Charles Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD16

2529. +HAZARDOUS MATERIALS TRANSPORTATION: REGISTRATION AND FEE ASSESSMENT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: RSPA proposes to revise the registration fee structure to collect approximately $14.3 million to fund the Emergency Preparedness Grants Program to train responders. This action would double the registration program receipts and thus the monies available for distribution, primarily for State and tribal hazardous materials emergency response training and planning grants. The additional fees could come from existing registrants (certain shippers and carriers of hazardous materials), from newly required registrants, or from both.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-208C.

Agency Contact: Jodi George, Transportation Regulations Specialist,

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Proposed Rule Stage

Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD17

2530. HAZARDOUS MATERIALS: REVISION AND CONSOLIDATION OF REQUIREMENTS FOR CARRIAGE BY RAIL CAR AND MOTOR VEHICLE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This rulemaking is based on a joint petition for rulemaking submitted by the American Trucking Associations, Inc. and the Association of American Railroads. This rulemaking proposes to consolidate the Hazardous Materials Regulations (HMR) found in 49 CFR parts 174 and 177 into a new part 174. The intended impact of the rulemaking is to streamline the requirements of parts 174 and 177, enhance compliance with the HMR and to develop a positive impact on the land surface transportation of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-227.

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD19

2531. PIPELINE SAFETY: ENFORCEMENT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 190.209; 49 CFR 190.213

Legal Deadline: None

Abstract: This action will revise RSPA's pipeline safety enforcement procedures to minimize paperwork in uncontested cases where a person pays a proposed civil penalty or agrees to a proposed compliance order. The procedures will be changed to show that both responses are considered offenses in determining any future civil penalty assessments. These changes will streamline the enforcement process.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-4284. The changes to part 190 modify agency rules of practice and procedure.

Agency Contact: Linda Daugherty, Enforcement Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: daugherll@rspa.dot.gov

RIN: 2137–AD22

2532. PIPELINE SAFETY: PERIODIC UPDATES TO PIPELINE SAFETY REGULATIONS (1998)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192 to 195

Legal Deadline: None

Abstract: This rulemaking is designed to update the pipeline safety regulations on an annual basis. It will incorporate by reference the latest editions of consensus standards to allow operators to utilize current technology, materials, and practices. In addition, noncontroversial corrections and clarifications will be made. This annual update process is consistent with the President's goal of regulatory reinvention and improvement of customer service.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: Docket No. RSPA-98-4732

Agency Contact: Eben Wyman, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD23

2533. PIPELINE SAFETY: CORROSION CONTROL ON GAS AND HAZARDOUS LIQUID PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: The corrosion-control regulations for gas and hazardous liquid pipelines will be revised to incorporate the latest safety standards for corrosion protection of steel pipe. Specific criteria for corrosion protection

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will be incorporated into the federal pipeline safety regulations, including the adoption of voluntary standards of recognized standards-setting organizations. Comparable standards will be applied to both gas and hazardous liquid pipelines.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: Docket No. RSPA-97-2762. Notice of public meeting 10/29/97 (62 FR 56141).

Agency Contact: Gopala Vinjamuri, Materials Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD24

2534. PIPELINE SAFETY: GAS AND HAZARDOUS LIQUID PIPELINE REPAIR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 485; 49 CFR 487; 49 CFR 713

Legal Deadline: None

Abstract: Gas pipe that is generally corroded over a large area to the extent that wall thickness is unsafe must be replaced, unless in the case of transmission pipe, operating pressure is reduced. Similarly, any damage that impairs the serviceability of high-stress transmission pipe must be replaced, unless it is repaired by a full encirclement welded split sleeve. The proposed rule would permit operators to use alternative corrective methods that have been demonstrated to permanently restore the pressure integrity of corroded or damaged pipe. By allowing the use of less expensive proven technologies, the proposed rule would reduce costs in the gas pipeline industry without reducing safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-4733

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD25

2535. PIPELINE SAFETY: PRESSURE TESTING OLDER PIPELINES IN TERMINALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195.302

Legal Deadline: None

Abstract: Certain older pipelines in terminals and tank farms must be pressure tested before December 7, 2003. Based on a petition, RSPA is reconsidering this testing requirement in light of the risk and low operating stress of these pipelines. RSPA has stayed enforcement of the testing requirement against pipelines designed not to operate above 20 percent of specified minimum yield strength.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Notice requesting comment 2/10/98 (63 FR 6677) in Docket No. PS-121.

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD26

2536. • HAZARDOUS MATERIALS: HAZARD COMMUNICATION REQUIREMENTS—PETITIONS FOR RULEMAKING AND MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172

Legal Deadline: None

Abstract: This rulemaking action would amend the Hazardous Materials Regulations (HMR) to continue improving the hazard communication requirements to better identify hazardous materials in transportation, in response to several petitions for rulemaking and RSPA initiatives. The primary areas that would be addressed are shipping papers, marking, labeling, and placarding requirements. In making improvements to the hazardous materials identification system in the HMR, the proposed action is intended to improve safety for transportation workers, emergency responders, and the public. The effect of the proposed regulatory action would be to simplify, clarify, correct, or provide relief from certain regulatory requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Docket No. HM-206B

Agency Contact: Helen Engrum, Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-8553
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RIN: 2137–AD28

2537. • HAZARDOUS MATERIALS: REVISED AND CLARIFIED HAZARDOUS MATERIALS EXEMPTIONS PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

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Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: This rulemaking will make minor substantive changes to the hazardous materials exemptions procedures of the hazardous materials procedural regulations and will result in a complete re-write of the exemptions procedures in language that is easier to understand. This action follows a previous rulemaking which involved re-writing the hazardous materials rulemaking procedures. These actions are being taken to update RSPA's procedural regulations in a new question and answer formate that will be more user friendly.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Karin V. Christian, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD30

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2538. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action responded to a petition for rulemaking that proposed to remove the fifty-pound limit on the quantity of hazardous materials that may be stowed in an inaccessible cargo location on passenger-carrying aircraft. Comments to the NPRM indicated that further evaluation is needed. RSPA has decided to withdraw this proposal and consider the petition for rulemaking in its overall revision of 48 CFR Part 175, in HM-228, RIN 2317-AD18.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	
To Be Withdrawn	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This project was formerly entitled: Limitation Aboard Aircraft. Docket HM-192. A related rulemaking is "Prohibition of Oxidizers Aboard Aircraft," HM-224A, RIN 2127-AC92. The proposal will be considered as part of HM-228, RIN 3217-AD18.

ANALYSIS: Regulatory Evaluation, 02/13/85, 50 FR 6013

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AA85

2539. +PIPELINE SAFETY: QUALIFICATION OF PIPELINE PERSONNEL

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would establish qualification standards for personnel who perform certain operation and maintenance functions on gas or hazardous liquid pipelines. The standards are needed to ensure that pipeline personnel can recognize, and react properly to, dangerous situations.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	
NPRM	08/03/94	59 FR 39506
Extended Comment Period End 10/31/94	09/07/94	59 FR 46219
Notice of Public Hearing	09/07/94	59 FR 46219
NPRM Comment Period End	10/03/94	
Notice of Intent to Form a Negotiated Rulemaking Committee	07/02/96	61 FR 34410
NPRM Withdrawn	07/02/96	61 FR 34413
NPRM	10/27/98	63 FR 57269
Notice of Public Meeting	02/02/99	64 FR 5018
Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-3783. Formerly Docket No. PS-94, Pipeline Operator Qualifications. The proposals regarding certification of personnel and emergency response in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking. Following withdrawal of an initial NPRM, a negotiated rulemaking committee considered alternatives and, by January 1998, reached consensus on a proposal to require pipeline operators to have and follow a personnel qualification program. A second NPRM will be based on this proposal.

ANALYSIS: Regulatory Evaluation, 08/03/94, 59 FR 39506

Agency Contact: Eben Wyman, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590

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Phone: 202 366-0918

RIN: 2137–AB38

2540. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Gas pipeline operators must now inspect for corrosion on buried metallic pipe that is exposed by excavation. If any corrosion is discovered, this rulemaking would require operators to investigate further to determine the full extent of the corrosion. A similar investigation is already required for hazardous liquid pipelines. NTSB has recommended that this proposal be adopted to establish an equivalent level of safety for gas pipelines. An NPRM was issued in June 1989 (54 FR 27041). Rather than produce a final rule on this single corrosion issue, RSPA has decided to consider this in Docket No. RSPA-97-2762 (RIN 2137-AD24), a new docket to consider the entire range of corrosion requirements in the gas and hazardous liquid pipeline regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27041
NPRM Comment Period End	09/25/89	
To Be Withdrawn	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-107. The issue addressed by this action may be reconsidered in a separate proceeding dedicated to the review of all corrosion control requirements in 49 CFR parts 192 and 195 (Docket No. RSPA-97-2762; 62 FR 44436; Aug. 21, 1997).

ANALYSIS: Regulatory Evaluation, 06/27/89, 54 FR 27041

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590

Phone: 202 366-4559

RIN: 2137–AB50

2541. PASSAGE OF INTERNAL INSPECTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking established minimum Federal pipeline safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. In response to petitions for reconsideration of the final rule, an additional NPRM was issued proposing to limit the rule with respect to new and existing offshore gas transmission lines and the replacement of onshore gas transmission lines in rural areas.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54745
NPRM Comment Period End	01/19/93	
Final Rule	04/12/94	59 FR 17275
NPRM	09/30/94	59 FR 49896
NPRM Correction	10/19/94	59 FR 52863
Limited Suspension of Enforcement	02/07/95	60 FR 7133
NPRM Comment Period End	10/31/97	59 FR 49896
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-126. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, was consolidated, in part, into this rulemaking.

ANALYSIS: Regulatory Evaluation, 04/12/94, 59 FR 17275

Agency Contact: R. Huriaux, Manager - Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4565

RIN: 2137–AB71

2542. PIPELINE SAFETY: ADOPTION OF INDUSTRY STANDARDS FOR BREAKOUT TANKS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This action proposes to incorporate by reference the applicable standards for breakout tank design and construction that are contained in American Petroleum Institute Standard 650-653 and other national standards. These standards are already widely followed in the pipeline industry. In developing this regulation, RSPA has the benefit of a Texas A&M study on breakout tanks and input from the pipeline industry and other commenters.

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 27903
Comment Period End	07/20/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2095.

ANALYSIS: Regulatory Evaluation, 05/21/98, 63 FR 27908

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4571

RIN: 2137–AC11

2543. TANK CARS AND CARGO TANK MOTOR VEHICLES: ATTENDANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This action establishes standards to allow the use of electronic surveillance and monitoring equipment (signalling systems) for unloading tank cars and to revise other unloading requirements for tank cars. This action

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would recognize recent technological innovations and improve safety during the loading/unloading of bulk quantities of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	09/14/92	57 FR 42466
NPRM Comment Period End	12/14/92	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-212.

ANALYSIS: Regulatory Evaluation, 09/14/92, 57 FR 42466.

Agency Contact: Susan Gorsky, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AC24

2544. +RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 194

Legal Deadline:
Final, Statutory, August 18, 1992.

Abstract: The interim final rule established regulations requiring response plans for certain onshore oil pipelines. Those regulations are mandated by the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (Pub. L. 101-380). The purpose of these requirements is to improve response capabilities and minimize the impact of onshore oil spills from pipelines. This rule is significant because of substantial public and congressional interest.

Pipeline operators filed response plans under this interim final rule, and numerous tabletop exercises and area exercises have been conducted to validate the planning process. The final rule in this matter will reflect the experience gained under the interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/93	58 FR 244
Comment Period End	02/19/93	
Notice of Public Meeting	06/15/94	59 FR 30755
Public Meeting Comment Period End	08/01/94	
Notice of Public Hearing	11/29/96	61 FR 60679
Correction	01/21/97	62 FR 2989
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-130.

ANALYSIS: Regulatory Evaluation, 01/05/93, 58 FR 244

Agency Contact: James Taylor, Response Plans Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8860

RIN: 2137–AC30

2545. FILLING OF PROPANE CYLINDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: The ANPRM solicited comments on the merits of a petition for rulemaking to require registration and training of persons who fill propane cylinders, certification of filling equipment operators, and proof of financial responsibility. The petition would also allow filling of propane cylinders by volume rather than by weight, which is currently required by the hazardous material regulations. This notice will terminate rulemaking action in this docket and deny the petition for rulemaking because, based on the comments, there is no safety justification for imposing the costs of a registration, training and financial responsibility program for cylinder fillers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/96	61 FR 43515
ANPRM Comment Period End	11/21/96	
To Be Withdrawn	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-220C.

Agency Contact: Eileen Mack, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AC86

2546. +PROHIBITION OF OXIDIZERS ABOARD AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: RSPA has proposed to amend the Hazardous Materials Regulations to prohibit the carriage of oxidizers, including compressed oxygen, aboard passenger-carrying aircraft. The effect of this prohibition would limit oxidizers to accessible locations on cargo aircraft. The December 30, 1996, notice of proposed rulemaking analyzed Class D cargo compartments. The August 20, 1997 supplemental NPRM specifically analyzed the prohibition of oxidizers in Class B and C cargo compartments. This rulemaking is significant due to congressional and public interest in the hazards presented by these materials when transported as cargo on passenger aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68955
NPRM Comment Period End	02/28/97	
SNPRM	08/20/97	62 FR 44374
Comment Period End	10/20/97	
Reopen Comment Period	11/28/97	62 FR 63306
Public Hearing	01/14/98	

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Action	Date	FR Cite
Comment Period End	02/13/98	
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: HM-224A. See related actions, Prohibition of Oxygen Generators as Cargo in Passenger Aircraft (RIN 2137-AC89), 61 FR 26418 (May 24, 1996), 61 FR 68952 (December 30, 1996), and Hazardous Materials; Shipping Description and Packaging of Oxygen Generators (RIN 2127-AD02), 62 FR 30767 (June 5, 1999), 62 FR 34667 (June 27, 1999).

Agency Contact: Diane LaValle, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AC92

2547. PIPELINE SAFETY: ADOPTION OF INDUSTRY STANDARDS FOR LIQUEFIED NATURAL GAS FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60128

CFR Citation: 49 CFR 193

Legal Deadline: None

Abstract: This action would replace existing DOT standards governing the siting, design, and construction of liquefied natural gas facilities with an incorporation by reference of the 1996 edition of the National Fire Protection Association document, ANSI/NFPA 59A, "Production, Storage, and Handling of Liquefied Natural Gas." The action, which is based on an NFPA rulemaking petition, is expected to reduce costs to the gas pipeline industry without compromising safety.

Timetable:

Action	Date	FR Cite
NPRM	12/22/98	63 FR 70735
NPRM Comment Period End	03/22/99	
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-3002. Notice of public meeting (63 FR 5918;2/5/98)

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD11

2548. HAZARDOUS MATERIALS: REVISED AND CLARIFIED HAZARDOUS MATERIALS SAFETY RULEMAKING AND PROGRAM PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106; 49 CFR 107

Legal Deadline: None

Abstract: This rulemaking will make minor substantive changes to Rulemaking Procedures and Hazardous Materials Program Procedures, 49 CFR parts 106 and 107 of the hazardous materials procedural regulations, and will result in a complete re-write of those parts in language that is easier to understand. This action is being taken in order to update RSPA's hazardous materials procedural regulations and to re-write the current requirements in a new question and answer format that will be more user-friendly. These changes are expected to be of interest to those persons and entities subject to the requirements of the hazardous materials regulations (49 CFR parts 171-180).

Timetable:

Action	Date	FR Cite
NPRM	12/11/98	63 FR 68624
NPRM Comment Period End	02/09/99	
Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-3974.

Agency Contact: Nancy E. Machado, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400
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Email: rules@rspa.dot.gov

RIN: 2137–AD20

DEPARTMENT OF TRANSPORTATION (DOT) **Long-Term Actions**

Research and Special Programs Administration (RSPA)

2549. +MAPS AND RECORDS OF PIPELINE LOCATIONS AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, November 1, 1989, Deadline pertains to pipeline inventory and State agency information.

Abstract: This action proposes to equalize as far as possible the requirements that gas and hazardous liquid pipeline operators keep maps and records to show the location and other characteristics of pipelines. Operators would be required to keep an inventory of pipe and periodically report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of

congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: In furtherance of this rulemaking, the Department of Transportation's Office of Pipeline Safety (OPS) is working with other Federal and State agencies and pipeline industry to create a national pipeline mapping system. This system, when complete, will show the location and selected attributes of the major natural gas and hazardous liquid pipelines and liquefied natural gas facilities operating in the United States. OPS will add additional data layers into the system, including layers on population densities, unusually sensitive areas, natural disaster probability and high consequence areas, hydrography, and transportation networks. OPS will use the system to depict pipelines in relation to the public and the environment, and to work with other government agencies and industry during an incident.

A joint government/industry Mapping Quality Action Team (MQAT II) has drafted national pipeline mapping standards that will be used to create the digital pipeline layer. These include standards for electronic data submissions, paper map submissions, and metadata (data on the data). The team has also drafted standards that will be used by the pipeline mapping repository receiving the pipeline information. The team is currently pilot testing the draft standards and is working to establish relationships with State agencies, industry, and others to exchange data that meets the standards.

Agency Contact: Christina Sames, Petroleum Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AB48

2550. +SAFEGUARDING FOOD FROM CONTAMINATION DURING TRANSPORTATION

Priority: Other Significant

Legal Authority: 49 USC 5701 to 5714

CFR Citation: 49 CFR 1

Legal Deadline:
Final, Statutory, August 1, 1991.

Abstract: The Sanitary Food Transportation Act of 1990 (49 USC 5701 et seq.) requires the Secretary of Transportation, in consultation with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency, to issue regulations concerning the transportation of food, food additives, drugs, devices, and cosmetics in motor and rail vehicles also used to transport nonfood products that could pose an unreasonable danger to human or animal health when so transported. This rulemaking will implement the statutory requirements. This rulemaking is significant because of substantial public and congressional interest. RSPA's next action is undetermined because it has requested personnel resources from Congress necessary to perform these food safety functions.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/91	56 FR 6934
Extended Comment Period End 04/29/91	03/21/91	56 FR 11982
NPRM	05/21/93	58 FR 29698
Notice of Public Hearing	05/21/93	58 FR 29698
NPRM Comment Period End	10/18/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket FS-1. The Department has resubmitted to Congress legislation proposing to significantly change the responsibilities for this action.

ANALYSIS: Regulatory Evaluation, 05/21/93, 58 FR 29698

Agency Contact: Jodi George, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC00

2551. REGULATED GAS AND HAZARDOUS LIQUID GATHERING LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: This action would establish regulations for gas and hazardous liquid gathering lines in rural areas for which there are at present no safety regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard Huriaux, Director, Technology & Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AC53

2552. RETENTION OF SHIPPING PAPERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to amend the Hazardous Materials Regulations by requiring shippers and carriers to retain a copy of the hazardous material shipping paper or an electronic image of the shipping paper for a period of one year. Retention of shipping papers is a current requirement as specified in 49 U.S.C. 5110(e). RSPA's next action is undetermined because there is pending proposed legislation on this subject that would clarify the time frame for beginning the one year cycle.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

DOT—RSPA

Long-Term Actions

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-207B.

Agency Contact: Deborah Boothe, Transportation Regulation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AC64

2553. FURTHER REGULATORY REVIEW; GAS PIPELINE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: This action would change miscellaneous gas pipeline safety standards to provide clarity, eliminate unnecessary or overly burdensome requirements, and foster economic change. Some of the proposed changes result from RSPA's further review of the standards following its 1995-1996 review under the President's Regulatory Reinvention Initiative. Other changes are based on recommendations by the National Association of Pipeline Safety Representatives (NAPSR) in its November 1992 report on the standards. The proposed changes would reduce costs in the pipeline industry without compromising safety.

NAPSR and the pipeline industry formed a working group to consider the NAPSR proposals and other issues. An NPRM in response to the petitions may be issued after consultations with this group.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-124. The NAPSR report was published November 9, 1993, at 58 FR 59431, as part of the earlier review of the standards.

Agency Contact: Richard Huriaux, Director, Office of Technology and Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AD01

2554. +PIPELINE SAFETY: RECOMMENDATIONS TO CHANGE HAZARDOUS LIQUID PIPELINE SAFETY STANDARDS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 60101 to 60128

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: In 1995, the National Association of Pipeline Safety Representatives (NAPSR) completed its review of the hazardous liquid pipeline safety regulations. NAPSR provided RSPA with 28 recommendations for changes to 49 CFR part 195, the hazardous liquid pipeline regulations. NAPSR's recommendations are aimed at making the regulations more explicit, understandable, and enforceable. This action would address the need to change Part 195 as NAPSR recommended. This action is considered significant because it involves matters of substantial public and State interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2717.

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559
Fax: 202 366-4566

RIN: 2137–AD10

2555. 1998 HARMONIZATION OF HAZARDOUS MATERIALS REGULATIONS WITH INTERNATIONAL STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking maintains harmonization of the Hazardous Materials Regulations (HMR) with international standards.

Because of recent changes to the International Maritime Dangerous Goods Code (IMDG), the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air and the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), these revisions are necessary to facilitate the transport of hazardous materials in international commerce.

The first final rule made urgent changes that were necessary to align the HMR with the IMDG and ICAO Technical Instructions. The second final rule addressed all other harmonization proposals contained in the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	08/18/98	63 FR 44312
NPRM Comment Period End	10/02/98	
Final Rule	10/29/98	63 FR 57929
Effective Date	01/01/99	
Final Rule	03/05/99	64 FR 10742
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-215C. comments submitted to RIN 2137-AC47, Docket No. HM-217 were considered in this docket.

ANALYSIS: Regulatory Evaluation, 04/15/98

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590

DOT—RSPA

Long-Term Actions

Phone: 202 366-8553
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RIN: 2137–AD15

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Completed Actions

2556. HAZARDOUS MATERIALS: LABELING REQUIREMENTS FOR POISONOUS MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174 to 177

Legal Deadline: None

Abstract: This action was initiated to consider changes to certain labeling provisions of the Hazardous Materials Regulations to require the use of a POISON label on packages containing materials meeting the toxicity criteria for poisonous materials in Division 6.1, Packing Group III. This rulemaking is necessary due to elimination of the Keep Away From Food Label by the UN. In August 1998, this rulemaking was combined with the rulemaking in Docket No. HM-215C (RSPA-97-4155), and this docket (HM-217) was terminated as a separate rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/93	58 FR 59224
ANPRM Comment Period End	01/10/94	
Action Terminated	08/18/98	63 FR 44312

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Formerly Docket No. HM-217. This action was combined with Docket HM-215C, RIN 2137-AD15. Comments submitted to this Docket were considered in Docket HM-215C.

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC47

2557. +RISK-BASED ALTERNATIVE TO PRESSURE TESTING RULE

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking provides a risk-based alternative to the existing pressure testing rule for older hazardous liquid and carbon dioxide pipelines. On June 7, 1994 (59 FR 29379), RSPA issued a final rule requiring the hydrostatic pressure testing of certain older pipelines (49 CFR 195.302). On June 23, 1995, the American Petroleum Institute (API) filed a petition on behalf of many liquid pipeline operators that recommended a risk-based alternative to the required pressure testing rule. RSPA found considerable merit in a risk-based approach to pressure testing and thus postponed the time for compliance with the final rule issued on June 7, 1994, to allow time for evaluation of the API petition. The risk-based alternative allows operators to elect an approach to evaluating the integrity of these lines that takes into account individual risk factors. This allows operators to focus resources on higher-risk pipelines and effect a greater reduction in the overall risk from pipeline accidents. This rulemaking is considered significant because of the substantial industry interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	03/08/96	61 FR 9415
NPRM	02/05/98	63 FR 5918
NPRM Comment Period End	04/06/98	
Final Action	11/04/98	63 FR 59475

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-144. A final rule issued 10/27/97 (62 FR 54591) (Docket No. PS-121; RIN 2137 AD05) extends time for compliance with the pressure testing final rule issued June 7, 1994 (58 FR 29379).

ANALYSIS: Regulatory Evaluation, 02/05/98, 63 FR 5920

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571

RIN: 2137–AC78

2558. PIPELINE SAFETY: PERIODIC UPDATES TO PIPELINE SAFETY REGULATIONS (1997)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 195; 49 CFR 1.53

Legal Deadline: None

Abstract: This rulemaking is designed to update the pipeline safety regulations on an annual basis. It incorporated by reference the latest editions of consensus standards to allow operators to utilize current technology, materials, and practices. In addition, noncontroversial corrections and clarifications were made. This annual update process is consistent with the President's goal of regulatory reinvention and improvement of customer service.

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/17/98	63 FR 7721
Direct Final Rule Effective	05/04/98	

DOT—RSPA

Completed Actions

Action	Date	FR Cite
Corrections to Direct Final Rule	07/20/98	63 FR 38757

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2251.

Agency Contact: Eben Wyman, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0918

RIN: 2137–AD03

2559. HAZARDOUS MATERIALS: EDITORIAL CORRECTIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 171 to 173; 49 CFR 175 to 180

Legal Deadline: None

Abstract: This final rule corrected editorial errors, made non-substantive regulatory changes, and in response to requests for clarification, improved the clarity of certain provisions of the Hazardous Materials Regulations (HMR). This final rule correcting minor errors was not preceded by a notice of proposed rulemaking because RSPA made a finding for good cause that notice and public comment are unnecessary under the Administrative Procedure Act.

Timetable:

Action	Date	FR Cite
Final Action	10/01/98	63 FR 52844

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. 189-O.

Agency Contact: Charles E. Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-8553
Fax: 202 366-3012

RIN: 2137–AD27

2560. • HAZARDOUS MATERIALS: AUTHORIZATION FOR CONTINUED MANUFACTURE OF CERTAIN MC-331 CARGO TANK MOTOR VEHICLES WITH SPECIFIED SHORTAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: The final rule extends for a 4-month period, until July 1,1999, a provision that permits the continued manufacture and certification of certain cargo tanks under temporary alternative provisions found in Docket HM-225 (RIN 2137-AC97). This extension is necessary to avoid the unnecessary disruption of cargo tank manufacturing and delivery processes while RSPA works with industry to develop new cargo tank manufacturing and certification requirements for certain cargo tanks. We did not receive any comments on the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	01/12/99	64 FR 1789
NPRM Comment Period End	02/11/99	
Final Action	03/01/99	64 FR 9923
Final Action Effective	03/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HM-225B

Agency Contact: Jennifer Karim, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-8553
Fax: 202 366-3012

RIN: 2137–AD31

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MARAD)

Prerule Stage

2561. • +ELIGIBILITY OF U.S.-FLAG VESSELS OF 100 FEET OR GREATER TO OBTAIN COMMERCIAL FISHERIES DOCUMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-277, sec 203

CFR Citation: 46 CFR 356

Legal Deadline:
Final, Statutory, April 1, 2000.

Abstract: The American Fisheries Act of 1998 (AFA) raises the U.S. ownership standards for U.S.-flag fishing vessels operating in U.S. waters, eliminates exemptions for vessels that cannot meet current citizenship standards, and phases out of operation many of the largest fishing vessels that are thought to be destructive to fishery resources. In this action MARAD will propose new regulations for vessels of 100 feet or greater to (1) prohibit certain transfers of ownership or control to noncitizens; (2) identify transactions that will require prior agency approval; and, (3) identify transactions that will not require prior agency approval. This rule is considered significant because of Congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John T. Marquez, Jr., Attorney Advisor, Division of Maritime Assistance Programs, Room 7228, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5320
Fax: 202 366-7485
Email: john.marquez@marad.dot.gov

RIN: 2133–AB38

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MARAD)

Proposed Rule Stage

2562. PUTTING CUSTOMERS FIRST IN THE TITLE XI PROGRAM: SHIP FINANCING GUARANTEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1271 et seq

CFR Citation: 46 CFR 298; 49 CFR 1.66

Legal Deadline: None

Abstract: MARAD is proposing to amend existing regulations and simplify existing administrative practices governing the following areas: 1) the ship financing guarantee process; 2) standards for evaluation and approval of applications; and 3) the process and documentation for closing of commitments to guarantee obligations issued under these regulations. These changes should make the entire process easier for prospective applicants.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/98	63 FR 7745
ANPRM Comment Period End	03/19/98	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell D. Lax, Director, Office of Ship Finance, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1891

RIN: 2133–AB32

2563. • +CARGO PREFERENCE REGULATIONS—CARRIAGE OF AGRICULTURAL EXPORTS

Priority: Other Significant

Legal Authority: 46 app USC 1114(b); 46 app USC 1241; 49 CFR 1.66

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: This action solicits public comments concerning whether the Maritime Administration should amend its cargo preference regulations governing the carriage of agricultural exports with respect to: giving equal preference to all U.S.-flag service and mixed U.S.-flag/foreign-flag service; standardizing the current means for measuring compliance with cargo preference statutes or revising them; redefining certain terms to clarify requirements of cargo preference regulations and bring them in line with commercial practices; and other related issues. If action is proposed as a result of comments received, such action could have a significant affect on the shipment of a substantial portion of humanitarian and cargoes financed by the U.S. Government.

Timetable:

Action	Date	FR Cite
ANPRM	01/28/99	64 FR 4382
ANPRM Comment Period End	03/29/99	
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Harrelson, Director, Office of Cargo Preference, Room 8118, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5515

RIN: 2133–AB37

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MARAD)

Completed Actions

2564. APPROVAL OF CERTAIN TRANSACTIONS BEFORE VESSEL DOCUMENTATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-324

CFR Citation: 46 CFR 221

Legal Deadline: None

Abstract: This action would have implemented section 1136(b) of the Coast Guard Authorization Act of 1996, which gives MARAD the discretion to grant approval of foreign transfer of vessels before they are actually documented under U.S. flag. In the absence of any application for such approval, MARAD determined that this regulation was unnecessary. Any such applications received in the future can easily be dealt with by applying the statutory criteria on an ad hoc basis.

Timetable:

Action	Date	FR Cite
Action Withdrawn	02/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edmund T. Sommer, Jr., Chief, Division of General and International Law, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5181
Fax: 202 366-7485

RIN: 2133–AB30

2565. USE OF BROKERAGE FIRMS AS DEPOSITORIES UNDER THE CAPITAL CONSTRUCTION FUND PROGRAM

Priority: Info./Admin./Other

Legal Authority: 46 app USC 1114(b)

CFR Citation: 46 CFR 351; 49 CFR 1.66

Legal Deadline: None

Abstract: The regulations provide the qualifications for approval of depositories under several maritime programs, including the Capital Construction Fund Program (CCF). The CCF statute allows CCF fund holders to invest CCF funds in various securities, under certain conditions, but the relevant regulations do not allow for the use of brokerage firms. The Maritime Administration therefore amended its regulations to approve brokerage firms, under certain conditions, as acceptable depositories under the CCF program and bring the

DOT—MARAD **Completed Actions**

regulations up to date with the CCF program.

Timetable:

Action	Date	FR Cite
Final Action	10/14/98	63 FR 55039
Final Action Effective	10/16/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action was exempt from the notice requirements of the Administrative Procedure Act because it is a matter relating solely to agency management.

Agency Contact: Philip Budwick, Attorney Advisor, Office of Chief Counsel, Room 7228, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5167

RIN: 2133–AB35

2566. APPROVAL OF UNDERWRITERS FOR MARINE HULL INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 46 app USC 1114(b)

CFR Citation: 49 CFR 249; 49 CFR 1.66

Legal Deadline: None

Abstract: The Maritime Administration solicited comments from interested persons concerning the need to amend the existing regulations governing the placement of marine hull insurance on subsidized and title XI program vessels. The existing regulations provide, among other things, the criteria and procedures for certain foreign underwriters to participate in the writing of hull insurance on program vessels. The possible need to amend the existing regulations arose because of the planned merger of two London-based marine insurance underwriters. Marad sought comments on how to deal with certain existing underwriter companies after the merger. Based on MARAD's own internal review and the limited response to the ANPRM, MARAD decided it was not necessary to proceed with rulemaking on this matter.

Timetable:

Action	Date	FR Cite
ANPRM	09/04/98	63 FR 42717
ANPRM Comment Period End	10/05/98	
Action Terminated	01/08/99	64 FR 1175

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edmond J. Fitzgerald, Director, Office of Subsidy and Insurance, Room 8117, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2400

RIN: 2133–AB36

DEPARTMENT OF TRANSPORTATION (DOT) **Prerule Stage**

Bureau of Transportation Statistics (BTS)

2567. MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as change-of-gauge flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action is related to and may be affected by RIN 2105-AC71. It is now being administered by the Bureau of Transportation Statistics (BTS) since the Office of Aviation Information has been transferred to BTS from RSPA. (Formerly RIN 2137-AB92)

Agency Contact: M. Clay Moritz, Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA01

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Proposed Rule Stage

2568. MODERNIZING THE MOTOR CARRIERS OF PROPERTY FINANCIAL DATA COLLECTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 14122 to 14123

CFR Citation: 49 CFR 1420

Legal Deadline: None

Abstract: The motor carriers of property financial data collection program was transferred to DOT from the Interstate Commerce Commission by the ICC Termination Act of 1995 (ICCTA), which went into effect 1/1/96. The Secretary of Transportation has delegated responsibility for this program to BTS. The ICCTA made several modifications to the data collection program and calls on DOT to streamline and simplify reporting requirements. This rulemaking implements the ICCTA by revising the data collection to collect data for current needs while reducing respondent burden. It also adopts a system whereby motor carriers can request exemptions from filing and exemptions from public release of their reports. The supplemental notice requests further comment on public release of data from carrier reports.

Timetable:

Action	Date	FR Cite
Notice: Negotiated Rulemaking	12/09/96	61 FR 64849
Comment Period Extended	01/23/97	62 FR 3492
Comment Period Extended	02/07/97	62 FR 5792
NPRM	11/03/98	63 FR 59263
NPRM Comment Period End	11/25/98	
NPRM Comment Period Extended	11/25/98	63 FR 65163
Extended NPRM Comment Period End	01/15/99	
Final Rule	03/23/99	64 FR 13916
SNPRM	03/23/99	64 FR 13948
Final Rule Effective	04/22/99	64 FR 13916
SNPRM Comment Period End	04/22/99	64 FR 13948

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BTS proposed the establishment of a negotiated rulemaking advisory committee in December 1996. However, BTS has determined that this process would not provide a significant advantage over conventional rulemaking. The CFR citation has changed from 49 CFR 1249 to 49 CFR 1420. The regulations were moved from the Surface Transportation Board's CFR Chapter to BTS's chapter and the change reflects this move (63 FR 51292).

Agency Contact: David Mednick, K-2, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8871
Fax: 202 366-3640

RIN: 2139–AA05

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Completed Actions

2569. +AMENDMENTS TO THE ON-TIME DISCLOSURE RULE

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 40114; 49 USC 41702; 49 USC 41708; 49 USC 41712; 5 USC 553(e)

CFR Citation: 14 CFR 234; 14 CFR 302.38

Legal Deadline: None

Abstract: This action had proposed to reinstate the exclusion of flights delayed or cancelled because of mechanical problems from air carriers' on-time flight reports. The action was withdrawn in response to comments by consumer groups, safety experts and various airlines.

Timetable:

Action	Date	FR Cite
NPRM	06/05/95	60 FR 29514
NPRM Comment Period End	07/05/95	
Extended Comment Period End 8/5/95	07/06/95	60 FR 35158
Withdrawn	01/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The NPRM was published under RSPA RIN 2137-AC67. However, since BTS is now separate from RSPA this new RIN 2139-AA00 has been assigned and will be used for future actions. This rule is significant under DOT regulatory policies and procedures due to the potential impact on safety. However, it is not considered significant under EO 12866.

Agency Contact: Bernie Stankus, Systems Accountant, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4387
Fax: 202 366-3383

RIN: 2139–AA00

[FR Doc. 99-9307 Filed 04-23-99; 8:45 am]
BILLING CODE 4910-62-F

federal register

Monday
April 26, 1999

Part XV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Departmental Offices, Treasury.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations. The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation, contact the "Agency Contact" listed in the specific regulatory action.

Dated: March 22, 1999.

Richard S. Carro,

Associate General Counsel.

Departmental Offices—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2570	31 CFR ch II Possible Regulation of Access to Accounts at Financial Institutions Through Payment Service Providers	1505-AA74

Departmental Offices—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2571	12 CFR 1805 (New) Community Development Financial Institutions Program; Bank Enterprise Award Program Regulations	1505-AA71

Financial Crimes Enforcement Network—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2572	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Broker/Dealers	1506-AA21

Financial Crimes Enforcement Network—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2573	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Registration Requirement for Certain Non-Bank Financial Institutions—Money Services Businesses (MSBs)	1506-AA09
2574	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Regarding Reporting of Cross-Border Transportation of Certain Monetary Instruments	1506-AA15
2575	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Special Reporting and Recordkeeping Requirements—Money Services Businesses (MSBs)	1506-AA19
2576	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Money Services Businesses (MSBs)	1506-AA20
2577	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Casinos	1506-AA22

Financial Crimes Enforcement Network—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2578	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement That Financial Institutions Carry Out Anti-Money-Laundering Programs	1506-AA05

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Financial Crimes Enforcement Network—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2579	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Delegation of Authority To Assess Civil Money Penalties on Depository Institutions	1506-AA08

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2580	31 CFR 205 Rules and Procedures for Funds Transfers	1510-AA38
2581	31 CFR 240 Indorsement and Payment of Checks Drawn on the United States Treasury	1510-AA45
2582	31 CFR 245 Claims on Account of Treasury Checks	1510-AA51
2583	31 CFR 285.5 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) To Collect Past-Due, Legally Enforceable Nontax Debt	1510-AA65

Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2584	31 CFR 210 Federal Government Participation in the Automated Clearing House	1510-AA17
2585	31 CFR 281 Foreign Exchange Operations	1510-AA48
2586	31 CFR 256 Payments Under Judgment and Private Relief Acts	1510-AA52
2587	31 CFR 900 to 904 Federal Claims Collection Standards	1510-AA57
2588	31 CFR 285.12 Transfer of Debts to Treasury for Collection	1510-AA68
2589	31 CFR 285.7 Matching of Federal Employee Records for Salary Offset	1510-AA70

Financial Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2590	31 CFR 285.6 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) to Collect Past-Due Debts Owed to States (Other Than Child Support)	1510-AA66
2591	31 CFR 285.14 Public Dissemination of Identity of Delinquent Debtors	1510-AA72
2592	31 CFR 202 Depositaries and Financial Agents of the Federal Government	1510-AA75
2593	31 CFR 203 Payment of Federal Taxes and the Treasury Tax and Loan Program	1510-AA76
2594	31 CFR 225 Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds With Sureties	1510-AA77

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2595	31 CFR 225 Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds With Sureties	1510-AA36
2596	31 CFR 203 Treasury Tax and Loan Depositaries and Payment of Federal Taxes	1510-AA37
2597	31 CFR 285.3 Offset of Tax Refund Payments To Collect Past-Due Support	1510-AA63
2598	31 CFR 285.4 Offset of Federal Benefit Payments	1510-AA64
2599	31 CFR 285.13 Barring Delinquent Debtors From Obtaining Federal Financial Assistance in the Form of Loans or Loan Guarantees	1510-AA71
2600	31 CFR 285.4 Offset of Federal Benefit Payments	1510-AA74

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Bureau of Alcohol, Tobacco and Firearms—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2601	27 CFR 5.36 (e) Country of Origin Statements on Distilled Spirits Labels	1512-AB72

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2602	27 CFR 9 American Viticultural Areas	1512-AA07
2603	27 CFR 7 Revision of Brewery Regulations and Issuance of Regulations for Taverns on Brewery Premises (Brewpubs)	1512-AB37
2604	27 CFR 24 Implementation of Public Law 105-34, Sections 1421 and 1422	1512-AB75
2605	27 CFR 4 Alteration of Labels on Containers of Distilled Spirits, Wine and Beer	1512-AB76
2606	27 CFR 4.21 Labeling of Wine Specialty Products and Flavored Wines	1512-AB86
2607	27 CFR 4 to 5 Prohibition of Alcohol Beverage Containers and Standard of Fill for Distilled Spirits and Wine	1512-AB89
2608	27 CFR 55 Commerce in Explosives (Including Explosives in the Fireworks Industry)	1512-AB48
2609	27 CFR 55 Implementation of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997, Relating to the Establishment of a National Repository for Arson and Explosives Information	1512-AB73
2610	27 CFR 178 Impl. of PL 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY 1999, Relating to the Permanent Provisions of the Brady Handgun Violence Prevention Act	1512-AB83
2611	27 CFR 178 Identification of Markings Placed on Firearms	1512-AB84

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2612	27 CFR 5 Labeling of Unaged Grape Brandy	1512-AB46
2613	27 CFR 19.11 Distilled Spirits Plant Regulatory Initiative Proposal	1512-AB58
2614	27 CFR 21.3 Formulas for Denatured Alcohol and Rum	1512-AB60
2615	27 CFR 24.278 Implementation of Wine Credit Provisions of Public Law 104-188	1512-AB65
2616	27 CFR 4 Net Contents Statement on Wine Labels	1512-AB70
2617	27 CFR 4 Implementation of Public Law 105-34, Sections 908, 910 and 1415, Related to Hard Cider, Semigeneric Wine Designations and Wholesale Liquor Dealer's Signs	1512-AB71
2618	27 CFR 24.178 Implementation of PL 105-34, Section 1417, Related to the Use of Ameliorating Material in Certain Wines	1512-AB78
2619	27 CFR 4.91 Petition for Johannisberg Riesling; Proposed Addition of Grape Variety Names for American Wines; Request for Additional Information for Other Proposed Grape Varieties	1512-AB80
2620	27 CFR 47 Implementation of Public Law 104-132, the Antiterrorism and Effective Death Penalty Act of 1996, Relating to the Marking of Plastic Explosives for the Purpose of Detection	1512-AB63
2621	27 CFR 178 Commerce in Firearms and Ammunition (Omnibus Consolidated Appropriations Act of 1997)	1512-AB64
2622	27 CFR 178 Residency Requirement for Persons Acquiring Firearms	1512-AB66
2623	27 CFR 70 Recodification of Statement of Procedural Rules	1512-AB54
2624	27 CFR 178 . Technical Amendments to 27 CFR part 178	1512-AB82
2625	5 CFR 1320.7 (f)(2) Implementation of the Paperwork Reduction Act	1512-AB90
2626	27 CFR 290 Balanced Budget Act of 1997-PL 105-33, Restriction on the Importation of Domestic Tobacco Products and Cigarette Papers and Tubes Returned to the United States	1512-AB81
2627	27 CFR 270 Tobacco Products and Cigarette Papers and Tubes Tax Increases for January 1, 2000, and January 1, 2002	1512-AB88
2628	27 CFR 270 Implementation of Public Law 105-33, Section 9302, Related to Change in Tax Computation of Cigarette Papers and the Imposition of Permit Requirements on Roll-Your-Own Tobacco	1512-AB92

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Bureau of Alcohol, Tobacco and Firearms—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2629	27 CFR 252 Exportation of Liquors	1512-AA98
2630	27 CFR 7 Alcoholic Content Labeling for Malt Beverages	1512-AB17
2631	27 CFR 22.21 Distribution and Use of Tax-Free Alcohol	1512-AB51
2632	27 CFR 20 Distribution of Denatured Alcohol and Rum	1512-AB57
2633	27 CFR 18.56 Production of Volatile Fruit Flavored Concentrate	1512-AB59
2634	27 CFR 24.66 Implementation of Public Law 105-34, Section 1416 Relating to Refund of Tax for Domestic Wine Returned to Bond Regardless of Merchantability (Taxpayer Relief Act of 1997)	1512-AB74
2635	27 CFR 200 Technical Amendments to 27 CFR Part 200	1512-AB91
2636	27 CFR 290 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax	1512-AB03

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2637	27 CFR 4.40 Procedures for Revoking Previously Approved Certificates of Label Approval, Exemptions From Label Approval, or Distinctive Liquor Bottle Approvals	1512-AB34
2638	27 CFR 55 Commerce in Explosives	1512-AB55
2639	27 CFR 55 Amendments to 27 CFR Part 55, Commerce in Explosives	1512-AB85
2640	27 CFR 53.61(b) Firearms and Ammunition Excise Taxes Parts and Accessories	1512-AB49
2641	27 CFR 178 Brady Bill Regulations—Permanent Provision	1512-AB67
2642	27 CFR 178 Posting of Signs and Written Notifications to Purchasers of Handguns	1512-AB68
2643	27 CFR 24 Delegation of Authorities of the Director in Title 27, Part 24, of the Code of Federal Regulations	1512-AB87

Bureau of the Public Debt—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2644	31 CFR 380 (New) Regulations Governing Collateral Acceptability and Valuation	1535-AA00

Bureau of the Public Debt—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2645	17 CFR 405. Amendments to the Government Securities Act Regulations: Reports To Be Made by Specialized Government Securities Broker-Dealers Regarding Year 2000 Readiness	1535-AA01

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2646	12 CFR 19 Uniform Rules of Practice and Procedure; Regulation Review	1557-AB43
2647	12 CFR 1.3(e)(1) Interpretive Rulings	1557-AB61
2648	12 CFR 24 Community Development Corporation and Project Investments and Other Public Welfare Investments	1557-AB69
2649	12 CFR 34 Real Estate Appraisals	1557-AB70
2650	12 CFR 21 Minimum Security Devices and Procedures	1557-AB71

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Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2651	12 CFR 3 Capital Rules	1557-AB14
2652	12 CFR 4 Expanded Examination Cycle for Certain Small Financial Institutions	1557-AB56
2653	12 CFR 26 Management Official Interlocks	1557-AB60
2654	12 CFR 4 Organization and Functions, Availability and Release of Information, Contracting Outreach Program	1557-AB65
2655	12 CFR 30 app B Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness	1557-AB67

Comptroller of the Currency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2656	12 CFR 12 Qualification Requirements for Transactions in Certain Securities	1557-AB54
2657	00 CFR Not yet determined Rules and Procedures for Claims Against OCC-Appointed Receiverships for Uninsured Financial Institutions	1557-AB59

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2658	12 CFR 21.21 Bank Secrecy Act Compliance: "Know Your Customer" Requirements	1557-AB66
2659	12 CFR 9 Year 2000 Readiness Reports for Transfer Agent Activities	1557-AB68

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2660	19 CFR 159 Liquidation; Extension; Suspension	1515-AB66
2661	19 CFR 12 Detention, Seizure, and Forfeiture of "Bootleg" Sound Recording and Music Videos of Live Musical Performances	1515-AB74
2662	19 CFR 142 Reconciliation	1515-AB85
2663	19 CFR 111 Remote Location Filing	1515-AC23
2664	19 CFR 102 NAFTA Preference Override	1515-AC25
2665	19 CFR 4 Foreign Repairs to American Vessels	1515-AC30
2666	19 CFR 134 Country of Origin Marking	1515-AC32
2667	19 CFR 111 Customs Brokers	1515-AC34
2668	19 CFR 4 Vessel Equipment Temporarily Landed for Repair	1515-AC35
2669	19 CFR 12 Forced or Indentured Child Labor	1515-AC36
2670	19 CFR 143 Informal Entry of Low-Value Duty-Free Merchandise	1515-AC38
2671	19 CFR 24 Expanded Methods of Payment of Duties, Taxes, Interest and Fees	1515-AC40
2672	19 CFR 19 Customs Bonded Warehouses	1515-AC41
2673	19 CFR 4 Automated Export System (AES)	1515-AC42
2674	19 CFR 12 Amended Bond Procedures for Articles Subject to Exclusion Orders Issued by the U.S. International Trade Commission	1515-AC43
2675	19 CFR 113 Importation and Entry Bond Conditions Regarding Other Agency Documentation Requirements	1515-AC44

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2676	19 CFR 151 Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers	1515-AB60
2677	19 CFR 134 Country-of-Origin Marking Requirements for Frozen Produce Packages	1515-AB61
2678	19 CFR 151 Detention of Merchandise	1515-AB75

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United States Customs Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2679	19 CFR 24 Interest on Underpayments and Overpayments of Customs Duties, Fees and Interest	1515-AB76
2680	19 CFR 181 North American Free Trade Agreement (NAFTA)—Implementation of Duty-Deferral Program Provisions	1515-AB87
2681	19 CFR 103 Electronic Requests for Confidential Treatment of Export Manifest Data	1515-AB89
2682	19 CFR 12 Entry of Softwood Lumber Shipments From Canada	1515-AB97
2683	19 CFR 171 Petitions for Relief; Seizures, Penalties, and Liquidated Damages	1515-AC01
2684	19 CFR 12 Importation of Chemicals Subject to the Toxic Substances Control Act	1515-AC04
2685	19 CFR 171 Guidelines for the Imposition and Mitigation of Penalties for Violation of 19 USC 1592	1515-AC08
2686	19 CFR 123 Designated Land Border Crossing Locations for Certain Conveyances	1515-AC12
2687	19 CFR 162 Penalties for False Drawback Claims	1515-AC21
2688	19 CFR 4 Boarding of Vessels in the United States	1515-AC29

United States Customs Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2689	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2690	19 CFR 24 Donated Cargo Exemption From Harbor Maintenance Fee	1515-AA87
2691	19 CFR 102 Rules of Origin	1515-AB19
2692	19 CFR 113 Automated Surety Interface	1515-AB25
2693	19 CFR 24 Fees Assessed for Defaulted Payments	1515-AB38
2694	19 CFR 12 Textiles and Textile Products Subject to Textile Trade Agreements	1515-AB54
2695	19 CFR 134 Country-of-Origin Marking for Watches	1515-AB68
2696	19 CFR 148 Treatment of Merchandise Imported by Foreign Governments or Designated International Organizations	1515-AB92
2697	19 CFR 12 Determination of the Country of Origin of Textiles and Textile Products	1515-AC00
2698	19 CFR 103 Public Disclosure of Aircraft Manifests	1515-AC13
2699	19 CFR 141 Customs Entry Documentation Pursuant to Anticounterfeiting Consumer Protection Act	1515-AC15

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2700	19 CFR 133 Parallel Imports and Other Trademarked Goods	1515-AB49
2701	19 CFR 10 Warehouse Withdrawals; Aircraft Fuel Supplies; Pipeline Transportation in Bond of Merchandise	1515-AB67
2702	19 CFR 123 Foreign-Based Commercial Motor Vehicles in International Traffic	1515-AB88
2703	19 CFR 146 Weekly Entry Procedure for Foreign Trade Zones	1515-AC05
2704	19 CFR 123 Land Border Carrier Initiative Program	1515-AC16
2705	19 CFR 192 Exportation of Used Motor Vehicles	1515-AC19
2706	19 CFR 12 Elimination of Certification Requirement for Film Importers	1515-AC20
2707	19 CFR 24 Automated Clearinghouse Credit	1515-AC26
2708	19 CFR 162 Mandatory Seizure of Certain Plastic Explosives	1515-AC33
2709	19 CFR 174 Conforming Amendments Concerning Protests and Administrative Rulings	1515-AC37
2710	19 CFR 24 Exemption of Israeli Products from Certain User Fees	1515-AC39

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2711	Section 79, Table I, Update	1545-AN54
2712	Qualified Lessee Construction Allowances for Short-Term Leases	1545-AW16
2713	Definition of Contribution in Aid of Construction Under Subsection 118(c)(3)(A)	1545-AW17
2714	Purchase Price Allocation	1545-AV58

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Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2715	Guidance Under Section 355(d)	1545-AW71
2716	Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM97
2717	Accounting for Long-Term Contracts	1545-AQ30
2718	Application of Attribution Rules to Foreign Trusts	1545-AU91
2719	Capital Gain Guidance Relating to CRTs	1545-AW35
2720	Foreign Grantor Trusts	1545-AO75
2721	Foreign Insurance Companies	1545-AL82
2722	FASIT—Start-up/Operational/Transition	1545-AU94
2723	Fringe Benefit Sourcing Under Section 861	1545-AO72
2724	Source of Income for Space and Certain Ocean Activities and for International Communications Income	1545-AW50
2725	Integrated Financial Transaction	1545-AR20
2726	Source Rules for Personal Property Sales	1545-AJ83
2727	Income Tax—Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2728	Foreign Tax Credit Anti-Abuse Regulation	1545-AV97
2729	Clarification of Treatment of Separate Limitation Losses	1545-AM11
2730	Foreign Insurance Company—Domestic Election	1545-AO25
2731	Coordination of Pre-1987 Deemed Paid Taxes	1545-AT85
2732	Section 988—Contingent Debt Instrument	1545-AW33
2733	Electing Small Business Trust	1545-AU76
2734	Applications of Section 1503(d) to Partnerships and Other Items	1545-AR26
2735	GRAT and Notes	1545-AW25
2736	Section 355(e) Guidance	1545-AW79
2737	Information Reporting and Record Maintenance Under Section 6038C	1545-AP10
2738	Middleman Regulation Under Sections 6041 and 6045	1545-AW48
2739	Reporting of Payments to Attorney	1545-AW72
2740	Section 6048 Regulations	1545-AR25
2741	Private Foundation Disclosure Rules	1545-AW96
2742	Corporate Tax Shelter Registration	1545-AW26
2743	Electronic Fund Transfers of Federal Deposits	1545-AW41
2744	Compromises	1545-AW88
2745	Relief for Presidentially Declared Disaster	1545-AV92
2746	Special Rules Applicable to Sales of Debt Instrument Between Record Dates and the End of Accrual Periods	1545-AU95
2747	Legending of REMIC Certificates	1545-AU96
2748	Withdrawal of Notice of Federal Tax Lien	1545-AV00
2749	Return of Levied Property in Certain Cases	1545-AV01
2750	Merchandise	1545-AW00
2751	HIPAA Nondiscrimination Rules	1545-AW02
2752	Averaging of Farm Income	1545-AW05
2753	Transportation of Persons and Property by Air—Sections 4261 and 4271	1545-AW19
2754	Estate Tax Deduction for Qualified Family-Owned Business Interests (QFBI)	1545-AW21
2755	Capital Gains and Partnership Provisions	1545-AW22
2756	Section 411(d)(6); Protected Benefits Exceptions	1545-AW27
2757	Disregarded Entities	1545-AW36
2758	Section 148—Clarification of the Treatment of Prepayments	1545-AW44
2759	Modification of Section 263A Regulations	1545-AW54
2760	Modification of the Solely-for-Voting Stock Requirement in Certain Corporate Reorganizations	1545-AW55
2761	Merchandise Regulation	1545-AW61
2762	Guidance Under Subpart F Relating to Certain Hybrid Transactions	1545-AW63
2763	Relief From Joint and Several Liability on Joint Return	1545-AW64
2764	Information Reporting for Payments of Tuition and Interest on Education Loans	1545-AW67
2765	Definition of Private Activity Bonds—Refunding Regulations	1545-AW89
2766	Certain Asset Transfers to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs)	1545-AW92
2767	Constructive Sales of Appreciated Financial Positions	1545-AW97
2768	Transfer of REMIC Residual Interest	1545-AW98
2769	Qualified Offers	1545-AW99
2770	Election To Treat Trust as Estate—Section 645	1545-AW24

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Internal Revenue Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2771	Research and Computation of Research Credit Under Section 41 of the Code, After 1986, 1989 and 1993 Acts	1545-AO51
2772	Loans Treated as Distributions	1545-AE41
2773	Removal of Temporary Regulations	1545-AV36
2774	Earnings Stripping Payments	1545-AO24
2775	Section 5.163-1(B)(2)	1545-AP33
2776	Rules for Property Produced in a Farming Business	1545-AQ91
2777	Substantiation of Expenses—Receipt Threshold	1545-AT97
2778	Warrants and Nonqualified Preferred Stock	1545-AV86
2779	Income Tax—Part 1—Stock Transfer Rules	1545-AI32
2780	Amendment of the Income Tax Regulations Under Section 367 of the Code (Transfers to Foreign Corporations) To Reflect Section 131 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AK74
2781	Treatment of Section 355 Distribution by U.S. Corporations to Foreign Persons	1545-AU22
2782	Regulations Under Section 382	1545-AU33
2783	Definition of "Highly Compensated Employee"	1545-AQ74
2784	Section 467 Rental Agreements	1545-AU11
2785	Escrow Funds and Other Similar Funds	1545-AR82
2786	Taxation of Global Trading	1545-AP01
2787	Qualified State Tuition Programs	1545-AV18
2788	Inbound Grantor Trusts With Foreign Grantors	1545-AU90
2789	Adjustments Following Sales of Partnership Interests	1545-AS39
2790	Determination of Earned Premiums	1545-AU60
2791	Charitable Contributions	1545-AP30
2792	Allocation and Apportionment of Interest Expense and Certain Other Expenses	1545-AM20
2793	Stocks and Securities Safe Harbor Exception	1545-AW13
2794	Nonrecognition of Corporate Distributions and Reorganizations Under the Foreign Investment in Real Property Tax Act	1545-AK79
2795	Conforming Taxable Years of CFCs and FPHCs: 1989 Change	1545-AO22
2796	Income Tax—Taxpayer's Obligation To File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AC09
2797	New Lines of Business Prohibited Under Section 936(j)(9)(B)	1545-AV68
2798	Guidance Under Subpart F Relating to Partnerships	1545-AV11
2799	Computation of a Branch's Taxable Income; Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM12
2800	Mark-to-Market Method of Accounting Under Section 988	1545-AP78
2801	Equity Options Without Standard Terms	1545-AV48
2802	Inflation-Indexed Securities	1545-AU45
2803	General Rules for Making and Maintaining Qualified Electing Fund Elections	1545-AV39
2804	Passive Foreign Investment Companies—Special Rules for Foreign Banks and Securities Dealers	1545-AS46
2805	Definition of the Term "Marketable Stock" Under Section 1296(e)(1)(A)(iii)	1545-AW69
2806	S Corporation Subsidiaries	1545-AU77
2807	Qualified Zone Academy Bonds	1545-AV75
2808	Regulations Under Section 1441 Regarding the Electronic Transmission of Withholding Certificates	1545-AV27
2809	Regulations Under Section 1441 Regarding Withholding on Sales of Debt Obligations Between Interest Payment Dates	1545-AV41
2810	Regulations Under Section 1502	1545-AU32
2811	Consolidated Returns—Limitations on the Use of Certain Losses and Credits	1545-AV88
2812	Consolidated Returns—Limitations on the Use of Certain Losses and Credits	1545-AV99
2813	Acquisition of an S Corporation by a Member of a Consolidated Group	1545-AW32
2814	Partnership Returns Required on Magnetic Media	1545-AW14
2815	Adequate Disclosure of Gifts	1545-AW20
2816	Exception From Supplemental Tax	1545-AT56
2817	New Technology in Retirement Plans	1545-AW78
2818	Prepaid Telephone Cards	1545-AV63
2819	Clarification of 4958 Excise Taxes	1545-AV60
2820	Telefile Voice Signatures Test	1545-AQ68
2821	6046A—Returns as to Interests in Foreign Partnerships	1545-AK75
2822	Public Disclosure of Material Relating to Tax-Exempt Organizations	1545-AV13
2823	Federal Employment Tax Deposits De Minimis Rule	1545-AW28
2824	Payment by Credit Card and Debit Card	1545-AW37
2825	Revision of Tax Refund Offset Program	1545-AV50

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Internal Revenue Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2826	Compromises	1545-AW87
2827	Treatment of Obligation-Shifting Transactions	1545-AU19
2828	Intangible Asset Amortization	1545-AS77
2829	Passthrough of Items to Shareholders	1545-AT52
2830	Reporting Requirements for Widely Held Fixed Investment Trusts	1545-AU15
2831	Relief From Disqualification for Plans Accepting Rollovers	1545-AU46
2832	Return of Partnership Income—Section 6031	1545-AU99
2833	Recharacterizing Financing Arrangements Involving Fast-pay stock	1545-AV07
2834	Taxpayer Identification Numbers (TINs) for Adopted Children	1545-AV08
2835	Regulations Under Sections 871, 881, and 894 Regarding Payments to Partnerships, and Other Transparent Arrangements	1545-AV10
2836	Research Credit II	1545-AV14
2837	Treatment of Elective Entity Classification Changes—7701	1545-AV16
2838	Remedial Amendment Period	1545-AV22
2839	Electronic Tip Reporting	1545-AV28
2840	Compliance Monitoring and Miscellaneous Issues Relating to the Low Income Housing Credit	1545-AV44
2841	Marital Deduction (Estate of Hubert)	1545-AV45
2842	Removal of Temporary Regulations That Provide Rules for Substantiating Travel Expense Deductions for Members of Congress	1545-AV55
2843	Section 6038 Information Reporting Requirements for Foreign Partnerships	1545-AV69
2844	Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers	1545-AV71
2845	Continuity of Interest	1545-AV81
2846	Substantiation of Business Expenses—Use of Mileage Rates To Substantiate Automobile Expenses	1545-AV87
2847	Averaging of Farm Income	1545-AW04
2848	Travel and Tour Activity of Tax-Exempt Organization	1545-AW10
2849	Intercompany Obligations	1545-AW30
2850	Removal of Regulation Providing Guidance Under Subpart F Relating to Partnerships and Branches	1545-AW49
2851	Guidance Under Section 1032	1545-AW53
2852	Increase in Cashout Limit Under Sections 411(a)(7), 411(a)(11), and 417(e)(1)	1545-AW59
2853	Balanced Performance Measurement System	1545-AW80
2854	Allocation of Unrecaptured Section 1250 Gain Reported on the Installment Method	1545-AW85
2855	Notice and Opportunity for Hearing Before Levy	1545-AW90
2856	Notice and Opportunity for Hearing Upon Filing of Notice of Lien	1545-AW91
2857	Continuation Coverage Requirements Applicable to Group Health Plans	1545-AW94
2858	Qualified Offers	1545-AX00
2859	Averaging of Farm Income	1545-AX01

Internal Revenue Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2860	Statement of Procedural Rules—Part 601.702 Appendix B - Internal Revenue Service - 31 CFR Part 1	1545-AR99
2861	The Treatment of Accelerated Death Benefits Under Sections 101, 7702 and 7702A of the Internal Revenue Code	1545-AQ70
2862	Definition of "Private Activity Bonds"	1545-AU98
2863	Private Activity Bond Rules for Output Facilities	1545-AV47
2864	Golden Parachute Payments	1545-AH49
2865	Guidance in Notice 89-37, Which Treats the Receipt of a Corporate Partner's Stock by the Corporate Partner as a Circumvention of General Utilities Repeal	1545-AP52
2866	Corporate Inversion Transactions	1545-AS91
2867	Income Tax—Deduction for Certain Foreign Deferred Compensation Plans	1545-AD81
2868	Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT82
2869	Treatment of Funded Welfare Benefit Plans	1545-AG14
2870	Limitations on Passive Activity Losses and Credits—Self-Charged Items	1545-AN64
2871	Mark-to-Market Upon Disposition	1545-AS85
2872	Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities and Commodities	1545-AW06
2873	Intercompany Transfer Pricing for Services	1545-AR32
2874	Separate Share Rules/Estates	1545-AW57

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Internal Revenue Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2875	Source Rules for Payments Made Pursuant to Certain Swap Arrangements	1545-AU89
2876	Allocation of Loss on Disposition of Personal Property	1545-AW09
2877	Proposed Regulation Under Sections 882 and 884	1545-AT96
2878	Income of Foreign Governments and International Organizations	1545-AL93
2879	FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction, and Other Special Rules for FSC	1545-AI16
2880	Income Tax—Definition of Qualified Possession Source Investment Income for Purposes of Puerto Rico and Possession Tax Credit	1545-AC10
2881	CBI Investments of Section 936 Funds	1545-AM91
2882	Earnings and Profits of Controlled Foreign Corporations	1545-AM90
2883	Use of GAAP Earnings as E&P of Foreign Corporations	1545-AQ55
2884	Consolidated Alternative Minimum Tax	1545-AN73
2885	Application of Grantor Trust Rules to Nonexempt Employees' Trust	1545-AU29
2886	Diesel Fuel Excise Tax; Dye Injection Systems and Markers	1545-AT18
2887	Information From Passport and Immigration Applicants	1545-AJ93
2888	Interest-Free Adjustments	1545-AQ61
2889	Railroad Unemployment Repayment Tax	1545-AN40
2890	Retention of Paid Preparers' Signatures	1545-AW52
2891	Preparer Due Diligence Requirements for Determining Earned Income Credit Eligibility	1545-AW73
2892	Timely Mailing Treated as Timely Filing/Electronic Postmark	1545-AW81
2893	Straddles—Miscellaneous Issues	1545-AT46
2894	Effect of the Family and Medical Leave Act on the Operation of Cafeteria Plans	1545-AT47
2895	Recomputation of Life Insurance Reserves	1545-AU49
2896	Civil Cause of Action for Certain Unlawful Collection Actions	1545-AU68
2897	Agreements for Payment of Tax Liabilities in Installments	1545-AU97
2898	Deposits of Excise Taxes	1545-AV02
2899	EITC Recertification Requirements	1545-AV61
2900	Required Distributions From Qualified Plans and Individual Retirement Plans	1545-AV82
2901	Disclosure of Return Information to the Bureau of the Census	1545-AV84
2902	Interest on Education Loans	1545-AW01
2903	Conversion to the Euro	1545-AW43
2904	Education Credits	1545-AW65
2905	Modifications and Additions to the Unified Partnership Audit Procedures	1545-AW86

Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2906	Exclusion From Income of Certain Cost-Sharing Payments Under Government Programs	1545-AT73
2907	Arbitrage Restrictions on Tax Exempt Bonds	1545-AU39
2908	Continuity of Interest	1545-AW45
2909	Guidance Under Section 30 and 179A	1545-AR66
2910	Production of Creative Property	1545-AQ92
2911	Certain Asset Transfers to a Tax-Exempt Entity	1545-AN21
2912	Roth IRAs	1545-AW62
2913	Revising the Definition of the Full Funding Limitation for Purposes of the Minimum Funding Requirement for Pension Plans	1545-AL53
2914	Guidance—Interest Other Than of Creditor	1545-AO32
2915	Mark-to-Market for Securities Dealers; Application of Held for Investment Exemption to Consolidated Groups	1545-AU87
2916	Section 501(c)(4) Regulation Changes Regarding Taxpayer Bill of Rights 2	1545-AV57
2917	Guidance Regarding Charitable Remainder Trust	1545-AU25
2918	Section 736—LLC Members	1545-AT31
2919	FASIT—Start-Up/Operational/Transitions	1545-AV59
2920	Extension of Time for Real Estate Mortgage Investment Conduits To Provide Reporting Information	1545-AP73
2921	Classification of Certain Transactions Involving Computer Programs	1545-AU70
2922	Transportation Income Source Rules	1545-AJ68
2923	Source of Income From Sales of Inventory Partly From Sources Within a Possession of the United States	1545-AU79

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Internal Revenue Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2924	Treatment of Related Person Factoring Income; Certain Investments in United States Property; and Stock Redemptions Through Related Corporations	1545-AH85
2925	Allocation of Loss on Disposition of Stock	1545-AT41
2926	Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation Rules	1545-AQ43
2927	Source and Grouping Rules for Foreign Sales Corporation Transfer Pricing	1545-AV90
2928	Sourcing Rules for Foreign Sales Corporation Transfer Pricing	1545-AW11
2929	Sourcing Rules for Foreign Sales Corporation Transfer Pricing	1545-AW12
2930	New Lines of Business Prohibited Under Section 936(j)(9)(B)	1545-AV67
2931	Insurance Income	1545-AJ70
2932	Income Tax—Tax Reform Act of 1984 Relating to Interest Charge DISCs	1545-AG71
2933	Final 1441 Regulation—Technical Corrections	1545-AW39
2934	Withholding Tax on Payments From Partnerships to Foreign Partners	1545-AL32
2935	Consideration of Repeal of Old 1.1502-13	1545-AV54
2936	Consolidated Overall Foreign Loss and Separate Limitation Loss Accounts	1545-AW08
2937	Effective Date of Section 1.1502-9T	1545-AW51
2938	Valuation of Certain Farm, Real Property, Etc	1545-AT66
2939	Interest on Education Loans	1545-AW75
2940	Federal Insurance Contributions Act (FICA) Taxation of Amounts Under Employee Benefit Plans	1545-AF97
2941	Federal Unemployment Tax Act (FUTA) Taxation of Amounts Under Employee Benefit Plans	1545-AT99
2942	Treatment of Real Estate Agents and Direct Sellers as Nonemployees for Employment Tax Purposes—Reporting Requirements With Respect to Direct Sellers	1545-AE62
2943	Luxury Tax Regulations—Revenue Reconsideration Act of 1990	1545-AP24
2944	Retailers Tax/Tires	1545-AW66
2945	Prepaid Telephone Cards	1545-AV64
2946	Continuation Coverage Requirements of Group Health Plans	1545-AI93
2947	Purchasing and Reporting	1545-AV49
2948	Modification and Additions to the Unified Partnership	1545-AW23
2949	Electronic Funds Transfers of Federal Deposits	1545-AV96
2950	Electronic Funds Transfers of Federal Deposits	1545-AW40
2951	Payment by Credit Card and Debit Card	1545-AW38
2952	Abatement of Interest	1545-AV32
2953	Definition of Reasonable Basis	1545-AU38
2954	Due Diligence for EIC (Earned Income Credit)	1545-AW03
2955	Preparer Due Diligence Requirements for Determining Earned Income Credit Eligibility	1545-AW74
2956	Timely Mailing Treated as Timely Filing/Electronic Postmark	1545-AW82
2957	Rewards for Information Relating to Violations of Internal Revenue Laws	1545-AU85
2958	Special Rules for S Corporations Under Section 301.7701(b)-7	1545-AS88
2959	Residence of Trusts and Estates—7701	1545-AU74
2960	Extension of Statute of Limitations in John Doe Summons Disputes	1545-AM67
2961	Suspension of Running of Period of Limitations During Proceeding To Enforce Designated Summons	1545-AQ01
2962	Amortization—Goodwill Intangibles 197	1545-AT70
2963	Start-Up Expenditures	1545-AT71
2964	ERISA Section 204(h) Notice	1545-AT78
2965	Timing of Notice and Consent Requirements	1545-AU05
2966	Usufruct; Nonresident Alien Shareholder; S Corporation Stock	1545-AU18
2967	Contingent Interest Under Section 2056(b)(7)	1545-AU27
2968	Payment From the Presidential Primary Matching Payment Account	1545-AU57
2969	Tax Attribute Reduction	1545-AU71
2970	Disclosure of Certain Returns and Return Information by Other Federal Agencies	1545-AU83
2971	Disclosure of Certain Returns and Return Information by Other Federal Agencies	1545-AU84
2972	Certain Investment Income—7704	1545-AV15
2973	Cash Advances of Compensation to Service Providers	1545-AV21
2974	Taxpayer Bill of Rights 2 Changes to Section 7805(b)	1545-AV42
2975	HIPAA Newborns' and Mothers' Health Protection Act	1545-AV52
2976	Qualified Long-Term Care Services and Insurance	1545-AV56
2977	Section 707 Disguised Sales of Partnership Interest	1545-AV66
2978	Section 6038B Information Reporting Requirements for Transfers to Foreign Partnerships	1545-AV70
2979	Disclosure of Return Information to the Bureau of the Census	1545-AV83

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Internal Revenue Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2980	Substantiation of Business Expenses—Use of Mileage Rates To Substantiate Automobile Expenses	1545-AV89
2981	Section 411(d)(6) Protected Benefits (Taxpayer Relief Act of 1997)	1545-AV94
2982	Transportation of Persons and Property by Air—Sections 4261 and 4271	1545-AW18
2983	Capital Gains—Installment Sales	1545-AW47
2984	Increase in Cashout Limit Under Sections 411(a)(7), 411(a)(11), and 417(e)(1)	1545-AW58
2985	Section 809—Stock Life Subsidiary of a Mutual Holding Company	1545-AW70
2986	Notice and Opportunity for Hearing Before Levy	1545-AW76
2987	Notice and Opportunity for Hearing Upon Filing of Notice of Lien	1545-AW77
2988	Retention of Paid Preparers Signatures	1545-AW83
2989	Aviation Fuel Tax	1545-AW84
2990	Section 411(d)(6) Protected Benefits (Taxpayer Relief Act of 1997)	1545-AV95
2991	Taxpayer Assistance Orders	1545-AU01
2992	Regulations on Income Tax Under the Tax Reform Act of 1984, Relating to Below-Market Loans	1545-AH72

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2993	12 CFR 516 Application Processing	1550-AB14
2994	12 CFR 545 Types of Offices	1550-AB18
2995	12 CFR 545 Directors and Officers	1550-AB19
2996	12 CFR 545 Non-Deposit Investment Products	1550-AB22
2997	12 CFR 528 Nondiscrimination	1550-AB23
2998	12 CFR 563b Conversions	1550-AB24
2999	12 CFR 590 Due on Sale and Usury Preemption	1550-AB25
3000	12 CFR 584 Exempt Savings and Loan Holding Companies	1550-AB26

Office of Thrift Supervision—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3001	12 CFR 563f Management Official Interlocks	1550-AB07
3002	12 CFR 567 Capital Rules	1550-AB11
3003	12 CFR 545 Letters of Credit, Suretyship and Guaranty	1550-AB21
3004	12 CFR 570 Year 2000 Safety and Soundness Guidelines	1550-AB27

Office of Thrift Supervision—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3005	12 CFR 563 Capital Distributions	1550-AA72
3006	12 CFR 545 Electronic Operations	1550-AB00
3007	12 CFR 563 Financial Management Policies; Derivative Instruments	1550-AB13
3008	12 CFR 563 Know Your Customer	1550-AB15
3009	12 CFR 502 Assessments	1550-AB20
3010	12 CFR 561 Consumer Credit Classified as a Loss, Slow Consumer Credit and Slow Loans	1550-AB28

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)
Prerule Stage

2570. • POSSIBLE REGULATION OF ACCESS TO ACCOUNTS AT FINANCIAL INSTITUTIONS THROUGH PAYMENT SERVICE PROVIDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 31 USC 321; 31 USC 3332

CFR Citation: 31 CFR ch II

Legal Deadline: None

Abstract: Treasury is seeking comment on whether it should propose regulations regarding arrangements between insured financial institutions and nondepository payment service providers (e.g., check cashers) governing access to Federal electronic payments. Commenters are asked to address the question of whether these arrangements should be federally regulated and, if they should, how those regulations should be structured.

Timetable:

Action	Date	FR Cite
ANPRM	01/08/99	64 FR 1149
ANPRM Comment Period End	04/08/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Roger Bezdek, Senior Advisor for Fiscal Management, Department of the Treasury, Room 2064C, Washington, DC 20220
Phone: 202 622-1807

RIN: 1505–AA74

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)
Completed Actions

2571. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM; BANK ENTERPRISE AWARD PROGRAM REGULATIONS

Priority: Other Significant

CFR Citation: 12 CFR 1805 (New); 12 CFR 1806 (New); 12 CFR 1815 (New)

Completed:

Reason	Date	FR Cite
No Further Action Planned	02/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey C. Berg
Phone: 202 622-8530
Fax: 202 622-7754

RIN: 1505–AA71

BILLING CODE 4810-25-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)
Proposed Rule Stage

2572. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—BROKER/DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by broker/dealers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA21

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)
Final Rule Stage

2573. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REGISTRATION REQUIREMENT FOR CERTAIN NON-BANK FINANCIAL INSTITUTIONS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5330

CFR Citation: 31 CFR 103

Legal Deadline: NPRM, Statutory, March 23, 1995.

Section 408 of PL 103-325 requires money transmitting businesses to register by March 23, 1995.

Abstract: This rule will identify money-transmitting and other businesses that must register with the Secretary, and will prescribe procedures for registration.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27890
NPRM Comment Period End	09/30/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain

TREAS—FINCEN **Final Rule Stage**

Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA09

2574. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING OF CROSS-BORDER TRANSPORTATION OF CERTAIN MONETARY INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5312(a)(3) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will require reporting of cross-border transportation of certain negotiable instruments.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3249
NPRM Comment Period End	04/22/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA15

2575. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SPECIAL REPORTING AND RECORDKEEPING REQUIREMENTS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5313; 31 USC 5318

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will propose to require special currency transaction reporting and recordkeeping by certain classes of businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27909
NPRM Comment Period End	09/30/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA19

2576. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will propose to require suspicious activity reporting by certain classes of businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27900
NPRM Comment Period End	09/30/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA20

2577. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—CASINOS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by casinos.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27230
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA22

DEPARTMENT OF THE TREASURY (TREAS)

Financial Crimes Enforcement Network (FINCEN) **Long-Term Actions**

2578. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT THAT FINANCIAL INSTITUTIONS CARRY OUT ANTI-MONEY-LAUNDERING PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590

RIN: 1506–AA05

TREAS—FINCEN **Long-Term Actions**

2579. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DELEGATION OF AUTHORITY TO ASSESS CIVIL MONEY PENALTIES ON DEPOSITORY INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590

RIN: 1506–AA08

BILLING CODE 4820-02-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Proposed Rule Stage

2580. RULES AND PROCEDURES FOR FUNDS TRANSFERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3335; 31 USC 6501; 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: This regulation governs the transfer of Federal assistance funds to State governments and implements the Cash Management Improvement Act of 1990, as amended. Revisions to the regulation will address concerns raised by both States and Federal agencies about intergovernmental financing. Rules and procedures for funds transfers will be revised to provide more options and greater flexibility.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Cynthia Johnson, Director, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6590

RIN: 1510–AA38

2581. INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 12 USC 391; 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3711; 31 USC 3716; 31 USC 3717; 31 USC 3334; 31 USC 3712; 31 USC 3327; 31 USC 3702 note; 31 USC 363

CFR Citation: 31 CFR 240

Legal Deadline: None

Abstract: The first notice of proposed rulemaking (NPRM I) is a reissuance of the NPRM published on 9/21/95. The 9/21/95 notice proposed to fix the time by which Treasury can decline payment on Treasury checks, provide financial institutions with a date certain for final payments, and provide greater clarity by defining previously undefined terms. Finally, that notice proposed that the Department of the Treasury may instruct Federal Reserve Banks to intercept benefit payment checks to deceased payees and to return, unpaid, those checks. NPRM I will announce the Department of the Treasury's intent that this regulation supersede Federal common law regarding the risk of loss on checks containing forged disbursing officer signatures, such as counterfeits. The second notice of proposed rulemaking (NPRM II) will further amend this regulation to implement provisions of the Debt Collection Improvement Act of 1996 authorizing the collection of debts owed by presenting banks through Treasury Check Offset. Among other things, NPRM II will broaden the use of powers of attorney for purposes of negotiating Treasury checks.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 48940
NPRM Comment Period End	11/06/95	
NPRM I	05/30/97	62 FR 29314
NPRM II	07/00/99	
Final Rule (NPRM I)	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ronald Brooks, Senior Program Analyst, Financial Information, Department of the Treasury, Financial Management Service, Room 725-D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-7573
Fax: 202 874-7534
Email: ronald.brooks@fms.sprint.com

RIN: 1510–AA45

2582. CLAIMS ON ACCOUNT OF TREASURY CHECKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3702; 31 USC 3712

CFR Citation: 31 CFR 245

Legal Deadline: None

Abstract: 31 CFR part 245 governs the issuance of replacement checks for checks drawn on the United States Treasury when (1) the original check has been lost, stolen, destroyed or mutilated or defaced to such an extent that it is rendered non-negotiable; (2) the original check has been negotiated and paid on a forged or unauthorized indorsement; and (3) the original check

TREAS—FMS **Proposed Rule Stage**

has been cancelled pursuant to 31 CFR part 240. The regulation is being revised to update the regulation's definitions to make them consistent with the language of the proposed revisions to the definitions in 31 CFR part 240. Other revisions will govern the use of the Check Forgery Insurance Fund (Fund). The Fund is a revolving fund established to settle payee claims of non-receipt where the original check has been fraudulently negotiated. The Fund ensures that innocent payees, whose Treasury checks have been fraudulently cashed, receive replacement checks in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ella White, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, 3700 East-West Highway, Room 8D25, Hyattsville, MD 20782 Phone: 202 874-7475

RIN: 1510–AA51

2583. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE, LEGALLY ENFORCEABLE NONTAX DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3716; 31 USC 321

CFR Citation: 31 CFR 285.5

Legal Deadline: None

Abstract: This rule governs administrative offset of Federal payments by disbursing officials of the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227 Phone: 202 874-6859

RIN: 1510–AA65

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS) **Final Rule Stage**

2584. FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3720; 31 USC 3335; 31 USC 321; 5 USC 5525; 31 USC 3332; 31 USC 3321; 31 USC 3301; 31 USC 3302; 12 USC 391

CFR Citation: 31 CFR 210

Legal Deadline: None

Abstract: This revision of 31 CFR part 210 will reconcile Government Automated Clearing House (ACH) regulations and private industry rules as set forth by the National Automated Clearing House Association, by incorporating certain industry rules into Federal law. The revision will govern Federal disbursement and collection transactions processed through the ACH.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 50112
Extension of Comment Period	11/25/94	59 FR 60576
NPRM Comment Period End	01/03/95	59 FR 60576
NPRM	02/02/98	63 FR 5426
NPRM Comment Period End	05/04/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227 Phone: 202 874-6590

RIN: 1510–AA17

2585. FOREIGN EXCHANGE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3513; EO 10488; EO 10900; 22 USC 2363

CFR Citation: 31 CFR 281

Legal Deadline: None

Abstract: This regulation governs the administration of the purchase, custody, deposit, transfer, sale and reporting of foreign exchange (including credits and currencies) by executive departments and agencies. Currently, this regulation allows the purchase of foreign currency to an amount which, together with the balance on hand in the bank, may not exceed estimated requirements for a 30-day period. The revised rule allows the purchase of foreign currency to a balance "commensurate with immediate disbursing requirements."

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2750
NPRM Comment Period End	02/28/96	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Maria Guido, Senior Advisor, International Funds Branch, Department of the Treasury, Financial Management Service, Room 5A30, PGCII, 3700 East-West Highway, Hyattsville, MD 20782 Phone: 202 874-8943

RIN: 1510–AA48

TREAS—FMS **Final Rule Stage**

2586. PAYMENTS UNDER JUDGMENT AND PRIVATE RELIEF ACTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-53; PL 104-316; 31 USC 1304; 28 USC 2414; 28 USC 2517

CFR Citation: 31 CFR 256

Legal Deadline: None

Abstract: This regulation governs the procedure for securing payment for money judgments against the United States. The proposed revision will update the procedure for making claims. This will benefit claimants and others in understanding the claims process. This regulation currently describes a process that involves the General Accounting Office (GAO) and the Treasury Department. The change would eliminate the GAO from this description to reflect legislative amendments that effect this change. Also, the regulation currently identifies monetary thresholds that no longer exist. The change would reflect the removal of these monetary limitations and the resulting submission requirements. These changes in the regulation would make it consistent with current practices for claimants securing money judgments against the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 552
NPRM Comment Period End	02/07/96	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Wanda Rogers, Manager, Judgment Fund Branch, Department of the Treasury, Financial Management Service, 3700 East-West Highway, Room 6F03, Hyattsville, MD 20782
Phone: 202 874-6664
Fax: 202 874-9522
Email: wanda.rogers@fms.sprint.com

RIN: 1510–AA52

2587. FEDERAL CLAIMS COLLECTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3701; 31 USC 3711; 31 USC 3717; 31 USC 3718; 31 USC 3720B; 31 USC 3716

CFR Citation: 31 CFR 900 to 904

Legal Deadline: None

Abstract: The Federal Claims Collection Standards prescribe basic standards for Federal agencies for collection of non-tax claims. The current standards originally were published in 1984 jointly by the Department of Justice and the General Accounting Office at 4 CFR parts 101-105. The Department of the Treasury has been added as a co-signor by the Debt Collection Improvement Act of 1996 (Act) and the General Accounting Office was removed as a co-signor by the General Accounting Office Act of 1996. This revision, which will move the standards to 31 CFR parts 900-904, is being made to simplify the language of the current standards and to incorporate changes made by the Act concerning such topics as disbursing official offset, cross-servicing of debts, interest and penalties on claims, and contracts for collection services.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68476
NPRM Comment Period End	03/02/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Room 151, Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA57

2588. TRANSFER OF DEBTS TO TREASURY FOR COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 31 USC 321

CFR Citation: 31 CFR 285.12

Legal Deadline: None

Abstract: This rule describes procedures for Federal agencies to transfer all debts, with certain exemptions, which are over 180-days delinquent to Treasury or Treasury-designated debt collection centers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/02/98	63 FR 16354
Interim Final Rule Comment Period End	05/04/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA68

2589. MATCHING OF FEDERAL EMPLOYEE RECORDS FOR SALARY OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514

CFR Citation: 31 CFR 285.7

Legal Deadline: None

Abstract: This rule governs the centralized computer matching of Federal Employee Records for purposes of salary offset to collect non-tax delinquent debt owed the Federal Government.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/98	63 FR 23353
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 873-6859

RIN: 1510–AA70

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Long-Term Actions

2590. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE DEBTS OWED TO STATES (OTHER THAN CHILD SUPPORT)

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.6

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA66

2591. PUBLIC DISSEMINATION OF IDENTITY OF DELINQUENT DEBTORS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.14

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA72

2592. DEPOSITARIES AND FINANCIAL AGENTS OF THE FEDERAL GOVERNMENT

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 202; 31 CFR 380; 31 CFR 203

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson
Phone: 202 874-6657
Fax: 202 874-6965

RIN: 1510–AA75

2593. PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 203; 31 CFR 380

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson
Phone: 202 874-6657
Fax: 202 874-6965

RIN: 1510–AA76

2594. ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 225; 31 CFR 380

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson
Phone: 202 874-6657
Fax: 202 874-6965

RIN: 1510–AA77

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Completed Actions

2595. ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 225

Completed:

Reason	Date	FR Cite
Final Action	01/29/99	64 FR 4762
Final Action Effective	03/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia Johnson
Phone: 202 874-6590

RIN: 1510–AA36

2596. TREASURY TAX AND LOAN DEPOSITARIES AND PAYMENT OF FEDERAL TAXES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	02/03/98	63 FR 5644
Final Action Effective	03/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Dressler
Phone: 202 874-7106

RIN: 1510–AA37

2597. OFFSET OF TAX REFUND PAYMENTS TO COLLECT PAST-DUE SUPPORT

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.3

Completed:

Reason	Date	FR Cite
Final Action	12/30/98	63 FR 72091
Final Action Effective	01/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA63

2598. OFFSET OF FEDERAL BENEFIT PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.4

TREAS—FMS **Completed Actions**

Completed:

Reason	Date	FR Cite
Final Action	12/23/98	63 FR 71203
Final Action Effective	01/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA64

2599. BARRING DELINQUENT DEBTORS FROM OBTAINING FEDERAL FINANCIAL ASSISTANCE IN THE FORM OF LOANS OR LOAN GUARANTEES

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.13

Completed:

Reason	Date	FR Cite
Final Action	12/08/98	63 FR 67753
Final Action Effective	01/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA71

2600. OFFSET OF FEDERAL BENEFIT PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.4

Completed:

Reason	Date	FR Cite
Final Action	12/23/98	63 FR 71203
Final Action Effective	01/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ellen Neubauer
Phone: 202 874-0778
Fax: 202 874-6627

RIN: 1510–AA74

BILLING CODE 4810-35-F

DEPARTMENT OF THE TREASURY (TREAS) **Prerule Stage**
Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2601. COUNTRY OF ORIGIN STATEMENTS ON DISTILLED SPIRITS LABELS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1304; 27 USC 205

CFR Citation: 27 CFR 5.36 (e)

Legal Deadline: None

Abstract: ATF plans to issue an advance notice to obtain comments from consumers and industry members regarding the labeling of distilled spirits products. Specifically, ATF is requesting comments regarding how the requirement to identify the country of origin, found at 27 CFR 5.36(e) should be applied to mixtures of imported and domestic spirits.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8525

RIN: 1512–AB72

DEPARTMENT OF THE TREASURY (TREAS) **Proposed Rule Stage**
Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2602. AMERICAN VITICULTURAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: This rule establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Buena Vista Lake, CA (contact Jackie White)
NPRM 05/00/99
California Coastal, CA (Jackie White)
ANPRM 11/00/99
Chiles Valley, CA (contact Thomas Busey)
NPRM 03/20/98 (63 FR 13583)
Comment Period End 05/19/98
Final Rule 02/17/99 (64 FR 7785)
Oak Knoll District, CA (Joyce Drake)
NPRM 05/00/99
River Junction, CA (contact Teri Byers)
NPRM 09/00/99
San Francisco Bay, CA (contact David Brokaw)
NPRM 10/20/97 (62 FR 54399)
Comment Period End 01/20/98
Final Rule 01/20/99 (64 FR 3015)
Santa Rita Hills, CA (Marsha Baker)
NPRM 09/11/98 (63 FR 48658)
Comment Period End 12/10/98
Final Rule 09/00/99
Yountville, CA (contact Thomas Busey)
NPRM 08/26/98 (63 FR 45427)
Final Rule 03/19/99 (64 FR 13511)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: See Timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8230

TREAS—BATF **Proposed Rule Stage**

Fax: 202 927-8602

RIN: 1512–AA07

2603. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 5051 to 5056; 26 USC 5401 to 5417; 27 USC 205

CFR Citation: 27 CFR 7; 27 CFR 25

Legal Deadline: None

Abstract: ATF intends to streamline regulations applying to breweries. ATF will eliminate obsolete regulatory provisions. A formula system for manufactured beer products will replace statements of process attached to the brewers notice. The annual notice for small brewers to pay reduced rate of tax will be eliminated. Separate regulations for brewpubs will be added to part 25. A section will be added to part 25 to authorize and regulate the alternating use of brewery premises by different brewers. Regulations authorizing the operation of brew-on-premises facilities will be added to part 25.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles N. Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602
Email: cnbacon@atfhq.atf.treas.gov

RIN: 1512–AB37

2604. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTIONS 1421 AND 1422

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 24; 27 CFR 25; 27 CFR 250; 27 CFR 251

Legal Deadline: None

Abstract: This notice implements section 1421 and 1422 of the Taxpayer Relief Act of 1997. This will permit importation in bond of bulk containers of wine and beer.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8202
Fax: 202 927-8602
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB75

2605. ALTERATION OF LABELS ON CONTAINERS OF DISTILLED SPIRITS, WINE AND BEER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5301; 26 USC 7805; 27 USC 205

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations in 27 CFR parts 4, 5, and 7. The proposed amendments to the regulations will require that a lot identification code be placed on the label or container of all wine, malt beverage and distilled spirits products. The lot identification code will be mandatory item of information and it will be illegal to remove or alter the codes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel Hiland, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8525

RIN: 1512–AB76

2606. • LABELING OF WINE SPECIALTY PRODUCTS AND FLAVORED WINES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.21

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) plans to issue temporary regulations that will amend the regulations in 27 CFR part 4 to set forth a new standard of identity for wine specialty products. ATF believes that this temporary rule is necessary to prevent consumer deception, ensure that consumers receive adequate information about the identity of these products, and to provide guidance to the wine industry.

Concurrently, the Bureau plans to publish a Notice of Proposed Rulemaking that invites comments on the Temporary Rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB86

2607. • PROHIBITION OF ALCOHOL BEVERAGE CONTAINERS AND STANDARD OF FILL FOR DISTILLED SPIRITS AND WINE

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4 to 5; 27 CFR 7

TREAS—BATF

Proposed Rule Stage

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) proposes to amend regulations to clarify the standards of fill for distilled spirits and wine. ATF also proposes to amend regulations to prohibit certain alcohol beverage containers that are likely to mislead consumers as to the identity or character of the distilled spirits, wine or malt beverage products or are likely to be confused with other (non-alcohol) food products.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6486
NPRM Comment Period End	04/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Foster, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB89

FIREARMS

2608. COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Priority: Other Significant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301; 31 USC 9303 to 9304; 40 USC 304(k)

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: Pursuant to section 610 of the Regulatory Flexibility Act, ATF published a notice on January 10, 1997 seeking public comments on whether it should revise its regulations codified at 27 CFR part 55, governing Commerce in Explosives (Including Explosives in the Fireworks Industry). Based on comments received, ATF plans to initiate a rulemaking to revise these regulations in 1999.

Timetable:

Action	Date	FR Cite
General Notice of Regulatory Review	01/10/97	62 FR 1386
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB48

2609. IMPLEMENTATION OF PUBLIC LAW 104-208, THE OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997, RELATING TO THE ESTABLISHMENT OF A NATIONAL REPOSITORY FOR ARSON AND EXPLOSIVES INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 846(b)

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: ATF is issuing this temporary rule to implement certain provisions of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997 (the Act), enacted September 30, 1996. The Act amended the Federal explosives laws in title 18, United States Code, chapter 40, to require all Federal agencies to report to ATF any information involving arson or the suspected criminal misuse of explosives. The Act also authorizes ATF to establish a repository for this information. In addition, the law provides that such repository will contain information on incidents voluntarily reported to ATF by State and local authorities.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB73

2610. • IMPL. OF PL 105-277, MAKING OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FY 1999, RELATING TO THE PERMANENT PROVISIONS OF THE BRADY HANDGUN VIOLENCE PREVENTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 (a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504 (h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is amending the regulations to implement the provision of Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999, relating to the permanent provisions of the Brady Handgun Violence Prevention Act. The new law allows a licensed pawnbroker to contact the national instant criminal background check system (NICS) prior to taking or receiving a firearm in pawn. If NICS advises the pawnbroker that receipt or possession of the firearm would be in violation of the law, the licensee must advise local law enforcement within 48 hours after receipt of information.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB83

TREAS—BATF **Proposed Rule Stage**

2611. • IDENTIFICATION OF MARKINGS PLACED ON FIREARMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 (a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504 (h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to prescribe minimum height and depth requirements for identification markings placed on firearms by licensed importers and licensed manufacturers. ATF believes that minimum standards are necessary to ensure that firearms are properly identified in accordance with the law. In addition, the proposed standards, if adopted, will facilitate ATF's ability to trace the origin of firearms used in crime.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB84

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2612. LABELING OF UNAGED GRAPE BRANDY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to permit the use of the word "unaged" as an alternative to "immature," to describe grape brandy which has not been stored in oak containers.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30015
NPRM Comment Period End	09/11/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
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RIN: 1512–AB46

2613. DISTILLED SPIRITS PLANT REGULATORY INITIATIVE PROPOSAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 19.11; 27 CFR 19.49; 27 CFR 19.153; 27 CFR 19.201 to 206; 27 CFR 19.311; 27 CFR 19.454; 27 CFR 19.605; 27 CFR 19.770; 27 CFR 19.1001; 27 CFR 19.1003; 27 CFR 19.1010

Legal Deadline: None

Abstract: ATF is proposing changes to the distilled spirits plant regulations to implement the Administration's Reinventing Government effort to reduce the regulatory burden and streamline requirements. ATF believes these proposed changes will benefit distilled spirits plant proprietors and other industry members by enabling them to operate more easily and with less regulatory oversight from the Government. ATF is also requesting comments on the possibility of revising the distilled spirits plant recordkeeping requirements to accomplish the Government's goals through a system that would be based, as much as possible, on proprietors' own recordkeeping methods.

Timetable:

Action	Date	FR Cite
NPRM	11/30/98	63 FR 65720
NPRM Comment Period End	01/29/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Simon, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB58

2614. FORMULAS FOR DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552(a); 26 USC 5242; 26 USC 7805

CFR Citation: 27 CFR 21.3; 27 CFR 21.6; 27 CFR 21.11; 27 CFR 21.21; 27 CFR 21.31 to 21.34; 27 CFR 21.56; 27 CFR 21.65; 27 CFR 21.76; 27 CFR 21.91; 27 CFR 21.95 to 21.97

Legal Deadline: None

Abstract: This document proposes to amend part 21 to incorporate denaturants that have been approved pursuant to applications but not yet published in this part, as well as to clarify the regulations where necessary.

TREAS—BATF **Final Rule Stage**

Additionally, this document proposes to make a minor technical correction.

Timetable:

Action	Date	FR Cite
NPRM	07/31/96	61 FR 39929
NPRM Comment Period End	09/30/96	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Wood, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8185
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RIN: 1512–AB60

2615. IMPLEMENTATION OF WINE CREDIT PROVISIONS OF PUBLIC LAW 104-188

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 26 USC 5041

CFR Citation: 27 CFR 24.278; 27 CFR 24.279

Legal Deadline: None

Abstract: ATF is amending wine regulations to implement a law change which allows certain transferees in bond to deduct small wine producers tax credit. Changes to bond calculation are also included in this regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 29681
Interim Final Rule	06/02/97	62 FR 29663
NPRM Comment Period End	08/01/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB65

2616. NET CONTENTS STATEMENT ON WINE LABELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: Based on a petition it has received, the Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to provide that the net contents statement for wine in containers of less than 1 liter may be expressed on the label in centiliters (cl) as an alternative to milliliters (ml).

Timetable:

Action	Date	FR Cite
NPRM	05/15/98	63 FR 27017
NPRM Comment Period End	08/13/98	
NPRM Comment Period Reopened	09/18/98	63 FR 49883
NPRM Comment Period Extended to	10/19/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB70

2617. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTIONS 908, 910 AND 1415, RELATED TO HARD CIDER, SEMIGENERIC WINE DESIGNATIONS AND WHOLESALE LIQUOR DEALER'S SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 4; 27 CFR 19; 27 CFR 24; 27 CFR 194; 27 CFR 250; 27 CFR 251

Legal Deadline: None

Abstract: This temporary rule implements some of the provisions of the Taxpayer Relief Act of 1997. The new law made changes in the excise tax on hard cider, clarified the authority to use semi-generic designations on wine labels, and repealed the requirement for wholesale dealers in liquors to post signs. The wine regulations are amended to incorporate the new hard cider tax rate and to recognize the labeling changes relative to the description to hard cider. These regulations are also amended to incorporate the semi-generic wine designations, and the liquor dealers' regulations are amended to eliminate the requirement for posting a sign.

Timetable:

Action	Date	FR Cite
NPRM	08/21/98	63 FR 44819
Temporary Rule	08/21/98	63 FR 44779
Comment Period Extended	11/06/98	63 FR 59921
NPRM Comment Period End	12/07/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
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Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB71

2618. • IMPLEMENTATION OF PL 105-34, SECTION 1417, RELATED TO THE USE OF AMELIORATING MATERIAL IN CERTAIN WINES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-34, Sec 1417

CFR Citation: 27 CFR 24.178; 27 CFR 4.21; 27 CFR 4.22

Legal Deadline: None

Abstract: The wine regulations are amended to extend the amelioration and sweetening limitations of wines made from any fruit or berry.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

TREAS—BATF **Final Rule Stage**

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Busey, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB78

2619. • PETITION FOR JOHANNISBERG RIESLING; PROPOSED ADDITION OF GRAPE VARIETY NAMES FOR AMERICAN WINES; REQUEST FOR ADDITIONAL INFORMATION FOR OTHER PROPOSED GRAPE VARIETIES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205 (e)

CFR Citation: 27 CFR 4.91; 27 CFR 4.92

Legal Deadline: None

Abstract: ATF has received a petition proposing to extend the phase-out date for the use of the term Johannisberg Riesling as a designation for American wines from January 1, 1999, until January 1, 2006.

ATF has also received petitions proposing to add two new names, Traminette and Aglianio, to the list of prime grape variety names for use in designating American wines.

Finally, ATF is soliciting comments or petitions for other grape varieties which wineries wish to use in producing and designating American varietal wines.

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 813
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Teri Byers, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8195
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Email: thbyers@atfhq.atf.treas.gov

RIN: 1512–AB80

EXPLOSIVES

2620. IMPLEMENTATION OF PUBLIC LAW 104-132, THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996, RELATING TO THE MARKING OF PLASTIC EXPLOSIVES FOR THE PURPOSE OF DETECTION

Priority: Other Significant

Legal Authority: 18 USC 847; 22 USC 2778

CFR Citation: 27 CFR 47; 27 CFR 55

Legal Deadline: Other, Statutory, April 24, 1997.
Provisions of the law will become effective 4/24/97.

Abstract: This temporary rule implements certain provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (Public law 104-132). These regulations implement the law by requiring detection agents for plastic explosives. The temporary rule also authorizes the use of four specific detection agents to mark plastic explosives and provides for the designation of other detection agents.

Timetable:

Action	Date	FR Cite
NPRM	02/25/97	62 FR 8412
Interim Final Rule	02/25/97	62 FR 8374
NPRM Comment Period End	05/27/97	62 FR 8412
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
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RIN: 1512–AB63

FIREARMS

2621. COMMERCE IN FIREARMS AND AMMUNITION (OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847; 18 USC 921 to 930

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Omnibus Consolidated Appropriations Act of 1997 contains amendments to the Gun Control Act of 1986 (18 U.S.C. chapter 44). These amendments add to the category of "prohibited persons" anyone convicted of a "misdemeanor crime of domestic violence". The amendments require individuals acquiring handguns from Federal firearms licenses to certify (in accordance with the Brady Law) that they have not been convicted of such a crime. The amendments also provide for sales between Federal firearms licensees of curio and relic firearms away from their licensed premises.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35551
Interim Final Rule	06/30/98	63 FR 35520
NPRM Comment Period End	09/28/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jim Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB64

2622. RESIDENCY REQUIREMENT FOR PERSONS ACQUIRING FIREARMS

Priority: Other Significant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The temporary rule amends the regulations to provide for a firearms purchaser's affirmative statement of his or her State of residence on ATF Form 4473 (Firearms Transaction Record) and ATF Form 5300.35 (Statement of Intent to Obtain a Handgun) in acquiring a firearm from a Federal firearms licensee. The temporary rule also amends the regulations to require that aliens purchasing a firearm provide proof of residency through the use of substantiating documentation, such as utility bills or a lease agreement. In

addition, the regulations are being amended to require that licensees examine a photo identification document from aliens purchasing firearms. These regulations implement President Clinton's March 5, 1997, announcement of firearms initiatives intended to protect the American public from gun violence.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19446
Interim Final Rule	04/21/97	62 FR 19442
NPRM Comment Period End	07/21/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB66

PROCEDURAL

2623. RECODIFICATION OF STATEMENT OF PROCEDURAL RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 847; 18 USC 926; 26 USC 7805; 27 USC 201 to 219(a)

CFR Citation: 27 CFR 70

Legal Deadline: None

Abstract: ATF is proposing to revise and recodify the statement of procedural rules for ease of use.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30013
NPRM Comment Period End	08/12/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB54

2624. • TECHNICAL AMENDMENTS TO 27 CFR PART 178

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 (a); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301; 31 USC 9303 to 9304; 40 USC 304 (k)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: This final rule changes the titles which have become obsolete at ATF. The changes are to provide clarity and uniformity throughout title 27, Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marsha Baker, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8320
Fax: 202 927-8602

RIN: 1512–AB82

2625. • IMPLEMENTATION OF THE PAPERWORK REDUCTION ACT

Priority: Info./Admin./Other

Legal Authority: 44 USC 3502

CFR Citation: 5 CFR 1320.7 (f)(2)

Legal Deadline: None

Abstract: This final rule adds approved control numbers issued by OMB for collections of information imposed by regulations administered by ATF for parts 4, 5 and 7 of the CFR.

Timetable:

Action	Date	FR Cite
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marsha Baker, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB90

TOBACCO PRODUCTS

2626. • BALANCED BUDGET ACT OF 1997-PL 105-33, RESTRICTION ON THE IMPORTATION OF DOMESTIC TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES RETURNED TO THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5704 (b); 26 USC 5704 (d); 26 USC 5754; 26 USC 5702 (k); 26 USC 5761; PL 105-33

CFR Citation: 27 CFR 290; 27 CFR 295; 27 CFR 296; 27 CFR 270

Legal Deadline: Final, Statutory, January 1, 2000.

Abstract: Restricts the reimportation of domestic tobacco products, cigarette papers and tubes. These products may only be returned for delivery to a manufacturer of tobacco products or cigarette papers and tubes or to the proprietor of an export warehouse.

Requires mandatory export markings on tobacco products, cigarette papers and tubes.

Finally, additional penalties for diversion of tobacco products, cigarette papers and tubes, labeled for export only.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Teri Byers, ATF Specialist, Department of the Treasury,

TREAS—BATF **Final Rule Stage**

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RIN: 1512–AB81

2627. • TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TAX INCREASES FOR JANUARY 1, 2000, AND JANUARY 1, 2002

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33, Sec 9302 (a)

CFR Citation: 27 CFR 270; Not yet determined

Legal Deadline: Final, Statutory, January 1, 2000.

Abstract: Amend regulations to reflect new tax rates for tobacco products or cigarette papers and tubes on January 1, 2000, and January 1, 2002.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	
Final Action Effective	01/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB88

2628. • IMPLEMENTATION OF PUBLIC LAW 105-33, SECTION 9302, RELATED TO CHANGE IN TAX COMPUTATION OF CIGARETTE PAPERS AND THE IMPOSITION OF PERMIT REQUIREMENTS ON ROLL-YOUR-OWN TOBACCO

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5701

CFR Citation: 27 CFR 270; 27 CFR 275; 27 CFR 290; 27 CFR 295; 27 CFR 296

Legal Deadline: None

Abstract: Temporary rule and notice of proposed rulemaking to implement Section 9302(c) and (h) of the Balanced Budget Act of 1997.

Changes to the computation of excise tax on cigarette papers and implementation of permit requirements on manufacture of roll-your-own tobacco.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jackie White, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB92

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Long-Term Actions

ALCOHOL

2629. EXPORTATION OF LIQUORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 252

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40887
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47320
ANPRM Comment Period Extended End	12/07/92	
ANPRM	08/09/96	61 FR 41500
ANPRM Comment Period End	12/10/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA98

2630. ALCOHOLIC CONTENT LABELING FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 7

Timetable:

Action	Date	FR Cite
NPRM	04/19/93	58 FR 21233
Interim Final Rule	04/19/93	58 FR 21228
NPRM Comment Period End	07/19/93	
NPRM Comment Period Extended	07/19/93	58 FR 38543
NPRM Comment Period Extended End	09/17/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Bacon
Phone: 202 927-8230
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Email: cnbacon@atfhq.atf.treas.gov

RIN: 1512–AB17

2631. DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 22.21; 27 CFR 22.25 to 22.27; 27 CFR 22.43; 27 CFR 22.59; 27 CFR 22.60; 27 CFR 22.62; 27 CFR 22.63; 27 CFR 22.68; 27 CFR 22.152

TREAS—BATF

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30019
NPRM Comment Period End	08/12/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Wood
Phone: 202 927-8185
Fax: 202 927-8602

RIN: 1512–AB51

2632. DISTRIBUTION OF DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 27 CFR 20

Timetable:

Action	Date	FR Cite
ANPRM	06/13/96	61 FR 30019
ANPRM Comment Period End	08/12/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mary Wood
Phone: 202 927-8185
Fax: 202 927-8602

RIN: 1512–AB57

2633. PRODUCTION OF VOLATILE FRUIT FLAVORED CONCENTRATE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 18.56

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30017
NPRM Comment Period End	08/12/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Wood
Phone: 202 927-8185
Fax: 202 927-8602

RIN: 1512–AB59

2634. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTION 1416 RELATING TO REFUND OF TAX FOR DOMESTIC WINE RETURNED TO BOND REGARDLESS OF MERCHANTABILITY (TAXPAYER RELIEF ACT OF 1997)

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 24.66; 27 CFR 24.295; 27 CFR 24.312

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary A. Wood
Phone: 202 927-8185
Fax: 202 927-8602

RIN: 1512–AB74

PROCEDURAL

2635. • TECHNICAL AMENDMENTS TO 27 CFR PART 200

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805; 27 USC 204

CFR Citation: 27 CFR 200

Legal Deadline: None

Abstract: This final rule amends the provisions of 27 CFR part 200 to change the title designation "District Director" to "Director of Industry Operations (DIO)" wherever it appears, and to make other necessary conforming amendments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Kern, Writer-Editor, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB91

TOBACCO PRODUCTS

2636. EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 290

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40889
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	01/08/93	58 FR 3247
ANPRM Comment Period Extended End	03/09/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
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Fax: 202 927-8602

RIN: 1512–AB03

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Completed Actions

2637. PROCEDURES FOR REVOKING PREVIOUSLY APPROVED CERTIFICATES OF LABEL APPROVAL, EXEMPTIONS FROM LABEL APPROVAL, OR DISTINCTIVE LIQUOR BOTTLE APPROVALS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4.40; 27 CFR 4.50; 27 CFR 5.56; 27 CFR 5.51; 27 CFR 5.55; 27 CFR 7.31; 27 CFR 7.41; 27 CFR 13 (New); 27 CFR 19.633; 27 CFR 19.641

Completed:

Reason	Date	FR Cite
Final Action	01/13/99	64 FR 2122
Final Action Effective	03/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB34

2638. COMMERCE IN EXPLOSIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 55

Completed:

Reason	Date	FR Cite
Final Action	08/24/98	63 FR 44999
Final Action Effective	12/22/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Waller
Phone: 202 927-8310
Fax: 202 927-7488

RIN: 1512–AB55

2639. • AMENDMENTS TO 27 CFR PART 55, COMMERCE IN EXPLOSIVES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: This rule will amend 27 CFR part 55 to correct exclusions that were left out of the previous final rule.

Timetable:

Action	Date	FR Cite
Withdrawn	03/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230

RIN: 1512–AB85

2640. FIREARMS AND AMMUNITION EXCISE TAXES PARTS AND ACCESSORIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 53.61(b)

Completed:

Reason	Date	FR Cite
Final Action	10/01/98	63 FR 52601
Final Action Effective	11/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Baker
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB49

2641. BRADY BILL REGULATIONS—PERMANENT PROVISION

Priority: Other Significant

CFR Citation: 27 CFR 178

Completed:

Reason	Date	FR Cite
Final Action	10/29/98	63 FR 58271
Final Action Effective	11/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James Ficaretta
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB67

2642. POSTING OF SIGNS AND WRITTEN NOTIFICATIONS TO PURCHASERS OF HANDGUNS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 178

Completed:

Reason	Date	FR Cite
Final Action	07/13/98	63 FR 37740
Final Action Effective	09/11/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Baker
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB68

2643. • DELEGATION OF AUTHORITIES OF THE DIRECTOR IN TITLE 27, PART 24, OF THE CODE OF FEDERAL REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 24

Legal Deadline: None

Abstract: This regulation places most ATF authorities with the "appropriate ATF officer" and requires that persons file documents with the "appropriate ATF officer" or as instructed on the ATF form. Concurrently, ATF Order 1130.5 will delegate the Director's authorities to ATF officers and designate the officer to whom applications, notices and other reports, which are not ATF forms, are filed.

Timetable:

Action	Date	FR Cite
Final Action	03/22/99	64 FR 13682

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB87

BILLING CODE 4810-31-F

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of the Public Debt (BPD)

Proposed Rule Stage

2644. REGULATIONS GOVERNING COLLATERAL ACCEPTABILITY AND VALUATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 90; 12 USC 265 to 266; 12 USC 332; 12 USC 391; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1789a; 12 USC 2013; 12 USC 2122; 26 USC 6302; 31 USC 321; 31 USC 323; 31 USC 3301 to 3303; 31 USC 9301; 31 USC 9303

CFR Citation: 31 CFR 380 (New)

Legal Deadline: None

Abstract: The proposal will only address the eligibility and valuation of required collateral for the payment of certain Federal taxes through Treasury Tax and Loan accounts, to secure deposits of public monies under the control of public officials and to secure an obligation in lieu of a surety bond.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kurt Eidemiller, Government Securities Specialist, Government Securities Regulations Staff, Department of the Treasury, Bureau of the Public Debt, Room 515, 999 E Street NW., Washington, DC 20239-0001
Phone: 202 219-3632
Email: govsecreg@bpd.treas.gov

RIN: 1535–AA00

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of the Public Debt (BPD)

Completed Actions

2645. AMENDMENTS TO THE GOVERNMENT SECURITIES ACT REGULATIONS: REPORTS TO BE MADE BY SPECIALIZED GOVERNMENT SECURITIES BROKER-DEALERS REGARDING YEAR 2000 READINESS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 405

Completed:

Reason	Date	FR Cite
Final Action	01/12/99	64 FR 1735
Final Action Effective	02/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck Andreatta
Phone: 202 219-3632
Email: govsecreg@bpd.treas.gov

RIN: 1535–AA01

BILLING CODE 4830-01-F

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Proposed Rule Stage

2646. UNIFORM RULES OF PRACTICE AND PROCEDURE; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 554 to 557; 12 USC 93a; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1831o; 12 USC 1972; 12 USC 3102; 12 USC 3108; 12 USC 3909

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The OCC is considering what regulatory actions may be necessary to implement section 112(g)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 to develop joint agency procedures for the suspension and debarment of accountants, upon a showing of good cause, from performing certain audit services.

Timetable:

Action	Date	FR Cite
NPRM - Suspension and Debarment of Accountants	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ursula Pfeil, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: ursula.pfeil@occ.treas.gov

RIN: 1557–AB43

2647. INTERPRETIVE RULINGS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq; 12 USC 93; 12 USC 93a; 12 USC 481; 12 USC 484; 12 USC 1818

CFR Citation: 12 CFR 1.3(e)(1); 12 CFR 7.1012; 12 CFR 7.1016; 12 CFR 7.1017; 12 CFR 7.2005; 12 CFR 7.2008; 12 CFR 7.2020; 12 CFR 7.2023; 12 CFR 7.4000; 12 CFR 7.4003; 12 CFR 7.4004; 12 CFR 7.4005

Legal Deadline: None

Abstract: The OCC will amend 12 CFR part 1 to clarify the extent to which national banks may underwrite, deal in, purchase, and sell Type IV securities that are fully secured by Type I securities.

The OCC will amend 12 CFR part 7 interpretations and add new ones to reflect developments or otherwise clarify provisions in the current rule that have prompted questions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Lussier, Senior Attorney, Department of the Treasury, Comptroller of the Currency,

TREAS—OCC **Proposed Rule Stage**

Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
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RIN: 1557–AB61

2648. • COMMUNITY DEVELOPMENT CORPORATION AND PROJECT INVESTMENTS AND OTHER PUBLIC WELFARE INVESTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24 (Eleventh); 12 USC 93a

CFR Citation: 12 CFR 24

Legal Deadline: None

Abstract: The OCC is proposing to amend 12 CFR part 24 to, among other things, (a) remove the community benefit statement requirement in self-certification letters and investment proposals submitted to the OCC for prior approval; and (b) remove the requirement that no more than 25 percent of the bank's community investment funds projects in a State or metropolitan area other than the States or metropolitan areas in which the bank maintains its main office or has branches.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Heidi M. Thomas, Legislative Counsel, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
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Fax: 202 874-4889
Email: heidi.thomas@occ.treas.gov

RIN: 1557–AB69

2649. • REAL ESTATE APPRAISALS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 3331 et seq

CFR Citation: 12 CFR 34

Legal Deadline: None

Abstract: This rulemaking would amend the OCC's appraisal regulation to exempt transactions involving mortgage-backed securities (MBS) from its principal appraisal requirements. The amendment would allow national banks to invest in commercial mortgage-backed securities (CMBS) without regard to appraisals.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karl Betz, Attorney, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
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Email: karl.betz@occ.treas.gov

RIN: 1557–AB70

2650. • MINIMUM SECURITY DEVICES AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1882

CFR Citation: 12 CFR 21

Legal Deadline: None

Abstract: The OCC is considering a rulemaking that would amend the OCC's Minimum Security Devices and Procedures regulation to address recent changes made to the definition of the term "branch" in the National Bank Act by the Economic Growth and Paperwork Reduction Act of 1996 (EGRPRA). This amendment would clarify that the regulation applies to automated teller machines (ATMs) and remote service units (RSUs).

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karl Betz, Attorney, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
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Fax: 202 874-4889
Email: karl.betz@occ.treas.gov

RIN: 1557–AB71

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Final Rule Stage

2651. CAPITAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1828 Note; 12 USC 1828(n); 12 USC 1831n Note; 12 USC 1835; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: As part of the OCC's ongoing efforts to develop and refine capital standards to ensure the safety and soundness of the national banking system and to implement statutory requirements, the OCC is amending various provisions of the capital rules for national banks. Specifically, these changes include: (1) collateralized transactions; (2) recourse arrangements and direct credit substitutes; (3) technical and conforming amendments under section 303 of the Riegle Community Development and Improvement Act of 1994, Pub. L. 103-325 (Sept. 23, 1994) (CDRI section 303); (4) market risk (specific risk); and (5) claims on securities firms. The OCC is conducting all but the market risk rulemaking jointly with the other Federal banking agencies. The market risk regulation is being done jointly with the FDIC and the FRB.

Timetable:

Claims on Securities Firms
Interim Rule w/Request for Comments 12/00/99
Collateralized Transactions
NPRM 08/16/96 (61 FR 42565)
Final Rule 12/00/99
CDRI Section 303 Capital Amendments
NPRM 10/27/97 (62 FR 55686)
Final Rule 03/02/99 (64 FR 10194)
Market Risk (Specific Risk)
Interim Rule 12/30/97 (62 FR 68064)
Final Rule 12/00/99

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Recourse: Recourse and Direct Credit Substitutes
ANPRM/NPRM 05/25/94 (59 FR 27116)
NPRM 11/05/97 (62 FR 59944)
NPRM To Be Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Roger Tufts, Senior Economic Advisor, Capital Policy Division, (202) 874-5070, fax (202) 874-5417, 250 E Street SW., Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: ron.shimabukuro@occ.treas.gov

RIN: 1557–AB14

2652. EXPANDED EXAMINATION CYCLE FOR CERTAIN SMALL FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1820(d)(8)

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: The OCC and the other Federal banking agencies have implemented section 306 of the Riegle Community Development and Improvement Act of 1994, Pub. L. 103-325 (Sept. 23, 1994) (CDRI section 306). CDRI section 306 permits the agencies to raise the asset threshold for institutions eligible for an expanded, 18-month examination schedule. Certain small financial institutions are eligible for an examination every 18 months rather than every 12 months. This rulemaking implements the expanded exam cycle for Federal branches and agencies of foreign banks as well as for domestic banks.

Timetable:

18-Month Exam Cycle for Federal Branches and Federal Agencies
Interim Rule w/Request for Comments 08/28/98 (63 FR 46117)
Interim Rule Effective 08/28/98
Final Rule 06/00/99

18-Month Exam Cycle for National Banks
Interim Rule w/Request for Comments 02/12/97 (62 FR 6449)
Interim Rule Effective 02/12/97
Final Rule 04/02/98 (63 FR 16378)
Final Rule Effective 04/02/98

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: mark.tenhundfeld@occ.treas.gov

RIN: 1557–AB56

2653. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 3201 et seq

CFR Citation: 12 CFR 26

Legal Deadline: None

Abstract: The rulemaking will amend the current regulations of the OCC and the other Federal banking agencies to conform the regulations to recent changes made to the Depository Institutions Management Interlocks Act (DIMIA). DIMIA was amended to raise the asset threshold for the prohibition against interlocks involving an institution with at least $1 billion in total assets and an institution with at least $500 million in total assets. DIMIA also was amended to expand the exemptive authority of the OCC and other Federal banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 43051
NPRM Comment Period End	10/13/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
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Email: mark.tenhundfeld@occ.treas.gov

RIN: 1557–AB60

2654. ORGANIZATION AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 1820(d)(6); 12 USC 1867

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: The OCC is amending its disclosure regulation. Among other things, the amendment clarifies that the OCC may make non-public OCC information available to a supervised entity and to other persons as in the sole discretion of the Comptroller may be necessary or appropriate, without a request for records or testimony.

Timetable:

Action	Date	FR Cite
Interim Rule w/Request for Comments	11/10/98	63 FR 62927
Interim Rule Effective	11/10/98	
Comment Period End	01/11/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stuart Feldstein, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
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RIN: 1557–AB65

2655. INTERAGENCY GUIDELINES ESTABLISHING YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1831p-1

CFR Citation: 12 CFR 30 app B

Legal Deadline: None

Abstract: The guidelines establish Year 2000 safety and soundness standards under section 39 of the Federal Deposit

TREAS—OCC

Final Rule Stage

Insurance Act (12 USC 1831p-1) to address the Year 2000 problem. Under the auspices of the Federal Financial Institutions Examination Council (FFIEC), the agencies have already issued several statements providing guidance on important aspects of Year 2000 readiness. The guidelines complement those statements by establishing minimum safety and soundness standards for achieving Year 2000 readiness.

Timetable:

Action	Date	FR Cite
Interim Rule Effective Date	10/15/98	63 FR 55480
Interim Rule With Request for Comments	10/15/98	63 FR 55480
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ursula Pfeil, Attorney, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
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RIN: 1557–AB67

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Long-Term Actions

2656. QUALIFICATION REQUIREMENTS FOR TRANSACTIONS IN CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 12

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68823
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld
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RIN: 1557–AB54

2657. RULES AND PROCEDURES FOR CLAIMS AGAINST OCC-APPOINTED RECEIVERSHIPS FOR UNINSURED FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave
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RIN: 1557–AB59

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2658. BANK SECRECY ACT COMPLIANCE: "KNOW YOUR CUSTOMER" REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 21.21

Completed:

Reason	Date	FR Cite
Withdrawn	03/30/99	64 FR 15137

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld
Phone: 202 874-5090
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Email: mark.tenhundfeld@occ.treas.gov

RIN: 1557–AB66

2659. YEAR 2000 READINESS REPORTS FOR TRANSFER AGENT ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 9

Completed:

Reason	Date	FR Cite
Withdrawn - Considering Nonregulatory Actions	02/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stuart Feldstein
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Fax: 202 874-4889
Email: stuart.feldstein@occ.treas.gov

RIN: 1557–AB68

BILLING CODE 4810-33-F

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Proposed Rule Stage

2660. LIQUIDATION; EXTENSION; SUSPENSION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1500; 19 USC 1504; 19 USC 1624

CFR Citation: 19 CFR 159

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to implement amendments to section 504 of the Tariff Act of 1930, as amended, which pertains to limitations on the liquidation of entries, that were contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Amendments would allow the reconciliation of entries to be treated as if they were entry summaries, subject to normal liquidation requirements; authorize the electronic transmittal of notices of extension and suspension of liquidation; extend the time period in which customs must liquidate a suspended entry after the suspension is removed; remove the application of the four-year limitation to suspended entries; and provide that Customs must also inform sureties when an entry is suspended or extended.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Rosoff, Branch Chief, Duty Refund and Determination Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2077

RIN: 1515–AB66

2661. DETENTION, SEIZURE, AND FORFEITURE OF "BOOTLEG" SOUND RECORDING AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 31 USC 9701

CFR Citation: 19 CFR 12; 19 CFR 24; 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for the detention, seizure, and forfeiture of unauthorized (bootleg) copies of sound recordings and music videos of live musical performances recorded outside of and imported into the United States, as provided by section 513(a) of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George McCray, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2387

RIN: 1515–AB74

2662. RECONCILIATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1484; 19 USC 1500; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to allow those elements of an entry, other than those elements relating to the admissibility of the merchandise, that are undetermined at the time an entry summary or an import activity summary is required to be submitted, to be provided to Customs at a later date.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Durant, Director, Commercial Rulings Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2244

RIN: 1515–AB85

2663. REMOTE LOCATION FILING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1484; 19 USC 1624; 19 USC 1641

CFR Citation: 19 CFR 111; 19 CFR 113; 19 CFR 141; 19 CFR 143

Legal Deadline: None

Abstract: Amendment to allow entry filers to electronically file entries of merchandise with Customs from locations within the United States other than at the port of arrival of the merchandise or the location of examination of the merchandise.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Engelbach, Trade Compliance Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2293

RIN: 1515–AC23

2664. NAFTA PREFERENCE OVERRIDE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 3314; 19 USC 3592

CFR Citation: 19 CFR 102

Legal Deadline: None

Abstract: Amendment concerns the North American Free Trade Agreement (NAFTA) preference override provision

TREAS—CUSTOMS **Proposed Rule Stage**

within the NAFTA Marking Rules set forth in part 102 of the Customs Regulations. Amendment would eliminate unintended origin and duty consequences under certain circumstances where the regulation is applied as a result of a claim for NAFTA preference.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Burton Schlissel, Attorney Advisor, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2310

RIN: 1515–AC25

2665. FOREIGN REPAIRS TO AMERICAN VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1466; 19 USC 1498; 19 USC 1624; 46 USC app 3; 46 USC app 91

CFR Citation: 19 CFR 4; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to revise the Customs Regulations regarding the declaration, entry, assessment of duty and processing of petitions for relief from duty for vessels of the United States which undergo foreign shipyard operations. Amendment reflects underlying statutory authority, as well as legal and policy determinations made as a result of judicial decisions and administrative enforcement experience.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry L. Burton, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1287

RIN: 1515–AC30

2666. COUNTRY OF ORIGIN MARKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendments clarify the country of origin marking rules set forth in part 134 of the Customs Regulations. Amendments promote the concept of informed compliance by the trade and proper field administration of the statutory requirement.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra L. Bell, Director, International Trade Compliance Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2244

RIN: 1515–AC32

2667. CUSTOMS BROKERS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1641; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1484; 19 USC 1498

CFR Citation: 19 CFR 111

Legal Deadline: None

Abstract: Amendment revises Customs Regulations governing the licensing and conduct of Customs brokers in the performance of Customs business on behalf of others. Revision includes changes to reflect amendments to the underlying statutory authority enacted as part of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act as well as changes to reflect the recent reorganization of Customs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Laderberg, Chief, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2320

RIN: 1515–AC34

2668. VESSEL EQUIPMENT TEMPORARILY LANDED FOR REPAIR

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1446; 19 USC 1624; 46 USC app 3; 46 USC app 91

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Amendment provides for the temporary landing in the United States of vessel equipment in need of repair, without requiring entry of that equipment under a Temporary Importation Bond (TIB). Such equipment would be permitted to be landed for repair and relading aboard the same vessel, subject to Customs issuance of a special permit or license for the landed equipment under an International Carrier Bond.

Timetable:

Action	Date	FR Cite
NPRM	03/18/99	64 FR 13370
NPRM Comment Period End	05/17/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry Burton, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1287

RIN: 1515–AC35

TREAS—CUSTOMS **Proposed Rule Stage**

2669. FORCED OR INDENTURED CHILD LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1307; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment of Customs Regulations to provide for the seizure and forfeiture of merchandise that is found to be a prohibited importation under applicable Customs law concerning products of convict labor, forced labor, or indentured labor under penal sanctions. Amendment makes clear that nothing in the regulations precludes Customs from seizing for forfeiture merchandise imported in violation of applicable Federal criminal law dealing with prison-labor goods. Amendment is intended to stop illegal shipments of products of forced or indentured child labor and to punish violators.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen E. Vereb, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2320

RIN: 1515–AC36

2670. • INFORMAL ENTRY OF LOW-VALUE DUTY-FREE MERCHANDISE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1624

CFR Citation: 19 CFR 143

Legal Deadline: None

Abstract: Amendment to permit, with some exceptions, the use of Customs Form 7523, for purposes of informal entry of shipments of duty-free merchandise not exceeding $2,000 in value. Under the amendment, the right to file Customs Form 7523 would no longer be restricted to the importer and the filing would no longer have to be supported by evidence of the right to make entry. By allowing a filing by the carrier or any other party having possession of the imported merchandise, the amendment would have the effect of expediting the release and entry of the merchandise.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Laderberg, Chief, Entry Procedures and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2320

RIN: 1515–AC38

2671. • EXPANDED METHODS OF PAYMENT OF DUTIES, TAXES, INTEREST AND FEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1450; 19 USC 1624; 31 USC 9701; 19 USC 197; 19 USC 198

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment to expand the number of ways that Customs will accept payment of duties, taxes, fees, interest and other charges. Currently, the regulations allow for credit or charge cards, which have been authorized by the Commissioner of Customs, to be used at designated Customs-serviced locations with a limitation that this method of payment may only be used by non-commercial entities. Amendment allows payment of duties, taxes, fees, interest and other charges by any electronic technology or charge cards (either debit or credit cards) that are authorized by the Commissioner of Customs and by removing the limitation that these methods of payment may only be used by non-commercial entities.

Timetable:

Action	Date	FR Cite
NPRM	03/17/99	64 FR 13141
NPRM Comment Period End	05/17/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Dichysyn, Accountant, Accounting Services Division, Department of the Treasury, United States Customs Service, Office of Finance, 6026 Lakeside Boulevard, Indianapolis, IN 46278
Phone: 317 298-1200

RIN: 1515–AC40

2672. • CUSTOMS BONDED WAREHOUSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1312; 19 USC 1624

CFR Citation: 19 CFR 19

Legal Deadline: None

Abstract: Amendment regarding the filing of several inventory reports by bonded warehouse proprietors. Instead of requiring that certain reports be filed with Customs, the amendment requires that bonded warehouse proprietors maintain these inventory reports after their preparation. In certain instances, when the inventory report is prepared, a letter must be submitted to Customs certifying that the report has been prepared. Changes are made to simplify inventory recordkeeping procedures for warehouse proprietors.

Timetable:

Action	Date	FR Cite
NPRM	04/07/99	64 FR 16868

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Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	06/07/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward Bowles, Senior Auditor, Regulatory Audit Division, Department of the Treasury, United States Customs Service, 1300 Pennsylavania Avenue NW., Washington, DC 20229
Phone: 202 927-0071

RIN: 1515–AC41

2673. • AUTOMATED EXPORT SYSTEM (AES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1624; 19 USC 1627a; 19 USC 1646a; 13 USC 303; 46 USC app 3; 46 USC app 91

CFR Citation: 19 CFR 4; 19 CFR 101; 19 CFR 192

Legal Deadline: None

Abstract: The Automated Export System (AES) is an electronic reporting system jointly developed by the Bureau of the Census and Customs that allows exporters to electronically transmit commodity information contained on Shipper's Export Declarations and sea carriers to electronically transmit outbound vessel manifest information. This amendment cross-references the regulations of the Bureau of the Census regarding AES and sets forth criteria under which Customs will determine whether to approve an exporter for the option to transmit commodity information through AES after a carrier has left the United States (post-departure). Amendment also sets forth the appeal procedures for AES exporters if Customs denies the exporter the post-departure option; or if Customs approves the post-departure option for the AES exporter, the grounds for revocation of the use of the option and the appeal procedure if Customs revokes the use of the option.

Timetable:

Action	Date	FR Cite
NPRM	02/12/99	64 FR 7422
NPRM Comment Period End	04/13/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Maritza Castro, Supervisory Customs Inspector, Outbound Programs, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 703 921-7465

RIN: 1515–AC42

2674. • AMENDED BOND PROCEDURES FOR ARTICLES SUBJECT TO EXCLUSION ORDERS ISSUED BY THE U.S. INTERNATIONAL TRADE COMMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1337; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to reflect the statutory provisions regarding bond procedures for the entry of articles subject to exclusion orders issued by the U.S. International Trade Commission. Amendment also includes the text of a new special importation and entry bond in the Customs Regulations. Changes reflect the terms of section 337 of the Tariff Act of 1930, as amended by section 321 of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen Vereb, Senior Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1327

RIN: 1515–AC43

2675. • IMPORTATION AND ENTRY BOND CONDITIONS REGARDING OTHER AGENCY DOCUMENTATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 113

Legal Deadline: None

Abstract: Amendment with regard to the basic importation and entry bond condition under which, if merchandise is conditionally released to the principal named in the bond, the principal agrees to furnish Customs with any document or evidence as required by law or regulation. Amendment would extend this requirement, and consequently the potential liability for payment of liquidated damages for a breach of the bond condition, to documents and evidence submitted to other Government agencies under laws and regulations of those other agencies.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Senior Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue,NW, Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AC44

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Final Rule Stage

2676. ACCREDITATION OF COMMERCIAL TESTING LABORATORIES; APPROVAL OF COMMERCIAL GAUGERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 151; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to set forth procedures for the accreditation of commercial laboratories and the approval of commercial gaugers and the suspension and revocation of such accreditations and the approvals. Amendments are pursuant to authority of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act.

Timetable:

Action	Date	FR Cite
NPRM	06/09/98	63 FR 31385
NPRM Comment Period End	08/10/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ira Reese, Chief, Technical Branch, Office of Laboratories & Scientific Services, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1060

RIN: 1515–AB60

2677. COUNTRY-OF-ORIGIN MARKING REQUIREMENTS FOR FROZEN PRODUCE PACKAGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Requires that the country of origin of imported produce be marked on the front panel of packages of frozen produce in order for the marking to comply with the statutory requirement that marking be in a "conspicuous place."

Timetable:

Action	Date	FR Cite
ANPRM	02/02/95	60 FR 6464
ANPRM Comment Period End	03/20/95	
NPRM	07/23/96	61 FR 38119
NPRM Comment Period End	10/17/97	62 FR 43958
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Bell, Division Director, International Trade Compliance Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2244

RIN: 1515–AB61

2678. DETENTION OF MERCHANDISE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 151

Legal Deadline: None

Abstract: Amendment to provide for procedures regarding the detention of merchandise that is undergoing Customs examination. Amendment will reflect Customs Modernization Act.

Timetable:

Action	Date	FR Cite
NPRM	06/05/96	61 FR 28522
NPRM Comment Period End	08/05/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AB75

2679. INTEREST ON UNDERPAYMENTS AND OVERPAYMENTS OF CUSTOMS DUTIES, FEES AND INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 1202; 19 USC 1505; 19 USC 1624; 31 USC 9701; 19 USC 1500; 19 USC 1504; 19 USC 1315; 19 USC 1514; 19 USC 1515

CFR Citation: 19 CFR 24; 19 CFR 159; 19 CFR 174

Legal Deadline: None

Abstract: Amendment to reflect the provisions of section 505 of the Tariff Act of 1930, as amended by section 642(a) of the North American Free Trade Agreement Implementation Act, regarding the assessment of interest due to underpayments or overpayments to Customs of duties and fees pertaining to imported merchandise, including interest thereon.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Reiley, Financial Officer, Financial Management Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1504

RIN: 1515–AB76

2680. NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)—IMPLEMENTATION OF DUTY-DEFERRAL PROGRAM PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1481; 19 USC 1484; 19 USC 1202; 19 USC 1315; 19 USC 1624; 19 USC 3314

CFR Citation: 19 CFR 181; 19 CFR 113; 19 CFR 141; 19 CFR 144; 19 CFR 10

Legal Deadline: Final, Statutory, January 1, 1996.

Abstract: Document amends regulations to establish procedural and other requirements that apply to the collection, waiver, and reduction of duties under the duty-deferral program

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provisions of the North American Free Trade Agreement. The document prescribes the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program either for exportation to another NAFTA country or for entry into a duty-deferral program of another NAFTA country, the procedures that must be followed in filing a claim for a waiver or reduction of duties collected on such merchandise, and the procedures for finalization of duty collections and duty waiver or reduction claims.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/96	61 FR 2908
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shawn Filion, Commercial Program Specialist, Department of the Treasury, United States Customs Service, Office of Field Operations, North Star Commercial, P.O. Box 400, Buffalo, New York 14225 Phone: 716 551-3053

RIN: 1515–AB87

2681. ELECTRONIC REQUESTS FOR CONFIDENTIAL TREATMENT OF EXPORT MANIFEST DATA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Document would amend Customs Regulations concerning export manifest data to enable shippers to request confidential treatment of their name and address information on the Automated Export System.

Timetable:

Action	Date	FR Cite
NPRM	09/12/96	61 FR 48098
NPRM Comment Period End	11/12/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carla Brooks, Automated Export System Team, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229 Phone: 202 927-2246

RIN: 1515–AB89

2682. ENTRY OF SOFTWOOD LUMBER SHIPMENTS FROM CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2416; 19 USC 2171

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Document sets forth amendments establishing additional entry requirements applicable to shipments of softwood lumber from Canada. Amendment involves the collection of certain additional information for purposes of monitoring and enforcing an agreement between the Governments of the United States and Canada regarding trade in softwood lumber.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/97	62 FR 8620
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Metzger, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229 Phone: 202 927-0792

RIN: 1515–AB97

2683. PETITIONS FOR RELIEF; SEIZURES, PENALTIES, AND LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1592; 19 USC 1618; 19 USC 1624; 19 USC 1623

CFR Citation: 19 CFR 171; 19 CFR 172; 19 CFR 18; 19 CFR 24; 19 CFR 111; 19 CFR 113; 19 CFR 114; 19 CFR 125; 19 CFR 145; 19 CFR 162; 19 CFR 10; 19 CFR 12

Legal Deadline: None

Abstract: Amendments relating to the filing of petitions in penalty, liquidated damages and seizure cases. Amendments are designed to allow more flexibility and useful contact with Government officials in an effort to administer cases in the most efficient way possible. Amendments promote a more customer-friendly atmosphere and eliminate needless or redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	02/02/98	63 FR 5329
NPRM Comment Period End	04/03/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229 Phone: 202 927-1176

RIN: 1515–AC01

2684. IMPORTATION OF CHEMICALS SUBJECT TO THE TOXIC SUBSTANCES CONTROL ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 15 USC 2601 et seq; 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to the Customs Regulations regarding submission of an importer's certification in connection with the importation of chemical substances subject to the Toxic Substances Control Act. Amendment permits use of a blanket certification for each individual shipment.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 738

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Action	Date	FR Cite
NPRM Comment Period End	03/12/90	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brad Lund, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0192

RIN: 1515–AC04

2685. GUIDELINES FOR THE IMPOSITION AND MITIGATION OF PENALTIES FOR VIOLATION OF 19 USC 1592

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1592; 19 USC 1618; 19 USC 1624

CFR Citation: 19 CFR 171

Legal Deadline: None

Abstract: Revision of guidelines for remitting and mitigating penalties relating to violations of section 592 of the Tariff Act of 1930, as amended. A violation of 592 involves the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence or negligence.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57628
NPRM Comment Period End	12/28/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Pisani, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1203

RIN: 1515–AC08

2686. DESIGNATED LAND BORDER CROSSING LOCATIONS FOR CERTAIN CONVEYANCES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1459; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Amendment would allow Customs to designate land border crossing locations for certain traffic and merchandise. At ports of entry with multiple crossing points, port directors would have express authority to require by local instructions that certain trucks and other commercial conveyances enter the United States at specific land border crossing locations within the port of entry designated for the processing and clearance of those conveyances.

Timetable:

Action	Date	FR Cite
NPRM	11/17/97	62 FR 61251
NPRM Comment Period End	01/16/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ed Schack, Customs Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0251

RIN: 1515–AC12

2687. PENALTIES FOR FALSE DRAWBACK CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1592; 19 USC 1593a; 19 USC 1618; 19 USC 1624

CFR Citation: 19 CFR 162; 19 CFR 171

Legal Deadline: None

Abstract: Amendment sets forth the procedures to be followed when false drawback claims are filed and penalties are thereby incurred. Amendment implements section 622 of the Customs modernization provisions of the North American Free Trade Agreement Implementation Act. Provisions track, to the greatest extent possible, the procedures which have been set forth for section 592 of the Tariff Act of 1930, as amended.

Timetable:

Action	Date	FR Cite
NPRM	09/29/98	63 FR 51868
NPRM Comment Period End	11/30/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Ressin, Branch Chief, Penalties Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2344

RIN: 1515–AC21

2688. BOARDING OF VESSELS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1624; 19 USC 1581(a); 19 USC 288; 19 USC 1441; 19 USC 1448; 19 USC 1446; 19 USC 1486; 46 USC app 3; 46 USC app 91; 46 USC app 883

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Amendment regarding the boarding of vessels arriving in ports of the United States. Amendment reflects and implements amendments to the underlying statutory authority, enacted as part of the Customs Modernization Act, as well as policy determinations necessitated as a result of those amendments.

Timetable:

Action	Date	FR Cite
NPRM	07/06/98	63 FR 36379
NPRM Comment Period End	09/04/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry Burton, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229

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Final Rule Stage

Phone: 202 927-1287

William Scopa, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229

Phone: 202 927-3112

RIN: 1515–AC29

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Long-Term Actions

2689. HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0034

RIN: 1515–AA57

2690. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/92	57 FR 607
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0034

RIN: 1515–AA87

2691. RULES OF ORIGIN

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 102; 19 CFR 4.80b(a); 19 CFR 10.12(e); 19 CFR 10.14(b); 19 CFR 10.171(c); 19 CFR 10.191(b)(3); 19 CFR 134.1; 19 CFR 134.35; 19 CFR 177.22(a)

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48448
NPRM Comment Period End	01/09/92	56 FR 61214
NPRM Revising Initial Proposal	05/05/95	60 FR 22312
NPRM Additionally Revising Proposal	07/12/95	60 FR 35878
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Bell
Phone: 202 927-2244

RIN: 1515–AB19

2692. AUTOMATED SURETY INTERFACE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5680
NPRM Comment Period End	04/22/93	58 FR 16632
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Hundertmark
Phone: 202 927-0355

RIN: 1515–AB25

2693. FEES ASSESSED FOR DEFAULTED PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13664
NPRM Comment Period End	05/23/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Baker
Phone: 202 927-0620

RIN: 1515–AB38

2694. TEXTILES AND TEXTILE PRODUCTS SUBJECT TO TEXTILE TRADE AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AB54

2695. COUNTRY-OF-ORIGIN MARKING FOR WATCHES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 134

Timetable:

Action	Date	FR Cite
ANPRM	03/20/95	60 FR 14705
ANPRM Comment Period End	05/04/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Burton Schlissel
Phone: 202 927-1034

RIN: 1515–AB68

2696. TREATMENT OF MERCHANDISE IMPORTED BY FOREIGN GOVERNMENTS OR DESIGNATED INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 148

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

TREAS—CUSTOMS

Long-Term Actions

Agency Contact: Dennis Sequeira
Phone: 202 927-1480

RIN: 1515–AB92

2697. DETERMINATION OF THE COUNTRY OF ORIGIN OF TEXTILES AND TEXTILE PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AC00

2698. PUBLIC DISCLOSURE OF AIRCRAFT MANIFESTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 103

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee Kramer
Phone: 202 927-1251

RIN: 1515–AC13

2699. CUSTOMS ENTRY DOCUMENTATION PURSUANT TO ANTICOUNTERFEITING CONSUMER PROTECTION ACT

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 141

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce Ingalls
Phone: 202 927-0380

RIN: 1515–AC15

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2700. PARALLEL IMPORTS AND OTHER TRADEMARKED GOODS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 133

Completed:

Reason	Date	FR Cite
Final Action	02/24/99	64 FR 9058
Final Action Effective	03/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael L. Smith
Phone: 202 927-2326

RIN: 1515–AB49

2701. WAREHOUSE WITHDRAWALS; AIRCRAFT FUEL SUPPLIES; PIPELINE TRANSPORTATION IN BOND OF MERCHANDISE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 10; 19 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	04/05/99	64 FR 16345
Final Action Effective	04/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Craig Clark
Phone: 202 927-2317

RIN: 1515–AB67

2702. FOREIGN-BASED COMMERCIAL MOTOR VEHICLES IN INTERNATIONAL TRAFFIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 123

Completed:

Reason	Date	FR Cite
Final Action	02/16/99	64 FR 7502
Final Action Effective	03/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen Vereb
Phone: 202 927-2320
Eileen Kastava
Phone: 202 927-0983

RIN: 1515–AB88

2703. WEEKLY ENTRY PROCEDURE FOR FOREIGN TRADE ZONES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 146

Completed:

Reason	Date	FR Cite
Withdrawn	03/17/99	64 FR 13142

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Considine
Phone: 202 927-0533

RIN: 1515–AC05

2704. LAND BORDER CARRIER INITIATIVE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 123; 19 CFR 142

Completed:

Reason	Date	FR Cite
Final Action	01/04/99	64 FR 27
Final Action Effective	02/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jim Kelly
Phone: 202 927-0458

RIN: 1515–AC16

2705. EXPORTATION OF USED MOTOR VEHICLES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 192

TREAS—CUSTOMS

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	04/06/99	64 FR 16635
Final Action Effective	05/06/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hugh Austin
Phone: 202 927-3735

RIN: 1515–AC19

2706. ELIMINATION OF CERTIFICATION REQUIREMENT FOR FILM IMPORTERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 12

Completed:

Reason	Date	FR Cite
Project Terminated	11/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathy Dapkins
Phone: 202 927-0333

RIN: 1515–AC20

2707. AUTOMATED CLEARINGHOUSE CREDIT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 24

Completed:

Reason	Date	FR Cite
Final Action	02/16/99	64 FR 7500
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ben Robbin
Phone: 317 298-1520

RIN: 1515–AC26

2708. MANDATORY SEIZURE OF CERTAIN PLASTIC EXPLOSIVES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 162

Completed:

Reason	Date	FR Cite
Final Action	01/08/99	64 FR 1122
Final Action Effective	01/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Todd Schneider
Phone: 202 927-1694

RIN: 1515–AC33

2709. • CONFORMING AMENDMENTS CONCERNING PROTESTS AND ADMINISTRATIVE RULINGS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1514; 19 USC 1515; 19 USC 1624

CFR Citation: 19 CFR 174; 19 CFR 177

Legal Deadline: None

Abstract: Amendments to Customs Regulations pertaining to protests and administrative rulings in order to reflect various statutory changes made by the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The changes to the regulations regarding protests involve the electronic filing of protests, the denial of protests contrary to proper instructions, the denial of applications for further review erroneously or improperly or without authority, and the publication and modification or revocation of protest review decisions. The changes to the regulations regarding administrative rulings involve the publication, appeal, and modification or revocation of rulings and the publication of decisions that limit court decisions.

Timetable:

Action	Date	FR Cite
Withdrawn - Determination made not to proceed	01/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Elkins, Chief, Textiles Branch, Office of Regulations and Rulings, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2380

RIN: 1515–AC37

2710. • EXEMPTION OF ISRAELI PRODUCTS FROM CERTAIN USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1450; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment to reflect that products of Israel are no longer subject to the merchandise processing fees assessed on imported goods under 19 USC 58c(a)(9) and (10). Amendment results from publication of a determination by the United States Trade Representative under section 112 of the Customs and Trade Act of 1990 that the Government of Israel has provided reciprocal concessions. This exemption applies to Israeli products entered or withdrawn from warehouse for consumption on or after September 16, 1998.

Timetable:

Action	Date	FR Cite
Final Action	12/28/98	63 FR 71371
Final Action Effective	12/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Duty Refund and Determination Branch, Office of Regulations and Rulings, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2077

RIN: 1515–AC39

BILLING CODE 4820-02-F

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Proposed Rule Stage

2711. SECTION 79, TABLE I, UPDATE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 79

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will update the table used to determine the cost amount of group-term life insurance to be included in gross income.

Timetable:

Action	Date	FR Cite
NPRM	01/13/99	64 FR 2164
NPRM Comment Period End	04/13/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209103-89 (EE-82-89)

Drafting attorney: Betty Clary (202) 622-6070.

Reviewing attorney: James Brokaw (202) 622-6070.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AN54

2712. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 110

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation describing the information required to be furnished to the secretary by lessees and lessors involved with construction allowances for short-term leases.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106010-98

Drafting attorney: Paul Handleman (202) 622-3040.

Reviewing attorney: Walter Woo (202) 622-3040.

Treasury attorney: Christine Turgeon (202) 622-0865.

CC:DOM:P&SI

Agency Contact: Paul Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4779

RIN: 1545–AW16

2713. DEFINITION OF CONTRIBUTION IN AID OF CONSTRUCTION UNDER SUBSECTION 118(C)(3)(A)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 118

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to provide guidance on the definition of contributions in aid of construction within the meaning of section 118(c)(3)(A).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106012-94

Drafting attorney: Paul Handleman (202) 622-3040.

Reviewing attorney: Susan Reaman (202) 622-3040.

Treasury attorney: Christine Turgeon (202) 622-0865.

CC:DOM:P&SI

Agency Contact: Paul Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constiution Avenue NW., Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4779

RIN: 1545–AW17

2714. PURCHASE PRICE ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 338; 26 USC 1060

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation revises the rules governing purchase price allocations in certain asset acquisitions under section 1060 and deemed asset acquisitions under section 338. They also revise other rules under these sections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-107069-97

Drafting attorney: Richard Starke (202) 622-7790.

Reviewing attorney: Victor Penico (202) 622-7790.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

REG-209168-86 (CO-191-82) and REG-209161-86 (CO-119-86) were merged with this project.

Agency Contact: Richard Starke, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AV58

2715. GUIDANCE UNDER SECTION 355(D)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0355

CFR Citation: 26 CFR 1

Legal Deadline: None

TREAS—IRS **Proposed Rule Stage**

Abstract: The regulation will provide guidance on transactions under section 355(d).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106004-98

Drafting attorney: Phoebe Bennett (202) 722-7750.

Reviewing attorney: Robert Hawkes (202) 622-7530.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Phoebe Bennett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AW71

2716. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367(a) will be amended to reflect the changes made to that section by the Technical and Miscellaneous Corrections Act of 1988. Section 367(a)(5) now provides that a transfer of assets to a foreign corporation in an exchange described in section 361 is subject to section 367(a)(1) unless certain ownership requirements and other conditions are met. The regulations will provide guidance regarding the application of this section. The change in the statute was necessitated by the repeal of "General Utilities."

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209006-89 (INTL-089-89)

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Charlie Besecky (202) 622-3860.

CC:INTL

Agency Contact: Philip Tretiak, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AM97

2717. ACCOUNTING FOR LONG-TERM CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 460

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Section 460 requires a taxpayer to use the percentage-of-completion method of accounting for long-term contracts. The proposed regulations will provide general guidelines for determining whether a manufactured item is "unique" or normally requires more than 12 months to complete. In addition, the proposed regulations will provide general rules for long-term contracts, including special accounting rules for exempt construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-208156-91 (IA-58-91)

Drafting attorney: Leo F. Nolan II (202) 622-4960.

Reviewing attorney: Robert M. Casey (202) 622-4960.

Treasury attorney: Cristy Turgeon (202) 622-0865.

CC:DOM:IT&A

Agency Contact: Leo F. Nolan II, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4960
Fax: 202 622-6316

RIN: 1545–AQ30

2718. APPLICATION OF ATTRIBUTION RULES TO FOREIGN TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would provide attribution rules for foreign trusts with respect to foreign personal holding companies, foreign passive investment companies and controlled foreign corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-252774-96

Drafting attorney: Kelly Kogan (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: Michael Kirsch (202) 622-0871.

CC:INTL

Agency Contact: Kelly Kogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4408

RIN: 1545–AU91

2719. CAPITAL GAIN GUIDANCE RELATING TO CRTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1(h)(11); 26 USC 664

TREAS—IRS **Proposed Rule Stage**

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide capital gain guidance relating to charitable remainder trusts in light of the changes made to section 1(h) of the Internal Revenue Code by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-110896-98

Drafting attorney: Mary Beth Collins (202) 622-3080.

Reviewing attorney: Jeff Erickson (2020) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Mary Beth Collins, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AW35

2720. FOREIGN GRANTOR TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 679

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to taxpayers concerning the income tax treatment of transfers by U.S. persons to foreign trusts having U.S. beneficiaries. The amendments will conform to changes made by section 1013 of the Tax Reform Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209038-89 (INTL-243-89)

Drafting attorney: Willard Yates (202) 622-3880.

Reviewing attorney: Elizabeth Karzon (202) 622-3880.

Completed in error in the October 1995 Unified Agenda.

CC:INTL

Agency Contact: Willard Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AO75

2721. FOREIGN INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 842; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will prescribe rules for determining investment income effectively connected with the conduct of an insurance business in the United States by a foreign company.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209066-88 (INTL-024-88)

Drafting attorney: Roger Brown (202) 622-3870.

Reviewing attorney: Paul Epstein (202) 622-3870.

Completed in error in the October 1995 Unified Agenda.

CC:INTL

Agency Contact: Roger Brown, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AL82

2722. FASIT—START-UP/OPERATIONAL/TRANSITION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 8606(f); 26 USC 8606(h); 26 USC 7805

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: These regulations will address issues concerning the start-up and operation of a financial asset securitization investment trust, and transitional rules for eligible existing entities that elect to be treated as a fasit.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/96	61 FR 56648
ANPRM Comment Period End	12/31/96	
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100276-97

Drafting attorney: David L. Meyer (202) 622-3960.

Reviewing attorney: Marshall Feiring (202) 622-3960.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:FI&P

Agency Contact: David L. Meyer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3960
Fax: 202 622-5699

RIN: 1545–AU94

2723. FRINGE BENEFIT SOURCING UNDER SECTION 861

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the circumstances in which an allocation of income of an individual for the performance of services both within and without the United States is appropriately made only on the time basis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208254-90 (INTL-107-90)

TREAS—IRS **Proposed Rule Stage**

Drafting attorney: David Bergkuist (202) 622-3850.

Reviewing attorney: Joan M. Thomsen (202) 622-3850.

Treasury attorney: Michael Mundaca (202) 622-1752.

CC:INTL

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AO72

2724. SOURCE OF INCOME FOR SPACE AND CERTAIN OCEAN ACTIVITIES AND FOR INTERNATIONAL COMMUNICATIONS INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to provide source rules for income from space and certain ocean activities under section 863(d). Also, regulations to provide source rules for international communications income under section 863(e).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106030-98

Drafting attorney: Anne Shelburne (202) 874-1490.

Reviewing attorney: Steven Musher (202) 874-1490.

Treasury attorney: Michael Mundaca (202) 622-1752.

CC:INTL

Agency Contact: Anne Shelburne, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza SW., Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1490

RIN: 1545–AW50

2725. INTEGRATED FINANCIAL TRANSACTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation addresses whether matched book sale and repurchase transactions conducted by securities dealers qualify as integrated financial transactions under section 1.861-10(c).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209604-93 (INTL-001-93)

Drafting attorney: Roger Brown (202) 622-3870.

Reviewing attorney: Jeff Dorfman (202) 622-3870.

Treasury attorney: Patrick Brown (202) 622-1781.

CC:INTL

Agency Contact: Roger Brown, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR20

2726. SOURCE RULES FOR PERSONAL PROPERTY SALES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 865

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules under section 865 for determining the source of income from sales of personal property. The regulation will set forth rules for sales by U.S. residents and non-residents and specify special rules for depreciable personal property, intangibles, sales connected with an office or other fixed place of business, and sales of a foreign affiliate by a U.S. corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-208278-86 (INTL-946-86)

Drafting attorney: David A. Juster (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

CC:INTL

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AJ83

2727. INCOME TAX—RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 883; 26 USC 872

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code. This regulation will also provide rules with respect to whether a foreign corporation satisfies the ownership requirements of section 883(c) and the activity requirements of section 883(a).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208280-86 (INTL-948-86)

Drafting attorney: Patricia A. Bray (202) 622-3880.

Reviewing attorney: Elizabeth Karzon (202) 622-3880.

TREAS—IRS **Proposed Rule Stage**

Treasury attorney: Michael Mundaca (202) 622-1752.

CC:INTL

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AJ57

2728. FOREIGN TAX CREDIT ANTI-ABUSE REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 901; 26 USC 901(k)(4); 26 USC 904; 26 USC 864(e)(7); 26 USC 7701(l); 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will disallow foreign tax credits with respect to foreign taxes generated in certain arrangements from which the reasonably expected economic profits are insubstantial compared to expected foreign tax credits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-103445-98

Drafting attorney: Rebecca I. Rosenberg (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Je Young Baik (202) 622-1773.

CC:INTL

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RIN: 1545–AV97

2729. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904(f) by adding paragraph (5) at the end thereof which requires that foreign source losses with respect to any income category first offset a taxpayer's other foreign source income before such losses offset the taxpayer's U.S. source income. The regulation will provide rules for the allocation of foreign source losses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209044-89 (INTL-338-89)

Drafting attorney: Trina Dang (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

CC:INTL

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RIN: 1545–AM11

2730. FOREIGN INSURANCE COMPANY—DOMESTIC ELECTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 953

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide substantive and procedural rules regarding the election under section 953(d) to treat certain controlled foreign corporations engaged in the insurance business as domestic corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208980-89 (INTL-765-89)

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3840.

CC:INTL

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RIN: 1545–AO25

2731. COORDINATION OF PRE-1987 DEEMED PAID TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will state coordination rules for computing deemed paid taxes on distributions and deemed distributions of foreign corporations' earnings and profits from the same pre-1987 year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209786-95 (INTL-037-95)

Drafting attorney: Anne Devereaux (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

CC:INTL

Agency Contact: Anne Devereaux, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
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RIN: 1545–AT85

2732. SECTION 988—CONTINGENT DEBT INSTRUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 988

CFR Citation: 26 CFR 1

TREAS—IRS **Proposed Rule Stage**

Legal Deadline: None

Abstract: The regulation will prescribe the tax treatment of section 988 debt instruments that provide for contingent payments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106486-98

Drafting attorney: Howard Wiener (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Je Young Baik (202) 622-1773.

CC:INTL

Agency Contact: Howard Weiner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AW33

2733. ELECTING SMALL BUSINESS TRUST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1361; 26 USC 641

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides necessary guidance for defining and treating electing small business trusts which are now eligible shareholders of S corporation stock as provided by the Small Business Job Protection Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-251701-96

Drafting attorney: James A. Quinn (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

CC:DOM:P&SI

Agency Contact: James A. Quinn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU76

2734. APPLICATIONS OF SECTION 1503(D) TO PARTNERSHIPS AND OTHER ITEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Determination of when and how section 1503(d), treatment of dual consolidated losses, will apply to partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209564-92 (INTL-037-92)

Drafting attorney: Kenneth Allison (202) 622-3860.

Reviewing attorney: Charles Besecky (202) 622-3860.

CC:INTL

Agency Contact: Kenneth Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AR26

2735. GRAT AND NOTES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 2702

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance under section 2702(b) regarding the use of notes to satisfy the annuity or unitrust payment obligation of a grantor retained annuity trust.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-108287-98

Drafting attorney: James Hogan (202) 622-3090.

Reviewing attorney: George L. Masnik (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: James F. Hogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AW25

2736. • SECTION 355(E) GUIDANCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking to provide guidance on section 355(e) of the Internal Revenue Code. Section 355(e) provides that a distributing corporation will recognize gain on the distribution of stock of a controlled corporation if 50 percent of the stock of the distributing or controlled corporation is acquired pursuant to a plan that includes the distribution.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116733-98

Drafting attorney: Brendan O'Hara (202) 622-7530

Reviewing attorney: Vicki Hyche (202) 622-7530.

Treasury attorney: Karen Gilbreath (202) 622-1778.

TREAS—IRS

Proposed Rule Stage

Agency Contact: Brendan O'Hara, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7530
Fax: 202 622-6834

RIN: 1545–AW79

2737. INFORMATION REPORTING AND RECORD MAINTENANCE UNDER SECTION 6038C

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7801; 26 USC 6038C

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will implement the directives of section 6038C.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-208265-90 (INTL-102-90)

Drafting attorney: Ginny Y. Chung (202) 622-3870.

Reviewing attorney: Paul Epstein (202) 622-3870.

Treasury attorney: Patricia Brown (202) 622-1781.

CC:INTL

Agency Contact: Ginny Y. Chung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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Fax: 202 622-4476

RIN: 1545–AP10

2738. MIDDLEMAN REGULATION UNDER SECTIONS 6041 AND 6045

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance on the legal obligation to file information returns by (1) an intermediary or middleman who makes payments on behalf of another person, and (2) and investment advisor.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: REG-246249-96

Drafting attorney: Donna Crisalli (202) 622-4920.

Reviewing attorney: Robert Berkovsky (202) 622-4920.

Treasury attorney: Jeffrey Maddrey (202) 622-1339.

CC:DOM:IT&A

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Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AW48

2739. REPORTING OF PAYMENTS TO ATTORNEY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Information reporting requirements for payments of gross proceeds made in the course of a trade or business to attorneys in connection with legal services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105312-98

Drafting attorney: Katharine Kiss (202) 622-4920.

Reviewing attorney: Michael Montemurro (202) 622-4920.

Treasury attorney: Jeffrey Maddrey (202) 622-1339.

CC:DOM:IT&A

Agency Contact: Katharine Kiss, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920
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RIN: 1545–AW72

2740. SECTION 6048 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6048

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Revision of regulations under section 6048, return as to certain foreign trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209594-92 (INTL-067-92)

Drafting attorney: Allison Wielobob (202) 622-3880.

Reviewing attorney: Elizabeth Karzon (202) 622-3880.

Treasury attorney: Michael Kirsch (202) 622-0871.

Completed in error in the October 1995 Unified Agenda.

CC:INTL

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RIN: 1545–AR25

2741. • PRIVATE FOUNDATION DISCLOSURE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6104

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations generally affect private foundations and generally require a private foundation

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to comply with requests from individuals who seek a copy of the foundation's annual information return for any of the foundation's three most recent taxable years.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121946-98

Drafting attorney: Michael Blumenfeld, (202) 622-6070

Reviewing attorney: Paul Accetura, (202) 622-6070

Treasury attorney: Susan Brown, (202) 622-0999

CC:EBEO

Agency Contact: Michael Blumenfeld, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AW96

2742. CORPORATE TAX SHELTER REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6111

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation project provides guidance on the registration requirements for confidential corporate tax shelters under section 6111(d) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-110311-98

Drafting attorney: Mary Beth Collins/Jeff Erickson

(202) 622-3080.

Reviewing attorney: Donna Young (202) 622-3070.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:P&SI

Agency Contact: Mary Beth Collins, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AW26

2743. ELECTRONIC FUND TRANSFERS OF FEDERAL DEPOSITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302(h)

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25; 26 CFR 31; 26 CFR 40

Legal Deadline: None

Abstract: To set forth the rules for requiring transfers to begin depositing Federal taxes by electronic funds transfer after 1999.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Additional Information: REG-100729-98

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Judith Wall (202) 622-4940.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:IT&A

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Phone: 202 622-4940
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RIN: 1545–AW41

2744. • COMPROMISES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7122

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to provide expanded compromise authority pursuant to section 7122 of title 26, as amended by the Restructuring and Reform Act of 1998. The current regulation limits compromise consideration to cases involving doubt as to collectibility, doubt as to liability or both. The goal of this regulation is to permit consideration of other factors in compromising tax liability.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116991-98

Drafting attorney: Carol A. Campbell (202) 622-3620

Reviewing attorney: Kathryn A. Zuba (202) 622-3620

Treasury attorney: Rita Cavanagh (202) 622-1981

Agency Contact: Carol A. Campbell, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3620
Fax: 202 622-9137

RIN: 1545–AW88

2745. RELIEF FOR PRESIDENTIALLY DECLARED DISASTER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 26 USC 7508; 26 USC 7508A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide that, for any tax, penalty, additional amount, or addition to tax of a taxpayer determined to be affected by a presidentially declared disaster, the IRS may disregard up to 90 days in determining whether certain tax-related deadlines were satisfied and the amount of any credit or refund.

TREAS—IRS **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101492-98

Drafting attorney: Beverly Baughman (202) 622-4940.

Reviewing attorney: Rochelle Hodes (202) 622-4940.

Treasury attorney: Rita Cavanaugh (202) 622-1981.

CC:DOM:IT&A

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RIN: 1545–AV92

2746. SPECIAL RULES APPLICABLE TO SALES OF DEBT INSTRUMENT BETWEEN RECORD DATES AND THE END OF ACCRUAL PERIODS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides rules to calculate allocation of interest and amount of sale price when debt instrument is sold between a record date and a payment date (so that seller receives first distribution of interest and principal following sale).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-242919-96

Drafting attorney: Kenneth Christman (202) 622-3950.

Reviewing attorney: Marshall Feiring (202) 622-3960.

CC:DOM:FI&P

Agency Contact: Kenneth Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU95

2747. LEGENDING OF REMIC CERTIFICATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6049

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rescind requirements that issuers of REMICs and Collateralized Debt Obligations provide certain information related to accrual of original issue discount on face of certificate; possibly will require information to be provided by other means.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100905-97

Drafting attorney: Kenneth Christman (202) 622-3950.

Reviewing attorney: Marshall Feiring (202) 622-3960.

CC:DOM:FI&P

Agency Contact: Kenneth Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU96

2748. WITHDRAWAL OF NOTICE OF FEDERAL TAX LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501 of the Taxpayer Bill of Rights 2 amends section 6323 of the Internal Revenue Code to authorize the Secretary to withdraw a notice of Federal tax lien in four enumerated circumstances. Section 501 also provides that upon written request by the taxpayer, the Secretary shall make reasonable efforts to notify any credit reporting agencies and any financial institution or creditor identified by the taxpayer of the withdrawal. The regulations set forth the circumstances in which the Secretary may withdraw a notice of lien and procedures for requesting the Secretary to notify creditors of the withdrawal.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101519-97

Drafting attorney: Kevin Connelly (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Treasury attorney: Rita Cavanagh (202) 622-1981.

CC:EL:GL

Agency Contact: Kevin Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AV00

2749. RETURN OF LEVIED PROPERTY IN CERTAIN CASES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501(b) of the Taxpayer Bill of Rights 2 amended section 6343 of the Internal Revenue Code to authorize the Secretary to return levied upon property in four enumerated circumstances. The regulations set forth the circumstances in which the Secretary may return property and procedures to implement section 501(b).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101520-97

Drafting attorney: Kevin Connelly (202) 622-3640.

TREAS—IRS **Proposed Rule Stage**

Reviewing attorney: Robert Miller (202) 622-3640.

Treasury attorney: Rita Cavanagh (202) 622-1981.

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RIN: 1545–AV01

2750. MERCHANDISE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Define merchandise. Explain need to use inventory accounts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-122333-97

Drafting attorney: Jan Skelton (202) 622-4970.

Treasury attorney: Christine Turgeon (202) 622-0865.

CC:DOM:IT&A

Agency Contact: Jan Skelton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970
Fax: 202 622-6316

RIN: 1545–AW00

2751. HIPAA NONDISCRIMINATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to group health plans and to the employers maintaining them regarding the prohibition on discriminating against individuals on the basis of a health status related factor in eligibility or premiums.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-109707-97

Drafting attorney: Russell Weinheimer (202) 622-4695.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: Bill Bortz (202) 622-1352.

CC:EBEO

These regulations are related to temporary regulations previously published in the Federal Register on April 8, 1997 (REG-253578-96, RIN 1545-AV05).

Agency Contact: Russell Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AW02

2752. AVERAGING OF FARM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1301(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An individual may elect to "income average" any amount of farm income by adding 1/3 of such elected farm income to each of the three prior years' taxable income and calculating the increase in tax for the prior years. The taxable income of the current year is reduced by the elected farm income and the increase in tax liability for the prior three years is added to the current years tax liability.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-121063-97

Drafting attorney: John Moran (202) 622-7697.

Reviewing attorney: Peter Frederick (202) 622-7670.

Treasury attorney: Lily Kahng (202) 622-1981.

CC:DOM:IT&A

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RIN: 1545–AW05

2753. TRANSPORTATION OF PERSONS AND PROPERTY BY AIR—SECTIONS 4261 AND 4271

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 4261; 26 USC 4271; 26 USC 7805

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: Guidance concerning the excise taxes imposed on the amounts paid for the transportation of persons and property by air.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106167-98

Drafting attorney: Patrick Kirwan (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Patrick S. Kirwan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AW19

TREAS—IRS

Proposed Rule Stage

2754. ESTATE TAX DEDUCTION FOR QUALIFIED FAMILY-OWNED BUSINESS INTERESTS (QFBI)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2057; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will address the estate deduction for certain qualified family-owned business interests.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106430-98

Drafting attorney: Melissa Liquerman (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Leslie Finlow, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AW21

2755. CAPITAL GAINS AND PARTNERSHIP PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1(h)(11)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance regarding the application of the partnership provisions to capital gains

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106527-98

Drafting attorney: Jeanne Sullivan (202) 622-3050.

Reviewing attorney: Dianna Miosi (202) 622-3050.

Treasury attorney: James B. Sowell (202) 622-5721.

CC:DOM:P&SI

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Phone: 202 622-3050

RIN: 1545–AW22

2756. SECTION 411(D)(6); PROTECTED BENEFITS EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 411(d)(6)(B)(ii)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will permit certain amendments to qualified retirement plans to be made even though otherwise protected forms of benefit would be affected by the amendments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-109101-98

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AW27

2757. DISREGARDED ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance under section 368 regarding corporate transactions involving disregarded entities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106186-98

Drafting attorney: Reggie Mombrun (202) 622-7750.

Reviewing attorney: Mark Jennings (202) 622-7750.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Reggie Mombrun, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AW36

2758. SECTION 148—CLARIFICATION OF THE TREATMENT OF PREPAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 148(i)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Modify section 148 regulations to clarify that prepayments are subject to the yield restriction and rebate rules.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-113526-98

Drafting attorney: Barbara League (202) 622-3980.

Reviewing attorney: Rebecca Harrigal (202) 622-3980.

Treasury attorney: Edwin Oswald (202) 622-1335.

CC:DOM:FI&P

Agency Contact: Barbara League, Attorney-Advisor, Department of the

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Treasury, Internal Revenue Service,
1111 Constitution Avenue NW.,
Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AW44

2759. MODIFICATION OF SECTION 263A REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 263A; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amend the regulations under section 263A relating to the simplified production and resale methods with historic absorption ratio election.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-113910-98

Drafting attorney: Jennifer Nuding (202) 622-4970.

Treasury attorney: Christine Turgeon (202) 622-0865.

Agency Contact: Jennifer Nuding, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970
Fax: 202 622-6316

RIN: 1545–AW54

2760. MODIFICATION OF THE SOLELY-FOR-VOTING STOCK REQUIREMENT IN CERTAIN CORPORATE REORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0368

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations relate to the solely-for-voting stock requirement of a "C" reorganization in certain transactions in which the acquiring corporation is an historic shareholder of the target corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115086-98

Drafting attorney: Marnie Rapaport (202) 622-7550.

Reviewing attorney: Charles Whedbee (202) 622-7550.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Marnie Rapaport, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7550
Fax: 202 622-6834

RIN: 1545–AW55

2761. MERCHANDISE REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 471; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarify when the requirement to use inventory accounting applies. Clarify the definition of merchandise and provide guidance with respect to when merchandise will be regarded as an income producing factor in a taxpayer's business.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-122333-97

Drafting attorney: Jan Skelton (202) 622-4970.

Treasury attorney: Christine Turgeon (202) 622-0865.

CC:DOM:IT&A

Agency Contact: Jan Skelton, Assistant to the Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970
Fax: 202 622-6316

RIN: 1545–AW61

2762. GUIDANCE UNDER SUBPART F RELATING TO CERTAIN HYBRID TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance on the treatment under subpart F of certain payments involving branches of a CFC that are treated as separate entities for foreign tax purposes or partnerships in which CFCs are partners.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113909-98

Drafting attorney: Valerie Mark (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: Will Morris (202) 622-1779.

CC:INTL

Agency Contact: Valerie Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AW63

2763. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 26 USC 6015

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will provide procedures as are necessary to carry out the provisions of section 6015 including (1) methods for allocation of items other than the methods under

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section 6015(d)(3) and (2) providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under section 6015(b) or section 6015(c), by the other individual filing the joint return.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: REG-106446-98

Drafting attorney: Bridget Finkenaur (202) 622-7606.

Reviewing attorney: Judith Wall (202) 622-4940.

Treasury attorney: Lily Kahng (202) 622-0160.

CC:DOM:IT&A

Agency Contact: Bridget E. Finkenaur, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW64

2764. INFORMATION REPORTING FOR PAYMENTS OF TUITION AND INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6050

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The regulations related to the requirements for filing information returns for payments of qualified tuition and related expenses. THe regulations related to the requirements for filing information returns for interest received on qualified education loans. The regulations prescribe magnetic media filing requirements for these information returns.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105316-98

Drafting attorney: Donna Welch (202) 622-4910.

Reviewing Tax Law Specialist: John McGreevy (202) 622-4910.

Treasury attorney: Susan Brown (202) 622-0999.

CC:DOM:IT&A

Agency Contact: Donna Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910
Fax: 202 622-6316

RIN: 1545–AW67

2765. • DEFINITION OF PRIVATE ACTIVITY BONDS—REFUNDING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations provide guidance of the application of the private loan test and the private business use test and the private payments/security tests to refunding bonds.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-101563-97

Drafting attorney: Barbara Jane League (202) 622-3980

Reviewing attorney: Bruce M. Serchuk (202) 622-3980

Treasury attorney: Edwin G. Oswald (202) 622-1335

Agency Contact: Barbara Jane League, Attorney- Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AW89

2766. • CERTAIN ASSET TRANSFERS TO REGULATED INVESTMENT COMPANIES (RICS) AND REAL ESTATE INVESTMENT TRUSTS (REITS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 337(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains proposed regulations that implement provisions of the Tax Reform Act of 1986, in accordance with Notice 88-19, 1988-1 C.B. 486.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-209135-88

Drafting attorney: Christopher Schoen (202) 622-7750

Reviewing attorney: Bernita Thigpen (202) 622-7720

Treasury attorney: Jim Sowell (202) 622-5721.

CC:DOM:CORP

Agency Contact: Christopher Schoen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AW92

2767. • CONSTRUCTIVE SALES OF APPRECIATED FINANCIAL POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking regarding principles for determining if a taxpayer has

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constructively sold an appreciated financial position.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-102191-98

Drafting attorney: Richard Hoge (202) 622-3920

Reviewing attorney: Al Kraft (202) 622-3920

Treasury attorney: Paul Crispino (202) 622-0224

CC:INTL

Agency Contact: Richard Hoge, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AW97

2768. • TRANSFER OF REMIC RESIDUAL INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 8606(e)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will amend the rules on transfers of non-economic residual interests to clarify the computational component of the safe harbor rule for establishing lack of improper knowledge under existing law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-122450-98

Drafting attorney: David L. Meyer (202) 622-3960

Reviewing attorney: Marshall Feiring (202) 622-3930

Treasury attorney: Paul Crispino (202) 622-3288

Agency Contact: David L. Meyer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-5699

RIN: 1545–AW98

2769. • QUALIFIED OFFERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed rules regarding the qualified offer rule allowing the recovery of reasonable administrative or litigation costs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121928-98

Drafting attorney: Thomas Moffitt (202) 622-7900

Reviewing attorney: Henry Schneiderman (202) 622-7820

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:DOM:FS

Agency Contact: Thomas D. Moffitt, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7900

RIN: 1545–AW99

2770. ELECTION TO TREAT TRUST AS ESTATE—SECTION 645

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 645; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance regarding the operation of section 645.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106542-98

Drafting attorney: Faith Colson (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AW24

DEPARTMENT OF THE TREASURY (TREAS)

Final Rule Stage

Internal Revenue Service (IRS)

2771. RESEARCH AND COMPUTATION OF RESEARCH CREDIT UNDER SECTION 41 OF THE CODE, AFTER 1986, 1989 AND 1993 ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; PL 101-239

CFR Citation: 26 CFR 602; 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for excluding research related to internal-use software from eligibility for the research credit and the exceptions to the exclusion.

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 81
NPRM Comment Period End	04/22/97	
Hearing	05/13/97	62 FR 81
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209494-90 (PS-16-90)

Drafting attorney: Leslie Finlow (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Treasury attorney: Mark Hoffenberg (202) 622-0869.

CC:DOM:P&SI

Agency Contact: Leslie Finlow, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3120
Fax: 202 622-4743

RIN: 1545–AO51

2772. LOANS TREATED AS DISTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 72

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loan rules are provided in section 72(p) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66233
NPRM Comment Period End	03/20/96	
Hearing	06/28/96	61 FR 20766
Second NPRM	01/02/98	63 FR 42
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209476-82 (EE-106-82)

Drafting tax law Specialist: Vernon S. Carter (202) 622-6070.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070
Fax: 202 622-3912

RIN: 1545–AE41

2773. REMOVAL OF TEMPORARY REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 5c

Legal Deadline: None

Abstract: This document removes obsolete temporary regulations as part of the President's Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
Temporary Regulations	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-112648-97

Drafting attorney: Beverly A. Baughman (202) 622-4940.

CC:DOM:IT&A

Agency Contact: Beverly A. Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AV36

2774. EARNINGS STRIPPING PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation addresses the deductibility of interest under section 163 being limited when paid by a corporation to related persons not subject to U.S. tax.

Timetable:

Action	Date	FR Cite
NPRM	06/18/91	56 FR 27907
Hearing	09/25/91	56 FR 27927
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209059-89 (INTL-870-89)

Drafting attorney: Milton M. Cahn (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

CC:INTL

Agency Contact: Milton M. Cahn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AO24

2775. SECTION 5.163-1(B)(2)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 165

CFR Citation: 26 CFR 5

Legal Deadline: None

Abstract: This regulation project will finalize all outstanding proposed regulations under section 1.163-1(b)(2).

TREAS—IRS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	01/21/93	58 FR 5316
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208245-90 (INTL-115-90)

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3840.

CC:INTL

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AP33

2776. RULES FOR PROPERTY PRODUCED IN A FARMING BUSINESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to taxpayers engaged in farming.

Timetable:

Action	Date	FR Cite
NPRM	08/22/97	62 FR 44607
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208151-91 (IA-65-91)

Drafting attorney: Jan Skelton (202) 622-4970.

Reviewing attorney: Tom Luxner (202) 622-4970.

Treasury attorney: Christing Turgeon (202) 622-0865.

CC:DOM:IT&A

NPRMs were issued in 1987 dealing with 263A. The regulations project was split into several projects. Since substantial changes are being made, another NPRM will be issued with another RIN and project number.

Agency Contact: Jan Skelton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ91

2777. SUBSTANTIATION OF EXPENSES—RECEIPT THRESHOLD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0274; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation raises the level at which certain expenditures which are required to be substantiated under section 274(d) of the Internal Revenue Code must be documented by a receipt or other evidence.

Timetable:

Action	Date	FR Cite
NPRM	03/25/97	62 FR 14051
NPRM Comment Period End	06/23/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209785-95 (IA-36-95)

Drafting attorney: Donna M. Crisalli (202) 622-4920.

Reviewing attorney: George Baker (202) 622-4920.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

Agency Contact: Donna M. Crisalli, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AT97

2778. WARRANTS AND NONQUALIFIED PREFERRED STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation is intended to prevent avoidance of the special rule for nonqualified preferred stock under section 1014 of the Taxpayer Relief Act 0f 1997. Section 1.356-3 of the Income Tax Regulations is amended to provide that, as a general rule, the term "stock or securities" does not include nonqualified preferred stock, or a right to acquire such preferred stock, where the stock or right is received in exchange for stock or a right to acquire stock.

Timetable:

Action	Date	FR Cite
NPRM	01/06/98	63 FR 453
NPRM Comment Period End	04/06/98	
Hearing	05/05/98	63 FR 453
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-121755-97

Drafting attorney: Michael Danbury (202) 622-7978.

Reviewing attorney: Bernita Thigpen (202) 622-7720.

CC:DOM:CORP

Agency Contact: Michael Danbury, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AV86

2779. INCOME TAX—PART 1—STOCK TRANSFER RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The extent to which a foreign corporation shall be considered to be a corporation under section 367 in connection with an exchange described in sections 332, 351, 354, 355, 356 or 361.

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
NPRM Comment Period End	10/25/91	

TREAS—IRS **Final Rule Stage**

Action	Date	FR Cite
Hearing	11/22/91	56 FR 41992
Amendment to NPRM	06/19/98	63 FR 33595
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: REG-209035-86 (INTL-178-86)

Drafting attorney: Mark Harris (202) 622-3840.

Reviewing attorney: Irwin Halpern (202) 622-3850.

Treasury attorney: Je Young Baik (202) 622-1773.

CC:INTL

Agency Contact: Mark Harris, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AI32

2780. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209042-86 (INTL-610-86)

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Charlie Besecky (202) 622-3860.

CC:INTL

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK74

2781. TREATMENT OF SECTION 355 DISTRIBUTION BY U.S. CORPORATIONS TO FOREIGN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations modifying the 1996 temporary regulations under section 367(e)(1), and the regulations under section 367(e)(2).

Timetable:

Action	Date	FR Cite
NPRM	08/14/96	61 FR 42217
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209827-96 (INTL-020-96)

Drafting attorney: Guy Bracuti (202) 622-3860.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Je Young Baik (202) 622-1773.

CC:INTL

Agency Contact: Guy Bracuti, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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Fax: 202 622-4476

RIN: 1545–AU22

2782. REGULATIONS UNDER SECTION 382

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 382; 26 USC 383

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendments to the regulations under IRS section 382. The rules relate to the application of section 382 in short taxable years and with respect to controlled groups. Additional rules amend certain aspects of section 1.382-2T relating principally to the separate tracking of the stock ownership of loss corporations that cease to exist following a merger or similar transaction.

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33391
NPRM Comment Period End	09/26/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209833-96 (CO-26-96)

Drafting attorney: Lee A. Dean (202) 622-7550.

Reviewing attorney: Charles Whedbee (202) 622-7550.

CC:DOM:CORP

Agency Contact: Lee A. Dean, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7550
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RIN: 1545–AU33

2783. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE"

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 414

TREAS—IRS **Final Rule Stage**

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations define the term "highly compensated employee" under section 414(q) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	53 FR 4999
NPRM Comment Period End	04/19/88	
Partially Closed by TD 8548	06/27/94	59 FR 32911
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: REG-209558-92 (EE-32-92)

Drafting attorney: Cathy Vohs (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Don Wellylin (202) 622-1332.

Temporary and proposed regulations under sections 414(q) and and 414(s) were published February 19, 1988 (53 FR 4965); and final regulations under section 414(s) were published September 19, 1991 (56 FR 47659), under project EE-129-86. The regulations under section 414(q) were split off from project EE-129-86. It is anticipated that final regulations under section 414(q) will be published in the future under project EE-32-92.

CC:EBEO

Agency Contact: Cathy Vohs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AQ74

2784. SECTION 467 RENTAL AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 467; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations amend the Income Tax Regulations relating to section 467 of the Internal Revenue Code. In general, section 467 requires parties to certain rental agreements to accrue rent and interest in accordance with section 467. The regulations provide guidance regarding the applicability of section 467 and the amount of rent and interest required to be accrued under section 467.

Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27834
NPRM Comment Period End	09/03/96	
Hearing	09/25/96	61 FR 27834
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209350-84 (IA-292-84)

Drafting attorney: Forest Boone (202) 622-4960.

Reviewing attorney: Steve Toomey (202) 622-4960.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:IT&A

Agency Contact: Forest Boone, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AU11

2785. ESCROW FUNDS AND OTHER SIMILAR FUNDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 0468B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Further guidance relating to certain escrow funds and other similar funds.

Timetable:

Action	Date	FR Cite
NPRM	02/01/99	64 FR 4801
NPRM Comment Period End	05/03/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209619-93 (IA-17-93)

Drafting attorney: Michael L. Gompertz (202) 622-4910.

Reviewing attorney: Linda Kroening (202) 622-4800.

CC:DOM:IT&A

Agency Contact: Michael L. Gompertz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AR82

2786. TAXATION OF GLOBAL TRADING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 864; 26 USC 482; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to improve the taxation of global trading.

Timetable:

Action	Date	FR Cite
ANPRM	08/28/90	55 FR 35152
NPRM	03/06/98	63 FR 11177
NPRM Comment Period End	06/04/98	
Hearing	07/14/98	63 FR 11177
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208299-90 (INTL-70-90)

Drafting attorney: Ginny Y. Chung (202) 622-3870.

Reviewing attorney: Paul Epstein (202) 622-3870.

Treasury attorney: Patricia Brown (202) 622-1781.

CC:INTL

Agency Contact: Ginny Y. Chung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224

TREAS—IRS

Final Rule Stage

Phone: 202 622-3870
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RIN: 1545–AP01

2787. QUALIFIED STATE TUITION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 529

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance regarding certain reporting requirements and transition rules applicable to qualified state tuition programs (QSTPs). QSTPs must satisfy requirements relating to contributions, refunds, and maintenance of separate accounts for each designated beneficiary in the program. In addition, QSTPs must prohibit investment direction, the use of any interest in the program as security for a loan, excess contributions. The regulations also provide guidance concerning these requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/24/98	63 FR 45019
NPRM Comment Period End	11/23/98	
Hearing	01/06/99	63 FR 45019
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: REG-106177-97

Drafting attorney: Monice Rosenbaum (202) 622-6070.

Reviewing attorney: James Brokaw (202) 622-6070.

Reviewing attorney: Paul Feinberg (202) 622-6000.

Treasury attorney: Susan Brown (202) 622-0999.

CC:EBEO

Agency Contact: Monice Rosenbaum, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AV18

2788. INBOUND GRANTOR TRUSTS WITH FOREIGN GRANTORS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 672

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide rules under IRC section 672(f), as amended by the Small Business Job Protection Act of 1996, for determining when the grantor trust rules shall not be applied to treat foreign persons as the owners of foreign trusts that have U.S. beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	06/05/97	62 FR 30785
NPRM Comment Period End	08/04/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-252487-96

Drafting attorney: M. Grace Fleëman (202) 622-3880.

Reviewing attorney: Elizabeth Karzon (202) 622-3880.

Treasury attorney: Michael Kirsch (202) 622-0871.

CC:INTL

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RIN: 1545–AU90

2789. ADJUSTMENTS FOLLOWING SALES OF PARTNERSHIP INTERESTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 743; 26 USC 751; 26 USC 755; 26 USC 734; 26 USC 732; 26 USC 1017

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance with respect to optional adjustments to the basis of partnership property when partnership interests are sold, the calculation of gain or loss following the sale of a partnership interest, and the allocation of a partner's basis in its partnership interest to distributed properties.

Timetable:

Action	Date	FR Cite
NPRM	01/29/98	63 FR 4408
NPRM Comment Period End	04/29/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: REG-209682-94 (PS-2-94)

Drafting attorney: Matthew Lay (202) 622-3080.

Reviewing attorney: David Haglund (202) 622-3050.

Treasury attorney: Jim Sowell (202) 622-5721.

CC:DOM:P&SI

Agency Contact: Matthew Lay, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AS39

2790. DETERMINATION OF EARNED PREMIUMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 832

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will address the treatment of certain items for purposes of determining gross written premiums and unearned premiums under section 832(b)(4), including advance premiums. Retrospective premium adjustments, and the determination of written premiums with respect to certain policies with variable exposures.

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 72
Hearing	04/30/97	62 FR 72
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

TREAS—IRS **Final Rule Stage**

Additional Information: REG-209839-96 (FI-31-96)

Drafting attorney: Gary Geisler (202) 622-3623.

Reviewing attorney: Stephen Hooe (202) 622-3762.

Treasury attorney: Louise Epstein (202) 622-1778.

CC:DOM:FI&P

Agency Contact: Gary Geisler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3623

RIN: 1545–AU60

2791. CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1.861-8(e) will provide new guidance regarding the allocation of charitable deductions to U.S. or foreign source income. A taxpayer will allocate such a deduction solely to U.S. source income if he designated the contribution for U.S. use and reasonably believed that it would be so used. He will allocate such a deduction solely to foreign source income if he knows or has reason to know that it would be used solely outside the United States or that it must necessarily be so used. In all other cases, he would ratably apportion such a deduction.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10395
Hearing	08/01/91	56 FR 23823
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208246-90 (INTL-116-90)

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3840.

Treasury attorney: P. Ann Fisher (202) 622-1755.

CC:INTL

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RIN: 1545–AP30

2792. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations providing rules for the allocation and apportionment of interest expense and certain other expenses for purposes of the foreign tax credit rules and certain other international tax provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10397
Hearing	06/21/91	56 FR 21640
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208267-86 (INTL-952-86)

Drafting attorney: David F. Bergkuist (202) 622-3850.

Reviewing attorney: Irwin Halpern (202) 622-3850.

Treasury attorney: Manal Corwin (202) 622-1317.

CC:INTL

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RIN: 1545–AM20

2793. STOCKS AND SECURITIES SAFE HARBOR EXCEPTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulatory action will amend 26 CFR 1 to clarify and update the safe harbor that one is not engaged in a trade or business as a result of trading in stocks and securities. The amendment will provide additional guidance regarding the definitions of stocks and securities.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32164
Hearing	09/09/98	63 FR 32164
NPRM Comment Period End	09/10/98	63 FR 32164
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106031-98

Drafting attorney: Milton Cahn (202) 622-3870.

Reviewing attorney: Paul Epstein (202) 622-3870.

Treasury attorney: Je Young Baik (202) 622-1773.

CC:INTL

Agency Contact: Milton Cahn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AW13

2794. NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 897

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Regulations will also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which

certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209039-87 (INTL-491-87)

Drafting attorney: Robert Lorence (202) 622-3860.

Reviewing attorney: Charles P. Besecky (202) 622-3860.

CC:INTL

Agency Contact: Robert Lorence, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AK79

2795. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1989 CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 898; 26 USC 902

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance to taxpayers concerning new section 898 of the Internal Revenue Code, added to the Code by the Omnibus Budget Reconciliation Act of 1989. Section 898 requires the taxable years of certain specified foreign corporations to conform to the taxable years of their majority U.S. shareholders.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 290
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208985-89 (INTL-848-89)

Drafting attorney: Kelley Kogan (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

CC:INTL

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Phone: 202 622-3840
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RIN: 1545–AO22

2796. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 905; 26 USC 6689

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209020-86 (INTL-061-86)

Drafting attorney: Joan Thomsen (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

CC:INTL

Agency Contact: Joan Thomsen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AC09

2797. NEW LINES OF BUSINESS PROHIBITED UNDER SECTION 936(J)(9)(B)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance for application of section 936(j)(9)(B) and to clarify the meaning of "substantial new line of business."

Timetable:

Action	Date	FR Cite
NPRM	08/19/98	63 FR 160
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-115446-97

Drafting attorney: Patricia Bray (202) 622-3880.

Reviewing attorney: Jacob Feldman (202) 622-3810.

Treasury attorney: Michael Mundaca (202 622-1752.

CC:INTL

Agency Contact: Patricia Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AV68

2798. GUIDANCE UNDER SUBPART F RELATING TO PARTNERSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance under subpart F with regard to transactions involving partnerships.

Timetable:

Action	Date	FR Cite
NPRM	03/26/98	63 FR 14669
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104537-97

TREAS—IRS **Final Rule Stage**

Drafting attorney: Valerie Mark (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: William Morris (202) 622-1779.

CC:INTL

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RIN: 1545–AV11

2799. COMPUTATION OF A BRANCH'S TAXABLE INCOME; TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch rules on how to translate branch income. Taxation of exchange gain or loss on branch remittances.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48457
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208270-86 (INTL-965-86)

Drafting attorney: Howard Wiener (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Patricia Brown (202) 622-1781.

CC:INTL

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RIN: 1545–AM12

2800. MARK-TO-MARKET METHOD OF ACCOUNTING UNDER SECTION 988

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 989

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations allow taxpayers to elect to account for exchange gains and losses under a mark-to-market method of accounting. The regulation also addresses other matters including dual currency bonds, contingent payment bonds denominated in a nonfunctional currency, hyperinflationary instruments and certain hedging transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/17/92	57 FR 9217
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-208202-91 (INTL-015-91)

Drafting attorney: Roger Brown (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

CC:INTL

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RIN: 1545–AP78

2801. EQUITY OPTIONS WITHOUT STANDARD TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1092

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance about the effect of equity options without standard terms upon the definition of a qualified covered call.

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34616
NPRM Comment Period End	09/23/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104641-97

Drafting attorney: Pamela Lew (202) 622-3950.

Reviewing attorney: Robert Williams (202) 622-3960.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:FI&P

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RIN: 1545–AV48

2802. INFLATION-INDEXED SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1275; 26 USC 1286

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the tax treatment of inflation indexed-bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/06/97	62 FR 694
Hearing	04/30/97	62 FR 694
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-242996-96

Reviewing attorney: William E. Blanchard (202) 622-3950.

Treasury attorney: Jeffrey W. Maddrey (202) 622-1339.

CC:DOM:FI&P

Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU45

TREAS—IRS

Final Rule Stage

2803. GENERAL RULES FOR MAKING AND MAINTAINING QUALIFIED ELECTING FUND ELECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1293; 26 USC 1295

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to shareholders of passive foreign investment companies for making timely or retroactive elections under section 1295 to treat the passive foreign investment companies as qualified electing funds.

Timetable:

Action	Date	FR Cite
NPRM	01/02/98	63 FR 39
NPRM Comment Period End	04/02/98	63 FR 41
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-115795-97

Drafting attorney: Margaret Fung (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3840.

Treasury attorney: Michael Mundaca (202) 622-1752.

This regulation contains different sections than the proposed regulation issued under RIN 1545-AM41 in December 1996.

CC:INTL

Agency Contact: Margaret Fung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AV39

2804. PASSIVE FOREIGN INVESTMENT COMPANIES—SPECIAL RULES FOR FOREIGN BANKS AND SECURITIES DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1297

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance for qualifying foreign banks and securities dealers for the exception to passive income characterization for purposes of the income and asset tests of the PFIC provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/28/95	60 FR 20922
Hearing	09/11/95	60 FR 39902
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209733-93 (INTL-65-93)

Drafting attorney: Margaret Fung (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3840.

Treasury attorney: Michael Mundaca (202) 622-1752.

CC:INTL

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RIN: 1545–AS46

2805. DEFINITION OF THE TERM "MARKETABLE STOCK" UNDER SECTION 1296(E)(1)(A)(III)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1296; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 1296

Legal Deadline: None

Abstract: Section 1296 allows US persons that hold "marketable stock" in a PFIC to elect to mark such stock to market at the close of each taxable year. Marketable stock includes any stock that is regularly traded on a US securities exchange or "any exchange or market which the Secretary determines has rules adequate to carry out the purposes of this part; or stock in certain PFICs comparable to US regulated investment companies. These regulations define marketable stock for purposes of section 1296.

Timetable:

Action	Date	FR Cite
NPRM	02/02/99	64 FR 21
NPRM Comment Period End	05/03/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INTL-113744-98

Drafting attorney: Robert Laudeman (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: Michael Mundaca (202) 622-1772.

CC:INTL

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Fax: 202 622-4476

RIN: 1545–AW69

2806. S CORPORATION SUBSIDIARIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 26 USC 1361; 26 USC 1362

CFR Citation: 26 CFR 601

Legal Deadline: None

Abstract: Prior to enactment of the Small Business Job Protection Act of 1996, (SBJPA), S corporations were prohibited from owning 80 percent or more of the stock of another corporation. In addition, an S corporation could not have as a shareholder another corporation. The SBJPA amended the code, allowing S corporations to own 80 percent or more of a C corporation. Furthermore, an S corporation is allowed to own a qualified subchapter S subsidiary. This regulation project interprets section 1308 of the (SBJPA), providing guidance to taxpayers in both situations.

TREAS—IRS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	04/21/98	63 FR 19864
NPRM Comment Period End	07/21/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: REG-251698-96

Drafting attorney: Jeanne Sullivan (202) 622-3050.

Reviewing attorney: Dianna Miosi (202) 622-3050.

Treasury attorney: Jim Sowell (202) 622-5721.

CC:DOM:P&SI

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RIN: 1545–AU77

2807. QUALIFIED ZONE ACADEMY BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide issuers and holders of qualified zone academy bonds (section 1397E of the Code) with formulas for determining the credit rate and maximum maturity of the bonds. The regulations will also provide guidance for the treatment of original issue discount, premium and mid-year sales of the bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/07/98	63 FR 707
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: REG-119499-97

Drafting attorney: Timothy Jones (202) 622-3980.

Reviewing attorney: Rebecca Harrigal (202) 622-3980.

Treasury attorney: Jeffrey Maddrey (202) 622-1339.

CC:DOM:FI&P

Agency Contact: Timothy Jones, Assistant to the Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AV75

2808. REGULATIONS UNDER SECTION 1441 REGARDING THE ELECTRONIC TRANSMISSION OF WITHHOLDING CERTIFICATES

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 26 USC 7805; 26 USC 6061; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation pertains to the guidance for the electronic transmission of withholding certificates.

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53504
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-107872-97

Drafting attorney: Carl Cooper (202) 622-3840.

Reviewing attorney: Phil Garlett (202) 622-3840.

CC:INTL

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RIN: 1545–AV27

2809. REGULATIONS UNDER SECTION 1441 REGARDING WITHHOLDING ON SALES OF DEBT OBLIGATIONS BETWEEN INTEREST PAYMENT DATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance relating to withholding on sales of debt obligations between interest payment dates.

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53503
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-114000-97

Drafting attorney: Kate Hwa (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3840.

CC:INTL

Agency Contact: Kate Hwa, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AV41

2810. REGULATIONS UNDER SECTION 1502

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Additions to the consolidated return regulations. The new rules relate to limitations on net operating loss carryforwards and certain built-in losses and credits following an ownership change (within the meaning of IRC section 382) with respect to consolidated groups.

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33395
NPRM Comment Period End	09/26/96	
Final Action	06/00/99	

TREAS—IRS **Final Rule Stage**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209832-96 (CO-25-96)

Drafting attorney: Lee A. Dean (202) 622-7550.

Reviewing attorney: Charles Whedbee (202) 622-7550.

CC:DOM:CORP

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Fax: 202 622-6834

RIN: 1545–AU32

2811. CONSOLIDATED RETURNS—LIMITATIONS ON THE USE OF CERTAIN LOSSES AND CREDITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations govern the use of certain tax credits and losses of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	01/12/98	63 FR 1803
NPRM Comment Period End	04/13/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104062-97

Drafting attorney: Charles Whedbee (202) 622-7550.

Reviewing attorney: Roy Hirschhorn (202) 622-7770.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

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Fax: 202 622-6834

RIN: 1545–AV88

2812. CONSOLIDATED RETURNS—LIMITATIONS ON THE USE OF CERTAIN LOSSES AND CREDITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: Final, Statutory, June 1999.
Regulations sunset under section 7805(e)(2)

Abstract: This document amends the effective dates of a prior notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 12717
NPRM Comment Period End	05/07/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104005-98

Drafting attorney: Roy Hirschhorn (202) 622-7770.

Reviewing attorney: Charles Whedbee (202) 622-7550.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

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RIN: 1545–AV99

2813. ACQUISITION OF AN S CORPORATION BY A MEMBER OF A CONSOLIDATED GROUP

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the one-day year that arises when an affiliated group of corporations filing a consolidated return acquires over 80 percent of the stock of an S corporation. The new regulation will prevent taxpayers from being required to file a tax return for the day of the acquisition.

Timetable:

Action	Date	FR Cite
NPRM	12/17/98	63 FR 69581
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106219-98

Drafting attorney: Jeffrey L. Vogel (202) 622-7770.

Reviewing attorney: Lewis K. Brickates (202) 622-7770.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Jeffrey L. Vogel, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7770

RIN: 1545–AW32

2814. PARTNERSHIP RETURNS REQUIRED ON MAGNETIC MEDIA

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6011(e)(2); 26 USC 6721

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: This document will mandate the magnetic media filing of partnership tax returns for partnerships having more than 100 partners under 26 USC 6011(e)(2).

Timetable:

Action	Date	FR Cite
NPRM	10/23/98	63 FR 56878
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: REG-102023-98

Drafting attorney: Bridget Finkenaur (202) 622-4940.

Reviewing attorney: Rochelle Hodes (202) 622-4940.

Treasury attorney: Jim Sowell (202) 622-5721.

TREAS—IRS **Final Rule Stage**

CC:DOM:IT&A

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RIN: 1545–AW14

2815. ADEQUATE DISCLOSURE OF GIFTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2001; 26 USC 2504

CFR Citation: 26 CFR 20; 26 CFR 25; 26 CFR 301

Legal Deadline: None

Abstract: Provide the manner of adequately disclosing a gift by a complete and accurate description of the transaction that will allow the period of assignment to begin to run and make a final determinated of the value of the gift for estate and gift tax purposes. This is generally effective for gifts after August 5, 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/22/98	63 FR 70701
NPRM Comment Period End	03/22/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106177-98

Drafting attorney: William L. Blodgett (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

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RIN: 1545–AW20

2816. EXCEPTION FROM SUPPLEMENTAL TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide guidance to railroad employers in applying the exception to supplemental annuity tax with respect to employees covered by a supplemental pension plan.

Timetable:

Action	Date	FR Cite
NPRM	09/23/98	63 FR 50819
NPRM Comment Period End	12/22/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209769-95 (EE-22-95)

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Paul C. Feinberg (202) 622-6000.

Treasury attorney: Kevin Knopf (202) 622-2329.

CC:EBEO

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AT56

2817. • NEW TECHNOLOGY IN RETIREMENT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 401

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, December 31, 1998.

Abstract: Guidance relating to the "paperless" administration of qualified retirement plans.

Timetable:

Action	Date	FR Cite
NPRM	12/18/98	63 FR 70071
NPRM Comment Period End	03/31/99	
Hearing	04/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-118662-98

Drafting attorney: Catherine Livingston Fernandez (202)622-6030

Treasury attorney: Michael Doran (202) 622-1341

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Fax: 202 622-4631

RIN: 1545–AW78

2818. PREPAID TELEPHONE CARDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4251

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: Regulations implementation section 1034 of the Taxpayer Relief Act of 1997 pertaining to the application of the communications excise tax to prepaid telephone calls.

Timetable:

Action	Date	FR Cite
NPRM	12/17/98	63 FR 69585
NPRM Comment Period End	03/17/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-118620-97

Drafting attorney: Bernard H. Weberman (202) 622-3130.

Reviewing attorney: Ruth Hoffman (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Bernard H. Weberman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AV63

TREAS—IRS

Final Rule Stage

2819. CLARIFICATION OF 4958 EXCISE TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 4958

CFR Citation: 26 CFR 53; 26 CFR 301

Legal Deadline: None

Abstract: 26 USC 4958 was enacted in section 1311 of Taxpayer Bill of Rights 2, P.L. 104-168, 110 Stat. 1452, July 30, 1996. This section 4958, taxes on excess benefits transactions, is effective for transactions occurring after September 13, 1995. The regulations will clarify certain definitions and rules contained in section 4958.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41486
NPRM Comment Period End	11/02/98	
Hearing	03/16/99	64 FR 5727
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: REG-246256-96

Drafting attorney: Phyllis D. Haney (202) 622-4290.

Reviewing attorney: Paul G. Accettura (202) 622-6070.

Reviewing attorney: Paul C. Feinberg (202) 622-6000.

Treasury attorney: Susan Brown (202) 622-0999.

CC:EBEO

Agency Contact: Phyllis Haney, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4290

RIN: 1545–AV60

2820. TELEFILE VOICE SIGNATURES TEST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6012; 26 USC 6061; 26 USC 6065

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will enable the Internal Revenue Service to accept a voice signature in lieu of a handwritten signature. This will allow the Service to test the feasibility of voice signatures for one year with certain taxpayers who live in the geographic area of the Cincinnati district office. The regulations also address the effect of a taxpayer using a voice signature.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 4125
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209789-95 (IA-39-95)

Drafting attorney: Beverly A. Baughman (202) 622-4940.

Reviewing attorney: Rochelle Hodes (202) 622-4940.

CC:DOM:IT&A

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Fax: 202 622-6316

RIN: 1545–AQ68

2821. 6046A—RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6046A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48154
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209060-86 (INTL-879-86)

Drafting attorney: Eliana D. Dolgoff (202) 622-3860.

Reviewing attorney: Phil Tretiak (202) 622-3860.

Completed in error in the October 1995 Unified Agenda.

CC:INTL

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RIN: 1545–AK75

2822. PUBLIC DISCLOSURE OF MATERIAL RELATING TO TAX-EXEMPT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6104

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations affect tax-exempt organizations, and generally require a tax-exempt organization to make its annual information returns and its application for tax-exemption available for public inspection. In addition, the regulations require tax-exempt organizations to comply with requests made in writing or in person from individuals who seek a copy of those documents.

Timetable:

Action	Date	FR Cite
NPRM	09/26/97	62 FR 50533
NPRM Comment Period End	12/26/97	
Hearing	02/04/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-246250-96

Drafting attorney: Michael Blumenfeld (202) 622-6070.

Reviewing attorney: Paul Feinberg (202) 622-6000.

Treasury attorney: Susan Brown (202) 622-0999.

CC:EBEO

Agency Contact: Michael Blumenfeld, Attorney-Advisor, Department of the Treasury, Internal Revenue Service,

TREAS—IRS **Final Rule Stage**

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RIN: 1545–AV13

2823. FEDERAL EMPLOYMENT TAX DEPOSITS DE MINIMIS RULE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302(a)

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Increase the de minimis deposit threshold in section 31.6302-1 (f)(4) from $500 to $1,000 per return period.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32774
NPRM Comment Period End	09/14/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: REG-110403-98

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Linda Kroening (202) 622-4800.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:IT&A

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RIN: 1545–AW28

2824. PAYMENT BY CREDIT CARD AND DEBIT CARD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6311

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to authorize the Secretary of the Treasury to accept payment of taxes by credit cards and debit cards pursuant to section 6311 of title 26, as amended by the Tax Relief Act of 1997. The current regulation only permits payments by check and money orders. The goal of this regulation is to authorize payments by credit cards and debit cards in addition to checks and money orders.

Timetable:

Action	Date	FR Cite
NPRM	12/15/98	63 FR 69031
NPRM Comment Period End	03/15/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-111435-98

Drafting attorney: Mitchel S. Hyman (202) 622-3620.

Treasury attorney: John Parcell (202) 622-2578.

CC:EL:GL

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RIN: 1545–AW37

2825. REVISION OF TAX REFUND OFFSET PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 6402

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Revise the regulations under section 6402 to reflect the administration of the tax refund offset program by the financial management service.

Timetable:

Action	Date	FR Cite
NPRM	08/31/98	63 FR 46205
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-104565-97

Drafting attorney: John J. McGreevy (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

CC:DOM:IT&A

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Phone: 202 622-4910

RIN: 1545–AV50

2826. • COMPROMISES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7122

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to provide expanded compromise authority pursuant to section 7122 of title 26, as amended by the Restructuring and Reform Act of 1998. The current regulation limits compromise consideration to cases involving doubt as to collectibility, doubt as to liability or both. The goal of this regulation is to permit consideration of other factors in compromising tax liability.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116991-98

Drafting attorney: Carol Campbell (202) 622-3620

Reviewing attorney: Kathryn A. Zuba (202) 622-3620

Treasury attorney: Rita Cavanagh (202) 622-1981

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RIN: 1545–AW87

TREAS—IRS

Final Rule Stage

2827. TREATMENT OF OBLIGATION-SHIFTING TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations recharacterize obligation-shifting transactions. Obligation-shifting transactions are transactions in which the transferee assumes obligations or acquires property subject to obligations under existing lease or similar agreement and the transferor or any other party has already received or retains the right to receive amounts that are allocable to periods after the transfer by recharacterizing obligation-shifting transactions in a manner that clearly reflects the parties' income, the regulators prevent tax avoidance.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68175
NPRM Comment Period End	04/08/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209817-96 (FI-10-96)

Drafting attorney: Jonathan Zelnik (202) 622-3940.

Reviewing attorney: Bill Coppersmith (202) 622-3930.

Treasury attorney: Jeffrey Maddrey (202) 622-1339.

CC:DOM:FI&P

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RIN: 1545–AU19

2828. INTANGIBLE ASSET AMORTIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; PL 103-66

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations under section 197 and section 167 relating to the amortization of goodwill and certain other intangibles.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/94	59 FR 32670
ANPRM Comment Period End	08/23/94	
NPRM	01/16/97	62 FR 2336
Hearing	05/15/97	62 FR 2336
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209709-94 (PS-29-94)

Drafting attorney: John Huffman (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: John Huffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AS77

2829. PASSTHROUGH OF ITEMS TO SHAREHOLDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation deals with the pass through of items of an S corporation to its shareholders, the character of those items, and the basis limitation on losses and deductions taken into account by the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	08/18/98	63 FR 44181
NPRM Comment Period End	11/16/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: REG-209446-82 (PS-261-82)

Drafting attorney: Terri Belanger (202) 622-3080.

Reviewing attorney: Donna Young (202) 622-3080.

CC:DOM:P&SI

Agency Contact: Terri Belanger, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AT52

2830. REPORTING REQUIREMENTS FOR WIDELY HELD FIXED INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 671; 26 USC 6034A; 26 USC 6049(d)(1)

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Regulations on the reporting requirements for widely need fixed investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	08/13/98	63 FR 43354
Hearing	11/05/98	
NPRM Comment Period End	11/12/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209813-96 (PS-6-96)

Drafting attorney: Faith Colson (202) 622-3060.

Reviewing attorney: H. Grace Kim (202) 622-3060.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224

TREAS—IRS **Final Rule Stage**

Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU15

2831. RELIEF FROM DISQUALIFICATION FOR PLANS ACCEPTING ROLLOVERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide relief from disqualification to qualified plans that provide for the acceptance of rollover contributions and inadvertently accept an amount as a rollover contribution that is not in fact eligible for rollover.

Timetable:

Action	Date	FR Cite
NPRM	12/17/98	63 FR 69584
NPRM Comment Period End	03/17/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-245562-96

Drafting attorney: Pamela R. Kinard (202) 622-6030.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: Amy Null (202) 622-4879.

CC:EBEO

Agency Contact: Pamela R. Kinard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AU46

2832. RETURN OF PARTNERSHIP INCOME—SECTION 6031

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance regarding partnership returns, to revise exceptions to partnership filing requirement, especially as it applies to foreign partnerships.

Timetable:

Action	Date	FR Cite
NPRM	01/26/98	63 FR 3677
NPRM Comment Period End	04/27/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209322-82

Drafting attorney: Martin Schaffer (202) 622-3080.

Drafting attorney: Christopher Kelley (202) 622-3080.

Reviewing attorney: William O'Shea (202) 622-3070.

Treasury attorney: James Sowell (202) 622-5721.

CC:DOM:P&SI

Agency Contact: Martin Schaffer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AU99

2833. RECHARACTERIZING FINANCING ARRANGEMENTS INVOLVING FAST-PAY STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To prevent tax avoidance, the regulations provide rules concerning fast-pay stock arrangements. A fast-pay stock arrangement is any financing arrangement in which a corporation issues stock (1) with a dividend rate that is structured to decline, or (2) at a premium. For tax purposes, the regulations characterize certain fast-pay stock arrangements in a way that differs from their form. The regulations will apply to taxable years ending after February 26, 1997.

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 805
NPRM Comment Period End	04/06/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104072-97

Drafting attorney: Jonathan Zelnik (202) 622-3940.

Reviewing attorney: Marshall Feiring (202) 622-3930.

Treasury attorney: Jeff Maffrey (202) 622-1339.

CC:DOM:FI&P

Agency Contact: Jonathan Zelnik, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3940
Fax: 202 622-4425

RIN: 1545–AV07

2834. TAXPAYER IDENTIFICATION NUMBERS (TINS) FOR ADOPTED CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6109

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will establish criteria and procedures for the assignment of Taxpayer Identification Numbers (TINs) to children who are in the process of being adopted.

Timetable:

Action	Date	FR Cite
NPRM	11/24/97	62 FR 62538
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-103330-97

Drafting attorney: Michael Gompertz (202) 622-4910.

Reviewing attorney: Rochelle Hodes (202) 622-4910.

CC:DOM:IT&A

Agency Contact: Michael L. Gompertz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AV08

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2835. REGULATIONS UNDER SECTIONS 871, 881, AND 894 REGARDING PAYMENTS TO PARTNERSHIPS, AND OTHER TRANSPARENT ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 871; 26 USC 881; 26 USC 894

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance under section 894(c) for imposing tax liability on foreign persons deriving US source income through partnerships or other transparent arrangements.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35755
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104893-97

Drafting attorney: M. Grace Fleeman (202) 622-3880.

Reviewing attorney: Elizabeth Karzon (202) 622-3880.

CC:INTL

Agency Contact: M. Grace Fleeman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AV10

2836. RESEARCH CREDIT II

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 41

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This notice of proposed rulemaking provides rules relating to the proper definition of gross receipts to be used in computing the research credit and rules relating to the definition of qualified research under section 41(d). Further this notice of proposed rulemaking provides rules for election and revoking the election of the alternative incremental credit under section 41(c)(4).

Timetable:

Action	Date	FR Cite
NPRM	12/02/98	63 FR 66503
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105170-97

Drafting attorney: Lisa Shuman (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Treasury attorney: Mark Hoffenberg (202) 622-0869.

CC:DOM:P&SI

Agency Contact: Lisa Shuman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3120
Fax: 202 622-4743

RIN: 1545–AV14

2837. TREATMENT OF ELECTIVE ENTITY CLASSIFICATION CHANGES—7701

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: This regulation describes the treatment of conversions by election from partnership to corporation and from corporation to partnership.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55768
NPRM Comment Period End	01/26/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-105162-97

Drafting attorney: Daniel Carmody (202) 622-3080.

Reviewing attorney: Jeff Erickson (202) 622-3070.

Treasury attorney: Jim Sowell (202) 622-0685.

CC:DOM:P&SI

Agency Contact: Daniel Carmody, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AV16

2838. REMEDIAL AMENDMENT PERIOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 401

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will amend the existing regulations regarding the remedial amendment period to clarify the scope of the Commissioner's authority to provide relief under section 401(b).

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41322
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: REG-106043-97

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Donald Wellington (202) 622-1332.

CC:EBEO

Agency Contact: Linda S. F. Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AV22

2839. ELECTRONIC TIP REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations provide rules authorizing employers to establish electronic systems for use by their

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employees in reporting tips to the employer.

Timetable:

Action	Date	FR Cite
NPRM	01/26/98	63 FR 3680
NPRM Comment Period End	04/27/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104691-97

Drafting attorney: Karin Loverud (202) 622-6060.

Reviewing attorney: Paul Feinberg (202) 622-6000.

Treasury attorney: Kevin Knopf (202) 622-2329.

CC:EBEO

Agency Contact: Karin Loverud, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AV28

2840. COMPLIANCE MONITORING AND MISCELLANEOUS ISSUES RELATING TO THE LOW INCOME HOUSING CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 42

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address certain compliance issues and amend existing administrative error regulations under section 1.42-13.

Timetable:

Action	Date	FR Cite
NPRM	01/08/99	64 FR 1143
NPRM Comment Period End	05/06/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: REG-114664-97

Drafting attorney: Paul Handleman (202) 622-3040.

Reviewing attorney: Susan Reaman (202) 622-3040.

Treasury attorney: Edwin Oswald (202) 622-1335.

CC:DOM:P&SI

Agency Contact: Paul Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4779

RIN: 1545–AV44

2841. MARITAL DEDUCTION (ESTATE OF HUBERT)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Valuation of property passing to surviving spouse.

Timetable:

Action	Date	FR Cite
NPRM	12/16/98	63 FR 69248
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-114663-97

Drafting attorney: Deborah Ryan (202) 622-3090.

Reviewing attorney: Katherine Mellody (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1776.

CC:DOM:P&SI

Agency Contact: Deborah Ryan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AV45

2842. REMOVAL OF TEMPORARY REGULATIONS THAT PROVIDE RULES FOR SUBSTANTIATING TRAVEL EXPENSE DEDUCTIONS FOR MEMBERS OF CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 5

Legal Deadline: None

Abstract: This project will remove temporary income tax regulations section 5e.274-8 (published as TD 7802 in 47 FR 2986). The regulations provide rules for the substantiation of Congress members' travel expenses, and they are currently obsolete.

Timetable:

Action	Date	FR Cite
Temporary Regulations	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105513-97

Drafting attorney: Edwin B. Cleverdon (202) 622-4920.

Reviewing attorney: Robert A. Berkovsky (202) 622-4920.

Reviewing attorney: Linda Kroening (202) 622-4800.

CC:DOM:IT&A

Agency Contact: Edwin B. Cleverdon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AV55

2843. SECTION 6038 INFORMATION REPORTING REQUIREMENTS FOR FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6038; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Information reporting requirements of 10 percent U.S. partners of controlled foreign partnerships.

Timetable:

Action	Date	FR Cite
NPRM	09/08/98	63 FR 48144
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-118966-97

Drafting attorney: Eliana D. Dolgoff (202) 622-3860.

Reviewing attorney: Phil Tretiak (202) 622-3860.

Treasury attorney: William Morris (202) 622-1779.

CC:INTL

Agency Contact: Eliana D. Dolgoff, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AV69

2844. KEROSENE TAX; AVIATION FUEL TAX; TAX ON HEAVY TRUCKS AND TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4082; 26 USC 4091; 26 USC 6427; 24 USC 4052

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will describe the kerosene tax and exemptions, credits and refunds relating to the Kerosene tax. The regulations will also describe a special rule for refunds of the aviation fuel tax and a special registration rule for certain sellers of heavy vehicles.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 35893
NPRM Comment Period End	09/29/98	
Hearing	11/04/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-119227-97

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Frank Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AV71

2845. CONTINUITY OF INTEREST

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation providing guidance regarding the effect of redemption and distributions by a target corporation on satisfaction of the continuity of interest requirement in corporate reorganizations.

Timetable:

Action	Date	FR Cite
NPRM	01/23/98	63 FR 4204
NPRM Comment Period End	05/05/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-120882-97

Drafting attorney: Phoebe Bennett (202) 622-7750.

Reviewing attorney: William Alexander (202) 622-7710.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Split off from RIN 1545-AU72 due to additional issues requiring comment.

Agency Contact: Phoebe Bennett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AV81

2846. SUBSTANTIATION OF BUSINESS EXPENSES—USE OF MILEAGE RATES TO SUBSTANTIATE AUTOMOBILE EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 274(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarifies the Commissioner's authority to establish a method under which a taxpayer may elect to use mileage rates to determine the amount of expenses for the business use of an automobile.

Timetable:

Action	Date	FR Cite
NPRM	10/01/98	63 FR 52660
NPRM Comment Period End	12/30/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-122488-97

Drafting attorney: Donna M. Crisalli (202) 622-4920.

Reviewing attorney: George Baker (202) 622-4920.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

Agency Contact: Donna M. Crisalli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AV87

2847. AVERAGING OF FARM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1301(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An individual may elect to "income average" any amount of farm income by adding 1/3 of such elected farm income and calculating the increase in tax for the prior years. The taxable income of the current year is reduced by the elected farm income and the increase in tax liability for the three prior years is added to the current years tax liability.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-121063-97

Drafting attorney: John Moran (202) 622-7072.

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Reviewing attorney: Peter Frederick (202) 622-3900.

Treasury attorney: Lily Kahng (202) 622-0160.

CC:DOM:IT&A

Agency Contact: John Moran, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7697
Fax: 202 622-6316

RIN: 1545–AW04

2848. TRAVEL AND TOUR ACTIVITY OF TAX-EXEMPT ORGANIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 513

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains regulations clarifying when the travel and tour activities of tax-exempt organizations are substantially related to purposes for which exemption was granted.

Timetable:

Action	Date	FR Cite
NPRM	04/23/98	63 FR 20156
Hearing	02/10/99	63 FR 60316
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-121268-97

Drafting attorney: Robin Ehrenberg (202) 622-6080.

Reviewing attorney: Regina Oldak (202) 622-6080.

Treasury attorney: Susan Brown (202) 622-0999.

CC:EBEO

Agency Contact: Robin Ehrenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave NW., Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AW10

2849. INTERCOMPANY OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide clarification of the tax treatment of certain transfers of intercompany obligations by or to a member of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	12/18/98	63 FR 70354
NPRM Comment Period End	03/22/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105964-98

Drafting attorney: Theresa Abell (202) 622-7790.

Reviewing attorney: Ken Cohen (202) 622-7790.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Theresa Abell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7790
Fax: 202 622-6834

RIN: 1545–AW30

2850. REMOVAL OF REGULATION PROVIDING GUIDANCE UNDER SUBPART F RELATING TO PARTNERSHIPS AND BRANCHES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation removes TD 8767, temporary regulations relating to the treatment under subpart F of certain payments involving branches of a CFC that are treated as separate entities for foreign tax purposes.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104537-97

Drafting attorney: Valerie Mark (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: William Morris (202) 622-1779.

CC:INTL

Agency Contact: Valerie Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AW49

2851. GUIDANCE UNDER SECTION 1032

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations relate to the treatment of a disposition by a corporation of the stock of another corporation.

Timetable:

Action	Date	FR Cite
NPRM	09/23/98	63 FR 50816
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106221-98

Drafting attorney: Lee A. Dean (202) 622-7550.

Treasury attorney: Karen Gilbreath (202) 622-1788.

Agency Contact: Lee A. Dean, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20020
Phone: 202 655-7550

RIN: 1545–AW53

2852. INCREASE IN CASHOUT LIMIT UNDER SECTIONS 411(A)(7), 411(A)(11), AND 417(E)(1)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: These regulations provide guidance relating to the increase from $ 3,500 to $ 5,000 of the limit on distributions from qualified plans that can be made without participant consent, as amended by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/21/98	63 FR 70356
NPRM Comment Period End	03/22/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113694-98

Drafting attorney: Michael Karlan (202) 622-6030.

Treasury attorney: Michael Doran (202) 622-1341.

EBEO

Agency Contact: Michael Karlan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AW59

2853. • BALANCED PERFORMANCE MEASUREMENT SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 801

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation establishes a balanced performance measurement system for the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	01/05/99	64 FR 457
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-119192-98

Draft attorney: Julie A. Barry (202) 401-4013.

Reviewing attorney: Dennis M. Ferrara (202) 401-4000.

Treasury attorney: Rochelle Granat (202) 622-1143.

Agency Contact: Julie A. Barry, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 401-4013
Fax: 202 401-6510

RIN: 1545–AW80

2854. • ALLOCATION OF UNRECAPTURED SECTION 1250 GAIN REPORTED ON THE INSTALLMENT METHOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide rules for determining the taxation of capital gains from the sale of depreciable property reported under the installment method: If a portion of the capital gain is unrecaptured section 1250 gain and a portion is adjusted net capital gain, the unrecaptured section 1250 gain is taken into account before the adjusted net capital gain. the regulations also address how to treat installment payments from sales before May 7, 1997, and installment payments received after May 6, 1997, and before the effective date of the final regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3457
NPRM Comment Period End	04/22/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-110524-98

Drafting attorney: Susan Kassell (202) 622-4930

Reviewing attorney: Sandy Irving (202) 622-4930

Treasury attorney: Mark Hoffenberg (202) 622-0869

CC:DOM:IT&A

Agency Contact: Susan Kassell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4930
Fax: 202 622-6316

RIN: 1545–AW85

2855. • NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6330

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance concerning the implementation of section 6330 of title 26, as added by section 3401 of the Internal Revenue Service Restructuring and Reform Act of 1998.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3462
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-117620-98

Drafting attorney: Jerome D. Sekula (202) 622-3610

Reviewing attorney: Alan C. Levine (202) 622-3610

Treasury attorney: Rita Cavanagh (202) 622-1981

CC:EL:GL

Agency Contact: Jerome D. Sekula, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3610
Fax: 202 622-3766

RIN: 1545–AW90

2856. • NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6320

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance concerning the implementation of section 6320 of title 26, as added by the Internal

TREAS—IRS **Final Rule Stage**

Revenue Service Restructuring and Reform Act of 1998 section 3401.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3461
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116824-98

Drafting attorney: Jerome D. Sekula (202) 622-3610

Reviewing attorney: Alan C. Levine (202) 622-3610

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:EL:GL

Agency Contact: Jerome D. Sekula, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3610

RIN: 1545–AW91

2857. • CONTINUATION COVERAGE REQUIREMENTS APPLICABLE TO GROUP HEALTH PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4980B

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to employers, employee organizations, plan administrators, multiemployer plans, as well as to participants and beneficiaries about the COBRA health care continuation coverage requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5237
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121865-98

Drafting attorney: Russ Weinheimer (202) 622-4695

Reviewing attorney: Alan Tawshunsky (202) 622-6000

Treasury attorney: Michael Doran (202) 622-1341

Agency Contact: Russ Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4695

RIN: 1545–AW94

2858. • QUALIFIED OFFERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations regarding the qualified offer rule allowing the recovery of reasonable administrative or litigation costs.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121928-98

Drafting attorney: Thomas Moffitt (202) 622-7900

Reviewing attorney: Henry Schneiderman (202) 622-7820

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:DOM:FS

Agency Contact: Thomas Moffitt, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7900

RIN: 1545–AX00

2859. • AVERAGING OF FARM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1301

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An individual may elect to "income average" any amount of farm income by adding 1/3 of such elected farm income to each of the three prior years', taxable income and calculating the increase in tax for the prior years. The elected farm income is subtracted from the current years taxable income and a tax is calculated. The increase in tax liability for the three prior years is added to the current years tax liability.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-121063-97

Drafting attorney: John Moran (202) 622-7697.

Treasury attorney: Lily Kahng (202) 622-0160.

CC:DOM:IT&A

Agency Contact: John Moran, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7697
Fax: 202 622-6316

RIN: 1545–AX01

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Long-Term Actions

2860. STATEMENT OF PROCEDURAL RULES—PART 601.702 APPENDIX B - INTERNAL REVENUE SERVICE - 31 CFR PART 1

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 601; 31 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lori Creswell
Phone: 202 622-4580
Fax: 202 622-6279

RIN: 1545–AR99

2861. THE TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTIONS 101, 7702 AND 7702A OF THE INTERNAL REVENUE CODE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59319
NPRM Comment Period End	02/26/93	57 FR 59324
Hearing	03/19/93	57 FR 59324
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ann H. Logan
Phone: 202 622-3970
Fax: 202 622-4451

RIN: 1545–AQ70

2862. DEFINITION OF "PRIVATE ACTIVITY BONDS"

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/94	59 FR 67658
NPRM Comment Period End	05/01/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bruce Serchuk
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU98

2863. PRIVATE ACTIVITY BOND RULES FOR OUTPUT FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3296
NPRM Comment Period End	04/22/98	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Allan B. Seller
Phone: 202 622-3421

RIN: 1545–AV47

2864. GOLDEN PARACHUTE PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	
Hearing	11/21/89	54 FR 39548
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Misner
Phone: 202 622-6060

RIN: 1545–AH49

2865. GUIDANCE IN NOTICE 89-37, WHICH TREATS THE RECEIPT OF A CORPORATE PARTNER'S STOCK BY THE CORPORATE PARTNER AS A CIRCUMVENTION OF GENERAL UTILITIES REPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59324
NPRM Comment Period End	01/20/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith E. Stanley
Phone: 202 622-7530

RIN: 1545–AP52

2866. CORPORATE INVERSION TRANSACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kenneth Cohen
Phone: 202 622-7790
Fax: 202 622-6834

RIN: 1545–AS91

2867. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/07/93	58 FR 27219
NPRM Comment Period End	05/07/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin Ehrenberg
Phone: 202 622-6080

RIN: 1545–AD81

2868. ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/22/95	60 FR 66532
NPRM Comment Period End	03/21/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

TREAS—IRS **Long-Term Actions**

Agency Contact: Janet Laufer
Phone: 202 622-6060
Fax: 202 622-4617

RIN: 1545–AT82

2869. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/03/85	50 FR 27456
NPRM Comment Period End	09/03/85	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet Laufer
Phone: 202 622-6060

RIN: 1545–AG14

2870. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—SELF-CHARGED ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/05/91	56 FR 14034
Hearing	09/06/91	56 FR 14040
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Martin Schaffer
Phone: 202 622-3070
Fax: 202 622-4524

RIN: 1545–AN64

2871. MARK-TO-MARKET UPON DISPOSITION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 397

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Williams
Phone: 202 622-3960
Fax: 202 622-5699

RIN: 1545–AS85

2872. MARK-TO-MARKET ACCOUNTING FOR DEALERS IN COMMODITIES AND TRADERS IN SECURITIES AND COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4374

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jo Lynn Ricks
Phone: 202 622-3920

RIN: 1545–AW06

2873. INTERCOMPANY TRANSFER PRICING FOR SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa G. Sams
Phone: 202 874-1490
Fax: 202 622-4476

RIN: 1545–AR32

2874. SEPARATE SHARE RULES/ESTATES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 790

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura Howell
Phone: 202 622-3060

RIN: 1545–AW57

2875. SOURCE RULES FOR PAYMENTS MADE PURSUANT TO CERTAIN SWAP ARRANGEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Milton Cahn
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AU89

2876. ALLOCATION OF LOSS ON DISPOSITION OF PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/11/99	64 FR 1571

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Juster
Phone: 202 622-3850

RIN: 1545–AW09

2877. PROPOSED REGULATION UNDER SECTIONS 882 AND 884

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Howard Wiener
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AT96

2878. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AL93

2879. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION, AND OTHER SPECIAL RULES FOR FSC

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth G. Beck
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AI16

2880. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO AND POSSESSION TAX CREDIT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. Edward Williams
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AC10

2881. CBI INVESTMENTS OF SECTION 936 FUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21963
Hearing	07/12/91	56 FR 21963

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: W. Edward Williams
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AM91

2882. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne Devereaux
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AM90

2883. USE OF GAAP EARNINGS AS E&P OF FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29246

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anne Devereaux
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ55

2884. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62251
NPRM Comment Period End	03/01/93	
Hearing	04/06/93	57 FR 62251

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Martin Scully
Phone: 202 622-4960

RIN: 1545–AN73

2885. APPLICATION OF GRANTOR TRUST RULES TO NONEXEMPT EMPLOYEES' TRUST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/27/96	61 FR 50778
NPRM Comment Period End	12/26/96	
Hearing	01/15/97	61 FR 50778

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: M. Grace Fleeman
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AU29

2886. DIESEL FUEL EXCISE TAX; DYE INJECTION SYSTEMS AND MARKERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10490

TREAS—IRS

Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	06/12/96	
Hearing	06/20/96	61 FR 10490
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank K. Boland
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT18

2887. INFORMATION FROM PASSPORT AND IMMIGRATION APPLICANTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61373
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ricardo A. Cadenas
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AJ93

2888. INTEREST-FREE ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58423
NPRM Comment Period End	02/08/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AQ61

2889. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 28374
NPRM Comment Period End	07/12/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jean Casey
Phone: 202 622-6060

RIN: 1545–AN40

2890. RETENTION OF PAID PREPARERS' SIGNATURES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/31/98	63 FR 72218
NPRM Comment Period End	03/31/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marc C. Porter
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW52

2891. PREPARER DUE DILIGENCE REQUIREMENTS FOR DETERMINING EARNED INCOME CREDIT ELIGIBILITY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/21/98	63 FR 70357
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marc C. Porter
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW73

2892. • TIMELY MAILING TREATED AS TIMELY FILING/ELECTRONIC POSTMARK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document updates the current Notice of Proposed Rulemaking and provides timely mailing treated as timely filing rules for electronic postmarks.

Timetable:

Action	Date	FR Cite
NPRM	01/15/99	64 FR 2606
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115433-98

Drafting attorney: Charles A. Hall (202) 622-4940.

Reviewing attorney: Rochelle L. Hodes (202) 622-4940.

Treasury attorney: Rita Cavanaugh (202) 622-1981.

CC:DOM:IT&A

Agency Contact: Charles A. Hall, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW81

2893. STRADDLES—MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21482
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Williams
Phone: 202 622-3960
Fax: 202 622-5699

RIN: 1545–AT46

2894. EFFECT OF THE FAMILY AND MEDICAL LEAVE ACT ON THE OPERATION OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66229
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon Cohen
Phone: 202 622-6080
Fax: 202 622-6132

RIN: 1545–AT47

2895. RECOMPUTATION OF LIFE INSURANCE RESERVES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 71
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Smith
Phone: 202 622-3970
Fax: 202 622-4451

RIN: 1545–AU49

2896. CIVIL CAUSE OF ACTION FOR CERTAIN UNLAWFUL COLLECTION ACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68242
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin B. Connelly
Phone: 202 622-3630

RIN: 1545–AU68

2897. AGREEMENTS FOR PAYMENT OF TAX LIABILITIES IN INSTALLMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68241
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Connelly
Phone: 202 622-3630

RIN: 1545–AU97

2898. DEPOSITS OF EXCISE TAXES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 40

Timetable:

Action	Date	FR Cite
NPRM	12/29/97	62 FR 67589
NPRM Comment Period End	03/30/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ruth Hoffman
Phone: 202 622-3130

RIN: 1545–AV02

2899. EITC RECERTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34615
NPRM Comment Period End	09/23/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AV61

2900. REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 67780
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Cheryl Press
Phone: 202 622-6030
Fax: 202 622-4631

RIN: 1545–AV82

2901. DISCLOSURE OF RETURN INFORMATION TO THE BUREAU OF THE CENSUS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	01/25/99	64 FR 3669
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jamie Bernstein
Phone: 202 622-4570
Fax: 202 622-9888

RIN: 1545–AV84

2902. INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3257
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Moriarty
Phone: 202 627-4950

RIN: 1545–AW01

TREAS—IRS **Long-Term Actions**

2903. CONVERSION TO THE EURO

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/29/98	63 FR 40383
NPRM Comment Period End	10/01/98	
Hearing	10/20/98	63 FR 40383

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Howard Wiener
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AW43

2904. EDUCATION CREDITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 794

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donna Welch
Phone: 202 622-4910

RIN: 1545–AW65

2905. • MODIFICATIONS AND ADDITIONS TO THE UNIFIED PARTNERSHIP AUDIT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6230; 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposed regulations modifying the Unified Partnership Audit Procedures. These changes are based on statutory changes enacted in 1997 and 1998.

Timetable:

Action	Date	FR Cite
NPRM	01/25/99	64 FR 3886
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: REG-106564-98

Drafting attorney: Robert Honigman (202) 622-3050

Reviewing attorney: Dianna Miosi (202) 622-3050

Treasury attorney: Jim Sowell (202) 622-5721

Agency Contact: Robert Honigman, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3050
Fax: 202 622-4818

RIN: 1545–AW86

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS) **Completed Actions**

2906. EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8795	12/14/98	63 FR 68678

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa Shuman
Phone: 202 622-3120

RIN: 1545–AT73

2907. ARBITRAGE RESTRICTIONS ON TAX EXEMPT BONDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8801	12/30/98	63 FR 71748

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: David White
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU39

2908. CONTINUITY OF INTEREST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8783	09/23/98	63 FR 50757

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Phoebe Bennett
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AW45

2909. GUIDANCE UNDER SECTION 30 AND 179A

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Winston Douglas
Phone: 202 622-3110

RIN: 1545–AR66

2910. PRODUCTION OF CREATIVE PROPERTY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

TREAS—IRS **Completed Actions**

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jan Skelton
Phone: 202 622-4970

RIN: 1545–AQ92

2911. CERTAIN ASSET TRANSFERS TO A TAX-EXEMPT ENTITY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8802	12/29/98	63 FR 71591

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Stephen R. Cleary
Phone: 202 622-7530
Fax: 202 622-6834

RIN: 1545–AN21

2912. ROTH IRAS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8816	02/04/99	64 FR 5597

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cathy A. Vohs
Phone: 202 622-6030

RIN: 1545–AW62

2913. REVISING THE DEFINITION OF THE FULL FUNDING LIMITATION FOR PURPOSES OF THE MINIMUM FUNDING REQUIREMENT FOR PENSION PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Marshall
Phone: 202 622-6030

RIN: 1545–AL53

2914. GUIDANCE—INTEREST OTHER THAN OF CREDITOR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey Erickson
Phone: 202 622-3080

RIN: 1545–AO32

2915. MARK-TO-MARKET FOR SECURITIES DEALERS; APPLICATION OF HELD FOR INVESTMENT EXEMPTION TO CONSOLIDATED GROUPS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: JoLynn Ricks
Phone: 202 622-3411

RIN: 1545–AU87

2916. SECTION 501(C)(4) REGULATION CHANGES REGARDING TAXPAYER BILL OF RIGHTS 2

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia Morton
Phone: 202 622-6070

RIN: 1545–AV57

2917. GUIDANCE REGARDING CHARITABLE REMAINDER TRUST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8791	12/10/98	63 FR 68188

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Beth Collins
Phone: 202 622-3070

RIN: 1545–AU25

2918. SECTION 736—LLC MEMBERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	01/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Terri A. Belanger
Phone: 202 622-3080

RIN: 1545–AT31

2919. FASIT—START-UP/OPERATIONAL/TRANSITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

TREAS—IRS

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David L. Meyer
Phone: 202 622-3960
Fax: 202 622-5699

RIN: 1545–AV59

2920. EXTENSION OF TIME FOR REAL ESTATE MORTGAGE INVESTMENT CONDUITS TO PROVIDE REPORTING INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth P. Christman
Phone: 202 622-3950
Fax: 202 622-4425

RIN: 1545–AP73

2921. CLASSIFICATION OF CERTAIN TRANSACTIONS INVOLVING COMPUTER PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne Shelburne
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AU70

2922. TRANSPORTATION INCOME SOURCE RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	08/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Bray
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AJ68

2923. SOURCE OF INCOME FROM SALES OF INVENTORY PARTLY FROM SOURCES WITHIN A POSSESSION OF THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne Shelburne
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AU79

2924. TREATMENT OF RELATED PERSON FACTORING INCOME; CERTAIN INVESTMENTS IN UNITED STATES PROPERTY; AND STOCK REDEMPTIONS THROUGH RELATED CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeffrey L. Vinnik
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AH85

2925. ALLOCATION OF LOSS ON DISPOSITION OF STOCK

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8805	01/11/99	64 FR 1505

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Seth Goldstein
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AT41

2926. APPLICATION OF SECTION 904 TO INCOME SUBJECT TO SEPARATE LIMITATIONS AND SECTION 864(E) AFFILIATED GROUP EXPENSE ALLOCATION RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8805	01/11/99	64 FR 1505

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Rosenberg
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ43

2927. SOURCE AND GROUPING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth G. Beck
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AV90

TREAS—IRS

Completed Actions

2928. SOURCING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Beck
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AW11

2929. SOURCING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elizabeth Beck
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AW12

2930. NEW LINES OF BUSINESS PROHIBITED UNDER SECTION 936(J)(9)(B)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Bray
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AV67

2931. INSURANCE INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Valerie A. Mark
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ70

2932. INCOME TAX—TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Bergkuist
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AG71

2933. FINAL 1441 REGULATION—TECHNICAL CORRECTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Laura Hatten Boyd
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AW39

2934. WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	01/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey Vinnik
Phone: 202 622-3840
Fax: 202 622-4408

RIN: 1545–AL32

2935. CONSIDERATION OF REPEAL OF OLD 1.1502-13

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	01/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey L. Vogel
Phone: 202 622-7770
Fax: 202 622-6834

RIN: 1545–AV54

2936. CONSOLIDATED OVERALL FOREIGN LOSS AND SEPARATE LIMITATION LOSS ACCOUNTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8800	12/29/98	63 FR 71589

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Trina Dang
Phone: 202 622-3850

RIN: 1545–AW08

2937. EFFECTIVE DATE OF SECTION 1.1502-9T

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

TREAS—IRS

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Trina Dang
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AW51

2938. VALUATION OF CERTAIN FARM, REAL PROPERTY, ETC

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 20; 26 CFR 25

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Ryan
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AT66

2939. • INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 221; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance on the deduction of interest on education loans under section 221.

Timetable:

Action	Date	FR Cite
Closed Without Regulations	01/21/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116826-97

Drafting attorney: John Moriarty (202) 622-4950

Reviewing attorney: David Crawford (202) 622-4950

Treasury attorney: Steve Arkin (202) 622-1336

Agency Contact: John Moriarty, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4950

RIN: 1545–AW75

2940. FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA) TAXATION OF AMOUNTS UNDER EMPLOYEE BENEFIT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action - TD 8814	01/29/99	64 FR 4542

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janine Cook
Phone: 202 622-6040

RIN: 1545–AF97

2941. FEDERAL UNEMPLOYMENT TAX ACT (FUTA) TAXATION OF AMOUNTS UNDER EMPLOYEE BENEFIT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action - TD 8815	01/29/99	64 FR 4540

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janine Cook
Phone: 202 622-6040

RIN: 1545–AT99

2942. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 31

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alfred Kelley
Phone: 202 622-6040
Fax: 202 622-4631

RIN: 1545–AE62

2943. LUXURY TAX REGULATIONS—REVENUE RECONSIDERATION ACT OF 1990

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard H. Weberman
Phone: 202 622-3130
Fax: 202 622-4537

RIN: 1545–AP24

2944. RETAILERS TAX/TIRES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bernard H. Weberman
Phone: 202 622-3130

RIN: 1545–AW66

2945. PREPAID TELEPHONE CARDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 49

Completed:

Reason	Date	FR Cite
Closed Without Regulations	01/29/99	

TREAS—IRS

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bernard H. Weberman
Phone: 202 622-3130

RIN: 1545–AV64

2946. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 54

Completed:

Reason	Date	FR Cite
Final Action - TD 8812	02/03/99	64 FR 5160

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell Weinheimer
Phone: 202 622-6060

RIN: 1545–AI93

2947. PURCHASING AND REPORTING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donna Welch
Phone: 202 622-4910

RIN: 1545–AV49

2948. MODIFICATION AND ADDITIONS TO THE UNIFIED PARTNERSHIP

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action - TD 8808	01/26/99	64 FR 3837

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Honigman
Phone: 202 622-3050

RIN: 1545–AW23

2949. ELECTRONIC FUNDS TRANSFERS OF FEDERAL DEPOSITS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Closed Without Regulations	01/29/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Vincent Surabian
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AV96

2950. ELECTRONIC FUNDS TRANSFERS OF FEDERAL DEPOSITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	01/29/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Vincent Surabian
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW40

2951. PAYMENT BY CREDIT CARD AND DEBIT CARD

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action - TD 8793	12/15/98	63 FR 68995

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchel S. Hyman
Phone: 202 622-3620
Fax: 202 622-9137

RIN: 1545–AW38

2952. ABATEMENT OF INTEREST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action - TD 8789	12/18/98	63 FR 70012

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Auclair
Phone: 202 622-4910

RIN: 1545–AV32

2953. DEFINITION OF REASONABLE BASIS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8790	12/02/98	63 FR 66433

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beverly Baughman
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AU38

2954. DUE DILIGENCE FOR EIC (EARNED INCOME CREDIT)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	02/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Celia Gabrysh
Phone: 202 622-4940

RIN: 1545–AW03

TREAS—IRS **Completed Actions**

2955. PREPARER DUE DILIGENCE REQUIREMENTS FOR DETERMINING EARNED INCOME CREDIT ELIGIBILITY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8798	12/21/98	63 FR 70339

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marc C. Porter
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW74

2956. • TIMELY MAILING TREATED AS TIMELY FILING/ELECTRONIC POSTMARK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document provides timely mailing treated as timely filing rules for electronic postmarks.

Timetable:

Action	Date	FR Cite
Final Action - TD 8807	01/15/99	64 FR 2568

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115433-98

Drafting attorney: Charles A. Hall (202) 622-4940.

Reviewing attorney: Rochelle Hodes (202) 622-4940.

Treasury attorney: Rita Cavanaugh (202) 622-1981.

CC:DOM:IT&A

Agency Contact: Charles A. Hall, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW82

2957. REWARDS FOR INFORMATION RELATING TO VIOLATIONS OF INTERNAL REVENUE LAWS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action - TD 8780	08/21/98	63 FR 44777

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Judith A. Lintz
Phone: 202 622-4940

RIN: 1545–AU85

2958. SPECIAL RULES FOR S CORPORATIONS UNDER SECTION 301.7701(B)-7

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301; 26 CFR 602

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AS88

2959. RESIDENCE OF TRUSTS AND ESTATES—7701

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action - TD 8813	02/02/99	64 FR 4967

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Quinn
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU74

2960. EXTENSION OF STATUTE OF LIMITATIONS IN JOHN DOE SUMMONS DISPUTES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerome D. Sekula
Phone: 202 622-3610

RIN: 1545–AM67

2961. SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS DURING PROCEEDING TO ENFORCE DESIGNATED SUMMONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jerome D. Sekula
Phone: 202 622-3610

RIN: 1545–AQ01

2962. AMORTIZATION—GOODWILL INTANGIBLES 197

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Huffman
Phone: 202 622-3110

RIN: 1545–AT70

2963. START-UP EXPENDITURES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8797	12/17/98	63 FR 69554

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Selig
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT71

2964. ERISA SECTION 204(H) NOTICE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8795	12/14/98	63 FR 68678

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Betty Clary
Phone: 202 622-6070

RIN: 1545–AT78

2965. TIMING OF NOTICE AND CONSENT REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8796	12/18/98	63 FR 70009

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Walsh
Phone: 202 622-6030

RIN: 1545–AU05

2966. USUFRUCT; NONRESIDENT ALIEN SHAREHOLDER; S CORPORATION STOCK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laura Howell
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU18

2967. CONTINGENT INTEREST UNDER SECTION 2056(B)(7)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 20

Completed:

Reason	Date	FR Cite
Final Action - TD 8779	08/19/98	63 FR 44391

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Susan Hurwitz
Phone: 202 622-3090
Fax: 202 622-4743

RIN: 1545–AU27

2968. PAYMENT FROM THE PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Paul E. Tellier
Phone: 202 622-4930

RIN: 1545–AU57

2969. TAX ATTRIBUTE REDUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action - TD 8787	10/22/98	63 FR 56559

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sharon Hall
Phone: 202 622-4930
Fax: 202 622-6316

RIN: 1545–AU71

2970. DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION BY OTHER FEDERAL AGENCIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Closed Without Regulations	11/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Julie C. Schwartz
Phone: 202 622-4570
Fax: 202 622-9888

RIN: 1545–AU83

2971. DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION BY OTHER FEDERAL AGENCIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Closed Without Regulations	11/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Julie Schwartz
Phone: 202 622-4570

RIN: 1545–AU84

2972. CERTAIN INVESTMENT INCOME—7704

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8799	12/17/98	63 FR 69551

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

TREAS—IRS

Completed Actions

Agency Contact: Terri Belanger
Phone: 202 622-3080

RIN: 1545–AV15

2973. CASH ADVANCES OF COMPENSATION TO SERVICE PROVIDERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward C. Schwartz
Phone: 202 622-4960

RIN: 1545–AV21

2974. TAXPAYER BILL OF RIGHTS 2 CHANGES TO SECTION 7805(B)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	08/11/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl Peterson
Phone: 202 622-7790
Fax: 202 622-6834

RIN: 1545–AV42

2975. HIPAA NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 54

Completed:

Reason	Date	FR Cite
Final Action - TD 8788	10/27/98	63 FR 57546

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell Weinheimer
Phone: 202 622-4695

RIN: 1545–AV52

2976. QUALIFIED LONG-TERM CARE SERVICES AND INSURANCE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8792	12/10/98	63 FR 68184

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Katherine A. Hossofsky
Phone: 202 622-3970

RIN: 1545–AV56

2977. SECTION 707 DISGUISED SALES OF PARTNERSHIP INTEREST

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Honigman
Phone: 202 622-3050

RIN: 1545–AV66

2978. SECTION 6038B INFORMATION REPORTING REQUIREMENTS FOR TRANSFERS TO FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eliana D. Dolgoff
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AV70

2979. DISCLOSURE OF RETURN INFORMATION TO THE BUREAU OF THE CENSUS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8811	01/25/99	64 FR 3631

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jamie Bernstein
Phone: 202 622-4570
Fax: 202 622-9888

RIN: 1545–AV83

2980. SUBSTANTIATION OF BUSINESS EXPENSES—USE OF MILEAGE RATES TO SUBSTANTIATE AUTOMOBILE EXPENSES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8784	10/01/98	63 FR 52600

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna M. Crisalli
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AV89

2981. SECTION 411(D)(6) PROTECTED BENEFITS (TAXPAYER RELIEF ACT OF 1997)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8806	01/08/99	64 FR 1125

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Marshall

TREAS—IRS

Completed Actions

Phone: 202 622-6030

RIN: 1545–AV94

2982. TRANSPORTATION OF PERSONS AND PROPERTY BY AIR—SECTIONS 4261 AND 4271

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 49

Completed:

Reason	Date	FR Cite
Closed Without Regulations	01/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick S. Kirwan
Phone: 202 622-3130

RIN: 1545–AW18

2983. CAPITAL GAINS—INSTALLMENT SALES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	02/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Laudeman
Phone: 202 622-4930
Fax: 202 622-6316

RIN: 1545–AW47

2984. INCREASE IN CASHOUT LIMIT UNDER SECTIONS 411(A)(7), 411(A)(11), AND 417(E)(1)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8794	12/21/98	63 FR 70335

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael J. Karlan
Phone: 202 622-6030

RIN: 1545–AW58

2985. SECTION 809—STOCK LIFE SUBSIDIARY OF A MUTUAL HOLDING COMPANY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	02/02/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Melissa Luxner
Phone: 202 622-3970

RIN: 1545–AW70

2986. • NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6330

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance concerning the implementation of section 6330 of title 26, as added by section 3401 of the Internal Revenue Service Restructuring And Reform Act of 1998.

Timetable:

Action	Date	FR Cite
Final Action - TD 8809	01/22/99	64 FR 3405

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-117620-98

Drafting attorney: Jerome D. Sekula (202) 622-3610

Reviewing attorney: Alan C. Levine (202) 622-3610

Agency Contact: Jerome D. Sekula, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3610
Fax: 202 622-3766

RIN: 1545–AW76

2987. • NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6320

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance concerning the implementation of section 6320 of title 26, as added by the Internal Revenue Service Restructuring And Reform Act of 1998 section 3401.

Timetable:

Action	Date	FR Cite
Final Action - TD 8810	01/22/99	64 FR 3398

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116824-98

Drafting attorney: Jerome D. Sekula (202) 622-3610

Reviewing attorney: Alan C. Levine (202) 622-3610

Agency Contact: Jerome D. Sekula, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3610
Fax: 202 622-3766

RIN: 1545–AW77

2988. • RETENTION OF PAID PREPARERS SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6695

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will propose an alternative to the requirement that an income tax return preparer must keep a manually signed (by the preparer) copy of a return if the preparer presented to the taxpayer for signature a return with a copy of the preparer's signature.

Timetable:

Action	Date	FR Cite
Final Action - TD 8803	12/31/98	63 FR 72118

Regulatory Flexibility Analysis Required: No

TREAS—IRS **Completed Actions**

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106386-98

Drafting attorney: Marc C. Porter (202) 622-4940.

Reviewing attorney: Judith M. Wall (202) 622-4940.

Treasury attorney: Jeffrey Maddrey (202) 622-1339.

CC:DOM:IT&A

Agency Contact: Marc Porter, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW83

2989. • AVIATION FUEL TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulation will implement the aviation fuel tax imposed by section 4091 of the Internal Revenue Code. The regulation will provide rules for imposition of tax, liability for tax, registration, and credits and refunds.

Timetable:

Action	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-120353-98

Drafting attorney: Frank Boland (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:DOM:EBEO

Agency Contact: Frank Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AW84

2990. SECTION 411(D)(6) PROTECTED BENEFITS (TAXPAYER RELIEF ACT OF 1997)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8781	09/04/98	63 FR 47172

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Marshall
Phone: 202 622-6030

RIN: 1545–AV95

2991. TAXPAYER ASSISTANCE ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Robert Miller
Phone: 202 622-3640

RIN: 1545–AU01

2992. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - Agency action suspended	03/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David B. Silber
Phone: 202 622-3930
Fax: 202 622-4425

RIN: 1545–AH72

BILLING CODE 4830-01-F

DEPARTMENT OF THE TREASURY (TREAS)

Proposed Rule Stage

Office of Thrift Supervision (OTS)

2993. APPLICATION PROCESSING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 1462a; 12 USC 1463; 12 USC 1464

CFR Citation: 12 CFR 516

Legal Deadline: None

Abstract: OTS has taken under consideration the issuance of a notice of proposed rulemaking to revise its regulations setting forth the procedures for savings associations to submit certain applications, notices, and other filings to OTS. OTS will draft the new rule in the "plain English" format, thus making it more understandable and workable for both the public and OTS.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Osterloh, Assistant Chief Counsel, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552

TREAS—OTS **Proposed Rule Stage**

Phone: 202 906-6639

Robyn Dennis, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5751

RIN: 1550–AB14

2994. TYPES OF OFFICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1828

CFR Citation: 12 CFR 545

Legal Deadline: None

Abstract: OTS has taken under consideration the adoption of a notice of proposed rulemaking to amend its definitions of home, branch and agency office, and the related regulations containing notice or application requirements for relocation or redesignation of offices. These provisions are under review in order to ensure that they meet the modern challenges of how institutions conduct their businesses.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Merkle, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5688

Dorene Rosenthal, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7268

RIN: 1550–AB18

2995. DIRECTORS AND OFFICERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS has taken under consideration the adoption of a notice of proposed rulemaking to reorganize, revise and streamline its regulations concerning indemnification, savings association boards of directors (including composition of boards of directors), compensation, employment contracts, extension of credit to outsiders, conflicts of interest, and corporate opportunity.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Additional Agency Contacts: David Permut, Counsel (Banking and Finance), Business Transactions Division, (202) 906-7505.

Agency Contact: Francis E. Raue, Program Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5750

Ellen J. Sazzman, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7133

RIN: 1550–AB19

2996. NON-DEPOSIT INVESTMENT PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS has taken under consideration the issuance of a notice of proposed rulemaking to update its regulations regarding the sale of non-deposit investment products.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robyn Dennis, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5751

Susan Miles, Senior Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6798

RIN: 1550–AB22

2997. NONDISCRIMINATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 2810; 12 USC 2901; 15 USC 1691; 42 USC 1981; 42 USC 1982; 42 USC 3601 TO 3619

CFR Citation: 12 CFR 528; 12 CFR 571

Legal Deadline: None

Abstract: OTS has taken under consideration the issuance of a notice of proposed rulemaking that would revise and streamline its nondiscrimination regulations to increase clarity and reduce redundancy.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

TREAS—OTS **Proposed Rule Stage**

Government Levels Affected: None

Agency Contact: Richard Riese, Project Manager, Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6134

Richard Bennett, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7409

RIN: 1550–AB23

2998. CONVERSIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w

CFR Citation: 12 CFR 563b

Legal Deadline: None

Abstract: OTS has taken under consideration the issuance of a notice of proposed rulemaking to update and rewrite its mutual to stock conversion regulations in the "plain English" format.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Jo Johnson, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5739

Teri Valocchi, Counsel (Banking and Finance), Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7299

RIN: 1550–AB24

2999. DUE ON SALE AND USURY PREEMPTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1464; 12 USC 1701j-3; 12 USC 1735f-7a

CFR Citation: 12 CFR 590; 12 CFR 591

Legal Deadline: None

Abstract: OTS has taken under consideration the adoption of a notice of proposed rulemaking to amend 12 CFR parts 590 and 591 to convert them into "plain English."

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William J. Magrini, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5744

Evelyne Bonhomme, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7052

RIN: 1550–AB25

3000. EXEMPT SAVINGS AND LOAN HOLDING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468

CFR Citation: 12 CFR 584

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking that would amend its regulations to clarify the circumstances under which certain multiple savings and loan holding companies are able to engage in the same activities as unitary holding companies.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 5982
NPRM Comment Period End	04/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard L. Little, Senior Counsel (Banking and Finance), Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6447

Donna Deale, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7488

RIN: 1550–AB26

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Final Rule Stage

3001. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 3208 to 3208

CFR Citation: 12 CFR 563f

Legal Deadline: None

Abstract: The Federal banking agencies have issued a notice of proposed rulemaking to revise their rules regarding management interlocks to conform them to recent statutory changes, modernize and clarify them, and reduce unnecessary regulatory burden where feasible.

TREAS—OTS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 43052
NPRM Comment Period End	10/13/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Bristol, Senior Attorney, Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6461

Joseph Casey, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5741

RIN: 1550–AB07

3002. CAPITAL RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1835; 12 USC 1848; 12 USC 4808

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: OTS currently has underway a number of regulatory amendments to its capital standards for savings associations. These amendments will serve to implement section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA). CDRIA requires the Federal banking agencies to make their capital rules and other rules more uniform.

These regulatory changes include a recourse rule that would address the treatment of recourse obligations and direct credit substitutes and would vary the risk-based capital requirement for traded and non-traded positions in securitized asset transactions according to relative risk exposure. Other interagency capital projects address (i) leverage capital and risk-based standards for certain loans involving residential properties and investment in mutual funds, (ii) risk-based capital standards for collateralized transactions, and (iii) risk-weight of claims on securities firms. OTS is also preparing miscellaneous amendments designed to update its capital rules.

Timetable:

Claims on Securities Firms
NPRM 09/00/99
Collateralized Transactions
NPRM 08/16/96 (61 FR 42565)
Final Rule 09/00/99
CDRIA Section 303 Capital Amendments
NPRM 10/27/97 (62 FR 55686)
NPRM Comment Period End 12/26/97
Final Rule 03/02/99
Final Rule Effective 04/01/99
Miscellaneous Capital Amendments
NPRM 09/00/99
Recourse: Recourse Arrangements and Direct Credit Substitutes
ANPRM 05/25/94 (59 FR 27116)
NPRM 05/25/94 (59 FR 27116)
NPRM 11/05/97 (62 FR 59944)
NPRM Correction 11/20/97 (62 FR 62234)
NPRM Comment Period End 02/03/98 (62 FR 59944)
NPRM To Be Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Additional Agency Contacts: Collateralized Transactions, Risk-weight of Claims on Securities Firms, CDRIA section 303 Capital Amendments, and Miscellaneous Capital Amendments: Vern McKinley, Senior Attorney, Regulations & Legislation Division, (202) 906-6241. Recourse Arrangements and Direct Credit Substitutes: Richard Bennett, Counsel (Banking and Finance), Regulations & Legislation Division, (202) 906-7409.

Agency Contact: Michael D. Solomon, Senior Program Manager for Capital Policy, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5654

RIN: 1550–AB11

3003. LETTERS OF CREDIT, SURETYSHIP AND GUARANTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1701j-3; 12 USC 3803; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 560

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking to amend its regulations to clarify that a Federal savings association may act as guarantor and may issue letters of credit, subject to specified restrictions. The rule would also revise the restrictions on the authority of Federal savings associations to act as surety.

Timetable:

Action	Date	FR Cite
NPRM	09/18/98	63 FR 49877
NPRM Comment Period End	11/17/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William J. Magrini, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5744

Raynette Gutrick, Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6265

RIN: 1550–AB21

3004. YEAR 2000 SAFETY AND SOUNDNESS GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831p-1

CFR Citation: 12 CFR 570

Legal Deadline: None

Abstract: OTS, in conjunction with the other Federal banking agencies, has issued safety and soundness guidelines pursuant to section 39 of the Federal Deposit Insurance Act to address the Year 2000 problem.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/98	63 FR 55480
Interim Final Rule Comment Period End	12/14/98	
Final Action	09/00/99	

TREAS—OTS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Dickerson, Sr. Manager, Information Systems Examination Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6531

Timothy Leary, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7170

RIN: 1550–AB27

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Completed Actions

3005. CAPITAL DISTRIBUTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 563

Completed:

Reason	Date	FR Cite
Final Action	01/19/99	64 FR 2805
Final Action Effective	04/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward J. O'Connell
Phone: 202 906-5694
Evelyne Bonhomme
Phone: 202 906-7052

RIN: 1550–AA72

3006. ELECTRONIC OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 545; 12 CFR 555

Completed:

Reason	Date	FR Cite
Final Action	11/30/98	63 FR 65673
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Bennett
Phone: 202 906-7409
Paul Robin
Phone: 202 906-6648

RIN: 1550–AB00

3007. FINANCIAL MANAGEMENT POLICIES; DERIVATIVE INSTRUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 563

Completed:

Reason	Date	FR Cite
Final Action	12/01/98	63 FR 66348
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anthony Cornyn
Phone: 202 906-5727
Vern McKinley
Phone: 202 906-6241

RIN: 1550–AB13

3008. KNOW YOUR CUSTOMER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 563

Completed:

Reason	Date	FR Cite
Withdrawn - NPRM (Effective 03/29/99)	03/29/99	64 FR 14845

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Larry Clark
Phone: 202 906-5628
Christine Harrington
Phone: 202 906-7957

RIN: 1550–AB15

3009. ASSESSMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 502

Completed:

Reason	Date	FR Cite
Final Action	11/30/98	63 FR 65673
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Eric Hirschhorn
Phone: 202 906-7350
Christine Harrington
Phone: 202 906-7957

RIN: 1550–AB20

3010. CONSUMER CREDIT CLASSIFIED AS A LOSS, SLOW CONSUMER CREDIT AND SLOW LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 12 CFR 561

Completed:

Reason	Date	FR Cite
Final Action	02/10/99	64 FR 6502
Final Action Effective	04/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

TREAS—OTS **Completed Actions**

Agency Contact: William J. Magrini Vern McKinley Phone: 202 906-6241
Phone: 202 906-5744

RIN: 1550–AB28

[FR Doc. 99-7750 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Veterans Affairs.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginning April 1999. The purpose in publishing the Department's regulatory agenda is to allow all interested persons the opportunity to participate in VA's regulatory planning.

ADDRESSES: Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Gloria Armstrong at (202) 273-8605.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 "Regulatory Planning and Review" (and implementing guidance) and the Regulatory Flexibility Act, which require that executive agencies semiannually publish in the **Federal Register** an agenda of regulations that VA will have under development or review.

Thomas O. Gessel,

Director, Office of Regulations Management.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3011	Exemption from Pharmacy Copay	2900-AJ12
3012	Definition of Adjunct Conditions for Reimbursement Purposes	2900-AJ20
3013	Clothing Allowance	2900-AJ21
3014	Provision of Aids to the Blind	2900-AJ22
3015	Priorities for State Home Grants for Construction, Acquisition, or Renovation	2900-AJ43
3016	Enrollment—Provision of Hospital and Outpatient Care to Veterans—Priority Category 7	2900-AJ71
3017	Per Diem for Adult Day Health Care of Veterans in State Homes	2900-AJ74
3018	Policy Regarding Participation in National Practitioner Data Bank	2900-AJ76
3019	Aids for the Blind	2900-AJ83
3020	Schedule for Rating Disabilities—The Orthopedic System	2900-AE91
3021	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders	2900-AF23
3022	Schedule for Rating Disabilities—Digestive System	2900-AF24
3023	Revised Definition of Net Value and Revised Criteria for Pre-Foreclosure Debt Waivers	2900-AG20
3024	Individual Unemployability	2900-AH21
3025	Evidence on File at Date of Death	2900-AH42
3026	Vision	2900-AH43
3027	Ankylosis and Limitation of Motion of Digits of the Hands	2900-AI44
3028	New Criteria for Approval of Courses for Educational Assistance Programs	2900-AI67
3029	Veterans Education: Reporting and Recordkeeping Requirements at Flight Schools	2900-AJ23
3030	Dependents Education: Verification of Pursuit and Continued Enrollment	2900-AJ41
3031	Well Grounded Claims/Duty to Assist	2900-AJ44
3032	Schedule for Rating Disabilities: Disabilities of the Liver	2900-AJ46
3033	Revised Criteria for Monetary Allowance for a Child Born With Spina Bifida Who Is a Child of a Vietnam Veteran	2900-AJ51
3034	Certification Evidence for Proof of Service	2900-AJ55
3035	Schedule for Rating Disability: The Spine	2900-AJ60
3036	Education Provisions of the Veterans Programs Enhancement Act of 1998	2900-AJ68
3037	Veterans Education: Montgomery GI Bill—Active Duty—Administrative Error	2900-AJ70
3038	National Service Life Insurance	2900-AJ78
3039	Evidence of Permanent and Total Disability	2900-AJ82
3040	Purchase Card/Electronic Data Interchange	2900-AI41
3041	Contractor Qualifications	2900-AJ05
3042	VA Acquisition Regulations: Simplified Acquisition Procedures	2900-AJ16
3043	VA Acquisition Regulation Part 819, Small Business and Small Disadvantaged Business Concerns	2900-AJ36
3044	Universal Product Numbers (UPNs)	2900-AJ45
3045	Construction and Architect-Engineer Contracts	2900-AJ56
3046	Application of Labor Laws to Government Acquisitions	2900-AJ81
3047	Board of Veterans Appeals: Rules of Practice—Subpoenas	2900-AJ58
3048	Notice in Simultaneously Contested Claims	2900-AJ73
3049	Headstone and Marker Inscription Policy	2900-AH45
3050	State Cemetery Grants: Aid to States for Establishment, Expansion, and Improvement of Veterans Cemeteries	2900-AH46
3051	Eligibility for Burial of Dependent Adult Children of Eligible Veterans	2900-AI95
3052	Use of the Secretary's Authority as Provided by 38 USC 2402(6)	2900-AJ48

VA

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3053	Outer Burial Receptacles	2900-AJ49
3054	Interment or Memorialization in VA National Cemeteries and Certain State Cemeteries—Federal or State Capital Crime	2900-AJ77
3055	Entities Authorized To Receive and Distribute Department of Defense Surplus Food	2900-AI82
3056	Audits of States, Local Governments, and Nonprofit Organizations; Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2900-AJ62

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3057	Per Diem for Nursing Home Care of Veterans in State Homes	2900-AE87
3058	Reconsideration of Denied Claims	2900-AJ03
3059	Medication Prescribing Authority	2900-AJ07
3060	Enrollment and Provisions of Hospital Care and Medical Services	2900-AJ18
3061	Provision of Drugs and Medicines Prescribed by Non-VA Physicians	2900-AJ24
3062	Advanced Health Care Planning	2900-AJ28
3063	Medical Care Collection or Recovery	2900-AJ30
3064	Provision of Drugs and Medicines to Certain Veterans in State Nursing Homes	2900-AJ34
3065	Schedule for Rating Disabilities—The Skin	2900-AF00
3066	Schedule for Rating Disabilities—Diseases of the Ear and Other Sense Organs	2900-AF22
3067	Amendments to Training and Rehabilitation Programs	2900-AG00
3068	Fibromyalgia	2900-AH05
3069	Service Connection for Dental Conditions for Treatment Purposes	2900-AH41
3070	Veterans Education: Effective Date for the Award of Educational Assistance	2900-AH76
3071	Intervertebral Disc Syndrome	2900-AI22
3072	Veterans Education: Advanced Payments & Lump Sum Payments for Educational Assistance	2900-AI31
3073	Claims Based on Aggravation of Nonservice-Connected Disability	2900-AI42
3074	New Eligibility Criteria for the Montgomery GI Bill—Active Duty, Other Miscellaneous Issues	2900-AI63
3075	Reservist Education: Monthly Verification of Enrollment and Other Reports	2900-AI68
3076	Veterans Training: Increase in Rates Payable Under 38 USC Chapter 31	2900-AI74
3077	Amended Criteria for Approval of Flight Training Courses	2900-AI76
3078	Loan Guaranty: Requirements for Interest Rate Reduction Refinancing Loans	2900-AI92
3079	Direct Service Connection (Post-Traumatic Stress Disorder)	2900-AI97
3080	Use of Facilities To Provide Training or Work Experience for Veterans	2900-AJ01
3081	Eligibility Reporting Requirements	2900-AJ09
3082	Dependents Education: Eligibility and Entitlement Standards	2900-AJ19
3083	Veterans' Benefits Act of 1997	2900-AJ25
3084	Cash Value for National Service Life Insurance (NSLI) Term Capped Policies	2900-AJ35
3085	Veterans and Dependents Education: Increase in Educational Assistance Rates	2900-AJ37
3086	Reservist Education: Increase in Educational Rates	2900-AJ38
3087	Veterans Education: Effective Date for Discontinuing Educational Assistance	2900-AJ39
3088	Veterans Education: Increased Allowances for the Educational Assistance Test Program	2900-AJ40
3089	Pension Benefits	2900-AJ50
3090	Exclusions from Income	2900-AJ52
3091	Reinstatement of Benefits Eligibility Based Upon Terminated Marital Relationships	2900-AJ53
3092	Child	2900-AJ54
3093	Claims Based on Effect of Tobacco Products	2900-AJ59
3094	Returned and Canceled Checks	2900-AJ61
3095	Surviving Spouses Benefit for Month of Veteran's Death	2900-AJ64
3096	DIC Benefits for Survivors of Certain Veterans Rated Totally Disabled at Time of Death	2900-AJ65
3097	Modified Eligibility Criteria for the Montgomery GI Bill—Active Duty	2900-AJ69
3098	Servicemembers' Group Life Insurance and Veterans' Group Life Insurance Accelerated Benefits Option	2900-AJ80
3099	Department of Veterans Affairs Acquisition Regulation— Simplified Acquisition Procedures for Health Care Resources	2900-AI71
3100	VA Acquisition Regulations Part 801, Legal/Technical Review Requirements	2900-AI96
3101	Sealed Bidding and Competitive Proposals	2900-AI99

VA

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3102	VAAR Part 803—Improper Business Practices and Personal Conflict of Interest, and Part 852—Solicitation Provisions in Contract Clauses	2900-AJ06
3103	VA Acquisition Regulations; Part 802, Definition of "Head of Contracting Activity"	2900-AJ26
3104	VA Acquisition Regulation: Taxes	2900-AJ32
3105	VA Acquisition Regulations: Part 801, VA Contracting Officer Certification Program	2900-AJ33
3106	VA Acquisition Regulations: Bonds and Insurance	2900-AJ47
3107	Board of Veterans Appeals—Rules of Practice—Attorney Fee Matters	2900-AI98
3108	Appeals Regulations, Rules of Practice: Title Change	2900-AJ57
3109	Delegations of Authority—Appeals Regulations and Rules of Practice	2900-AJ66
3110	Case Docketing—Appeals Regulations and Rules of Practice	2900-AJ72
3111	Notification of Representatives in Connection with Motions for Revision of Decisions on Grounds of Clear and Unmistakable Error	2900-AJ75
3112	National Cemetery Administration Title Changes	2900-AJ79
3113	Delegation of Authority—Decisionmaking Regarding Discrimination	2900-AJ63
3114	Release of Information from Department of Veterans Affairs Records	2900-AH98
3115	Recognition of Organizations and Accreditation of Representatives	2900-AI93
3116	Delegations of Authority; Federal Tort Claims	2900-AJ31

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3117	Protection of Human Subjects	2900-AJ08
3118	Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA	2900-AE20
3119	Acceptance of Partial Payments; Indemnification of Default	2900-AE60
3120	Medical Evidence That a Disability Has Improved	2900-AH82
3121	Child Custody	2900-AI10
3122	Revision of Decision	2900-AI64
3123	Additional Requirements for Interest Rate Reduction Refinancing Loans	2900-AJ02
3124	Appeals Regulations; Rules of Practice	2900-AE78
3125	Rules of Practice; Hearings	2900-AG07
3126	Rules of Practice: Medical Opinions; Appeal Processing and Submission of Additional Evidence	2900-AG90
3127	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance	2900-AJ11
3128	Operation of Child Care Centers at VA Facilities	2900-AD48

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3129	CHAMPVA Regulations	2900-AE64
3130	Delegation of Authority To Provide Relief on Account of Administrative Error	2900-AH19
3131	Election of Education Benefits	2900-AH88
3132	Computation of Income	2900-AH94
3133	Fiduciary Activities; Miscellaneous	2900-AI14
3134	Diseases Subject to Presumptive Service Connection	2900-AI81
3135	Additional Disability or Death Due to Hospital Care, Medical or Surgical Treatment, Examination, or Training and Rehabilitation Services	2900-AJ04
3136	Minimum Income Annuity	2900-AJ17
3137	Dependents Education: Increase in Educational Assistance Rates	2900-AJ42
3138	Transportation: VAAR Part 847	2900-AI56
3139	VA Acquisition Regulation: Title and Reference Updates	2900-AJ29
3140	Board of Veterans' Appeals: Rules of Practice—Revision of Decisions on Grounds of Clear and Unmistakable Error	2900-AJ15

VA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3141	Nondiscrimination on the Basis of Sex Under Federally Assisted Education Programs and Activities	2900-AB51

DEPARTMENT OF VETERANS AFFAIRS (VA)

Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

3011. EXEMPTION FROM PHARMACY COPAY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1521; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This action clearly establishes the base pension rate adjustment for number of dependents as the income threshold as a means to determine exemption from medication copayment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Rhoades, Director, Field Support, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8205
Fax: 202 273-6485
Email: d.rhoades@mail.va.gov

RIN: 2900–AJ12

3012. DEFINITION OF ADJUNCT CONDITIONS FOR REIMBURSEMENT PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1729

CFR Citation: 38 CFR 17.101

Legal Deadline: None

Abstract: To provide a definition of adjunct conditions as it relates to VA's interpretation of provisions regarding authority to seek reimbursement from health insurance carriers for the treatment of nonservice-connected conditions. The definition seeks to establish uniformly that adjunct conditions are nonservice-connected conditions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Howard, Senior Program Analyst, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8198

RIN: 2900–AJ20

3013. CLOTHING ALLOWANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 1162

CFR Citation: 38 CFR 3.810

Legal Deadline: None

Abstract: The regulatory action needs to be amended to contain specific language that submission of torn, worn, damaged clothing is not a specific condition for approving clothing allowances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frederick Downs, Jr., Chief, Consultant, Prosthetic and Sensory Aids Strategic Healthcare Group, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8515
Fax: 202 273-9110

RIN: 2900–AJ21

3014. PROVISION OF AIDS TO THE BLIND

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1162; 38 USC 1710; 38 USC 1714(b)

CFR Citation: 38 CFR 3.810

Legal Deadline: None

Abstract: The regulatory action needs to be amended to contain specific language for furnishing aids for the Blind as part of prosthetic services to veterans receiving VA care under the authority of 38 U.S.C. section 1710, as amended by Public Law 104-262 and to those veterans eligible under the authority of 38 U.S.C. 1714(b).

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frederick Downs, Jr., Chief, Consultant, Prosthetic and Sensory Aids Strategic Healthcare Group, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8515
Fax: 202 273-9110

RIN: 2900–AJ22

3015. PRIORITIES FOR STATE HOME GRANTS FOR CONSTRUCTION, ACQUISITION, OR RENOVATION

Priority: Other Significant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.216; 38 CFR 17.222

VA — Proposed Rule Stage

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs regulations concerning State homes. VA provides funds to States for projects for the construction, acquisition, or renovation of State veterans nursing homes and State veterans domiciliaries. VA also provides funds for projects for renovating existing State veterans hospital facilities provided that the renovations would not expand a State's capacity to furnish hospital care. This notice of proposed rulemaking requests comments regarding what regulations should be established with respect to the priorities for awarding State home grants for construction, acquisition, or renovation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kathleen Greve, Chief, State Home Construction Program (114), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8536
Fax: 202 273-9131
Email: kathleen.greve@hg.med.va.gov

RIN: 2900–AJ43

3016. • ENROLLMENT—PROVISION OF HOSPITAL AND OUTPATIENT CARE TO VETERANS—PRIORITY CATEGORY 7

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101; 38 USC 501; 38 USC 1701; 38 USC 1705; 38 USC 1710; 38 USC 1721; 38 USC 1722

CFR Citation: 38 CFR 17.36

Legal Deadline: None

Abstract: This document proposes to amend the subpriorities for priority category seven of a final rule implementing a national enrollment system to manage the delivery of health care services that allows for certain enrollees to retain their enrollee status based on enrollment prior to a specified date. VA believes that it may be necessary to enroll only portions of the current subpriorities in order to maximize the provision of health care within budgetary constraints. The proposed change would provide an equitable system for further prioritizing the enrollment of priority category seven veterans.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roscoe Butler, Health Administration Service (10C3), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8302

RIN: 2900–AJ71

3017. • PER DIEM FOR ADULT DAY HEALTH CARE OF VETERANS IN STATE HOMES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743

CFR Citation: 38 CFR 51; 38 CFR 58

Legal Deadline: None

Abstract: This document proposes to establish regulations setting forth a mechanism for paying per diem to State homes providing adult day health care to eligible veterans. The intended effect of the proposed regulations is to ensure that veterans receive high quality care in State homes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: L. Nan Stout, Chief, State Home Per Diem Program (114), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8538
Email: nan.stout@mail.va.gov

RIN: 2900–AJ74

3018. • POLICY REGARDING PARTICIPATION IN NATIONAL PRACTITIONER DATA BANK

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1110 to 11152

CFR Citation: 38 CFR 46

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to amend its regulations concerning the reporting of physicians, dentists, and other health care practitioners to the National Practitioner Data Bank (NPDB). These regulations concern malpractice payment reporting and clinical privileges actions reporting. These amendments appear to be necessary to make the reporting process more efficient and fair and to ensure that reporting is accomplished in accordance with the statutory framework.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps, Health Science Specialist, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8473

RIN: 2900–AJ76

3019. • AIDS FOR THE BLIND

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1701; 38 USC 1710; 38 USC 1714(b)

CFR Citation: 38 CFR 17; 37 CFR 17.154

Legal Deadline: None

Abstract: This document proposes to establish regulations setting forth the requirements for the provision of mechanical and electronic equipment to aid blind veterans in overcoming the handicap of blindness.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

VA

Proposed Rule Stage

Agency Contact: Don Garner, Director of Blind Rehabilitation Service, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8481

Rose Mary McMahon, Executive Assistant, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8482

RIN: 2900–AJ83

VETERANS BENEFITS ADMINISTRATION

3020. SCHEDULE FOR RATING DISABILITIES—THE ORTHOPEDIC SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the orthopedic system.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53315
ANPRM Comment Period End	02/26/91	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE91

3021. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the neurological system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20169
ANPRM Comment Period End	07/01/91	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, MD, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF23

3022. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the digestive system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF24

3023. REVISED DEFINITION OF NET VALUE AND REVISED CRITERIA FOR PRE-FORECLOSURE DEBT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 3720(a); 38 USC 3732(a)

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to amend its loan guaranty regulations to revise the definition of property improvements for purposes of determining the net value of a foreclosed property and to clarify VA's position on pre-foreclosure debt waivers for liable veterans in cases involving transferee defaults. These changes will account for actual property appraisal procedures and will clarify agency policy on preforeclosure debt waivers. Note: Because the original Notice of Proposed Rulemaking (NPRM) was published on September 22, 1993 (58 FR 49251), VA will republish the NPRM to provide for a new notice and comment period before proceeding with a final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49251
NPRM Comment Period End	10/22/93	
Second NPRM	10/00/99	
Second NPRM Comment Period End	11/00/99	

VA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wasson, Acting Assistant Director for Loan Management (261), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7344

RIN: 2900–AG20

3024. INDIVIDUAL UNEMPLOYABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a); 38 USC 512(a); 38 USC 1110; 38 USC 1131; 38 USC 1155; 38 USC 1502; 38 USC 1521(a)

CFR Citation: 38 CFR 3.321; 38 CFR 3.340; 38 CFR 3.341; 38 CFR 3.342; 38 CFR 4.16; 38 CFR 4.17; 38 CFR 4.18

Legal Deadline: None

Abstract: This action will amend the regulations in part 3 of title 38, United States Code, and in the Schedule for Rating Disabilities in part 4 to provide clear and objective standards for determining whether a veteran is entitled to a total evaluation based on his or her inability to perform substantially gainful employment due to disability.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorna Fox, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH21

3025. EVIDENCE ON FILE AT DATE OF DEATH

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.1000

Legal Deadline: None

Abstract: This action will clarify the definition of "medical evidence on file at time of death" (Hayes v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorna Fox, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH42

3026. VISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75

Legal Deadline: None

Abstract: This action will amend the vision portion of the rating schedule to provide current medical terminology, clarify ambiguous evaluation criteria, and add medical conditions not presently in the rating schedule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH43

3027. ANKYLOSIS AND LIMITATION OF MOTION OF DIGITS OF THE HANDS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71a

Legal Deadline: None

Abstract: This document revises the evaluation criteria for ankylosis and limitation of motion of the fingers to ensure that veterans diagnosed with these conditions receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7230

RIN: 2900–AI44

3028. NEW CRITERIA FOR APPROVAL OF COURSES FOR EDUCATIONAL ASSISTANCE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3680A

CFR Citation: 38 CFR 21.4251; 38 CFR 21.4252; 38 CFR 21.4253; 38 CFR 21.7122; 38 CFR 21.7622

Legal Deadline: None

Abstract: This rule will bring various regulations into agreement with the Veterans Benefits Improvements Act of 1996. It will include new criteria for use in approving courses for the educational programs VA administers; it will include new criteria for VA to

VA

Proposed Rule Stage

use in approving enrollments in courses. It will make other changes for the purposes of clarification.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: bsusl@va.vba.gov

RIN: 2900–AI67

3029. VETERANS EDUCATION: REPORTING AND RECORDKEEPING REQUIREMENTS AT FLIGHT SCHOOLS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136; 38 USC 3002; 38 USC 3034; 38 USC 3202; 38 USC 3241; 38 USC 3452; 38 USC 3471; 38 USC 5101

CFR Citation: 38 CFR 21.4235; 38 CFR 21.4263

Legal Deadline: None

Abstract: Veterans are required by statute to apply for any benefit the Department of Veterans Affairs administers. This proposal will describe the information to be included in an application for educational assistance for the pursuit of flight training. VA believes that, in order to comply with various statutory requirements connected with the educational programs VA administers, flight schools with courses approved for VA training will have to keep some records beyond those required by the Federal Aviation Administration. This proposal will state those recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor, Veterans Benefits Administration (225c), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 273-2636
Email: bsusl@va.vba.gov

RIN: 2900–AJ23

3030. DEPENDENTS EDUCATION: VERIFICATION OF PURSUIT AND CONTINUED ENROLLMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3680; 38 USC 5113

CFR Citation: 38 CFR 21.4135; 38 CFR 21.4138; 38 CFR 21.4204; 38 CFR 21.5130; 38 CFR 21.5131; 38 CFR 21.5133; 38 CFR 21.5200

Legal Deadline: None

Abstract: VA will propose revising the effective dates of reductions in payments of Survivors' and Dependents' Educational Assistance (DEA) and will propose revising the effective dates of reductions in payment of educational assistance under the Post-Vietnam Era Veterans Educational Assistance Program (VEAP). VA also will propose to remove the requirement that an individual must verify his or her continued enrollment in and pursuit of a program of education leading to a standard college degree before VA will make the monthly payment of educational assistance under either DEA or VEAP.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: bsusl@va.vba.gov

RIN: 2900–AJ41

3031. WELL GROUNDED CLAIMS/DUTY TO ASSIST

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.159

Legal Deadline: None

Abstract: This document clarifies VA's policy regarding what action, if any, VA should take to develop information pertaining to benefit claims in adjudication proceedings when presented with claims that are not well grounded.

Timetable:

Action	Date	FR Cite
ANPRM	10/30/98	63 FR 58336
ANPRM Comment Period End	01/28/99	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ44

3032. SCHEDULE FOR RATING DISABILITIES: DISABILITIES OF THE LIVER

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: To expedite updating of diagnostic codes and evaluation criteria for liver diseases, particularly hepatitis C.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810

VA

Proposed Rule Stage

Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ46

3033. REVISED CRITERIA FOR MONETARY ALLOWANCE FOR A CHILD BORN WITH SPINA BIFIDA WHO IS A CHILD OF A VIETNAM VETERAN

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805

CFR Citation: 38 CFR 3.814

Legal Deadline: None

Abstract: To revise criteria for evaluation of spina bifida by clarifying them and making them more objective.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ51

3034. • CERTIFICATION EVIDENCE FOR PROOF OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 3.203

Legal Deadline: None

Abstract: To allow the National Service Organization representatives to certify photocopies as proof of service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Jr., Consultant Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ55

3035. • SCHEDULE FOR RATING DISABILITY: THE SPINE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71a

Legal Deadline: None

Abstract: This amendment will contain additions, deletions, and revisions of terminology pertaining to spinal disabilities based on a systematic review of the medical criteria used to evaluate disabilities of the spine.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorna Fox, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ60

3036. • EDUCATION PROVISIONS OF THE VETERANS PROGRAMS ENHANCEMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 16136; 38 USC 3034; 38 USC 3241; 38 USC 3485; 38 USC 3537; 38 USC 3677; 38 USC 3684; 38 USC 5101

CFR Citation: 38 CFR 21.4145; 38 CFR 21.4200; 38 CFR 21.4206; 38 CFR 21.4262

Legal Deadline: None

Abstract: This rule will bring VA's educational assistance regulations into agreement with the Veterans Program Enhancement Act of 1998. This will include revising the calculation of the reporting fee paid to educational institutions; making advance payments to work-study students optional rather than mandatory; and revising the approval criteria for on-job training programs offered by the Federal Government or by State or local governments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Adviser (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: bsusl@va.vba.gov

RIN: 2900–AJ68

3037. • VETERANS EDUCATION: MONTGOMERY GI BILL—ACTIVE DUTY—ADMINISTRATIVE ERROR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5112; 38 USC 5113

CFR Citation: 38 CFR 21.7135

Legal Deadline: None

Abstract: The Department of Defense or the Department of Transportation may occasionally make an administrative error or error in judgment that causes an overpayment of educational assistance under the Montgomery GI Bill--Active Duty. This rule would provide that, when this occurs, the award of educational assistance should be reduced or terminated effective the date of last payment.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: bsusl@va.vba.gov

RIN: 2900–AJ70

VA

Proposed Rule Stage

3038. • NATIONAL SERVICE LIFE INSURANCE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 1901 et seq; 38 USC 1981 et seq

CFR Citation: 38 CFR 8.2; 38 CFR 8.3; 38 CFR 8.4; 38 CFR 8.6; 38 CFR 8.9

Legal Deadline: None

Abstract: National Service Life Insurance regulations are being amended by rewriting and reorganizing the text of four sections into a different format to facilitate better communication of the rules to policyholders and to those who administer the program. This amendment is written in conjunction with Veterans Benefits Administration's (VBA) Plain English initiative and supports an Executive Memorandum which mandates plain language in written Government communications. The proposed regulation contains information currently provided under sections 8.2, 8.3, 8.4, and 8.9, as well as topics covered by the current section 8.6. The material found in these sections and other related information is combined into one new regulation, section 8.2.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Poole, Chief Program Administration and Oversight Staff (Insurance Service), Department of Veterans Affairs, P.O. Box 8079, Philadelphia, PA 19101
Phone: 215 842-2000

RIN: 2900–AJ78

3039. • EVIDENCE OF PERMANENT AND TOTAL DISABILITY

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.3(a)

Legal Deadline: None

Abstract: This amendment would allow VA to accept the following types of evidence as establishing that a veteran is permanently and totally disabled, without need for medical evidence: (1) Status as a nursing home patient, (2) SSA determination of total disability, and (3) attainment of age 65.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Don England, Chief Regulations Staff (211), Compensation and Pension Service, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7217
Fax: 202 275-1756

RIN: 2900–AJ82

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3040. PURCHASE CARD/ELECTRONIC DATA INTERCHANGE

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c); 42 USC 7254

CFR Citation: 48 CFR 812; 48 CFR 832; 48 CFR 852

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its acquisition regulations to require contractors to accept the Governmentwide commercial purchase card for payment of goods and/or services valued below the simplified acquisition threshold (SAT) and/or to use electronic data interchange (EDI) for both ordering and billing purposes. Requiring the use of purchase cards and/or EDI will be at the option of the contracting officer, if determined to be in the best interest of the Government.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher (95A), Senior Procurement Analyst, Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI41

3041. CONTRACTOR QUALIFICATIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 486(c)

CFR Citation: 48 CFR 809

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend VA Acquisition Regulations to update VA debarment and suspension procedures, remove a certification requirement regarding conflict of interest, add a standard provision for use by contracting officers to collect currently required information, update references and titles, delegate authority, reorganize material, and delete obsolete material.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ05

VA

Proposed Rule Stage

3042. VA ACQUISITION REGULATIONS: SIMPLIFIED ACQUISITION PROCEDURES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 813; 48 CFR 852; 48 CFR 853

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) concerning simplified acquisition procedures. It proposes to amend the VAAR to conform to the Federal Acquisition Regulation, to update references and section titles, to reorganize material, and to remove obsolete material. This rule proposes to add a VAAR provision for use by contracting officers when complying with the requirements of FAR 52.102(c)(1) and (c)(2). The rule also proposes to require the use of a FAR provision or a FAR clause when incorporating VAAR provisions or clauses by reference and to provide the Internet addresses where FAR or VAAR provisions and clauses may be accessed electronically.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
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RIN: 2900–AJ16

3043. VA ACQUISITION REGULATION PART 819, SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 819

Legal Deadline: None

Abstract: This rule proposes to amend VA Acquisition Regulation (VAAR) part 819 to remove obsolete material, to update references and titles, and to amend the VAAR to correspond to the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ36

3044. UNIVERSAL PRODUCT NUMBERS (UPNS)

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 811; 48 CFR 852

Legal Deadline: None

Abstract: This rulemaking action would provide new contract clauses whereby Department of Veterans Affairs contracting officers could require contractors to furnish products marked at the case, box, and unit of use levels with Universal Product Numbers (UPNs) for scanning using bar code readers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ45

3045. • CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801; 48 CFR 832; 48 CFR 836; 48 CFR 843; 48 CFR 846; 48 CFR 852

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) to revise and update section numbers and titles, to make minor grammatical corrections and revisions, to delegate authority, and to update parts 836, Construction and Architect-Engineer Contracts, and 852, Solicitation Provisions and Contract Clauses, all to correspond to the Federal Acquisition Regulation (FAR). The rule would clarify how existing VAAR clauses relating to construction contracts are to be used, remove obsolete or duplicative materials, update the VAAR regarding certified cost or pricing data, and provide agency procedures regarding disclosure of the Government cost estimate on construction contracts. The rule would also remove a "guarantee" clause from the VAAR and provide for

VA

Proposed Rule Stage

VA contracting officers to use the FAR "warranty" clause for construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Material Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ56

3046. • APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 38 USC 501; 38 USC 4212; PL 105-333, sec 1354

CFR Citation: 48 CFR 822; 48 CFR 852

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs Acquisition Regulation (VAAR) to add a requirement for contractor representation regarding compliance with veterans employment reporting requirements. This amendment is necessary to assist contracting officers in meeting the requirements of Public Law 105-333 (also known as the Veterans Employment Opportunities Act of 1998), section 1354. This section prohibits agencies from obligating or expending appropriated funds to enter into a contract described in section 4212(a) of title 38 with a contractor from which a report was required under section 4212(a) if such contractor did not file the required report.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Ramona Jones, Senior Procurement Analyst (95A), Acquisition Policy Team, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8821
Fax: 202 273-9302

RIN: 2900–AJ81

BOARD OF VETERANS APPEALS

3047. • BOARD OF VETERANS APPEALS: RULES OF PRACTICE—SUBPOENAS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5711; 38 USC 5713; 38 USC 7102(a)

CFR Citation: 38 CFR 20.711

Legal Deadline: None

Abstract: VA has the authority to issue subpoenas to compel the attendance of witnesses and/or the production of evidence. This authority has been delegated to Members of the Board through Rule of Practice 711 (38 CFR 20.711), which also sets forth the relevant procedures and generally provides that subpoenas will be issued pursuant to a motion filed with the Board, which is in turn decided by a Board Member or panel of Members.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel (01C), Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AJ58

3048. • NOTICE IN SIMULTANEOUSLY CONTESTED CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 19.192; 38 CFR 20.502

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its Appeals Regulation and a Rule of Practice concerning simultaneously contested claims to make them more consistent with an authorizing statute and with each other. The statutory provision is currently implemented in two regulations. 38 USC 7105A(b) provides that when one contesting party files his or her "formal appeal" the "substance" of the formal appeal will be communicated to the other contesting parties who then have 30 days to file an answering brief or argument.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel (01C), Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AJ73

NATIONAL CEMETERY SYSTEM

3049. HEADSTONE AND MARKER INSCRIPTION POLICY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 2306

CFR Citation: 38 CFR 1.630; 38 CFR 1.632

Legal Deadline: None

VA — Proposed Rule Stage

Abstract: The proposed rule revises 38 CFR 1.630 to implement Department of Veterans Affairs (VA) regulations on its inscription policy for use on Government-provided headstones or markers. The amendment formalizes implementation of an all-inclusive inscription policy. This policy change provides for the payment at Government expense of text only, space permitting, for optional inscriptions on all Government headstones or markers. The rule is published as a proposed rule in the Federal Register to provide information to the public on specific changes to VA's inscription policy for Government furnished headstones or markers. A 60-day public comment period is provided. The proposed rule will not have a significant economic impact on a substantial number of small entities and only individual VA beneficiaries could be directly affected.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sonja McCombs, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5183
Fax: 202 273-6697

RIN: 2900–AH45

3050. STATE CEMETERY GRANTS: AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT OF VETERANS CEMETERIES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 2408

CFR Citation: 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 CFR 39.8; 38 CFR 39.9 (New)

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR part 39 to amend Department of Veterans Affairs (VA) regulations for the State Cemetery Grants Program to implement and update information on program requirements and the application process for participants. The amendment formalizes new standards and provides guidance on how States may obtain funding for grants to expand, establish, or improve State veterans cemeteries. The rule is published as proposed in the Federal Register to provide information to the public on how to apply for Federal funding for State veterans cemeteries. A 60-day public comment period is provided. It is subject to the requirements of the Administrative Procedures Act and E.O. 12866 because the rule is an interpretation of statute. The proposed rule will not have a significant economic impact on a substantial number of small entities; only those States that apply for funding may be direct beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6697

RIN: 2900–AH46

3051. ELIGIBILITY FOR BURIAL OF DEPENDENT ADULT CHILDREN OF ELIGIBLE VETERANS

Priority: Other Significant

Legal Authority: 38 USC 2402(5)

CFR Citation: 38 CFR 1.620(c)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend regulations to specify that the eligibility of veterans' adult children for burial in a national cemetery is only for those who have become permanently incapable of self support before attaining the age of 21 years due to a physical or mental disability. Current regulations do not clearly express this requirement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sonja McCombs, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5183
Fax: 202 273-6695

RIN: 2900–AI95

3052. USE OF THE SECRETARY'S AUTHORITY AS PROVIDED BY 38 USC 2402(6)

Priority: Other Significant

Legal Authority: 38 USC 2402(6)

CFR Citation: 38 CFR 1.620(d)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is issuing a proposed rule to define individuals and groups of individuals, who are otherwise not eligible for burial in a VA national cemetery, that would be considered under the Secretary's authority in 38 USC 2402(6). These new regulations establish a consistent basis for VA to determine those individuals or groups of individuals that VA may consider for eligibility under 38 USC 2402(6).

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6697

RIN: 2900–AJ48

3053. OUTER BURIAL RECEPTACLES

Priority: Other Significant

Legal Authority: 38 USC 501(a); PL 104-275

CFR Citation: 38 CFR 1.629

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is issuing a proposed rule

VA — Proposed Rule Stage

to implement the provisions of Public Law 104-275 regarding outer burial receptacles. The proposal establishes new regulations to notify individuals that they may choose to privately purchase an outer burial receptacle in lieu of using a Government-provided grave liner in VA national cemeteries, where such grave liners are authorized. VA will provide a monetary allowance for the privately purchased outer burial receptacle. The proposed rule establishes the requirements for the allowance to be paid and the manner in which it will be paid.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6697

RIN: 2900–AJ49

3054. • INTERMENT OR MEMORIALIZATION IN VA NATIONAL CEMETERIES AND CERTAIN STATE CEMETERIES—FEDERAL OR STATE CAPITAL CRIME

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 2411; PL 105-116

CFR Citation: 38 CFR 1; 38 CFR 39

Legal Deadline: None

Abstract: Public Law No. 105-116, 111 Stat. 2381 (codified at 38 U.S.C. 2411), provides that, under certain circumstances, the remains of certain persons who committed Federal or State capital crimes may not be interred in a VA national cemetery and the memory of such persons may not be memorialized in VA national cemetery. These statutory provisions also impose conditions on the receipt by a State of a VA grant to the State for veteran's cemetery regarding such interments or memorializations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Greenberg, Program Analyst (402B1), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179

RIN: 2900–AJ77

OFFICE OF INTERGOVERNMENTAL AFFAIRS

3055. ENTITIES AUTHORIZED TO RECEIVE AND DISTRIBUTE DEPARTMENT OF DEFENSE SURPLUS FOOD

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2485; 38 USC 501

CFR Citation: 38 CFR 17.1000(New)

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs (VA) regulations by setting forth procedures for VA to designate entities as authorized for receipt and distribution of surplus food donated by the Department of Defense (DOD). This is necessary to implement a statutory mandate. This document also proposes to obtain approval of collection of information provisions concerning entities seeking designation by VA as authorized to receive and distribute the surplus food donated by DOD.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Dougherty, Program Analyst (075), Intergovernmental Affairs, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5774

RIN: 2900–AI82

OFFICE OF POLICY AND PLANNING

3056. • AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS; GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC ch 75; 38 USC 501; PL 98-502

CFR Citation: 38 CFR 41; 38 CFR 49

Legal Deadline: None

Abstract: This document proposes to amend part 41 of VA's regulations to add new subparts to codify revised OMB Circular A-133. The Circular provides standards for consistency and uniformity among Federal agencies for the audits of States, local governments, and nonprofit organizations expending Federal awards. Further, this amendment proposes to add a new part 49 to VA's regulations to bring VA in step with other Federal agencies who have already adopted OMB Circular A-110 as a common rule. The Circular provides for uniform administrative requirements for Federal agencies with grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: David Walton, Office of Planning and Analysis (008), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5061
Fax: 202 273-5993

RIN: 2900–AJ62

DEPARTMENT OF VETERANS AFFAIRS (VA)

Final Rule Stage

VETERANS HEALTH ADMINISTRATION

3057. PER DIEM FOR NURSING HOME CARE OF VETERANS IN STATE HOMES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743; 38 USC 8131; 38 USC 8132; 38 USC 8133; 38 USC 8134; 38 USC 8135; 38 USC 8136; 38 USC 8137

CFR Citation: 38 CFR 17.190 to 17.222

Legal Deadline: None

Abstract: This document proposes to establish a new part 51 setting forth a mechanism for paying per diem to State homes providing nursing home care to eligible veterans. Under the proposal, VA would pay per diem to a State for providing nursing home care to eligible veterans in a facility if the Under Secretary for Health recognizes the facility as a State home based on a current VA certification that the facility meets the standards set forth in proposed subpart D. This new part would cover material currently in manuals. Also, it should supersede the regulations currently contained in 38 CFR 17.190 through 17.199 that pertain to payment of per diem for nursing home care in State homes. The standards in proposed subpart D are patterned after the standards of the the Department of Health and Human Services that nursing homes must meet to participate in the Medicare and Medicaid programs (see 42 CFR 483). The standards are intended to set forth minimum requirements necessary to ensure that VA pays per diem for eligible veterans only if the State home provide high quality care. The proposed regulations include application and inspection provisions. The Life Safety Code requires updating to the 1993 edition and various other technical and editorial changes need to be made.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60227
NPRM Comment Period End	01/08/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: L. Nan Stout, Chief, State Per Diem Program (114), Department of Veterans Affairs, Veterans Health Administration (114B), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8538
Fax: 202 273-9131

RIN: 2900–AE87

3058. RECONSIDERATION OF DENIED CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1712

CFR Citation: 38 CFR 17.133

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs medical regulations by adding a new section 17.133 to set forth reconsideration procedures available if requested by an individual or entity who made a claim for benefits administered by the Veterans Health Administration and who disagrees with the initial decision denying the claim. It is anticipated that these procedures would not only allow for more reflective decisions at the local level but would allow some disputes to be resolved without the need for further appeal to the Board of Veterans Appeals.

Timetable:

Action	Date	FR Cite
NPRM	02/27/98	63 FR 9990
NPRM Comment Period End	04/28/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Troy Baxley, Program Specialist (10C3), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, Washington, DC 20420
Phone: 202 273-8301

RIN: 2900–AJ03

3059. MEDICATION PRESCRIBING AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 553

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs medical regulations to state the delegations of authority for issuance of prescriptions for medication. The delegations have been determined to be appropriate to ensure that medications are prescribed only by those who are capable to do so.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ronald J. Gebhart, Chief Consultant Primary and Ambulatory Care, Veterans Health Administration (112), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8558
Fax: 202 273-9148

RIN: 2900–AJ07

3060. ENROLLMENT AND PROVISIONS OF HOSPITAL CARE AND MEDICAL SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 1710

Legal Deadline: NPRM, Statutory, October 1, 1998. Final, Statutory, October 1, 1998.

Abstract: This document amends the Department of Veterans Affairs medical regulations to implement the requirement that certain veterans enroll in a VA healthcare enrollment system as a condition for receiving hospital care and medical services.

Timetable:

Action	Date	FR Cite
NPRM	07/10/98	63 FR 37299
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

VA

Final Rule Stage

Agency Contact: Roscoe Butler, Program Specialist, Veterans Health Administration (10C3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8302

RIN: 2900–AJ18

3061. PROVISION OF DRUGS AND MEDICINES PRESCRIBED BY NON-VA PHYSICIANS

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This document amends the "Medical" regulations concerning the criteria for provision of drugs and medicines by non-VA physicians for certain veterans. It is our view that the statutory framework inherently requires that the drugs provided be suitable, i.e., FDA-approved, high quality, and best value. In this regard, we have established a list of suitable drugs and medicines in the VA national formulary. Also, we have established a mechanism for allowing the provision of drugs and medicines not listed in the formulary. These changes are needed to ensure that VA provides only those drugs and medicines intended to be provided under the statutory authority. Also, this document makes nonsubstantive changes for the purpose of avoiding unnecessary duplication.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Goodwin, Geriatrics and Extended Care, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8533

RIN: 2900–AJ24

3062. ADVANCED HEALTH CARE PLANNING

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.32

Legal Deadline: None

Abstract: This document proposes to amend the VA medical regulations to codify VA policy regarding advance health care planning. The proposed rule sets forth a mechanism for the use of written advance directives, i.e., a VA living will, a VA durable power of attorney for health care, and a State-authorized advance directive. The proposed rule also sets forth a mechanism for honoring verbal or nonverbal instructions from a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent and the patient is not physically able to sign an advance directive form or the appropriate form is not readily available. This is intended to help ensure that VA acts in compliance with patients' wishes concerning future health care.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58677
NPRM Comment Period End	01/04/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps, Ph.D, Health Science Specialist (10AE), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8473

RIN: 2900–AJ28

3063. MEDICAL CARE COLLECTION OR RECOVERY

Priority: Other Significant

Legal Authority: 38 USC 101; 38 USC 501; 38 USC 1701; 38 USC 1705; 38 USC 1710; 38 USC 1721; 38 USC 1722; 38 USC 1729

CFR Citation: 38 CFR 17.101; 38 CFR 17.102

Legal Deadline: None

Abstract: This document proposes to amend VA's medical regulations concerning collection or recovery by VA for medical care or services provided or furnished to a veteran: For a non-service-connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health-plan contract; for a non-service-connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or for a non-service-connected disability incurred as a result of a motor vehicle accident in a State that require automobile accident reparations insurance.

Timetable:

Action	Date	FR Cite
NPRM	10/13/98	63 FR 54756
NPRM Comment Period End	12/14/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Cleaver, Medical Care Cost Recovery (174), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8210
Fax: 202 273-6485

RIN: 2900–AJ30

3064. PROVISION OF DRUGS AND MEDICINES TO CERTAIN VETERANS IN STATE NURSING HOMES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs medical regulations concerning the provision of drugs and medicines prescribed by non-VA physicians for certain veterans who are permanently housebound or in need of regular aid and attendance. The regulations are amended to allow prescriptions to be filled by non-VA pharmacies in State homes under contract with VA for filling prescriptions for patients in State homes. This is consistent with VA's special relationship with State homes. It will eliminate duplication in services and will help improve timeliness for filling prescriptions in State homes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/98	63 FR 37941
Final Action	10/00/99	

VA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeff Ramirez, Pharmacy Service (119), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8428

RIN: 2900–AJ34

VETERANS BENEFITS ADMINISTRATION

3065. SCHEDULE FOR RATING DISABILITIES—THE SKIN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.118

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate skin conditions.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20171
ANPRM Comment Period End	07/01/91	
NPRM	01/19/93	58 FR 4969
NPRM Comment Period End	03/22/93	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF00

3066. SCHEDULE FOR RATING DISABILITIES—DISEASES OF THE EAR AND OTHER SENSE ORGANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75; 38 CFR 4.76; 38 CFR 4.77; 38 CFR 4.78; 38 CFR 4.79; 38 CFR 4.80; 38 CFR 4.83; 38 CFR 4.84; 38 CFR 4.85; 38 CFR 4.86; 38 CFR 4.87

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate impairments of the eye, ear, and other sense organs.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20170
ANPRM Comment Period End	07/01/91	
NPRM	04/12/94	59 FR 17295
NPRM Comment Period End	06/13/94	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF22

3067. AMENDMENTS TO TRAINING AND REHABILITATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-568

CFR Citation: 38 CFR 21.40; 38 CFR 21.260; 38 CFR 21.6005; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6052; 38 CFR 21.6054; 38 CFR 21.6056; 38 CFR 21.6058; 38 CFR 21.6420; 38 CFR 21.6501; 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6507; 38 CFR 21.6523; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 extended the termination date for the program of vocational training for certain pensioners through December 31, 1995, and made permanent the programs protecting health care benefits for pensioners who lose their benefits due to income from work or training and the special counseling and employment services program for veterans with total disability ratings because of individual unemployability. In addition, the law authorizes a 10 percent increase in subsistence allowance for participants in the vocational rehabilitation program and extends eligibility for vocational rehabilitation to veterans with service-connected disability of 10 percent under certain conditions. The change also includes revisions to implement regulatory reform.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Graffam, Veterans Claims Examiner (281), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7410
Fax: 202 275-5636

RIN: 2900–AG00

3068. FIBROMYALGIA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action will add a diagnostic code and criteria for a

VA

Final Rule Stage

rheumatologic condition characterized by pain and tender points.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/07/96	61 FR 20438
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 272-7210

RIN: 2900–AH05

3069. SERVICE CONNECTION FOR DENTAL CONDITIONS FOR TREATMENT PURPOSES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.381

Legal Deadline: None

Abstract: This action will clarify the term "reasonable period of service" (Manio v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8201
NPRM Comment Period End	04/25/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorna Fox, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH41

3070. VETERANS EDUCATION: EFFECTIVE DATE FOR THE AWARD OF EDUCATIONAL ASSISTANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 3018B

CFR Citation: 38 CFR 21.7131

Legal Deadline: None

Abstract: The provisions of 38 USC allow a veteran who was voluntarily separated from active military, naval, or air service under either 10 USC 1174a or 1175 before October 23, 1992, to elect to receive educational assistance under the Montgomery GI Bill, Active Duty. He or she was given until October 23, 1993, to make the election. The provisions of 38 USC 3018B also require the veteran to submit $1,200 to the Department of Veterans Affairs (VA) as a condition of receiving the educational assistance. The statute does not contain a deadline for paying the $1,200. This document amends the VA's Vocational Rehabilitation and Education regulations to explain that an individual who made the election before October 23, 1993, must still submit the $1,200 to VA as a condition of receiving educational assistance under the Montgomery GI Bill, Active Duty.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 23408
NPRM Comment Period End	06/29/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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Email: bsusl@va.vba.gov

RIN: 2900–AH76

3071. INTERVERTEBRAL DISC SYNDROME

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action ensures that veterans diagnosed with intervertebral disc syndrome meet uniform criteria and receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8204
NPRM Comment Period End	04/25/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AI22

3072. VETERANS EDUCATION: ADVANCED PAYMENTS & LUMP SUM PAYMENTS FOR EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 16136; 38 USC 3034; 38 USC 3680

CFR Citation: 38 CFR 21.4138; 38 CFR 21.7140

Legal Deadline: None

Abstract: The regulations governing advance payments and lump sum payments of educational assistance have accumulated obsolete provisions over the years. This proposal will remove obsolete provisions and make other clarifying changes.

Timetable:

Action	Date	FR Cite
NPRM	05/20/98	63 FR 27701
NPRM Comment Period End	07/20/98	
Final Action	06/00/99	

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AI31

3073. CLAIMS BASED ON AGGRAVATION OF NONSERVICE-CONNECTED DISABILITY

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.310

Legal Deadline: None

Abstract: This document amends VA regulations concerning secondary service connection for certain disabilities. This amendment is necessary because of a recent decision by the U.S. Court of Veterans Appeals and will establish a new means by which veterans may be compensated for disabilities related to other service-connected conditions.

Timetable:

Action	Date	FR Cite
NPRM	06/04/97	62 FR 30547
NPRM Comment Period End	08/04/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Judy Veres, Consultant (211), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AI42

3074. NEW ELIGIBILITY CRITERIA FOR THE MONTGOMERY GI BILL—ACTIVE DUTY, OTHER MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3002; 38 USC 3011; 38 USC 3012; 38 USC 3018; 38 USC 3018C; 38 USC 3452; 38 USC 3680A; PL 104-275, sec 107

CFR Citation: 38 CFR 21.4135; 38 CFR 21.5021; 38 CFR 21.5058; 38 CFR 21.5130; 38 CFR 21.7020; 38 CFR 21.7042; 38 CFR 21.7045; 38 CFR 21.7050; 38 CFR 21.7520

Legal Deadline: None

Abstract: This proposed rule will implement various provisions of the National Defense Authorization Act for fiscal year 1997 and the Veterans Benefits Improvement Act of 1996. It will set forth new eligibility criteria that will allow additional individuals to establish eligibility for educational assistance under the Montgomery GI Bill -- Active Duty; make permanent certain provisions concerning the approval of courses leading to alternative teacher certification; and make other modifications for the purpose of clarification.

Timetable:

Action	Date	FR Cite
NPRM	11/12/98	63 FR 63253
NPRM Comment Period End	01/11/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AI63

3075. RESERVIST EDUCATION: MONTHLY VERIFICATION OF ENROLLMENT AND OTHER REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136(b); 38 USC 3680(g); 38 USC 3684; 38 USC 5113

CFR Citation: 38 CFR 21.7635; 38 CFR 21.7654; 38 CFR 21.7656

Legal Deadline: None

Abstract: This rule will expand the current requirement that some reservists receiving educational assistance under the Montgomery GI Bill -- Selected Reserve verify their pursuit of a program of education monthly to include those reservists who are pursuing a standard college degree. At the same time, the number of reports VA receives from educational institutions will be reduced. This will be a cost-effective way to reduce overpayments.

Timetable:

Action	Date	FR Cite
NPRM	03/31/98	63 FR 15341
NPRM Comment Period End	06/01/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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Email: bsusl@va.vba.gov

RIN: 2900–AI68

3076. VETERANS TRAINING: INCREASE IN RATES PAYABLE UNDER 38 USC CHAPTER 31

Priority: Routine and Frequent

Legal Authority: 38 USC 3108; 38 USC 3462(e); PL 101-237

CFR Citation: 38 CFR 21.260(b)

Legal Deadline: None

Abstract: By statute, the monthly rates of basic subsistence allowance payable under 38 USC chapter 31 must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic subsistence allowance payable under 38 USC chapter 31 for fiscal year 1999 are changed to show a 1.6 percent increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Graffam, Veterans Claims Examiner (28), Vocational Rehabilitation & Counseling

VA

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Svc, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7410
Fax: 202 275-5636

RIN: 2900–AI74

3077. AMENDED CRITERIA FOR APPROVAL OF FLIGHT TRAINING COURSES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16131(g); 38 USC 101(20); 38 USC 3032; 38 USC 3231; 38 USC 3680(g); 38 USC 3690

CFR Citation: 38 CFR 21.4200; 38 CFR 21.4263

Legal Deadline: None

Abstract: This proposal will amend the regulations governing the approval of flight training courses for VA training. It will bring these regulations into agreement with the current 2-year operation requirement that VA is required by statute to apply to approval of enrollments. It will also permit approval of courses offered pursuant to 14 CFR part 142.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/98	63 FR 34127
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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Email: bsusl@va.vba.gov

RIN: 2900–AI76

3078. LOAN GUARANTY: REQUIREMENTS FOR INTEREST RATE REDUCTION REFINANCING LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4306a

Legal Deadline: None

Abstract: Interest rate reduction refinancing loans assist veterans by allowing them to refinance an outstanding VA guaranteed loan that bears interest at a high rate with a new loan at a low rate. The law allows the veteran to do so without having to pay any expenses out-of-pocket. The revised regulations will limit these loans in most cases to instances where the veteran's monthly mortgage payment will decrease. They will also limit the maximum loan amount and generally require that the loans being refinanced be current in their payments.

Timetable:

Action	Date	FR Cite
NPRM	06/03/98	63 FR 30162
NPRM Comment Period End	08/03/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran, Acting Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AI92

3079. DIRECT SERVICE CONNECTION (POST-TRAUMATIC STRESS DISORDER)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1154(b)

CFR Citation: 38 CFR 3.304(f)

Legal Deadline: None

Abstract: VA is amending its regulations concerning the extent of evidence required to establish service connection for post-traumatic stress disorder. The intended effect of this amendment is to implement a decision by the United States Court of Veterans Appeals that current regulations do not adequately reflect the governing statute.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AI97

3080. USE OF FACILITIES TO PROVIDE TRAINING OR WORK EXPERIENCE FOR VETERANS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-446

CFR Citation: 38 CFR 21.299

Legal Deadline: None

Abstract: The Veterans Benefits Improvement Act of 1994 authorized the Secretary to use any federally recognized Indian tribe to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay. This change to VA regulations implements this Act.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Robert Lawson, Counseling Psychologist (28), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7437
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RIN: 2900–AJ01

3081. ELIGIBILITY REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-271

CFR Citation: 38 CFR 3.256

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs adjudication regulations concerning eligibility verification reports (EVRs) for recipients of pension under programs in effect prior to January 1, 1979. The amendment reduces the number of

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circumstances under which VA requires such pensioners to furnish annual EVRs. The intended effect of this amendment is to reduce the reporting burden on these beneficiaries, reduce the workload at VA regional offices, and enable VA to use its resources more effectively.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/06/98	63 FR 53593
Interim Final Rule Comment Period End	12/07/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ09

3082. DEPENDENTS EDUCATION: ELIGIBILITY AND ENTITLEMENT STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 90-631, sec 2; PL 97-377, sec 156; 38 USC 501(a); 38 USC 3482; 38 USC 3501; 38 USC 3511; 38 USC 3512; 38 USC 3532; 38 USC 3533; 38 USC 3541; 38 USC 3562; 38 USC 3681; 38 USC 3686; 38 USC 3687; 38 USC 5304

CFR Citation: 38 CFR 3.503; 38 CFR 3.667; 38 CFR 3.707; 38 CFR 3.807; 38 CFR 21.3020; 38 CFR 21.3021; 38 CFR 21.3023; 38 CFR 21.3040; 38 CFR 21.3041; 38 CFR 21.3042; 38 CFR 21.3043; 38 CFR 21.3044; 38 CFR 21.3045; 30 CFR 21.3046; 30 CFR 21.3047; ...

Legal Deadline: None

Abstract: This document will amend Department of Veterans Affairs education regulations to provide a new interpretation of when the eligibility period ends for children eligible for Survivors' and Dependents' Educational Assistance. It will also make changes to clarify many of these regulations and other changes to make the regulations easier to use.

Timetable:

Action	Date	FR Cite
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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RIN: 2900–AJ19

3083. VETERANS' BENEFITS ACT OF 1997

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-114, sec 404

CFR Citation: 38 CFR 3.29; 38 CFR 3.31; 38 CFR 3.114; 38 CFR 3.216; 38 CFR 3.814

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs adjudication regulations concerning the monetary allowance for children suffering from spina bifida who are children of Vietnam veterans. This amendment is necessary to implement statutory changes contained in the Veterans' Benefits Act of 1997.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ25

3084. CASH VALUE FOR NATIONAL SERVICE LIFE INSURANCE (NSLI) TERM CAPPED POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1906

CFR Citation: 38 CFR 8.14(a); 38 CFR 8.18

Legal Deadline: None

Abstract: National Service Life Insurance regulations are being amended to provide for the payment of cash value for all current and future term capped policies, either by lump sum cash payment or by the purchase of paid-up additions (PUA) or a combination of the two. Under current law, policyholders whose policies lapse prior to age 96 do not receive any value reserved to their policies. Providing the options of cash values for individuals who no longer need insurance or paid-up additions for policyholders who want to retain insurance coverage without incurring further expense enables policyholders to choose what is best for them.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Poole, Chief, Program Administration and Oversight Staff (Insurance Service), Department of Veterans Affairs, P.O. Box 8079, Philadelphia, PA 19101
Phone: 215 842-2000

RIN: 2900–AJ35

3085. VETERANS AND DEPENDENTS EDUCATION: INCREASE IN EDUCATIONAL ASSISTANCE RATES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3015

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill--Active Duty must be adjusted each year in accordance with a statutory formula. The Veterans Benefits Assistance Act of 1998 provides an increase of approximately 20 percent that supersedes the otherwise applicable statutory increase for fiscal year 1999 (October 1, 1998, through September 30, 1999). The regulations governing rates of basic educational assistance payable under the Montgomery GI Bill--Active Duty will be changed to show the rates indicated in the Act.

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Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Sussling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ37

3086. RESERVIST EDUCATION: INCREASE IN EDUCATIONAL RATES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 512; 10 USC ch 1606

CFR Citation: 38 CFR 21.7636

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill--Selected Reserve must be adjusted each fiscal year in accordance with a statutory formula. The Veterans Benefits Act of 1998 provides a rate increase of approximately 20 percent that supersedes the otherwise applicable statutory annual adjustment for fiscal year 1999 (October 1, 1998, through September 30, 1999). The regulations governing rates of basic educational assistance payable under the Montgomery GI Bill–Selected Reserve are changed to show the rates indicated in the Act for fiscal year 1999.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Educational Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ38

3087. VETERANS EDUCATION: EFFECTIVE DATE FOR DISCONTINUING EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3034; 38 USC 3680; 38 USC 5113

CFR Citation: 38 CFR 21.7135

Legal Deadline: None

Abstract: VA is permitted by statute to require veterans and eligible persons to certify their continued pursuit of a program of education before they may receive their monthly payment of educational assistance. VA has required this by regulation for individuals receiving educational assistance under the Montgomery GI Bill--Active Duty. By statute, any adjustment in the individual's training time resulting from these certifications must be made as of the date of the occurrence. The regulation governing the reduction of benefits will be revised to reflect the statutory requirement.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ39

3088. VETERANS EDUCATION: INCREASED ALLOWANCES FOR THE EDUCATIONAL ASSISTANCE TEST PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 16131; 10 USC 2144

CFR Citation: 38 CFR 21.7636; 38 CFR 21.5822

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill--Selected Reserve must be adjusted each fiscal year in accordance with a statutory formula. The Veterans Benefits Act of 1998 provides an increase of approximately 20 percent that supersedes the otherwise applicable statutory increase for fiscal year 1999 (October 1, 1998, through September 30, 1999). The regulations governing rates of basic educational assistance payable under the Montgomery GI Bill--Selected Reserve will be changed to show the rates indicated in the Act. The rates will be revised accordingly.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ40

3089. PENSION BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5503

CFR Citation: 38 CFR 3.551

Legal Deadline: None

Abstract: To extend the date through which VA will limit the pension benefits of veterans and surviving spouses receiving Medicaid covered under nursing home care to $90 per month.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Jr., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420

VA

Final Rule Stage

Phone: 202 273-7210

RIN: 2900–AJ50

3090. EXCLUSIONS FROM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10602(c)

CFR Citation: 38 CFR 3.261; 38 CFR 3.262; 38 CFR 3.272

Legal Deadline: None

Abstract: To exclude from countable income for VA purposes amounts received under the Victims of Crime Act of 1984.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Jr., Consultant, Regulations Staff (211A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ52

3091. REINSTATEMENT OF BENEFITS ELIGIBILITY BASED UPON TERMINATED MARITAL RELATIONSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1311(e)

CFR Citation: 38 CFR 3.55

Legal Deadline: None

Abstract: To provide that the remarried surviving spouse of a veteran is not barred from receiving dependency and indemnity compensation if the remarriage is terminated.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Jr., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ53

3092. • CHILD

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101(4); 38 USC 104

CFR Citation: 38 CFR 3.57

Legal Deadline: None

Abstract: To exclude homeschool programs from the Definition of "School Child."

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Jr., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ54

3093. • CLAIMS BASED ON EFFECT OF TOBACCO PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1103

CFR Citation: 38 CFR 3.300; 38 CFR 3.310

Legal Deadline: None

Abstract: To implement Public Law 105-206, which prohibits service connection for injury or disease attributable to the use of tobacco products by the veteran during the veteran's military service, except for disability or death that is otherwise shown to have been incurred or aggravated during service, or that meets the presumptive requirements of the law.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ59

3094. • RETURNED AND CANCELED CHECKS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5122

CFR Citation: 38 CFR 3.1003

Legal Deadline: None

Abstract: To bring the regulation into conformance with the governing statute by providing for the payment of proceeds of VA benefit checks issued to a payee but not negotiated prior to the payee's death.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ61

3095. • SURVIVING SPOUSES BENEFIT FOR MONTH OF VETERAN'S DEATH

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5111; 38 USC 5310

CFR Citation: 38 CFR 3.20

Legal Deadline: None

Abstract: To bring the regulation into conformance with the governing statute by providing that the surviving spouse may receive payment for the month of death at the veteran's rate, that rate of benefits is equal to or greater than the rate of death pension or DIC payable to the surviving spouse.

VA

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Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ64

3096. • DIC BENEFITS FOR SURVIVORS OF CERTAIN VETERANS RATED TOTALLY DISABLED AT TIME OF DEATH

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1311; 38 USC 501(a)

CFR Citation: 38 CFR 3.22; 38 CFR 3.54

Legal Deadline: None

Abstract: This is an interpretative rule to clarify the Department of Veterans Affairs' conclusion that 38 USC 1318 authorizes payment of DIC only in cases where a veteran had, during his or her lifetime, established a right to receive total service-connected disability compensation for the period required by the statute.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ65

3097. • MODIFIED ELIGIBILITY CRITERIA FOR THE MONTGOMERY GI BILL—ACTIVE DUTY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3011; 38 USC 3012; 38 USC 3016

CFR Citation: 38 CFR 21.7042; 38 CFR 21.7044; 38 CFR 21.7045

Legal Deadline: None

Abstract: This rule will implement a provision of the Veterans Programs Enhancement Act of 1998 that changes the eligibility criteria for the Montgomery GI Bill–Active Duty.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Education Service, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: bsusl@va.vba.gov

RIN: 2900–AJ69

3098. • SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE ACCELERATED BENEFITS OPTION

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-368, sec 302

CFR Citation: 38 CFR 9.13

Legal Deadline: None

Abstract: Section 302 of the Veterans Program Enhancement Act of 1998 (Pub. L. 105-368) authorizes the payment of accelerated benefits in the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs, effective February 9, 1999. This rule amends Department of Veterans Affairs (VA) regulations by providing an accelerated benefit option that will permit terminally ill members access to life insurance benefits before they die.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Greg Hosmer, Senior Attorney/Insurance Specialist, Insurance Program Administration & Oversight, Department of Veterans Affairs, P.O. Box 8079, Philadelphia, PA 19101
Phone: 215 842-2000

RIN: 2900–AJ80

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3099. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—SIMPLIFIED ACQUISITION PROCEDURES FOR HEALTH CARE RESOURCES

Priority: Info./Admin./Other

Legal Authority: 38 USC 8153

CFR Citation: 48 CFR 801; 48 CFR 806; 48 CFR 812; 48 CFR 837; 48 CFR 852; 48 CFR 873

Legal Deadline: None

Abstract: Section 301 of Public Law 104-262, the Veterans' Health Care Eligibility Reform Act of 1996, authorizes the Secretary of Veterans Affairs to establish simplified acquisition procedures for the purchase of commercial health care services and for the use of medical equipment or space. These acquisition procedures will help maximize the efficiency of the acquisition process and strengthen the medical programs of the Department of Veterans Affairs.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60256
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819

VA — Final Rule Stage

Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI71

3100. VA ACQUISITION REGULATIONS PART 801, LEGAL/TECHNICAL REVIEW REQUIREMENTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801.602-70; 48 CFR 801.602-71; 48 CFR 801.602-72; 48 CFR 801.602-73; 48 CFR 801.602-74; 48 CFR 801.602-75; 48 CFR 815.805-4; 48 CFR 816.102(a); 48 CFR 817.102-1; 48 CFR 817.402; 48 CFR 819.801; 48 CFR 842.000; 48 CFR 842.102; 48 CFR 842.202; 48 CFR 842.1203; ...

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending the Veterans Affairs Acquisition Regulations (VAAR) to remove requirements from the Code of Federal Regulations that have been determined to be VA internal procedures that do not affect the public.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
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Email: donald.kaliher@mail.va.gov

RIN: 2900–AI96

3101. SEALED BIDDING AND COMPETITIVE PROPOSALS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 806

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its Acquisition Regulations. Section 806.401 is amended to remove material which conflicts with the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/11/98	63 FR 11865
NPRM Comment Period End	05/11/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI99

3102. VAAR PART 803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICT OF INTEREST, AND PART 852—SOLICITATION PROVISIONS IN CONTRACT CLAUSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 486(c)

CFR Citation: 48 CFR 803; 48 CFR 852

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs Acquisition Regulation (VAAR) concerning the requirement to include an Ethics in Government Act certification in solicitations. This amendment is necessary to delete this requirement pursuant to the Clinger-Cohen Act, section 4301, which stipulates that all certification requirements not required by law be eliminated from agency supplemental acquisition regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/07/98	63 FR 16955
NPRM Comment Period End	06/08/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Office of Acquisition & Material Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8774
Fax: 202 273-9302
Email: rita.williams@mail.va.gov

RIN: 2900–AJ06

3103. VA ACQUISITION REGULATIONS; PART 802, DEFINITION OF "HEAD OF CONTRACTING ACTIVITY"

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 802

Legal Deadline: None

Abstract: This rule amends the Department of Veterans Affairs Acquisition Regulations (VAAR) concerning the definition of "Head of the Contracting Activity" (HCA). This amendment is necessary to ensure that the VAAR provides a single, consistent definition of HCA in order to unambiguously designate such individuals within the agency, by specifying that such individuals be appointed in writing by the

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Procurement Executive, and by amending the definition at 802.100(a) which specifics HCAs by position title.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8774
Fax: 202 273-9302
Email: rita.williams@mail.va.gov

RIN: 2900–AJ26

3104. VA ACQUISITION REGULATION: TAXES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 50 USC 486(c)

CFR Citation: 48 CFR 829

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) by deleting provisions pertaining to the acquisition of tax-free alcohol products. The provisions proposed for deletion are internal Department of Veterans Affairs (VA) guidance to contracting officers and are not required to be in the Code of Federal Regulations. In addition, the rule proposes to delete procedures and controls prescribed in the VAAR for facilities or institutions owned or controlled by State governments, territories, and the District of Columbia to obtain tax-free tobacco products for gratuitous distribution to present and former members of the Armed Forces of the United States. VA policy is to not provide tobacco products to VA patients. This proposed change would be an extension of that policy. By deleting these provisions and controls, VA would no longer assist State governments, territories, and the District of Columbia in obtaining tax-free tobacco products.

Timetable:

Action	Date	FR Cite
NPRM	01/29/99	64 FR 4607
NPRM Comment Period End	03/30/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ32

3105. VA ACQUISITION REGULATIONS: PART 801, VA CONTRACTING OFFICER CERTIFICATION PROGRAM

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801

Legal Deadline: None

Abstract: This rule amends the Department of Veterans Affairs Acquisition Regulations (VAAR) concerning the VA Contracting Officer Certification Program (COCP). This amendment is necessary to delete information appropriate to an internal directive from the codified regulations. The amendment directs the reader's attention to a specific agency directive for information on the COCP.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8774
Fax: 202 273-9302
Email: rita.williams@mail.va.gov

RIN: 2900–AJ33

3106. VA ACQUISITION REGULATIONS: BONDS AND INSURANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 828; 48 CFR 852

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs Acquisition Regulation (VAAR) to: Revise and update section numbers and titles to correspond with the FAR; make minor grammatical corrections and revisions; and to designate the Deputy Assistant Secretary for Acquisition and Materiel Management as the Department's designee, referenced in Federal Acquisition Regulation 28.203-7, for excluding individuals from acting as surety on bonds and for making determinations to accept bonds from individuals named on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no

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paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20240
Phone: 202 273-8819
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Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ47

BOARD OF VETERANS APPEALS

3107. BOARD OF VETERANS APPEALS—RULES OF PRACTICE—ATTORNEY FEE MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5902; 38 USC 5904; 38 USC 5905

CFR Citation: 38 CFR 20.3; 38 CFR 20.609; 38 CFR 20.610

Legal Deadline: None

Abstract: The Board of Veterans Appeals is proposing to amend its rules of practice to end the practice of paying attorney fees from past-due benefits, establish safeguards in case of "disinterested third-party" payees who are individuals, and simplify certain notice procedures. These changes are necessary to permit VA to focus on activities more directly benefiting veterans and their families, i.e., deciding claims and coordinating benefit payments to veterans and their families, and to clarify the situations in which third parties may pay a claimants' legal fees.

Timetable:

Action	Date	FR Cite
NPRM	12/09/97	62 FR 64770
NPRM Comment Period End	02/09/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel (01C), Board of Veterans' Appeals, Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AI98

3108. • APPEALS REGULATIONS, RULES OF PRACTICE: TITLE CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 20.608; 38 CFR 20.609; 38 CFR 20.610; 38 CFR 20.711

Legal Deadline: None

Abstract: The Board of Veterans' Appeals adjudicates appeals from denials of claims for veterans' benefits filed with the Department of Veterans Affairs (VA). This document amends the Board's Rules of Practice to correct the title of the Board's Chief Counsel.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel (01C), Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AJ57

3109. • DELEGATIONS OF AUTHORITY—APPEALS REGULATIONS AND RULES OF PRACTICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 512; 38 USC 7101(a); 38 USC 7102; 38 USC 7104

CFR Citation: 38 CFR 19.2; 38 CFR 19.14; 38 CFR 20.102; 38 CFR 20.606(d)

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its Appeals Regulation and Rules of Practice to update the delegations of authority to Members of the Board, and to include the definition of "Chief Members" to whom some authority is delegated.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 292 565-5978

RIN: 2900–AJ66

3110. • CASE DOCKETING—APPEALS REGULATIONS AND RULES OF PRACTICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7107; PL 103-446, sec 302

CFR Citation: 38 CFR 19.75; 38 CFR 20.704; 38 CFR 20.900

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its Appeals Regulations and Rules of Practice to comply with Public Law 105-368, section 1003, "Veterans Programs Enhancement Act of 1998." These changes will reflect the way in which the Board processes cases before it. These procedures will affect several types of cases--those which are advanced on the hearing docket, the order in which they are considered, and a new provision added to permit postponement of consideration of a case in order to afford an appellant a hearing.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Keller, Chief Counsel (01C), Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AJ72

3111. • NOTIFICATION OF REPRESENTATIVES IN CONNECTION WITH MOTIONS FOR REVISION OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7104(d); 38 USC 7111

CFR Citation: 38 CFR 20.1405

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its Rules of

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Practice at 38 CFR part 20 to add procedures for notifying representatives when parties file motions to challenge final Board decisions on the grounds of "clear and unmistakable error" (CUE). The change is required to help assure that veterans have the benefit of representation in connection with CUE motions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Keller, Chief Counsel (01C), Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AJ75

NATIONAL CEMETERY SYSTEM

3112. • NATIONAL CEMETERY ADMINISTRATION TITLE CHANGES

Priority: Info./Admin./Other

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 1; 38 CFR 2; 38 CFR 3; 38 CFR 39

Legal Deadline: None

Abstract: Provisions of Public Law 105-368 changed the name of the National Cemetery System to the National Cemetery Administration and the position title of the Director, National Cemetery System, to the Under Secretary for Memorial Affairs. VA will publish a technical amendment in the Federal Register to update all sections of title 38, Code of Federal Regulations, to reflect the new office name and position title changes.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sonja McCombs, Program Analyst (402B1), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5183
Fax: 202 273-6697

RIN: 2900–AJ79

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3113. • DELEGATION OF AUTHORITY—DECISIONMAKING REGARDING DISCRIMINATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 553

CFR Citation: 38 CFR 2

Legal Deadline: None

Abstract: This document delegates to certain Department of Veterans Affairs officials authority to make final agency decisions regarding the procedural acceptability of equal employment opportunity discrimination complaints. It also delegates authority to those officials to make final agency decisions which determine whether a breach of an equal employment opportunity complaint settlement agreement has occurred.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ventris C. Gibson, Deputy Assistant Secretary for Resolution Management (08), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-9437
Email: ventris.gibson@mail.va.gov

RIN: 2900–AJ63

OFFICE OF THE GENERAL COUNSEL

3114. RELEASE OF INFORMATION FROM DEPARTMENT OF VETERANS AFFAIRS RECORDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a; 38 USC 5701

CFR Citation: 38 CFR 1.500 to 1.584

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs regulations governing the confidentiality and release of VA records subject to the Privacy Act, 5 USC 552a, the Freedom of Information Act (FOIA), 5 USC 552, and the veterans' records confidentiality statute (section 5701), 38 USC 5701. The amendments will implement court decisions and executive branch guidance issued since the regulations were originally published. The amendment is part of the Administration's effort to simplify, clarify, and modernize Federal regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/10/98	63 FR 48455
NPRM Comment Period End	11/09/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lorraine M. Johnson, Deputy Assistant General Counsel, Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6381

RIN: 2900–AH98

3115. RECOGNITION OF ORGANIZATIONS AND ACCREDITATION OF REPRESENTATIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 38 USC 501(a); 38 USC 5901 to 5905

CFR Citation: 38 CFR 14.626 to 14.635

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to revise and clarify existing procedures and requirements regarding certification or recognition of service organizations and their representatives and other individuals, agents, and attorneys representing

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claimants for benefits administered by VA. The revisions are designed to improve VA's ability to assure high quality representation of claimants.

Timetable:

Action	Date	FR Cite
NPRM	11/04/98	63 FR 59495
NPRM Comment Period End	01/04/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Richard J. Hipolit (022A), Deputy Assistant General Counsel, Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6329
Fax: 202 273-6404

RIN: 2900–AI93

3116. DELEGATIONS OF AUTHORITY; FEDERAL TORT CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 1346; 28 USC 2672; 28 USC 2680

CFR Citation: 38 CFR 2; 38 CFR 2.6; 38 CFR 14; 38 CFR 14.601; 38 CFR 14.604

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs (VA) regulations concerning procedures for claims under the Federal Tort Claims Act (FTCA). It also proposes to amend delegations of authority to Office of General Counsel and Veterans Health Administration employees concerning claims under the FTCA and to reflect in the procedural regulations the proposed change in delegations of authority. The changes are intended to facilitate processing of claims and to provide procedures for reconsideration. This document proposes other changes in delegations of authority to reflect current Office of General Counsel and Veterans Health Administration organization. Further, this document proposes to make changes for the purposes of clarification and to remove unnecessary provisions.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. Douglas Bradshaw, Jr., Assistant General Counsel (021), Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6481

RIN: 2900–AJ31

DEPARTMENT OF VETERANS AFFAIRS (VA) — Long-Term Actions

VETERANS HEALTH ADMINISTRATION

3117. PROTECTION OF HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 16

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Gerrity
Phone: 202 273-8284
Fax: 202 273-6526

RIN: 2900–AJ08

VETERANS BENEFITS ADMINISTRATION

3118. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4320

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31847
NPRM Comment Period End	10/05/90	
NPRM Comment Period Extended	10/05/90	55 FR 35325
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wasson
Phone: 202 273-7344

RIN: 2900–AE20

3119. ACCEPTANCE OF PARTIAL PAYMENTS; INDEMNIFICATION OF DEFAULT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4202; 38 CFR 4275; 38 CFR 4301; 38 CFR 4315; 38 CFR 4323

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 9944
NPRM Comment Period End	05/02/94	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wasson
Phone: 202 273-7344

RIN: 2900–AE60

3120. MEDICAL EVIDENCE THAT A DISABILITY HAS IMPROVED

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.344

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Freiheit
Phone: 202 273-7210

RIN: 2900–AH82

3121. CHILD CUSTODY

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.24(b); 38 CFR 3.24(c); 38 CFR 3.57(d)

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AI10

3122. REVISION OF DECISION

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.7; 38 CFR 3.103(a); 38 CFR 3.105(b); 38 CFR 3.321; 38 CFR 3.400; 38 CFR 3.401; 38 CFR 3.800

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset
Phone: 202 273-7210

RIN: 2900–AI64

3123. ADDITIONAL REQUIREMENTS FOR INTEREST RATE REDUCTION REFINANCING LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4306a

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran
Phone: 202 273-7368

RIN: 2900–AJ02

BOARD OF VETERANS APPEALS

3124. APPEALS REGULATIONS; RULES OF PRACTICE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision; 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); ...

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4131
NPRM Comment Period End	03/04/92	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AE78

3125. RULES OF PRACTICE; HEARINGS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.702; 38 CFR 20.703; 38 CFR 20.704; 38 CFR 20.707; 38 CFR 20.711; 38 CFR 20.714; 38 CFR 20.716; 38 CFR 20.717; 38 CFR 20.1003; 38 CFR 2.1; 38 CFR 19.75

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG07

3126. RULES OF PRACTICE: MEDICAL OPINIONS; APPEAL PROCESSING AND SUBMISSION OF ADDITIONAL EVIDENCE

Priority: Other Significant

CFR Citation: 38 CFR 19.36; 38 CFR 20.800; 38 CFR 20.801; 38 CFR 20.802; 38 CFR 20.901; 38 CFR 20.1304

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG90

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3127. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 23

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ellis Jones Hodges
Phone: 202 273-7632
Fax: 202 273-6537

RIN: 2900–AJ11

OFFICE OF THE ASSISTANT SECRETARY FOR ACQUISITION AND FACILITIES

3128. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Priority: Info./Admin./Other

CFR Citation: 38 CFR 17

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53078
NPRM Comment Period End	01/26/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Renee Bruce
Phone: 410 605-7388
Fax: 410 605-7900

RIN: 2900–AD48

DEPARTMENT OF VETERANS AFFAIRS (VA)

Completed Actions

3129. CHAMPVA REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.84

Completed:

Reason	Date	FR Cite
Final Action	09/09/98	63 FR 48100
Final Action Effective	10/09/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan K. Schmetzer
Phone: 303 331-7552
Fax: 303 331-7830
Email: schmetzer@champva.denver.va.gov

RIN: 2900–AE64

3130. DELEGATION OF AUTHORITY TO PROVIDE RELIEF ON ACCOUNT OF ADMINISTRATIVE ERROR

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 2.7

Completed:

Reason	Date	FR Cite
Withdrawn	11/18/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AH19

3131. ELECTION OF EDUCATION BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.3023; 38 CFR 21.5041; 38 CFR 21.7040; 38 CFR 21.7540

Completed:

Reason	Date	FR Cite
Final Action	08/27/98	63 FR 45717
Final Action Effective	09/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr.
Phone: 202 273-7187
Fax: 202 275-2636
Email: bsusl@va.vba.gov

RIN: 2900–AH88

3132. COMPUTATION OF INCOME

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 38 CFR 3.260

Completed:

Reason	Date	FR Cite
Withdrawn	11/18/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AH94

3133. FIDUCIARY ACTIVITIES; MISCELLANEOUS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 13.2; 38 CFR 13.3; 38 CFR 13.55; 38 CFR 13.56; 38 CFR 13.58; 38 CFR 13.59; 38 CFR 13.61; 38 CFR 13.64; 38 CFR 13.69; 38 CFR 13.74; 38 CFR 13.75; 38 CFR 13.76; 38 CFR 13.100; 38 CFR 13.108; 38 CFR 13.109; ...

Completed:

Reason	Date	FR Cite
Withdrawn	11/18/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Douglas L. Bragg
Phone: 202 273-7210

RIN: 2900–AI14

3134. DISEASES SUBJECT TO PRESUMPTIVE SERVICE CONNECTION

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.309(a)

Completed:

Reason	Date	FR Cite
Withdrawn	11/18/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bradley Flohr
Phone: 202 273-7210

RIN: 2900–AI81

3135. ADDITIONAL DISABILITY OR DEATH DUE TO HOSPITAL CARE, MEDICAL OR SURGICAL TREATMENT, EXAMINATION, OR TRAINING AND REHABILITATION SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.358; 38 CFR 3.361; 38 CFR 3.362; 38 CFR 3.363; 38 CFR 3.800

Completed:

Reason	Date	FR Cite
Final Action - (See 63 FR 45004 for history of regulation.)	01/08/99	64 FR 1131

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset
Phone: 202 273-7210

RIN: 2900–AJ04

3136. MINIMUM INCOME ANNUITY

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.811

Completed:

Reason	Date	FR Cite
Final Action	11/10/98	63 FR 62943
Final Action Effective	11/10/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset
Phone: 202 273-7210

RIN: 2900–AJ17

3137. DEPENDENTS EDUCATION: INCREASE IN EDUCATIONAL ASSISTANCE RATES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.3045; 38 CFR 21.3131; 38 CFR 21.3300; 38 CFR 21.3333

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Completed:

Reason	Date	FR Cite
Final Action	10/01/98	63 FR 67778
Final Action Effective	12/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr.
Phone: 202 273-7187
Fax: 202 275-2636
Email: bsusl@va.vba.gov

RIN: 2900–AJ42

3138. TRANSPORTATION: VAAR PART 847

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 847

Completed:

Reason	Date	FR Cite
Withdrawn	01/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John A. Corso
Phone: 202 273-8818
Fax: 202 273-9302
Email: john.corso@mail.va.gov

RIN: 2900–AI56

3139. VA ACQUISITION REGULATION: TITLE AND REFERENCE UPDATES

Priority: Info./Admin./Other

CFR Citation: 48 CFR 801; 48 CFR 803; 48 CFR 805; 48 CFR 806; 48 CFR 808; 48 CFR 814; 48 CFR 817; 48 CFR 819; 48 CFR 822; 48 CFR 825; 48 CFR 828; 48 CFR 831; 48 CFR 832; 48 CFR 833; 48 CFR 836

Completed:

Reason	Date	FR Cite
Final Action	12/16/98	63 FR 69216

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald Kaliher
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ29

3140. BOARD OF VETERANS' APPEALS: RULES OF PRACTICE—REVISION OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.609; 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1400 New; 38 CFR 20.1401 New; 38 CFR 20.1402 New; 38 CFR 20.1403 New; 38 CFR 20.1404 New; 38 CFR 20.1405 New; 38 CFR 20.1406 New; 38 CFR 20.1407 New; 38 CFR 20.1408 New; 38 CFR 20.1409 New

Completed:

Reason	Date	FR Cite
Final Action	01/13/99	64 FR 2134
Final Action Effective	02/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve L. Keller
Phone: 205 565-5978

RIN: 2900–AJ15

3141. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Priority: Other Significant

CFR Citation: 38 CFR 18

Completed:

Reason	Date	FR Cite
Withdrawn - Superseded by RIN 2900-AJ11, Common Rule	01/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ellis Jones Hodges
Phone: 202 273-7632
Fax: 202 273-6537

RIN: 2900–AB51

[FR Doc. 99-4897 Filed 04-23-99; 8:45 am]
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Part XVII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Advisory Council on Historic Preservation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Advisory Council on Historic Preservation regulations are scheduled for development. They are submitted herein for publication in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

Dated: January 22, 1999.

John M. Fowler,

Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Long-Term Actions

3142. PROTECTION OF HISTORIC PROPERTIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 800

Timetable:

Action	Date	FR Cite
NPRM	10/03/94	59 FR 50396
NPRM Comment Period End	01/03/95	
Second NPRM	09/13/96	61 FR 48580
Second NPRM Comment Period End	11/12/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Javier Marques
Phone: 202 606-8596
Fax: 202 606-5073
Email: jmarques@achp.gov

RIN: 3010–AA04

[FR Doc. 99-4898 Filed 04-23-99; 8:45 am]

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April 26, 1999

Part XVIII

Agency for International Development

Semiannual Regulatory Agenda

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Ch. II

Federal Regulations; USAID Regulatory Agenda Semiannual Summary

AGENCY: United States Agency for International Development, IDCA.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Agency for International Development (USAID) is publishing this agenda as required by Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and the Regulatory Flexibility Act. This agenda reports the status of those regulations currently under review and gives USAID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in USAID's regulatory process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Willette Smith, Chief, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Washington, DC 20523; telephone (202) 712-5027, e-mail address: wsmith@usaid.gov.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. The Regulatory Flexibility Act applies only to regulations for which a notice of proposed rulemaking was issued on or after September 19, 1980. USAID is required to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities." The Executive order became effective on September 30, 1993, and it is required that USAID publish a listing of all the regulations it expects to have under active consideration for proposal or review during the coming 1-year period.

Dated: February 18, 1999.

Margaret H. Thome,

Director of Administrative Services.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Final Rule Stage

3143. ADMINISTRATION OF GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: This regulation will implement the Governmentwide uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations issued by the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3743
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 7.08-092 RRB, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-4759
Fax: 202 216-3395
Email: kohara@usaid.gov

RIN: 0412–AA21

3144. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-2)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 712; 48 CFR 727; 48 CFR 742; 48 CFR 752; 48 CFR ch 7, app I

Legal Deadline: None

Abstract: The USAID Acquisition Regulation will be amended to clarify USAID policy on the use of Government facilities and personnel in commercial products, establish an Agency policy regarding contract clauses to clarify withholding requirements under IQC contracts, revise reporting requirements, and coordinate the Agency's academic publication policy with the FAR's Rights in Data coverage by removing it from appendix I into a new part 727. This new AIDAR part will also provide for contractual coverage of Rights in Data in USAID's contracts performed overseas and awarded to U.S. organizations, provide guidance on Rights in Data coverage for overseas contracts with non-U.S. entities, and provide an alternate paragraph to add to the applicable FAR clause to reserve USAID's right to restrict release of data when release may negatively impact the Government's development or diplomatic relationship with the cooperating countries.

Timetable:

Action	Date	FR Cite
NPRM	11/04/98	63 FR 59501
NPRM Comment Period End	01/04/99	
Final Action	04/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: The final rule published in the Federal Register on July 29, 1997, at 62 FR 40462 (FR Doc.

AID — Final Rule Stage

97-18603) mistakenly cited this RIN number. It should have used RIN 0412-AA32.

Agency Contact: Diane M. Howard, Senior Procurement Analyst, Agency for International Development, M/OP/P, Room 7.08-082U, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0206
Fax: 202 216-3395
Email: dhoward@usaid.gov

RIN: 0412–AA30

3145. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-1)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 703; 48 CFR 709; 48 CFR 715; 48 CFR 752

Legal Deadline: None

Abstract: The AID Acquisition Regulation (AIDAR) is being amended to add an additional reporting level for violations to be in accordance with Federal Acquisition Regulation (FAR) subpart 3.104; to reflect changes in FAR part 9.5; and to reflect changes in FAR part 15. The AIDAR is also being amended to add a requirement to part 715 for a justification document to support the decision to reject all proposals and cancel the Request for Proposal (RFP) and to add a provision to part 752 on salary supplements for host government employees.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Frances M. Maki, Senior Procurement Analyst, Agency for International Development, M/OP/P, Room 7.08-094, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0610
Fax: 202 216-3395
Email: fmaki@usaid.gov

RIN: 0412–AA38

3146. • RULES AND PROCEDURES APPLICABLE TO COMMODITIES TRANSACTIONS FINANCED BY USAID

Priority: Routine and Frequent

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 201.03; 22 CFR 201.23(c); 22 CFR 201.31; 22 CFR 201.32; 22 CFR 201.51(c)(4); 22 CFR 201.52(a); 22 CFR 201.67(a)

Legal Deadline: None

Abstract: USAID Regulation 1 is being amended to update Paperwork Reduction Act approval information and to update office names and addresses.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 7.08-092, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-4759
Fax: 202 216-3395
Email: kohara@usaid.gov

RIN: 0412–AA41

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Completed Actions

3147. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: USAID Regulation 26 (22 CFR part 226) is being amended to reflect the enactment of the Single Audit Act by incorporating the revised OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" by reference.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	
No Further Action Required	10/28/97	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Esposito, Senior Procurement Analyst, Agency for International Development, M/OP/P, Room 7.08-104, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-4163
Fax: 202 216-3395

RIN: 0412–AA36

3148. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-3)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 705; 48 CFR 706; 48 CFR 709; 48 CFR 716; 48 CFR 722; 48 CFR 731; 48 CFR 732; 48 CFR 745; 48 CFR 747; 48 CFR 752

Legal Deadline: None

Abstract: The USAID Acquisition Regulation (AIDAR) is being amended to bring its organizational conflicts of

AID

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interest coverage into conformance with the FAR; to implement into the AIDAR the August 19, 1997, revisions to Office of Federal Contract Compliance Programs (OFCCP) regulations and corresponding amendments to FAR subpart 22.8 contained in Federal Acquisition Circular 97-10; to allow for advances to for-profit organizations who are awarding grants under their contracts; to clarify the allowability of compensation to individuals under different types of contracts in the context of USAID's salary policy in ADS 302; and to update corresponding clauses in part 752, as amended. The AIDAR is also being amended to incorporate provisions of various Contract Information Bulletins (CIBs) issued in the past few years that established contracting policies or procedures and to make administrative changes or corrections.

Timetable:

Action	Date	FR Cite
Final Action	02/02/99	64 FR 5005
Final Action Effective	03/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Diane M. Howard, Senior Procurement Analyst, Agency for International Development, M/OP/P, Room 7.08-082U, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0206
Fax: 202 216-3395
Email: dhoward@usaid.gov

RIN: 0412–AA39

3149. • RULES ON SOURCE, ORIGIN, AND NATIONALITY FOR COMMODITIES AND SERVICES FINANCED BY USAID

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 228.13

Legal Deadline: None

Abstract: This regulation is being amended to drop the requirement that a vehicle had to bear the nameplate of Chrysler, Ford, or General Motors in order to be considered eligible for USAID financing as a U.S.-manufactured vehicle.

Timetable:

Action	Date	FR Cite
Final Action	12/31/98	63 FR 72181
Final Action Effective	03/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 7.08-092, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-4759
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RIN: 0412–AA40

[FR Doc. 99-4899 Filed 04-23-99; 8:45 am]
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Part XIX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the Agency during the next 12 months. This regulatory agenda may be revised by the Agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, (202) 272-5434 (voice) or (202) 272-5449 (TDD).

James J. Raggio,

General Counsel, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Proposed Rule Stage

3150. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: RECREATION FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for recreational facilities.

Timetable:

Action	Date	FR Cite
Notice of Intent To Form Advisory Committee	02/03/93	58 FR 6949
Notice of Appointment of Advisory Committee Members	06/10/93	58 FR 32511
ANPRM	09/21/94	59 FR 48542
ANPRM Comment Period End	12/20/94	
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA16

3151. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will revise and update the Americans with Disabilities Act (ADA) Accessibility Guidelines.

Timetable:

Action	Date	FR Cite
Notice of Intent To Establish Advisory Committee	04/06/94	59 FR 16175
Establishment of Advisory Committee	09/14/94	59 FR 47165
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
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TDD: 202 272-5449
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RIN: 3014–AA20

3152. STANDARDS FOR ACCESSIBLE ELECTRONIC AND INFORMATION TECHNOLOGY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 105-220, sec 508

CFR Citation: 36 CFR 1194

Legal Deadline: Final, Statutory, February 7, 2000.

Abstract: This regulation will establish standards for accessible electronic and information technology for Federal agencies.

Timetable:

Action	Date	FR Cite
Notice of Intent To Form Advisory Committee	08/24/98	63 FR 45041
Establishment of Advisory Committee	09/29/98	63 FR 51891
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
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Email: raggio@access-board.gov

RIN: 3014–AA25

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Final Rule Stage

3153. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: PLAY AREAS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for play areas.

Timetable:

Action	Date	FR Cite
Notice of Intent To Conduct Regulatory Negotiation	12/22/95	60 FR 66537
Establishment of Regulatory Negotiation Committee	02/14/96	61 FR 5723
NPRM	04/30/98	63 FR 24080
NPRM Comment Period End	07/29/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA21

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Long-Term Actions

3154. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES: PASSENGER VESSELS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192

Legal Deadline: None

Abstract: This regulation will amend The Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include additional requirements for ferries, excursion boats, and other passenger vessels.

Timetable:

Action	Date	FR Cite
Notice of Intent To Establish Advisory Committee	03/30/98	63 FR 15175
Establishment of Advisory Committee	08/12/98	63 FR 43136
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA11

3155. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities to include additional requirements for boat and ferry docks.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA12

3156. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: OUTDOOR DEVELOPED AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for outdoor developed areas.

Timetable:

Action	Date	FR Cite
Notice of Intent To Conduct Regulatory Negotiation	04/18/97	62 FR 19084
Establishment of Regulatory Negotiation Committee	06/04/97	62 FR 30546
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447

ATBCB **Long-Term Actions**

Email: raggio@access-board.gov
RIN: 3014–AA22

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) **Completed Actions**

3157. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: DETECTABLE WARNINGS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will continue the suspension of the requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools until July 26, 2001.

Timetable:

Action	Date	FR Cite
NPRM	06/01/98	63 FR 29924
NPRM Comment Period End	07/01/98	
Final Action	11/23/98	63 FR 64836
Final Action Effective	12/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA24

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federal register

Monday
April 26, 1999

Part XX

Commission on Civil Rights

Semiannual Regulatory Agenda

COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: Commission on Civil Rights.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from April 1, 1999, through October 1, 1999. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact Stephanie Y. Moore, General Counsel, U.S. Commission on Civil Rights, Room 620, 624 Ninth Street NW., Washington, DC 20425, (202) 376-8351.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required.

Stephanie Y. Moore,

General Counsel.

COMMISSION ON CIVIL RIGHTS (CCR) — Long-Term Actions

3158. COMMISSION ON CIVIL RIGHTS—UPDATE AND REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports, and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State Advisory Committees.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Y. Moore, General Counsel, Commission on Civil Rights, 624 Ninth Street NW., Suite 620, Washington, DC 20425
Phone: 202 376-8351

RIN: 3035–AA02

[FR Doc. 99-7568 Filed 04-23-99; 8:45 am]

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federal register

Monday
April 26, 1999

Part XXI

Corporation for National and Community Service

Semiannual Regulatory Agenda

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Ch. XXV

Executive Order 12866 "Regulatory Planning and Review"; Semiannual Agenda of Regulations

AGENCY: Corporation for National and Community Service.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Corporation will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Corporation regulations or this semiannual agenda, contact Kenneth L. Klothen, General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525, (202) 606-5000, ext. 290.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The Corporation for National and Community Service has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Dated: February 18, 1999.

Wendy Zenker,

Chief Operating Officer.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Proposed Rule Stage

3159. • IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Priority: Info./Admin./Other

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 2508

Legal Deadline: None

Abstract: The purpose of this notice of proposed rulemaking is to set forth the basic policies of the corporation governing the maintenance of its system of records which contains personal information of its employees as defined in the Privacy Act. Records included in this rule are those described in the Privacy Act and maintained by the Corporation and/or any component thereof.

Timetable:

Action	Date	FR Cite
NPRM	03/05/99	64 FR 10872
NPRM Comment Period End	04/05/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bill Hudson, Law Office Manager, General Counsel Office, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: whudson@cns.gov

RIN: 3045–AA22

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Long-Term Actions

3160. NATIONAL SERVICE TRUST

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2525 to 2529

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/94	59 FR 30709
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Frank Trinity
Phone: 202 606-5000
Email: ftrinity@cns.gov

RIN: 3045–AA09

3161. CLAIMS COLLECTION

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2506

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/28/99	64 FR 4315
Interim Final Rule Comment Period End	03/29/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Suzanne Dupre
Phone: 202 606-5000
Fax: 202 565-2796
Email: sdupre@cns.gov

RIN: 3045–AA20

3162. • RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Priority: Info./Admin./Other

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 2505

Legal Deadline: None

Abstract: Notice of proposed rulemaking to implement several provisions of the Government in the Sunshine Act.

Timetable: Next Action Undetermined

CNCS — Long-Term Actions

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Trinity, Associate General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: ftrinity@cns.gov

RIN: 3045–AA21

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Completed Actions

3163. SENIOR COMPANION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 1207; 45 CFR 2551

Legal Deadline: None

Abstract: The Senior Companion Program provides grants to eligible agencies and organizations to engage older persons, particularly those with limited incomes, in volunteer service to meet critical community needs. Program funds are used to support Senior Companions in providing supportive, individualized services to help adults with special needs maintain their dignity and independence. The program uses the skills and experiences of individuals age 60 and over as a resource to address local needs, and seeks to enrich the lives of older people through their participation in community service.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46954
NPRM Comment Period End	11/02/98	
Final Action	03/24/99	64 FR 14113

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Rey Tejada, National Senior Corps Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: rtejada@cns.gov

RIN: 3045–AA17

3164. FOSTER GRANDPARENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 1208; 45 CFR 2552

Legal Deadline: None

Abstract: The Foster Grandparent Program provides grants to qualified agencies and organizations to engage older persons, particularly those with limited incomes, in volunteer service to meet critical community needs. Program funds are used to support Foster Grandparents in providing supportive, person-to-person service to children with exceptional or special needs. The program uses the skills and experiences of individuals age 60 and over as a resource to address local needs, and seeks to enrich the lives of older persons through their participation in community service.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46923
NPRM Comment Period End	11/02/98	
Final Action	03/24/99	64 FR 14123

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Rey Tejada, National Senior Corps Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: rtejada@cns.gov

RIN: 3045–AA18

3165. RETIRED AND SENIOR VOLUNTEER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 1209; 45 CFR 2553

Legal Deadline: None

Abstract: The Retired and Senior Volunteer Program provides grants to qualified agencies and organizations to engage persons age 55 and older in volunteer service roles, matching their skills and personal interests to help meet significant community needs.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46972
NPRM Comment Period End	11/02/98	
Final Action	03/24/99	64 FR 14133

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Rey Tejada, National Senior Corps Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: rtejada@cns.gov

RIN: 3045–AA19

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Monday
April 26, 1999

Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-6236-9]

April 1999 Agenda of Regulatory and Deregulatory Actions

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the Semiannual Agenda of Regulatory and Deregulatory Actions to update the public about our:

- Regulations currently under development,
- Reviews of existing regulations, and
- Rulemakings completed or canceled since the last Agenda.

EPA believes that, if the people affected by rules take part in developing them, we will produce rules that are clearer, less burdensome, and more effective.

TO BE PLACED ON THE AGENDA MAILING LIST: If you would like to receive copies of future Agendas, please call 1-800/490-9198. There is no charge for the Agenda.

FOR FURTHER INFORMATION CONTACT: We welcome your comments and suggestions. If you have questions or comments about a particular rule, please get in touch with the agency contact listed for that rule. If you have general comments or questions about the EPA's rulemaking process, please direct them to: Philip Schwartz (2136), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; phone: (202) 260-5493, fax: (202) 260-5478, e-mail: Schwartz.Philip@epa.gov.

You can also get daily, updated information on current EPA rulemakings from our Internet site on environmental regulations. This site includes the text of proposed and final environmental rules issued by the EPA and by other agencies. It also includes an electronic version of this Agenda. The site is at http://www.epa.gov/epahome/rules.html and is part of EPA's large agencywide Internet site that we invite you to visit at http://www.epa.gov.

We expect that the EPA web site will be an increasingly important means of communication between EPA and the public. We inaugurated this site about 4 years ago, and it has more than 100,000 documents and files currently available on-line.

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- EPA's Regulatory Philosophy and Priorities
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SUPPLEMENTARY INFORMATION:

The Rulemaking Process

Congress has created a number of requirements that agencies must meet when they issue regulations. These requirements are designed to support the creation of quality regulations and protect the rights of people affected by agencies' rules. These requirements are contained in the Administrative Procedure Act, the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, and the Congressional Review Act. You can find information on many of these statutes at http://www.law.cornell.edu/uscode/.

President Clinton has also ordered that we meet a number of requirements when we issue regulations. Of particular significance for EPA rulemakings are Executive Orders 12866 (Regulatory Planning and Review), 12875 (Enhancing the Intergovernmental Partnership), 13045 (Children's Health Protection), and 13084 (Consultation and Coordination with Indian Tribal Governments). You can find information on Executive orders at http://library.whitehouse.gov/.

We encourage you to take part in the rulemaking process to make your views known and help us craft rules that:

- Protect human health,
- Preserve and enhance the environment, and
- Meet environmental goals without being unnecessarily burdensome.

In addition to contacting the expert responsible for developing a particular rule, you also can comment on proposed rules that we publish in the **Federal Register**. Once we have proposed a rule, we will consider your comments and address them before issuing a final rule. To be most effective, comments should contain information and data which support your position, and you should explain why we should incorporate your suggestion in the final rule. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternatives.

The Agenda also includes some of our more important guidance documents. While these documents are not legally binding on EPA or outside parties, they will guide our thinking in major policy areas. We invite you to take part in developing these documents.

EPA's Regulatory Philosophy and Priorities

Since EPA's creation, the Nation made great headway in cleaning up the air, water, and land. But as the next century approaches, we are finding that many of the remaining problems are more complex than those of the past, and they require more sophisticated remedies. Because of this, EPA has reexamined its current public health and environmental strategies to better meet the challenges of today and the future. And because this effort comes at the same time the President and Vice President are calling for a Government that works better and costs less, EPA has had an unprecedented opportunity to develop tough, new protections that not only solve today's difficult problems but do so in cheaper and smarter ways.

EPA's efforts to develop a system that works better and costs less are focused on five areas:

1. Greater public access to information,
2. More regulatory flexibility to obtain better results,
3. Stronger partnerships with States and industries,
4. More compliance assistance, and
5. Less paperwork and red tape.

We are pursuing these through every possible means, internally and externally, and we can already see results.

Internally, EPA has streamlined its management, restructured programs, and given EPA employees broader responsibilities. For example, enforcers are emphasizing compliance assistance, permitters are paying more attention to pollution prevention and market mechanisms, and rule writers are

EPA

developing public health and environmental protections that include alternatives proposed by regulated entities. These are innovative alternatives that are less costly but which still meet environmental and public health protection goals.

Externally, EPA brings together stakeholders from businesses, State and local governments, tribal governments, and labor and public interest groups. The goal is to assure that all interested parties can take part in the design of innovative, less costly approaches to environmental and public health protection. This stakeholder involvement fosters more creative solutions, promotes local stewardship, and helps establish and strengthen partnerships between the public and private sectors—all without sacrificing environmental or public health protection. As compliance with today's environmental laws comes to be regarded as a "floor to maintain" rather than a "ceiling to be reached," EPA is offering incentives that encourage facilities to go beyond the minimum requirements and continuously improve environmental performance.

As EPA develops this innovative regulatory system, we will increase our focus on protecting the health of children, taking into account their unique characteristics and vulnerabilities. Under President Clinton's Executive order, EPA will evaluate children's environmental health for economically significant regulations. Further, as a matter of policy, EPA will also assess potential risks to children for regulations that are not economically significant. Following an inclusive public process, EPA's Children's Health Protection Advisory Committee has recommended to the Administrator five existing regulations for reevaluation to ensure that they sufficiently protect children's health.

Impacts on Small Entities

Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) requires that we pay particular attention to the impact of regulations on small entities (i.e., small businesses, small governmental jurisdictions, and small nonprofit organizations). The RFA/SBREFA applies to rules we are now developing and requires us to:

1. Convene a Small Business Advocacy Review (SBAR) Panel prior to proposing any rule with the potential to impose a significant economic impact on a substantial number of small entities (RFA section 609). SBREFA also established the EPA's Small Business Advocacy Chair who chairs each SBAR Panel. A SBAR Panel has four members: The Chair, the Chief Counsel for Advocacy of the Small Business Administration, the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, and a senior manager from the EPA program office responsible for the subject rule. In the case of rules requiring a SBAR Panel, the Agency's small entity outreach prior to the convening of a Panel culminates in the development of a summary document that contains information on the potential impact of a proposed rule on small entities, and particularly on the issues referenced in RFA section 609. This summary then serves as the basis for convening the Panel. The Panel then conducts its review, carries out its own small entity outreach, and prepares a final report based on the comments from the small entity representatives and the Panel's deliberations. The Panel's final report is provided to the EPA Administrator and is made a part of the rulemaking record. Rules listed in the first appendix at the end of the Agenda may require Small Business Advocacy Review Panels.
2. At the proposed and final rule stages of rule development, the Agency must prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements (RFA sections 603 and 604), unless the Administrator certifies that the rule will not have a "significant economic impact on a substantial number of small entities" (RFA section 605). A regulatory flexibility analysis must, among other items specified in the RFA, identify the extent to which small entities will be subject to the rule's requirements and describe any significant alternatives to the rule that accomplish the objectives of applicable statutes and which minimize any significant economic impacts on small entities. We have listed in the first index at the end of the Agenda all rules under development that may require a regulatory flexibility analysis.
3. RFA section 610 requires that an agency review within 10 years of promulgation those regulations that have or will have a significant economic impact on a substantial number of small entities. We undertake these reviews to decide whether we should continue the rule unchanged, amend it, or withdraw it. We announce our forthcoming 610 reviews in the "Prerule" section of the Agenda. We encourage small entities to provide comments on the need to change these rules. We will consider all of your comments as we decide whether to continue, amend, or withdraw these rules. We particularly encourage comments by small entities about how rules could be made clearer, more effective, or remove conflicting or overlapping requirements with other Federal or State regulations. Please direct your comments to the contact person listed in the Agenda entry. If you have general questions about our 610 review program or suggestions for other rules we should review under section 610, please contact Philip Schwartz (2136), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; fax: (202) 260-5478, e-mail: schwartz.philip@epa.gov.

Rules under Development Expected To Have Some Impact on Small Entities, but Not a Significant Impact on a Substantial Number

In the "Small Entities Affected" section, we indicate whether we expect an action will have an impact on small businesses, governments, or nonprofit organizations, but one which is less than a significant impact on a substantial number. In the second index at the end of the Agenda, we list all actions that we believe will not have a significant impact on a substantial number of small entities but which will have some impact on small entities.

What Actions Are Included in the Agenda?

EPA includes regulations and certain major policy documents in the Agenda. We do not generally include minor amendments or the following categories of actions in the Agenda:

- Under the Clean Air Act: Revisions to State Implementation Plans; Equivalent Methods for Ambient Air Quality Monitoring; Deletions from

the New Source Performance Standards source categories list; Delegations of Authority to States; Area Designations for Air Quality Planning Purposes.

- Under the Federal Insecticide, Fungicide, and Rodenticide Act: Actions regarding pesticide tolerances and food additive regulations; decision documents defining and establishing registration standards; decision documents and termination decisions for the Special Review Registration process; and data call-in requests made under section 3(c)(2)(B).
- Under the Resource Conservation and Recovery Act: Authorization of State solid waste management plans; hazardous waste delisting petitions.
- Under the Clean Water Act: State Water Quality Standards; Deletions from the section 307(a) list of toxic pollutants; Suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); Delegations of NPDES authority to States.
- Under the Safe Drinking Water Act: Actions on State underground injection control programs.

The Office of Management and Budget has exempted most of these actions from the Executive Order 12866 review procedures. There is no legal significance to the omission of an item from the Agenda.

How Is the Agenda Organized?

In accordance with E.O. 12866, we publish the EPA Agenda of Regulatory and Deregulatory Actions in April and October of each year as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions.

We have organized the Agenda:

- First, by the law that would authorize a particular regulation;
- Second, by the current stage of development (proposal, final, etc.); and
- Third, by the section number of the statute which requires or authorizes the rule.

The following 13 sections deal with 12 laws that EPA administers and a thirteenth broader section called "General" that includes cross-cutting actions, such as rules authorized by multiple statutes and general acquisition rules:

1. General
2. The Clean Air Act (CAA)
3. The Atomic Energy Act (AEA)
4. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
5. The Toxic Substances Control Act (TSCA)
6. The Emergency Planning and Community Right-to-Know Act (EPCRA)
7. The Resource Conservation and Recovery Act (RCRA)
8. The Oil Pollution Act (OPA)
9. The Comprehensive Environmental Response, Compensation, and Liability Act Superfund (CERCLA)
10. The Clean Water Act (CWA)
11. The Safe Drinking Water Act (SDWA)
12. The Marine Protection, Research, and Sanctuaries Act (MPRSA)
13. The Shore Protection Act (SPA)

In each of these 13 sections, there are up to 5 headings covering the following stages of rulemaking:

1. Prerulemakings—Prerulemaking actions are intended to determine whether EPA should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking (ANPRMs), significant studies or analyses of the possible need for regulatory action, announcement of reviews of existing regulations required by section 610 of the Regulatory Flexibility Act, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.
2. Proposed Rules—This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings (NPRMs)).
3. Final Rules—This section includes rules that are within a year of final promulgation.
4. Long-Term Actions—This section includes rulemakings for which the next scheduled regulatory action is after March 2000.
5. Completed Actions—This section contains actions that have been promulgated and published in the **Federal Register** since publication of the October 1998 Agenda. It also includes actions that we are no longer considering. If an action appears in the completed section, it will not appear in future Agendas unless we decide to initiate action again, in which case it will appear as a new entry. EPA also announces the results of our Regultory Flexibility Act section 610 reviews in this section of the Agenda.

What Information Is in Agenda Entries?

Agenda entries include the following information, where applicable:

Sequence Number: This indicates where the entry appears in the Agenda.

Title: Titles for new entries (those that haven't appeared in previous Agendas) are preceded by a bullet ("•"). The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below.

Economically Significant: As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. OMB reviews all economically significant rules under E.O. 12866.

Other Significant: A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that are an EPA priority and rules that EPA anticipates will be reviewed by the Office of Management and Budget under E.O. 12866 because they are likely to:

- create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients; or
- raise novel legal or policy issues.

Substantive, Nonsignificant: A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

Routine and Frequent: A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

Informational/Administrative/Other: A rulemaking that is primarily informational or pertains to agency

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matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Agenda to inform the public of the activity.

Also, if we believe that a rule may be "major" as defined in the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (SBREFA) (5 U.S.C. 804; Pub. L. 104-121) because it is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in this law, we indicate this under the "Priority" heading with the statement "Major under 5 U.S.C. 801."

Legal Authority: The sections of the United States Code (U.S.C.), Public Law (P.L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that will be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, the alternatives that the agency is considering to address the problem; and the potential advantages and disadvantages of the action.

Timetable: The dates (and citations) that documents for this action were published in the **Federal Register** and, where possible, a projected date for the next step. Projected publication dates frequently change during the course of a rule development. The projections in the Agenda are our best estimates as of the date we submit the Agenda for publication. For some entries, the timetable indicates that the date of the next action is "to be determined." Dates in 2000 or later are printed in the same form as other dates, using the last two digits of the year.

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the Regulatory Flexibility Act. Generally, such an analysis is required for proposed or final rules that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates which small entities (businesses, governmental jurisdictions, or organizations), if any, may be affected by the rule.

Government Levels Affected: Indicates whether the rule is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Unfunded Mandates: Section 202 of the Unfunded Mandates Reform Act requires an assessment of anticipated costs and benefits if a rule includes a mandate that may result in expenditures of more than $100 million in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector. If we expect to exceed the section 202 threshold, we note that in this section.

Reinventing Government: If an action is part of the President's Reinventing Government Initiative, we indicate it in this section.

Agency Contact: The name, address, phone number, and e-mail address, if available, of a person who is knowledgeable about the regulation.

SAN Number: A code number that EPA uses to identify and track rulemakings.

RIN: The Regulatory Identifier Number is a code number that OMB uses to identify and track rulemakings.

The April 1999 EPA Agenda follows.

Dated: March 10, 1999.

Robert Wolcott,

Acting Assistant Administrator, Office of Policy.

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3166	SAN No. 4056 Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements	2020-AA39
3167	SAN No. 4180 Rewriting of EPA Regulations Implementing the Freedom of Information Act	2020-AA40
3168	SAN No. 4270 Cross-Media Electronic Reporting (ER) and Recordkeeping Rule	2020-AA41
3169	SAN No. 3736 Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation	2030-AA55
3170	SAN No. 4128 Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule	2030-AA56
3171	SAN No. 4191 Revision to EPAAR 1552.211-73, Level of Effort	2030-AA64
3172	SAN No. 4226 Incorporating Informal Clauses (EP) Into the EPAAR	2030-AA66
3173	SAN No. 3580 Incorporation of Class Deviations Into EPAAR	2030-AA37
3174	SAN No. 3629 EPA Mentor-Protege Program	2030-AA40
3175	SAN No. 3876 Incrementally Funding Fixed Price Contracts	2030-AA50
3176	SAN No. 3874 Revision of EPA Acquisition Regulations for Quality Systems for Environmental Programs	2030-AA51
3177	SAN No. 3817 Implementation of Changes to 40 CFR Part 32	2030-AA48
3178	SAN No. 3807 Consolidation of Good Laboratory Practice Standards (GLPS) Regulations Currently Under TSCA and FIFRA Into One Rule	2020-AA26

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General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3179	SAN No. 4185 Electronic Funds Transfer	2030-AA57
3180	SAN No. 4183 Agency Protest Solicitation Notification	2030-AA58
3181	SAN No. 4184 Contracting by Negotiation	2030-AA59
3182	SAN No. 4186 EPAAR Coverage on Contractor Performance Evaluations	2030-AA61
3183	SAN No. 4187 EPAAR Coverage on Local Hiring and Training	2030-AA62
3184	SAN No. 4188 Service Contracting—Avoiding Improper Personal Services Relationships	2030-AA63
3185	SAN No. 3671 Guidelines for Carcinogen Risk Assessment	2080-AA06
3186	SAN No. 2662 Amendments to Part 22 Consolidated Procedural Rules	2020-AA13

General—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3187	SAN No. 3240 Public Information and Confidentiality Regulations	2020-AA21
3188	SAN No. 3933 Environmental Impact Assessment of Nongovernmental Activities in Antarctica	2020-AA34

General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3189	SAN No. 4215 Acquisition Regulation: Types of Contracts	2030-AA65
3190	SAN No. 2939 Regulations Governing Awards Under Section 113(f) of the Clean Air Act	2020-AA31

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3191	SAN No. 4268 Control of Highway Diesel Fuel Quality: Advance Notice of Proposed Rulemaking	2060-AI32
3192	SAN No. 3553 Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations	2060-AF34
3193	SAN No. 4120 Protection of Stratospheric Ozone: Allowance System for Controlling HCFC Production, Import & Export	2060-AH67
3194	SAN No. 3525 Protection of Stratospheric Ozone: Update of the Substitutes List Under the Significant New Alternatives Policy (SNAP) Program	2060-AG12

Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3195	SAN No. 4105 NESHAP: Carbon Black Production	2060-AH68
3196	SAN No. 4110 Alumina Processing NESHAP	2060-AH70
3197	SAN No. 4043 Control of Emissions of Air Pollution From 2004 and Later Model Year Highway Heavy-Duty Diesel Engines	2060-AI12
3198	SAN No. 4148 Conformity Pilot	2060-AI14
3199	SAN No. 4219 Hospital/Medical/Infectious Waste Incinerators—Federal Plan (Federal Plan for Existing Hospital/Medical/Infectious Waste Incinerators)	2060-AI25
3200	SAN No. 4246 Consumer and Commercial Products: Revised Schedule for Regulation	2060-AI30
3201	SAN No. 4251 Control of Emissions of Air Pollution From New Compression-Ignition and Spark-Ignition Recreational Marine Engines	2060-AI36
3202	SAN No. 3961 No Backsliding Rule for PM-10 Nonattainment Areas	2060-AI39

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Clean Air Act (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3203	SAN No. 4252 Protection of Stratospheric Ozone: Amendment to Halon Use, Halon Technician Training, and Halon and Halon-Containing Equipment Disposal Rule	2060-AI40
3204	SAN No. 4253 Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Methyl Bromide Used in the United States and Baseline Adjustments	2060-AI42
3205	SAN No. 4254 Revision to the Definition of Volatile Organic Compound (VOC) to Exclude Tertiary Butyl Acetate	2060-AI45
3206	SAN No. 4247 Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)	2060-AI47
3207	SAN No. 3263 Performance Warranty and Inspection/Maintenance Test Procedures	2060-AE20
3208	SAN No. 3262 Inspection/Maintenance Recall Requirements	2060-AE22
3209	SAN No. 3407 Method 301: Field Validation of Pollution Measurement Methods for Various Media; Revisions	2060-AF00
3210	SAN No. 3082 NESHAP: Ferroalloy Production	2060-AF29
3211	SAN No. 3569 Federal Implementation Plan To Control Emissions From Two Power Stations Located on Navajo Nation Lands	2060-AF42
3212	SAN No. 3568 Environmental Radiation Protection Standards for Yucca Mountain, Nevada	2060-AG14
3213	SAN No. 3819 NSPS: Sewage Sludge Incinerators	2060-AG50
3214	SAN No. 3820 NESHAP: Plywood and Particleboard Manufacturing	2060-AG52
3215	SAN No. 3970 NESHAP: Miscellaneous Cellulose Production	2060-AH11
3216	SAN No. 3969 NESHAP: Municipal Solid Waste Landfills	2060-AH13
3217	SAN No. 3966 Storage Tank Rule Revisions	2060-AH15
3218	SAN No. 3986 Consolidated Emission Reporting Rule	2060-AH25
3219	SAN No. 3917 Transportation Conformity Rule Amendment: Clarification of Trading Provisions	2060-AH31
3220	SAN No. 3910 Streamlined Evaporative Test Procedures	2060-AH34
3221	SAN No. 4046 Revisions to New Source Review (NSR) Regulations to Implement the New National Ambient Air Quality Standards (NAAQS) for Ozone	2060-AH53
3222	SAN No. 4022 NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks	2060-AH55
3223	SAN No. 4106 Final Rule To Amend the National Emission Standards for Magnetic Tape Manufacturing Operations	2060-AH71
3224	SAN No. 4111 NESHAP: Fumed Silica Production	2060-AH72
3225	SAN No. 4102 NESHAP: Taconite Iron Ore Processing	2060-AH73
3226	SAN No. 4104 National Emission Standards for Hazardous Air Pollutants for the Hydrochloric Acid Production Industry	2060-AH75
3227	SAN No. 4107 NESHAP: Asphalt/Coal Tar Application on Metal Pipes	2060-AH78
3228	SAN No. 4113 NESHAP: Clay Products Manufacturing	2060-AH79
3229	SAN No. 4103 NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment Leaks	2060-AH81
3230	SAN No. 4114 NESHAP: Polyvinyl Chloride and Copolymers Production	2060-AH82
3231	SAN No. 4098 NESHAP: Uranium Hexafluoride Production	2060-AH83
3232	SAN No. 4119 Performance Specification 16—Specifications and Test Procedures for Predictive Emission Monitoring Systems in Stationary Sources	2060-AH84
3233	SAN No. 4082 NESHAP: Wet-formed Fiberglass Mat Production	2060-AH89
3234	SAN No. 4003 Technical Change to Dose Methodology for 40 CFR 191, Subpart A	2060-AH90
3235	SAN No. 4070 General Conformity Regulations; Revisions	2060-AH93
3236	SAN No. 4077 Protection of Stratospheric Ozone: Reconsideration on the 610 Nonessential Products Ban	2060-AH99
3237	SAN No. 4211 Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards	2060-AI23
3238	SAN No. 1002 NAAQS: Sulfur Dioxide (Review and Implementation)	2060-AA61
3239	SAN No. 3470 Revision of Appendix W to 40 CFR Part 51	2060-AF01
3240	SAN No. 3656 NESHAP/NSPS: Reciprocating Internal Combustion Engine	2060-AG63
3241	SAN No. 4243 Standards and Guidelines for Small Municipal Waste Combustion Units	2060-AI51
3242	SAN No. 3657 NESHAP/NSPS: Combustion Turbine	2060-AG67
3243	SAN No. 3461 NESHAP: Mineral Wool Production Industry	2060-AE08
3244	SAN No. 3343 NESHAP: Iron Foundries and Steel Foundries	2060-AE43
3245	SAN No. 3341 NESHAP: Cyanide Chemicals Manufacturing	2060-AE45
3246	SAN No. 3346 NESHAP: Integrated Iron and Steel	2060-AE48
3247	SAN No. 3123 NESHAP: Wool Fiberglass Manufacturing Industry	2060-AE75
3248	SAN No. 3326 NESHAP: Reinforced Plastic Composites Production	2060-AE79
3249	SAN No. 3452 NESHAP: Miscellaneous Organic Chemical Production and Processes	2060-AE82
3250	SAN No. 3449 NESHAP: Chlorine Production	2060-AE85
3251	SAN No. 3467 NESHAP: Primary Lead Smelters	2060-AE97
3252	SAN No. 3550 NESHAP: Manufacturing of Nutritional Yeast	2060-AF30

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Clean Air Act (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3253	SAN No. 3551 Amendments to General Provisions Subparts A and B for 40 CFR 63	2060-AF31
3254	SAN No. 3746 NESHAP: Paint Stripping Operations	2060-AG26
3255	SAN No. 3747 NESHAP: Boat Manufacturing	2060-AG27
3256	SAN No. 3749 NESHAP: Tire Manufacturing	2060-AG29
3257	SAN No. 3754 Petroleum Solvent Dry Cleaners Maximum Achievable Control Technology (MACT) Standard	2060-AG34
3258	SAN No. 3821 NESHAP: Ethylene Processes	2060-AG53
3259	SAN No. 3823 Large Appliance (Surface Coating) NESHAP	2060-AG54
3260	SAN No. 3655 NESHAP: Asphalt Roofing and Processing	2060-AG66
3261	SAN No. 3837 NESHAP: Industrial, Commercial and Institutional Boilers	2060-AG69
3262	SAN No. 3651 NESHAP: Lime Manufacturing	2060-AG72
3263	SAN No. 3899 NESHAP: Friction Products Manufacturing	2060-AG87
3264	SAN No. 3902 NESHAP: Semiconductor Production	2060-AG93
3265	SAN No. 3906 NESHAP: Metal Can (Surface Coating) Industry	2060-AG96
3266	SAN No. 3905 NESHAP: Metal Coil (Surface Coating) Industry	2060-AG97
3267	SAN No. 3909 NESHAP: Fabric Printing, Coating and Dyeing	2060-AG98
3268	SAN No. 3907 Automobile and Light-Duty Truck Manufacturing (Surface Coating) NESHAP	2060-AG99
3269	SAN No. 3924 NESHAP: Primary Magnesium Refining	2060-AH03
3270	SAN No. 2841 NESHAP: Chromium Electroplating Amendment	2060-AH08
3271	SAN No. 3968 NESHAP: Site Remediation	2060-AH12
3272	SAN No. 3967 NESHAP: Spandex Production	2060-AH14
3273	SAN No. 3964 NESHAP: Leather Tanning and Finishing Operations	2060-AH17
3274	SAN No. 3962 NESHAP: Manufacture of Carbon Black	2060-AH19
3275	SAN No. 3903 NESHAP: Vegetable Oil Production	2060-AH22
3276	SAN No. 3972 NESHAP: Rocket Engine Test Firing/Engine Test Facilities	2060-AH35
3277	SAN No. 3973 NESHAP: Flexible Polyurethane Foam Fabrication Operations	2060-AH42
3278	SAN No. 3939 NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins; Amendments	2060-AH47
3279	SAN No. 3479 Amendments to Parts 51, 52, 63, 70 and 71 Regarding the Provisions for Determining Potential To Emit	2060-AI01
3280	SAN No. 4218 NESHAP: Process Heaters	2060-AI35
3281	SAN No. 3613 NSPS: New Source Performance Standards and Emission Guidelines for Industrial and Commercial Waste Incinerators	2060-AF91
3282	SAN No. 3751 NSPS: New Source Performance Standards and Emission Guidelines for Other Solid Waste Incinerators	2060-AG31
3283	SAN No. 4245 Consumer and Commercial Products: Flexible Package Printing Materials: Determination on Control Techniques Guidelines in Lieu of Regulation	2060-AI31
3284	SAN No. 3979 Review of Federal Test Procedures for Emissions From Motor Vehicles; Test Procedure Adjustments to Fuel Economy and Emission Test Results	2060-AH38
3285	SAN No. 3673 Protection of Stratospheric Ozone: Reconsideration of Section 608 Sales Restriction	2060-AG20
3286	SAN No. 3983 Protection of Stratospheric Ozone: Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a	2060-AH29
3287	SAN No. 3640 Supplemental Rule To Require Certain Products Made With HCFCs To Bear Warning Label	2060-AF93
3288	SAN No. 4271 Protection of Stratospheric Ozone: Additional Steps to Conform U.S. Methyl Bromide Program to Obligations Under the Montreal Protocol and Recent Changes to the CAA	2060-AI41
3289	SAN No. 3824 Metal Furniture (Surface Coatings) NESHAP	2060-AG55
3290	SAN No. 3825 NESHAP Miscellaneous Metal Parts and Products (Surface Coating)	2060-AG56
3291	SAN No. 3826 Plastic Parts (Surface Coating) NESHAP	2060-AG57
3292	SAN No. 3827 Paper and Other Web Coating NESHAP	2060-AG58
3293	SAN No. 3904 NESHAP: Wood Building Products (Surface Coating)	2060-AH02
3294	SAN No. 3908 Offset Lithographic Printing National VOC Rule	2060-AH00

Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3295	SAN No. 4115 NESHAP: Chromium Electroplating Amendment	2060-AH69
3296	SAN No. 4159 Redefinition of Glycol Ethers Listed as HAPs Under the Clean Air Act, and Hazardous Substances Under CERCLA	2060-AI08

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Clean Air Act (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3297	SAN No. 4242 Acid Rain Program Permits Regulations and SO2 Allowance System: Compliance Determination	2060-AI27
3298	SAN No. 4267 Compliance Baseline Modification NPRM	2060-AI29
3299	SAN No. 4222 NESHAP: Ethylene Oxide Commercial Sterilization and Fumigation Operations	2060-AI37
3300	SAN No. 3626 Protection of Stratospheric Ozone: Amendment to Transshipment Provision in Final Rule Accelerating the Phaseout of Ozone-Depleting Substances	2060-AI46
3301	SAN No. 4256 Revisions to Reference Method for the Determination of Fine Particulate Matter as PM2.5 in the Atmosphere	2060-AI48
3302	SAN No. 4066 Federal Plan Requirements for Municipal Solid Waste Landfills that Commenced Construction Prior to 5/30/91 and Have Not Been Modified or Reconstructed Since 5/30/91	2060-AI50
3303	SAN No. 3259 New Source Review (NSR) Reform	2060-AE11
3304	SAN No. 3549 NESHAP: Petroleum Refineries—FCC Units, Reformers and Sulfur Plants	2060-AF28
3305	SAN No. 3412 Operating Permits: Revisions (Part 70)	2060-AF70
3306	SAN No. 2915 Methods for Measurement of Visible Emissions—Addition of Methods 203A, 203B, and 203C to Appendix M of Part 51	2060-AF83
3307	SAN No. 3741 Service Information Availability	2060-AG13
3308	SAN No. 3743 Amendments to Part 60, Part 61, and Part 63 and Addition of Method 14A to Part 60	2060-AG21
3309	SAN No. 3744 Amendment to Standards of Performance for New Stationary Sources; Monitoring Requirements (PS-1)	2060-AG22
3310	SAN No. 3748 Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry	2060-AG28
3311	SAN No. 3808 Acid Rain Program: Continuous Emission Monitoring (CEM) Rule Revisions	2060-AG46
3312	SAN No. 3900 Addition of Method 207 to Appendix M of 40 CFR Part 51 Method for Measuring Isocyanates in Stationary Source Emissions	2060-AG88
3313	SAN No. 3868 Federal Operating Permits Program in Indian Country	2060-AG90
3314	SAN No. 3913 Revision to the Light-Duty Vehicle Emission Compliance Procedure (CAP 2000)	2060-AH05
3315	SAN No. 3958 Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)	2060-AH23
3316	SAN No. 4030 Expanded Definitions for Alternative-Fueled Vehicles and Engines Meeting Low-Emission Vehicle Exhaust Emission Standards	2060-AH52
3317	SAN No. 4123 National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Amendments to the Promulgated Rule	2060-AH74
3318	SAN No. 4096 Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States	2060-AH87
3319	SAN No. 4095 Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport	2060-AH88
3320	SAN No. 4073 Air Quality Index Reporting	2060-AH92
3321	SAN No. 4125 Electric Arc Furnace NSPS Amendment	2060-AH95
3322	SAN No. 4130 Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks	2060-AH97
3323	SAN No. 4165 Optional Certification Streamlining Procedures for LDVs, LDTs, and HDEs	2060-AI15
3324	SAN No. 4078 Control of Emissions of Air Pollution From New Marine Diesel Engines At or Above 37 Kilowatts	2060-AI17
3325	SAN No. 4206 Protection of Stratospheric Ozone: Incorporation of Montreal Protocol Adjustment for a 1999 Interim Reduction in Class I, Group VI Controlled Substances	2060-AI24
3326	SAN No. 3638 Revision of EPA's Radiological Emergency Response Plan	2060-AI49
3327	SAN No. 3105 Amendments—Integrated NESHAP and Effluent Guidelines: Pulp and Paper	2060-AD03
3328	SAN No. 3229 NESHAP: Oil and Natural Gas Production and Natural Gas Transmission and Storage	2060-AE34
3329	SAN No. 3228 NESHAP for the Manufacturing of Amino and Phenolic Resins (Polymers and Resins Group III)	2060-AE36
3330	SAN No. 3303 NESHAP: Phosphoric Acid Manufacturing	2060-AE40
3331	SAN No. 3345 NESHAP: Steel Pickling, HC1 Process	2060-AE41
3332	SAN No. 3304 NESHAP: Phosphate Fertilizers Production	2060-AE44
3333	SAN No. 3340 NESHAP: Primary Copper Smelting	2060-AE46
3334	SAN No. 3078 NESHAP: Secondary Aluminum Industry	2060-AE77
3335	SAN No. 3079 NESHAP: Portland Cement Manufacturing	2060-AE78
3336	SAN No. 3408 NESHAP: Polyether Polyols Production	2060-AE81
3337	SAN No. 3450 NESHAP: Pesticide Active Ingredient Production (Production of Agricultural Chemicals)	2060-AE84
3338	SAN No. 3378 NESHAP: Acrylic/Modacrylic Fibers Manufacturing	2060-AF06
3339	SAN No. 3465 NESHAP: Polycarbonates Production	2060-AF09
3340	SAN No. 3377 NESHAP: Publicly Owned Treatment Works (POTW)	2060-AF26
3341	SAN No. 3829 Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)	2060-AG60

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Clean Air Act (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3342	SAN No. 3901 Generic MACT for Source Categories (Acrylic Modacrylic Fibers, Polycarbonates, Hydrogen Fluoride, and Acetal Resins)	2060-AG91
3343	SAN No. 3654 NESHAP: Hydrogen Fluoride Production	2060-AG94
3344	SAN No. 3959 National Strategy for Urban Area Sources of Toxic Air Emissions	2060-AH21
3345	SAN No. 4162 NESHAP: Oil and Natural Gas Production and NESHAP: Natural Gas Transmission and Storage, Amendments to Proposed Rule	2060-AI13
3346	SAN No. 3610 Transportation Conformity Rule Amendment and Solicitation for Participation in the Pilot Program	2060-AG79
3347	SAN No. 3828 Reduction of Volatile Organic Compound (VOC) Emissions From Coatings Used in the Aerospace, Wood Furniture, and Shipbuilding Industries Under Clean Air Act Section 183(e)	2060-AG59
3348	SAN No. 2665 Importation of Nonconforming Vehicles; Amendments to Regulations	2060-AI03
3349	SAN No. 3361 Nonroad Spark-Ignition Engines At or Below 19 Kilowatts (25 Horsepower) (Phase 2)	2060-AE29
3350	SAN No. 3556 Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608	2060-AF36
3351	SAN No. 3560 Protection of Stratospheric Ozone: Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants	2060-AF37
3352	SAN No. 4108 NESHAP: Off-Site Waste and Recovery Operations; Final Rule—Settlement Agreement; and NESHAP for Off-Site Waste and Recovery Operations; Technical Amendments	2060-AH96

Clean Air Act (CAA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3353	SAN No. 4154 Control of Emissions From Nonroad Spark-Ignition Engines Rated Over 19 kW and New Land-Based Recreational Spark-Ignition Engines	2060-AI11
3354	SAN No. 4244 Amendment to Regulations Governing Equivalent Emission Limitations by Permit	2060-AI28
3355	SAN No. 4266 Review National Ambient Air Quality Standards for Carbon Monoxide	2060-AI43
3356	SAN No. 4255 Review of the National Ambient Air Quality Standards for Particulate Matter	2060-AI44
3357	SAN No. 3380 NSPS: Synthetic Organic Chemicals Manufacturing Industry— Wastewater	2060-AE94
3358	SAN No. 3649 Amendments to Method 24 (Water-Based Coatings)	2060-AF72
3359	SAN No. 3637 Federal Implementation Plan (FIP) To Control Emissions From Sources Located on the Fort Hall Indian Reservation	2060-AF84
3360	SAN No. 3922 Revised Permit Revision Procedures for the Federal Operating Permits Program	2060-AG92
3361	SAN No. 3975 Review of Minor New Sources and Modifications in Indian Country	2060-AH37
3362	SAN No. 4045 Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations	2060-AH58
3363	SAN No. 4112 NESHAP: Hydrogen Chloride Production	2060-AH80
3364	SAN No. 3652 NESHAP: Refractories Manufacturing	2060-AG68
3365	SAN No. 3971 NESHAP: Organic Liquid Distribution	2060-AH41
3366	SAN No. 4240 NESHAP: Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand Alone Semichemical Pulp Mills	2060-AI34
3367	SAN No. 2937 Field Citation Program	2020-AA32
3368	SAN No. 3919 Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas	2060-AH01
3369	SAN No. 3139 Location of Selective Enforcement Audits of Foreign Manufactured Vehicles and Engines; Amendment	2060-AD90

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3370	SAN No. 4213 Protection of Stratospheric Ozone: Allocation of 1999 Essential Use Allowances	2060-AI26
3371	SAN No. 3516 Comprehensive Radiation Waste Management Regulation	2060-AF41
3372	SAN No. 3573 Acid Rain Program: Deletion of Certain Units	2060-AF46
3373	SAN No. 3643 Sales Volume Limit Provisions for Small-Volume Manufacture Certification for Clean Fuel and Conventional Vehicle Conversions and Related Provisions	2060-AF87

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Clean Air Act (CAA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3374	SAN No. 3750 Amendments to Residential Wood Heaters	2060-AG30
3375	SAN No. 3835 Amendment to the User Fees for Radon Proficiency Programs Rule	2060-AG64
3376	SAN No. 3898 1998 Revision of Acid Rain Allowance Allocations	2060-AG86
3377	SAN No. 3945 Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group (OTAG) Region for Purposes of Reducing Regional Transport of Ozone	2060-AH10
3378	SAN No. 3977 Revisions to Clarify the Permit Content Requirements for State Operating Permits	2060-AH46
3379	SAN No. 4052 Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act: Allowance Transfer	2060-AH60
3380	SAN No. 4067 Acid Rain Program: Determination on Section 75.7 (EPA Study of Bias Test) and Section 75.8 (Relative Accuracy and Availability Analysis)	2060-AH64
3381	SAN No. 4126 NESHAP: Wood Furniture Manufacturing Operations, Amendments	2060-AH66
3382	SAN No. 4116 NESHAP: Ammonium Sulphate Production (Caprolactam By-Product)	2060-AH77
3383	SAN No. 4076 Supplemental Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone	2060-AH91
3384	SAN No. 3893 Review of Operating Permits Issued by Indian Tribes	2060-AH98
3385	SAN No. 3951 Control of Emissions From New Nonroad Spark-Ignition Engines At or Below 19 Kilowatts, Minor Amendments to the Phase I Emission Standards	2060-AI02
3386	SAN No. 4129 Notice of Promulgated Compliance Extension: Halogenated Solvent	2060-AI04
3387	SAN No. 4136 Standards of Performance for New Stationary Sources; New Residential Wood Heaters (Completed Regulatory Flexibility Act Review)	2060-AI05
3388	SAN No. 3740 Transportation Conformity Rule Amendments: Flexibility and Streamlining	2060-AI16
3389	SAN No. 3338 NESHAP: Flexible Polyurethane Foam Production	2060-AE86
3390	SAN No. 2547 NESHAP: Radon Emissions From Phosphogypsum Stacks	2060-AF04
3391	SAN No. 3836 NESHAP: Aerospace Technical Amendments	2060-AG65
3392	SAN No. 3872 Industrial Combustion Coordinated Rulemaking—ICCR Project	2060-AG84
3393	SAN No. 3604 Standards for Reformulated and Conventional Gasoline, Individual Baseline Fuel Adjustments	2060-AG80
3394	SAN No. 3281 National VOC Emission Standards for Automobile Refinish Coatings	2060-AE35
3395	SAN No. 3351 VOC Regulation for Architectural Coatings	2060-AE55
3396	SAN No. 3658 National VOC Emission Standards for Consumer Products	2060-AF62
3397	SAN No. 3645 Control of Emissions of Air Pollution From Highway Heavy-Duty Engines and Diesel Engines	2060-AF76
3398	SAN No. 3091 Specification of Substantially Similar Definition for Diesel Fuels	2060-AD77
3399	SAN No. 3843 Revision to the Covered Areas Provision for Reformulated Gasoline	2060-AG77
3400	SAN No. 3842 Applicability of On-Highway Heavy-Duty Certified Engines for Use in Nonroad Heavy-Duty Vehicles and Equipment; Amendment	2060-AG78
3401	SAN No. 3352 NSPS: Nitrogen Oxide Emissions From Fossil-Fuel Fired Steam Generating Units—Revision	2060-AE56
3402	SAN No. 3792 Technical Amendments to Hazardous Waste TSDF & Hazardous Waste Generators: Organic Air Emission Standards for Tanks, Surface Impoundments & Containers	2060-AG44

Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3403	SAN No. 4054 Radiation Waste Management Regulation	2060-AH63

Atomic Energy Act (AEA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3404	SAN No. 3602 Protective Action Guidance for Drinking Water	2060-AF39

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Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3405	SAN No. 4170 Pesticides; Procedures for Registration Review Program	2070-AD29

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3406	SAN No. 3892 Registration Requirements for Antimicrobial Pesticide Products; and Other Pesticide Regulatory Changes	2070-AD14
3407	SAN No. 4027 Pesticides; Tolerance Processing Fees	2070-AD23
3408	SAN No. 4175 Pesticide Tolerance Reassessment Program	2070-AD24
3409	SAN No. 4143 Endocrine Disruptor Screening Program	2070-AD26
3410	SAN No. 4216 Regulatory Review of Pesticide Emergency Exemption Regulations	2070-AD36
3411	SAN No. 4260 Status of Pesticide-Treated Seeds under FIFRA	2070-AD37
3412	SAN No. 3890 Tolerances for Pesticide Emergency Exemptions	2070-AD15
3413	SAN No. 2687 Data Requirements for Pesticide Registration (Revision)	2070-AC12
3414	SAN No. 4173 Data Requirements for Antimicrobial Registrations	2070-AD30
3415	SAN No. 2659 Pesticide Management and Disposal: Standards for Pesticide Containers and Containment	2070-AB95

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3416	SAN No. 3731 WPS; Pesticide Worker Protection Standard; Glove Amendment	2070-AC93
3417	SAN No. 2684 Plant Pesticide Regulations Under FIFRA and FFDCA	2070-AC02
3418	SAN No. 3222 Ground Water and Pesticide Management Plan	2070-AC46
3419	SAN No. 3432 Pesticide Management and Disposal	2020-AA33

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3420	SAN No. 4026 Exemption of Certain Pesticide Substances From FIFRA Requirements	2070-AD21
3421	SAN No. 2720 Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration	2020-AA29

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3422	SAN No. 3735 The 10-Acre Limitation for Pesticide Small-Scale Field Testing	2070-AC99
3423	SAN No. 1640 WPS; Pesticide Worker Protection Standards; Pesticide Hazard Communication	2070-AC34

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3424	SAN No. 4176 Chemical Right-to-Know Initiative	2070-AD25
3425	SAN No. 4174 TSCA Section 4 Enforceable Consent Agreement for Certain Oxygenated Fuel Additives	2070-AD28
3426	SAN No. 4015 TRI; Review of Chemicals on the Original TRI List	2070-AD18

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Toxic Substances Control Act (TSCA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3427	SAN No. 3301 TSCA Inventory Update Rule Amendments	2070-AC61
3428	SAN No. 3244 Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule—Building and Structures	2070-AC64
3429	SAN No. 3243 Lead; Over of Rulemakings Under TSCA Section 402, Lead-Based Paint Activities for the Regulatory Plan	2070-AD06
3430	SAN No. 3990 Multi-Chemical Test Rule; High Production Volume Chemicals	2070-AD16
3431	SAN No. 3494 Test Rules; Generic Entry for Proposed Decisions	2070-AB07
3432	SAN No. 2245 Test Rules; Negotiated Consent Order and Test Rule Procedures	2070-AB30
3433	SAN No. 2563 Test Rule; ATSDR Substances	2070-AB79
3434	SAN No. 2865 Children's Health Test Rule	2070-AC27
3435	SAN No. 3882 Test Rule for Certain Metals	2070-AD10
3436	SAN No. 1923 Follow-Up Rules on Existing Chemicals	2070-AA58
3437	SAN No. 3894 TSCA Biotechnology Follow-Up Rules	2070-AD13
3438	SAN No. 3148 Asbestos Model Accreditation Plan Revisions	2070-AC51
3439	SAN No. 3047 Asbestos; Amendments to the Asbestos-Containing Materials in Schools Rule	2070-AC62
3440	SAN No. 2249 Asbestos Worker Protection Rule Amendments	2070-AC66
3441	SAN No. 4179 PCBs; Polychlorinated Biphenyl; Use Authorizations	2070-AD27
3442	SAN No. 3557 Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling	2070-AC83
3443	SAN No. 4172 Lead-Based Paint; Notification of Commencement of Abatement Activities	2070-AD31

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3444	SAN No. 3508 Lead; Management and Disposal of Lead-Based Paint Debris	2070-AC72
3445	SAN No. 3480 Guidance on Environmentally Preferable Purchasing for Federal Agencies	2070-AC78
3446	SAN No. 3493 Test Rules; Generic Entry for Final Decisions	2070-AB94
3447	SAN No. 3487 Test Rule; Hazardous Air Pollutants (HAPs)	2070-AC76
3448	SAN No. 1976 Follow-Up Rules on Non-5(e) New Chemical Substances	2070-AA59
3449	SAN No. 3495 Chemical-Specific Significant New Use Rules (SNURs) To Extend Provisions of Section 5(e) Orders	2070-AB27
3450	SAN No. 2150 PCBs; Polychlorinated Biphenyls; Exemptions From the Prohibitions Against Manufacturing, Processing, and Distribution in Commerce	2070-AB20
3451	SAN No. 3528 Refractory Ceramic Fibers; Significant New Use Rules on National Program Chemicals	2070-AC37
3452	SAN No. 3021 PCBs; Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule	2070-AC39
3453	SAN No. 2178 TSCA Section 8(a) Preliminary Assessment Information Rules	2070-AB08
3454	SAN No. 1139 TSCA Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
3455	SAN No. 2779 Use of Acrylamide for Grouting	2070-AC17
3456	SAN No. 3118 TSCA Section 8(e) Policy; Notice of Clarification	2070-AC80
3457	SAN No. 3559 Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances	2070-AC84
3458	SAN No. 3881 Lead-Based Paint; Fees for Accreditation and Certification Activities	2070-AD11

Toxic Substances Control Act (TSCA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3459	SAN No. 3243 Lead; TSCA Section 403; Identification of Dangerous Levels of Lead	2070-AC63
3460	SAN No. 3252 Lead; Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use	2070-AC21

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Emergency Planning and Community Right-to-Know Act (EPCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3461	SAN No. 4023 TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory	2070-AD19

Emergency Planning and Community Right-to-Know Act (EPCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3462	SAN No. 2425 TRI; Responses to Petitions Received To Add or Delete or Modify Chemical Listings on the Toxic Release Inventory	2070-AC00
3463	SAN No. 2847 TRI; Pollution Prevention Act Information Requirements	2070-AC24
3464	SAN No. 4259 TRI; Lowering of EPCRA Section 313 Reporting Thresholds for Lead and Lead Compounds	2070-AD38
3465	SAN No. 4265 TRI; Revisions to the Otherwise Use Activity Exemptions and the Coal Extraction Activities Exemption	2070-AD39
3466	SAN No. 3007 TRI; Chemical Expansion; Finalization of Deferred Chemicals	2070-AC47

Emergency Planning and Community Right-to-Know Act (EPCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3467	SAN No. 3880 TRI; Reporting Threshold Amendment for Certain Persistent and Bioaccumulative Toxic Chemicals (PBTs)	2070-AD09

Emergency Planning and Community Right-to-Know Act (EPCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3468	SAN No. 3215 Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	2050-AE17
3469	SAN No. 3994 Response to a Petition Requesting Deletion of Phosmet from the Extremely Hazardous Substances (EHSs) List	2050-AE42
3470	SAN No. 3993 Modification of Threshold Planning Quantity for Isophorone Diisocyanate	2050-AE43
3471	SAN No. 3877 TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know	2070-AD08

Emergency Planning and Community Right-to-Know Act (EPCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3472	SAN No. 4163 Emergency Planning and Community Right-to-Know Programs; Amendments to Hazardous Chemical Reporting Thresholds for Gasoline and Diesel Fuel at Retail Gas Stations	2050-AE58
3473	SAN No. 4029 Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7): Amendment	2050-AE46

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3474	SAN No. 4017 Hazardous Waste Storage and Disposal Regulation Related to Low Level Mixed Waste; Proposed Modifications	2050-AE45
3475	SAN No. 4093 Reinventing the Land Disposal Restrictions Program	2050-AE53
3476	SAN No. 4094 Land Disposal Restrictions; Potential Revisions for Mercury Listed and Characteristic Wastes	2050-AE54

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Resource Conservation and Recovery Act (RCRA)—Prerule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3477	SAN No. 3886 Review of Toxicity Characteristic Level for Silver Under the Resource Conservation Recovery Act (RCRA)	2050-AE37
3478	SAN No. 4084 RCRA Reporting and Recordkeeping Burden Reduction; Notice of Data Availability	2050-AE50
3479	SAN No. 4090 RCRA Appendix VIII Streamlining	2050-AE55
3480	SAN No. 3201 Regulatory Determination on Remaining Wastes From the Combustion of Fossil Fuels	2050-AD91

Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3481	SAN No. 4091 Modifications to RCRA Rules Associated With Solvent-Contaminated Shop Towels and Wipers	2050-AE51
3482	SAN No. 4092 Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations	2050-AE52
3483	SAN No. 4233 Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088)	2050-AE65
3484	SAN No. 4229 Revisions to Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste	2050-AE66
3485	SAN No. 4230 Revisions to Solid Waste Landfill Criteria—Leachate Recirculation	2050-AE67
3486	SAN No. 3805 Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste	2050-AE32
3487	SAN No. 3888 Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions	2050-AE39
3488	SAN No. 3989 Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)	2050-AE41
3489	SAN No. 4028 Standardized Permit for RCRA Hazardous Waste Management Facilities	2050-AE44
3490	SAN No. 4208 Proposed Regulatory Amendments on Recycling of Hazardous Wastes in Fertilizers	2050-AE69
3491	SAN No. 3151 Chlorinated Aliphatics Listing Determination	2050-AD85
3492	SAN No. 3328 Hazardous Waste Identification Rule (HWIR): Identification and Listing of Hazardous Wastes	2050-AE07
3493	SAN No. 3066 Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments	2050-AD80
3494	SAN No. 3147 Hazardous Waste Manifest Regulation	2050-AE21
3495	SAN No. 2647 RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
3496	SAN No. 3856 Management of Cement Kiln Dust (CKD)	2050-AE34

Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3497	SAN No. 4088 Recycled Used Oil Containing PCBs	2050-AE47
3498	SAN No. 4178 180-Day Accumulation Time Under RCRA for Generators of F006 Waste Water Treatment Sludges from the Metal Finishing Industry	2050-AE60
3499	SAN No. 3189 Final Determination of the Applicability of the Toxicity Characteristic Rule to Underground Storage Tanks, Contaminated Media, and Debris	2050-AD69
3500	SAN No. 3237 Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps	2050-AD93
3501	SAN No. 3333 Revised Standards for Hazardous Waste Combustion Facilities	2050-AE01
3502	SAN No. 3545 Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials	2050-AE23

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Resource Conservation and Recovery Act (RCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3503	SAN No. 4263 Suspension of Temporary Toxicity Characteristic Rule for Specific Lead-Based Paint Debris	2050-AE68
3504	SAN No. 3428 Hazardous Waste Management System: Slag Residues Derived From High Temperature Metals Recovery (HTMR) Treatment of KO61, KO62 and F0006 Wastes	2050-AE15
3505	SAN No. 3668 Hazardous Waste Identification; Recycled Used Oil Management Standards	2050-AE28
3506	SAN No. 4083 Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities	2050-AE49

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3507	SAN No. 4158 Interim Emergency Rule Revising Land Disposal Restriction Treatment Standards for Aluminum Potliners—K088 Waste	2050-AE59
3508	SAN No. 2872 Modifications to the Definition of Solid Waste and Regulations of Hazardous Waste Recycling: General	2050-AD18
3509	SAN No. 3042 Hazardous Waste Management System: Post-Closure Requirements	2050-AD55
3510	SAN No. 3134 Spent Solvents Listing Determination	2050-AD84
3511	SAN No. 2982 Hazardous Remediation Waste Management Requirements (Commonly Referred to as Hazardous Waste Identification Rule for Contaminated Media or HWIR-Media)	2050-AE22
3512	SAN No. 4228 Landfill Leachate and Petroleum Waste Listings	2050-AE61
3513	SAN No. 2390 Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
3514	SAN No. 2751 RCRA Subtitle D Solid Waste Facilities; State Permit Program— Determination of Adequacy (State Implementation Rule)	2050-AD03

Oil Pollution Act (OPA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3515	SAN No. 2634 Oil Pollution Prevention Regulation: Revisions	2050-AC62

Comprehensive Environmental Response, Compensation and Liability Act—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3516	SAN No. 4201 Criteria for the Designation of Hazardous Substances under CERCLA Section 102(a)	2050-AE63
3517	SAN No. 4217 Facility Response Plan Regulation for Certain Non-Transportation-Related Facilities that Handle, Store, or Transport Vegetable Oils and Animal Fats	2050-AE64

Comprehensive Environmental Response, Compensation and Liability Act—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3518	SAN No. 3885 Streamlining the Preauthorization Mixed Funding for Application and Implementation of Claims Against Superfund	2050-AE38
3519	SAN No. 3806 Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M	2050-AE33
3520	SAN No. 3423 Reportable Quantity Adjustments for Carbamates	2050-AE12
3521	SAN No. 3439 National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules	2050-AD75

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Comprehensive Environmental Response, Compensation and Liability Act—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3522	SAN No. 4177 Cooperative Agreements and Superfund State Contracts for Superfund Response Actions; Revision of 40 CFR Part 35 Subpart O	2050-AE62
3523	SAN No. 2394 Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82

Comprehensive Environmental Response, Compensation and Liability Act—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3524	SAN No. 4075 Revocation of Caprolactam's Designation as a Hazardous Substance Under CERCLA	2050-AE48

Clean Water Act (CWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3525	SAN No. 4133 Effluent Guidelines and Standards for the Ore Mining and Dressing Point Source Category, Gold Placer Mine Subcategory **(Section 610 Review)**	2040-AD13

Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3526	SAN No. 4153 Effluent Guidelines and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations	2040-AD19
3527	SAN No. 4145 Total Maximum Daily Load (TMDL) Program Regulations Revisions	2040-AD22
3528	SAN No. 4168 Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category	2040-AD24
3529	SAN No. 3662 Water Quality Standards Regulation—Revision	2040-AC56
3530	SAN No. 4235 Amendments to the Final Water Quality Guidance for the Great Lakes System to Reinstate the Mixing Zone Elimination and Phase-Out Provision	2040-AD32
3531	SAN No. 4234 EPA Review and Approval of State and Tribal Water Quality Standards	2040-AD33
3532	SAN No. 4264 Water Quality Standards for Alabama—Phase II	2040-AD35
3533	SAN No. 4047 Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts	2040-AD08
3534	SAN No. 4214 Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act	2040-AD34
3535	SAN No. 3444 Minimizing Adverse Environmental Impact from Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act	2040-AC34
3536	SAN No. 3663 Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution	2040-AC58
3537	SAN No. 3999 Revisions to NPDES Requirements for Compliance Reporting and Collection System Discharges	2040-AD02
3538	SAN No. 4051 Establishment of Electronic Reporting for NPDES Permittees	2040-AD11
3539	SAN No. 2804 Clean Water Act Definition of the Waters of the United States	2040-AB74
3540	SAN No. 3488 Standards for the Use or Disposal of Sewage Sludge (Round II)	2040-AC25

Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3541	SAN No. 2805 Effluent Guidelines and Standards for the Centralized Waste Treatment Industry	2040-AB78
3542	SAN No. 3209 Effluent Guidelines and Standards for the Industrial Laundries Point Source Category	2040-AB97
3543	SAN No. 3489 Effluent Guidelines and Standards for Landfills	2040-AC23
3544	SAN No. 3767 Reformatting of Effluent Guidelines and Standards in 40 CFR Parts 401 through 471	2040-AC79
3545	SAN No. 4041 Effluent Guidelines and Standards for Industrial Waste Combustors	2040-AD03

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Clean Water Act (CWA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3546	SAN No. 4039 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Incentives Amendment	2040-AD05
3547	SAN No. 4192 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment	2040-AD23
3548	SAN No. 3504 Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California	2040-AC44
3549	SAN No. 4195 Water Quality Standards for Alabama—Phase I	2040-AD25
3550	SAN No. 4193 Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance—Revision of Polychlorinated Biphenyls (PCBs) Criteria	2040-AD27
3551	SAN No. 3617 Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC63
3552	SAN No. 3701 Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act	2040-AC76
3553	SAN No. 3713 Performance Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures	2040-AC93
3554	SAN No. 3155 Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One	2040-AC95
3555	SAN No. 4048 Test Procedures for the Analysis of Mercury Under the Clean Water Act	2040-AD07
3556	SAN No. 3925 Uniform National Discharge Standards for Armed Forces Vessels—Phase I	2040-AC96
3557	SAN No. 2501 NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal	2040-AB39
3558	SAN No. 3762 NPDES Streamlining Rule—Round II	2040-AC70
3559	SAN No. 3785 NPDES Comprehensive Storm Water Phase II Regulations	2040-AC82
3560	SAN No. 3288 Comparison of Dredged Material to Reference Sediment	2040-AC14
3561	SAN No. 3497 Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One	2040-AC29

Clean Water Act (CWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3562	SAN No. 2806 Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2	2040-AB79
3563	SAN No. 3204 Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category	2040-AB98
3564	SAN No. 3833 Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category	2040-AC90
3565	SAN No. 4050 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II	2040-AD10
3566	SAN No. 4086 Revisions to Effluent Guidelines and Standards for Synthetic-Based Drilling Fluids in the Oil and Gas Extraction Point Source Category	2040-AD14
3567	SAN No. 4167 Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories	2040-AD21
3568	SAN No. 3661 Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance	2040-AC55
3569	SAN No. 3921 Selenium Criterion Maximum Concentration for Water Quality Guidance for the Great Lakes System	2040-AC97
3570	SAN No. 3618 Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC54
3571	SAN No. 3702 Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act	2040-AC75
3572	SAN No. 3714 Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring	2040-AC92
3573	SAN No. 4049 Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act	2040-AD09
3574	SAN No. 4089 Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two	2040-AD12
3575	SAN No. 3234 Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information	2040-AC26
3576	SAN No. 3786 NPDES Streamlining Rule—Round III	2040-AC84
3577	SAN No. 4207 Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two	2040-AC53
3578	SAN No. 3804 Streamlining 301(h) Waiver Renewal Requirements	2040-AC89

EPA

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3579	SAN No. 4212 Use of Screening Procedures for Compliance Monitoring of Drinking Water Contaminants	2040-AD31
3580	SAN No. 2281 National Primary Drinking Water Regulations: Radon	2040-AA94
3581	SAN No. 2340 National Primary Drinking Water Regulations: Ground Water Rule	2040-AA97
3582	SAN No. 2807 National Primary Drinking Water Regulations: Arsenic	2040-AB75
3583	SAN No. 4146 Filter Backwash Recycling Regulation	2040-AD17
3584	SAN No. 4147 Long Term 1 Enhanced Surface Water Treatment Rule	2040-AD18
3585	SAN No. 4009 Public Water System Public Notification Regulation	2040-AD06
3586	SAN No. 4131 Drinking Water Unregulated Contaminant Monitoring Program	2040-AD15

Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3587	SAN No. 4044 National Primary and Secondary Drinking Water Regulations: Analytical Methods for Certain Pesticides and Microbial Contaminants	2040-AD04
3588	SAN No. 4257 National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides	2040-AD29
3589	SAN No. 4221 National Primary Drinking Water Regulations: Analytical Methods for Microbial, Lead and Magnesium	2040-AD30
3590	SAN No. 3440 National Primary Drinking Water Regulations for Lead and Copper	2040-AC27
3591	SAN No. 3563 Reformatting of Drinking Water Regulations	2040-AC41
3592	SAN No. 3992 National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters	2040-AC98
3593	SAN No. 2778 Revisions to the Underground Injection Control Regulations for Class V Injection Wells	2040-AB83
3594	SAN No. 4152 Drinking Water State Revolving Fund Regulations	2040-AD20

Safe Drinking Water Act (SDWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3595	SAN No. 3176 National Primary Drinking Water Regulations: Sulfate	2040-AC07
3596	SAN No. 3238 National Primary Drinking Water Standards for Aldicarb	2040-AC13
3597	SAN No. 3761 Streamlining Drinking Water Monitoring Requirements	2040-AC73

Safe Drinking Water Act (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3598	SAN No. 2772 National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule	2040-AB82
3599	SAN No. 2304 National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule	2040-AC91

Marine Protection Research and Sanctuary Act (MPRSA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3600	SAN No. 2737 Revisions to Ocean Dumping Regulations for Dredged Material	2040-AB62

EPA

Shore Protection Act (SPA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3601	SAN No. 2820 Shore Protection Act, Section 4103(b) Regulations	2040-AB85

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

General

3166. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES IN PROCUREMENT UNDER ASSISTANCE AGREEMENTS

Priority: Other Significant

Legal Authority: PL 101-507; PL 102-389; PL 101-549 sec 1001; 42 USC 9605(f); PL 100-590; EO 12432; EO 12138; EO 11625

CFR Citation: 40 CFR 33

Legal Deadline: None

Abstract: The regulation will codify revisions to the Agency's program for the utilization of Small, Minority and Women's Business Enterprises in procurements under assistance agreements (i.e., grants and cooperative agreements awarded by EPA as well as grants and cooperative agreements awarded by other agencies under interagency agreements with EPA). The revisions are necessary to ensure consistency with the Supreme Court's decision in Adarand Constructors, Inc. v. Pena, 115 S.Ct. 2097 (1995), and were identified as part of the Administration's recent review of affirmative action programs. They include: 1) placing greater emphasis on requiring assistance agreement recipients to submit documentation supporting proposed fair share procurement objectives for Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) based on the availability of qualified MBEs and WBEs in the relevant geographic market; 2) authorizing or requiring recipients and their prime contractors to take reasonable race/gender-conscious measures (e.g. bidding credits) in the event that race/gender-neutral efforts prove inadequate to meet fair share objectives; and 3) administering statutory MBE/WBE objectives as a national goal, allowing smaller or larger fair share objectives for particular grants or cooperative agreements based on the availability standard.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4056

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RIN: 2020–AA39

3167. REWRITING OF EPA REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 40 CFR 2

Legal Deadline: None

Abstract: This document sets forth proposed revisions to the Agency's regulations under the Freedom of Information Act (FOIA). The FOIA regulations have been streamlined and condensed, in accordance with the principles of the National Performance Review, with more user-friendly language wherever possible. These revisions also reflect the principles established by President Clinton and Attorney General Reno in their FOIA Policy Memoranda of October 4, 1993. Additionally, the regulations have been updated to reflect developments in the case law and to include updated cost figures to be used in calculating and charging fees. These proposed revisions also contain new provisions implementing the Electronic Freedom of Information Act Amendments of 1996. These revisions will simplify and expedite responses to FOIA requests.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: SAN No. 4180

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RIN: 2020–AA40

3168. • CROSS-MEDIA ELECTRONIC REPORTING (ER) AND RECORDKEEPING RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: PL 105-277; PL 104-13

CFR Citation: None

Legal Deadline: None

Abstract: The Cross-Media Electronic Reporting (ER) and Recordkeeping Rule will provide a uniform legal framework for paperless ER, including electronic signature/certification, across all EPA's environmental compliance programs. The rule will both remove current legal requirements for "paper" that create obstacles to ER and provide for enforceable mechanisms to assure the legal validity and authenticity of electronic documents and associated electronic signatures, whether transmitted as reports or maintained as records. This rule is important because the legal and electronic signature issues remain the chief obstacle to implementation of ER, and affect the overall enforceability of environmental programs both federally and under state delegation/authorization. Also, the Government Paperwork Elimination Act of 1998 requirements and the Administrator's Reinventing Environmental Information (REI) Action Plan goal of universal ER availability by 2003 can only be met if this rulemaking has active participation by the AA-ships and moves on a fast track.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4270

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RIN: 2020–AA41

3169. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (STATE) GRANT REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-134; PL 105-65

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: This proposed regulation: (1) updates, clarifies, and streamlines requirements governing environmental program grants; (2) establishes requirements for the new Performance Partnership Grant (PPG) program; and (3) establishes requirements for grant programs that began after the original rule was published. (A regulation governing environmental program grants to Indian tribes and tribal consortia is published elsewhere in this issue of the Federal Register.)

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3736

Agency Contact: Scott McMoran, Environmental Protection Agency, Administration and Resources Management, 3903R, Washington, DC 20460
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RIN: 2030–AA55

3170. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (TRIBAL) GRANT RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-134; PL 105-65

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: This proposed regulation will: (1) update, clarify, and streamline requirements governing environmental program grants; (2) establish requirements for the new Performance Partnership Grant (PPG) program; and (3) establish requirements for grant programs that were developed after the original rule was published. (EPA is also issuing a regulation governing environmental program grants to State and Interstate agencies.)

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal, Federal

Additional Information: SAN No. 4128

Agency Contact: Maureen Ross, Environmental Protection Agency, Administration and Resources Management, 3903R, Washington, DC 20460
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RIN: 2030–AA56

3171. REVISION TO EPAAR 1552.211-73, LEVEL OF EFFORT

Priority: Info./Admin./Other

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1552

Legal Deadline: None

Abstract: This rule will revise EPAAR 1552.211-73, Level of Effort, to define more concisely the services being acquired, and to more accurately reflect the relationship between services provided and fee payments.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	10/00/99	

EPA—GENERAL

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4191

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RIN: 2030–AA64

3172. • INCORPORATING INFORMAL CLAUSES (EP) INTO THE EPAAR

Priority: Info./Admin./Other

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390, as amended

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rule is being promulgated to amend the EPAAR to incorporate Environmental Protection (EP) clauses into the EPAAR. There are a large number of EP clauses being used by contracting officers. This promulgation will capture those EP clauses that have not been submitted for public comment. Most of the EP clauses are used in contracts on a case-by-case basis. The contractor concurs with use of such clauses.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: SAN No. 4226

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RIN: 2030–AA66

3173. INCORPORATION OF CLASS DEVIATIONS INTO EPAAR

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: The Agency has approved a number of class deviations (e.g. changes to reporting requirements and monthly progress reports) to the EPAAR since its promulgation in April 1994. This proposed rule would incorporate most of the class deviations to the EPAAR.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3580

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RIN: 2030–AA37

3174. EPA MENTOR-PROTEGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1544; 48 CFR 1552

Legal Deadline: None

Abstract: This proposed rule will amend EPA's Acquisition Regulation (EPAAR) to establish a Mentor-Protege Program. Participating prime contractors serving as mentors will provide technical and managerial support to protege small disadvantaged business subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3629

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RIN: 2030–AA40

3175. INCREMENTALLY FUNDING FIXED PRICE CONTRACTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1532

Legal Deadline: None

Abstract: This proposed rule will add subpart 1532.7, Contract Funding, to the Environmental Protection Agency's Acquisition Regulation (EPAAR). It also will revise part 1552 of the EPAAR to include a clause for incrementally funding fixed price contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no

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paperwork burden associated with this action.

Additional Information: SAN No. 3876

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RIN: 2030–AA50

3176. REVISION OF EPA ACQUISITION REGULATIONS FOR QUALITY SYSTEMS FOR ENVIRONMENTAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1546.2

Legal Deadline: None

Abstract: EPA is updating the quality assurance requirements in its Acquisition Regulation (EPAAR). The Agency relies on environmental measurement data in many of its activities, including regulatory development, the application of regulations (e.g., permitting, enforcement actions), and research programs. The Agency must be ensured that the data are of appropriate type and quality to support the proposed use (that data meet the needs for rulemaking, enforcement action, etc.). The extramural community has been using the existing EPAAR QA requirements since 1984 and recognizes the need to update these requirements to reflect the current understanding of quality systems.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: SAN No. 3874

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RIN: 2030–AA51

3177. IMPLEMENTATION OF CHANGES TO 40 CFR PART 32

Priority: Info./Admin./Other

Legal Authority: EO 12549; EO 12689 and FASA

CFR Citation: 40 CFR 32

Legal Deadline: None

Abstract: Periodically OMB amends the Governmentwide Common Rule for suspension and debarment of contractors and assistance participants who threaten the integrity of Federal programs because of criminal misconduct or poor performance. All agencies must issue changes to their individual codified versions to conform to the Common Rule. Recently, the Interagency Suspension and Debarment Coordinating Committee prepared recommendations for comprehensive changes to the Common Rule to conform to changes made in the Federal Acquisition Regulation (FAR) as a result of the Federal Acquisition Streamlining Act (FASA). In addition, several other proposals to improve or change the rule were recommended by various agencies. In December 1996, OMB declined to implement the changes at that time due to differences with some agencies about some changes unrelated to those occasioned by FASA.

Among other things, FASA replaced the small purchase threshold ($25,000) with the simplified acquisition amount ($100,000). That change unintentionally exposed certain EPA programs to participation by contractors who may have been debarred for serious misconduct already. OMB has agreed to permit agencies to amend the coverage section of their individual agency rules to reduce or eliminate exposure to suspended or debarred persons.

EPA intends to issue a notice of proposed rulemaking to amend 40 CFR 32.110 to reduce EPA exposure to such consequences.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3817

This is an assistance-related statutory requirement. There is no paperwork burden associated with this action.

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RIN: 2030–AA48

3178. CONSOLIDATION OF GOOD LABORATORY PRACTICE STANDARDS (GLPS) REGULATIONS CURRENTLY UNDER TSCA AND FIFRA INTO ONE RULE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 15 USC 2601 et seq

CFR Citation: 40 CFR 160; 40 CFR 792

Legal Deadline: None

Abstract: On November 29, 1983, EPA published Good Laboratory Practice Standards (GLPS) regulations intended to help ensure data integrity for studies required to support marketing and research permits under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA). These rules were last amended on August 17, 1989. GLPS data integrity measures can be applied to a wide variety of scientific studies. Although the TSCA and FIFRA GLPS contain identical provisions, they were published as separate rules to account for statutory and program differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences of those programs without duplicating the entire GLP standard in two places.

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Proposed Rule Stage

This action is intended to consolidate EPA's GLPS into one rule. Program-specific requirements will be addressed in either separate sections of the consolidated rule, or in separate rules as is determined appropriate. This action is not intended to change the requirements, applicability, or enforceability of GLPS with respect to any statute.

EPA has received comments from stakeholders regarding the understandability of many aspects of the GLPS, and over the years has issued numerous clarifications. EPA believes that some clarifications, if included directly in the rule, would make the rule easier to understand and enhance compliance. Therefore, EPA intends to include such clarifications where appropriate in this rulemaking. Finally, in the interest of maintaining consistency between EPA's and Food and Drug Administration's regulations, EPA will determine any modifications that have occurred to the FDA GLP rule and consider incorporation of such changes into the EPA rule. This action will serve to reduce the total regulatory text in the Code of Federal Regulations by an estimated 10 pages, by consolidating 23 pages of text to approximately 13. In the process it will provide a generic GLP rule that may be used by other programs in the Agency.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3807

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RIN: 2020–AA26

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

General

3179. ELECTRONIC FUNDS TRANSFER

Priority: Other Significant

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1532.11

Legal Deadline: None

Abstract: This rule complies with the revised Federal Acquisition Regulations (FAR) coverage regarding implementation of the Debt Collection Improvement Act. Because the revised FAR offers choices in implementation, each agency must communicate with its vendor community its choices. This rule will let our vendor community know that EPA will require the use of FAR Clause 52.232-34, Payment by Electronic Funds Transfer (Non-CCR), as prescribed in FAR 32.1105(a)(2). Within the Clause, under (c) the payment office shall be inserted as the prescribed designated office. Further inserted shall be that the required EFT information shall be provided no later than 15 days prior to submission of the first request for payment.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4185

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RIN: 2030–AA57

3180. AGENCY PROTEST SOLICITATION NOTIFICATION

Priority: Other Significant

Legal Authority: 5 USC 301 Sec. 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1533; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will establish a solicitation notice regarding Agency protests in the EPA Acquisition Regulation. All solicitations currently contain a notice on how to protest an acquisition to the Agency. This notification is to be published in the EPAAR, since it affects parties outside the Agency.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4183

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RIN: 2030–AA58

3181. CONTRACTING BY NEGOTIATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 sec 205(c); 63 Stat 390 as amended

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Final Rule Stage

CFR Citation: 48 CFR 1503; 48 CFR 1515; 48 CFR 1552

Legal Deadline: None

Abstract: This rule is being promulgated to redesignate EPAAR subparts and sections for structural conformance with the FAR part 15 rewrite as published on September 30, 1997, and EPA implemented on December 19, 1997. The EPAAR is in substantive compliance, but requires extensive redesignation for structural conformance to the FAR. Also, EPAAR 1515 is of critical importance to the effective and efficient accomplishment of EPA acquisitions. The substance of EPAAR 1515 was published previously for public comment.

Timetable:

Action	Date	FR Cite
NPRM	12/28/98	63 FR 71415
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4184

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RIN: 2030–AA59

3182. EPAAR COVERAGE ON CONTRACTOR PERFORMANCE EVALUATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1509; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will establish a solicitation provision and contract clause in the EPA Acquisition Regulation to be used when evaluating contractor performance. The rule provides a uniform method for determining and recording the effectiveness of contractors in meeting contractual obligations. It also provides a systematic approach for identifying and maintaining records of contractors' performance histories. This rule will satisfy the Federal Acquisition Regulation requirements pertaining to the establishment of a past performance evaluation system.

Timetable:

Action	Date	FR Cite
NPRM	09/16/98	63 FR 49530
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4186

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RIN: 2030–AA61

3183. EPAAR COVERAGE ON LOCAL HIRING AND TRAINING

Priority: Other Significant

Legal Authority: 5 USC 301 sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1526; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will amend the EPA Acquisition Regulation (EPAAR) to include part 1526, Other Socioeconomic Programs, and to revise part 1552, Solicitation Provisions and Contract Clauses. The purpose is to provide an incentive for prime contractors to utilize local hiring and provide training to local hires in specific geographical locations where contractual requirements will be performed. This incentive will support economic development in areas where EPA contracts are performed.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67845
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4187

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RIN: 2030–AA62

3184. SERVICE CONTRACTING—AVOIDING IMPROPER PERSONAL SERVICES RELATIONSHIPS

Priority: Other Significant

Legal Authority: 5 USC 301 sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: This rule is being promulgated to amend the EPAAR to highlight the proper relationship between the Government and its contractors in nonpersonal services contracts. The Agency recognizes that regardless of the express terms of its contracts, if a contract is administered improperly, an improper personal services relationship may be the result. Accordingly, the Agency will use this rule to state the manner in which nonpersonal services contracts must be administered to avoid creating an improper employer-employee relationship.

Timetable:

Action	Date	FR Cite
NPRM	01/20/99	64 FR 3060
Final	06/00/99	

EPA—GENERAL

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4188

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RIN: 2030–AA63

3185. GUIDELINES FOR CARCINOGEN RISK ASSESSMENT

Priority: Info./Admin./Other

Legal Authority: Not applicable

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The Agency will use these guidelines to evaluate suspect carcinogens in line with the policies and procedures established in the statutes administered by the EPA. These guidelines revise and replace EPA Guidelines for Carcinogen Risk Assessment published at 51 FR 33992, September 24, 1986. These guidelines provide EPA staff and decision-makers with the directions and perspectives necessary to develop and use risk assessments. The guidelines also provide the general public with basic information about the Agency's approaches to risk assessment.

To develop guidelines the Agency must find a balance between consistency and innovation. Consistent risk assessments provide consistent bases to support regulatory decision-making. On the other hand, innovation is necessary so the Agency will base its decisions on current scientific thinking. In balancing these and other science policies, the Agency relies on input from the general scientific community through established scientific peer review processes. The guidelines incorporate basic principles and science policies based on evaluation of the currently available information. The revisions place increased emphasis on the role of carcinogenic mechanisms in risk assessment and clearer explication of underlying assumptions in risk assessment.

These guidelines will have minimal to no impact on small businesses or State, local, and tribal governments.

Timetable:

Action	Date	FR Cite
Reproposed Guidelines	04/23/96	61 FR 17960
Implementation Policy	06/25/96	61 FR 32799
Final Guidelines	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3671

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RIN: 2080–AA06

3186. AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136l; 15 USC 2615(a); 15 USC 2647; 33 USC 1319(g); 33 USC 1415(a); 33 USC 1418; 42 USC 6912; 42 USC 7413(d)(1); 42 USC 7601; 42 USC 7607(a); 42 USC 9609; 42 USC 11045; 42 USC 300g-3(b)

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: The Agency has proposed (February 25, 1998) amendments to the Consolidated Rules of Practice under 40 CFR part 22 which are the procedural rules used in administrative hearings and practice. These amendments will include technical corrections as well as substantive amendments. The proposed substantive amendments pertain to the handling and use of Confidential Business Information, burdens of proof, motion practice, cross appeals, and more.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9465
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2662

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RIN: 2020–AA13

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

General

3187. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 7 USC 136 et seq; 33 USC 1251 et seq; 42 USC 300f et seq; 42 USC 6901 et seq; 42 USC 7401 et seq; 42 USC 9601 et seq; 42 USC 11001 et seq; 15 USC 2601 et seq; 42 USC 4912; 33 USC 1414; 21 USC 346; 15 USC 2005

CFR Citation: 40 CFR 2; 40 CFR 57; 40 CFR 122; 40 CFR 123; 40 CFR 145; 40 CFR 233; 40 CFR 260; 40 CFR 270; 40 CFR 271; 40 CFR 281; 40 CFR 350; 40 CFR 403; 40 CFR 85; 40 CFR 86

Legal Deadline: None

Abstract: EPA regulations at 40 CFR part 2, subpart B, provide procedures for handling and disclosing information claimed as CBI. Although these regulations have succeeded in protecting business information, changes in Agency workload, practice, and statutory authority have outstripped the ability of these

regulations to cut down on unnecessary procedures, expedite activities involving confidential business information, and simplify the regulations. In addition, EPA would consolidate confidentiality provisions from other parts of 40 CFR.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60446
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3240

Agency Contact: Alan Margolis, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2379, Washington, DC 20460
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RIN: 2020–AA21

3188. ENVIRONMENTAL IMPACT ASSESSMENT OF NONGOVERNMENTAL ACTIVITIES IN ANTARCTICA

Priority: Other Significant

Legal Authority: 16 USC 2401 et seq, as amended; 16 USC 2403a; PL 104-227

CFR Citation: 40 CFR 8

Legal Deadline:

Final, Statutory, October 2, 1998.

Abstract: The purpose of this action is to develop regulations for: (1) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty and (2) coordination of the review of information regarding environmental impact assessment received by the United States from other parties under the Protocol on Environmental Protection. The Office of Federal Activities (OECA/OFA) will use the decisionmaking process of the National Environmental Policy Act (NEPA) to analyze the environmental setting; the types of nongovernmental activities, including tourism, to be addressed by the regulations; their potential for impact; and the alternatives available under rulemaking for environmental impact assessments for nongovernmental activities. An interim final rule, 40 CFR part 8, promulgated April 30, 1997, and on July 15, 1998 extended through the 2000-2001 austral summer, will be replaced by a final rule. The interim final rule was effective immediately so that the U.S. could ratify the Protocol and implement its obligations under the Protocol as soon as it entered into force. These rules are being developed in coordination with other Federal agencies with specific interests in and expertise with Antarctica including the Department of State, National Science Foundation, National Oceanic and Atmospheric Administration, U.S. Coast Guard, Marine Mammal Commission, Department of Justice, and the Council on Environmental Quality.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/97	62 FR 23538
Extension of Effective Date Interim Rule	04/15/98	63 FR 18323
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: SAN No. 3933

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RIN: 2020–AA34

ENVIRONMENTAL PROTECTION AGENCY (EPA) Completed Actions

General

3189. • ACQUISITION REGULATION: TYPES OF CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 63 Stat 390 as amended

CFR Citation: 48 CFR 1516; 48 CFR 1552

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) is issuing this proposed rule to amend the EPA Acquisition Regulation (EPAAR) (48 CFR Chapter 15) to extend the fee limitations imposed at FAR 15.404(c)(4)(i) to cost-plus-award fee and cost-plus incentive fee contracts. EPA has determined that its contracting officers shall not negotiate a price or maximum fee on cost- plus-award fee contracts or cost-plus incentive fee contracts that exceeds the following statutory limitations, imposed for cost-plus-fixed fee contracts by 41 USC 254(b): (1) For experimental, developmental, or research work performed under a cost-plus-award fee or cost-plus incentive fee contract, the maximum fee shall not exceed 15 percent of the contract's estimated costs, excluding fee. (2) For architect-engineering services for public works or utilities, the contract price or the estimated cost and fee for production and delivery of designs, plans, drawings, and specifications shall not exceed 6 percent of the estimated cost of the construction of the public work or utility, excluding fee. (3) For other cost-plus-award fee or cost-plus incentive fee contracts, the maximum fee shall not exceed 10 percent of the contract's estimated cost, excluding fee. Additionally, this rule provides revised references to parallel Federal Acquisition changes.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/26/99	64 FR 3875

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

EPA—GENERAL

Completed Actions

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4215

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RIN: 2030–AA65

3190. REGULATIONS GOVERNING AWARDS UNDER SECTION 113(F) OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 65

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans No Further Action.	02/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2020–AA31

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Clean Air Act (CAA)

3191. • CONTROL OF HIGHWAY DIESEL FUEL QUALITY: ADVANCE NOTICE OF PROPOSED RULEMAKING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545(c)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This is an Advance Notice of Proposed Rulemaking which will seek comment on a range of issues involved in possible future regulation of pollutants in diesel fuel.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4268

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RIN: 2060–AI32

3192. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Priority: Other Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: Clean Air Act

CFR Citation: 40 CFR 50; 40 CFR 51; 40 CFR 52; 40 CFR 81

Legal Deadline: None

Abstract: EPA issued new, updated air quality standards for ozone (62 FR 38856) and particulate matter (PM) (62 FR 38652). Pursuant to President Clinton's implementation strategy as outlined in a July 16, 1997 memorandum to EPA Administrator Carol Browner, EPA is developing guidance and rules for sensibly and cost-effectively meeting the new standards. EPA is publishing guidance and rules in 1998 and 1999. For ozone, the implementation plan will emphasize a regional, State-sponsored approach that addresses the long-distance transport of ozone. On October 27, 1998, EPA published a final rule (sometimes referred to as the NOx SIP Call) to require broad regional emissions reductions of NOx gases which contribute to the formation of ozone (63 FR 57356, October 27, 1998). In order to help areas covered by EPA's regional plan avoid burdensome measures associated with noncompliance, EPA will create a new transitional classification. Areas that attain the 1-hour standard but not the new 8-hour standard as of the time EPA promulgates designations for the 8-hour standard could obtain this new classification if they participate in a regional strategy and/or opt to submit early plans addressing the new 8-hour standard. Because many areas will need little or no additional new local emission reductions to reach attainment, beyond the reductions that will be achieved through the regional control strategy, and will come into attainment earlier than otherwise required, EPA will exercise its discretion under the law to eliminate unnecessary local planning requirements for such areas. EPA will revise its rules for new source review (NSR) and conformity so that States will be able to comply with only minor revisions to their existing programs in areas classified as transitional. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/13/96	61 FR 65764
Notice Proposed Policy	12/13/96	61 FR 65752
NPRM Regional Haze	07/31/97	62 FR 41138
Notice Review Schedule for PM2.5 Standard	10/23/97	62 FR 55201
NPRM NOx Regional Strategy SIP Call	11/07/97	62 FR 60318
Supplemental NPRM NOx SIP Call Supplemental NPRM	05/11/98	63 FR 25902
Final Rule Areas meeting 1-hour ozone standard	06/05/98	63 FR 31013
Final Rule Additional areas meeting 1-hour ozone standard	07/22/98	63 FR 39432
Final Rule NOx Regional Strategy SIP Call	10/27/98	63 FR 57356
Draft Guidance Implementation Planning	11/17/98	63 FR 65593
ANPRM Extension of Attainment Dates for Downwind Transport Areas	04/00/99	
NPRM 172e Antibacksliding for PM10	04/00/99	
NPRM NSR for Transitional Areas	05/00/99	

EPA—CAA

Prerule Stage

Action	Date	FR Cite
Final Guidance Implementation Planning	05/00/99	
Final Rule Regional Haze	05/00/99	
Final Rule 172e Antibacksliding for PM10	09/00/99	
Final Rule Conformity for Transitional Areas	10/00/99	
Final Rule NSR for Transitional Areas	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3553

ABSTRACT CONT: In a final rule promulgated on June 5, 1998, EPA identified areas that have air quality meeting the 1-hour ozone standard and revoked that standard for those areas (63 FR 31013, June 5, 1998). A subsequent final rule for additional ozone areas attaining the 1-hour standard was promulgated on July 22, 1998 (63 FR 39432).

For PM10, EPA revised the set of standards that had existed since 1987. Given that health effects from coarse particles are still of concern, the overall goal during this transition period is to ensure that PM10 control measures remain in place to maintain the progress that has been achieved toward attainment of the PM10 NAAQS (progress which also provides benefits for PM2.5) and protection of public health. To ensure that this goal is met, the pre-existing PM10 NAAQS will continue to apply until certain critical actions by EPA and by States and local agencies have been taken to sustain the progress already made. For areas not attaining the existing PM10 NAAQS when the revised standards go into effect, those existing standards remain in effect until EPA has completed a section 172(e) rulemaking to prevent backsliding. EPA will propose this rulemaking in the spring of 1998. For areas attaining the pre-existing PM10 NAAQS, EPA will retain that standard until the State submits and EPA approves the section 110 SIP which States are required to submit within 3 years of a NAAQS revision. Once those areas have an approved SIP, EPA will take action so that the pre-existing PM10 standard no longer applies. In addition, EPA will take action within 3 years to designate areas for the revised PM10 standards.

EPA's approach to addressing regional haze was proposed concurrently with the promulgation of the final ozone and PM NAAQS. EPA plans to promulgate the regional haze rulemaking in the Spring of 1999.

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RIN: 2060–AF34

3193. PROTECTION OF STRATOSPHERIC OZONE: ALLOWANCE SYSTEM FOR CONTROLLING HCFC PRODUCTION, IMPORT & EXPORT

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 82.8

Legal Deadline: None

Abstract: This action will begin with development of an ANPRM which will outline a variety of options under which the Stratospheric Protection Division could develop and implement an allowance distribution system for HCFCs, and request comment on which options would be most appropriate. SPD currently oversees an allowance allocation system for the class I ozone-depleting substances. A class II allowance distribution system had not been required, because of the early estimates that the U.S. would not reach its HCFC production and consumption cap imposed by the Montreal Protocol in the near future. As people phase out of class I substances, the demand for HCFCs has increased, as has the production and importation to meet that demand. As a consequence, EPA is exploring potential options for an allowance distribution system that would ensure that the U.S. does not violate its HCFC cap under the Montreal Protocol.

Timetable:

Action	Date	FR Cite
ANPRM	04/05/99	64 FR 16373
ANPRM Comment Period End	06/04/99	
NPRM	11/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4120

Additional deadline: Montreal Protocol. The Protocol requires compliance with a formulary cap of all Parties' consumption of HCFCs.

The ANPRM is available on the Internet at:

http://www.epa.gov/fedrgstr/EPA-AIR/1999/April/Day-05/a8258.htm

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RIN: 2060–AH67

3194. PROTECTION OF STRATOSPHERIC OZONE: UPDATE OF THE SUBSTITUTES LIST UNDER THE SIGNIFICANT NEW ALTERNATIVES POLICY (SNAP) PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671k CAA sec 612

CFR Citation: 40 CFR 9; 40 CFR 82

Legal Deadline: None

Abstract: Section 612 of the Clean Air Act requires EPA to identify alternatives to Class I and II ozone depleting substances and to publish lists of acceptable and unacceptable substitutes. Producers of substitutes must notify EPA at least 90 days before alternatives are introduced into interstate commerce. Unlike acceptable alternatives (see Notices), substitutes which are deemed by EPA to be unacceptable or acceptable subject to use restrictions must go through notice and comment rulemaking. Substitute lists are updated intermittently depending on the volume of notifications.

EPA—CAA **Prerule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	01/16/92	57 FR 1984
NPRM	05/12/93	58 FR 28094
Final Rule	03/18/94	59 FR 13044
Notice	08/26/94	59 FR 44240
NPRM	09/26/94	59 FR 49108
Notice	01/13/95	60 FR 3318
Final Rule	06/13/95	60 FR 31092
Notice	07/28/95	60 FR 38729
NPRM	10/02/95	60 FR 51383
Notice	02/08/96	61 FR 4736
NPRM	05/22/96	61 FR 25604
Final Rule	05/22/96	61 FR 25585
Notice	09/05/96	61 FR 47012
Final Rule	10/16/96	61 FR 54030
Notice	03/10/97	62 FR 10700
NPRM	05/21/97	62 FR 27874
Notice	06/03/97	62 FR 30275
NPRM	02/03/98	63 FR 5491
Notice	02/24/98	63 FR 9151
Notice	05/22/98	63 FR 28251
Notice 10	01/21/99	64 FR 3296
Interim Final Rule	01/26/99	64 FR 3861
Interim Final Rule	01/26/99	64 FR 3865
NPRM	02/18/99	64 FR 8038
NPRM	02/28/99	64 FR 8038
ANPRM	04/00/99	
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3525 (Generic SAN)

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RIN: 2060–AG12

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Clean Air Act (CAA)

3195. NESHAP: CARBON BLACK PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The purpose of this action is to develop a Maximum Achievable Control Technology (MACT) Standard for the production of carbon black. The Clean Air Amendments of 1990 require this action to be promulgated by November 15, 2000. The production of carbon black results in the release to the air of three hazardous air pollutants (HAPs) identified by the Act: carbon disulfide, carbonyl sulfide, and hydrogen cyanide. Health effects of these chemicals include acute effects such as nausea, headache, increased rate of respiration, eye and skin irritation and other effects. Chronic effects can include cardiovascular and respiratory effects. Additionally carbon disulfide has been observed to cause reproductive effects such as congenital malformations, embryotoxicity, and functional and behavioral disturbances in animal studies. Carbon black is widely used as a reinforcing agent for rubber. It is also used as a colorant for printing ink, painting, paper and plastics. By far the largest use of carbon black is in the manufacture of automotive tires. There are 21 carbon black facilities in the Nation. Carbon black is manufactured by burning hydrocarbons in a limited supply of air. This produces a black smoke containing extremely small carbon black particles which can be separated from the combustion gases to form a fluffy powder of intense blackness.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 325182 Carbon Black Manufacturing

Additional Information: SAN No. 4105

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RIN: 2060–AH68

3196. ALUMINA PROCESSING NESHAP

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The CAA required the EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emissions standards for each of the listed categories of HAP emissions sources. The standards are to be technology based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the alumina processing industry may be reasonably expected to emit one of the pollutants listed in section 112(b) of the CAA. As a consequence, the source category is included on the initial list of HAP emitting categories scheduled for standards promulgation within 10 years of enactment of the CAA Amendments of 1990. The purpose of this action is to pursue a regulatory development program such that emissions standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

EPA—CAA

Proposed Rule Stage

Additional Information: SAN No. 4110

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RIN: 2060–AH70

3197. CONTROL OF EMISSIONS OF AIR POLLUTION FROM 2004 AND LATER MODEL YEAR HIGHWAY HEAVY-DUTY DIESEL ENGINES

Priority: Other Significant

Legal Authority: 42 USC 7401 to 7601; 42 USC 7521

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will focus on the emission standards and related requirements for control of air pollution from 2004 and later model year highway heavy-duty engines. It will include an assessment of the feasibility of the requirements for these engines promulgated in 1997 plus further consideration of a number of issues left open in the rule including potential diesel fuel changes, diesel particulate control, and other initiatives to control emissions in use.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4043

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RIN: 2060–AI12

3198. CONFORMITY PILOT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7671g

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: This action would approve the conformity procedures developed by an area that has been selected to participate in the transportation conformity pilot program. Because EPA may select up to six areas to participate in the pilot program, there may be six separate approval actions. These approval actions will be in the form of conformity SIP approvals.

The purpose and anticipated impact of the pilot program itself were discussed in the rulemaking that established the pilot program. See Transportation Conformity Rule Amendment and Solicitation for Participation in the Conformity Pilot Program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4148

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RIN: 2060–AI14

3199. • HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS—FEDERAL PLAN (FEDERAL PLAN FOR EXISTING HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS)

Priority: Substantive, Nonsignificant

Legal Authority: CAA sections 111, 129 and 301(a)(d)

CFR Citation: 40 CFR 60.27

Legal Deadline:
Final, Statutory, September 30, 1999, CAA Section 129(b)(3).

Abstract: The Clean Air Act Amendments of 1990 directed the Environmental Protection Agency (EPA) to set emission guidelines for existing incinerators combusting hospital waste, medical waste, and infectious waste under sections 111 and 129. On 9/15/97, the EPA promulgated emission guidelines for Hospital/Medical/Infectious Waste Incinerators (HMIWI) under the authority of section 111(d) and section 129 of the Clean Air Act (see 62 FR 48348). This action is a follow-on activity to the 1997 HMIWI rulemaking which applies to existing HMIWI. In accordance with section 129, States with affected sources must submit a State Plan by 9/15/98 describing how the State will implement the emission guidelines for existing HMIWI. In this proposed HMIWI Federal Plan rulemaking, EPA becomes the implementing authority in those instances where the State or local agency has failed to submit a plan or a plan has not yet been approved. Therefore, consistent with section 129(b)(3) of the Act, EPA is proposing a plan that applies to HMIWI in any State, tribe or locale that has not submitted an approvable plan within the time allotted. This action makes no changes to the requirements in the 1997 rule, and is intended to fulfill EPA's duty under section 129(b)(3) to promulgate a Federal Plan as a gap-filling measure until the State fulfills its statutory obligations. When the State submits an approvable State Plan, the Federal Plan will no longer apply to units in that State.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 6214 Outpatient Care Centers; 6219 Other Ambulatory Health Care Services; 622 Hospitals; 6212 Offices of Dentists

Additional Information: SAN No. 4219

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EPA—CAA

Proposed Rule Stage

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RIN: 2060–AI25

3200. • CONSUMER AND COMMERCIAL PRODUCTS: REVISED SCHEDULE FOR REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511b(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action revises the schedule for issuance of standards under section 183(e) of the Act for 4 product categories listed in the initial schedule for regulation. Regulation of 4 product categories will be delayed until 2003 from their present schedules for regulation in 1997 and 1999. The products with new schedules for regulation are: (1) Aerosol spray paints; (2) lithographic printing materials; (3) industrial cleaning solvents; and (4) flat wood paneling coatings. These changes to the regulatory schedule are necessary to improve workload management and to coordinate better with other regulatory activities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 324199 All Other Petroleum and Coal Products Manufacturing; 3255 Paint, Coating, Adhesive, and Sealant Manufacturing

Additional Information: SAN No. 4246

This action revises the schedule for regulation of consumer and commercial products under section 183(e) of the Clean Air Act. This is a list maintenance activity and is being done to reduce the risk of litigation over failure to meet a statutory deadline.

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RIN: 2060–AI30

3201. • CONTROL OF EMISSIONS OF AIR POLLUTION FROM NEW COMPRESSION-IGNITION AND SPARK-IGNITION RECREATIONAL MARINE ENGINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7547(a)

CFR Citation: 40 CFR 94

Legal Deadline:
NPRM, Judicial, November 23, 1999.
Final, Judicial, October 31, 2000.

Abstract: This NPRM will establish numerical emission limits for compression-ignition and spark-ignition engines used on marine recreational vessels. This action will complete EPA's emission control program for marine engines (commercial engines and spark-ignition outboard and personal watercraft engines are covered in separate rules).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Sectors Affected: 3366 Ship and Boat Building; 3336 Engine, Turbine, and Power Transmission Equipment Manufacturing

Additional Information: SAN No. 4251

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RIN: 2060–AI36

3202. • NO BACKSLIDING RULE FOR PM-10 NONATTAINMENT AREAS

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action is intended to establish a rule (pursuant to section 172(e)) concerning no relaxation of PM-10 control measures in existing PM-10 nonattainment areas during the interim period before the implementation of the new NAAQS for Particulate Matter. The rule will help to maintain the current level of health protection by ensuring that the current controls for PM-10 continue to be enforced.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3961

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RIN: 2060–AI39

3203. • PROTECTION OF STRATOSPHERIC OZONE: AMENDMENT TO HALON USE, HALON TECHNICIAN TRAINING, AND HALON AND HALON-CONTAINING EQUIPMENT DISPOSAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671-7671q

CFR Citation: 40 CFR 82.250 to 82.270

Legal Deadline: None

Abstract: EPA promulgated a final rule (63 FR 11084, March 5, 1998) concerning numerous aspects of the handling and processing of halons, a group of gaseous or easily vaporized hydrocarbons that are used in a wide range of fire and explosion protection applications. Halons are Class I ozone-depleting substances regulated under Title VI of the Clean Air Act (Act). Following publication of this rule, members of the regulated community and other stakeholders requested clarifications to two technical provisions of this rule, and other, editorial, clarifications. The two technical clarifications relate to (1) EPA's requirements regarding the efficiency of equipment used during halon recovery and recycling activities,

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and (2) EPA's requirements regarding technician training. SPD therefore will consider adding substantive or editorial clarifications, and/or additional preamble discussion, to address these issues. These changes are expected to be fully consistent with the original scope and intent of the March 5, 1998 regulation. By providing greater clarity and specificity to the requirements as requested by members of the regulated community and other stakeholders, EPA will better ensure achievement of the environmental objectives of this action.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 333319 Other Commercial and Service Industry Machinery Manufacturing; 5617 Services to Buildings and Dwellings

Additional Information: SAN No. 4252

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RIN: 2060–AI40

3204. • PROTECTION OF STRATOSPHERIC OZONE: PROCESS FOR EXEMPTING QUARANTINE AND PRESHIPMENT METHYL BROMIDE USED IN THE UNITED STATES AND BASELINE ADJUSTMENTS

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7671-7671(q)

CFR Citation: 40 CFR 82.1 to 82.13

Legal Deadline: None

Abstract: EPA is proposing a revision to the accelerated phaseout regulations that govern the production, import, export, transformation and destruction of substances that deplete the ozone layer under the authority of Title VI of the Clean Air Act Amendments of 1990 (CAA or the Act). The proposed amendment will reflect U.S. obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). EPA recognizes the expressed intent of Congress in recent changes to the Clean Air Act that direct EPA to conform the U.S. phasedown schedule to the Protocol's schedule for developed nations. With this action, EPA is proposing a process that would exempt quantities of methyl bromide used in the U.S. for quarantine and preshipment from the phaseout schedule and propose adjustments to the existing methyl bromide baseline.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 115114 Postharvest Crop Activities (except Cotton Ginning); 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 4253

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RIN: 2060–AI42

3205. • REVISION TO THE DEFINITION OF VOLATILE ORGANIC COMPOUND (VOC) TO EXCLUDE TERTIARY BUTYL ACETATE

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Title I

CFR Citation: 40 CFR 51.100(s)

Legal Deadline: None

Abstract: The definition of VOC is proposed to be revised to add tertiary butyl acetate to the list of negligibly reactive compounds. This is a deregulatory action that will remove tertiary butyl acetate from the necessity to be controlled as a VOC in SIPs for attaining the ozone standard. This is not expected to have a significant impact on small businesses or local governments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4254

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RIN: 2060–AI45

3206. • REVISIONS TO AIR POLLUTION EMERGENCY EPISODE REQUIREMENTS (SUBPART H, 40 CFR PART 51)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)(G); 42 USC 7603

CFR Citation: 40 CFR 51.150 to 51.153; 40 CFR 51 Appendix L

Legal Deadline: None

Abstract: 40 CFR part 51.150-51.153 require States to have contingency plans to prevent air pollution levels from reaching the significant harm level (SHL) for CO, O3, SO2, NOx, and PM. Appendix L provides example guidance to the States on appropriate courses of action to take at each episode stage (i.e., alert, warning, and emergency) to ensure the SHL is not reached. These requirements were developed in the 1970's, based on the NAAQS from that era. Since that time, ambient air quality levels have decreased nationwide. Today, many areas/sources that no longer need episode plans must still develop them. This rule would update and simplify the criteria used to determine which areas would require episode plans. Areas with no more than one exceedance of the Alert level over the past 5 years would not need to develop emergency episode plans. Sources with the potential to cause exceedances of the SHL due to a process/control equipment malfunction would need to develop source contingency plans to prevent (and to respond to) such malfunctions. Appendix L would also be revised to reflect the revised program

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requirements. The result will be a sensible, credible program replacing an outdated, ignored program. While minor SIP revisions may be needed, these could be included with SIP overhauls resulting from the NAAQS revisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4247

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RIN: 2060–AI47

3207. PERFORMANCE WARRANTY AND INSPECTION/MAINTENANCE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes a new short test procedure for use in I/M programs required by the Clean Air Act Amendments of 1990. Vehicles that are tested and failed using this procedure and that meet eligibility requirements established by the act would be eligible for free warranty repair from the manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3263

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RIN: 2060–AE20

3208. INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511(A)(2)(b); 42 USC 7511(A)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M programs to establish a program to ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3262

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RIN: 2060–AE22

3209. METHOD 301: FIELD VALIDATION OF POLLUTION MEASUREMENT METHODS FOR VARIOUS MEDIA; REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; PL 101-549; 42 USC 7410 et seq

CFR Citation: 40 CFR 60; 40 CFR 63

Legal Deadline: None

Abstract: After promulgation of Method 301, questions were raised about the statistical calculations and the procedure for determining the quality of the data. This rule will clarify those rule provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: SAN No. 3407

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RIN: 2060–AF00

3210. NESHAP: FERROALLOY PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412/CAA 112; 44 USC 350 et seq (PRA); 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that two plants in the ferroalloy production industry are major sources for one or more hazardous air pollutants. As a consequence, production facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41508
Supplemental NPRM	04/00/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: SAN No. 3082

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RIN: 2060–AF29

3211. FEDERAL IMPLEMENTATION PLAN TO CONTROL EMISSIONS FROM TWO POWER STATIONS LOCATED ON NAVAJO NATION LANDS

Priority: Other Significant

Legal Authority: 42 USC 1740

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Navajo generating station and the Four Corners Plant, respectively. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3569

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RIN: 2060–AF42

3212. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Priority: Other Significant

Legal Authority: Energy Policy Act sec 801

CFR Citation: 40 CFR 197

Legal Deadline:
NPRM, Statutory, August 1, 1996.

Abstract: This rulemaking is in response to section 801 of the Energy Policy Act of 1992 which directs the Administrator to promulgate public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site. The only regulated entity is the U.S. Department of Energy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3568

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RIN: 2060–AG14

3213. NSPS: SEWAGE SLUDGE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 to 7626

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This source category is subject to regulation by November 2000 under the Clean Air Act. The Agency is currently considering which regulatory authorities may be most appropriate for this source category, including the Clean Air Act and section 405(d) of the Clean Water Act.

Timetable:

Action	Date	FR Cite
ANPRM	01/14/97	62 FR 1868
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Sectors Affected: 22132 Sewage Treatment Facilities

Additional Information: SAN No. 3819

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RIN: 2060–AG50

3214. NESHAP: PLYWOOD AND PARTICLEBOARD MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7412(d)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (NESHAP) by establishing maximum achievable control technology (MACT) for facilities manufacturing wood panels and engineered wood products. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, the drying of wood and binders. The scope of the affected source category has not been determined; however, this rule is anticipated to apply to the manufacture of products involving wood and some kind of binder or bonding agent. This project may include, but is not limited to, facilities that manufacture waferboard, hardboard fiber board (MDF), oriented strandboard (OSB), medium density fiberboard, particleboard, strawboard, hardwood and softwood plywood, glue-laminated lumber, laminated veneer lumber, and engineered wood products. The

plywood and particleboard source category may also include lumber drying kilns at sawmills which are located on the same site as a facility that manufactures any of the wood products mentioned above. The project may also include some coatings operations. The name of the source category is being changed to better reflect how the industry refers to themselves. The new name for the source category will be plywood and composite wood products. This project commenced October 1997.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: 32192 Wood Container and Pallet Manufacturing

Additional Information: SAN No. 3820

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RIN: 2060–AG52

3215. NESHAP: MISCELLANEOUS CELLULOSE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (NESHAPs) by establishing maximum achievable control technology (MACT) for facilities manufacturing cellulose ether, carboxymethyl cellulose, methyl cellulose, cellulose food casing, producing rayon, and producing cellophane. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, product washing operations, material storage tanks, and film drying. The scope of the rule has not been determined. This project started in the spring of 1997. Data gathering efforts will continue through 1998. That work will be followed by development of a regulatory package to propose and promulgate a MACT standard.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 325221 Cellulosic Organic Fiber Manufacturing; 326113 Unsupported Plastics Film and Sheet (except Packaging) Manufacturing

Additional Information: SAN No. 3970

Project combined with SAN 3963

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RIN: 2060–AH11

3216. NESHAP: MUNICIPAL SOLID WASTE LANDFILLS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (HAP) by establishing maximum achievable control technology (MACT) for municipal solid waste landfills. MACT standards are under development to reduce the release of HAP from all industries to protect the public health and environment. The scope of the rule has not been determined. This project is now scheduled to start in fiscal year 1998. The initial stage of this project is to gather preliminary information on landfills to establish a presumptive MACT. That work will be followed by development of a regulatory package to propose and promulgate a MACT standard.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Sectors Affected: 92411 Air and Water Resource and Solid Waste Management; 562212 Solid Waste Landfill

Additional Information: SAN No. 3969

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RIN: 2060–AH13

3217. STORAGE TANK RULE REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671

CFR Citation: 40 CFR 60 (Revision); 40 CFR 61 (Revision); 40 CFR 63 (Revision); 40 CFR 264 (Revision); 40 CFR 265 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to revise storage tank air regulations in several parts of title 40 of the CFR. Such revisions include rule corrections, the addition of test methods, and the elimination of some recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Sectors Affected: 32411 Petroleum Refineries; 32511 Petrochemical Manufacturing; 325193 Ethyl Alcohol Manufacturing

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Additional Information: SAN No. 3966

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RIN: 2060–AH15

3218. CONSOLIDATED EMISSION REPORTING RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)

CFR Citation: 12 CFR 120.2(d)(4); 40 CFR 51.321 to 51.323

Legal Deadline: None

Abstract: Three sections of the Clean Air Act and its amendments require State agencies to report emission estimates to EPA. Some of these sections contain obsolete wording, inconsistent instructions, and duplicate reporting requirements. This rule will consolidate the requirements into one area, eliminate obsolete wording, eliminate duplicate reporting requirements, and provide options for collecting and reporting data. There will be no impact on small businesses. State agencies will continue to report the same or reduced amounts of data to EPA. The rule will provide for flexibility in collecting and reporting data. There will be no effect on local agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Rule	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3986

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RIN: 2060–AH25

3219. TRANSPORTATION CONFORMITY RULE AMENDMENT: CLARIFICATION OF TRADING PROVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 to 7671 CAA sec 176(c)

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The transportation conformity rule, promulgated in November 1993, ensures that transportation and air quality planning are consistent with Clean Air Act air quality standards. The Open Market Trading Guidance provides guidance to states for establishing a method to quantify emissions reductions (called discrete emissions reductions or DERs) that can be traded among parties and how such trading should occur. This action will amend the transportation conformity rule to clarify how emissions trading could be reconciled in the conformity process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local, Federal

Additional Information: SAN No. 3917

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RIN: 2060–AH31

3220. STREAMLINED EVAPORATIVE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86 (Revision)

Legal Deadline: None

Abstract: This action will streamline the test procedure used to establish compliance with evaporative emission requirements for light duty vehicles and trucks. The current test procedure requires both two and three day diurnal emission tests; as well as running lost testing. The revisions will delete the three day requirement and add flexibilities for running loss compliance. This will enable manufacturers to save significant resources without any loss in environmental benefits.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3910

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RIN: 2060–AH34

3221. REVISIONS TO NEW SOURCE REVIEW (NSR) REGULATIONS TO IMPLEMENT THE NEW NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) FOR OZONE

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline: None

Abstract: The Clean Air Act requires that construction permit programs for new or modified major stationary sources of air pollution be established for areas not attaining the NAAQS. Regulations setting forth requirements for State and Federal permitting programs are found at 40 CFR 51.160-166 and 52.21 and 52.24, respectively.

The proposed regulations implement preconstruction permit requirements for new and modified major stationary sources locating in areas that do not meet the new, 8-hour NAAQS for ozone, but do meet the 1-hour ozone standard. The rules are intended to implement the major NSR provisions in a flexible, common sense, cost-effective, and non-burdensome manner by allowing States with these nonattainment areas to make minimal changes to their existing major preconstructed permit programs in their

State implementation plans. The EPA will continue to work with other Federal agencies, State and local governments, small businesses, industry, and environmental and public health groups to develop the requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4046

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RIN: 2060–AH53

3222. NESHAP: COKE OVENS: PUSHING, QUENCHING, AND BATTERY STACKS

Priority: Other Significant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: There are currently 25 active domestic coke plants, 20 of which are furnace coke plants and 5 of which are foundry coke plants. Coke oven batteries used to produce metallurgical coke at these plants emit hazardous air pollutants (HAPs) such as coke oven emissions and polycyclic organic matter listed in section 112 of the Clean Air Act (CAA).

This action will establish a National Emission Standard for Hazardous Air Pollutants (NESHAP) for three specific operations associated with coke ovens, namely pushing, quenching, and battery stacks.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 324199 All Other Petroleum and Coal Products Manufacturing; 331111 Iron and Steel Mills

Additional Information: SAN No. 4022

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RIN: 2060–AH55

3223. FINAL RULE TO AMEND THE NATIONAL EMISSION STANDARDS FOR MAGNETIC TAPE MANUFACTURING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.703(c)(4); 40 CFR 63.705

Legal Deadline: None

Abstract: The EPA is amending the promulgated national emission standards for hazardous air pollutants (NESHAP) for Magnetic Tape Manufacturing to include an additional compliance option for facilities that choose to control their coatings operation to a hazardous air pollutant (HAP) reduction efficiency greater than 95% by weight. In the currently promulgated standard, compliance options are provided whereby a facility operator may choose to control HAP emissions from all coating operations by an overall HAP control efficiency of at least 97%, 98% or 99%, in lieu of controlling 10, 15, or 20 HAP solvent storage tanks, respectively. This amendment would provide a further option that a facility operator controlling the coating operations by one of those higher control efficiencies could choose to leave uncontrolled certain combinations of storage tanks and/or pieces of mix preparation equipment.

Timetable:

Action	Date	FR Cite
NPRM	04/09/99	64 FR 17465
Direct Final Rule	04/09/99	64 FR 17459
NPRM Comment Period End	05/10/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4106

The NPRM is available on the Internet at:

http://www.epa.gov/fedrgstr/EPA-AIR/1999/April/Day-09/a8780.htm

The direct final rule is available on the Internet at:

http://www.epa.gov/fedrgstr/EPA-AIR/1999/April/Day-09/a8779.htm

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RIN: 2060–AH71

3224. NESHAP: FUMED SILICA PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA Section 112; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The CAA required EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAP) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emissions standards for each of the listed categories of HAP emissions sources. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the fumed silica

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production industry may be reasonably anticipated to emit one or more of the pollutants listed in section 112 (b) of the CAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within ten years of enactment of the CAA Amendments of 1990. The purpose of this action is to pursue a regulatory development program such that emissions standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

Additional Information: SAN No. 4111

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RIN: 2060–AH72

3225. NESHAP: TACONITE IRON ORE PROCESSING

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: CAA 112; PL 91-190 sec 203

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The taconite iron ore processing source category is comprised of nine facilities operating in the United States. Seven facilities are located in Minnesota and two are located in Michigan. The expected sources of HAP emissions for this source category include: fossil fuel combustion sources, and possibly the handling and transfer of mined ore containing naturally occurring inorganic compounds. Anticipated HAP emissions released from these sources primarily include: formaldehyde, manganese, nickel, arsenic, and chromium. The quantities of HAP released are expected to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 21221 Iron Ore Mining

Additional Information: SAN No. 4102

There are nine taconite processing facilities in the U.S.; seven are located in Minnesota and two are located in Michigan. The MACT standard for this industry group will be shared between EPA and the State of Minnesota. State regulations currently in place include both air emissions limitations and prohibition of effluent discharge to Great Lakes waters, and both air and water monitoring requirements. Other existing Federal regulations may be affected under RCRA and TSCA.

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RIN: 2060–AH73

3226. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR THE HYDROCHLORIC ACID PRODUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12291; EO12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000, Clean Air Act.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some hydrochloric acid plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) will be developed for the hydrochloric acid production industry.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 325211 Plastics Material and Resin Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 325181 Alkalies and Chlorine Manufacturing

Additional Information: SAN No. 4104

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RIN: 2060–AH75

3227. NESHAP: ASPHALT/COAL TAR APPLICATION ON METAL PIPES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs)

listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the application of asphalt or coal tar to metal pipes may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the asphalt/coal tar application on metal pipes industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 332812 Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers

Additional Information: SAN No. 4107

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RIN: 2060–AH78

3228. NESHAP: CLAY PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the clay products manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the clay products manufacturing industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 327121 Brick and Structural Clay Tile Manufacturing; 327124 Clay Refractory Manufacturing; 327122 Ceramic Wall and Floor Tile Manufacturing; 327123 Other Structural Clay Product Manufacturing

Additional Information: SAN No. 4113

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RIN: 2060–AH79

3229. NESHAP: ORGANIC HAZARDOUS AIR POLLUTANTS FROM THE SYNTHETIC ORGANIC CHEMICAL INDUSTRY (SOCMI) & OTHER PROCESSES SUBJECT TO THE NEGOTIATED REGULATION FOR EQUIPMENT LEAKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.100 to 63.152

Legal Deadline: None

Abstract: The actions will amend the HON that was first promulgated on April 22, 1994, to clarify applicability of process vent requirements. The changes to the rule will clarify the EPA's intent regarding the meaning of the term process vent and address the way these provisions are to be implemented through the permit rule. The need for this action became apparent recently when it was learned that industry was interpreting the definition more narrowly than we intended, and thus, not identifying all process vents subject to the HON. These amendments will clarify the rule to ensure consistent interpretations of the term process vent while preserving the intended applicability of the requirements. These clarifications will not increase or lower or otherwise affect emissions or environmental protection. Additionally, the actions may clarify additional sections of the HON and correct any typographical errors noted. These actions may contain guidance as well as amended rule language.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Rule	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4103

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RIN: 2060–AH81

3230. NESHAP: POLYVINYL CHLORIDE AND COPOLYMERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the administrator of the EPA. The EPA has determined that some plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the polyvinyl chloride industry, to be promulgated by November 15, 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4114

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RIN: 2060–AH82

3231. NESHAP: URANIUM HEXAFLUORIDE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This project will develop national emissions standards for hazardous air pollutants (NESHAP) by establishing emissions limitations for hazardous air pollutants (HAP) which can be emitted by the two known sources in this category. The emissions limitations are to be based upon the application of the maximum achievable control technology (MACT). The purpose of the NESHAP is to reduce emissions of HAP to protect public health and the environment. The project will begin in the spring of 1999. Initially, information on the industry processes and emissions of HAP will be analyzed to identify available emissions control technologies. That work will be followed by the development, proposal and promulgation of NESHAP.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Sectors Affected: 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)

Additional Information: SAN No. 4098

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RIN: 2060–AH83

3232. PERFORMANCE SPECIFICATION 16—SPECIFICATIONS AND TEST PROCEDURES FOR PREDICTIVE EMISSION MONITORING SYSTEMS IN STATIONARY SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: CAA section 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: Performance Specification 16 is being proposed to provide performance criteria for predictive emission monitoring systems. Predictive systems represent a new technology that uses process information or parameters to predict pollutant emissions instead of directly measuring them. The Agency is allowing their use in recently-promulgated rules and they are being considered by a number of regulated facilities. The specification lists the requirements for acceptable systems that are met by passing tests that compare the monitoring system with standardized methods and audit gases to determine system accuracy and stability. Performance Specification 16 will primarily apply to facilities whose emissions can be predicted from process parameters such as combustion processes (including gas turbines and internal combustion engines).

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Rule	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Sectors Affected: 33241 Power Boiler and Heat Exchanger Manufacturing; 333611 Turbine and Turbine Generator Set Unit Manufacturing; 336399 All Other Motor Vehicle Parts Manufacturing; 333618 Other Engine Equipment Manufacturing

Additional Information: SAN No. 4119

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RIN: 2060–AH84

3233. NESHAP: WET-FORMED FIBERGLASS MAT PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

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Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The CAA required the EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emissions sources. The wet-formed fiberglass mat production industry is not included in the initial list of categories for standards development but information available to the Administrator suggests that the industry is a major source of HAP emissions and, as such, emission standards shall be developed for this industry. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the wet-formed fiberglass mat production industry may be reasonably expected to emit one of the pollutants listed in section 112(b) of the CAA. The purpose of this action is to include the industry in the source category list and to pursue a regulatory development program such that emission standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 4082

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RIN: 2060–AH89

3234. TECHNICAL CHANGE TO DOSE METHODOLOGY FOR 40 CFR 191, SUBPART A

Priority: Routine and Frequent

Legal Authority: Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Nuclear Waste Policy Act of 1982

CFR Citation: 40 CFR 191(A)

Legal Deadline: None

Abstract: This action is a technical change to the dose methodology for subpart A, Environmental Standards for Management and Storage, of 40 CFR 191, Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes. The current methodology is outdated. The new method, which would be employed as a result of this action, is consistent with recent radiation protection standards as well as Federal Guidance reports issued by EPA. No significant impacts from this action are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4003

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RIN: 2060–AH90

3235. GENERAL CONFORMITY REGULATIONS; REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671

CFR Citation: 40 CFR 51.850 to 51.860; 40 CFR 93.150 to 93.160

Legal Deadline: None

Abstract: Section 176(c) of the Clean Air Act prohibits Federal entities from taking actions which do not conform to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). In November 1993, EPA promulgated two sets of regulations to implement section 176(c). First, on November 24, EPA promulgated the Transportation Conformity Regulations to establish the criteria and procedures for determining that transportation plans, programs, and projects which are funded under title 23 U.S.C. or the Federal Transit Act conform with the SIP. Then, on November 30, EPA promulgated regulations, known as the General Conformity Regulations, to ensure that other Federal actions also conformed to the SIPs. Since 1993, EPA has amended the transportation conformity rule three times in response to stakeholders' requests. The EPA is working on a separate revision to address transportation conformity in transitional areas which will be final by December 1998. The EPA has not reviewed or revised the General Conformity Regulations since their 1993 promulgation. Several Federal agencies have identified concerns over the implementation of the General Conformity Regulations, including the requirements for areas designated nonattainment for the newly promulgated NAAQS. In conjunction with an ad hoc work group of representatives from several Federal agencies, EPA will review the implementation of the General Conformity Regulations. The EPA will then propose and promulgate any appropriate revision to those regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4070

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RIN: 2060–AH93

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3236. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION ON THE 610 NONESSENTIAL PRODUCTS BAN

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671 to 7671(q)

CFR Citation: 40 CFR 82(C)

Legal Deadline: None

Abstract: This action would propose to extend the current class I and class II bans on the sale and distribution of nonessential uses of ozone-depleting substances where sufficient substitutes are already readily available. As part of the initial 1993 rulemaking, EPA banned the use of ozone-depleting substances in aerosols, pressurized dispensers, and foams where substitutes were available. Since that rulemaking was issued, the phaseout of production and consumption of class I substances has become effective and the Significant New Alternatives Policy (SNAP) Program under section 612 has been promulgated. The phaseout of newly manufactured class I substances and the identification of new acceptable substitutes for both class I and class II applications provide compelling reasons to reconsider the initial decisions regarding both product-specific exemptions and the decision to limit the ban's effect on major sectors that traditionally used ozone-depleting substances. Most domestic manufacturers have already incorporated the non-ozone-depleting substances in their products. The continued availability and use of ozone-depleting substances in parts and products manufactured abroad, which are sold or incorporated into larger products that are then sold into interstate commerce in the United States, negatively affects the competitiveness of domestic manufacturers who use substitute substances in their production. Therefore, it is appropriate to reconsider the applicability of the class I ban to both specific products and product categories. Amending these requirements would limit the potential use of ozone-depleting substances in applications where substitutes are available and thus, further protect the stratospheric ozone layer.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4077

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RIN: 2060–AH99

3237. TIER II LIGHT-DUTY VEHICLE AND LIGHT-DUTY TRUCK EMISSION STANDARDS AND GASOLINE SULFUR STANDARDS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7521, 42 USC 7545

CFR Citation: 40 CFR 86 (Revision); 40 CFR 80

Legal Deadline:
Other, Statutory, December 31, 1999, Determine need - tech. feasibility and cost effectiveness of more stringent standards.

Abstract: EPA is mandated by the Clean Air Act Amendments of 1990 to study whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required through lowering tailpipe emissions standards. EPA submitted a report to Congress on July 31, 1998. The report provided evidence that there was a need for further reductions in emissions and that cost-effective technology is available to meet more stringent standards. This rulemaking will propose the next generation of emission standards for light-duty vehicles, light-duty trucks, and gasoline heavy-duty vehicles. The primary focus of this action will be reducing emissions of nitrogen oxides and non-methane hydrocarbons, pollutants which contribute to ozone pollution. Highway vehicles are significant contributors to ozone pollution, though tighter standards will also have additional air quality benefits. The light-duty vehicle and light-duty truck standards cannot go into effect before the 2004 model year, as per Clean Air Act requirements. The rulemaking will also propose limitations on the sulfur content of gasoline available nationwide. Sulfur in gasoline has a detrimental impact on catalyst performance and could be a limiting factor in the introduction of advanced technologies on motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 32411 Petroleum Refineries; 336111 Automobile Manufacturing; 33612 Heavy Duty Truck Manufacturing; 4227 Petroleum and Petroleum Products Wholesalers

Additional Information: SAN No. 4211

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RIN: 2060–AI23

3238. NAAQS: SULFUR DIOXIDE (REVIEW AND IMPLEMENTATION)

Priority: Economically Significant

Legal Authority: 42 USC 7409; CAA sec 109

CFR Citation: 40 CFR 50.4; 40 CFR 50.5

Legal Deadline:
NPRM, Judicial, November 1, 1994.
Final, Judicial, April 22, 1996.

Abstract: On November 15, 1994, the Environmental Protection Agency (EPA) proposed not to revise the existing 24-hour and annual primary standards. The EPA sought public comment on the need to adopt additional regulatory measures to address the health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposure.

On March 7, 1995, EPA proposed implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air.

On May 22, 1996, EPA published its final decision not to revise the primary sulfur dioxide NAAQS. The notice stated that EPA would shortly propose a new implementation strategy to assist States in addressing short-term peaks of sulfur dioxide. The new

implementation strategy - the Intervention Level Program - was proposed on January 2, 1997. In July 1996, the American Lung Association and the Environmental Defense Fund petitioned the U.S. Court of Appeals for the D.C. Circuit for a judicial review of EPA's decision not to establish a new 5-minute NAAQS. On January 30, 1998, the court found that EPA did not adequately explain its decision and remanded the case so EPA could explain its rationale more fully. EPA published a schedule for responding to the remand in the May 5, 1998 Federal Register. The schedule calls for a final response to the remand by December 2000. Any final action on the intervention level program would occur no sooner than December 2000.

Timetable:

Action	Date	FR Cite
NPRM NAAQS Review	11/15/94	59 FR 58958
NPRM NAAQS Implementation (Part 51)	03/07/95	60 FR 12492
Final Rule NAAQS Review	05/22/96	61 FR 25566
NPRM Revised NAAQS Implementation (Part 51)	01/02/97	62 FR 210
Notice Schedule for Response to NAAQS Remand	05/05/98	63 FR 24782
NPRM Response to NAAQS Remand	09/00/99	
Final Response to NAAQS Remand	12/00/00	
Final Rule NAAQS Implementation (Part 51)	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 1002

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RIN: 2060–AA61

3239. REVISION OF APPENDIX W TO 40 CFR PART 51

Priority: Substantive, Nonsignificant

Legal Authority: CAAA sec 110(a)(2); CAAA sec 165(e); CAAA sec 172(a); CAAA sec 172(c); CAAA sec 301(a)(1); CAAA sec 320

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: This action proposes revisions to the Guideline on Air Quality Models, published as appendix W to 40 CFR part 51. Such models are used to predict ambient concentrations of pollutants for programs ranging from Prevention of Significant Deterioration (PSD) to State Implementation Plans (SIPs) for controlling air pollution sources. Appendix W to 40 CFR part 51 fulfills a Clean Air Act mandate for EPA to specify models for air management purposes. This proposed rulemaking enhances appendix W with new and/or improved techniques.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAN No. 3470

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RIN: 2060–AF01

3240. NESHAP/NSPS: RECIPROCATING INTERNAL COMBUSTION ENGINE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 101-549; 42 USC 7411 CAA sec 111; 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 60; 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The stationary reciprocating internal combustion engine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combination of 189 HAPs. Internal combustion engines also emit NOx, SO2, CO, and PM. The EPA will gather information on HAP emissions from internal combustion engines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions, if any. The EPA will also gather information for NOx, SO2, CO, and PM and decide whether standards are required to reduce these emissions. The EPA will use information that has already been developed, if possible, by gathering information by working with State/local agencies, vendors, manufacturers of internal combustion engines, owners and operators of internal combustion engines, and environmentalists. Some small businesses that use internal combustion engines may be directly impacted as well as a few small government entities who produce their own power. The number of small entities that would be affected is not known at this time.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3656

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RIN: 2060–AG63

EPA—CAA **Proposed Rule Stage**

3241. • STANDARDS AND GUIDELINES FOR SMALL MUNICIPAL WASTE COMBUSTION UNITS

Priority: Other Significant

Legal Authority: 42 USC 4111; CAA sec 129

CFR Citation: 40 CFR 60

Legal Deadline:
Final, Statutory, November 15, 1992.

Abstract: The Clean Air Act Amendments of 1990 direct the Environmental Protection Agency (EPA) to set standards of performance and emission guidelines for new and existing municipal waste combustors under Sections 111 and 129; to base these standards and guidelines on maximum achievable control technology; and to include emission limits for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, mercury, lead, cadmium, and dioxins and dibenzofurans. The standards for large municipal waste combustors were adopted in 1995. This rule would establish standards for small MWC units.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4243

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RIN: 2060–AI51

3242. NESHAP/NSPS: COMBUSTION TURBINE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: CAA sec 111; CAA sec 112

CFR Citation: 44 CFR 60

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The combustion turbine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combination of 189 HAPs. Combustion turbines also emit NOx, SO2, CO, and PM. Combustion turbines are already regulated for NOx and SO2 emissions under section 111 of the CAA. This project is part of the Industrial Combustion Coordinated Rulemaking (ICCR) Project. The EPA will gather information on HAP emissions from ICCR project sources including combustion turbines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions, if any. The EPA will also gather information to revise the 1979 NSPS for NOx and SO2 and decide whether CO and PM standards are required for combustion turbines. The EPA information that has already been developed will be used if possible and additional information will be gathered by working with State/local agencies, vendors, manufacturers of combustion turbines, owners and operators of combustion turbines, and environmentalists. A limited number of sources may be tested to gather emission data to supplement the existing emissions data base. The number of small entities that would be affected is not known at this time.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3657

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RIN: 2060–AG67

3243. NESHAP: MINERAL WOOL PRODUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act, as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the mineral wool production industry emits several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the mineral wool production industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	05/08/97	62 FR 25370
Supp. Proposal	04/00/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3461

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EPA—CAA

Proposed Rule Stage

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3244. NESHAP: IRON FOUNDRIES AND STEEL FOUNDRIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Iron foundries and steel foundries have been identified by the EPA as potentially significant sources of air emissions of manganese compounds, lead compounds, and other substances that are among the pollutants listed as hazardous air pollutants in section 112 of the Clean Air Act, as amended in November of 1990. As such, these industries may be source categories for which national emission standards may be warranted.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 331511 Iron Foundries; 331512 Steel Investment Foundries; 331513 Steel Foundries, (except Investment)

Additional Information: SAN No. 3343

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RIN: 2060–AE43

3245. NESHAP: CYANIDE CHEMICALS MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Cyanide compounds are among the pollutants listed as hazardous air pollutants in section 112 of the Clean Air Act Amendments of 1990. As a consequence, the EPA has determined that sources that manufacture cyanide compounds may reasonably be anticipated to emit cyanide compounds in quantities sufficient to qualify them as major sources. Three source categories that either produce hydrogen cyanide or use it in the production of other chemicals, specifically cyanuric chloride and sodium cyanide, are on the initial list of HAP emitting source categories selected for regulation. The results of an assessment of the three source categories conducted by the Agency indicated that cyanuric chloride is an unstable intermediate product and is incorrectly listed. Also every facility producing sodium cyanide also produces hydrogen cyanide. As result of this analysis, the cyanuric chloride source category was delisted and the sodium and hydrogen cyanide source categories will be compressed into one cyanide source category. In addition, this new cyanide category was switched from the list of categories scheduled to be regulated in 1997 to the list of categories scheduled for regulation in 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

Additional Information: SAN No. 3341

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RIN: 2060–AE45

3246. NESHAP: INTEGRATED IRON AND STEEL

Priority: Economically Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAP). The EPA has determined that integrated iron and steel mills emit several of the 189 HAP listed (including compounds of chromium, lead, manganese, toluene, and polycyclic organic matter) in quantities sufficient to designate them as major sources. As a consequence, integrated iron and steel facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3346

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RIN: 2060–AE48

3247. NESHAP: WOOL FIBERGLASS MANUFACTURING INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

EPA—CAA **Proposed Rule Stage**

Legal Deadline:
Final, Judicial, May 15, 1999.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the wool fiberglass manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the wool fiberglass manufacturing industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	03/31/97	62 FR 15228
Supp. Proposal	04/00/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 32742 Gypsum and Gypsum Product Manufacturing

Additional Information: SAN No. 3123

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RIN: 2060–AE75

3248. NESHAP: REINFORCED PLASTIC COMPOSITES PRODUCTION

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This regulation would control emissions of hazardous air pollutants from plants engaged in the manufacturing of homopolymers and/or copolymers which contain materials designed to enhance the chemical, physical, and/or thermal properties of the polymer. The source category includes, but is not limited to processing techniques such as hand layup and spray layup of gelcoats that incorporate styrene.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Sectors Affected: 32614 Polystyrene Foam Product Manufacturing

Additional Information: SAN No. 3326

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RIN: 2060–AE79

3249. NESHAP: MISCELLANEOUS ORGANIC CHEMICAL PRODUCTION AND PROCESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This regulation will cover organic chemical manufacturing processes not covered by the HON or other MACT standards. The regulation will control process vents (continuous and batch), equipment leaks, storage tanks and wastewater.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 325992 Photographic Film, Paper, Plate and Chemical Manufacturing; 32551 Paint and Coating Manufacturing

Additional Information: SAN No. 3452

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RIN: 2060–AE82

3250. NESHAP: CHLORINE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The chlorine production source category includes facilities engaged in the production of chlorine and sodium hydroxide (caustic) by one of the following electrolytic processes: diaphragm cell, membrane cell, and mercury cell. Hazardous air pollutants emitted include chlorine, hydrogen chloride, and mercury. None of the facilities are major sources on their own. However, several are co-located with major sources (e.g., pulp and paper plants, polymer plants, synthetic organic chemical plants, etc.). Emissions of chlorine and hydrogen chloride are very minor and the Agency is evaluating whether regulation of these HAPs is warranted. Relative to mercury, which is among five

pollutants listed for regulation under section 112(c)(6) due to their persistent and bioaccumulative effects, the Agency intends to subject to regulation under section 112(d)(2) all mercury cell facilities regardless of major source status.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3449

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RIN: 2060–AE85

3251. NESHAP: PRIMARY LEAD SMELTERS

Priority: Substantive, Nonsignificant

Legal Authority: CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997, Statutory Section 112 of the CAA.
Final, Judicial, May 15, 1999.

Abstract: Primary lead smelters are a major source category of hazardous air pollutants. Potential emissions include compounds of lead, and other metallic HAPs as well as organic HAPs. Emission standards would establish maximum achievable control technology requirements for affected process units and fugitive dust sources. This industry is comprised of two companies which operate three smelters in two states.

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 19200
Supplemental NPRM	04/00/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)

Additional Information: SAN No. 3467

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RIN: 2060–AE97

3252. NESHAP: MANUFACTURING OF NUTRITIONAL YEAST

Priority: Other Significant

Legal Authority: CAA sec 112 (d)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act requires major sources of hazardous air pollutants to achieve emission reduction based on the maximum achievable control technology (MACT). This regulatory action will establish this level of control for both new and existing sources in the nutritional yeast manufacturing industry. This industry is currently comprised of 10 sources of 5 different manufacturers located in 8 different states. The only known HAP emission from this source is acetaldehyde. It is produced as a by-product during the fermentation process. The proposed regulatory options set maximum emission limits of acetaldehyde, which will be achievable by improved process control to reduce formation of this by-product. A supplemental proposal is being developed to provide notice and comment opportunity for updated industry information.

Timetable:

Action	Date	FR Cite
NPRM	10/18/98	63 FR 55812
Supplemental NPRM	10/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Sectors Affected: 311999 All Other Miscellaneous Food Manufacturing

Additional Information: SAN No. 3550

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RIN: 2060–AF30

3253. AMENDMENTS TO GENERAL PROVISIONS SUBPARTS A AND B FOR 40 CFR 63

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549; 42 USC 7401 CAA sec 112

CFR Citation: 40 CFR 63.1; 40 CFR 63.51

Legal Deadline: None

Abstract: The General Provisions (subpart A) were promulgated on March 16, 1994 (59 FR 12408). The General Provisions create the technical and administrative framework and establish general procedures and criteria for implementing MACT standards. On May 16, 1994, six litigants filed petitions for EPA to review certain provisions of the General Provisions. Subpart B, the procedures for implementing section 112(j), were promulgated on May 26, 1994. In June, 1994 litigants filed petitions for EPA to review the promulgated procedures. As a result of the litigation, it is anticipated that a number of technical and administrative amendments to subpart A and B will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3551

EPA—CAA **Proposed Rule Stage**

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RIN: 2060–AF31

3254. NESHAP: PAINT STRIPPING OPERATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the Act and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that paint stripping operations emit at least one of the HAPs listed in section 112(b) of the Act, specifically methylene chloride. As a result, the source category is included on the initial list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to begin a regulatory development program such that any emission standards may be promulgated according to the mandated schedule. It is unknown now whether this action will impact small businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3746

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RIN: 2060–AG26

3255. NESHAP: BOAT MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the boat manufacturing industry. The most abundant pollutant emitted by this industry is styrene, which is listed as a hazardous air pollutant in the 1990 Clean Air Act. The Agency will study the various hazardous air pollutants emitted by the industry and will evaluate pollution prevention and abatement techniques which can reduce emissions from these pollutants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Sectors Affected: 336611 Ship Building and Repairing; 336612 Boat Building

Additional Information: SAN No. 3747

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RIN: 2060–AG27

3256. NESHAP: TIRE MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the Act and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that 43 major tire manufacturing operations emit at least one of the HAPs listed in section 112(b) of the Act, specifically benzene, hexane, and toluene. As a result, the source category is included on the list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to continue a regulatory development program such that any emission standards may be promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3749

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Proposed Rule Stage

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RIN: 2060–AG29

3257. PETROLEUM SOLVENT DRY CLEANERS MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) STANDARD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the Clean Air Act Amendments and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that the petroleum solvent dry cleaning industry emits several HAPs listed in section 112(b) of the Act; these HAPs are: chlorobenzene, cumene, ethyl benzene, polycyclic organic matter, toluene, and xylene. As a result, the source category is included on the initial list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to begin a regulatory development program such that any emission standards may be promulgated according to the mandated schedule. It is anticipated that this action will impact small business, but the extent of that impact has not yet been determined.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3754

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RIN: 2060–AG34

3258. NESHAP: ETHYLENE PROCESSES

Priority: Substantive, Nonsignificant

Legal Authority: CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
NPRM, Statutory, November 15, 2000.
Final, Statutory, November 20, 2000.

Abstract: Title III of the Clean Air Act requires development of emission standards for all major sources emitting any of the 188 hazardous air pollutants (HAPs) identified in section 112(b) of the CAA. Ethylene Processes is listed as a category of major sources based on process knowledge emissions of benzene and butadiene. This action will explore alternatives controlling the release of HAPs from the following process areas located at ethylene process facilities: process streams, storage, equipment leaks and other fugitive sources, and wastewater operations. There are no anticipated impacts on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Sectors Affected: 325193 Ethyl Alcohol Manufacturing

Additional Information: SAN No. 3821

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RIN: 2060–AG53

3259. LARGE APPLIANCE (SURFACE COATING) NESHAP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 30, 2000.

Abstract: This regulation will apply to surface coating of large appliance products and parts for household, commercial, or recreational use. This regulation will reduce nationwide emissions of HAPs from surface coating of large appliances, a measure required by section 112 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Sectors Affected: 335222 Household Refrigerator and Home Freezer Manufacturing

Additional Information: SAN No. 3823

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RIN: 2060–AG54

3260. NESHAP: ASPHALT ROOFING AND PROCESSING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The CAA required EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emissions standards for each of the listed categories of HAP emissions sources. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the asphalt roofing and processing industry may be reasonably anticipated to emit one of the pollutants listed in section 112(b) of the CAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within ten years of enactment of the CAA Amendments of 1990. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Interim Final Rule	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3655

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RIN: 2060–AG66

3261. NESHAP: INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS

Priority: Economically Significant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended in 1990, requires EPA to develop emission standards for sources of hazardous air pollutants (HAPs). Industrial boilers and institutional/commercial boilers are among the potential source categories to be regulated under section 112 of the CAA. Emissions of HAPs will be addressed by this rulemaking for both new and existing sources. EPA promulgated an NSPS for these source categories in 1987 and 1990. The standards for the NESHAP are to be technology-based and are to require the maximum achievable control technology (MACT) as described in section 112 of the CAA. This standard is part of the Industrial Combustion Coordinated Rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 3837

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RIN: 2060–AG69

3262. NESHAP: LIME MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 CAA sec 112, 44 USC 350 et seq, 5 USC 605

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some lime manufacturing plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the lime manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 32741 Lime Manufacturing

Additional Information: SAN No. 3651

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RIN: 2060–AG72

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3263. NESHAP: FRICTION PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 91-190 sec 203; 42 USC 7401 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The friction products manufacturing source category includes any facility that manufactures or remanufactures friction products such as brakes, brake pads, disk pads, and clutch pads, including facilities that use non-asbestiform mineral fibers and asbestos replacement material. Hazardous air pollutants (HAPs) are emitted from solvents contained in the adhesives used to bond the friction material to the automobile part. During 1998, the Agency collected current information from owners/operators regarding business size, quantities of pollutants, processes, air pollution control devices, and workplace practices in the industry. Some of the HAPs reported include phenol, toluene, methyl chloroform, chlorobenzene, o-cresol, formaldehyde, n-hexane, hydrogen cyanide, methanol, methylene chloride, methylisobutyl carbon, 1,1,1-trichloroethane, trichloroethylene, chloroethylether, ethylbenzene, xylenes, and methylethylketone. Owners/operators reported that these particular HAPs are emitted during heated processes such as curing, bonding, and debonding processes. It is expected that substantial reductions in these emissions can be achieved at the floor levels of controls under section 112(b). Based on this information and any needed new information to be developed by EPA and the industry, the Agency plans to propose and promulgate a maximum achievable control technology (MACT) or generally available control technology (GACT) standard for existing sources and new sources. The friction material industry is concentrated in, but not limited to, the automotive markets. Impacts on small businesses (including SBREFA analyses) and on State/local/tribal governments will be assessed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3899

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RIN: 2060–AG87

3264. NESHAP: SEMICONDUCTOR PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This rule will establish a MACT (maximum available control technology) for semiconductor production facilities. There are currently 6 major sources that would be affected by the NESHAP. This action will result in little or no additional emission reduction but will establish a Federal MACT level for large facilities. It is anticipated that no major sources will be subject to the rule at time of promulgation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3902

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RIN: 2060–AG93

3265. NESHAP: METAL CAN (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the metal can industry. The Agency will study what pollutants are emitted and evaluate the control techniques, including pollution prevention, that are used to reduce these emissions. The Agency will also determine what, if any, impact the rule would have on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3906

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RIN: 2060–AG96

3266. NESHAP: METAL COIL (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants

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emitted by the metal coil surface coating industry. The Agency will study what pollutants are emitted and evaluate the control techniques, including pollution prevention, that are used to reduce these emissions. The Agency will also determine what, if any, impact the rule would have on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3905

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RIN: 2060–AG97

3267. NESHAP: FABRIC PRINTING, COATING AND DYEING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants (HAP) emitted from fabric printing, coating, and dyeing. The Agency will identify and study the types and sources of HAP emissions from these processes, and evaluate pollution prevention and other control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3909

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RIN: 2060–AG98

3268. AUTOMOBILE AND LIGHT-DUTY TRUCK MANUFACTURING (SURFACE COATING) NESHAP

Priority: Economically Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants (HAPs) emitted from the coatings used by the automobile and light-duty truck manufacturing industry. The Agency will study the HAP emitted by the industry and will evaluate pollution prevention and other control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: SAN No. 3907

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RIN: 2060–AG99

3269. NESHAP: PRIMARY MAGNESIUM REFINING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: CAA sec 112

CFR Citation: 40 CFR 60

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act (Act), as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b). The EPA has determined that sources that manufacture primary magnesium may reasonably be anticipated to emit several of the 189 HAPs listed (including chlorine and hydrochloric acid) in quantities sufficient to designate them as a major source. As a consequence, primary magnesium refining is among the HAP emitting source categories selected for regulation and is in the group of categories for which final rules are scheduled to be promulgated by November 15, 2000 (58 FR 63941, December 3, 1993).

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3924

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RIN: 2060–AH03

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3270. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 7402 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Final standards under section 112(d) for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks (40 CFR 63, subpart N) were promulgated on January 25, 1995. Since promulgation, the Agency has determined that a class of chromium electroplating operations were inadvertently excluded from regulation. Specifically, the final standards do not apply to sources engaged in continuous chromium electroplating of steel sheet used to make cans and other containers. It is the Agency's intent to regulate all facilities engaged in chromium electroplating. Therefore, the Agency plans to amend the chromium electroplating rule to extend its applicability to continuous chromium electroplating operations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 2841

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RIN: 2060–AH08

3271. NESHAP: SITE REMEDIATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; PL 101-549 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This rule will specify maximum achievable control technology for site remediation. Hazardous air pollutant emissions from spills of organic liquids, the excavation, transportation, and treatment of contaminated soils and groundwater, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	03/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3968

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RIN: 2060–AH12

3272. NESHAP: SPANDEX PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants by establishing maximum achievable control technology (MACT) for facilities producing spandex. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, fiber washing operations, material storage tanks, fugitive emissions, and polymer drying. Only five U.S. spandex facilities have been identified. Currently, EPA is finalizing the Presumptive MACT (P-MACT). P-MACT is not an emission standard. P-MACT serves as a statement of current knowledge of MACT and a basis for a decision on how to develop the emission standard for the source category involved.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: SAN No. 3967

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RIN: 2060–AH14

3273. NESHAP: LEATHER TANNING AND FINISHING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000, The Clean Air Act requires promulgation by 11/15/00.

Abstract: Title III of the Clean Air Act requires EPA to develop air emission standards for facilities that emit any of the 189 hazardous air pollutants. This action will develop a MACT standard for sources involved in leather tanning and finishing operations. Facilities involved in these operations release over 1.7 million pounds of hazardous air pollutants per year. Regulation of these facilities will result in a reduction of the emissions of hazardous air pollutants, several of which are highly toxic.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 31611 Leather and Hide Tanning and Finishing

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Additional Information: SAN No. 3964

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RIN: 2060–AH17

3274. NESHAP: MANUFACTURE OF CARBON BLACK

Priority: Substantive, Nonsignificant

Legal Authority: CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The purpose of this regulatory action is to develop a Maximum Achievable Control Technology Standard for the manufacture of carbon black. This standard will meet the Clean Air Act Amendments of 1990 requirement to regulate sources of hazardous air pollutants. Three hazardous air pollutants identified in the 1990 Clean Air Act Amendments are emitted by the carbon black process. These are carbon disulfide, carbonyl sulfide, and hydrogen cyanide.

Carbon black is a product used primarily in the manufacture of automobile tires. There are approximately 24 carbon black facilities located in the nation. Of these it is currently estimated there are 19 major sources that will be subject to this regulation. This rule is not expected to have impacts on small business.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Sectors Affected: 325182 Carbon Black Manufacturing

Additional Information: SAN No. 3962

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RIN: 2060–AH19

3275. NESHAP: VEGETABLE OIL PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action develops National Emission Standards for Hazardous Air Pollutants (NESHAP) for vegetable oil production facilities as authorized under section 112(d) of the Clean Air Act (Act). The action is based on the determination that vegetable oil production plants emit organic hazardous air pollutants (HAPs) listed in section 112(b) of the Act. On July 16, 1992, EPA listed vegetable oil production as a source for which NESHAP are to be promulgated. On December 3, 1993, EPA published a schedule for promulgating NESHAP for vegetable oil production plants by November 15, 2000. NESHAP developed under section 112(d) apply to both new and existing facilities. NESHAP for existing facilities are to be based on the average emission limitation achieved by the best performing 12 percent of existing sources.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Sectors Affected: 311223 Other Oilseed Processing; 311222 Soybean Processing; 311225 Fats and Oils Refining and Blending

Additional Information: SAN No. 3903

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RIN: 2060–AH22

3276. NESHAP: ROCKET ENGINE TEST FIRING/ENGINE TEST FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: As required by section 112(c) of the Clean Air Act, the Environmental Protection Agency has developed a list of categories of sources of hazardous air pollutants (HAP's). The HAP's are listed in section 112(b) of the Clean Air Act. The Rocket Engine Test Firing source category and the Engine Test Facilities source category are included on EPA's list of sources of HAP's. The Rocket Engine Test Firing source category includes facilities engaged in test firing of rocket engines using solid or liquid propellants. The Engine Test Facilities source category includes any facility engaged in the testing of stationary or mobile engines, including turbines and reciprocating engines.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	-11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3972

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RIN: 2060–AH35

EPA—CAA

Proposed Rule Stage

3277. NESHAP: FLEXIBLE POLYURETHANE FOAM FABRICATION OPERATIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 7412 CAAA, section 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act (CAA) requires development of emission standards for sources emitting any of the hazardous air pollutants (HAP) listed in section 112(b) of the CAA. Flexible Polyurethane Foam Fabrication Operations is listed as a category of major sources based on documented emissions of the following HAP: methylene chloride, trichlorethane, hydrogen cyanide, and hydrogen chloride. This source category covers emissions from various polyurethane foam bonding operations, including foam gluing and flame lamination. This action will explore alternatives for reducing HAP emissions from the following emission sources located at foam fabrication plants: process vents, raw material storage and transfer operations, and equipment leaks. Ultimately, a NESHAP for this source category will be developed based on Maximum Achievable Control Technology.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 326299 All Other Rubber Product Manufacturing; 326199 All Other Plastics Product Manufacturing

Additional Information: SAN No. 3973

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RIN: 2060–AH42

3278. NESHAP: GROUP I POLYMERS AND RESINS AND GROUP IV POLYMERS AND RESINS; AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.480 to 63.506 (Revision); 40 CFR 63.1310 to 63.1335 (Revision)

Legal Deadline: None

Abstract: During the development of the National Emission Standard for Hazardous Air Pollutants (NESHAP) for elastomers (Group I polymers and resins) and thermoplastics (Group IV polymers and resins) (RINs 2060-AD56 and 2060-AE37), many of the provisions contained in the Hazardous Organic NESHAP (HON) were referenced directly by these polymers and resins regulations due to similarities in processes, emission characteristics, and control technologies. On January 17, 1997, the EPA promulgated changes to the HON to remove ambiguity, to clearly convey EPA intent, and to make the rule easier to understand and implement in response to industry petitions. It is necessary to make parallel changes to the polymers and resins NESHAP; otherwise inconsistencies will exist for NESHAPs regulating similar source categories. An ANPRM was published in the Federal Register on 11/25/96 (61 FR 59849), to explain the nature of changes planned.

Subsequently, six litigants have petitioned for review of the elastomers and thermoplastics regulations. Four companies have petitioned EPA to reconsider specific provisions in the thermoplastics regulation. Revisions will be proposed to parallel HON changes and to resolve petitioners' issues. There are no impacts anticipated for small businesses or State/local/tribal governments.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/96	61 FR 59849
NPRM	04/00/99	
Final	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

Additional Information: SAN No. 3939

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RIN: 2060–AH47

3279. AMENDMENTS TO PARTS 51, 52, 63, 70 AND 71 REGARDING THE PROVISIONS FOR DETERMINING POTENTIAL TO EMIT

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action proposes to amend regulations already established to implement the new Federal air toxics program under section 112, including the General Provisions, the Federal operating permit program under title V, and the major source preconstruction programs under parts C and D of title I.

The proposed rule will address issues related to the determination of a stationary source's potential to emit in response to three court decisions.

This action resulted from splitting of RINs 2060-AC98 and 2060-AC63.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Rule	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3479

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EPA—CAA Proposed Rule Stage

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RIN: 2060–AI01

3280. • NESHAP: PROCESS HEATERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended in 1990, requires EPA to develop emission standards for sources of hazardous air pollutants (HAPs). Process heaters is among the potential source categories to be regulated under section 112 of the CAA. Emissions of HAPs will be addressed by this rulemaking for both new and existing sources. The standards for the NESHAP are to be technology-based and are to require the maximum achievable control technology (MACT) as described in section 112 of the CAA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 4218

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RIN: 2060–AI35

3281. NSPS: NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR INDUSTRIAL AND COMMERCIAL WASTE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: CAA sec 129

CFR Citation: 40 CFR 60

Legal Deadline:
Final, Statutory, November 15, 1994.
NPRM, Judicial, November 15, 1999.
Final, Judicial, November 15, 2000.

Abstract: Section 129 of the Clean Air Act Amendments requires the Agency to finalize New Source Performance Standards (NSPS) and Emission Guidelines (EG) for Industrial and Commercial Waste Incinerators (ICWIs). Negotiations have been completed with the litigants to grant an extension to the Agency. The Agency has agreed to propose standards by November 1999, and promulgate standards by November 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 3613

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RIN: 2060–AF91

3282. NSPS: NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR OTHER SOLID WASTE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7509 CAA sec 129

CFR Citation: 40 CFR 60

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Section 129 of the Clean Air Act of 1990 requires the Agency to promulgate New Source Performance Standards (NSPS) and Emission Guidelines (EG) for solid waste incinerators. Section 129 specifically required the Administrator to publish a schedule for regulating Other Solid Waste Incinerators (OSWI). A notice in the Federal Register was published on November 2, 1993 that announced that the Administrator would promulgate OSWI standards by November 15, 2000. The notice also listed what classes of incinerators would be covered by the OSWI standards. Because it is believed that these OSWI emit significant amounts of air pollution that cause public health and environmental problems, the Administrator intends to promulgate the NSPS and EG for OSWI in accordance with section 129. Standards will be set for the following pollutants: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead cadmium, mercury, and dioxins and dibenzofurans.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/94	59 FR 66850
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 3751

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EPA—CAA

Proposed Rule Stage

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RIN: 2060–AG31

3283. • CONSUMER AND COMMERCIAL PRODUCTS: FLEXIBLE PACKAGE PRINTING MATERIALS: DETERMINATION ON CONTROL TECHNIQUES GUIDELINES IN LIEU OF REGULATION

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, March 23, 1999, Consumer and Commercial Products: Schedule for Regulation 60 FR 15264 03/23/95.

Abstract: In accordance with Section 183(e) of the Clean Air Act, EPA identified flexible package printing materials as a category of consumer and commercial products prioritized for regulation to reduce VOC emissions in ozone nonattainment areas. Section 183(e)(3)(C) gives EPA the authority to issue CTG in lieu of regulation if the Administrator determines that CTG are substantially as effect as regulation in reducing VOC emissions in ozone nonattainment areas. This action will put forward EPA's proposed determination under section 183(e)(3)(C).

Timetable:

Action	Date	FR Cite
NPRM Propose Determination	04/00/99	
Final Action Final Determination/CTG	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4245

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RIN: 2060–AI31

3284. REVIEW OF FEDERAL TEST PROCEDURES FOR EMISSIONS FROM MOTOR VEHICLES; TEST PROCEDURE ADJUSTMENTS TO FUEL ECONOMY AND EMISSION TEST RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549

CFR Citation: 40 CFR 86; 40 CFR 600

Legal Deadline: None

Abstract: This action considers potential adjustments to fuel economy and emission test results to compensate for test procedure changes previously adopted; it applies to light-duty vehicles and light-duty trucks. This aspect of the previous rulemaking (SAN-3323, RIN 2060-AE27) was deferred.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3979

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RIN: 2060–AH38

3285. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF SECTION 608 SALES RESTRICTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC.7671g , CAA sec 608

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: The rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. This rule will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone depletion resulting from emissions of chlorofluorocarbons, hydrochlorofluorocarbons, and other ozone-depleting substances. Through restricting sales of certain pre-charged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is a full restriction. Most businesses and governments will have at least one certified technician on board. This action has no impact on small business and State, local, and tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3673

This action is combined with RIN 2060-AG47, SAN 3809.

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RIN: 2060–AG20

3286. PROTECTION OF STRATOSPHERIC OZONE: SERVICING OF MOTOR VEHICLE AIR CONDITIONERS: STANDARDS FOR EQUIPMENT THAT RECOVERS AND RECYCLES REFRIGERANTS OTHER THAN CFC-12 AND HFC-134A

Priority: Other Significant

Legal Authority: 42 USC 7671

CFR Citation: 40 CFR 82(B) (Revision)

Legal Deadline: None

Abstract: This rule serves to amend the regulations initially promulgated on

July 14, 1992, under section 609 of the CAA. Specifically, this rule fulfills the statutory mandate set forth in section 609 requiring the Administrator to promulgate regulations for the proper recycling in motor vehicle air conditioners (MVACs) of any refrigerants that substitute for CFC-12. Specifically, section 609 requires EPA to establish standards for refrigerant recycling equipment and for the proper use of such equipment. This rule will provide flexibility for service technicians to meet section 609 requirements, because in addition to using equipment that recovers and recycles CFC-12 and HFC-134a refrigerants, technicians will now be permitted to use equipment that recovers and recycles other substitute refrigerants listed as acceptable under EPA's SNAP program.

This rule will affect, although not adversely affect, those small entities such as independent repair shops, service stations, truck fleet shops, collision repair shops, new car and truck dealers, car and truck rental shops, and radiator repair shops that choose to service vehicles that contain refrigerants other than CFC-12 or HFC-134a that are listed as acceptable under EPA's SNAP program. Specifically, it will allow them to use equipment to recycle these refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3983

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RIN: 2060–AH29

3287. SUPPLEMENTAL RULE TO REQUIRE CERTAIN PRODUCTS MADE WITH HCFCS TO BEAR WARNING LABEL

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq Clean Air Act sec 611

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: Friends of the Earth submitted and withdrew a petition to expand EPA's labeling requirements to include products containing or manufactured with HCFCs. EPA anticipates that Friends of the Earth will submit a revised petition later this year. We are bound by statute to respond by 180 days. If EPA grants the petition, the proposed rulemaking will be the response.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3640

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RIN: 2060–AF93

3288. • PROTECTION OF STRATOSPHERIC OZONE: ADDITIONAL STEPS TO CONFORM U.S. METHYL BROMIDE PROGRAM TO OBLIGATIONS UNDER THE MONTREAL PROTOCOL AND RECENT CHANGES TO THE CAA

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: This rulemaking will propose remaining phaseout steps for methyl bromide, adjust phaseout data, and establish additional exemptions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4271

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RIN: 2060–AI41

3289. METAL FURNITURE (SURFACE COATINGS) NESHAP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 30, 2000.

Abstract: This regulation will apply to surface coating of metal furniture products and parts for household or commercial use. This regulation will reduce nationwide emissions of HAPs from surface coating of metal furniture products and parts, which is required under section 112 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Sectors Affected: 337124 Metal Household Furniture Manufacturing

Additional Information: SAN No. 3824

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EPA—CAA

Proposed Rule Stage

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RIN: 2060–AG55

3290. NESHAP MISCELLANEOUS METAL PARTS AND PRODUCTS (SURFACE COATING)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This regulation will control emissions of hazardous air pollutants (HAPs) from operations that apply surface coatings to metal parts and products. Although this rule would cover a wide variety of coating operations, it would not apply to specific coating operations for which regulations have been developed (e.g., plastic parts coating, can coating, large appliance coating, etc.). This regulation is required under section 112 of the Clean Air Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3825

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RIN: 2060–AG56

3291. PLASTIC PARTS (SURFACE COATING) NESHAP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 30, 2000.

Abstract: This action would address both the and hazardous air pollutants (HAP) emissions from the coating of plastic parts. Pollution prevention approaches will be considered. Specific sectors of the plastic parts industry to be included in this action have not yet been determined.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3826

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RIN: 2060–AG57

3292. PAPER AND OTHER WEB COATING NESHAP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63; 40 CFR 59

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This action would result in the reduction of hazardous air pollutants (HAPs) emitted by the paper and other web coating industries. The Agency will study the various HAP and VOC pollutants emitted by the industry and will evaluate pollution prevention and control techniques which can reduce these emissions. There are likely to be small businesses in the paper and other web coating industry, but at this time it is not known how many of these small businesses will be subject to these rules.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3827

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RIN: 2060–AG58

3293. NESHAP: WOOD BUILDING PRODUCTS (SURFACE COATING)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants (HAP) emitted by the wood building product surface coating industry. The Agency will study the various HAP emitted by the industry and evaluate pollution prevention and control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

EPA—CAA **Proposed Rule Stage**

Government Levels Affected: None

Additional Information: SAN No. 3904

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RIN: 2060–AH02

3294. OFFSET LITHOGRAPHIC PRINTING NATIONAL VOC RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: This action will result in the reduction of volatile organic compound (VOC) emissions from offset lithographic printing.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	03/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: SAN No. 3908

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RIN: 2060–AH00

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Clean Air Act (CAA)

3295. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: None

Abstract: Since the promulgation of the chromium electroplating NESHAP we have been informed of several sources that are experiencing difficulty in complying with the concentration limit for new sources even though they have installed and operate composite mesh pad scrubber technology similar or identical to that used as the basis for the MACT emission limit. These sources operate new state-of-the-art plating tanks not encountered during rule development which feature enclosing hoods that completely cover the surface of the plating tank. This covered tank design allows for effective capture and ventilation at substantially lower exhaust air flow rates than otherwise encountered with more conventional exterior hooding. Although these sources exceed the new source standard concentration limit of 0.015 mg/dscm, actual mass rate emissions are more than 50 percent lower than would otherwise be achieved with more conventional hooding and higher ventilation rates. The chromium electroplating standard will be amended to include this alternative type of control system.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Sectors Affected: 332813 Electroplating, Plating, Polishing, Anodizing and Coloring

Additional Information: SAN No. 4115

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RIN: 2060–AH69

3296. REDEFINITION OF GLYCOL ETHERS LISTED AS HAPS UNDER THE CLEAN AIR ACT, AND HAZARDOUS SUBSTANCES UNDER CERCLA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; 42 USC 9602, 9603, and 9604; 33 USC 1321; 33 USC 1361

CFR Citation: 40 CFR 63 (Revision); 40 CFR 302 (Revision)

Legal Deadline: None

Abstract: The proposed action will redefine the glycol ethers category of hazardous air pollutants (HAPs) regulated under the Clean Air Act and hazardous substances under the Comprehensive Emergency Response, Compensation, and Liability Act. The new definition will omit specific compounds of high molecular weight used as surfactants by the soap and detergent industry. These compounds have low volatility, so only minor amounts are emitted during manufacture and use of soaps and detergents. The compounds also have low toxicity, so the small amounts that are released are extremely unlikely to cause any harm to health or the environment. The proposal will reduce the burden of environmental regulations on soap and detergent manufacturers, and will have no adverse environmental impact.

Timetable:

Action	Date	FR Cite
NPRM	01/12/99	64 FR 1780
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Sectors Affected: 325611 Soap and Other Detergent Manufacturing

EPA—CAA

Final Rule Stage

Additional Information: SAN No. 4159

Development, implementation, and enforcement of emission standards by Federal and State government for the soap and detergent industry will be somewhat simplified by the omission of compounds of high molecular weight and low volatility.

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RIN: 2060–AI08

3297. • ACID RAIN PROGRAM PERMITS REGULATIONS AND SO2 ALLOWANCE SYSTEM: COMPLIANCE DETERMINATION

Priority: Other Significant

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 72; 40 CFR 73

Legal Deadline: None

Abstract: This rulemaking would amend certain provisions in the Permits and Sulfur Dioxide Allowances rules under Title IV of the 1990 Clean Air Act Amendments to improve the operation of the Allowance Tracking System and the allowance market. The revisions are proposed in light of the Agency's experience in implementing the acid rain rules and would result in allowing a limited number of allowances to be held for a unit outside the unit's account.

Timetable:

Action	Date	FR Cite
NPRM	08/03/98	63 FR 41357
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4242

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RIN: 2060–AI27

3298. • COMPLIANCE BASELINE MODIFICATION NPRM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414 Sections 114; 42 USC 7545(c) Sections 211(c); 42 USC 7545(k) Sections 211(k); 42 USC 7601; 301 CAA as amended

CFR Citation: 40 CFR 80.101(f)(4)(ii)

Legal Deadline: None

Abstract: This action proposes to evaluate the compliance of conventional gasoline which a refiner sells in Puerto Rico in excess of that refiner's baseline volume of Puerto Rico gasoline using the same seasonal version of the Complex Model for both compliance and baseline determinations. The proposal would modify the reformulated gasoline program's anti-dumping compliance baseline calculation so as to replace the winter Complex Model with the more climatically appropriate summer Complex Model for all baseline and compliance calculations with respect to Puerto Rico gasoline. The proposed provision would apply to any refiner which has Puerto Rico gasoline in its baseline, has increased production of gasoline for sale in Puerto Rico above its baseline volume of Puerto Rico gasoline, and which petitions the Agency to apply the proposed modified compliance baseline to its Puerto Rico gasoline. EPA will require any refiner submitting such a petition to recalculate its individual baseline using the summer Complex Model for any Puerto Rico gasoline. We anticipate that today's action will affect only a single refiner. We have not yet fully evaluated the implications of a general shift toward a climate-sensitive use of the summer and winter Complex Models for other Puerto Rico refiners, or for similarly situated refiners in other regions. However, we are requesting comment from other refiners that produce gasoline for sale in areas not subject to EPA's volatility requirements. Based on the comments we receive, we may or may not proceed with similar future rulemaking action.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4267

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RIN: 2060–AI29

3299. • NESHAP: ETHYLENE OXIDE COMMERCIAL STERILIZATION AND FUMIGATION OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Section 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action suspends the National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operation (EO NESHAP) requirements for chamber exhaust and aeration room vents. The suspension allows affected sources subject to the EO NESHAP to defer compliance with the NESHAP requirements for chamber exhaust and aeration room vents for one year until December 6, 1999. This suspension does not affect the requirement for sources subject to the EO NESHAP to comply with provisions for sterilizer vents by December 6, 1998. This action does not change the level of the standards or the intent of the NESHAP promulgated in 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/98	63 FR 66990
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4222

EPA—CAA

Final Rule Stage

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RIN: 2060–AI37

3300. • PROTECTION OF STRATOSPHERIC OZONE: AMENDMENT TO TRANSSHIPMENT PROVISION IN FINAL RULE ACCELERATING THE PHASEOUT OF OZONE-DEPLETING SUBSTANCES

Priority: Routine and Frequent

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: Amends current rule to require those transshipping goods with ozone-depleting substances through the U.S. to notify EPA of the specifics of the transshipment.

Timetable:

Action	Date	FR Cite
NPRM Reproposal	05/10/95	60 FR 25010
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3626

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RIN: 2060–AI46

3301. • REVISIONS TO REFERENCE METHOD FOR THE DETERMINATION OF FINE PARTICULATE MATTER AS PM2.5 IN THE ATMOSPHERE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7409-7601(a)

CFR Citation: 42 CFR 50 (Revision)

Legal Deadline: None

Abstract: A new National Network of fine particulate monitors is being implemented over the next two years. In order to assure that data is of the highest quality and is comparable both within and between air monitoring agencies many specific design and performance requirements were detailed in 40 CFR part 50, appendix L. Other requirements were not detailed in 40 CFR part 50, appendix L, but referenced to documents such as section 2.12 of the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods, EPA/600/R-94/038b. During the comment period and subsequent review of section 2:12 of the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods, EPA/600/R-94/038b, a detailed examination of how fine particulate will be monitored was examined. During this examination, two items detailed in 40 CFR part 50, appendix L were determined to need modification. For transport of exposed filters from the sample location to the conditioning environment, it was determined that there was no technical merit to requiring use of "metal" as the composition of protective container. For verification of sampler flow rate, it was determined that the +/- 2% acceptable tolerance was too tight and may result in unnecessary calibrations as a result of false positive flow rate verifications. An acceptable tolerance of +/- 4% was established for verification checks, while yearly calibrations would still require a tolerance of +/- 2%.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4256

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RIN: 2060–AI48

3302. • FEDERAL PLAN REQUIREMENTS FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION PRIOR TO 5/30/91 AND HAVE NOT BEEN MODIFIED OR RECONSTRUCTED SINCE 5/30/91

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7411(d)

CFR Citation: 40 CFR 62.13 (Revision); 40 CFR 62.14356 (New)

Legal Deadline: None

Abstract: On 2-12-96, the EPA promulgated emission guidelines for control of non-methane organic compound air emissions from existing municipal solid waste (MSW) landfills, under the authority of section 111(d) of the Clean Air Act (61 FR 9905). State or local regulatory agencies and Indian Tribes were required to develop and submit a Plan for implementing the emission guidelines by 12-12-96. In the event that a State, locality, or Indian Tribe should fail to submit an approvable Plan in accordance with the Clean Air Act, EPA is required to prescribe a Plan for these areas and enforce the provisions of such a Plan. The time lines for such action are specified in 40 CFR 60 subpart B. Under this action, EPA is initiating a Federal Plan that regulates existing MSW landfills in States, localities, and Indian Tribes that have not submitted an approvable plan within the time allotted. This action makes no changes to the requirements in the original rule, and is intended as a gap-filling measure until the State, locality, or Indian Tribe can receive the necessary administrative approvals. When the State, locality, or Indian Tribe submits an approvable Plan, the federal Plan will be amended to no longer apply to existing MSW landfills in these areas.

Timetable:

Action	Date	FR Cite
NPRM	12/16/98	63 FR 69364
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: SAN No. 4066

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EPA—CAA **Final Rule Stage**

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RIN: 2060–AI50

3303. NEW SOURCE REVIEW (NSR) REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: CAA as amended, title I

CFR Citation: 40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline: None

Abstract: This action is to revise the CAA new source review (NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking will deregulate, that is, exclude from major NSR program requirements those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action seeks to more clearly define the appropriate roles and requirements of sources, permitting authorities and Federal land managers and EPA in the protection of air-quality-related values in Federal Class I areas (i.e., certain national parks and wilderness areas) under the NSR regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meets their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. Finally, this action also addresses several pending petitions for judicial review and administrative action pertaining to NSR applicability requirements and control technology review requirements. Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources (40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24).

Timetable:

Action	Date	FR Cite
NPRM	07/23/96	61 FR 38249
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3259

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RIN: 2060–AE11

3304. NESHAP: PETROLEUM REFINERIES—FCC UNITS, REFORMERS AND SULFUR PLANTS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq; PL 101-549 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Judicial, May 15, 1999.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires EPA to develop national emission standards for hazardous air pollutants (NESHAPs). EPA promulgated NESHAP rules for petroleum refineries on August 18, 1995 (RIN 2060-AD94). This action covers three process vents not covered under RIN 2060-AD94. These are the catalyst regeneration vents from fluid catalytic cracking units (FCCU) and catalytic reformers and the tail gas vents from sulfur recovery plants.

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48889
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 32411 Petroleum Refineries

Additional Information: SAN No. 3549

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RIN: 2060–AF28

3305. OPERATING PERMITS: REVISIONS (PART 70)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7661 et seq

CFR Citation: 40 CFR 70; 40 CFR 51

Legal Deadline: None

Abstract: In response to litigation on the operating permits rule regulations, 40 CFR Part 70, to provide more effective implementation of part 70, and to address comments provided in response to notices of proposed rulemaking, parts 70 and 51 are being revised. In part, the changes streamline the procedures for revising stationary-source operating permits issued by State and local permitting authorities under title V of the Clean Air Act; revise the certification of compliance that is required to be submitted as part of the permit documentation; clarify the title V permitting requirements for research and development facilities; and modify public participation requirements for minor new source review actions at title V facilities.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM Supplemental Proposal for Part 70	08/31/95	60 FR 45530
NPRM Interim Approval Extension	07/27/98	63 FR 40053
Direct Final Interim Approval Extension	07/27/98	63 FR 40054
Final Action	02/00/00	

EPA—CAA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: SAN No. 3412

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RIN: 2060–AF70

3306. METHODS FOR MEASUREMENT OF VISIBLE EMISSIONS—ADDITION OF METHODS 203A, 203B, AND 203C TO APPENDIX M OF PART 51

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401(b)(1); 42 USC 7410; 42 USC 7470 to 7479; 42 USC 7501 to 7508; 42 USC 7601(a)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking adds Test Methods 203A, 203B, and 203C to 40 CFR part 51, appendix M (entitled Example Test Methods for State Implementation Plans). These methods describe procedures for estimating the opacity of visible emissions. States have requested that EPA promulgate these methods so that they can use them in State Implementation Plans in enforcing visible emissions regulations from Stationary Sources.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	58 FR 61639
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2915

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RIN: 2060–AF83

3307. SERVICE INFORMATION AVAILABILITY

Priority: Other Significant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rule will require manufacturers of automobiles to provide necessary information needed to make use of emission control diagnostic systems as well as that needed to make emission-related diagnosis and repairs by any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines. This will allow independent service repair garages, individual owners, parts manufacturers, etc., to have access to emission control information to better service automobiles and ensure clean air compliance requirements.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3741

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RIN: 2060–AG13

3308. AMENDMENTS TO PART 60, PART 61, AND PART 63 AND ADDITION OF METHOD 14A TO PART 60

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7410 to 7412; 42 USC 7414; 42 USC 7416

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: This rulemaking will amend the emission test methods and performance specifications in appendices A and B of part 60, appendix B of part 61, and appendix A of part 63 by revising the method format to conform with Environmental Monitoring Management Council (EMMC) guidelines. Conformance to the guidelines will promote consistency among inter-program methods. In addition, minor technical and printing errors in the methods will be corrected. Similar errors in various subparts of part 60 will also be corrected. Performance specification 15 is also being proposed in this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	08/27/97	62 FR 45369
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3743

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RIN: 2060–AG21

3309. AMENDMENT TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES; MONITORING REQUIREMENTS (PS-1)

Priority: Substantive, Nonsignificant

Legal Authority: CAA sec 407

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This action proposes to clarify and update requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. This action also proposes amendments regarding design and performance validation requirements for continuous opacity monitoring system (COMS) equipment in appendix B, PS-1. These amendments to subpart A and PS-1 will not change the affected facilities' applicable emission standards or requirement to monitor. The amendments will: (1) clarify owner and operator and monitor vendor obligations, (2) reaffirm and update COMS design and performance requirements, and (3) provide EPA and affected facilities with equipment assurances for carrying out effective monitoring. The specifications shall apply to all COMS's installed or replaced after the date of promulgation. Following promulgation, a source owner, operator, or manufacturer will be subject to these performance specifications if installing a new COMS, relocating a COMS, replacing a COMS, recertifying a COMS that has

undergone substantial refurbishing, or has been specifically required to recertify the COMS with these revisions.

Timetable:

Action	Date	FR Cite
NPRM	11/24/94	59 FR 60585
Supplemental NPRM	09/23/98	63 FR 50824
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3744

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RIN: 2060–AG22

3310. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: Over the past 25 years, EPA has issued a series of national air regulations, many of which affect the same facility. Some facilities are now subject to five or six national rules, sometimes affecting the same emission points. Each rule has emission control requirements as well as monitoring, recordkeeping, and reporting requirements.

These requirements may be duplicative, overlapping, difficult to understand, or inconsistent. It is often difficult for plant managers to determine compliance strategies to satisfy all requirements and for State and local permitting agencies to determine the applicability of different requirements for permitting purposes. Resources are often wasted by both industry and States and localities in sorting out and complying with the panoply of multiple requirements.

All existing Federal air rules applicable to an industry sector will be reviewed to determine whether their provisions can be consolidated into a single new rule. Affected industries, State agencies, and other stakeholders will be consulted to identify duplicative and conflicting provisions and to provide assistance in drafting the single rule. The chemical industry and State representatives have agreed to work on a pilot project with EPA's air programs to explore this approach. If the approach is successful with the chemical industry, it may be expanded to air rules for other industry sectors.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57748
Final	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3748

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RIN: 2060–AG28

3311. ACID RAIN PROGRAM: CONTINUOUS EMISSION MONITORING (CEM) RULE REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 75 (Revision); 40 CFR 72 (Revision)

Legal Deadline: None

Abstract: On January 11, 1993, EPA promulgated the final core acid rain rules, including the CEM regulation at 40 CFR part 75. Since the rule was promulgated, the 263 Phase I and 783 Phase II utility units have already begun to comply with this regulation by installing and completing certification testing by the January 1, 1995, statutory deadline.

As a result of on-going internal and external assessment of the Acid Rain Program monitoring and reporting requirements, EPA, State environmental agencies, and affected utilities have identified areas of the part 75 CEM regulations which would benefit from revision or clarification. Many of the suggested revisions will add increased flexibility to the utility industry in implementing and complying with the requirements of part 75. Other revisions will clarify existing provisions in an effort to make the regulation more understandable. Still other revisions will provide increased quality assurance of the Acid Rain Program CEM data. These issues include allowing reduced monitoring and reporting requirements for low emitting units, more effective and economical quality assurance requirements, greater flexibility for fuel sampling and fuel flowmeter testing procedures under appendix D, clarification of span/range equipment specifications, greater flexibility for monitoring controlled emissions, and greater flexibility for using backup monitors during malfunction of the primary monitor. This action is necessary because of the experience and additional information both EPA and industry have gained from 1993 to the present. Industry views this action as positive because it provides industry with more implementation flexibility.

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 28032
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3808

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RIN: 2060–AG46

EPA—CAA

Final Rule Stage

3312. ADDITION OF METHOD 207 TO APPENDIX M OF 40 CFR PART 51 METHOD FOR MEASURING ISOCYANATES IN STATIONARY SOURCE EMISSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 listed certain isocyanate compounds as hazardous air pollutants (HAPs). The Agency does not have any published test methods that would measure air emissions of these isocyanate compounds from stationary sources. This action would add a validated test method to measure isocyanate emissions to appendix M of part 51. Test methods in part 51 can be adopted by any State for use in any regulation that requires the measurement of any of the isocyanate compounds on the HAP list. This action would not impose any new regulatory requirements that do not already exist. It should benefit State governments by providing them with a validated test procedure for measuring the emissions of isocyanate compounds.

Timetable:

Action	Date	FR Cite
NPRM	12/08/97	62 FR 64532
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3900

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RIN: 2060–AG88

3313. FEDERAL OPERATING PERMITS PROGRAM IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7661a(d)(3)

CFR Citation: 40 CFR 71.4

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Recognizing its trust responsibilities to Indian tribes, EPA plans to exercise its regulatory authority to issue permits to sources of air pollution in Indian country where sources are not regulated by Indian tribes. The Federal operating permits program for stationary air sources should extend to all of Indian country, but the regulation that created the program inadvertently created a regulatory gap. A change in regulations is needed to assure that each major source in Indian country is subject to either a State, tribal, or Federal permit program.

The regulatory change would create a level playing field for industry. Also, the regulatory change would assure that EPA can regulate sources that create air pollution problems in Indian country or that are located in Indian country and generate air pollution problems for other areas.

There are no anticipated impacts on small businesses or State or local governments. The regulatory change would eliminate a burden on tribal governments. They would not need to demonstrate their jurisdiction over an area in order for EPA to administer a permit program for the area.

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13748
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3868

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RIN: 2060–AG90

3314. REVISION TO THE LIGHT-DUTY VEHICLE EMISSION COMPLIANCE PROCEDURE (CAP 2000)

Priority: Other Significant

Legal Authority: CAA

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The purpose of this NPRM is to propose changes to the emissions compliance procedures for light-duty vehicles. These proposed changes will streamline the current process beginning with model year 2000. These proposed changes will improve in-use emissions with a potential decrease in the net burden on auto manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	07/23/98	63 FR 39653
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3913

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RIN: 2060–AH05

3315. ADDITION OF OPACITY METHOD TO APPENDIX M OF 40 CFR PART 51 (METHOD 203)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking proposes to add a method, Method 203, for the measurement of opacity from stationary sources, to appendix M (Example Test Methods for State Implementation Plans) in 40 CFR part 51. This action provides States with an instrumental test method which can be used in determining, on a continuous basis, compliance with stationary source opacity emission limitations.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46114
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3958

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EPA—CAA

Final Rule Stage

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RIN: 2060–AH23

3316. EXPANDED DEFINITIONS FOR ALTERNATIVE-FUELED VEHICLES AND ENGINES MEETING LOW-EMISSION VEHICLE EXHAUST EMISSION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2002; 15 USC 2003; 15 USC 2005; 15 USC 2006; 15 USC 213; 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7552

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will ease the burden of certification for both Original Equipment Manufacturers (OEMs) and after-market conversion entities. This action will, for vehicles and engines meeting LEV emission standards, broaden the definition of the term dedicated fuel system, broaden the criteria for engine families, and provide an exemption from certification fees. This action is not a deregulatory action. This action will provide another means for small business to remain active entities in supplying alternatively fueled vehicles to the market place. The above three changes are intended to reduce the cost of complying with the requirements of certification, and small business will benefit from these changes. This action will enhance the ability for the regulated industry to provide alternatively fueled vehicles to the consumer in support of the Executive Order 13031.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38767
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4030

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RIN: 2060–AH52

3317. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORY: PULP AND PAPER PRODUCTION; AMENDMENTS TO THE PROMULGATED RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.440 to 63.459 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to clarify sections of the promulgated pulp and paper industry maximum achievable control technology (MACT) standards where commenters have indicated that the wording is confusing. This action will also correct any typographical errors noted. This action will contain guidance and amended rule language.

Timetable:

Action	Date	FR Cite
Final Rule Interpretations and Technical Amendment	09/16/98	63 FR 49455
NPRM	12/28/98	63 FR 71408
Direct Final Rule Amendment	12/28/98	63 FR 71385
Final Action Interpretations and Technical Amendment	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4123

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RIN: 2060–AH74

3318. FEDERAL IMPLEMENTATION PLANS (FIPS) TO REDUCE THE REGIONAL TRANSPORT OF OZONE IN THE EASTERN UNITED STATES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 52; 40 CFR 97; 40 CFR 98

Legal Deadline: None

Abstract: This action proposes to require Nitrogen Oxides (NOx) emissions decreases in 22 States and the District of Columbia. The intended effect is to reduce the transport of ozone (smog) pollution and one of its main precursors -- NOx -- across State boundaries in the eastern half of the United States.

On October 27, 1998, EPA published a final rule (often referred to as the "OTAG SIP Call") finding that the transport of ozone from certain States in the Ozone Transport Assessment Group (OTAG) region (the OTAG region is comprised of the 37 easternmost States and the District of Columbia) contributes significantly to nonattainment of the ozone national ambient air quality standards (NAAQS) in downwind States. Further, EPA determined the appropriate levels of NOx emissions that each of the affected States will be required to achieve. The final OTAG SIP Call rule allows States 12 months to develop, adopt, and submit revisions to their State Implementation Plans (SIPs) to address the transport problem.

The Administrator is required to promulgate a Federal Implementation Plan (FIP) within 2 years of: (1) finding that a State has failed to make a required submittal or (2) finding that a submittal is not complete or (3) disapproving a SIP submittal. Although the Clean Air Act allows EPA up to 2 years after the finding to promulgate a FIP, EPA intends to expedite the FIP promulgations to help assure that the downwind States realize the air quality benefits of regional NOx reductions as soon as practicable. Therefore, EPA proposed FIPs at the same time as final action was taken on the October 27, 1998 SIP Call final rule. Furthermore, EPA intends to make a finding and promulgate a FIP immediately after the

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SIP submittal due date for each upwind State that fails to submit a SIP.

Timetable:

Action	Date	FR Cite
NPRM	10/21/98	63 FR 56393
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, Tribal, Federal

Additional Information: SAN No. 4096

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RIN: 2060–AH87

3319. FINDINGS OF SIGNIFICANT CONTRIBUTION AND RULEMAKING ON SECTION 126 PETITIONS FOR PURPOSES OF REDUCING INTERSTATE OZONE TRANSPORT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7426

CFR Citation: 40 CFR 52; 40 CFR 75; 40 CFR 97

Legal Deadline:
Other, Statutory.
Final, Judicial, April 30, 1999, Consent decree.

Abstract: In August 1997, eight northeastern States (Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Pennsylvania, and Vermont) submitted individual petitions to EPA under section 126 of the Clean Air Act. Each petition requests that EPA make a finding that certain major stationary sources in upwind States contribute significantly to ozone nonattainment problems in the petitioning State. The petitions target sources in the eastern half of the United States. If EPA grants the requested findings, EPA must establish Federal emission control requirements for the affected sources. Sources would have to comply with the emissions limits within three years from the finding. These sources may also subjected to State-adopted emission limitations and control schedules in response to a separate EPA rulemaking action on regional ozone transport that EPA promulgated on October 27, 1998 (63 FR 57356, summarized elsewhere in this Agenda as RIN 2060-AH10). In this related action, EPA made a finding that emissions from 22 eastern States and the District of Columbia significantly contribute to nonattainment problems in downwind States. EPA required that these States and DC must revise their State implementation plans to include provisions that will reduce Statewide nitrogen oxide emissions (an ozone precursor) to a specified level. Because this ozone transport rulemaking overlaps considerably with the section 126 petition process, EPA believes it is important to coordinate the two actions as much as possible. On December 17, 1997, EPA signed a memorandum of agreement with the eight petitioning States concerning the schedule for EPA action on the petitions. The agreement provides EPA with additional time beyond the statutory deadline for analyzing the technical merits of the petitions and carrying out the rulemaking process. The agreement is designed to ensure that EPA will take timely action on the petitions while recognizing that EPA is simultaneously examining ozone transport through a State-based process.

Timetable:

Action	Date	FR Cite
ANPRM	04/30/98	63 FR 24058
NPRM	09/30/98	63 FR 52213
NPRM	10/21/98	63 FR 56291
Supplemental NPRM	03/03/99	64 FR 10342
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

Additional Information: SAN No. 4095

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RIN: 2060–AH88

3320. AIR QUALITY INDEX REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation will update the Pollutant Standards Index (PSI) to reflect revisions to the NAAQS for ozone and particulate matter. The PSI program is codified in section 58.50 and appendix G to part 58. Section 58.50 and appendix G to part 58 require that States report to the public an air quality index, the Pollutant Standards Index, which translates ambient concentrations of five of the criteria pollutants to a uniform, numerical index, ranging from 0 to 500. The scale of the PSI is based on human health effects information. Revisions will be made to the ambient concentrations which specify the breakpoints between the PSI categories (i.e., the good, moderate, unhealthful, very unhealthful, and hazardous categories) and associated example health advisories.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67818
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4073

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RIN: 2060–AH92

3321. ELECTRIC ARC FURNACE NSPS AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

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CFR Citation: 40 CFR 60 (Revision)

Legal Deadline: None

Abstract: The NSPS currently requires monitoring of the furnace pressure by installing a pressure sensor in the furnace or in the duct connected to the furnace. Maintaining an operating pressure sensor under these conditions of extreme temperatures is difficult. The NSPS will be amended to allow daily observations of visible emissions from the shop in conjunction with monitoring of primary and secondary emission control system parameters, in lieu of monitoring internal furnace pressure. This amendment was recommended by the iron and steel common sense initiative.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4125

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RIN: 2060–AH95

3322. ACID RAIN PROGRAM: PROPOSED REVISION OF TEST METHOD 1, 2, AND 2F FOR MEASURING VOLUMETRIC FLOW IN STACKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7411; 42 USC 7414; 42 USC 7416; 42 USC 7429; 42 USC 7601

CFR Citation: 40 CFR 60; 40 CFR 60 (Appendix A) "Test Method 1 and 2"; 40 CFR 75

Legal Deadline:
Other, Statutory, December 31, 1998, Voluntary.

Abstract: EPA Test Methods are Agency-approved procedures used by test teams to accurately determine emissions from sources; e.g., power plants. The proposed revisions to Test Methods 1, 2, and 2F will improve the accuracy of the determination of volumetric flow measurements in utility stacks. These revisions will affect electric utilities and other sources covered by EPA's Acid Rain Program and possibly by other air quality control regulations; e.g., New Source Performance Standards, Prevention of Significant Deterioration, and State emission limits. Currently, the Test Methods do not allow yaw or pitch angles or wall effects to be considered in calculating volumetric flow. In the Acid Rain Program and in other programs requiring reporting of mass emission rates, e.g., lbs SO2/hour, not allowing these parameters in the calculation of volumetric flow may cause overreporting of pollutant emissions in some situations. The Test Method revisions are also expected to help reduce such overreporting as well as the disparity between stack-measured power plant heat rate and combustion-calculated heat rate. Heat rate is important to power plants because it affects, e.g., electric rates, and limitations on plant operations in State permits.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4130

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RIN: 2060–AH97

3323. OPTIONAL CERTIFICATION STREAMLINING PROCEDURES FOR LDVS, LDTS, AND HDES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2002; 15 USC 2003; 15 USC 2005; 15 USC 2006; 15 USC 213; 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7552

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will ease the burden of certification for both Original Equipment Manufacturers (OEMs) and after-market conversion entities that meet Clean-Fuel Vehicle requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38767
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4165

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RIN: 2060–AI15

3324. CONTROL OF EMISSIONS OF AIR POLLUTION FROM NEW MARINE DIESEL ENGINES AT OR ABOVE 37 KILOWATTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7547(a)

CFR Citation: 40 CFR 89

Legal Deadline:
NPRM, Judicial, November 25, 1998, Consent Decree.
Final, Judicial, November 26, 1999, Consent Decree.

Abstract: The ANPRM notifies and invites comments from the public on EPA's plans to propose stringent standards for control of emissions of oxides of nitrogen, hydrocarbons, and particulate matter from diesel marine engines at or above 37 kilowatts. The ANPRM contains a broad outline of EPA's plans for defining a national emission control program for these engines, including engine categories to be covered, emission standard levels being considered, and potential compliance programs. Results of a Nonroad Engine and Vehicle Emission Study conducted by EPA indicated the need for regulation of categories or

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classes of new nonroad engines and vehicles that are significant contributors to ozone or CO in NAAQS nonattainment areas. Such a finding led to control of emissions from various nonroad sources. This action outlines a strategy to control emissions from one nonroad source: diesel marine engines. If the emission control program discussed in the ANPRM is implemented, EPA would expect to see NOx and PM reductions comparable to their land-based counterparts on a per engine basis, for marine engines which are derivatives of land-based engines.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/98	63 FR 68507
NPRM	12/11/98	63 FR 68507
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 336399 All Other Motor Vehicle Parts Manufacturing; 335312 Motor and Generator Manufacturing

Additional Information: SAN No. 4078

This was previously listed as RIN 2060-AH65.

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RIN: 2060–AI17

3325. • PROTECTION OF STRATOSPHERIC OZONE: INCORPORATION OF MONTREAL PROTOCOL ADJUSTMENT FOR A 1999 INTERIM REDUCTION IN CLASS I, GROUP VI CONTROLLED SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: This action reconsiders a certain reporting requirement in the petition process to import previously used ozone-depleting substances in response to a legal stay. In addition, technical changes that reflect international decisions made in Vienna, Austria in 1995, in San Jose, Costa Rica in 1996 and in Montreal, Canada in 1997.

Timetable:

Action	Date	FR Cite
NPRM	02/25/99	64 FR 9290
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4206

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RIN: 2060–AI24

3326. • REVISION OF EPA'S RADIOLOGICAL EMERGENCY RESPONSE PLAN

Priority: Other Significant

Legal Authority: PL 96-295 Sec 304; EO 12777

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) Radiological Emergency Response Plan (RERP) establishes a framework for timely, coordinated EPA action to protect public health and safety and the environment in response to a peacetime radiological incident. The original EPA RERP was approved in 1986. This new revision updates authorities, responsibilities, capabilities, and procedures for implementing effective radiological emergency response actions by EPA Offices. The RERP presents the EPA organizational structure and concept of operations for responding to radiological incidents as a participant in a Federal multi-agency response using the Federal Radiological Emergency Response Plan (FRERP) and the Federal Response Plan (FRP), and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This revision incorporates recent changes to the FRERP and NCP, and many other policy updates. In short, this revision ensures that EPA maintains a comprehensive strategy to provide organized, effective assistance to State and local governments in the event of a radiological emergency.

Timetable:

Action	Date	FR Cite
Final Plan	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3638

Was previously listed in the Regulatory Agenda as RIN 2060-AF85.

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RIN: 2060–AI49

3327. AMENDMENTS—INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER

Priority: Economically Significant

Legal Authority: 42 USC 7412 CAAA sec 112; 42 USC 7414 CAAA sec 114; 42 USC 7601 CAAA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306-308; 33 USC 1317; 33 USC 1318; 33 USC 1361 CWA sec 301; CWA sec 501

CFR Citation: 40 CFR 63; 40 CFR 430

Legal Deadline: None

Abstract: The Clean Air Act (CAA) Amendments of 1990 direct the Environmental Protection Agency (EPA) to set National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources under section 112 and to base these standards on maximum achievable control technology (MACT). The Clean Water Act (CWA) directs EPA to develop effluent guidelines for certain categories and classes of point sources. These guidelines are used for setting discharge limits for specific facilities that discharge to surface waters or municipal sewage treatment systems. On April 15, 1998, the EPA promulgated an integrated regulation for the pulp and paper industry that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air. At the same time, the EPA proposed MACT standards for the

chemical recovery combustion sources. The regulations were developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable the industry to more effectively plan compliance via a multimedia approach.

Next Steps will be to issue final effluent guidelines for Phase II and Phase III mills. Phase II will address the effluent from mills not covered in the Final Phase I effluent guidelines (except dissolving grade mills) plus will set limits for reserved parameters for chemical oxygen demand (COD) and chloroform at Phase I mills. Phase III will set final effluent limits for dissolving grade mills.

This Regulatory Plan entry also includes RIN 2040-AB53, Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, reported in full in part III of this issue of the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM NESHAP Phase III - Nonchemical and Other Mills	03/08/96	61 FR 9383
NPRM NESHAP Phase II - Combustion Sources	04/15/98	63 FR 18754
Final NESHAP Phases I and III and Effluent Guidelines Phase I	04/15/98	63 FR 18504
Final NESHAP Phase II - Combustion Sources	04/00/99	
Final Effluent Guidelines Phase II	02/00/00	
Final All NESHAP Phases	08/00/00	
Final Effluent Guidelines Phase III - Dissolving Grade	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3105 (Air), SAN No. 2712 (Water), SAN No. 4050 (Water Phase II),

ADDITIONAL AGENCY CONTACT: Jeff Telander (NESHAP Phase II - Combustion Sources)

ADDITIONAL AGENCY CONTACT: Elaine Manning (NESHAP Phase III - Nonchemical and other Pulp and Paper Mills)

See also RIN 2040-AB53

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RIN: 2060–AD03

3328. NESHAP: OIL AND NATURAL GAS PRODUCTION AND NATURAL GAS TRANSMISSION AND STORAGE

Priority: Other Significant

Legal Authority: Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Hazardous air pollutants (HAPs) known to be emitted from oil and gas production, storage, and transmission facilities include benzene, toluene, ethyl benzene, and xylene isomers (collectively referred to as BTEX), along with 2,2,4-trimethylpentane and n-hexane. Potential HAP emission sources are glycol dehydrator reboilers (stand-alone and co-located); condensate storage vessels; and equipment leaks at natural gas processing plants.

Timetable:

Action	Date	FR Cite
NPRM	02/06/98	63 FR 6288
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3229

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RIN: 2060–AE34

3329. NESHAP FOR THE MANUFACTURING OF AMINO AND PHENOLIC RESINS (POLYMERS AND RESINS GROUP III)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the amended Clean Air Act requires development of emission standards for all major sources, and selected area sources, emitting any of the 188 hazardous air pollutants identified in section 112(b) of the Act. Amino, and phenolic resins productions have been listed as categories of major sources based on documented emissions of phenol and/or formaldehyde. The purpose of the NESHAP for the Manufacturing of Amino and Phenolic Resins (Polymers and Resins Group III) project is to initiate the regulatory process for sources engaged in the production of amino, and phenolic resins, and to ultimately develop a NESHAP based on candidate Maximum Achievable Control Technology.

Timetable:

Action	Date	FR Cite
NPRM	12/14/98	63 FR 68831
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

Additional Information: SAN No. 3228

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RIN: 2060–AE36

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3330. NESHAP: PHOSPHORIC ACID MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, Clean Air Act Amendments of 1990.
Final, Judicial, May 15, 1999.

Abstract: The CAAA required EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAAA and to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs so that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphoric acid manufacturing industry emits several of the 189 HAPs listed in section 112(b) of the CAAA. The purpose of this action is to pursue a regulatory development program that would ensure that emission standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68430
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3303

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RIN: 2060–AE40

3331. NESHAP: STEEL PICKLING, HC1 PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Judicial, May 15, 1999.

Abstract: Hydrochloric acid (HC1) and chlorine are among the pollutants listed as hazardous air pollutants in section 112 of the Clean Air Act, as amended in November of 1990. Steel pickling processes that use HC1 solution and HC1 regeneration processes have been identified by the EPA as potentially significant sources of HC1 and chlorine air emissions and, as such, a source category for which national emission standards may be warranted.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 49052
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3345

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RIN: 2060–AE41

3332. NESHAP: PHOSPHATE FERTILIZERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997, Clean Air Act Amendments of 1990.

Abstract: EPA is required to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAAA and, to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs so that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphate fertilizer production industry emits several of the 189 HAPs listed in section 112(b) of the CAAA. The purpose of this action is to pursue a regulatory development program that would ensure that emission standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68430
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3304

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RIN: 2060–AE44

3333. NESHAP: PRIMARY COPPER SMELTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The primary copper smelting industry is known to emit a number of the hazardous air pollutants listed in section 112 of the Clean Air Act.

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The industry is comprised of seven smelters located in four states. All have extensive control systems for oxides of sulfur and HAPs. However, fugitive emissions may cause several smelters to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19582
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3340

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RIN: 2060–AE46

3334. NESHAP: SECONDARY ALUMINUM INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The Act requires EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the Act, to promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAP emission sources, and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the secondary aluminum industry may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the Act. As a consequence, the source category is included on the initial list of HAP emitting categories and is on the list of categories scheduled for standards promulgation within seven years of enactment of the Act. The purpose of this action is to pursue a regulatory development program that would help to ensure that emission standards may be proposed and promulgated.

Timetable:

Action	Date	FR Cite
NPRM	02/11/99	64 FR 6946
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3078

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RIN: 2060–AE77

3335. NESHAP: PORTLAND CEMENT MANUFACTURING

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866; EO 12291

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.
Final, Judicial, May 15, 1999.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that most plants in the Portland cement manufacturing industry source category are major sources of hazardous air pollutants. A regulation (emission standards) is being developed for the Portland cement manufacturing industry. Cement kilns which burn RCRA hazardous waste are subject to a separate rule that has been proposed by the EPA Office of Solid Waste.

Timetable:

Action	Date	FR Cite
NPRM	03/24/98	63 FR 14182
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Sectors Affected: 32731 Cement Manufacturing

Additional Information: SAN No. 3079

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RIN: 2060–AE78

3336. NESHAP: POLYETHER POLYOLS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.
Final, Judicial, May 15, 1999.

Abstract: Title III of the CAA requires development of emission standards for all major sources emitting any of the hazardous air pollutants (HAPs) identified in section 112(b) of the CAA. Polyether Polyol Production is listed as a category of major sources based on documented emissions of propylene oxide and ethylene oxide. This action will regulate the release of HAPs from the following process areas located at polyether polyol manufacturing facilities: process vents (e.g., reactors), storage, equipment leaks and other fugitive sources, and wastewater operations.

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Timetable:

Action	Date	FR Cite
NPRM	09/04/97	62 FR 46804
Correction Notice	10/20/97	62 FR 54410
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3408

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RIN: 2060–AE81

3337. NESHAP: PESTICIDE ACTIVE INGREDIENT PRODUCTION (PRODUCTION OF AGRICULTURAL CHEMICALS)

Priority: Other Significant

Legal Authority: CAA sec 112

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, November 15, 1997.
Final, Judicial, May 15, 1999.

Abstract: The following ten source categories (which are all pesticide active ingredients) are listed under the Production of Agricultural Chemicals (PAC) industry group: 1) 2,4-D Salts and Esters Production; 2) 4-Chloro-2-Methylphenoxyacetic Acid Production; 3) 4, 6-Dinitro-o-Cresol Production; 4) Captafol Production; 5) Captan Production; 6) Chloroneb Production; 7) Chlorothalonil Production; 8) Dacthal (tm) Production; 9) Sodium Pentachlorophenate Production; 10) Tordon (tm) Acid Production.

On November 10, 1997, the EPA proposed standards for all pesticide active ingredient producers including the 10 categories listed above. Any other pesticide active ingredient production plant which produces or uses any of the 188 listed hazardous air pollutants was also included. A variety of HAPs are emitted including, toluene, methyl chloride, methanol, chlorinated compounds, etc.

Timetable:

Action	Date	FR Cite
NPRM	11/10/97	62 FR 60565
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 325199 All Other Basic Organic Chemical Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 3450

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RIN: 2060–AE84

3338. NESHAP: ACRYLIC/MODACRYLIC FIBERS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112 (d)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant emissions from existing and new facilities that manufacture or produce as an interim process acrylic or modacrylic fibers. Principal pollutants identified are vinyl acetate and acrylonitrile. The majority of emissions occur during the polymerization reaction and spinning process. There are only three major sources in the United States that will be affected by this regulation. This rule is being developed as part of the Generic MACT rule (see RIN 2060-AG91) for more information.

Timetable:

Action	Date	FR Cite
NPRM	10/14/98	63 FR 55178
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3378

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RIN: 2060–AF06

3339. NESHAP: POLYCARBONATES PRODUCTION

Priority: Other Significant

Legal Authority: 42 USC 7401 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant (HAP) emissions from the production of polycarbonate resins. This source category is being developed as part of the General MACT Standard (RIN 2060-AG91). See Generic MACT entry for more information.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3465

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RIN: 2060–AF09

3340. NESHAP: PUBLICLY OWNED TREATMENT WORKS (POTW)

Priority: Other Significant

Legal Authority: CAAA sec 112(e)(5); CAAA sec 112(n)(3)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Judicial, May 15, 1999.

Abstract: This rule will specify maximum achievable control technology for publicly owned treatment works (POTW), also known as sewage/wastewater treatment plants, or water reclamation facilities. Hazardous air pollutant emissions from the headworks, primary and secondary treatment, solids handling, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/01/98	63 FR 66084
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 3377

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RIN: 2060–AF26

3341. REVISIONS TO THE REGULATION FOR APPROVAL OF STATE PROGRAMS AND DELEGATION OF FEDERAL AUTHORITIES 112(L)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: CAA sec 112(l)

CFR Citation: 40 CFR 63(E)

Legal Deadline: None

Abstract: Guidance in the form of rulemaking is being developed in accordance with the requirements of section 112(l) of the Clean Air Act Amendments of 1990 for the approval of State air toxic programs and the delegation of Federal authorities to the States for the implementation and enforcement of section 112 emission standards and other requirements. This regulatory document will provide some flexibility to States in the following areas: minimum requirements for EPA approval of State air toxics regulations that are equivalent to or more stringent than the Federal standards and minimum requirements for EPA approval of State air toxics programs that are equivalent to or more stringent than the Federal program. Specific issues that will be addressed include: alternative work practice standards; alternative monitoring, recordkeeping, and reporting; alternative test method approval process; equivalency by permits; and mechanisms and requirements for approval of State air toxics programs. Additionally, the Partial Approval and Delegable Authorities rulemakings will be added to this rulemaking. The Partial Approval language will provide flexibility to States by allowing States to accept delegation of parts of standards. This will allow them to implement and enforce these provisions on a smaller scale. The delegable authorities rulemaking will clarify what authorities EPA has delegated to States when the part 63, subpart A, general provisions have been delegated. Due to a lack of clear guidance, the EPA Regions have not been consistent in the delegation of general provisions to States.

Timetable:

Action	Date	FR Cite
NPRM	01/12/99	64 FR 1880
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3829

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RIN: 2060–AG60

3342. GENERIC MACT FOR SOURCE CATEGORIES (ACRYLIC MODACRYLIC FIBERS, POLYCARBONATES, HYDROGEN FLUORIDE, AND ACETAL RESINS)

Priority: Other Significant

Legal Authority: CAA sec 112

CFR Citation: Not yet determined

Legal Deadline:
Final, Judicial, May 15, 1999.

Abstract: Several of the source categories that are subject to MACT (maximum available control technology) standards contain only a few sources (e.g., less than five). For such source categories, EPA plans to develop the underlying information through its MACT Partnership Program. To do this, EPA needs to develop a generic MACT standard for these source categories. This reinvention to the MACT standards development process will allow for proper participation by all stakeholders. Given the relatively few affected sources caught by the generic standard, the overall cost and environmental effects of this action are expected to be small, nationally. The MACT program addresses hazardous air pollutants. This action will only affect major sources of these HAPs. The source categories included in this standard are: Acrylic/Modacrylic (RIN 2060-AF06), Polycarbonates (RIN 2060-AF09), Acetal Resins, and Hydrogen Fluoride (RIN 2060-AG94).

Timetable:

Action	Date	FR Cite
NPRM	10/14/98	63 FR 55177
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3901

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RIN: 2060–AG91

3343. NESHAP: HYDROGEN FLUORIDE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.
Other, Statutory, November 15, 2000, 10 year source category BIN.

Abstract: This rule will establish maximum achievable control technology (MACT) for hydrogen fluoride (HF) production facilities. The rule will affect one HF production facility, which is currently well-controlled. This action will result in little or no additional emission reduction but will establish a Federal MACT level for this plant. The rule is being proposed as part of the Generic MACT rule (RIN 2060-AG91).

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3654

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RIN: 2060–AG94

3344. NATIONAL STRATEGY FOR URBAN AREA SOURCES OF TOXIC AIR EMISSIONS

Priority: Other Significant

Legal Authority: 42 USC 7412(k) CAA sec 112(k); 42 USC 7412(c)(3) CAA sec 112(c)(3)

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, November 15, 1995.
NPRM, Judicial, August 31, 1998.
Final, Judicial, June 18, 1999.

Abstract: Congress directed EPA in the 1990 Amendments to the Clean Air Act to study the nature and magnitude of air toxic emissions, exposures and risks in U.S. cities. This was in response to growing evidence that an urban soup existed that was causing cancer and other effects, and which may not adequately be addressed by the MACT program on major sources. The 1990 Amendments call for EPA to appraise the sources and pollutants which contribute most to the urban soup phenomenon, and to publish a national strategy by 1995 that summarizes these findings and identifies actions to mitigate the problem. This strategy will contain (1) general and specific recommendations for additional research, (2) an accounting of actions and measures undertaken by the EPA and State and local agencies that reduce emissions of the hazardous substances of particular concern, and (3) a call for additional measures needed to complete sufficient mitigation of the problem. This action is not considered deregulatory. This action has no direct impacts on small businesses; however, as the strategy is subsequently implemented through later actions and specific rules, some small businesses may be regulated as a consequence of carrying out the regulatory recommendations in the strategy.

Timetable:

Action	Date	FR Cite
Final	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3959

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RIN: 2060–AH21

3345. NESHAP: OIL AND NATURAL GAS PRODUCTION AND NESHAP: NATURAL GAS TRANSMISSION AND STORAGE, AMENDMENTS TO PROPOSED RULE

Priority: Other Significant

Legal Authority: CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Hazardous air pollutants (HAPs) known to be emitted from oil and gas production, storage, and transmission facilities include benzene, toluene, ethyl benzene, and xylene isomers (collectively referred to as BTEX), along with 2,2,4-trimethylpentane and n-hexane. Potential HAP emission sources are glycol dehydrator reboilers (stand-alone and co-located); condensate storage vessels; and equipment leaks at natural gas processing plants.

Timetable:

Action	Date	FR Cite
NPRM	02/02/98	63 FR 6288
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4162

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RIN: 2060–AI13

3346. TRANSPORTATION CONFORMITY RULE AMENDMENT AND SOLICITATION FOR PARTICIPATION IN THE PILOT PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

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Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 to 7671 CAA sec 176

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The Transportation Conformity rule promulgated in November 1993 ensures that transportation and air quality planning are consistent with Clean Air Act air quality standards. This action is part of an Agency effort to streamline the existing conformity regulation and offer flexibility in the conformity process. This action would amend the conformity regulation to allow EPA to create and implement a conformity pilot program.

The rule amendment would allow EPA to exempt up to six areas from certain requirements of the conformity rule. The main objective of the pilot program is to offer State and local air and transportation agencies the flexibility to identify the conformity procedures that work best for their area. This action will enable EPA to test out innovative methods of streamlining the conformity regulation's requirements while ensuring that Clean Air Act objectives are met. In addition to the rule amendment, this action also includes the pilot program's proposed eligibility and application requirements, selection criteria, and implementation procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 35994
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3610

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RIN: 2060–AG79

3347. REDUCTION OF VOLATILE ORGANIC COMPOUND (VOC) EMISSIONS FROM COATINGS USED IN THE AEROSPACE, WOOD FURNITURE, AND SHIPBUILDING INDUSTRIES UNDER CLEAN AIR ACT SECTION 183(E)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59

Legal Deadline:
Final, Judicial, July 1, 1999.

Abstract: This action would result in the reduction of volatile organic compound (VOC) emissions from the coatings used by the Aerospace, Wood Furniture and Shipbuilding industries. The Agency will study the various VOC pollutants contained in these coatings and will evaluate pollution prevention and control techniques which can reduce these emissions; Control Techniques Guidelines can be issued in lieu of regulations if they are substantially as effective in reducing VOC emissions from the use of these coatings in ozone nonattainment areas. This rulemaking will be conducted in accordance with statutory requirements for VOC emission reduction under section 183(e) of the Clean Air Act. Data recently gathered for the development of National Emission Standards for Hazardous Air Pollutants (NESHAP) for these industries will be used to maximize resources and avoid duplication of data gathering efforts.

Timetable:

Action	Date	FR Cite
NPRM	08/22/97	62 FR 44672
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3828

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RIN: 2060–AG59

3348. IMPORTATION OF NONCONFORMING VEHICLES; AMENDMENTS TO REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7522 CAA sec 203; 42 USC 7525 CAA sec 206; 42 USC 7541 CAA sec 207; 42 USC 7542 CAA sec 208; 42 USC 7601 CAA sec 301; 42 USC 7522 CAA sec 203; 42 USC 7550 CAA sec 216; 42 USC 7601 CAA sec 301

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will amend the regulations in 40 CFR part 85, subpart P to allow entry into the U.S. of vehicles which are originally sold in Canada and which are identical to their U.S. counterparts, without obtaining a certificate of conformity from EPA. This action is in response to a petition for review of import rules. The final rule also will address certain other issues in part 85, subpart P and subpart R, including: 1) formalizing a long-standing EPA policy regarding the importation of owned vehicles that are proven to be identical to a vehicle certified for sale in the U.S., 2) establishing new emission standards applicable to imported nonconforming vehicles, 3) clarifying the regulatory language that concerns exclusions and exemptions from meeting Federal emission requirements, and 4) providing several minor clarifications to the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/24/94	59 FR 13912
Supplemental NPRM	02/12/96	61 FR 5840
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2665

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RIN: 2060–AI03

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3349. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER) (PHASE 2)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7547 CAA sec 213

CFR Citation: 40 CFR 90

Legal Deadline: None

Abstract: This action will establish the second phase of emissions standards for new nonroad spark-ignition engines at or below 19 kilowatts (25 horsepower), as required by section 213(a)(3) of the Clean Air Act, as amended. The Environmental Protection Agency (EPA) had been developing the second phase of small-engine regulations through a negotiated rulemaking, with representation by engine manufacturers, equipment manufacturers, emissions control manufacturers, equipment dealers, environment and public health interests, and State air programs. The negotiations came to an end on February 16, 1996 with no consensus reached. EPA will now develop the rulemaking through other means.

The affected engines are used in lawn, garden, and utility equipment, such as lawnmowers, string trimmers, chain saws, and small pumps and generators. The first phase was established July 3, 1995 (60 FR 34582), effective for the 1997 model year, and was very similar to the tier 1 small-engine regulations developed by California for the same engines. Regulated pollutants are hydrocarbons, carbon monoxide, and oxides of nitrogen.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/97	62 FR 14740
NPRM Hand-held engines	01/27/98	63 FR 3950
NPRM Non-hand-held engines	06/30/98	63 FR 3950
Final Action Hand-held engines	04/00/99	
Final Action Non-hand-held engines	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3361

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RIN: 2060–AE29

3350. PROTECTION OF STRATOSPHERIC OZONE: SUPPLEMENTAL RULE REGARDING A RECYCLING STANDARD UNDER SECTION 608

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq CAA sec 608

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: This rule will amend the recordkeeping aspects of the technician certification program, clarify aspects of a sales restriction, and adopt an updated version of ARI standard 740. The rule will also clarify the distinction between major and non-major repairs and amend several definitions including small appliances. The rule also addresses the transfers of unreclaimed refrigerant between majority-owned and majority-controlled subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM 1	02/29/96	61 FR 7858
NPRM	11/01/96	61 FR 56493
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3556

Additional SANs 3895, 3896. This rule will address a potential adoption of a more flexible method for cleaning refrigerants for refrigerant transferred between appliances with different ownership with a potential adoption of a 3rd party certification program for labs.

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RIN: 2060–AF36

3351. PROTECTION OF STRATOSPHERIC OZONE: REFRIGERANT RECYCLING RULE AMENDMENT TO INCLUDE SUBSTITUTE REFRIGERANTS

Priority: Economically Significant

Legal Authority: PL 101-54; 42 USC 7671(g) CAA sec 608; 42 USC 7401 et seq

CFR Citation: 40 CFR 82(F)

Legal Deadline:
Final, Statutory, November 15, 1995.

Abstract: This action would facilitate fulfillment of the statutory mandate to apply the venting prohibition to substitute refrigerants. The action would provide regulations covering recovery/recycling equipment, recovery/recycling practices, and applicable certifications that would be required to accomplish compliance with the venting prohibition. Requirements would parallel those of the current section 608 regulations, expanding applicability, where appropriate, to substitute refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	06/11/98	63 FR 32044
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3560

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RIN: 2060–AF37

3352. NESHAP: OFF-SITE WASTE AND RECOVERY OPERATIONS; FINAL RULE—SETTLEMENT AGREEMENT; AND NESHAP FOR OFF-SITE WASTE AND RECOVERY OPERATIONS; TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

EPA—CAA — Final Rule Stage

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The actions will amend the Off-Site Waste and Recovery Operations rule that was promulgated on July 1, 1996, based on the settlement agreement with the Chemical Manufacturers Association, the Hazardous Waste Management Association, and the Environmental Technology Council. The changes to the rule will clarify the EPA's intent and do not increase or lower or otherwise affect emissions or environmental protection. Additionally, the actions will clarify sections of the promulgated off-site waste and recovery operations regulation and correct any typographical errors noted. These actions will contain guidance and amended rule language.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Sectors Affected: 32411 Petroleum Refineries; 325412 Pharmaceutical Preparation Manufacturing

Additional Information: SAN No. 4108

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RIN: 2060–AH96

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions

Clean Air Act (CAA)

3353. CONTROL OF EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES RATED OVER 19 KW AND NEW LAND-BASED RECREATIONAL SPARK-IGNITION ENGINES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 to 7671q

CFR Citation: 40 CFR 94

Legal Deadline:
Other, Statutory, Proposed Finding. NPRM, Judicial, September 30, 2000. Final, Judicial, December 31, 2001.

Abstract: Emissions from large spark-ignition engines are currently unregulated. EPA and CARB are cooperating in an effort to set emission standards for these engines to substantially reduce their contribution to the emission inventory.

Timetable:

Action	Date	FR Cite
Proposed Finding	02/08/99	64 FR 6008
NPRM	09/00/00	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 333924 Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing; 42183 Industrial Machinery and Equipment Wholesalers; 335312 Motor and Generator Manufacturing

Additional Information: SAN No. 4154

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RIN: 2060–AI11

3354. • AMENDMENT TO REGULATIONS GOVERNING EQUIVALENT EMISSION LIMITATIONS BY PERMIT

Priority: Substantive, Nonsignificant

Legal Authority: CAA Section 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action delays a permit requirement triggered by the Agency's failure to promulgate all of the 7 year MACT standards by the 112(j) hammer date of May 15, 1999. The Agency was sued due to the fact that not all of the 7 year standards were promulgated by the statutory deadline of November 15, 1997. The settlement agreement requires that all remaining 7 year standards will be promulgated by December 2000. This action will delay the permit requirements triggered by the Section 112(j) hammer until the remaining standards are promulgated.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4244

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RIN: 2060–AI28

3355. • REVIEW NATIONAL AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Priority: Other Significant

Legal Authority: Clean Air Act Title I

CFR Citation: 40 CFR 50

Legal Deadline:
Final, Statutory, May 31, 2001, Clean Air Act requires reviews every five years.

Abstract: Review of the national ambient air quality standards (NAAQS) for carbon monoxide (CO) every 5 years is mandated by the Clean Air Act. This review assesses the available scientific data about the health and environmental effects of CO and translates the science into terms that can be used in making recommendations about whether or how the standards should be changed. The last review of the CO NAAQS was completed in 1994 with a final decision

that revisions were not appropriate at that time.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4266

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RIN: 2060–AI43

3356. • REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7408; 42 USC 7409

CFR Citation: 40 CFR 50

Legal Deadline:
Final, Statutory, July 1, 2002, Under the Clean Air Act--the next standards review is to be completed July 2002.

Abstract: On July 18, 1997, the EPA published a final rule revising the national ambient air quality standards (NAAQS) for particulate matter (PM) (62 FR 38652). While retaining the PM10 standard levels, new standards were added for fine particles (PM2.5) to provide increased protection against both health and environmental effects of PM. On the same day, a Presidential Memorandum (62 FR 38421, July 16, 1997) was published that, among other things, directed EPA to complete the next review of the PM NAAQS by July 2002. The EPA's plans and schedule for the next periodic review of the PM NAAQS were published on October 23, 1997 (62 FR 55201). As with other NAAQS reviews, a rigorous assessment of relevant scientific information will be presented in a Criteria Document (CD), and the preparation of this document is currently under way by the EPA's National Center for Environmental Assessment. The EPA's Office of Air Quality Planning and Standards will also prepare a Staff Paper (SP) for the Administrator which will evaluate the policy implications of the key studies and scientific information contained in the CD and additional technical analyses and identify critical elements that EPA staff believe should be considered in reviewing the standards. The SP and CD will be reviewed by the Clean Air Scientific Advisory Committee (CASAC) and the public; both will reflect the input received through these reviews. As the PM NAAQS review is completed, the Administrator's proposal to revise or reaffirm the PM NAAQS will be published with a request for public comment. Input received during the public comment period will be reflected in the Administrator's final decision which will be published in July 2002.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 21 Mining

Additional Information: SAN No. 4255

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RIN: 2060–AI44

3357. NSPS: SYNTHETIC ORGANIC CHEMICALS MANUFACTURING INDUSTRY—WASTEWATER

Priority: Other Significant

Legal Authority: CAAA

CFR Citation: 40 CFR 60

Legal Deadline:
NPRM, Judicial, August 31, 1994.

Abstract: This rule will develop a new source performance standard to control air emissions of volatile organic compounds from wastewater treatment operations of the synthetic chemical manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46780
Supplemental NPRM (First)	10/11/95	60 FR 52889
Supplemental NPRM (Second)	12/09/98	63 FR 67987
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3380

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RIN: 2060–AE94

3358. AMENDMENTS TO METHOD 24 (WATER-BASED COATINGS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The determination of volatile organic compounds (VOCs) content of a surface coating by reference Method 24 involves determination of its water content and calculation of its VOC content as the difference of the two measurements (volatile content minus water content). Method 24 is inherently less precise for water-based coatings

than it is for solvent-based coatings and the imprecision increases as water content increases. This action will amend Method 24 by adding a direct measurement procedure for measuring VOC content of water-based coatings. This amendment will improve the precision of Method 24 for water-based coatings.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3649

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RIN: 2060–AF72

3359. FEDERAL IMPLEMENTATION PLAN (FIP) TO CONTROL EMISSIONS FROM SOURCES LOCATED ON THE FORT HALL INDIAN RESERVATION

Priority: Other Significant

Legal Authority: CAA, title I

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: EPA will propose Federal rulemaking for sources located on the Reservation to implement the intent of the Clean Air Act (CAA) title I program to bring about attainment of the PM-10 NAAQS both on and off the Fort Hall Indian Reservation.

Timetable:

Action	Date	FR Cite
NPRM	02/12/99	64 FR 7307
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3637

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RIN: 2060–AF84

3360. REVISED PERMIT REVISION PROCEDURES FOR THE FEDERAL OPERATING PERMITS PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7661a(d)(3)

CFR Citation: 40 CFR 71.7

Legal Deadline: None

Abstract: The proposed regulatory change would streamline permit revisions procedures for stationary air sources that are subject to the Federal operating permits program.

The Agency does not anticipate any significant impact on small businesses and State/local/tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3922

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RIN: 2060–AG92

3361. REVIEW OF MINOR NEW SOURCES AND MODIFICATIONS IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7410

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: As required by the Clean Air Act's New Source Review provisions, the EPA is proposing Federal regulations governing preconstruction permitting of minor stationary sources of air pollution in Indian Country. Pursuant to the Tribal Air Rule, eligible Indian Tribes may receive EPA authorization to develop and implement such programs. The Federal minor New Source Review permitting program would be effective throughout Indian Country and would be implemented by the EPA if eligible Indian Tribes do not elect, or do not receive authorization, to manage such programs. The proposed rule would require sources in Indian Country, with certain exceptions, to obtain a permit prior to construction if they are: (1) new minor sources, (2) existing minor sources undergoing modification, or (3) existing major sources undergoing minor modification. The proposed rule also would allow new or existing stationary sources to accept enforceable limits on their production capacity or hours of operation in order to be considered minor sources and avoid being subject to other Clean Air Act requirements such as the title V operating permit program. This rule would not impose any mandates on Tribal governments to implement a minor New Source Review permitting program. Tribal governments may be affected, however, insofar as they own or operate sources that must obtain a permit from the EPA under the final Federal permitting program regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, Tribal, Federal

Additional Information: SAN No. 3975

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RIN: 2060–AH37

EPA—CAA

Long-Term Actions

3362. RULEMAKING TO MODIFY THE LIST OF SOURCE CATEGORIES FROM WHICH FUGITIVE EMISSIONS ARE CONSIDERED IN MAJOR SOURCE DETERMINATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7602; CAA sec 302(j)

CFR Citation: 40 CFR 51; 40 CFR 52; 40 CFR 70; 40 CFR 71

Legal Deadline: None

Abstract: This rulemaking will potentially expand the list of source categories for which fugitive emissions are to be considered in major source determinations under the New Source Review (Prevention of Significant Deterioration and Nonattainment New Source Review) and title V programs. As provided by section 302(j) of the Act, EPA adopted rules on August 7, 1980 that require, for specific source categories, the inclusion of fugitive emissions when determining if a stationary source is a major source.

In its 1980 rulemaking, EPA identified one such specific source category as those stationary-source categories being regulated, as of August 7, 1980, under Sections 111 or 112 of the Clean Air Act. EPA indicated that at the time of any future rulemaking proposing to regulate additional categories of sources under sections 111 or 112, the EPA would conduct a parallel rulemaking under section 302(j) to determine whether fugitive emissions from sources within these source categories needed to be considered in determining whether the sources were major stationary sources. EPA did not conduct these parallel rulemakings as intended and is now conducting a rulemaking pursuant to section 302(j) to address the source categories which became subject to section 111 and 112 standards after August 7, 1980.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4045

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RIN: 2060–AH58

3363. NESHAP: HYDROGEN CHLORIDE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the hydrogen chloride industry, to be promulgated by November 15, 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Sectors Affected: 325199 All Other Basic Organic Chemical Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 325181 Alkalies and Chlorine Manufacturing; 325211 Plastics Material and Resin Manufacturing

Additional Information: SAN No. 4112

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RIN: 2060–AH80

3364. NESHAP: REFRACTORIES MANUFACTURING

Priority: Other Significant

Legal Authority: CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the Act and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The refractory manufacturing source category is included on the initial list of HAP-emitting categories scheduled for promulgation within ten years of enactment of the Clean Air Act Amendments of 1990. Testing conducted and information obtained to date indicate 22 major sources exist in this source category. The EPA has determined that the refractory manufacturing industry emits chromium, ethylene glycol, phenol, methanol, hydrochloric acid, formaldehyde, polycyclic organic matte (POM) and hydrogen fluoride; eight of the 189 HAPs listed in section 112 of the Act. The Agency estimates approximately 146 facilities will be affected by this rulemaking. Impacts on small businesses and on State/local/tribal governments will be assessed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3652

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RIN: 2060–AG68

3365. NESHAP: ORGANIC LIQUID DISTRIBUTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants by establishing maximum achievable control technology (MACT) for facilities distributing organic liquids. MACT standards are under development to reduce the release of hazardous air pollutants (HAPs) from all industries to protect the public health and environment. The EPA has not determined the scope of this project. However, this project should include but is not limited to those activities associated with the storage and distribution of organic liquids other than gasoline at sites that serve as distribution points from which organic liquids may be obtained for further use and processing.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3971

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RIN: 2060–AH41

3366. • NESHAP: CHEMICAL RECOVERY COMBUSTION SOURCES AT KRAFT, SODA, SULFITE AND STAND ALONE SEMICHEMICAL PULP MILLS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7412 CAAA sec 112; 42 USC 7414 CAAA sec 114; 42 USC 7601 CAAA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306-308; 33 USC 1317; 33 USC 1318; 33 USC 1361 CWA sec 301; CWA sec 501

CFR Citation: 40 CFR 63; 40 CFR 430

Legal Deadline: None

Abstract: The Clean Air Act (CAA) Amendments of 1990 direct the Environmental Protection Agency (EPA) to set National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources under section 112 and to base these standards on maximum achievable control technology (MACT). The Clean Water Act (CWA) directs EPA to develop effluent guidelines for certain categories and classes of point sources. These guidelines are used for setting discharge limits for specific facilities that discharge to surface waters or municipal sewage treatment systems. On April 15, 1998, the EPA promulgated an integrated regulation for the pulp and paper industry that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air. At the same time, the EPA proposed MACT standards for the chemical recovery combustion sources. The regulations were developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable the industry to more effectively plan compliance via a multimedia approach.

Next steps will be to issue final effluent guidelines for Phase II and Phase III mills. Phase II will address the effluent from mills not covered in the Final Phase I effluent guidelines (except dissolving grade mills) plus will set limits for reserved parameters for chemical oxygen demand (COD) and chloroform at Phase I mills. Phase III will set final effluent limits for dissolving grade mills.

This Regulatory Plan entry also includes RIN 2040-AB53, Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, reported in full in part III of this issue of the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	12/28/98	63 FR 71408
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4240 (Air), SAN No. 2712 (Water), SAN No. 4050 (Water Phase II),

ADDITIONAL AGENCY CONTACT: Jeff Telander (NESHAP Phase II - Combustion Sources)

ADDITIONAL AGENCY CONTACT: Elaine Manning (NESHAP Phase III - Nonchemical and other Pulp and Paper Mills)

See also RIN 2040-AB53

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RIN: 2060–AI34

3367. FIELD CITATION PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7413(d) CAA sec 113(d)

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: The Clean Air Act Amendments give EPA the authority to issue on-the-spot field citations for minor violations of the Clean Air Act, with penalties of up to $5,000 per day of violation. Section 113(d) of the Act requires the field citation program to be implemented through regulations which provide the informal hearing procedures. These hearing procedures are not required to be as rigorous as those imposed by the Administrative Procedures Act (APA), but nevertheless must provide due process. Agency guidance providing appropriate penalties for specific minor violations will be prepared for EPA employees and made available to the regulated community. Training on the issuance of field citations will also be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22776
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2937

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RIN: 2020–AA32

3368. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY: PERMIT APPLICATION REVIEW PROCEDURES FOR NON-FEDERAL CLASS I AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7670 to 7479; CAA sec 160; CAA sec 161; CAA sec 162; CAA sec 163; CAA sec 164; CAA sec 165; CAA sec 166; CAA sec 167; CAA sec 168; CAA sec 169

CFR Citation: 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: Under the Clean Air Act's prevention of significant deterioration (PSD) program, a State or tribe may redesignate their lands as class I areas to provide enhanced protection for their air quality resources. This rule will clarify the PSD permit review procedures for new and modified major stationary sources near these non-Federal class I areas. EPA seeks to develop clarifying PSD permit application procedures that are effective, efficient, and equitable.

Timetable:

Action	Date	FR Cite
ANPRM	05/16/97	62 FR 27158
NPRM	10/00/00	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3919

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RIN: 2060–AH01

3369. LOCATION OF SELECTIVE ENFORCEMENT AUDITS OF FOREIGN MANUFACTURED VEHICLES AND ENGINES; AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7525 CAA sec 206(b)

CFR Citation: 40 CFR 86G (Revision); 40 CFR 86K (Revision)

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to include ports of entry as a location for EPA selection of foreign produced vehicles and engines for SEA emissions testing at laboratories in the U.S. While the regulations do not specify EPA authority to conduct such port selections, the increased flexibility provided by port selections warrants amending the regulations. Presently, EPA must travel overseas to conduct SEA audits of foreign manufactured vehicles and engines, even though most manufacturers now have access to laboratory facilities in the U.S. The benefits include a reduction in Agency cost since fewer overseas trips would be necessary. Also, EPA would be able to conduct more audits of foreign manufactured vehicles and engines.

Separate from the provisions proposed in this NPRM for amendments to allow port selection for SEAs, EPA is also proposing to make two other amendments to 40 CFR part 86. The first would amend current Selective Enforcement Auditing regulations to change the minimum annual limit of Selective Enforcement Audits per manufacturer to two (2) per year. Currently, the minimum annual limit is one audit per manufacturer. Under the proposed amendments EPA would be able to perform a second audit on those manufacturers that might otherwise be limited to one audit.

The second additional proposed amendment to part 86 would delete from subparts A and E references to the Agency representation in certain types of administrative hearings. The two provisions state that the Office of General Counsel will represent the Agency in administrative procedures governing hearings on certification for light-duty vehicles, light-duty trucks, heavy-duty engines and motorcycles. The Agency is proposing to delete these two provisions in order to be consistent with other hearing procedures in part 86.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3139

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RIN: 2060–AD90

ENVIRONMENTAL PROTECTION AGENCY (EPA) Completed Actions

Clean Air Act (CAA)

3370. • PROTECTION OF STRATOSPHERIC OZONE: ALLOCATION OF 1999 ESSENTIAL USE ALLOWANCES

Priority: Economically Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671 to 7671q

CFR Citation: 40 CFR 82.4(t)(2)

Legal Deadline:
Final, Statutory, Pharmaceutical companies need allowances before 1/1/98.
Final, Statutory, to manufacture MDIs.

Abstract: EPA is proposing the allocation of essential-use allowances for the 1999 control period. The United States nominated specific uses of controlled ozone-depleting substances (ODS) as essential for 1999 under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). The

Parties to the Protocol subsequently authorized specific quantities of ODS for 1999 for the uses nominated by the United States. Essential use allowances permit a person to obtain controlled ozone-depleting substances as an exemption to the January 1, 1996 regulatory phaseout of production and import. Essential use allowances are allocated to a person for exempted production or importation of a specific quantity of a controlled substance solely for the designated essential purpose for the calendar year.

Timetable:

Action	Date	FR Cite
NPRM	11/20/98	63 FR 64437
Final Action	01/07/99	64 FR 1091

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 32541 Pharmaceutical and Medicine Manufacturing; 33641 Aerospace Product and Parts Manufacturing

Additional Information: SAN No. 4213

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RIN: 2060–AI26

3371. COMPREHENSIVE RADIATION WASTE MANAGEMENT REGULATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	02/23/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Albert Colli
Phone: 202 564-9300

RIN: 2060–AF41

3372. ACID RAIN PROGRAM: DELETION OF CERTAIN UNITS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 73.10

Completed:

Reason	Date	FR Cite
Withdrawn - Merged With RIN 2060-AG86	02/18/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2060–AF46

3373. SALES VOLUME LIMIT PROVISIONS FOR SMALL-VOLUME MANUFACTURE CERTIFICATION FOR CLEAN FUEL AND CONVENTIONAL VEHICLE CONVERSIONS AND RELATED PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 85; 40 CFR 86; 40 CFR 88

Completed:

Reason	Date	FR Cite
Direct Final	01/03/96	61 FR 140

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clifford Tyree
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RIN: 2060–AF87

3374. AMENDMENTS TO RESIDENTIAL WOOD HEATERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action	11/24/98	63 FR 64963

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2060–AG30

3375. AMENDMENT TO THE USER FEES FOR RADON PROFICIENCY PROGRAMS RULE

Priority: Other Significant

CFR Citation: 40 CFR 195; 40 CFR 700 (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

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RIN: 2060–AG64

3376. 1998 REVISION OF ACID RAIN ALLOWANCE ALLOCATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 40 CFR 73

Completed:

Reason	Date	FR Cite
Final Action	09/28/98	63 FR 51705

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathy Barylski
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RIN: 2060–AG86

3377. FINDING OF SIGNIFICANT CONTRIBUTION AND RULEMAKING FOR CERTAIN STATES IN THE OZONE TRANSPORT ASSESSMENT GROUP (OTAG) REGION FOR PURPOSES OF REDUCING REGIONAL TRANSPORT OF OZONE

Priority: Economically Significant

CFR Citation: 40 CFR 51; 40 CFR 52(a)

Completed:

Reason	Date	FR Cite
Final Action	10/27/98	63 FR 57355

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

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RIN: 2060–AH10

3378. REVISIONS TO CLARIFY THE PERMIT CONTENT REQUIREMENTS FOR STATE OPERATING PERMITS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 70.6

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans No Further Action.	02/16/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Jeff Herring
Phone: 919 541-3195

RIN: 2060–AH46

3379. REVISIONS TO THE PERMITS AND SULFUR DIOXIDE ALLOWANCE SYSTEM REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT: ALLOWANCE TRANSFER

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 72; 40 CFR 73

Completed:

Reason	Date	FR Cite
Final Action	12/11/98	63 FR 68400

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Donna Deneen
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RIN: 2060–AH60

3380. ACID RAIN PROGRAM: DETERMINATION ON SECTION 75.7 (EPA STUDY OF BIAS TEST) AND SECTION 75.8 (RELATIVE ACCURACY AND AVAILABILITY ANALYSIS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 75

Completed:

Reason	Date	FR Cite
Withdrawn - Merged With RIN 2060-AG46	02/18/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Elliot Lieberman
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RIN: 2060–AH64

3381. NESHAP: WOOD FURNITURE MANUFACTURING OPERATIONS, AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action - Final Amendments	12/28/98	63 FR 71376

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2060–AH66

3382. NESHAP: AMMONIUM SULPHATE PRODUCTION (CAPROLACTAM BY-PRODUCT)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Merged Into RIN 2060-AE82	04/01/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

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RIN: 2060–AH77

3383. SUPPLEMENTAL RULEMAKING FOR CERTAIN STATES IN THE OZONE TRANSPORT ASSESSMENT GROUP REGION FOR PURPOSES OF REDUCING REGIONAL TRANSPORT OF OZONE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

CFR Citation: 40 CFR 51(G); 40 CFR 51; 40 CFR 52(A); 40 CFR 76; 40 CFR 96

Completed:

Reason	Date	FR Cite
Withdrawn - Merged Into RIN 2060-AH10, SAN 3945	02/26/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

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RIN: 2060–AH91

3384. REVIEW OF OPERATING PERMITS ISSUED BY INDIAN TRIBES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 70.4

Completed:

Reason	Date	FR Cite
Withdrawn	02/10/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Agency Contact: Candace Carraway
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RIN: 2060–AH98

3385. CONTROL OF EMISSIONS FROM NEW NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS, MINOR AMENDMENTS TO THE PHASE I EMISSION STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 90

Completed:

Reason	Date	FR Cite
Withdrawn - Merged With RIN 2060-AE29, SAN 3361.	02/23/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Machiele
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RIN: 2060–AI02

3386. NOTICE OF PROMULGATED COMPLIANCE EXTENSION: HALOGENATED SOLVENT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Rule - Compliance Extension for Continuous Web Cleaners	12/11/98	63 FR 68397

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 2060–AI04

3387. STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES; NEW RESIDENTIAL WOOD HEATERS (COMPLETED REGULATORY FLEXIBILITY ACT REVIEW)

Priority: Info./Admin./Other

Legal Authority: 5 USC 610

CFR Citation: 40 CFR 60, Subpart AAA

Legal Deadline: None

Abstract: This announces the results of a completed Regulatory Flexibility Act section 610 review. On September 11, 1996, as part of a program to reduce regulatory burden, EPA issued a proposal to reduce the reporting and recordkeeping burden associated with a number of existing EPA rules. One of the rules being reviewed as part of this effort was a 1988 rule entitled "Standards of Performance for New Stationary Sources: New Residential Wood Heaters." Moreover, since this 1988 wood heater rule had been determined to have a significant impact on a substantial number of small entities, it was also given an additional, parallel review under Section 610 of the Regulatory Flexibility Act, which requires such rules to be reviewed within 10 years after promulgation. This Agenda entry announces the results of that section 610 review, and also summarizes the status of the parallel review under the aforementioned burden-reduction project.

In the November 9, 1998 issue of the Regulatory Agenda (63 FR 62374, RIN 2060-AI05), EPA announced the section 610 review of the wood heater rule, and solicited public comment on whether additional changes to that rule could be identified which would further reduce impacts on small entities while still accomplishing the objectives of the authorizing statute. No public comments were received, and EPA has not found additional changes that would benefit small entities beyond those identified in the burden-reduction effort cited below. EPA has also determined that the wood heater rule continues to be necessary to reduce emissions of harmful particulate matter as required by the Clean Air Act. As outlined in the preamble to the 1988 final rule, the health effects associated with particulate matter include both mortality and morbidity resulting from respiratory disease, cardiovascular disease, and carcinogenesis. Concern about the effects of particulate matter has only grown since 1988, particularly in light of EPA's recently-issued revised air-quality standards for particulate matter. Therefore, EPA intends to retain the wood heater rule, as modified by the final rulemakings cited below. With this notice, EPA hereby concludes its section 610 review of the wood heater rule.

Regarding the aforementioned 1996 burden-reduction effort, EPA's final decisions are being issued in two final rulemakings cited elsewhere in this Regulatory Agenda. The first of these is "Standards of Performance for New Stationary Sources: Residential Wood Heaters, Final Rule, Amendments," published on 11/24/98 at 63 FR 64963, and listed elsewhere in this Agenda as SAN 3750, RIN 2060-AG30. The second rulemaking, "Final Revisions to Existing Standards for Recordkeeping & Reporting Burden Reduction," was published on 2/12/99, 64 FR 7457 (listed elsewhere in this Agenda as SAN 4225, RIN 2060-AI33).

Timetable:

Action	Date	FR Cite
End Review - Decision To Leave Rule Unchanged.	02/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4136

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RIN: 2060–AI05

3388. TRANSPORTATION CONFORMITY RULE AMENDMENTS: FLEXIBILITY AND STREAMLINING

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 51; 40 CFR 93

Completed:

Reason	Date	FR Cite
Final Action	08/15/97	62 FR 43780

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Kathryn Sargeant
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RIN: 2060–AI16

3389. NESHAP: FLEXIBLE POLYURETHANE FOAM PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	10/07/98	63 FR 53979

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2060–AE86

3390. NESHAP: RADON EMISSIONS FROM PHOSPHOGYPSUM STACKS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 61

Completed:

Reason	Date	FR Cite
Final Action	02/03/99	64 FR 5573

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Martin Offutt
Phone: 202 564-9766

RIN: 2060–AF04

3391. NESHAP: AEROSPACE TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action - Technical Correction	09/01/98	63 FR 46526

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AG65

3392. INDUSTRIAL COMBUSTION COORDINATED RULEMAKING—ICCR PROJECT

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - See RINs 2060-AG31, AG63, AG67, AG69, and SAN 4218	02/18/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

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RIN: 2060–AG84

3393. STANDARDS FOR REFORMULATED AND CONVENTIONAL GASOLINE, INDIVIDUAL BASELINE FUEL ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 80

Completed:

Reason	Date	FR Cite
Final Action	03/04/97	62 FR 9872

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Christine Brunner
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RIN: 2060–AG80

3394. NATIONAL VOC EMISSION STANDARDS FOR AUTOMOBILE REFINISH COATINGS

Priority: Other Significant

CFR Citation: 40 CFR 59

Completed:

Reason	Date	FR Cite
Final Action	09/11/98	63 FR 48806

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

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RIN: 2060–AE35

3395. VOC REGULATION FOR ARCHITECTURAL COATINGS

Priority: Other Significant

CFR Citation: 40 CFR 59

Completed:

Reason	Date	FR Cite
Final Action	09/11/98	63 FR 48848

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

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RIN: 2060–AE55

3396. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS

Priority: Other Significant

CFR Citation: 40 CFR 59

Completed:

Reason	Date	FR Cite
Final Action	09/11/98	63 FR 48819

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

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RIN: 2060–AF62

3397. CONTROL OF EMISSIONS OF AIR POLLUTION FROM HIGHWAY HEAVY-DUTY ENGINES AND DIESEL ENGINES

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 9; 40 CFR 86; 40 CFR 89

Completed:

Reason	Date	FR Cite
Final Action - Nonroad	10/23/98	63 FR 56967

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tad Wysor
Phone: 734 214-4332

RIN: 2060–AF76

3398. SPECIFICATION OF SUBSTANTIALLY SIMILAR DEFINITION FOR DIESEL FUELS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 80

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans No Further Work on This Rule.	02/22/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Korotney
Phone: 734 214-4507

RIN: 2060–AD77

3399. REVISION TO THE COVERED AREAS PROVISION FOR REFORMULATED GASOLINE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 80

Completed:

Reason	Date	FR Cite
Final Action	09/29/98	63 FR 52093

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Karen Smith
Phone: 202 564-9674

RIN: 2060–AG77

3400. APPLICABILITY OF ON-HIGHWAY HEAVY-DUTY CERTIFIED ENGINES FOR USE IN NONROAD HEAVY-DUTY VEHICLES AND EQUIPMENT; AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 9; 40 CFR 89

Completed:

Reason	Date	FR Cite
Direct Final Rule	11/12/96	61 FR 58102

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Guy
Phone: 202 564-9276

RIN: 2060–AG78

3401. NSPS: NITROGEN OXIDE EMISSIONS FROM FOSSIL-FUEL FIRED STEAM GENERATING UNITS—REVISION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 40 CFR 60.40

Completed:

Reason	Date	FR Cite
Final Action	09/16/98	63 FR 49442

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2060–AE56

3402. TECHNICAL AMENDMENTS TO HAZARDOUS WASTE TSDF & HAZARDOUS WASTE GENERATORS: ORGANIC AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS & CONTAINERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 262

Completed:

Reason	Date	FR Cite
Final Action - Technical Amendment	01/21/99	64 FR 3382

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2060–AG44

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Atomic Energy Act (AEA)

3403. RADIATION WASTE MANAGEMENT REGULATION

Priority: Other Significant

Legal Authority: Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Waste Policy Act of 1982

CFR Citation: 40 CFR 193

Legal Deadline: None

Abstract: This action is directed to the disposal of low-activity radioactive wastes in disposal facilities that meet the design requirements for RCRA-C disposal cells. The wastes to be disposed of in these cells are intended to be mixed wastes, consisting of a chemically hazardous component and low levels of radioactivity. These wastes are anticipated to arise in the commercial sector from various sources. The rule is intended to increase disposal options for these wastes and offer a streamlined regulatory process which melds hazardous chemical protection and radioactivity protection requirements while protecting public health and safety. The rule is permissive in the sense that the disposal method proposed is not a mandated disposal method, but rather an alternative to existing disposal methods. The U.S. Nuclear Regulatory Commission is anticipated to be the implementing Agency for the application of this rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4054

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RIN: 2060–AH63

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Atomic Energy Act (AEA)

3404. PROTECTIVE ACTION GUIDANCE FOR DRINKING WATER

Priority: Other Significant

Legal Authority: 42 USC 2021(h) AEA of 1954 sec 274(h); Reorganization Plan No. 3 of 1970; PL 96-295 sec 304; EO 12241

CFR Citation: 41 CFR 351

Legal Deadline: None

Abstract: This action will result in Federal protective action guidance (PAG) for State and local officials to use in the event of a nuclear accident to protect the general public from the adverse health effects associated with the ingestion of drinking water that is contaminated with radioactive material. As soon as the draft guidance is developed it will be submitted to the PAG Subcommittee of the Federal Radiological Preparedness Coordinating Committee (FRPCC) for review and comment. Members of the PAG subcommittee include representatives from DOE, DOD, FEMA, NRC, HHS, USDA, DOT, and the Conference of Radiation Control Program Directors (CRCPD). When a consensus among the representatives is reached, the guidance is recommended to the full FRPCC for endorsement. After that endorsement is obtained a notice of the availability of a revised EPA 400-R-92-001, Manual of Protective Action Guides and Protective Actions for Nuclear Incidents will be published in the Federal Register. This action is temporarily delayed until the FDA's revised PAGs for Food can be evaluated.

Timetable:

Action	Date	FR Cite
Notice of Availability	04/00/00	
Notice of Submission to FRPCC for Endorsement	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3602

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RIN: 2060–AF39

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3405. PESTICIDES; PROCEDURES FOR REGISTRATION REVIEW PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a(g), 136w

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Agency is establishing procedures to implement section 3(g) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) which provides for periodic review of pesticide registrations. The goal of these regulations is to review a pesticide's registration every 15 years.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 4170

Agency Contact: Vivian Prunier, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
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EPA—FIFRA **Prerule Stage**

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RIN: 2070–AD29

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Proposed Rule Stage**
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3406. REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDE PRODUCTS; AND OTHER PESTICIDE REGULATORY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a(h); 7 USC 136w

CFR Citation: 40 CFR 152; 40 CFR 156

Legal Deadline:
NPRM, Statutory, May 1, 1997, Final rule due 240 days after close of comment period.

Abstract: This regulation will specify antimicrobial registration reforms that will reduce to the extent possible the review time for antimicrobial pesticides. The regulation will clarify criteria for completeness of applications, and will specify or refer to a definition of the various classes of antimicrobial pesticide use patterns and the associated data and labeling requirements that would be consistent with the degree and type of risk presented by each class. EPA will evaluate the feasibility and cost-effectiveness of various registration process reforms, including registrant certification, and expansion of the current notification procedures. This regulation will also implement some general provisions of FIFRA pertaining to all pesticides, including labeling requirements and notification procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing

Additional Information: SAN No. 3892

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RIN: 2070–AD14

3407. PESTICIDES; TOLERANCE PROCESSING FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346a

CFR Citation: 40 CFR 180.33

Legal Deadline: None

Abstract: In 1996, the Food Quality Protection Act amended the Federal Food, Drug, and Cosmetic Act to require EPA to charge tolerance fees that, in the aggregate, will cover all costs associated with processing tolerance actions, including filing a tolerance petition, and establishing, modifying, leaving in effect, or revoking a tolerance or tolerance exemption. Since 1983 (the last time a cost analysis was conducted), factors such as expanded data requirements, changes in risk assessment methods, improvements in data base management and tracking systems, and the increasing complexity of scientific review of petitions have resulted in costs substantially exceeding the fees currently charged. This proposed rule will adjust the fee structure and fee amounts for tolerance actions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 4027

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RIN: 2070–AD23

3408. PESTICIDE TOLERANCE REASSESSMENT PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 346a(q)

CFR Citation: 40 CFR 180; 40 CFR 185; 40 CFR 186

Legal Deadline:
Other, Statutory, August 3, 1999, See Additional Information.

Abstract: EPA will reassess pesticide tolerances and exemptions for raw and processed foods established prior to August 3, 1996, to determine whether they meet the reasonable certainty of no harm standard of the Federal Food, Drug and Cosmetic Act (FFDCA). FFDCA sec. 408(q), as amended by the Food Quality Protection Act, requires that EPA conduct this reassessment on a phased 10-year schedule. Based on its reassessment, EPA will take a series of regulatory actions to modify or revoke tolerances.

Timetable:

Action	Date	FR Cite
NPRM Modification or revocation of tolerances for 16 pesticides	04/00/99	
Final Action Modification or revocation of tolerances for 30 pesticides	04/00/99	
NPRM Modification or revocation of tolerances for 10 pesticides	07/00/99	
Final Action Modification or revocation of tolerances for 10 pesticides	07/00/99	

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Action	Date	FR Cite
Final Action Modification or revocation of tolerances for 10 pesticides	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 4175

LEGAL DEADLINE CONT: EPA is required to complete reassessments on a phased schedule of: 33% by August 3, 1999, 66% by August 3, 2002, and 100% by August 3, 2006.

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RIN: 2070–AD24

3409. ENDOCRINE DISRUPTOR SCREENING PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346A FFDCA; 7 USC 136 FIFRA; 15 USC 2603 TSCA; 42 USC 300J-17 SDWA

CFR Citation: Not yet determined

Legal Deadline:
NPRM, Statutory, August 3, 1998, EDSP must be developed.
Final, Statutory, August 3, 1999, Agency must implement EDSP.
Other, Statutory, August 3, 2000, Agency must report to Congress on EDSP.

Abstract: This final policy statement will set forth EPA's Endocrine Disruptor Screening Program. EPA published a proposed policy statement setting forth the Screening Program on December 28, 1998. In the final policy statement, EPA will describe the screens and tests that it will require as part of the Program. It also will describe the universe of chemicals that will be included in the program, the priority setting mechanism that it will use to determine the order in which those chemicals will be tested, and certain issues related to implementing the Program.

Timetable:

Action	Date	FR Cite
Notice Outline of Screening Program	08/11/98	63 FR 42852
Notice Proposed Screening Program & Request for Comment	12/28/98	63 FR 71542
Notice Final Screening Program	08/00/99	
NPRM Proposed Procedural Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: SAN No. 4143

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RIN: 2070–AD26

3410. • REGULATORY REVIEW OF PESTICIDE EMERGENCY EXEMPTION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136p

CFR Citation: 40 CFR 166

Legal Deadline: None

Abstract: EPA will propose revisions to its regulations on emergency exemptions under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act. Emergency exemptions allow temporary use of a pesticide not in accordance with registration requirements when emergency conditions exist. In the 1995 Presidential Reinvention Initiative, EPA identified a number of issues and options for change, which have been refined through informal discussions with States, user groups, and other stakeholders. EPA is considering revisions in four areas: 1) Options for increased authority for States to administer certain aspects of the exemption process, or increased use by EPA of multi-year exemptions, or some combination of these; 2) the use of emergency exemptions to address pesticide resistance; 3) the possibility of granting of exemptions based upon reduced risk considerations; and 4) definitions of emergency situation and significant economic loss, which affect whether an exemption may be granted.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal, Federal

Sectors Affected: 9241 Administration of Environmental Quality Programs

Additional Information: SAN No. 4216

Agency Contact: Robert A. Forrest, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7505C, Washington, DC 20460
Phone: 703 308-9376

RIN: 2070–AD36

3411. • STATUS OF PESTICIDE-TREATED SEEDS UNDER FIFRA

Priority: Substantive, Nonsignificant

Legal Authority: FIFRA sec. 25(a) and 25(b)

CFR Citation: 40 CFR 152.25

Legal Deadline: None

Abstract: EPA will propose a revision to its regulation on treated articles to specifically address seeds treated with

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pesticides. Currently, pesticide-treated seeds are considered treated articles that are exempt from FIFRA only if the treating pesticide is registered in the United States for use on the specific crop, and if the purpose of the treatment is to protect the seed itself. EPA and the Canadian Pest Management Regulatory Agency will work together under the auspices of the North American Free Trade Agreement to harmonize policies and practices pertaining to pesticide-treated seed. EPA expects to implement an agreed-upon policy by revising its current regulations to define the status of pesticide-treated seeds. Harmonization will facilitate the import and export of treated seeds.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 111 Crop Production; 11511 Support Activities for Crop Production

Additional Information: SAN No. 4260

Agency Contact: Jean M. Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
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RIN: 2070–AD37

3412. TOLERANCES FOR PESTICIDE EMERGENCY EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346a

CFR Citation: 40 CFR 176

Legal Deadline:
Final, Statutory, August 3, 1997.

Abstract: This regulation will set out policies and procedures under which EPA will establish food tolerances associated with the use of pesticides under emergency exemptions. Emergency exemptions are issued for temporary use of pesticides where emergency conditions exist. Under the Federal Food, Drug and Cosmetic Act, as amended by the Food Quality Protection Act, EPA must establish time-limited tolerances for such pesticides if the use is likely to result in residues in food. EPA expects to describe the procedures to be used, and the criteria for establishing tolerances.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Sectors Affected: 92614 Regulation of Agricultural Marketing and Commodities; 9241 Administration of Environmental Quality Programs

Additional Information: SAN No. 3890

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RIN: 2070–AD15

3413. DATA REQUIREMENTS FOR PESTICIDE REGISTRATION (REVISION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a to 136y

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update the data requirements specifically necessary for the Agency to evaluate the registrability of pesticide products. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing.

Timetable:

Action	Date	FR Cite
NPRM 40 CFR 158	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 2687

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RIN: 2070–AC12

3414. DATA REQUIREMENTS FOR ANTIMICROBIAL REGISTRATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a, 136c, 136w

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update and revise its pesticide data requirements for antimicrobial products. The data requirements specify the data that are required for EPA to evaluate the registrability of a pesticide product. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing

Additional Information: SAN No. 4173

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EPA—FIFRA **Proposed Rule Stage**

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RIN: 2070–AD30

3415. PESTICIDE MANAGEMENT AND DISPOSAL: STANDARDS FOR PESTICIDE CONTAINERS AND CONTAINMENT

Priority: Other Significant

Legal Authority: 7 USC 136q FIFRA sec 19; 7 USC 136a FIFRA sec 3; 7 USC 136w FIFRA sec 25

CFR Citation: 40 CFR 165; 40 CFR 156

Legal Deadline:
Final, Statutory, December 24, 1991.

Abstract: FIFRA sec. 19 gives EPA authority to regulate the management of pesticides and their containers, including storage, transportation and disposal. As proposed, this rule would establish standards for removal of pesticides from containers and for rinsing containers; facilitate the safe use, refill, reuse, and disposal of pesticide containers by establishing standards for container design, labeling and refilling; and establish requirements for containment of stationary bulk containers and for containment of pesticide dispensing areas.

Timetable:

Action	Date	FR Cite
NPRM (Container Design & Residue Removal & Bulk Containment)	02/11/94	59 FR 6712
Supplemental NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 44422 Nursery and Garden Centers; 115112 Soil Preparation, Planting, and Cultivating

Additional Information: SAN No. 2659

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RIN: 2070–AB95

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) **Final Rule Stage**

3416. WPS; PESTICIDE WORKER PROTECTION STANDARD; GLOVE AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136w

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: Since the issuance of the 1992 WPS and the January 1, 1995 implementation, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and individual and public meetings to address the concerns with the WPS. As a result, there may be a need to make further changes of a minor nature to the WPS rule. EPA will take such actions as rules, policy statements or other documents as appropriate, and provide Regulatory Agenda entries when actions are planned.

Timetable:

Action	Date	FR Cite
NPRM	09/09/97	62 FR 47544
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 1111 Oilseed and Grain Farming; 1112 Vegetable and Melon Farming; 1113 Fruit and Tree Nut Farming; 1114 Greenhouse, Nursery and Floriculture Production

Additional Information: SAN No. 3731

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RIN: 2070–AC93

3417. PLANT PESTICIDE REGULATIONS UNDER FIFRA AND FFDCA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 21 USC 346a et seq

CFR Citation: 40 CFR 152.20; 40 CFR 174

Legal Deadline: None

Abstract: Substances that plants produce to protect themselves against pests are pesticides under FIFRA if humans intend to use them to destroy, prevent, repel or mitigate any pest. The Agency designates these substances, along with the genetic material necessary to produce them, plant-pesticides. This rulemaking will exempt several categories of plant-pesticides from FIFRA and FFDCA regulations; confirms that plants used as biological control agents are exempt from regulation under FIFRA; and establishes a new part in title 40 of the CFR, part 174, which consolidates

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regulations specific for plant-pesticides in one part of the CFR. The proposed consolidation is expected to benefit the public by providing greater focus, enhanced clarity and ease of use. These actions will reduce burden on both the regulated community and EPA.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 2684

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RIN: 2070–AC02

3418. GROUND WATER AND PESTICIDE MANAGEMENT PLAN

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 7 USC 136a FIFRA sec 3

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This regulation would establish Pesticide Management Plans (PMPs) as a new regulatory requirement for certain pesticides. Unless a State or tribal authority has an EPA-approved Plan specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and modification of plans by States and tribal authorities.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33259
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 9241 Administration of Environmental Quality Programs

Additional Information: SAN No. 3222

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RIN: 2070–AC46

3419. PESTICIDE MANAGEMENT AND DISPOSAL

Priority: Other Significant

Legal Authority: 7 USC 136 et seq

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: This action develops procedures for mandatory and voluntary recall actions under section 19(b) of FIFRA and would establish criteria for acceptable storage and disposal plans which registrants may submit to this Agency to become eligible for reimbursement of storage costs. This action establishes procedures for indemnification of owners of suspended and canceled pesticides for disposal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/93	58 FR 26856
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3432

Agency Contact: David Stangel, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2225A, Washington, DC 20460
Phone: 202 564-4162

RIN: 2020–AA33

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) **Long-Term Actions**

3420. EXEMPTION OF CERTAIN PESTICIDE SUBSTANCES FROM FIFRA REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: FIFRA 25(b)

CFR Citation: 40 CFR 152.25(g)(1)

Legal Deadline: None

Abstract: EPA is considering exempting from regulation under section 25(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) certain substances when used, sold or distributed as pesticide active ingredients. EPA believes regulation of these substances is not necessary to prevent unreasonable adverse effects on the environment or human health, and these substances are not of a character necessary to be subject to FIFRA in order to carry out its purposes. Substances exempted are pesticides and would continue to be distributed and sold as pesticides after promulgation of a final rule. If exemptions are established, false claims and advertising would still be subject to jurisdiction of the Federal Trade Commission or could result in civil liabilities for the manufacturer and distributor. This proposal, and any subsequent final rule, would not establish or alter exemptions or tolerances for the listed substance

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under provisions of the Federal Food, Drug and Cosmetic Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 4026

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RIN: 2070–AD21

3421. POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OR SUSPENDED REGISTRATION

Priority: Other Significant

Legal Authority: 7 USC 136 FIFRA sec 6

CFR Citation: 40 CFR 168

Legal Deadline: None

Abstract: This policy will clarify the requirements of section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The policy will provide procedures for certain persons who possess canceled or suspended pesticides to notify the EPA and State and local officials of (1) such possessions; (2) the quantity possessed; and (3) the place the pesticide is stored.

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 13042
Final	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 2720

Agency Contact: David Stangel, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2225A, Washington, DC 20460
Phone: 202 569-4162

RIN: 2020–AA29

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3422. THE 10-ACRE LIMITATION FOR PESTICIDE SMALL-SCALE FIELD TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 172

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans No Further Action.	02/03/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

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RIN: 2070–AC99

3423. WPS; PESTICIDE WORKER PROTECTION STANDARDS; PESTICIDE HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 170

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Activities Not Currently Planned.	02/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

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RIN: 2070–AC34

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Toxic Substances Control Act (TSCA)

3424. CHEMICAL RIGHT-TO-KNOW INITIATIVE

Priority: Other Significant

Legal Authority: 15 USC 4 TSCA; 15 USC 8 TSCA; 7 USC 136 FIFRA; 42 USC 313 EPCRA

CFR Citation: Not yet determined

Legal Deadline:

Other, Judicial, December 31, 1999, Final Actions must be completed by 12/31/99.

Abstract: The Chemical RTK Initiative was announced by Vice President Gore on EPA's Earth Day 1998 in response to the finding that most commercial chemicals have very little, if any, toxicity information on which to make sound judgments about potential risks. There are three key components to this initiative, each of which is being rapidly implemented by EPA. These are: baseline toxicity testing for 2,800 widely used commercial chemicals; additional health effects testing for chemicals to which children are substantially exposed; and the listing

and lowering thresholds for persistent, bioaccumulative, toxic chemicals reported to TRI. This Initiative will involve several separate activities, with any regulatory related actions included as separate entries in the Regulatory Agenda.

Timetable:

Action	Date	FR Cite
Initiative Completion	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 4176

This Initiative includes the following Regulatory Agenda activities: TRI's Reporting Threshold Rule (SAN 3880; RIN 2070-AD09); Test Rule; Multi-Chemicals Test Rule for High Production Volume Chemicals (SAN 3990; RIN 2070-AD16); Children's Health Test Rule (SAN 2865; RIN 2070-AC27).

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RIN: 2070–AD25

3425. TSCA SECTION 4 ENFORCEABLE CONSENT AGREEMENT FOR CERTAIN OXYGENATED FUEL ADDITIVES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2611; 15 USC 2625

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: Methyl tertiary butyl ether (MTBE) alcohol is commonly found at concentrations above the current EPA draft lifetime health advisory for drinking water at many point source-gasoline release sites. MTBE is significantly more persistent than benzene, toluene, ethyl-benzene and xylenes (BTEX) in the subsurface. Releases of fuel oxygenates occur during manufacture, distribution, storage, and use, particularly from point sources such as underground storage tanks, pipelines and refueling facilities. The Toxic Release Inventory (TRI) estimates that MTBE releases in the United States exceeded 3.3 million pounds in 1994. EPA has not established water quality criteria for fuel oxygenates for protection of freshwater or marine aquatic life. The American Petroleum Institute (API) has recently completed a search and evaluation of extant literature on the acute and chronic toxicity of oxygenates for aquatic organisms and has provided the results to EPA. From the data gaps identified through that effort, testing to fill critical needs is expected to be conducted within a year of the API submission. Current actions should provide an appropriate basis for later determining whether additional effects testing or research is needed.

Most of the testing and research on the toxicity of oxygenates has been concerned with the effects of inhaled MTBE in laboratory and human volunteers. Virtually no information exists on the effects of ingested oxygenates on humans, with the notable exception of the extensive database on the health effects of ingested alcohol. The lack of a more substantial health effects database has made it difficult to develop a final drinking water Health Advisory or derive an oral Reference Dose (RfD) for MTBE and other oxygenates. Further subchronic and chronic data are necessary to develop a final Health Advisory. This action, which would reflect a cooperative effort between EPA and Industry to develop a testing program, would serve as a mechanism to develop the needed data.

Timetable:

Action	Date	FR Cite
Notice Solicit Interested Parties	06/00/99	
Notice ECA	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4174

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RIN: 2070–AD28

3426. TRI; REVIEW OF CHEMICALS ON THE ORIGINAL TRI LIST

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1101 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: When TRI was established by Congress in 1986, the statutory language placed 309 chemicals and 20 categories of chemicals on the TRI list; that is referred to as the original TRI list. The chemicals on the original list were taken from two existing lists of toxic substances: the Maryland Chemical Inventory Report List of Toxic or Hazardous Substances, and the New Jersey Environmental Hazardous Substances list. This action constitutes the first systematic review of toxicology and environmental data for all the chemicals on the original TRI list to determine whether data for those chemicals conform with the statutory criteria for listing of chemicals on TRI. Chemicals for which data do not meet the statutory criteria will be delisted.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Rule	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4015

AFFECTED SECTORS: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes

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4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AD18

3427. TSCA INVENTORY UPDATE RULE AMENDMENTS

Priority: Other Significant

Legal Authority: 15 USC 2607(a)

CFR Citation: 40 CFR 710

Legal Deadline: None

Abstract: This action would amend the current Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR) to require chemical manufacturers to report to EPA data on exposure-related information and the industrial and consumer end uses of chemicals they produce or import. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, as well as the locations of manufacturing facilities and the quantities produced. About 3,000 facilities reported data on about 9,000 unique chemicals during the last reporting cycle under the IUR. Data obtained would be used by EPA and others to: better understand the potential for chemical exposures; screen the chemicals now in commerce and identify those of highest concern; establish priorities and goals for their chemical assessment, risk management and prevention programs, and monitor the programs' progress; encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and enhance the effectiveness of chemical risk communication efforts. Additionally, EPA will consider other amendments to the IUR. These include removing the inorganic chemicals exemption; providing the information to better assess and manage risks of inorganic chemicals; improving the linkages of IUR data to other data sources to enhance the data's usefulness; and altering the confidential business information (CBI) claim procedures to reduce the frequency of CBI claims, allowing the public greater access to relevant information on toxic chemicals. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders, labor groups, State governments and other Federal agencies to ensure public involvement in the TSCA Inventory Update Rule Amendments Project.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3301

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RIN: 2070–AC61

3428. LEAD-BASED PAINT ACTIVITIES RULES; TRAINING, ACCREDITATION, AND CERTIFICATION RULE AND MODEL STATE PLAN RULE—BUILDING AND STRUCTURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 102-550 sec 402; PL 102-550 sec 404; 15 USC 2603; TSCA Title IV

CFR Citation: 40 CFR 745

Legal Deadline:
Final, Statutory, April 28, 1994.

Abstract: The Residential Lead-based Paint Hazard Reduction Act of 1992 mandates EPA promulgate regulations governing lead-based paint (LBP) activities to ensure that individuals engaged in such activities are properly trained, that LBP training programs are accredited, and that contractors engaged in such activities are certified. In addition, EPA must promulgate a Model State program which may be adopted by any State which seeks to administer and enforce a State Program. EPA promulgated regulations for training and certification of training programs for LBP activities and child occupied facilities in 1996. Regulations for LBP activities in public and commercial buildings and bridges and other structures are still under development.

Timetable:

Action	Date	FR Cite
NPRM 1 (Residential)	09/02/94	59 FR 45872
Final Action 1 (Residential)	08/29/96	61 FR 45778
Interim Final Rule Minor Amendment to Grant Provisions	08/04/98	63 FR 41430
NPRM 2 (Buildings & Structures)	09/00/99	
Final Action 2 (Buildings & Structures)	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3244

See discussion of related rules in Reg. Plan entry (RIN 2070-AD06)

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RIN: 2070–AC64

3429. LEAD; OVER OF RULEMAKINGS UNDER TSCA SECTION 402, LEAD-BASED PAINT ACTIVITIES FOR THE REGULATORY PLAN

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2603; TSCA Title IV

EPA—TSCA **Proposed Rule Stage**

CFR Citation: 40 CFR 745

Legal Deadline:
Final, Statutory, April 28, 1994, (Sections 402(a) - 404).
Other, Statutory, October 28, 1996, Section 402(c)(3)).

Abstract: The Residential Lead-Based Hazard Reduction Act of 1992 (Title X) amended TSCA by adding a new Title IV. TSCA section 402, Lead-Based Paint Activities Training and Certification directs EPA to promulgate a number of regulations intended to address the nation's need for a qualified and properly trained workforce to assist in the prevention, detection, and elimination of hazards associated with lead-based paint. EPA is required to promulgate (a) regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified (section 402(a); (b) a Model State program which may be adopted by any State which seeks to administer and enforce a State Program for the requirements established under TSCA section 402 (section 404); (c) a rule addressing lead risks from renovation and remodeling activities or state why no regulation is necessary (section 402(c)(3)); and (d) a rule establishing a fee schedule for the lead-based paint training, certification, and accreditation activities addressed in the rules developed under TSCA section 402 (section 402(a)(3)). Additionally, in response to other Federal agencies and several States and advocacy groups who were concerned that the high costs of disposing of lead-based paint debris as a RCRA hazardous waste were discouraging residential lead abatements, EPA is using its authority under TSCA section 402(a) to address the disposal of lead-based paint debris that will result from the lead-based paint activities regulated under TSCA section 402. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations (i.e., Toxicity Characteristic Rule) applicable to lead-based paint debris which will be subject to the new TSCA standards. These rules are listed separately in the Regulatory Agenda.

Timetable:

Action	Date	FR Cite
NPRM Sections 402(a) and 404 (Residential)	09/02/94	59 FR 45872
Final Rule Sections 402(a) and 404 (Residential)	08/29/96	61 FR 45778
Interim Final Rule Section 404(g)	08/04/98	63 FR 41430
NPRM Sections 402(a)(3)/404(h)	09/02/98	63 FR 46734
Direct Final Rule Sections 402(a)(3)/404(h)	09/02/98	63 FR 46668
Withdraw Direct Final Rule Sections 402(a)(3)/404(h)	10/16/98	63 FR 55547
NPRM Section 402(a) (Debris)	12/18/98	63 FR 70190
NPRM Section 402(a) (Buildings & Structures)	09/00/99	
NPRM Section 402(c) (Remodeling & Renovation)	09/00/99	
Final Rule Sections 402(a)(3)/404(h)	09/00/99	
Final Rule Section 402(a) (Debris)	11/00/00	
Final Rule Section 402(a) (Buildings & Structures)	09/00/01	
Final Rule Section 402(c) (Remodeling & Renovation)	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3243

Also covers SANs 3244, 3557, 3881, 4172, 3506.

Lead-Based Paint Activities Rules: Training, Accreditation and Certification Rule and Model State Plan Rule (sections 402 and 404)(SAN 3244; RIN 2070-AC64); Lead-Based Paint Activities, Training, and Certification: Renovation and Remodeling (section 402(c)(3))(SAN 3557; RIN 2070-AC83); Lead Fee Rule for Lead-Based Paint Activities Training and Certification (section 402(a)(3)) (SAN 3881; RIN 2070-AD11); Lead-Based Paint: Notification of Commencement of Abatement Activities (section 404(h)) (SAN 4172; RIN 2070-AD31); Lead: TSCA Requirements for the Disposal of Lead-Based Paint Debris (section 402(a)) and Temporary Suspension of Toxicity Characteristic Rule for Specified Lead-Based Paint Debris (RCRA sections 1006(b)(1) and 2002)(SAN 3508; RIN 2070-AC72).

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RIN: 2070–AD06

3430. MULTI-CHEMICAL TEST RULE; HIGH PRODUCTION VOLUME CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: This action is related to Vice President Gore's challenge to industry on the eve of Earth Day, April 21, 1998, to come forward quickly with needed test data on high production volume (HPV) chemicals. This challenge encompasses approximately 2,800 chemicals which are manufactured (including imported) in the aggregate at more than 1 million pounds on an annual basis. The data needed on these chemicals are: acute toxicity, repeat dose toxicity, developmental and reproductive toxicity; mutagenicity; ecotoxicity and environmental fate. This rule will require testing and recordkeeping requirements for those chemicals for which industry does not voluntarily agree to provide testing in a timely manner. The action is part of the Chemical Right-to-Know Initiative, which is described in the Regulatory Plan. The first rule will propose testing for 803 of these chemicals. Future rules will encompass the remaining 2,000 chemicals.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	12/00/99	

EPA—TSCA **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 32411 Petroleum Refineries

Additional Information: SAN No. 3990

See also the Regulatory Plan entry entitled "Chemical Right-to-Know Initiative" (RIN 2070-AD25; SAN 4176).

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RIN: 2070–AD16

3431. TEST RULES; GENERIC ENTRY FOR PROPOSED DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603,TSCA 4; 15 USC 2611, TSCA 12.

CFR Citation: 40 CFR 700 to 799

Legal Deadline: None

Abstract: EPA is proposing to require testing via rule, or will obtain testing through negotiated enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so. These chemicals have been designated for priority testing consideration by the ITC, recommended for testing consideration (for which the 12-month statutory requirement does not apply), or they have been identified for testing consideration by other EPA program offices and through EPA review processes.

Timetable:

Action	Date	FR Cite
NPRM ITC II Chemicals (ITC List 28)	04/00/99	
NPRM OSHA Chemicals with Insuf. Skin Absorption Data (ITC List 32)	04/00/99	
NPRM OSHA Chemicals with No Skin Absorption Data (ITC List 31)	04/00/99	
NPRM OSHA Chemicals with No Skin Absorption Data (ITC List 35)	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3494

NPRM must be published within one year of ITC designation.

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RIN: 2070–AB07

3432. TEST RULES; NEGOTIATED CONSENT ORDER AND TEST RULE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603, TSCA sec 4; 15 USC 2611, TSCA sec 12

CFR Citation: 40 CFR 790; 40 CFR 799

Legal Deadline: None

Abstract: This action will amend the testing consent order and test rule development process to increase efficiency. The consent order process was adopted by the Agency in June 1986. Based on experience to date, the Agency needs to make changes in the process to reduce the resources required for consent order negotiation. This rule would propose appropriate procedural changes. Obsolete provisions will be eliminated for test rule development activities.

Timetable:

Action	Date	FR Cite
Interim Final	05/17/85	50 FR 20652
Interim Final	06/30/86	51 FR 23706
Interim Final (Technical Modification)	09/01/89	54 FR 36311
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2245

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RIN: 2070–AB30

3433. TEST RULE; ATSDR SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603,TSCA 4; 42 USC 9604(i),CERCLA 104(i); 5 USC 2611, TSCA 12.

CFR Citation: 40 CFR 795 to 799

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of eight chemicals (benzene, chloroethane, methylene chloride, perchloroethylene, hydrogen cyanide, sodium cyanide, toluene, and trichloroethylene) to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(i).

Under CERCLA, the Agency for Toxic Substances and Disease Registry (ATSDR) is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program.

EPA—TSCA

Proposed Rule Stage

Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 2563

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RIN: 2070–AB79

3434. CHILDREN'S HEALTH TEST RULE

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: The multi-chemical test rule will propose the testing of chemicals to which the general population, including children, have potentially high exposure. The chemical selection criteria will include high production volume, indoor air pollutant present in consumer products, presence with high frequency in consumer products, TRI chemical with annual release to environment of more than 1 million pounds, pesticide inert, unregulated drinking water contaminant, and nominations from other government agencies. The test battery will include acute and subchronic toxicity, developmental neurotoxicity, neurotoxicity, immunotoxicity, 2-generation reproductive toxicity, mutagenicity, oncogenicity, and pharmacokinetics. This Children's Health test rule will focus on chemicals with a high potential for exposure; future test rules may also consider chemicals with suggestive, but not fully characterized, evidence of toxicity. The purpose of this and future Children's Health test rules is to improve our understanding of the risks posed to children's health by chemicals to which they may be exposed in the home, school, and the environment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 2865

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RIN: 2070–AC27

3435. TEST RULE FOR CERTAIN METALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603,TSCA 4; 15 USC 2611, TSCA 12; 15 USC 2625, TSCA 26; 42 USC 9604(i), CERCLA 104(i)

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of certain metals (beryllium, chromium, manganese, mercury, nickel, and selenium) to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(I).

Under CERCLA, the Agency for Toxic Substances and Disease Registry (ATSDR) is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program.

Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment.

The metals listed here, including cadmium, are also hazardous air pollutants (HAPs) under the Clean Air Act (CAA) section 112. Data from this action would also be used to implement several provisions of section 112 of the CAA, including determining risks remaining after the application of technology based on standards under section 112(d) of the CAA, estimating the risks associated with accidental releases, and determining whether or not substances should be removed from the CAA section (b)(1) list of HAPs (delisting).

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3882

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EPA—TSCA **Proposed Rule Stage**

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RIN: 2070–AD10

3436. FOLLOW-UP RULES ON EXISTING CHEMICALS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA 5; 15 USC 2607 TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has established a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support planned or ongoing risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting of appropriate needed information by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Action	Date	FR Cite
NPRM 2 & 4-Pentanedione SNUR	09/27/89	54 FR 39548
NPRM Chloranil	05/12/93	58 FR 27980
NPRM Benzidine-based Chemical Substances	08/30/95	60 FR 45119
Final Action Benzidine-based Chemical Substances	10/07/96	61 FR 52287
NPRM p-Aminophenol & Bromochloro-methane 8(a) Chemical Specific Rule	05/00/99	
NPRM Methylcyclopentane SNUR	05/00/99	
NPRM 2 & 4-Pentanedione SNUR (Reproposal)	05/00/99	
NPRM 2-Ethoxyethanol & 2-Methoxyethanol & 2-Methoxyethanol Acetate	05/00/99	
NPRM o-Tolidine & o-Dianisidine-based Dyes (Benzidine Congener Dyes)	06/00/99	
NPRM Amendment to Benzidine-based Chemical Substances SNUR	06/00/99	
NPRM Flame Retardant Chemicals	09/00/99	
NPRM Heavy Metal-Based Pigments in Aerosol Spray Paints SNUR	10/00/99	
Final Action Amendment to Benzidine-based Chemical Substances SNUR	12/00/99	
NPRM Certain Chemical Substances No Longer In Production SNUR	10/00/00	
Final Action Final Chloranil SNUR	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 1923

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RIN: 2070–AA58

3437. TSCA BIOTECHNOLOGY FOLLOW-UP RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2604; TSCA 5(a)

CFR Citation: 40 CFR 720; 40 CFR 725 (Revision)

Legal Deadline: None

Abstract: As a follow-up to the final Biotechnology rule under the Toxic Substances Control Act (TSCA), EPA plans to address two actions. (1) Intergeneric Scope of Oversight: OPPT currently defines new microorganisms which are subject to reporting under TSCA section 5 as those resulting from the deliberate combination of genetic material originally isolated from microorganisms classified in different taxonomic genera. Such microorganisms are referred to as intergeneric microorganisms. EPA indicated in its 1994 proposed biotechnology regulations that it may reconsider its interpretation of new microorganism in a later rulemaking, based on the more current state of scientific knowledge about the manner in which genetic material is exchanged among microorganisms in the environment. (2) TSCA Oversight of Transgenic Plants: Certain transgenic plants which express products or which are used for purposes subject to EPA jurisdiction under TSCA may be used for commercial purposes in the United States without oversight by EPA. Such uses include: plants used as intermediates to produce industrial grade oils; and plants used for phytoremediation (cleanup of contaminated soils). Section 5 of TSCA requires that new chemical substances be reviewed by the Agency prior to their introduction into commerce. In its proposed rule, 59 FR 45526 (September 1, 1994), EPA stated that it was reserving jurisdiction over certain transgenic plants and animals: Plants and animals could also be chemical substances under TSCA. EPA is reserving authority under TSCA to screen transgenic plants and animals in the future as needed, 59 FR 45526, 45527 (September 1, 1994). This action will address whether EPA should exercise jurisdiction under TCSA over products produced by transgenic plants, and/or certain plants.

Timetable:

Action	Date	FR Cite
Policy Statement (2) TSCA Plants Oversight Policy	11/00/99	
NPRM (1) Intergeneric Scope of Oversight	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

EPA—TSCA

Proposed Rule Stage

Sectors Affected: 212393 Other Chemical and Fertilizer Mineral Mining; 32551 Paint and Coating Manufacturing

Additional Information: SAN No. 3894

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RIN: 2070–AD13

3438. ASBESTOS MODEL ACCREDITATION PLAN REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2646 TSCA sec 206

CFR Citation: 40 CFR 763

Legal Deadline:
Final, Statutory, November 28, 1992.

Abstract: The Asbestos School Hazard Abatement Reauthorization Act (ASHARA) amended TSCA to require that EPA revise its asbestos model accreditation plan (MAP) to extend training and accreditation requirements to include persons performing certain asbestos-related work in public or commercial buildings, to increase the minimum number of training hours required for accreditation purposes and to effect other changes necessary to implement the amendments. The upcoming notice of proposed rulemaking (NPRM) will improve harmony of the existing interim final MAP with the Occupational Safety and Health Administration's regulations to the extent consistent with applicable EPA statutes, and provide clarifications.

Timetable:

Action	Date	FR Cite
Model Plan	05/13/92	57 FR 20438
Interim Final	02/03/94	59 FR 5236
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3148

See entry 2070-AC62

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RIN: 2070–AC51

3439. ASBESTOS; AMENDMENTS TO THE ASBESTOS-CONTAINING MATERIALS IN SCHOOLS RULE

Priority: Other Significant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605 TSCA sec 6; 15 USC 2607 TSCA sec 8; 15 USC 2647 TSCA sec 207; 15 USC 2646 TSCA sec 206; 15 USC 2643 TSCA sec 203; 15 USC 2614 TSCA sec 15; 15 USC 2615 TSCA sec 16

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule in order to improve harmony with the Occupational Safety and Health Administration's regulations and to provide clarifications regarding several definitions, air clearance monitoring techniques, and response actions. As a part of this effort, the Agency is also developing proposals to amend the Asbestos Model Accreditation Plan (RIN 2070-AC51) and the Asbestos Worker Protection Rule (RIN 2070-AC66). These activities are already included in the Regulatory Agenda as separate items, but were included in this entry to highlight this reinvention activity in the Regulatory Plan for FY 1999.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3047

Please also see Regulatory Agenda entries for the Asbestos Model Accreditation Plan Revisions (SAN 3148; RIN 2070-AC51) and the Asbestos Worker Protection Rule Amendments (SAN 2249; RIN 2070-AC66).

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RIN: 2070–AC62

3440. ASBESTOS WORKER PROTECTION RULE AMENDMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605 TSCA sec 6; 15 USC 2607 TSCA sec 15; 15 USC 2614 TSCA sec 15; 15 USC 2615 TSCA sec 16

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos Abatement Projects, Worker Protection Rule (WPR), by incorporating certain revisions that were made to the Occupational Safety and Health Administration (OSHA) asbestos workplace standards issued since EPA's WPR was promulgated in 1987 to the extent that the OSHA revisions are consistent with applicable EPA statutes. The proposal would generally extend the coverage provided under the OSHA Asbestos Standard for Construction to State and local government employees who are not covered by OSHA or EPA approved State plans. EPA also proposes to delegate authority to grant or deny State exclusions under the WPR to EPA

EPA—TSCA **Proposed Rule Stage**

Regional Administrators and to add compliance and enforcement requirements for State exclusions. In addition, EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule by relocating certain worker protection provisions relating to schools, which are currently contained in that rule, to the WPR.

Timetable:

Action	Date	FR Cite
NPRM (1)	11/01/94	59 FR 54746
NPRM (2)	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2249

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RIN: 2070–AC66

3441. PCBS; POLYCHLORINATED BIPHENYL; USE AUTHORIZATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605(e); TSCA sec 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: The notice of proposed rulemaking that was published on December 6, 1994, covered the manufacture (including import), processing, distribution in commerce, export use, disposal, and marking of PCBs. On June 29, 1998, EPA issued a final rule involving the disposal related provisions. Other provisions, e.g., certain use authorizations and import provisions, were to be addressed in separate actions. This rulemaking addresses a use authorization for certain non-liquid PCB applications, which although currently in use have never been authorized under the PCB regulations at 40 CFR part 761.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/91	56 FR 26738
NPRM	12/06/94	59 FR 62788
Final Action 1 PCB Disposal Provisions	06/29/98	63 FR 35384
Supplemental NPRM Use Authorizations - Data Availability	04/00/99	
Final Action 2 Use Authorizations	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4179

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RIN: 2070–AD27

3442. LEAD-BASED PAINT ACTIVITIES; TRAINING AND CERTIFICATION FOR RENOVATION AND REMODELING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 102-550 Sec 402(c)(3); 15 USC2603 TSCA Title IV

CFR Citation: 40 CFR 745

Legal Deadline:
Final, Statutory, October 31, 1996.

Abstract: Under section 402(c)(2) of TSCA Title IV, EPA conducted a study of the extent to which persons engaged in renovation and remodeling activities in target housing are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard. EPA must use the results of this study and consult with interested parties to determine which categories of renovation and remodeling activities require training and certification. EPA must then revise the training and certification regulations originally developed for individuals performing lead-based paint abatement under section 402(c)(a) of TSCA Title IV to apply them to the renovation and remodeling categories. If EPA determines that any category does not require certification, EPA must publish an explanation of the basis for that determination.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 23321 Single Family Housing Construction; 23322 Multifamily Housing Construction; 23521 Painting and Wall Covering Contractors; 23551 Carpentry Contractors

Additional Information: SAN No. 3557

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RIN: 2070–AC83

3443. LEAD-BASED PAINT; NOTIFICATION OF COMMENCEMENT OF ABATEMENT ACTIVITIES

Priority: Info./Admin./Other

Legal Authority: PL 102-550; 15 USC 2603; TSCA 4

CFR Citation: 40 CFR 745

Legal Deadline:
Final, Statutory, April 28, 1994.

Abstract: Section 402 of TSCA directs EPA to establish regulations containing standards for performing lead-based paint activities. One of the standards

EPA—TSCA **Proposed Rule Stage**

EPA developed, codified at 40 CFR section 745.227(e)(4), requires notification to EPA of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as a result of a Federal, State, or local order. This rule establishes requirements for the notification of commencement of lead-based paint abatement activities. These provisions include uniform procedures to notify the Agency of routine and emergency lead-based paint abatement activities. The rule will also prohibit lead-based paint abatement activities from starting on any date other than the one contained in the notification. This information is necessary to provide enforcement personnel with information for compliance activities and to prioritize inspections.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4172

This action has been split off from the action entitled "Fees for Accreditation and Certification of Lead-Based Paint Activities" (SAN 3881; 2070-AD11).

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RIN: 2070–AD31

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Toxic Substances Control Act (TSCA)

3444. LEAD; MANAGEMENT AND DISPOSAL OF LEAD-BASED PAINT DEBRIS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 15 USC 2601 to 2671; 42 USC 6901 to 6992

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume architectural components (e.g., doors and windows) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances and the Office of Solid Waste have initiated a joint rulemaking to address the disposal of these architectural components. This rulemaking would develop disposal standards for these components under the Toxic Substances Control Act (TSCA) title IV, (the definition of abatement under TSCA title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal standards for LBP architectural components and identify recycling and incineration activities that would be controlled or prohibited. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations applicable to lead-based paint debris which will be subject to the new TSCA standards.

Timetable:

Action	Date	FR Cite
NPRM Proposed Temporary Suspension of Toxicity Characteristic Rule	12/18/98	63 FR 70233
NPRM TSCA Proposal	12/18/98	63 FR 70189
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3508

This SAN and RIN includes RCRA companion rule: Temporary Suspension of Toxicity Characteristic Rule for Specified Lead-Based Paint Debris.

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RIN: 2070–AC72

3445. GUIDANCE ON ENVIRONMENTALLY PREFERABLE PURCHASING FOR FEDERAL AGENCIES

Priority: Info./Admin./Other

Legal Authority: EO 13101

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: As mandated by Executive Order 13101, OPPTS is developing final guidance to direct Federal agencies in their procurement of Environmentally Preferable Products.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50722
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3480

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EPA—TSCA **Final Rule Stage**

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RIN: 2070–AC78

3446. TEST RULES; GENERIC ENTRY FOR FINAL DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603, TSCA sec 4; 15 USC 2611, TSCA sec 12.

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: EPA is requiring testing via rules, or will obtain testing through enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so for chemicals listed herein. These chemicals have been designated for priority testing consideration by the ITC or recommended for testing consideration (for which the 12-month statutory requirement does not apply). The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other Federal or other EPA offices through EPA review processes.

Timetable:

Action	Date	FR Cite
ANPRM Aryl Phosphates (ITC List 2)	12/29/83	48 FR 57452
NPRM Brominated Flame Retardants	06/25/91	56 FR 29140
NPRM Aryl Phosphates (ITC List 2)	01/17/92	57 FR 2138
Final Action (ECA) DiBasic Esters (CPSC)	04/00/99	
Final Action (ECA) Aryl Phosphates (ITC List 2)	07/00/99	
Final Action ITC Chemicals (ITC List 28)	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3493

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RIN: 2070–AB94

3447. TEST RULE; HAZARDOUS AIR POLLUTANTS (HAPS)

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4; 42 USC 7412 CAA 112; 42 USC 7403 CAA 103; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA is proposing health effects testing under TSCA section 4 in support of programs and activities required under section 112 of the Clean Air Act (CAA), governing Hazardous Air Pollutants (HAPs). Section 112 of the CAA directs EPA to determine the risk to health and the environment remaining after application of technology-based emissions standards to major and area sources. Section 112 also sets forth a mechanism for revising and modifying the statutory list of 189 HAPs under section 112(b), and requirements for an accidental release control program. These data will also be important for the right-to-know program given the large release of these chemicals to the atmosphere. In order to implement these and other programs and requirements under section 112, EPA must identify the health and environment effects of potential concern from exposure to HAPs, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33178
Supplemental NPRM	12/24/97	62 FR 67466
Supplemental NPRM	04/21/98	63 FR 19694
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3487

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RIN: 2070–AC76

3448. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA sec 5

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA regulates the commercial development of new chemicals that have completed premanufacture notice (PMN) review, where activities described in the PMN did not present an unreasonable risk but uncontrolled manufacture, import, processing, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor who would engage in activities that are designated as significant new uses. Under the Expedited Follow-up Rule (EFUR) which became effective on October 12, 1989, EPA will identify such new chemicals and publish them in a batch SNUR 3-4 times per year. Chemicals that were subject to a proposed SNUR before the effective date of the EFUR or do not qualify under the EFUR, may be regulated individually by notice and

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comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	06/11/86	51 FR 21199
NPRM 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	12/08/87	52 FR 46496
NPRM Diphenyl-2&4&6-Trimethylbenzol Phosphine Oxide (87-586)	02/02/88	53 FR 2857
NPRM Aluminum Cross-linked Sodium Carboxy-methylcellulose	06/11/93	58 FR 32628
NPRM Certain Chemical Substances (95-1584 96-1674/75 and 97-267)	08/13/97	62 FR 43297
Final Action Certain Chemical Substances (95-1584 96-1674/75 and 97-267)	11/30/98	63 FR 65705
Final Action Diphenyl-2&4&6-Trimethylbenzol Phosphine Oxide (87-586)	01/29/99	64 FR 4605
Final Action Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	06/00/99	
Final Action Aluminum Cross-linked Sodium Carboxy-methylcellulose	06/00/99	
Final Action 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 1976

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RIN: 2070–AA59

3449. CHEMICAL-SPECIFIC SIGNIFICANT NEW USE RULES (SNURS) TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604; TSCA sec 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new uses. Under the Expedited Follow-Up Rule, which became effective on October 10, 1989 (54 FR 31314), EPA routinely publishes batch SNURs containing routine section 5(e) and non-5(e) SNURs. However, certain activities, such as modifications, withdrawals, revocations, and SNURs upon which comments are received in the direct final publication process, are subject to notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	05/27/93	58 FR 30744
NPRM Aromatic Amino Ether (P90-1840)	06/06/94	59 FR 29255
NPRM Alkenyl Ether of Alkanetriol Polymer (93-458)	12/19/94	59 FR 65289
NPRM Butanamide 2 2'-(3' 3-dichloro)1 1'-biphenyl 4 4'-diyl) bisazob	06/26/97	62 FR 34424
NPRM Certain Chemical Substances (91-1299/95-1667 91-1298 91-1297	06/26/97	62 FR 34421
NPRM Substituted Phenol (89-1125 L91-87 P92-41 92-511 94-1527 etc.	06/26/97	62 FR 34427
Final Action Substituted Phenol (89-1125 L91-87 P92-41 92-511 94-1527 etc.	04/30/98	63 FR 23678
NPRM Certain Chemical Substances	09/09/98	63 FR 48157
Final Action Butanamide 2 2'- 3' 3-dichloro(1 1'-biphenyl)-4 4'-diyl bisazob	02/04/99	64 FR 5740
Final Action Alkenyl Ether of Alkanetriol Polymer (93-458)	06/00/99	
Final Action Aromatic Amino Ether (P90-1840)	06/00/99	
Final Action Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	06/00/99	
Final Action Certain Chemical Substances (91-1299/95-1667 91-1298 91-1297	06/00/99	
Final Action Certain Chemical Substances	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3495

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RIN: 2070–AB27

3450. PCBS; POLYCHLORINATED BIPHENYLS; EXEMPTIONS FROM THE PROHIBITIONS AGAINST MANUFACTURING, PROCESSING, AND DISTRIBUTION IN COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2605 TSCA sec 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA)

provides that the Administrator may grant, by rule, exemptions from the prohibitions against manufacturing, processing and distribution in commerce of PCBs upon finding that 1) no unreasonable risk to health or the environment will occur, and 2) good faith efforts have been made by the petitioner to develop a substitute for PCB which does not pose an unreasonable risk of injury to health or the environment. In addition, the Interim Procedural Rules were amended to require certain petitioners to reapply for EPA approval to continue PCB activities previously approved by EPA.

Timetable:

Action	Date	FR Cite
NPRM (1) Group I	12/06/94	59 FR 62875
NPRM (2) Group II	09/00/99	
Final Action Group I	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 2150

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RIN: 2070–AB20

3451. REFRACTORY CERAMIC FIBERS; SIGNIFICANT NEW USE RULES ON NATIONAL PROGRAM CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604; TSCA 5; 15 USC 2605; TSCA 6

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 6 to require reporting by the manufacturers, importers and/or processors of these chemicals. Proposed rules may be published on at least the chemicals listed on the timetable below.

Timetable:

Action	Date	FR Cite
NPRM Refractory Ceramic Fiber	03/21/94	59 FR 13294
Final Action Refractory Ceramic Fiber	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3528

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RIN: 2070–AC37

3452. PCBS; POLYCHLORINATED BIPHENYLS (PCBS) TRANSFORMER RECLASSIFICATION RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605 TSCA sec 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: This rule would relax the regulatory requirements for reclassifying PCB transformers to a lower regulatory status by modifying the current reclassification requirements of 50 degree centigrade temperature and 90-day testing. Results of a preliminary analysis indicate that many transformers never reach the required temperature during operation, but retrofitting still successfully reduces PCB concentration. Safety risks to employees and to the general public occur in mandating the continued adherence to the current regulations. EPA may also address the reclassification of voltage regulators.

Timetable:

Action	Date	FR Cite
NPRM	11/18/93	58 FR 60970
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAN No. 3021

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RIN: 2070–AC39

3453. TSCA SECTION 8(A) PRELIMINARY ASSESSMENT INFORMATION RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(a) TSCA sec 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. These data will also support risk assessment and test rule decisions.

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Timetable:

Action	Date	FR Cite
Final Action 37th ITC List	02/28/96	61 FR 7421
Final Action 38th ITC List	10/29/96	61 FR 55871
Final Action 38th ITC List - Stay	12/11/96	61 FR 65186
Final Action 38th ITC List - Stay/Technical Amendments	01/07/98	63 FR 684
Final Action 38th ITC List - Revocation	04/00/99	
Final Action 39th ITC List	04/00/99	
Final Action 41st ITC List	04/00/99	
Final Action 42nd ITC List	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2178

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RIN: 2070–AB08

3454. TSCA SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2607(d) TSCA sec 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules require manufacturers, importers and processors to submit unpublished health and safety data on chemicals added to the requirements of the Toxic Substances Control Act section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee.

Timetable:

Action	Date	FR Cite
Final 38th ITC List	10/29/96	61 FR 55871
Final 38th ITC List - Stay	12/11/96	61 FR 65186
Final 38th ITC List - Stay/Technical Amendment	01/07/98	63 FR 684
Final Action 38th ITC List - Revocation	04/00/99	
Final Action 43rd ITC List	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 1139

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RIN: 2070–AB11

3455. USE OF ACRYLAMIDE FOR GROUTING

Priority: Other Significant

Legal Authority: 15 USC 2605 TSCA sec 6; 15 USC 2607 TSCA sec 8

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: On October 2, 1991, EPA proposed a regulation of acrylamide and NMA grouts based on the unreasonable risk associated with their usage. EPA's rule would prohibit the manufacture, distribution in commerce, and use of acrylamide grout. In February 1996, EPA reopened the record for 30 days to take additional comments, specifically to seek data on the durability of acrylamide and NMA grouts. The Agency has reviewed the comments and expects to promulgate the final rule in the Spring of 1999.

Timetable:

Action	Date	FR Cite
NPRM	10/02/91	56 FR 49863
Notice Reopening Record for Comments on Durability of NMA	02/28/96	61 FR 7454
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2779

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RIN: 2070–AC17

3456. TSCA SECTION 8(E) POLICY; NOTICE OF CLARIFICATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2607(e) TSCA sec 8(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The TSCA section 8(e) Notice of Clarification and Solicitation of Public Comment would amend certain aspects of the 1978 TSCA section 8(e) Statement of Interpretation and Enforcement Policy (1978 Policy Statement). The 1978 Policy Statement describes the types of information that EPA considers reportable under section 8(e), the substantial risk reporting provision of TSCA, and describes the procedures for reporting such information to EPA. This clarification effort derives from a review of the existing section 8(e) guidance done in the context of questions raised by companies considering participating in the section 8(e) Compliance Audit Program (CAP). As a result of this review, EPA determined that parts of the 1978 Policy Statement concerning

the reportability of information on widespread and previously unsuspected distribution in environmental media and emergency incidents of environmental contamination needed some refinement. The subject Federal Register action solicited comment on refined reporting guidance concerning widespread and previously unsuspected distribution in environmental media and provides additional circumstances where information is not reportable because it is considered known to the Administrator. Finally, the notice solicited comments on changes to the section 8(e) reporting deadline and reaffirmed the standards for claims of confidentiality for information contained in a notice of substantial risk under section 8(e).

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37735
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3118

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RIN: 2070–AC80

3457. NOTICE OF TSCA SECTION 4 REIMBURSEMENT PERIOD AND TSCA SECTION 12(B) EXPORT NOTIFICATION PERIOD SUNSET DATES FOR TSCA SECTION 4 SUBSTANCES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603; TSCA sec 4; 15 USC 2611; TSCA sec 12

CFR Citation: 40 CFR 707; 40 CFR 790; 40 CFR 791; 40 CFR 799

Legal Deadline: None

Abstract: EPA is developing a list of substances that are or have been subject to TSCA section 4 testing actions which required testing under rules or Enforceable Consent Orders. EPA will identify sunset, or termination dates that will identify: (1) the end of section 4 reporting requirements (40 CFR 790); (2) the end of the reimbursement period under which persons subject to test rules are subject to an obligation to reimburse test sponsors (40 CFR 791); and (3) the end of the period during which export notification requirements under TSCA section 12(b) are triggered.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 3559

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RIN: 2070–AC84

3458. LEAD-BASED PAINT; FEES FOR ACCREDITATION AND CERTIFICATION ACTIVITIES

Priority: Info./Admin./Other

Legal Authority: PL 02-550; 15 USC 2682(a)(3) TSCA 402(a)(3)

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: This rule is mandated by section 402(a) of TSCA for the purpose of implementing a fee schedule for lead-based paint activities. (40 CFR part 745, Lead Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities, published August 28, 1996). The rule will recoup for the US Treasury, through assessment of fees, the cost of EPA's administrative and enforcement costs in implementing this program. Regarding the anticipated impact on small business, section 402(a) does not require or mandate the abatement of lead-based paint, nor require that any particular enterprise participate in the lead-based paint field. However, if firms choose to participate, compliance costs consist of two components that may impact small businesses: (1) accreditation and training costs for workers and supervisors, as well as certification fees that this rule will establish and (2) incremental costs of work practice standards for abatement procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/02/98	63 FR 46734
Direct Final Rule	09/02/98	63 FR 46668
Withdrawn - Withdrawal of DFR and Effective Date	10/16/98	63 FR 55547
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3881

This action is split from the action Notification of Commencement of Abatement Activities (SAN 4172; 2070-AD31)

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RIN: 2070–AD11

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Long-Term Actions**

Toxic Substances Control Act (TSCA)

3459. LEAD; TSCA SECTION 403; IDENTIFICATION OF DANGEROUS LEVELS OF LEAD

Priority: Economically Significant

Legal Authority: 15 USC 2683

CFR Citation: 40 CFR 745

Legal Deadline:
NPRM, Judicial, May 26, 1998, Consent Decree.

Abstract: The Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) amended TSCA by adding a new Title IV. TSCA section 403 requires EPA to promulgate regulations that identify lead-based paint hazards, lead-contaminated dust and lead-contaminated soil for the purposes of TSCA Title IV as well as for the entire Title X. EPA developed an interim guidance document in July 1994, to provide public and private decision-makers with guidance on identifying and prioritizing lead-based paint hazards for control. This interim guidance, which was subsequently published in 1995 (60 FR 47248, 9/11/95), will continue to serve as EPA's official policy until the final TSCA section 403 rule is promulgated.

Timetable:

Action	Date	FR Cite
NPRM	06/03/98	63 FR 30301
Notice Comment Period Extended to 10/01/98	07/22/98	63 FR 39262
Notice Comment Period Extended to 11/30/98	10/01/98	63 FR 52662
Notice Comment Period Extended to 12/31/98 & Announces Public Meeting	11/05/98	63 FR 59754
NPRM Correction	12/18/98	63 FR 70087
Notice Reopens Comment Period to 03/01/99	01/14/99	64 FR 2460
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3243

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RIN: 2070–AC63

3460. LEAD; REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2605; TSCA 6

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: This action initiates a regulatory investigation under the Toxic Substances Control Act (TSCA) section 6 to determine if uses of lead (Pb) present an unreasonable risk to human health and the environment. The investigation will involve examination of the potential sources of human or other exposure to lead throughout the life cycle. Based on information gathered EPA may propose TSCA section 6(a) rules to control existing or new uses of Pb which pose an unreasonable risk to human health or the environment, and to explore the desirability and feasibility of discouraging overall consumption of Pb in general. Currently, EPA has ongoing regulatory investigation on one specific use of lead: fishing sinkers. EPA is exploring a combination of approaches to address human health and wildlife exposure to lead fishing sinkers including voluntary initiatives and education campaigns. EPA is developing materials to explain the dangers of lead through misuse and improper handling of lead sinkers. EPA is working with States to generally distribute such materials and to include information on lead hazards to human health and wildlife in State fishing guidelines booklets.

Timetable:

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096
NPRM Proposed Ban of Fishing Sinkers	03/09/94	59 FR 11122
Final Action Fishing Sinkers	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3252

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RIN: 2070–AC21

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Emergency Planning and Community Right-to-Know Act (EPCRA)

3461. TRI; ADDITION OF OIL AND GAS EXPLORATION AND PRODUCTION TO THE TOXIC RELEASE INVENTORY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11013 EPCRA 313; 42 USC 11023; 42 USC 1108; 42 USC 11076

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The original Toxics Release Inventory (TRI) required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39. These SIC codes cover facilities whose primary economic activity was classified as manufacturing. This requirement was specified under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. The Environmental Protection Agency (EPA) has recently expanded this original list of covered industries. EPA began additional analyses to determine whether facilities which perform exploration and production of oil and gas should also be added to the list of facilities covered under EPCRA section 313. Facilities recently added include certain electric generating facilities, waste management facilities, metal and coal mining, hazardous waste treatment facilities, solvent recyclers, and wholesale distributors of chemicals and petroleum products.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 211111 Crude Petroleum and Natural Gas Extraction

Additional Information: SAN No. 4023

Program is implemented at the Federal level. States are designated as co-recipients of the information, but are not required to manage the information in any particular manner.

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RIN: 2070–AD19

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Emergency Planning and Community Right-to-Know Act (EPCRA)

3462. TRI; RESPONSES TO PETITIONS RECEIVED TO ADD OR DELETE OR MODIFY CHEMICAL LISTINGS ON THE TOXIC RELEASE INVENTORY

Priority: Routine and Frequent

Unfunded Mandates: Undetermined

Major: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11013 EPCRA sec 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: These actions grant or deny petitions received to add or delete or modify chemicals on the list of toxic chemicals under section 313 of the Emergency Planning and Community Right to Know Act (EPCRA) that are subject to reporting under the Toxic Chemical Release Reporting Rule. The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Action	Date	FR Cite
Notice DBNPA (Request to Delete)	10/27/95	60 FR 54949
Proposed Rule Dioxin & Dioxin-like Compounds (Furans & PCBs) (Req. to Add)	05/07/97	62 FR 24887
Notice of Denial Phosphoric Acid (Request to Delete)	01/23/98	63 FR 3566
Notice of Denial Methyl Ethyl Ketone (MEK) (Request to Delete)	03/30/98	63 FR 15195
Amendments to Proposed Rule Dioxin and Dioxin-like Compounds (Furans & PCBs) Req. to Add.)	01/05/99	64 FR 688
NPRM Chromite Ore (Request to Delete)	02/23/99	64 FR 8774
Notice of Denial Methyl Isobutyl Ketone (MIBK) (Request to Delete)	02/23/99	64 FR 8769
Response Acetonitrile (Request to Delete)	04/00/99	
Final Response Dioxin & Dioxin-like Compounds (Furans & PCBs)(Req. to Add)	09/00/99	
Final Response DBNPA (Request to Delete)	11/00/99	
Response Di(2-ethylhexyl) Phthalate (DEHP) (Request to Delete)	12/00/99	
Response Alloys--Chromium & Nickel & and Copper Alloys (Req. to Modify)	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2425

Statutory deadline: Within 180 days of receipt the Agency must either initiate rulemaking or explain why not in the Federal Register. Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code

1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AC00

3463. TRI; POLLUTION PREVENTION ACT INFORMATION REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11013 Pollution Prevention Act

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: Section 6607(b) of the Pollution Prevention Act of 1990 (PPA) (Pub. L. 101-508) requires the addition of several data elements to the Toxic Chemical Release Inventory (TRI) reporting requirements as promulgated under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (Pub. L. 99-499). Section 313 of EPCRA requires owners or operators of certain facilities that manufacture, process, or otherwise use listed toxic chemicals to annually report their releases of these chemicals to each environmental medium. The PPA mandates that section 313 covered facilities also report on source reduction and recycling activities relating to the toxic chemicals beginning with the 1991 reporting year. Since 1991 covered facilities have been providing this information to EPA in section 8A, Source Reduction and Recycling Activities, of EPA Form R. On September 25, 1991 (56 FR 48475), EPA proposed regulations which would provide definitions and instructions for reporting the PPA data elements on the EPA Form R. In this action, EPA will amend certain aspects of the September 25, 1991, proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48475
Supplemental NPRM	09/00/99	
Final Action	03/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2847

Affected Sectors Include: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AC24

3464. • TRI; LOWERING OF EPCRA SECTION 313 REPORTING THRESHOLDS FOR LEAD AND LEAD COMPOUNDS

Priority: Other Significant

Legal Authority: 42 USC 11001 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The Toxics Release Inventory (TRI) currently requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 pounds of a listed chemical. These thresholds were initially established under the Emergency Planning and community Right-To-Know Act (EPCRA) section 313(f)(1). Section 313(f)(2) of EPCRA gives the Administrator the power to "establish a threshold amount for a toxic chemical different from the amount established by paragraph (1)," and that such altered thresholds may be based on "classes of chemicals." EPA is considering lowering the thresholds for certain persistent bioaccumulative toxic (PBT) chemicals and has issued a proposed rule that sets out the criteria EPA intends to use for determining if a chemical is persistent and bioaccumulative under EPCRA section 313. EPA is currently conducting analysis to determine if lead and lead compounds meet the proposed criteria for persistence and bioaccumulation and whether the EPCRA section 313 reporting thresholds should be lowered. EPA is also evaluating the environmental fate of lead.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4259

By Statute and Regulation, this rule will affect SIC codes 20-39, 10 (except SIC codes 1011, 1081, 1094), 12 (except SIC code 1241), 4911, 4931, 4939, 4953, 5169, 5171, and 7389.

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RIN: 2070–AD38

3465. • TRI; REVISIONS TO THE OTHERWISE USE ACTIVITY EXEMPTIONS AND THE COAL EXTRACTION ACTIVITIES EXEMPTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11001 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The Toxics Release Inventory (TRI) requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 pounds of a listed chemical. In determining amounts of listed chemicals that are manufactured, processed or otherwise used, facilities may be entitled to consider specific exemptions from reporting. EPA is presently reviewing a group of these exemptions. The categories of exemptions presently being reconsidered by EPA are the structural component exemption, the routine janitorial and facility grounds maintenance exemption, the personal use exemption, the motor vehicle maintenance exemption, and the intake water/air exemption. Also known as the "otherwise use" exemptions because they are limited to "otherwise use" activities, these exemptions are expressly provided for at 40 CFR 372.38(c). EPA is also considering changes to the coal mining extraction exemption provided for at 40 CFR 372.38(g).

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAN No. 4265

By Statute and Regulation, this rule will affect SIC codes 20-39, 10 (except SIC codes 1011, 1081, 1094), 12 (except SIC code 1241), 4911, 4931, 4939, 4953, 5169, 5171, and 7389.

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RIN: 2070–AD39

3466. TRI; CHEMICAL EXPANSION; FINALIZATION OF DEFERRED CHEMICALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: On November 30, 1994, EPA added 286 chemicals and chemical categories to the EPCRA section 313 list, including 39 chemicals as part of two delineated categories. Each chemical and chemical category was found to meet the statutory criteria described in EPCRA section 313(d)(2)(A)-(C). At this time, EPA deferred final action on 40 chemicals and one chemical category until a later date. These were deferred because the comments received on them raised difficult technical or policy issues which required additional time to address. EPA chose not to delay final action on the 286 chemicals and chemical categories because of the additional time needed to address the issues surrounding the smaller group of 40 chemicals and one chemical category; rather, EPA believed it to be in the spirit of community right-to-know to proceed with the final rulemaking of the additional chemicals and chemical categories.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1788
Final Finalizes Listing of 286 Chemicals and Chemical Categories	11/30/94	59 FR 61432
Supplemental NPRM Deferred Chemicals	12/00/99	
Final Action Deferred Chemicals	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3007

Includes SIC codes: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AC47

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Emergency Planning and Community Right-to-Know Act (EPCRA)

3467. TRI; REPORTING THRESHOLD AMENDMENT FOR CERTAIN PERSISTENT AND BIOACCUMULATIVE TOXIC CHEMICALS (PBTS)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 11013 EPCRA 313; 42 USC 11023; 42 USC 11048; 42 USC 11076

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The Toxics Release Inventory (TRI) currently requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 lbs of a listed chemical. These thresholds were initially established under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313(f)(1). Section 313(f)(2) of EPCRA gives the Administrator the power to establish a threshold amount for a toxic chemical different from the amount established by paragraph (1) and that such altered thresholds may be based on classes of chemicals. EPA is considering lowering the thresholds for those chemicals which it determines to be highly toxic at very low dose levels and/or have physical, chemical, or biological properties that make the chemicals persist for extended periods in the environment, and/or bioaccumulate through the food chain. Persistent bioaccumulative toxic chemicals are of particular concern in ecosystems such as the Great Lakes Basin due to the long retention time of the individual lakes and the cycling of the chemicals from one component of the ecosystem to another.

Timetable:

Action	Date	FR Cite
NPRM	01/05/99	64 FR 688
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAN No. 3880

OTHER DEADLINE: Presidential Initiative with Final Rule in place and effective by 12/31/99. AFFECTED SECTORS: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AD09

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Emergency Planning and Community Right-to-Know Act (EPCRA)

3468. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT: AMENDMENTS AND STREAMLINING RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048; 42 USC 11021; 42 USC 11022

CFR Citation: 40 CFR 355; 40 CFR 370

Legal Deadline: None

Abstract: This rule will address the remaining issues from the proposed rule of June 8, 1998. (Reporting thresholds for gasoline and diesel fuel at retail gas stations were included in a separate final rule; 64 FR 7031, February 11, 1999.) This rule will include: reporting thresholds for rock salt, sand, gravel and other chemicals that pose minimal risk; plain language rewrite; and may consider reporting thresholds for facilities with some similarities to gas stations (motor pools, marinas, etc.) and guidance on approaches to State flexibility.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31268
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3215

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RIN: 2050–AE17

3469. RESPONSE TO A PETITION REQUESTING DELETION OF PHOSMET FROM THE EXTREMELY HAZARDOUS SUBSTANCES (EHSS) LIST

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: EPA has received a petition to remove Phosmet from the extremely hazardous substance (EHS) list under the Emergency Planning and Community Right-to-Know Act (EPCRA). This rulemaking will address the petitioner's claims.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3994

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RIN: 2050–AE42

3470. MODIFICATION OF THRESHOLD PLANNING QUANTITY FOR ISOPHORONE DIISOCYANATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: On October 12, 1994 (59 FR 51816), EPA proposed to modify the listing of several chemicals on the extremely hazardous substances (EHS) list under the Emergency Planning and Community Right-to-Know Act. One petitioner requested the removal of isophorone diisocyanate (IPDI). EPA rejected the petitioner's request. However, in the review of the petition, EPA noticed that there was an error in the setting of the threshold planning quantity (TPQ) for IPDI, and proposed to correct the error in the October 12, 1994 notice of proposed rulemaking. The other modifications to the EHS list were made final on May 7, 1996; however, the TPQ for IPDI was not included in that final rule. This rule will finalize the TPQ for IPDI.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 325 Chemical Manufacturing

Additional Information: SAN No. 3993

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RIN: 2050–AE43

3471. TRI; DATA EXPANSION AMENDMENTS; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11013 EPCRA; 42 USC 11023; 42 USC 11048; 42 USC 11076; 42 USC 13106

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The original Toxics Release Inventory (TRI) required reporting from manufacturing facilities on the releases and other waste management activities including waste treatment and disposal methods. This requirement was imposed under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313(g). Information on waste management practices, including recycling, energy recovery, and source reduction activities, were added to TRI pursuant to the 1990 passage of the Pollution Prevention Act. EPA is currently considering whether additional data elements related to a mass balance/materials accounting program should be considered for incorporation into the TRI database. The additional data elements included for consideration include: quantity brought on site; quantity produced on site; quantity consumed on site; quantity contained in or as product; quantity stored on site as waste; and beginning and ending raw materials inventory. The issue of collecting mass balance/materials accounting information has been debated for over a decade. Congress, in enacting EPCRA, directed the National Academy of Sciences (NAS) to study this issue further. NAS recommended that the issue of adding materials accounting data merited further analysis. Because of competing priorities, this project is currently on hold. No activities are planned for 1999.

Timetable:

Action	Date	FR Cite
NPRM	10/01/96	61 FR 51322
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3877

SECTORS AFFECTED: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AD08

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Emergency Planning and Community Right-to-Know Act (EPCRA)

3472. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW PROGRAMS; AMENDMENTS TO HAZARDOUS CHEMICAL REPORTING THRESHOLDS FOR GASOLINE AND DIESEL FUEL AT RETAIL GAS STATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 370

Completed:

Reason	Date	FR Cite
Final Action	02/11/99	64 FR 7031

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2050–AE58

3473. ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT, SECTION 112(R)(7): AMENDMENT

Priority: Other Significant

CFR Citation: 40 CFR 68

Completed:

Reason	Date	FR Cite
Final Action	01/06/99	64 FR 963

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2050–AE46

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Resource Conservation and Recovery Act (RCRA)

3474. HAZARDOUS WASTE STORAGE AND DISPOSAL REGULATION RELATED TO LOW LEVEL MIXED WASTE; PROPOSED MODIFICATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6924; 42 USC 6926

CFR Citation: 40 CFR 261.4; 40 CFR 262.34

Legal Deadline:
NPRM, Judicial, October 31, 1999.
Final, Judicial, April 30, 2001.

Abstract: EPA is considering a regulatory exemption from the RCRA hazardous waste disposal requirements for mixed low level waste (MLLW). EPA will determine whether the disposal of LLMW in facilities designed to address radiological hazards which are licensed by the Nuclear Regulatory Commission (NRC) will provide adequate protection of human health and the environment with respect to chemical hazards. If the Agency decides that such disposal is protective, EPA will propose that for the purposes of disposal these wastes meeting requirements under the land disposal restrictions program be conditionally exempted from the RCRA subtitle C disposal requirements. Commercial mixed waste generators, particularly nuclear power plants, contend that NRC regulations covering design, licensing and operation of low level radioactive waste disposal facilities offer human health and environmental protection similar to that required by EPA requirements governing chemical hazards under RCRA regulations. Furthermore, there is a serious shortage of disposal capacity for MLLW. The waste acceptance criteria of the only dually regulated facility (i.e., having both a RCRA permit and an NRC license) severely limits the activity levels of radionuclides they can dispose. This rulemaking provides alternatives to the disposal capacity concern. EPA is also considering alternatives to current EPA regulations applicable to mixed waste storage. NRC regulations also apply to storage of commercial mixed waste. Current RCRA regulation prohibits indefinite storage of waste containing hazardous constituents, despite the lack of treatment technology or disposal capacity for some mixed wastes. Through this rulemaking action, EPA seeks to explore regulatory alternatives that could provide flexibility for MLLW from hazardous waste storage requirements while waste is subject to NRC regulations and licensing conditions.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/99	64 FR 10063
ANPRM Comment Period End	04/15/99	
NPRM	10/00/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: SAN No. 4017

DOE mixed waste could exit RCRA if disposed at commercial low level waste disposal facilities.

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RIN: 2050–AE45

EPA—RCRA

Prerule Stage

3475. REINVENTING THE LAND DISPOSAL RESTRICTIONS PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Land Disposal Restrictions (LDR) program was established to minimize threats posed by the land disposal of untreated hazardous wastes. The program has been in place for a number of years and now regulates all but the most recently listed hazardous wastes. The Agency is now examining the LDR program, exploring past accomplishments, current issues, and future possibilities. The goals of the examination are to make the LDR program cheaper, smarter, cleaner, and more flexible. The Agency will develop an Advance Notice of Proposed Rulemaking (ANPRM) to present initial thinking and the results of some activities taken as part of the ongoing LDR Reinvention Project so that the public will have an opportunity to comment. A proposed and final rule will follow.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/99	
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 325 Chemical Manufacturing; 331 Primary Metal Manufacturing; 2122 Metal Ore Mining; 32411 Petroleum Refineries

Additional Information: SAN No. 4093

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RIN: 2050–AE53

3476. LAND DISPOSAL RESTRICTIONS; POTENTIAL REVISIONS FOR MERCURY LISTED AND CHARACTERISTIC WASTES

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: This Advance Notice of Proposed Rulemaking (ANPRM) will solicit data and comments on treatment data that the Agency has gathered on the treatment of mercury wastes. Some forms of mercury wastes are now required to be treated by either incineration or retorting. Both of these forms of treatment have the potential to emit mercury via air emissions. Also, some information suggests that certain waste types which are required to be retorted are not amenable to that form of treatment. There also is a shrinking demand for mercury, which brings up concerns about requiring recovery of mercury wastes. The data and information gathered by this ANPRM process are intended to be used to propose revised treatment standards for some forms of mercury hazardous wastes in a future rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 3353 Electrical Equipment Manufacturing; 325181 Alkalies and Chlorine Manufacturing; 32551 Paint and Coating Manufacturing; 3254 Pharmaceutical and Medicine Manufacturing

Additional Information: SAN No. 4094

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RIN: 2050–AE54

3477. REVIEW OF TOXICITY CHARACTERISTIC LEVEL FOR SILVER UNDER THE RESOURCE CONSERVATION RECOVERY ACT (RCRA)

Priority: Info./Admin./Other

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261; 40 CFR 268

Legal Deadline: None

Abstract: This action is a technical review of the possible risks associated with management of silver-bearing wastes and economic impacts of this regulation, which is being conducted in response to petitions submitted to the Agency to re-assess the toxicity characteristic level for silver. EPA will address all potential pathways for risks from silver-bearing wastes, including possible ecological effects.

Silver is on the toxicity characteristic list because it was a regulated drinking water contaminant. In January 1991, the Agency deleted the primary drinking water maximum contaminant level (MCL) for silver based on consideration that the major effect is "cosmetic" and that silver is unlikely to occur in drinking water supplies. The petitioners, users of silver materials and silver waste generators, requested the Agency to re-evaluate the basis for silver's inclusion in the TC.

The Agency believes that before a decision can be made to delete or modify the toxicity characteristic level for silver, a more complete assessment of risks posed by management of silver-bearing wastes must be conducted.

Timetable:

Action	Date	FR Cite
Initial Study Complete	06/30/97	
Peer Review Complete	10/30/98	
Final Study	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3886

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RIN: 2050–AE37

EPA—RCRA

Prerule Stage

3478. RCRA REPORTING AND RECORDKEEPING BURDEN REDUCTION; NOTICE OF DATA AVAILABILITY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-13; 42 USC 6907; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6935; 42 USC 6937 to 6939; 42 USC 6944; 42 USC 6949a; 42 USC 6974

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, The Paperwork Reduction Act requires reduction of record keeping and reporting burden by 2001.

Abstract: To comply with the requirements of the Paperwork Reduction Act of 1995, EPA must reduce the information collection burden associated with the reporting and recordkeeping requirements imposed on the regulated community by the Agency's regulatory programs. Information Collection Requests (ICRs) approved by the Office of Management and Budget provide a measure of the reporting and recordkeeping requirements associated with a particular regulation. The Office of Solid Waste (OSW) is conducting a review of RCRA ICRs and developing options for reducing the associated burden. OSW will solicit comment on these ideas and estimates of actual burden reduction hours in a Notice of Data Availability. Comments on this Notice will be considered when we start preparing a proposed burden reduction rulemaking.

Timetable:

Action	Date	FR Cite
Notice	04/00/99	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Sectors Affected: 325 Chemical Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 334 Computer and Electronic Product Manufacturing

Additional Information: SAN No. 4084

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RIN: 2050–AE50

3479. RCRA APPENDIX VIII STREAMLINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6921

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This action will propose to modify the list of chemicals found in Appendix VIII of 40 CFR part 261 by: (1) rearranging the Appendix into groups of chemicals according to their frequency of expected occurrence in wastes; (2) clarifying ambiguous entries currently on the Appendix such as those marked "not otherwise specified"; and (3) deleting those chemicals for which the risk from potential exposure is considered to be minimal.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4090

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RIN: 2050–AE55

3480. REGULATORY DETERMINATION ON REMAINING WASTES FROM THE COMBUSTION OF FOSSIL FUELS

Priority: Other Significant

Legal Authority: 42 USC 6921(b)(3)(C) RCRA sec 3001(b)(3)(C)

CFR Citation: Not yet determined

Legal Deadline:
Other, Judicial, October 1, 1999, Regulatory Determination for Phase II Remaining Wastes.

Abstract: On December 1, 1992, the Agency determined that additional study of four large-volume wastes -- fly ash, bottom ash, boiler slag and flue gas emission control wastes -- from the combustion of coal by electric utility power plants was not necessary. A Final Regulatory Determination on these wastes was signed on August 2, 1993 and published in the Federal Register on August 9, 1993. The Agency also determined that for the remaining fossil-fuel combustion wastes, additional data collection is necessary to make a Regulatory Determination on these wastes. A Final Regulatory Determination will be made by October 1, 1999. These remaining wastes include: (1) fly ash, bottom ash, boiler slag, and flue gas emission control wastes from the combustion of coal by electric utility power plants when such wastes are mixed with, co-disposed, co-treated, or otherwise co-managed with other wastes generated in conjunction with the combustion of coal or other fossil fuels, and (2) any other wastes subject to section 8002(n) of RCRA other than those subject to the August 1993 regulatory determination referenced above.

Timetable:

Action	Date	FR Cite
Notice of Availability	02/12/93	58 FR 8273
Regulatory Determination (Phase I Four Fossil Fuel Wastes)	08/09/93	58 FR 42466
Regulatory Determination (Phase II Remaining Wastes)	04/00/99	

Regulatory Flexibility Analysis Required: No

EPA—RCRA **Prerule Stage**

Government Levels Affected: Undetermined

Additional Information: SAN No. 3201

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RIN: 2050–AD91

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage
Resource Conservation and Recovery Act (RCRA)

3481. MODIFICATIONS TO RCRA RULES ASSOCIATED WITH SOLVENT-CONTAMINATED SHOP TOWELS AND WIPERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6921

CFR Citation: 40 CFR 261; 40 CFR 268

Legal Deadline: None

Abstract: This action would modify RCRA rules that impact the management of solvent-contaminated shop towels and wipers. Solvent-contaminated shop towels and wipers are used throughout industry for equipment cleaning and other related facility operations. Many times the spent shop towels and wipers are a hazardous waste because the solvent used is either a characteristic or listed solvent. An examination of industry use and management practices reveals that many facilities may use only small amounts of solvent on their disposable wipers, and use small numbers of wipers daily -- suggesting that these materials, particularly if listed solvents are being used, may pose little or no risk to human health and the environment if disposed in municipal landfills. Similarly, situations exist where both disposable wipers and reusable shop towels are not being managed according to prescribed Federal and States' rules and policies. Problems with this issue have persisted since the late 1980s.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Sectors Affected: 323 Printing and Related Support Activities; 325 Chemical Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing

Additional Information: SAN No. 4091

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RIN: 2050–AE51

3482. GLASS-TO-GLASS RECYCLING OF CATHODE RAY TUBES (CRTS): CHANGES TO HAZARDOUS WASTE REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6924; 42 USC 6925

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action will revise the existing Federal hazardous waste regulations to remove unnecessary regulatory barriers to glass-to-glass recycling of Cathode Ray Tubes (CRTs). A CRT is the main component of a television or computer monitor. A CRT is made largely of specialized glasses, some of which contain lead to protect the user from X-rays inside the CRT. Due to the lead, when they are disposed of or reclaimed, some CRTs are hazardous wastes under the Federal Resource Conservation and Recovery Act (RCRA) regulations. Glass-to-glass recycling involves the return of used CRT glass to manufacturing of new CRTs. This action is planned in response to a June 9, 1998 recommendation on CRT recycling from the Common Sense Initiative (CSI) Council to the Environmental Protection Agency (EPA). CSI is a consensus-based process for developing cleaner, cheaper, smarter environmental improvements that includes representatives of: industry; environmental groups; community groups; environmental justice groups; labor; and, Federal, State, local, and tribal governments. The recommendation involves minimizing RCRA requirements for glass-to-glass recycling while retaining appropriate controls to ensure protection of human health and the environment. The goal of the recommendation is to facilitate an increase in glass-to-glass recycling, thereby minimizing disposal of lead, increasing resource recovery, and enhancing protection of human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 334411 Electron Tube Manufacturing

Additional Information: SAN No. 4092

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RIN: 2050–AE52

3483. • LAND DISPOSAL RESTRICTIONS; TREATMENT STANDARDS FOR SPENT POTLINERS FROM PRIMARY ALUMINUM REDUCTION (K088)

Priority: Other Significant

Unfunded Mandates: Undetermined

EPA—RCRA

Proposed Rule Stage

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268; 40 CFR 271

Legal Deadline: None

Abstract: On September 21, 1998, the Agency promulgated interim treatment standards for spent potliners from primary aluminum reduction (EPA hazardous Waste K088). In this rule, the Agency committed to establishing final treatment standards within the next two years. The Agency needs to gather data, review treatment technologies and develop treatment standards for arsenic and fluoride based on this new analysis. In addition, the Agency must evaluate alternative treatment technologies for the thermal destruction of K088. In particular, the Agency will assess the effectiveness of vitrification on K088 waste. Vitrification treatment enables K088 to be treated while generating a "product" from the vitrified K088. EPA, however, needs to determine whether control technologies are appropriate for the vitrification units.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Final	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 3334 Ventilation, Heating, Air-Conditioning and Commercial Refrigeration Equipment Manufacturing

Additional Information: SAN No. 4233

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RIN: 2050–AE65

3484. • REVISIONS TO GUIDELINES FOR THE STORAGE AND COLLECTION OF RESIDENTIAL, COMMERCIAL, AND INSTITUTIONAL SOLID WASTE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6944

CFR Citation: 40 CFR 243

Legal Deadline: None

Abstract: EPA promulgated Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste in 1976. These guidelines referenced safety standards that are now obsolete. The Agency was petitioned to incorporate current safety standards. Two sections are revised. The revisions amend the requirements for waste containers used for the storage of both solid waste and materials that have been separated for the purpose of recycling. The safety requirements for mobile equipment and stationary compactors are revised.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Direct Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 562 Waste Management and Remediation Services

Additional Information: SAN No. 4229

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RIN: 2050–AE66

3485. • REVISIONS TO SOLID WASTE LANDFILL CRITERIA—LEACHATE RECIRCULATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6944; 42 USC 6949

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: The Agency is reviewing and evaluating the technology of leachate recirculation in municipal solid waste landfills (MSWLFs). If sufficient data is found to justify a change in the regulations, we will propose to revise the regulations to allow leachate recirculation in units constructed with alternative liner designs resulting in a significant cost savings to some facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 562 Waste Management and Remediation Services

Additional Information: SAN No. 4230

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RIN: 2050–AE67

3486. PAINT MANUFACTURING WASTES LISTING: HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6926; 42 USC 6938; 42 USC

9602; 42 USC 9603; 42 USC 9604; 33 USC 1321; 33 USC 1361

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline:
NPRM, Statutory, February 8, 1986.
NPRM, Judicial, February 29, 2000.

Abstract: This action addresses the potential risks posed by wastes from the production of paints, and determines whether these wastes should be listed as hazardous under RCRA to control any potentially unacceptable risks. Any new wastes listed as hazardous will also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3805

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RIN: 2050–AE32

3487. MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT; CODIFICATION OF WASTE MANAGEMENT PROVISIONS

Priority: Other Significant

Legal Authority: 42 USC 14303

CFR Citation: 40 CFR 271; 40 CFR 273

Legal Deadline: None

Abstract: The purpose of this rule is to codify into the Code of Federal Regulations certain provisions of the Mercury-Containing and Rechargeable Battery Management Act that impact the May 11, 1995 Universal Waste Rule (60 FR 25492). The Act was signed by the President on May 13, 1996 and became immediately effective nationwide on the date of signature. Specifically, one provision of the law requires the collection, storage, and transportation of the following types of batteries be managed according to standards established in the Universal Waste Rule: used rechargeable batteries, lead-acid batteries not covered by 40 CFR part 266 or the equivalent requirements of an approved state program, rechargeable alkaline batteries, certain mercury-containing batteries banned from domestic sale, and used consumer products containing rechargeable batteries that are not easily removable. The law prohibits State imposed requirements that are not identical to those found in the Federal Universal Waste Rule, but allows States to adopt and enforce identical standards and to implement and enforce collection, storage, and transport requirements identical to those included in the universal waste rule if the standards are approved by the EPA Administrator.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Direct Final Rule	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 3888

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RIN: 2050–AE39

3488. REMOVAL OF REQUIREMENT TO USE SW-846 METHODS (TEST METHODS FOR EVALUATING SOLID WASTE: PHYSICAL/CHEMICAL METHODS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934 to 6939; 42 USC 6974; 42 USC 9601(37); 42 USC 9614(c)

CFR Citation: 40 CFR 258; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 279

Legal Deadline: None

Abstract: The EPA Office of Solid Waste (OSW) has been actively working to break down the barriers that the environmental monitoring community faces when trying to use new monitoring techniques. As a first step, OSW has accelerated its review process for new methods by eliminating several unnecessary internal review steps, and by streamlining the internal approval process for each new method. However, there are currently 32 citations in title 40 of the Code of Federal Regulations (CFR) where the use of SW-846 methods is required. As a second step for speeding up the approval process, OSW plans to remove the requirements to use SW-846 methods for other than method defined parameters (i.e.; where the method defines the regulations, such as the Toxicity Characteristic Leaching Procedure) from 40 CFR. This will likely lead to an even more streamlined approval process since SW-846 will then be able to be handled strictly as guidance and not need the regulatory process for approval. This additional streamlining will permit new, more cost-effective methods to attain public and regulatory authority acceptance in much less time, allowing required monitoring to be done more cheaply, faster and, in some cases, more accurately.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3989

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RIN: 2050–AE41

3489. STANDARDIZED PERMIT FOR RCRA HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6924; 42 USC 6925; 42 USC 6927; 42 USC 6939; 42 USC 6974

CFR Citation: 40 CFR 124; 40 CFR 267; 40 CFR 270

Legal Deadline: None

Abstract: This rulemaking will allow a type of general permit, called a standardized permit, for facilities that generate waste and routinely manage the waste on-site in tanks, containers, and containment buildings. Under the standardized permit, facility owners and operators would certify compliance with generic design and operating conditions set on a national basis. The permitting agency would review the certifications submitted by the facility owners or operators. The permitting agency would also be able to impose additional site-specific terms and conditions for corrective action or other purposes, as called for by RCRA. Ensuring compliance with the standardized permit's terms and conditions would occur during inspection of the facility after the permit has been issued.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Sectors Affected: 3251 Basic Chemical Manufacturing; 325211 Plastics Material and Resin Manufacturing; 32551 Paint and Coating Manufacturing; 3252 Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing

Additional Information: SAN No. 4028

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RIN: 2050–AE44

3490. • PROPOSED REGULATORY AMENDMENTS ON RECYCLING OF HAZARDOUS WASTES IN FERTILIZERS

Priority: Other Significant

Legal Authority: 42 USC 1006 et seq

CFR Citation: 40 CFR 261; 40 CFR 266; 40 CFR 268; 40 CFR 271

Legal Deadline: None

Abstract: This rulemaking is intended to revise the current RCRA regulations that apply to recycling of hazardous wastes in the manufacture of fertilizers. Exemptions from RCRA standards are currently provided for some hazardous wastes used in this manner, while other hazardous wastes that may be more suitable as fertilizer ingredients are subject to stringent regulatory requirements that can discourage legitimate recycling practices. This rulemaking effort is intended to establish a more consistent regulatory framework for this practice, to remove current regulatory disincentives to legitimate recycling of hazardous wastes in fertilizer products, and to establish a set of standards for contaminant concentrations in hazardous waste-derived fertilizers that are more appropriate to fertilizers and which are protective of human health and the environment.

These regulatory revisions will directly affect companies that manufacture zinc micronutrient fertilizers from hazardous wastes, and is likely to benefit such manufacturers that are small businesses by removing regulatory disincentives to recycling.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Federal

Sectors Affected: 331492 Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum); 325188 All Other Basic Inorganic Chemical Manufacturing; 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum); 331111 Iron and Steel Mills; 562112 Hazardous Waste Collection; 32531 Fertilizer Manufacturing

Additional Information: SAN No. 4208

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RIN: 2050–AE69

3491. CHLORINATED ALIPHATICS LISTING DETERMINATION

Priority: Other Significant

Legal Authority: 42 USC 6921 RCRA sec 3001; 42 USC 9602 Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline:
NPRM, Judicial, July 31, 1999.
Final, Judicial, September 30, 2000.

Abstract: This action addresses the potential risks posed by wastes from the production of chlorinated aliphatics, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any potentially unacceptable risks. Any wastes newly listed as hazardous also will be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3151

Agency Contact: Wanda Levine, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
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RIN: 2050–AD85

3492. HAZARDOUS WASTE IDENTIFICATION RULE (HWIR): IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

EPA—RCRA **Proposed Rule Stage**

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905 RCRA sec 1006; 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6921 RCRA sec 3001; 42 USC 6922 RCRA sec 3002; 42 USC 6926 RCRA sec 3006

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

Legal Deadline:
Other, Judicial, October 31, 1999, Reproposal.
Final, Judicial, April 30, 2001.

Abstract: Under the current Resource Conservation and Recovery Act (RCRA) Mixture and Derived From rules, some low-risk wastes are currently regulated by the EPA's hazardous waste regulations. To address this, EPA will make modifications to the Mixture and Derived From rules and establish new criteria that would provide the option to exempt certain lower risk wastes from the hazardous waste regulations. In developing the 1995 proposal, EPA considered the views of all members of a Federal Advisory Committee Act (FACA) committee. EPA will use the comments from the 1995 proposal to develop a reproposal by October 1999. Because this action is deregulatory, it is not expected to have adverse impacts on small business. This action will be implemented by EPA and authorized States.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM Reproposal	12/21/95	60 FR 66344
NPRM Reproposal	10/00/99	
Final	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Sectors Affected: 325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing

Additional Information: SAN No. 3328

Agency Contact: Adam Klinger, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
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RIN: 2050–AE07

3493. LISTING DETERMINATION OF WASTES GENERATED DURING THE MANUFACTURE OF AZO, ANTHRAQUINONE, AND TRIARYLMETHANE DYES AND PIGMENTS

Priority: Other Significant

Legal Authority: 42 USC 6921 RCRA sec 3001; 42 USC 9602 Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline:
NPRM, Judicial, March 31, 1999, Dyes II (deferred wastes). EPA is negotiating an extension.
Other, Judicial, May 1, 1999, Dyes I Notice of Data Availability.
Final, Judicial, March 31, 2000, Dyes I - 05/01/00--Dyes II - 03/31/00.

Abstract: This action addresses the potential human health and environmental risks posed by wastes from the manufacture of dyes and pigments, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any potentially unacceptable risks. If listed under RCRA, these wastes would also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined at this time. EPA proposed listing decisions for most wastes in 1994 (Dyes-I), and deferred decisions on several others. Two deferred waste streams (filter aids, triarylmethane, and sludges) are subject to separate deadlines for proposed and final action (Dyes II rulemaking). The rule proposed in 1994 was incomplete because it did not contain information confidential by industry. Therefore, a NODA will be necessary, when EPA is able to release an adequate record. The deadlines are based on recent settlement discussions with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 D.D.C.

Timetable:

Action	Date	FR Cite
NPRM Dyes I	12/22/94	59 FR 66072
NPRM Dyes II (Deferred Wastes)	04/00/99	
Notice Dyes I (Notice of Data Availability)	05/00/99	
Final Action Dyes II (Deferred Wastes)	03/00/00	
Final Action Dyes I	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3066

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RIN: 2050–AD80

3494. HAZARDOUS WASTE MANIFEST REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6922 RCRA sec 3002; 42 USC 6923 RCRA sec 3003; 42 USC 6926 RCRA sec 3006

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271

Legal Deadline: None

Abstract: The Uniform Hazardous Waste Manifest (Form 8700-22) is a multi-copy form used to identify the quantity, composition, origin, routing, and destination of hazardous waste during its transportation. The manifest system's reliance on paper results in significant paperwork and cost burden to waste handlers and States who collect manifest information. The Agency intends to pursue an optional approach to redesign the manifest system so that it utilizes automated technologies to increase access to manifest related information, and to facilitate the manifest process, including the form's preparation, transmission, and recordkeeping, thereby lessening the total burden on waste handlers and States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3147

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RIN: 2050–AE21

3495. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 6926 RCRA sec 3006

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 280; 40 CFR 761

Legal Deadline: None

Abstract: The revised financial responsibility test is intended to improve the current test in predicting which firms will enter bankruptcy and not be able to cover their financial obligations for liability and closure costs of hazardous waste treatment, storage and disposal facilities. A bankrupt firm may be unable to afford the proper closure of a facility which would require the government to incur response costs at the facility. The rule would also qualify owners and operators of RCRA Treatment, Storage, and Disposal Facilities which must currently use more expensive ways, such as surety bonds or letters of credit, of demonstrating financial assurance, to use the less expensive corporate financial responsibility test for more of their obligations. The combined savings from screening out riskier firms and making the test more available to viable firms would be approximately $19 million annually in public and private costs. These regulatory amendments would have no effect on local or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 30201
NPRM	10/12/94	59 FR 51523
Notice Notice of Data Availability	11/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2647

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RIN: 2050–AC71

3496. MANAGEMENT OF CEMENT KILN DUST (CKD)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6921(a) RCRA sec 3001(a)

CFR Citation: 40 CFR 259; 40 CFR 261; 40 CFR 264; 40 CFR 266

Legal Deadline: None

Abstract: CKD is a high volume material by-product of the cement manufacturing process. While it contains potentially hazardous constituents such as lead, cadmium and chromium, it has been exempted since November 1980 from hazardous waste regulation under RCRA Subtitle C by the Bevill Amendment, which modified Section 3001 of RCRA to exempt certain special wastes until further studies could be completed and any applicable regulations were promulgated. In December 1993, EPA submitted a Report to Congress with its findings on the nature and management practices associated with CKD. This was followed in January 1995 by an EPA regulatory determination published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted. In the regulatory determination EPA committed to develop additional tailored regulations under RCRA Subtitle C and, if necessary, the Clean Air Act. As part of its regulatory development effort, the Office of Solid Waste within EPA's Office of Solid Waste and Emergency Response has initiated further studies and has held informal discussions with stakeholders interested in regulations under RCRA Subtitle C for the management of CKD. The proposed regulations will be tailored to protect human health and the environment while limiting burden on the regulated community.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3856

Agency Contact: William Schoenborn, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
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RIN: 2050–AE34

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Resource Conservation and Recovery Act (RCRA)

3497. RECYCLED USED OIL CONTAINING PCBS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9601(37); 42 USC 9614(c); 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6974

CFR Citation: 40 CFR 261; 40 CFR 279

Legal Deadline: None

Abstract: The direct final rule, published May 6, 1998, eliminates errors and clarifies ambiguities in the used oil management standards. Specifically, the rule clarifies (1) when used oil contaminated with polychlorinated biphenyls (PCBs) is regulated under the used oil management standards and when it is not, (2) that the requirements applicable to releases of used oil apply in States that are not authorized for the RCRA base program, (3) that mixtures of conditionally exempt small quantity generator (CESQG) wastes and used oil are subject to the used oil management standards irrespective of how that mixture is to be recycled, and (4) that the initial marketer of used oil that meets the used oil fuel specification need only keep a record of a shipment of used oil to the facility to which the initial marketer delivers the used oil. This rule also amends three incorrect references to the pre-1992 used oil specifications in the provisions which address hazardous waste fuel produced from, or oil reclaimed from, oil bearing hazardous wastes from petroleum refining operations.

EPA received relevant adverse comments on three of the amendments included in the May 6, 1998 direct final rule: the amendments to 40 CFR 261.5(j) (mixtures of conditionally exempt small quantity generator waste and used oil), 40 CFR 279.10(i) (applicability of the used oil management standards to used oil contaminated with polychlorinated biphenyls (PCBs)), and 40 CFR 279.74(b) (recordkeeping requirements for marketers of used oil that meets the used oil fuel specification). On July 14, 1998, the Agency removed these three amendments and reinstated the regulatory text that existed prior to the May 6, 1998 direct final rule. EPA will promulgate a final rule addressing the comments received and finalizing the three amendments, as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	05/06/98	63 FR 25006
Direct Final Rule	05/06/98	63 FR 24963
Removal of 3 Amendments	07/14/98	63 FR 37780
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4088

Agency Contact: Tom Rinehart, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
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RIN: 2050–AE47

3498. • 180-DAY ACCUMULATION TIME UNDER RCRA FOR GENERATORS OF F006 WASTE WATER TREATMENT SLUDGES FROM THE METAL FINISHING INDUSTRY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6922

CFR Citation: 40 CFR 262

Legal Deadline: None

Abstract: EPA is proposing to allow generators of F006 waste (sludges from the treatment of electroplating wastewaters) up to 180 days (or up to 270 days, if applicable) to accumulate F006 waste without a RCRA permit or interim status, provided that F006 waste generators: 1) recycle the F006 waste by metals recovery, 2) accumulate no more than 16,000 kilograms of F006 waste at any one time, 3) have implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery, and 4) comply with the applicable management standards. EPA believes that the 180-day accumulation time would minimize economic barriers to recycling of F006 waste through metals recovery, thus providing generators of F006 waste with an incentive to choose metals recovery over treatment and land disposal as their waste management option for F006 waste. The proposed rule is part of the Agency's efforts under the Common Sense Initiative (CSI) for the Metal Finishing Industry to identify and to implement cleaner, cheaper, and smarter opportunities for environmental protection.

Timetable:

Action	Date	FR Cite
NPRM	02/01/99	64 FR 4818
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4178

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RIN: 2050–AE60

3499. FINAL DETERMINATION OF THE APPLICABILITY OF THE TOXICITY CHARACTERISTIC RULE TO UNDERGROUND STORAGE TANKS, CONTAMINATED MEDIA, AND DEBRIS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6921 RCRA sec 3001

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: In the final hazardous waste Toxicity Characteristic (TC) rule published in June 1990, EPA decided to temporarily defer application of the TC rule to petroleum-contaminated media and debris, such as soils and groundwater, that result from underground storage tank (UST) corrective actions. This rule is part of the Agency's commitment to make a final determination regarding the UST temporary deferral. The temporary deferral was, in part, based on the Agency's concern that without such a deferral, UST cleanup procedures would be adversely affected, resulting in delays in remedial action and increases in remediation costs. Since this action is deregulatory, there are no adverse effects on small businesses, or on State, local, or tribal governments.

EPA—RCRA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/12/93	58 FR 8504
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3189

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RIN: 2050–AD69

3500. HAZARDOUS WASTE MANAGEMENT SYSTEM; MODIFICATION OF THE HAZARDOUS WASTE PROGRAM; HAZARDOUS WASTE LAMPS

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6930; 42 USC 6938

CFR Citation: 40 CFR 273

Legal Deadline: None

Abstract: This final rulemaking addresses the management of spent hazardous waste lamps. The rulemaking is based on data which indicate that these lamps may be safely managed outside of the full subtitle C requirements of the RCRA hazardous waste system, using a streamlined regulatory structure under RCRA. The rule would have positive impacts on small businesses and State, local and tribal governments interested in collecting and managing lamps.

Timetable:

Action	Date	FR Cite
NPRM	07/27/94	59 FR 38288
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3237

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RIN: 2050–AD93

3501. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 7412 CAA sec 112; 42 USC 7414 CAA sec 114

CFR Citation: 40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline:
Final, Judicial, February 28, 1999, Settlement agreement: industrial furnaces and incinerators.

Abstract: The Environmental Protection Agency's (EPA's) strategy for hazardous waste minimization and combustion and a judicial settlement agreement commit EPA to upgrade its standards for burning hazardous waste in incinerators, boilers, and industrial furnaces.

Timetable:

Action	Date	FR Cite
NPRM Cement Kilns & Lightweight Aggregate Kilns & Incinerators	04/19/96	61 FR 17358
Final Action MACT Fasttrack	06/19/98	63 FR 33782
Final Action Cement Kilns & LWAKs & Incinerators	07/00/99	
NPRM Boilers & Other Industrial Furnaces	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3333

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RIN: 2050–AE01

3502. REVISIONS TO THE COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a) RCRA sec 6002(e)

CFR Citation: 40 CFR 247

Legal Deadline: None

Abstract: RCRA section 6002 and E.O. 13101 require EPA to issue guidelines in the Federal Register which designate items that are or can be made with recovered materials and to issue recommendations for government procurement of these items. Once designated, procuring agencies are required to purchase these items with the highest percentage of recovered materials practicable. Government procurement of EPA-designated items containing recovered materials fosters markets for recovered materials and, thereby, closes the recycling loop. To date, EPA has designated 36 items under two Comprehensive Procurement Guidelines (CPG1 and CPG2) and proposed to designate 19 more items under CPG3. EPA has also issued a Recovered Materials Advisory Notice (RMAN) with each CPG which provides recommendations on buying the designated items. The E.O. requires EPA to update the CPG every two years. The new actions would (1) finalize the designation of items and recommendations proposed in CPG3; (2) propose to designate new items in CPG4; and (3) issue final item designations in CPG4.

Timetable:

Action	Date	FR Cite
Notice -- Paper Products Recovered Materials Advisory Notice	06/08/98	63 FR 31214
Notice -- Recovered Materials Advisory Notice I Update	06/08/98	63 FR 31217
NPRM (CPG3)	08/26/98	63 FR 45558
Final Action (CPG3)	06/00/99	

EPA—RCRA

Final Rule Stage

Action	Date	FR Cite
NPRM (CPG4)	07/00/99	
Final Action (CPG4)	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3545

Agency Contact: Terry Grist, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
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RIN: 2050–AE23

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Long-Term Actions

3503. • SUSPENSION OF TEMPORARY TOXICITY CHARACTERISTIC RULE FOR SPECIFIC LEAD-BASED PAINT DEBRIS

Priority: Economically Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume architectural components (e.g., doors and windows) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and the Office of Solid Waste have proposed a joint rulemaking to address the disposal of these architectural components. (See also RIN 2070-AC72 .) The final rule being prepared by OPPTS would develop disposal and management standards for these components under the Toxic Substances Control Act (TSCA) title IV, (the definition of abatement under TSCA title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal and management standards for LBP architectural components and identify recycling and incineration activities that would be controlled or prohibited. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations applicable to lead-based paint debris which will be subject to the new TSCA standards.

Timetable:

Action	Date	FR Cite
NPRM RCRA Temporary Suspension	12/18/98	63 FR 70233
Final Action RCRA Temporary Suspension	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 23321 Single Family Housing Construction; 23332 Commercial and Institutional Building Construction; 23322 Multifamily Housing Construction; 23521 Painting and Wall Covering Contractors

Additional Information: SAN No. 4263

Additional NAICS Codes affected: 23542 Drywall, Plastering, Acoustical, and Insulation Contractors; 23551 Carpentry Contractors; 23561 Roofing, Siding, and Sheet Metal Contractors; 23594 Wrecking and Demolition contractors; 23592 Glass and Glazing Contractors; 56291 Remediation Services; 23599 All other special trade contractors; 23511 plumbing, heating, and air conditioning contractors; 23531 electrical contractors; 23552 Floor Laying and Other Floor Contractors; 23311 Land Subdivision and Land Development; 562111 Hazardous Waste Treatment and Disposal; 562112 Hazardous Waste Collection; 562119 Other Waste Collection; 48411 General Freight Trucking Local; 48421 Used Household and Office Goods Moving; 48422 Specialized Freight (except Used Goods) Trucking, Local; 48412 General Freight Trucking, Long-Distance; 48423 Specialized Freight (except Used Goods) Trucking, Long-Distance; 56292 Materials Recovery Facilities; 56221 Waste Treatment and Disposal; and 54138 Testing Laboratories.

Agency Contact: Rajani Joglekar, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
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Email: joglekar.rajani@epa.gov

RIN: 2050–AE68

3504. HAZARDOUS WASTE MANAGEMENT SYSTEM: SLAG RESIDUES DERIVED FROM HIGH TEMPERATURE METALS RECOVERY (HTMR) TREATMENT OF KO61, KO62 AND F0006 WASTES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905 RCRA sec 2002; 42 USC 6921; 42 USC 6922; 42 USC 6924; 42 USC 6934; 42 USC 6938; 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6922 RCRA sec 3002; 42 USC 6924 RCRA sec 3004

CFR Citation: 40 CFR 261; 40 CFR 266

Legal Deadline: None

Abstract: EPA assessed the potential risks to human health and the environment from the use of slag residues (slags) resulting from high temperature metals recovery (HTMR) treatment of specified hazardous wastes (i.e., electric arc furnace dust, steel finishing pickle liquor, and electroplating sludges). This assessment was used as a basis for the proposed rule to reclassify these slags as nonhazardous when they meet certain exclusion levels and are managed and used in a certain manner. EPA is presently reevaluating the proposed rule due to significant issues raised by public commenters. There is currently no deadline for final action on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	12/29/94	59 FR 67256
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3428

Agency Contact: Narendra Chaudhari, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0454

RIN: 2050–AE15

3505. HAZARDOUS WASTE IDENTIFICATION; RECYCLED USED OIL MANAGEMENT STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9601(37); 42 USC 9614(c); 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6974

CFR Citation: 40 CFR 279

Legal Deadline: None

Abstract: EPA is reviewing whether the provision of the used oil management standards which governs mixtures of recycled used oil and characteristic hazardous waste, 40 CFR 279.10(b)(2) (the used oil mixture rule), is consistent with the United States Court of Appeals for the District of Columbia Circuit's decision in Chemical Waste Management, Inc. v. EPA. The decision, which concerned a challenge to portions of EPA's land disposal restrictions, held that EPA could not authorize certain wastes exhibiting the hazardous characteristics of ignitability, reactivity, or corrosivity to be diluted to eliminate the characteristic and then be land-disposed unless the hazardous constituents in the waste were adequately treated to minimize threats to human health and the environment.

The used oil mixture rule provides that a mixture of hazardous waste and used oil destined for recycling, if the mixture is hazardous solely because it exhibits a hazardous waste characteristic, is regulated under the used oil management standards. Under the used oil mixture rule, such a decharacterized mixture, therefore, is not subject to the hazardous waste regulations, including those relating to land disposal restrictions. Further analysis is necessary to determine whether mixtures of used oil destined for recycling and characteristic hazardous wastes differ significantly from other mixtures containing characteristic wastes in terms of potential threat to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3668

Agency Contact: Mike Suizzevo, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0046

RIN: 2050–AE28

3506. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; INORGANIC CHEMICAL INDUSTRY WASTES; AND CERCLA HAZARDOUS SUBSTANCE DESIGNATION AND REPORTABLE QUANTITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 6901 to 6992(k)

CFR Citation: 40 CFR 261; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 271; 40 CFR 302

Legal Deadline:
NPRM, Judicial, June 30, 2000.
Final, Judicial, August 21, 2001.

Abstract: EPA, under an Environmental Defense Fund settlement agreement, will amend, if necessary, the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) to reduce hazards to human health and the environment from inorganic chemical industry wastes. The wastes to be studied include: sodium dichromate production wastes, wastes from the dry process for manufacturing phosphoric acid, phosphorus trichloride production wastes, phosphorus pentasulfide production wastes, wastes from the production of sodium phosphate from wet process phosphoric acid, sodium chlorate production wastes, antimony oxide production wastes, cadmium pigments production wastes, barium carbonate production wastes, potassium dichromate production wastes, phenyl mercuric acetate production wastes, boric acid production wastes, inorganic hydrogen cyanide production wastes, and titanium dioxide production wastes (except for chloride process waste solids). This study is proposed under the authority of sections 3001(e)(2) of RCRA which directs EPA to make a hazardous waste listing determination for inorganic chemical wastes. After an extensive study of the waste streams of the above chemical industry processes, including characterization of the wastes generated and a risk assessment evaluating plausible mismanagement scenarios, EPA will propose which of the above wastes, if any, should be listed as a hazardous waste under 40 CFR part 261.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 32518 Other Basic Inorganic Chemical Manufacturing; 325131 Inorganic Dye and Pigment Manufacturing; 325312 Phosphatic Fertilizer Manufacturing; 31611 Leather and Hide Tanning and Finishing

Additional Information: SAN No. 4083

Agency Contact: Anthony Carrell, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
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Phone: 703 308-0439

RIN: 2050–AE49

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Resource Conservation and Recovery Act (RCRA)

Completed Actions

3507. INTERIM EMERGENCY RULE REVISING LAND DISPOSAL RESTRICTION TREATMENT STANDARDS FOR ALUMINUM POTLINERS—K088 WASTE

Priority: Other Significant

CFR Citation: 40 CFR 268; 40 CFR 271

Completed:

Reason	Date	FR Cite
Final Action	09/24/98	63 FR 51253

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elaine Eby
Phone: 703 308-8449

RIN: 2050–AE59

3508. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 261; 40 CFR 266

Completed:

Reason	Date	FR Cite
NPRM-Withdrawn	02/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Charlotte Mooney
Phone: 703 308-7025

RIN: 2050–AD18

3509. HAZARDOUS WASTE MANAGEMENT SYSTEM: POST-CLOSURE REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270

Completed:

Reason	Date	FR Cite
Final Action	10/22/98	63 FR 56710

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Foster
Phone: 703 308-7057

RIN: 2050–AD55

3510. SPENT SOLVENTS LISTING DETERMINATION

Priority: Other Significant

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	11/19/98	63 FR 64371

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ron Josephson
Phone: 703 308-0442

RIN: 2050–AD84

3511. HAZARDOUS REMEDIATION WASTE MANAGEMENT REQUIREMENTS (COMMONLY REFERRED TO AS HAZARDOUS WASTE IDENTIFICATION RULE FOR CONTAMINATED MEDIA OR HWIR-MEDIA)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270; 40 CFR 271

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans No Further Action.	12/01/98	63 FR 66101

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Mike Fitzpatrick
Phone: 703 308-8411

RIN: 2050–AE22

3512. • LANDFILL LEACHATE AND PETROLEUM WASTE LISTINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6921 RCRA sec 3001

CFR Citation: 40 CFR 261

Legal Deadline:
Other, Judicial, February 5, 1999, Administrator Signature Deadline.

Abstract: This action addresses the potential human health and environmental risks posed by 14 waste streams from petroleum refining processes, and determines whether these wastes should be listed as hazardous wastes under RCRA. If listed under RCRA, these wastes would also be added to the CERCLA list of hazardous substances. As part of this action, the Agency is considering opportunities for source reduction, recycling, reclamation or reuse in other manufacturing processes. This action will be implemented by EPA and authorized States under RCRA. Impacts on small business are expected but are not significant.

Timetable:

Action	Date	FR Cite
Final Action	02/11/99	64 FR 6806

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4228

Agency Contact: Maximo Diaz, Jr., Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0439

RIN: 2050–AE61

EPA—RCRA **Completed Actions**

3513. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 264; 40 CFR 270

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans No Further Action.	02/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Barbara Foster
Phone: 703 308-7057

RIN: 2050–AB80

3514. RCRA SUBTITLE D SOLID WASTE FACILITIES; STATE PERMIT PROGRAM—DETERMINATION OF ADEQUACY (STATE IMPLEMENTATION RULE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 239

Completed:

Reason	Date	FR Cite
Final Action	10/23/98	63 FR 57025

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Karen Rudek
Phone: 703 308-1682

RIN: 2050–AD03

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Final Rule Stage**

Oil Pollution Act (OPA)

3515. OIL POLLUTION PREVENTION REGULATION: REVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321 CWA sec 311(j)(l)(C); 33 USC 2720

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major inland oil spill with substantial environmental impacts (i.e., Ashland Oil in Floreffe, PA, in January 1988), an interagency task force recommended steps to improve EPA's oil spill prevention program (40 CFR part 112). This program requires oil storage facilities to prevent and contain discharges that could reach waters of the United States. On October 22, 1991, the Agency proposed revisions to implement some of the task force recommendations and on February 17, 1993, the Agency proposed further clarifications and technical changes to the spill prevention regulations. On December 2, 1997, EPA supplemented the 1991 and 1993 proposed revisions with a proposal to reduce burdens associated with the oil spill prevention program by reducing the recordkeeping provisions or exempting some facilities from some recordkeeping requirements. This rule will take final action on the 1991, 1993, and 1997 proposals.

Timetable:

Action	Date	FR Cite
NPRM	10/22/91	56 FR 54612
NPRM	02/17/93	58 FR 8824
Supplemental NPRM	12/02/97	62 FR 63812
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 2634

Agency Contact: Hugo Fleischman, Environmental Protection Agency, Solid Waste and Emergency Response, 5203G, Washington, DC 20460
Phone: 703 603-8769

RIN: 2050–AC62

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Prerule Stage**

Comprehensive Environmental Response, Compensation and Liability Act

3516. • CRITERIA FOR THE DESIGNATION OF HAZARDOUS SUBSTANCES UNDER CERCLA SECTION 102(A)

Priority: Other Significant

Legal Authority: 42 USC 9602

CFR Citation: 40 CFR 302.4

Legal Deadline: None

Abstract: This action will address the development of evaluation criteria for the designation of substances as hazardous under CERCLA. It is necessary to develop evaluation criteria because the Agency has the authority under CERCLA 102(a) to designate substances as hazardous; however, the Agency has never designated substances as hazardous under the CERCLA authority nor does it have criteria to do so. To date the only substances designated as CERCLA hazardous substances are as a result of their appearance on other Acts' lists defined under CERCLA 101(14). Using CERCLA designation criteria the Agency may establish CERCLA hazardous substances independently from other Acts, in the interest of public health and the environment.

The purpose of this action is to have well thought-out criteria for designating hazardous substances that may be applied to individual substances for evaluation and decision as to whether

EPA—CERCLA **Prerule Stage**

or not the substance should be appropriately designated a CERCLA 102(a) hazardous substance. The Agency already has the authority to designate substances as hazardous; in this action, criteria will be developed to implement that authority.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4201

Agency Contact: Lynn M. Beasley, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
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RIN: 2050–AE63

3517. • FACILITY RESPONSE PLAN REGULATION FOR CERTAIN NON-TRANSPORTATION-RELATED FACILITIES THAT HANDLE, STORE, OR TRANSPORT VEGETABLE OILS AND ANIMAL FATS

Priority: Other Significant

Legal Authority: 33 USC 1321; 33 USC 1361; 33 USC 2720; EO 12777 (October 18 1991); PL 105-276

CFR Citation: 40 CFR 112 (Revision)

Legal Deadline:
Other, Statutory, September 30, 1999, EPA FY1999 Appropriation (P.L. 105-276).

Abstract: This regulation would modify the existing regulations as they apply to facilities that handle, store, or transport vegetable oils and animal fats. The Facility Response Plan (FRP) rule applies only to high-risk facilities that transfer large volumes of oil over water or store 1 million gallons or more of oil and meet additional criteria. Because worst-case discharges from these facilities could cause substantial harm to the environment, facility owners and operators are required to prepare and implement response plans. The rule applies to a small number of vegetable oil/animal fat facilities (an estimated 50 to 100, based on information provided by industry). The current rule already provides greater flexibility to vegetable oil/animal fat facilities in the development of these plans than what is required for petroleum facilities. The EPA FY1999 Appropriation (P.L. 105-276) directs the Agency to issue regulations amending 40 C.F.R. Part 112 (Oil Pollution Prevention) to comply with the requirements of the Edible Oil Regulatory Reform Act (EORRA). EORRA requires agencies to differentiate between vegetable oils and animal fats and other classes of oils, based on properties and effects, in issuing regulations. The notice will also contain a request for public comment as to what, if any, changes EPA should make in the Spill Prevention, Control and Countermeasures (SPCC) requirements for the various classes of oil listed in EORRA.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Sectors Affected: 311222 Soybean Processing; 311223 Other Oilseed Processing; 311225 Fats and Oils Refining and Blending; 311613 Rendering and Meat By-product Processing

Additional Information: SAN No. 4217

Agency Contact: Barbara Davis, Environmental Protection Agency, Solid Waste and Emergency Response, 5203G, Washington, DC 20460
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RIN: 2050–AE64

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Comprehensive Environmental Response, Compensation and Liability Act

3518. STREAMLINING THE PREAUTHORIZATION MIXED FUNDING FOR APPLICATION AND IMPLEMENTATION OF CLAIMS AGAINST SUPERFUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9601

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: Current regulations at 40 CFR part 307 provide for the preauthorization of claims against the Superfund in instances where the Agency makes a determination that mixed funding is appropriate. This process has been labeled by many stakeholders as overly burdensome. The Agency has reviewed the current process in order to identify areas in which burdens may be lessened and requirements may be streamlined. As a result, the Agency is considering a proposal to amend the current regulation to: streamline the application process by eliminating duplicative information requirements; minimize the requirements related to management, oversight, and reporting of the cleanup, by removing the requirement to be guided by the Federal Acquisition Requirements, and replacing the requirement of maximum free and open competition with a bright-line standard; allow claimants to provide independent certification of claims and supporting documentation; streamline the actual payment process by taking advantage of the electronic funds transfer process; ensure that cost recovery concerns are addressed by requiring claimants, within a settlement document, to reimburse the Fund for costs not recovered (only in the event cost recovery is initiated), due to claimants' failure to provide adequate documentary support or upon a determination that response costs expended (and claimed) were not reasonable or not incurred consistent with the National Contingency Plan; and ensure proper accounting by requiring offsets for funds owed to the Agency by claimants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

EPA—CERCLA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3885

Agency Contact: Seth Bruckner, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
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RIN: 2050–AE38

3519. GRANTS FOR TECHNICAL ASSISTANCE RULE REFORM—40 CFR PART 35 SUBPART M

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9617(e) Superfund (CERCLA) sec 117

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: The proposed revisions to the Technical Assistance Grants (TAG) Rule are intended to simplify the application and administrative processes. The new TAG Rule would eliminate the requirement that budget periods may not exceed 3 years. Budget periods would be negotiated with TAG applicants so that they have flexibility to synchronize the period of time during which the recipient anticipates having a technical advisor involved with the schedule of work at a site. In addition, the new rule would eliminate the 20 percent ceiling for administrative costs of a grant so that recipients do not need to differentiate between programmatic and administrative cost. The Agency is also proposing to eliminate the distinction between sole and multiple applicants under the rule, since both must meet identical criteria. The requirement that the applicant demonstrate that there is an actual or potential health threat posed to group members by the site would also be deleted since EPA believes that there is a potential health threat at all Superfund sites. EPA also believes that all Superfund sites pose potential economic and recreational threats to adjacent communities, and that there is no need for the applicant to provide evidence of those threats. Furthermore, EPA may already have sufficient information from various sources concerning the potential health, economic, and recreational threats posed by Superfund sites. This proposed rule also includes a new provision that allows communities to receive cash advances of up to $5,000.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3806

Agency Contact: Lois Gartner, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 603-8889

RIN: 2050–AE33

3520. REPORTABLE QUANTITY ADJUSTMENTS FOR CARBAMATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-510 Sec 102(a); PL 99-499

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: EPA has listed carbamate waste streams as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). RCRA listed wastes, by statute, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and are assigned a one pound statutory reportable quantity (RQ) unless EPA adjusts them. These substances also become subject to reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA) with a one pound threshold. EPA, in this action, will propose RQ adjustments for the carbamates. Most RQ adjustments are expected to be greater than one pound. Raising the RQs for these substances would decrease the burden on 1) the regulated community for complying with the reporting requirements under CERCLA and EPCRA; 2) Federal, State, and local authorities for program implementation; and 3) Federal, State, or local authorities, if they release hazardous substances at the RQ level or greater.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3423

Agency Contact: Frank Avvisato, Environmental Protection Agency, Solid Waste and Emergency Response, 5202G, Washington, DC 20460
Phone: 703 603-8949

RIN: 2050–AE12

3521. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: PROPOSED AND FINAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9605 Superfund (CERCLA) sec 105

CFR Citation: 40 CFR 300.425

Legal Deadline: None

Abstract: This action will revise the sites included on the National Priorities List (NPL) of uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
NPRM 24	03/06/98	63 FR 11340
Final Action 20	03/06/98	63 FR 11332
NPRM 25	07/28/98	63 FR 40247
Final Action 21	07/28/98	63 FR 40182
Final Action (Tex-Tin Corp)	09/18/98	63 FR 49855
NPRM 26	09/29/98	63 FR 51882
Final Action 22	09/29/98	63 FR 51848
NPRM 27	01/19/99	64 FR 2950
Final Action 23	01/19/99	64 FR 2942

EPA—CERCLA **Proposed Rule Stage**

Action	Date	FR Cite
NPRM (Midnight Mine)	02/16/99	64 FR 7564
NPRM	04/00/99	
Final Action	04/00/99	
NPRM	07/00/99	
Final Action	07/00/99	
NPRM	10/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3439

Agency Contact: Terry Keidan, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 603-8852

RIN: 2050–AD75

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions

Comprehensive Environmental Response, Compensation and Liability Act

3522. • COOPERATIVE AGREEMENTS AND SUPERFUND STATE CONTRACTS FOR SUPERFUND RESPONSE ACTIONS; REVISION OF 40 CFR PART 35 SUBPART O

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9601 to 9675

CFR Citation: 40 CFR 35 Subpart O

Legal Deadline: None

Abstract: 40 CFR Part 35 Subpart O is the Superfund Administrative Regulation that governs awarding of Superfund cooperative agreements (CAs) to States, Indian Tribes, and political subdivisions. Subpart O covers State-lead, site-specific cooperative agreements for non-time-critical removal, preremedial, remedial, and enforcement actions, and site-specific management assistance for federal-lead projects. Also covered by Subpart O are non-site-specific Core Program Cooperative Agreements to build state infrastructure. The requirements for Superfund State Contracts, financial administration, property, procurement, reporting, recordkeeping, and closeout are provided in Subpart O.

Subpart O was promulgated 6/5/1990, and became effective on 7/5/1990. Many changes in the administration of the Superfund program have occurred over the past eight years which could be better reflected in Subpart O. The six categories of CAs presently used in Subpart O could provide greater flexibility to accommodate the new types of CAs that have developed. For example, the number of Block Funding Reform pilots, begun in 1997, to consolidate several of the cooperative agreements offered in Subpart O, has grown to about 16 for Fiscal Year 1998, and has generated at least 60 approved deviation requests from Subpart O and 40 CFR Part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements promulgated shortly after the promulgation of Subpart O). These pilot projects offer considerable administrative relief to States, Tribes, and EPA by reducing reporting requirements, broadening scope changes without amendment, increasing the ability to move monies within and among CAs, and relaxing application requirements regarding site-specific identification of cooperative agreement funds to certain activities, while maintaining site-specific drawdown requirements needed for cost recovery and Superfund accounting. Subpart O also needs to be conformed with Part 31. Differences between these two companion regulations were not institutionalized at the time of promulgation.

EPA plans to examine the feasibility of grant authority, institutionalize the combining of CA types, create more flexible reporting requirements, permit greater scope changes without amendment, provide more flexible money movement within and among CAs, and other advances in State/Tribal/EPA interaction.

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4177

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RIN: 2050–AE62

3523. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1361; 42 USC 9602

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: This action would clarify the definition of federally permitted release under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Federally permitted releases of hazardous substances are exempt from CERCLA reporting and liability, and from reporting under section 304 of the Emergency Planning and Community Right-to-Know Act.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2394

Agency Contact: Lynn Beasley, Environmental Protection Agency,

EPA—CERCLA **Long-Term Actions**

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ENVIRONMENTAL PROTECTION AGENCY (EPA) **Completed Actions**
Comprehensive Environmental Response, Compensation and Liability Act

3524. REVOCATION OF CAPROLACTAM'S DESIGNATION AS A HAZARDOUS SUBSTANCE UNDER CERCLA

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 302.4

Completed:

Reason	Date	FR Cite
Direct Final Rule	12/15/98	63 FR 69165

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No
Government Levels Affected: None
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RIN: 2050–AE48

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Prerule Stage**
Clean Water Act (CWA)

3525. EFFLUENT GUIDELINES AND STANDARDS FOR THE ORE MINING AND DRESSING POINT SOURCE CATEGORY, GOLD PLACER MINE SUBCATEGORY (SECTION 610 REVIEW)

Priority: Info./Admin./Other
Legal Authority: 5 USC 610
CFR Citation: 40 CFR 440
Legal Deadline: None

Abstract: In 1988, EPA issued final effluent guidelines for the Gold Placer Mine Subcategory. In the promulgation notice, EPA noted that the effluent limitations were economically achievable for facilities of all sizes. Due to the large number of small entities covered by the final rule and EPA's concern about the economic impact on the small facilities, the final rule included a request for comments concerning the impact on small mines. After evaluating all of the comments and data submitted during this comment period, the Agency reaffirmed the conclusions regarding economic achievability. In January 1989, EPA published a notice of the Agency's response to the comments and the Agency's conclusion not to modify the final rule. This new action is a review of the final rule as required by section 610 of the Regulatory Flexibility Act. The purpose of the review is to determine whether the Placer Mine effluent guidelines should be continued without change, or should be amended or rescinded, to minimize economic impacts on small entities while still complying with the provisions of the Clean Water Act. EPA will consider the following factors: (1) the continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. EPA invites public comment on the rule. EPA continues to view the effluent guidelines for the Gold Placer Mine Subcategory as a necessary component of the comprehensive program to restore and maintain the quality of our Nation's waters. Unless and until the Agency modifies the rule, the discharges described in 40 CFR 440.140 remain subject to the final rule.

Timetable:

Action	Date	FR Cite
Complete Review	04/00/99	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Sectors Affected: 212221 Gold Ore Mining
Additional Information: SAN No. 4133

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RIN: 2040–AD13

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Clean Water Act (CWA)

3526. EFFLUENT GUIDELINES AND STANDARDS FOR THE FEEDLOTS POINT SOURCE CATEGORY, SWINE AND POULTRY SUBCATEGORIES, AND NPDES REGULATION FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 412; 40 CFR 122.23

Legal Deadline:
NPRM, Judicial, December 31, 1999, Effluent Guideline.
Final, Judicial, December 31, 2001, Effluent Guideline.

Abstract: Feedlot operations are covered by existing effluent guidelines at 40 CFR part 412 and concentrated animal feeding operations (CAFOs) are covered by regulations at 40 CFR part 122.23. This action will revise the existing regulations for two of the effluent guidelines subcategories to address swine and poultry operations and the NPDES regulation for concentrated animal feeding operations. The existing regulations, which require the largest confined animal feeding operations to achieve zero discharge of wastes to surface waters except for certain storm related discharges, have not been sufficient to resolve water quality impairment from feedlot operations. Swine and poultry operations have been identified as substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and problem algae blooms.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 11221 Hog and Pig Farming; 11232 Broilers and Other Meat Type Chicken Production; 11231 Chicken Egg Production; 112112 Cattle Feedlots

Additional Information: SAN No. 4153

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RIN: 2040–AD19

3527. TOTAL MAXIMUM DAILY LOAD (TMDL) PROGRAM REGULATIONS REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313

CFR Citation: 40 CFR 130.7

Legal Deadline: None

Abstract: The Office of Water will be proposing changes to the existing regulations for implementing the Total Maximum Daily Load (TMDL) program under the Clean Water Act. The TMDL program is a key component of watershed management. It requires States to identify water quality-limited segments still in need of TMDLs for these waters. EPA is required to approve or disapprove State lists and TMDLs, and to establish lists of waters and TMDLs when it disapproves the State action. In 1996, EPA convened a Federal Advisory Committee to provide comprehensive recommendations for improving the TMDL program, with a particular emphasis on the following issues: listing waters needing TMDLs; criteria for EPA approval of TMDLs; State and Federal program oversight; and science and tools for TMDL development. On July 28, 1998 the Committee submitted its recommendations to the EPA Administrator. EPA will carefully consider the Committee's recommendations and then propose changes to the existing TMDL program regulations. The ultimate purpose of these changes is to improve water quality by providing States with clear direction regarding listing of impaired waterbodies and the development of TMDLs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Rule	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4145

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RIN: 2040–AD22

3528. REVISIONS TO EFFLUENT GUIDELINES AND STANDARDS FOR THE COAL MINING POINT SOURCE CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 434

Legal Deadline:
NPRM, Judicial, December 31, 1999.
Final, Judicial, December 31, 2001.

Abstract: Coal mining discharges are covered by existing effluent guidelines at 40 CFR part 434. This new regulatory action will revise the existing regulations to address two new subcategories: Coal Remining and Western Alkaline Coal Mining. The existing regulations do not cover remining operations, which, when appropriately planned and regulated, will improve effluent quality from abandoned mine lands while reclaiming them and prevent disturbance of unexploited lands. Advances in treatment technologies and Best Management Practices pertinent to coal mines in the arid West show promise of being more protective of water quality.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

EPA—CWA

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4168

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RIN: 2040–AD24

3529. WATER QUALITY STANDARDS REGULATION—REVISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313 CWA sec 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Water quality standards set by States and Indian tribes establish the water quality goals for surface waters of the U.S. and the means by which attainment of these goals will be measured and assured. They are the foundation for protecting water quality and related public health and welfare and the ecological health of the nation's waters. The Federal water quality standards regulation at 40 CFR Part 131 governs the development, review and revision of water quality standards under section 303(c) of the Clean Water Act by States and Indian Tribes, and the review and approval of water quality standards by EPA. Based upon the Federal, State, Tribal and local experience gained in the program over the last 20 years, EPA's proposed revisions to 40 CFR 131 are intended to strengthen the water quality standards regulation thus enhancing water quality management on a watershed basis, and focusing Federal, State and Tribal resources on the areas of greatest concern. Program areas identified for revision include: establishing and refining designated uses, developing and implementing water quality criteria, antidegradation policies and procedures and mixing zone policies and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/98	63 FR 36741
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3662

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RIN: 2040–AC56

3530. • AMENDMENTS TO THE FINAL WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM TO REINSTATE THE MIXING ZONE ELIMINATION AND PHASE-OUT PROVISION

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1268 CWA 118

CFR Citation: 40 CFR 132

Legal Deadline: None

Abstract: EPA is proposing to amend the final Water Quality Guidance for the Great Lakes System (Guidance) to prohibit mixing zones for bioaccumulative chemicals of concern (BCCs) in the Great Lakes System, subject to a limited exception for existing discharges. For existing discharges, the regulation would prohibit mixing zones for BCCs after 10 years from the effective date of the final rule. For new discharges of BCCs, the mixing zone prohibition would apply immediately upon commencing discharge. EPA had promulgated this mixing zone provision on March 23, 1995, as part of the Water Quality Guidance for the Great Lakes System required by section 118(c)(2) of the Clean Water Act. The provision was vacated by the U.S. Court of Appeals for the District of Columbia Circuit in the case of American Iron & Steel Institute v. EPA, 115 F.3d 979 (D.C. Cir. 1997), because the Court found that EPA failed to address that the provision was cost-justified, and remanded to the Agency for further consideration. This action reflects EPA's reconsideration of the factual record in response to that remand and proposes to amend the final Guidance to reinstate the mixing zone elimination and phase-out provision as it was promulgated on March 23, 1995.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4235

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RIN: 2040–AD32

3531. • EPA REVIEW AND APPROVAL OF STATE AND TRIBAL WATER QUALITY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq

CFR Citation: 40 CFR 131.21(c)

Legal Deadline:
Other, Judicial, July 1, 1999, See additional information.

Abstract: EPA's water quality standards (WQS) regulation at 40 CFR Part 131.21 currently provides that State and Tribal WQS are in effect once adopted by the State or authorized Tribe and remain in effect, even if EPA disapproves them, until the State or Tribe revises them or EPA promulgates a federal rule to supersede the State or Tribal WQS. EPA's regulation is based on its longstanding interpretation of the CWA. In July, 1997, the U.S. District Court for the Western District of Washington held that the clear meaning of section 303(c)(3) of the CWA was that State water quality standards do not go into effect under the CWA until approved by EPA (Alaska Clean Water Alliance v. Clark; No. C96-1762R). Because EPA's existing regulation remains in effect, and the court has issued no injunction against applying it, EPA's interim policy is to continue to follow our regulation (except in Alaska) until the regulation is changed. EPA's proposed rule would: 1) Delete

131.21(c) and replace it with new language which explains that standards do not become the applicable WQS for CWA purposes until approved by EPA, and that previously approved standards remain the CWA standards until EPA approves State or Tribal revisions or promulgates replacement WQS; and, 2) Provide that the new rule would only apply to WQS adopted after the effective date of the final rule. EPA's proposed rule will only address administrative aspects of the WQS approval process. This proposed rule will not speak to any of the substantive program issues currently being addressed in the WQS Advance Notice of Proposed Rulemaking (63 FR 36741). Likewise, this proposed rule will not overlap with any of the TMDL program issues being addressed in the TMDL rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4234

Legal Deadline: Draft Settlement Agreement: July 1, 1999 Proposal; April 1, 2000 Final.

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RIN: 2040–AD33

3532. • WATER QUALITY STANDARDS FOR ALABAMA—PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313; CWA 303

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Under the CWA, States have primary authority in developing water quality standards for waters within their jurisdiction. EPA maintains oversight authority in that States must submit their water quality standards to EPA for review and approval or disapproval. If a State's water quality standards are not consistent with the requirements of the CWA and its supporting regulations, and are subsequently disapproved by EPA, the State must revise the disapproved water quality standards. If the State does not revise the disapproved water quality standards, the CWA authorizes the EPA Administrator to promulgate Federal water quality standards to supersede those disapproved provisions in the water quality standards. EPA is developing a proposed federal rulemaking to determine the appropriate use designations for five waterbodies in Alabama subject to outstanding EPA disapprovals. EPA expects to propose federal water quality standards in the Federal Register in November, 1999.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4264

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RIN: 2040–AD35

3533. TEST PROCEDURES FOR THE ANALYSIS OF CRYPTOSPORIDIUM AND GIARDIA UNDER THE SAFE DRINKING WATER AND CLEAN WATER ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq CWA 304 (h); 33 USC 1314(h) CWA 304(h); 33 USC 1361 SDWA 1401; 42 USC 300f SDWA 1412; 42 USC 300g-1 SDWA 1413; 42 USC 300g-2 SDWA 1414; 42 USC 300g-3 SDWA 1415; 42 USC 300g-4 SDWA 1416; 42 USC 300g-5 SDWA 1445; 42 USC 300j-4 SDWA 1450; 42 USC 300j-9

CFR Citation: 40 CFR 136; 40 CFR 141

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 and the analytical methods under 40 CFR part 141 to approve EPA Method 1622 for the detection of Cryptosporidium and Giardia in ambient waters and finished drinking water by filtration of a 10-L sample in laboratory, separation of target organisms from other debris using immunomagnetic separation, and detection of the organisms using immunofluorescence assay and differential interference contrast microscopy and confirmation examination of the organisms using vital dye stains. This method would be used by public water systems to collect occurrence and treatment data to characterize Cryptosporidium and Giardia in drinking water. EPA expects that EPA Method 1622 would increase recovery and would provide better precision than the method included in an earlier EPA rulemaking, thus providing for more reliable data.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4047

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EPA—CWA

Proposed Rule Stage

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RIN: 2040–AD08

3534. • TEST PROCEDURES FOR THE ANALYSIS OF E. COLI AND ENTEROCOCCI UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136.3

Legal Deadline: None

Abstract: This regulatory action would propose to amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR Part 136 to approve microbiological methods for monitoring ambient water. Ambient water contamination is determined by the presence of bacterial indicators. In 1986, EPA issued a revision to its bacteriological ambient water quality criteria recommendations to include new indicator bacteria, E.coli and enterococci. To support the ambient water quality criteria for bacteria, EPA is planning to promulgate several analytical methods for monitoring E.coli and enterococci in ambient water. This proposed regulation would approve test procedures to be available for use by testing laboratories. Test procedures in Part 136 must be used in implementing the NPDES program unless alternative test procedures are approved by the Regional Administrator.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4214

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RIN: 2040–AD34

3535. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES UNDER SECTION 316(B) OF THE CLEAN WATER ACT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1316 CWA sec 306; 33 USC 1326 CWA sec 316; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 125 (New); 40 CFR 401 (Revised)

Legal Deadline:
NPRM, Judicial, July 2, 1999.
Final, Judicial, August 31, 2001.

Abstract: EPA is currently developing regulations for proposal under section 316(b) of the Clean Water Act (CWA). This regulation will apply to the intake of water and not the discharge. Section 316(b) provides that any standard established pursuant to sections 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impact. A primary purpose of section 316(b) is to minimize the impingement and entrainment of fish and other aquatic organisms by cooling water intake structures. Impingement refers to the trapping of fish and other aquatic life in cooling water intake screens. Entrainment occurs when aquatic organisms, eggs and larvae are sucked into the cooling system, through the heat exchanger, and then pumped back out.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3444

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RIN: 2040–AC34

3536. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1314 CWA sec 304; 33 USC 1317 CWA sec 307; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 403

Legal Deadline: None

Abstract: The National Pretreatment Program was established in 1972. The Office of Water is exploring ways to reduce federally mandated activities under the program that don't result in benefits to the environment and to improve program efficiencies. For example, this rule will consider appropriate exclusions or variable requirements for numerous smaller facilities that contribute insignificant amounts of pollutants.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3663

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EPA—CWA **Proposed Rule Stage**

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RIN: 2040–AC58

3537. REVISIONS TO NPDES REQUIREMENTS FOR COMPLIANCE REPORTING AND COLLECTION SYSTEM DISCHARGES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501(a)

CFR Citation: 40 CFR 122.41

Legal Deadline: None

Abstract: EPA has proposed to publish an interim policy statement entitled "National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Sanitary Sewer Collection Systems." The interim policy would clarify how existing NPDES standard permit conditions apply to municipal sanitary sewer collection systems. The policy also would give NPDES permit writers guidance on how to clarify permit requirements during permit reissuance and provide additional permit provisions, such as study requirements and system specific operation, maintenance and remediation requirements, where appropriate.

EPA also proposes revisions to the NPDES regulations at 40 CFR 122.42 and 125. The Agency is proposing three standard permit conditions for inclusion in permits for publicly owned treatment works (POTWs) and municipal sanitary sewer collection systems. The three standard requirements address: reporting requirements for SSOs; operational, maintenance and remediation requirements for municipal sanitary sewer collection systems; and a prohibition on SSOs. In addition, the Agency is proposing to codify criteria for evaluating the peak flow capacity of sanitary sewer collection systems. These proposed revisions respond to recommendations made by members of a FACA Subcommittee (under Urban Wet Weather Federal Advisory Committee) that was convened by USEPA to provide recommendations for improving NPDES program implementation efforts which address sanitary sewer overflows (SSOs) and sanitary sewer operation, management, and maintenance.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3999

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RIN: 2040–AD02

3538. ESTABLISHMENT OF ELECTRONIC REPORTING FOR NPDES PERMITTEES

Priority: Substantive, Nonsignificant

Legal Authority: CWA 301; CWA 304(i); CWA 308; CWA 402; CWA 501

CFR Citation: 40 CFR 122.22; 40 CFR 122.41(k); 40 CFR 122.41(j); 40 CFR 122.41(l); 40 CFR 122.63

Legal Deadline: None

Abstract: EPA is proposing changes to its NPDES regulations to allow reports and other information to be submitted electronically. When EPA promulgated the current NPDES regulations, the Agency did not anticipate the need or technologies for electronic reporting. Consequently, the current regulations do not specifically address use of electronic reporting technologies. The proposed rule would establish criteria for electronic reporting and a specific process and conditions for electronic reporting of discharge monitoring reports (DMR) to EPA that are intended to achieve reliable and secure electronic reporting in the NPDES program. The proposal addresses electronic signature, certification, and record keeping requirements that permittees would follow when submitting forms to EPA electronically.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4051

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RIN: 2040–AD11

3539. CLEAN WATER ACT DEFINITION OF THE WATERS OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1361; 33 USC 1362; CWA sec 501; CWA sec 502

CFR Citation: 40 CFR 232

Legal Deadline: None

Abstract: This action involves joint rulemaking by EPA and the Department of the Army to amend the regulatory definition of "waters of the United States" in two respects. First, the proposal would clarify the basis for asserting Clean Water Act (CWA) jurisdiction over isolated intra-state waters and wetlands. Second, the proposal would clarify what types of artificial waters excavated out of dry land are generally not considered to be subject to jurisdiction under the CWA. The existing regulations contain language asserting jurisdiction over isolated intra-state waters, but that regulatory provision has been the subject of litigation, and, within the confines of the Fourth Circuit, found to be invalid (US v. Wilson, 133 F.3d 251 (4th Cir., 1998)). Revision of the regulatory language is necessary to address that decision, improve

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regulatory clarity, and provide more specificity regarding CWA jurisdiction over intra-state isolated waters and wetlands. With regard to artificial waters excavated out of dry land, preambles to past regulations have discussed what types of such waters would be considered to generally be non-jurisdictional for CWA purposes, and the proposed revision would amend the regulations in a manner consistent with those past statements of Agency policy. The rulemaking would apply to entities (e.g., industrial, commercial, governmental) that discharge pollutants, including dredged or fill material, to isolated intra-state surface waters or wetlands, or which have created artificial waters from dry land. Significant impacts on small entities or state/local/tribal governments are not anticipated, as the proposed regulatory revisions would be consistent with current Agency practice and policy in carrying out CWA mandates.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 2804

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RIN: 2040–AB74

3540. STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE (ROUND II)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1361(a) CWA sec 501(a); 33 USC 1345 CWA sec 405

CFR Citation: 40 CFR 503

Legal Deadline:
NPRM, Judicial, December 15, 1999.
Final, Judicial, December 15, 2001, EPA must identify final pollutant list for Round II by 11/30/95.

Abstract: Section 405 of the Clean Water Act (CWA) requires EPA to develop and publish regulations providing guidelines for the use and disposal of sewage sludge. The rules, among other things, are to identify uses for sewage sludge, including disposal, and concentrations of pollutants which interfere with such use or disposal. The statute requires EPA to develop the regulations in two phases and periodically revise existing regulations. In November 1992, EPA promulgated regulations (58 FR 9247) for the first round of pollutants identified in sewage sludge. EPA is required by consent decree to propose and promulgate sewage sludge regulations for a second round of pollutants before the end of 2001. EPA currently is considering only dioxins, dibenzofuran and coplanar-PCBs for regulation in the second round regulations. These regulations will establish requirements for sewage sludge when the sewage sludge is applied to the land, placed on surface disposal sites, or fired in a sewage sludge incinerator. The regulation may impact Federal, State, and local governments. The impact on small entities, including small businesses, is undetermined at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3488

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RIN: 2040–AC25

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Clean Water Act (CWA)

3541. EFFLUENT GUIDELINES AND STANDARDS FOR THE CENTRALIZED WASTE TREATMENT INDUSTRY

Priority: Other Significant

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1316 CWA 306; 33 USC 1317 CWA 307; 33 USC 1318 CWA 308; 33 USC 1342 CWA 402; 33 USC 1361 CWA 501

CFR Citation: 40 CFR 437

Legal Deadline:
Final, Judicial, October 1999.

Abstract: Centralized Waste Treatment (CWT) facilities receive hazardous and non-hazardous waste from off-site for treatment or recovery operations (excluding solvent recovery). EPA is developing effluent limitations based on Best Available Technology (BAT), Best Practicable Control Technology (BPT), New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS). This rule was formerly titled Waste Treatment, Phase I.

Timetable:

Action	Date	FR Cite
NPRM and Notice of Availability of New Information	01/27/95	60 FR 5464
Reproposal	01/13/99	64 FR 2279
Final	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2805

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RIN: 2040–AB78

3542. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL LAUNDRIES POINT SOURCE CATEGORY

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1317 CWA sec 307; 33 USC 1314 CWA sec 304; 33 USC 1361 CWA sec 501; 33 USC 1316 CWA sec 306; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402

CFR Citation: 40 CFR 441

Legal Deadline:
NPRM, Judicial, November 7, 1997.
Final, Judicial, June 30, 1999.

Abstract: EPA proposed pretreatment standards for industrial laundries (facilities that launder industrial textile items, such as shop and printer towels, mops, mats) in December 1997. Following public comment and analysis of new options, EPA will consider the need to establish final pretreatment standards.

Timetable:

Action	Date	FR Cite
NPRM	12/17/97	62 FR 66182
Notice of Data Availability	12/23/98	63 FR 71054
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3209

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RIN: 2040–AB97

3543. EFFLUENT GUIDELINES AND STANDARDS FOR LANDFILLS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 445

Legal Deadline:
NPRM, Judicial, November 30, 1997.
Final, Judicial, November 30, 1999.

Abstract: EPA proposed effluent guidelines and standards for landfills regulated under Subtitle C or Subtitle D of the Resource Conservation and Recovery Act (RCRA) which discharge directly to surface waters, and landfills regulated under Subtitle C of RCRA which discharge indirectly to Publicly Owned Treatment Works (POTWS). The proposal did not apply to wastewater discharges of contaminated groundwater. The proposal also did not apply to discharges of wastewater associated with landfills operated in conjunction with other industrial or commercial operations which only receive waste from off-site facilities under the same corporate structure (intra-company facility) and/or receive waste generated on-site (captive facility) so long as the landfill wastewater is commingled for treatment with other process wastewaters. After reviewing public comments, EPA will revise the analysis and issue final standards. This rule was formerly titled Waste Treatment Industry, Phase II and Effluent Guidelines and Standards for Landfills and Incinerators.

Timetable:

Action	Date	FR Cite
NPRM	02/06/98	63 FR 6425
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3489

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RIN: 2040–AC23

3544. REFORMATTING OF EFFLUENT GUIDELINES AND STANDARDS IN 40 CFR PARTS 401 THROUGH 471

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1362 CWA sec 502

CFR Citation: 40 CFR 405 to 471 (Revision)

Legal Deadline: None

Abstract: This regulatory action will recodify the existing Effluent Limitations and Standards in 40 CFR parts 401 through 471, without making any changes in the requirements therein. The purpose of this action is to enable the Federal, State, and local regulators and the regulated community to more easily read, understand and implement the regulations.

Timetable:

Action	Date	FR Cite
Direct Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3767

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RIN: 2040–AC79

3545. EFFLUENT GUIDELINES AND STANDARDS FOR INDUSTRIAL WASTE COMBUSTORS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 444

Legal Deadline:
NPRM, Judicial, November 30, 1997.
Final, Judicial, November 30, 1999.

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Abstract: EPA proposed effluent guidelines and standards for commercial industrial waste combustion facilities in February 1998. Hazardous waste incinerators, boilers, industrial furnaces, and non-hazardous waste incinerators are all examples of facilities included in the scope of the project. The proposal applied only to commercial industrial waste combustors and not to sewage sludge incinerators, medical waste incinerators, municipal waste combustors or other solid waste combustors. Furthermore, EPA did not include within the scope of the proposal industrial waste ownership (intra-company wastes) or industrial waste combustors that only burn wastes generated on-site. After reviewing public comments, EPA will issue final standards. This rule was formerly titled Waste Treatment Industry, Phase II: Landfills and Incinerators.

Timetable:

Action	Date	FR Cite
NPRM	02/06/98	63 FR 6391
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4041

(Formerly part of SAN 3489, RIN 2040-AC23)

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RIN: 2040–AD03

3546. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY; INCENTIVES AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1361 CWA sec 501; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: This amendment would require those mills that choose to enroll in the Voluntary Advanced Technology Incentives Program (as established in the April 1998 final rule) to submit a plan (called a Milestone Plan) specifying research, construction, and other activities leading to achievement of the advanced technology effluent limits, with accompanying dates for achieving these milestones.

Timetable:

Action	Date	FR Cite
NPRM	04/15/98	63 FR 18795
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4039

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RIN: 2040–AD05

3547. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY; MONITORING AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1361 CWA sec 501; 33 USC 1318 CWA sec 308

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: The Agency proposed to amend the Cluster Rules to provide for a certification in lieu of monitoring for one or more pollutants, including chloroform, for mills using certain processes. Basically, this amendment would apply to elemental chlorine-free mills, allowing them to submit a certification based on process changes and operational controls to demonstrate compliance with the existing limitations.

Timetable:

Action	Date	FR Cite
NPRM	04/15/98	63 FR 18796
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4192

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RIN: 2040–AD23

3548. ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS FOR THE STATE OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313 CWA 303

CFR Citation: 40 CFR 131

Legal Deadline:
Final, Statutory, November 3, 1997, EPA is required to promulgate 90 days after proposal.

Abstract: Several municipal entities and one industry in California sued the California State Water Resources Control Board (SWRCB) in State court over whether the SWRCB's water quality control plans for inland surface waters and enclosed bays and estuaries were adopted in compliance with authorizing State law. The court issued its final decision in March 1994; the Court agreed with the plaintiffs and found that the plans could not remain in effect. The SWRCB was ordered to rescind its plans which contain the State's numeric criteria for priority toxic pollutants. In the absence of State criteria, the Clean Water Act requires the Administrator to promulgate water quality criteria for priority toxic pollutants where EPA has issued section 304(a) criteria guidance when the discharge of such pollutants could reasonably be expected to interfere with the State's designated uses.

Timetable:

Action	Date	FR Cite
NPRM	08/05/97	62 FR 42160
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3504

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Final Rule Stage

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RIN: 2040–AC44

3549. WATER QUALITY STANDARDS FOR ALABAMA—PHASE I

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313; CWA 303

CFR Citation: 40 CFR 131

Legal Deadline:
Final, Statutory, June 3, 1998, EPA is required to promulgate the rule 90 days after proposal.

Abstract: Under the CWA, States have primary authority in developing water quality standards for waters within their jurisdiction. EPA maintains oversight authority in that States must submit their water quality standards to EPA for review and approval or disapproval. If a State's water quality standards are not consistent with the requirements of the CWA and its supporting regulations, and are subsequently disapproved by EPA, the State must revise the disapproved water quality standards. If the State does not revise the disapproved water quality standards, the CWA authorizes the EPA Administrator to promulgate Federal water quality standards to supersede those disapproved provisions in the water quality standards.

On March 5, 1998, EPA proposed water quality standards applicable to nine stream segments to replace those provisions in Alabama's water quality standards that were disapproved in 1986 and in 1991. Specifically, EPA proposed use designations consistent with those specified in section 101(a) of the CWA to replace the State's assigned Agricultural and Industrial Water Supply use. The effect of the proposed standards is to replace the State-adopted water quality criteria, which protect only for fish survival, with water quality criteria based on protection of propagation of fish, aquatic life, and wildlife.

Timetable:

Action	Date	FR Cite
NPRM	03/05/98	63 FR 10799
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4195

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RIN: 2040–AD25

3550. WATER QUALITY STANDARDS; ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS; STATES' COMPLIANCE—REVISION OF POLYCHLORINATED BIPHENYLS (PCBS) CRITERIA

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251

CFR Citation: 40 CFR 131

Legal Deadline:
Final, Judicial, September 30, 1999, Settlement Agreement for publication of final rule.

Abstract: EPA is revising the rule promulgated on December 22, 1992, (National Toxics Rule or NTR) that established water quality criteria for twelve States and the District of Columbia and Puerto Rico, that has not adopted sufficient chemical-specific numeric criteria for toxic pollutants necessary to comply with the Clean Water Act. Among the criteria promulgated in the NTR were human health criteria for polychlorinated biphenyls (PCBs). EPA has proposed and taken comments on revisions to the human health criteria for PCBs in the NTR, based on the Agency's reassessment of the cancer potency of PCBs.

Timetable:

Action	Date	FR Cite
NPRM	04/02/98	63 FR 16182
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4193

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RIN: 2040–AD27

3551. GUIDELINES ESTABLISHING OIL AND GREASE TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulation will amend the Guidelines establishing Test Procedures for the Analysis of Pollutants under section 304(h) of the Clean Water Act to replace existing gravimetric test procedures for the conventional pollutants, Oil and Grease (40 CFR 401.16) with EPA Method 1664 consistent with the Chlorofluorocarbon (CFC) phaseout requirements of the Clean Air Act Amendments of 1990. Method 1664 uses normal hexane (n-hexane) as the extraction solvent in place of 1,1,2-trichloro-1,2, 2-trifluoroethane (CFC-113; Freon-113), which is used in current 40 CFR part 136 approved methods for the determination of oil and grease. Presently approved methods are EPA Method 413.1 in Methods for Chemical Analysis of Water and Wastes (EPA-600/4-79-020) and Method 5520B in Standard Methods for the Examination of Water and Wastewater, 18th edition.

Timetable:

Action	Date	FR Cite
NPRM	01/23/96	61 FR 1730
Notice of Data Availability	10/02/97	62 FR 51621
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3617

EPA—CWA

Final Rule Stage

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RIN: 2040–AC63

3552. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF CYANIDE UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new procedures for the analysis of cyanide under the Clean Water Act. "Cyanides" is a toxic pollutant as defined in the Clean Water Act section 307 and total cyanide is a priority pollutant listed at 40 CFR part 423, appendix A. The term total cyanide refers to all forms of cyanide, including those forms that are readily bioavailable such as free and weakly bound cyanide and those forms that are less bioavailable because the cyanide is strongly bound to a metal ion. EPA Method 335.1, Cyanides Amenable to Chlorination (CATC), is currently approved for the measurement of free and weakly complexed forms of cyanides. EPA Methods 335.2 and 335.3 are currently approved for measurement of total cyanides. EPA Methods 335.1 and 335.3 call for hour-long distillation, chlorination requiring an hour, and two separate aliquots of a given sample distilled and analyzed independently to determine the CATC levels. In order to improve the accuracy and reduce the cost of cyanide measurements, EPA proposed new test procedures for the determination of cyanides.

Timetable:

Action	Date	FR Cite
NPRM	07/07/98	63 FR 36809
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3701

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RIN: 2040–AC76

3553. PERFORMANCE BASED MEASUREMENT SYSTEM (PBMS) PROCEDURES AND GUIDANCE FOR CLEAN WATER ACT TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action will establish the use of performance-based measurement procedures and guidance for use in Clean Water Act compliance monitoring under 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. The new procedures would include guidance concerning the format, content, QA/QC, and data validation requirements for use of test methods. This regulatory action would also describe increased program guidance in the form of a clearinghouse, technical bulletins, and/or guidance documents geared towards clarifying technical and policy issues associated with the use of test methods approved for use in the program.

Timetable:

Action	Date	FR Cite
NPRM	03/28/97	62 FR 14975
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3713

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RIN: 2040–AC93

3554. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE ONE

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action will amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This regulation will approve test procedures to be used in measuring this group of compounds under the NPDES Program unless the Regional Administrator approves an alternative procedure. EPA plans to segment the rulemaking into two phases to accommodate different amounts of data for the long list of compounds.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3155

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RIN: 2040–AC95

EPA—CWA

Final Rule Stage

3555. TEST PROCEDURES FOR THE ANALYSIS OF MERCURY UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline:
Final, Judicial, May 31, 1999.

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve EPA Method 1631 for the determination of mercury at EPA's recommended water quality criteria levels. This method is necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the State's designated water quality standard. Because the methods currently approved under 40 CFR part 136 were designed primarily to support technology-based permitting needs, and because these technology-based levels are as much as two orders of magnitude higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

Timetable:

Action	Date	FR Cite
NPRM	05/26/98	63 FR 28868
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4048

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RIN: 2040–AD07

3556. UNIFORM NATIONAL DISCHARGE STANDARDS FOR ARMED FORCES VESSELS—PHASE I

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1322(n); CWA sec 312(n)

CFR Citation: 40 CFR 1700 (New)

Legal Deadline:
Final, Statutory, February 10, 1998.

Abstract: Section 312 of the CWA, as amended by the 1996 Defense Authorization Act, requires EPA and the Department of Defense, in consultation with other Federal agencies and affected States, to develop Uniform National Discharge Standards (UNDS) for discharges from armed forces vessels. These regulations will enable the Navy to design vessels to one protective uniform standard, and they preempt non-uniform State water quality standards. Promulgation of uniform standards may result in innovative waste management technologies that can be transferred to the private sector. The first phase of the legislation requires promulgation of joint regulations that specify which discharges require regulation (i.e., the use of marine pollution control devices), as well as which will not require regulation. Marine pollution control devices may be a piece of equipment designed to control a particular waste stream, or a management practice that would reduce the impacts of a discharge. The Navy and EPA will determine the nature and environmental effects of vessel discharges, as well as the practicability of installing marine pollution control devices. This regulation applies only to vessels of the armed forces, and therefore will have no impact on small businesses. State governments will be involved in the rulemaking process as this rule may impact State standards, if any exist, by preempting those standards for vessels of the armed forces. The uniform national standards proposed by this action will regulate those liquid vessel discharges that would have adverse impacts on the marine environment. If there is new information that suggests the standard should be changed, a State may submit a petition for review to EPA and DoD concerning any standard promulgated under this action.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45298
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3925

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RIN: 2040–AC96

3557. NPDES WASTEWATER PERMIT APPLICATION FORMS AND REGULATORY REVISIONS FOR MUNICIPAL DISCHARGES AND SEWAGE SLUDGE USE OR DISPOSAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1314 CWA sec 304; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1345 CWA sec 405; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 122.21(j); 40 CFR 122.21(q); 40 CFR 501.15(a); 40 CFR 124.8(b); 40 CFR 123.25(a); 40 CFR 123.43(b)

Legal Deadline: None

Abstract: The purpose of this action is to revise and consolidate existing application forms and requirements for Publicly Owned Treatment Works (POTWs) and other Treatment Works Treating Domestic Sewage (TWTDS), and to streamline the application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency seeks to allow the use of existing data and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission.

Although these forms will increase the burden on permittees not already required to submit these data, the Agency is minimizing the need for information from small entities, including tribal facilities. The burden on States would be minimized because of improvements to the application forms.

Timetable:

Action	Date	FR Cite
NPRM	12/06/95	60 FR 62545
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2501

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RIN: 2040–AB39

3558. NPDES STREAMLINING RULE—ROUND II

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1312 CWA sec 302; 33 USC 1316 CWA sec 306; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, the Office of Wastewater Management plans to issue a comprehensive rulemaking package revising certain NPDES requirements in parts 122, 123 and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Some of these revisions include: 1) consolidating regulatory definitions; 2) removal of part 124, subpart F, non-adversary panel hearings; 3) possible removal of storm water group application requirements; 4) streamlining permit termination procedures; and 5) removing part 124 evidentiary hearing procedures.

This rulemaking is expected to affect entities who operate the NPDES program or who are regulated by it. This includes small businesses and State and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65268
Final	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3762

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RIN: 2040–AC70

3559. NPDES COMPREHENSIVE STORM WATER PHASE II REGULATIONS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 122; 40 CFR 123

Legal Deadline:
Final, Statutory, October 1, 1993.
NPRM, Judicial, December 15, 1997.
Final, Judicial, October 29, 1999.

Abstract: EPA proposed changes to the storm water regulations for the remaining unregulated dischargers that require regulation. Also known as Phase II dischargers, these sources potentially could have included all storm water discharges from municipal separate storm sewer systems serving populations of less than 100,000 and construction activities resulting in the land disturbance of less than 5 acres. Data collected under sections 305(b) and 402(p)(5) of the CWA indicate that benefits will be derived from addressing these discharges under the Phase II program. Urban storm water runoff is a real cause of water quality use impairment. EPA invited stakeholders to participate in the development of comprehensive Phase II rules under the Federal Advisory Committee Act (FACA). This FACA subcommittee has assisted in the development of the rule. Currently, all Phase II dischargers are required to have storm water permits by 2001. EPA proposed to limit the universe of designated Phase II sources and proposed an approach that would promote the use of general permits for most Phase II sources. The proposed changes would also provide regulatory relief by waiving Phase I facilities that have no exposure to storm water from otherwise applicable permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/09/98	63 FR 1535
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3785

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RIN: 2040–AC82

3560. COMPARISON OF DREDGED MATERIAL TO REFERENCE SEDIMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344 CWA sec 404

CFR Citation: 40 CFR 230

Legal Deadline: None

EPA—CWA **Final Rule Stage**

Abstract: This action would revise the testing provisions of the Clean Water Act section 404(b)(1) Guidelines to provide for comparisons between dredged material proposed for discharge and reference sediment. Reference sediment would be defined as sediment that reflects conditions at the disposal site had no dredged material disposal ever occurred there. Because the disposal site itself is currently used as the point of comparison, this action would make a technical improvement in assessing cumulative impacts and help make dredged material testing under section 404 more consistent with that conducted for ocean disposal, which currently employs a reference sediment approach. This action is not expected to have a significant impact on state, local, or tribal governments or small business, as the action will be limited to Corps projects and permit applications for which dredged material testing is necessary, and because the effect of the action will be limited to changing the location of an otherwise collected sample.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 419
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3288

Agency Contact: John Goodin, Environmental Protection Agency, Water, 4502F, Washington, DC 20460 Phone: 202 260-9910

RIN: 2040–AC14

3561. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE—PHASE ONE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1361 CWA sec 501(a); 33 USC 1345 CWA sec 405

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use or Disposal Regulation in two phases (i.e., Phase One and Phase Two). Phase I will respond to minor comments received on the Final Sewage Sludge Use or Disposal Round I Rule (part 503), correct publication errors, and make technical amendments. This action will modify the existing regulation to make the requirements for sewage sludge incinerators self-implementing and provide the regulated community flexibility in meeting other Part 503 requirements. The changes should not have any adverse impact on State, local, or tribal government or small businesses because no additional requirements are being imposed.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54771
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3497

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RIN: 2040–AC29

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions

Clean Water Act (CWA)

3562. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASES 1 AND 2

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 438

Legal Deadline:
NPRM, Judicial, October 31, 2000.
Final, Judicial, December 31, 2002.

Abstract: EPA is developing effluent limitations guidelines for facilities that generate wastewater while processing metal parts; metal products; and machinery, including manufacture, assembly, rebuilding, repair, and maintenance. A proposed rule in 1995 covered seven industrial groups: aircraft, aerospace, hardware, ordnance, stationary industrial equipment, mobile industrial equipment, and electronic equipment. EPA has consolidated this rulemaking with a second phase, and coverage will include an additional nine industrial groups: bus and truck, household equipment, instruments, motor vehicles, office machines, precious metals and jewelry, railroads, job shops and printed circuit boards, and ships and boats. The deadlines and timetable apply to the consolidated Phase 1 and 2 rulemaking.

Timetable:

Action	Date	FR Cite
NPRM (Phase 1)	05/30/95	60 FR 28210
NPRM (Consolidated Phase 1 and 2)	10/00/00	
Final	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2806

Merged with RIN 2040-AC30, SAN 3496.

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RIN: 2040–AB79

3563. EFFLUENT GUIDELINES AND STANDARDS FOR THE TRANSPORTATION EQUIPMENT CLEANING CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1317 CWA sec 307; 33 USC 1314 CWA sec 304; 33 USC 1361 CWA sec 501; 33 USC 1316 CWA sec 306

CFR Citation: 40 CFR 442

Legal Deadline:
NPRM, Judicial, May 15, 1998.
Final, Judicial, June 30, 2000.

Abstract: EPA is developing effluent limitation guidelines and pretreatment standards for transportation equipment cleaning facilities, which clean the interiors of tank trucks, rail tank cars, intermodal tank containers, ocean/sea tankers, tank barges, closed-top hopper trucks, closed-top hopper rail cars, and closed-top hopper barges.

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34685
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3204

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RIN: 2040–AB98

3564. EFFLUENT GUIDELINES AND STANDARDS FOR IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1362 CWA sec 502; 33 USC 1342 CWA sec 402

CFR Citation: 40 CFR 420

Legal Deadline:
NPRM, Judicial, October 31, 2000.
Final, Judicial, April 30, 2002.

Abstract: EPA will propose amendments to the effluent limitations guidelines for the Iron and Steel Manufacturing Point Source Category to reflect significant industry changes related to consolidation and modernization within the U.S. steelmaking industry as well as advances in manufacturing technologies, in process pollution prevention, water conservation practices, and end-of-pipe wastewater treatment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
Final	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3833

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RIN: 2040–AC90

3565. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY, PHASE II

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1316 CWA 306; 33 USC 1317 CWA 307; 33 USC 1318 CWA 308; 33 USC 1361 CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: EPA will consider revising existing Best Practicable Technology (BPT), Best Conventional Pollutant Control Technology (BCT), Best Available Technology (BAT), New Source Performance Standards (NSPS), and Pretreatment Standards for Existing and New Sources (PSES and PSNS) for 8 of the 12 subcategories for this industrial category: Unbleached Kraft; Semi-Chemical; Mechanical Pulp; Non-Wood Chemical Pulp; Secondary Fiber Deink; Secondary Fiber Non-Deink; Fine and Lightweight Papers from Purchased Pulp; and Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp. EPA proposed guidelines and standards for these eight "Phase II" subcategories as part of the Pulp and Paper Rules (also known as the Cluster Rules) in December 1993. The Agency intends to develop these revised effluent limitations in close coordination with the Office of Air Quality Planning and Standards.

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4050

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RIN: 2040–AD10

3566. REVISIONS TO EFFLUENT GUIDELINES AND STANDARDS FOR SYNTHETIC-BASED DRILLING FLUIDS IN THE OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 435

Legal Deadline:
NPRM, Judicial, December 31, 1998.
Final, Judicial, December 31, 2000.

Abstract: This regulatory action will establish effluent limitations for the use of synthetic-based drilling fluids (SBF). Although oil and gas extraction is covered by existing effluent guidelines, the SBFs are a new technology not addressed in the guidelines, and

applying the existing regulations which were developed for water-based and oil-based drilling fluids is not appropriate. The use of SBFs presents an opportunity for environmental gain. On a drilling performance basis, SBFs replace oil-based drilling fluids, but unlike oil-based drilling fluids, SBFs are free of aromatic hydrocarbon priority pollutants, exhibit greatly reduced toxicity, biodegrade relatively rapidly, and do not bioaccumulate. Compared to water-based drilling fluids, SBFs have reduced aquatic toxicity and lower discharge volumes resulting in lower toxic metals discharge. To realize the potential environmental gain, new guidelines specific to the SBFs are necessary to minimize the wastestream volume and control potential contaminants, toxicity, biodegradation, and bioaccumulation.

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5487
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4086

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RIN: 2040–AD14

3567. EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR THE FEEDLOTS POINT SOURCE CATEGORY, DAIRY AND BEEF CATTLE SUBCATEGORIES

Priority: Other Significant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 412

Legal Deadline:
NPRM, Judicial, December 31, 2000.
Final, Judicial, December 31, 2002. .

Abstract: Feedlot operations are covered by existing effluent guidelines at 40 CFR part 412. This new regulatory action will revise the existing regulations for two of the subcategories--dairy and beef cattle operations. The existing regulations, which require the largest confined animal feeding operations to achieve zero discharge of wastes to surface waters except for certain storm related discharges, have not been sufficient to resolve water quality impairment from feedlot operations. Beef and dairy cattle operations represent a large segment of the feedlot industry and have been identified as substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and affect drinking water sources in the western and central regions of the country.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4167

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RIN: 2040–AD21

3568. WATER QUALITY STANDARDS; ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS; STATES' COMPLIANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313 CWA sec 303

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: EPA is revising its rule promulgated on December 22, 1992, (National Toxics Rule or NTR) that established water quality criteria for 14 States that had failed to fully comply with section 303(2)(B) of the Clean Water Act. The NTR promulgated total recoverable metals criteria for 11 of these 14 States. In May 1995, EPA amended the materials criteria to reflect EPA's new policy to use dissolved metals criteria because they more accurately reflect the bioavailable fraction of waterborne metals for aquatic life. The interim final rule was deregulatory in nature, but is not expected to impact the health of aquatic life in the water column. EPA expects the rule to result in less stringent permit limits and therefore a potential cost savings in wastewater treatment for dischargers of metals in the covered States. This action makes the interim final rule final and is also deregulatory in nature.

Timetable:

Action	Date	FR Cite
Interim Final	05/04/95	60 FR 22229
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3661

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RIN: 2040–AC55

3569. SELENIUM CRITERION MAXIMUM CONCENTRATION FOR WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1268 CWA sec 118

CFR Citation: 40 CFR 132

Legal Deadline: None

Abstract: This rulemaking proposes to establish a new acute aquatic life criterion for selenium in the final Water Quality Guidance for the Great Lakes System (the Guidance) that was published on March 23, 1995 (60 FR 15366). The proposed new criterion takes into account data showing that selenium's two most prevalent oxidation states, selenite and selenate, present differing potentials for aquatic toxicity, as well as new data indicating that all forms of selenium are additive.

The new approach produces a different selenium acute criterion (also called the Criterion Maximum Concentration, or CMC) depending upon the relative proportions of selenite, selenate, and other forms of selenium that are present. This effort is on hold until a larger effort to amend the national water quality criteria guidance for selenium is complete. Once that effort is completed EPA will reevaluate the need for this action to amend the final Water Quality Guidance for the Great Lakes System and take appropriate action.

Timetable:

Action	Date	FR Cite
NPRM	11/14/96	61 FR 58444
NPRM	12/16/96	61 FR 66007
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3921

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RIN: 2040–AC97

3570. GUIDELINES ESTABLISHING WHOLE EFFLUENT TOXICITY WEST COAST TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1313 CWA 303; 33 USC 1314(h) CWA 304(h); 33 USC 1314(a)(8) CWA 304(a)(8); 33 USC 1361 CWA 501

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This rule would amend 40 CFR part 136, by adding test procedures to measure chronic whole effluent toxicity using species indigenous to West Coast marine waters for the analysis of pollutants under the Clean Water Act. State, local and tribal governments and small businesses on the West Coast are already using variations of these methods in NPDES permits.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3618

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RIN: 2040–AC54

3571. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF TRACE METALS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new EPA methods for the determination of trace metals at EPA's water quality criteria levels. These methods are necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the State's designated water quality standard. Because the methods currently approved under 40 CFR part 136 were designed to support primarily technology-based permitting needs, and because these technology-based levels are as much as 280 times higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3702

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RIN: 2040–AC75

3572. INCREASED METHOD FLEXIBILITY FOR TEST PROCEDURES APPROVED FOR CLEAN WATER ACT COMPLIANCE MONITORING

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304 (h); 33 USC 1361(a) CWA 501 (a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would highlight the flexibility already contained in the 600 and 1600 series of EPA Methods that are currently approved for Clean Water Act compliance monitoring under 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. These methods typically contain a statement that, "In recognition of advances that are occurring in analytical technology, and to allow the analyst to overcome sample matrix interferences, the analyst is permitted certain options to improve separations or lower the costs of measurements. These options include alternate extraction, concentration, cleanup procedures, and changes in columns and detectors .... The methods further require the analyst to demonstrate that the method modifications will not adversely affect the quality of data by generating quality control results that meet the specifications contained in the method." Despite this stated flexibility, the Agency has found that many NPDES and pretreatment permitting authorities are not aware of this

flexibility when issuing or enforcing NPDES and pretreatment permits. Therefore, this regulatory action will highlight the existing method flexibility and clarify EPA's position regarding its application. This action will also extend this flexibility to other methods currently approved under 40 CFR part 136. The purpose of extending this flexibility to other methods is to (1) increase consistency between methods, (2) provide for increased recognition of advances in analytical technology, and (3) reduce costs associated with analytical measurements.

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3714

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RIN: 2040–AC92

3573. TEST PROCEDURES FOR THE ANALYSIS OF CO-PLANAR AND MONO-ORTHO-SUBSTITUTED POLYCHLORINATED BIPHENYLS (PCBS) UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136; 40 CFR 503

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR parts 136 and 503 to approve EPA Method 1668 for the congener-specific determination of co-planar and mono-ortho-substituted polychlorinated biphenyls (PCBs) in effluent ambient water and sludge. This method is necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the State's designated water quality standard. At present there is no EPA analytical method for determination of these PCBs, therefore, approval of a new EPA test procedure is necessary.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4049

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RIN: 2040–AD09

3574. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE TWO

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action will amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR Part 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This regulation will approve test procedures to be used in measuring this group of compounds under the NPDES unless the Regional Administrator approves an alternative procedure. This rulemaking will constitute the second of two segments of rulemaking initially proposed as one action.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4089

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RIN: 2040–AD12

3575. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C—WASTEWATER DISCHARGE INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1342 CWA sec 402

CFR Citation: 40 CFR 122.21(g)

Legal Deadline: None

Abstract: All existing manufacturing, commercial, mining, and silvicultural operations requiring a National Pollutant Discharge Elimination System (NPDES) permit must submit an

application in order to obtain a permit. The existing industrial application form has not been revised since 1984 and needs to be updated to reflect statutory and regulatory changes in the NPDES program, advances in analytical methods and an increased emphasis on toxic control. The purpose of this action is to revise and consolidate existing application forms and requirements for industries, and to streamline the permit application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency will seek to allow the use of existing data to the extent possible and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to provide these data, many other permittees are already required to submit the data. The Agency is reviewing ways to minimize the need for information from small dischargers, including tribal facilities. EPA will also seek to minimize and reduce the burden on States through improvements to the application forms.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3234

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RIN: 2040–AC26

3576. NPDES STREAMLINING RULE—ROUND III

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1312 CWA sec 302; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, EPA plans to issue several rulemaking packages to revise NPDES requirements in parts 122, 123, and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures. Revisions under consideration in this rule include adding additional permit modifications that can be considered minor modifications at 122.63, and changes to requirements concerning EPA's review of State permits. Other revisions may be considered as work on this rule progresses. This rulemaking is expected to affect entities which implement the NPDES program or are regulated by it. This includes small businesses and State, tribal and local governments. Most of these effects are expected to be deregulatory or streamlining in nature. This rulemaking is in the very early stages.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3786

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RIN: 2040–AC84

3577. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE —PHASE TWO

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1361(a) CWA sec 501(a); 33 USC 1345 CWA sec 405

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use or Disposal Regulation in two phases (i.e., Phase One and Phase Two). Phase Two will address issues presented by judicial remand of specific requirements in the final rule (part 503) and requests for reconsideration and will modify certain technical requirements. The proposed changes will impact Federal, State, local and tribal governments, as well as small businesses and small governmental jurisdictions. EPA expects that these changes will increase flexibility and thus reduce the regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4207

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RIN: 2040–AC53

3578. STREAMLINING 301(H) WAIVER RENEWAL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1361(a) CWA sec 501(a)

CFR Citation: 40 CFR 125(g)

Legal Deadline: None

EPA—CWA **Long-Term Actions**

Abstract: EPA is proposing an amendment to the regulations contained in 40 CFR part 125, subpart G. These regulations implement Section 301(h) of the Clean Water Act, 33 USC section 1311(h). Section 301(h) provides publicly owned treatment works (POTWs) discharging to marine waters an opportunity to obtain a modification of secondary treatment requirements if they demonstrate to EPA that they comply with a number of criteria aimed at protecting the marine environment. This proposal is designed to streamline the renewal process for POTWs with 301(h) modified permits. The action would eliminate unnecessary paperwork. It would specify that a completed application would not be required for renewals in cases where EPA already has the required information. Additional information would only be required as necessary to determine ongoing and continued predicted compliance with the 301(h) criteria. This regulation should reduce paperwork submissions from municipalities, which should save time and resources.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3804

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RIN: 2040–AC89

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Safe Drinking Water Act (SDWA)

3579. • USE OF SCREENING PROCEDURES FOR COMPLIANCE MONITORING OF DRINKING WATER CONTAMINANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f SDWA sec 1401; 42 USC 300g-1 SDWA sec 1412; 42 USC 300j-4 SDWA sec 1445

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: The 1996 SDWA Amendments require EPA to review new analytical methods that may be used for regulated contaminants screening or analysis, including screening methods. After this review, EPA may approve such methods that are deemed more accurate or cost-effective than established reference methods for use in compliance monitoring (SDWA, sec 1445(I)) or the monitoring of unregulated contaminants. In this regulatory effort, EPA proposes to integrate the use of screening methods in the overall scheme of drinking water compliance monitoring. Efforts will be made to keep the proposal consistent with the Office of Water plan for Performance Based Methods (PBMS). EPA will identify regulated contaminates, types of monitoring and specific areas within each monitoring framework which are amenable to the use of screening methods. A logical application of screening procedures will be in a tiered monitoring mode where "Tier 1" (screening phase) would identify the principal problem areas while "Tier 2" would use sampling and analysis to more carefully identify and quantify specific contaminants. EPA will identify specific screening methods which are available for use based on their performance characteristics, tolerance to sample interferences, validation for drinking water analysis and correlation of results with traditional instrumental methods. The use of screening methods is expected to make drinking water compliance monitoring cheaper and faster, and provide flexibility to the Public Water Systems in the choice of analytical methods. Laboratory acceptance limits and other method performance requirements that were specified under previous rules will not be changed in this rule making. This proposal will only add new analytical methods and/or analytical approaches and will not withdraw or modify previously approved methods.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4212

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RIN: 2040–AD31

3580. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 300f SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline:
Other, Statutory, February 6, 1999, Publish radon health risk reduction and cost analysis.
NPRM, Statutory, August 6, 1999.
Final, Statutory, August 6, 2000.

Abstract: Radon in drinking water increases risk to public health, both from inhalation of radon discharged through normal household water use, such as showering, and from ingestion of water. In 1991, EPA estimated that radon in public drinking water supplies causes about 192 avoidable cancer cases each year. EPA does not currently regulate radon in drinking water. On July 18, 1991, EPA proposed a Maximum Contaminant Level (MCL) for radon in drinking water at 300 pCi/L, to address radon in public water

supplies (systems serving over 25 individuals or with greater than 15 service connections). EPA withdrew the proposed radon regulation on August 6, 1997 (62 FR 42221). This rule will impact small entities, including small public water supplies and municipalities. Tribal governments will be affected if they provide water through systems meeting the definition of public water supply. States with primacy will implement the final regulation, and will be asked to assist EPA in developing guidelines for multi-media mitigation programs.

The 1996 Amendments to the Safe Drinking Water Act add new radon requirements. Congress directed EPA to: (1) Withdraw the 1991 proposed rule; (2) Work with the National Academy of Sciences (NAS) to conduct a risk assessment for radon in drinking water and an assessment of the health risk reduction benefits associated with various mitigation methods of reducing radon in indoor air; (3) Publish a radon health risk reduction and cost analysis for possible radon MCLs for public comment, by February 1999; (4) Propose MCL Goal and National Primary Drinking Water Regulation (NPDWR) for radon by August 1999; and (5) Publish MCL Goal and Final NPDWR for radon, by August 2000.

Pursuant to 1412 (b)(13) of SDWA, EPA promulgates an MCL more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Agency must establish an alternative MCL. The level of the alternative MCL is linked to average outdoor radon levels. If an alternative MCL is established, EPA must publish guidelines for States to develop multimedia radon mitigation programs. If EPA approves a State multimedia mitigation program, public water supply systems within the State may comply with the alternative MCL. EPA shall evaluate multimedia radon mitigation programs every 5 years.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Notice	02/26/99	64 FR 9560
Reproposal	08/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2281

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RIN: 2040–AA94

3581. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUND WATER RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 300f SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline:
Final, Statutory, May 31, 2002, After August 6 1999 but before May 31 2002.

Abstract: The Safe Drinking Water Act as amended in 1996 directs EPA to promulgate regulations requiring disinfection as necessary for ground water systems. The intention is to develop a protective public health approach which assures a baseline of protection for all consumers of ground water and sets in place an increasingly targeted strategy to identify high risk or high priority systems that require greater scrutiny or further action. Development and implementation of the rule will involve local, tribal, State and Federal governments. The structure of the rule is a series of barriers to microbial contamination. The multiple-barrier approach relies upon four major components: 1) periodic onsite inspections of ground water systems requiring the evaluation of eight key areas and the identification of significant deficiencies; 2) source water monitoring for systems drawing from vulnerable aquifers without treatment or with other indications of risk; 3) a requirement for correction of significant deficiencies; and 4) a requirement for treatment where contamination or significant deficiencies are not or cannot be corrected, and alternative sources of drinking water are not available. EPA believes that the combination of these elements strikes an appropriate regulatory balance which tailors the intensity or burden of protective measures and follow-up action to the risk being addressed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2340

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RIN: 2040–AA97

3582. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300f SDWA sec 1412

CFR Citation: 40 CFR 141(Revision); 40 CFR 142 (Revision)

Legal Deadline:
Other, Statutory, February 2, 1997, Arsenic Study Plan.
NPRM, Statutory, January 1, 2000.
Final, Statutory, January 1, 2001.

Abstract: The Safe Drinking Water Act (SDWA) Amendments of 1996 require EPA to develop and carry out a study plan to reduce the uncertainty in assessing health risks of low levels of arsenic. Currently the National Primary Drinking Water Regulation (NPDWR) for arsenic is 50 ppb, or 50 ug/L. However, the existing risk assessment projects the risk of skin cancer at 1 in ten-thousand for 2 ppb arsenic. Arsenic ingestion is also associated with internal cancer, but the risk of internal cancer has not been quantified. EPA is to propose a revised NPDWR for arsenic by January 1, 2000, and promulgate the NPDWR by January 1, 2001.

The SDWA directs EPA to establish a maximum contaminant level (MCL) as

close to the maximum contaminant level goal (MCLG) as feasible, considering treatment efficacy and costs. EPA must list affordable technologies or treatment techniques that achieve compliance with the MCL for three categories of small systems considering the quality of the source water. Furthermore, alternatives to central treatment, such as point-of-use and point-of-entry devices, can be considered for small systems that maintain control over operation and maintenance. At the time of proposal, EPA must seek comment on its analyses of costs of compliance and health risk reduction benefits likely to occur as the result of treatment to comply with the proposed MCL and any alternatives being considered.

Timetable:

Action	Date	FR Cite
Arsenic Study Plan	12/24/96	61 FR 67800
NPRM	01/00/00	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2807

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RIN: 2040–AB75

3583. FILTER BACKWASH RECYCLING REGULATION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 300f SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline:
Final, Statutory, August 31, 2000.

Abstract: The regulation will control the recycle, or reintroduction, of filter backwash and other waste water streams into the influent (untreated source waters entering the treatment plant) of public utilities. The regulation is required by the 1996 amendments to the Safe Drinking Water Act. The regulation is necessary to protect against outbreaks of waterborne microbial disease that can occur during normal treatment plant operation, operational upsets, or times of poor source water quality. The regulation will provide another barrier to prevent occurrence of microbial pathogens in finished drinking water supplies.

Systems of all sizes will be covered by the regulation. Conventional, direct, and in-line filtration plants, as well as absorption clarification plants, will be addressed by the final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4146

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RIN: 2040–AD17

3584. LONG TERM 1 ENHANCED SURFACE WATER TREATMENT RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 300f SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline:
Final, Statutory, November 30, 2000.

Abstract: The 1996 amendments to the Safe Drinking Water Act (SDWA) require the Environmental Protection Agency (EPA) to establish National Primary Drinking Water Regulations for contaminants that may have an adverse public health effect and that present a meaningful opportunity for health risk reduction. The Agency's goal in the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) is to reduce the risk from microbial contaminants in public surface water systems that serve 10,000 people or less. In order to accomplish this, the rule will focus on turbidity reduction through filtration performance improvement, and continued microbial protection through the disinfection benchmark (i.e. a measurement of current Giardia inactivation). In November 1998, EPA promulgated Interim Enhanced Surface Water Treatment Rule (IESWTR) , which focuses on these same public health goals and is applicable to public surface water systems serving greater than 10,000 people. Like the IESWTR, the LT1ESWTR will reflect the fundamental principle that new standards for control of disinfection byproducts (i.e. compliance with the Stage 1 DBP rule) must not result in significant increases in microbial risk. To develop the LT1ESWTR, EPA will use the template of the Interim Enhanced Surface Water Treatment Rule (IESWTR) as a starting point. EPA will then evaluate if the principles for reduction in turbidity used to develop the IESWTR will be appropriate for the LT1ESWTR.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4147

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RIN: 2040–AD18

EPA—SDWA

Proposed Rule Stage

3585. PUBLIC WATER SYSTEM PUBLIC NOTIFICATION REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300f et seq

CFR Citation: 40 CFR 141.32; 40 CFR 142.14; 40 CFR 142.15; 40 CFR 142.16

Legal Deadline: None

Abstract: This action revises an existing regulation to incorporate the new public notification provisions in section 1414(c) of the Safe Drinking Water Act. The basic requirement for public water systems with violations of drinking water standards to give public notification is not changed by the 1996 SDWA amendments. A Public Water System is required under section 1414(c) of the SDWA to provide notification to its customers whenever: (1) a violation of certain drinking water regulations occurs (including MCL, treatment technique, and monitoring/reporting requirements); (2) a variance or exemption to those regulations is in place or the conditions of the variance or exemption are violated; or (3) results from unregulated contaminant monitoring required under section 1445 of the SDWA are received. The Administrator is required under this statute to prescribe by regulation the manner, frequency, form, and content for giving notice. The existing regulation is in 40 CFR section 141.32. States are required to adopt this rule to retain primacy under 40 CFR section 142.10.

The 1996 amendments significantly revise the public notification requirements. The amendments: (1) require notice within 24 hours for violations posing a serious public health risk from short term exposure and give EPA discretion to set the timing of the notification for all other violations; (2) give EPA discretion to set the method of delivery of the notices as long as the public notice reaches all persons served; (3) establish a specific requirement for EPA consultation with the States in issuing revised regulations; (4) allow the primary States to prescribe alternative notification requirements by rule with respect to the form and content of the notice. One other new requirement -- for public water systems to prepare an annual consumer confidence report -- is being implemented under a separate regulatory action.

The benefits of the revised public notification regulations will be to streamline the existing requirements, provide quicker and more effective notification of violations that have a serious adverse effect, and better inform the customers of public water systems of the quality of their drinking water and the risk to their health.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4009

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RIN: 2040–AD06

3586. DRINKING WATER UNREGULATED CONTAMINANT MONITORING PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 300(f) et seq

CFR Citation: 40 CFR 141.35(a) to (d); 40 CFR 141.40(a) to (n)

Legal Deadline:
NPRM, Statutory, See additional information.
Final, Statutory, August 6, 1999.

Abstract: The Unregulated Contaminant Regulation is required by the Safe Drinking Water Act as amended in 1996. Under these amendments EPA is required to publish a list of not more than 30 unregulated contaminants which public water supply systems must monitor to determine, on a national basis, the location, concentration and related information regarding the occurrence of these contaminants and their potential for migrating to sources of public drinking water. EPA is to issue regulations which establish criteria for listing contaminants and for carrying out the Unregulated Contaminant Monitoring Program. The monitoring results are to be used by the Agency in determining which contaminants pose the greatest risks to human health and, if necessary, in setting priorities for their regulation. Conversely, contaminants that potentially pose risk to human health but are not found in drinking water supplies may be removed from consideration for regulation. The requirement to monitor for unregulated contaminants was first established by the 1986 Amendments to the Safe Drinking Water Act, requiring as many as 48 contaminants to be monitored. Additionally, only public water systems serving 500 persons or fewer were exempt from monitoring provided that they made their facilities available for the States to monitor. Repeat monitoring was required every 5 years. The 1996 Amendments reduce the burden upon public water systems in several ways. The Amendments limit the number of contaminants that can be on the unregulated contaminant monitoring list to 30 or fewer. Instead of requiring all systems to monitor for unregulated contaminants, the amendments require that only a representative sample of systems serving 10,000 or fewer persons monitor. The SDWA Amendments authorize States to develop representative sample monitoring plans. Finally, the SDWA Amendments authorize EPA to pay for the reasonable cost of testing for the small public water systems if funds are appropriated.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4131

Legal Deadline: Statutory deadline for list of 30 or fewer unregulated contaminants to be issued.

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EPA—SDWA **Proposed Rule Stage**

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RIN: 2040–AD15

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Final Rule Stage**
Safe Drinking Water Act (SDWA)

3587. NATIONAL PRIMARY AND SECONDARY DRINKING WATER REGULATIONS: ANALYTICAL METHODS FOR CERTAIN PESTICIDES AND MICROBIAL CONTAMINANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f SDWA sec 1401; 42 USC 300g-1 SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: In promulgating National Primary Drinking Water Regulations, EPA includes analytical methods for determination of regulated drinking water contaminants. EPA approved methods include EPA methods, Standard Methods (methods evaluated and recommended for use by the American Public Health Association (APHA)), American Society for Testing and Materials (ASTM) methods, United States Geological Survey (USGS) methods and others.

In this regulatory effort, EPA plans to approve the use of a new membrane filter medium for the simultaneous detection of total coliform and Escherichia coli (E. coli) and three revised chemical analytical methods for compliance determinations of acid herbicides and diquat in drinking water. EPA will withdraw approval of one EPA Method for acid herbicides due to a significant number of complaints concerning problems with the method. The cost of the new method which will replace it is about the same as the old method. The Agency is also amending and clarifying laboratory certification requirements to make the current storage and transit temperature-holding recommendation a requirement (i.e., all source water samples collected for the analysis of total coliforms or fecal coliforms under the Surface Water Treatment Rule (SWTR) and water samples collected for the analysis of heterotrophic bacteria in any distribution system be held at a temperature below 10 degrees C during storage and transit).

Timetable:

Action	Date	FR Cite
NPRM	07/31/98	63 FR 41133
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4044

This regulation was split from RIN 2040-AC77, SAN 3726.

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RIN: 2040–AD04

3588. • NATIONAL PRIMARY AND SECONDARY DRINKING WATER REGULATIONS: ANALYTIC METHODS FOR ORGANIC, INORGANIC AND MICROBIOLOGICAL CONTAMINANTS AND PESTICIDES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f SDWA sec 1401; 42 USC 300g(1) SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: In promulgating National Primary Drinking Water Regulations, EPA includes analytical methods for determination of regulated drinking water contaminants. EPA approved methods include EPA methods, Standard Methods (methods evaluated and recommended for use by the America Public Health Association (APHA)), American Society for Testing and Materials (ASTM) Methods, United States Geological Survey (USGS) Methods and others. Periodically, the Agency updates and revises methods to incorporate newer technologies. Standard setting organizations such as APHA, ASTM, and USGS also routinely revise and update methods.

In this regulatory effort, EPA proposes to approve newer versions of existing methods for organic, inorganic and microbiological contaminants. At the same time, the Agency will withdraw approval of selected outdated methods.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 47115
Direct Final Rule	09/03/98	63 FR 47097
Direct Final Rule Withdrawn	12/31/98	63 FR 72200
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4257

Agency Contact: Jitendra Saxena, Environmental Protection Agency, Water, 4603, Washington, DC 20460
Phone: 202 260-9579

RIN: 2040–AD29

3589. • NATIONAL PRIMARY DRINKING WATER REGULATIONS: ANALYTICAL METHODS FOR MICROBIAL, LEAD AND MAGNESIUM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f SDWA sec 1401; 42 USC 300g-1 SDWA sec 1412

CFR Citation: 40 CFR 141.21; 40 CFR 141.23

Legal Deadline: None

Abstract: Under the Safe Drinking Water Act, EPA is required to approve analytical methods to be used in

EPA—SDWA

Final Rule Stage

compliance monitoring of drinking water. Periodically, the Agency amends the regulations to approve additional methods, or modifications to approved methods, or withdraws methods that become obsolete or amends other requirements (such as laboratory certification requirements) associated with approved methods.

This regulatory action would approve two new microbiological methods, one lead method, and six magnesium methods. Specifically, EPA is proposing to approve the E*Colite test and ColiBlue24 test that simultaneously determine the presence of total coliforms and E. coli in drinking water. These organisms must be monitored under the Total Coliform Rule (40 CFR 141.21). The Agency is also proposing to approve differential pulse aniodic stripping voltammetry for measuring the level of lead in drinking water under the Lead and Copper Rule. If approved, systems may either use one of these tests or any other approved test for total coliforms/E. coli or lead in drinking water. Finally, the Agency is proposing to approve six methods for measuring the level of magnesium in source and finished water. The magnesium methods would allow certain surface water systems that are unable to achieve the specified level of total organic carbon removal required by the Stage 1 Disinfection Byproduct Rule (DBPR) to meet instead one of several alternative performance criteria allowed by the DBPR, including the removal of 10 mg/L magnesium hardness from source water.

Timetable:

Action	Date	FR Cite
NPRM	01/14/99	64 FR 2538
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4221

Agency Contact: Paul S. Berger, Environmental Protection Agency, Water, 4607, Washington, DC 20460 Phone: 202 260-3039

RIN: 2040–AD30

3590. NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR LEAD AND COPPER

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300g-1 SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA will promulgate revisions to the National Primary Drinking Water Regulations for Lead and Copper published June 7, 1991. The basic lead and copper regulations will remain intact; however, EPA will promulgate minor revisions to refine specific requirements and improve implementation of the rule. Some of these revisions are deregulatory in nature, in that they will lessen monitoring requirements for public water systems which have consistently shown very low levels of lead and copper at the tap. EPA also plans to promulgate changes that will provide many community water systems more flexibility in the delivery of lead public education requirements, and allow States to invalidate inappropriate samples. Other revisions would promote consistent national implementation by clarifying the monitoring requirements that apply in different circumstances. Finally, EPA plans to respond to a remand in American Water Works Association v. EPA, 40 F.3D 1266 (DC Circuit 1994), on portions of the Lead and Copper regulation by promulgating a revised definition of control as it applies to lead service line replacement and to address the current exemption of transient non-community water systems from coverage under the rule. Nationally, EPA estimates the changes will not affect the cost or benefits of the Lead and Copper Rule significantly. State governments may experience a minor increase in costs as a result of these revisions. Many local and tribal governments and small businesses that operate public water systems should experience a small decrease in annual costs.

Timetable:

Action	Date	FR Cite
NPRM	04/12/96	61 FR 16348
NOA	04/22/98	63 FR 20038
NOA	08/18/98	63 FR 44214
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3440

Agency Contact: Judy Lebowich, Environmental Protection Agency, Water, 4607, Washington, DC 20460 Phone: 202 260-7595

RIN: 2040–AC27

3591. REFORMATTING OF DRINKING WATER REGULATIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300f SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: This rule reformats the current drinking water regulations to make them easier to understand and follow. This rule is not intended to change any of the regulatory requirements. The rule affects State, local and tribal governments in that it makes the rules easier to implement and thus facilitates their jobs.

Timetable:

Action	Date	FR Cite
Direct Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3563

Agency Contact: Carl Kessler, Environmental Protection Agency, Water, 4607, Washington, DC 20460 Phone: 202 260-3995

RIN: 2040–AC41

3592. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADIUM, URANIUM, ALPHA, BETA AND PHOTON EMITTERS

Priority: Other Significant

Legal Authority: 42 USC 300f SDWA sec 1412

EPA—SDWA **Final Rule Stage**

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline:
Final, Judicial, November 18, 2000, Uranium.
Other, Judicial, November 30, 2000, See Additional Information.

Abstract: Standards for radium, alpha, and beta and photon emitters were promulgated in 1976. They were included in the list of 83 contaminants for regulation (because they had MCLs but not MCLGs), along with uranium and radon, in the 1986 Safe Drinking Water Act (SDWA) Amendments. Regulations for uranium, radium 226, radium 228, and gross alpha and beta particles were proposed on July 18, 1991. The 1991 proposal was to raise the standard for radium 226/228 from combined level of 5 pCi/l to a separate standard of 20 pCi/l, and proposed uranium at 20 ug/l pursuant to court order. EPA will take final action on proposed uranium regulations by November, 2000, and final action on radium, alpha, beta, and photon emitters or state reasons for not taking final action by November, 2000.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
NODA	04/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3992

Judicial Deadline Description: Final or stated rationale for not taking final action on Radium, Alpha, Beta and Photon emitters.

Agency Contact: David Huber, Environmental Protection Agency, Water, 4607, Washington, DC 20460
Phone: 202 260-9566
Fax: 202 260-3762
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RIN: 2040–AC98

3593. REVISIONS TO THE UNDERGROUND INJECTION CONTROL REGULATIONS FOR CLASS V INJECTION WELLS

Priority: Other Significant

Legal Authority: 42 USC 300h SDWA 1421 to 1425

CFR Citation: 40 CFR 144; 40 CFR 145; 40 CFR 146

Legal Deadline:
NPRM, Judicial, July 18, 1998.
Final, Judicial, August 29, 1999, Unopposed motion for extension is pending.

Abstract: This rule is formerly known as Management of Class V Injection Wells under Part C of the Safe Drinking Water Act. The EPA proposed changes to the Class V Underground Injection Control (UIC) regulations that would add new requirements for three categories of Class V wells that pose a high risk when located in ground water-based source water protection areas being delineated by States under the 1996 Amendments to the Safe Drinking Water Act (SDWA). EPA proposed these new requirements to address three categories of wells that it has identified as posing a high risk of ground water contamination based on available information. Class V wells that would be impacted by the proposed regulation include motor vehicle waste disposal wells, industrial waste disposal wells, and large-capacity cesspools in ground water-based source water protection areas. Targeting the requirements to those wells will achieve substantial protection of underground sources of drinking water.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44652
Reproposal	07/29/98	63 FR 40585
Final	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 2778

Agency Contact: Robyn Delehanty, Environmental Protection Agency, Water, 4606, Washington, DC 20460
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Email: delehanty.robyn@epa.gov

RIN: 2040–AB83

3594. DRINKING WATER STATE REVOLVING FUND REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 300 et seq SDWA 1452 (g)(3)

CFR Citation: 40 CFR 35 (New)

Legal Deadline: None

Abstract: The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104-182) authorize a Drinking Water State Revolving Fund (DWSRF) to assist public water systems in financing the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements and to further the public health objectives of the Act. Section 1452(a)(1) authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to States, which in turn provide low cost loans and other types of assistance to eligible systems. A State determines the portion of the funds from the capitalization grant to conduct set-aside activities and the remaining grant monies are deposited into the project Fund to finance infrastructure projects. Each State has considerable flexibility, with minimum Federal requirements imposed, to determine the design of its DWSRF program and to direct funding toward its most pressing compliance and public health needs. This regulation is intended to codify the DWSRF Final Guidelines published in February, 1997 which explain: what States must do to receive a DWSRF capitalization grant; what States may do with Federal capitalization grant funds; what States may do with funds the law intends for activities other than project construction (set-asides); and the roles of both the States and EPA in managing and administering the program. The DWSRF program helps to ensure that the Nation's drinking water supplies remain safe and affordable, that drinking water systems that receive funding are properly operated and maintained, and that permanent institutions exist in each State to provide financial support for drinking water needs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

EPA—SDWA **Final Rule Stage**

Government Levels Affected: State, Local

Additional Information: SAN No. 4152

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RIN: 2040–AD20

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions

Safe Drinking Water Act (SDWA)

3595. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SULFATE

Priority: Other Significant

Legal Authority: 42 USC 300f SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline:
Other, Statutory, August 6, 2001, Decision whether or not to regulate.

Abstract: Sulfate is on the list of 83 contaminants required to be regulated under SDWA of 1986. The contaminant was deferred from the Phase V regulation in order to allow the Agency time to focus on implementation issues arising from the proposal concerning the risk of sulfate in drinking water to specific subpopulations. Sulfate can cause diarrhea in infants and in adults not acclimated to high sulfate-containing water, such as travelers. Persons who are acclimated to high sulfate-containing water suffer no adverse effects from its consumption. Sulfate occurs naturally in soil and is also found in surface water as a result of acid rain. Sulfate is also used as a reagent in steel and copper industries and in the manufacture of copper sulfate, a fungicide/algicide. An estimated 2,000 systems--serving a population of 200,000 residents, 1 million travelers, and 30,000 infants--are likely to be affected by this regulation. Most of the affected systems serve populations of less than 3,000 and are transient systems not in service year-round. Known treatment technologies include reverse osmosis, ion exchange, and electrodialysis. EPA proposed several options for compliance which would be an alternative to central treatment and less costly. The alternatives would include public education, public notification, and provision of alternative water to affected populations. The 1996 amendments to the SDWA call for a definitive study to resolve remaining health risk questions to be completed by February 1999. Thereafter, EPA is to make a determination by August 6, 2001, of whether or not to regulate sulfate. If EPA determines to regulate sulfate, the SDWA provides for a proposal within 24 months of this decision and final promulgation 18 months thereafter. EPA and the Centers for Disease Control have conducted the health risk study for sulfate. The results of the study will serve as input for EPA's contaminant identification and selection protocol, which would be the basis for the Agency's determination on whether to regulate sulfate. In addition, the Agency will need to make a determination on the adequacy of existing occurrence data for sulfate and, if inadequate, consider approaches for filling data gaps (if a decision is made to develop a regulation).

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65578
Notice of Sulfate Study	02/11/99	64 FR 7028
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3176

Agency Contact: James Taft, Environmental Protection Agency, Water, 4603, Washington, DC 20460
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RIN: 2040–AC07

3596. NATIONAL PRIMARY DRINKING WATER STANDARDS FOR ALDICARB

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300f SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA promulgated MCLs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone in the Phase II rulemaking in 1991 at levels of 7 ug/l each. In response to an administrative petition from the manufacture Rhone-Poulenc, the Agency issued an administrative stay of the effective date. EPA will reexamine risk assessment and occurrence data on aldicarb. EPA will then make a determination of what further action may be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3238

Agency Contact: Carl Kessler, Environmental Protection Agency, Water, 4603, Washington, DC 20460
Phone: 202 260-3995

RIN: 2040–AC13

3597. STREAMLINING DRINKING WATER MONITORING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

EPA—SDWA **Long-Term Actions**

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300f-4 SDWA sec 1445

CFR Citation: 40 CFR 141.2; 40 CFR 141.23; 40 CFR 142.14; 40 CFR 142.16; 40 CFR 142.18

Legal Deadline:
Final, Statutory, August 6, 1998.

Abstract: The current drinking water monitoring requirements vary by contaminant (e.g., inorganic vs. organic), the source of the supply (i.e., surface water vs. ground water) and by system size. After an initial series of samples, the sampling frequency increases or decreases based on the results of the initial series. Because there are numerous permutations to the possible frequencies at any one sampling point, the requirements are difficult to understand. And because the requirements presume all systems are contaminated, many systems have conducted expensive monitoring without finding any contamination.

EPA intends to simplify and improve the cost effectiveness of the current requirements for chemical contaminants by reducing the number of variables upon which the sampling frequencies turn, by providing greater latitude for State discretion in customizing the sampling frequencies to local circumstances (i.e., vulnerability to contamination) and by consolidating subsections wherever possible. The Agency issued a Federal Register Notice on July 30, 1998 indicating that the monitoring requirements had been reviewed and that no changes were being made at the time. The Agency, however, is evaluating additional data to determine whether any changes may be necessary in the future and looking at other options to streamline the regulations.

Timetable:

Action	Date	FR Cite
ANPRM	07/03/97	62 FR 36099
Notice of Review	07/30/98	63 FR 40709
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3761

(Combining with SAN 3565 and RIN 2040-AC52)

Agency Contact: Ed Thomas, Environmental Protection Agency, Water, 4606, Washington, DC 20460
Phone: 202 260-0910
Fax: 202 401-2345

RIN: 2040–AC73

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Safe Drinking Water Act (SDWA) **Completed Actions**

3598. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE I DISINFECTANT/DISINFECTION BY-PRODUCTS RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite
Final Action	12/16/98	63 FR 69389

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Thomas Grubbs
Phone: 202 260-7270

RIN: 2040–AB82

3599. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INTERIM ENHANCED SURFACE WATER TREATMENT RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite
Final Action	12/16/98	63 FR 69477

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Elizabeth Corr
Phone: 202 260-8907

RIN: 2040–AC91

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Marine Protection Research and Sanctuary Act (MPRSA) **Long-Term Actions**

3600. REVISIONS TO OCEAN DUMPING REGULATIONS FOR DREDGED MATERIAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1401 et seq MPRSA

CFR Citation: 40 CFR 225; 40 CFR 227; 40 CFR 228

Legal Deadline: None

Abstract: This rulemaking would revise the regulations applicable to the ocean dumping of dredged material. Issuance of these regulations would respond to the decision in National Wildlife Federation v. Costle, 629 F. 2d. 118 (DC

EPA—MPRSA **Long-Term Actions**

Cir.1980) and incorporate program experience gained since the issuance of the current regulations in 1977. The revisions will make necessary technical changes and will improve the clarity of the regulations, with supporting technical guidance on disposal site selection, site management, and site monitoring. These revisions will clarify issues that have caused delays in the evaluation of permit applications. The regulations will improve environmental assessments of permit applications, and improve the protection of benthic communities in the vicinity of a dump site. The regulations will affect local governments if they are responsible for maintenance of navigable waters by dredging and request a permit for disposal of dredged material in the ocean.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, Federal

Additional Information: SAN No. 2737

Agency Contact: David Redford, Environmental Protection Agency, Water, 4504F, Washington, DC 20460 Phone: 202 260-9179

RIN: 2040–AB62

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Final Rule Stage**

Shore Protection Act (SPA)

3601. SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2601 Shore Protection Act of 1988; PL 100-688 sec 4103(b)

CFR Citation: 40 CFR 237

Legal Deadline: None

Abstract: This rule will implement the Shore Protection Act (SPA) and is designed to prevent the deposit of municipal and commercial waste into U.S. Coastal Waters. This rule establishes minimum waste handling practices for vessels and waste handling facilities involved in the transport of municipal or commercial wastes in the coastal waters of the U.S. The rule may require certain vessels and waste handling facilities to develop an operation and maintenance manual that identifies procedures to prevent, report, and clean up deposits of waste into coastal waters. Local governments and businesses involved with the vessel transportation and shore side handling of these wastes would be affected by this rule. Currently no tribes are known to be involved in waste handling of this type; therefore none would be affected by this rule. In regards to small businesses, EPA has provided guidance on development of operation and maintenance manuals and encourages the use and documentation of existing industry practices that meet or exceed the EPA proposed minimum waste handling standards. All indications are that this regulation as proposed would have a minimal economic impact. This regulation will result in reduction of municipal and commercial wastes deposited in coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44798
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 2820

Agency Contact: James Woodley, Environmental Protection Agency, Water, 4504F, Washington, DC 20460 Phone: 202 260-1998 Fax: 202 260-9920 Email: woodley.james@epa.gov

RIN: 2040–AB85

[FR Doc. 99-7011 Filed 04-23-99; 8:45 am]

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Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: Ellen J. Vargyas, Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-7197.

SUPPLEMENTARY INFORMATION: The Commission has identified nine items for inclusion in this regulatory agenda.

Signed in Washington, DC, this 18th day of February 1999.

For the Commission.

Ida L. Castro,

Chairwoman.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3602	Federal Sector Equal Employment Opportunity	3046-AA57
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Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3604	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees	3046-AA56
3605	Procedures for Collection of Debts by Administrative Offset	3046-AA65
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3607	Availability of Records	3046-AA67
3608	Coordination of Functions; Memorandum of Understanding Between EEOC and Department of Labor, Office of Federal Contract Compliance Programs	3046-AA69

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3609	Procedures—The Age Discrimination in Employment Act	3046-AA54
3610	Disparate Impact Under the Age Discrimination in Employment Act (ADEA)	3046-AA64

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Proposed Rule Stage

3602. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-569,The Rehabilitation Act Amendments of 1992; 42 USC 2000e-16; 29 USC 633a; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: The proposed amendments to this regulation implement the Rehabilitation Act Amendments of 1992. Those amendments provide that the standards used to determine if title I of the Americans With Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under section 501 of the Rehabilitation Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Carol R. Miaskoff, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
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RIN: 3046–AA57

EEOC

Proposed Rule Stage

3603. WAIVERS OF RIGHTS AND CLAIMS: TENDER BACK OF CONSIDERATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 29 USC 628; 42 USC 2000e; 42 USC 12101; 29 USC 206(d)

CFR Citation: 29 CFR 1625

Legal Deadline: None

Abstract: Following the United States Supreme Court's decision in Oubre v. Entergy Operations, Inc., 522 U.S. 422 (1998), the Commission intends to develop guidance on the status of consideration paid for a waiver of rights and claims under the laws it enforces.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Carol R. Miaskoff, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
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RIN: 3046–AA68

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Final Rule Stage

3604. PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION BY PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 2 USC 1220, sec 321 of Government Employee Rights Act of 1991; 42 USC 2000e et seq, title VII of the Civil Rights Act; 29 USC 621 et seq, Age Discrimination in Employment Act; 42 USC 12101 et seq, Americans with Disabilities Act

CFR Citation: 29 CFR 1603

Legal Deadline: None

Abstract: Under title VII of the Civil Rights Act of 1964 and the ADEA, certain staff members of State and local elected officials were exempt from protection against employment discrimination. Section 321 of the Government Employee Rights Act of 1991 provides protection against employment discrimination on the basis of race, color, religion, sex, national origin, age, or disability with respect to the employment of persons who have been chosen or appointed by a State or local elected public official to serve on his or her personal staff, to serve the elected official on the policymaking level, or to serve as an immediate advisor with respect to the exercise of the constitutional or legal powers of the official's office.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/97	62 FR 17542
Interim Final Rule Comment Period End	06/09/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
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RIN: 3046–AA56

3605. PROCEDURES FOR COLLECTION OF DEBTS BY ADMINISTRATIVE OFFSET

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3716; 31 USC 3720A; 5 CFR 550.1101

CFR Citation: 29 CFR 1650

Legal Deadline: None

Abstract: As required by the Debt Collection Improvement Act of 1996, the Commission is issuing regulations for the collection of debts by administrative offset.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/17/97	62 FR 32685
Interim Final Rule Comment Period End	08/18/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
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Fax: 202 663-4639

RIN: 3046–AA65

3606. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2000e-16; 29 USC 206(d); 29 USC 633a; 29 USC 791; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: Commission staff has reviewed part 1614 to assess its effectiveness and conformity with National Performance Review principles. As a result, several changes are being proposed to streamline the process and eliminate unnecessary layers of review.

Timetable:

Action	Date	FR Cite
NPRM	02/20/98	63 FR 8594
NPRM Comment Period End	04/21/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal

EEOC — Final Rule Stage

Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
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Fax: 202 663-4639

RIN: 3046–AA66

3607. AVAILABILITY OF RECORDS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; PL 105-231

CFR Citation: 29 CFR 1610

Legal Deadline: None

Abstract: The Commission is revising its Freedom of Information Act regulations to comply with the Electronic Freedom of Information Act Amendments of 1996, to implement a delegation of Regional Attorney's FOIA responsibilities, to update office addresses, and to correct typographical errors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/98	63 FR 1339
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
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RIN: 3046–AA67

3608. COORDINATION OF FUNCTIONS; MEMORANDUM OF UNDERSTANDING BETWEEN EEOC AND DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000e-12(a); 42 USC 2000e-14; 42 USC 2000e-4(g); EO 12067

CFR Citation: None

Legal Deadline: None

Abstract: The existing 1981 Memorandum of Understanding (MOU) between EEOC and OFCCP sets forth complaint processing and information sharing procedures to coordinate enforcement under title VII and EO 11246. The changes contemplated for the MOU would authorize OFCCP to act as EEOC's agent to process and resolve the title VII component of dual-filed EO 11246/title VII complaints retained by OFCCP under existing procedures. The contemplated changes also would add new language about confidentiality.

Timetable:

Action	Date	FR Cite
Proposed Notice	12/14/98	63 FR 68764
Comment Period End	01/13/99	
Final Notice	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Carol R. Miaskoff, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
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RIN: 3046–AA69

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Long-Term Actions

3609. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628, sec 115, Civil Rights Act of 1991

CFR Citation: 29 CFR 1626

Legal Deadline: None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
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TDD: 202 663-7026
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RIN: 3046–AA54

3610. DISPARATE IMPACT UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.7 (Revision); 29 CFR 1625.23 (New)

Legal Deadline: None

Abstract: The Commission proposes to issue legislative regulations to reaffirm and clarify its long-standing interpretive rule regarding the availability of the disparate impact theory under the ADEA. The proposed rule also would set forth the nature and order of proof in such disparate impact cases.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

EEOC **Long-Term Actions**

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
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RIN: 3046–AA64
[FR Doc. 99-4901 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Emergency Management Agency publishes its semiannual regulatory agenda in April and October to inform interested parties of progress on FEMA regulations. The agenda lists regulations that will be under development or review during the period April 1, 1999, to October 31, 1999.

ADDRESSES: For information about specific regulations, please contact the person listed as the agency contact in the agenda.

FOR FURTHER INFORMATION CONTACT: For general information of FEMA's regulatory agenda, contact H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3340, FAX (202) 646-4536, or e-mail crane.miller@fema.gov.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" directs each executive agency to publish only such regulations as are required by law, are necessary to interpret the law, or are necessary by compelling public need. Publication of an agenda of regulations is called for semiannually in order to give the public adequate notice of agency rulemaking activities; also, publication of a regulatory agenda concerning rules likely to be significant regulatory actions must be published.

In fulfillment of the requirements of Executive Order 12866, this agenda describes current and projected regulatory actions and rules that will be under review or development during the period April 1, 1999, to October 31, 1999. This agenda also contains information of regulations on which action was completed since the last FEMA semiannual agenda was published Friday, November 9, 1998, at 63 FR 62486 to 62491.

We invite public comment on the agenda, including comments by State and local governments. Comments should be submitted to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472; FAX (202) 646-4536, or e-mail *rules@fema.gov*. Please refer to the title of the rule about which you are inquiring or commenting and the rule's Regulation Identifier Number (RIN) found at the end of each agenda entry.

The agenda is not limited to significant regulatory actions and contains information about FEMA regulations to be developed, reviewed, or published in the next 12 months, except for routine flood elevation determinations, listings of eligible communities under the National Flood Insurance Program, listings of suspended communities and similar designations under the National Flood Insurance Program, and FEMA organizational and management matters.

Dated: March 12, 1999.

Ernest B. Abbott,

General Counsel.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3611	Removal of Certain Parts of 44 CFR	3067-AC91

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3612	Group Flood Insurance Policy for Individual and Family Grant Program	3067-AC35
3613	Flood Mitigation Assistance Program	3067-AC45
3614	Criminal and Civil Penalties Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act	3067-AC61
3615	National Dam Safety Program; Assistance for State Programs	3067-AC64
3616	Organization, Functions and Delegation of Authorities	3067-AC66
3617	Disaster Assistance; Fire Suppression Assistance	3067-AC68
3618	Disaster Assistance; Hazard Mitigation Grant Program	3067-AC69
3619	Enforcement Under Title IX of the Education Amendments of 1972	3067-AC71
3620	Disaster Assistance; Declaration Process	3067-AC72
3621	Production or Disclosure of Information	3067-AC75
3622	Taxpayer Identification Numbers	3067-AC76
3623	Debt Collection	3067-AC77
3624	National Earthquake Hazards Reduction Program	3067-AC78
3625	National Flood Insurance Program: Inspection of Insured Structures by Communities	3067-AC79
3626	Extensions of Application Period for Temporary Housing Assistance	3067-AC82
3627	Conduct at the Mount Weather Emergency Assistance Center and at the National Emergency Training Center	3067-AC83
3628	Debt Collection	3067-AC84
3629	National Flood Insurance Program; Write-Your-Own Expense Allowance	3067-AC86
3630	Fee for Services To Support FEMA's Offsite Radiological Emergency Preparedness Program	3067-AC87

FEMA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3631	Procedures and Fee for Processing Map Changes	3067-AC88
3632	Disaster Assistance; Redesign of Public Assistance Project Administration	3067-AC89
3633	Disaster Assistance; Insurance Requirements for the Public Assistance Program	3067-AC90
3634	National Flood Insurance Program; Determining the Write-Your-Own Expense Allowance	3067-AC92
3635	National Urban Search and Rescue Response System	3067-AC93
3636	Disaster Assistance; Factors Considered When Evaluating a Governor's Request for a Major Disaster Declaration	3067-AC94
3637	National Flood Insurance Program; Revision of Appendix B to 44 CFR 62	3067-AC95

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3638	National Flood Insurance Program; Insurance Coverage and Rates	3067-AC96

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Proposed Rule Stage

3611. • REMOVAL OF CERTAIN PARTS OF 44 CFR

Priority: Info./Admin./Other

Legal Authority: EO 12127; EO 12148

CFR Citation: 44 CFR 14; 44 CFR 77; 44 CFR 80 to 83; 44 CFR 152; 44 CFR 207; 44 CFR 220 to 222; 44 CFR 301; 44 CFR 303; 44 CFR 306; 44 CFR 308; 44 CFR 320; 44 CFR 324; 44 CFR 325; 44 CFR 328; 44 CFR 333; ...

Legal Deadline: None

Abstract: This rule would remove parts of 44 CFR that are complete, no longer authorized, discontinued, or covered in other regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/18/99	64 FR 8048
NPRM Comment Period End	04/19/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Crane Miller, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
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RIN: 3067–AC91

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Long-Term Actions

3612. GROUP FLOOD INSURANCE POLICY FOR INDIVIDUAL AND FAMILY GRANT PROGRAM

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 5174; 42 USC 5178

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This interim final rule establishes a Group Flood Insurance Policy to be issued by the National Flood Insurance Program when Federal disaster assistance for flood damage to real or personal property, or both, is provided under the Individual and Family Grant Program following a major disaster declaration by the President.

Timetable:

Action	Date	FR Cite
NPRM	03/15/95	60 FR 13945
Interim Final Rule	05/01/96	61 FR 19197
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4262

RIN: 3067–AC35

3613. FLOOD MITIGATION ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4104c; 42 USC 4104d

CFR Citation: 44 CFR 78

Legal Deadline: None

Abstract: This interim final rule implements secs. 553 and 554 of the National Flood Insurance Reform Act of 1994 to provide grants under the National Flood Mitigation Fund to States and communities for planning

assistance and for mitigation projects that reduce the risk of flood damages to structures covered under contracts for flood insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13346
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Gil Jamieson, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4090

RIN: 3067–AC45

3614. CRIMINAL AND CIVIL PENALTIES UNDER THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5157(d); PL 101-410; 28 USC 2461; PL 104-134, sec 31001(s)

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would increase the maximum civil penalty under the Robert T. Stafford Disaster Relief and Emergency Assistance Act from $5,000 to $5,500.

Timetable:

Action	Date	FR Cite
NPRM	02/10/97	62 FR 5957
NPRM Comment Period End	04/11/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard S. Buck, IV, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4091

RIN: 3067–AC61

3615. NATIONAL DAM SAFETY PROGRAM; ASSISTANCE FOR STATE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-303

CFR Citation: 44 CFR 145

Legal Deadline: None

Abstract: This proposed rule would provide direction and guidance for financial assistance to State dam safety programs to improve and enhance the safety of dams throughout the United States.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Harold Andress, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-2801

RIN: 3067–AC64

3616. ORGANIZATION, FUNCTIONS AND DELEGATION OF AUTHORITIES

Priority: Info./Admin./Other

Legal Authority: 5 USC 552

CFR Citation: 44 CFR 2

Legal Deadline: None

Abstract: This final rule revises FEMA regulations on Organization, Functions and Delegations of Authority to reflect the creation of a new Directorate, the Information Technology Services Directorate, and to reflect reassignment of certain responsibilities within existing directorates.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Crane Miller, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4102
Fax: 202 646-4536

RIN: 3067–AC66

3617. DISASTER ASSISTANCE; FIRE SUPPRESSION ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq; 42 USC 5187

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would simplify the fire eligibility process from three thresholds to one threshold and would change the Federal cost share to 75 percent for fire suppression grants.

Timetable:

Action	Date	FR Cite
NPRM	11/24/97	62 FR 62542
NPRM Comment Period End	01/23/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Curtis Carleton, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4535

RIN: 3067–AC68

3618. DISASTER ASSISTANCE; HAZARD MITIGATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would revise the categories of projects eligible for funding under the Hazard Mitigation Grant Program. It emphasizes nonstructural flood mitigation measures to reduce the number of floodprone structures and clarifies that major structural flood control projects will not be considered for funding under the grant program.

Timetable:

Action	Date	FR Cite
NPRM	05/01/98	63 FR 24143
NPRM Comment Period End	07/01/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert F. Shea, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3619
Fax: 202 646-3104

RIN: 3067–AC69

FEMA

Long-Term Actions

3619. ENFORCEMENT UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 900 et seq

CFR Citation: 44 CFR 19

Legal Deadline: None

Abstract: This proposed joint rule would enforce title IX of the Education Amendments of 1972 applicable to training programs of FEMA.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pauline C. Campbell, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4122

RIN: 3067–AC71

3620. DISASTER ASSISTANCE; DECLARATION PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would establish the financial criteria under which a cost-share adjustment would be granted for permanent restorative work and for emergency work unless otherwise adjusted and caps that cost-share at 90 percent Federal. Secondly, it would phase in the threshold for granting cost-share adjustments to current dollars over a two-year period, and would allow that threshold to be adjusted annually for inflation.

Timetable:

Action	Date	FR Cite
NPRM	03/05/98	63 FR 10816
NPRM Comment Period End	05/04/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Patricia Stahlschmidt, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4066
Fax: 202 646-4060

RIN: 3067–AC72

3621. PRODUCTION OR DISCLOSURE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231

CFR Citation: 44 CFR 5

Legal Deadline: None

Abstract: This proposed rule would give the public access to Government information and records maintained in an electronic format, provide for expedited processing of certain requests, establish an "electronic reading room," require redacted material to be estimated or indicated in an agency's delay in processing requests, and require FEMA to make an agency reference guide on the Freedom of Information Act (FOIA) available.

Timetable:

Action	Date	FR Cite
NPRM	08/28/98	63 FR 45982
NPRM Comment Period End	10/27/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Jackson, Federal Emergency Management Agency, 500 C Street SW.
Phone: 202 646-3840
Fax: 202 646-4536

RIN: 3067–AC75

3622. TAXPAYER IDENTIFICATION NUMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7701(c)

CFR Citation: 44 CFR 6

Legal Deadline: None

Abstract: This proposed rule would implement the Debt Collection Improvement Act requirement that any person doing business with a Federal agency must provide the agency with the person's taxpayer identification number.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard S. Buck, IV, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4091

RIN: 3067–AC76

3623. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: Under this rule FEMA will refer delinquent debts owed to this Agency to the Department of the Treasury for collection under the Governmentwide Treasury Offset Program and for tax refund offsets at the same time. FEMA amends its administrative offset regulations to allow administrative offset against delinquent debtor States and units of general local government. FEMA also amends its regulations to change the method for calculating interest, penalty and administrative charged assessed on delinquent debts and to make States and units of general local government subject to such changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/98	63 FR 1063
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Richard S. Buck, IV, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4091

RIN: 3067–AC77

3624. NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7701 et seq

CFR Citation: 44 CFR 361

Legal Deadline: None

Abstract: This proposed rule would remove portions of and amend 44 CFR 361, National Earthquake Hazards Reduction Assistance to State and Local Governments, to make the Earthquake

FEMA **Long-Term Actions**

Hazards Reduction Assistance Program consistent with FEMA's Performance Partnership Agreement/Cooperative Agreement (PPA/CA) process.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Theodore J. Litty, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4286
Email: ted.litty@fema.gov

RIN: 3067–AC78

3625. NATIONAL FLOOD INSURANCE PROGRAM; INSPECTION OF INSURED STRUCTURES BY COMMUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This rule would establish a pilot program for voluntary inspections to verify that structures comply with the community and floodplain management ordinance, and to verify that NFIP-insured structures are properly rated.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3422
Fax: 202 646-4327

RIN: 3067–AC79

3626. EXTENSIONS OF APPLICATION PERIOD FOR TEMPORARY HOUSING ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would authorize the Associate Director/Executive Associate Director for Response and Recovery to extend beyond the standard 60-day limit the application period provided under the Disaster Housing Program.

Timetable:

Action	Date	FR Cite
NPRM	05/06/98	63 FR 25010
NPRM Comment Period End	07/06/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger, Response & Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
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RIN: 3067–AC82

3627. CONDUCT AT THE MOUNT WEATHER EMERGENCY ASSISTANCE CENTER AND AT THE NATIONAL EMERGENCY TRAINING CENTER

Priority: Info./Admin./Other

Legal Authority: EO 12148

CFR Citation: 44 CFR 15

Legal Deadline: None

Abstract: This rule makes technical amendments to 44 CFR part 15 to reflect the name change of the Special Facility to Mt. Weather Emergency Assistance Center, to update certain authority citations and cited documents, and for other purposes.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John L. Matticks, Mt. Weather Management Division, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
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Email: ron.face@fema.gov

RIN: 3067–AC83

3628. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: This rule would implement policies used by FEMA to collect debts under the Debt Collection Act of 1982, including measures to collect and to compromise or terminate collection action.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard S. Buck, IV, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4091

RIN: 3067–AC84

3629. NATIONAL FLOOD INSURANCE PROGRAM; WRITE-YOUR-OWN EXPENSE ALLOWANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: FEMA intends to propose changes to its methods for establishing the Write-Your-Own (WYO) expense allowance percentage to years beginning on or after October 1, 1999. FEMA invites advice and comments from WYO companies, consumers, and other interested parties.

FEMA **Long-Term Actions**

Timetable:

Action	Date	FR Cite
ANPRM	11/13/98	63 FR 63431
ANPRM Comment Period End	01/12/99	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Claudia I. Murphy, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-2775
Fax: 202 646-3445
Email: claudia.murphy@fema.gov

RIN: 3067–AC86

3630. FEE FOR SERVICES TO SUPPORT FEMA'S OFFSITE RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-65

CFR Citation: 44 CFR 354

Legal Deadline: None

Abstract: This rule revises 44 CFR 354 to establish the policies and administrative basis for FEMA to assess fees on NRC licensees to recover the full amount of the funds obligated by FEMA to provide services for offsite radiological emergency planning and preparedness beginning in FY 1999.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/15/98	63 FR 69001
Interim Final Rule Effective	12/15/98	
Interim Final Rule Comment Period End	02/16/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vanessa E. Quinn, PTE Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington DC 2042
Phone: 202 646-3664
Fax: 202 646-3508
Email: vanessa.quinn@fema.gov

RIN: 3067–AC87

3631. • PROCEDURES AND FEE FOR PROCESSING MAP CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 72

Legal Deadline: None

Abstract: This rule would remove the fee payment requirements for processing map change requests based on detailed hydrographic or hydrologic studies or more detailed topographic data.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Matthew B. Miller, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3461
Fax: 202 646-4596
Email: matt.miller@fema.gov

RIN: 3067–AC88

3632. • DISASTER ASSISTANCE; REDESIGN OF PUBLIC ASSISTANCE PROJECT ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule redesigns the Public Assistance Disaster Grant Program to provide assistance more quickly and to make the application process simpler than before.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/20/98	63 FR 64423
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Melissa M. Howard, Ph.D, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4240
Email: melissa.howard@fema.gov

RIN: 3067–AC89

3633. • DISASTER ASSISTANCE; INSURANCE REQUIREMENTS FOR THE PUBLIC ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would amend the insurance requirements under FEMA's Public Assistance Program to require subgrantees to assume a higher level of responsibility and risk for damage to their facilities.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Curtis Carleton, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4535
Email: curtis.carleton@fema.gov

RIN: 3067–AC90

3634. • NATIONAL FLOOD INSURANCE PROGRAM; DETERMINING THE WRITE-YOUR-OWN EXPENSE ALLOWANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This rule would change FEMA's method for establishing the Write-Your-Own (WYO) expense allowance by using a new formula to derive expense ratios.

Timetable:

Action	Date	FR Cite
NPRM	11/13/98	63 FR 63432
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Claudia I. Murphy, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2775

FEMA — Long-Term Actions

Email: claudia.murphy@fema.gov

RIN: 3067–AC92

3635. • NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 208

Legal Deadline: None

Abstract: This rule would prescribe policies and procedures pertaining to FEMA's National Urban Search and Rescue Response System.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: Mark Russo, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4097
Email: mark.russo@fema.gov

RIN: 3067–AC93

3636. • DISASTER ASSISTANCE; FACTORS CONSIDERED WHEN EVALUATING A GOVERNOR'S REQUEST FOR A MAJOR DISASTER DECLARATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would establish the factors that FEMA takes into consideration when evaluating a Governor's request for a major disaster declaration under the Stafford Act.

Timetable:

Action	Date	FR Cite
NPRM	01/26/99	64 FR 3910
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Stahlschmidt, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4066
Fax: 202 646-4060
Email: patricia.stahlschmidt@fema.gov

RIN: 3067–AC94

3637. • NATIONAL FLOOD INSURANCE PROGRAM; REVISION OF APPENDIX B TO 44 CFR 62

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This rule revises appendix B to 44 CFR 62, the financial control plan for business written under the Write-Your-Own Program of the National Flood Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Jr., Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3522
Fax: 202 646-4327

RIN: 3067–AC95

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Completed Actions

3638. • NATIONAL FLOOD INSURANCE PROGRAM; INSURANCE COVERAGE AND RATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This rule would increase the premiums flood insurance policyholders pay for "Pre-FIRM" buildings in coastal high hazard areas.

Timetable:

Action	Date	FR Cite
NPRM	01/26/99	64 FR 3909
Final Action	03/17/99	64 FR 13115
Final Action Effective	05/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Jr., Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3522
Fax: 202 646-4327

RIN: 3067–AC96

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federal register

Monday
April 26, 1999

Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Semiannual Regulatory Agenda

AGENCY: Federal Mediation and Conciliation Service (FMCS).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Federal Mediation and Conciliation Service's (FMCS) regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that FMCS expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of FMCS' current and future regulatory activities.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Jane A. Lorber, General Counsel, Office of the General Counsel, Federal Mediation and Conciliation Service, at (202) 606-5444. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, has a similar agenda requirement (5 U.S.C. 602). Under the law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Vella Traynham,

Deputy Director, FMCS.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Prerule Stage

3639. PUBLIC INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552 et seq

CFR Citation: 29 CFR 1401 (Revision)

Legal Deadline: None

Abstract: The proposed revision to FMCS' Public Information regulations is intended to incorporate the recent Amendments to the Freedom of Information Act into FMCS' portion of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	
ANPRM Comment Period End	08/00/99	
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Jane Lorber, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427
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RIN: 3076–AA06

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federal register

Monday
April 26, 1999

Part XXVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 105, 300, 301, 302, 303, and 304

48 CFR Ch. 5

April 1999 Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since October 1998. This agenda was developed under the guidelines in an Office of Management and Budget memorandum dated January 8, 1999. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated.

FOR FURTHER INFORMATION CONTACT: Sharon A. Kiser, Federal Acquisition Policy Division, (202) 501-4755.

Dated: February 17, 1999.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3640	Nondiscrimination on the Basis of Sex and Education for Individuals Receiving or Benefiting from Federal Financial Assistance	3090-AG58
3641	Federal Advisory Committee Management	3090-AG49
3642	Annual Real Property Inventories	3090-AG55
3643	Federal Property Management Regulations, Part 101-17, Assignment and Utilization of Space	3090-AG31
3644	Federal Property Management Regulations, Part 101-20, Management of Buildings and Grounds	3090-AG32
3645	Federal Property Management Regulations, Part 101-21, Federal Buildings Fund	3090-AG33
3646	Increase Smoke Development Rating	3090-AG69

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3647	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3090-AE32
3648	Reissuance of the General Services Administration Acquisition Regulation (GSAR)	3090-AE90
3649	Federal Property Management Regulations, Part 101-16, Governmentwide Real Property Policy	3090-AF95
3650	Relocation of FIRMR Provisions Relating To Use of Government Telephone Systems and GSA Services and Assistance	3090-AG03
3651	Motor Vehicle Management	3090-AG12
3652	Negotiation Procedures for Acquisition of Leasehold Interests in Real Property; CHGE 79	3090-AG70
3653	Donation Requirements for Firearms	3090-AG80
3654	The Composition of the Evaluation Board for Architect-Engineer Procurements	3090-AG82
3655	Federal Property and Administrative Services Regulation	3090-AG83
3656	Guidelines for Making Purchase or Lease Determinations and Use of Private Inspection, Testing, and Grading Services	3090-AG84
3657	Excess Personal Property Reporting Requirements	3090-AG85
3658	FTR Amendment; Airline Contract City-Pair Fares, Property Management Services, and Technical Corrections	3090-AG87
3659	Travel and Relocation Expense Test Programs	3090-AG88
3660	FTR Amendment; Relocation Income Tax Allowance Tax Tables	3090-AG91
3661	FTR Amendment; Mandatory Use of the Government Contractor- Issued Individually Billed Charge Card	3090-AG92
3662	FTR Amendment; Relocation Allowances	3090-AG93
3663	FTR Amendment; Income Tax Reimbursement Allowance	3090-AG94
3664	Utilization and Disposal of Real Property	3090-AG39

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3665	FTR Amendment (Unassigned); Acceptance of Payment From a Non-Federal Source for Travel Expenses	3090-AE19
3666	Criteria for Reporting Excess Personal Property	3090-AF39

GSA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3667	Relocation of FIRMR Provisions Relating to GSA's Role in Records Management	3090-AG02
3668	Donation of Federal Surplus Personal Property to Nonprofit Providers of Assistance for Impoverished Families and Individuals	3090-AG63
3669	User Fees; Network Registration Services	3090-AG79
3670	Streamlining Administration of Federal Supply Service (FSS) Multiple Award Schedule (MAS) Contracts	3090-AG81
3671	Location of Federal Facilities in Urban Areas	3090-AF94
3672	Federal Building Fund, Billing Procedures for Reimbursable Charges	3090-AG35
3673	Utilization and Disposal of Real Property	3090-AG53

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3674	FTR Interim Rule 6, Last Move Home Benefits for Certain Individuals	3090-AF63
3675	Federal Travel Regulations	3090-AG11
3676	Disposals of Surplus Real Property for Housing Assistance (PL 105-50)	3090-AG60
3677	FTR Amendment 74—1998 Edition; Use of Commercial Transportation, Fly America Act	3090-AG73
3678	FTR Amendment 76—1998 Edition; Payment of Expenses Connected with the Death of Certain Employees	3090-AG76
3679	Donations to Service Educational Activities	3090-AG77
3680	FTR Amendment 75-1998 Edition; General and Temporary Duty Allowances (CONUS Maximum Per Diem Rates)	3090-AG86
3681	FTR Amendment 78—1998 Edition; Privately Owned Automobile Mileage Reimbursement	3090-AG89
3682	FTR Amendment 77 - 1998 Edition; Maximum Per Diem Rates (Great Neck, NY and Fort Worth, TX)	3090-AG90
3683	Public Availability of Agency Records and Informational Materials	3090-AG78

GENERAL SERVICES ADMINISTRATION (GSA)

Proposed Rule Stage

OFFICE OF GENERAL COUNSEL

3640. NONDISCRIMINATION ON THE BASIS OF SEX AND EDUCATION FOR INDIVIDUALS RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-6

Legal Deadline: None

Abstract: This rule enforces title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of the sex and education of an individual receiving or benefiting from Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James M. Taylor, Acting Associate Administrator, Office of Equal Employment Opportunity, General Services Administration, Washington, DC 20405
Phone: 202 501-3852

RIN: 3090–AG58

OFFICE OF GOVERNMENTWIDE POLICY

3641. FEDERAL ADVISORY COMMITTEE MANAGEMENT

Priority: Other Significant

Legal Authority: 5 USC app; EO 12024

CFR Citation: 41 CFR 101-6

Legal Deadline: None

Abstract: GSA is revising its regulations which implement its responsibilities under the Federal Advisory Committee Act. These regulations have not been revised since 1989 and have become outdated as a result of significant decisions issued by the Supreme Court and other Federal Courts. In addition, the revised issuance is expected to provide more comprehensive and effective guidance for agency personnel in their attempts to involve the public in Federal decisionmaking consistent with the principles contained in the Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/97	62 FR 31550
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James L. Dean, Director, Committee Mgt. Secretariat (MC), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 273-3565
Fax: 202 273-3559

GSA

Proposed Rule Stage

Email: james.dean@gsa.gov

RIN: 3090–AG49

3642. ANNUAL REAL PROPERTY INVENTORIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-3

Legal Deadline: None

Abstract: This rulemaking, rewritten in the plain language format, updates the content of FPMR part 101-3, Annual Real Property Inventories.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Div. (MPR), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-1737

RIN: 3090–AG55

PUBLIC BUILDINGS SERVICE

3643. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-17, ASSIGNMENT AND UTILIZATION OF SPACE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: This proposed rule revises the methods by which GSA-controlled space is identified and measured, eliminates the specific physical description of the components of standard level alterations, and substitutes budget guidelines for alterations, thereby providing tenant agencies flexibility in designing space to meet their mission needs. It also introduces new guidelines for establishing the funding responsibilities of both GSA and tenant agencies associated with moves. The regulation also revises coverage related to location of Federal facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pamela M. Wessling, Assistant Commissioner, Office of Portfolio Management (PT), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0638
Fax: 202 501-3421
Email: pamela.wessling@gsa.gov

RIN: 3090–AG31

3644. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-20, MANAGEMENT OF BUILDINGS AND GROUNDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: New procedures for establishing rent charges were recently developed as part of GSA's reinvention efforts. This proposed rule revises part 101-20 to support the implementation of GSA's new space and related services pricing practices included in part 101-21.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry Singer, Director, Business Guidance and Practices Division, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-1447
Fax: 202 501-3296
Email: henry.singer@gsa.gov

RIN: 3090–AG32

3645. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-21, FEDERAL BUILDINGS FUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-21

Legal Deadline: None

Abstract: Part 101-21 of the FPMR prescribes policies and procedures applicable to the furnishing of, and charges for, space and services by GSA in Government-owned and leased buildings. New procedures for establishing these charges were recently developed as part of GSA's reinvention efforts. The purpose of this proposed rule is to implement these new procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pamela M. Wessling, Assistant Commissioner, Office of Portfolio Management (PT), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0638
Fax: 202 501-3421
Email: pamela.wessling@gsa.gov

RIN: 3090–AG33

3646. INCREASE SMOKE DEVELOPMENT RATING

Priority: Other Significant

Legal Authority: 40 USC 486(c)

GSA

Proposed Rule Stage

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: This proposed rule will amend the Federal Property Management Regulations to increase the allowable smoke development rating to 450 and eliminate the flame resistant requirement. The increased smoke development rating will bring this requirement into agreement with the three model building codes and the Life Safety Code as well as the proposed International Building Code.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stewart Levy, Senior Fire Engineer, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-4077
Fax: 202 501-3296
Email: stewart.levy@gsa.gov

RIN: 3090–AG69

GENERAL SERVICES ADMINISTRATION (GSA)

Final Rule Stage

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3647. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 41 CFR 101-8.3

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes this regulation to implement the above-cited law. This regulation would amend GSA's regulation for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Program Manager, Office of Equal Employment Opportunity, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-0767

RIN: 3090–AE32

OFFICE OF GOVERNMENTWIDE POLICY

3648. REISSUANCE OF THE GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501 to 570

Legal Deadline: None

Abstract: GSA plans to publish those aspects of the GSAR for public comment that have a significant cost or administrative impact on contractors or offerors, or significant effect beyond the internal operating procedures of the agency. After consideration of public comments, the entire regulation will be reissued in final form. The regulation will redefine the objectives of the procurement system and its regulatory base, establish very narrow standards for the scope and nature of the regulation, and reduce the overall volume of the regulation by at least 50 percent. The General Services Administration (GSA) plans to revise and reissue chapter 5, 48 CFR, in its entirety. The reissuance will represent the culmination of the Total Quality Management project to review GSA's acquisition regulation/directive system.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Sectors Affected: All

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AE90

3649. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-16, GOVERNMENTWIDE REAL PROPERTY POLICY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-16

Legal Deadline: None

Abstract: This rulemaking describes the current real property policies applicable to GSA and Federal agencies to whom GSA real property operations have been delegated. The policies contained in this final rule have been separated from their procedural components and reflect the way that real property operations are currently conducted.

GSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42444
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Div. (MPR), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1737
Fax: 202 219-0104

RIN: 3090–AF95

3650. RELOCATION OF FIRMR PROVISIONS RELATING TO USE OF GOVERNMENT TELEPHONE SYSTEMS AND GSA SERVICES AND ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 1424(b)

CFR Citation: 41 CFR 101-35

Legal Deadline: None

Abstract: This final rule reestablishes Federal Information Resources Management Regulations telecommunications provisions in the Federal Property Management Regulations. This action was caused by the passage of the Information Technology Management Reform Act of 1996 which effectively disestablished the FIRMR on 8/8/96.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41003
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James Cademartori, Configuration Manager, Federal Telecommunications Service, General Services Administration, 7980 Boeing Court, Third Floor, Vienna, VA 22182-3988
Phone: 703 760-7545
Fax: 703 760-7583
Email: james.cademartori@gsa.gov

RIN: 3090–AG03

3651. MOTOR VEHICLE MANAGEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-38

Legal Deadline: None

Abstract: This regulation changes 41 CFR 101-38 to remove the obsolete passenger vehicle classification "IA-Small," changes the requirement to acquire compact or smaller sedans to midsize or smaller sedans, and removes the certification requirement to GSA when sedans larger than compact are acquired by Federal agencies. FPMR 101-38 will further be changed to address the new fleet credit card, remove references to the obsolete fleet credit cards (SFs 149 and 149A), and reference the Home-to-Work vehicle use provisions in 41 CFR 101-6.4. The regulation will also address the seat belt use provisions in EO 13043 and revised light truck fuel economy standards issued by the Secretary of Transportation.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Federal Vehicle Policy Div. (MTV), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 208-7631
Fax: 202 501-6742
Email: bill.rivers@gsa.gov

RIN: 3090–AG12

3652. NEGOTIATION PROCEDURES FOR ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY; CHGE 79

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503; 48 CFR 515; 48 CFR 552; 48 CFR 570

Legal Deadline: None

Abstract: This final rule will amend the GSAR to update negotiation procedures for acquisitions of leasehold interests in real property. The changes made GSAR part 570 consistent, where applicable, with Federal Acquisition Regulation part 15, as revised by Federal Acquisition Circular 97-02. The changes also updated GSAR provisions and clauses applicable to acquisitions of leasehold interests in real property.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/16/98	63 FR 8843
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG70

3653. DONATION REQUIREMENTS FOR FIREARMS

Priority: Other Significant

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-42

Legal Deadline: None

Abstract: This final rule makes Federal surplus firearms available to State and local law enforcement activities through the State Agencies for Surplus Property.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 68136
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

GSA

Final Rule Stage

Agency Contact: Martha Caswell, Director, Personal Property Mgt. Policy Div., General Services Administration, Office of Governmentwide Policy (MTP), 1800 F Street NW., Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-6742
Email: martha.caswell@gsa.gov

RIN: 3090–AG80

3654. THE COMPOSITION OF THE EVALUATION BOARD FOR ARCHITECT-ENGINEER PROCUREMENTS

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 536

Legal Deadline: None

Abstract: This final rule amends the General Services Administration Acquisition Regulation to clarify the Federal Acquisition Regulation language regarding the qualifications of individuals to be appointed to the evaluation board for architect-engineer procurements.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG82

3655. FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101; 41 CFR 102

Legal Deadline: None

Abstract: This interim rule establishes the Federal Property and Administrative Services Regulation (FPASR) as a replacement for the Federal Property Management Regulations (FPMR). The FPASR is written in plain language and appears in a question and answer format to make the regulation easier to understand and use. Non-regulatory material that had been in the FPMR will not be in the FPASR. Such material will become available in customer service guides issued by responsible offices within GSA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rodney P. Lantier, Director, Regulatory Secretariat (MVRS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-2647
Fax: 202 501-4067

RIN: 3090–AG83

3656. • GUIDELINES FOR MAKING PURCHASE OR LEASE DETERMINATIONS AND USE OF PRIVATE INSPECTION, TESTING, AND GRADING SERVICES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-25; 41 CFR 101-31; 41 CFR 101-38

Legal Deadline: None

Abstract: This rulemaking removes FPMR 101-25.5 and 101-31.2 because adequate coverage on these issues is contained in the FAR.

Timetable:

Action	Date	FR Cite
NPRM	02/10/99	64 FR 6589
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, Regulatory Secretariat (MVRS), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-2164
Fax: 202 501-4067
Email: shari.kiser@gsa.gov

RIN: 3090–AG84

3657. • EXCESS PERSONAL PROPERTY REPORTING REQUIREMENTS

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43

Legal Deadline: None

Abstract: This rulemaking replaces FPMR amendment H-198, published in the Federal Register on July 27, 1998 (63 FR 40048) which has been withdrawn. This rule sets forth condition codes which would apply to all reports of excess personal property under FPMR part 101-43.

Timetable:

Action	Date	FR Cite
NPRM	12/29/98	63 FR 71686
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Martha Caswell, Director, Personal Property Management Policy Division (MTP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828
Email: martha.caswell@gsa.gov

RIN: 3090–AG85

GSA

Final Rule Stage

3658. • FTR AMENDMENT; AIRLINE CONTRACT CITY-PAIR FARES, PROPERTY MANAGEMENT SERVICES, AND TECHNICAL CORRECTIONS

Priority: Other Significant

Legal Authority: 5 USC 5707; 40 USC 486(c); 49 USC 40118; 5 USC 5738; 20 USC 905(a); EO 11609

CFR Citation: 41 CFR 301; 41 CFR 302

Legal Deadline: None

Abstract: This amendment establishes policy consistent with technical corrections made by Pub. L. 105-264 (Oct. 19, 1998), Travel and Transportation Reform Act of 1998. This rule also adds an exception to use of an airline contract city-pair fare consistent with GSA's contract with the airlines.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG87

3659. • TRAVEL AND RELOCATION EXPENSE TEST PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC 5707; 5 USC 5710; 5 USC 5738 to 5739

CFR Citation: 41 CFR 300

Legal Deadline: None

Abstract: This rulemaking amends the FTR to add authority to implement sections of the Travel and Transportation Reform Act of 1998 (Pub. L. 105-264, Oct. 19, 1998) which authorizes Federal agencies to conduct travel and relocation expense test programs when determined by the Administrator of General Services to be in the best interest of the Government.

Timetable:

Action	Date	FR Cite
NPRM	02/10/99	64 FR 6590
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
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Email: bill.rivers@gsa.gov

RIN: 3090–AG88

3660. • FTR AMENDMENT; RELOCATION INCOME TAX ALLOWANCE TAX TABLES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5738; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR 1971 to 1975 Comp., p. 586

CFR Citation: 41 CFR 302

Legal Deadline: None

Abstract: Section 5724b of Title 5, United States Code, provides for reimbursement of substantially all Federal, State, and local income taxes incurred by a transferred Federal employee on taxable moving expense reimbursements. The Federal, State, and Puerto Rico tax tables for calculating RIT allowance payments are updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
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Email: bill.rivers@gsa.gov

RIN: 3090–AG91

3661. • FTR AMENDMENT; MANDATORY USE OF THE GOVERNMENT CONTRACTOR-ISSUED INDIVIDUALLY BILLED CHARGE CARD

Priority: Other Significant

Legal Authority: 5 USC 5701

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This final rule amends the FTR to add policy for (1) mandatory use of the Government contractor-issued individually billed charge card for official travel and exemptions to the mandatory use of the card; (2) requiring reimbursement to employees within 30 days after submission of a proper travel voucher; and (3) collection of undisputed delinquent amounts owned to the contractor issuing the Government contractor- issued individually billed charge card. This amendment is pursuant to Pub. L. 105-264 (Oct. 19, 1998), Travel and Transportation Reform Act of 1998.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG92

3662. • FTR AMENDMENT; RELOCATION ALLOWANCES

Priority: Other Significant

Legal Authority: 5 USC 5738; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp., p. 586

CFR Citation: 41 CFR 302

Legal Deadline: None

Abstract: This final rule amends the FTR to revise chapter 302 regarding relocation allowances in the plain language style of regulation writing. This style of writing is a continuation of GSA's effort to make the FTR easier to understand and use.

GSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division(MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
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RIN: 3090–AG93

3663. • FTR AMENDMENT; INCOME TAX REIMBURSEMENT ALLOWANCE

Priority: Other Significant

Legal Authority: 5 USC 5706c

CFR Citation: 41 CFR 302

Legal Deadline: None

Abstract: This final rule amends the FTR to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements per Pub. L. 105-264 (Oct. 19, 1998), Travel and Transportation Reform Act of 1998.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG94

PUBLIC BUILDINGS SERVICE

3664. UTILIZATION AND DISPOSAL OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47

Legal Deadline: None

Abstract: This final rule amends the FPMR regarding responsibilities of Federal agencies with respect to appraisals. This amendment helps to ensure the reliability of the estimate of fair market value by allowing the appraiser to consider the effect of historic covenants on fair market values for properties eligible for inclusion or that are on the National Register of Historic Places. Additionally, this revision adds a provision for appraisal confidentiality.

Timetable:

Action	Date	FR Cite
NPRM	05/05/97	62 FR 24383
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Q. Martin, Director, Redeployment Services Div. (PRD), Public Buildings Service, General Services Administration, Washington, DC 20405
Phone: 202 501-0084
Fax: 202 501-2520

RIN: 3090–AG39

GENERAL SERVICES ADMINISTRATION (GSA)

Long-Term Actions

OFFICE OF GOVERNMENTWIDE POLICY

3665. FTR AMENDMENT (UNASSIGNED); ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 304-1

Legal Deadline: None

Abstract: This amendment finalizes the interim rule governing the acceptance of payment for travel, subsistence, and related expenses from a non-Federal source. This rule supersedes Interim Rule 4, published at 57 FR 53283, November 9, 1992, with request for comments. The economic impact of this amendment is favorable on all Federal agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/92	57 FR 53283
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Trans. Mgt. Pol. Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AE19

3666. CRITERIA FOR REPORTING EXCESS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-42; 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45

Legal Deadline: None

Abstract: This regulation establishes revised criteria for reporting excess personal property to GSA, redefines terms, and updates addresses associated with reporting excess personal property. There should be no significant costs to the public as a result of this regulatory action. The rule will provide Federal agencies relief

from certain reporting requirements and make identification of property which is to be reported easier for both the reporting and requisitioning activities.

This regulation was erroneously reported as completed in the April 1997 Unified Agenda. It remains in effect through January 15, 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/15/97	62 FR 2022
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha Caswell, Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828

RIN: 3090–AF39

3667. RELOCATION OF FIRMR PROVISIONS RELATING TO GSA'S ROLE IN RECORDS MANAGEMENT

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11

Legal Deadline: None

Abstract: This rule establishes certain Federal Information Resources Management Regulations provisions regarding records management in the Federal Property Management Regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41000
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stewart Randall, Program Analyst, IT Management Practices Division (MKM), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-4469
Fax: 202 501-8467
Email: stewart.randall@gsa.gov

RIN: 3090–AG02

3668. DONATION OF FEDERAL SURPLUS PERSONAL PROPERTY TO NONPROFIT PROVIDERS OF ASSISTANCE FOR IMPOVERISHED FAMILIES AND INDIVIDUALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-44

Legal Deadline: None

Abstract: This regulation establishes policies and procedures for donating Federal surplus personal property to nonprofit organizations that provide food, clothing, housing, or other assistance to families or individuals with incomes below the poverty line.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/98	63 FR 8351
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha Caswell, Director, Pers. Prop. Mgt. Pol. Div. (MTP), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-6742

RIN: 3090–AG63

3669. USER FEES; NETWORK REGISTRATION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 31 USC 9701

CFR Citation: 41 CFR 101-37

Legal Deadline: None

Abstract: This rulemaking establishes fees for registration services provided by GSA to Government agencies and commercial organizations in order to provide and maintain unique global names and network addresses for X.400 Private Management Domains and the X.500 Organizational Units, Administrative Authority Identifiers, and Internet .GOV Domain names.

Timetable:

Action	Date	FR Cite
NPRM	12/01/98	63 FR 66102
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jack Finley, Director, Center for Electronic Messaging Technologies (TOT), General Services Administration, Washington, DC 20405
Phone: 202 501-3932
Email: jack.finley@fed.gov

RIN: 3090–AG79

3670. STREAMLINING ADMINISTRATION OF FEDERAL SUPPLY SERVICE (FSS) MULTIPLE AWARD SCHEDULE (MAS) CONTRACTS

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking will update the use of "maximum order" in GSAR 552.238-6, Price Reductions; remove the requirement for contracting officer pre-approval of item deletions under Federal Supply Service (FSS) Multiple Award Schedules (MAS); revise the requirement that FSS MAS contractors publish paper copies of modifications to their MAS price lists within 15 days to instead allow electronic posting of modifications and quarterly publication of paper supplements; and allow procuring contracting officers in FSS to authorize administrative contracting officers to issue show cause or cure notices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/99	64 FR 4788
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3441

RIN: 3090–AG81

GSA — Long-Term Actions

PUBLIC BUILDINGS SERVICE

3671. LOCATION OF FEDERAL FACILITIES IN URBAN AREAS

Priority: Other Significant

Legal Authority: 40 USC 481; 40 USC 6017; 7 USC 1924; 40 USC 490; 40 USC 531; 42 USC 3601; 42 USC 4321; 42 USC 4201; EO 12072; EO 12411; EO 12512; PL 100-678; EO 13005; EO 13006

CFR Citation: 41 CFR 101-l7

Legal Deadline: None

Abstract: This rulemaking provides new guidance in Federal Property Management Regulations (FPMR) 101-17 concerning the location of Federal facilities in urban areas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/07/96	61 FR 9110
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry Singer, Director, Business Guidance and Practices Division, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-1447
Fax: 202 501-3296
Email: henry.singer@gsa.gov

RIN: 3090–AF94

3672. FEDERAL BUILDING FUND, BILLING PROCEDURES FOR REIMBURSABLE CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-21

Legal Deadline: None

Abstract: This rulemaking modifies the Public Buildings Service (PBS) pricing practices for Reimbursable Work Authorizations (RWA). Currently, customer agencies are billed the actual costs for supplies, materials, labor, contract costs, and overhead related to the RWA. This interim final rule established a fixed price for an RWA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/22/97	62 FR 27972
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry Singer, Director, Business Guidance and Practices Division, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-1447
Fax: 202 501-3296
Email: henry.singer@gsa.gov

RIN: 3090–AG35

3673. UTILIZATION AND DISPOSAL OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47

Legal Deadline: None

Abstract: This rulemaking amends the FPMR pertaining to the disposal of Government-owned improvements and improvements that agencies may dispose of through abandonment, destruction, or donation without prior GSA concurrence. It also bases the determination on a current estimate of value instead of original acquisition cost.

Timetable:

Action	Date	FR Cite
NPRM	06/20/97	62 FR 33580
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Q. Martin, Director, Redeployment Services Div. (PRD), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0084
Fax: 202 501-2520

RIN: 3090–AG53

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

3674. FTR INTERIM RULE 6, LAST MOVE HOME BENEFITS FOR CERTAIN INDIVIDUALS

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 301-1; 41 CFR 301-3; 41 CFR 302-1; 41 CFR 302-6; 41 CFR 303

Completed:

Reason	Date	FR Cite
Incorporated into RIN 3090-AG93	02/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AF63

3675. FEDERAL TRAVEL REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 41 CFR 301-1; 41 CFR 301-11; 41 CFR 301-15; 41 CFR 302-1; 41 CFR 302-10

Completed:

Reason	Date	FR Cite
See RINs 3090-AG25, AG44, AG92	02/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 501-1538

GSA

Completed Actions

Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG11

3676. DISPOSALS OF SURPLUS REAL PROPERTY FOR HOUSING ASSISTANCE (PL 105-50)

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-47

Completed:

Reason	Date	FR Cite
Final Action	02/04/99	64 FR 5615

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Carol Braegelmann
Phone: 202 208-3992

RIN: 3090–AG60

3677. FTR AMENDMENT 74—1998 EDITION; USE OF COMMERCIAL TRANSPORTATION, FLY AMERICA ACT

Priority: Other Significant

CFR Citation: 41 CFR 301

Completed:

Reason	Date	FR Cite
Final Action	11/13/98	63 FR 63417
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jim Harte
Phone: 202 501-0483
Fax: 202 501-0349

RIN: 3090–AG73

3678. FTR AMENDMENT 76—1998 EDITION; PAYMENT OF EXPENSES CONNECTED WITH THE DEATH OF CERTAIN EMPLOYEES

Priority: Other Significant

CFR Citation: 41 CFR 300; 41 CFR 303

Completed:

Reason	Date	FR Cite
Final Action	01/14/99	64 FR 2432
Final Action Effective	03/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jim Harte
Phone: 202 501-0483
Fax: 202 501-0349
Email: jim.harte@gsa.gov

RIN: 3090–AG76

3679. DONATIONS TO SERVICE EDUCATIONAL ACTIVITIES

Priority: Other Significant

CFR Citation: 41 CFR 101-44

Completed:

Reason	Date	FR Cite
Final Action	10/21/98	63 FR 56089
Final Action Effective	12/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Audrey L. Harris
Phone: 202 501-0712
Fax: 202 501-6742

RIN: 3090–AG77

3680. • FTR AMENDMENT 75-1998 EDITION; GENERAL AND TEMPORARY DUTY ALLOWANCES (CONUS MAXIMUM PER DIEM RATES)

Priority: Other Significant

Legal Authority: 5 USC 5707

CFR Citation: 41 CFR 300; 41 CFR 301

Legal Deadline: None

Abstract: This regulation prescribes maximum per diem rates for the continental United States (CONUS).

Timetable:

Action	Date	FR Cite
Final Action	12/02/98	63 FR 66674
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG86

3681. • FTR AMENDMENT 78—1998 EDITION; PRIVATELY OWNED AUTOMOBILE MILEAGE REIMBURSEMENT

Priority: Other Significant

Legal Authority: 5 USC 5707; 40 USC 486(c)

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This final rule decreases the mileage reimbursement rate for use of a privately owned automobile on official Government travel.

Timetable:

Action	Date	FR Cite
Final Action	03/31/99	64 FR 15630

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG89

3682. • FTR AMENDMENT 77 - 1998 EDITION; MAXIMUM PER DIEM RATES (GREAT NECK, NY AND FORT WORTH, TX)

Priority: Other Significant

Legal Authority: 5 USC 5702

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This final rule amends the FTR to revise the maximum per diem rates prescribed in FTR Amendment 75 (63 FR 66674, Dec. 2, 1998). Great Neck, NY, is added and Fort Worth, TX, is increased.

Timetable:

Action	Date	FR Cite
Final Action	02/10/99	64 FR 6549
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy

GSA

Completed Actions

Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG90

3683. PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

Priority: Other Significant

CFR Citation: 41 CFR 105-60

Completed:

Reason	Date	FR Cite
Final Action	10/23/98	63 FR 56839

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Cunningham
Phone: 202 501-3415

RIN: 3090–AG78

[FR Doc. 99-4902 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part XXVII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of the knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Director, Management Assessment Division (Code JM), Office of Management Systems and Facilities, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: June Flickinger, (202) 358-2876.

SUPPLEMENTARY INFORMATION: OMB guidelines dated January 8, 1999, "April 1999 Unified Agenda of Federal Regulatory and Deregulatory Actions," and Executive Order 12866 "Regulatory Planning and Review" require a regulatory agenda of those regulations under development and review be published in the **Federal Register** each April and October.

Dated: February 17, 1999.

Danalee Green,

Director, Management Assessment Division.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3684	Availability of Agency Records to Members of the Public	2700-AC36

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3685	Meritorious Claims Arising from the Conduct of NASA Functions under 42 USC 2473(c)(13)	2700-AC35

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3686	Cross-Waiver of Liability	2700-AB51

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3687	Tracking and Data Relay Satellite System; Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3688	Miscellaneous Administrative Changes to the NASA Federal Acquisition Regulation Supplement (NFS)	2700-AC33
3689	Grant and Cooperative Agreement Handbook	2700-AC34

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3690	Uniform Administrative Requirements for Grants and Cooperative Agreements	2700-AA95
3691	New Restrictions on Lobbying	2700-AB06

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Prerule Stage

3684. • AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

Priority: Other Significant

Legal Authority: PL 104-231

CFR Citation: 14 CFR 1206 Revision

Legal Deadline: None

Abstract: New amendment to NASA's regulation implementing the Freedom of Information Act (FOIA) required by the Electronic FOIA of 1996 as amended by PL 104-231. The amendments made include changing the processing time from 10 working days to 20 working days; to include electronic searches, as well as manual searches; the addition of FOIA e-mail addresses for all of the NASA FOIA Offices; the establishment of electronic FOIA reading room on all of NASA's FOIA home pages on the Internet; an increase in the schedule of fees; and to address and explain how records of NASA will be reviewed and released when the records are maintained in electronic format.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia M. Riep-Dice, Freedom of Information Act Officer, National Aeronautics and Space Administration, National Aeronautics and Space, Administration, Washington, DC 20546
Phone: 202 358-1764
Fax: 202 358-4338
Email: priepdic@hq.nasa.gov

RIN: 2700–AC36

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Proposed Rule Stage

3685. MERITORIOUS CLAIMS ARISING FROM THE CONDUCT OF NASA FUNCTIONS UNDER 42 USC 2473(C)(13)

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 42 USC 2473; 31 USC 3104

CFR Citation: 14 CFR 1267

Legal Deadline: None

Abstract: This proposed rule would establish NASA policies and procedures for meritorious claims, other than Federal Tort Claims Act claims or claims otherwise covered under 14 CFR part 1261, arising from the conduct of NASA functions and pursuant to 203(c)(13) of the National Aeronautics and Space Act of 1958, as amended (42 USC 2473(c)(13)).

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Bernard J. Roan, Senior Attorney, National Aeronautics and Space Administration, Office of Associate General Counsel, (Contracts), Washington, DC 20546
Phone: 202 358-2072
Fax: 202 358-4355

RIN: 2700–AC35

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Final Rule Stage

3686. CROSS-WAIVER OF LIABILITY

Priority: Info./Admin./Other

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1266

Legal Deadline: None

Abstract: This provides technical amendments to implement the cross-waiver of liability provision of the intergovernmental agreement of the International Space Station and to refine and clarify contractual cross-waivers in NASA agreements involving launch services.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jay Steptoe, Deputy Assoc. General Counsel, National Aeronautics and Space Administration, Office of General Counsel, Code G, Washington, DC 20546
Phone: 202 358-2432

RIN: 2700–AB51

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Long-Term Actions

3687. TRACKING AND DATA RELAY SATELLITE SYSTEM; USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 14 CFR 1215

Timetable:

Action	Date	FR Cite
Final Action for CY 1993 Rate Change	05/15/92	57 FR 20746
Final Action for CY 1994 Rate Change	09/28/93	58 FR 50515
Final Action for CY 1995 Rate Change	10/31/94	59 FR 54385
Final Action for CY 1997 Rate Change	05/15/95	60 FR 25843
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph LaCurto
Phone: 202 358-2044

RIN: 2700–AA29

3688. MISCELLANEOUS ADMINISTRATIVE CHANGES TO THE NASA FEDERAL ACQUISITION REGULATION SUPPLEMENT (NFS)

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 1801 to 1872

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Tom O'Toole
Phone: 202 358-0478
Fax: 202 358-3220
Email: thomas.otoole@hq.nasa.gov

RIN: 2700–AC33

3689. GRANT AND COOPERATIVE AGREEMENT HANDBOOK

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 14 CFR 1260; 14 CFR 1274

Timetable:

Action	Date	FR Cite
ANPRM	12/29/98	63 FR 71609
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Steven Miley
Phone: 202 358-0493

RIN: 2700–AC34

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Completed Actions

3690. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Priority: Info./Admin./Other

CFR Citation: 14 CFR 1270

Completed:

Reason	Date	FR Cite
Withdrawn	01/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Steve Miley
Phone: 202 358-0493

RIN: 2700–AA95

3691. NEW RESTRICTIONS ON LOBBYING

Priority: Info./Admin./Other

CFR Citation: 14 CFR 1271

Completed:

Reason	Date	FR Cite
Withdrawn	01/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Paul Brundage
Phone: 202 358-0481

RIN: 2700–AB06

[FR Doc. 99-4903 Filed 04-23-99; 8:45 am]
BILLING CODE 7510-01-F

federal register

Monday
April 26, 1999

Part XXVIII

National Archives and Records Administration

Semiannual Regulatory Agenda

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Archives and Records Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since October 1998. This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, dated January 8, 1999. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to participate in the rulemaking process. Some of the regulations listed in the agenda are considered significant under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Nancy Allard, Regulatory Contact, Policy and Communications Staff, (301) 713-7360, ext. 226.

Dated: February 19, 1999.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3692	NARA Facilities	3095-AA06
3693	Creation and Maintenance of Federal Records	3095-AA61
3694	Records Declassification	3095-AA67
3695	NARA Freedom of Information Act Regulations	3095-AA72
3696	Limitations on Testimony by NARA Employees	3095-AA75
3697	Collection of Debts Owed to the United States by NARA Employees	3095-AA76
3698	Agency Records Centers	3095-AA81
3699	Storage of Federal Records	3095-AA86
3700	NARA Reproduction Fees	3095-AA87
3701	Standards for Agency Recordkeeping Requirements	3095-AA88
3702	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance	3095-AA89
3703	Storage Standards for Archival Records	3095-AA90

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3704	Researcher Registration and Research Room Procedures	3095-AA69
3705	Debt Collection	3095-AA77
3706	Presidential Library Facilities	3095-AA82
3707	Nixon Presidential Materials	3095-AA91

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3708	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	3095-AA78

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3709	Records Services Centers	3095-AA27
3710	NARA Privacy Act	3095-AA66

NARA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3711	Storage of Nonpaper Records and Artifacts	3095-AA80

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Proposed Rule Stage

3692. NARA FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2110

CFR Citation: 36 CFR 1280

Legal Deadline: None

Abstract: NARA is updating its regulations on the use of NARA facilities and property to remove obsolete material and to clarify existing provisions, and to add provisions for the new facility in College Park, Maryland (Archives II).

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Final Action	07/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA06

3693. CREATION AND MAINTENANCE OF FEDERAL RECORDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3301; 44 USC 3314

CFR Citation: 36 CFR 1222

Legal Deadline: None

Abstract: This regulation expands the guidance on personal papers and adds a requirement for agencies to protect against the removal of Federal records by issuing written procedures for removal of nonrecord and personal materials.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael Miller, Director, Modern Records Programs, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7110
Fax: 301 713-6850
Email: michael.miller@arch2.nara.gov

RIN: 3095–AA61

3694. RECORDS DECLASSIFICATION

Priority: Other Significant

Legal Authority: 44 USC 2101 to 2118; 5 USC 552; EO 12600; EO 12958; EO 12356

CFR Citation: 36 CFR 1254; 36 CFR 1260

Legal Deadline: None

Abstract: NARA plans to revise its regulations on mandatory review and declassification of its archival holdings to reflect the provision of EO 12958, Classified National Security Information. The revised regulations will affect Federal agencies as well as the public.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	06/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA67

3695. NARA FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 44 USC 2101 to 2118; EO 12600

CFR Citation: 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its FOIA regulations governing NARA-created (administrative) records and records accessioned into the National Archives of the United States to reflect organizational and procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Runkel, Deputy General Counsel, National

NARA

Proposed Rule Stage

Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA72

3696. LIMITATIONS ON TESTIMONY BY NARA EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 44 USC 2104; 44 USC 2108 to 2109; 44 USC 2112; 44 USC 2201 to 2207

CFR Citation: 36 CFR 1201; 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures with respect to testimony by NARA staff and/or production of information and records in legal proceedings not involving the United States or NARA as a named party.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA75

3697. COLLECTION OF DEBTS OWED TO THE UNITED STATES BY NARA EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719; PL 104-134, sec 31001 Debt Collection Improvement Act of 1996

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for handling collection, compromise, and terminations of debts owed to the United States by NARA employees, including by salary and administrative offset. The regulation implements the Federal Claims Collection Act as amended by the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Final Action	07/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA76

3698. AGENCY RECORDS CENTERS

Priority: Other Significant

Legal Authority: 44 USC 2104 (a); 44 USC 3103

CFR Citation: 36 CFR 1228.222

Legal Deadline: None

Abstract: NARA is revising the regulations on facility standards for records centers in 36 CFR part 1228, subpart I. The current regulation cites obsolete industry standards and has not been revised since the early 1980's. This rulemaking action revises standards for environmental conditions, with particular emphasis on storage areas for archival material; incorporates standards for the storage of nontextual records; prescribes new physical security and fire detection and suppression standards; and establishes environmental and security requirements for new agency records centers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Final Action	08/00/99	
Final Action Effective	10/01/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road (NPOL), College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA81

3699. STORAGE OF FEDERAL RECORDS

Priority: Other Significant

Legal Authority: 44 USC 2907; 44 USC 3103

CFR Citation: 36 CFR 1220; 36 CFR 1222; 36 CFR 1228; 36 CFR 1236

Legal Deadline: None

Abstract: NARA's records center program will convert to a totally reimbursable program on October 1, 1999 (FY 2000). This regulation will update records management regulations relating to the storage of Federal records.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Final Action	08/00/99	
Final Action Effective	10/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA86

3700. NARA REPRODUCTION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104 (a); 44 USC 2118 (c)

NARA

Proposed Rule Stage

CFR Citation: 36 CFR 1258

Legal Deadline: None

Abstract: NARA proposes to revise its schedule of fees for reproduction of records created by other Federal agencies and transferred to the custody of the Archivist of the United States; donated historical materials; Presidential records and Presidential historical materials transferred to the custody of the Archivist; and records filed with the Office of the Federal Register. The fees are being changed to reflect current costs of providing the reproductions. This rule will affect members of the public and Federal agencies who order reproductions from NARA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kathryn Yeager, Management and Program Analyst, National Archives and Records Administration, 8601 Adelphi Road (NAT), College Park, MD 20740-6001
Phone: 301 713-6405
Fax: 301 713-7311
Email: kathryn.yeager@arch2.nara.gov

RIN: 3095–AA87

3701. STANDARDS FOR AGENCY RECORDKEEPING REQUIREMENTS

Priority: Other Significant

Legal Authority: 44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3303

CFR Citation: 36 CFR 1220; 36 CFR 1222; 36 CFR 1228; 36 CFR 1234

Legal Deadline: None

Abstract: This regulation expands the current emphasis on electronic mail records to records created with all office automation applications, clarifies the records management requirements for electronic records maintained by contractors, and addresses records generated or received using newer electronic technologies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Michael Miller, Director, Modern Records Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7110
Fax: 301 713-6805
Email: michael.miller@arch2.nara.gov

RIN: 3095–AA88

3702. • NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1681; 20 USC 1682; 20 USC 1683; 20 USC 1685; 20 USC 1686; 20 USC 1687; 20 USC 1688

CFR Citation: 36 CFR 1211

Legal Deadline: None

Abstract: NARA is joining with other Federal agencies to issue a common rule that provides the enforcement of Title IX of the Education Amendments of 1972, as amended. Title IX prohibits discrimination on the basis of sex in education programs or activities that receive Federal financial assistance. The regulation will apply to NARA's National Historical Publications and Records Commission grant programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road, NPOL, Room 4100, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA89

3703. • STORAGE STANDARDS FOR ARCHIVAL RECORDS

Priority: Other Significant

Legal Authority: 44 USC 2104 (a); 44 USC 2110

CFR Citation: 36 CFR 1290

Legal Deadline: None

Abstract: NARA intends to issue regulations that specify the preservation requirements for storage areas where archival records are stored. These requirements will address environmental controls, and other measures needed to ensure the long-term preservation of archival records. This regulation will apply to new NARA archival facilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Final Action	07/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road, NPOL, Room 4100, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA90

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Final Rule Stage

3704. RESEARCHER REGISTRATION AND RESEARCH ROOM PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2111

CFR Citation: 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its regulations to lower the age at which a student may be granted full research privileges from 16 years old to 14 years old; to extend the valid period of researcher cards issued by the automated application system from 2 years to 3 years; to revise the list of equipment permitted in research rooms; and to revise provisions relating to private microfilming projects.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 42776
NPRM Comment Period End	10/13/98	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, Policy & Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA69

3705. DEBT COLLECTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719; PL 104-134, sec 31001

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for implementing the Debt Collection Improvement Act of 1996. It provides for the collection, compromise, or termination of debts owed to the United States and NARA by adopting the Federal Claims Collection Standards promulgated by the General Accounting Office and Department of Justice.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA77

3706. PRESIDENTIAL LIBRARY FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2112

CFR Citation: 36 CFR 1281

Legal Deadline: None

Abstract: NARA is issuing regulations relating to the acceptance of a Presidential library facility by the Archivist of the United States from a non-Federal group or institution. The regulations will address requirements in the Presidential Libraries Act of 1986 for architectural and design standards, certifications, and reporting to Congress.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45203
NPRM Comment Period End	10/26/98	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA82

3707. • NIXON PRESIDENTIAL MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104; 44 USC 2111

CFR Citation: 36 CFR 1275

Legal Deadline: None

Abstract: The regulation is being amended to reflect the decision of the U.S. Court of Appeals that the private and personal segments of the original tape recordings must be returned to the Nixon estate.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road, NPOL, Room 4100, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA91

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Long-Term Actions

3708. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 44 USC 2104 (a)

CFR Citation: 36 CFR 1207; 36 CFR 1210

Legal Deadline: None

Abstract: This interim final revision to the agencies' grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and the agencies' codification of Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," is issued to implement the Single Audit Act Amendments of 1996 and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The agencies' rules provide uniform fiscal and administrative requirements applicable to all types of grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and other non-profit organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Policy and Communications Staff (NPOL), 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270

RIN: 3095–AA78

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Completed Actions

3709. RECORDS SERVICES CENTERS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 1228

Completed:

Reason	Date	FR Cite
Withdrawn - Provisions Incorporated In RIN 3095-AA86	02/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gregory A. Pomicter
Phone: 301 713-7210
Fax: 301 713-7205
Email: gregory.pomicter@arch2.nara.gov

RIN: 3095–AA27

3710. NARA PRIVACY ACT

Priority: Info./Admin./Other

CFR Citation: 36 CFR 1202

Completed:

Reason	Date	FR Cite
Final Action	12/21/98	63 FR 70342
Final Action Effective	01/21/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Runkel
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA66

3711. STORAGE OF NONPAPER RECORDS AND ARTIFACTS

Priority: Other Significant

CFR Citation: 36 CFR 1228; 36 CFR 1230; 36 CFR 1232; 36 CFR 1234

Completed:

Reason	Date	FR Cite
Withdrawn - Determined unnecessary to issue a regulation	02/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA80

[FR Doc. 99-4904 Filed 04-23-99; 8:45 am]
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Part XXIX

National Foundation on the Arts and the Humanities

Institute of Museum and Library Services

Semiannual Regulatory Agenda

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

45 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act, the Institute of Museum and Library Services publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Mamie Bittner, Director, Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 606-8536.

Mamie Bittner,

Director of Public and Legislative Affairs.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS) — Long-Term Actions

3712. NATIONAL LEADERSHIP DEMONSTRATION GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 262, Museum and Library Services Act

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: Regulations will be published to provide guidelines on IMLS National Demonstration Leadership Grants to enhance quality of library services nationwide and to provide coordination between museums and libraries.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mamie Bittner, Director of Legislative and Public Affairs, Institute of Museum and Library Services, Room 510, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-4648
TDD: 202 606-8636
Fax: 202 606-8591
Email: mbittner@imls.fed.us

RIN: 3137–AA08

[FR Doc. 99-7570 Filed 04-23-99; 8:45 am]

BILLING CODE 7036-01-F

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Part XXX

National Foundation on the Arts and the Humanities

National Endowment for the Arts

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Regulatory Agenda

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605) and Executive Order 12866, the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Hope O'Keeffe, Acting General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

L. Hope O'Keeffe,

Acting General Counsel.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Long-Term Actions

3713. COLLECTION OF CLAIMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 45 CFR 1150

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
TDD: 202 682-5496
Fax: 202 682-5572
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA01

3714. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
TDD: 202 682-5496
Fax: 202 682-5572
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA08

3715. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES; EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 45 CFR 1140

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	
ANPRM Comment Period End	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
TDD: 202 682-5496
Fax: 202 682-5572
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA10

3716. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	
ANPRM Comment Period End	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3135–AA13

3717. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

CFR Citation: 45 CFR 1155

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
TDD: 202 682-5496
Fax: 202 682-5572
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA15

[FR Doc. 99-7013 Filed 04-23-99; 8:45 am]
BILLING CODE 7537-01-F

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Part XXXI

National Foundation on the Arts and the Humanities

National Endowment for the Humanities

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, the National Endowment for the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

Juan E. Mestas,

Deputy Chairman, National Endowment for the Humanities.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Long-Term Actions

3718. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1110; 45 CFR 1173

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Willie McGhee
Phone: 202 606-8233
TDD: 202 606-8282
Fax: 202 606-8243
Email: wmcghee@neh.fed.us

RIN: 3136–AA11

3719. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 1171

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Willie McGhee
Phone: 202 606-8233
TDD: 202 606-8282
Fax: 202 606-8243
Email: wmcghee@neh.fed.us

RIN: 3136–AA14

3720. POST-EMPLOYMENT RESTRICTIONS FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3136–AA16

3721. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1115

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Nancy E. Weiss
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3136–AA18

3722. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 8501

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3136–AA21

3723. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3136–AA22

[FR Doc. 99-5644 Filed 04-23-99; 8:45 am]

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Part XXXII

National Science Foundation

Semiannual Regulatory Agenda

NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Regulatory Agenda

AGENCY: National Science Foundation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Science Foundation is publishing its April 1999 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review" (3 CFR 1993 Comp., p. 638), the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Office of Management and Budget Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions (January 8, 1999).

FOR FURTHER INFORMATION CONTACT: For further information on a particular item, call or write the individual identified as agency contact. General comments or inquiries about this agenda may be directed to Leslie Crawford, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306-1060.

Dated: February 19, 1999.

Leslie Crawford,

Legal Analyst.

NATIONAL SCIENCE FOUNDATION (NSF) — Proposed Rule Stage

3724. AVAILABILITY OF RECORDS AND INFORMATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 45 CFR 612

Legal Deadline: Other, Statutory, October 2, 1997.
Other deadline is for compliance with new Electronics Freedom of Information Act.

Abstract: The agency is updating rules to incorporate changes made by Electronic FOI Amendments of 1996.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: D. Matthew Powell, Assistant General Counsel, National Science Foundation, Office of the General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA31

3725. PRIVACY ACT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a Privacy Act

CFR Citation: 45 CFR 613

Legal Deadline: None

Abstract: This is a review of agency Privacy Act regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: D. Matthew Powell, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230
Phone: 703 306-1060

RIN: 3145–AA32

NATIONAL SCIENCE FOUNDATION (NSF) — Long-Term Actions

3726. ENVIRONMENTAL ASSESSMENT PROCEDURES FOR PROPOSED NATIONAL SCIENCE FOUNDATION ACTIONS IN ANTARCTICA

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 641

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA33

3727. ENFORCEMENT AND HEARING PROCEDURES; TOURISM GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 673

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30438
NPRM Comment Period End	08/03/98	
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 306-1060
Fax: 703 306-0149
Email: aeisenst@nsf.gov

RIN: 3145–AA36

NATIONAL SCIENCE FOUNDATION (NSF)

Completed Actions

3728. CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 670

Completed:

Reason	Date	FR Cite
Final Action	09/21/98	63 FR 50164
Final Action Effective	11/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA34

[FR Doc. 99-7014 Filed 04-23-99; 8:45 am]
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Part XXXIII

Office of Federal Housing Enterprise Oversight

Semiannual Regulatory Agenda

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO)

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

12 CFR Ch. XVII

Semiannual Agenda

AGENCY: Office of Federal Housing Enterprise Oversight.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552, (202) 414-3800.

Dated: February 25, 1999.

Mark A. Kinsey,

Acting Director, Office of Federal Housing Enterprise Oversight.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Proposed Rule Stage

3729. RISK-BASED CAPITAL

Priority: Other Significant

Legal Authority: 12 USC 4611; 12 USC 4513(b)(1)

CFR Citation: 12 CFR 1750

Legal Deadline: Final, Statutory, December 1, 1994.

Abstract: Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 et seq., requires the Office of Federal Housing Enterprise Oversight (OFHEO) to develop a risk-based capital regulation for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises). To discharge this responsibility, OFHEO must develop and implement a risk-based capital "stress test" that determines the amount of capital that an Enterprise must hold in order to maintain positive capital throughout a hypothetical 10-year period of economic stress (stress period). A notice of proposed rulemaking was published on June 11, 1996, with a 90-day comment period. The comment period was later extended to October 24, 1996. The proposed regulation includes a discussion of the basis for identifying the benchmark loss experience which will provide the basis for calculating credit losses during the stress period. The proposed regulation also discusses OFHEO's housing price index which is proposed to be used to calculate the seasoning of mortgages. A subsequent second proposed regulation will include the details of all other aspects of the risk-based capital stress test.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/95	60 FR 7468
ANPRM Comment Period End	05/09/95	
NPRM	06/11/96	61 FR 29592
NPRM Comment Period Extended	08/19/96	61 FR 42824
NPRM Comment Period Extended to	10/24/96	
Second NPRM	04/13/99	64 FR 18083
Second NPRM Comment Period End	08/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552
Phone: 202 414-3800

RIN: 2550–AA02

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Final Rule Stage

3730. • DEBT COLLECTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 26 USC 6402(d); 31 USC 3701 to 3720A; 4 CFR ch II; 5 CFR 550, subpart K

CFR Citation: 12 CFR 1785

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) will issue an interim regulation that sets forth procedures for use by OFHEO in collecting debts owed to the Federal Government. The interim regulation includes procedures for collection of debts through salary offset, administrative offset, and tax refund offset. OFHEO will request comments on the interim regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Isabella W. Sammons, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552
Phone: 202 414-3790

RIN: 2550–AA07

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Long-Term Actions

3731. RULES OF PRACTICE AND PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 12 USC 4513(b)(1); 12 USC 4631 to 4641; 28 USC 2641 note

CFR Citation: 12 CFR 1780

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a final regulation setting forth rules of practice and procedure related to OFHEO's statutory enforcement provisions found in subtitle C of title XIII of the Housing and Community Development Act of 1992, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 et seq. The final regulation describes procedures for answering notices of charges, filing and service of papers, the designation of a presiding officer, the conduct of formal hearings, access to agency process of parties afforded a hearing, and various time requirements. In addition, the final regulation sets rules of practice, including debarment, suspension and other sanctions, for persons who practice before OFHEO.

Timetable:

Action	Date	FR Cite
NPRM	09/24/98	63 FR 51031
NPRM Comment Period End	12/23/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA04

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Completed Actions

3732. RELEASING INFORMATION

Priority: Other Significant

Legal Authority: 5 USC 552; 12 USC 4513; 12 USC 4522; 12 USC 4526; 12 USC 4639; EO 12600

CFR Citation: 12 CFR 1710

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a final rule to set forth the basic policies of OFHEO regarding information it maintains and the procedures for obtaining access to such information. The rule contains regulations of OFHEO implementing the Freedom of Information Act (FOIA) and establishes a schedule of fees that will be charged for the processing of document requests under the FOIA. In addition, the rule sets forth procedures to be followed with respect to testimony and the production of documents in legal proceedings in which OFHEO is not a named party as well as procedures for service of process upon OFHEO in any legal proceeding.

Timetable:

Action	Date	FR Cite
NPRM	05/11/95	60 FR 25162
NPRM Comment Period End	07/10/95	
Final Action	12/23/98	63 FR 70999
Final Action Effective	01/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA01

[FR Doc. 99-5645 Filed 04-23-99; 8:45 am]

BILLING CODE 4220-SS-F

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Part XXXIV

Office of Government Ethics

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, April 1999

AGENCY: Office of Government Ethics.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from April 1, 1999, through March 31, 2000. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12866 "Regulatory Planning and Review" and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this April 1999 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-related. Furthermore, the Office of Government Ethics rulemakings are not included in The Regulatory Plan.

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; telephone: 202-208-8000, extension 1110; TDD: 202-208-8025; FAX: 202-208-8037.

Approved: February 18, 1999.

Stephen D. Potts,

Director, Office of Government Ethics.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3733	Office of Government Ethics Gift Acceptance Authority and Organizational Update	3209-AA21
3734	Privacy Act Rules of the Office of Government Ethics	3209-AA18
3735	Office of Government Ethics Procedures on Requests for Testimony by OGE Employees and Documentary Production Relating to Official Information and Records	3209-AA23
3736	Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees	3209-AA00
3737	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12
3738	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)	3209-AA09

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3739	Office of Government Ethics Electronic Freedom of Information Act Updating Amendments	3209-AA22
3740	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3741	Limitations on Outside Earned Income, Employment, and Affiliations for Certain Noncareer Employees	3209-AA13
3742	Executive Agency Ethics Training Programs	3209-AA07

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3743	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
3744	Post-Employment Conflict of Interest Restrictions	3209-AA14

OFFICE OF GOVERNMENT ETHICS (OGE)

Proposed Rule Stage

3733. OFFICE OF GOVERNMENT ETHICS GIFT ACCEPTANCE AUTHORITY AND ORGANIZATIONAL UPDATE

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2600

Legal Deadline: None

Abstract: This regulation will implement the new agency gift acceptance authority of the Office of Government Ethics as set forth in the 1996 OGE Authorization Act. In addition, various provisions of OGE's part 2600 organization and functions regulations will be updated to reflect recent changes in OGE's organizational structure. This regulation will be written in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James P. O'Sullivan, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA21

3734. PRIVACY ACT RULES OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Other Significant

Legal Authority: 5 USC 552a; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2606 (New)

Legal Deadline: None

Abstract: This proposed rule would establish for the Office of Government Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA18

3735. OFFICE OF GOVERNMENT ETHICS PROCEDURES ON REQUESTS FOR TESTIMONY BY OGE EMPLOYEES AND DOCUMENTARY PRODUCTION RELATING TO OFFICIAL INFORMATION AND RECORDS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2608 (New)

Legal Deadline: None

Abstract: This proposed rule would set forth proposed OGE procedures for responding to subpoenas and other requests and demands for testimony by OGE employees and documentary production relating to official OGE information and records (Touhy regulations).

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Karen Kimball, Attorney Advisor, Office of Government Ethics, 1201 New York Avenue NW., Suite 500, Washington, DC 20005-3917
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RIN: 3209–AA23

3736. FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agency-specific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees. This regulation also has a subpart dealing with certificates of divestiture.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendment to Interim Final Rule	09/01/93	58 FR 46096
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Proposed Amendments -- Certificates of No New Interests for Confidential Filers	01/15/97	62 FR 2048
Final Amendment -- Certificates of No New Interests for Confidential Filers	06/24/97	62 FR 33972
Updating Amendment to Part 2634	09/17/97	62 FR 48746
Clarifying Amendment to Section 2634.906	03/31/98	63 FR 15273

OGE

Proposed Rule Stage

Action	Date	FR Cite
Minor Amdt. to Part 2634 (Transfer of Inactive in Lieu of Honoraria Charitable Paymts. Reporting)	08/12/98	63 FR 43067
Paperwork Revisions to Appendixes A, B, and C	11/02/98	63 FR 58619
Technical Amendments to Part 2634	12/18/98	63 FR 69991
Technical Corrections to Part 2634	01/14/99	64 FR 2421
Proposed Gifts Reporting Waiver Amendments	04/00/99	
Inflation Adjustments to Civil Monetary Penalties as Reflected in Part 2634	08/00/99	
Technical Amendments to Categories of Value Reporting	10/00/99	
Certificates of Divestiture Revisions (Subpart J)	12/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA00

3737. INTERPRETATION OF 18 USC 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, USC, prohibiting the private supplementation of the Government salary of executive branch officers and employees. This regulation is being written in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Arielle H. Grill, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA12

3738. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 USC 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 18 USC 208; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2640

Legal Deadline: None

Abstract: This regulation (a proposed rule was published in 1995) interprets section 208(a) of title 18, USC, which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 USC 208(b)). It also lists and describes interests considered too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 USC 208(b)(2). Such interests are exempt from the restrictions of 18 USC 208(a), generally requiring disqualification. The regulation also provides guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 USC 208(a) pursuant to 18 USC 208(b)(1). In addition, guidance is provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 USC 208(b)(3). A separate interim final rule, published in 1995 exempting certain financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits from the general prohibition in section 208(a), was incorporated in the overall final rule.

Timetable:

Action	Date	FR Cite
Govt. Interests and Social Security or Veterans' Benefits Exemptions	08/28/95	60 FR 44706
NPRM	09/11/95	60 FR 47208
NPRM Comment Period End	11/13/95	
Final Rule	12/18/96	61 FR 66830
Correction	01/09/97	62 FR 1361
Final Rule Effective	01/17/97	
Correction	04/29/97	62 FR 23127
Proposed Exemption Amendments	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA09

OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

3739. OFFICE OF GOVERNMENT ETHICS ELECTRONIC FREEDOM OF INFORMATION ACT UPDATING AMENDMENTS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2604

Legal Deadline: None

Abstract: This proposed amendatory rule would implement for OGE the changes made to the Freedom of Information Act (FOIA) by the 1996 Electronic FOIA Amendments as well as propose certain other updating revisions to the OGE FOIA regulation.

Timetable:

Action	Date	FR Cite
Proposed Amendments to OGE FOIA Regulation	12/03/98	63 FR 66769
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, 1201 New York Avenue NW., Suite 500, Washington, DC 20005-3917
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RIN: 3209–AA22

3740. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: Regulation implementing certain provisions of Executive Order 12674 on Principles of Ethical Conduct, as modified by EO 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Effective February 3, 1993, this ethical conduct standards regulation generally superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued thereunder. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period was in effect until November 1, 1996, or until individual concerned agencies issued supplemental regulations, with Office of Government Ethics concurrence.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR 31415
Minor Correction to One Citation	10/03/95	60 FR 51667
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	12/27/95	60 FR 66857
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	08/07/96	61 FR 40950
Final Rule on Widely Attended Gatherings	08/20/96	61 FR 42965
Correction to Final Rule on Widely Attended Gatherings	09/16/96	61 FR 48733
Interim Rule on Gifts From Political Organizations	09/27/96	61 FR 50689
Final Rule on Gifts From Political Organizations	03/17/97	62 FR 12531
Updating Amendments to Part 2635	09/17/97	62 FR 48746
Proposed Amendments Re: Gifts	08/04/98	63 FR 41476
Further Minor Proposed Amendments to Part 2635 / Seeking Employment and Outside Activities	08/26/98	63 FR 45415
Amendments to Subpart B Gifts From Outside Sources	12/18/98	63 FR 69992
Technical Corrections to Part 2635	01/14/99	64 FR 2421
Final Amendments to Part 2635 / Seeking Employment and Outside Activities	03/17/99	64 FR 13063
Further Minor Amendments to Part 2635 / Seeking Employment (Subpart F)	04/00/99	
Interim Rule on Travel Expenses for Certain Unofficial Teaching, Speaking, and Writing	07/00/99	
NPRM on Participation in Professional Associations	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA04

3741. LIMITATIONS ON OUTSIDE EARNED INCOME, EMPLOYMENT, AND AFFILIATIONS FOR CERTAIN NONCAREER EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2636

Legal Deadline: None

Abstract: The regulation had, in pertinent part, implemented, effective January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees and hence determined to be eviscerated as to all other Federal employees by the Office of Legal Counsel of the Justice Department). In addition, the regulation continues to implement the limitation on outside employment as provided in the 1989 Ethics Reform Act revisions to the

OGE — **Final Rule Stage**

Ethics in Government Act, as amended. The regulation has now been amended in light of the above-noted litigation and other pertinent developments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Removal of Subpart B of Part 2636	08/12/98	63 FR 43067
Technical Corrections to Part 2636	01/14/99	64 FR 2421
Inflation Adjustment to Civil Monetary Penalty As Reflected in Part 2636	08/00/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA13

3742. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under sections 301(b) and (c) of E.O. 12674, as modified by E.O. 12731. The Office of Government Ethics is rewriting the entire training regulation in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612
Interim Amendments to Liberalize Certain Training Requirements	03/16/94	59 FR 12145
Interim Final Rule Comment Period End	05/16/94	59 FR 12145
Interim Amendments To Refine Certain Training Requirements	03/12/97	62 FR 11307
Correction to Interim Training Reg. Amendments	03/19/97	62 FR 13213
Correction to Interim Training Reg. Amendments	03/27/97	62 FR 14737
Interim Amendments To Refine Certain Training Requirements Comment Period End	04/11/97	62 FR 11307
Most Interim Amendments To Refine Certain Training Requirements Effective	06/10/97	62 FR 13213
Interim Amendment to Refine Certain Training Requirements and Rewrite Regulation in "Plain Language"	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA07

OFFICE OF GOVERNMENT ETHICS (OGE) — Long-Term Actions

3743. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with section 201(a) and 301(a) of EO 12674, as modified by EO 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding certain financial interests and designation of departmental subunits, which are needed for certain agencies to round out the executive branchwide ethical standards for employees of particular departments and agencies.

OGE

Long-Term Actions

Timetable:

Action	Date	FR Cite
FTC Employees (5 CFR Ch. XLVII) Interim Final Rule	05/27/93	58 FR 30695
OPIC Employees (5 CFR Ch. XXXIII) Interim Final Rule	06/17/93	58 FR 33319
Treasury Employees (5 CFR Ch. XXI) NPRM	08/03/93	58 FR 41193
ICC Employees (5 CFR Ch. XL) Final Rule	08/06/93	58 FR 41989
PRC Employees (5 CFR Ch. XLVI) Final Rule	08/12/93	58 FR 42839
DoD Employees (5 CFR Ch. XXVI) Interim Final Rule	09/10/93	58 FR 47619
CFTC Employees (5 CFR Ch. XLI) Final Rule	10/12/93	58 FR 52637
IAF Employees (5 CFR Ch. LXIII) Final Rule	01/27/94	59 FR 3771
5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/94	59 FR 4779
NRC Employees (5 CFR Ch. XLVIII) Final Rule	04/13/94	59 FR 17457
FDIC Employees (5 CFR Ch. XXII) NPRM	07/12/94	59 FR 35480
NASA Employees (5 CFR Ch. LIX)	09/28/94	59 FR 49335
FRTIB Employees (5 CFR Ch. LXXXIV)	10/06/94	59 FR 50816
Education Employees (5 CFR Ch. LIII)	01/30/95	60 FR 5816
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/95	60 FR 6390
OMB Employees (5 CFR Ch. LXXVII) Final Rule	03/07/95	60 FR 12396
USPS Employees (5 CFR Ch. LX)	03/27/95	60 FR 15700
Eximbank Employees (5 CFR Ch. LII)	04/07/95	60 FR 17625
FDIC Employees (5 CFR Ch. XXII)	04/25/95	60 FR 20171
Treasury Employees (5 CFR Ch. XXI) Final Rule	05/05/95	60 FR 22249
FCA Employees (5 CFR Ch. XXXI)	06/12/95	60 FR 30778
FCSIC Employees (5 CFR Ch. XXX)	06/12/95	60 FR 30773
HUD Employees (5 CFR Ch. LXV)	06/30/95	60 FR 34420
OPIC Employees (5 CFR Ch. XXXIII) Final Rule	07/21/95	60 FR 37555
USPS Employees (5 CFR Ch. LX) Final Rule	09/11/95	60 FR 47240
FCA Employees (5 CFR Ch. XXXI) Final Rule	09/13/95	60 FR 47453
OGE Concurrence in FCA Employees (5 CFR Ch. XXXI) Final Rule	12/06/95	60 FR 62319
BGFRS Employees (5 CFR Ch. LVIII)	12/19/95	60 FR 65249
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	12/27/95	60 FR 66857
FCSIC Employees (5 CFR Ch. XXX) Final Rule	02/06/96	61 FR 4349
EEOC Employees (5 CFR Ch. LXII)	02/26/96	61 FR 7065
TVA Employees (15 CFR Ch. LXIX)	05/06/96	61 FR 20117
DOE Employees (5 CFR Ch. XXIII)	07/05/96	61 FR 35085
FDIC Employees (5 CFR Ch. XXII) Amendment	07/09/96	61 FR 35915
HUD Employees (5 CFR Ch. LXV)	07/09/96	61 FR 36246
OPM Employees (5 CFR Ch. XXXV)	07/16/96	61 FR 36993
HHS Employees (5 CFR Ch. XLV)	07/30/96	61 FR 39756
DOT Employees (5 CFR Ch. L)	07/31/96	61 FR 39901
FMSHRC Employees (5 CFR Ch. LXXIV)	07/31/96	61 FR 39869
EPA Employees (5 CFR Ch. LIV)	08/02/96	61 FR 40500
NARA Employees (5 CFR Ch. LXVI)	08/05/96	61 FR 40505
Further Additional (5 CFR 2635.403(a) and 2635.803) Grace Period Extension (by OGE)	08/07/96	61 FR 40950
FERC Employees (5 CFR Ch. XXIV)	08/23/96	61 FR 43411
BGFRS Employees (5 CFR Ch. LVIII) Final Rule	10/16/96	61 FR 53827
FCC Employees (5 CFR Ch. XXIX)	10/31/96	61 FR 56109
GSA Employees (5 CFR Ch. LVII)	11/01/96	61 FR 56399
DOL Employees (5 CFR Ch. XLII)	11/06/96	61 FR 57281
DOJ Employees (5 CFR Ch. XXVIII)	11/25/96	61 FR 59811
NSF Employees (5 CFR Ch. XLIII)	11/25/96	61 FR 59815
CPSC Employees (5 CFR Ch. LXXI)	12/13/96	61 FR 65457
FDIC Employees (5 CFR Ch. XXII) Amendment	01/27/97	62 FR 3771
NLRB Employees (5 CFR Ch. LXI)	02/12/97	62 FR 6445
DOJ Employees (5 CFR Ch. XXVIII) Final Rule	05/02/97	62 FR 23941
DOJ Employees (5 CFR Ch. XXVIII) Final Rule Correction	06/11/97	62 FR 31865
OPM Employees (5 CFR Ch. XXXV) Interim Rule Correction	06/17/97	62 FR 32859
EEOC Employees (5 CFR Ch. LXII) Final Rule	07/08/97	62 FR 36447
OPM Employees (5 CFR Ch. XXXV) Final Rule	08/11/97	62 FR 42897
DOI Employees (5 CFR Ch. XXV)	10/16/97	62 FR 53713
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/15/98	63 FR 18501
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/24/98	63 FR 20447
DOI Employees (5 CFR Ch. XXV) Final Rule	06/24/98	63 FR 34258
FTC Employees (5 CFR Ch. XLVII) Final Rule Amendments	08/12/98	63 FR 43069
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA15

3744. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 207; EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-

OGE

Long-Term Actions

Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Government Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current post-employment law regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/91	56 FR 3951
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-Employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	06/21/93	58 FR 33755
Technical Amendment to Authority Citation of 5 CFR Part 2637	12/30/93	58 FR 69176
Technical Amendments to Interim Final Rule	07/07/94	59 FR 34755
Exempted Senior Employee and Agency Separate Component Designation Update	05/16/97	62 FR 26915
Correction: Post-Employment Reg. Update	06/11/97	62 FR 31865
Agency Separate Component Designation Update	02/05/99	64 FR 5709
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Julia Loring Eirinberg, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA14

[FR Doc. 99-4905 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part XXXV

Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III and 48 CFR Ch. 99

Federal Regulations; OMB Circulars, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for OMB Circulars, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards Board (CASB) Cost Accounting Standards.

OMB Circulars and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order No. 12866 (October 4, 1993; 58 FR 51735). OMB policy guidelines are issued under authority derived from several sources including: Subtitles I, II, and V of title 31, United States Code; Executive Order No. 11541; and other specific authority as cited. OMB Circulars and OFPP Policy Letters communicate guidance, instructions, and information of a continuing nature to executive branch agencies. As such, most OMB Circulars and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of public interest, they are generally published in the **Federal Register** in both proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "prerule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 422. Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Clarence C. Crawford, (202) 395-3060, at the above address.

Clarence C. Crawford,

Associate Director for Administration.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3745	Revision of OMB Circular A-127 To Implement the Federal Financial Management Improvement Act (FFMIA) and To Reflect Updated Financial Management Policies	0348-AB46
3746	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AB36
3747	Cost Accounting Standards Administration	0348-AB25
3748	Subcontracting Plans	0348-AB31

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3749	Revision to OMB Circular No. A-125, "Prompt Pay"	0348-AB47
3750	Revision to OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	0348-AB49
3751	Procedures for Reconciling and Appealing Address List Information for the 2000 Census of Population and Housing	0348-AB48

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3752	Cost Principles for Educational Institutions (OMB Circular A-21)	0348-AB39
3753	Extending the Coverage of Energy Statistical Programs Under the Federal Statistical Confidentiality Order	0348-AB45

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Proposed Rule Stage

3745. REVISION OF OMB CIRCULAR A-127 TO IMPLEMENT THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA) AND TO REFLECT UPDATED FINANCIAL MANAGEMENT POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; PL 104-208, Federal Financial Mgmt. Improvement Act of 1996; 31 USC 3111

CFR Citation: None

Legal Deadline: None

Abstract: The Federal Financial Management Improvement Act (FFMIA) of 1996 requires that financial management systems at each Federal agency covered by the CFOs Act, substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The revisions are to incorporate this and other policy updates since the 1993 issuance of the last revision to A-127.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/00/99	
Final Revision	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jean Holcombe, Office of Federal Financial Management, Office of Management and Budget, 725 17th Street NW., Room 6025, NEOB, Washington, DC 20503
Phone: 202 395-5048
Fax: 202 395-3952
Email: jholcombe@omb.eop.gov

RIN: 0348–AB46

3746. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular A-130, Management of Federal Information Resources, establishes policies for the management of Federal information resources and provides certain procedures and analytical guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Information Technology Management Reform Act (ITMRA) of 1996, P.L. 104-106. This proposed revision is consistent with the National Performance Reviews reinventing government efforts.

Timetable:

Action	Date	FR Cite
Proposed Revision	05/00/99	
Final Revision	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jasmeet Seehra, Senior Policy Analyst, Office of Management and Budget, Room 10236, NEOB, 725 17th Street NW., Washington, DC 20503
Phone: 202 395-3785
Fax: 202 395-5167

RIN: 0348–AB36

3747. COST ACCOUNTING STANDARDS ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The Cost Accounting Standards Board is proposing to revise its rules concerning cost accounting practice changes.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/95	60 FR 20252
ANPRM Comment Period End	07/10/95	
NPRM	09/18/96	61 FR 49196
NPRM Comment Period End	12/02/96	
NPRM Comment Period Extended to 09/12/97	07/14/97	62 FR 37654
NPRM Comment Period Extended to 08/00/99	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rudolph Schuhbauer, Project Director, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254

RIN: 0348–AB25

3748. SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637(d); PL 103-355, sec 1091; 41 USC 405

CFR Citation: 48 CFR 19.7

Legal Deadline: None

Abstract: OFPP proposes to issue a Policy Letter that covers subcontracting plans. This Policy Letter supersedes and cancels OFPP Policy Letter 80-1, 80-2, Supplement No. 1 to 80-2, and 80-4.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter	09/26/95	60 FR 49644
Second Proposed Policy Letter	05/00/99	
Final Policy Letter	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda Williams, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3302
Fax: 202 395-5105

RIN: 0348–AB31

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Final Rule Stage

3749. REVISION TO OMB CIRCULAR NO. A-125, "PROMPT PAY"

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC ch 39

CFR Citation: None

Legal Deadline: None

Abstract: Circular A-125 prescribes policy for the Executive departments and agencies in paying for goods and services pursuant to the Prompt Payment Act of 1982 as amended. These revisions will incorporate provisions of the Debt Collection Improvement Act of 1996. This proposed revision is consistent with the National Performance Reviews reinventing government efforts.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/17/98	63 FR 33000
Comments Due	08/17/98	
Final Revision	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Tom Stack, Office of Management and Budget, 725 17th Street NW., Room 9201, NEOB, Washington, DC 20503
Phone: 202 395-1457
Fax: 202 395-6888
Email: tstack@omb.eop.gov

RIN: 0348–AB47

3750. • REVISION TO OMB CIRCULAR A-110, UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-277

CFR Citation: None

Legal Deadline: None

Abstract: Pub. L. 105-277 directs OMB to amend section 36 of OMB Circular A-110 to require Federal awarding agencies "to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act."

Timetable:

Action	Date	FR Cite
Proposed Revision	02/04/99	64 FR 5684
Final Revision	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: F. James Cherney, Office of Management and Budget, 725 17th Street NW., Room 6025 NEOB, Washington, DC 20503
Phone: 202 395-3993
Email: frederick_j._cherney@omb.eop.gov

RIN: 0348–AB49

3751. PROCEDURES FOR RECONCILING AND APPEALING ADDRESS LIST INFORMATION FOR THE 2000 CENSUS OF POPULATION AND HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-430 The Census Address List Improvement Act of 1994

CFR Citation: None

Legal Deadline: None

Abstract: The Office of Management and Budget and the Bureau of the Census are providing notice of the final procedures and schedule for developing the address information that will be used in conducting Census 2000.

Timetable:

Action	Date	FR Cite
Proposed	03/27/98	63 FR 14978
Final Notice	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, Tribal, Federal

Agency Contact: Katherine Wallman, Chief Statistician, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC
Phone: 202 395-3093
Fax: 202 395-7245
Email: kwallman@omb.eop.gov

RIN: 0348–AB48

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Completed Actions

3752. COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS (OMB CIRCULAR A-21)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: These revisions address benchmarks for facility costs; an alternate methodology for the recovery of utility costs; and allowance of trustee travel expenses.

Timetable:

Action	Date	FR Cite
Proposed Revision	09/10/97	62 FR 47722
Final Revision	06/01/98	63 FR 29786
Second Revision - Interim Final	06/01/98	63 FR 29786
Final Action	10/27/98	63 FR 57332

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993
Fax: 202 395-4915

RIN: 0348–AB39

3753. EXTENDING THE COVERAGE OF ENERGY STATISTICAL PROGRAMS UNDER THE FEDERAL STATISTICAL CONFIDENTIALITY ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1104(d); EO 10253; 44 USC ch 35

CFR Citation: None

Legal Deadline: None

OMB **Completed Actions**

Abstract: This proposal extends the coverage of energy statistical programs under the Federal Statistical Confidentiality Order.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/27/97	62 FR 35049
Withdrawn	03/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Katherine Wallman, Chief, Statistical Policy Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Room 10201 NEOB, Washington, DC 20503
Phone: 202 395-3093
Fax: 202 395-7245

RIN: 0348–AB45

[FR Doc. 99-9308 Filed 04-23-99; 8:45 am]
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Monday
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Part XXXVI

Office of Personnel Management

Semiannual Regulatory Agenda

OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Personnel Management (OPM) regulations are scheduled for development or review from April 1, 1999, through March 31, 2000. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: Jacquline D. Carter, (202) 606-1973.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3754	Availability of Official Information	3206-AG92

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3755	Personnel Records	3206-AH24
3756	Employment in the Excepted Service	3206-AH83
3757	Career and Career-Conditional Appointment Under Special Authorities	3206-AG90
3758	Noncompetitive Appointments of Corporation for National Service Employees	3206-AH48
3759	Noncompetitive Appointment of Former Peace Corps and Vista Volunteers	3206-AI18
3760	Probation on Initial Appointment to a Competitive Position	3206-AI47
3761	Merit Promotion and Internal Placement	3206-AI20
3762	Clarification of Various Staffing Provisions	3206-AH49
3763	Career Transition Assistance for Surplus and Displaced Federal Employees	3206-AI39
3764	Clarification of Hiring Authorities	3206-AI46
3765	Amendment to Selective Service Registration Requirements	3206-AI52
3766	Other Than Full-Time Employment (Part-Time, Seasonal, Intermittent)	3206-AI22
3767	Re-Employment Rights	3206-AI19
3768	Performance Appraisal in the Senior Executive Service	3206-AI57
3769	Demonstration Project Authority	3206-AI40
3770	Classification Appeals of General Schedule Employees	3206-AH38
3771	Official Duty Station Determinations for Pay Purposes	3206-AH84
3772	Superior Qualifications Appointments	3206-AI00
3773	Prevailing Rate Systems; Changes in Federal Wage System Survey Jobs	3206-AH81
3774	Prevailing Rate Systems; Redefinition of the Wyoming and Eastern South Dakota Appropriated Fund Wage Areas	3206-AI60
3775	Job Grading Reviews and Appeals of Federal Wage System Employees	3206-AI14
3776	Severance Pay: Miscellaneous	3206-AH12
3777	Pay Administration Under the Fair Labor Standards Act (FLSA)	3206-AI15
3778	Reemployment of Military and Civilian Retirees To Meet Exceptional Employment Needs	3206-AI32
3779	Agency Determinations on Payment of Relocation Costs	3206-AH50
3780	Miscellaneous Leave Regulations	3206-AI44
3781	Federal Equal Opportunity Recruitment Program (FEORP)	3206-AH98
3782	Disabled Veterans Affirmative Action Program (DVAAP)	3206-AH99
3783	Federal Employees' Health and Counseling Programs	3206-AI07
3784	Retirement; CSRS and FERS Amendments Relating to Health Care Professionals	3206-AG57
3785	Retirement; Credit for Military Service	3206-AG58
3786	Retirement; Determinations of Marital Status for Survivor Annuities	3206-AG60
3787	Retirement; National Guard Technicians: Adjustments to Annuity	3206-AI42
3788	Retirement; Service Credit	3206-AH37
3789	Retirement; Waiver of Military Retired Pay To Enhance Civil Service Retirement Annuity	3206-AH74
3790	Retirement; Elimination of the Hearing Requirement During Enforcement of Statutory Bar to Annuity After Conviction of Certain Offenses	3206-AH76
3791	Retirement; State Income Tax Withholding Instrumentalities	3206-AH62

OPM

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3792	Retirement; Debt Collection	3206-AE72
3793	Retirement; Court Orders Awarding Survivor Annuities; Correcting or Supplementing the First Order Dividing Marital Property	3206-AG28
3794	Retirement; FERS Elections of Coverage	3206-AG96
3795	Federal Employees' Group Life Insurance Program: Miscellaneous Changes and Clarifications	3206-AG63
3796	Federal Employees Health Benefits Program: Waiver of 5-Year Requirement for Continuing FEHB Coverage Into Retirement	3206-AI62
3797	FEHB and DoD Demonstration Project	3206-AI63
3798	Debarments, Civil Monetary Penalties, and Assessments Imposed Against Providers	3206-AD76
3799	Federal Employees' Group Life Insurance Federal Acquisition Regulation	3206-AI65
3800	Employment in the Senior Executive Service	3206-AI58

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3801	Appointment of Non-Status Employees (USERRA)	3206-AI23
3802	Excepted Service Promotion and Internal Placement	3206-AI51
3803	Time-in-Grade Restrictions	3206-AG06
3804	Promotion and Internal Placement; Accelerated Qualifications	3206-AG19
3805	Job Listings; Full Consideration of Displaced Defense Employees	3206-AF36
3806	Interagency Placement Program	3206-AI24
3807	Federal Employment Priority Consideration for DC Employees	3206-AI28
3808	Interagency Career Transition Assistance for Displaced Panama Canal Zone Employees	3206-AI56
3809	Reduction in Force Service Credit; Retention Records	3206-AI09
3810	Restoration to Duty From Military Service or Compensable Injury	3206-AG02
3811	Miscellaneous Changes in Compensation Regulations	3206-AH11
3812	Holiday and Premium Pay	3206-AH86
3813	Prevailing Rate Systems; Abolishment of Lubbock Nonappropriated Fund Wage Area	3206-AH88
3814	Prevailing Rate Systems: Abolishment of the Orlando, FL, Appropriated Fund Wage Area	3206-AI04
3815	Prevailing Rate Systems; Abolishment of Kansas City, MO, Special Wage Schedule for Printing Positions	3206-AI11
3816	Prevailing Rate Systems; Redefinition of the Orlando, FL, Appropriated Fund Wage Area	3206-AI13
3817	Prevailing Rate Systems; Environmental Differential Pay for Working at High Altitudes	3206-AI36
3818	SES Performance Awards	3206-AI59
3819	Voluntary Separation Incentive Repayment Waivers	3206-AG20
3820	Firefighter Pay	3206-AI50
3821	Pay Administration; Back Pay, Holidays, Overtime Pay for Travel, and Physicians' Comparability Allowance	3206-AI61
3822	Lump-Sum Payments for Annual Leave	3206-AF38
3823	Retention Allowances	3206-AI31
3824	Cost-of-Living Allowances in Nonforeign Areas: Survey Results	3206-AI38
3825	Emergency Leave Transfer Program	3206-AI03
3826	Family and Medical Leave	3206-AI35
3827	Retirement Coverage for DC Financial Control Board Employees	3206-AG78
3828	Retirement; Coverage—Nonappropriated Fund Instrumentalities	3206-AH57
3829	Coverage for Certain Employees of DC	3206-AI02
3830	Voluntary Early Retirement Authority	3206-AI25
3831	Retirement, Health, and Life Insurance Coverage for Certain Employees of the District of Columbia Under the District of Columbia Courts and Justice Technical Corrections Act of 1998	3206-AI55
3832	Retirement; Nuclear Materials Couriers	3206-AI66
3833	Retirement; Law Enforcement Officers and Firefighters	3206-AI41
3834	Retirement; FERS Basic Annuity	3206-AE73
3835	Federal Employees' Group Life Insurance Program: Court Orders	3206-AI49
3836	Federal Employees' Group Life Insurance Program	3206-AI54
3837	Federal Employees' Group Life Insurance Program: Life Insurance Improvements	3206-AI64
3838	Federal Employees Health Benefits Program: Payment of Premiums for Periods of Leave Without Pay or Insufficient Pay	3206-AG66
3839	Federal Employees Health Benefits Program: Contributions and Withholding	3206-AI33

OPM

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3840	Appointment, Pay, and Removal of Administrative Law Judges	3206-AI08
3841	Authorization of Solicitations During the Combined Federal Campaign	3206-AI53

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3842	Reemployment Priority List	3206-AI34
3843	Performance Management Reform	3206-AF57
3844	Suitability	3206-AC19
3845	Personnel Security and Related Programs	3206-AC21
3846	Investigations	3206-AB92
3847	Federal Employees Health Benefits Program: Effective Dates	3206-AI37

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3848	Student Educational Employment Program	3206-AH82
3849	Temporary and Term Employment	3206-AH47
3850	Taper Employment-Specific Authority for Worker Trainee	3206-AI45
3851	Moratorium on Involuntary SES Reassignments	3206-AH92
3852	Reduction in Force and Vacant Positions	3206-AH95
3853	Prevailing Rate Systems; Redefinition of the Norfolk, MA, Nonappropriated Fund Wage Area	3206-AH58
3854	Prevailing Rate Systems; Redefinition of the Marion, IN, Nonappropriated Fund Wage Area	3206-AH60
3855	Prevailing Rate Systems; Removal of Umatilla County, OR, From Spokane, WA, Nonappropriated Fund Wage Area	3206-AI10
3856	Prevailing Rate Systems; Redefinition of Philadelphia, PA, and New York, NY, Appropriated Fund Wage Areas	3206-AI30
3857	Prevailing Rate Systems; Change of Lead Agency Responsibility	3206-AI48
3858	Pay Administration; Availability Pay for Criminal Investigators	3206-AG47
3859	Hazardous Duty Pay	3206-AI29
3860	Pay Administration (General); Collection by Offset From Indebted Government Employees	3206-AH63
3861	Cost-of-Living Allowance in Nonforeign Areas: Survey Results	3206-AH07
3862	Federal Employees Health Benefits Program: Disenrollment	3206-AH61
3863	Prohibition of "Gag Clauses" in the Federal Employees Health Benefits Program	3206-AI27

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Prerule Stage

3754. AVAILABILITY OF OFFICIAL INFORMATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: The proposed rulemaking will make minor changes to subpart A of 5 CFR 294, Availability of Official Information Act. The rulemaking will provide additional information on the definition of terms used in the search and review process, update office addresses , and clarify that any written request that meets the specified marking and content requirements will be recognized as an official FOIA request. These changes are designed to benefit the public by providing updated information on where to direct FOIA requests, and improve the wording of the regulation to fully and accurately meet the provisions of the FOIA. There will be no significant change to the existing operational procedures in place at OPM.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

OPM **Prerule Stage**

Agency Contact: Mary Beth Smith-Toomey, Office of Information Technology, Office of Chief Information Officer, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-0001
Phone: 202 606-8358
Fax: 202 418-3251
Email: mbtoomey@opm.gov

RIN: 3206–AG92

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Proposed Rule Stage

3755. PERSONNEL RECORDS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 5 USC 4315; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; EO 9830; 5 USC 2951; 5 USC 3301

CFR Citation: 5 CFR 293

Legal Deadline: None

Abstract: The regulatory changes will update the requirements for maintaining employee personnel records and clarify requirements for maintaining employee medical records.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Brick, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, Personnel Records and Systems, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1126
Fax: 202 606-1719
Email: lmbrick@opm.gov

RIN: 3206–AH24

3756. EMPLOYMENT IN THE EXCEPTED SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 8151; EO 10577

CFR Citation: 5 CFR 302

Legal Deadline: None

Abstract: The revised regulations will make it easier for agencies to . . . understand how to run the excepted service employment system, and thus create better and more efficient employment procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-0390

RIN: 3206–AH83

3757. CAREER AND CAREER-CONDITIONAL APPOINTMENT UNDER SPECIAL AUTHORITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304(d); 5 USC 8151; 5 USC 11219; EO 10577; EO 12034; EO 12721; 22 USC 2506; 22 USC 3651; 22 USC 3652

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Revises a group of special appointment authorities to clarify requirements and to eliminate obsolete provisions. Also adds authorities for specific noncompetitive appointments authorities by law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Tyrrell, Employment Service, Office of Personnel Management, Staffing Reinvention Office, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG90

3758. NONCOMPETITIVE APPOINTMENTS OF CORPORATION FOR NATIONAL SERVICE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12651f

CFR Citation: 5 CFR 315; 5 CFR 316

Legal Deadline: None

Abstract: Permits permanent and indefinite employees of the Corporation for National Service to receive noncompetitive appointments in the competitive service. Implements National and Community Service Trust Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH48

3759. NONCOMPETITIVE APPOINTMENT OF FORMER PEACE CORPS AND VISTA VOLUNTEERS

Priority: Substantive, Nonsignificant

Legal Authority: EO 11103; 42 USC 5055

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Updates authority that grants former Peace Corps and Vista volunteers an eligibility for

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noncompetitive appointment to the Federal Competitive Service. Eliminates reference to the abolished ACTION agency.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AI18

3760. PROBATION ON INITIAL APPOINTMENT TO A COMPETITIVE POSITION

Priority: Other Significant

Legal Authority: 5 USC 3321

CFR Citation: 5 CFR 315, subpart H

Legal Deadline: None

Abstract: This regulation will permit agencies to use a competitive service probationary period of up to 3 years, when the work of the position cannot be properly evaluated in only 1 year. It will also establish 1 year as the minimum probationary period.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390

RIN: 3206–AI47

3761. MERIT PROMOTION AND INTERNAL PLACEMENT

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 316; 5 CFR 335

Legal Deadline: None

Abstract: In an effort to streamline selection procedures and provide agencies with greater flexibility, the Office of Personnel Management (OPM) is proposing to revise the regulations covering merit promotion and internal placement. These regulations will provide a framework within which agencies may develop merit-based programs for internal selections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AI20

3762. CLARIFICATION OF VARIOUS STAFFING PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 1202; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330.403; 5 CFR 213.103(a); 5 CFR 300.501; 5 CFR 315.603(a); 5 CFR 315.608; 5 CFR 332.301; 5 CFR 338.202(3)

Legal Deadline: None

Abstract: Revises several appointing authorities to make them clearer and to delete references to the former Federal Personnel Manual and other obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-0390

RIN: 3206–AH49

3763. CAREER TRANSITION ASSISTANCE FOR SURPLUS AND DISPLACED FEDERAL EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations to extend the 9/30/99 sunset date for the Government's current career transition assistance programs which assist Federal employees displaced from their jobs by downsizing.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI39

3764. CLARIFICATION OF HIRING AUTHORITIES

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330; 5 CFR 332; 5 CFR 333; 5 CFR 337

Legal Deadline: None

Abstract: In an effort to consolidate and streamline existing hiring authorities and to clarify existing competitive examining authorities, the Office of Personnel Management is proposing to revise the regulations

covering the operation and administration of these authorities.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390

Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390

RIN: 3206–AI46

3765. • AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Delegates to agencies determination whether a Federal job applicant's failure to register with the Selective Service was knowing and willful. This change is authorized by an amendment to 5 USC 3328.

Timetable:

Action	Date	FR Cite
NPRM	03/29/99	64 FR 14842
NPRM Comment Period End	04/28/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sylvia Cole, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI52

3766. OTHER THAN FULL-TIME EMPLOYMENT (PART-TIME, SEASONAL, INTERMITTENT)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301

CFR Citation: 5 CFR 340; 5 CFR 110

Legal Deadline: None

Abstract: Grants agencies and employees more flexibility by clarifying agency authority to schedule part-time employees on a pay period, rather than weekly, basis; define job sharing; modify seasonal employment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Tyrrell, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AI22

3767. RE-EMPLOYMENT RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3582; 5 USC 3301; PL 103-296

CFR Citation: 5 CFR 352

Legal Deadline: None

Abstract: Updates provisions to conform to law allowing employees assigned to international organizations under certain conditions to maintain FERS and FICA retirement coverage; current regulations only mention CSRS retirement.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Mahoney, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AI19

3768. • PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 4315

CFR Citation: 5 CFR 430, subpart C

Legal Deadline: None

Abstract: Proposed revision of SES regulations at 5 CFR 430, subpart C, will focus on (1) increasing agency flexibility to develop SES appraisal systems tailored to their needs, (2) improving linkages with agency strategic planning and emphasizing results, (3) allowing consideration of customer and employee satisfaction measures, and (4) simplifying agency submission requirements for approval of appraisal systems.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William C. Collins, Office of Executive Resources Management, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2683
Fax: 202 606-2126

RIN: 3206–AI57

3769. DEMONSTRATION PROJECT AUTHORITY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 47

CFR Citation: 5 CFR 470

Legal Deadline: None

Abstract: The regulatory changes will streamline the demonstration project process in the area of project

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development and evaluation, and will address recent legislatively mandated permanent demonstration projects.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Fidelma Donahue, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW., Washington 20415
Phone: 202 606-1138
Fax: 202 606-3577
Email: fadonahu@opm.gov

RIN: 3206–AI40

3770. CLASSIFICATION APPEALS OF GENERAL SCHEDULE EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 511, subparts F and G

Legal Deadline: None

Abstract: The position classification appeals regulations require updating to reflect current organization nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663

RIN: 3206–AH38

3771. OFFICIAL DUTY STATION DETERMINATIONS FOR PAY PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5305; 5 USC 5304; 5 USC 5941; EO 10000; PL 101-509, sec 404

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 591

Legal Deadline: None

Abstract: These regulations clarify the location-based pay entitlements of Federal employees who are detailed or temporarily assigned to work at a new location. In particular, the regulations provide that, for employees receiving limited relocation allowances under 5 U.S.C. 5737 during temporary assignments, the new location is the official duty station for pay purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/97	62 FR 25423
NPRM	08/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH84

3772. SUPERIOR QUALIFICATIONS APPOINTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5333

CFR Citation: 5 CFR 531

Legal Deadline: None

Abstract: Revises regulations concerning the appointment of superior candidates above the minimum rate of pay for General Schedule positions. Clarifies and modifies what agencies should consider when making these superior qualifications appointments.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-0390

RIN: 3206–AI00

3773. PREVAILING RATE SYSTEMS; CHANGES IN FEDERAL WAGE SYSTEM SURVEY JOBS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to change certain Federal Wage System (FWS) appropriated fund survey jobs to make them more useful survey tools. These changes were recommended by the Federal Prevailing Rate Advisory Committee.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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Email: payleave@opm.gov

RIN: 3206–AH81

3774. • PREVAILING RATE SYSTEMS; REDEFINITION OF THE WYOMING AND EASTERN SOUTH DAKOTA APPROPRIATED FUND WAGE AREAS

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing a regulation that

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would redefine Jackson County, South Dakota, from the area of application of the Eastern South Dakota appropriated fund Federal Wage System (FWS) wage area to the area of application of the Wyoming wage area, and redefine Teton County, Wyoming, from the area of application of the Wyoming FWS wage area to the area of application of the Montana wage area. The redefinition of Jackson County would provide equitable pay treatment for all FWS employees at Badlands National Park, and the redefinition of Teton County would place employees at Grand Teton National Park on the same wage schedule as employees at Yellowstone National Park.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	05/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264

RIN: 3206–AI60

3775. JOB GRADING REVIEWS AND APPEALS OF FEDERAL WAGE SYSTEM EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 532, subpart G

Legal Deadline: None

Abstract: The job grading reviews and appeals regulations require updating to reflect current organization nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663

RIN: 3206–AI14

3776. SEVERANCE PAY: MISCELLANEOUS

Priority: Other Significant

Legal Authority: 5 USC 5595

CFR Citation: 5 CFR 550, subpart G

Legal Deadline: None

Abstract: The proposed regulation would clarify or revise the severance pay rules relating to such issues as the creditability of service and the definition of "involuntary separation."

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: D. Bryce Baker, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
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RIN: 3206–AH12

3777. PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT (FLSA)

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 551, subparts A, B, C

Legal Deadline: None

Abstract: The FLSA regulations require revision to correct minor inconsistencies in terminology and phrasing, one incomplete citation, and one incorrect reference.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	01/00/00	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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Fax: 202 606-2663

RIN: 3206–AI15

3778. REEMPLOYMENT OF MILITARY AND CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5532; 5 USC 8344; 5 USC 8643

CFR Citation: 5 CFR 553

Legal Deadline: None

Abstract: Establishes criteria for granting exceptions for key positions in temporary organizations established by law or Executive order. This rule will also expand and clarify the criteria used in exercising this authority.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Lorenz, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390

RIN: 3206–AI32

3779. AGENCY DETERMINATIONS ON PAYMENT OF RELOCATION COSTS

Priority: Other Significant

Legal Authority: 5 USC 1103

CFR Citation: 5 CFR 572

Legal Deadline: None

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Abstract: Provides criteria under which agencies may determine that relocation expenses will not be paid. Encourages as broad a competition for hiring as possible and expands employment opportunities for displaced Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH50

3780. MISCELLANEOUS LEAVE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing miscellaneous changes to the leave regulations in 5 CFR part 630. The proposed changes will include clarifying provisions on the Federal leave sharing program, home leave and transfer of leave from/to the U.S. Postal Service; updating regulations to comply with new legislation requiring a lump-sum payment for annual leave for employees transferring from a Department of Defense (DOD) base that is closing to another position; clarifying leave entitlements for employees who are under 90-day appointments or assigned part-time and intermittent work schedules; and other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jo Ann Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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Email: payleave@opm.gov

RIN: 3206–AI44

3781. FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM (FEORP)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4214

CFR Citation: 5 CFR 720

Legal Deadline: None

Abstract: Updates and simplifies reporting requirements to conform to court interpretations of law and to policy changes. Also takes advantage of improved technology.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Armando Rodriguez, Employment Service, Diversity Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1059

RIN: 3206–AH98

3782. DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4214

CFR Citation: 5 CFR 720

Legal Deadline: None

Abstract: Adjusts regulations to conform to latest revision in law and clarifies technical issues.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Armando Rodriguez, Employment Service, Diversity Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1059

RIN: 3206–AH99

3783. FEDERAL EMPLOYEES' HEALTH AND COUNSELING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7361; 5 USC 7362

CFR Citation: 5 CFR 792

Legal Deadline: None

Abstract: OPM is proposing to remove the following sentence which appears in this part, "If an employee fails to participate in any rehabilitative program or, having participated, the employee fails to bring conduct or performance up to a satisfactory level, the agency shall evaluate the employee accordingly and initiate the appropriate performance-based or adverse action." This sentence confuses or misleads agency management in dealing with employees who have an alcohol or drug abuse problem and whose job performance or conduct is affected as a result of their problem. Some agency officials believe that this sentence guarantees Federal employees, with these problems, two chances to avoid disciplinary and/or corrective action. We also propose to add a new section to this part which provides for the confidentiality of Employee Assistance Program (EAP) records and conversations between the counselor and the client. There are regulations which provide confidentiality of alcohol and drug abuse patient records; however, there is no such regulation for other personal problems which affect Federal employees such as family, financial, marital, etc. Without this regulation, agency EAP administrators and counselors are not protected when they refuse to disclose information without the signed written consent of the EAP client.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank T. Cavanaugh, Office of Workforce Relations, Employee Health Services Branch, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415

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Phone: 202 606-1166
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RIN: 3206–AI07

3784. RETIREMENT; CSRS AND FERS AMENDMENTS RELATING TO HEALTH CARE PROFESSIONALS

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347(a); 5 USC 8461(g)

CFR Citation: 5 CFR 831; 5 CFR 841; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the special retirement provisions applicable to certain health care professionals employed by the Veterans Health Service and other designated agencies.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E Street NW., Washington DC 20415
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AG57

3785. RETIREMENT; CREDIT FOR MILITARY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); 38 USC 4331

CFR Citation: 5 CFR 8347(a); 5 CFR 8461(g); 5 CFR 842.306; 5 CFR 842.307

Legal Deadline: None

Abstract: These regulations implement changes in the treatment of certain military service under CSRS and FERS required under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher H. Ziebarth, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0299
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Email: combox@opm.gov

RIN: 3206–AG58

3786. RETIREMENT; DETERMINATIONS OF MARITAL STATUS FOR SURVIVOR ANNUITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 842; 5 CFR 843

Legal Deadline: None

Abstract: These regulations would establish the standards of evidence that OPM will require to prove entitlement to a survivor annuity as the surviving spouse of a deceased employee or retiree.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Ellen Wilson, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AG60

3787. RETIREMENT; NATIONAL GUARD TECHNICIANS: ADJUSTMENTS TO ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8345(g)

CFR Citation: 5 CFR 831

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) regulations to simplify the method of adjustment for the offset required for State benefits payable based on service as a National Guard Technician.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0299
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RIN: 3206–AI42

3788. RETIREMENT; SERVICE CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, subpart C

Legal Deadline: None

Abstract: These regulations would provide that no retirement credit could be granted for periods of service for which retirement deductions were refunded and not repaid even when the refund was paid based on an erroneous separation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0299
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Email: combox@opm.gov

RIN: 3206–AH37

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3789. RETIREMENT; WAIVER OF MILITARY RETIRED PAY TO ENHANCE CIVIL SERVICE RETIREMENT ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8332(c)(4); 5 USC 8347(a); 5 USC 8411(c)(5)

CFR Citation: 5 CFR 831, subpart C; 5 CFR 842, subpart C

Legal Deadline: None

Abstract: These regulations implement provisions of the National Defense Authorization Act for Fiscal Year 1997. The Act changed the statutory requirements for allowing credit under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) for military service in certain situations. CSRS or FERS credit based on a waiver of military retired pay after January 1, 1997 is no longer permitted to adversely affect a former spouse with a court order on file affecting the military retired pay.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Ellen Wilson, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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Email: combox@opm.gov

RIN: 3206–AH74

3790. RETIREMENT; ELIMINATION OF THE HEARING REQUIREMENT DURING ENFORCEMENT OF STATUTORY BAR TO ANNUITY AFTER CONVICTION OF CERTAIN OFFENSES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, subpart K

Legal Deadline: None

Abstract: These regulations will eliminate the requirement that OPM conduct a hearing before applying the statutory bar to annuity when an individual has been convicted of certain offenses.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC20415
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RIN: 3206–AH76

3791. RETIREMENT; STATE INCOME TAX WITHHOLDING INSTRUMENTALITIES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8345; 5 USC 8347; 5 USC 8461; 5 USC 8469

CFR Citation: 5 CFR 831, subpart S; 5 CFR 841, subpart J

Legal Deadline: None

Abstract: These regulations modify existing regulations to reflect changes designed to expand and streamline the process of withholding State income tax from CSRS and FERS annuities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AH62

3792. RETIREMENT; DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835(e)

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) regulations by consolidating and updating existing regulations in three different subparts of the CSRS regulations and 5 CFR 845 in the FERS regulations to eliminate duplication of the provisions governing debt collection. This item is for subpart E of the new part 835, which will address collections of Government claims from payments made by OPM.

Timetable:

Action	Date	FR Cite
NPRM	10/05/92	57 FR 45753
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AE72

3793. RETIREMENT; COURT ORDERS AWARDING SURVIVOR ANNUITIES; CORRECTING OR SUPPLEMENTING THE FIRST ORDER DIVIDING MARITAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 838

Legal Deadline: None

Abstract: These regulations would establish standards for determining which supplemental or correcting court orders are not "modifications" and the procedures applicable to such orders. They also provide for the continuation of the former spouse's survivor coverage and the reduction in the retiree's annuity until the State court decides the extent of the former spouse's rights to retirement benefits.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	01/00/00	

OPM

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Ellen Wilson, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AG28

3794. RETIREMENT; FERS ELECTIONS OF COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); PL 99-335, sec 301(d)(3)

CFR Citation: 5 CFR 846

Legal Deadline: None

Abstract: These regulations implement title III of the Federal Employees Retirement System (FERS) Act of 1986, as amended, dealing with the election of FERS coverage by employees under the Civil Service Retirement System and certain other employees. The regulations contain regulatory and interpretative rules concerning employees' eligibility to elect FERS coverage, procedures for electing FERS coverage, and basic benefits based on the service for employees who elect FERS coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Interim Final Rule	09/13/93	58 FR 47821
Interim Final Rule	06/18/98	63 FR 33231
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-0001
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RIN: 3206–AG96

3795. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: MISCELLANEOUS CHANGES AND CLARIFICATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations include a group of changes to FEGLI regulations that will clarify procedures for signing and witnessing designations of beneficiary, accepting designations of beneficiary by facsimile, accepting DNA evidence to establish paternity, etc.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0004
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Email: kleibach@opm.gov

RIN: 3206–AG63

3796. • FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: WAIVER OF 5-YEAR REQUIREMENT FOR CONTINUING FEHB COVERAGE INTO RETIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This proposed regulation would broaden OPM's authority to waive the participation requirements for continuing health benefits coverage into retirement when it is to the advantage of the Government to do so.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jay D. Fritz, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AI62

3797. • FEHB AND DOD DEMONSTRATION PROJECT

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890; 48 CFR 1600

Legal Deadline: None

Abstract: The purpose of the regulation is to implement the portion of Public Law 105-261 which amended chapter 55 of title 10 and chapter 89 of title 5 U.S.C. to establish a demonstration project under which certain Medicare eligible and other DoD beneficiaries can enroll in a health benefit plan under the Federal Employees Health Benefits Program during the fall 1999 Open Season. The demonstration project will run for a period of three years from January 1, 2000 through December 31, 2002.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael W. Kaszynski, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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Email: mwkaszyn@opm.gov

RIN: 3206–AI63

OPM — Proposed Rule Stage

3798. DEBARMENTS, CIVIL MONETARY PENALTIES, AND ASSESSMENTS IMPOSED AGAINST PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8902a

CFR Citation: 5 CFR 890, subpart J

Legal Deadline: None

Abstract: These regulations will implement section 2 of Pub.L. 105-266, which amends 5 U.S.C. section 8902a, authorizing OPM to debar health care providers who have committed certain types of legal offenses or program-related violations, from participation in the Federal Employees Health Benefits Program (FEHBP) and to levy monetary penalties and assessments against individuals who have improperly obtained payments of FEHBP funds. This legislation removes unnecessary administrative constraints on the agency, provides more flexible and less time consuming procedures, and will improve OPM's administration of sanctions against unfit health care providers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
NPRM	02/04/93	58 FR 7052
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: J. David Cope, Debarring Official, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AD76

3799. • FEDERAL EMPLOYEES' GROUP LIFE INSURANCE FEDERAL ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716; 40 USC 486(C)

CFR Citation: 48 CFR 1.301

Legal Deadline: None

Abstract: This proposed regulation would revise the existing Federal Employees' Group Life Insurance Federal Acquisition Regulation (LIFAR) by updating and revising policy regulation with respect to the acquisition and administration of life insurance contract(s) for Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Neuner, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0004
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Email: scneuner@opm.gov

RIN: 3206–AI65

3800. • EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3397

CFR Citation: 5 CFR 317

Legal Deadline: None

Abstract: Proposed revision of SES regulations at 5 CFR 317, subpart E, will focus on (1) emphasizing the importance of executive leadership qualifications in agency SES selection criteria, (2) strengthening the SES merit staffing process, and (3) providing for delegating Qualifications Review Board Administration to agencies via individual delegation agreements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marcia K. Staten, Office of Executive Resources Management, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1832
Fax: 202 606-2126

RIN: 3206–AI58

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

3801. APPOINTMENT OF NON-STATUS EMPLOYEES (USERRA)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 213

Legal Deadline: None

Abstract: To permit Schedule A appointments of excepted service employees who are entitled to placement in a different agency if their original employing agency cannot reemploy them following uniformed service. Implements Pub. L. 103-353 (Uniformed Services Employment and Reemployment Rights Act of 1994).

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/95	60 FR 55173
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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TDD: 202 606-0023
Fax: 202 606-0390

RIN: 3206–AI23

OPM

Final Rule Stage

3802. • EXCEPTED SERVICE PROMOTION AND INTERNAL PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; PL 105-339

CFR Citation: 5 CFR 213; 5 CFR 335

Legal Deadline: None

Abstract: The Office of Personnel Management will issue final regulations implementing the provisions of the Veterans Employment Opportunities Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/03/98	63 FR 66705
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AI51

3803. TIME-IN-GRADE RESTRICTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Eliminates requirement that employees serve 1 year in grade to be eligible for promotion above the GS-5 level. This is separate from the qualifications requirement for 1 year experience at the next lowest grade or equivalent for promotion.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30717
NPRM Comment Period End	01/10/95	60 FR 2546
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AG06

3804. PROMOTION AND INTERNAL PLACEMENT; ACCELERATED QUALIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3329

CFR Citation: 5 CFR 316; 5 CFR 335; 5 CFR 338

Legal Deadline: None

Abstract: OPM will issue final regulations on Accelerated Qualifications only to authorize agencies to establish intensive training programs for acquiring qualifications at an accelerated rate. A new regulatory proposal on Merit Promotion will be developed.

Timetable:

Action	Date	FR Cite
NPRM	02/20/96	61 FR 6324
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-0390

RIN: 3206–AG19

3805. JOB LISTINGS; FULL CONSIDERATION OF DISPLACED DEFENSE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3329; PL 102-484, sec 4432

CFR Citation: 5 CFR 330; 5 CFR 335

Legal Deadline: None

Abstract: Requires agencies to report to OPM announcements of vacancies for which they will accept applications from outside their own work forces. Requires agencies to give full consideration to displaced DOD employees, Pub. L. 102-484, 5 U.S.C. 3329.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/93	58 FR 18139
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0960
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AF36

3806. INTERAGENCY PLACEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3310; 5 USC 3315

CFR Citation: 5 CFR 330; 5 CFR 351; 5 CFR 332

Legal Deadline: None

Abstract: Implemented Interagency Placement Program, which superseded Displaced Employee Program and Interagency Placement Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/27/94	59 FR 32871
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AI24

3807. FEDERAL EMPLOYMENT PRIORITY CONSIDERATION FOR DC EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33

CFR Citation: 5 CFR 330

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Legal Deadline: None

Abstract: Requires agencies to accord priority consideration to displaced District of Columbia, Department of Corrections employees separated as a result of the closure of the Lorton Correctional complex.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41387
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0960
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RIN: 3206–AI28

3808. • INTERAGENCY CAREER TRANSITION ASSISTANCE FOR DISPLACED PANAMA CANAL ZONE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 22 USC 1232

CFR Citation: 5 CFR 330

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations that provide certain displaced Panama Canal Zone employees with interagency priority consideration for vacant competitive service positions in the continental United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0960
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RIN: 3206–AI56

3809. REDUCTION IN FORCE SERVICE CREDIT; RETENTION RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3502a

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: Covers service credit for retention purposes, and access to retention records by employees and their representatives.

Timetable:

Action	Date	FR Cite
NPRM	08/14/98	63 FR 43640
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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Fax: 202 606-2329

RIN: 3206–AI09

3810. RESTORATION TO DUTY FROM MILITARY SERVICE OR COMPENSABLE INJURY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8151; 38 USC 4301

CFR Citation: 5 CFR 353

Legal Deadline: None

Abstract: Restoration rights of Federal employees who leave employment to perform duty with the uniformed services, implementing the USERRA of 1994, 48 USC chapter 43.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/95	60 FR 45650
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
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RIN: 3206–AG02

3811. MISCELLANEOUS CHANGES IN COMPENSATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304; 5 USC 5365; 5 USC 5753; 5 USC 5527; 5 USC 5596; 5 USC 5941; 5 USC 5754; 5 USC 5307; 5 USC 5338; 5 USC 5548; 5 USC 5595; 5 USC 6101; Fair Labor Standards Act of 1938 (as amended), section 4(f); 5 USC 5941

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 536; 5 CFR 550; 5 CFR 551; 5 CFR 575; 5 CFR 610; 5 CFR 591

Legal Deadline: None

Abstract: This proposed regulation would correct or clarify various regulatory provisions dealing with the compensation of Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	11/24/98	63 FR 64880
NPRM Comment Period End	01/25/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AH11

3812. HOLIDAY AND PREMIUM PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5548; 5 USC 6133; 29 USC 204(f)

CFR Citation: 5 CFR 523; 5 CFR 550; 5 CFR 551; 5 CFR 610

Legal Deadline: None

Abstract: The regulations implement recent changes in law which provide authority for compensatory time off for prevailing rate (wage) employees in lieu of overtime pay and agency flexibility in determining the "in lieu of" holiday for employees on compressed work schedules when the actual holiday for the employee is on a nonworkday. A current regulation is also corrected to comply with a provision of law

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authorizing use of alternative work schedules for civilian nonappropriated fund employees of the Armed Services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/97	62 FR 2835
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3206–AH86

3813. PREVAILING RATE SYSTEMS; ABOLISHMENT OF LUBBOCK NONAPPROPRIATED FUND WAGE AREA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing an interim rule to abolish the Lubbock, Texas, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and to establish a new Curry, New Mexico, NAF wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/27/97	62 FR 28978
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AH88

3814. PREVAILING RATE SYSTEMS: ABOLISHMENT OF THE ORLANDO, FL, APPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing an interim rule to remove the requirement that a full-scale wage survey be conducted in the Orlando, Florida, Federal Wage System appropriated fund wage area in September 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/97	62 FR 51759
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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Fax: 202 606-4264

RIN: 3206–AI04

3815. PREVAILING RATE SYSTEMS; ABOLISHMENT OF KANSAS CITY, MO, SPECIAL WAGE SCHEDULE FOR PRINTING POSITIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing an interim rule to abolish the Federal Wage System Special Wage schedule for printing positions in the Kansas City, Missouri, wage area. Printing and lithographic employees in Kansas City will now be paid rates from the regular Kansas City wage schedule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/24/97	62 FR 67258
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AI11

3816. PREVAILING RATE SYSTEMS; REDEFINITION OF THE ORLANDO, FL, APPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is issuing an interim rule to redefine Orange, Osceola, Seminole, and Volusia Counties, FL, from the Orlando wage area to the area of application of the Jacksonville, FL, Federal Wage System (FWS) wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/98	63 FR 6471
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark A. Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264

RIN: 3206–AI13

3817. PREVAILING RATE SYSTEMS; ENVIRONMENTAL DIFFERENTIAL PAY FOR WORKING AT HIGH ALTITUDES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is proposing

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regulation to establish an 8 percent environmental differential pay (EDP) category for Federal Wage System (FWS) employees who work at land-based worksites located at more than 3900 (12,795) meters in altitude, provided such employees are required to commute to their worksites on the same day from a substantially lower altitude under circumstances in which the rapid change in altitude may result in acclimation problems. OPM is creating this new EDP category so that Federal agencies may provide additional compensation to FWS employees who are exposed to unusual health risks by these working conditions.

Timetable:

Action	Date	FR Cite
NPRM	10/13/98	63 FR 54616
NPRM Comment Period End	11/12/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AI36

3818. • SES PERFORMANCE AWARDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5385

CFR Citation: 5 CFR 534, subpart D

Legal Deadline: None

Abstract: The change at 5 CFR 534, subpart D, will reflect the statutory change to the SES performance award pool configuration that was mandated in the Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277), enacted on October 21, 1998.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anne Kirby, Office of Executive Resources Management, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1610
Fax: 202 606-2126

RIN: 3206–AI59

3819. VOLUNTARY SEPARATION INCENTIVE REPAYMENT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-226

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Public Law 103-226 authorizes OPM to waive repayment of a voluntary separation incentive payment if a former employee who accepted the incentive payment is reemployed by an executive agency of the U.S. within 5 years of separation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/94	59 FR 55807
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Greg Keller, Employment Service, Federal Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AG20

3820. • FIREFIGHTER PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5545b

CFR Citation: 5 CFR 410; 5 CFR 550; 5 CFR 551; 5 CFR 591; 5 CFR 630; 5 CFR 870

Legal Deadline: None

Abstract: Interim regulations to change the method of computing pay for Federal firefighters.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/23/98	63 FR 64589
NPRM Comment Period End	01/22/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AI50

3821. • PAY ADMINISTRATION; BACK PAY, HOLIDAYS, OVERTIME PAY FOR TRAVEL, AND PHYSICIANS' COMPARABILITY ALLOWANCE.

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5596(c); 5 USC 6101(c); 5 USC 5542(c); Sec. 4(f) of the Fair Labor Standards Act of 1938, as amended; 5 USC 5948; EO 12109

CFR Citation: 5 CFR 550; 5 CFR 551; 5 CFR 595; 5 CFR 610

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations to reflect recent changes in law which (1) clarify that back pay awards are subject to a 6-year statute of limitations unless a shorter limitation period applies; (2) change the designation of holidays for certain Federal employees working overseas; and (3) increase the maximum physicians' comparability allowance from $20,000 to $30,000 per year for employees who have served as a physician for more than 24 months. Consistent with a recent court decision, the regulations also clarify that commuting time is not compensable, even if an employee is required to drive a Government vehicle while commuting.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Weddel, Workforce Compensation and Performance Service, Office of Personnel Management, Office of

OPM **Final Rule Stage**

Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AI61

3822. LUMP-SUM PAYMENTS FOR ANNUAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5553

CFR Citation: 5 CFR 550, subpart L

Legal Deadline: None

Abstract: The Technical and Miscellaneous Civil Service Amendments Act of 1992 (Pub. L. 102-378, October 2, 1992) created a new provision, 5 U.S.C. 5553, to provide OPM with regulatory authority for administering lump-sum payments for annual leave.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40475
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AF38

3823. RETENTION ALLOWANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5754

CFR Citation: 5 CFR 575

Legal Deadline: None

Abstract: These regulations provide agencies with discretionary authority to pay retention allowances of up to 10 percent of an employee's rate of basic pay (or up to 25 percent with OPM approval) to a group or category of employees in certain limited circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/98	63 FR 34119
NPRM Comment Period End	08/24/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Shields, Workforce Compensation and Performance Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
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Email: payleave@opm.gov

RIN: 3206–AI31

3824. COST-OF-LIVING ALLOWANCES IN NONFOREIGN AREAS: SURVEY RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: The Office of Personnel Management will issue regulations implementing any increases in nonforeign area cost-of-living allowance (COLA) rates indicated by COLA survey results. Section 5941 of title 5, United States Code, provides for the payment of nonforeign area cost-of-living allowances (COLAs) in Alaska, Hawaii, and other nonforeign overseas areas. The Office of Personnel Management conducts living-cost surveys to set COLA rates. Reductions in nonforeign area COLA rates are prohibited by the Treasury, Postal Service, and General Government Appropriations Act, 1992, as amended, through December 31, 2000, and will not be proposed during the restricted period. OPM is also broadening the composition of the Miscellaneous Expense Category to allow the addition of other types of expenses to that category.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/98	63 FR 56430
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kurt Springmann, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2838
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Email: cola@opm.gov

RIN: 3206–AI38

3825. EMERGENCY LEAVE TRANSFER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6391

CFR Citation: 5 CFR 630, subpart K

Legal Deadline: None

Abstract: Section 9004 of Pub. L. 105-18, June 12, 1997, added section 6391 to title 5, United States Code, to provide that in the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management (OPM) to establish an emergency leave transfer program under which an employee in any Executive agency may donate annual leave for transfer to employees of his or her agency or to employees in other agencies who are adversely affected by such disaster or emergency. The Act also permits agency leave banks established under 5 U.S.C. 6362 to donate leave under an emergency leave transfer program established by OPM.

Timetable:

Action	Date	FR Cite
NPRM	11/03/97	62 FR 59301
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jo Ann Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Commpensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI03

3826. FAMILY AND MEDICAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6381 to 6387

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CFR Citation: 5 CFR 630, subpart L

Legal Deadline: None

Abstract: Under the Family and Medical Leave Act of 1993 (FMLA) most Federal employees are entitled to a total of 12 workweeks of unpaid leave during any 12-month period for certain family and medical needs. These regulations clarify the requirements of the FMLA and ensure that both employees' and agencies' rights are protected and their responsibilities fulfilled.

Timetable:

Action	Date	FR Cite
NPRM	08/13/98	63 FR 43325
NPRM Comment Period End	10/13/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jo Ann Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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Email: payleave@opm.gov

RIN: 3206–AI35

3827. RETIREMENT COVERAGE FOR DC FINANCIAL CONTROL BOARD EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-8

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the District of Columbia Financial Responsibility and Management Assistance Act of 1995. They establish standards by which some former Federal employees may carry civil service retirement coverage to employment with the DC Financial Control Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/96	61 FR 58457
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-0001
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AG78

3828. RETIREMENT; COVERAGE—NONAPPROPRIATED FUND INSTRUMENTALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 841; 5 CFR 842; 5 CFR 843; 5 CFR 844; 5 CFR 847

Legal Deadline: Final, Statutory, August 9, 1996.

Abstract: These regulations implement the provisions of Pub. L. 104-106 which allow certain employees who have been employed by non-appropriated fund instrumentalities under the jurisdiction of the armed forces to obtain retirement credit under limited circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/09/96	61 FR 41714
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 204415
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Fax:»202 606-1108
Email: combox@opm.gov

RIN: 3206–AH57

3829. COVERAGE FOR CERTAIN EMPLOYEES OF DC

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347(a); 5 USC 8361(g); PL 105-33, sec 11202(f), 11232(e), 11246(b)

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 842; 5 CFR 846; 5 CFR 870; 5 CFR 890

Legal Deadline: None

Abstract: These regulations implement provisions of the National Capital Revitalization and Self-Government Improvement Act of 1997 that require that nonjudicial employees of the District of Columbia Courts, and under certain conditions, the District of Columbia Corrections Trustee and the District of Columbia Pretrial Services, Defense Service, Parole, Adult Probation and Offender Supervision Trustee and their respective employees be considered Federal employees for purposes of Federal retirement, health, and life insurance coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/97	62 FR 50995
Comment Period End	12/01/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-0001
Phone: 202 606-0299
Fax: 202 606-1108

RIN: 3206–AI02

3830. VOLUNTARY EARLY RETIREMENT AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8336(d); 5 USC 814(b)(1)(B)

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: Section 7001 of Public Law 105-174, the Supplemental Appropriations and Rescissions Act, FY 1998, provided authority for OPM and agencies to apply special provisions affecting the manner in which voluntary early retirements may be administered and approved for the period from May 1, 1998, through September 30, 1999. The law allows OPM to prescribe regulations which permit the agency, after OPM approval, to determine the scope of voluntary early retirement offers on the basis of one or more organizational units; one or more occupational series or levels; one or more geographic locations; other similar nonpersonal factors; or any appropriate combination of such factors. These regulations implement the temporary provisions of Public Law 105-174.

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Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/98	63 FR 32595
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Greg Keller, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI25

3831. • RETIREMENT, HEALTH, AND LIFE INSURANCE COVERAGE FOR CERTAIN EMPLOYEES OF THE DISTRICT OF COLUMBIA UNDER THE DISTRICT OF COLUMBIA COURTS AND JUSTICE TECHNICAL CORRECTIONS ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-274

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 842; 5 CFR 846; 5 CFR 870; 5 CFR 890

Legal Deadline: None

Abstract: These interim regulations implement the District of Columbia Courts and Justice Technical Corrections Act of 1998. The effect of these regulations is to extend Federal retirement, health insurance, and life insurance coverage to employees of the Public Defender Service of the District of Columbia under section 7 of the Act, and to exclude certain former employees of the District of Columbia who are hired by the Department of Justice or by the Court Services and Offender Supervision Agency from Federal retirement coverage if they elect, under section 3 of the Act, to continue their coverage under a retirement system for employees of the District of Columbia.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/99	64 FR 15286
Interim Final Rule Comment Period End	06/29/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Girouard, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AI55

3832. • RETIREMENT; NUCLEAR MATERIALS COURIERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 841; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the provisions of Pub. L. 105-261 which authorize immediate retirement benefits at age 50 for Federal employees who have completed 20 years of Federal civilian service as a nuclear materials courier with the Department of Energy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth R. Brown, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AI66

3833. RETIREMENT; LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, subpart I; 5 CFR 842, subpart H

Legal Deadline: None

Abstract: These interim regulations will amend the CSRS Law Enforcement Officer and Firefighter regulations and the FERS Law Enforcement Officer, Firefighter, and Air Traffic Controller regulations governing agency and OPM law enforcement officer and firefighter retirement coverage and service credit determinations. These interim regulations will clarify that the authority of an agency head to deny law enforcement officer and firefighter retirement coverage may be delegated to any level within the agency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AI41

3834. RETIREMENT; FERS BASIC ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842, subparts B, C, D, E, F, G

Legal Deadline: None

Abstract: These final regulations will amend FERS Basic Annuity regulations governing Eligibility (subpart B), Credit for Service (subpart C), Computations (subpart F), and Alternative Forms of Annuity (subpart G). These regulations have been published at various times in interim final form, and have been affected by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/87	52 FR 2061
Interim Final Rule	01/16/87	52 FR 2067
Interim Final Rule	02/11/87	52 FR 4473
Interim Final Rule	02/11/87	52 FR 4479
Interim Final Rule	05/14/87	52 FR 18193
Interim Final Rule	04/08/88	53 FR 11635
Interim Final Rule	02/09/90	55 FR 4598
Final Rule	12/27/90	55 FR 53136
Interim Final Rule	02/19/91	56 FR 6549
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

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Government Levels Affected: None

Agency Contact: Mary Ellen Wilson, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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Email: combox@opm.gov

RIN: 3206–AE73

3835. • FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: COURT ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-205

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations implement Pub. L. 105-205, which places certain court orders ahead of the order of precedence in paying benefits under the FEGLI Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Insurance Programs, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
Email: kleibach@opm.gov

RIN: 3206–AI49

3836. • FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: Final, Statutory, April 24, 1999.

Abstract: This interim regulation revises 5 CFR part 870 to incorporate changes as a result of the Federal Employees Group Life Insurance Improvement Act. It changes the premium rates for all coverage categories, expands the age bands from age 60 and above, and changes the birthday rule applicable to optional insurance coverage when moving from one premium-rated age band to another. The revisions allow for new expanded coverage options with associated rate changes to be effective April 24, 1999, as prescribed by law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Neuner, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AI54

3837. • FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: LIFE INSURANCE IMPROVEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-311

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations implement Pub. L. 105-311, which makes numerous changes to the FEGLI Program, including covering foster children under Option C, increasing the amount of Option C coverage available, allowing for the election of unreduced Options B and C at retirement, allowing for direct payment of premiums when pay is insufficient for premium withholdings, and providing for a demonstration project for the portability of Option B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Insurance Programs, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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Email: kleibach@opm.gov

RIN: 3206–AI64

3838. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: PAYMENT OF PREMIUMS FOR PERIODS OF LEAVE WITHOUT PAY OR INSUFFICIENT PAY

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations that establish a requirement that Federal agencies counsel employees entering nonpay status, or whose pay is insufficient to cover their FEHB premium payments, of the options of continuing or terminating their FEHB coverage, and if continuing, of paying premiums directly on a current basis or incurring a debt to be withheld from future salary. These regulations are intended to ensure employees are fully aware of these alternatives.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/96	61 FR 37807
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth A. Lease, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AG66

3839. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: CONTRIBUTIONS AND WITHHOLDING

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This final rule adopts, without change, an rule that explains

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implementation of the new Government contribution formula under the Federal Employees Health Benefits Program, effective with the contract year beginning in January 1999, pursuant to the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/28/98	63 FR 45933
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bonnie Rose, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
Email: brrose@opm.gov

RIN: 3206–AI33

3840. APPOINTMENT, PAY, AND REMOVAL OF ADMINISTRATIVE LAW JUDGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1104(a)(2); 5 USC 1305; 5 USC 3105; 5 USC 3323(b); 5 USC 3344; 5 USC 4301(2)(D); 5 USC 5372; 5 USC 7521

CFR Citation: 5 CFR 930

Legal Deadline: None

Abstract: Revises several areas pertaining to the appointment, pay, and removal of ALJs.

Timetable:

Action	Date	FR Cite
NPRM	02/23/98	63 FR 8874
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Bullock, Employment Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0810
TDD: 202 606-0023
Fax: 202 606-0584

RIN: 3206–AI08

3841. • AUTHORIZATION OF SOLICITATIONS DURING THE COMBINED FEDERAL CAMPAIGN

Priority: Info./Admin./Other

Legal Authority: EO 12353; EO 12404; PL 100-202; 5 USC 1101

CFR Citation: 5 CFR 950

Legal Deadline: None

Abstract: This rule gives the Director of OPM the discretion to authorize solicitations in support of victims of emergencies or disasters during the Combined Federal Campaign.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/30/98	63 FR 65637
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Becky Kumar, Office of the General Counsel, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AI53

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Long-Term Actions

3842. REEMPLOYMENT PRIORITY LIST

Priority: Other Significant

Legal Authority: 5 USC 1315; 5 USC 8151

CFR Citation: 5 CFR 330, subpart B

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing regulations covering the operation and administration of the Reemployment Priority List (RPL). The RPL provides competitive service employees separated by reduction in force with the first opportunity for reemployment in their former agency over candidates who do not work for the agency. The RPL also provides the same priority to former employees who were separated or downgraded because of a compensable injury or disability and have fully recovered more than one year after compensation began. These proposed regulations would update RPL procedures in order to assist agencies in providing displaced employees with maximum reemployment opportunities.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI34

3843. PERFORMANCE MANAGEMENT REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 43; 5 USC 45

CFR Citation: 5 CFR 430; 5 CFR 451

Legal Deadline: None

Abstract: Regulatory changes to comply with legislative reforms in support of the National Performance Review (NPR) recommendations that decentralize performance management and incentive awards programs to the agencies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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Government Levels Affected: None

Agency Contact: Barbara Colchao, Workforce Compensation and Performance Service, Office of Personnel Management, Performance Management and Incentive Awards Division, OPCSD, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2720
Fax: 202 606-2395
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RIN: 3206–AF57

3844. SUITABILITY

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
NPRM	01/05/96	61 FR 394
NPRM	01/28/99	64 FR 4336

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-4000
Phone: 202 606-1042
Fax: 202 606-2390

RIN: 3206–AC19

3845. PERSONNEL SECURITY AND RELATED PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we see no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-4000
Phone: 202 606-1042
Fax: 202 606-2390

RIN: 3206–AC21

3846. INVESTIGATIONS

Priority: Other Significant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Begin Review	10/01/93	
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20514-4000
Phone: 202 606-1042
Fax: 202 606-2390

RIN: 3206–AB92

3847. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: EFFECTIVE DATES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This proposed regulation would adopt January 1st as the effective date for all open season new enrollment in the Federal Employees Health Benefits Program.

Timetable:

Action	Date	FR Cite
NPRM	08/31/98	63 FR 46180
NPRM Comment Period End	09/30/98	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jay D. Fritz, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel

OPM **Long-Term Actions**

Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
Email: jayfritz@opm.gov
RIN: 3206–AI37

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

3848. STUDENT EDUCATIONAL EMPLOYMENT PROGRAM

Priority: Substantive, Nonsignificant
CFR Citation: 5 CFR 213; 5 CFR 315; 5 CFR 316
Completed:

Reason	Date	FR Cite
Final Action	10/26/98	63 FR 57045
Final Action Effective	10/25/98	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Mike Mahoney
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329
RIN: 3206–AH82

3849. TEMPORARY AND TERM EMPLOYMENT

Priority: Substantive, Nonsignificant
CFR Citation: 5 CFR 316
Completed:

Reason	Date	FR Cite
Final Action	11/17/98	63 FR 63781
Final Action Effective	12/17/98	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Diane Tyrrell
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329
RIN: 3206–AH47

3850. TAPER EMPLOYMENT-SPECIFIC AUTHORITY FOR WORKER TRAINEE

Priority: Other Significant
CFR Citation: 5 CFR 316, subpart B
Completed:

Reason	Date	FR Cite
Final Action	03/31/99	64 FR 15285
Final Action Effective	04/30/99	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Diane Tyrrell
Phone: 202 606-0830
Fax: 202 606-0390
RIN: 3206–AI45

3851. MORATORIUM ON INVOLUNTARY SES REASSIGNMENTS

Priority: Substantive, Nonsignificant
CFR Citation: 5 CFR 317
Completed:

Reason	Date	FR Cite
Final Action	11/06/98	63 FR 59875
Final Action Effective	12/07/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Bede Bender
Phone: 202 606-1784
Fax: 202 606-2126
RIN: 3206–AH92

3852. REDUCTION IN FORCE AND VACANT POSITIONS

Priority: Substantive, Nonsignificant
CFR Citation: 5 CFR 351
Completed:

Reason	Date	FR Cite
Final Action	11/16/98	63 FR 63591
Final Action Effective	12/16/98	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Thomas A. Glennon
Phone: 202 606-0960
Fax: 202 606-2329
RIN: 3206–AH95

3853. PREVAILING RATE SYSTEMS; REDEFINITION OF THE NORFOLK, MA, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other
CFR Citation: 5 CFR 532
Completed:

Reason	Date	FR Cite
Final Action	03/01/99	64 FR 9906
Final Action Effective	03/31/99	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Mark Allen
Phone: 202 606-2848
Fax: 202 606-4264
Email: payleave@opm.gov
RIN: 3206–AH58

3854. PREVAILING RATE SYSTEMS; REDEFINITION OF THE MARION, IN, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other
CFR Citation: 5 CFR 532
Completed:

Reason	Date	FR Cite
Final Action	03/01/99	64 FR 9905
Final Action Effective	03/31/99	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Mark Allen
Phone: 202 606-2848
Fax: 202 606-4264
Email: payleave@opm.gov
RIN: 3206–AH60

3855. PREVAILING RATE SYSTEMS; REMOVAL OF UMATILLA COUNTY, OR, FROM SPOKANE, WA, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other
CFR Citation: 5 CFR 532
Completed:

Reason	Date	FR Cite
Final Action	03/01/99	64 FR 9905
Final Action Effective	03/31/99	

Regulatory Flexibility Analysis Required: No

OPM

Completed Actions

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen
Phone: 202 606-2848
Fax: 202 606-4264
Email: maallen@opm.gov

RIN: 3206–AI10

3856. PREVAILING RATE SYSTEMS; REDEFINITION OF PHILADELPHIA, PA, AND NEW YORK, NY, APPROPRIATED FUND WAGE AREAS

Priority: Info./Admin./Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	11/16/98	63 FR 63591
Final Action Effective	12/16/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen
Phone: 202 606-2848
Fax: 202 606-4264
Email: payleave@opm.gov

RIN: 3206–AI30

3857. • PREVAILING RATE SYSTEMS; CHANGE OF LEAD AGENCY RESPONSIBILITY

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) will issue regulations to change the lead agency responsibility for certain Federal Wage System (FWS) appropriated fund wage areas from the Department of Veterans Affairs (VA) to the Department of Defense (DOD). A lead agency under the FWS is the Federal agency designated by OPM to conduct local wage surveys and establish wage schedules for FWS employees according to local prevailing rates within a wage area. There are currently 133 FWS appropriated fund wage areas. DOD is currently the lead agency in 110 wage areas, and VA is the lead agency in 23 wage areas. VA has requested that OPM designate DOD as the lead agency in all of the wage areas where VA currently has lead agency responsibility. This change would make DOD the lead agency in all FWS wage areas and would make more efficient use of the resources devoted by agencies to determining FWS pay rates.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58659
NPRM Comment Period End	12/02/98	
Final Action	12/31/98	63 FR 72097

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 696-4264

RIN: 3206–AI48

3858. PAY ADMINISTRATION; AVAILABILITY PAY FOR CRIMINAL INVESTIGATORS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 550

Completed:

Reason	Date	FR Cite
Final Action	01/29/99	64 FR 4517
Final Action Effective	01/29/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Kitchelt
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AG47

3859. HAZARDOUS DUTY PAY

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 550, subpart I

Completed:

Reason	Date	FR Cite
Final Action	01/11/99	64 FR 1501
Final Action Effective	01/11/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kevin Kitchelt
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI29

3860. PAY ADMINISTRATION (GENERAL); COLLECTION BY OFFSET FROM INDEBTED GOVERNMENT EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 550, subpart K

Completed:

Reason	Date	FR Cite
Final Action	12/31/98	63 FR 72098
Final Action Effective	02/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH63

3861. COST-OF-LIVING ALLOWANCE IN NONFOREIGN AREAS: SURVEY RESULTS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 591

Completed:

Reason	Date	FR Cite
Final Action	10/21/98	63 FR 56430
Final Action Effective	11/20/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kurt M. Springmann
Phone: 202 606-2838
Fax: 202 606-4264
Email: cola@opm.gov

RIN: 3206–AH07

3862. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: DISENROLLMENT

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	11/04/98	63 FR 59457
Final Action Effective	12/04/98	

OPM **Completed Actions**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jay Fritz
Phone: 202 606-0004
Fax: 202 606-0633
Email: jayfritz@opm.gov

RIN: 3206–AH61

3863. PROHIBITION OF "GAG CLAUSES" IN THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Priority: Info./Admin./Other

CFR Citation: 48 CFR 1609

Completed:

Reason	Date	FR Cite
Final Action	08/10/98	63 FR 42584
Final Action Effective	09/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mike Kazynski
Phone: 202 606-0004
Fax: 202 606-0633
Email: mwkaszyn@opm.gov

RIN: 3206–AI27

[FR Doc. 99-8297 Filed 04-23-99; 8:45 am]
BILLING CODE 6325-01-F

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Part XXXVII

Office of Special Counsel

Semiannual Regulatory Agenda

OFFICE OF SPECIAL COUNSEL (OSC)

OFFICE OF SPECIAL COUNSEL

5 CFR Ch. VIII

Semiannual Regulatory Agenda

AGENCY: U.S. Office of Special Counsel.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Office of Special Counsel is publishing its April 1999 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Regulatory Flexibility Act (5 U.S.C. 601-612). The agenda lists all regulations scheduled for review or development from April 1, 1999, through March 31, 2000.

FOR FURTHER INFORMATION CONTACT: Frederick N. Ottie, (202) 653-8971.

Dated: February 16, 1999.

Elaine D. Kaplan,

Special Counsel.

OFFICE OF SPECIAL COUNSEL (OSC) — Proposed Rule Stage

3864. PUBLIC INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 1820 (Revision)

Legal Deadline: Final, Statutory, October 2, 1997.

Abstract: OSC will revise its regulation governing the disclosure of information under the Freedom of Information Act (FOIA) to incorporate changes required by the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA).

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Erin M. McDonnell, Office of Special Counsel, 1730 M Street NW., Suite 300, Washington, DC 20036-4505
Phone: 202 653-8971

RIN: 3255–AA01

[FR Doc. 99-5646 Filed 04-23-99; 8:45 am]

BILLING CODE 7405-01-F

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Part XXXVIII

Overseas Private Investment Corporation

Semiannual Regulatory Agenda

OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC)

OVERSEAS PRIVATE INVESTMENT CORPORATION

22 CFR Ch. VII

Federal Regulations; OPIC Regulatory Agenda Semiannual Summary

AGENCY: Overseas Private Investment Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Overseas Private Investment Corporation (OPIC) is publishing this agenda as required by Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and the Regulatory Flexibility Act. This agenda gives OPIC's plan for the issuance of proposed regulations within the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in OPIC's regulatory process.

FOR FURTHER INFORMATION CONTACT: Michael Cushing, Managing Director for Administration, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; telephone (202) 336-8520, e-mail mcush@opic.gov.

Dated: February 18, 1999.

Michael Cushing,

Managing Director for Administration.

OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC) — Long-Term Actions

3865. FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; PL 96-231, Electronic Freedom of Information Act Amdts. of 1996

CFR Citation: 22 CFR 706

Legal Deadline: None

Abstract: OPIC is updating its FOIA regulations to reflect organizational and procedural changes and to incorporate statutory requirements contained in the Electronic Freedom of Information Act Amendments of 1996.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura A. Naide, Senior Counsel for Administrative Affairs, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527
Phone: 202 336-8426
Fax: 202 408-0297
Email: lnaid@opic.gov

RIN: 3420–AA01

OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC) — Completed Actions

3866. PRODUCTION OF NONPUBLIC RECORDS AND TESTIMONY OF OPIC EMPLOYEES IN LEGAL PROCEEDINGS

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 552; 18 USC 641; 22 USC 2199(d); 31 USC 9701

CFR Citation: 22 CFR 706; 22 CFR 713 (New)

Legal Deadline: None

Abstract: OPIC is setting procedures for securing testimony of OPIC employees or OPIC documents for use in litigation to which the United States is not a party.

Timetable:

Action	Date	FR Cite
Final Action	02/19/99	64 FR 8239
Final Action Effective	03/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchel Neurock, Administrative Counsel, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527
Phone: 202 336-8435
Fax: 202 408-0297
Email: mneur@opic.gov

RIN: 3420–AA02

[FR Doc. 99-4906 Filed 04-23-99; 8:45 am]

BILLING CODE 3201-01-F

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April 26, 1999

Part XXXIX

Panama Canal Commission

Semiannual Regulatory Agenda

PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Semiannual Regulatory Agenda, April 1999

AGENCY: Panama Canal Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the rulemaking activities of the Panama Canal Commission.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact William J. Connolly, Secretary, Panama Canal Commission, International Square, 1825 I Street NW., Suite 1050, Washington, DC 20006-5402, (202) 634-6441 TDD or e-mail pancanalwo@aol.com, or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011-2300, 011/507-272-7511.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the Agency's regulatory review and development process. This agenda was prepared pursuant to guidelines established by the Office of Management and Budget.

Dated: February 19, 1999.

William J. Connolly,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Final Rule Stage

3867. PANAMA CANAL COMMISSION ACQUISITION REGULATION

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 35

Legal Deadline: NPRM, Statutory, January 1, 2000.

Abstract: Publication of a revised Panama Canal Commission Acquisition Regulation to become the sole, comprehensive, and autonomous procurement regulation applicable to the Panama Canal Commission suitable for adoption and uninterrupted use by the Government of Panama after Canal transfer on December 31, 1999.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Theodore G. Lucas, Procurement Executive, Office of General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011-2300
Phone: 507 272-2755
Fax: 507 272-3748
Email: tglucas@pancanal.com

RIN: 3207–AA44

PANAMA CANAL COMMISSION (PANAMA) — Long-Term Actions

3868. • MARINE ACCIDENTS INVESTIGATIONS CONTROL RESPONSIBILITIES

Priority: Other Significant

Legal Authority: 22 USC 3777 to 3779; EO 12215, 45 FR 36043; 3 CFR 1980 Comp., p. 257

CFR Citation: 35 CFR 117

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to amend its regulations to limit its liability in marine accidents. The new regulations will require potential claimants to carry insurance against marine accidents in an amount of $1 million to cover damages sustained by their vessels at the Canal when transiting the waterway or navigating in waters adjacent thereto.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William J. Connolly, Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050, Washington, DC 20006-5402
Phone: 202 634-6441
Fax: 202 634-6439
Email: washingtonoffice@pancanal.com

RIN: 3207–AA48

3869. • REGULATIONS OF THE SECRETARY OF THE ARMY (PANAMA CANAL EMPLOYMENT SYSTEM) PERSONNEL POLICY; REGULATIONS OF THE SECRETARY OF THE ARMY PANAMA CANAL EMPLOYMENT POLICY

Priority: Info./Admin./Other

Legal Authority: 22 USC 3641 to 3701; EO 12173; EO 12215

CFR Citation: 35 CFR 251; 35 CFR 253

Legal Deadline: None

Abstract: The Panama Canal Commission (Commission) is removing 35 CFR part 251 "Regulations of the Secretary of the Army (Panama Canal Employment System)--Personnel Policy," which was published in the

PANAMA **Long-Term Actions**

Federal Register on March 26, 1982, and 35 CFR 253 "Regulations of the Secretary of the Army (Panama Canal Employment System)--Employment Policy," which was published in the Federal Register on March 26, 1982, to remove the Secretary of the Army as the prescribing authority for the Panama Canal Employment System in accordance with the Panama Canal Act Amendments of 1996, Public Law 104-201, sections 3530 and 3535.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William J. Connolly, Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050, Washington, DC 20006-5402
Phone: 202 634-6441
Fax: 202 634-6439
Email: washingtonoffice@pancanal.com

RIN: 3207–AA49

3870. • PART 121 INSPECTION AND REGISTRATION OF VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3811; EO 12215, 45 FR 36043; 44 USC 3501

CFR Citation: 35 CFR 121

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to revise 35 CFR part 121 to reflect changes in the Commission organization structure which occurred as a result of an internal reorganization and to conform part 121 to current U.S. Coast Guard regulations and standards as applicable.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles Morris, Director, Department of Safety, Environment, and Security, Panama Canal Commission, 1825 I Street NW., Washington, DC 20006-5402
Phone: 202 634-6441
Fax: 202 634-6439
Email: wo@pancanal.com

RIN: 3207–AA50

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Part XL

Peace Corps

Semiannual Regulatory Agenda

PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Regulatory Agenda

AGENCY: Peace Corps.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 6-month period from April 1, 1999, through September 30, 1999. The purpose of publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Nancy H. Hendry, General Counsel, Peace Corps, 1111 L Street NW., Washington, DC 20526, (202) 692-2150.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601-612, executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by the Peace Corps are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. In addition, the Peace Corps has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The Agency has also determined that the regulations will not impose compliance costs or reporting burdens on the public.

Dated: February 19, 1999.

Nancy H. Hendry,

General Counsel, Peace Corps.

PEACE CORPS (PEACE) — Long-Term Actions

3871. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504—HANDICAPPED DISCRIMINATION PROHIBITION

Priority: Info./Admin./Other

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 312

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination on the basis of handicap in programs or activities conducted by executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/91	56 FR 50684
NPRM Comment Period End	12/09/91	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 1842W, 1111 20th Street NW., Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA03

3872. SUPPLEMENTAL STANDARDS OF CONDUCT FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: EO 12674; 5 CFR 2635.105

CFR Citation: 22 CFR 307; 5 CFR 67 (New)

Legal Deadline: None

Abstract: The Office of Government Ethics has issued Governmentwide standards of conduct which pertain to all executive branch employees, including Peace Corps employees. The Peace Corps, pursuant to section 2635.105, plans to issue its own Supplemental Agency Regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 1842W, 1111 20th Street NW., Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA09

3873. ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE RE: PROCEDURES—APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 75 Stat 612, secs 4(b), 5(a), and 22; 22 USC 2504; EO 12137, May 16, 1979; International Security & Development Coop. Act of 1981, sec 601; 95 Stat 1519 and 1540; 42 USC 5057(c)(1) Domestic Volunteer Service Act, sec 417(c)(1)

CFR Citation: 22 CFR 305

Legal Deadline: None

Abstract: The Peace Corps is reviewing its Eligibility and Standards for Peace Corps Service, specifically with regard to establishing and publishing an appeals procedure for administrative and medical deselection.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 1842W, 1111 20th Street NW., Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA10

3874. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 22 USC 2503; 5 USC 553 and 554

CFR Citation: 22 CFR 306; 45 CFR 1225

Legal Deadline: None

Abstract: The Peace Corps is promulgating its own regulations regarding the Volunteer Discrimination Complaint Procedure to replace the current cross-reference to ACTION's regulations applicable to Peace Corps Volunteers, which appear in 45 CFR part 1225.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 1842W, 1111 20th Street NW., Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA11

3875. RESPONSIBILITIES AND ETHICAL STANDARDS FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 7301; 5 USC app Ethics in Government Act of 1978; EO 12674; 5 CFR 2635.105; 5 CFR 2635.403; 5 CFR 2635.803

CFR Citation: 22 CFR 307

Legal Deadline: None

Abstract: The Peace Corps, in compliance with the Office of Government Ethics, is issuing its own agency-specific regulations for employees of the Peace Corps. These regulations are in addition to the Supplemental Standards of Ethical Conduct for Peace Corps Employees, which supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 1842W, 1111 20th Street NW., Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA12

[FR Doc. 99-4907 Filed 04-23-99; 8:45 am]
BILLING CODE 6051-01-F

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Part XLI

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that PBGC expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 326-4024. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3876	Premium Self-Audit	1212-AA93

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3877	Filing Rules	1212-AA89
3878	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35
3879	Calculation and Payment of Unfunded Nonguaranteed Benefits	1212-AA54
3880	Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets	1212-AA55
3881	Treatment of Substantial Cessation of Operations	1212-AA84
3882	Lump Sum Payment Assumptions	1212-AA92
3883	Payment of Premiums	1212-AA94

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3884	Valuation of Benefits; Use of Single Set of Assumptions for All Benefits	1212-AA91

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3885	Payment of Premiums	1212-AA58
3886	Miscellaneous Statutory Amendments	1212-AA79

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Prerule Stage

3876. • PREMIUM SELF-AUDIT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302; 29 USC 1307

CFR Citation: 29 CFR 4007

Legal Deadline: None

Abstract: The PBGC is considering whether to set up a premium "self-audit" program under which pension plans' premium payments could be reviewed by the plans' own independent auditors using "agreed-upon procedures" specified by the PBGC. The aim of the program would be to limit the need for full-scale PBGC audits for participating plans while improving voluntary compliance with premium payment rules.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/99	
ANPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA93

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

3877. FILING RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301 et seq

CFR Citation: 29 CFR 4000

Legal Deadline: None

Abstract: The PBGC's rules governing the date of filing vary, depending on the regulation involved and the method of filing used (e.g., mail postmarked by the United States Postal Service, metered mail, commercial delivery service, facsimile). The PBGC intends to clarify and simplify its filing rules and to provide greater flexibility in methods of filing (including by electronic means).

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4024
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA89

3878. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 4022

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. This regulation will fill gaps in the rules and otherwise clarify matters that had been handled on a case-by-case basis in the past.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA35

3879. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322(c)

CFR Citation: 29 CFR 4022 subpart C

Legal Deadline: None

Abstract: Under ERISA section 4022(c), plan participants and beneficiaries may receive a portion of their unfunded nonguaranteed benefits (UNBs). The PBGC's claim for employer liability covers both its shortfall (unfunded guaranteed benefits) and participants' losses (UNBs). In turn, the PBGC uses a portion of its employer liability recoveries to pay a portion of UNBs to participants and beneficiaries. Section 4022(c) contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures necessary to make this system work.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4020
TDD: 800 877-8339

PBGC — Proposed Rule Stage

Fax: 202 326-4112

RIN: 1212–AA54

3880. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341; 29 USC 1301(a); 29 USC 1344; 29 USC 1362

CFR Citation: 29 CFR 4044 subpart B

Legal Deadline: None

Abstract: The Pension Benefit Guaranty Corporation is considering amending its benefit valuation and asset allocation regulations by adopting more current mortality tables and otherwise simplifying and improving its valuation assumptions and methods.

Timetable:

Action	Date	FR Cite
Notice of Intent to Propose Rulemaking	03/19/97	62 FR 12982
NPRM	08/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA55

3881. TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1362; 29 USC 1363; 29 USC 1364; 29 USC 1365

CFR Citation: 29 CFR 4062

Legal Deadline: None

Abstract: Section 4062(e) of ERISA imposes a contingent liability upon an employer in the case of certain cessations of operations at a facility. This rulemaking will address certain issues that may arise under this section.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA84

3882. LUMP SUM PAYMENT ASSUMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302; 29 USC 1322; 29 USC 1341; 29 USC 1344; 29 USC 1362; 29 USC 1301(a)

CFR Citation: 29 CFR 4022; 29 CFR 4044

Legal Deadline: None

Abstract: The PBGC is considering: (1) Discontinuing use of its existing lump sum assumptions for payment purposes and replacing them with a modified version of its existing annuity assumptions, effective sometime after December 2000, and (2) discontinuing calculation and publication of its existing lump sum interest rates at, or sometime after, the time the PBGC discontinues their use.

Timetable:

Action	Date	FR Cite
Notice of Intent to Propose Rulemaking	10/26/98	63 FR 57228
NIPR Comment Period End	12/28/98	
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA92

3883. • PAYMENT OF PREMIUMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1303(a); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 4007

Legal Deadline: None

Abstract: The PBGC is proposing to amend its regulation on Payment of Premiums to encourage self-correction of premium underpayments. The amendments make it easier to qualify for "safe-harbor" relief from late payment penalty charges and codify the PBGC's current premium penalty policy (under which the penalty charge is lowered from 5 percent per month to 1 percent per month if a premium payor corrects an underpayment before PBGC notification).

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA94

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Final Rule Stage

3884. VALUATION OF BENEFITS; USE OF SINGLE SET OF ASSUMPTIONS FOR ALL BENEFITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301(a); 29 USC 1302; 29 USC 1322; 29 USC 1341; 29 USC 1344; 29 USC 1350; 29 USC 1362

CFR Citation: 29 CFR 4022; 29 CFR 4044; 29 CFR 4050; 29 CFR 4281

Legal Deadline: None

Abstract: The Pension Benefit Guaranty Corporation is proposing to amend its regulations to provide for the use of a single set of valuation assumptions -- those currently used by the PBGC to value benefits to be paid as annuities -- for purposes of allocating assets to benefits under section 4044 of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	10/26/98	63 FR 57229
NPRM Comment Period End	12/28/98	
Final Action	06/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 2005-4024
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA91

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Long-Term Actions

3885. PAYMENT OF PREMIUMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 29 CFR 4006; 29 CFR 4007

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to 11/16/92	09/17/92	57 FR 42910
Final Action Extending Premium Due Dates	12/14/98	63 FR 68684
Final Action Extending Premium Due Dates Effective	02/12/99	
Final Action	To Be Determined	
Final Action Effective	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Murphy
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA58

3886. MISCELLANEOUS STATUTORY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 29 CFR 4000 et seq

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc L. Jordan
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA79

[FR Doc. 99-5648 Filed 04-23-99; 8:45 am]
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Part XLII

Presidio Trust

Semiannual Regulatory Agenda

PRESIDIO TRUST (PRESIDIO)

PRESIDIO TRUST

36 CFR Ch. X

Semiannual Agenda of Regulations Pursuant to Executive Order 12866

AGENCY: The Presidio Trust

ACTION: Semiannual regulatory agenda.

SUMMARY: The Presidio Trust (Trust) is a wholly-owned Government corporation created by Congress pursuant to title I of the Omnibus Parks and Public Lands Act of 1996, Public Law 104-333, 110 Stat. 4097. The Trust is charged with managing a portion of the former U.S. Army base known as The Presidio of San Franciso, California. Pursuant to law, administrative jurisdiction of approximately 80 percent of this property was transferred from the National Park Service (NPS), Department of the Interior (DOI), to the Trust as of July 1, 1998.

This regulatory agenda describes the regulations that the Trust will be proposing, developing, and reviewing between April 1, 1999, and September 30, 1999. This information is published in order to notify the public of the Trust's regulatory activities so that interested persons can participate in the Trust's rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information about the Trust's regulatory agenda or rulemaking process, contact Karen A. Cook, General Counsel, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052; telephone: 415-561-5300.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies must publish a semiannual regulatory agenda in the **Federal Register** in April and October of each year.

The Trust has determined and certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. section 601 *et seq.*, that the regulations under consideration will not have a significant economic effect on a substantial number of small entities nor will they impose compliance costs or reporting burdens on the public. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Dated: March 23, 1999.

James E. Meadows,

Executive Director.

PRESIDIO TRUST (PRESIDIO) — Long-Term Actions

3887. INTERIM MANAGEMENT OF THE PRESIDIO

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106

CFR Citation: 36 CFR 1001; 36 CFR 1002; 36 CFR 1004; 36 CFR 1005

Legal Deadline: None

Abstract: This interim final rule governs the use and management of the area administered by the Presidio Trust, and is designed to ensure continuity during the transfer of the management of the Presidio from the National Park Service (NPS) to the Presidio Trust. The rule is derived from the NPS's regulations for managing conduct at the Presidio during the four years when the Presidio was under the NPS's jurisdiction. These regulations cover public use and recreational activities; the protection of natural, cultural, and archeological resources; vehicle and traffic safety; and commercial and private operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/98	63 FR 35694
Interim Final Rule Comment Period End	08/31/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen A. Cook, General Counsel, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052
Phone: 415 561-5300
Fax: 415 561-5308
Email: kcook@presidiotrust.gov

RIN: 3212–AA00

3888. MANAGEMENT OF THE PRESIDIO

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106; 5 USC 552; 5 USC 552a; 28 USC 2672

CFR Citation: 36 CFR 1001 to 1009

Legal Deadline: None

Abstract: This proposed rule, published in the Federal Register on September 18, 1998, at 63 FR 50024, revises and expands upon the interim final rule adopted when the Presidio was transferred from the National Park Service to the Presidio Trust (Trust). The interim final rule was published on June 30, 1998, and can be found at 63 FR 35694. These proposed rules cover general provisions (part 1001); public use and recreational activities and protection of natural, cultural, and archeological resources (part 1002); vehicle and traffic safety (part 1003); and commercial operations (part 1004) and have been revised to be consistent with existing regulations, conform with laws in neighboring jurisdictions, and simplify the language and organization of the regulations. The remaining proposed regulations address rights-of-way (part 1005); Presidio Trust symbols (part 1006); requests under the Freedom of Information and Privacy Acts (parts 1007 and 1008); and administrative claims under the Federal Tort Claims Act (part 1009).

By notice published on January 19, 1999, in the Federal Register at 64 FR 2870, the Trust held in abeyance until further notice a portion of the proposed rules: 36 CFR 1001, 1002, 1003, 1004, and 1006. Any future action on these rules will be noticed in the Federal Register and subject to additional public comment. In the interim, the Trust's final interim regulations at 36 CFR 1001, 1002, 1004, and 1005 remain in effect. The public comment period for proposed rule 36 CFR 1005 closed on January 8, 1999. Public comment on the remaining proposed rules, 36 CFR 1007, 1008, and 1009, closed on November 17, 1998, and the Trust issued final regulations on December

30, 1998, effective January 29, 1999. These regulations can be found at 63 FR 71771.

Timetable:

FOIA; Privacy Act; Federal Tort Claims Act
NPRM 09/18/98 (63 FR 50024)
NPRM Comment Period End 11/17/98
Final Action 12/30/98 (63 FR 71771)
Final Action Effective 01/29/99

General; Resource Protection; Traffic Safety; Comm. Operations
NPRM 09/18/98 (63 FR 50024)
NPRM Comment Period End 11/17/98
Comment Period Extended to 01/08/99 (63 FR 64023)
Partial Abeyance of Proposed Rule 01/19/99 (64 FR 2870)
Further Action To Be Determined

Rights-of-Way
NPRM 09/18/98 (63 FR 50024)
NPRM Comment Period End 11/17/98
Comment Period Extended to 01/08/99 (63 FR 64023)
Final Action To Be Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen A. Cook, General Counsel, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052
Phone: 415 561-5300
Fax: 415 561-5308
Email: kcook@presidiotrust.gov

RIN: 3212–AA01

3889. MANAGEMENT OF THE PRESIDIO: ENVIRONMENTAL QUALITY

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106; 42 USC 4321 et seq; 40 CFR 1507:3

CFR Citation: 36 CFR 1010

Legal Deadline: None

Abstract: This proposed rule contains regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), as amended, pursuant to the Council on Environmental Quality's regulations at 40 CFR 1500 to 1509. Areas covered by these regulations include requirements for Environmental Assessments (EA) and Environmental Impact Statements (EIS), actions typically requiring EAs or EISs, and the preparation of EAs and EISs. These regulations also address public involvement in the Trust's environmental review process and the manner in which environmental issues will be considered by the Trust in its decisionmaking processes.

Timetable:

Action	Date	FR Cite
Interim Policy Statement	09/14/98	63 FR 49142
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen A. Cook, General Counsel, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052
Phone: 415 561-5300
Fax: 415 561-5308
Email: kcook@presidiotrust.gov

RIN: 3212–AA02

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Part XLIII

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, (312) 751-4513, FAX (312) 751-7102, TDD (312) 751-4701.

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda.

Dated: February 18, 1999.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3890	Plan of Operation During a National Emergency	3220-AB36
3891	Remuneration	3220-AB38
3892	Registration for Railroad Unemployment Benefits; Determination of Daily Benefit Rate; Sickness Benefits; Duration of Normal and Extended Benefits	3220-AB39
3893	Family Relationships	3220-AB40

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3894	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
3895	Employees Under the Railroad Retirement Act	3220-AA52
3896	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
3897	Voluntary Quit	3220-AA75
3898	Determining Disability	3220-AA99
3899	Requests for Reconsideration and Appeals Within the Board	3220-AB03
3900	Creditable Railroad Compensation	3220-AB23
3901	Finality of Decisions Regarding Unemployment and Sickness Insurance Benefits	3220-AB25
3902	General Administration	3220-AB35

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3903	Determining Disability	3220-AB37

RAILROAD RETIREMENT BOARD (RRB) — Proposed Rule Stage

3890. PLAN OF OPERATION DURING A NATIONAL EMERGENCY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 375

Legal Deadline: None

Abstract: The Board proposes to update its plan of operation during a national emergency to reflect recent reorganizations within the Board.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513

RRB — Proposed Rule Stage

TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB36

3891. REMUNERATION

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 322

Legal Deadline: None

Abstract: The Railroad Retirement Board is amending part 322 of its regulations to reflect statutory changes that may affect the payment of unemployment or sickness benefits to railroad employees under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB38

3892. REGISTRATION FOR RAILROAD UNEMPLOYMENT BENEFITS; DETERMINATION OF DAILY BENEFIT RATE; SICKNESS BENEFITS; DURATION OF NORMAL AND EXTENDED BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 322(i); 45 USC 362(l)

CFR Citation: 20 CFR 325; 20 CFR 330; 20 CFR 335; 20 CFR 336

Legal Deadline: None

Abstract: The Board amends its regulations to incorporate amendments made to the Railroad Unemployment Insurance Act by Public Law 104-251.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB39

3893. • FAMILY RELATIONSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 222

Legal Deadline: None

Abstract: The Board amends its regulations to clarify how it uses appropriate State law, particularly State inheritance laws, to determine when an individual is the child of the employee.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Railroad Retirement Board, Bureau of Law, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB40

RAILROAD RETIREMENT BOARD (RRB) — Long-Term Actions

3894. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board is considering revisions to existing parts 202 and 301 of the RRB's regulations defining entities covered as employers under the Railroad Retirement and Railroad Unemployment Insurance Acts to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Sectors Affected:

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA51

3895. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board is considering revising existing part 203 of the RRB's regulations defining individuals covered as employees under the Railroad Retirement Act to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations

as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Sectors Affected:

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA52

3896. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) amends 20 CFR part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42482
NPRM Comment Period End	09/25/95	60 FR 43999
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA61

3897. VOLUNTARY QUIT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new part 328 is added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA75

3898. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.114

Legal Deadline: None

Abstract: Section 114 of part 220 is being amended to expand the Board's description of the manner in which symptoms, including pain, are evaluated for purposes of determining disability.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47122
NPRM Comment Period End	11/13/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA99

3899. REQUESTS FOR RECONSIDERATION AND APPEALS WITHIN THE BOARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5); 45 USC 231g; 45 USC 355

CFR Citation: 20 CFR 260

Legal Deadline: None

Abstract: The RRB is amending its regulations to provide for its field offices to make timeliness determinations on requests for reconsideration of decisions of the RRB's various adjudicating units.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB03

3900. CREDITABLE RAILROAD COMPENSATION

Priority: Other Significant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 211.3

Legal Deadline: None

Abstract: The RRB amends its regulations regarding the creditability of pay for time lost to prohibit the crediting of pay for time lost beyond the date of a judgment or settlement, or in the absence of a judgment or settlement, beyond the date of payment. The Labor Member of the RRB dissents

RRB — Long-Term Actions

from this proposal and recommends allowing the crediting of pay for time lost in these circumstances when the accompanying railroad retirement taxes are paid on the compensation.

Timetable:

Action	Date	FR Cite
NPRM	12/04/97	62 FR 61488
NPRM Comment Period End	02/02/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB23

3901. FINALITY OF DECISIONS REGARDING UNEMPLOYMENT AND SICKNESS INSURANCE BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 355; 45 USC 361(l)

CFR Citation: 20 CFR 349

Legal Deadline: None

Abstract: This new part explains when the RRB will reopen a final determination on a claim for benefits under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB25

3902. GENERAL ADMINISTRATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 200

Legal Deadline: None

Abstract: The Board proposes to amend its regulations which describe its organization and general course of operations to reflect recent reorganizations.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB35

RAILROAD RETIREMENT BOARD (RRB) — Completed Actions

3903. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 220

Completed:

Reason	Date	FR Cite
Withdrawn - pending further study	02/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB37

[FR Doc. 99-4908 Filed 04-23-99; 8:45 am]
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Monday
April 26, 1999

Part XLIV

Selective Service System

Semiannual Regulatory Agenda

SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. app. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425; telephone (703) 605-4012.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12866. Selective Service regulations appear in 32 CFR chapter XVI.

Dated: February 10, 1999.

Gil Coronado,

Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS) — Long-Term Actions

3904. SELECTIVE SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 451 et seq, Military Selective Service Act

CFR Citation: 32 CFR ch XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209-2425
Phone: 703 605-4012
Fax: 703 605-4006

RIN: 3240–AA01

[FR Doc. 99-4909 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part XLV

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The entries below represent the Small Business Administration's (SBA) 40th semiannual regulatory agenda. Although not a regulatory agency, the SBA drafted the agenda to meet both the criteria and the spirit of the regulatory review process. The SBA publishes this agenda pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the SBA encourages the public to contact the individual agency official referenced in each entry.

For information concerning the SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Mark K. Stephens, Deputy General Counsel, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205-6642.

SUPPLEMENTARY INFORMATION: The SBA agenda is designed to increase public knowledge of all anticipated SBA regulatory activities. Publication may encourage increased public participation in the review and development process.

The SBA's agenda is divided into three parts. Part I, Proposed Rules, includes those rules which likely will be proposed during the next 12 months. Part II, Final Rules, includes proposed rules which probably will be finalized during the agenda period. Part III, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda.

Publication of the agenda does not impose any binding obligation on the SBA with regard to any specific item in the agenda. Further, regulatory action not listed on the agenda is not precluded.

Finally, the SBA regulations are developed in a manner that promotes economic growth without imposing unnecessary regulatory burdens on the public. The SBA continues its vigorous program of streamlining all its regulatory activity so that only absolutely necessary regulations are promulgated.

Dated: March 11, 1999.

Aida Alvarez,

Administrator.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3905	Surety Bond Guarantee	3245-AE13
3906	Small Business Size Standards; Accounting, Auditing and Bookkeeping Services	3245-AE16

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3907	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
3908	Record Disclosure and Privacy Regulations	3245-AE03
3909	Small Business Development Center Program Revisions	3245-AE05
3910	Small Business Size Standards; Health Care Industries	3245-AE06
3911	Small Business Size Standards; North American Industry Classification System	3245-AE07
3912	SBIC Program Reform	3245-AE08
3913	PLP Lenders' Responsibilities for Servicing and Liquidating Loans	3245-AE09
3914	Servicing of Guaranteed Loans	3245-AE10
3915	Small Business Lending Company Expansion and Oversight Regulations	3245-AE14
3916	Small Business Size Standards; Help Supply Services	3245-AE17
3917	Small Business Size Standards; Electric Services	3245-AE18
3918	Common Rule on Title IX of the Civil Rights Act	3245-AE19
3919	Minority Enterprise Development	3245-AE20
3920	Minority Enterprise Development	3245-AE22

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3921	Business Loan Policy: Unguaranteed Portions of Loans, Securitization, Sales, and Pledges	3245-AD84
3922	Small Business Size Standards; Engineering Services, Architectural Services, and Surveying and Mapping Services	3245-AD89

SBA

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3923	Amendment to SBA's Regulations Regarding Administrative Offset	3245-AD90
3924	Contract Bundling Procurement Strategy	3245-AE04
3925	Revisions to PCLP Regulations	3245-AE11

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3926	Minority Enterprise Development	3245-AE21

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3927	Revisions to 504 Program Regulations	3245-AD99
3928	Microloan Grants for Welfare-to-Work Initiative	3245-AE00

SMALL BUSINESS ADMINISTRATION (SBA) — Prerule Stage

3905. SURETY BOND GUARANTEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app 3; 15 USC 687b, 687c, 694a, 694b; PL 105-135

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: Program Regulations will be revised to include policy and procedural modifications. Planned regulatory changes pertain to both the prior approval and the preferred surety bond programs.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert J. Moffitt, AA/Office of Surety Guarantees, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6540
Fax: 202 205-7600

RIN: 3245–AE13

3906. • SMALL BUSINESS SIZE STANDARDS; ACCOUNTING, AUDITING AND BOOKKEEPING SERVICES

Priority: Economically Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This Advance Notice of Proposed Rulemaking seeks public input on the present size standard of $6 million in average annual revenues.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE16

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

3907. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR 5400

Legal Deadline: None

Abstract: This rule is part of SBA's regulatory streamlining effort. The SBA and the Office of Government Ethics are jointly issuing this rule which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. The rule will be published at 5 CFR ch XLIV and will supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (57 FR 35006; Aug. 7, 1992). The rule is necessary to supplement the standards issued by OGE because it addresses ethical issues which are unique to SBA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6642

RIN: 3245–AC96

3908. RECORD DISCLOSURE AND PRIVACY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231; 5 USC 552

CFR Citation: 13 CFR 102

Legal Deadline: None

Abstract: This proposed regulation will amend 13 CFR section 102 part A, governing disclosure of information, to implement the Electronic Freedom of Information Act Amendments of 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Beverly Linden, Chief, Freedom of Information Act Office, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 401-8200

RIN: 3245–AE03

3909. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 648

CFR Citation: 13 CFR 130

Legal Deadline: None

Abstract: SBA is revising its SBDC regulations to reflect programmatic changes contained in P.L. 105-305.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Johnnie Albertson, AA/SBDCs, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6766

RIN: 3245–AE05

3910. SMALL BUSINESS SIZE STANDARDS; HEALTH CARE INDUSTRIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This regulation proposes changes to SBA's size standards for the health care industries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gary Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE06

3911. SMALL BUSINESS SIZE STANDARDS; NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM

Priority: Economically Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This proposed regulation will amend our current regulations to convert SBA's size standards from the Standard Industrial Classification system to conform with OMB's new North American Industry Classification system.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE07

SBA

Proposed Rule Stage

3912. SBIC PROGRAM REFORM

Priority: Economically Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 661 et seq; 15 USC 6833; 15 USC 687; PL 105-135

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This proposed rule would increase the maximum leverage amount for SBICs based on changes in the Consumer Price Index, permit SBICs with participating securities to make quarterly tax distributions, establish regulatory guidelines for Limited Liability Companies, make minor changes in the definition of private capital, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Leonard Fagan, Investment Division, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6510

RIN: 3245–AE08

3913. PLP LENDERS' RESPONSIBILITIES FOR SERVICING AND LIQUIDATING LOANS

Priority: Economically Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.453

Legal Deadline: None

Abstract: SBA is amending 13 CFR to provide PLP lenders guidance on submitting liquidation plans.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Acting Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6498

RIN: 3245–AE09

3914. SERVICING OF GUARANTEED LOANS

Priority: Economically Significant

Legal Authority: 15 USC 634(b); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.512

Legal Deadline: None

Abstract: SBA is amending 13 CFR section 120.512 to require a lender, after SBA honors its guarantee, to service and liquidate the loan and continue to hold the loan instruments unless SBA indicates otherwise. SBA is also amending this regulation for other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Acting Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6498

RIN: 3245–AE10

3915. SMALL BUSINESS LENDING COMPANY EXPANSION AND OVERSIGHT REGULATIONS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(b)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This rulemaking would amend 13 CFR part 120 to update the rules regarding Small Business Lending Company (SBLC) oversight and expand the SBLC Program.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LeAnn Oliver, Director, Office of Financial Assistance, Small Business Administration
Phone: 202 205-6485

RIN: 3245–AE14

3916. • SMALL BUSINESS SIZE STANDARDS; HELP SUPPLY SERVICES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: NPRM, Statutory, June 1999.

Abstract: This rule proposes to change the size standard for health supply services. The proposed revision would better define the size of business that the SBA believes should be eligible for Federal small business assistance programs in this industry.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gary Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE17

3917. • SMALL BUSINESS SIZE STANDARDS; ELECTRIC SERVICES

Priority: Economically Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

SBA — **Proposed Rule Stage**

Legal Deadline: None

Abstract: This proposed rule would change the size standard for electric services. The proposed revision would better define the size of business in this industry that the SBA believes should be eligible for Federal small business assistance programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE18

3918. • COMMON RULE ON TITLE IX OF THE CIVIL RIGHTS ACT

Priority: Economically Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 2000(e)

CFR Citation: 13 CFR 113

Legal Deadline: None

Abstract: The Department of Justice, in consultation with other agencies, has drafted a proposed common rule to implement title IX of the Education Amendments of 1972, as amended. Each agency that provides financial assistance for educational or training services must adopt this rule. When final, this rule will become part of SBA's regulations and appear as subpart B of 13 CFR part 113.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Erline Patrick, AA/Equal Employment Opportunity and Civil Rights Compliance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6750

RIN: 3245–AE19

3919. • MINORITY ENTERPRISE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637

CFR Citation: 13 CFR 124.509(d)

Legal Deadline: None

Abstract: The new regulation would "grandfather" in firms that entered the program before January 1, 1993, and therefore would exclude them from the "sole source" 8(a) contracting prohibition because they did not meet non-8(a) business requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Jose Gutierrez, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6459

RIN: 3245–AE20

3920. • MINORITY ENTERPRISE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637

CFR Citation: 13 CFR 124.206(a)

Legal Deadline: None

Abstract: This regulation would allow an appeal on denial of program admission to SBA's Office of Hearings and Appeals (OHA), if based on a negative finding of social disadvantage, economic disadvantage, ownership, control, business potential for success or any combination of these five criteria.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jose Gutierrez, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6459

RIN: 3245–AE22

SMALL BUSINESS ADMINISTRATION (SBA) — **Final Rule Stage**

3921. BUSINESS LOAN POLICY: UNGUARANTEED PORTIONS OF LOANS, SECURITIZATION, SALES, AND PLEDGES

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 120.420

Legal Deadline: Final, Statutory, March 31, 1997.
PL 104-208.

Abstract: This rule modifies present regulations to permit depository as well as nondepository lenders to borrow against and securitize the unguaranteed portion of SBA guaranteed loans.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60649
ANPRM Comment Period End	12/29/96	
NPRM	02/26/97	62 FR 8640
NPRM Comment Period End	03/28/97	
Interim Final Rule	04/02/97	62 FR 15601

SBA **Final Rule Stage**

Interim Final Rule Effective	04/02/97	
Public Hearing (05/28/97)	05/12/97	62 FR 25874
Second NPRM	05/18/98	63 FR 27219
Second NPRM Comment Period End	07/17/98	
Final Action	02/10/99	
Final Action Effective	04/12/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Hammersley, Director for Secondary Market Sales, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD84

3922. SMALL BUSINESS SIZE STANDARDS; ENGINEERING SERVICES, ARCHITECTURAL SERVICES, AND SURVEYING AND MAPPING SERVICES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(c); PL 104-486, sec 108; 15 USC 637(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to increase small business size standards in the Engineering Services, Architectural Services, and Surveying and Mapping Services industries. The proposed revisions are being made to better define the size of business in those industries the SBA believes should be eligible for Federal small business assistance programs.

Timetable:

Action	Date	FR Cite
NPRM	02/03/98	63 FR 5480
NPRM Comment Period End	05/06/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, Assistant Administrator on Size Standards, Small Business Administration, 409 3rd Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD89

3923. AMENDMENT TO SBA'S REGULATIONS REGARDING ADMINISTRATIVE OFFSET

Priority: Info./Admin./Other

Legal Authority: 31 USC 3711; 31 USC 3720; 5 USC 5574; 31 USC 3716; 15 USC 634(b)(6)

CFR Citation: 13 CFR 140

Legal Deadline: None

Abstract: SBA intends to amend its regulations to include references to administrative offset and other remedies that the Treasury Department may use on behalf of SBA to collect debt pursuant to the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3454
NPRM Comment Period End	02/22/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Arnold Rosenthal, Assistant Administrator for Borrowers and Lender Servicing, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD90

3924. CONTRACT BUNDLING PROCUREMENT STRATEGY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-135

CFR Citation: 13 CFR 121; 13 CFR 125

Legal Deadline: None

Abstract: This regulation will implement new statutory authority regarding duties and responsibilities of contracting officers and SBA in cases of bundled contracts.

Timetable:

Action	Date	FR Cite
NPRM	01/13/99	64 FR 2153
NPRM Comment Period End	03/15/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Judith Roussel, AA/Government Contracting, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6412

RIN: 3245–AE04

3925. REVISIONS TO PCLP REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-135; 15 USC 601 et seq

CFR Citation: 13 CFR 120

Legal Deadline: Final, Statutory, May 2, 1998.

Abstract: This interim final rule implements Pub. L. 105-135, enacted on December 2, 1997, with respect to SBA financing in the pilot Premier Certified Lenders Program (PCLP). The interim final rule extends the pilot to October 1, 2000, and expands the authority of a Certified Development Company (CDC) participating in the PCLP (Premier CDC).

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/05/98	63 FR 24739
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LeAnn M. Oliver, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AE11

SMALL BUSINESS ADMINISTRATION (SBA) — Long-Term Actions

3926. • MINORITY ENTERPRISE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637

CFR Citation: 13 CFR 124.505(a)

Legal Deadline: None

Abstract: This proposed regulation would allow the Administrator to delegate appeal authority to the Minority Enterprise Development Office.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Jose Gutierrez, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6459

RIN: 3245–AE21

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

3927. REVISIONS TO 504 PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); PL 105-135

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This proposed regulation will amend the 504 program in many respects including lifting the restriction on the number of premier certified lenders, permitting borrowers to finance attorney fees up to $2500 with loan proceeds, and other amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/05/98	63 FR 24753
NPRM Comment Period End	09/14/98	
Final Action	01/13/99	64 FR 2115

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LeAnn Oliver, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AD99

3928. MICROLOAN GRANTS FOR WELFARE-TO-WORK INITIATIVE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(m)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This proposed regulation provides additional grants to microloan intermediates to fund child care and transportation costs to eligible microloan participants. It also broadens the scope of possible fund recipients.

Timetable:

Action	Date	FR Cite
Withdrawn	02/23/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LeAnn Oliver, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AE00

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federal register

Monday
April 26, 1999

Part XLVI

Social Security Administration

Semiannual Regulatory Agenda

SOCIAL SECURITY ADMINISTRATION (SSA)

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner

20 CFR Ch. III

Semiannual Unified Regulatory Agenda

AGENCY: Social Security Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: Executive Order 12866 entitled "Regulatory Planning and Review," issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish semiannually a brief description of all regulatory actions then under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published on November 9, 1998.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Georgia E. Myers, Acting Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235; telephone (410) 965-3632.

SUPPLEMENTARY INFORMATION: The Social Security Administration (SSA) has responsibility for the old-age, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the supplemental security income program under title XVI of the Act. We are not a regulatory agency. For the most part, SSA's regulations do not impose burdens on the private sector or on State, local, or tribal governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency toward the public and beneficiary's rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: 1) Legislative implementation; 2) program improvements to provide better service to SSA customers; and 3) improvements or clarifications to fulfill commitments made as part of the President's Regulatory Reinvention Initiative.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decisionmakers. Supporting regulations are often required. In some instances, the Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries, and their legal counsels.

Providing world-class service to our customers remains a principal objective of the Social Security Administration. Our regulatory program supports this overarching Agency goal. One of the areas in which we are working hard to deliver high-quality service is our disability determination process. Several of our agenda items support improvements to disability program administration.

One of our most important agenda items will raise, for a person disabled by other than blindness, the amount of earnings ordinarily considered to show that he or she is performing substantial gainful activity (SGA) from $500.00 a month to $700.00 a month. Under the Social Security Act, a person performing SGA is not considered disabled for program purposes.

Another very important agenda item—Expansion of the Use of Video Teleconference Technology in Hearings before Administrative Law Judges (ALJs) of the Social Security Administration—is expected to improve customer service by providing faster access to a hearing before an ALJ by removing the need for the claimant (and representative, if any) and the ALJ to be physically present at the same location.

We remain committed to managing the Supplemental Security Income program, for which we have had responsibility since the program's inception in 1974, as efficiently and effectively as possible. Successful management depends on our ability to serve our SSI beneficiaries and properly administer the public funds that are entrusted to us. To that end, we have established four pillars under which we are taking significant measures to strengthen the integrity of the SSI program. We have under way a series of initiatives designed to improve payment accuracy; we have developed a 7-year plan for conducting periodic reviews to determine if an individual receiving disability benefits has medically recovered; and we are engaged in an aggressive program to deter, detect, investigate, and prosecute fraud. In addition, we continue to use various debt collection tools that have been authorized by law to recover individual overpayments. In FY 1997, more than $1.1 billion in overpayments was detected. A recent study revealed that our recovery efforts have been largely successful. The success of our debt recovery efforts notwithstanding, however, we are continually looking at ways to further improve the recovery rate. We have planned new initiatives and developed legislative proposals that will continue to build upon this performance. These new initiatives are estimated to result in program savings of $40 million by FY 2002. In this agenda are several new regulations that are being developed to implement additional debt collection tools recently authorized by legislation.

Two final regulations currently being prepared will implement several elements of the "process unification" initiative. This initiative is designed to produce one set of adjudicative standards for all levels of disability review within SSA. The first regulation—Weight of Disability Determination Service (DDS) Medical Consultant Opinions—will define the specific weight to be given to DDS medical consultant opinions in hearing decisions. The second—Assessment of Residual Functional Capacity—will clarify the guidelines in our regulations used in determining whether an individual under age 50 lacks the capacity to perform less than a full range of sedentary work.

Also in this agenda are proposed revisions to our rules on Plans to Achieve Self-Support, proposed revisions to several of the medical criteria used to evaluate whether an individual is disabled for benefit purposes, and a final rule—Dedicated Accounts/Installment Payments—which reflects a welfare reform initiative.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of

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stakeholders interested in Social Security programs.

We recognize that it is important for our customers to be able to understand our rulemaking documents, and it has long been our established policy to write these documents in plain and understandable English. We are continuing this policy. In addition to serving our customers, these efforts support the Administration's Plain Language in Government Writing initiative.

The April 1999 regulatory agenda for the Social Security Administration follows.

Dated: March 3, 1999.

Georgia E. Myers,

Acting SSA Regulations Officer.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3929	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Fees for Representation of Claimants (296P)	0960-AD23
3930	Administrative Review Process; Administrative Res Judicata and Related Rules (526P)	0960-AE11
3931	Supplemental Security Income; Plans for Achieving Self-Support (506P)	0960-AE17
3932	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements With State, Local, and Indian Tribal Governments (547P)	0960-AE25
3933	Supplemental Standards for Ethical Conduct for Employees of the Social Security Administration (601P)	0960-AE48
3934	Privacy and Disclosure of Official Records and Information (711P)	0960-AE88
3935	Federal Salary Offset (Withholding a Portion of a Federal Employee's Salary To Collect a Delinquent Debt Owed to the Social Security Administration) (721P)	0960-AE89
3936	Private Collection Agencies (Using Private Collection Agencies to Help SSA Collect Delinquent Title II Debts Owed by Former Beneficiaries) (722P)	0960-AE90
3937	Charging Interest (Charging Interest on Delinquent Debts) (723P)	0960-AE91
3938	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)	0960-AE92
3939	Self-Sufficiency Incentives for Title II and Title XVI Program Beneficiaries (725P)	0960-AE93
3940	Testimony By Employees and the Production of Records in Legal Proceedings (732P)	0960-AE95
3941	Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Clarification of "Age" as a Vocational Factor (736P)	0960-AE96
3942	OASDI and SSI; Expansion of the Use of Video Teleconference Technology in Hearings Before Administrative Law Judges of the Social Security Administration (737P)	0960-AE97
3943	Revised Medical Criteria for Determination of Disability, Appendix 1 to Subpart P—Listing of Impairments (740P)	0960-AE99

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3944	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System (143F)	0960-AB01
3945	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs, Determining Disability and Blindness; Substantial Gainful Activity Guides (147F)	0960-AB73
3946	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income, Medical and Other Evidence of Your Impairment(s) (469F)	0960-AD91
3947	Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Revision to Medical-Vocational Guidelines (599F)	0960-AE42
3948	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind and Disabled; Evaluating Opinion Evidence (624F)	0960-AE56
3949	Dedicated Accounts and Installment Payments for Certain Past Due SSI Benefits (622F)	0960-AE59
3950	Revised Medical Criteria for Determination of Disability, Deletion of Obesity Listing (620F)	0960-AE65
3951	Effective Date of Application for Supplemental Security Income (SSI) Benefits (642F)	0960-AE71
3952	Denial of SSI Benefits for Fugitive Felons and Probation and Parole Violators (660F)	0960-AE77
3953	Employer ID Numbers for State and Local Government Employment (691F)	0960-AE84
3954	Increase in Substantial Gainful Activity (738F)	0960-AE98

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Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3955	Old-Age, Survivors, and Disability Insurance Program; Medical Criteria for Evaluating Mental Disorders and Traumatic Head Injury in Adults (222F)	0960-AC74
3956	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payment Under Title II & XVI of the Social Security Act (295F)	0960-AD22
3957	Procedure To Review Complaints of Alleged Misconduct on the Part of Administrative Law Judges (341P)	0960-AD54
3958	Election of Benefits Based on Age by Disabled Widow, Widower, and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
3959	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Hemic and Lymphatic System, and Malignant Neoplastic Diseases (399P)	0960-AD67
3960	Revised Medical Criteria for Determination of Disability, Endocrine System and Obesity and Related Criteria (436P)	0960-AD78
3961	Old-Age, Survivors, and Disability Insurance Program; Contributions for Support (475P)	0960-AD92
3962	Computation of SSI Benefits for the First Three Months of Payment (476P)	0960-AD93
3963	Definition of "Largest Benefit Amount" for Simultaneous Entitlement to Child's Benefits (481P)	0960-AD95
3964	Federal OASDI and SSI for the Aged, Blind, and Disabled; Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism (496F)	0960-AD96
3965	Repeal of Facility of Payment Provision (508F)	0960-AE02
3966	Modification of Private Printing and Prescribed Applications and Other Forms (530P)	0960-AE15
3967	OASDI; Nonpayment of Benefits to Incarcerated Individuals and Individuals Confined in Criminal Cases, Pursuant to Conviction or by Court Order Based on Findings of Insanity (531P)	0960-AE16
3968	Old-Age, Survivors, and Disability Insurance Benefits; Replacing Social Security Number Cards (543F)	0960-AE18
3969	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (554F)	0960-AE27
3970	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Indian Tribal Governments (555F)	0960-AE28
3971	Restrictions on Lobbying in Connection With the Award of Grants, Contracts, and Cooperative Agreements (556F)	0960-AE29
3972	Elimination of Rounding Distortion in the Calculation of the Contribution and Benefit Base and Earnings Test Exempt Amounts (512F)	0960-AE40
3973	Determining Disability and Blindness; Eliminating the Lower Substantial Gainful Activity Earnings Guideline Amounts (603P)	0960-AE49
3974	Deeming of Income From an Ineligible Spouse to an Eligible Individual and an Eligible Child (606P)	0960-AE50
3975	Implementing Modifications to Prehearing Procedures and Decisions by Adjudication Officers (616P)	0960-AE55
3976	Effectuation of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, in Programs Receiving Financial Assistance by SSA (617F)	0960-AE63
3977	Availability of Information and Records to the Public—Charging Fees for Providing Personal Information (618P)	0960-AE64
3978	Coverage of Employees of State and Local Governments; Office of Management and Budget (OMB) Control Number (280F)	0960-AE69
3979	Determining Disability and Blindness; Providing for Use of a Single Decisionmaker To Make Determinations of Disability Under Titles II and XVI of the Social Security Act (668P)	0960-AE73
3980	Reflect a Requirement of the Social Security Act That the Commissioner Disregard Evidence in Certain Situations Involving Fraud or Similar Fault Under Titles II or XVI of the Act (671P)	0960-AE75
3981	Nondiscrimination on the Basis of Disability (661P)	0960-AE78
3982	Adding New SSI Income and Resource Exclusion (VA Payments to Certain Vietnam Veterans' Children with Spina Bifida) to Lists of Exclusions Provided by Other Federal Statutes (664F)	0960-AE79
3983	Standards of Conduct 20 CFR Part 430—Personnel (672F)	0960-AE81
3984	Old-Age, Survivors and Disability Insurance; Calculating Benefits for Auxiliaries or Survivors When There Is a Dually Entitled Beneficiary (692P)	0960-AE85

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3985	Benefits for Spouses, Mothers, Fathers and Children (455F)	0960-AD83
3986	Maximum Family Benefits in Guarantee Cases (510F)	0960-AE03
3987	Application of State Law in Determining Child Relationship (557F)	0960-AE30
3988	Reduction of Disability Benefits—Workers' Compensation/Public Disability Benefits (567F)	0960-AE35

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Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3989	Permit Department of State and the Immigration and Naturalization Service To Collect Information Needed To Assign Social Security Numbers to Aliens (569F)	0960-AE36
3990	Listening-In to or Recording Telephone Conversations (626F)	0960-AE66
3991	Final Rules To Extend the Expiration Date of the Authority for Prehearing Proceedings and Decisions by Attorney Advisors (742F)	0960-AF01

SOCIAL SECURITY ADMINISTRATION (SSA) — Proposed Rule Stage

3929. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF CLAIMANTS (296P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, Sec 5106

CFR Citation: 20 CFR 404.1703; 20 CFR 404.1713; 20 CFR 404.1720; 20 CFR 404.1715 to 404.1717; 20 CFR 404.1725; 20 CFR 416.1503; 20 CFR 416.1513; 20 CFR 416.1520; 20 CFR 416.1515 to 416.1517; 20 CFR 416.1525

Legal Deadline: None

Abstract: We propose to amend the regulations to reflect section 5106(a) of Pub. L. 101-508 which modifies the manner in which past-due benefits are calculated and the process by which SSA approves fees charged by persons representing claimants before the Agency.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-5995

RIN: 0960–AD23

3930. ADMINISTRATIVE REVIEW PROCESS; ADMINISTRATIVE RES JUDICATA AND RELATED RULES (526P)

Priority: Other Significant

Legal Authority: 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 421; 42 USC 401(j); 42 USC 425; 42 USC 405 note; 42 USC 421 note; 42 USC 1383; 42 USC 1383b; 42 USC 1382c; 42 USC 902(a)(5); 42 USC 404(f)

CFR Citation: 20 CFR 404.903a (New); 20 CFR 404.903b (New); 20 CFR 404.950; 20 CFR 404.957; 20 CFR 404.967; 20 CFR 416.1403a (New); 20 CFR 416.1403b (New); 20 CFR 416.1450; 20 CFR 416.1457; 20 CFR 416.1467

Legal Deadline: None

Abstract: These proposed changes will amend our regulations governing the administrative review process for the Social Security and Supplemental Security Income (SSI) programs to update our procedures and to reflect and implement sections 205(b)(3)(A) and 1631(c)(1)(B)(i) of the Act, as added by section 5107 of Pub. L. 101-508. Section 5107 specifies certain cases in which our policy on administrative res judicata may not be applied to deny a claimant's subsequent application for benefits under the Social Security or SSI program. In general, section 5107 provides that an individual's failure to timely request review of an adverse determination (initial or reconsidered) under the Social Security or SSI program may not be used by us as a basis for a denial of the claimant's subsequent application for benefits under the same program, if the failure to request review was due to certain circumstances specified in the statute.

We are also proposing to amend our regulations to expand and clarify our policy on administrative res judicata and on collateral estoppel.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stan Axel, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-7927

Lois Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE11

3931. SUPPLEMENTAL SECURITY INCOME; PLANS FOR ACHIEVING SELF-SUPPORT (506P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 203; 42 USC 1383b(d)

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1181; 20 CFR 416.1182; 20 CFR

SSA

Proposed Rule Stage

416.1224; 20 CFR 416.1225; 20 CFR 416.1226

Legal Deadline: None

Abstract: These regulations revise our rules on plans to achieve self-support (PASS) to take into account the time period an individual will need for completion of his or her PASS and other factors determined to be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE17

3932. REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION; CERTAIN GRANTS AND AGREEMENTS WITH STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS (547P)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 7505; 41 USC 403(11)

CFR Citation: 20 CFR 435.000

Legal Deadline: None

Abstract: These proposed regulations migrate the HHS grants regulation at 45 CFR part 74 into a new SSA regulation at 20 CFR 435 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE25

3933. SUPPLEMENTAL STANDARDS FOR ETHICAL CONDUCT FOR EMPLOYEES OF THE SOCIAL SECURITY ADMINISTRATION (601P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC APP (Ethics in Government Act of 1978); 5 USC 7301; 5 USC 7353

CFR Citation: 5 CFR ch LXXXI (New)

Legal Deadline: None

Abstract: The Social Security Administration (SSA), with the concurrence of the Office of Government Ethics (OGE), proposes to issue regulations for officers and employees of SSA that supplement the OGE Standards of Ethical Conduct for Employees of the Executive Branch, which became effective February 3, 1993. The proposed rule specifies procedural and substantive requirements that are necessary to address ethical issues unique to SSA. There were no alternatives considered for these proposed rules. The proposed changes addressed have already been implemented. Any costs or savings will be insignificant.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stuart M. Besser, Attorney, Social Security Administration, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235
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Phone: 410 965-1713

RIN: 0960–AE48

3934. PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION (711P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 42 USC 1306(a); 42 USC 902(a)(5)

CFR Citation: 20 CFR 401.30; 20 CFR 401.45; 20 CFR 401.55; 20 CFR 401.150; 20 CFR 401.180

Legal Deadline: None

Abstract: We propose to revise our privacy and disclosure rules to describe the role and function of the Privacy Officer; describe safeguards against inappropriate disclosure of personal information by electronic means (e.g., through the Internet); revise our special procedures on access to medical records; permit disclosures to certain government agencies for various administrative purposes related to income-maintenance and health-maintenance programs; permit disclosures of Social Security number information to government agencies under specific circumstances; and clarify our rules on disclosure under legal process from courts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Tom Price, Social Insurance Specialist, Social Security Administration, Office of Disclosure Policy, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6011

Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE88

3935. FEDERAL SALARY OFFSET (WITHHOLDING A PORTION OF A FEDERAL EMPLOYEE'S SALARY TO COLLECT A DELINQUENT DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (721P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 5 USC 5514

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative will enable the Social Security Administration (SSA) to collect qualifying, delinquent title II

debts owed by former beneficiaries who are currently Federal employees. The debt collection will be accomplished by the partial reduction of the employee's disposable salary.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965-0392

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 966-5121

RIN: 0960–AE89

3936. PRIVATE COLLECTION AGENCIES (USING PRIVATE COLLECTION AGENCIES TO HELP SSA COLLECT DELINQUENT TITLE II DEBTS OWED BY FORMER BENEFICIARIES) (722P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 31 USC 3718

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative will enable the Social Security Administration (SSA) to refer delinquent title II debts owed by former beneficiaries to private collection agencies for further debt collection efforts.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965-0392

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 966-5121

RIN: 0960–AE90

3937. CHARGING INTEREST (CHARGING INTEREST ON DELINQUENT DEBTS) (723P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 31 USC 3717

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: Under this initiative, the Social Security Administration (SSA) will charge interest and penalties on qualifying, delinquent title II debts owed by former beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965-0392

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 966-5121

RIN: 0960–AE91

3938. ADMINISTRATIVE WAGE GARNISHMENT (TO REPAY A DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (724P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 1383; 31 USC 3720D

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative will enable the Social Security Administration (SSA) to collect qualifying, delinquent titles II and XVI debts owed by former beneficiaries who are now employed (as other than Federal employees). Administrative wage garnishment allows SSA to direct an employer to deduct a percentage of the disposable wages earned by the worker/debtor, and to send that amount to SSA as payment toward the delinquent debt. Administrative wage garnishment does not require a court judgment to impose the withholding order.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965-0392

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 966-5121

RIN: 0960–AE92

3939. SELF-SUFFICIENCY INCENTIVES FOR TITLE II AND TITLE XVI PROGRAM BENEFICIARIES (725P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.2101 to 404.2127; 20 CFR 416.2201 to 416.2227

Legal Deadline: None

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Abstract: These proposed changes will amend our regulations to provide increased choice for people with disabilities who seek vocational rehabilitation services and supports so that they may return to work. These proposed regulations will also strengthen public-private partnerships to encourage support and assistance for people with disabilities to become employed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Kenneth McGill, Director, Division of Employment and Rehabilitation Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3988

Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE93

3940. • TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS (732P)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 42 USC 1306; 42 USC 902(a)(5)

CFR Citation: 20 CFR 423

Legal Deadline: None

Abstract: The Social Security Administration (SSA) is proposing to establish procedures governing the appearance of SSA employees as witnesses and the production of official documents in legal proceedings, to which SSA is not a party, in response to requests for such documents or testimony. The proposed rule provides procedures, requirements and information concerning how SSA will handle these matters and expressly prohibits any disclosure or testimony except as approved by the Commissioner. The proposed rule would conserve and ensure more efficient use of SSA resources in meeting the Agency's mission, promote consistency in decisions, minimize the possibility of involving SSA in issues not related to its mission, maintain the impartiality of SSA, protect sensitive and confidential information and the deliberative processes of SSA, and enhance SSA's ability to respond efficiently to requests involving such legal proceedings. When published in final, the rule would replace other regulations currently applicable to SSA under 45 CFR part 2.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Robin Kaplan, Attorney, Social Security Administration, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235
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Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AE95

3941. • FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; CLARIFICATION OF "AGE" AS A VOCATIONAL FACTOR (736P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 423; 42 USC 902(a)(5); 42 USC 1382c; 42 USC 1383(d)

CFR Citation: 20 CFR 404.1563; 20 CFR 404.1568(d)(4) (New); 20 CFR 416.963; 20 CFR 416.968(d)(4) (New); 20 CFR 404 subpart P, app 2

Legal Deadline: None

Abstract: We propose to revise our regulations to clarify our consideration of "age" as a vocational factor at the last step of our sequential evaluation process for determining whether an individual is disabled. We also propose to better explain how we consider transferability of skills for individuals who are of "advanced age" (age 55 or older) in deciding whether such individuals can make an adjustment to other work. These proposed regulations will also update the age category of "closely approaching retirement age" throughout our rules.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elaine Tocco, Vocational Policy Specialist, Social Security Administration, Office of Disability, Vocational Policy Branch, 6401 Security Boulevard, Baltimore, MD 21235
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Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AE96

3942. • OASDI AND SSI; EXPANSION OF THE USE OF VIDEO TELECONFERENCE TECHNOLOGY IN HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES OF THE SOCIAL SECURITY ADMINISTRATION (737P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 205(a); 42 USC 205(b); 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.929; 20 CFR 404.936(b); 20 CFR 404.936(c); 20 CFR 404.936(d)(8) (New); 20 CFR 404.938; 20 CFR 416.1429; 20 CFR 416.1436(b); 20 CFR 416.1436(c); 20 CFR 416.1436(d)(8) (New); 20 CFR 416.1438

Legal Deadline: None

Abstract: We propose to amend our regulations to permit us to conduct hearings before an administrative law judge via video teleconference. We also propose to add new sections to the regulations stating that an administrative law judge may find good cause to change the time and place of the hearing if we schedule a video

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teleconference hearing, and the individual does not wish to have a video teleconference hearing.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE97

3943. • REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, APPENDIX 1 TO SUBPART P—LISTING OF IMPAIRMENTS (740P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 422(c); 42 USC 423; 42 USC 425; 42 USC 902(a)(5); PL 104-193, sec 211(b)

CFR Citation: 20 CFR 404 subpart P, app 1

Legal Deadline: None

Abstract: We are proposing to make a number of discrete revisions to the Listing of Impairments listings, appendix 1 to subpart P, parts A and B, of part 404 of our regulations, in order to reflect advances in medical practices, to clarify certain listing criteria, to remove a few rarely-used listings, and to add new listings to address current medical practices such as organ transplantation. We are also proposing to remove some technical references which have become obsolete and proposing to reword some listings to update medical terminology. We use these listings to adjudicate claims for disability under titles II and XVI of the Social Security Act when we evaluate claims of individuals at step three of our sequential evaluation process.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Carolyn Kiefer, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-9104

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Phone: 410 965-1713

RIN: 0960–AE99

SOCIAL SECURITY ADMINISTRATION (SSA) **Final Rule Stage**

3944. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM (143F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Listings 1.00 and 101.00 of appendix 1 to the disability regulations at 20 CFR 404.1501 through 404.1599 describe those musculoskeletal impairments which are considered severe enough to prevent a person from doing any gainful activity or, for an individual under age 18 under the SSI program, an impairment(s) causing "marked and severe functional limitations." Comprehensive revisions to these listings are being made to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Timetable:

Action	Date	FR Cite
NPRM	12/21/93	58 FR 67574
NPRM Comment Period End	02/22/94	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AB01

3945. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS, DETERMINING DISABILITY AND BLINDNESS; SUBSTANTIAL GAINFUL ACTIVITY GUIDES (147F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 98-460, sec 10; PL 99-643; PL 100-203; PL 101-508; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These final regulations will clarify how the Social Security Administration evaluates a person's work activity to determine whether work is substantial gainful activity and whether an individual is entitled to a trial work period. These regulations also reflect statutory changes with

respect to the trial work period and the re-entitlement period.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12166
NPRM Comment Period End	05/15/95	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AB73

3946. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME, MEDICAL AND OTHER EVIDENCE OF YOUR IMPAIRMENT(S) (469F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1512; 20 CFR 404.1513; 20 CFR 416.912; 20 CFR 416.913

Legal Deadline: None

Abstract: We propose to add speech and language pathologists to the list of acceptable medical sources in our current regulations. These sources will assist us in establishing the existence of speech and language impairments. We also propose to make other changes in our regulations to clarify what we mean by an acceptable medical source.

Timetable:

Action	Date	FR Cite
NPRM	10/09/98	63 FR 54417
NPRM Comment Period End	12/08/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AD91

3947. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; REVISION TO MEDICAL-VOCATIONAL GUIDELINES (599F)

Priority: Other Significant

Legal Authority: 42 USC 423; 42 USC 405(a); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1500, app 2

Legal Deadline: None

Abstract: This rule would clarify the Social Security Medical-Vocational guidelines used to evaluate disability in individuals under age 50 who have severe impairments that do not meet or equal the criteria of any listed impairment but have a residual functional capacity for no more than the full range of sedentary work. The guidelines are contained in appendix 2 of subpart P of 20 CFR 404.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49636
NPRM Comment Period End	11/24/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AE42

3948. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED; EVALUATING OPINION EVIDENCE (624F)

Priority: Other Significant

Legal Authority: 42 USC 405(a); 42 USC 405(b); 42 USC 902(a); 42 USC 1382C; 42 USC 221

CFR Citation: 20 CFR 404.1502; 20 CFR 404.1512; 20 CFR 404.1513; 20 CFR 404.1519; 20 CFR 404.1527; 20 CFR 416.902; 20 CFR 416.912; 20 CFR 416.913; 20 CFR 416.919; 20 CFR 416.927

Legal Deadline: None

Abstract: These changes will revise our disability regulations to clarify the weight administrative law judges and the appeals council are to give to opinion evidence from State agency medical and psychological consultants, other program physicians and psychologists, and medical experts in claims for disability benefits under title II and title XVI of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	09/25/97	62 FR 50270
NPRM Comment Period End	11/24/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AE56

3949. DEDICATED ACCOUNTS AND INSTALLMENT PAYMENTS FOR CERTAIN PAST DUE SSI BENEFITS (622F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381; 42 USC 1381a; 42 USC 1382(c); 42 USC 1382(e); 42 USC 1383(a) to 1383(d); 42 USC 1383(g)

CFR Citation: 20 CFR 416.545; 20 CFR 416.546; 20 CFR 416.640

SSA

Final Rule Stage

Legal Deadline: Final, Statutory, November 22, 1996.

Abstract: These regulations reflect amendments to the Social Security Act made by sections 213 and 221 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 213 requires the establishment of accounts in financial institutions for the payment of past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement exceeding 6 months' benefits to representative payees on behalf of children under age 18. These accounts will be dedicated for certain purposes by restrictions on the use of such past-due benefits.

Section 221 requires past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement which equals or exceeds 12 months' benefits to be paid in installments, with certain exceptions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/20/96	61 FR 67203
Interim Final Rule Comment Period End	02/18/97	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lois Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE59

3950. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, DELETION OF OBESITY LISTING (620F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: This rule will eliminate "Obesity" from the Listing of Impairments in appendix 1 of subpart P of 20 CFR part 404. Current medical and vocational research demonstrates that obesity, viewed alone, is not determinative of an individual's inability to engage in any gainful activity. Instead, individuals with obesity would have their cases reviewed under the listing for (an) affected body system(s) or, on a case-by-case basis, at the remaining steps of the sequential evaluation process.

Timetable:

Action	Date	FR Cite
NPRM	03/11/98	63 FR 11854
NPRM Comment Period End	05/11/98	
Comment Period Extended to 7/13/98	06/10/98	63 FR 31680
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AE65

3951. EFFECTIVE DATE OF APPLICATION FOR SUPPLEMENTAL SECURITY INCOME (SSI) BENEFITS (642F)

Priority: Economically Significant

Legal Authority: 42 USC 902(a)(5); 42 USC 1310(b); 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382c; 42 USC 1382d(c); 42 USC 1382h(a); 42 USC 1383; 42 USC 1383c; PL 93-66; PL 94-241; PL 99-643; 48 USC 1681 note; 42 USC 1382(a) to 1382(c); ...

CFR Citation: 20 CFR 416.211; 20 CFR 416.305; 20 CFR 416.315; 20 CFR 416.330; 20 CFR 416.335; 20 CFR 416.420; 20 CFR 416.421; 20 CFR 416.501; 20 CFR 416.502; 20 CFR 416.520; 20 CFR 416.1801; 20 CFR 416.200; 20 CFR 416.203; 20 CFR 416.1335; 20 CFR 416.1902; ...

Legal Deadline: None

Abstract: These final regulations reflect and implement section 204 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 204 changed the date a supplemental security income (SSI) application is effective so that the earliest month for which benefits can be paid is the month following the month in which the application is filed. Section 204 also made related changes concerning emergency advance payments (EAP), interim assistance reimbursements (IAR) and in the definition of "eligible spouse".

Timetable:

Action	Date	FR Cite
NPRM	08/10/98	63 FR 42601
NPRM Comment Period End	10/09/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Loretta Tabacca, Program Policy Specialist, Social Security Administration, Office of Program Benefits Policy, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

Lois Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE71

3952. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS (660F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1382; 42 USC 1383

CFR Citation: 20 CFR 416.202; 20 CFR 416.708; 20 CFR 416.1331

Legal Deadline: None

Abstract: These final regulations carry out section 202(a) of P.L. 104-193 which prohibits payment of SSI benefits to individuals who are fleeing to avoid prosecution for a crime which is a felony; or fleeing to avoid custody or confinement after conviction for a crime which is a felony; or violating a condition of probation or parole imposed under Federal or State law.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32161
NPRM Comment Period End	08/11/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security

SSA — Final Rule Stage

Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 212334
Phone: 410 965-6243

RIN: 0960–AE77

3953. EMPLOYER ID NUMBERS FOR STATE AND LOCAL GOVERNMENT EMPLOYMENT (691F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405(c)(2)(A); 42 USC 418; 42 USC 432; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1220; 20 CFR 422.112

Legal Deadline: None

Abstract: We propose to revise our rules dealing with the special ID numbers we issued to States that submit modifications to their voluntary Social Security coverage group agreements pursuant to section 218 of the Social Security Act. Under the proposed revision, we would issue special ID numbers only in cases where a modification extends coverage to periods prior to 1987.

Timetable:

Action	Date	FR Cite
NPRM	12/24/98	63 FR 71237
NPRM Comment Period End	02/22/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Guillet, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235
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RIN: 0960–AE84

3954. • INCREASE IN SUBSTANTIAL GAINFUL ACTIVITY (738F)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 423; 42 USC 902(a)(5); 42 USC 1383c

CFR Citation: 20 CFR 404.1574(b); 20 CFR 416.974(b)

Legal Deadline: None

Abstract: These final rules will increase the monthly earnings guidelines that we use to determine whether work done by individuals with impairments other than blindness is substantial gainful activity (SGA). Under these final rules the monthly earnings amount that will ordinarily show that work is SGA will be increased from the current $500.00 a month to $700.00 a month.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7559
NPRM Comment Period End	03/18/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

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Phone: 410 966-5995

RIN: 0960–AE98

SOCIAL SECURITY ADMINISTRATION (SSA) — Long-Term Actions

3955. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS AND TRAUMATIC HEAD INJURY IN ADULTS (222F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1382c; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1500, app 1; 20 CFR 404.1520a; 20 CFR 404.1528; 20 CFR 416.920a; 20 CFR 416.928

Legal Deadline: None

Abstract: On July 18, 1991, we published a Notice of Proposed Rulemaking (NPRM) that proposed more extensive revisions to the regulations and the mental disorders listings than are in these final rules (56 FR 33130). The proposed rules included comprehensive revisions to the regulations on the evaluation of mental disorders in sections 404.1520a and 416.920a and the adult mental disorders listings, as well as the aforementioned proposed guidelines for evaluating traumatic head injury in section 11.00 of the listings. The proposed revisions also included both new and revised rules for the evaluation of mental disorders in children claiming disability benefits under the Supplemental Security Income (SSI) program. Although the NPRM reflected advances in medical knowledge, treatment, and methods of evaluating mental impairments that were up-to-date at the time it was published, there have been additional advances since then that impact on many of the revisions we had proposed. There have also been changes in the SSI law and regulations regarding the evaluation of disability in children. Consequently, we are withdrawing the proposed revisions in the 1991 NPRM that are not finalized by these regulations and will publish a new NPRM at a later date that will provide the public with another opportunity to comment.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33130

SSA

Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	09/18/91	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AC74

3956. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYMENT UNDER TITLE II & XVI OF THE SOCIAL SECURITY ACT (295F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 401(j); 42 USC 404(f); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 405(k); 42 USC 421; 42 USC 425; 42 USC 902(a)(5); 42 USC 405 note; 42 USC 421 note; 42 USC 1383(a)(2); 42 USC 1383(d)(1)

CFR Citation: 20 CFR 404.902; 20 CFR 404.2011; 20 CFR 404.2022; 20 CFR 404.2024; 20 CFR 404.2025; 20 CFR 404.2030; 20 CFR 404.2041; 20 CFR 404.2050; 20 CFR 416.611; 20 CFR 416.622; 20 CFR 416.624; 20 CFR 416.625; 20 CFR 416.630

Legal Deadline: None

Abstract: Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity as part of P.L. 101-508. Any costs associated with these regulations are reflected in the President's budget as part of legislative implementation. These regulations are required to further our program integrity efforts.

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11949
NPRM Comment Period End	05/16/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Betsy Byrd, Program Policy Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235
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Phone: 410 965-1713

RIN: 0960–AD22

3957. PROCEDURE TO REVIEW COMPLAINTS OF ALLEGED MISCONDUCT ON THE PART OF ADMINISTRATIVE LAW JUDGES (341P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12674 as modified by EO 12731; 42 USC 405

CFR Citation: 20 CFR 422.700 to 713 (New)

Legal Deadline: None

Abstract: These proposed regulations would establish a procedure to review complaints of alleged misconduct on the part of Administrative Law Judges.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AD54

3958. ELECTION OF BENEFITS BASED ON AGE BY DISABLED WIDOW, WIDOWER, AND SURVIVING DIVORCED SPOUSE BENEFICIARIES (343P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337

Legal Deadline: None

Abstract: We propose to amend our regulations to permit the election of benefits based on age by widows, widowers and surviving divorced spouses (hereinafter, collectively widows) who are at least age 60 and who are already entitled to widow's benefits based on disability. This proposal would allow the widow to choose which of the two types of widow's benefits is more advantageous.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-5995

RIN: 0960–AD56

3959. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; HEMIC AND LYMPHATIC SYSTEM, AND MALIGNANT NEOPLASTIC DISEASES (399P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hemic and lymphatic system), and 13.00 and 113.00 (malignant neoplastic diseases) of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing revisions to these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AD67

3960. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, ENDOCRINE SYSTEM AND OBESITY AND RELATED CRITERIA (436P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 9.00 and 109.00 of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing to revise the criteria in these sections to reflect advances in medical knowledge, treatment, and methods of evaluating endocrine impairments. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AD78

3961. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CONTRIBUTIONS FOR SUPPORT (475P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.366

Legal Deadline: None

Abstract: To provide more uniformity in our decisionmaking, we are proposing to amend our rules on the contributions for support that must be provided by the insured to certain categories of claimants for child's benefits.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD92

3962. COMPUTATION OF SSI BENEFITS FOR THE FIRST THREE MONTHS OF PAYMENT (476P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.320

Legal Deadline: None

Abstract: SSI eligibility and payment are calculated by taking into account income received by the applicant/recipient. Two calculations must be made for each month. The first is the eligibility computation and is based on the current (payment) month's income. The second is the payment computation, which, under retrospective monthly accounting, is based (usually) on the income of a prior month called the budget month. Generally the budget month is 2 months prior to the payment month. The transitional computation for the first 3 months of SSI payment is an exception to the general rule described above. While the eligibility computation continues to apply to the current month's income, the budget month on which each of the first 3 months' payments are based is the first month of eligibility. This policy was intended to facilitate the transition into the 2 month retrospective accounting cycle and to avoid penalizing the recipient for income received prior to initial SSI eligibility. However, the policy also has the effect of counting income which is only received in one month more than one time. In Jones v. Shalala the Ninth Circuit Court of Appeals ruled that SSA's transitional computation for the first 3 months of eligibility is not permissible because it will result in the triple counting of nonrecurring income received only in the first month of eligibility. The proposed policy addresses the triple counting of nonrecurring income.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD93

3963. DEFINITION OF "LARGEST BENEFIT AMOUNT" FOR SIMULTANEOUS ENTITLEMENT TO CHILD'S BENEFITS (481P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 403(a); 42 USC 403(b); 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 416; 42 USC 422(b); 42 USC 423; 42 USC 424a; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.304; 20 CFR 404.353b; 20 CFR 404.407d

Legal Deadline: None

Abstract: Section 202(k)(2)(A) of the Act (42 U.S.C. 402(k)(2)(A)) contains the statutory requirements for determining the earnings record on which SSA will pay a person, who is simultaneously entitled to child's insurance benefits on the earnings records of more than one worker. Generally, the child's benefits will be paid on the earnings record that yields the highest primary insurance amount (PIA). However, under certain circumstances, the child's benefits will be paid on the earnings record that yields a lower PIA if that record produces the "largest benefit" to which the child could be entitled under section 202(d) without the application of the reduction under the "family maximum" provisions. In implementing section 202(k)(2)(A), SSA has determined the "largest benefit" under section 202(k)(2)(A) by comparing the original benefit amount (i.e., 50 percent of the PIA of a living worker and 75 percent of the PIA of a deceased worker) calculated on the dependent and/or survivor claim of the child on the earnings record of each worker without applying any reductions or deductions. The United States District Court for the Northern District of Alabama in Agee v. Sullivan rejected this interpretation and held that SSA must compare the amounts payable to the child under each earnings record after considering all applicable deductions and reductions other than the reduction under the family maximum provisions. Legal support for both interpretations can be found in the statutory language and legislative history of section 202(k)(2)(A). We have found current regulations implementing section 202(k)(2)(A) to be ambiguous. We propose to amend these regulations to reflect the longstanding SSA interpretation, rather than the interpretation adopted by the district court in the Agee decision.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Hilton, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235
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Phone: 410 965-1713

RIN: 0960–AD95

3964. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; BENEFIT REFORMS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (496F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.315; 20 CFR 404.316; 20 CFR 404.321; 20 CFR 404.332; 20 CFR 404.335; 20 CFR 404.337; 20 CFR 404.350; 20 CFR 404.352; 20 CFR 404.402; 20 CFR 404.470; 20 CFR 404.480; 20 CFR 404.902; 20 CFR 404.1535; 20 CFR 404.1536; 20 CFR 404.1537; ...

Legal Deadline: Final, Statutory, February 11, 1995.
Section 201 of Public Law 103-296.

Abstract: The Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296) contains provisions affecting the payment of benefits under titles II and XVI of the Social Security Act to individuals whose drug addiction or alcoholism is a contributing factor material to the determination of disability. These final rules implement certain provisions related to limitations on benefit payments and the nonpayment and termination of benefits to these individuals.

Timetable:

Action	Date	FR Cite
Notice of Intent With Request for Comments	10/17/94	59 FR 52380
Interim Final Rule	02/10/95	60 FR 8140
Interim Final Rule Comment Period End	04/11/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AD96

3965. REPEAL OF FACILITY OF PAYMENT PROVISION (508F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.402(b); 20 CFR 404.458

Legal Deadline: None

Abstract: This regulation will reflect section 309 of P.L. 103-296 which repeals the facility of payment provision under which Social Security benefits subject to the family maximum would not be redistributed in certain cases and provides that the reduction for the family maximum will be made prior to a temporary suspension for work when the non-working auxiliary resides in a separate household from the working auxiliary.

SSA

Long-Term Actions

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AE02

3966. MODIFICATION OF PRIVATE PRINTING AND PRESCRIBED APPLICATIONS AND OTHER FORMS (530P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 312

CFR Citation: 20 CFR 422.527

Legal Deadline: None

Abstract: This regulation will implement section 312 of P.L. 103-296 which expands prohibitions on the use of certain letters and symbols and also the reproduction for a fee of forms and publications of SSA and HHS.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AE15

3967. OASDI; NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES, PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY (531P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(x); 42 USC 405; 42 USC 902

CFR Citation: 20 CFR 404.468

Legal Deadline: None

Abstract: The regulation will implement section 4 of P.L. 103-387 which modifies and expands the current prisoner nonpayment provisions.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AE16

3968. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS; REPLACING SOCIAL SECURITY NUMBER CARDS (543F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: These final rules will support our pilot test for replacing social security number cards when we receive a request by telephone. We will test replacing the card based on information furnished by telephone, without requiring additional documentation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/95	60 FR 32444
Interim Final Rule Comment Period End	08/21/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AE18

3969. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) (554F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(11); 41 USC 701 et seq

CFR Citation: 20 CFR 436.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 76 into a new SSA regulation at 20 CFR part 436 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE27

3970. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS (555F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(ii)

CFR Citation: 20 CFR 437.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 92 into a new SSA regulation at 20 CFR part 437 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE28

3971. RESTRICTIONS ON LOBBYING IN CONNECTION WITH THE AWARD OF GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS (556F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 20 CFR 438.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 93 into a new SSA regulation at 20 CFR part 438 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE29

3972. ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE CONTRIBUTION AND BENEFIT BASE AND EARNINGS TEST EXEMPT AMOUNTS (512F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.211(c); 20 CFR 404.430(c); 20 CFR 404.1047 to 1048; 20 CFR 404, subpart C, app 1; 20 CFR 404.403(d); 20 CFR 404.408ff; 20 CFR 404.1048(c); 20 CFR 404.1918(b)

Legal Deadline: None

Abstract: Section 321(g) of Pub. L. 103-296 designates 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and earnings test exempt amounts for all years after 1994. (Increases in these amounts will no longer be based on the rounded amounts applicable in the previous year, which can distort the base and exempt amounts over time.) The provision is effective for the contribution and benefit base beginning in 1995 and for earnings test exempt amounts for taxable years ending after 1994.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AE40

3973. DETERMINING DISABILITY AND BLINDNESS; ELIMINATING THE LOWER SUBSTANTIAL GAINFUL ACTIVITY EARNINGS GUIDELINE AMOUNTS (603P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 423(d)(4); 42 USC 1382c (a)(3)(D); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1574; 20 CFR 416.974

Legal Deadline: None

Abstract: These proposed rules would eliminate the lower substantial gainful activity earnings guideline amounts to simplify the evaluation of work activity in claims for disability benefits under titles II and XVI of the Social Security Act. This reflects a recommendation of the Disability Reengineering Project Proposal published in the Federal Register on April 15, 1994 (59 FR 18188).

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AE49

3974. DEEMING OF INCOME FROM AN INELIGIBLE SPOUSE TO AN ELIGIBLE INDIVIDUAL AND AN ELIGIBLE CHILD (606P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382c(f); 42 USC 1383; 42 USC 1382b; 42 USC 1382j

CFR Citation: 20 CFR 416.1160 (c)(3)(iii); 20 CFR 416.1165 (g)(1); 20 CFR 416.1166

Legal Deadline: None

Abstract: This rule would revise the method used under the SSI program to determine income for a child who lives with both parents where one parent is ineligible for SSI because of income deemed from an ineligible spouse. Instead of deeming any excess income from the ineligible spouse to the child, referred to as "pass-through deeming," we would deem income to the child using the method we use where neither

parent files for SSI. Under current rules, "pass-through" deeming has had the unintended effect of deeming more income than would have been deemed if the regular rules for deeming from ineligible parents who do not file for SSI are used.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AE50

3975. IMPLEMENTING MODIFICATIONS TO PREHEARING PROCEDURES AND DECISIONS BY ADJUDICATION OFFICERS (616P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3720A; 42 USC 401(j); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 421(d); 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.943 (New); 20 CFR 416.1443 (New)

Legal Deadline: None

Abstract: We are amending our rules to implement use of an adjudication officer, who, under the Plan for a New Disability Claim Process approved by the Commissioner of Social Security in September 1994 (the disability redesign plan), would be the focal point for all prehearing activities when a request for a hearing before an administrative law judge (ALJ) is filed. The adjudication officer position is an integral part of the disability redesign plan. These proposed rules will add several new sections setting out the responsibilities of the adjudication officer in connection with a claim for Social Security or Supplemental Security Income (SSI) benefits based on disability.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE55

3976. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, THE REHABILITATION ACT OF 1973, AND THE AGE DISCRIMINATION ACT OF 1975, IN PROGRAMS RECEIVING FINANCIAL ASSISTANCE BY SSA (617F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 5 USC 301; 20 USC 1405; 21 USC 1174; 29 USC 794; 42 USC 290dd-2; 42 USC 2000d-1; 42 USC 6101

CFR Citation: 20 CFR 431

Legal Deadline: None

Abstract: Prior to March 31, 1995, SSA was an operating component of HHS and the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) based on section 1102 of the Social Security Act (the Act) (42 U.S.C. 1302). The SSIPIA established SSA as an independent agency in the Executive Branch of the Federal Government effective March 31, 1995, and vested general regulatory authority in the Commissioner of Social Security (the Commissioner). Under section 106(b) of SSIPIA, HHS regulations in effect immediately prior to March 31, 1995, which relate to functions now vested in the Commissioner by reason of SSA's independence, continue to apply to SSA until such time as they are modified, suspended, terminated or repealed by the Commissioner. SSA is promulgating regulations at 20 CFR part 431 which are based in large measure upon the HHS regulations at 45 CFR parts 80, 81, 84, 85, 90, and 91. These SSA regulations reflect changes necessary to adapt the HHS regulations to SSA procedures.

Upon SSA's rules becoming final regulations, the HHS regulations will cease to have application to SSA in accordance with section 106(b) of SSIPIA.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AE63

3977. AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC—CHARGING FEES FOR PROVIDING PERSONAL INFORMATION (618P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1360; 18 USC 1905; 26 USC 6103; 30 USC 923(b); 31 USC 9701; 42 USC 405; 42 USC 902(a)(5); 42 USC 1306

CFR Citation: 20 CFR 402

Legal Deadline: None

Abstract: These proposed rules will, in general, provide that SSA will not charge fees for personal information if it is to be used for a publicly administered program whose purpose is compatible with a Social Security Act program.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE64

3978. COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS; OFFICE OF MANAGEMENT AND BUDGET (OMB) CONTROL NUMBER (280F)

Priority: Info./Admin./Other

Legal Authority: 42 USC 405; 42 USC 410; 42 USC 418; 42 USC 902(a)(5); 42 USC 418 note

CFR Citation: 20 CFR 404.1215; 20 CFR 404.1203; 20 CFR 404.1204; 20 CFR 404.1214; 20 CFR 404.1216; 20 CFR 404.1220; 20 CFR 404.1225; 20 CFR 404.1237; 20 CFR 404.1239; 20 CFR 404.1242; 20 CFR 404.1243; 20 CFR 404.1247; 20 CFR 404.1249; 20 CFR 404.1251; 20 CFR 404.1265; ...

Legal Deadline: None

Abstract: SSA regulations providing Social Security coverage for the services of employees of State and local governments and interstate instrumentalities, were published in the Federal Register on August 29, 1988 (53 FR 32972). Those regulations included sections which contained information collection and recordkeeping requirements which were not effective until they were approved by OMB. This document notifies the public that the information collection and recordkeeping requirements were approved by OMB and provides the OMB control number. This document also adds an OMB approval number to section 404.1215.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE69

3979. DETERMINING DISABILITY AND BLINDNESS; PROVIDING FOR USE OF A SINGLE DECISIONMAKER TO MAKE DETERMINATIONS OF DISABILITY UNDER TITLES II AND XVI OF THE SOCIAL SECURITY ACT (668P)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 421; 42 USC 405(a); 42 USC 405(b); 42 USC 902(a); 42 USC 1382c; 42 USC 1383b

CFR Citation: 20 CFR 404.1546; 20 CFR 404.1615; 20 CFR 416.946; 20 CFR 416.1015

Legal Deadline: None

Abstract: We propose to amend our rules to provide for a single decisionmaker who will make determinations of disability under title II and title XVI of the act after consultation with a medical or psychological consultant, as appropriate. The decisionmaker would have the authority to request, review, and evaluate evidence and make the disability determination without having the medical consultant sign the disability determination forms.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AE73

3980. REFLECT A REQUIREMENT OF THE SOCIAL SECURITY ACT THAT THE COMMISSIONER DISREGARD EVIDENCE IN CERTAIN SITUATIONS INVOLVING FRAUD OR SIMILAR FAULT UNDER TITLES II OR XVI OF THE ACT (671P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1383

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation would reflect amendments to the Social Security Act by P.L. 103-296 concerning program fraud. Those amendments specify that SSA, when redetermining the entitlement, or making an initial determination of entitlement of an individual, will disregard evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence. The regulation will include definitions of key terms to be used by SSA or the State disability determination services in making a fraud or similar fault finding.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE75

3981. NONDISCRIMINATION ON THE BASIS OF DISABILITY (661P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 902(a)(5); 42 USC 1302; PL 103-296

CFR Citation: 20 CFR 431.100; 20 CFR 431.105; 20 CFR 431.110; 20 CFR 431.115; 20 CFR 431.120; 20 CFR 431.125; 20 CFR 431.200; 20 CFR 431.205; 20 CFR 431.210; 20 CFR 431.215; 20 CFR 431.220; 20 CFR 431.225; 20 CFR 431.230; 20 CFR 431.235; 20 CFR 431.240; ...

Legal Deadline: None

SSA — Long-Term Actions

Abstract: These proposed regulations are intended to ensure that individuals are not subjected to discrimination on the basis of disability, race, color, national origin, sex, age, or religion in any program or activity conducted by SSA.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE78

3982. ADDING NEW SSI INCOME AND RESOURCE EXCLUSION (VA PAYMENTS TO CERTAIN VIETNAM VETERANS' CHILDREN WITH SPINA BIFIDA) TO LISTS OF EXCLUSIONS PROVIDED BY OTHER FEDERAL STATUTES (664F)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805(d)

CFR Citation: 20 CFR 416.1182, app; 20 CFR 416.1236

Legal Deadline: None

Abstract: P.L. 104-204 provides that a Department of Veterans Affairs monthly allowance paid to children of Vietnam veterans for disabilities resulting from spina bifida will not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program. These regulations update the lists of exclusions from income and resources under the SSI program that are in statutes other than the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 212335
Phone: 410 966-5121

RIN: 0960–AE79

3983. STANDARDS OF CONDUCT 20 CFR PART 430—PERSONNEL (672F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1302

CFR Citation: 20 CFR 430.201; 20 CFR 430.202; 45 CFR 73

Legal Deadline: None

Abstract: These final rules establish policy for standards of conduct for SSA employees. They adopt, with certain minor changes, the same policy prescribed in 45 CFR part 73, sections 73.735-301, 73.735-302, 73.735-305, 73.735-306, 73.735-802, 73.735-805, 73.735-1201 and 73.735-1301 through 73.735-1304 that was applicable to SSA when it was a component of HHS and that has remained applicable to SSA since March 31, 1995 by virtue of section 106(b) of the SSIPIA that continues certain HHS regulations in effect for SSA until such time as they are set aside. These are the provisions that were not superseded by the Office of Government Ethics Standards of Ethical Conduct for employees of the Executive Branch.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AE81

3984. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE; CALCULATING BENEFITS FOR AUXILIARIES OR SURVIVORS WHEN THERE IS A DUALLY ENTITLED BENEFICIARY (692P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 422(b); 42 USC 423(e); 42 USC 424a; 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.402; 20 CFR 404.403

Legal Deadline: None

Abstract: We propose to revise our regulation to reflect the adoption by the Social Security Administration of the holding in Parisi by Cooney v. Chater as national policy. This policy has been an Acquiescence Ruling which applied in the First Circuit. The policy is that, when determining the benefits for auxiliaries or survivors after reduction for the family maximum, dually entitled beneficiaries will be considered only to the extent that such persons actually receive a benefit. In Parisi, a child's benefits had been lowered due to the entitlement of another auxiliary on that Social Security number (SSN), even though the other auxiliary did not receive benefits on that same SSN but rather received benefits on another SSN.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Hilton, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-2468

Lois Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE85

SOCIAL SECURITY ADMINISTRATION (SSA)

Completed Actions

3985. BENEFITS FOR SPOUSES, MOTHERS, FATHERS AND CHILDREN (455F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 404.332; 20 CFR 404.341; 20 CFR 404.357; 20 CFR 404.361; 20 CFR 404.366

Completed:

Reason	Date	FR Cite
Final Action	03/26/99	64 FR 14606
Final Action Effective	04/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois Berg
Phone: 410 965-1713

RIN: 0960–AD83

3986. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES (510F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 404.403

Completed:

Reason	Date	FR Cite
Final Action	04/08/99	64 FR 17100
Final Action Effective	04/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Hilton
Phone: 410 965-2468
Lois Berg
Phone: 410 965-1713

RIN: 0960–AE03

3987. APPLICATION OF STATE LAW IN DETERMINING CHILD RELATIONSHIP (557F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 404.354; 20 CFR 404.355; 20 CFR 404.356

Completed:

Reason	Date	FR Cite
Final Action	10/28/98	63 FR 57590
Final Action Effective	11/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg
Phone: 410 965-1713

RIN: 0960–AE30

3988. REDUCTION OF DISABILITY BENEFITS—WORKERS' COMPENSATION/PUBLIC DISABILITY BENEFITS (567F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402 to 405; 42 USC 424a; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.408

Legal Deadline: None

Abstract: We are, with this document, withdrawing the proposed rule changes published on Thursday, September 4, 1997, at 62 FR 46682. That publication proposed changes to our rules on the reduction of Social Security benefits based on disability when an individual is receiving workers' compensation benefits or disability benefits or payments provided under another Federal program other than Social Security, or under a State, or local program. We proposed changes that would have clarified a number of our existing policies and would have adopted a uniform method for prorating workers' compensation and public disability benefit and payment settlements.

Timetable:

Action	Date	FR Cite
NPRM	09/04/97	62 FR 46682
Extension of Public Comment Period	11/10/97	62 FR 60672
NPRM Comment Period End	01/05/98	
Withdrawn	02/11/99	64 FR 6824

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AE35

3989. PERMIT DEPARTMENT OF STATE AND THE IMMIGRATION AND NATURALIZATION SERVICE TO COLLECT INFORMATION NEEDED TO ASSIGN SOCIAL SECURITY NUMBERS TO ALIENS (569F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 422.103; 20 CFR 422.106; 20 CFR 422.107; 20 CFR 422.110

Completed:

Reason	Date	FR Cite
Final Action	10/22/98	63 FR 56552
Final Action Effective	11/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Daniel T. Bridgewater
Phone: 410 965-3298

RIN: 0960–AE36

3990. LISTENING-IN TO OR RECORDING TELEPHONE CONVERSATIONS (626F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 422.701 (New); 20 CFR 422.705 (New); 20 CFR 422.710 (New)

Completed:

Reason	Date	FR Cite
Final Action	10/26/98	63 FR 57056
Final Action Effective	11/25/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg
Phone: 410 965-1713

RIN: 0960–AE66

3991. • FINAL RULES TO EXTEND THE EXPIRATION DATE OF THE AUTHORITY FOR PREHEARING PROCEEDINGS AND DECISIONS BY ATTORNEY ADVISORS (742F)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A; 42 USC 401(j); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 405 Note; 42 USC 421; 42 USC 421 Note; 42 USC 425; 42 USC 902(a)(5); 42 USC 1383; 42 USC 1883b; PL 97-455, sec 5; PL 98-460, sec 5; ...

CFR Citation: 20 CFR 404.942; 20 CFR 416.1442

Legal Deadline: None

Abstract: These final rules extend the time period set out in our regulations during which attorney advisors in our Office of Hearings and Appeals (OHA)

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Completed Actions

may conduct certain prehearing proceedings and, where the documentary record developed as a result of these proceedings warrants, issue decisions that are wholly favorable to the parties to the hearing in claims for Social Security or Supplemental Security Income (SSI) benefits based on disability. We are extending the date on which these rules will no longer be effective from April 1, 1999 until March 31, 2000.

Timetable:

Action	Date	FR Cite
Final Action	03/22/99	64 FR 13677
Final Action Effective	03/22/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Harry J. Short, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965-6243

RIN: 0960–AF01

[FR Doc. 99-7016 Filed 04-23-99; 8:45 am]

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Monday
April 26, 1999

Part XLVII

Tennessee Valley Authority

Semiannual Regulatory Agenda

TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Semiannual regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates few regulations. TVA will submit a proposed regulation which would revise the requirements applicable to the construction and maintenance of obstructions in the Tennessee River system and codify policies related to management of shoreline land under the jurisdiction of TVA. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order 12866.

FOR FURTHER INFORMATION CONTACT: For further information, please contact the persons listed.

Edward S. Christenbury,

General Counsel.

TENNESSEE VALLEY AUTHORITY (TVA) — Long-Term Actions

3992. APPROVAL OF CONSTRUCTION AND REGULATION OF STRUCTURES IN THE TENNESSEE RIVER SYSTEM AND SHORELINE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 831 to 831dd

CFR Citation: 18 CFR 1304 (Revision)

Legal Deadline: None

Abstract: This action would revise the requirements applicable to construction and maintenance of obstructions in the Tennessee River System to better describe the types of facilities that would be considered for approval. It also would codify policies related to management of certain shoreline lands under the jurisdiction, custody, and control of TVA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Teresa C. McDonough, Specialist-Land Policy, Land Management, Tennessee Valley Authority, 17 Ridgeway Road, Norris, TN 37828
Phone: 423 632-1542

RIN: 3316–AA19

[FR Doc. 99-4910 Filed 04-23-99; 8:45 am]

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Monday
April 26, 1999

Part XLVIII

United States Information Agency

Semiannual Regulatory Agenda

UNITED STATES INFORMATION AGENCY (USIA)

UNITED STATES INFORMATION AGENCY

22 CFR Ch. V

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: United States Information Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the United States Information Agency (USIA) plans for the next 12 months. USIA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of USIA's regulatory plans and to provide a systematic means of monitoring regulatory activity in USIA. None of the regulations listed in the agenda are considered major under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, Office of General Counsel, (202) 619-6531.

Stanley S. Colvin,

Assistant General Counsel.

UNITED STATES INFORMATION AGENCY (USIA) — Long-Term Actions

3993. PRIVACY ACT POLICIES AND PROCEDURES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 22 CFR 505

Legal Deadline: None

Abstract: This document updates and replaces the Agency's prior regulation implementing the Privacy Act of 1974, as amended. The update and replacement were made necessary by changes during USIA's reorganization and realignment of functions and responsibilities when the Agency changed names and again when the Agency began to reinvent itself in response to Government downsizing.

The Agency's regulation had not been updated since 1975 and changes in nomenclature and differences in processing Privacy Act requests necessitated these changes. The changes primarily update the definitions, the processes for receiving and handling requests, and to whom to send requests for Privacy Act records. It also better explains the exemptions that the U.S. Information Agency is allowed to use and routine uses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/97	62 FR 10630
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lola Secora, FOI/PA Officer, United States Information Agency, 301 4th Street SW., Washington, DC 20547
Phone: 202 619-5499
Fax: 202 205-0374

RIN: 3116–AA10

3994. • CULTURAL EXCHANGE PROGRAM, AU PAIR REGULATION—22 CFR 514

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(j); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan 2 of 1977; 42 FR 62461; 3 CFR, 1977 Comp., p. 200; EO 12048; 43 FR 13361; 3 CFR, 1978 Comp., p. 168; USIA Delegation Order No. 85-5 (50 FR 27393)

CFR Citation: 22 CFR 514.31

Legal Deadline: None

Abstract: These regulations govern Agency-designated au pair programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family while providing child care services and attending a U.S. postsecondary educational institution. The Agency's goal in proposing amendment to these existing regulations is to strengthen the oversight and reduce potential risks of injury to program participants. These amendments will provide greater specificity regarding the selection and orientation of both host family and au pair participants, thereby enhancing the prospect for more informed participation by both parties. Further proposed program enhancements would require disclosure of prior experience for au pair participants providing child care for special needs children. An amendment to provide for uniform program audits is also proposed.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street SW., Washington, DC 20547
Phone: 202 619-5078

RIN: 3116–AA14

3995. • CULTURAL EXCHANGE PROGRAM, SHORT-TERM SCHOLAR—22 CFR 514

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(j); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan 2 of 1977; 42 FR 62462; 3 CFR, 1977 Comp., p. 200; EO 12048; 43 FR 13361; 3 CFR, 1978 Comp., p. 168; USIA Delegation Order No. 85-5 (50 FR 27393)

CFR Citation: 22 CFR 514.21

Legal Deadline: None

Abstract: To enhance the programmatic utility of the Short-Term Scholar category of exchange participation, the Agency is amending existing regulations to permit short-term scholar participants to lecture and consult at institutions not listed on the form IAP-66.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

USIA

Long-Term Actions

Government Levels Affected: None

Agency Contact: Stanley Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street SW., Washington, DC 20547 Phone: 202 619-5078

RIN: 3116–AA15

3996. • CULTURAL EXCHANGE PROGRAM, SUMMER WORK/TRAVEL—22 CFR 514

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(j); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan 2 of 1977; 42 FR 62461; 3 CFR, 1977 Comp., p. 200; EO 12048; 43 FR 13361; 3 CFR, 1978 Comp., p. 168; USIA Delegation Order No. 85-5 (50 FR 27393)

CFR Citation: 22 CFR 514.32

Legal Deadline: None

Abstract: The Agency is adopting specific regulations governing participation in summer work/travel programs conducted by Agency-designated sponsors pursuant to Public Law 105-277. These regulations supersede program guidelines promulgated by the Agency and published at 61 FR 13760 (March 28, 1996).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street SW., Washington, DC 20547 Phone: 202 619-5078

RIN: 3116–AA16

[FR Doc. 99-7571 Filed 04-23-99; 8:45 am]

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Monday
April 26, 1999

Part XLIX

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process. The Federal Acquisition Regulation (FAR) Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Duarte, FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of Federal Acquisition Circulars (FACs).

Dated: February 22, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3997	FAR Case 97-033, Pollution Control and Clean Air and Water	9000-AI19
3998	FAR Case 98-400, Progress Payments and Related Financing Policies	9000-AI27
3999	FAR Case 98-603, Contractor Liability for Loss of and/or Damages to Household Goods	9000-AI28

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4000	FAR Case 98-013, Very Small Business Concerns	9000-AI29
4001	FAR Case 98-301, Compensation for Senior Executives	9000-AI32

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4002	FAR Case 89-093, Implementation of the Anti-Lobbying Statute	9000-AD76
4003	FAR Case 91-078, Small Business Subcontracting Reporting	9000-AG04
4004	FAR Case 94-753, Travel Costs	9000-AG27
4005	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act	9000-AH25
4006	FAR Case 97-024, Foreign Acquisition	9000-AH30
4007	FAR Case 97-603, Empowerment Contracting	9000-AH58
4008	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement	9000-AH59
4009	FAR Case 95-013, Government Property	9000-AH60
4010	FAR Case 96-023, Clause Flowdown-Commercial Items	9000-AH69
4011	Federal Acquisition Regulation; Progress Payments	9000-AH70
4012	FAR Case 97-031, Value Engineering Change Proposals	9000-AH84
4013	FAR Case 96-018, Use of Brand Name Item Descriptions	9000-AH85
4014	FAR Case 97-032, Relocation Costs	9000-AH96
4015	FAR Case 97-038, Evaluation of Proposals for Professional Services	9000-AI07
4016	FAR Case 98-007, Competition Under Multiple Award Task and Delivery Order Contracts	9000-AI08
4017	FAR Case 97-304, Electronic Commerce in Federal Procurement	9000-AI10
4018	FAR Case 98-004, OMB Circular A-119	9000-AI12
4019	FAR Case 98-611, Evaluation Boards	9000-AI13

FAR

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4020	FAR Case 97-003, Taxpayer Identification Numbers (TINS)	9000-AI14
4021	FAR Case 98-602, Javits-Wagner-O'Day Proposed Revisions	9000-AI16
4022	FAR Case 98-002, Conditionally Accepted Items	9000-AI17
4023	FAR Case 97-307, HUBZone Program	9000-AI20
4024	FAR Case 98-014, Increased Payment Protection	9000-AI21
4025	FAR Case 97-043, Cost-Reimbursement Architect-Engineer Contracts	9000-AI22
4026	FAR Case 98-003, Cost Accounting Standards Post-Award Notification	9000-AI23
4027	FAR Case 98-006, Interest and Other Financial Costs	9000-AI24
4028	FAR Case 97-030, Conforming Late Offer Treatment	9000-AI25
4029	FAR Case 98-606, Option Clause Consistency	9000-AI26

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4030	FAR Case 89-12, Pay-As-You-Go Pension Costs	9000-AC90
4031	FAR Case 91-118, Payment by Electronic Fund Transfer	9000-AG49
4032	FAR Case 95-020, Costs Related to Legal/Other Proceedings	9000-AH05
4033	FAR Case 96-011, No-Cost Value Engineering Change Proposals	9000-AH37
4034	FAR Case 96-009, Contract Quality Requirements	9000-AH61
4035	FAR Case 94-610, EO 12933, Nondisplacement of Qualified Workers Under Certain Contracts	9000-AH62
4036	FAR Case 97-015, Alternative Dispute Resolution—1996	9000-AH72
4037	FAR Case 97-011, Evidence of Shipment in Electronic Data Interchange Transactions	9000-AH73
4038	FAR Case 97-016, Contractor Purchasing System Review Exclusions	9000-AH82
4039	FAR Case 97-303, Limitation on Allowability of Compensation for Certain Contractor Personnel	9000-AH90
4040	FAR Case 97-027, Mandatory Government Source Inspection	9000-AH94
4041	FAR Case 97-036, Civil Defense Costs	9000-AH95
4042	FAR Case 96-013, Review of FAR Representation	9000-AH97
4043	FAR Case 97-040, Business Class Air Fare	9000-AH98
4044	FAR Case 96-610, Rehabilitation Act, Workers With Disabilities	9000-AH99
4045	FAR Case 98-001, Recruitment Costs Principle	9000-AI06
4046	FAR Case 97-302, Service Contracts	9000-AI09
4047	FAR Case 97-609, Payment Due Dates	9000-AI11
4048	FAR Case 98-607, Office of Contract Compliance Programs National Pre-Award Registry	9000-AI15
4049	FAR Case 98-016, Limits for Indefinite Quantity Contracts	9000-AI18
4050	FAR Case 98-612, Variation in Quantity	9000-AI30
4051	FAR Case 98-302, Waiver of Cost or Pricing Data for Subcontracts	9000-AI31

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

3997. • FAR CASE 97-033, POLLUTION CONTROL AND CLEAN AIR AND WATER

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1.106; 48 CFR 12.503; 48 CFR 12.504; 48 CFR 23.1; 48 CFR 52.223-1; 48 CFR 52.223-2

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove language pertaining to pollution control and clean air and water. The Environmental Protection Agency (EPA) is in the process of improving the communications systems relied on to identify facilities that may not be used in the performance of Government contracts because of their involvement in criminal violations of the Clean Air Act (CAA) or Clean Water Act (CWA). With these anticipated improvements, EPA will be able to provide more up-to-date information about CAA and CWA criminal convictions for publication in the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Nonprocurement Programs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

FAR — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AI19

3998. • FAR CASE 98-400, PROGRESS PAYMENTS AND RELATED FINANCING POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to reduce the burdens imposed on contractors and contracting officers by the progress payment type of financing; to permit the use of performance-based payments in contracts for research and development, and contracts awarded through competitive negotiation procedures; to expand the use of subcontractor performance-based or commercial financing payments; and to simplify and clarify related provisions. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	02/10/99	64 FR 6757
NPRM Comment Period End	04/12/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AI27

3999. • FAR CASE 98-603, CONTRACTOR LIABILITY FOR LOSS OF AND/OR DAMAGES TO HOUSEHOLD GOODS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47.207-7(e); 48 CFR 52.247-23(c)

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to standardize methods of calculating contractor liability for loss of and/or damage to shipments of household goods to conform to International Through Government Bill of Lading procedures. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7736
NPRM Comment Period End	04/19/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI28

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

4000. • FAR CASE 98-013, VERY SMALL BUSINESS CONCERNS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 5; 48 CFR 8; 48 CFR 12; 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement the Small Business Administration's Very Small Business Pilot Program (13 CFR parts 121 and 125). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/04/99	64 FR 10535
Interim Final Rule Effective	03/04/99	
Interim Final Rule Comment Period End	05/03/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
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RIN: 9000–AI29

FAR

Final Rule Stage

4001. • FAR CASE 98-301, COMPENSATION FOR SENIOR EXECUTIVES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-261

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 804 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub L. 105-261). Section 804 revises the definition of "senior executive" at 10 U.S.C. 2324(1)(5) and at 41 U.S.C. 256(m)(2). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/04/99	64 FR 10547
Interim Final Rule Effective	03/04/99	
Interim Final Rule Comment Period End	05/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AI32

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Long-Term Actions

4002. FAR CASE 89-093, IMPLEMENTATION OF THE ANTI-LOBBYING STATUTE

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-121, Sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 319 of PL 101-121, which added a new section 1352 to title 31 USC entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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Fax: 202 501-4067

RIN: 9000–AD76

4003. FAR CASE 91-078, SMALL BUSINESS SUBCONTRACTING REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 53.219

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend FAR 53.219 to authorize the addition of a column to the Standard Form 295, Summary Subcontract Report, to report the number of subcontracts awarded to small business concerns, small disadvantaged business concerns, and women-owned small business enterprises. This regulatory action was not subject to Office of Management review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49037
NPRM Comment Period End	11/25/94	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AG04

4004. FAR CASE 94-753, TRAVEL COSTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 31.205-46

Legal Deadline: Final, Statutory, October 1, 1995.

The Federal Acquisition Streamlining Act eliminated the statutory requirement to the travel cost principle concerning the Federal Travel Regulations. No regulatory implementation was required.

Abstract: This rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act). The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) as a result of changes to 41 USC 22 by section 2191 of the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. However, the proposed rule would permit contractors to propose alternative rates to those prescribed in the FTR/JTR.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64542
NPRM Comment Period End	02/13/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG27

4005. FAR CASE 96-308, IMPLEMENTATION OF COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEM ACQUISITION PROVISIONS OF THE FEDERAL ACQUISITION REFORM ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-106, sec 4203

CFR Citation: 48 CFR 2.101; 48 CFR 3.104-10(c); 48 CFR 3.503; 48 CFR 12.301; 48 CFR 12.7; 48 CFR 15.106-1; 48 CFR 19.508; 48 CFR 25.605; 48 CFR 27.409; 48 CFR 52.212-4; 48 CFR 52.212-00

Legal Deadline: NPRM, Statutory, September 7, 1996.

Abstract: The Federal Acquisition Regulatory Council solicited comments regarding the implementation of section 4203 of the Federal Acquisition Reform Act (Pub. L. 104-106)(the Act) with respect to Commercially Available Off-the-Shelf Item Acquisitions. The Act requires the FAR to list provisions of law that are inapplicable to contracts for the acquisition of commercially available off-the-shelf items. Certain laws have already been determined to be inapplicable to all commercial items as a result of the implementation of the Federal Acquisition Streamlining Act of 1994 (see FAR 12.503).

Timetable:

Action	Date	FR Cite
ANPRM	05/13/96	61 FR 22010
ANPRM Comment Period End	06/28/96	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Sts. NW., Washington, DC 20405
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RIN: 9000–AH25

4006. FAR CASE 97-024, FOREIGN ACQUISITION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.106-1; 48 CFR 25; 48 CFR 52.225-1 to 52.225-18

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to rewrite guidance and clauses on foreign acquisition. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/28/98	63 FR 51642
NPRM Comment Period End	11/27/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AH30

4007. FAR CASE 97-603, EMPOWERMENT CONTRACTING

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 12.301; 48 CFR 14.206; 48 CFR 15.605; 48 CFR 26.3; 48 CFR 36.602; 48 CFR 52.226

Legal Deadline: None

Abstract: The Federal Acquisition Regulatory Council is proposing amendments to the Federal Acquisition Regulation (FAR) to establish phase one of an Empowerment Contracting Program that provides procurement incentives to both large and small businesses to encourage their activity in areas of general and severe economic distress. This action is being taken to implement Presidential Executive Order 13005 of May 21, 1996, entitled "Empowerment Contracting." On September 13, 1996, the Department of Commerce (DOC) published in the Federal Register proposed guidelines for implementing Executive Order 13005 in the FAR. The proposed

amendments to the FAR that are being published here are largely based on those guidelines. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	04/18/97	62 FR 19200
NPRM Comment Period End	06/17/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH58

4008. FAR CASES 97-004A AND 97-004B, REFORM OF AFFIRMATIVE ACTION IN FEDERAL PROCUREMENT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 103-355, sec 7102

CFR Citation: 48 CFR 5.207; 48 CFR 6.203; 48 CFR 12.303; 48 CFR 14.206; 48 CFR 15.605; 48 CFR 15.608; 48 CFR 15.1002; 48 CFR 19; 48 CFR 52.219; 48 CFR 53; 48 CFR 1.106; 48 CFR 15.3; 48 CFR 52.212; 48 CFR 53.219; 48 CFR 53.302-312

Legal Deadline: None

Abstract: These interim rules have been issued to conform to a Department of Justice (DOJ) proposal to reform affirmative action in Federal procurement. DOJ's proposal is designed to ensure compliance with the constitutional standards established by the Supreme Court in Adarand Constructors, Inc. v. Pena. 115 S.Ct. 2097 (1995). The FAR proposed rule would establish three procurement mechanisms benefiting small disadvantaged businesses (SDBs): (a) The first mechanism is a price evaluation adjustment of up to ten percent in certain two-digit Standard Industrial Classification (SIC) Major Groups authorized by the Administrator of the Office of Federal Procurement Policy (OFPP), this mechanism is effective October 1, 1998; (b) The second mechanism is a source selection evaluation factor or subfactor for planned SDB participation, primarily at the subcontract level, in the performance of a contract in the SIC Major Groups; (c) The third mechanism provides for a monetary incentive for subcontracting with SDBs. The last two mechanisms become effective January 1, 1999. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25786
NPRM Comment Period End	07/08/97	
Interim Final Rule 97-004A	06/30/98	63 FR 35719
Interim Final Rule 97-004B	07/01/98	63 FR 36120
Interim Final Rule 97-004C	09/30/98	63 FR 52426
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AH59

4009. FAR CASE 95-013, GOVERNMENT PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: The rule amends the Federal Acquisition Regulation (FAR) to simplify procedures and eliminate requirements related to the management and disposition of Government property in the possession of contractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 30186
NPRM Comment Period End	08/15/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AH60

4010. FAR CASE 96-023, CLAUSE FLOWDOWN-COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52.244-6

Legal Deadline: None

Abstract: This rule proposes amendments to the clause at FAR 52.244-6, Subcontracts for Commercial Items and Commercial Comments, to clarify that contractors are required to include, in subcontracts at any tier for commercial items or commercial components, the FAR clauses and

provisions listed in the clause at FAR 52.244-6 and such other clauses and provisions as may be required by addenda, to the extent they are applicable or necessary to establish the reasonableness of prices under FAR part 15. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49903
NPRM Comment Period End	11/24/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AH69

4011. FEDERAL ACQUISITION REGULATION; PROGRESS PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 137

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: The Director of Defense Procurement, Department of Defense, has established a special interagency team with participants from the OUSD (Comptroller), the Military Departments, the DLA, the DCAA, the DFAS, the DOE, and the NASA, that will review and rewrite FAR part 32 and part 52 provisions regarding Progress Payments to make them easier to understand and to minimize the burdens imposed on contractors and contracting officers. The Director of Defense Procurement will provide a forum for an exchange of ideas and information with government and industry personnel by holding at least one public meeting, soliciting public comments, and publishing notices of public meetings in the Federal Register. Discussion will focus on draft revisions of FAR part 32, subpart 32.5, Progress Payments Based on Costs, and associated contract clauses and forms.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/97	62 FR 23740
ANPRM Comment Period End	05/30/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH70

4012. FAR CASE 97-031, VALUE ENGINEERING CHANGE PROPOSALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 48; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to change the sharing periods and rates that contracting officers may establish for individual value engineering change proposals. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43236
NPRM Comment Period End	10/13/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH84

4013. FAR CASE 96-018, USE OF BRAND NAME ITEM DESCRIPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 11.104; 48 CFR 11.104-1; 48 CFR 11.104-2; 48 CFR 11.106; 48 CFR 13.106-2; 48 CFR 13.602; 48 CFR 52.211

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) parts 11 and 52 to provide for the use of brand name purchase descriptions, including "brand name or equal," "brand name-no substitute," and "brand name as target"; and to add two new related solicitation provisions. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	11/16/98	63 FR 63778
NPRM Comment Period End	01/15/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH85

4014. FAR CASE 97-032, RELOCATION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 00 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove the ceilings imposed on certain types of relocation costs; to permit reimbursement of relocation costs on an appropriate lump-sum basis; make allowable payments for spouse employment assistance and payments for increase employee income and social security taxes incident to allowable reimbursed relocation. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and this is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH96

4015. FAR CASE 97-038, EVALUATION OF PROPOSALS FOR PROFESSIONAL SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.305; 48 CFR 37.115

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide guidance on the evaluation of proposals that include uncompensated overtime hours. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/24/98	63 FR 45112
NPRM Comment Period End	10/23/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this actibn.

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RIN: 9000–AI07

4016. FAR CASE 98-007, COMPETITION UNDER MULTIPLE AWARD TASK AND DELIVERY ORDER CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 16

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify the procedures governing placement of orders under multiple award indefinite delivery contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48416
NPRM Comment Period End	11/09/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI08

4017. • FAR CASE 97-304, ELECTRONIC COMMERCE IN FEDERAL PROCUREMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 850

CFR Citation: 48 CFR 2; 48 CFR 4; 48 CFR 5; 48 CFR 13; 48 CFR 14; 48 CFR 32

Legal Deadline: Final, Statutory, May 16, 1998.

Abstract: This rule amends the Federal Acquisition Regulation to implement section 850 of the National Defense Act for FY 1998 (Pub. L. 105-85) to eliminate the preference for electronic commerce within Federal Acquisition Computer Network. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/98	63 FR 58590
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI10

4018. • FAR CASE 98-004, OMB CIRCULAR A-119

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 11; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to address the use of voluntary consensus standards in accordance with the requirements of Office of Management and Budget (OMB) Circular A-119. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/10/98	63 FR 68344
NPRM Comment Period End	02/08/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI12

4019. • FAR CASE 98-611, EVALUATION BOARDS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 36.602-2

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to revise the coverage at 36.602-2, Evaluation Boards to specifically state that only individuals experienced in architecture, engineering, construction, and acquisition of architect-engineering services will serve as members of evaluation boards. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI13

4020. • FAR CASE 97-003, TAXPAYER IDENTIFICATION NUMBERS (TINS)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1.106; 48 CFR 4.203; 48 CFR 4.901 to 4.905; 48 CFR 13.106-3; 48 CFR 14.201-6; 48 CFR 15.209; 48 CFR 52.204-3; 48 CFR 52.214-2; 48 CFR 52.215-4

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement Subsection (i) of the Debt Collection Improvement Act of 1996 and section 1022 of the Taxpayer Relief Act of 1997, and to clarify the Government requirements for reporting of contract information and payment information to the Internal Revenue Service (IRS). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/98	63 FR 58587
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI14

4021. • FAR CASE 98-602, JAVITS-WAGNER-O'DAY PROPOSED REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 42

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide procedures for recognizing a name change or a successor in interest for Javits-Wagner-O'Day Act (JWOD) participating nonprofit agencies. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	10/27/98	63 FR 57568
NPRM Comment Period End	12/28/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI16

4022. • FAR CASE 98-002, CONDITIONALLY ACCEPTED ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 46

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to require that, when conditionally accepting nonconforming items, amounts withheld from payments should be at least sufficient to cover the cost and related profit to correct deficiencies and complete unfinished work; and that the basis for the amounts withheld shall be documented in the contract file. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57878
NPRM Comment Period End	12/28/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI17

4023. • FAR CASE 97-307, HUBZONE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5.207; 48 CFR 6.205; 48 CFR 6.302-5; 48 CFR 7.105; 48 CFR 8.404; 48 CFR 12.301; 48 CFR 13.003; 48 CFR 13.005; 48 CFR 14.206; 48 CFR 14.502; 48 CFR 15.503; 48 CFR 19; 48 CFR 52; 48 CFR 53

Legal Deadline: Final, Statutory, December 8, 1998.

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement revisions made to Small Business Administration (SBA) regulations covering the Historically Underutilized Business Zone (HUBZone) Program. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/18/98	63 FR 70265
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI20

4024. • FAR CASE 98-014, INCREASED PAYMENT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 28; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to increase the required penal amount of payment bonds on construction contracts over $6,250,000 and to allow the contracting officer to increase the amount of any payment bond or alternative payment protection to an amount not to exceed the contract price, if the contracting officer decides that a greater amount is appropriate. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/29/98	63 FR 71711
NPRM Comment Period End	03/01/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI21

4025. • FAR CASE 97-043, COST-REIMBURSEMENT ARCHITECT-ENGINEER CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 36; 48 CFR 44; 48 CFR 49; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide guidance on the applicability of certain clauses to cost-reimbursement architect-engineer (A-E) contracts. This regulatory action was not subject to Office of Management review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/29/98	63 FR 71710
NPRM Comment Period End	03/01/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

FAR

Long-Term Actions

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RIN: 9000–AI22

4026. • FAR CASE 98-003, COST ACCOUNTING STANDARDS POST-AWARD NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to reduce the subcontractor information that a contractor is required to provide to its cognizant contract administration office (CAO) when requesting the CAO to perform administration for Cost Accounting Standards (CAS) matters. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	01/25/99	64 FR 3786
NPRM Comment Period End	03/26/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI23

4027. • FAR CASE 98-006, INTEREST AND OTHER FINANCIAL COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to add interest charges or other amounts as a consequence of late contractor payments to the list of unallowable costs in the "Interest and Other Financial Costs" cost principle. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	01/29/99	64 FR 4760
NPRM Comment Period End	03/30/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI24

4028. • FAR CASE 97-030, CONFORMING LATE OFFER TREATMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 12; 48 CFR 14; 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to align guidance regarding receipt of late offers for commercial, sealed bid, and negotiated acquisitions. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	01/27/99	64 FR 4248
NPRM Comment Period End	03/29/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI25

4029. • FAR CASE 98-606, OPTION CLAUSE CONSISTENCY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 17; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to make the format of the Option to Extend Services clause in 52.217-8 consistent with the format of other FAR option clauses and to clarify that the time period for providing a preliminary notice of the Government's intent to exercise a contract option in the clause in FAR 52.217-9, Option to Extend the Term of the Contract, may be tailored. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3618
NPRM Comment Period End	03/23/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

FAR **Long-Term Actions**

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DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR) — Completed Actions

4030. FAR CASE 89-12, PAY-AS-YOU-GO PENSION COSTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 30; 48 CFR 31

Completed:

Reason	Date	FR Cite
Final Action	10/30/98	63 FR 58595
Final Action Effective	12/29/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AC90

4031. FAR CASE 91-118, PAYMENT BY ELECTRONIC FUND TRANSFER

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 32.11; 48 CFR 52.232

Completed:

Reason	Date	FR Cite
Final Action	03/04/99	64 FR 10538

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AG49

4032. FAR CASE 95-020, COSTS RELATED TO LEGAL/OTHER PROCEEDINGS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31.205-47(b); 48 CFR 31.205-47(c); 48 CFR 31.205-47(e)(3)

Completed:

Reason	Date	FR Cite
Final Action	10/30/98	63 FR 58599
Final Action Effective	12/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH05

4033. FAR CASE 96-011, NO-COST VALUE ENGINEERING CHANGE PROPOSALS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 48.104-3

Completed:

Reason	Date	FR Cite
Final Action	12/18/98	63 FR 70290
Final Action Effective	12/18/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH37

4034. FAR CASE 96-009, CONTRACT QUALITY REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 46; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	12/18/98	63 FR 70289
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH61

4035. FAR CASE 94-610, EO 12933, NONDISPLACEMENT OF QUALIFIED WORKERS UNDER CERTAIN CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 22; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	03/04/99	64 FR 10545

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH62

FAR

Completed Actions

4036. FAR CASE 97-015, ALTERNATIVE DISPUTE RESOLUTION—1996

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 6.302-3; 48 CFR 24.202; 48 CFR 33.201; 48 CFR 33.204; 48 CFR 33.207; 48 CFR 33.214; 48 CFR 52.233-1

Completed:

Reason	Date	FR Cite
Final Action	10/30/98	63 FR 58594
Final Action Effective	12/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH72

4037. FAR CASE 97-011, EVIDENCE OF SHIPMENT IN ELECTRONIC DATA INTERCHANGE TRANSACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 52.247-48

Completed:

Reason	Date	FR Cite
Final Action	12/18/98	63 FR 70291
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH73

4038. FAR CASE 97-016, CONTRACTOR PURCHASING SYSTEM REVIEW EXCLUSIONS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 44.302; 48 CFR 44.303

Completed:

Reason	Date	FR Cite
Final Action	12/18/98	63 FR 70288
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH82

4039. FAR CASE 97-303, LIMITATION ON ALLOWABILITY OF COMPENSATION FOR CERTAIN CONTRACTOR PERSONNEL

Priority: Other Significant

CFR Citation: 48 CFR 31.205-6

Completed:

Reason	Date	FR Cite
Final Action	12/18/98	63 FR 70287
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH90

4040. FAR CASE 97-027, MANDATORY GOVERNMENT SOURCE INSPECTION

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 46

Completed:

Reason	Date	FR Cite
Final Action	12/18/98	63 FR 70290
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH94

4041. FAR CASE 97-036, CIVIL DEFENSE COSTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31

Completed:

Reason	Date	FR Cite
Final Action	10/30/98	63 FR 58599
Final Action Effective	12/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH95

4042. FAR CASE 96-013, REVIEW OF FAR REPRESENTATION

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1; 48 CFR 4; 48 CFR 12; 48 CFR 14; 48 CFR 19; 48 CFR 26; 48 CFR 27; 48 CFR 32; 48 CFR 41; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	03/04/99	64 FR 10531
Final Action Effective	05/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH97

FAR

Completed Actions

4043. FAR CASE 97-040, BUSINESS CLASS AIR FARE

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31

Completed:

Reason	Date	FR Cite
Withdrawn	01/21/99	64 FR 3380

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH98

4044. FAR CASE 96-610, REHABILITATION ACT, WORKERS WITH DISABILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 22; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	10/30/98	63 FR 58598
Final Action Effective	10/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH99

4045. FAR CASE 98-001, RECRUITMENT COSTS PRINCIPLE

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31

Completed:

Reason	Date	FR Cite
Final Action	03/04/99	64 FR 10547
Final Action Effective	05/03/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI06

4046. • FAR CASE 97-302, SERVICE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 37

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to expand the authority of the Department of Defense and the Coast Guard to enter into contracts that cross fiscal years. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	10/30/98	63 FR 58600
Final Action Effective	12/29/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI09

4047. • FAR CASE 97-609, PAYMENT DUE DATES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify that agencies may authorize amendment of the FAR payment clauses to specify a period shorter than 30 days for making contract invoice payments, provided such period is not less than 7 days. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	10/30/98	63 FR 58601
Final Action Effective	12/29/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI11

4048. • FAR CASE 98-607, OFFICE OF CONTRACT COMPLIANCE PROGRAMS NATIONAL PRE-AWARD REGISTRY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 22; 48 CFR 52; 48 CFR 23; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to (1)inform the procurement community of the availability of the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) National Pre-Award Registry (Registry), accessible through the Internet, that contains contractor establishments who have received a pre-award clearance within the preceding 24 months, and the option to use information in the

FAR

Completed Actions

Registry in lieu of submitting a written request for a pre-award clearance; and (2) to implement revised Department of Labor (DOL) regulations pertaining to equal employment opportunity and affirmative action requirements for Federal contractors and subcontractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	12/18/98	63 FR 70282
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI15

4049. • FAR CASE 98-016, LIMITS FOR INDEFINITE QUANTITY CONTRACTS

Priority: Info./Admin./Other

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 16.504

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify guidance regarding how limits on indefinite quantity contracts are expressed. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	12/18/98	63 FR 70282
Final Action Effective	02/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI18

4050. • FAR CASE 98-612, VARIATION IN QUANTITY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 11; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove the requirement to include the clause at FAR 52.211-16, Variation in Quantity, in fixed-price solicitations and contracts that do not permit a variation in the quantity of supplies furnished under the contract. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	03/04/99	64 FR 10538
Final Action Effective	05/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI30

4051. • FAR CASE 98-302, WAIVER OF COST OR PRICING DATA FOR SUBCONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-261, sec 805

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 805 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105-261). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	03/04/99	64 FR 10544
Final Action Effective	05/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
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RIN: 9000–AI31

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federal register

Monday
April 26, 1999

Part L

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Ms. Barbara Webster Black, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5130, bblack@cftc.gov.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1). 5 U.S.C. 602(a).

The Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission's April 1999 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on February 17, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4052	Insider Trading—Regulation 1.59	3038-AB35

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4053	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4054	Automated Access to Foreign Boards of Trade From Within the United States	3038-AB30
4055	Denomination of Customer Funds and Location of Depositories	3038-AB31
4056	Exclusion for Certain Otherwise Regulated Persons From the Definition of the Term "Commodity Pool Operator"	3038-AB34
4057	Definition of a Principal	3038-AB36
4058	Rule 4.7: Exemption From Certain Part 4 Requirements With Respect to Qualified Eligible Participants and Qualified Eligible Clients	3038-AB37
4059	Performance Disclosures for Commodity Trading Advisors and Commodity Pool Operators	3038-AB39

[1] The Commission published its definition of small entity to be used in connection with rulemaking proceedings on April 30, 1982 (47 FR 18618). Pursuant to that definition, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. See 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, the listing of a rule in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations. In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory which lists rules that the Commission is considering or will consider in the near future.

CFTC

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4060	Revision of Federal Speculative Position Limits and Associated Rules	3038-AB32
4061	Economic and Public Interest Requirements for Contract Market Designation	3038-AB33
4062	Alternative Procedures for Non-Domestic Persons; Disclosure	3038-AB38

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4063	Prohibition on Voting by Interested Members	3038-AB03
4064	Requests for Exemptive, No-Action and Interpretative Letters	3038-AB28

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Prerule Stage

4052. • INSIDER TRADING—REGULATION 1.59

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 9

CFR Citation: 17 CFR 1.59

Legal Deadline: None

Abstract: The proposed regulatory amendment would clarify the use of the terms self-regulatory employee and governing board or committee member for the purpose of Regulation 1.59. The proposed amendment also would clarify the scope of the trading prohibition in Regulation 1.59(b)(1)(i).

Timetable:

Action	Date	FR Cite
ANPRM	06/00/99	
ANPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David P. Van Wagner, Acting Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5481
Fax: 202 418-5536
Email: dvanwagner@cftc.gov

RIN: 3038–AB35

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

4053. PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or other special circumstances affecting the registrant. Issues to be addressed include whether commissions or fees can be charged to customers if their accounts are transferred other than at their request.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5439
Fax: 202 418-5536
Email: lpatent@cftc.gov

RIN: 3038–AA77

4054. AUTOMATED ACCESS TO FOREIGN BOARDS OF TRADE FROM WITHIN THE UNITED STATES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 2; 7 USC 4; 7 USC 6; 7 USC 6c; 7 USC 12a

CFR Citation: 17 CFR 30

Legal Deadline: None

Abstract: The Commission issued proposed rules concerning automated access to foreign boards of trade from within the U.S. These rules, if adopted, would establish a procedure for a foreign board of trade to petition the Commission for an order to be recognized as a foreign electronic exchange or "RFEE." The Commission's issuance of such an order would permit automated trading systems with access to the foreign board of trade's products

CFTC — Proposed Rule Stage

to be placed and used within the U.S. without requiring the foreign board of trade to be designated as a U.S. contract market. The Commission also would add a new rule that would apply both to domestic and foreign firms to provide that customers wishing to trade on a U.S. exchange's automated system or on an RFEE may place orders via automated order routing systems, if such systems provide certain safeguards such as automated checks for customer position and credit limits.

Statement of Need: The Commission received a number of inquiries regarding the ability of a foreign board of trade to place computer terminals in the U.S. for the purpose of facilitating the trading of products available on the boards of trade without being required to be designated as a U.S. contract market. In undertaking a rulemaking in this area, the Commission seeks to implement a regulatory framework that will provide certainty to foreign boards of trade that want to place terminals in the U.S., will not inhibit cross-border trading activities, will be consistent with the Commission's regulatory obligations to maintain the integrity and competitiveness of the U.S. markets, and will provide protection to U.S. customers.

Summary of the Legal Basis: Section 4(a) of the Commodity Exchange Act (Act) states that a commodity futures contract may be traded lawfully in the U.S. if it is traded on or subject to the rules of a board of trade that has been designated as a contract market by the Commission. The concept release requests comments on a potential regulatory framework that would provide a means for a foreign board of trade to petition the Commission to place its computer terminals in the U.S. without subjecting the foreign board of trade to the requirement that it be designated as a contract market under the Act.

Alternatives: Absent the Commission undertaking a rulemaking in this area, foreign boards of trade would be required to be designated as U.S. contract markets prior to placing terminals in the U.S. for the purpose of facilitating access to their products.

Anticipated Costs and Benefits: As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations to ensure that the benefits of its regulations outweigh the costs.

Risks: The Commission, through its Concept Release, has asked for public comment regarding any risks from the placement and use of foreign board of trade terminals in the U.S. and whether foreign boards of trade should be subject to Commission rules in order to minimize risks.

Timetable:

Action	Date	FR Cite
Concept Release	07/24/98	63 FR 39779
NPRM	03/24/99	64 FR 14159
NPRM Comment Period End	04/23/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lawrence T. Eckert, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5430
Fax: 202 418-5536
Email: leckert@cftc.gov

RIN: 3038–AB30

4055. DENOMINATION OF CUSTOMER FUNDS AND LOCATION OF DEPOSITORIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 2a; 7 USC 4; 7 USC 4a; 7 USC 6; 7 USC 6a; 7 USC 6b; 7 USC 6c; 7 USC 6d; 7 USC 6e; 7 USC 6f; 7 USC 6g; 7 USC 6h; 7 USC 6l

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission is proposing rules requesting public comment on how to address the risks relating to holding segregated funds offshore or in foreign currencies.

Timetable:

Action	Date	FR Cite
Concept Release	12/30/97	62 FR 67841
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: France Maca, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5482
Fax: 202 418-5536
Email: fmaca@cftc.gov

RIN: 3038–AB31

4056. • EXCLUSION FOR CERTAIN OTHERWISE REGULATED PERSONS FROM THE DEFINITION OF THE TERM "COMMODITY POOL OPERATOR"

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a(4); 7 USC 6k to 6o; 7 USC 12a

CFR Citation: 17 CFR 4.5

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is considering proposing an amendment to Rule 4.5 by adding a plan defined as a Church plan in section 3(33) of title I of the Employee Retirement Income Security Act of 1974 to the employee benefit plans that the rule currently provides shall not be construed to be commodity pools.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara S. Gold, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5450
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RIN: 3038–AB34

4057. • DEFINITION OF A PRINCIPAL

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6m; 7 USC 6n; 7 USC 12a

CFR Citation: 17 CFR 3.1; 17 CFR 4.10

CFTC — Proposed Rule Stage

Legal Deadline: None

Abstract: The Commission will undertake a rulemaking to modify the definition of a "principal" for purposes of firm registration and disclosure under part 4 of the Commission's rules. The focus will be upon which officers of a firm should be considered principals for these purposes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5439
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Email: lpatent@cftc.gov

RIN: 3038–AB36

4058. • RULE 4.7: EXEMPTION FROM CERTAIN PART 4 REQUIREMENTS WITH RESPECT TO QUALIFIED ELIGIBLE PARTICIPANTS AND QUALIFIED ELIGIBLE CLIENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2; 7 USC 6b; 7 USC 6c; 7 USC 6l to 6o; 7 USC 12a; 7 USC 23

CFR Citation: 17 CFR 4.7

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission intends to propose amendments to Rule 4.7 that would make more persons eligible for treatment as qualified eligible participants or qualified eligible clients under the rule, e.g., principals of the commodity pool operator or commodity trading advisor who have been employed in the financial services industry for a specified number of years.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jocelyn B. Barone, Attorney/Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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Email: jbarone@cftc.gov

RIN: 3038–AB37

4059. • PERFORMANCE DISCLOSURES FOR COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6n; 7 USC 6o; 7 USC 12a

CFR Citation: 17 CFR 4.25; 17 CFR 4.35

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is considering amending requirements concerning the presentation of rate of return data by commodity trading advisors and commodity pool operators. Among other issues, the Commission may address computational and disclosure matters relating to participating in commodity trading advisor programs on a partially-funded basis.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/98	63 FR 33297
ANPRM Comment Period End	08/17/98	
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Paul Bjarnason, Special Assistant to the Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB39

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Final Rule Stage

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4060. REVISION OF FEDERAL SPECULATIVE POSITION LIMITS AND ASSOCIATED RULES

Priority: Other Significant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 4; 7 USC 6a; 7 USC 6c; 7 USC 6f; 7 USC 6g; 7 USC 6h; 7 USC 6i; 7 USC 6k; 7 USC 6m; 7 USC 6n; 7 USC 12a; 7 USC 12a(5); 7 USC 19

CFR Citation: 17 CFR 1; 17 CFR 17; 17 CFR 18; 17 CFR 150

Legal Deadline: None

Abstract: The Commission is proposing rules to raise the levels of Commission speculative limits for futures contracts on various agricultural commodities for the deferred contract months, codify a number of broad exemptions from the Commission rule that exchanges set speculative position limits for all contracts not subject to Commission limits, broaden the existing speculative position limit exemption provided under the Commission rule for independent account controllers, and amend the Commission's aggregation policy.

Statement of Need: The Commission recently reviewed its policies and rules governing speculative position limits and found that expansion of the back-month speculative position limits would be appropriate. The Commission also believes it appropriate to codify a number of Commission policies relating to exchange-set speculative position limits and to expand the existing speculative limit exemptions provided under Commission rule for independent account controllers to reflect the trends toward greater complexity in the structure of financial

services companies and greater professional management of trading funds.

Summary of the Legal Basis: Section 4a(1) of the Commodity Exchange Act provides the Commission with the authority to "fix such limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the Commission finds are necessary to diminish, eliminate, or prevent such burden."

Alternatives: The Commission has reviewed the alternatives of not revising its speculative limit rules as proposed and believes that those alternatives do not provide for appropriate expansion of the back-month speculative position limits nor appropriate codification of a number of Commission policies relating to speculative position limits.

Anticipated Costs and Benefits: The anticipated benefits arising from the proposed rules would be that the Commission would reflect better the changing composition of the futures markets. The Commission anticipates that the rules would not result in an increase in any costs.

Risks: Speculative limits are an effective means of preventing unreasonable or unwarranted price fluctuations. Periodic review of these limits enables the Commission to assess their effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38525
NPRM Comment Period End	10/19/98	
Final Action	04/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB32

4061. ECONOMIC AND PUBLIC INTEREST REQUIREMENTS FOR CONTRACT MARKET DESIGNATION

Priority: Other Significant

Legal Authority: 7 USC 6c; 7 USC 7; 7 USC 7a; 7 USC 8; 7 USC 12a

CFR Citation: 17 CFR 5

Legal Deadline: None

Abstract: The Commission is proposing revisions to its Guideline on Economic and Public Interest Requirements for Contract Market Designations, 17 CFR part 5, appendix A, Guideline No. 1. Guideline No. 1 details the information that an application for contract markets designation should include to demonstrate that the contract market meets the economic requirements for designation. In furtherance of recent Commission streamlining efforts to reduce the time for Commission review of such applications, the Commission is proposing that Guideline No. 1 be revised to reduce any unnecessary burdens associated with designation applications.

Statement of Need: The Commission recently promulgated fast-track review procedures to reduce the time for Commission review of contract market designation applications. To further streamline efforts, the Commission believes that it is necessary to revise the form and content requirements of Guideline No. 1 to reduce any unnecessary burdens associated with the designation process.

Summary of the Legal Basis: The statutory requirements for contract market designation are found in sections 2(a)(1)(B), 5 and 5a of the Commodity Exchange Act (Act). The Commission, as an aid to the exchanges, has provided guidance in meeting these statutory requirements including the issuance of Guideline No. 1.

Alternatives: The Commission has reviewed the alternatives of not revising Guideline No. 1 as proposed and has determined that without revising Guideline No. 1, the reduction of unnecessary burdens associated with the designation process could not be realized.

Anticipated Costs and Benefits: The anticipated benefits from the proposed revisions to Guideline No. 1 include the codification of Commission contract market designation practices. The Commission also anticipates that the costs associated with the designation process will be reduced.

Risks: The contract market designation process allows the Commission to evaluate whether the terms and conditions of proposed contracts address risks including market manipulation and dissemination of false information. In this action, the Commission is proposing to further streamline the contract designation process while preserving the regulatory functions of the process.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38537
NPRM Comment Period End	09/15/98	
Final Action	04/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB33

4062. • ALTERNATIVE PROCEDURES FOR NON-DOMESTIC PERSONS; DISCLOSURE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 4; 7 USC 6; 7 USC 6c; 7 USC 12a

CFR Citation: 17 CFR 30.5; 17 CFR 30.6

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is proposing to amend Rules 30.5 and 30.6 governing exemptions from registration and disclosures by certain persons who solicit U.S. foreign futures and option customers. Persons seeking an exemption pursuant to Rule 30.5 would be required to provide certain information in order to obtain an exemption. The disclosure requirements governing commodity pool operators and commodity trading advisors would be amended to more

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closely parallel the disclosures required when soliciting U.S. customers for trading on domestic markets.

Timetable:

Action	Date	FR Cite
NPRM	01/11/99	64 FR 1566
NPRM Comment Period End	03/12/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Laurie Duperier, Special Counsel to the Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5093
Fax: 202 418-5547
Email: lduperier@cftc.gov

RIN: 3038–AB38

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Completed Actions

4063. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Priority: Other Significant

CFR Citation: 17 CFR 1.69

Completed:

Reason	Date	FR Cite
Final Action	01/04/99	64 FR 16
Final Action Effective	03/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David P. Van Wagner
Phone: 202 418-5481
Fax: 202 418-5536
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RIN: 3038–AB03

4064. REQUESTS FOR EXEMPTIVE, NO-ACTION AND INTERPRETATIVE LETTERS

Priority: Info./Admin./Other

CFR Citation: 17 CFR 140.99

Completed:

Reason	Date	FR Cite
Final Action	12/10/98	63 FR 68175
Final Action Effective	01/11/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Christopher W. Cummings
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RIN: 3038–AB28

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Monday
April 26, 1999

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Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866.

DATES: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by June 30, 1999.

ADDRESSES: Comments on the regulatory flexibility agenda should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0800, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments should be captioned "Regulatory Flexibility Agenda." Comments may also be filed by telefacsimile to (301) 504-0127 or by e-mail to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Stephen Lemberg, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0980, ext. 2218. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated that is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda is also required to contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12866 requires each agency to publish, twice each year, a regulatory agenda of regulations under development or review during the next year and states that such an agenda may be combined with the agenda published in accordance with the RFA. The regulatory flexibility agenda published below lists the regulatory activities expected to be under development or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Dated: February 17, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4065	Petition HP 93-1 Requesting Development of a Rule To Ban Certain Backyard Playsets	3041-AB47
4066	Amendment of the Standard for the Flammability of Clothing Textiles	3041-AB68
4067	Petition CP 97-1 Requesting Development of a Safety Standard for Escalators	3041-AB70
4068	Petition FP 99-1 Requesting Labeling Rule for Polyurethane Foam in Upholstered Furniture	3041-AB81

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4069	Flammability Standard for Upholstered Furniture	3041-AB35
4070	Requirements for Child-Resistant Packaging of Household Products Containing Petroleum Distillates	3041-AB57
4071	Amendment of Laundering Procedures in Flammability Standards for Children's Sleepwear, Carpets and Rugs, and Mattress Pads	3041-AB69
4072	Requirements for Bunk Beds	3041-AB75

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Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4073	Requirements for Child-Resistance of Multi-Purpose Lighters	3041-AB66
4074	Child Resistant Packaging of Consumer Products Containing Methacrylic Acid	3041-AB78
4075	Proposed Revocation of Amendments to the Standards for the Flammability of Children's Sleepwear	3041-AB80

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4076	Baby Walkers	3041-AB40
4077	Amendment of Safety Regulations for Cribs	3041-AB67
4078	Petition HP 99-1 for a Ban of Polyvinyl Chloride in Toys and Other Products Intended for Children 5 Years of Age and Under	3041-AB79

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4079	Requirements for Child-Resistant Packaging of Minoxidil	3041-AB72
4080	Petition To Exempt Sucraid TM From Special Packaging Requirements Under the Poison Prevention Packaging Act	3041-AB73
4081	Amendments To Clarify Portions of the Standards for the Flammability of Children's Sleepwear	3041-AB74

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Prerule Stage

4065. PETITION HP 93-1 REQUESTING DEVELOPMENT OF A RULE TO BAN CERTAIN BACKYARD PLAYSETS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A petition from the New York City Department of Consumer Affairs requests the Commission to develop a rule to ban certain backyard playsets. The petition asserts that backyard playsets present unreasonable risks of injury to children if they do not meet the requirements of a voluntary standard for home playground equipment published by the American Society for Testing and Materials (ASTM); are not accompanied with adequate information about ground surfacing; or lack specific features described in the petition. On May 21, 1996, the Commission denied those parts of the petition requesting issuance of a rule to ban any backyard playset that does not conform to all requirements of the ASTM voluntary standard; that has an accessible height that exceeds six feet above protective surfacing; that does not have adequate fall zones under climbing structures; or that does not provide adequate space between any item of swinging equipment and any other item of swinging or stationary equipment. The Commission deferred a decision on those parts of the petition requesting a rule to ban backyard playsets that are not accompanied with instructions to use and maintain specified ground surfacing; that do not have handrails on all platforms that are 30 inches or higher above protective surfacing; that have swing seats made of wood, metal, plastic, or other hard material capable of inflicting serious injury to the head; that have free-swinging ropes; and that are unanchored playsets with swings. In 1999, the staff is scheduled to transmit additional information to the Commission concerning revisions of the voluntary standard. The Commission will then decide whether to grant, deny, or continue to defer the remaining requests in the petition.

Timetable:

Action	Date	FR Cite
Partial Denial of Petition	05/21/96	
Additional Information Is Sent by Staff to the Commission	12/00/99	
Commission Decision	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Preston, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB47

CPSC

Prerule Stage

4066. AMENDMENT OF THE STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1610

Legal Deadline: None

Abstract: The Standard for the Flammability of Clothing Textiles prohibits the manufacture, importation, or sale of clothing, and fabrics and related materials intended for use in clothing, which are dangerously flammable because of rapid and intense burning. The standard prescribes the apparatus, procedure, and criteria to be used for testing to determine compliance with that standard. The standard was made mandatory by the Flammable Fabrics Act of 1953 (Pub. L. 83-88, 67 Stat. 111; June 30, 1953). Some of the equipment and procedures specified by the standard, particularly those for laundering and cleaning of test specimens, have become obsolete, unavailable, or unrepresentative of current practices. The staff is preparing a briefing package describing modifications of the standard that may be needed to assure that the test in the standard is conducted with equipment and procedures representative of conditions to which garments currently are exposed. After consideration of the briefing package, the Commission will decide whether to begin a proceeding for amendment of the standard.

Timetable:

Action	Date	FR Cite
Briefing Package From Staff to Commission	04/00/99	
Commission Decision	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0508

RIN: 3041–AB68

4067. PETITION CP 97-1 REQUESTING DEVELOPMENT OF A SAFETY STANDARD FOR ESCALATORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: None

Legal Deadline: None

Abstract: A petition from Scott and Biana Anderson requests development of a safety standard for escalators. The petition asserts that escalators are associated with unreasonable risks of serious injuries resulting from entrapment of feet, toes, and other body parts in openings between the moving stairs and the sides of the escalators. On May 22, 1997, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. The staff is preparing a briefing package for consideration by the Commission.

Timetable:

Action	Date	FR Cite
Notice To Solicit Comments on Petition	05/22/97	62 FR 28005
Comment Period End	07/21/97	
Staff Sends Briefing Package to Commission	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Tinsworth, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences
Phone: 301 504-0470

RIN: 3041–AB70

4068. • PETITION FP 99-1 REQUESTING LABELING RULE FOR POLYURETHANE FOAM IN UPHOLSTERED FURNITURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1191 Flammable Fabrics Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A petition from the National Association of State Fire Marshals (NASFM) requests the Commission to require labels warning that polyurethane foam in upholstered furniture poses a fire hazard under the Flammable Fabrics Act. NASFM asserts that polyurethane foam in upholstered furniture poses an unreasonable risk of fire because once ignited it burns rapidly and emits toxic gases. NASFM asks the Commission to require that upholstered furniture manufacturers and retailers provide flammability warnings to the public. The Commission has authorized the issuance of a Federal Register notice to solicit public comments on the petition.

Timetable:

Action	Date	FR Cite
Issuance of Federal Register Notice To Solicit Comments	04/00/99	
Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dale R. Ray, Project Manager, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207
Phone: 301 504-0962

RIN: 3041–AB81

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Proposed Rule Stage

4069. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1193 Flammable Fabrics Act

CFR Citation: 16 CFR 1640

Legal Deadline: None

Abstract: On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard to address risks of death, injury, and property damage from fires associated with ignition of upholstered furniture by small open-flame sources such as matches, lighters, or candles. This ANPRM was issued after the Commission granted part of a petition requesting development of a mandatory flammability standard to address risks of injury from ignition of upholstered furniture by: (1) small open-flame sources; (2) large open-flame sources; and (3) cigarettes. The Commission voted to deny that part of the petition requesting development of a mandatory standard to address hazards associated with ignition of upholstered furniture by large open-flame sources. The Commission also voted to defer a decision on that part of the petition requesting development of a standard to address cigarette ignition, and directed the staff to report to the Commission on the effectiveness of, and the extent of industry compliance with, a voluntary program to reduce risks of ignition of upholstered furniture by cigarettes. The Commission staff developed a draft standard to address ignition of upholstered furniture by small open-flame sources. The staff also reported its findings on the efficacy of the voluntary program developed by the furniture industry to reduce the risk of cigarette ignition. On March 2, 1998, the Commission voted to defer action on small open-flame sources and gather additional information on the potential toxicity of flame-retardant chemicals that might be used to meet a standard. A public hearing on this subject was held on May 5-6, 1998. The staff is analyzing data from the hearing and completing other technical studies. In the 1999 appropriations legislation Congress directed the Commission to contract with the National Academy of Sciences for a 12-month independent study of potential health hazards associated with the use of flame retardant chemicals in upholstered furniture. This contract was awarded in January 1999. Upon completion of this study the staff will present alternatives for future action by the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
ANPRM Comment Period End	08/15/94	
Staff Briefing of Commission on ANPRM	12/18/97	
Commission Voted To Defer Action Pending Results of Toxicity Hearing	03/02/98	
Commission Hearing May 5 & 6, 1998 on Possible Toxicity of Flame Retardant Chemicals	03/17/98	63 FR 13017
Commission Decision on NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dale R. Ray, Project Manager, Consumer Product Safety Commission, Directorate for Economic Analysis, Washington, DC 20207
Phone: 301 504-0962

RIN: 3041–AB35

4070. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF HOUSEHOLD PRODUCTS CONTAINING PETROLEUM DISTILLATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14(a)

Legal Deadline: None

Abstract: Some household products containing ten percent or more by weight of petroleum distillates are subject to requirements for child-resistant packaging by regulations issued under the Poison Prevention Packaging Act and codified at 16 CFR 1700.14(a). These products include liquid furniture polish (section 1700.14(a)(2)), lighter fluid (section 1700.14(a)(7)), and prepackaged solvents for paint (section 1700.14(a)(15)). However, many other household products containing petroleum distillates are not required to be in child-resistant packaging. On February 26, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to initiate a proceeding which may result in mandatory requirements for child-resistant packaging of other household products containing petroleum distillates or other hydrocarbons. On April 28, 1997, the Commission extended the period for receipt of written comments on the ANPRM until July 11, 1997. In the Federal Register of July 21, 1997, the Commission reopened the comment period through September 1, 1997. The Commission will consider comments received in response to the ANPRM before deciding whether to propose requirements for child-resistant packaging of additional household products containing petroleum distillates or other hydrocarbons.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/97	62 FR 8659
Extension of ANPRM Comment Period	04/28/97	62 FR 22897
ANPRM Comment Period End	05/12/97	62 FR 8659
Comment Period End	07/11/97	62 FR 22897
Reopening of ANPRM Comment Period	07/21/97	62 FR 38948
Comment Period End	09/01/97	
Staff Sends Briefing Package to Commission	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Suzanne Barone, Project Manager, Consumer Product Safety Commission, Directorate for Epidemiology and Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB57

CPSC — Proposed Rule Stage

4071. AMENDMENT OF LAUNDERING PROCEDURES IN FLAMMABILITY STANDARDS FOR CHILDREN'S SLEEPWEAR, CARPETS AND RUGS, AND MATTRESS PADS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1615; 16 CFR 1616; 16 CFR 1630; 16 CFR 1631; 16 CFR 1632

Legal Deadline: None

Abstract: Flammability standards for children's sleepwear, carpets and rugs, and mattress pads contain procedures for washing and drying specimens before testing to assure that flame retardants used in these products will not be removed by repeated laundering or cleaning. The laundering procedures in all of these standards currently require use of a detergent and washing methods that are no longer representative of those used for home laundering. In November 1998 the staff provided the Commission with a briefing package concerning the laundering procedures in these standards. It included modifications that may be needed to assure that the effect of laundering on the flammability of the products covered by these standards is assessed with equipment and methods currently used by consumers. Supplemental information on a suggested laundering procedure was submitted by the staff in February 1999.

Timetable:

Action	Date	FR Cite
Briefing Package to Commission	11/18/98	
NPRM for Carpets and Rugs	03/17/99	64 FR 13132
NPRM for Mattresses and Mattress Pads	03/17/99	64 FR 13137
NPRM for Sleepwear	03/17/99	64 FR 13126
NPRM for Carpets and Rugs Comment Period End	06/01/99	64 FR 13132
NPRM for Mattresses and Mattress Pads Comment Period End	06/01/99	64 FR 13137
NPRM for Sleepwear Comment Period End	06/01/99	64 FR 13126

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0508

RIN: 3041–AB69

4072. REQUIREMENTS FOR BUNK BEDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 2051 Consumer Product Safety Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 22, 1998, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a standard to address risks of injury and death that may be associated with bunk beds constructed so that children can become entrapped in the beds' structure or become wedged between the bed and a wall. This ANPRM was issued after the staff briefed the Commission on the incident data, the adequacy of an existing ASTM voluntary standard, whether there is substantial compliance with that voluntary standard, and other matters. In response to the ANPRM, 420 comments were received, a majority of which were in favor of a mandatory rule. The staff briefed the Commission on January 7, 1999, and recommended the publication of a notice of proposed rulemaking (NPRM). The Commission voted on February 3, 1999 to issue the NPRM.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/98	63 FR 3280
ANPRM Comment Period End	04/07/98	
Briefing Package To Commission	12/16/98	
Commission Decision	02/03/99	
NPRM	03/03/99	64 FR 10245
NPRM Comment Period End	05/17/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John D. Preston, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences
Phone: 301 504-0494

RIN: 3041–AB75

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Final Rule Stage

4073. REQUIREMENTS FOR CHILD-RESISTANCE OF MULTI-PURPOSE LIGHTERS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 2051 Consumer Product Safety Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 16, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding which may result in a mandatory consumer product safety rule requiring multi-purpose lighters to resist operation by children. The Commission began this proceeding after granting a petition.

A mandatory product safety rule for multi-purpose lighters would require these lighters to have a child-resistant mechanism to prevent operation by most children younger than five years of age. The standard would include lighters marketed for a wide range of general household uses, such as igniting fuel for fireplaces, charcoal or gas-fueled grills, and camping equipment.

The staff forwarded a briefing package to the Commission in July 1998. The briefing package recommended publication of a notice of proposed

CPSC

Final Rule Stage

rulemaking (NPRM) for a rule that would require multi-purpose lighters, also called utility lighters, to be child-resistant. On September 30, 1998, a notice of proposed rulemaking (NPRM) was published in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2327
ANPRM Comment Period End	03/17/97	
NPRM	09/30/98	63 FR 52397
NPRM Comment Period End	12/14/98	
Staff Briefing Package	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Jacobson, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB66

4074. CHILD RESISTANT PACKAGING OF CONSUMER PRODUCTS CONTAINING METHACRYLIC ACID

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Under section 2(b) of the Poison Prevention Packaging Act, the Commission can require a special packaging standard for cosmetics for home use. Methacrylic acid is a chemical used as a primer for cleaning and etching fingernails prior to applying artificial nails. Methacrylic acid is associated with severe corrosive injury on contact with skin, eyes, and mucous membranes. The staff transmitted a briefing package for the Commission's consideration in November 1998. The Commission voted to publish a notice of proposed rulemaking in December 1998. The Federal Register notice was published December 30, 1998. The staff sent the Federal Register notice and a letter requesting comment to a list of approximately 150 concerned parties on January 11, 1999. The staff will respond to comments, update injury data as needed, and transmit a final briefing package to the Commission by the end of June 1999.

Timetable:

Action	Date	FR Cite
NPRM	12/30/98	63 FR 71800
NPRM Comment Period End	03/15/99	
Staff Sends Option Package to Commission	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan Aitken, Project Manager, Consumer Product Safety Commission, Directorate for Epidemiology and Health Sciences
Phone: 301 504-0477

RIN: 3041–AB78

4075. • PROPOSED REVOCATION OF AMENDMENTS TO THE STANDARDS FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-276

CFR Citation: 16 CFR 1615; 16 CFR 1616

Legal Deadline: NPRM, Statutory, January 19, 1999. Final, Statutory, July 1, 1999.
The Commission's Fiscal Year 1999 appropriations legislation required the Commission to propose to revoke the sleepwear amendments and to either revoke, maintain, or modify them.

Abstract: The Standards for the Flammability of Children's Sleepwear (sizes 0 to 6x and sizes 7 to 14) were amended in September 1996 to exclude from the definition of "children's sleepwear" (1) garments sized for infants nine months of age or younger and (2) tight-fitting garments for children older than nine months. The garments, termed "tight or snug-fitting," must not exceed maximum dimensions specified for each garment size. Several technical amendments were needed to clarify provisions of the standards, especially how the specified dimensions are to be measured on these garments. On January 19, 1999 the Commission issued technical changes to clarify the points where garment measurements should be made. However, pursuant to the 1999 appropriations bill, Public Law 105-276, on January 19, 1999 the Commission proposed for comment a revocation of the September 9, 1996 amendments and all subsequent amendments. Based on all available information, the Commission is required to issue a final rule by July 1, 1999 that either (1) revokes, (2) maintains, or (3) modifies the amendments.

Timetable:

Action	Date	FR Cite
NPRM	01/19/99	64 FR 2867
NPRM Comment Period End	03/22/99	
Briefing Package to Commission	06/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0508

RIN: 3041–AB80

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Long-Term Actions

4076. BABY WALKERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 2, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in the issuance of mandatory design or performance requirements for baby walkers. A baby walker is a device that supports a child so that the child can use his or her feet to move about before or while learning to walk. Typically, a baby walker consists of a fabric seat that has leg openings and is mounted to a rigid plastic deck. The deck is attached to a base that is mounted on wheels to allow mobility. In 1994, an estimated 25,500 children younger than 15 months of age were treated in hospital emergency rooms for injuries associated with baby walkers. Among the options under consideration by the Commission are mandatory performance or design requirements to reduce risks of injury associated with baby walkers, particularly those resulting to children from falls down stairs. The majority of these injuries resulted from falls down stairs. In response to the Commission's work in this area, the industry approved revisions to the voluntary standard for baby walkers in 1996 to address the hazard of falling down stairs. The staff is developing information concerning the extent of industry conformance with that voluntary standard, designated "Standard Consumer Safety Specification for Infant Walkers," SF 977-96, published by the American Society for Testing and Materials (ASTM). The ASTM standard contains performance requirements to address risks of injury to children from falls down stairs associated with baby walkers. The staff will send that information to the Commission together with options for Commission action, including withdrawal of the ANPRM or further regulatory proceedings.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39309
ANPRM Comment Period End	10/03/94	
Staff Sends Briefing Package to the Commission	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Jacobson, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB40

4077. AMENDMENT OF SAFETY REGULATIONS FOR CRIBS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1508; 16 CFR 1509

Legal Deadline: None

Abstract: On December 16, 1996, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in amendment of the safety regulations for full-size and non-full-size cribs, 16 CFR parts 1508 and 1509. Among the regulatory alternatives under consideration is amendment of the regulations to add tests to assure that slats will not disengage from the side panels of cribs. The Commission began this proceeding after considering information about incidents in which crib slats disengaged from the side panels of cribs, creating a risk that children may become entrapped between the remaining slats or fall out of the crib. The Commission will consider written comments received in response to the ANPRM and assess progress toward amending the voluntary standard before deciding whether to continue the proceeding by publication of a notice of proposed rulemaking (NPRM) or terminate further proceedings in reliance on the voluntary standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/16/96	61 FR 65996
ANPRM Comment Period End	02/14/97	
Staff Sends Briefing Package To Commission	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Tinsworth, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0470

RIN: 3041–AB67

4078. • PETITION HP 99-1 FOR A BAN OF POLYVINYL CHLORIDE IN TOYS AND OTHER PRODUCTS INTENDED FOR CHILDREN 5 YEARS OF AGE AND UNDER

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261 to 1278 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: The National Environmental Trust and 11 other organizations petitioned the Commission to ban polyvinyl chloride (PVC) in toys and other articles intended for the use of children 5 years and under, based upon concerns they have about the potential for health risks from phthalates (especially diisononyl phthalate (DINP)), lead, and cadmium that can be in PVC. A Federal Register notice was issued on December 22, 1998, requesting comment on the petition. Comments were due on February 22, 1999.

Timetable:

Action	Date	FR Cite
Notice Advising of Receipt of Petition	12/22/98	63 FR 70756
Comments Due	02/22/99	63 FR 70756
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marilyn L. Wind, Ph.D., Project Manager, Consumer Product Safety Commission, Directorate for Epidemiology and Health Sciences, Washington, DC 20207

CPSC Long-Term Actions

Phone: 301 504-0477
RIN: 3041–AB79

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) Completed Actions

4079. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF MINOXIDIL

Priority: Substantive, Nonsignificant

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Final Action	11/16/98	63 FR 63603
Final Action Effective	05/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Suzanne Barone
Phone: 301 504-0477

RIN: 3041–AB72

4080. PETITION TO EXEMPT SUCRAID TM FROM SPECIAL PACKAGING REQUIREMENTS UNDER THE POISON PREVENTION PACKAGING ACT

Priority: Substantive, Nonsignificant

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Final Action	12/01/98	63 FR 66001
Final Action Effective	12/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Ferrante
Phone: 301 504-0477

RIN: 3041–AB73

4081. AMENDMENTS TO CLARIFY PORTIONS OF THE STANDARDS FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR

Priority: Substantive, Nonsignificant

CFR Citation: 16 CFR 1615; 16 CFR 1616

Completed:

Reason	Date	FR Cite
Final Action	01/19/99	64 FR 2833
Final Action Effective	02/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Neily
Phone: 301 504-0508

RIN: 3041–AB74

[FR Doc. 99-4913 Filed 04-23-99; 8:45 am]
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April 26, 1999

Part LII

Farm Credit Administration

Semiannual Regulatory Agenda

FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of April 1999 through October 1999.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. FCA regulations, which apply to Farm Credit banks and associations and certain other federally chartered entities, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The FCA, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: February 17, 1999.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4082	Federal Agricultural Mortgage Corporation Risk-Based Capital Regulation	3052-AB56
4083	Loan Policies and Operations (Comprehensive Borrower Rights)	3052-AB69
4084	Releasing Information	3052-AB84
4085	Organization (Reorganization Authorities for System Institutions)	3052-AB86
4086	Organization; Loan Policies and Operations; General Provisions; Chartered Territories (Customer Choice)	3052-AB87

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4087	Loan Policies and Operations; Leasing; General Provisions; Accounting and Reporting Requirements (Leasing Authorities)	3052-AB63
4088	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Investment Management)	3052-AB76
4089	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (FCB Assistance to Associations)	3052-AB80

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4090	Organization and Functions (FCA Organization)	3052-AB82
4091	Statement on Regulatory Burden	3052-AB85

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4092	Organization (Balloting and Stockholder Reconsideration Issues)	3052-AB71
4093	Organization (FCS Board Compensation Limits)	3052-AB79

FARM CREDIT ADMINISTRATION (FCA)

Proposed Rule Stage

4082. FEDERAL AGRICULTURAL MORTGAGE CORPORATION RISK-BASED CAPITAL REGULATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 2279bb-1; 12 USC 2279aa-11(a)(1)(B)(ii)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation will establish risk-based capital requirements for the Federal Agricultural Mortgage Corporation (also known as Farmer Mac). The law says these regulatory requirements will be used to determine the amount of capital needed to survive a 10-year period of both unfavorable credit and interest rate conditions. The law includes additional details on the level of unfavorable conditions to be included in the requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office and Policy and and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION: http://www.fca.gov

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Agency Contact: Carl Clinefelter, Director, Office of Secondary Market Oversight, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
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Email: clinefelterc@fca.gov

RIN: 3052–AB56

4083. LOAN POLICIES AND OPERATIONS (COMPREHENSIVE BORROWER RIGHTS)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: This rulemaking would revise borrower rights regulations to provide clarification and remove unnecessary burdens.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov. FOR FURTHER INFORMATION:http://www.fca.gov EMAIL:info-line@fca.gov

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RIN: 3052–AB69

4084. RELEASING INFORMATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 12 USC 2243; 12 USC 2252; EO 12600

CFR Citation: 12 CFR 602

Legal Deadline: None

Abstract: This rulemaking would conform FCA regulations to Department of Justice guidance and clarify procedures for processing requests for exempt information.

Timetable:

Action	Date	FR Cite
NPRM	03/08/99	64 FR 10954
NPRM Comment Period End	04/07/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB84

4085. ORGANIZATION (REORGANIZATION AUTHORITIES FOR SYSTEM INSTITUTIONS)

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa5(e)

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: This rulemaking would establish regulations under which a bank or large association within the Farm Credit System can terminate its charter as provided for in the Farm Credit Act of 1971, as amended.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION: http://www.fca.gov

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Agency Contact: Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit

FCA — Proposed Rule Stage

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RIN: 3052–AB86

4086. • ORGANIZATION; LOAN POLICIES AND OPERATIONS; GENERAL PROVISIONS; CHARTERED TERRITORIES (CUSTOMER CHOICE)

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096

CFR Citation: 12 CFR 611; 12 CFR 614; 12 CFR 618

Legal Deadline: None

Abstract: This rulemaking would provide additional flexibility for lending across geographical boundaries.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60219
Comment Period Extension Notice	12/16/98	63 FR 69229
NPRM Comment Period End	02/08/99	
Comment Period End	05/10/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov FOR FURTHER INFORMATION: http://www.fca.gov EMAIL: info-line@fca.gov

Agency Contact: S. Robert Coleman, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
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TDD: 703 883-4444
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RIN: 3052–AB87

FARM CREDIT ADMINISTRATION (FCA) — Final Rule Stage

4087. LOAN POLICIES AND OPERATIONS; LEASING; GENERAL PROVISIONS; ACCOUNTING AND REPORTING REQUIREMENTS (LEASING AUTHORITIES)

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097

CFR Citation: 12 CFR 614; 12 CFR 616; 12 CFR 618; 12 CFR 621

Legal Deadline: None

Abstract: This rulemaking would develop comprehensive leasing regulations for all Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
NPRM	10/15/97	62 FR 53581
NPRM Comment Period End	12/15/97	
Second NPRM	10/23/98	63 FR 56873
Second NPRM Comment Period End	12/07/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis,.703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB63

4088. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (INVESTMENT MANAGEMENT)

Priority: Other Significant

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: This rulemaking would clarify and revise the current investment management regulations taking into consideration petitions received to amend the regulations, safety and soundness and similar regulations established by other financial institution regulators.

Timetable:

Action	Date	FR Cite
NPRM	06/18/98	63 FR 33281
NPRM Comment Period End	08/17/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION: http://www.fca.gov

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Agency Contact: Laurie A. Rea, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
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RIN: 3052–AB76

FCA — Final Rule Stage

4089. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (FCB ASSISTANCE TO ASSOCIATIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: This rulemaking would clarify when Agency prior approval is needed for approval of financial assistance provided to associations by Farm Credit Banks and agricultural credit banks.

Timetable:

Action	Date	FR Cite
NPRM	02/18/99	64 FR 8018
NPRM Comment Period End	03/22/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION: http://www.fca.gov

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Agency Contact: Dale L. Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
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RIN: 3052–AB80

FARM CREDIT ADMINISTRATION (FCA) — Long-Term Actions

4090. ORGANIZATION AND FUNCTIONS (FCA ORGANIZATION)

Priority: Info./Admin./Other

CFR Citation: 12 CFR 600

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia DiMuzio
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TDD: 703 883-4444
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Email: dimuziop@fca.gov

RIN: 3052–AB82

4091. STATEMENT ON REGULATORY BURDEN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 600 to 650

Timetable:

Action	Date	FR Cite
Notice of Intent	08/18/98	63 FR 44176
Comment Period Extension Notice	11/18/98	63 FR 64013
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eric Howard
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TDD: 703 883-4444
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Email: howarde@fca.gov

RIN: 3052–AB85

FARM CREDIT ADMINISTRATION (FCA) — Completed Actions

4092. ORGANIZATION (BALLOTING AND STOCKHOLDER RECONSIDERATION ISSUES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 611

Completed:

Reason	Date	FR Cite
Final Action	11/24/98	63 FR 64841
Final Action Effective	02/11/99	64 FR 6784

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alan Markowitz
Phone: 703 883-4498
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Email: markowitza@fca.gov

RIN: 3052–AB71

4093. ORGANIZATION (FCS BOARD COMPENSATION LIMITS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 611

Completed:

Reason	Date	FR Cite
Final Action	04/06/99	64 FR 16617

FCA

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alan Markowitz
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RIN: 3052–AB79

[FR Doc. 99-4914 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part LIII

Farm Credit System Insurance Corporation

Semiannual Regulatory Agenda

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC)

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Ch. XIV

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation), in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of April 1999 through October 1999.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Corporation regulations, which apply to Farm Credit banks and associations, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The Corporation, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the Corporation in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: February 17, 1999.

Vivian L. Portis,

Secretary, Farm Credit System Insurance Corporation Board.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4094	Enforcement of Nondiscrimination on the Basis of Handicap	3055-AA01
4095	Referral of Known and Suspected Criminal Violations	3055-AA02
4096	Farm Credit System Reform Act of 1996	3055-AA04

4094. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1406

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
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RIN: 3055–AA01

4095. REFERRAL OF KNOWN AND SUSPECTED CRIMINAL VIOLATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1417

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
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RIN: 3055–AA02

4096. FARM CREDIT SYSTEM REFORM ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 12 CFR 1400 to 1410

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
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RIN: 3055–AA04

[FR Doc. 99-4915 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part LIV

Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions; April 1999

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. See 5 U.S.C. 602. The Agenda also provides the CFR citations and legal authorities which govern these proceedings. The Agenda will be published in the **Federal Register** in April and October of each year.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Vivian Keller, Attorney-Advisor, and Maura McGowan, Telecommunications Specialist, Office of Communications Business Opportunities, FCC, Room 644E, 1919 M Street NW., Washington, DC 20554, (202) 418-0990.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB will publish the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number—assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established, plus a sequential number, which begins at 1 with the first docket initiated during a calendar year (e.g., Docket No. 80-1 or Docket No. 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket No. 79-164," which indicates that the responsible Bureau is the Mass Media Bureau. A docket number consisting of only five digits (e.g., Docket No. 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI)—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM)—issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Further Notice of Proposed Rulemaking (FNPRM)

Memorandum Opinion and Order (MO&O)—issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number—assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking but before the Commission has taken action on the petition.

Report and Order (R&O)—issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

Magalie Roman Salas,

Secretary,

Federal Communications Commission.

Cable Services Bureau—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4097	Cable Television Rate Regulation	3060-AF41
4098	Cable Television Rate Regulation: Cost of Service	3060-AF48
4099	Customer Service Standards	3060-AF69
4100	Cable Home Wiring	3060-AG02
4101	Over-the-Air Reception Devices	3060-AG24
4102	Closed Captioning	3060-AG26
4103	Cable Act Reform	3060-AG27
4104	Competitive Availability of Navigation Devices	3060-AG28
4105	Telecommunications Act of 1996, Pole Attachment Provisions	3060-AG71
4106	Digital Must Carry	3060-AG91
4107	Horizontal Ownership Limits	3060-AH09

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Cable Services Bureau—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4108	Implementation of Section 551 of the Telecommunications Act of 1996, Parental Choice in Television Programming	3060-AG59

Common Carrier Bureau—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4109	Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers	3060-AH18

Common Carrier Bureau—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4110	Rules and Policies Regarding Calling Number Identification Services (CC Docket 91-281)	3060-AF07
4111	Administration of the North American Numbering Plan	3060-AF50
4112	Use of N11 Codes and Other Abbreviated Dialing Arrangements	3060-AF51
4113	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060-AF85
4114	Integrated Services Digital Network (ISDN)	3060-AG08
4115	Toll Free Service Access Codes, Fourth Report and Order and Memorandum Opinion and Order	3060-AG11
4116	Implementation of Section 273 of the Telecommunications Act of 1996; Notice of Proposed Rulemaking	3060-AG36
4117	Implementation of Non-Accounting Safeguards, Sec. 271 & 272 of Communications Act of 1996 & Regulatory Treatment of LEC Provisions of Interexchange Svcs. Orig. in LEC Local Exch. Area	3060-AG37
4118	Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996	3060-AG42
4119	Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	3060-AG43
4120	Telemessaging, Electronic Publishing, and Alarm Monitoring Services	3060-AG44
4121	Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, As Amended	3060-AG45
4122	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of 1996	3060-AG46
4123	Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (LEC Tariff Streamlining Provisions)	3060-AG47
4124	Regulatory Treatment of LEC Provision of Interexchange Service Originating in the LEC's Local Exchange Area	3060-AG48
4125	Access Charge Reform	3060-AG49
4126	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order	3060-AG50
4127	Enhanced 911 Services for Wireline	3060-AG60
4128	Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)	3060-AG61
4129	Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996	3060-AG62
4130	In the Matter of Inside Wire, Third Report and Order	3060-AG63
4131	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers	3060-AG65
4132	Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services	3060-AG72
4133	Notice of Proposed Rulemaking Regarding Detariffing of Interstate Exchange Access Services for Non-Incumbent Local Exchange Carriers	3060-AG73
4134	In the Matter of the Communications Assistance for Law Enforcement Act (CALEA), Notice of Proposed Rulemaking	3060-AG74
4135	In the Matter of the Telecommunications Relay Services, the Americans With Disabilities Act of 1990, and the Telecommunications Act of 1996	3060-AG75
4136	In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities	3060-AG76
4137	Toll Fraud	3060-AG77
4138	1998 Biennial Regulatory Review/Review of Accounting and Cost Allocation Requirements	3060-AG98
4139	Biennial Review of ARMIS Reporting Requirements	3060-AG99
4140	Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, Operator Services, and Directory Assistance	3060-AH00

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Common Carrier Bureau—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4141	Access Charge Reform for Rate-of-Return Local Exchange Carriers	3060-AH01
4142	Deployment of Wireline Services Offering Advanced Telecommunications Capability	3060-AH03
4143	Elimination of Part 41: Telegraph and Telephone Franks	3060-AH04
4144	Streamlined Contributor Reporting Requirements	3060-AH06
4145	SBC Communications, Inc. Petition for Biennial Review	3060-AH19
4146	1998 Biennial Regulatory Review - Review of Depreciation Requirements for Incumbent Local Exchange Carriers	3060-AH20

Common Carrier Bureau—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4147	In the Matter of Billed Party Preference for 0+ Inter-LATA Calls	3060-AF60
4148	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (Second Report and Order)	3060-AG64
4149	Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans/Pursuant to Section 706 of the 1996 Telecom Act	3060-AH05
4150	In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing Disabilities	3060-AH08

Compliance and Information Bureau—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4151	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System	3060-AF21
4152	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines	3060-AF65
4153	In the Matter of Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Ships	3060-AG13
4154	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference	3060-AH07

Office of Engineering and Technology—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4155	Cable System Compatibility With TV Receivers and VCRs	3060-AF38
4156	Wind Profiler Radar Systems	3060-AF45
4157	Millimeter Wave Spectrum Allocation	8060-AF61
4158	Digital Equipment Deregulation	3060-AF73
4159	MSS Spectrum Allocation	3060-AF75
4160	Medical Care Telemetry Devices	3060-AG18
4161	Unlicensed NII at 5 GHz	3060-AG19
4162	Allocation of 455-456 MHz and 459-460 MHz	3060-AG89
4163	Dedicated Short Range Communications of Intelligent Transportation Services	3060-AG94
4164	Regulations for RF Lighting Devices	3060-AG95
4165	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU	3060-AG96
4166	Uniden Scanners/Cellular Radio Signals	3060-AG97
4167	Industry Coordination Committee System for Broadcast Digital Television Service	3060-AH13
4168	3650-3700 Government Transfer Band	3060-AH14
4169	Radionavigation Service at 31.8 - 32.2 GHz	3060-AH15
4170	Certification of Equipment in the 24.05-24.25 GHz Band at Field Strengths Up to 2500 mV/m	3060-AH16

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Office of Engineering and Technology—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4171	Fixed Satellite Service and Terrestrial System in the KU-Band (Skybridge)	3060-AH17

Office of Engineering and Technology—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4172	Revision of Marketing and Authorization Process	3060-AF29
4173	RF Exposure Standard	3060-AF32
4174	Arecibo Coordination Zone	3060-AG15
4175	Revision of the Experimental Radio Service Regulations	3060-AG55
4176	Reallocation of TV Channels 60-69	3060-AG69
4177	Streamline the Equipment Authorization Process	3060-AG70
4178	V-Chip Technical Requirements	3060-AG90

Office of General Counsel—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4179	Amendment of the Commission's Ex Parte Rules in Joint Board Proceedings	3060-AH02

International Bureau—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4180	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band	3060-AF89

International Bureau—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4181	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures	3060-AD70
4182	Satellite Communications—NGO MSS	3060-AF42
4183	Preemption of Local Zoning Regulation of Satellite Earth Stations	3060-AF92
4184	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band	3060-AF93
4185	Redesignation of the 27.5-29.5 GHz Frequency Band	3060-AF94
4186	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States	3060-AG31
4187	Streamlining Regulations Related to International Common Carriers	3060-AG84

Mass Media Bureau—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4188	Advanced Television Service (MM Docket 87-268)	3060-AE24
4189	Transfer of Control of Non-Stock Entities MM Docket 89-77	3060-AE31
4190	Local Television Ownership Rule (MM Docket No. 91-221)	3060-AF79
4191	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)	3060-AF80
4192	Rules Governing Broadcast Television Advertising (MM Docket No. 95-90)	3060-AF81
4193	Attribution of Broadcast Interests (MM Docket Nos. 94-150, 92-51, 87-154)	3060-AF82

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Mass Media Bureau—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4194	Minor Modifications of Broadcast Licenses Without Prior Construction Permit	3060-AG30
4195	Newspaper/Broadcast Cross-Ownership	3060-AG53
4196	National Television Ownership Rules (MM Docket Nos. 96-222, 91-221, 87-8)	3060-AG54
4197	Main Studio/Public File Requirements for Broadcasters (MMB Docket 97-138)	3060-AG68
4198	Competitive Bidding for Broadcast Services	3060-AG78
4199	1998 Biennial Review of Broadcast Ownership	3060-AG79
4200	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes	3060-AG80
4201	Review of Technical Rules in Parts 73 and 74	3060-AG81
4202	Review of Broadcast and Cable EEO Rules and Policies	3060-AH10
4203	Low Power FM Radio	3060-AH11

Mass Media Bureau—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4204	EEO Streamlining Proposals (MMB Docket No. 96-16)	3060-AG29

Office of Managing Director—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4205	Assessment and Collection of Regulatory Fees for FY 1999	3060-AG92

Office of Managing Director—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4206	Assessment and Collection of Regulatory Fees for FY 1998	3060-AG66

Wireless Telecommunications Bureau—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4207	Amendment of Part 80 of the Commission's Rules Concerning VHF Maritime Operations	3060-AF14
4208	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service	3060-AF26
4209	Refarming	3060-AF35
4210	Future Development of 800 MHz SMR; Competitive Bidding Wide Area	3060-AF47
4211	Resale and Roaming Obligations Pertaining to Commercial Mobile Radio Services	3060-AF58
4212	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules	3060-AF99
4213	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; IVDS Competitive Bidding Rules	3060-AG00
4214	39 GHz Channel Plan	3060-AG16
4215	Implementation of Section 309(j) of the Communications Act, Competitive Bidding Broadband PCS F Block Rules	3060-AG21
4216	Amendment of Part 90 of the FCC's Rules To Provide for the Use of the 220-222 MHz Band	3060-AG23
4217	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems	3060-AG34
4218	Wireless Communications Services	3060-AG56
4219	Implementation of Section 225 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities	3060-AG58

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Wireless Telecommunications Bureau—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4220	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements	3060-AG85
4221	Multiple Access Systems	3060-AG86
4222	Amendment of Part I of the Commission's Rules—Competitive Bidding Procedures	3060-AG87
4223	Amendment to Part 27 of the FCC's Rules To Revise Rules for Services in the 2.3GHz Band and To Include Licensing of Services in the 47 Ghz Band	3060-AG93
4224	Amendment of Part 90 of the Commission's Rules To Adopt Regulations for Automatic Vehicle Monitoring Systems Second Report and Order	3060-AH12

Wireless Telecommunications Bureau—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4225	Amendment of the Commission's Rules Regarding Installment Payment Financing Payment for Personal Communications Services (PCS) Licensees	3060-AG88

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Long-Term Actions

Cable Services Bureau

4097. CABLE TELEVISION RATE REGULATION

Priority: Other Significant

Legal Authority: 47 USC 154; 47 USC 543

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has adopted rate regulations to implement Section 623 of the Cable Act of 1992 to ensure that cable subscribers nationwide enjoy the rates that would be charged by cable systems operating in a competitive environment. Reconsideration requested. The 14th Order on Reconsideration addresses petitions on issues governing regulated services by cable systems.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 48
R&O and FNPRM	05/21/93	58 FR 29736
MO&O and FNPRM	08/18/93	58 FR 43816
3rd R&O	11/30/93	58 FR 63087
Order on Recon, 4th R&O, and 5th NPRM	04/15/94	59 FR 17943
3rd Order on Recon	04/15/94	59 FR 17961
5th Order on Recon and FNPRM	10/13/94	59 FR 51869
4th Order on Recon	10/21/94	59 FR 53113
6th Order on Recon, 5th R&O, and 7th NPRM	12/06/94	59 FR 62614
7th Order on Recon	01/25/95	60 FR 4863
9th Order on Recon	02/27/95	60 FR 10512
8th Order on Recon	03/17/95	60 FR 14373
6th R&O and 11th Order on Recon	07/12/95	60 FR 35854
13th Order on Recon	10/05/95	60 FR 52106
12th Order on Recon	10/26/95	60 FR 54815
10th Order on Recon	04/08/96	61 FR 15388
Order on Recon of the 1st R&O and Further NPRM	04/15/96	61 FR 16447
MO&O	02/12/97	62 FR 6491
Report on Cable Industry Prices	02/24/97	62 FR 8245
R&O	03/31/97	62 FR 15118
14th Order on Recon	10/15/97	62 FR 53572
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AF41

4098. CABLE TELEVISION RATE REGULATION: COST OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 543

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has established rules pursuant to which cable operators may set rates for regulated cable service in accordance with traditional cost-of-service principles, as modified to take account of unique characteristics of the cable industry. These rules are the subject of pending petitions for reconsideration. In addition, the Commission is considering comments received in response to a Further Notice of Proposed Rulemaking concerning the rate of return that should be applied in cost-of-service cases.

Timetable:

Action	Date	FR Cite
NPRM	07/30/93	58 FR 40762
R&O	04/15/94	59 FR 17975
2nd NPRM	04/15/94	59 FR 18066
MO&O	10/14/94	59 FR 52087
2nd R&O/1st Order on Recon/FNPRM	03/08/96	61 FR 9361
Next Action Undetermined		

FCC—CABLE

Long-Term Actions

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AF48

4099. CUSTOMER SERVICE STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i) to 154(j); 47 USC 303; 47 USC 552

CFR Citation: 47 CFR 76

Legal Deadline: NPRM, Statutory, April 3, 1993.

Abstract: The Commission has adopted customer service standards for cable operators nationwide to implement the provisions of the Cable Act of 1992. Such standards shall include, at a minimum, cable systems office hours, telephone availability, installations, outages, service calls, and communication between the cable operator and subscriber, including billing and refunds.

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61038
R&O	04/19/93	58 FR 21107

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson, Policy and Rules Division, Federal Communications Commission, Cable Services Bureau, Washington, DC 20554
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RIN: 3060–AF69

4100. CABLE HOME WIRING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 544(i)

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: On October 6, 1997, the FCC adopted a Report and Order and Second Notice of Proposed Rulemaking (FCC 97-7360) that amends its cable inside wiring rules to enhance competition in the video distribution marketplace. The Second FNPRM seeks comment on, among other things, whether there are circumstances where the FCC should adopt restrictions on exclusive contracts in order to further promote competition in the MDU marketplace. A Petition for Review was filed in the U.S. Circuit Court of Appeals for the 8th Circuit on November 24, 1997. The FCC has received petitions for reconsideration and has requested the 8th Circuit to hold the pending court case in abeyance until the Commission takes action on the pending petitions. The Court granted the Commission's request.

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54209
R&O	03/02/93	58 FR 11970
NPRM	02/01/96	61 FR 3657
1st Order on Recon & FNPRM	02/16/96	61 FR 6210
FNRPM	09/03/97	62 FR 46453
R&O and 2d FNPRM	11/14/97	62 FR 60165

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy Stevenson, Staff Attorney, Policy and Rules Division, Federal Communications Commission, Cable Services Bureau, Washington, DC 20554
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RIN: 3060–AG02

4101. OVER-THE-AIR RECEPTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-104, sec 207

CFR Citation: 47 CFR 25; 47 CFR 1

Legal Deadline: Final, Statutory, August 8, 1996.

Abstract: The FCC has prescribed regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through antennas designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite service. Petitions for reconsideration are pending.

Timetable:

Action	Date	FR Cite
R&O & FNPRM	03/15/96	61 FR 10710
NPRM	04/18/96	61 FR 16890
R&O, MO&O, FNPRM	09/04/96	61 FR 46557
Order on Recon	12/07/98	63 FR 67422
Second Report and Order	12/23/98	63 FR 71027

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Darryl Cooper, Staff Attorney, Federal Communications Commission, Cable Services Bureau, Washington, DC 20554
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RIN: 3060–AG24

4102. CLOSED CAPTIONING

Priority: Other Significant

Legal Authority: 47 USC 613

CFR Citation: 47 CFR 79

Legal Deadline: None

Abstract: The FCC adopted regulations to ensure that video programming is accessible to persons with hearing disabilities through closed captioning. The rules were adopted in August 1997 and modified in response to petitions for reconsideration in September 1998. The FNPRM adopted in January 1998 seeks comment on appropriate rules and policies to ensure the accessibility of televised emergency information to persons with hearing disabilities.

Timetable:

Action	Date	FR Cite
NOI	12/15/95	60 FR 65052
Order	01/29/96	61 FR 2781

FCC—CABLE

Long-Term Actions

Action	Date	FR Cite
Order	03/12/96	61 FR 9963
Report	08/14/96	61 FR 42249
NPRM	02/03/97	62 FR 4959
Order	03/24/97	62 FR 13853
R&O	09/16/97	62 FR 48487
FNRPM	01/21/98	63 FR 3070

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marcia Glauberman, Statistician, Federal Communications Commission
Phone: 202 418-7046
TDD: 202 418-7172

RIN: 3060–AG26

4103. CABLE ACT REFORM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 522; 47 USC 543; 47 USC 544; 47 USC 548; 47 USC 552

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: This proceeding implements the cable reform section of the Telecommunications Act of 1996. It addresses several issues, including the cable rate complaint process, effective competition and subscriber notifications.

Timetable:

Action	Date	FR Cite
Order & NPRM	04/30/96	61 FR 19013

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson, Attorney, Policy and Rules Division, Federal Communications Commission
Phone: 202 418-7039
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Email: nstevens@fcc.gov

RIN: 3060–AG27

4104. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 549

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The FCC has adopted rules to address the mandate expressed in Section 629 of the Communications Act to ensure the commercial availability of "navigation devices", the equipment used to access video programming and other services from multichannel video programming systems. Petitions for reconsideration are pending.

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10011
R&O	07/15/98	63 FR 38089

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG28

4105. TELECOMMUNICATIONS ACT OF 1996, POLE ATTACHMENT PROVISIONS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 224; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 1.1401 to 1.1416

Legal Deadline: Final, Statutory, February 8, 1998.

Abstract: In this proceeding, the Commission continues its implementation of section 703 of the Telecommunications Act of 1996 (1996 Act), by amending the Commission's rules relating to pole attachments. The Commission is required to prescribe regulations, no later than two years after the date of enactment of the 1996 Act, to govern the charges for pole attachments used by cable operators and telecommunications carriers to provide telecommunications services, when the parties fail to resolve a dispute over such charges. The new R&O, FCC 98-20, released Feb 6, 1998, prescribes regulations to govern these charges. Petitions for reconsideration are pending.

Timetable:

Action	Date	FR Cite
NPRM	08/18/97	62 FR 43963
R&O	03/12/98	63 FR 12013

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 3060–AG71

4106. DIGITAL MUST CARRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 534

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Section 614(b)(4)(B) of the Communications Act requires that, at the time the Commission prescribes standards for advanced television, it should "initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of those broadcast signals of local commercial television stations which have been changed to conform with such modified standards." The FCC has issued an NPRM pursuant to the requirements of that Section.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42330

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG91

FCC—CABLE

Long-Term Actions

4107. • HORIZONTAL OWNERSHIP LIMITS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 533

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: Section 613 of the Communications Act requires the Commission to "prescribe rules and regulations through cable systems owned by such a person, or in which such a person has an attributable interest." On June 26, 1998, the Commission issued a Second Memorandum Opinion & Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 98-138, in this matter. Among other things, the Further Notice seeks comment on whether, in light of evolving market conditions, 30 percent should remain the appropriate horizontal ownership limit, whether the Commission should revise the rules to consider the presence in the market of all multi-channel video programming providers rather than cable operators alone, and whether to base the limit on actual subscribers rather than on homes passed.

Timetable:

Action	Date	FR Cite
Second MO&O on Recon and FNPRM	07/14/98	63 FR 37790
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH09

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Completed Actions

Cable Services Bureau

4108. IMPLEMENTATION OF SECTION 551 OF THE TELECOMMUNICATIONS ACT OF 1996, PARENTAL CHOICE IN TELEVISION PROGRAMMING

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-104, sec 551(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Under section 551(e) of the Telecommunications Act of 1996 (the 1996 Act), the Commission was to determine, in consultation with the appropriate public interest groups and interested individuals from the private sector, whether: (1) video programming distributors have established, within one year of the 1996 Act's enactment, voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children: (2) such voluntary rules are acceptable to the Commission; and (3) video programming distributors have agreed voluntarily to broadcast signals that contain ratings of such programming. Pursuant to the 1996 Act, the National Association Of Broadcasters, the National Cable Television Association, and the Motion Picture Association of America (the Industry) jointly developed a rating system of voluntary parental guidelines adopted and currently being implemented by television broadcasters and networks, cable networks and systems, and television program producers. Subsequently, the FCC issued a Report and Order that found that distributors of video programming (1) have established acceptable voluntary rules for rating certain certain video programming and (2) have agreed voluntarily to broadcast signals that contain ratings of such programming.

The Commission's work in this proceeding is completed.

Timetable:

Action	Date	FR Cite
Public Notice	04/23/97	62 FR 24654
Public Notice	05/27/97	62 FR 28703
Public Notice	07/16/97	62 FR 38090
Public Notice	09/15/97	62 FR 48281
Final Action	03/13/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG59

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Proposed Rule Stage

Common Carrier Bureau

4109. • PRESCRIBING THE AUTHORIZED RATE OF RETURN FOR INTERSTATE SERVICES OF LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 201(b); 47 USC 151; 47 USC 154; 47 USC 202 to 205; 47 USC 218 to 220; 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 65.301

Legal Deadline: None

Abstract: This Notice initiates a proceeding to represcribe the authorized rate of return for interstate access services provided by ILECs. It marks the first prescription proceeding since we revised the rules governing procedures and methodologies for prescribing and enforcing the rate of return for ILECs not subject to price cap regulation, and the first prescription proceeding since the Commission adopted its price cap rules for local exchange carriers. In this Notice, we seek comment on the methods by which we could calculate the ILECs' cost of capital. In the Notice, we propose corrections to errors in the

FCC—CCB

Proposed Rule Stage

codified formulas for the cost of debt and cost of preferred stock and seek comment on whether this proceeding warrants a change in the low-end formula adjustment for local exchange carriers subject to price caps.

Timetable:

Action	Date	FR Cite
NPRM	10/05/98	63 FR 55988
NPRM Comment Period End	04/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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FEDERAL COMMUNICATIONS COMMISSION (FCC)

Long-Term Actions

Common Carrier Bureau

4110. RULES AND POLICIES REGARDING CALLING NUMBER IDENTIFICATION SERVICES (CC DOCKET 91-281)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(f); 47 USC 201

CFR Citation: 47 CFR 64.1600 to 64.1604

Legal Deadline: Final, Judicial, January 1, 1997.
The R&O set effective date of 12/1/95 for carriers to pass CPN, provide per call blocking, & provide unblocking if blocking is offered. Numerous other deadlines for when stays, waivers expire.

Abstract: The Report and Order and Further Notice found that a Federal model for interstate delivery of calling party number (CPN) is in the public interest and that the model must protect calling party privacy. The Second Report and Order confirms this finding, addresses 53 petitions for reconsideration of the Report and Order and adopts rules that: ensure the interstate delivery of calling party number; ensure that callers can activate a per-call privacy mechanism (by dialing *67) to block display of their numbers to called parties; and ensure that if State policies permit and customers select to have per-line blocking, callers can activate a per-call unblocking mechanism (by dialing *82) to display their numbers to called parties. Further, the Second Report and Order adopts rules to ensure that for other services that use calling party number or calling name, when a caller requests privacy, a carrier may not reveal that caller's number or name, nor may the carrier use the number or name to allow the called party to contact the calling party. These rules became generally effective December 1, 1995. Hotel and motel lines, public payphones, party lines, and call return services must comply with these rules by January 1, 1997. The Commission has granted several temporary stays and waivers of these rules. The Third Notice of Proposed Rulemaking seeks comments on whether the caller ID rules should be extended to Private Branch Exchange systems and private payphones. The Fourth Notice of Proposed Rulemaking seeks comments on whether local exchange carriers without blocking software should be exempted from the caller ID rules and required not to pass CPN. BellSouth has petitioned to Commission to reconsider the rules established in the Second Report and Order that applied the caller ID rules to call return services, hotel and motel lines, and public payphones. The 3rd Report and Order, released March 25, 1997, clarified that called ID rules do apply to call return services and party lines. Siemens petitioned for reconsideration of caller ID rules as to equipment manufacturers. The network services division of the Common Carrier Bureau granted a stay of the FCC's rules for private branch exchange (PBX) manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 57300
FNPRM	04/18/94	59 FR 18349
R&O	04/18/94	59 FR 18318
Second R&O and Third NPRM	06/02/95	60 FR 28775
Order	10/30/95	
Order	11/30/95	
Order & Fourth NPRM	11/30/95	60 FR 63491
Third R&O	06/23/97	62 FR 34015
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: The title of this item was revised when the status was changed from RM 7397 to CC Docket 91-281. The RM was a public notice calling for comments and, upon receipt of comments and replies, was terminated in favor of the NPRM under CC Docket 91-281.

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RIN: 3060–AF07

4111. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 403; 47 USC 152 to 155; 47 USC 3 to 4; 47 USC 207 to 209; 47 USC 225 to 227; 47 USC 251 to 252; 47 USC 271; 47 USC 332; 47 USC 218

CFR Citation: 47 CFR 151; 47 CFR 154; 47 CFR 201 to 205; 47 CFR 403; 47 CFR 52.1 to 52.99

Legal Deadline: None

Abstract: The Report and Order lays the foundation for the fair and effective administration of numbering in the United States. The Report and Order establishes a model for administration of numbering resources in a competitive environment. In this model, the FCC will set broad policy objectives, be the final arbiter of domestic numbering disputes and work closely with other members of the North American Numbering Plan (NANP), the states, industry and consumers to ensure fair and effective number administration. The Report and

Order creates the North American Number Council (NANC) under the Federal Advisory Committee Act. In the Third Report and Order, released on October 9, 1997, the Commission affirmed the NANC's selection of Lockheed Martin IMS as the new NANP administrator. The NANP administrator is a nongovernmental entity that is not aligned with any particular telecommunications industry segment, and upon selection and following a transition period, assumed Bellcore's current NANP administrator functions and the central office code administration functions currently handled by the dominant local exchange carrier in each area code. The rules were expanded to accommodate the requirements of the Telecommunications Act of 1996. See FCC 96-337, released August 8, 1996.

Timetable:

Action	Date	FR Cite
NOI	11/10/92	57 FR 53462
NPRM	05/10/94	59 FR 24103
R&O	07/28/95	60 FR 58737
2d R&O	09/06/96	61 FR 47284
3rd R&O	10/09/97	62 FR 55179

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AF50

4112. USE OF N11 CODES AND OTHER ABBREVIATED DIALING ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 251(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In 1992, the FCC released a Notice of Proposed Rulemaking in CC Docket 92-105 proposing that local exchange carriers (LECs) be required to make N11 codes available for access to information service providers. In this proposal, LECs could establish any reasonable assignment criteria for such allocation, including "first come, first served." The FCC's General Counsel released a letter indicating it found no regulatory or legal obstacles to assignment of N11 codes for information services. On February 19, 1997, the FCC released a First Report and Order and Further Notice of Proposed Rulemaking in that Docket (FCC 97-51) which allows incumbent LECs, in addition to the states and Bell Communications Research (Bellcore), to continue to perform the N11 code administration functions that they performed at the time of enactment of the 1996 Act amendments to the 1934 Act, until further FCC action. The FCC concludes that: (1) 311 should be assigned as a national number for access to non-emergency police calls; (2) 711 should be assigned as a national number for access to telecommunications relay services (TRS); (3) all providers of telephone exchange service must be able to have their customers call 611 and 811 to reach their repair and business service offices; and (4) a LEC may not itself offer enhanced services using a 411 code or any other N11 code, unless that LEC offers access to the code on a reasonable nondiscriminatory basis to competing enhanced service providers in the local service area for which it is using the code to facilitate distribution of their enhanced services. In the FNPRM, the FCC asks for comment on: (1) the technical feasibility of implementing 711 for TRS access; (2) the possibility of developing an N11 gateway offering access to multiple TRS providers; (3) whether with such access, TRS calls would still be answered within mandatory minimum answer times; (4) whether such a gateway would be consistent with section 255; and (5) whether other important disability services could be accessed thereby; (6) the possibility of providing both voice and text TRS services through the same abbreviated TRS code; (7) the proprietary nature of N11 codes; and (8) an FCC proposal to transfer administration of N11 codes at the local level from incumbent LECs to the North American Numbering Plan (NANP) administrator. In 1992, the Commission released a Notice of Proposed Rulemaking in CC Docket No. 92-105 proposing that local exchange carriers be required to make N11 codes available for access to information service providers. On February 19, 1997, the Commission released a First Report and Order and Further Notice of Proposed Rulemaking (FCC 97-51) in the docket, permitting incumbent LECs, in addition to the States and Bellcore, to continue to perform the N11 code administration functions that they performed at the time of enactment of the 1996 Act amendments to the Communications Act of 1934, until further Commission action. The Commission also concluded that the 311 code should be assigned as a national number for access to nonemergency police calls, that 711 should be assigned as a national number for access to telecommunications relay services (TRS), that telephone exchange service providers must have 611 and 811 numbers for customers to reach the provider's repair and business service offices, and that LECs may offer enhanced services using a 411 code or other N11 code only if they offer access to the code to other enhanced service providers on a reasonable, nondiscriminatory basis. Petitions for reconsideration or clarification on the order have been filed. In the Further Notice of Proposed Rulemaking, the Commission requested comment on issues related to the technical feasibility of implementing 711 for TRS access. Comment and reply comment filing deadlines were March 31 and April 30, 1997, respectively.

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22681
First R&O	02/26/97	62 FR 8633
FNPRM	02/26/97	62 FR 8671

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AF51

4113. IMPLEMENTATION OF THE UNIVERSAL SERVICE PORTIONS OF THE 1996 TELECOMMUNICATIONS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 et seq as amended

FCC—CCB

Long-Term Actions

CFR Citation: 47 CFR 54

Legal Deadline: NPRM, Statutory, March 8, 1996. Final, Statutory, May 8, 1997. Other, Statutory, November 8, 1996.
Federal-State Joint Board R&O released May 8, 1997.

Abstract: As required by the Telecommunications Act of 1996, the Commission sought comment on proposals for reforming universal service. On November 8, 1996, the Federal-State Joint Board on Universal Service issued a recommended decision on changes to the universal service support mechanisms. In addition, on January 10, 1997, the Commission issued an NPRM and NOI on changes to the Board of Directors of the National Exchange Carrier Association (NECA), regarding the administration of universal service. On May 8, 1997, the Commission, at the direction of Congress, released its order implementing the universal service portions of the 1996 Act. On December 30, 1997, the Commission issued the 4th Order on Reconsideration which made changes and clarifications to the May 8 Order. On June 22, 1998, the Commission issued the 5th Order on Reconsideration which revised the collection levels for the schools and libraries support mechanism through June 30, 1999, and revised the collection levels for the rural health care support mechanism through December 31, 1998. The 5th Order on Reconsideration also revised the priority with which schools and libraries and rural health care providers will receive support. On October 28, 1998, the Commission issued the 5th Report and Order, in which it adopted the model platform for its forward-looking economic cost methodology, which will be used to determine support for non-rural carriers beginning July 1, 1999. On November 21, 1998, the Commission issued the 8th Order on Reconsideration in which it consolidated the administration of universal service into a single entity known as the Universal Service Administrative Company or USAC. On November 25, 1998, the Federal-State Joint Board on Universal Service issued its Second Recommended Decision in which the Joint Board made certain recommendations to the Commission regarding the high cost support mechanism.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	03/08/96	61 FR 10499
Recommended Decision Federal-State Joint Board, Universal Service	11/08/96	61 FR 63778
First R&O Implement Schools/Libraries Admin. Prov., S.254, 1996 Act	05/08/97	62 FR 32862
Second R&O Implement of Universal Service Provisions of 1996 Telecom Act	05/08/97	62 FR 32862
Order on Recon	07/10/97	62 FR 40742
R&O & 2d Order on Recon	07/18/97	62 FR 41294
Order on Recon, 2d R&O, & FNPRM	08/15/97	62 FR 47404
3rd R&O	10/14/97	62 FR 56118
2d Order on Recon, CC Docket 97-21	11/26/97	62 FR 65036
4th Order on Recon	12/30/97	62 FR 2093
5th Order on Recon	06/22/98	63 FR 43088
5th R&O	10/28/98	63 FR 63993
8th Order on Recon	11/21/98	
2d Recommended Decision	11/25/98	
Final Order Changes to the Board of Directors of NECA	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

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RIN: 3060–AF85

4114. INTEGRATED SERVICES DIGITAL NETWORK (ISDN)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205

CFR Citation: 47 CFR 69

Legal Deadline: None

Abstract: On May 30, 1995, the Commission released a Notice of Proposed Rulemaking seeking comment on the application of Subscriber Line Charges (SLCs) to services that provide multiple voice-grade-equivalent channels over a single facility. These services, such as integrated services digital network (ISDN) service, permit customers to obtain digital transmission over existing copper wire, through the use of advanced equipment. In addition to obtaining multiple channels over a single local loop or T-1 facility, these services can transmit data at higher speeds and with greater accuracy. Also on May 30, 1995, the Common Carrier Bureau released a Public Notice stating that, pending Commission action in the rulemaking, the Bureau generally would not initiate enforcement action against LECs that are not complying with existing Commission rules regarding the application of SLCs to ISDN service.

Timetable:

Action	Date	FR Cite
NPRM	05/30/95	60 FR 21274
First R&O	06/11/97	62 FR 31868

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AG08

4115. TOLL FREE SERVICE ACCESS CODES, FOURTH REPORT AND ORDER AND MEMORANDUM OPINION AND ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 201 et seq; 47 USC 154(i); 47 USC 251(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This Fourth R&O and MO&O assures that toll free numbers are allocated on an efficient, fair, and orderly basis.

Timetable:

Action	Date	FR Cite
NPRM	10/05/95	60 FR 57157
Second R&O	04/25/97	62 FR 20126
Fourth R&O and MO&O	03/30/98	63 FR 16440

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG11

4116. IMPLEMENTATION OF SECTION 273 OF THE TELECOMMUNICATIONS ACT OF 1996; NOTICE OF PROPOSED RULEMAKING

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 273; 47 USC 151; 47 USC 153; 47 USC 154; 47 USC 157; 47 USC 201 to 209; 47 USC 218; 47 USC 251; 47 USC 403

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rulemaking implements provisions of the Telecommunications Act of 1996 relating to the manufacturing of telecommunications equipment and customer premises equipment by the Bell Operating Companies and their affiliates.

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	62 FR 3638
NPRM Comment Period End	01/24/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG36

4117. IMPLEMENTATION OF NON-ACCOUNTING SAFEGUARDS, SEC. 271 & 272 OF COMMUNICATIONS ACT OF 1996 & REGULATORY TREATMENT OF LEC PROVISIONS OF INTEREXCHANGE SVCS. ORIG. IN LEC LOCAL EXCH. AREA

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 271; 47 USC 272; 47 USC 303(r)

CFR Citation: 47 CFR 61.41; 47 CFR 61.58; 47 CFR 63.71; 47 CFR 64.702; 47 CFR 1.720; 47 CFR 1.721; 47 CFR 1.735

Legal Deadline: None

Abstract: On March 24, 1998, the FCC released an Order staying the provision for the April 18, 1998 deadline by which independent LECs that provide for in-region, interstate interexchange services on an integrated basis must comply with the FCC's requirement that they provide these services through a separate affiliate. To insure that independent LECs do not incur compliance costs while the possibility of changes to the requirement still exists, the Order stays the the portion of the rule that provides the deadline for compliance until 60 days after release of a Commission reconsideration order addressing this issue. The Second Report and Order in the Proprietary Network Information (CPNI) proceeding (CC Docket No. 96-115) resolved CPNI issues raised in this proceeding that had been deferred, including obligations in connection with sections 272 and 274 of the 1996 Act.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39392
FNPRM	01/21/97	62 FR 2991
1st R&O	01/21/97	62 FR 2927
2nd Order on Recon.	07/07/97	62 FR 36216
Order	04/06/98	63 FR 16696
Second R&O	04/24/98	63 FR 20326
Erratum	06/25/98	63 FR 34603

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG37

4118. POLICIES AND RULES GOVERNING INTERSTATE PAY-PER-CALL AND OTHER INFORMATION SERVICES PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 228

CFR Citation: 47 CFR 64.1501; 47 CFR 64.1504; 47 CFR 64.1510

Legal Deadline: None

Abstract: The Commission has received comments on proposed rules designed to implement the 1996 Telecommunications Act with respect to information services to prevent abusive and deceptive practices by entities that might try to circumvent the statutory requirements. The proposed rules address generally the use of dialing sequences other than the 900 service access code to provide information services.

Timetable:

Action	Date	FR Cite
NPRM	06/20/96	61 FR 31481
NPRM Comment Period End	09/16/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG42

4119. TELECOMMUNICATIONS CARRIERS' USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION AND OTHER CUSTOMER INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 222; 47 USC 275; 47 USC 303(r)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On February 27, 1998, the FCC released a Second Report and Order and Further Notice of Proposed Rulemaking. The Second Report and Order resolved CPNI issues raised in other proceedings and promulgated regulations to implement the statutory obligations of section 222 of the Telecommunications Act of 1996. The FNPRM seeks additional comment on three issues involving carrier duties and obligations established under 222(a) and (b) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	05/28/96	61 FR 26483
Public Notice	02/25/97	62 FR 8414
FNPRM	02/27/98	
2d R&O	02/27/98	
FNPRM	04/28/98	63 FR 20364
2d R&O	04/28/98	63 FR 20326

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG43

4120. TELEMESSAGING, ELECTRONIC PUBLISHING, AND ALARM MONITORING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 260; 47 USC 274; 47 USC 275; 47 USC 303(r)

CFR Citation: 47 CFR 64; 47 CFR 1

Legal Deadline: None

Abstract: On February 7, 1997, the Commission released an Order that implements the telemessaging and electronic publishing provisions of the Telecommunications Act of 1996 (1996 Act), sections 260 and 274, respectively. Section 260 delineates the conditions under which incumbent local exchange carriers (LECs) may offer telemessaging services. Section 274 permits Bell Operating Companies (BOCs) to provide electronic publishing services only through a "separated affiliate" or an "electronic publishing joint venture" that meets certain separation, nondiscrimination, and joint marketing requirements. On March 25, 1997, the Commission released a Second Report and Order implementing the alarm monitoring service provisions set forth in section 275 of the 1996 Act. Among other things, the Order concludes that Ameritech is the only BOC that qualifies for grandfathering treatment under section 275(a)(2) of the 1996 Act, and also finds that incumbent LECs, including BOCs, that provide basic telecommunications services or information services that are used by third parties to provide alarm monitoring services are not engaged in the provision of alarm monitoring service. The Order also finds that the Computer III/ONA requirements continue to govern the provision of alarm monitoring services and telemessaging. The Order also concludes that section 260(a) of the Act imposes nondiscrimination requirements on incumbent LEC provision of telemessaging services that are in addition to those found in sections 201 and 202.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39385
FNPRM	02/20/97	62 FR 7744
1st R&O	02/20/97	62 FR 7690
2nd R&O	04/04/97	62 FR 16093

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG44

4121. POLICY AND RULES CONCERNING THE INTERSTATE, INTEREXCHANGE MARKETPLACE; IMPLEMENTATION OF SECTION 254(G) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 214(e); 47 USC 215; 47 USC 218; 47 USC 220

CFR Citation: 47 CFR 64.702(e); 47 CFR 61

Legal Deadline: None

Abstract: On March 25, 1996, the Commission released an NPRM seeking comment on its proposal that nondominant interexchange carriers should no longer file tariffs. On October 29, 1996, the Commission adopted the Second Report and Order in which it determined that the statutory forbearance criteria in section 10 of the Communications Act were met for complete detariffing of the interstate, domestic, interexchange services offered by nondominant interexchange carriers. The Commission determined that such carriers would no longer be allowed to file tariffs pursuant to section 203 of the Communications Act for such services, with limited exceptions. The Commission maintained the tariffing requirement for the international portion of bundled domestic and international service offerings. It further required nondominant interexchange carriers to: (1) file an annual certification stating that they are in compliance with the requirements of section 254(g); (2) maintain supporting documentation on the rates, terms, and conditions of their interstate, domestic, interexchange services that they could submit to the Commission within ten business days upon request; and (3) make publicly available information concerning current rates, terms, and conditions for all of their interstate, domestic interexchange services. Several parties appealed, requesting a stay of the 2nd R&O pending review by the D.C. Circuit. On 2/13/1997, the Circuit granted certain motions. The result was that nondominant interexchange carriers were required to file tariffs for their interstate, domestic, interexchange service. On 8/20/1997, the FCC released an Order On Reconsideration in which it modified the 2d R&O by:(1) adopting permissive detariffing for interstate, domestic, interexchange direct-dial services to which end users obtain access by dialing an access code; (2) adopting permissive detariffing for the 1st 45 days of service to new customers that contact the local exchange carrier to choose their primary interexchange carrier; and (3) eliminating the requirement that nondominant interexchange carriers make publicly available information concerning current rates and terms for most interstate, domestic interexchange services.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14717
R&O, Sec. 254(g) Requirements of Communications Act	08/16/96	61 FR 42558
2nd R&O	11/22/96	61 FR 59340

Action	Date	FR Cite
Order	11/04/97	62 FR 59583

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG45

4122. IMPLEMENTATION OF THE SUBSCRIBER SELECTION CHANGES PROVISION OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 201 to 205; 47 USC 218; 47 USC 226; 47 USC 228; 47 USC 258

CFR Citation: 47 CFR 64.1150; 47 CFR 64.1100

Legal Deadline: None

Abstract: This Order establishes new rules and policies governing section 258 of the Communications Act of 1934 (ACT), as amended by the Telecommunications Act of 1996, which makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telecommunications exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." The rules provide, among other things, that any telecommunications carrier that violates such verification procedures and that collects charges for telephone exchange service or telephone toll service from a subscriber, shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by the subscriber after such violation. In the FNPRM we seek comment on several proposals to further strengthen our slamming rules, including a proposal to require unauthorized carriers to remit to authorized carriers certain amounts in addition to the amount paid by slammed subscribers, as well as proposals for preventing the confusion and slamming that results from resellers using the same carrier identification codes (CICs) as their facilities-based carriers.

Timetable:

Action	Date	FR Cite
FNPRM	08/14/97	62 FR 43493
MO&O on Recon	08/14/97	62 FR 43493
FNPRM Comment Period End	09/30/97	
Second FNPRM	12/17/98	
Second Report & Order	12/17/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG46

4123. IMPLEMENTATION OF SECTION 402(B)(1)(A) OF THE TELECOMMUNICATIONS ACT OF 1996 (LEC TARIFF STREAMLINING PROVISIONS)

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154

CFR Citation: 47 CFR 1.773(a); 47 CFR 61.58

Legal Deadline: Final, Statutory, February 8, 1997.
The Act of 1996 provides that streamlining provisions apply to any charge, classification, regulation, or practice filed on or after one year after date of enactment of the Act (i.e., 2/8/97).

Abstract: In this Report and Order, the FCC adopted rules to implement the specific streamlining requirements of the Telecommunications Act of 1996. Petitions for reconsideration were filed.

Timetable:

Action	Date	FR Cite
NPRM	09/24/96	61 FR 49987
NPRM Comment Period End	10/24/96	
R&O	02/07/97	62 FR 5757

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG47

4124. REGULATORY TREATMENT OF LEC PROVISION OF INTEREXCHANGE SERVICE ORIGINATING IN THE LEC'S LOCAL EXCHANGE AREA

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 271; 47 USC 272; 47 USC 303(r)

CFR Citation: 47 CFR 61.3(o); 47 CFR 61.3(t)

Legal Deadline: None

Abstract: On April 18, 1997, the Commission released a Second Report and Order in CC Docket No. 96-149 and a Third Report and Order in CC Docket No. 96-61 (Classification Order), in which the Commission revised its regulatory treatment of BOCs' and independent LECs' provision of domestic, interstate, long distance services and international services. The Classification Order revises the Commission's approach to defining product and geographic markets so as to be more in accord with the 1992 Department of Justice/Federal Trade Commission Horizontal merger Guidelines; classifies the BOCs' long distance affiliates as "non-dominant" in the provision of long distance services that originate in the areas in which a BOC provides local telephone services; and also classifies independent LECs as non-dominant in the provision of in-region long distance services, but requires independent LECs to provide their in-region long distance services through separate affiliates that satisfy certain separation requirements. Finally, the Classification Order classifies the BOCs and independent LECs as non-dominant in the provision of interstate, domestic, and long distance services that originate outside of the areas in which they provide local telephone services, and it eliminates the requirement that the BOCs and independent LECs provide those out-of-

region services through separate affiliates. On June 27, 1997, the Commission released an Order on Reconsideration, which made minor modifications to the Classification Order, including changing the effective date of the Classification Order to 70 days after its publication in the Federal Register. On March 24, 1998, the FCC released an Order staying the provision for the April 18, 1998 deadline by which independent LECs that provide in-region, interstate, interexchange services on an integrated basis must comply with the FCC's requirement that they provide these services through a separate affiliate. To ensure that separate LECs do not incur compliance costs while the possibility of changes to the requirement still exists, the Order stays the portion of the rule that provides the deadline for compliance until 60 days after the release of an FCC reconsideration order addressing this issue.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39379
Order on Recon	07/03/97	62 FR 35974
2nd R&O	07/03/97	62 FR 35974
Order	04/06/98	63 FR 16696
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea Kearney, Attorney-Advisor, Federal Communications Commission, Policy and Program Planning Division
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RIN: 3060–AG48

4125. ACCESS CHARGE REFORM

Priority: Economically Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 403; 47 USC 403; 47 USC 553

CFR Citation: 47 CFR 61.41 to 61.49; 47 CFR 69

Legal Deadline: None

Abstract: On December 24, 1996, the Commission initiated a rulemaking to revise its access charge rules to make them compatible with a competitive market envisioned by the Telecommunications Act of 1996. On May 7, 1997, the Commission adopted revised access charge rate structure rules. The Commission also adopted a market-based approach to reducing overall access charge levels and moving such levels toward forward-looking economic costs. The Commission adopted a Further Notice of Proposed Rulemaking seeking comment on proposals to allow presubscribed interexchange carrier charges on special access lines and adjust the allocation of General Support Facilities costs recovered through interstate access charges. On October 9, 1997, in response to reconsideration petitions, the FCC revised or clarified certain of the rules adopted in the May 1997 Access Charge Reform Order. On November 26, 1997, the FCC adopted rules requiring price cap carriers to adjust the allocation of General Support Facilities costs and to reduce their price cap indices to ensure that regulated access rates do not recover those costs which are related to nonregulated services. Reconsideration petitions filed in response to the Access Charge Reform Order, if not yet addressed, will be addressed in future reconsideration orders. Reconsideration petitions filed in response to the November 1977 General Support Facilities Order will be addressed in a future reconsideration order. The FCC will also provide further rules to implement the market approach established in the Access Charge Reform Order.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 04670
NPRM Comment Period End	02/13/97	
FNPRM	06/06/97	62 FR 31040
R&O	06/11/97	62 FR 31868
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG49

4126. IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996, SECOND REPORT AND ORDER AND MEMORANDUM OPINION AND ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 to 155; 47 USC 157; 47 USC 201 to 205; 47 USC 207 to 209; 47 USC 218

CFR Citation: 47 CFR 51; 47 CFR 52

Legal Deadline: Final, Statutory, August 8, 1996.

Abstract: The Second Report and Order and Memorandum Opinion and Order implemented the dialing parity, nondiscriminatory access, network disclosure, and number administration provisions of the Telecommunications Act of 1996. The Order also denied the Petition for Expedited Declaratory Ruling on the area code relief plan for Dallas and Houston filed with the FCC by the Texas Public Utilities Commission on May 9, 1996. Finally, this Order addresses petitions for clarification or reconsideration in the matters of proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech and the Administration of the North American Numbering Plan. Petitions for Reconsideration of the Second Report and Order and Memorandum Opinion and Order are pending before the Commission.

Timetable:

Action	Date	FR Cite
NPRM	04/25/96	61 FR 18311
NPRM Comment Period End	06/03/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

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RIN: 3060–AG50

4127. ENHANCED 911 SERVICES FOR WIRELINE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201; 47 USC 222; 47 USC 251

CFR Citation: 47 CFR 64.706; 47 CFR 64.708; 47 CFR 68.228; 47 CFR 68.2; 47 CFR 68.3; 47 CFR 68.3(a); 47 CFR 68.308; 47 CFR 68.310

Legal Deadline: None

Abstract: The rules generally will ensure: that there are standards for multi-line telephone system (MLTS) interconnection to the public switched network; that MLTSs of a certain size have attendant notification capability; that callers' emergency service identification numbers not be North American Numbering Plan numbers; and that incumbent local exchange carriers connect customers to the enhanced 911 network.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 54878
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

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RIN: 3060–AG60

4128. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN, CARRIER IDENTIFICATION CODES (CICS)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 251(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In 1994, the FCC released a Notice of Proposed Rulemaking (NPRM) in CC Docket No.92-237 addressing various issues relating to NANP administration, including carrier identification codes (CICs). On April 30, 1996, the FCC issued a Public Notice to refresh the record in this Docket. On April 11, 1997, the FCC released a Second Report and Order affirming its tentative conclusion in the NPRM of the industry's plan to convert 3-digit FBD CICs to 4-digit. On October 9, 1997, the FCC released the CICs' Further Notice of Proposed Rulemaking seeking comments on the definition of "entity" used to determine who may receive a CIC, and on CIC conservation issues. On October 22, 1997, the Commission released CIC's Order on Reconsideration, Order on Application For Review, and Second FNPRM. The Order on Application For Review denied VarTec Telecom Inc.'s Application For Review of the CCB's decision to deny VarTec's Motion for Stay of the CIC's Second Report and Order. The Second Further Notice of Proposed Rulemaking tentatively concludes that eventually all LEC end offices should be required to provide equal access. In December 1997 and January 1998, the CCB's Network Service Division released five Orders addressing petitions for waiver filed by small LECs, requesting extension of the January 1, 1998 deadline for conversion of switches to 4-digit. On January 28, 1998, the Network Services Division released an Order addressing a petition filed by a LEC seeking a waiver of five-digit CIC dialing during the permissive dialing period.

Timetable:

Action	Date	FR Cite
2d R&O	04/18/97	62 FR 19056
FNPRM	10/22/97	62 FR 54817
Order on Recon	10/28/97	62 FR 55762
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AG61

4129. IMPLEMENTATION OF SECTION 402(B)(2)(A) OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 160; 47 USC 201 to 205; 47 USC 214; 47 USC 218; 47 USC 403; 47 USC 571

CFR Citation: 47 CFR 63

Legal Deadline: None

Abstract: The NPRM proposes rules implementing section 402(b)(2)(a) of the Act, which exempts common carriers from the requirements of section 214 for line extensions and exempts video programming services. The NPRM also proposes to (1) forbear from enforcing section 214 for "new" lines of price-capped and average schedule LECs and non-dominant carriers; (2) confer a blanket section 214 authority for their small new-line projects; (3) streamline the approval process for all of their remaining new lines requiring applications; and (4) streamline the process for approving discontinuance applications.

Timetable:

Action	Date	FR Cite
NPRM	01/13/97	62 FR 4965
NPRM Comment Period End	03/17/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Public Compliance Cost: Yearly Recurring Cost: $133,300

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RIN: 3060–AG62

4130. IN THE MATTER OF INSIDE WIRE, THIRD REPORT AND ORDER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 155

CFR Citation: 47 CFR 68.3; 47 CFR 68.213(c)

Legal Deadline: None

Abstract: This action addresses a proposal for enhanced wire quality standards for simple inside telephone wiring. The action will also address whether the demarcation point rule should apply to complex wiring and whether the demarcation point may be located away from a building.

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	62 FR 36476
NPRM Comment Period End	08/01/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AG63

4131. AMENDMENT OF RULES GOVERNING PROCEDURES TO BE FOLLOWED WHEN FORMAL COMPLAINTS ARE FILED AGAINST COMMON CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 208; 47 USC 260; 47 USC 271; 47 USC 274; 47 USC 275

CFR Citation: 47 CFR 0.291; 47 CFR 1.47; 47 CFR 1.720 to 1.736

Legal Deadline: None

Abstract: In this Order the FCC revised the procedural rules governing the filing of formal complaints with the FCC. The objectives of the Order focused on promoting settlement efforts enhancing the contents of pleadings and streamlining complaint procedures generally. The rule amendments require parties (1) to engage in pre-filing activities, including settlement discussions and information exchange; (2) eliminate delays in service of formal complaints on carriers; (3) improve the format and content of pleadings; (4) eliminate pleading opportunities that are not useful or necessary; and (5) streamline the discovery process. See Report and Order dated 11/25/97. Final Action anticipated by 12/99.

Timetable:

Action	Date	FR Cite
NPRM	12/26/96	61 FR 67978
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

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RIN: 3060–AG65

4132. COMPUTER III FURTHER REMAND PROCEEDINGS: BELL OPERATING COMPANY PROVISION OF ENHANCED SERVICES

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 160; 47 USC 161; 47 USC 202 to 205; 47 USC 251; 47 USC 271; 47 USC 272; 47 USC 274 to 276

CFR Citation: 47 CFR 51; 47 CFR 53; 47 CFR 64

Legal Deadline: None

Abstract: On January 30, 1998, the FCC released a Further Notice of Proposed Rulemaking (FNRPM) proposing to streamline the safeguards under which the Bell Operating Companies (BOCs) provide information (or enhanced) services, such as voice mail and electric messaging. The FCC sought comment on tentative conclusions relating to nonstructural safeguards, Comparably Efficient Interconnection (CEI) plans, and network information disclosure rules, among other things. Finally, the FNPRM sought to build a record on which to respond to a partial remand of certain orders by the Court of Appeals for the Ninth Circuit. On February 25, 1999, the Commission adopted a Report and Order which streamlined the Commission's CEI and network information disclosure rules. Although the BOCs must continue to comply with their CEI obligations, they are no longer required to obtain pre-approval of their CEI plans and amendments from the Commission before initiating or altering an intra-LATA information service. Instead, the Commission requires the BOCs to post their CEI plans on their publicly accessible Internet sites, and to notify the Common Carrier Bureau upon such posting. The Commission removed the network information disclosure rules set forth in the Computer II and Computer III proceedings, with the narrow exception of the Computer II rules that require carriers to disclose changes that could affect how customer premises equipment (CPE) is attached to the network.

Timetable:

Action	Date	FR Cite
NPRM	02/26/98	63 FR 9749
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG72

4133. NOTICE OF PROPOSED RULEMAKING REGARDING DETARIFFING OF INTERSTATE EXCHANGE ACCESS SERVICES FOR NON-INCUMBENT LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 160; 47 USC 151 to 154

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Federal Communications Commission proposes to establish mandatory detariffing for non-incumbent local exchange carrier providers of interstate exchange access services pursuant to a notice of proposed rulemaking issued by the FCC on June 19, 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/19/97	62 FR 38244
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

FCC—CCB

Long-Term Actions

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RIN: 3060–AG73

4134. IN THE MATTER OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT (CALEA), NOTICE OF PROPOSED RULEMAKING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 229; 47 USC 1001 to 1008

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The FCC shall prescribe such rules as are necessary to implement the requirements of the Communications Assistance for Law Enforcement Act.

Timetable:

Action	Date	FR Cite
NPRM	10/10/97	62 FR 63302
NPRM Comment Period End	02/12/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG74

4135. IN THE MATTER OF THE TELECOMMUNICATIONS RELAY SERVICES, THE AMERICANS WITH DISABILITIES ACT OF 1990, AND THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225

CFR Citation: 47 CFR 64.604

Legal Deadline: None

Abstract: This item will address the requirement that telecommunications relay services be capable of handling any type of call normally provided by common carriers, including coin-sent paid calls.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG75

4136. IN THE MATTER OF TELECOMMUNICATIONS RELAY SERVICES AND SPEECH-TO-SPEECH SERVICES FOR INDIVIDUALS WITH HEARING AND SPEECH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225; 47 USC 255; 47 USC 610

CFR Citation: 47 CFR 64.601; 47 CFR 64.603; 47 CFR 64.604; 47 CFR 64.605

Legal Deadline: None

Abstract: In the NPRM, the FCC proposes ways to improve the Telecommunications Relay Services and extend services to more people with disabilities. The NPRM seeks comment on the following tentative conclusions: (1) the costs of speech-to-speech (STS) services and video relay interpreting (VRI) service should be recoverable from the TRS Fund; (2) all common carriers providing voice transmission services must insure that STS services are available throughout their service areas within two years of adoption of final rules in this proceeding; (3) the FCC should strengthen the current TRS minimum standards, including its speed-of-answer rules; and (4) the FCC should amend the TRS enforcement rules to improve the FCC's oversight of certified state TRS programs and its ability to compel compliance with the Federal mandatory minimum standards for TRS. The NPRM was released on May 20, 1998. Comments and reply comments were filed.

Timetable:

Action	Date	FR Cite
NPRM	05/20/98	63 FR 32798
NPRM Comment Period End	09/14/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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RIN: 3060–AG76

4137. TOLL FRAUD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 403; 47 USC 258

CFR Citation: 47 CFR 64.1900

Legal Deadline: None

Abstract: The NPRM proposes to address issues related to the prevention of toll fraud.

Timetable:

Action	Date	FR Cite
NPRM	12/02/93	58 FR 65163

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG77

4138. 1998 BIENNIAL REGULATORY REVIEW/REVIEW OF ACCOUNTING AND COST ALLOCATION REQUIREMENTS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 220; 47 USC 152; 47 USC 161

CFR Citation: 47 CFR 32.11; 47 CFR 64.903; 47 CFR 904; 47 CFR 32.2114; 47 CFR 32.2115; 47 CFR 32.2116; 47 CFR 32.6114; 47 CFR 32.6115; 47 CFR 32.6116; 47 CFR 32.5280; 47 CFR 32.16; 47 CFR 32.2000(b)

Legal Deadline: Final, Statutory, December 31, 1998.

Abstract: This NPRM proposes to modify the FCC's cost allocation and accounting rules as part of the biennial review process. Specifically, it proposes (1) to raise the threshold significantly for Class A accountings, thus allowing mid-sized carriers currently required to use Class A accounts to use the more streamlined Class B accounts; (2) to establish less burdensome cost allocation manual (CAM) procedures for the mid-sized incumbent local exchange carriers (LECs) and to reduce the frequency with which independent audits of the cost allocations are required; and (3) to make several changes to the uniform system of accounts to reduce accounting requirements and to eliminate or consolidate accounts.

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 45208
NPRM Comment Period End	09/04/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AG98

4139. BIENNIAL REVIEW OF ARMIS REPORTING REQUIREMENTS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 47 USC 219; 47 USC 220; 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 215; 47 USC 218; 47 USC 403

CFR Citation: 47 CFR 43.21

Legal Deadline: Final, Statutory, December 31, 1998.

Abstract: The FCC proposes as part of its biennial regulatory review to reduce reporting requirement for incumbent local exchange carriers with annual operating revenues in excess of the annual indexed revenue threshold, currently $109 million. These modifications are designed to minimize the reporting burden on carriers, improve the quality and use of the reported financial and operating data, and reduce the costs of collection, verification, and distribution of the data. Eliminating the existing requirement to file paper reports and distribute ARMIS data by electronic means are two additional goals of this proposal.

Timetable:

Action	Date	FR Cite
ANPRM	07/17/98	63 FR 44220
ANPRM Comment Period End	09/04/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AG99

4140. PERFORMANCE MEASUREMENTS AND REPORTING REQUIREMENTS FOR OPERATIONS SUPPORT SYSTEMS, INTERCONNECTION, OPERATOR SERVICES, AND DIRECTORY ASSISTANCE

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 251; 47 USC 303

CFR Citation: None

Legal Deadline: None

Abstract: On April 17, 1998, the FCC released an NPRM seeking comment on a set of model performance measurements and reporting requirements for OSS, interconnection, and access to operator services and to directory assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 27021

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jake Jennings, Telecommunications Policy Analyst, Federal Communications Commission, Room 544, 1919 M Street NW., Washington, DC 20554
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RIN: 3060–AH00

4141. ACCESS CHARGE REFORM FOR RATE-OF-RETURN LOCAL EXCHANGE CARRIERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553; 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 254(b)(3); 47 USC 254(g); 47 USC 403

CFR Citation: 47 CFR 61.1; 47 CFR 69.2; 47 CFR 69.4; 47 CFR 69.110; 47 CFR 69.110; 47 CFR 69.112; 47 CFR 69.120; 47 CFR 69.125; 47 CFR 69.153(c); 47 CFR 69.307(c)

Legal Deadline: None

Abstract: In order to make the access charge rules compatible with a competitive marketplace as envisioned by the Telecommunications Act of 1996, the FCC on May 26, 1998, initiated a rulemaking to revise interstate access charge rules applicable to incumbent local exchange carriers subject to rate-of-return regulation. The NPRM seeks comment on proposals to allow presubscribed interexchange carrier charges on special access lines and to adjust the allocation of General Support Facilities costs recovered through interstate access charges to ensure that regulated access rates do not recover costs related to nonregulated services. The NPRM proposes that rate-of-return local exchange carriers recover marketing costs allocated to the interstate jurisdiction from end users on a per-line basis. In addition, to establish a new switched access rate element to accommodate a new service offering,

the streamlined petition provisions of section 69.4(g) are proposed.

Timetable:

Action	Date	FR Cite
NPRM	06/20/98	63 FR 38774
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Lynne Milne, Attorney, Federal Communications Commission, #518, CCB-Competitive Pricing Division, 1919 M Street NW., Washington, DC 20554
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RIN: 3060–AH01

4142. DEPLOYMENT OF WIRELINE SERVICES OFFERING ADVANCED TELECOMMUNICATIONS CAPABILITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 153; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 271; 47 USC 272; 47 USC 303(r); 47 USC 160

CFR Citation: None

Legal Deadline: None

Abstract: In a Memorandum Opinion and Order, we clarified that sections 251 and 252 apply to advanced telecommunications facilities and services offered by an incumbent local exchange carrier (LEC) and that the facilities and equipment used by incumbent LECs to provide advanced services are network elements and subject to section 251(c). We denied requests to forbear from application of sections 251(c) and/or 271, and we denied requests for large-scale changes in LATA boundaries. We have taken these steps to meet one of the fundamental goals of the Telecommunications Act of 1996 to promote innovation and investment by all participants in the telecommunications marketplace. In the NPRM, the FCC sought comment on whether we should modify our rules to promote the deployment of advanced telecommunications capabilities in a competitive manner.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 45140
Order	08/07/98	63 FR 45134
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jonathan Askin, Attorney-Advisor, Federal Communications Commission, CCB, 1919 M Street NW., Washington, DC 20554
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RIN: 3060–AH03

4143. ELIMINATION OF PART 41: TELEGRAPH AND TELEPHONE FRANKS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 47 USC 11; 47 USC 201; 47 USC 210; 47 USC 218

CFR Citation: 47 CFR 41

Legal Deadline: None

Abstract: In an Order, the FCC has eliminated part 41 of the FCC's rules. Part 41 governed the issuance of franks for interstate and foreign telegraph and telephone service by communications common carriers. The Commission concluded that competition among service providers renders part 41's restrictions unnecessary to protect competitors or consumers. The Order is part of the FCC's Biennial Review of its regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/21/98	63 FR 4157
NPRM Comment Period End	09/10/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Scott Bergmann, Attorney-Adviser, Federal Communications Commission, Industry Analysis Division-CCB, 2033 M Street NW., #500, Washington, DC 20554
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RIN: 3060–AH04

4144. STREAMLINED CONTRIBUTOR REPORTING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 11; 47 USC 201; 47 USC 218; 47 USC 225; 47 USC 251; 47 USC 254

CFR Citation: 47 CFR 1.47; 47 CFR 52.16; 47 CFR 52.17; 47 CFR 52.32; 47 CFR 54.705; 47 CFR 54.709; 47 CFR 54.711; 47 CFR 54.713

Legal Deadline: None

Abstract: The FCC issued an NPRM proposing to simplify the filing requirements associated with the Telecommunications Relay Services Fund, Federal universal service support mechanisms, the cost recovery mechanism for the North American Numbering Plan administration, and the cost mechanism for long-term local number portability administration. This NPRM is part of the FCC's 1998 Biennial Review of its regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/25/98	63 FR 54090
NPRM Comment Period End	11/16/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Scott Bergmann, Attorney-Adviser, Federal Communications Commission, Industry Analysis Division, 2033 M Street NW., #500, Washington, DC 20554
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RIN: 3060–AH06

FCC—CCB

Long-Term Actions

4145. • SBC COMMUNICATIONS, INC. PETITION FOR BIENNIAL REVIEW

Priority: Other Significant

Legal Authority: 47 USC 219; 47 USC 220; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 303(r); 47 USC 4(i); 47 USC 4(j); 47 USC 403; 47 USC 161

CFR Citation: 47 CFR 65.101; 47 CFR 65.820(d); 47 CFR 61; 47 CFR 64.901 to 904; 47 CFR 32.27; 47 CFR 0; 47 CFR 1; 47 CFR 13; 47 CFR 22; 47 CFR 24; 47 CFR 26; 47 CFR 27; 47 CFR 80; 47 CFR 87; 47 CFR 90; ...

Legal Deadline: None

Abstract: The Commission seeks comment on proposals to modify its rules for rates of return, cash working capital studies, affiliate transaction rules, cost allocation rules, detariffing of certain services, and to consolidate wireless radio rules.

Timetable:

Action	Date	FR Cite
NPRM	11/24/98	63 FR 68418
NPRM Comment Period End	01/25/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH19

4146. • 1998 BIENNIAL REGULATORY REVIEW - REVIEW OF DEPRECIATION REQUIREMENTS FOR INCUMBENT LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 220(h); 47 USC 161; 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 403

CFR Citation: 47 CFR 43.43; 47 CFR 32.2000

Legal Deadline: None

Abstract: In this Notice of Proposed Rulemaking, we propose to reduce or streamline further our depreciation prescription process by permitting summary filings and eliminating the prescription of depreciation rates for incumbent LECs, provided that the carrier uses depreciation factors that are within the ranges adopted by the Commission, expanding the prescribed range for the digital switching plant account, and eliminating salvage from the depreciation process. We also seek comment on whether we should permit carriers to set their own depreciation rates if they are willing to waive the automatic low-end adjustment. These proposed modifications are designed to minimize the reporting burden on carriers and to provide incumbent LECs with a greater flexibility to adjust their depreciation rates while allowing the Commission to maintain adequate oversight.

Timetable:

Action	Date	FR Cite
NPRM	10/14/98	63 FR 56900
NPRM Comment Period End	12/08/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AH20

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Completed Actions

Common Carrier Bureau

4147. IN THE MATTER OF BILLED PARTY PREFERENCE FOR 0+ INTER-LATA CALLS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 201 to 205; 47 USC 218; 47 USC 226

CFR Citation: 47 CFR 64.703; 47 CFR 64.703(a)(4); 47 CFR 64.709; 47 CFR 64.710

Legal Deadline: None

Abstract: This Second Report and Order and Order on Reconsideration amends the FCC's rules to require operator services providers to provide additional oral information to away-from-home callers disclosing how to obtain rate quotations before connecting an interstate call from a call aggregator location such as a hotel or hospital. The Order also amends the rules to require carriers providing interstate service to prison inmates to orally disclose their identity to the party to be billed for collect calls, and to disclose to such party how to obtain rate quotes before connecting the call. The Order also adopts rules governing the filing of informational tariffs by operator services providers. The new rules generally become effective 7/1/98, except that store and forward telephone equipment need not be in compliance until 10/1/99. The rules have been stayed with respect to interstate intraLATA calls until 60 days after the Commission acts on petitions for clarification or reconsideration of its Second Report and Order.

Timetable:

Action	Date	FR Cite
NPRM	05/08/92	57 FR 24574
NPRM Comment Period End	08/27/92	
FNPRM	06/06/94	59 FR 30754
FNPRM Comment Period End	09/14/94	
2nd FNPRM	06/06/96	
FNPRM Comment Period End	08/16/96	
Final Action	01/29/98	63 FR 11612
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Adrien Auger, Attorney, Federal Communications Commission
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RIN: 3060–AF60

FCC—CCB

Completed Actions

4148. IMPLEMENTATION OF THE PAY TELEPHONE RECLASSIFICATION AND COMPENSATION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996 (SECOND REPORT AND ORDER)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 276

CFR Citation: 47 CFR 64.1300

Legal Deadline: None

Abstract: Pursuant to a remand from the U.S. Court of Appeals for the D.C. Circuit, the Commission has determined the per-call amount paid by interexchange carriers (IXCs) to pay phone service providers (PSPs) for each compensated call originated by a pay phone.

Timetable:

Action	Date	FR Cite
Public Notice	08/15/97	62 FR 43686
NPRM Comment Period End	09/09/97	
Final Action	02/04/99	64 FR 13701
Final Action Effective	03/04/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 3060–AG64

4149. INQUIRY CONCERNING THE DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS CAPABILITY TO ALL AMERICANS/PURSUANT TO SECTION 706 OF THE 1996 TELECOM ACT

Priority: Other Significant

Legal Authority: PL 104-104, sec 706

CFR Citation: None

Legal Deadline: Other, Statutory, August 8, 1998.
Section 706 directs the FCC to begin this inquiry within 30 months of the enactment of the 1996 Act. The FCC is directed to complete the inquiry within 180 days of its initiation.

Abstract: Section 706 of the Telecommunications Act of 1996 directs the FCC to conduct an inquiry to determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely manner. In a report, the Commission concludes that, per a snapshot of existing developments, advanced telecommunications capability is being developed and deployed on a reasonable and timely basis. This report concludes the inquiry required by section 706 of the Act.

Timetable:

Action	Date	FR Cite
NOI	08/07/98	63 FR 43178
Final Action	02/02/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH05

4150. IN THE MATTER OF TELECOMMUNICATIONS RELAY SERVICES AND SPEECH-TO-SPEECH SERVICES FOR INDIVIDUALS WITH HEARING DISABILITIES

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3060-AG76	02/18/99	

RIN: 3060–AH08

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Compliance and Information Bureau

Long-Term Actions

4151. IN THE MATTER OF AMENDMENT OF PART 73, SUBPART G, OF THE COMMISSION'S RULES REGARDING THE EMERGENCY ALERT SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 544; 47 USC 606

CFR Citation: 47 CFR 11; 47 CFR 73; 47 CFR 76

Legal Deadline: None

Abstract: The Commission has adopted new rules that replace the old Emergency Broadcast System (EBS) with a new Emergency Alert System (EAS) to alert the public in emergencies. The Report and Order adopted requires broadcast stations and many cable TV systems to participate, and streamlines operational procedures for system participants. It also removes the old part of the Commission's rules concerning EBS in its entirety and incorporates the new rules into a new part of the FCC's CFR. The purpose of the new rules is to prescribe how existing communications services such as broadcasting, cable, and other public service providers will function under the technical standards and operational procedures of the new system. Reconsideration has been requested. Additionally, with the Report and Order, the Commission issued a Further Notice of Proposed Rulemaking seeking comments regarding whether the Multipoint Distribution Service (MDS), Satellite Master Antenna TV (SMATV) system and Video Dial Tone should also be required to participate in EAS. It also sought comments on several cable issues such as whether a defined class of small cable systems should be exempted from participation in EAS, and how the Commission should define small cable systems. The FCC subsequently adopted a Second Report and Order to modify EAS as it applied to cable systems; address whether other video providers should be required to participate in the system; and adopt rules to address issues of concern to persons with hearing disabilities. The FCC also issued a Second Further NPRM requesting comment regarding rules that would require cable systems to prevent the interruption of local broadcast station emergency programming when activating their EAS equipment during voluntary state or local activations. In the Third Report and Order, the FCC declined to adopt rules that would require cable systems

to prevent the interruption of local broadcast station emergency programming.

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	
NPRM/FNPRM	09/17/92	57 FR 53874
FNPRM	12/28/94	59 FR 67104
R&O	12/28/94	59 FR 67090
MO&O	11/06/95	60 FR 55996
Second FNPRM	03/04/98	63 FR 15806
Second R&O	09/24/98	63 FR 29660
Third R&O	02/08/99	64 FR 5950
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Lucia, Acting Chief, Emergency Alert System Staff, Federal Communications Commission, Room 736, Compliance and Information Bureau
Phone: 202 418-1220

RIN: 3060–AF21

4152. IN THE MATTER OF THE COMMISSION'S FORFEITURE POLICY STATEMENT AND AMENDMENT OF SECTION 1.80 OF THE RULES TO INCORPORATE THE FORFEITURE GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 503

CFR Citation: 47 CFR 1

Legal Deadline: None

Abstract: The FCC amended its regulations regarding monetary forfeitures by adding a note to section 1.80 of the Commission's Rules, 48 CFR 1.80, to incorporate guidelines for assessing monetary forfeitures for Communications Act and Rules violations.

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10056
NPRM Comment Period End	03/17/95	
R&O Adopted, Recon. Pending	06/19/97	62 FR 43474
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Pamera Hairston, Chief, Compliance Division, Compliance and Information Bureau, Federal Communications Commission
Phone: 202 418-1150

RIN: 3060–AF65

4153. IN THE MATTER OF AMENDMENT OF THE COMMISSION'S RULES CONCERNING THE INSPECTION OF RADIO INSTALLATIONS ON LARGE CARGO AND SMALL PASSENGER SHIPS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 80; 47 CFR 0

Legal Deadline: None

Abstract: The FCC issued a proposed rulemaking proposing to amend current Rules regarding the inspection of ships for compliance with the Communications Act and the International Convention for the Safety of Life at Sea. The Commission sought to streamline ship inspection procedures, remove unnecessary rules, improve service to the maritime community, and preserve maritime safety. The Commission proposed that its role in ship inspections be completely replaced by the private sector. The FCC proposed rules that specify what class of FCC license is required for each ship inspection. It also proposed that GMDSS-equipped ships must be inspected by an FCC-licensed technician with a GMDSS Radio Maintainer License. The FCC adopted a Report and Order which requires that large cargo and small passenger ships arrange for an inspection of such ships by an FCC-licensed technician. The FCC adopted the Report and Order to incorporate, in its rules, changes to the Communications Act related to the inspection of ships and to improve the FCC's ship inspection process. The rules will increase the eligibility of competent private sector inspectors to conduct inspections of cargo vessels and small passenger vessels required to be inspected by the FCC without adversely affecting safety, and thus provide greater convenience for the maritime industry.

Timetable:

Action	Date	FR Cite
Order Comment Period Extended to 7/1/96	06/04/95	60 FR 28122
NOI	06/20/95	
NPRM	05/09/96	61 FR 21151
NPRM Comment Period End	06/09/96	
R&O	04/20/98	63 FR 29656
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George R. Dillon, Federal Communications Commission, Room 734, Compliance and Information Bureau
Phone: 202 418-1113

RIN: 3060–AG13

4154. AMENDMENT OF PART 2, SUBPART K OF THE FCC'S RULES REGARDING THE IMPORTATION OF RADIO FREQUENCY DEVICES CAPABLE OF CAUSING HARMFUL INTERFERENCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 157(a); 47 USC 302; 47 USC 303(b); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The FCC adopted an Order and Notice of Proposed Rule Making which changes from the Compliance and Information Bureau to the Office of Engineering and Technology the responsibility for reviewing and deciding upon waiver requests regarding imported uncertified devices. Importers will now seek a waiver of the limit on uncertified devices that can be brought into the U.S. for demos, sales, and sales conventions. The Order and NPRM seek comments on proposals that would (1) eliminate the

FCC—CIB — Long-Term Actions

requirement that parties importing radio frequency devices file a copy of the form 740 with the FCC, and (2) eliminate a loophole in one of the FCC's "import conditions rules" that allow the importation and sale in the U.S. of uncertified equipment if the buyer promises not to use it in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 35901

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

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RIN: 3060–AH07

FEDERAL COMMUNICATIONS COMMISSION (FCC)
Office of Engineering and Technology

Long-Term Actions

4155. CABLE SYSTEM COMPATIBILITY WITH TV RECEIVERS AND VCRS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 624

CFR Citation: 47 CFR 76

Legal Deadline: Other, Statutory, October 4, 1993.
In accordance with the Cable Television Consumer Protection and Competition Act of 1992, Section 17, a report to Congress is mandated by October 1993.

Abstract: Implementation of section 17 of the Cable Television Consumer Protection and Competition Act of 1992; compatibility between cable systems and consumer electronic equipment.

Timetable:

Action	Date	FR Cite
NOI	01/29/93	58 FR 7205
Technical Report	10/31/93	
NPRM	12/01/93	58 FR 65153
R&O	05/04/94	59 FR 25339
MO&O	04/26/96	61 FR 18508

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Doc. 93-7

Agency Contact: Alan Stillwell, Federal Communications Commission
Phone: 202 418-2925

RIN: 3060–AF38

4156. WIND PROFILER RADAR SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Amendment of section 2.106 of the Commission's Rules to allocate spectrum for Wind Profiler Systems. Allocation of this spectrum for wind profilers will facilitate the automated collection of weather information, including data on severe storms that threaten life or property that is not obtainable in any other manner.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	58 FR 19644

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: ET DOC. 93-59

Agency Contact: Sean White, Federal Communications Commission
Phone: 202 418-2453

RIN: 3060–AF45

4157. MILLIMETER WAVE SPECTRUM ALLOCATION

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 4; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 154; 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 21

Legal Deadline: None

Abstract: The Third R&O adopted rules that will encourage the commercial development and use of millimeter wave frequencies above 40 Mhz, and adopted rules to establish a spectrum etiquette for unlicensed operation in the 59-64 GHz band.

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 61304
Public Notice	06/23/95	60 FR 35166
2nd NPRM	03/29/96	61 FR 14041
1st R&O	04/02/96	61 FR 14500
Comment Period End	05/28/96	
Reply Comments	06/27/96	
2nd R&O	08/02/97	62 FR 43116
MO&O	08/27/97	62 FR 45330
4th NPRM	08/27/97	62 FR 45380
Public Notice on Recon	10/02/97	62 FR 51661
MO&O	08/07/98	63 FR 42276

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Doc. 94-124

Agency Contact: John Reed, Federal Communications Commission
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RIN: 3060–AF61

4158. DIGITAL EQUIPMENT DEREGULATION

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Action to explore possibility of more efficient and flexible approach to authorization of certain digital equipment. (Item will incorporate IBM/CBEMA CPU boards, Gen. Doc. 90-413.)

Timetable:

Action	Date	FR Cite
NPRM	02/07/95	60 FR 15116
R&O	05/14/96	61 FR 31044
Order	06/19/97	62 FR 33368
MO&O	08/04/97	62 FR 41879

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Doc. 95-19

Agency Contact: Anthony Serafini, Federal Communications Commission
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RIN: 3060–AF73

4159. MSS SPECTRUM ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 304

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Amendment of part 2.106 of the Commission's rules to allocate spectrum at 2 GHz for use by the Mobile Satellite Service.

Timetable:

Action	Date	FR Cite
NPRM	01/31/95	60 FR 11644
Order	03/08/95	60 FR 13687
R&O and FNPRM	04/22/97	62 FR 19538
1st R&O	04/22/97	62 FR 19509
MO&O	12/17/98	63 FR 69606

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Doc. 95-18

Agency Contact: Sean White, Federal Communications Commission
Phone: 202 418-2453

RIN: 3060–AF75

4160. MEDICAL CARE TELEMETRY DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Report and Order amends part 15 of the rules to expand the availability of frequencies and to increase the permitted power for unlicensed biomedical telemetry devices operating on VHF television channels within health care facilities.

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 3367
NPRM Comment Period End	04/16/96	
Reply Comments	05/16/96	
R&O	10/30/97	62 FR 58656

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: ET Docket No. 95-177

Agency Contact: Anthony Serafini, Federal Communications Commission
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RIN: 3060–AG18

4161. UNLICENSED NII AT 5 GHZ

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The MO&O amends the rules to permit fixed, point to point unlicensed National Information Infrastructure (U-NII) devices in the 5.725-5.285 GHz band to operate with one-watt maximum transmitter output power and directional antennas of up to 23 db:gain. It clarifies the rules regarding unwanted emissions and specifies these limits in terms of absolute radiated power levels. These actions will add to the flexibility and capability of U-NII operations without causing an increase in harmful interference to incumbent operations sharing the same spectrum.

Timetable:

Action	Date	FR Cite
NPRM	05/06/96	61 FR 24749
R&O	01/31/97	62 FR 4649
Public Notice	03/17/97	62 FR 12641
MO&O	07/31/98	63 FR 40831

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM-8468 and RM-8653 ET Docket 96-102

Agency Contact: Tom Derenge, Federal Communications Commission
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Fax: 202 418-1944
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RIN: 3060–AG19

4162. ALLOCATION OF 455-456 MHZ AND 459-460 MHZ

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303; 47 USC 154(i)

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: The FCC proposes to amend its rules to allocate the 455-456 MHz and 459-460 MHz bands to the Mobile Satellite Services (Earth-to-Space) (MSS Uplinks) on a primary basis for non-voice, non-geostationary satellite services (NVNG MSS).

Timetable:

Action	Date	FR Cite
NPRM	10/31/97	62 FR 58932

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: See ET Docket No. 97-214.

Agency Contact: Tom Derenge, Federal Communications Commission, Office of Engineering and Technology, Washington, DC 20554
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RIN: 3060–AG89

4163. DEDICATED SHORT RANGE COMMUNICATIONS OF INTELLIGENT TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 157; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 90

Legal Deadline: None

Abstract: The FCC proposes to allocate 75 megahertz of spectrum for use by Dedicated Short Range Communications of Intelligent Transportation Systems (ITS). DSRC systems are being designed that require a short range, wireless link to transfer information between vehicles and roadside systems. ITS services are expected to improve traveler safety, decrease traffic congestion, and facilitate reduction of air pollution and conservation of fossil fuels. This action furthers the goal of the U.S. Congress, the Department of Transportation, and the ITS industry to improve the efficiency of the nation's transportation infrastructure and facilitate the growth of the ITS industry. See ET Docket 98-95.

Timetable:

Action	Date	FR Cite
ANPRM	06/30/98	63 FR 35558

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Derenge, Federal Communications Commission, OET, Washington, DC 20554
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RIN: 3060–AG94

4164. REGULATIONS FOR RF LIGHTING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 18

Legal Deadline: None

Abstract: The FCC proposes to update the regulations for RF lighting devices. This action is taken in response to new developments in RF lighting technology. Recent developments and advances in RF lighting technology offer potential economic and environmental benefits for consumers and industry. The current FCC rules do not easily accommodate these advancements, and thus hinder the further development and implementation of these promising new products. See ET Docket No. 98-42.

Timetable:

Action	Date	FR Cite
ANPRM	04/24/98	63 FR 20362

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

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RIN: 3060–AG95

4165. EQUIPMENT AUTHORIZATION STREAMLINE II/MUTUAL RECOGNITION AGREEMENTS AND THE GMPCS MOU

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 25; 47 CFR 68

Legal Deadline: None

Abstract: The Commission proposes to amend the rules to provide the option of private sector approval of equipment that currently requires an approval by the Commission. It also proposes rule changes to implement a mutual recognition agreement (MRA) for product approvals with the European Community (EC) and to allow for similar agreements with other foreign trade parties. These actions are intended to eliminate the need for manufacturers to wait for approval from the FCC before marketing equipment in the United States, thereby reducing the time needed to bring a product to market.

Timetable:

Action	Date	FR Cite
NPRM	06/10/98	63 FR 31685
R&O	02/02/99	64 FR 4984

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: GEN Docket No 98-68

Agency Contact: Hugh L. Van Tuyl, Federal Communications Commission, OET, Washington, DC 20554
Phone: 202 418-7506

RIN: 3060–AG96

4166. UNIDEN SCANNERS/CELLULAR RADIO SIGNALS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The FCC proposes to amend the rules to further prevent scanning receivers from receiving radio telephone calls.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/98	63 FR 31684

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rodney P. Conway, Federal Communications Commission, OET, Washington, DC 20554
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RIN: 3060–AG97

FCC—OET

Long-Term Actions

4167. • INDUSTRY COORDINATION COMMITTEE SYSTEM FOR BROADCAST DIGITAL TELEVISION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 336

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: We seek comment on the establishment of an industry coordination committee to assist the Commission in the implementation of digital television (DTV) service. This committee system would evaluate proposed changes to the DTV Table of Allotments and perform other related functions.

Timetable:

Action	Date	FR Cite
ANPRM	02/09/99	64 FR 6296
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 99-34

Agency Contact: Alan Stillwell, Federal Communications Commission, 445 12th Street SW., Washington DC 20554
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RIN: 3060–AH13

4168. • 3650-3700 GOVERNMENT TRANSFER BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 157(a); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The Commission proposes to allocate the 3650-3700 MHz band to the non-Government fixed service on a primary basis. We envision that this spectrum will be used to provide a broad range of new fixed point-to-point and point-to-multipoint services directly linking residences, businesses, and other fixed locations to an ever developing array of networks.

Timetable:

Action	Date	FR Cite
ANPRM	01/14/99	64 FR 2462
ANPRM Comment Period End	03/01/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-237

Agency Contact: Tom Mooring, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554
Phone: 202 418-2450
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RIN: 3060–AH14

4169. • RADIONAVIGATION SERVICE AT 31.8 - 32.2 GHZ

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 87

Legal Deadline: None

Abstract: The Commission proposes to amend Parts 2 and 87 of the Commission's rules in order to delete the unused non-government radionavigation service allocation at 31.8-32.3 GHz and to also remove this frequency segment from the list of available frequencies set forth in the rules for the Aviation Services.

Timetable:

Action	Date	FR Cite
ANPRM	11/30/98	63 FR 65726
ANPRM Comment Period End	01/04/99	
R&O	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-197

Agency Contact: Tom Mooring, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554
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RIN: 3060–AH15

4170. • CERTIFICATION OF EQUIPMENT IN THE 24.05-24.25 GHZ BAND AT FIELD STRENGTHS UP TO 2500 MV/M

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission proposes to amend Part 15 of our rules to allow the operation of fixed point-to-point transmitters in the 24.05-24.25 GHz band at field strength of up to 2500 mV/m.

Timetable:

Action	Date	FR Cite
ANPRM	09/21/98	63 FR 50185
ANPRM Comment Period End	01/04/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-156

Agency Contact: Neal McNeil, Federal Communications Commission, 445 12th Street SW., Washington DC 20554
Phone: 202 418-2989
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RIN: 3060–AH16

4171. • FIXED SATELLITE SERVICE AND TERRESTRIAL SYSTEM IN THE KU-BAND (SKYBRIDGE)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 157; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: The Commission proposes to permit non-geostationary satellite orbit (NGSO) fixed satellite service (FSS) operations in certain segments of the Ku-band and proposes rules and policies to govern such operations.

Timetable:

Action	Date	FR Cite
ANPRM	01/12/99	64 FR 1786

FCC—OET **Long-Term Actions**

Action	Date	FR Cite
ANPRM Comment Period End	03/15/99	
R&O	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-206

Agency Contact: Tom Derenge, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554
Phone: 202 418-2451

RIN: 3060–AH17

FEDERAL COMMUNICATIONS COMMISSION (FCC)
Office of Engineering and Technology

Completed Actions

4172. REVISION OF MARKETING AND AUTHORIZATION PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 302; 47 USC 303; 47 USC 154 (i)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The FCC amended its regulations to increase the number of radio frequency products that can be imported prior to receiving a grant of equipment authorization for the purpose of testing and evaluating or demonstrating them at industry shows. This increase applies only to products designed to be operated within one of the allocated radio services and under the provisions of a license issued by the FCC.

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 31966
R&O	03/07/97	62 FR 10466
MO&O	06/10/98	63 FR 31645
Final Action	06/10/98	63 FR 31645
Final Action Effective	08/10/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 94-45

Agency Contact: John Reed, Federal Communications Commission
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RIN: 3060–AF29

4173. RF EXPOSURE STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 1

Legal Deadline: Final, Statutory, August 6, 1996.
Telecommunications Act of 1996

Abstract: The National Environmental Policy Act (NEPA) of 1969 requires agencies of the Federal Government to evaluate the effects of their actions on the quality of the human environment. To meet its responsibility under NEPA, the FCC has adopted revised radiofrequency (RF) exposure guidelines for purposes of evaluating potential environmental effects of RF electromagnetic fields produced by FCC-regulated facilities. Use of these new guidelines will ensure that the public and workers receive adequate protection from exposure to potentially harmful RF electromagnetic fields.

Timetable:

Action	Date	FR Cite
NPRM	04/08/93	58 FR 19393
R&O	08/06/96	61 FR 41006
First MO&O	01/22/97	62 FR 3232
Public Notice on Recon	03/11/97	62 FR 11195
2d MO&O	09/12/97	62 FR 47960
Final Action	09/12/97	62 FR 47960
Final Action Effective	10/15/97	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Local

Additional Information: ET 93-62

Agency Contact: Robert Cleveland, Federal Communications Commission
Phone: 202 418-2422

RIN: 3060–AF32

4174. ARECIBO COORDINATION ZONE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 5; 47 CFR 21 to 23; 47 CFR 25; 47 CFR 73 to 74; 47 CFR 80; 47 CFR 87; 47 CFR 90; 47 CFR 94 to 95; 47 CFR 97

Legal Deadline: None

Abstract: In response to the R&O, Puerto Rico Telephone Company filed a Petition For Reconsideration. The MO&O clarifies the FCC's rules regarding the Arecibo Radio Astronomy Observatory Coordination Zone that covers the Islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra within the Commonwealth of Puerto Rico (the Puerto Rican Islands).

Timetable:

Action	Date	FR Cite
NPRM	02/08/96	61 FR 10709
NPRM Comment Period End	04/01/96	
Reply Comments	04/16/96	
R&0	10/27/97	62 FR 55525
MO&O	08/03/98	63 FR 41201
Final Action	08/03/98	63 FR 41201
Final Action Effective	09/02/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 96-2, RM-8165

Agency Contact: Tom Derenge, Federal Communications Commission
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RIN: 3060–AG15

FCC—OET

Completed Actions

4175. REVISION OF THE EXPERIMENTAL RADIO SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 332

CFR Citation: 47 CFR 5; 47 CFR 90

Legal Deadline: None

Abstract: The Report and Order revised part 5 of our rules which governs the Experimental Radio Service. This action will promote technical innovation and new services by encouraging experiments; ensure that experimental licensees do not result in abuse of our processes; eliminate unnecessary and burdensome experimental regulations; and protect public safety frequencies.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68698
NPRM Comment Period End	02/28/97	
R&O	11/19/98	63 FR 64199
Final Action	11/19/98	63 FR 64199
Final Action Effective	01/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: ET Docket No. 96-256

Agency Contact: Rodney Small, Federal Communications Commission
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RIN: 3060–AG55

4176. REALLOCATION OF TV CHANNELS 60-69

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 303; 47 USC 154(i)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The Report and Order reallocates the 746-806 MHz band, currently television channels 60-69. The Balanced Budget Act of 1997 directed the FCC to allocate 24 Megahertz from the 746-806 Mhz band for public safety services and the remaining 36 MHz for commercial services, to be assigned by competitive bidding.

Timetable:

Action	Date	FR Cite
NPRM	07/31/97	62 FR 41012
NPRM Comment Period End	10/14/97	
R&O	02/10/98	63 FR 6669
MO&O	11/17/98	63 FR 63798
Final Action	11/17/98	63 FR 63798
Final Action Effective	11/17/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: This proceeding is in ET Docket No. 97-157.

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RIN: 3060–AG69

4177. STREAMLINE THE EQUIPMENT AUTHORIZATION PROCESS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The Commission amended parts 2, 15, and 18 and other parts of its rules to simplify the equipment authorization processes, deregulate the authorization requirements for certain types of equipment, and begin implementation of an electronic filing system for equipment authorization applications. These actions will greatly reduce the complexity and burden of the FCC's equipment authorization requirements so that products can be introduced to the market more rapidly.

Timetable:

Action	Date	FR Cite
NPRM	05/05/97	62 FR 24383
NPRM Comment Period End	08/18/97	
R&O	07/07/98	63 FR 36591
Final Action	07/07/98	63 FR 36591
Final Action Effective	10/05/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: This proceeding is in ET Docket No. 97-94.

Agency Contact: Julius P. Knapp, Federal Communications Commission
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RIN: 3060–AG70

4178. V-CHIP TECHNICAL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303; 47 USC 330; 47 USC 154

CFR Citation: 47 CFR 15; 47 CFR 73; 47 CFR 74; 47 CFR 76

Legal Deadline: None

Abstract: The R&O amended the FCC's rules to require that television receivers with picture screens 33 cm (13 inches) or greater be equipped with technological features that allow parents to block the display of violent, sexual, and other programming that they believe is harmful to their children. These features are commonly referred to as V-Chip technology. This action is in response to parental choice in TV programming requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 52677
R&O	04/23/98	63 FR 20131
Final Action	04/23/98	63 FR 20131
Final Action Effective	05/26/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See ET Docket No. 97-206.

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RIN: 3060–AG90

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of General Counsel

Long-Term Actions

4179. AMENDMENT OF THE COMMISSION'S EX PARTE RULES IN JOINT BOARD PROCEEDINGS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 1.1206

Legal Deadline: None

Abstract: The FCC proposes to amend its ex parte rules to facilitate communications by the states in Joint Board proceedings and proceedings before the FCC involving a recommendation from a Joint Board.

Timetable:

Action	Date	FR Cite
NPRM	07/15/98	63 FR 38142
NPRM Comment Period End	08/31/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AH02

FEDERAL COMMUNICATIONS COMMISSION (FCC)

International Bureau

Final Rule Stage

4180. ESTABLISHING RULES AND POLICIES FOR THE USE OF SPECTRUM FOR MOBILE SATELLITE SERVICE IN THE L-BAND

Priority: Routine and Frequent

Major: Undetermined

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 316; 47 USC 403

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission seeks to develop a record and to solicit comments on the proposed policies. The proposed policies are designed to ensure that sufficient spectrum is available to operate a viable and independent U.S.-licensed mobile satellite service system in the L-band. The proposed policies, to the extent possible, also seek to make any additional spectrum coordinated internationally available for mobile satellite service systems. The proposed policies impose no additional burdens. In order to be effective, these rules must apply to all licenses and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	06/18/96	61 FR 40772
NPRM	09/13/96	61 FR 40772
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AF89

FEDERAL COMMUNICATIONS COMMISSION (FCC)

International Bureau

Long-Term Actions

4181. STREAMLINING THE COMMISSION'S RULES AND REGULATIONS FOR SATELLITE APPLICATION AND LICENSING PROCEDURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 47 USC 154; 47 USC 701 to 744; 47 USC 554; 47 USC 303; 47 USC 4

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: On February 10, 1997, the FCC adopted rules and policies that streamlined the application and licensing requirements of part 25 of its rules, which deals with communication satellites and earth stations. The streamlined rules waived the construction permit requirement for satellite space stations; changed the license term for temporary fixed earth stations; and adjusted or changed the rules concerning minor modifications and basic requirements for satellite service applications. The streamlined rules also resulted in the creation of a new application form, FCC Form 312. Form 312 eliminated from use FCC Form 493, FCC Form 430, FCC Form 702, and FCC Form 704. Petitions for reconsideration were filed in this matter. In March 1997 the Commission released a Public Notice concerning these petitions, which are presently pending before the International Bureau.

Timetable:

Action	Date	FR Cite
NPRM	09/09/95	60 FR 46252
R&O, Recon Pending	02/10/97	62 FR 5924
Public Notice/Petitions For Recon	03/26/97	62 FR 14430
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 3060–AD70

4182. SATELLITE COMMUNICATIONS—NGO MSS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 301; 47 USC 303

CFR Citation: 47 CFR 25; 47 CFR 93; 47 CFR 2

Legal Deadline: None

Abstract: The Commission adopted rules in 1994 for a voice-and-data mobile satellite service (MSS) in the 1610-1626.5 MHz and 2483.5-2500 MHz frequency bands. Licenses have been issued for five systems. The Commission issued a decision in 1996 ruling on petitions for reconsideration of the Report and Order and making some changes in the rules. Several petitions for further reconsideration are still pending.

Timetable:

Action	Date	FR Cite
NPRM	01/19/94	
NPRM Comment Period End	06/06/94	
R&O	10/14/94	59 FR 53294
Begin Review	12/01/94	
First Recon Order	02/15/96	61 FR 9944

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AF42

4183. PREEMPTION OF LOCAL ZONING REGULATION OF SATELLITE EARTH STATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 165(j); 47 USC 303(r)

CFR Citation: 47 CFR 25.104; 47 CFR 1.4000

Legal Deadline: None

Abstract: The Commission adopted rules in March and August of 1996 to preempt regulations that restricted the installation and use of certain over-the-air reception devices. Staff work on the reconsideration of the March 1996 Report and Order is assigned to the International Bureau; work on the September 1996 Report and Order is assigned to the Cable Services Bureau.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/95	60 FR 28077
ANPRM Comment Period End	08/15/95	
FNPRM	03/05/96	61 FR 70710
R&O, Recon Pending	03/08/96	61 FR 10896
R&O, Recon Pending	09/04/96	61 FR 46559

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Selina Khan, Staff Attorney, Federal Communications Commission, 2000 M Street, NW., Room 505, Washington, DC 20554
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RIN: 3060–AF92

4184. ESTABLISHMENT OF RULES AND POLICIES FOR THE DIGITAL AUDIO RADIO SATELLITE SERVICE IN THE 2310-2360 MHZ FREQUENCY BAND

Priority: Routine and Frequent

Major: Undetermined

Legal Authority: 47 USC 151; 47 USC 151(i); 47 USC 154(j); 47 USC 157; 47 USC 309(j)

CFR Citation: 47 CFR 25.144

Legal Deadline: None

Abstract: The Commission is proposing rules to govern satellite digital establishment and regulation of new digital audio radio services. Previously, the Office of Engineering and Technology allocated the spectrum on which the activities herein of the International Bureau are based. Since the spectrum allocation is completed, the Office of Engineering and Technology has no further role. See 62 FR 11083 and 62 FR 24073.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/95	60 FR 35166
R&O, Recon Pending	03/11/97	62 FR 11083
FNPRM Terrestrial Repeater Licensing	04/11/97	62 FR 19095

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AF93

4185. REDESIGNATION OF THE 27.5-29.5 GHZ FREQUENCY BAND

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 301; 47 USC 302

CFR Citation: 47 CFR 25; 47 CFR 21; 47 CFR 1; 47 CFR 2

Legal Deadline: None

Abstract: The Commission adopted a band plan which designates band segments in the 27.5-30.0 GHz frequency band for several types of wireless systems. This decision clears the way for licensing local multipoint distribution service (LMDS) providing fixed satellite service (FSS) systems and feeder limits for certain mobile satellite service systems. The commercialization of this spectrum enables consumers to receive emerging domestic and global technology via multiple service providers. In October 1997, the Commission adopted a Third Report and Order promulgating satellite service rules in this frequency band. These rules include many of the rules already in place. In Part 25 of the fixed satellite service, including financial and technical requirements, additional rules were also adopted for satellites operating in the Va-band.

FCC—IB — Long-Term Actions

Timetable:

Action	Date	FR Cite
ANPRM	07/13/95	60 FR 43740
ANPRM Comment Period End	09/07/95	
R&O Band Plan	08/28/96	61 FR 44177
3rd R&O	11/18/97	62 FR 61488
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AF94

4186. AMENDMENT OF POLICY TO ALLOW NON-U.S. LICENSED SPACE STATIONS TO PROVIDE SERVICE IN THE UNITED STATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154 (i); 47 USC 303; 47 USC 308

CFR Citation: 47 CFR 25.113; 47 CFR 25.115; 47 CFR 25.130; 47 CFR 25.131; 47 CFR 25.137

Legal Deadline: None

Abstract: The FCC adopted a Report and Order establishing a public interest framework for evaluating requests by non-U.S. satellites to serve the U.S. market. The Order implements the WTO Agreement under which the U.S. committed to allow foreign suppliers to provide basic telecommunications services, including satellite services in the U.S. The FCC adopted a presumption in favor of entry for non-U.S. satellites licensed in WTO member countries providing WTO-covered services. The FCC adopted an effective competitive opportunities (ECO-SAT) test for non-U.S. satellites licensed in non-WTO countries providing WTO-covered services, as well as for any commercial non-U.S. satellite providing services for which the U.S. did not make market commitments in the WTO Agreement. The FCC also established entry requirements for intergovernmental satellite organizations and their affiliates. In addition, the FCC adopted other public interest standards regarding spectrum availability and eligibility and operating requirements, as well as establishing access and filing procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/14/96	61 FR 32398
NPRM Comment Period End	08/16/96	
FNPRM	07/29/97	62 FR 40494
R&O	11/26/97	
Petitions For Recon	01/05/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tania Hanna, Attorney-Advisor, International Bureau, Federal Communications Commission, Washington, DC 20554
Phone: 202 418-0762

RIN: 3060–AG31

4187. STREAMLINING REGULATIONS RELATED TO INTERNATIONAL COMMON CARRIERS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154(j); 47 USC 214; 47 USC 203(r); 47 USC 307; 47 USC 309; 47 USC 310; 47 USC 34 to 39

CFR Citation: 47 CFR 1; 47 CFR 43; 47 CFR 63; 47 CFR 64

Legal Deadline: None

Abstract: The Commission has commenced a proceeding to review its rules applicable to international common carriers with the goal of streamlining its procedures whenever possible. In particular, the Commission will consider eliminating the requirement for prior approval of pro forma assignments and transfers of control. The Commission will seek input on other partial streamlining opportunities.

Timetable:

Action	Date	FR Cite
NPRM	07/24/98	63 FR 39793
NPRM Comment Period End	08/24/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Douglas Klein, Attorney, Federal Communications Commission, International Bureau, 2000 M Street NW., Suite 800, Washington, DC 20554
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RIN: 3060–AG84

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Long-Term Actions

Mass Media Bureau

4188. ADVANCED TELEVISION SERVICE (MM DOCKET 87-268)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Advanced Television Service proceeding commenced in July 1987, with the adoption of the first Notice of Inquiry. The purpose of the proceeding is to address the technical, legal, economic and policy issues presented by the development of new, advanced and, now, digital television ("DTV"). As it has evolved since the inception of this proceeding, DTV will be capable of delivering television programs with significantly improved video and audio quality -- including two or more high definition programs simultaneously or five or more standard definition programs simultaneously -- or downloading data at the rate of over 19 million bytes per second. This data could be used to transmit directly to the home entire newspapers or telephone books in a matter of seconds, to download computer programs, and

for other data applications. This system will provide consumers with improved picture and sound, spectrum efficiency that will allow for the introduction of new radio services and unprecedented interoperability with computers and other telecommunications devices.

Beginning with the 1987 Notice of Inquiry, the Commission has sought public comment on a number of occasions and on a variety of issues. When it became clear in 1993 that any advanced television system would be digital, the Commission issued three Further Notices of Inquiry and has issued decisions in response to them. In its Fourth Report and Order, the Commission adopted, with modification, the Advanced Television Systems committee DTV Standard. This decision supplied the certainty that many broadcasters, equipment manufacturers and consumers need to invest in new technology while at the same time preserving the flexibility to accommodate innovation and experimentation. The Fifth Report and Order adopted an accelerated DTV construction schedule and rules to promote the success of free, universally available, local broadcast television in a digital world. These actions were intended to help preserve free, widely accessible programming that serves the public interest, and to attract consumers swiftly to digital broadcast service, thus allowing the NTSC spectrum to be recovered and turned to use for other beneficial purposes more rapidly. The accelerated construction schedule will enable consumers in the ten largest markets to begin receiving digital television service no later than May 1, 1999, and will require all commercial broadcast stations to complete construction and begin digital broadcasting by May 1, 2002. Noncommercial stations will have an additional year in which to commence their digital broadcasts. The Fifth Report and Order also required DTV licensees to provide at least one free digital programming service of resolution comparable to today's television service. Additionally, the Commission issued a DTV license to all eligible licensees and permittees in the form of an appendix to the Fifth Report and Order. By issuing these DTV licenses with the Fifth Report and Order, the Commission has frozen initial eligibility and allowed the completion of the Table of Allotments. Finally, the Sixth Report and Order adopted a Table of Allotments for digital television, rules for initial DTV allotments, technical criteria for the allotment of additional DTV frequencies, procedures for assigning DTV frequencies and plans for spectrum recovery.

Timetable:

Action	Date	FR Cite
Tentative Decision/Further NOI	09/01/88	53 FR 38747
R&O	08/24/90	55 FR 39275
FNPRM	10/24/91	56 FR 58207
Second R&O & FNPRM	04/09/92	57 FR 21744
Third R&O & FNPRM	09/17/92	57 FR 53588
Fourth FNPRM and Third NOI	07/28/95	60 FR 42130
Fifth FNPRM	05/29/96	61 FR 26864
Sixth FNPRM	08/21/96	61 FR 43209
Fourth R&O	03/25/97	62 FR 14006
Sixth R&O	05/14/97	62 FR 26884
Fifth R&O	05/16/97	62 FR 26996
Recon	07/11/97	62 FR 37145
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Mania Baghdadi, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554
Phone: 202 418-2130
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RIN: 3060–AE24

4189. TRANSFER OF CONTROL OF NON-STOCK ENTITIES MM DOCKET 89-77

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider proposals concerning the treatment of corporations and other organizational structures that are not traditional commercial corporations.

Timetable:

Action	Date	FR Cite
NOI	03/16/89	54 FR 15957
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Mania Baghdadi, Federal Communications Commission
Phone: 202 418-2130
Email: mbaghda@fcc.gov

RIN: 3060–AE31

4190. LOCAL TELEVISION OWNERSHIP RULE (MM DOCKET NO. 91-221)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 303

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: On November 7, 1996, the Commission adopted a Second Further Notice of Proposed Rule Making in MM Docket Nos. 91-221 and 87-8, reviewing the Commission's broadcast local television ownership rules. This action was published in the Federal Register on December 19, 1996. The rules currently prohibit a person or entity from having cognizable interests in two television stations whose Grade B signal contours overlap. They also prohibit the licensee of a television station from obtaining a cognizable interest in a radio station with overlapping contours unless one or more of several waiver conditions is met. Finally, the Commission does not currently have rules governing television local marketing agreements (LMAs) as we do with radio LMAs.

The Second Further Notice seeks to update the record in the proceeding in light of the passage of the Telecommunications Act of 1996, which, among other things, directed the Commission to examine the local television station ownership rule, amended the local radio ownership rules, and addressed waiver standards for the radio-television cross-ownership rule.

Timetable:

Action	Date	FR Cite
NOI	07/11/91	56 FR 40847
NPRM	06/24/92	57 FR 28163
FNPRM	02/02/95	60 FR 6490
R&O	03/27/95	60 FR 15688

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Long-Term Actions

Action	Date	FR Cite
2nd FNPRM	12/19/96	61 FR 66978

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kim Matthews, Federal Communications Commission, Mass Media Bureau, Washington, DC 20554
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RIN: 3060–AF79

4191. FILING OF TELEVISION NETWORK AFFILIATION CONTRACTS (MM DOCKET NO. 95-40)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 73.3613(a)

Legal Deadline: None

Abstract: This proceeding considers changes to the requirement that stations file their network affiliation agreements with the commission.

Timetable:

Action	Date	FR Cite
NPRM	04/19/95	60 FR 19564

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Judy Herman, Federal Communications Commission
Phone: 202 418-2163
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RIN: 3060–AF80

4192. RULES GOVERNING BROADCAST TELEVISION ADVERTISING (MM DOCKET NO. 95-90)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 301; 47 USC 303(r); 47 USC 313; 47 USC 314

CFR Citation: 47 CFR 73.658(h); 47 CFR 73.658(i)

Legal Deadline: None

Abstract: This proceeding considers changes to two rules regulating broadcast television advertising. The first advertising rule prohibits a broadcast television network from influencing or controlling the rates its affiliates set for the sale of their non-network advertising time. The second advertising rule prohibits a broadcast television network from representing any of its affiliates in the sale of non-network advertising time.

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 34959

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon, Federal Communications Commission
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Email: pgordon@fcc.gov

RIN: 3060–AF81

4193. ATTRIBUTION OF BROADCAST INTERESTS (MM DOCKET NOS. 94-150, 92-51, 87-154)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 303

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: On November 7, 1996, the Commission issued a Further Notice of Proposed Rulemaking in the Attribution proceeding, in which it invited further comment on several outstanding issues relating to the attribution of broadcast interests for the purposes of enforcing the multiple ownership rules, in light of the ownership changes effected by the Telecommunications Act of 1996. It also invited comment on a proposal to add a new "equity or debt plus" attribution standard to its rules. Under this proposed standard, where the interest holder is a program supplier or same-market broadcaster or media entity subject to the cross-ownership rules, the Commission would attribute its otherwise nonattributable equity and/or debt interest in a licensee or other media entity subject to the cross-ownership rules, if the equity and/or debt holding exceeds a certain amount. The Commission also sought comment on: (1) whether (and when) it should attribute television Local Marketing Agreements (LMAs) and radio or television joint sales agreements (JSAs) among licensees in the same market; (2) a staff study of the attributable interests in commercial broadcast television licensees, as reported in ownership reports, particularly with respect to the voting and nonvoting stock attribution benchmarks; and (3) grandfathering/transition issues. Finally, the Commission invited comment on whether to modify the cable/multipoint distribution service (MDS) cross-ownership attribution rules to apply broadcast attribution criteria, as modified in the attribution proceeding.

Timetable:

Action	Date	FR Cite
NPRM	02/02/95	60 FR 6483
FNPRM	12/20/96	61 FR 67275

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mania Baghdadi, Federal Communications Commission
Phone: 202 418-2130
Email: mbaghda@fcc.gov

RIN: 3060–AF82

FCC—MMB

Long-Term Actions

4194. MINOR MODIFICATIONS OF BROADCAST LICENSES WITHOUT PRIOR CONSTRUCTION PERMIT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 155(c)(1); 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: This proceeding will implement the Commission's new authority to eliminate the present requirement for a construction permit for a broadcast station in certain instances where the changed facilities would not have an adverse impact on other broadcast facilities. In these instances, licensees or permittees will be able to initiate the change without prior authority and file a license application to cover the change afterwards.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15439
R&O	09/30/97	62 FR 51052
Action on Petitions for Recon	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dale Bickel, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554
Phone: 202 418-2720

RIN: 3060–AG30

4195. NEWSPAPER/BROADCAST CROSS-OWNERSHIP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On October 1, 1996, the Commission released a Notice of Inquiry seeking comment on the possible revision of its standards for waiver of the newspaper/broadcast cross-ownership rule (Section 73.3555(d)) with respect to newspaper/radio combinations. The Notice solicits comment on whether the Commission should adopt objective criteria for evaluating such waiver requests and, if so, what those criteria should be.

Timetable:

Action	Date	FR Cite
NOI	10/15/96	61 FR 53694
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Holberg, Federal Communications Commission
Phone: 202 418-2130

RIN: 3060–AG53

4196. NATIONAL TELEVISION OWNERSHIP RULES (MM DOCKET NOS. 96-222, 91-221, 87-8)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 41 CFR 73

Legal Deadline: None

Abstract: On November 7, 1996, the Commission released a Notice of Proposed Rule Making in MM Docket Nos. 96-221, 96-222, and 87-8, reviewing the Commission's national broadcast television ownership rules. Pursuant to the Telecommunications Act of 1996, an entity may generally not have an attributable interest in commercial television stations with an aggregate national audience reach exceeding 35%. A station's audience reach is determined by the number of television households in that station's Area of Dominant Influence (ADI), as determined by the commercial ratings service Arbitron. The Notice first addressed the "UHF discount," by which UHF station is attributed with only 50% of the television households in the market, and decided to postpone further consideration of whether to modify or repeal the rule until 1998 (at which time all ownership rules will undergo a statutorily mandated biennial review). Second, the Notice proposed to eliminate the satellite exemption to the rule for satellite stations that operate in separate markets from their parent stations. However, for same-market satellites, the Commission proposed not to double count the audience in that market when calculating the parent station's national audience reach. Similarly, where one station has a local marketing agreement (LMA) with another, the Notice proposed not to double count that market. Finally, the Commission proposed to define a station's market for the purposes of calculating audience reach by using designated market areas (as determined by Nielsen) instead of ADI's, because Arbitron no longer updates it county by county determinations of each station's ADI.

Timetable:

Action	Date	FR Cite
NPRM	12/19/96	61 FR 66987
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon, Federal Communications Commission
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RIN: 3060–AG54

4197. MAIN STUDIO/PUBLIC FILE REQUIREMENTS FOR BROADCASTERS (MMB DOCKET 97-138)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 73.1125; 47 CFR 73.3526; 47 CFR 73.3527

Legal Deadline: None

Abstract: On July 27, 1998, the FCC adopted a Report and Order which amended section 73.1125 of our rules regarding a broadcast station's main studio location. This Report and Order also amended sections 73.3526 and 73.3527 of our rules to update the required contents of the public inspection file for broadcast stations and the required retention periods of material contained in the file.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 32061
R&O	07/28/98	63 FR 49487
Next Action Undetermined		

FCC—MMB

Long-Term Actions

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Victoria McCauley, Federal Communications Commission
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RIN: 3060–AG68

4198. COMPETITIVE BIDDING FOR BROADCAST SERVICES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 309(j); 47 USC 309(l)

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: The First Report and Order implements the FCC's application authority under sections 309(j) and 309(l) of the Communications Act, as amended. Specifically, the First R&O adopts rules and procedures for auctioning pending and future mutually exclusive applications for construction permits in the various commercial broadcasting services; determines that competing Instructional Television Fixed Service (ITFS) applications are subject to auction; and adopts procedures for resolving pending broadcast comparative renewal cases, in which the FCC is not authorized to use auctions. However, given the insufficiency of the record in this proceeding, the First R&O does not make a final determination regarding special measures, such as bidding credits for designated entities in broadcast service auctions.

Timetable:

Action	Date	FR Cite
NPRM	12/12/97	62 FR 65392
NPRM Comment Period End	01/26/98	
NOI	03/31/98	63 FR 15353
R&O	08/18/98	63 FR 48615

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jerianne Timmerman, Federal Communications Commission, Mass Media Bureau, 1919 M Street NW., Washington, DC 20554
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RIN: 3060–AG78

4199. 1998 BIENNIAL REVIEW OF BROADCAST OWNERSHIP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-104, sec 202(h)

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: This proceeding initiates a review of all the broadcast ownership rules as required by section 202(h) of the Telecommunications Act of 1996. Section 202(h) of the Act requires the FCC to review its broadcast ownership rules to determine "whether any of such rules are necessary in the public interest as the result of competition." It further directs the FCC to "repeal or modify any regulation it determines to be no longer in the public interest."

Timetable:

Action	Date	FR Cite
NOI	03/31/98	63 FR 15353

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Holberg, Federal Communications Commission, Mass Media Bureau, Washington, DC 20554
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RIN: 3060–AG79

4200. 1998 BIENNIAL REVIEW-STREAMLINING OF MASS MEDIA APPLICATIONS, RULES, AND PROCESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 309; 47 USC 310; 47 USC 308; 47 USC 303; 47 USC 4(i); 47 USC 4(j)

CFR Citation: 47 CFR 73; 47 CFR 1

Legal Deadline: None

Abstract: With this Report and Order, the Commission adopted an electronic filing mandate for key Mass Media Bureau broadcast application and reporting forms after a phase-in period. The Commission revised the requirements for extending the construction periods of broadcast stations, selling unbuilt construction permits, and submitting ownership reports for commercial and noncommercial stations. The Commission modified the reporting requirements on the Annual Ownership Report form to include a section on the race and gender of individuals with attributable interests in broadcast licenses. The Commission instituted a formal program of both pre- and post-application grant random audits.

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 19226
R&O	12/18/98	63 FR 70040

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Mania Baghdadi, Federal Communications Commission, Mass Media Bureau, Washington, DC 20554
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RIN: 3060–AG80

4201. REVIEW OF TECHNICAL RULES IN PARTS 73 AND 74

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 319; 47 USC 307

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: This rulemaking was initiated by the FCC as part of its ongoing review of its technical radio broadcast rules. The rulemaking asks for comments as to whether negotiated interference agreements and contingent applications should be allowed in the FM services, and proposes to allow alternative propagation methods to predict service and interference. The rulemaking also proposes specific changes to relax the contour protection rule for certain commercial FM stations, sets a minimum coverage standard for noncommercial

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Long-Term Actions

educational stations, and proposes to allow correction of coordinates with a single application.

Timetable:

Action	Date	FR Cite
NPRM	06/22/98	63 FR 33892
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dale Bickel, Engineer, Federal Communications Commission, Mass Media Bureau, Washington, DC 20554
Phone: 202 418-2700
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RIN: 3060–AG81

4202. • REVIEW OF BROADCAST AND CABLE EEO RULES AND POLICIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 334; 47 USC 336; 47 USC 634

CFR Citation: 47 CFR 73; 47 CFR 76

Legal Deadline: None

Abstract: With this Notice of Proposed Rulemaking, the Commission seeks comments concerning the Commission's proposed EEO rules, and policies that would be consistent with the D.C. Circuit's decision in Lutheran Church-Missouri Synod v. FCC. This rulemaking proposes to initiate a new broadcasting EEO rule and to change the Commission's cable EEO rules, to emphasize recruitment outreach programs and provide that entities are not to use racial, ethnic, or gender preferences in hiring. This rulemaking also proposes to include the possibility of granting administrative relief to small entities that meet proposed qualifying factors.

Timetable:

Action	Date	FR Cite
NPRM	12/01/98	63 FR 66104
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Hope Cooper, Federal Communications Commission
Phone: 202 418-1450

RIN: 3060–AH10

4203. • LOW POWER FM RADIO

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: With this Notice of Proposed Rulemaking, the Commission explores the possible establishment of new classes of FM radio service to respond to the increasing demand by the public for additional outlets of popular expression which could increase the diversity of voices, views, and sources of information and entertainment available to the American public. This proceeding will explore the appropriate technical parameters for such a service. The Commission will also examine potentially conflicting demands for such a service and the means to accommodate any such conflicting demands to the extent possible and appropriate. In addressing these issues, we are and will remain mindful of the technical requirements necessary to protect existing radio services and are concerned with preserving the excellent technical quality of radio service available today which has been fostered and maintained by our existing rules. The Commission hopes to receive comment from a wide range of existing and potential users of the FM spectrum regarding the nature and extent of different and possibly conflicting demands for this spectrum, and technical analysis to assist us in best resolving those conflicts for the benefit of the public.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7577
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon, Federal Communications Commission
Phone: 202 418-2130

RIN: 3060–AH11

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Completed Actions

Mass Media Bureau

4204. EEO STREAMLINING PROPOSALS (MMB DOCKET NO. 96-16)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 503(b)

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On February 8, 1996, the Commission adopted an Order and Notice of Proposed Rulemaking in MM Docket No. 96-16 which vacates the EEO Forfeiture Policy Statement, seeks comment on proposals to streamline Broadcast EEO requirements without diminishing the effectiveness of our EEO program, and seeks comments on proposed EEO Forfeiture Guidelines.

Timetable:

Action	Date	FR Cite
NPRM	03/12/96	61 FR 9964
Final Action	12/01/98	63 FR 66104

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hope Cooper, Federal Communications Commission
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RIN: 3060–AG29

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of Managing Director

Long-Term Actions

4205. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1999

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 159

CFR Citation: 47 CFR 1.1151 et seq

Legal Deadline: None

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 U.S.C. 159, requires the FCC to recover the costs of its activities by assessing and collecting annual regulatory fees from beneficiaries of these activities. The Commission will issue a Notice of Inquiry to address key unresolved issues. It will issue a Notice of Proposed Rulemaking to address how the FCC plans to implement the fee requirements for FY 1999. Finally, the FCC will issue a Report and Order implementing the FY 1999 Regulatory Fee Schedule. When released, the NOI and NPRM will provide the public with the opportunity to file comments in response to unresolved issues and proposed fee implementation for FY 1999.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 3060–AG92

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of Managing Director

Completed Actions

4206. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1998

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 159

CFR Citation: 47 CFR 1.1151 et seq

Legal Deadline: None

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 U.S.C. 159, requires the Commission to recover the costs of certain of its activities by assessing and collecting annual regulatory fees from the beneficiaries of those activities. The Commission will develop a Notice of Proposed Rulemaking to address how the FCC plans to implement the fee requirements for FY 1998. This item, when released, will provide the public with the opportunity to file comments in response to the Commission's proposed fee implementation schedule for FY 1998.

Timetable:

Action	Date	FR Cite
Final Action - R&O	07/01/98	63 FR 35847

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 3060–AG66

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireless Telecommunications Bureau

Long-Term Actions

4207. AMENDMENT OF PART 80 OF THE COMMISSION'S RULES CONCERNING VHF MARITIME OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 80

Legal Deadline: None

Abstract: Amendment of the Maritime Radio Service Rules to encourage growth and improve the regulatory structure in VHF maritime communications.

Timetable:

Action	Date	FR Cite
NOI/NPRM	11/05/92	57 FR 57717
First R&O	04/26/95	60 FR 34198
FNPRM	04/26/95	60 FR 35507
Second FNPRM	06/17/97	62 FR 37533
Second R&O	06/17/97	62 FR 40281
3rd R&O & MO&O	07/06/98	63 FR 40059

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: WT Docket No. 92-257.

Agency Contact: Scott Stone, Federal Communications Commission, Wireless Telecom Bureau - PSPWD, 2025 M Street NW., Washington, DC 20554
Phone: 202 418-0680

RIN: 3060–AF14

4208. RULEMAKING TO AMEND PART 1 AND PART 21 TO REDESIGNATE THE 27.5-29.5 GHZ BAND AND TO ESTABLISH RULES AND POLICIES FOR LOCAL MULTI-POINT DISTRIBUTION SERVICE

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 307; 47 USC 553; 47 USC 303; 47 USC 309

CFR Citation: 47 CFR 25; 47 CFR 21; 47 CFR 101

Legal Deadline: None

Abstract: The goal of this proceeding, a Third Order On Reconsideration, is to pave the way for the auctioning and licensing of the Local Multipoint Distribution Service, a fixed broadband point-to-point wireless service that has significant potential in offering a broad

range of one-way and two-way voice-video and data service capabilities, and a substantial amount of capacity that is larger than is currently available in wireless services. This Order was adopted and released on February 11, 1998.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	58 FR 6400
NPRM Comment Period End	04/15/93	
Third NPRM	07/13/95	60 FR 43740
1st R&O & 4th NPRM	07/29/96	61 FR 39425
Fifth NPRM	03/11/97	62 FR 16514
Second R&O	03/11/97	62 FR 23148
Third Order on Recon	03/03/98	63 FR 9443
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: WTB Docket No. 92-297.

Agency Contact: Barbara Reideler, Attorney Advisor, Federal Communications Commission, 2025 M Street NW., Room 7002, Washington, DC 20554
Phone: 202 418-1310

Jay Whaley, Attorney, Federal Communications Commission
Phone: 202 418-1310

RIN: 3060–AF26

4209. REFARMING

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Replacement of part 90 by part 88 to revise private land mobile services and modify policies governing these services.

Timetable:

Action	Date	FR Cite
NPRM	01/08/92	57 FR 54034
R&O	06/15/95	60 FR 37152
MO&O	12/23/96	62 FR 2027
Second R&O	02/20/97	62 FR 18834
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: WTB Docket No. 92-235.

Agency Contact: Ira Keltz, Federal Communications Commission, Wireless Telecom Bureau - PSPWD, 2025 M Street NW., Washington, DC 20554
Phone: 202 418-0680

RIN: 3060–AF35

4210. FUTURE DEVELOPMENT OF 800 MHZ SMR; COMPETITIVE BIDDING WIDE AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 153; 47 USC 303; 47 USC 309(j); 47 USC 332

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This proceeding adopts service rules and competitive bidding rules for 800 MHz SMR spectrum. It also proposes licensing rules and auction procedures for lower 80 SMR and general category channels.

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 33062
FNPRM	10/20/94	59 FR 6011
Eighth R&O	12/15/95	
First R&O	12/15/95	
FNPRM	12/15/95	
Second FNPRM	12/15/95	
MO&O	06/23/97	62 FR 41225
Second R&O	06/23/97	62 FR 41190
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Yanic Thomas, Attorney-Adviser, Federal Communications Commission, 2100 M Street NW., Washington, DC 20554
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RIN: 3060–AF47

4211. RESALE AND ROAMING OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: PL 103-66, Sec 6002 Omnibus Budget Reconciliation Act of 1993

CFR Citation: 47 CFR 20; 47 CFR 22

Legal Deadline: None

Abstract: On an interim basis, the First Report and Order extends to broadband PCS and covered SMR providers the cellular rule that prohibits restricting resale of communications services. The new rules sunset five years after the last group of initial licensees for currently allocated broadband PCS spectrum is awarded. The rules also eliminate all exceptions to the rule that allowed cellular licensees to restrict resale by competing with fully operational cellular licensees in the same geographic market. The Commission successfully adopted a Second Report and Order and Third Notice of Proposed Rulemaking in this proceeding. The Second Report and Order extends the Commission's cellular rules on manual roaming by any individual whose handset is capable of accessing the network of a cellular, broadband PCS, or covered SMR provider. The Third NPRM, among other things, sought comment on whether the Commission should adopt rules requiring cellular, broadband PCS, and covered SMR providers to provide automatic roaming in their coverage areas, and whether both automatic and manual roaming requirements should sunset five years after the initial grant of PCS licenses.

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 35664
NOI	07/01/94	
NPRM Comment Period End	09/29/94	
ANPRM	04/04/95	60 FR 20949
ANPRM Comment Period End	07/14/95	
First R&O	07/12/96	61 FR 38399
Second R&O and Third NPRM	08/15/96	61 FR 44026
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

FCC—WTB

Long-Term Actions

Government Levels Affected: State, Federal

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Phone: 202 418-1761

RIN: 3060–AF58

4212. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; NARROWBAND PCS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: Report and Order and FNPRM to modify the competitive bidding rules for participation by designated entities in narrowband PCS.

Timetable:

Action	Date	FR Cite
3rd MO&O	08/16/94	59 FR 44058
FNPRM	04/23/97	62 FR 27569
R&O	04/23/97	62 FR 27507

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul D'Ari, Chief, Policy and Rules Division, Federal Communications Commission, Suite 700, 2100 M Street NW., Washington, DC 20554
Phone: 202 418-7240

RIN: 3060–AF99

4213. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; IVDS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 95

Legal Deadline: None

Abstract: Tenth Report and Order modifies the competitive bidding rules for the upcoming auction of IVDS: (1) eliminates bidding credits available to women- and minority-owned IVDS applicants; (2) extends two levels of bidding credits to small businesses based on a two-tiered small business definition; (3) clarifies the attribution rules for affiliates of IVDS applicants; and (4) increases the amount of the upfront payments required to participate in the IVDS auction.

Timetable:

Action	Date	FR Cite
R&O	04/25/94	59 FR 24947
FNPRM	08/06/96	61 FR 49103
R&O	11/15/96	61 FR 60198
FNPRM	09/30/98	63 FR 52215
NPRM Comment Period End	10/30/98	63 FR 52215
MO&O	11/09/98	63 FR 54073

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Allen, Staff Attorney, Federal Communications Commission, Room 5202, 2025 M Street NW.
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RIN: 3060–AG00

4214. 39 GHZ CHANNEL PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 154; 47 USC 524

CFR Citation: 47 CFR 2; 47 CFR 1; 47 CFR 101

Legal Deadline: None

Abstract: This proceeding amends the FCC's rules to facilitate more effective use of the 39 GHz band.

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2465
NPRM Comment Period End	02/12/96	
Order	02/22/96	61 FR 6809
Reply Comments	02/27/96	
Order	05/01/96	61 FR 19236
2d NPRM	01/21/98	63 FR 3075
R&O	02/06/98	63 FR 6079

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 95-183, RM-8553; PP Docket No. 93-253

Agency Contact: Jennifer Burton, Attorney, Federal Communications Commission, Wireless Telecom. Bureau- PSPWD, 2025 M Street NW., Washington, DC 20554
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RIN: 3060–AG16

4215. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING BROADBAND PCS F BLOCK RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: NPRM to modify the competitive bidding rules for the Broadband PCS F Block. Report and Order, adopted 6/21/96, modified the PCS/cellular rule and the cellular spectrum cap.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Audrey Bashkin, Staff Attorney, Federal Communications Commission, Room 5202, 2025 M Street NW.

FCC—WTB

Long-Term Actions

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RIN: 3060–AG21

4216. AMENDMENT OF PART 90 OF THE FCC'S RULES TO PROVIDE FOR THE USE OF THE 220-222 MHZ BAND

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154(i); 47 USC 303(d); 47 USC 303(r); 47 USC 332; 47 USC 309(j)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This action addressed Petitions For Reconsideration or clarification of two Orders concerning the 220-222 MHz radio service (220 MHz service). On January 26, 1996, the FCC adopted final rules in the 220 MHz Report and Order, which enabled 220 MHz licensees to modify their licenses to relocate their authorized base stations within FCC-specified parameters. In the 220 MHz Third Report and Order, adopted on February 19, 1997, the FCC established rules to govern the future operation and licensing of the 220 MHz service.

Timetable:

Action	Date	FR Cite
ANPRM	11/28/89	55 FR 328
ANPRM Comment Period End	03/15/90	
R&O	03/14/91	56 FR 19598
NPRM	01/12/92	57 FR 4180
NPRM Comment Period End	03/02/92	
FNPRM	08/28/95	60 FR 46566
Fifth NPRM	04/03/97	62 FR 16004
Third R&O	04/03/97	62 FR 15978
MO&O	05/14/98	63 FR 32580

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Scott Mackoul, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 2025 M Street NW., Washington, DC 20554
Phone: 202 418-7240

RIN: 3060–AG23

4217. REVISION OF THE COMMISSION'S RULES TO ENSURE COMPATIBILITY WITH ENHANCED 911 EMERGENCY CALLING SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 134(i); 47 USC 201; 47 USC 208; 47 USC 215; 47 USC 303; 47 USC 309

CFR Citation: 47 CFR 20

Legal Deadline: None

Abstract: This Memorandum Opinion and Order in general reaffirms, with limited modifications, wireless E911 rules adopted earlier in this proceeding. The goal of this proceeding is to afford the public a reliable, responsive E911 service in the best possible interest of public health and safety.

Timetable:

Action	Date	FR Cite
FNPRM	07/26/96	61 FR 40374
R&O	07/26/96	61 FR 40348
MO&O	01/16/98	63 FR 2631

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: Additional Contact: Martin Liebman, Engineer, Wireless Telecommunications Bureau, 2025 M Street NW., Washington DC 20554, 202-418-1310

Agency Contact: Dan Grosh, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 2025 M Street NW., Washington, DC 20554
Phone: 202 418-1310

Won Kim, Attorney, Federal Communications Commission, same
Phone: 202 418-1310

RIN: 3060–AG34

4218. WIRELESS COMMUNICATIONS SERVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 27; 47 CFR 97

Legal Deadline: Final, Statutory, September 30, 1997.

Abstract: Proposal to establish a new "Wireless Communications Service" in the 2305-2320 and 2345-2360 MHz bands. Thirty megahertz of spectrum will be made available for the provision of fixed mobile, radiolocation services, or satellite Digital Audio Radio Services.

Timetable:

Action	Date	FR Cite
NPRM	11/20/96	61 FR 59048
NPRM Comment Period End	12/16/96	
R&O	03/03/97	62 FR 9636
Public Notice	03/13/97	62 FR 12959

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: GN Docket 96-228

Agency Contact: Tejal Mehta, Federal Communications Commission, 2025 M Street NW., Washington, DC 20554
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Julie Buchanan, Staf Attorney, Federal Communications Commission, 2025 M St. NW., Washington, DC 20554
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RIN: 3060–AG56

4219. IMPLEMENTATION OF SECTION 225 OF THE TELECOMMUNICATIONS ACT OF 1996; ACCESS TO TELECOMMUNICATION SERVICES AND EQUIPMENT, AND CUSTOMER PREMISE EQUIPMENT, FOR PERSONS WITH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 255

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This proceeding is initiated to implement the provisions of section 255 of the Communications Act and related sections of the Telecommunications Act of 1996 regarding the accessibility of telecommunications equipment and services to persons with disabilities.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/96	61 FR 50465
NPRM	04/02/98	63 FR 28456
NPRM Comment Period End	08/14/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: John Spencer, Attorney Advisor, Federal Communications Commission, Policy Div. Wireless Telecom. Bureau, 2025 M Street NW., Washington, DC 20554
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Susan Kimmel, Attorney, Federal Communications Commission, same
Phone: 202 418-1310

RIN: 3060–AG58

4220. DEVELOPMENT OF OPERATIONAL, TECHNICAL, AND SPECTRUM REQUIREMENTS FOR PUBLIC SAFETY COMMUNICATIONS REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 337(a); 47 USC 151; 47 USC 154; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This item takes steps toward developing a flexible regulatory framework to meet vital current and future public safety communications needs.

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 60199
First R&O and 3rd NPRM	08/06/98	63 FR 58645
Third NPRM	08/06/98	63 FR 58685

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: John Clarke, Federal Communications Commission, Wireless Telecom. Bureau - PSPWD, 2025 M Street NW., Washington, DC 20554
Phone: 202 418-0680

RIN: 3060–AG85

4221. MULTIPLE ACCESS SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 101

Legal Deadline: None

Abstract: This NPRM proposes to amend the FCC's rules regarding multiple address systems (MAS) in the microwave service. It proposes a flexible regulatory framework for spectrum allocations that will provide opportunities for the development of competitive new service offerings.

Timetable:

Action	Date	FR Cite
NPRM	01/19/97	62 FR 11407

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Shellie Blakeney, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau - PSPWD, 2025 M Street NW., Washington, DC 20554
Phone: 202 418-0680

RIN: 3060–AG86

4222. AMENDMENT OF PART I OF THE COMMISSION'S RULES—COMPETITIVE BIDDING PROCEDURES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 202; 47 USC 303; 47 USC 309(j)

CFR Citation: 47 CFR 1; 47 CFR 21; 47 CFR 24; 47 CFR 24; 47 CFR 27; 47 CFR 90; 47 CFR 95

Legal Deadline: None

Abstract: This proceeding proposes to amend and modify the competitive bidding rules for all auctionable services. It was released on December 31, 1997 and published in the Federal Register on January 15, 1998.

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13570
NPRM Comment Period End	04/16/97	
2d FNPRM	01/07/98	63 FR 770
3d R&O	01/15/98	63 FR 2315

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG87

4223. AMENDMENT TO PART 27 OF THE FCC'S RULES TO REVISE RULES FOR SERVICES IN THE 2.3GHZ BAND AND TO INCLUDE LICENSING OF SERVICES IN THE 47 GHZ BAND

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 309; 47 USC 310; 47 USC 368

CFR Citation: 47 CFR 27

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking proposes service, licensing, and competitive bidding rules for the 47.2-48.2 GHz band. The FCC proposes to amend the part 27 Rules to include rules for the 47.2-48.2 band and to codify and conform certain rules for the 2.3 GHz band to provide for consistent regulation of part 27 services.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 44822
NPRM Comment Period End	10/13/98	

Next Action Undetermined

FCC—WTB

Long-Term Actions

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Eli Johnson, Attorney, Federal Communications Commission, 2025 M Street NW., Room 7002, Washington, DC 20554
Phone: 202 418-1310

RIN: 3060–AG93

4224. • AMENDMENT OF PART 90 OF THE COMMISSION'S RULES TO ADOPT REGULATIONS FOR AUTOMATIC VEHICLE MONITORING SYSTEMS SECOND REPORT AND ORDER

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 251; 47 USC 252; 47 USC 303; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 1; 47 CFR 90

Legal Deadline: None

Abstract: This Second Report and Order adopts rules and procedures governing competitive bidding for multilateration Location and Monitoring Service (LMS) frequencies. Was released July 14, 1998. Was published in Federal Register, July 30, 1998, 63 FR 40659. Became effective September 28, 1998.

Timetable:

Action	Date	FR Cite
NPRM	09/16/97	62 FR 52078
NPRM Comment Period End	11/20/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This FNPRM sought comment on the LMS auction following the general competitive bidding procedures of Part 1, Subpart Q; the establishment of a small business definition for LMS; whether small business provisions are sufficient to promote participation by businesses owned by minorities, women or rural telephone companies; partitioning and disaggregation (released 9/16/97) 63 FR 52078 published 10/6/97.

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RIN: 3060–AH12

FEDERAL COMMUNICATIONS COMMISSION (FCC)
Wireless Telecommunications Bureau

Completed Actions

4225. AMENDMENT OF THE COMMISSION'S RULES REGARDING INSTALLMENT PAYMENT FINANCING PAYMENT FOR PERSONAL COMMUNICATIONS SERVICES (PCS) LICENSEES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 155; 47 USC 301 to 303; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 1; 47 CFR 24

Legal Deadline: None

Abstract: There were 39 Petitions for Reconsideration of the 2d Report and Order filed. On March 24, 1998, the FCC released an Order on Reconsideration of the 2d Report and Order. This Order was published in the Federal Register on April 8, 1998. On August 19, 1998, the FCC released a Fourth Report and Order setting forth rules that will govern reauctions of C Block spectrum surrendered to the Commission pursuant to the C Block 2d Report and Order on Reconsideration of the 2d Report and Order.

Timetable:

Action	Date	FR Cite
NPRM	03/02/97	62 FR 13570
NPRM Comment Period End	04/16/97	
FNPRM	10/16/97	62 FR 55375
Order on Recon	04/08/98	63 FR 17111
Final Action	11/23/98	63 FR 50791

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Audrey Bashkin, Staff Attorney, Federal Communications Commission, Wireless Telecom. Bureau, Auctions Division, Washington, DC 20554
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RIN: 3060–AG88

[FR Doc. 99-5649 Filed 04-23-99; 8:45 am]

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Monday
April 26, 1999

Part LV

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the April 1999 regulatory agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations." This policy was revised recently (63 FR 25157, May 7, 1998) to focus it more sharply on the FDIC's approach to regulatory reform.

The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

The Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) contains reforms that significantly restructure the regulation of financial institutions. As a consequence, many of the regulations included in this agenda are in response to CDRI. The FDIC is continuing to develop regulations implementing the most recent legislative requirements. These include the requirement in section 303 of CDRI that the Federal banking regulators conduct a review of all their regulations and written policies to streamline them, remove inconsistencies, improve efficiency, reduce unnecessary costs, and make uniform all regulations and guidelines implementing common statutory or supervisory policies. Changes to the FDIC's regulations as a result of CDRI will be noted in this and future semiannual agendas as they emerge from these reviews.

The Federal banking regulators are the FDIC, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRS), and the Office of Thrift Supervision (OTS). In some cases, the FDIC also coordinates with the National Credit Union Administration (NCUA).

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Proposed Rule Stage

Sequence Number	Title		Regulation Identifier Number
4226	12 CFR 340	Restrictions on Sale of Assets by the FDIC	3064-AB37
4227	12 CFR 308	Program Fraud Civil Remedies	3064-AB41
4228	12 CFR 360	Receivership Rules	3064-AB92
4229	12 CFR 361	Minority and Women Outreach Program—Contracting	3064-AC21

Final Rule Stage

Sequence Number	Title		Regulation Identifier Number
4230	12 CFR 325	Capital Maintenance—Recourse Arrangements and Direct Credit Substitutes	3064-AB31
4231	12 CFR 325	Capital Maintenance—Collateralized Transactions	3064-AB78
4232	12 CFR 342	Qualification Requirements for the Recommendation or Sale of Certain Securities	3064-AB85
4233	12 CFR 307	Notification of Changes of Insured Status	3064-AB88
4234	12 CFR 361	Formal Minority- and Women-Owned Business and Law Firm Certification Program	3064-AB95
4235	12 CFR 328	Advertisement of Membership	3064-AB99
4236	12 CFR 343	Insured State Nonmember Banks Which Are Municipal Securities Dealers	3064-AC04
4237	12 CFR 348	Management Interlocks Act	3064-AC08
4238	12 CFR 347	Foreign Activities of Insured State Nonmember Banks	3064-AC15
4239	12 CFR 325	Risk-Based Capital Standards: Claims on Securities Firms	3064-AC17
4240	12 CFR 364	Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness	3064-AC18
4241	12 CFR 362	Activities of Insured State Banks and Insured Savings Associations	3064-AC20

FDIC

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4242	12 CFR 308 Censure, Suspension, and Debarment of Independent Public Accountants	3064-AA64
4243	12 CFR 327 Assessments—Assessment Base	3064-AB46

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4244	12 CFR 325 Capital Maintenance—Elimination of Interagency Differences	3064-AB96
4245	12 CFR 362 Activities of Insured State Banks and Insured Savings Associations	3064-AC12
4246	12 CFR 330 Deposit Insurance Regulations; Joint Accounts and "Payable on Death" Accounts	3064-AC16
4247	12 CFR 326 "Know Your Customer" Requirements	3064-AC19

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

4226. RESTRICTIONS ON SALE OF ASSETS BY THE FDIC

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 340

Legal Deadline: None

Abstract: This regulatory action implements provisions in the Resolution Trust Corporation Completion Act of 1993 that require assets held by the FDIC in the course of liquidating federally insured depository institutions not to be sold to persons who, in ways specified in the Act, contributed to the demise of the institution.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Trout, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 416-4231

RIN: 3064–AB37

4227. PROGRAM FRAUD CIVIL REMEDIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The Program Fraud Civil Remedies Act (PFCRA) requires specified Federal agencies to follow certain procedures to recover penalties and assessments against persons who file false claims and statements. The Resolution Trust Corporation Completion Act of 1993 subjects the FDIC to the requirements of the PFCRA. An interagency task force was established by the President's Council on Integrity and Efficiency to develop model regulations for implementing the PFCRA. This regulatory action adopts, with minor variations, the model regulations set forth by the Council's task force.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark A. Mellon, Counsel, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429
Phone: 202 898-3854

RIN: 3064–AB41

4228. RECEIVERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 to 1821

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This rulemaking establishes uniform rules governing the payment and priority of post-insolvency interest payments from all receiverships administered by the FDIC and makes other technical and clarifying changes to part 360.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Glassman, Deputy Director, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6525

RIN: 3064–AB92

4229. • MINORITY AND WOMEN OUTREACH PROGRAM—CONTRACTING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1833e(c)

FDIC — Proposed Rule Stage

CFR Citation: 12 CFR 361

Legal Deadline: None

Abstract: This rulemaking proposes a statement of policy to utilize the Federal Affirmative Action Contracting Program, set forth in the Federal Acquisition Regulations, 48 CFR parts 19 and 52, providing contracting incentives to small disadvantaged businesses and proposes to amend its regulations establishing an outreach program for minority- and women-owned businesses as well as small disadvantaged businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Martin Blumenthal, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 736-0756

RIN: 3064–AC21

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

4230. CAPITAL MAINTENANCE—RECOURSE ARRANGEMENTS AND DIRECT CREDIT SUBSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The FDIC, the FRS, the OCC, and the OTS (Agencies) are revising their risk-based capital standards to address the regulatory capital treatment of recourse arrangements and direct credit substitutes that expose banks, bank holding companies, and thrifts to credit risk. One portion of the NPRM addressing the risk-based capital treatment of low-level recourse transactions is required to be published as a separate final rule by CDRI.

In addition, the Agencies published, in an ANPRM, a preliminary proposal to use credit ratings to match the risk-based capital assessment more closely to an institution's relative risk of loss in certain asset securitizations. The Agencies are also seeking comment on the need for a similar system for unrated asset securitizations and on how such a system would be designed. The Agencies intend that any final rules adopted in connection with these regulatory actions that result in increased risk-based capital requirements would apply only to transactions that are consummated after the effective dates of such final rules.

A second NPRM combining the issues raised in the ANPRM on credit ratings, and the NPRM on recourse and direct credit substitutes was published in November 1997 (62 FR 59944).

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	
Credit Ratings		
ANPRM 05/25/94 (59 FR 27116)		
Recourse/Direct Credit Substitutes		
NPRM 05/25/94 (59 FR 27116)		
Synthesis of Credit Ratings/Recourse/Direct Credit Substitutes		
NPRM 11/05/97 (62 FR 59944)		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8906

RIN: 3064–AB31

4231. CAPITAL MAINTENANCE—COLLATERALIZED TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-233; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rule was developed in consultation with the OCC, the FRS, and the OTS (Agencies). It amends FDIC's risk-based capital standards to make the standards uniform with the Agencies' treatments for transactions supported by collateral. The effect of the proposal is to allow banks to hold less capital for certain transactions collateralized by cash or qualifying securities.

This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	08/16/96	61 FR 42565
NPRM Comment Period End	10/15/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AB78

4232. QUALIFICATION REQUIREMENTS FOR THE RECOMMENDATION OR SALE OF CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1831

CFR Citation: 12 CFR 342

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, and the FDIC. It establishes qualifications for those banks that sell certain securities directly to retail customers through their employees without having to register as a broker under the Securities Exchange Act. More particularly, this action establishes filing requirements for banks, and registration, testing, and continuing education requirements for bank securities representatives consistent with the professional qualification requirements for broker-dealers and registered representatives under the Securities Exchange Act and rules thereunder, and the rules of the securities self-regulatory organizations.

FDIC **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68824
NPRM Comment Period End	02/28/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William A. Stark, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6972

RIN: 3064–AB85

4233. NOTIFICATION OF CHANGES OF INSURED STATUS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 307

Legal Deadline: None

Abstract: This rulemaking clarifies reporting and disclosure requirements already applicable to insured depository institutions. It implements the results of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	05/14/97	62 FR 26431
NPRM Comment Period End	07/14/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rodney D. Ray, Counsel, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429
Phone: 202 898-3556

RIN: 3064–AB88

4234. FORMAL MINORITY- AND WOMEN-OWNED BUSINESS AND LAW FIRM CERTIFICATION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 12 USC 1819; 12 USC 1822

CFR Citation: 12 CFR 361

Legal Deadline: None

Abstract: This rulemaking replaces the self-certification program for minority- and women-owned businesses wishing to do business with the FDIC, with a more formal program for certification. The rulemaking is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	04/14/97	62 FR 18059
NPRM Comment Period End	06/13/97	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Judith M. Wood, Chief, MWOP, Office of Diversity and Economic Opportunity, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 416-2456

RIN: 3064–AB95

4235. ADVERTISEMENT OF MEMBERSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1819; 12 USC 1828

CFR Citation: 12 CFR 328

Legal Deadline: None

Abstract: This regulatory action consolidates provisions relating to display of official signs; extends the official advertising statement that is currently required for insured banks to all insured depository institutions; streamlines exceptions to the use of the statement; prohibits use of the statement in advertisements concerning nondeposit investment products; and delegates authority to approve translations of the statement to certain FDIC officials. In addition, this action solicits comment on issues relating to advertisement of membership in the FDIC over a computer network such as the Internet. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 06142
NPRM Comment Period End	04/14/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc J. Goldstrom, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8807

RIN: 3064–AB99

4236. INSURED STATE NONMEMBER BANKS WHICH ARE MUNICIPAL SECURITIES DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)

CFR Citation: 12 CFR 343

Legal Deadline: None

Abstract: This rulemaking proposes to rescind the regulation that requires insured state nonmember banks which are municipal securities dealers to file with the FDIC certain information about those persons who are or seek to be associated with these dealers as municipal securities principals or municipal securities representatives. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	05/16/97	62 FR 26994
NPRM Comment Period End	07/15/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Federal Deposit Insurance Corporation, Division of Supervision, Washington, DC 20429
Phone: 202 898-3618

RIN: 3064–AC04

4237. MANAGEMENT INTERLOCKS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 3201 to 3208

CFR Citation: 12 CFR 348

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the OTS and the FDIC. It conforms the management interlocks rules to recent statutory changes, modernizes and clarifies the rules, and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements.

FDIC — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 43052
NPRM Comment Period End	10/13/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Curtis Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-6759

RIN: 3064–AC08

4238. FOREIGN ACTIVITIES OF INSURED STATE NONMEMBER BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813; 12 USC 1815; 12 USC 1817; 12 USC 1819; 12 USC 1820; 12 USC 1828; 12 USC 3103; 12 USC 3104; 12 USC 3105; 12 USC 3108; PL 98-181

CFR Citation: 12 CFR 347

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, and the FDIC. It implements the provisions related to an extended examination cycle for U.S. branches and agencies of foreign banks set out in section 2214 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/28/98	63 FR 46118
Interim Final Rule Comment Period End	10/27/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Walter, Chief, International Branch, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-3540

RIN: 3064–AC15

4239. RISK-BASED CAPITAL STANDARDS: CLAIMS ON SECURITIES FIRMS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819 (Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; 12 USC 1835

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the FDIC and OTS. This interim rule would revise the FDIC's risk-based capital standards set forth in the Basle Accord. This revision would permit claims on certain securities firms to receive the same preferential risk-weighting that is applied to claims on banks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-8904

RIN: 3064–AC17

4240. INTERAGENCY GUIDELINES ESTABLISHING YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 (Tenth); 12 USC 1831p-1

CFR Citation: 12 CFR 364

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the OTS, and the FDIC. It provides interim guidelines establishing Year 2000 safety and soundness standards for insured depository institutions pursuant to section 39 of the Federal Deposit Insurance Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/98	63 FR 55480
Interim Final Rule Comment Period End	12/14/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Hartigan, Year 2000 Project Manager, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-6867

RIN: 3064–AC18

4241. ACTIVITIES OF INSURED STATE BANKS AND INSURED SAVINGS ASSOCIATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 375a(4); 12 USC 375b; 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1820(d)(10); 12 USC 1821(f); 12 USC 1818; 12 USC 1819 (Tenth); 12 USC 1828(m); 12 USC 1831a; 12 USC 1831e

CFR Citation: 12 CFR 362; 12 CFR 337

Legal Deadline: None

Abstract: This rulemaking proposes to add safety and soundness standards to govern insured State nonmember banks that engage in the public sale, distribution or underwriting of stocks, bonds, debentures, notes or other securities through a subsidiary if those activities are permissible for a national bank subsidiary but are not permissible for the national bank itself. In addition, the rulemaking proposes to require that insured State nonmember banks file a notice before commencing any activities permissible for the parent national bank itself. The rulemaking also proposes to remove and reserve the provisions addressing "Securities Activities of Subsidiaries of Insured State Banks: Bank Transactions with Affiliated Securities Companies."

Timetable:

Action	Date	FR Cite
NPRM	12/01/98	63 FR 66339
NPRM Comment Period End	02/01/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

FDIC **Final Rule Stage**

Agency Contact: Curtis Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6759
RIN: 3064–AC20

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Long-Term Actions

4242. CENSURE, SUSPENSION, AND DEBARMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 308

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doris L. Marsh
Phone: 202 898-8905
RIN: 3064–AA64

4243. ASSESSMENTS—ASSESSMENT BASE

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 327

Timetable:

Action	Date	FR Cite
ANPRM	10/05/94	59 FR 50710
ANPRM Comment Period End	02/02/95	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fred Carns
Phone: 202 898-3930
RIN: 3064–AB46

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Completed Actions

4244. CAPITAL MAINTENANCE—ELIMINATION OF INTERAGENCY DIFFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 1835; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking, jointly sponsored by the FDIC, the FRS, the OCC, and the OTS, resolves differences among the agencies with regard to the capital treatment of construction loans on presold residential properties, real estate loans secured by junior liens on 1-4 family residential properties, investments in mutual funds, and the minimum Tier 1 leverage capital standard. This rule is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	10/27/97	62 FR 55686
NPRM Comment Period End	12/26/97	
Final Action	03/02/99	64 FR 10194
Final Action Effective	04/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904
RIN: 3064–AB96

4245. ACTIVITIES OF INSURED STATE BANKS AND INSURED SAVINGS ASSOCIATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819 (Seventh and Tenth); 12 USC 1828; 12 USC 1831e; 12 USC 1831o; 12 USC 1831p-1; 15 USC 1607

CFR Citation: 12 CFR 362; 12 CFR 337; 12 CFR 303

Legal Deadline: None

Abstract: This rulemaking withdraws a proposed rule published August 23, 1996, in the Federal Register at 61 FR 43486 (RIN 3064-AB75) to amend the FDIC's regulations governing the activities and investments of insured State banks, and replaces it with a more comprehensive rule.

The more comprehensive rulemaking combines the FDIC's regulations governing the activities and investments of insured State banks (presently found in 12 CFR part 362) with those governing insured savings associations (presently found at 12 CFR 303.12) into a revised part 362. In addition, the rule moves the FDIC's regulations governing safety and soundness of securities activities of subsidiaries and affiliates of insured State nonmember banks (currently at 12 CFR 337.4) into part 362. The intention is to modernize this group of regulations and harmonize the provisions of part 362 governing activities that are not permissible for national banks with those governing the securities activities of State nonmember banks.

Timetable:

Action	Date	FR Cite
NPRM	09/12/97	62 FR 47969
NPRM Comment Period End	12/11/97	
Final Action	12/01/98	63 FR 66276
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Curtis Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6759

RIN: 3064–AC12

FDIC

Completed Actions

4246. DEPOSIT INSURANCE REGULATIONS; JOINT ACCOUNTS AND "PAYABLE ON DEATH" ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813(l); 12 USC 1813(m); 12 USC 1817(i); 12 USC 1818(q); 12 USC 1819(Tenth); 12 USC 1820(f); 12 USC 1821(a); 12 USC 1822(c)

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: This rulemaking proposes to amend regulations governing the insurance coverage of joint ownership accounts and revocable trust (or payable-on-death) accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38521
NPRM Comment Period End	10/15/98	
Final Action	04/01/99	64 FR 15653
Final Action Effective	04/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph DiNuzzo, Senior Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7349

RIN: 3064–AC16

4247. "KNOW YOUR CUSTOMER" REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813; 12 USC 1815; 12 USC 1817; 12 USC 1818; 12 USC 1819 (Tenth); 12 USC 1881 to 1883; 31 USC 5318; 42 USC 4012a; 42 USC 4104b; 42 USC 4106

CFR Citation: 12 CFR 326

Legal Deadline: None

Abstract: This rulemaking proposes to issue regulations requiring insured nonmember banks to develop and maintain "Know Your Customer" programs, and report any transactions of its customers that are determined to be suspicious, in accordance with the FDIC's existing suspicious activity reporting regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/07/98	63 FR 67529
NPRM Comment Period End	03/08/99	
Withdrawn	03/29/99	64 FR 14845

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol A. Mesheske, Chief, Special Activities Section, Federal Deposit Insurance Corporation, Division of Supervision, Washington, DC 20429
Phone: 202 898-6750

RIN: 3064–AC19

[FR Doc. 99-4916 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part LVI

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by the Office of Management and Budget (OMB), the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 15 rulemakings listed, 13 are current or projected rulemakings, and 2 are completed actions.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

David P. Boergers,

Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4248	Regulation of Short-Term Natural Gas Transportation Services	1902-AB74
4249	Regulation of Interstate Natural Gas Transportation Services	1902-AB76
4250	Open Access Same-Time Information System and Standards of Conduct	1902-AB78

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4251	Treatment of Responses to FERC Form No. 580 Interrogatories	1902-AB57
4252	Revised Filing Requirements Under Part 33 of the Commission's Regulations	1902-AB73
4253	Complaint Procedures	1902-AB75
4254	Regional Transmission Organizations	1902-AB77
4255	Revision to Oil Pipeline Regulations	1902-AB79
4256	Regulations Governing Off-the-Record Communications	1902-AB80
4257	Collaborative Procedures for Energy Facility Applications	1902-AB81
4258	Revision of Existing Regulations Under Part 157 and Related Sections of the Commission's Regulations Under the Natural Gas Act	1902-AB82
4259	Landowner Notification, Residential Area Designation, and Other Environmental Filing Requirements	1902-AB83
4260	Regulations Under the Outer Continental Shelf Lands Act Governing the Movement of Natural Gas on Facilities on the Outer Continental Shelf	1902-AB84

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4261	Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities and Interconnection Facilities	1902-AB00
4262	Revision of Fuel Cost-Adjustment Clause Regulation Relating to Fuel Purchases From Company-Owned or Controlled Source	1902-AB58

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Proposed Rule Stage

4248. REGULATION OF SHORT-TERM NATURAL GAS TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 717 et seq; 15 USC 3301 to 3432; 42 USC 7101 to 7532; 43 USC 1331 to 1356

CFR Citation: 18 CFR 161; 18 CFR 250; 18 CFR 284

Legal Deadline: None

Abstract: The Commission is proposing an integrated package of revisions to its regulations governing interstate natural gas pipelines to reflect the changes in the market for short-term transportation services on pipelines. (Docket No. RM98-10-000.)

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 42982
Order Granting Extension of Time	10/16/98	63 FR 55563
Order Granting Extension of Time	12/30/98	63 FR 71806
Comment Period End	04/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Goldenberg, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2294

RIN: 1902–AB74

4249. REGULATION OF INTERSTATE NATURAL GAS TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 717 et seq; 15 USC 3301 to 3432; 42 USC 7101 to 7532; 43 USC 1331 to 1356

CFR Citation: 18 CFR ch 1

Legal Deadline: None

Abstract: The Commission is seeking comments on its long term regulatory policies for interstate natural gas transportation services in view of the changes that have taken place in the natural gas industry in recent years. (Docket No. RM98-12-000.)

Timetable:

Action	Date	FR Cite
Notice of Inquiry	08/11/98	63 FR 42974
Order Granting Extension of Time	10/16/98	63 FR 55563
Order Granting Extension of Time	12/30/98	63 FR 71806
Comment Period End	04/22/99	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ingrid Olson, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2015

RIN: 1902–AB76

4250. • OPEN ACCESS SAME-TIME INFORMATION SYSTEM AND STANDARDS OF CONDUCT

Priority: Info./Admin./Other

Legal Authority: 16 USC 791 to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 37

Legal Deadline: None

Abstract: The Commission proposes to adopt a set of uniform business practices implementing policies on transmission price negotiation and improving interactions over OASIS nodes. (Docket No. RM95-9-003.)

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5206
NPRM Comment Period End	04/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marvin Rosenberg, Economist, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 220426
Phone: 202 208-1283

RIN: 1902–AB78

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Long-Term Actions

4251. TREATMENT OF RESPONSES TO FERC FORM NO. 580 INTERROGATORIES

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 5 USC 301 to 305; 5 USC 551 to 557; 15 USC 79; 16 USC 791a to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 141; 18 CFR 388

Legal Deadline: None

Abstract: The Commission proposes to: codify an existing requirement for certain public utilities to file responses to FERC Form No. 580 interrogatories; provide for the filing of both hard copy and electronic copy; and provide that responses will not qualify for claims of privilege. (Docket No. RM94-5-000.)

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63312
NPRM Comment Period End	03/04/94	59 FR 1690
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Cohen, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2046

RIN: 1902–AB57

FERC — Long-Term Actions

4252. REVISED FILING REQUIREMENTS UNDER PART 33 OF THE COMMISSION'S REGULATIONS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 33

Legal Deadline: None

Abstract: The Commission has proposed to amend 18 CFR part 33 to update the filing requirements for applications under part 33, including applications for public utility mergers. (Docket No. RM98-4-000.)

Timetable:

Action	Date	FR Cite
NPRM	04/24/98	63 FR 20340
NPRM Comment Period End	08/24/98	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly D. Bose, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2294

RIN: 1902–AB73

4253. COMPLAINT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 583; 15 USC 717 et seq; 16 USC 791a et seq; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 USC app 1 to 85; EO 12009

CFR Citation: 18 CFR 1b; 18 CFR 343; 18 CFR 385

Legal Deadline: None

Abstract: The Commission is proposing to revise its regulations governing complaints filed under the Interstate Commerce Act, the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, and the Public Utility Regulatory Policies Act of 1978 to encourage and support consensual resolution of complaints, and to establish procedures that will support expeditious resolution of complaints. (Docket No. RM98-13-000.)

Timetable:

Action	Date	FR Cite
NPRM	08/06/98	63 FR 41982
NPRM Comment Period End	10/05/98	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Faerberg, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2087

RIN: 1902–AB75

4254. • REGIONAL TRANSMISSION ORGANIZATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 791 to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission is undertaking an inquiry on establishing independent system operators and regional transmission organizations. (Docket No. RM99-2-000.)

Timetable:

Action	Date	FR Cite
Notice of Intent to Consult	12/01/98	63 FR 66158
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian Gish, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-0996

RIN: 1902–AB77

4255. • REVISION TO OIL PIPELINE REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 557; 5 USC 571 to 583; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791a to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7532; 49 USC 1 to 27; 49 USC app 1 to 27

CFR Citation: 18 CFR 3; 18 CFR 341; 18 CFR 342; 18 CFR 343; 18 CFR 346; 18 CFR 357; 18 CFR 362; 18 CFR 385

Legal Deadline: None

Abstract: The Commission is proposing to revise its regulations governing oil pipelines to clarify the regulations and bring them up to date. (Docket No. RM99-1-000.)

Timetable:

Action	Date	FR Cite
NPRM	10/26/98	63 FR 57081
NPRM Comment Period End	11/25/98	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Travis R. Smith, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-0696

RIN: 1902–AB79

4256. • REGULATIONS GOVERNING OFF-THE-RECORD COMMUNICATIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 USC app 1 to 85

CFR Citation: 18 CFR 385

Legal Deadline: None

Abstract: The Commission is proposing to revise its rules concerning communications between persons outside the Commission and the Commission and its employees. The proposed regulations are designed to clarify ambiguities in the existing ex parte rules and to provide better guidance on what communications to and from the Commission are permissible and what communications are prohibited. (Docket No. RM98-1-000.)

Timetable:

Action	Date	FR Cite
NPRM	09/25/98	63 FR 51312
NPRM Comment Period End	12/24/98	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David R. Dickey, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2140

RIN: 1902–AB80

4257. • COLLABORATIVE PROCEDURES FOR ENERGY FACILITY APPLICATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 10485; EO 12038; 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 791 to 825r; 16 USC 2601 to 2645; 42 USC 7101 to 7352

CFR Citation: 18 CFR 4; 18 CFR 153; 18 CFR 157; 18 CFR 375

Legal Deadline: None

Abstract: The Commission proposes to expand procedural rules governing natural gas facilities and services to permit applicants a pre-filing collaborative process to resolve significant issues, including environmental ones. (Docket No. RM98-16-000.)

Timetable:

Action	Date	FR Cite
NPRM	10/07/98	63 FR 53853
NPRM Comment Period End	12/07/98	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Richard Hoffmann, Attorney Advisor, Office of Pipeline Regulations, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-0066

RIN: 1902–AB81

4258. • REVISION OF EXISTING REGULATIONS UNDER PART 157 AND RELATED SECTIONS OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551; 15 USC 717; 15 USC 3301; 16 USC 791; 16 USC 2601; 42 USC 4321; 42 USC 7101; 43 USC 1331; EO 120383; EO 10485

CFR Citation: 18 CFR 2; 18 CFR 157; 18 CFR 284; 18 CFR 375; 18 CFR 380; 18 CFR 381; 18 CFR 385

Legal Deadline: None

Abstract: The Commission proposes to update its regulations governing the filing of applications for the construction and operation of facilities to provide service or to abandon facilities or service under Section 7 of the Natural Gas Act. (Docket No. RM98-9-000.)

Timetable:

Action	Date	FR Cite
NPRM	10/16/98	63 FR 55682
NPRM Comment Period End	12/01/98	
Notice of Extension of Time	12/03/98	63 FR 66772
Comment Period End	12/22/98	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael J. McGehee, Regulatory Gas Utility Specialist, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2257

RIN: 1902–AB82

4259. • LANDOWNER NOTIFICATION, RESIDENTIAL AREA DESIGNATION, AND OTHER ENVIRONMENTAL FILING REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 551; 15 USC 717; 15 USC 3301; 16 USC 791; 16 USC 2601; 42 USC 4321; 42 USC 7101; 43 USC 1331; EO 12038; EO 10485

CFR Citation: 18 CFR 380

Legal Deadline: None

Abstract: The Commission intends to issue a notice of proposed rulemaking to implement new regulations to address its landowner notification policies and its present environmental designation of residential areas. (Docket No. RM98-17-000.)

Timetable:

Action	Date	FR Cite
Notice of Technical Conference	10/16/98	63 FR 55715
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John S. Leiss, Physical Scientist, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-1106

RIN: 1902–AB83

FERC — Long-Term Actions

4260. • REGULATIONS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT GOVERNING THE MOVEMENT OF NATURAL GAS ON FACILITIES ON THE OUTER CONTINENTAL SHELF

Priority: Other Significant

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 43 USC 1334(e) and (f); 49 USC 60502; 49 USC app 1 to 85

CFR Citation: 18 CFR 330; 18 CFR 385

Legal Deadline: None

Abstract: The Commission is considering requiring offshore natural gas transportation service providers to make available information regarding affiliations with shippers served and the conditions under which all shippers are served. These reporting requirements will assist the Commission and interested persons in determining whether gas transportation services conform with OCSLA's open access and nondiscrimination mandates. (Docket NO. RM99-5-000.)

Timetable:

Action	Date	FR Cite
Notice of Intent	06/05/98	63 FR 30675
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Gordon Wagner, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 Phone: 202 219-0122

RIN: 1902–AB84

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Completed Actions

4261. ADMINISTRATIVE DETERMINATION OF FULL AVOIDED COSTS, SALES OF POWER TO QUALIFYING FACILITIES AND INTERCONNECTION FACILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 18 CFR 292

Completed:

Reason	Date	FR Cite
Order Terminating Proceeding - (Effective 09/25/98, 63 FR 51310)	09/25/98	63 FR 51310

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Lawrence Greenfield Phone: 202 208-0415

RIN: 1902–AB00

4262. REVISION OF FUEL COST-ADJUSTMENT CLAUSE REGULATION RELATING TO FUEL PURCHASES FROM COMPANY-OWNED OR CONTROLLED SOURCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 18 CFR 35

Completed:

Reason	Date	FR Cite
Order Denying Rehearing	12/01/98	63 FR 66011

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Wayne W. Miller Phone: 202 208-0466

RIN: 1902–AB58

[FR Doc. 99-5650 Filed 04-23-99; 8:45 am]

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federal register

Monday
April 26, 1999

Part LVII

Federal Housing Finance Board

Semiannual Regulatory Agenda

FEDERAL HOUSING FINANCE BOARD (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR Ch. IX

Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Federal Housing Finance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Housing Finance Board (Finance Board) hereby publishes items for the Unified Agenda of Federal Regulatory and Deregulatory Actions, as required by section 4 of Executive Order 12866. These items reflect the status of the regulatory agenda of the Finance Board as of April 12, 1999. The Finance Board is an independent agency in the executive branch of the Government that is charged by statute with supervising and regulating the Nation's Federal Home Loan Bank (FHLBank) System and the Financing Corporation (FICO). The FHLBank System consists of: Twelve regional FHLBanks that are each owned by their member financial institutions and that provide wholesale credit to members and certain nonmembers to be used for housing finance and related activities and the Office of Finance (OF), which issues FHLBank System consolidated obligations. FICO is a corporate entity separate from the FHLBank System that oversees outstanding debt issued to assist in resolving the savings and loan crisis of the 1980s. The Finance Board has an ongoing need to adopt various regulations dealing with the Agency's internal administration and with FHLBank System and FICO issues.

ADDRESSES: Executive Secretariat, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2837.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Attorney-Advisor, Office of General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2932.

By the Federal Housing Finance Board.

Elaine L. Baker,

Executive Secretary.

FEDERAL HOUSING FINANCE BOARD (FHFB) — Proposed Rule Stage

4263. DEVOLUTION OF GOVERNANCE AUTHORITIES TO THE FHLBANKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b; 12 USC 1432(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Finance Board intends to publish one or more proposed rules to amend its regulations to devolve corporate governance authority with respect to certain matters from the Finance Board to the FHLBanks and to set forth guidelines regarding the exercise of these authorities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah F. Silberman, General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2570
Fax: 202 408-2580

RIN: 3069–AA64

4264. JOINT AND SEVERAL LIABILITY OF THE FHLBANKS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1431

CFR Citation: 12 CFR 910

Legal Deadline: None

Abstract: The Finance Board has issued a proposed rule to codify guidelines implementing statutory requirements regarding the joint and several liability of the FHLBanks for System debt.

Timetable:

Action	Date	FR Cite
NPRM	02/11/99	64 FR 6819
NPRM Comment Period End	04/12/99	
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlotte A. Reid, Special Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2510
Fax: 202 408-2580

RIN: 3069–AA78

4265. • FINANCIAL STATEMENTS OF THE BANKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b(a)(1)

CFR Citation: 12 CFR 937.2; 12 CFR 941.5

Legal Deadline: None

Abstract: The Finance Board intends to publish a proposed rule to amend part 937 of its regulations. The amendment would devolve to the OF the function of preparing the FHLBank System's annual and quarterly reports. Part 941 would also be amended to list the preparation of the Bank System's financial reports as an enumerated function of the OF.

FHFB **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric E. Berg, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589
Fax: 202 408-2580

RIN: 3069–AA81

4266. • AMENDMENT OF AFFORDABLE HOUSING PROGRAM REGULATIONS

Priority: Other Significant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board intends to publish a proposed rule to amend its Affordable Housing Program regulation to make certain technical changes to resolve operational issues that have arisen since its promulgation in 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA82

4267. • FHLBANK FINANCIAL MANAGEMENT REGULATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b(a); 12 USC 1431; 12 USC 1436(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Finance Board intends to publish a proposed rule to codify a comprehensive regulation to govern the investments of the FHLBanks and other FHLBank financial management issues. Currently, FHLBank investments are governed by section 934.1 of the regulations and an uncodified "Financial Management Policy."

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Bothwell, Chief Economist, Director, Policy, Research & Analysis, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2821
Fax: 202 408-2995

RIN: 3069–AA84

FEDERAL HOUSING FINANCE BOARD (FHFB) — Final Rule Stage

4268. TECHNICAL AMENDMENTS TO AFFORDABLE HOUSING PROGRAM REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board intends to finalize an interim final rule that made technical and other amendments to its Affordable Housing Program regulation to resolve several minor issues that had arisen since its promulgation in 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/98	63 FR 27668
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA73

4269. COLLATERAL ELIGIBLE TO SECURE FHLBANK ADVANCES

Priority: Other Significant

Legal Authority: 12 USC 1430

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: The Finance Board plans to issue a final rule amending its Advances regulation to permit FHLBanks to accept as security for advances both federally-guaranteed loans (to the extent of the guarantee), irrespective of such loans' delinquency status, and securities representing an equity interest in eligible mortgage or government securities collateral.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	02/08/98	
NPRM	12/08/98	63 FR 67625
Final Action	04/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Attorney-Adviser, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932

FHFB — Final Rule Stage

Fax: 202 408-2580

RIN: 3069–AA77

4270. • AVAILABILITY OF UNPUBLISHED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 12 USC 1422b(a)(1)

CFR Citation: 12 CFR 905

Legal Deadline: None

Abstract: The Finance Board intends to publish an interim final rule to add a new part to its regulations governing the availability of unpublished Finance Board information. The rule describes the procedures that must be followed when requesting unpublished Finance Board information either by document or by testimony of current or former Finance Board employees or agents and the practices and procedures the Finance Board will use in responding to such requests.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580

RIN: 3069–AA79

4271. • ADVANCE PARTICIPATIONS/TRANSFER OF ADVANCES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1430

CFR Citation: 12 CFR 935.16

Legal Deadline: None

Abstract: The Finance Board intends to publish a final rule to amend its Advances regulation to authorize the transfer of whole advances between FHLBanks in the event of the merger of consolidation of members on an interdistrict basis, or due to the relocation of a member to another district.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Jane S. Converse, Senior Attorney Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2976
Fax: 202 408-2580

RIN: 3069–AA80

4272. • AMENDMENT OF ADVANCES REGULATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a(a)(3); 12 USC 1422b(a)(1); 12 USC 1426; 12 USC 1429; 12 USC 1430; 12 USC 1430b; 12 USC 1431

CFR Citation: 12 CFR 935.15(b)

Legal Deadline: None

Abstract: The Finance Board is amending its regulation governing FHLBank advances to prohibit the FHLBanks from charging a fee to a member in lieu of redeeming the member's excess capital stock held in the Bank.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA83

FEDERAL HOUSING FINANCE BOARD (FHFB) — Long-Term Actions

4273. COMPENSATION OF FHLBANK AND OFFICE OF FINANCE OFFICERS AND EMPLOYEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 932; 12 CFR 941

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil R. Crowley
Phone: 202 408-2990
Fax: 202 408-2580

RIN: 3069–AA62

4274. FHLBANK SYSTEM MISSION REGULATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 12 CFR 937

Timetable:

Action	Date	FR Cite
ANPRM	04/09/97	62 FR 17108

FHFB — Long-Term Actions

Action	Date	FR Cite
ANPRM Comment Period End	06/09/97	62 FR 25563
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mitchell Berns
Phone: 202 408-2562
Fax: 202 408-2854

RIN: 3069–AA65

4275. CAPS ON BASE SALARIES OF FHLBANK PRESIDENTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 932

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil R. Crowley
Phone: 202 408-2990
Fax: 202 408-2580

RIN: 3069–AA74

FEDERAL HOUSING FINANCE BOARD (FHFB) — Completed Actions

4276. FHLBANK FINANCIAL MANAGEMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1422b(a); 12 USC 1431; 12 USC 1436(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Finance Board had intended to revise its Financial Management Policy (FMP) for the Federal Home Loan Bank System and to issue a proposed rule to codify the FMP as a regulation. This rulemaking has now been superseded by new plans to publish a comprehensive financial management regulation.

Timetable:

Action	Date	FR Cite
Proposed Statement of Policy	03/19/97	62 FR 13146
Comment Period End	04/18/97	
Withdrawn	02/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil R. Crowley, Deputy General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2990
Fax: 202 408-2580

RIN: 3069–AA50

4277. ELECTION OF FHLBANK DIRECTORS

Priority: Other Significant

Legal Authority: 12 USC 1422b(a); 12 USC 1427

CFR Citation: 12 CFR 932

Legal Deadline: None

Abstract: The Finance Board has adopted a final rule amending its regulation on the election of FHLBank directors to devolve the responsibility for administering the elections process from the Finance Board to the FHLBanks.

Timetable:

Action	Date	FR Cite
NPRM	05/13/98	63 FR 26532
Final Action	11/30/98	63 FR 65683
Final Action Effective	12/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil R. Crowley, Deputy General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2990
Fax: 202 408-2580

RIN: 3069–AA55

4278. FHLBANK LETTER OF CREDIT ISSUANCE

Priority: Other Significant

Legal Authority: 12 USC 1430(a); 12 USC 1431

CFR Citation: 12 CFR 938

Legal Deadline: None

Abstract: The Finance Board published a final rule codifying policies governing issuance of standby letters of credit by FHLBanks.

Timetable:

Action	Date	FR Cite
NPRM	05/08/98	63 FR 25726
NPRM Comment Period End	08/08/98	
Final Action	11/30/98	63 FR 65693
Final Action Effective	12/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Attorney-Adviser, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580

RIN: 3069–AA61

4279. REVISIONS TO THE FREEDOM OF INFORMATION ACT REGULATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 12 CFR 904

Legal Deadline: None

Abstract: The Finance Board revised its Freedom of Information Act Regulation to comply with new statutory requirements and to reorganize and streamline the regulation to clarify the Finance Board's practices and procedures in responding to requests for information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/13/98	63 FR 37483
Interim Final Rule Comment Period End	09/11/98	
Final Action	02/08/99	64 FR 5929
Final Action Effective	03/10/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

FHFB

Completed Actions

Agency Contact: Janice A. Kaye, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580

RIN: 3069–AA71

4280. COMMUNITY INVESTMENT CASH ADVANCE PROGRAMS

Priority: Other Significant

Legal Authority: 12 USC 1426; 12 USC 1429; 12 USC 1430; 12 USC 1430b; 12 USC 1431

CFR Citation: 12 CFR 935; 12 CFR 970

Legal Deadline: None

Abstract: The Finance Board issued a final rule establishing a general framework under which the FHLBanks may establish community investment cash advance (CICA) programs in addition to their Affordable Housing Programs (AHP) and Community Investment Programs (CIP). The rule does not require a FHLBank to establish CICA programs, but merely provides the FHLBanks with an outline of the types of FHLBank lending that the Finance Board has determined will meet the statutory requirement that CICA programs support community investment.

Timetable:

Action	Date	FR Cite
NPRM	05/08/98	63 FR 25722
NPRM Comment Period End	08/08/98	
Final Action	11/27/98	63 FR 65536
Final Action Effective	12/28/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA75

[FR Doc. 99-7017 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part LVIII

Federal Maritime Commission

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to section 4(b) of E.O. 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from April 1, 1999, to March 31, 2000, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Bryant L. VanBrakle, Secretary, 800 North Capitol Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 4(b) of Executive Order 12866 also requires agencies to publish a regulatory agenda. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

Bryant L. VanBrakle,

Secretary.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4281	Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries (Docket No. 98-28)	3072-AC06
4282	Carrier Automated Tariff Systems (Docket No. 98-29)	3072-AC07
4283	Service Contracts Subject to the Shipping Act of 1984 (Docket No. 98-30)	3072-AC08

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4284	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)	3072-AB75
4285	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket No. 94-06; Further Notice of Proposed Rulemaking)	3072-AB80
4286	Port Restrictions and Requirements in the United States/Japan Trade (Docket No. 96-20)	3072-AB97

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4287	Inquiry Into Automated Tariff Filing Systems as Proposed by the Pending Ocean Shipping Reform Act of 1998 (Docket No. 98-10)	3072-AC00
4288	Miscellaneous Amendments to Rules of Practice and Procedure (Docket No. 98-21)	3072-AC02
4289	Amendments to Regulations Governing Restrictive Foreign Shipping Practices and New Regulations Governing Controlled Carriers (Docket No. 98-25)	3072-AC03
4290	Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984 (Docket No. 98-26)	3072-AC04
4291	Marine Terminal Operator Schedules (Docket No. 98-27)	3072-AC05

FEDERAL MARITIME COMMISSION (FMC)

Final Rule Stage

4281. • LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES (DOCKET NO. 98-28)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 21 USC 862; 31 USC 9701; 46 USC app 1702; 46 USC app 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714; 46 USC app 1716; 46 USC app 1718

CFR Citation: 46 CFR 510; 46 CFR 515; 46 CFR 583

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The FMC proposes to add new regulations establishing licensing and financial responsibility requirements for ocean transportation intermediaries (OTIs) in accordance with the Shipping Act of 1984, as modified by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998. The rule proposes a sliding-scale bond amount for different categories of OTIs, establishes certain requirements for making claims against a surety, specifies what will be included in the term "transportation-related activities" that are covered by a bond, and solicits views on different options for what would qualify for OTI operations "in the United States." This latter point is relevant since only OTIs in the U.S. must be licensed.

Timetable:

Action	Date	FR Cite
NPRM	12/22/98	63 FR 70710
NPRM Comment Period End	01/21/99	
Final Rule and Interim Final Rule	03/08/99	64 FR 11156
Comments on Interim Rule Due	03/23/99	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830
Email: austins@fmc.gov

RIN: 3072–AC06

4282. • CARRIER AUTOMATED TARIFF SYSTEMS (DOCKET NO. 98-29)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 1701 to 1702; 46 USC app 1707 to 1709; 46 USC app 1712; 46 USC app 1716; PL 105-258; PL 105-383, sec 424

CFR Citation: 46 CFR 514; 46 CFR 520

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The FMC proposes to add new regulations establishing the requirements for carrier automated tariff systems in accordance with the Shipping Act of 1984, as modified by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998. The rule sets forth the requirements for publishing automated tariff systems that are accurate and accessible. At the same time, the FMC is repealing its current rules regarding tariffs and service contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/21/98	63 FR 70368
Correction to Proposed Rule	01/15/99	64 FR 2615
NPRM Comment Period End	01/20/99	
Final Rule and Interim Final Rule	03/08/99	64 FR 11218
Comments on Interim Final Rule Due	03/23/99	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830
Email: austins@fmc.gov

RIN: 3072–AC07

4283. • SERVICE CONTRACTS SUBJECT TO THE SHIPPING ACT OF 1984 (DOCKET NO. 98-30)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC app 1704 to 1705; PL 105-258

CFR Citation: 46 CFR 514; 46 CFR 530

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The FMC proposes to revise its regulations governing service contracts between shippers and ocean common carriers to reflect changes made to the Shipping Act of 1984 (1984 Act), as modified by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998. Specifically, the FMC proposes to revise its regulations implementing section 8(c) of the 1984 Act and create a new regulation which would govern only service contract filings. The FMC proposes to establish new rules for service contract filing and essential terms publication, revise its regulations to include the newly permitted agreement and multiple shipper-party service contracts, and make other conforming changes. The FMC is also proposing an electronic filing system for service contracts, which is intended to reduce the filing burden on parties and accommodate the efficient processing and review of what is predicted to be a large number of filed contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/23/98	63 FR 71062
NPRM Comment Period End	01/22/99	
Interim Final Rule	03/08/99	64 FR 11186
Comments on Interim Final Rule Due	04/01/99	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830
Email: austins@fmc.gov

RIN: 3072–AC08

FEDERAL MARITIME COMMISSION (FMC)

Long-Term Actions

4284. COLOADING PRACTICES AND POSSIBLE SECTION 16 EXEMPTION FOR COLOADING (DOCKET NOS. 93-22 AND 94-26)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 514.15; 46 CFR 580.5; 46 CFR 581.1; 46 CFR 581.3

Timetable:

Action	Date	FR Cite
NPRM	11/24/93	58 FR 62077
NPRM Comment Period End	03/11/94	59 FR 5974
Notice of Inquiry (Docket No. 94-26)	11/09/94	59 FR 55826
Comment Period End for NOI (Docket No. 94-26)	12/27/94	
NOI Comment Period Extended to 01/23/95	12/28/94	59 FR 66880
Final Action	To Be	Determined
Final Action Effective	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Panebianco
Phone: 202 523-5740
Fax: 202 523-5738
Email: thomas__p@fmc.gov

RIN: 3072–AB75

4285. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NO. 94-06; FURTHER NOTICE OF PROPOSED RULEMAKING)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 46 CFR 540.5; 46 CFR 540.9

Timetable:

Action	Date	FR Cite
NPRM	03/31/94	59 FR 15149
NPRM Comment Period End	05/02/94	
Comment Period Extended to	06/10/94	59 FR 23182
Comment Period Extended to	06/24/94	59 FR 30567
Notice of Inquiry (Docket No. 94-21)	10/14/94	59 FR 52133
Clarification of Notice of Inquiry	11/02/94	59 FR 54878
Comment Period End for Notice of Inquiry	11/28/94	59 FR 52133
Further NPRM (Docket No. 94-06)	06/26/96	61 FR 33059
Discontinuance of Proceeding for Docket No. 94-21	07/03/96	61 FR 39940
Further NPRM Comment Period End	08/26/96	61 FR 33059
Comment Period Extended to	09/25/96	61 FR 43209
Comment Period Extended to	10/15/96	61 FR 50265
Final Action	To Be	Determined
Final Action Effective	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Austin L. Schmitt
Phone: 202 523-5796
Fax: 202 523-5830
Email: austins@fmc.gov

RIN: 3072–AB80

4286. PORT RESTRICTIONS AND REQUIREMENTS IN THE UNITED STATES/JAPAN TRADE (DOCKET NO. 96-20)

Priority: Other Significant

CFR Citation: 46 CFR 586

Timetable:

Action	Date	FR Cite
NPRM	11/13/96	61 FR 58160
Comment Period Extended to 01/20/97	12/27/96	61 FR 68200
NPRM Comment Period End	01/13/97	
Final Rule	03/04/97	62 FR 9696
Final Rule Effective	04/14/97	
Amendment to Final Rule	04/16/97	62 FR 18532
Final Rule Effectiveness Extended to 09/04/97	04/16/97	62 FR 18533
Status Reports and Comments Due 07/01/97	04/16/97	62 FR 18533
Status Reports and Comments Due 08/05/97	04/16/97	62 FR 18433
Amendment to Final Rule - Denial of Petition	10/20/97	62 FR 54396
Final Rule Effectiveness Suspended 11/13/97	11/19/97	62 FR 61648
Final Action	To Be	Determined
Final Action Effective	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Panebianco
Phone: 202 523-5740
Fax: 202 523-5738
Email: thomas__p@fmc.gov

RIN: 3072–AB97

FEDERAL MARITIME COMMISSION (FMC)

Completed Actions

4287. INQUIRY INTO AUTOMATED TARIFF FILING SYSTEMS AS PROPOSED BY THE PENDING OCEAN SHIPPING REFORM ACT OF 1998 (DOCKET NO. 98-10)

Priority: Other Significant

Legal Authority: 46 USC app 1701 et seq

CFR Citation: 46 CFR 514

Legal Deadline: None

Abstract: The purposes of the inquiry are to determine an approach that will produce private automated tariff publication systems that best comport with the directives of S.414, the Ocean Shipping Reform Act of 1998, and its legislative history and to determine whether ocean common carriers should be required to file service contracts electronically. Comments are solicited on the possible requirements for such tariff filing systems and on the electronic filing of service contracts and publication of essential terms.

FMC

Completed Actions

Timetable:

Action	Date	FR Cite
Notice of Inquiry (Comments Due 08/10/98)	07/09/98	63 FR 37088
Extension of Time (Comments to 08/25/98)	08/11/98	63 FR 42801
End Review - Proposed Rule Issued in Docket No. 98-29.	12/21/98	63 FR 70368

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830
Email: austins@fmc.gov

RIN: 3072–AC00

4288. • MISCELLANEOUS AMENDMENTS TO RULES OF PRACTICE AND PROCEDURE (DOCKET NO. 98-21)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 551 to 553; 5 USC 556(c); 5 USC 559; 5 USC 561 to 569; 5 USC 571 to 596; 12 USC 1141j(a); 18 USC 207; 21 USC 853a; 26 USC 501(c)(3); 28 USC 2112(a); 31 USC 9701; 46 USC app 1114(b); 46 USC app 1705 to 1711; 46 USC app 1713 to 1716

CFR Citation: 46 CFR 500 to 588

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The Ocean Shipping Reform Act of 1998 (OSRA), which made numerous changes to the Shipping Act of 1984, was enacted on October 14, 1998, and becomes effective on May 1, 1999. Among other things, OSRA authorizes the FMC to prescribe implementing rules and regulations. Accordingly, the FMC must conform all of its rules and regulations to this new statute. In addition, other changes are proposed to improve various rules and to bring them in line with current practices, guidelines, and organization. This particular rule makes conforming changes to the Commission's Rules of Practice and Procedure and implements a minor, conforming change to the Commission's rules which provide interpretations and statements of policy.

Timetable:

Action	Date	FR Cite
NPRM	12/02/98	63 FR 66512
NPRM Comment Period End	01/04/99	
Final Action	02/17/99	64 FR 7804
Final Rule Correction	03/01/99	64 FR 9922
Final Action Effective	05/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5725
Fax: 202 523-0014
Email: secretary@fmc.gov

RIN: 3072–AC02

4289. • AMENDMENTS TO REGULATIONS GOVERNING RESTRICTIVE FOREIGN SHIPPING PRACTICES AND NEW REGULATIONS GOVERNING CONTROLLED CARRIERS (DOCKET NO. 98-25)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 876(a)(2); 46 USC app 876(e) to 876(l) Merchant Marine Act, 1920; 46 USC app 1710a Foreign Shipping Practices Act of 1988

CFR Citation: 46 CFR 550 to 551; 46 CFR 555; 46 CFR 560; 46 CFR 565; 46 CFR 585 to 588

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The FMC proposes to revise and redesignate its regulations which address the restrictive practices of foreign governments and add new regulations relating to the actions of common carriers who are controlled by foreign governments, in order to incorporate certain amendments made by the Ocean Shipping Reform Act of 1998, as well as to clarify and reorganize existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/04/98	63 FR 67030
NPRM Comment Period End	01/04/99	
Final Action	02/18/99	64 FR 8007
Final Rule Correction	03/04/99	64 FR 10395
Final Action Effective	05/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738
Email: thomas_p@fmc.gov

RIN: 3072–AC03

4290. • OCEAN COMMON CARRIER AND MARINE TERMINAL OPERATOR AGREEMENTS SUBJECT TO THE SHIPPING ACT OF 1984 (DOCKET NO. 98-26)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553 Administrative Procedure Act; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717; PL 104-88 Ocean Shipping Reform Act of 1998

CFR Citation: 46 CFR 535; 46 CFR 572

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The FMC proposes to amend its regulations governing agreements among ocean common carriers and marine terminal operators to reflect changes made to the Shipping Act of 1984 by the Ocean Shipping Reform Act of 1998. The FMC proposes to establish new rules for ocean carrier agreements regarding carriers' service contracts with shippers, amend the scope of marine terminal agreements subject to the Act, and make other conforming changes. The FMC also proposes to delete much of its format requirements for filed agreements, clarify the definition of "ocean common carrier," and make other technical amendments to the filing rules for clarity and administrative efficiency.

Timetable:

Action	Date	FR Cite
NPRM	12/15/98	63 FR 69034
NPRM Comment Period End	01/14/99	
Final Action	03/08/99	64 FR 11236
Final Action Effective	05/01/99	

Regulatory Flexibility Analysis Required: No

FMC

Completed Actions

Government Levels Affected: None

Agency Contact: Florence A. Carr, Director, Bureau of Economics and Agreement Analysis, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5787
Fax: 202 523-4372
Email: florence@fmc.gov

RIN: 3072–AC04

4291. • MARINE TERMINAL OPERATOR SCHEDULES (DOCKET NO. 98-27)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC app 1702; 46 USC app 1707; 46 USC app 1709

CFR Citation: 46 CFR 525

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The FMC proposes to add new regulations for marine terminal operator (MTO) schedules in accordance with the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998. The rule establishes form and manner requirements for the electronic publication of MTO schedules. These rules must be followed by all MTOs who opt to make their schedules public. These regulations will replace current rules applicable to the filing of MTO tariffs with the FMC.

Timetable:

Action	Date	FR Cite
NPRM	12/17/98	63 FR 69603
NPRM Comment Period End	01/19/99	
Final Action	02/25/99	64 FR 9281
Final Action Effective	05/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830
Email: austins@fmc.gov

RIN: 3072–AC05

[FR Doc. 99-4917 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part LIX

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period April 1 through October 1, 1999. The next agenda will be published in October 1999.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to Jennifer J. Johnson, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its April 1999 agenda as part of the April 1999 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries.

Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4292	Regulation: B—Equal Credit Opportunity (Docket Number: R-1008)**(Section 610 Review)**	7100-AC54
4293	Regulation: C—Home Mortgage Disclosure (Docket Number: R-1001)	7100-AC51
4294	Regulation: T—Credit by Brokers and Dealers; Regulation: U— Credit by Banks; and Regulation: X—Borrowers of Securities Credit (Docket Number: R-0995)	7100-AC45
4295	Regulation: CC—Availability of Funds and Collection of Checks (Docket Number: R-1031)	7100-AC57
4296	Section 303 Regulatory Review **(Section 610 Review)**	7100-AC09

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4297	Regulation: B—Equal Credit Opportunity; and Regulation: Z— Truth in Lending (Docket Numbers: R-1006 and R-1005)	7100-AC46
4298	Regulation: D—Reserve Requirements of Depository Institutions (Docket Number: R-0956)	7100-AC11
4299	Regulation: E—Electronic Fund Transfers (Docket Numbers: R-0919 and R-1002)	7100-AC06
4300	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0950)	7100-AC14
4301	Regulation: H—Membership of State Banking Institutions; Regulation: K—International Banking Operations; and Regulation: Y—Bank Holding Companies (Docket Number: R-1019)	7100-AC59
4302	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0930)	7100-AC13
4303	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket No: R-0947 & R-0948)	7100-AC29
4304	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0985)	7100-AB77
4305	Regulation: K—International Banking Operations (Docket Number: R-0994)	7100-AC47
4306	Regulation: L—Management Official Interlocks (Docket Number: R-1013)	7100-AC56
4307	Regulation: M—Consumer Leasing (Docket Number: R-1004)	7100-AC53
4308	Regulation: CC—Availability of Funds and Collection of Checks (Docket Number: R-1027)	7100-AC58
4309	Regulation: DD—Truth in Savings (Docket Number: R-1003)	7100-AC34
4310	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between a Member Bank and Its Subsidiaries (Docket Number: R-0977)	7100-AC42

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Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4311	Applicability of Section 23A to the Purchase of Securities From Certain Affiliates and to Loans and Extensions of Credit Made by a Member Bank to a Third Party (Docket Nos: R-1015 & R-1016)	7100-AC52
4312	Rules Regarding Availability of Information (Docket Number: R-0917)	7100-AC22

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4313	Regulation: E—Electronic Fund Transfers (Docket Number: R-1007)	7100-AC55
4314	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0982)	7100-AC39
4315	Regulation: J—Collection of Checks and Other Items by Federal Reserve Banks; and Regulation: CC—Availability of Funds and Collection of Checks (Docket Number: R-1009)	7100-AC50
4316	Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0990)	7100-AC49

FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

4292. REGULATION: B—EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-1008)(SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: In March 1998, pursuant to requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, section 610(c) of the Regulatory Flexibility Act of 1994 and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board approved issuing for public comment an advance notice of proposed rulemaking for Regulation B (63 FR 12326, March 12, 1998) which implements the Equal Credit Opportunity Act (ECOA). The ECOA makes it unlawful for creditors to discriminate against an applicant in any aspect of a credit transaction on the basis of race, color, religion, national origin, gender, marital status, age, and other specified bases. The review will determine whether Regulation B should be revised to address technological and other developments; better balance consumer protections and industry burden; and delete obsolete provisions. To gather information necessary for this review and to ensure the participation of interested parties, the Board solicited comment on several specific issues, including preapplication marketing practices, inquiry versus application data collection for nonmortgage credit products, and creditor liability. The Board also solicited comment generally on potential revisions to the regulation.

Following review of the public comments, the Board is expected to take further action during the second quarter of 1999. Specific proposals will take into account the economic impact on small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment	03/12/98	63 FR 12326
Further Board action by	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Natalie E. Taylor, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC54

4293. REGULATION: C—HOME MORTGAGE DISCLOSURE (DOCKET NUMBER: R-1001)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2801

CFR Citation: 12 CFR 203

Legal Deadline: None

Abstract: In March 1998, pursuant to requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board approved issuing for public comment an advance notice of proposed rulemaking for Regulation C which implements the Home Mortgage Disclosure Act (HMDA) (63 FR 12329, March 12, 1998). Regulation C requires most mortgage lenders located in metropolitan statistical areas to report annually to Federal agencies and disclose to the public information about their home purchase and home improvement lending activity. The review will determine whether Regulation C should be revised to address technological and other developments; better balance consumer protections and industry burden; and delete obsolete provisions. To gather information necessary for this review and to ensure the participation of interested parties, the Board solicited

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comment on several specific issues, while also soliciting comment generally on potential revisions to the regulation.

It is not anticipated that any proposed notice of rulemaking would have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action during the second quarter of 1999.

Timetable:

Action	Date	FR Cite
Board requested comment	03/12/98	63 FR 12329
Further Board action by	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jane Jensen Gell, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC51

4294. REGULATION: T—CREDIT BY BROKERS AND DEALERS; REGULATION: U—CREDIT BY BANKS; AND REGULATION: X—BORROWERS OF SECURITIES CREDIT (DOCKET NUMBER: R-0995)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78G, Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220; 12 CFR 221; 12 CFR 224

Legal Deadline: None

Abstract: As part of the regular review of its regulations and in accordance with requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 610(c) of the Regulatory Flexibility Act of 1994, the Board is conducting a review of its margin regulations. In order to complete this review, the Board approved issuing for public comment an advance notice of proposed rulemaking and request for comment in December 1997 (63 FR 2840, January 16, 1998). The advance notice highlights issues raised by commenters in response to previous requests for comment that had not been addressed by the Board in the course of its periodic review. It also provides an opportunity to further harmonize the treatment of bank and nonbank lenders under the revised Regulation U adopted by the Board at the same time as the advance notice. The advance notice also invites comment on all areas of the regulations.

Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	01/16/98	63 FR 2840
Further Board action by	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Scott Holz, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2966

RIN: 7100–AC45

4295. • REGULATION: CC—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-1031)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: In December 1998, the Board approved issuing for public comment an advance notice of proposed rulemaking on the potential benefits and drawbacks of a modification to Regulation CC that would shorten the maximum hold for many nonlocal checks from five to four business days (63 FR 69027, December 15, 1998). This modification would allow a depositary bank to retain a five-day schedule for categories on nonlocal checks for which it certifies that it does not receive a sufficient proportion of returned checks within four business days. This proposal is one of several alternative modifications to the nonlocal check availability schedule that the Board is considering. The objective of such a rule change would be to provide bank customers with faster funds availability when appropriate, in accordance with the Expedited Funds Availability Act. If adopted, shorter availability schedules would affect all depository institutions. The Board does not believe that the shorter schedules would be likely to have a significant economic impact on small institutions, as a substantial number of those institutions already provide availability for nonlocal checks faster than the regulatory maximum time frames.

Following review of the public comments, the Board is expected to take further action during the first half of 1999.

Timetable:

Action	Date	FR Cite
Board requested comment	12/15/98	63 FR 69027
Further Board action by	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jack Walton, Manager, Federal Reserve System, Division of Reserve Bank Operations and Payment Systems
Phone: 202 452-2660

RIN: 7100–AC57

4296. SECTION 303 REGULATORY REVIEW (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)(1); 5 USC 610

CFR Citation: 12 CFR ch II

Legal Deadline:
Other, Statutory, September 23, 1996, Progress Report due to Congress.

Abstract: In response to the requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the Board is reviewing its regulations for purposes of streamlining, improving efficiency, reducing unnecessary costs, and removing inconsistencies and outmoded/duplicative requirements. The Board is also working jointly with the other banking agencies to make uniform regulations and guidelines implementing common statutory and supervisory policies. A regulatory review timetable was published in the Federal Register in October 1995 (60 FR 53546, October 16, 1995). A progress report was sent to the Congress in September 1996. Within the next twelve months, it is expected that the Board will seek public comment during the course of the reviews of the

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regulations/policy statements/other regulatory guidance listed below. Reviews already proposed for public comment appear elsewhere in the Agenda.

Items below indicated with an asterisk will also be reviewed by the Board in accordance with the periodic review requirements of section 610 of the Regulatory Flexibility Act:

Regulations H and Y, Appendices, Capital Adequacy Guidelines.

*Regulation Z, Truth in Lending.

*Regulation DD, Truth in Savings.

Timetable:

Action	Date	FR Cite
Board action expected during the next twelve months	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Barbara R. Lowrey, Associate Secretary, Federal Reserve System, Office of the Secretary
Phone: 202 452-3742

RIN: 7100–AC09

FEDERAL RESERVE SYSTEM (FRS) **Final Rule Stage**

4297. REGULATION: B—EQUAL CREDIT OPPORTUNITY; AND REGULATION: Z—TRUTH IN LENDING (DOCKET NUMBERS: R-1006 AND R-1005)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1601 et seq; 12 USC 4301 et seq

CFR Citation: 12 CFR 202; 12 CFR 213; 12 CFR 226; 12 CFR 230

Legal Deadline: None

Abstract: In March 1998, the Board issued for public comment proposals to amend its consumer regulations, B (Equal Credit Opportunity), and Z (Truth in Lending), to permit electronic communications to substitute generally for oral or written disclosures documentation, and notices required under the individual regulations (63 FR 14548, March 25, 1998). Comment was also requested on similar amendments to Regulations M (Consumer Leasing) and DD (Truth in Savings) described in separate entries in the Agenda (see Docket Numbers: R-1004 and R-1003). At the same time, similar amendments to Regulation E, proposed as part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, were adopted as an interim rule (Docket Number: R-0919; RIN: 7100-AC06). The Board identified the use of electronic communication between consumers and financial institutions as an area that offered an opportunity to reduce regulatory compliance burden without adversely affecting consumer protections.

It is not anticipated that the proposals would have a significant economic impact on small institutions. Based on comments received in response to the March proposals, it is expected that the Board will consider publishing for comment additional proposals within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14548
Further Board action by	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Hentrel, Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC46

4298. REGULATION: D—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0956)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(a); 12 USC 248(c); 12 USC 371a; 12 USC 461; 12 USC 601; 12 USC 611; 12 USC 3105

CFR Citation: 12 CFR 204

Legal Deadline: None

Abstract: In December 1996, the Board issued for public comment a proposed rule that would revise and clarify the definition of "savings deposit" consistent with comments received in connection with the Board's June 1996 proposal to simplify Regulation D. The proposal would also make conforming changes to the definition of "transaction account" (61 FR 96054, December 31, 1996). No substantive change in the regulation is intended. It is not expected that the proposal will have a significant adverse impact upon a substantial number of small entities. Following review of the public comments, the Board is expected to take further action by mid-year.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/96	61 FR 69054
Further Board action by	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Heyke, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3688

RIN: 7100–AC11

4299. REGULATION: E—ELECTRONIC FUND TRANSFERS (DOCKET NUMBERS: R-0919 AND R-1002)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In May 1996, the Board issued for public comment proposed amendments to Regulation E imposing modified requirements on stored-value products in systems that track individual transactions, cards, or consumers and providing an exemption for cards on which a maximum value of $100 can be stored (Docket Number: R-0919; 61 FR 19696, May 2, 1996).

The Board also proposed extending the error resolution time limits for new accounts and permitting electronic communications to substitute generally for oral or written disclosures documentation, and notices required under Regulation E.

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The proposals were part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 610(c) of the Regulatory Flexibility Act of 1994. It is not expected that the proposals would have a significant economic impact on small institutions.

In March 1998, following review of the public comments, the Board issued an interim rule, with request for comments, to permit electronic communications to substitute for disclosures, documentation, and notices under Regulation E (Docket Number: R-1002; 63 FR 14528, March 25, 1998). In September 1998, the Board adopted the proposal extending the time periods resolving errors on new accounts substantially as proposed (63 FR 52115, September 29, 1998). Based on public comments received, it is anticipated that the Board will consider publishing additional proposals for comment on the electronic communications rule within the next two months. Action on the stored-value card amendment is expected by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	05/02/96	61 FR 19696
Board adopted interim rule on electronic communications	03/25/98	63 FR 14528
Board adopted final rule on new accounts	09/29/98	63 FR 52115
Further Board action on electronic communications by	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC06

4300. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0950)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; ...

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In December 1996, the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency jointly published for comment a proposed regulation establishing a professional qualification program for banks that engage in retail recommendations and sales of certain securities using their own employees (61 FR 68824, December 30, 1996). The proposed regulation will establish qualification testing registration and continuing education requirements for bank employees that act in the capacity of bank securities representatives. The proposed requirements will be based on the professional qualification rules of the securities self-regulatory organizations. It is not anticipated that the proposal will have a significant economic impact on a substantial number of small banks.

Following review of the public comments and coordination with the other agencies, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/30/96	61 FR 68824
Further Board action by	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Angela Desmond, Senior Counsel, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3497

RIN: 7100–AC14

4301. • REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS; REGULATION: K—INTERNATIONAL BANKING OPERATIONS; AND REGULATION: Y—BANK HOLDING COMPANIES (DOCKET NUMBER: R-1019)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818(s)(1); 12 USC 1831p-1(a)(2)

CFR Citation: 12 CFR 208; 12 CFR 211; 12 CFR 225

Legal Deadline: None

Abstract: In December 1998, the Board approved issuing for public comment a proposal to require domestic and foreign banking organizations supervised by the Board to develop and maintain "Know Your Customer" programs (63 FR 67516, December 7, 1998). As proposed, the regulations would require each banking organization to develop a program designed to determine the identity of its customers; determine its customers' sources of funds; determine, understand, and monitor the normal and expected transactions of its customers; and report appropriately any transactions of its customers that are determined to be suspicious, in accordance with the Board's existing suspicious activity reporting regulations. The proposal is intended to protect the reputation of the bank, facilitate the bank's compliance with all applicable statues and regulations (including the Bank Secrecy Act and the suspicious activity reporting requirements of 12 CFR 208.20) and with safe and sound banking practices, and protect the bank from becoming a vehicle for or a victim of illegal activities perpetrated by its customers. By requiring banking organizations to determine the identity of their customers, as well as to obtain knowledge regarding the legitimate activities of their customers, it is believed that the proposed regulation will reduce the likelihood that banking organizations will become unwitting participants in illicit activities conducted or attempted by their customers.

It is not expected that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Board staff has been meeting with staffs of the Office of the Comptroller of the Currency, the Federal Deposit

Insurance Corporation, and the Office of Thrift Supervision, all of whom issued similar regulations, to review the unprecedented number of public comments and consider options for further action. The "Know Your Customer" proposal is expected to be considered by the Board on March 23, while action on technical amendments to Regulations K and Y in R-1019 is expected within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/07/98	63 FR 67516
Board consideration of "Know Your Customer" on	03/23/99	
Board action on technical amendments	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Small, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5235

RIN: 7100–AC59

4302. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0930)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831(o); 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208 app A

Legal Deadline: None

Abstract: In August 1996, the Board issued for public comment a proposal to revise the risk-based capital treatment for certain collateralized transactions (61 FR 42565, August 16, 1996). Under the Board's existing risk-based capital treatment, the portion of a transaction that is supported by qualifying collateral (that is, cash or OECD government securities) is risk-weighted at 20 percent. Transactions that are fully supported by collateral with a positive margin may be eligible for a zero percent risk weight. Generally, the proposal would permit a portion of a transaction that is fully supported with a positive margin of collateral to be eligible for a zero percent risk weight. The portion that is to be continuously collateralized must be specified by the parties.

This proposal was developed on an interagency basis and, if adopted, would eliminate one of the substantive differences among the agencies with regard to the risk-based capital treatment for collateralized transactions. It would implement part of the Riegle Community Development and Regulatory Improvement Act of 1994, which requires the agencies to make uniform regulations and guidelines implementing common supervisory policies. The effect of the proposal would be to allow institutions to hold less capital for certain collateralized transactions. It is not expected to have a significant economic impact on a substantial number of small entities.

Following review of the public comments and development of an inter-agency final rule, the Board is expected to take further action by mid-year.

Timetable:

Action	Date	FR Cite
Board requested comment	08/16/96	61 FR 42565
Further Board action by	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Connolly, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3621

RIN: 7100–AC13

4303. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NO: R-0947 & R-0948)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; ...

CFR Citation: 12 CFR 208 app A; 12 CFR 208 app B; 12 CFR 225 app A; 12 CFR 225 app D

Legal Deadline: None

Abstract: In October 1997, the Board issued for public comment proposals to revise the Federal Reserve's risk-based capital treatment for junior liens on 1-to 4-family residential properties and for investments in mutual funds (62 FR 55686, October 27, 1997). The proposals also simplify the Federal Reserve's leverage capital guidelines for banks and make the leverage capital guidelines for bank holding companies consistent with the definition of a well-capitalized bank holding company for expedited applications purposes.

The proposals were issued on an interagency basis as part of the efforts under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 to make interagency guidelines uniform. In June 1998, following review of the public comments, the Board adopted the proposed revisions to the bank holding company leverage ratio (63 FR 30369, June 4, 1998). Action by the Board and other agencies on the proposals for banks and thrifts is expected within the next two months. The proposed changes will not have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment	10/27/97	62 FR 55686
Board adopted bank holding company proposal	06/04/98	63 FR 30369
Further Board action by	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirk Odegard, Senior Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 530-6225

RIN: 7100–AC29

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Final Rule Stage

4304. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0985)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i

CFR Citation: 12 CFR 208 app A; 12 CFR 225 app A

Legal Deadline: None

Abstract: In May 1994, the Board issued for public comment two proposals on the capital treatment of recourse arrangements and direct credit substitutes. The first proposal: (1) formally defines recourse and direct credit substitutes; (2) reduces the risk-based capital charge for low-level recourse arrangements to the maximum amount of possible loss under the recourse obligation up to the effective capital charge; and (3) requires the same risk-based capital charge for first-loss direct credit substitutes as is currently applied to recourse transactions (59 FR 27115, May 25 1994). The second proposal, an advance notice of proposed rulemaking, sought public comment on an approach to assessing risk-based capital on banking organizations' risk exposures associated with certain asset securitizations. Under this approach, the capital charge would be based upon the relative risk of loss.

Subsequent to the issuance of this proposal, the Board issued a regulation limiting the amount of risk-based capital an insured depository institution is required to hold for assets transferred with recourse to the maximum amount of recourse for which the institution is contractually liable (60 FR 8177, February 13 1995).

In November 1997, the Board requested public comment on a revised proposal that sets forth the definitions and capital treatments discussed above (62 FR 59944, November 5, 1997). In addition, the proposal requests comment on several alternative approaches to assessing capital against asset securitizations including the use of internal bank information.

Small entities would be affected by the final rule and the two proposals only to the extent that they engage in extending recourse arrangements and direct credit substitutes or purchasing asset-backed securities. It is not expected that the proposals will have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action by mid-year.

Timetable:

Action	Date	FR Cite
Board requested comment	05/25/94	59 FR 27115
Board adopted one aspect of the proposal	02/13/95	60 FR 8177
Board requested comment on a revised proposal	11/05/97	62 FR 59944
Further Board action by	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Boemio, Senior Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation Phone: 202 452-2982

RIN: 7100–AB77

4305. REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0994)

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 12 USC 221 et seq; 12 USC 248(i); 12 USC 248(k); 12 USC 1818; 12 USC 1835a; 12 USC 1841 et seq; 12 USC 3101 et seq; 12 USC 3109 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In December 1997, consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the International Banking Act of 1978, and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 the Board reviewed and proposed for public comment a number of changes to Regulation K which governs international banking operations (62 FR 68424, December 31, 1997). Subpart A of Regulation K governs the foreign investments and activities of all member banks. The proposed amendments include streamlined foreign branching procedures for U.S. banking organizations, authorization of expanded activities in foreign branches of U.S. banks, and expansion of the authority of U.S. banking organizations to engage in equity dealing and underwriting and to make venture capital investments outside the United States. Subpart B of Regulation K governs the U.S. activities of foreign banking organizations. The proposed amendments include revisions aimed at streamlining the applications procedures applicable to foreign banks seeking to expand operations in the United States, changes to provisions regarding the qualification of certain foreign banking organizations for exemption from the nonbanking prohibitions of section 4 of the Bank Holding Company Act, and implementation of provisions of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 that affect foreign banks. In addition, a number of technical and clarifying amendments to subparts A and B, as well as to subpart C which governs export trading companies, and certain amendments to the Board's Rules Regarding Delegation of Authority have been proposed.

The proposed amendments are not expected to have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/97	62 FR 68424
Further Board action by	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen M. O'Day, Associate General Counsel, Federal Reserve System, Legal Division Phone: 202 452-3786

RIN: 7100–AC47

FRS — Final Rule Stage

4306. REGULATION: L—MANAGEMENT OFFICIAL INTERLOCKS (DOCKET NUMBER: R-1013)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3201 et seq

CFR Citation: 12 CFR 212

Legal Deadline: None

Abstract: In August 1998, the Board, along with the other Federal depository institution regulatory agencies, approved issuing for public comment a proposal to amend regulations, including the Board's Regulation L, governing depository institution management interlocks to reflect certain statutory changes (63 FR 43051, August 11, 1998). In addition to implementing these statutory changes, the agencies also proposed a small market share exemption for institutions that, on a combined basis, control less than 20 percent of the deposits in a community or relevant metropolitan statistical area. The exemption is intended to enlarge the pool of management talent upon which depository institutions may draw and thereby enhance the competitiveness of these institutions.

It is not anticipated that the proposal will have a significant impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	08/11/98	63 FR 43051
Further Board action by	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Corsi, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AC56

4307. REGULATION: M—CONSUMER LEASING (DOCKET NUMBER: R-1004)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1667

CFR Citation: 12 CFR 213

Legal Deadline: None

Abstract: As part of the Board's overall review of its regulations under section 610(c) of the Regulatory Flexibility Act of 1994 and section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the Board determined that the use of electronic communications to deliver information to consumers that is required by Federal consumer financial services and fair lending laws could effectively reduce regulatory compliance burden without adversely affecting consumer protections. In March 1998, the Board approved issuing for public comment a proposal to amend Regulation M that would allow lessors to deliver by electronic communication the disclosures required by the Consumer Leasing Act and the Board's regulation, if the consumer agrees to such delivery (63 FR 14538, March 25, 1998). In addition, the proposal contains several technical amendments that would be made to the regulation and commentary.

In September 1998, the Board adopted several technical amendments, and provided guidance on the treatment of taxes and on rounding issues related to the payment calculation disclosure (63 FR 52107, September 29, 1998). Based on public comments, it is anticipated that the Board will consider publishing additional proposals for comment within the next two months to permit lessors to deliver by electronic communication disclosures required by the act and the Board's regulation.

It is not anticipated that the rule will have any significant impact on small entities. The rule relieves compliance burden and gives lessors flexibility in providing disclosures.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14538
Board adopted technical amendments	09/29/98	63 FR 52107
Further Board action on electronic communications by	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Obrea O. Poindexter, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC53

4308. • REGULATION: CC—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-1027)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: In December 1998, the Board issued for public comment proposed amendments to Regulation CC to allow banks that consummate a merger on or after July 1, 1998, and before June 1, 1999, greater time to implement software changes related to the merger (63 FR 66499, December 2, 1998). Comment is requested on the need for this amendment and whether the proposed liberalization of the regulation's merger transaction provisions is adequate to avoid contention for programming and testing resources necessary to manage banks' Year 2000 readiness efforts that otherwise would be created by these requirements.

The proposed amendments are intended to provide relief to banks involved in mergers, including small institutions, by reducing required changes to their automation environment during the period surrounding the century rollover, and should not have a negative economic impact on small institutions. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/02/98	63 FR 66499
Further Board action by	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jean Anderson, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3707

RIN: 7100–AC58

FRS

Final Rule Stage

4309. REGULATION: DD—TRUTH IN SAVINGS (DOCKET NUMBER: R-1003)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: Sections 261 to 275 of the Federal Deposit Insurance Corporation Improvement Act of 1991 require depository institutions to provide a schedule of terms, rates, and fees for deposit accounts offered by the institution. The law also sets forth rules for advertisements for deposit accounts.

In September 1996, the Congress amended the Truth in Savings Act (TISA) as a part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The amendments repeal the definition of "indoor lobby sign," eliminate any disclosure requirements for nonrenewing time accounts with terms less than 30 days, and exempt certain credit unions from coverage. In March 1998, the Board issued for public comment a proposal that would implement the statutory changes (63 FR 14533, March 25, 1998). The proposal would also allow depository institutions to deliver by electronic communication disclosures required by TISA and the Board's regulation, if the consumer agrees to such delivery.

In September 1998 following review of the public comments, the Board adopted final amendments implementing the statutory changes substantially as proposed (63 FR 52106, September 29, 1998). It is not expected that there will be a significant economic impact on small institutions. Based on public comments received on the electronic communications proposal, it is expected that the Board will consider publishing additional proposals for comment within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14533
Board adopted statutory changes	09/29/98	63 FR 52106
Further Board action on electronic communications by	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Obrea O. Poindexter, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC34

4310. APPLICABILITY OF SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT TO TRANSACTIONS BETWEEN A MEMBER BANK AND ITS SUBSIDIARIES (DOCKET NUMBER: R-0977)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c(b)(1)(E)

CFR Citation: 12 CFR 250.243

Legal Deadline: None

Abstract: Sections 23A and 23B of the Federal Reserve Act restrict the ability of a member bank to fund an affiliate through direct investment, loans, or other transactions. In July 1997, the Board issued for public comment a proposal to apply sections 23A and 23B to transactions between a member bank and any subsidiary that engages in activities that are impermissible for the bank itself and that Congress has not previously exempted from coverage by section 23A (62 FR 37744, July 15, 1997). The proposed treatment is largely consistent with the existing treatment of these subsidiaries by the other banking agencies, which have applied sections 23A and 23B in some form to transactions between a bank and such subsidiaries. The issuance of the proposals will avoid the application of sections 23A and 23B on an ad hoc basis by different agencies, which could result in confusion and inconsistencies.

The proposal is not expected to have a significant economic impact on a substantial number of small businesses. Following review of the public comments, the Board is expected to take further action by mid-year.

Timetable:

Action	Date	FR Cite
Board requested comment	07/15/97	62 FR 37744
Further Board action by	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Pamela G. Nardolilli, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3289

RIN: 7100–AC42

4311. APPLICABILITY OF SECTION 23A TO THE PURCHASE OF SECURITIES FROM CERTAIN AFFILIATES AND TO LOANS AND EXTENSIONS OF CREDIT MADE BY A MEMBER BANK TO A THIRD PARTY (DOCKET NOS: R-1015 & R-1016)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c

CFR Citation: 12 CFR 250

Legal Deadline: None

Abstract: In June 1998, the Board issued for public comment two proposed rules to exempt certain transactions from the restrictions of section 23A of the Federal Reserve Act (63 FR 32766, June 16, 1998). Section 23A restricts the ability of a member bank to fund its affiliates through direct investment, loans, or certain other transactions (covered transactions). These proposals are in response to concerns raised by organizations when the Board earlier proposed removal of certain firewalls between insured depository institutions and their section 20 securities affiliates. Several petitioners stated then that although the removal of the firewalls was welcomed, section 23A continued to limit certain transactions with their section 20 subsidiaries that do not raise significant safety and soundness issues and impeded the efficient operation of the insured depository institutions.

In Docket Number: R-1015, the Board is proposing to expand the kind of assets that may be eligible for the (d)(6) exemption to include securities that, although not so widely traded as to warrant publication of their activity in publications of general circulation, are actively traded and whose price can be obtained from independent reliable sources, if the securities are purchased from a registered broker-dealer.

In Docket Number: R-1016, the Board is proposing to grant two exemptions from section 23A for certain loans and extension of credit made by an insured depository institution to customers that use the proceeds to purchase certain securities from or through the depository institution's registered broker-dealer affiliate. The first

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exemption would apply when the affiliate is acting solely as a broker or riskless principal in the securities transaction. The second exemption would apply when the extension of credit is made pursuant to a pre-existing line of credit that was not established for the purposes of buying securities from or through an affiliate.

Following review of the public comments, the Board is expected to take further action by mid-year. It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	06/16/98	63 FR 32766
Further Board action by	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela Nardolilli, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3289

RIN: 7100–AC52

4312. RULES REGARDING AVAILABILITY OF INFORMATION (DOCKET NUMBER: R-0917)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 12 USC 248(i); 12 USC 248(k); 12 USC 321 et seq; 12 USC 611 et seq; 12 USC 1442; 12 USC 1817(a)(2)(A); 12 USC 1817(a)(8); 12 USC 1818(u); 12 USC 1818(v); 12 USC 1821(o); 12 USC 1821(t); 12 USC 1830; 12 USC 1844; 12 USC 1951 et seq; ...

CFR Citation: 12 CFR 261

Legal Deadline: None

Abstract: In February 1996, the Board issued for public comment proposed amendments to its Rules Regarding Availability of Information (61 FR 7436, February 28, 1996). The proposed amendments, although primarily technical in nature, are intended to improve the Board's efficiency in processing requests for the disclosure of publicly available information as well as confidential supervisory information. It is not anticipated that the proposed amendments will have a significant economic impact on a substantial number of small entities subject to the regulation.

In light of the passage of time since the Board's February 1996 proposal was issued for public comment, the Board will make changes in that proposal based on the comments received and will reissue revised proposed amendments for further comment. The February 1996 proposal deals primarily with the discretionary authority of the Board's General Counsel to produce information. These amendments are part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. Further Board action on the remainder of the regulation is expected by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	02/28/96	61 FR 7436
Further Board action by	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Appelbaum, Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3389

RIN: 7100–AC22

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

4313. REGULATION: E—ELECTRONIC FUND TRANSFERS (DOCKET NUMBER: R-1007)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In March 1998, the Board issued for public comment proposed amendments to Regulation E to eliminate the extended time periods for investigating error claims involving point-of-sale (POS) debit card and foreign-initiated electronic fund transfers (63 FR 14555, March 25, 1998). Under Regulation E, financial institutions generally have 10 business days to provisionally credit an account and up to 45 calendar days to complete an investigation of a claimed error involving an electronic fund transfer to or from a consumer account. For POS and foreign transactions, institutions have up to 20 business days to provisionally credit an account and up to 90 calendar days to complete the investigation. The proposed rule also contained a technical amendment to a model form.

In September 1998, following review of the public comments, the Board adopted the amendments substantially as proposed, except that the Board did not reduce the 90 calendar days to complete an investigation (63 FR 52115, September 29, 1998). The rule also included final action on the proposal extending the time periods resolving errors on new accounts, published for comment in May 1996 (Docket Number: R-0919; RIN: 7100-AC06). That amendment was also adopted substantially as proposed.

It is not expected that the final rule will have a significant economic impact on a substantial number of small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14555
Board adopted proposal	09/29/98	63 FR 52115

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC55

FRS

Completed Actions

4314. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0982)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; ...

CFR Citation: 12 CFR 208 app A; 12 CFR 225 app A

Legal Deadline: None

Abstract: In October 1997, as part of a joint interagency proposal, the Board requested public comment on revisions to the Federal Reserve's risk-based capital guidelines to permit certain revaluation gains on equity securities in Tier 2 capital (62 FR 55682, October 27, 1997). Under the proposal an institution would be permitted to include in Tier 2 capital up to 45 percent of its unrealized revaluation gains on prudently valued equity securities. This treatment is consistent with the Basel Accord.

In September 1998, following review of the public comments, the Board adopted the revisions substantially as proposed (63 FR 46518, September 1, 1998). It is not expected that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment	10/27/97	62 FR 55682
Board adopted proposal	09/01/98	63 FR 46518

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Bouchard, Manager, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3072

RIN: 7100–AC39

4315. REGULATION: J—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS; AND REGULATION: CC—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-1009)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(i); 12 USC 248(j); 12 USC 248(o); 12 USC 342; 12 USC 360; 12 USC 464; 12 USC 4001 et seq

CFR Citation: 12 CFR 210; 12 CFR 229

Legal Deadline: None

Abstract: In March 1998, the Board approved issuing for public comment an advance notice of proposed rulemaking regarding the benefits and drawbacks associated with the provisions of Regulation CC that require a paying bank to settle with a presenting bank for checks on the same day the checks are presented, as long as the checks are presented by 8:00 a.m. local time at specified locations (63 FR 12700, March 16, 1998). The Board also requested comment on the effects of additional changes to Regulations J and CC to reduce the legal disparities between the Federal Reserve Banks and private-sector banks in the presentment and settlement of checks. The objective of such rule changes would be to promote competition in check collection services, which should promote efficiencies and spur innovation.

In December 1998, based on its analysis of the comments received, the Board concluded that the costs associated with reducing the remaining legal disparities would outweigh any payments system efficiency gains. Therefore, the Board decided not to propose any specific regulatory changes for the time being (63 FR 68701, December 14, 1998).

Timetable:

Action	Date	FR Cite
Board requested comment	03/16/98	63 FR 12700
Termination of proposed rulemaking	12/14/98	63 FR 68701

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Martin, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3198

RIN: 7100–AC50

4316. REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0990)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1828o; 12 USC 1831i; 12 USC 1831p-1; 12 USC 1843(c)(8); 12 USC 1844(b); 12 USC 1972(1); 12 USC 3106; 12 USC 3108; 12 USC 3310; 12 USC 3331 to 3351; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In December 1997, the Board approved issuing for public comment a proposal to exempt any transaction involving the underwriting or dealing of mortgage-backed securities from the Board's appraisal requirements (62 FR 64997, December 9, 1997). This amendment would permit a nonbank subsidiary of a bank holding company engaged in underwriting and dealing in securities (a so-called section 20 subsidiary) to underwrite and deal in mortgage-backed securities without demonstrating that the loans underlying the securities are supported by appraisals that meet the Board's appraisal requirements. As the proposal notes, the Board believes the public rating or due diligence that the market requires for mortgage-backed securities provides information that is at least as sufficient for assessing risks as new appraisals for the underlying loans. The Board proposed this amendment to address concerns raised by bank holding companies regarding the inability of section 20 subsidiaries to actively participate in the commercial mortgage-backed securities market due to the appraisal restrictions of subpart G.

It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. In December 1998, following review of the public comments, the Board adopted the final rule substantially as proposed (63 FR 65530, November 27, 1998).

FRS

Completed Actions

Timetable:

Action	Date	FR Cite
Board requested comment	12/09/97	62 FR 64997
Board adopted proposal	11/27/98	63 FR 65530

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark E. Van Der Weide, Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2263

RIN: 7100–AC49

[FR Doc. 99-4918 Filed 04-23-99; 8:45 am]
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Monday
April 26, 1999

Part LX

Federal Trade Commission

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1). The Commission's agenda observes guidelines and procedures issued January 8, 1999, by the Office of Management and Budget in accordance with the provisions of President Clinton's Executive Order No. 12866 "Regulatory Planning and Review" (September 30, 1993) (58 FR 51735; October 4, 1993).

Most of the reviews listed on the following agenda are being conducted as part of the Commission's 10-year plan, begun in 1992, to review and seek information about all of its regulations and guides, including their costs and benefits, and regulatory and economic impact, every 10 years. These reviews incorporate and expand upon the review required by the Regulatory Flexibility Act. The Commission's 10-year program is also consistent with the President's March 4, 1995, Regulatory Reform Initiative, directing agencies to conduct a review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff based upon information now available. Each projected date of action reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda. In most instances, the dates of future events are listed by month, not by a specific day. The acquisition of new information, changes of circumstances, or changes in the law may alter this information.

FOR FURTHER INFORMATION CONTACT: For information about specific regulatory actions listed in the agenda, contact the contact person listed for each particular proceeding. Comments or inquiries of a general nature about the agenda should be directed to Elaine W. Crockett, Staff Attorney, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580; telephone (202) 326-2453; e-mail: ecrockett@ftc.gov.

By direction of the Commission.

Donald S. Clark,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4317	Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products ...	3084-AA81

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4318	Premerger Notification Rules and Report Form	3084-AA23
4319	Regulatory Review	3084-AA47
4320	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4321	The Care Labeling Rule	3084-AA54
4322	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60
4323	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63
4324	Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions	3084-AA72
4325	Rule Governing the Pre-Sale Availability of Written Warranty Terms	3084-AA73
4326	Rule Governing Informal Dispute Settlement Procedures	3084-AA75
4327	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084-AA78
4328	Trade Regulation Rule on Ophthalmic Practice Rules	3084-AA80
4329	Trade Regulation Rule on Funeral Industry Practices	3084-AA82
4330	Appliance Labeling Rule	3084-AA83

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4331	Amended Federal Deposit Insurance Corporation Improvement Act	3084-AA44

FEDERAL TRADE COMMISSION (FTC)

Prerule Stage

4317. TRADE REGULATION RULE CONCERNING POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 432

Legal Deadline: None

Abstract: The Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products ("Amplifier Rule" or "Rule") was promulgated in 1974 to assist consumers in purchasing power amplification equipment for home entertainment purposes by standardizing the measurement and disclosure of various performance characteristics of the equipment. The Amplifier Rule establishes uniform test standards and disclosures so that consumers can make more meaningful comparisons of performance attributes. The Rule makes it an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purposes to fail to disclose certain performance information in connection with direct or indirect representations of power output, power band, frequency or distortion characteristics. The Rule also sets out standard test conditions for performing the measurements that support the required performance disclosures. Further, the Rule prohibits representations of performance characteristics if they are not obtainable when the equipment is operated by the consumer in the usual and ordinary manner without the use of extraneous aids.

As part of its systematic review of all Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule; possible conflict between the Rule and State, local and other Federal laws; and the effect on the Rule of any technological, economic, or other industry changes. Based upon the regulatory review, the Commission determined that the Rule applies to self-powered speakers for use with home computers and home sound systems but that the Rule should not be extended to automobile sound systems. The Commission also determined to issue an Advance Notice of Proposed Rulemaking seeking comment on whether it should initiate a rulemaking proceeding to amend the Rule to reduce the preconditioning power output requirement from one-third of rated power to a lower figure, such as one-eighth of rated power; exempt sellers who make power output claims in media advertising from the requirement to disclose total rated harmonic distortion and the associated power bandwidth and impedance ratings; and clarify the manner in which the Rule's testing procedures apply to self-powered subwoofer-satellite combination speaker systems. The comment period for the ANPRM ended on September 8, 1998. Based on the ANPRM record, and the staff's recommendation, the Commission will determine whether to initiate a rulemaking proceeding by issuing an NPRM to seek further public comment on the aforementioned issues.

Timetable:

Action	Date	FR Cite
Request for Comments	04/07/97	62 FR 16500
Comment Period End	06/06/97	
Recommendation to Commission	05/08/98	
ANPRM	07/09/98	63 FR 37238
Final Rule (Nonsubstantive Technical Changes)	07/09/98	63 FR 37234
Comment Period End	09/08/98	
Recommendation to Commission	04/00/99	
NPRM	06/00/99	
Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
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RIN: 3084–AA81

FEDERAL TRADE COMMISSION (FTC)

Proposed Rule Stage

4318. PREMERGER NOTIFICATION RULES AND REPORT FORM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801 to 803

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. In March 1996, the Commission promulgated rules amending the Rule's treatment of acquisitions of goods or realty made in the ordinary course of business and adding new exemptions for acquisitions of realty and carbon-based mineral reserves. In addition, on August 9, 1995, the Commission published a final rule that removed 16 CFR part 800, the transitional rule addressing the treatment of acquisitions consummated before, and notification filed on or before September 5, 1978. On June 25, 1998, the Commission issued a Final Rule with a request for comments amending Rule 802.70, Acquisitions subject to order. This amendment reduces the burden on parties by exempting from the HSR filing requirements divestitures included in

consent agreements that have been accepted by the Commission for public comment, or filed by the Commission or the Department of Justice with the District Court and that are subject to public comment but are not final orders. The comment period ended July 27, 1998. No comments were received. The Commission proposed modifications to the Premerger Notification and Report Form on June 14, 1994. 59 FR 30545. Based on comments received in response to the Notice, as well as other input from interested parties, the enforcement agencies are continuing their review of the Form.

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
NPRM (Ordinary Course)	09/24/85	50 FR 38742
NPRM (HSR Form Changes)	06/14/94	59 FR 30545
NPRM (Ordinary Course)	07/28/95	60 FR 38930
Part 800 Repealed	08/09/95	60 FR 40704
Final Rule (Ordinary Course)	03/28/96	61 FR 13666
Final Rule Effective (Ordinary Course)	04/29/96	
Final Rule with Request for Comments (802.70)	06/25/98	63 FR 34592
Comment Period End (802.70)	07/27/98	
NPRM (HSR Form Changes)	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3084–AA23

4319. REGULATORY REVIEW

Priority: Other Significant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 1 et seq

Legal Deadline: None

Abstract: The Commission is conducting a program to review all current rules and guides to identify any that should be modified or rescinded. Under the review program, the Commission will review a portion of its rules and guides each year, on a revolving ten-year schedule. On January 25, 1999, the Commission published a notice in the Federal Register listing the rules and guides to be reviewed during 1999 and the staff contact person for information about each review. 64 FR 3668. Early next year, the Commission will publish a list of additional rules and guides it will review in 2000. During 1999, the Commission will publish separate notices in the Federal Register for each rule or guide, soliciting comments about its costs and benefits and regulatory and economic impact. However, no determination about whether to modify or rescind a rule, regulation, guide or interpretation or any other procedural option should be inferred from the Commission's decision to publish a request for comments. In certain instances, the reviews may also address other specific matters or issues, such as proposed amendments.

Timetable:

Action	Date	FR Cite
Notice of Rules and Guides to Review in 1999	01/25/99	64 FR 3668
Notice of Rules and Guides to Review in 2000	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3084–AA47

4320. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: None

Abstract: The Comprehensive Smokeless Tobacco Health Education Act of 1986 requires health warnings on all packages and advertising for smokeless tobacco. The Commission published an NPRM on February 14, 1995, seeking public comment on whether the regulations governing the rotation schedule for utilitarian objects should be amended. The 60-day comment period expired on April 14, 1995. The Commission amended the smokeless tobacco regulations to permit rotation of the mandated health warnings on utilitarian items and promotional materials based on either the date the item or material is ordered from a supplier or the date it is disseminated to the public, provided the production of such items is carried out in a manner consistent with ordinary business practices. On a separate point, the Coalition on Smoking or Health petitioned the Commission to enforce the Smokeless Tobacco Act by requiring smokeless tobacco health warnings on sponsored racing cars, banners, flags, and other related objects bearing smokeless tobacco product brand names, logos, or selling messages. On October 26, 1993, the Commission issued an NPRM and proposed a requirement that sponsored auto racing vehicles and all other event-related objects that bear the brand name or selling message of smokeless tobacco products display health warning labels. Staff is reviewing the impact of the final Food and Drug Administration Rule on tobacco products and the State Attorneys' General omnibus settlement as applicable to event and team sponsorship. This issue will be included in the review of the Rule, previously scheduled for 1999, pursuant to the Commission's ten-year rule review program.

Timetable:

Action	Date	FR Cite
NPRM (Racing Cars)	11/04/93	58 FR 58810
Comment Period End (Racing Cars)	02/01/94	
Recommendation to the Commission Regarding ANPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA48

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Proposed Rule Stage

4321. THE CARE LABELING RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 423

Legal Deadline: None

Abstract: The Care Labeling Rule requires manufacturers and importers of textile wearing apparel to attach cleaning instructions stating what regular care is needed for the ordinary use of the product. If dry cleaning is recommended, the label must state at least one type of solvent that may be used (unless all commercially available types of solvent can be used), and must contain a warning against the use of any part of the normal dry cleaning procedure that would harm the product. The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions. On July 1, 1997, a conditional exemption became effective, allowing the use of the symbol system developed by the American Society for Testing and Materials on care labels. On December 28, 1995, the Commission published an ANPRM relating to possible substantive changes in connection with methods of cleaning that can or should be listed on the care label, reasonable basis requirements, and definitions of water temperatures. An NPRM relating to these possible substantive changes was published on May 8, 1998; the comment period ended on July 27, 1998. The NPRM proposes that the Rule be amended as follows: "If an item of textile wearing apparel can be successfully washed and finished by a consumer at home, the label must provide an instruction for washing." The NPRM also proposes that the Rule be amended to allow for labeling for the relatively new process known as "professional wet cleaning." Finally, the NPRM proposes a change in the definition of "reasonable basis" in the Rule, and in the definitions of water temperature. A workshop for interested parties to discuss the issues raised by the NPRM was held on January 29, 1999.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/95	60 FR 67102
ANPRM Comment Period End	03/13/96	
Final Conditional Exemption	05/29/97	62 FR 29006
Recommendation to Commission/NPRM	01/23/98	
NPRM	05/08/98	63 FR 25417
Comment Period End	07/27/98	
Workshop	01/29/99	
Recommendation to Commission	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA54

4322. TRADE REGULATION RULE CONCERNING THE LABELING AND ADVERTISING OF HOME INSULATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (R-Value Rule) became effective on September 29, 1980. The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products. Specifically, the Rule requires manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-Value). The Rule also establishes uniform standards for testing, information disclosure and substantiation of product performance claims. As part of its systematic review of all Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflicts between the Rule and state, local and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. The Commission is considering the comments received in two parts. In part I, the Commission reviewed comments that addressed the current benefits, burdens and need for the Rule and determined to retain the Rule. The Commission also adopted non-substantive amendments that: (1) allow the optional use of the additional R-value test procedure; and (2) require use in the future of revised, current versions of other test procedures cited in the Rule. In part II, the Commission will consider the comments recommending that the Commission adopt substantive revisions to the Rule.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17492
Comment Period End	06/06/95	
Commission Action/Part I	03/28/96	61 FR 13659
Recommendation to Commission/Part II	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA60

4323. TRADE REGULATION RULE ON FRANCHISING AND BUSINESS OPPORTUNITY VENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 to 58

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule on Franchising and Business Opportunity Ventures (Franchise Rule) became effective on October 21, 1979. The Rule is designed to reduce deceptive and unfair practices in the sale of franchises and business opportunities by requiring the pre-sale disclosure of material information about the franchise. For example, the Rule requires franchisors to disclose their business background and litigation history, as well as the number of failed and terminated

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Proposed Rule Stage

franchise units. The Rule also requires the disclosure of material terms of the franchise relationship, such as recurring fees and termination and renewal rights. The Rule further requires the franchisor to provide an audited financial statement for the past three fiscal years. Finally, the Rule requires any franchisor who makes earnings representations to provide the prospective franchisee with an earnings claims document that substantiates those claims. On February 28, 1997, the Commission published an Advance Notice of Proposed Rulemaking (ANPRM) contemplating amendments that would address any new technologies and market practices and at the same time, reduce any unnecessary regulatory burden. Specifically, the Commission requested comments on whether to revise the Rule to more closely align Federal and State disclosure requirements governing franchise sales, and to address changes in the marketing of franchises, such as the sale of franchises internationally and through the Internet. Six public workshops were held in five cities during 1997 to promote discussions about the issues; allow the public to make statements on the record; and assist Commission staff in drafting a proposed amended Rule. The Commission extended the comment period to December 31, 1997. The ANPR procedure has been completed and staff is working on a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/97	62 FR 9115
Comment Period End	12/31/97	62 FR 28824
Recommendation to Commission	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 3084–AA63

4324. RULE GOVERNING DISCLOSURE OF WRITTEN CONSUMER PRODUCT WARRANTY TERMS AND CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 701

Legal Deadline: None

Abstract: The Rule Governing the Disclosure of Written Consumer Product Warranty Terms and Conditions (Rule 701) requires warrantors to disclose the terms and conditions of written warranties on consumer products actually costing the consumer more than $15.00. Rule 701 specifies the information that must appear in the written warranty, as well as the exact language that must be used for certain items. Under Rule 701, the information must be disclosed in simple, easily understood, and concise language in a single document. In addition to specifying the information that must appear in a written warranty, Rule 701 also requires that, in instances where the warrantor uses a warranty registration or owner registration card, the warranty must disclose whether that registration card is a condition precedent to warranty coverage. Finally, the Rule provides that, in connection with "seal of approval" programs, the disclosures are not required in the actual seal itself, if they are made in a general circulation publication. As part of its systematic review of all Commission regulations and guides, the Commission has requested comments on, among other things, the economic impact of, and the continuing need for the Rule, possible conflict between the Rule and State, local, and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. The comment period has ended and staff is preparing a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Begin Review	04/03/96	61 FR 14688
Comment Period End	06/03/96	
Recommendation to Commission	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA72

4325. RULE GOVERNING THE PRE-SALE AVAILABILITY OF WRITTEN WARRANTY TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 702

Legal Deadline: None

Abstract: The Rule Governing the Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702 (Rule 702) published as a final rule in 1975 and amended in 1987, requires sellers and warrantors to make the terms of a written warranty available to the consumer prior to sale. Among other things, the Rule requires sellers to make warranty information readily available by either (1) displaying it in close proximity to the product, or (2) furnishing it on request and posting signs in prominent locations advising consumers that warranty information is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements. It also sets out the methods by which warranty information can be made available prior to the sale of the product in instances where the product is sold through catalogs, mail order, or door-to-door. As part of its systematic review of all Commission regulations and guides, the Commission has sought comments on, among other things, the economic impact of, and the continuing need for the rule, possible conflict between the rule and State, local, and other Federal laws and the effect on the rule of any technological, economic, or other industry changes. The comment period has ended and staff is preparing a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Begin Review	04/03/96	61 FR 14688
Comment Period End	06/03/96	
Recommendation to Commission	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

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Government Levels Affected: None

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RIN: 3084–AA73

4326. RULE GOVERNING INFORMAL DISPUTE SETTLEMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 703

Legal Deadline: None

Abstract: The Rule Governing Informal Dispute Settlement Procedures (Rule 703) establishes minimum requirements for those informal settlement mechanisms (IDSM) that are incorporated by the warrantor into its consumer product warranty. By incorporating the IDSM into the warranty, the warrantor requires the consumer to use the IDSM before pursuing any legal remedies in court. Among other things, the Rule sets out the member qualifications, general operating procedures, and recordkeeping requirements of such IDSMs. The Rule also prescribes the duties of the warrantor in making consumers aware of the IDSM and how to use it, as well as the warrantor's duties to comply with the IDSM's requests and decisions. The Rule also requires IDSMs that operate under Rule 703 to submit annual audits to the Federal Trade Commission to determine their compliance with the Rule. As part of its systematic review of all Commission regulations and guides, the Commission has requested comments on, among other things, the economic impact of, and the continuing need for, the Rule; whether there are changes that might be made to the Rule that would increase consumer benefits or which might minimize cost to firms subject to its requirements; the degree to which it may conflict with other State, local, and other Federal laws; and the effect on the rules of any technological, economic, or other industry changes. The comment period has ended and staff is preparing a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/97	
Request for Comments	04/02/97	62 FR 15636
Comment Period Extended	06/13/97	62 FR 32338
Comment Period End	08/01/97	
Recommendation to Commission	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3084–AA75

4327. TRADE REGULATION RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 5701 et seq

CFR Citation: 16 CFR 308

Legal Deadline: None

Abstract: Congress enacted the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA) to curtail certain unfair and deceptive practices perpetrated by some pay-per-call businesses, and to encourage the growth of the legitimate pay-per-call industry. TDDRA mandated that the FTC promulgate a rule to curb these practices; the 900-Number Rule became effective on November 1, 1993. TDDRA granted the Commission limited jurisdiction over common carriers for purposes of the 900-Number Rule. The Rule requires that advertisements for 900-numbers contain certain disclosures; that anyone who calls a 900-number service be given the opportunity to hang up at the conclusion of the preamble without incurring any charge for the call; and establishes procedures for resolving billing disputes for 900-number calls and other telephone-billed purchases. The Rule itself required the Commission to initiate a review of the Rule prior to November 1997. As part of this review, the Commission published a notice in the Federal Register on March 12, 1997, requesting comments on, among other things, the economic impact of, and the continuing need for, the 900-Number Rule and the effect on the Rule of any technological or industry changes. The Commission also sought comments, pursuant to authority granted under the Telecommunications Act of 1996, on whether to expand the Rule to govern other similar audio information and entertainment services. Staff held a workshop on June 19-20, 1997, during which members of the industry discussed issues raised in the comments, including billing and collection issues and possible ways to expand the definition of "pay-per-call services." Many commenters reported that the 900- Number Rule has been successful in reducing the abuses that led to the passage of TDDRA. Despite the success of the Rule in correcting the abuses in the 900-number industry, complaints about other types of audiotext services (accessed via dialing patterns other than 900 numbers) are being reported. The majority of complaints now involve 800 numbers, international numbers, or other dialing patterns that do not use the 900-number prefix. Many consumer and law enforcement agencies also have been receiving complaints from consumers who have discovered unexplained monthly recurring charges on their telephone bills for services that were never authorized, ordered, received, or used, a practice known as "cramming." On October 30, 1998, the Commission published a NPRM that would expand the definition of "pay-per-call" services beyond 900 numbers and that would implement measures to combat telephone bill cramming. The proposed revisions would (1) require the express authorization of the person to be billed for the purchase of any "telephone-billed purchases" that cannot be blocked by 900-number blocking; (2) prohibit vendors from billing consumers for monthly or other recurring charges for pay-per-call services unless the vendor had entered into a "presubscription agreement" with the person to be billed and had sent the consumer a written copy of the agreement; and (3) give consumers legal recourse to dispute unauthorized charges crammed on phone bills and have those charges removed. The comment period has been extended to March 10, 1999, and the workshop-conference has been rescheduled to May 20-21, 1999.

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Timetable:

Action	Date	FR Cite
Request for Comments	03/12/97	62 FR 11750
Comment Period End	05/12/97	
Public Workshop	06/19/97	
Public Workshop	06/20/97	
Recommendation to Commission	09/08/98	
NPRM	10/30/98	63 FR 58524
Comment Period End	01/08/99	
Public Workshop-Conference	02/25/99	
Comment Period Extended	03/10/99	
Public Workshop-Conference Date Rescheduled	05/20/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA78

4328. TRADE REGULATION RULE ON OPHTHALMIC PRACTICE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 456

Legal Deadline: None

Abstract: The Trade Regulation Rule on Ophthalmic Practice Rules, also known as the "Prescription Release Rule," provides that an optometrist or ophthalmologist must give the patient, at no extra cost, a copy of the eyeglass prescription immediately after the examination is completed. The Rule also prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined by the Rule, on a requirement that the patient agrees to purchase ophthalmic goods from the optometrist or ophthalmologist, and from placing on the prescription, or delivering to the patient, certain disclaimers or waivers of liability. The Rule does not require an optometrist or ophthalmologist to release a contact lens prescription to a patient after an eye exam. As part of its systematic review of all Commission rules and guides, the Commission has requested comments on the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and State, local, or other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. Staff is preparing a memorandum to the Commission summarizing the comments received and making recommendations as to whether the Commission should revise, repeal, or retain the rule.

Timetable:

Action	Date	FR Cite
Request for Comments	04/03/97	62 FR 15865
Notice of Comment Period Extension	05/29/97	62 FR 29088
Comment Period End	06/02/97	
Comment Period End	09/02/97	
Recommendation to Commission	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA80

4329. TRADE REGULATION RULE ON FUNERAL INDUSTRY PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Legal Deadline: None

Abstract: The Funeral Industry Practices Rule, which became effective in 1984, requires sellers of funeral goods and services to give price lists to consumers who visit a funeral home, and to disclose price and other information to callers who request it over the telephone. The Rule enables consumers to select and purchase only the goods and services they want, and requires funeral providers to seek authority before performing some services such as embalming. The Rule also requires funeral providers to make disclosures regarding any required purchases and prohibits misrepresentations regarding requirements and other aspects of funeral goods and services. In its 1994 review of the Rule, the Commission determined to retain the Rule and amended it to prohibit funeral providers from charging a "casket handling fee" in addition to any non-declinable basic-services fee and deleted certain affirmative telephone disclosure requirements. The Commission responded to requests to address emerging issues in the funeral industry by beginning a review of the Rule in 1998. The Commission previously had determined to schedule a review of the Rule in 1999, in accordance with its ten-year schedule for reviewing all Commission rules and guides. Staff is preparing a memorandum to the Commission concerning the scope of the review and the issues to be addressed in an Initial Notice for Public Comment.

Timetable:

Action	Date	FR Cite
Begin Rule Review	10/01/98	
Recommendation to Commission Regarding Initial Notice for Comment	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA82

4330. • APPLIANCE LABELING RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6294 sec 324

CFR Citation: 16 CFR 305

Legal Deadline: None

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Abstract: The Commission issued the Appliance Labeling Rule on November 19, 1979, pursuant to section 324 of title III of the Energy Policy and Conservation Act of 1975, 42 USC 6294. The Rule requires manufacturers to disclose energy information about major household appliances to enable consumers who purchase appliances to compare the energy use or efficiency of competing models. The Rule applies to most types of major household appliance categories, including the category of "clothes washers." There are also requirements that apply to fluorescent light ballasts, certain types of lighting products, and certain plumbing products. When the Commission published the Rule in 1979, the clothes washer category in appendix F was divided into subcategories "Standard" and "Compact." In 1994, the Commission amended appendix F to create additional subdivisions of "Top Loading" and "Front Loading." These subdivisions were created primarily to allow consumers to compare the energy efficiency of washers within those subdivisions. The technologies of the two types of washers were different and front-loading clothes washers were generally much more energy-efficient than top-loading clothes washers. Also, most consumers who shopped for one type of machine were not interested in purchasing the other type of machine. Since that time, consumer research has shown that a significant portion of consumers who shop for clothes washers now consider both types of machines. Also, technological advances in the clothes washer industry have begun to soften the distinction between front-loading and top-loading subdivisions. The Department of Energy (DOE), which is responsible for establishing standardized tests for these appliances, is considering eliminating the separate categories from its testing and standards program, and has requested that the Commission consider eliminating the top-loading and front-loading subcategories. Eliminating these subcategories would also be consistent with the Canadian EnerGuide appliance labeling program, and thus, the North American Free Trade Agreement (NAFTA) goals of reducing or eliminating non-tariff barriers to trade, e.g., labeling requirements.

The Commission also has requested public comments on a proposal to grant manufacturers of qualifying appliances a conditional exemption from the Rule's prohibition against including any information not specified by the Rule to be placed on the EnergyGuide labels required by the Rule. Manufacturers of all covered appliances must disclose specific energy consumption or efficiency information in the form of an EnergyGuide label that is affixed to the product. No other marks may appear on or adjoin this label except as stated by the Rule. Currently, the ENERGY STAR Program, developed by the Environmental Protection Agency (EPA) in conjunction with DOE allows an ENERGY STAR logo to be placed on qualifying products or on an ENERGY STAR label or fact sheet associated with the product. The initials EPA and DOE both appear on the logo, the use of which indicates significantly better energy performance than a specified norm (DOE's minimum efficiency standards, in the case of appliances and HVAC equipment), or the incorporation of a specific energy saving feature on the product. The conditional exemption would allow a single, combined label (an "augmented" EnergyGuide) only on appliances and equipment that meet the ENERGY STAR Program qualification criteria. Among other things, a single label would allow manufacturers to reduce their costs, and would be less confusing to consumers than multiple labels relating to energy use. The Commission is also proposing a non-substantive amendment to the Rule to include the words "Federal Trade Commission" on all EnergyGuide labels so that consumers and others will be clear as to the identity of the agency with the authority to enforce the Rule.

Timetable:

Action	Date	FR Cite
NPRM (Clothes Washers)	11/02/98	63 FR 58671
NPRM (Conditional Exemption)	11/24/98	63 FR 64921
Comment Period End (Conditional Exemption)	12/17/98	
Comment Period End (Clothes Washers)	01/08/99	
Recommendation to Commission (Clothes Washers)	04/00/99	
Recommendation to Commission (Conditional Exemption)	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3084–AA83

FEDERAL TRADE COMMISSION (FTC) — Long-Term Actions

4331. AMENDED FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 3084–AA44

[FR Doc. 99-4919 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part LXI

National Credit Union Administration

Semiannual Regulatory Agenda

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Regulatory Agenda

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemakings, reviews of existing regulations, and completed actions as of January 4, 1999, in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

DATES: This information is current as of January 4, 1999.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing at the above address, unless otherwise noted, or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA and participate in that process more effectively. The agenda is divided into three parts: (1) Actions completed since the last agenda; (2) actions proposed but not completed; and (3) actions planned but not yet proposed by the NCUA Board.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2 ("Developing and Reviewing Government Regulations," 54 FR 35231; September 18, 1987). Executive Order 12866, signed by President Clinton on September 30, 1993, requires independent executive agencies such as NCUA to publish a regulatory agenda. This agenda will be included in the next publication of the Unified Agenda of Federal Regulatory and Deregulatory Actions.

Approved by the NCUA Board on February 24, 1999.

Becky Baker,

Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4332	Federal Credit Union Ownership of Fixed Assets	3133-AB90
4333	Federal Credit Union Bylaws	3133-AB94
4334	Federal Credit Union Insurance and Group Purchasing Activities	3133-AC07
4335	Prompt Corrective Action	3133-AC14
4336	Requirements for Insurance	3133-AC22
4337	Share Insurance and Appendix	3133-AC23

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4338	Member Business Loans	3133-AB91
4339	Management Official Interlocks	3133-AB93
4340	Change in Official or Senior Executive Officer in Credit Unions That Are Newly Chartered or Are in Troubled Condition	3133-AC03
4341	Fidelity Bond and Insurance Coverage of Federal Credit Unions	3133-AC04
4342	Leasing	3133-AC13
4343	Charitable Contributions	3133-AC15
4344	Credit Union Service Organizations	3133-AC16
4345	Statutory Lien	3133-AC17
4346	Supervisory Committee Audits and Verifications	3133-AC18
4347	Organization and Operations of Federal Credit Unions Safe Deposit Box Service	3133-AC19
4348	Truth in Savings	3133-AC20
4349	Conversion of Insured Credit Unions to Mutual Savings Banks	3133-AC21

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4350	Loan Interest Rates	3133-AC25

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Completed Actions

Sequence Number	Title	Regulation Identifier Number
4351	Federal Credit Union Chartering, Field of Membership Modifications, and Conversions	3133-AC02
4352	Purchase, Sale and Pledge of Eligible Obligations	3133-AC05
4353	Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions in Liquidation	3133-AC06
4354	Organization and Operations of Federal Credit Unions; Trustees and Custodians of Pension Plans	3133-AC09
4355	Loans to Members and Lines of Credit to Members	3133-AC10

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

Proposed Rule Stage

4332. FEDERAL CREDIT UNION OWNERSHIP OF FIXED ASSETS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1754(4)

CFR Citation: 12 CFR 701.36

Legal Deadline: None

Abstract: The current rule establishes a specific limitation on an FCU's investment in fixed assets at 5 percent of shares and retained earnings when an FCU's assets exceed $1 million. The proposal anticipates using a new fixed asset threshold based on an FCU's net capital. In addition, fixed asset waiver requests would need to be documented more fully than at present.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
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RIN: 3133–AB90

4333. FEDERAL CREDIT UNION BYLAWS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1758

CFR Citation: None

Legal Deadline: None

Abstract: The proposed changes consolidate the two manuals that currently contain the Federal credit union bylaws into one manual and eliminate or modernize several bylaws. This action is necessary because several of the bylaws had become outdated or obsolete. The proposal is intended to update and clarify the Federal credit union bylaws.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11778
ANPRM Comment Period End	06/12/97	62 FR 19702
NPRM	01/04/99	64 FR 187
NPRM Comment Period End	04/05/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3133–AB94

4334. FEDERAL CREDIT UNION INSURANCE AND GROUP PURCHASING ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757(16); 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 721

Legal Deadline: None

Abstract: The regulation sets forth the rules governing Federal credit union insurance and group purchasing activities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3133–AC07

4335. • PROMPT CORRECTIVE ACTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1790(d)

CFR Citation: 12 CFR 702

Legal Deadline: None

Abstract: A new provision of the Federal Credit Union Act, as added by

NCUA — Proposed Rule Stage

the Credit Union Membership Access Act, requires the NCUA Board to adopt, by regulation, a system of prompt corrective actions to be taken by the NCUA when a federally insured credit union becomes undercapitalized. The system will be indexed to each of five capital categories which the new provision establishes for federally insured credit unions. Much of the system of prompt corrective action either is already prescribed by the new provision itself or is required to be comparable with the system Congress established for other federally insured financial institutions in 1991.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/98	63 FR 57938
ANPRM Comment Period End	01/27/99	
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3133–AC14

4336. • REQUIREMENTS FOR INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1782a

CFR Citation: 12 CFR 741.6

Legal Deadline: None

Abstract: A new provision of section 202 of the Federal Credit Union Act, added by the Credit Union Membership Act, requires NCUA to amend its regulations requiring federally insured credit unions to file a certified statement showing the total amount of insured shares in the credit union at the end of a relevant reporting period. The certified statement would show both the amount of its deposit or adjustment of deposit and the amount of the insurance charge due to the National Credit Union Share Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC22

4337. • SHARE INSURANCE AND APPENDIX

Priority: Info./Admin./Other

Legal Authority: 12 USC 1766; 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 745

Legal Deadline: None

Abstract: This regulation describes the insurance coverage of various types of member accounts. NCUA plans to simplify this regulation to increase members' understanding of their insurance coverage.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC23

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Final Rule Stage

4338. MEMBER BUSINESS LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701; 12 CFR 722; 12 CFR 723; 12 CFR 741

Legal Deadline: None

Abstract: On September 23, 1998, the NCUA issued an interim final rule concerning member business loans and appraisals for federally insured credit unions as well as implementing recent statutory limitations regarding member business loans. The interim final rule was published in the Federal Register on September 29, 1998 (63 Federal Register 51793). The NCUA Board requested comments on the interim final rule by November 30, 1998. Upon request, the Board extended the comment period for an additional 60 days to January 29, 1999.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41313
NPRM Comment Period End	09/30/97	
Interim Final Rule	11/27/98	63 FR 65532
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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NCUA **Final Rule Stage**

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RIN: 3133–AB91

4339. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3201 et seq; 12 USC 1757

CFR Citation: 12 CFR 711

Legal Deadline: None

Abstract: An amendment to the current regulation will conform it to the recent changes made to the Depository Institutions Management Interlocks Act (the Interlocks Act). The amendment to the Interlocks Act raised the asset threshold for the prohibition against interlocks involving an institution with at least $1 billion in total assets and an institution with at least $500 million in total assets. Also, the amendment of the Interlocks Act expanded the exemptive authority of the OCC and other federal banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	10/29/98	63 FR 57945
NPRM Comment Period End	01/27/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3133–AB93

4340. CHANGE IN OFFICIAL OR SENIOR EXECUTIVE OFFICER IN CREDIT UNIONS THAT ARE NEWLY CHARTERED OR ARE IN TROUBLED CONDITION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789; 12 USC 1784

CFR Citation: 12 CFR 701.14

Legal Deadline: None

Abstract: The NCUA Board proposes to amend its regulation dealing with newly chartered and troubled credit unions that require prior notice of the appointment or employment of directors and senior officers. The proposed amendment clarifies when the notice period commences and when the new director or senior officer may begin service.

Timetable:

Action	Date	FR Cite
NPRM	11/05/98	63 FR 59742
NPRM Comment Period End	02/03/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3133–AC03

4341. FIDELITY BOND AND INSURANCE COVERAGE OF FEDERAL CREDIT UNIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789; 12 USC 1784

CFR Citation: 12 CFR 701.20

Legal Deadline: None

Abstract: The NCUA is proposing to update, clarify, revise and redesignate its regulation that addresses the requirements for surety bond coverage for losses caused by credit union employees and officials and for general insurance coverage for losses caused by persons outside of the credit union, e.g. vandalism. The proposed rule recasts the rule in plain English format and adds several previously approved bond forms to the regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/04/99	64 FR 58
NPRM Comment Period End	03/05/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3133–AC04

4342. • LEASING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1756

CFR Citation: 12 CFR 714

Legal Deadline: None

Abstract: The NCUA Board is proposing to update and redesignate its longstanding policy statement on leasing, Interpretive Ruling and Policy Statement (IRPS) 83-3, as an NCUA regulation. IRPS 83-3 authorizes Federal credit unions to engage in either direct or indirect leasing and either open-end or closed-end leasing of personal property to their members if such lease financing arrangements are the functional equivalent of secured loans. Also, the proposed regulation formalizes NCUA's position, stated in legal opinion letters, that a Federal credit union does not have to own the lease property in indirect leasing if certain requirements are satisfied.

Timetable:

Action	Date	FR Cite
NPRM	10/29/98	63 FR 57950
NPRM Comment Period End	01/27/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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NCUA

Final Rule Stage

Email: ogc@ncua.gov

RIN: 3133–AC13

4343. • CHARITABLE CONTRIBUTIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a to 1761b; 12 USC 1766; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.25

Legal Deadline: None

Abstract: The NCUA is proposing to incorporate into its regulations the agency's long-standing interpretation that Federal credit unions are authorized, within limits, to make charitable contributions and donations.

Timetable:

Action	Date	FR Cite
NPRM	10/29/98	63 FR 57942
NPRM Comment Period End	01/27/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC15

4344. • CREDIT UNION SERVICE ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1756; 12 USC 1757(5)(D) and (7)(l); 12 USC 1766; 12 USC 1782; 12 USC 1784; 12 USC 1785 to 1786

CFR Citation: 12 CFR 712

Legal Deadline: None

Abstract: The NCUA proposes to: delete a provision preventing Federal credit unions from investing in or lending to Credit Union Service Organizations in which non-credit union depository institutions are co-investors or lenders; revise a provision limiting Credit Union Service Organization investments in non-Credit Union Service Organization service providers; delete a provision preventing Federal credit unions from investing in the debentures of a Credit Union Service Organization; and clarify how the NCUA measures the limit on a Federal credit union investment in or loans to Credit Union Service Organizations. The proposed changes decrease the regulatory burden for Federal credit unions investing in or lending to Credit Union Service Organizations.

Timetable:

Action	Date	FR Cite
NPRM	11/30/98	63 FR 65714
NPRM Comment Period End	03/01/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC16

4345. • STATUTORY LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.39

Legal Deadline: None

Abstract: The NCUA proposes to update, clarify and convert to a regulation the provisions of its existing Interpretive Ruling and Policy Statement 82-5 which implements the Federal Credit Union Act's authority to establish a statutory lien. Like the Interpretative Ruling and Policy Statements, the proposed rule will permit a Federal credit union to impress a statutory lien upon the shares and dividends of a member, and to enforce that lien to satisfy the member's outstanding indebtedness to the credit union, even when such indebtedness is not secured by shares.

Timetable:

Action	Date	FR Cite
NPRM	10/29/98	63 FR 57943
NPRM Comment Period End	01/27/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC17

4346. • SUPERVISORY COMMITTEE AUDITS AND VERIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701; 12 CFR 713; 12 CFR 741

Legal Deadline: None

Abstract: The Credit Union Membership Access Act has amended certain audit and financial reporting requirements of the Federal Credit Union Act. The NCUA solicits public comment on proposed rules implementing those amendments. The amendments specify the minimum annual audit a credit union is required to obtain according to its charter type and asset size, the licensing authority required of persons performing certain audits, the auditing principles which apply to certain audits and the accounting principles which must be followed in reports filed with the NCUA Board.

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 776
NPRM Comment Period End	03/08/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

NCUA

Final Rule Stage

Government Levels Affected: None

Agency Contact: Steven W. Widerman, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
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RIN: 3133–AC18

4347. • ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS SAFE DEPOSIT BOX SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.30

Legal Deadline: None

Abstract: The NCUA Board proposes removing its rule governing safe deposit box service. This revision will eliminate an unnecessary section from the regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/04/99	64 FR 57
NPRM Comment Period End	03/05/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC19

4348. • TRUTH IN SAVINGS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4311

CFR Citation: 12 CFR 707

Legal Deadline: None

Abstract: NCUA is amending part 707 of its regulations to implement certain statutory changes in the Truth in Savings Act. These amendments: modify the rules governing indoor lobby signs; eliminate subsequent disclosure requirements for automatically renewable term share accounts with terms of one month or less; repeal Truth in Saving's civil liability provisions as of September 30, 2001; and permit disclosure of an annual percentage yield (APY) equal to the contract dividend rate for term share accounts with maturities greater than one year that do not compound but require dividend distributions at least annually.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/98	63 FR 71573
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC20

4349. • CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1766; 12 USC 1785(b)

CFR Citation: 12 CFR 708a

Legal Deadline: None

Abstract: The NCUA is revising its rules that govern the conversion of insured credit unions to mutual savings banks or savings associations. These revisions will simplify the charter conversion process and reduce regulatory burden for insured credit unions that choose to convert. NCUA is making the revisions in compliance with recent federal legislation requiring the changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/27/98	63 FR 65532
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC21

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

Long-Term Actions

4350. • LOAN INTEREST RATES

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a

CFR Citation: 12 CFR 701

Legal Deadline: None

Abstract: The NCUA Board continues an 18 percent federal credit union loan rate ceiling for the period from March 9, 1999, through September 8, 2000. Loans and lines of credit balances existing prior to May 18, 1987, may continue to bear their contractual rate of interest, not to exceed 21 percent. The Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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NCUA

Long-Term Actions

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RIN: 3133–AC25

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

Completed Actions

4351. FEDERAL CREDIT UNION CHARTERING, FIELD OF MEMBERSHIP MODIFICATIONS, AND CONVERSIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.1

Legal Deadline: None

Abstract: NCUA staff is currently working on a proposed Interpretive Ruling and Policy Statement to update completely our chartering and field of membership policies.

Timetable:

Action	Date	FR Cite
Final Action	12/30/98	63 FR 71998
Final Action Effective	03/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3133–AC02

4352. PURCHASE, SALE AND PLEDGE OF ELIGIBLE OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.23

Legal Deadline: None

Abstract: The regulation sets forth the requirements that a Federal credit union may purchase real estate loans from any source if it is granting real estate loans on an ongoing basis and the purchase will facilitate the packaging of a pool of loans for sale on the secondary market. The proposal clarifies that a pool must include a substantial portion of the Federal credit union loans and must be sold promptly. Further, the proposed rule explains when the purchase of a member loan is not the purchase of an eligible obligation, but rather the making of a direct loan.

Timetable:

Action	Date	FR Cite
Final Action	12/23/98	63 FR 70997
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3133–AC05

4353. INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1766; 12 USC 1787 et seq

CFR Citation: 12 CFR 709

Legal Deadline: None

Abstract: NCUA plans to clarify the regulation to address various questions, including the application of the regulation to particular types of claims and the liquidating agent's notice obligations.

Timetable:

Action	Date	FR Cite
Withdrawn - No Change Required	01/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3133–AC06

4354. ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS; TRUSTEES AND CUSTODIANS OF PENSION PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a to 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701; 12 CFR 724

Legal Deadline: None

Abstract: NCUA adopted as final the interim final amendments to part 724 regarding Federal credit unions acting as trustees and custodians of pension and retirement plans, and part 701 regarding retirement benefits for federal credit union employees issued in March 1998. The final amendments revise part 724 to authorize Federal credit unions to act as trustees and custodians for Roth IRAs and Education IRAs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/24/98	63 FR 14025
Final Action	09/30/98	63 FR 52146
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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NCUA

Completed Actions

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RIN: 3133–AC09

4355. LOANS TO MEMBERS AND LINES OF CREDIT TO MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a to 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.21(g)

Legal Deadline: None

Abstract: The NCUA incorporated into its regulations the agency's long-standing interpretation that Federal credit unions can permit a nonmember to assume a member's long-term residential real estate loan in conjunction with the nonmember's purchase of the member's principal residence.

Timetable:

Action	Date	FR Cite
NPRM	08/06/98	63 FR 41978
NPRM Comment Period End	10/05/98	
Final Action	12/24/98	63 FR 71213
Final Action Effective	01/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AC10

[FR Doc. 99-7018 Filed 04-23-99; 8:45 am]
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Monday
April 26, 1999

Part LXII

National Indian Gaming Commission

Semiannual Regulatory Agenda

NATIONAL INDIAN GAMING COMMISSION (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission today is publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide notice of rulemaking actions in which the public may wish to participate. In the near future, the Commission intends to issue Notices of Proposed Rulemaking or Advance Notices of Proposed Rulemaking for the classification, review, and approval of games and devices used in tribal gaming; rules concerning practice before the Commission; rules concerning hearings and appeals procedures; rules concerning enforcement; rules concerning definitions; rules revising the scope and review of management contracts; rules concerning net gaming revenue; rules revising tribal background investigation submission requirements and timing; rules concerning administrative fees; rules concerning public health and safety compliance; rules concerning compulsory process and testimony of employees; rules revising Freedom of Information Act Procedures; rules concerning gaming facility licensing standards; and rules concerning technical amendments to the Minimum Internal Control Standards. The Commission invites questions and public comment on individual agenda items.

FOR FURTHER INFORMATION CONTACT: Penny J. Coleman, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005, (202) 632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 605, executive agencies are required to publish semiannual regulatory agendas in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The proposed rules are not covered under section 202 of the Unfunded Mandates Reform Act (Pub. L. 104-4), as they are not Federal mandates that may result in an expenditure of $100 million or more in any 1 year by State, local, or tribal governments, in the aggregate, or the private sector. Further, these proposed rules are not considered major under 5 U.S.C. 801 enacted by Public Law 104-121 and, therefore, are not subject to section 801's 60-day deferral requirement.

Montie R. Deer,

Chairman of the National Indian Gaming Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4356	Environment and Public Health and Safety	3141-AA17

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4357	Game Classification	3141-AA12
4358	Compulsory Process and Testimony of Employees	3141-AA20
4359	Gaming Facility Licensing Standards	3141-AA23

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4360	Practice Before the Commission	3141-AA07
4361	Hearings and Appeals Procedure	3141-AA08
4362	Enforcement	3141-AA09
4363	Definitions	3141-AA10
4364	Management Contracts	3141-AA13
4365	Net Gaming Revenue	3141-AA14
4366	Tribal Background Investigation Submission Requirements and Timing	3141-AA15
4367	Administrative Fees	3141-AA16
4368	Freedom of Information Act Procedures (Amendments)	3141-AA21

NIGC

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4369	Technical Amendments to the Minimum Internal Control Standards	3141-AA24

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4370	Minimum Internal Control Standards for Tribal Gaming Operations	3141-AA11
4371	Self-Regulation Certification for Class III Gaming Operations	3141-AA22

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Prerule Stage

4356. ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2710(b)(2)(E)

CFR Citation: 25 CFR 573

Legal Deadline: None

Abstract: It is necessary for the NIGC to promulgate regulations which ensure that tribal gaming facilities are constructed and maintained in a manner which protects the environment and the public health and safety.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Todd J. Araujo, Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA17

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Proposed Rule Stage

4357. GAME CLASSIFICATION

Priority: Other Significant

Legal Authority: 25 USC 2703; 25 USC 2706

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rule will establish processes for the classification, review, and approval of games and devices used in tribal gaming.

Statement of Need: Over the course of the past couple of years, the NIGC has received numerous requests for advisory opinions on the classification of a particular game or device. The Commission has through an informal process issued several advisory opinions. However, given the growing number of requests and the need for some degree of predictability and certainty in the industry regarding the classification of games or devices, the Commission believes it is necessary to develop a formal process. Consequently, the Commission will use the rulemaking process to promulgate regulations in this area.

Summary of the Legal Basis: The Indian Gaming Regulatory Act specifically defines both Class II and Class III gaming (25 USC section 2703). The Act also expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act (25 USC section 2706 (b)(10))." The Commission relies on these sections of the statute to authorize the development by regulation of a process of formal classification of particular games and devices.

Alternatives: At this time, the only identified alternative is to continue with the informal process of issuing advisory opinions regarding particular games.

Anticipated Costs and Benefits: The potential benefits to this regulatory action are to bring more clarity and predictability to the industry regarding classification. Those engaged in Indian gaming need to have some degree of certainty regarding the legal consequences of playing a particular game. For those tribes without tribal-State compacts, the need is even greater to know with as much certainty as possible the classification of a particular game or device. The anticipated costs of implementing a classification system are unknown at this time.

Risks: The only identifiable risk at this time is the ability to pay for a formal classification process. The Commission is trying to expand its budget by lifting the statutory fee cap. These actions may be connected because without an increase in funding, it is highly unlikely that the Commission could afford to develop a formal classification system.

NIGC

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal

Agency Contact: Penny Coleman, Deputy General Counsel, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA12

4358. COMPULSORY PROCESS AND TESTIMONY OF EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2706; 5 USC 552; 5 USC 552a

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The purpose of these rules is to establish a procedure for the testimony of employees of the National Indian Gaming Commission in any judicial or administrative proceeding.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard B. Schiff, Senior Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA20

4359. GAMING FACILITY LICENSING STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2706(b)(10); 25 USC 2710(b); 25 USC 2710(d)

CFR Citation: 25 CFR 522.4(b)(6); 25 CFR 522.6(b)

Legal Deadline: None

Abstract: This rule establishes minimum standards which tribes will adopt when they license gaming facilities within their reservations pursuant to 25 USC 2710(b) and their tribal gaming ordinances.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Mai Dinh, Staff Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA23

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Long-Term Actions

4360. PRACTICE BEFORE THE COMMISSION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA07

4361. HEARINGS AND APPEALS PROCEDURE

Priority: Other Significant

CFR Citation: 25 CFR 522; 25 CFR 523; 25 CFR 524; 25 CFR 533; 25 CFR 535; 25 CFR 539; 25 CFR 573; 25 CFR 575; 25 CFR 577

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Richard B. Schiff
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA08

4362. ENFORCEMENT

Priority: Other Significant

CFR Citation: 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA09

4363. DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 502

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA10

4364. MANAGEMENT CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 531; 25 CFR 533; 25 CFR 536

NIGC — **Long-Term Actions**

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA13

4365. NET GAMING REVENUE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 571; 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA14

4366. TRIBAL BACKGROUND INVESTIGATION SUBMISSION REQUIREMENTS AND TIMING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 556; 25 CFR 558

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA15

4367. ADMINISTRATIVE FEES

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 514

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA16

4368. FREEDOM OF INFORMATION ACT PROCEDURES (AMENDMENTS)

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 517.3; 25 CFR 517.6; 25 CFR 517.8

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeanne McLaughlin
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA21

4369. TECHNICAL AMENDMENTS TO THE MINIMUM INTERNAL CONTROL STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 542

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Mai Dinh
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA24

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Completed Actions

4370. MINIMUM INTERNAL CONTROL STANDARDS FOR TRIBAL GAMING OPERATIONS

Priority: Other Significant

Legal Authority: 25 USC 2702; 25 USC 2706(b)(10)

CFR Citation: 25 CFR 542; 25 CFR 573

Legal Deadline: None

Abstract: This rule establishes minimum internal control standards for tribal gaming operations, including standards for auditing, debt collection, accounting, and security.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/98	63 FR 10798
ANPRM Comment Period End	04/05/98	
Final Action	01/05/99	64 FR 589
Final Action Effective	02/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Mai Dinh, Staff Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA11

4371. SELF-REGULATION CERTIFICATION FOR CLASS III GAMING OPERATIONS

Priority: Other Significant

Legal Authority: 25 USC 2706(b)(10); 25 USC 2717

CFR Citation: 25 CFR 518

Legal Deadline: None

Abstract: These regulations will implement the issuance of certificates of self-regulation for class III gaming operations.

NIGC

Completed Actions

Timetable:

Action	Date	FR Cite
ANPRM	03/12/98	63 FR 12323
ANPRM Comment Period End	05/11/98	
Withdrawn - See PL 105-277	10/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Maria Getoff, Staff Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA22

[FR Doc. 99-5651 Filed 04-23-99; 8:45 am]
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federal register

Monday
April 26, 1999

Part LXIII

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354 "The Regulatory Flexibility Act" and Executive Order 12866 "Regulatory Planning and Review." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on November 9, 1998 (63 FR 62760).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555-0001. Single copies of the NRC agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Customers may call (202) 512-2249.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-7162, e-mail dlm1@nrc.gov. Persons outside the Washington, DC, metropolitan area may call, toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on November 9, 1998 (63 FR 62760). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through February 23, 1999. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The EDO initiated a procedure for review of the regulations being prepared by staff offices that report to him to ensure that staff resources are allocated most effectively to achieve NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

The NRC agenda lists rulemaking actions. Of these, one rulemaking item is considered to be priority or major as defined in section 3(f) of Executive Order 12866. Five rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Rockville, Maryland, this 23rd day of February 1999.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4372	Availability of Official Records	3150-AC07
4373	Domestic Licensing of Special Nuclear Material—Revision	3150-AF22
4374	Emergency Planning Requirements for Permanently Shutdown Nuclear Power Plant Sites and Non-Power Reactors	3150-AF92
4375	Modification to Event Reporting Requirements for Power Reactors	3150-AF98
4376	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material	3150-AG03
4377	Disposal of High-Level Radioactive Waste in a Proposed Geologic Repository at Yucca Mountain, Nevada	3150-AG04
4378	Environmental Impacts of High-Level Waste Transportation	3150-AG05
4379	Availability of Public Records at NRC Public Document Rooms	3150-AG07
4380	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999	3150-AG08
4381	Use of Potassium Iodide (KI) by the General Public After a Severe Accident at a Nuclear Power Plant	3150-AG11
4382	Revised Source Term Use at Operating Reactors	3150-AG12
4383	Energy Compensation Sources for Well Logging	3150-AG14

NRC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4384	Clarifications and Addition of Flexibility	3150-AG15
4385	List of Approved Spent Fuel Storage Casks: Addition of the Transnuclear Cask	3150-AG18
4386	List of Approved Spent Fuel Storage Casks: Revision of the VECTRA NUHOMS Cask	3150-AG19
4387	Fire Protection; Elimination of Requirement for Non-Combustible Penetration Seal Material and Other Minor Changes	3150-AG22
4388	Design Certification for AP600	3150-AG23
4389	Lessons Learned from Design Certification	3150-AG24
4390	Protection Against Discrete Radioactive Particles	3150-AG25
4391	ECCS Evaluations Models	3150-AG26

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4392	Industry Codes and Standards; Amended Requirements	3150-AE26
4393	Fitness for Duty	3150-AF12
4394	Nuclear Regulatory Commission Acquisition Regulation	3150-AF52
4395	Submittal Procedures for Documents	3150-AF61
4396	Initial Operator License Examination Requirements	3150-AF62
4397	Audit Frequency for Emergency Planning and Security	3150-AF63
4398	Medical Uses of Byproduct Material	3150-AF74
4399	Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors	3150-AF79
4400	Miscellaneous Changes	3150-AF80
4401	Respiratory Protection and Controls To Restrict Internal Exposure, Subpart H and Appendix A	3150-AF81
4402	Certification Renewal Amendment Process	3150-AF85
4403	Expand Applicability To Include Additional Parties	3150-AF93
4404	Changes, Tests, and Experiments	3150-AF94
4405	Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants	3150-AF95
4406	Codes and Standards; IEEE National Consensus Standard	3150-AF96
4407	Conformance to National Policies for Access to and Protection of Classified Information	3150-AF97
4408	Elimination of 30-Day Delay in Loading Spent Fuel After Preoperational Testing	3150-AG02
4409	Requirements for the Possession of Industrial Devices Containing Byproduct Material	3150-AG06
4410	Application for Specific Licenses	3150-AG13
4411	List of Approved Spent Fuel Storage Casks: Addition of the HOLTEC Cask	3150-AG17
4412	Allow Use of Personnel Dosimeters That Are Processed Using a New Dosimeter Readout Technology	3150-AG21
4413	Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings; Clarification of Participants	3150-AG27
4414	Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings: Minor Amendments	3150-AG28

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4415	Addition of Radon-222 and Technetium-99 Values to Table S-3 and Revisions Resulting From Consideration of Higher-Burnup Fuel	3150-AA31
4416	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
4417	Standardized Plant Designs, Early Review of Site Suitability Issues; Clarifying Amendments	3150-AE25
4418	Disposal by Release Into Sanitary Sewerage	3150-AE90
4419	Geological and Seismological Characteristics of Spent Fuel Storage Systems	3150-AG16

NRC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4420	Elimination of Inconsistencies Between NRC Regulations and EPA HLW Standards	3150-AC03
4421	Comprehensive Quality Assurance in Medical Use and a Standard of Care	3150-AC42
4422	Requirements for Possession of Industrial Devices Containing Byproduct Material	3150-AD34
4423	Requirements Concerning the Accessible Air Gap for Generally Licensed Devices	3150-AD82
4424	Distribution of Source and Byproduct Material: Licensing and Reporting Requirements	3150-AE33
4425	Clarification of Assessment Requirements for Siting Criteria and Performance Objectives	3150-AE40
4426	Shutdown and Fuel Storage Pool Operation at Nuclear Power Plants	3150-AE97
4427	Steam Generator Tube Integrity for Operating Nuclear Power Plants	3150-AF04
4428	Performance-Oriented Requirements for Fire Protection of Nuclear Power Facilities	3150-AF29
4429	Reporting Reliability and Availability Information for Risk-Significant Systems and Equipment	3150-AF33
4430	Revision to Nuclear Power Reactor Decommissioning Cost Requirements	3150-AF40
4431	Criticality Accident Requirements	3150-AF87
4432	Procedures Applicable to Proceedings for the Issuance of Licensees for the Receipt of High-Level Radioactive Waste at a Geologic Repository	3150-AF88
4433	Streamlined Hearing Process for NRC Approval of License Transfers	3150-AG09
4434	Transfer of Rulemaking Functions	3150-AG10
4435	Changes to Quality Assurance Programs	3150-AG20

NUCLEAR REGULATORY COMMISSION (NRC) **Proposed Rule Stage**

4372. AVAILABILITY OF OFFICIAL RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed amendment would conform the NRC's regulations pertaining to the availability of official records to existing case law and Agency practice. The amendment would reaffirm that 10 CFR 2.790(c) provides submitters of information a qualified right to have their information returned upon request. This amendment informs the public of three additional circumstances where information will not be returned to the applicant, i.e., information which has been made available to an advisory committee or was received at an advisory committee meeting, information discussed at an open Commission meeting under the Government in Sunshine Act and information that is subject to a pending Freedom of Information Act request, as well as other administrative matters.

The proposed amendment would also address the NRC's procedures for handling copyrighted information, including reproduction and distribution according to normal Agency practice. The NRC, in receiving submittals and making its normal distributions, routinely photocopies submittals, makes microfiche of the submittals, and ensures that these fiche are distributed to the Public Document Room, Local Public Document Rooms, all appropriate internal offices, and made available to the National Technical Information Service. This broad distribution and reproduction is made to increase public understanding of the peaceful uses of atomic energy. The proposed rule would not prevent submitters from applying 10 CFR 2.790(b)(1) procedures to information that contains trade secrets or privileged or confidential commercial or financial information (proprietary information), and it is recognized that some information in those categories may be copyrighted. Proprietary information status exempts this material from public disclosure and is not to be confused with handling pursuant to copyright designation. A revised proposed rule will be issued for public comment.

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61013
NPRM Comment Period End	03/08/93	
NPRM (Revision)	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine M. Holzle, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
Phone: 301 415-1560
Email: cmh@nrc.gov

RIN: 3150–AC07

4373. DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL—REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 70

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to provide a risk-informed performance-based regulation for certain licensees authorized to possess a critical mass of special nuclear material. Concurrent with this amendment, companion support guidance documents are being developed for issuance. The proposed rule would require affected licensees to conduct an integrated safety analysis to identify potential accidents at the facility and the items relied on for

NRC

Proposed Rule Stage

safety. While the NRC believes that fuel facilities operate with an adequate degree of safety, the safety bases for licensing and inspection may have significant uncertainties. Performance of an ISA would narrow these uncertainties and provide increased confidence in the margin of safety at fuel cycle facilities.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew Persinko, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6522
Email: axp1@nrc.gov

RIN: 3150–AF22

4374. EMERGENCY PLANNING REQUIREMENTS FOR PERMANENTLY SHUTDOWN NUCLEAR POWER PLANT SITES AND NON-POWER REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by providing relief from emergency planning requirements for permanently shutdown nuclear power plant sites based on the reduced risks associated with the configuration of the stored fuel and the non-power reactor passage of time since power operation. These factors, under specified conditions, result in significantly reduced accident risk and consequences, therefore, not warranting emergency plans devised for full power operations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George J. Mencinsky, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6206
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RIN: 3150–AF92

4375. MODIFICATION TO EVENT REPORTING REQUIREMENTS FOR POWER REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) was published to request public comment on the Commission's event reporting requirements for nuclear power reactors contained in sections 50.72 and 50.73. The rulemaking would reduce or eliminate the reporting burden associated with events of little or no risk or safety significance, and better align the rules with the NRC's current needs, including revising reporting requirements based on importance to risk and extending the required reporting times consistent with the need for prompt NRC action.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/98	63 FR 39522
ANPRM Comment Period End	09/21/98	
NPRM Comment Period End	05/00/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis P. Allison, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6835
Email: dpa@nrc.gov

RIN: 3150–AF98

4376. REQUIREMENTS FOR CERTAIN GENERALLY LICENSED INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 31; 10 CFR 32; 10 CFR 170; 10 CFR 171

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for certain industrial devices containing byproduct material to include more specific provisions for a registration and accounting program including associated annual fees and modification of the quarterly transfer reporting requirements for manufacturers and initial distributors of these industrial devices. The rule would also consider other recommendations made by an NRC Agreement State Working Group in NUREG-1551, such as additional labeling requirements. The proposed rule is intended to ensure that general licensees are aware of and understand the requirements for the possession of devices containing byproduct material and allow NRC to account for devices which have been distributed for use under the general license. Better awareness on the part of general licensees of their responsibilities would help to ensure that the general licensees comply with the requirements for proper handling and disposal of generally licensed devices and should help reduce the potential for incidents that could result in unnecessary radiation exposure to the public as well as contamination of property.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and

NRC

Proposed Rule Stage

Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG03

4377. DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE IN A PROPOSED GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 063

Legal Deadline: Other, Statutory. Energy Policy Act of 1992

Abstract: The proposed rule would establish regulations as directed by statute (Energy Policy Act of 1992) for the disposal of high-level waste at Yucca Mountain. The proposed rule would state that the purpose of the new rulemaking is to provide specific criteria applicable to Yucca Mountain and that the more generic requirements in the existing part 60 do not apply and cannot be the subject of litigation in any NRC licensing proceeding for Yucca Mountain.

Timetable:

Action	Date	FR Cite
NPRM	02/22/99	64 FR 8640
NPRM Comment Period End	05/10/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim McCartin, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6681
Email: tjm3@nrc.gov

RIN: 3150–AG04

4378. ENVIRONMENTAL IMPACTS OF HIGH-LEVEL WASTE TRANSPORTATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to reflect the generic and cumulative environmental impacts of transportation of high-level waste (HLW) in the vicinity of a HLW repository. This rulemaking would address the environmental impacts of the use of higher burn-up fuel. Further, the impact of plant associated traffic on local highway service levels during the renewal term would be changed from Category 1 to Category 2 as it should have been designated in the initial license renewal rulemaking, based on the analysis described in NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (May 1996).

Timetable:

Action	Date	FR Cite
NPRM	02/26/99	64 FR 9884
NPRM Comment Period End	04/27/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald P. Cleary, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3903
Email: dpc@nrc.gov

RIN: 3150–AG05

4379. AVAILABILITY OF PUBLIC RECORDS AT NRC PUBLIC DOCUMENT ROOMS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 001; 10 CFR 002; 10 CFR 007; 10 CFR 009; 10 CFR 050; 10 CFR 052; 10 CFR 060; 10 CFR 062; 10 CFR 072; 10 CFR 075; 10 CFR 076; 10 CFR 100; 10 CFR 110

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by revising references to the NRC Public Document Room (PDR) and Local Public Document Rooms (LPDRs) to reflect the discontinuance of placement of paper and microfiche copies of its publicly available records in the PDR, located in Washington, D.C., and the LPDRs located near nuclear power plants and other nuclear facilities. NRC will establish the Agencywide Documents Access and Management System (ADAMS), NRC's new electronic records management system, that will allow for the electronic submission, storage, and retrieval of all NRC official records. The rule would announce that, under ADAMS, all publicly available records will be made accessible electronically on the NRC Internet Web site. The public will be able to obtain paper copies of new electronic records by printing them from the NRC Web site, by ordering them from the PDR directly from the NRC Web site, or by ordering them from the PDR using current ordering methods: in-person at the PDR, mail, e-mail, fax or by calling the PDR Reference Services on the toll-free 800 telephone number. Bibliographic descriptions of documents currently identified in the PDR's Bibliographic Retrieval System (BRS) and in NUDOCS will be posted on the NRC Web site, allowing the public to order copies of pre-ADAMS paper and microfiche records that have been available from LPDRs.

The LPDR program will be discontinued; however, the PDR will still keep pre-ADAMS paper and microfiche records onsite and available to the public for viewing and copying. The PDR will also have computer terminals available for the public to access new documents on the NRC Web site.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell A. Powell, Nuclear Regulatory Commission, Office of the Chief Information Officer, Washington, DC 20555-0001
Phone: 301 415-6527

NRC

Proposed Rule Stage

Email: rap1@nrc.gov

RIN: 3150–AG07

4380. REVISION OF FEE SCHEDULES; 100 PERCENT FEE RECOVERY, FY 1999

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: Other, Statutory, September 30, 1998.
Omnibus Budget Reconciliation Act of 1990

Abstract: The rulemaking would amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 100 percent of the NRC budget authority for fiscal year 1999 less the amounts appropriated from the Nuclear Waste Fund and the General Fund. The Omnibus Budget Reconciliation Act of 1990, as amended, requires that the NRC accomplish the 100 percent recovery through the assessment of fees. The dollar amount to be recovered for FY 1999 is approximately $449.6 million. The Act requires that the fees for FY 1999 must be collected by September 30, 1999. Therefore, the final rule is to become effective by July 30, 1999.

Timetable:

Action	Date	FR Cite
NPRM	04/01/99	64 FR 15876
NPRM Comment Period End	05/03/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Glenda Jackson, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555-0001
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RIN: 3150–AG08

4381. • USE OF POTASSIUM IODIDE (KI) BY THE GENERAL PUBLIC AFTER A SEVERE ACCIDENT AT A NUCLEAR POWER PLANT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require that consideration be given to include potassium iodide (KI) in conjunction with sheltering and evacuation as a protective measure for the general public. The proposed rule would address two petitions for rulemaking submitted by Peter Crane (PRM-50-63 and PRM-50-63A).

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3224
Email: mtj1@nrc.gov

RIN: 3150–AG11

4382. • REVISED SOURCE TERM USE AT OPERATING REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 021; 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to allow holders of operating licenses for nuclear power plants to voluntarily replace the traditional source term used in design basis accident analyses with a revised source term. This revised source term was developed from the results of a major research effort to obtain a better understanding of fission-product transport and release mechanisms in light-water reactors under severe accident conditions. This action would allow interested licensees to pursue cost beneficial licensing actions to reduce regulatory burden without comprising the margin of safety of the facility. The Commission is also proposing to amend its regulations to revise certain sections to conform with the final rule published on December 11, 1996 (61 FR 65157).

Timetable:

Action	Date	FR Cite
NPRM	03/11/99	64 FR 12117
NPRM Comment Period End	05/25/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen LaVie, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1081
Email: sfl@nrc.gov

RIN: 3150–AG12

4383. • ENERGY COMPENSATION SOURCES FOR WELL LOGGING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 039

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to allow small energy compensation sources (ECS) used for well logging to be treated differently than well logging sources. Since part 39 was written, the industry has developed new technology that allows logging operations to be done concurrently with drilling. Even newer technology separates the ECS and the logging tool from the larger

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logging source to allow easier retrieval of the logging source in the event the drill stem becomes unretrievable. This technology requires an additional small source (less than 0.0001 Curie) versus the normal 3 to 20 Curie well logging sources. Many requirements in part 39 are not appropriate or necessary for protecting public health and safety and the environment for ECS. However, because part 39 did not envision these small sources, the requirements were not written to allow variations in the requirements based on the source. The rulemaking would modify the regulations in part 39 to define ECS and provide appropriate regulations for their use in well logging. The change would reduce regulatory burden with minimal impact to public health and safety. In addition, there are other sections that would be changed to improve, clarify, and update part 39.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG14

4384. • CLARIFICATIONS AND ADDITION OF FLEXIBILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to clarify the applicability of part 72 for general and site-specific licensees and would allow general licensees to clearly determine which part 72 requirements are applicable to their activities. Consequently, the staff has received several inquiries from prospective applicants requesting an interpretation of certain provisions of part 72. Clarification of which regulations are applicable to site-specific and general licensees would reduce the uncertainty for potential licensees, and lessen the need for legal interpretation by NRC legal staff. The proposed rulemaking would also allow applicants for site-specific licenses to use cask designs previously approved under part 72, subpart K, without having to submit a separate safety analysis for the cask design. Under the current regulations, the adequacy of the design of these previously approved storage casks could be at issue, particularly during the hearing process, in each site-specific license application. This rulemaking precludes the staff having to expend considerable resources in repeatedly re-examining and defending technical issues already resolved during the public rulemaking process. This process requests public comments which are addressed in the final rulemaking. The rulemaking also allows the initiation of storage cask construction provided that certain conditions are met. The staff has allowed this construction, via exemption, before a Certificate of Compliance is issued if the construction is performed under an NRC approved quality assurance program and the applicant bears all risk associated with early construction.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anthony DiPalo, Nuclear Regulatory Commission, Office of Nucelar Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG15

4385. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE TRANSNUCLEAR CASK

Priority: Info./Admin./Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add the Transnuclear TN-32 cask system to the List of Approved Spent Fuel Storage Casks. This proposed rule would allow the holders of power reactor operating licenses to store spent fuel in the TN-32 cask system under a general license.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stan Turel, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6234
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RIN: 3150–AG18

4386. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: REVISION OF THE VECTRA NUHOMS CASK

Priority: Info./Admin./Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to revise the VECTRA Standardized NUHOMS Horizontal Modular Storage System listing on the List of Approved Spent Fuel Storage Casks. This proposed rule would also allow the holders of power reactor operating licenses to store spent fuel in the revised Standardized NUHOMS Horizontal Modular Storage System under a general license.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	02/00/00	

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stan Turel, Nuclear Regulatory Commission, Office of Nucler Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6234
Email: spt@nrc.gov

RIN: 3150–AG19

4387. • FIRE PROTECTION; ELIMINATION OF REQUIREMENT FOR NON-COMBUSTIBLE PENETRATION SEAL MATERIAL AND OTHER MINOR CHANGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to eliminate the requirement for non-combustible penetration seal material. Based on a detailed review, as documented in section 7 of NUREG-1552, supp. 1, the NRC staff found that section III-M of appendix R applied only to 15 nuclear power plants. For 14 of these plants, the requirements of section III-M had been resolved by the licensees or were no longer applicable. In SECY-96-146, the staff recommended the deletion of the non-combustibility criterion for penetration seal material from section III-M of appendix R. The Commission approved the staff's recommendation in a June 30, 1998, SRM. Additional minor changes involve the deletion of schedule requirements and a footnote that are no longer applicable.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniele Oudinot, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AG22

4388. • DESIGN CERTIFICATION FOR AP600

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 52

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to provide certification of the AP600 design. Design certification regulations are initiated by an applicant for design certification pursuant to subpart B of part 52. A major purpose of part 52 is to achieve early resolution of safety issues and provide a more stable and predictable licensing process.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Wilson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3145
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RIN: 3150–AG23

4389. • LESSONS LEARNED FROM DESIGN CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 52

Legal Deadline: None

Abstract: The proposed rule would amend the regulatory infrastructure to prepare for future applicants and involve changes to licensing procedures. The proposed rule entitled, "Standardized Plant Designs, Early Review of Sites Suitability Issues; Clarifying Amendments," (RIN 3150-AE25) will be subsumed into this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Wilson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3145
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RIN: 3150–AG24

4390. • PROTECTION AGAINST DISCRETE RADIOACTIVE PARTICLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish a dose constraint and calculational procedures for dealing with the "hot particle" issue (small particles found in nuclear reactors and some material facilities that, because of their high activity and small size, provide high localized doses to the skin). The skin dose limits in the revised part 20 have been shown by research results to be inapplicable to hot particles on the skin. Furthermore, there are significant differences in the applicable dose limit recommendations of the ICRP and NCRP. Brookhaven National Laboratory has provided the technical basis for the rulemaking by conducting hot particle exposures on live swine skin to establish the threshold dose(s) for ulceration.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alan K. Roecklein, Nuclear Regulatory Commission, Office

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RIN: 3150–AG25

4391. • ECCS EVALUATIONS MODELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by changing the provision that requires safety analyses used for evaluation of emergency core cooling system (ECCS) under loss-of-coolant-accident (LOCA) conditions be conducted at 1.02 times the licensed power for the plant. The proposed rule would allow licensees to propose increases in licensed power levels less than the current requirement. Licensees would need to demonstrate that the reduced margin for assumed power level in the analyses for their facility is justified in terms of the effect on plant risk.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Donoghue, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AG26

NUCLEAR REGULATORY COMMISSION (NRC) — Final Rule Stage

4392. INDUSTRY CODES AND STANDARDS; AMENDED REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations that incorporate by reference section III of the ASME Boiler and Pressure Vessel Code (ASME BPV Code) for construction of Class 1, 2, and 3 components in nuclear power plants, and use of section XI of the ASME BPV Code for inservice inspection (ISI) and inservice testing (IST) of those components. Section 50.55a requires that each licensee update its ISI and IST programs every 120 months to conform to the latest edition of the ASME BPV Code endorsed by the NRC in that section of the regulations. The rulemaking would also include expedited implementation of section XI appendix VIII, Performance Demonstration for Ultrasonic Examination Systems. In addition, the proposed rule would incorporate by reference the ASME Operation and Maintenance (OM) Code to replace the section XI requirements for IST. The latter action is made necessary by the ASME Code changes that transferred all responsibility for IST from section XI to the ASME Operation and Maintenance Committee.

Timetable:

Action	Date	FR Cite
NPRM	12/03/97	62 FR 63892
NPRM Comment Period End	03/03/98	
NPRM Comment Period Extended to	04/03/98	63 FR 3673
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Scarbrough, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-2794
Email: tgs@nrc.gov

RIN: 3150–AE26

4393. FITNESS FOR DUTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's fitness-for-duty regulations. This proposed rule would also address the petition for rulemaking submitted by Virginia Electric and Power Company (VEPCO) (PRM-26-1), and address the Regulatory Review Group items on audit frequency and annual submittal of data. VEPCO requested that the Commission amend its fitness-for-duty regulations to change the frequency that licensees are required to audit their fitness-for-duty programs from annually to biennially. The Commission and the EDO approved the staff proposals in SECY-92-308, but asked that the staff resubmit the proposed rule to address a backfit analysis. The staff proposals were submitted to the Commission in SECY-95-262 in October 1995, and were published in the Federal Register on May 9, 1996 (61 FR 21105). The public comment period closed on August 7, 1996. Approximately 1000 comments were received from 37 individuals. The staff met with the Advisory Committee on Reactor Safeguards (ACRS) in July 1997 to discuss the revised rule. The staff is preparing an analysis of the application of the backfit rule to each proposed change to facilitate Commission understanding of the issues.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21105

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Action	Date	FR Cite
NPRM Comment Period End	08/07/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ronald Albert, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3216
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RIN: 3150–AF12

4394. NUCLEAR REGULATORY COMMISSION ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 251 note; 42 USC 251 note; 40 USC 1401 note

CFR Citation: 48 CFR 20

Legal Deadline: None

Abstract: The proposed rule would amend the Nuclear Regulatory Commission Acquisition Regulation (NRCAR) for the procurement of goods and services within the NRC to satisfy the particular needs of the agency. The proposed rule would incorporate streamlining and simplification methods identified under the NRC's Procurement Reinvention Laboratory (PRL) and legislated under the Federal Acquisition Streamlining Act of 1994 (FASA), the Federal Acquisition Reform Act of 1996 (FARA), and the Information Technology Management Reform Act (ITMRA) of 1996. The intent of the FASA, FARA, and ITMRA is to streamline procurement processes within the Federal Government. Implementing instructions are needed for some of these processes. In addition, the NRC's PRL will require the NRC to streamline and simplify procedures in the NRCAR wherever possible.

Timetable:

Action	Date	FR Cite
NPRM	12/08/98	63 FR 67726
NPRM Comment Period End	02/22/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Lynn Scott, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
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RIN: 3150–AF52

4395. SUBMITTAL PROCEDURES FOR DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 19; 10 CFR 20; 10 CFR 30; 10 CFR 31; 10 CFR 32; 10 CFR 34; 10 CFR 35; 10 CFR 36; 10 CFR 39; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 52; 10 CFR 55; 10 CFR 60; ...

Legal Deadline: None

Abstract: The final rule will ensure that applications and reports captured at a central receipt point (the Document Control Desk (DCD)), are included in the Nuclear Documents System (NUDOCS), and are distributed on a more timely basis to the appropriate NRC staff, public document rooms, and official file centers. Part 50 requires licensee and applicant submittals to be addressed to a central receipt point, and copies to be sent to the Regional Administrator and Resident Inspector, when appropriate. Extending these requirements to submittals made under other parts in 10 CFR chapter I would simplify and, to a great extent, standardize submittal procedures for NRC licensees and improve the effectiveness of NRC's document control and distribution activities. The proposed rule would also codify provisions for the electronic submittal of documents, by incorporating a section into each 10 CFR part (consistent with the current 10 CFR 50) to allow licensees and applicants to make individual requests to the Office of the Chief Information Officer (OCIO) for approval to make submittals electronically and facilitate agency compliance with the Paperwork Reduction Act of 1995 and OMB Circular A-130 (revised February 8, 1996).

Improving the communications process and disseminating and storing complete and accurate records is mutually beneficial to the NRC, licensees, and members of the public. The proposed revisions would require some NRC licensees and applicants to revise the mailing address for applications, reports, and other written communications transmitted to the NRC. This should result in minimal administrative burden for those affected. However, because the rule is expected to simplify submittal procedures, licensees and applicants should experience an overall reduction in photocopying and postage costs. The rule would benefit NRC and members of the public because better control of the documents entering the NRC would ensure that they are distributed to NRC staff, entered into NUDOCS, provided to the NRC Public Document Room and local public document rooms, and dispatched to the appropriate official file stations for retention and retrieval.

The initial date to publish the rule was not met because of the need to resolve issues raised by the Office of Nuclear Material Safety and Safeguards with regard to the OCIO possibly inadvertently modifying the regulations to impose written submittals where they currently are optional, and the Office of the Chief Financial Officer's concern that the rule would slow down the processing of license fee payments. In addition, the scope of the rule with regard to electronic submittals is being expanded to accommodate the objective of the Commission-approved Agencywide Documents Access and Management System (ADAMS) to receive at least 50 percent of externally generated documents in electronic format by FY 2001. The rule will give licensees the option to make submittals electronically using acceptable criteria

and standards that will be incorporated into the rule.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

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RIN: 3150–AF61

4396. INITIAL OPERATOR LICENSE EXAMINATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 55

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to allow power reactor facility licensees to prepare the written examinations and operating tests, and to proctor and grade the written examinations, that the NRC uses to license operators and senior operators at those facilities. The rule would require the NRC to review and approve each examination and test before it is given and preserve the NRC's authority to prepare the examinations and tests, as necessary, to maintain examination quality and staff proficiency. This rule is not expected to affect reactor safety.

Although a 1994 industry proposal to implement such a program on a voluntary basis was rejected by the NRC, subsequent budget reductions prompted the NRC to reconsider its position. In 1995, the Commission approved a voluntary pilot program to evaluate the revised examination process and, in 1996, directed the staff to initiate the subject rulemaking. The results of the pilot examinations conducted through the end of FY 1997 are consistent with results of NRC-prepared examinations conducted before and since initiating the pilot program, and voluntary participation in the program has allowed the NRC to eliminate approximately $3 million per year in contractor support for the operator licensing programs. This rule would enable facility licensees to exercise more control over the cost of licensing operators at their facilities. Some licensees have saved money during the pilot program, but others have had more costly examinations, largely because the examinations they submitted for NRC review and approval required extensive revisions to achieve NRC standards for quality and level of difficulty.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42426
NPRM Comment Period End	10/21/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF62

4397. AUDIT FREQUENCY FOR EMERGENCY PLANNING AND SECURITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by changing the frequency with which licensees conduct independent reviews, and audits of their safeguard contingency plans, security programs and emergency preparedness programs. The regulations would be revised to require that licensees conduct program reviews and audits at least every 24 months. The proposed rule would also clarify that the necessity for more frequent, focused audits be based on an assessment by the licensee against performance indicators or a significant change in personnel, procedures, equipment, or facilities. The proposed changes would promote performance-based, rather than compliance-based, review and audit activities. Also, the proposed changes would clarify that programs must be reviewed and audited following a significant change in personnel, procedures, or equipment as soon as reasonably practicable, but no later than 12 months after the changes. The purpose of these focused audits would be to ensure that changes have not adversely affected the operation of the particular program element or function in question. This proposed rule also addresses PRM-50-59 and PRM-50-60 submitted by Virginia Electric and Power Company.

Timetable:

Action	Date	FR Cite
NPRM	07/31/97	62 FR 40978
NPRM Comment Period End	10/14/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF63

4398. MEDICAL USES OF BYPRODUCT MATERIAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

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Abstract: The proposed rule would amend the Commission's regulations to reflect a more risk-based approach to the regulation of the medical uses of byproduct material. Performance-oriented requirements would allow licensees the flexibility to develop procedures appropriate to their uses of byproduct material. The revision would address training and experience requirements for authorized users, RSOs, and physicists. This initiative will include development of associated guidance. Changes to part 35 may impact on and require changes to other parts of title 10 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
ANPRM	08/06/97	62 FR 42219
ANPRM Comment Period End	03/01/98	
NPRM	08/13/98	63 FR 43516
NPRM Comment Period End	12/16/98	63 FR 64829
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF74

4399. FINANCIAL PROTECTION REQUIREMENTS FOR PERMANENTLY SHUTDOWN NUCLEAR POWER REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50; 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to allow nuclear reactor licensees to reduce onsite and offsite liability coverage during permanent shutdown of the reactors if they meet specified reactor configurations. This proposed amendment would reduce the level of insurance coverage commensurate with the risk reduction after the appropriate spent fuel cooling period following permanent shutdown of the reactor. This rule will also address a petition for rulemaking submitted by the North Carolina Public Utility Commission (PRM-50-57).

Timetable:

Action	Date	FR Cite
NPRM	10/30/97	62 FR 58690
NPRM Comment Period End	01/13/98	
NPRM (Revision)	09/23/98	63 FR 50815
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF79

4400. MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to correct a number of inconsistencies and clarify the applicability of several sections of part 72. The proposed rule would differentiate the requirements for the storage of spent fuel under wet and dry conditions, clarify requirements for the content and submission of various reports and specify that quality assurance records must be maintained as permanent records. Also, the Purpose and Scope would be amended to reference the spent fuel storage cask approval process and to delete obsolete information.

Timetable:

Action	Date	FR Cite
NPRM	06/09/98	63 FR 31364
NPRM Comment Period End	08/24/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF80

4401. RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE, SUBPART H AND APPENDIX A

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2236

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate into part 20 an industry standard developed by the American National Standards Institute (ANSI) standard Z88.2-1992, "American National Standard Practice for Respiratory Protection." The proposed changes would eliminate the unnecessary and detrimental use of respirators by applying ALARA principles to the sum of the Deep Dose Equivalent and the Committed Effective Dose Equivalent, or the Total Effective Dose Equivalent. The use of process or engineering controls, decontamination of work areas, access control, and other procedures are stressed instead of the automatic use of respiratory protection devices, which tend to increase external dose and stress.

Also, the proposed rulemaking would allow the use of new respiratory protection devices that have been proven effective, discourage the use of

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other devices that are now considered less effective, adopt new Assigned Protection Factors based on ANSI determinations and revise respiratory protection procedures such as fit testing to reflect current industry good practice. Twenty-four public comment letters were received.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38511
NPRM Comment Period End	09/30/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF81

4402. CERTIFICATION RENEWAL AMENDMENT PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2297b-11; 42 USC 2297f; 42 USC 5841; 42 USC 5842; 42 USC 5845; 42 USC 5846; 42 USC 2243(a); 42 USC 5851; 42 USC 2243(f); 42 USC 2152

CFR Citation: 10 CFR 76

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations that apply to gaseous diffusion plants. In 1994, these regulations established the process by which the NRC would assume regulatory authority for the Paducah and Portsmouth Gaseous Diffusion Plants. These plants first came under NRC oversight on March 3, 1997. While implementing the initial certification and amendment processes specified in the 1994 regulations, the NRC staff identified several areas in these processes that should be revised and improved so that they are more effective and efficient. This proposed rulemaking would modify the process for certificate renewals, establish a process for certificate amendment comparable to the process currently used to amend a fuel cycle license, revise the appeal process for amendments, eliminate the significant designation for amendments, simplify the criteria for persons who are eligible to file a petition for review of an amendment action, remove references to the initial application because the initial certificates have been issued, and lengthen the time periods associated with filing a petition for review.

Timetable:

Action	Date	FR Cite
NPRM	09/15/98	63 FR 49301
NPRM Comment Period End	11/16/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF85

4403. EXPAND APPLICABILITY TO INCLUDE ADDITIONAL PARTIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rulemaking is intended to correct a weakness in section 72.11 by expanding its scope to include holders of and applicants for certificates of compliance; fabricators, designers, and vendors of casks; their employees; and the employees of their contractors, subcontractors, and consultants. The correction would clarify that they may be subject to enforcement action for submitting to the NRC information that is not complete and accurate in all material respects. Because of these limited specific requirements in part 72 for parties other than licensees, the Commission has been unable to issue notices of violation to other parties involved in ISFSI safety-related functions. The staff believes there may be safety consequences resulting from this weakness. The ability to issue notices of violation to these parties would improve the effectiveness of the NRC's inspection and enforcement programs in assuring compliance with the Commission's regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/23/98	63 FR 39526
NPRM Comment Period End	10/06/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

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RIN: 3150–AF93

4404. CHANGES, TESTS, AND EXPERIMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning authority of licensees for production or utilization facilities to make changes to their facilities or procedures, without prior NRC approval. The proposed rule would clarify the criteria that determine when prior approval is needed. The purpose of this rulemaking is to resolve differences in interpretation of requirements within the nuclear community so that changes which might affect the basis for licensing are reviewed before implementation, without also subjecting less significant changes to the license amendment review process. In an SRM dated April 25, 1997, the Commission directed the staff to develop a rulemaking plan that would allow changes involving small or negligible increases in probability of occurrence or consequences of accidents or malfunctions not to require prior approval.

Timetable:

Action	Date	FR Cite
NPRM	10/21/98	63 FR 56098
NPRM Comment Period End	12/21/98	
Final Action	09/00/99	

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eileen McKenna, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AF94

4405. REQUIREMENTS FOR MONITORING THE EFFECTIVENESS OF MAINTENANCE AT NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The Commission has directed the staff to prepare a modification to the maintenance rule to require that safety assessments be taken into account before performing maintenance activities. Currently, the rule recommends (vs requires) that safety assessment be performed for preventive maintenance activities. The intent of this part of the rule is to assure that the cumulative impact of out-of-service equipment on the performance of safety functions does not result in the plant being placed in risk-significant configurations. Results of the staff's maintenance rule baseline inspections indicated that many licensee's processes for conducting safety assessment are inadequate and in some cases, implementation of these processes were not followed during preventive maintenance activities and resulted in undesirable plant configurations. The proposed amendment would be designated as section 50.65(a)(4). Additionally, the rule would be changed to add that the requirements are applicable during all conditions of plant operation, including normal shutdown conditions.

Timetable:

Action	Date	FR Cite
NPRM	09/30/98	63 FR 52201
NPRM Comment Period End	12/14/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF95

4406. CODES AND STANDARDS; IEEE NATIONAL CONSENSUS STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate by reference IEEE Std. 603-1991, "Criteria for Safety Systems for Nuclear Power Generating Stations," a national consensus standard for power, instrumentation, and control portions of safety systems in nuclear power plants. This action is necessary to endorse the latest version of this national consensus standard in NRC's regulations. The Commission published a direct final rule on October 17, 1997 (62 FR 53933). However, the direct final rule was withdrawn due to the significant number of adverse comments received and has been revised. Because the rule was significantly revised, it is being reissued as a proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	04/23/98	63 FR 20136
NPRM Comment Period End	05/26/98	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF96

4407. CONFORMANCE TO NATIONAL POLICIES FOR ACCESS TO AND PROTECTION OF CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2165; 42 USC 220; 42 USC 2273; 42 USC 5841; EO 12829; EO 12958; EO 10865

CFR Citation: 10 CFR 02; 10 CFR 10; 10 CFR 11; 10 CFR 25; 10 CFR 95

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by conforming NRC regulations to national requirements for the protection of and access to classified National Security Information and Restricted Data, including revised personnel security due process procedures; a new requirement for a facility clearance for those licensees or others who require access to classified information at a facility other than their own; additional information on the scope and reporting requirements for the Foreign Ownership, Control or Influence (FOCI) program; a requirement for a foreign visitor control program; a change to the period between reinvestigations for "L" and "R" access authorizations from five years to ten years; a change to the fee schedules due to a change in the investigative requirements for "Q", "L", "U", and "R" access authorizations; changes to the security classification markings to conform to Executive Order 12958; and greater specificity as to when particular reports are required. Additionally, the term "classified matter protection plans" has been added to part 2.790 for the purpose of clarity. Also, the proposed rule would include administrative matters such as modified definitions to reflect a change in responsibility for certain decisions from the Executive Director for Operations to the Deputy Executive Director for Management Services and revisions to a number of definitions in all four parts to reflect a change in the name of the Division of Security to the Division of Facilities and Security. It is, therefore, necessary to revise these regulations to ensure their consistency with established national policy for protection of classified information.

Timetable:

Action	Date	FR Cite
NPRM	08/03/98	63 FR 41206
NPRM Comment Period End	10/02/98	
Final Action	04/00/99	

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF97

4408. ELIMINATION OF 30-DAY DELAY IN LOADING SPENT FUEL AFTER PREOPERATIONAL TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by eliminating the 30-day delay for the loading of spent reactor fuel into an Independent Spent Fuel Storage Installation following completion of preoperational testing. The staff considers the extent to this time delay to be excessive and unnecessary because the NRC has an extensive oversight presence during preoperational testing looking at the acceptance criteria and test results in real time. The staff will propose shortening or removing this requirement.

Timetable:

Action	Date	FR Cite
NPRM	09/14/98	63 FR 49046
NPRM Comment Period End	11/30/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG02

4409. REQUIREMENTS FOR THE POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 031

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for the possession of industrial devices containing byproduct material to include a clear and explicit requirement that device users provide information in a timely manner in response to requests made by the NRC. The provision would primarily be used to initiate a registration and accounting system for a fraction of these general licensees who have received devices that present a significant risk of exposure of the public or property damage in the event of loss of the device. The intent is to reduce the possibility of the devices being improperly transferred or inadvertently discarded, and ultimately to avoid unnecessary radiation exposure to the public and unnecessary expense involved in retrieving the items particularly in the scrap metal stream as well as to avoid the contamination of steel mills, metals, and waste products.

Timetable:

Action	Date	FR Cite
NPRM	12/02/98	63 FR 66492
NPRM Comment Period End	02/16/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3150–AG06

4410. • APPLICATION FOR SPECIFIC LICENSES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2111; 42 USC 2112; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2234; 42 USC 2236; 42 USC 2237; 42 USC 2282; 42 USC 5841; 42 USC 5842; 42 USC 5846; 42 USC 5851

CFR Citation: 10 CFR 030

Legal Deadline: None

Abstract: The direct final rule will amend the Commission's regulations to include specific information on an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source. The information that licensees are required to provide is the identity of the source or device, by manufacturer and model number, as registered with the Commission under section 32.210, or with an Agreement State. The proposed revision to section 30.32(g) will eliminate the prescriptive requirements associated with supplying specific information about the source or device and instead will require the licensee to commit to using only sealed sources or devices that are registered with the NRC under section 32.210, or with an Agreement State.

Timetable:

Action	Date	FR Cite
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3150–AG13

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4411. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE HOLTEC CASK

Priority: Info./Admin./Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add the HOLTEC International Hi-Star 100 cask system (Hi-Star) to the List of Approved Spent Fuel Storage Casks. This rulemaking would allow the holders of power reactor operating licenses to store spent fuel in the Hi-Star cask system under a general license.

Timetable:

Action	Date	FR Cite
NPRM	01/11/99	64 FR 1542
NPRM Comment Period End	03/29/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stan Turel, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG17

4412. • ALLOW USE OF PERSONNEL DOSIMETERS THAT ARE PROCESSED USING A NEW DOSIMETER READOUT TECHNOLOGY

Priority: Info./Admin./Other

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 2073; 42 USC 2111

CFR Citation: 10 CFR 020; 10 CFR 034; 10 CFR 036; 10 CFR 039

Legal Deadline: None

Abstract: The direct final rule will amend the Commission's regulations for use of personnel dosimeters that require processing to determine the radiation dose received by the person wearing the dosimeter. The purpose of the rule is to approve the use of personnel dosimeters that employ a different technology for storing radiation energy and require a different technology for processing the dosimeter to determine the radiation dose received provided that the processor is NVLAP-accredited. The rule will also require retention of records from the dosimetry processor for dosimeters using this different technology.

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG21

4413. • INFORMAL HEARING PROCEDURES FOR ADJUDICATIONS IN MATERIALS AND OPERATOR LICENSING PROCEEDINGS; CLARIFICATION OF PARTICIPANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations governing participation in adjudicatory proceedings conducted under its Rules of Practice to clarify that federally-recognized Indian tribal governments are entitled to participate in these proceedings on the same basis as other governmental units. This action codifies a long-standing Commission practice.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG27

4414. • INFORMAL HEARING PROCEDURES FOR ADJUDICATIONS IN MATERIALS AND OPERATOR LICENSING PROCEEDINGS: MINOR AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations governing the filing and service of pleadings in "informal" materials and operator licensing proceedings conducted under its Rules of Practice. This action is necessary to correct a cross-reference error in the provision concerning the method of filing documents and to change the method of service of pleadings on the NRC staff.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Mullins, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
Phone: 301 415-1618
Email: cem@nrc.gov

RIN: 3150–AG28

NUCLEAR REGULATORY COMMISSION (NRC) — Long-Term Actions

4415. ADDITION OF RADON-222 AND TECHNETIUM-99 VALUES TO TABLE S-3 AND REVISIONS RESULTING FROM CONSIDERATION OF HIGHER-BURNUP FUEL

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 51

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Frattali
Phone: 301 415-3703
Email: sdf@nrc.gov

RIN: 3150–AA31

4416. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry Tovmassian
Phone: 301 415-6231
Email: hst@nrc.gov

RIN: 3150–AB01

4417. STANDARDIZED PLANT DESIGNS, EARLY REVIEW OF SITE SUITABILITY ISSUES; CLARIFYING AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 50; 10 CFR 52; 10 CFR 140

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Wilson
Phone: 301 415-3145
Email: gsm@nrc.gov

RIN: 3150–AE25

4418. DISPOSAL BY RELEASE INTO SANITARY SEWERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 20

Timetable:

Action	Date	FR Cite
ANPRM	02/25/94	59 FR 9146
ANPRM Comment Period End	05/26/94	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anthony M. Huffert
Phone: 301 415-6416
Email: amh1@nrc.gov

RIN: 3150–AE90

4419. • GEOLOGICAL AND SEISMOLOGICAL CHARACTERISTICS OF SPENT FUEL STORAGE SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on geological and seismological characteristics of spent fuel storage systems. The proposed rule would revise part 72 seismological criteria to use a risk-informed, performance- based regulatory approach. This revision would use a methodology which is consistent with the approaches taken in part 60, the new proposed part 63, and the recent revision to part 100. Also, the proposed rule would clarify what types of geologic and seismic analyses a general license should perform to determine that the intended spent fuel storage cask design is appropriate for the licensee's site (i.e., both static and dynamic analyses).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark L. Au, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6181
Email: mla@nrc.gov

RIN: 3150–AG16

NUCLEAR REGULATORY COMMISSION (NRC) — Completed Actions

4420. ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA HLW STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Legal Deadline: None

Abstract: The proposed rule would have eliminated several inconsistencies with the generic EPA standards to be developed for the disposal of HLW in deep geologic repositories. Because the NRC is developing site-specific disposal regulations for Yucca Mountain, Nevada, consistent with the Energy Policy Act of 1992, the staff is withdrawing this proposed rulemaking. These site-specific disposal regulations will be addressed in another rulemaking.

NRC

Completed Actions

Timetable:

Action	Date	FR Cite
Withdrawn	12/02/98	63 FR 66498

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim McCartin, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6681
Email: tjm3@nrc.gov

RIN: 3150–AC03

4421. COMPREHENSIVE QUALITY ASSURANCE IN MEDICAL USE AND A STANDARD OF CARE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) was published to request public comment on the extent to which, in addition to the basic quality assurance procedures (that were addressed in another rulemaking action entitled "Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use" (RIN 3150-AD69)(December 2, 1994; 59 FR 61767). The Commission has determined that this rulemaking is unnecessary due to the overall revision of 10 CFR part 35, "Medical Uses of Byproduct Material" (RIN 3150-AF74), and is withdrawing this ANPRM.

Timetable:

Action	Date	FR Cite
Withdrawn	12/02/98	63 FR 66496

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jayne M. McCausland, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6219
Email: jmm2@nrc.gov

RIN: 3150–AC42

4422. REQUIREMENTS FOR POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2111; 42 USC 2114; 42 USC 2201

CFR Citation: 10 CFR 31; 10 CFR 32

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations for the possession of industrial devices containing byproduct material to require device users to report to the NRC initially and then on a periodic basis. The Commission has reconsidered these issues with the help of an NRC-Agreement State Working Group. A portion of this rule has been subsumed by the proposed rule entitled "Requirements for Possession of Industrial Devices Containing Byproduct Material," (RIN 3150-AG06), and has been incorporated into that rule. A subsequent, more comprehensive rulemaking in this area is also planned. Therefore, this rule was withdrawn.

Timetable:

Action	Date	FR Cite
Withdrawn	12/02/98	63 FR 66492

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6264
Email: crm@nrc.gov

RIN: 3150–AD34

4423. REQUIREMENTS CONCERNING THE ACCESSIBLE AIR GAP FOR GENERALLY LICENSED DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 31; 10 CFR 32

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations to prevent unnecessary radiation exposure to individuals resulting from the use of gauging devices containing radioactive sources. The proposed rule no longer meets the current plans of the NRC staff, therefore this proposed rule is withdrawn.

Timetable:

Action	Date	FR Cite
Withdrawn	01/20/99	64 FR 3052

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jayne McCausland, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6219
Email: jmm2@nrc.gov

RIN: 3150–AD82

4424. DISTRIBUTION OF SOURCE AND BYPRODUCT MATERIAL: LICENSING AND REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 32; 10 CFR 40

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) was published to request public comment on contemplated amendments to the Commission's regulations governing the licensing of source material and mill tailings. The Commission has determined that this rulemaking is unnecessary and withdraws this ANPRM. The mill tailings issues are to be addressed separately as part of a rulemaking establishing a new 10 CFR part 41.

Timetable:

Action	Date	FR Cite
Withdrawn	12/14/98	63 FR 68700

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6264
Email: crm@nrc.gov

RIN: 3150–AE33

NRC — Completed Actions

4425. CLARIFICATION OF ASSESSMENT REQUIREMENTS FOR SITING CRITERIA AND PERFORMANCE OBJECTIVES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10101; PL 97-425

CFR Citation: 10 CFR 60

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations concerning regulatory requirements for licensing of high-level waste geologic repositories. A June 30, 1995, Staff Requirements Memorandum, SECY-95-019, disapproved issuance of the proposed final amendments at this time because of significant Congressional activity with regard to the Nuclear Waste Policy Act, and directed staff to reconsider the need for the amendments or guidance upon determining that the legislative situation has stabilized. Because Congressional activity in this area is ongoing and because the NRC is developing site-specific disposal regulations for Yucca Mountain, Nevada, consistent with the Energy Policy Act of 1992, this proposed rule is withdrawn.

Timetable:

Action	Date	FR Cite
Withdrawn	09/08/98	63 FR 47440

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael P. Lee, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6677
Email: mpl@nrc.gov

RIN: 3150–AE40

4426. SHUTDOWN AND FUEL STORAGE POOL OPERATION AT NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations by adding regulatory requirements for shutdown operations at commercial nuclear power plants. The proposed rule was revised to incorporate fuel storage pool operations. In response to comments submitted after the proposed rule was published, the staff rewrote the rule, the statement of consideration, the regulatory analysis, and the regulatory guide. The approach for the rule was revised to be more performance-based (for shutdown operations), to reflect risk-informed decisions, and to address public comments for shutdown and spent fuel storage pool operations. The staff forwarded the revised proposed rule to the Commission in July 1997. In a Staff Requirements Memorandum dated December 11, 1997, the Commission directed that the staff not proceed further with this rulemaking; therefore, the proposed rule is withdrawn.

Timetable:

Action	Date	FR Cite
Withdrawn	02/04/99	64 FR 5623

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim Collins, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-2895
Email: tec@nrc.gov

RIN: 3150–AE97

4427. STEAM GENERATOR TUBE INTEGRITY FOR OPERATING NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) was published to request public comment on the Commission's regulations pertaining to steam generator tube integrity. The Commission has determined that this rulemaking is unnecessary and withdraws this ANPRM.

Timetable:

Action	Date	FR Cite
Withdrawn	12/02/98	63 FR 66496

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim Reed, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1462
Email: tar@nrc.gov

RIN: 3150–AF04

4428. PERFORMANCE-ORIENTED REQUIREMENTS FOR FIRE PROTECTION OF NUCLEAR POWER FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's fire protection regulations for voluntary adoption by nuclear power plant licensees. Also, this proposed rule would have responded to a petition for rulemaking (PRM-50-61), submitted by the Nuclear Energy Institute, to amend current regulations to establish a more flexible alternative to the current prescriptive regulation in appendix R of 10 CFR part 50. In a Staff Requirements Memorandum dated June 30, 1998, the Commission approved the staff's recommendation to defer the development of a risk-informed, performance-based fire protection rule and to pursue with the National Fire Protection Association and the nuclear industry the development of a risk-informed, performance-based consensus standard for fire protection at nuclear power plants. Therefore, this rulemaking is terminated until it is determined that a rulemaking on fire protection is needed.

Timetable:

Action	Date	FR Cite
Withdrawn	06/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ed Connell, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-2838
Email: eac@nrc.gov

RIN: 3150–AF29

NRC

Completed Actions

4429. REPORTING RELIABILITY AND AVAILABILITY INFORMATION FOR RISK-SIGNIFICANT SYSTEMS AND EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations to require that licensees for commercial nuclear power reactors report summary reliability and availability data for risk-significant systems and equipment to the NRC. The proposed rule would also have required licensees to maintain onsite, and to make available for NRC inspection, records and documentation that provide the basis for the summary data reported to the NRC. The Commission has decided to accept industry's proposed voluntary alternative to the rule, and withdraws this proposed rule.

Timetable:

Action	Date	FR Cite
Withdrawn	12/02/98	63 FR 66497

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Allison, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6835
Email: dpa@nrc.gov

RIN: 3150–AF33

4430. REVISION TO NUCLEAR POWER REACTOR DECOMMISSIONING COST REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The notice of proposed rulemaking would have amended the Commission's regulations to allow licensees greater flexibility by allowing site-specific funding amounts different from the NRC's generic values by both lesser and greater amounts. The Commission has determined that this rulemaking is unnecessary and is terminating this rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn	02/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian J. Richter, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6221
Email: bjr@nrc.gov

RIN: 3150–AF40

4431. CRITICALITY ACCIDENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2132; 42 USC 2133; 42 USC 2134; 42 USC 2135; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282

CFR Citation: 10 CFR 50; 10 CFR 70

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to provide light-water nuclear power reactor licensees with greater flexibility in meeting the requirement that licensees authorized to possess more than a small amount of special nuclear material maintain a criticality monitoring system in each area where the material is handled, used, or stored. This action is taken as a result of the experience gained in processing and evaluating a number of exemption requests from power reactor licensees and NRC's safety assessments in response to these requests that concluded that the likelihood of criticality was negligible.

Timetable:

Action	Date	FR Cite
Final Rule Effective 02/17/98	12/03/97	62 FR 63825
Final Action	11/12/98	63 FR 63127
Final Action Effective	12/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stan Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AF87

4432. PROCEDURES APPLICABLE TO PROCEEDINGS FOR THE ISSUANCE OF LICENSEES FOR THE RECEIPT OF HIGH-LEVEL RADIOACTIVE WASTE AT A GEOLOGIC REPOSITORY

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841; 5 USC 552

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations regarding the licensing proceeding on the disposal of high-level radioactive waste at a geologic repository (HLW proceeding). The final rule is intended to allow application of technological developments that have occurred since the original rule was adopted in 1989, while achieving the original goals of facilitating the Commission's ability to comply with the schedule for decision on the construction authorization for the repository contained in section 114(d) of the Nuclear Waste Policy Act, and providing for a thorough technical review of the license application and equitable access to information for the parties to the hearing.

Timetable:

Action	Date	FR Cite
Final Action	12/30/98	63 FR 71729
Final Action Effective	01/29/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathryn L. Winserg, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
Phone: 301 415-1641
Email: klw@nrc.gov

RIN: 3150–AF88

4433. STREAMLINED HEARING PROCESS FOR NRC APPROVAL OF LICENSE TRANSFERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 051

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to provide specific uniform procedures and rules of practice for handling requests for hearings associated with license transfer applications involving both material and reactor licenses as well as licenses issued under the regulations governing the independent storage of spent nuclear fuel and high-level radioactive waste. Conforming amendments are also made to certain other parts of the Commission's regulations. These new provisions provide for public participation and opportunity for an informal hearing on matters relating to license transfers, specify procedures for filing and docketing applications for license transfers, and assign appropriate authorities for issuance of administrative amendments to reflect approved license transfers. This rulemaking also adds a categorical exclusion that permits processing of transfer applications without preparation of Environmental Assessments.

Timetable:

Action	Date	FR Cite
Final Action	12/03/98	63 FR 66721
Final Action Effective	12/03/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Fitzgerald, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
Phone: 301 415-1607
Email: jaf@nrc.gov

RIN: 3150–AG09

4434. • TRANSFER OF RULEMAKING FUNCTIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 2033; 42 USC 2201

CFR Citation: 10 CFR 1

Legal Deadline: None

Abstract: The final rule reflects the transfer of the rulemaking functions and responsibilities from the Office of Nuclear Regulatory Research to the Office of Nuclear Material Safety and Safeguards and the Office of Nuclear Reactor Regulation. The final rule is necessary to inform the public of the transfer of rulemaking responsibilities within the NRC.

Timetable:

Action	Date	FR Cite
Final Action	12/17/98	63 FR 69543
Final Action Effective	12/17/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Alzonia Shepard, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-6864
Email: aws1@nrc.gov

RIN: 3150–AG10

4435. • CHANGES TO QUALITY ASSURANCE PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations regarding quality assurance programs to permit nuclear power plant licensees to change their quality assurance programs described or referenced in a licensee's Safety Analysis Report (SAR) without prior NRC approval under specified conditions. The rulemaking improves the regulatory process through a more efficient use of agency and industry resources. The rulemaking also addresses a petition for rulemaking submitted by the Nuclear Energy Institute (PRM-50-62).

Timetable:

Action	Date	FR Cite
Direct Final Rule - (Effective 04/26/99)	02/23/99	64 FR 9029

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Gramm, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1010
Email: rag@nrc.gov

RIN: 3150–AG20

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federal register

Monday
April 26, 1999

Part LXIV

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-7648, 34-41117, 35-26980, 39-2372, IC-23719, IA-1790, File No. S7-6-99]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions pursuant to the Regulatory Flexibility Act. Information in the agenda was accurate on February 25, 1999, the date on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

DATES: Public comments are due by June 1, 1999.

ADDRESSES: Persons wishing to submit written comments should file three copies of their comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-6-99 and will be available for public inspection and copying at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: Anne H. Sullivan, Office of the General Counsel, 202-942-0954.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980)) requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter which is included in the agenda (5 U.S.C. 602(d)). The agenda includes new entries, entries carried over from previous publications, and rulemaking actions which have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used throughout the agenda:

"Securities Act" - Securities Act of 1933

"Exchange Act" - Securities Exchange Act of 1934

"PUHCA" - Public Utility Holding Company Act of 1935

"Investment Company Act" - Investment Company Act of 1940

"Investment Advisers Act" - Investment Advisers Act of 1940

The Commission's regulatory flexibility agenda is set forth below. The Commission invites public comment on the agenda and on the individual agenda entries.

Dated: February 26, 1999.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

DIVISION OF CORPORATION FINANCE—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4436	International Accounting Standards	3235-AH65

DIVISION OF CORPORATION FINANCE—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4437	Asset-Backed Securities Disclosure	3235-AF74
4438	Definitions for Purposes of the Private Litigation Reform Act of 1995	3235-AG89
4439	Definition of "Qualified Purchaser"	3235-AH15
4440	Householding of Proxy and Information Statements	3235-AH66

DIVISION OF CORPORATION FINANCE—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4441	Regulation of Securities Offerings	3235-AG83
4442	Streamlining Rule 144	3235-AH13
4443	Financial Statements and Periodic Reports for Related Issuer Guarantors	3235-AH52
4444	Regulation of Extraordinary Corporate Transactions	3235-AG84
4445	Addressing Abuses of Form S-8 by Companies Using Consultants To Raise Capital	3235-AG94
4446	Revisions to Rules Governing Options Disclosure Document	3235-AH31

SEC

DIVISION OF CORPORATION FINANCE—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4447	Exemptions for International Tender and Exchange Offers	3235-AD97
4448	International Disclosure Standards	3235-AH62

DIVISION OF CORPORATION FINANCE—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4449	Rule 504 of Regulation D	3235-AH35
4450	Conforming Segment Reporting With Generally Accepted Accounting Principles	3235-AH43
4451	Delayed Pricing for Companies Not Eligible for Form S-3	3235-AG86
4452	Increase in Dollar Amounts in Rule 701, the Exemption for Offers and Sales by Certain Compensatory Benefit Plans	3235-AH21

DIVISION OF INVESTMENT MANAGEMENT—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4453	Form ADV Uniform Application for Investment Adviser Registration	3235-AD21
4454	Books and Records To Be Maintained by Investment Advisers	3235-AH24
4455	Custody or Possession of Funds or Securities of Clients	3235-AH26
4456	Form ADV-W Notice of Withdrawal From Registration as Investment Adviser	3235-AH27
4457	Principal Transactions With Investment Advisory Clients	3235-AH34
4458	Certain Investment Company Directors not Considered Interested Persons Because of Ownership of Index Fund Securities	3235-AH63
4459	Political Contributions by Investment Advisers	3235-AH64
4460	Shareholder Report and Financial Statement Revisions	3235-AG64
4461	Exemption for Subsidiaries Organized To Finance Operations of Domestic or Foreign Companies; Certain Prima Facie Investment Companies	3235-AE95
4462	Deposits of Securities in Securities Depositories	3235-AG71
4463	Proposed Amendments in Investment Company Advertising Rules	3235-AH19
4464	Reports of Significant Events	3235-AH50
4465	Acquisition by Investment Company of Interest in Repurchase Agreement or Refunded Security To Be Treated as Acquisition of Underlying Securities	3235-AH56
4466	Exemption for the Acquisition of Securities During the Existence of an Underwriting Syndicate	3235-AH57
4467	Amendments To Form N-SAR, Semiannual Report of Registered Investment Companies	3235-AF93
4468	Amendments to the Cash Solicitation Rule	3235-AH33

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4469	Temporary Exemption for Certain Investment Advisers	3235-AH02
4470	Investment Company Names	3235-AH11
4471	Requirements Relating to Codes of Ethics With Respect to Registered Investment Companies; Records To Be Maintained by Investment Advisers	3235-AG27
4472	Delivery of Disclosure Documents to Households	3235-AG98
4473	Transactions in Certain Canadian Retirement Plans	3235-AH32
4474	EDGAR System (Modernization)	3235-AH70
4475	Amendments to Rule 8f-1 and Deregistration Form N-8F, and Rule 101 of Regulation S-T	3235-AG29
4476	Insurance Products: New Form N-6 for Registration of Separate Accounts Offering Variable Life Insurance Contracts	3235-AG37
4477	PUHCA: Exemption for Certain Acquisitions of Foreign Utility Companies	3235-AF78

SEC

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4478	Status of Subsidiary Companies Formed To Hold Interests in Foreign Utility Companies	3235-AF79

DIVISION OF INVESTMENT MANAGEMENT—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4479	Custody of Investment Company Assets Outside the United States	3235-AH55
4480	Insurance Products: Equity Index Insurance Products Concept Release	3235-AH23

DIVISION OF INVESTMENT MANAGEMENT—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4481	Electronic Filing of Institutional Investment Manager Reports on Form 13F	3235-AG97
4482	Technical Amendments Under the Investment Advisers Act of 1940	3235-AH59
4483	Transition Rule for Ohio Investment Advisers	3235-AH60
4484	Unit Investment Trusts: Simplification of Registration Statements	3235-AA47
4485	Performance Advertising by Unit Investment Trusts	3235-AG63
4486	Mergers of Certain Affiliated Investment Companies	3235-AG31

DIVISION OF MARKET REGULATION—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4487	Net Capital Rule: Customer Protection Rule	3235-AH05
4488	Risk Assessment Recordkeeping and Reporting Requirement	3235-AH06
4489	Exemption of Certain Foreign Brokers and Dealers	3235-AH17
4490	Untimely Announcement of Record Dates	3235-AH38
4491	Form TA-2, Form To Be Used by Transfer Agents Registered Pursuant to Section 17A of the Securities Exchange Act of 1934 for the Annual Report of Transfer Agent Activities	3235-AH44
4492	Operational Capability Required of Registered Broker-Dealers and Transfer Agents	3235-AH61
4493	Purchases of Certain Equity Securities by the Issuers and Others	3235-AH37
4494	Exemption From Exchange Act Section 11(d)(1) for Securities of Foreign Issuers Sold on an Installment Basis	3235-AH58
4495	Net Capital Rule Concept Release	3235-AH29
4496	Initiation or Resumption of Quotations Without Specified Information	3235-AH40
4497	Destruction of Cancelled Securities Certificates	3235-AH54

DIVISION OF MARKET REGULATION—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4498	Net Capital Requirements for Brokers or Dealers	3235-AD79
4499	Market Risk Haircuts for Instruments Subject to Interest Rate Risk	3235-AG18
4500	Amendment to Form BDW and Amendment to Exchange Act Rule 15b6-1 and Amendments to Rules 15b1-1, 15b3-1, 15Ba2-2, 15Ca1-1, and 15Ca2-1	3235-AG69
4501	Amendments to Rules 17a-3 and 17a-4 Under the Securities Exchange Act of 1934	3235-AH04
4502	Purchases of Certain Equity Securities by the Issuer and Others	3235-AH48
4503	Proposed Amendments to Transfer Agent Rules	3235-AG24
4504	Proposed Amendments to the Intermarket Trading System (ITS) Plan To Expand the ITS/Computer Assisted Execution System Linkage to All Listed Securities and Eliminate the Unanimous Vote	3235-AH49
4505	Proposed Amendments to National Market System Plan	3235-AH51

SEC

DIVISION OF MARKET REGULATION—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4506	Exemption of the Securities of the Kingdom of Sweden Under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities	3235-AH68
4507	Tender and Reorganization Agents	3235-AH53
4508	Net Capital Requirements for Brokers or Dealers—Definition of the Term Nationally Recognized Statistical Rating Organization	3235-AH28
4509	Amendment to Rule 9b-1 Under the Securities Exchange Act Relating to the Options Disclosure Document	3235-AH30

DIVISION OF MARKET REGULATION—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4510	Amendment to Rule 11Ac1-1	3235-AH00
4511	Automated Submission of Trading Data by Certain Exchange Members, Brokers, and Dealers Under the Securities Exchange Act of 1934	3235-AH69
4512	Large Trader Reporting System	3235-AE42

DIVISION OF MARKET REGULATION—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4513	OTC Derivatives Dealers	3235-AH16
4514	Amendment to Rule Filing Requirements for Self-Regulatory Organizations Regarding New Derivative Securities Products	3235-AH39
4515	Exemption of the Securities of the Kingdom of Belgium Under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities	3235-AH46
4516	Regulation of Alternative Trading Systems and National Securities Exchanges	3235-AH41
4517	Reports To Be Made by Certain Brokers and Dealers	3235-AH36
4518	Year 2000 Readiness Reports To Be Made by Transfer Agents	3235-AH42

OFFICES AND OTHER PROGRAMS—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4519	Amendments to the Freedom of Information Act, Privacy Act, and Confidential Treatment Rules	3235-AH71

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF CORPORATION FINANCE

Prerule Stage

4436. • INTERNATIONAL ACCOUNTING STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR part 210; 17 CFR 249.220f

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission publish a release that would solicit comment on whether the Commission should recognize accounting standards promulgated by the International Accounting Standards Committee for purposes of cross-border offerings and listings by foreign companies.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

SEC—DIVISION OF CORPORATION FINANCE

Prerule Stage

Agency Contact: David Sirignano, Division of Corporation Finance, Securities and Exchange Commission
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Fax: 202 942-9624
RIN: 3235–AH65

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

4437. ASSET-BACKED SECURITIES DISCLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission amendments to revise rules and forms which would specify disclosure requirements for asset-backed securities transactions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Green, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-1940
Fax: 202 942-9635

RIN: 3235–AF74

4438. DEFINITIONS FOR PURPOSES OF THE PRIVATE LITIGATION REFORM ACT OF 1995

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230.177(New); 17 CFR 230.178(New); 17 CFR 230.17a(New); 17 CFR 240.3b-12(New); 17 CFR 240.3b-13(New)

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission issue proposed rules that will define the terms "outside director," "limited liability company," "partnership," and "direct participation investment program." These definitions are deemed necessary in view of changes to the Securities Act and Exchange Act made in the Private Securities Litigation Reform Act of 1995.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elliot B. Staffin, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2829
Fax: 202 942-9525

RIN: 3235–AG89

4439. DEFINITION OF "QUALIFIED PURCHASER"

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose a definition of the term "qualified purchaser" as used in section 18 of the Securities Act of 1933. Under that section, securities offered or sold to "qualified purchasers" are "covered securities," and thus, exempt from state regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Reynolds, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH15

4440. • HOUSEHOLDING OF PROXY AND INFORMATION STATEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n

CFR Citation: 17 CFR 240.14a-3; 17 CFR 240.14c-3

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose revisions to the proxy rules to permit companies, brokers, banks and similar intermediaries to deliver a single copy of proxy or information statements to more than one investor if they share the same address.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth Murphy, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH66

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF CORPORATION FINANCE

Final Rule Stage

4441. REGULATION OF SECURITIES OFFERINGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Commission has proposed rules that would reform the registration process under the Securities Act and alter certain requirements in the periodic reporting process under the Exchange Act. The proposed rules cover, among other topics, prospectus delivery requirements, communications around the time of an offering and the integration of public and private offerings.

Timetable:

Action	Date	FR Cite
Notice With Request for Comments	07/31/96	61 FR 40044
Notice Comment Period End	09/30/96	
NPRM	12/04/98	63 FR 67174
NPRM Comment Period End	04/05/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anita T. Klein, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9525

RIN: 3235–AG83

4442. STREAMLINING RULE 144

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.144

Legal Deadline: None

Abstract: The Commission has proposed revisions to Rule 144, Rule 145 and Form 144 to make the rules and form easier to understand and apply. The proposed amendments would, among other things, add a bright line test to the Rule 144 definition of affiliate, eliminate the Rule 144 manner of sale requirements, increase the Form 144 filing thresholds, and codify certain interpretive positions. The proposals also would eliminate the presumptive underwriter provisions of Rule 145.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 9246
NPRM Comment Period End	04/29/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth Murphy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH13

4443. FINANCIAL STATEMENTS AND PERIODIC REPORTS FOR RELATED ISSUER GUARANTORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 210; 17 CFR 240

Legal Deadline: None

Abstract: The Commission proposed rules that would specify the financial statements and periodic reports for related issuers and guarantors. The proposals would largely reflect staff interpretations under SAB 53.

Timetable:

Action	Date	FR Cite
NPRM	03/05/99	64 FR 10579
NPRM Comment Period End	05/04/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Hyatt, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH52

4444. REGULATION OF EXTRAORDINARY CORPORATE TRANSACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n

CFR Citation: 17 CFR 240

Legal Deadline: None

Abstract: The Commission proposed rules designed to adapt the regulatory scheme applicable to extraordinary corporate transactions such as mergers, tender offers and going private transactions to the realities of today's securities marketplace, as well as promote uniform disclosure in connection with such transactions. The Commission also proposed changes to shareholder communications rules to facilitate communications to and among securityholders.

Timetable:

Action	Date	FR Cite
NPRM	12/04/98	63 FR 67331
NPRM Comment Period End	04/05/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James J. Moloney, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2920
Fax: 202 942-9638

RIN: 3235–AG84

4445. ADDRESSING ABUSES OF FORM S-8 BY COMPANIES USING CONSULTANTS TO RAISE CAPITAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 239.16b; 17 CFR 228.402; 17 CFR 229.402; 17 CFR 230.101; 17 CFR 230.405; 17 CFR 239.13

Legal Deadline: None

Abstract: The Commission adopted rules to address abuses of Form S-8 by

companies using consultants to raise capital.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9648
NPRM Comment Period End	04/27/98	
Final Rule	03/08/99	64 FR 11103
Second NPRM	03/08/99	64 FR 11118
Final Rule Effective	04/07/99	64 FR 11103
Second NPRM Comment Period End	05/07/99	64 FR 11118
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: The Commission also proposed new registrant eligibility requirements for the use of Form S-8, for registration of securities issued to employees and consultants for compensatory purposes. The amendments are intended to address certain abuses of Form S-8, in furtherance of the Commission's comprehensive agenda to deter registration and trading abuses, particularly by microcap companies.

Agency Contact: Anne Krauskopf, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AG94

4446. REVISIONS TO RULES GOVERNING OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.135b

Legal Deadline: None

Abstract: The Commission proposed amendments to provide that an options disclosure document prepared in accordance with Rule 9b-1 under the Exchange Act is not a prospectus and accordingly will not be subject to civil liability under section 12(a)(2) of the Securities Act.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 36136
NPRM Comment Period End	07/31/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Lavan, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH31

4447. EXEMPTIONS FOR INTERNATIONAL TENDER AND EXCHANGE OFFERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77sss; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79t; 15 USC 80a-37

CFR Citation: 17 CFR 200; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 260

Legal Deadline: None

Abstract: The Commission reproposed amendments to facilitate the extension of international tender offers, rights offers and business combinations to U.S. holders. The proposed rules would provide exemptions from the tender offer rules, securities registration requirements, and trust indenture provisions.

Timetable:

Action	Date	FR Cite
ANPRM	06/12/90	55 FR 23751
ANPRM Comment Period End	09/21/90	
NPRM	06/14/91	56 FR 27582
Reproposal	12/15/98	63 FR 69136
NPRM Comment Period End	02/16/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Laurie Green, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2920
Fax: 202 942-9638

RIN: 3235–AD97

4448. • INTERNATIONAL DISCLOSURE STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR part 210; 17 CFR 230.405; 17 CFR 240.36-4; 17 CFR 249.220f

Legal Deadline: None

Abstract: The Commission proposed revisions to the disclosure requirements for foreign private issuers to conform to the international disclosure standards endorsed by the International Organization of Securities Commissions in September 1998. The proposals also would change the definition of "foreign private issuer" to give clearer guidance on how foreign companies should determine whether their shareholders are U.S. residents.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6267
NPRM Comment Period End	04/12/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sandra Folsom Kinsey, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990
Fax: 202 942-9624

RIN: 3235–AH62

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF CORPORATION FINANCE

Completed Actions

4449. RULE 504 OF REGULATION D

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.504

Legal Deadline: None

Abstract: The Commission adopted amendments to Rule 504 of Regulation D to address possible abuses that may be occurring under claim of that exemption.

Timetable:

Action	Date	FR Cite
NPRM	05/28/98	63 FR 29168
NPRM Comment Period End	07/27/98	
Final Action	03/08/99	64 FR 11090
Final Action Effective	04/07/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara C. Jacobs, Division of Corporation Finance, Securities and Exchange Commission
Phone: 703 942-2950
Fax: 703 942-9516

RIN: 3235–AH35

4450. CONFORMING SEGMENT REPORTING WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 210.3-03; 17 CFR 210.12-16; 17 CFR 229.101; 17 CFR 229.102; 17 CFR 249.220f

Legal Deadline: None

Abstract: The Commission adopted amendments to its disclosure requirements relating to segment reporting to conform them with the recently revised segment reporting requirements of Generally Accepted Accounting Principles established by the Financial Accounting Standards Board.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 35886
NPRM Comment Period End	07/31/98	
Final Action	01/12/99	64 FR 1728
Final Action Effective	02/11/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH43

4451. DELAYED PRICING FOR COMPANIES NOT ELIGIBLE FOR FORM S-3

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.415; 17 CFR 230.424; 17 CFR 230.430A

Legal Deadline: None

Abstract: The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some subsequent point.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 9276
NPRM Comment Period End	04/29/97	
Withdrawn	04/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara C. Jacobs, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AG86

4452. INCREASE IN DOLLAR AMOUNTS IN RULE 701, THE EXEMPTION FOR OFFERS AND SALES BY CERTAIN COMPENSATORY BENEFIT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.701

Legal Deadline: None

Abstract: The Commission adopted amendments to increase the available exemptive amounts provided by Rule 701 in connection with certain offers and sales by compensatory benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	03/02/98	63 FR 10785
NPRM Comment Period End	05/04/98	
Final Action	03/08/99	64 FR 11095
Final Action Effective	04/07/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Office of Small Business, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH21

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

4453. FORM ADV UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-3(c)(1); 15 USC 80b-4

CFR Citation: 17 CFR 275.203-1; 17 CFR 275.204-1; 17 CFR 279.1

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending revising Form ADV and related rules to: (1) improve disclosure of information on advisers' disciplinary history; and (2) enhance disclosure of information about the advisory relationship provided to clients and prospective clients.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lori Hamilton Price, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0531

RIN: 3235–AD21

4454. BOOKS AND RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending that the Commission update the books and records requirements for investment advisers.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeffrey Himstreet, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0533

RIN: 3235–AH24

4455. CUSTODY OR POSSESSION OF FUNDS OR SECURITIES OF CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 275.206(4)-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending a proposal to the Commission to revise the custody rule under the Investment Advisers Act of 1940.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arthur Laby, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0523

RIN: 3235–AH26

4456. FORM ADV-W NOTICE OF WITHDRAWAL FROM REGISTRATION AS INVESTMENT ADVISER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-3; 15 USC 80b-11

CFR Citation: 17 CFR 279.2

Legal Deadline: None

Abstract: The Division of Investment Management is considering revising Form ADV-W to reflect amendments to the Investment Advisers Act of 1940 enacted as part of the Investment Advisers Supervision Coordination Act, title III of the National Securities Markets Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lori Hamilton Price, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0531

RIN: 3235–AH27

4457. PRINCIPAL TRANSACTIONS WITH INVESTMENT ADVISORY CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6a

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending that the Commission permit investment advisers to enter into principal transactions with their clients under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen Goldstein, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0646

RIN: 3235–AH34

SEC—DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

4458. • CERTAIN INVESTMENT COMPANY DIRECTORS NOT CONSIDERED INTERESTED PERSONS BECAUSE OF OWNERSHIP OF INDEX FUND SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.2a19-3

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending to the Commission a new rule to exempt from the definition of "interested person" under section 2(a)(19) of the Investment Company Act of 1940, certain investment company directors who have direct or indirect beneficial interests in the investment company, its investment adviser, or principal underwriter through ownership of an index fund.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Robin Gross Lehv, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AH63

4459. • POLITICAL CONTRIBUTIONS BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6(4); 15 USC 80b-4; 15 USC 80b-11(a)

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending that the Commission propose a rule restricting an investment adviser's ability to provide advisory services to public pension funds after the adviser makes a contribution to a political official who may influence the selection of the adviser.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Jennifer Choi, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0523

RIN: 3235–AH64

4460. SHAREHOLDER REPORT AND FINANCIAL STATEMENT REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77j; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 270.30d-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose revisions to the shareholder report and financial statement requirements for investment companies to improve the quality of updates and simplify investment company financial statement presentation.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer Choi, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG64

4461. EXEMPTION FOR SUBSIDIARIES ORGANIZED TO FINANCE OPERATIONS OF DOMESTIC OR FOREIGN COMPANIES; CERTAIN PRIMA FACIE INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a); 15 USC 77s; 15 USC 78w

CFR Citation: 17 CFR 270.3a-5; 17 CFR 270.3a-1; 17 CFR 230.489; 17 CFR 239.43

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to expand rule 3a-5 to permit, among other things, finance subsidiaries of U.S. banks and insurance companies to rely on the rule. The staff also is considering whether to recommend that the Commission propose amendments to rule 3a-1 to eliminate a requirement that has prevented certain holding companies of foreign banks and foreign insurance companies from relying on that rule.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia G. Pugh, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AE95

4462. DEPOSITS OF SECURITIES IN SECURITIES DEPOSITORIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-4

Legal Deadline: None

Abstract: Rule 17f-4 governs the use of securities depositories as custodians of the assets of management investment companies. The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments that would, among other things, expand the types of entities that may be used as securities depositories and permit investment company officers to authorize depository arrangements.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG71

4463. PROPOSED AMENDMENTS IN INVESTMENT COMPANY ADVERTISING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 80a-8; 15 USC 80a-22; 15 USC 80a-24(g); 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 230.482

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose to amend Rule 482, to permit advertisements that are not subject to restrictions limiting the content to information "the substance of which" is in a fund's prospectus.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Heather A. Seidel, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0686

RIN: 3235–AH19

4464. REPORTS OF SIGNIFICANT EVENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 80a-1 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose a rule that requires registered investment companies to file reports about significant events.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annette M. Capretta, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0624

RIN: 3235–AH50

4465. ACQUISITION BY INVESTMENT COMPANY OF INTEREST IN REPURCHASE AGREEMENT OR REFUNDED SECURITY TO BE TREATED AS ACQUISITION OF UNDERLYING SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.2a-7; 17 CFR 270.12d3-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose a new rule that would permit investment companies to "look through" specific repurchase agreements to the securities that collateralize them, and to "look through" specific pre-refunded bonds to escrowed securities, for certain purposes under the Investment Company Act. The staff is also considering whether to recommend conforming amendments to rule 2a-7 and rule 12d3-1.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH56

4466. EXEMPTION FOR THE ACQUISITION OF SECURITIES DURING THE EXISTENCE OF AN UNDERWRITING SYNDICATE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-30(a); 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3; 17 CFR 270.17a-10 (New)

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 10f-3 under the Investment Company Act to permit investment companies to purchase government securities from a non-affiliated underwriter in syndicates involving an underwriter affiliated with the investment company's investment adviser.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Curtis A. Young, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH57

4467. AMENDMENTS TO FORM N-SAR, SEMIANNUAL REPORT OF REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 249.330; 17 CFR 274.101

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to

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recommend that the Commission amend Form N-SAR, the semiannual report for registered investment companies, to update the items of the form.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn Miller, Office of Financial Analysis, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0510

RIN: 3235–AF93

4468. AMENDMENTS TO THE CASH SOLICITATION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6; 15 USC 80-11(a)

CFR Citation: 17 CFR 275.206(4)-3

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend revisions to the cash solicitation rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arthur B. Laby, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0523

RIN: 3235–AH33

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4469. TEMPORARY EXEMPTION FOR CERTAIN INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.15a-4

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 15a-4 under the Investment Company Act. The rule permits a person, under certain circumstances, to serve temporarily as an investment adviser to an investment company under a contract that the investment company's shareholders have not approved. The amendments would, among other things, expand the exemption provided under the rule to include new advisory contracts entered into as a result of a merger or similar business combination.

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40231
NPRM Comment Period End	09/30/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marilyn Mann, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH02

4470. INVESTMENT COMPANY NAMES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-290, sec 208

CFR Citation: 17 CFR 270.35d-1 (New)

Legal Deadline: None

Abstract: The Commission has proposed a rule that would require a registered investment company with a name that suggests certain investments to invest at least 80 percent of its assets in the types of investments suggested by its name.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 10955
NPRM Comment Period End	06/09/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anu Dubey, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AH11

4471. REQUIREMENTS RELATING TO CODES OF ETHICS WITH RESPECT TO REGISTERED INVESTMENT COMPANIES; RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(j); 15-USC 80a-37; 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a); 15 USC 80a-6(c); 15 USC 80a-39; 15 USC 80b-2(a)(17); 15 USC 80b-3; 15 USC 80b-5(e); 15 USC 80b-3a; 15 USC 80b-6a

CFR Citation: 17 CFR 270.17j-1; 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Commission has proposed amendments to rule 17j-1 under the Investment Company Act, rule 204-2 under the Investment Advisers Act, and investment company registration forms under the Investment Company Act and the Securities Act. The amendments to rule 17j-1 would enhance oversight of personal investment activities of investment company personnel by boards of directors and would require access persons to report to their employers all securities owned by them at the time they become access persons. Additional amendments would make the scope of the rule more consistent with its purpose. Amendments to rule 204-2 under the Investment Advisers Act would expand the list of securities

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exempt from the recordkeeping requirements of that rule. The amendments to fund registration forms would require investment companies to provide disclosure in their registration statements relating to codes of ethics and to file copies of their codes of ethics with the Commission as exhibits to their registration statements.

Timetable:

Action	Date	FR Cite
NPRM	09/14/95	60 FR 47844
NPRM Comment Period End	11/13/95	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Penelope Saltzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG27

4472. DELIVERY OF DISCLOSURE DOCUMENTS TO HOUSEHOLDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-29(e); 15 USC 77s(a); 15 USC 78l; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 270.30d-1; 17 CFR 270.30d-2; 17 CFR 240.14a-3; 17 CFR 240.14c-3; 17 CFR 240.14c-7

Legal Deadline: None

Abstract: The Commission proposed for public comment a new rule under the Securities Act of 1933 to allow issuers and broker-dealers to satisfy the Act's prospectus delivery requirements, for two or more investors sharing the same address, by sending a single prospectus, subject to certain conditions. The Commission proposed similar amendments to the rules under the Securities Exchange Act of 1934 and the Investment Company Act of 1940 that govern the delivery of annual and (in the case of investment companies) semiannual reports to shareholders. The proposed rule and rule amendments are intended to reduce the waste and inconvenience of duplicate documents sent to investor households and to save costs for issuers.

Timetable:

Action	Date	FR Cite
NPRM	11/13/97	62 FR 61933
NPRM Comment Period End	02/02/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marilyn Mann, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG98

4473. TRANSACTIONS IN CERTAIN CANADIAN RETIREMENT PLANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-1 et seq; 15 USC 77a et seq; 15 USC 78o et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission proposed for public comment two new rules and rule amendments that would provide exemptions from the registration requirements of the Securities Act, the Investment Company Act, and the Exchange Act for the offer and sale of securities of foreign issuers to certain Canadian retirement plans, such as Registered Retirement Savings Plans, Registered Retirement Income Funds, or similar plans.

Timetable:

Action	Date	FR Cite
NPRM	03/26/99	64 FR 14648
NPRM Comment Period End	05/28/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia Pugh, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH32

4474. • EDGAR SYSTEM (MODERNIZATION)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f, 77g, 77h, 77j, and 77s(a); 15 USC 78c, 78l, 78m, 78n, 78o(d), 78w(a), and 78ll; 15 USC 77sss; 15 USC 79c, 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, and 79t; 15 USC 80a-8, 80a-29, 80a-30, and 80a-37

CFR Citation: 17 CFR 230.485 to 230.487; 17 CFR 230.495; 17 CFR 230.497; 17 CFR 232.10 to 232.11; 17 CFR 232.101 to 232.102; 17 CFR 232.104 to 232.106; 17 CFR 232.302 to 232.307; 17 CFR 232.310; 17 CFR 239.14 to 239.17b; 17 CFR 240.14a-101; 17 CFR 270.8b-23; 17 CFR 270.8b-32; 17 CFR 270.101; 17 CFR 274.5; 17 CFR 274.11 to 274.11c; ...

Legal Deadline: None

Abstract: The Commission is modernizing the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. When the programming for the new system is accomplished, the EDGAR system will be able to accept filings in Hypertext Markup Language as well as documents submitted in the American Standard Code for Information Interchange format. Filers will have the option of accompanying their required filings with unofficial copies in Portable Document Format. The proposed new rules and amendments to existing rules would reflect changes to filing requirements resulting from EDGAR modernization, as well as certain other changes to clarify or update the rules. There will be subsequent rulemaking in connection with the completion of EDGAR modernization.

Timetable:

Action	Date	FR Cite
NPRM	03/16/99	64 FR 12908
NPRM Comment Period End	04/15/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ruth Armfield Sanders, Division of Investment Management, Securities and Exchange Commission

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Final Rule Stage

Phone: 202 942-0633

RIN: 3235–AH70

4475. AMENDMENTS TO RULE 8F-1 AND DEREGISTRATION FORM N-8F, AND RULE 101 OF REGULATION S-T

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 274.218; 17 CFR 270.8F-1; 17 CFR 232.101

Legal Deadline: None

Abstract: The Commission proposed amendments to Form N-8F and rule 8f-1 under the Investment Company Act of 1940, the form and rule that govern the deregistration of certain investment companies. The proposed amendments are designed to simplify and reorganize Form N-8F and would expand the circumstances in which investment companies may use the form. The release also contains proposed amendments to Regulation S-T to require that investment companies file Form N-8F on the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system.

Timetable:

Action	Date	FR Cite
NPRM	12/16/98	63 FR 69236
NPRM Comment Period End	02/05/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robin Gross Lehv, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AG29

4476. INSURANCE PRODUCTS: NEW FORM N-6 FOR REGISTRATION OF SEPARATE ACCOUNTS OFFERING VARIABLE LIFE INSURANCE CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission proposed a new Form N-6 to be used for separate accounts offering variable life insurance contracts to register under both the Investment Company Act and the Securities Act. Currently, most insurance company separate accounts are organized as unit investment trusts (UITs) and register their interests on Form S-6. Form S-6 was developed for UITs generally, and not specifically for insurance company separate accounts that offer interests in variable life insurance contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/13/98	63 FR 13988
NPRM Comment Period End	07/01/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AG37

4477. PUHCA: EXEMPTION FOR CERTAIN ACQUISITIONS OF FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79c; 15 USC 79c(b); 15 USC 79(c)(3); 15 USC 79(t); 15 USC 79(n); 15 USC 79z-5b(b)

CFR Citation: 17 CFR 250.55; 17 CFR 259.5so (Revision)

Legal Deadline: None

Abstract: The proposed rule is intended to provide a safe harbor for the acquisition of one or more foreign utility companies by a registered holding company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry Eisenstein, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0552

RIN: 3235–AF78

4478. STATUS OF SUBSIDIARY COMPANIES FORMED TO HOLD INTERESTS IN FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79(t)

CFR Citation: 17 CFR 250.56 (New)

Legal Deadline: None

Abstract: The proposed rule clarifies that a subsidiary of a registered holding company that is engaged exclusively in the business of owning an interest in one or more foreign utility companies will be deemed to be a foreign utility company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry Eisenstein, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0552

RIN: 3235–AF79

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Long-Term Actions

4479. CUSTODY OF INVESTMENT COMPANY ASSETS OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None

Abstract: Rule 17f-5 governs the custody of the assets of registered management investment companies outside the United States. The Commission had adopted amendments to this rule under RIN No. 3235-AE98 in May 1997, but has extended the effectiveness date of those changes pending this staff review. The Division of Investment Management is considering whether to recommend that the Commission propose amendments to the rule

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH55

4480. INSURANCE PRODUCTS: EQUITY INDEX INSURANCE PRODUCTS CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.151

Legal Deadline: None

Abstract: The Commission issued a release requesting public comment on the structure of equity index insurance products, the manner in which they are marketed, and any other matters the Commission should consider in addressing Federal securities law issues raised by equity index insurance products.

Timetable:

Action	Date	FR Cite
ANPRM	08/20/97	62 FR 45359
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AH23

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Completed Actions

4481. ELECTRONIC FILING OF INSTITUTIONAL INVESTMENT MANAGER REPORTS ON FORM 13F

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 78ll

CFR Citation: 17 CFR 232.101; 17 CFR 240.13f-1; 17 CFR 240.13f-2; 17 CFR 249.325; 17 CFR 249.326

Legal Deadline: None

Abstract: The Commission adopted a rule making electronic filing of Form 13F reports mandatory instead of optional. It also eliminates both special formatting requirements for the electronic version of those reports and the related requirement that they be submitted on magnetic tape. Form 13F reports are filed quarterly by institutional investment managers having more than $100,000,000 worth of equity securities in accounts under management to report the equity securities holdings of those accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/01/97	62 FR 36467
NPRM Comment Period End	08/07/97	
Final Action	01/19/99	64 FR 2843
Final Action Effective	02/18/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ruth Armfield Sanders, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0633

RIN: 3235–AG97

4482. • TECHNICAL AMENDMENTS UNDER THE INVESTMENT ADVISERS ACT OF 1940

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.202(a)(1)-1; 17 CFR 275.204-1

Legal Deadline: None

Abstract: On January 7, 1999, the Commission adopted technical corrections to rules 202(a)(1)-1 and 204-1, both under the Investment Adviser Act of 1940.

Timetable:

Action	Date	FR Cite
Final Action	01/07/99	64 FR 2566
Final Action Effective	01/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey O. Himstreet, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0533

RIN: 3235–AH59

4483. • TRANSITION RULE FOR OHIO INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-3(h); 15 USC 80b-11(a); 15 USC 80b-3(c)(1); 15 USC 80b-4

CFR Citation: 17 CFR 275

Legal Deadline: Other, Statutory, March 18, 1999.
Rule must be adopted by the effective date of the Ohio statute, which will be 03/18/99.

Abstract: The Commission has adopted a rule that would create a transition

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process for Ohio investment advisers to switch from Commission registration to Ohio registration.

Timetable:

Action	Date	FR Cite
NPRM	02/05/99	64 FR 5722
NPRM Comment Period End	03/08/99	
Final Action	04/01/99	64 FR 15680
Final Action (Rule) Effective	05/03/99	
Final Action (Form Amendment) Effective	12/31/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeffrey O. Himstreet, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0533

RIN: 3235–AH60

4484. UNIT INVESTMENT TRUSTS: SIMPLIFICATION OF REGISTRATION STATEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12; 17 CFR 230.482; 17 CFR 270.34b-1

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission repropose for public comment Form N-7, a new form for registering unit investment trusts (UITs) and their securities under the Investment Company Act and the Securities Act. Adoption of Form N-7 would: (1) codify the disclosure requirements for UITs into one form; (2) codify the disclosure standards that have been developed for UITs; and (3) shorten and simplify the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. The requirement for audited financial statements would be eliminated under certain circumstances. Under the reproposal, the requirement that registrants include certain third-party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust.

Timetable:

Action	Date	FR Cite
NPRM	03/17/87	52 FR 82682
NPRM Comment Period End	05/15/87	
Withdrawn	04/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at a later date.

Agency Contact: Jennifer Choi, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AA47

4485. PERFORMANCE ADVERTISING BY UNIT INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.16; 17 CFR 270.34b-1

Legal Deadline: None

Abstract: On November 22, 1995 the Commission published a request for public comment on a proposal that would standardize yields advertised by certain unit investment trusts (UITs). The proposal would amend Form S-6, the form used by UITs to register under the Securities Act, Rule 482 under the 1933 Act, which governs investment company sales materials not accompanied or preceded by a prospectus (advertisements), and Rule 34b-1 under the Investment Company Act which governs sales materials that accompany or follow the delivery of a statutory prospectus (sales literature). The proposal would require UITs to use a standardized formula for calculating yield in their prospectuses, advertisements, and sales literature.

Timetable:

Action	Date	FR Cite
NPRM	11/22/95	60 FR 61454
Extension of Comment Period	01/11/96	61 FR 1312
NPRM Comment Period End	01/29/96	
Extended Comment Period End	03/29/96	
Withdrawn	04/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at a later date.

Agency Contact: Jennifer Choi, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG63

4486. MERGERS OF CERTAIN AFFILIATED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(a); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17a-8

Legal Deadline: None

Abstract: Rule 17a-8 currently allows a merger or similar transaction to occur between two affiliated registered investment companies if the affiliations are limited to sharing a common investment adviser, common directors, and/or common officers. The staff of the Division of Investment Management is considering whether to recommend to the Commission that it expand the applicability of the rule to other affiliate relationships.

Timetable:

Action	Date	FR Cite
Withdrawn	04/01/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

SEC—DIVISION OF INVESTMENT MANAGEMENT

Completed Actions

Additional Information: The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider this item within the next 12 months, but the Commission may consider the item further at a later date.

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG31

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF MARKET REGULATION

Proposed Rule Stage

4487. NET CAPITAL RULE: CUSTOMER PROTECTION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78h; 15 USC 78g

CFR Citation: 12 CFR 220; 17 CFR 240.3a12-11; 17 CFR 240.15c2-5; 17 CFR 240.15c3-1; 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to Rules 3a12-11, 15c2-5, 15c3-1, and 15c3-3 under the Exchange Act reflecting changes to section 8 of the Act and to Regulation T under the Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH05

4488. RISK ASSESSMENT RECORDKEEPING AND REPORTING REQUIREMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a(h)

CFR Citation: 17 CFR 240.17h-1T; 17 CFR 240.17h-2T

Legal Deadline: None

Abstract: The Risk Assessment Recordkeeping and Reporting Requirements, which became effective September 30, 1992 following notice and comment, were adopted as temporary rules pursuant to the Market Reform Act of 1990. These rules contain recordkeeping and reporting requirements with regard to material associated persons of broker-dealers. The Commission plans to propose final rules replacing the temporary rules during 1999.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3235–AH06

4489. EXEMPTION OF CERTAIN FOREIGN BROKERS AND DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78q; 15 USC 78u

CFR Citation: 17 CFR 240.15a-6

Legal Deadline: None

Abstract: Exchange Act Rule 15a-6, which was adopted to exempt conditionally foreign broker-dealers from registration in response to the internationalization of the securities markets, is premised in large part on the willingness of U.S. broker-dealers to take responsibility for resulting trades. The Commission is considering revising the rule to focus instead on the types of securities that are sold by foreign broker-dealers, to allow institutional customers to take advantage of the efficiencies of foreign markets.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Stettner, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH17

4490. UNTIMELY ANNOUNCEMENT OF RECORD DATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78j; 15 USC 78w

CFR Citation: 17 CFR 240.10b-17

Legal Deadline: None

Abstract: Pursuant to a petition of the NASD, the staff is considering recommending that the Commission consider amending Exchange Act Rule 10b-17 to clarify that it applies to distributions made to holders of direct participation program interests.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Ferrara, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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SEC—DIVISION OF MARKET REGULATION

Proposed Rule Stage

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RIN: 3235–AH38

4491. FORM TA-2, FORM TO BE USED BY TRANSFER AGENTS REGISTERED PURSUANT TO SECTION 17A OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE ANNUAL REPORT OF TRANSFER AGENT ACTIVITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78g-l

CFR Citation: 17 CFR 240.17Ac2-2; 17 CFR 240.17a-24; 17 CFR 249b.102

Legal Deadline: None

Abstract: As part of the Commission's continuing efforts to improve and simplify forms and rules, the Commission plans to propose to amend Form TA-2 and Rule 17Ac2-2. In addition, the Commission is planning to rescind Rule 17a-24 and to amend Rule 17Ac-2 and Form TA-2 to elicit more comprehensive information on lost securityholders.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lori Bucci, Office of Risk Management and Control, Division Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH44

4492. • OPERATIONAL CAPABILITY REQUIRED OF REGISTERED BROKER-DEALERS AND TRANSFER AGENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c(b); 15 USC 78o(b); 15 USC 78q; 15 USC 78w(a); 15 USC 78q(a); 15 USC 78q-1(d); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15b7-3T; 17 CFR 240.17a-9T; 17 CFR 240.17Ad-21T; 17 CFR 240.15b7-2; 15 CFR 240.17Ad-20

Legal Deadline: None

Abstract: The Commission proposed rules that are intended to protect investors and the securities markets by reducing the potential systemic risk as a result of operational failures in general, and in particular, computer system failure related to the Year 2000, at registered broker-dealers and non-bank transfer agents.

Timetable:

Action	Date	FR Cite
NPRM	03/11/99	64 FR 12127
NPRM Comment Period End	04/12/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3235–AH61

4493. PURCHASES OF CERTAIN EQUITY SECURITIES BY THE ISSUERS AND OTHERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78o(c); 15 USC 78w(a)

CFR Citation: 17 CFR 240.10b-18

Legal Deadline: None

Abstract: The Commission will be proposing to update Rule 10b-18 to reflect market development since its adoption. Rule 10b-18 is a safe harbor from liability under the anti-manipulation provisions of section 9(a)(2) of the Exchange Act and Rule 10b-5 thereunder for issuer purchases of its common stock made in accordance with the Rule 10b-18 conditions. Rule 10b-18 conditions govern the manner, timing, price and volume of market purchases made by the issuer.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3235–AH37

4494. EXEMPTION FROM EXCHANGE ACT SECTION 11(D)(1) FOR SECURITIES OF FOREIGN ISSUERS SOLD ON AN INSTALLMENT BASIS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq; 15 USC 78c; 15 USC 78k; 15 USC 78w; 15 USC 78jj

CFR Citation: 17 CFR 240.11d1-3

Legal Deadline: None

Abstract: The proposed rule sets forth a uniform set of conditions that, if met, would provide an automatic exemption from section 11(d)(1) of the Securities Exchange Act of 1934, for international offerings of foreign issuers done on an installment basis. The draft rule would also permit, under certain circumstances, the extension of credit through installment sales to the public in a non-privatization offering.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3235–AH58

4495. NET CAPITAL RULE CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

SEC—DIVISION OF MARKET REGULATION

Proposed Rule Stage

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission published a concept release soliciting comments on how the net capital rule may incorporate statistical models to calculate net capital requirements. This concept release also solicited comments and ideas on how the net capital rule could be further modified.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/97	62 FR 68011
ANPRM Comment Period End	03/30/98	
Extension of Comment Period to	05/04/98	63 FR 11173
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH29

4496. INITIATION OR RESUMPTION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(q); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: As part of its efforts to respond to fraud in the microcap securities market, the Commission will repropose for comment amendments to Rule 15c2-11. These amendments would require broker-dealers to: have more issuer information before publishing priced quotations; review updated information periodically when publishing priced quotations; and make issuer information more widely available. The amendments also would expand the issuer's information that a broker-dealer must review for a non-reporting issuer. Finally the amendments would exclude from the rule securities that satisfy any one of three alternative thresholds.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9661
NPRM Comment Period End	04/27/98	
Reproposal	03/08/99	64 FR 11124
Reproposal Comment Period End	04/07/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH40

4497. DESTRUCTION OF CANCELLED SECURITIES CERTIFICATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-19

Legal Deadline: None

Abstract: The Commission is considering proposing Rule 17Ad-19 to establish regulations for the destruction of securities certificates and to require each transfer agent to establish written procedures for the storage and destruction of cancelled securities certificates.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3235–AH54

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Final Rule Stage

4498. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Rule 15c3-1, the net capital rule, that could raise the minimum net capital requirement for certain introducing broker-dealers, for other classes of broker-dealers that never receive customer securities, and for broker-dealers that make markets in securities.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57027
Interim Final Rule	12/02/92	57 FR 56973
NPRM Comment Period End	02/05/93	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas K. McGowan, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission

SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

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RIN: 3235–AD79

4499. MARKET RISK HAIRCUTS FOR INSTRUMENTS SUBJECT TO INTEREST RATE RISK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission proposed for comment an amendment to the net capital rule revising the percentage deductions from net worth, and haircuts, applicable to investment rate products when calculating net capital. Under the proposal, haircuts on government securities, investment grade corporate securities, certain mortgage-backed securities, interest rate swaps, and other interest rate-related derivative instruments would be determined by treating these instruments as part of a single portfolio.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/93	58 FR 27486
ANPRM Comment Period End	12/12/93	
NPRM	12/30/97	62 FR 67996
NPRM Comment Period End	03/30/98	
Extension of Comment Period to	05/04/98	63 FR 11173
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AG18

4500. AMENDMENT TO FORM BDW AND AMENDMENT TO EXCHANGE ACT RULE 15B6-1 AND AMENDMENTS TO RULES 15B1-1, 15B3-1, 15BA2-2, 15CA1-1, AND 15CA2-1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77S; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l

CFR Citation: 17 CFR 240; 17 CFR 249; 17 CFR 249.501a

Legal Deadline: None

Abstract: The Commission proposed amendments to Form BDW, the uniform request for withdrawal from broker-dealer registration under the Securities Exchange Act. The proposed amendments are designed to implement recommended changes to the Central Registration Depository System, a computer system operated by the National Association of Securities Dealers, Inc. that maintains registration information regarding registered broker-dealers and their registered personnel for use by the Commission, the self-regulatory organizations, and state securities regulators. The amendments include certain clarifying amendments to Form BDW, including new instructions for filing Form BDW electronically with the Central Registration Depository. The Commission also has proposed revisions to rules governing the withdrawal of broker-dealer registration under the Securities Exchange Act. Specifically, the revisions would permit broker-dealers that are withdrawing from registration to consent to an extension of the effective date of their withdrawal. The proposed revisions also would permit the Commission to extend the effective date for such periods as the Commission may determine. In addition, the Division has recommended revisions to the rules governing the filing of Form BD and Form BDW to provide for electronic filing of these forms.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 37701
NPRM Comment Period End	08/19/96	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONTINUED: 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 79g; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

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RIN: 3235–AG69

4501. AMENDMENTS TO RULES 17A-3 AND 17A-4 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; ...

CFR Citation: 17 CFR 240 (Revision)

Legal Deadline: None

Abstract: The Commission reproposed for comment amendments to the books and records rules which will take into consideration the comments received in response to the proposing release.

Timetable:

Action	Date	FR Cite
NPRM	10/28/96	61 FR 55593
NPRM Comment Period End	03/31/97	
Reproposed	10/09/98	63 FR 54404
Comment Period End	11/09/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

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RIN: 3235–AH04

4502. PURCHASES OF CERTAIN EQUITY SECURITIES BY THE ISSUER AND OTHERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78i(a)(2); 15 USC 78j(b)

CFR Citation: 17 CFR 240.10b-18

Legal Deadline: None

Abstract: In response to a petition for rulemaking filed by the New York Stock Exchange Inc., the Commission is proposing to modify the timing condition in current Rule 10b-18 to extend the manipulation safe harbor to issuer bids for and purchase of its common stock: (1) that are effected either (i) at the reopening of trading and during the last half-hour prior to the scheduled close of trading during the trading session immediately following, and on the same day as, a market-wide trading suspension, or (ii) at the next day's opening, if the market-wide trading suspension is in effect at the scheduled close of trading; and (2) that comply with the manner, pricing and volume conditions in Rule 10b-18.

Timetable:

Action	Date	FR Cite
NPRM	11/06/98	63 FR 59911
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH48

4503. PROPOSED AMENDMENTS TO TRANSFER AGENT RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-2(a); 17 CFR 240.17Ad-2(c); 17 CFR 240.17Ad-2(e)(1); 17 CFR 240.17Ad-2(e)(2); 17 CFR 240.17Ad-10; 17 CFR 240.17Ad-12

Legal Deadline: None

Abstract: The Commission has proposed amendments to certain transfer agent rules regarding turnaround time, recordkeeping, and safekeeping of funds. The proposed amendments to the transfer agent rules are designed to minimize disruptions, particularly in the National Clearance and Settlement System for securities, that may be caused by poor turnaround performance, substandard or inaccurate recordkeeping practices, and inadequate safekeeping procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 63662
NPRM Comment Period End	02/04/95	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AG24

4504. PROPOSED AMENDMENTS TO THE INTERMARKET TRADING SYSTEM (ITS) PLAN TO EXPAND THE ITS/COMPUTER ASSISTED EXECUTION SYSTEM LINKAGE TO ALL LISTED SECURITIES AND ELIMINATE THE UNANIMOUS VOTE

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 78K-1(a)(3)(B)

CFR Citation: None

Legal Deadline: None

Abstract: The Commission is proposing amendments to the plan governing the operation of the Intermarket Trading System (ITS Plan) to expand the ITS/Computer Assisted Execution System (CAES) linkage to all listed securities, including non-Rule 19c-3 securities. The amendments would also eliminate the requirement that amendments to the ITS Plan be approved by a unanimous vote of all participants; instead, a two-thirds supermajority of the participants would be required for amendments.

Timetable:

Action	Date	FR Cite
NPRM	07/30/98	63 FR 40748
NPRM Comment Period End	08/31/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3235–AH49

4505. PROPOSED AMENDMENTS TO NATIONAL MARKET SYSTEM PLAN

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 78k-1(a)(3)

CFR Citation: None

Legal Deadline: None

Abstract: The Commission proposed for public comment on its own initiative alternative amendments to the plan governing the operation of the Intermarket Trading System. The proposed amendments provide for the linkage of the Pacific Exchange Inc. ("PCX") Application of the Optimark System to the ITS system, and were prepared by the Pacific Exchange and the New York Stock Exchange.

Timetable:

Action	Date	FR Cite
NPRM	07/22/98	63 FR 39306
NPRM Comment Period End	08/21/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

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RIN: 3235–AH51

4506. • EXEMPTION OF THE SECURITIES OF THE KINGDOM OF SWEDEN UNDER THE SECURITIES EXCHANGE ACT OF 1934 FOR PURPOSES OF TRADING FUTURES CONTRACTS ON THOSE SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77s; 15 USC 77z-z; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j

CFR Citation: 17 CFR 240.3a12-8

Legal Deadline: None

Abstract: The Commission proposes for comment an amendment to rule 3a12-8 that would designate debt obligations issued by the Kingdom of Sweden as "Exempted Securities" for the purpose of marketing and trading futures contracts on those securities in the United States. This amendment is intended to permit futures trading on the sovereign debt of Sweden.

Timetable:

Action	Date	FR Cite
NPRM	03/01/99	64 FR 9948
NPRM Comment Period End	03/31/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joshua Kans, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH68

4507. TENDER AND REORGANIZATION AGENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78k-1(a)(1)(B); 15 USC 78n(d)(4); 15 USC 78o(c)(3); 15 USC 78o(c)(6); 15 USC 78q-1(a); 15 USC 78q-1(d)(1); 15 USC 78w(a)

CFR Citation: 17 CFR 240.17Ad-14

Legal Deadline: None

Abstract: The Commission proposed amendments to rule 17Ad-14 under the Securities Exchange Act of 1934. The amendments would require the establishment of book-entry accounts in connection with reorganization events and would provide securities depositories with three business days after the expiration of a tender offer, exchange offer, or reorganization event in which to deliver physical securities certificates.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47209
NPRM Comment Period End	11/03/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3235–AH53

4508. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS—DEFINITION OF THE TERM NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78o; 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission issued a release proposing amendments to the net capital rule that would define the term Nationally Recognized Statistical Rating Organization (NRSRO) for purposes of the net capital rule and set forth the process for applying for NRSRO designation.

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 68018
NPRM Comment Period End	03/02/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This proposal was based in part on comments received in response to a concept release (RIN 3235-AG41; 59 FR 46314), which is now combined in this rulemaking.

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RIN: 3235–AH28

4509. AMENDMENT TO RULE 9B-1 UNDER THE SECURITIES EXCHANGE ACT RELATING TO THE OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78i; 15 USC 78w

CFR Citation: 17 CFR 240.9b-1

Legal Deadline: None

Abstract: The Commission is proposing to amend Exchange Act Rule 9b-1, which requires that an Options Disclosure Document (ODD) be sent to a customer opening an options account. The proposed amendment would refine certain language of the Rule so that it more clearly reflects the regulatory standards it was designed to establish. In paragraph (a)(3) of the Rule, the definition of "Options Disclosure Document" will be amended to explicitly state that amendments and supplements to the ODD are included as part of the ODD. Paragraphs (c)(2) and (c)(3) will be amended to better reflect the type of information appropriately included in the ODD. Paragraphs (c)(4) and (c)(7) will be similarly amended.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 36136

SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	07/31/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3235–AH30

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Long-Term Actions

4510. AMENDMENT TO RULE 11AC1-1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78k; ...

CFR Citation: 17 CFR 240.11Ac1-1(a)(25)

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 11Ac1-1 under the Exchange Act to require both exchange and over-the-counter market makers to provide continuous two-sided quotations when they account for more than 1 percent of the aggregate trading volume of a security included on the Nasdaq Stock Market.

Timetable:

Action	Date	FR Cite
NPRM	08/29/96	61 FR 48333
NPRM Comment Period End	10/29/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Constance Kiggins, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH00

4511. • AUTOMATED SUBMISSION OF TRADING DATA BY CERTAIN EXCHANGE MEMBERS, BROKERS, AND DEALERS UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a; 15 USC 78q

CFR Citation: 17 CFR 240.17a

Legal Deadline: None

Abstract: The Securities and Exchange Commission is proposing Rule 17a-25 which would set forth the obligations of registered broker-dealers to submit securities trading data in an automated format when requested by the Commission staff for enforcement and other regulatory purposes. The proposed rule would also set forth new data elements that would be required for transactions by entities that trade through multiple accounts maintained at multiple broker-dealers.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH69

4512. LARGE TRADER REPORTING SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c to 77d; 15 USC 77s; 15 USC 77ttt; 15 USC 78c to 78d; 15 USC 78i to 78j; 15 USC 78l to 78p; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 240.13h-1

Legal Deadline: None

Abstract: The Commission has published for comment reproposed Exchange Act Rule 13h-1, which would require large traders to disclose accounts to the Commission, and would require broker-dealers to maintain and report large trader transaction records to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7917
NPRM Comment Period End	04/18/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 3235–AE42

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF MARKET REGULATION

Completed Actions

4513. OTC DERIVATIVES DEALERS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77j; 15 USC 77g; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78j; 15 USC 78k; ...

CFR Citation: 17 CFR 200.30-3 (Revision); 17 CFR 240.8c-1 (Revision); 17 CFR 240.15b1-1 (Revision); 17 CFR 240.15c2-1 (Revision); 17 CFR 240.15c3-1 (Revision); 17 CFR 240.15c3-3 (Revision); 17 CFR 240.17a-3 (Revision); 17 CFR 240.17a-4 (Revision); 17 CFR 240.17a-11 (Revision); 17 CFR 240.3b-12; 17 CFR 240.3b-13; 17 CFR 240.3b-14; 17 CFR 240.3b-15; 17 CFR 240.11a1-6; 17 CFR 240.15a-1; ...

Legal Deadline: None

Abstract: The Commission adopted rules and rule amendments under the Securities Exchange Act of 1934 that tailor capital, margin and other broker-dealer regulatory requirements to a class of registered dealers called OTC derivatives dealers active in over-the-counter derivatives markets. Registration as an OTC derivatives dealer under the proposed rules is optional and is an alternative to registration as a broker-dealer under the traditional broker-dealer regulatory structure. It is available only to entities that engage in dealer activities in eligible over-the-counter derivative instruments and that meet certain financial responsibility and other requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/17/97	62 FR 67940
NPRM Comment Period End	03/02/98	
Extension of Comment Period to	04/06/98	63 FR 11173
Final Action	11/03/98	63 FR 59362
Final Action Effective	01/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 15 USC 78i; 15 USC 78o; 15 USC 78q; 15 USC 78w; 15 USC 78mm

CFR CITATION CONT: 17 CFR 249.617 (Revision); 17 CFR 15c2-5 (Revision) 17 CFR 240.17a-5 (Revision); 17 CFR 240.15b9-2; 17 CFR 240.15c3-1f; 17 CFR 240.15c3-4; 17 CFR 240.17a-12; 17 CFR 240.36a1-1; 17 CFR 240.36a1-2

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RIN: 3235–AH16

4514. AMENDMENT TO RULE FILING REQUIREMENTS FOR SELF-REGULATORY ORGANIZATIONS REGARDING NEW DERIVATIVE SECURITIES PRODUCTS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 78a et seq; 15 USC 78s; 15 USC 78mm

CFR Citation: 17 CFR 240.19b-4(e); 17 CFR 249.820

Legal Deadline: None

Abstract: The Commission adopted new paragraph (e) of Rule 19b-4 to expand the scope of SRO matters that do not constitute proposed rule changes to include the listing and trading of new derivative securities products. This amendment is intended to reduce record keeping and reporting requirements on the SROs by eliminating the requirement of filing a complete proposed rule change for Commission review prior to trading a new derivative securities product.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 23584
NPRM Comment Period End	05/29/98	
Interim Final Rule	12/22/98	63 FR 70952
Final Action	12/22/98	63 FR 70952
Final Action Effective	02/22/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH39

4515. EXEMPTION OF THE SECURITIES OF THE KINGDOM OF BELGIUM UNDER THE SECURITIES EXCHANGE ACT OF 1934 FOR PURPOSES OF TRADING FUTURES CONTRACTS ON THOSE SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77z-2; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; ...

CFR Citation: 17 CFR 240.3a12-8

Legal Deadline: None

Abstract: The Commission adopted an amendment to Rule 3a12-8 that would designate debt obligations issued by the Kingdom of Belgium as "exempted securities" for the purpose of marketing and trading of futures contracts on those securities in the United States. This amendment is intended to permit futures trading on the sovereign debt of Belgium.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 32628
NPRM Comment Period End	07/15/98	
Final Action	03/05/99	64 FR 10564

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3235–AH46

4516. REGULATION OF ALTERNATIVE TRADING SYSTEMS AND NATIONAL SECURITIES EXCHANGES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 78a et seq; 15 USC 78mm

CFR Citation: 17 CFR 202.3; 17 CFR 240.3a1-1; 17 CFR 240.3b-16; 17 CFR 240.6a-1; 17 CFR 240.6a-2; 17 CFR 240.6a-3; 17 CFR 240.aaAc1-1; 17 CFR 240.17a-3; 17 CFR 240.17a-4; 17 CFR

SEC—DIVISION OF MARKET REGULATION — Completed Actions

240.17a-23; 17 CFR 240.19b-5; 17 CFR 242.300; 17 CFR 242.301; 17 CFR 242.302; 17 CFR 242.303; ...

Legal Deadline: None

Abstract: The Commission adopted rules and rule amendments that create a new regulatory framework for alternative trading systems and relieve national securities exchanges of certain rule filing requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 23504
NPRM Comment Period End	07/28/98	
Final Action	12/22/98	63 FR 70844
Final Action Effective	04/21/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CFR CITATION CONT: 17 CFR 249.1; 17 CFR 249.1-A; 17 CFR 249.17A-23 17 CFR 249.637; 17 CFR 249.638; 17 CFR 249.821

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RIN: 3235–AH41

4517. REPORTS TO BE MADE BY CERTAIN BROKERS AND DEALERS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 80o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.17a-5

Legal Deadline: None

Abstract: On July 13, 1998, the Commission adopted a rule that requires broker-dealers to file with the Commission and their designated examining authority certain reports regarding their Year 2000 readiness (63 FR 37688). On October 28, 1998, the Commission also adopted a rule that requires broker-dealers to engage an independent public accountant to attest to specific assertions included in the broker-dealer's report on Year 2000 compliance (63 FR 59308).

Timetable:

Action	Date	FR Cite
NPRM	03/12/98	63 FR 12056
NPRM Comment Period End	04/29/98	
Final Action (Reports)	07/13/98	63 FR 37688
SNPRM (Attestation)	07/13/98	63 FR 37709
SNPRM Comment Period End	08/12/98	
Final Action	11/03/98	63 FR 59208
Final Action Effective	01/04/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH36

4518. YEAR 2000 READINESS REPORTS TO BE MADE BY TRANSFER AGENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78q-16(i); 15 USC 78w

CFR Citation: 17 CFR 240.17Ad-18

Legal Deadline: None

Abstract: On July 13, 1998, the Commission adopted a rule that requires non-bank transfer agents to file with the Commission certain reports regarding their Year 2000 readiness (63 FR 37668). The Commission reopened the comment period with respect to its proposal that required certain transfer agents to engage an independent public accountant to attest to specific assertions included in the transfer agent's report on Year 2000 compliance. The requirement for an attestation by independent public accountants was adopted on November 2, 1998.

Timetable:

Action	Date	FR Cite
NPRM	03/12/98	63 FR 12062
NPRM Comment Period End	04/13/98	63 FR 19430
Final Action (Reports)	07/13/98	63 FR 37668
SNPRM (Attestation)	07/13/98	63 FR 37709
SNPRM Comment Period End	08/12/98	
Final Action	11/02/98	63 FR 58630
Final Action	11/02/98	63 FR 58630
Final Action Effective	12/02/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH42

SECURITIES AND EXCHANGE COMMISSION (SEC) OFFICES AND OTHER PROGRAMS — Proposed Rule Stage

4519. • AMENDMENTS TO THE FREEDOM OF INFORMATION ACT, PRIVACY ACT, AND CONFIDENTIAL TREATMENT RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552; 5 USC 552a; 15 USC 77f(d); 15 USC 77s; 15 USC 77ggg(a); 15 USC 78m(F); 15 USC 78w; 15 USC 79t; 15 USC 79v(a); 15 USC 77sss; 15 USC 80a-37; 15 USC 80a-44(a); 15 USC 80a-44(b); 15 USC 80b-10; 15 USC 80b-11

CFR Citation: 17 CFR 200.80; 17 CFR 200.83; 17 CFR 200.303; 17 CFR 200.306; 17 CFR 200.308; 17 CFR 200.310; 17 CFR 200.312

Legal Deadline: None

Abstract: The Commission proposes to amend its rules to implement recent statutory and case law requirements relating to access to Commission records. The proposed amendments would also conform the rules to current Commission practice and correct typographical errors.

SEC—OFFICES AND OTHER PROGRAMS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Betty Lopez, SEC Operations Center, Securities and Exchange Commission, 6432 General Green Way, Mail Stop O-5, Alexandria, VA 22312-2413
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RIN: 3235–AH71

[FR Doc. 99-5653 Filed 04-23-99; 8:45 am]
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Monday
April 26, 1999

Part LXV

Surface Transportation Board

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD (STB)

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Ch. X

[STB Ex Parte No. 536; Sub-No. 6]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) Current and projected rulemakings and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule, including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, during the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda, which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules which will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Board is publishing its April 1999 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions. The Unified Agenda of Federal Regulatory and Deregulatory Actions is coordinated by the Office of Management and Budget pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

Decided: February 12, 1999.
By the Board, Chairman Morgan and Vice Chairman Clyburn.

Vernon A. Williams,

Secretary.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4520	Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision, Ex Parte No. 282 (Sub-No. 15)	2140-AA03
4521	Safe Implementation of Board-Approved Transactions, STB Ex Parte No. 574	2140-AA50

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4522	Market Dominance Determination—Product and Geographic Competition, STB Ex Parte No. 627	2140-AA51
4523	Expedited Relief for Service Inadequacies, STB Ex Parte No. 628	2140-AA52
4524	Regulations for the Publication, Posting, and Filing of Tariffs for the Transportation of Property By or With a Water Carrier in the Noncontiguous Domestic Trace, STB Ex Parte No. 580	2140-AA53

SURFACE TRANSPORTATION BOARD (STB)

Long-Term Actions

4520. RAILROAD CONSOLIDATION PROCEDURES: CLASS EXEMPTION FOR TRANSACTIONS SUBJECT TO THE STATUTORY CONSOLIDATION PROVISION, EX PARTE NO. 282 (SUB-NO. 15)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 11341; 49 USC 11343 to 11346; 11 USC 1172; 45 USC 904; 45 USC 915; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Board is considering whether to expand the "nonconnecting carrier" class exemption to embrace all transactions subject to the statutory consolidation provision, except (1) transactions involving the merger or control of at least two class I railroads; (2) transactions involving a reduction in the number of noncommonly controlled railroads serving any two points; (3) transactions involving a reduction from three to two in the number of noncommonly controlled railroads serving any interchange points.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31165
NPRM Comment Period End	08/30/92	
Internal Review of Comments	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

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RIN: 2140–AA03

4521. SAFE IMPLEMENTATION OF BOARD-APPROVED TRANSACTIONS, STB EX PARTE NO. 574

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 5 USC 559; 49 USC 721; 49 USC 10901; 49 USC 10902; 49 USC 11323; 49 USC 11324; 49 USC 11325; 42 USC 4332

CFR Citation: 49 CFR 244; 49 CFR 1106

Legal Deadline: None

Abstract: The Surface Transportation Board and the Federal Railroad Administration (FRA) have proposed complementary regulations establishing procedures for the development and implementation of safety integration plans (SIPs) by railroads proposing to engage in certain merger, consolidation, or acquisition of control transactions with another railroad. Under the proposed rules, railroads seeking to consummate a Board-covered transaction would be required to file a written document with the FRA and the Board explaining how each step in implementing a contemplated transaction would be performed safely.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/97	62 FR 64193
ANPRM Comment Period End	02/19/98	
NPRM	12/31/98	63 FR 72225
NPRM Comment Period End	03/01/99	
Internal Review of Comments	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2140–AA50

SURFACE TRANSPORTATION BOARD (STB)

Completed Actions

4522. MARKET DOMINANCE DETERMINATION—PRODUCT AND GEOGRAPHIC COMPETITION, STB EX PARTE NO. 627

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 721; 49 USC 10707

CFR Citation: None

Legal Deadline: None

Abstract: The Surface Transportation Board has eliminated product and geographic competition as factors in market dominance determinations in railroad rate proceedings.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 24588
NPRM Comment Period End	06/29/98	
Board Issued Final Decision - (Effective 1/17/99)	12/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Petitions for reconsideration have been filed.

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RIN: 2140–AA51

4523. EXPEDITED RELIEF FOR SERVICE INADEQUACIES, STB EX PARTE NO. 628

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 721; 49 USC 11102; 49 USC 11123; 49 USC 10705

CFR Citation: 49 CFR 1146; 49 CFR 1147

Legal Deadline: None

Abstract: The Surface Transportation Board adopted rules that establish expedited procedures for shippers and connecting railroads to obtain emergency (1146) and temporary (1147) alternative service from another rail

STB — Completed Actions

carrier when the incumbent carrier cannot properly serve shippers.

Timetable:

Action	Date	FR Cite
NPRM	05/12/98	63 FR 27253
NPRM Comment Period End	07/15/98	
Final Action	12/28/98	63 FR 71396
Final Action Effective	01/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2140–AA52

4524. • REGULATIONS FOR THE PUBLICATION, POSTING, AND FILING OF TARIFFS FOR THE TRANSPORTATION OF PROPERTY BY OR WITH A WATER CARRIER IN THE NONCONTIGUOUS DOMESTIC TRACE, STB EX PARTE NO. 580

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 721(a); 49 USC 13702(a); 49 USC 13702(b); 49 USC 13702(d)

CFR Citation: 49 CFR 1312

Legal Deadline: None

Abstract: The Board revised its tariff filing regulations to eliminate the option of filing tariffs electronically with the Board through the Federal Maritime Commission's Automated Tariff Filing and Information System, which is being phased out effective May 1, 1999. The Board will, however, entertain special tariff authority requests by individual carriers seeking to file their tariffs in alternative electronic formats.

Timetable:

Action	Date	FR Cite
NPRM	12/02/98	63 FR 66521
NPRM Comment Period End	01/04/99	
Final Action	02/03/99	64 FR 5194
Final Action Effective	05/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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A. INDEX TO ENTRIES THAT AGENCIES HAVE DESIGNATED FOR SECTION 610 REVIEW

Section 610(c) of the Regulatory Flexibility Act (5 U.S.C. 601) requires each agency to have a plan for the periodic review of its rules that have significant economic impact on a substantial number of small entities. Each agency must publish annually in the **Federal Register** a list of the rules that it plans to review in the next year. Some agencies use the Unified Agenda to fulfill this requirement. Those agencies indicate such entries by appending "(Section 610 Review)" to the titles.

The following index lists the regulatory actions for which agencies included this designation. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition of the Agenda. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in Part II of this issue.

Seq. No.	Title
	ED
827	Institutional Eligibility Under the Higher Education Act of 1965, as Amended **(Section 610 Review)**
829	Student Assistance General Provisions; Federal Work-Study Programs; Federal Supplemental Education Opportunity Grant Programs; Federal Pell Grant Program **(Section 610 Review)**
830	Federal Family Education Loan (FFEL) Program **(Section 610 review)**
831	Federal Family Education Loan (FFEL) Program; William D. Ford Federal Direct Loan Program; and Federal Perkins Loan Program **(Section 610 Review)**
840	Assistance for Education of All Children With Disabilities **(Section 610 Review)**
	DOJ
1810	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**

Seq. No.	Title
	DOL
1907	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) **(Section 610 Review)**
2006	Control of Hazardous Energy Sources (Lockout/Tagout)**(Section 610 Review)**
2007	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**
2011	Grain Handling Facilities **(Section 610 Review)**
2012	Cotton Dust **(Section 610 Review)**
	DOT
2074	Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**
2127	Deep Water Ports (CGD 97-050) **(Section 610 Review)**
2128	Commercial Diving Operations (USCG-1998-3786) **(Section 610 Review)**
2133	Vapor Control Systems **(Section 610 Review)** (USCG-1999-5150)

Seq. No.	Title
2272	Advanced Technology in Commercial Motor Vehicle Operations **(Section 610 Review)**
2289	Hours of Service of Drivers **(Section 610 Review)**
2517	Requirements for Cylinders **(Section 610 Review)**
	EPA
3525	Effluent Guidelines and Standards for the Ore Mining and Dressing Point Source Category, Gold Placer Mine Subcategory **(Section 610 Review)**
	FRS
4292	Regulation: B -- Equal Credit Opportunity (Docket Number: R-1008)**(Section 610 Review)**
4296	Section 303 Regulatory Review **(Section 610 Review)**

B. INDEX TO ENTRIES FOR WHICH A REGULATORY FLEXIBILITY ANALYSIS IS REQUIRED

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for the Unified Agenda.

The following index lists the regulatory actions in this publication for which agencies believe that the Act may require a Regulatory Flexibility Analysis because the rule is likely to have such effects on small businesses, small governmental jurisdictions, or small organizations. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in Part II of this issue.

Small Businesses

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3	Federal Milk Order Consolidation and Reform
7	National Organic Program
8	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products
35	Lender Buyback of Repurchased Guaranteed Loans
65	Dairy Market Loss Assistance Program
70	Farmer Credit Program Account Servicing Policies for Section 1816 and Other Related Sections for the 1990 FACT Act
72	Implementation of Certified Lender Program
75	The Agricultural Credit Improvement Act of 1992
77	Acquisition and Management of Real and Chattel Property
98	Karnal Bunt
114	Restrictions on the Importation of Ruminants, Meat and Meat Products From Ruminants, and Certain Other Ruminant Products
137	Guaranteed Rural Housing Loan Single Family
139	Denying Credit to Applicants Delinquent on Any Federal Debt
147	National Flood Insurance Regulations
181	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity
247	Elimination of Requirements for Partial Quality Control Programs
248	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry
249	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products
253	Irradiation of Meat and Meat Products
257	Substances Approved for Use in the Preparation of Meat and Poultry Products
261	Rules of Practice
262	Sanitation Requirements for Official Meat and Poultry Establishments
264	Nutrition Labeling of Ground Beef and Hamburger
268	Performance Standards for Certain Meat Products and Poultry Products
271	Export Sales Reporting Requirement
276	Dairy Tariff Rate Import Quota Licensing
287	Species Surplus to Domestic Manufacturing Needs
288	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations
290	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber
316	Business and Industry Direct Loan Program
318	Affirmative Fair Housing Marketing Plan
319	Business and Industry Guaranteed Loan Program--Financing Cooperative Stock
323	Rural Business Enterprise Grants and Television Demonstration Grants
346	RUS Approval of Additions and Extensions to Electric Plants
	DOC
405	Administration of State Log Exports Ban
427	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels: Pacific Coast Groundfish
434	Amendment to the Observer Program
437	Amendment 10 to the Pacific Coast Groundfish FMP Regarding Salmon Bycatch in Groundfish Trawl
438	Regulatory Amendment To Establish a Program for the Collection and Use of Fees in the Individual Fishing Quota Program
441	Fisheries Obligation Guarantee Program--Statutory Amendments To Establish "Central Title and Lien Registry for Limited Access Permits"
443	Rulemaking To Establish the North Pacific Loan Program
447	Regulatory Amendment To Implement Observer Requirements for Processing Vessels Over 125 Feet: Pacific Coast Groundfish
449	Modification of Harvest Guideline System for Hawaiian Lobster Fishery
454	Fishing Capacity Reduction Program
457	Regulatory Amendment To Initiate Control for the Harvest of Bottomfish in the Exclusive Economic Zone Around the Main Hawaiian Islands
462	Amend the Bluefin Statistical Document To Allow for the Attachment of Re-export Certificates
463	Regulatory Amendment To Change the Limited Entry, Sablefish Fishery Season Structure Fixed Gear
472	Comprehensive Amendment Addressing Sustainable Fishery Act Definitions and Other Required Provisions in Fishery Management Plans of the South Atlantic Region
474	Implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan
475	Regulatory Amendment To Allow "Stocking" of Multiple Limited Entry Permits in the Pacific Coast Groundfish Fisheries
476	Amendment 14 to the Pacific Coast Salmon Plan
479	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries
480	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet
489	Regulatory Amendment To Adjust the Gulf of Mexico Red Snapper TAC and Associated Management Measures Under the Framework Procedure of the FMP for the Reef Fish Resources of the Gulf of Mexico
491	Regulatory Amendment To Reinstate 6000 Pound Trip Limit of Halibut in Area Northeast of the Bering Sea
497	Fishery Management Plan Amendment To Revise CDQ Regulations
498	Fishery Management Plan for Pelagic Sargassum Habitat of the South Atlantic Region
503	Fishery Management Plan Amendment to Rebuild C. Bairdi Stocks
504	Enhanced Measures To Mitigate Seabird Bycatch in the Alaska Hook-and-Line Fisheries
506	PR/FR Vessel Monitoring System for Aleutian Island Atka Mackerel Fishery
508	Revise BSAI Bycatch Management Program for Chinook Salmon
509	Alaska Groundfish Fishery Management Plan Amendment To Revise Improved Retention/Improved Utilization Program (IR/IU)
510	Scallop License Limitation Program
511	Recordkeeping and Reporting Requirements for 2000
512	Regulatory Amendment To Change the Regulations Implementing the North Pacific Observer Program
518	FMP Amendment to Require Full Retention of Demersal Shelf Rockfish
519	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries

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520	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses
535	Implement Regulations Under ACFCMA To Provide for Coordinated Management of the American Lobster Resource Throughout Its Range, End Overfishing, and Rebuild the American Lobster Stock
536	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ
539	Implementation of a Fishery Management Plan for Monkfish
560	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
561	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species
562	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken in Excess of Cumulative Trip Limits
563	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries
573	Regulatory Amendment To Allocate a Portion of the 1999 Optimum Yield Specification for Pacific Whiting to Washington Coastal Tribal Fisheries
588	Final Policies for Safe Harbor and Candidate Conservation Agreements
592	Sea Turtle Conservation; Shrimp Trawling Requirements
601	Regulatory Amendment To Implement Bycatch Reduction Measures
606	Observer Funding Policy
611	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba
615	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
625	Amendment 7 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery
630	Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic
632	FMP Amendments for the Groundfish Fishery of the Bering Sea and Aleutian Islands and for the Groundfish of the Gulf of Alaska
641	Interim Rule To Certify Three Bycatch Reduction Devices (BRDs) Under Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico
642	Interim Rule To Require Shrimp Trawl Vessel Observers, Logbooks, and Monitoring Systems in the Exclusive Economic Zone of the Gulf of Mexico
644	Amendment 45 to the Fishery Management Plan for the Bering Sea and Aleutian Islands Area
653	Final Specifications for 1999 Summer Flounder, Scup, and Black Sea Bass Fisheries
654	1999 Initial Specifications for Atlantic Mackerel, Squid, and Butterfish Fisheries
670	Shrimp Vessel Registration Requirement

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706	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
708	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns

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933	Labeling for Human Prescription Drugs; Revised Format
940	Registration of Foreign Establishments and Product Listing
941	Suitability Determination for Donors of Human Cellular and Tissue-Based Products
942	Current Good Tissue Practice for Manufacturers of Human Cellular and Tissue-Based Products
959	Food Labeling: Trans Fatty Acids in Nutrition Labeling and Nutrient Content Claims
967	Current Good Manufacturing Practices for Blood and Blood Components: Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HCV Infection
975	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)
976	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications
977	Fruit and Vegetable Juices: Development of HACCP and Label Warning Statements for Juices
978	Current Good Manufacturing Practice; Amendment of Certain Requirements for Finished Pharmaceuticals
982	Over-the-Counter Human Drugs; Labeling Requirements
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997	Food Labeling Review
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1002	Dietary Supplement Regulations in Response to DSHEA
1006	Establishment Registration and Listing of Human Cellular and Tissue-Based Products
1011	Tamper-Evident Packaging Requirements for Over-the-Counter Human Drug Products
1013	Prescription Drug Product Labeling; Medication Guide
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1049	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1051	Children's Health Insurance: Program Implementation; State Plan Approval; State Payment; Coordination With State Medicaid Program (HCFA-2006-P)
1059	CLIA Program: Categorization of Waived Tests (HCFA-2225-FC)
1063	Utilization Control and Discontinued Review Activities; Medicaid (HCFA-2101-FC)
1065	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers Effective for Calendar Year 1998 (HCFA-1885-F)
1069	Surety Bond Requirements for Comprehensive Outpatient Rehab. Facilities, Rehab. Agencies, Community Mental Health Centers, and Independent Diagnostic Testing Facilities (HCFA-6005-P)
1077	Omnibus Nursing Home Reform Requirements (HCFA-3488-F)
1088	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)
1099	Revision of Medicare/Medicaid Hospital Conditions of Participation (HCFA-3745-F)
1100	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships--Expanded to Designated Health Services (HCFA-1809-F)
1104	Liability for Third Parties To Pay for Care and Services (HCFA-2080-P)
1106	Definition of Skilled Nursing Facility (SNF) for Coverage of Durable Medical Equipment (DME) and Home Health (HCFA-1834-P)
1109	CLIA Program; Cytology Proficiency Testing (HCFA-2233-N)
1121	Waiver of Staffing Requirements for End Stage Renal Disease (ESRD) Facilities Participating in an Experiment (HCFA-2236-GNC)
1123	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (HCFA-3887-P)
1124	Disclosure of Peer Review Organization Information in Response to Beneficiary Complaints (HCFA-3241-P)
1125	National Standard for Identifiers of Health Plans (HCFA-4145-P)
1126	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)
1127	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
1129	National Standard Health Care Provider Identifier (HCFA-0045-F)
1135	Medicaid: Medical Child Support (HCFA-2081-P)
1136	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-IFC)
1139	Security and Electronic Signature Standards (HCFA-0049-F)
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1141	National Standard Employer Identifier (HCFA-0047-F)
1173	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 2000 Rates (HCFA-1053-P)
1183	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions and Establishment of a Quality Assessment and Performance Improvement Program (HCFA-1910-P)

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1191	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1998 Rates (HCFA-1878-F)
1198	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (HCFA-2891-IFC)
1207	Medicare Program: Payments for Teleconsultations in Rural Health Professional Shortage Areas (HCFA-1906-F)
1216	Medicare Program; Advertising Costs (HCFA-1880-P)
1271	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians
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1416	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making
1419	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule
1421	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1440	Export of American Ginseng Harvested in 1994-1996
1447	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20
1464	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999
1492	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1493	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1494	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
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1552	Announcement of CITES Action Concerning Changes to Appendices to Listed Species; Service Announcement Concerning Reservations
1563	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting
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1670	Recovering the Value of Rights of Use and Related Administrative Costs
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1692	Surface Management (Locatable Minerals)
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1855	Implementing Certain Portions of the American Competitiveness and Workforce Improvement Act (ACWIA) Relating to the H-1B Nonimmigrant Classification
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1901	Bulletproof Vest Partnership Grant Act of 1998
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1923	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
1954	Limitation of Liability for Insurers and Others Under Part 4 of Title I of ERISA and Section 4975 of the Internal Revenue Code
1970	Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit)
1972	Air Quality, Chemical Substances, and Respiratory Protection Standards
1973	Metal/Nonmetal Impoundments
1974	Surface Haulage
1975	Training and Retraining of Miners
1976	Verification of Dust Control Plan and Continuous Monitoring
1977	Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines
1978	Determination of Concentration of Respirable Coal Mine Dust
1979	Hazard Communication
1980	Noise Standard
1981	Longwall Equipment (Including High-Voltage)
1982	Independent Laboratory Testing
1983	Requirements for Approval of Flame-Resistant Conveyor Belts
1984	Improving and Eliminating Regulations
1985	Safety Standards for Underground Coal Mine Ventilation--Preshift Examination Intervals
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1987	Diesel Particulate Matter (Exposure of Underground Coal Miners)
1988	Belt Entry Use as Intake Aircourse To Ventilate Working Sections
1990	Safety Standards for the Use of Roof-Bolting Machines
1991	Safety Standard Revisions for Underground Anthracite Mines
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1998	Training and Retraining of Miners: Supervisor Training
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2235	Terrain Awareness and Warning System
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2293	Federal Motor Carrier Safety Regulations; Hours-of-Service and CDL Exemptions
2312	Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking
2318	Railroad Highway Projects
2337	Hours of Service of Drivers; Supporting Document Recordkeeping
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2467	Hours of Service Electronic Recordkeeping Project
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2489	Small Railroads; Policy Statement on Enforcement Program
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3541	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry
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4005	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act
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4009	FAR Case 95-013, Government Property
4013	FAR Case 96-018, Use of Brand Name Item Descriptions
4023	FAR Case 97-307, HUBZone Program
4031	FAR Case 91-118, Payment by Electronic Fund Transfer
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4098	Cable Television Rate Regulation: Cost of Service
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4108	Implementation of Section 551 of the Telecommunications Act of 1996, Parental Choice in Television Programming
4113	Implementation of the Universal Service Portions of the 1996 Telecommunications Act
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4122	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of 1996
4123	Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (LEC Tariff Streamlining Provisions)
4126	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order
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C. INDEX TO ENTRIES THAT MAY AFFECT SMALL ENTITIES WHEN A REGULATORY FLEXIBILITY ANALYSIS IS NOT REQUIRED

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Some agencies have chosen to identify additional regulatory actions that may have some impact on small entities even though a Regulatory Flexibility Analysis may not be required.

The following index lists the regulatory actions in this publication for which agencies have chosen to indicate that some impact on small entities is likely even though a Regulatory Flexibility Analysis may not be required. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in Part II of this issue.

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Executive Order 12866 entitled "Regulatory Planning and Review" (October 4, 1993; 58 FR 51735) and the Unfunded Mandates Reform Act of 1995 (P.L. 104-4) direct agencies to assess the effects of Federal regulations on State, local, and tribal governments. In addition, Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. In keeping with these efforts, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions have an effect on various levels of government.

The following index lists the regulatory actions in this publication that agencies believe may have effects on State, local, tribal, or Federal levels of government. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in Part II of this issue.

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Rules and Regulations

Federal Register
Vol. 64, No. 80
Tuesday, April 27, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR PART 870

RIN 3206–AI54

Federal Employees—Group Life Insurance Program: New Premiums

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations as a result of the Federal Employees Life Insurance Improvement Act, enacted October 30, 1998, to expand the number of age bands in the Federal Employees' Group Life Insurance (FEGLI) Program, to implement new premium rates for all coverage categories, and to change the current birthday rule effective date for Optional insurance when an employee, annuitant, or compensationer moves from one premium-rated age band to another for Optional insurance. The purpose of these regulations is to publish the new changes within the time frame prescribed by law.

DATES: Interim regulations are effective April 24, 1999. Comments must be received on or before May 27, 1999.

ADDRESSES: Send written comments to Abby L. Block, Chief, Insurance Policy and Information Division, Office of Insurance Programs, Retirement and Insurance Service, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; delivered to OPM, Room 3425, 1900 E Street NW, Washington, DC; or FAX to (202) 606–0633.

FOR FURTHER INFORMATION CONTACT: Sharon Neuner, (202) 606–0004.

SUPPLEMENTARY INFORMATION: The Federal Employees Life Insurance Improvement Act increases the options available under the FEGLI Program to provide greater choice of coverage and to continue coverage that would otherwise terminate. This has necessitated an expansion of the number of age bands and a change in the premium rates for all coverage categories. Additionally, the interim regulations change the current birthday rule effective date for Optional insurance when an employee, annuitant, or compensationer moves from one premium-rated age band to another for Optional insurance.

The standard age band of "60 and over" has been divided into three new age bands of 60–64, 65–69, and 70 and over for Option C insurance. Option C (Family) insurance new age bands are necessary to accommodate changes provided under the law, which allow for the election of unreduced Option C at retirement by continuing to pay premiums after age 65. Currently, an individual is considered to have reached age 35, 40, 45, 50, 55, or 60 on the first day of the first pay period beginning on or after the January 1 following his/her corresponding birthday. Effective April 24, 1999, the date for age-banded premium rate changes as a result of a birthday will be the first day of the pay period following the pay period in which the birthday occurs. For enrollees whose birthday occurs between January 1 and April 23, 1999, the effective date of the age-banded change will be the first pay period beginning on or after April 24, 1999. (For retirees, any changes in premium levels will be reflected in their June 1, 1999, annuity payments.)

The last premium change for Basic coverage and for some age categories for Option A (Standard), B, and C insurances was on the first pay period beginning on or after January 1, 1993. Actuarial analyses indicate the Federal Employees' Group Life Insurance Program continues to experience changes relevant to premiums, including improved mortality. This has resulted in a decrease in the Basic premium rate.

The reduction in Option A rates is due to improved morbidity. The reduction in Option B and C premium rates for enrollees in most age-bands under age 60 is primarily due to the change in the birthday rule, which will move enrollees into new age bands sooner.

As prescribed by law, there are increased coverage options under Option C which allow employees to elect coverage up to five times the current amount. The premium for Option C coverage will equal the premium rate for one multiple times the number of multiples selected. The new age bands and premium rates for 65–69 and 70 and over will go into effect on the first day of the pay period beginning on or after April 24, 2000.

Legislative changes eliminated the maximums on Basic and Option B. The elimination of the maximum for Basic and Option B means that the available amount of Option A coverage will be $10,000 for all eligible employees.

As provided by law, an open enrollment period, effective April 24, 1999 through June 30, 1999, will be offered to employees. Employees will be given the chance to review their insurance needs and, if needed, either add to their coverage or enroll in FEGLI if they have previously waived some or all coverage. Proposed regulations will be published in the near future which expand on and clarify other changes in the Federal Employees' Group Life Insurance Program as a result of Pub. L. 105–311.

Finally, OPM is assessing the need for new age bands and increased premiums associated with retirees' new option of continuing unreduced Option B coverage beyond age 65. Since retirees and employees are covered by the same premium rates, this new option has the potential for significantly increasing the premiums that employees age 65 and over now pay. For example, rates could double for employees age 70 and over. Given this potential impact, OPM will not determine new age bands and premium rates until all alternatives have been thoroughly explored and the earliest that any increase would be effective is April 24, 2001. Any increases resulting from these changes would be phased in over a three-year period starting on that date.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. This notice is being waived in order to implement required legislation within the time specified by law and in time for open enrollment decision making,

which will be held from April 24 to June 30, 1999. Waiver of the notice of proposed rulemaking will provide agencies with sufficient advanced notice to implement systems modifications required by these interim regulations.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect Federal employees and annuitants only.

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

Office of Personnel Management.

Janice R. Lachance,
Director.

Accordingly, OPM is amending 5 CFR Part 870 as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

1. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; subpart J also issued under sec. 599C, Pub. L. 101–513, 104 Stat. 1979, § 870.302 also issued under secs. 11202(f), 11232(e), and 11246 (b) and (c) Pub. L. 105–33, 111 Stat. 251 and sec. 7(e), Pub. L. 105–274, 112 Stat. 2419; § 870.401 and 870.402 also issued under Pub. L. 105–311, 112 Stat. 2950.

Subpart D—Cost of Insurance

§ 870.401 Withholdings and contributions for Basic insurance.

2. In § 870.401, paragraphs (b)(1) and (d) are revised to read as follows:

* * * * *

(b)(1) During each pay period in which an insured employee is in pay status for any part of the period, $0.1550 must be withheld from the employee's biweekly pay for each $1,000 of the employee's BIA. The amount withheld from the pay of an employee who is paid on other than a biweekly basis must be prorated and adjusted to the nearest one-tenth of one cent.

* * * * *

(d)(1) For an annuitant who elects to continue Basic insurance and chooses the maximum reduction of 75 percent after age 65, under § 870.702(a)(2), the amount withheld monthly is $0.3358 for each $1,000 of the BIA. For a compensationer who makes this election, the amount withheld weekly is $0.0775 for each $1,000. These withholdings stop the month after the month in which the annuitant reaches age 65. There are no withholdings from individuals who retired or began receiving compensation before January 1, 1990, and who elected the 75 percent reduction. For the purpose of this paragraph, an individual who separates from service after meeting the requirements for an immediate annuity under 5 U.S.C. 8412(g) is considered to retire on the day before the annuity begins.

(2) For an annuitant who elects to continue Basic insurance and chooses the maximum reduction of 50 percent after age 65 under § 870.702(a)(3), the amount withheld monthly is $0.9258 for each $1,000 of the BIA until the month after the month in which the annuitant reaches age 65; the amount is then reduced to $0.59 for each $1,000. For a compensationer who makes this election, the amount withheld weekly is $0.2175 for each $1,000 of the BIA until age 65; the amount is then reduced to $0.14 for each $1,000.

(3) For an annuitant who elects to continue Basic insurance and chooses no reduction after age 65 under § 870.702(a)(4), the amount withheld monthly is $2.3758 for each $1,000 of the BIA until the month after the month in which the annuitant reaches age 65; the amount is then reduced to $2.04 for each $1,000. For a compensationer who makes this election, the amount withheld weekly is $0.5475 for each $1,000 of the BIA until age 65; the amount is then reduced to $0.47 for each $1,000.

§ 870.402 Withholdings for Optional insurance.

3. In § 870.402, the tables in paragraphs (d)(1) and (e)(1) are revised and paragraphs (f)(1) and (g) are revised to read as follows:

(d)(1) * * *

For persons under age 35	$0.30
For persons ages 35 through 39	.40
For persons ages 40 through 44	.60
For persons ages 45 through 49	.90
For persons ages 50 through 54	1.40
For persons ages 55 through 59	2.70
For persons ages 60 and over	6.00

* * * * *

(e)(1) * * *

For persons under age 35	$0.03
For persons ages 35 through 39	.04
For persons ages 40 through 44	.06
For persons ages 45 through 49	.10
For persons ages 50 through 54	.15
For persons ages 55 through 59	.31
For persons ages 60 and over	.70

* * * * *

(f)(1) The biweekly cost of Option C for one multiple of coverage is based on the age of the employee, annuitant, or compensationer. Table 1 shows the age bands and associated cost up through age 59, effective the first day of the pay period beginning on or after April 24, 1999. The age bands 60–64, 65–69 and 70 and over, the applicable premium rates, and effective dates are shown in Table 2.

TABLE 1.

For persons under age 35	$0.27
For persons ages 35 through 39	.34
For persons ages 40 through 44	.46
For persons ages 45 through 49	.60
For persons ages 50 through 54	.90
For persons ages 55 through 59	1.45

TABLE 2.—EFFECTIVE DATE

First pay period on or after	4/24/99	4/24/2000
For persons ages 60 through 64	2.60	2.60
For persons ages 65 through 69	2.60	3.00
For persons ages 70 and over	2.60	3.40

* * * * *

(g) For the purpose of this subpart, effective April 24, 1999, an individual is considered to reach age 35, 40, 45, 50, 55, 60, 65, or 70 on the first day of the pay period following the pay period in which his/her birthday occurs.

* * * * *

[FR Doc. 99–10595 Filed 4–23–99; 12:21 pm]
BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–87–AD; Amendment 39–11138; AD 99–08–51]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document published in the **Federal Register** an amendment

adopting airworthiness directive (AD) 99–08–51 that was sent previously to all known U.S. owners and operators of certain McDonnell Douglas Model MD–11 series airplanes by individual notices. This AD requires visual inspections under the floorboards in the lower center cargo compartment at frame 1681 to verify that a certain bracket and a certain open face nylon clamp are installed to a specific support wire bundle and to detect damage of the subject wire bundle; repair of damaged wiring; and installation of certain silicone rubber coated with a glass cloth protective wrap around the wire bundle, if necessary. This action is prompted by an incident in which the insulation blanket between frames 1661 and 1681 in the lower center cargo compartment was found to be burnt due to a missing wiring harness support bracket/clamp on the wire bundle at frame 1681. The actions specified by this AD are intended to ensure that such a wire harness support bracket/clamp is installed; a missing bracket/clamp could cause the wire bundle to chafe against the frame, which could result in sparks, smoke, and possible fire in the lower center cargo compartment.

DATES: Effective May 3, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–08–51, issued on April 9, 1999, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before June 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–87–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On April 9, 1999, the FAA issued emergency AD 99–08–51, which is applicable to certain McDonnell Douglas Model MD–11 series airplanes.

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident in which the insulation blanket between frames 1661 and 1681 in the lower center cargo compartment was found to be burnt. This incident occurred on a McDonnell Douglas Model MD–11 series airplane.

Investigation revealed that a wiring harness (including wires with a 115 volt alternating current) of the aft cargo loader control unit was contacting the insulation blanket and rubbing against frame 1681 above stringer R46. A wire was cut, and three other wires were missing insulation. In addition, frame 1681 had signs of arcing damage. Furthermore, the exposed moisture barrier material of the insulation blanket was burnt, and a hole was detected on the insulation blanket where the wiring harness was chafing against frame 1681. Further investigation revealed that a wiring harness support bracket/clamp on the wire bundle at frame 1681 may not have been installed during production of the airplane.

This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.

A missing wiring harness support bracket/clamp on the wire bundle at frame 1681 could cause the wire bundle to chafe against the frame, which could result in sparks, smoke, and possible fire in the lower center cargo compartment.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this airworthiness directive is issued to require a visual inspection to verify that, under the floorboards in the lower center cargo compartment at frame 1681, a certain bracket and a certain open face nylon clamps are installed to a specific support wire bundle. This AD also requires a visual inspection to detect damage of the subject wire bundle; repair of damaged wiring; and installation of certain silicone rubber coated with a glass cloth protective wrap around the subject wire bundle, if necessary. In addition, this AD requires that operators submit a report of the inspection results to the FAA. The repairs are required to be accomplished in accordance with the procedures specified in Chapter 20–30–01 of the McDonnell Douglas MD–11 Airplane Maintenance Manual, and Chapter 20–10–01 of the McDonnell Douglas MD–11 Wiring Diagram Manual.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on April 9, 1999, to all known U.S. owners and operators of certain McDonnell Douglas Model MD–11 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments,

in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–87–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, is filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–08–51 BOEING: Amendment 39–11138. Docket 99–NM–87–AD.

Applicability: Model MD–11 series airplanes, certificated in any category; having the following fuselage/factory serial numbers:

Fuselage No.	Serial No.
532	48532
542	48565
543	48566
544	48533
545	48549
546	48470
547	48406
548	48504
549	48602
551	48603
552	48571
553	48604
554	48439
555	48605
556	48572
558	48471
559	48573
560	48600
562	48601
563	48633
564	48513
566	48574
568	48575
570	48542
572	48543
574	48576
576	48415
579	48631
580	48544
582	48632
583	48577
587	48545
588	48578
589	48546
590	48743
592	48744
594	48747
595	48748
596	48745
597	48746
598	48749
599	48579
600	48766
601	48768
602	48767
603	48769
604	48754
605	48623
607	48770
608	48753
609	48773
610	48774
613	48755
615	48758
616	48775
617	48776
618	48777
619	48778
620	48779
622	48624
623	48756
624	48780

Note 1: This AD only affects MD–11 airplanes equipped with a 72-inch cargo door. MD–11 series airplanes equipped with a 104-inch cargo door are not subject to the unsafe condition addressed by this AD due to the configuration of the wire bundles.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that a wire harness support bracket/clamp is installed on the wire bundle at frame 1681, accomplish the following:

(a) Within 15 days after the effective date of this AD: Perform a one-time visual inspection under the floorboards in the lower center cargo compartment at frame 1681 (approximately one inch outboard of longeron R46) to verify that a bracket having part number P/N 9D0062–3–16–24 (or equivalent), and an open face nylon clamp having P/N NMC1001–1 or 383–1 (see Figure 1, Item 14/267), are installed to support wire bundle No. AGS9110.

(1) If the bracket and clamp are installed: Prior to further flight, perform a visual inspection to detect damage of the subject wire bundle. If any damage is detected, prior to further flight, accomplish paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Repair in accordance with Chapter 20–30–01 of the McDonnell Douglas MD–11 Airplane Maintenance Manual. And

(ii) Install a silicone rubber coated with a glass cloth protective wrap [Douglas Material Specification (DMS) 2109 or equivalent] around the wire bundle in the area over frame 1681 above stringer R46 in accordance with Chapter 20–10–01 of the McDonnell Douglas MD–11 Wiring Diagram Manual.

(2) If the bracket or clamp is not installed: Prior to further flight, perform a visual inspection to detect damage (i.e., chafing, damage, or missing wire insulation) of the subject wire bundle.

(i) If no damage is detected: Prior to further flight, install a silicone rubber coated with a glass cloth protective wrap (DMS 2109 or equivalent) around the wire bundle in the area over frame 1681 above stringer R46 in accordance with Chapter 20–10–01 of the McDonnell Douglas MD–11 Wiring Diagram Manual.

(ii) If any damage is detected: Prior to further flight, accomplish the actions required by paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(b) Within 10 days after accomplishing the inspection required by paragraphs (a) and (a)(1) of this AD, submit a report of the inspection results (both positive and negative

findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on May 3, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–08–51, issued on April 9, 1999, which contained the requirements of this amendment.

BILLING CODE 4910–13–U

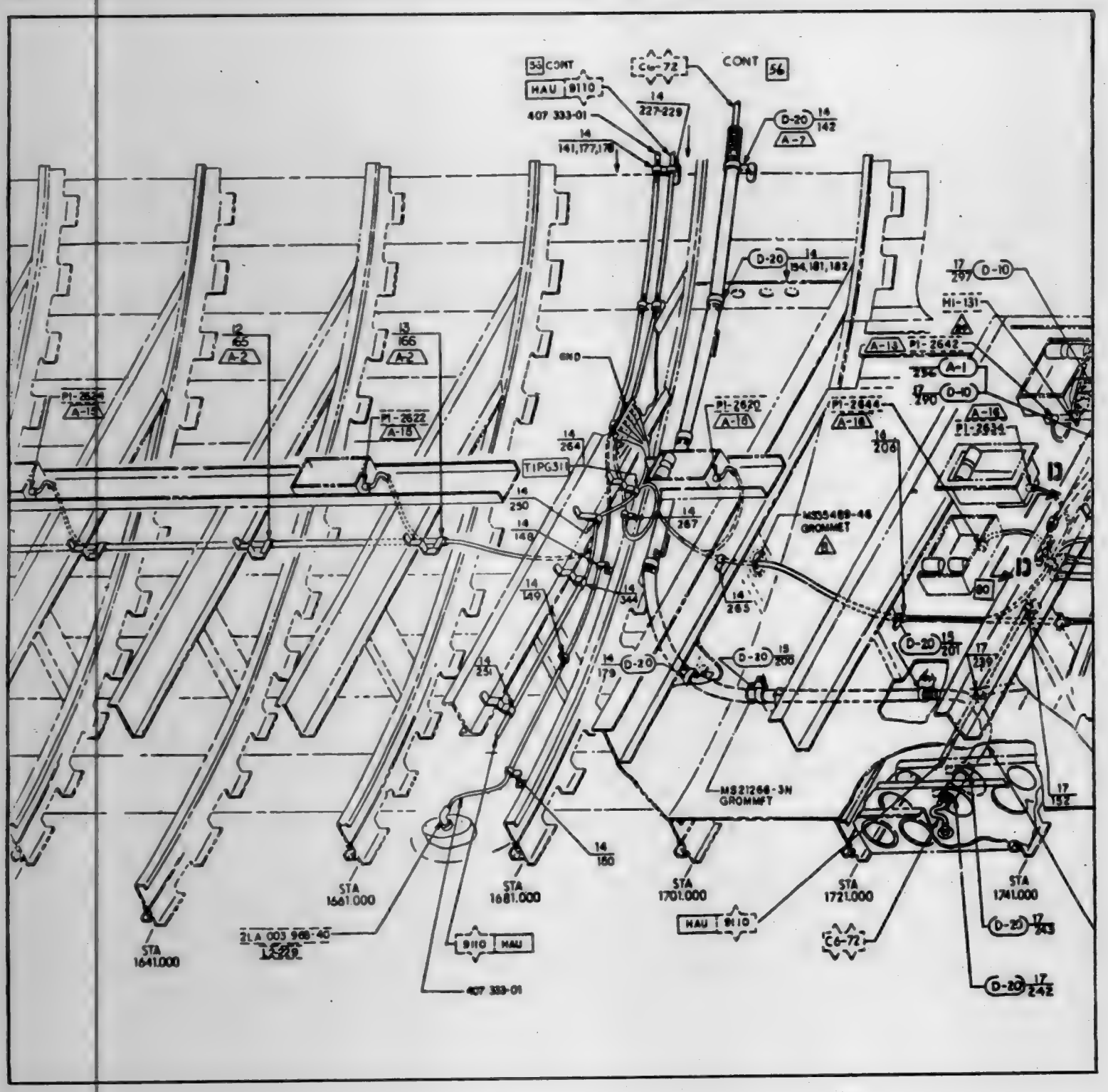

Figure 1

Issued in Renton, Washington, on April 15, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10055 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29543; Amdt. No. 1926]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availablity of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every, 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 91 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation, (air).

Issued in Washington, DC on April 16, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV;

§ 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective May 20, 1999

Stuart, FL, Witham Field, GPS RWY 12, Orig
Stuart, FL, Witham Field, GPS RWY 30, Amdt 1
Clinton, NC, Sampson County, LOC RWY 6, Orig

. . . Effective June 17, 1999

Chicago/Romeoville, IL, Lewis University, VOR RWY 9, Amdt 2
Mason, TX, Mason County, VOR/DME OR GPS–A, Amdt 3
Wichita Falls, TX, Tom Danaher Airport, VOR/DME RWY 35, Amdt 1, CANCELLED

. . . Effective July 15, 1999

Eastman, GA, Heart of Georgia Regional, NDB RWY 2, Orig, CANCELLED
Eastman, GA Heart of Georgia Regional, NDB RWY 2, Orig
Griffin, GA, Griffin-Spalding County, NDB RWY 32, Orig
Carmi, IL, Carmi Muni, NDB RWY 36, Amdt 1
Carmi, IL, Carmi Muni, GPS RWY 36, Orig
Pontiac, IL, Pontiac Municipal,VOR RWY 24, Amdt 1
Pontiac, IL, Pontiac Municipal,GPS RWY 24, Orig
Auburn, IN, De Kalb County, GPS RWY 9, Orig
Auburn, IN, De Kalb County, GPS RWY 27, Orig
Spencer, IA, Spencer Muni, GPS RWY 18, Orig
Spencer, IA, Spencer Muni, GPS RWY 36, Orig
Lakeview, MI, Lakeview Airport-Griffith Field, GPS RWY 9, Orig
Lakeview, MI, Lakeview Airport-Griffith Field, GPS RWY 27, Orig
Ada/Twin Valley, MN, Norman County Ada/Twin Valley, GPS RWY 33, Orig
Grand Marais, MN, Grand Marais/Cook County, GPS RWY 27 Orig
Minneapolis, MN, Anoka County-Blaine Airport (Janes Field), GPS RWY 27 Orig
Rochester, MN, Rochester International, VOR OR GPS RWY 2, Amdt 16
Rochester, MN, Rochester International, NDB OR GPS RWY 31, Amdt 21
Monett, MO, Monett Muni, VOR/DME RNAV RWY 18, Amdt 1
Monett, MO, Monett Muni, GPS RWY 18, Orig
Monett, MO Monett Muni, GPS RWY 36, Amdt 1
Albuquerque, NM, Albuquerque/Double Eagle II, ILS RWY 22, Amdt 2
Roswell, NM, Roswell Industrial Air Center, VOR OR GPS–A, Amdt 8, CANCELLED
Roswell, NM, Roswell Industrial Air Center, VOR–B, Orig
Roswell, NM, Roswell Industrial Air Center, LOC BC RWY 3, Amdt 9
Roswell, NM, Roswell Industrial Air Center, GPS–C, Orig
Plymouth, NC, Plymouth Muni, NDB RWY 3, Amdt 3
Plymouth, NC, Plymouth Muni, GPS RWY 3, Orig
Plymouth, NC, Plymouth Muni, GPS RWY 21, Orig
Oklahoma City, OK, Will Rogers World, NDB RWY 35L, Orig
Gallatin, TN, Sumner County Regional, GPS RWY 35, Orig
Galveston, TX, Scholes Field, GPS RWY 13, Orig
Galveston, TX, Scholes Field, GPS RWY 17, Orig
Houston, TX, George Bush Intercontinental Arpt/Houston, GPS RWY 8, Orig
Houston, TX, George Bush Intercontinental Arpt/Houston, GPS RWY 9, Orig
Houston, TX, George Bush Intercontinental Arpt/Houston, GPS RWY 33R, Orig
Watertown, WI, Watertown Muni, GPS RWY 29, Orig

The FAA published an Amendment in Docket No. 29520, Amdt. No. 1923 to Part 97 of The Federal Aviation Regulations (64 FR 17527, April 12, 1999) under § 97.33 effective 20 May 99, which is hereby amended as follows:

Kissimmee, FL, Kissimmee Muni, VOR/DME RNAV or GPS RWY 15, Amdt 5A, CANCELLED

[FR Doc. 99–10086 Filed 4–26–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 903

[Docket No. FR–4420–N–02]

RIN 2577–AB89

Public Housing Agency Plans and Section 8 Certificate and Voucher Merger Announcement of Public Forums; Solicitation of Additional Public Comment on Relationship of PHA Plans to Consolidated Plan

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule; Public forum.

SUMMARY: This document announces the dates and locations of the public forums to be held on HUD's Public Housing Agency (PHA) Plan interim rule that was published on February 18, 1999, and on HUD's Section 8 certificate and voucher merger interim rule (Section 8 merger) that will be published in the next several weeks. The statute authorizing these two rules requires that before HUD issues final rules on these subjects, HUD will convene at least two public forums for each rule, and specifically seek recommendations from certain organizations and individuals, as specified in the statute. This notice also identifies these organizations and individuals and solicits their recommendations.

DATES: The first public forum will address only the PHA Plan rule and will be held on May 4, 1999. The second public forum will address both the PHA Plan rule and the Section 8 merger rule and will be held on May 19, 1999. The third public forum, which also will address both the PHA Plan rule and the Section 8 merger rule, will be held on June 28, 1999. An additional public forum that will address only the Section 8 merger rule will be scheduled for a date after June 28, 1999, and this date will be announced separately. The exact times of the forums are provided in the Supplementary Information section of this notice.

ADDRESSES: The first public forum will be held at the Strom Auditorium, Lower Plaza, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia.

The second public forum will be held at Creighton University, Criss Building (east side of campus), Room 452, 2500 California Plaza, Omaha, Nebraska.

The third public forum will be held in Syracuse, New York. The exact location for the third public forum has not yet been determined.

The location for the public forum to be held in Syracuse, New York, and the location for the additional public forum for the Section 8 merger rule will be announced in a separate notice. (Again, please see Supplementary Information for times of the meetings.)

FOR FURTHER INFORMATION CONTACT: As additional information regarding these public forums becomes available (specifically, information about the locations of the third and any subsequent forums), this information will be posted on the QHWRA page of HUD's website (www.hud.gov/pih/legis/titlev.html). Information also may be obtained by contacting your local HUD office, or by contacting the Office of Policy, Program and Legislative Initiatives, in the Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4116, Washington, DC

20410; telephone (202) 708–0713 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

PHA Plan Interim Rule

Section 511 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, 112 Stat. 2461, approved October 21, 1998) (the 1998 Act) added a new section 5A to the United States Housing Act of 1937 (USHA) (42 U.S.C. 1437 *et seq.*). This new section provides for public housing agencies (PHAs) to develop and submit to HUD two plans—a five-year plan and an annual plan on their goals and objectives and current PHA operations. Section 511 also required HUD to publish, within 120 days of enactment of the statute, an interim rule implementing the requirements of the PHA plans and the submission process. HUD published its interim rule on February 18, 1999 (64 FR 8170). The rule provides for a 60-day public comment period which closed on April 19, 1999.

Section 511 also requires that before HUD issues its final rule, HUD will seek recommendations on implementation of the PHA plans from organizations representing:

(1) State or local public housing agencies;

(2) Residents, including resident management corporations;

(3) Other appropriate parties.

Section 511 also requires HUD to convene not less than two public forums at which the person or organization making recommendations may express their views concerning the proposed disposition of their recommendations.

Through its February 18, 1999 interim rule, HUD specifically sought rulemaking recommendations from these three categories of organizations (see 64 FR 8170, middle column), and again seeks their recommendations through this notice.

Section 8 Certificate and Voucher Merger Rule

Section 545 of the 1998 Act amended section 8(o) of the USHA to provide for the merger of the Section 8 certificate and voucher programs. HUD's interim rule implementing the merger of these two sections will be issued within the next several weeks. In accordance with section 559 of the 1998 Act, HUD will also hold two public forums on this rule.

Section 559 provides that the Secretary of HUD shall issue interim regulations as may be necessary to implement the amendments made by the 1998 Act as these amendments relate to section 8(o) of the USHA. Section 559 also provides that before the publication of final regulations, in addition to public comment invited in connection with the publication of the interim rule, the Secretary shall seek recommendations on the implementation of sections 8(o)(6(B), 8(o)(7)(B) and 8(o)(10)(D) of the USHA and on the implementation of the renewals of expiring tenant-based assistance from organizations representing:

(1) State or local public housing agencies;

(2) Owners and managers of tenant-based housing assisted under section 8 of the USA;

(3) Families receiving tenant-based assistance under section 8 of the USHA; and

(4) Legal services organizations.

Section 559 also requires HUD to hold not less than two public forums at which the individuals and organizations described above may express views concerning the proposed disposition of the recommendations.

Through this notice, HUD specifically seeks recommendations on implementation from these categories of organizations and individuals.

Announcement of Public Forums

First Public Forum—PHA Plan Rule Only. HUD will hold its first public forum on the PHA Plan interim rule on May 4, 1999, from 9:30 am to 1:00 pm at the Strom Auditorium, Lower Plaza, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia.

Second Public Forum—PHA Plan Rule & Merger Rule. HUD will hold its second public forum on the PHA Plan interim rule on May 19, 1999, from 1:30 pm to 4:00 pm.

On this same date, May 19, 1999, HUD will hold its first public forum on the Section 8 Merger rule. The public forum for the merger rule will be held from 9:30 am to 12:30 pm. (** Please note that the merger rule will be the first subject of discussion at this second public forum).

Both public forums will be held at Creighton University, Criss Building (east side of campus), Room 452, 2500 California Plaza, Omaha, Nebraska.

Third Public Forum—PHA Plan Rule & Merger Rule. HUD will hold its third public forum on the PHA Plan interim rule on June 28, 1999, from 9:00 am to 12:00 pm.

On this same date, June 28, 1999, HUD will hold its second public forum on the Section 8 Merger rule. The public forum for the merger rule will be held from 1:00 pm to 4:00 pm.

Both public forums will be held in Syracuse, New York, at the same location. The exact location of the public forums in Syracuse has not yet been determined. HUD will announce the exact location in a separate notice.

Fourth Public Forum—Merger Rule Only. As noted earlier in this notice, HUD will hold an additional public forum on the Merger rule for a date to be scheduled after June 28, 1999. The date of this public forum on the Merger rule will be announced separately.

Discussions at Public Forums. So that the discussions at the public forums can be productive as intended by the statute, comments need to be submitted in as far in advance of the forum dates as possible. The address where comments may be submitted is provided later in this notice.

Solicitation of Additional Comment on Relationship of PHA Annual Plan to Consolidated Plan

In the February 18, 1999 interim rule, HUD stated under the "Submission Guidance" for the Housing Needs component of the PHA Annual Plan (64 FR 8173, right hand column) that PHAs may obtain information on housing needs from the Consolidated Plan for their jurisdiction if the Consolidated Plan accurately describes their housing needs. HUD is considering whether a PHA must obtain this information from the Consolidated Plan and provide any additional or supplementary information to the extent that the Consolidated Plan does not contain the required housing needs information. HUD is aware that the intent of the Congress was that reliance on the Consolidated Plan will ensure that the PHA's statement of housing needs is consistent with the needs described in the Consolidated Plan (the statute requires this consistency) and should reduce the administrative burden imposed on PHAs in providing its statement of housing needs. HUD welcomes any comment on this specific issue, and also on the treatment of any situation in which the Consolidated Plan needs or priorities do not match those the PHA would like to identify in its plan, either substantively or because the jurisdictions in question are not identical.

Where To Submit Comments for the Forums

Comments on this issue, and recommendations from the three

categories of organizations may be submitted to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should include the following reference: "PHA Plan interim rule (FR–4420); Public Forum."

Future Notices

Again, HUD will issue additional notices to provide the public with the locations of the third and fourth public forums.

Dated: April 21, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–10462 Filed 4–26–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, and 1926

RIN 1218–AB33

Powered Industrial Truck Operator Training; Correction to Final Rule

AGENCY: Occupatioal Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; correction.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is clarifying that until employers come into compliance with the new Powered Industrial Truck Training Standard required by December 1, 1999, they must comply with the pre-existing standards for powered industrial truck operator training.

DATES: The effective date of this correction is April 27, 1999.

The effective date for the new Powered Industrial Truck Operator Training Standard published December 1, 1998 (63 FR 66238) is March 1, 1999.

Compliance Dates: The dates by which powered industrial truck operators must be trained and evaluated pursuant to the new standard are shown on the following table.

If the employee was hired	The initial training and evaluation of that employee must be completed
Before December 1, 1999.	By December 1, 1999.
After December 1, 1999.	Before the employee is assigned to operate a powered industrial truck.

Until operators are trained and evaluated pursuant to the new standard, employers must remain in compliance with the prior operator training standards: 29 CFR 1910.178(1) (1998) for general industry and shipyards; 29 CFR 1926.602(c)(1)(vi) (1998) for construction; 29 CFR 1917.27 (1998) for marine terminals; and 29 CFR 1918.98 (1998) for longshoring.

FOR FURTHER INFORMATION CONTACT: Direct press inquiries to: Bonnie Friedman, Director, Office of Information and Consumer Affairs, Rm. N3637, OSHA, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 693–1999, Fax (202) 693–1634. Direct technical inquiries to: Richard Sauger, Directorate of Safety Standards Programs, Rm. N3621, telephone (202) 693–2062, Fax (202) 693–1663 or Wil Epps, Directorate of Compliance Programs, Rm. N–3603, telephone (202) 693–1850, Fax (202) 693–1628 at the above address.

SUPPLEMENTARY INFORMATION: On December 1, 1998, OSHA published a final standard improving training requirements for powered industrial truck operators at 63 FR 66238–66274. That new standard applies to employees in general industry, shipyards, marine terminals, longshoring and construction. The new standard will replace existing more general training requirements in each of those industrial sectors. The new standard has an effective date of March 1, 1999, and a completion of initial training and evaluation date of December 1, 1999 for operators employed before December 1, 1999. Completion of initial training and evaluation of operators hired on or after December 1, 1999 shall be prior to being assigned to operate a truck.

OSHA's intention was that employers would remain in compliance with the old training standard while they commenced, on March 1, the phasing-in of compliance with the new training standard. That phase-in would be completed by Dec. 1, 1999 (63 FR 66261). An employer meeting the requirements of the new standard would clearly meet the requirements of the old standards.

Need for Correction

Some confusion has been indicated about the phase-in schedule and the employer's obligation between the effective date of the new standard and the completion of training and evaluation dates contained in that standard. To clarify this, OSHA is correcting the **DATES** paragraph of the **Federal Register** preamble.

This clarifies that employers must remain in compliance with the prior training standards through Nov. 30, 1999. They do not have to be in compliance with the new training standard until December 1, 1999 and will not be cited for violating the new standard prior to December 1, 1999.

However, because the new standard is more protective than the requirements of the prior powered industrial truck operator training standards, employers who choose to meet the requirements of the new standard prior to December 1, 1999 will not be cited under the prior standards. Most employers will probably wish to commence the phase-in of the training and evaluation required by the new standard prior to December 1, 1999 for organizational efficiency reasons. Because the new standard was published on December 1, 1998, employers will have had 1 year for the phase-in.

The pre-existing powered industrial truck operator training standard applicable to general industry and shipyards (by cross reference from 29 CFR (1910.5(c)(2)) is 29 CFR 1910.178(1) in the 1998 CFR volume, 29 CFR Part 1900 to § 1910.999 (Revised as of July 1, 1998). The pre-existing standard applicable to construction is 29 CFR 1926.602(c)(1)(vi), cross-referencing ANSI B.56.1–1969 in the CFR volume 29 CFR Part 1926 (Revised as of July 1, 1998), which is identical to the pre-existing general industry standard. The pre-existing training standard applicable to longshoring is 29 CFR 1918.98 and for marine terminals is 29 CFR 1917.27 in the CFR volume 29 CFR Parts 1911 and 1925 (Revised as of July 1, 1998). See the December 1, 1998 **Federal Register** preamble at 63 FR 66239 and the Longshoring and Marine Terminals Final Rule preamble at 62 FR 40142 (July 25, 1997) for a detailed discussion of pre-existing coverage. (The Longshoring Final Rule redesignated § 1918.97 as § 1918.98 and applies it to all longshoring activities.)

Correction of Publication

Accordingly in **Federal Register** Doc. 98–31283 published December 1, 1998 at 63 FR 66238, the "Compliance Dates" under the **DATES** section in the preamble

are corrected to read as set forth in the **DATES** section of this document.

Signed at Washington, D.C. this 21 day of April, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–10560 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–99–024]

RIN 2115–AE46

Special Local Regulations; Charleston to Bermuda Sailboat Race, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Charleston to Bermuda Sailboat Race. The race will start on May 22, 1999, near Waterfront Park on the Charleston Peninsula, and will transit out to sea by the South, Mount pleasant,and Fort Sumter Ranges in Charleston Harbor. The nature of the event and the closure of portions of Charleston Harbor creates an extra or unusual hazard on the navigable waters of Charleston Harbor, Charleston, SC. These regulations are necessary for the safety of life on the navigable waters during the event.

DATES: These regulations become effective at 10:30 a.m. and terminate at 3 p.m. EDT on May 22, 1999.

FOR FURTHER INFORMATION CONTACT: LTJG A.L. Cooper, Project Officer, Coast Guard Group Charleston at (843) 720–7748.

SUPPLEMENTARY INFORMATION:

Background and Purpose

These regulations are needed to provide for safety of life during the start of the Charleston to Bermuda Sailboat Race. The regulations are intended to promote safe navigation on Charleston Harbor immediately before, during, and immediately after the start of the race by controlling the traffic entering, exiting, and traveling within the regulated area. The anticipated concentration of commercial traffic, spectator vessels, and participating vessels associated with the Race poses a safety concern which is addressed in these special local regulations.

The regulations prohibit the entry or movement of spectator vessels and other non-anticipating vessel traffic between the starting area at the southern end of Commercial Anchorage Area D (33 CFR 110.173), and the entrance to the Charleston Harbor jetties on Sunday, May 22, 1999, from 10:30 a.m. to 3 p.m. EDT. These regulations allow for the movement of spectator vessels and other no-participants within the regulated area before the start of the race and after the last participant clears the Charleston Harbor jetties, at the discretion of the Coast Guard Patrol Commander.

In accordance with 5 U.S.C. 553, good cause exists for not publishing a notice of proposed rulemaking for this event, Publishing a NPRM and delaying its effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public as the date of the event was only recently finalized.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. These regulations will last for only 4.5 hours.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), The Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) that this rule will not have a significant effect upon a substantial number of small entities as the harbor will only be affected for 4 hours and the event has been very publicized.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612 and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Figure 2–1, paragraph (34)(h) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations:

In consideration of the foregoing, the Coast Guard amends part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Temporary section 100.35T–07–024 is added to read as follows:

§ 100.35T–07–024 Charleston to Bermuda Sailboat Race, Charleston Harbor, Charleston, SC.

(a) *Regulated area.* The regulated area includes all waters of Charleston Harbor, Charleston, SC, and the Atlantic Ocean within the following points:

(1) 32°47′06″ N., 079°55′25″ W. thence to
(2) 32°47′06″ N., 079°55′05″ W. thence to
(3) 32°46′00″ N., 079°55′00″ W. thence to
(4) 32°47′17″ N., 079°53′19″ W. thence to
(5) 32°45′51″ N., 079°53′23″ W. thence to
(6) 32°45′44″ N., 079°53′12″ W. thence to
(7) 32°45′41″ N., 079°51′54″ W. thence to
(8) 32°44′30″ N., 079°50′35″ W. thence to
(9) 32°43′24″ N., 079°48′16″ W. thence to
(10) 32°43′02″ N., 079°48′30″ W. thence to
(11) 32°44′14″ N., 079°50′51″ W. thence to
(12) 32°45′25″ N., 079°52′04″ W. thence to
(13) 32°45′25″ N., 079°55′00″ W. thence to

(14) 32°45′41″ N., 079°55′22″ W. thence back to point A. All coordinates referenced use Datum: NAD 83.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group, Charleston, SC.

(c) *Regulations.* (1) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or authorized by the Coast Guard Patrol Commander.

(2) The Coast Guard Patrol Commander may delay, modify, or cancel the race as conditions or circumstances require. The Coast Guard Patrol Commander shall monitor the start of the race with the race committee to allow for a window of opportunity for the race participants to depart the harbor with minimal interference with inbound or outbaound commercial traffic.

(3) Spectator and other non-participating vessels may follow the participants out to sea while maintaining a minimum distance of 500 yards behind the last participant, at the discretion of the Patrol Commander. Upon the transit of the last race participant past the outermost boundary of the Charleston jetties, all vessels may resume normal operations.

(d) *Dates:* This section is effective at 10:30 a.m. and terminates at 3 p.m. EDT on May 22,1999.

Norman T. Saunders,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 99–10551 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD07–99–002]

RIN 2115–AA98

Anchorage Grounds; Atlantic Ocean off Miami and Miami Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the Anchorage Regulations for the Atlantic Ocean off Miami and Miami Beach, FL. The amendment is needed to strengthen existing anchoring requirements and guidelines in order to provide a higher degree of protection to the coastal area during periods of adverse weather which could cause anchored vessels to drag anchor and strike other vessels, or become grounded.

DATES: This rule becomes effective May 27, 1999.

FOR FURTHER INFORMATION CONTACT: CWO Marcos DeJesus, Coast Guard Marine Safety Office Miami, at (305) 535–8762.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** on January 26, 1999 (64 FR 3888) proposing to amend the Anchorage Regulations for Miami and Miami Beach. No comments were received during the comment period.

Background and Purpose

The east coast of Florida is susceptible to many erratic weather changes, and mariners who are not vigilant to the seas often discover themselves in dangerous situations. In recent years, a number of vessel groundings have resulted from vessels dragging anchor and drifting into the beach or into reefs during bad weather. These amendments are intended to reduce these incidents by modifying the existing anchoring requirements and guidelines to account for possible adverse weather situations. The amended regulations will require vessels to notify the Captain of the Port when entering the anchorage areas and when any casualty or work affects the main propulsion or steering equipment. All vessels will also be required to have an English speaking watchstander monitor Channel 16 VHF at all times.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), the Coast Guard must consider whether this rule will have a significant economic effect upon a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of entities as it will only effect anchored vessels in the waters off Miami and Miami Beach and the changes are minor in nature.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(f) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination has been prepared and is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

In consideration of the foregoing, the Coast Guard amends Part 110 of Title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a is also issued under 33 U.S.C. 1223 and 1231.

2. In § 110.188, add new paragraphs (b)(9) through (b)(12) to read as follows:

§ 110.188 Atlantic Ocean off Miami and Miami Beach, Florida.

* * * * *

(b) *The regulations.*

* * * * *

(9) All vessels desiring to use the Anchorage must notify the Coast Guard

Captain of the Port, via the Biscayne Bay Pilots on VHF–FM Channel 12 or 16.

(10) All vessels anchored within the anchorage area shall maintain a 24-hour bridge watch by an English speaking licensed deck officer monitoring VHF–FM Channel 16. This individual shall perform frequent checks of the vessel's position to ensure the vessel is not dragging anchor.

(11) Vessels experiencing casualties such as a main propulsion, main steering or anchoring equipment malfunction or which are planning to perform main propulsion engine repairs or maintenance, shall immediately notify the Coast Guard Captain of the Port via the Coast Guard Group Miami on VHF–FM Channel 16.

(12) The Coast Guard Captain of the Port may close the anchorage area and direct vessels to depart the anchorage during periods of adverse weather or at other times as deemed necessary in the interest of port safety.

Dated: April 13, 1999.

G.W. Sutton,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 99–10431 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 16

[USCG–1998–4469]

RIN 2115–AF67

Management Information System (MIS) Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the Management Information System (MIS) annual reporting requirements for chemical drug testing. The Office of Management and Budget (OMB) had requested that the Coast Guard reduce its collection of information effort. This final rule will exempt certain marine employers from submitting the annual MIS report and will eliminate the requirement for all marine employers to notify the Coast Guard when a consortium or other party submits the employer's annual report.

DATES: This final rule is effective May 27, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, (USCG–1998–4469), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001. You may also access docket materials over the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Lieutenant Jennifer Ledbetter, Coast Guard, telephone 202–267–0684. For questions on viewing, or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a notice of proposed rulemaking entitled "Management Information System (MIS) Requirements" in the **Federal Register** on December 24, 1998 [63 FR 71257]. The Coast Guard received five letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

At the close of the comment period for the NPRM, we mailed a letter to all 82 marine employers who, based on our records, would be exempt from filing the MIS report this year if the proposal were made final. The letter extended the MIS report-filing deadline for these employers by 90 days, to give the Coast Guard time to publish its final rule before these employers would be required to file their annual report.

Background and Purpose

The Office of Management and Budget (OMB) requested that the Coast Guard reduce the amount of information collected under the Management Information System (MIS) annual reporting requirements for chemical testing data. The required reports provide drug and alcohol testing information from marine employer chemical testing programs. The Coast Guard and OMB discussed how to reduce the annual reporting requirements for chemical drug testing information. The reductions discussed with OMB are set out in this final rule.

Discussion of Comments

The Coast Guard received five written comments in response to the notice of proposed rulemaking. All comments were considered in developing the final rule.

One of the comments made suggestions concerning aspects of chemical testing not addressed in this rulemaking. Those suggestions have been forwarded to the program manager for consideration.

Written Notification Requirement

Four of the comments supported (the fifth comment did not address) the proposal to eliminate the requirement for marine employers in a drug-testing consortium to notify the Coast Guard in writing that the consortium will submit the employer's annual MIS report.

Annual MIS Report Submission Requirement

Two of the comments supported the proposal to exempt marine employers with 10 or fewer employees who have submitted the MIS report for 3 consecutive years from further submissions of the report.

Three of the comments objected to the proposal to exempt these marine employers from submitting the MIS report. The comments expressed concern that the exemption would negatively affect the Coast Guard's yearly calculations for determination of the random testing rate for the next year.

The Coast Guard used three years of actual data (1995–1997) to calculate what the random testing rate would have been if eligible employers had not submitted reports starting with 1995. We found that the difference in data attributable to exemption of employers with 10 or fewer employees would not have resulted in a different annual random rate determination for any of those years. A copy of these calculations is available in the docket for review.

We are, therefore, adopting the proposed exemption without change in this final rule.

Discussion of Rule

Part 16 of Title 46 of the Code of Federal Regulations requires all marine employers to collect chemical drug and alcohol testing data from their programs. It also requires marine employers to submit this data to the Coast Guard in an annual MIS report. Specific requirements for collecting and submitting this data are listed in § 16.500. Marine employers must submit all chemical drug and alcohol testing data on Form CG–5573 found in Appendix B of 46 CFR part 16. Section 16.500 allows a consortium or other employer representative to submit the chemical drug and alcohol testing data for a marine employer. Unless submitting their own report, marine employers must notify us in writing each year naming the consortium or other employer representative submitting the report.

We are incorporating the following changes to our MIS reporting requirements:

- Removing the requirement for marine employers to notify the Coast

Guard in writing each year that a consortium or other employer representative will submit the annual MIS report.

- Removing the annual MIS report submission requirement for marine employers with 10 or fewer employees subject to testing by Part 16 (covered employees) after submission of the third consecutive annual MIS report.
- Reorganizing § 16.500, incorporating these changes and revising the language for clarity.

Written Notification Requirement

We are removing the written notification requirement in § 16.500(c) for marine employers included in a consolidated annual MIS report to inform the Coast Guard of the name of the consortium or other representative submitting the annual MIS report. Since consortiums must submit a list of employers included in their annual MIS report, the individual written notifications are no longer needed. We can use the consortium lists to determine employer compliance with the reporting requirements. This change will apply to all marine employers.

Annual MIS Report Submission Requirement

We are also removing the annual MIS report submission requirement for marine employers with 10 or fewer covered employees after they have submitted the annual MIS report (Form CG–5573) for three consecutive years since January 1, 1996. Marine employers who have already met the submission requirement for the three preceding years can use the new exemption this year and each following year during which they have no more than 10 covered employees.

This final rule will not change the recordkeeping requirement for marine employers. All marine employers must continue collecting and keeping the required drug testing data, making it available to the Coast Guard if requested.

Editorial Changes

We have also made several editorial changes and clarified the language in § 16.500. We have reorganized and shortened the paragraphs and simplified the regulatory language. None of these editorial changes substantively change existing requirements.

The two substantive changes to the MIS reporting requirements will reduce the reporting burden on marine employers but will still ensure that we receive adequate chemical testing data for analysis and program management.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Written Notification Requirement

This rule removes the written notification requirement for marine employers using a consortium or other party to submit their annual MIS reports. Marine employers using a consortium or other representative to file annual MIS reports will no longer need to submit written notification to the Coast Guard.

According to current MIS data, 7,150 marine employers are members of consortiums. The cost of each written notification is approximately $12 (15 minutes of administrative time at $45 per hour to draft the written notification). This change will reduce the employer reporting burden by a total of 5,361 hours and $241,313 for 3 years.

Annual MIS Report Submission Requirement

This rule removes the annual MIS report (Form CG–5573) submission requirement for marine employers with 10 or fewer covered employees who submit an individual annual MIS report, and who have submitted the required MIS reports for three consecutive years since January 1, 1996. The estimated response burden for each MIS form submitted is calculated at $45 per hour, with each form averaging about one hour to complete. The MIS data from 1994 through 1997 indicated an average of 885 forms submitted annually to the Coast Guard. The forms represent 860 individual employer submissions and 25 consortium submissions consolidating data for 7,150 employers.

The 1997 MIS data indicated that 354 of the 885 forms received were submitted by employers with 10 or fewer covered employees. We are removing the annual MIS report submission requirement for marine employers with 10 or fewer covered employees who have filed the report for three consecutive years since January 1, 1996. Of the 354 employers, 82 have filed three consecutive annual MIS reports since January 1, 1996, and will not need to submit an annual MIS report in 1999. These marine employers will also be exempt from submitting the annual MIS report each following year during which they have no more than 10 covered employees. An additional 92 marine employers will be qualified for the exemption in 2000 and the remaining 180 will be qualified for exemption in 2001.

This exemption will result in the following costs during the first three years for the MIS form submission for employers with 10 or fewer covered employees: Initial year, 272 forms $(354 - 82) \times \$45 = \$12,240$, the second reporting year, 180 forms $(272 - 92) \times \$45 = \$8,100$, and the final reporting year will have no costs.

The total reporting burden for the remaining 531 forms from consortiums (25 forms) and employers (506 forms) with 11 or more covered employees will cost $23,895 annually. The three-year cost will be $71,685 ($23,895 × 3 years). Combined with the costs for 10 or fewer covered employees of $20,340, results in a cost of $92,025 ($20,340 + $71,685).

The total recordkeeping costs for MIS requirements will not change and will remain at $39,825 annually. The three-year cost will be $119,475 ($39,825 × 3 years). The total costs to the marine industry for the three year period will be $211,500 [$92,025 (reporting) + $119,475 (recordkeeping)].

The following table summarizes the reporting and recordkeeping burden for Subcategory III by the end of 3 years.

MIS BURDEN SUMMARY

Year	Employer category	Annual MIS report	Notification letter	Recordkeeping	Total burden hours and costs
		Hours: 803 hrs Costs: $36,135		Hours: 885 hrs Costs: $39,825	Burden Hours: 1,688 hrs. Costs: $75,960.
1	≤10 employees	272 forms × $45/hour	Letters: 0 Requirement Removed		
	≥11 employees	506 forms × $45/hour			
	Consortiums	25 forms × $45/hour			

MIS BURDEN SUMMARY—Continued

Year	Employer category	Annual MIS report	Notification letter	Recordkeeping	Total burden hours and costs
		Hours: 711 hrs Costs: $31,995		Hours: 885 hrs Costs: $39,825	Burden Hours: 1,596 hrs. Costs: $71,820.
2	≤10 employees	180 forms × $45/hour	Letters: 0 Requirement Removed	No Change	
	≥11 employees	506 forms × $45/hour			
	Consortiums	25 forms × $45/hour			
		Hours: 531 hrs Costs: $23,895		Hours: 885 hrs Costs: $39,825	Burden Hours: 1,416 hrs. Costs: $63,720.
3	≤10 employees	0 forms × $45/hour	Letters: 0 Requirement Removed	No Change	
	≥11 employees	506 forms × $45/hour			
	Consortiums	25 forms × $45/hour			
					3–Year Total: Burden Hours: 4,700 hrs. Costs: $211,500.

The cost to the Coast Guard for each MIS report submitted is calculated at approximately $15 per report. Each report averages about $15 to review, collate, and file this information with the responsible research center. This costs the Coast Guard about $30,675 (2,045 reports submitted x $15) for the 3-year period.

Summary of Benefits

This final rule removes the written notification requirement in § 16.500 for marine employers who do not submit their own annual MIS report to inform the Coast Guard in writing the name of the consortium or other representative submitting their annual MIS report. Marine employers using a consortium or other representative to file annual MIS reports will no longer need to submit written notification to the Coast Guard. According to current MIS data, 7,150 marine employers are members of consortiums. This final rule will reduce the employer reporting burden by a total of 5,361 hours (1,787 hours per year) and $241,313 ($80,438 per year). This final rule removes the annual notice requirement for all marine employers who report through their respective consortium. The rule will also reduce the reporting requirement for all marine employers of 10 or fewer covered employees to submit the annual MIS form for chemical and drug testing data.

This final rule will reduce the employer reporting burden hours by a total of 5,715 hours (5,361 Notification Letter 43 354 MIS Report) at $257,243 ($241,313 Notification Letter 43 $15,930 MIS Report) by the end of 3 years.

This final rule will also benefit the marine industry by reducing the reporting requirements for certain marine employers by 40%. By exempting those employers with 10 or fewer covered employees who have provided the required MIS reports for three consecutive years since January 1, 1996, industry will save $15,930 in reporting costs for the three-year period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule will only affect small entities by reducing their annual reporting burden. The MIS data indicates how many employees are subject to chemical drug testing, not the total number of employees. However, those marine employers with 10 or fewer employees are most likely considered small entities. This rule will reduce the reporting burden and will not create an additional burden for this group or any other marine employers. This final rule will reduce the employer reporting burden hours by a total of 5,715 hours (5,361 Notification Letter 43 354 MIS Report) at $257,243 ($241,313 Notification Letter 43 $15,930 MIS Report) by the end of 3 years.

This rule will result in a maximum savings, each year, for small entities of one hour and 15 minutes of administrative time valued at $57.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. We received no comments raising small entity issues.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This final rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5 CFR 1320.3(c), "collection of information" includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follow. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Collection of Commercial Vessel and Personnel Accident (Marine Casualty) Information and Programs for Chemical Drug & Alcohol Testing of Commercial Vessel Personnel, including Required Drug and Alcohol Testing following a Serious Marine Accident

Summary of the Collection of Information: 46 U.S.C. 6101 authorizes the Coast Guard to prescribe regulations for the annual MIS reporting requirements for chemical drug testing. Section 16.500 contains the requirement for all marine employers to collect chemical drug and alcohol testing data for their employees. All marine employers must submit this data to the Coast Guard in an annual MIS report. Marine employers must submit all chemical drug and alcohol testing data on Form CG–5573 found in Appendix B of 46 CFR Part 16. This final rule will eliminate the annual MIS report submission requirement for employers with 10 or fewer covered employees who have provided the required MIS reports for three consecutive years since January 1, 1996.

The annual burden of the MIS reporting requirements to industry was developed from employer size, employer reports, and type of submitter. The annual burden estimates are based on data from 1994 through 1997. In 1997 the Coast Guard received 354 individual reports from employers with 10 or fewer covered employees. This rule will exempt these marine employers (following their third consecutive submission) from submitting the annual MIS report each following year during which they have no more than 10 covered employees. This will result in a total annual reporting burden reduction of 354 hours with a 40% reduction in the number of forms submitted to the Coast Guard with only a 4% reduction in data.

After employers with 10 or fewer covered employees are exempted, the annual average reporting burden is 531 reports representing 7,656 employers. This consists of 506 reports from employers with 11 or more employees and 25 reports from consortiums representing approximately 7,150 employers.

Need for Information: The requirement to submit MIS information will help meet the goal of knowing the location of all marine employers and ensuring complete compliance with drug testing regulations.

Proposed Use of Information: The Coast Guard will utilize this information to identify significant trends of drug abuse in the marine industry through program implementation.

Description of the Respondents: Consortia and independent marine employers who collect and submit chemical and drug testing data for their employees.

Number of Respondents: 7,656 marine employers who collect and submit chemical and drug testing data for their employees.

Frequency of Response: Affected marine employers are required to submit anti-drug program reports on an annual basis.

Burden of Response: All marine employers must submit data from their chemical testing program to the Coast Guard in the annual MIS report (Form CG–5573). A consortium or other employer representative may submit the data for a marine employer. After submission of the third annual MIS report, this rulemaking will reduce the reporting requirement for all marine employers with 10 or fewer covered employees by not requiring them to submit the annual MIS form for chemical drug and alcohol testing data for succeeding years during which they had no more than 10 covered employees.

Estimated Total Annual Burden: 7,656 marine employers.

As required by 5 U.S.C. 3507(d), the Coast Guard submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has approved the collection. The section number is 16.500, and the corresponding approval number from OMB is OMB Control Number 2115–0003, which expires on January 31, 2002.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under figure 2–1, paragraph (34)(a) of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. The final rule will exempt certain marine employers from submitting the annual MIS report for chemical drug testing and will eliminate the requirement for written notification. The final rule makes only administrative changes to a currently approved information collection for the annual MIS report. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104–4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain Federal mandates. A "Federal mandate" is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this rule and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This rule will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects in 46 CFR Part 16

Chemical testing, Data collection, Data reporting.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 16 as follows:

PART 16—CHEMICAL TESTING

1. The authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; 49 CFR 1.46.

2. Revise § 16.500 to read as follows:

§ 16.500 Management Information System requirements.

(a) *Data collection.* All marine employers must collect the following drug and alcohol testing program data for each calendar year:

(1) Total number of employees during the calendar year that were subject to the drug testing rules in this part.

(2) Number of employees subject to testing under the anti-drug rules of both the Coast Guard and another DOT agency based on the nature of their assigned duties as identified by each agency.

(3) Number of drug and alcohol tests conducted identified by test type. Drug test types are pre-employment, periodic, random, post-accident, and reasonable cause. Alcohol test types are post-accident and reasonable cause.

(4) Number of positive drug test results verified by a Medical Review Officer (MRO) by test type and types of drug(s). Number of alcohol tests resulting in a blood alcohol concentration weight of .04 percent or more by test type.

(5) Number of negative drug and alcohol test results reported by MRO by test type.

(6) Number of applicants denied employment based on a positive drug test result verified by an MRO.

(7) Number of marine employees with a MRO-verified positive test result who returned to duty in a safety-sensitive position subject to required chemical testing, after meeting the requirements of § 16.370(d) and part 5 of this chapter.

(8) Number of marine employees with positive drug test results verified by a MRO as positive for one drug or a combination of drugs.

(9) Number of employees required under this part to be tested who refused to submit to a drug test.

(10) Number of covered employees and supervisory personnel who received the required initial training.

(b) *Data reporting.* (1) By March 15 of the year following the collection of the data in paragraph (a) of this section, marine employers must submit the data on Form CG–5573 to Commandant (G–MOA), 2100 Second Street, SW, Washington, DC, 20593–0001. Marine employers must complete all data fields on the form.

(2) Form CG–5573 is reproduced in Appendix B of this part and you may obtain the form from any Marine Inspection Office. You may also download a copy of Form CG–5573 from the U.S. Coast Guard Marine Safety and Environmental Protection web site at http://www.uscg.mil/hq/g-m.html.

(3) A consortium or other employer representative may submit data for a marine employer. Reports may contain data for more than one marine employer. Each report, however, must list the marine employers included in the report.

(4) Marine employers must ensure that data submitted by a consortium or other employer representative under paragraph (b)(3) of this section is correct.

(c) After filing 3 consecutive annual MIS reports since January 1, 1996, required by paragraph (b) of this section, marine employers with 10 or fewer covered employees may stop filing the annual report each succeeding year during which they have no more than 10 covered employees.

(d) Marine employers who conduct operations regulated by another Department of Transportation Operating Administration must submit appropriate data to that Operating Administration for employees subject to that Operating Administration's regulations.

Dated: April 18, 1999.

R. C. North,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–10553 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 2 and 15

[ET Docket No. 98–76; FCC 99–58]

Rules To Further Ensure That Scanning Receivers Do Not Receive Cellular Radio Signals

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The *Report and Order* amends the Commission rules to further prevent scanning receivers from receiving cellular radio telephone signals. It also codifies the provisions of section 705(e)(4) of the Communications Act of 1934 into our rules and requires a label on scanning receivers to indicate that modification of the receiver to receive Cellular Service transmissions is a violation of FCC rules and Federal Law. These requirements will ensure the privacy of communications in the Cellular Service.

DATES: This final rule is effective October 25, 1999.

Compliance Dates: The manufacture or importation of scanning receivers, and frequency converters designed or marketed for use with scanning receivers, that do not comply with the provisions of § 15.121 shall cease on or before October 25, 1999. After July 26, 1999 the Commission will not grant equipment authorization for receivers that do not comply with the provisions of § 15.121. These rules do not prohibit the sale or use of authorized receivers manufactured in the United States, or imported into the United States, prior to October 25, 1999.

FOR FURTHER INFORMATION CONTACT: Rodney P. Conway (202) 418–2904 or via electronic mail: rconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* ET Docket 98–76, FCC 99–58, adopted March 25, 1999 and released March 31, 1999. A full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room TW–A306), 445 12th Street, SW Washington, DC 20554, and also may be purchased from the Commission's duplication contractor, International Transcription Service, phone (202) 857–3800, facsimile (202) 857–3805, 1231 20th Street, NW Washington DC 20036.

Summary of the Report and Order

1. The *Report and Order* (R&O) amends the rules to modify the definition of a scanning receiver to include scanning receivers that switch among two or more frequencies to deter the manufacture of scanning receivers that automatically scan less than four frequencies to circumvent the Commission's rules.

2. The *R&O* also amends the rules to define test equipment as equipment that is intended primarily for purposes of performing measurements or scientific investigations. The definition is sufficiently clear to prevent individuals from marketing scanning receivers that receive Cellular Service transmissions as test equipment.

3. The *R&O* also amends the rules to require that scanning receivers provide at least 38 dB rejection of Cellular Service signals for any frequency to which the scanning receiver can be tuned. In addition, the *R&O* amends the rules to require that scanning receivers

be designed so that tuning, control and filtering circuitry is inaccessible and the design must be such that any attempt to modify the scanning receivercircuitry to receive Cellular Service transmissions will likely render the scanning receiver inoperable.

4. The *R&O* also amends the rules to clearly prohibit the modification of scanning receivers to receive Cellular Service transmissions, regardless of the date of manufacture of number of units modified. The Commission finds that modifying scanning receivers to receive Cellular Service signals changes its operating characteristics, invalidates the equipment certification, and results in equipment that does not comply with Commission rules.

5. The *R&O* also amends the rules to require a labelling requirement for scanning receivers. The label will contain the following warning: Modification of this device to receive Cellular Service signals is prohibited under FCC Rules and Federal law. The Commission finds that the labelling requirement is an effective deterrent and is an expedient way to distribute information regarding Commission rules and Federal laws.

6. The *R&O* also amends the rules to require that information must be submitted with any application for certification of a scanning receiver to ensure that the proposed rule changes are satisfied. As a result, any application for certification of a scanning receiver must include a detailed showing which: describes the testing method used to determine compliance with the 38 dB rejection ration, contains a statement assessing the vulnerability of the scanning receiver to possible modification, describes the design features that prevent modification of the scanning receiver to receive Cellular Service transmissions, and describes the design steps taken to make tuning, control, and filtering circuitry inaccessible.

7. The *Report and Order* also amends the rules to keep certain portions of applications for equipment authorization for scanning receivers confidential. The Commission finds that any information that would be useful for modification of a scanning receiver to receive Cellular Service transmissions. This information includes schematic diagrams, technical narratives describing equipment operation, and design details taken to prevent modification of scanning receivers to receive Cellular Service frequencies. This will assist in preventing sensitive information regarding the design of scanning receivers from being distributed to the public via Commission filings.

Final Regulatory Flexibility Analysis

8. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 ("RFA"), an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated into the Notice of Proposed Rule Making (Notice), 63 FR 31684, June 10, 1998, in ET Docket No. 98–76. The Commission sought written public comments on the proposals in the *Notice* including the IRFA. The Commission's Final Regulatory Flexibility Analysis ("FRFA") in this Report and Order conforms to the RFA, as amended by the Contract with America Advancement Act of 1996 (CWAAA), Public Law 104–121, 110 Stat. 847 (1996). *See* Subtitle II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. 601 *et seq.*

9. Need for and Objective of the Rules. Our objectives are to adopt rules to ensure that scanning receivers do not receive signals from the cellular radiotelephone service frequency bands.

10. Summary of Significant Issues Raised by Public Comments in Response to the IRFAs. No comments were submitted in direct response to the IRFA.

11. Description and Estimates of the Number of Small Entities to Which the Rules Will Apply. For the purposes of this Report and Order, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. *See* 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. 632). Under the Small Business Act, a "small business concern" is one that: 1) is independently owned and operated; 2) is not dominant in its field of operation; and 3) meets any additional criteria established by the Small Business Administration (SBA). *See* 15 U.S.C. 632.

12. The Commission has not developed a definition of small entities applicable to unlicensed communications devices. Therefore, we will utilize the SBA definition applicable to manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA regulations, unlicensed transmitter manufacturers must have 750 or fewer employees in order to qualify as a small business concern. *See* 13 CFR 121.201, (SIC) Code 3663. Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities. *See* U.S. Dept. of Commerce, *1992 Census of Transportation, Communications and Utilities* (issued May 1995), SIC category 3663. The Census Bureau category is very broad, and specific figures are not available as to how many of these firms will manufacture unlicensed communications devices. However, we believe that many of them may qualify as small entities.

13. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. The Commission has adopted rules that require scanning receivers to be manufactured to reduce the possibility of receiving signals from the cellular radiotelephone service frequency bands. The rules will require design details and test measurements to be reported to the Commission as part of the normal equipment authorization process under our certification procedure.

14. Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives. The Commission considered and rejected additional rules that would have significantly increased the costs of manufacturing scanning receivers. The rules adopted in the Report and Order represent the most efficient and least restrictive method to accomplish the Commission's policies and objectives.

15. Report to Congress. The Commission will send a copy of the Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A) and the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 0

Freedom of information.

47 CFR Part 2

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 15

Communications equipment, Labeling, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 2, and 15 as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.457 is amended by revising paragraph (d)(1)(ii) to read as follows:

§ 0.457 Records not routinely available for public inspection.

(d) * * *

(1) * * *

(ii) Applications for equipment authorizations (type acceptance, type approval, certification, or advance approval of subscription television systems), and materials relating to such applications, are not routinely available for public inspection prior to the effective date of the authorization. The effective date of the authorization will, upon request, be deferred to a date no earlier than that specified by the applicant. Following the effective date of the authorization, the application and related materials (including technical specifications and test measurements) will be made available for inspection upon request (See § 0.460). Portions of applications for equipment certification of scanning receivers and related materials will not be made available for inspection. This information includes that necessary to prevent modification of scanning receivers to receive Cellular Service frequencies, such as schematic diagrams, technical narratives describing equipment operation, and relevant design details.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 307 and 336, unless otherwise noted.

4. Section 2.1033 is amended by revising paragraph (b)(11) to read as follows:

§ 2.1033 Application for certification.

(b) * * *

(11) Applications for the certification of scanning receivers shall include a statement describing the methods used to comply with the design requirements of all parts of § 15.121 of this chapter. The application must specifically include a statement assessing the vulnerability of the equipment to possible modification and describing the design features that prevent the modification of the equipment by the user to receive transmissions from the Cellular Radiotelephone Service. The application must also demonstrate compliance with the signal rejection requirement of § 15.121 of this chapter, including details on the measurement procedures used to demonstrate compliance.

* * * * *

PART 15—RADIO FREQUENCY DEVICES

5. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 304, 307 and 544A.

6. Section 15.3 is amended by revising paragraph (v) and adding paragraph (dd) to read as follows:

§ 15.3 Definitions

* * * * *

(v) *Scanning receiver.* For the purpose of this part, this is a receiver that automatically switches among two or more frequencies in the range of 30 to 960 MHz and that is capable of stopping at and receiving a radio signal detected on a frequency. Receivers designed solely for the reception of the broadcast signals under part 73 of this chapter or for operation as part of a licensed station are not included in this definition.

* * * * *

(dd) *Test equipment* is defined as equipment that is intended primarily for purposes of performing measurements or scientific investigations. Such equipment includes, but is not limited to, field strength meters, spectrum analyzers, and modulation monitors.

7. Section 15.37 is amended by revising paragraph (f) and adding a new paragraph (h) to read as follows:

§ 15.37 Transition provisions for compliance with the rules.

* * * * *

(f) The manufacture or importation of scanning receivers, and frequency converters designed or marketed for use with scanning receivers, that do not comply with the provisions of § 15.121(a)(1) shall cease on or before April 26, 1994. Effective April 26, 1993, the Commission will not grant equipment authorization for receivers that do not comply with the provisions of § 15.121(a)(1). These rules do not prohibit the sale or use of authorized receivers manufactured in the United States, or imported into the United States, prior to April 26, 1994.

* * * * *

(h) The manufacture or importation of scanning receivers, and frequency converters designed or marketed for use with scanning receivers, that do not comply with the provisions of § 15.121 shall cease on or before October 25, 1999. Effective July 26, 1999 the Commission will not grant equipment authorization for receivers that do not comply with the provisions of § 15.121. This paragraph does not prohibit the sale or use of authorized receivers manufactured in the United States, or imported into the United States, prior to October 25, 1999.

8. Section 15.121 is revised to read as follows:

§ 15.121 Scanning receivers and frequency converters used with scanning receivers.

(a) Except as provided in paragraph (c) of this section, scanning receivers and frequency converters designed or marketed for use with scanning receivers, shall:

(1) Be incapable of operating (tuning), or readily being altered by the user to operate, within the frequency bands allocated to the Cellular Radiotelephone Service in part 22 of this chapter (cellular telephone bands). Scanning receivers capable of "readily being altered by the user" include, but are not limited to, those for which the ability to receive transmissions in the cellular telephone bands can be added by clipping the leads of, or installing, a simple component such as a diode, resistor or jumper wire; replacing a plug-in semiconductor chip; or programming a semiconductor chip using special access codes or an external device, such as a personal computer. Scanning receivers, and frequency converters designed for use with scanning receivers, also shall be incapable of converting digital cellular communication transmissions to analog voice audio.

(2) Be designed so that the tuning, control and filtering circuitry is inaccessible. The design must be such that any attempts to modify the equipment to receive transmissions from the Cellular Radiotelephone Service likely will render the receiver inoperable.

(b) Except as provided in paragraph (c) of this section, scanning receivers shall reject any signals from the Cellular

Radiotelephone Service frequency bands that are 38 dB or higher based upon a 12 dB SINAD measurement, which is considered the threshold where a signal can be clearly discerned from any interference that may be present.

(c) Scanning receivers and frequency converters designed or marketed for use with scanning receivers, are not subject to the requirements of paragraphs (a) and (b) of this section provided that they are manufactured exclusively for, and marketed exclusively to, entities described in 18 U.S.C. 2512(2), or are marketed exclusively as test equipment pursuant to § 15.3(dd).

(d) Modification of a scanning receiver to receive transmissions from Cellular Radiotelephone Service frequency bands will be considered to constitute manufacture of such equipment. This includes any individual, individuals, entity or organization that modifies one or more scanners. Any modification to a scanning receiver to receive transmissions from the Cellular Radiotelephone Service frequency bands voids the certification of the scanning receiver, regardless of the date of manufacture of the original unit. In addition, the provisions of § 15.23 shall not be interpreted as permitting modification of a scanning receiver to receiver Cellular Radiotelephone Service transmissions.

(e) Scanning receivers and frequency converters designed for use with scanning receivers shall not be assembled from kits or marketed in kit form unless they comply with the requirements in paragraph (a) through (c) of this section.

(f)(1) Scanning receivers shall have a label permanently affixed to the product, and this label shall be readily visible to the purchaser at the time of purchase. The label shall read as follows:

WARNING: MODIFICATION OF THIS DEVICE TO RECEIVE CELLULAR RADIOTELEPHONE SERVICE SIGNALS IS PROHIBITED UNDER FCC RULES AND FEDERAL LAW.

(2) "Permanently affixed" means that the label is etched, engraved, stamped, silkscreened, indelibly printed or otherwise permanently marked on a permanently attached part of the equipment or on a nameplate of metal plastic or other material fastened to the equipment by welding, riveting, or permanent adhesive. The label shall be designed to last the expected lifetime of the equipment in the environment in which the equipment may be operated and must not be readily detachable. The label shall not be a stick-on, paper label.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WT Docket No. 98–229, CC Docket No. 95–116; FCC 99–19]

Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this *Memorandum Opinion and Order,* the Commission grants a petition filed by the Cellular Telecommunications Industry Association (CTIA) requesting that the Commission forbear from imposing service provider local number portability (LNP) requirements on broadband commercial mobile radio service (CMRS) providers until the expiration of the five-year buildout period for broadband personal communications service (PCS) carriers. Accordingly, the *Memorandum Opinion and Order* extends the deadline for CMRS providers to support service provider LNP in the top 100 Metropolitan Statistical Areas (MSAs) until November 24, 2002. The *Memorandum Opinion and Order* finds that extension of the deadline will provide the industry with the flexibility to allocate its immediate resources toward network construction, a goal proven to promote a competitive marketplace.

DATES: Effective May 27, 1999.

FOR FURTHER INFORMATION CONTACT: David Furth at (202) 418–0632 or Joel Taubenblatt at (202) 418–1513 (Wireless Telecommunications Bureau).

SUPPLEMENTARY INFORMATION: This is a summary of the *Memorandum Opinion and Order,* FCC 99–19, adopted February 8, 1999 and released February 9, 1999. The complete text of the *Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C. and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036. The document is also available via the internet at http://www.fcc.gov/Bureaus/Wireless/Orders/1999/index.html.

Introduction

1. In this *Memorandum Opinion and Order,* the Commission grants a petition filed by CTIA seeking forbearance from LNP requirements for CMRS carriers until the completion of the five-year buildout period for broadband PCS carriers. In granting the petition, the Commission extends the deadline for CMRS carriers to implement service provider LNP until November 24, 2002.

Background

2. Under the Commission's prior LNP decisions, broadband CMRS carriers (cellular, broadband PCS, and some specialized mobile radio (SMR) providers) were required to implement LNP in the top 100 MSAs, and to support nationwide roaming, by March 31, 2000. Implementation of LNP by CMRS providers would enable wireless customers to "port" their telephone numbers in the event that they switch from one wireless carrier to another, or from a wireless to a wireline carrier.

Findings

3. In this *Memorandum Opinion and Order,* the Commission finds that extending the deadline is consistent with the statutory standard for granting forbearance under section 10 of the Communications Act of 1934, as amended, 47 U.S.C. 160. The Commission notes that the wireless industry requires additional time to implement LNP in part because, unlike wireline carriers (who are already required to provide LNP in the top 100 MSAs), wireless carriers face certain unique technical issues regarding implementation of LNP in their networks and in supporting roaming by customers with ported numbers. The Commission also states that extending the deadline until November 2002 is consistent with the public interest for competitive reasons because it will give CMRS carriers greater flexibility in that time-frame to complete network buildout, technical upgrades, and other improvements that are likely to have a more immediate impact on enhancing service to the public and promoting competition in the telecommunications marketplace.

4. The Commission emphasizes that its decision in the *Memorandum Opinion and Order* does not relieve CMRS carriers of their underlying obligation to implement LNP. As wireless service rates continue their downward trend and the use of wireless

service increases, there is a greater likelihood that customers will view their wireless phones as a potential substitute for their wireline phones, making LNP more important to consumers.

5. Because LNP provides a platform for certain number conservation techniques, including number pooling, the Commission also stresses the importance of efficient utilization of numbering resources. The Commission states that the decision to grant forbearance in this instance is not intended to limit Commission ability to require, through a rulemaking proceeding on number utilization, CMRS participation in pooling at an earlier date, if doing so were deemed necessary to address specific number exhaust problems. The Commission states that, as an initial step, it intends to initiate a Notice of Proposed Rulemaking in the next few months that will propose both LNP and non-LNP based numbering optimization techniques applicable to all telecommunications carriers, and that it will move forward with additional proceedings on other number conservation methods possibly including one or more pooling methods.

6. Appendix A of the *Memorandum Opinion and Order* contains the full text of section 52.31 of the Commission's rules, as revised to reflect the service provider LNP implementation deadline established in the *Memorandum Opinion and Order* and corrections made in an erratum to the *Memorandum Opinion and Order*. Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, WT Docket No. 98–229 and CC Docket No. 95–116, Erratum (released April 20, 1999). The erratum corrected the following items: the amended date in section 52.31(a)(1)(ii) of the Commission's rules by which carriers must submit requests for LNP deployment to CMRS carriers in the top 100 MSAs; several inadvertent deletions of certain amendments to section 52.31 of the Commission's rules that occurred in past proceedings in CC Docket No. 95–116; and certain typographical errors.

List of Subjects in 47 CFR Part 52

Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 52 as follows:

PART 52—NUMBERING

1. The authority citation for part 52 continues to read as follows:

Authority: Sec. 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. § 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–7, 251–2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–7, 251–2, 271 and 332 unless otherwise noted.

2. Section 52.31 is amended by revising paragraph (a) to read as follows:

§ 52.31 Deployment of long-term database methods for number portability by CMRS providers

(a) By November 24, 2002, all covered CMRS providers must provide a long-term database method for number portability, including the ability to support roaming, in the MSAs identified in the Appendix to this part in compliance with the performance criteria set forth in section 52.23(a) of this part, in switches for which another carrier has made a specific request for the provision of number portability, subject to paragraph (a)(1) of this section. A licensee may have more than one CMRS system, but only the systems that satisfy the definition of covered CMRS are required to provide number portability.

(1) Any procedure to identify and request switches for development of number portability must comply with the following criteria:

(i) Any wireline carrier that is certified (or has applied for certification) to provide local exchange service in a state, or any licensed CMRS provider, must be permitted to make a request for deployment of number portability in that state;

(ii) For the MSAs identified in the appendix to this part, carriers must submit requests for deployment by February 24, 2002;

(iii) A covered CMRS provider must make available upon request to any interested parties a list of its switches for which number portability has been requested and a list of its switches for which number portability has not been requested;

(iv) After November 24, 2002, a covered CMRS provider must deploy additional switches serving the MSAs identified in the Appendix to this part upon request within the following time frames:

(A) For remote switches supported by a host switch equipped for portability ("Equipped Remote Switches"), within 30 days;

(B) For switches that require software but not hardware changes to provide portability ("Hardware Capable Switches"), within 60 days;

(C) For switches that require hardware changes to provide portability ("Capable Switches Requiring Hardware"), within 180 days; and

(D) For switches not capable of portability that must be replaced ("Non-Capable Switches"), within 180 days.

(v) Carriers must be able to request deployment in any wireless switch that serves any area within the MSA, even if the wireless switch is outside that MSA, or outside any of the MSAs identified in the Appendix to this part.

(2) By November 24, 2002, all covered CMRS providers must be able to support roaming nationwide.

* * * * *

[FR Doc. 99–10443 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–174; RM–9146, RM–9262]

Radio Broadcasting Services; Hamilton, Marble Falls, and Meridian, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 285A, at Meridian, Texas, substitutes Channel 285C2 for Channel 285C3 at Marble Falls, Texas, and modifies the authorization of Maxagrid Broadcasting Corporation to specifiy operation on the higher class channel at request of counterproponent Maxagrid Broadcasting, Corp., filed in response to the Notice of Proposed Rule Making, 62 FR 43301 (8/13/97). Channel 285A can be allotted at Meridian with a site restriction of 7.6 kilometers northwest at 31–59–07 and 97–41–22. The coordinates at Marble Falls are 30–36–33 and 98–22–10. This action also denies the petition for rule making filed by North Texas Broadcasting , Inc., proposing the allotment of Channel 285C3 at Hamilton, Texas. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2130.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 97–174 adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Meridian, Channel 285A and by removing Channel 285C3 and adding 285C2 at Marble Falls.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10507 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–71–; RM–9266]

Radio Broadcasting Services; Newell, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Robert J. Maines, Jr., allots Channel 265A at Newell, Iowa, as the community's first local aural transmission service. *See* 63 FR 30173, June 3, 1998. Channel 265A can be allotted to Newell in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.7 kilometers (3.5 miles) west to avoid a short-spacing to the licensed site of Channel KJYL(FM), Channel 264C3, Eagle Grove, Iowa. The coordinates for Channel 265A at Newell are 42–36–04 North Latitude and 95–04–21 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 1, 1999. The window period for filing applications for Channel 265A at Newell, Iowa, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–71, adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Newell, Channel 265A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10506 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–33; RM–9224]

Radio Broadcasting Services; Richwood, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of J&K Broadcasting, Inc., allots channel 288A at Richwood, West Virginia, as the community's first local aural transmission service. *See* 63 FR 13612, March 20, 1998. Channel 288A can be allotted to Richwood in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 288A at Richwood are 38–13–42 North Latitude and 80–31–48 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 1, 1999. The window period for filing applications for Channel 288A at Richwood, West Virginia, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–33, adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under West Virginia, is amended by adding Richwood, Channel 288A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10505 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–28; RM–9234]

Radio Broadcasting Services; Meyersdale, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Douglas M. Dasdorf, allots Channel 253A at Meyersdale, Pennsylvania, as the community's second local FM transmission service. *See* 63 FR 12426 March 13, 1998. Channel 253A can be allotted to Meyersdale in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 253A at Meyersdale are 39–48–42 North Latitude and 79–01–36 West Longitude. Since Meyersdale located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 1, 1999. The window period for filing applications for Channel 253A at Meyersdale, Pennsylvania, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–28, adopted April 7, 1999 and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by adding Channel 253A at Meyersdale.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10504 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–154; RM–9174; RM–9394]

Radio Broadcasting Services; Kosciusko and Decatur, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a proposal filed on behalf of Rainey Broadcasting, Inc., the Commission reallots Channel 277C3 from Kosciusko to Decatur, Mississippi (RM–9394), in lieu of previously proposed Goodman, Mississippi (RM–9174), as that community's first local aural transmission service, and modifies the construction permit for Station WZKR (FM) to specify Decatur as its community of license. See 63 FR 46978, September 3, 1998. Coordinates used for Channel 277C3 at Decatur, Mississippi, are 32–23–42 NL and 89–05–42 WL.

Additionally, this document dismisses as moot a petition for reconsideration of an earlier staff letter ruling returning Rainey Broadcasting, Inc.'s request for rule making seeking the reallotment of Channel 277C3 from Kosciusko to Goodman, Mississippi. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–154, adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Decatur, Channel 277C3.

3. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 277C3 at Kosciusko.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10503 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–150; RM–9302]

Radio Broadcasting Services; Royal City, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Royal Communications, allots Channel 228A at Royal City, Washington, as the community's second local FM transmission service. See 63 FR 38786, July 20, 1998. Channel 228A can be allotted to Royal City in compliance with the Commission's minimum distance separation requirements with a site restriction of 12 kilometers (7.4 miles) southeast of the community at petitioner's requested site. The coordinates for Channel 228A at Royal City are 46–48–25 North Lattitude and 119–33–12 West Longitude. Since Royal City is located within 320 kilometer (200 miles) of the U.S.-Canadian border, concurrence of

the Canadian govement has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 1, 1999. The window period for filing applications for Channel 228A at Royal City, Washington, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–150, adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding Channel 228A at Royal City.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10502 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–116; RM–9281]

Radio Broadcasting Services; Lovell, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Royal Communications, allots Channel 296C at Lovell, Wyoming, as the community's first local aural transmission service. *See* 63 FR 38787, July 20, 1998. Channel 296C can be allotted to Lovell in compliance with the Commission's minimum distance separation requirements with a site restriction of 25.4 kilometers (15.8 miles) south of the community at petitioner's requested site. The coordinates for Channel 296C at Lovell are 44–36–23 North Latitude and 108–23–30 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 1, 1999. The window period for filing applications for Channel 296C at Lovell, Wyoming, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–116, adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Lovell, Channel 296C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10501 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–114; RM–9298]

Radio Broadcasting Services; La Center, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Billy R. Evans, allots Channel 282A at La Center, Kentucky, as the community's first local aural transmission service. *See* 63 FR 38786, July 20, 1998. Channel 282A can be allotted to La Center in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.8 kilometers (5.5 miles) east to avoid as short-spacing to the licensed site of Station WFGE(FM), Channel 279C1, Murray, Kentucky. The coordinates for Channel 282A at La Center are 37–04–22 North Latitude and 88–52–25 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 1, 1999. The window period for filing applications for Channel 282A at La Center, Kentucky will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–114, adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding La Center, Channel 282A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10500 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–109; RM–9282]

Radio Broadcasting Services; Superior, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Windy Valley Broadcasting, allots Channel 293C at Superior, Wyoming, as the community's first local aural transmission service. See 63 FR 38784, July 20, 1998. Channel 2293C can be allotted to Superior in compliance with the Commission's minimum distance separation requirements with at city reference coordinates. The coordinates for Channel 293C at Superior are 41–46–12 North Latitude and 108–58–12 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 1, 1999. The window period for filing applications for Channel 293C at Superior, Wyoming, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–109, adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Superior, Channel 293C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10499 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–99–5572; Notice 3]

RIN 2127–AF40

Federal Motor Vehicle Safety Standards; Roof Crush Resistance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This document revises the test procedure in Standard No. 216, *Roof Crush Resistance*, to make it more suitable to testing vehicles with rounded roofs or vehicles with raised roofs. The test procedure is intended to test the strength of the roof over the front seat occupants by forcing a large flat steel test plate down onto the roof, simulating contact with the ground in rollover crashes. However, when the procedure is followed in testing certain vehicles with rounded roofs (e.g., the Ford Taurus), the test plate is positioned too far back and does not test the roof over the front occupants. In addition, that positioning creates the potential for contact between the front edge of the test plate and the roof. Such contact is undesirable because the front edge can penetrate the roof structure in a way that the ground cannot during rollover crashes. Similarly, for vehicles with raised, irregularly shaped roofs (such as some vans with roof conversions), the initial contact point on the roof may not be above the front occupants, but on the raised rear portion of the roof, behind those occupants. In both of these cases, the positioning of the plate relative to the initial contact point on the roof, instead of a fixed location on the roof, results in too much variability in the plate positioning and reduces test repeatability.

This final rule addresses the problem of rounded roofs by specifying that, for all vehicles except those with certain modified roof configurations, the test plate is to be positioned so that the front edge of the plate is 254 mm (10 inches) in front of the forwardmost point of the roof. Positioned in this way, the front edge of the plate will always project slightly forward of the roof instead of contacting it. Further, the plate will always be positioned over the front occupants. The rule addresses the problem for vehicles with raised or modified roofs by specifying that if following the normal test procedure results in an initial point of contact that is rearward of the front seats, the rear edge of the plate is positioned just to the rear of those seats. The rule also makes minor clarifications and non-substantive changes to the regulatory text.

DATES: The amendments made by this rule are effective on October 25, 1999. The mandatory compliance date is also October 25, 1999, however, voluntary compliance with this rule is allowed as of April 27, 1999. Petitions for reconsideration of this rule must be received no later than June 11, 1999.

ADDRESSES: Petitions for reconsideration should mention the docket number at the top of this final rule, and be submitted in writing to: Administrator, National Highway Traffic Safety Administration, Room 5220, 400 Seventh Street, SW, Washington DC, 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Maurice Hicks of the Office of Crashworthiness Standards, at telephone (202) 366–6345, facsimile (202) 366–4329, electronic mail mhicks@nhtsa.dot.gov.

For legal issues, you may call Paul Atelsek of the Office of the Chief Counsel, at (202–366–2992), facsimile (202) 366–3820, e-mail: patelsek@nhtsa.dot.gov

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C. 20590.

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I. Background

Federal Motor Vehicle Safety Standard No. 216, *Roof Crush Resistance*, is intended to assure that passenger cars, multipurpose passenger vehicles, and trucks with gross vehicle weight ratings of less than 10,000 pounds have sufficient structural strength in the roof over the front seat occupants to resist crushing during rollover crashes. The test procedure is designed to test the A-pillar and the roof over the front occupants.

Under the test procedure, the vehicle is secured on a rigid horizontal surface and placing a 762 mm (30 inches) wide by 1,829 mm (72 inches) long test plate over the roof. The test plate is oriented with its 1,829 mm dimension parallel to the longitudinal vertical plane through the longitudinal centerline of the vehicle, and tilted forward at a five degree angle. Its 762 mm dimension is tilted outward on its longitudinal axis at a 25 degree angle so that its outboard side is lower than its inboard side. So oriented, the test plate is lowered until it initially contacts the roof. After the initial contact point on the roof is determined, the test plate is moved, maintaining its angles and its orientation parallel to the vehicle's longitudinal centerline, so that the initial contact point touches the underside of the test plate along the test plate's longitudinal centerline, 254 mm (10 inches) rearward of the centerline's forwardmost point. The test plate is then pushed downward in the direction perpendicular to its lower surface until a load of 1.5 times the unloaded vehicle weight (up to a maximum of 22,240 N, or 5,000 pounds, for a passenger car) has been applied. The vehicle complies if its roof prevents the test plate from moving downward more than 127 mm (5 inches).

Although, as noted above, the intent underlying this test procedure is to load the area at the top of the A-pillar and the roof over the front seat area, positioning the test plate according to the procedures on certain roof configurations may result in testing areas of the roof to the rear of the front seat area. Ford and the Recreation Vehicle Industry Association petitioned the agency to modify the test procedure to solve this problem.

II. Petitions for Rulemaking To Amend Standard No. 216

A. Recreation Vehicle Industry Association (RVIA) Petition

RVIA, a national trade association that reportedly represents more than 95 percent of the conversion vehicle manufacturers who modify vans, pickup trucks, and sport utility vehicles, is concerned that contoured or raised roof structures on certain second stage van conversions cannot be tested using the current test procedure. The initial contact point, which for conventional roof structures is generally near the front edge of the roof at the top of the A-pillar, is supposed to result in the forward edge of the test plate being positioned approximately 254 mm (10 inches) in front of the roof. However, with only a five degree incline of the test plate, the plate initially contacts some vehicles with raised roofs on the portion of the raised roof well behind the A-pillar and the front seat area. This results in testing the raised roof structure instead of the A-pillar over the front seats.

To address this situation, RVIA petitioned NHTSA to allow vans, motor homes and other multipurpose passenger vehicles, trucks, and buses that have raised roofs, to be tested in accordance with the test procedures in Standard No. 220, *School Bus Rollover Protection*. Standard No. 220 specifies the use of a test plate that is larger and horizontal, and thus distributes the same load evenly over the entire surface of the roof and all its supporting pillars, rather than concentrating the load on either side of the roof over the front seats.

In making this request, RVIA reasoned first that, since the raised roof vehicles would have met Standard No. 216 requirements prior to modification of their roofs, the A-Pillar strength has already been demonstrated. Second, RVIA claimed that the modifications usually do not affect the roof strength near the A-pillar. RVIA believes that the Standard No. 220 test procedure could be used to test the strength of the entire modified vehicle roof, without repeating the Standard No. 216 certification test.

B. Ford Petition

Ford is concerned that following the current test procedures in testing certain vehicles with rounded roof designs (e.g., Ford Taurus, Dodge Neon) results in initial plate contact so far back on the roof that the front edge of the test plate is several inches behind the A-pillar when it is positioned as specified in the Standard. This occurs because the roofs slope longitudinally at an angle greater than 5 degrees at their front edge. Consequently, the roofs are loaded somewhere far behind the A-pillar, and roof penetration by the front edge of the plate can occur.

In addition, Ford states that the current test procedure makes repeatable testing difficult on these vehicles. The initial contact point is highly variable and dependent on the specific roof design. The initial contact point can move several inches forward or rearward if the plate angle or the level of the floor on which the test vehicle is placed are off by as little as one degree. This could lead to substantial differences in test results.

Ford believes that the test procedures as applied to some vehicles are contradictory. S6.2 of the standard says to "[o]rient the test device as shown in Figure 1 * * *", which shows the test plate in contact with the front corner of the roof, inclined longitudinally at an angle of 5 degrees. At the same time, S6.2(d) of the rule specifies that the initial contact point be 254 mm (10 inches) from the front edge of the test plate. Since the initial contact point will not be located at the front corner of the roof for certain vehicles with rounded roofs, there is a conflict between the specifications in S6.2(d) and Figure 1 in the regulatory text.

Ford petitioned NHTSA to amend Standard No. 216 to specify that the front edge of the test plate should always be one inch forward of the front edge of the roof, measured from the rearmost point of the windshield. To accomplish this, Ford suggested the following language to replace S6.2(d):

> The initial contact point, or center of the initial contact area, is on the longitudinal

centerline of the device. A plane perpendicular to the lower surface of the test device and 25 mm rearward of the front edge of the lower surface passes through the rearmost point of the opening in the body structure for the windshield.

Ford also petitioned NHTSA to amend the test procedure to specify that all vehicles be tested with the body sills, rather than the chassis, mounted on the rigid surface, and that all roof rack components that could interfere with initial contact between the test plate and the roof be removed prior to testing.

NHTSA granted the two petitions and published a Request for Comments on December 27, 1994. The responses to the requests for comments are not discussed here, because they were summarized and addressed in the subsequent Notice of Proposed Rulemaking (NPRM). This NPRM is discussed below.

III. Notice of Proposed Rulemaking (NPRM)

On February 27, 1997, NHTSA published an NPRM to amend Standard No. 216 in response to the petitions from Ford and RVIA (62 FR 8906). In the NPRM, NHTSA proposed to modify the test plate size and placement to ensure that vehicles with raised and sloped roofs could be tested in accordance with the intent of the standard.

In response to Ford's petition, the agency proposed modifying the test plate location to resolve test complications for those vehicles with highly rounded roofs (e.g., Ford Taurus). It proposed to modify S6.2(d) to position the forwardmost edge of the test plate flush with the forwardmost point of the roof structure including the windshield trim. This, it was thought, would provide for the consistent placement of the plate and in most cases would properly stress the roof over the A-pillar junction, while providing a technique that could be used to test all vehicles. This position was thought to be preferable to Ford's alternative (25 mm in front of the rearmost point of the windshield opening), because a vehicle whose window openings are more than 25 mm farther forward in the center than they are near the A-pillars could have resulted in the front edge of the plate penetrating the sheet metal of the roof. In addition, a vehicle whose window openings are more than 25 mm farther rearward in the center than they are near the A-pillars can result in a plate forward edge penetration of the sheet metal behind the A-pillar. This condition, known as "edge loading," is undesirable because it concentrates the load in a very small area and does not simulate contact with the ground in most rollover crashes.

For vehicles with raised or altered roofs, such as van conversions, NHTSA denied the portion of RVIA's petition that requested using the requirements of Standard No. 220 instead of the requirements of Standard No. 216. Agency testing using both procedures on vehicles with similar modified/raised roofs showed that the Standard No. 220 test procedure was less stringent in testing the roof over the front occupants. Also, since Standard No. 216 specifies that the load is applied over a smaller contact area (one side of the roof), it would likely result in roof designs that could withstand a higher load on that portion of the roof structure.

NHTSA also rejected RVIA's contention that, since roofs of the original vehicles prior to conversion had already been certified to Standard No. 216 requirements, the front of the converted roof structure would have met the requirements of that standard. While the roofs of original pre-conversion vans are certified, it is unknown how much the roof strength would have changed when a portion of the roof is cut out for roof conversions. Therefore, the agency proposed to continue applying requirements of Standard No. 216.

The NPRM proposed to address RVIA's concerns by decreasing the size of the test plate in certain situations, depending upon the position of the initial contact point relative to the front seat area. The size of the plate would have been determined by positioning the current large test plate with its lower surface on the roof structure. If the initial contact point were on any portion of the raised/altered roof section rearward of the front seat area, then NHTSA proposed to substitute a small test plate (610 mm by 610 mm, or 24 inches by 24 inches) to be used for testing instead. The rear of the front seat area was defined as "the transverse vertical plane passing through a point 162 mm rearward of the SgRP of the designated left front outboard seating position." (SgRP stands for seating reference point, as defined in 49 CFR 571.3). The transverse vertical plane 162 mm behind the seating reference point is where the head of a 50th percentile male Hybrid III dummy is closest to the roof when the dummy is positioned as specified in the test procedures for Standard No. 201, *Occupant Protection in Interior Impact*. The performance requirements when using the small plate would be the same as when tested with large plate, i.e., a roof crush deformation of 127 mm (or 5 inches) at a load of 1.5 times the unloaded weight of the vehicle.

NHTSA also proposed to make certain minor changes to the regulatory text, renumbering paragraphs and making minor clarifying changes. In particular, the NPRM proposed to add to the regulatory language of the standard the substance of an already issued interpretation, explicitly stating that the agency would test vehicles with their roof racks and non-structural components removed. In addition, NHTSA posed a number of questions to commenters regarding the appropriateness of the standard, as modified by the proposal.

IV. Comments in Response to the NPRM

In response to the NPRM the agency received a total of 10 comments, 8 comments from manufacturers (GM, RVIA, Volkswagen, BMW and 2 submissions from Ford), one from a safety group (Advocates for Highway and Auto Safety, or Advocates), one from a state organization (Minnesota Department of Transportation), one from a research group (Liability Research Group, or LRG), and one from a law firm (Ricci, Hubbard, Leopold and Franklin, or RHLF).

A. Change in the Location of the Test Plate To Accommodate Rounded Roofs (e.g., Ford Taurus)

In response to the proposal to align the front edge of the test plate with the front edge of the roof, the agency received comments from GM, Volkswagen, BMW, Ford, and Advocates. GM, Volkswagen, and Ford supported adopting a fixed location for the test plate near the front edge of the roof, while BMW supported allowing the position of the test plate to vary by up to 254 mm relative to a fixed location on the roof. There was no clear agreement on plate positioning, but most of the commenters shared concerns about edge loading of the roof or the A-pillar when testing according to the proposed procedure.

The manufacturers each favored a different position for the front edge of the plate. GM recommended that the test plate be located 50 mm (2 inches) forward from the forwardmost point on the "top edge of the windshield." Volkswagen suggested the front edge of the plate be placed 25 mm (1 inch) forward of the forwardmost point on the "leading edge of the roof." Volkswagen also recommended setting a tolerance on the 25 mm forward placement of the plate, to avoid problems of test procedure implementation and interpretation. Ford recommended that the NPRM's plate placement be adopted

as proposed, even though this represented a change from its petition request. BMW suggested that the agency vary the position of the front edge of the test plate within a range "tangent to or up to a maximum of 254 mm forward of the transverse vertical plane passing through the forwardmost point on the exterior surface of the roof," depending upon the distance that will ensure that the test plate avoids contacting the length of the A-pillar during the test. GM, Volkswagen and BMW supported their approaches by suggesting that the proposed test plate location could possibly create complications in testing or possibly produce unrealistic edge loading on the A-pillar.

GM commented that both the current and proposed positions of the test plate will result in the front edge of the plate penetrating the roof and the A-pillar for vehicles with a sharp transition between the slope of the windshield and the roof structure, such as some pickup trucks, based upon observations made on agency compliance testing for Standard No. 216. It supported the 50 mm distance recommended by the American Automobile Manufacturers Association (AAMA) because it believed that will provide the necessary, consistent orientation of the test plate over the front part of the roof and avoid plate edge contact with the A-pillar.

GM suggested that the agency needs further data. It stated that it knows of no data or analysis which would allow a determination of whether the agency's proposed longitudinal positioning of the test plate would be an improved test for all vehicles with uncommon roof shapes or whether it would reduce the stringency of the current test procedure. GM also recommended that if the agency's intent is to load vehicle roof structures in a manner which simulates loading commonly noted in rollover crashes, the agency should initiate a study to determine the appropriateness of modifying the current test plate angles to accommodate the range of vehicle designs and to determine the appropriateness of changing the test plate application angles as well as the test plate dimensions. It suggested such a study might involve an analysis of real world crashes and roof geometry, followed by a determination of the most representative orientation of vehicle to impact surface for each vehicle type.

Volkswagen also stated that the placement proposed in the NPRM may result in the edge of the plate contacting the roof and windshield during the test and producing results which the proposal was intended to avoid. Volkswagen commented that placing the plate one inch forward of the front edge of the roof more positively assures loading to the A-pillar and supporting roof structures.

BMW experienced complications during developmental testing, using the current Standard No. 216, of future production vehicles with A-pillar designs that slope at less than 31.5 degrees from the horizontal. It believed that similar problems would also occur when testing as proposed in the NPRM. BMW indicated that both procedures resulted in the plate being positioned directly over the A-pillar, so it expected the proposed placement to result also in contact between the plate edge and the pillar during the test, producing variable and unrealistic load-deflections and a lack of test repeatability.

To avoid edge loading of the A-pillar, BMW recommended that the agency allow manufacturers to variably align the test device to achieve the desired location. BMW suggested that the front edge be placed "tangent to or up to a maximum of 10 inches in front of the transverse vertical plane passing through the forwardmost point on the exterior surface of the roof * * *."

Ford stated "the procedure proposed in the NPRM provides for a repeatable method of test platen positioning for current vehicles being manufactured with aerodynamic roof lines." Ford, however, stated that it does not believe that the tests which were conducted by the agency, using the current and NPRM's proposed roof crush test procedures, on the Ford Taurus and the Dodge Neon provide a valid comparison between the roof crush results obtained with both procedures because the agency tested the vehicles twice, one side with the current procedure and the other side with the proposed procedure.

Ford also stated that NHTSA should not assume that the forwardmost point on the roof will always be at the vehicle's longitudinal centerline. This assumption is implied because the agency's objective of avoiding front plate edge penetration is only served using the proposed language if the forwardmost point on the roof is in the center. If the forwardmost point is along the sides near the A-pillars then plate edge penetration could occur. Although Ford believed this is a valid assumption for current production vehicles, to account for possible future aerodynamic styling themes on which the forwardmost point might be located outboard of the vehicle's longitudinal centerline, Ford recommended that NHTSA revise the platen positioning procedure to state "[t]he midpoint of the forward edge of the lower surface of the test device is tangent to the transverse vertical plane passing through the forwardmost point on the exterior surface of the roof, including trim, that lies in the longitudinal vertical plane taken at any lateral position between a point 25 mm inboard of the left and right A-pillar surface."

Advocates took no position on the NPRM's proposed test plate positioning, stating that the agency should first address the differences in the real world load conditions for vehicles with increasingly common highly sloped A-pillar or aerodynamic roof structures, typified by "cab forward" occupant compartment designs. Advocates stated that the roof structure of these vehicles make it probable that B-pillars and the adjacent portions of the roof would experience proportionally greater crash forces than in designs with A-pillar/roof interfaces more closely approaching 90 degrees. Advocates believes that the agency should explore this potential difference in real world force loading for these vehicles so that it can make substantial changes in rollover safety.

B. Altered or Raised Roofs (e.g., Van Conversions)

GM, Ford, RVIA, and the Minnesota DOT provided comments on the agency's proposal to use a small test plate when the large plate would result in initial contact rearward of the front seat area. Most opposed the use of the small test plate, due to the belief that it would result in *rear* edge loading.

GM and Ford were the only vehicle manufacturers that commented on the agency's proposal to modify the size of the test plate for vehicles with raised roofs. Both manufacturers disagreed with the proposed change in certain circumstances of the test plate size from 30″ x 72″ to 24″ x 24″. However, each manufacturer had slightly different reasons for opposing the small plate.

GM was concerned that the smaller test plate may not properly load the B-pillar, which is also a significant roof structural member. GM was also concerned that the smaller plate may still possibly make rear edge contact with the modified roof section even when testing with the proposed procedure and that if the agency were to accept the smaller plate, additional cost would be incurred by manufacturers in either revising or making new test fixtures to accommodate the different plate sizes.

Ford concluded that the small plate is too small to be used and can result in rear plate edge contact in some instances. Ford based this contention on NHTSA's 1985 Buick Riviera roof crush data showing the area crushed exceeded the surface area of the small plate by 12 percent. In addition, Ford calculated

that on a vehicle with a flat roof, the rear edge of the test plate would contact the original roof surface after only 54 mm of displacement, or 43 percent of the allowable travel. Ford stated that testing with a smaller plate will increase the burden of demonstrating compliance by final stage manufacturers of raised roof vehicles.

GM and Ford both recommended that the large plate be retained as the only test device. GM suggested solving the testing problem posed by raised roof vehicles by allowing the larger test plate to be located "as far forward as necessary to achieve the desired loading condition."

RVIA stated that the smaller test plate will not resolve the testing difficulties with raised roofs, but rather it will result in edge contact between the modified roof and the edge of the test plate. RVIA enclosed four photographs which it believed show a "simulated smaller test device roughly positioned at the test angle and position" in minivan and sport utility vehicles with raised roofs. It suggested the photos demonstrate that the rear edge of the proposed smaller test plate contacts the raised section of the vehicle either before loading, or would contact it following a small amount of displacement after loading. It also commented that, even when using the larger test plate (i.e., when the initial contact point of the test device is located at the front portion of the roof over the front seat area) the rear edge of the plate can contact the raised roof during the test if the roof contour is raised behind the B-pillar. RVIA supported, however, NHTSA's proposed definition of the rearward plane of the front seat area.

Minnesota DOT supported RVIA's recommendation to replace Standard No. 216 with Standard No. 220 for modified roofs. To support its recommendations, Minnesota DOT referenced two agency tests. The first test was performed on a 1994 GM Safari according to the Standard No. 220 test procedure and the second test was on a 1992 Chevy Astro Van according to the Standard No. 216 test procedure, modified as proposed in the NPRM. Minnesota DOT concluded that the two procedures were comparable due to equal amounts of roof deformation (or travel of the test plates), and due to the fact that the Astro's modified roof structure passed Standard No. 216 without loading the A-pillar directly. Minnesota DOT further concluded that common alterations made for modified roofs will not diminish the strength of the original front roof structure. Therefore, Minnesota DOT disagreed with the agency's determination that the Standard No. 220 test procedure is a less stringent test, concluding instead that the two tests are comparable.

In addition, Minnesota DOT stated that it believes NHTSA is too focused on A-pillar strength. It contends that the initial point of contact with the roof in rollover crashes may not always be at the A-pillar for vehicles with modified roofs forward of the driver's seat back. It speculated that it is more likely that initial contact would be with the raised roof area behind the driver that first contacts the ground. The Standard No. 220 procedure is more likely to test the raised roof portion. In any case, Minnesota DOT suggests that the real issue should not be which components contribute to roof crush resistance, but whether occupants are being protected. Crush resistance provided by the A-pillar alone or by the A-pillar in combination with other support structures should be irrelevant as long as the crush requirements of the standard are met. Based upon these assumptions, Minnesota DOT concluded that ensuring the integrity of the front roof structure should not be of importance for vehicles with raised roofs, especially for raised or modified roofs located behind the front seat backs.

Advocates commented that the agency's proposed modification to Standard No. 216 would not improve the extent to which the standard addresses real world rollover crashes. Advocates stated that the agency has no correlating data which shows relationships between the real world roof crush, roof crush deformation for Standard No. 216 testing, and the severity of injuries in rollover crashes. As a result, Advocates offered no comments on the matter of revising the size of the test plate.

C. Other Issues

1. Real World Rollover Crashes Versus Standard No. 216

Three commenters did not address their comments directly to the NPRM proposal to clarify the test procedure of Standard No. 216 and to remove complications in testing vehicles with modified or aerodynamically sloped roofs. Instead, these commenters questioned the appropriateness of the test procedure, in either its current or modified form, as a proxy for real world rollover performance. In each of the responses, commenters raised objections to the NPRM proposals, as well as the current standard, as having no real relationship to the causation of injuries and fatalities in rollover crashes.

Advocates and Liability Research Group (LRG), an independent engineering research company, stated that the Standard No. 216 procedure was not sufficiently closely related to the real world rollover environment. Advocates stated it could not support the NPRM proposals due to the lack of a demonstrated relationship between compliance with the current Standard No. 216 and the dynamic loads and risk exposure of vehicle occupants during full rollover crashes. LRG included a report titled, "Rollover Crash Study—Vehicle Design and Occupant Injuries," and concluded that the changes proposed in the NPRM would not bring the standard any closer to its intent of reducing deaths and injuries due to roof crush over the front seat area in rollover crashes, but only refine the standard's test procedures.

Ricci, Hubbard, Leopold and Frankel (RHLF) responded to the NPRM by stating that the agency should address more important crashworthiness issues relevant to raised roofs instead of focusing solely on roof crush resistance. It stated that it believes that raised fiberglass roof conversions have a lack of ductility and are inadequately attached to the frame of the vehicle by sheet metal screws. As a result, RHLF contended that the raised roof section almost always fractures and/or becomes detached during rollover crashes, creating a means for the occurrence of ejection injuries and fatalities. Therefore, RHLF believed that NHTSA's attention should be re-focused on this problem and on the development of an adequate performance criteria for raised roofs in the dynamic setting of the crash characteristics they experience.

2. Variability in Standard No. 216 Testing

Ford initially petitioned the agency to clarify ambiguous test procedures for vehicles with modified and sloped roofs. In its petition, Ford also stated that it knew of other problems with the test procedure that it would address with the agency at a later date. Following the petition, Ford initiated a study to observe common test practices by different test facilities and to assess the repeatability of the load plate positioning during Standard No. 216 testing. Partial results were submitted to the agency in response to the Request for Comments. Ford submitted the rest of the information in a supplemental report in response to the NPRM (Docket 94–097–N02–010). Ford's analysis identified several issues related to test variability in roof crush testing, test plate positioning, vehicle tie-down procedures, and component definitions.

The supplemental report contained the test results of a reproducibility study of three NHTSA contracted test facilities and the Ford (Dearborn) test facility to observe the various laboratories' test procedures and to assess the repeatability of load plate positioning during Roof Crush Resistance testing. The non-Ford test facilities included: MGA Research Corp. (MGA), General Testing Laboratories Inc. (GTL), and Mobility Systems and Equipment Co. (MSE). Testing was performed on 16 identical Ford Taurus vehicles, generally in accordance with the Laboratory Test Procedure used for Standard No. 216 (TP–216–04). The only notable differences from the test procedure were that the vehicle windows were in the open/down position during the test, and the test device continued to load the roof until 140 mm (5.5 in) of travel was achieved rather than stopping if the minimum roof crush resistance was met before the test device had traveled 127 mm (5 inches). Summaries of the findings noted in each part of the testing are provided below:

Roof Crush. In comparisons to Ford's testing, the average peak roof crush loads from each of the non-Ford test labs were considerably higher, except for MSE which had similar results. Based upon its engineering judgment, Ford attributed the difference in the average peak loads to differences in the design and operation of lab equipment, differences in the accuracy and verification methods of each of the labs, and variations in test vehicle-set up and procedural differences including vehicle tie-down methods.

Plate Positioning. Based upon the results of the Ford analysis, positioning the plate in accordance to Standard No. 216 produced a range of 456 mm for the longitudinal plate placement measurements for all the test labs surveyed. Independently, each lab also had large test variations in longitudinal plate placement. A maximum range of 98 mm was measured for one of the test sites. However, Ford expressed confidence that the NPRM proposal regarding the test plate position will serve to improve the longitudinal plate positioning repeatability among all test facilities.

Vehicle Tie-Down Procedure. Ford stated that inconsistent use of jackstands and the accompanying vehicle distortion may be a partial source of the total roof crush variability found between the test sites. Ford suggested that elimination of vehicle distortion as a source of contact point movement and potential roof crush load variability could be achieved by requiring consistent use of jackstands to support the test vehicle's front and rear overhangs. Ford recommended that the Laboratory Test Procedure be revised to state:

> Jackstands *must* be located under the front and rear overhangs to prevent distortion of the structure" in order to support the vehicle overhangs and minimize contact point movement as a potential source of test variability.

Windshield Trim Definition. Ford recommended that the section S7.2(e) proposed in the NPRM, which defines the proposed test plate positioning procedure, be revised to clarify that the term "trim" pertains to the "windshield trim." Ford also recommended that the definition for windshield trim be included in Section S4. Ford recommended that the definition for windshield trim should be consistent with the definition recently established in the final rule amending Standard No. 201, *Occupant Protection in Interior Impact,* final rule (See, 62 FR 16718, at 16725):

> *Windshield Trim* means molding of any material between the windshield glazing and the exterior roof surface, including material that covers a part of either the windshield glazing or exterior roof surface.

3. Responses to Agency Questions in the NPRM

In response to questions asked or statements made by the agency in the preamble of the NPRM, the following comments were provided.

Is the integrity of a roof structure on one side of a vehicle altered by a test on the other side? GM and Ford both offered comments on this issue. GM stated that, depending upon the level of damage incurred in the first test, there may be an overlapping of structural damage which could affect the test results of the test on the opposite side, reducing the load bearing capacity considerably. Ford also stated that it believes the roof structure integrity on the opposite side can be compromised during the first test. Ford cited the agency testing on the Dodge Neon and the Ford Taurus as an example of an invalid comparison due to testing both sides of the roof structure.

The proposed positioning of the test load plate resulted in 17% additional "crush" to a Dodge Neon during the test. NHTSA deems this to be insignificant because it represents a displacement of only 8 mm. GM agreed that the proposed modification to the procedure for positioning the load plate could be adopted without an appreciable, if any, reduction in test stringency. However, it did not agree with the agency's dismissal of the differences in test results between the current and modified procedures as insignificant. GM considers a 17 percent increase in crush to be a significant increase.

Is NHTSA's definition of "roof over the front occupant compartment" appropriate? Ford agreed with the intent of defining the rear boundary of the roof over the front seat area, but questioned how NHTSA derived a distance of 162 mm rearward of the SgRP. Ford did not agree with the definition because of the lack of supporting information, and suggested that NHTSA perform further analysis of the appropriate boundary.

GM and RVIA both stated that NHTSA's definition is satisfactory in defining a rearward limit of the location of the front seat area. However, GM stated that the location of the SgRP should not be based upon the left front outboard seating position. GM recommended that the SgRP be referenced from either the driver's seating position or the rearmost of the front outboard seating positions, to ensure the proper location for certain classes of vehicles where the driver's side can be on the right side of the vehicle (e.g., postal and international vehicles) or which have asymmetric design configurations where one outboard SgRP may be different from the other.

If NHTSA increased the amount of allowable "crush" for vehicles with raised roofs, what method should be used to take into account the increased headroom resulting from such roofs? GM did not know of a single method which could be applied to all raised roof vehicles. Some raised roof conversions offer no increase in headroom (and in some designs headroom is reduced) because they retain the original overhead roof structure and then add interior roof consoles, trim, moldings, etc. in the raised section. In some instances, the raised portion of the roof over the front occupants is used for storage rather than providing additional headroom.

RVIA also stated that it does not know of a method for determining the differences between the raised roof surfaces and the original roof surfaces of raised roof vehicles. However, it noted that in some raised roof applications, the differences are such that roof crush of 127 millimeters or more would not approach the contour of the original roof surface.

Advocates objected to the NHTSA's amenability to increasing the amount of allowable roof crush for vehicle with raised roofs to compensate for the increased headroom, if a suitable

method for measuring the additional headroom could be determined. Although NHTSA agreed in principle with this manufacturer request, the agency did not propose to adopt the requested action. Advocates also asserted that not every vehicle modified with a raised roof actually increases the amount of headroom in the front seat area due to the installation of leisure equipment in these areas.

Should the proposed test procedure address glass panels or sunroofs located over the front occupant compartment, and if so, how? The test procedure currently requires that, prior to testing, windows and doors are closed and removable or movable roof panels are in their closed and latched positions. GM stated that it knows of no reason to change this practice. RVIA commented that this glazing should be considered to be part of the roof structure but that NHTSA's procedures should allow testing "with the glazing installed and any moveable glazing tested in either the open or closed position as determined by the vehicle manufacturer or converter."

While this proposal does not involve changes to test load plate angles, the NHTSA requests any available data on the subject. GM stated that it has no applicable data but, as noted above, it suggested NHTSA needs to further study the matter. Although they did not address themselves specifically to the question, the comments of RHLF, Advocates, and LRG indicate these organizations also believed that more testing is needed.

Should the load plate be reduced in size from the current 30" x 72" to 24" x 24" for testing of vehicles with a raised or altered roof structure located rearward of the front occupant compartment? GM stated that if the agency's stated purpose for Standard No. 216 is "to reduce the likelihood of roof collapse over the front occupant compartment in a rollover crash," it should abandon the small test plate. GM stated that the smaller (24" x 24") test plate is inappropriate because it is too small to produce crush loading representative of the actual loading experienced by a vehicle during a crash event.

V. Agency Discussion of Issues

A. Summary of Changes From the NPRM

In response to the comments, the agency is modifying the approach it proposed in the NPRM. In particular, the agency was persuaded, for the reasons explained below, that there were technical difficulties associated with the use of a smaller test plate. Instead, it is addressing the problems raised in the petitions by changing only the test plate position. The major changes to the standard (or deviations from the proposal) are summarized below.

(1) The size of the test plate for all testing will not change. It will remain 762 mm (30 inches) x 1829 (72 inches) because the proposed small test plate did not have enough surface area to crush a minimally compliant vehicle without edge contact.

(2) The front edge of the test plate will be positioned tangent to a vertical plane 254 mm (10 inches) horizontally in front of the forwardmost point of the roof for all vehicles, except vehicles with raised or modified roofs for which the initial point of contact with the plate is rearward of the front seat area. This will consistently position the plate over the front seat area. The amendments specify that the roof includes the windshield trim. Further, the amendments define windshield trim. In addition, the longitudinal placement of the plate includes a tolerance of ± 10 mm. This increases the enforceability of the standard.

(3) If a vehicle has a raised or modified roof structure and if the initial point of contact is rearward of the front seat area, the rearward edge of the plate will be positioned tangent to a vertical plane passing through the rearmost point of the front seat area. This will avoid testing the modified roof to the rear of the front seat area. The longitudinal placement of the plate includes a tolerance of ± 10 mm.

(4) The definition for the roof over the front seat area has been revised to account for vehicles with asymmetrical roofs and non-aligned driver and passenger seating positions.

(5) To address the problem raised by Ford of mounting a vehicle's sills or chassis frame, the agency notes that the problem of interference between a vehicle's underbody and a single horizontal surface can be solved by using two separate surfaces (e.g., I-beams) located at the same height. Those two surfaces are the equivalent of a single surface. The use of two separate surfaces allows the underbody components to hang down without interference. As to Ford's concerns about pre-stressing and rocking, the agency will address those matters outside this rulemaking.

B. Plate Position for Sloped and Contoured Roofs

All commenters who addressed the issue, except Ford, opposed positioning the front edge of the test plate tangent to the forwardmost point on the roof, based mostly on concerns about the possibility that the plate's front edge might penetrate the roof.

The agency based its proposal on the results of its compliance testing and on the Vehicle Research and Testing Center's testing of current production vehicles for research purposes. In the testing, current production vehicles typically experienced between 1–3 inches of maximum roof crush, occurring several inches rearward of the A-pillar. Testing using the current and modified roof crush tests produced comparable amounts of crush at exactly the same location on the roof. Consequently, use of the modified procedure on conventional roof structures should very rarely result in the front edge of the plate contacting the A-pillar during testing.

Nevertheless, the arguments of these commenters have merit. Especially for vehicles with a sharp transition between the slope of the windshield and a relatively flat roof structure, such as light trucks and vans, the agency agrees that front edge loading could occur if the initial point of contact were close to the A-pillar or exactly at the A-pillar joint. Front edge loading could also occur on future production vehicles such as those mentioned by BMW with A-pillar angles less than 31.5 degrees.

More important, front edge loading could also occur if the proposed procedure were used in testing those vehicles which allow more than the 1–3 inches of crush experienced by most vehicles during compliance testing. As noted above, the standard allows up to 5 inches of roof crush. The test procedures must not be based on an assumption that there will not be any vehicles who performance approaches that limit. If five inches of roof crush were to occur when the plate had been positioned according to the proposal, the front edge of the plate would likely penetrate the roof or the A-pillar, even in the case of vehicles with conventionally sloped roof structures.

Some of the recommendations by the manufacturers for pre-test positioning of the front edge of the plate would also be unacceptable for the same reason. A test plate positioned according to GM and VW's recommendations (i.e., with the plate's front edge positioned 2 inches and 1 inch, respectively, forward of the forward most point on the roof) would also result in front edge contact with the A-pillar for a minimally compliant vehicle with a current roof design.

NHTSA disagrees with part of BMW's comment that the test procedure should allow the position of the front edge of the test plate to vary at the discretion of

the manufacturer or final stage manufacturer. Although, theoretically, varying the plate's front edge position by up to a range of 254 mm (10 inches) forward of the forwardmost point of the roof should make little difference in the force application, the agency remains concerned that variable test placement may increase the variability of the test results. By not ensuring a fixed location point for the test plate, variations in the test results as a result of test setup variability, such as those noted by Ford in its variability study, might occur. It is also rare for NHTSA to allow manufacturers to specify test conditions during the agency's compliance testing. Such an allowance would give the manufacturers some influence over the stringency of the requirements and could result in differences in the stringency of the requirements for different manufacturers. Further, the allowance seems unwarranted when the problem (potential front edge loading) could be addressed without introducing such a variable. In addition, NHTSA notes that manufacturers already have this flexibility with respect to their own testing. The test procedures in the Federal Motor Vehicle Safety Standards specify how the agency will conduct compliance testing. Manufacturers and converters may, at their risk, deviate from these procedures so long as they are confident that the modified test still provides an adequate basis for certification that their vehicles will comply when tested by the agency in accordance with the standard.

The agency thinks there is merit in the portion of BMW's recommendation to specify that the front edge of the test plate is to be placed 254 mm (10 inches) forward of the forwardmost point on the roof. NHTSA believes that if the plate were so positioned, its front edge would not contact the roof or A-pillar of any current or future vehicles. The agency is not aware of any vehicles, even minimally compliant ones, with A-pillars so inclined that the plate's front edge could contact the roof or the A-pillar. The agency does not foresee any complications in the test procedure or change in the stringency of the requirements as a result of shifting the plate 254 mm (10 inches) forward, since the plate is so long that rear edge contact is highly unlikely.

By moving the test plate sufficiently forward of the forwardmost point of the roof, edge loading associated with the current procedure will be eliminated for present and future production vehicles. Locating the plate edge relative to a fixed point on the roof instead of the initial contact point also addresses BMW's concern that future vehicles with very inclined A-pillars might have roofs on which the initial contact point is hard to determine. It is also suitable for vehicles whose forwardmost point of the roof does not lie on the vehicle's longitudinal centerline, because the roof at the top of the A-pillar will not be more than 254 mm (10 inches) longitudinally forward of the roof on the vehicle's centerline. Therefore, the agency is modifying the rule to specify placement of the plate's front edge 254 mm ± 10 mm (10 inches ± .39 inches) forward of the forwardmost point on the roof. This will limit the test variability, while ensuring enforceability of the crush resistance requirement.

NHTSA agrees with Advocates that the low angle of inclination of the A-pillar for vehicles with aerodynamic roof structures will likely cause the B-pillar and the adjacent portions of the roof to bear proportionally greater crash forces in rollover crashes, compared with vehicles with more upright A-pillars. However, ensuring the structural integrity of the A-pillar is of even greater importance in vehicles with aerodynamic roof structures because the low slope of the A-pillar may result in a shorter minimum distance from the A-pillar to the front seat occupant's head. Therefore, this rule's emphasis on the A-pillar is appropriate.

NHTSA agrees with those commenters that the agency should not limit its efforts to refining the current test procedure, but should also explore other, arguably more realistic, methods of testing for roof crush strength that might lead to the possibility of greater improvements in rollover safety. The purpose of this rulemaking is to address only the issues of difficulty of testing raised in the petitions. Other issues, such as the possibility of using a dynamic test procedure or research into exploring differences between the rollover crash forces in the roof structures of various roof/pillar designs will be considered separately. The successful resolution of those issues may enable the agency to consider rulemaking for upgrading Standard No. 216.

C. Use of a Small Test Plate for Vehicles With Raised or Modified Roofs

All commenters that addressed the issue opposed the small test plate and recommended continued use of only a large plate, mostly due to concerns over the likelihood of rear edge loading. Other reasons cited for opposing the small plate included failure to load the B-pillar, additional cost of making new test fixtures and higher test costs, and the possibility that the area crushed by the large test plate would exceed the surface area of the small plate, resulting in edge loading.

NHTSA agrees that the smaller test plate could result in rear edge contacts with certain raised roof vehicles, especially if the roof were minimally compliant. This would be particularly undesirable since the rear edge loading would likely occur on the roof over the front seat area. GM is correct in its statement that the small test plate would ineffectively stress the B-pillar, but, as explained above, loading the A-pillar and the roof section over the front seat area is the primary concern of the agency. In addition, the Standard No. 216 test procedure with the large plate in compliance testing results in little or no roof crush at the B-pillar.

Primarily because of the likelihood of rear edge contact over the front seat area of some vehicles, NHTSA agrees with these commenters that a small test plate should not be adopted. This addresses manufacturer concerns about additional costs of making new test fixtures and higher test costs, and about the current plate crushing an area greater than the surface area of the smaller plate. However, retaining the large plate means that the problem with testing raised or modified roofs needs to be addressed in another way.

The question becomes how to conduct testing with the large test plate in a manner that addresses the concerns raised by RVIA in its petition. The agency believes GM's recommendation to move the large test plate forward far enough to "achieve the desired loading condition" is not feasible. Allowing the position of the test plate to vary by an amount thought to be necessary to avoid contacting the raised section introduces a variable that would add to the test variability cited by Ford in its study. It would make the standard less objective, thus making compliance testing more difficult and reducing the standard's enforceability. In addition, with certain modified roof structures, the shape of the raised section might dictate moving the plate so far forward that the rear edge is near the front of the front seat area, resulting in very little of the plate contacting the roof. Rear edge loading is especially likely in this situation.

Defining "the desired loading condition" may involve trade-offs. For certain roof shapes, the agency sees no way to avoid both loading the rear edge of the plate in the area over the front seat area and loading the raised roof to the rear of the front seat area. If the plate is far forward enough so that it misses the modified roof to the rear of the front seat area, rear edge loading even with the larger test plate can occur. This is because raised or modified roofs may

step up or slope up toward the rear of the front seat area, and the shorter length of plate over the roof (i.e., the distance between the front of the roof and the rear of the front seat area instead of the full length of the plate) provides less distance for even the large plate inclined toward the rear at a shallow angle to ramp up above the roof surface. If the large plate is allowed to extend past the rear of the front seat area, then portions of such a roof that are not over the front seat area may support load, and may experience rear edge loading anyway.

The agency concludes that the best way to test vehicles with raised and modified roofs in accordance with the intent of the standard is to align the rear edge of the test plate so that it is tangent to the vertical plane passing through the rearmost point of the front seat area. This essentially constitutes the agency's adoption of GM's recommendation, specifying a fixed longitudinal position instead of a variable position. Allowing the large test plate to be moved forward will avoid rear edge contact with the majority of raised roofs with the rear edge positioned as specified. It should not matter how far the front of the plate projects in front of the roof.

This solution minimizes problems. Rear edge loading might occur in testing a small number of vehicles with modified or raised roof structures that slope or step upward at more than a five degree angle between the front of the roof and the rear of the front seat area. However, this is unavoidable without varying the plate angles and position according to the roof geometry. The plate might never contact the A-pillar if the raised or modified roof is more than five inches above that structure, but this may be unavoidable regardless of the plate size and angle. The agency's primary concern is that the test plate loads the roof of the front seat area using a procedure that is more objective and repeatable. This solution accomplishes that goal.

Retention of the larger plate also largely addresses GM's concern regarding the potential increase in cost for designing test fixtures. However, the requirement that the rearward edge of the long plate be aligned with the rear of the front seat area when testing certain raised roof vehicles, could necessitate some retooling for the fixtures. There should not be any additional cost for those test facilities which use two hydraulic cylinders to apply the loads to the test plate. Test facilities that use a single hydraulic cylinder may or may not be able to produce uniform loading upon the roof structure, because of the torsion that would be applied to the connection between the plate and the cylinder if only the rear half of the plate is in contact with the vehicle. If upgrading single cylinder equipment is necessary to compensate for this effect, the agency anticipates only a minor, one time only, fixture cost.

The initial point of plate contact determines whether the rear edge of the plate needs to be aligned with the rear of the front seat area. If the initial contact point is above the front seat area, then the normal plate positioning procedure is used. If the initial contact point is to the rear of the front seat area, then the plate is realigned.

NHTSA realizes that, after the plate has been realigned, if the initial point of contact is only slightly forward of the rear of the front seat area, then a small amount of the roof to the rear of the front seat area might be crushed by the rear edge of the plate as it moves downward and slightly rearward, perpendicular to its 5 degree rearward inclination. This is only likely to happen if the roof is minimally compliant. NHTSA's past compliance testing indicates this would be a very rare occurrence. In any case, crushing a small amount of roof to the rear of the front seat area is preferable to the rear edge loading that would occur otherwise. If the initial point of contact is to the rear of the front seat area, then rear edge loading at the rear of the front seat area is preferable to the possibility that the roof over the front seat area would never be tested by the plate at all.

NHTSA disagrees with Minnesota DOT's analysis that ensuring the integrity of the front roof structure should not be of primary importance for vehicles with raised or modified roofs. Standard No. 216 stresses the area of the roof most likely to have occupants under it. Standard No. 220 was adopted for vehicles which typically carry more occupants in the rearward seating positions (i.e., school buses), which is why the integrity over the entire roof structure is the primary concern. Conversely, Standard No. 216 was adopted for vehicles which typically carry front seat occupants (i.e., most light duty vehicles). Thus, it is more important to ensure the integrity of the roof structure over the front seat area. In addition, failure of the A-pillar in these vehicles is more likely to cause harm than other parts of the roof. Light duty vehicles, particularly mini-vans, are commonly the type of vehicle whose roof structures are modified. Since 1990, these vehicles have commonly been designed with more aerodynamic roof structures. The design of aerodynamic roof structures effectively places the A-pillar/roof joints in closer proximity to the heads of the front seat occupants. Therefore, regardless of the initial point of contact, it is more important to ensure roof integrity at the A-pillar and adjoining roof structure.

The agency also disagrees with the portion of RVIA's analysis that concludes Standard No. 220 is comparable to Standard No. 216 and is preferable for testing vehicles with raised or modified roofs. NHTSA stands by its tentative conclusion stated in the NPRM that the Standard No. 220 test is less stringent than Standard No. 216 for testing the appropriate roof area. Agency tests on a raised roof van using the Standard No. 220 procedure resulted in the initial point of contact and the maximum amount of deformation near the *rear* of the roof structure. The proposed Standard No. 216 procedure, as well as the procedure adopted in this final rule, has an initial point of contact and maximum roof crush over the front seat area and near the A-pillar for conventionally flat roof structures. Even though the maximum amounts of roof crush in the two tests were comparable, the deformation at the A-pillar junction was far less in the Standard No. 220 test. There are no hard data on the issue of where initial contact with the ground typically occurs in real world rollover crashes, so RVIA's conclusion that the initial point of contact would be farther to the rear is speculative. However, NHTSA's engineering judgement, based on an analysis of NASS data conducted in the 1980s, is that real world rollovers typically involve a component of forward velocity along with the roll, which should generally result in the front occupant area (e.g., the A-pillar and front edge of the roof) contacting the ground first. Therefore, Standard No. 216 is a more appropriate test.

D. Other Issues and Concerns

1. Real World Rollover Crashes Versus Standard No. 216

Advocates and other commenters stated that agency's proposed modification to Standard No. 216 would not improve the extent to which the standard addresses real world rollover crashes. As stated earlier, the purpose of this rulemaking is to address conflicts and ambiguities in the existing test procedure. Major changes, such as changing from a quasi-static to a dynamic roof crush test, are outside the scope of this rulemaking and therefore must be considered separately.

The agency is taking steps to address the issue of substantive changes to Standard No. 216. As part of NHTSA's Strategic Plan, which details goals for

improving occupant protection in rollover crashes, the agency is conducting research to explore the potential for reducing injuries and fatalities resulting from harmful contact due to roof crush. The agency is focusing on developing alternative test procedures for improving roof crush resistance. A cumulative report that details the results of NHTSA's research and compares quasi-static testing to dynamic testing is currently available on NHTSA's Research and Development web page at www.-nrd.nhtsa.dot.gov/vrtc/cw/roofcrsh.pdf. The report is also available through the DOT docket, under docket number NHTSA–1996–1742. NHTSA is also exploring a possible correlation between real world rollover roof crush/injury data and the headroom reduction resulting from the roof crush in these crashes. Following the completion of this research, NHTSA will determine the next steps in upgrading rollover occupant protection crashworthiness. Depending on the results of its research, NHTSA may initiate a rulemaking to address whether Standard No. 216 should be upgraded as a modified quasi-static test or whether the adoption of a dynamic test should be considered.

RHLF commented that the raised roof section of some van conversions detaches in rollover crashes due to the fiberglass material's reduction in the ductility or energy absorption and inadequate attachment with sheet metal screws by final stage manufacturers. NHTSA is not aware of any industry-wide problem. Any problem found that is not common to a substantial portion of the second/final stage manufacturers would be addressed by NHTSA's defects program. NHTSA's Office of Defects Investigation will continue to monitor this situation through its complaint files and, if an apparent safety problem arises, the appropriate action will be taken.

2. Test Variability in Standard No. 216 Testing

Ford expressed concerns regarding the variability in roof crush testing and attributed that variability to differences in the design of each test facility's lab equipment, the operation of the equipment, the accuracy and verification methods of each test lab, and the test vehicle setup including the tie-down procedures. The agency plans to address these issues separately.

NHTSA agrees with Ford that the term "trim" in S7.2(e) describing the proposed orientation of the test device, should be revised to say "windshield trim" because it is more specific. NHTSA also agrees that the term "windshield trim" should be defined consistently with the definition in Standard No. 201. Therefore, the same definition used in Standard No. 201 has been incorporated in this final rule.

3. Analysis of Responses to Agency Questions in the NPRM

Is the integrity of a roof structure on one side of a vehicle altered by a test on the other side? The agency agrees with GM and Ford that if deformation as a result of a test on one side of a vehicle were sufficiently extensive, it *could* cause overlapping damage that would affect a second test. NHTSA asked the question in the NPRM mainly to evaluate the effect of dual testing in previous research. The agency conducts only one Standard No. 216 compliance test per vehicle.

The proposed positioning of the test load plate resulted in 17% additional "crush" to a Dodge Neon during the test. NHTSA deems this to be insignificant because it represents a displacement of only 8 mm. NHTSA disagrees that the 17 percent increase in crush when using the proposed procedure in the comparison test was a significant increase. The test of the 1995 Dodge Neon was conducted first using the proposed test plate position on one side of the vehicle, and then using Standard No. 216's requirement on the other. The testing resulted in the proposed test procedure producing 53.5 mm of crush and 45.8 mm for the current procedure. The absolute difference in roof crush between the two procedures was only 7.7 mm (0.3 inches). This amount of variation in the test results between similar Standard No. 216 compliance tests should be expected when using the current Standard No. 216 procedure. Compliance testing (conducted at MGA Research Corporation) on two similar 1985 Buick Rivieras and two 1984 Ford Crown Victorias (agency compliance tests 624784, 624786, 627293, and 627488, respectively) resulted in a difference of 0.2 inches in roof crush for the Ford models and 1.09 inches for the GM models. Therefore, it is not reasonable to assume that the revised procedure will always result in significantly more crush.

In Ford's supplemental response to the NPRM, it stated that the setup procedure for Standard No. 216 can cause considerable variations in repeatability. Ford stated that, based upon its engineering judgement, potential differences in the loading could result from the unique design or operational characteristics of the lab equipment, the equipment accuracy, the verification methods, and the test vehicle set-up (i.e., vehicle tie-down methods). Theoretically, the revised procedure would make no difference at all in the amount of crush, since the plate orientation and size, and its initial point of contact with the roof structure have not changed. The agency will consider setup procedure issues.

Is NHTSA's definition of "roof over the front occupant compartment" appropriate? In response to Ford's questioning how NHTSA derived a distance of 162 mm rearward of the SgRP, the agency derived that number from S8.11(a)(1) of Standard No. 201, *Occupant Protection in Interior Impact.* It represents the distance from the SgRP to the center of gravity of the 50th percentile male Hybrid III dummy.

NHTSA agrees with GM's recommendation that the definition of the rear of the front seat area be revised to account for certain classes of vehicles where the driver's side can be on the right side of the vehicle (e.g., postal and international vehicles) or which have asymmetric design configurations in which one outboard SgRP may be different from the other. Therefore, the agency has revised the definition of "roof over the occupant compartment" to reference "a transverse vertical plane passing through a point 162 mm rearward of the SgRP of the rearmost front outboard seating position * * *"

If NHTSA increased the amount of allowable "crush" for vehicles with raised roofs, what method should be used to take into account the increased headroom resulting from such roofs? NHTSA shares Advocates' concerns about the idea of allowing increased amounts of roof crush for vehicles with modified/raised roofs. The agency agrees that there are no existing data that will justify relaxing roof crush limits. The agency is also aware that not all vehicles with a modified or raised roof will have increased head room. Storage space added above the occupants' heads may eliminate the headroom added by raising the roof. In addition, the agency's concern expressed in the NPRM with practicability of testing was not addressed by any commenter. Due to these valid concerns, NHTSA is not increasing the allowable amount of crush for these vehicles, but will maintain uniform requirements with all types of roof structures.

Should the proposed test procedure address glass panels or sunroofs located over the front occupant compartment, and if so, how? The test procedure currently requires that, prior to testing, windows and doors are closed and removable or movable roof panels are in their closed and latched positions. GM

stated that it knows of no reason to change this practice. Neither does the agency. NHTSA rejects RVIA's suggestion that the roof should be tested in either the open or closed position, at the discretion of the manufacturer, because that would make the standard less objective.

While this proposal does not involve changes to test load plate angles, the NHTSA requests any available data on the subject. No data were known to the commenters. However, NHTSA's Vehicle Research and Testing Center has generated a limited amount of data on this subject. These results are incorporated in the agency's report on static versus dynamic testing which is available in the docket and on the agency's web site (*www.nhtsa.dot.gov*).

Should the load plate be reduced in size from the current 30" x 72" to 24" x 24" for testing of vehicles with a raised or altered roof structure located rearward of the front occupant compartment? As discussed above, due to concerns about rear edge plate loading over the front seat area, the agency will retain the larger test plate for all Standard No. 216 testing.

VI. Changes to the Regulatory Text

Substantial changes to the regulatory text are being adopted, although the substance of the regulation remains largely the same. To accommodate the insertion of a definitions paragraph (customarily located at the beginning of NHTSA's standards), all subsequent paragraphs, i.e., those beginning with S4, are being renumbered. Essentially the same requirements were repeated three times in the NPRM and twice in the existing standard, with the only difference being an absolute limit on the amount of force for passenger cars and, in the NPRM, the location of the initial contact point of the test plate on raised roof vehicles. To eliminate that redundancy, these paragraphs of the requirements section have been consolidated, with the differences in the requirements clearly described.

Paragraph S7.2 has been rewritten to clarify, but not change, the process of orienting the test plate and lowering so that it makes initial contact with the vehicle being tested. In addition, the agency is making a number of clarifying minor changes to the regulatory text. In particular, a sentence was added to the test procedures to explicitly specify that non-structural components such as roof racks are removed prior to testing. This was already the agency's interpretation of the current test procedure. The word "accidents" in S2 is replaced with the word "crashes." Figure 1 is revised to reflect the new plate positioning procedure.

VII. Lead Time

The agency proposed a lead time of 180 days and requested comments on that issue. In its two comments in response to the NPRM, Ford did not renew its earlier request for a five year lead time, but instead stated that 180 days was reasonable. VW commented that 180 days was reasonable, and no other commenter addressed the issue. This action is being taken at the manufacturers' request. To the extent that test plate placement differs from the current procedures, it should make compliance with the standard easier for all vehicles, since engagement of the A-pillars is assured. No changes in vehicle design will be necessary. Likewise, no changes in equipment will be necessary, except for the possibility that some test facilities might have to add an additional hydraulic cylinder to the existing large plate. In NHTSA's judgement, this can be accomplished within 180 days. Consequently, the changes to Standard No. 216 will become effective, and compliance will be required, 180 days following the publication of the final rule. However, manufacturers may voluntarily comply with this rule earlier.

VIII. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be "non-significant" under the Department of Transportation's regulatory policies and procedures. The changes made by this rule will not impose any new requirements, but simply clarify existing test procedures and allow them to be applied consistently to the intended area of the roof on all vehicles. Thus, this rule will not require any design changes and will not cause any increase in compliance costs, except as noted below in the discussion of test equipment under the Regulatory Flexibility Act. The impacts of the rule are so minor that a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rule under the Regulatory Flexibility Act (beginning at 5 U.S.C. 601). I certify that this rule will not have a significant economic impact on a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The final rule primarily affects passenger car, light truck, and multipurpose passenger vehicle manufacturers. It also affects a substantial number of van conversion shops and a small number of independent test facilities that perform Standard No. 216 testing. The Small Business Administration's size standards (13 CFR part 121) are organized according to the Standard Industrial Classification Codes (SIC). SIC Code 3711 "Motor Vehicles and Passenger Car Bodies" has a small business size standard of 1,000 employees or fewer. Virtually none of the vehicle manufacturers are small entities under that standard. NHTSA does not know the number of employees at a typical test facility, but there are not a substantial number of these businesses. NHTSA also does not know the number of employees typically employed by the van conversion shops (i.e., the final stage manufacturers and alterers), but it assumes that they are few in number, and that a substantial number of these businesses would qualify as small entities.

However, there will be no significant economic impact on any entity. As explained above, the rule does not impose any new requirements but instead clarifies the test procedures and allows them to be applied to the areas of the roof to which they were originally intended. There is a possibility that some vehicles with raised roofs to the rear of the front seat area will now have to be tested with much of the test plate projecting forward from the roof, such that a single hydraulic cylinder centered on the plate may not be sufficient to stabilize the plate during testing. In this case, a few test facilities might have to modify their test equipment by adding a second hydraulic cylinder, but NHTSA does not consider the changes to be a significant economic impact. The conversion shops are already responsible under the current test procedures for recertifying compliance with Standard No. 216 if they affect the roof structure. This rule will not have any effect on the price of new vehicles purchased by small entities.

C. Paperwork Reduction Act

NHTSA has analyzed this rule in accordance with the Paperwork Reduction Act of 1980 (Public Law 96–511). There are no requirements for information collection associated with this rule.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

E. Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.216 is amended as follows:

a. S2 is revised.

b. S4 is revised.

c. S5 is revised.

d. S6 is revised, and S6.1, S6.2, 6.3 and S6.4 are removed.

e. S7, S7.1, S7.2, S7.3, S7.4, S7.5, and S7.6 are added.

f. A heading is added preceding Figure 1 at the end of the section and Figure 1 is revised.

The additions and revisions read as follows:

§ 571.216 Standard No. 216; Roof crush resistance.

* * * * *

S2. *Purpose.* The purpose of this standard is to reduce deaths and injuries due to the crushing of the roof into the occupant compartment in rollover crashes.

* * * * *

S4. *Definitions.*

Altered roof means the replacement roof on a motor vehicle whose original roof has been removed, in part or in total, and replaced by a roof that is higher than the original roof. The replacement roof on a motor vehicle whose original roof has been replaced, in whole or in part, by a roof that consists of glazing materials, such as those in T-tops and sunroofs, and is located at the level of the original roof, is not considered to be an altered roof.

Raised roof means, with respect to a roof which includes an area that protrudes above the surrounding exterior roof structure, that protruding area of the roof.

Roof over the front seat area means the portion of the roof, including windshield trim, forward of a transverse vertical plane passing through a point 162 mm rearward of the SgRP of the rearmost front outboard seating position.

Windshield trim means any molding, other than rubber molding and bonding adhesive, that is located over either the windshield glazing, the exterior roof surface or both.

S5. *Requirements.* When the test device described in S6 is used to apply a force to either side of the forward edge of a vehicle's roof in accordance with the procedures of S7, the lower surface of the test device must not move more than 127 millimeters. The applied force in Newtons is equal to 1.5 times the unloaded vehicle weight of the vehicle, measured in kilograms and multiplied by 9.8, but does not exceed 22,240 Newtons for passenger cars. Both the left and right front portions of the vehicle's roof structure must be capable of meeting the requirements. A particular vehicle need not meet further requirements after being tested at one location.

S6. *Test device.* The test device is a rigid unyielding block whose lower surface is a flat rectangle measuring 762 millimeters by 1,829 millimeters.

S7. *Test procedure.* Each vehicle must be capable of meeting the requirements of S5 when tested in accordance with the procedure in S7.1 through 7.6.

S7.1 Place the sills or the chassis frame of the vehicle on a rigid horizontal surface, fix the vehicle rigidly in position, close all windows, close and lock all doors, and secure any convertible top or removable roof structure in place over the occupant compartment. Remove roof racks or other non-structural components.

S7.2 Orient the test device as shown in Figure 1 of this section, so that—

(a) Its longitudinal axis is at a forward angle (in side view) of 5 degrees below the horizontal, and is parallel to the vertical plane through the vehicle's longitudinal centerline;

(b) Its transverse axis is at an outboard angle, in the front view projection, of 25 degrees below the horizontal.

S7.3 Maintaining the orientation specified in S7.2—

(a) Lower the test device until it initially makes contact with the roof of the vehicle.

(b) Position the test device so that—

(1) The longitudinal centerline on its lower surface is on the initial point of contact, or on the center of the initial contact area, with the roof; and

(2) Except as specified in S7.4, the midpoint of the forward edge of the lower surface of the test device is within 10 mm of the transverse vertical plane 254 mm forward of the forwardmost point on the exterior surface of the roof, including windshield trim, that lies in the longitudinal vertical plane passing through the vehicle's longitudinal centerline.

S7.4 If the vehicle being tested is a multipurpose passenger vehicle, truck, or bus that has a raised roof or altered roof, and the initial contact point of the test device is on the raised roof or altered roof to the rear of the roof over the front seat area, the plate is positioned so that the midpoint of the rearward edge of the lower surface of the test device is within 10 mm of the transverse vertical plane located at the rear of the roof over the front seat area.

S7.5 Apply force so that the test device moves in a downward direction perpendicular to the lower surface of the test device at a rate of not more than 13 millimeters per second until reaching the force level specified in S5. Guide the test device so that throughout the test it moves, without rotation, in a straight line with its lower surface oriented as specified in S7.2(a) and S7.2(b). Complete the test within 120 seconds.

S7.6 Measure the distance that the test device moved, i.e., the distance between the original location of the lower surface of the test device and its location as the force level specified in S5 is reached.

BILLING CODE 4910–59–P

Figure 1 to § 571.216

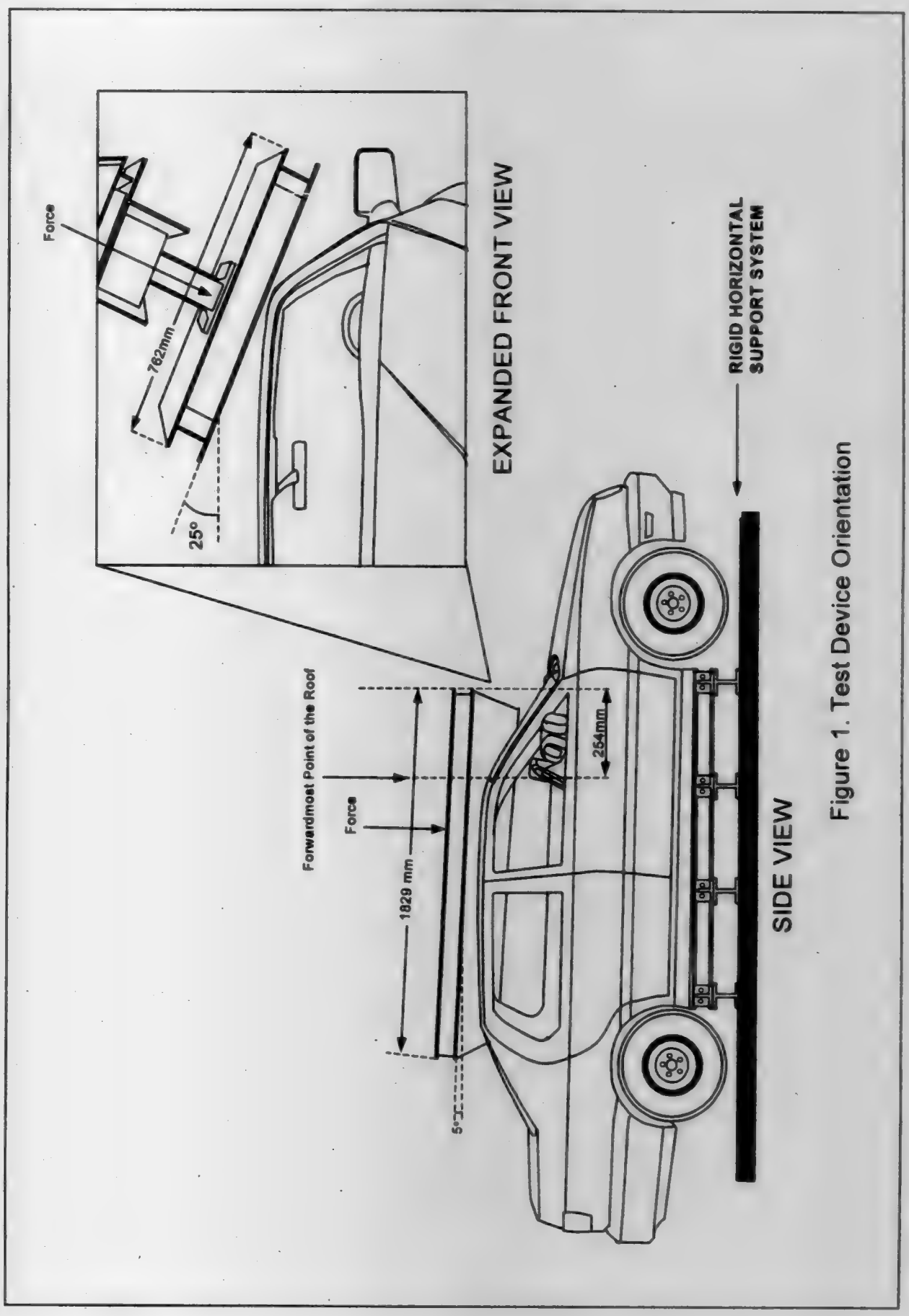

Figure 1. Test Device Orientation

Proposed Rules

Federal Register
Vol. 64, No. 80
Tuesday, April 27, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AE26

Industry Codes and Standards; Amended Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Supplemental proposed rule.

SUMMARY: The Nuclear Regulatory Commission is publishing a supplement to the proposed rule published on December 3, 1997 (62 FR 63892) that would eliminate the requirement for licensees to update their inservice inspection (ISI) and inservice testing (IST) programs beyond a baseline edition and addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (BPV Code). The proposed rule would establish the 1989 Edition of the ASME BPV Code, Section XI, as the baseline Code for IST requirements (except for design and access provisions and preservice examination requirements) for pumps and valves that are classified as ASME Code Class 1, 2, or 3 components in currently operating nuclear power plants. The proposed rule would establish the baseline Code for ISI requirements for components (including supports) classified as ASME Code Class 1, 2, or 3 as the 1989 Edition of the ASME BPV Code, Section XI. The proposed rule would establish the baseline Code for ISI requirements for Class MC and Class CC components and their integral attachments as the 1992 Edition with the 1992 Addenda of Subsections IWE and IWL of the ASME BPV Code, Section XI. Finally, the proposed rule would require that, as discussed in 62 FR 63892, ASME Code Class 1, 2, or 3 components conform to the requirements in Appendix VIII of Section XI of the ASME BPV Code, 1995 Edition with the 1996 Addenda. Licensees would be allowed to update their ISI and IST programs to more recent editions and addenda of the ASME Code incorporated by reference in the regulations. In this supplementary notice, the NRC is requesting comments only with respect to the proposed elimination of the 120-month update requirement for ISI and IST programs.

DATES: Submit comments on this supplement to the proposed rule by June 28, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). From the home page, select "Rulemaking" from the tool bar. The interactive rulemaking website can then be accessed by selecting "New Rulemaking Website." This site provides the ability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, 301–415–5905; e-mail: cag@nrc.gov.

Certain documents related to this rulemaking, including comments received, and the draft regulatory analysis, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, D.C. Single copies of the regulatory analysis may be obtained from Thomas G. Scarbrough, Division of Engineering, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C., telephone (301) 415–2794; e-mail: tgs@nrc.gov.

The NRC has scheduled a public workshop to discuss this supplement to the proposed rule on eliminating the requirement for licensees to update their ISI and IST programs every 120 months. This workshop will also include discussion of an appropriate baseline Code edition for ISI and IST requirements. The workshop will be held on Thursday, May 27, 1999, from 9:00 a.m. to 4:00 p.m. in the Two White Flint North Auditorium at the NRC headquarters office located at 11545 Rockville Pike, Rockville, Maryland 20852–2738.

FOR FURTHER INFORMATION CONTACT: Thomas G. Scarbrough, Division of Engineering, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–2794, e-mail: tgs@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Elimination of 120-Month Update Requirement
III. Analysis of Proposed Revision to 10 CFR 50.55a
IV. Plain Language
V. Finding of No Significant Environmental Impact: Environmental Assessment
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I. Background

The NRC's regulations in 10 CFR 50.55a require that nuclear power plant owners: (1) construct Class 1, Class 2, and Class 3 components in accordance with the rules stated in the 1989 Edition of Section III, Division 1, "Requirements for Construction of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code (BPV Code); (2) inspect Class 1, Class 2, and Class 3 components in accordance with the rules stated in the 1989 Edition of Section XI, Division 1, "Requirements for Inservice Inspection of Nuclear Power Plant Components," of the ASME BPV Code with certain limitations and modifications; (3) inspect Class MC (metal containment) and Class CC (concrete containment) components in accordance with the rules stated in the 1992 Edition with the 1992 Addenda of Section XI, Division 1, of the ASME BPV Code with certain modifications; and (4) test Class 1, Class 2, and Class 3 pumps and valves in accordance with the rules stated in the 1989 Edition of Section XI, Division 1, of the ASME BPV Code with certain limitations and modifications. The NRC regulations also require licensees to update their ISI and IST programs every 120 months to comply with the version of Section XI of the ASME BPV Code incorporated by reference into 10 CFR 50.55a and in

effect 12 months preceding the start of a new 120-month interval.

On December 3, 1997 (62 FR 63892), the NRC proposed amending 10 CFR 50.55a to revise the requirements for construction, ISI, and IST of nuclear power plant components to incorporate by reference recent editions and addenda of the ASME BPV Code and the ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code). The proposed rule contained a discussion of specific items under active consideration relative to NRC endorsement of ASME Codes. One item involved Direction Setting Issue (DSI) 13, "Role of Industry," of the NRC's Strategic Assessment and Rebaselining Initiative, which includes an evaluation of NRC endorsement of industry codes and standards. The proposed rule retained the requirement that licensees update their ISI and IST programs every 120 months. However, the proposed rule indicated that this position might be modified before publication of the final rule. Based on further consideration, the NRC is re-evaluating the need for licensees to update their ISI and IST programs every 120 months. Upon request, the NRC plans to allow licensees scheduled to update their ISI and IST programs in the near term to delay submittal of their updates pursuant to 10 CFR 50.55a(a)(3)(i) while the NRC considers the elimination of the 120-month update requirement.

II. Proposed Elimination of 120-Month Update Requirement

The ASME BPV Code has been revised on a continuing basis over the years to provide improved requirements for inspecting pressure boundary components and testing pumps and valves in nuclear power plants. Certain IST provisions for pumps and valves originally contained in Section XI of the ASME BPV Code are now replaced in Section XI by references to ASME OM standards on which the ASME OM Code is based. Although some Code revisions have strengthened requirements and others have relaxed requirements, the NRC has generally considered the evolution of the ASME Code to result in a net improvement in the measures for inspecting piping and components and testing pumps and valves. However, neither the NRC nor ASME has performed a detailed quantified cost/benefit analysis of the general evolutionary changes to the ASME Code. As the ASME Code matures, the NRC finds that the overall safety increase associated with periodic revisions to the ASME Code is becoming smaller. The NRC believes that the overall level of safety achieved by adherence to a baseline edition or addenda of the ASME Code incorporated by reference in the regulations would be sufficient and adequate, and that unnecessary burden might be placed upon licensees by the required updating of their ISI and IST programs. The NRC also believes that the establishment of a baseline edition and addenda of the ASME Code for ISI and IST requirements would ensure adequate protection of public health and safety without periodic updating of ISI and IST programs at nuclear power plants. The NRC plans to continue to review the periodic revisions to the ASME Code to determine whether any new ISI or IST provisions meet the backfit requirements of 10 CFR 50.109 to mandate their implementation by nuclear power plant licensees.

In this supplement to the proposed rule published on December 3, 1997 (62 FR 63892), the NRC proposes to establish the 1989 Edition of the ASME BPV Code, Section XI, as the baseline Code for IST requirements, except for design and access provisions and preservice examination requirements, for pumps and valves that are classified as ASME Code Class 1, 2, or 3 components in currently operating nuclear power plants. As required by 10 CFR 50.55a(b)(viii), references in the ASME BPV Code, Section XI, to OM standards, Parts 4, 6, and 10 will mean the OMa–1988 Addenda to the OM–1987 Edition. The NRC proposes that the baseline Code for ISI requirements for components (including supports) classified as ASME Code Class 1, 2, or 3 be established as the 1989 Edition of the ASME BPV Code, Section XI. The NRC proposes that the baseline Code for ISI requirements for metal and concrete containment (Classes MC and CC) components and their integral attachments be the 1992 Edition with the 1992 Addenda of Subsections IWE and IWL of Section XI of the ASME BPV Code. The NRC proposes that, as discussed in 62 FR 63892, ASME Code Class 1, 2, or 3 components comply with the requirements in Appendix VIII of Section XI of the ASME BPV Code, 1995 Edition with the 1996 Addenda. The NRC proposes that licensees of currently operating nuclear power plants comply with these ISI and IST requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the components. The NRC is continuing its evaluation and may determine as part of the review of public comments that a later edition or addenda, or portions thereof, constitute an appropriate baseline for ISI and IST requirements for currently operating nuclear plants. As discussed below, licensees may implement more recent editions or addenda of the ASME Code incorporated by reference in the regulations.

In this supplement, the NRC proposes to allow licensees that are currently applying earlier editions of the ASME BPV Code up to 5 years to implement the baseline or later editions and addenda of the ASME Code incorporated by reference in the regulations. However, the proposed rule would establish a separate implementation schedule for the ISI provisions of Appendix VIII of the ASME BPV Code, Section XI. The NRC proposes to eliminate the requirement to update ISI and IST programs every 120 months for licensees applying the baseline or later editions and addenda of the ASME Code incorporated by reference in the regulations. As proposed, licensees may update their ISI and IST programs to subsequent Code editions or addenda that have been incorporated by reference in the regulations without prior NRC approval when implemented in accordance with the limitations and modifications specified in 10 CFR 50.55a(b), (f), and (g), as applicable. In particular, they need to be implemented in total. Should a licensee intend to implement only a portion of a subsequent Code edition or addenda incorporated by reference in the regulations, the NRC proposes to require that the licensee obtain prior NRC approval by demonstrating that the specific portion of the edition or addenda presents an acceptable level of quality and safety, and that all related requirements are satisfied. The NRC intends to review future Code editions and addenda and approve them for voluntary use (in their entirety) by licensees through future rulemakings. However, should the NRC determine that a Code requirement is necessary for reasonable assurance of adequate protection, the NRC would by rulemaking (or order) require licensees to implement the relevant Code requirement. In addition, the NRC retains authority to require by rule or order implementation of ASME Code requirements if the appropriate backfit standard of 10 CFR 50.109(a) is met, e.g., that the ASME Code requirement to be imposed represents a substantial increase in the protection of the public health and safety whose cost is justified in light of this increased protection, or

is considered necessary for continued compliance with the regulations.

For future nuclear power plants, the NRC intends to continue the regulatory requirement that components conform to ISI and IST requirements stated in the latest edition and addenda of the ASME Code incorporated by reference in the regulations 1 year before issuance of the operating license. Future licensees would meet these ISI and IST requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the components. Similar to existing licensees, the NRC proposes to eliminate the requirement for future licensees to update their ISI and IST programs periodically.

The NRC does not propose to alter the regulatory requirements for implementation of Section III of the ASME BPV Code for the design and construction of nuclear power plant components. The NRC regulations would continue to require future applicants for a construction permit to implement the latest edition and addenda of Section III of the ASME BPV Code incorporated by reference in the regulations when the construction permit is issued.

The NRC has determined that the regulatory requirement for licensees to update their ISI and IST programs every 120 months could be eliminated without requesting public comment on this issue. This position is based on the indication in the statement of considerations of the proposed rule published on December 3, 1997, that elimination of the update requirement was under consideration. However, in light of the significance and complexity of this issue, the NRC considers it prudent to obtain specific public comment on the proposal to eliminate the 120-month update requirement before reaching a final decision on this issue.

Some of the major considerations to be addressed regarding the potential benefits and impact of the proposal to eliminate the 120-month update requirement for ISI and IST programs are summarized in the following paragraphs.

One important consideration in the elimination of the 120-month update requirement for ISI and IST programs involves the proposed use by licensees of editions and addenda of the ASME Code incorporated by reference in the regulations subsequent to the baseline edition and addenda of the ASME Code. The NRC's current view is that licensees should be allowed to implement without NRC review and approval subsequent editions and addenda of the ASME Code incorporated by reference in the regulations, when implemented in accordance with the limitations and modifications in the regulations. This view is conditional upon the assumption that licensees will implement later editions of the ASME Code in total. It is also the NRC's view that licensees be required to request NRC approval for use of portions of subsequent editions and addenda of the ASME Code, unless use of those portions is pre-approved in the rule. In requesting NRC approval, licensees must demonstrate that the proposed portion of the ASME Code presents an acceptable level of quality and safety, and that all related requirements are satisfied.

The cost savings to nuclear power plant licensees resulting from eliminating the 120-month update requirement for ISI and IST programs are difficult to quantify. A typical ISI or IST program update may cost a licensee $200,000 to $300,000 every 10 years. Because more recent editions of the ASME Code tend to relax certain requirements of previous editions, some licensees may conclude that implementing a newer edition of the ASME Code would result in cost savings that outweigh the implementation costs and, thus, will update their programs to implement more recent ASME Code editions and addenda. The NRC requests specific comment from licensees on the burden associated with updating their ISI and IST programs and related procedures.

The NRC may or may not achieve a resource savings if the requirement for licensees to update their ISI and IST programs every 120 months is eliminated. On the one hand, the NRC would not receive for review those relief requests that would have been submitted by licensees as part of their 120-month program updates. On the other hand, the NRC currently plans to continue to review future Code revisions and Code cases for incorporation by reference in the regulations. The NRC would determine whether any specific safety-related Code provisions warrant mandatory implementation in accordance with 10 CFR 50.109 backfit provisions. The NRC would continue to review requests submitted by licensees for relief from the requirements of the specific Code editions and addenda to which they are committed in accordance with regulatory requirements.

In addition to resource expenditures, eliminating the requirement for licensees to update their ISI and IST programs every 120 months might affect license amendments, inspections, enforcement actions, and Code effectiveness related to ISI and IST programs. For example, the current requirements of 10 CFR 50.55a determine the ASME Code edition and addenda in effect during each 120-month interval for a given plant. When a licensee implements a subsequent edition or addenda of the ASME Code, the licensee's commitment may be documented in a periodic update of the licensee's Final Safety Analysis Report. However, if a licensee seeks to adopt something less than the entire Code, as approved by the NRC, a relief request to use the proposed alternative would be necessary. With respect to inspection activity, elimination of the 120-month update requirement could result in NRC inspectors having to evaluate a wider range of Code editions and addenda, and portions thereof. Also, eliminating the 120-month update requirement might affect the staff's process for preparing regulatory guides that endorse ASME Code cases, or current initiatives by the NRC staff and industry on risk-informed ISI and IST programs. Over the long term, the elimination of the periodic update requirement might affect the technical quality of the ASME Code as a result of reduced interest in future editions of the Code by the NRC and industry organizations with the establishment of a baseline Code edition.

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires all Federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies, using these technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. This requirement only applies when the participation of voluntary consensus standards bodies is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and budget resources. The NRC will evaluate the relationship of Pub. L. 104–113 to the proposal to eliminate the regulatory requirement for licensees to update their ISI and IST programs every 120 months to the most recent ASME Code incorporated by reference in the regulations. The NRC's evaluation will determine whether a report (or periodic reports) must be provided to the Office of Management and Budget if the 120-month update requirement is eliminated.

This supplement is based on the proposed rule published on December 3, 1997, and does not reflect NRC

reconciliation of public comments received on the proposed rule. The NRC will discuss the resolution of comments on the proposed rule, including this supplement, when the final rule is issued. In this supplement to the proposed rule, the NRC is requesting comments only with respect to the proposed elimination of the 120-month update requirement for ISI and IST programs. To assist in the consideration of this issue, the NRC requests comments on the proposal to eliminate the 120-month update requirement in the following areas:

- Potential effect on safety;
- Potential reductions in the effectiveness of the ASME Code;
- Selection of the proper baseline edition and addenda of the ASME Code in terms of safety, resources, and efficiency;
- Regulatory benefits and burdens to licensees, industry suppliers (including vendors), nuclear insurers, states, and standards organizations;
- Burden on licensees to update their ISI and IST programs and related procedures;
- Potential effect on the number and detail of licensee submittals associated with ISI and IST programs;
- Changes to the range of ASME Code editions and addenda applied by licensees;
- Potential effect on processing of licensing actions and evaluations related to changes to ISI and IST programs, preparation of regulatory guides endorsing ASME Code editions and Code cases, and risk-informed ISI and IST initiatives;
- Potential effect on state and other organizations that rely on the ASME Code in their interactions with nuclear power plant owners;
- Application of portions of the ASME Code incorporated by reference in the regulations subsequent to the baseline edition; and
- Clarity of the supplement to the proposed rule.

III. Analysis of Proposed Revision to 10 CFR 50.55a

In preparing this supplement to the proposed revision to 10 CFR 50.55a, the NRC has focused on the substantive changes to the regulations that would result from eliminating the specific requirement in Section 50.55a for licensees of nuclear power plants to update their ISI and IST programs every 120 months.

A. Section 50.55a(b)(4)

A new § 50.55a(b)(4) would be added to group several ASME Code cases and specified portions of later ASME Codes (i.e., editions and addenda issued subsequent to the 1989 Edition of the ASME BPV Code) that are not required to be used, but that are acceptable to the NRC and may be used on a voluntary basis without prior NRC approval. The identified portions of later ASME Codes are Appendix I[1] of the ASME OM Code, 1995 Edition with the 1996 Addenda; Subsection ISTD of the ASME OM Code, 1995 Edition with the 1996 Addenda, for inservice testing; and Table ISTD 6.5.2–1, "Refueling Outage-Based Visual Examination Table," of the 1996 Addenda of the ASME OM Code. The NRC will be considering the appropriate mechanism for endorsing Code Cases, i.e., through the regulations or regulatory guides.

B. Section 50.55a(f)(4)(i)

Section 50.55a(f)(4)(i) would be revised to establish the 1989 Edition of the ASME BPV Code, Section XI, as the baseline Code for IST requirements, except for design and access provisions and preservice examination requirements addressed in §§ 50.55a(f)(1) through (3), for pumps and valves that are classified as ASME Code Class 1, 2, or 3 components in currently operating nuclear power plants. This supplement would require licensees to meet these IST requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the pumps and valves. Under the periodic update requirement currently specified in § 50.55a, the IST programs at all operating nuclear power plants would have been required to implement the 1989 Edition of Section XI of the ASME BPV Code within 3 years. This supplement would allow licensees that are currently applying earlier editions of the ASME BPV Code up to 5 years to implement the baseline or later editions or addenda of the ASME Code incorporated by reference in the regulations. This supplement would eliminate the requirement to update IST programs every 120 months for licensees currently applying the 1989 Edition or a later edition of the ASME Code incorporated by reference in the regulations.

C. Section 50.55a(f)(4)(ii)

Section 50.55a(f)(4)(ii) would be revised to specify that, for future nuclear power plants, pumps and valves that are classified as ASME Code Class 1, 2, or 3 components must conform to the IST requirements (except for design and access provisions and preservice examination requirements) stated in the latest edition and addenda of the ASME OM Code incorporated by reference in the regulations 1 year before issuance of the operating license. This supplement would require future licensees to meet these IST requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the pumps and valves. This supplement would eliminate the requirement for future licensees to update their IST programs periodically.

D. Section 50.55a(f)(4)(iii)

Section 50.55a(f)(4)(iii) would be revised to allow licensees to apply IST requirements specified in more recent editions and addenda of the ASME BPV Code or ASME OM Code. [Section 50.55a(f)(3)(iv) allows pumps and valves to be designed to meet test requirements in subsequent editions and addenda of the ASME Code.] In particular, this supplement would state that licensees may apply the full requirements of subsequent editions or addenda of the ASME Code incorporated by reference in the regulations, subject to the specified limitations and modifications, without requesting specific NRC approval. However, should a licensee intend to apply only a portion of a Code edition or addenda that is not pre-approved in § 50.55a(b)(4), this supplement would require the licensee to obtain prior NRC approval under § 50.55a(a)(3), and in addition demonstrate that all related requirements are satisfied. This provision is proposed in anticipation of possible modification of IST requirements in subsequent editions or addenda of the ASME Code to improve test methods or to present more significant performance information. As a result of modifying those IST requirements, some aspects of the ASME Code might become more difficult to implement and other aspects might be relaxed. This supplement would ensure that the licensee satisfies the intent of the IST requirements when applying only a portion of subsequent editions or addenda of the ASME Code. Whether a licensee applies all or a portion of a subsequent edition or addenda of the ASME Code, the subsequent edition or addenda would become the effective Code of record for the facility.

E. Section 50.55a(f)(5)

Section 50.55a(f)(5) would be revised to require licensees to update their IST programs when a later Code edition or addenda (or portions thereof) that has

been incorporated by reference in the regulations is used on a voluntary basis. Accordingly, the NRC is retaining the provision for licensees to request relief from those Code requirements that are impractical. This supplement would require that, if a pump or valve test is found to be impractical, the licensee notify and submit to the NRC information to support its determination within 1 year from the date on which the test was determined to be impractical. The NRC considers this 1-year period to be ample time for licensees to submit a relief request to the NRC staff relating to the impracticality of a specific test. In addition, when a licensee voluntarily chooses to update its IST program to a later Code edition or addenda, the licensee is required to submit to the NRC the basis for those test requirements determined to be impractical before the start of the revised IST program. This supplement would eliminate the requirement that licensees justify the impracticality of performing the tests every 120 months. In granting requests for relief from specific IST requirements, the NRC may apply a time limit on the acceptability of the relief to ensure that the licensee considers future plant conditions or equipment that might enable the test to be conducted.

F. Section 50.55a(g)(4)(i)

Section 50.55a(g)(4)(i) would be revised to establish a baseline for ISI requirements (except for design and access provisions and preservice examination requirements) of specific components for currently operating nuclear power plants, subject to the limitations and modifications identified in the regulations. In particular, this supplement would require components (including supports) classified as ASME Code Class 1, 2, or 3 to meet the ISI requirements in the 1989 Edition or a later edition of the ASME BPV Code, Section XI. As discussed for IST requirements, this supplement would allow licensees 5 years to implement this provision. This supplement would require Class MC and Class CC components and their integral attachments to meet the ISI requirements in the 1992 Edition with the 1992 Addenda of Subsections IWE and IWL of the ASME BPV Code, Section XI, according to the implementation schedule in § 50.55a(g)(6)(ii)(B). Finally, this supplement would require ASME Code Class 1, 2, or 3 components to comply with the provisions in Appendix VIII to Section XI of the ASME BPV Code, 1995 Edition with the 1996 Addenda, according to the implementation schedule in § 50.55a(g)(6)(ii)(C).

G. Section 50.55a(g)(4)(ii)

Section 50.55a(g)(4)(ii) would be revised to require components in future nuclear power plants to meet the ISI requirements (except for design and access provisions and preservice examination requirements) stated in the latest edition and addenda of the ASME BPV Code, Section XI, incorporated by reference in the regulations 1 year before issuance of the operating license. This supplement would require components to conform to these ISI requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the components. This supplement would eliminate the regulatory requirement for licensees of future plants to update their ISI programs periodically.

H. Section 50.55a(g)(4)(iii)

Section 50.55a(g)(4)(iii) would be revised to allow licensees to apply the full ISI requirements of more recent editions or addenda of the ASME Code incorporated by reference in the regulations, subject to the specified limitations and modifications, without requesting prior NRC approval. [Under § 50.55a(g)(3)(ii), components may be designed to conform to ISI requirements in subsequent editions and addenda of the ASME Code.] Similar to IST requirements in § 50.55a(f)(4) which permits a licensee to request approval under § 50.55a(a)(3) to use a portion of a Code edition or addenda that is not pre-approved in § 50.55a(b)(4), the licensee must demonstrate compliance with the criteria in § 50.55a(a)(3) as well as demonstrate that all related requirements in the Code are satisfied. In that the ISI requirements for Class MC and Class CC components and their integral attachments would be baselined to the 1992 Edition with the 1992 Addenda of Subsections IWE and IWL of Section XI of the ASME BPV Code, a licensee would be allowed to update the ISI requirements for Class 1, 2, and 3 components (including supports) to editions or addenda of the ASME Code incorporated by reference in the regulations, subject to the specified limitations and modifications, without requesting prior NRC approval while maintaining the requirements for Class MC and Class CC components to the 1992 baseline edition of the ASME Code. Also, similar to IST, the applied edition or addenda of the ASME Code would become the Code of record.

I. Section 50.55a(g)(5)

Section 50.55a(g)(5) would be revised to require licensees to update their ISI programs when a later Code edition or addenda (or portions thereof) that has been incorporated by reference in the regulations is used on a voluntary basis. Similar to IST requirements, this supplement would require that, if an examination is found to be impractical, the licensee notify and submit to the NRC (for review to grant relief) information to support its determination within 1 year from the date on which the examination was determined to be impractical. In addition, when a licensee voluntarily chooses to update its ISI program to a later Code edition or addenda, the licensee is required to submit to the NRC the basis for those examinations determined to be impractical before the start of the revised ISI program. This supplement would eliminate the requirement that licensees justify the impracticality of performing the examinations every 120 months. However, the NRC could apply a time limit on the acceptability of an ISI relief request to ensure that the licensee considers future plant conditions or equipment that might enable the examination to be conducted.

IV. Plain Language

The Presidential memorandum dated June 1, 1998, entitled, "Plain Language in Government Writing," directed that the Federal government's writing be in plain language. The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed above.

V. Finding of No Significant Environmental Impact: Environmental Assessment

As discussed in the proposed rule (December 3, 1997; 62 FR 63892), based on an environmental assessment, the Commission determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that the proposed amendment to § 50.55a, if adopted, would not have a significant effect on the quality of the human environment and, therefore, an environmental impact statement is not required. The environmental assessment of the proposed rule is available for public inspection, and copying for a fee, at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

This supplement to the proposed rule focuses on the NRC's consideration of the elimination of the regulatory requirement for nuclear power plant licensees to update their ISI and IST programs every 120 months to the latest edition or addenda of the ASME Code incorporated by reference in the NRC regulations. The ASME Code is revised on a continuing basis to provide improved requirements for inspecting pressure boundary components and testing pumps and valves in nuclear power plants. In reviewing those periodic Code revisions, the NRC has generally considered the evolution of the ASME Code to result in a net improvement in the measures for inspecting piping and components and testing pumps and valves. However, the NRC is finding that the safety significance of the periodic revisions to the ASME Code is declining as the Code matures. As a result, the NRC considers that the establishment of a baseline edition and addenda of the ASME Code with the limitations and modifications specified in the NRC regulations would provide acceptable ISI and IST requirements to ensure the capability of nuclear power plant components to perform their safety functions. Further, the NRC plans to continue to review the periodic revisions to the ASME Code to determine whether any new ISI or IST provisions meet the backfit requirements of 10 CFR 50.109 to mandate their implementation by nuclear power plant licensees. The NRC believes that the establishment of an acceptable baseline of ISI and IST requirements including the limitations and modifications specified in the NRC regulations, and the continued review of new Code provisions for appropriate application in accordance with 10 CFR 50.109, would ensure the adequate protection of public health and safety without the need for licensees to update their ISI and IST programs periodically to the latest edition or addenda of the ASME Code incorporated by reference in the regulations. Therefore, the NRC finds that the proposed action to eliminate the periodic updating of ISI and IST programs should not increase the potential for a negative environmental impact. This discussion constitutes the environmental assessment for the elimination of the 120-month update requirement.

VI. Paperwork Reduction Act Statement

The proposed rule published for public comment on December 3, 1997, amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget approval number 3150–0011.

This supplement would reduce the proposed rule burden by eliminating the requirement to update the ISI and IST programs every 120 months. The burden reduction attributable to information collections, including revising affected reports, records, and procedures is estimated to be 7500 hours per plant every 10 years for an average of 750 hours annually. This burden reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the information collection. The burden reduction will be included in the revised OMB clearance package prepared for the final rule. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in the proposed rule supplement and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of paperwork burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the paperwork burden of the information collection be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed information collection, including suggestions for further reducing the paperwork burden, to the Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0011), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the information collections or on the above issues should be submitted by May 27, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

VII. Regulatory Analysis

The Commission has prepared a draft regulatory analysis for this supplement to the proposed amendment to 10 CFR 50.55a published for public comment on December 3, 1997. The analysis examines the costs and benefits of the alternatives considered by the Commission with respect to the proposed elimination of the requirement for licensees to update their ISI and IST programs at nuclear power plants every 120 months.

The Commission requests public comment on the draft analysis for this supplement to the proposed amendment to 10 CFR 50.55a. Comments on the draft analysis may be submitted to the NRC as indicated under the Addresses heading.

VIII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not, if adopted, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" stated in the Regulatory Flexibility Act or the Small Business Size Standards stated in regulations issued by the Small Business Administration at 13 CFR Part 121.

IX. Backfit Analysis

The NRC regulations in 10 CFR 50.55a require that nuclear power plant owners (1) construct Class 1, Class 2, and Class 3 components in accordance with the rules stated in the 1989 Edition of Section III, Division 1, "Requirements for Construction of Nuclear Power Plant Components," of the ASME BPV Code; (2) inspect Class 1, Class 2, and Class 3 components in accordance with the rules stated in the 1989 Edition of Section XI, Division 1, "Requirements for Inservice Inspection of Nuclear Power Plant Components," of the ASME BPV Code with certain limitations and modifications; (3) inspect Class MC (metal containment) and Class CC (concrete containment) components in accordance with the rules stated in the 1992 Edition with the 1992 Addenda of Section XI, Division 1, of the ASME BPV Code with certain modifications; and (4) test Class 1, Class 2, and Class 3 pumps and valves in accordance with the rules stated in the 1989 Edition of

Section XI, Division 1, of the ASME BPV Code with certain limitations and modifications. The NRC regulations also require licensees to update their ISI and IST programs every 120 months to comply with the version of Section XI of the ASME BPV Code incorporated by reference into 10 CFR 50.55a and in effect 12 months before the start of a new 120-month interval.

The NRC position on the routine 120-month update of ISI and IST programs is that 10 CFR 50.109 does not require a backfit analysis. In their comments on the proposed rule, the Nuclear Utility Backfitting and Reform Group (NUBARG) and the Nuclear Energy Institute (NEI) asserted that the routine updating to incorporate by reference new ASME Code provisions for ISI and IST constitutes a backfit for which a backfit analysis is required. The NRC has reviewed those comments and has concluded that neither NUBARG nor NEI raises legal concerns that would alter the previous legal conclusion that the Backfit Rule does not require a backfit analysis of routine updates to incorporate new ASME Code ISI and IST requirements.

Notwithstanding the NRC backfit position on the 120-month update requirement, the NRC has determined that the overall level of safety achieved by adherence to the currently applicable ASME Code, and the potentially unnecessary burden on licensees caused by updating ISI and IST programs every 120 months, warrant reconsideration of the 120-month update requirement. The ASME Code has been revised on a continuing basis over the years to provide updated requirements for inspecting pressure boundary components and testing pumps and valves in nuclear power plants. The NRC has generally considered the evolution of the ASME Code to result in a net improvement in the measures for inspecting piping and components and testing pumps and valves. As the Code has matured, the NRC considers the safety significance of periodic revisions to the ASME Code to be declining.

On the basis of the maturity of the ASME Code, the NRC is proposing to modify 10 CFR 50.55a to eliminate the requirement for licensees to update their ISI and IST programs beyond a baseline edition and addenda of the ASME Code. For future nuclear power plants, the NRC intends to continue the requirement that components conform to the ISI and IST requirements stated in the latest edition and addenda of the ASME Code incorporated by reference in the regulations 1 year preceding issuance of the operating license. The NRC also proposes to eliminate the requirement for future licensees to update their ISI and IST programs periodically. The NRC has concluded that establishment of a baseline edition of the ASME Code for ISI and IST requirements does not constitute a backfit, since it represents a relaxation when compared with the current 120-month update requirement.

X. National Technology Transfer and Advancement Act of 1995

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires all Federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies, using these technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. This requirement only applies when the participation of voluntary consensus standards bodies is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and budget resources. The NRC will evaluate the relationship of Pub. L. 104–113 to the proposal to eliminate the regulatory requirement for licensees to update their ISI and IST programs every 120 months to the most recent ASME Code incorporated by reference in the regulations. The NRC's evaluation will determine whether a report (or periodic reports) must be provided to the Office of Management and Budget if the 120-month update requirement is eliminated.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons stated in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the proposed rule published on December 3, 1997 (62 FR 63892), is proposed to be further amended as follows.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Sections 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Section 50.37 also issued under E.O. 12829, 3 CFR 1993 Comp., p. 570; E.O. 12958, as amended, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR 1995 Comp., p. 391. Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 50.55a is amended by adding paragraph (b)(4), removing paragraph (f)(4)(iv), removing and reserving paragraph (g)(4)(iv), and revising paragraphs (f)(4)(i), (ii), (iii), and (f)(5), and (g)(4)(i), (ii), (iii), and (g)(5) to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b) * * *

(4) The following ASME Code cases or specified portions of the ASME Codes may be used with the indicated limitations and modifications without prior NRC approval.

(i) [Reserved]

(ii) [Reserved]

(iii) Check valves. Licensees may use Appendix II, OM Code, 1995 Edition with the 1996 Addenda, provided that all portions of the OM Code, 1995 Edition with the 1996 Addenda, that apply to check valves and the modifications specified in § 50.55a(b)(3)(iv) are also implemented.

(iv) Snubber inservice testing. Licensees may use Subsection ISTD, OM Code, 1995 Edition with the 1996 Addenda, for inservice testing (but not Section XI inservice inspection) of snubbers by making a change to their Technical Specifications in accordance with applicable NRC requirements. Licensees choosing to apply the subsection shall apply all of its provisions.

(v) Snubber visual examinations. When using versions of Section XI of the ASME Boiler and Pressure Vessel

Code up to and including the 1995 Edition, Table ISTD 6.5.2–1, "Refueling Outage-Based Visual Examination Table," of the 1996 Addenda of the ASME OM Code may be used for scheduling snubber examinations in lieu of the table in OM–1987 Part 4.

* * * * *

(f) * * *

(4)(i) Throughout the service life of a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued before {the effective date of the final rule}, pumps and valves that are classified as ASME Code Class 1, Class 2, or Class 3 must comply with the requirements, except for design and access provisions and preservice examination requirements, as stated in Section XI of the 1989 Edition of the ASME Boiler and Pressure Vessel Code subject to the limitations and modifications listed in § 50.55a(b) to the extent practical within the limitations of design, geometry, and materials of construction of the pumps and valves. Licensees shall implement these requirements within 60 months following {the effective date of the final rule}.

(ii) Throughout the service life of a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after {the effective date of the final rule}, pumps and valves that are classified as ASME Code Class 1, Class 2, or Class 3 must comply with the requirements, except design and access provisions and preservice examination requirements, as stated in the latest edition and addenda of the ASME Code for Operation and Maintenance of Nuclear Power Plants that are incorporated by reference in § 50.55a(b) on the date 12 months preceding the date of issuance of the operating license subject to the limitations and modifications listed in § 50.55a(b) to the extent practical within the limitations of design, geometry, and materials of construction of the pumps and valves.

(iii)(A) Inservice tests of pumps and valves may comply with the requirements stated in subsequent editions and addenda of the ASME Codes that are incorporated by reference in § 50.55a(b), subject to the limitations and modifications listed in § 50.55a(b), to the extent practical within the limitations of design, geometry, and materials of construction of the pumps and valves.

(B) Portions of those editions or addenda may be used subject to Commission approval. The licensee shall demonstrate compliance with the criteria in § 50.55a(a)(3), and in addition demonstrate that all related requirements are satisfied.

(5)(i) The inservice test program for a boiling or pressurized water-cooled nuclear power facility must be revised by the licensee to comply with the requirements of § 55.55a(f)(4)(iii) when used in lieu of meeting the requirements of either §§ 55.55a(f)(4)(i) or (f)(4)(ii), as applicable.

(ii) If a revised inservice test program for a facility conflicts with the technical specification for the facility, the licensee shall apply to the Commission for amendment of the Technical Specifications to conform the technical specification to the revised program. The licensee shall submit this application, as specified in § 50.4, at least 6 months before the start of the period during which the provisions become applicable.

(iii) If the licensee has determined that conformance with certain Code requirements is impractical for its facility, the licensee shall notify the Commission and submit, as specified in § 50.4, information to support the determination within one year from the date on which the test was determined to be impractical.

(iv) Where a pump or valve test requirement by the Code edition or addenda is determined to be impractical by the licensee and is not included in the revised inservice testing program as permitted by § 50.55a(f)(4)(iii), the basis for this determination must be submitted to the Commission before the start of the revised inservice testing program.

* * * * *

(g) * * *

(4)(i) Throughout the service life of a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued before {the effective date of the final rule}, and subject to the limitations and modifications listed in § 50.55a(b) to the extent practical within the limitations of design, geometry, and materials of construction of the components:

(A) Components (including supports) that are classified as ASME Code Class 1, Class 2, or Class 3 must meet the requirements, except for design and access provisions and preservice examination requirements, stated in Section XI of the 1989 Edition of the ASME Boiler and Pressure Vessel Code, within 60 months following {the effective date of the final rule};

(B) Components that are classified as Class MC pressure-retaining components and their integral attachments, and components that are classified as Class CC pressure-retaining components and their integral attachments, must comply with the requirements, except for design and access provisions and preservice examination requirements, stated in the 1992 Edition with the 1992 Addenda of Subsection IWE and Subsection IWL of the ASME Boiler and Pressure Vessel Code, Section XI; and

(C) Components that are classified as ASME Code Class 1, Class 2, or Class 3 must comply with the requirements stated in Appendix VIII of the ASME Boiler and Pressure Vessel Code, Section XI, 1995 Edition with the 1996 Addenda.

(ii) Throughout the service life of a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after {the effective date of the final rule}, components (including supports) that are classified as ASME Code Class 1, Class 2, or Class 3; Class MC pressure-retaining components and their integral attachments; and components that are classified as Class CC pressure-retaining components and their integral attachments, must comply with the requirements, except for design and access provisions and preservice examination requirements, stated in the latest edition and addenda of Section XI of the ASME Boiler and Pressure Vessel Code that are incorporated by reference in § 50.55a(b) on the date 12 months preceding the date of issuance of the operating license subject to the limitations and modifications listed in § 50.55a(b) to the extent practical within the limitations of design, geometry, and materials of construction of the components.

(iii)(A) Inservice examination of components and system pressure tests may comply with the inspection requirements stated in subsequent editions and addenda of the ASME Boiler and Pressure Vessel Code that are incorporated by reference in § 50.55a(b), subject to the limitations and modifications listed in § 50.55a(b), to the extent practical within the limitations of design, geometry, and materials of construction of the components.

(B) Portions of those editions or addenda may be used subject to Commission approval. The licensee shall demonstrate compliance with the criteria in § 50.55a(a)(3), and in addition demonstrate that all related requirements are satisfied.

(iv) [Reserved]

* * * * *

(5)(i) The inservice inspection program for a boiling or pressurized water-cooled nuclear power facility

must be revised by the licensee to meet the requirements of § 50.55a(g)(4)(iii) when used in lieu of compliance with the requirements of §§ 50.55a(g)(4)(i) or (g)(4)(ii).

(ii) If a revised inservice inspection program for a facility conflicts with the technical specification for the facility, the licensee shall apply to the Commission for amendment of the Technical Specifications to conform the technical specification to the revised program. The licensee shall submit this application, as specified in § 50.4, at least 6 months before the start of the period during which the provisions become applicable.

(iii) If the licensee has determined that conformance with certain Code requirements is impractical for its facility, the licensee shall notify the Commission and submit, as specified in § 50.4, information to support the determinations within one year from the date on which the examination was determined to be impractical.

(iv) Where an examination requirement by the Code edition or addenda is determined to be impractical by the licensee and is not included in the revised inservice inspection program as permitted by § 50.55a(g)(4)(iii), the basis for this determination must be submitted to the Commission before the start of the revised inservice inspection program.

* * * * *

Dated at Rockville, MD this 15th day of April 1999.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 99–10491 Filed 4–26–99; 8:45 am]

BILLING CODE 7590–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 30

Access to Automated Boards of Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: The Commodity Futures Trading Commission ("Commission") published proposed rules concerning access to automated boards of trade on March 24, 1999 (64 FR 14159). Comments on the proposed rules were originally due on April 23, 1999. By letter dated April 11, 1999, David P. Brennan, Chairman of the Chicago Board of Trade, M. Scott Gordon, Chairman of the Chicago Mercantile Exchange, Daniel Rappaport, Chairman of the New York Mercantile Exchange, and John M. Damgard, President of the Futures Industry Association, jointly have requested (collectively the "Brennan Request") that the Commission extend the comment period on the proposed rules concerning Access to Automated Boards of Trade ("proposed rules") for an additional seven days. Each of these organizations had earlier requested sixty-day extensions of the comment period, but the Brennan Request withdrew these requests. In addition, the Commission has received three written requests for an extension of the comment period on the proposed rules for an additional sixty days.[1] The commenters generally cited the complexity of the proposed rules in support of their requests for additional time to finalize their views. In light of the fact that the Commission issued a concept release on this matter and provided a comment period of seventy-five days thereon, as well as the fact that the Commission held a Roundtable discussion on April 20, 1999, on the proposed rules, the Commission believes that a sixty-day extension of the comment period is unwarranted. However, the Commission has determined to grant a seven-day extension of the deadline for comments on the proposed rules, so that comments must now be submitted by April 30, 1999.

DATES: Comments must be received on or before April 30, 1999.

ADDRESSES: Any person interested in submitting comments on the proposed rules should submit them by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to *secretary@cftc.gov*. Reference should be made to "Access to Automated Boards of Trade."

FOR FURTHER INFORMATION CONTACT: Please contact David M. Battan, Chief Counsel, Lawrence B. Patent, Associate Chief Counsel, or Charles T. O'Brien, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, N.W., Washington, D.C. 20581. Telephone number (202) 418–5450.

[1] Written requests for an extension of the comment period were received from the Singapore International Monetary Exchange Limited, ABN–AMRO Incorporated and the Committee on Derivatives and Futures Law of the New York State Bar Association.

Issued in Washington, D.C., on this 22nd day of April, 1999, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10580 Filed 4–26–99; 8:45 am]

BILLING CODE 6351–01–M

NATIONAL INDIAN GAMING COMMISSION

25 CFR Chapter III

Standards for Constructing and Maintaining Gaming Facilities Operated on Indian Lands

AGENCY: National Indian Gaming Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice announces the initiation of the rulemaking process and requests information relevant to implementing regulations governing standards for constructing and maintaining gaming facilities operated on Indian lands in a manner which protects the environment and the public health and safety.

DATES: Comments in response to this advance notice must be submitted by June 28, 1999.

ADDRESSES: Commenters may submit their comments by mail, facsimile, or delivery to: Environment and Public Health and Safety Rule Comments, National Indian Gaming Commission, Suite 9100, 1441 L Street N.W., Washington, DC 20005. Fax number : 202–632–7066 (not a toll-free number). Public comments may be delivered or inspected from 9 a.m. until noon and from 2 p.m. to 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Todd J. Araujo at 202–632–7003, or by facsimile at 202–632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

1. Introduction

The Indian Gaming Regulatory Act (IGRA or the Act), 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The Act established the National Indian Gaming Commission (the Commission). The IGRA required that an approved tribal gaming ordinance contain a provision requiring each tribal gaming facility to be constructed and maintained in a manner which adequately protects the environment and the public health and safety. 25 U.S.C. § 2710(2)(E). The Commission has determined that standards are

needed to ensure adequate compliance with this statutory requirement.

The IGRA expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this [Act]." 25 U.S.C. § 2706(b)(10).

2. Advance Notice of Proposed Rulemaking

After consideration of this issue, the NIGC has determined that the appropriate course of action is to publish an Advance Notice of Proposed Rulemaking to collect further information.

Before the NIGC proceeds in this area, it intends to have the benefit of a full airing of the issues through the public comment process.

3. Request for Comments

Public comment is requested to assist the NIGC in the drafting of regulations which ensure that Indian gaming facilities are constructed and maintained in a manner which protects the environment and the public health and safety. Comment is requested on the following issues:

(a) Is it necessary for the Commission to promulgate regulations which ensure that tribal gaming facilities are constructed and maintained in a manner which protect the environment and the public health and safety? What alternative steps may exist to accomplish this objective?

(b) What other steps are currently being taken to ensure that tribal gaming facilities are constructed and maintained in a manner that adequately protects the environment and public health and safety? What is the best method of incorporating these steps into a regulatory structure implemented by the NIGC?

(c) What are the major threats to the environment and the public health and safety posed by the operation of gaming facilities on Indian lands?

(d) In promulgating regulations to ensure that tribal gaming facilities are maintained in a manner which protects the environment and the public health and safety, is it necessary to differentiate between large, mid-size and small gaming facilities?

(e) If yes, how should the Commission determine what are large, mid-size and small operations?

(f) What type of standards should apply to all gaming facilities regardless of size?

(g) How long should the Commission allow for the tribes to comply with the proposed regulations?

The Commission solicits any additional suggestions and/or interpretations regarding the issues raised in this Advance Notice of Proposed Rulemaking.

4. Public Participation

Interested parties are invited to submit comments on any or all of these and other pertinent issues related to issuing environmental, and public health and safety regulations by June 28, 1999, in triplicate to Environment, and Public Health and Safety Rule Comments, National Indian Gaming Commission, Suite 9100, 1441 L Street N.W., Washington, D.C. 20005. Fax number: 202–632–7066 (not a toll-free number). All written comments submitted in response to this notice will be available for inspection and copying in the NIGC office from 9 a.m. until noon and from 2 p.m. to 5 p.m. Monday through Friday. All timely written submissions will be considered in determining the nature of any proposal.

Authority and Signature

This Advance Notice of Proposed Rulemaking was prepared under the direction of Barry W. Brandon, General Counsel, National Indian Gaming Commission, 1441 L St. N.W., Suite 9100, Washington, D.C. 20005.

Signed at Washington, D.C. this 29th day of March, 1999.

Montie R. Deer,

Chairman, National Indian Gaming Commission.

[FR Doc. 99–10450 Filed 4–26–99; 8:45 am]

BILLING CODE 7565–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4007

RIN 1212–AA82

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The PBGC is proposing to amend its regulation on Payment of Premiums to encourage self-correction of premium underpayments. The amendments make it easier to qualify for "safe-harbor" relief from late payment penalty charges and codify the PBGC's current premium penalty policy (under which the penalty charge is lowered from 5% per month to 1% per month if a premium payor corrects an underpayment before PBGC notification).

DATES: Comments must be received on or before June 28, 1999.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to Suite 340 at the above address. Comments also may be sent by Internet e-mail to reg.comments@pbgc.gov. Comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, Suite 240.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Background

Late Payment Penalties

Section 4007 of ERISA authorizes the PBGC to assess a late payment penalty charge for failure to pay premiums on time. Under the PBGC's regulation on Payment of Premiums (29 CFR part 4007), the penalty accrues at the rate of 5% of the unpaid amount each month, subject to a floor of $25 on the total penalty amount. The total penalty amount may not exceed 100% of the premium that is not timely paid. The PBGC may grant a waiver of all or a portion of the penalty (*e.g.*, upon a demonstration of good cause). The regulation also requires the payment of interest on premium underpayments.

On December 2, 1996 (at 61 FR 63874), the PBGC published a policy statement in which it adopted a two-tiered policy on penalties for late payment of premiums due for 1996 and later plan years. This policy, which lowers penalties from 5% per month to 1% per month if a premium payor corrects an underpayment before PBGC notification, is designed to encourage self-correction.

Premium Due Dates

A plan's premium due dates depend upon whether the plan is "small" or "large." Under the current regulation, the determination of whether a plan is "small" or "large" is based on the *actual* number of participants for whom premiums were payable for the prior year. This number is not necessarily the number of participants that was *reported* on the PBGC Form 1 for the prior year.

Small Plans

A small plan is a plan with fewer than 500 participants for the prior year. For

1999 and later plan years, the premium filing due date for small plans for both the flat-rate premium (for single-employer and multiemployer plans) and the variable-rate premium (for single-employer plans) is the fifteenth day of the tenth full calendar month in the premium payment year (see 63 FR 68684, Dec. 14, 1998). For calendar year plans, this date is October 15. (For convenience, the discussion in this preamble assumes that all plans are calendar year plans.)

Large Plans

For large single-employer and multiemployer plans (those with 500 or more participants for the prior year), the due date for the flat-rate premium is the last day of the second full calendar month in the premium payment year (February 28). If the number of participants for whom premiums are payable for the premium payment year is not known by February 28, the plan administrator must make an "estimated" payment by February 28 and a "reconciliation" payment by October 15. The due date for the variable-rate premium for large single-employer plans is also October 15.

Premium Forms

The plan administrator ordinarily makes the February 28 filing on PBGC Form 1–ES and must make the October 15 filing (for both large and small plans) on PBGC Form 1.

Safe-harbor Rules

The participant count for the premium payment year is generally determined as of the last day of the plan year preceding the premium payment year. Because plan administrators often do not know the exact participant count for the premium payment year by February 28 of the premium payment year, the regulation provides a safe harbor from late payment penalty charges, provided certain requirements are met. (There is no safe harbor from late payment interest charges.)

A plan administrator must do two things to qualify for the safe harbor and therefore avoid late payment penalty charges:

- By February 28 of the premium payment year, the plan administrator must pay the lesser of: (1) 90% of the flat-rate premium due for the premium payment year; or (2) 100% of the flat-rate premium that would be due for the premium payment year, if that amount were determined by multiplying the actual participant count for the prior year by the flat premium rate for the premium payment year.
- By October 15 of the premium payment year, the plan administrator must pay any remaining portion of the flat-rate premium for the premium payment year.

For example, assume that a single-employer plan has 600 participants for 2000 and 700 participants for 2001. In order to meet the safe-harbor requirements for 2001, the plan administrator must make an estimated payment by February 28, 2001, of at least $11,400. This amount is the lesser of 90% of the flat-rate premium due for 2001 (700 × $19 × 90% = $11,970) or 100% of the flat-rate premium for 2000 (600 × $19 × 100% = $11,400). (The examples in this preamble use the current single-employer plan flat-rate premium of $19 per participant for all plan years.) The plan administrator also must make a reconciliation payment by October 15, 2001, equal to the difference between the February 28, 2001, payment and the full flat-rate premium of $13,300 (700 × $19) due for 2001. Assuming that, by February 28, 2001, the plan administrator had paid the $11,400—the minimum amount to qualify for safe-harbor relief—the plan administrator must pay the difference of $1,900 ($13,300–$11,400) by October 15, 2001.

Proposed Amendment—Safe-Harbor Rules

The PBGC is proposing to expand its current safe-harbor rules to encourage self-correction in three situations. The relief applies only to penalty charges. It does not affect the interest that would accrue on any underpayment of the flat-rate premium.

500-participant Threshold for PBGC Form 1–ES

Current Regulation.

Whether an estimated payment is due by February 28 depends on the *actual* participant count for the prior year, not the participant count that was reported on the prior year's Form 1.

For example, assume that a plan administrator of a plan that had always had fewer than 500 participants reports 490 participants on the plan's 2000 PBGC Form 1, which is filed on October 16, 2000 (because October 15, 2000, is a Sunday). Based on the reported participant count of 490 for 2000, the plan administrator does not make an estimated payment for 2001 by February 28, 2001, but pays the plan's full flat-rate premium for 2001 on October 15, 2001. Subsequently, the plan administrator discovers that the participant count that should have been reported for 2000 is 510. On November 15, 2001, the plan administrator files an amended PBGC Form 1 for 2000 with the additional flat-rate premium due for the 20 participants ((510–490) × $19 = $380). The PBGC would assess penalty and interest charges on the $380 payment for the period October 16, 2000, through November 15, 2001. In addition, because the actual participant count for 2000 is 500 or more, the PBGC also would assess penalty and interest charges for the period March 1 through October 15, 2001 on the full flat-rate premium for 2001 (reflecting the fact that the plan's full flat-rate premium for 2001 was due February 28, 2001).

Amendment

Under the amendment, whether the PBGC would assess a late payment penalty charge for failure to make an estimated payment for the premium payment year by February 28 of the premium payment year would be determined based on the lesser of (1) the number of participants *reported* for the prior year, or (2) the *actual* number of participants for the prior year. Thus, PBGC would not assess a penalty charge for failing to make an estimated payment for the premium payment year by February 28 of the premium payment year if the number of participants *reported* for the prior year is fewer than 500. For this purpose, the number of participants reported for the prior year would be the number of participants last reported for the prior year (on the PBGC Form 1 or an amended PBGC Form 1) by February 28 of the premium payment year. The relief would apply only to penalty charges. The PBGC would continue to assess interest on any underpayment of the flat-rate premium for the period March 1 of the premium payment year through the date of payment.

Because the plan administrator in the example *reported* fewer than 500 participants on the plan's 2000 Form 1, the PBGC would not assess a penalty charge (for the period March 1 through October 15, 2001) for failing to make an estimated payment for 2001 by February 28, 2001. The PBGC still would assess interest on the flat-rate premium for 2001 for the period March 1 through October 15, 2001. (The change would not affect the penalty and interest charges assessed for the period October 16, 2000, through November 15, 2001, on the $380 late payment for the 20 participants for 2000.)

Estimate Based on Prior Year's Form 1 Participant Count

Current Regulation

A plan can lose safe-harbor relief if the plan administrator, in computing the estimated flat-rate premium payment due on February 28 of the

premium payment year, relies on a participant count reported on the prior year's PBGC Form 1 that is later determined to be too low. For example, assume that the plan administrator of a single-employer plan reports 600 participants on the plan's 2000 PBGC Form 1, which is filed on October 16, 2000. On February 28, 2001, the plan administrator makes an estimated payment for 2001 equal to 100% of the flat-rate premium for 2000 (600 × $19 × 100% = $11,400). On October 15, 2001, the plan administrator reports 800 participants on the plan's 2001 Form 1 and makes a reconciliation payment of $3,800 (800 × $19 − $11,400). The PBGC would assess interest on the $3,800 reconciliation payment for the period March 1 through October 15, 2001.

Subsequently, the plan administrator discovers that 700 participants should have been reported for 2000 and, on November 15, 2001, files an amended PBGC Form 1 for 2000 with the additional flat-rate premium of $1,900 due for the 100 participants (100 × $19). The PBGC would assess penalty and interest charges on the $1,900 payment for the period October 16, 2000, through November 15, 2001. Under the current regulation, the plan would lose safe-harbor relief for 2001 because the payment of $11,400 made on February 28, 2001, is neither at least 100% of the flat-rate premium for 2000 (700 × $19 × 100% = $13,300) nor at least 90% of the flat-rate premium for 2001 (800 × $19 × 90% = $13,680). Thus, under the current regulation, in addition to interest, the PBGC would assess a penalty charge on the $3,800 reconciliation payment for the period March 1 through October 15, 2001.

Amendment

Under the amendment, the PBGC would determine whether the estimated payment reflected at least 100% of the prior year's participant count by using the lesser of: (1) the number of participants *reported* on the prior year's PBGC Form 1 or amended PBGC Form 1 (filed by February 28 of the premium payment year); or (2) the *actual* number of participants for the prior year. Thus, in the example, the plan would not lose safe-harbor relief for 2001 even though the plan administrator later files an amended 2000 PBGC Form 1 reporting 700 participants. The amendment would affect only penalty charges. It would not affect the interest assessed on the $3,800 reconciliation payment for the period March 1 through October 15, 2001.

PBGC Form 1 Reconciliation Payment Underpaid or Late

Current Regulation

A plan also loses safe-harbor relief when the plan administrator timely pays the appropriate estimated payment with the PBGC Form 1–ES but fails to make the full PBGC Form 1 reconciliation payment on time. This can occur, *e.g.*, if the plan administrator bases the reconciliation payment on a participant count that is too low or makes the reconciliation payment late.

For example, assume that the plan administrator of a single-employer plan reports 800 participants on the plan's 2000 PBGC Form 1, which is filed on October 16, 2000. On February 28, 2001, the plan administrator makes an estimated payment for 2001 of 100% of the flat-rate premium for 2000 (800 × $19 × $100% = $15,200). On October 15, 2001, the plan administrator reports a participant count of 900 for 2001 and makes a reconciliation payment of $1,900 (900 × $19 − $15,200). The PBGC would assess interest on the $1,900 payment for the period March 1 through October 15, 2001.

Subsequently, the plan administrator discovers that the participant count that should have been reported for 2001 is 910 and, on November 15, 2001, files an amended PBGC Form 1 for 2001 with an additional flat-rate premium of $190 (10 × $19 = $190) for the 10 participants. The PBGC would assess penalty and interest charges on the $190 payment for the period October 16 through November 15, 2001. Under the current regulation, the plan would lose safe-harbor relief because it did not make a timely PBGC Form 1 reconciliation payment in full. Thus, the PBGC would also assess a penalty charge on $2,090 (910 × $19 − $15,200)—the amount by which the flat-rate premium for 2001 of $17,290 (based on the amended November 15, 2001, PBGC Form 1) exceeds the February 28, 2001, payment of $15,200—for the period March 1 through October 15, 2001 .

Amendment

Under the amendment, payment of any balance of the flat-rate premium due for the premium payment year by October 15 of the premium payment year would no longer be a prerequisite for qualifying for safe-harbor relief. Thus, in the example, the PBGC still would assess penalty and interest charges on the $190 payment (due for the additional 10 participants) for the period October 16 through November 15, 2001. But the plan would not lose safe-harbor relief and therefore would not be assessed a penalty charge for the period March 1 through October 15, 2001, on $2,090—the amount by which the flat-rate premium for 2001 (based on the amended November 15, 2001, PBGC Form 1) exceeds the February 28, 2001, payment. The amendment would not affect the interest assessed on that amount for the period March 1 through October 15, 2001.

Proposed Amendment—Late Payment Penalty Rate

Based on its experience, the PBGC proposes to codify its December 2, 1996, policy statement, in which it announced its current two-tiered penalty rate policy for 1996 and later plan years. Under this policy, which is designed to encourage self-correction, the PBGC assesses a penalty of 1% per month if the premium is paid on or before the date the PBGC issues a written notice that there is or may be a premium delinquency. If the premium is paid after the PBGC notification date, the penalty rate is 5% per month for all months. The minimum total penalty continues to be $25, and the penalty continues to be limited to 100% of the unpaid premium. PBGC notification may take various forms, including a premium bill, a letter initiating a premium compliance review (*i.e.*, an audit), or a letter questioning a failure to make a premium filing. The amendment clarifies that the 5% rate applies (for all months) to all persons liable for premiums for the plan (*i.e.*, the plan administrator and, for a single-employer plan, each contributing sponsor and each member of any contributing sponsor's controlled group) once this notice is issued to any of those persons.

Miscellaneous

The proposed regulation clarifies that the penalty waiver for premium underpayments paid within 30 days after the date of a PBGC bill applies only to penalty charges accruing after the date of the bill.

The current regulation provides that the PBGC may waive all or part of a late payment penalty charge upon a demonstration of "good cause." The PBGC is proposing to change the standard to "reasonable cause" to be consistent with the standard in the PBGC's policy statements on penalties under section 4071 of ERISA (relating to penalties for failure to provide required information on time). This is only a change in terminology that is not intended to alter the substantive requirements for this waiver.

Applicability

The amendment to the safe-harbor rules would apply to PBGC

determinations issued on or after the effective date of the final rule with respect to premiums for 1999 and later plan years. The amendment to the late payment penalty rate would apply to PBGC determinations issued on or after the effective date of the final rule with respect to premiums for 1996 and later plan years.

Compliance With Rulemaking Guidelines

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

This rule would provide relief from premium penalties. The relief would be limited to a percentage—generally small—of a plan's premium. While this rule would result in a positive economic impact for some small entities, the number of small entities for which the impact would be significant would not be substantial. The PBGC therefore certifies under section 605(b) of the Regulatory Flexibility Act that this rule would not have a significant economic impact on a substantial number of small entities. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

List of Subjects in 29 CFR Part 4007

Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC proposes to amend 29 CFR part 4007 as follows.

PART 4007—PAYMENT OF PREMIUMS

1. The authority citation for part 4007 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1301(a), 1306, 1307.

2. Section 4007.8 is revised to read as follows:

§ 4007.8 Late payment penalty charges.

(a) *Penalty charge.* If any premium payment due under this part is not paid by the due date under § 4007.11, the PBGC will assess a late payment penalty charge as determined under this paragraph (a), except to the extent the charge is waived under paragraphs (b) through (g) of this section. The charge will be no more than 100% of the unpaid premium. The charge will be based on the number of months (counting any portion of a month as a whole month) from the due date to the date of payment and is subject to a floor of $25 (or, if less, the amount of the unpaid premium).

(1) *Penalty rate for post-1995 premium payment years.* This paragraph (a)(1) applies to the premium for any premium payment year beginning after 1995. The penalty rate is—

(i) 1% per month (for all months) on any amount of unpaid premium that is paid on or before the date the PBGC issues a written notice to any person liable for the plan's premium that there is or may be a premium delinquency (*e.g.*, a premium bill, a letter initiating a premium compliance review, or a letter questioning a failure to make a premium filing); or

(ii) 5% per month (for all months) on any amount of unpaid premium that is paid after that date.

(2) *Penalty rate for pre-1996 premium payment years.* This paragraph (a)(2) applies to the premium for any premium payment year beginning before 1996. The penalty rate is 5% per month (for all months) on any amount of unpaid premium.

(b) *Hardship waiver.* The PBGC may grant a waiver based upon a showing of substantial hardship as provided in section 4007(b) of ERISA.

(c) *Reasonable cause waiver.* The PBGC may, upon any demonstration of reasonable cause, waive all or part of a late payment penalty charge.

(d) *Waiver on PBGC's own initiative.* The PBGC may, on its own initiative, waive all or part of a late payment penalty charge.

(e) *Grace period.* With respect to any PBGC bill for a premium underpayment, the PBGC will waive any late payment penalty charge accruing after the date of the bill, provided the premium underpayment is paid within 30 days after the date of the bill.

(f) *Safe-harbor relief for certain large plans.* This waiver applies to the premium for any premium payment year beginning after 1998 in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if fewer than 500 participants are reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(g) *Safe-harbor relief for plans that make minimum estimated payment.* This waiver applies in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if, by the date the flat-rate premium for the premium payment year is due under § 4007.11(a)(2)(i), the plan administrator pays at least the lesser of—

(1) 90% of the flat-rate premium due for the premium payment year; or

(2) 100% of the flat-rate premium that would be due for the premium payment year if the number of participants for that year were the lesser of—

(i) The number of participants for whom premiums were required to be paid for the plan year preceding the premium payment year; or

(ii) In the case of a premium payment year beginning after 1998, the number of participants reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(h) *Reported participant count.* For purposes of paragraphs (f) and (g)(2)(ii) of this section, the number of participants reported for the plan year preceding the premium payment year is the number of participants last reported under this part to the PBGC (for the plan year preceding the premium payment year) by the date the flat-rate premium for the premium payment year is due under § 4007.11(a)(2)(i).

Issued in Washington, DC, this 21st day of April, 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–10451 Filed 4–26–99; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 72 and 75

RIN 1219–AA74

Diesel Particulate Matter Exposure of Underground Coal Miners

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; extension of comment period and close of record.

SUMMARY: We are extending the period for public comment on the Agency's proposed rule addressing diesel particulate matter exposure of underground coal miners. This proposed rule was published in the **Federal Register** on April 9, 1998.

DATES: We must receive your comments by July 26, 1999.

ADDRESSES: You may use mail, facsimile (fax), or electronic mail to send your comments to MSHA. Clearly identify comments as such and send them—

(1) By mail to Carol J. Jones, Acting Director, Office of Standards,

Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203;

(2) By fax to MSHA, Office of Standards, Regulations, and Variances, 703–235–5551; or

(3) By electronic mail to *comments@msha.gov*.

FOR FURTHER INFORMATION CONTACT: Carol J. Jones, 703–235–1910.

SUPPLEMENTARY INFORMATION: On April 9, 1998 (63 FR 17492) MSHA published a proposed rule to reduce the risks to underground coal miners of serious health hazards that are associated with exposure to high concentrations of diesel particulate matter (dpm). DPM is a very small particle in diesel exhaust. Underground miners are exposed to far higher concentrations of this fine particulate than any other group of workers.

The post-hearing comment period for the proposed rule addressing diesel particulate matter exposure of underground coal miners was scheduled to close April 30, 1999 (64 FR 7144).

However, in response to requests from the public for additional time to prepare their comments, the record for the proposed rule will remain open until July 26, 1999. This provides a total of 15 months from the date of publication for the public to comment on the proposed rule.

Dated: April 21, 1999.

Marvin W. Nichols, Jr.,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 99–10567 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–99–005]

RIN 2115 AE47

Drawbridge Operations Regulations; Duwamish Waterway and Lake Washington Ship Canal, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the operating regulations for the city drawbridges across the Lake Washington Ship Canal and the state drawbridge across the Duwamish Waterway in Seattle, Washington, by deleting Columbus Day from federal holidays on which the operating schedule does not accommodate the peak hours of roadway traffic with scheduled closed periods of the drawspans. This amendment would apply the same operating regulations that are specified for Monday through Friday to Columbus Day. Roadway traffic does not decrease significantly on Columbus Day as it does on other federal holidays. This amendment would apply to Columbus Day the same draw closed periods that are provided for non-holidays Monday through Friday.

DATES: Comments must reach the Coast Guard on or before June 28, 1999.

ADDRESSES: You may mail comments to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067 or deliver them to room 3510 between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, Telephone (206) 220–7272.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should identify this rulemaking (CGD 13–99–005) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period. It may change the proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Coast Guard including the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The purpose of the proposed changes to 33 CFR 117.1041 and 117.1051 is to alleviate commuter traffic congestion by removing Columbus Day from the existing federal holiday exemption for the dual First Avenue South Drawbridges across the Duwamish Waterway, mile 2.5, and the drawbridges across the Lake Washington Ship Canal east of the Chittenden Locks. These bridges are the Ballard Bridge at mile 1.1, the Fremont Bridge at mile 2.6, the University Bridge at mile 4.3, and the Montlake Bridge at mile 5.2. The regulations which are currently in effect authorize various weekday closed periods during the hours of heavy commuting so that openings for vessels will not worsen traffic congestion. These closed periods do not apply on weekends or federal holidays because the affected streets are not as heavily traveled on those holidays. Columbus Day does not warrant this exemption. Many employers in the Seattle area do not honor this holiday and, as a result, the volume of commuter traffic does not appreciably diminish on that day. Openings for the passage of vessels on this day at times of peak traffic can cause significant delay to street traffic. The proposed amendment will enable Columbus Day to be treated as any other weekday with regard to opening the subject drawspans. The proposed amendment also would delete reference to notification of the Seattle City Engineer for emergency openings of the Lake Washington Ship Canal bridges. Emergency openings shall be provided in accordance with 33 CFR 117.31. This part of the proposed amendment reflects the Coast Guard's policy that notification made to the bridge tender is sufficient for declaration of emergency requiring immediate opening of the draw.

Discussion of Proposed Rule

By specifically removing Columbus Day from the exempt category for federal holiday in § 117.1041 (a)(1) and § 117.1051 (d)(2), traffic congestion will be alleviated by preventing openings for vessels of less than 5000 gross tons during the normal Monday through Friday periods when the First Avenue South drawbridges need not be opened for the passage of vessels and similarly for vessels of less than 1000 gross tons in the case of the city drawbridges across the Lake Washington Ship Canal. In contrast to other federal holidays. Columbus Day does not present a significant reduction in commuter traffic. Traffic remains high as on any other weekday peak period. Under the proposed amendment, the subject drawbridges would not have to open on signal at any time during the day as is currently required on Columbus Day. Also requests for emergency openings of the Lake Washington Ship Canal drawspans would be obtained by simply

notifying the drawtender on duty as provided by § 117.31. The requirement to make such a request with additional notification of the city engineer would be removed from the above-cited paragraph.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The proposed rule would improve commuter traffic flow and enhance navigational safety by simplifying the procedure for requesting an emergency opening of drawspans.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard considers whether this proceed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictional with populations less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act that this proposed rule, if adopted, will not have a significant impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant impact on your business or organization, please submit a comment (see Addresses) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposed rule does not have sufficient federalism implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.1041(a)(1) to read as follows:

§ 117.1041 Duwamish Waterway.

(a) * * *

(1) From Monday through Friday, except all federal holidays but Columbus Day, the draws of the First Avenue South Bridges, mile 2.5, need not be opened for the passage of vessels from 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m., except: The draws shall open at any time for a vessel of 5000 gross tons and over, a vessel towing a vessel of 5000 gross tons and over, and a vessel proceeding to pick up for towing a vessel of 5000 gross tons and over.

* * * * *

3. Revise § 117.1051(d)(2) to read as follows:

§ 117.1051 Lake Washington Ship Canal.

* * * * *

(d) * * *

(2) The draws need not open from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. Monday through Friday, except all federal holidays but Columbus Day, for any vessel of less than 1000 gross tons, unless the vessel has in tow a vessel of 1000 gross tons or over.

* * * * *

Dated: April 19, 1999.

Paul M. Blayney,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 99–10552 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–15–M

Notices

Federal Register
Vol. 64, No. 80
Tuesday, April 27, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–126–2]

AgrEvo USA Co.; Availability of Determination of Nonregulated Status for Rice Genetically Engineered for Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that certain rice transformation events developed by AgrEvo USA Company, which have been genetically engineered for tolerance to the herbicide glufosinate, are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by AgrEvo USA Company in its petition for a determination of nonregulated status, our analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the AgrEvo USA Company's petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: April 15, 1999.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. David Heron, Biotechnology and Biological Analysis, PPQ, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5141. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–4885; e-mail: kay.peterson@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On November 25, 1998, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 98–329–01p) from AgrEvo USA Company (AgrEvo) of Wilmington, DE, seeking a determination that rice (*Oryza sativa* L.) designated as Liberty Link® Rice Transformation Events LLRICE06 and LLRICE62 (rice transformation events LLRICE06 and LLRICE62), which have been genetically engineered for tolerance to the herbicide glufosinate, do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340.

On January 26, 1999, APHIS published a notice in the **Federal Register** (64 FR 3924-3925, Docket No. 98–126–1) announcing that the AgrEvo petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject rice transformation events and food products derived from them. In the notice, APHIS solicited written comments from the public as to whether rice transformation events LLRICE06 and LLRICE62 posed a plant pest risk. The comments were to have been received by APHIS on or before March 29, 1999. APHIS received four comments on the subject petition during the designated 60-day comment period from the following: a farmers rice cooperative; a State rice growers association; a State rice research board; and a State university rice research station. All of the comments were in support of the subject petition.

Analysis

Rice transformation events LLRICE06 and LLRICE62 have been genetically engineered to contain a *bar* gene derived from *Streptomyces hygroscopicus* strain HP632. The *bar* gene encodes the enzyme phosphinothricin-N-acetyltransferase (PAT), which confers tolerance to the herbicide glufosinate. Expression of the *bar* gene is controlled by 35S promoter and terminator sequences derived from the plant pathogen cauliflower mosaic virus. The direct gene transfer method was used to transfer the added genes into the parental rice varieties M202 (LLRICE06) and Bengal (LLRICE62).

The subject rice transformation events have been considered regulated articles under APHIS' regulations in 7 CFR part 340 because they contain gene sequences derived from a plant pathogen. However, evaluation of field data reports from field tests of these rice transformation events conducted under APHIS notifications since 1997 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of rice transformation events LLRICE06 and LLRICE62.

Determination

Based on its analysis of the data submitted by AgrEvo, and a review of other scientific data and field tests of the subject rice transformation events, APHIS has determined that rice transformation events LLRICE06 and LLRICE62: (1) Exhibit no plant pathogenic properties; (2) are no more likely to become weeds than rice varieties developed by traditional plant breeding; (3) are unlikely to increase the weediness potential for any other cultivated or wild species with which they can interbreed; (4) will not harm threatened or endangered species or organisms that are recognized as beneficial to agriculture; and (5) will not cause damage to raw or processed agricultural commodities. Therefore, APHIS has concluded that the subject rice transformation events and any progeny derived from hybrid crosses with other rice varieties will be as safe to grow as rice in traditional breeding programs that are not subject to regulation under 7 CFR part 340.

The effect of this determination is that AgrEvo's rice transformation events LLRICE06 and LLRICE62 are no longer considered regulated articles under APHIS' regulations in 7 CFR part 340.

Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the subject rice transformation events or their progeny. However, importation of the subject rice transformation events or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that AgrEvo's rice transformation events LLRICE06 and LLRICE62 and lines developed from them are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 20th day of April 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–10510 Filed 4–26–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Official Moisture Meter for Barley, Oats, Long and Medium Grain Rough Rice, Sorghum, and All Classes of Wheat

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is announcing that as of May 1, 1999, and thereafter, all official moisture content measurements of barley, oats, long and medium grain rough rice, sorghum, and all classes of wheat inspected under the United States Grain Standards Act will be made with the Grain Analysis Computer Model 2100 (GAC 2100).

Official moisture content measurements of other grains and agricultural commodities that have not yet been given an official transition date will continue to be made with the Motomco Model 919 Moisture Meter until the changeover date for those grains is announced.

EFFECTIVE DATE: May 1,1999.

FOR FURTHER INFORMATION CONTACT: Steven N. Tanner, Director, Technical Services Division, GIPSA, USDA, 10383 N. Executive Hills Boulevard, Kansas City, Missouri 64153; telephone (816) 891–0401; fax (816) 891–0478.

SUPPLEMENTARY INFORMATION: The Grain Inspection, Packers and Stockyards Administration (GIPSA) announced the selection of the Grain Analysis Computer Model 2100 (GAC 2100), manufactured by Dickey-john Corporation, Auburn, Illinois, to replace the Motomco Model 919 Moisture Meter for official moisture content measurements in the **Federal Register** (63 FR 17356) on April 9, 1998. Implementation of the new instruments for official measurements of grains, oilseeds, and processed commodities will continue to be phased in, product by product. For any given product, all official moisture measurements will be performed using the Motomco Model 919 until the transition date for that product; the GAC 2100 will be used exclusively thereafter. Transition dates for each product are being selected to minimize the impact of the changes on the value of carry-over stocks and will be announced by GIPSA through a Notice in the **Federal Register** prior to the transition.

The transition date for barley, oats, long and medium grain rough rice, sorghum, and all classes of wheat is May 1, 1999. The GAC 2100 will be used for all official moisture determinations on these grains after April 30, 1999. Official calibrations for the GAC 2100 to be used with these grains are provided in GIPSA Directive 9180.61, dated May 1, 1999.

The transition date for corn, soybeans, and oil-type sunflower seeds was August 1, 1998. Transition dates for other grains and commodities will be announced in the future.

GIPSA's decision to use the GAC 2100 for official moisture measurements does not mean that the Agency endorses or recommends this instrument for unofficial purposes over other similar instruments that are not approved for the official system. The Agency's selection of this instrument was based on GIPSA's unique operational needs. Other instrument models may be as suitable or more suitable for a commercial entity's needs.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*); and Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

Dated: April 20, 1999.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 99–10393 Filed 4–26–99; 8:45 am]

BILLING CODE 3410–EN–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC on Tuesday and Wednesday, May 11–12, 1999, at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, May 11, 1999

1:30 p.m.–3:30 p.m.—Technical Programs Committee
3:30 p.m.–5:00 p.m.—Planning and Budget Committee

Wednesday, May 12, 1999

9:00 a.m.–Noon—Committee of the Whole Meeting on Rulemaking Plan (Closed Meeting)
2:00 p.m.–4:00 p.m.—Board Meeting

ADDRESSES: The Technical Programs Committee, Planning and Budget Committee, and Committee of the Whole Meeting on Rulemaking Plan will be held at the Marriott at Metro Center, 775 12th Street, NW, Washington, DC. The Board meeting will be held at the Grand Hyatt Washington, 1000 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434, ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items.

Open Meeting

- Executive Director's Report

- Approval of the Minutes of the March 10, 1999, Board Meeting
- Planning and Budget Committee Report—Fiscal Year 1999 Status and Spending Plan
- Technical Programs Committee Report—Status Report on Projects
- Committee of the Whole Report—Rulemaking Plan
- Advisory Committee Report—Electronic and Information Technology

All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 99–10550 Filed 4–26–99; 8:45 am]

BILLING CODE 8150–01–P

COMMISSION ON CIVIL RIGHTS

Hearing on Police Practices and Civil Rights in New York City

AGENCY: Commission on Civil Rights.

ACTION: Notice of hearing.

SUMMARY: Notice is hereby given pursuant to the provisions of the Civil Rights Commission Amendments Act of 1944, section 3, Pub. L. 103–419, 108 Stat. 4338, as amended, and 45 CFR 702.3, that a public hearing before the U.S. Commission on Civil Rights will commence on Wednesday, May 26, 1999, beginning at 8:30 a.m., in the Ballroom on the Sixth Floor, at the Doubletree Guest Suites, 1568 Broadway (47th at 7th Avenue), New York City, NY 10036. The purpose of the hearing is to collect information within the jurisdiction of the Commission, under 45 CFR 702.2, related particularly to the administration of justice, police practices and civil rights.

The Commission is authorized to hold hearings and to issue subpoenas for the production of documents and the attendance of witnesses pursuant to 45 CFR 701.2(c). The Commission is an independent bipartisan, factfinding agency authorized to study, collect, and disseminate information, and to appraise the laws and policies and policies of the Federal Government, and to study and collect information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.

Hearing impaired persons who will attend the hearing and require the services of a sign language interpreter, should contact Betty Edmiston, Administration Services and Clearinghouse Division at (202) 376–8105 (TDD (202) 376–8116), at least five (5) working days before the scheduled date of the hearing.

FOR FURTHER INFORMATION CONTACT: David Aronson, Press and Communications (202) 376–8312.

Dated: April 22, 1999.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 99–10548 Filed 4–26–99; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 3/15/99–4/15/99

Firm name	Address	Date petition accepted	Product
Pikes Peak Greenhouses, Inc.	804 E. Nichols Boulevard, Colorado Springs, CO 80909.	03/22/99	Cut flowers and potted plants.
Glass Dynamics, Inc.	8901 Highway 220, Orange, VA 22960.	03/23/99	Glass tabletops.
Planto Furniture Mfg. Co., Inc.	307 Indiana Street, San Antonio, TX 78210.	03/23/99	Wood upholstered office chairs.
Cast-Fab Technologies, Inc.	3040 Forrer Street, Cincinnati, OH 45209.	03/24/99	Metal machine bases and cabinets.
Boden Company, (The) dba Adjust-A-Brush.	10455 49th Street North, Clearwater, FL 33772.	03/25/99	Injection molded brushes made of polypropylene.
East End Motors, Inc., dba Zaclift.	1102 East 1st Street, Cle Elum, WA 98922.	03/25/99	Wheel and frame lifts.
Laser Plot, Inc.	48 Sword Street, Auburn, MA 01501.	03/29/99	Electronic marine plotting and positioning navigation machines, and computer disks.
Wrought Washer Mfg., Inc.	2100 South Bay Street, Milwaukee, WI 53207.	03/29/99	Non-locking washers.
American Sewn Products, Inc.	5880 State Highway 303 NE, Bremerton, WA 98311.	03/29/99	Man-made and cotton fabric bags.
Ranchland Packing Co., Inc.	3125 Nettie Street, Butte, MT 59701.	03/29/99	Beef, veal, lamb and pork processing.
ASI Design & Manufacturing, Inc..	1070 Hardee Road, Aberdeen, MD 21001.	04/01/99	Parts for data processing and canning machines.
Signs & Shapes International, Inc..	9988 F Street, Omaha, NE 68172.	04/01/99	Inflatable costumes and signs.
Quick Turn Circuits, Inc.	2750 Scott Boulevard, Santa Clara, CA 95050.	04/02/99	Printed circuit boards.
Laddonia Manufacturing Co., Inc. dba Avery Floor Mats.	709 North Pine Street, Laddonia, MO 63352.	04/02/99	Automotive floor mats.
Kent, Inc.	P. O. Box 161, Fort Kent, ME 04743.	04/02/99	Boys knitted or crocheted shirts of man-made fiber.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 3/15/99–4/15/99—Continued

Firm name	Address	Date petition accepted	Product
Douglas Magnus dba Heartline	905 Early Street, Sante Fe, NM 87501.	04/06/99	Silver jewelry.
Ursula of Switzerland, Inc.	31 Mohawk Avenue, Waterford, NY 12188.	04/08/99	Women's dress ensembles of woven synthetic fibers.
Atkins Technical, Inc.	3401 SW 40th Boulevard, Gainesville, FL 32608.	04/08/99	Electronic digital thermometers.
T. D. Bambino, Inc.	380 Leadville Avenue North, Ketchum, ID 83340.	04/09/99	Shirts, vests, leggings, and sweats.
Hausmann Industries, Inc.	130 Union Street, Northvale, NJ 07647.	04/09/99	Medical furniture and cabinetry, and physical and occupational therapy/rehab equipment.
Askew Fabrications, Inc.	201 Arlington Drive, Yukon, OK 73085.	04/09/99	Metal cabinets for computers.
Kern Ridge Growers, LLC	P. O. Box 445, Arvin, CA 93203.	04/13/99	Carrots, bell and chilli peppers.
PolyConversions, Inc.	505 Condit Drive, Rantoul, IL 61866.	04/13/99	Gowns, sleeves, boots and aprons aprons of polyethylene and plastic film.
Scola Enterprises, Inc.	750 Narragansett Park Drive, East Providence, RI 02916.	04/14/99	Costume rings, earrings & pendants.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: April 21, 1999.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 99–10466 Filed 4–26–99; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council Subcommittee on Encryption; Notice of Open Meeting

The President's Export Council Subcommittee on Encryption (PECSENC) will meet on May 14, 1999, at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4832, 14th Street between Pennsylvania and Constitution Avenues, N.W., Washington, D.C. the meeting will begin in open session at 10:00 a.m. and is scheduled to adjourn at 5:00 p.m. The Subcommittee provides advice on matters pertinent to policies regarding commercial encryption products.

Open Session: 10:00 a.m.–5:00 p.m.

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on Bureau of Export Administration initiatives.
4. Issue briefings.
5. Open discussion.

The meeting is open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the PECSENC. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to PECSENC members, the PECSENC suggests that public presentation materials or comments be forwarded before the meeting to the address listed below:

Ms. Lee Ann Carpenter, Advisory Committees MS: 3876, U.S. Department of Commerce, 15th St. & Pennsylvania Ave, N.W., Washington, D.C. 20230.

For more information, contact Ms. Carpenter on (202) 482–2583.

Dated: April 22, 1999.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 99–10529 Filed 4–26–99; 8:45 am]

BILLING CODE 3510–33–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

April 21, 1999

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 27, 1999

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special shift, special swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the Uni ted States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 67050, published on December 4, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 21, 1999

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 30, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on April 27, 1999, you are directed to adjust the limits for the fol lowing categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
237	1,882,428 dozen.
338/339	3,041,110 dozen.
347/348	2,988,856 dozen.
361	2,221,011 numbers.
369–S [2]	379,917 kilograms.
633	55,902 dozen.
638/639	2,272,564 dozen.
643	764,045 numbers.
647/648	1,405,192 dozen.
649	7,624,535 dozen.
847	320,545 dozen.
Group II 200–227, 300–326, 332, 359–O [3], 360, 362, 363, 369–O [4], 400–414, 434–438, 440, 442, 444, 448, 459pt. [5], 464, 469pt. [6], 600–607, 613–629, 644, 659–O [7], 666, 669–O [8], 670–O [9], 831, 833–838, 840–846, 850–858 and 859pt. [10], as a group.	188,376,261 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 369–S: only HTS number 6307.10.2005.

[3] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); and 6406.99.1550 (Category 359pt.).

[4] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

[5] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[6] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[7] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[8] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040 (Category 669pt.).

[9] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[10] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.99–10452 Filed 4–26–99; 8:45 am]
BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Global Markets Advisory Committee Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2. § 10(a), that the Commodity Futures Trading Commission's Global Markets Advisory Committee will conduct a public meeting on May 12, 1999, in the first floor hearing room (Room 1000) of the Commission's Washington, D.C. headquarters, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. The meeting will begin at 1:00 p.m. and last until 5:00 p.m. The agenda will consist of the following:

Agenda

1. Introductory Remarks by Commission Barbara Pedersen Holum, Chairman, Global Markets Advisory Committee.
2. Discussion of the Future Industry Association's proposed rules governing access to automated boards of trade.
3. Discussion of a proposal for regulatory parity for trading on domestic and foreign electronic terminals.
4. Discussion of a proposal to withdraw the Commission's proposed rules governing access to automated boards of trade and to lift the moratorium on consideration of no-action requests for placement of foreign terminals in the United States.

The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on the myriad of complex and novel issues raised by the ever-increasing globalization of futures markets. The purposes and objectives of the Global Markets Advisory Committee are more fully set forth in the Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Barbara Pedersen Holum, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory

Committee should mail a copy of the statement to the attention of: The Global Markets Advisory Commission, c/o Commissioner Barbara Pedersen Holum, Washingon, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should also inform Commissioner Holum in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, D.C. on April 22, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10549 Filed 4–26–99; 8:45 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Review; Comment Request

The Corporation for National and Community Service (hereinafter the "Corporation") has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, (44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Janice Forney Fisher, (202) 606–5000, extension 275. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information to those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Project Profile and Volunteer Activity Surveys—FGP, RSVP, and SCP.

OMB Number: 3045–0029.

Agency Number: 1021–FGP, 1021–RSVP, and 1021–SCP.

Affected Public: Sponsors for National Senior Service Corps Grants.

Total Respondents: Estimated at 1,300.

Frequency: Every Two Years.

Estimated Time Per Respondent: 8.1 hours for the Retired and Senior Volunteer Program (RSVP), 5.1 hours for the Foster Grandparent Program (FGP), and 3.7 hours for the Senior Companion Program (SCP).

Estimated Annual Reporting or Disclosure Burden: 4,338 hours

Total Annualized Capital/Startup Costs: $11,100.

Total Annualized Burden Costs: $650.

Description

The Project Profile and Volunteer Activity Survey (PPVA) has served for almost two decades as the principal instrument for collecting project, volunteer and client demographic, and volunteer assignment information from projects funded under three federal programs—RSVP, FGP, and SCP, collectively known as the Senior Corps. These data are essential to the agency's oversight and management of the programs; presentation of specific and aggregate program information to Congress and OMB; promulgation of general information on the programs for the public, project sponsors, and prospective volunteers; and development of technical assistance and training for projects to maximize their impact on local community needs.

In January 1999, the National Senior Service Corps (Senior Corps) announced a 60-day review and comment period, ending March 22, 1999, during which project sponsors and the public were encouraged to submit comments on the proposed PPVA data collection instruments. Existing sponsors were provided copies of the draft, concurrent with **Federal Register** publication. The only major proposed revision was to reduce the frequency of collection from annually to every two years. Minor modifications were proposed to all three instruments as follows: allow sponsors to check more than one sponsor type category, add "Indian Tribes" and "Volunteer Management Organizations" to the sponsor type listing, add a question on availability of access to the Internet, and delete the question on budgeted volunteers/VSYs which can be derived elsewhere. Minor modifications to the RSVP instrument were as follows: Move Senior Center group programs not providing adult day care to category 213, move programs for dropouts to category 334, incorporate child literacy programs in category 312, incorporate adult literacy programs in category 338, delete category 336 split between categories 312 and 338 by age. Minor modifications to the FGP and SCP instruments were as follows: add a question on how many potential volunteers were inelgible due to over-income status; and revise age groupings for the stipended programs for better consistency with Census groups, i.e. 60–64, 65–74, 75–84, 85 and over. For the SCP instrument, "Nutrition Sites" has been deleted and "Public Health Agencies" added as station types.

Fifteen (15) comments were received from almost 1,300 existing Senior Corps projects and the public. Nine of the comment (9) were pertinent to RSVP only, two (2) to SCP only, one (1) to FGP only, one (1) to FGP and SCP, and two (2) to all three programs. Most of the comments were favorable, asked questions, or supported retention of categories as proposed. Based on the comments received, no changes to the proposed instruments were deemed necessary.

Once approved by OMB, the data collection instruments will be completed every two years by all public and private, non-profit organizations that receive National Senior Service Corps funds. First administration of the instruments is scheduled for 1999.

Dated: April 21, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–10514 Filed 4–26–99; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

Department of the Navy

Availability of Government-Owned Inventions for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, DC 20231, for $3.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, VA 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the copies of patent applications sold to avoid premature disclosure.

The following patents and patent applications are available for licensing:

Patent 5,745,284: SOLID-STATE LASER SOURCE OF TUNABLE NARROW-BANDWIDTH ULTRAVIOLET RADIATION; filed 1 May 1996; patented 28 April 1998.// Patent 5,757,358: METHOD AND APPARATUS FOR ENHANCING COMPUTER-USER SELECTION OF COMPUTER-DISPLAYED OBJECTS THROUGH DYNAMIC SELECTION AREA AND CONSTANT VISUAL FEEDBACK; filed 5 June 1995; patented 26 May 1998.//Patent 5,757,867: DIGITAL MIXING TO BASEBAND DECIMATION FILTER; filed 30 March 1995; patented 26 May 1998.//Patent 5,760,722: DISTRIBUTED QUANTIZATION NOISE TRANSMISSION ZEROS IN CASCADED SIGMA-DELTA MODULATORS; filed 31 January 1995; patented 2 June 1998.//Patent 5,762,611: EVALUATION OF A SUBJECT'S INTEREST IN EDUCATION, TRAINING AND OTHER MATERIALS USING BRAIN ACTIVITY PATTERNS; filed 12 November 1996; patented 9 June 1998.// /Patent 5,764,677: LASER DIODE POWER COMBINER; filed 14 December 1995; patented 9 June 1998.//Patent 5,770,815: AMMUNITION CARTRIDGE WITH REDUCED PROPELLANT CHARGE; filed 14 August 1995; patented 23 June 1998.//Patent 5,774,690: METHOD FOR OPTIMIZATION OF ELEMENT PLACEMENT IN A THINNED ARRAY; filed 14 September 1995; patented 30 June 1998.//Patent 5,776,861: HIGH TEMPERATURE MERCURY-CONTAINING SUPERCONDUCTORS AND METHOD OF MAKING THE SAME; filed 28 April 1995; patented 7 July 1998.//Patent 5,777,400: SHIELDED COMPUTER NETWORK SWITCH; filed 22 July 1996; patented 7 July 1998.// Patent 5,777,456: NICAD DEEP CYCLE CHARGING/DISCHARGING SYSTEM; filed 30 September 1996; patented 7 July 1998.//Patent 5,777,477: METHOD OF MAGNETIC SOURCE LOCALIZATION USING GRADIENT TENSOR COMPONENTS AND RATE TENSOR COMPONENTS; filed 3 June 1996; patented 7 July 1998.//Patent 5,777,897: METHOD FOR OPTIMIZING THE ROTATIONAL SPEED OF COOLING FANS; filed 26 November 1996; patented 7 July 1998.//Patent 5,777,948: METHOD AND APPARATUS FOR PREFORMING MUTATIONS IN A GENETIC ALGORITHM-BASED UNDERWATER TARGET TRACKING SYSTEM; filed 12 November 1996; patented 7 July 1998.//Patent 5,777,949: TRAJECTORY MATCHED PASSIVE DETECTION SYSTEM; filed 23 January 1997; patented 7 July 1998.//Patent 5,778,002: MULTIPLEXING/ DEMULTIPLEXING SYSTEM FOR ASYNCHRONOUS HIGH AND LOW-SPEED DATA; filed 13 August 1997; patented 7 July 1998.//Patent 5,778,125: OPTICAL FIBER TERMINATIONS; filed 30 October 1996; patented 7 July 1998./ /Patent 5,778,725: ASSEMBLY AND METHOD FOR TESTING AN UNDERWATER GUN; filed 7 November 1996; patented 14 July 1998.//Patent 5,778,876: SELF-CONTAINED OXYGEN REBREATHER WITH SEMI-PERMEABLE MEMBRANE TO VENT EXCESS HELIUM; filed 11 February 1997; patented 14 July 1998.//Patent 5,779,757: PROCESS FOR REMOVING HYDROGEN AND CARBON IMPURITIES FROM GLASSES BY ADDING A TELLURIUM HALIDE; filed 26 June 1996; patented 14 July 1998.// Patent 5,780,178: SCANDIA, YTTRIA-STABILIZED ZIRCONIA FOR ULTRA-HIGH TEMPERATURE THERMAL BARRIER COATINGS; filed 31 October 1996; patented 14 July 1998.//Patent 5,780,729: FUEL DELIVERY SYSTEM; filed 24 July 1996; patented 14 July 1998.//Patent 5,780,769: THERMAL STABILIZATION OF N.N-DINITRAMIDE SALTS; filed 26 August 1996; patented 14 July 1998.//Patent 5,781,298: LIGHT MIXING TECHNIQUE FOR ISOLATION AND AMPLIFICATION OF LASER SIGNAL FROM BACKGROUND NOISE DUE TO SCATTERING IN TURBID MEDIA; filed 26 November 1996; patented 14 July 1998.//Patent 5,781,460: SYSTEM AND METHOD OF CHAOTIC SIGNAL IDENTIFICATION; filed 28 June 1996; patented 14 July 1998.//Patent 5,781,504: SHALLOW WATER BEAMFORMING METHODOLOGY FOR TOROIDAL VOLUME SEARCH SONAR; filed 5 June 1997; patented 14 July 1998.//Patent 5,781,505: SYSTEM AND METHOD FOR LOCATING A TRAJECTORY AND A SOURCE OF A PROJECTILE; filed 14 October 1997; patented 14 July 1998.//Patent 5,781,506: METHOD AND APPARATUS FOR FREQUENCY FILTERING USING AN ELASTIC FLUID-FILLED CYLINDER; filed 29 May 1997; patented 14 July 1998.//Patent 5,781,508: OPTIMIZING THE COMPRESSIONAL WAVE ENERGY RESPONSE OF AN ELASTIC FLUID-FILLED CYLINDER; filed 29 May 1997; patented 14 July 1998.//Patent 5,781,509: WIDE BEAM ARRAY WITH SHARP CUTOFF; filed 28 May 1996; patented 14 July 1998.// Patent 5,783,441: GENE AND PROTEIN APPLICABLE TO THE PREPARATION OF VACCINES FOR RICKETTSIA PROWAZEKII AND RICKETTSIA TYPHI AND THE DETECTION OF BOTH; filed 20 December 1993; patented 21 July 1998.//Patent 5,783,732: 2:2 MIXED FLUORO-, AND FLUORONITROALKYL ORTHOCARBONATES; filed 30 March 1981; patented 21 July 1998.//Patent 5,784,067: SOFTWARE OBJECT FOR PROVIDING A DISPLAY OF A SCROLLING REAL-TIME GRAPH AND WHICH PROVIDES FOR INSERTION AND UP-DATING OF PLOTS OF REAL TIME DATA INTO THE DISPLAY; filed 22 July 1996; patented 21 July 1998.// Patent 5,784,297: MODEL IDENTIFICATION AND CHARACTERIZATION OF ERROR STRUCTURES IN SIGNAL PROCESSING; filed 13 January 1997; patented 21 July 1998.//Patent 5,784,337: TOWED ARRAY WITH NON-ACOUSTIC SENSOR MODULE; filed 21 January 1997; patented 21 July 1998.// Patent 5,785,591: MOBILE SAFETY STRUCTURE WITH SEPARATE COMPARTMENTS FOR CONTAINMENT AND HANDLING OF HAZARDOUS MATERIALS; filed 7 January 1997; patented 28 July 1998.// Patent 5,786,287: IR TRANSMITTING RARE EARTH GALLOGERMANATE GLASS-CERAMICS; filed 15 November 1996; patented 28 July 1998.//Patent 5,786,545: UNMANNED UNDERSEA VEHICLE WITH KEEL-MOUNTED PAYLOAD DEPLOYMENT SYSTEM; filed 11 October 1995; patented 28 July 1998.//Patent 5,786,750: PILOT VEHICLE WHICH IS USEFUL FOR MONITORING HAZARDOUS CONDITIONS ON RAILROAD TRACKS; filed 21 February 1997; patented 28 July 1998.//Patent 5,786,919: DATA MULTIPLEXING NODE FOR LINE ARRAY; filed 5 September 1996;

patented 28 July 1998.//Patent 5,787,048: SHIP WAKE SIGNATURE SUPPRESSION; filed 6 May 1997; patented 28 July 1998.//Patent 5,787,053: CONTINUOUS FIBER PULSE REFLECTING MEANS; filed 7 July 1989; patented 28 July 1998.//Patent 5,787,201: HIGH ORDER FRACTAL FEATURE EXTRACTION FOR CLASSIFICATION OF OBJECTS IN IMAGES; filed 9 April 1996; patented 28 July 1998.//Patent 5,787,408: SYSTEM AND METHOD FOR DETERMINING NODE FUNCTIONALITY IN ARTIFICIAL NEURAL NETWORKS; filed 23 August 1996; patented 28 July 1998.//Patent 5,788,222: DEVICE FOR INSERTING A LINEAR ARRAY MODULE INTO LONG SMALL DIAMETER PRESSURE VESSELS; filed 24 July 1996; patented 4 August 1998.// /Patent 5,789,696: METHOD FOR LAUNCHING PROJECTILES WITH HYDROGEN GAS; filed 14 August 1997; patented 4 August 1998.//Patent 5,789,931: QUANTITATIVE MOBILITY SPECTRUM ANALYSIS FOR MAGNETIC FIELD DEPENDENT HALL AND RESISTIVITY DATA; filed 4 October 1995; patented 4 August 1998.// / Patent 5,790,758: NEURAL NETWORK ARCHITECTURE FOR GAUSSIAN COMPONENTS OF A MIXTURE DENSITY FUNCTION; filed 7 July 1995; patented 4 August 1998.//Patent 5,790,896: APPARATUS FOR A TESTING SYSTEM WITH A PLURALITY OF FIRST CONNECTION HAVING A STRUCTURAL CHARACTERISTIC AND A PLURALITY OF SECOND CONNECTION HAVING A DIFFERENT STRUCTURAL CHARACTERISTIC THAN THE FIRST CONNECTION; filed 24 June 1996; patented 4 August 1998.//Patent 5,791,275: SURFACE LAYER COMPRISING MICROFABRICATED TILES FOR ELECTROMAGNETIC CONTROL OF FLUID TURBULENCE IN SEA WATER; filed 14 June 1996; patented 11 August 1998.//Patent 5,791,591: TARGET SEEKING FREE GYRO; filed 28 April 1997; patented 11 August 1998.//Patent 5,792,351: SPINNING FILTER SEPARATION SYSTEM FOR OIL SPILL CLEAN-UP OPERATION; filed 26 September 1996; patented 11 August 1998.//Patent 5,792,950: SUBMARINE DEPLOYED SEA-STATE SENSOR; filed 16 January 1996; patented 11 August 1998.//Patent 5,792,978: BARGE STRIKE EXPLOSIVE CLEARANCE SYSTEM; filed 27 May 1997; patented 11 August 1998.//Patent 5,793,667: SENSE AMPLIFIER CONTROL SYSTEM FOR FERROELECTRIC MEMORIES; 18 October 1996; patented 11 August 1998.//Patent 5,795,159: MERCURY REMOVAL METHOD AND APPARATUS; filed 2 February 1996; patented 18 August 1998.//Patent 5,795,813: RADIATION-HARDENING OF SOI BY ION IMPLANTATION INTO THE BURIED OXIDE LAYER; filed 31 May 1996; patented 18 August 1998.// Patent 5,797,342: SUBMERSIBLE DEVICE LAUNCHER; filed 10 July 1997; patented 25 August 1998.// Patent 5,797,965: SUPPRESSION OF EPILEPTIFORM ACTIVITY; filed 26 March 1997; patented 25 August 1998./ /Patent 5,798,540: ELECTRONIC DEVICES WITH INALASSB/ ALSB BARRIER; filed 29 April 1997; patented 25 August 1998.//Patent 5,799,026: INTERBAND QUANTUM WELL CASCADE LASER, WITH A BLOCKING QUANTUM WELL FOR IMPROVED QUANTUM EFFICIENCY; filed 1 November 1996; patented 25 August 1998.//Patent 5,800,459: ELECTRIC FIELD CONTROL OF EPILEPTIFORM ACTIVITY; filed 24 December 1996; patented 1 September 1998.//Patent 5,800,536: PASSIVE PIEZOELECTRIC PROSTHESIS FOR THE INNER EAR; filed 9 May 1997.//Patent 5,800,720: SPINNING FILTER SEPARATION SYSTEM FOR OIL SPILL CLEAN-UP OPERATION; filed 10 October 1997; patented 1 September 1998.//Patent 5,800,879: DEPOSITION OF HIGH QUALITY DIAMOND FILM ON REFRACTORY NITRIDE; filed 16 May 1991; patented 1 September 1998.// Patent 5,800,934: ZINC OXIDE STABILIZED ZIRCONIA; filed 27 February 1997; patented 1 September 1998.//Patent 5,801,321: LOW COST ENVIRONMENTALLY FRIENDLY FLARE; filed 24 June 1997; patented 1 September 1998.//Patent 5,804,321: DIAMOND BRAZED TO A METAL; filed 30 July 1993; patented 8 September 1998.// Patent 5,804,475: METHOD OF FORMING AN INTERBAND LATERAL RESONANT TUNNELING TRANSISTOR; filed 19 June 1996; patented 8 September 1998.//Patent 5,804,715: HYDRODYNAMIC DAMPENING SYSTEM FOR THE PRECISE MEASUREMENT OF DYNAMIC SEDIMENT PORE WATER PRESSURE; filed 24 December 1996; patented 8 September 1998.//Patent 5,804,967: APPARATUS AND METHOD FOR GENERATING SHORT PULSES FOR NMR AND NQR PROCESSING; filed 15 November 1996; patented 8 September 1998.//Patent 5,805,326: OPTICAL LIMITER STRUCTURE AND METHOD; filed 6 May 1994; patented 8 September 1998.//Patent 5,805,526: ECHO DETECTION DOPPLER GATE; filed 6 August 1970; patented 8 September 1998.//Patent 5,805,753: OPTICAL FIBERS WITH HIGH ACCELERATION SENSITIVITY AND LOW PRESSURE SENSITIVITY; filed 25 September 1996; patented 8 September 1998.//Patent 5,806,457: SUBMERSIBLE VEHICLE HULL PORTION HAVING INTEGRALLY FORMED FLUID TANK; filed 17 January 1997; patented 15 September 1998.//Patent 5,807,758: CHEMICAL AND BIOLOGICAL SENSOR USING AN ULTRA-SENSITIVE FORCE TRANSDUCER; filed 21 July 1995; patented 15 September 1998.//Patent 5,807,953: THERMOSTET POLYMERS FROM INORGANIC ARYLACETYLENIC MONOMERS; filed 26 July 1996; patented 15 September 1998.//Patent 5,807,967: FLUOROALIPHATIC CYANATE RESINS FOR LOW DIELECTRIC APPLICATIONS; filed 21 March 1996; patented 15 September 1998.//Patent 5,808,965: LABORATORY TEST METHOD TO MEASURE TOWED ARRAY HYDROPHONE RESPONSE; filed 23 May 1997; patented 15 September 1998.//Patent 5,808,970: MULTI-LAYER ACOUSTICALLY TRANSPARENT SONAR ARRAY; filed 5 June 1997; patented 15 September 1998.//Patent 5,809,998: INSULATION JACKET FOR BREATHING GAS DEVICE; filed 8 August 1996; patented 22 September 1998.//Patent 5,811,726: EXPLOSIVE COMPOSITIONS; filed 28 February 1996; patented 22 September 1998.//Patent 5,811,822: OPTICALLY TRANSPARENT, OPTICALLY STIMULABLE GLASS COMPOSITES FOR RADIATION DOSIMETRY; filed 29 April 1997; patented 22 September 1998.//Patent 5,812,292: OPTICAL CORRELATOR USING OPTICAL DELAY LOOPS; filed 27 November 1995; patented 22 September 1998.// Patent 5,812,494: WIDE-ANGLE, FORWARD-LOOKING BATHYMETRIC MAPPING; filed 2 June 1997; patented 22 September 1998.//Patent 5,812,758: SYSTEM LEVEL AID FOR TROUBLESHOOTING (SLAT); filed 9 November 1995; patented 22 September 1998.//Patent 5,813,279: SYSTEM FOR POSITIONING BORESIGHT CALIBRATION TOOLS; filed 29 July 1997; patented 29 September 1998.// Patent 5,814,250: METHOD OF PROTECTING A STRUCTURE; filed 18 September 1996; patented 29 September 1998.//Patent 5,814,816: SYSTEM FOR MONITORING SURFACE STRESS AND OTHER CONDITIONS IN STRUCTURES; filed 27 August 1996; patented 29 September 1998.//Patent 5,814,942: METHOD AND APPARATUS FOR GENERATING HIGH-DENSITY SHEET PLASMA MIRRORS USING A

SLOTTED-TUBE CATHODE CONFIGURATION; filed 28 March 1997; patented 29 September 1998.// Patent 5,815,465: METHOD AND APPARATUS OF CLASSIFYING MARINE SEDIMENT; filed 11 April 1997; patented 29 September 1998.// Patent 5,824,910: MINIATURE HYDROSTAT FABRICATED USING MULTIPLE MICROELECTROMECHANICAL PROCESSES; filed 16 April 1997; patented 20 October 1998.//Patent 5,831,724: IMAGING LIDAR-BASED AIM VERIFICATION METHOD AND SYSTEM; filed 22 July 1997; patented 3 November 1998.// Patent application 08/591,188: BUBBLE PRESSURE GENERATING SYSTEM; filed 21 December 1995.//Patent application 08/774,063: BRIGHT BEAM METHOD FOR SUPER-RESOLUTION IN E-BEAM LITHOGRAPHY; filed 23 December 1996.//Patent application 08/798,683: SYSTEM FOR DETERMINING SIZE AND LOCATION OF DEFECTS IN MATERIAL BY USE OF MICROWAVE RADIATION; filed 12 February 1997.// Patent application 08/816,337: PATTERNING ANTIBODIES ON A SURFACE; filed 13 March 1997.//Patent application 08/885,132: ADJUSTABLE BEARING SYSTEM WITH SELECTIVELY OPTIMIZED INSTALLATIONAL CLEARANCES; filed 30 June 1997.//Patent application 08/976,126: PLASMA ANTENNA; filed 29 September 1997.//Patent application 09/061,256: CHELATORS EXHIBITING TRIPLE FLUORESCENCE; filed 31 August 1998.//Patent application 09/090,162: METAL OXIDE DISCHARGE LAMP; filed 4 June 1998.//Patent application 09/090,223: FLUID PUMP AND EXPANDABLE ENERGY STORAGE DEVICE; filed 22 May 1998.//Patent application 09/090,326: CAPTIVE SOFT FOAM SHOCK BASE MOUNT; filed 22 May 1998.//Patent application 09/090,327: ELASTOMERIC SURFACE ACTUATION SYSTEM; filed 22 May 1998.//Patent application 09/113,010: RADIO FREQUENCY COMMUNICATIONS FOR UNDERWATER VEHICLE; filed 26 June 1998.//Patent application 09/113,011: AUTOMATED METHOD OF FREQUENCY DETERMINATION IN SOFTWARE METRIC DATA THROUGH THE USE OF THE MULTIPLE SIGNAL CLASSIFICATION (MUSIC) ALGORITHM; filed 26 June 1998.// Patent application 09/114,248: SYSTEM AND METHOD FOR ALIGNMENT OF STOWAGE DRUM AND CAPSTAN IN A SEAGOING VESSEL; filed 6 July 1998.//Patent application 09/120,874: BALLAST SYSTEM FOR UNDERWATER VEHICLE; filed 14 July 1998.//Patent application 09/124,010: INTEGRAL SHIP-WEAPON MODULE; filed 29 July 1998.//Patent application 09/126,386: MOVING MAP COMPOSER (MMC); filed 30 July 1998.//Patent application 09/126,711: SYNCHRONIZING AUTONOMOUS CHAOTIC SYSTEMS USING FILTERS; filed 31 July 1998.//Patent application 09/131,844: SPINNING FOCAL PLANE ARRAY CAMERA PARTICULARLY SUITED FOR REAL TIME PATTERN RECOGNITION; filed 30 July 1998.// Patent application 09/136,975: ENERGETIC TRANSMISSION LINE COMPLETION/INTERRUPTION MECHANISM; filed 20 August 1998.// Patent application 09/137,083: ELECTRONIC DEVICES WITH BARRIER FILM AND PROCESS FOR MAKING SAME; filed 20 August 1998.//Patent application 09/137,084: ELECTRONIC DEVICES WITH BARIUM BARRIER FILM AND PROCESS FOR MAKING SAME; filed 20 August 1998.//Patent application 09/137/085: ELECTRONIC DEVICES WITH STRONTIUM BARRIER FILM AND PROCESS FOR MAKING SAME; filed 20 August 1998.//Patent application 09/137,086: ELECTRONIC DEVICES WITH CESIUM BARRIER FILM AND PROCESS FOR MAKING SAME; filed 20 August 1998.//Patent application 09/137,087: ELECTRONIC DEVICES WITH RUBIDIUM BARRIER FILM AND PROCESS FOR MAKING SAME; filed 20 August 1998.//Patent application 09/137,088: ELECTRONIC DEVICES WITH COMPOSITE ATOMIC BARRIER FILM AND PROCESS FOR MAKING SAME; filed 10 August 1998.// /Patent application 09/137,089: PROCESS FOR MAKING A SEMICONDUCTOR DEVICE WITH BARRIER FILM FORMATION USING A METAL HALIDE AND PRODUCTS THEREOF; filed 20 August 1998.// Patent application 09/137,419: PROCESS FOR PREPARING COMPOSITE WARHEAD CASINGS AND PROJECT; filed 20 August 1998.// /Patent application 09/140,738: BOOSTER CIRCUIT FOR FOLDBACK CURRENT LIMITED POWER SUPPLIES; filed 27 August 1998.//Patent application 09/140,740: LEAK TEST ADAPTER SYSTEM; filed 27 August 1998.//Patent application 09/144,105: COATED CATHODOLUMINESCENT PHOSPHORS; filed 31 August 1998.// Patent application 09/153,416: DEPLOYED EQUIPMENT MODULES FOR SATELLITE ARCHITECTURE IMPROVEMENT; filed 24 August 1998.// /Patent application 09/156,382: AIR-SAFED MECHANICAL WATER ACTUATOR; filed 18 September 1998.// /Patent application 09/156,383: PASSIVE RANGING USING INFERIOR MIRAGES; filed 18 September 1998.// Patent application 09/159,566: QUASI-STATIC FIBER PRESSURE SENSOR; filed 24 September 1998.//

FOR FURTHER INFORMATION CONTACT: Mr. John G. Wynn, Staff Patent Attorney, Office of Naval Research (Code 00CC), Arlington, VA 22217–5660, telephone (703) 696–4004.

(Authority: 35 U.S.C. 207; 37 CFR Part 404)

Dated: April 19, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–10532 Filed 4–26–99; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF ENERGY

Draft Site-Wide Environmental Impact Statement for Sandia National Laboratories/New Mexico

AGENCY: Department of Energy.

ACTION: Notice of availability and public hearings.

SUMMARY: The Department of Energy (DOE) announces the availability of the Draft Site-Wide Environmental Impact Statement (SWEIS) for Sandia National Laboratories/New Mexico (SNL/NM), DOE/EIS–0281, for public review and comment. DOE proposes to continue operating SNL/NM, located in central New Mexico. DOE has identified and assessed three alternatives for the operation of SNL/NM: (1) No Action, (2) Expanded Operations, and (3) Reduced Operations.

DATES: Written comments on the Draft SWEIS are invited from the public during the comment period, which ends June 15, 1999 (see **ADDRESSES** section for more details). Comments must be postmarked by June 15, 1999, to ensure consideration; late comments will be considered to the extent practicable. The DOE will use the comments received to help prepare the Final SWEIS. Public hearings on the Draft SWEIS are scheduled in Albuquerque, New Mexico, for:

Wednesday, May 19, 1999, at the University of New Mexico Continuing Education Center, 1634 University Blvd., NE. The Education Center is located just north of the intersection of University and Indian School Road. There will be two sessions from 1–5 p.m. and from 6–9 p.m.

Thursday, May 20, 1999, at Manzano High School, 12200 Lomas Blvd., NE. The school is located on the south side

of Lomas Blvd. between Juan Tabo and Tramway. There will be two sessions from 3–5 p.m. and from 6–9 p.m.

Saturday, May 22, 1999, at the South Broadway Cultural Center, 1025 Broadway, SE. The Cultural Center is located on Broadway, 3 blocks north of the intersection with Avenida Cesar Chavez. There will be only one session from 1–4:30 p.m.

The hearings will provide opportunities for information exchange and discussion among DOE, SNL/NM, and the public, as well as for submitting prepared statements. Public hearing locations and times will also be announced in local media closer to the meeting dates. For more information call (888) 635–7305.

ADDRESSES: Comments may be submitted in writing to DOE by contacting: Julianne Levings, SNL/NM SWEIS Project Manager, U.S. DOE, Albuquerque Operations Office, EISPO, PO Box 5400, Albuquerque, NM 87185–5400.

Ms. Levings may also be contacted by telephone (888) 635–7305, fax (505) 845–6392, or via e-mail at inforequest@nepanet.com. Oral and written comments may also be provided at the public hearings listed in the **DATES** section. Requests for copies of the Draft SWEIS or other matters regarding this environmental review should be addressed to Ms. Levings at the address above. Summaries of the Draft SWEIS are available in Spanish. The Draft SWEIS is also available in full under the NEPA Analyses Module of the DOE NEPA Web Site at http://tis.eh.doe.gov/nepa/.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, EH–42, Director, Office of NEPA Policy and Assistance, Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585.

Ms. Borgstrom may be contacted by calling (202) 586–4600 or by leaving a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION: The Draft SWEIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321 *et seq.*], the Council on Environmental Quality NEPA regulations [40 CFR part 1500], and the DOE NEPA regulations [10 CFR part 1021].

The Department proposes to continue operating the SNL/NM, which is located in central New Mexico. DOE has identified and assessed three alternatives for the operation of SNL/NM: (1) No Action, (2) Expanded Operations, and (3) Reduced Operations. In the No Action Alternative, DOE would continue the status quo; that is, operating at planned levels as reflected in current DOE management plans. In the Expanded Operations Alternative, DOE would increase activity at SNL/NM to the highest reasonable level that could be supported by current facilities and the potential expansion/construction of new facilities specifically addressed in the SWEIS. Under the Reduced Operations Alternative, activities would be reduced to the minimum level of operations needed to maintain SNL/NM facilities and equipment in an operational readiness mode. DOE does not currently have a preferred alternative, but will identify in the Final SWEIS a preferred alternative, which could be a combination of the alternatives analyzed.

The Draft SWEIS identifies the expected environmental impacts from facility operations for each alternative, and presents comparisons of these impacts among the three alternatives. For each alternative, impacts are presented for resource areas (e.g., land use, geology and soils, and water) and topic areas (e.g., waste generation, transportation, and environmental justice).

The Notice of Intent for the preparation of the Draft SWEIS (62 FR 29332, May 30, 1997) announced that the United States Air Force (USAF) would act as a cooperating agency because of the interdependence between Kirtland Air Force Base (KAFB) and the DOE when planning for SNL/NM. The USAF has participated in planning meetings; provided data projections for KAFB facilities; and reviewed analytical methodologies, analyses, and preliminary drafts of the SWEIS.

DOE has distributed copies of the summary of the Draft SWEIS to appropriate Congressional members and committees, and copies of the Draft SWEIS to the State of New Mexico, American Indian Tribal governments, local county governments, other Federal agencies, and interested parties who have requested copies. The Draft EIS is also available for public review and copying at the following four locations:

University of New Mexico Zimmerman Library, Government Document Collection, Albuquerque, NM.

Albuquerque Technical Vocational Institute (TVI), Joseph Montoya Campus Library, 4700 Morris, NE, Albuquerque, NM.

TVI Main Campus Library, 525 Buena Vista Dr., SE, Albuquerque, NM.

U.S. Department of Energy, Freedom of Information Reading Room, Room 1E–190, 1000 Independence Ave, SW, Washington, DC.

After the 60-day public comment period, which ends June 15, 1999, the Department will consider and respond to the comments received, revise the Draft SWEIS as appropriate, and issue a Final SWEIS. The Department will consider the analyses in the Final SWEIS, along with other information, in making a decision on the appropriate level of operations for SNL/NM.

Signed in Washington, DC, this 20th of April 1999, for the United States Department of Energy.

Victor H. Reis,

Assistant Secretary for Defense Programs.

[FR Doc. 99–10515 Filed 4–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Engineering and Environmental Laboratory

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, May 18, 1999, Wednesday, May 19, 1999.

TIMES: 8:00 a.m.–6:00 p.m. 8:00 a.m.–5:00 p.m.

ADDRESSES: The Red Lion Inn, 621 21st Street, Lewiston, Idaho 83501, 1–800–232–6730.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy Lowe, INEEL CAB Facilitator, Jason Associates Corporation, 477 Shoup Avenue, Suite 205, Idaho Falls, ID 83402, (208)-522-1662 or visit the Board's Internet homepage at *http://www.ida.net/users/cab*.

Public Comment sessions will be held: Tuesday, May 18, 1999 throughout the day following board presentations and at the scheduled time of 4:30–5:00 p.m.; Wednesday, May 19, 1999, only between 4:00–4:15 p.m.

These times are subject to change as the meeting progresses, depending on the extent of comment offered. Please check with the meeting facilitator to confirm these times.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations

to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the INEEL.

Tentative Agenda

Provide presentations on the following topics:

- Waste Management Programmatic Environmental Impact Statement Settlement Agreement;
- Modeling of Plutonium Contamination Mitigation at the Idaho National Environmental Engineering Laboratory (INEEL);
- INEEL High Level Waste and Facilities Disosition Environmental Impact Statement alternatives;
- New centers for excellence at the University of Idaho; and the
- Environmental Protection Agency's Standards for Radionuclides in the Drinking Water

Discuss

- Introduction to future SSAB Stewardship Seminar
- Agenda Priority Setting
- Committee Reorganization
- Followup from Self-Evaluation Retreat held in March 1999

Finalize the Proposed Plan for Waste Area Group 5 (Power Burst Facility & Auxiliary Reactor Area)

A final agenda will be available at the meeting or visit the Citizen's Advisory Board's Internet Site at *www.ida.net/users/cab/*

Public Participation: The meeting is open to the public. Written statements may be filed with the Board facilitator either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact the Board Chair at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Jerry Bowman, Assistant Manager for Laboratory Development, Idaho Operations Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Every individual wishing to make public comment will be provided equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Charles M. Rice, INEEL CAB Chair, 477 Shoup Ave., Suite 205, Idaho Falls, Idaho 83402 or by calling the Board's facilitator at (208) 522–1662.

Issued at Washington, DC on April 22, 1999.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–10516 Filed 4–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–64–000, et al.]

The Cleveland Electric Illuminating Company, et al.; Electric Rate and Corporate Regulation Filings

April 20, 1999.

Take notice that the following filings have been made with the Commission:

1. The Cleveland Electric Illuminating Company

[Docket No. EC99–64–000]

Take notice that on April 16, 1999, The Cleveland Electric Illuminating Company (CEI) filed an application pursuant to section 203 of the Federal Power Act, 16 U.S.C. § 824b, for authorization to acquire certain jurisdictional transmission facilities. CEI states that copies of the Application were served on the Public Utilities Commission of Ohio and the Pennsylvania Public Utility Commission.

Comment date: May 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Nevada Sun-Peak Limited Partnership

[Docket No. EC99–65–000]

Take notice that on April 16, 1999, Nevada Sun-Peak Limited Partnership, c/o Oxbow Sun-Peak Power, Inc., 9790 Gateway Drive, Suite 220, Reno, NV 89511, filed with the Federal Energy Regulatory Commission under section 203 of the Federal Power Act an application for approval, and for disclaimer of jurisdiction, or alternatively, approval of dispositions of jurisdictional facilities.

Comment date: May 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Mt. Wheeler Power, Inc.

[Docket No. EL99–61–000]

Take notice that on April 14, 1999, Mt. Wheeler Power, Inc. (Mt. Wheeler) submitted for filing an Application for Waiver of the Requirements of Order Nos. 888 and 889, in accordance with section 35.28(d) of the Rules of the Federal Energy Regulatory Commission (Commission), 18 CFR 35.28(d).

Mt. Wheeler states that it owns, operates, or controls only limited and discrete transmission facilities that do not constitute an integrated grid. Mt. Wheeler states that it thus qualifies for a waiver of application of the requirements of Order Nos. 888 and 889 to it, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Comment date: May 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Mid-Power Services Corp. Bridgeport Energy, L.L.C. DC Tie, Inc.

[Docket Nos. ER97–4257–008; ER98–2783–002; ER91–435–029]

Take notice that on April 15, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/ online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

5. Public Service Electric and Gas Company

[Docket No. ER97–3189–024]

Take notice that on April 15, 1999, Public Service Electric and Gas Company (PSE&G), tendered for filing a compliance report regarding refunds made in connection with the settlement of Docket No. ER97–3189–008.

PSE&G states that a copy of this filing has been provided to the New Jersey Board of Public Utilities and to the affected wholesale customers.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. PJM Interconnection, L.L.C.

[Docket No. ER97–3189–025]

Take notice that on April 15, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing confidential refund reports in compliance with the Commission's orders in Docket Nos. ER97–3189–001 through 008.

Copies of the transmittal letter (without the accompanying confidential

reports) were served upon all affected customers and state commissions.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Alpena Power Marketing, L.L.C., TransCanada Power Marketing Ltd., IGI Resources, Inc., Dynegy Power Services, Inc., Power Providers Inc., Progas Power, Inc., FPL Energy Power Marketing, Inc., FPL Energy Maine, Hydro, Inc., FPL Energy Mason, LLC, FPL Energy Wyman, LLC, FPL Energy Wyman IV, LLC, FPL Energy AVEC, LLC

[Docket Nos. ER97–4745–006, ER98–564–003, ER95–1034–015, ER94–1612–021, ER96–2303–011, ER95–968–008, ER98–3566–002, ER98–3511–002, ER98–3562–002, ER98–3563–002, ER98–3564–002, and ER98–3565–002

Take notice that on April 16, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/ online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

8. Virginia Electric and Power Company

[ER99–1884–000]

Take notice that on April 15, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing an unexecuted Service Agreement for Long Term Firm Point-to-Point Transmission Service (OASIS #73454) with PECO Energy Company under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide Long Term Firm Point-to-Point Transmission Service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of January 1, 2000.

Copies of the filing were served upon PECO Energy Company, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Virginia Electric and Power Company

[Docket No. ER99–1885–000]

Take notice that on April 15, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing two (2) unexecuted Service Agreements for Long Term Firm Point-to-Point Transmission Service (OASIS #74047 and OASIS #74048) with The Wholesale Power Group under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreements, Virginia Power will provide Long Term Firm Point-to-Point Transmission Service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of January 1, 2000.

Copies of the filing were served upon The Wholesale Power Group, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Kansas City Power & Light Company

[Docket No. ER99–2500–000]

Take notice that on April 14,1999, the above-mentioned public utility filed their quarterly transaction report for the first quarter ending March 31, 1999.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Duke Energy Corporation

[Docket No. ER99–2502–000]

Take notice that on April 15, 1999, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Enron Power Marketing, Inc. (Enron), for Firm Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on March 7, 1999.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Central Illinois Light Company, Wisconsin Electric Power Company

[Docket Nos. ER99–2503–000 and ER99–2504–000]

Take notice that on April 15, 1999, the above-mentioned public utilities filed their quarterly transaction report for the first quarter ending March 31, 1999.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. UtiliCorp United Inc.

[Docket No. ER99–2505–000]

Take notice that on April 15, 1999, UtiliCorp United Inc., tendered for filing a Service Agreement under its Market-Based Power Sales Tariff, FERC Electric Tariff Original Volume No. 28, with PanCanadian Energy Services. The Service Agreement provides for the sale of capacity and energy by UtiliCorp United Inc., to PanCanadian Energy Services pursuant to the tariff.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective April 15, 1999, in accordance with its terms.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Deseret Generation & Transmission Co-operative

[Docket No. ER99–2506–000]

Take notice that on April 15, 1999, Deseret Generation & Transmission Co-operative (Deseret), tendered for filing with the Federal Energy Regulatory Commission a petition for authority to sell power at market-based rates and for certain waivers pursuant to Section 35.12 of the Commission's Regulations.

Copies of this filing were served upon Deseret's members.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Central Illinois Light Company

[Docket No. ER99–2507–000]

Take notice that on April 15, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and two service agreements with two new customer, Minnesota Power, Inc., and PanCanadian Energy Services, Inc.

CILCO requested an effective date of April 7, 1999.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Central Illinois Light Company

[Docket No. ER99–2508–000]

Take notice that on April 15, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and two service agreements with

two new customers, Minnesota Power, Inc., and PanCanadian Energy Services, Inc.

CILCO requested an effective date of April 7, 1999.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Tenaska Power Services Company

[Docket No. ER99–2509–000]

Take notice that on April 15, 1999, Tenaska Power Services Company (Tenaska), tendered for filing in accordance with Section 12.3 of the Governing Agreement of the Southwest Regional Transmission Association, notice of withdrawal from the Southwest Regional Transmission Association.

Tenaska requests that such withdrawal become effective immediately.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Central Maine Power Company

[Docket No. ER99–2510–000]

Take notice that on April 15, 1998, Central Maine Power Company (CMP), tendered for filing as an initial rate schedule pursuant to Section 35.12 of the Federal Energy Regulatory Commission's regulations, 18 CFR 35.12 (1998), an interconnection agreement (IA) with Rumford Power Associates, a Maine limited partnership (RPA). The IA provides for interconnection service to RPA at the rates, terms, charges, and conditions set forth therein.

CMP is requesting that the IA become effective on April 16, 1999.

Copies of this filing have been served upon the Maine Public Utilities Commission and RPA.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Florida Power & Light Company

[Docket No. ER99–2521–000]

Take notice that on April 16, 1999, the above-mentioned public utility filed their quarterly transaction report for the first quarter ending March 31, 1999.

Comment date: May 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. IMC-Agrico Company

[Docket No. QF99–61–000]

Take notice that on March 30, 1999, IMC-Agrico Company (IMCA), whose address is 5000 Old Highway 37, P.O. Box 2000, Mulberry, Florida 33860, tendered for filing with the Federal Energy Regulatory Commission an application for certification of a facility as a cogeneration facility pursuant to section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

IMCA's proposed facility is a topping cycle cogeneration facility fueled by natural gas that will produce electricity and provide steam to an adjacent facility, which will in turn produce distilled water for IMCA's internal system. Distilled water may also be made available for sale to third parties. Electricity will be generated using combustion turbine generators and a steam turbine generator for a combined maximum gross output of 400 MW.

IMCA's proposed facility will interconnect with the transmission system for one or more of IMCA's incumbent utilities (Tampa Electric Company, Florida Power Corporation and Peace River Electric Cooperative), which may provide wheeling service and supplementary and backup power to the proposed facility, and purchase useful electric power output of the facility to the extent not consumed internally by IMCA.

Comment date: April 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10458 Filed 4–26–99; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6331–4]

Agency Information Collection Activities: Proposed Collection; Comment Request; Clean Water Act Section 404 State-Assumed Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Clean Water Act Section 404 State-Assumed Programs; OMB No. 2040–0168; EPA ICR No. 0220.07; expiration date 10/31/99. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 28, 1999.

ADDRESSES: US Environmental Protection Agency, Wetlands Division (4502F), 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lori Williams, 202–260–5084; fax 202–260–8000; williams.lorraine@epa.gov

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those states/tribes requesting assumption of the Clean Water Act Section 404 permit program; states/tribes with approved assumed programs; and permit applicants in states or tribes with assumed programs.

Title: Clean Water Act Section 404 State-Assumed Programs (OMB Control No. 2040-0168; EPA ICR No. 0220.07) expiring 10/31/99.

Abstract: Section 404(g) of the Clean Water Act authorizes states [and tribes] to assume the Section 404 permit program. States/tribes must demonstrate that they meet the statutory and regulatory requirements (40 CFR part 233) for an approvable program. Specified information and documents must be submitted by the state/tribe to EPA to request assumption. Once the required information and documents are submitted and EPA has a complete assumption request package, the statutory time clock for EPA's decision to either approve or deny the state/tribe's assumption request starts. The information contained in the assumption request is made available to

the other involved federal agencies (Corps of Engineers, Fish and Wildlife Service and National Marine Fisheries Service) and to the general public for review and comment.

States/tribes must be able to issue permits that comply with the 404(b)(1) Guidelines, the environmental review criteria. States/tribes and the reviewing federal agencies must be able to review proposed projects to evaluate and/or minimize anticipated impacts. EPA's assumption regulations establish recommended elements that should be included in the state/tribe's permit application, so that sufficient information is available to make a thorough analysis of anticipated impacts. These minimum information requirements are based on the information that must be submitted when applying for a section 404 permit from the Corps of Engineers.

EPA is responsible for oversight of assumed programs to ensure that state/tribal programs are in compliance with applicable requirements and that state/tribal permit decisions adequately consider and minimize anticipated impacts. States/tribes must evaluate their programs annually and submit an annual report to EPA assessing their program. EPA's assumption regulations establish minimum requirements for the annual report. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: EPA's currently approved ICR includes 101,440 hours. The state/tribe's assumption request is a one-time request; a permit application is made each time someone desires to do work that involves the discharge of dredged or fill material into waters of the United States, including wetlands; and a state/tribe with an approved program must submit an annual report to EPA each year. This collection is split into three pieces:

(i) We estimate that a state/tribe will need 520 hours (approximately ¼ of a work year) to prepare the documentation for EPA to determine that a state/tribe's assumption request is complete. We estimate that $45,000 (mid-range of a GS–11) is an average state/tribal employee salary. This results in a one-time cost of $11,250. We estimate that 2 states or tribes may request program assumption over the next three years. This results in a total one-time burden of 1,040 hours and a total cost of $22,500.

(ii) We estimate that the average time needed to complete a permit application is five hours. The actual time to complete a permit application will vary greatly depending on the size and location of a planned project. Small projects will require less time; large, complex projects could require significantly more time. We estimate that the "average" assumed program will process 5,000 permits a year. This results in a burden of 25,000 burden hours per year per assumed program. This figure will vary with the assumed program. It is likely that some states/tribes will have significantly fewer permit applications requested each year; others may have more. It is impossible to estimate the cost of filing an "average" permit application. The application for small projects can be completed by the permit applicant with little or no cost incurred. The permit application for larger, complex projects may require hiring outside parties such as environmental and engineering firms, surveyors and lawyers.

(iii) We estimate that a state/tribe will need 80 hours to collect and analyze the information and prepare the annual report. Using the $45,000 for an average state/tribal employee salary results in an approximate cost of $1,800 to prepare the annual report.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 16, 1999.

Robert H. Wayland III,

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 99–10524 Filed 4–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6331–6]

Gulf of Mexico Program Focus Teams Meeting

AGENCY: U.S. Environmental Protection Agency (US EPA).

ACTION: Notice of meeting of the Gulf of Mexico Program (GMP) Focus Teams and Support Committees.

SUMMARY: Under the Federal Advisory Act, P.L. 92463, EPA gives notice of a comprehensive meeting of GMP Focus Teams (Public Health, Nutrient Enrichment, Habitat, and Nonindigenous Species) and Support Committees.

DATES: The comprehensive meeting will be held on Wednesday, May 26, 1999 from 1:00 p.m. to 5:30 p.m. and on Thursday, May 27, 1999 from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Hilton New Orleans Riverside, Poydras at the Mississippi River, New Orleans, LA (504) 561–0500.

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: The proposed agenda items will include: Program Overview, Priority Watershed Analysis, Assessment Case Study—Barataria-Terrebonne, Overview and Discussion of GMP Workplan, Focus Team Leaders' Reports, and Discussion of Next Steps.

The meeting is open to the public.

Dated: April 19, 1999.

James D. Giattina,

Director, Gulf of Mexico Program Office.

[FR Doc. 99–10525 Filed 4–26–99; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY (OSTP)

Meeting of the President's Committee of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Committee of Advisors on Science and Technology (PCAST), and describes the functions of the Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES AND PLACE: May 24 and 25, 1999, Washington, DC. On May 24, this meeting will take place in the Truman Room (Third Floor) of the White House Conference Center, 726 Jackson Place, NW, Washington, DC. On May 25, this meeting will take place at the American Association for the Advancement of Science meeting at 1200 New York Avenue, NW, Washington, DC.

TYPE OF MEETING: Open.

PROPOSED SCHEDULE AND AGENDA: The President's Committee of Advisors on Science and Technology (PCAST) is tentatively scheduled to meet in open session on Monday, May 24, 1999, at approximately 1 p.m. to discuss (1) Department of Transportation science and technology initiatives (2) the work of the PCAST panels (3) the impact of science and technology on the economy. This session will end at approximately 5:30 p.m. On May 25, the PCAST will host a session for public discussion of the principles on Federal government-university research partnership in the Presidential Review Directive Report NSTC–4.

PUBLIC COMMENTS: For the May 24 session, there will be a time allocated for the public to speak on any of the above agenda items. Please make your request for the opportunity to make a public comment five (5) days in advance of the meeting. Written comments are welcome any time prior to or following the meeting. Please notify Joan P. Porter, PCAST Executive Secretary, at (202) 456–6101 or fax your requests/comments to (202) 456–6026.

For the May 25 session, public comment is requested to speak about the Federal government-university partnership principles. Written comments are welcome any time prior to or following the meeting. Please notify Sybil Francis, Division of Science, Office of Science and Technology Policy, at (202) 456–6040 or Joan P. Porter at (202) 456–6101 or fax your requests/comments to (202) 456–6026.

FOR FURTHER INFORMATION: For information regarding time, place, and agenda, please call Joan P. Porter, PCAST Executive Secretary, at (202) 456–6101, prior to 3 p.m. on Friday, May 21, 1999. Please note that public seating for this meeting is limited, and is available on a first-come first served basis.

SUPPLEMENTARY INFORMATION: The President's Committee of Advisors on Science and Technology was established by Executive Order 12882, as amended, on November 23, 1993. The purpose of PCAST is to advise the President on matters of national importance that have significant science and technology content, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Committee members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by the Assistant to the President for Science and Technology, and by John Young, former President and CEO of the Hewlett-Packard Company.

Dated: April 22, 1999.

Barbara Ann Ferguson,

Administrative Officer, Office of Science and Technology Policy.

[FR Doc. 99–10561 Filed 4–26–99; 8:45 am]

BILLING CODE 3170–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 37]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35), the Export-Import Bank of the United States is submitting to the Office of Management and Budget (OMB) a request to review and approve both an extension and revision to several insurance forms which will all expire on May 31, 1999. The Export-Import Bank of the United States (Ex-Im Bank) provides a variety of export credit insurance policies to exporters and institutions financing exports. The forms covering these policies are the applications for insurance which incorporate questionnaires and certificates. They provide information which allows the Bank to obtain legislatively required reasonable assurance of repayment and they fulfill other statutory requirements. The forms EIB 92–34, –41, –45, –48, –50, –64, and 92–79 now request, but do not require, gender and ethnic identification. EIB Form 92–48 has been revised to include Ex-Im Bank guidelines describing standards of creditworthiness for foreign obligors and, under certain circumstances, the form will require demonstration that such standards are met. The revisions to EIB 92–48 will probably result in a longer response time. All of the forms require a three-year extension. A request for public comment on this was published in 64 FR, 6654, February 10, 1999. No comments were received.

DATES: Written comments should be received on or before May 27, 1999.

ADDRESSES: Direct all written comments or requests for additional information to OMB Desk Officer Jeffrey Hill, Office of Management and Budget, Information and Regulatory Affairs, New Executive Office Building, Washington, D.C. 20503, (202) 395–3176.

FOR FURTHER INFORMATION CONTACT: Daniel Garcia (202) 565–3335.

SUPPLEMENTARY INFORMATION: The following Ex-Im Bank forms (all with OMB Control Number 3048–0009) encompass a variety of export credit insurance policies. They affect all entities involved in the export of U.S. goods and services including exporters, banks, insurance brokers and non-profit or state and local governments acting as facilitators.

1. Application for Quotation Export Credit Insurance Commercial Bank Insureds, EIB 92–34.
2. Application for Short-Term Single-Buyer Coverage Financial Institution Buyer Credit Policies, EIB 92–41.
3. Financing or Operating Lease Converge Explanation of Application Form for Export Credit Insurance, EIB 92–45.
4. Application for Multibuyer Export Credit Insurance Policy, EIB 92–50.
5. Application for Short-Term Single-Buyer Policy (For Exporters Only), EIB 92–64.
6. Application for Export Credit Insurance Umbrella Policy, EIB 92–72.
7. Broker Registration Form, EIB 92–79.
8. Application for Export Credit Medium Term Insurance (Capital Goods and Services Only), EIB 92–48.

The notice currently being submitted to OMB lists the following information: (1) the titles of the information collections proposed; (2) the Office of the agency to collect the information; (3) the OMB approval number; (4) the description of the need for the

information and its proposed use; (5) the agency form numbers; (6) what members of the public will be affected by the proposals; (6) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of responses; (9) whether the proposal, in each case, is an extension or revision of the information collection. In addition the following burden statement has been submitted to OMB:

Type of Request: Revision and extension of expiration date.

Annual Number of Respondents: 1,500.

Annual Burden Hours: 1,500.

Frequency of Reporting or Use: Applications submitted one time; renewals annually.

Dated: April 22, 1999.

Daniel A. Garcia,

Agency Clearance Officer.

[FR Doc. 99–10527 Filed 4–26–99; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

April 16, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 28, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0572.

Title: Filing Manual for Annual International Circuit Status Reports.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 120.

Estimated Time Per Response: 17 hours.

Frequency of Response: Annually.

Total Annual Burden: 2040 hours.

Needs and Uses: The information will enable the Commission to discharge its obligation to authorize the construction and use of international common carrier transmission facilities. The information will be used by the Commission and the industry to determine whether an international common carrier is providing direct or indirect service to countries and to assess industry trends in the use of international transmission facilities. The information is extremely valuable because it not available from any other source.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–10444 Filed 4–26–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 21, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Satilla Financial Services, Inc., St. Marys, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Satilla Community Bank, St. Marys, Georgia (in organization).

Board of Governors of the Federal Reserve System, April 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10542 Filed 4–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, May 3, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10579 Filed 4–22–99; 4:54 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Federal Supply Service, Office of Transportation and Property Management, Property Management Division; Revision of SF 291, Report of Activities Generating Precious Metals

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/Federal Supply Service, Office of Transportation and Property Management, Property Management Division revised the SF 291, Report of Activities Generating Precious Metals to include metric measurements. You can obtain a camera copy in two ways:

On the internet. Address: http://www.gsa.gov/forms/forms.htm, or;

From Forms-X, Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Ms. Andrea Dingle (703) 305–6190. This contact is for information about completing the form only.

DATES: Effective April 27, 1999.

Dated: April 14, 1999.

Barbara M. Williams,

Deputy Standard and Optional, Forms Management Officer.

[FR Doc. 99–10545 Filed 4–26–99; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of Health and Human Services (DHHS), has submitted to the Office of Management and Budget (OMB) the following request for emergency review. We requesting an emergency review because the original OMB clearance for this project expired on 12/31/98 and the collection of this information is essential to the mission of the Department.

Without emergency approval of the proposed information collections described below, the Department can not complete this study that will answer key questions about assisted living and help inform state and federal policy-makers. The bulk of the data collection for this project has been successfully completed and preliminary analysis has begun but the remaining data collection is critical. To understand whether or not assisted living is meeting the needs of the frail elderly, we must get a clearer picture of the discharged residents. Policy makers currently have no information on this vulnerable population of frail elderly. The proposed data collection will provide information such as their length of stay, why they left assisted living, and what type of care setting they moved into after their discharge. This information is key because it will help answer crucial questions about whether assisted living meets its promise of allowing resident to "age in place" (thereby avoiding serious disruptions to their lives) and the degree to which assisted living serves as a viable alternative to nursing homes. These are important and timely policy issues that should benefit greatly from the study's findings.

And delay in our ability to collect these data is likely to compromise both response rates and data quality. Any increase in the time between re-contact and the original assessment of the resident, when consent for re-contact and contact information was obtained, will reduce the response rate. Contact information becomes less accurate as time passes, and delay will mean that project staff will simply not be able to find as many of the discharged residents. Data quality will be compromised because of increases in the time between their decision to leave the facility and project queries asking them to reconstruct the logic of that decision. In addition, with delay, mortality will be higher in the discharged resident sample, requiring the use of more proxy respondents, whose recollections or perceptions may be less reliable then responses from the residents themselves.

DHHS is requesting that OMB grant emergency approval for 180 days. We are requesting approval by *April 30, 1999.*

Title and Description of Information Collection: The data collection for which emergency clearance is sought is for the study "National Study of Assisted Living for the Frail Elderly (OMB 0990–0217)." Facilities included in the original field data collection will be contacted again. Project staff will determine which of the residents included in the original resident sample in the facility have left the facility. Using contact information obtained during the initial assessment, project staff will contact those respondents (or their proxy respondents) for a telephone interview. The interview will include inquiries about the respondents' reasons for selecting the original facility, changes over time in their preferences for different features of assisted living, their length of stay, specific reasons for leaving facility, and a description of their current residential setting. *Respondents*: Discharged residents or their proxies; *Number of Respondents:* 306; *Number of Responses per Respondent:* one; *Average Burden Per Response*: 19 minutes; *Total Burden*: 97 hrs.

To request more information or a copy of the proposed data collection, please contact Pam Doty on (202) 690–6443.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of information technology.

Written comments and recommendations for the proposed information collections should be immediately sent directly to the OMB Desk Officer designated at the following address:

OMB Human Resource and Housing Branch, Attention: Allison Eydt, New

Executive Office Building, Room 1000235, Washington, D.C. 20503

Comments may be faxed to Ms. Eydt at (202) 395–5167.

Please send a copy of your comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW, Washington, DC 200201.

Dated: April 16, 1999.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 99–10448 Filed 4–26–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations.

Time and Date: 9:30 a.m.–3:30 p.m., May 6, 1999.

Place: Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Status: Open.

Purpose: The Subcommittee on Populations will be finalizing two reports on: Data Needs in the Insular Territories and Data Issues in Medicaid Managed Care. The Subcommittee will also be discussing model contract language relating to data requirements in Medicaid managed care, and future work in post acute care.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person For More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Carolyn Rimes, Lead Staff Person for the NCVHS Subcommittee on Special Populations, Office of Research and Demonstrations, Health Care Financing Administration, MS–C4–13–01, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, telephone (410)–786–6620; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS website: http://aspe.os.dhhs.gov/ncvhs, where an agenda for the meeting will be posted when available.

Dated: April 20, 1999.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 99–10449 Filed 4–26–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreement for Community Partners for Healthy Farming (Intervention)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreement for Community Partners for Healthy Farming (Intervention), Program Announcement #99039, meeting.

Times and Dates: 8 a.m.—9 a.m., June 2, 1999 (Open); 9 a.m.—4:30 p.m., June 2, 1999 (Closed); 8 a.m.—4:30 p.m., June 3, 1999 (Closed).

Place: Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, Ga., Building 2, Auditorium A.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #99039.

Contact Person for More Information: Price Connor, Ph.D., National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, N.E., m/s D30 Atlanta, Georgia 30333. Telephone 404/639–2383, e-mail spc3@cdc.gov.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 21, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention CDC.

[FR Doc. 99–10468 Filed 4–26–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committee (NVAC), Subcommittee on Future Vaccines, Subcommittee on Immunization Coverage, and Subcommittee on Vaccine Safety: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meetings.

NAME: National Vaccine Advisory Committee (NVAC).

TIMES AND DATES: 9 a.m.–2 p.m., May 13, 1999; 8:30 a.m.–1 p.m., May 14, 1999.

PLACE: Hubert H. Humphrey Building, Room 505A, 200 Independence Avenue, SW, Washington, DC 20201.

STATUS: Open to the public, limited only by the space available.

NOTICE: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8 and 8:30 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

PURPOSE: This committee advises and makes recommendations to the Director of the National Vaccine Program on matters related to the Program responsibilities.

MATTERS TO BE DISCUSSED: Agenda items will include updates on the National Vaccine Program Office (NVPO) activities. There will be a report from the Institute of Medicine on Vaccine Priorities. There will be discussions on: The international measles control and elimination efforts; update on the Advisory Committee on Immunization Practices (ACIP) activities; update on general principles of Vaccine For Children Program (VFC); there will be a follow-up on immunization infrastructure; a discussion on the impact of new vaccines on anti-microbial use. There will be a report from the Assistant Secretary for Health and Surgeon General, update on Healthy People 2010 objectives; an update on pneumococcal and influenza morbidity and mortality. There will be discussions on: Pandemic influenza planning and global vaccine initiatives. There will be

reports from the Subcommittee on Future Vaccines, Subcommittee on Immunization Coverage, and the Subcommittee on Vaccine Safety.

NAME: Subcommittee on Immunization Coverage.

TIME AND DATE: 2 p.m.–5 p.m., May 13, 1999.

PLACE: Hubert H. Humphrey Building, Room 505A, 200 Independence Avenue, SW, Washington, DC 20201.

STATUS: Open to the public, limited only by the space available.

PURPOSE: This subcommittee will identify and propose solutions that provide a multifaceted and holistic approach to reducing barriers that result in low immunization coverage for children.

MATTERS TO BE DISCUSSED: This subcommittee will discuss: adult immunization in non-traditional settings; revisions of the Standards on Adult Immunization; the status of activities to sustain immunization coverage, an update on morbidity and mortality for influenza and pneumococcal disease; draft guidelines for implementation of new vaccines; the Children's Health Insurance Program (CHIP); and a draft statement on adolescent immunizations.

NAME: Subcommittee on Future Vaccines.

TIME AND DATE: 2 p.m.–5 p.m., May 13, 1999.

PLACE: Hubert H. Humphrey Building, Room 305, 200 Independence Avenue, SW, Washington, DC 20201.

STATUS: Open to the public, limited only by the space available.

PURPOSE: The Subcommittee on Future Vaccines will develop policy options and guide national activities which will lead to accelerated development, licensure, and best use of new vaccines in the simplest possible immunization schedules.

MATTERS TO BE DISCUSSED: This subcommittee will hold discussions regarding the IOM report on vaccines priorities.

There will be a discussion on orphan vaccines and global vaccines, and an update on the status of the paper "Lessons Learned From A Review Of The Development Of Selected Vaccines".

NAME: Subcommittee on Vaccine Safety.

TIME AND DATE: 2 p.m.–5 p.m., May 13, 1999.

PLACE: Hubert H. Humphrey Building, Room 325, 200 Independence Avenue, SW, Washington, DC 20201.

STATUS: Open to the public, limited only by the space available.

PURPOSE: This subcommittee will review issues relevant to vaccine safety and adverse reactions to vaccines.

MATTERS TO BE DISCUSSED: This subcommittee will discuss the mission of the Vaccine Safety Subcommittee, developing priorities for the Vaccine Safety Action Plan. There will be a discussion on the DHHS Communication Coalition. Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Felecia D. Pearson, Committee Management Specialist, NVPO, CDC, 1600 Clifton Road, NE, M/S A11, Atlanta, Georgia 30333, telephone 404/639–4450.

Director, Management Analysis Services Office, has been delegated the authority to sign Federal Register Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 21, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–10467 Filed 4–26–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Federal Case Registry Family Violence State Practices Survey.

OMB No.: New.

Description: Public Law 104–193, the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," requires the Office of Child Support Enforcement (OCSE) to develop a Federal Case Registry to improve the ability of State child support agencies to locate noncustodial parents and collect child support across State lines. This Federal Case Registry includes an indicator for Family Violence, meant to ensure a higher level of confidentiality on cases with the indicator. This indicator is provided by the State submitting the case information. OCSE would like to conduct a brief telephone survey to determine the methods used by States to place the indicator, so that the information may be shared with the other States.

Respondents: State, Local, or Tribal Government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
States	54	1	2	108

Estimated Total Annual Burden Hours: 108.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Lori Schack.

Dated: April 21, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–10453 Filed 4–26–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Medical Child Support Working Group

AGENCY: Administration for Children and Families, DHHS.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (FACA), notice is given of the third meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998. The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments.

DATES: The meeting of the MCSWG will be held on Wednesday, May 12, 1999, and Thursday, May 13, 1999, from 8:30 a.m. to approximately 4 pm.

ADDRESSES: The meeting will be held in the GSA Training Center, 490 L'Enfant Promenade North (Ninth and D Streets, SW), 3rd Floor, Room B, Washington, DC. All interested parties are invited to attend this public meeting. Seating may be limited and will be available on a first-come, first-serve basis. Persons needing special assistance, such as sign language interpretation or other special accommodation, should contact the Executive Director of the Medial Child Support Working Group, Office of Child Support Enforcement at the address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Samara Weinstein, Executive Director, Medical Child Support Working Group, Office of Child Support Enforcement, Fourth Floor East, Medical Child Support Working Group, Office of Child Support Enforcement, Fourth Floor East, 370 L'Enfant Promenade, SW, Washington, DC 20447 (telephone (202) 401–6953; fax (202) 401–5559; e-mail:sweinstein@acf.dhhs.gov). These are not toll-free numbers. The date, location and time for subsequent MCSWG meetings will be announced in advance in the **Federal Register**.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) (FACA), notice is given of a meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998 (Public Law 105–200).

The purpose of the MCSWG is to identity the impediments of the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments. This report will include: (1) Recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under interim regulations; (2) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677); (3) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs for child support, Medicaid and the Child Health Insurance Program; (4) appropriate measures to improve the availability of alternate types of medical support that are aside from health care coverage offered through the noncustodial parent's health plan, and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, co-payments, deductible, or payments for services not covered under a child's existing health coverage; (5) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act; and (6) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the MCSWG deems necessary.

The membership of the MCSWG was jointly appointed by the Secretaries of DOL and DHHS, and includes representatives of: (1) DOL; (2) DHHS; (3) State Child Support Enforcement Directors; (4) State Medicaid Directors; (5) employers, including owners of small businesses and their trade and industry representatives and certified human resource and payroll professionals; (6) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)); (7) children potentially eligible for medical support, such as child advocacy organizations; (8) State medical child support organizations; and (9) organizations representing State child support programs.

Agenda: The agenda for this meeting includes a discussion of the issues to be contained in the MCSWG's report to the Secretaries continuing recommendations for appropriate measures to address the impediments to the effective enforcement of medical child support as listed above.

Public Participation: Members of the public wishing to present oral statements to the MSCWG should forward their requests to Samara Weinstein, MCSWG Executive Director, as soon as possible and at least four days before the meeting. Such request should be made by telephone, fax machine, or mail, as shown above. Time permitting, the Chairs of the MCSWG will attempt to accommodate all such requests by reserving time for presentations. The order of persons making such presentations will be assigned in the order in which the requests are received. Members of the public are encouraged to limit oral statements to five minutes, but extended written statements may be submitted for the record. Members of the public also may submit written statements for distribution to the MCSWG membership and inclusion in the public record without presenting oral statements. Such written statements should be sent to the MCSWG Executive Director, as shown above, by mail or fax at least five business days before the meeting.

Minutes of all public meetings and other documents made available to the MCSWG will be available for public inspection and copying at both the DOL and DHHS. At DHHS, these documents will be available at the MCSWG Executive Director's Office, Office of Child Support Enforcement (OCSE), Administration for Children and Families, U.S. Department of Health and Human Services, Aerospace Building, Fourth Floor—East, 370 L'Enfant Promenade, SW, Washington, DC from 8:30 a.m. to 5:30 p.m. Questions regarding the availability of documents from DHHS should be directed to Andrew J. Hagan, OCSE (telephone (202) 401–5375). This is not a toll-free

number. Any written comments on the minutes should be directed to Ms. Samara Weinstein, Executive Director of the Working Group, as shown above.

Signed at Washington, DC, this 20th day of April, 1999.

David Gray Ross,

Commissioner, Office of Child Support Enforcement.

[FR Doc. 99–10487 Filed 4–26–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

[Docket No. 99F–0994]

Ciba Specialty Chemicals Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba Specialty Chemicals Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of phosphorothioic acid, *O,O,O*-triphenyl ester, tert-butyl derivatives, as extreme pressure-antiwear adjuvants for lubricants intended for incidental contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4657) has been filed by Ciba Specialty Chemicals Corp., 540 White Plains Rd., P.O. Box 2005, Tarrytown, NY 10591–9005. The petition proposes to amend the food additive regulations in § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570) to provide for the safe use of phosphorothioic acid, *O,O,O*-triphenyl ester, *tert*-butyl derivatives, as extreme pressure-antiwear adjuvants for lubricants intended for incidental contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: April 2, 1999.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10447 Filed 4–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0635]

General Electric Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 0B4615) proposing that the food additive regulations be amended to provide for the expanded safe use of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, which may contain up to 1 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polypropylene intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 5, 1998 (63 FR 41855), FDA announced that a food additive petition (FAP 8B4615) had been filed by General Electric Co., One Lexan Lane, Mt. Vernon IN 47620–9364. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, which may contain up to 1 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polypropylene complying with § 177.1520(c), items 1.1, 1.2, or 1.3, intended for use in contact with food. General Electric Co. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 15, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10445 Filed 4–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dental Products Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Dental Products Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 10, 1999, 10:30 a.m. to 6:30 p.m., and May 11, 1999, 8 a.m. to 3 p.m.

Location: Holiday Inn, Walker-Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Pamela D. Scott, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–5283, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12518. Please call the Information Line for up-to-date information on this meeting.

Agenda: On May 10, 1999, the committee will discuss, make recommendations, and vote on a premarket approval application (PMA) for a total temporomandibular joint (TMJ) prosthesis, which consists of the glenoid fossa prosthesis and the mandibular condyle prosthesis, for reconstruction of the TMJ. On May 11, 1999, the committee will discuss, make recommendations, and vote on a PMA that includes both a total TMJ prosthesis and a glenoid fossa prosthesis that can be used alone without the mandibular condyle prosthesis to reconstruct the TMJ. These PMA's were received in response to the final rule issued in the **Federal Register** of December 30, 1998 (63 FR 71743), requiring the filing of a PMA or a notice of completion of a

product development protocol for the total TMJ prosthesis (21 CFR 872.3940), the glenoid fossa prosthesis (21 CFR 872.3950), the mandibular condyle prosthesis (for permanent reconstruction; 21 CFR 872.3960), and the interarticular disc prosthesis (21 CFR 872.3970) under section 515(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(b)).

Procedure: On May 10, 1999, from 10:30 a.m. to 5:30 p.m., and May 11, 1999, from 8 a.m. to 3 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 5, 1999. Oral presentations from the public will be scheduled between approximately 11:15 a.m. and 11:45 a.m. on May 10, 1999, and between approximately 8:15 a.m. and 8:45 a.m. on May 11, 1999. Near the end of the committee deliberations on each day, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 5, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On May 10, 1999, from 5:30 p.m. to 6:30 p.m., the meeting will be closed to permit discussion of trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) regarding dental device issues.

FDA regrets that it was unable to publish this notice 15 days prior to the May 10 and 11, 1999, Dental Products Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Dental Products Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 20, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–10509 Filed 4–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0972]

Policy on the Disposition of Publications That Constitute Labeling; Draft Revised Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft revised Compliance Policy Guide (CPG 7153.13) entitled "Regulatory Policy on the Disposition of Publications that Constitute Labeling." We are revising the current CPG to provide clarification and further guidance to our field employees about when publications may constitute labeling for regulated products and to stress our policy with regard to the disposition of these materials when they cause a product to be in violation of the Federal Food, Drug, and Cosmetic Act.

DATES: You may submit written comments on the draft revised CPG by July 26, 1999.

ADDRESSES: You may submit written requests for single copies of the draft revised CPG to the Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0420. Please send two self-addressed adhesive labels to assist us in processing your requests, or you may fax your request to 301–827–0482. Please see the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document. Submit written comments on the draft revised CPG to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane rm., 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JoAnne C. Marrone, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1242.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has had a longstanding policy related to the seizure of books that constitute labeling for a product. We articulated this policy in a Compliance Policy Guide (CPG 7153.13) in December 1982, which we revised on August 31, 1989. In recent years, questions have arisen concerning when published materials may constitute labeling for regulated products, as well as our position and policy on the disposition of these materials. We intend this draft revised CPG to clarify these issues and to improve guidance to our field employees.

This draft Level 1 guidance document is being issued consistent with FDA's Good Guidance Practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on the disposition of publications that constitute labeling for a product that renders a product violative. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

II. Request for Comments

You may submit to the Dockets Management Branch (address above) written comments on the draft revised CPG entitled "Regulatory Policy on the Disposition of Publications that Constitute Labeling." You must submit two copies of any comments, except that you may submit one copy if you are an individual. You must identify your comments with the docket number found in brackets in the heading of this document. The agency will review all comments, but in issuing a final CPG, need not specifically address every comment. We will make changes to the CPG in response to comments, as appropriate. You may see a copy of the draft revised CPG and comments received in the office above between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

You also may download copies of the draft revised CPG to a personal computer with access to the World Wide Web (WWW). The Office of Regulatory Affairs' (ORA) home page entitled "compliance references" includes this draft revised CPG, and you may access it at "http//www.fda.gov/ora/compliance_ref/default.htm".

Dated: April 20, 1999.

Dennis E. Baker,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 99–10359 Filed 4–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0239]

Draft Guidance on Resolving Scientific Disputes Concerning the Regulation of Medical Devices; Administrative Procedures on Use of the Medical Devices Dispute Resolution Panel; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Resolving Scientific Disputes Concerning the Regulation of Medical Devices: An Administrative Procedures Guide to Use of the Medical Devices Dispute Resolution Panel." Section 404 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) directed FDA to ensure that it has effective processes to resolve the scientific disputes that occasionally arise between FDA and the regulated industry, including a review by an appropriate panel of experts to advise the agency on issues upon which industry and FDA professionals differ. This guidance is neither final nor is it in effect at this time.

DATES: Written comments concerning this guidance must be received by July 26, 1999. Written comments concerning the information collection requirements must be received by June 28, 1999.

ADDRESSES: Written comments concerning this guidance must be submitted to the Dockets Management Branch, (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for single copies on a "3.5" diskette of the draft guidance document entitled "Resolving Scientific Disputes Concerning the Regulation of Medical Devices: An Administrative Procedures Guide to Use of the Medical Devices Dispute Resolution Panel" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments on the collection of information requirements to the Dockets Management Branch (address above). Comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: James G. Norman, Center for Devices and Radiological Health (HFZ–2), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–4690.

SUPPLEMENTARY INFORMATION:

I. Background

FDA provides various mechanisms by which the device industry can obtain reconsideration of FDA decisions and actions under the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*), the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), and agency regulations. These processes are summarized in a guidance document entitled "Medical Device Appeals and Complaints Guidance on Dispute Resolutions," which is available from the CDRH web site at "http://www.fda.gov/cdrh/resolvingdisputes".

Section 404 of FDAMA added to these various mechanisms by directing FDA to ensure it has effective processes by which a medical device "sponsor, applicant, or manufacturer" can obtain independent review of a "scientific controversy" between that person and FDA. In the **Federal Register** of June 16, 1998 (63 FR 32733 and 32772), FDA published a direct final rule and a companion proposed rule amending § 10.75 (21 CFR 10.75) to add another method of resolving scientific controversies. This amendment stated that sponsors, applicants, or manufacturers of drugs (including human drugs, animal drugs, and human biologics), or devices may request review of scientific controversies by an appropriate scientific advisory panel or advisory committee. (Hereafter in this document, the term advisory committee includes scientific advisory panels.) By this amendment, FDA clarified that sponsors, applicants, and manufacturers of drugs, biologics, and devices are not limited solely to requesting internal supervisory review, but also have the right to request review of scientific controversies by appropriate advisory committees. FDA believes that in appropriate circumstances, advisory committees can provide the agency with useful insight and advice about the resolution of scientific controversies.

FDA initially used the direct final rule because it believed the amendment to § 10.75 was noncontroversial and in accord with FDAMA. In accordance with FDA's procedures for direct final rulemaking, the direct final rule stated that if FDA received no significant adverse comments, the direct final rule would go into effect on October 29, 1998. The direct final rule stated further that if FDA received any significant adverse comments, it would withdraw the direct final rule and consider all comments received on the companion proposed rule in the development of a final rule using the usual notice and comment rulemaking procedures. The comment period for the companion proposed rule ended on August 31, 1998. FDA received significant adverse comments in response to the direct final rule and the companion proposed rule. Therefore, in the **Federal Register** of September 23, 1998 (63 FR 50757), FDA withdrew the direct final rule.

Significant adverse comments asserted that the amendment to § 10.75 failed to provide a procedure that sponsors, applicants, and manufacturers could follow to request reviews under section 404 of FDAMA (section 404 reviews). The comments suggested that the regulation called for by section 404 of FDAMA should contain information such as the process for selecting members of an advisory committee convened to conduct a section 404 review, the timeframes for conducting the reviews, the standards for granting or denying a section 404 review, and the weight to be given to advisory committee recommendations.

In a final rule issued in the **Federal Register** on November 18, 1998 (63 FR 63978), FDA acknowledged the usefulness of much of this kind of information, but concluded that it should not be included in § 10.75. Because of the significant differences among FDA centers in applicable statutory provisions, existing appeal and dispute resolution mechanisms, and approaches to advisory committee management, FDA is adopting a center-based approach to the implementation of section 404 of FDAMA. Each affected center is responsible for developing and administering its own processes for handling requests for section 404 reviews and is issuing a guidance document containing specific information of the type suggested by the comments. The substantive differences in the programs in the affected centers, and the different matters that could be

the subject of a request for advisory committee review, preclude inclusion of this type of information in § 10.75.

The final rule amended § 10.75 by redesignating paragraph (b) as paragraph (b)(1) and by adding paragraph (b)(2) to read as follows:

A sponsor, applicant, or manufacturer of a drug or device regulated under the act or the Public Health Service Act (42 U.S.C. 262), may request review of a scientific controversy by an appropriate scientific advisory panel as described in section 505(n) of the act, or an advisory committee as described in section 515(g)(2)(B) of the act. The reason(s) for any denial of a request for such review shall be briefly set forth in writing to the requester. Persons who receive a center denial of their request under this section may submit a request for review of the denial. The request should be sent to the Chief Mediator and Ombudsman.

To implement the new provision and to comply with § 10.75, as amended, the Center for Devices and Radiological Health has created the Medical Devices Dispute Resolution Panel, which will operate under FDA's Medical Devices Advisory Committee. In addition to serving as a useful forum in which scientific disputes in general can be aired, the Medical Devices Dispute Resolution Panel will implement four provisions of the Federal Food, Drug, and Cosmetic Act:

(1) Section 514(b)(5)(B) of the act requires the establishment of an advisory committee to take referrals of any matter concerning the establishment, amendment, or revocation of a performance standard which requires the exercise of scientific judgment.

(2) Section 515(g)(2)(B) of the act requires the establishment of an advisory committee to take referrals of petitions for review of:

(a) the approval, denial, or withdrawal of approval of a premarket approval application, or

(b) the revocation of an approved product development protocol (PDP), a declaration that an approved PDP has not been completed, or a revocation of an approved Notice of Completion that permitted marketing of a device developed under a PDP.

(3) Section 522(b) of the act, which was added by section 212 of FDAMA, requires a process to resolve any disputes concerning the need for FDA to order a manufacturer to conduct postmarket surveillance for more than 36 months.

(4) Section 562 of the act requires FDA to provide a procedure for review of all scientific disputes regarding the regulation of medical devices, including review by an appropriate scientific advisory panel, but only to the extent that other provisions of the act or FDA regulations do not already provide a right of review. FDA believes its current procedures already provide methods to obtain review of most, if not all, scientific disputes. The establishment of the Dispute Resolution Panel provides an additional, more focused, procedure for the timely review of scientific disputes.

This draft guidance document sets forth guidelines that will govern the operation of the Medical Devices Dispute Resolution Panel. Those guidelines include the appointment of a CDRH Ombudsman, who will be designated to receive, review, and make recommendations with respect to requests for review by the resolution panel. CDRH intends to ensure that a center ombudsman is in place before final guidance goes into effect.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on "Resolving Scientific Disputes Concerning the Regulation of Medical Devices: An Administrative Procedures Guide to Use of the Medical Devices Dispute Resolution Panel." It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This draft guidance document is issued as a Level 1 guidance, consistent with GGP's.

III. Electronic Access

In order to receive "Resolving Scientific Disputes Concerning the Regulation of Medical Devices: An Administrative Procedures Guide to Use of the Medical Devices Dispute Resolution Panel" via your fax machine, call the CDRH Facts–On–Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number 1121 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the WWW. Updated on a regular basis, the CDRH home page includes "Resolving Scientific Disputes Concerning the Regulation of Medical Devices: An Administrative Procedures Guide to Use of the Medical Devices Dispute Resolution Panel," device safety alerts, **Federal Register** reprints, information on pre-market submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www.fda.gov/cdrh". "Resolving Scientific Disputes Concerning the Regulation of Medical Devices: An Administrative Procedures Guide to Use of the Medical Devices Dispute Resolution Panel" will be available at "http://www.fda.gov/cdrh/resolvingdisputes".

IV. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506 (c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Request for Resolution of Scientific Disputes Concerning the Regulation of Medical Devices

Description: Section 404 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) is intended to ensure that FDA has effective processes to resolve the scientific disputes that occasionally arise between FDA and the regulated industry. Section 404 added new section 562 of the act which requires FDA to establish, by regulation, a procedure under which a person who is a sponsor, applicant, or manufacturer may request a review of a scientific controversy, when no other provision of the act or regulation provides such review.

In a final rule issued in the **Federal Register** on November 18, 1998 (63 FR 63978), FDA amended 21 CFR 10.75 to reflect the provisions of FDAMA. Each affected FDA center is responsible for developing and administering its own processes for handling requests for section 404 reviews and is issuing a guidance document containing specific information of the type suggested by the comments. The draft guidance document outlines the requirements for persons who are sponsors, applicants, or manufacturers of medical devices and who wish to file a request for a review of a scientific dispute by the panel as set out in the guidance. Persons filing a request for review should provide a CDRH ombudsman with a concise summary of the scientific issue in dispute, including a summary of the particular FDA action or decision to which the requesting party objects, any prior advisory panel action and the results of all efforts that have been made to resolve the dispute, and a clear articulated summary of the arguments and relevant data and information. They may also provide material outside the official administrative record and not in the possession of FDA at the time the decision or action in dispute was made if it has a significant bearing on the issue or related public health considerations. The information that is collected will form the basis for resolving the dispute between the requester and FDA.

The likely respondents to this collection of information are medical device sponsors, applicants, or manufacturers who have a scientific dispute with FDA and who request a review of the matter by the Medical Devices Dispute Resolution Panel.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
6	1	6	20	120

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The Medical Devices Dispute Resolution Panel represents a new process for resolving scientific disputes. In arriving at the estimates in Table 1 of this document for the burden imposed in connection with a request for review by the Medical Devices Dispute Resolution Panel, FDA considered the number and substance of similar appeals of various types made to FDA in recent years, knowledge of similar submissions and discussions with manufacturers.

V. Comments

Interested persons may, on or before July 26, 1999, submit to Dockets Management Branch (address above) written comments regarding this draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Written comments concerning the information collection requirements must be received by the Dockets Management Branch by June 28, 1999. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 30, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–10446 Filed 4–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–3432–GN]

RIN 0938–AJ31

Medicare Program; Procedures for Making National Coverage Decisions

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: This notice announces the process we will use to make a national coverage decision for a specific item or service under sections 1862 and 1871 of the Social Security Act. This notice will streamline our decisionmaking process and will increase the opportunities for public participation in making national coverage decisions.

EFFECTIVE DATES: This notice is effective June 28, 1999.

FOR FURTHER INFORMATION CONTACT: Ron Milhorn, (410) 786–5663; Maria Ellis, (410) 786–0309, for a graphical representation of the process.

SUPPLEMENTARY INFORMATION:

Availability of Copies and Electronic Access

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/nara__docs/, by

using local WAIS client software, or by telnet to swais.access.gpo.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call 202–512–1661; type swais, then log in as guest (no password required).

I. Background

We published a notice on April 29, 1987 (52 FR 15560), that described the process we used to make Medicare coverage decisions, including decisions regarding whether new technology and services can be covered. We invited the public to comment on the procedures, and specifically on procedures for allowing greater public input into the coverage decisionmaking process when appropriate.

In response to the comments we received on that notice, we developed a proposed rule. That proposed rule set forth our process and criteria for making coverage decisions under the Social Security Act (the Act). In addition, the proposed rule described the relationship between our coverage decisions and the roles played by the Food and Drug Administration (FDA) and other parties, including Medicare contractors. We published the proposed rule on January 30, 1989 (54 FR 4302).

We have made changes to our internal procedures in response to the comments we received following publication of the 1987 notice and the January 1989 proposed rule. In addition, over the past year, we have received numerous requests to revise our process to make it more open, responsive, and understandable to the public. We share the goal of increasing public participation in the development of Medicare coverage issues. This will assist us in obtaining the information we require to make a national coverage decision in a timely manner and ensuring that the Medicare program continues to meet the needs of its beneficiaries.

II. Purpose of This Notice

We have decided not to adopt the January 29, 1989 proposed rule. This notice announces the process we will use to make a national coverage decision under the Medicare program. It sets forth the steps we are taking to make our national coverage decisionmaking process more open and understandable to the public. We intend to take the following steps:

- Explain why and how we make a national coverage decision and how we reconsider a previously-made decision. This notice outlines the review process and the steps involved. By offering this explanation, we hope to increase public awareness of the process we use, and to provide information about when and how the public may most effectively contact us to offer information on issues under consideration.
- Maintain a current list of issues we are considering for national coverage decisions. This list identifies our staff person responsible for reviewing each issue, the stage at which an issue is in the review process, and the materials we are reviewing to reach a decision on the issue.
- Make all of the above public and accessible using our Home Page (http://www.hcfa.gov) on the Internet as a primary tool for publicizing these matters. We believe use of our Home Page will offer quick and easy access that will enable the public to determine the status of any issue under review.
- Prepare and maintain a complete and indexed record for all issues that we review for national coverage decisions. This record, a summary of which will also be available on our Home Page as part of the record of the issue, will form the basis for any subsequent requests for reconsideration of the issue, as well as the formal record of review for any challenge to our coverage decision under section 1869(b)(3) of the Act.
- Continue to review new medical and scientific information in order to modify a national coverage decision when appropriate.

We are also announcing our intent to work with various sectors of the medical community to develop and publish guidance documents specific to their needs and interests. These "sector-specific" guidance documents will offer a more detailed explanation of how we would apply the general national coverage criteria to a new item or service proposed for coverage eligibility in the particular sector involved. Guidance documents will provide a vehicle for us to explain how the general criteria apply to the special circumstances unique to a particular sector of the health care industry. We will develop the guidance documents after we publish the proposed and final rules for the criteria we will use to make a national coverage decision.

This notice is intended to provide clearer information on our national coverage decisionmaking process, and to ensure that it is open and understandable to the public. We would welcome comments from the public on our process. Comments may be submitted to us in writing through the traditional mail service, or through our Home Page identified in section IV.K. of this notice.

III. Medicare Coverage—General Principles

A. Statutory Authority

Administration of the Medicare program is governed by title XVIII of the Act. Under the Medicare program, the benefits available to eligible beneficiaries are called "covered" services.

Medicare is a defined benefit program—the services covered are broadly defined in the Act, in what we call benefit categories. There are currently about 55 benefit categories in the Act, some broadly defined, others more narrowly defined. Specific health care services must fit into one of these benefit categories to be eligible for coverage under Medicare.

The Act does not list the specific items and services eligible for coverage under the Medicare program. Rather, it lists categories of items and services, and vests in the Secretary the authority to make decisions about which specific items and services within these categories can be covered by the Medicare program. That is, the Act allows Medicare to cover medical devices, surgical procedures, and diagnostic services, but generally does not specify which particular medical devices, surgical procedures, or diagnostic services can be covered, or, conversely, are excluded from coverage. The Congress vested in the Secretary the authority to make these more specific decisions regarding the items and services eligible for coverage under Medicare. Section 1862(a)(1)(A) of the Act states, in part, that no payment may be made for any expenses for services that are not "reasonable" and "necessary" for the diagnosis and treatment of illness or injury. For over 30 years, the Medicare program has exercised this authority to make coverage decisions regarding whether specific services that meet one of the broadly-defined benefit categories can be covered under the program.

We previously proposed that we would establish the procedures we would follow for making national coverage decisions by issuing regulations. The Administrative Procedure Act (APA), however, exempts "rules of agency organization, procedure, or practice" from the notice-and-comment rulemaking procedures (5 U.S.C. 553(b)(3)(A)). The primary purpose of the procedural rules exemption in the APA is to ensure that an agency retains latitude in organizing its internal operations. Additional flexibility is particularly important given the dynamic changes in the health care industry that may have a profound

effect on the health of Medicare beneficiaries.

The Congress has provided that national coverage decisions may be issued without requiring us to engage in notice-and-comment rulemaking procedures (sections 1871(a)(2) and 1869(b)(3)(B) of the Act). National coverage decisions are our national policy statements granting, limiting, or excluding Medicare coverage for a specific medical service, procedure, or device. A national coverage decision is binding on all Medicare carriers, fiscal intermediaries, peer review organizations (PROs), health maintenance organizations (HMOs), competitive medical plans (CMPs), health care prepayment plans (HCPPs) and, in the future, program safeguard contractors (PSCs) when published in HCFA program instructions or in the **Federal Register**. In addition, national coverage decisions made under section 1862(a)(1) of the Act may not be disregarded, set aside, or otherwise reviewed by an administrative law judge during the administrative appeals process (42 CFR 405.732 and 405.860).

By establishing the process we will use in making a national coverage decision by procedural rules rather than notice-and-comment rulemaking, we believe we will better be able to serve Medicare beneficiaries. Using a procedural rule does not mean that the process that we will use will be changed frequently or in an arbitrary manner. Before implementing any changes to the national coverage decision process, we will provide advance public notice about those changes. In addition, we will separately provide notice and an opportunity for public comment on the substantive criteria we would use in making a national coverage decision.

B. Medicare Contractors and Coverage Policies

We contract with private insurance companies, referred to as carriers and intermediaries to process Medicare claims (that is, claims-payment contractors). Local PROs (and, in the future, PSCs) are also involved in claims adjudication processes. We call all of these entities "Medicare contractors."

Medicare contractors review and adjudicate claims for services to assure that Medicare payments are made only for services that are covered under Medicare Part A or Part B. In the absence of a specific national coverage decision, coverage decisions are made at the discretion of the local contractors.

Contractors may also publish local medical review policies (LMRPs) to provide guidance to the public and medical community within a specified geographic area. These LMRPs explain when an item or service will be considered "reasonable and necessary" and thus eligible for coverage under the Medicare statute. If a contractor develops an LMRP, its LMRP applies only within the area it serves. While another contractor may come to a similar decision, we do not require it to do so. An LMRP may not conflict with a national coverage decision once the national coverage decision is effective. If a national coverage decision conflicts with a previously made LMRP, the contractor must change its LMRP to conform it to the national coverage decision. A contractor may, however, make an LMRP that supplements a national coverage decision.

IV. HCFA's Process for Making National Coverage Decisions

A. Initiation of Coverage Review Process

We will initiate our review process for making a national coverage decision when we identify issues internally that we wish to consider for a national coverage decision or when we receive a formal request for us to review an issue and make a national coverage decision.

1. Initiation Based on Internal Decisions

We will initiate our review process if we determine that a service requires a national coverage decision. Examples of when we may do this include, but are not limited to, the following:

- There are conflicting carrier or intermediary policies.
- The service represents a significant medical advance, and no similar service is currently covered under Medicare.
- The service is the subject of substantial controversy among medical experts as to its medical effectiveness.
- The service is currently covered, but is widely considered ineffective or obsolete.
- There are program integrity issues surrounding significant underutilization or overutilization of the service.

2. Initiation Based on External Formal Request

We will also initiate our review process if we accept an external formal request for a national coverage decision. The rules for a formal request are outlined in section B.2.

B. Informal Contacts and Formal Requests for HCFA Review

We will treat any communication we may receive from an individual or organization inquiring about a national coverage decision as either an informal contact or a formal request.

1. Informal Contacts

We currently receive public contacts by telephone or in writing that raise general questions about the coverage of services. We consider these to be informal contacts. These include questions asking us to explain the current coverage of a particular service, or to assist and advise the requestor about how to formally request that we make a national coverage decision.

If the contact leads to questions about how to request a national coverage decision, we will advise the requestor of the information we need to have submitted with a formal request. We will offer assistance to the requestor to clarify the amount and kind of information necessary for us to evaluate whether an item or service meets the statutory requirement that the item or service is "reasonable" and "necessary."

In some cases, we will assume the task of gathering and preparing the information necessary to proceed to a formal request. This may occur when the request is made by a Medicare beneficiary or another member of the public who we could not reasonably expect to have access to scientific data that may be necessary to support a formal request. Because we expect a considerable amount of contact and discussion with the requestor and because some flexibility is needed, we do not believe that strict timeframes are warranted following this informal contact.

Although informal contacts are not confidential, we will not announce an informal contact that may lead to a request on our Home Page. We will not release, to the extent permitted by law, company proprietary material, trade secrets, or other information shared with us on a confidential basis before the contact makes a formal request.

2. Formal Requests

We will require a requestor to make a formal request for a national coverage decision in the following manner:

- The request must be in writing.
- The requestor must identify the request as a "formal request for a national coverage decision."
- The requestor must submit supporting documentation that we will specify. At a minimum, the requestor must submit the following information:

+ A full and complete description of the service in question, including the benefit category or categories of the Medicare program to which it applies.

+ A compilation of the medical and scientific information currently available.

+ A description of any clinical trials or studies currently underway, which

might be relevant to a decision regarding the coverage of the service. This description should be as complete as possible without disclosing confidential information.

+ In the case of a drug, device, or a service using a drug or device subject to regulation by the FDA, the status of current FDA administrative proceedings concerning the drug or device involved. In the case of any item regulated by the FDA, the FDA labeling for the item, together with an indication of whether the service for which a review is being requested is covered under the labeled indication(s). We recognize that FDA changes the labeling of drugs and 510(k) devices and devices with premarket approvals (PMAs). For the purposes of our review, we are interested in the labeled indications at the time of the submission of the formal request. If, during our review, the labeled indications change, we expect the requestor to notify us.

+ In the case of a request for reconsideration, new evidence supporting the request or an analysis of our earlier decision demonstrating that we materially misinterpreted the evidence submitted with the earlier request.

Upon receipt of a formal request, we will quickly review the request to determine if the requestor submitted adequate supporting documentation to enable us to review the service. If we determine that the request lacks adequate supporting documentation to enable us to review the service to make a national coverage decision, we will notify the requestor and identify the information that we require to enable us to review the service. We will not post the request on our list of pending coverage issues on our Home Page until we receive adequate supporting documentation.

C. Acceptance of Formal Request, Initiation of Timeframes

If we determine the request is adequately supported, we will accept the request and begin our review process. Acceptance of a formal request starts a series of internal timeframes that we are establishing for ourselves in this notice to ensure that requests are processed in a timely manner. The discussion, negotiations, and other work done before that point do not count toward meeting these timeframes. If we initiate review of a service for purposes of making a national coverage decision, we will follow this same review process, post these issues on our Home Page, and generally follow our timeframes and maintain the same openness we provide for issues that have been raised by formal requests.

We expect the timeframes we are establishing in this notice for ourselves generally will be the timeframes that we believe we will need to respond to a complex coverage issue. Generally, we would be likely respond in a shorter amount of time if the issue is not as complex, is not controversial, or is supported by clear medical and scientific evidence that establishes that the item or service is "reasonable" and "necessary." Likewise, a significantly more complex and controversial coverage issue may result in longer processing timeframes. We understand the importance of making timely coverage decisions and the benefits that may be afforded Medicare beneficiaries. Therefore, we will expedite the processing of all formal requests for a coverage decision.

We will post the acceptance of a request by adding the item or service to the list of pending coverage issues on our Home Page. We will identify all subsequent actions, such as meetings and requests for assessments. This will permit interested individuals to track an issue through our entire review process. Interested individuals could contact us at optimal times to offer comments, furnish information (particularly scientific data), or meet to discuss the issue. This public tracking system will be a key element in making our national coverage decision process more efficient as well as more open and accessible to the public.

We will ordinarily respond in writing to the requestor within 90 calendar days of receiving the complete request. If the requestor submits additional medical and scientific information during this 90-day period, however, we will ordinarily respond to the requestor within 90 calendar days of receiving the additional information.

Because the FDA is charged with regulating whether devices or pharmaceuticals are safe and effective for use by consumers, we will generally accept a formal request for a device or a pharmaceutical only after it is officially approved or cleared for marketing by the FDA. One exception is if the FDA has granted a device a Category B investigational device exemption (IDE) or it has been approved as a nonsignificant risk IDE by an institutional review board. Our process for making a national coverage decision for Category B IDE devices is described in our regulations at 42 CFR 405.205. Parties interested in the coverage of a drug or device (other than a Category B IDE device), however, may contact us with an informal request while the drug or device is proceeding through the FDA approval process. We are willing to meet and discuss these situations. We will monitor the progress of the drug or device through the FDA process so that we may make a rapid coverage decision if FDA approval or clearance for marketing is obtained. The general timeframes we have set for formal requests will not begin, however, until we learn that the FDA has approved or cleared the device for marketing.

In general, within 90 days of receiving a formal request, we will respond in writing to the requestor and post this information on our Home Page. Our formal response to a formal request or an internally-initiated review will include, at a minimum, one of the following:

- A decision that the request duplicates another pending request and we will combine the requests and respond with a single decision.
- A decision that the request duplicates an earlier request for which we have already made a national coverage decision (and that there is insufficient new evidence to begin the process again).
- A referral for a technology assessment.
- A referral to the Medicare Coverage Advisory Committee (MCAC) for consideration.
- A national noncoverage decision (which precludes contractors from making Medicare payment).
- No national coverage decision (which allows for local contractor discretion).
- A national coverage decision with limitations on coverage.
- A national coverage decision without limitations on coverage.

If our decision is a national noncoverage decision or we decide not to make a national coverage decision, our response will also identify deficiencies in the evidence and the types of information that we will require to reach a national coverage decision or evidence we would need for us to withdraw a national noncoverage decision.

D. HCFA Processing of a Formal Request

We may process a formal request in one of the following ways:

1. Our review requires little or no outside input.

Issues that fall into this category are usually those for which the medical and scientific information submitted by the requestor (as well as any additional information available to us) is overwhelmingly in favor of, or against, coverage. We will usually complete our

review and issue our decision within 90 days of receiving the formal request.

2. Our review requires a referral to the MCAC or an outside assessment of the service.

Most national coverage issues fall into this category. These issues will generally be complex and controversial and often involve broad health policy concerns. Usually these issues also may require extensive consultation with specialty societies, medical researchers, and others familiar with the service and the evidence presented to support its coverage.

We will notify the requestor, usually well within 90 days from receiving the requestor's formal request, that the request will require a referral to the MCAC and the anticipated due date for our response. We will consider the need and amount of time for receiving a recommendation from the MCAC. If applicable, we will consider the need for, and amount of time that will be required to perform, a technology assessment and to review these findings. We will make every effort to assure that we obtain timely assessments.

We will inform the requestor that, although we will make every effort to meet the general timeframes, the use of assessments and/or a referral to the MCAC, together with the possibility of emerging new medical and scientific information, may sometimes result in revising our timeframe for responding to the request. We will post any changes for all timeframes on our Home Page to keep the public informed.

E. Additional Factors Affecting Our 90-Day Timeframe for Responding to Formal Requests

It is our intention to respond to a formal request for a national coverage decision within 90 days of receiving a request. In general, we expect to be able to meet our self-imposed timeframes. There may be circumstances, however, that would prevent us from meeting the timeframes. For instance, if the requestor subsequently submits additional information, or requests that our national coverage review be expanded or narrowed, we may decide that we are unable to respond until 90 days after receipt of the additional information or request. We would post the revised due date for our response on our Home Page. Also, if another interested individual submits additional information that materially affects our consideration of the issue, we may notify the requestor of the need to reset our due date for responding to the initial request.

In addition, if we discover additional information not submitted as part of the formal request (for example, reports of clinical trials, and assessments either completed or close to completion), we may notify the requestor and the public about the newly-discovered information and the need to reset our due date for responding to the initial national coverage decision request. For example, an assessment related to an issue we are considering may be scheduled to be issued shortly after our 90-day due date for responding to a formal request. We would normally wish to review the assessment because it may contain useful scientific and timely data before responding to the request. Also, changes or modifications in the FDA approval or clearance for marketing of a drug or device used in furnishing a service may affect the timing of our response to a formal request.

F. Medicare Coverage Advisory Committee

On December 14, 1998, we published a notice in the **Federal Register** (63 FR 68780) that announces the establishment of the MCAC. The MCAC will make recommendations to us about whether services can be considered "reasonable" and "necessary" under title XVIII of the Act. We expect the MCAC will meet approximately twice a year. The notice requested, by January 29, 1999, nominations for members for the Committee. (We have received more than 400 nominations.) The notice also announces the signing by the Secretary on November 24, 1998 of the charter establishing the Committee. This charter ends at close of business on November 23, 2000 unless renewed by the Secretary. The MCAC Charter is available on our Home Page.

In general, we may refer an issue to the MCAC if the service meets any of the following conditions:

- It is the subject of significant scientific or medical controversy—Is there a major split in opinion among researchers and clinicians regarding the medical effectiveness of the service, the appropriateness of staff or setting, or some other significant controversy that would affect whether the service is "reasonable" and "necessary" under the Act?
- It has the potential to have a major impact on the Medicare program.
- It is subject to broad public controversy.

If we refer a formal request to the MCAC, the discussion of the request at the MCAC meeting will be subject to the requirements of the Federal Advisory Committee Act. Therefore, we will publish a notice in the **Federal Register** generally 30 days before the meeting. It will announce the agenda and the time and place of the meeting so that all interested individuals will have the opportunity to attend the meeting and present their views. We will request that all evidentiary presentations be submitted to us in writing at least 20 days before the meeting. At the end of each meeting, there will be an additional period for the public to present comments. After considering all presentations and comments, the MCAC will create its recommendation to us concerning national coverage, which it must adopt by majority vote.

We expect the MCAC will make its recommendations to us as expeditiously as possible. We will provide an estimate of when we believe we will receive the MCAC referral; however, we cannot predict when the MCAC may decide, during its deliberations, that additional information is needed for it to make a recommendation to us.

Once the MCAC makes a formal recommendation to us, we will post it on our Home Page. Within 60 calendar days of receiving the recommendation, we will either adopt the MCAC recommendation (or adopt it with modifications) or notify the requestor and the public why we disagree with the MCAC recommendation. If we choose not to adopt the recommendation, our notification will explain the reasons why we have decided not to adopt the MCAC recommendation. We will also identify further evidence we will require be submitted to us. Again, we will post our decision on our Home Page.

G. Technology Assessments

During our review of a request, we may find that we will require a technology assessment to complete our review. Generally, a technology assessment provides a systematic analysis of the safety, efficacy, and effectiveness of a health care technology.

Two of the reasons we may request a technology assessment include the following:

- There is sufficient medical and scientific literature available to provide a basis for an assessment, but the complexity of the subject and/or complexity of the issue exceed our staff expertise or capability.
- The MCAC requests a technology assessment.

A key element of the assessment process is the need for the assessor to be impartial. If we require an assessment, we will obtain it from an impartial third party, such as the Agency for Health Care Policy and Research. Under agreement with us, the assessor will conduct or arrange for preparation or

purchase of the assessment, as appropriate.

If we receive a request for coverage on an item or service for which an assessment is already underway, we will immediately inform the requestor of the status and estimated timing of the assessment. If we initiate an assessment in response to a request, we will, within 45 days of requesting an assessment, inform the requestor of the estimated time for receiving the assessment.

We anticipate that a few technology assessments will be completed within 90 days of their initiation. Complex assessments will, of course, require additional time but will not normally take longer than 12 months from the time the assessment was begun. We will post completed technology assessments on our Home Page.

H. HCFA Announcement of National Coverage Decisions

Before we issue a national coverage decision as a ruling, program instruction to our contractors, or **Federal Register** document, we will announce our intention to make the national coverage decision in the form of a decision memorandum. The decision memorandum will merely announce our intention to make a national coverage decision. It will not be binding on our contractors until we publish the national coverage decision in the **Federal Register** or issue it as a program instruction or HCFA ruling.

If we do not refer an issue to the MCAC or for a technology assessment, we will forward the decision memorandum to the requestor and post it on our Home Page no later than 90 calendar days after we accept the formal request (or after we accept additional medical and scientific information supporting the request). In situations involving a referral to the MCAC or that require a technology assessment, we will forward the decision memorandum to the requestor and post it on our Home Page generally no later than 60 calendar days after receiving the MCAC recommendation or the technology assessment or the technical assessment followed by an MCAC recommendation.

The memorandum may contain remarks regarding the level and content of evidence presented and reviewed. Moreover, if significant, we will include the conclusions and recommendations of any assessments or the MCAC recommendations received. Finally, the memorandum may include any other factors that had a major influence on our decision, and will contain our rationale for the decision we made.

If we announce our intention to not cover or to reduce coverage of a service, the decision memorandum will include the reasons for noncoverage and identify the information we will require for a different coverage decision. The memorandum will not be effective immediately, but will become effective on the date specified in the national coverage decision.

I. Implementation of National Coverage Decisions

Within 60 calendar days of forwarding the decision memorandum to the requestor and posting the memorandum on our Home Page, we will issue a national coverage decision. As explained previously, we may publish a national coverage decision in a variety of forms such as program memorandum, manual instruction, HCFA ruling, or **Federal Register** notice. We will also publish a reference to each national coverage decision in the **Federal Register** as part of our quarterly listing of program issuances. We could also choose to publish a general notice in the **Federal Register**. If we withdraw or reduce coverage for a service, we will publish a general notice in the **Federal Register**.

The program instruction, **Federal Register** notice, or HCFA ruling will include the date on which our claims-payment contractors will implement any change in payment that may result from the national coverage decision. Generally, we expect to make a payment change effective within 180 calendar days of the first day of the next full calendar quarter that follows the date we issue the national coverage decision.

If we make a positive decision to cover an item or service, numerous complex and related steps remain before a payment change is made. We must determine which codes the providers, suppliers, and our contractors will use for submission and payment of claims consistent with our coverage decision and issue appropriate instructions. We must also determine the appropriate Medicare payment level. Finally, we must develop and issue claims processing instructions to our systems maintainers and claims-payment contractors to ensure accurate payment and to include the necessary program integrity safeguards and edits. Our contractors now implement systems changes at the start of a calendar quarter, and instructions are required well in advance in order to install and test the systems changes.

As stated previously, a national coverage decision is binding on all Medicare carriers, fiscal intermediaries, PSCs, PROs, HMOs, CMPs, and HCPPs when issued as a HCFA program instruction or HCFA ruling, or published in the **Federal Register**. Moreover, national coverage decisions made under section 1862(a)(1) of the Act are subject to limited administrative and judicial review (*See* 42 CFR 405.860.).

J. Revisiting National Coverage Decisions

After we implement a decision or if there is an existing national coverage decision, we will consider new requests to revise a national coverage decision concerning the service at any time. These requests should include additional medical and scientific information that we have not considered to make our original national coverage decision or an analysis of how we materially misinterpreted original information submitted by the requestor. We will not accept any new request that does not include this additional information.

If we receive the additional information as part of a request for reconsideration, we will consider this a new formal request and start our review process. The timeframes for our formal review process will apply to a new formal request. Our original national coverage decision will remain in effect until we withdraw that decision and make another national coverage decision.

K. How To Access HCFA's Home Page

Our Home Page can be accessed by entering "http://www.hcfa.gov." To access information about our coverage process, select "Development of coverage policies" and then "Medicare Coverage Process."

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the

affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for section IV, HCFA's Process for Making National Coverage Decisions.

In accordance with that section, HCFA will accept an external formal request for a national coverage decision if the information collection requirements outlined above in section IV.B.2 are met. These requirements include:

- The request must be in writing.
- The requestor must identify the request as a "formal request for a national coverage decision."
- The requestor must submit supporting documentation that we will specify. At a minimum, the requestor must submit the following information:
- A full and complete description of the service in question, including the benefit category or categories of the Medicare program to which it applies.
- A compilation of the medical and scientific information currently available.
- A description of any clinical trials or studies currently underway, which might be relevant to a decision regarding the coverage of the service. This description should be as complete as possible without disclosing confidential information.
- In the case of a drug, device, or a service using a drug or device subject to regulation by the FDA, the status of current FDA administrative proceedings concerning the drug or device involved. In the case of any item regulated by the FDA, the FDA labeling for the item, together with an indication of whether the service for which a review is being requested is covered under the labeled indication(s). We recognize that FDA changes the labeling of drugs and 510(k) devices and devices with premarket approvals (PMAs). For the purposes of our review, we are interested in the labeled indications at the time of the submission of the formal request. If, during our review, the labeled indications change, we expect the requestor to notify us.
- In the case of a request for reconsideration, new evidence supporting the request or an analysis of our earlier decision demonstrating that we materially misinterpreted the evidence submitted with the earlier request.

The burden associated with this requirement is the time and effort necessary to disclose the materials referenced above to HCFA. We estimate that on average it will take each entity 40 hours to provide the materials and that there will be 200 requests on an annual basis. Therefore, the total annual burden associated with these requirements is 8,000 hours. While an estimate of 40 hours may appear low, given that entities will most likely have already compiled these data to meet the FDA approval process, we believe it to be accurate.

If you have any comments on any of these information collection and record keeping requirements, please mail the original and 3 copies directly to the following:

Health Care Financing Administration, Office of Information Services, Standards and Security Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Attn: John Burke HCFA–3432–GN

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Eydt, HCFA Desk Officer.

In accordance with the provision of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Sections 1862, 1869(b)(3), and 1871 of the Social Security Act (42 U.S.C. 1395y, 1395ff(b)(3), and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 21, 1999.

Nancy-Ann Min DeParle,

Administrator,

Health Care Financing Administration.

Dated: April 21, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–10460 Filed 4–22–99; 10:36 a.m.]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The National Sample Survey of Registered Nurses, 2000—New

The National Sample Survey of Registered Nurses (NSSRN) is carried out to assist in fulfilling three congressional mandates: (1) Section 951 of P.L. 94–63 requires gathering data on(a) the number and distribution of nurses by type of employment and location practice, (b) the number of nurses practicing full-time and part-time within the U.S. and within each State, (c) the average rate of compensation for nurses by type of practice and location of practice, (d) the activity status of the total number of nurses with advanced training or graduate degrees in nursing, by specialty, including nurse practitioners, nurse clinicians, nurse researchers, nurse educators, and nurse supervisors and administrators, and (f) the number of nurses entering the U.S. annually from other Nations; (2) Section 806(f) of P.L. 105–392 requires discipline workforce information and analytical activities for advanced nursing education, workforce diversity, and basic nursing education and practice; and (3) Section 792 of Title VII of the Public Health Service Act calls for the collection and analysis of data on health professions.

The information from this survey will serve policymakers, legislative bodies, health professionals, and Government agencies to inform workforce policies. Data collected in this survey will assist in determining the impact that changes in the health care system are having on employment status of registered nurses and their employment settings.

The proposed survey design for the 2000 NSSRN follows that of the previous six surveys and the projected sample size is approximately 49,200 registered nurses, with a response rate of 80%. Each respondent will be asked to complete a self-administered mail questionnaire containing items on educational background, duties, employment status and setting, geographic mobility, and income.

Respondent burden is estimated as follows:

Form	Number of Respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Survey	39,360	1	39,360	20	13,120

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: April 16, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–10559 Filed 4–26–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

AIDS Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of May 1999.

Name: HRSA AIDS Advisory Committee (HAAC).

Date and Time: May 13–14, 1999; 9:00 a.m.–5:00 p.m.

Place: The Rockville Doubletree Hotel—Rockville, 1750 Rockville Pike, Rockville, MD 20852, (301) 468–1100.

The meeting is open to the public.

Agenda: Reauthorization of the Ryan White Care Act.

For further information, call Ms. Joan Holloway at (301) 443–8143.

Agenda items are subject to change as priorities dictate.

Dated: April 16, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–10558 Filed 4–26–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel—Development of Assay Methods for Creuzfeldt-Jacob Disease.

Date: April 30, 1999.

Time: 8:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Columbia, Wincopin Circle, Columbia, Maryland 21044.

Contact Person: Jeffrey H. Hurst, Ph.D., Scientific Review Administrator, NHLBI/Review Branch, Two Rockledge Center, Room 7208, Bethesda, Maryland 20892–7924, (301) 435–0303.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 20, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10457 Filed 4–26–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Resettlement Program: Proposed Allocations to States of FY 1999 Funds for Refugee Social Services

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Notice of proposed allocations to States of FY 1999 funds for refugee [1] social services.

SUMMARY: This notice establishes the proposed allocations to States of FY 1999 funds for social services under the Refugee Resettlement Program (RRP). In the final notice, allocation amounts could be adjusted slightly based on final adjustments in the FY 1998 arrivals in some States. This notice includes a $15.5 million set-aside to: (1) Provide outreach and referral to ensure that eligible refugees access the Children's Health Insurance Program (CHIP) and other programs for low income working populations; and (2) provide specialized interpreter training and the hiring of interpreters to enable refugees to have equal access to medical and legal services.

EFFECTIVE DATE: Comments on the proposed allocations contained in this notice must be received by May 27, 1999.

ADDRESSES: Address written comments, in duplicate, to: Barbara Chesnik, Division of Self-Sufficiency, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW, Washington, DC 20447. FAX: (202) 401–5487 or (202) 401–0981.

FOR FURTHER INFORMATION CONTACT: Barbara R. Chesnik, Division of Refugee Self-Sufficiency, (202) 401–4558.

SUPPLEMENTARY INFORMATION:

I. Amounts for Allocation

The Office of Refugee Resettlement (ORR) has available $139,990,000 in FY 1999 refugee social service funds as part of the FY 1999 appropriation for the Department of Health and Human Services (Pub. L. 105–277).

[1] In addition to persons who meet all requirements of 45 CFR 400.43, "Requirements for documentation of refugee status," eligibility for refugee social services also includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513). For convenience, the term "refugee" is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

The FY 1999 House Appropriations Committee Report (H.R. Rept. No. 105–635) reads as follows with respect to social services funds:

The bill provides $134,990,000 for social services, an increase of $5,000,000 over the comparable fiscal year 1998 appropriation and the budget request. Funds are distributed by formula as well as through the discretionary grant making process for special projects. The Committee agrees that $19,000,000 is available for assistance to serve communities affected by the Cuban and Haitian entrants and refugees whose arrivals in recent years have increased. The Committee has set-aside $16,000,000 for increased support to communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance. Finally, the Committee has set aside $14,000,000 to address the needs of refugees and communities impacted by recent changes in Federal assistance programs relating to welfare reform. The Committee urges ORR to assist refugees at risk of losing, or who have lost, benefits including SSI, TANF and Medicaid, in obtaining citizenship. In addition, ORR may initiate planning grants to create alternative cash and medical assistance programs for refugees. The Committee has included funding for health screening of new arrivals.

The Committee encourages ORR to award grants for mental health and other health services for victims of torture if such activities are authorized in law.

The Committee encourages ORR to consider supporting education and outreach activities related to female genital mutilation if such activities are authorized in law.

The FY 1999 Senate Appropriations Committee Report (S. Rept. No. 105–300) adds the following:

The Committee provides $19,000,000 to serve communities affected by the Cuban and Haitian entrants and refugees, the same as the amount contained in last year's appropriation. In addition, the Committee recommends $14,000,000 to address the needs of refugees and communities affected by recent changes in Federal assistance programs, and $16,000,000 to assist communities with large concentrations of refugees whose cultural differences make assimilation difficult. These funds are included in the social services line item.

The FY 1999 Conference Report on Appropriations (H.R. Conf. No. 105–825) reads as follows concerning social services:

The conference agreement provides $139,990,000 for social services, an increase of $5,000,000 over the House and $10,000,000 over the Senate. The conference agreement includes $26,000,000 for increased support to communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance, and $14,000,000 to address the needs of refugees and communities impacted by the recent changes in Federal assistance programs relating to welfare reform. The agreement includes $19,000,000 for assistance to communities impacted by Cuban and Haitian entrants and refugees whose arrivals in recent years have increased.

The Director of the Office of Refugee Resettlement (ORR) proposes to use the $139,990,000 appropriated for FY 1999 social services as follows:

- $68,841,500 will be allocated under the 3-year population formula, as set forth in this notice for the purpose of providing employment services and other needed services to refugees.
- $12,148,500 will be awarded as social service discretionary grants through competitive grant announcements that will be issued separately from this notice.
- $19,000,000 will be awarded to serve communities most heavily affected by recent Cuban and Haitian entrant and refugee arrivals. These funds would be awarded through a discretionary grant announcement that will be issued separately from this notice.
- $26,000,000 will be awarded through discretionary grants for communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance. A grant announcement will be issued separately from this notice.
- $14,000,000 will be awarded to address the needs of refugees and communities impacted by recent changes in Federal assistance programs relating to welfare reform. Awards will be made through announcements issued separately from this notice.

In addition, we are proposing to add $15,500,000 in unexpended FY 1997 CMA funds to the FY 1999 formula social services allocation as a set-aside, increasing the total amount available for the formula social services program in FY 1999 to $84,341,500.

Congress provided ORR with broad carry-over authority in the FY 1999 HHS appropriations law to use FY 1997 CMA carry-over funds for assistance and other activities in the refugee program in fiscal years 1998 and 1999. The appropriations law states:

"* * * That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Pub.L. 104–208 for fiscal year 1997 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1998 and 1999."

Refugee Social Service Funds

The population figures for the social services allocation include refugees, Cuban/Haitian entrants, Amerasians from Vietnam, and Kurdish asylees since these populations may be served through funds addressed in this notice. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program or indicate in its refugee program State plan that Cuban/Haitian entrants will be served in order to use funds on behalf of entrants as well as refugees.)

The Director proposes to allocate $68,841,500 to States on the basis of each State's proportion of the national population of refugees who had been in the U.S. 3 years or less as of October 1, 1998 (including a floor amount for States which have small refugee populations).

The use of the 3-year population base in the allocation formula is required by section 412(c)(1)(B) of the Immigration and Nationality Act (INA) which states that the "funds available for a fiscal year for grants and contracts [for social services] . . . shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year."

As established in the FY 1991 social services notice published in the **Federal Register** of August 29, 1991, section I, "Allocation Amounts" (56 FR 42745), a variable floor amount for States which have small refugee populations is calculated as follows: If the application of the regular allocation formula yields less than $100,000, then—

(1) A base amount of $75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(2) For a State with more than 50 refugees who have been in the U.S. 3 years or less: (a) a floor has been calculated consisting of $50,000 plus the regular per capita allocation for refugees above 50 up to a total of $100,000 (in other words, the maximum under the floor formula is $100,000); (b) if this calculation has yielded less than $75,000, a base amount of $75,000 is provided for the State.

The Director also proposes to allocate an additional $15.5 million from FY 1997 carry-over funds as a set-aside to: (1) Provide referral services, including outreach, to ensure that refugees are able to access the Children's Health

Insurance Program (CHIP) and other programs for low income populations; and (2) provide for the hiring of interpreters and special interpreter training to enable refugees to have equal access to medical and certain legal services. Depending upon the existing capacity and need in the community, we encourage States to use the funds equally for both activities. Both types of services are not subject to the 5-year limitation and may be provided to refugees regardless of their length of time in the U.S. See § 400.152(b).

Eligible refugee families often are not aware of, or do not know how to access, other Federal support programs available to low income working families in the community. We believe that these programs, including CHIP, Food Stamps, Low Income Home Energy Assistance Program (LIHEAP), Medicaid, Head Start, low-income housing, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), child care assistance, adult day care for aged dependents, and other support programs for low-income families, are important for the well-being of working refugees, particularly refugee families, and are necessary to help these refugees maintain employment and move toward full self-sufficiency.

The organizations funded by the set-aside amount are expected to conduct outreach into the community to identify low-income refugees and to help these refugees enroll in and to be familiar with the services available and the participation requirements of these programs. We expect States to fund community-based organizations, to the maximum extent possible, to provide hands-on assistance, which means having the application forms available and helping refugees to fill out the application, accompanying the refugee to the eligibility office, assisting in the communication between the family and the eligibility worker, closely following the application process until the family has been found eligible, and then helping the family effectively use the service or support program in which they have been enrolled. For example, there may be different levels of medical coverage available to a family, depending on the ages of the children and the income level of the family, each with different requirements. It is important for the caseworkers/advocates funded through this initiative to understand the program requirements (such as a co-payment structure) in order to help the family make decisions and fully participate.

The organizations funded under this set-aside should develop effective ways to provide an on-going link between these services, the population they serve, and the targeted low income programs. Methods might include: partnering with schools to identify refugee children who may be eligible for CHIP by virtue of their eligibility for the school lunch program; connecting with local Head Start programs to help identify refugee children who are eligible for CHIP and other health care programs; arranging to have Medicaid eligibility workers visit the MAA or other participating organization on a scheduled basis; and working with other groups serving low income families, such as hospitals, WIC programs, low-income housing programs, and food assistance programs to make these services widely known to the refugee community being served.

It is also important that States provide as high a standard as possible in interpretation to non-English speaking and to Limited-English-Proficient (LEP) refugees, particularly in regard to medical and legal issues. As mentioned earlier, we are therefore including funding in the set-aside for States to improve the availability and quality of interpreter services for refugees in their communities. The set-aside funds are to be used by States: (1) to fund specialized interpreter training for medical and legal services; and (2) to pay for the hiring and employment of these trained interpreters by MAAs, voluntary agencies, and other community-based organizations serving refugees, to the maximum extent possible, in order to increase the number of skilled interpreters in the community.

Interpretation requires a great deal of skill—interpreters need to be fluent in English and the language spoken by the refugee. They must have the ability to quickly understand the message and terminology, if technical, in one language and to express it as quickly and correctly in another language. In addition to fluency in two languages, interpreters must have the skills to handle confidential client information and to deal with a variety of professionals in the medical, legal, law enforcement, social services, and other fields.

States should use qualified training programs or trainers to provide the interpreter training. Several strategies may be employed, e.g., the direct training of interpreters in a group setting, paying the course tuition and associated expenses for individuals at a community college or university, and the training of trainers in order to establish and maintain an efficient training capacity in the community. To the extent possible, we would expect States to use an established curriculum rather than incurring costs to develop a new one. Funding of interpreter services should be directed to areas of greatest need and to the most linguistically isolated communities.

States must determine a community's capacity to ensure refugee access to medical and other services, and then examine how best to fund and maintain interpreter services for refugees based upon the need and size of refugee population. For example, an interpreter bank with dedicated interpreters may be a preferred option if the needs of the community can justify full-time interpreters. However, because the provision of interpreter services may not fully occupy funded staff in some locations or in certain languages, States may choose to train bilingual caseworkers at voluntary resettlement agencies, MAAs and refugee service providers. States may also consider cross-training of interpreters so that they may also assist, for example, in enrolling clients in CHIP, Medicaid, or other services for low-income clients, and/or serve as case managers or in other staff positions. Staff with both bilingual interpreter skills and knowledge of the family services network, such as child protective services and the domestic violence system, are also highly desirable.

We also encourage States to set up creative ways to maintain and expand the availability of interpreter services in the community, such as seeking reimbursement for services from the courts, hospitals, and agencies which may be able to pay for interpreter services but have been otherwise hindered in providing these services by the lack of available and appropriately trained individuals. Fees from low-income refugee clients, however, may not be sought.

In light of the unique position that refugee mutual assistance associations (MAAs) have in the communities where refugees reside, we are asking that States give special consideration to MAAs in using the set-aside amount, where possible, to provide these services to refugee families. However, qualified community based organizations with refugee experience, voluntary resettlement agencies, or refugee service providers may be funded as well.

In order to receive the optional funding under the set-aside, the appropriate State agency official, State designee, or Wilson/Fish project director where the State is not participating in the program must provide written assurance to the Office of Refugee Resettlement that the

following conditions will be observed by the State agency in using funds made available to the State under this special allocation:

- That such funds will be used to fund (1) services to provide the support necessary to enroll refugees in low income support programs, such as CHIP, Headstart, WIC, Food Stamps, LIHEAP, child care services, and low-income housing assistance and, (2) training and salaries for refugee interpreters; and
- That special consideration will be given to interested and qualified refugee MAAs, where possible.

Written assurance should be sent to Barbara R. Chesnik, Division of Refugee Self-Sufficiency, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade SW., 6th Floor, Washington, DC 20447. States must respond by 30 days from the date of the final notice in order to avail themselves of this special allocation. ORR's ability to award the proposed $15.5 million set-aside is contingent upon the availability of funds when the final notice of social services allocations is published.

Population To Be Served

Although the allocation formula is based on the 3-year refugee population, in accordance with the current requirements of 45 CFR Part 400 Subpart I—Refugee Social Services, States are not required to limit social service programs to refugees who have been in the U.S. only 3 years. However, under 45 CFR 400.152, States may not provide services funded by this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (5 years).

In accordance with 45 CFR 400.147, States are required to provide services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) all newly arriving refugees during their first year in the U.S., who apply for services; (b) refugees who are receiving cash assistance; (c) unemployed refugees who are not receiving cash assistance; and (d) employed refugees in need of services to retain employment or to attain economic independence.

ORR funds may not be used to provide services to United States citizens, since they are not covered under the authorizing legislation, with the following exceptions: (1) Under current regulations at 45 CFR 400.208, services may be provided to a U.S.-born minor child in a family in which both parents are refugees or, if only one parent is present, in which that parent is a refugee; and (2) under the FY 1989 Foreign Operations, Export Financing, and Related Programs Appropriations Act (Pub. L. No. 100–461), services may be provided to an Amerasian from Vietnam who is a U.S. citizen and who enters the U.S. after October 1, 1988.

Service Priorities

In the past, a number of States have focused primarily on serving refugee cash assistance (RCA) recipients because of the need to help these refugees become employed and self-sufficient within the 8-month RCA eligibility period. Now, with the passage of welfare reform, refugee recipients of Temporary Assistance for Needy Families (TANF) also face a time limit for cash assistance and need appropriate services as quickly as possible to become employed and self-sufficient. In order for refugees to move quickly off TANF, we believe it is crucial for these refugees to receive refugee-specific services that are designed to address the employment barriers that refugees typically face. We are pleased with the efforts that State Refugee Coordinators have made to date to develop agreements with their State TANF program to utilize the existing refugee service system in a State for refugee TANF participants. We encourage States to continue their efforts in this regard.

Refugee social service funding should be used to assist refugee families to achieve economic independence. To this end, States are required to ensure that a coherent family self-sufficiency plan is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. (See 45 CFR 400.79 and 400.156(g).) Each family self-sufficiency plan should address a family's needs for both employment-related services and other needed social services. The family self-sufficiency plan must include: (1) a determination of the income level a family would have to earn to exceed its cash grant and move into self-support without suffering a monetary penalty; (2) a strategy and timetable for obtaining that level of family income through the placement in employment of sufficient numbers of employable family members at sufficient wage levels; and (3) employability plans for every employable member of the family.

Some States are doing remarkably well in achieving refugee self-sufficiencies. For this reason, this may be a good time for these States to re-examine the range of services they currently offer to refugees and expand the range of services beyond employment services to address the broader needs that refugees have in order to successfully integrate into the community.

Reflecting section 412(a)(1)(A)(iv) of the INA, and in keeping with 45 CFR 400.145(c), States must ensure that women have the same opportunities as men to participate in all services funded under this notice, including job placement services. In addition, services must be provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women. The Director also strongly encourages the inclusion of refugee women in management and board positions in agencies that serve refugees. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit, particularly in the case of large families. States are expected to make every effort to assure the availability of day care services for children in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, day care may be treated as a priority employment-related service under the refugee social services program. Refugees who are participating in employment services or have accepted employment are eligible for day care services for children. For an employed refugee, day care funded by refugee social service dollars should be limited to one year after the refugee becomes employed. States are expected to use day care funding from other publicly funded mainstream programs to the maximum extent possible and are expected to work with service providers to assure maximum access to other publicly funded resources for day care.

In accordance with 45 CFR 400.146, social service funds must be used primarily for employability services designed to enable refugees to obtain jobs within one year of becoming enrolled in services in order to achieve economic self-sufficiency as soon as possible. Social services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Social service funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

In accordance with 45 CFR 400.156(e), refugee social services must be provided, to the maximum extent feasible, in a manner that is culturally

and linguistically compatible with a refugee's language and cultural background. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population.

Services funded under this notice must be refugee-specific services which are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Vocational or job skills training, on-the-job training, or English language training, however, need not be refugee-specific (45 CFR 400.156(d)).

English language training must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related activities (45 CFR 400.156(c)).

When planning State refugee services, States must take into account the reception and placement (R&P) services provided by local resettlement agencies in order to utilize these resources in the overall program design and to ensure the provision of seamless, coordinated services to refugees that are not duplicative (45 CFR 400.156(b)).

In order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible, ORR encourages States and counties to promote and give special consideration to the provision of refugee social services through coalitions of refugee service organizations, such as coalitions of mutual assistance associations (MAAs), voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

States should also expect to use funds available under this notice to pay for social services which are provided to refugees who participate in Wilson/Fish projects. Section 412(e)(7)(A) of the INA provides that:

> The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate notice in the **Federal Register** with respect to applications for such projects (60 FR 15766, March 27, 1995) and expects to issue a revised notice in the near future.

The Use of MAAs

ORR believes that the use of qualified refugee mutual assistance associations in the delivery of social services helps to ensure the provision of culturally and linguistically appropriate services as well as increasing the effectiveness of the overall service system. Therefore, we expect States to use MAAs as service providers to the maximum extent possible. We strongly encourage States when contracting for services, including employment services, to give consideration to the special strengths of MAAs, whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. ORR also strongly encourages MAAs to ensure that their management and board composition reflect the major target populations to be served. ORR expects States to continue to assist MAAs in seeking other public and/or private funds for the provision of services to refugee clients.

States may use a portion of their social service grant, either through contracts or through the use of State/county staff, to provide technical assistance and organizational training to strengthen the capability of MAAs to provide employment services and other social services, particularly in States where MAA capability is weak or undeveloped.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

II. (Reserved for Discussion of Comments in Final Notice)

III. Allocation Formulas

Of the funds available for FY 1999 for social services, $68,841,815 is proposed to be allocated to States in accordance with the formula specified below. In addition, $15.5 million in set-aside funds are proposed to be allocated in accordance with the formula specified below. A State's allowable allocation is calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees, Cuban/Haitian entrants, Amerasians from Vietnam, and Kurdish asylees who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the ORR Refugee Data System. The resulting per capita amount is multiplied by—

3. The number of persons in item 2, above, in the State as of October 1, 1998, adjusted for estimated secondary migration.

The calculation above yields the formula allocation for each State. Minimum allocations for small States are taken into account.

IV. Basis of Population Estimates

The population estimates for the proposed allocation of funds in FY 1999 are based on data on refugee arrivals from the ORR Refugee Data System, adjusted as of October 1, 1998, for estimated secondary migration. The data base includes refugees of all nationalities, Amerasians from Vietnam, Cuban and Haitian entrants, and Kurdish asylees.

For fiscal year 1999, ORR's proposed formula allocations for the States for social services are based on the numbers of refugees, Amerasians, Kurdish asylees, and entrants who arrived during the preceding three fiscal years: 1996, 1997, and 1998, based on arrival data by State. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between October 1, 1995, and September 30, 1998, who are thought to be living in each State as of October 1, 1998.

The estimates of secondary migration were based on data submitted by all participating States on Form ORR–11 on secondary migrants who have resided in the U.S. for 36 months or less, as of September 30, 1998. The total migration reported by each State was summed, yielding in-and out-migration figures and a net migration figure for each State. The net migration figure was applied to

the State's total arrival figure, resulting in a revised population estimate.

Estimates were developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians and Kurdish asylees are included in the refugee figures.

With regard to Havana parolees, in the absence of reliable data on the State-by-State resettlement of this population, we are crediting each State that received entrant arrivals during the 3-year period from FY 1996–FY 1998 with a prorated share of the 13,442 parolees reported by the Immigration and Naturalization Service (INS) to have come to the U.S. directly from Havana in FY 1998. In addition, we have credited each State with the same share of FY 1996 and FY 1997 Havana parolees that they were credited with in the final FY 1997 and FY 1998 social service notices. The allocations in this notice reflect these additional parolee numbers.

If a State does not agree with ORR's population estimate and wishes ORR to reconsider its population estimate, it should submit written evidence to ORR, including a list of refugees identified by name, alien number, date of birth, and date of arrival. Listings of refugees who are not identified by their alien number will not be considered. Such evidence should be submitted separately from comments on the proposed allocation formula no later than 30 days from the date of publication of this notice and should be addressed to: Loren Bussert, Division of Refugee Self-Sufficiency, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW, Washington, DC 20447, Telephone: (202) 401–4732.

Table 1, below, shows the estimated 3-year populations, as of October 1, 1998, of refugees (col. 1), entrants (col. 2), Havana parolees (col. 3); total refugee/entrant population, (col. 4); the proposed formula amounts which the population estimates yield (col. 5); the proposed allocation amounts after allowing for the minimum amounts (col. 6); the set-aside amount (col.7); and the total proposed allocation (col. 8).

V. Proposed Allocation Amounts

Funding will be contingent upon the submittal and approval of a State annual services plan that is developed on the basis of a local consultative process, as required by 45 CFR 400.11(b)(2) in the ORR regulations. The following amounts are proposed for allocation for refugee social services in FY 1999:

FY 1999 Proposed Social Services Formula Notice

TABLE 1.—ESTIMATED 3-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND PROPOSED SOCIAL SERVICE FORMULA AMOUNT AND PROPOSED ALLOCATION FOR FY 1999

State	Refugees[1] (1)	Entrants (2)	Havana parolees[2] (3)	Total population (4)	Proposed formula amount (5)	Proposed allocation (6)	Set-aside	Total proposed allocation
Alabama	495	55	97	647	$162,184	$162,184	$36,704	$198,888
Alaska[3]	0	0	0	0				
Arizona	6,269	387	581	7,237	1,814,106	1,814,106	410,552	2,224,658
Arkansas	144	9	13	166	41,611	79,078	9,417	88,495
California	32,975	342	717	34,034	8,531,339	8,531,339	1,930,735	10,462,074
Colorado	3,336	2	6	3,344	838,244	838,244	189,704	1,027,948
Connecticut	2,380	150	263	2,793	700,124	700,124	158,446	858,570
Delaware	59	2	4	65	16,294	75,000	3,687	78,687
Dist. of Columbia	1,538	4	10	1,552	389,041	389,041	88,044	477,085
Florida	12,708	8,225	18,679	39,612	9,929,582	9,929,582	2,247,172	12,176,754
Georgia	8,281	97	195	8,573	2,149,003	2,149,003	486,343	2,635,346
Hawaii	126	1	1	128	32,086	75,000	7,261	82,261
Idaho[4]	1,639	0	0	1,639	410,850	410,850	92,980	503,830
Illinois	11,334	231	400	11,965	2,999,279	2,999,279	678,770	3,678,049
Indiana	1,456	5	9	1,470	368,486	368,486	83,392	451,878
Iowa	5,489	2	4	5,495	1,377,437	1,377,437	311,729	1,689,166
Kansas	1,075	9	15	1,099	275,487	275,487	62,346	337,833
Kentucky[5]	3,431	799	968	5,198	1,302,988	1,302,988	294,880	1,597,868
Louisiana	1,339	77	172	1,588	398,066	398,066	90,087	488,153
Maine	620	0	0	620	155,416	155,416	35,172	190,588
Maryland	3,077	46	114	3,237	811,422	811,422	183,634	995,056
Massachusetts	6,763	85	140	6,988	1,751,689	1,751,689	396,426	2,148,115
Michigan	7,099	347	484	7,930	1,987,821	1,987,821	449,866	2,437,687
Minnesota	8,353	7	18	8,378	2,100,122	2,100,122	475,280	2,575,402
Mississippi	75	10	23	108	27,072	75,000	6,127	81,127
Missouri	6,562	8	16	6,586	1,650,920	1,650,920	373,621	2,024,541
Montana	130	0	0	130	32,587	75,000	7,375	82,375
Nebraska	1,516	36	51	1,603	401,826	401,826	90,938	492,764
Nevada[5]	1,255	609	893	2,757	691,100	691,100	156,403	847,503
New Hampshire	1,102	0	0	1,102	276,240	276,240	62,516	338,756
New Jersey	3,409	365	806	4,580	1,148,073	1,148,073	259,822	1,407,895
New Mexico	357	467	758	1,582	396,562	396,562	89,746	486,308
New York	29,771	757	1,191	31,719	7,951,035	7,951,035	1,799,406	9,750,441
North Carolina	3,684	29	44	3,757	941,771	941,771	213,133	1,154,904
North Dakota	1,320	0	2	1,322	331,387	331,387	74,997	406,384
Ohio	4,160	44	62	4,266	1,069,363	1,069,363	242,008	1,311,371
Oklahoma	484	7	13	504	126,338	126,338	28,592	154,930
Oregon	4,658	344	531	5,533	1,386,963	1,386,963	313,885	1,700,848
Pennsylvania	7,021	240	358	7,619	1,909,863	1,909,863	432,223	2,342,086
Rhode Island	339	5	7	351	87,986	100,000	19,912	119,912

TABLE 1.—ESTIMATED 3-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND PROPOSED SOCIAL SERVICE FORMULA AMOUNT AND PROPOSED ALLOCATION FOR FY 1999—Continued

State	Refugees[1] (1)	Entrants (2)	Havana parolees[2] (3)	Total population (4)	Proposed formula amount (5)	Proposed allocation (6)	Set-aside	Total proposed allocation
South Carolina	231	6	10	247	61,916	99,382	14,012	113,394
South Dakota[4]	821	0	0	821	205,801	205,801	46,575	252,376
Tennessee	3,740	171	250	4,161	1,043,042	1,043,042	236,052	1,279,094
Texas	11,506	778	1,159	13,443	3,369,771	3,369,771	762,616	4,132,387
Utah	3,232	1	1	3,234	810,670	810,670	183,463	994,133
Vermont	889	0	0	889	222,847	222,847	50,433	273,280
Virginia	4,555	114	210	4,879	1,223,024	1,223,024	276,784	1,499,808
Washington	16,511	45	68	16,624	4,167,156	4,167,156	943,073	5,110,229
West Virginia	9	0	0	9	2,256	75,000	511	75,511
Wisconsin	1,618	9	15	1,642	411,602	411,602	93,150	504,752
Wyoming[3]	0	0	0	0	.....	.....	.....	.....
Total	228,941	14,927	29,358	273,226	68,489,848	68,841,500	15,500,000	84,341,500

[1] Includes: refugees, Kurdish asylees, and Amerasian immigrants from Vietnam adjusted for secondary migration.
[2] For FY 1998, 13,442 Havana Parolees (HP's) were prorated to all States based on their proportions of the three-year (FY 1996-1998) entrant population. For FY 1997, Florida's HP's (3,957) were based on actual data, while HP's in other States (2,035) were prorated according to their proportions of the three-year entrant population. For FY 1996, Florida's HP's (7,315) were based on actual data, while HP's in other States (2,611) were prorated according to their proportions of the three-year entrant population.
[3] Alaska and Wyoming no longer participate in the Refugee Program.
[4] The allocations for Idaho and South Dakota are expected to be awarded to the State designee.
[5] The allocations for Kentucky and Nevada are expected to be awarded to Wilson/Fish projects.

VI. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 93.566 Refugee Assistance—State Administered Programs)

Dated: April 20, 1999.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 99-10486 Filed 4-26-99; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Persistent Effects of Treatment for a National Sample of Treatment Recipients

(New) The Center for Substance Abuse Treatment (CSAT) is undertaking a major initiative to study the long-term course of substance abuse within the context of receipt of substance abuse treatment. Research indicates that success in treating substance abuse may require multiple episodes of treatment. The Persistent Effects of Treatment Studies (PETS) will be a family of studies structured to provide data on a wide range of populations and treatment approaches over a three-year period following admission to a substance abuse treatment program in a community setting. The family of studies will be built on existing studies currently being conducted by other organizations (including Federal, State, and local governments) in order to minimize costs and response burden. Collectively, the PETS studies are expected to provide valuable insights into the factors that lead to long-term success in treatment of substance abuse.

Persistent Effects of Treatment Studies in a National Sample of Treatment Recipients offers an opportunity for PETS to include a prospective national study among its family of studies. This study would permit PETS to answer research questions on the extent to which results on treatment effectiveness generalize to a more nationally representative universe of persons receiving substance abuse treatment. As such, it would provide national benchmarks on treatment outcomes that one could use for placing the results of the state and local studies in context.

This study, also known as the National Evaluation of Substance Abuse Treatment or NESAT, is an ongoing national treatment outcome study that was funded by the Office of National Drug Control Policy (ONDCP) and would continue under funding from CSAT. It includes a national probability of sample of 164 privately and publicly funded service delivery units (SDUs) and 2,100 clients who received services at those SDUs. The sample includes approximately equal numbers of SDUs in each of five treatment modalities: (a) therapeutic community, (b) residential, (c) methadone, (d) outpatient-intensive, and (e) outpatient-nonintensive. The populations to be studied will be diverse in the nature and severity of

their substance abuse, and in their personal characteristics and circumstances.

Beginning in 1997, NESAT collected detailed baseline information from both the participating SDUs and clients. It also collected information, primarily on service utilization, from the clients at 30 days following the initial data collection. A 12-month follow-up data collection from the participating SDUs and clients is currently underway. This data collection entails interviewing the clients, as well as gathering biological specimens (hair, urine, and breath) from the clients. The proposed project would extend data collection from clients (interviews and biological specimens) to 24 months and 36 months following the initial data collection.

The estimated response burden over the three-year period of approval is summarized below.

Data collection	Number of respondents	Number of responses per client	Hours per response	Total burden (hours)
24- and 36-month	1785	2	1.5	5,355

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 20, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–10469 Filed 4–26–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4446–N–02]

Announcement of OMB Approval Number for the Base Closure Community Development and Housing Assistance Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of OMB Approval Number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to the Base Closure Community Redevelopment and Housing Assistance Program, (Base Closure Program).

FOR FURTHER INFORMATION CONTACT: Raymond M. Sherry, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0614, extension 4424. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to the Base Closure Program. The OMB approval number for this information collection is 2506–0154, which expires on March 31, 2002.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: April 19, 1999.

Fred Karnas Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 99–10483 Filed 4–26–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–23]

Submission for OMB review: comment request

AGENCY: Office of the Assistance Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* May 27, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be send to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

This Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 20, 1999.

David S. Cristy,

Director, ISP and Management.

Title of Proposal: Section 811. Supportive Housing for Persons with Disabilities—Application Submission Requirements.

Office: Housing.

OMB Approval Number: 2502–0462.

Description of the Need for the Information and its Proposed Use: Information collection is necessary to assist HUD in determining applicant eligibility and ability to develop housing for disabled within statutory

and program criteria. A thorough evaluation of an applicant's submission is necessary to protect the Government's financial interest.

Form Number: HUD–92016–CA.

Respondents: State, Local or Tribal Government Not-For-Profit Institutions.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	260		1		40.6		10,556

Total Estimated Burden Hours: 10,556.

Status: Reinstatement with changes.

Contact: Gail Williamson, HUD, (202) 708–2866 Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 20, 1999.

[FR Doc. 99–10484 Filed 4–26–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4410–C–02]

FY 1999 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development, and Empowerment Programs; Extension of HOPE VI Demolition Grants and Fair Housing Initiative Program Application Deadline; Table of Contents; Updated SuperNOFA Programs Chart; and Technical Corrections

AGENCY: Office of the Secretary, HUD.

ACTION: Extension of HOPE VI Demolition Grants and Fair Housing Initiative Program (FHIP) Application Deadlines; SuperNOFA Table of Contents; Updated SuperNOFA Programs Chart; and Technical Corrections to SuperNOFA.

SUMMARY: On February 26, 1999, HUD published the Fiscal Year (FY) 1999 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development, and Empowerment programs. This notice extends the application due dates for the Fair Housing Initiative Program (FHIP) and HOPE VI Demolition Grants program (the application due date for HOPE VI Revitalization Grants remains unchanged). For the convenience of readers, this notice also provides a table of contents to the FY 1999 SuperNOFA. The table identifies the page numbers in the February 26, 1999 **Federal Register** publication where the individual program sections of the SuperNOFA are located. Additionally, the notice provides an updated SuperNOFA programs chart to reflect the change in the application due dates for the FHIP and HOPE VI Demolition Grants programs. This notice also makes various technical corrections and clarifications to the February 26, 1999 SuperNOFA.

DATES: The application due date for the FHIP program is extended to *June 30, 1999*. The application due date for HOPE VI Demolition Grants is extended to *July 29, 1999*. No other application due dates are extended by this notice.

FOR FURTHER INFORMATION CONTACT: For the programs listed in this notice, please contact the office or individual listed in the "For Further Information" portion of the section of the individual programs that are part of the SuperNOFA, published on February 26, 1999 at 64 FR 9618.

SUPPLEMENTARY INFORMATION:

Background

On February 26, 1999 (64 FR 9618), HUD published its FY 1999 SuperNOFA for HUD's Housing, Community Development, and Empowerment programs. The FY 1999 SuperNOFA announced the availability of approximately $2.4 billion in HUD program funds covering 32 grant programs and program components administered by the following HUD offices: the Office of Community Planning and Development (CPD); the Office of Housing-Federal Housing Administration (FHA); the Office of Public and Indian Housing (PIH); the Office of Policy Development and Research (PD&R); the Office of Fair Housing and Equal Opportunity (FH&EO); and the Office of Lead Hazard Control.

This notice extends the application due dates for the Fair Housing Initiative Program (FHIP) and the HOPE VI Demolition Grants program (the application due date for HOPE VI Revitalization Grants remains unchanged). For the convenience of readers, this notice also provides a table of contents to the FY 1999 SuperNOFA. The table identifies the page numbers in the February 26, 1999 **Federal Register** publication where the individual program sections of the SuperNOFA are located. Additionally, the notice provides an updated SuperNOFA programs chart to reflect the change in the application due dates for the FHIP and HOPE VI Demolition Grants programs. This notice also makes various technical corrections and clarifications to the February 26, 1999 SuperNOFA.

Extension of FHIP Application Due Date

The FY 1999 SuperNOFA announce the application due date for the FHIP program to be April 27, 1999. HUD is extending the application due date for the FHIP program to *June 30, 1999*.

Extension of HOPE VI Demolition Grants Application Due Date

The FY 1999 SuperNOFA announced the application due date for the HOPE VI Demolition Grants program to be May 6, 1999. Section 531 of the Quality Housing and Work Responsibility Act of 1996 (title V of the FY 1999 HUD Appropriations Act; Pub. L. 105–276, approved October 21, 1998; 112 Stat. 2461, 2570–2574) amended section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p), which governs the demolition and disposition of public housing. To provide applicants with adequate time to conform their applications to the recent statutory amendments, HUD is extending the application due date for HOPE VI Demolition Grants to *July 29, 1999*. The application due date for HOPE VI Revitalization Grants announced in the FY 1999 SuperNOFA (May 27, 1999) is unchanged.

Table of Contents for the FY 1999 SuperNOFA

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- FY 1999 SuperNOFA Funding Charts—pages 9621–9626
- General Section—page 9627
- Community Development Technical Assistance—page 9633
- Community Outreach Partnership Centers (COPC)—page 9651
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- Public Housing Drug Elimination—page 9743
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- Section 202 Supportive Housing for the Elderly—page 9845
- Section 811 Supportive Housing for Persons with Disabilities—page 9861
- Appendix to SuperNOFA—List of HUD Field Offices—page 9879

Updated SuperNOFA Programs Chart

As a result of the change in the application due date for the HOPE VI Demolition Grants program, HUD is reprinting the SuperNOFA programs chart provided in the February 26, 1999 **Federal Register** publication (64 FR 9618, 9620–9626). The chart below identifies the HUD programs that are part of the FY 1999 SuperNOFA. The chart also includes the application due date for each program (reflecting the revised due dates for the FHIP and HOPE VI Demolition Grants programs), the OMB approval number for the information collection requirements contained in the specific program, and the catalog of Federal Domestic Assistance (CFDA) number.

As noted in the General Section to the FY 1999 SuperNOFA, the approximate available funds for each program are expected funding levels based on appropriated funds. In the event that HUD recaptures funds or other funds become available for any program, HUD reserves the right to increase the available program funding amounts by the amount available.

HUD FY 1999 SUPERNOFA FUNDING

[Dollars in millions]

Program name	Funding available	Due date	Submission location and room
HOUSING AND COMMUNITY DEVELOPMENT			
Community Development Technical Assistance	$24.25		
Community Development Block Grant (CDBG) TA CFDA No: 14.227 OMB Approval No.: 2506–0166	2.5	May 26, 1999	HUD Headquarters Room 7251, and copies to appropriate local HUD Field Offices.
Community Housing Development Organization (CHDO) TA. CFDA No. 14.239 OMB Approval No.: 2506–0166	9	May 26, 1999	HUD Headquarters Room 7251, and copies to appropriate local HUD Field Offices.
Home TA CFDA No. 14.239 OMB Approval No.: 2506–0166	8	May 26, 1999	HUD Headquarters Room 7251, and copies to appropriate local HUD Field Offices.
Supportive Housing Program (SHP) TA CFDA No. 14.235 OMB Approval No.: 2506–0166	2.5	May 26, 1999	HUD Headquarters Room 7251, and copies to appropriate local HUD Field Offices.
HOPWA TA CFDA No. 14.241 OMB Approval No.: 2506–0133	2.25	May 26, 1999	HUD Headquarters Room 7251.
UNIVERSITY AND COLLEGE PARTNERSHIPS			
University and College Programs	22.15		
Community Outreach Partnership Centers (COPC) CFDA No: 14511 OMB Approval No.: 2528–0180	7.5	June 9, 1999	HUD Headquarters Room 7251.
Historically Black Colleges and Universities (HBCUs) Program. CFDA No.: 14.237 OMB Approval No.: 2506–0122	9	June 9, 1999	HUD Headquarters Room 7251 and copies to local HUD Field Office.
Hispanic-Serving Institutions Assisting Communities (HSIAC) Program. CFDA No.: 14.514 OMB Approval No.: 2528–0198	5.65	June 9, 1999	HUD Headquarters Room 7251.
FAIR HOUSING OUTREACH, ENFORCEMENT AND ASSISTED HOUSING COUNSELING			
Fair Housing and Housing Counseling Programs	31.6		
Education and Outreach Initiative (EOI) CFDA No.: 14.409 OMB Approval No.: 2529–0033	4.5	June 30, 1999	HUD Headquarters Room 5234.
Private Enforcement Initiative (PEI)	9.3	June 30, 1999	HUD Headquarters Room 5234.

HUD FY 1999 SUPERNOFA FUNDING—Continued

[Dollars in millions]

Program name	Funding available	Due date	Submission location and room
CFDA No.: 14.410 OMB Approval No.: 2539–0033 Fair Housing Organizations Initiative (FHOI)	1.2	June 30, 1999 ..	HUD Headquarters Room 5234.
CFDA No.: 14.413 OMB Approval No.: 2539–0033 Local Housing Counseling Agencies	5.6	May 25, 1999 ...	Appropriate HUD Homeownership Center (HOC).
CFDA No.: 14.169 OMB Approval No.: 2502–0261 National, Regional, and Multi-State Intermediaries	7.5	May 25, 1999 ...	HUD Headquarters Room 9166.
CFDA No.: 14.169 OMB Approval No.: 2502–0261 State Housing Finance Agencies	3.5	May 25, 1999 ...	Appropriate HUD Homeownership Center (HOC).
CFDA No.: 14.169 OMB Approval No.: 2502–0261			
LEAD HAZARD CONTROL			
Lead-Based Paint Hazard Control Programs	62.5		
Lead-Based Paint Hazard Control Program	56	May 26, 1999 ...	Postal Service: HUD Headquarters, Office of Lead Hazard Control, Room P3206.
CFDA No.: 14.900 OMB Approval No.: pending Research to Improve Evaluation and Control of Residential Lead-Based Paint Hazards.	2.5	May 26, 1999 ...	Postal Service: HUD Headquarters, Office of Lead Hazard Control, Room P3206.
CFDA No.: 14.900 OMB Approval No.: 2529–0011 Mold and Moisture Control in Inner City Housing	4	May 26, 1999 ...	Postal Service: HUD Headquarters, Office of Lead Hazard Control, Room P3206.
CFDA No.: 14.900 OMB Approval No.: pending			
PUBLIC AND INDIAN HOUSING REVITALIZATION AND DEMOLITION			
Revitalization and Demolition Programs	583		
Hope VI Revitalization Grants	523	May 27, 1999 ...	HUD Headquarters Room 4138 and copies to appropriate local HUD Field Office.
CFDA No.: 14.866 OMB Approval No.: 2577–0208 HOPE VI Demolition Grants	60	July 29, 1999	HUD Headquarters Room 4138 and copies to appropriate local HUD Field Office.
CFDA No.: 14.866 OMB Approval No.: 2577–0208			
DRUG ELIMINATION IN PUBLIC AND ASSISTED HOUSING			
Drug Elimination Programs	289.30		
Public Housing Drug Elimination Program (including Youth Sports Eligible Activities).	242.75	June 16, 1999 ..	Appropriate local HUD Field Office or Area Office of Native American Programs.
CFDA No.: 14.854 OMB Control No.: 2577–0124 Public Housing Drug Elimination New Approach (Formerly Safe Neighborhood Grant).	28.3	July 1, 1999	Appropriate local HUD Field Office or Area Office of Native American Programs.
CFDA No.: 14.854 OMB Control No.: 2577–0124 Public Housing Drug Elimination TA	2	June 16, 1999 ..	HUD Headquarters Room 4206.
CFDA No.: 14.854 OMB Control No.: 2577–0124 Drug Elimination Grants for Multifamily Low Income Housing.	16.25	June 16, 1999 ..	Appropriate local HUD Field Office or Area Office of Native American Programs.
CFDA No.: 14.193 OMB Approval No.: 2502–0476			
ECONOMIC DEVELOPMENT AND EMPOWERMENT			
Economic and Empowerment Programs	120		
Economic Development Initiative	35	June 11, 1999 ..	HUD Headquarters Room 7251 and copy to appropriate local HUD Field Office.

HUD FY 1999 SUPERNOFA FUNDING—Continued

[Dollars in millions]

Program name	Funding available	Due date	Submission location and room
CFDA No.: 14.246 OMB Approval No.: 2506–0153			
Brownfields Economic Development Initiative	25	June 25, 1999 ..	HUD Headquarters Room 7251 and copy to appropriate local HUD Field Office.
CFDA No.: 14.246 OMB Approval No.: 2506–0153			
Self-Help Homeownership Opportunity Program (SHOP).	20	April 29, 1999 ...	HUD Headquarters Room 7251.
CFDA No.: 14.247 OMB Approval No.: N/A			
Youthbuild	40	April 30, 1999 ...	HUD Headquarters Room 7251 and copy to appropriate local HUD Field Office.
CFDA No.: 14.243 OMB Approval No.: 2508–0142			
TARGETED HOUSING AND HOMELESS ASSISTANCE			
Targeted Housing and Homeless Assistance Programs.	1,224.27		
Continuum of Care Homeless Assistance	750	June 2, 1999	HUD Headquarters Room 7270 and copies to appropriate local HUD Field Offices.
—Supportive Housing— CFDA No.: 14.235 —Shelter Plus Care—CFDA No.: 14.238 —Section 8 Moderate Rehabilitation—Single Room Occupancy (SRO) CFDA No.: 14.249 OMB Approval No.: 2506–0112			
Housing Opportunities for Persons with AIDS	22.27	June 2, 1999	HUD Headquarters Room 7251 and copies to appropriate local HUD Field Office.
CFDA No.: 14.241 OMB Approval No.: 2506–0133			
Section 202 Supportive Housing for the Elderly	434.8	May 27, 1999 ...	Appropriate local HUD Multifamily HUB or Multifamily Program Center.
CFDA No.: 14.157 OMB Approval No.: 2502–0267			
Section 811 Supportive Housing for Persons with Disabilities. CFDA No.: 14.181 OMB Approval No.: 2502–0462	87.2	May 27, 1999 ...	Appropriate local HUD Multifamily HUB or Multifamily Program Center.

Corrections and Clarifications Made by This Notice

This notice corrects the following editorial and technical errors that have been identified in various program sections of the FY 1999 SuperNOFA.

Fair Housing Initiative Program (FHIP). The FHIP program section of the SuperNOFA is corrected to provide that eligible applicants under the Joint Enforcement program Component also include Qualified Fair Housing Organizations (QFHOs) and Fair Housing Organizations (FHOs) with at least one year of experience in complaint intake, testing for fair housing violations, and meritorious claims. This correction is necessary to more accurately reflect the regulatory requirement that eligible fair housing enforcement organizations have at least one year's experience in enforcement-related activities.

Lead-Based Paint Hazard Control Program. The Lead-Based paint Hazard Control Program section is corrected to provide that State and Indian tribal governments must have submitted a Lead-based Paint Contractor Certification and Accreditation Program for EPA review and authorization at the time of application for grant funding. This correction ensures that State and Indian tribal governments have the maximum opportunity to compete for this grant program.

Section 202 Supportive Housing for the Elderly Program. This notice corrects the addresses for submitting applications under the Section 202 Supportive Housing for the Elderly Program. The notice also corrects the erroneous impression that the only condition for which an option agreement or contract for sale may be terminated is if the Sponsor is not awarded a fund reservation. It is HUD's intention that the purchaser is not required to exercise the option to close on the property if there are problems such as environmental defects, the site does not pass the inspection, or the appraisal is less than the purchase price.

Section 811 Supportive Housing for Persons with Disabilities Program. This notice corrects the addresses for submitting applications under the Section 811 Supportive Housing for Disabilities Program (the "Section 811 Program"). Additionally, the notice corrects an inconsistency in the Section 811 Program section regarding project size for group homes assisted under this program. This notice also clarifies that at least 51% of a Sponsor's board must consist of persons with disabilities (including persons with disabilities similar to those of the prospective residents). The notice also corrects two

typographical errors regarding necessary application exhibits. This notice also adds the HUD-Grand Rapids Office to this list of local HUD offices identified in Appendix A to the Section 811 Program section of the SuperNOFA.

The notice also corrects the erroneous impression that the only condition for which an option agreement or contract for sale may be terminated is if the Sponsor is not awarded a fund reservation. It is HUD's intention that the purchaser is not required to exercise the option to close on the property if there are problems such as environmental defects, the site does not pass the inspection, or the appraisal is less than the purchase price.

Accordingly, in the SuperNOFA for Housing, Community Development, and Empowerment Programs, notice document 99–4476, beginning at 64 FR 9618, in the issue of Friday, February 26, 1999, the following corrections are made:

A. Fair Housing Initiatives Program (FHIP) Section, Beginning at 64 FR 9677

1. On page 9680, in the middle column, Section III(A)(2)(b) (captioned "Eligible Applicants") is corrected to read as follows:

(b) *Eligible Applicants.* If you are a QFHO or you are an FHO with at least one year of experience in complaint intake, complaint investigation, testing for fair housing violations, and enforcement of meritorious claims, you are eligible for funding under this component and may subcontract with other organizations to carry out Joint Enforcement Project Components. Subcontracts should be discussed in accordance with Rating Factor 3: Soundness of Approach.

B. Lead-Based Paint Hazard Control Program Section, Beginning at 64 FR 9699

1. On page 9702, in the first column, Section III(B)(5) s corrected to read as follows:

If you are a State government or an Indian Tribal government, you must have submitted a Lead-based Paint Contractor Certification and Accreditation Program for EPA review and authorization at the time of application for grant funding. It is not necessary to have completed the authorization process by the grant application submission deadline.

C. Section 202 Supportive Housing for the Elderly Program Section, Beginning at 64 FR 9845.

1. On page 9847, in the first column, under Section I (captioned "Application Due Date, Application Kits, Further Information, and Technical Assistance), the first paragraph under the heading "Address for Submitting Applications" is corrected to read as follows:

Address for Submitting Applications. Submit your completed application (an original and four copies) to the Director of the appropriate Multifamily Hub Office or Multifamily Program Center as listed in Appendix A to the Section 811 program section of this SuperNOFA with the following exceptions:

1. Applications for projects proposed to be located within the jurisdiction of the Seattle, Washington and the Anchorage, Alaska Offices must be submitted to the Portland, Oregon Office.

2. Applications for projects proposed to be located within the jurisdiction of the Sacramento, California Office must be submitted to the San Francisco, California Office.

3. Applications for projects proposed to be located within the jurisdiction of the Cincinnati, Ohio Office must be submitted to the Columbus, Ohio Office.

2. On page 9857, in the middle column, the following sentence is added at the end of Section VI(B)(4)(d)(i)(*2*):

If the contract of sale requires closing of the purchase on a date earlier than the 202 closing, the applicant must escrow the amount of the purchase price.

3. On page 9857, in the middle column, the following sentence is added at the end of Section VI(B)(4)(d)(i)(*3*):

If renewal of the option agreement requires a payment or deposit for renewal, the applicant must escrow the amount of the payment or deposit.

4. On page 9857, in the third column, the following sentence is added at the end of Section VI(B)(4)(d)(i)(*5*), immediately preceding the undesignated paragraph captioned "Note":

If the contract of sale or the option agreement contain provisions that allow a Sponsor not to purchase the property for reasons such as environmental problems, failure of the site to pass inspection, or the appraisal is less than the purchase price, then such provisions are not objectionable and a Sponsor is allowed to terminate the contract for sale or the option agreement.

D. Section 811 Supportive Housing for Persons With Disabilities Program Section, beginning at 64 FR 9861

1. On page 9863, in the first column, under Section I (captioned "Application Due Date, Application Kits, Further Information, and Technical Assistance"), the first paragraph under the heading "Address for Submitting Applications" is corrected to read as follows:

Address for Submitting Applications. Submit your completed application (an original and four copies) to the Director of the appropriate Multifamily Hub Office or Multifamily Program Center as listed in Appendix A to the Section 811 program section of this SuperNOFA with the following exceptions:

1. Applications for projects proposed to be located within the jurisdiction of the Seattle, Washington and the Anchorage, Alaska Offices must be submitted to the Portland, Oregon Office.

2. Applications for projects proposed to be located within the jurisdiction of the Sacramento, California Office must be submitted to the San Francisco, California Office.

3. Applications for projects proposed to be located within the jurisdiction of the Cincinnati, Ohio Office must be submitted to the Columbus, Ohio Office.

2. On page 9869, in the first column, the second to last sentence in Section III(B) (captioned "Eligible Applicants") is corrected to read as follows:

A single application for an independent living project must propose at least five units, not necessarily in one structure; and for a group home must propose to serve at least three persons with disabilities in one home.

3. On page 9870, in the middle column, under Section IV(E) (captioned "Supportive Services") the reference to "Exhibit 4(d)" in the undesignated introductory paragraph of that section is corrected to read "Exhibit 4(e)."

4. On page 9871, in the first column, under Section V(A) (captioned "Review for Curable Deficiencies"), the reference to "(d)(i) Evidence of site control (if submitted with application)" is removed.

5. On page 9872, in the third column, under "Rating Factor 3: Soundness of Approach," paragraph (5) is corrected to read as follows:

(5) (5 points) Your board includes 51% persons with disabilities (including persons with disabilities similar to those of the prospective residents).

6. On page 9874, in the middle column, the following sentence is added at the end of Section VI(B)(4)(d)(i)(*1*)(*B*):

If the contract of sale requires closing of the purchase on a date earlier than the 811 closing, the applicant must escrow the amount of the purchase price.

7. On page 9874, in the middle column, the following sentence is added at the end of Section VI(B)(4)(d)(i)(*1*)(*C*):

If renewal of the option agreement requires a payment or deposit for renewal, the applicant must escrow the amount of the payment or deposit.

8. On page 9874, in the third column, the following sentence is added at the end of Section VI(B)(4)(d)(i)(*1*)(*E*) immediately preceding the undesignated paragraph captioned "Note":

If the contract of sale or the option agreement contain provisions that allow a Sponsor not to purchase the property for reasons such as environmental problems, failure of the site to pass inspection, or the

appraisal is less than the purchase price, then such provisions are not objectionable and a Sponsor is allowed to terminate the contract for sale or the option agreement.

9. On page 9878, in the middle column, under Appendix A—Local HUD Offices, the heading captioned "HUD—Detroit" is corrected to read "HUD—Detroit Hub."

10. On page 9878, under Appendix A—Local HUD Offices, the following address for the HUD-Grand Rapids Office is added immediately following the address for the HUD-Detroit Office under the heading "HUD—Detroit Hub":

Grand Rapids Office

Trade Center Building
50 Louis Street, NW, Third Floor
Grand Rapids, MI 49503–2648
(616) 456–2145
TTY Number: (616) 456–2159

Dated: April 22, 1999.

Saul N. Ramirez, Jr.,

Deputy Secretary.

[FR Doc. 99–10564 Filed 4–22–99; 4:46 pm]

BILLING CODE 4210–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–1330–01 24 1A]

OMB Approval Number 1004–0169; Notice of Proposed Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) announces its intention to request approval for the renewal of the collection of information annually from holders of unpatented mining claims concerning the use and occupancy of their claims. This collection has an Office of Management and Budget (OMB) clearance number of 1004–0169.

DATES: Comments must be received by June 28, 1999 to be assured of consideration.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (WO–630), Bureau of Land Management, 1849 C St., N.W., Mail Stop 401 LS, Washington, D.C. 20240. You may send comments via Internet to: *WoComment@wo.blm.gov*. Please include "ATTN: 1004–0169" and your name and return address in your Internet message. You may hand-deliver comments to: Bureau of Land Management, 1620 L St., N.W., Room 401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard E. Deery, (202) 452–0353.

SUPPLEMENTARY INFORMATION: Per 5 CFR 1320.8(d), BLM is required to provide 60-day notice in the **Federal Register** concerning a proposed collection of information to seek comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

In a final rule published in the **Federal Register** on July 16, 1996 (61 FR 37116), BLM established procedures for managing existing and future use and occupancy of mining claims on BLM–administered lands consistent with the General Mining Law (30 U.S.C. 612), and the Federal Land Policy and Management Act (43 U.S.C. 1733). Under the terms of the regulations, BLM has to acknowledge any newly proposed activity related to mining on public lands if the activity involves occupancy or fencing to exclude the public before the occupancy or fencing begins.

Anyone planning to occupy mining claims on public lands under the mining law has to submit the following information to BLM:

1. A detailed map that identifies the site and shows the place of temporary and permanent structures for occupancy, the location of and reason for the structures intended to exclude the public, and the location of reasonable public passage or access routes through or around the area adjacent to public lands;

2. A written description of the proposed occupancy that describes in detail how the proposed occupancy is reasonably incident and how the proposed occupancy meets the conditions specified in the regulations at 43 CFR 3715.2 and 3715.2–1; and

3. An estimate of the period of use of the structures used to exclude the public and a schedule for their removal and reclamation when operations end.

Submitting the information is required to obtain and keep a benefit, which is the use of the public lands open to mining under the mining law for occupancy reasonably incident to prospecting, mining, and processing operations. BLM estimates that the public reporting burden for this collection is 2 hours per response, including the time to read the instructions, gather the information, and report it to BLM. The respondents are mining claimants and operators of prospecting, exploration, mining, and processing operations. The annual number of respondents is estimated at 130 new claimants and 600 existing claimants, i.e., those that have claims and are just now beginning operations on those claims, for a total annual burden of 1,560 hours. The number of responses is one per operation.

You may review all comments received in response to this notice at the office address given in the **ADDRESSES** section of this notice. The comments will be available for inspection during regular business hours (7:45 am to 4:15 pm), Monday through Friday, excluding holidays. BLM will summarize all comments received and include them in the request for approval from OMB. All comments will become a matter of public record.

Dated: April 21, 1999.

Carole J. Smith,

BLM Information Clearance Officer.

[FR Doc. 99–10544 Filed 4–26–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–020–09–1220–00]

Notice of Closure of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure of public lands.

SUMMARY: Notice is hereby given that effective immediately, the public lands within Broad Hollow Unit, Kilgore Basin Unit, Meadows Unit, as legally described below, are seasonally closed from January 1 to April 30 to all motorized vehicle use. The purpose of this closure is to protect wildlife, including critical deer and sage grouse habitat. Exemptions to this closure will apply to administrative personnel of the Bureau of Land Management, BLM authorized permittees and Law Enforcement Personnel. Other exemptions to this closure order may be made on a case by case basis by the authorized officer. This seasonal closure will remain in effect until further notice.

LEGAL DESCRIPTION: This closure order applies to the following lands administered by the Bureau of Land Management, Salt Lake Field Office, within Box Elder County, Utah.

Broad Hollow Unit

T.14 N., R.16 W., SLBM
All public lands located in:
Sec. 8 and 9 south of the Upper Narrows Road,
Sec. 10 SW¼, S½S½SE¼,
Sec. 14 W½,
Sec. 17 east of the Upper Narrows Road, and
Sec. 20 E½, S½SW1/4.

Kilgore Basin Unit

T.9 N., R.18 W., SLBM
All public lands located in:
Sec. 6 south of Toms Cabin Road,
Sec. 8 west of the Old Grouse Creek Road,
Sec. 18,
Sec. 20 west of the Old Grouse Creek Road, and
Sec. 30 north of Cabin Springs Road.

T.10 N., R.18 W., SLBM
All public lands in
Sec. 30 located south of Toms Cabin Road.

T.9 N., R.19 W., SLBM
All public lands located in:
Sec. 4, 10, 12, 14, 24, 26,
Sec. 22 E½, E½NW¼, SW¼, and
all of Sec. 28 and 34 north of Cabin Springs Road.

T.10 N., R.19 W., SLBM
The following public lands west of Toms Cabin Road:
Sec. 28 E½, Lots 1–4, SE¼NW¼, E½SW¼,
Sec. 34 E½, E½W½, NW¼NW¼, W½SW¼.

Meadows Unit

T.11 N., R.16 W., SLBM
All of Sec. 22, 23, 26, 27, 28, 34, and
All of the public lands in Sec. 33 located north of the Ingham Pass County Road.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management, Salt Lake Field Office, 2370 S. 2300 W., SLC, UT 84119, telephone (801)977–4300.

SUPPLEMENTARY INFORMATION: The authority for this closure is 43 CFR 8341.2 and 43 CFR 8364.1. Violations of this closure are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

Glenn A. Carpenter,

Salt Lake Field Manager.

[FR Doc. 99–10531 Filed 4–26–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Extension of Public Comment Period for Draft General Management Plan/Environmental Impact Statement (DGMP/EIS) for Little River Canyon National Preserve, Alabama

SUMMARY: The original comments period ended on March 31. Several people have asked that we extend the comment period. We are happy to give everybody the opportunity to review and comment on the proposals in the plan.

DATES: We are extending the comment period to May 15, 1999.

ADDRESSES: Anyone wishing to send comments on the DGMP/EIS may do so to the following address: Superintendent, Little River Canyon National Preserve, 2141 Gault Avenue, North, Fort Payne, Alabama 359967.

SUPPLEMENTARY INFORMATION: We received very few comments during the original review period—even though we mailed the plan to over 450 people, prepared newsletters and news releases on the plan and held public meetings in both Fort Payne and Centre. It is not a large document, since we are not proposing much that is new, but we are happy to give everybody the opportunity to review and comment on the proposals.

Copies of the plan may be obtained by calling (256) 845–9605, and the plan is posted on the preserve's website at: www.nps.gov/liri.

Dated: April 20, 1999.

Daniel W. Brown,

Regional Director, Southeast Region.

[FR Doc. 99–10488 Filed 4–26–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Report of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions that are new, modified, discontinued, or completed since the last publication of this notice on January 22, 1999. The January 22, 1999, notice should be used as a reference point to identify changes. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities. Additional Bureau of Reclamation (Reclamation) announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Alonzo Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Bureau of Reclamation, PO Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2889.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and 43 CFR 426.20 of the rules and regulations published in 52 FR 11954, Apr. 13, 1987, Reclamation will publish notice of the proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the "Final Revised Public Participation Procedures" for water resource-related contract negotiations, published in 47 FR 7763, Feb. 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. Each proposed action is, or is expected to be, in some stage of the contract negotiation process in 1999. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional

directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (i) The significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Acronym Definitions Used Herein

(BCP)—Boulder Canyon Project
(CAP)—Central Arizona Project
(CUP)—Central Utah Project
(CVP)—Central Valley Project
(CRSP)—Colorado River Storage Project
(D&MC)—Drainage and Minor Construction
(FR)—Federal Register
(IDD)—Irrigation and Drainage District
(ID)—Irrigation District
(M&I)—Municipal and Industrial
(NEPA)—National Environmental Policy Act
(O&M)—Operation and Maintenance
(P-SMBP)—Pick-Sloan Missouri Basin Program
(PPR)—Present Perfected Right
(RRA)—Reclamation Reform Act
(R&B)—Rehabilitation and Betterment
(SOD)—Safety of Dams
(SRPA)—Small Reclamation Projects Act
(WCUA)—Water Conservation and Utilization Act
(WD)—Water District

Pacific Northwest Region

Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5346.

The Pacific Northwest Region has no updates to report for this quarter. Please refer to the January 22, 1999, publication of this notice for current contract actions.

Mid-Pacific Region

Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

New Contract Actions

36. Contra Costa WD, CVP, California: Amend water service contract No. I75r–3401 for the purpose of renegotiating the provisions of contract Article 12, "Water Shortage and Apportionment," to conform to current CVP M&I water shortage policy.

37. Plain View WD, CVP, California: Long-term Warren Act contract for conveyance of non-project water in the Delta-Mendota Canal.

38. City of Redding, CVP, California: Amend water contract No. 14–06–200–5272A for the purpose of renegotiating the provisions of contract Article 15, "Water Shortage and Apportionment," to conform to current CVP M&I water shortage policy.

39. Tehama-Colusa Canal Authority, CVP, California: Amendment of existing long-term O&M agreement to also include the O&M of the Red Bluff Diversion Dam and related facilities.

Modified Contract Actions

2. Contractors from the American River Division, Buchanan Unit, Colusa Basin Drain, Cross Valley Canal, Delta Division, East Side Division, Friant Division, Hidden Unit, Sacramento River Division, San Felipe Division, Shasta Division, Trinity River Division, and West San Joaquin Division, CVP, California: Renewal of existing long-term and interim renewal water service contracts with contractors whose contracts expire between 2000 and 2001; water quantities for these contracts total in excess of 5.6M acre-feet. These contract actions will be accomplished through long-term renewal contracts pursuant to Public Law 102–575. Prior to completion of negotiation of long-term renewal contracts, existing interim renewal water service contracts may be renewed through successive interim renewal of contracts.

4. Sacramento River settlement contractors, CVP, California: Administrative policy for voluntary contract assignments which provides for repayment of O&M deficit(s), and payment by assignee of the CVP cost-of-service rate as determined in accordance with the current CVP ratesetting policy.

14. Mercy Springs WD, CVP, California: Assignment of District's water service contract to Pajaro Valley Water Management Agency. The assignment will provide for delivery of up to 13,300 acre-feet annually of water to the Agency from the CVP for agricultural purposes. Interim assignment up to 6,260 acre-feet of water annually to Westlands and Santa Clara Valley WDs until the Agency completes their water project.

17. M&T, Inc., Sacramento River Water Rights Contractors, CVP, California: A proposed exchange agreement with M&T, Inc., to take Butte Creek water rights water from the Sacramento River in exchange for CVP water to facilitate habitat restoration.

32. Tuolumne Utilities District (formerly Tuolumne Regional WD), CVP, California: Long-term water service contract for up to 9,000 acre-feet from New Melones Reservoir, and possibly long-term contract for storage of non-project water in New Melones Reservoir.

Discontinued Contract Actions

9. Mountain Gate Community Services District, CVP, California: Amendment of existing long-term water service contract to include right to renew. This amendment will also conform the contract to current Reclamation law, including Public Law 102–575.

25. Centerville Community Services District, CVP, California: A long-term supplemental repayment contract for reimbursement to the United States for conveyance costs associated with CVP water conveyed to Centerville.

Completed Contract Actions

16. Stony Creek WD, Black Butte Dam and Lake, Sacramento River Division,

CVP, California: Proposed amendment of Stony Creek Water District's water service contract, No. 2–07–20–W0261, to allow the Contractor to change from paying for all project water, whether used or not, to paying only for project water scheduled or delivered and to add another month to the irrigation period. Contract awarded January 13, 1999.

Lower Colorado Region

Bureau of Reclamation, PO Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

Modified Contract Actions

1. Milton and Jean Phillips, Cameron Brothers Construction Co., Ogram Farms, Bruce Church, Inc., and Sunkist Growers, Inc., BCP, Arizona: Water service contracts, as recommended by Arizona Department of Water Resources, with agricultural entities located near the Colorado River for up to 15,557 acre-feet per year total.

2. Arizona State Land Department, State of Arizona, BCP, Arizona: Contract for 6,607 acre-feet per year of Colorado River water for agricultural use and related purposes on State-owned land. Modified to include Kenneth or Ann Easterday and Robert E. Harp, Co., previously in item No. 1.

4. Brooke Water Co. and Havasu Water Co., BCP, Arizona: Contracts for additional M&I allocations of Colorado River water to entities located along the Colorado River in Arizona for up to 2,610 acre-feet per year as recommended by the Arizona Department of Water Resources.

Discontinued Contract Actions

1. Kenneth or Ann Easterday and Robert E. Harp, Co., BCP, Arizona: To be included in Arizona State Lands Department contract, item No. 2.

Completed Contract Actions

1. Clayton Farms, BCP, Arizona: Water service contract, as recommended by the Arizona Department of Water Resources. Completed as Raynor Ranches for Colorado River water for up to 4,500 acre-feet per year total.

4. Town of Quartzsite, BCP, Arizona: Contract for additional M&I allocation of Colorado River water to entities located along the Colorado River in Arizona for up to 1,070 acre-feet per year as recommended by the Arizona Department of Water Resources.

30. Mr. Robert H. Chesney, BCP, Arizona: Amend contract No. 5–07–30–W0321 to increase the cubic-foot-per-second diversion and facilitate the installation of a low-lift pump.

Upper Colorado Region

Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–4419.

New Contract Actions

18. Carlsbad ID, Carlsbad Project, New Mexico: Contract to provide for repayment of the District's 15 percent share of proposed modifications to Avalon Dam under the SOD program.

Modified Contract Actions

1(b) City of Page, Arizona, Glen Canyon Unit, CRSP, Arizona: Long-term contract for 1,000 acre-feet of water for municipal purposes.

1(c) LeChee Chapter of the Navajo Nation, Glen Canyon Unit, CRSP, Arizona: Long-term contract for 1,000 acre-feet of water for municipal purposes.

13. Public Service Company of New Mexico, Navajo Unit, CRSP, New Mexico: New water service contract for diversion of 16,700 acre-feet, not to exceed a depletion of 16,200 acre-feet of project water for cooling purposes for a steam electric generation plant.

Completed Contract Actions

6. Carlsbad ID, Carlsbad Project, New Mexico: Multi-year contract to allow the District to lease water to the New Mexico Interstate Stream Commission to fulfill New Mexico's water obligation to Texas under Supreme Court's Amended Decree in *Texas* v. *New Mexico* 485 U.S. 288(1988).

Great Plains Region

Bureau of Reclamation, PO Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–247–7730.

New Contract Actions

37. Fort Shaw and Greenfields IDs, Sun River Project, Montana: Contract for additional SOD costs for repairs to Willow Creek Dam. In the process of preparing basis of negotiation for Greenfields ID.

38. Green Mountain Project, Colorado: Reclamation is currently developing a contract for surplus HUP water for municipal/recreational purposes in the Grand Valley. This contract is to benefit the endangered fish recovery.

Modified Contract Actions

3. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Second round water sales from the regulatory capacity of Ruedi Reservoir. Water service and repayment contracts for up to 17,000 acre-feet annually for M&I use; contract with Colorado Water Conservation Board and the U.S. Fish and Wildlife Service for 21,650 acre-feet for endangered fishes.

32. Savage ID, P-SMBP, Montana: Negotiating a long-term irrigation contract.

36. Fryingpan-Arkansas Project, Colorado: This contract action amends contract No. 9–07–70–W099 with Busk-Ivanhoe, Inc.

Discontinued Contract Actions

30. Public Service Company of Colorado: Agreement to furnish surplus water from the historic users pool at Green Mountain Reservoir for the purpose of generating hydroelectric power at the Grand Valley Powerplant, Palisades, Colorado.

Dated: April 20, 1999.

Wayne O. Deason,

Deputy Director, Program Analysis Office.

[FR Doc. 99–10470 Filed 4–26–99; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Investigation 332–406]

Overview and Analysis of the Economic Impact of U.S. Sanctions With Respect to India and Pakistan

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation, scheduling of public hearing, and notice of opportunity to submit comments.

EFFECTIVE DATE: April 16, 1999.

SUMMARY: Following receipt on March 19, 1999, of a request under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) from the Committee on Ways and Means (the Committee) of the U.S. House of Representatives, the U.S. International Trade Commission (the Commission) instituted investigation No. 332–406, Overview and Analysis of the Economic Impact of U.S. Sanctions With Respect to India and Pakistan. The Commission plans to submit its report to the Committee by September 17, 1999.

FOR FURTHER INFORMATION CONTACT: Information on economic aspects may be obtained from James Stamps, Office of Economics (202–205–3227 or e-mail to jstamps@usitc.gov); industry aspects, from Scott Ki, Office of Industries (202–205–2160); and legal aspects, from William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819). Hearing impaired individuals are advised that information on this matter

can be obtained by contacting the TDD terminal on (202–205–1810).

BACKGROUND: In its letter, the Committee noted that the President imposed economic sanctions on India and Pakistan in May 1998 under section 102 of the Arms Export Control Act ("Glenn Amendment"), which was enacted in 1994 (22 U.S.C. 2799aa(b)-1); U.S. economic sanctions were imposed automatically once the President determined that India and Pakistan had detonated nuclear explosive devices. In July 1998, Congress passed section 902 of the India-Pakistan Relief Act of 1998 (Pub. L. 105–277), which authorized the President to waive application of U.S. sanctions on India and Pakistan. On December 1, 1998, the President waived the India and Pakistan sanctions, after determining that such a waiver would increase the likelihood of progress toward U.S. nuclear non-proliferation objectives (Presidential Determination No. 99–7). By law, the President's waiver authority ends on October 21, 1999.

In anticipation of Congressional action during 1999 on sanctions reform legislation and consideration of possible renewal of section 902 of the India-Pakistan Relief Act, the Committee requested that the Commission complete a report by September 17, 1999, providing an overview and analysis of the economic impact of U.S. sanctions policy with respect to India and Pakistan. The Committee specifically requested that the Commission's report:

(1) Identify U.S. industries, including U.S. agricultural commodities, which were affected by economic sanctions on India and Pakistan under sec. 102 of the Arms Export Control Act, and the impact on each industry;

(2) Analyze, to the extent data are available, the economic impact of U.S. sanctions on U.S. exports, U.S. imports, jobs, consumers, and investment in the affected industries;

(3) Assess the likely economic impact on the United States if U.S. economic sanctions against India and Pakistan are re-imposed, including the U.S. products and sectors which would be significantly affected, the availability of alternative foreign suppliers for leading U.S. exports, and the likely impact of U.S. sanctions on the reputation of the United States as a reliable supplier of food, technology, other products, and on U.S. competitiveness in the affected industries;

(4) Assess the impact of the reimposition of U.S. economic sanctions against India and Pakistan on U.S. agriculture, including the likelihood of retaliation, the specific commodities most likely to be affected, potential alternative foreign suppliers, the likely impact on the incomes of U.S. agricultural producers, and the likely impact on the U.S. reputation as a reliable supplier of agricultural commodities;

(5) Analyze the likely impact of unilateral U.S. economic sanctions on the Indian and Pakistani economies; and

(6) Summarize the instances where U.S. sanctions have affected humanitarian activities as well as the activities of multinational institutions in India and Pakistan.

Public Hearing

A public hearing in connection with this investigation will be held in the Commission Hearing Room, 500 E Street, SW, Washington, DC 20436, beginning at 9:30 a.m. on June 22, 1999 (and continuing on June 23, 1999, if necessary). All persons will have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed in writing with the Secretary, United States International Trade Commission, 500 E Street, SW, Washington, DC 20436, no later than 5:15 p.m. on June 8, 1999. Persons testifying at the hearing are encouraged to file prehearing briefs or statements; the deadline for filing such briefs or statements (a signed original and 14 copies) is no later than 5:15 p.m. on June 8, 1999. The deadline for filing posthearing briefs or statements is 5:15 p.m. on July 6, 1999. Any confidential business information included in such briefs or statements or to be submitted at the hearing must be submitted in accordance with the procedures set forth in section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). In the event that, as of 5:15 p.m. on June 8, 1999, no witnesses have filed a request to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1806) after June 8, 1999, to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to participating in the hearing, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received not later than COB July 6, 1999. All submissions should be addressed to the Secretary, United Sates International Trade Commission, 500 E Street SW, Washington, DC 20436. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: April 19, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10536 Filed 4–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–383 (Final)]

Elastic Rubber Tape From India

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On April 19, 1999, the Department of Commerce published notice in the **Federal Register** of a negative final determination of subsidies in connection with the subject investigation (64 FR 19125). Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the Commission's countervailing duty investigation concerning elastic rubber tape from India (investigation No. 701–TA–383 (Final)) is terminated.

EFFECTIVE DATE: April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Yost (202–205–3432), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-

impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

Issued: April 20, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10537 Filed 4–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–805 (Final)]

In the Matter of Elastic Rubber Tape From India; Notice of Commission Determination to Conduct a Portion of the Hearing in Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of respondents Garware Elastomerics Limited and Elastomer, Inc. (collectively "Respondents"), the Commission has determined to conduct a portion of its hearing in the above-captioned investigation scheduled for April 20, 1999, in camera. See Commission rules 207.24(d), 201.13(m) and 201.36(b)(4) (19 CFR 207.24(d), 201.13(m) and 201.36(b)(4)). The remainder of the hearing will be open to the public. The Commission has determined that the seven-day advance notice of the change to a meeting was not possible. See Commission rule 201.35(a), (c)(1) (19 CFR 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: Michael Diehl, Office of General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–3095, e-mail mdiehl@usitc.gov. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes that Respondents have justified the need for a closed session. Respondents seek a closed session to allow purchasers to fully discuss their experiences with domestic producers and to allow testimony regarding the effects of the subject imports on the domestic producers of elastic rubber tape. Because such discussions will necessitate disclosure of business proprietary information (BPI), they can only occur if a portion of the hearing is held in camera. In making this decision, the Commission nevertheless reaffirms its belief that whenever possible its business should be conducted in public.

The hearing will include the usual public presentations by petitioners and by Respondents, with questions from the Commission. In addition, the hearing will include an in camera session for a confidential presentation by Respondents and for questions from the Commission relating to the BPI, followed by an in camera rebuttal presentation by petitioners. For any in camera session the room will be cleared of all persons except those who have been granted access to BPI under a Commission administrative protective order (APO) and are included on the Commission's APO service list in this investigation. See 19 CFR 201.35(b)(1), (2). The time for the parties' presentations and rebuttals in the in camera session will be taken from their respective overall allotments for the hearing. All persons planning to attend the in camera portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in Elastic Rubber Tape from India, Inv. No. 731–TA–805 (Final), may be closed to the public to prevent the disclosure of BPI.

Issued: April 20, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10538 Filed 4–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–418]

In the Matter of Certain Rodent Bait Stations and Components Thereof; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on Withdrawal of the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the initial determination (ID) of the presiding administrative law judge (ALJ) terminating the above-captioned investigation without prejudice on the basis of complainant's withdrawal of its complaint.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3104. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 25, 1999 (64 FR 3716) based on a complaint filed by Bell Laboratories, Inc. (Bell), of Madison, Wisconsin. Aegis Research Ltd. of the United Kingdom and Aegis Research Ltd., U.S. of Delaware (collectively, Aegis) were named as respondents.

On February 26, 1999, Bell and Aegis filed a joint motion to terminate the investigation based on withdrawal of the complaint without prejudice. The Commission investigative attorney supported the joint motion on March 1, 1999. On March 16, 1999, the ALJ issued an ID granting the motion and terminating the investigation without prejudice. No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission rules 210.42(h), 19 CFR 210.42(h).

Copies of the public version of the ALJ's ID, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S.

International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000.

Issued: April 19, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10535 Filed 4–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–378 (Final)]

Certain Stainless Steel Plate From Korea

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On March 31, 1999, the Department of Commerce published notice in the **Federal Register** of a negative final determination of countervailable subsidies in connection with the subject investigation (64 FR 15530). Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the countervailing duty investigation concerning certain stainless steel plate from Korea (investigation No. 701–TA–378 (Final)) is terminated.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

Issued: April 22, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10539 Filed 4–26–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 21, 1999, Mallinckrodt Chemical, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application by renewal of the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Phenylacetone (8501)	II
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

The firm plans to import the listed controlled substances to manufacture bulk finished products.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 12, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–10511 Filed 4–26–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 25, 1999, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture bulk controlled substances for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: April 12, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–10512 Filed 4–20–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 25, 1999, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration to be registered as an importer of coca leaves (9040) a basic class of controlled substance in Schedule II.

The firm plans to import coca leaves to manufacture bulk controlled substance.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 9, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–10513 Filed 4–26–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting; Record of Vote of Meeting Closure (Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Michael J. Gaines, Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately nine-thirty a.m. on Wednesday, April 14, 1999, at the Friendship Heights Village Center, 4433 South Park Avenue, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide six appeals from the National Commissioners' decisions pursuant to 28 C.F.R. Section 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed; Michael J. Gaines, Edward F. Reilly, Jr., and John R. Simpson.

IN WITNESS WHEREOF, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: April 22, 1999.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 99–10615 Filed 4–23–99; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February and March, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–35,319; Simpson Pasadena Paper Co., Pasadena, TX

TA–W–35,391; IRC, Inc., Boone, NC

TA–W–35,406; American London-Norwood, Inc., Norwood, MA

TA–W–35,365; Premier Refractories, Inc., Snow Shoe, PA

TA–W–35,572; Don-Nan Pump & Supply Co., Inc., Midland, TX

TA–W–35,325; Charles Bluestone Co., Elizabeth, NJ

TA–W–35,749; Regal Ware, Inc., Kewaskum, WI

TA–W–35,601; Quality Chemicals, Inc., Tyrone, PA

TA–W–35,684; Quaker State Corp., Irving, TX

TA–W–35,732; Westvaco Luke Mill, Luke, MD

TA–W–35,425; Auburn International, Danvers, MA

TA–W–35,726; Ponderosa Fibers of Pennsylvania, Northampton, PA

TA–W–35,535; American Silicon Technologies, Rock Island, WA
TA–W–35,544 & A; Philips Services, Plant #62, Canton, OH and Philips Services, Non-Ferrous, Canton, OH

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–35,772; Battle Mountain Welding, Battle Mountain, NV
TA–W–35,738; Red Man Pipe and Supply Co., Roosevelt, UT
TA–W–35,468; Wilson Sporting Goods Co., Sparta, TN
TA–W–35,960; Columbia Sportswear Co., Quality Audit Dept at the Distribution Center, Portland, OR
TA–W–35,861; Continental EMSCO, Hobbs, NM
TA–W–35,596; Bill Kaiser Co., Kansas City, MO
TA–W–35,736; Diamond Resources, Inc., Williston, ND
TA–W–35,715; Gulf Canada Resources Limited, Denver, CO
TA–W–35,810; 4-Way Trucking, Hays, KS
TA–W–35,737; Weatherford International, Inc., Williston, ND
TA–W–35,814 & A; Fairfield Southern Railroad, A Wholly Owned Subsidiary of Birmingham Southern, Fairfield, AL and Birmingham Southern Car Shop, Ensley, AL
TA–W–35,791; Keystone Stihl, Inc., Mifflintown, PA
TA–W–35,571; Double EE Service, Inc., Williston, ND
TA–W–35,787; RR Donnelley & Sons, Fulfillment & Distribution Div., Dunmore, PA
TA–W–35,455; Hughes Christensen, Research & Development Group, Salt Lake City, UT

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–35,437; US Can Co., Green Bay, WI
TA–W–35,502; All Technologies, El Paso, TX
TA–W–35,514; Sun Apparel of Texas, Ltd., Armour Plant Cutting Room, El Paso, TX
TA–W–35,532; The Boeing Co., Monrovia, CA
TA–W–35,575; Jamesbury, Inc., El Paso Distribution Center, El Paso, TX
TA–W–35,855; Puget Plastics Corp., Tualatin, OR
TA–W–35,385; Rainbow Piece Dye, Fair Lawn, NJ
TA–W–35,441; Parker Technology LLC, Odessa, TX
TA–W–35,231; Cyprus Thompson Creek Mining Co., Challis, ID
TA–W–35,908; Block Drug Co., Inc., South Brunswick, NJ
TA–W–35,358; Alumax E.M.P., Bentonville, AR
TA–W–35,355; Spokane Wire Shop, Spokane, WA
TA–W–35,360; Koch Label Co L.L.C., Evansville, IN
TA–W–35,339, A, B, C, D; Garden State Tanning, Inc., Headquartered in King of Prussia, PA, Fleetwood, PA, Reading, PA Williamsport, MD and Adrian, MI
TA–W–35,335; New Holland North American, Inc., Belleville, PA
TA–W–35,632; Thomas & Betts Elastimold, Hackettstown, NJ
TA–W–35,757; Vanport Manufacturing, Inc., Boring, OR
TA–W–35,447; JPM Co of South Carolina, Winnsboro, SC
TA–W–35,288; Johns Manville Co., East Stroudsburg, PA
TA–W–35,224; Betzdearborn, Inc., Lake Zurich, IL
TA–W–35,669; Pathway Bellows, Oak Ridge, TN
TA–W–35,588; Ouebecor Printing Glen Burnie, MD
TA–W–35,461; 84 Mining Co., Eighty Four, PA
TA–W–35,494; Philips Lighting Co., Lewiston, ME
TA–W–35,639; Louisiana Pacific Corp., Saw and Planer Mill, Lockhart, AL
TA–W–35,677; Schuykill Haven Bleach & Dye Works, Inc., Schuykill Haven, PA
TA–W–35,610; Golden Cat Div. of Ralston Purina, Now Known as Ralston Purina, Gold Products Div., Olmsted, IL
TA–W–35,449 A & B; ARCO, d/b/a/ Arco International Oil and Gas Co (AIOGC), Plano, TX, & ARCO, d/b/a Arco Exploration and Production Technology (AEPT), Plano, TX & ARCO, d/b/a Arco International Services, Inc., (AISI), Plano, TX
TA–W–35,638; Northwest Stamping & Precision, Eugene, OR
TA–W–35,667; Federal Mogul Corp., Friction Products, New Castle, IN
TA–W–35,386; Tavernon Engraving, Patterson, NJ
TA–W–35,480; Florida Coast Paper Co L.L.C., Port St. Joe, FL
TA–W–35,859; Heckett Multiserv, A Div. of Harsco Corp., Slippery Rock, PA
TA–W–35,580; United Technologies Automotive, ESA Div., Brownsville, TX
TA–W–35,495; Intel Corp., PCSM Group, DuPont; WA
TA–W–35,628; Western Gas Resources, Inc., Denver, CO & Operating in the Following Locations: A; Ringwood, OK, B; Houston, TX and C; West TX
TA–W–35,591; Crown Cork and Seal Co., Inc., Omaha, NE
TA–W–35,723; Litton Applied Technology (ATD), Grants Pass, OR
TA–W–35,573; De La Rue Cash Systems, Inc., Bensalem, PA
TA–W–35,852 & A; Reading Anthracite Co., Pottsville, PA & Operating in The State of Pennsylvania
TA–W–35,679; Tektronix, Inc., Bend, OR
TA–W–35,754; Shasta, Inc., Monaca, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–35,694; Inland Paperboard & Packaging, Inc., Orange, TX
TA–W–35,366; Bellwether Performance Apparel Co., San Francisco, CA
TA–W–35,527; Goss Graphic Systems, Inc., (Formerly Rockwell International, Graphics Div.), Cedar Rapids, IA

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–35,651; A&E Machine Shop, Inc., Long Star, TX
TA–W–35,556; GE Fanuc Automation, Charlottesville, VA
TA–W–35,414; Baker Oil Tools, Baker Hughes, Inc., Headquartered in Houston, TX & Operating in the Following States: A; AR, B; CA, C; IL, D; KS, E; LA, F; MS, G; MO, H; NM, I; ND, J; OK, K; PA, L; TN, M; WY

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–35,805; Operators & Consulting Service, Inc., Lafayette, LA
TA–W–35,377; Wheeling-Pittsburgh Steel Corp., Allenport Plant, Allenport, PA

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each

determination references the impact date for all workers of such determination.

TA–W–35,574; Permian Anchors, Inc., Odessa, TX: January 18, 1998
TA–W–35,547; UCAR Carbon Co., Inc., Columbia, TN: Janaury 9, 1998
TA–W–35,577; Fruit of The Loom, Leesburg Yarn Mills, Union Underwear, Leesburg, AL: January 11, 1998
TA–W–35,486 A&B; Key Energy Service, Rocky Mount Div., Williston, ND & Operating at Various Locations in The States of A; ND, and B; MT: December 23, 1997
TA–W–35,330; Ausco Products, Inc., Benton Harbor, MI: November 23, 1997
TA–W–35,426; Federal Mogul Ignition Products (Formery Known as Cooper Automotive Co.), Burlington, IA: November 30, 1997
TA–W–35,369; France Sports Manufacturing L.L.C., Goldendale, WA: December 3, 1997
TA–W–35,484; Jensen & Robinson Construction, Inc., dba J&R Construction, Inc., Roosevelt, UT: December 30, 1997
TA–W–35,279; Fox Point Sportswear, Inc., Wynne, AR: November 10, 1997
TA–W–35,267; Delta Apparel Co., Decatur, TN; October 28, 1997
TA–W–35,504 & A; Lanier Clothes, Press and Finishing Dept., Greenville, GA and Fayette, AL: December 16, 1997
TA–W–35,584; Femsco Industries, San Angelo, TX: January 21, 1998
TA–W–35,531; Weaver Service, Inc., dba WSI Cased Hole Specialist, Snyder, TX: January 6, 1998
TA–W–35,266; Perry Manufacturing Co., Mt Airy, NC: November 28, 1997
TA–W–35,390; Jaunty Textile, A Div. of Advanced Textile Composites, Inc., Scranton, PA: October 1, 1998
TA–W–35,540 & A: Flowline Div., New Castle, PA and Whiteville, NC: January 6, 1998
TA–W–35,090; Mead Paper Corp., Rumford, ME: October 5, 1997
TA–W–35,190; Highlander Apparel, Inc., Carthage, TN: October 26, 1997
TA–W–35,212; Herald Handbag Manufacturing Co., New York, NY: May 17, 1998
TA–W–35,528; BP Exploration, Anchorage, AK: August 27, 1998
TA–W–35,405; Snyder Oil Corp., Headquartered in Fort Worth, TX & Operating Throughout TX: February 3, 1998
TA–W–35,496; Clevenger Industries, Inc., Marion, NC: January 5, 1998
TA–W–35,296; Carbide/Graphite Group, Inc., St. Marys, PA: November 13, 1997
TA–W–35,464; Trimfoot Co., Farmington, MO: December 28, 1997
TA–W–35,538; Funk's Oil Field Service Co., Kincaid, TX: January 9, 1998
TA–W–35,603; Midwestern Mud Service, Wichita Falls, TX: January 25, 1998
TA–W–35,293; Saint Gobain Co/ Carborundum Corp., Keasbey, NJ: November 19, 1997
TA–W–35,342; Co-Steel Raritan, Perth Amboy, NJ: November 28, 1997
TA–W–35,153; Tiger Accessories, Inc., Bay Shore, NY: October 9, 1997
TA–W–35,312; Best Manufacturing, Cuthbert, GA: November 17, 1997
TA–W–35,209; J.E. Morgan Knitting Mills, Inc., New Market, VA, & Operating at the Following Other Locations: A; Mt. Jackson, VA, B; Temaqua, PA, C; Valley View, PA, D; Tower City, PA and E; Williamstown, PA: October 2, 1997
TA–W–35,301; Sharpsville Quality Products, Inc., Sharpsville, PA: November 19, 1997
TA–W–35,470; General Electric Co., Industrial Systems Div., Mebane, NC: December 17, 1997
TA–W–35, 564; Guilford Mills, Inc., Sheet Dept., Herkimer, NY: December 14, 1997
TA–W–35, 309; Amoco Exploration & Production and Amoco Shared Services, Headquartered in Houston, TX & Operating at Various Locations in The Following States: A; AL, B; AR, C; CA, D; Co, E; FL, F; IL, G; KS, H; LA, I; MA, J; MI, K; MS, L; MO, M; NM, N; OK, O; TX, P; WY: September 30, 1998
TA–W–35, 395; Kentucky Textiles West, Inc., Checotah, OK: December 7, 1997
TA–W–35, 529; Russell Engine Service, Inc., Russell, KS: December 29, 1997
TA–W–35, 431; Premier Sportswear, Inc., Fall River, MA: December 14, 1997
TA–W–35, 650; Donnkenny Apparel, Inc. West Hempstead Plant, West Hempstead, NY: January 29, 1998
TA–W–35, 750; Cross Creek Apparel, Inc., Mt Airy, NC: January 22, 1998
TA–W–35, 554 & A; Lynx Petroleum Consultants, Inc., Hobbs, NM and Capitan Chemicals, Inc., Hobbs, NM & Operating at Various Locations in the State of NM: January 13, 1998
TA–W–35, 663; Baker Hughes Inteq. Headquartered in Houston, TX & Operating at Various Locations in The Following States: A; AK, B; CA, C; CO, D; LA, E; OK, F; TX, G; WY: February 2, 1998
TA–W–35, 515; U.S. Foam Co., Carlsbad, CA: December 16, 1997
TA–W–35, 827; Pennant Service Co., Denver CO and A; UT, B; WY, February 23, 1998
TA–W–35, 613; Conoco, Inc., US Exploration & Production and Operating in The Following States: A; TX, B; NM, C; OK, D; LA, E; ND: September 27, 1998
TA–W–35, 770; International Steel Wool Corp., Springfield, OH: February 24, 1998
TA–W–35, 536; Fourmost Garment, Inc., Bristol, VA: Janaury 8, 1998
TA–W–35, 764; Mike Byrd Casing Crews, Inc. (Formerly MBCC, Inc. TX), Odessa, TX: February 17, 1998
TA–W–35, 780; Premiumwear, Inc., Firmont, NC: February 18, 1998
TA–W–35, 597; Three Star Drilling & Producing Corp. Headquartered in Sumner, IL & Operating Throughout the State of IL: Janaury 19, 1998
TA–W–35, 713; Crete Oil Co., Inc., Crete, IL and Robinson, IL & Operating Throughout The State of IL: February 17, 1998
TA–W–35, 751; Baker Hughes Centrilift, Cody, WY: February 4, 1998
TA–W–35,642; Atlas Copco Compressors, Inc., Holyoke, MA: January 13, 1998
TA–W–35,419; Graphic Packaging Corp., Div. Of Flexible Packaging, Franklin, OH: November 28, 1997
TA–W–35,543; Sanyo Audio Manufacturing (USA), Corp., Milroy, PA: March 27, 1999
TA–W–35,423; Fair Rite Products Corp., Springfield, VT: December 11, 1997.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of February and March, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivisions have increased, and that the increases imports contributed importantly to such workers' separations or threat or separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–02903; Inland Paperboard & Packaging, Inc., Orange, TX
NAFTA–TAA–02870; Mill-Rite Farms, Inc., Albany, OR
NAFTA–TAA–02863; United Technologies Automotive, ESA Div., Brownsville, TX
NAFTA–TAA–02786; Bellwether Performance Apparel Co., San Francisco, CA
NAFTA–TAA–02872; Corning Consumer Products Co., Charleroi, PA
NAFTA–TAA–02783; Bonny Products, Wilmington, NC
NAFTA–TAA–02911; Schuykill Haven Bleach & Dye Works, Inc., Schuykill Haven, PA
NAFTA–TAA–02816; Blount, Inc., Forestry & Industrial Equipment Div., Prentice, WI
NAFTA–TAA–02875; Lear Corp., Interior Systems Group, Lewistown, PA
NAFTA–TAA–02818; 84 Mining Co., Eighty Four, PA
NAFTA–TAA–02705; Rexnord Corp., Roller Chain Div., Indianapolis, IN
NAFTA–TAA–02764; Fashions International, Scranton, PA
NAFTA–TAA–02908; Thomas & Betts Elastimold, Hackettstown, NJ
NAFTA–TAA–02867; Pendleton Woolen Mills, Fremont, NE
NAFTA–TAA–02867A; Pendleton Corporate Offices, Portland, OR
NAFTA–TAA–02867B; Columbia Wool Scouring, Portland, OR
NAFTA–TAA–02867C; Pendleton Oregon Mill, Pendleton, OR
NAFTA–TAA–02867D; Foundation Mill, Portland, OR
NAFTA–TAA–02867E; Washougal Mill, Washougal, WA
NAFTA–TAA–02867F; Bellevue Facility, Bellevue, NE
NAFTA–TAA–02867G; Doorr Woolen Mills, Guild, NH
NAFTA–TAA–02867H; Pendleton Sales Representative, Cincinnati, OH
NAFTA–TAA–02914; HAPCO Screen Printing, Inc., Emmaus, PA

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–03023; The Peninsula Group, Inc., Pacific Management Northwest, Inc., Tumwater, WA
NAFTA–TAA–03043; Dekko Automotive Technologies, Oscelola, IA and Murray, IA
NAFTA–TAA–03013; Controlled Environments, Inc., Pembina, ND

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–02935; Circle Four Farms, Milford, UT
NAFTA–TAA–02885; Cutler-Hammer, Sensors Business Unit, Everett, WA

The investigation revealed that criteria (1) and criteria (4) have not been met. A significant number or proportion of the workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) have not become totally or partially separated from employment as required for certification. There has not been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles which are produced by the firm or subdivision.

NAFTA–TAA–02842; AII Technologies, Inc., El Paso, TX

The investigation revealed that criteria (1) and criteria (2) have not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) did not become totally or partially separated from employment as required for certification. Sales or production, or both, of such firm or subdivision have not decreased absolutely.

NAFTA–TAA–02910; Kai Jay Pants Co., A Calvin Klein Co, A Subsidiary of The Warnaco Group, Inc., Nesquehoning, PA

The investigation revealed that criteria (2) has not been met. Sales or production, or both, of such firm or subdivision have decreased absolutely.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–02847; Sun Apparel of Texas, Ltd, Armour Plant Cutting Room, El Paso, TX: March 22, 1999
NAFTA–TAA–02973; JWA Diving (aka Johnson Worldwide Association), Soniform Div., El Cajon, CA: February 25, 1998
NAFTA–TAA–02821; Tony Lama Boot Co., El Paso, TX: December 28, 1997
NAFTA–TAA–02929 & A, B; Indera Mills, Yadinville, NC and Winston-Salem, NC and North Wilkesboro, NC
NAFTA–TAA–02880; Salant Corp., Obion-Denton Facilities, Obion, TN and Union City, TN: January 23, 1998
NAFTA–TAA–02864; Daugherty Mfg. Co., Inc., Knoxville, TN: January 19, 1998
NAFTA–TAA–02817; MAE Garment Finishers, Inc. A/k/a Twin Keys Apparel, Inc., El Paso, TX: December 29, 1997
NAFTA–TAA–02886; Hopewell Sewing, Inc., Brodnax, VA: February 4, 1998
NAFTA–TAA–02915; The William Carter Co., Thomaston, GA: February 17, 1998
NAFTA–TAA–02938; Garden State Tanning, Inc., Fleetwood, PA: February 23, 1998
NAFTA–TAA–02853; Manufacturing and Technical Enterprises, Inc., East Wilton, ME: January 8, 1998
NAFTA–TAA–02931; Plastech, Inc., Corvallis, OR: February 4, 1998
NAFTA–TAA–02946; Gambro Healthcare, Inc., Newport News, VA: February 19, 1998
NAFTA–TAA–02857 & A; Wilkins Industries, Inc., Athens, GA and Jefferson, GA: January 15, 1998
NAFTA–TAA–02893; Kaufman Footwear Corp., Batavia, NY: March 3, 1999
NAFTA–TAA–02898; Peregrine, Inc., Peregrine USA, Livonia Operations, Livona, MI: January 11, 1998
NAFTA–TAA–02730; Frenesius Medical Care, Renal Product Technologies, McAllen, TX: November 6, 1997
NAFTA–TAA–02766; Walls Industries, Inc., Ashville, AL: November 12, 1997
NAFTA–TAA–02742; Eaton Corp., Vehicle Switch/Electronics Div., Winamac, IN: November 13, 1997
NAFTA–TAA–02836; Linville Hosiery Co., Inc., Marion, NC: January 5, 1998
NAFTA–TAA–02779; Komatsu America International Co., Galion, OH: February 12, 1999

NAFTA–TAA–02791; Jinkerson Services, Inc., El Paso, TX: December 2, 1997
NAFTA–TAA–02800; Cross Creek Apparel, Inc., Floyd, VA: November 25, 1997
NAFTA–TAA–02913; Advantage Lift Systems, Williamson, PA: February 1, 1998

I hereby certify that the aforementioned determinations were issued during the months of February and March, 1999. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 19, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10481 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,968]

Firstmiss Steel, Inc., Hollsopple, Pennsylvania; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of February 3, 1999, the United Steelworkers of America requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on January 29, 1999, and published in the **Federal Register** on February 25, 1999 (64 FR 9353).

The petitioner presents evidence that the Department's customer survey was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 5th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10477 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,347]

National Fruit Products Company, Inc., Kent City, Michigan; Notice of Negative Determination on Reconsideration

On February 16, 1999, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The petitioners presented evidence that the customer survey was incomplete. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9357).

The Department initially denied TAA to workers of National Fruit Products Company, Inc. because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The investigation revealed that aggregate U.S. imports of articles like or directly competitive with the apple products processed at the Kent City, Michigan plant declined in January through October 1998 compared to January through October 1997. The subject firm shifted production of processed apple products from Kent City, Michigan to another domestic facility.

Fiscal year sales and production of processed apple products at Kent City increased in 1998 compared to 1997. On reconsideration, the investigation revealed that corporate-wide sales increased during the same time period. Therefore, a customer survey would serve no purpose. Declines in employment at the subject plant are primarily attributed to the company's decision to transfer production from Kent City, Michigan to another domestic facility.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of National Fruit Products Company, Inc., Kent City, Michigan, under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 31st day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10478 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Pluma, Inc., TA–W–35,156D, Rocky Mount, Virginia; TA–W–35,156, Eden, North Carolina; TA–W–35,156A, Martinsville, Virginia; TA–W–35,156B, Chatham, Virginia; TA–W–35,156F, Commerce, California; Amended Notice of Revised Determination on Reopening

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Revised Determination on Reopening on February 9, 1999, applicable to workers of Pluma, Inc., Rocky Mount, Virginia. The notice was published in the **Federal Register** on February 18, 1999 (64 FR 8129).

At the request of the company, the Department reviewed the revised determination for workers of the subject firm. New information provided by the company shows that worker separations have occurred at Pluma's Eden, North Carolina, Martinsville and Chatham, Virginia and Commerce, California facilities. The workers are engaged in employment related to the production of knitted activewear for ladies, men and children. Accordingly, the Department is amending the certification to cover workers of Pluma, Inc., Eden, North Carolina, Martinsville and Chatham, Virginia and Commerce, California.

The intent of the Department's certification is to include all workers of Pluma, Inc. adversely affected by increased imports.

The amended notice applicable to TA–W–35,156D is hereby issued as follows:

All workers of Pluma, Inc., Rocky Mount, Virginia (TA–W–35,156D), Eden, North Carolina (TA–W–35,156), Martinsville, Virginia (TA–W–35,156A), Chatham, Virginia (TA–W–35,156B) and Commerce, California (TA–W–35,156F) who became totally or partially separated from employment on or after October 15, 1997 through February 9, 2001 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 31st day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10480 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35, 396]

Zenith Electronics Corp., Melrose Park, Illinois; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 9, 1998 in response to a worker petition which was filed on behalf of workers and former workers at Zenith Electronics Corporation, located in Melrose Park, Illinois (TA–W–35, 396).

The Department of Labor has determined that the petitioners are covered under an existing certification, as amended (TA–W–34, 579). Consequently, further investigation in this matter would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 5th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10475 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–2935]

Circle Four Farms, Milford, Utah; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 18, 1999, the company requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for NAFTA-Transitional Adjustment Assistance (NAFTA–TAA). The denial notice applicable to workers of the subject firm located in Milford, Utah, was signed on March 8, 1999 will soon be published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Findings of the initial investigation showed that workers of Circle Four Farms, Milford, Utah were engaged in employment related to the production of live swine. The Department's denial of NAFTA–TAA for workers of the subject firm was based on the determination that criteria (1) and (2) of the Group Eligibility requirements of paragraphs (a)(1) of section 250 of the Trade Act of 1974, as amended, were not met. Layoffs did not affect a significant proportion of the total workers at Circle Four Farms. Sales and production increased in 1998 compared to 1997.

The petitioner asserts that because of the continuation of low pork prices, additional positions have been eliminated at Circle Four Farms. The petitioner asks that the Department consider the petition based on the number of positions eliminated, not the total number of individuals terminated. Trade Act law does not contain a provision which would allow the Secretary to issue a determination for NAFTA–TAA eligibility based on the number of positions eliminated. The worker group eligibility requirements of paragraph (a)(1) of Section 250 stipulate that a "significant number of proportion of the workers * * * have become totally or partially separated * * *"

The petitioner further argues that because of the nature of the livestock industry, the Department should not use increasing sales and production as a criterion for denying the petition. Trade Act law does not contain a provision that allows the Secretary to depart from the requirement that sales or production, or both, have decreased absolutely.

Lastly, the petitioner asserts that low pork prices are a result of Canadian imports. U.S. Department of Agriculture data submitted by the petitioner confirms the petitioners allegation. Price, however, is not a basis for certification of the Circle Four Farm workers.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 31st day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10479 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01223]

Johnson & Johnson Medical, Inc. A/K/A Ethicon, Inc. Including Temporary Workers of Kelly Services, Inc., El Paso, Texas; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA-Transitional Adjustment Assistance on October 9, 1997, applicable to all workers of Johnson & Johnson Medical, Incorporated located in El Paso, Texas. The certification was amended on October 30, 1997, to include temporary workers of Kelly Services, Incorporated, engaged in employment related to the production of surgical gowns, drapes and sheets at Johnson & Johnson Medical's El Paso plant.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by a company official and the State agency reveal that as of January 1, 1998, Johnson and Johnson Medical Inc. and Ethicon, Inc. merged. Some of the workers at the El Paso plant have had their wages reported to the Unemployment Insurance (UI) tax account for Ethicon, Inc.

The intent of the Department's certification is to cover all workers of Johnson & Johnson Medical, Incorporated, El Paso, Texas who were adversely affected by the shift in production to Mexico. Accordingly, the Department is amending the certification to include workers of Ethicon, Inc.

The amended notice applicable to NAFTA–01223 is hereby issued as follows:

All workers of Johnson & Johnson Medical, Incorporated, also known as Ethicon, Inc., El Paso, Texas, including temporary workers of Kelly Services, Incorporated engaged in employment related to the production of surgical gowns, drapes and sheets for Johnson & Johnson Medical, Incorporated, El Paso, Texas, who became totally or partially separated from employment on or after August 29, 1995 through October 9, 1998, are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 7th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance

[FR Doc. 99–10476 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–2]

Strategic Partnership for Worker Safety and Health

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice; proposed information collection request; submitted for public comment and recommendations.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burdens, is conducting a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration is soliciting comments concerning the approval for the paperwork requirements for participation in OSHA Strategic Partnerships for Worker Safety and Health.

DATES: Written comments must be submitted on or before June 28, 1999.

Comments should:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including their validity of the methodology and assumptions used;

Enhance the quality, utility, and clarity of the information to be collected; and

Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket ICR–99–2, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 693–2350. Written comments limited to 10 pages or less may be transmitted by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Ms. Cathy Oliver, Directorate of Federal-State Operations, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–2208. Copies of the reference information collection requests are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Ms. Oliver at (202) 693–2213 or B. Bielaski at (202) 693–2444. For electronic copies of the information collection request on Strategic Partnerships for Worker Safety and Health, contact OSHA's Web Page on Internet at http://www.osha.gov and click on "Regulations and Compliance.".

SUPPLEMENTARY INFORMATION:

Background

The Occupational Safety and Health Administration (OSHA) will be requesting approval from the Office of Management and Budget (OMB) for certain information collection requirements contained in its procedures for Strategic Partnerships for Worker Safety and Health. This notice initiates the process for OSHA to request an OMB approval.

As part of OMB's and OSHA's continuing paperwork reduction effort, OSHA seeks to reduce that paperwork burden hours in the Strategic Partnerships for Worker Safety and Health based on input from parties. The purpose of this notice is to solicit public comment on OSHA's paperwork burden estimates from those interested parties and to seek public response to several questions related to the development of OSHA's estimates. Interested parties are requested to review OSHA's estimates, which are based on information from historical data, to comment on their accuracy or appropriateness in today's workplace situation.

Current Action

This notice requests public comment on OSHA's burden hour estimates prior to OSHA seeking the Office of Management and Budget (OMB) approval of the information collection (paperwork) requirements of the Strategic Partnerships for Worker Safety and Health.

Type of Review: New Collection.

Agency: Occupational Safety and Health Administration, U.S. Department of Labor.

Title: Strategic Partnerships for Worker Safety and Health.

OMB Number: 1218–0NEW.

Agency Number: Docket No. ICR–99–2.

Affected Public: Business.

Total Respondents: 25 partnerships per year affecting approximately 500 employers.

Frequency: On occasion.

Total Responses: 1,000.

Estimated Time Per Respondent: 29.72 hours per year.

Estimated Total Burden Hours: 14,860 hours per year.

Estimated annualized capital/startup costs: $0

Estimated annual costs (operating and maintenance): $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed this 21st Day of April, 1999.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 99–10474 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Medical Child Support Working Group

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (FACA), notice is given of the third meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998. The purpose of the MCSWG is to identify the

impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments.

DATES: The meeting of the MCSWG will be held on Wednesday, May 12, 1999, and Thursday, May 13, 1999, from 8:30 a.m. to approximately 4:00 p.m.

ADDRESSES: The meeting will be held in the GSA Training Center, 490 L'Enfant Promenade North, 9th and D Streets, SW, 3rd Floor Room B, Washington, DC. All interested parties are invited to attend this public meeting. Seating may be limited and will be available on a first-come, first-served basis. Persons needing special assistance, such as sign language interpretation or other special accommodation, should contact the Executive Director of the Medical Child Support Working Group, Office of Child Support Enforcement at the address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Samara Weinstein, Executive Director, Medical Child Support Working Group, Office of Child Support Enforcement, Fourth Floor East, 370 L'Enfant Promenade, SW, Washington, DC 20447 (telephone (202) 401–6953; fax (202) 401–5559; e-mail: sweinstein@acf.dhhs.gov). These are not toll-free numbers. The date, location and time for subsequent MCSWG meetings will be announced in advance in the **Federal Register**.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) (FACA), notice is given of a meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998 (P.L. 105–200).

The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments. This report will include: (1) Recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under interim regulations; (2) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677); (3) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs for child support, Medicaid and the Child Health Insurance Program; (4) appropriate measures to improve the availability of alternate types of medical support that are aside from health care coverage offered through the noncustodial parent's health plan, and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, co-payments, deductibles, or payments for services not covered under a child's existing health coverage; (5) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act ; and (6) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the MCSWG deems necessary.

The membership of the MCSWG was jointly appointed by the Secretaries of DOL and DHHS, and includes representatives of: (1) DOL; (2) DHHS; (3) State Child Support Enforcement Directors; (4) State Medicaid Directors; (5) employers, including owners of small businesses and their trade and industry representatives and certified human resource and payroll professionals; (6) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)); (7) children potentially eligible for medical support, such as child advocacy organizations; (8) State medical child support organizations; and (9) organizations representing State child support programs.

Agenda

The agenda for this meeting includes a discussion of the issues to be included in the MCSWG's report to the Secretaries containing recommendations for appropriate measures to address the impediments to the effective enforcement of medical child support as listed above.

Public Participation

Members of the public wishing to present oral statements to the MSCWG should forward their requests to Samara Weinstein, MCSWG Executive Director, as soon as possible and at least four days before the meeting. Such request should be made by telephone, fax machine, or mail, as shown above. Time permitting, the Chairs of the MCSWG will attempt to accommodate all such requests by reserving time for presentations. The order of persons making such presentations will be assigned in the order in which the requests are received. Members of the public are encouraged to limit oral statements to five minutes, but extended written statements may be submitted for the record. Members of the public also may submit written statements for distribution to the MCSWG membership and inclusion in the public record without presenting oral statements. Such written statements should be sent to the MCSWG Executive Director, as shown above, by mail or fax at least five business days before the meeting.

Minutes of all public meetings and other documents made available to the MCSWG will be available for public inspection and copying at both the DOL and DHHS. At DOL, these documents will be available at the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW, Washington, DC from 8:30 a.m. to 5:30 p.m. Questions regarding the availability of documents from DOL should be directed to Ms. Ellen Goodwin, Plan Benefits Security Division, Office of the Solicitor, Department of Labor (telephone (202) 219–4600, ext. 119). This is not a toll-free number. Any written comments on the minutes should be directed to Ms. Samara Weinstein, Executive Director of the Working Group, as shown above.

Signed at Washington, DC, this 21st day of April 1999.

Richard McGahey,

Assistant Secretary for Pension and Welfare Benefits.

[FR Doc. 99–10472 Filed 4–26–99; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, May 3, 1999.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTER TO BE CONSIDERED:

1. Proposed Rule: Part 702, NCUA's Rules and Regulations, Prompt Corrective Action; and addition of Subpart L, Part 747, NCUA's Rules and Regulations.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–10611 Filed 4–23–99; 9:09 am]

BILLING CODE 7535–01–M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency for the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* May 3, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers in American Studies and Cultural Studies, submitted to the Division of Research and Education at the March 1, 1999 deadline.

2. *Date:* May 4, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers in Western Civilization, submitted to the Division of Research and Education at the March 1, 1999 deadline.

3. *Date:* May 5, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers in Philosophy and Intelligence History, submitted to the Division of Research and Education at the March 1, 1999 deadline.

4. *Date:* May 6–7, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Education Development and Demonstration in Humanities Focus Grants, submitted to the Division of Research and Education at the April 1, 1999 deadline.

5. *Date:* May 13–14, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Education Development and Demonstration in Humanities Focus Grants, submitted to the Division of Education at the April 1, 1999 deadline.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 99–10557 Filed 4–26–99; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Extension
2. The title of the information collection: General Assignment
3. The form number if applicable: NRC Form 450
4. How often the collection is required: Once during the closeout process.
5. Who will be required or asked to report: Contractors, Grantees, and Cooperators
6. An estimate of the number of responses: 150
7. The estimated number of annual respondents: 150
8. An estimate of the total number of hours needed annually to complete the requirement or request: 300 hours (2 hours per response)
9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: N/A
10. Abstract: During the contract closeout process, the NRC requires the contractor to execute a NRC Form 450, General Assignment. Completion of the form grants the government all rights, titles, and interest to refunds arising out of the contractor performance.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by May 27, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Erik Godwin, Office of Information and Regulatory Affairs (3150–0114), NEOB–10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 21st day of April 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–10494 Filed 4–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

GPU Nuclear, Inc. et al. (Three Mile Island Nuclear Generating Station, Unit 1); Exemption

I

GPU Nuclear, Inc., *et al.* (GPUN or the licensee) is the holder of Facility Operating License No. DPR–50, which authorizes operation of the Three Mile Island Nuclear Generating Station, Unit 1 (TMI–1 or the facility) at power levels not to exceed 2568 megawatts thermal. The facility consists of one pressurized-water reactor located at the licensee's site in Dauphin County, Pennsylvania, and was licensed to operate on April 19, 1974. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

Appendix R to 10 CFR part 50 contains specific requirements regarding fire protection features of nuclear power plants operating prior to January 1, 1979. Subsection III.G.2.c of Appendix R specifies, in part, the enclosure of cable and equipment and associated non-safety-related circuits of one redundant train in a fire barrier having a 1-hour rating. The underlying purpose of Subsection III.G.2.c of Appendix R is to provide reasonable assurance that one safe shutdown train and associated circuits used to achieve and maintain safe shutdown are free of fire damage. By letter dated December 31, 1996, as supplemented by letters dated September 8, 1997, December 30, 1997, May 21, 1998, October 14, 1998, November 25, 1998, and December 23, 1998, the licensee requested an exemption from the requirements of section III.G.2.c of Appendix R to the extent that they require the enclosure of one train of redundant safe-shutdown circuits in 1-hour fire-rated barriers. The licensee is requesting this exemption in accordance with the provisions of 10 CFR 50.12.

The licensee's request encompasses 10 fire zones/areas that have Thermo-Lag installed on electrical raceways for the original purpose of providing a 1-hour rated barrier separating redundant circuits located in the same fire area in accordance with section III.G.2.c of Appendix R. In its December 31, 1996, letter, the licensee provided information indicating that the Thermo-Lag envelopes in the zones/areas for which exemptions are requested, have fire endurance ratings of less than 1 hour. The exemption was requested for fire zones/areas AB–FZ–3, AB–FZ–4, AB–FZ–5, AB–FZ–7, CB–FA–1, FH–FZ–1, FH–FZ–2, FH–FZ–6, ISPH–FZ–1, and ISPH–FZ–2. In its submittal, the licensee states that modification of the identified fire barriers to achieve a 1-hour fire rating in accordance with American Society for Testing and Materials Standard E–119 (ASTM E–119) would cost approximately $1.0 million, which represents a substantial expenditure for minimal safety enhancement.

The staff holds to a defense-in-depth philosophy when determining adequate fire protection. In areas in which fire barriers are required to be rated at 1 hour, barriers that have actual fire endurance ratings of less than 1 hour are acceptable only if the fire area/zone also has automatic detection and fire suppression systems provided in accordance with applicable National Fire Protection Association (NFPA) standards and when the fire hazard to the Thermo-Lag-protected envelope is minimal. The combination of these features and conditions provides defense in depth.

The fire areas/zones that are the subject of this exemption request do not currently meet the technical requirements of section III.G.2.c of Appendix R because the Thermo-Lag electrical raceway fire barrier envelopes for the fire zones discussed above are not rated at 1 hour in accordance with the rating requirements of NRC Generic Letter 86–10, Supplement 1. Section III.G.2.c of Appendix R could only be satisfied by protecting each envelope with a 1-hour fire-rated barrier. The fire zones reviewed do not have any Thermo-Lag envelopes rated at 1 hour or more; therefore, the criteria for granting an exemption, for the most part, are based on the availability of automatic detection and suppression systems and the fire hazards present in each fire zone.

III

The staff has completed its evaluation of the licensee's request for an exemption. The licensee has administrative controls in place over transient combustibles and work in the plant in accordance with 10 CFR part 50, Appendix R, section III.K, Items 1–8, as documented in an NRC safety evaluation dated June 4, 1984. These controls require total in situ plus allowable transient fire load in a fire area/zone (or cumulative load) to be half of what would challenge the lowest rated barrier in the zone based on equivalent fire severity. These limits are documented in licensee procedures that are referenced in and implement the licensee's Fire Protection Program under License Condition 2.c(4).

On December 31, 1996, the licensee submitted an evaluation of all Thermo-Lag Fire barriers that are the subject of this exemption request in Topical Report #094, Revision 2, "TMI 1 Evaluation of Thermo-Lag Fire Barriers," dated December 20, 1996. The licensee found that most of the barriers currently have a fire rating of less than 1 hour (when tested in accordance with the ASTM E–119). In each of the areas/zones that have automatic suppression and/or automatic detection features, the systems installed in the plant meet all applicable NFPA codes, specifically the criteria for a Class 1 detection system specified in NFPA 72D and NFPA 13 or NFPA 15 for suppression systems.

Fire zones AB–FZ–4 and FH–FZ–1 contain both automatic suppression and detection features. Fires in these zones are postulated to be slowly developing cable fires, with possible ignition sources including cable overload or transient combustibles. If a fire were to occur in these fire zones, indication of the fire would be received in the control room, through the ionization smoke detection system, and either the automatic pre-action system (AB–FZ–4) or the wet pipe sprinkler system (FH–FZ–1) would initiate suppression if the fire continued to grow. If necessary, the fire brigade would be dispatched soon thereafter. The licensee estimates that the fire brigade will respond to these fire zones 15 minutes after receiving an alarm. Manual fire fighting equipment (hand-held fire extinguishers and hose stations) is available in or adjacent to these fire zones.

Fire area CB–FA–1 contains both automatic suppression and detection capability. A fire in this area is postulated to be a slowly developing cable fire, with possible ignition sources being overload or transient combustibles. Exposure of the protected envelope to fire is possible through ignition of cable insulation. There is also an acetylene gas line running above the suspended ceiling from an external tank. The licensee committed in its October 14, 1998, and December 23, 1998, letters to install detectors for

combustible gas in this area to provide prompt detection and notification of an acetylene leak, so that the leak could be promptly isolated at the source prior to reaching the lower explosive threshold for acetylene gas. If a fire were to occur in this fire area, indication of the fire would be received in the control room, through the ionization smoke detection system which is above the suspended ceiling. An automatic wet-pipe sprinkler system which is below the suspended ceiling would actuate to suppress the fire should it continue to develop. If necessary, the fire brigade would be dispatched soon thereafter, and response has been estimated by the licensee to be 15 minutes. A hand-held dry chemical extinguisher is also available adjacent to this fire area.

Fire zone FH–FZ–6 is provided with automatic detection and will be provided with automatic suppression. The licensee committed to install an automatic wet-pipe sprinkler suppression system in this fire zone in its letter dated December 23, 1998. A fire in this zone is postulated to be a slowly developing cable fire, with possible ignition sources being transient combustibles. If a fire were to occur in this fire zone, indication of the fire would be received in the control room by the ionization smoke detection system or through the actuation of the wet-pipe sprinkler system to be installed. If necessary, the fire brigade would be dispatched soon thereafter, and the licensee estimates a brigade response would occur within 15 minutes. Manual fire suppression capability (hose stations and dry chemical extinguisher) is available in or adjacent to this fire zone.

Fire zone ISPH–FZ–1 contains both automatic detection and suppression features. A fire in this zone is postulated to be a slowly developing cable fire, with electrical switchgear as a possible ignition source. If a fire were to occur in this zone, indication of the fire would be received in the control room by the ionization smoke detector system. A zone-wide automatic wet-pipe sprinkler system is available to suppress the fire, should it develop, and portable extinguishers (carbon dioxide and dry chemical) are available within the fire zone. The fire brigade would be dispatched, if necessary, and the licensee estimates a brigade response time of 25 minutes. A portable extinguisher and yard hydrant are located outside the fire area and are available to fight fires in this fire zone. Protected envelopes consisting of cables and conduits passing through this fire zone are fire rated at 39 and 50 minutes respectively, and pass within the vicinity of in-situ combustibles in only limited instances.

Fire zone ISPH–FZ–2 contains both automatic detection and suppression features. A fire in this zone is postulated to be a slowly developing cable fire, with electrical switchgear as a possible ignition source. If a fire were to occur in this zone, indication of the fire would be received in the control room by the ionization smoke detector system. A zone-wide automatic wet-pipe sprinkler system is available to suppress the fire, should it develop, and a portable extinguisher (carbon dioxide) is available within the fire zone. The fire brigade would be dispatched, if necessary, and the licensee estimates a brigade response time of 25 minutes. A portable extinguisher and yard hydrant are located outside the fire area and are available to fight fires in this fire zone. Protected envelopes consisting of cables and conduits passing through this fire zone are fire rated at 39 and 50 minutes, respectively, and pass within the vicinity of in-situ combustibles in only limited instances.

The staff is relying on the licensee's commitments made in its October 14, 1998, and December 23, 1998, letters for approval of the exemptions for fire area CB–FA–1 and fire zone FH–FZ–6. Therefore, approval of an exemption for that fire area and zone is contingent upon the licensee completing the modifications described in those submittals. The staff believes that reasonable assurance exists that an adequate level of fire safety has been provided through the availability of automatic suppression and detection in these fire zones/areas to ensure that one division of safe-shutdown components necessary to achieve safe shutdown will remain free of fire damage. Therefore, the underlying purpose of the rule is satisfied and this request for exemption with respect to the foregoing fire areas/zones from the requirements of 10 CFR part 50, Appendix R, section III.G.2.c. meets the special circumstances delineated in 10 CFR 50.12(a)(2)(ii) in that the application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule. While the installed Thermo-Lag barriers in the fire zones demonstrate less than a 1-hour fire endurance rating, they do provide measured resistance to fire. The areas in which the Thermo-Lag envelopes are located have a low combustible loading in the area of the protected envelopes, have available manual suppression capability, and are equipped with automatic suppression and detection features; the combination of these features and circumstances reflect a level of safety that meets the underlying purpose of the rule. Therefore, the staff believes that the exemption should be granted for fire zones/areas AB–FZ–4, FH–FZ–1, CB–FA–1, FH–FZ–6, ISPH–FZ–1, and ISPH–FZ–2.

The staff does not believe the same assurance has been provided for fire zones AB–FZ–3, AB–FZ–5, AB–FZ–7, and FH–FZ–2. Fire zones AB–FZ–3, AB–FZ–5, and AB–FZ–7, have automatic detection but not suppression. Fire zone FH–FZ–2 has automatic suppression but not detection.

The licensee has failed to provide reasonable assurance that one division of safe-shutdown components necessary to achieve safe shutdown will remain free of fire damage in the four zones immediately discussed above. Accordingly, as discussed above and in the staff's Safety Evaluation dated April 20, 1999, the staff has concluded that the licensee's request for an exemption from the technical requirements of section III.G.2.c of Appendix R should be denied for fire zones AB–FZ–3, AB–FZ–5, AB–FZ–7, and FH–FZ–2.

IV

Pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption from the requirements of a regulation unless special circumstances are present. Subsection (ii) of 10 CFR 50.12(a)(2) includes as special circumstances situations where application of the subject regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of section III.G of Appendix R is to provide reasonable assurance that one safe shutdown train and associated circuits used to achieve and maintain safe shutdown are free of fire damage. As stated above, the staff has determined that the underlying purpose of the rule has been satisfied with respect to fire zones AB–FZ–4, FH–FZ–1, CB–FA–1, FH–FZ–6, ISPH–FZ–1 and ISPH–F2–2. Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances are present in connection with these fire zone/areas.

The Commission has also determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee for fire zones/areas AB–FZ–4, FH–FZ–1, CB–FA–1, FH–FZ–6, ISPH–FZ–1, and ISPH–FZ–2 is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security.

Therefore, the Commission hereby grants GPU Nuclear, Inc., an exemption

from the technical requirements of section III.G.2.c of Appendix R to 10 CFR part 50, to the extent that it requires the enclosure of certain redundant safe-shutdown circuits in 1-hour fire-rated barriers, for fire zones/areas AB–FZ–4, FH–FZ–1, CB–FA–1, FH–FZ–6, ISPH–FZ–1, and ISPH–FZ–2 at TMI–1. The exemption for fire area CB–FA–1 and fire zone FH–FZ–6 is contingent upon the licensee completing the commitments identified in its letters of October 14, 1998, and December 23, 1998, for that fire area and zone. The request for exemption for fire zones AB–FZ–3, AB–FZ–5, AB–FZ–7, and FH–FZ–2 is denied.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the quality of the human environment (64 FR 19205).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of April 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10489 Filed 4–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443]

North Atlantic Energy Service Corporation, et al., Seabrook Station, Unit 1; Notice of Consideration of Approval of Application Regarding Proposed Corporate Merger and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of Facility Operating License No. NPF–86 for the Seabrook Station, Unit 1 (Seabrook Station), to the extent held by Canal Electric Company (Canal), one of 11 joint owners of the Seabrook Station. The indirect transfer would be to the new surviving company resulting from the planned merger of Commonwealth Energy System (CES), the parent company of Canal, and BEC Energy (BEC).

According to the application by Canal for approval of the indirect transfer filed by North Atlantic Energy Service Corporation (North Atlantic), the licensing agent for the co-owners of Seabrook Station, Canal is a wholly owned subsidiary of CES. On December 5, 1998, CES and BEC entered into an Agreement and Plan of Merger under which those entities will merge into a new surviving Massachusetts corporation (the "New Company"). Upon consummation of the merger, Canal will become a wholly-owned subsidiary of the New Company, thereby effecting an indirect transfer of Canal's interest in the Seabrook Station's Facility Operating License. North Atlantic, the sole licensed operator of the facility, would remain as the managing agent for the 11 joint owners of the facility and would continue to have exclusive responsibility for the management, operation and maintenance of the Seabrook Station. The application does not propose a change in the rights, obligations, or interests of the other joint owners of the Seabrook Station. In addition, no physical changes to the Seabrook Station or operational changes are being proposed. No direct transfer of the license will result from the proposed merger.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed transfer of control will not affect the qualifications of the holder of the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the indirect license transfer application, is discussed below.

By May 17, 1999, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon Timothy N. Cronin, COM/Energy Services Company, One Main Street, Cambridge, Massachusetts 02142–9150, attorney for COM/Energy Services Company; John A. Ritsher, Ropes & Gray, One International Place, Boston, Massachusetts 02110–2624, attorney for BEC Energy; John Cope-Flanagan, Esq. COM/Energy Services Company, One Main Street, P.O. Box 9150, Cambridge, Massachusetts 02142, attorney for Canal Electric Company; Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, 107 Selden Street, Berlin, Connecticut, 06037, attorney for North Atlantic Energy Service Corporation; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: OGCLT@NRC.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by May 27, 1999, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated February 2, 1999, submitted under cover of a letter dated February 11, 1998 [sic], and supplements dated February 23, March 5, and March 17, 1999, which are available for public inspection at the

Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Exeter Public Library, Founders Park, Exeter, NH 03833.

Dated at Rockville, Maryland this 15th day of April 1999.

For the Nuclear Regulatory Commission.

John T. Harrison,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10490 Filed 4–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–483]

Union Electric Company; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–30, issued to the Union Electric Company (UE or the licensee), for operation of the Callaway Plant, Unit 1 (CW), located in Callaway County, Missouri.

The initial notice of consideration of issuance of amendment to facility operating license and opportunity for hearing was originally published in the **Federal Register** (63 FR 53468) on October 5, 1998. The information included in the supplemental letters indicates that the original notice, that included 14 proposed beyond-scope issues (BSIs) to the Improved Technical Specifications (ITS) conversion, needs to be expanded (to add 17 new BSIs) and revised (to delete 7 previous BSIs) to include a total of 24 BSIs. This notice supersedes the previous notice.

The proposed amendment, requested by the licensee in a letter dated May 15, 1997, as supplemented by letters dated June 26, August 4, August 27, September 24, October 21, November 23, November 25, December 11 and December 22, 1998, and February 5, March 9, April 7, and April 21, 1999, would represent a full conversion from the current Technical Specifications (CTS) to a set of ITS based on NUREG–1431, "Standard Technical Specifications, Westinghouse Plants," Revision 1, dated April 1995 (the STS). NUREG–1431 has been developed by the Commission's staff through working groups composed of both NRC staff members and industry representatives, and has been endorsed by the staff as part of an industry-wide initiative to standardize and improve the Technical Specifications (TS) for nuclear power plants. As part of this submittal, the licensee has applied the criteria contained in the Commission's "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors (Final Policy Statement)," published in the **Federal Register** on July 22, 1993 (58 FR 39132), to the CTS, and, using NUREG–1431 as a basis, proposed an ITS for CW. The criteria in the Final Policy Statement were subsequently added to 10 CFR 50.36, "Technical Specifications," in a rule change that was published in the **Federal Register** on July 19, 1995 (60 FR 36953) and became effective on August 18, 1995.

This conversion is a joint effort in concert with three other utilities: Pacific Gas & Electric Company for Diablo Canyon Power Plant, Units 1 and 2 (Docket Nos. 50–275 and 50–323); TU Electric for Comanche Peak Steam Electric Station, Units 1 and 2 (Docket Nos. 50–445 and 50–446); and Wolf Creek Nuclear Operating Corporation for Wolf Creek Generating Station (Docket No. 50–482). This joint effort includes a common methodology for the licensees in marking-up the CTS and NUREG–1431 Specifications, and the NUREG–1431 Bases, that has been accepted by the staff. This includes the convention that, if the words in a CTS specification are not the same as the words in the ITS specification but they mean the same or have the same requirements as the words in the ITS specification, the licensees do not indicate or describe a change to the CTS.

This common methodology is discussed at the end of Enclosure 2, "Mark-Up of Current TS"; Enclosure 5a, "Mark-Up of NUREG–1431 Specifications"; and Enclosure 5b, "Mark-Up of NUREG–1431 Bases," for each of the 14 separate ITS sections that were submitted with the licensee's application. For each of the 14 ITS sections, there is also the following: Enclosure 1, the cross reference table, sorted by CTS and ITS Specifications; Enclosure 3, the description of the changes to the CTS section and the comparison table showing which plants (of the four licensees in the joint effort) that each change applies to; Enclosure 4, the no significant hazards consideration (NSHC) of 10 CFR 50.91 for the changes to the CTS with generic NSHCs for administrative, more restrictive, relocation, and moving-out-of-CTS changes, and individual NSHCs for less restrictive changes and with the organization of the NSHC evaluation discussed in the beginning of the enclosure; and Enclosure 6, the descriptions of the differences from NUREG–1431 specifications and the comparison table showing which plants (of the four licensees in the joint effort) that each difference applies to. Another convention of the common methodology is that the technical justifications for the less restrictive changes are included in the NSHCs.

The licensee has categorized the proposed changes to the CTS into four general groupings. These groupings are characterized as administrative changes, relocated changes, more restrictive changes and less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering and rewording process reflects the attributes of NUREG–1431 and does not involve technical changes to the existing TS. The proposed changes include (a) providing the appropriate numbers, etc., for NUREG–1431 bracketed information (information that must be supplied on a plant-specific basis, and which may change from plant to plant), (b) identifying plant-specific wording for system names, etc., and (c) changing NUREG–1431 section wording to conform to existing licensee practices. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components, or variables that do not meet the criteria for inclusion in the TS. Relocated changes are those current TS requirements that do not satisfy or fall within any of the four criteria specified in the Commission's policy statement and may be relocated to appropriate licensee-controlled documents.

The licensee's application of the screening criteria is described in Attachment 2 to its May 15, 1997, submittal, which is entitled, "General Description and Assessment." The affected structures, systems, components or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components, or variables will be relocated from the TS to administratively controlled documents such as the quality assurance program,

the Final Safety Analysis Report (FSAR), the ITS Bases, the Technical Requirements Manual (TRM) that is incorporated by reference in the FSAR, the Core Operating Limits Report (COLR), the Offsite Dose Calculation Manual (ODCM), the Inservice Testing (IST) Program, or other licensee-controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms, and may be made without prior NRC review and approval. In addition, the affected structures, systems, components, or variables are addressed in existing surveillance procedures that are also subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, and components described in the safety analyses. For each requirement in the CTS that is more restrictive than the corresponding requirement in NUREG–1431 that the licensee proposes to retain in the ITS, they have provided an explanation of why they have concluded that retaining the more restrictive requirement is desirable to ensure safe operation of the facility because of specific design features of the plant.

Less restrictive changes are those where CTS requirements are relaxed or eliminated, or new plant operational flexibility is provided. The more significant "less restrictive" requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the TSs may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from technological advancements and operating experience, or (c) resolution of the Owners Groups' comments on the Improved Standard Technical Specifications. Generic relaxations contained in NUREG–1431 were reviewed by the staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. The licensee's design will be reviewed to determine if the specific design basis and licensing basis are consistent with the technical basis for the model requirements in NUREG–1431, thus providing a basis for these revised TS, or if relaxation of the requirements in the current TS is warranted based on the justification provided by the licensee.

These administrative, relocated, more restrictive, and less restrictive changes to the requirements of the CTS do not result in operations that will alter assumptions relative to mitigation of an analyzed accident or transient event.

In addition to the proposed changes solely involving the conversion, there are also changes proposed that are different than the requirements in both the CTS and the improved Standard Technical Specifications (NUREG–1431). The first 7 beyond-scope issues (BSIs) were included in the previous (superceded) notice and still apply to the conversion, however there are 17 additional BSIs. The additional BSIs are discussed in the licensee's response to requests for additional information (RAIs) from the NRC staff. These proposed BSIs to the ITS conversion are as follows:

1. ITS Surveillance Requirement (SR) 3.2.1.1 and SR 3.2.1.2—add frequency of once within 24 hours to CTS 4.2.2.2.d for verifying the axial heat flux hot channel factor is within limits after achieving equilibrium conditions.

2. ITS Limiting Condition for Operation (LCO) 3.3.9—revise Action 5.b of CTS Table 3.3–1 to increase the verification interval for unborated water source isolation valve position from 14 days to 31 days.

3. ITS LCO 3.4.7 and SRs 3.4.5.2, 3.4.6.2, and 3.4.7.2—revise steam generator (SG) level requirements from 10% wide range to 4% narrow range in CTS SRs 4.4.1.2.2 and 4.4.1.3.2 for Modes 3, 4, and 5 to ensure SG tubes are covered and provide an adequate heat sink.

4. ITS LCO 3.4.1.2—revise applicability note to CTS LCO 3.4.9.3 to allow a longer time, up to 1 hour, for both centrifugal charging pumps to be capable of injecting into the reactor coolant system.

5. ITS LCO 3.7.15—changes reference for the spent fuel pool level from that above top of fuel stored in racks to that above the top of racks in CTS LCO 3.9.11.

6. ITS 5.6.5.a—adds the refueling boron concentration to the core operating limits report in CTS 6.9.1.9.

7. ITS 5.7.1—changes limits for high radiation areas in CTS 6.12.1 to reflect the requirements of revised 10 CFR Part 20.

8. Change 1–34–LS–2 (ITS Table 1.1–1), question 1.1–9, response letter dated April 21, 1999. The proposed change adds notes to CTS Table 1.2 to identify the number of reactor vessel head closure bolts required to be fully tensioned for Modes 4 and 5. A Note is also proposed to address Mode 6 bolt requirements.

9. Change 1–7–LS–3 (ITS Table 3.3–1), question 3.3–107, response letter dated November 25, 1998. The proposed change to CTS Table 3.3–1 would (1) extend the completion time for CTS Action 3.b from no time specified to 24 hours for channel restoration or changing the power level to either below P–6 or above P–10, (2) change the applicable modes and delete CTS Action 3.a because it is now outside the revised intermediate range neutron flux channel applicability, and (3) add a less restrictive new action that requires immediate suspension of operations involving positive reactivity additions and a power reduction below P–6 within two hours, but no longer requires a reduction to Mode 3.

10. Change 1–22–M (ITS SR 3.3.1.8), question 3.3–49, response letter dated November 25, 1998. The proposed change would add quarterly channel operational tests (COTs) to CTS Table 4.3–1 for the power range neutron flux-low, intermediate range neutron flux, and source range neutron flux trip functions. The CTS only require a COT prior to startup for these functions. New Note 19 (which is from the STS) would be added to require that the new quarterly COT be performed within 12 hours after reducing power below P–10 for the power range and intermediate range (P–10 is the dividing point marking the applicability for these trip functions), if not performed in the previous 92 days. New Note 20 (which is from the STS), would be added to state that the P–6 and P–10 interlocks are verified to be in their required state during all COTs on the power range neutron flux-low and intermediate range neutron flux trip functions.

11. Change 1–46–M, (ITS Table 3.3.1–1 and 3.3.2–1), question 3.3–04, response letter dated March 9, 1999. The proposed change would revise CTS Table 3.3–1 Action 13 and CTS Table 3.3–3 Action 36 to require an inoperable SG low-low level (normal containment environment) instrument channel be placed in the tripped condition within 6 hours. The option to place the associated environmental allowance monitor (EAM) channels in trip would be deleted.

12. Change 4–09–LS–36, (ITS SR 3.4.11.1), question 3.4.11–4, response letter dated September 24, 1998. The proposed change would limit the CTS SR 4.4.4.2 requirement to perform the

92-day surveillance of the pressurizer power operated relief (PORV) block valves so that it is not required to be performed if the block valve is closed to meet CTS LCO 3.4.4 Action a. A note is also proposed to be added to action d to state that the Action does not apply if the block valve is inoperable solely to satisfy CTS LCO 3.4.4 Action b or c.

13. Change 10–20–LS–39 (ITS LCO 3.7.10), question 3.7.10–14, response letter dated October 21, 1998. The proposed change would add an action to CTS LCO 3.7.6 for ventilation system pressure envelope degradation that allows 24 hours to restore the control room pressure envelope through repairs before requiring the unit to perform an orderly shutdown. The new action has a longer allowed outage time than LCO 3.0.4 which the CTS would require to be entered immediately. The change would recognize that the ventilation trains associated with the pressure envelope would still be operable.

14. Change 2–25–LS–23 (ITS SR 3.8.4.7 and SR 3.8.4.8), the change, proposed in the amendment application, would allow substitution of a modified performance discharge test for the battery service test in CTS SR 4.8.2.1.e.

15. Change 1–09–A (ITS 5.0), question Q5.2–1, response letter dated September 24, 1998. The proposed change would replace CTS 6.2.2.e requirements concerning overtime with a reference to administrative procedures for the control of working hours.

16. Change 1–15–A (ITS 5.2.2.f), question Q5.2–1, response letter dated September 24, 1998. The proposed change would revise CTS 6.2.2.g to eliminate the title of Shift Technical Advisor (STA). The engineering expertise would be maintained on shift, but not as a separate individual, as allowed by the Commission's Policy Statement on engineering expertise.

17. Change 2–17–LS–1 (ITS 5:5.7), question Q5.5–2, response letter dated September 24, 1998. The proposed change would add an allowance to the CTS for the reactor coolant pump flywheel inspection program to permit an exception to the examination requirements specified in CTS SR 6.8.5.b (Regulatory position C.b.4 of NRC Regulatory Guide 1.14, "Reactor Coolant Pump Flywheel Integrity," Revision 1.) The exception would allow either an ultrasonic volumetric or surface examination as an acceptable inspection method.

18. Change 2–18–A (ITS 5.0), question Q5.2–1, response letter dated September 24, 1998. The proposed change would revise the CTS 6.8.4.e.7 dose rate limits in the radiological effluents controls program to reflect 10 CFR Part 20 requirements.

19. Change 2–22–A (ITS 5.5.4.k), question Q5.2–1, response letter dated September 24, 1998. The proposed change would revise the radiological effluents controls program in CTS 6.8.3.e to add clarifying statements denoting that the provisions of CTS 4.0.2 and 4.0.3, which allow extensions to surveillance frequencies, are also applicable to these program activities.

20. Change 3–18–LS–5 (ITS 5.6.4), question Q5.2–1, response letter dated September 24, 1998. The CTS 6.9.1.8 requirement to provide documentation of all challenges to the power operated relief valves (PORVs) and safety valves on the reactor coolant system would be deleted. This would be based on NRC Generic Letter (GL) 97–02, "Revised Contents in the Monthly Operating Report," which reduced the requirements for submitting such information to the NRC. The GL did not include these valves for information to be submitted.

21. Change 9–14–M (ITS SR 3.4.12.3). The change, proposed in the amendment application, would add a new surveillance requirement to CTS LCO 3.4.9.3 on overpressure protection systems to verify each accumulator is isolated when the accumulator pressure is greater than or equal to the maximum reactor coolant system (RCS) pressure for the existing RCS cold leg temperature allowed by the pressure/temperature limit curves provided in the pressure temperature limit report.

22. Change 14–09–M (ITS 3.7.16), question 3.7.16–3, response letter dated March 9, 1999. The proposed change would add a new LCO, with actions and surveillance requirements from the ITS, to the CTS for the allowable fuel storage boron concentration. The new specification is based on ITS 3.7.17 with the proposed minimum acceptable boron concentration for the spent fuel storage pool being 2165 ppm boron.

23. Change 1–15–A (ITS SR 3.3.1.15), question TR–3.3–007, response letter dated December 22, 1998. The proposed change would modify the applicability of the reactor trip on turbine trip function in CTS Table 3.3–1 by adding a new footnote (c) stating that this function would only be required to be operable above the P–9 interlock. This is proposed since this function is blocked below the P–9 interlock. The applicability change would also be reflected in the revised trip actuating device operational test (TADOT) requirements for functional unit #16 in CTS Table 4.3–2.

24. Change 1–30–M (ITS LCO 3.3.9) questions 3.3–119 and 3.3–121, response letter dated April 21, 1999. The proposed change would add a new LCO with actions and SR from the ITS for the boron dilution mitigation system. Additional restrictions not in the CTS would be added to address the requirement that one RCS loop shall be in operation for Modes 2 (below P–6), 3, 4 and 5. This is not included in the CTS or ITS 3.3.9.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 27, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Elmer Ellis Library, University of Missouri, Columbia, Missouri, 65201. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the

subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C., 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated May 15, 1997, as supplemented by letters dated June 26, August 4, August 27, September 24, October 21, November 23, November 25, December 11 and December 22, 1998, and February 5, March 9, April 7, and April 21, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Elmer Ellis Library, University of Missouri, Columbia, Missouri, 65201.

Dated at Rockville, Maryland, this 21st day of April 1999.

For the Nuclear Regulatory Commission.

Mel Gray,

Project Manager, Section 2, Project Directorate IV & Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10493 Filed 4–26–99; 8:45 am]

BILLING CODE 7590–01–P

U.S. NUCLEAR REGULATORY COMMISSION

[Dockets 72–1021 and 72–1027]

Transnuclear, Inc.; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the provisions of 10 CFR 72.124(b) to Transnuclear, Inc. (TN or applicant) for the TN–32 spent fuel storage cask. The requested exemption would allow TN to confirm the efficacy of the cask's fixed neutron poisons by analysis. TN, located in Hawthorne, New York, is seeking a Certificate of Compliance (CoC) for the TN–32 dry spent fuel storage cask. The cask is intended for use under the general license provisions of Subpart K of 10 CFR Part 72 by Duke Power Company (Duke) at the McGuire Nuclear Station (McGuire) located in Cornelius, North Carolina and Wisconsin Electric Power Company (WEPCo) at the Point Beach Nuclear Power Station (Point Beach) located in Two Rivers, Wisconsin. The TN–32 dry spent fuel storage cask is currently used at Surry and North Anna Power Stations under a site-specific license and an exemption to 10 CFR 72.124(b) was granted for these casks.

Environmental Assessment (EA)

Identification of Proposed Action: The staff is considering issuance of an exemption from the requirements of 10 CFR 72.124(b) which states, in part, that: "Where solid neutron absorbing materials are used, the design shall provide for positive means to verify their continued efficacy." Specifically, the staff is considering granting an exemption from the requirement to use positive means to verify continued efficacy of neutron absorbing materials. The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7.

Need for the Proposed Action: The exemption to 10 CFR 72.124(b) is necessary because, while this requirement is appropriate for wet spent fuel systems, it is not appropriate for dry spent fuel storage systems such as the TN–32. Periodic verification of neutron poison effectiveness is neither necessary nor possible for these casks. It is also necessary to ensure that the certification process for the TN–32 cask takes into account previous staff conclusions that fixed neutron poisons in these storage casks will remain effective over the 20-year period of the license. On June 9, 1998, the Commission issued a proposed rule (63 FR 31364) to revise 10 CFR 72.124(b). The Commission proposed that for dry spent fuel storage systems, the continued efficacy of neutron absorbing material may be confirmed by a demonstration and analysis before use, showing that significant degradation of the material cannot occur over the life of the facility. A final rule to revise this regulation has not yet been issued by the Commission.

Environmental Impacts of the Proposed Action: The TN–32 cask design includes fixed neutron absorbers but does not provide for periodic verification of neutron absorber efficacy. The staff previously evaluated the efficacy of the TN–32 cask fixed neutron absorbers and an exemption to 10 CFR 72.124(b) was granted for the casks currently in use at the North Anna Power Station. In NRC's March 19, 1999, safety evaluation of the TN–32 cask Safety Analysis Report, the staff concluded that fixed neutron poisons in the TN–32 cask will remain effective for the 20-year storage period and that the criticality design for the cask is based on favorable geometry and fixed neutron poisons. In addition, the staff deduced that there is no credible way to lose the fixed neutron poisons; therefore, there is no need to provide a positive means to verify their continued efficacy as required by 10 CFR 72.124(b). The TN–32 CoC application dated September 24, 1997, as amended, is under consideration by the Commission. It is anticipated, if approved, the TN–32 CoC may be issued in early 2000.

The Commission has completed its evaluation on the proposed action and concludes that granting an exemption from the requirements of 10 CFR 72.124(b) will have no environmental impact because the staff has determined that periodic verification of the neutron absorber efficacy is not needed to assure that the fixed neutron poisons casks will remain effective during the storage period. The proposed action will not increase the probability or consequences of accidents. There are no non-radiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action: Since there is no environmental impact associated with the proposed action, alternatives are not evaluated other than the no action alternative. The alternative to the proposed action would be to deny approval of the exemption (i.e., the "no-action" alternative). Denial of the proposed action would result in greater exposures to plant workers due to the fact that the only means to verify the continued efficacy of neutron absorbing materials would require workers to periodically reopen the casks and remove at least one fuel assembly. The environmental impacts of the alternative action are greater than the proposed action.

Given that there are greater environmental impacts associated with the alternative action of denying the approval for exemption, the Commission concludes that the preferred alternative is to grant this exemption.

Agencies and Persons Consulted: On March 8, 1999, Mr. Johny James of the North Carolina Division of Radiation Protection and Ms. Sally Jenkins of the Wisconsin Public Utility Commission were consulted about the EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.124(b) so that TN need not use positive means to verify the continued efficacy of the neutron absorbing material in these casks will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application for CoC for the TN–32 cask system dated September 24, 1997, as supplemented. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555; Local Public Document Room at the J. Murrey Atkins Library, University of North Carolina at Charlotte, UNCC Station, Charlotte, NC 28223; Local Public Document Room at the Joseph Mann Library, 1516 16th Street, Two Rivers, WI 54241; and Local Public Document Room at the State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 19th day of April 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–10492 Filed 4–26–99; 8:45 am]

BILLING CODE 7590–01–P

PRESIDIO TRUST

Letterman Complex, The Presidio of San Francisco, California; Notice of Availability to Review and Comment on the Draft Supplemental Environmental Impact Statement

AGENCY: The Presidio Trust.

ACTION: Notice of availability to review and comment on the draft supplemental environmental impact statement (SEIS) for new development and uses within the Letterman Complex, The Presidio of San Francisco. The draft SEIS is a supplement to the 1994 Final General Management Plan Amendment (GMPA) EIS for The Presidio of San Francisco.

SUMMARY: The Presidio Trust has prepared a draft SEIS for the development and occupancy of approximately 900,000 square feet of new, low- to mid-rise mixed-use space within 23 acres of the 60-acre Letterman Complex, located in the northeast corner of The Presidio of San Francisco, California. New development would necessitate the demolition of the functionally obsolete 451,000-square-foot Letterman Army Medical Center (LAMC) and 356,000-square-foot Letterman Army Institute of Research (LAIR), and several other non-historic structures located within the Letterman Complex. For the purposes of the draft SEIS, six alternatives have been formulated for development and occupancy of the site: a "Science and Education Center" (the Updated Presidio GMPA Alternative, or Alternative 1); a "Sustainable Urban Village" (Alternative 2); a "Mixed Use Development" (Alternative 3); a "Live/Work Village" (Alternative 4); a "Digital Arts Center" (Alternative 5) and "Minimum Management" (the No Action Alternative, or Alternative 6). The alternatives were selected on the basis of concerns expressed during public involvement activities and the proposals received and considered by the Presidio Trust in response to its Request for Qualifications to develop the site.

Public Meetings

The Presidio Trust will receive oral comment on the draft SEIS at the May 18, 1999 and June 15, 1999 meetings of the Citizens' Advisory Commission of the Golden Gate National Recreation Area. The meetings will be held at Park Headquarters, Building 201, Fort Mason, San Francisco, California at 7:30 p.m.

Comments

Comments on the draft SEIS must be received by June 26, 1999. Written comments on the draft SEIS must be sent to: NEPA Compliance Coordinator—Attn: Letterman Complex, Presidio Trust 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052, Fax: 415–561–5315, E-mail: presidio@presidiotrust.gov.

Materials Available to The Public

Copies of the draft SEIS are available for the actual cost of reproduction at: Kinko's 3225 Fillmore Street, San Francisco, CA 94123, Phone: 415–441–2995.

The draft SEIS and final GMPA EIS are available for review at:

The Presidio Trust, 34 Graham Street, San Francisco, CA 94129–0052, Phone: 415–561–5300

GGNRA Park Headquarters, Building 201, Fort Mason, San Francisco, CA 94123, Phone: 415–561–4620

San Francisco Main Library, Government Information Center, Civic Center, San Francisco, CA 94102, Phone: 415–557–4500

San Francisco Library, Presidio Branch, 3150 Sacramento Street, San Francisco, CA 94115, Phone: 415–292–2155

A summary of the SEIS is available for viewing on the Internet by clicking on "Letterman SEIS" at the following website: http://www.presidiotrust.gov/park/index.htm.

FOR FURTHER INFORMATION CONTACT: John Pelka, NEPA Compliance Coordinator, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Telephone: 415–561–5300.

Dated: April 20, 1999.

Karen A. Cook,

General Counsel.

[FR Doc. 99–10471 Filed 4–26–99; 8:45 am]

BILLING CODE 4310–4R–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41310; File No. SR–Amex–99–11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to an Increase in the Maximum Size of Options Orders Eligible To Be Entered Through the Amex Order File System Into the Amex Options Display Book

April 19, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 29, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to increase from 50 to 100 the maximum number of equity and index option contracts in an order that may be entered through the Amex Order File System ("AOF") into the Amex Options Display Book ("AODB"). The text of the proposed rule change is available at the Office of the Secretary, Amex and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The AOF routes orders to specialists' order books and to Auto-Ex, an automatic execution system that executes public customer market and marketable limit orders in options at the best bid or offer displayed at the time the order is entered. Currently, the AOF permits a Member or Member Firm to enter orders for up to 50 option contracts directly into an Exchange specialist's order book (the AODB)[3] from off the Exchange's trading floor and orders of up to 20 contracts into Auto-Ex.[4]

Amex proposes to increase the maximum size of options orders that may be entered through the AOF into the AODB from 50 to 100 option contracts.[5] This increase in maximum size of orders eligible for automated entry into the AODB will permit Members and Member Firms to send a larger percentage of orders directly to a specialist's order book for execution, resulting in increased automated order handling. Amex believes this increased automated order handling will benefit customers as well as Members and Member Firms by expanding the number of option orders eligible for automated handling and promoting the orderly and timely delivery, processing and execution of such orders.

The Exchange represents that AOF/AODB has been successful in enhancing execution and operational efficiencies. In anticipates that the proposed increase in the AOF's maximum order size parameters should further increase execution and operational efficiencies realized since the introduction of the AOF.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)[6] of the Act, in general, and furthers the objectives of Section 6(b)(5)[7] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.[8]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[3] The Exchange represents that currently, orders for more than 50 option contracts are either manually entered by the specialist into the AODB or "worked" in the crowd. Telephone conversation between Scott Van Hatten, Legal Counsel, Amex and Gordon Fuller, Special Counsel, Division of Market Regulation ("Division"), SEC (April 7, 1999).

[4] The Commission notes that Amex received Commission approval to increase the maximum size of orders entered into Auto-Ex from 20 options contracts to 50. Securities Exchange Act Release No. 41098 (February 24, 1999), 64 FR 10511 (March 4, 1999) (File No. SR–Amex–98–44). Amex represents, however, that the Auto-Ex order size limit is currently set at 20 contracts. Telephone conversation between Scott Van Hatten, Amex, and David Sieradzki and Gordon Fuller, Special Counsels, Division, SEC (April 5, 1999).

[5] Amex represents that its systems capacity is sufficient to accommodate the anticipated increased volume of orders entered into AODB as a result of the increase in maximum order size. Telephone conversation between Scott Van Hatten, Amex, and David Sieradzki and Gordon Fuller, Special Counsels, Division, SEC (April 5, 1999).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex represents that the foregoing rule change effects a change in an Amex order-entry system that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not have the effect of limiting the access to or availability of the system. Therefore, the rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(5) of Rule 19b–4 under the Act.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–99–11 and should be submitted by May 18, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10454 Filed 4–26–99; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41314; File No. SR–NASD–99–17]

April 20, 1999

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to SelectNet Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on March 24, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is submitting this proposed rule change to extend, through March 31, 2000, the fees currently charged under NASD Rule 7010(l) for the execution of transactions in Select Net as discussed below. If no further action is taken, SelectNet fees will revert to their original per-side level on April 1, 2000.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. Nasdaq has prepared summaries, set forth below in Sections A, B, and C of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Nasdaq is proposing to again extend its current reduced SelectNet fees. The reasons for Nasdaq's prevailing SelectNet fee structure were fully explained in its original fee structure proposal filed with the Commission in February of 1998.[4] Since then, SelectNet usage has continued at significantly elevated levels. As such, Nasdaq believes that an extension of these reduced fees, through March 31, 2000, is warranted. Under the proposed extension, SelectNet fees would continue to be assessed in the following manner: (1) $1.00 will be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or in part, (2) no fee will be charged to a member who receives and executes a directed SelectNet order, (3) the existing $2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; and (4) a $0.25 fee will remain in effect for any member who cancels a SelectNet order. Nasdaq will continue to monitor and review SelectNet activity to determine if further extensions of its reduced SelectNet fee structure are appropriate. If no further action is taken, SelectNet fees will revert to their original $2.50 per-side level on April 1, 2000.

For the reason set forth above, Nasdaq believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act,[5] which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Nasdaq notes that it recently filed with the Commission a rule proposal to, in part, return SelectNet to a pure order delivery and negotiation facility. *See* SR–NASD–99–11. Notwithstanding the one year extension of reduced fees contemplated here, Nasdaq reserves the right to adjust its SelectNet pricing by proposed rule change pending the approval of SR–NASD–99–11.

[4] *See* Securities Exchange Act Release No. 39641 (February 10, 1998), 63 FR 8241 (February 18, 1998). Nasdaq's current reduced fee structure was originally approved for a 90 day trial period, commencing the day that the proposal was published in the **Federal Register**. The reduced fees were extended in May, September and November of 1998 and would expire on March 31, 1999, if not extended by this filing. *See* Securities Exchange Act Release No. 40783 (December 11, 1998), 63 FR 70177 (December 18, 1998).

[5] 15 U.S.C. 78*o*–3(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This filing applies to the assessment of SelectNet fees to NASD members, and thus the proposed rule change is effective immediately upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act [6] and subparagraph (f)(2) of Rule 19b–4 [7] under the Act because the proposal is establishing or changing a due, fee or other charge.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–17 and should be submitted by May 18, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10517 Filed 4–26–99; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41306; File No. SR–Phlx–99–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Requirement for Off-Floor Traders for Which the Exchange Is the Designated Examining Authority To Successfully Complete the General Securities Representative Examination Series 7

April 16, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 15, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On April 7, 1999, the Phlx filed Amendment No. 1.[3] On April 13, 1999, the Phlx filed Amendment No. 2.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 604, Registration and Termination of Registered Representatives, to require successful completion of the National Association of Securities Dealers General Securities Representative Examination ("Series 7 Exam") by persons associated with member of participant organizations for which the Exchange is the Designated Examining Authority ("DEA") who are trading from off the floor of the Exchange.

Specifically, the Exchange seeks to require associated persons of members or member organizations for which the Exchange is the DEA, but who are not themselves Exchange members, who engage in proprietary trading of equities and options, including, but not limited to, persons who execute such trades or make trading decisions with respect to such trades, to successfully complete the Series 7 Exam. The proposed rule would apply to those persons who are not Exchange members registered in a trading capacity on the floor of the Exchange.

The text of the proposed rule change is below. Additions are italicized, and deletions are bracketed.

Rule 604. Registration and Termination of Registered [Representatives] *Persons*

(e) (i) Every person who is compensated directly or indirectly by a member or participant organization for which the Exchange is the DEA who executes, makes trading decisions with respect to, or otherwise engages in proprietary or agency trading of equities, preferred securities, convertible debt securities or options off the floor of the Exchange ("off-floor traders"), must successfully complete the General Securities Registered Representative Examination Test Series 7.

(1) The requirement to successfully complete the Series 7 examination applies to current off-floor traders as well as future off-floor traders who affiliate with members at a later date. Off-floor traders currently engaged in off-floor trading activity at the time of approval of this rule must successfully complete the Series 7 examination within six (6) months of notification by the Exchange.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to add paragraph (e) of Phlx Rule 604 to establish examination requirements for securities traders not located on the floor of the Exchange. Currently, the Exchange specifies qualification requirements for various persons conducting a public business or duties customarily performed by a registered

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 removed a description of professional traders from the filing. Letter from Richard S. Rudolph, Legal Counsel, Phlx, to Karl Varner, Special Counsel, Division of Market Regulation ("Division"), SEC, April 6, 1999.

[4] Amendment No. 2 made technical changes to the proposed rule change. Letter from Richard S. Rudolph, Legal Counsel, Phlx, to Karl Varner, Special counsel, Division, SEC, April 12, 1999.

representative. These qualification requirements are enumerated in Phlx Rule 604.[5] No similar qualification requirement exists for persons who conduct trading activities from off the floor of the Exchange. The purpose of the proposed rule change is to bring the Exchange's qualification requirements in line with those of the other major securities exchanges and enhance the consistency of qualification requirements across the exchanges by adding testing requirements for off-floor traders and certain other associated persons of members who are not covered by the current qualification requirements for floor traders.

The Exchange has discovered that the majority of those persons to whom the proposed rule would apply are associated with certain limited liability companies ("LLC") for the purpose of conducting off-floor trading in their own accounts. These securities traders become members of the LLC to avail themselves of good faith margin provided through the LLC's Joint Back Office agreement with its clearing agent.

The new Series 7 Exam requirements, if approved, will apply to all previously registered persons, who will be required to successfully complete the Series 7 Exam within six months of notice by the Exchange. The new examination requirement would be phased in over a six-month period. Associated persons who are currently registered to trade from off the floor of the Exchange would be required to register to take the Series 7 Exam within 30 days of the Exchange's notice to membership of this requirement and those off-floor traders to whom the order applies will be required to notify the Exchange promptly that they have so registered. Off-floor traders required to register for the Series 7 Exam will have six months from the date of notice by the Exchange in which to successfully complete the Series 7 Exam.

Off-floor traders to whom the proposed rule applies who become associated with member organizations after notice of this requirement must successfully complete the Series 7 Exam prior to conducting securities trading activities for which the examination is required.

The proposed rule change is consistent with Section 6 of the Act[6] in general, and furthers the objectives of Section 6(c)(3)(A) of the Act[7] and Section 6(c)(3)(B) of the Act[8] in particular, in that it is designed to prescribe appropriate standards of training, experience, and competence for brokers and dealers and persons associated with Exchange members in order to protect investors and the public. The proposed rule change is also consistent with Section 6(b)(5) of the Act[9] in general, in that it is designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest by requiring registered off-floor traders to demonstrate their qualifications to trade by successfully passing the Series 7 Examination.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comment on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. Sr–Phlx–99–07 and should be submitted by May 18, 1999.

For the Commission, by the Division on Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10455 Filed 4–26–99; 8:45 am]

BILLING CODE 8010–01–M

[5] Securities Exchange Act Release No. 36515 (November 27,1995), 60 FR 62119 (December 4, 1995) (File No. SR–Phlx–95–58) (order approving amendment of Phlx Rule 604).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(c)(3)(A).

[8] 15 U.S.C. 78f(c)(3)(B).

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice No. 3031]

Advisory Committee on International Economic Policy; Meeting Notice

The Advisory Committee on International Economic Policy (ACIEP) will meet from 9:00 a.m. to 1:00 p.m. on Tuesday, May 18, 1999, in Room 1107, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520. The meeting will be hosted by Committee Chairman R. Michael Gadbaw and by Assistant Secretary of State for Economic and Business Affairs Alan P. Larson.

The ACIEP serves the U.S. Government in a solely advisory capacity concerning issues and problems in international economic policy. The objective of the ACIEP is to provide expertise and insight on these issues which are not available within the U.S. Government. Topics for the May 18 meeting will be: China: WTO Accession, Economic Relations, and Broader Agenda; Sanctions: Administration Initiatives, Status of Legislation, and State and Local Measures; Addressing Labor, Environmental, and Transparency Concerns in Economic Agreements; and U.S.-European Cooperation: Managing Trade Issues and Rebuilding a New Southeast Europe.

Members of the public may attend these meetings as seating capacity allows. While the meeting is open to the public, admittance to the Department of State Building is only by means of a pre-arranged clearance list. In order to be placed on this list, please provide your

name, title, company or other affiliation if appropriate, social security number, date of birth, and citizenship to the ACIEP Executive Secretariat by phone at (202) 647–5968 or fax (202) 647–5713 (Attention: Sharon Rogers) by Tuesday, May 11, 1999. On the date of the meeting, persons who have registered should come to the "C" Street entrance. One of the following valid means of identification will be required for admittance: a U.S. driver's license with photo, a passport, or a U.S. Government ID.

FOR FURTHER INFORMATION CONTACT: Sharon Rogers, ACIEP Secretariat, U.S. Department of State, Bureau of Economic and Business Affairs, Room 6828, Main State, Washington, DC 20520.

Dated: April 21, 1999.

William J. McGlynn,

Executive Secretary.

[FR Doc. 99–10540 Filed 4–26–99; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 29547]

207-Minute Extended Range Operations With Two-Engine Aircraft (ETOPS) Operation Approval Criteria

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: This notice announces the request by the Air Transport Association for the FAA to issue a policy for 207-minute ETOPS operation approval criteria. The material was presented to the FAA by mail dated March 22, 1999. In addition, this notice opens [29547] and that docket serves as a repository for all recorded material regarding the aforementioned meeting.

DATES: Comments must be received on or before June 11, 1999.

ADDRESSES: Comments on this notice should be mailed or delivered, in duplicate, to: Federal Aviation Administration, Office of Chief Counsel, Rules Docket Office, [29547], 800 Independence Avenue, SW., Room 915–G, Washington, DC 20591. Comments may also be submitted electronically to the following Internet address: 9–NPRM–CMTS@faa.gov. Comments must be marked [20547]. Comments may be filed and/or examined in Room 915–G weekdays between 10:00 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Eric van Opstal, Air Transportation Division (AFS–200), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to comment on the Air Transport Association's request by submitting such written data, views, or arguments to the address listed above. The FAA will consider all communications before taking action.

Following is the full text of the Air Transportation Association letter. The FAA is publishing this request without endorsement. The purpose of this notice is to request comments on the Air Transport Association request for 207-Minute ETOPS Operation Approval Criteria.

Air Transport Association

February 26, 1999.

Mr. Thomas E. McSweeny,

Associate Administrator for Regulation and Certification, Federal Aviation Administration, 800 Independence Avenue, SW AVR–1, Washington, DC 20591

Dear Mr. McSweeney: In conjunction with the planning and implementation of Extended Range Operations with Two-Engine Aircraft (ETOPS) in the North Pacific area of operations, the Air Transport Association (ATA) member airlines determined that a need exists for expanded ETOPS authority beyond 180 minutes. The ETOPS Subcommittee established a process where associated airlines, the Pilots associations, Boeing, Federal Aviation Administration representatives and other parties worked together to determine the criteria to support the establishment of a proposed 15 percent operational extension of 180 minute ETOPS. The result of the effort is the attached draft proposal, including the associated application and approval criteria, for an ETOPS policy letter providing for 207 minutes ETOPS authority.

As reflected in the proposed policy letter, it was determined that there would be additional requirements associated with the new authority. Most of these requirements are self evident. However, to assist in your analysis and review of this proposal, we have included an Executive Summary of the Boeing Reliability Study which was conducted in support of this effort.

There are many issues associated with 207 minute ETOPS, especially in the North Pacific area of operations. One example is the availability and support functions of Alternate and Emergency airports. ATA ETOPS operators have conducted airport visits and inspections of selected airports in Alaska and Russia, and are establishing plans to expand these and foreign governments to ensure airport availability to support all international air Transport operations.

In conclusion, we request your consideration and approval of the attached policy letter establishing 207 minute ETOPS authority. Since there are airlines conducting ETOPS in the North Pacific now and three more airlines plan to start operations in that area this year, we respectfully request accelerated processing of this proposal.

Sincerely,

Captain Paul McCarthy,

Executive Air Safety Chairman, Air Line Pilots Association.

Captain William Borrelli,

President, Independent Association of Continental Pilots.

Robert H. Frenzel,

Senior Vice President, Aviation Safety and Operations, Airlines Transport Association.

Draft Proposal February 4, 1999

Informatiopn: 207-minute ETOPS Operation Approval Criteria. ETOPS Policy Letter EPL.

Discussion

It has been determined by the FAA that a need exists for an additional ETOPS authority beyond 180 minutes. The ETOPS concept has been successfully applied since 1985 and is now widely employed. The number of ETOPS operators has increased dramatically, and, in the North Atlantic, U.S. operators have more twin operations than the number of operations accomplished by three- and four-engine airplanes. ETOPS is now well established.

It is apparent that the excellent propulsion related safety record and the success of two-engine airplane operations has not been maintained, but potentially enhanced, by the process-related provisions associated with ETOPS.

The data shows ETOPS requirements and processes are generally applicable to all long-range operations including those by three- and four-engine airplanes. Ensuring availability of en route alternate airports, adequate fire fighting coverage at these airports, fuel planning to account for depressurization are sound operational practices for all airplanes including three- and four-engine airplanes.

It is the position of the FAA that a need exist to normalize the requirements for enroute alternates across all long-range operations. Because such operations operate over increasingly remote and demanding areas of operation, it is also necessary to develop a long term solution to the requirements of adequate levels of Rescue and Fire Fighting Services (RFFS) for non-destination airports. Until such consistent requirements addressing all "Long Range Operations" are established, the FAA will continue to use AC120–42A, Extended Range

Operation with Two-Engine Airplanes, and associated policy letters to allow two-engine operations on extended-range operations (ETOPS). The FAA has taken the following into consideration during the development of this Policy Letter:

a. 180-minute ETOPS is adequate to permit two-engine operation on almost all the heavily traveled routes in the world. Due to a number of factors (including occasional political concerns, airport suitability considerations due to higher weather minima at dispatch, various weather related events and operational necessities), a need exists for an additional ETOPS authority beyond 180 minutes on a flight-by-flight exception basis.

b. A precedence for operational extension of maximum diversion time by up to 15 percent exists. ETOPS Policy Letter EPL 95–1 dated December 19, 1994, reinstated the increase of up to 15 percent in maximum diversion time (maximum diversion time being 120-minutes) from suitable airports which was initially provided in the original guidance for extended-range operations with two-engine airplanes in Advisory Circular AC 120–42 dated June 6, 1985.

c. This policy letter provides a 15% extension on 180 minutes (similar to what was provided for 120 minutes). It is intended that this extension will be applied on a flight-by-flight exception basis. Such extensions can only be applied to a route where adequate enroute alternate airports exist and are available and that, if defined as "suitable" for dispatch as per paragraph 10(d)(5) of AC 120–42A, the route could be flown at 180-minute ETOPS authority. A 15 percent increase to 180 mathematically equates to 207, and will therefore be addressed as the 207-minute ETOPS authority.

d. Allowing 207-minute ETOPS extension is not intended to encourage or support further closure of en route alternate airports.

The FAA has found it appropriate to release a policy letter allowing 207-minute ETOPS authority. This policy will be incorporated in Advisory Circular 120–42A at the next revision cycle. The FAA is committed to harmonize Title 14 Code of Federal Regulations (14 CFR) and aviation policy with the Joint Aviation Authorities (JAA) wherever it is feasible, and harmonization in this specific area is desirable.

Approval Basis

Although the 207-minute ETOPS authority is an extension of 180-minute ETOPS, certain criteria will apply when the increase in diversion authority is being exercised.

The operator shall comply with all the operational approval requirements for 180-minute ETOPS. Following are additional requirements for 207 minutes:

1. Operators shall use satellite communications (SATCOM) voice and/or SATCOM datalink as a minimum in order to meet 14 CFR requirements for rapid and reliable communications.

2. Operators shall, prior to the extended range entry point, use datalink to update any revised flight plan (company communications) if required as a result of reevaluation of aircraft system capabilities and enroute alternates. Dispatch will review enroute alternates and advise the flight crew of all suitable alternates within 207 minutes of the planned routing.

3. The operator shall have single-engine automated capability on the airplane and such systems must be operable for dispatch.

4. MEL restrictions for 180-minute operations shall be applicable. In addition, the following shall not be inoperative prior to dispatch for 207 minutes ETOPS:

- Fuel quantity indicating system (FQIS).
- Auxiliary power unit (including electrical and pneumatic supply to its designed capability).
- Autothrottle system.
- SATCOM voice and/or SATCOM datalink.

5. Operators shall ensure that adequate levels of RFFS for enroute ETOPS alternates are available. For the case of 207-minute ETOPS, the aircraft must remain at all times within 207 minutes of at least one adequate airport (as defined in AC 120–42A, Appendix 3) which has an RFFS of International Civil Aviation Organization (ICAO) Category 7 or higher. If such equipment is not available on the airport, an equivalent level of support must be reasonably accessible given notification of the divert.

6. Operators shall inform the flightcrew anytime an aircraft is dispatched under this authority and shall make available the dispatch considerations requiring such operations.

7. Operators who are granted 207-minute ETOPS authority shall submit to the FAA, on a regular monthly basis, a record of all ETOPS operations in that area. For each segment where the 207-minute authority was exercised, the dispatch justifications must be delineated. Industry data for all such operations will be reviewed on a regular basis by an industry group to be determined by the FAA.

The airframe-engine must have 180 minutes type design approval. All requirements specified in the Configuration Maintenance and Procedures (CMP) for 180-minute ETOPS will remain applicable. The airframe-engine combination shall be reviewed to determine if there are any factors which would affect safe conduct of 207-minute operations on a flight-by-flight exception basis as defined in (c) of the "Discussion" section of this policy letter. Such a review shall ensure:

1. Numerical Probability Analysis (NPA) provided to support 180 minutes will be reanalyzed to support a 207-minute diversion.

2. The engine installations have adequate oil supply margins to support 207-minute plus an additional allowance of 15 minutes (for holding, an approach and landing) for a total of 2202 minutes ETOPS diversions per FAR 25.1011(b).

3. Time-related cargo fire limitations shall not be less than the approved 207 minutes plus an additional allowance of 15 minutes (for holding, an approach, and landing) for a total of 222 minutes.

4. If the airframe-engine combination has other time limited systems, the time limit for those systems shall not be less than 207 minutes plus an additional allowance of 15 minutes (for holding, an approach and landing) for a total of 222 minutes.

5. The risk of uncontained engine failures and subsequent fuel tank damage shall be reviewed to demonstrate continued compliance with FAR 25.903(d)(1).

6. Engine inflight shutdown (IFSD) target level shall be at .019/1000 engine hours (based on Appendix 1 to AC 120–42A).

7. Electrical power to at least one fuel crossfeed valve shall be available as long as the main battery or a backup power source is available.

8. At least one fuel boost pump in each main fuel tank must be able to be powered by a backup electrical power source other than the primary engine driven or APU driven generator.

9. Any one of the engine or APU driven generator sources present shall be capable of powering main AC and main DC buses.

Amendments to the master minimum equipment list (MMEL) shall be made if the reliability analysis or if service experience indicates that the existing MMEL is no longer appropriate for 207-minute ETOPS.

Application

Operators currently approved for 180 minutes ETOPS authority will be considered for 207-minute authority upon application. When approved, 207-minute ETOPS authority will be considered an extension of 180-minute ETOPS (and the area of operation associated with that authority) and will be exercised by the operator on a flight-by-flight exception basis as defined in (c) of the "Discussion" section of this policy letter.

Operators with existing 180-minute ETOPS authority may apply for 207-minute ETOPS authority by letter application to the Air Transportation Division, AFS–200, through the certificate holding district office (CHDO). The ETOPS authority will be granted by the Director, Flight Standards Service, AFS–1, and will be reflected in the operator's Operations specifications. The application shall include the following information as minimum:

1. Current ETOPS authority (i.e., 180 minutes).
2. Specify the airframe-engine combinations presently authorized for ETOPS, and the airframe-engine combinations for which 207-minute ETOPS approval is being sought.
3. The area of operation requested for 207-minute ETOPS authority.
4. Provide a summary of revisions made to operational documents.
5. Provide a summary of the revision to training curriculum for maintenance, dispatch, and flight crew personnel to distinguish 207-minute ETOPS authority from 180-minute ETOPS criteria.

A copy of this policy is to be disseminated to all ETOPS operators.

Executive Summary: B777 Reliability Study

During the past several years, Boeing, the aviation industry and government agencies have been working together to develop safer and more efficient methods of air transportation for the traveling public. One area of such particular focus has been extended range operations with twin engine airplanes (ETOPS).

Currently, most Boeing twins have been type design approved for ETOPS up to 180 minutes. Until recently, this accommodated highly effective twin-engine, on those routes on which these airplanes were typically operated. Recently, however, the 180 minute limit has been shown to present certain obstacles to reliable operations in the North Pacific.

At times, some North Pacific alternates may be unavailable in the planning phase or during flight as a result of weather, volcanic eruptions or other temporary closures. While it is unlikely that all alternates would be unavailable during the actual flight, Advisory Circular 120–42A applies a conservative alternate airport weather minima factor during ETOPS flight planning. This factor may at times cause an alternate airport to be considered unavailable in the planning phase, thereby requiring an ETOPS flight to be canceled, have a possible extended departure delay, or forcing it to follow a less direct route to stay within 180 minutes of other suitable alternate airports. However, this conservative weather factor no longer applies once the flight dispatches. Thereafter, any decision to divert would be based on the actual suitability of the available alternate airports. Consequently, this well-intended weather factor may at times cause an airplane to be further away from the nearest suitable alternate airport if and when a diversion becomes necessary.

Boeing, pertinent airlines and pilot associations have been studying the impact of a 15% operational extension, on an exception basis, to 180 minute ETOPS. This operational extension would only be exercised when typically used alternate airports are temporarily unavailable for reasons such as weather—it is not intended to permit use of routes that cannot normally be operated with a 180 minute approval. The above parties find that such an extension to 207 minutes in the North Pacific will at times permit airlines to use routes that are most efficient and will likely, in the event a diversion is necessary, result in the airplane actually being closer to a suitable alternate airport, most, if not all of the time.

Boeing twin engine jetliners have logged close to 1.4 million ETOPS flights. During this vast experience, there has never been a diversion of 180 minutes' duration. In nearly half a century of commercial jet transportation, moreover, no airplane of any type, regardless of the number of engines, has ever performed an emergency diversion of 180 minutes or more to an alternate airport. Therefore, allowing a 15% extension to 207-minute ETOPS is unlikely to result in an actual diversion in excess of 180 minutes. However, it will allow more-direct routings, as well as greater choice and flexibility for flight crews, should a diversion be necessary.

As 207-minute ETOPS will in some cases permit shorter flights, it is not anticipated to result in diversions in excess of 180 minutes and may actually result in decreased diversion times. Such may actually yield a net decrease in risk. As a result, formal review of B–777 certification-related data is probably unnecessary for approval of 207-minute ETOPS. However, to assure that no compromise to safety occurs or might be perceived, an analysis of the B–777 type design was nevertheless performed to assess the suitability of the B–777 airplane to a 207-minute diversion.

Using design and reliability data from the B–777 airplane, a reliability analysis was performed on those systems considered important for ETOPS (electrical power generation system, hydraulic, bleed air, anti-ice, equipment cooling, fuel and propulsion). The exercise identified the necessary "top events" that needed to be analyzed to show compliance with the requirements posed by the 15% increase. Where numerical probability analysis (NPA) was used, it ensured that NPA ground rules were applied to the original analysis. Where an existing ETOPS NPA was performed considering a 180 minute diversion, an analysis for a 207 minute diversion was completed to show compliance for the 15% increase. However, if the existing ETOPS NPA was performed for the full 14 hours, not taking credit for the 180 minute diversion, no additional analysis was deemed necessary because that analysis showed ETOPS capability beyond 207 minutes. In all cases, the most conservative criteria with the greatest impacts were applied to this analysis.

In each case, the analysis showed that the probability of a catastrophic event was extremely improbable, even under the most extreme circumstances. In fact, this analysis confirmed B–777 airplane design and reliability capability well in excess of the proposed 15% extension.

Furthermore, the undersigned parties are prepared to offer a modification to the cargo fire protection system that accommodates the 15% extension in ETOPS diversion time, even though risk analysis methodology does not demonstrate a need for such a modification.

The Boeing Company has reviewed the results of this analysis with Mr. Steve Clarke, the FAA's focal for ETOPS type design approval, as well as individuals from the Aircraft Evaluation Group (AEG). Boeing is prepared to conduct additional such reviews for the FAA upon request.

Thomas E. McSweeny,

Associate Administrator for Regulation and Certification.

[FR Doc. 99–10556 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Final Environmental Impact Statement; Colorado Airspace Initiative (CAI)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability and Intent to Adopt the Final Environmental Impact Statement for the Colorado Airspace Initiative.

SUMMARY: Notice is hereby given that the Federal Aviation Administration (FAA) is recirculating and intends to adopt the Final Environmental Impact Statement (FEIS) prepared by the Air National Guard (ANG) for the modification of existing, and the establishment of new military airspace areas in Colorado, hereinafter known as the Colorado Airspace Initiative (CAI). The proposed actions assessed in the FEIS are substantially the same as the new military training airspace area that the ANG has asked the FAA to designate.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Marx, Manager, Environmental Programs Division (ATA–300), Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591 (202) 267–9367.

SUPPLEMENTARY INFORMATION: As provided in 40 CFR 1506.3 and FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, the FEIS of another Federal Agency may be adopted in accordance with the procedures in 40 CFR 1506.3. Under 40 CFR 1506.3(b), if the actions covered by an EIS and the actions proposed by another Federal agency are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. The FAA has determined that the proposed action of modifying existing and establishing new military training airspace areas over the State of Colorado is substantially the same as the actions considered in the ANG's FEIS. FAA staff has independently reviewed the ANG FEIS to determine if it is current and that FAA NEPA procedures have been satisfied. FAA has determined that the FEIS adequately assesses and discloses the potential environmental impacts of the proposed action. FAA staff concluded that, after mitigation measures are taken into consideration, the existing airspace can be modified and new military training airspace can be established with no significant impacts on environmental resources.

The proposal will modify existing and establish new military training airspace areas over the State of Colorado. The ANG has requested this action to respond to changes in readiness training requirements. The requirements are reflected in specific United States Air Force regulations for military aircraft and personnel operating in the affected airspace. Additionally, this action responds to the changes in commercial aircraft arrival and departure corridors required for operation of the new Denver International Airport.

The ANG evaluated the environmental impacts of the CAI in its document, Final Environmental Impact Statement for the Colorado Airspace Initiative, August 1997 (FEIS). The preferred alternative was also the environmentally preferred alternative in the FEIS. The preferred alternative was modified in response to concerns raised by private citizens, government agencies, and various public interest groups. The ANG changed its proposal to narrow the widths of portions of corridors of four military training routes and withdrew one route. Subsequently, the ANG issued a Record of Decision (ROD) on October 28, 1997, approving the preferred alternative as modified. The ANG then submitted the FEIS to the FAA with its application for airspace approval.

In furtherance of CEQ regulations, in addition to the executive summary of the ANG FEIS, the FAA is recirculating the following information: (1) The ANG's ROD; (2) a summary of public comments submitted during the aeronautical review and responses to the comments; and (3) a summary of the refinements the ANG made in the ROD to the preferred alternative after the ANG FEIS was issued.

Any person may obtain a copy of the ANG FEIS, ROD and the above-reference information by submitting a request to: Air National Guard Readiness Center, Program Manager, CAI EIS, ANGRC/CEVP, 3500 Fetchet Avenue, Andrews Air Force Base, MD 20762–5157.

Written comments may be sent to the address below, and are due by Friday, May 28, 1999: Federal Aviation Administration, Environmental Programs Division, Air Traffic Airspace Management Program, Attn.: Elizabeth Gaffin, rm. 422, 800 Independence Ave., SW., Washington, DC 20591.

Issued in Washington, DC, on April 21, 1999.

William J. Marx,

Manager, Environmental Programs Division.

[FR Doc. 99–10555 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on Transportation Improvements in the Primary Transportation Corridor of the City and County of Honolulu, Hawaii

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA), in cooperation with the City and County of Honolulu Department of Transportation Services (DTS), intends to prepare an environmental impact statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for proposed transportation improvements in the Primary Transportation Corridor of the City and County of Honolulu. The transportation improvements are being defined in conjunction with a Major Investment Study (MIS), which will include the NEPA scoping process and the selection of alternatives to be addressed in the EIS. The EIS will evaluate a no-build condition, transportation system management, and bus rapid transit and light rail transit options, plus any additional alternatives that emerge from the scoping process. Scoping will be accomplished through correspondence and discussions with interested persons, organizations, and federal, State and local agencies, and through a public meeting.

DATES: *Comments Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to Ms. Cheryl D. Soon at the address in the ADDRESSE section by May 24, 1999.

Scoping Meeting: DTS will conduct a public scoping meeting on Tuesday, May 11, 1999 from 6:30 p.m. to 8:30 p.m. at the Washington Middle School Cafeteria, 1633 South King Street, Honolulu, Hawaii.

ADDRESSES: Written comments on the project scope should be sent to Ms. Cheryl D. Soon, Director, Department of Transportation Services, City and County of Honolulu, 711 Kapiotani Boulevard, Suite 1200, Honolulu, Hawaii 96813. The scoping meeting will be at the location stated above.

FOR FURTHER INFORMATION COONTACT: Mr. Robert E. Horn, Director, Office of Planning and Program Development, Federal Transit Administration, Region IX, (415) 744–3133.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and DTS invite written comments on the scope of the study until May 24, 1999.

During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated and suggesting alternatives that are less costly or less environmentally damaging, which achieve similar objectives. Comments should focus on the issues and alternatives for analysis, and not on a preference for a particular alternative individual preference for a particular alternative should be communicated during the comment period for the Draft EIS. If you wish to be placed on the mailing list to receive further information as the project continues, contact Ms. Cheryl D. Soon (see ADDRESSES above). A scoping packet describing the alternatives proposed is available from Mr. Kenneth Hamayasu at (808) 527–6978. This packet will also be sent to federal, state, and local agencies that may have an interest in the scope of the study.

DTS will invite federal, State, and local agencies and the public to attend the scoping meeting described previously (see DATES above). The roles of the Federal Highway Administration and other agencies will be decided during scoping. The meeting will be advertised in MidWeek. Commments will be invited on the alternatives to be addressed and the environmental, social, and economic impacts to be analyzed. People with special needs should call Ms. Jovie Yoshioka at 808–531–7094. The building used for the scoping meeting is accessible to persons with disabilities.

II. Description of Study Area and its Transportation Needs

The Primary Transportation Corridor is located in the City and County of Honolulu along the southern coast of the island of Oahu. It extends from Kapolei on the west end of the island, past Pearl Harbor, Honolulu International Airport, and downtown Honolulu to the University of Hawaii at Manoa (UH). The east-west length of the Corridor is approximately 23 miles. The north-south width is no more than four miles because the Koolau Mountain Range bounds much of the Corridor to the north and the coastline bounds the Corridor to the south. The Corridor includes the highest density and largest employment areas on the island and in the State. The western portion of the Corridor is less dense, but is designated as the "Secondary Urban Center" by the State and City and County to encourage well planned residential and employment growth at a single location outside the Primary Urban Center.

Freeways, highways, streets and a 525-vehicle bus system are currently the basic transportation components responsible for the movement of people and goods on Oahu. All types of vehicles, such as public and private transit services, bicycles and pedestrians, utilize the existing roadway network. The bus system, called TheBus, provides islandwide coverage on 80 routes, and carries approximately 80 million passengers annually.

III. Alternatives

The alternatives under consideration include a No-Build Alternative, an Enhanced Bus/Transportation System Management (TSM) Alternative, a Bus Rapid Transit (BRT) Alternative, and a Light Rail Transit (LRT) Alternative with several alignment options. These alternatives will be developed further during the preparation of the Draft EIS.

No-Build Alternative

The No-Build Alternative will include existing transit and highway facilities and committed transportation projects to the year 2020. Committed projects are those programmed in the Oahu Regional Transportation Improvement Plan (TIP) Amendment No. 3, FY 1998–FY 2000. Highway components in the No-Build Alternative will also be included in the build alternative. The No-Build Alternative's transit components will include a bus transit system structured generally the same as the current system, but with an increase in fleet size to accommodate growth so that service frequencies would be the same as today.

Enhanced Bus/Transportation System Management (TSM) Alternative

The Enhanced Bus/TSM Alternative would provide a restructured bus system based on a hub-and-spoke route network, and low-cost capital improvements on existing roadway facilities, such as bus prioritization at signalized intersections, bus bypass lanes at spot locations, and semi-exclusive bus lanes on certain arterial street segments.

Bus Rapid Transit (BRT) Alternative

The BRT Alternative would consist of a hub-and-spoke transit system modified to focus service on additional transit facilities that provide priority treatments for transit. The transit facilities include expansion of the existing zipper lane on the H–1 Freeway that would include PM contraflow operations; semi-exclusive bus lanes on major arterial roadways; redesigned ramps; transit centers at strategic locations; and an LRT or electrically-powered bus line from Downtown Honolulu to Waikiki.

Light Rail Transit (LRT) Alternative

An LRT alternative being considered would include an LRT line from Pearl City to the UH via Kamehameha Highway, Middle Street, King Street, Kapiolani Boulevard, and University Avenue. An alternative to this line would use Salt Lake Boulevard, Puuloa Road, Kamehameha Highway, Dillingham Boulevard and King Street. A possible third LRT alternative would utilize the same alignment as the first LRT option, except the limits would be from Middle Street to UH. In addition, all the LRT alternatives would include many of the transit priority treatments of the BRT alternative, such as the expansion of the H–1 zipper lane.

Highway Elements

Some of the build alternatives could include a Sand Island Bypass and a Nimitz Parkway, projects intended to connect Honolulu with the ocean. The relationship of these projects with the transit project will be explored during scoping, in cooperation with FHWA and the State of Hawaii Department of Transportation.

IV. Probable Effects

Issues and impacts to be considered during the study include potential changes to: the physical environment (air quality, noise, water quality, aesthetics, etc.); the social environment (land use, development, neighborhoods, etc.); parklands and historic resources; transportation system performance; capital, and operating and maintenance costs; and financial resources available and financial impact on the City and County. Portions of the Corridor are listed on the National Register of Historic Places, so potential impacts on standing structures and historic districts (i.e., noise, vibration, aesthetics, etc.) will be important. Vehicular/pedestrian circulation, parking and in-street operation of buses and streetcars are key considerations.

Evaluation criteria will include consideration of the local goals and objectives established for the study, measures of effectiveness identified during scoping, and criteria established by FTA for "New Start" transit projects.

V. FTA Procedures

The Draft EIS for the Primary Corridor Transportation Project will be prepared simultaneously with conceptual engineering for the alternatives. The Draft EIS/conceptual engineering

process will assess the social, economic, and environmental impacts of the proposed alternatives while refining their design to minimize and mitigate any adverse impacts. After its publication, the Draft EIS will be available for public and agency review and comment, and a public hearing will be held. Based on the Draft EIS and comments received, the City will select a preferred alternative to be further detailed in the Final EIS. The Final EIS will be based on information resulting from preliminary engineering.

Issued on: April 21, 1999.

Leslie T. Rogers,

Regional Administrator.

[FR Doc. 99–10554 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Transfer of Federally Assisted Land or Facility

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to transfer Federally assisted land or facility.

SUMMARY: Section 5334(g) of the Federal Transit Laws, as codified, 49 U.S.C. ee 5301, *et seq.*, permits the Administrator of the Federal Transit Administration (FTA) to authorize a recipient of FTA funds to transfer land or a facility to a public body for any public purpose with no further obligation to the Federal Government if, among other things, no Federal agency is interested in acquiring the asset for Federal use. Accordingly, FTA is issuing this Notice to advise Federal agencies that the Brockton Area Transit Authority intends to transfer approximately 54,067 square feet of land situated within the central business district of Brockton, Massachusetts, behind the southeasterly intersection of Crescent and Main Streets.

EFFECTIVE DATE: Any Federal agency interested in acquiring the land or facility must notify the FTA Region I Office of its interest by May 27, 1999.

ADDRESSES: Interested parties should notify the Regional Office by writing to Richard H. Doyle, Regional Administrator, Federal Transit Administration, 55 Broadway, Room 921, Cambridge, MA 02142.

FOR FURTHER INFORMATION CONTACT: Richard N. Cole, Director of Operations and Program Management at 617/494–2395; or Pat Berkley, FTA Headquarters Office of Program Management at 202/366–6470.

SUPPLEMENTARY INFORMATION:

Background

49 U.S.C. Section 5334(g) provides guidance on the transfer of capital assets. Specifically, if a recipient of FTA assistance decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government.

49 U.S.C. Section 5334(g)(1) Determinations:

The Secretary may authorize a transfer for a public purpose other than mass transportation only if the Secretary decides:

(A) The asset will remain in public use for at least 5 years after the date the asset is transferred;

(B) There is no purpose eligible for assistance under this chapter for which the asset should be used;

(C) The overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(D) Through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.

Federal Interest in Acquiring Land or Facility

This document implements the requirements of 49 U.S.C. Section 5334(g)(1)(D) of the Federal Transit Laws. Accordingly, FTA hereby provides notice of the availability of the land or facility further described below. Any Federal agency interested in acquiring the affected land or facility should promptly notify the FTA.

If no Federal agency is interested in acquiring the existing land or facility, FTA will make certain that the other requirements specified in 49 U.S.C. Section 5334(g)(1)(A) through (C) are met before permitting the asset to be transferred.

Additional Description of Land or Facility

The property contains approximately 54,067 square feet of land situated within the central business district of Brockton, Massachusetts, behind the southeasterly intersection of Crescent and Main Streets. The parcel has access to Main Street, Crescent Street, and Maple Avenue, all within the City of Brockton and is improved with brick and masonry sidewalks, driveway, and parking pads to accommodate passenger pick-up and drop-off by Brockton Area Transit Authority buses. Additional site improvements include weather canopies, minimal bench seating, and street lighting.

Issued on: April 21, 1999.

Richard H. Doyle,

Regional Administrator.

[FR Doc. 99–10496 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–57–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination: "Facing West: Jews of Central Asia and the Caucasus"

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Facing West: Jews of Central Asia and the Caucasus," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed objects at The Jewish Museum, New York, NY, from on or about June 20, 1999, to on or about October 17, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

For a copy of the list of exhibit objects and for further information, contact Ms. Neila Sheahan, Assistant General Counsel, Office of the General Counsel, 202/619–5030. The address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: April 22, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–10518 Filed 4–26–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: The U.S. Advisory Commission on Public Diplomacy will meet on Wednesday April 28, 1999 in Room 600, 301 4th Street, SW., Washington, DC, from 8:30 a.m. to 10:00 a.m.

At 8:30 a.m. the Commission will meet with a panel of USIA Area Directors to discuss security and public diplomacy issues.

FOR FURTHER INFORMATION: Please call Marianne Scott, (202) 619–4457, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: April 21, 1999.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 99–10497 Filed 4–26–99; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register
Vol. 64, No. 80
Tuesday, April 27, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Plan of Operations and Environmental Assessment for Proposed 3-D Seismic Survey; Cobra Exploration, Big Thicket National Preserve, Hardin County, TX

Correction

In notice document 99–9446 appearing on page 19193 in the issue of Monday, April 19, 1999, make the following correction:

In the second column, in the first full paragraph, in the second line "46" should read "36".

[FR Doc. C9–9446 Filed 4–26–99; 8:45 am]

BILLING CODE 1505–01–D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Prospective Patent License

Correction

In notice document 99–9477, appearing on page 18944, in the issue of Friday, April 16, 1999, make the following correction:

On page 18944, in the third column, in the **DATES:** section, in the second line, "July 15, 1999" should read "June 15, 1999".

[FR Doc. C9–9477 Filed 4–26–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–98–033]

RIN 2115–AE46

Special Local Regulations; St. Johns River, Jacksonville, Florida

Correction

In rule document 98–20932, beginning on page 41718, in the issue of Wednesday, August 5, 1998, make the following correction:

§ 100.710 [Corrected]

On page 41719, in the third column, in § 100.710, in the first line, paragraph designation "(b)" should read "(c)".

[FR Doc. C8–20932 Filed 4–26–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–12]

Amendment to Class E Airspace; West Union, IA

Correction

In rule document 99–9791, beginning on page 19261, in the issue of Tuesday, April 20, 1999, make the following corrections:

§ 71.1 [Corrected]

1. On page 19262, in the second column, in the first line "**ACE IA E West Union, IA [Revised]**" should read "**ACE IA E5 West Union, IA [Revised]**".

2. On the same page, in the same column, in the ninth line, "Geoerge L. Scoot" should read "George L. Scott".

3. On the same page, in the same column, in the 12th line, "west union" should read "West Union".

[FR Doc. C9–9791 Filed 4–26–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ASW-04]

Revision of Class E Airspace; Lake Charles, LA

Correction

In rule document 99–9883, beginning on page 19268, in the issue of Tuesday, April 20, 1999, make the following correction:

§ 71.1 [Corrected]

On page 19269, in the first column, under the heading **ASW LA E5 Lake Charles, LA [Corrected]**, in the fifth line, "(Lat. 30°12′25″N.," should read "(Lat. 30°12′45″N.,".

[FR Doc. C9–9883 Filed 4–26–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Tuesday
April 27, 1999

Part II

Department of Veterans Affairs

38 CFR Part 17
Medical Care Collection or Recovery; Final Rule and Notice

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AJ30

Medical Care Collection or Recovery

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends VA's medical regulations concerning collection or recovery by VA for medical care or services provided or furnished to a veteran:

—For a non-service connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health-plan contract;

—For a non-service connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or

—For a non-service connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance.

Previously, by statute VA was authorized to charge "reasonable costs" for such care or services. However, amended statutory provisions now authorize VA to charge "reasonable charges." Accordingly, this document establishes methodology for charging "reasonable charges" consistent with the statutory amendment. The charges billed using this methodology, as appropriate, consist of inpatient facility charges, skilled nursing facility/sub-acute inpatient facility charges, outpatient facility charges, physician charges, and non-physician provider charges. Reasonable charges for outpatient dental care and prescription drugs not administered during treatment will continue to be billed using the existing cost-based methodology.

Pursuant to statutory authority, VA has the right to recover or collect the charges from a third party to the extent that a provider of the care or services would be eligible to receive payment therefore from that third party if the care or services had not been furnished by a department or agency of the United States. With respect to a third-party payer liable under a health plan contract, consistent with the statutory authority, the third-party payer continues to have the option of paying, to the extent of its coverage, either the billed charges or the amount the third-party payer demonstrates it would pay for care or services furnished by providers other than entities of the United States for the same care or services in the same geographic area.

Also, the regulations are clarified to state specifically that billing methodology based on costs will continue to be applied to establish charges for medical care furnished in error or on tentative eligibility, furnished in a medical emergency, furnished to certain beneficiaries of the Department of Defense or other Federal agencies, furnished to pensioners of allied nations, and furnished to military retirees with chronic disability.

DATES: *Effective Date:* September 1, 1999.

FOR FURTHER INFORMATION CONTACT: David Cleaver, VHA Office of Finance (174), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8210. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 13, 1998 (63 FR 54756), we proposed to amend VA's medical regulations as set forth in the **SUMMARY** portion on this document. We provided a 60-day comment period that ended December 14, 1998. We received comments from six commenters in response to the proposal. These comments are discussed below. Based on the rationale set forth in the proposed rule and in this document, the provisions of the proposed rule are adopted as a final rule with changes explained below.

Podiatrists, Optometrists, and Physician Assistants

Three of the comments concerned the proposal at § 17.101(f) to charge for services of podiatrists and optometrists at 95% and 90%, respectively, of the amount that would be charged if the care had been provided by a physician. One of the comments concerned the proposal at § 17.101(f) to charge for services of physician assistants at 65% for assistance at surgery, 75% for other hospital care, and 85% for other non-hospital care. The commenters provided information establishing that under the Medicare program optometrists and podiatrists are paid the same as physicians for services provided and physician assistants are paid for all services at 85% of the amount that would be charged if the care had been provided by a physician. In this regard, the commenters asserted that we should adopt the Medicare payment percentages for VA charges. In the proposed rule we indicated that we intended to use "the Medicare percentages when available because of their extensive use for billing and payment of claims" (63 FR 54758). Accordingly, since we now understand that the Medicare regulations provide for payment for optometrists and podiatrists at the physician rate and provide for payment for physician assistants at 85% of the physician rate for all billable services, we changed the final rule to be consistent with Medicare.

Effective Date

We considered whether to make the final rule effective thirty days after publication in the **Federal Register** or whether to make the final rule effective after a longer period. After considering the comments, we have decided to make the final rule effective September 1, 1999 to allow more time for industry to prepare for the changes.

One commenter, a representative of an association of insurance companies, asserted that the effective date should be delayed for twelve months. The commenter asserted that additional time is needed for them to establish computer software to process the new VA charges. The commenter also asserted that now is a difficult time for such changes since available resources should be devoted as a priority to "year two thousand compliance" issues. The commenter also asserted that their 1999 premiums did not take into account increased payments and administrative costs that would occur under the new system. The commenter also asserted that the comment period should be extended to allow time for engaging outside actuarial or reimbursement consultants in order to provide substantive comments on the billing methodology. The comments were supplemented by the inclusion of examples of cost comparisons between current charges and charges implemented by the final rule.

Initially, we note that the comments, at least in part, are based on an incorrect premise. Under the final rule an affected entity is not necessarily required to pay the full charges. The final rule provides that an affected entity would continue to have the option of paying to the extent of its coverage either the billed charges or the amount it would pay for care or services furnished by providers other than entities of the United States for the same care or services in the same geographic area.

Further, we believe insurers have had ample opportunity to adjust premiums for 1999. Ever since the enactment of Public Law 105–33 on August 5, 1997, it has been general knowledge in the

insurance industry that VA would bill based on market pricing as soon as regulations could be established. Moreover, the legislative history from the House Conference Report (H. Rep. No. 105–217, July 30, 1997, at pp. 974–975) for Public Law No. 105–33 states that "the Committee envisions VA would establish health care charges that would allow it to recover amounts needed to help preserve the viability of the health care system for all veterans and that also reflect the substantial advantages to VA patients both in having the quality services provided by that system available and in using them." We believe that any further delay in implementing this remedial legislation beyond the September 1, 1999, effective date of these final regulations would be unreasonable.

Also, we believe that it is reasonable for affected entities to establish an appropriate mechanism to process VA's billed charges under this final rule by the time payments to VA become due. In this regard, we note that VA billing under this final rule more closely accords with industry practice. Therefore, this should facilitate development of computer software necessary to process VA charges. In addition, we believe that the methodology for determining our new charges is based on sound actuarial principles.

Local Markets

In the proposed rule, we acknowledged that we have insufficient data for direct determination of prevailing charges for all services in all local markets (63 FR 54757). One commenter questioned how VA could determine local reasonable charges under such circumstances for charges other than those based on DRGs. No changes are made based on this comment. We believe that our methodology provides an appropriate remedy. For outpatient facility charges and physician charges, we grouped CPT codes for each local market, then compiled averages for the CPT code groups for each locality, and then used these averages to obtain estimated charges for those CPT codes for which we had insufficient data. Further, for skilled nursing facility/sub-acute inpatient facility charges, we used state-wide averages to establish geographic area adjustment factors.

Co-payments for Non-service Connected Outpatient Care

One commenter appeared to assume that this rulemaking proceeding would affect co-payments for non-service connected outpatient care. This rulemaking proceeding does not address this issue. The co-payment for non-service connected outpatient care continues to be based on the VA-wide estimated average cost of an outpatient visit (see 38 U.S.C. 1710(g)(2)).

Effective Periods

With respect to inpatient facility charges, skilled nursing facility/sub-acute inpatient facility charges, outpatient facility charges, and physician charges, the proposed rule provided in the trending provisions of the charges methodology, that the effective period for charges after September 1999 would be from October 1 through September 30 of each year. We changed these effective periods to coincide with calendar years (January 1 through December 31) to be consistent with standard industry practice.

Also, we have added provisions stating that in those cases in which the effective period for published charges has expired and new charges have not yet become effective, VA will continue to bill using the most recently published charges until new charges are published and become effective. For example, if the most recently published charges state that they are effective through December and new charges are not published and effective until February 1, then the charges set forth for the period through December will continue to be used through January 31. Although this normally would result in lower charges than the methodology would allow, this is necessary to ensure that VA will not have to suspend charging in those cases in which the effective period for published charges has expired and new charges have not yet become effective.

The data for determining charges, published in the October 13 **Federal Register** and in a companion document published in this issue of the **Federal Register**, was designed for the period August 1998 through September 1999. Consistent with the principles explained above, we intend to use these data for the period September 1, 1999 through December 31, 1999. This will result in lower charges than we could otherwise charge. Even so, we do not believe it would be cost effective to recalculate these data and republish them since they will be used for such a short period of time.

Nonsubstantive Changes

Nonsubstantive changes are made for purposes of clarity.

Publication of Data for Calculating Actual Amounts for Inpatient Facility Charges, Skilled Nursing Facility/Sub-acute Inpatient Facility Charges, Outpatient Facility Charges, and Physician Charges

In a document published in the **Federal Register** on October 13, 1998 (63 FR 54766), we set forth data (derived from the methodology of the final rule) for calculating inpatient facility charges, skilled nursing facility/sub-acute inpatient facility charges, outpatient facility charges, and physician charges at individual VA facilities. These data will be used for such charges from the effective date of this final rule through December 1999, except for those changes (consistent with the methodology of the final rule) set forth in a companion document published in the "Notices" section of this issue of the **Federal Register**. As stated in the proposal, VA will update annually in the "Notices" section of the **Federal Register** the data for calculating the charges at individual VA facilities.

Paperwork Reduction Act

The collection of information contained in the notice of the proposed rulemaking was submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)).

The information collection subject to this rulemaking concerns submission of evidence. Under the provisions of § 17.101(a)(2), a third-party payer that is liable for reimbursing VA for health care VA provided to veterans with non-service-connected conditions continues to have the option of paying either the billed charges as described in § 17.101 or the amount the health plan demonstrates it would pay to providers other than entities of the United States for the same care or services in the same geographic area. If the amount submitted for payment is less than the amount billed, VA will accept the submission as payment, subject to verification at VA's discretion. A VA employee having responsibility for collection of such charges may request that the third party payer submit evidence or information to substantiate the appropriateness of the payment amount (e.g., health plan policies, provider agreements, medical evidence, proof of payment to other providers demonstrating the amount paid for the same care and services VA provided). This information is needed to determine whether the third-party payer has met the test of properly demonstrating its equivalent private sector provider

payment amount for the same care or services and within the same geographic area as provided by VA.

Interested parties were invited to submit comments on the collection of information. However, no comments were received. OMB has approved this information collection under control number 2900–0606.

VA is not authorized to impose a penalty on persons for failure to comply with information collection requirements which do not display a current OMB control number, if required.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rulemaking proceeding mostly would affect large insurance companies. Further, the provisions of the final rule would not impose a significant economic impact on any entities since VA billing would not constitute a significant portion of an insurance company's business. Accordingly, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

OMB Review

This document has been reviewed by OMB pursuant to Executive Order 12866.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance Numbers for the programs affected by this document are 64.005, 64.007.64.008, 64,009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: March 25, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§§ 17.101 and 17.102 [Redesignated as §§ 17.102 and 17.101, respectively]

2. Sections 17.101 and 17.102 are redesignated as §§ 17.102 and 17.101, respectively.

3. Newly redesignated § 17.101 is revised and a parenthetical at the end of the section is added to read as follows:

§ 17.101 Collection or recovery by VA for medical care or services provided or furnished to a veteran for a non-service connected disability.

(a)(1) *General.* This section covers collection or recovery by VA, under 38 U.S.C. 1729, for medical care or services provided or furnished to a veteran:

(i) For a non-service connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health-plan contract;

(ii) For a non-service connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or

(iii) For a non-service connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance.

(2) *Methodology.* Based on the methodology set forth in this section, the charges billed will include, as appropriate, inpatient facility charges, skilled nursing facility/sub-acute inpatient facility charges, outpatient facility charges, physician charges, and non-physician provider charges. In addition, the charges billed for prosthetic devices and durable medical equipment provided on an outpatient basis will be VA's actual cost and the charges billed for prescription drugs not administered during treatment will be a single nationwide average. Data for calculating actual amounts for inpatient facility charges, skilled nursing facility/sub-acute inpatient facility charges, outpatient facility charges, and physician charges will be published annually in the "Notices" section of the **Federal Register**. In those cases in which the effective period for published charges has expired and new charges have not yet become effective, VA will continue to bill using the most recently published charges until new charges are published and become effective (for example, if the most recently published charges state that they are effective through December and new charges are not published and effective until February 1, then the charges set forth for the period through December will continue to be used through January 31).

(3) *Amount of recovery or collection—third party liability.* A third-party payer liable under a health-plan contract has the option of paying either the billed charges described in this section or the amount the health-plan demonstrates is the amount it would pay for care or services furnished by providers other than entities of the United States for the same care or services in the same geographic area. If the amount submitted by the health plan for payment is less than the amount billed, VA will accept the submission as payment, subject to verification at VA's discretion in accordance with this section. A VA employee having responsibility for collection of such charges may request that the third party health plan submit evidence or information to substantiate the appropriateness of the payment amount (e.g., health plan or insurance policies, provider agreements, medical evidence, proof of payment to other providers in the same geographic area for the same care and services VA provided).

(4) *Definitions.* For purposes of this section:

Consolidated MSA means a consolidated Metropolitan Statistical Area.

CPI means Consumer Price Index.

CPI–U means Consumer Price Index—All Urban Consumers.

CPI–W means Consumer Price Index—Urban Wage Earners and Clerical Workers .

CPT procedure code means a 5 digit-identifier for a specified physician service or procedure.

DRG means diagnosis related group.

Geographic area means Metropolitan Statistical Area (MSA) or the local market, if the VA facility is not located in an MSA.

RVU means relative value unit.

(b) *Inpatient facility charges.* When VA provides or furnishes inpatient services within the scope of care referred to in paragraph (a)(1) of this section, inpatient facility charges billed for such services will be determined in accordance with the provisions of this paragraph. Inpatient facility charges

consist of per diem charges for room and board and for ancillary services that vary by VA facility and by DRG. These charges are calculated as follows:

(1) *Formula.* For each inpatient stay or portion thereof for which a particular DRG assignment applies, multiply the nationwide room and board per diem charge as set forth in paragraph (b)(2) of this section by the appropriate geographic area adjustment factor as set forth in paragraph (b)(3) of this section. The result constitutes the facility-specific room and board per diem charge. Also, for each inpatient stay, multiply the nationwide ancillary per diem charge as set forth in paragraph (b)(2) of this section by the appropriate geographic area adjustment factor as set forth in paragraph (b)(3) of this section. The result constitutes the facility-specific ancillary per diem charge. Then add the facility-specific room and board per diem charge to the facility-specific ancillary per diem charge. This constitutes the facility-specific combined per diem facility charge. Finally, multiply the facility-specific combined per diem facility charge by the number of days of inpatient care to obtain the total inpatient facility charge.

Note to paragraph (b)(1): If there is a change in a patient's condition and/or treatment during a single inpatient stay such that the DRG assignment changes (for example, a psychiatric patient who develops a medical or surgical problem), then the calculations will be made separately for each DRG, according to the number of days of care applicable for each DRG, and the total inpatient facility charge will be the sum of the total inpatient facility charges for the different DRGs.

(2) *Per diem charges.* To establish a baseline, two nationwide average per diem charges for each DRG are calculated for Calendar Year 1995, one from the Medicare Standard Analytical File 5% Sample and one from the MedStat claim database, a claim database of nationwide commercial insurance. Results obtained from these two databases are then combined into a single weighted average per diem charge for each DRG. The resulting weighted average per diem charge for each DRG is then separated into its two components, a room and board component and an ancillary component, with the amount for each component calculated to reflect the corresponding percentage set forth in paragraph (b)(2)(i) of this section. The resulting amounts for room and board and ancillary services for each DRG are then each multiplied by the final ratio set forth in paragraph (b)(2)(ii) of this section to reflect the 80th percentile charges. Finally, the resulting charges are each trended forward from their 1995 base to the effective time period for the charges, as set forth in paragraph (b)(2)(iii) of this section. The results constitute the room and board per diem charge and the ancillary per diem charge.

(i) *Charge component percentages.* Using only those cases from the Medicare Standard Analytical File 5% Sample for which a distinction between room and board charges and ancillary charges can be determined, the percentage of the total charges for room and board compared to the combined total charges for room and board and ancillary services, and the percentage of the total charges for ancillary services compared to the combined total charges for room and board and ancillary services, are calculated by DRG.

(ii) *80th percentile.* Using the medical and surgical admissions in the Medicare Standard Analytical File 5% Sample, obtain for each consolidated MSA the ratio of the day-weighted 80th percentile semi-private room and board per diem charge to the average semi-private room and board per diem charge. The consolidated MSA ratios are averaged to obtain a final 80th percentile ratio.

(iii) *Trending forward.* For each DRG, the 80th percentile charges, representing calculations for calendar year 1995, are trended forward for the period August 1998 through September 1999, and for each 12-month calendar year period thereafter, beginning January 1, 2000, based on changes to the CPI. The projected total CPI trend from 1995 to the midpoint of the effective charge period is calculated as the composite of three components. The first component trends from 1995 to January 1997, using the Hospital Room component of the CPI–W for room and board charges and using the Other Hospital component of the CPI–W for ancillary charges. The second component trends from January 1997 to the latest available month, based on the Inpatient Hospital component of the CPI–U for room and board and ancillary charges. The third component trends from the latest available month to the midpoint of the effective charge period, based on the latest three-month average annual trend rate from the Inpatient Hospital component of the CPI–U. The projected total CPI trends are then applied to the 1995-base 80th percentile charges.

(3) *Geographic area adjustment factors.* For each VA facility location, the average per diem room and board charges and ancillary charges from the 1995 Medicare Standard Analytical File 5% Sample are calculated for each DRG. The DRGs are separated into two groups, surgical and non-surgical. For each of these groups of DRGs, for each geographic area, average room and board per diem charges and ancillary per diem charges are calculated for 1995, weighted by FY 1997 nationwide VA discharges and by average lengths of stay from the combined Medicare Standard Analytical File 5% Sample and the MedStat claim data base. This results in four average per diem charges for each geographic area: room and board for surgical DRGs, ancillary for surgical DRGs, room and board for non-surgical DRGs, and ancillary for non-surgical DRGs. Four corresponding national average per diem charges are obtained from the 1995 Medicare Standard Analytical File 5% Sample, weighted by FY 1997 nationwide VA discharges and by average lengths of stay from the combined Medicare Standard Analytical File 5% Sample and the MedStat claim data base. Four geographic area adjustment factors are then calculated for each geographic area by dividing each geographic area average per diem charge by the corresponding national average per diem charge.

(c) *Skilled nursing facility/sub-acute inpatient facility charges.* When VA provides or furnishes skilled nursing/sub-acute inpatient services within the scope of care referred to in paragraph (a)(1) of this section, skilled nursing facility/sub-acute inpatient facility charges billed for such services will be determined in accordance with the provisions of this paragraph. The skilled nursing facility/sub-acute inpatient facility charges are per diem charges that vary by VA facility. The facility charges cover care, including skilled rehabilitation services (e.g., physical therapy, occupational therapy, and speech therapy), that is provided in a nursing home or hospital inpatient setting, is provided under a physician's orders, and is performed by or under the general supervision of professional personnel such as registered nurses, licensed practical nurses, physical therapists, occupational therapists, speech therapists, and audiologists. The skilled nursing facility/sub-acute inpatient facility charges also incorporate charges for ancillary services associated with care provided in these settings. The charges are calculated as follows:

(1) *Formula.* For each stay, multiply the nationwide per diem charge as set forth in paragraph (c)(2) of this section by the appropriate geographic area adjustment factor as set forth in paragraph (c)(3) of this section. The result constitutes the facility-specific per diem charge. Finally, multiply the

facility-specific per diem charge by the number of days of care to obtain the total skilled nursing facility/sub-acute inpatient facility charge.

(2) *Per diem charge.* To establish a baseline, a nationwide average per diem billed charge for July 1, 1998, was obtained from the 1998 Milliman & Robertson, Inc. Health Cost Guidelines, a publication that includes nationwide skilled nursing facility charges (Milliman & Robertson, Inc., 1301 5th Ave., Suite 3800, Seattle, WA 98101–2605). That average per diem billed charge is then multiplied by the 80th percentile adjustment factor set forth in paragraph (c)(2)(i) of this section to obtain a nationwide 80th percentile charge level. Finally, the resulting charge is trended forward to the effective time period for the charges, as set forth in paragraph (c)(2)(ii) of this section.

(i) *80th percentile.* Using the 1995 Medicare Standard Analytical File 5% Sample, the median per diem accommodation charge is calculated for each provider. For each State, the ratio of the 80th percentile of provider median charges to the average statewide charges for accommodations is calculated. The State ratios are averaged to produce a nationwide 80th percentile adjustment factor.

(ii) *Trending forward.* The 80th percentile charge, representing charge levels for July 1, 1998, is trended forward to the midpoint of the period August 1998 through September 1999, and to the midpoint of each 12-month calendar year period thereafter, beginning January 1, 2000, based on the projected change in Medicare reimbursement from the Annual Report of the Board of Trustees of the Federal Hospital Insurance Trust Fund (this report can be found on the Health Care Financing Administration Internet site at *http://www.hcfa.gov* under the headings "Publications and Forms" and "Professional/ Technical Publications").

(3) *Geographic area adjustment factors.* A ratio of the average per diem charge for each State to the nationwide average per diem charge is obtained (these ratios are set forth in the 1998 Milliman & Robertson, Inc. Health Cost Guidelines, a data base of nationwide commercial insurance charges and relative costs) (Milliman & Robertson, Inc., 1301 5th Ave., Suite 3800, Seattle, WA 98101–2605). The geographic area adjustment factor for charges for each VA facility is the ratio for the State in which the facility is located.

(d) *Outpatient facility charges.* When VA provides or furnishes outpatient services that are within the scope of care referred to in paragraph (a)(1) of this section and are not customarily performed in an independent clinician's office, the outpatient facility charges billed for such services will be determined in accordance with the provisions of this paragraph. Except for prosthetic devices and durable medical equipment, whose charges will be made separately at actual cost to VA, charges for outpatient facility services will vary by VA facility and by CPT procedure code. These charges will be calculated as follows:

(1) *Formula.* For each outpatient facility charge CPT procedure code, multiply the nationwide charge as set forth in paragraph (d)(2) of this section by the appropriate geographic area adjustment factor as set forth in paragraph (d)(4) of this section. The result constitutes the facility-specific outpatient facility charge. When multiple surgical procedures are performed during the same outpatient encounter by a provider or provider team, the outpatient facility charges for such procedures will be reduced as set forth in paragraph (d)(5) of this section.

(2) *Nationwide 80th percentile charges by CPT procedure code.* For each CPT procedure code for which outpatient facility charges apply, the 1998 practice expense RVUs (these RVU's can be found in the *1998 St. Anthony's Complete RBRVS*, Relative Value Studies, Inc., St. Anthony Publishing, 11410 Isaac Newton Square, Reston, VA 20190) are used as the outpatient facility RVUs. For each CPT procedure code, the outpatient facility RVU is multiplied by the charge amount for each incremental RVU as set forth in paragraph (d)(3) of this section. The resulting charge is adjusted by a fixed charge amount as also set forth in paragraph (d)(3) of this section to obtain the nationwide 80th percentile charge.

(3) *Charge factor.* Using the 1995 MedStat claims database of nationwide commercial insurance, the median billed facility charge is calculated for each applicable CPT procedure code. All outpatient facility CPT procedure codes are then separated into one of the 37 outpatient facility CPT procedure code groups as set forth in paragraph (d)(3)(i) of this section. Then, for each CPT procedure code in each such group, the median charge is adjusted to the 80th percentile as set forth in paragraph (d)(3)(ii) of this section. The resulting 80th percentile charge for each CPT procedure code is trended forward to the effective time period for the charges as set forth in paragraph (d)(3)(iii) of this section. Using the resulting charges and the RVUs, the mathematical approximation methodology of least squares is applied to the data for each CPT procedure code group to derive two charge factors. The first factor represents the charge amount for each incremental RVU in the CPT procedure code group and the second factor represents a fixed charge amount adjustment for the CPT procedure code group.

(i) *Outpatient facility CPT procedure code groups.*

(A) Surgery—Integumentery System—Skin, Subcutaneous & Accessory Structures/Nails;

(B) Surgery—Integumentery System—Repair—Simple, Intermediate, Complex, Adjacent Tissue Transfer or Rearrangement;

(C) Surgery—Integumentery System—Not Otherwise Classified;

(D) Surgery—Musculoskeletal System—Not Otherwise Classified;

(E) Surgery—Musculoskeletal System—Limbs—Incisions/Excisions/Insertion/Removal;

(F) Surgery—Musculoskeletal System—Limbs—Shoulders/Humerus & Elbow/Pelvis & Hip Joint/Femur & Knee Joint—Other than Incisions/Excisions/Insertion/Removal;

(G) Surgery—Musculoskeletal System—Limbs—Forearm & Wrist—Other than Incisions/Excisions/Insertion/Removal;

(H) Surgery—Musculoskeletal System—Limbs—Tibia/Fibula & Ankle Joint—Other than Incisions/Excisions/Insertion/Removal;

(I) Surgery—Musculoskeletal System—Limbs—Hand & Fingers/Foot & Toes—Other than Incisions/Excisions/Insertion/Removal;

(J) Surgery—Musculoskeletal System Arthroscopy;

(K) Surgery—Respiratory System;

(L) Surgery—Cardiovascular System;

(M) Surgery—Hemic & Lymphatic Systems;

(N) Surgery—Digestive System—Not Otherwise Classified;

(O) Surgery—Digestive System—Endoscopy;

(P) Surgery—Urinary System;

(Q) Surgery—Male Genital System;

(R) Surgery—Laparoscopy/Hysteroscopy;

(S) Surgery—Maternity Care & Delivery;

(T) Surgery—Endocrine System;

(U) Surgery—Eye/Ocular Adnexa;

(V) Surgery—Auditory System;

(W) Radiology—Diagnostic—Head & Neck/Chest/Spine & Pelvis;

(X) Radiology—Diagnostic—Extremities/Abdomen/Gastrointestinal Tract/Urinary Tract/Gynecological & Obstetrical/Heart;

(Y) Radiology—Diagnostic—Aorta & Arteries/Veins & Lymphatics;

(Z) Radiology—Diagnostic Ultrasound;

(AA) Radiology—Radiation Oncology/Nuclear Medicine/Therapeutic;
(BB) Radiology—Diagnostic—CAT Scans;
(CC) Radiology—Diagnostic—Magnetic Resonance Imaging (MRI);
(DD) Medicine—Global—Not Otherwise Classified;
(EE) Medicine—Global—Dialysis;
(FF) Medicine—Technical Component—Gastroenterology;
(GG) Medicine—Technical Component—Cardiovascular;
(HH) Medicine—Technical Component—Pulmonary;
(II) Medicine—Technical Component—Neurology & Neuromuscular Procedures;
(JJ) Medicine—Observation Care; and
(KK) Medicine—Emergency.

(ii) *80th percentile.* For each of the 37 outpatient facility CPT procedure code groups set forth in paragraph (d)(3)(i) of this section, the median charge is increased by the ratio of the 80th percentile charge to median charge (the data for CPT procedure code groups listed at paragraphs (d)(3)(i)(DD), (EE), (JJ), and (KK) of this section are obtained from the MedStat database of nationwide charges; the data for the other groups are obtained from the Outpatient Facility UCR module of the Comprehensive Healthcare Payment System from MediCode, Inc., a 1997 release from a nationwide database of outpatient facility charges) (MediCode, Inc., 5225 Wiley Post Way, Suite 500, Salt Lake, UT 84116). To mitigate the impact of the variation in the intensity of services by CPT procedure code, the percent increase from the median to the 80th percentile in outpatient charges is compared to the percent increase from the median to the 80th percentile in inpatient semi-private room and board charges. Any percent increase in outpatient charges in excess of the inpatient semi-private room and board percent increase is multiplied by a factor of 0.50. The 80th percentile outpatient facility charge is reduced accordingly.

(iii) *Trending forward.* The charges for each CPT procedure code, representing calculations for calendar year 1995, are trended forward for the period August 1998 through September 1999, and for each 12-month calendar year period thereafter, beginning January 1, 2000, based on changes to the Outpatient Hospital component of the CPI–U. Actual CPI–U changes are used through the latest available month. The three-month average annual trend rate as of the latest available month is held constant to the midpoint of the effective charge period. The projected total CPI–U change from 1995 to this midpoint of the effective charge period is then applied to the 1995 80th percentile charges.

(4) *Geographic area adjustment factors.* For each VA outpatient facility location, a single geographic area adjustment factor is calculated as the arithmetic average of the outpatient geographic area adjustment factor (this factor constitutes the ratio of the level of charges for each geographic area to the nationwide level of charges) published in the Milliman & Robertson, Inc. Health Cost Guidelines (Milliman & Robertson, Inc., 1301 5th Ave., Suite 3800, Seattle, WA 98101–2605), and a geographic area adjustment factor developed from the MediCode data. The MediCode-based geographic area adjustment factors are calculated as the ratio of the CPT-weighted average charge level for each VA outpatient facility location to the nationwide CPT-weighted average charge level.

(5) *Multiple surgical procedures.* When multiple surgical procedures are performed during the same outpatient encounter by a provider or provider team as indicated by multiple surgical CPT procedure codes, then the CPT procedure code with the highest facility charge will be billed at 100% of the charges established under this section; the CPT procedure code with the second highest facility charge will be billed at 25% of the charges established under this section; the CPT procedure code with the third highest facility charge will be billed at 15% of the charges established under this section; and no outpatient facility charges will be billed for any additional surgical procedures.

(e) *Physician charges.* When VA provides or furnishes physician services within the scope of care referred to in paragraph (a)(1) of this section, physician charges billed for such services will be determined in accordance with the provisions of this paragraph. Physician charges consist of charges for professional services that vary by VA facility and by CPT procedure code. These charges are calculated as follows:

(1) *Formula.* For each CPT procedure code except those for anesthesia and pathology, multiply the total facility-adjusted RVU as set forth in paragraph (e)(2) of this section by the applicable facility-adjusted conversion factor (facility-adjusted conversion factors are expressed in monetary amounts) set forth in paragraph (e)(3) of this section to obtain the physician charge for each CPT procedure code at a particular VA facility. For each anesthesia and pathology CPT procedure code, multiply the nationwide physician charge as set forth in paragraph (e)(4) of this section by the geographic area adjustment factor as set forth in paragraph (e)(3)(iii) of this section to obtain the physician charge for each anesthesia and pathology CPT procedure code at a particular VA facility.

(2)(i) *Total facility-adjusted RVUs for physician services other than anesthesia, pathology, and specified CPT procedure codes.* The work expense and practice expense components of the RVUs for CPT procedure codes (other than anesthesia, pathology, and those CPT procedure codes set forth at paragraphs (e)(2)(ii) and (e)(2)(iii) of this section) are compiled (information concerning the RVUs and their components can be obtained from Veterans Health Administration, Office of Finance, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420). For radiology CPT procedure codes, these compilations do not include separately identified technical component RVUs. For CPT procedure codes that generate an outpatient facility charge, the facility practice expense RVU is substituted for the non-facility practice expense RVU (information concerning facility practice expense RVUs can be obtained from Veterans Health Administration, Office of Finance, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420). For Medicine and Surgery CPT procedure codes with separate professional and technical components that also generate an outpatient facility charge, only the professional component is compiled. The sum of the facility-adjusted work expense RVU as set forth in paragraph (e)(2)(i)(A) of this section and the facility-adjusted practice expense RVU as set forth in paragraph (e)(2)(i)(B) of this section equals the total facility-adjusted RVUs.

(A) *Facility-adjusted work expense RVUs.* For each CPT procedure code for each geographic area, the 1998 work expense RVU is multiplied by the 1998 Medicare work adjuster (0.917) and the results are further multiplied by the work expense 1998 Medicare Geographic Practice Cost Index. The result constitutes the facility-adjusted work expense RVU.

(B) *Facility-adjusted practice expense RVUs.* For each CPT procedure code for each geographic area, the 1998 practice expense RVU is multiplied by the practice expense 1998 Medicare Geographic Practice Cost Index. The result constitutes the facility-adjusted practice expense RVU.

(ii) *RVUs for specified CPT procedure codes.* For the following CPT procedure

codes, obtain the nationwide 80th percentile billed charges from the nationwide commercial insurance data base compiled by the Health Insurance Association of America (Health Insurance Association of America, 555 13th Street, NW, suite 600E, Washington, DC 20004): 20930, 20936, 22841, 48160, 48550, 54440, 79900, 80050, 80055, 80103, 80500, 80502, 85060, 85095, 85097, 85102, 86077, 86078, 86079, 86485, 86490, 86510, 86580, 86585, 86586, 86850, 86860, 86870, 86890, 86891, 86901, 86910, 86911, 86915, 86920, 86921, 86922, 86927, 86930, 86931, 86932, 86945, 86950, 86965, 86970, 86971, 86972, 86975, 86977, 86978, 86985, 88000, 88005, 88012, 88014, 88016, 88036, 88037, 88104, 88106, 88107, 88108, 88125, 88160, 88161, 88162, 88170, 88171, 88172, 88173, 88180, 88182, 88300, 88302, 88304, 88305, 88307, 88309, 88311, 88312, 88313, 88314, 88318, 88319, 88321, 88323, 88325, 88329, 88331, 88332, 88342, 88346, 88347, 88348, 88349, 88355, 88356, 88358, 88362, 88365, 89100, 89105, 89130, 89132, 89135, 89140, 89141, 89250, 89350, 89360, 92390, 92391, 94642, 94772, 99024, 99071, 99078, 99080, 99082, 99100, 99116, 99135, 99140, 99420, 99450, 99455, 99456. For the following CPT procedure codes, obtain the nationwide 80th percentile billed charges from the Medicare Standard Analytical File 5% Sample: 99070, M0076, M0300. Then divide the nationwide 80th percentile billed charges by the untrended nationwide conversion factor for the corresponding physician CPT procedure code group as set forth in paragraphs (e)(3) and (e)(3)(i). The resulting nationwide total RVUs are multiplied by the geographic adjustment factors as set forth in paragraph (e)(2)(iv) of this section to obtain the facility-specific total RVUs.

(iii) *RVUs for specified CPT procedure codes.* For the following list of CPT procedure codes, the nationwide total RVU is calculated by multiplying the 1998 Medicare work adjuster (0.917) by the work expense RVU and adding the practice expense RVU (the work expense RVU and the practice expense RVU for these CPT procedure codes can be found in the *1998 St. Anthony's Complete RBRVS*, Relative Value Studies, Inc., St. Anthony Publishing, 11410 Isaac Newton Square, Reston, VA 20190): 15824, 15825, 15826, 15828, 15829, 15876, 15877, 15878, 15879, 17380, 21088, 24940, 26587, 32850, 33930, 33940, 36415, 36468, 36469, 41820, 41821, 41850, 41870, 47133, 48554, 50300, 58974, 65760, 65765, 65767, 65771, 69090, 69710, 75556, 76092, 76140, 76350, 78608, 78609, 90700, 90701, 90702, 90703, 90704, 90705, 90706, 90707, 90708, 90709, 90710, 90711, 90712, 90713, 90714, 90716, 90717, 90718, 90179, 90720, 90721, 90724, 90725, 90726, 90727, 90728, 90730, 90732, 90733, 90735, 90737, 90741, 90742, 90744, 90745, 90746, 90747, 90882, 90889, 90989, 90993, 92531, 92532, 92533, 92534, 92551, 92559, 92560, 92590, 92591, 92592, 92593, 92594, 92595, 92992, 92993, 93760, 93762, 93784, 93786, 93788, 93790, 95120, 95125, 95130, 95131, 95132, 95133, 95134, 96110, 96545, 97545, 97546, 99000, 99001, 99002, 99025, 99050, 99052, 99054, 99056, 99058, 99075, 99090, 99190, 99191, 99192, 99288, 99358, 99359, 99360, 99361, 99362, 99371, 99372, 99373. The resulting nationwide total RVUs are multiplied by the geographic adjustment factors as set forth in paragraph (e)(2)(iv) of this section to obtain the facility-specific total RVUs.

(iv) *RVU geographic area adjustment factors for specified CPT procedure codes.* The geographic area adjustment factor for each facility location consists of the weighted average of the 1998 work expense and practice expense Medicare Geographic Practice Cost Indices for each facility location using charge data for representative CPT procedure codes statistically selected and weighted for work expense and practice expense.

(3) *Facility-adjusted 80th percentile conversion factors.* CPT procedure codes are separated into the following 24 physician CPT procedure code groups: allergy immunotherapy, allergy testing, anesthesia, cardiovascular, chiropractor, consults, emergency room visits and observation care, hearing/speech exams, immunizations, inpatient visits, maternity/cesarean deliveries, maternity/non-deliveries, maternity/normal deliveries, miscellaneous medical, office/home urgent care visits, outpatient psychiatry/alcohol and drug abuse, pathology, physical exams, physical medicine, radiology, surgery, therapeutic injections, vision exams, and well baby exams. For each of the 24 physician CPT procedure code groups, representative CPT procedure codes were statistically selected and weighted so as to give a weighted average RVU comparable to the weighted average RVU of the entire physician CPT procedure code group (the selected CPT procedure codes are set forth in the 1998 Milliman & Robertson, Inc., Health Cost Guidelines fee survey) (Milliman & Robertson, Inc., 1301 5th Ave., suite 3800, Seattle, WA 98101–2605). The 80th percentile charge for each selected CPT procedure code is obtained (this is contained in the nationwide commercial insurance data base compiled by the Health Insurance Association of America, 555 13th Street NW., Suite 600E, Washington, DC 20004 (medical data for 5/1/96–4/30/97, including radiology and pathology; surgical data for 3/1/96–2/28/97; anesthesia data for 3/1/96–2/28/97)). A nationwide conversion factor (a monetary amount) is calculated for each physician CPT procedure code group as set forth in paragraph (e)(3)(i) of this section. The nationwide conversion factors for each of the 24 physician CPT procedure code groups are trended forward as set forth in paragraph (e)(3)(ii) of this section. The resulting amounts for each of the 24 groups are multiplied by geographic area adjustment factors as set forth in paragraph (e)(3)(iii) of this section, resulting in facility-adjusted 80th percentile conversion factors for each VA facility geographic area for the 24 physician CPT procedure code groups for the effective charge period.

(i) *Nationwide conversion factors.* Using the nationwide 80th percentile charges for the selected CPT procedure codes from paragraph (e)(3) of this section, a nationwide conversion factor is calculated for each of the 24 physician CPT procedure code groups by dividing the weighted average charge by the weighted average RVU. To correspond with the charge data, for medicine and surgery CPT procedure codes, the total RVUs are used even when separate professional and technical components are specified.

(ii) *Trending forward.* The nationwide conversion factor for each of the 24 physician CPT procedure code groups, representing charges for time periods detailed in paragraph (e)(3) of this section, are trended forward for the period August 1998 through September 1999, and for each 12-month calendar year period thereafter, beginning January 1, 2000, based on changes to the Physician component of the CPI–U. Actual CPI–U changes are used through the latest available month. The three-month average annual trend rate as of the latest available month is held constant to the midpoint of the effective charge period. The projected total CPI–U change from the midpoint of the source data collection period to the midpoint of the effective charge period is then applied to the 24 conversion factors.

(iii) *Geographic area adjustment factors.* Using the 80th percentile charges for the selected CPT procedure codes from paragraph (e)(3) of this section for each VA facility geographic area, a geographic area-specific conversion factor is calculated for each

of the 24 physician CPT procedure code groups by dividing the weighted average charge by the weighted average facility-adjusted RVU. The resulting geographic area conversion factor for each facility geographic area for each physician CPT procedure code group is divided by the corresponding nationwide conversion factor as set forth in paragraph (e)(3)(i). The resulting ratios are the geographic area adjustment factors for each of the 24 physician CPT procedure code groups for each facility geographic area.

(4) *Nationwide 80th percentile charges for anesthesia and pathology CPT procedure codes.* The nationwide charges are calculated by multiplying the RVUs as set forth in paragraph (e)(4)(i) of this section for anesthesia CPT procedure codes and as set forth in paragraph (e)(4)(ii) of this section for pathology CPT procedure codes by the appropriate nationwide trended 80th percentile conversion factors as set forth in paragraph (e)(3) of this section.

(i) *RVUs for anesthesia.* The 1998 base unit value for each anesthesia CPT procedure code is compiled (the base unit values can be found in the *1998 St. Anthony's Complete RBRVS,* Relative Value Studies, Inc., St. Anthony Publishing, 11410 Isaac Newton Square, Reston, VA 20190). The average time unit value for each anesthesia CPT procedure code is compiled from a Health Care Financing Administration study concerning average time unit values for anesthesia CPT procedure codes (these values can be obtained from Veterans Health Administration, Office of Finance, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420). For each anesthesia CPT procedure code introduced since the Health Care Financing Administration study, the time unit value is calculated as the average time unit value for all other anesthesia CPT procedure codes with the same base unit value. The sum of the anesthesia base unit value and the anesthesia time unit value equals the total anesthesia RVUs.

(ii) *RVUs for pathology.* For each pathology CPT procedure code, the 1998 Medicare payment amount is used as the RVU for the corresponding CPT procedure code (the payment amounts can be found on the Health Care Financing Administration public use files Internet site at *http://www.hcfa.gov/stats/pufiles.htm* under the heading "Payment Rates/ Non-Institutional Providers" and the title "Clinical Diagnostic Laboratory Fee Schedule."

(f) *Other provider charges.* When the following providers provide or furnish VA care within the scope of care referred to in paragraph (a)(1) of this section, charges for that care covered by a CPT procedure code will be determined based on the following indicated percentages of the amount that would be charged if the care had been provided by a physician under paragraph (e) of this section:

(1) Nurse practitioner: 85%.
(2) Clinical nurse specialist: 85%.
(3) Physician Assistant: 85%.
(4) Certified registered nurse anesthetist: 50% when physician supervised; 100% when not physician supervised.
(5) Clinical psychologist: 80%.
(6) Clinical social worker: 75%.
(7) Podiatrist: 100%.
(8) Chiropractor: 100%.
(9) Dietitian: 75%.
(10) Clinical pharmacist: 80%.
(11) Optometrist: 100%.

(g) *Outpatient dental care and prescription drugs not administered during treatment.* Notwithstanding other provisions of this section, when VA provides or furnishes outpatient dental care or prescription drugs not administered during treatment, within the scope of care referred to in paragraph (a)(1) of this section, charges billed separately for such care will be based on VA costs in accordance with the methodology set forth in § 17.102 of this part.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0606.)

(Authority: 38 U.S.C. 101, 501, 1701, 1705, 1710, 1721, 1722, 1729)

§ 17.102 [Amended]-

4. In newly redesignated § 17.102, the first sentence of the introductory text is amended by removing "Charges" and adding, in its place, "Except as provided in § 17.101, charges"; paragraph (h) is amended by removing the heading and adding, in its place, "Computation of charges."; by removing paragraphs (h)(1), (h)(2), and (h)(4) through (h)(6); and by removing "(3) The method of computing the charges for medical care and services" and by adding, in its place, "The method for computing the charges under paragraphs (a), (b), (d), (f), and (g), and the last sentence of paragraph (c) of this section.

[FR Doc. 99–10373 Filed 4–26–99; 8:45 am]
BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Medical Care Collection or Recovery

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In a companion document published in the "Rules and Regulations" section of this issue of the **Federal Register**, we amended VA's medical regulations concerning collection or recovery by VA for medical care or services provided or furnished to a veteran:

—For a non-service connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health-plan contract;

—For a non-service connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or

—For a non-service connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance.

The final rule includes methodology for establishing charges for VA medical care or services. Using this methodology, information for calculating actual charge amounts at individual VA facilities for inpatient facility charges, skilled nursing facility/sub-acute inpatient facility charges, outpatient facility charges, and physician charges are set forth in a notice document that was published in the **Federal Register** on October 13, 1998 (63 FR 54766). These charges, with changes explained below, are effective for the period from September 1, 1999, through December 31, 1999. Accordingly, interested parties may wish to retain the notice document of October 13, 1998, and this notice document for future reference.

FOR FURTHER INFORMATION CONTACT: David Cleaver, VHA Office of Finance (174), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8210. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The companion document published in the "Rules and Regulations" section of this issue of the **Federal Register** includes the methodology for inpatient facility charges at § 17.101(b), the methodology for skilled nursing facility/sub-acute inpatient facility charges at § 17.101(c), the methodology for outpatient facility charges at § 17.101(d), and the methodology for physician charges at § 17.101(e). Using this methodology, information for calculating actual charge amounts at individual VA facilities for inpatient facility charges, skilled nursing facility/sub-acute inpatient facility charges, outpatient facility charges, and physician charges are set forth in a notice document that was published in the **Federal Register** on October 13, 1998 (63 FR 54766). This document makes changes to the October 13 notice document consistent with the methodology of the final rule.

Inpatient Facility Charges—DRGs

Inpatient facility charges by DRG are set forth in Table A of the notice document published in the **Federal Register** on October 13, 1998. It is necessary to make changes to a number of DRGs. For five DRGs, 104 through 108, the criteria for assigning inpatient cases to the DRGs have changed, resulting in changes to their charges. One DRG, 109, that had not been used for several years is now being used and has new case assignment criteria. Six DRGs, 456 through 460, and 472, are no longer being used. Eight new DRGs, 504 through 511, have been established. Accordingly, "Table A.—Inpatient Facility Nationwide Per Diem Charges; By DRG (Diagnosis Related Group)" in the notice document of October 13, 1998, is changed for the specified DRGs as indicated in the "Changes To Tables" section at the end of this document.

Inpatient Facility Charges and Skilled Nursing Facility/Sub-acute Inpatient Facility Charges—Geographic Area Adjustment Factors

In "Table B.—Inpatient Facility and Skilled Nursing Facility/Sub-acute Inpatient Facility Geographic Area Adjustment Factors; By VA Facility," in the notice document of October 13, 1998, we inadvertently omitted White City, Oregon. Accordingly, the appropriate information for this facility is added to Table B as indicated in the "Changes To Tables" section at the end of this document.

Outpatient Facility Charges and Physician Charges

Information by CPT procedure code used for calculating outpatient facility charges and physician charges was set forth in the notice document in the October 13, 1998, **Federal Register** in four tables: "Table C.—Outpatient Facility Nationwide Charges, By CPT (Current Procedural Terminology) Code;" "Table E.—Physician Nationwide RVUs (Relative Value Units) and Conversion Factors for CPT Codes With Work Expense and Practice Expense RVUs;" "Table F.—Physician Nationwide Charges for Anesthesia and Pathology CPT Codes;" and "Table G.—Physician Nationwide RVUs (Relative Value Units) and Conversion Factors for CPT Codes With Total RVUs Only." We have made changes to these tables consisting of a total of 390 entries for 283 different CPT procedure codes, as follows.

Under the provisions of § 17.101(d) of the final rule, outpatient services provided by VA that are not customarily performed in an independent clinician's office are subject to outpatient facility charges and separate physician charges. Upon further review we have determined that 46 outpatient procedures for which we originally provided outpatient facility charges in the October 13 **Federal Register** notice document are customarily performed in an independent clinician's office. Therefore, it is necessary to remove these CPT procedure codes from Table C. As a result of these changes, the non-facility practice expense RVUs for these CPT procedure codes are substituted for the facility practice expense RVUs in Table E. Although the physician charge for these CPT procedure codes will increase, the total charge (without the outpatient facility charge) will decrease. Accordingly, we have removed these 46 CPT procedure codes from Table C and revised their practice expense RVUs in Table E as indicated in the "Changes To Tables" section at the end of this document.

Also, we determined that for three additional CPT procedure codes (66030, 67710, and 68810), we correctly provided no outpatient facility charges in the notice document in the October 13 **Federal Register**, but we incorrectly used the facility practice expense RVUs for calculating their physician charges. Therefore, for these CPT procedure codes, we have replaced the facility practice expense RVUs in Table E with the non-facility practice expense RVUs, as indicated in the "Changes To Tables" section at the end of this document. As a result of these changes, the physician charges for these three CPT procedure codes will increase.

When chemotherapy is provided on an outpatient basis, the physician charge is made using one of 18 CPT procedure codes, 96400 through 96545, listed in Tables E and G of our notice document in the October 13 **Federal Register**. Two of these CPT procedure codes, 96445 and 96450, were included in the outpatient facility charges in Table C in the October 13 notice document. Outpatient facility charges for the other 16 chemotherapy CPT

procedure codes were inadvertently omitted from Table C. Therefore, outpatient facility charges for these 16 CPT procedure codes are added to Table C, as indicated in the "Changes To Tables" section at the end of this document.

In calculating outpatient facility charges for the 16 chemotherapy CPT procedure codes discussed above, these codes were added to the outpatient facility CPT procedure code group "Medicine—Global—Not Otherwise Classified" (§ 17.101(d)(3)(i)(DD) of the final rule). With the addition of these CPT procedure codes, the charge factors for this group were recalculated (§ 17.101(d)(3) of the final rule), resulting in revised charges for the other 18 CPT procedure codes in the group. For 15 of these CPT procedure codes, the revised charges are lower than those set forth in the notice document in the October 13 **Federal Register**. For the other three CPT procedure codes, the revised charges are higher. For all 18 of these CPT procedure codes, the outpatient facility charges previously set forth have been replaced in Table C with the revised charges, as indicated in the "Changes To Tables" section at the end of this document.

The information on outpatient facility charges and physician charges set forth in the notice document in the October 13 **Federal Register** was based on CPT procedure codes for 1998. Changes to this information are required as a result of changes that have been made to CPT procedure codes for 1999. For outpatient facility charges, these changes consist of adding 27 CPT procedure codes, deleting 13 codes, and revising the charges for 13 codes. For physician charges, these changes consist of adding 117 CPT procedure codes, deleting 63 codes, and revising the charges for 15 codes. These changes are made to Tables C, E, F, and G, as indicated in the "Changes To Tables" section at the end of this document.

Physician Charges—Geographic Area Adjustment Factors

The formula for physician charges includes geographic area adjustment factors. Table H provides physician geographic area adjustment factors for RVUs and conversion factors. Table H was printed incorrectly in the October 13 **Federal Register** notice. Some column headings were incorrect. Also, some columns requiring numbers to three decimal places only contained numbers to two decimal places. Further, some columns requiring numbers to two decimal places only contained numbers to one decimal place. Accordingly, we are printing a corrected Table H in the "Changes To Tables" section at the end of this document.

Approved: March 29, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

BILLING CODE 8320-01-P

Changes To Tables

The following changes for the specified DRGs are made to Table A, Inpatient Facility Nationwide Per Diem Charges, By DRG (Diagnosis Related Group):

DRG	Description	Surgical/ Non-Surgical Indicator	Per Diem Charge	
			Room & Board	Ancillary
104	Cardiac Valve & Oth Maj Cardiothoracic Proc W Card Cath	S	$1,140	$5,709
105	Cardiac Valve & Oth Maj Cardiothoracic Proc W/O Card Cath	S	$1,172	$5,754
106	Coronary Bypass With Ptca	S	$1,089	$6,572
107	Coronary Bypass W Cardiac Cath	S	$1,049	$4,810
108	Other Cardiothoracic Procedures	S	$1,220	$5,065
109	Coronary Bypass W/O Cardiac Cath	S	$1,118	$4,946
456	No Longer Valid	N	$0	$0
457	No Longer Valid	N	$0	$0
458	No Longer Valid	S	$0	$0
459	No Longer Valid	S	$0	$0
460	No Longer Valid	N	$0	$0
472	No Longer Valid	S	$0	$0
504	Extensive 3rd Degree Burn W Skin Graft	S	$1,686	$4,090
505	Extensive 3rd Degree Burn W/O Skin Graft	N	$1,800	$3,881
506	Full Thick Burn W Sk Graft or Inhal Inj W Cc or Sig Tr	N	$1,145	$2,099
507	Full Thick Burn W Sk Graft or Inhal Inj W/O Cc or Sig Tr	N	$1,135	$1,580
508	Full Thick Burn W/O Sk Graft or Inhal Inj W Cc or Sig Tr	N	$719	$1,422
509	Full Thick Burn W/O Sk Graft or Inhal Inj W/O Cc or Sig Tr	N	$785	$1,118
510	Non-Extensive Burns W Cc or Significant Trauma	N	$540	$1,277
511	Non-Extensive Burns W/O Cc or Significant Trauma	N	$661	$707

The following information for the VA facility at White City, Oregon, is added to Table B, Inpatient Facility and Skilled Nursing Facility/Sub-acute Inpatient Facility Geographic Area Adjustment Factors, By VA Facility:

VA Facility	For Surgical DRGs		For Non-Surgical DRGs		Skilled Nursing Facility/Subacute Inpatient Facility
	Room & Board	Ancillary	Room & Board	Ancillary	
WHITE CITY, OR	1.11	0.78	1.21	1.01	1.04

The following changes for the specified CPT procedure codes are made to Table C, Outpatient Facility Nationwide Charges, By CPT (Current Procedural Terminology) Code:

CPT Code	Charge
15000	$2,178.26
15001	$1,429.50
15350	$3,975.28
15351	$1,395.69
15400	$2,791.76
15401	$1,395.69
27347	$1,495.98
28289	$659.33
31622	$2,143.01
31623	$2,204.80
31624	$2,212.52
31643	$1,536.74
32001	$1,695.06
35875	$7,437.83
35876	$11,068.39
36831	$3,266.14
36832	$7,073.80
36833	$5,824.26
57106	$2,902.83
57107	$8,855.43
57109	$9,888.59
57111	$9,538.91
57112	$10,079.33
67220	$2,565.37
67320	$2,948.64
67331	$2,252.09
67332	$2,712.01
67334	$2,325.41
67340	$3,015.30
69990	$1,878.99
76977	$170.86
78018	$720.91
78206	$762.74
78494	$727.27
78496	$385.38
78588	$548.14
90870	$842.35
90871	$984.60
90989	$1,629.78
90993	$822.03
91100	$847.43
91105	$771.23
92018	$801.71
92502	$1,131.92
92950	$1,716.15
92953	$689.95
92960	$1,518.02
93571	$2,788.07
93572	$2,788.07
93650	$6,435.65
93651	$9,620.94
93652	$9,620.94
94621	$1,248.77
94660	$923.63
96400	$628.98
96405	$755.99
96406	$847.43
96408	$1,030.32
96410	$1,309.73
96412	$1,121.76
96414	$1,208.13
96420	$1,167.48
96422	$1,157.32
96423	$796.63
96425	$1,253.85
96440	$974.44
96445	$1,060.80
96450	$1,004.92
96520	$994.76
96530	$1,076.04
96542	$1,116.68
96545	$720.43
97140	$52.78
99183	$1,411.33
12051	Deleted
14000	Deleted
16040	Deleted
16041	Deleted
21480	Deleted
21920	Deleted
25065	Deleted
25500	Deleted
25600	Deleted
25622	Deleted
25624	Deleted
25630	Deleted
25635	Deleted
25650	Deleted
27086	Deleted
27613	Deleted
27760	Deleted
27780	Deleted
27786	Deleted
27788	Deleted
30560	Deleted
30801	Deleted
38300	Deleted
38790	Deleted
40819	Deleted
40820	Deleted
41000	Deleted
41800	Deleted
42000	Deleted
42160	Deleted
42300	Deleted
42310	Deleted
42405	Deleted
42700	Deleted
46050	Deleted
56405	Deleted
56605	Deleted
57108	Deleted
57180	Deleted
57800	Deleted
61070	Deleted
64830	Deleted
65436	Deleted
67505	Deleted
67930	Deleted
68110	Deleted
68705	Deleted
68815	Deleted
69424	Deleted
71038	Deleted
74405	Deleted
78017	Deleted
90724	Deleted
92520	Deleted
97122	Deleted
97250	Deleted
97260	Deleted
97261	Deleted
97265	Deleted

NOTE: CPT codes and descriptions only are copyright 1998 American Medical Association. All rights reserved. Applicable FARS/DFARS apply.
For CPT code descriptions, see Tables E, F, and G.

The following changes for the specified CPT procedure codes are made to Table E, Physician Nationwide RVUs (Relative Value Units) and Conversion Factors For CPT Codes With Work Expense and Practice Expense RVUs:

CPT Code	Modifier	CPT Code Description	Physician CPT Code Group	Work Expense RVUs	Practice Expense RVUs	Conversion Factor
12051	0	LAYER CLOSURE OF	Surgery	2.47	1.01	$120.59
14000	0	SKIN TISSUE	Surgery	5.89	3.41	$120.59
21480	0	RESET DISLOCATED JAW	Surgery	0.61	0.78	$120.59
21920	0	BIOPSY SOFT TISSUE OF	Surgery	2.06	0.79	$120.59
25065	0	BIOPSY FOREARM SOFT	Surgery	1.99	0.75	$120.59
25500	0	TREAT FRACTURE OF RADIUS	Surgery	2.45	2.33	$120.59
25600	0	TREAT FRACTURE RADIUS/	Surgery	2.63	2.84	$120.59
25622	0	TREAT WRIST BONE	Surgery	2.61	2.28	$120.59
25624	0	TREAT WRIST BONE	Surgery	4.53	3.67	$120.59
25630	0	TREAT WRIST BONE	Surgery	2.88	2.19	$120.59
25635	0	TREAT WRIST BONE	Surgery	4.39	3.36	$120.59
25650	0	REPAIR WRIST BONE	Surgery	3.05	2.66	$120.59
27086	0	REMOVE HIP FOREIGN BODY	Surgery	1.87	0.58	$120.59
27613	0	BIOPSY LOWER LEG SOFT	Surgery	2.17	0.67	$120.59
27760	0	TREATMENT OF ANKLE	Surgery	3.01	2.58	$120.59
27780	0	TREATMENT OF FIBULA	Surgery	2.65	1.97	$120.59
27786	0	TREATMENT OF ANKLE	Surgery	2.84	2.52	$120.59
27788	0	TREATMENT OF ANKLE	Surgery	4.45	3.27	$120.59
30560	0	RELEASE OF NASAL	Surgery	1.26	0.55	$120.59
30801	0	CAUTERIZATION INNER NOSE	Surgery	1.09	0.47	$120.59
38300	0	DRAINAGE LYMPH NODE	Surgery	1.53	0.58	$120.59
38790	0	INJECTION FOR LYMPHATIC	Surgery	1.29	1.64	$120.59
40819	0	EXCISE LIP OR CHEEK FOLD	Surgery	2.41	1.23	$120.59
40820	0	TREATMENT OF MOUTH	Surgery	1.28	0.53	$120.59
41000	0	DRAINAGE OF MOUTH LESION	Surgery	1.30	0.76	$120.59
41800	0	DRAINAGE OF GUM LESION	Surgery	1.17	0.69	$120.59
42000	0	DRAINAGE MOUTH ROOF	Surgery	1.23	0.62	$120.59
42160	0	TREATMENT MOUTH ROOF	Surgery	1.80	1.53	$120.59
42300	0	DRAINAGE OF SALIVARY	Surgery	1.93	0.96	$120.59
42310	0	DRAINAGE OF SALIVARY	Surgery	1.56	1.03	$120.59
42405	0	BIOPSY OF SALIVARY GLAND	Surgery	3.29	1.54	$120.59
42700	0	DRAINAGE OF TONSIL	Surgery	1.62	0.85	$120.59
46050	0	INCISION OF ANAL ABSCESS	Surgery	1.19	0.60	$120.59
56405	0	I & D OF VULVA/PERINEUM	Surgery	1.44	0.76	$120.59
56605	0	BIOPSY OF VULVA/PERINEUM	Surgery	1.10	0.68	$120.59
57180	0	TREAT VAGINAL BLEEDING	Surgery	1.58	0.55	$120.59
57800	0	DILATION OF CERVICAL	Surgery	0.77	0.48	$120.59
61070	0	BRAIN CANAL SHUNT	Surgery	0.89	0.49	$120.59
65436	0	CURETTE/TREAT CORNEA	Surgery	4.19	1.53	$120.59
66030	0	INJECTION TREATMENT OF	Surgery	1.25	0.54	$120.59
67505	0	INJECT/TREAT EYE SOCKET	Surgery	0.82	1.04	$120.59
67710	0	INCISION OF EYELID	Surgery	1.02	1.01	$120.59
67930	0	REPAIR EYELID WOUND	Surgery	3.61	1.27	$120.59
68110	0	REMOVE EYELID LINING	Surgery	1.77	1.24	$120.59
68705	0	REVISE TEAR DUCT OPENING	Surgery	2.06	1.02	$120.59
68810	0	PROBE NASOLACRIMAL DUCT	Surgery	1.90	0.55	$120.59
68815	0	PROBE NASOLACRIMAL DUCT	Surgery	3.20	1.93	$120.59
69424	0	REMOVE VENTILATING TUBE	Surgery	0.85	0.60	$120.59
92520	0	LARYNGEAL FUNCTION	Miscellaneous Medical	0.76	0.53	$78.24
11731		Deleted				
15000		Moved to Table G				

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Changes to Table E — Continued

CPT Code	Modifier	CPT Code Description	Physician CPT Code Group	Work Expense RVUs	Practice Expense RVUs	Conversion Factor
15350		Moved to Table G				
15400		Moved to Table G				
16040		Deleted				
16041		Deleted				
16042		Deleted				
31622		Moved to Table G				
35681		Moved to Table G				
35875		Moved to Table G				
35876		Moved to Table G				
36832		Moved to Table G				
57108		Deleted				
61106		Deleted				
61130		Deleted				
61712		Deleted				
63600		Deleted				
63601		Deleted				
64830		Deleted				
67210		Moved to Table G				
67320		Moved to Table G				
67331		Moved to Table G				
67332		Moved to Table G				
67334		Moved to Table G				
67340		Moved to Table G				
71038		Deleted				
74405		Deleted				
78017		Deleted				
78018		Moved to Table G				
M0101		Deleted				

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The following changes for the specified CPT procedure codes are made to Table F, Physician Nationwide Charges for Anesthesia and Pathology CPT Codes:

CPT Code	Modifier	CPT Code Description	Physician CPT Code Group	Charge
80201	0	ASSAY FOR TOPIRAMATE	Pathology	$54.64
82016	0	ACYLCARNITINES	Pathology	$63.56
82017	0	ACYLCARNITINES	Pathology	$77.32
82127	0	AMINO ACID	Pathology	$63.56
82136	0	AMINO ACIDS	Pathology	$77.32
82139	0	AMINO ACIDS	Pathology	$77.32
82247	0	BILIRUBIN TOTAL	Pathology	$23.01
82248	0	BILIRUBIN DIRECT	Pathology	$23.01
82261	0	ASSAY BIOTINIDASE	Pathology	$77.32
82379	0	ASSAY CARNITINE	Pathology	$77.32
82492	0	CHROMOTOGRAPHY	Pathology	$82.80
82541	0	COLUMN CHROMOTOGRAPHY QUAL	Pathology	$82.80
82542	0	COLUMN CHROMOTOGRAPHY QUANT	Pathology	$82.80
82543	0	COLUMN CHROMOTOGRAPH/ISOTOPE	Pathology	$82.80
82544	0	COLUMN CHROMOTOGRAPHY QUANT	Pathology	$82.80
82657	0	ENZYME CELL ACTIVITY	Pathology	$82.80
82658	0	ENZYME CELL ACTIVITY RA	Pathology	$82.80
82726	0	LONG CHAIN FATTY ACIDS	Pathology	$82.80
82731	0	FETAL FIBRONECTIN	Pathology	$69.07
83013	0	H PYLORI BREATH TEST ANAL	Pathology	$294.52
83014	0	H PYLORI DRUG ADMIN/COLLECT	Pathology	$36.01
83021	0	HEMOGLOBIN CHROMOTOGRAPHY	Pathology	$82.80
83080	0	B HEXOSAMINIDASE ASSAY	Pathology	$77.32
83716	0	ASSAY BLOOD LIPOPROTEINS	Pathology	$113.76
83788	0	MASS SPECTROMETRY QUAL	Pathology	$82.80
83789	0	MASS SPECTROMETRY QUANT	Pathology	$82.80
83891	0	MOLECULE ISOLATE NUCLEIC	Pathology	$18.37
83893	0	MOLECULE DOT/SLOT/BLOT	Pathology	$18.37
83897	0	MOLECULE NUCLEIC TRANSFER	Pathology	$18.37
83901	0	MOLECULE NUCLEIC AMP	Pathology	$76.85
83903	0	MOLECULE MUTATION SCAN	Pathology	$76.85
83904	0	MOLECULE MUTATION IDENTIFY	Pathology	$76.85
83905	0	MOLECULE MUTATION IDENTIFY	Pathology	$76.85
83906	0	MOLECULE MUTATION IDENTIFY	Pathology	$76.85
83919	0	ASSAY ORGANIC ACIDS QUAL	Pathology	$75.45
84154	0	PSA FREE	Pathology	$84.30
84376	0	SUGARS SINGLE QUAL	Pathology	$25.25
84377	0	SUGARS MULTIPLE QUAL	Pathology	$25.25
84378	0	SUGARS SINGLE QUANT	Pathology	$52.81
84379	0	SUGARS MULTIPLE QUANT	Pathology	$52.81
84512	0	TROPONIN	Pathology	$35.30
85046	0	RETICYTE	Pathology	$25.62
86148	0	PHOSPHOLIPID ANTIBODY	Pathology	$73.61
86361	0	T CELL ABSOLUTE COUNT	Pathology	$122.71
87472	0	BARTONELLA	Pathology	$196.36
87477	0	LYME DIS	Pathology	$196.36
87482	0	CANDIDA	Pathology	$191.35
87487	0	CHYLMD PNEUM	Pathology	$196.36
87492	0	CHYLMD TRACH	Pathology	$160.22
87497	0	CYTOMEG	Pathology	$196.36
87512	0	GARDNER VAG	Pathology	$191.35
87517	0	HEPATITIS B	Pathology	$196.36

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Changes to Table F — Continued

CPT Code	Modifier	CPT Code Description	Physician CPT Code Group	Charge
87522	0	HEPATITIS C	Pathology	$196.36
87527	0	HEPATITIS G	Pathology	$191.35
87530	0	HSV	Pathology	$196.36
87533	0	HHV-6	Pathology	$191.35
87539	0	HIV-2	Pathology	$196.36
87542	0	LEGION PNEUMO	Pathology	$191.35
87552	0	MYCOBACTERIA	Pathology	$196.36
87557	0	M TUBERCULO	Pathology	$196.36
87562	0	M.AVIUM-INTRA	Pathology	$196.36
87582	0	M.PNEUMON	Pathology	$191.35
87592	0	N.GONORRHOEAE	Pathology	$196.36
87622	0	HPV	Pathology	$191.35
87652	0	STREP A	Pathology	$191.35
87799	0	DETECT AGENT NOS	Pathology	$196.36
88153	0	CYTPATH C/VAG REDO	Pathology	$23.71
88154	0	CYTPATH C/VAG SELECT	Pathology	$23.71
88164	0	CYTPATH TBS C/VAG MANUAL	Pathology	$23.71
88165	0	CYTPATH TBS C/VAG REDO	Pathology	$23.71
88166	0	CYTPATH TBS C/VAG AUTO REDO	Pathology	$23.71
88167	0	CYTPATH TBS C/VAG SELECT	Pathology	$23.71
88240	0	CELL CRYOPRESERVE/STORAGE	Pathology	$46.29
88241	0	FROZEN CELL PREPARATION	Pathology	$46.29
88249	0	CHROMOSOME ANALYSIS	Pathology	$793.72
88264	0	CHROMOSOME ANALYSIS	Pathology	$571.27
88291	0	CYTO/MOLECULAR REPORT	Pathology	$18.37
80002		Deleted		
80003		Deleted		
80004		Deleted		
80005		Deleted		
80006		Deleted		
80007		Deleted		
80008		Deleted		
80009		Deleted		
80010		Deleted		
80011		Deleted		
80012		Deleted		
80016		Deleted		
80018		Deleted		
80019		Deleted		
82130		Deleted		
82250		Deleted		
83717		Deleted		
85029		Deleted		
85030		Deleted		
86287		Deleted		
86289		Deleted		
86290		Deleted		
86291		Deleted		
86293		Deleted		
86295		Deleted		
86296		Deleted		
86302		Deleted		
86303		Deleted		
86306		Deleted		
86311		Deleted		

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Changes to Table F — Continued

CPT Code	Modifier	CPT Code Description	Physician CPT Code Group	Charge
86313		Deleted		
86315		Deleted		
87178		Deleted		
87179		Deleted		
88151		Deleted		
88156		Deleted		
88157		Deleted		
88158		Deleted		
88250		Deleted		
88260		Deleted		

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The following changes for the specified CPT procedure codes are made to Table G, Physician Nationwide RVUs (Relative Value Units) and Conversion Factors for CPT Codes With Total RVUs Only:

CPT Code	Modifier	CPT Code Description	Physician CPT Code Group	Total RVUs	Conversion Factor
15000	0	SKIN GRAFT PROCEDURE	Surgery	5.86	$120.59
15001	0	SKIN GRAFT ADD-ON	Surgery	1.46	$120.59
15350	0	SKIN HOMOGRAFT PROCEDURE	Surgery	7.50	$120.59
15351	0	SKIN HOMOGRAFT ADD-ON	Surgery	1.43	$120.59
15400	0	SKIN HETEROGRAFT	Surgery	8.13	$120.59
15401	0	SKIN HETEROGRAFT ADD-ON	Surgery	1.43	$120.59
27347	0	REMOVE KNEE CYST	Surgery	8.52	$120.59
28289	0	REPAIR HALLUX RIGIDUS	Surgery	10.05	$120.59
31622	0	DIAGNOSTIC BRONCHOSCOPY	Surgery	3.75	$120.59
31623	0	DX BRONCHOSCOPE/BRUSH	Surgery	4.27	$120.59
31624	0	DX BRONCHOSCOPE/LAVAGE	Surgery	4.32	$120.59
31643	0	DX BRONCHOSCOPE/CATHETER	Surgery	4.68	$120.59
32001	0	TOTAL LUNG LAVAGE	Surgery	7.79	$120.59
35681	0	ARTERY BYPASS GRAFT	Surgery	3.61	$120.59
35682	0	COMPOSITE BYPASS GRAFT	Surgery	9.90	$120.59
35683	0	COMPOSITE BYPASS GRAFT	Surgery	11.69	$120.59
35875	0	REMOVAL OF CLOT IN GRAFT	Surgery	15.82	$120.59
35876	0	REMOVAL OF CLOT IN GRAFT	Surgery	25.62	$120.59
36831	0	AV FISTULA EXCISION	Surgery	10.86	$120.59
36832	0	REVISE ARTERY-VEIN	Surgery	15.88	$120.59
36833	0	AV FISTULA REVISION	Surgery	16.26	$120.59
45126	0	PELVIC EXENTERATION	Surgery	51.71	$120.59
57106	0	REMOVE VAGINA WALL, PARTIAL	Surgery	8.63	$120.59
57107	0	REMOVE VAGINA TISSUE/PARTIAL	Surgery	31.18	$120.59
57109	0	VAGINECTOMY PARTIAL W/NODES	Surgery	35.96	$120.59
57111	0	REMOVE VAGINA TISSUE/COMPL	Surgery	36.71	$120.59
57112	0	VAGINECTOMY COMPLETE W/NODES	Surgery	38.53	$120.59
67210	0	TREATMENT OF RETINAL	Surgery	15.68	$120.59
67220	0	TREAT CHOROID LESION	Surgery	19.45	$120.59
67320	0	REVISE EYE MUSCLE(S)	Surgery	11.69	$120.59
67331	0	EYE SURGERY FOLLOW-UP	Surgery	9.85	$120.59
67332	0	REREVISE EYE MUSCLES	Surgery	11.31	$120.59
67334	0	REVISE EYE MUSCLE W/	Surgery	9.94	$120.59
67340	0	REVISE EYE MUSCLE	Surgery	12.43	$120.59
69990	0	MICROSURGERY ADD-ON	Surgery	5.23	$120.59
76006	0	X-RAY STRESS VIEW	Radiology	0.54	$139.16
76977	26	US BONE DENSITY MEASURE	Radiology	0.31	$139.16
78018	26	THYROID, MET IMAGING,	Radiology	1.16	$139.16
78020	0	THYROID MET UPTAKE	Radiology	0.80	$139.16
78206	26	LIVER IMAGE (3-D) W/FLOW	Radiology	1.30	$139.16
78494	26	HEART IMAGE, SPECT	Radiology	1.62	$139.16
78496	26	HEART FIRST PASS ADD-ON	Radiology	0.72	$139.16
78588	26	PERFUSION LUNG IMAGE	Radiology	1.45	$139.16
92135	0	OPTHALMIC DX IMAGING	Miscellaneous Medical	0.90	$78.24
93571	0	HEART FLOW RESERVE MEASURE	Cardiovascular	2.65	$91.42
93572	0	HEART FLOW RESERVE MEASURE	Cardiovascular	2.13	$91.42
94014	0	PATIENT RECORDED SPIROMETRY	Miscellaneous Medical	1.24	$78.24
94016	0	REVIEW PATIENT SPIROMETRY	Miscellaneous Medical	0.78	$78.24
94621	26	PULM STRESS TEST/COMPLEX	Miscellaneous Medical	1.24	$78.24
95970	0	NEUROSTIM ANALYZE,NO PROGRAM	Miscellaneous Medical	0.61	$78.24
95971	0	SIMPLE NEUROSTIM ANALYZE	Miscellaneous Medical	1.07	$78.24
95972	0	COMPLEX NEUROSTIM ANALYZE	Miscellaneous Medical	2.05	$78.24
95973	0	COMPLEX NEUROSTIM ANALYZE	Miscellaneous Medical	1.26	$78.24

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Changes to Table G — Continued

CPT Code	Modifier	CPT Code Description	Physician CPT Code Group	Total RVUs	Conversion Factor
95974	0	COMPLEX CRANIAL NEUROSTIM	Miscellaneous Medical	4.26	$78.24
95975	0	COMPLEX CRANIAL NEUROSTIM	Miscellaneous Medical	2.50	$78.24
99298	0	NEONATAL CRITICAL CARE	Inpatient Visits	3.63	$68.51
90711		Deleted			
90714		Deleted			
90726		Deleted			
90728		Deleted			
90730		Deleted			
90737		Deleted			
90741		Deleted			
90742		Deleted			

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Table H is revised in its entirety to read as follows:

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																								
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
NATIONWIDE AVERAGE	0.917	1.000	1.000	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
ANCHORAGE, AK	0.917	1.064	1.164	1.24	1.22	0.87	0.88	0.58	0.95	1.00	1.07	1.13	0.88	0.63	1.11	1.14	0.97	0.89	0.81	0.91	1.01	1.00	0.72	1.00	0.95	0.82	0.91	0.76
FAIRBANKS, AK	0.917	1.064	1.164	1.24	1.22	0.87	0.88	0.58	0.95	1.00	1.07	1.13	0.88	0.63	1.11	1.14	0.97	0.89	0.81	0.91	1.01	1.00	0.72	1.00	0.95	0.82	0.91	0.76
FORT WAINWRIGHT, AK	0.917	1.064	1.164	1.24	1.22	0.87	0.88	0.58	0.95	1.00	1.07	1.13	0.88	0.63	1.11	1.14	0.97	0.89	0.81	0.91	1.01	1.00	0.72	1.00	0.95	0.82	0.91	0.76
KENAI, AK	0.917	1.064	1.164	1.24	1.22	0.87	0.88	0.58	0.95	1.00	1.07	1.13	0.88	0.63	1.11	1.14	0.97	0.89	0.81	0.91	1.01	1.00	0.72	1.00	0.95	0.82	0.91	0.76
WASILLA, AK	0.917	1.064	1.164	1.24	1.22	0.87	0.88	0.58	0.95	1.00	1.07	1.13	0.88	0.63	1.11	1.14	0.97	0.89	0.81	0.91	1.01	1.00	0.72	1.00	0.95	0.82	0.91	0.76
ANNISTON, AL	0.917	0.979	0.871	0.85	0.94	0.85	1.43	0.85	0.84	1.00	0.88	1.12	0.86	1.01	0.78	0.89	1.05	0.94	0.69	1.05	0.90	0.94	0.90	0.86	0.96	0.91	0.83
BIRMINGHAM, AL	0.917	0.979	0.871	0.85	0.94	0.85	1.43	0.85	0.79	1.00	0.88	1.12	0.86	1.01	0.78	0.89	1.05	0.94	0.69	1.05	0.93	0.94	0.90	1.01	1.05	0.98	0.78
DECATUR, AL	0.917	0.979	0.871	0.85	0.94	0.85	1.43	0.85	0.84	1.00	0.88	1.12	0.86	1.01	0.78	0.89	1.05	0.94	0.69	1.05	0.83	0.94	0.90	0.84	0.98	0.81	0.85
DOTHAN, AL	0.917	0.979	0.871	0.79	0.90	0.88	1.12	0.82	0.87	0.96	0.83	1.12	0.84	1.11	0.81	0.89	0.94	0.86	0.93	0.82	0.86	0.95	0.72	0.98	0.86	0.86	0.71
FAIRHOPE, AL	0.917	0.979	0.871	0.77	0.85	0.74	1.73	0.61	0.84	1.04	0.84	0.95	0.94	0.94	0.76	0.88	1.18	0.87	1.00	0.90	0.84	0.86	0.86	0.84	0.98	0.81	0.85
FLORENCE, AL	0.917	0.979	0.871	0.85	0.94	0.85	1.43	0.85	0.84	1.00	0.88	1.12	0.86	1.01	0.78	0.89	1.05	0.94	0.69	1.05	0.83	0.94	0.90	0.84	0.98	0.81	0.85
GADSDEN, AL	0.917	0.979	0.871	0.77	0.85	0.74	1.73	0.61	0.84	1.04	0.84	0.95	0.94	0.94	0.76	0.88	1.18	0.87	1.00	0.90	0.90	0.86	0.86	0.86	0.96	0.91	0.83
HUNTSVILLE, AL	0.917	0.979	0.871	0.88	0.91	0.82	1.40	0.85	0.85	0.89	0.90	0.99	0.91	1.04	0.76	0.96	0.83	0.80	0.71	0.97	0.89	0.85	0.79	0.86	0.96	0.91	0.83
JASPER, AL	0.917	0.979	0.871	0.88	0.91	0.82	1.40	0.85	0.85	0.89	0.90	0.99	0.91	1.04	0.76	0.96	0.83	0.80	0.71	0.97	0.83	0.85	0.79	0.84	0.98	0.81	0.85
MOBILE, AL	0.917	0.979	0.871	0.80	0.87	0.76	1.12	0.65	0.81	0.86	0.77	0.98	0.80	1.06	0.72	0.86	1.05	0.81	0.78	0.97	0.86	0.92	0.74	0.98	0.86	0.86	0.71
MONTGOMERY, AL	0.917	0.979	0.871	0.79	0.90	0.88	1.12	0.82	0.87	0.96	0.83	1.12	0.84	1.11	0.81	0.89	0.94	0.86	0.93	0.82	0.86	0.95	0.72	0.98	0.86	0.86	0.71
TUSCALOOSA, AL	0.917	0.979	0.871	0.88	0.91	0.82	1.40	0.85	0.79	0.89	0.90	0.99	0.91	1.04	0.76	0.96	0.83	0.80	0.71	0.97	0.93	0.85	0.79	1.01	1.05	0.98	0.78
TUSKEGEE, AL	0.917	0.979	0.871	0.80	0.87	0.76	1.12	0.65	0.81	0.86	0.77	0.98	0.80	1.06	0.72	0.86	1.05	0.81	0.78	0.97	0.86	0.92	0.74	0.98	0.86	0.86	0.71
EL DORADO, AR	0.917	0.954	0.854	0.83	0.96	0.92	0.69	0.75	0.88	0.85	0.91	0.97	0.90	0.88	0.82	0.82	1.07	0.77	0.78	1.00	0.86	1.02	0.87	0.69	0.74	0.65	0.76
FAYETTEVILLE, AR	0.917	0.954	0.854	0.92	1.09	1.14	0.83	0.92	0.84	0.70	1.01	1.01	0.92	0.89	0.86	0.89	1.12	0.63	0.76	1.11	0.86	1.13	0.95	0.69	0.74	0.65	0.76
HARRISON, AR	0.917	0.954	0.854	0.88	0.97	1.08	0.89	0.79	0.81	0.88	0.92	1.00	0.86	0.98	0.87	0.78	0.93	0.63	0.80	0.95	0.86	0.98	0.89	0.69	0.74	0.65	0.76
HOT SPRINGS, AR	0.917	0.954	0.854	0.83	0.96	0.92	0.69	0.75	0.88	0.85	0.91	0.97	0.90	0.88	0.82	0.82	1.07	0.77	0.78	1.00	0.86	1.02	0.87	0.69	0.74	0.65	0.76
JONESBORO, AR	0.917	0.954	0.854	0.88	0.97	1.08	0.89	0.79	0.81	0.88	0.92	1.00	0.86	0.98	0.87	0.78	0.93	0.63	0.80	0.95	0.86	0.98	0.89	0.69	0.74	0.65	0.76
LITTLE ROCK, AR	0.917	0.954	0.854	0.90	1.05	0.86	0.69	0.68	0.88	0.98	0.94	1.06	0.88	1.07	0.80	0.85	1.01	0.53	0.78	1.19	0.90	1.14	0.88	0.73	0.72	0.63	0.76
MENA, AR	0.917	0.954	0.854	0.83	0.96	0.92	0.69	0.75	0.88	0.85	0.91	0.97	0.90	0.88	0.82	0.82	1.07	0.77	0.78	1.00	0.86	1.02	0.87	0.69	0.74	0.65	0.76
MOUNTAIN HOME, AR	0.917	0.954	0.854	0.88	0.97	1.08	0.89	0.79	0.81	0.88	0.92	1.00	0.86	0.98	0.87	0.78	0.93	0.63	0.80	0.95	0.86	0.98	0.89	0.69	0.74	0.65	0.76
NORTH LITTLE ROCK, AR	0.917	0.954	0.854	0.83	0.96	0.92	0.69	0.75	0.99	0.85	0.91	0.97	0.90	0.88	0.82	0.82	1.07	0.77	0.78	1.00	0.86	1.02	0.87	0.68	0.73	0.67	0.80
PARAGOULD, AR	0.917	0.954	0.854	0.88	0.97	1.08	0.89	0.79	0.81	0.88	0.92	1.00	0.86	0.98	0.87	0.78	0.93	0.63	0.80	0.95	0.86	0.98	0.89	0.69	0.74	0.65	0.76
WALDRON, AR	0.917	0.954	0.854	0.92	1.09	1.14	0.83	0.92	0.81	0.70	1.01	1.01	0.92	0.89	0.86	0.89	1.12	0.63	0.76	1.11	0.90	1.13	0.95	0.73	0.72	0.63	0.76
BISBEE, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.88	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.86	0.94	0.85	0.73	0.91	0.93	0.75
CASA GRANDE, AZ	0.917	0.996	0.964	0.83	0.93	0.81	1.21	0.81	0.94	1.12	0.88	0.98	0.86	1.20	1.19	0.89	0.89	1.09	0.98	0.96	0.90	0.96	0.98	0.88	0.85	0.87	0.81
FLAGSTAFF, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.95	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.90	0.94	0.85	0.88	0.85	0.87	0.81
FORT HUACHUCA, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.88	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.86	0.94	0.85	0.73	0.91	0.93	0.75
GREEN VALLEY, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.88	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.86	0.94	0.85	0.73	0.91	0.93	0.75
KEARNEY, AZ	0.917	0.996	0.964	0.83	0.93	0.81	1.21	0.81	0.94	1.12	0.88	0.98	0.86	1.20	1.19	0.89	0.89	1.09	0.98	0.96	0.90	0.96	0.98	0.88	0.85	0.87	0.81
KINGMAN, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.95	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.90	0.94	0.85	0.88	0.85	0.87	0.81
MARANA, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.88	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.86	0.94	0.85	0.73	0.91	0.93	0.75
MESA, AZ	0.917	0.996	0.964	0.83	0.93	0.81	1.21	0.81	0.94	1.12	0.88	0.98	0.86	1.20	1.19	0.89	0.89	1.09	0.98	0.96	0.90	0.96	0.98	0.88	0.85	0.87	0.81
NOGALES, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.88	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.86	0.94	0.85	0.73	0.91	0.93	0.75

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																							
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
PHOENIX, AZ	0.917	0.996	0.964	0.98	1.03	0.86	0.79	0.81	1.00	1.07	1.01	1.09	0.94	1.06	1.03	0.98	1.05	1.05	0.99	0.84	0.94	0.97	1.11	0.83	0.87	0.90	0.69
PRESCOTT, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.88	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.86	0.94	0.85	0.73	0.91	0.93	0.75
SAFFORD, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.88	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.86	0.94	0.85	0.73	0.91	0.93	0.75
SHOW LOW, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.95	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.90	0.94	0.85	0.88	0.85	0.87	0.81
SIERRA VISTA, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.88	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.86	0.94	0.85	0.73	0.91	0.93	0.75
SUN CITY, AZ	0.917	0.996	0.964	0.83	0.93	0.81	1.21	0.81	0.94	1.12	0.88	0.98	0.86	1.20	1.19	0.89	0.89	1.09	0.98	0.96	0.90	0.96	0.98	0.88	0.85	0.87	0.81
TUCSON, AZ	0.917	0.996	0.964	0.90	0.95	0.85	0.86	0.75	0.88	0.95	0.86	0.95	0.80	1.00	0.94	0.97	0.82	0.98	0.83	0.97	0.86	0.94	0.85	0.73	0.91	0.93	0.75
YUMA, AZ	0.917	0.996	0.964	0.83	0.93	0.81	1.21	0.81	0.94	1.12	0.88	0.98	0.86	1.20	1.19	0.89	0.89	1.09	0.98	0.96	0.90	0.96	0.98	0.88	0.85	0.87	0.81
ANAHEIM, CA	0.917	1.037	1.198	1.07	1.06	0.97	0.92	0.89	1.03	0.95	1.07	1.02	0.85	1.04	0.97	1.04	1.04	1.05	0.86	1.15	1.01	1.24	1.05	1.08	0.90	0.96	0.98
ANTELOPE VALLEY, CA	0.917	1.056	1.203	0.80	0.84	0.81	0.86	0.82	0.98	0.88	0.90	0.83	0.78	0.80	0.76	0.98	1.01	0.88	0.74	1.18	1.00	0.99	0.87	1.26	0.94	0.97	0.91
AUBURN, CA	0.917	1.009	1.046	0.82	0.87	0.84	0.82	1.01	0.95	0.98	0.91	0.98	0.84	0.85	0.76	1.00	1.09	0.95	0.83	0.95	0.86	0.97	0.96	0.84	0.85	0.77	0.89
BAKERSFIELD, CA	0.917	1.009	1.046	0.91	0.96	0.98	0.99	1.13	1.07	1.06	0.97	1.00	1.03	0.97	0.87	1.07	1.04	0.98	0.92	0.99	0.94	1.10	0.84	0.88	0.74	0.79	0.83
BERKELEY, CA	0.917	1.041	1.206	0.94	0.95	0.80	0.78	0.89	0.86	0.94	0.98	0.99	0.85	1.02	0.99	1.12	0.95	1.06	0.83	0.92	0.90	1.08	0.96	1.06	0.89	0.91	0.86
CHICO, CA	0.917	1.009	1.046	0.82	0.87	0.84	0.82	1.01	0.95	0.98	0.91	0.98	0.84	0.85	0.76	1.00	1.09	0.95	0.83	0.95	0.86	0.97	0.96	0.95	0.77	0.84	0.77
CHULA VISTA, CA	0.917	1.009	1.046	0.96	1.02	1.22	0.99	0.88	0.90	1.06	1.11	0.97	0.99	1.03	0.93	1.15	1.09	0.91	0.84	1.15	1.00	1.16	1.01	1.03	0.93	0.91	0.86
CONCORD, CA	0.917	1.041	1.206	0.93	0.92	0.93	0.82	0.79	0.90	1.13	0.93	0.95	0.91	1.01	1.01	1.04	0.89	1.06	1.03	0.90	0.90	1.03	1.09	1.06	0.89	0.91	0.86
CRESCENT CITY, CA	0.917	1.009	1.046	0.90	0.90	0.81	0.97	1.00	1.00	0.97	0.96	0.90	0.78	0.83	0.92	1.01	0.97	0.90	0.81	1.01	0.86	0.93	0.88	0.95	0.77	0.84	0.77
CULVER CITY, CA	0.917	1.056	1.203	1.10	1.11	1.00	1.00	1.33	1.13	0.92	1.20	1.10	1.01	1.04	1.04	1.44	1.13	1.12	0.94	1.12	1.06	1.36	1.07	1.08	1.17	1.17	1.06
EAST LOS ANGELES, CA	0.917	1.056	1.203	1.21	1.19	1.37	1.10	1.49	1.30	1.06	1.21	1.26	1.09	1.01	1.10	1.47	1.28	1.02	0.92	1.26	1.10	1.49	1.12	1.30	1.17	1.23	0.94
EDWARDS, CA	0.917	1.009	1.046	0.87	0.92	0.93	0.99	0.93	1.09	0.95	0.97	0.92	0.88	0.90	0.84	1.06	1.16	0.97	0.80	1.27	1.11	1.07	0.87	1.26	1.03	1.07	1.01
EL CENTRO, CA	0.917	1.009	1.046	0.91	0.96	1.16	0.82	0.85	0.91	0.95	0.96	1.07	1.00	1.01	1.13	1.00	1.16	1.15	0.84	1.08	1.00	1.15	0.88	1.03	0.93	0.91	0.86
EUREKA, CA	0.917	1.009	1.046	0.90	0.90	0.81	0.97	1.00	1.00	0.97	0.96	0.90	0.78	0.83	0.92	1.01	0.97	0.90	0.81	1.01	0.86	0.93	0.88	0.95	0.77	0.84	0.77
FRESNO, CA	0.917	1.009	1.046	0.95	1.02	1.01	0.99	1.16	1.03	0.94	1.02	1.08	0.93	1.04	1.06	1.09	1.11	1.15	0.99	0.99	0.87	1.17	0.99	0.86	0.70	0.73	0.70
GARDENA, CA	0.917	1.056	1.203	1.10	1.11	1.00	1.00	1.33	1.13	0.92	1.20	1.10	1.01	1.04	1.04	1.44	1.13	1.12	0.94	1.12	1.06	1.36	1.07	1.08	1.17	1.17	1.06
HAYWARD, CA	0.917	1.041	1.206	0.93	0.92	0.93	0.82	0.79	0.90	1.13	0.93	0.95	0.91	1.01	1.01	1.04	0.89	1.06	1.03	0.90	0.90	1.03	1.09	1.06	0.89	0.91	0.86
HEMET, CA	0.917	1.009	1.046	0.94	0.97	1.18	0.94	1.30	1.03	1.01	0.99	1.01	0.98	0.97	0.86	0.99	0.98	0.90	1.03	1.26	0.96	1.14	0.97	0.92	0.81	0.88	0.82
HOLLYWOOD, CA	0.917	1.056	1.203	1.21	1.19	1.37	1.10	1.49	1.30	1.06	1.21	1.26	1.09	1.01	1.10	1.47	1.28	1.02	0.92	1.26	1.10	1.49	1.12	1.30	1.17	1.23	0.94
INDIO, CA	0.917	1.009	1.046	0.91	0.96	1.16	0.82	0.85	0.91	0.95	0.96	1.07	1.00	1.01	1.13	1.00	1.16	1.15	0.84	1.08	1.00	1.15	0.88	1.03	0.93	0.91	0.86
INGLEWOOD, CA	0.917	1.056	1.203	1.00	1.00	0.89	0.86	0.94	1.10	0.97	1.07	1.04	0.94	1.05	1.08	1.23	1.21	1.05	1.05	1.11	1.07	1.20	0.98	1.08	1.17	1.17	1.06
IRVINE, CA	0.917	1.037	1.198	1.07	1.06	0.97	0.92	0.89	1.03	0.95	1.07	1.02	0.85	1.04	0.97	1.04	1.04	1.05	0.86	1.15	1.01	1.24	1.05	1.08	0.90	0.96	0.98
LAGUNA NIGUEL, CA	0.917	1.037	1.198	1.03	1.00	1.04	0.82	0.85	1.01	0.96	1.04	1.06	0.91	0.99	0.85	1.05	1.07	1.02	1.16	1.02	1.01	1.10	1.03	1.08	0.90	0.96	0.98
LANCASTER, CA	0.917	1.056	1.203	0.80	0.84	0.81	0.86	0.82	0.98	0.88	0.90	0.83	0.78	0.80	0.76	0.98	1.01	0.88	0.74	1.18	1.00	0.99	0.87	1.26	0.94	0.97	0.91
LIVERMORE, CA	0.917	1.041	1.206	0.93	0.92	0.93	0.82	0.79	0.90	1.13	0.93	0.95	0.91	1.01	1.01	1.04	0.89	1.06	1.03	0.90	0.90	1.03	1.09	1.06	0.89	0.91	0.86
LOMA LINDA, CA	0.917	1.009	1.046	0.94	0.97	1.18	0.94	1.30	1.03	1.01	0.99	1.01	0.98	0.97	0.86	0.99	0.98	0.90	1.03	1.26	0.96	1.14	0.97	0.92	0.81	0.88	0.82
LOMPOC, CA	0.917	1.009	1.046	0.87	0.92	0.93	0.99	0.93	1.04	0.95	0.97	0.92	0.88	0.90	0.84	1.06	1.16	0.97	0.80	1.27	0.94	1.07	0.87	0.88	0.74	0.79	0.83
LONG BEACH, CA	0.917	1.056	1.203	1.00	1.00	0.89	0.86	0.94	1.08	0.97	1.07	1.04	0.94	1.05	1.08	1.23	1.21	1.05	1.05	1.11	0.95	1.20	0.98	0.99	0.84	0.89	0.84
LOS ANGELES, CA	0.917	1.056	1.203	1.21	1.19	1.37	1.10	1.49	1.30	1.06	1.21	1.26	1.09	1.01	1.10	1.47	1.28	1.02	0.92	1.26	1.10	1.49	1.12	1.30	1.17	1.23	0.94
MARE ISLAND, CA	0.917	1.015	1.171	0.95	0.95	0.95	0.85	0.81	0.93	1.16	0.95	0.98	0.93	1.04	1.04	1.06	0.92	1.09	1.06	0.92	0.92	1.06	1.09	1.06	0.91	0.93	0.88
MARINA, CA	0.917	1.009	1.046	0.95	1.02	1.01	0.99	1.16	1.03	0.94	1.02	1.08	0.93	1.04	1.06	1.09	1.11	1.15	0.99	0.99	0.93	1.17	0.99	1.02	0.83	0.87	0.95
MARTINEZ, CA	0.917	1.041	1.206	0.93	0.92	0.93	0.82	0.79	0.90	1.13	0.93	0.95	0.91	1.01	1.01	1.04	0.89	1.06	1.03	0.90	0.90	1.03	1.09	1.06	0.89	0.91	0.86
MATHER AFB, CA	0.917	1.009	1.046	0.82	0.87	0.84	0.82	1.01	0.95	0.98	0.91	0.98	0.84	0.85	0.76	1.00	1.09	0.95	0.83	0.95	0.86	0.97	0.96	0.84	0.85	0.77	0.89
MENLO PARK, CA	0.917	1.048	1.287	0.90	1.01	0.80	0.91	0.94	0.91	0.83	1.00	0.89	0.85	0.89	0.89	1.19	1.00	1.27	0.88	0.84	0.90	0.99	1.00	1.07	0.99	0.97	0.92
MERCED, CA	0.917	1.009	1.046	0.96	0.90	0.89	0.77	0.91	1.06	0.95	0.94	0.97	1.07	0.96	0.85	1.08	1.11	0.96	1.03	0.92	0.93	0.94	1.01	1.02	0.83	0.87	0.95

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																							
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
MODESTO, CA	0.917	1.009	1.046	0.95	0.90	0.89	0.77	0.91	1.06	0.95	0.94	0.97	1.07	0.96	0.85	1.08	1.11	0.96	1.03	0.92	0.93	0.94	1.01	1.02	0.83	0.87	0.95
MONTEREY, CA	0.917	1.009	1.046	0.95	1.02	1.01	0.99	1.16	1.03	0.94	1.02	1.08	0.93	1.04	1.06	1.09	1.11	1.15	0.99	0.99	0.93	1.17	0.99	1.02	0.83	0.87	0.95
OAKLAND, CA	0.917	1.041	1.206	0.94	0.95	0.80	0.78	0.89	0.91	0.94	0.98	0.99	0.85	1.02	0.99	1.12	0.95	1.06	0.83	0.92	0.94	1.08	0.96	1.07	1.02	1.00	0.95
OXNARD, CA	0.917	1.028	1.162	0.87	0.91	0.88	0.89	1.03	1.00	1.01	0.92	0.94	0.94	0.89	0.81	1.02	0.95	0.91	0.87	0.95	0.93	1.05	0.84	0.99	0.88	0.89	0.84
PALM SPRINGS, CA	0.917	1.009	1.046	0.91	0.96	1.16	0.82	0.85	0.91	0.95	0.96	1.07	1.00	1.01	1.13	1.00	1.16	1.15	0.84	1.08	1.00	1.15	0.88	1.03	0.93	0.91	0.86
PALO ALTO, CA	0.917	1.063	1.276	1.40	1.27	1.17	0.82	0.79	1.09	1.00	1.31	1.09	0.92	0.80	1.05	1.77	1.22	1.27	0.91	1.05	1.05	1.15	1.19	1.15	1.04	1.03	1.05
PASADENA, CA	0.917	1.056	1.203	1.00	0.99	0.76	0.96	0.81	0.94	1.00	1.01	1.02	1.02	0.96	0.91	1.10	1.04	1.14	0.77	1.03	0.98	1.28	1.04	0.99	0.96	1.03	0.89
PLEASANT HILL, CA	0.917	1.041	1.206	0.93	0.92	0.93	0.82	0.79	0.90	1.13	0.93	0.95	0.91	1.01	1.01	1.04	0.89	1.06	1.03	0.90	0.90	1.03	1.09	1.06	0.89	0.91	0.86
REDDING, CA	0.917	1.009	1.046	0.90	0.90	0.81	0.97	1.00	1.00	0.97	0.96	0.90	0.78	0.83	0.92	1.01	0.97	0.90	0.81	1.01	0.86	0.93	0.88	0.95	0.77	0.84	0.77
REDWOOD CITY, CA	0.917	1.048	1.287	0.90	1.01	0.80	0.91	0.94	0.91	0.83	1.00	0.89	0.85	0.89	0.89	1.19	1.00	1.27	0.88	0.84	0.90	0.99	1.00	1.07	0.99	0.97	0.92
RIVERSIDE, CA	0.917	1.009	1.046	0.94	0.97	1.18	0.94	1.30	1.03	1.01	0.99	1.01	0.98	0.97	0.86	0.99	0.98	0.90	1.03	1.26	0.96	1.14	0.97	0.92	0.81	0.88	0.82
ROHNERT PARK, CA	0.917	1.009	1.046	1.00	1.03	0.91	0.89	1.01	0.95	1.01	1.05	1.08	0.95	1.14	1.08	1.20	1.07	1.15	0.89	0.98	0.97	1.15	0.96	1.06	0.95	0.98	0.93
SACRAMENTO, CA	0.917	1.009	1.046	0.97	0.89	0.91	0.72	1.14	0.97	1.05	0.94	0.94	0.91	0.98	0.71	0.97	1.00	0.96	0.95	0.88	0.87	1.23	1.32	0.83	0.79	0.82	0.78
SAN BERNARDINO, CA	0.917	1.009	1.046	0.91	0.96	1.16	0.82	0.85	0.98	0.95	0.96	1.07	1.00	1.01	1.13	1.00	1.16	1.15	0.84	1.08	0.96	1.15	0.88	0.92	0.81	0.88	0.82
SAN DIEGO, CA	0.917	1.009	1.046	1.11	0.98	0.98	1.06	0.84	0.85	1.14	1.00	1.07	0.93	0.84	0.84	1.06	1.11	0.96	0.90	1.18	1.00	1.35	0.93	1.03	0.93	0.91	0.86
SAN FRANCISCO, CA	0.917	1.068	1.315	1.22	1.04	1.17	0.88	0.83	0.92	1.19	1.19	0.94	0.83	0.89	0.85	1.22	0.91	1.03	0.93	1.09	1.03	1.03	1.10	1.15	1.03	1.02	1.03
SAN JOSE, CA	0.917	1.063	1.276	0.97	0.94	0.85	0.64	1.11	0.95	0.93	0.92	0.93	0.92	1.00	0.90	1.08	1.06	1.04	0.87	1.29	0.90	1.01	1.25	1.00	0.86	0.85	0.86
SAN LUIS OBISPO, CA	0.917	1.009	1.046	0.87	0.92	0.93	0.99	0.93	1.04	0.95	0.97	0.92	0.88	0.90	0.84	1.06	1.16	0.97	0.80	1.27	0.94	1.07	0.87	0.88	0.74	0.79	0.83
SANTA ANA, CA	0.917	1.037	1.198	1.07	1.06	0.97	0.92	0.89	1.03	0.95	1.07	1.02	0.85	1.04	0.97	1.04	1.04	1.05	0.86	1.15	1.01	1.24	1.05	1.08	0.90	0.96	0.98
SANTA BARBARA, CA	0.917	1.009	1.046	1.04	1.15	1.06	0.99	1.27	1.08	1.11	1.12	0.99	1.10	1.06	0.92	1.03	1.28	1.08	0.95	1.09	0.99	1.30	1.15	0.99	0.93	0.94	0.89
SANTA ROSA, CA	0.917	1.009	1.046	0.89	0.93	0.86	0.77	1.22	0.86	1.01	0.92	0.88	0.91	0.87	1.34	0.98	1.12	1.11	0.80	0.90	0.87	0.82	0.96	0.95	0.77	0.84	0.77
SEPULVEDA, CA	0.917	1.056	1.203	1.02	0.96	0.98	0.81	0.82	1.02	0.95	1.04	1.02	0.99	0.96	1.08	1.14	0.91	0.94	0.91	1.13	1.00	1.39	1.17	1.26	0.94	0.97	0.91
STOCKTON, CA	0.917	1.009	1.046	0.96	0.90	0.89	0.77	0.91	1.06	0.95	0.94	0.97	1.07	0.96	0.85	1.08	1.11	0.96	1.03	0.92	0.93	0.94	1.01	1.02	0.83	0.87	0.95
SUN CITY, CA	0.917	1.009	1.046	0.94	0.97	1.18	0.94	1.30	1.03	1.01	0.99	1.01	0.98	0.97	0.86	0.99	0.98	0.90	1.03	1.26	0.96	1.14	0.97	0.92	0.81	0.88	0.82
TRAVIS AFB, CA	0.917	1.041	1.206	0.93	0.92	0.93	0.82	0.79	0.90	1.13	0.93	0.95	0.91	1.01	1.01	1.04	0.89	1.06	1.03	0.90	0.90	1.03	1.09	1.06	0.89	0.91	0.86
UPLAND, CA	0.917	1.009	1.046	1.07	1.06	1.14	1.11	1.21	0.98	1.00	1.11	1.21	1.08	1.05	0.99	1.06	1.13	1.00	1.10	1.24	1.08	1.25	1.17	0.99	1.05	1.13	0.99
VALLEJO, CA	0.917	1.015	1.171	0.95	0.95	0.95	0.85	0.81	0.93	1.16	0.95	0.98	0.93	1.04	1.04	1.06	0.92	1.09	1.06	0.92	0.92	1.06	1.09	1.06	0.91	0.93	0.88
VICTORVILLE, CA	0.917	1.009	1.046	0.94	0.97	1.18	0.94	1.30	1.03	1.01	0.99	1.01	0.98	0.97	0.86	0.99	0.98	0.90	1.03	1.26	0.96	1.14	0.97	0.92	0.81	0.88	0.82
VISALIA, CA	0.917	1.009	1.046	0.87	0.92	0.93	0.99	0.93	1.04	0.95	0.97	0.92	0.88	0.90	0.84	1.06	1.16	0.97	0.80	1.27	0.94	1.07	0.87	0.88	0.74	0.79	0.83
VISTA, CA	0.917	1.009	1.046	0.96	1.02	1.22	0.99	0.88	0.90	1.06	1.11	0.97	0.99	1.03	0.93	1.15	1.09	0.91	0.84	1.15	1.00	1.16	1.01	1.03	0.93	0.91	0.86
WEST COVINA, CA	0.917	1.056	1.203	0.99	0.97	0.99	0.96	1.06	0.88	0.92	1.02	1.09	0.95	0.94	0.90	0.98	0.99	0.90	1.01	1.15	0.98	1.15	1.17	0.99	0.96	1.03	0.89
WEST LOS ANGELES, CA	0.917	1.056	1.203	1.21	1.19	1.37	1.10	1.49	1.30	1.06	1.21	1.26	1.09	1.01	1.10	1.47	1.28	1.02	0.92	1.26	1.10	1.49	1.12	1.30	1.17	1.23	0.94
WEST RIVERSIDE, CA	0.917	1.009	1.046	0.94	0.97	1.18	0.94	1.30	1.03	1.01	0.99	1.01	0.98	0.97	0.86	0.99	0.98	0.90	1.03	1.26	0.96	1.14	0.97	0.92	0.81	0.88	0.82
WHITTIER, CA	0.917	1.056	1.203	1.00	1.00	0.89	0.86	0.94	1.08	0.97	1.07	1.04	0.94	1.05	1.08	1.23	1.21	1.05	1.05	1.11	0.95	1.20	0.98	0.99	0.84	0.89	0.84
YOUNTVILLE, CA	0.917	1.015	1.171	0.95	0.95	0.95	0.85	0.81	0.93	1.16	0.95	0.98	0.93	1.04	1.04	1.06	0.92	1.09	1.06	0.92	0.92	1.06	1.09	1.06	0.91	0.93	0.88
AURORA, CO	0.917	0.988	0.961	1.08	1.10	0.85	0.93	1.16	1.15	1.06	1.07	0.95	0.89	0.96	1.10	0.96	1.00	0.98	1.35	0.91	0.85	0.84	0.78	0.80	0.84	0.90	0.66
BOULDER, CO	0.917	0.988	0.961	0.99	1.07	0.97	0.95	0.84	1.13	0.88	1.00	0.89	0.88	0.93	1.12	0.90	0.87	0.90	0.88	0.95	0.76	0.82	0.78	0.79	0.91	0.92	0.63
COLORADO SPRINGS, CO	0.917	0.988	0.961	0.99	1.09	0.94	0.82	0.69	1.07	1.02	1.04	1.01	0.93	0.87	0.94	0.90	0.93	0.86	1.24	0.87	0.78	0.87	0.83	0.80	0.78	0.81	0.64
CORTEZ, CO	0.917	0.988	0.961	0.99	1.09	0.94	0.82	0.69	0.95	1.02	1.04	1.01	0.93	0.87	0.94	0.90	0.93	0.86	1.24	0.87	0.79	0.87	0.83	0.81	0.72	0.79	0.61
DENVER, CO	0.917	0.988	0.961	1.08	1.14	1.31	0.88	0.69	1.06	1.13	1.08	0.96	0.79	1.03	1.03	0.99	0.96	0.98	1.36	0.95	0.83	0.76	0.76	0.84	0.95	0.94	0.67
FITZSIMONS ARMY MC, CO	0.917	0.988	0.961	1.08	1.10	0.85	0.93	1.16	1.15	1.06	1.07	0.95	0.89	0.96	1.10	0.96	1.00	0.98	1.35	0.91	0.85	0.84	0.78	0.80	0.84	0.90	0.66
FLORENCE, CO	0.917	0.988	0.961	0.91	0.93	0.90	0.82	0.76	0.84	0.87	0.95	0.83	0.91	0.97	0.87	0.83	0.96	0.88	0.94	0.96	0.79	0.75	0.87	0.81	0.72	0.79	0.61
FORT CARSON, CO	0.917	0.988	0.961	0.99	1.09	0.94	0.82	0.69	1.07	1.02	1.04	1.01	0.93	0.87	0.94	0.90	0.93	0.86	1.24	0.87	0.78	0.87	0.83	0.80	0.78	0.81	0.64

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																							
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
FORT COLLINS, CO	0.917	0.988	0.961	0.99	1.07	0.97	0.95	0.84	1.13	0.88	1.00	0.89	0.88	0.93	1.12	0.90	0.87	0.90	0.88	0.95	0.76	0.82	0.78	0.79	0.91	0.92	0.63
FORT LYON, CO	0.917	0.988	0.961	0.99	1.09	0.94	0.82	0.69	0.95	1.02	1.04	1.01	0.93	0.87	0.94	0.90	0.93	0.86	1.24	0.87	0.79	0.87	0.83	0.81	0.72	0.79	0.61
FORT MORGAN, CO	0.917	0.988	0.961	0.91	0.93	0.90	0.82	0.76	1.09	0.87	0.95	0.83	0.91	0.97	0.87	0.83	0.96	0.88	0.94	0.96	0.76	0.75	0.87	0.79	0.91	0.92	0.63
GRAND JUNCTION, CO	0.917	0.988	0.961	0.91	0.93	0.90	0.82	0.76	0.84	0.87	0.95	0.83	0.91	0.97	0.87	0.83	0.96	0.88	0.94	0.96	0.79	0.75	0.87	0.81	0.72	0.79	0.61
GREELEY, CO	0.917	0.988	0.961	0.99	1.07	0.97	0.95	0.84	1.01	0.88	1.00	0.89	0.88	0.93	1.12	0.90	0.87	0.90	0.88	0.95	0.78	0.82	0.78	0.83	0.87	0.98	0.66
LA JUNTA, CO	0.917	0.988	0.961	0.99	1.09	0.94	0.82	0.69	0.95	1.02	1.04	1.01	0.93	0.87	0.94	0.90	0.93	0.86	1.24	0.87	0.79	0.87	0.83	0.81	0.72	0.79	0.61
MONTROSE, CO	0.917	0.988	0.961	0.91	0.93	0.90	0.82	0.76	0.84	0.87	0.95	0.83	0.91	0.97	0.87	0.83	0.96	0.88	0.94	0.96	0.79	0.75	0.87	0.81	0.72	0.79	0.61
PUEBLO, CO	0.917	0.988	0.961	0.99	1.09	0.94	0.82	0.69	0.95	1.02	1.04	1.01	0.93	0.87	0.94	0.90	0.93	0.86	1.24	0.87	0.79	0.87	0.83	0.81	0.72	0.79	0.61
BRIDGEPORT, CT	0.917	1.050	1.182	1.02	1.04	0.68	0.86	1.03	0.97	0.93	0.98	1.03	0.90	0.64	0.96	1.17	1.08	1.12	0.92	0.96	1.02	1.35	0.99	1.26	1.16	1.05	0.87
DANBURY, CT	0.917	1.050	1.182	1.01	1.09	1.01	0.90	1.19	0.96	1.15	1.04	1.01	0.84	0.95	1.02	1.19	0.95	1.17	1.00	1.03	1.18	1.13	1.02	1.36	1.39	1.24	1.08
HARTFORD, CT	0.917	1.050	1.182	0.88	1.02	0.92	0.92	0.91	0.96	0.84	0.91	0.97	0.88	0.73	0.89	1.07	0.89	1.11	0.84	0.99	0.96	1.16	1.01	1.46	1.09	1.01	0.89
NEW HAVEN, CT	0.917	1.050	1.182	1.02	1.04	0.68	0.86	1.03	1.05	0.93	0.98	1.03	0.90	0.64	0.96	1.17	1.08	1.12	0.92	0.96	1.18	1.35	0.99	1.36	1.39	1.24	1.08
NEW LONDON, CT	0.917	1.050	1.182	0.80	0.96	0.70	1.10	1.05	0.90	0.83	0.92	0.94	0.82	0.65	0.82	1.09	0.86	0.95	0.98	0.99	1.01	0.97	0.97	1.26	1.16	1.05	0.87
NEWINGTON, CT	0.917	1.050	1.182	0.88	1.02	0.92	0.92	0.91	0.96	0.84	0.91	0.97	0.88	0.73	0.89	1.07	0.89	1.11	0.84	0.99	0.96	1.16	1.01	1.46	1.09	1.01	0.89
NORWICH, CT	0.917	1.050	1.182	0.80	0.96	0.70	1.10	1.05	0.90	0.83	0.92	0.94	0.82	0.65	0.82	1.09	0.86	0.95	0.98	0.99	1.01	0.97	0.97	1.26	1.16	1.05	0.87
TORRINGTON, CT	0.917	1.050	1.182	0.80	0.96	0.70	1.10	1.05	0.90	0.83	0.92	0.94	0.82	0.65	0.82	1.09	0.86	0.95	0.98	0.99	1.01	0.97	0.97	1.26	1.16	1.05	0.87
WATERBURY, CT	0.917	1.050	1.182	0.80	0.96	0.70	1.10	1.05	0.90	0.83	0.92	0.94	0.82	0.65	0.82	1.09	0.86	0.95	0.98	0.99	1.01	0.97	0.97	1.26	1.16	1.05	0.87
WEST HAVEN, CT	0.917	1.050	1.182	1.02	1.04	0.68	0.86	1.03	1.05	0.93	0.98	1.03	0.90	0.64	0.96	1.17	1.08	1.12	0.92	0.96	1.18	1.35	0.99	1.36	1.39	1.24	1.08
WILLIMANTIC, CT	0.917	1.050	1.182	0.80	0.96	0.70	1.10	1.05	0.90	0.83	0.92	0.94	0.82	0.65	0.82	1.09	0.86	0.95	0.98	0.99	1.01	0.97	0.97	1.26	1.16	1.05	0.87
WINDHAM, CT	0.917	1.050	1.182	0.80	0.96	0.70	1.10	1.05	0.90	0.83	0.92	0.94	0.82	0.65	0.82	1.09	0.86	0.95	0.98	0.99	1.01	0.97	0.97	1.26	1.16	1.05	0.87
WASHINGTON, DC	0.917	1.051	1.177	1.16	1.18	1.12	0.95	0.78	1.08	1.01	1.11	1.11	1.04	0.97	1.03	1.11	0.80	1.03	1.19	1.15	1.06	0.97	1.13	1.21	1.31	1.19	1.11
DOVER AFB, DE	0.917	1.020	1.030	1.09	0.97	1.16	0.77	0.63	0.96	1.18	1.00	1.13	1.06	0.89	0.91	0.78	1.28	0.88	0.74	0.97	1.06	1.01	0.97	1.06	0.94	0.96	1.24
MILLSBORO, DE	0.917	1.020	1.030	1.09	0.97	1.16	0.77	0.63	0.96	1.18	1.00	1.13	1.06	0.89	0.91	0.78	1.28	0.88	0.74	0.97	1.06	1.01	0.97	1.06	0.94	0.96	1.24
NEW CASTLE, DE	0.917	1.020	1.030	1.09	0.97	1.16	0.77	0.63	0.96	1.18	1.00	1.13	1.06	0.89	0.91	0.78	1.28	0.88	0.74	0.97	1.06	1.01	0.97	1.06	0.94	0.96	1.24
OCEAN VIEW, DE	0.917	1.020	1.030	1.09	0.97	1.16	0.77	0.63	0.96	1.18	1.00	1.13	1.06	0.89	0.91	0.78	1.28	0.88	0.74	0.97	1.06	1.01	0.97	1.06	0.94	0.96	1.24
REHOBOTH, DE	0.917	1.020	1.030	1.09	0.97	1.16	0.77	0.63	0.96	1.18	1.00	1.13	1.06	0.89	0.91	0.78	1.28	0.88	0.74	0.97	1.06	1.01	0.97	1.06	0.94	0.96	1.24
SEAFORD, DE	0.917	1.020	1.030	1.09	0.97	1.16	0.77	0.63	0.96	1.18	1.00	1.13	1.06	0.89	0.91	0.78	1.28	0.88	0.74	0.97	1.06	1.01	0.97	1.06	0.94	0.96	1.24
WILMINGTON. DE	0.917	1.020	1.030	1.09	0.97	1.16	0.77	0.63	0.96	1.18	1.00	1.13	1.06	0.89	0.91	0.78	1.28	0.88	0.74	0.97	1.05	1.01	0.97	0.95	0.92	0.87	1.07
ARCADIA, FL	0.917	0.976	0.946	0.98	0.91	1.04	1.21	0.94	0.87	1.17	0.93	1.05	1.02	0.93	0.83	0.91	1.01	0.70	0.79	1.05	0.90	0.91	0.84	0.91	0.92	0.91	0.90
BARTOW, FL	0.917	0.976	0.946	0.98	0.91	1.04	1.21	0.94	0.87	1.17	0.93	1.05	1.02	0.93	0.83	0.91	1.01	0.70	0.79	1.05	0.90	0.91	0.84	0.91	0.92	0.91	0.90
BAY PINES, FL	0.917	0.976	0.946	0.86	0.87	0.91	0.97	0.89	0.84	1.22	0.88	1.02	0.86	0.96	0.94	0.85	0.81	0.88	0.81	1.05	0.91	0.99	0.77	1.04	0.95	0.92	0.80
BROOKSVILLE, FL	0.917	0.976	0.946	0.86	0.87	0.91	0.97	0.89	0.84	1.22	0.88	1.02	0.86	0.96	0.94	0.85	0.81	0.88	0.81	1.05	0.88	0.99	0.77	1.05	0.95	0.99	0.83
CECIL FIELD, FL	0.917	0.976	0.946	0.94	0.98	1.38	0.97	1.06	1.01	0.99	1.09	1.03	1.07	0.99	1.52	1.15	0.99	1.16	0.87	1.12	0.98	1.05	1.04	1.04	0.86	0.85	0.76
CLEARWATER, FL	0.917	0.976	0.946	0.86	0.87	0.91	0.97	0.89	0.84	1.22	0.88	1.02	0.86	0.96	0.94	0.85	0.81	0.88	0.81	1.05	0.88	0.99	0.77	1.05	0.95	0.99	0.83
DAYTONA BEACH, FL	0.917	0.976	0.946	0.90	0.88	0.96	0.97	1.08	0.82	1.12	0.89	0.81	0.90	0.92	1.53	0.91	0.97	1.14	0.82	1.08	0.88	0.86	0.77	0.96	0.80	0.80	0.76
EAST PASCO COUNTY, FL	0.917	0.976	0.946	0.86	0.87	0.91	0.97	0.89	0.84	1.22	0.88	1.02	0.86	0.96	0.94	0.85	0.81	0.88	0.81	1.05	0.88	0.99	0.77	1.05	0.95	0.99	0.83
FORT LAUDERDALE, FL	0.917	0.997	1.031	1.17	1.01	1.05	1.28	1.50	0.84	1.35	1.00	1.10	1.05	1.09	1.10	0.99	0.86	0.85	1.12	1.22	0.99	0.96	0.99	1.18	1.09	1.08	1.06
FORT MYERS, FL	0.917	0.997	1.031	0.88	0.88	0.75	0.95	0.91	0.82	0.83	0.88	0.95	0.87	0.97	0.82	0.94	0.82	0.84	0.81	0.97	0.86	0.97	0.77	1.18	0.84	0.87	0.84
FORT PIERCE, FL	0.917	0.976	0.946	0.98	0.91	1.04	1.21	0.94	0.82	1.17	0.93	1.05	1.02	0.93	0.83	0.91	1.01	0.70	0.79	1.05	0.97	0.91	0.84	1.13	0.91	0.91	0.83
FORT WALTON BEACH, FL	0.917	0.976	0.946	0.90	0.95	0.99	0.92	1.17	0.71	1.37	0.92	0.92	0.83	0.97	0.94	0.87	0.85	0.96	0.74	0.91	0.86	0.79	0.88	0.95	0.76	0.73	0.72
GAINESVILLE, FL	0.917	0.976	0.946	0.90	0.88	0.96	0.97	1.08	0.94	1.12	0.89	0.81	0.90	0.92	1.53	0.91	0.97	1.14	0.82	1.08	0.84	0.86	0.77	1.01	0.84	0.88	0.70
HOMESTEAD, FL	0.917	1.016	1.082	1.09	0.97	1.05	1.48	1.62	0.91	1.20	0.98	1.06	1.07	1.06	1.19	1.10	0.98	0.81	0.96	1.27	0.93	0.93	1.13	1.27	1.01	1.04	0.82
JACKSONVILLE, FL	0.917	0.976	0.946	0.94	0.98	1.38	0.97	1.06	1.01	0.99	1.09	1.03	1.07	0.99	1.52	1.15	0.99	1.16	0.87	1.12	0.98	1.05	1.04	1.04	0.86	0.85	0.76

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																							
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
KEY LARGO, FL	0.917	1.016	1.082	1.09	0.97	1.05	1.48	1.62	0.91	1.20	0.98	1.06	1.07	1.06	1.19	1.10	0.98	0.81	0.96	1.27	0.93	0.93	1.13	1.27	1.01	1.04	0.82
KEY WEST, FL	0.917	1.016	1.082	1.09	0.97	1.05	1.48	1.62	0.91	1.20	0.98	1.06	1.07	1.06	1.19	1.10	0.98	0.81	0.96	1.27	0.93	0.93	1.13	1.27	1.01	1.04	0.82
KISSIMMEE, FL	0.917	0.976	0.946	0.93	0.95	1.02	1.36	1.41	0.91	0.96	0.92	1.00	1.00	0.99	1.02	0.98	0.89	0.84	0.84	0.95	0.90	1.03	0.88	0.91	0.92	0.91	0.90
LAKE CITY, FL	0.917	0.976	0.946	0.93	0.91	1.37	0.74	1.00	0.77	1.00	0.93	1.05	0.97	0.97	1.29	0.92	1.09	1.14	0.85	0.98	0.89	0.88	0.86	0.96	0.80	0.80	0.76
LAKE WALES, FL	0.917	0.976	0.946	0.98	0.91	1.04	1.21	0.94	0.87	1.17	0.93	1.05	1.02	0.93	0.83	0.91	1.01	0.70	0.79	1.05	0.90	0.91	0.84	0.91	0.92	0.91	0.90
LAKELAND, FL	0.917	0.976	0.946	0.98	0.91	1.04	1.21	0.94	0.87	1.17	0.93	1.05	1.02	0.93	0.83	0.91	1.01	0.70	0.79	1.05	0.90	0.91	0.84	0.91	0.92	0.91	0.90
LEESBURG, FL	0.917	0.976	0.946	0.93	0.95	1.02	1.36	1.41	0.91	0.96	0.92	1.00	1.00	0.99	1.02	0.98	0.89	0.84	0.84	0.95	0.90	1.03	0.88	0.91	0.92	0.91	0.90
MANATEE COUNTY, FL	0.917	0.976	0.946	0.83	0.90	0.80	0.92	1.08	0.81	0.91	0.87	1.01	0.94	1.04	0.80	0.84	0.78	0.87	0.86	0.96	0.88	0.96	0.77	1.20	0.93	0.98	0.80
MIAMI, FL	0.917	1.016	1.082	1.36	1.15	1.14	1.08	1.15	1.09	1.18	1.12	1.07	1.10	1.18	1.26	1.11	1.05	1.00	0.95	1.45	1.03	1.20	1.09	1.22	1.10	1.15	0.85
NAPLES, FL	0.917	0.997	1.031	0.88	0.88	0.75	0.95	0.91	0.82	0.83	0.88	0.95	0.87	0.97	0.82	0.94	0.82	0.84	0.81	0.97	0.86	0.97	0.77	1.18	0.84	0.87	0.84
NORTH PINELLAS CO., FL	0.917	0.976	0.946	1.07	0.93	1.08	0.79	1.01	0.90	1.07	0.97	1.02	0.99	0.96	0.90	0.93	0.82	0.74	1.03	0.97	0.91	1.09	1.00	1.04	0.95	0.92	0.80
OAKLAND PARK, FL	0.917	0.997	1.031	1.17	1.01	1.05	1.28	1.50	0.84	1.35	1.00	1.10	1.05	1.09	1.10	0.99	0.86	0.85	1.12	1.22	0.99	0.96	0.99	1.18	1.09	1.08	1.06
OCALA, FL	0.917	0.976	0.946	0.86	0.87	0.91	0.97	0.89	0.96	1.22	0.88	1.02	0.86	0.96	0.94	0.85	0.81	0.88	0.81	1.05	0.85	0.99	0.77	1.01	0.84	0.88	0.70
OKEECHOBEE CO., FL	0.917	0.976	0.946	0.98	0.91	1.04	1.21	0.94	0.82	1.17	0.93	1.05	1.02	0.93	0.83	0.91	1.01	0.70	0.79	1.05	0.97	0.91	0.84	1.13	0.91	0.91	0.83
ORLANDO, FL	0.917	0.976	0.946	1.06	1.01	0.97	1.09	0.93	0.98	1.09	0.98	0.96	1.10	0.98	1.06	1.00	0.99	1.03	0.81	1.00	1.01	0.95	0.88	1.17	0.98	0.97	0.96
PALM BAY, FL	0.917	0.976	0.946	0.93	0.95	1.02	1.36	1.41	0.86	0.96	0.92	1.00	1.00	0.99	1.02	0.98	0.89	0.84	0.84	0.95	0.97	1.03	0.88	1.13	0.91	0.91	0.83
PANAMA CITY, FL	0.917	0.976	0.946	0.90	0.92	0.89	1.14	0.95	0.80	0.92	0.92	0.90	0.97	1.00	1.29	0.87	0.81	1.10	0.84	0.93	0.88	0.91	0.87	0.98	0.84	0.82	0.84
PEMBROKE PINES, FL	0.917	0.997	1.031	1.14	1.02	1.14	1.61	1.72	0.97	1.25	1.02	1.12	1.15	1.12	1.25	1.14	1.06	0.85	0.99	1.33	1.00	0.98	1.13	1.27	1.08	1.12	0.89
PENSACOLA, FL	0.917	0.976	0.946	0.90	0.95	0.99	0.92	1.17	0.71	1.37	0.92	0.92	0.83	0.97	0.94	0.87	0.85	0.96	0.74	0.91	0.86	0.79	0.88	0.95	0.76	0.73	0.72
PORT CHARLOTTE, FL	0.917	0.976	0.946	0.93	0.93	0.84	1.07	0.99	0.89	0.88	0.93	1.01	0.95	1.05	0.88	0.98	0.91	0.90	0.85	1.02	0.93	1.03	0.77	1.18	0.91	0.95	0.92
PORT RICHEY, FL	0.917	0.976	0.946	0.86	0.87	0.91	0.97	0.89	0.84	1.22	0.88	1.02	0.86	0.96	0.94	0.85	0.81	0.88	0.81	1.05	0.88	0.99	0.77	1.05	0.95	0.99	0.83
PUTNAM COUNTY, FL	0.917	0.976	0.946	0.90	0.88	0.96	0.97	1.08	0.82	1.12	0.89	0.81	0.90	0.92	1.53	0.91	0.97	1.14	0.82	1.08	0.88	0.86	0.77	0.96	0.80	0.80	0.76
RIVIERA BEACH, FL	0.917	0.997	1.031	0.94	0.97	0.98	0.86	1.04	0.76	1.15	0.92	1.06	0.96	1.02	1.16	0.97	0.95	0.83	1.11	1.02	1.00	1.01	0.89	1.11	1.08	1.09	0.89
SAINT PETERSBURG, FL	0.917	0.976	0.946	1.07	0.93	1.08	0.79	1.01	0.90	1.07	0.97	1.02	0.99	0.96	0.90	0.93	0.82	0.74	1.03	0.97	0.91	1.09	1.00	1.04	0.95	0.92	0.80
SANFORD, FL	0.917	0.976	0.946	0.95	0.93	1.05	0.92	0.94	1.15	1.13	0.86	0.95	0.98	1.00	0.99	0.87	0.92	0.94	0.83	0.91	0.95	0.85	0.90	1.00	0.87	0.91	0.81
SARASOTA, FL	0.917	0.976	0.946	0.83	0.90	0.80	0.92	1.08	0.81	0.91	0.87	1.01	0.94	1.04	0.80	0.84	0.78	0.87	0.86	0.96	0.88	0.96	0.77	1.20	0.93	0.98	0.80
SOUTH PALM BEACH CO., FL	0.917	0.997	1.031	0.94	0.97	0.98	0.86	1.04	0.76	1.15	0.92	1.06	0.96	1.02	1.16	0.97	0.95	0.83	1.11	1.02	1.00	1.01	0.89	1.11	1.08	1.09	0.89
SOUTH SAINT PETERSBURG, FL	0.917	0.976	0.946	1.07	0.93	1.08	0.79	1.01	0.90	1.07	0.97	1.02	0.99	0.96	0.90	0.93	0.82	0.74	1.03	0.97	0.91	1.09	1.00	1.04	0.95	0.92	0.80
TALLAHASSEE, FL	0.917	0.976	0.946	0.90	0.92	0.89	1.14	0.95	0.80	0.92	0.92	0.90	0.97	1.00	1.29	0.87	0.81	1.10	0.84	0.93	0.88	0.91	0.87	0.98	0.84	0.82	0.84
TAMPA, FL	0.917	0.976	0.946	1.07	0.93	1.08	0.79	1.01	0.90	1.07	0.97	1.02	0.99	0.96	0.90	0.93	0.82	0.74	1.03	0.97	0.99	1.09	1.00	1.34	0.95	0.91	0.88
WEST PALM BEACH, FL	0.917	0.997	1.031	0.94	0.97	0.98	0.86	1.04	0.76	1.15	0.92	1.06	0.96	1.02	1.16	0.97	0.95	0.83	1.11	1.02	1.00	1.01	0.89	1.11	1.08	1.09	0.89
ALBANY, GA	0.917	0.971	0.896	1.00	1.01	1.12	1.06	0.68	0.94	0.99	1.02	0.97	1.12	0.94	0.95	0.86	1.17	0.84	0.81	0.97	1.06	1.07	0.89	0.99	0.93	0.90	0.92
ATLANTA (DECATUR), GA	0.917	1.007	1.032	0.99	0.97	1.10	0.98	0.58	0.98	0.90	0.93	0.96	0.86	1.02	0.88	0.92	0.84	0.82	0.81	0.97	0.99	0.99	1.04	1.17	1.06	1.02	0.96
ATLANTA (MIDTOWN), GA	0.917	1.007	1.032	1.09	1.06	1.12	0.98	0.58	1.04	1.11	1.05	1.04	0.98	0.90	0.83	0.95	0.95	1.01	0.89	1.12	1.06	1.24	1.04	1.19	1.06	1.04	0.97
AUGUSTA, GA	0.917	0.971	0.896	1.04	1.03	0.94	1.41	1.46	0.95	1.13	1.00	0.93	1.06	0.98	0.83	0.80	1.15	0.75	0.67	0.88	1.03	1.12	0.87	1.15	1.01	1.10	1.06
COLUMBUS, GA	0.917	0.971	0.896	1.06	1.00	1.00	1.30	0.90	1.03	0.96	0.99	1.02	1.12	1.05	0.83	0.93	0.94	0.96	0.81	1.01	1.06	1.02	1.00	0.99	0.93	0.90	0.92
DUBLIN, GA	0.917	0.971	0.896	1.06	1.00	1.00	1.30	0.90	1.05	0.96	0.99	1.02	1.12	1.05	0.83	0.93	0.94	0.96	0.81	1.01	1.07	1.02	1.00	1.05	1.01	1.05	0.92
FORT GORDON, GA	0.917	0.971	0.896	1.04	1.03	0.94	1.41	1.46	0.95	1.13	1.00	0.93	1.06	0.98	0.83	0.80	1.15	0.75	0.67	0.88	1.03	1.12	0.87	1.15	1.01	1.10	1.06
MACON, GA	0.917	0.971	0.896	1.06	1.00	1.00	1.30	0.90	1.05	0.96	0.99	1.02	1.12	1.05	0.83	0.93	0.94	0.96	0.81	1.01	1.07	1.02	1.00	1.05	1.01	1.05	0.92
NORTHEAST CORRIDOR, GA	0.917	0.971	0.896	0.96	0.94	1.58	1.11	0.59	0.87	1.04	0.95	0.92	0.90	0.97	1.06	0.89	1.08	0.83	0.78	1.15	1.07	1.12	0.90	1.07	1.09	1.06	1.01
SAVANNAH, GA	0.917	0.971	0.896	1.00	1.01	1.12	1.06	0.68	0.89	0.99	1.02	0.97	1.12	0.94	0.95	0.86	1.17	0.84	0.81	0.97	1.03	1.07	0.89	1.15	1.01	1.10	1.06
VALDOSTA, GA	0.917	0.971	0.896	0.98	0.91	0.97	1.13	0.73	0.99	1.00	1.02	1.01	1.02	0.96	0.81	0.83	0.98	0.83	0.69	0.94	1.06	0.97	0.78	0.99	0.93	0.90	0.92
GUAM, GU	0.917	0.999	1.202	1.17	1.11	0.71	0.91	1.52	0.78	2.02	1.12	1.00	0.90	0.84	0.88	1.25	1.27	0.90	0.74	1.11	1.06	0.90	0.98	0.95	0.68	0.80	0.84

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
HILO, HI	0.917	0.999	1.202	1.17	1.11	0.71	0.91	1.52	0.78	2.02	1.12	1.00	0.90	0.84	0.88	1.25	1.27	0.90	0.74	1.11	1.06	0.90	0.98	0.95	0.68	0.80	0.84
HONOLULU, HI	0.917	0.999	1.202	1.17	1.11	0.71	0.91	1.52	0.78	2.02	1.12	1.00	0.90	0.84	0.88	1.25	1.27	0.90	0.74	1.11	1.06	0.90	0.98	0.95	0.68	0.80	0.84
KAILUA KONA, HI	0.917	0.999	1.202	1.17	1.11	0.71	0.91	1.52	0.78	2.02	1.12	1.00	0.90	0.84	0.88	1.25	1.27	0.90	0.74	1.11	1.06	0.90	0.98	0.95	0.68	0.80	0.84
LIHUE, HI	0.917	0.999	1.202	1.17	1.11	0.71	0.91	1.52	0.78	2.02	1.12	1.00	0.90	0.84	0.88	1.25	1.27	0.90	0.74	1.11	1.06	0.90	0.98	0.95	0.68	0.80	0.84
WAILUKU, HI	0.917	0.999	1.202	1.17	1.11	0.71	0.91	1.52	0.78	2.02	1.12	1.00	0.90	0.84	0.88	1.25	1.27	0.90	0.74	1.11	1.06	0.90	0.98	0.95	0.68	0.80	0.84
BETTENDORF, IA	0.917	0.959	0.880	0.88	0.91	0.86	1.16	1.09	0.86	0.80	0.93	0.81	0.81	0.88	0.90	0.87	0.99	0.84	0.61	0.89	0.92	1.04	0.78	0.75	0.81	0.80	0.74
CEDAR RAPIDS, IA	0.917	0.959	0.880	0.96	0.96	0.73	0.96	0.85	0.98	0.83	1.01	0.89	0.93	0.92	0.89	1.10	0.98	0.99	0.69	1.05	0.92	0.91	0.74	0.75	0.81	0.80	0.74
DES MOINES, IA	0.917	0.959	0.880	0.96	0.96	0.73	0.96	0.85	1.01	0.83	1.01	0.89	0.93	0.92	0.89	1.10	0.98	0.99	0.69	1.05	0.91	0.91	0.74	0.77	0.90	0.85	0.72
DUBUQUE, IA	0.917	0.959	0.880	1.45	0.99	0.85	0.91	0.93	0.83	0.78	1.13	0.87	0.96	0.96	0.81	0.95	1.19	0.82	0.61	0.96	0.92	0.89	0.84	0.75	0.81	0.80	0.74
FORT DODGE, IA	0.917	0.959	0.880	0.90	0.92	0.95	0.96	1.13	0.88	0.77	0.97	0.94	0.95	1.03	0.80	0.92	1.11	0.77	0.82	0.80	0.80	0.89	0.90	0.70	0.70	0.78	0.72
IOWA CITY, IA	0.917	0.959	0.880	1.45	0.99	0.85	0.91	0.93	0.83	0.78	1.13	0.87	0.96	0.96	0.81	0.95	1.19	0.82	0.61	0.96	1.03	0.89	0.84	0.98	0.81	0.80	0.73
KNOXVILLE, IA	0.917	0.959	0.880	0.92	0.94	0.57	1.08	0.79	0.91	0.86	0.94	0.88	0.84	0.96	0.78	1.00	1.02	0.79	0.69	0.94	0.88	0.88	0.91	0.70	0.76	0.74	0.68
MARSHALLTOWN, IA	0.917	0.959	0.880	0.92	0.94	0.57	1.08	0.79	0.91	0.86	0.94	0.88	0.84	0.96	0.78	1.00	1.02	0.79	0.69	0.94	0.88	0.88	0.91	0.70	0.76	0.74	0.68
MASON CITY, IA	0.917	0.959	0.880	0.90	0.92	0.95	0.96	1.13	0.96	0.77	0.97	0.94	0.95	1.03	0.80	0.92	1.11	0.77	0.82	0.80	0.95	0.89	0.90	0.83	0.96	0.94	0.73
OTTUMWA, IA	0.917	0.959	0.880	0.88	0.91	0.86	1.16	1.09	0.83	0.80	0.93	0.81	0.81	0.88	0.90	0.87	0.99	0.84	0.61	0.89	0.80	1.04	0.78	0.70	0.70	0.78	0.72
SIOUX CITY, IA	0.917	0.959	0.880	0.90	0.92	0.95	0.96	1.13	0.90	0.77	0.97	0.94	0.95	1.03	0.80	0.92	1.11	0.77	0.82	0.80	0.86	0.89	0.90	0.70	0.76	0.74	0.68
WATERLOO, IA	0.917	0.959	0.880	1.45	0.99	0.85	0.91	0.93	0.83	0.78	1.13	0.87	0.96	0.96	0.81	0.95	1.19	0.82	0.61	0.96	0.92	0.89	0.84	0.75	0.81	0.80	0.74
BOISE, ID	0.917	0.961	0.887	1.03	0.99	1.01	0.71	0.63	0.94	0.99	1.04	0.85	0.90	0.92	0.93	0.89	0.98	0.85	0.80	0.90	0.90	0.88	0.74	0.77	0.76	0.83	0.70
MOSCOW, ID	0.917	0.961	0.887	1.03	0.99	1.01	0.71	0.63	0.94	0.99	1.04	0.85	0.90	0.92	0.93	0.89	0.98	0.85	0.80	0.90	0.90	0.88	0.74	0.77	0.76	0.83	0.70
POCATELLO, ID	0.917	0.961	0.887	0.96	0.97	0.73	0.59	0.71	0.87	0.75	1.07	0.76	0.92	0.82	0.82	0.94	1.17	0.78	0.81	0.91	0.90	0.85	0.80	0.77	0.76	0.83	0.70
TWIN FALLS, ID	0.917	0.961	0.887	1.03	0.99	1.01	0.71	0.63	0.94	0.99	1.04	0.85	0.90	0.92	0.93	0.89	0.98	0.85	0.80	0.90	0.90	0.88	0.74	0.77	0.76	0.83	0.70
AURORA, IL	0.917	1.007	1.080	0.95	0.89	0.86	1.16	0.85	0.87	1.06	0.95	0.96	0.83	0.98	0.75	0.89	0.85	0.75	0.71	0.91	1.06	0.88	1.04	1.07	0.97	0.97	0.98
BELLEVILLE, IL	0.917	0.988	0.930	0.74	0.81	0.69	1.04	0.84	0.75	0.93	0.78	0.91	0.98	0.89	0.79	0.87	0.97	0.71	0.77	0.93	0.92	0.89	0.92	0.92	0.88	0.91	0.95
CARMI, IL	0.917	0.964	0.885	0.81	0.81	0.70	1.05	0.84	0.86	0.94	0.85	0.91	0.88	0.91	0.78	0.77	1.00	0.74	0.61	0.97	1.03	0.90	0.88	0.89	0.83	0.98	0.95
CHICAGO HEIGHTS, IL	0.917	1.028	1.084	0.97	0.89	0.81	0.85	0.82	0.85	1.05	0.93	0.90	0.91	0.93	0.72	0.79	0.71	0.72	0.76	0.89	1.03	0.87	1.09	1.07	0.93	0.94	0.95
CHICAGO, IL	0.917	1.028	1.084	1.11	1.03	1.38	1.51	0.93	0.99	1.05	1.06	1.00	1.00	1.11	1.00	0.98	0.95	0.89	0.87	1.02	1.18	1.05	1.19	1.23	1.13	1.08	1.07
DANVILLE, IL	0.917	0.964	0.885	1.09	1.01	1.03	1.07	0.99	1.06	1.18	1.06	1.05	1.11	1.11	0.84	0.89	0.88	0.83	0.85	1.00	1.03	0.99	1.09	0.89	0.83	0.98	0.95
DECATUR, IL	0.917	0.964	0.885	0.86	0.87	0.82	1.07	0.78	0.83	1.06	0.96	0.94	0.94	0.93	0.75	0.84	0.90	0.63	0.73	0.98	0.90	0.88	0.93	0.77	0.82	0.85	0.96
EAST SAINT LOUIS, IL	0.917	0.988	0.930	0.74	0.81	0.69	1.04	0.84	0.75	0.93	0.78	0.91	0.98	0.89	0.79	0.87	0.97	0.71	0.77	0.93	0.92	0.89	0.92	0.92	0.88	0.91	0.95
ELGIN, IL	0.917	1.007	1.080	1.01	0.95	1.07	1.11	0.86	0.95	0.96	0.95	0.95	0.89	1.02	0.87	0.94	0.78	0.87	0.82	0.90	1.08	0.89	1.05	1.11	1.00	1.00	0.95
EVANSTON, IL	0.917	1.028	1.084	0.99	0.93	1.05	1.09	0.85	0.95	0.94	0.93	0.93	0.87	1.01	0.86	0.93	0.76	0.85	0.81	0.88	1.01	0.87	1.05	1.18	0.98	0.95	0.96
GALESBURG, IL	0.917	0.964	0.885	0.86	0.87	0.82	1.07	0.78	0.85	1.06	0.96	0.94	0.94	0.93	0.75	0.84	0.90	0.63	0.73	0.98	0.95	0.88	0.93	0.80	0.81	0.86	0.80
GURNEE, IL	0.917	1.007	1.080	1.01	0.95	1.07	1.11	0.86	0.97	0.96	0.95	0.95	0.89	1.02	0.87	0.94	0.78	0.87	0.82	0.90	1.04	0.89	1.05	1.18	1.02	0.98	1.00
HINES, IL	0.917	1.028	1.084	0.99	0.93	1.05	1.09	0.85	0.93	0.94	0.93	0.93	0.87	1.01	0.86	0.93	0.76	0.85	0.81	0.88	1.05	0.87	1.05	1.11	0.97	0.97	0.91
JOLIET, IL	0.917	1.007	1.080	0.99	0.91	0.83	0.87	0.83	0.87	1.07	0.95	0.92	0.93	0.95	0.74	0.81	0.73	0.73	0.77	0.91	1.06	0.89	1.09	1.07	0.97	0.97	0.98
LASALLE COUNTY, IL	0.917	0.964	0.885	0.86	0.87	0.82	1.07	0.78	0.85	1.06	0.96	0.94	0.94	0.93	0.75	0.84	0.90	0.63	0.73	0.98	0.95	0.88	0.93	0.80	0.81	0.86	0.80
MANTENO, IL	0.917	0.964	0.885	0.86	0.87	0.82	1.07	0.78	0.77	1.06	0.96	0.94	0.94	0.93	0.75	0.84	0.90	0.63	0.73	0.98	1.05	0.88	0.93	0.89	0.81	0.88	0.87
MARION, IL	0.917	0.964	0.885	0.78	0.85	0.74	1.13	0.89	0.90	0.97	0.81	0.96	1.05	0.94	0.83	0.91	1.06	0.75	0.80	0.97	1.03	0.94	0.92	0.89	0.83	0.98	0.95
MOLINE, IL	0.917	0.964	0.885	0.87	0.95	0.68	1.13	1.42	0.92	0.97	0.93	1.04	0.94	1.00	1.01	1.04	0.74	0.90	0.75	0.95	0.95	0.71	0.82	0.80	0.81	0.86	0.80
MOUNT VERNON, IL	0.917	0.964	0.885	0.81	0.81	0.70	1.05	0.84	0.86	0.94	0.85	0.91	0.88	0.91	0.78	0.77	1.00	0.74	0.61	0.97	1.03	0.90	0.88	0.89	0.83	0.98	0.95
NORTH CHICAGO, IL	0.917	1.007	1.080	1.01	0.95	1.07	1.11	0.86	0.97	0.96	0.95	0.95	0.89	1.02	0.87	0.94	0.78	0.87	0.82	0.90	1.04	0.89	1.05	1.18	1.02	0.98	1.00
OAK LAWN, IL	0.917	1.028	1.084	0.97	0.89	0.81	0.85	0.82	0.85	1.05	0.93	0.90	0.91	0.93	0.72	0.79	0.71	0.72	0.76	0.89	1.03	0.87	1.09	1.07	0.93	0.94	0.95
OAK PARK, IL	0.917	1.028	1.084	0.77	0.83	0.54	0.89	1.17	0.78	0.86	0.82	0.89	0.77	0.84	0.87	0.92	0.59	0.77	0.67	0.85	1.03	0.62	0.82	1.07	0.93	0.94	0.95

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
OSWEGO, IL	0.917	0.964	0.885	1.06	1.00	1.06	1.43	1.01	1.01	1.16	1.06	1.09	1.00	1.15	0.86	0.99	1.03	0.86	0.78	1.00	1.21	0.98	1.04	1.07	1.10	1.11	1.14
PEORIA, IL	0.917	0.964	0.885	0.99	1.00	0.84	1.38	0.78	0.89	1.03	0.99	0.98	1.02	0.93	0.85	0.90	0.94	0.69	0.80	0.90	0.95	0.98	0.92	0.80	0.81	0.86	0.80
QUINCY, IL	0.917	0.964	0.885	0.86	0.87	0.82	1.07	0.78	0.83	1.06	0.96	0.94	0.94	0.93	0.75	0.84	0.90	0.63	0.73	0.98	0.90	0.88	0.93	0.77	0.82	0.85	0.96
ROCKFORD, IL	0.917	0.964	0.885	1.06	1.00	1.06	1.43	1.01	0.93	1.16	1.06	1.09	1.00	1.15	0.86	0.99	1.03	0.86	0.78	1.00	1.05	0.98	1.04	0.89	0.81	0.88	0.87
SPRINGFIELD, IL	0.917	0.964	0.885	0.99	1.00	0.84	1.38	0.78	0.84	1.03	0.99	0.98	1.02	0.93	0.85	0.90	0.94	0.69	0.80	0.90	0.98	0.98	0.92	0.92	0.94	0.98	1.02
WOODLAWN, IL	0.917	1.028	1.084	1.11	1.03	1.38	1.51	0.93	0.99	1.05	1.06	1.00	1.00	1.11	1.00	0.98	0.95	0.89	0.87	1.02	1.18	1.05	1.19	1.23	1.13	1.08	1.07
CROWN POINT, IN	0.917	0.982	0.917	1.08	0.95	1.24	1.60	0.78	0.98	1.09	1.08	1.00	1.10	0.95	0.83	0.86	1.05	0.76	0.88	0.91	1.11	1.08	1.03	1.03	0.81	0.84	1.03
EVANSVILLE, IN	0.917	0.982	0.917	0.92	0.87	1.13	1.09	0.66	1.06	0.86	0.88	1.22	0.96	0.85	0.63	0.83	0.71	0.72	0.81	1.20	0.96	0.90	0.90	0.73	0.76	0.88	0.86
FORT WAYNE, IN	0.917	0.982	0.917	1.01	0.92	1.03	0.95	0.76	0.92	1.03	0.97	1.01	1.02	0.94	0.83	0.84	0.93	0.73	0.76	0.85	0.99	1.00	0.81	0.76	0.71	0.74	0.87
HIGHLAND, IN	0.917	0.982	0.917	1.08	0.95	1.24	1.60	0.78	0.98	1.09	1.08	1.00	1.10	0.95	0.83	0.86	1.05	0.76	0.88	0.91	1.11	1.08	1.03	1.03	0.81	0.84	1.03
INDIANAPOLIS, IN	0.917	0.982	0.917	1.09	1.01	1.24	1.01	0.76	1.05	0.90	1.02	1.01	1.22	1.02	0.82	0.87	1.13	0.80	0.80	0.98	1.06	1.09	1.03	0.86	0.75	0.83	0.80
LAFAYETTE, IN	0.917	0.982	0.917	0.97	0.88	0.97	1.21	0.99	0.86	0.94	0.89	1.02	1.11	0.96	0.74	0.91	1.01	0.88	0.85	0.98	1.11	0.94	0.97	1.03	0.81	0.84	1.03
LAWRENCEBURG, IN	0.917	0.982	0.917	0.89	0.86	0.90	1.09	0.64	0.77	1.14	0.89	1.00	0.93	0.89	0.66	0.83	1.13	0.66	0.73	0.92	0.96	0.88	0.88	0.74	0.68	0.68	0.92
MARION, IN	0.917	0.982	0.917	0.95	0.89	1.13	0.98	0.67	0.92	0.97	0.87	0.85	1.04	1.00	0.70	0.91	0.91	0.68	0.93	1.04	0.99	0.95	0.98	0.88	0.66	0.75	0.85
MUNCIE, IN	0.917	0.982	0.917	0.95	0.89	1.13	0.98	0.67	0.92	0.97	0.87	0.85	1.04	1.00	0.70	0.91	0.91	0.68	0.93	1.04	0.99	0.95	0.98	0.88	0.66	0.75	0.85
NEW ALBANY, IN	0.917	0.982	0.917	0.89	0.88	0.70	0.95	0.57	0.91	1.10	0.81	0.91	0.90	1.01	0.82	0.80	1.03	0.70	0.80	0.92	0.95	0.74	1.05	0.73	0.76	0.88	0.86
RICHMOND, IN	0.917	0.982	0.917	0.95	0.89	1.13	0.98	0.67	0.92	0.97	0.87	0.85	1.04	1.00	0.70	0.91	0.91	0.68	0.93	1.04	0.99	0.95	0.98	0.88	0.66	0.75	0.85
SOUTH BEND, IN	0.917	0.982	0.917	0.92	0.81	0.98	1.01	0.80	0.87	1.02	0.95	0.93	0.91	0.93	0.68	0.76	0.96	0.67	0.69	0.90	0.87	0.90	0.83	0.67	0.65	0.72	0.78
TERRE HAUTE, IN	0.917	0.982	0.917	0.97	0.88	0.97	1.21	0.99	0.86	0.94	0.89	1.02	1.11	0.96	0.74	0.91	1.01	0.88	0.85	0.98	0.96	0.94	0.97	0.74	0.68	0.68	0.92
ABILENE, KS	0.917	0.964	0.895	0.89	0.89	0.94	1.10	0.81	0.90	1.08	0.93	0.91	1.04	1.03	0.78	0.93	1.03	0.74	0.95	0.84	0.88	1.03	0.95	0.77	0.81	0.78	0.68
DODGE CITY, KS	0.917	0.964	0.895	0.86	0.88	0.91	0.99	0.96	0.87	0.70	0.89	0.78	1.03	0.91	0.80	1.07	0.90	0.59	0.67	0.75	0.86	0.93	0.92	0.79	0.75	0.79	0.64
EMPORIA, KS	0.917	0.964	0.895	0.90	0.83	0.97	1.48	0.71	0.78	1.04	0.86	0.87	0.94	1.07	0.91	0.87	0.98	0.70	0.73	0.71	0.88	0.84	0.85	0.77	0.81	0.78	0.68
GARDEN CITY, KS	0.917	0.964	0.895	0.86	0.88	0.91	0.99	0.96	0.87	0.70	0.89	0.78	1.03	0.91	0.80	1.07	0.90	0.59	0.67	0.75	0.86	0.93	0.92	0.79	0.75	0.79	0.64
HAYS, KS	0.917	0.964	0.895	0.86	0.88	0.91	0.99	0.96	0.87	0.70	0.89	0.78	1.03	0.91	0.80	1.07	0.90	0.59	0.67	0.75	0.86	0.93	0.92	0.79	0.75	0.79	0.64
HOLTON, KS	0.917	0.964	0.895	0.90	0.83	0.97	1.48	0.71	0.80	1.04	0.86	0.87	0.94	1.07	0.91	0.87	0.98	0.70	0.73	0.71	0.86	0.84	0.85	0.79	0.75	0.79	0.64
JUNCTION CITY, KS	0.917	0.964	0.895	0.90	0.83	0.97	1.48	0.71	0.80	1.04	0.86	0.87	0.94	1.07	0.91	0.87	0.98	0.70	0.73	0.71	0.86	0.84	0.85	0.79	0.75	0.79	0.64
KANSAS CITY, KS	0.917	0.964	0.895	0.90	0.88	0.79	1.48	0.88	0.88	0.87	0.94	0.90	0.97	0.95	0.75	0.91	0.95	0.64	0.81	0.92	0.96	0.93	0.89	0.97	0.97	0.91	0.80
LEAVENWORTH, KS	0.917	0.964	0.895	0.90	0.83	0.97	1.48	0.71	0.78	1.04	0.86	0.87	0.94	1.07	0.91	0.87	0.98	0.70	0.73	0.71	0.88	0.84	0.85	0.77	0.81	0.78	0.68
LIBERAL, KS	0.917	0.964	0.895	0.86	0.88	0.91	0.99	0.96	0.87	0.70	0.89	0.78	1.03	0.91	0.80	1.07	0.90	0.59	0.67	0.75	0.86	0.93	0.92	0.79	0.75	0.79	0.64
MCPHERSON, KS	0.917	0.964	0.895	0.89	0.89	0.94	1.10	0.81	0.90	1.08	0.93	0.91	1.04	1.03	0.78	0.93	1.03	0.74	0.95	0.84	0.88	1.03	0.95	0.77	0.81	0.78	0.68
PITTSBURG, KS	0.917	0.964	0.895	0.89	0.89	0.94	1.10	0.81	0.90	1.08	0.93	0.91	1.04	1.03	0.78	0.93	1.03	0.74	0.95	0.84	0.88	1.03	0.95	0.77	0.81	0.78	0.68
PRATT, KS	0.917	0.964	0.895	0.89	0.89	0.94	1.10	0.81	0.95	1.08	0.93	0.91	1.04	1.03	0.78	0.93	1.03	0.74	0.95	0.84	0.87	1.03	0.95	0.83	0.77	0.80	0.70
SALINA, KS	0.917	0.964	0.895	0.89	0.89	0.94	1.10	0.81	0.90	1.08	0.93	0.91	1.04	1.03	0.78	0.93	1.03	0.74	0.95	0.84	0.88	1.03	0.95	0.77	0.81	0.78	0.68
SENACA, KS	0.917	0.964	0.895	0.90	0.83	0.97	1.48	0.71	0.80	1.04	0.86	0.87	0.94	1.07	0.91	0.87	0.98	0.70	0.73	0.71	0.86	0.84	0.85	0.79	0.75	0.79	0.64
TOPEKA, KS	0.917	0.964	0.895	0.90	0.88	0.79	1.48	0.88	0.86	0.87	0.94	0.90	0.97	0.95	0.75	0.91	0.95	0.64	0.81	0.92	0.87	0.93	0.89	0.83	0.77	0.80	0.70
WICHITA, KS	0.917	0.964	0.895	0.89	0.89	0.94	1.10	0.81	0.95	1.08	0.93	0.91	1.04	1.03	0.78	0.93	1.03	0.74	0.95	0.84	0.87	1.03	0.95	0.83	0.77	0.80	0.70
BOWLING GREEN, KY	0.917	0.971	0.871	0.87	0.89	0.73	0.88	0.43	0.94	0.94	0.91	0.90	0.92	1.02	0.75	1.00	0.89	0.79	0.70	1.11	0.93	1.09	0.93	0.78	0.76	0.81	0.85
COVINGTON, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	0.92	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	1.00	0.87	0.88	0.79	0.79	0.79	0.82
CYNTHIANA, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	0.92	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	1.00	0.87	0.88	0.79	0.79	0.79	0.82
DANVILLE, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	1.02	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	0.94	0.87	0.88	0.85	0.85	0.91	0.91
FORT CAMPBELL, KY	0.917	0.971	0.871	0.98	0.90	0.98	0.90	0.68	0.96	0.92	0.86	0.83	1.00	0.95	0.74	0.90	0.93	0.77	0.86	0.84	0.90	0.86	0.87	0.89	0.79	0.79	0.96
FORT KNOX, KY	0.917	0.971	0.871	0.95	1.03	1.02	0.90	0.93	1.09	1.05	1.02	0.94	0.95	0.87	0.97	1.03	0.90	0.94	0.90	1.10	0.94	1.03	0.91	0.85	0.85	0.91	0.91
FRANKFORT, KY	0.917	0.971	0.871	0.95	1.03	1.02	0.90	0.93	1.09	1.05	1.02	0.94	0.95	0.87	0.97	1.03	0.90	0.94	0.90	1.10	0.94	1.03	0.91	0.85	0.85	0.91	0.91

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																								
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
GRAYSON, KY	0.917	0.971	0.871	0.94	0.94	1.02	1.15	0.61	1.02	0.88	0.95	1.05	1.15	0.95	0.85	0.91	1.01	1.00	0.95	1.05	1.00	1.00	1.06	0.79	0.79	0.79	0.82
HARRODSBURG, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	0.89	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	0.90	0.87	0.88	0.89	0.79	0.79	0.96
HOPKINSVILLE, KY	0.917	0.971	0.871	0.98	0.90	0.98	0.90	0.68	0.96	0.92	0.86	0.83	1.00	0.95	0.74	0.90	0.93	0.77	0.86	0.84	0.90	0.86	0.87	0.89	0.79	0.79	0.96
LEXINGTON, KY	0.917	0.971	0.871	0.95	1.03	1.02	0.90	0.93	0.99	1.05	1.02	0.94	0.95	0.87	0.97	1.03	0.90	0.94	0.90	1.10	1.00	1.03	0.91	0.79	0.79	0.79	0.82
LOUISVILLE, KY	0.917	0.971	0.871	0.93	0.99	1.32	0.90	0.62	0.92	0.95	0.92	0.95	0.98	0.93	0.92	0.93	0.81	0.79	0.83	0.98	0.94	0.91	0.98	0.99	0.91	0.82	0.88
MAYSVILLE, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	0.92	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	1.00	0.87	0.88	0.79	0.79	0.79	0.82
MOREHEAD, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	0.89	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	0.90	0.87	0.88	0.89	0.79	0.79	0.96
MOUNT STERLING, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	0.89	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	0.90	0.87	0.88	0.89	0.79	0.79	0.96
OWENSBORO, KY	0.917	0.971	0.871	0.87	0.89	0.73	0.88	0.43	0.94	0.94	0.91	0.90	0.92	1.02	0.75	1.00	0.89	0.79	0.70	1.11	0.93	1.09	0.93	0.78	0.76	0.81	0.85
PADUCAH, KY	0.917	0.971	0.871	0.98	0.90	0.98	0.90	0.68	0.96	0.92	0.86	0.83	1.00	0.95	0.74	0.90	0.93	0.77	0.86	0.84	0.90	0.86	0.87	0.89	0.79	0.79	0.96
PRESTONSBURG, KY	0.917	0.971	0.871	0.94	0.94	1.02	1.15	0.61	1.02	0.88	0.95	1.05	1.15	0.95	0.85	0.91	1.01	1.00	0.95	1.05	1.00	1.00	1.06	0.79	0.79	0.79	0.82
RAVENNA, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	1.02	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	0.94	0.87	0.88	0.85	0.85	0.91	0.91
RICHMOND, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	1.02	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	0.94	0.87	0.88	0.85	0.85	0.91	0.91
SOMERSET, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	1.02	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	0.94	0.87	0.88	0.85	0.85	0.91	0.91
VERSAILLES, KY	0.917	0.971	0.871	0.86	0.87	1.06	1.41	0.64	0.89	0.90	0.94	0.91	0.84	0.92	0.84	0.84	0.84	0.74	0.80	0.95	0.90	0.87	0.88	0.89	0.79	0.79	0.96
ALEXANDRIA, LA	0.917	0.969	0.876	1.07	0.98	1.36	1.53	0.90	0.96	0.94	1.02	0.98	1.08	1.12	0.76	0.96	1.32	0.68	1.23	1.05	0.97	1.04	0.91	0.99	0.76	0.79	0.83
BATON ROUGE, LA	0.917	0.969	0.876	1.04	0.88	0.91	1.13	0.58	0.88	0.93	0.90	1.04	1.02	1.05	0.69	0.85	0.79	0.67	1.39	0.89	0.93	0.87	0.80	0.95	0.78	0.81	0.83
COVINGTON, LA	0.917	0.969	0.876	1.03	0.91	0.87	1.40	0.66	0.94	1.00	1.07	1.01	1.12	0.96	0.75	0.81	0.91	0.59	1.42	0.98	1.03	0.96	0.94	1.12	0.78	0.88	0.90
HOUMA, LA	0.917	0.969	0.876	1.03	0.91	0.87	1.40	0.66	0.89	1.00	1.07	1.01	1.12	0.96	0.75	0.81	0.91	0.59	1.42	0.98	0.99	0.96	0.94	0.96	0.78	0.78	0.87
JENNINGS, LA	0.917	0.969	0.876	1.04	0.89	1.24	1.92	0.54	0.98	1.00	1.05	0.97	0.98	0.98	0.76	0.78	0.81	0.70	1.19	1.01	0.99	0.90	0.81	0.96	0.78	0.78	0.87
LAFAYETTE, LA	0.917	0.969	0.876	1.04	0.89	1.24	1.92	0.54	0.98	1.00	1.05	0.97	0.98	0.98	0.76	0.78	0.81	0.70	1.19	1.01	0.99	0.90	0.81	0.96	0.78	0.78	0.87
LAKE CHARLES, LA	0.917	0.969	0.876	0.96	0.88	0.95	0.88	0.53	0.90	0.84	0.98	1.01	1.03	0.94	0.79	1.09	0.81	0.66	1.24	1.06	0.99	0.84	0.80	0.96	0.78	0.78	0.87
MONROE, LA	0.917	0.969	0.876	1.07	0.98	1.36	1.53	0.90	0.96	0.94	1.02	0.98	1.08	1.12	0.76	0.96	1.32	0.68	1.23	1.05	0.97	1.04	0.91	0.99	0.76	0.79	0.83
MORGAN CITY, LA	0.917	0.969	0.876	1.03	0.91	0.87	1.40	0.66	0.89	1.00	1.07	1.01	1.12	0.96	0.75	0.81	0.91	0.59	1.42	0.98	0.99	0.96	0.94	0.96	0.78	0.78	0.87
NEW ORLEANS, LA	0.917	0.999	0.948	1.10	0.97	0.82	1.04	0.76	1.01	1.12	0.96	1.01	0.96	0.93	0.77	0.95	1.06	0.66	1.13	0.95	1.02	0.93	0.97	1.09	0.76	0.80	0.78
SHREVEPORT, LA	0.917	0.969	0.876	1.07	0.98	1.36	1.53	0.90	0.96	0.94	1.02	0.98	1.08	1.12	0.76	0.96	1.32	0.68	1.23	1.05	0.97	1.04	0.91	0.99	0.76	0.79	0.83
BEDFORD, MA	0.917	1.040	1.205	0.85	0.95	1.02	0.85	1.04	0.85	0.79	0.84	0.96	0.83	0.53	1.23	0.90	0.84	1.12	0.64	0.81	0.94	0.85	0.96	1.11	1.01	0.98	0.90
BOSTON, MA	0.917	1.040	1.205	0.93	1.08	1.11	0.85	1.23	0.92	0.87	0.90	1.03	0.75	0.52	1.38	0.96	1.02	1.20	0.71	0.88	0.98	0.81	0.91	1.30	1.01	0.98	0.81
BROCKTON, MA	0.917	1.011	1.089	0.98	1.14	1.22	0.94	1.34	0.99	0.91	0.95	1.10	0.82	0.57	1.48	1.01	1.11	1.28	0.75	0.92	0.94	0.85	0.91	1.01	1.06	0.88	1.06
CHICOPEE, MA	0.917	1.011	1.089	0.89	1.01	1.13	0.94	1.13	0.92	0.83	0.88	1.02	0.91	0.57	1.32	0.95	0.91	1.20	0.68	0.85	0.95	0.90	0.96	1.11	0.99	0.89	0.97
FRAMINGHAM, MA	0.917	1.040	1.205	0.85	0.95	1.02	0.85	1.04	0.85	0.79	0.84	0.96	0.83	0.53	1.23	0.90	0.84	1.12	0.64	0.81	0.94	0.85	0.96	1.11	1.01	0.98	0.90
GREENFIELD, MA	0.917	1.011	1.089	0.83	0.98	0.80	0.94	1.22	0.82	0.69	0.80	0.87	0.94	0.63	1.47	0.89	0.97	1.16	0.73	0.83	1.00	0.77	0.79	1.11	1.07	1.03	0.96
HAVERHILL, MA	0.917	1.011	1.089	0.96	1.06	0.97	1.59	1.31	0.94	0.79	0.95	1.11	0.88	0.59	1.48	1.05	1.24	1.42	0.69	0.89	1.05	0.98	0.89	1.14	1.07	1.03	1.01
HOLYOKE, MA	0.917	1.011	1.089	0.89	1.01	1.13	0.94	1.13	0.92	0.83	0.88	1.02	0.91	0.57	1.32	0.95	0.91	1.20	0.68	0.85	0.95	0.90	0.96	1.11	0.99	0.89	0.97
HYANNIS, MA	0.917	1.011	1.089	0.83	0.98	0.80	0.94	1.22	0.82	0.69	0.80	0.87	0.94	0.63	1.47	0.89	0.97	1.16	0.73	0.83	0.94	0.77	0.79	1.01	1.06	0.88	1.06
LOWELL, MA	0.917	1.040	1.205	0.91	1.00	0.88	1.45	1.19	0.88	0.75	0.90	1.04	0.81	0.54	1.38	1.00	1.14	1.33	0.69	0.85	0.99	0.93	0.89	1.14	1.01	0.98	0.95
LYNN, MA	0.917	1.011	1.089	0.86	1.02	0.99	0.92	2.25	0.85	0.88	0.88	1.08	0.87	0.56	1.50	1.00	1.04	1.33	0.71	0.87	1.05	0.96	0.99	1.14	1.07	1.03	1.01
NEW BEDFORD, MA	0.917	1.011	1.089	0.83	0.99	0.88	0.82	1.59	0.98	0.79	0.84	1.02	0.98	0.49	1.12	1.04	1.16	1.17	0.83	0.87	0.97	0.92	0.88	1.10	1.06	0.89	1.16
NORTHAMPTON, MA	0.917	1.011	1.089	0.89	1.01	1.13	0.94	1.13	0.92	0.83	0.88	1.02	0.91	0.57	1.32	0.95	0.91	1.20	0.68	0.85	0.95	0.90	0.96	1.11	0.99	0.89	0.97
PITTSFIELD, MA	0.917	1.011	1.089	0.80	0.87	0.70	0.73	1.24	0.82	0.60	0.90	1.01	0.74	0.86	1.04	0.97	0.88	1.16	0.70	0.85	0.95	0.82	0.83	1.11	0.99	0.89	0.97
PLYMOUTH, MA	0.917	1.011	1.089	0.83	0.99	0.88	0.82	1.59	0.98	0.79	0.84	1.02	0.98	0.49	1.12	1.04	1.16	1.17	0.83	0.87	0.95	0.92	0.88	1.01	1.06	0.88	1.06
SOUTH SHORE, MA	0.917	1.040	1.205	0.93	1.08	1.11	0.85	1.23	0.92	0.87	0.90	1.03	0.75	0.52	1.38	0.96	1.02	1.20	0.71	0.88	0.98	0.81	0.91	1.30	1.01	0.98	0.81
SPRINGFIELD, MA	0.917	1.011	1.089	0.85	1.02	0.73	0.94	1.14	0.86	0.84	0.86	1.24	0.81	0.62	1.01	0.99	1.16	1.12	0.87	0.83	0.99	0.90	0.90	1.21	1.01	0.96	0.95

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
WASHINGTON, MA	0.917	1.011	1.089	0.80	0.87	0.70	0.73	1.24	0.82	0.60	0.90	1.01	0.74	0.86	1.04	0.97	0.88	1.16	0.70	0.85	0.95	0.82	0.83	1.11	0.99	0.89	0.97
WEST ROXBURY, MA	0.917	1.040	1.205	0.93	1.08	1.11	0.85	1.23	0.92	0.87	0.90	1.03	0.75	0.52	1.38	0.96	1.02	1.20	0.71	0.88	0.98	0.81	0.91	1.30	1.01	0.98	0.81
WORCESTER, MA	0.917	1.011	1.089	0.85	1.02	0.73	0.94	1.14	0.86	0.84	0.86	1.24	0.81	0.62	1.01	0.99	1.16	1.12	0.87	0.83	0.99	0.90	0.90	1.21	1.01	0.96	0.95
BALTIMORE, MD	0.917	1.020	1.038	1.22	1.07	0.99	0.96	0.72	0.97	0.99	1.05	1.06	0.98	0.94	0.90	0.95	1.18	0.85	0.84	1.01	1.07	1.12	1.01	1.12	1.12	1.08	1.24
CAMBRIDGE, MD	0.917	0.984	0.969	0.92	0.90	0.95	0.92	0.91	0.78	1.12	0.90	0.92	0.93	0.83	0.81	0.78	1.12	0.86	0.84	1.00	0.91	0.85	0.82	0.86	1.03	1.03	0.89
CHARLOTTE HALL, MD	0.917	0.984	0.969	1.10	1.07	1.21	0.86	1.00	1.07	1.12	1.01	1.09	1.09	1.04	0.89	0.98	1.09	0.88	0.91	0.98	1.15	1.13	0.88	1.10	1.32	1.22	1.23
CUMBERLAND, MD	0.917	0.984	0.969	0.87	0.93	0.96	0.81	0.89	0.86	1.27	0.92	0.92	0.96	0.88	0.92	0.99	0.86	0.95	0.81	0.95	0.95	0.93	0.72	1.08	1.05	0.94	1.16
ELKTON, MD	0.917	0.984	0.969	0.92	0.90	0.95	0.92	0.91	0.78	1.12	0.90	0.92	0.93	0.83	0.81	0.78	1.12	0.86	0.84	1.00	1.10	0.85	0.82	1.06	0.98	1.00	1.30
FORT HOWARD, MD	0.917	1.020	1.038	1.00	0.99	0.97	0.96	0.81	0.96	1.10	0.99	0.96	1.06	0.98	0.97	0.89	1.00	0.77	0.89	1.00	1.12	1.19	0.92	1.03	1.16	1.17	1.18
HAGERSTOWN, MD	0.917	0.984	0.969	0.87	0.93	0.96	0.81	0.89	0.86	1.27	0.92	0.92	0.96	0.88	0.92	0.99	0.86	0.95	0.81	0.95	0.95	0.93	0.72	1.08	1.05	0.94	1.16
MILLINGTON, MD	0.917	0.984	0.969	0.92	0.90	0.95	0.92	0.91	0.78	1.12	0.90	0.92	0.93	0.83	0.81	0.78	1.12	0.86	0.84	1.00	0.91	0.85	0.82	0.86	1.03	1.03	0.89
PERRY POINT, MD	0.917	0.984	0.969	0.92	0.90	0.95	0.92	0.91	0.78	1.12	0.90	0.92	0.93	0.83	0.81	0.78	1.12	0.86	0.84	1.00	1.10	0.85	0.82	1.06	0.98	1.00	1.30
SILVER SPRING, MD	0.917	1.051	1.177	1.05	1.03	0.94	0.82	0.76	1.10	1.04	0.96	0.93	1.02	0.96	0.95	1.01	0.82	0.91	0.85	0.99	1.01	1.17	1.04	1.10	1.16	1.08	1.07
BANGOR, ME	0.917	0.962	0.925	0.99	1.00	0.66	1.21	0.91	1.10	0.87	0.98	0.98	0.93	0.87	1.43	1.07	1.01	1.09	0.79	1.10	0.96	1.08	0.96	0.96	0.88	0.92	0.85
CARIBOU, ME	0.917	0.962	0.925	0.89	0.89	1.17	0.97	1.08	1.07	1.01	0.91	1.04	0.86	0.79	1.04	0.86	1.01	0.82	0.85	0.94	0.96	0.91	1.10	0.83	0.88	0.98	0.83
LEWISTON, ME	0.917	0.962	0.925	0.96	1.04	1.47	1.21	1.13	0.97	1.14	0.93	1.00	0.92	0.75	1.42	0.83	1.10	1.05	0.83	0.95	0.96	0.94	0.97	0.96	0.88	0.92	0.85
PORTLAND, ME	0.917	0.980	1.032	0.94	0.95	0.60	1.09	0.83	1.07	0.83	0.94	0.93	0.85	0.80	1.34	1.02	0.92	1.02	0.75	1.06	0.90	1.03	0.96	0.83	0.84	0.93	0.78
RUMFORD (WESTERN), ME	0.917	0.962	0.925	0.96	1.04	1.47	1.21	1.13	0.97	1.14	0.93	1.00	0.92	0.75	1.42	0.83	1.10	1.05	0.83	0.95	0.96	0.94	0.97	0.96	0.88	0.92	0.85
SANFORD, ME	0.917	0.980	1.032	0.93	0.87	1.18	1.01	0.73	0.98	1.06	0.86	0.89	0.71	0.82	1.01	0.85	0.94	0.97	0.89	1.04	0.90	0.88	0.86	0.83	0.84	0.93	0.78
TOGUS, ME	0.917	0.962	0.925	0.89	0.89	1.17	0.97	1.08	1.02	1.01	0.91	1.04	0.86	0.79	1.04	0.86	1.01	0.82	0.85	0.94	0.96	0.91	1.10	0.96	0.88	0.92	0.85
ANN ARBOR, MI	0.917	1.043	1.030	0.75	0.83	0.57	0.91	0.79	0.74	0.90	0.74	1.03	0.80	0.84	0.90	0.83	0.80	0.84	0.87	0.72	0.72	0.96	0.77	0.74	0.75	0.70	0.61
BATTLE CREEK, MI	0.917	0.997	0.937	0.85	0.87	0.76	0.82	0.74	0.85	0.88	0.80	0.94	0.89	0.81	0.74	0.93	0.78	0.76	0.76	0.85	0.76	0.83	0.78	0.85	0.70	0.69	0.58
BENTON HARBOR, MI	0.917	0.997	0.937	0.85	0.87	0.76	0.82	0.74	0.85	0.88	0.80	0.94	0.89	0.81	0.74	0.93	0.78	0.76	0.76	0.85	0.76	0.83	0.78	0.85	0.70	0.69	0.58
DETROIT, MI	0.917	1.043	1.030	0.83	0.91	0.71	0.83	0.72	0.72	0.94	0.81	1.30	0.73	0.78	0.97	1.07	0.79	0.94	0.98	0.90	0.74	0.73	0.82	0.79	0.75	0.70	0.72
FLINT, MI	0.917	0.997	0.937	0.80	0.88	0.73	0.70	1.02	0.71	0.86	0.78	1.02	0.76	0.78	0.78	0.91	0.95	0.98	0.86	0.93	0.75	0.88	0.84	0.85	0.80	0.75	0.64
GAYLORD, MI	0.917	0.997	0.937	0.91	0.91	0.86	0.98	0.83	0.81	0.91	0.89	0.97	0.92	0.73	0.70	1.00	0.96	0.87	0.71	0.80	0.76	0.87	0.99	0.69	0.66	0.64	0.70
GRAND RAPIDS, MI	0.917	0.997	0.937	0.85	0.87	0.76	0.82	0.74	0.85	0.88	0.80	0.94	0.89	0.81	0.74	0.93	0.78	0.76	0.76	0.85	0.76	0.83	0.78	0.69	0.66	0.64	0.70
HANCOCK, MI	0.917	0.997	0.937	0.91	0.91	0.86	0.98	0.83	0.81	0.91	0.89	0.97	0.92	0.73	0.70	1.00	0.96	0.87	0.71	0.80	0.81	0.87	0.99	0.76	0.85	0.74	0.55
IRON MOUNTAIN, MI	0.917	0.997	0.937	0.91	0.91	0.86	0.98	0.83	0.81	0.91	0.89	0.97	0.92	0.73	0.70	1.00	0.96	0.87	0.71	0.80	0.81	0.87	0.99	0.76	0.85	0.74	0.55
JACKSON, MI	0.917	0.997	0.937	0.76	0.80	0.57	0.77	0.72	0.83	0.90	0.76	0.89	0.84	0.77	0.73	0.80	0.75	0.83	0.83	0.85	0.76	0.76	0.82	0.85	0.70	0.69	0.58
LANSING, MI	0.917	0.997	0.937	0.76	0.80	0.57	0.77	0.72	0.83	0.90	0.76	0.89	0.84	0.77	0.73	0.80	0.75	0.83	0.83	0.85	0.76	0.76	0.82	0.69	0.66	0.64	0.70
LINCOLN PARK, MI	0.917	1.043	1.030	0.75	0.83	0.57	0.91	0.79	0.74	0.90	0.74	1.03	0.80	0.84	0.90	0.83	0.80	0.84	0.87	0.72	0.72	0.96	0.77	0.74	0.75	0.70	0.61
MARQUETTE, MI	0.917	0.997	0.937	0.91	0.91	0.86	0.98	0.83	0.81	0.91	0.89	0.97	0.92	0.73	0.70	1.00	0.96	0.87	0.71	0.80	0.81	0.87	0.99	0.76	0.85	0.74	0.55
MENOMINEE, MI	0.917	0.997	0.937	0.91	0.91	0.86	0.98	0.83	0.81	0.91	0.89	0.97	0.92	0.73	0.70	1.00	0.96	0.87	0.71	0.80	0.81	0.87	0.99	0.76	0.85	0.74	0.55
MUSKEGON, MI	0.917	0.997	0.937	0.85	0.87	0.76	0.82	0.74	0.85	0.88	0.80	0.94	0.89	0.81	0.74	0.93	0.78	0.76	0.76	0.85	0.76	0.83	0.78	0.85	0.70	0.69	0.58
OSCODA, MI	0.917	0.997	0.937	0.76	0.80	0.57	0.77	0.72	0.83	0.90	0.76	0.89	0.84	0.77	0.73	0.80	0.75	0.83	0.83	0.85	0.75	0.76	0.82	0.85	0.80	0.75	0.64
PONTIAC, MI	0.917	1.043	1.030	0.72	0.80	1.20	0.73	0.83	0.80	0.94	0.73	1.03	0.81	0.81	0.84	0.91	0.80	0.83	0.84	0.79	0.74	0.98	0.77	0.79	0.75	0.70	0.72
SAGINAW, MI	0.917	0.997	0.937	0.80	0.88	0.73	0.70	1.02	0.71	0.86	0.78	1.02	0.76	0.78	0.78	0.91	0.95	0.98	0.86	0.93	0.75	0.88	0.84	0.85	0.80	0.75	0.64
SAULT SAINTE MARIE, MI	0.917	0.997	0.937	0.91	0.91	0.86	0.98	0.83	0.81	0.91	0.89	0.97	0.92	0.73	0.70	1.00	0.96	0.87	0.71	0.80	0.76	0.87	0.99	0.69	0.66	0.64	0.70
TRAVERSE CITY, MI	0.917	0.997	0.937	0.76	0.80	0.57	0.77	0.72	0.83	0.90	0.76	0.89	0.84	0.77	0.73	0.80	0.75	0.83	0.83	0.85	0.81	0.76	0.82	0.76	0.85	0.74	0.55
YALE, MI	0.917	0.997	0.937	0.78	0.88	1.42	0.87	0.93	0.90	1.02	0.80	1.16	0.94	0.90	0.93	0.98	0.94	0.92	0.91	0.86	0.82	1.08	0.77	0.74	0.87	0.81	0.72
BRAINERD, MN	0.917	0.990	0.966	1.05	1.02	0.53	1.08	0.86	0.75	0.95	1.15	0.89	0.90	0.94	0.97	0.87	0.84	0.96	0.68	1.06	0.80	0.90	0.88	0.72	0.73	0.71	0.72
FERGUS FALLS, MN	0.917	0.990	0.966	1.03	1.06	0.67	1.29	1.50	0.85	0.83	1.08	0.81	1.10	1.17	0.81	0.73	1.06	0.81	0.70	1.20	0.91	0.85	1.06	0.65	0.82	0.00	0.73

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																							
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
HIBBING, MN	0.917	0.990	0.966	1.07	1.04	0.68	1.20	1.23	0.99	0.72	1.06	0.92	0.74	0.88	0.76	0.89	0.98	0.84	0.83	0.96	0.93	0.83	0.97	0.67	0.70	0.85	0.68
MANKATO, MN	0.917	0.990	0.966	1.00	1.03	1.00	1.15	1.00	0.96	0.92	1.03	0.85	0.84	0.99	1.04	0.88	0.81	0.91	0.85	1.07	0.81	0.93	0.99	0.63	0.72	0.81	0.78
MINNEAPOLIS, MN	0.917	0.990	0.966	1.09	1.10	0.77	0.84	1.05	0.98	0.98	1.14	0.94	0.87	0.97	0.97	0.94	0.93	0.94	0.86	1.08	0.90	1.00	0.99	0.76	0.75	0.79	0.63
OWATONNA, MN	0.917	0.990	0.966	1.00	1.03	1.00	1.15	1.00	0.96	0.92	1.03	0.85	0.84	0.99	1.04	0.88	0.81	0.91	0.85	1.07	0.93	0.93	0.99	0.67	0.70	0.85	0.68
SAINT CLOUD, MN	0.917	0.990	0.966	1.05	1.02	0.53	1.08	0.86	0.75	0.95	1.15	0.89	0.90	0.94	0.97	0.87	0.84	0.96	0.68	1.06	0.80	0.90	0.88	0.72	0.73	0.71	0.72
SAINT PAUL, MN	0.917	0.990	0.966	1.02	1.04	0.79	0.89	0.72	0.81	1.11	1.08	0.91	0.90	1.03	0.91	0.87	0.88	0.84	1.02	0.98	0.90	0.87	0.93	0.76	0.75	0.79	0.63
VIRGINIA, MN	0.917	0.990	0.966	1.07	1.04	0.68	1.20	1.23	0.99	0.72	1.06	0.92	0.74	0.88	0.76	0.89	0.98	0.84	0.83	0.96	0.93	0.83	0.97	0.67	0.70	0.85	0.68
WORTHINGTON, MN	0.917	0.990	0.966	1.00	1.03	1.00	1.15	1.00	0.96	0.92	1.03	0.85	0.84	0.99	1.04	0.88	0.81	0.91	0.85	1.07	0.81	0.93	0.99	0.63	0.72	0.81	0.78
BELTON/RICH-GEB AFB, MO	0.917	0.946	0.831	0.93	0.93	0.99	0.99	0.76	0.95	1.15	0.93	0.97	0.98	1.09	0.94	0.95	1.25	0.78	0.84	0.94	0.95	1.03	0.90	0.92	0.92	0.87	0.80
BRANSON, MO	0.917	0.946	0.831	0.92	0.87	0.81	1.22	1.81	0.79	0.86	0.93	0.90	0.92	0.97	0.79	0.80	0.95	0.75	0.67	1.00	0.89	0.90	0.88	0.75	1.12	1.15	1.04
CAPE GIRARDEAU, MO	0.917	0.946	0.831	0.95	0.91	0.98	0.91	0.49	0.84	0.67	0.89	0.99	0.98	0.92	0.81	0.83	0.94	0.72	0.71	0.78	0.90	1.12	0.85	0.74	0.71	0.72	0.70
COLUMBIA, MO	0.917	0.946	0.831	0.94	0.93	0.99	1.22	0.95	0.94	0.94	0.93	1.06	1.05	1.03	0.86	1.05	1.03	0.80	0.79	0.98	0.90	0.97	0.93	0.86	0.79	0.76	0.71
FORT LEONARD WOOD, MO	0.917	0.946	0.831	0.92	0.87	0.81	1.22	1.81	0.79	0.86	0.93	0.90	0.92	0.97	0.79	0.80	0.95	0.75	0.67	1.00	0.89	0.90	0.88	0.75	1.12	1.15	1.04
GRAND VIEW, MO	0.917	0.989	0.949	0.86	0.86	0.88	0.88	0.68	0.87	1.07	0.87	0.90	0.87	0.99	0.86	0.89	1.12	0.72	0.78	0.88	0.88	0.96	0.90	0.92	0.85	0.81	0.74
KANSAS CITY, MO	0.917	0.989	0.949	0.95	0.93	1.07	1.03	0.74	0.90	1.04	0.95	0.97	1.00	0.93	0.87	0.97	1.06	0.70	0.81	0.84	0.88	0.95	0.94	0.92	0.85	0.81	0.74
KIRKSVILLE, MO	0.917	0.946	0.831	0.92	0.85	1.17	0.85	0.75	0.90	0.91	0.90	0.86	0.96	1.01	0.96	0.85	0.77	0.62	0.64	0.92	0.90	0.94	0.90	0.75	1.12	1.15	1.04
MEXICO, MO	0.917	0.946	0.831	0.94	0.93	0.99	1.22	0.95	0.94	0.94	0.93	1.06	1.05	1.03	0.86	1.05	1.03	0.80	0.79	0.98	0.90	0.97	0.93	0.86	0.79	0.76	0.71
MOUNT VERNON, MO	0.917	0.946	0.831	0.92	0.87	0.81	1.22	1.81	0.79	0.86	0.93	0.90	0.92	0.97	0.79	0.80	0.95	0.75	0.67	1.00	0.89	0.90	0.88	0.75	1.12	1.15	1.04
NEVADA, MO	0.917	0.946	0.831	0.92	0.87	0.81	1.22	1.81	0.76	0.86	0.93	0.90	0.92	0.97	0.79	0.80	0.95	0.75	0.67	1.00	0.90	0.90	0.88	0.86	0.79	0.76	0.71
POPLAR BLUFF, MO	0.917	0.946	0.831	0.92	0.85	1.17	0.85	0.75	0.85	0.91	0.90	0.86	0.96	1.01	0.96	0.85	0.77	0.62	0.64	0.92	0.90	0.94	0.90	0.74	0.71	0.72	0.70
SAINT CHARLES, MO	0.917	0.995	0.944	0.87	0.86	0.88	1.09	0.85	0.88	0.88	0.86	0.98	0.94	0.93	0.79	0.98	0.92	0.74	0.73	0.92	0.92	0.90	0.93	0.90	0.88	0.85	0.90
SAINT JAMES, MO	0.917	0.946	0.831	0.92	0.87	0.81	1.22	1.81	0.79	0.86	0.93	0.90	0.92	0.97	0.79	0.80	0.95	0.75	0.67	1.00	0.89	0.90	0.88	0.75	1.12	1.15	1.04
SAINT JOSEPH, MO	0.917	0.946	0.831	0.93	0.93	0.99	0.99	0.76	0.93	1.15	0.93	0.97	0.98	1.09	0.94	0.95	1.25	0.78	0.84	0.94	0.89	1.03	0.90	0.86	0.79	0.76	0.71
SAINT LOUIS, MO	0.917	0.995	0.944	0.99	0.93	1.10	1.03	0.91	0.95	0.99	0.94	1.03	0.93	0.97	0.87	1.01	1.17	0.85	0.73	0.88	0.97	1.04	1.02	1.03	0.88	0.85	0.85
SEDALIA, MO	0.917	0.946	0.831	0.92	0.87	0.81	1.22	1.81	0.76	0.86	0.93	0.90	0.92	0.97	0.79	0.80	0.95	0.75	0.67	1.00	0.90	0.90	0.88	0.86	0.79	0.76	0.71
WEST PLAINS, MO	0.917	0.946	0.831	0.92	0.87	0.81	1.22	1.81	0.79	0.86	0.93	0.90	0.92	0.97	0.79	0.80	0.95	0.75	0.67	1.00	0.89	0.90	0.88	0.75	1.12	1.15	1.04
BILOXI, MS	0.917	0.957	0.845	0.92	0.87	0.94	0.99	0.83	0.98	0.84	0.88	0.99	1.02	0.98	0.85	0.88	1.10	0.64	1.06	0.90	0.96	0.83	0.94	0.81	0.81	0.80	0.82
DURANT, MS	0.917	0.957	0.845	0.92	0.87	0.94	0.99	0.83	0.98	0.84	0.88	0.99	1.02	0.98	0.85	0.88	1.10	0.64	1.06	0.90	0.92	0.83	0.94	0.90	0.78	0.80	1.00
GREENVILLE, MS	0.917	0.957	0.845	0.86	0.84	0.82	1.28	0.75	0.99	0.86	0.89	0.94	0.93	1.14	0.73	0.76	0.91	0.61	0.75	0.90	0.93	0.91	0.87	0.89	0.77	0.81	0.80
GULFPORT, MS	0.917	0.957	0.845	0.92	0.87	0.94	0.99	0.83	0.98	0.84	0.88	0.99	1.02	0.98	0.85	0.88	1.10	0.64	1.06	0.90	0.96	0.83	0.94	0.81	0.81	0.80	0.82
HATTIESBURG, MS	0.917	0.957	0.845	0.91	0.88	1.02	1.20	0.68	0.80	1.01	0.92	1.01	0.94	0.94	0.77	0.82	0.97	0.70	0.79	1.08	0.91	0.98	0.92	0.88	0.72	0.74	0.89
JACKSON, MS	0.917	0.957	0.845	0.91	0.88	1.02	1.20	0.68	0.88	1.01	0.92	1.01	0.94	0.94	0.77	0.82	0.97	0.70	0.79	1.08	0.92	0.98	0.92	0.90	0.78	0.80	1.00
MERIDIAN, MS	0.917	0.957	0.845	0.86	0.84	0.82	1.28	0.75	0.99	0.86	0.89	0.94	0.93	1.14	0.73	0.76	0.91	0.61	0.75	0.90	0.96	0.91	0.87	0.81	0.81	0.80	0.82
SMITHVILLE, MS	0.917	0.957	0.845	0.89	0.88	1.32	1.72	0.66	0.89	1.00	0.94	1.06	0.94	1.04	0.81	0.80	0.91	0.92	0.90	0.89	0.96	0.87	0.90	0.81	0.81	0.80	0.82
ANACONDA, MT	0.917	0.952	0.871	0.89	0.91	0.60	0.71	0.62	0.79	0.86	0.92	0.80	0.86	0.85	0.79	0.87	0.81	0.88	0.59	1.02	0.84	0.84	0.78	0.76	0.85	0.98	0.68
BILLINGS, MT	0.917	0.952	0.871	0.91	1.04	0.81	0.99	1.04	0.77	0.93	0.98	1.00	1.09	0.81	0.72	0.89	1.01	0.75	0.72	0.83	0.90	0.92	0.86	0.81	0.83	0.84	0.75
BOZEMAN, MT	0.917	0.952	0.871	0.89	0.91	0.60	0.71	0.62	0.79	0.86	0.92	0.80	0.86	0.85	0.79	0.87	0.81	0.88	0.59	1.02	0.84	0.84	0.78	0.76	0.85	0.98	0.68
BROWNING, MT	0.917	0.952	0.871	0.92	0.94	0.85	0.91	1.10	0.79	0.81	0.96	0.87	0.99	0.92	0.79	0.98	1.10	0.83	0.69	0.95	0.84	0.85	0.85	0.76	0.85	0.98	0.68
COLUMBIA FALLS, MT	0.917	0.952	0.871	0.89	0.91	0.60	0.71	0.62	0.79	0.86	0.92	0.80	0.86	0.85	0.79	0.87	0.81	0.88	0.59	1.02	0.84	0.84	0.78	0.76	0.85	0.98	0.68
FORT HARRISON, MT	0.917	0.952	0.871	0.92	0.94	0.85	0.91	1.10	0.79	0.81	0.96	0.87	0.99	0.92	0.79	0.98	1.10	0.83	0.69	0.95	0.84	0.85	0.85	0.76	0.85	0.98	0.68
GALLATIN VALLEY, MT	0.917	0.952	0.871	0.89	0.91	0.60	0.71	0.62	0.79	0.86	0.92	0.80	0.86	0.85	0.79	0.87	0.81	0.88	0.59	1.02	0.84	0.84	0.78	0.76	0.85	0.98	0.68
GREAT FALLS, MT	0.917	0.952	0.871	0.92	0.94	0.85	0.91	1.10	0.79	0.81	0.96	0.87	0.99	0.92	0.79	0.98	1.10	0.83	0.69	0.95	0.84	0.85	0.85	0.76	0.85	0.98	0.68
LAME DEER, MT	0.917	0.952	0.871	0.89	0.91	0.60	0.71	0.62	0.79	0.86	0.92	0.80	0.86	0.85	0.79	0.87	0.81	0.88	0.59	1.02	0.84	0.84	0.78	0.76	0.85	0.98	0.68

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																							
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
LIBBY, MT	0.917	0.952	0.871	0.89	0.91	0.60	0.71	0.62	0.79	0.86	0.92	0.80	0.86	0.85	0.79	0.87	0.81	0.88	0.59	1.02	0.84	0.84	0.78	0.76	0.85	0.98	0.68
MILES CITY, MT	0.917	0.952	0.871	0.92	0.94	0.85	0.91	1.10	0.79	0.81	0.96	0.87	0.99	0.92	0.79	0.98	1.10	0.83	0.69	0.95	0.84	0.85	0.85	0.76	0.85	0.98	0.68
MISSOULA, MT	0.917	0.952	0.871	0.92	0.94	0.85	0.91	1.10	0.73	0.81	0.96	0.87	0.99	0.92	0.79	0.98	1.10	0.83	0.69	0.95	0.90	0.85	0.85	0.81	0.83	0.84	0.75
WHITEFISH, MT	0.917	0.952	0.871	0.89	0.91	0.60	0.71	0.62	0.79	0.86	0.92	0.80	0.86	0.85	0.79	0.87	0.81	0.88	0.59	1.02	0.84	0.84	0.78	0.76	0.85	0.98	0.68
WOLF POINT, MT	0.917	0.952	0.871	0.92	0.94	0.85	0.91	1.10	0.79	0.81	0.96	0.87	0.99	0.92	0.79	0.98	1.10	0.83	0.69	0.95	0.84	0.85	0.85	0.76	0.85	0.98	0.68
ASHEVILLE, NC	0.917	0.971	0.921	0.94	0.99	1.21	1.27	0.65	0.89	1.00	0.97	0.84	0.90	0.82	0.86	0.78	0.76	0.94	0.80	0.96	0.99	0.96	0.94	0.91	0.90	0.92	0.86
CHARLOTTE, NC	0.917	0.971	0.921	1.19	1.23	1.24	1.06	0.82	1.07	1.10	1.20	1.01	1.03	0.95	0.90	0.97	1.02	1.02	0.73	0.92	1.09	1.12	0.98	0.88	0.84	0.96	0.83
DURHAM, NC	0.917	0.971	0.921	1.27	1.10	1.33	1.27	0.65	1.12	1.08	1.17	0.90	1.00	0.83	0.84	0.97	1.03	0.96	0.78	1.01	1.06	1.25	0.99	0.98	0.87	1.03	0.89
FAYETTEVILLE, NC	0.917	0.971	0.921	1.12	1.04	0.94	1.21	0.80	0.99	1.08	1.01	0.88	0.99	0.77	0.76	0.82	0.86	0.88	0.73	0.92	1.01	1.03	1.04	0.79	0.88	0.91	0.85
FRANKLIN, NC	0.917	0.971	0.921	0.92	0.91	1.49	1.27	0.64	0.89	0.83	0.94	0.82	0.88	0.78	0.76	0.85	0.91	0.89	0.68	0.83	0.99	0.98	0.88	0.91	0.90	0.92	0.86
GOLDSBORO, NC	0.917	0.971	0.921	1.11	1.00	1.02	1.13	0.68	1.03	0.99	1.04	0.88	1.06	0.97	0.90	0.88	1.15	1.02	0.87	0.99	1.01	1.22	0.97	0.98	0.92	0.93	0.91
GREENSBORO, NC	0.917	0.971	0.921	1.01	1.02	1.07	1.13	0.63	0.93	0.88	1.00	0.88	0.87	0.67	0.90	0.87	0.98	0.94	0.87	0.81	1.01	0.98	1.03	0.79	0.88	0.91	0.85
GREENVILLE, NC	0.917	0.971	0.921	1.27	1.10	1.33	1.27	0.65	1.07	1.08	1.17	0.90	1.00	0.83	0.84	0.97	1.03	0.96	0.78	1.01	1.00	1.25	0.99	0.85	0.89	0.99	0.89
HICKORY, NC	0.917	0.971	0.921	0.94	0.99	1.21	1.27	0.65	0.89	1.00	0.97	0.84	0.90	0.82	0.86	0.78	0.76	0.94	0.80	0.96	0.99	0.96	0.94	0.91	0.90	0.92	0.86
JACKSONVILLE, NC	0.917	0.971	0.921	1.12	1.04	0.94	1.21	0.80	0.96	1.08	1.01	0.88	0.99	0.77	0.76	0.82	0.86	0.88	0.73	0.92	1.01	1.03	1.04	0.98	0.92	0.93	0.91
RALEIGH, NC	0.917	0.971	0.921	1.27	1.10	1.33	1.27	0.65	1.12	1.08	1.17	0.90	1.00	0.83	0.84	0.97	1.03	0.96	0.78	1.01	1.01	1.25	0.99	0.98	0.92	0.93	0.91
SALISBURY, NC	0.917	0.971	0.921	1.06	1.02	1.28	1.23	0.69	1.00	1.03	1.08	0.88	0.89	0.82	0.89	0.87	1.05	0.90	0.68	1.00	1.01	1.03	0.92	1.03	0.82	0.91	0.85
WILMINGTON, NC	0.917	0.971	0.921	1.12	1.04	0.94	1.21	0.80	0.99	1.08	1.01	0.88	0.99	0.77	0.76	0.82	0.86	0.88	0.73	0.92	1.01	1.03	1.04	0.79	0.88	0.91	0.85
WINSTON-SALEM, NC	0.917	0.971	0.921	1.28	1.16	0.97	1.13	0.64	0.94	1.06	1.09	0.92	1.04	0.72	0.89	0.99	0.75	0.93	0.81	0.96	1.06	1.15	0.86	0.98	0.87	1.03	0.89
BISMARCK, ND	0.917	0.951	0.869	1.07	1.04	0.81	1.46	1.21	0.93	0.88	1.03	0.91	1.07	0.98	0.86	0.99	0.94	0.74	0.82	1.24	0.84	0.93	1.02	0.61	0.86	0.85	0.77
FARGO, ND	0.917	0.951	0.869	1.20	1.04	0.83	0.94	1.10	0.94	0.89	1.09	0.95	1.23	1.08	0.84	1.09	1.03	0.75	0.84	1.21	0.86	1.01	1.06	0.55	0.87	0.79	0.72
GRAFTON, ND	0.917	0.951	0.869	1.11	1.04	0.91	1.06	1.08	0.92	0.84	1.07	0.87	0.95	0.76	0.86	0.99	1.15	0.75	0.72	1.26	0.84	0.94	1.01	0.61	0.86	0.85	0.77
MINOT, ND	0.917	0.951	0.869	1.11	1.04	0.91	1.06	1.08	0.92	0.84	1.07	0.87	0.95	0.76	0.86	0.99	1.15	0.75	0.72	1.26	0.84	0.94	1.01	0.61	0.86	0.85	0.77
ALLIANCE, NE	0.917	0.950	0.873	0.84	0.82	0.55	0.53	1.23	0.97	0.76	0.86	0.84	0.69	0.89	0.78	0.83	0.97	0.67	0.65	0.93	0.79	1.00	0.81	0.62	0.66	0.69	0.67
BEATRICE, NE	0.917	0.950	0.873	0.81	0.85	0.83	1.20	0.66	0.92	0.69	0.90	0.86	0.90	0.95	0.77	0.83	0.88	0.65	0.67	0.77	0.72	1.02	0.82	0.66	0.62	0.69	0.58
BELLEVUE, NE	0.917	0.950	0.873	0.90	0.89	1.21	1.05	0.88	0.95	0.90	0.96	1.17	0.77	1.00	0.94	0.88	1.14	0.85	0.83	0.90	0.83	0.91	0.76	0.72	0.75	0.79	0.69
GERING, NE	0.917	0.950	0.873	0.84	0.82	0.55	0.53	1.23	0.97	0.76	0.86	0.84	0.69	0.89	0.78	0.83	0.97	0.67	0.65	0.93	0.79	1.00	0.81	0.62	0.66	0.69	0.67
GRAND ISLAND, NE	0.917	0.950	0.873	0.84	0.82	0.55	0.53	1.23	0.97	0.76	0.86	0.84	0.69	0.89	0.78	0.83	0.97	0.67	0.65	0.93	0.79	1.00	0.81	0.62	0.66	0.69	0.67
KEARNEY, NE	0.917	0.950	0.873	0.84	0.82	0.55	0.53	1.23	0.97	0.76	0.86	0.84	0.69	0.89	0.78	0.83	0.97	0.67	0.65	0.93	0.79	1.00	0.81	0.62	0.66	0.69	0.67
LINCOLN, NE	0.917	0.950	0.873	0.90	0.93	0.84	0.91	0.59	0.84	0.70	0.92	0.84	0.75	0.93	0.99	0.90	0.83	0.70	0.65	0.78	0.77	1.06	0.86	0.68	0.65	0.73	0.69
NORFOLK, NE	0.917	0.950	0.873	0.79	0.81	1.10	1.16	1.16	0.80	0.70	0.92	0.81	0.76	0.92	0.69	0.80	1.17	0.66	0.77	0.69	0.72	1.14	0.73	0.66	0.62	0.69	0.58
NORTH PLATTE, NE	0.917	0.950	0.873	0.79	0.81	1.10	1.16	1.16	0.80	0.70	0.92	0.81	0.76	0.92	0.69	0.80	1.17	0.66	0.77	0.69	0.72	1.14	0.73	0.66	0.62	0.69	0.58
OMAHA, NE	0.917	0.950	0.873	0.90	0.89	1.21	1.05	0.88	0.95	0.90	0.96	1.17	0.77	1.00	0.94	0.88	1.14	0.85	0.83	0.90	0.83	0.91	0.76	0.72	0.75	0.79	0.69
RUSHVILLE, NE	0.917	0.950	0.873	0.84	0.82	0.55	0.53	1.23	0.97	0.76	0.86	0.84	0.69	0.89	0.78	0.83	0.97	0.67	0.65	0.93	0.79	1.00	0.81	0.62	0.66	0.69	0.67
SCOTTSBLUFF, NE	0.917	0.950	0.873	0.84	0.82	0.55	0.53	1.23	0.97	0.76	0.86	0.84	0.69	0.89	0.78	0.83	0.97	0.67	0.65	0.93	0.79	1.00	0.81	0.62	0.66	0.69	0.67
SIDNEY, NE	0.917	0.950	0.873	0.79	0.81	1.10	1.16	1.16	0.80	0.70	0.92	0.81	0.76	0.92	0.69	0.80	1.17	0.66	0.77	0.69	0.72	1.14	0.73	0.66	0.62	0.69	0.58
BERLIN, NH	0.917	0.988	1.034	0.93	0.94	0.70	0.76	0.95	0.97	0.83	0.90	0.94	0.81	0.76	0.90	0.89	0.72	1.00	0.78	0.84	0.87	0.74	0.70	0.95	0.94	0.90	0.75
KEENE, NH	0.917	0.988	1.034	0.99	0.96	0.77	0.79	0.96	0.87	0.93	0.95	0.98	0.92	0.70	1.08	0.99	0.91	1.07	0.87	0.84	0.87	0.80	0.92	0.95	0.94	0.90	0.75
LITTLETON, NH	0.917	0.988	1.034	0.93	0.94	0.70	0.76	0.95	0.97	0.83	0.90	0.94	0.81	0.76	0.90	0.89	0.72	1.00	0.78	0.84	0.87	0.74	0.70	0.95	0.94	0.90	0.75
MANCHESTER, NH	0.917	0.988	1.034	0.99	0.96	0.77	0.79	0.96	0.87	0.93	0.95	0.98	0.92	0.70	1.08	0.99	0.91	1.07	0.87	0.84	0.87	0.80	0.92	0.95	0.94	0.90	0.75
PORTSMOUTH, NH	0.917	0.988	1.034	0.93	0.94	0.70	0.76	0.95	0.97	0.83	0.90	0.94	0.81	0.76	0.90	0.89	0.72	1.00	0.78	0.84	0.87	0.74	0.70	0.95	0.94	0.90	0.75
TILTON, NH	0.917	0.988	1.034	0.93	0.94	0.70	0.76	0.95	0.97	0.83	0.90	0.94	0.81	0.76	0.90	0.89	0.72	1.00	0.78	0.84	0.87	0.74	0.70	0.95	0.94	0.90	0.75
BLACKWOOD, NJ	0.917	1.029	1.104	0.96	0.88	1.05	1.09	0.91	1.03	1.09	0.91	1.14	1.08	1.02	0.94	0.90	1.11	0.77	1.22	1.10	1.10	1.18	1.00	1.10	0.98	0.96	1.08

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
BRICK, NJ	0.917	1.029	1.104	0.95	0.95	0.90	0.93	0.99	0.91	1.08	0.90	1.07	0.93	1.04	0.89	0.91	0.93	1.00	1.17	1.05	1.12	1.17	1.11	1.15	1.19	1.17	1.12
CAPE MAY, NJ	0.917	1.029	1.104	0.96	0.88	1.05	1.09	0.91	1.03	1.09	0.91	1.14	1.08	1.02	0.94	0.90	1.11	0.77	1.22	1.10	1.10	1.18	1.00	1.10	0.98	0.96	1.08
EAST ORANGE, NJ	0.917	1.058	1.203	0.98	1.00	1.07	1.25	1.09	0.93	1.03	0.95	1.12	0.96	1.02	0.90	0.98	0.97	1.04	1.09	1.17	1.17	1.11	1.06	1.33	1.27	1.17	1.02
ELIZABETH, NJ	0.917	1.058	1.203	0.92	0.91	0.98	0.93	1.11	0.90	1.03	0.91	0.99	0.85	1.02	0.81	0.93	0.96	0.84	1.01	1.02	1.11	0.95	1.04	1.21	1.27	1.14	1.09
FORT DIX, NJ	0.917	1.029	1.104	0.95	0.95	0.90	0.93	0.99	0.91	1.08	0.90	1.07	0.93	1.04	0.89	0.91	0.93	1.00	1.17	1.05	1.15	1.17	1.11	1.20	1.20	1.11	1.07
HACKENSACK, NJ	0.917	1.058	1.203	0.98	1.03	1.08	1.05	1.22	0.91	0.92	0.95	1.10	0.97	0.89	0.88	1.08	1.03	0.96	1.30	1.14	1.17	1.00	1.17	1.33	1.27	1.17	1.02
JAMESBURG, NJ	0.917	1.058	1.203	0.91	0.94	0.84	1.30	1.18	0.92	1.01	0.92	1.01	0.92	1.00	0.82	0.91	0.98	0.89	1.01	1.17	1.11	1.00	1.06	1.21	1.27	1.14	1.09
JERSEY CITY, NJ	0.917	1.058	1.203	0.98	1.00	1.07	1.25	1.09	0.95	1.03	0.95	1.12	0.96	1.02	0.90	0.98	0.97	1.04	1.09	1.17	1.18	1.11	1.06	1.47	1.27	1.25	1.16
LINWOOD, NJ	0.917	1.029	1.104	0.96	0.88	1.05	1.09	0.91	1.03	1.09	0.91	1.14	1.08	1.02	0.94	0.90	1.11	0.77	1.22	1.10	1.10	1.18	1.00	1.10	0.98	0.96	1.08
LYONS, NJ	0.917	1.058	1.203	0.98	1.00	1.07	1.25	1.09	0.95	1.03	0.95	1.12	0.96	1.02	0.90	0.98	0.97	1.04	1.09	1.17	1.18	1.11	1.06	1.47	1.27	1.25	1.16
NEW BRUNSWICK, NJ	0.917	1.058	1.203	0.91	0.94	0.84	1.30	1.18	0.92	1.01	0.92	1.01	0.92	1.00	0.82	0.91	0.98	0.89	1.01	1.17	1.11	1.00	1.06	1.21	1.27	1.14	1.09
NEWARK, NJ	0.917	1.058	1.203	1.09	1.02	1.20	1.47	1.36	0.94	1.05	1.00	1.06	0.88	0.90	0.86	1.06	1.01	0.95	1.14	1.15	1.18	1.09	1.04	1.47	1.27	1.25	1.16
SALEM CITY, NJ	0.917	1.029	1.104	0.96	0.88	1.05	1.09	0.91	1.03	1.09	0.91	1.14	1.08	1.02	0.94	0.90	1.11	0.77	1.22	1.10	1.10	1.18	1.00	1.10	0.98	0.96	1.08
TRENTON, NJ	0.917	1.029	1.104	0.95	0.95	0.90	0.93	0.99	0.91	1.08	0.90	1.07	0.93	1.04	0.89	0.91	0.93	1.00	1.17	1.05	1.15	1.17	1.11	1.20	1.20	1.11	1.07
VENTNOR, NJ	0.917	1.029	1.104	0.95	0.95	0.90	0.93	0.99	0.89	1.08	0.90	1.07	0.93	1.04	0.89	0.91	0.93	1.00	1.17	1.05	1.10	1.17	1.11	1.10	0.98	0.96	1.08
VINELAND, NJ	0.917	1.029	1.104	0.95	0.95	0.90	0.93	0.99	0.89	1.08	0.90	1.07	0.93	1.04	0.89	0.91	0.93	1.00	1.17	1.05	1.10	1.17	1.11	1.10	0.98	0.96	1.08
ALBUQUERQUE, NM	0.917	0.974	0.907	0.96	1.11	1.00	1.06	1.00	1.03	0.97	1.07	1.18	1.06	1.03	0.83	1.43	1.17	0.94	0.86	0.88	0.92	0.94	0.71	0.93	0.70	0.81	0.71
ARTESIA, NM	0.917	0.974	0.907	0.91	0.92	1.03	0.87	0.82	0.96	0.85	0.93	0.96	1.13	1.16	0.88	0.83	0.93	0.74	0.92	1.01	0.87	1.10	0.92	0.85	0.85	0.88	0.75
CLAYTON, NM	0.917	0.974	0.907	0.92	0.98	0.99	0.74	0.65	0.92	0.97	1.01	0.99	0.99	1.16	0.97	0.94	0.88	0.97	0.99	0.76	0.87	1.00	0.80	0.85	0.85	0.88	0.75
CLOVIS, NM	0.917	0.974	0.907	0.91	0.92	1.03	0.87	0.82	0.96	0.85	0.93	0.96	1.13	1.16	0.88	0.83	0.93	0.74	0.92	1.01	0.87	1.10	0.92	0.85	0.85	0.88	0.75
ESPANOLA, NM	0.917	0.974	0.907	0.92	0.98	0.99	0.74	0.65	0.92	0.97	1.01	0.99	0.99	1.16	0.97	0.94	0.88	0.97	0.99	0.76	0.87	1.00	0.80	0.85	0.85	0.88	0.75
FARMINGTON, NM	0.917	0.974	0.907	0.92	0.98	0.99	0.74	0.65	0.92	0.97	1.01	0.99	0.99	1.16	0.97	0.94	0.88	0.97	0.99	0.76	0.87	1.00	0.80	0.85	0.85	0.88	0.75
GALLUP, NM	0.917	0.974	0.907	0.92	0.98	0.99	0.74	0.65	0.92	0.97	1.01	0.99	0.99	1.16	0.97	0.94	0.88	0.97	0.99	0.76	0.87	1.00	0.80	0.85	0.85	0.88	0.75
HOBBS, NM	0.917	0.974	0.907	0.91	0.92	1.03	0.87	0.82	0.96	0.85	0.93	0.96	1.13	1.16	0.88	0.83	0.93	0.74	0.92	1.01	0.87	1.10	0.92	0.85	0.85	0.88	0.75
LAS CRUCES, NM	0.917	0.974	0.907	0.91	0.92	1.03	0.87	0.82	1.04	0.85	0.93	0.96	1.13	1.16	0.88	0.83	0.93	0.74	0.92	1.01	0.92	1.10	0.92	0.93	0.70	0.81	0.71
LAS VEGAS, NM	0.917	0.974	0.907	0.92	0.98	0.99	0.74	0.65	0.99	0.97	1.01	0.99	0.99	1.16	0.97	0.94	0.88	0.97	0.99	0.76	0.92	1.00	0.80	0.93	0.70	0.81	0.71
RATON, NM	0.917	0.974	0.907	0.92	0.98	0.99	0.74	0.65	0.99	0.97	1.01	0.99	0.99	1.16	0.97	0.94	0.88	0.97	0.99	0.76	0.92	1.00	0.80	0.93	0.70	0.81	0.71
SANTA FE, NM	0.917	0.974	0.907	0.92	0.98	0.99	0.74	0.65	0.92	0.97	1.01	0.99	0.99	1.16	0.97	0.94	0.88	0.97	0.99	0.76	0.87	1.00	0.80	0.85	0.85	0.88	0.75
SANTA ROSA, NM	0.917	0.974	0.907	0.92	0.98	0.99	0.74	0.65	0.92	0.97	1.01	0.99	0.99	1.16	0.97	0.94	0.88	0.97	0.99	0.76	0.87	1.00	0.80	0.85	0.85	0.88	0.75
SILVER CITY, NM	0.917	0.974	0.907	0.91	0.92	1.03	0.87	0.82	1.04	0.85	0.93	0.96	1.13	1.16	0.88	0.83	0.93	0.74	0.92	1.01	0.92	1.10	0.92	0.93	0.70	0.81	0.71
TRUTH OR CONSEQUENCES, NM	0.917	0.974	0.907	0.91	0.92	1.03	0.87	0.82	1.04	0.85	0.93	0.96	1.13	1.16	0.88	0.83	0.93	0.74	0.92	1.01	0.92	1.10	0.92	0.93	0.70	0.81	0.71
ELY, NV	0.917	1.006	1.030	1.09	1.09	0.95	0.96	0.95	0.97	0.98	1.18	0.96	1.03	0.87	0.92	1.03	0.95	0.95	1.05	1.09	0.93	1.04	0.96	0.92	0.72	0.72	0.68
HENDERSON, NV	0.917	1.006	1.030	1.05	0.98	0.81	1.06	0.88	0.93	0.99	1.10	0.97	0.96	0.83	0.87	0.88	1.04	0.74	0.91	0.93	1.07	0.99	0.89	1.31	0.80	0.90	1.02
LAS VEGAS, NV	0.917	1.006	1.030	1.09	1.09	0.95	0.96	0.95	0.97	0.98	1.18	0.96	1.03	0.87	0.92	1.03	0.95	0.95	1.05	1.09	1.08	1.04	0.96	1.31	0.80	0.90	1.02
MESQUITE, NV	0.917	1.006	1.030	1.05	0.98	0.81	1.06	0.88	0.93	0.99	1.10	0.97	0.96	0.83	0.87	0.88	1.04	0.74	0.91	0.93	1.07	0.99	0.89	1.31	0.80	0.90	1.02
RENO, NV	0.917	1.006	1.030	0.87	0.91	1.38	0.81	0.69	0.77	1.10	0.98	0.95	0.77	0.74	0.68	1.02	0.83	0.73	0.80	0.89	0.93	1.09	0.85	0.92	0.72	0.72	0.68
ALBANY, NY	0.917	1.000	0.957	0.93	1.03	0.86	1.01	1.09	1.01	0.97	0.90	1.01	0.91	1.00	1.19	1.05	0.99	1.07	0.77	0.97	0.98	1.17	0.97	1.00	1.05	0.95	0.96
AMSTERDAM, NY	0.917	1.000	0.957	0.80	0.96	1.19	1.29	1.34	0.90	0.97	0.85	1.09	0.77	0.91	0.96	0.96	1.03	0.93	0.72	1.17	0.96	1.07	1.00	0.89	1.07	1.02	1.01
ATTICA, NY	0.917	1.000	0.957	0.67	0.76	1.00	0.86	1.01	0.84	0.99	0.77	0.78	0.84	0.74	0.81	0.91	0.74	0.82	0.60	0.96	0.84	0.99	0.80	0.73	0.83	0.75	0.64
AUBURN, NY	0.917	1.000	0.957	0.90	0.90	0.80	0.88	0.94	0.99	0.86	0.89	1.00	0.96	0.86	0.85	0.92	0.86	0.78	0.64	1.09	1.03	1.03	0.93	1.15	1.04	1.03	0.88
BABYLON, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.32	1.12	1.15	1.54	1.52	1.52	1.37
BATAVIA, NY	0.917	1.000	0.957	0.67	0.76	1.00	0.86	1.01	0.84	0.99	0.77	0.78	0.84	0.74	0.81	0.91	0.74	0.82	0.60	0.96	0.84	0.99	0.80	0.73	0.83	0.75	0.64
BATH, NY	0.917	1.000	0.957	0.90	0.90	0.80	0.88	0.94	0.96	0.86	0.89	1.00	0.96	0.86	0.85	0.92	0.86	0.78	0.64	1.09	0.99	1.03	0.93	1.07	0.94	0.87	0.91

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
BINGHAMTON, NY	0.917	1.000	0.957	0.89	0.89	0.92	0.83	0.77	0.83	0.90	0.84	0.97	0.90	0.86	0.81	0.91	1.04	0.87	0.89	0.95	0.99	0.87	0.94	1.07	0.94	0.87	0.91
BRONX, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.19	1.12	1.15	1.44	1.55	1.39	1.07
BROOKLYN, NY	0.917	1.068	1.234	0.95	1.11	1.02	1.21	1.38	1.04	0.90	0.99	1.20	1.01	1.04	0.98	0.99	0.90	0.99	0.78	0.91	1.23	0.91	1.06	1.51	1.67	1.53	1.19
BUFFALO, NY	0.917	1.000	0.957	0.76	0.84	0.73	0.93	1.03	0.77	0.92	0.84	0.86	0.83	0.74	0.82	0.91	0.88	0.87	0.70	0.88	0.80	0.84	0.89	0.89	0.86	0.78	0.50
CANANDAIGUA, NY	0.917	1.000	0.957	0.89	0.89	0.92	0.83	0.77	0.90	0.90	0.84	0.97	0.90	0.86	0.81	0.91	1.04	0.87	0.89	0.95	0.76	0.87	0.94	1.00	0.97	0.88	0.79
CARMEL, NY	0.917	1.011	1.083	1.13	1.17	1.01	1.42	1.33	1.07	0.92	1.06	1.22	0.95	1.12	1.10	1.17	1.01	1.32	0.86	1.37	1.34	1.26	1.05	1.44	1.75	1.57	1.22
CASTLE POINT, NY	0.917	1.011	1.083	0.85	0.96	0.97	1.25	1.17	0.89	1.03	0.92	1.02	0.83	0.95	0.93	0.85	1.03	0.91	0.77	1.01	1.08	1.15	0.97	1.19	1.41	1.31	1.21
CATSKILL, NY	0.917	1.011	1.083	0.85	0.96	0.97	1.25	1.17	0.89	1.03	0.92	1.02	0.83	0.95	0.93	0.85	1.03	0.91	0.77	1.01	1.08	1.15	0.97	1.19	1.41	1.31	1.21
CORNING, NY	0.917	1.000	0.957	0.90	0.90	0.80	0.88	0.94	0.96	0.86	0.89	1.00	0.96	0.86	0.85	0.92	0.86	0.78	0.64	1.09	0.99	1.03	0.93	1.07	0.94	0.87	0.91
CORTLAND, NY	0.917	1.000	0.957	0.90	0.90	0.80	0.88	0.94	0.99	0.86	0.89	1.00	0.96	0.86	0.85	0.92	0.86	0.78	0.64	1.09	1.03	1.03	0.93	1.15	1.04	1.03	0.88
DANSVILLE, NY	0.917	1.000	0.957	0.89	0.89	0.92	0.83	0.77	0.90	0.90	0.84	0.97	0.90	0.86	0.81	0.91	1.04	0.87	0.89	0.95	0.76	0.87	0.94	1.00	0.97	0.88	0.79
ELIZABETHTOWN, NY	0.917	1.000	0.957	0.87	0.94	0.99	0.95	1.28	0.84	0.91	0.84	1.06	0.86	0.88	0.87	0.83	1.00	0.87	0.72	1.05	1.05	0.98	1.09	1.08	1.03	0.94	0.91
GENESEO, NY	0.917	1.000	0.957	0.89	0.89	0.92	0.83	0.77	0.90	0.90	0.84	0.97	0.90	0.86	0.81	0.91	1.04	0.87	0.89	0.95	0.76	0.87	0.94	1.00	0.97	0.88	0.79
GENEVA, NY	0.917	1.000	0.957	0.89	0.89	0.92	0.83	0.77	0.90	0.90	0.84	0.97	0.90	0.86	0.81	0.91	1.04	0.87	0.89	0.95	0.76	0.87	0.94	1.00	0.97	0.88	0.79
GLENS FALLS, NY	0.917	1.000	0.957	0.87	0.94	0.99	0.95	1.28	0.96	0.91	0.84	1.06	0.86	0.88	0.87	0.83	1.00	0.87	0.72	1.05	0.98	0.98	1.09	1.00	1.05	0.95	0.96
GLOVERSVILLE, NY	0.917	1.000	0.957	0.80	0.96	1.19	1.29	1.34	0.90	0.97	0.85	1.09	0.77	0.91	0.96	0.96	1.03	0.93	0.72	1.17	0.96	1.07	1.00	0.89	1.07	1.02	1.01
HARLEM, NY	0.917	1.094	1.356	1.32	1.44	1.15	1.31	1.80	1.14	0.92	1.19	1.43	0.88	0.98	1.25	1.31	1.00	1.32	1.04	1.21	1.36	1.06	1.13	1.69	1.91	1.75	1.12
HARRIS, NY	0.917	1.011	1.083	1.03	1.12	1.03	1.36	1.54	0.92	1.01	1.07	1.28	0.99	0.99	1.02	1.27	0.98	1.28	0.79	1.17	0.96	1.09	1.01	1.08	0.94	0.86	0.82
HICKSVILLE, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.32	1.12	1.15	1.54	1.52	1.52	1.37
HORSEHEADS, NY	0.917	1.000	0.957	0.90	0.90	0.80	0.88	0.94	0.96	0.86	0.89	1.00	0.96	0.86	0.85	0.92	0.86	0.78	0.64	1.09	0.99	1.03	0.93	1.07	0.94	0.87	0.91
HOUGHTON, NY	0.917	1.000	0.957	0.76	0.84	0.73	0.93	1.03	0.87	0.92	0.84	0.86	0.83	0.74	0.82	0.91	0.88	0.87	0.70	0.88	0.84	0.84	0.89	0.73	0.83	0.75	0.64
HUDSON, NY	0.917	1.011	1.083	0.85	0.96	0.97	1.25	1.17	0.89	1.03	0.92	1.02	0.83	0.95	0.93	0.85	1.03	0.91	0.77	1.01	1.08	1.15	0.97	1.19	1.41	1.31	1.21
ISLIP, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.32	1.12	1.15	1.54	1.52	1.52	1.37
ITHACA, NY	0.917	1.000	0.957	0.90	0.90	0.80	0.88	0.94	0.96	0.86	0.89	1.00	0.96	0.86	0.85	0.92	0.86	0.78	0.64	1.09	0.99	1.03	0.93	1.07	0.94	0.87	0.91
JAMESTOWN, NY	0.917	1.000	0.957	0.76	0.84	0.73	0.93	1.03	0.87	0.92	0.84	0.86	0.83	0.74	0.82	0.91	0.88	0.87	0.70	0.88	0.84	0.84	0.89	0.73	0.83	0.75	0.64
KINGSTON, NY	0.917	1.011	1.083	0.85	0.96	0.97	1.25	1.17	0.89	1.03	0.92	1.02	0.83	0.95	0.93	0.85	1.03	0.91	0.77	1.01	1.08	1.15	0.97	1.19	1.41	1.31	1.21
LIBERTY, NY	0.917	1.011	1.083	1.03	1.12	1.03	1.36	1.54	0.92	1.01	1.07	1.28	0.99	0.99	1.02	1.27	0.98	1.28	0.79	1.17	0.96	1.09	1.01	1.08	0.94	0.86	0.82
LINDENHURST, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.32	1.12	1.15	1.54	1.52	1.52	1.37
LITTLE FALLS, NY	0.917	1.000	0.957	1.17	1.01	1.10	1.11	1.08	1.07	1.14	0.94	1.20	0.99	0.93	0.95	0.96	0.99	0.91	1.02	0.97	1.03	1.10	0.95	1.15	1.04	1.03	0.88
LYNBROOK, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.19	1.12	1.15	1.50	1.58	1.52	1.31
LYONS, NY	0.917	1.000	0.957	0.89	0.89	0.92	0.83	0.77	0.90	0.90	0.84	0.97	0.90	0.86	0.81	0.91	1.04	0.87	0.89	0.95	0.76	0.87	0.94	1.00	0.97	0.88	0.79
MASSENA, NY	0.917	1.000	0.957	0.87	0.94	0.99	0.95	1.28	0.84	0.91	0.84	1.06	0.86	0.88	0.87	0.83	1.00	0.87	0.72	1.05	1.07	0.98	1.09	1.11	1.14	1.08	1.01
MONTICELLO, NY	0.917	1.011	1.083	1.03	1.12	1.03	1.36	1.54	0.92	1.01	1.07	1.28	0.99	0.99	1.02	1.27	0.98	1.28	0.79	1.17	0.96	1.09	1.01	1.08	0.94	0.86	0.82
MONTROSE, NY	0.917	1.068	1.234	1.03	1.06	0.86	1.21	1.17	0.95	0.84	0.97	1.09	0.83	0.99	0.98	1.07	0.86	1.19	0.78	1.25	1.18	1.14	1.05	1.44	1.55	1.39	1.07
MOUNT SINAI, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.32	1.12	1.15	1.54	1.52	1.52	1.37
NEW YORK, NY	0.917	1.094	1.356	1.32	1.44	1.15	1.31	1.80	1.14	0.92	1.19	1.43	0.88	0.98	1.25	1.31	1.00	1.32	1.04	1.21	1.36	1.06	1.13	1.69	1.91	1.75	1.12
NIAGARA FALLS, NY	0.917	1.000	0.957	0.67	0.76	1.00	0.86	1.01	0.84	0.99	0.77	0.78	0.84	0.74	0.81	0.91	0.74	0.82	0.60	0.96	0.84	0.99	0.80	0.73	0.83	0.75	0.64
NORTH TONAWANDA, NY	0.917	1.000	0.957	0.67	0.76	1.00	0.86	1.01	0.84	0.99	0.77	0.78	0.84	0.74	0.81	0.91	0.74	0.82	0.60	0.96	0.84	0.99	0.80	0.73	0.83	0.75	0.64
NORTHPORT, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.32	1.12	1.15	1.54	1.52	1.52	1.37
OLEAN, NY	0.917	1.000	0.957	0.76	0.84	0.73	0.93	1.03	0.87	0.92	0.84	0.86	0.83	0.74	0.82	0.91	0.88	0.87	0.70	0.88	0.84	0.84	0.89	0.73	0.83	0.75	0.64
OSWEGO, NY	0.917	1.000	0.957	0.90	0.90	0.80	0.88	0.94	0.99	0.86	0.89	1.00	0.96	0.86	0.85	0.92	0.86	0.78	0.64	1.09	1.03	1.03	0.93	1.15	1.04	1.03	0.88
PATCHOGUE, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.32	1.12	1.15	1.54	1.52	1.52	1.37
PENN YAN, NY	0.917	1.000	0.957	0.89	0.89	0.92	0.83	0.77	0.90	0.90	0.84	0.97	0.90	0.86	0.81	0.91	1.04	0.87	0.89	0.95	0.76	0.87	0.94	1.00	0.97	0.88	0.79

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
PLAINVIEW, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.32	1.12	1.15	1.54	1.52	1.52	1.37
PLATTSBURGH, NY	0.917	1.000	0.957	0.87	0.94	0.99	0.95	1.28	0.84	0.91	0.84	1.06	0.86	0.88	0.87	0.83	1.00	0.87	0.72	1.05	1.05	0.98	1.09	1.08	1.03	0.94	0.91
POMONA, NY	0.917	1.068	1.234	0.94	1.02	0.88	1.16	1.35	0.91	0.92	0.97	1.14	0.87	0.88	0.91	1.16	0.84	1.15	0.73	1.07	1.11	0.98	1.01	1.48	1.37	1.39	1.32
PORT JERVIS, NY	0.917	1.011	1.083	1.03	1.12	1.03	1.36	1.54	0.92	1.01	1.07	1.28	0.99	0.99	1.02	1.27	0.98	1.28	0.79	1.17	0.96	1.09	1.01	1.08	0.94	0.86	0.82
RENSSELAER COUNTY, NY	0.917	1.000	0.957	0.80	0.96	1.19	1.29	1.34	0.90	0.97	0.85	1.09	0.77	0.91	0.96	0.96	1.03	0.93	0.72	1.17	0.96	1.07	1.00	0.89	1.07	1.02	1.01
RIVERHEAD, NY	0.917	1.068	1.234	0.78	0.99	0.74	1.04	1.18	0.82	0.81	0.91	1.22	0.87	0.89	0.97	1.02	0.90	0.99	0.78	0.97	0.96	0.86	0.95	1.19	1.24	1.16	1.06
ROCHESTER, NY	0.917	1.000	0.957	0.89	0.89	0.92	0.83	0.77	0.90	0.90	0.84	0.97	0.90	0.86	0.81	0.91	1.04	0.87	0.89	0.95	0.76	0.87	0.94	1.00	0.97	0.88	0.79
ROCKLAND COUNTY, NY	0.917	1.068	1.234	0.94	1.02	0.88	1.16	1.35	0.91	0.92	0.97	1.14	0.87	0.88	0.91	1.16	0.84	1.15	0.73	1.07	1.11	0.98	1.01	1.48	1.37	1.39	1.32
ROME, NY	0.917	1.000	0.957	1.17	1.01	1.10	1.11	1.08	1.07	1.14	0.94	1.20	0.99	0.93	0.95	0.96	0.99	0.91	1.02	0.97	1.03	1.10	0.95	1.15	1.04	1.03	0.88
SAINT ALBANS, NY	0.917	1.058	1.237	0.97	1.07	0.98	1.16	1.34	1.04	1.04	1.02	1.14	0.88	1.00	0.93	1.02	0.88	1.19	0.81	1.10	1.30	1.13	1.15	1.49	1.69	1.53	1.55
SARATOGA, NY	0.917	1.000	0.957	0.80	0.96	1.19	1.29	1.34	0.90	0.97	0.85	1.09	0.77	0.91	0.96	0.96	1.03	0.93	0.72	1.17	0.96	1.07	1.00	0.89	1.07	1.02	1.01
SAYVILLE, NY	0.917	1.068	1.234	0.97	1.07	0.98	1.16	1.33	0.97	1.04	1.01	1.13	0.88	1.00	0.93	1.01	0.87	1.18	0.81	1.09	1.32	1.12	1.15	1.54	1.52	1.52	1.37
SCHENECTADY, NY	0.917	1.000	0.957	0.80	0.96	1.19	1.29	1.34	0.90	0.97	0.85	1.09	0.77	0.91	0.96	0.96	1.03	0.93	0.72	1.17	0.96	1.07	1.00	0.89	1.07	1.02	1.01
SENECA FALLS, NY	0.917	1.000	0.957	0.90	0.90	0.80	0.88	0.94	0.99	0.86	0.89	1.00	0.96	0.86	0.85	0.92	0.86	0.78	0.64	1.09	1.03	1.03	0.93	1.15	1.04	1.03	0.88
SIDNEY, NY	0.917	1.011	1.083	0.84	0.83	0.79	0.71	0.68	0.75	0.85	0.79	0.89	0.79	0.78	0.75	0.86	0.91	0.80	0.85	0.90	0.96	0.82	0.94	1.08	0.94	0.86	0.82
SOMERS, NY	0.917	1.068	1.234	1.03	1.06	0.86	1.21	1.17	0.95	0.84	0.97	1.09	0.83	0.99	0.98	1.07	0.86	1.19	0.78	1.25	1.18	1.14	1.05	1.44	1.55	1.39	1.07
SONYEA, NY	0.917	1.000	0.957	0.89	0.89	0.92	0.83	0.77	0.90	0.90	0.84	0.97	0.90	0.86	0.81	0.91	1.04	0.87	0.89	0.95	0.76	0.87	0.94	1.00	0.97	0.88	0.79
STATEN ISLAND, NY	0.917	1.068	1.234	1.03	1.06	0.86	1.21	1.17	1.04	0.84	0.97	1.09	0.83	0.99	0.98	1.07	0.86	1.19	0.78	1.25	1.23	1.14	1.05	1.51	1.67	1.53	1.19
SYRACUSE, NY	0.917	1.000	0.957	1.17	1.01	1.10	1.11	1.08	1.04	1.14	0.94	1.20	0.99	0.93	0.95	0.96	0.99	0.91	1.02	0.97	1.07	1.10	0.95	1.11	1.14	1.08	1.01
UTICA, NY	0.917	1.000	0.957	0.87	0.94	0.99	0.95	1.28	0.87	0.91	0.84	1.06	0.86	0.88	0.87	0.83	1.00	0.87	0.72	1.05	1.03	0.98	1.09	1.15	1.04	1.03	0.88
WATERTOWN, NY	0.917	1.000	0.957	0.87	0.94	0.99	0.95	1.28	0.84	0.91	0.84	1.06	0.86	0.88	0.87	0.83	1.00	0.87	0.72	1.05	1.07	0.98	1.09	1.11	1.14	1.08	1.01
WELLSVILLE, NY	0.917	1.000	0.957	0.90	0.90	0.80	0.88	0.94	0.96	0.86	0.89	1.00	0.96	0.86	0.85	0.92	0.86	0.78	0.64	1.09	0.99	1.03	0.93	1.07	0.94	0.87	0.91
WHITE PLAINS, NY	0.917	1.068	1.234	0.97	1.15	1.16	1.12	1.68	0.99	0.91	1.00	1.11	0.90	1.08	1.15	1.13	0.90	1.10	0.81	1.17	1.18	0.95	1.11	1.44	1.55	1.39	1.07
YONKERS, NY	0.917	1.068	1.234	0.78	0.99	0.74	1.04	1.18	0.82	0.81	0.91	1.22	0.87	0.89	0.97	1.02	0.90	0.99	0.78	0.97	1.19	0.86	0.95	1.44	1.55	1.39	1.07
AKRON, OH	0.917	0.991	0.940	0.81	0.86	0.78	0.82	0.76	0.84	1.16	0.83	0.94	0.73	0.86	0.80	0.83	0.87	0.74	0.92	0.93	0.94	0.86	0.94	0.94	0.78	0.78	0.95
ASHTABULA, OH	0.917	0.991	0.940	0.89	0.91	0.90	1.42	0.79	0.90	1.13	0.94	0.99	1.24	1.00	0.80	0.88	0.84	0.76	1.00	0.85	1.02	0.91	0.96	1.01	0.75	0.76	1.03
ATHENS, OH	0.917	0.991	0.940	0.88	0.83	0.98	0.80	0.81	0.88	0.84	0.90	0.92	1.00	0.86	0.79	0.86	0.86	0.74	0.77	0.88	0.96	0.89	0.92	0.86	0.72	0.77	0.90
BATAVIA, OH	0.917	0.991	0.940	0.80	0.83	1.10	1.26	0.74	0.70	0.99	0.88	0.91	0.74	0.92	0.78	0.85	0.85	0.87	0.88	0.88	0.93	0.76	0.88	0.78	0.70	0.71	0.86
CANTON, OH	0.917	0.991	0.940	0.88	0.92	0.63	1.19	0.67	0.74	0.88	0.90	0.91	1.04	0.89	0.76	0.91	0.74	0.74	0.91	0.94	0.97	0.98	0.84	0.90	0.73	0.80	0.93
CHILLICOTHE, OH	0.917	0.991	0.940	0.93	0.86	1.06	1.03	0.78	0.95	0.90	0.91	0.96	1.00	0.94	0.80	0.84	0.87	0.76	0.87	0.91	0.98	0.97	0.96	0.85	0.71	0.71	0.88
CINCINNATI, OH	0.917	0.991	0.940	0.88	0.90	0.88	1.28	0.86	0.85	0.89	0.90	1.00	0.83	0.95	0.79	0.87	0.81	0.80	0.93	0.99	0.93	0.86	0.88	0.76	0.73	0.74	0.87
CLEVELAND, OH	0.917	0.991	0.940	1.33	1.06	1.10	1.58	0.90	0.93	1.00	1.21	1.07	1.09	1.04	0.92	0.96	0.94	0.82	0.92	1.00	1.11	1.13	0.96	1.00	0.81	0.78	0.96
COLUMBUS, OH	0.917	0.991	0.940	0.92	0.94	0.93	0.82	0.58	0.87	0.93	0.92	0.94	1.00	0.92	0.84	0.92	0.83	0.78	0.83	0.99	1.02	1.00	0.90	0.93	0.71	0.79	0.88
DAYTON, OH	0.917	0.991	0.940	0.93	0.86	1.06	1.03	0.78	0.95	0.90	0.91	0.96	1.00	0.94	0.80	0.84	0.87	0.76	0.87	0.91	0.98	0.97	0.96	0.85	0.71	0.71	0.88
EAST LIVERPOOL, OH	0.917	0.991	0.940	0.84	0.83	1.09	1.03	0.77	1.01	1.03	0.84	0.99	0.90	0.93	0.79	0.79	0.86	0.67	0.92	0.94	0.97	0.97	0.94	0.90	0.73	0.80	0.93
HILLSBORO, OH	0.917	0.991	0.940	0.80	0.83	1.10	1.26	0.74	0.70	0.99	0.88	0.91	0.74	0.92	0.78	0.85	0.85	0.87	0.88	0.88	0.93	0.76	0.88	0.78	0.70	0.71	0.86
LANCASTER, OH	0.917	0.991	0.940	0.88	0.83	0.98	0.80	0.81	0.88	0.84	0.90	0.92	1.00	0.86	0.79	0.86	0.86	0.74	0.77	0.88	0.96	0.89	0.92	0.86	0.72	0.77	0.90
LIMA, OH	0.917	0.991	0.940	0.87	0.80	1.15	1.16	0.67	0.77	0.91	0.82	0.91	0.89	0.91	0.79	0.77	0.97	0.67	0.73	0.93	0.99	1.03	0.90	0.80	0.71	0.78	0.90
LORAIN, OH	0.917	0.991	0.940	0.89	0.91	0.90	1.42	0.79	0.90	1.13	0.94	0.99	1.24	1.00	0.80	0.88	0.84	0.76	1.00	0.85	1.02	0.91	0.96	1.01	0.75	0.76	1.03
MANSFIELD, OH	0.917	0.991	0.940	0.83	0.80	0.94	0.80	0.68	0.88	0.96	0.90	0.89	1.07	0.86	0.79	0.91	0.74	0.64	0.87	0.91	0.99	0.86	0.89	0.80	0.71	0.78	0.90
MARIETTA, OH	0.917	0.991	0.940	0.88	0.83	0.98	0.80	0.81	0.88	0.84	0.90	0.92	1.00	0.86	0.79	0.86	0.86	0.74	0.77	0.88	0.96	0.89	0.92	0.86	0.72	0.77	0.90
MEDINA, OH	0.917	0.991	0.940	0.81	0.86	0.78	0.82	0.76	0.82	1.16	0.83	0.94	0.73	0.86	0.80	0.83	0.87	0.74	0.92	0.93	0.97	0.86	0.94	0.90	0.73	0.80	0.93
MIDDLETOWN, OH	0.917	0.991	0.940	0.80	0.83	1.10	1.26	0.74	0.70	0.99	0.88	0.91	0.74	0.92	0.78	0.85	0.85	0.87	0.88	0.88	0.93	0.76	0.88	0.78	0.70	0.71	0.86

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
PAINESVILLE, OH	0.917	0.991	0.940	0.89	0.91	0.90	1.42	0.79	0.90	1.13	0.94	0.99	1.24	1.00	0.80	0.88	0.84	0.76	1.00	0.85	1.02	0.91	0.96	1.01	0.75	0.76	1.03
PORTSMOUTH, OH	0.917	0.991	0.940	0.93	0.86	1.06	1.03	0.78	0.95	0.90	0.91	0.96	1.00	0.94	0.80	0.84	0.87	0.76	0.87	0.91	0.98	0.97	0.96	0.85	0.71	0.71	0.88
RAVENNA, OH	0.917	0.991	0.940	0.81	0.86	0.78	0.82	0.76	0.82	1.16	0.83	0.94	0.73	0.86	0.80	0.83	0.87	0.74	0.92	0.93	0.97	0.86	0.94	0.90	0.73	0.80	0.93
SAINT CLAIRSVILLE, OH	0.917	0.991	0.940	0.84	0.83	1.09	1.03	0.77	1.01	1.03	0.84	0.99	0.90	0.93	0.79	0.79	0.86	0.67	0.92	0.94	0.97	0.97	0.94	0.90	0.73	0.80	0.93
SANDUSKY, OH	0.917	0.991	0.940	0.83	0.80	0.94	0.80	0.68	0.88	0.96	0.90	0.89	1.07	0.86	0.79	0.91	0.74	0.64	0.87	0.91	0.99	0.86	0.89	0.80	0.71	0.78	0.90
SPRINGFIELD, OH	0.917	0.991	0.940	0.87	0.80	1.15	1.16	0.67	0.79	0.91	0.82	0.91	0.89	0.91	0.79	0.77	0.97	0.67	0.73	0.93	0.92	1.03	0.90	0.78	0.70	0.71	0.86
TOLEDO, OH	0.917	0.991	0.940	0.89	0.87	0.84	0.82	0.72	0.85	1.05	0.91	1.01	1.00	0.88	0.73	0.87	0.83	0.84	0.92	0.98	0.93	0.82	0.91	0.90	0.75	0.76	0.94
TROY, OH	0.917	0.991	0.940	0.87	0.80	1.15	1.16	0.67	0.79	0.91	0.82	0.91	0.89	0.91	0.79	0.77	0.97	0.67	0.73	0.93	0.92	1.03	0.90	0.78	0.70	0.71	0.86
WASHINGTON CTHS, OH	0.917	0.991	0.940	0.88	0.83	0.98	0.80	0.81	0.88	0.84	0.90	0.92	1.00	0.86	0.79	0.86	0.86	0.74	0.77	0.88	0.96	0.89	0.92	0.86	0.72	0.77	0.90
WELLSTON, OH	0.917	0.991	0.940	0.93	0.86	1.06	1.03	0.78	0.95	0.90	0.91	0.96	1.00	0.94	0.80	0.84	0.87	0.76	0.87	0.91	0.98	0.97	0.96	0.85	0.71	0.71	0.88
YOUNGSTOWN, OH	0.917	0.991	0.940	0.84	0.83	1.09	1.03	0.77	1.01	1.03	0.84	0.99	0.90	0.93	0.79	0.79	0.86	0.67	0.92	0.94	0.94	0.97	0.94	0.81	0.69	0.75	0.85
ZANESVILLE, OH	0.917	0.991	0.940	0.79	0.81	0.84	0.98	0.93	0.85	0.89	0.89	0.85	0.86	0.85	0.73	0.84	0.83	0.67	0.74	0.80	0.96	0.84	0.85	0.86	0.72	0.77	0.90
ADA, OK	0.917	0.969	0.881	0.89	0.92	1.16	1.01	0.76	0.84	0.98	1.02	1.09	0.91	0.99	0.84	0.95	0.87	0.77	0.75	1.06	0.93	0.87	0.91	0.76	0.78	0.75	0.81
ALTUS, OK	0.917	0.969	0.881	0.90	0.97	0.92	0.78	1.53	0.86	0.92	0.97	1.12	0.75	0.91	0.84	0.89	1.11	0.80	1.03	1.08	0.93	0.97	0.88	0.76	0.78	0.75	0.81
ARDMORE, OK	0.917	0.969	0.881	0.89	0.92	1.16	1.01	0.76	0.89	0.98	1.02	1.09	0.91	0.99	0.84	0.95	0.87	0.77	0.75	1.06	0.89	0.87	0.91	0.74	0.72	0.78	0.73
CLINTON, OK	0.917	0.969	0.881	0.87	0.95	1.17	0.87	0.69	0.78	0.95	0.92	1.05	0.79	0.94	0.92	0.97	0.97	0.86	0.96	0.98	0.93	0.84	0.88	0.76	0.78	0.75	0.81
JAY; OK	0.917	0.969	0.881	0.89	0.92	1.16	1.01	0.76	0.89	0.98	1.02	1.09	0.91	0.99	0.84	0.95	0.87	0.77	0.75	1.06	0.89	0.87	0.91	0.74	0.72	0.78	0.73
JENKS, OK	0.917	0.969	0.881	0.87	0.95	1.17	0.87	0.69	0.83	0.95	0.92	1.05	0.79	0.94	0.92	0.97	0.97	0.86	0.96	0.98	0.89	0.84	0.88	0.74	0.72	0.78	0.73
LAWTON, OK	0.917	0.969	0.881	0.90	0.97	0.92	0.78	1.53	0.86	0.92	0.97	1.12	0.75	0.91	0.84	0.89	1.11	0.80	1.03	1.08	0.93	0.97	0.88	0.76	0.78	0.75	0.81
MCALESTER, OK	0.917	0.969	0.881	0.90	0.97	0.92	0.78	1.53	0.91	0.92	0.97	1.12	0.75	0.91	0.84	0.89	1.11	0.80	1.03	1.08	0.89	0.97	0.88	0.74	0.72	0.78	0.73
MUSKOGEE, OK	0.917	0.969	0.881	0.87	0.95	1.17	0.87	0.69	0.83	0.95	0.92	1.05	0.79	0.94	0.92	0.97	0.97	0.86	0.96	0.98	0.89	0.84	0.88	0.74	0.72	0.78	0.73
NORMAN, OK	0.917	0.969	0.881	0.89	0.92	1.16	1.01	0.76	0.84	0.98	1.02	1.09	0.91	0.99	0.84	0.95	0.87	0.77	0.75	1.06	0.93	0.87	0.91	0.76	0.78	0.75	0.81
OKLAHOMA CITY, OK	0.917	0.969	0.881	0.93	0.97	1.23	1.01	0.93	0.87	1.00	0.93	1.07	0.78	1.01	0.85	0.95	0.98	0.98	0.89	0.84	0.90	1.05	1.06	0.84	0.80	0.78	0.80
PONCA CITY, OK	0.917	0.969	0.881	0.87	0.95	1.17	0.87	0.69	0.78	0.95	0.92	1.05	0.79	0.94	0.92	0.97	0.97	0.86	0.96	0.98	0.93	0.84	0.88	0.76	0.78	0.75	0.81
POTEAU, OK	0.917	0.969	0.881	0.90	0.97	0.92	0.78	1.53	0.91	0.92	0.97	1.12	0.75	0.91	0.84	0.89	1.11	0.80	1.03	1.08	0.89	0.97	0.88	0.74	0.72	0.78	0.73
TALAHINA, OK	0.917	0.969	0.881	0.90	0.97	0.92	0.78	1.53	0.91	0.92	0.97	1.12	0.75	0.91	0.84	0.89	1.11	0.80	1.03	1.08	0.89	0.97	0.88	0.74	0.72	0.78	0.73
TULSA, OK	0.917	0.969	0.881	1.00	1.03	1.38	1.21	0.73	0.88	1.11	0.98	1.06	0.90	0.89	0.85	1.01	0.92	0.93	1.05	0.96	0.89	1.12	0.97	0.84	0.76	0.73	0.74
ASTORIA, OR	0.917	0.962	0.934	0.92	0.99	0.82	0.99	0.75	0.82	0.96	0.99	0.93	0.90	0.94	1.08	0.99	0.87	1.28	0.84	0.88	0.87	0.78	0.77	0.79	0.99	0.92	0.75
BANDON, OR	0.917	0.962	0.934	0.91	0.97	0.68	1.24	0.78	0.89	0.90	0.97	0.90	0.85	0.87	1.30	1.01	1.01	1.40	0.80	0.93	0.84	0.87	0.76	0.78	0.91	0.87	0.64
BEAVERTON, OR	0.917	0.997	1.011	0.87	0.94	0.76	0.92	0.70	0.78	0.91	0.94	0.88	0.84	0.89	1.02	0.94	0.81	1.21	0.80	0.84	0.82	0.74	0.77	0.79	0.94	0.88	0.71
BEND, OR	0.917	0.962	0.934	0.91	0.97	0.68	1.24	0.78	0.89	0.90	0.97	0.90	0.85	0.87	1.30	1.01	1.01	1.40	0.80	0.93	0.84	0.87	0.76	0.78	0.91	0.87	0.64
BROOKINGS, OR	0.917	0.962	0.934	0.91	0.97	0.68	1.24	0.78	0.89	0.90	0.97	0.90	0.85	0.87	1.30	1.01	1.01	1.40	0.80	0.93	0.84	0.87	0.76	0.78	0.91	0.87	0.64
EUGENE, OR	0.917	0.962	0.934	0.91	0.97	0.68	1.24	0.78	0.89	0.90	0.97	0.90	0.85	0.87	1.30	1.01	1.01	1.40	0.80	0.93	0.84	0.87	0.76	0.78	0.91	0.87	0.64
GRANTS PASS, OR	0.917	0.962	0.934	0.91	0.97	0.68	1.24	0.78	0.89	0.90	0.97	0.90	0.85	0.87	1.30	1.01	1.01	1.40	0.80	0.93	0.84	0.87	0.76	0.78	0.91	0.87	0.64
GRESHAM, OR	0.917	0.997	1.011	0.87	0.94	0.76	0.92	0.70	0.78	0.91	0.94	0.88	0.84	0.89	1.02	0.94	0.81	1.21	0.80	0.84	0.82	0.74	0.77	0.79	0.94	0.88	0.71
KLAMATH FALLS, OR	0.917	0.962	0.934	0.91	0.97	0.68	1.24	0.78	0.89	0.90	0.97	0.90	0.85	0.87	1.30	1.01	1.01	1.40	0.80	0.93	0.84	0.87	0.76	0.78	0.91	0.87	0.64
LAKE OSWEGO, OR	0.917	0.997	1.011	0.87	0.94	0.76	0.92	0.70	0.78	0.91	0.94	0.88	0.84	0.89	1.02	0.94	0.81	1.21	0.80	0.84	0.82	0.74	0.77	0.79	0.94	0.88	0.71
LINCOLN CITY, OR	0.917	0.962	0.934	0.92	0.99	0.82	0.99	0.75	0.82	0.96	0.99	0.93	0.90	0.94	1.08	0.99	0.87	1.28	0.84	0.88	0.84	0.78	0.77	0.78	0.91	0.87	0.64
PORTLAND, OR	0.917	0.997	1.011	0.94	1.00	1.02	1.02	0.91	0.86	0.96	1.00	0.87	0.82	0.84	1.23	0.95	0.91	1.52	1.09	0.91	0.82	0.81	0.76	0.79	0.94	0.88	0.71
ROSEBURG, OR	0.917	0.962	0.934	0.91	0.97	0.68	1.24	0.78	0.89	0.90	0.97	0.90	0.85	0.87	1.30	1.01	1.01	1.40	0.80	0.93	0.84	0.87	0.76	0.78	0.91	0.87	0.64
SALEM, OR	0.917	0.962	0.934	0.92	0.99	0.82	0.99	0.75	0.82	0.96	0.99	0.93	0.90	0.94	1.08	0.99	0.87	1.28	0.84	0.88	0.84	0.78	0.77	0.78	0.91	0.87	0.64
THE DALLES, OR	0.917	0.962	0.934	0.92	0.99	0.82	0.99	0.75	0.82	0.96	0.99	0.93	0.90	0.94	1.08	0.99	0.87	1.28	0.84	0.88	0.87	0.78	0.77	0.79	0.99	0.92	0.75
TILLAMOOK, OR	0.917	0.962	0.934	0.92	0.99	0.82	0.99	0.75	0.82	0.96	0.99	0.93	0.90	0.94	1.08	0.99	0.87	1.28	0.84	0.88	0.87	0.78	0.77	0.79	0.99	0.92	0.75

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
WHITE CITY, OR	0.917	0.962	0.934	0.91	0.97	0.68	1.24	0.78	0.89	0.90	0.97	0.90	0.85	0.87	1.30	1.01	1.01	1.40	0.80	0.93	0.84	0.87	0.76	0.78	0.91	0.87	0.64
ALIQUIPPA, PA	0.917	0.990	0.928	0.85	0.87	1.07	1.29	0.73	1.06	0.96	0.80	1.09	1.11	0.93	0.81	0.93	1.58	0.69	0.84	0.96	1.03	0.98	0.99	0.95	0.85	0.81	1.15
ALLENTOWN, PA	0.917	0.990	0.928	0.88	0.92	0.99	1.05	0.83	1.01	0.90	0.86	1.08	1.10	1.07	0.78	0.94	1.24	0.76	0.88	0.91	1.03	1.07	1.14	1.10	0.97	0.84	1.21
ALTOONA, PA	0.917	0.990	0.928	0.91	0.81	0.81	1.05	0.85	0.79	0.74	0.84	0.97	1.07	0.95	0.72	0.84	1.38	0.62	0.73	0.81	1.04	0.91	0.96	0.81	0.89	0.92	1.06
ARMSTRONG, PA	0.917	0.990	0.928	0.83	0.82	1.14	1.58	0.59	0.82	1.01	0.79	1.13	1.04	0.96	0.65	0.90	1.12	0.68	0.76	0.75	0.92	0.91	0.93	0.84	1.04	0.97	1.02
BLOOMSBURG, PA	0.917	0.990	0.928	1.15	0.88	0.72	0.86	0.80	0.74	0.85	0.90	0.94	1.12	0.94	0.74	0.90	1.53	0.73	0.74	0.84	1.03	0.98	0.84	0.86	0.86	0.89	1.31
BUTLER, PA	0.917	0.990	0.928	0.86	0.81	0.72	1.26	0.62	0.86	1.02	0.86	0.86	0.93	0.93	0.73	0.83	1.16	0.72	0.76	0.79	0.92	0.89	0.89	0.84	1.04	0.97	1.02
CAMP HILL, PA	0.917	0.990	0.928	0.92	0.84	0.80	1.61	0.89	0.86	0.89	0.86	0.93	1.10	0.90	0.71	0.85	1.20	0.67	0.66	0.75	0.96	1.00	0.77	0.93	0.79	0.72	1.04
CARBONDALE, PA	0.917	0.990	0.928	0.87	0.80	1.92	1.98	0.67	0.70	1.17	0.75	1.06	1.15	0.91	0.87	0.90	1.35	0.67	1.06	1.16	1.08	1.00	0.97	0.88	0.90	0.89	1.14
CLARION, PA	0.917	0.990	0.928	0.83	0.82	1.14	1.58	0.59	0.82	1.01	0.79	1.13	1.04	0.96	0.65	0.90	1.12	0.68	0.76	0.75	0.92	0.91	0.93	0.84	1.04	0.97	1.02
CLEARFIELD, PA	0.917	0.990	0.928	0.91	0.81	0.81	1.05	0.85	0.81	0.74	0.84	0.97	1.07	0.95	0.72	0.84	1.38	0.62	0.73	0.81	0.97	0.91	0.96	0.93	0.85	0.81	0.98
COATESVILLE, PA	0.917	1.025	1.090	0.88	0.87	0.81	1.01	0.91	0.91	1.13	0.82	0.96	1.08	0.86	0.80	0.91	1.10	0.73	0.70	0.77	0.97	0.91	1.25	1.04	0.95	0.85	0.95
CRAWFORD, PA	0.917	0.990	0.928	0.83	0.82	0.79	1.61	0.98	0.77	0.81	0.77	1.01	0.90	0.93	0.68	0.80	1.30	0.68	0.76	0.86	1.03	0.98	1.02	0.81	0.89	0.92	1.06
ERIE, PA	0.917	0.990	0.928	0.93	0.88	0.81	0.86	0.61	0.80	0.80	0.88	0.98	1.45	1.02	0.78	0.83	1.11	0.68	0.96	1.05	1.04	0.93	0.89	0.81	0.89	0.92	1.06
FAYETTE COUNTY, PA	0.917	0.990	0.928	0.85	0.87	1.07	1.29	0.73	0.98	0.96	0.80	1.09	1.11	0.93	0.81	0.93	1.58	0.69	0.84	0.96	0.97	0.98	0.99	0.93	0.85	0.81	0.98
GREENSBURG, PA	0.917	0.990	0.928	0.83	0.82	1.14	1.58	0.59	0.72	1.01	0.79	1.13	1.04	0.96	0.65	0.90	1.12	0.68	0.76	0.75	1.03	0.91	0.93	0.81	0.89	0.92	1.06
HARRISBURG, PA	0.917	0.990	0.928	1.15	0.88	0.72	0.86	0.80	0.74	0.85	0.90	0.94	1.12	0.94	0.74	0.90	1.53	0.73	0.74	0.84	0.96	0.98	0.84	0.93	0.79	0.72	1.04
JOHNSTOWN, PA	0.917	0.990	0.928	0.91	0.81	0.81	1.05	0.85	0.81	0.74	0.84	0.97	1.07	0.95	0.72	0.84	1.38	0.62	0.73	0.81	0.97	0.91	0.96	0.93	0.85	0.81	0.98
LANCASTER, PA	0.917	0.990	0.928	0.88	0.81	0.86	1.12	0.81	0.70	1.24	0.77	0.97	0.98	0.84	0.71	0.86	1.00	0.65	0.76	0.91	0.93	1.03	0.77	0.95	0.73	0.74	0.98
LAWRENCE, PA	0.917	0.990	0.928	0.83	0.82	0.79	1.61	0.98	0.87	0.81	0.77	1.01	0.90	0.93	0.68	0.80	1.30	0.68	0.76	0.86	1.03	0.98	1.02	0.95	0.85	0.81	1.15
LEBANON, PA	0.917	0.990	0.928	0.92	0.84	0.80	1.61	0.89	0.86	0.89	0.86	0.93	1.10	0.90	0.71	0.85	1.20	0.67	0.66	0.75	0.96	1.00	0.77	0.93	0.79	0.72	1.04
MCCANDLESS, PA	0.917	0.990	0.928	1.01	0.93	1.00	1.10	0.80	0.96	1.04	0.85	1.18	1.18	0.93	0.81	0.92	1.61	0.73	1.25	0.92	1.04	1.07	0.94	1.06	0.85	0.84	0.93
MCKEAN, PA	0.917	0.990	0.928	0.87	0.80	1.92	1.98	0.67	0.80	1.17	0.75	1.06	1.15	0.91	0.87	0.90	1.35	0.67	1.06	1.16	0.92	1.00	0.97	0.84	1.04	0.97	1.02
MCKEESPORT, PA	0.917	0.990	0.928	0.85	0.87	1.07	1.29	0.73	1.06	0.96	0.80	1.09	1.11	0.93	0.81	0.93	1.58	0.69	0.84	0.96	1.03	0.98	0.99	0.95	0.85	0.81	1.15
MERCER, PA	0.917	0.990	0.928	0.83	0.82	0.79	1.61	0.98	0.87	0.81	0.77	1.01	0.90	0.93	0.68	0.80	1.30	0.68	0.76	0.86	1.03	0.98	1.02	0.95	0.85	0.81	1.15
MONROEVILLE, PA	0.917	0.990	0.928	0.85	0.87	1.07	1.29	0.73	1.06	0.96	0.80	1.09	1.11	0.93	0.81	0.93	1.58	0.69	0.84	0.96	1.03	0.98	0.99	0.95	0.85	0.81	1.15
ORWIGSBURG, PA	0.917	0.990	0.928	0.98	0.81	0.67	0.80	0.69	0.85	1.14	0.83	0.95	1.06	0.94	0.66	0.84	1.40	0.62	1.31	1.06	1.04	0.93	1.02	0.86	0.86	0.89	1.31
PHILADELPHIA, PA	0.917	1.025	1.090	1.20	1.09	1.05	0.91	0.89	0.97	0.97	1.02	1.09	1.16	0.96	0.87	1.03	1.43	0.88	0.93	0.98	1.11	1.18	1.12	1.39	1.02	0.98	0.95
PITTSBURGH, PA	0.917	0.990	0.928	1.01	0.93	1.00	1.10	0.80	0.96	1.04	0.85	1.18	1.18	0.93	0.81	0.92	1.61	0.73	1.25	0.92	1.04	1.07	0.94	1.06	0.85	0.84	0.99
POTTSVILLE, PA	0.917	0.990	0.928	0.98	0.81	0.67	0.80	0.69	0.85	1.14	0.83	0.95	1.06	0.94	0.66	0.84	1.40	0.62	1.31	1.06	1.04	0.93	1.02	0.86	0.86	0.89	1.31
READING, PA	0.917	0.990	0.928	0.88	0.87	0.80	1.08	0.81	0.81	0.90	0.83	1.13	1.09	0.99	0.88	0.86	1.24	0.75	0.77	0.84	1.03	0.91	0.64	0.86	0.86	0.89	1.31
SAYRE, PA	0.917	0.990	0.928	0.91	0.92	0.96	1.12	0.98	0.83	1.18	0.92	1.15	1.20	0.95	0.79	1.12	1.41	0.70	0.90	0.89	1.08	0.88	0.97	0.88	0.90	0.89	1.14
SCHUYLKILL, PA	0.917	0.990	0.928	0.98	0.81	0.67	0.80	0.69	0.85	1.14	0.83	0.95	1.06	0.94	0.66	0.84	1.40	0.62	1.31	1.05	1.04	0.93	1.02	0.86	0.86	0.89	1.31
SCRANTON, PA	0.917	0.990	0.928	0.87	0.88	0.52	0.86	1.10	0.89	0.85	0.78	1.05	1.17	0.94	0.64	0.86	1.68	0.58	0.87	0.94	1.06	1.06	0.86	0.77	0.86	0.97	1.22
SHENANDOAH, PA	0.917	0.990	0.928	0.98	0.81	0.67	0.80	0.69	0.85	1.14	0.83	0.95	1.06	0.94	0.66	0.84	1.40	0.62	1.31	1.06	1.04	0.93	1.02	0.86	0.86	0.89	1.31
SPRINGFIELD, PA	0.917	1.025	1.090	0.91	0.89	1.03	0.91	1.02	0.92	1.06	0.84	1.17	1.05	0.94	0.86	0.98	1.19	0.77	1.16	0.93	1.01	1.00	1.08	1.13	0.96	0.88	1.01
STATE COLLEGE, PA	0.917	0.990	0.928	0.91	0.81	0.81	1.05	0.85	0.81	0.74	0.84	0.97	1.07	0.95	0.72	0.84	1.38	0.62	0.73	0.81	0.97	0.91	0.96	0.93	0.85	0.81	0.98
TOBYHANNA, PA	0.917	0.990	0.928	0.87	0.80	1.92	1.98	0.67	0.70	1.17	0.75	1.06	1.15	0.91	0.87	0.90	1.35	0.67	1.06	1.16	1.08	1.00	0.97	0.88	0.90	0.89	1.14
WASHINGTON, PA	0.917	0.990	0.928	0.85	0.87	1.07	1.29	0.73	1.06	0.96	0.80	1.09	1.11	0.93	0.81	0.93	1.58	0.69	0.84	0.96	0.93	0.98	0.99	0.84	1.04	0.97	1.02
WILKES-BARRE, PA	0.917	0.990	0.928	0.98	0.81	0.67	0.80	0.69	0.85	1.14	0.83	0.95	1.06	0.94	0.66	0.84	1.40	0.62	1.31	1.06	1.05	0.93	1.02	0.77	0.86	0.97	1.22
WILLIAMSPORT, PA	0.917	0.990	0.928	0.87	0.80	1.92	1.98	0.67	0.72	1.17	0.75	1.06	1.15	0.91	0.87	0.90	1.35	0.67	1.06	1.16	1.03	1.00	0.97	0.86	0.86	0.89	1.31
WILLOW GROVE, PA	0.917	1.025	1.090	0.91	0.89	1.03	0.91	1.02	0.92	1.06	0.84	1.17	1.05	0.94	0.86	0.98	1.19	0.77	1.16	0.93	1.01	1.00	1.08	1.13	0.96	0.88	1.01
YORK, PA	0.917	0.990	0.928	0.88	0.81	0.86	1.12	0.81	0.80	1.24	0.77	0.97	0.98	0.84	0.71	0.86	1.00	0.65	0.76	0.91	1.01	1.03	0.77	0.99	0.81	0.81	0.81

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
ARECIBO, PR	0.917	0.883	0.734	1.25	1.13	1.52	1.43	1.18	1.29	1.04	1.10	1.22	1.41	1.65	1.23	1.14	1.47	0.96	1.72	0.88	1.12	1.13	0.78	0.82	1.17	1.17	1.13
CEIBA, PR	0.917	0.883	0.734	1.25	1.13	1.52	1.43	1.18	1.29	1.04	1.10	1.22	1.41	1.65	1.23	1.14	1.47	0.96	1.72	0.88	1.12	1.13	0.78	0.82	1.17	1.17	1.13
FAJARDO, PR	0.917	0.883	0.734	1.25	1.13	1.52	1.43	1.18	1.29	1.04	1.10	1.22	1.41	1.65	1.23	1.14	1.47	0.96	1.72	0.88	1.12	1.13	0.78	0.82	1.17	1.17	1.13
MAYAGUEZ, PR	0.917	0.883	0.734	1.25	1.13	1.52	1.43	1.18	1.29	1.04	1.10	1.22	1.41	1.65	1.23	1.14	1.47	0.96	1.72	0.88	1.12	1.13	0.78	0.82	1.17	1.17	1.13
PONCE, PR	0.917	0.883	0.734	1.25	1.13	1.52	1.43	1.18	1.29	1.04	1.10	1.22	1.41	1.65	1.23	1.14	1.47	0.96	1.72	0.88	1.12	1.13	0.78	0.82	1.17	1.17	1.13
SAN JUAN, PR	0.917	0.883	0.734	1.25	1.13	1.52	1.43	1.18	1.29	1.04	1.10	1.22	1.41	1.65	1.23	1.14	1.47	0.96	1.72	0.88	1.12	1.13	0.78	0.82	1.17	1.17	1.13
CRANSTON, RI	0.917	1.019	1.072	0.89	1.00	0.77	1.37	0.99	0.83	0.77	0.90	1.17	0.73	0.63	1.01	0.97	1.22	1.03	0.84	0.86	0.96	1.01	0.93	1.09	1.02	0.85	0.97
PROVIDENCE, RI	0.917	1.019	1.072	0.89	1.00	0.77	1.37	0.99	0.83	0.77	0.90	1.17	0.73	0.63	1.01	0.97	1.22	1.03	0.84	0.86	0.96	1.01	0.93	1.09	1.02	0.85	0.97
CHARLESTON, SC	0.917	0.976	0.902	0.95	0.92	1.27	0.78	0.84	1.14	1.05	0.93	0.96	0.95	0.86	0.85	0.91	0.92	0.81	0.84	0.91	0.97	1.05	0.84	0.80	0.82	0.75	0.86
COLUMBIA, SC	0.917	0.976	0.902	0.95	0.95	1.08	1.06	0.79	1.18	0.96	0.97	0.95	1.01	0.91	0.91	0.86	0.92	0.90	0.74	0.79	0.96	0.96	0.88	0.85	0.86	0.75	1.01
FLORENCE, SC	0.917	0.976	0.902	0.95	0.92	1.27	0.78	0.84	1.17	1.05	0.93	0.96	0.95	0.86	0.85	0.91	0.92	0.81	0.84	0.91	0.93	1.05	0.84	0.88	0.86	0.76	0.85
GREENVILLE, SC	0.917	0.976	0.902	0.94	0.95	1.20	0.98	0.85	1.06	0.94	0.94	0.91	0.96	0.97	0.83	0.93	0.83	0.82	1.43	0.93	0.91	1.08	0.86	0.84	0.77	0.67	0.81
MYRTLE BEACH, SC	0.917	0.976	0.902	0.95	0.92	1.27	0.78	0.84	1.17	1.05	0.93	0.96	0.95	0.86	0.85	0.91	0.92	0.81	0.84	0.91	0.93	1.05	0.84	0.88	0.86	0.76	0.85
EAGLE BUTTE, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.89	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.87	0.93	0.89	0.70	0.71	0.85	0.82
ELLSWORTH AFB, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.80	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.96	0.93	0.89	0.70	0.76	0.86	0.78
FORT MEADE, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.80	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.96	0.93	0.89	0.70	0.76	0.86	0.78
HOT SPRINGS, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.80	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.96	0.93	0.89	0.70	0.76	0.86	0.78
KYLE, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.80	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.96	0.93	0.89	0.70	0.76	0.86	0.78
MCLAUGHLIN, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.89	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.87	0.93	0.89	0.70	0.71	0.85	0.82
PIERRE, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.89	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.87	0.93	0.89	0.70	0.71	0.85	0.82
PINE RIDGE, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.80	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.96	0.93	0.89	0.70	0.76	0.86	0.78
RAPID CITY, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.80	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.96	0.93	0.89	0.70	0.76	0.86	0.78
ROSEBUD, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.89	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.87	0.93	0.89	0.70	0.71	0.85	0.82
SIOUX FALLS, SD	0.917	0.936	0.865	1.03	1.01	0.99	0.88	0.71	0.94	0.94	1.12	0.90	1.16	0.80	0.90	1.04	0.98	0.70	0.77	1.14	1.03	0.89	0.81	0.77	0.84	0.87	0.87
WINNER, SD	0.917	0.936	0.865	0.90	0.91	0.75	1.00	0.78	0.89	0.93	1.01	0.95	1.05	0.86	0.71	0.86	0.87	0.69	0.72	0.86	0.87	0.93	0.89	0.70	0.71	0.85	0.82
ARNOLD AFB, TN	0.917	0.976	0.899	0.96	0.97	0.91	0.90	0.76	0.88	0.96	0.98	0.95	0.90	1.01	0.89	0.86	0.85	0.86	1.03	1.07	0.98	0.94	0.91	1.01	0.88	0.80	0.86
CHATTANOOGA, TN	0.917	0.976	0.899	1.00	0.99	1.02	0.76	0.54	1.04	0.91	1.01	1.00	0.99	0.96	0.84	0.92	0.87	1.00	0.78	1.09	1.04	0.99	0.89	1.04	0.88	0.87	1.03
CLARKSVILLE, TN	0.917	0.976	0.899	0.96	0.93	0.90	0.90	0.63	0.89	0.95	0.95	0.95	0.96	0.89	0.95	0.88	0.87	0.85	0.90	1.04	1.00	0.94	0.87	0.97	0.86	0.83	0.87
COOKEVILLE, TN	0.917	0.976	0.899	0.96	0.97	0.91	0.90	0.76	0.88	0.96	0.98	0.95	0.90	1.01	0.89	0.86	0.85	0.86	1.03	1.07	0.98	0.94	0.91	1.01	0.88	0.80	0.86
DOVER, TN	0.917	0.976	0.899	0.96	0.93	0.90	0.90	0.63	0.89	0.95	0.95	0.95	0.96	0.89	0.95	0.88	0.87	0.85	0.90	1.04	1.00	0.94	0.87	0.97	0.86	0.83	0.87
JOHNSON CITY, TN	0.917	0.976	0.899	0.96	0.97	0.91	0.90	0.76	0.88	0.96	0.98	0.95	0.90	1.01	0.89	0.86	0.85	0.86	1.03	1.07	0.96	0.94	0.91	0.94	0.81	0.82	0.77
KNOXVILLE, TN	0.917	0.976	0.899	0.96	0.97	0.91	0.90	0.76	0.93	0.96	0.98	0.95	0.90	1.01	0.89	0.86	0.85	0.86	1.03	1.07	0.99	0.94	0.91	0.97	0.90	0.90	0.89
MADISON, TN	0.917	0.976	0.899	0.96	0.93	0.90	0.90	0.63	0.89	0.95	0.95	0.95	0.96	0.89	0.95	0.88	0.87	0.85	0.90	1.04	1.00	0.94	0.87	0.97	0.86	0.83	0.87
MEMPHIS, TN	0.917	0.976	0.899	0.94	1.01	1.05	1.04	0.85	1.03	1.02	0.99	1.10	0.92	1.02	0.76	1.00	0.94	0.80	1.33	1.10	0.97	0.99	0.98	1.00	0.90	0.86	0.91
MOUNTAIN CITY, TN	0.917	0.976	0.899	0.96	0.97	0.91	0.90	0.76	0.88	0.96	0.98	0.95	0.90	1.01	0.89	0.86	0.85	0.86	1.03	1.07	0.96	0.94	0.91	0.94	0.81	0.82	0.77
MOUNTAIN HOME, TN	0.917	0.976	0.899	0.96	0.97	0.91	0.90	0.76	0.88	0.96	0.98	0.95	0.90	1.01	0.89	0.86	0.85	0.86	1.03	1.07	0.96	0.94	0.91	0.94	0.81	0.82	0.77
MURFREESBORO, TN	0.917	0.976	0.899	0.96	0.93	0.90	0.90	0.63	0.89	0.95	0.95	0.95	0.96	0.89	0.95	0.88	0.87	0.85	0.90	1.04	1.00	0.94	0.87	0.97	0.86	0.83	0.87
NASHVILLE, TN	0.917	0.976	0.899	1.05	1.06	0.90	0.84	0.65	1.03	0.98	1.12	1.05	0.88	0.95	1.07	0.98	0.89	1.02	0.91	1.08	1.08	0.87	0.93	1.17	0.94	0.90	0.98
TULLAHOMA, TN	0.917	0.976	0.899	0.96	0.97	0.91	0.90	0.76	0.88	0.96	0.98	0.95	0.90	1.01	0.89	0.86	0.85	0.86	1.03	1.07	0.98	0.94	0.91	1.01	0.88	0.80	0.86
ABILENE, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	0.99	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.93	0.96	0.93	0.90	0.80	0.85	1.04
ALICE, TX	0.917	0.966	0.884	0.93	1.01	0.96	1.02	0.84	0.99	0.98	0.99	1.02	0.98	0.96	0.86	1.03	0.97	0.84	0.90	0.98	1.03	0.96	0.90	0.88	0.83	0.95	0.98
AMARILLO, TX	0.917	0.966	0.884	0.91	0.92	1.09	0.81	0.71	0.91	0.91	0.94	0.93	1.03	1.04	0.81	0.98	0.90	0.77	0.71	1.01	0.93	1.01	1.00	0.90	0.80	0.85	1.04
AUSTIN, TX	0.917	0.987	0.993	1.09	1.01	1.20	0.90	0.75	0.99	0.83	0.98	1.01	1.04	1.03	0.80	0.84	0.85	0.83	0.84	0.90	0.91	1.15	0.96	0.86	0.75	0.78	0.87

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
BEAUMONT, TX	0.917	0.993	0.896	1.02	0.95	1.28	1.01	0.91	0.90	1.05	0.96	0.96	1.06	0.97	0.80	0.87	0.87	0.91	0.82	1.02	0.92	1.03	0.99	0.90	0.88	0.91	0.83
BEEVILLE, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.08	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.93	1.17	0.99	0.90	0.80	0.85	1.04
BIG SPRING, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	1.02	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.97	0.96	0.93	0.92	0.82	0.86	0.89
BONHAM, TX	0.917	0.966	0.884	1.10	1.03	1.17	1.13	0.85	1.08	1.04	1.02	1.05	1.21	1.09	1.00	0.95	1.07	0.95	1.06	1.08	0.92	1.15	1.04	0.84	0.93	0.92	0.79
BROWNSVILLE, TX	0.917	0.966	0.884	1.03	0.96	0.84	0.81	0.82	1.00	1.09	0.98	1.01	1.09	1.16	0.84	0.84	0.87	0.85	0.73	0.99	1.03	1.06	1.05	0.88	0.83	0.95	0.98
BROWNWOOD, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	0.99	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.93	0.96	0.93	0.90	0.80	0.85	1.04
BRYAN, TX	0.917	0.966	0.884	1.05	0.98	1.36	1.08	0.95	1.07	1.09	1.00	1.01	1.11	1.01	0.83	0.90	0.93	0.95	0.84	1.07	0.96	1.08	0.99	0.86	0.79	0.82	0.93
CHILDRESS, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	0.99	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.93	0.96	0.93	0.90	0.80	0.85	1.04
CLEBURNE, TX	0.917	0.966	0.884	1.07	0.98	1.29	1.08	0.80	1.00	0.92	0.99	1.04	1.16	1.02	0.91	0.96	0.94	0.94	1.09	1.08	1.00	1.10	0.92	0.90	0.89	0.87	0.96
COPPERAS COVE, TX	0.917	0.966	0.884	1.16	1.24	0.87	1.30	0.98	1.11	0.99	1.26	0.95	1.22	1.19	1.45	0.94	1.29	0.90	0.87	1.12	0.96	1.16	1.15	0.86	0.79	0.82	0.93
CORPUS CHRISTI, TX	0.917	0.966	0.884	0.93	1.01	0.96	1.02	0.84	0.99	0.98	0.99	1.02	0.98	0.96	0.86	1.03	0.97	0.84	0.90	0.98	1.03	0.96	0.90	0.88	0.83	0.95	0.98
CORSICANA, TX	0.917	0.966	0.884	0.97	0.98	0.96	1.13	1.03	1.02	0.88	0.99	0.99	1.08	1.06	0.86	0.94	0.87	1.02	0.75	1.05	1.10	1.07	0.95	1.02	0.96	0.98	1.02
DALLAS, TX	0.917	1.011	1.014	1.10	1.07	1.19	0.88	0.69	1.15	1.13	1.09	0.98	1.08	0.97	0.91	0.93	1.06	0.93	0.73	0.99	1.01	1.05	1.14	1.10	0.90	0.90	0.87
DECATUR, TX	0.917	0.966	0.884	1.07	0.98	1.29	1.08	0.80	1.00	0.92	0.99	1.04	1.16	1.02	0.91	0.96	0.94	0.94	1.09	1.08	1.00	1.10	0.92	0.90	0.89	0.87	0.96
DEL RIO, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.08	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.93	1.17	0.99	0.90	0.80	0.85	1.04
DENTON, TX	0.917	0.966	0.884	1.07	0.98	1.29	1.08	0.80	1.00	0.92	0.99	1.04	1.16	1.02	0.91	0.96	0.94	0.94	1.09	1.08	1.00	1.10	0.92	0.90	0.89	0.87	0.96
DIAMOND HILL, TX	0.917	0.988	0.972	1.02	0.94	1.18	0.98	0.73	0.94	0.88	0.94	0.98	1.07	0.95	0.86	0.92	0.86	0.88	1.04	1.04	0.93	1.05	0.92	0.96	0.82	0.81	0.75
EAGLE PASS, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.08	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.93	1.17	0.99	0.90	0.80	0.85	1.04
EASTLAND, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	0.99	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.93	0.96	0.93	0.90	0.80	0.85	1.04
EL PASO, TX	0.917	0.966	0.884	1.06	0.95	1.46	0.96	0.83	1.00	1.04	1.02	1.15	0.98	0.90	0.82	0.93	1.01	0.86	0.79	1.30	0.97	1.27	0.90	0.92	0.82	0.86	0.89
FORT STOCKTON, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	1.02	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.97	0.96	0.93	0.92	0.82	0.86	0.89
FORT WORTH, TX	0.917	0.988	0.972	1.02	0.94	1.18	0.98	0.73	0.94	0.88	0.94	0.98	1.07	0.95	0.86	0.92	0.86	0.88	1.04	1.04	0.93	1.05	0.92	0.96	0.82	0.81	0.75
GALVESTON, TX	0.917	0.989	0.968	0.96	0.91	1.13	0.87	0.69	0.98	1.03	0.93	0.92	1.11	0.99	0.91	0.88	0.91	0.84	0.79	0.95	1.02	1.01	0.96	0.99	0.82	0.83	0.87
GEORGETOWN, TX	0.917	0.966	0.884	0.89	0.95	1.14	1.02	0.66	0.95	0.86	0.94	0.92	0.79	1.09	1.07	0.81	0.82	0.83	0.87	0.92	0.96	1.01	0.92	0.86	0.79	0.82	0.93
GREENVILLE, TX	0.917	0.966	0.884	1.10	1.03	1.17	1.13	0.85	1.08	1.04	1.02	1.05	1.21	1.09	1.00	0.95	1.07	0.95	1.06	1.08	0.92	1.15	1.04	0.84	0.93	0.92	0.79
HAMILTON, TX	0.917	0.966	0.884	1.16	1.24	0.87	1.30	0.98	1.11	0.99	1.26	0.95	1.22	1.19	1.45	0.94	1.29	0.90	0.87	1.12	0.96	1.16	1.15	0.86	0.79	0.82	0.93
HOUSTON, TX	0.917	1.021	1.006	1.09	0.98	1.11	0.91	0.68	1.02	1.06	1.02	1.00	0.99	0.98	0.83	0.96	0.90	0.84	1.03	0.94	1.02	1.08	1.04	1.01	0.87	0.87	0.92
KERRVILLE, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.16	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.97	1.17	0.99	0.86	0.79	0.82	0.93
KINGSVILLE, TX	0.917	0.966	0.884	0.93	1.01	0.96	1.02	0.84	0.99	0.98	0.99	1.02	0.98	0.96	0.86	1.03	0.97	0.84	0.90	0.98	1.03	0.96	0.90	0.88	0.83	0.95	0.98
LAREDO, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.16	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.97	1.17	0.99	0.86	0.79	0.82	0.93
LONGVIEW, TX	0.917	0.966	0.884	0.97	0.98	0.96	1.13	1.03	0.89	0.88	0.99	0.99	1.08	1.06	0.86	0.94	0.87	1.02	0.75	1.05	0.92	1.07	0.95	0.84	0.93	0.92	0.79
LUBBOCK, TX	0.917	0.966	0.884	1.00	0.93	1.12	0.69	0.66	0.99	0.94	0.94	1.02	1.02	1.11	0.66	0.98	0.99	0.74	0.79	1.05	0.97	1.05	0.90	0.92	0.82	0.86	0.99
LUFKIN, TX	0.917	0.966	0.884	0.97	0.98	0.96	1.13	1.03	0.89	0.88	0.99	0.99	1.08	1.06	0.86	0.94	0.87	1.02	0.75	1.05	0.97	1.07	0.95	0.90	0.95	0.98	0.89
MARLIN, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	1.07	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.97	0.96	0.93	0.86	0.79	0.82	0.93
MCALLEN, TX	0.917	0.966	0.884	1.03	0.96	0.84	0.81	0.82	1.00	1.09	0.98	1.01	1.09	1.16	0.84	0.84	0.87	0.85	0.73	0.99	1.03	1.06	1.05	0.88	0.83	0.95	0.98
MCKINNEY, TX	0.917	0.966	0.884	1.10	1.03	1.17	1.13	0.85	1.21	1.04	1.02	1.05	1.21	1.09	1.00	0.95	1.07	0.95	1.06	1.08	1.10	1.15	1.04	1.02	0.96	0.98	1.02
MEMPHIS, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	0.99	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.93	0.96	0.93	0.90	0.80	0.85	1.04
MIDLAND, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	1.02	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.97	0.96	0.93	0.92	0.82	0.86	0.89
MONAHANS, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	1.02	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.97	0.96	0.93	0.92	0.82	0.86	0.89
NEW BRAUNFELS, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.08	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.93	1.17	0.99	0.90	0.80	0.85	1.04
ODESSA, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	1.02	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.97	0.96	0.93	0.92	0.82	0.86	0.89
PALESTINE, TX	0.917	0.966	0.884	0.97	0.98	0.96	1.13	1.03	0.89	0.88	0.99	0.99	1.08	1.06	0.86	0.94	0.87	1.02	0.75	1.05	0.97	1.07	0.95	0.90	0.95	0.98	0.89
PLEASANT GROVE, TX	0.917	1.011	1.014	1.10	1.07	1.19	0.88	0.69	1.15	1.13	1.09	0.98	1.08	0.97	0.91	0.93	1.06	0.93	0.73	0.99	1.01	1.05	1.14	1.10	0.90	0.90	0.87

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

		RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
VA Facility Location	Medicare Work Adjuster	Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
REESE, TX	0.917	0.966	0.884	1.00	0.93	1.12	0.69	0.66	0.99	0.94	0.94	1.02	1.02	1.11	0.66	0.98	0.99	0.74	0.79	1.05	0.97	1.05	0.90	0.92	0.82	0.86	0.89
SAN ANGELO, TX	0.917	0.966	0.884	0.91	0.92	1.09	0.81	0.71	0.94	0.91	0.94	0.93	1.03	1.04	0.81	0.98	0.90	0.77	0.71	1.01	0.97	1.01	1.00	0.92	0.82	0.86	0.89
SAN ANTONIO, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.06	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.97	1.17	0.99	0.87	0.77	0.78	0.80
SAN MARCOS, TX	0.917	0.966	0.884	0.89	0.95	1.14	1.02	0.66	0.95	0.86	0.94	0.92	0.79	1.09	1.07	0.81	0.82	0.83	0.87	0.92	0.96	1.01	0.92	0.86	0.79	0.82	0.93
SEGUIN, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.08	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.93	1.17	0.99	0.90	0.80	0.85	1.04
SOUTH BEXAR CO., TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.06	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.97	1.17	0.99	0.87	0.77	0.78	0.80
STAMFORD, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	0.99	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.93	0.96	0.93	0.90	0.80	0.85	1.04
STEPHENVILLE, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	0.99	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.93	0.96	0.93	0.90	0.80	0.85	1.04
STRATFORD, TX	0.917	0.966	0.884	0.98	0.91	1.08	0.96	0.64	0.99	0.87	0.96	0.88	1.04	1.02	0.83	0.86	0.94	0.74	0.70	1.02	0.93	0.96	0.93	0.90	0.80	0.85	1.04
TEMPLE, TX	0.917	0.966	0.884	1.16	1.24	0.87	1.30	0.98	1.11	0.99	1.26	0.95	1.22	1.19	1.45	0.94	1.29	0.90	0.87	1.12	0.96	1.16	1.15	0.86	0.79	0.82	0.93
TEXARKANA, T X	0.917	0.966	0.884	1.20	1.08	1.31	1.08	0.77	1.03	1.16	1.13	1.12	1.14	1.10	0.92	1.05	1.06	0.93	1.13	1.04	0.98	1.19	1.04	0.90	0.95	0.98	0.89
TYLER, TX	0.917	0.966	0.884	0.97	0.98	0.96	1.13	1.03	0.89	0.88	0.99	0.99	1.08	1.06	0.86	0.94	0.87	1.02	0.75	1.05	0.92	1.07	0.95	0.84	0.93	0.92	0.79
UVALDE, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.08	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.93	1.17	0.99	0.90	0.80	0.85	1.04
VICTORIA, TX	0.917	0.966	0.884	0.89	0.95	1.14	1.02	0.66	0.95	0.86	0.94	0.92	0.79	1.09	1.07	0.81	0.82	0.83	0.87	0.92	0.96	1.01	0.92	0.86	0.79	0.82	0.93
WACO, TX	0.917	0.966	0.884	1.02	0.97	1.28	1.00	0.76	1.07	1.09	0.99	1.00	1.24	1.08	0.98	0.93	1.03	0.91	0.83	1.01	0.97	1.08	0.96	0.86	0.79	0.82	0.93
WICHITA FALLS, TX	0.917	0.966	0.884	1.10	1.03	1.17	1.13	0.85	1.14	1.04	1.02	1.05	1.21	1.09	1.00	0.95	1.07	0.95	1.06	1.08	0.93	1.15	1.04	0.90	0.80	0.85	1.04
WILLFORD HALL, TX	0.917	0.966	0.884	0.99	1.00	1.24	0.88	0.89	1.06	0.98	0.95	1.01	1.06	1.05	0.84	0.99	0.94	0.77	0.80	1.10	0.97	1.17	0.99	0.87	0.77	0.78	0.80
LAYTON, UT	0.917	0.978	0.900	0.95	0.84	0.84	0.87	0.58	0.77	0.86	0.94	0.84	0.92	0.95	0.86	0.85	0.82	0.81	0.85	0.87	0.74	0.83	0.72	0.63	0.64	0.68	0.62
OGDEN, UT	0.917	0.978	0.900	0.95	0.90	0.81	0.83	0.47	0.83	0.87	0.91	0.81	0.82	0.78	0.84	0.87	1.01	0.84	0.63	0.92	0.74	0.82	0.73	0.63	0.64	0.68	0.62
OREM, UT	0.917	0.978	0.900	0.95	0.84	0.84	0.87	0.58	0.77	0.86	0.94	0.84	0.92	0.95	0.86	0.85	0.82	0.81	0.85	0.87	0.74	0.83	0.72	0.63	0.64	0.68	0.62
PROVO, UT	0.917	0.978	0.900	0.95	0.84	0.84	0.87	0.58	0.77	0.86	0.94	0.84	0.92	0.95	0.86	0.85	0.82	0.81	0.85	0.87	0.74	0.83	0.72	0.63	0.64	0.68	0.62
ROOSEVELT, UT	0.917	0.978	0.900	0.95	0.84	0.84	0.87	0.58	0.77	0.86	0.94	0.84	0.92	0.95	0.86	0.85	0.82	0.81	0.85	0.87	0.74	0.83	0.72	0.63	0.64	0.68	0.62
SAINT GEORGE, UT	0.917	0.978	0.900	0.95	0.84	0.84	0.87	0.58	0.77	0.86	0.94	0.84	0.92	0.95	0.86	0.85	0.82	0.81	0.85	0.87	0.74	0.83	0.72	0.63	0.64	0.68	0.62
SALT LAKE CITY, UT	0.917	0.978	0.900	0.95	0.90	0.81	0.83	0.47	0.85	0.87	0.91	0.81	0.82	0.78	0.84	0.87	1.01	0.84	0.63	0.92	0.80	0.82	0.73	0.70	0.68	0.76	0.59
ALEXANDRIA, VA	0.917	1.051	1.177	1.00	1.04	0.98	0.76	0.87	1.06	1.01	0.98	1.02	0.93	0.94	0.82	0.99	0.89	0.89	0.83	0.94	1.01	0.81	1.06	1.04	1.17	1.11	1.06
COVINGTON, VA	0.917	0.986	0.940	0.92	0.90	0.83	0.86	0.51	0.83	0.93	0.91	0.95	0.99	0.90	0.97	0.84	1.15	0.78	0.72	0.81	0.91	1.01	1.04	0.73	0.82	0.75	0.80
DANVILLE, VA	0.917	0.986	0.940	0.95	0.93	0.94	1.05	0.60	0.88	0.98	0.91	0.90	0.96	0.83	0.96	0.81	0.81	0.75	0.77	0.87	0.90	0.92	0.85	0.73	0.79	0.72	0.83
FAIRFAX, VA	0.917	1.051	1.177	1.04	1.03	0.92	0.76	0.65	1.08	0.99	1.01	0.96	0.95	0.94	0.89	1.01	0.93	0.90	0.84	0.87	0.98	0.99	1.05	1.10	1.08	1.05	1.01
FREDERICKSBURG, VA	0.917	0.986	0.940	0.91	0.95	0.92	1.11	0.70	0.86	0.95	0.96	0.94	0.88	0.93	0.88	0.83	1.08	0.99	0.72	0.87	0.94	1.13	0.89	0.90	0.92	0.91	0.83
HAMPTON , VA	0.917	0.986	0.940	0.94	0.96	1.14	1.22	0.81	0.91	1.02	0.91	0.94	0.90	0.95	0.84	0.92	0.86	0.90	0.81	0.92	0.94	1.06	0.88	0.76	0.88	0.86	0.89
HILLSVILLE, VA	0.917	0.986	0.940	0.92	0.90	0.83	0.86	0.51	0.83	0.93	0.91	0.95	0.99	0.90	0.97	0.84	1.15	0.78	0.72	0.81	0.90	1.01	1.04	0.73	0.79	0.72	0.83
LANGLEY, VA	0.917	1.051	1.177	1.04	1.03	0.92	0.76	0.65	1.08	0.99	1.01	0.96	0.95	0.94	0.89	1.01	0.93	0.90	0.84	0.87	0.98	0.99	1.05	1.10	1.08	1.05	1.01
LYNCHBURG, VA	0.917	0.986	0.940	0.95	0.93	0.94	1.05	0.60	0.88	0.98	0.91	0.90	0.96	0.83	0.96	0.81	0.81	0.75	0.77	0.87	0.90	0.92	0.85	0.73	0.79	0.72	0.83
MARION, VA	0.917	0.986	0.940	0.92	0.90	0.83	0.86	0.51	0.83	0.93	0.91	0.95	0.99	0.90	0.97	0.84	1.15	0.78	0.72	0.81	0.90	1.01	1.04	0.73	0.79	0.72	0.83
MARTINSVILLE, VA	0.917	0.986	0.940	0.95	0.93	0.94	1.05	0.60	0.88	0.98	0.91	0.90	0.96	0.83	0.96	0.81	0.81	0.75	0.77	0.87	0.91	0.92	0.85	0.73	0.82	0.75	0.80
NORFOLK, VA	0.917	0.986	0.940	0.97	0.98	0.77	1.05	0.76	1.01	0.93	0.94	0.97	0.95	0.98	0.82	0.98	0.92	0.84	0.73	0.93	0.95	0.88	0.91	0.83	0.87	0.88	0.86
NORTON, VA	0.917	0.986	0.940	0.92	0.90	0.83	0.86	0.51	0.83	0.93	0.91	0.95	0.99	0.90	0.97	0.84	1.15	0.78	0.72	0.81	0.91	1.01	1.04	0.73	0.82	0.75	0.80
PETERSBURG, VA	0.917	0.986	0.940	0.91	0.95	0.92	1.11	0.70	0.86	0.95	0.96	0.94	0.88	0.93	0.88	0.83	1.08	0.99	0.72	0.87	0.95	1.13	0.89	0.76	0.88	0.86	0.89
PULASKI, VA	0.917	0.986	0.940	0.92	0.90	0.83	0.86	0.51	0.83	0.93	0.91	0.95	0.99	0.90	0.97	0.84	1.15	0.78	0.72	0.81	0.90	1.01	1.04	0.73	0.79	0.72	0.83
RICHMOND, VA	0.917	0.986	0.940	0.97	0.98	0.77	1.05	0.76	1.01	0.93	0.94	0.97	0.95	0.98	0.82	0.98	0.92	0.84	0.73	0.93	0.94	0.88	0.91	0.83	0.86	0.81	0.78
ROANOKE, VA	0.917	0.986	0.940	0.95	0.93	0.94	1.05	0.60	0.88	0.98	0.91	0.90	0.96	0.83	0.96	0.81	0.81	0.75	0.77	0.87	0.91	0.92	0.85	0.73	0.82	0.75	0.80
SALEM, VA	0.917	0.986	0.940	0.95	0.93	0.94	1.05	0.60	0.88	0.98	0.91	0.90	0.96	0.83	0.96	0.81	0.81	0.75	0.77	0.87	0.91	0.92	0.85	0.73	0.82	0.75	0.80
STUARTS DRAFT, VA	0.917	0.986	0.940	0.92	0.90	0.83	0.86	0.51	0.83	0.93	0.91	0.95	0.99	0.90	0.97	0.84	1.15	0.78	0.72	0.81	0.91	1.01	1.04	0.73	0.82	0.75	0.80

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
TAZEWELL, VA	0.917	0.986	0.940	0.92	0.90	0.83	0.86	0.51	0.83	0.93	0.91	0.95	0.99	0.90	0.97	0.84	1.15	0.78	0.72	0.81	0.91	1.01	1.04	0.73	0.82	0.75	0.80
BENNINGTON, VT	0.917	0.974	0.986	0.86	0.93	1.08	0.75	0.89	1.11	0.80	0.89	0.94	0.77	0.75	0.80	0.87	1.20	0.93	0.73	0.87	0.96	1.02	0.94	1.03	0.78	0.85	0.84
BURLINGTON, VT	0.917	0.974	0.986	0.86	0.93	1.08	0.75	0.89	1.11	0.80	0.89	0.94	0.77	0.75	0.80	0.87	1.20	0.93	0.73	0.87	0.96	1.02	0.94	1.03	0.78	0.85	0.84
MONTPELIER, VT	0.917	0.974	0.986	0.83	0.85	0.75	0.91	1.20	0.89	0.90	0.86	1.02	0.71	0.74	0.79	0.88	1.13	0.81	0.73	0.83	0.95	0.76	0.83	1.03	0.78	0.85	0.84
NEWPORT, VT	0.917	0.974	0.986	0.83	0.85	0.75	0.91	1.20	0.89	0.90	0.86	1.02	0.71	0.74	0.79	0.88	1.13	0.81	0.73	0.83	0.95	0.76	0.83	1.03	0.78	0.85	0.84
NORTH TROY, VT	0.917	0.974	0.986	0.83	0.85	0.75	0.91	1.20	0.89	0.90	0.86	1.02	0.71	0.74	0.79	0.88	1.13	0.81	0.73	0.83	0.95	0.76	0.83	•1.03	0.78	0.85	0.84
RUTLAND, VT	0.917	0.974	0.986	0.83	0.85	0.75	0.91	1.20	0.89	0.90	0.86	1.02	0.71	0.74	0.79	0.88	1.13	0.81	0.73	0.83	0.95	0.76	0.83	1.03	0.78	0.85	0.84
SAINT ALBANS, VT	0.917	0.974	0.986	0.86	0.93	1.08	0.75	0.89	1.11	0.80	0.89	0.94	0.77	0.75	0.80	0.87	1.20	0.93	0.73	0.87	0.96	1.02	0.94	1.03	0.78	0.85	0.84
SAINT JOHNSBURY, VT	0.917	0.974	0.986	0.83	0.85	0.75	0.91	1.20	0.89	0.90	0.86	1.02	0.71	0.74	0.79	0.88	1.13	0.81	0.73	0.83	0.95	0.76	0.83	1.03	0.78	0.85	0.84
WHITE RIVER JCT, VT	0.917	0.974	0.986	0.83	0.85	0.75	0.91	1.20	0.89	0.90	0.86	1.02	0.71	0.74	0.79	0.88	1.13	0.81	0.73	0.83	0.95	0.76	0.83	1.03	0.78	0.85	0.84
WILDER, VT	0.917	0.974	0.986	0.83	0.85	0.75	0.91	1.20	0.89	0.90	0.86	1.02	0.71	0.74	0.79	0.88	1.13	0.81	0.73	0.83	0.95	0.76	0.83	1.03	0.78	0.85	0.84
AMERICAN LAKE, WA	0.917	0.983	0.969	1.03	1.02	0.75	0.95	0.99	0.94	0.82	1.02	0.92	0.88	0.68	1.26	1.04	0.91	1.39	0.83	0.97	0.84	0.88	0.75	0.80	0.96	1.00	0.72
BELLINGHAM, WA	0.917	0.983	0.969	0.99	1.05	0.75	0.93	1.22	0.90	0.89	1.04	0.90	0.88	0.74	1.24	1.06	0.92	1.22	0.85	0.96	0.84	0.84	0.73	0.80	0.96	1.00	0.72
BREMERTON, WA	0.917	0.983	0.969	0.92	0.98	0.76	1.05	1.32	0.88	0.89	1.00	0.86	0.85	0.67	1.35	1.00	0.84	1.20	0.88	0.90	0.84	0.80	0.73	0.80	0.96	1.00	0.72
EAST WENATCHEE, WA	0.917	0.983	0.969	0.90	0.95	1.03	1.05	0.89	0.95	0.87	0.91	0.90	0.92	0.69	0.80	0.91	0.94	0.94	0.91	1.02	0.76	0.86	0.74	0.76	0.95	1.01	0.78
KITSAP COUNTY, WA	0.917	0.983	0.969	0.92	0.98	0.76	1.05	1.32	0.88	0.89	1.00	0.86	0.85	0.67	1.35	1.00	0.84	1.20	0.88	0.90	0.84	0.80	0.73	0.80	0.96	1.00	0.72
LONGVIEW, WA	0.917	0.983	0.969	0.92	0.98	0.76	1.05	1.32	0.84	0.89	1.00	0.86	0.85	0.67	1.35	1.00	0.84	1.20	0.88	0.90	0.76	0.80	0.73	0.76	0.95	1.01	0.78
LYNWOOD, WA	0.917	0.983	0.969	0.99	1.05	0.75	0.93	1.22	0.92	0.89	1.04	0.90	0.88	0.74	1.24	1.06	0.92	1.22	0.85	0.96	0.85	0.84	0.73	0.80	0.99	0.98	0.75
MADIGAN, WA	0.917	0.983	0.969	1.03	1.02	0.75	0.95	0.99	0.94	0.82	1.02	0.92	0.88	0.68	1.26	1.04	0.91	1.39	0.83	0.97	0.84	0.88	0.75	0.80	0.96	1.00	0.72
OLYMPIA, WA	0.917	0.983	0.969	1.03	1.02	0.75	0.95	0.99	0.89	0.82	1.02	0.92	0.88	0.68	1.26	1.04	0.91	1.39	0.83	0.97	0.76	0.88	0.75	0.76	0.95	1.01	0.78
PULLMAN, WA	0.917	0.983	0.969	0.90	0.95	1.03	1.05	0.89	0.95	0.87	0.91	0.90	0.92	0.69	0.80	0.91	0.94	0.94	0.91	1.02	0.79	0.86	0.74	0.81	0.84	0.85	0.68
RICHLAND, WA	0.917	0.983	0.969	0.90	0.95	1.03	1.05	0.89	0.95	0.87	0.91	0.90	0.92	0.69	0.80	0.91	0.94	0.94	0.91	1.02	0.79	0.86	0.74	0.81	0.84	0.85	0.68
SEATTLE, WA	0.917	1.006	1.079	1.10	1.04	0.75	0.97	0.77	0.94	0.91	1.06	0.86	0.81	0.63	1.16	1.03	0.93	1.06	0.93	0.92	0.84	0.85	0.76	0.94	0.97	0.98	0.72
SOUTH THURSTON CO., WA	0.917	0.983	0.969	1.03	1.02	0.75	0.95	0.99	0.89	0.82	1.02	0.92	0.88	0.68	1.26	1.04	0.91	1.39	0.83	0.97	0.76	0.88	0.75	0.76	0.95	1.01	0.78
SPOKANE, WA	0.917	0.983	0.969	0.90	0.95	1.03	1.05	0.89	0.95	0.87	0.91	0.90	0.92	0.69	0.80	0.91	0.94	0.94	0.91	1.02	0.79	0.86	0.74	0.81	0.84	0.85	0.68
TACOMA, WA	0.917	0.983	0.969	1.03	1.02	0.75	0.95	0.99	0.94	0.82	1.02	0.92	0.88	0.68	1.26	1.04	0.91	1.39	0.83	0.97	0.84	0.88	0.75	0.80	0.96	1.00	0.72
TOPPENISH, WA	0.917	0.983	0.969	0.92	0.98	0.76	1.05	1.32	0.84	0.89	1.00	0.86	0.85	0.67	1.35	1.00	0.84	1.20	0.88	0.90	0.79	0.80	0.73	0.81	0.84	0.85	0.68
TRI-CITIES AREA, WA	0.917	0.983	0.969	0.90	0.95	1.03	1.05	0.89	0.95	0.87	0.91	0.90	0.92	0.69	0.80	0.91	0.94	0.94	0.91	1.02	0.79	0.86	0.74	0.81	0.84	0.85	0.68
VANCOUVER, WA	0.917	0.983	0.969	0.92	0.98	0.76	1.05	1.32	0.84	0.89	1.00	0.86	0.85	0.67	1.35	1.00	0.84	1.20	0.88	0.90	0.76	0.80	0.73	0.76	0.95	1.01	0.78
WALLA WALLA, WA	0.917	0.983	0.969	0.90	0.95	1.03	1.05	0.89	0.95	0.87	0.91	0.90	0.92	0.69	0.80	0.91	0.94	0.94	0.91	1.02	0.79	0.86	0.74	0.81	0.84	0.85	0.68
YAKIMA, WA	0.917	0.983	0.969	0.92	0.98	0.76	1.05	1.32	0.84	0.89	1.00	0.86	0.85	0.67	1.35	1.00	0.84	1.20	0.88	0.90	0.79	0.80	0.73	0.81	0.84	0.85	0.68
APPLETON, WI	0.917	0.982	0.930	1.03	1.09	0.91	1.12	0.87	0.98	0.97	1.09	0.90	1.05	0.98	0.89	1.04	1.10	0.80	1.15	1.18	0.97	0.97	1.04	0.88	0.76	0.80	0.78
BARABOO, WI	0.917	0.982	0.930	0.95	0.98	0.82	1.36	1.15	0.83	0.95	1.02	0.91	0.92	0.89	0.88	0.81	1.02	0.87	1.14	1.01	0.97	0.88	0.96	0.88	0.76	0.80	0.78
BEAVER DAM, WI	0.917	0.982	0.930	0.95	0.98	0.82	1.36	1.15	0.83	0.95	1.02	0.91	0.92	0.89	0.88	0.81	1.02	0.87	1.14	1.01	0.97	0.88	0.96	0.88	0.76	0.80	0.78
CHIPPEWA FALLS, WI	0.917	0.982	0.930	0.95	1.04	0.97	0.63	1.18	0.73	1.00	0.97	0.86	0.85	0.97	0.91	0.87	0.94	0.93	1.07	1.07	0.99	0.83	1.04	0.95	0.81	0.86	0.83
EAU CLAIRE, WI	0.917	0.982	0.930	0.95	1.04	0.97	0.63	1.18	0.73	1.00	0.97	0.86	0.85	0.97	0.91	0.87	0.94	0.93	1.07	1.07	0.99	0.83	1.04	0.95	0.81	0.86	0.83
JANESVILLE, WI	0.917	0.982	0.930	0.95	0.98	0.82	1.36	1.15	0.80	0.95	1.02	0.91	0.92	0.89	0.88	0.81	1.02	0.87	1.14	1.01	1.07	0.88	0.96	0.93	0.90	0.97	0.79
LOYAL, WI	0.917	0.982	0.930	1.03	1.09	0.91	1.12	0.87	1.00	0.97	1.09	0.90	1.05	0.98	0.89	1.04	1.10	0.80	1.15	1.18	0.98	0.97	1.04	0.95	0.81	0.86	0.83
MADISON, WI	0.917	0.982	0.930	1.12	1.27	0.82	1.43	0.85	0.94	1.05	1.18	1.03	1.19	0.81	1.03	0.99	1.23	1.06	1.28	1.23	1.07	1.00	1.11	0.93	0.90	0.97	0.79
MARINETTE, WI	0.917	0.982	0.930	0.95	0.98	0.82	1.36	1.15	0.85	0.95	1.02	0.91	0.92	0.89	0.88	0.81	1.02	0.87	1.14	1.01	0.90	0.88	0.96	0.77	0.74	0.82	0.68
MILWAUKEE, WI	0.917	0.982	0.930	1.16	1.19	0.95	1.12	0.94	0.90	0.98	1.18	1.01	1.08	0.96	0.93	1.02	0.99	0.99	1.08	1.14	1.05	0.99	1.19	0.94	0.86	0.84	0.75
RHINELANDER, WI	0.917	0.982	0.930	1.03	1.09	0.91	1.12	0.87	0.98	0.97	1.09	0.90	1.05	0.98	0.89	1.04	1.10	0.80	1.15	1.18	1.10	0.97	1.04	0.96	0.82	0.92	0.94
SUPERIOR, WI	0.917	0.982	0.930	0.95	1.04	0.97	0.63	1.18	0.73	1.00	0.97	0.86	0.85	0.97	0.91	0.87	0.94	0.93	1.07	1.07	0.99	0.83	1.04	0.95	0.81	0.86	0.83

Table H. — Physician GAAFs (Geographic Area Adjustment Factors) For RVUs (Relative Value Units) and Conversion Factors; By VA Facility Location — Continued

VA Facility Location	Medicare Work Adjuster	RVU GAAFs		Conversion Factor GAAFs By Physician CPT Code Group																						
		Work Expense	Practice Expense	Inpatient Visits	Office/Home/Urgent Care Visits	Therapeutic Injections	Allergy Testing	Allergy Immunotherapy	Misc. Medical	ER Visits & Observa. Care	Consults	Physical Medicine	Cardiovascular	Immunizations	Well Baby Exams	Vision Exams	Hearing/Speech Exams	Physical Exams	Chiropractor	OP Psych./Alcohol & Drug Abuse	Surgery	Radiology	Pathology	Anesthesia	Normal Deliveries	Cesarean Deliveries	Non-Deliveries
TOMAH, WI	0.917	0.982	0.930	1.07	1.12	0.81	1.09	0.93	0.87	0.93	1.06	0.88	1.03	0.88	0.82	0.95	1.19	0.87	1.16	0.96	1.10	1.06	1.08	0.96	0.82	0.92	0.94
UNION GROVE, WI	0.917	0.982	0.930	1.02	1.12	0.97	1.07	0.92	0.99	0.93	1.09	0.90	1.06	0.96	0.90	0.93	0.96	0.93	1.17	1.08	1.01	0.87	1.11	0.84	0.83	0.86	0.86
WAUSAU, WI	0.917	0.982	0.930	1.03	1.09	0.91	1.12	0.87	1.00	0.97	1.09	0.90	1.05	0.98	0.89	1.04	1.10	0.80	1.15	1.18	0.98	0.97	1.04	0.95	0.81	0.86	0.83
WAUTOMA, WI	0.917	0.982	0.930	1.03	1.09	0.91	1.12	0.87	0.98	0.97	1.09	0.90	1.05	0.98	0.89	1.04	1.10	0.80	1.15	1.18	0.97	0.97	1.04	0.88	0.76	0.80	0.78
BECKLEY, WV	0.917	0.964	0.852	0.88	0.91	0.86	1.15	0.72	1.03	0.93	0.95	1.05	0.96	1.10	0.85	0.90	1.01	0.68	0.93	0.97	1.04	1.04	0.99	0.94	1.05	0.98	0.87
CHARLESTON, WV	0.917	0.964	0.852	0.92	0.94	0.96	1.21	1.16	1.07	0.80	0.93	0.96	0.97	1.00	0.80	1.07	1.07	1.06	0.95	0.93	1.08	0.99	1.15	1.05	0.92	0.88	1.08
CLARKSBURG, WV	0.917	0.964	0.852	0.91	0.87	0.72	1.53	0.92	0.92	0.90	0.96	0.93	0.95	1.05	1.04	0.94	0.82	0.72	0.92	0.76	0.99	0.86	1.00	0.90	0.86	0.88	0.81
HUNTINGTON, WV	0.917	0.964	0.852	1.00	0.97	1.00	1.48	0.99	0.99	0.98	1.01	0.86	1.05	1.03	0.71	0.89	1.03	0.99	0.88	0.93	1.07	1.20	1.15	0.98	0.80	0.83	1.11
MARTINSBURG, WV	0.917	0.964	0.852	0.90	0.87	0.84	1.35	0.77	1.01	0.93	0.90	1.02	1.07	1.07	0.99	1.37	0.97	0.89	1.20	0.93	1.09	0.92	0.92	1.05	0.92	0.88	1.08
MORGANTOWN, WV	0.917	0.964	0.852	0.93	0.91	1.08	1.35	0.86	1.08	1.01	0.93	1.04	0.85	0.99	1.11	0.94	1.08	0.84	0.91	1.04	1.02	0.80	1.08	0.94	0.98	0.91	0.77
PARKERSBURG, WV	0.917	0.964	0.852	0.91	0.87	0.72	1.53	0.92	0.92	0.90	0.96	0.93	0.95	1.05	1.04	0.94	0.82	0.72	0.92	0.76	0.99	0.86	1.00	0.90	0.86	0.88	0.81
PARSONS, WV	0.917	0.964	0.852	0.91	0.87	0.72	1.53	0.92	0.92	0.90	0.96	0.93	0.95	1.05	1.04	0.94	0.82	0.72	0.92	0.76	1.04	0.86	1.00	0.94	1.05	0.98	0.87
PRINCETON, WV	0.917	0.964	0.852	1.00	0.97	1.00	1.48	0.99	0.97	0.98	1.01	0.86	1.05	1.03	0.71	0.89	1.03	0.99	0.88	0.93	1.04	1.20	1.15	0.94	1.05	0.98	0.87
WHEELING, WV	0.917	0.964	0.852	0.90	0.87	0.84	1.35	0.77	1.01	0.93	0.90	1.02	1.07	1.07	0.99	1.37	0.97	0.89	1.20	0.93	1.00	0.92	0.92	0.90	0.86	0.88	0.81
CASPER, WY	0.917	0.968	0.888	0.91	0.89	1.19	0.81	0.57	0.90	0.89	0.95	0.80	0.89	0.60	0.83	0.92	0.83	0.70	0.89	0.86	0.89	0.97	0.89	0.77	0.77	0.83	0.81
CHEYENNE, WY	0.917	0.968	0.888	0.97	0.95	0.83	0.89	0.67	0.93	0.95	1.04	0.86	0.84	0.56	0.83	0.93	0.90	0.68	0.80	0.96	0.89	0.91	0.84	0.77	0.77	0.83	0.81
NEWCASTLE, WY	0.917	0.968	0.888	0.91	0.89	1.19	0.81	0.57	0.90	0.89	0.95	0.80	0.89	0.60	0.83	0.92	0.83	0.70	0.89	0.86	0.89	0.97	0.89	0.77	0.77	0.83	0.81
RIVERTON, WY	0.917	0.968	0.888	0.97	0.95	0.83	0.89	0.67	0.93	0.95	1.04	0.86	0.84	0.56	0.83	0.93	0.90	0.68	0.80	0.96	0.89	0.91	0.84	0.77	0.77	0.83	0.81
ROCK SPRINGS, WY	0.917	0.968	0.888	0.91	0.89	1.19	0.81	0.57	0.90	0.89	0.95	0.80	0.89	0.60	0.83	0.92	0.83	0.70	0.89	0.86	0.89	0.97	0.89	0.77	0.77	0.83	0.81
SHERIDAN, WY	0.917	0.968	0.888	0.97	0.95	0.83	0.89	0.67	0.93	0.95	1.04	0.86	0.84	0.56	0.83	0.93	0.90	0.68	0.80	0.96	0.89	0.91	0.84	0.77	0.77	0.83	0.81

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April 27, 1999

Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Part 171 et al.

Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173, 174, 175, 176, and 177

[Docket No. RSPA–98–4952 (HM–223)]

RIN 2137–AC68

Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: On July 29, 1996, the Research and Special Programs Administration published an advance notice of proposed rulemaking inviting public comment on the applicability of the Hazardous Materials Regulations to loading, unloading, and storage of hazardous materials. We are continuing to evaluate this issue to determine the best way to promote safety in transportation and transportation-related activities. To assure that agency decisions are based on the best information available and take account of the views of all interested persons, we are issuing this supplemental advance notice of proposed rulemaking to highlight comments received and request additional information.

DATES: Submit comments by July 26, 1999. To the extent possible, we will consider comments received after this date in making our decision on a proposed rule.

ADDRESSES: Submit comments to the Dockets Management System, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590–0001. Comments should identify Docket Number RSPA–98–4952 and be submitted in two copies. If you wish to receive confirmation of receipt of your written comments, include a self-addressed, stamped postcard. You may also submit comments by e-mail to the following address: "rules@rspa.dot.gov". The Dockets Management System is located on the Plaza level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You can also review comments on-line at the DOT Dockets Management System web site at "http://dms.dot.gov/."

FOR FURTHER INFORMATION CONTACT: Susan Gorsky (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration; or Nancy Machado (202) 366–4400, Office of the Chief Counsel, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

I. Background

On July 29, 1996, the Research and Special Programs Administration (RSPA, "we") published an advance notice of proposed rulemaking (ANPRM) seeking comments on the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to loading, unloading, and storage of hazardous materials. We also hosted three public meetings at which interested persons were invited to present ideas, proposals, and recommendations on the applicability of the HMR. Representatives of the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and DOT's Federal Railroad Administration (FRA) participated in the public meetings. The reader is referred to the ANPRM (61 FR 39522) for background information and a detailed discussion of the issues.

In addition to DOT, EPA, and OSHA, more than 200 interested persons participated in the public meetings. They included representatives of shippers, carriers, warehouses, state and local public safety agencies, and building and fire code safety organizations. We also received over 100 written comments.

II. Summary of Issues and Analysis of Comments

The HMR are promulgated in accordance with the mandate in 49 U.S.C. 5103(b) that the Secretary of Transportation "prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce." "Transportation" is defined as "the movement of property and loading, unloading, or storage incidental to the movement." 49 U.S.C. 5102(12). "Commerce" is defined, as "trade or transportation in the jurisdiction of the United States between a place in a state or a place outside of the state; or that affects trade or transportation between a place in a state and a place outside of the state." 49 U.S.C. 5102(1).

The ANPRM noted that we have issued a number of interpretations, inconsistency rulings, and preemption determinations in response to requests from the public for clarification regarding the meaning of "transportation in commerce" and whether particular activities are covered by that term, and therefore, subject to regulation under the HMR. The ANPRM identified loading, unloading, storage, and handling of hazardous materials as areas of particular confusion and concern and asked a number of questions about how RSPA should regulate these activities.

Commenters to the ANPRM generally agree that RSPA needs to more clearly specify activities that are subject to the HMR to eliminate existing confusion and uncertainty. Commenters further agree that elimination of regulatory overlaps among Federal regulatory agencies and between the Federal agencies and state/local public safety agencies would eliminate potentially inconsistent and unnecessary regulation and would promote more efficient and effective compliance with and enforcement of safety standards.

Developing a clear statement of applicability of the HMR will not be an easy task. Ideally, such a statement should cover all activities performed by hazardous materials shippers, carriers, and consignees that directly affect transportation safety and should apply equally to both bulk and non-bulk shipments. It should provide the regulated community with a clear understanding of when the HMR apply and the effect such applicability has on the regulatory activities of other Federal regulatory agencies and state/local public safety agencies

Commenters generally agree that the following activities (which are subjects covered under DOT's preemption authority in 49 U.S.C. 5125(b)) should be subject to the HMR—classification of a hazardous material; preparation of a shipping paper, including emergency response information; selection of an appropriate packaging; marking and labeling of the package; and placarding of the transport vehicle. Similarly, commenters generally agree that activities related to the development of specifications for packagings authorized for transportation of hazardous materials, including all testing, retesting, reconditioning, and reuse requirements, should be subject to the HMR. These activities assure the integrity of hazardous materials packages during transportation and assist emergency responders in identifying and responding to specific hazards in the event of an unintentional release of material during transportation. Thus, commenters agree that RSPA should have exclusive regulatory authority in these areas.

Many commenters to the ANPRM propose to draw the boundaries for HMR applicability by answering two

critical questions: "When does transportation begin?" and "When does transportation end?" RSPA agrees that answering these questions would establish a simple framework for clarifying the applicability of the HMR to the regulated community and ultimately help clarify the relationships among various Federal, state, and local programs charged with protecting people and the environment from the risks of hazardous materials.

Commenters do not offer consistent answers to the questions "When does transportation begin?" and "When does transportation end?" However, three suggested approaches for developing answers do emerge: (1) Offeror (shipper) intent; (2) custody and control by a carrier; and (3) movement on public rights-of-way. These are discussed in more detail below. By focusing this ANPRM on these three approaches, however, we do not mean to suggest that we are not considering other approaches for determining the applicability of the HMR over hazardous materials transportation activities. For example, we may want to consider a combination of the three major approaches discussed here. We may want to develop an analysis that would distinguish activities that should be regulated under the HMR because they pose significant public safety risks from those that are adequately addressed by other Federal regulatory agencies or by state/local public safety agencies and from those that need not be regulated under the HMR because the public safety risk is limited or non-existent. Commenters are invited to discuss variations of the alternatives discussed below or to suggest new alternatives.

Following is a discussion of the three most commonly suggested approaches from commenters for answering the questions "When does transportation begin?" and "When does transportation end?" The discussion includes questions focused on the details of each approach. In answering the questions, please explain your responses and, when possible, provide examples of current practices that should or should not be considered subject to the HMR.

A. Offeror (Shipper) Intent

Applicability

An alliance of 16 associations (the Alliance) representing some of the nation's largest manufacturers, shippers, and transporters of hazardous materials suggests that a determination as to whether the HMR apply to a package containing hazardous materials should be based on an offeror's intent. A person's intent to offer a hazardous material for transportation in commerce would be shown by placing the hazardous material in a packaging preparatory to shipment. An offeror's intent to ship a hazardous material would establish whether it is subject to the HMR. Under this scenario, the Alliance suggests that the following functions would be subject to regulation by RSPA:

1. *Transportation begins with the offeror's intent to ship a hazardous material.*

2. *Functions performed at offeror's (shipper's) facility.*

- Loading of non-bulk packages by the offeror or carrier onto a transport vehicle, vessel, or aircraft.
- Loading of bulk packagings by the offeror or carrier, including monitoring or attendance of the loading function.
- In-plant movements of bulk packages or transport vehicles loaded and qualified for off-site transportation.
- Unlimited storage of packages awaiting pick-up at the offeror's facility, including loaded rail cars at plant sites.

3. *In-transit movement of shipment.*

- Parking or staging of transport vehicles, including rail cars, incidental to movement.
- Loading, unloading, and handling, such as transferring a package from a vessel, aircraft, or transport vehicle to a staging area or to another transport vehicle, aircraft, or vessel.
- Storage of packages awaiting shipment to their ultimate destination.

4. *Functions performed at destination facility.*

- Long-term storage of packages at distribution facilities.
- Unlimited storage awaiting unloading at destination facility, including loaded rail cars at plant sites.
- In-plant movements of bulk packages or transport vehicles loaded with non-bulk packages.
- Unloading of a bulk package or a transport vehicle, vessel or aircraft loaded with non-bulk packages.

5. *Transportation ends at the completion of unloading of the bulk package or transportation vehicle, vessel, or aircraft at the destination facility.*

On the issue of private versus for-hire carriers, the Alliance states that the type of carriage is irrelevant to the question of whether activities are covered by the HMR. The Alliance suggests that the key question for applicability of the HMR is whether the shipment is intended to be, is being, or has been offered for transportation. For this reason, the Alliance opposes setting specific time limits for completing unloading of bulk packages, after which the HMR would not apply. Similarly, the Alliance rejects the idea of determining the applicability of the HMR based on a shipment being under "active shipping papers." The Alliance also states that public accessibility to an originating, in-transit, or destination facility should have no bearing on the question of whether in-plant movements of hazardous materials should be subject to the HMR. Finally, the Alliance advocates RSPA regulation of unlimited storage of hazardous materials, including on leased track, if the hazardous material is intended to be or had previously been offered for transportation under the HMR.

Implications for Regulatory Overlap Among Federal Regulatory Agencies

The Alliance asserts that where there is an intent to offer for transport or to transport a hazardous material in an authorized package or transport vehicle, it should be presumed to be subject to the HMR. RSPA should broadly exercise its exclusive authority to establish rules governing storage, movement, and handling of hazardous materials in transportation as the Alliance would define it. The Alliance suggests that questions concerning shared or overlapping jurisdiction among RSPA, EPA, and OSHA should be resolved by examining each agency's "preeminent authority." In the Alliance's view, RSPA's preeminent authority is to establish uniform Federal transportation safety standards, OSHA's preeminent authority is for worker safety and health, and EPA's preeminent authority is for environmental protection. The Alliance suggests that RSPA should consider the appropriate boundaries of agency jurisdiction each time a new regulatory activity is proposed. Each activity would be considered separately, in consultation between or among the affected agencies, and the agency with the preeminent authority for that activity would regulate it, if regulation is necessary. Thus, OSHA would ensure that work practices are performed safely under existing rules, and EPA would assure that accidental releases of hazardous materials to the environment are properly handled. If there are gaps in the HMR, the Alliance suggests that RSPA should incorporate applicable regulations or standards of other Federal agencies into the HMR.

Implications for State/Local Regulation of Hazardous Materials

With reference to state and local regulation of hazardous materials transportation, the Alliance is very concerned about the need for national uniformity in hazardous materials regulation. The Alliance is particularly concerned that storage of hazardous

materials incidental to transportation not be subject to multiple regulatory regimes. The Alliance notes that RSPA is the Federal agency with expertise in the design of transportation equipment intended to carry hazardous materials and asserts that no other government entity, whether Federal, state, or local, has or should have jurisdiction to regulate transportation equipment at any point while it is in transportation, including storage incidental to transportation. Further, the absence of regulation concerning specific activities within RSPA's jurisdiction should not be construed as an invitation for regulation by state or local authorities. Any gaps in the HMR concerning activities that affect transportation should be filled by RSPA regulation. Any activity affecting transportation where regulation by states or local governments could present an obstacle to RSPA's responsibility to promulgate uniform Federal hazardous materials transportation safety standards should be regulated by RSPA.

Questions Pertaining to Defining "Transportation in Commerce" by Offeror Intent

A1. *Applicability.* The Alliance suggests that the applicability of the HMR to a hazardous material would be determined by an offeror's intent to transport. Evidence of "intent" would be placing a hazardous material inside a packaging and handling it according to the HMR.

A1(i). When specifically does transportation of a hazardous material begin? Upon selection of a packaging for the material; upon preparation of a package, including marking and labeling, for shipment; or upon preparation of shipping papers for the package?

A1(ii). How should the HMR distinguish between packages containing hazardous materials that are intended for transportation and packages of hazardous materials that are not intended for transportation? Provide specific examples, if possible.

A1(iii). If a hazardous material has been placed in a DOT specification packaging, does this constitute an intent to offer the package for transportation?

A1(iv). Should a properly marked and labeled package for which shipping papers have not been prepared be subject to the HMR? Why or why not?

A1(v). Are there additional indicia of intent that RSPA should use to determine when a hazardous material is in transportation? Provide specific examples, if possible.

A1(vi). Are there any Federal or state agency precedents for applying regulations according to intent-based criteria? If so, please provide specific examples.

A1(vii). How would the concept of "intent" be enforced? For example, should DOT take enforcement action at any time that it finds a DOT specification package containing a hazardous material that does not fully conform to the requirements of the HMR? Should it take enforcement action when it finds any package that does not fully conform to the requirements of the HMR?

A1(viii). At what specific point or points could a shipper be in violation of the HMR?

A2. *Loading and unloading.* Under the scenario suggested by the Alliance, all loading and unloading operations would be subject to the HMR.

A2(i). Should the HMR cover loading and unloading of non-bulk packages to and from a transport vehicle? Why or why not?

A2(ii). Should loading and unloading of intermodal bulk containers be subject to the same regulations as loading and unloading of cargo tanks and tanks cars? Why or why not?

A2(iii). Should cargo tanks that are detached from their motive power be subject to the same regulations for unloading as cargo tanks that remain attached to their motive power? Why or why not?

A2(iv). Should the HMR cover unloading of cargo tanks or tank cars into manufacturing processes? Why or why not?

A2(v). Once it has been unloaded, should a bulk packaging containing a residue of a hazardous material continue to be subject to the HMR? If so, to what extent?

A3. *Storage.* Under the Alliance's proposal, shipments could be held in storage incidental to transportation indefinitely, whether at the shipper facility, the consignee facility, or at an in-transit facility.

A3(i). Is it appropriate to consider hazardous materials held in storage to be in transportation and, thus, subject to regulation under the HMR solely because such materials are packaged in conformance with the HMR? Why or why not?

A3(ii). To what extent should the storage of packages prior to loading on a transport vehicle be subject to the HMR? For example, should the HMR prescribe requirements for fire safety for warehousing of packages, worker safety standards for workers who handle packages after they have been filled, or operational standards for use of mechanical package handling equipment?

A3(ii). Under this proposal, should there be a time limit on storage, after which the material is no longer subject to the HMR? If so, what is a reasonable time limit? If not, why not?

A3(iii). Under this proposal, should a time limit on storage at originating or destination facilities be different from a time limit for in-transit storage facilities? Why or why not?

A3(iv). What other objective criteria could RSPA use to determine when a hazardous materials shipment is in storage incidental to transportation?

A3(v). Under this proposal, should different standards apply to hazardous materials stored in bulk packages, intermodal bulk containers (IBCs), and non-bulk packages? Why or why not?

A3(vi). Should the HMR distinguish between hazardous materials held in storage at a warehouse throughbilled for subsequent distribution to future customers and hazardous materials held by a wholesaler awaiting a future sale?

A3(vii). If packages held in storage are subject to the HMR, should the HMR also include standards for the warehouses or facilities where packages are stored?

A3(viii). Should a package held in storage that contains a residue of a hazardous material be subject to the requirements of the HMR? Why or why not?

A4. *Regulation by other federal/state/local agencies.* Determining the applicability of the HMR according to a shipper's intent, thereby permitting hazardous materials shipments to be held in unlimited storage subject to regulation by the HMR at originating, in-transit, and destination facilities, could preclude regulation by other Federal agencies or by state or local governments.

A4(i). Should hazardous materials shipments held in storage that is subject to regulation under the HMR be excepted from regulation by other Federal agencies or by state and local governments? Why or why not? If yes, how should the health and safety interests of other Federal agencies and state and local governments be addressed?

A4(ii). Should shipments held in storage be excepted from community right-to-know and risk management laws? Should shipments held in storage be excepted from the requirements of local fire codes or zoning laws? Why or why not? If yes, how should the health and safety interests of state and local governments be addressed?

A4(iii). What role, if any, should state/local public safety agencies have in regulating storage subject to regulation by the HMR? Should state/

local ordinances addressing storage facilities be subject to preemption by RSPA? Why or why not? If yes, how should state/local governments prepare for emergencies that may occur at storage facilities?

A4(iv). How is storage incidental to transportation different from storage generally? Are the risks to facility employees or to the surrounding communities less for hazardous materials shipments stored in DOT-authorized containers?

A5. *Preemption.* Commenters assert that the absence of RSPA regulation governing an activity affecting transportation does not mean that state or local governments are free to regulate the activity. When should the absence of an RSPA regulation preclude state or local regulation of an activity?

A6. *Rail storage on leased tracks.* Should materials stored on tracks owned by a railroad and leased to a shipper or consignee be regulated to the same degree as when the shipment is being transported by the rail carrier? Why or why not?

B. Carrier Custody and Control

Applicability.

Some commenters representing various hazardous materials shippers, carriers, and state and local law enforcement and safety agencies suggest that applicability of the HMR should be limited to the period when a hazardous material is received and accepted for transportation by a carrier until it is delivered to and accepted at its final destination. Under this scenario, proponents suggest that the following functions would be subject to regulation by DOT:

1. *Transportation begins when a package is accepted by a carrier and under its control.*

2. *Functions performed at offeror's facility.*

- Loading of non-bulk packages by the carrier onto a vessel, aircraft, or transport vehicle.
- Loading of bulk packagings by the carrier, including monitoring or attendance of the loading process.
- Carrier movements within the shipper facility.

3. *In-transit movement of shipment.*

- Parking or staging of transport vehicles, including rail cars, incidental to movement.
- Loading, unloading, and handling, such as moving a package from a vessel, aircraft, or transport vehicle to a staging area or to another vessel, aircraft, or transport vehicle.
- Storage of packages awaiting shipment to their known ultimate destination.

4. *Functions performed at destination facility.*

- Carrier movements within the consignee's facility.
- Unloading of bulk packages or of non-bulk packages from aircraft, vessels, or transport vehicles by carrier personnel.

5. *Transportation ends when the carrier delivers the shipment or package to its final destination and it is accepted by the consignee.*

Commenters who believe that carrier custody and control of a hazardous materials shipment should determine whether the shipment is subject to the HMR agree that whether the carrier is for-hire or private should be irrelevant. Rather, these commenters believe that the key question is the activity in which the carrier is engaged.

On the issue of public accessibility, commenters favoring the carrier-custody-and-control approach generally agree that public accessibility to an originating or destination facility should have no bearing on the question of whether in-plant movements of hazardous materials should be subject to the HMR. However, one commenter does suggest that the extent of public accessibility may bear on how loading or unloading functions are regulated. The commenter implies that loading or unloading conducted in facilities accessible to the general public, such as retail gas stations, shopping centers, or industrial parks, should be regulated more stringently than loading or unloading conducted at facilities where public access is limited or prohibited, such as chemical plants, refineries, or petroleum tank farms.

On the issue of setting specific time limits for unloading and storage incidental to transportation, most of the commenters who favor the carrier-custody-and-control approach agree that RSPA should not set a specific time limit for completing unloading. For these commenters, the issue is who is performing loading or unloading functions. Loading or unloading by carrier personnel would be covered by the HMR; loading or unloading by consignor/consignee personnel would not. However, some of these commenters suggest that loading and unloading of cargo tanks and tank cars should be regulated under the HMR, whether or not a carrier is involved.

The commenters who believe carrier custody and control of a hazardous materials shipment should determine whether it is subject to the HMR generally reject using the concept of "active shipping papers." Most are unclear as to what is meant by the term and equally uncertain as to how it could be defined. These commenters also oppose application of the HMR to storage of rail cars because storage on private property should not be subject to the HMR.

Implications for Regulatory Overlap Among Federal Regulatory Agencies

The commenters who favor the carrier-custody-and-control approach do not have a uniform view on designating areas of regulatory responsibility among RSPA, OSHA, and EPA. Some suggest that RSPA should negotiate Memoranda of Understanding with OSHA and/or EPA to set forth specific, separate areas of responsibility. Others note that RSPA does not exercise all of its jurisdiction with respect to handling criteria for hazardous materials and suggest that RSPA should screen the rules of other agencies and incorporate into the HMR those that can be used effectively in transportation settings. These commenters suggest several examples—requiring notice to local governments, contingency plans, and other performance-based measures to ensure due diligence in handling hazardous materials—where RSPA should consider incorporating the regulations of other Federal agencies into the HMR.

Implications for State/Local Regulation of Hazardous Materials

Again, the commenters who favor the carrier-custody-and-control approach do not present consistent views on state and local government regulation of activities affecting hazardous materials in transportation. Some agree with the Alliance comments cited above that national uniformity of hazardous materials transportation regulation is critical. They urge RSPA to clearly define the point at which a shipment is offered for transportation and the circumstances under which a shipment is considered in storage incidental to transportation. Others suggest that RSPA should recognize the right of state and local governments to protect the health and safety of its citizens through regulations that may be more stringent than the HMR.

Questions Pertaining to Defining "Transportation in Commerce" in Terms of Carrier Custody and Control

B1. *Applicability of the HMR.*

B1(i). If transportation begins once a carrier accepts and assumes control of a package, at what point should a shipment handled by a private carrier be subject to the HMR? Why? What objective criteria can RSPA use to determine when a shipment has been "accepted" by a private carrier?

B1(ii). At what point should a package handled by a for-hire carrier be subject to the HMR? Why? What objective criteria can RSPA use to determine when a shipment has been "accepted" by a for-hire carrier?

B2. *Loading and unloading by carriers.* Under this scenario, only those loading or unloading operations conducted by carriers would be subject to regulation by RSPA.

B2(i). Should loading or unloading by a for-hire carrier be distinguished from loading or unloading by a private carrier? Why or why not?

B2(ii). Do safety considerations change depending on which entity performs loading or unloading? If so, how?

B3. *Loading and unloading by shippers or consignees.* Under this scenario, carrier loading or unloading operations would be subject to the HMR while shipper loading and consignee unloading would not.

B3(i). What distinguishes loading or unloading by a carrier from loading and unloading by shippers and consignees?

B3(ii). Do safety considerations change depending on which entity performs the operations? If so, how?

B4. *Loading and unloading of bulk and non-bulk shipments.*

B4(i). Should loading and unloading of bulk shipments to/from cargo tanks or tank cars be regulated more stringently than loading and unloading of non-bulk packages? Why or why not?

B4(ii). If yes, should shipper loading and consignee unloading of bulk shipments be subject to regulation by RSPA? Why or why not?

B5. *Loading and unloading at publicly accessible facilities.* Should loading or unloading operations conducted at publicly accessible facilities on or near public rights-of-way be regulated more stringently than loading or unloading at private facilities at which there is no public access? Why or why not?

B6. *Worker safety.*

B6(i). Should hazmat employees and non-hazmat employees performing the identical function (e.g., the unloading of hazardous materials from a cargo tank) be subject to identical worker safety standards? If so, under which Federal agency's regulations—RSPA or OSHA? Why?

B6(ii). Should new or additional regulatory emphasis be placed on the safety of transportation workers, in particular the operators of motor vehicles who are directed by their carrier employers to perform functions, such as the loading and unloading of cargo tanks, that were performed by shippers and consignees in the past?

B7. *Empty packages.* Once it has been unloaded by a carrier, should a bulk packaging containing a residue of a hazardous material continue to be subject to the HMR? If so, to what extent?

C. Movement on Public Rights-of-Way

Applicability

Some commenters from state and local public safety agencies suggest that the HMR should apply only to movements of hazardous materials on public rights-of-way. The HMR would cease to apply once the shipment left the public right-of-way and arrived at its destination. One industry commenter offers a variation of this proposal, suggesting that the HMR should apply only to the time period when hazardous materials are being shipped "by means available to the public or on public rights-of-way." Using movement on public rights-of-way as the defining criterion for applicability of the HMR, proponents suggest that the following functions would be subject to regulation by RSPA:

1. *Transportation begins when the shipment exits the offeror facility and enters a public right-of-way.*

2. *In-transit movement of shipment.*

- Parking or staging of transport vehicles, including rail cars, incidental to movement.
- Loading, unloading, and handling, such as moving a package from a vessel, aircraft, or transport vehicle to a staging area or to another vessel, aircraft, or transport vehicle.
- Storage of packages awaiting shipment to their ultimate destination.

3. *Transportation ends when the shipment leaves the public right-of-way and arrives at its destination.*

On the issue of private versus for-hire carriers, commenters who suggest applying the HMR only to movements on public rights-of-way generally agree that the nature of the carrier should be irrelevant to the question of whether its activities are covered by the HMR. For these commenters, the key question is whether the activity occurs on private property or a public right-of-way. For the most part, these commenters do not believe that loading, unloading, or storage should be subject to the HMR because the activity occurs on private property rather than a public right-of-way. However, on the issue of setting specific time limits to define unloading and storage that are incidental to transportation, some of these commenters agree that setting a time limit by which loading should be completed—7 days, for example—would be helpful in determining whether a material is subject to the HMR. Others suggest that storage in excess of "a couple of days" should not be viewed as storage incidental to transportation in commerce.

Implications for Regulatory Overlap Among Federal Regulatory Agencies

Commenters who want to limit the application of the HMR to movements of hazardous materials on public rights-of-way also state that DOT should have primary Federal regulatory jurisdiction only when a hazardous material is being moved on public rights-of-way. These commenters assert that it is generally recognized that DOT should have sole jurisdiction over movement on public thoroughfares of hazardous materials from their point of origin to their destination and, further, that DOT should have sole jurisdiction over container design, including all equipment attached to the container, and marking and labeling of the container. These commenters state that the area in need of clarification is when DOT will have sole jurisdiction at a fixed facility and when other agencies will have shared or joint jurisdiction at fixed facilities. These commenters suggest that OSHA should have primary jurisdiction over manufacture, loading, storage, unloading, and use of hazardous material; and EPA should have primary jurisdiction only where an actual or potential release threatens the environment.

Implications for State/Local Regulation of Hazardous Materials

Commenters representing state and local public safety agencies who favor applying the HMR only to movements on public rights-of-way assert that state or local government agencies should have the freedom to impose safety regulations to respond to localized conditions or needs. These commenters suggest that, just as EPA has a role in protecting the environment from unintentional releases of hazardous materials at fixed facilities or in transportation and OSHA has responsibility whenever worker safety is at stake, they should be permitted to regulate certain activities along with RSPA and other Federal agencies. These commenters believe that the concept of shared jurisdiction over a specific activity among Federal, state, and local agencies should be an explicit point recognized in the HMR.

In cases of overlapping jurisdiction, these commenters suggest the agency with regulations that are in place to protect life and safety should have precedence; in such cases, RSPA's preemption authority should be waived.

For loading and unloading activities, these commenters believe that DOT should focus primarily on the vehicle and vehicle container, while the facility and the environment around the vehicle container should be the responsibility of other agencies. Thus, these commenters suggest that the environment surrounding the loading or unloading activity, including spill control, drainage, water access, grounding and bonding, secondary containment, treatment systems, detection/monitoring systems, alarm systems, and related issues should be the responsibility of EPA, OSHA, and/or local public safety agencies.

Questions Pertaining to Defining "Transportation in Commerce" as Movements on Public Rights of Way

C1. *Applicability of the HMR.* What objective criteria should RSPA use to determine when a hazardous materials shipment is moving on a public right-of-way?

C2. *Movements on private rights-of-way.* If the HMR apply only to movements of hazardous materials on public rights-of-way, how should the HMR apply to movements of hazardous materials on private rights-of-way, such as railroad property?

C3. *Operations adjacent to public rights-of-way.* If the HMR apply only to movements of hazardous materials on public rights-of-way, how should the HMR apply to loading, unloading, or storage of hazardous materials adjacent to public rights-of-way, such as gasoline stations, shopping centers, or industrial parks?

C4. *Unloading.* Current requirements of the HMR concerning unloading are intended to provide, in part, protection to the general public in instances where individuals and their private property are exposed to risks, e.g., bulk deliveries of petroleum products to homes, schools and retail outlets.

C4(i). Should the HMR be revised to specifically except these unloading requirements? If not, to what extent should the HMR address transportation-related functions that occur beyond the bounds of "public rights of way?'

C4(ii). If a state, local jurisdiction, or Indian tribe elects not to apply its own standard of safety, should the HMR contain a default provision that specifies minimal requirements?

III. Supplemental ANPRM Comment Period

We are continuing to evaluate this issue to determine the best way to promote safety in transportation and transportation-related activities. However, because most comments to the ANPRM were submitted at least two years ago, we are issuing this supplemental ANPRM to assure that we have the benefit of the most recent information available and that we hear from a broad spectrum of interested organizations and individuals. If you submitted comments in response to the 1996 ANPRM, you may supplement or update your comments. If you did not submit comments in response to the 1996 ANPRM, you may do so until July 26, 1999. Your comments may address the issues outlined in the 1996 ANPRM or the questions listed in this supplemental ANPRM. You should explain the reason for any change you recommend. In particular, we encourage you to submit proposed regulatory text that would accomplish your objectives.

The 1996 ANPRM is available as part of the public docket established for this rulemaking under Docket No. RSPA–98–4952. You can view the 1996 ANPRM by accessing the DOT Dockets Management System web site at "http://dms.dot.gov/." If you do not have Internet access, you can call the Hazardous Materials Information Center at 1–800–467–4922 to obtain a copy.

Issued in Washington, DC on April 20, 1999 under authority delegated in 49 CFR Part 106.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

[FR Doc. 99–10380 Filed 4–26–99; 8:45 am]

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Tuesday
April 27, 1999

Part IV

Department of the Treasury

Customs Service

19 CFR Part 111
Customs Brokers; Proposed Rule

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 111

RIN 1515–AC34

Customs Brokers

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to revise Part 111 of the Customs Regulations, which governs the licensing and conduct of customs brokers in the performance of customs business on behalf of others. The proposed revision includes changes to the regulatory texts to reflect amendments to the underlying statutory authority enacted as part of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The proposed revision also includes changes to reflect the recent reorganization of Customs as well as changes to improve the content, layout and clarity of the regulatory texts.

DATES: Comments must be received on or before June 28, 1999.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue N.W., 3rd Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Bruce Ingalls, Office of Field Operations (202–927–1082).

Legal Aspects: Jerry Laderberg, Office of Regulations and Rulings (202–927–2320).

SUPPLEMENTARY INFORMATION:

Background

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides that a person must hold a valid customs broker's license and permit in order to transact customs business on behalf of others, sets forth standards for the issuance of broker's licenses and permits, provides for disciplinary action against brokers in the form of suspension or revocation of such licenses and permits or assessment of monetary penalties, and provides for the assessment of monetary penalties against other persons for conducting customs business without the required broker's license. Section 641 also authorizes the Secretary of the Treasury to prescribe rules and regulations relating to the customs business of brokers as may be necessary to protect importers and the revenue of the United States and to carry out the provisions of section 641.

The regulations issued under the authority of section 641 are set forth in Part 111 of the Customs Regulations (19 CFR Part 111). Part 111 includes detailed rules regarding the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, including the qualifications required of applicants and the procedures for applying for licenses and permits. Part 111 also prescribes recordkeeping and other duties and responsibilities of brokers, sets forth in detail the grounds and procedures for the revocation or suspension of broker licenses and permits and for the assessment of monetary penalties, and sets forth fee payment requirements applicable to brokers under section 641 and 19 U.S.C. 58c(a)(7).

On December 8, 1993, amendments to certain Customs and navigation laws became effective as the result of enactment of the North American Free Trade Agreement Implementation Act ("the Act"), Public Law 103–182, 107 Stat. 2057. Title VI of the Act set forth Customs Modernization provisions that included, in section 648, certain amendments to section 641 of the Tariff Act of 1930. The substantive amendments to section 641 are as follows:

1. In the definition of "customs business" in section 641(a)(2), a second sentence was added that provides that customs business "also includes the preparation of documents or forms in any format and the electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with the Customs Service in furtherance of [the customs business activities listed in the first sentence], whether or not signed or filed by the preparer, or activities relating to such preparation, but does not include the mere electronic transmission of data received for transmission to Customs."

2. Section 641(c)(1) was amended by adding a provision for the issuance of a national permit for the conduct of such customs business as the Secretary of the Treasury prescribes by regulation.

3. A new subsection (c)(4) was added to provide that when electronic filing (including remote location filing) of entry information with Customs at any location is implemented by the Secretary of the Treasury pursuant to the provisions of the National Customs Automation Program ("the NCAP," which was established by section 631 of the Act and is codified at 19 U.S.C. 1411–1414), a licensed broker may appoint another licensed broker who holds a permit in a Customs district to act on its behalf as its subagent in that district if such activity relates to the filing of information that is permitted to be filed electronically. New subsection (c)(4) also provides that the broker who appoints a subagent remains liable for all obligations arising under bond and for all duties, taxes and fees, and for any other liabilities imposed by law, and cannot delegate such liability to the subagent.

4. Section 641(d)(2)(B), which sets forth the procedures for the suspension or revocation of a broker's license or permit, was amended to increase to 30 days the period within which a hearing is to be held after written notice of a hearing is provided to the broker.

5. Finally, section 641(f) was amended to provide: that the Secretary of the Treasury may not prohibit customs brokers from limiting their liability to other persons in the conduct of customs business; that for purposes of any provision of the Tariff Act of 1930 pertaining to recordkeeping, all data required to be retained by a customs broker may be kept on microfilm, optical disc, magnetic tapes, disks or drums, video files or any other electrically generated medium; and that, pursuant to such regulations as the Secretary of the Treasury shall prescribe, the conversion of data to such storage medium may be accomplished at any time subsequent to the relevant customs transaction and the data may be retained in a centralized basis according to such broker's business system.

On September 27, 1995, Customs published the following documents in the **Federal Register** as a result of changes in the Customs Headquarters and field organizational structure:

1. T.D. 95–77 (60 FR 50008) amended the Customs Regulations on an interim basis. The amendments included extensive changes to §§ 101.1, 101.3 and 101.4 (19 CFR 101.1, 101.3 and 101.4) to reflect the changes to the basic Customs field organization, involving the elimination of regions and districts for most purposes so that ports of entry would constitute the foundation of the Customs field structure and would be empowered with most of the functions and authority that had been held in the district and regional offices and also involving the designation of some ports as service ports having a full range of cargo processing functions, including inspection, entry, collection, and

verification. T.D. 95–77 also included amendments to Parts 4, 19, 24, 103, 111, 112, 113, 118, 122, 127, 141, 142, 146 and 174 of the Customs Regulations (19 CFR Parts 4, 19, 24, 103, 111, 112, 113, 118, 122, 127, 141, 142, 146 and 174) to reflect these organizational changes. The background portion of T.D. 95–77 pointed out that districts and regions would still exist as geographical descriptions for limited purposes such as for broker permits and certain cartage and lighterage purposes, and T.D. 95–77 therefore set forth certain additional regulatory changes in order to reflect this fact; these changes included the addition of definitions for "district," "district director" and "region" in § 111.1 (19 CFR 111.1) to enable the current statutory broker licensing and permitting schemes to operate. (The background portion of T.D. 95–77 also noted that the Customs reorganization included the creation of twenty Customs Management Centers and five Strategic Trade Centers for which no regulatory changes were being made because these new organizational entities will not have direct contact with the public.)

2. T.D. 95–78 (60 FR 50020) also amended the Customs Regulations on an interim basis and involved nomenclature changes. The T.D. 95–78 changes were set forth in a table format in numerical order by section affected and in most cases involved the replacement of outdated references with new references to reflect the new Customs Headquarters and field organizational structure. The majority of these changes involved replacing "district" with "port" and replacing "district director" with "port director," or some variation thereof. The T.D. 95–78 changes involved almost every part within Chapter I of the Customs Regulations (19 CFR Chapter I) and included a large number of changes to Part 111.

3. A general notice (60 FR 49971) informed the public of the geographic areas covered for purposes of Customs broker permits and for certain cartage and lighterage purposes where the word "district" appears in the Customs Regulations. This notice was a consequence of the publication of T.D. 95–77 and T.D. 95–78 and, in particular, of the T.D. 95–77 regulatory changes made in order to retain the concept of a "district" for certain Customs broker and cartage and lighterage purposes. This general notice consisted of a table, arranged by State or other geographic location, setting forth in the left column a list of service ports (each of which represents a "district") and in the right column the ports of entry within each such "district."

With regard to the changes to section 641 made by section 648 of the Act, Customs has determined that a number of those changes should be reflected in Part 111. Specifically, the regulations should be amended as follows: (1) to reflect the change to the section 641(a)(2) definition of "customs business;" (2) to provide for the issuance of national permits as authorized under amended section 641(c)(1); (3) to reflect the 30-day period within which a suspension or revocation hearing is to be held under amended section 641(d)(2)(B); (4) to implement the amended section 641(f) proscription against prohibiting a broker from limiting its liability to other persons; and (5) to reflect the amended section 641(f) recordkeeping provisions. With regard to the appointment of subagents as authorized under amended section 641(c)(4), Customs believes that it would be premature to amend Part 111 at this time; rather, it would be preferable to address this issue at such time as related NCAP test procedures have been concluded, appropriate programming enhancements have become operational, and appropriate regulatory proposals have been formulated.

Customs has also performed a general review of Part 111 to determine whether other regulatory changes should be made. Based on that review, Customs has identified a number of other areas where significant improvement could be made to the existing regulatory texts. These improvements include: (1) the elimination of obsolete or otherwise unnecessary provisions; (2) the addition of new provisions where the regulations appear to be incomplete or are otherwise in need of clarification; (3) further textual changes arising out of the reorganization of Customs that were not fully addressed in the district/port terminology changes made by T.D. 95–77 and T.D. 95–78, including some changes to those previously-published changes and particularly in order to clarify certain procedural aspects of the regulations (for example, where to file permit applications and broker status reports and where to pay permit user fees); and (4) a large number of nonsubstantive, editorial changes to improve the precision and clarity of the regulations, ranging from the reorganization or complete redrafting of existing texts to minor word changes within a particular regulatory provision.

In the light of the number and breadth of the changes outlined above, Customs believes that the proposed changes should be presented in the context of a complete revision of Part 111. With the exception of minor wording or other editorial-type changes that do not appear to warrant specific mention, the changes reflected in the proposed revision of Part 111 set forth in this document are discussed in more detail below.

Discussion of Proposed Amendments

Section 111.1

The following proposed changes have been made to this definitions section:

1. References to "Commissioner" have been replaced by references to "Assistant Commissioner" throughout Part 111, and a definition of "Assistant Commissioner" has been added to clarify that each such use of this term refers to the Assistant Commissioner, Office of Field Operations.

2. Two sentences have been added at the end of the definition of "customs business" to reflect the change to the section 641(a)(2) definition effected by section 648 of the Act as discussed above.

3. In the first sentence of the definition of "district" (added by T.D. 95–77 as discussed above), the words "other than a national permit" have been added after "permit" in order to avoid an inconsistency with the national permit concept reflected in new § 111.19(f) (which is discussed below), and the words "issued under this part" have been removed because they are no longer necessary in view of the proposed new definition of "permit" discussed below. In addition, the second sentence has been modified to refer to publication of the listing of districts and ports "periodically" (rather than "on or before October 1, 1995, and whenever updated") since the date mentioned in the present text no longer serves a useful purpose.

4. The definition of "district director" (added by T.D. 95–77 as discussed above) has been removed because this term is not used in revised Part 111.

5. A definition of "employee" has been added to ensure that this term will have the same meaning wherever used in Part 111 (for example, for determining whether a license is required under § 111.3(b) and for purposes of providing required employee information under § 111.28(b)).

6. A definition of "permit" has been added. This new definition refers to any permit issued to a broker under § 111.19 and applies to both district permits and national permits (the latter are addressed in new § 111.19(f) discussed below).

7. The definition of "records" conforms to the final rule published in the **Federal Register** (63 FR 32916) on

June 16, 1998, involving a revision of the Customs Regulations pertaining to recordkeeping requirements principally in order to implement statutory changes made by sections 614 and 615 of the Act as well as the change made by section 648 of the Act to section 641(f) as discussed above. Changes for the same reason are also reflected in the texts of §§ 111.21 and 111.23, and in the treatment of § 111.22, as set forth below.

8. A definition of "responsible supervision and control" has been added. Customs believes that this definition is needed because the expression is used in multiple sections in Part 111 (that is, in §§ 111.11, 111.13, 111.19 and 111.28). The proposed definition is based on paragraph (d) of present § 111.11, which would be eliminated.

Section 111.2

Section 111.2, which sets forth the basic circumstances in which a license and district permit are required, has been considerably expanded and divided into two paragraphs: paragraph (a) pertains to licenses and paragraph (b) pertains to permits. The specific organizational and substantive changes reflected in the revised text of this section are as follows:

1. Paragraph (a)(1) repeats the basic license requirement statement contained in the first sentence of present § 111.2 but with the addition of a cross-reference to paragraph (a)(2), which sets forth exceptions to the general rule.

2. Present § 111.3, regarding specific types of transactions not requiring a broker's license, has been moved to § 111.2 as new paragraph (a)(2) because, for purposes of organizational clarity, Customs believes it is preferable in this case to have those exception provisions immediately following the general statement to which they relate. In addition, the following textual changes are reflected in this new § 111.2(a)(2) text:

a. The second sentence of present § 111.3(b)(2), which refers to filing the required statement "at each port within the district," has not been included in the corresponding new § 111.2(a)(2)(ii)(A)(*2*) because it adds nothing not already covered by the first sentence. In addition, the present text has been modified to not require the filing of the statement if the broker is operating within a district under a paragraph (b)(2) exception to the district permit rule because compliance with such a requirement would be problematic, particularly in the case of transactions initiated from a remote location.

b. Present § 111.3(e) (new § 111.2(a)(2)(v)) has been revised to refer to "noncommercial" shipments or merchandise (rather than "informal" entry) and by replacing the language regarding § 143.26 and 19 U.S.C. 1498 with a simple proviso regarding meeting the requirements of § 141.33. Customs believes that the revised text more accurately reflects the circumstances intended to be covered by this provision.

c. A subparagraph (vi) has been added to the new § 111.2(a)(2) text to cover foreign trade zone activities not involving the transfer of merchandise to the customs territory of the United States.

3. The permit provisions of new paragraph (b) reflect the same structure as that described above for the license provisions of new paragraph (a). Thus, paragraph (b)(1) repeats the basic district permit requirement statement contained in the second sentence of present § 111.2 but with the addition of a cross-reference to new paragraph (b)(2) which sets forth exceptions to the general rule. The new § 111.2(b)(2) exceptions to the district permit rule involve the following:

a. Paragraph (b)(2)(i) would allow a broker who files entries for a client at other locations covered by a district permit to place the broker's employee at the client's premises for the purpose of performing customs business (other than filing entries or other documents with Customs) solely on behalf of that client even though the broker does not have a permit for the district in which the client's premises are located.

b. Paragraph (b)(2)(ii) would allow a broker to file a manual drawback claim, and represent a client regarding such a claim, at the drawback office that has been designated by Customs for the purpose of filing drawback claims even though the broker does not have a permit for the district where that drawback office is located. The electronic filing of drawback claims in a district for which a broker does not have a permit may be done only pursuant to a national permit issued to that broker.

c. Paragraph (b)(2)(iii) describes the basic circumstances under which a national permit may be used in lieu of obtaining a district permit, with a cross-reference to new § 111.19(f) that sets forth the procedures for obtaining such a national permit. These new national permit provisions, which are intended to implement section 641(c)(1) as amended by section 648 of the Act as discussed above, are explained in more detail below in the discussion of new § 111.19(f).

d. Finally, paragraph (b)(2)(iv) would allow a broker to orally or in writing or electronically represent an importer of record before Customs after an entry of merchandise filed by another broker (as agent and not as importer of record) has been completed and accepted by Customs even though that broker does not have a permit for the district where the representations are to be made, provided that the broker has a national permit and provided that the broker, if requested by Customs, submits evidence of the broker's right to represent the client. This provision is intended to provide brokers with more flexibility in responding to their clients' needs on a national basis once an entry has come under the jurisdiction of Customs. The text reflects the view of Customs that a broker should be able to follow up with Customs on any matter arising out of an entry filing or regarding the merchandise covered by an entry without being constrained by the need to have a district permit covering the location where the representations on behalf of the client are made.

Section 111.3

As a consequence of the transfer of the text of this section to § 111.2, this section has been designated as "reserved."

Section 111.5

In paragraph (a), which concerns the general right of a broker who represents a client in the importation or exportation of merchandise to represent the client before Treasury Department agencies, the exception language at the end regarding representation in a district where the broker does not have a permit has been removed because exceptions to the district permit rule are covered by new § 111.2(b)(2).

Section 111.11

The basic requirements for an individual broker's license under paragraph (a) have been modified as follows: in subparagraph (a)(1), to require that the individual be a citizen of the United States "on the date of submission of the application;" in subparagraph (a)(2), to require that the individual attain the age of 21 "prior to the date of submission of the application;" and in subparagraph (a)(4), to provide that the individual must have attained a passing grade on a written examination "taken within the 3-year period before submission of the application." The changes in subparagraphs (a)(1) and (a)(2) are intended to add necessary precision by more clearly defining the time at which these basic requirements must be met.

Revised subparagraph (a)(4) is intended to achieve several objectives. First, as in the case of the other paragraph (a) criteria, it makes the taking and passing of the examination a condition precedent to the submission of a license application to Customs (a failure to pass the examination would no longer result in the denial of a license application because no application would exist at that point in time). Second, prescribing a 3-year period in which to submit a license application after passing the examination gives an individual more flexibility concerning where and when the application is submitted (thus, the examination could be taken and passed in one district and the application could be submitted later to a port director within another district at any time within the 3-year period). Third, drawing a distinction between the examination process and the application submission process makes it possible to provide for a separate fee payment for each process in the simplified § 111.96(a) fee structure discussed below. Fourth, the revision will enhance administrative efficiency by eliminating the need for Customs to process license applications that may never result in the issuance of a license because the applicant has not passed the required examination.

In addition, for the reasons stated above in connection with the proposed addition of the definition of "responsible supervision and control" in § 111.1, paragraph (d) has been removed.

Section 111.12

The following changes have been made to this section which sets forth license application procedures:

1. Paragraph (a) reflects the following changes: the third sentence has been modified to refer to a "$200 application" fee in order to reflect changes to the fee provisions of § 111.96(a) that are discussed below; in the fourth sentence, after the reference to "one or more States," the words "at a port" have been removed because they are unnecessary and potentially confusing; the fifth sentence, which concerns the time for submitting an application for an individual's license, has been modified to reflect the 3-year period specified in § 111.11(a)(4); the sixth sentence has been modified (also as a consequence of the § 111.11(a)(4) changes) to provide that the port director may also require a copy of the notification that the individual passed the examination (see the discussion of § 111.13(e) below) and by removing at the end the words "or after the applicant obtains a passing score on the written examination;" and a new sentence has been added at the end to permit the port director to refuse to accept the filing of an application that, on its face, demonstrates noncompliance with one or more of the basic requirements of § 111.11 (for example, the application is filed more than 3 years after the individual passed the written examination), in which case the application and fee would be returned to the filer without further action.

2. Also as a consequence of the § 111.11(a)(4) changes, paragraph (c), which concerns application withdrawals, has been modified by removing the reference to providing notice before the date of the written examination and by revising the remaining text. Revised paragraph (c) provides that any license application may be withdrawn by written notice at any time prior to issuance of the license but also specifically precludes a refund of the $200 application fee because a refund no longer would be necessary or appropriate in the new regulatory context.

Section 111.13

The following changes have been made to this section which concerns written examinations for individual licenses:

1. Throughout the section all references to an "applicant" have been removed or have been modified (for example, to read "individual" or "examinee" or "prospective applicant") to reflect that under the § 111.11(a)(4) and related changes a written examination will always precede the filing of a license application.

2. In paragraph (b), which concerns the date and place of the examination, a new sentence has been added after the first sentence to require written notice of an individual's intent to take the examination, and payment of the $200 examination fee, at least 30 calendar days prior to the scheduled examination date. The advance notice is necessary in order for Customs to ensure that an adequate facility will be available to accommodate all prospective examinees, and payment of the fee at that time is necessary because the examination fee would no longer be part of the application fee under the § 111.11(a)(4) and related textual changes discussed above (see also the new paragraph (d) examination fee refund provision discussed below). In addition, in order to afford procedural flexibility to Customs when appropriate, the first sentence no longer refers to examinations "at each district office" and the last sentence provides for giving notice of the exact time and place but without implying that notice will be given individually to each prospective examinee.

3. Paragraph (c), which concerns special examinations, has been modified to provide for a separate written request for a special examination (rather than in connection with the filing of a license application) in order to reflect the separation of the examination and application processes as discussed above. In addition, a sentence has been added at the end to provide that the license applicant shall be responsible for all additional costs incurred by Customs in connection with the special examination that exceed the $200 examination fee and to require reimbursement to Customs of such additional costs before the examination is given.

4. Paragraph (d), which addresses a prospective examinee's failure to appear for the examination, has been modified to reflect the separation of the examination and application processes. Thus, the modified text no longer provides for denial of an application for failure to appear but rather simply provides for a refund of the $200 examination fee if the prospective examinee notifies the port director at least 2 working days prior to a regularly scheduled examination that he will not appear. However, the modified text precludes any refund in the case of a paragraph (c) special examination, because Customs believes that the person who specifically requested the special treatment should remain responsible for the costs to Customs resulting from the request.

5. The heading and text of paragraph (e) have been revised to refer to notice of the examination result (rather than license application denial) as a consequence of the separation of the examination and application processes. The revised text provides for written notice to each examinee and is intended in particular to ensure that an examinee who attained a passing grade would be able to present appropriate written proof of meeting the § 111.11(a)(4) criterion when filing a license application in another district within the prescribed 3-year period. Revised paragraph (e) also clarifies that failure to pass the examination precludes the filing of a license application but does not preclude the examinee from taking an examination at a later date.

6. A new paragraph (f) has been added to set forth an administrative appeal procedure for an individual who failed to pass the written examination and wishes to challenge that result.

Section 111.14

The texts of paragraphs (a) and (b) have been merged into one new paragraph (a) entitled "referral of application for investigation" in order to eliminate unnecessarily repetitive text, with paragraphs (c) through (e) redesignated as paragraphs (b) through (d). In addition, in paragraph (d) (redesignated as paragraph (c)), the first sentence regarding the "return" of the application with the investigative report and recommendation has been removed since it is archaic and unnecessary and the wording of the paragraph heading has been revised accordingly.

Section 111.15

The following changes have been made to this section, which concerns the procedures for issuing licenses:

1. In the first sentence, the words "and has paid all applicable fees prescribed in § 111.96(a)" have been added at the end of the opening clause to clarify that other license application fees must be paid by individual applicants in addition to the $200 fee that must accompany the application under § 111.12(a).

2. The last sentence regarding maintenance and availability of an alphabetical list of brokers licensed at each port has been removed since it is inconsistent with the current national license concept (see also the below discussion of the proposed changes to § 111.19(e)).

Section 111.19

The following changes have been made to this section, which concerns the issuance of permits:

1. Paragraph (a) has been modified to provide that, in the case of a permit issued concurrently with a license, the permit is issued with reference to the district "in which the port" through which the license application was submitted "is located". This change reflects the operational reality arising out of the Customs reorganization as discussed above, under which the ports now operate as the basic organizational units for public access and other purposes, including the submission of applications for broker licenses and permits. Similar clarifying wording changes are reflected elsewhere in Part 111.

2. The first sentence of paragraph (b) has been modified to provide for submission of a district permit application in the form of a letter to the director of the port at which the applicant intends to conduct customs business. The regulations would no longer provide for submission of a permit application on Customs Form 3124 (which was designed for license application purposes and thus is not suitable in a permit context). The remaining paragraph (b) text has been replaced by a new final sentence that specifies seven classes of documents or other information that must be submitted with the application.

3. Existing paragraph (c) has been modified to more clearly identify the fees that must accompany the permit application (that is, the § 111.96(b) district and national permit application fee and the § 111.96(c) annual user fee). In addition, a new second sentence has been added to clarify that the annual user fee must be paid when an initial permit is issued concurrently with a license under paragraph (a).

4. Paragraph (d) has been divided into two subparagraphs. New subparagraph (d)(1) sets forth general principles regarding the exercise of responsible supervision and control over the customs business conducted in a district for which a permit is granted; the text reflects the substance of the first two sentences of present paragraph (d) but does not retain the "[o]n or after October 31, 1987" reference in the second sentence since this reference is no longer necessary. New subparagraph (d)(2) sets forth rules permitting an exception to the at-least-one-individual-broker-per-district rule and reflects the substance of the remainder of present paragraph (d) except for the following: the word "region" has been replaced by the words "larger geographical area" to avoid a circular effect when the § 111.1 definition of "region" is applied; and a sentence has been added at the end to provide that a written decision on a waiver under this subparagraph will be issued by the Office of Field Operations and must specify the region covered by a waiver.

5. The following changes have been made to paragraph (e): the first two sentences have been removed because the present procedure of notifying other port directors of a permit application and obtaining their comments is unnecessarily cumbersome and time-consuming; the last two sentences have been replaced by two new sentences that provide for issuance of a written decision on the permit application, set forth a specific legal standard for issuance of a permit, and require that the port director refer the matter to Customs Headquarters for instructions if the port director believes that the permit should not be issued; and a new sentence has been added at the end to require that each port director maintain and make available to the public an alphabetical list of all brokers permitted through his port.

6. Present paragraph (f) (which allows the port director to require an investigation if additional facts are deemed necessary) no longer appears to be appropriate or necessary and has been replaced by a new paragraph (f) covering the issuance of national permits to reflect the change to section 641(c)(1) made by section 648 of the Act (see also the references to the national permit exception to the district permit rule in new §§ 111.2(b)(2) (ii) and (iii) as discussed above and set forth below). New paragraph (f) provides that a broker must have a national permit in order to transact customs business under the NCAP within a district for which the broker does not have a district permit. The text requires that the broker be an NCAP participant and in this regard refers specifically to the electronic filing of entries from a remote location and to the electronic filing of drawback claims as well as more generally to the transaction of other customs business pursuant to an NCAP component that is in operation. In referring both to specific NCAP components and to NCAP components in a more general sense, the text is not intended to limit or otherwise define the scope or operation of the NCAP but rather is intended only to prescribe, consistent with the broad authority set forth in section 641(c)(1) as mentioned above, the circumstances in which the conduct of customs business by a broker would require a national permit. Finally, new paragraph (f) provides for an application in the form of a letter addressed to Customs Headquarters and sets forth five classes of documents or other information that must accompany the application, including evidence that the application fee and user fee required under §§ 111.96 (b) and (c) have been paid.

7. A new paragraph (g) has been added to set forth procedures regarding the administrative and judicial review of a denial of a permit. This new text is intended in part to reflect the right to judicial review of a permit denial under section 641(e)(1) and is based on the license denial review provisions of § 111.17 (but without provision for review by the Secretary of the Treasury, which does not appear to be necessary or appropriate in a permit context).

Sections 111.21 Through 111.23

Sections 111.21 and 111.23 reflect, and § 111.22 has been reserved without accompanying text as a result of, the changes made to these sections in the recordkeeping final rule document mentioned above in connection with the § 111.1 definition of "records." In

addition, in § 111.23, a number of additional editorial changes have been included as a consequence of those recordkeeping final rule document changes, and subparagraphs (b)(2)(i) and (ii) thereof have been further revised to refer to "each" address or location for consolidated records in order to not preclude the use of multiple consolidated locations.

Section 111.24

The phrase ", their surety on a particular entry," has been added to the text after "such clients." This change is intended to ensure that disclosure to a surety will not automatically constitute a violation of the confidentiality principle embodied in § 111.24. The change is not intended to mandate disclosure to a surety, and is not intended to represent the view of Customs regarding the propriety of disclosure to sureties in all cases, because Customs believes that the issue of whether records or information are properly disclosable by one party to another should be treated as a private matter to be resolved by the parties. In addition, the phrase "the port director," has been added after the reference to the special agent in charge in order to more completely reflect operational realities in the field. Finally, the words "officers or" have been added before "agents of the United States."

Section 111.25

Similar to the approach reflected in the recordkeeping changes to §§ 111.1, 111.21 and 111.23, this section, which concerns the availability of broker records, has been revised (1) to clarify that there is a distinction between records that are peculiar to Part 111 and other records that brokers are responsible for under Part 163, and (2) to provide that the records peculiar to Part 111 shall be made available to Customs "upon reasonable notice." In addition, the words "or other authorized Customs officers" have been added in the second sentence to reflect that authority within Customs to examine such records is not restricted to regulatory auditors and special agents.

Section 111.26

The reference in this section to "§§ 162.1a through 162.1i" has been replaced by a reference to "part 163 of this chapter" as a consequence of the recordkeeping changes.

Section 111.27

The second and third sentences have been removed because (1) the second sentence (which concerns inspection of records to protect importers and the revenue of the United States) is adequately reflected in other provisions and (2) the third sentence (which specifies where a report of findings is to be submitted within Customs) relates solely to internal agency management practices and procedures that are not normally the subject of a regulation.

Section 111.28

The following changes have been made to this section:

1. Paragraph (b), which concerns employee information, has been reorganized so that paragraph (b)(1) will cover all current employees, including new employees. In addition, in paragraph (b)(1)(i) as set forth below, which contains general rules for providing current employee information to Customs and thus corresponds to present paragraph (b)(1), a new sentence has been added after the first sentence to specify more clearly when the initial list of employees is to be submitted to the port director.

2. A new paragraph (d) has been added to provide that, in the case of a broker for which ownership shares are not publicly traded, the broker must give immediate written notice to the Assistant Commissioner, and to each director of a port through which a permit has been granted to the broker, if the ownership of the broker changes, including a change in ownership that results in the addition of a new principal to the organization (but not a mere shift in ownership interest among principals already of record with Customs). The new paragraph also contains provision for a background investigation of a new principal and ultimately for the initiation of license suspension or revocation proceedings if the investigation of the new principal uncovers information upon which a denial of a license application could have been based and the relationship is not terminated to the satisfaction of the port director.

Section 111.30

The following changes have been made to this section:

1. In paragraph (a), which concerns notice of a change of a broker's address, the requirement for notice to the Commissioner has been removed to eliminate a duplicate collection and reduce the reporting burden (a similar change also has been made in the introductory texts of paragraphs (b) and (e) of this section), and the remaining requirement has been modified to require notice to each director of an affected port. In addition, a new sentence has been added at the end of paragraph (a) to provide that an individual broker not actively engaged in transacting business as a broker must provide notice of a change in his non-business mailing address in the paragraph (d) triennial status report. Customs believes that such notice is necessary for Customs to be able to contact the broker for purposes of administering Part 111.

2. In paragraph (b), which concerns notice of a change in a partnership, association, or corporate broker, the words "or any other change in the legal nature of the organization" have been added at the end of paragraph (b)(2).

3. Paragraph (d), which concerns the triennial status report, has been divided into four subparagraphs. Paragraph (d)(1) sets forth general provisions and corresponds to the first six sentences of present paragraph (d); the only substantive change concerns provision for submission of the report only to the port through which the broker's license was issued (rather than to Customs Headquarters and with a copy to each port where the broker has been granted a permit). Paragraph (d)(2) sets forth provisions applicable to individual brokers and paragraphs (d)(2) (i) and (ii) correspond to the seventh and eighth sentences of present paragraph (d); paragraph (d)(2)(iii) is new and requires statements of continued compliance with §§ 111.11 and 111.19 (which Customs believes must be administered as ongoing standards) and about conduct that could constitute grounds for suspension or revocation under § 111.53 (the standards for which are continuously applicable to all brokers). Paragraph (d)(3) sets forth provisions applicable to partnership, association and corporate brokers, corresponds to the ninth sentence of present paragraph (d), and contains the additional requirement that the report be signed by a licensed member or officer of the organization. Paragraph (d)(4) concerns the failure to file timely and corresponds to the remaining text of present paragraph (d) but with the following changes of note: provision is made for issuance of the notice of suspension by the port director (rather than by the Commissioner) as a consequence of the change incorporated in new subparagraph (d)(1); and, in the next to the last sentence, reference is made to revocation of the broker's license "by operation of law" if the broker fails to file the report within the prescribed 60-day period.

Section 111.36

The following changes have been made to this section, which concerns relations with unlicensed persons:

1. Paragraph (a) has been divided into two paragraphs (a) and (b), with a separate heading for each. New paragraph (a) incorporates the substance of the second sentence of present paragraph (a) and new paragraph (b) incorporates the substance of the first sentence of present paragraph (a). In addition, under new paragraph (a), the broker may choose to transmit a copy of the entry (in lieu of a copy of his bill for services rendered), and the words "or unless the importer has in writing waived transmittal of the copy of the entry or bill for services rendered" have been added at the end.

2. Present paragraph (b) has been redesignated as paragraph (c) with the following changes: in paragraphs (c)(1), (c)(2), and (c)(3), the words "or other party in interest" have been added after "importer" to cover cases in which the broker is the importer of record but not the true party in interest; and the words "unless this requirement is waived in writing by the importer or other party in interest" have been added at the end of paragraph (c)(2)(i).

Section 111.42

This section has been reorganized into two paragraphs. The text of all the present paragraphs of the section are consolidated into paragraph (a), except for the last sentence of paragraph (e). Paragraph (a) provides restrictions on the actions of a broker with any person who is notoriously disreputable or whose license has been suspended, cancelled "with prejudice," or revoked. The last sentence of present paragraph (e) is set forth as a separate new paragraph (b) to reflect that it operates as a general exception to the restrictions set forth in proposed paragraph (a).

Section 111.43

This section, which concerns the display of broker licenses and permits, no longer has significant practical utility and has been removed.

Section 111.44

This section, which precludes a broker from limiting the broker's liability to a client with regard to the conduct of his brokerage business, has been removed to reflect the prohibition added to section 641(f) by section 648 of the Act as discussed above.

Section 111.45

The following changes have been made to this section which concerns revocation of a license or permit by operation of law:

1. The words "[o]n or after October 31, 1987" at the beginning of paragraph (b) have been removed as unnecessary.

2. A new paragraph (d) has been added to clarify a broker's ongoing duty to exercise responsible supervision and control over the conduct of its brokerage business and to otherwise comply with Part 111, and to underscore a broker's potential exposure to disciplinary sanctions for failure to do so, even during the 120-day period referred to in paragraph (a) or during the 180-day period referred to in paragraph (b).

Section 111.51

In paragraph (b), which concerns the cancellation of a license or permit with prejudice, an exception regarding a right of appeal has been added at the end of the second sentence because the exercise of such a right would be entirely inconsistent with the context reflected in the first sentence.

Section 111.53

The following changes have been made to this section, which concerns grounds for disciplinary action against brokers:

1. The section heading has been modified by removing the words "or monetary penalty in lieu thereof," to align on the change to the introductory text of this section as discussed below.

2. The introductory text has been modified to state that the appropriate "port director" (rather than "Customs official") may "initiate proceedings for the suspension* * *or revocation" (rather than "suspend" or "revoke"). The first change conforms to the use of "port director" elsewhere in Subpart D and the second change reflects the fact that under the statute the actual suspension or revocation action is taken by the Secretary of the Treasury. In addition, the words "or assess a monetary penalty in lieu of suspension or revocation" have been removed from the introductory text, to reflect the fact that for Subpart D (and contrary to monetary penalties under Subpart E) the statute allows the assessment of a monetary penalty only as an alternatively imposed sanction arising out of the initiation of suspension or revocation proceedings. The grounds for disciplinary action set forth in paragraphs (a)-(f) of this section technically relate to only suspension or revocation proceedings, and the assessment of monetary penalties arises in a Subpart D context only in connection with the final decision taken by the Secretary of the Treasury under § 111.74 after initiation of such proceedings.

3. In paragraph (b)(3), the words "(infractions set forth in this subparagraph may form the basis for an action to suspend or revoke only)" have been removed as unnecessary in the light of the removal of all references to monetary penalties.

4. A new paragraph (g) has been added to refer to a broker who no longer meets the applicable requirements of § 111.11 and § 111.19. Customs believes that this standard is necessary and appropriate because, as already suggested above in connection with the changes to § 111.30(d), §§ 111.11 and 111.19 include standards that constitute ongoing requirements (rather than merely one-time application criteria).

Section 111.54

This section, which was intended to clarify the meaning of "appropriate officer of the Customs" as used in 19 U.S.C. 1641(d)(2), has been removed because (1) the expression defined in the regulation appears in the statute neither in exactly the same words nor in the context of suspension or revocation actions (19 U.S.C. 1641(d)(2)(A) uses the expression "appropriate customs officer" but only in the context of monetary penalties which are covered under Subpart E of Part 111) and (2) the section does not otherwise serve any useful purpose.

Section 111.57

This section has been revised to simply provide in one paragraph for a determination by the Assistant Commissioner whether or not charges should be preferred and for notice to the port director of this decision, without the present paragraph (b) requirement of submission of a proposed statement of charges because it already is adequately covered by § 111.56.

Section 111.64

The following changes have been made to paragraph (a) of this section, which concerns service of the notice of hearing:

1. At the beginning of the first sentence, the words "[w]ithin 10 days" have been removed because this time frame for service is overly restrictive and is not required by statute.

2. In the second sentence, the figure "15" has been replaced by "30" to reflect the change to section 641(d)(2)(B) made by section 648 of the Act regarding the number of days within which a hearing must be held.

Section 111.73

This text of this section, which permits a decision based on a partial proof of charges, has been incorporated into the text of § 111.74 to which it is more appropriate since it also concerns the decision on disciplinary action taken by the Secretary of the Treasury.

Section 111.74

In addition to the insertion of a new first sentence to reflect present § 111.73, the following changes have been made to this section:

1. In the second sentence, the words "or permit" have been added after "license" in two places in order to correct an omission in scope in the present text. In addition, the words "except in a case described in § 111.53(b)(3)" have been added to the second sentence to reflect the exception contained in the introductory text of section 641(d)(1).

2. In the third sentence, the words "[i]f no appeal from the Secretary's order is filed" have been added at the beginning. In addition, the third sentence has been changed to provide that the Secretary's order shall become effective 60 calendar days after the Assistant Commissioner issues written "notification of" the order (rather than after issuance of the order by the Secretary).

3. The fourth sentence has been changed to provide that payment of an assessed monetary penalty must be tendered within "60" calendar days "after the effective date" of the order (rather than within 120 days of the issuance of the order) in order to align with the 60-day period specified in the case of suspension or revocation actions.

Section 111.76

The following changes have been made to this section, which concerns reopening a disciplinary case:

1. In paragraph (a), the words "[p]rovided that no appeal is filed in accordance with § 111.75" have been added at the beginning in order to preclude concurrent administrative and judicial proceedings.

2. In paragraph (b), a new sentence has been added at the end to clarify the status of an existing order of the Secretary during the pendency of proceedings under this section.

Section 111.80

This section, which clarifies the applicability of Part 111 in broker disciplinary cases that were instituted prior to the broker statute amendments of 1984, is longer necessary and has been removed.

Section 111.91

In paragraph (a), a proviso has been added at the end to clarify that under section 641 imposition of monetary penalties under this section and institution of suspension or revocation proceedings under Subpart D are mutually exclusive actions when applied to the same violation of a broker.

Section 111.92

The last sentence, which requires that a monetary penalty notice involving more than $10,000 be referred to Customs Headquarters, has been removed since it is neither necessary nor reflective of current Customs procedures.

Section 111.95

This section has been revised to simply refer to the filing of supplemental petitions for relief in accordance with Part 171 and without making a distinction between determinations over $1,000 and determinations involving lesser amounts.

Section 111.96

The following changes have been made to this section:

1. In paragraph (a), which concerns fees pertaining to the license issuance process, the first sentence has been modified to refer only to the processing of a license application and to prescribe a $200 fee that would apply to all individual or organization applicants. The remainder of the paragraph has been modified to cover fees that are only required to be paid by individuals: a $200 fee before taking a written examination under § 111.13, and a fingerprint check and processing fee after an individual's license application is submitted to Customs. These changes in the paragraph (a) fee structure are intended (1) to reflect the distinction between the examination process and the application process as discussed above in connection with the modification of § 111.11(a)(4), (2) to indicate more clearly which conditions apply only to individuals, and (3) to eliminate the need to refund $100 if an examinee receives a failing grade on the examination (because Customs believes that a refund would be appropriate only in the circumstance covered by modified § 111.13(d)).

2. In paragraph (c), which concerns the $125 annual permit user fee, references to a "national permit" have been added to clarify that the fee applies to a permit issued under § 111.19(f). In addition, as in the case of § 111.19(c), the text has been modified to clarify that the fee is payable upon issuance of a district permit for which an application was not submitted (that is, when an initial district permit is issued concurrently with a license under § 111.19(a)).

Comments

Before adopting this proposed regulation as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. The regulatory amendments primarily represent a clarification of existing statutory and regulatory requirements. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information that are republished and referenced in §§ 111.12, 111.13, 111.17, 111.19, and 111.28 of these proposed regulations have previously been reviewed and approved by OMB and assigned control number 1515–0076. The information to be collected is necessary for the issuance of customs broker licenses and permits and for monitoring the performance of brokers in the conduct of customs business.

The new collections of information in these proposed regulations are in

§§ 111.30, 111.36, 111.60, and 111.76. The information to be collected is necessary for monitoring the performance of brokers in the conduct of customs business and in connection with the institution of disciplinary actions against brokers. The likely respondents are individuals, partnerships, associations, and corporations, including individuals and such organizations that are licensed brokers.

Estimated total annual reporting and/or recordkeeping burden: 1500 hours.

Estimated average annual burden per respondent/recordkeeper: 1 hour.

Estimated number or respondents and/or recordkeepers: 1500.

Estimated annual number of responses: 1500.

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to Customs at the address set forth previously. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the information collection burden; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the information collection burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start up costs and costs of operations, maintenance, and purchase of services to provide information.

Drafting information: The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports, Licensing, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

For the reasons stated above, it is proposed to revise Part 111 of the Customs Regulations (19 CFR Part 111) as set forth below.

PART 111—CUSTOMS BROKERS

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111.44 [Reserved]
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111.53 Grounds for suspension or revocation of license or permit.
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111.75 Appeal from the Secretary's decision.
111.76 Reopening the case.
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111.78 Reprimands.
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111.81 Settlement and compromise.

Subpart E—Monetary Penalty and Payment of Fees

111.91 Grounds for imposition of a monetary penalty; maximum penalty.
111.92 Notice of monetary penalty.
111.93 Petition for relief from monetary penalty.
111.94 Decision on monetary penalty.
111.95 Supplemental petition for relief from monetary penalty.
111.96 Fees.

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624, 1641. Section 111.3 also issued under 19 U.S.C. 1484, 1498; Section 111.96 also issued under 19 U.S.C. 58c, 31 U.S.C. 9701.

§ 111.0 Scope.

This part sets forth regulations providing for the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, the qualifications required of applicants, and the procedures for applying for licenses and permits. This part also prescribes the duties and responsibilities of brokers, the grounds and procedures for disciplining brokers, including the assessment of monetary penalties, and the revocation or suspension of licenses.

Subpart A—General Provisions

§ 111.1 Definitions.

When used in this part, the following terms shall have the meanings indicated:

Assistant Commissioner. "Assistant Commissioner" means the Assistant Commissioner, Office of Field Operations, United States Customs Service, Washington, DC.

Broker. "Broker" means a customs broker.

Customs broker. "Customs broker" means a person who is licensed under this part to transact customs business on behalf of others.

Customs business. "Customs business" means those activities involving transactions with Customs concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by Customs on merchandise by reason of its importation, and the refund, rebate, or drawback of such duties, taxes, or other charges. "Customs business" also includes the preparation, and activities relating to the preparation, of documents in any format and the electronic transmission of documents and parts thereof intended to be filed with Customs in furtherance of any other customs business activity, whether or not signed or filed by the preparer. However, "customs business" does not include the mere electronic transmission of data received for transmission to Customs.

District. "District" means the geographic area covered by a customs broker permit other than a national permit. A listing of each district, and the ports thereunder, will be published periodically.

Employee. "Employee" means a person who meets the common law definition of employee and is in the service of a customs broker.

Freight forwarder. "Freight forwarder" means a person engaged in the business of dispatching shipments in foreign commerce between the United States, its territories or possessions, and foreign countries, and handling the formalities incident to such shipments, on behalf of other persons.

Officer of an association or corporation. "Officer of an association or corporation" means a person who has been elected, appointed, or designated as an officer of an association or corporation in accordance with statute and the articles of incorporation, articles of agreement, charter, or bylaws of the association or corporation.

Permit. "Permit" means any permit issued to a broker under § 111.19.

Person. "Person" includes individuals, partnerships, associations, and corporations.

Records. "Records" means documents, data and information referred to in, and required to be made or maintained under, this part and any other records, as defined in § 163.1(a) of this chapter, that are required to be maintained by a broker under part 163 of this chapter.

Region. "Region" means the geographic area covered by a waiver issued pursuant to § 111.19(d).

Responsible supervision and control. "Responsible supervision and control" means that degree of supervision and control necessary to ensure the proper transaction of the customs business of a broker, including actions necessary to ensure that an employee of a broker provides substantially the same quality of service in handling customs transactions that the broker is required to provide. While the determination of what is necessary to perform and maintain responsible supervision and control will vary depending upon the circumstances in each instance, factors which Customs will consider include, but are not limited to: The training required of employees of the broker; the issuance of written instructions and guidelines to employees of the broker; the volume and type of business of the broker; the reject rate for the various customs transactions; the maintenance of current editions of the Customs Regulations, the Harmonized Tariff Schedule of the United States, and Customs issuances; the availability of an individually licensed broker for necessary consultation with employees of the broker; the frequency of supervisory visits of an individually licensed broker to another office of the broker that does not have a resident individually licensed broker; the frequency of audits and reviews by an individually licensed broker of the customs transactions handled by employees of the broker; the extent to which the individually licensed broker who qualifies the district permit is involved in the operation of the brokerage; and any circumstance which indicates that an individually licensed broker has a real interest in the operations of a broker.

Treasury Department or any representative thereof. "Treasury Department of any representative thereof" means any office, officer, or employee of the U.S. Department of the Treasury, wherever located.

§ 111.2 License and district permit required.

(a) *License*—(1) *General.* Except as otherwise provided in paragraph (a)(2) of this section, a person shall obtain the license provided for in this part in order to transact customs business as a broker.

(2) *Transactions for which license is not required*—(i) *For one's own account.* An importer or exporter transacting customs business solely on his own account and in no sense on behalf of another is not required to be licensed, nor are his authorized regular employees or officers who act only for him in the transaction of such business.

(ii) *As employee of broker*—(A) *General.* An employee of a broker, acting solely for his employer, is not required to be licensed where:

(*1*) *Authorized to sign documents.* The broker has authorized the employee to sign documents pertaining to customs business on his behalf, and has executed a power of attorney for that purpose. The broker is not required to file the power of attorney with the port director, but shall provide proof of its existence to Customs upon request. Only employees who are residents of the United States may be authorized to sign such documents; or

(*2*) *Authorized to transact other business.* The broker has filed with the port director a statement identifying the employee as authorized to transact customs business on his behalf. However, no such statement will be necessary when the broker is transacting customs business under an exception to the district permit rule.

(B) *Broker supervision; withdrawal of authority.* Where an employee has been given authority under paragraph (a)(2)(ii) of this section, the broker must exercise such supervision of the employee as will ensure proper conduct on the part of the employee in the transaction of customs business, and the broker will be held strictly responsible for the acts or omissions of such an employee within the scope of his employment and for any other acts or omissions of the employee which, through the exercise of reasonable care and diligence, the broker should have foreseen. The broker shall promptly notify the port director if authority granted to an employee under paragraph (a)(2)(ii) of this section is withdrawn. The withdrawal of authority shall be effective upon receipt by the port director.

(iii) *Marine transactions.* A person transacting business in connection with entry or clearance of vessels or other regulation of vessels under the navigation laws is not required to be licensed as a broker.

(iv) *Transportation in bond.* Any carrier bringing merchandise to the port of arrival or any bonded carrier transporting merchandise for another may make entry for such merchandise for transportation in bond without being a broker.

(v) *Noncommercial shipments.* An individual entering noncommercial merchandise for another party is not required to be a broker, provided that the requirements of § 141.33 of this chapter are met.

(vi) *Foreign trade zone activities.* A foreign trade zone operator or user need not be licensed as a broker in order to engage in activities within a zone that do not involve the transfer of merchandise to the customs territory of the United States.

(b) *District permit*—(1) *General.* Except as otherwise provided in paragraph (b)(2) of this section, a separate permit (see § 111.19) is required for each district in which a broker conducts customs business.

(2) *Exceptions to district permit rule*—(i) *Employee working in client's facility.* When a broker places an employee in the facility of a client for whom the broker is filing entries at one or more other locations covered by a district permit issued to the broker, and provided that the employee's activities are limited to customs business in support of that broker and on behalf of that client but do not involve the filing of entries or other documents with Customs, the broker need not obtain a permit for the district within which the client's facility is located.

(ii) *Manual filing of drawback claims.* A broker granted a permit for one district may manually file drawback claims at the drawback office that has been designated by Customs for the purpose of filing such claims, and may represent his client before that office in matters concerning those drawback claims, even though the broker does not have a permit for the district in which that drawback office is located. The electronic filing of drawback claims in a district for which a broker does not have a permit may be done only pursuant to a national permit issued to the broker (see paragraph (b)(2)(iii) of this section).

(iii) *National permit.* A broker who is a participant in the National Customs Automation Program (NCAP) may electronically file entries for merchandise from a remote location and may electronically transact other customs business that is provided for and operational under the NCAP even though such entry is filed, or such other customs business is transacted, within a district for which the broker does not have a district permit, provided that the broker has a national permit issued under § 111.19(f) for such purpose.

(iv) *Representations after entry acceptance.* After an entry of merchandise filed with Customs has been completed and accepted, and except when a broker files that entry as importer of record, another broker who did not file the entry, but who has been appointed by the importer of record, may orally or in person or in writing or electronically represent the importer of record before Customs on any issue arising out of that entry or concerning the merchandise covered by that entry even though the broker does not have a permit for the district within which those representations are made, provided that the broker has been issued a national permit (see paragraph (b)(2)(iii) of this section and § 111.19(f)) and provided that, if requested by Customs, the broker submits appropriate evidence of his right to represent the client on the matter at issue.

§ 111.3 [Reserved]

§ 111.4 Transacting customs business without a license.

Any person who intentionally transacts customs business, other than as provided in § 111.2(a)(2), without holding a valid broker's license, shall be liable for a monetary penalty for each such transaction as well as for each violation of any other provision of 19 U.S.C. 1641. The penalty shall be assessed in accordance with subpart E of this part.

§ 111.5 Representation before Government agencies.

(a) *Agencies within the Treasury Department.* A broker who represents a client in the importation or exportation of merchandise may represent the client before the Treasury Department or any representative thereof on any matter concerning such merchandise.

(b) *Agencies not within the Treasury Department.* In order to represent a client before any agency not within the Treasury Department, a broker shall comply with any regulations of such agency governing the appearance of representatives before it.

Subpart B—Procedure To Obtain License or Permit

§ 111.11 Basic requirements for a license.

(a) *Individual.* In order to obtain a broker's license, an individual must:

(1) Be a citizen of the United States on the date of submission of the application referred to in § 111.12(a) and not an officer or employee of the United States Government;

(2) Attain the age of 21 prior to the date of submission of the application referred to in § 111.12(a);

(3) Be of good moral character; and

(4) Have established, by attaining a passing (75 percent or higher) grade on a written examination taken within the 3-year period before submission of the application referred to in § 111.12(a), that he has sufficient knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters to render valuable service to importers and exporters.

(b) *Partnership.* In order to obtain a broker's license, a partnership must:

(1) Have at least one member of the partnership who is a broker; and

(2) Establish that it will have an office within the district in which its customs transactions will be performed by a member of the partnership who is a broker or by an employee under the responsible supervision and control of such a licensed member.

(c) *Association or corporation.* In order to obtain a broker's license, an association or corporation must:

(1) Be empowered under its articles of association or articles of incorporation to transact customs business as a broker;

(2) Have at least one officer who is a broker; and

(3) Establish that it will have an office within the district in which its customs transactions will be performed by an officer of the association or corporation who is a broker or by an employee under the responsible supervision and control of such a licensed officer.

§ 111.12 Application for license.

(a) *Submission of application and fee.* An application for a broker's license shall be submitted in duplicate to the director of the port where the applicant intends to do business. The application shall be under oath and executed on Customs Form 3124. The application shall be accompanied by the $200 application fee prescribed in § 111.96(a) and one copy of the appropriate attachment required by the application form (Articles of Agreement or an affidavit signed by all partners, Articles of Agreement of the association, or the Articles of Incorporation). If the applicant proposes to operate under a trade or fictitious name in one or more States, evidence of the applicant's authority to use the name in each such State must accompany the application. An application for an individual license must be submitted within the 3-year period after the applicant took and passed the written examination referred to in §§ 111.11(a)(4) and 111.13. The port director may require an individual

applicant to provide a copy of the notification that he passed the written examination (see § 111.13(e)) and shall require the applicant to submit fingerprints on Standard Form 87 at the time of filing the application. The port director may reject an application as improperly filed if the application, on its face, demonstrates that one or more of the basic requirements set forth in § 111.11 have not been met at the time of filing, in which case the application and fee will be returned to the filer without further action.

(b) *Posting notice of application.* Following receipt of the application, the port director shall post a notice that the application has been filed. The notice shall be posted conspicuously for at least 2 consecutive weeks in the customhouse at the port and similarly at any other port where the applicant also proposes to maintain an office. The notice shall give the name and address of the applicant and, if the applicant is a partnership, association, or corporation, the names of the members or officers thereof who are licensed as brokers. The notice shall invite written comments or information regarding the issuance of the license.

(c) *Withdrawal of application.* An applicant for a broker's license may withdraw the application at any time prior to issuance of the license by providing written notice of the withdrawal to the port director. However, withdrawal of the application does not entitle the applicant to a refund of the $200 application fee.

§ 111.13 Written examination for individual license.

(a) *Scope of examination.* The written examination for an individual broker's license shall be designed to determine the individual's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters necessary to render valuable service to importers and exporters. The examination will be prepared and graded at Customs Headquarters, Washington, D.C.

(b) *Date and place of examination.* Written examinations will be given on the first Monday in April and October. An individual who intends to take the written examination must so advise the port director in writing at least 30 calendar days prior to the scheduled examination date and must remit the $200 examination fee prescribed in § 111.96(a) at that time. The port director shall give notice of the exact time and place for the examination.

(c) *Special examination.* If a partnership, association, or corporation loses the required member or officer having an individual broker's license (see §§ 111.11(b)(1) and (c)(2)) and its license would be revoked by operation of law under the provisions of 19 U.S.C. 1641(b)(5) and § 111.45(a) before the next scheduled written examination, Customs may authorize a special written examination for a prospective applicant for an individual license who would serve as the required licensed member or officer. Customs may also authorize a special written examination for an individual for purposes of continuing the business of a sole proprietorship broker. A special written examination for an individual may also be authorized by Customs if a brokerage firm loses the individual broker who was exercising responsible supervision and control over an office in another district (see § 111.19(d)) and the permit for that additional district would be revoked by operation of law under the provisions of 19 U.S.C. 1641(c)(3) and § 111.45(b) before the next scheduled written examination. A request for a special written examination must be submitted to the port director in writing and must describe the circumstances giving rise to the need for the examination; if the request is granted, the port director will notify the prospective examinee of the exact time and place for the examination. If the individual attains a passing grade on the special written examination, the application for the license may be submitted in accordance with § 111.12. The examinee shall be responsible for all additional costs incurred by Customs in preparing and administering the special examination that exceed the $200 examination fee prescribed in § 111.96(a), and such additional costs shall be reimbursed to Customs before the examination is given.

(d) *Failure to appear for examination.* If a prospective examinee advises the port director at least 2 working days prior to the date of a regularly scheduled written examination that he will not appear for the examination, the port director shall refund the $200 examination fee referred to in paragraph (b) of this section; however, no refund of the examination fee or additional reimbursed costs will be made in the case of a special written examination provided for under paragraph (c) of this section.

(e) *Notice of examination result.* Customs will provide to each examinee written notice of the result of the examination taken under this section. A failure of an examinee to attain a passing grade on the examination shall preclude the submission of an application under § 111.12 but shall not preclude the examinee from taking an examination again at a later date in accordance with paragraph (b) of this section.

(f) *Appeal of failing grade on examination.* If an examinee fails to attain a passing grade on the examination taken under this section, the examinee may challenge that result by filing a written appeal with Trade Compliance, Office of Field Operations, U.S. Customs Service, Washington, DC 20229 within 60 calendar days after the date of the written notice provided for in paragraph (e) of this section. Customs will provide to the examinee written notice of the decision on the appeal. If the Customs decision on the appeal affirms the result of the examination, the examinee may request review of the decision on the appeal by writing to the Secretary of the Treasury within 60 calendar days after the date of the notice of that decision.

§ 111.14 Investigation of the license applicant.

(a) *Referral of application for investigation.* The port director shall immediately refer an application for an individual, partnership, association, or corporation license to the special agent in charge or other entity designated by Headquarters for investigation and report.

(b) *Scope of investigation.* An investigation under this section shall ascertain facts relevant to the question of whether the applicant is qualified and shall cover, but need not be limited to:

(1) The accuracy of the statements made in the application;

(2) The business integrity of the applicant; and

(3) When the applicant is an individual (including a member of a partnership or an officer of an association or corporation), the character and reputation of the applicant.

(c) *Referral to Headquarters.* The port director shall forward the originals of the application and the report of investigation to the Assistant Commissioner. The port director shall also submit his recommendation for action on the application.

(d) *Additional investigation or examination.* The Assistant Commissioner may require further investigation to be conducted if additional facts are deemed necessary to pass upon the application. The Assistant Commissioner may also require the applicant (or in the case of a partnership, association, or corporation, one or more of its members or officers) to appear in person before

him or before one or more representatives of the Assistant Commissioner for the purpose of undergoing additional written or oral examination into the applicant's qualifications for a license.

§ 111.15 Issuance of license.

If the Assistant Commissioner finds that the applicant is qualified and has paid all applicable fees prescribed in § 111.96(a), he will issue a license. A license for an individual who is a member of a partnership or an officer of an association or corporation will be issued in the name of the individual licensee and not in his capacity as a member or officer of the organization with which he is connected. The license shall be forwarded to the port director, who shall deliver it to the licensee.

§ 111.16 Denial of license.

(a) *Notice of denial.* If the Assistant Commissioner determines that the application for a license should be denied for any reason, notice of denial shall be given by him to the applicant and to the director of the port at which the application was filed. The notice of denial shall state the reasons why the license was not issued.

(b) *Grounds for denial.* The grounds sufficient to justify denial of an application for a license shall include, but need not be limited to:

(1) Any cause which would justify suspension or revocation of the license of a broker under the provisions of § 111.53;

(2) The failure to meet any requirement set forth in § 111.11;

(3) A failure to establish the business integrity and good character of the applicant;

(4) Any willful misstatement of pertinent facts in the application for the license;

(5) Any conduct which would be deemed unfair in commercial transactions by accepted standards; or

(6) A reputation imputing to the applicant criminal, dishonest, or unethical conduct, or a record of such conduct.

§ 111.17 Review of the denial of a license.

(a) *By the Assistant Commissioner.* Upon the denial of an application for a license, the applicant may file with the Assistant Commissioner, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This request must be received by the Assistant Commissioner within 60 calendar days of the denial.

(b) *By the Secretary.* Upon the decision of the Assistant Commissioner affirming the denial of an application for a license, the applicant may file with the Secretary of the Treasury, in writing, a request for such additional review as the Secretary shall deem appropriate. This request must be received by the Secretary within 60 calendar days of the Assistant Commissioner's affirmation of the denial of the application for a license.

(c) *By the Court of International Trade.* Upon a decision of the Secretary of the Treasury affirming the denial of an application for a license, the applicant may appeal the decision to the Court of International Trade, provided that the appeal action is commenced within 60 calendar days after the date of entry of the Secretary's decision.

§ 111.18 Reapplication for license.

An applicant who has been denied a license may reapply at any time by complying with the provisions of § 111.12.

§ 111.19 Permits.

(a) *General.* Each person granted a broker's license under this part shall be concurrently issued a permit for the district in which the port through which the application was submitted is located and without the payment of the $100 fee required by § 111.96(b), if it is shown to the satisfaction of the port director that the person intends to transact customs business within such district and the person otherwise complies with the requirements of this part.

(b) *Submission of application for initial permit or permit for additional district.* A broker who intends to conduct customs business at a port within another district for which he does not have a permit, or a broker who was not concurrently granted a permit with the broker's license under paragraph (a) of this section, and except as otherwise provided in paragraph (f) of this section, shall submit an application for a permit in a letter to the director of the port at which he intends to conduct customs business. Each application for a permit for an additional district shall set forth or attach the following:

(1) The applicant's broker license number and date of issuance;

(2) The address where the applicant's office will be located within the additional district and the telephone number of that office;

(3) A copy of a document which reserves the applicant's business name with the state or local government;

(4) The name of the individual broker who will exercise responsible supervision and control over the customs business transacted in the additional district;

(5) A list of all other districts for which the applicant has a permit to transact customs business;

(6) The place where the applicant's brokerage records will be retained and the names of the applicant's recordkeeping officer and back-up recordkeeping officer (see §§ 111.21 and 111.23); and

(7) A list of all identifiable persons who will be employed by the applicant in the additional district, together with the specific employee information prescribed in § 111.28(b)(1)(i) for each such prospective employee.

(c) *Fees.* Each application for a permit under paragraph (b) or (f) of this section shall be accompanied by the $100 and $125 fees specified in §§ 111.96(b) and (c). The $125 fee specified in § 111.96(c) also must be paid in connection with the issuance of an initial permit concurrently with a license under paragraph (a) of this section.

(d) *Responsible supervision and control*—(1) *General.* The applicant for a permit for an additional district shall have a place of business at the port where the application is filed, or shall have made firm arrangements satisfactory to the port director to establish such a place of business, and shall exercise responsible supervision and control over that place of business once the permit is granted. Except as otherwise provided in paragraph (d)(2) of this section, the applicant shall employ in each district for which a permit is granted at least one individual broker to exercise responsible supervision and control over the customs business conducted in the district.

(2) *Exception to district rule.* If the applicant can demonstrate to the satisfaction of Customs that he regularly employs at least one individual broker in a larger geographical area in which the district is located and that adequate procedures exist for such individual broker to exercise responsible supervision and control over the customs business conducted in the district, Customs may waive the requirement for an individual broker in that district. A request for a waiver under this paragraph, supported by information on the volume and type of customs business conducted, or planned to be conducted, and supported by evidence demonstrating that the applicant is able to exercise responsible supervision and control through the individual broker employed in the larger geographical area, shall be sent to the port director in the district in which the waiver is sought. The port director

shall review the request for a waiver and make recommendations which will be sent to the Office of Field Operations, Customs Headquarters for review and decision. A written decision on the waiver request shall be issued by the Office of Field Operations and, if the waiver is granted, the decision letter shall specify the region covered by the waiver.

(e) *Action on application; list of permitted brokers.* The port director who receives the application shall issue a written decision on the permit application and shall issue the permit if the applicant meets the requirements of paragraphs (b), (c), and (d) of this section. If the port director is of the opinion that the permit should not be issued, he shall submit his written reasons for that opinion to the Office of Field Operations, Customs Headquarters, for appropriate instructions on whether to grant or deny the permit. Each port director shall maintain and make available to the public an alphabetical list of brokers permitted through his port.

(f) *National permit.* A broker must be a participant in the National Customs Automation Program (NCAP) under section 411, *et seq.*, Tariff Act of 1930, as amended (19 U.S.C. 1411 *et seq.*), and must have a national permit in order to electronically file entries from a remote location (that is, a location other than the place designated in the entry for examination), or in order to electronically file drawback claims or transact other customs business pursuant to an NCAP component that is in operation, whenever such entry or drawback claim is filed or such other customs business is transacted within a district for which the broker does not have a district permit. An application for a national permit under this paragraph shall be in the form of a letter addressed to the Office of Field Operations, U.S. Customs Service, Washington, DC 20229, and shall:

(1) Identify the applicant's broker license number and date of issuance;

(2) Set forth the address and telephone number of the office designated by the applicant as the office of record for purposes of administration of the provisions of this part in respect of all activities of the applicant conducted under the national permit. That office will be noted in the national permit when issued;

(3) Set forth the name, broker license number, office address, and telephone number of the individual broker who will exercise responsible supervision and control over the activities of the applicant conducted under the national permit;

(4) Include a statement that the applicant meets all applicable requirements for remote location filing or other NCAP participation set forth in this chapter; and

(5) Attach a receipt or other evidence showing that the fees specified in §§ 111.96(b) and (c) have been paid at the port having jurisdiction over, or nearest to, the office of record identified under paragraph (f)(2) of this section.

(g) *Review of the denial of a permit*—(1) *By the Assistant Commissioner.* Upon the denial of an application for a permit under this section, the applicant may file with the Assistant Commissioner, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This request must be received by the Assistant Commissioner within 60 calendar days of the denial.

(2) *By the Court of International Trade.* Upon a decision of the Assistant Commissioner affirming the denial of an application for a permit under this section, the applicant may appeal the decision to the Court of International Trade, provided that the appeal action is commenced within 60 calendar days after the date of entry of the Assistant Commissioner's decision.

Subpart C—Duties and Responsibilities of Customs Brokers

§ 111.21 Record of transactions.

(a) Each broker shall keep current in a correct, orderly, and itemized manner records of account reflecting all his financial transactions as a broker. He shall keep and maintain on file copies of all his correspondence and other records relating to his customs business.

(b) Each broker shall comply with the provisions of this part and part 163 of this chapter when maintaining records that reflect on his transactions as a broker.

(c) Each broker shall designate a knowledgeable company employee to be the contact for Customs for broker-wide customs business and financial recordkeeping requirements.

§ 111.22 [Reserved]

§ 111.23 Retention of records.

(a) *Place and period of retention*—(1) *Place.* Records shall be retained by a broker in accordance with the provisions of this part and part 163 of this chapter within the broker district that covers the Customs port to which they relate unless the broker chooses to consolidate records at one or more other locations, and provides advance notice of such consolidation to Customs, in accordance with paragraph (b) of this section.

(2) *Period.* The records described in paragraph (a)(1) of this section, other than powers of attorney, shall be retained for at least 5 years after the date of entry. Powers of attorney shall be retained until revoked, and revoked powers of attorney and letters of revocation shall be retained for 5 years after the date of revocation or for 5 years after the date the client ceases to be an "active client" as defined in § 111.29(b)(2)(ii), whichever period is later. When merchandise is withdrawn from a bonded warehouse, copies of papers relating to the withdrawal shall be retained for 5 years from the date of withdrawal of the last merchandise withdrawn under the entry.

(b) *Notification of consolidated records*—(1) *Applicability.* Subject to the requirements of paragraph (b)(2) of this section, the option of maintaining records on a consolidated system basis is generally available to brokers who have been granted permits to do business in more than one district.

(2) *Form and content of notice.* If consolidated storage is desired by the broker, he must submit a written notice addressed to the Director, Regulatory Audit Division, U.S. Customs Service, 909 S.E. First Avenue, Miami, Florida 33131. The written notice shall include:

(i) Each address at which the broker intends to maintain the consolidated records. Each such location must be within a district where the broker has been granted a permit;

(ii) A detailed statement describing all the records to be maintained at each consolidated location, the methodology of record maintenance, a description of any automated data processing to be applied, and a list of all the broker's customs business activity locations; and

(iii) An agreement that there will be no change in the records, the manner of recordkeeping, or the location at which they will be maintained, unless the Director, Regulatory Audit Division, in Miami is first notified.

§ 111.24 Records confidential.

The records referred to in this part and pertaining to the business of the clients serviced by the broker shall be considered confidential, and the broker shall not disclose their contents or any information connected therewith to any persons other than such clients, their surety on a particular entry, and the Field Director, Regulatory Audit Division, the special agent in charge, the port director, or other duly accredited officers or agents of the United States, except on subpoena by a court of competent jurisdiction.

§ 111.25 Records shall be available.

During the period of retention, the broker shall maintain the records referred to in this part in such manner that they may readily be examined. Records required to be made or maintained under the provisions of this part shall be made available upon reasonable notice for inspection, copying, reproduction or other official use by Customs regulatory auditors or special agents or other authorized Customs officers within the prescribed period of retention or within any longer period of time during which they remain in the possession of the broker. Records subject to the requirements of part 163 of this chapter shall be made available to Customs in accordance with the provisions of that part.

§ 111.26 Interference with examination of records.

Except in accordance with the provisions of part 163 of this chapter, a broker shall not refuse access to, conceal, remove, or destroy the whole or any part of any record relating to his transactions as a broker which is being sought, or which the broker has reasonable grounds to believe may be sought, by the Treasury Department or any representative thereof, nor shall he otherwise interfere, or attempt to interfere, with any proper and lawful efforts to procure or reproduce information contained in such records.

§ 111.27 Audit or inspection of records.

The Field Director, Regulatory Audit Division, shall make such audit or inspection of the records required by this subpart to be kept and maintained by a broker as may be necessary to enable the port director and other proper officials of the Treasury Department to determine whether or not the broker is complying with the requirements of this part.

§ 111.28 Responsible supervision.

(a) *General.* Every individual broker operating as a sole proprietor and every licensed member of a partnership that is a broker and every licensed officer of an association or corporation that is a broker shall exercise responsible supervision and control over the transaction of the customs business of such sole proprietorship, partnership, association, or corporation.

(b) *Employee information.*

(1) *Current employees*—(i) General. Each broker shall submit, in writing, to the director of each port at which the broker intends to transact customs business, a list of the names of persons currently employed at that port. The list of employees shall be submitted upon issuance of a permit for an additional district under § 111.19, or upon the opening of an office at a port within a district for which the broker already has a permit, and before the broker begins to transact customs business as a broker at the port. For each such employee, the broker also shall provide the current home address, last prior home address, social security number, date and place of birth, and, if the employee has been employed by the broker for less than 3 years, the name and address of each former employer and dates of employment for the 3-year period preceding current employment with the broker. After the initial submission, the list shall be updated and submitted with the status report required by § 111.30(d).

(ii) *New employees.* In the case of a new employee, the broker shall submit to the port director the written information required under paragraph (b)(1)(i) of this section within 10 calendar days after the new employee has been employed by the broker for 30 consecutive days.

(2) *Terminated employees.* Within 30 calendar days after the termination of employment of any person employed longer than 30 consecutive days, the broker shall submit the name of the terminated employee, in writing, to the director of the port at which the person was employed.

(3) *Broker's responsibility.* Notwithstanding a broker's responsibility for providing the information required in paragraph (b)(1) of this section, in the absence of culpability by the broker, Customs will not hold him responsible for the accuracy of such information when provided to the broker by the employee.

(c) *Termination of qualifying member or officer.* In the case of an individual broker who is a qualifying member of a partnership for purposes of § 111.11(b)(1) or who is a qualifying officer of an association or corporation for purposes of § 111.11(c)(2), that individual broker shall immediately provide written notice to the Assistant Commissioner when his employment as a qualifying member or officer terminates and shall send a copy of the written notice to the director of each port through which a permit has been granted to the partnership, association, or corporation.

(d) *Change in ownership.* If the ownership of a broker changes and ownership shares in the broker are not publicly traded, the broker shall immediately provide written notice of that fact to the Assistant Commissioner and shall send a copy of the written notice to the director of each port through which a permit has been granted to the broker. When the change in ownership results in the addition of a new principal to the organization, Customs reserves the right to conduct a background investigation on the new principal. The port director will notify the broker if Customs objects to the new principal, and the broker will be given a reasonable period of time to remedy the situation. If the investigation uncovers information which would have been the basis for a denial of an application for a broker's license and the principal's interest in the broker is not terminated to the satisfaction of the port director, suspension or revocation proceedings may be initiated under subpart D of this part. For purposes of this paragraph, a "principal" means any person having at least a 5 percent capital, beneficiary or other direct or indirect interest in a broker or in the business of a broker.

§ 111.29 Diligence in correspondence and paying monies.

(a) *Due diligence by broker.* Each broker shall exercise due diligence in making financial settlements, in answering correspondence, and in preparing or assisting in the preparation and filing of records relating to any customs business matter handled by him as a broker. Payment of duty, tax, or other debt or obligation owing to the Government for which the broker is responsible, or for which the broker has received payment from a client, shall be made to the Government on or before the date that payment is due. Payments received by a broker from a client after the due date shall be transmitted to the Government within 5 working days from receipt by the broker. Each broker shall provide a written statement to a client accounting for funds received for the client from the Government, or received from a client where no payment to the Government has been made, or received from a client in excess of the Governmental or other charges properly payable as part of the client's customs business, within 60 calendar days of receipt. No written statement is required if there is actual payment of such funds by a broker.

(b) *Notice to client of method of payment*—(1) All brokers shall provide their clients with the following written notification:

> If you are the importer of record, payment to the broker will not relieve you of liability for Customs charges (duties, taxes, or other debts owed Customs) in the event the charges are not paid by the broker. Therefore, if you pay by check, Customs charges may be paid with a separate check payable to the "U.S. Customs Service" which shall be delivered to Customs by the broker.

(2) The written notification set forth in paragraph (b)(1) of this section shall be provided by brokers as follows:

(i) On, or attached to, any power of attorney provided by the broker to a client for execution on or after September 27, 1982; and

(ii) To each active client no later than February 28, 1983, and at least once at any time within each 12-month period thereafter. An active client means a client from whom a broker has obtained a power of attorney and for whom the broker has transacted customs business on at least two occasions within the 12-month period preceding notification.

§ 111.30 Notification of change of business address, organization, name, or location of business records; status report; termination of brokerage business.

(a) *Change of address.* When a broker changes his business address, he shall immediately give written notice of his new address to each director of a port that is affected by the change of address. In addition, if an individual broker is not actively engaged in transacting business as a broker and changes his non-business mailing address, he shall give written notice of the new address in the status report required by paragraph (d) of this section.

(b) *Change in an organization.* A partnership, association, or corporation broker shall immediately provide written notice of any of the following to the director of each port through which it has been granted a permit:

(1) The date on which a licensed member or officer ceases to be the qualifying member or officer for purposes of § 111.11(b)(1) or (c)(2), and the name of the broker who will succeed as the qualifying member or officer; and

(2) Any change in the Articles of Agreement, Charter, or Articles of Incorporation relating to the transaction of customs business, or any other change in the legal nature of the organization.

(c) *Change in name.* A broker who changes his name, or who proposes to operate under a trade or fictitious name in one or more States within the district in which he has been granted a permit and is authorized by State law to do so, shall submit to the Office of Field Operations, U.S. Customs Service, Washington, DC 20229, evidence of his authority to use such name. The name shall not be used until the approval of Headquarters has been received. In the case of a trade or fictitious name, the broker shall affix his own name in conjunction with each signature of the trade or fictitious name when signing customs documents.

(d) *Status report*—(1) *General.* Each broker shall file a written status report with Customs on February 1, 1979, and on February 1 of each third year thereafter. The report shall be accompanied by the fee prescribed in § 111.96(d) and shall be addressed to the director of the port through which the broker's license was issued. A report received during the month of February will be considered filed timely. No form or particular format is required.

(2) *Individual.* Each individual broker shall state in the report required under paragraph (d)(1) of this section whether he is actively engaged in transacting business as a broker. If he is so actively engaged, he shall also:

(i) State the name under which, and the address at which, his business is conducted if he is a sole proprietor;

(ii) State the name and address of his employer if he is employed by another broker, unless his employer is a partnership, association or corporation broker for which he is a qualifying member or officer for purposes of § 111.11(b)(1) or (c)(2); and

(iii) State whether or not he still meets the applicable requirements of § 111.11 and § 111.19 and has not engaged in any conduct that could constitute grounds for suspension or revocation under § 111.53.

(3) *Partnership, association or corporation.* Each corporation, partnership or association broker shall state in the report required under paragraph (d)(1) of this section the name under which its business as a broker is being transacted, its business address, the names and addresses of the licensed members of the partnership or licensed officers of the association or corporation who qualify it for a license under § 111.11(b)(1) or (c)(2), and whether it is actively engaged in transacting business as a broker, and the report shall be signed by such a licensed member or officer.

(4) *Failure to file timely.* If a broker fails to file the report required under paragraph (d)(1) of this section by March 1 of the reporting year, the broker's license is suspended by operation of law on that date. By March 31 of the reporting year, the port director shall transmit written notice of the suspension to the broker by certified mail, return receipt requested, at the address reflected in Customs records. If the broker files the required report and pays the required fee within 60 calendar days of the date of the notice of suspension, the license shall be reinstated. If the broker does not file the required report within that 60-day period, the broker's license is revoked by operation of law without prejudice to the filing of an application for a new license. Notice of the revocation shall be published in the Customs Bulletin.

(e) *Custody of records.* Upon the permanent termination of a brokerage business, written notification of the name and address of the party having legal custody of the brokerage business records shall be provided to the director of each port where the broker was transacting business within each district for which a permit has been issued to the broker. Such notification shall be the responsibility of:

(1) The individual broker, upon the permanent termination of his brokerage business;

(2) Each member of a partnership who holds an individual broker's license, upon the permanent termination of a partnership brokerage business; or

(3) Each association or corporate officer who holds an individual broker's license, upon the permanent termination of an association or corporate brokerage business.

§ 111.31 Conflict of interest.

(a) *Former officer or employee of U.S. Government.* A broker who was formerly an officer or employee in U.S. Government service shall not represent a client before the Treasury Department or any representative thereof in any matter to which the broker gave personal consideration or gained knowledge of the facts while in U.S. Government service, except as provided in 18 U.S.C. 207.

(b) *Relations with former officer or employee of U.S. Government.* A broker shall not knowingly assist, accept assistance from, or share fees with a person who has been employed by a client in a matter pending before the Treasury Department or any representative thereof to which matter such person gave personal consideration or gained personal knowledge of the facts or issues thereof while in U.S. Government service.

(c) *Importations by broker or employee.* A broker who is an importer himself shall not act as broker for an importer who imports merchandise of the same general character as that imported by the broker unless the client has full knowledge of the facts. The same restriction shall apply if a broker's employee is an importer.

§ 111.32 False information.

A broker shall not file or procure or assist in the filing of any claim, or of any document, affidavit, or other papers, known by such broker to be false. Nor shall a broker knowingly give, or solicit or procure the giving of, any false or misleading information or

testimony in any matter pending before the Treasury Department or any representative thereof.

§ 111.33 Government records.

A broker shall not procure or attempt to procure, directly or indirectly, information from Government records or other Government sources of any kind to which access is not granted by proper authority.

§ 111.34 Undue influence upon Government employees.

A broker shall not influence or attempt to influence the conduct of any representative of the Treasury Department in any matter pending before the Treasury Department or any representative thereof by the use of duress or a threat or false accusation, or by the offer of any special inducement or promise of advantage, or by bestowing any gift or favor or other thing of value.

§ 111.35 Acceptance of fees from attorneys.

With respect to customs transactions, a broker shall not demand or accept from any attorney (whether directly or indirectly, including, for example, from a client as a part of any arrangement with an attorney) on account of any case litigated in any court of law or on account of any other legal service rendered by an attorney any fee or remuneration in excess of an amount measured by or commensurate with the time, effort and skill expended by the broker in performing his services.

§ 111.36 Relations with unlicensed persons.

(a) *Employment by unlicensed person other than importer.* When a broker is employed for the transaction of customs business by an unlicensed person who is not the actual importer, the broker shall transmit to the actual importer either a copy of his bill for services rendered or a copy of the entry, unless the merchandise was purchased for delivery on an all-free basis (duty and brokerage charges paid by the unlicensed person) or unless the importer has in writing waived transmittal of the copy of the entry or bill for services rendered.

(b) *Service to others not to benefit unlicensed person.* Except as otherwise provided in paragraph (c) of this section, a broker shall not enter into any agreement with an unlicensed person to transact Customs business for others in such manner that the fees or other benefits resulting from the services rendered for others inure to the benefit of the unlicensed person.

(c) *Relations with a freight forwarder.* A broker may compensate a freight forwarder for services rendered in obtaining brokerage business, subject to the following conditions:

(1) The importer or other party in interest is notified in advance by the forwarder or broker of the name of the broker selected by the forwarder for the handling of his Customs transactions;

(2) The broker transmits directly to the importer or other party in interest:

(i) A true copy of his brokerage charges if the fees and charges are to be collected by or through the forwarder, unless this requirement is waived in writing by the importer or other party in interest; or

(ii) A statement of his brokerage charges and an itemized list of any charges to be collected for the account of the freight forwarder if the fees and charges are to be collected by or through the broker;

(3) No part of the agreement of compensation between the broker and the forwarder, nor any action taken pursuant thereto, forbids or prevents direct communication between the importer or other party in interest and the broker; and

(4) In making the agreement and in all actions taken pursuant thereto, the broker shall remain subject to all other provisions of this part.

§ 111.37 Misuse of license or permit.

A broker shall not allow his license, permit or name to be used by or for any unlicensed person (including a broker whose license or permit is under suspension), other than his own employees authorized to act for him, in the solicitation, promotion or performance of any customs business or transaction.

§ 111.38 False representation to procure employment.

A broker shall not knowingly use false or misleading representations to procure employment in any customs matter. Nor shall a broker represent to a client or prospective client that he can obtain any favors from the Treasury Department or any representative thereof.

§ 111.39 Advice to client.

(a) *Withheld or false information.* A broker shall not withhold information relative to any customs business from a client who is entitled to the information. Moreover, a broker shall exercise due diligence to ascertain the correctness of any information which he imparts to a client, and he shall not knowingly impart to a client false information relative to any customs business.

(b) *Error or omission by client.* If a broker knows that a client has not complied with the law or has made an error in, or omission from, any document, affidavit, or other paper which the law requires such client to execute, he shall advise the client promptly of such noncompliance, error, or omission.

(c) *Illegal plans.* A broker shall not knowingly suggest to a client or prospective client any illegal plan for evading payment of any duty, tax, or other debt or obligation owing to the U.S. Government.

§ 111.40 Protests.

A broker shall not act on behalf of any person, or attempt to represent any person, in respect of any protest unless he is authorized to do so in accordance with § 174.3 of this chapter.

§ 111.41 Endorsement of checks.

A broker shall not endorse or accept, without authority of his client, any U.S. Government draft, check, or warrant drawn to the order of such client.

§ 111.42 Relations with person who is notoriously disreputable or whose license is under suspension, canceled "with prejudice," or revoked.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, a broker shall not knowingly and directly or indirectly:

(1) Accept employment to effect a Customs transaction as associate, correspondent, officer, employee, agent, or subagent from any person who is notoriously disreputable or whose broker license was revoked for any cause or is under suspension or was cancelled "with prejudice;"

(2) Assist in the furtherance of any customs business or transactions of any person described in paragraph (a)(1) of this section;

(3) Employ, or accept assistance in the furtherance of any customs business or transactions from, any person described in paragraph (a)(1) of this section, without the approval of the Assistant Commissioner (see § 111.79);

(4) Share fees with any person described in paragraph (a)(1) of this section; or

(5) Permit any person described in paragraph (a)(1) of this section to participate, directly or indirectly and whether through ownership or otherwise, in the promotion, control, or direction of the business of the broker.

(b) *Client exception.* Nothing in this section shall prohibit a broker from transacting customs business on behalf of a bona fide importer or exporter who may be notoriously disreputable or whose broker license is under suspension or was cancelled "with prejudice" or revoked.

§ 111.43 [Reserved]

§ 111.44 [Reserved]

§ 111.45 Revocation by operation of law.

(a) *License.* If a broker that is a partnership, association, or corporation fails to have, during any continuous period of 120 days, at least one member of the partnership or at least one officer of the association or corporation who holds a valid individual broker's license, such failure shall, in addition to any other sanction that may be imposed under this part, result in the revocation by operation of law of the license and any permits issued to the partnership, association, or corporation. The Assistant Commissioner will notify the broker in writing of an impending revocation by operation of law under this section 30 calendar days before the revocation is due to occur.

(b) *Permit.* If a broker who has been granted a permit for an additional district fails, for any continuous period of 180 days, to employ within that district (or region, if an exception has been granted pursuant to § 111.19(d)) at least one person who holds a valid individual broker's license, such failure shall, in addition to any other sanction that may be imposed under this part, result in the revocation of the permit by operation of law.

(c) *Notification.* If the license or an additional permit of a partnership, association, or corporation is revoked by operation of law under paragraph (a) or (b) of this section, the Assistant Commissioner will notify the organization of the revocation. If an additional permit of an individual broker is revoked by operation of law under paragraph (b) of this section, the Assistant Commissioner will notify the broker. Notice of any revocation under this section will be published in the Customs Bulletin.

(d) *Applicability of other sanctions.* Notwithstanding the operation of paragraph (a) or (b) of this section, each broker still has a continuing obligation to exercise responsible supervision and control over the conduct of its brokerage business and to otherwise comply with the provisions of this part. Any failure on the part of a broker to meet that continuing obligation during the 120 or 180-day period referred to in paragraph (a) or (b) of this section, or during any shorter period of time, may result in the initiation of suspension or revocation proceedings or the assessment of a monetary penalty under subpart D or subpart E of this part.

Subpart D—Cancellation, Suspension, or Revocation of License or Permit, or Monetary Penalty in Lieu Thereof

§ 111.50 General.

This subpart sets forth provisions relating to cancellation, suspension, or revocation of a license or a permit, or assessment of a monetary penalty in lieu thereof, under section 641(d)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1641(d)(2)(B)). The provisions relating to assessment of a monetary penalty under sections 641 (b)(6) and (d)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1641 (b)(6) and (d)(2)(A)), are set forth in subpart E of this part.

§ 111.51 Cancellation of license or permit.

(a) *Without prejudice.* The Assistant Commissioner may cancel a broker's license or permit "without prejudice" upon written application by the broker if the Assistant Commissioner determines that the application for cancellation was not made in order to avoid proceedings for the suspension or revocation of the license or permit. If the Assistant Commissioner determines that the application for cancellation was made in order to avoid such proceedings, he may cancel the license or permit "without prejudice" only with authorization from the Secretary of the Treasury.

(b) *With prejudice.* The Assistant Commissioner may cancel a broker's license or permit "with prejudice" when specifically requested to do so by the broker. The effect of a cancellation "with prejudice" is in all respects the same as if the license or permit had been revoked for cause by the Secretary except that it shall not give rise to a right of appeal.

§ 111.52 Voluntary suspension of license or permit.

The Assistant Commissioner may accept a broker's written voluntary offer of suspension of the broker's license or permit for a specific period of time under such terms and conditions as the parties may agree.

§ 111.53 Grounds for suspension or revocation of license or permit.

The appropriate Customs officer may initiate proceedings for the suspension, for a specific period of time, or revocation of the license or permit of any broker for any of the following reasons:

(a) The broker has made or caused to be made in any application for any license or permit under this part, or report filed with Customs, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any application or report any material fact which was required;

(b) The broker has been convicted, at any time after the filing of an application for a license under § 111.12, of any felony or misdemeanor which:

(1) Involved the importation or exportation of merchandise;

(2) Arose out of the conduct of customs business; or

(3) Involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

(c) The broker has violated any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(d) The broker has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(e) The broker has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Assistant Commissioner;

(f) The broker has, in the course of customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client; or

(g) The broker no longer meets the applicable requirements of § 111.11 and § 111.19.

§ 111.54 [Reserved]

§ 111.55 Investigation of complaints.

Every complaint or charge against a broker which may be the basis for disciplinary action shall be forwarded for investigation to the special agent in charge of the area in which the broker is located. The special agent in charge shall submit a report on the investigation to the director of the port and send a copy of it to the Assistant Commissioner.

§ 111.56 Review of report on investigation.

The port director shall review the report of investigation to determine if there is sufficient basis to recommend that charges be preferred against the broker. He shall then submit his recommendation with supporting reasons to the Assistant Commissioner for final determination together with a proposed statement of charges when recommending that charges be preferred.

§ 111.57 Determination by Assistant Commissioner.

The Assistant Commissioner shall make a determination on whether or not charges should be preferred, and he shall notify the port director of his decision.

§ 111.58 Content of statement of charges.

Any statement of charges referred to in this subpart shall give a plain and concise, but not necessarily detailed, description of the facts claimed to constitute grounds for suspension or revocation of the license or permit. The statement of charges also shall specify the sanction being proposed (that is, suspension of the license or permit or revocation of the license or permit), but if a suspension is proposed the charges need not state a specific period of time for which suspension is proposed. A statement of charges which fairly informs the broker of the charges against him so that he is able to prepare his response shall be deemed sufficient. Different means by which a purpose might have been accomplished, or different intents with which acts might have been done, so as to constitute grounds for suspension or revocation of the license may be alleged in the alternative under a single count in the statement of charges.

§ 111.59 Preliminary proceedings.

(a) *Opportunity to participate.* The port director shall advise the broker of his opportunity to participate in preliminary proceedings with an opportunity to avoid formal proceedings against his license or permit.

(b) *Notice of preliminary proceedings.* The port director shall serve upon the broker, in the manner set forth in § 111.63, written notice that:

(1) Transmits a copy of the proposed statement of charges;

(2) Informs the broker that formal proceedings are available to him;

(3) Informs the broker that sections 554 and 558, Title 5, United States Code, will be applicable if formal proceedings are necessary;

(4) Invites the broker to show cause why formal proceedings should not be instituted;

(5) Informs the broker that he may make submissions and demonstrations of the character contemplated by the cited statutory provisions;

(6) Invites any negotiation for settlement of the complaint or charge that the broker deems it desirable to enter into;

(7) Advises the broker of his right to be represented by counsel;

(8) Specifies the place where the broker may respond in writing; and

(9) Advises the broker that the response must be received within 30 calendar days of the date of the notice.

§ 111.60 Request for additional information.

If, in order to prepare his response, the broker desires additional information as to the time and place of the alleged misconduct, or the means by which it was committed, or any other more specific information concerning the alleged misconduct, he may request such information in writing. The broker's request shall set forth in what respect the proposed statement of charges leaves him in doubt and shall describe the particular language of the proposed statement of charges as to which additional information is needed. If in the opinion of the port director such information is reasonably necessary to enable the broker to prepare his response, he shall furnish the broker with such information.

§ 111.61 Decision on preliminary proceedings.

The port director shall prepare a summary of any oral presentations made by the broker or his attorney and forward it to the Assistant Commissioner together with a copy of each paper filed by the broker. The port director shall also give to the Assistant Commissioner his recommendation on action to be taken as a result of the preliminary proceedings. If the Assistant Commissioner determines that the broker has satisfactorily responded to the proposed charges and that further proceedings are not warranted, he shall so inform the port director who shall notify the broker. If no response is filed by the broker or if the Assistant Commissioner determines that the broker has not satisfactorily responded to all of the proposed charges, he shall so advise the port director and instruct him to prepare, sign, and serve a notice of charges and the statement of charges. If one or more of the charges in the proposed statement of charges was satisfactorily answered by the broker in the preliminary proceedings, the Assistant Commissioner shall instruct the port director to omit those charges from the statement of charges.

§ 111.62 Contents of notice of charges.

The notice of charges shall inform the broker that:

(a) Sections 554 and 558, Title 5, United States Code, are applicable to the formal proceedings;

(b) The broker may be represented by counsel;

(c) The broker will have the right to cross-examine witnesses;

(d) Within 10 calendar days after service of this notice, the broker will be notified of the time and place of a hearing on the charges; and

(e) Prior to the hearing on the charges, the broker may file, in duplicate with the port director, a verified answer to the charges.

§ 111.63 Service of notice and statement of charges.

(a) *Individual.* The port director shall serve the notice of charges and the statement of charges against an individual broker as follows:

(1) By delivery to the broker personally;

(2) By certified mail addressed to the broker, with demand for a return card signed solely by the addressee;

(3) By any other means which the broker may have authorized in a written communication to the port director; or

(4) If attempts to serve the broker by the methods prescribed in paragraphs (a)(1) through (a)(3) of this section are unsuccessful, the port director may serve the notice and statement by leaving them with the person in charge of the broker's office.

(b) *Partnership, association or corporation.* The port director shall serve the notice of charges and the statement of charges against a partnership, association, or corporation broker as follows:

(1) By delivery to any member of the partnership personally or to any officer of the association or corporation personally;

(2) By certified mail addressed to any member of the partnership or to any officer of the association or corporation, with demand for a return card signed solely by the addressee;

(3) By any other means which the broker may have authorized in a written communication to the port director; or

(4) If attempts to serve the broker by the methods prescribed in paragraphs (b)(1) through (b)(3) of this section are unsuccessful, the port director may serve the notice and statement by leaving them with the person in charge of the broker's office.

(c) *Certified mail; evidence of service.* When the service under this section is by certified mail, the receipt of the return card duly signed shall be satisfactory evidence of service.

§ 111.64 Service of notice of hearing and other papers.

(a) *Notice of hearing.* After service of the notice and statement of charges, the port director shall serve upon the broker and his attorney if known, by one of the methods set forth in § 111.63 or by ordinary mail, a written notice of the

time and place of the hearing. The hearing shall be scheduled to take place within 30 calendar days after service of the notice of hearing.

(b) *Other papers.* Other papers relating to the hearing may be served by one of the methods set forth in § 111.63 or by ordinary mail or upon the broker's attorney.

§ 111.65 Extension of time for hearing.

If the broker or his attorney requests in writing a delay in the hearing for good cause, the hearing officer designated pursuant to § 111.67(a) may reschedule the hearing and in such a case shall notify the broker or his attorney in writing of the extension and the new time for the hearing.

§ 111.66 Failure to appear.

If the broker or his attorney fails to appear for a scheduled hearing, the hearing officer designated pursuant to § 111.67(a) shall proceed with the hearing as scheduled and shall hear evidence submitted by the parties. The provisions of this part shall apply as though the broker were present, and the Secretary of the Treasury may issue an order of suspension of the license or permit for a specified period of time or revocation of the license or permit, or of assessment of a monetary penalty in lieu thereof, in accordance with § 111.74 if he finds such action to be in order.

§ 111.67 Hearing.

(a) *Hearing officer.* The hearing officer shall be an administrative law judge appointed pursuant to 5 U.S.C. 3105.

(b) *Rights of the broker.* The broker or his attorney shall have the right to examine all exhibits offered at the hearing and shall have the right to cross-examine witnesses and to present witnesses who shall be subject to cross-examination by the Government representatives.

(c) *Interrogatories.* Upon the written request of either party, the hearing officer may permit deposition upon oral or written interrogatories to be taken before any officer duly authorized to administer oaths for general purposes or in customs matters. The other party to the hearing shall be given a reasonable time in which to prepare cross-interrogatories and, if the deposition is oral, shall be permitted to cross-examine the witness. The deposition shall become part of the hearing record.

(d) *Transcript of record.* The port director shall provide a competent reporter to make a record of the hearing. When the record of the hearing has been transcribed by the reporter, the port director shall deliver a copy of the transcript of record to the hearing officer, the broker and the Government representative without charge.

(e) *Government representatives.* The Assistant Commissioner shall designate one or more persons to represent the Government at the hearing.

§ 111.68 Proposed findings and conclusions.

The hearing officer shall allow the parties a reasonable period of time after delivery of the transcript of record in which to submit proposed findings and conclusions and supporting reasons therefor as contemplated by 5 U.S.C. 557(c).

§ 111.69 Recommended decision by hearing officer.

After review of the proposed findings and conclusions submitted by the parties pursuant to § 111.68, the hearing officer shall make his recommended decision in the case and certify the entire record to the Secretary of the Treasury. The hearing officer's recommended decision shall conform to the requirements of 5 U.S.C. 557.

§ 111.70 Additional submissions.

Upon receipt of the record, the Secretary of the Treasury will afford the parties a reasonable opportunity to make such additional submissions as permitted under 5 U.S.C. 557(c) or as otherwise required by the circumstances of the case.

§ 111.71 Immaterial mistakes.

The Secretary of the Treasury will disregard an immaterial misnomer of a third person, an immaterial mistake in the description of any person, thing, or place, or ownership of any property, any other immaterial mistake in the statement of charges, or a failure to prove immaterial allegations in the description of the broker's conduct.

§ 111.72 Dismissal subject to new proceedings.

If the Secretary of the Treasury finds that the evidence produced at the hearing indicates that a proper disposition of the case cannot be made on the basis of the charges preferred, he may instruct the port director to serve appropriate charges as a basis for new proceedings to be conducted in accordance with the procedures set forth in this subpart.

§ 111.73 [Reserved]

§ 111.74 Decision and notice of suspension or revocation or monetary penalty.

If the Secretary of the Treasury finds that one or more of the charges in the statement of charges is not sufficiently proved, he may base a suspension, revocation, or monetary penalty action on any remaining charges if the facts alleged in the charges are established by the evidence. If the Secretary of the Treasury, in the exercise of his discretion and based solely on the record, issues an order suspending a broker's license or permit for a specified period of time or revoking a broker's license or permit or, except in a case described in § 111.53(b)(3), assessing a monetary penalty in lieu of suspension or revocation, the Assistant Commissioner shall promptly provide written notification of the order to the broker and, unless an appeal from the Secretary's order is filed by the broker (see § 111.75), the Assistant Commissioner shall publish a notice of the suspension or revocation, or the assessment of a monetary penalty in lieu thereof, in the **Federal Register** and in the Customs Bulletin. If no appeal from the Secretary's order is filed, an order of suspension or revocation or assessment of a monetary penalty shall become effective 60 calendar days after issuance of written notification of the order unless the Secretary finds that a more immediate effective date is in the national or public interest. If a monetary penalty is assessed and no appeal from the Secretary's order is filed, payment of the penalty shall be tendered within 60 calendar days after the effective date of the order, and, if payment is not tendered within that 60-day period, the license or permit of the broker shall immediately be suspended until payment is made.

§ 111.75 Appeal from the Secretary's decision.

An appeal from the order of the Secretary of the Treasury suspending or revoking a license or permit, or assessing a monetary penalty in lieu thereof, may be filed by the broker in the Court of International Trade as provided in section 641(e), Tariff Act of 1930, as amended (19 U.S.C. 1641(e)). The commencement of such proceedings shall, unless specifically ordered by the Court, operate as a stay of the Secretary's order.

§ 111.76 Reopening the case.

(a) *Grounds for reopening.* Provided that no appeal is filed in accordance with § 111.75, a person whose license or permit has been suspended or revoked, or against whom a monetary penalty has been assessed in lieu of suspension or revocation, may make written application in duplicate to the Assistant Commissioner to reopen the case and have the order of suspension or revocation or monetary penalty assessment set aside or modified on the

ground that new evidence has been discovered or on the ground that important evidence is now available which could not be produced at the original hearing by the exercise of due diligence. The application shall set forth the precise character of the evidence to be relied upon and shall state the reasons why the applicant was unable to produce it when the original charges were heard.

(b) *Procedure.* The Assistant Commissioner shall forward the application, together with his recommendation for action thereon, to the Secretary of the Treasury. The Secretary may grant or deny the application to reopen the case and may order the taking of additional testimony before the Assistant Commissioner. The Assistant Commissioner shall notify the applicant of the Secretary's decision. If the Secretary grants the application and orders a hearing, the Assistant Commissioner shall set a time and place for such hearing and give due written notice thereof to the applicant. The procedures governing the new hearing and recommended decision of the hearing officer shall be the same as those governing the original proceeding. The original order of the Secretary shall remain in effect pending conclusion of the new proceedings and issuance of a new order under § 111.77.

§ 111.77 Notice of vacated or modified order.

If, pursuant to § 111.76 or for any other reason, the Secretary of the Treasury issues an order vacating or modifying an earlier order under § 111.74 suspending or revoking a broker's license or permit, or assessing a monetary penalty in lieu thereof, the Assistant Commissioner shall notify the broker in writing and shall publish a notice of the new order in the **Federal Register** and in the Customs Bulletin.

§ 111.78 Reprimands.

If a broker fails to observe and fulfill the duties and responsibilities of a broker as set forth in this part but such failure is not sufficiently serious to warrant initiation of suspension or revocation proceedings, Headquarters, or the port director with the approval of Headquarters, may serve the broker with a written reprimand. Such a reprimand, and the facts on which it is based, may be considered in connection with any future disciplinary proceeding that may be instituted against the broker in question.

§ 111.79 Employment of broker who has lost license.

Five years after the revocation or cancellation "with prejudice" of a license, the ex-broker may petition the Assistant Commissioner for authorization to assist, or accept employment with, a broker. Such a petition shall not be approved unless the Assistant Commissioner is satisfied that the petitioner has refrained from all activities described in § 111.42 and that the petitioner's conduct has been exemplary during the period of disability. The Assistant Commissioner shall also give consideration to the gravity of the misconduct which gave rise to the petitioner's disability. In any case in which such misconduct led to pecuniary loss to the Government or to any person, the Assistant Commissioner shall also take into account whether the petitioner has made restitution of such loss.

§ 111.80 [Reserved]

§ 111.81 Settlement and compromise.

The Assistant Commissioner, with the approval of the Secretary of the Treasury, may settle and compromise any disciplinary proceeding which has been instituted under this subpart according to the terms and conditions agreed to by the parties including, but not limited to, the assessment of a monetary penalty in lieu of any proposed suspension or revocation of a broker's license or permit.

Subpart E—Monetary Penalty and Payment of Fees

§ 111.91 Grounds for imposition of a monetary penalty; maximum penalty.

Customs may assess a monetary penalty or penalties as follows:

(a) In the case of a broker, in an amount not to exceed an aggregate of $30,000 for one or more of the reasons set forth in §§ 111.53(a) through (f) other than those listed in § 111.53(b)(3), and provided that no license or permit suspension or revocation proceeding has been instituted against the broker under subpart D of this part for any of the same reasons; or

(b) In the case of a person who is not a broker, in an amount not to exceed $10,000 for each transaction or violation referred to in § 111.4 and in an amount not to exceed an aggregate of $30,000 for all such transactions or violations.

§ 111.92 Notice of monetary penalty.

If assessment of a monetary penalty under § 111.91 is contemplated, Customs shall issue a written notice which advises the broker or other person of the allegations or complaints against him and explains that the broker or other person has a right to respond to the allegations or complaints in writing within 30 calendar days of the date of mailing of the notice. The port director has discretion to provide additional time for good cause.

§ 111.93 Petition for relief from monetary penalty.

A broker or other person who receives a notice issued under § 111.92 may file a petition for relief from the monetary penalty in accordance with the procedures set forth in part 171 of this chapter.

§ 111.94 Decision on monetary penalty.

Customs shall follow the procedures set forth in part 171 of this chapter in considering any petition for relief filed under § 111.93. After Customs has considered the allegations or complaints set forth in the notice issued under § 111.92 and any timely response made thereto by the broker or other person, the Fines, Penalties, and Forfeitures Officer shall issue a written decision to the broker or other person setting forth the final determination and the findings of fact and conclusions of law on which the determination is based. If the final determination is that the broker or other person is liable for a monetary penalty, the broker or other person shall pay the monetary penalty, or make arrangements for payment thereof, within 60 calendar days of the date of the written decision. If payment or arrangements for payment are not timely made, Customs shall refer the matter to the Department of Justice for institution of appropriate judicial proceedings.

§ 111.95 Supplemental petition for relief from monetary penalty.

A decision of the Fines, Penalties, and Forfeitures Officer with regard to any petition filed in accordance with part 171 of this chapter may be the subject of a supplemental petition for relief. Any supplemental petition also must be filed in accordance with the provisions of part 171 of this chapter.

§ 111.96 Fees.

(a) *License fee; examination fee; fingerprint fee.* Each applicant for a broker's license pursuant to § 111.12 shall pay a fee of $200 to defray the costs to Customs in processing the application. Each individual who intends to take the written examination provided for in § 111.13 shall pay a $200 examination fee before taking the examination. An individual who submits an application for a license shall also pay a fingerprint check and processing fee; the port director shall inform the applicant of the current

Federal Bureau of Investigation fee for conducting fingerprint checks and the Customs fingerprint processing fee, the total of which must be paid to Customs before further processing of the application will occur.

(b) *Permit fee.* Each application for a permit pursuant to § 111.19, including an application for reinstatement of a permit that was revoked by operation of law or otherwise, shall be accompanied by a fee of $100 to defray the costs of processing the application.

(c) *User fee.* Payment of an annual user fee of $125 is required for each permit, including a national permit under § 111.19(f), granted to an individual, partnership, association, or corporate broker. The user fee is payable when an initial district permit is issued concurrently with a license under § 111.19(a), or upon filing the application for the permit under § 111.19(b) or (f), and for each subsequent calendar year at the port through which the broker was granted the permit or at the port referred to in § 111.19(f)(5) in the case of a national permit. The user fee shall be paid by the due date as published annually in the **Federal Register**, and shall be remitted in accordance with the procedures set forth in § 24.22(i) of this chapter. When a broker submits an application for a permit or is issued an initial district permit under § 111.19, the full $125 user fee shall be remitted with the application or when the initial district permit is issued, regardless of the point during the calendar year at which the application is submitted or the initial district permit is issued. If a broker fails to pay the annual user fee by the published due date, the appropriate port director shall notify the broker in writing of the failure to pay and shall revoke the permit to operate. The notice will constitute revocation of the permit.

(d) *Status report fee.* The status report required under § 111.30(d) shall be accompanied by a fee of $100 to defray the costs of administering the reporting requirement.

(e) *Method of payment.* All fees prescribed under this section shall be paid by check or money order payable to the United States Customs Service.

Raymond W. Kelly,

Commissioner of Customs.

Approved: March 11, 1999.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 99–10127 Filed 4–26–99; 8:45 am]

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federal register

Tuesday
April 27, 1999

Part V

Federal Trade Commission

16 CFR Part 312
Children's Online Privacy Protection Rule; Proposed Rule

FEDERAL TRADE COMMISSION

16 CFR PART 312

Children's Online Privacy Protection Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Trade Commission (the "Commission" or "FTC") issues a Notice of Proposed Rulemaking to implement the Children's Online Privacy Protection Act of 1998 ("the Act"). Section 1303(b) of the Act directs the FTC to promulgate rules, not later than 1 year after the date of the enactment of the Act, to prohibit unfair and deceptive acts and practices in connection with the collection and use of personal information from and about children on the Internet.

DATES: Written comments must be submitted on or before June 11, 1999. The Commission has reserved July 20, 1999 for a workshop on the proposed rule, if the comments submitted indicate that a workshop would be necessary or helpful. If a workshop is held, the Commission will issue a **Federal Register** Notice listing the topics to be covered.

ADDRESSES: Written comments should be submitted to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The Commission requests that commenters submit the original plus five copies, if feasible. To enable prompt review and public access, comments also should be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a disk label stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS or Windows are preferred. Files from other operating systems should be submitted in ASCII text format.) Alternatively, the Commission will accept comments submitted to the following e-mail address <KidsRule@ftc.gov>. Individual members of the public filing comments need not submit multiple copies or comments in electronic form. All submissions should be captioned: "Children's Online Privacy Protection Rule—Comment, P994504." Rebuttal comments should be submitted following the same procedures as those stated above. Comments will be posted on the Commission's website: <http://www.ftc.gov>.

To the extent that the notice requirements of the proposed rule constitute "collections of information" under the Paperwork Reduction Act, comments on such requirements should also be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attention: Desk Officer for FTC.

FOR FURTHER INFORMATION CONTACT: Toby Milgrom Levin, (202) 326–3156, Loren G. Thompson, (202) 326–2049, or Jill Samuels, (202) 326–2066, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 601 Pennsylvania Ave., NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

1. Children's Online Privacy Protection Act of 1998

On October 21, 1998, Congress enacted and the President signed into law the Children's Online Privacy Protection Act of 1998 ("the Act"),[1] to prohibit unfair and deceptive acts and practices in connection with the collection and use of personally identifiable information from and about children on the Internet. The goals of the Act are: (1) To enhance parental involvement in a child's online activities in order to protect the privacy of children in the online environment; (2) to help protect the safety of children in online fora such as chat rooms, home pages, and pen-pal services in which children may make public postings of identifying information; (3) to maintain the security of children's personal information collected online; and (4) to limit the collection of personal information from children without parental consent.[2]

Section 1303 of the Act directs the FTC to adopt regulations prohibiting unfair and deceptive acts and practices in connection with the collection and use of personal information from and about children on the Internet. Section 1303(b) sets forth a series of privacy protections to prevent unfair and deceptive online information collection from or about children. The Act specifies that operators of websites directed to children or who knowingly collect personal information from children (1) provide parents notice of their information practices; (2) obtain prior parental consent for the collection, use and/or disclosure of personal information from children (with certain limited exceptions for the collection of online contact information, e.g., an e-mail address); (3) provide a parent, upon request, with the ability to review the personal information collected from his/her child; (4) provide a parent with the opportunity to prevent the further use of personal information that has already been collected, or the future collection of personal information from that child; (5) limit collection of personal information for a child's online participation in a game, prize offer, or other activity to information that is reasonably necessary for the activity; and (6) establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of the personal information collected.[3]

The Act authorizes the Commission to bring enforcement actions for violations of the final Rule in the same manner as for other rules defining unfair and deceptive acts or practices under section 5 of the Federal Trade Commission Act.[4] In addition, section 1305 of the Act authorizes state attorneys general to enforce compliance with the final Rule by filing actions in federal court after serving prior written notice upon the Commission when feasible.

Section B. Overview of the Proposed Rule

The Internet offers children unprecedented opportunities for learning, recreation, and communication in ways scarcely imagined a decade ago. Children are actively engaged in a wide variety of online activities. They communicate

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[1] Title XIII, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681, _____ (October 21, 1998) reprinted at 144 Cong. Rec. H11240–42 (Oct. 19, 1998). Since the Act has not yet been codified, citations used in this notice are to the section numbers designated in Title XIII of the Omnibus Act.

[2] 144 Cong. Rec. S12741 (Oct. 7, 1998) (Statement of Sen. Bryan). In the three years prior to the Act's passage, the Commission sought to educate industry, the public and itself about the issues raised by the online collection of personal information from children and adult consumers. In June 1996 and June 1997, the Commission held public workshops to learn how the rapidly developing online marketplace was affecting consumers' privacy. In March 1998, the Commission conducted an extensive survey of commercial websites, including 212 children's websites, to learn the extent to which they were disclosing their information practices, and, with regard to the children's websites, the extent to which they were providing for parental notice of and consent to the collection and disclosure of children's personal information. The Commission reported the results of its survey to Congress in June 1998, and recommended that Congress enact legislation to protect children's privacy online. (Federal Trade Commission, Privacy Online: A Report to Congress, June 1998.) The Commission's survey found that few children's websites were disclosing their information practices or providing for parental consent.

[3] Supra note 1.

[4] Section 1306(d) of the Act provides that the rule shall be treated as a rule issued under § 18 (a)(1)(B) of the FTC Act (15 U.S.C. 57a (a)(1)(B)).

with one another in online chat rooms and bulletin boards, through online pen-pal services, and by posting personal home pages. They participate in games and contests sponsored by websites, and they use the Internet to access information on all manner of subjects.

Despite its obvious attraction for children, the Internet is also a medium in which children can be placed at risk. As they use the Internet, children, like others, are often asked to provide a wide variety of personal information about themselves. Websites and online services collect this information by such means as registration pages, order forms, contests, surveys, chat rooms, and bulletin boards. In general, they have collected this information, and have in some instances shared it with third parties, without notice to children or their parents. In addition, public posting of children's personal information makes it available to anyone on the Internet, including those who would harm children.

The proposed Rule is designed to assist parents in controlling the flow of their children's personal information on the Internet. It contains a general requirement that operators of websites or online services directed to children ("operators") not condition children's participation in online activities on the provision of more personal information than is reasonably necessary to participate in the activity. This will prevent operators from using popular games and activities as a means of obtaining children's information.

Operators are also required to post prominent links on their websites to a notice of how they collect and use personal information from children. In most circumstances, the proposed Rule requires operators to notify parents that they wish to collect personal information from their children and to obtain parental consent prior to collecting, using, or disclosing such information. Parents then have the option of prohibiting operators from disclosing their child's personal information to third parties. In addition, operators must allow parents the opportunity to review and make changes to any information provided by their children. Parents at any time may also require the operator to delete their children's information and prohibit the operator from collecting any more information from their children in the future. The proposed Rule also requires that operators establish procedures to protect the confidentiality, security, and integrity of the personal information collected from children.

Because the proposed Rule applies to the use or disclosure of personal information and not just its collection, it protects personal information collected from children prior to the effective date of the final Rule if an operator wishes to use such information in the future. Thus, for example, an operator that maintains a database of children's personal information must provide notice to the parent and obtain parental consent prior to using such information once the Rule is effective.

Finally, under the proposed Rule, industry groups or others may seek Commission approval for self-regulatory guidelines. Operators who participate in such approved programs may be subject to the review and disciplinary procedures provided in these guidelines in lieu of formal Commission investigation and law enforcement.

Section 312.1 describes the scope of the regulations under this Act. Section 312.2 contains the definitions of the terms used in the proposed Rule, such as "operator" and "personal information." Section 312.3 sets out the general requirements that operators must follow when seeking to collect, use, and/or disclose personal information from children. Section 312.4 contains the requirements for providing notice on the website and to parents under the various requirements of the proposed Rule. Section 312.5 sets out the procedures by which operators can obtain consent from parents to the collection, use, and/or disclosure of personal information from children. Section 312.6 requires operators to allow parents to review, make changes to, or have deleted the personal information collected from their children. Section 312.7 prohibits operators from conditioning a child's participation in online activities on the provision of more personal information than is reasonably necessary to participate in those activities. Section 312.8 requires operators to establish reasonable procedures to maintain the confidentiality, security, and integrity of the information collected from children. Section 312.9 establishes that violations of the proposed Rule will be treated as a violation of a rule defining an unfair or deceptive act or practice under the FTC Act. Section 312.10 establishes procedures by which industry groups or other persons can request Commission approval for their self-regulatory guidelines. Sections 312.11 and 312.12 address Commission review of the proposed Rule and the proposed Rule's severability.

Each of the provisions is indented, followed by a brief discussion where needed. The full text of the proposed Rule appears in Section J of this Notice.

Section 312.1 Scope of Regulations in This Part

This Rule implements the Children's Online Privacy Protection Act of 1998, to be codified at 15 U.S.C. _____, et seq., which prohibits unfair and deceptive acts and practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

Section 312.2 Definitions

Child means an individual under the age of 13.

Collects or collection means the direct or passive gathering of any personal information from a child by any means, including but not limited to:

(a) Any online request for personal information by the operator regardless of how that personal information is transmitted to the operator;

(b) Collection using a chat room, message board, or other public posting of such information on a website or online service; or

(c) Passive tracking or use of any identifying code linked to an individual, such as a cookie.

This term includes all online requests for personal information regardless whether the personal information is ultimately transmitted online or offline. Thus, it would include a situation where the website or online service directs the child to print out a form, respond in writing to the questions, and mail the form back to the website or online service.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclosure means, with respect to personal information:

(a) The release of personal information collected from a child in identifiable form by an operator for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the website or online service and who does not disclose or use that information for any other purpose, where

(1) Release of personal information means the sharing, selling, renting, or any other means of providing personal information to any third party, and

(2) Support for the internal operations of the website or online service means those activities necessary to maintain the technical functioning of the website or online service, or to fulfill a request

of a child as permitted by §§ 312.5(c) (2) and (3); and

(b) Making personal information collected from a child by an operator publicly available in identifiable form, by any means, including by a public posting through the Internet, or through a personal home page posted on a website or online service; a pen-pal service; an electronic mail service; a message board; a chat room; or any other means that would enable a child to reveal personal information to others online.

Contractors who provide technical support or fulfillment services for a website or online service are considered to be providing support for the website or online service's internal operations. Technical support includes providing the server for the website, online service, chat, or e-mail services. Fulfillment services include supplying children with the items they request from the operator. This provision permits an operator to contract for technical and fulfillment operations that may involve the handling of personal information without triggering a disclosure in the notice.

The proposed Rule, however, requires operators, among other things, to maintain the confidentiality, security, and integrity of the personal information it collects from children. (*See* § 312.7.) Thus the operator is responsible for ensuring that any person with whom it contracts for these technical services does not disclose the personal information and complies with the information safeguards of the proposed Rule. As described in the discussion of § 312.7 below, such safeguards may include, for example, maintaining the data off the server, requiring a password to access the data, and limiting employee access to the data.

Federal agency means an agency, as that term is defined in section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

By including the phrase "other methods of transmission," this definition ensures that the proposed Rule adequately addresses future technological developments such as wireless transmission and access to what is now referred to as the "Internet."

Online contact information means an e-mail address or any other substantially similar identifier that permits direct contact with a person online.

Operator means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce

(a) Among the several States or with 1 or more foreign nations;

(b) in any territory of the United States or in the District of Columbia, or between any such territory and

(1) Another such territory, or

(2) Any State or foreign nation; or

(c) Between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

The term "operator" includes both a person who collects or maintains personal information directly from a visitor through a website or online service and a person who collects or maintains such information through another's website or online service. The statute places the regulatory obligations on the operator. In determining who is the operator for purposes of the proposed Rule, the Commission will consider such factors as who owns the information, who controls the information, who pays for the collection or maintenance of the information, the pre-existing contractual relationships surrounding the collection or maintenance of the information, and the role of the website or online service in collecting and/or maintaining the information.

Where the website or online service merely acts as the conduit through which the personal information collected flows to another person or to another's website or online service, and the website or online service does not have access to the information, then it is not an operator under the proposed Rule.[5] Where both the website or online service and another person have access to or control over the information collected, and are considered operators under the factors listed above, both parties will have joint responsibility to provide the protections required by the proposed Rule. In circumstances of joint responsibility, the parties may make arrangements between them to facilitate implementation of their responsibilities. For example, it may be more efficient for the website or online service to provide parental notice and obtain parental consent, since it has the direct relationship with its visitors. Nevertheless, each operator is responsible for ensuring that the obligations of the proposed Rule are fulfilled.

An operator may choose to release personal information it has collected to a "third party." As defined below, a "third party" is "any person who is neither an operator with respect to the collection of personal information on the website or online service, nor the person who provides support for the internal operations of the website or online service." In general, a third party does not collect, own, or control the personal information at the time it is collected. In determining whether an entity is an "operator" or "third party," the entity's corporate relationship to another operator, such as whether it is an affiliate, is not a determinative factor. Rather, as described above, its status is determined by how the data is obtained and used.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(a) A first and last name;

(b) A home or other physical address including street name and name of a city or town;

(c) An e-mail address;

(d) A telephone number;

(e) A Social Security number;

(f) A persistent identifier, such as a customer number held in a cookie or a processor serial number, where such identifier is associated with personal identifying information; a screen name that reveals an individual's e-mail address; an instant messaging user identifier; or a combination of a last name with other information such that the combination permits physical or online contacting; or

(g) Information concerning the child or the parents of that child that the

[5] Similarly, where the website or online service hires a contractor to provide support for its "internal operations," the contractor would not be deemed an operator if it merely acts as the conduit and uses the information only to the extent necessary to process the information for the operator.

operator collects online from the child and combines with an identifier described in this paragraph.

Section 1302(8)(F) of the Act authorizes the Commission to expand the definition of "personal information" to include other identifiers that permit physical or online contacting of a specific individual. The proposed definition, therefore, adds several identifiers to § 312.2(f) that were not enumerated in the Act:

(1) A persistent identifier, such as a cookie or a processor serial number, where it is associated with personal identifying information;

(2) A screen name that reveals an individual's e-mail address;

(3) An instant messaging user identifier;[6] or

(4) A combination of a last name with other information such that the combination permits physical or online contacting, *e.g.*, the name of the child's school, zip code, church, or athletic team.

Each of the above items are specified in the proposed Rule because they permit physical or online contacting of a specific individual.

Third party means any person who is neither an operator with respect to the collection of personal information on the website or online service, nor a person who provides support for the internal operations of the website or online service.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(a) receives notice of the operator's personal information collection, use, and disclosure practices; and

(b) authorizes any collection, use, and/or disclosure of the personal information.

This definition is taken directly from the Act. Possible examples of reasonable efforts are found below in § 312.5(b), describing parental consent.

Website or online service directed to children means a commercial website or online service, or portion thereof, that is targeted to children. Provided, however, that a commercial website or online service, or a portion thereof, shall not be deemed directed to children solely because it refers or links to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link. In determining whether a commercial website or online service, or a portion thereof, is targeted to children, the Commission will consider its subject matter, visual or audio content, age of models, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition; evidence regarding the intended audience; and whether a site uses animated characters and/or child-oriented activities and incentives.

The definition of "directed to children" permits the Commission to consider a number of different factors in determining whether a website or online service, or a portion thereof, is directed to children. The Commission may consider whether the website or online service, or portion thereof, is designated as a children's area; the site's subject matter, visual or audio content, age of models, language or other characteristics; and whether the site uses features designed to be attractive to children, such as games, puppets, or animated characters and child-oriented activities and incentives.

This approach is consistent with that taken in other media to define what is directed to children, including television, radio, and print advertising. It also provides the Commission flexibility as it seeks to enforce the proposed Rule in the new and developing online medium.

An operator of a website or online service with a "portion" directed to children will have duties under the proposed Rule for that portion. An operator of a general interest website or online service that is not directed to children, however, will have duties under the proposed Rule only if it knows that particular visitors are under the age of 13.

Section 312.3 Regulation of Unfair and Deceptive Acts and Practices in Connection with the Collection, Use, and/or Disclosure of Personal Information From and About Children on the Internet

General requirements. It shall be unlawful for any operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this Rule. Generally, under this Rule, an operator must:

(a) Provide notice on the website or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));

(b) Obtain verifiable parental consent for any collection, use, and/or disclosure of personal information from children (§ 312.5);

(c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);

(d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and

(e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

Section 312.3 of the proposed Rule outlines the general requirements that an operator must implement in connection with any collection, use, and/or disclosure of personal information obtained from children. Failure to abide by these requirements constitutes an unfair and/or deceptive act or practice within the meaning of the FTC Act. Each of these general requirements is defined in more detail in specific paragraphs of the proposed Rule.

Section 312.4 Notice.

The proposed Rule requires operators to both post on the website or online service and send to parents notices of the operator's information collection practices and the intended actions with respect to the use and/or disclosure of information collected from children.[7] Section 312.4 specifies the information that must be included in such notices, and states how such notices must be posted on the website or online service or provided to parents.

Section 312.4(a) sets out the general principles of effective notice; section 312.4(b) sets out the requirements for the notice on the website or online service; and section 312.4(c) sets out the requirements for notices that are sent

[6] An "instant messaging user identifier," permits users, including children, to conduct what is commonly known as "ICQ" or "Instant Messaging." This service is basically a combination of e-mail and chat and is offered for free by a number of websites and online services. It permits an individual, upon registration, to send and receive communication on the Internet in real time. Users can also search instant messaging directories which may provide users' real names, e-mail addresses, cities, gender and age information.

[7] *See, e.g.*, sections 312.3(a) (requiring notice on the website), and 312.5 (setting out the requirements for notice to parents and for obtaining verifiable parental consent).

directly to parents under various other provisions of the proposed Rule.

(a) General Principles of Notice

All notices under §§ 312.3(a) and 312.5 must be clearly and understandably written, be complete, and must contain no unrelated, confusing, or contradictory materials.

The operator's notice will form the basis for a parent's decision whether to give the operator consent to collect, use and/or disclose personal information from his or her child. In order to provide truly informed consent, a parent must have a clear idea of what the operator wishes to do. Therefore, it is essential that such notices be prominent and easy to find (in the case of a notice posted on the website or online service), and be clearly and understandably written. It is also essential that such notices contain all relevant information, and contain no unrelated, confusing, or contradictory materials.

(b) Notice on the Website or Online Service

An operator must post a link to a notice of its information practices with regard to children on the home page of its website or online service and at each place on the website or online service where personal information is collected from children.

(1) *Placement of the notice.*

(i) The link to the notice must be clearly labeled as a notice of the website or online service's information practices with regard to children;

(ii) The link to the notice must be placed in a prominent place on the home page of the website or online service such that a typical visitor to the home page can see the link without having to scroll down; and

(iii) There must be a prominent link to the notice at each place on the website or online service where children directly provide, or are asked to provide, personal information such that a typical visitor to those places can see the link without having to scroll down.

Under section 312.3(a) of the proposed Rule, operators are required to provide notice on the website or online service of their practices with regard to the collection, use, and disclosure of information sought online from children.[8] Under section 312.4(b)(1), operators must post links to the notice on the website or online service's home page and at each place on the website or online service where personal information is collected from children. The link on the home page must be placed such that a typical visitor does not need to scroll down from the initial viewing screen. A small link at the foot of the page, for example, is not sufficient, because the risk is great that many people will not notice it and will therefore not have the opportunity to learn about the operator's policies. In addition, if the policy is included as part of a larger document, it is important that the required link take visitors directly to the part of the document that discusses the operator's information practices with regard to children.[9] Similarly, it is important to provide a link to the policy at each place on the website or online service where information is collected from children because (a) not all visitors to a website or online service enter it through the home page, and (b) a link at the point of information collection guarantees that the notice will be seen by a parent who is visiting the website or online service to learn about the operator's specific information practices. Being able to review an operator's policies in context can help parents understand why such information is being collected.

(2) *Content of the notice.*

Generally speaking, parents need to know (a) who is collecting information through a website or online service; (b) what kind of information is collected through the website or online service; (c) how information is collected through the website or online service; (d) how such information will be used, including whether it will be disclosed to third parties and for what general purposes; (e) what control parents can exercise over their children's information, the procedures for doing so, and the consequences of their refusal to provide information; and (f) what general measures the operator takes to ensure the confidentiality, integrity, and quality of the information collected. Section 312.4(b)(2) sets out in detail the information operators must include in their notices in order to satisfy the requirements of this section of the proposed Rule.

To be complete, the notice of the website or online service's information practices must state the following:

(i) The name, address, phone number, and e-mail address of all operators collecting personal information from children through the website or online service;

Section 312.4(b)(2)(i) of the proposed Rule requires all operators that are collecting personal information through the website or online service to state their name, address, phone number, and e-mail address. This information will enable parents to both identify and contact the operator should they want further information about the website or online service, or to request an opportunity to review information collected from their child pursuant to section 312.6 below.

(ii) The types of personal information collected from children and whether the personal information is collected directly or passively;

Section 312.4(b)(2)(ii) of the proposed Rule requires operators to list the *types* of personal information collected online, *e.g.*, name, address, hobbies, and investment information, and whether such information is collected directly or passively from children. While operators are not required to list each and every piece of information collected, the categories operators select should be descriptive enough that parents can make an informed decision about whether to consent to the operator's collection and/or use of the information. It is not necessary to list each item of information collected. A notice, however, that simply states "We collect personal information from your kids" does not provide enough information for parents.

(iii) How such personal information is or may be used by the operator, including but not limited to fulfillment of a requested transaction, recordkeeping, marketing back to the child, or making it publicly available through a chat room or by other means;

Section 312.4(b)(2)(iii) of the proposed Rule requires operators to list how the personal information will be used once it has been collected, including such uses as order fulfillment, recordkeeping, marketing back to the child, disclosure to third parties or making it publicly available through a chat room or by other means. As in section 312.4(b)(2)(ii) of the proposed Rule, the challenge for the operator will be to provide enough information for parents to make informed decisions without listing every specific or possible use of the information. For example, the statement that "we use this information to provide information on toys to your child" is probably just as informative as the statement "we use this information to provide your child with information

[8] Often, such information practice policies are referred to as "privacy policies." The Commission encourages operators to use informative names for their information practice policies. A link to an information practice policy that is labeled "About Us" or "What We Do," for example, will probably not convey to visitors that the link will take them to a statement of the operator's information practices.

[9] Operators who use more than one set of practices on a website (*e.g.*, separate practices for children and adults) must be especially careful to label the different practices clearly, and to make sure that the notices are written clearly in order to avoid any possible confusion.

on beanie babies, dolls, action figures, puzzles, and stuffed animals."

In addition, where the operator permits a child to engage in interactive activities that enable a child to publicly reveal his or her personal information, *e.g.*, a chat room, message board, e-mail service, instant message, or personal home page, the operator must clearly state that in its notice to the parent.

(iv) Whether personal information is disclosed to third parties, and if so, the types of business in which such third parties are engaged, and the general purposes for which such information is used; whether those third parties have agreed to maintain the confidentiality, security, and integrity of the personal information they obtain from the operator; and that the parent has the option to consent to the collection and use of their child's personal information without consenting to the disclosure of that information to third parties;

Section 312.4(b)(2)(iv) of the proposed Rule relates to the operator's practices with respect to third parties. It requires operators that disclose children's personal information to third parties to provide a brief statement of the types of business in which the third parties are engaged, *e.g.*, list brokering, advertising, magazine publishing, or retailing, and to state the general purposes for which it is disclosed to third parties. *See* section 312.2 regarding the definition of "third party." It is important for parents to know not just that their child's information is being disclosed to third parties, but for what purposes. Simply telling parents that their child's personal information is (or may be) "disclosed to third parties" does not give parents enough information upon which to base their consent or refusal to consent to the operator's information practices.

Section 312.4(b)(2)(iv) also requires operators to state whether the third parties to whom they disclose personal information have agreed to maintain the confidentiality of that information. An operator's good information practices can be rendered useless if someone to whom the operator discloses personal information does not also protect the information. If their children's personal information will not be protected once it leaves the control of the operator, the operator must make that clear to parents.

Finally, section 312.4(b)(2)(iv) requires operators to tell parents that they have the option to consent to the collection and use of their child's personal information without consenting to the disclosure of that information to third parties.

(v) That the operator is prohibited from conditioning a child's participation in an activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity; and

Section 312.4(b)(2)(v) provides notice to the parent that the operator is prohibited from requiring a child to disclose more personal information than is reasonably necessary to participate in an activity such as game or contest. This statement merely paraphrases the prohibition enumerated in section 312.7 of the proposed Rule. Providing this information in the notice enables the parent to evaluate the appropriateness of a request for personal information on a website or online service.

(vi) That the parent can review, make changes to, or have deleted the child's personal information and state the procedures for doing so.

Under section 312.4(b)(2)(vi) of the proposed Rule, the operator must state in the notice that parents have the right to review information provided by their child and make changes to and/or have the information deleted. In addition, the operator must describe how parents can do so.[10]

(c) Notice to a Parent

Under § 312.5, an operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives notice of an operator's practices with regard to the collection, use, and/or disclosure of the child's personal information, including any collection, use, and/or disclosure to which the parent has not previously consented.

This section of the proposed Rule requires operators to make reasonable efforts, taking into account available technology, to provide direct notice to a parent whose child wants to provide personal information or from whose child the operator wishes to collect personal information. This notice will form the basis for the parent's decision regarding the operator's request to collect information from or about the child. To that end, the notice must (a) give the parent comprehensive information about the operator's information practices and policies, including informing parents of changes requiring a new consent; (b) lay out the parent's options with regard to consent; (c) describe the procedures by which the parent can provide verifiable consent (*see* section 312.5 of the proposed Rule); and (d) describe the parent's right to review and make changes to information provided by the child and lay out the procedures for doing so (*see* section 312.6 of the proposed Rule). Section 312.4(c)(1) details the information that must be included in the notice to the parent.

Reasonable efforts to provide parents with notice under this section can include, but are not limited to, sending the notice by postal mail, sending the notice to the parent's e-mail address, or having the child print out a form to give to the parent.

An operator must also send the parent an updated notice and request for consent for any collection, use, or disclosure of his or her child's personal information not covered by a previous consent. A new notice and request for consent will be required, for example, if the operator wishes to use the information in a manner that was not included in the original notice, such as disclosing it to parties not covered by the original consent, including parties created by a merger or other corporate combination involving existing operators or third parties.

(1) Content of the notice to the parent.

(i) All notices must state the following:

(A) That the operator wishes to collect personal information from the child;

(B) The information set forth in paragraph 312.4(b) of this section.

(ii) In the case of a notice to obtain verifiable parental consent under § 312.5(a), the notice must also state that the parent's consent is required for the collection, use, and/or disclosure of such information, and the means by which the parent can provide verifiable consent to the collection of information.

The operator must tell the parent that the operator wishes to collect personal information from the child. Section 312.4(c)(1)(i) requires that all notices, whether pursuant to section 312.5(a) or 312.5(c)(3), contain the information set forth in section 312.4(b). Section 312.4(c)(1)(ii) applies to notice pursuant to section 312.5(a), which requires prior verifiable parental consent. In such cases, the operator must inform the parent that his or her consent is required for the collection, use, and/or disclosure of the child's personal information, and that no collection, use, or disclosure will take place absent the parent's affirmative consent. The operator must also tell the parent how to provide verifiable consent or refuse to consent to the operator's desired collection, use, and/or disclosure of the child's information. *See* section 312.5 of the proposed Rule for further detail on providing parental consent.

[10] *See* section 312.6 (Right of parent to review personal information provided by child.) for a more detailed discussion.

(iii) In the case of a notice under the exception in § 312.5(c)(3), the notice must also state the following:

(A) That the operator has collected the child's e-mail address or other online contact information to respond to the child's request for information and that the requested information will require more than one contact with the child;

(B) That the parent may refuse to permit further contact with the child and require the deletion of the e-mail address or other online contact information; and

(C) That if the parent fails to respond to the notice, the operator may use the information for the purpose(s) stated in the notice.

Under section 312.4(c)(1)(iii) of the proposed Rule, if the child has made a direct request of the operator that would require the operator to make repeated contact with the child (*see* section 312.5(c)(3) of the proposed Rule), the operator must tell the parent of the child's request, notify the parent that his or her child has provided the operator with an e-mail address so the operator can fulfill that request, and state that the parent may refuse to permit further contact with the child and require the operator to delete the child's online contact information. Because this type of contact with the child does not require a parent's affirmative consent, the operator must clearly notify the parent that, in this instance, if the parent fails to respond to the notice, the operator may use the information for the purpose(s) stated in the notice.

(iv) In the case of a notice under the exception in § 312.5(c)(4), the notice must also state the following:

(A) That the operator has collected the child's name and an e-mail address or other online contact information to protect the safety of the child participating on the website or online service;

(B) That the parent may refuse to permit the use of the information and require the deletion of the information; and

(C) That if the parent fails to respond to the notice, the operator may use the information for the purpose stated in the notice.

Section 312.4(c)(1)(iv) requires an operator to give a parent notice and an opportunity to refuse to permit the continued use of the information where the operator has collected the child's name and online contact information for purposes of providing for the safety of the child. (*See* discussion of the safety concerns in the discussion of § 312.5(c)(4).)

Section 312.5 Parental Consent

(a) General Requirements

(1) An operator is required to obtain verifiable parental consent before any collection, use, and/or disclosure of personal information collected from children, including any collection, use and/or disclosure to which the parent has not previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

As described in § 312.3(b), the general rule is that an operator is required to obtain verifiable parental consent "before" any collection, use, and/or disclosure of personal information from children under the age of 13. As noted above, this means that an operator must obtain verifiable parental consent prior to using or disclosing any information already in its possession as of the effective date of the proposed Rule. Moreover, where an operator changes its collection, use and/or disclosure practices from that provided in the notice, it must obtain verifiable parental consent to the new practice(s) before using the personal information. *See* discussion of Section 312.4(c), above. Section (a)(2) gives parents the right to consent to an operator's collection and use of their children's information without consenting to the disclosure of that information to third parties. This provision ensures that operators will not be able to condition a child's participation in any online activity on obtaining parental consent to disclosure to third parties.

(b) Mechanisms for Verifiable Parental Consent

An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent.

Operators may develop any number of ways to implement this requirement. At this time, the Commission is not prepared to commit to any particular method or methods, but rather, invites comments on the feasibility, costs, and benefits of various methods of obtaining parental consent. Among other possibilities, an operator could provide a consent form to be signed by the parent and returned to the operator by postal mail or facsimile, require a parent to use a credit card in connection with a transaction, or have a parent call a toll-free telephone number. Another possibility could be an e-mail accompanied by a valid digital signature. The Commission is also considering whether there are other e-mail-based mechanisms that would satisfy the Act's requirements—*i.e.*, whether they could provide sufficient assurance that the person providing the consent is the child's parent. *See* questions _____ and _____, below.

One way to comply with this requirement would be for portal sites, online services that offer their own proprietary areas, or others to provide a parental consent service for their content partners. In addition, it may be acceptable for a business to provide notice and consent services for individual operators. Such services must, however, provide adequate notice to parents about the information practices of the participating partners to ensure that a parent's consent to the sharing of their child's personal information is informed and meaningful.

(c) *Exceptions to prior parental consent.*

Verifiable parental consent is required prior to any collection, use and/or disclosure of personal information from a child except as set forth in this paragraph. The exceptions to prior parental consent are as follows:

(1) Where the operator collects the name or online contact information of a parent or child to be used for the sole purpose of obtaining parental consent or providing notice under § 312.4. If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the operator must delete such information from its records;

This exception permits an operator to collect the parent or child's name or e-mail address to provide notice and obtain parental consent. While section 1303(b)(2)(B) of the Act permits collection of a parent or child's online contact information, the Commission encourages operators to collect only the parent's e-mail address and the child's first name for purposes of this exception. (Collection of the child's first name should be adequate to inform the parent which child's information is being sought.) In many instances the child's e-mail address may be the same as the parent's. Nevertheless, since this exception is solely to enable the operator to provide parental notice and obtain parental consent, collection of the child's information would seem to be unnecessary.

(2) Where the operator collects online contact information from a child for the

sole purpose of responding directly on a one-time basis to a specific request from the child, and where such information is not used to recontact the child and is deleted by the operator from its records;

This exception is intended to permit operators to respond to specific requests from a child, such as to provide homework assistance or to answer questions posed by the child. A request must be specific in scope and should be initiated by the child. Under this exception, the operator responds to the child's request for information by sending an e-mail containing the answer or response, but does not retain the child's e-mail address for any further use. Operators should consider, however, whether frequently requested information cannot just as easily be posted on the website or online service, thus obviating the need for the collection of any online contact information in the first instance.

(3) Where the operator collects online contact information from a child to be used to respond directly more than once to a specific request from the child, and where such information is not used to recontact the child beyond the scope of that request. In such case, the operator must make reasonable efforts, taking into consideration available technology, to ensure that a parent receives notice and has the opportunity to request that the operator make no further use of the information, as described in § 312.4(c), immediately after the initial response and before making any additional response to the child. Mechanisms to provide such notice include, but are not limited to, sending the notice by postal mail or sending the notice to the parent's e-mail address, but do not include asking a child to print a notice form or sending an e-mail to the child;

This paragraph permits an operator to respond to a child's request for an online newsletter, for example, or to conduct a contest requiring later notification of the winner. Section 1303(b)(2)(C) of the Act does not specify whose online contact information may be collected, the parent or the child's; however, because the operator must already collect the parent's online contact information for purposes of providing the parent notice under this section, the Commission recommends that the operator collect the parent's e-mail address and offer the parent the option of substituting the child's e-mail address. Because under this paragraph a parent's silence after receiving notice constitutes consent to the operator's intended use, it is critical that the operator choose a method that ensures the parent receives the notice. Therefore, the proposed Rule includes examples of acceptable and unacceptable methods of providing notice under this paragraph.

(4) Where the operator collects a child's name and online contact information to the extent reasonably necessary to protect the safety of a child participant on the website or online service, where such information is

(i) Used only for the purpose of protecting the child's safety;

(ii) Not used to recontact the child or for any other purpose;

(iii) Not disclosed on the website or online service;

and the operator uses reasonable efforts to provide a parent notice as described in § 312.4(c); and

This exception is intended to permit an operator to collect limited personal information that is reasonably necessary to protect the safety of a child participating in such interactive activities as a chat room, message board, or e-mail service. For certain safety purposes, however, the Commission notes that the collection of the parent's rather than the child's online contact information may be sufficient. Indeed, parents are in the best position, for example, to intervene if a child is threatening another child while engaged in a chat room. The Commission, therefore, seeks additional guidance on this issue. See question 13 below.

(5) Where the operator collects a child's name and online contact information to the extent reasonably necessary

(i) To protect the security or integrity of its website or online service;

(ii) To take precautions against liability;

(iii) To respond to judicial process; or

(iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety;

and such information is used only for such purpose and is not used to recontact the child for any other purpose.

This provision authorizes an operator to collect a child's name and online contact information without notice to the parent or parental consent for certain limited purposes. It is not intended to authorize collection of personal information on the basis of purely hypothetical concerns. It is contemplated that the information may be useful in identifying website hackers. Although not required by the Act, the Commission recommends that when an operator relies on this exception, the operator provide parents notice of the collection and use of such information as described in section 312.4(c) of the proposed Rule.

Certain exceptions specifically require that the personal information be deleted following the fulfillment of the purpose for which it was collected. (*See* §§ 1303(b)(2)(A) and (b)(2)(B) of the Act and paragraphs (c)(1) and (c)(2) of this section of the proposed Rule.) For those exceptions that do not require deletion, the Commission recommends that operators delete the information voluntarily. This will reduce the risk of unauthorized access, use, or disclosure of personal information that was collected without prior parental consent.

Section 312.6. Right of Parent to Review Personal Information Provided by Child.

(a) Upon request of a parent whose child has provided personal information to a website or online service, and upon proper identification of that parent, the operator of that website or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from the child by the operator, such as name, address, telephone number, e-mail address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing and making changes to any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

This provision of the Rule describes how operators can comply with the Act's requirement that they allow parents to review, make changes to, or have deleted any information provided by their child. The Act allows a two-tiered approach to parental review. First, upon request of a properly-identified parent, the operator must tell the parent what types of information

have been collected by the child, for example, "Your child has given us his name, address, e-mail address, and a list of his favorite computer games." Section 312.6(a)(1). Subsequently, if the parent wishes to review the specific information provided by his child, the operator must provide a means for doing so that ensures that the person requesting the information is the parent, but not unduly burdensome to the parent, under section 312.6(a)(3).[11] In addition, the parent may, at any time, direct the operator to delete any or all of the child's information in the operator's files, refuse to permit the operator to continue to use that information, or prohibit the operator from collecting any further information in the future. Section 312.6(a)(2).[12]

Because compliance with section 312.6(a)(3) of this Rule requires operators to release personal information collected from children, it is critical that operators use a system for checking identification that reasonably ensures that the person requesting the information is, in fact, a parent of that child.[13] The identification method chosen by the operator should not be so burdensome that parents effectively cannot exercise their rights under this provision, *i.e.*, requiring parents to come to its office headquarters to show proof of parentage.

A number of methods can be used to check identity that provide a degree of certainty without unduly burdening either the operator or the parent. For example, the operator may require a copy of the parent's driver's license showing that the parent and child live at the same address. In addition, an operator could devise a password system in conjunction with its procedure for obtaining verifiable parental consent that could serve as an aid in identification. By contrast, simply providing a toll-free telephone number for parents to call and request information would not be sufficient to ensure that a caller is actually the child's parent.[14] Operators who disclose the information to parents in good faith and follow reasonable procedures in responding to a request for disclosure will be exempt from liability under any Federal or State laws.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

Section 312.7 prohibits operators from conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in the activity. *See* infra. The corollary to that prohibition is that operators may terminate a child's access to or participation in those activities or services when a parent who has consented to the information collection subsequently requires the operator to delete the information that was necessary for the child to participate. For example, an operator requires children to provide an e-mail address to participate in a chat room so that the operator can contact the child if the child is misbehaving in the chat room. After giving consent, a parent changes her mind and requires the operator to delete her child's information. The operator may refuse to allow the child to participate in the chat room in the future. If, however, there are other activities or services on the operator's website that do not require that information, then the operator must allow the child to have access to those activities or services.

Section 312.7. Prohibition Against Conditioning a Child's Participation on Collection of Personal Information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

The purpose of this section is to encourage a child's access to activities, but to prevent operators from tying collection of personal information to such popular and persuasive incentives as prizes or games. The proposed rule authorizes operators to condition participation on the collection of only such personal information as is reasonably necessary to conduct an activity—for example, collection of an e-mail address for purposes of awarding a prize to a contest winner. The operator, however, must always obtain verifiable parental consent to the collection of any personal information from the child, even if it is reasonably necessary to participate in an activity, unless one of the exceptions to prior parental consent defined in section 312.5(c) of the proposed Rule applies.

Section 312.7 of the proposed Rule precludes, for example, an operator from requiring a child to provide personal information for the purpose of registering merely to access the website or online service if such personal information is not reasonably necessary to engage in its activities.

Section 312.8 Confidentiality, Security, and Integrity of Personal Information Collected From Children

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

Operators must have adequate procedures for protecting personal information, including policies and standards to protect children's personal information from loss, misuse, unauthorized access, or disclosure. Such protections may include the following: designating an individual in the organization to be responsible for maintaining and monitoring the security of the information; requiring passwords to access the personal information; creating firewalls; utilizing encryption; implementing access control procedures in addition to passwords; implementing devices and procedures to protect the physical security of the data processing equipment; storing the personal information collected online on a secure server that is not accessible from the Internet; installing security cameras and intrusion-detection software to monitor who is accessing the personal information; and installing authentication software to determine whether a user is authorized to enter through a firewall. In addition, effective security implementation requires a clear statement of employee responsibilities and sanctions, as well as employee training to ensure that privacy and security policies are implemented effectively.

The Commission encourages operators to establish reasonable procedures for the destruction of personal information once it is no

[11] Operators are free to skip the first step (description of the types of information provided by the child) and simply allow parents to review the specific information provided by the child under section 312.6(a)(3).

[12] Section 312.6 is not intended to require operators to keep databases of personal information collected from children even after the consented-to uses have been discontinued—for example, because the parent may someday request it. If a parent asks to review his or her child's information after the operator has deleted it, the operator can reply that it has no information on that child.

[13] As a practical matter, it may be acceptable for an operator to use a less stringent identification requirement when giving out the types of information collected from the child under section 312.6(a)(1).

[14] There may be ways to utilize toll-free telephone numbers that would be sufficient to ensure that the requestor is a parent of the child. For example, a reasonable procedure might involve giving the parent the toll-free telephone number and a password unique to that parent after the operator receives the parent's verifiable consent.

longer necessary for the fulfillment of the purpose for which it was collected. Timely elimination of data is the ultimate protection against misuse or unauthorized disclosure.

Section 312.9 Enforcement

Subject to sections 1304 and 1306 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 1303 of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

Section 312.10 Safe Harbors

(a) In General

An operator will be deemed to be in compliance with the requirements of this Rule if that operator complies with self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, that, after notice and comment, are approved by the Commission.

As an incentive for industry self-regulation, and to ensure that the protections afforded children under this proposed Rule are implemented in a manner that takes into account industry-specific concerns and technological developments, this section of the proposed Rule provides that an operator's compliance with Commission-approved self-regulatory guidelines serves as a safe harbor in any enforcement action for violations of this Rule. To receive safe harbor treatment, an operator can comply with any Commission-approved guidelines that meet all the criteria set forth in section 312.10(b). The operator need not independently apply for approval, if in fact the operator is fully complying with guidelines already approved by the Commission, which are applicable to the operator's business. (*See* the discussion of section 312.10(b), below.)

In an enforcement action, the Commission has the burden of proving non-compliance with the proposed Rule's requirements. The standards enunciated in the proposed Rule thus remain the benchmark against which industry's conduct will ultimately be judged. Compliance with approved guidelines, however, will serve as a safe harbor in any enforcement action under the proposed rule. That is, if an operator can show full compliance with approved guidelines, the operator will be deemed in compliance with the proposed Rule. The Commission retains discretion to pursue enforcement under the Rule if approval of the guidelines was obtained based upon incomplete or inaccurate factual representations or if there was a substantial change in circumstances.

(b) *Criteria for Approval of Self-Regulatory Guidelines*

To be approved by the Commission, guidelines must include the following:

(1) A requirement that operators subject to the guidelines ("subject operators") implement the protections afforded children under this Rule;

(2) An effective, mandatory mechanism for the independent assessment of subject operators' compliance with the guidelines. This requirement may be satisfied by:

(i) Periodic reviews of subject operators' information practices conducted on a random basis either by the industry group promulgating the guidelines or by an independent entity;

(ii) Periodic reviews of all subject operators' information practices, conducted either by the industry group promulgating the guidelines or by an independent entity; or

(iii) Seeding of subject operators' databases, if accompanied by either (i) or (ii); and

(3) Effective incentives for subject operators' compliance with the guidelines. This requirement may be satisfied by:

(i) Mandatory, public reporting of disciplinary action taken against subject operators by the industry group promulgating the guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the guidelines; or

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the guidelines.

The assessment mechanism required under paragraph (b)(2) of this section can be provided by an independent enforcement program, such as a seal program. In considering whether to initiate an investigation or to bring an enforcement action for violations of this Rule, and in considering appropriate remedies for such violations, the Commission will take into account whether an operator has been subject to self-regulatory guidelines approved under this section and whether the operator has taken remedial action pursuant to such guidelines, including but not limited to actions set forth in paragraphs (b)(3)(i) through (iii) of this section.

Section 312.10(b) of the proposed Rule sets out the criteria that self-regulatory guidelines must meet in order to be approved by the Commission. Under section 312.10(b)(1), guidelines must require implementation of the requirements of this Rule. Sections 312.10(b)(2)–(3), which require that guidelines include independent assessment mechanisms and incentives for compliance, are intended to permit maximum flexibility, consistent with the protections afforded children under the proposed Rule. For this reason, each sets out a mandatory performance standard and suggested means of meeting that standard. Promulgators of guidelines are thus free to use their particular expertise to craft guidelines that meet the performance standards while taking into account industry-specific concerns and technological developments.

Where guidelines are drafted to be industry-specific, they must define the nature of the businesses to which they apply. An operator can rely on a particular set of guidelines only if it meets the guidelines' definition of applicable businesses.

In making its determination as to whether to approve submitted guidelines, the Commission will review all elements of those guidelines, including assessment mechanisms, in light of the particular characteristics of the industry or sector that the guidelines are intended to govern.[15]

Section 312.10(b) clarifies that industry groups, or others, who create self-regulatory guidelines may contract with an independent entity, such as a seal program, to implement the assessment mechanism requirement. Under the performance standard enunciated in section 312.10(b)(2), assessment mechanisms must not be based solely on self-assessment by subject operators.

(c) Request for Commission Approval of Self-Regulatory Guidelines

(1) To obtain Commission approval of self-regulatory guidelines, industry groups or other persons must file a request for approval. A request shall be accompanied by the following:

(i) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(ii) A comparison of each provision of § 312.3 through § 312.9 with the corresponding provisions of the guidelines; and

(iii) A statement explaining:

(A) How the guidelines, including the applicable assessment mechanism, meet the requirements of this Rule; and

(B) How the assessment mechanism and compliance incentives required

[15] The Commission will also consider any possible anti-competitive misuse of self-regulatory guidelines.

under paragraphs (b)(2) and (3) of this section provide effective enforcement of the requirements of this Rule.

(2) The Commission shall act upon a request under this section within 180 days of the filing of such request and shall set forth its conclusions in writing.

Section 312.10(c) of the proposed Rule requires that persons requesting Commission approval of self-regulatory guidelines submit, in addition to the guidelines and any attendant commentary, documentation supporting the proposition that the guidelines meet the requirements of this Rule. The 180-day period for the Commission to review and approve or reject any request will not begin until all of the documents required under section 312.10(c) have been submitted. If a request is denied and resubmitted, the 180-day period will run from the date of the resubmission.

An original and six paper copies of the request and supporting materials should be submitted to the Secretary, Federal Trade Commission, Room 159, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. To enable prompt review and accessibility to the public, the request and supporting materials should also be submitted, if possible, in electronic form, on either one 51/4 or one 31/2 inch computer disk with a label stating the name of the person filing the request and the name and version of the word processing program used. (Programs based on DOS or Windows are preferred. Files from other operating systems should be submitted in ASCII text format.)

Following initial review of a request under this section, the Commission will publish a notice of the filing of the request both in the **Federal Register** and on its website at <www.ftc.gov>, and will make a copy of the request available for examination by interested persons during business hours at the Federal Trade Commission, Public Reference Room, Room 130, 600 Pennsylvania Avenue, NW, Washington, D.C. 200580. A period of time will be allowed for interested parties to submit written comments to the Commission regarding the request.

If the Commission determines that the guidelines submitted meet the requirements of the proposed Rule, the Commission will approve the guidelines and publish a notice of the approval both in the **Federal Register** and on its website at <www.ftc.gov>. The Commission will furnish a copy of the notice to the person who filed the request. The approval will become effective 45 days from its publication in the **Federal Register** and on the Commission's website.

If the Commission determines that it cannot approve the guidelines, the Commission will notify the persons who filed the request of the facts upon which its findings are based and will afford those persons a reasonable opportunity to resubmit their request. If, after reviewing the resubmitted request, the Commission finds that it still cannot make a favorable determination, the Commission will publish a notice of its determination both in the **Federal Register** and on its website at <www.ftc.gov>, and will furnish a copy of the notice to the persons who filed the request.

Under section 1304(c) of the Children's Online Privacy Protection Act, final action by the Commission on a request for approval of self-regulatory guidelines, or the Commission's failure to act within 180 days of the filing of such request, may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.[16]

(d) Records

Industry groups or other persons who seek safe harbor treatment by compliance with guidelines that have been approved under this Rule shall maintain and upon request make available to the Commission for inspection and copying

(1) Consumer complaints alleging violations of the guidelines by subject operators, for a period not less than three years following receipt of such complaints;

(2) Records of disciplinary actions taken against subject operators; and

(3) Results of the independent assessments of subject operators' compliance required under paragraph (b)(2) of this section.

(e) Revocation of Approval

The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory guidelines and their implementation do not, in fact, meet the requirements of this Rule.

Before revoking any approval of self-regulatory guidelines, the Commission will notify the persons filing the request for approval, or their designees, of the facts or conduct that, in the Commission's opinion, warrant such revocation, and will afford those persons such opportunity as the Commission deems appropriate in the circumstances to demonstrate that the guidelines and their implementation comply with the proposed Rule.

If, after considering all of the facts, the Commission determines that the guidelines or their implementation do not comply with the proposed Rule, the Commission will publish a notice of its intention to revoke approval of the guidelines both in the **Federal Register** and on its website at <www.ftc.gov>. A period of time will be allowed for interested persons to submit written comments to the Commission regarding the intention to revoke approval.

If the Commission revokes its approval of the guidelines, it will publish notice of the revocation both in the **Federal Register** and on its website at <www.ftc.gov>, and a copy of such notice will be furnished to the persons who filed the request, or their designees. The revocation will become effective 45 days from its publication in the **Federal Register** and on the Commission's website.

Section 312.11 Rulemaking Review

No later than five years after the effective date of this Rule, the Commission shall initiate a rulemaking review proceeding to evaluate the implementation of this rule, including the effect of the implementation of this Rule on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and report to Congress on the results of this review.

Section 312.12 Severability

The provisions of this Rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

Section C. Invitation to Comment

Before adopting this rule as final, the Commission will give consideration to any written comments submitted to the Secretary of the Commission on or before June 11, 1999. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and Commission regulations, on normal business days between the hours of 8:30 a.m. and 5 p.m. at the Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580. Comments will also be posted on the Commission website, <*www.ftc.gov*>.

[16] Section 1304(c), Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681, _____, _____ U.S.C. _____, _____ (October 21, 1998).

Section D. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. *See* 16 CFR 1.26(b)(5) (1998).

Section F. Regulatory Flexibility Act

The provision of the Regulatory Flexibility Act requiring an initial regulatory flexibility analysis (5 U.S.C. 603) does not apply because it is believed that the Rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605). This notice also serves as certification to the Small Business Administration of that determination.

The Rule's requirements are expressly mandated by the Children's Online Privacy Protection Act of 1998.[17] Thus, the economic impact of the Rule itself is not anticipated to be significant, since any additional costs of complying with the Rule, beyond those imposed by the statute or otherwise likely to be incurred in the ordinary course of business, are expected to be comparatively minimal. Where the Act permits, the regulations have been drafted so as to permit maximum flexibility in the way that affected firms achieve the goals of the Act. In any event, the costs borne by all firms, including small businesses, appear unavoidable under the terms of the Act.

Nonetheless, to ensure that no significant economic impact on a substantial number of small entities is overlooked, the Commission hereby requests public comment on the effect of the proposed Rule on the costs, profitability, and competitiveness of, and employment in, small entities. After considering such comments, if any, the Commission will determine whether preparation of a final regulatory flexibility analysis (pursuant to 5 U.S.C. 604) is required.

Section G. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act (PRA) (as amended 44 U.S.C. 3507(d)), the Commission has submitted the proposed Children's Online Privacy Protection Rule to the Office of Management and Budget for its review. The Children's Online Privacy Protection Act mandates specific disclosure requirements relating to the collection of personal information from children. Specifically, the Act requires that operators subject to this Act provide notice to parents.[18] Based upon survey data,[19] informal discussions with industry members, and public information, the Commission has estimated for purposes of the PRA the burden-hour on operators subject to this rule, both individually and as an industry, to provide notice to parents. To the extent that the proposed rule's notice requirements are expressly mandated by the Act, the Commission has adopted a performance standard suggested by the Act to provide flexibility in implementing the requirements.

Because the online marketplace is a very new industry, costs for providing privacy protection have not been gathered to date. Nevertheless, we have attempted to estimate costs associated with providing notice for purposes of the PRA. In particular, the Commission seeks comments on how to minimize the burden of the notice requirement through the use of appropriate automated, electronic, mechanical, or other technological mechanisms.

The estimate of the burden imposed by the notice requirement is divided into first year start-up costs and subsequent year costs. For purposes of providing notice, the estimated cost for 300 websites directed to children, at 60 hours per site (the estimated time needed to develop the privacy policy, post it on the website and design a mechanism to provide the notice, *e.g.*, an e-mail program), represents a total burden of 18,000 hours for the first year. Subsequent years would be much less, since the start-up costs, such as crafting a privacy policy and posting it online, are generally one-time costs. We estimate the burden-hour in subsequent years would be about 1800 hours to cover the cost of new children's sites coming into the marketplace and providing notice to parents.

Section H. Effective Date

The Children's Online Privacy Protection Act directs the Commission to "promulgate" regulations within one year of its enactment. An effective date for these rules will be announced by the Commission when it publishes these regulations in final form.

Section I. Questions on the Proposed Rule

The Commission is seeking comment on various aspects of the proposed Rule, and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted. Responses to these questions should cite the numbers and subsection of the questions being answered. For all comments submitted, please submit any relevant data, statistics, or any other evidence, upon which those comments are based.

General Question

1. Please provide comment on any or all of the provisions in the proposed Rule. For each provision commented on please describe (a) the impact of the provision(s) (including any benefits and costs), if any, and (b) what alternatives, if any, the Commission should consider, as well as the costs and benefits of those alternatives.

Definitions

2. Section 312.2 defines "Internet." Is this definition sufficiently flexible to account for changes in technology? If not, how should it be revised?

3. Section 312.2 defines "operator."

(a) Is this definition sufficiently clear to provide notice as to who is covered by the Rule?

(b) What is the impact of defining the term in this way?

4. Section 312.2 defines "personal information," in part, to include a persistent identifier, such as a customer number held in a cookie, or a processor serial number, where such identifier is associated with personal identifying information; an instant messaging user identifier; a screen name that reveals an individual's e-mail address; or a combination of a last name with other information such that the combination permits physical or online contacting. Are there additional identifiers that the Commission should consider adding to this list?

Notice

5. Section 312.4(b) lists an operator's obligations with respect to the online placement of the notice of its information practices.

(a) Are there other effective ways of placing notices that should be included in the proposed rule?

(b) How can operators make their links to privacy policies informative for parents and children?

6. Section 312.4(b)(2)(i) requires the notice on the website or online service

[17] Supra note 1.

[18] The sections of the proposed Rule that refer to notice are §§ 312.3(a), 312.4, 312.5(c), and 312.6(a). These sections implement §§ 1302(9), 1303 (b)(1)(A)(i), (b)(2)(B), (b)(2)(C)((i), and (b)(2)(D)(iii) of the Act.

[19] Federal Trade Commission, *Privacy Online: A Report to Congress*, June 1998.

to state the name, address, phone number, and e-mail address of all operators collecting personal information through the website. Where there are multiple operators collecting personal information through the website, are there other efficient means of providing information about the operators that the Commission should consider?

7. Section 312.4(b)(2)(iv) requires an operator to state whether the third parties to whom it discloses personal information have agreed to maintain the confidentiality, security, and integrity of that information. How much detail should an operator be required to disclose about third parties' information practices?

8. Section 312.4(b)(2)(vi) requires an operator's notice to state that the parent has the right to review personal information provided by his or her child and to make changes to and/or have that information deleted, and to describe how the parent can do so. Is this information needed in the notice on the website or online service, or should it be included only in the notice provided directly to the parent under section 312.4(c)?

9. Section 312.4(c) lists several methods an operator may employ to provide direct notice to a parent whose child wants to provide personal information or from whose child the operator wishes to collect personal information. Are there other, equally effective methods of providing notice to parents that the Commission should consider?

10. Section 312.4(c)(1) details the information that must be included in the notice to the parent.

(a) What, if any, of this information is unnecessary?

(b) What, if any, other information should be included in the notice to the parent?

11. Section 312.5 requires the operator to send a new notice and request for consent to parents in certain circumstances. The proposal covers instances where the operator wishes to use the information in a manner that was not included in the original notice, such as disclosing it to parties not covered by the original consent, including parties created by a merger or other corporate combination involving existing operators or third parties.

(a) Does this formulation sufficiently protect children's privacy given the high merger activity in this industry?

(b) Is this formulation more burdensome than necessary to protect those interests?

(c) Is there an alternative formulation that would sufficiently protect children's privacy without unnecessarily burdening operators?

Parental Consent

12. Section 312.5(a)(2) requires operators to give the parent the opportunity to consent to the collection and use of the child's personal information without consenting to the disclosure of that information to third parties. Should the rule also require that the parent be given the option to refuse to consent to different internal uses of the child's personal information by the operator?

13. The commentary on section 312.5(b) identifies a number of methods an operator might use to obtain verifiable parental consent.

(a) Are the methods listed in the commentary easy to implement?

(b) What are the costs and benefits of using the methods listed?

(c) Are there studies or other sources of data showing the feasibility, costs, and/or benefits of the methods listed?

(d) Are there existing methods, or methods in development, to adequately verify consent using an e-mail-based mechanism?

(e) What are the costs and benefits of obtaining consent using an e-mail-based mechanism?

(f) To what extent is digital signature technology in use now? Are there obstacles to the general commercial availability or use of digital signature technology?

(g) What, if any, other methods of obtaining consent should the Commission consider? Please describe how those methods work, their effectiveness, feasibility, costs and/or benefits, and, if still in development, when they will be available.

14. With respect to methods of obtaining verifiable parental consent, should the Commission allow greater flexibility in mechanisms used to obtain verifiable parental consent in cases where the operator does not disclose children's personal information to third parties or enables a child to make such information publicly available through, for example, a chat room or bulletin board?

15. Are there any studies or other sources of data regarding the ease or frequency with which children can fabricate parental consent using any of the methods discussed in the proposed Rule?

16. Would additional research regarding children's behavior in the online environment be useful in assessing the appropriateness of various parental consent mechanisms?

17. Section 312.5(c)(1) allows an exception to prior parental consent where an operator collects the name or online contact information of a parent or child to be used for the sole purpose of obtaining parental consent or providing notice under this rule. Under this exception, if an operator has not obtained parental consent after a "reasonable time" from the date of the information collection, the operator must delete the information from its records.

(a) What is a "reasonable time" for purposes of this requirement? On what is this estimate of a "reasonable time" based?

(b) Alternatively, should an operator be required to maintain a "do-not-contact" list so as to avoid sending multiple requests for consent to a parent who has previously refused to consent? What are the costs and benefits of such a "do-not-contact" list?

18. Section 1303(b)(2)(B) of the Children's Online Privacy Protection Act and Section 312.5(c)(1) of the proposed Rule allow an operator to collect the name or online contact information of a parent or child solely for the purpose of obtaining parental consent or providing notice. Are there circumstances that would necessitate collection of the child's online contact information rather than the parent's?

19. Section 312.5(c)(4) allows an exception to prior parental consent where an operator collects information from a child in order to protect the safety of a child participant on its site. What specific circumstances should trigger this exception?

20. Section 312.5(c)(5) allows an exception to prior parental consent where an operator collects information from a child for certain limited purposes. To what extent is a child's name or e-mail address necessary:

(a) To protect the security of the website;

(b) To aid in the judicial process; or

(c) To aid in law enforcement?

21. Section 1303(b)(2)(C)(ii) of the Children's Online Privacy Protection Act authorizes the Commission to allow other exceptions to prior parental consent in this rule "in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child." What other circumstances might merit such an exception? What are the risks and benefits of creating such an exception?

Right of Parent to Review Personal Information Provided by Child

22. Section 312.6 gives a parent whose child has provided personal

information to a website the right, upon proper identification of that parent, to review the personal information provided by the child. The commentary on this section lists several methods an operator may employ to obtain proper identification of a parent.

(a) Are there any other methods of identification that the Commission should consider?

(b) In particular, are there other methods that could constitute proper identification in non-traditional family situations (e.g., where the child and parent do not live at the same address or where someone other than a parent is the legal guardian)?

(c) Are there any technological advances under development that may ease the process of obtaining proper identification of a parent?

Prohibition Against Conditioning a Child's Participation on Collection of Personal Information

23. Section 312.7 prohibits operators from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity. What kinds of information do sites collect as a condition of allowing a child to participate in a game, contest, chat room, or other online activity?

Confidentiality, Security and Integrity of Personal Information Collected From Children

24. Section 312.8 requires operators to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(a) What practices are commonly used to maintain the safety and confidentiality of data collected online?

(b) What practices provide the strongest protection?

(c) How much does it cost to implement such practices?

Safe Harbor

25. Section 312.10(b)(2) requires that, in order to be approved by the Commission, self-regulatory guidelines include an effective, mandatory mechanism for the independent assessment of subject operators' compliance with the guidelines. Section 312.10(b)(2) lists several examples of such mechanisms. What other mechanisms exist that would provide similarly effective and independent compliance assessment?

26. Section 312.10(b)(3) requires that, in order to be approved by the Commission, self-regulatory guidelines include effective incentives for compliance with the guidelines. Section 312.10(b)(3) lists several examples of such incentives. What other incentives exist that would be similarly effective?

27. Section 1304(b)(1) of the Children's Online Privacy Protection Act requires the Commission to provide incentives for self-regulation by operators to implement the protections afforded children under the Act. The safe harbor provisions of section 312.10 of the proposed rule are one such incentive. What other incentives should the Commission consider?

Paperwork Reduction Act

28. The Commission solicits comments on the notice requirements of the proposed Rule to the extent that they constitute "collections of information" within the meaning of the Paperwork Reduction Act. The Commission requests comments that will enable it to:

(a) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collections of information on those who must comply, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Section J. Proposed Rule

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, E-mail, Internet, Online service, Privacy, Record retention, Safety, Science and technology, Trade practices, Website, Youth.

Accordingly, the Federal Trade Commission proposes to amend 16 CFR chapter I by adding a new Part 312 to read as follows:

PART 312—CHILDREN'S ONLINE PRIVACY PROTECTION RULE

Sec.

312.1 Scope of regulations in this part.
312.2 Definitions.
312.3 Regulation of unfair and deceptive acts and practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
312.4 Notice.
312.5 Parental consent.
312.6 Right of parent to review personal information provided by a child.
312.7 Prohibition against conditioning a child's participation on collection of personal information.
312.8 Confidentiality, security, and integrity of personal information collected from children.
312.9 Enforcement.
312.10 Safe harbors.
311.11 Rulemaking review.
312.12 Severability.

Authority: Secs. 1301–1308, Pub. L. 105–277, 112 Stat. 2681.

§ 312.1 Scope of regulations in this part.

This part implements the Children's Online Privacy Protection Act of 1998, [to be codified at 15 U.S.C. _____, *et seq.*,] which prohibits unfair and deceptive acts and practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the direct or passive gathering of any personal information from a child by any means, including but not limited to:

(a) Any online request for personal information by the operator regardless of how that personal information is transmitted to the operator;

(b) Collection using a chat room, message board, or other public posting of such information on a website or online service; or

(c) Passive tracking or use of any identifying code linked to an individual, such as a cookie.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclosure means, with respect to personal information:

(a) The release of personal information collected from a child in identifiable form by an operator for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the website or online service and who does not disclose or use that information for any other purpose, where:

(1) *Release of personal information* means the sharing, selling, renting, or

any other means of providing personal information to any third party, and

(2) *Support for the internal operations of the website or online service* means those activities necessary to maintain the technical functioning of the website or online service, or to fulfill a request of a child as permitted by § 312.5(c)(2) and (3); and

(b) Making personal information collected from a child by an operator publicly available in identifiable form, by any means, including by a public posting through the Internet, or through a personal home page posted on a website or online service; a pen pal service; an electronic mail service; a message board; a chat room; or any other means that would enable a child to reveal personal information to others online.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Online contact information means an e-mail address or any other substantially similar identifier that permits direct contact with a person online.

Operator means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce:

(a) Among the several States or with 1 or more foreign nations;

(b) In any territory of the United States or in the District of Columbia, or between any such territory, and

(1) Another such territory, or

(2) Any State or foreign nation; or

(c) Between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(a) A first and last name;

(b) A home or other physical address including street name and name of a city or town;

(c) An e-mail address;

(d) A telephone number;

(e) A Social Security number;

(f) A persistent identifier, such as a customer number held in a cookie or a processor serial number, where such identifier is associated with personal identifying information; a screen name that reveals an individual's e-mail address; an instant messaging user identifier; or a combination of a last name with other information such that the combination permits physical or online contacting; or

(g) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Third party means any person who is neither an operator with respect to the collection of personal information on the website or online service, nor a person who provides support for the internal operations of the website or online service.

Obtaining *verifiable consent* means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(a) Receives notice of the operator's personal information collection, use, and disclosure practices; and

(b) Authorizes any collection, use, and/or disclosure of the personal information.

Website or online service directed to children means a commercial website or online service, or portion thereof, that is targeted to children. Provided, however, that a commercial website or online service, or a portion thereof, shall not be deemed directed to children solely because it refers or links to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link. In determining whether a commercial website or online service, or a portion thereof, is targeted to children, the Commission will consider its subject matter, visual or audio content, age of models, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition; evidence regarding the intended audience; and whether a site uses animated characters and/or child-oriented activities and incentives.

§ 312.3 Regulation of unfair and deceptive acts and practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

(a) Provide notice on the website or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));

(b) Obtain verifiable parental consent for any collection, use, and/or disclosure of personal information from children (§ 312.5);

(c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);

(d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and

(e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* All notices under §§ 312.3(a) and 312.5 must be clearly and understandably written, be complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Notice on the website or online service.* An operator must post a link to a notice of its information practices with regard to children on the home page of its website or online service and at each place on the website or online service where personal information is collected from children.

(1) *Placement of the notice.*

(i) The link to the notice must be clearly labeled as a notice of the website

or online service's information practices with regard to children;

(ii) The link to the notice must be placed in a prominent place on the home page of the website or online service such that a typical visitor to the home page can see the link without having to scroll down; and

(iii) There must be a prominent link to the notice at each place on the website or online service where children directly provide, or are asked to provide, personal information such that a typical visitor to those places can see the link without having to scroll down.

(2) *Content of the notice.* To be complete, the notice of the website or online service's information practices must state the following:

(i) The name, address, phone number, and e-mail address of all operators collecting personal information from children through the website or online service;

(ii) The types of personal information collected from children and whether the personal information is collected directly or passively;

(iii) How such personal information is or may be used by the operator, including but not limited to fulfillment of a requested transaction, recordkeeping, marketing back to the child, or making it publicly available through a chat room or by other means;

(iv) Whether personal information is disclosed to third parties, and if so, the types of business in which such third parties are engaged, and the general purposes for which such information is used; whether those third parties have agreed to maintain the confidentiality, security, and integrity of the personal information they obtain from the operator; and that the parent has the option to consent to the collection and use of their child's personal information without consenting to the disclosure of that information to third parties;

(v) That the operator is prohibited from conditioning a child's participation in an activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity; and

(vi) That the parent can review, make changes to, or have deleted the child's personal information and state the procedures for doing so.

(c) *Notice to a parent.* Under § 312.5, an operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives notice of an operator's practices with regard to the collection, use, and/or disclosure of the child's personal information, including any collection, use, and/or disclosure to which the parent has not previously consented.

(1) *Content of the notice to the parent.*

(i) All notices must state the following:

(A) That the operator wishes to collect personal information from the child;

(B) The information set forth in paragraph (b) of this section.

(ii) In the case of a notice to obtain verifiable parental consent under § 312.5(a), the notice must also state that the parent's consent is required for the collection, use, and/or disclosure of such information, and state the means by which the parent can provide verifiable consent to the collection of information.

(iii) In the case of a notice under the exception in § 312.5(c)(3), the notice must also state the following:

(A) That the operator has collected the child's e-mail address or other online contact information to respond to the child's request for information and that the requested information will require more than one contact with the child;

(B) That the parent may refuse to permit further contact with the child and require the deletion of the e-mail address or other online contact information; and

(C) That if the parent fails to respond to the notice, the operator may use the information for the purpose(s) stated in the notice.

(iv) In the case of a notice under the exception in § 312.5(c)(4), the notice must also state the following:

(A) That the operator has collected the child's name and e-mail address or other online contact information to protect the safety of the child participating on the website or online service;

(B) That the parent may refuse to permit the use of the information and require the deletion of the information; and

(C) That if the parent fails to respond to the notice, the operator may use the information for the purpose stated in the notice.

§ 312.5 Parental consent.

(a) *General requirements.* (1) An operator is required to obtain verifiable parental consent before any collection, use, and/or disclosure of personal information from children, including any collection, use, and/or disclosure to which the parent has not previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

(b) *Mechanisms for verifiable parental consent.* An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent.

(c) *Exceptions to prior parental consent.* Verifiable parental consent is required prior to any collection, use and/or disclosure of personal information from a child except as set forth in this paragraph. The exceptions to prior parental consent are as follows:

(1) Where the operator collects the name or online contact information of a parent or child to be used for the sole purpose of obtaining parental consent or providing notice under § 312.4. If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the operator must delete such information from its records;

(2) Where the operator collects online contact information from a child for the sole purpose of responding directly on a one-time basis to a specific request from the child, and where such information is not used to recontact the child and is deleted by the operator from its records;

(3) Where the operator collects online contact information from a child to be used to respond directly more than once to a specific request from the child, and where such information is not used for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that a parent receives notice and has the opportunity to request that the operator make no further use of the information, as described in § 312.4(c), immediately after the initial response and before making any additional response to the child. Mechanisms to provide such notice include, but are not limited to, sending the notice by postal mail or sending the notice to the parent's e-mail address, but do not include asking a child to print a notice form or sending an e-mail to the child;

(4) Where the operator collects a child's name and online contact information to the extent reasonably necessary to protect the safety of a child participant on the website or online service, and the operator uses reasonable efforts to provide a parent notice as described in § 312.4(c), where such information is:

(i) Used for the sole purpose of protecting the child's safety;

(ii) Not used to recontact the child or for any other purpose;

(iii) Not disclosed on the website or online service;

(5) Where the operator collects a child's name and online contact information and such information is not used for any other purpose, to the extent reasonably necessary:

(i) To protect the security or integrity of its website or online service;

(ii) To take precautions against liability;

(iii) To respond to judicial process; or

(iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

§ 312.6. Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a website or online service, and upon proper identification of that parent, the operator of that website or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from the child by the operator, such as name, address, telephone number, e-mail address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing and making changes to any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

§ 312.9 Enforcement.

Subject to sections 1304 and 1306 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 1303 of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10. Safe harbors.

(a) *In general.* An operator will be deemed to be in compliance with the requirements of this part if that operator complies with self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, that, after notice and comment, are approved by the Commission.

(b) *Criteria for approval of self-regulatory guidelines.* To be approved by the Commission, guidelines must include the following:

(1) A requirement that operators subject to the guidelines ("subject operators") implement the protections afforded children under this part;

(2) An effective, mandatory mechanism for the independent assessment of subject operators' compliance with the guidelines. This requirement may be satisfied by:

(i) Periodic reviews of subject operators' information practices conducted on a random basis either by the industry group promulgating the guidelines or by an independent entity;

(ii) Periodic reviews of all subject operators' information practices, conducted either by the industry group promulgating the guidelines or by an independent entity; or

(iii) Seeding of subject operators' databases, if accompanied by either paragraphs (b)(2)(i) or (b)(2)(ii) of this section; and

(3) Effective incentives for subject operators' compliance with the guidelines. This requirement may be satisfied by:

(i) Mandatory, public reporting of disciplinary action taken against subject operators by the industry group promulgating the guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the guidelines; or

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the guidelines.

(c) *Implementation and effect.* The assessment mechanism required under paragraph (b)(2) of this section can be provided by an independent enforcement program, such as a seal program. In considering whether to initiate an investigation or to bring an enforcement action for violations of this part, and in considering appropriate remedies for such violations, the Commission will take into account whether an operator has been subject to self-regulatory guidelines approved under this section and whether the operator has taken remedial action pursuant to such guidelines, including but not limited to actions set forth in paragraphs (b)(3)(i) through (iii) of this section.

(d) *Request for Commission approval of self-regulatory guidelines.* (1) To obtain Commission approval of self-regulatory guidelines, industry groups or other persons must file a request for such approval. A request shall be accompanied by the following:

(i) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(ii) A comparison of each provision of §§ 312.3 through 312.9 with the corresponding provisions of the guidelines; and

(iii) A statement explaining:

(A) How the guidelines, including the applicable assessment mechanism, meet the requirements of this part; and

(B) How the assessment mechanism and compliance incentives required under paragraphs (b)(2) and (3) of this section provide effective enforcement of the requirements of this part.

(2) The Commission shall act upon a request under this section within 180 days of the filing of such request and shall set forth its conclusions in writing.

(e) *Records.* Industry groups or other persons who seek safe harbor treatment by compliance with guidelines that have been approved under this part shall maintain and upon request make available to the Commission for inspection and copying:

(1) Consumer complaints alleging violations of the guidelines by subject

operators, for a period not less than three years following receipt of such complaints;

(2) Records of disciplinary actions taken against subject operators; and

(3) Results of the independent assessments of subject operators' compliance required under paragraph (b)(2) of this section.

(f) *Revocation of approval.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory guidelines and their implementation do not, in fact, meet the requirements of this part.

§ 312.11 Rulemaking review.

No later than five years after [the effective date of the final rule], this Rule, the Commission shall initiate a rulemaking review proceeding to evaluate the implementation of this part, including the effect of the implementation of this part on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and report to Congress on the results of this review.

§ 312.12 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

By direction of the Commission.

Donald S. Clark,

Secretary.

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Tuesday
April 27, 1999

Part VI

Department of Labor

Employment and Training Administration

Consultation Paper on Awarding Incentive Grants and Applying Sanctions for Title I Programs Under Sections 503 and 136 of the Workforce Investment Act; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Consultation Paper on Awarding Incentive Grants and Applying Sanctions for Title I Programs Under Sections 503 and 136 of the Workforce Investment Act (WIA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to disseminate a consultation paper for interested parties on the awarding of Incentive Grants and application of Sanctions pertaining to the Performance Accountability Measurement System for Title I of WIA. This is the third of a series of consultation papers on the implementation of the Performance Accountability System under Title I of WIA. On March 24, 1999 two consultation papers were published in the **Federal Register**, the framework for Core Performance and Customer Satisfaction Measures and the framework for Negotiating State Adjusted Levels of Performance. Interested parties have 30 days to provide comments on this paper.

DATES: Comments must be received by May 27, 1999.

ADDRESSES: Send comments to Mr. Eric Johnson, Workforce Investment Implementation Taskforce Office, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S–5513, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Johnson, Workforce Investment Implementation Taskforce Office, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S5513, Washington, DC, Telephone: (202) 219–0316.(voice) (This is not a toll-free number), or 1–800 326–2577 (TDD). Information may also be found or comments provided, at the website—http://usworkforce.org.

SUPPLEMENTARY INFORMATION: The Workforce Investment Act , Pub. L. 105-220 (August 7, 1998) provides the framework for a reformed National workforce and employment system designed to meet the needs of the Nation's employers, job seekers and those who want to further their careers.

The Workforce Investment Act requires that a performance and accountability system be developed and implemented. The system must include certain core measures regarding performance and customer satisfaction. Adjusted levels of performance must be negotiated between the Governor and the Secretary of Labor for each core and customer satisfaction measure, and applicable incentives or sanctions applied.

The U.S. Department of Labor in establishing this performance accountability system and is interested in comments and suggestions concerning the process for awarding Incentive Grants and applying Sanctions. Some of the questions on which the Department of Labor is seeking input are the following:

- Whether a "range" vs. a single value should be used to differentiate between being eligible for an incentive award and application of sanctions;
- How the bottom of such a "range" should be determined (ie. a nationally determined percentage from the negotiated State Adjusted Level of Performance, different percentages based on specific factors, etc.);
- The proposed methodology for determining when a State should be considered eligible for an incentive grant;
- The factors to be used in determining the level of monetary sanctions; and
- The proposed methodology for calculating failure to meet the adjusted levels.

Please consider these issues as you review this consultation paper, and provide comments.

Signed at Washington, D.C., this 21st day of April 1999.

Raymond L. Bramucci,

Assistant Secretary of Labor, Employment and Training Administration.

Attachment

I. Incentives and Sanctions Under WIA

WIA contains performance accountability provisions intended to hold States accountable for the results obtained by their workforce programs and system. Performance accountability revolves around the planning, assisting, rewarding and sanctioning performance measured by agreed-upon levels for a set of core and customer satisfaction indicators.

WIA requires that the Secretary reach agreement with each State on the expected levels of performance for core indicators of performance. Section 136(b)(3)(A)(iv)(III) of WIA requires that the agreement between the Secretary and the State take into account the extent to which the levels for years 1, 2 and 3 of the 5 year strategic State plans (and subsequently years 4 and 5) promote continuous improvement and ensure optimal return on investment.

WIA section 503 provides that the Secretary shall award an incentive grant to each State that exceeds the State adjusted levels of performance for WIA Titles I and II and the Vocational and Applied Technology Education Act (Perkins Act). States that exceed the performance levels for WIA Titles I and II and the Perkins Act may apply for an incentive award for the purpose of carrying out an innovative program consistent with the requirements of any one or more of the programs within WIA Title I, WIA Title II, or the Perkins Act. The application must assure that the State legislature was consulted and that the Governor and the cognizant adult education and post-secondary vocational education agencies approved the application.

WIA section 136(g)(1)(B) provides that the Secretary may reduce the Title I grant by not more than 5 percent for a State's failure to meet adjusted performance levels under Title I for a second consecutive year or for failure to submit the annual performance progress report required under section 136(d).

State responsibilities for providing incentive grants to local areas are described under WIA section 134(a)(2)(B). Sanctions for local areas failing to meet local performance measures are discussed under section 136(h).

Some of the key issues for developing incentives and sanctions policy include:

(a) The nature of the WIA Title I state adjusted levels of performance;

(b) The definition or standard for exceeding the WIA Title I adjusted levels;

(c) The measures to be included for determining incentive awards;

(d) The criteria for qualifying for incentive grants;

(e) the amount of the incentive award;

(f) The definition or standard for failing to meet the adjusted levels;

(g) the criteria for receiving monetary sanctions;

(h) The amount of the monetary sanction; and

(i) sanctions for failing to submit annual performance progress reports.

A. The Nature of the WIA Title I State Adjusted Levels of Performance

WIA provides for establishment of state adjusted levels of performance which become the baseline performance levels for subsequent decisions related to incentives and sanctions. States that exceed the agreed-upon performance levels may receive incentive awards; and States that fail to meet the agreed upon levels may be sanctioned. A strict reading of the law might lead to the conclusion that the planned performance level is a single number or point, which is either exceeded or failed. If planned levels are driven high through negotiation, then fewer States will exceed the level and more states will fail it. If the planned levels are allowed to be low through negotiation, then just the opposite will occur and many States will be rewarded, some for quite low performance.

Stakeholders have suggested that incentives be awarded for high performance and that sanctions be reserved for truly low performance. These ideas suggest that a range of performance should be established so that only performance that exceeds the top of the range will receive incentive grants and only performance that falls below the bottom of the range will be subject to sanctions. States with performance within the range will neither qualify for incentives nor be subject to sanctions.

The state adjusted levels of performance constitute the top of the range and will be

arrived at through negotiation between the State and Department of Labor. As part of negotiation process, and in consideration of the factors described in WIA section 136(b)(3)(A)(iv), it is expected that the levels will assist the State to attain high levels of customer satisfaction, promote continuous improvement, and ensure optimal return on investment. The bottom of the range will be set initially by multiplying the State adjusted levels of performance by some appropriate percentage (e.g. 80 percent). This will be necessary in the initial years of WIA operation due to the lack of comparable performance data under WIA. However, establishment of the bottom of the range will be periodically reviewed as more comparable performance data under WIA becomes available and in the future the bottom of the range will be based on experience.

The use of a range acknowledges that performance can vary over time due to random events that cannot always be anticipated or necessarily prevented. The range could be expressed as a percentage or value; and it generally would not be the same for each measure, depending on the degree of variation of performance under each measure nationally. There are many possibilities for creating an appropriate "range." Once national WIA performance data becomes available, the breadth of the range can be refined and calibrated to assure that the lower limit is set at a level that reasonably represents unacceptable performance.

B. The Definition or Standard for Exceeding the Title I Adjusted Levels of Performance

WIA section 503 provides that the Secretary must award a grant to each State that exceeds the State adjusted levels of performance for WIA Titles I and II and the Perkins Act. WIA Title I will operate with 15 core and 2 customer satisfaction performance indicators. The determination for whether the adjusted levels of performance were exceeded will be based on the State's cumulative achievement across all measures. This will be done by calculating the percent of the State adjusted level achieved for each measure; and then averaging the percentages achieved across all measures. When the cumulative average across all measures exceeds 100 percent, the State will be determined to have exceeded the adjusted indicators overall. There is no minimum number of measures that must be exceeded; however, both customer satisfaction measures must be exceeded and a State may not fall below the bottom of the "range" for any measure. See Table A for an example as to how the cumulative averaging would work.

C. The Measures to be Included for Considering Incentive Awards

In addition to the core indicators of performance, WIA Titles I and II and the Perkins Act each allows States to identify additional indicators of performance which are subsequently defined to be part of the State adjusted levels of performance. Section 503 directs the Secretary to award incentives to states exceeding the state adjusted levels of performance. In order to promote equity and uniformity for award of incentive funds, only the Federally required core and customer satisfaction indicators will be considered in the methodology for determining eligibility for incentive awards.

D. The criteria for qualifying for incentive grants

WIA section 503 provides that the Secretary must award a grant to each State that exceeds the State adjusted levels of performance for WIA Title I, the expected levels of performance for WIA Title II, and the levels of performance under the Perkins Act. Qualifying for award of an incentive grant is dependent upon exceeding levels of performance for all three programs. To arrive at the decision to award incentive funds, DOL and DoED will determine if performance was exceeded for its respective programs; however, DOL and DoED will cooperate towards the development and use of a similar methodology to define what it means to exceed planned performance levels. In order to receive an incentive grant, performance must exceed planned performance in each of the three program areas.

E. The Amount of the Incentive Award

WIA section 503 indicates that incentive grants will be awarded in an amount that is not less than $750,000 and not more than $3,000,000. The primary issues related to determining the amount of award concern the equity of the size of the award among the states and the incentive power of the award. WIA section 503(c)(2) requires a proportionate reduction in the minimum and maximum amounts when total available funds are insufficient. Based upon achieved performance levels for Titles I and II of WIA and the Perkins Act, the DOL and DoED will publish a list of States qualifying for incentive grants along with the maximum amount of the grant based upon available funds. The methodology for determining award amounts will be developed at a later time. Section 666.230 of the interim final regulations for WIA Title I provides factors that may be considered in the determination.

F. The Definition or Standard for Failing to Meet the Adjusted Levels

Section 136(g) addresses sanctions for State failure to meet State performance measures for the core indicators or the customer satisfaction indicators under Title I of WIA. The Act indicates that failure should be defined as failing to meet levels established for each separate program or for the customer satisfaction indicators.

Failure will be defined using a calculation methodology similar to that used for defining exceeding; that is, calculating across relevant indicators the cumulative average achieved of the lower limit of the range. This will be done by calculating the percentage achieved of the lower limit of the range established for each measure; and then calculating the average achieved across all measures. When the cumulative average across relevant program measures falls below 100 percent of the lower limit, the State will be determined to have failed to meet the adjusted levels of performance. See Table B for an example of how the calculation of failure would work.

Determinations of failure will be established separately for each program (adult, dislocated workers, and youth) and for the program overall considering customer satisfaction measures. States that fail for any program year to achieve an average of at least 100 percent of the lower limit of the range for the relevant indicators for any single program, or the overall program measured by customer satisfaction, may request and receive technical assistance for the Secretary.

G. The Criteria for Receiving Monetary Sanctions

Section 136(g)(1)(B) provides that the Secretary may reduce the grant by not more than 5 percent of the amount payable under a program should the State fail to meet adjusted performance levels for a program for a second consecutive year. The failure must occur for the same program area for two consecutive years; in other words, the State must achieve an average below 100 percent of the lower limit of the range for two consecutive years for either the adult measures, the dislocated worker measures, the youth measures, or the customer satisfaction measures. The sanction system will be totally objective and will automatically invoke monetary sanctions when a State fails to achieve the minimum average performance for the same program for a second consecutive year. The grant may also be reduced by up to 5 percent for failure to submit the annual performance progress report required under section 136(d).

Since data will not be available in sufficient time to actually determine that there was a failure for a second consecutive year, the monetary sanction will be invoked with respect to the funding allocation for the next full program year following the year in which data about "the second consecutive year" became available. This approach assures that funding is not affected after-the-fact.

H. The Amount of the Monetary Sanction

Section 136(g)(1)(B) provides that the Secretary may reduce the grant by not more than 5 percent of the amount that would be payable under the program; and the penalty shall be based on the degree of failure to meet State adjusted levels of performance. Using the average percent achieved across relevant indicators for each program, and for the overall program based on customer satisfaction, there will be a one percent monetary sanction for every three percent below 100 percent cumulative attainment of the lower limit of the ranges established. As an example, achievement between 97.0 and 99.99 percent of the lower limit would result in a one percent reduction; achievement between 94.0 and 96.99 percent would result in a two percent deduction, etc.

I. Sanctions for Failure To Submit Annual Performance Progress Reports

Section 136(g)(1)(B) provides that the Secretary may reduce the grant amount by up to five percent for failure by a State to submit the annual performance progress report to the Secretary. States that are more than 45 days late in submitting complete and sufficiently accurate reports will be sanctioned by one percent, plus an additional one percent for each addition 45-day period of lateness. Any state sanctioned for not submitting its

performance progress report within the specified time will not be eligible to apply for incentive funds.

INCENTIVES EXAMPLE STATE A

Measures	Adjusted level	Actual	Percent achieved	Lower limit*
Adult				
Entered Employment	74%	82%	110.8	59.2%
6-Month Retention	86%	89%	103.5	68.8%
6-Month Earnings Change	$4,000	$3,579	89.5	$3,200
Credential Attainment Rate	20%	19%	95.0	16.0%
Dislocated Workers				
Entered Employment	82%	89%	108.5	65.6%
6-Month Retention	88%	92%	104.5	70.4%
6-Month Earnings Change	$1,000	$910	91.0	$800
Credential Attainment Rate	20%	25%	125.0	16.0%
Youth 19–21				
Entered Employment	55%	67%	121.8	44.0%
6-Month Retention	60%	70%	116.7	48.0%
6-Month Earnings Change	$3,000	$3,557	118.6	$2,400
Credential Attainment Rate	35%	47%	134.3	28.0%
Youth 14–18				
Skill Attainment	67%	72%	107.5	53.6%
Diplomas or Equivalent Attainment	25%	27%	108.0	20.0%
Placement and Retention	65%	62%	95.4	52.0%
Customer Satisfaction				
Employer	87%	94%	108.0	69.6%
Participant	87%	92%	105.7	69.6%
Average Achieved Over All	.....	.....	108.5	.....

State A has exceeded the adjusted levels for WIA Title I: the overall average percent achieved is over 100%; actual performance didn't fall below the lower limit for any measure; and both customer satisfaction adjusted levels were met.
*In this example, the lower limit was calculated at 80% of Adjusted Level for all measures.

SANCTIONS EXAMPLE STATE B

Measures	Lower limit	Actual	Percent achieved
Adult			
Entered Employment	56%	75%	133.9
6-Month Retention	65%	80%	123.1
6-Month Earnings Change	$3,000	$2,579	86.0
Credential Attainment Rate	15%	14%	93.3
Adult Program Average	.....	.....	109.1
Dislocated Workers			
Entered Employment	62%	80%	129.0
6-Month Retention	66%	76%	115.2
6-Month Earnings Change	$750	$605	80.7
Credential Attainment Rate	15%	20%	133.3
DW Program Average	.....	.....	114.5
Youth 19–21			
Entered Employment	41%	39%	95.1
6-Month Retention	45%	46%	102.2
6-Month Earnings Change	$2,250	$1,998	88.8
Credential Attainment Rate	26%	24%	92.3
Youth 14–18			
Skill Attainment	50%	54%	108.0
Diplomas or Equivalent Attainment	19%	20%	105.3
Placement & Retention	49%	47%	95.9
Youth Program Average	.....	.....	98.2
Customer Satisfaction			
Employer	65%	77%	118.5
Participant	65%	81%	124.6

SANCTIONS EXAMPLE STATE B—Continued

Measures	Lower limit	Actual	Percent achieved
Customer Satisfaction Average	.....	.....	121.5

State B failed the Youth Program measures: 98.2% of lower limit achieved on average. If these youth measures depict failure in the second consecutive year, a monetary sanction equal to one percent would be applied to the youth allocation.

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Tuesday
April 27, 1999

Part VII

The President

Proclamation 7187—National Crime Victims' Rights Week, 1999

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Title 3—

The President

Proclamation 7187 of April 22, 1999

National Crime Victims' Rights Week, 1999

By the President of the United States of America

A Proclamation

Over the past year, in communities across our Nation, Americans have witnessed with shock and disbelief the painful consequences of hatred and brutality. The beating and murder of Matthew Shepard in Wyoming and the killing of Billy Jack Gaither in Alabama taught us how easily prejudice can erupt into violence. The murder of James Byrd in Texas reminded us in stark terms of the poisonous legacy of racism in America. While the victims of these crimes are known to us because of the particularly heinous nature of the acts that took their lives, there are thousands more Americans unknown to us who become victims of crime each day. Behind each of these tragic statistics is an individual whose rights have been violated, whose life has been taken or irrevocably changed, and whose family, friends, and community have been touched by the shadows of violence and fear.

Recognizing the widespread impact of crime on our Nation, my Administration has worked hard during the past 6 years to strengthen our criminal justice system, to reduce the incidence of crime, and to champion the rights of crime victims. Through such landmark legislation as the Violent Crime Control and Law Enforcement Act of 1994—which included the Violence Against Women Act, the Brady Bill, and the Community Notification Act—we have put thousands of new police officers into America's communities, given crime victims a greater voice in the criminal justice process, prevented more than a quarter million felons, fugitives, and stalkers from obtaining handguns, and protected women and children from violence and abuse in their homes and communities. With these and other measures, we have provided communities with needed assistance and have helped reduce the violent crime rate in the United States to its lowest level in nearly a quarter century.

But we still have much to do if we are to prevent those crimes motivated by hatred. That is why I have urged the Congress to pass the Hate Crimes Prevention Act of 1999. This proposed legislation would strengthen existing Federal hate crimes law by covering crimes committed because of the victim's sexual orientation, gender, or disability, and by expanding the situations in which prosecutions can be brought for violent crimes perpetrated because of the victim's race, color, religion, or national origin.

As recent events have made clear, we must address intolerance early in life. We are reaching out to students in middle school—young people who are at an especially impressionable age—through a public-private partnership entitled "Dealing with Our Differences." This partnership will develop a program to teach tolerance in the classroom, highlight positive ways in which adolescents are dealing with issues of diversity, and show the harmful impact intolerance causes in the daily lives of our youth. In an effort to understand better the problem of hate crimes and prejudice among young Americans, I have asked the Departments of Justice and Education to include in their annual report card on school safety a new section on hate crimes among our youth, whether they occur in school or elsewhere; and these departments will also collect and publish data regarding hate crimes and intolerance on college campuses.

During National Crime Victims' Rights Week, let us remember not only those who have suffered at the hands of criminals, but also those generous men and women who work each day to bring justice and healing to victims and their loved ones. Whether as victims' advocates, counselors, law enforcement personnel, prosecutors, or community volunteers, they reflect America's resolve to protect the rights of every citizen and to build a future where our differences no longer make us targets of hatred and intolerance. Let us also remember in our prayers the people of Littleton, Colorado. While it is still too early to determine the specific circumstances that led to this week's tragic events, it is never too soon to teach our children that violence and hatred are wrong and have no place in our schools or in our society.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 25 through May 1, 1999, as National Crime Victims' Rights Week. I urge all Americans to remember crime victims and their families by working to reduce violence, to assist those harmed by crime, and to make our homes and communities safer places in which to live and raise our families.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

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H.R. 1376/P.L. 106–21

To extend the tax benefits available with respect to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes. (Apr. 19, 1999; 113 Stat. 34)

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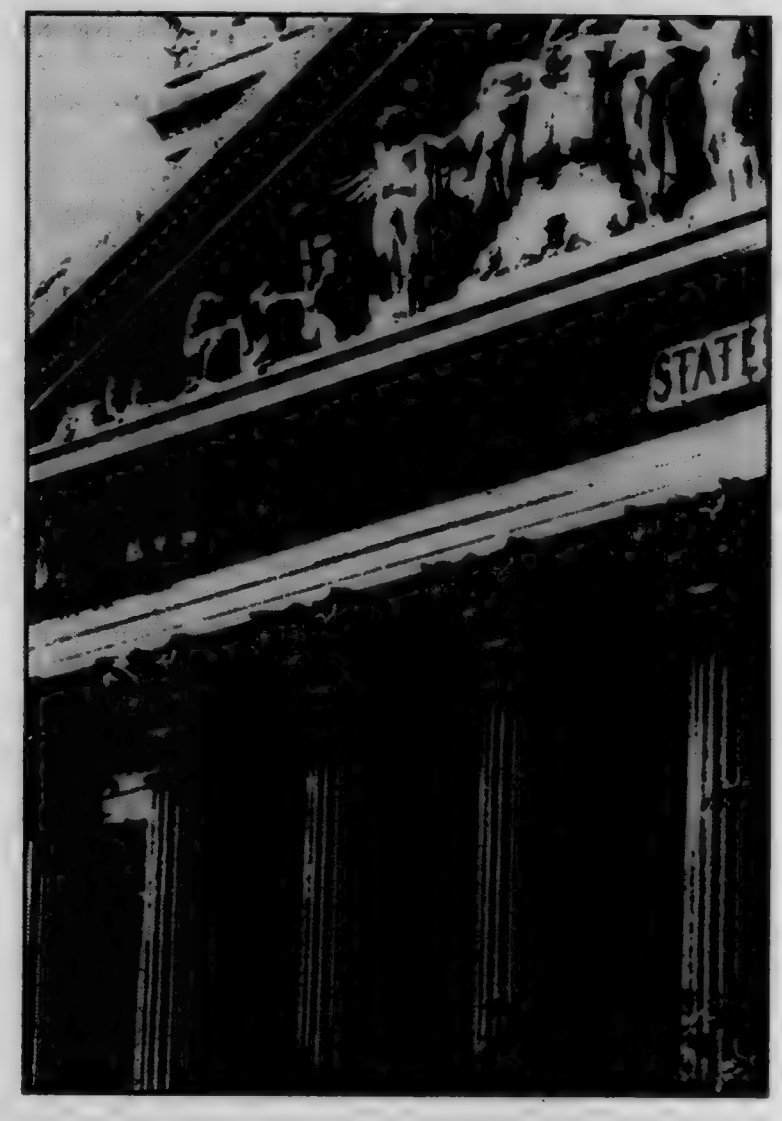

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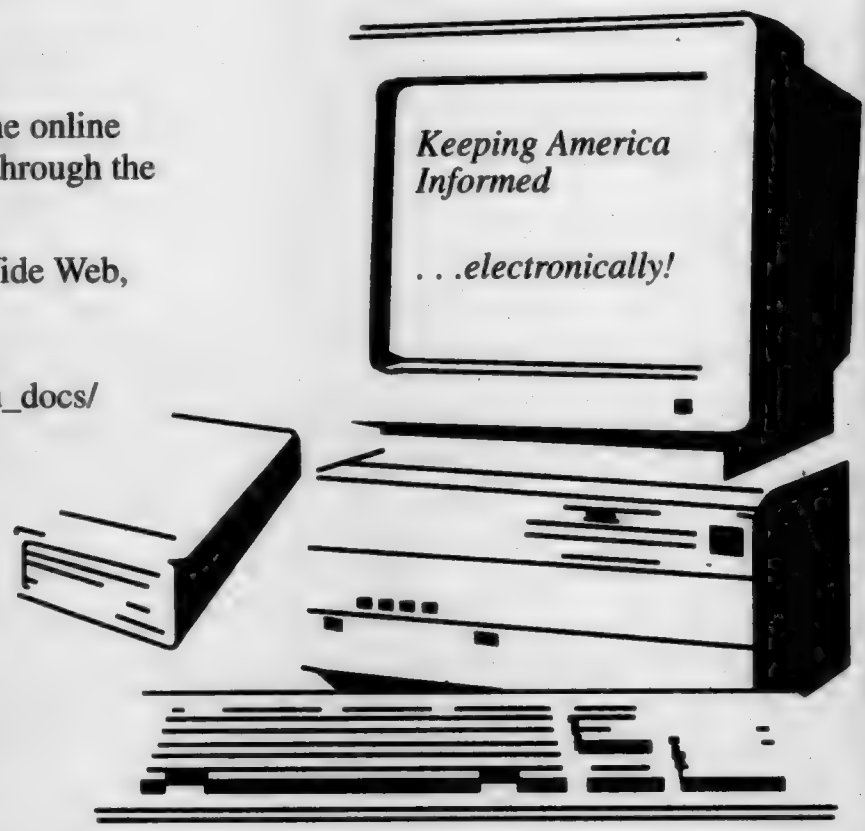

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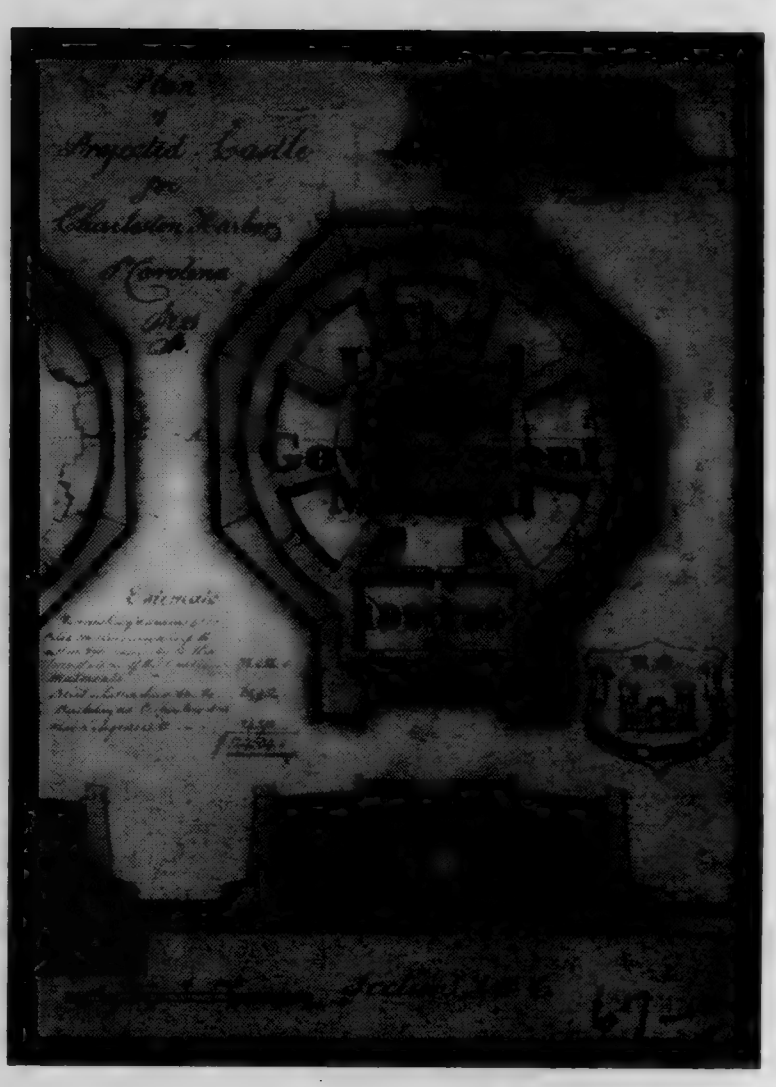

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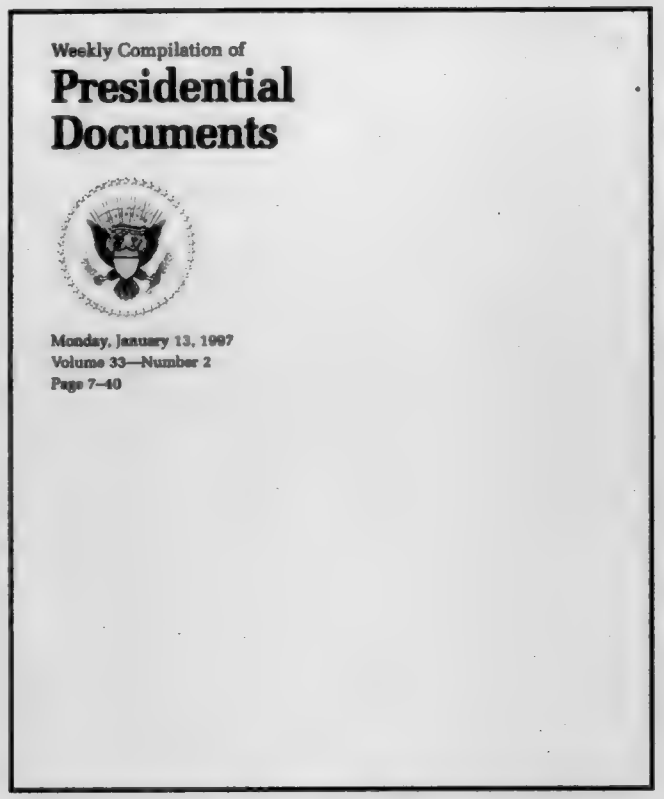

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Federal Register
Vol. 64, No. 81
Wednesday, April 28, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–98–AD; Amendment 39–11142; AD 99–09–09]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASH 26E Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASH 26E sailplanes. This AD requires inspecting the red silicone tube of the rotor interior air cooling system (just in front of the carburetor) for oil leaks and the heat damping layer of the lower exhaust damper fairing for oil contamination, and replacing the applicable parts where oil leakage or contamination is found. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct any oil-contaminated exhaust damper fairing caused by oil leakage in the red silicone tube of the rotor interior air cooling system, which could result in an exhaust fire and/or an explosion.

DATES: Effective June 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 7, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from Alexander Schleicher GmbH & Co., Segelflugzeugbau, Postfach 60, 36163 Poppenhausen, Germany; telephone: ++49 (0) 6658–890; facsimile: ++49 (0) 6658–8923. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–98–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Alexander Schleicher Model ASH 26E sailplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 5, 1999 (64 FR 445). The NPRM proposed to require inspecting the red silicone tube of the rotor interior air cooling system (just in front of the carburetor) for oil leaks and the heat damping layer of the lower exhaust damper fairing for oil contamination, and replacing the applicable parts where oil leakage or contamination is found.

Accomplishment of the proposed inspection as specified in the NPRM would be required in accordance with Alexander Schleicher Technical Note No. 6, dated August 10, 1998. The possible replacements as specified in the NPRM would be required to be accomplished in accordance with the applicable maintenance manual or other applicable FAA-approved document.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

This unsafe condition is not a result of the number of times the sailplane is operated. The chance of this situation occurring is the same for a sailplane with 10 hours time-in-service (TIS) as it would be for a sailplane with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time will be utilized in this AD in order to assure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

Differences Between the German AD, the Technical Note, and This AD

Both Alexander Schleicher Technical Note No. 6, dated August 10, 1998, and German AD 98–347, dated September 10, 1998, specify the initial inspection prior to further flight.

The FAA does not have justification through its regulatory process to require the inspection prior to further flight. To assure that no affected sailplane is inadvertently grounded, the FAA is utilizing a compliance time of 1 calendar month for the initial inspection.

Cost Impact

The FAA estimates that 8 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per sailplane to accomplish the inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the inspection on U.S. operators is estimated to be $480, or $60 per sailplane.

These figures only take into account the costs of the inspection and do not take into account the costs associated with any parts replacement that will be necessary if oil leakage or contamination is found. The FAA has no way of determining the number of

sailplanes that will need parts replacement because of oil leakage or contamination.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–09–09 Alexander Schleicher Segelflugzeugbau: Amendment 39–11142; Docket No. 98–CE–98–AD.

Applicability: Model ASH 26E sailplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect and correct any oil-contaminated exhaust damper fairing caused by oil leakage in the red silicone tube of the rotor interior air cooling system, which could result in an exhaust fire and/or an explosion, accomplish the following:

(a) Within the next calendar month after the effective date of this AD, inspect the red silicone tube of the rotor interior air cooling system (just in front of the carburetor) for oil leaks and the heat damping layer of the lower exhaust damper fairing for oil contamination, in accordance with the Action section of Alexander Schleicher Technical Note No. 6, dated August 10, 1998. Prior to further flight, replace the applicable parts where oil leakage or contamination is found, in accordance with the applicable maintenance manual or other applicable FAA-approved document.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Alexander Schleicher Technical Note No. 6, dated August 10, 1998, should be directed to Alexander Schleicher GmbH & Co., Segelflugzeugbau, Postfach 60, 36163 Poppenhausen, Germany; telephone: ++49 (0) 6658–890; facsimile: ++49 (0) 6658–8923. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) The inspection required by this AD shall be done in accordance with Alexander Schleicher Technical Note No. 6, dated August 10, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Alexander Schleicher GmbH & Co., Segelflugzeugbau, Postfach 60, 36163 Poppenhausen, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German AD 98–347, dated September 10, 1998.

(f) This amendment becomes effective on June 7, 1999.

Issued in Kansas City, Missouri, on April 15, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10169 Filed 4–27–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–11–AD; Amendment 39–11148; AD 99–09–15]

RIN 2120–AA64

Airworthiness Directive; Raytheon Aircraft Company Beech Models A36, B36TC, 58, 58A, C90A, B200, B300, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Beech Models A36, B36TC, 58, 58A, C90A, B200, B300, and 1900D airplanes. This AD requires inspecting for interference or inadequate clearance between the flight control mechanism and any component located forward of the instrument panel. If interference or inadequate clearance is found, this AD requires securing all components so that they are clear of the flight control mechanism. This AD is the result of an incident where the electrical/avionics wires made contact with and restricted the control system of the affected airplanes. The actions specified by this AD are intended to prevent any component or wiring from interfering with the flight control mechanism caused by inadequate clearance, which could result in reduced or loss of aileron and/or elevator control.

DATES: Effective May 18, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 18, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 18, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Region Counsel, Attention: Rules Docket No. 99–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5472 or (316) 676–3140. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Todd Dixon, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4152; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has received a report of an incident where a Raytheon Beech Model 1900D airplane temporarily lost aileron and elevator control when the control column restricted. After applying pressure several times to the control wheel, the airplane pilot was able to free the system and regain full control. Upon investigation of the incident, maintenance personnel found that the electrical/avionics wiring that is located forward of the instrument panel was entangled in the flight control system "T" column. To correct the problem, the wiring was secured away from the control column assembly.

Relevant Service Information

Raytheon has issued Mandatory Service Bulletin SB 27–3232, Issued: March, 1999, which specifies procedures for inspecting for interference and inadequate clearance between the flight control mechanism and any component located forward of the instrument panel.

Raytheon has also issued Safety Communique No. 149, dated August 1998; and Safety Communique No. 149, Rev. 1, dated November 1998. These service documents pertain to the flight control clearance condition and contain basically the same information as Mandatory Service Bulletin SB 27–3232, Issued: March, 1999.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the relevant service information, the FAA has determined that AD action should be taken to prevent any components or wiring from interfering with the flight control mechanism caused by inadequate clearance, which could result in reduced or loss of aileron and/or elevator control.

Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Beech Models A36, B36TC, 58, 58A, C90A, B200, B300, and 1900D airplanes of the same type design, the FAA is issuing an AD. This AD requires inspecting for interference or inadequate clearance between the flight control mechanism and any component located forward of the instrument panel. If interference or inadequate clearance is found, this AD requires securing all components so that they are clear of the flight control mechanism. Accomplishment of the required actions specified in this AD is required in accordance with Raytheon Mandatory Service Bulletin SB 27–3232, Issued: March, 1999.

Determination of the Effective Date of the AD

Since a situation exists (possible loss of aileron and/or elevator control) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–11–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the

Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99-09-15 Raytheon Aircraft Company (All type certificates of the affected airplanes previously held by the Beech Aircraft Corporation): Amendment 39-11148; Docket No. 99-CE-11-AD.

Applicability: The following Beech airplane models and serial numbers, certificated in any category:

Model	Serial Nos.
A36	E-3058 through E-3156, E-3158 through E-3170, E-3172 through E-3177, E-3180 through E-3185, E-3187 through E-3198, E-3200, and E-3202.
B36TC	EA-594 through EA-610, EA-613, EA-615, EA-616, EA-618, EA-619, and EA-621.
58 and 58A	TH-1806 through TH-1840, TH-1842 through TH-1854, TH-1856, TH-1860 through TH-1867, and TH-1870.
C90A	LJ-1459 through LJ-1504, LJ-1506 through LJ-1523, and LJ-1525 through LJ-1530.
B200	BB-1551 through BB-1591, BB-1593 through BB-1622, and BB-1624 through BB-1627.
B300	FL-152 through FL-179, FL-181 through FL-187, FL-189, FL-190, FL-192, FL-194, FL-196 through FL-205, FL-207, FL-210, and FL-211.
1900D	UE-1 through UE-319, UE-321, UE-323 through UE-328, UE-330 and UE-332.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent any components or wiring from interfering with the flight control mechanism caused by inadequate clearance, which could result in reduced or loss of aileron and/or elevator control, accomplish the following:

(a) Within the next 25 hours time-in-service after the effective date of this AD, inspect for interference or inadequate clearance between the flight control mechanism and any component located forward of the instrument panel. Perform this action in accordance with the Accomplishment Instructions in Raytheon Mandatory Service Bulletin SB 27-3232, Issued: March, 1999.

(b) If interference or inadequate clearance is found during the inspection required by paragraph (a) of this AD, prior to further flight, secure all components clear of the flight control mechanism as specified in the service bulletin.

(c) If the actions required in paragraphs (a) and (b) of this AD have been accomplished in accordance with Raytheon Safety Communiqué No. 149, Rev. 1, dated November 1998, or Raytheon Safety Communiqué No. 149, dated August 1998, then no further action is required by this AD.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(f) The inspection and modification required by this AD shall be done in accordance with Raytheon Mandatory Service Bulletin SB 27-3232, Issued: March, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201-0085. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 18, 1999.

Issued in Kansas City, Missouri, on April 19, 1999.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99-10314 Filed 4-27-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-SW-54-AD; Amendment 39-11150; AD 99-09-16]

RIN 2120-AA64

Airworthiness Directives; Eurocopter France (Eurocopter) Model SE 3130, SE 313B, SA 3180, SA 318B, and SA 318C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Eurocopter Model SE 3130, SE 313B, SA 3180, SA 318B, and SA 318C helicopters, that currently requires a visual inspection of the main rotor blade reinforcement strips for debonding between the reinforcement strips of the blade; and a visual inspection of the main rotor blade (blade) skin for cracks or corrosion, and replacement of the blade with an airworthy blade if certain debonding or a crack or corrosion is found. This amendment requires additional inspections using a tapping method, redefines the area to be inspected, and increases the repetitive inspection interval. This amendment is prompted by an in-flight failure of a main rotor blade on a Eurocopter SE 3130 helicopter. The actions specified by this AD are intended to detect bonding separation, cracks, or corrosion in the area of the blade root reinforcement

strip, and to prevent failure of a blade and subsequent loss of control of the helicopter.

DATES: Effective May 13, 1999. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 13, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–54–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aerospace Engineer, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On November 14, 1997 the FAA issued AD 97–24–04, Amendment 39–10211 (62 FR 62239, November 21, 1997), to require a visual inspection of each main rotor blade reinforcement strip for debonding between the reinforcement strips of a blade; and a visual inspection of the blade skin for cracks or corrosion, and replacement of the blade with an airworthy blade if certain debonding or a crack or corrosion is found. That action was prompted by an accident in which a blade separated in flight due to fatigue cracks in the blade that initiated from skin debonding or corrosion. That condition, if not corrected, could result in failure of a blade in flight and subsequent loss of control of the helicopter.

Since the issuance of that AD, Eurocopter has issued Eurocopter Service Bulletin No. 05.91, Revision No. 1, dated September 28, 1998, which provides more detailed procedures for performing the inspections required in the AD by requiring a tapping test and increases the repetitive inspection intervals from 25 hours time-in-service (TIS) to 100 hours TIS or 6 calendar months, whichever occurs first.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Direction Generale De L'Aviation Civile, (DGAC) which is the airworthiness authority for France, has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Model SE 3130, SE 313B, SA 3180, SA 318B, and SA 318C helicopters of the same type design, this AD supersedes AD 97–24–04 to require, before further flight, and thereafter, at intervals not to exceed 100 hours time-in-service or 6 calendar months, whichever occurs first, an inspection of each blade spar skin and blade root reinforcement area for bonding separations, cracks, or corrosion, and replacement with an airworthy blade if any bonding separation, crack, or corrosion is found. The actions are required to be accomplished in accordance with the service bulletin described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore the inspection and replacement, if necessary, is required prior to further flight and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 14 helicopters will be affected by this proposed AD, that it will take approximately 1.5 work hours to accomplish the inspections and 16 work hours to replace a blade, if necessary, and that the average labor rate is $60 per work hour. Required parts will cost approximately $40,000 per replacement blade. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $88,220, assuming 5 inspections per helicopter, per year, and 2 main rotor blade replacements for the entire fleet.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–SW–54–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10211 (62 FR 62239, November 21, 1997), and by adding a new airworthiness directive (AD), Amendment 39–11150, to read as follows:

AD 99–09–16 Eurocopter France: Amendment 39–11150. Docket No. 98–SW–54–AD. Supersedes AD 97–24–04, Amendment 39–10211, Docket No. 97–SW–22–AD.

Applicability: Model SE 3130, SE 313B, SA 3180, SA 318B, and SA 318C helicopters with main rotor blades, part number (P/N) 3130S11–10000-all part numbers, 3130S11–20000-all part numbers, or 3130S11–30000-all part numbers, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a main rotor blade (blade) in flight and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, and thereafter at intervals not to exceed 100 hours time-in-service (TIS) or 6 calendar months, whichever occurs first, inspect each blade spar skin and blade root reinforcement strip area for bonding separations, cracks, or corrosion in accordance with paragraphs 2.A. and 2.B. of the Accomplishment Instructions of Eurocopter Service Bulletin No. 05.91 Revision No. 1, dated September 28, 1998 (SB). Notification to Eurocopter La Courneuve, Department E/SRPT is not required.

(1) For the hatched areas (15 x 95mm and 8 x 95mm) on the upper and lower surfaces of each blade, if bonding separation is found, replace the blade with an airworthy blade prior to further flight (see Figure 1 of the SB).

(2) Bonding separation in the non-hatched area (8 x 95mm) of the upper and lower surfaces of each blade is permissible but must be inspected using the tapping method at intervals not to exceed 25 hours TIS in order to monitor possible propagation. If the bonding separation reaches the hatched area, the blade must be replaced with an airworthy blade before further flight (see Figure 1 of the SB).

(b) Before further flight, and thereafter at intervals not to exceed 100 hours TIS or 6 calendar months, whichever occurs first, visually inspect for bonding separation, a crack, or corrosion on the upper and lower skin in the 100 x 95mm blade root area (see Figure 1 of the SB). If a bonding separation in the hatched area, a crack, or corrosion is detected, replace the blade with an airworthy blade prior to further flight.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits will not be issued.

(e) The inspection and replacement, if necessary, shall be done in accordance with the Accomplishment Instructions of Eurocopter Service Bulletin No. 05.91 Revision No. 1, dated September 28, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 13, 1999.

Note 3: The subject of this AD is addressed in Direction Generale de L'Aviation Civile (France) AD 97–135–055(A) R1, dated July 15, 1998 and AD 97–135–055(A)R2, dated December 16, 1998.

Issued in Fort Worth, Texas, on April 16, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–10349 Filed 4–27–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

OSD Privacy Program

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule updates and implements procedures of the Privacy Act Program in the Office of the Secretary of Defense (OSD) and organizations provided Privacy Act administrative support by Washington Headquarters Services (WHS).

DATES: This rule is effective February 4, 1999. Comments must be received by June 28, 1999.

ADDRESSES: Forward comments to: DoD, WHS(C&D)D&R(records), 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: David Bosworth, 703–588–0159.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 311 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 311

Privacy.

Accordingly, 32 CFR part 311 is revised to read as follows:

PART 311—OSD PRIVACY PROGRAM

Sec.

311.1 Purpose.
311.2 Applicability and scope.
311.3 Definitions.
311.4 Policy.
311.5 Responsibilities.
311.6 Procedures.
311.7 Information requirements.

Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 552a).

§311.1 Purpose.

This part updates and implements basic policies and procedures outlined in 5 U.S.C. 552a, OMB Circular A–130,[1] and DoD 5400.11–R[2] and provides guidance and procedures for use in establishing the Privacy Program in the Office of the Secretary of Defense (OSD) and those organizations assigned to OSD for administrative support.

§311.2 Applicability and scope.

This part:

(a) Applies to the OSD, the Chairman of the Joint Chiefs of Staff, Uniformed Services University of the Health Sciences (USUHS) and other activities assigned to OSD for administrative support hereafter referred to collectively as "OSD Components."

(b) Covers record systems maintained by OSD Components and governs the maintenance, access, change, and release of information contained in OSD Component record systems, from which information about an individual is retrieved by a personal identifier.

§311.3 Definitions.

Access. Any individual's review of a record or a copy of a record or parts of a system of records.

Disclosure. The transfer of any personal information from a system of records by any means of oral, written, electronic, mechanical, or other communication, to any person, private entity, or Government agency, other than the subject of the record, the subject's designated agent, or the subject's guardian.

Individual. A living citizen of the United States or an alien lawfully admitted to the United States for permanent residence. The legal guardian of an individual has the same rights as the individual and may act on his or her behalf.

Individual access. Access to personal information pertaining to the individual, by the individual, his or her designated agent or legal guardian.

Maintain. Includes maintenance, collection, use or dissemination.

Personal information. Information about an individual that is intimate or private, as distinguished from information related solely to the individual's official functions or public life.

§311.4 Policy.

(a) It is DoD policy to safeguard personal information contained in any system of records maintained by any DoD Component and to permit any individual to know what existing records pertain to him or her in any OSD Component covered by this part.

(b) Each office maintaining records and information about individuals shall ensure that their privacy is protected from unauthorized disclosure of personal information. These offices shall permit individuals to have access to, and to have a copy made of all, or any portion of records about them, except as provided in Chapters 3 and 5, DoD 5400.11–R, and to have an opportunity to request that such records be amended as provided by the Privacy Act of 1974 and Chapter 3 of DoD 5400.11–R. Individuals requesting access to their records shall receive concurrent consideration under 5 U.S.C. 552a and the Freedom of Information Act, as amended, if appropriate.

(c) Heads of OSD Components shall maintain any necessary record of a personal nature that is individually identifiable in a manner that complies with the law and DoD policy. Any information collected must be as accurate, relevant, timely, and complete as is reasonable to ensure fairness to the individual. Adequate safeguards must be provided to prevent misuse or unauthorized release of such information.

§311.5 Responsibilities.

(a) The Director of Administration and Management, Office of the Secretary of Defense (DA&M, OSD) shall:

(1) Direct and administer the DoD Privacy Program for OSD Components.

(2) Establish standards and procedures to ensure implementation of and compliance with the Privacy Act of 1974, OMB Circular No. A–130, and DoD 5400.11–R.

(3) Designate the Director for Freedom of Information and Security Review as the point of contact for individuals requesting information of access to records and copies about themselves.

(4) Serve as the appellate authority within OSD when a requester appeals a denial for access to records under the Privacy Act.

(5) Serve as the appellate authority within OSD when a requester appeals a denial for amendment of a record or initiates legal action to correct a record.

(6) Evaluate and decide, in coordination with The General Counsel of the Department of Defense (GC, DoD), appeals resulting from denials of access or amendments to records by the OSD Components.

(7) Designate the Directives and Records Division, Correspondence and Directives Directorate, Washington Headquarters Services (WHS) as the office responsible for all aspects of the Privacy Act, except that portion about receiving and acting on public requests for personal records. As such, the Directives and Records Division shall:

(i) Exercise oversight and administrative control of the Privacy Act Program in OSD and those organizations assigned to OSD for administrative support.

(ii) Provide guidance and training to organizational entities as required by 5 U.S.C. 552a and OMB Circular A–130.

(iii) Collect and consolidate data from OSD Components, and submit an annual report to the Defense Privacy Office, as required by 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(iv) Coordinate and consolidate information for reporting all record systems, as well as changes to approved systems, to the OMB, the Congress, and the Federal Register, as required by 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(v) Collect information from OSD Components, and prepare consolidated reports required by 5 U.S.C. 552a and DoD 5400.11–R.

(b) The Director for Freedom of Information and Security Review shall:

(1) Forward requests for information or access to records to the appropriate OSD Component having primary

[1] Copies may be obtained by contacting EOP Publications, 725 16th Street, NW., NEOB, Washington, DC 20503.

[2] Copies may be obtained via internet at http://web7.whs.osd.mil/corres.htm.

responsibility for any pertinent system of records under 5 U.S.C. 552a, or to OSD Components, under the Freedom of Information Act, as amended.

(2) Maintain deadlines to ensure that responses are made within the time limits prescribed in DoD 5400.7–R,[3] DoD Instruction 5400.10,[4] and this part.

(3) Collect fees charged and assessed for reproducing requested materials.

(4) Refer all matters about amendments of records and general and specific exemptions under the 5 U.S.C. 552a to the proper OSD Components.

(c) The General Counsel of the Department of Defense shall:

(1) Coordinate all OSD final denials of appeals for amending records, and review actions to confirm denial of access to records, as appropriate.

(2) Provide advice and assistance to the DA&M, OSD in the discharge of appellate and review responsibilities, and to the DFOISR on all access matters.

(3) Provide advice and assistance to OSD Components on legal matters pertaining to the Privacy Act of 1974.

(d) The Heads of the OSD Components shall:

(1) Designate an individual as the point of contact for Privacy Act matters; designate an official to deny initial requests for access to an individual's records or changes to records; and advise both DA&M, OSD and DFOISR of names of officials so designated.

(2) Report any new record system, or changes to an existing system, to the Chief, Directives and Records Division, WHS, at least 90 days before the intended use of the system.

(3) Review all contracts that provide for maintaining records systems, by or on behalf of his or her office, to ensure within his or her authority, that language is included that provides that such systems shall be maintained in a manner consistent with 5 U.S.C. 552a.

(4) Revise procurement guidance to ensure that any contract providing for the maintenance of a records system, by or on behalf of his or her office, includes language that ensures that such system shall be maintained in accordance with 5 U.S.C. 552a.

(5) Revise computer and telecommunications procurement policies to ensure that agencies review all proposed contracts for equipment and services to comply with 5 U.S.C. 552a.

(6) Coordinate with Automatic Data Processing (ADP) and word processing managers providing services to ensure that an adequate risk analysis is conducted to comply with DoD 5400.11–R.

(7) Review all Directives that require forms or other methods used to collect information about individuals to ensure that they are in compliance with 5 U.S.C. 552a.

(8) Establish administrative systems in OSD Component organizations to comply with the procedures listed in this part and DoD 5400.11–R.

(9) Coordinate with the GC, DoD on all proposed denials of access to records.

(10) Provide justification to the DFOISR when access to a record is denied in whole or in part.

(11) Provide the record to the DFOISR when the initial denial of a request for access to such record has been appealed by the requester, or at the time of initial denial when appeal seems likely.

(12) Maintain an accurate account of the actions resulting in a denial for access to a record or for the correction of a record. This account should be maintained so that it can be readily certified as the complete record of proceedings if litigation occurs.

(13) Ensure that all personnel who either have access to the system of records, or who are engaged in developing or supervising procedures for handling records in the system, are aware of their responsibilities for protecting personal information as established in the Privacy Act and DoD 5400.11–R.

(14) Forward all requests for access to records received directly from an individual to the DFOISR for appropriate suspense control and recording.

(15) Provide DFOISR with a copy of the requested record when the request is granted.

(e) The requester who desires to submit a request is responsible for:

(1) Determining whether to submit the request in writing or in person. A requester who seeks access to records pertaining to himself or herself which are filed by his or her name or personal identifier:

(i) May make such a request in person to the custodian of the records. If the requester is not satisfied with the response, however, in order to invoke any provision of 5 U.S.C. 552a, DoD 5400.11–R, or this part, the requester must file a request in writing as provided in § 311.6(b)(10). The requester must provide proof of identify by showing drivers license or similar credentials.

(ii) Describing the record sought, and providing sufficient information to enable the material to be located (e.g., identification of system of records, approximate date it was initiated, originating organization, and type of document).

(iii) Complying with procedures provided in DoD 5400.11–R for inspecting and/or obtaining copies of requested records.

(iv) Submitting a written request to amend the record to the system manager or to the office designated in the system notice.

§ 311.6 Procedures.

(a) *Publication of notice in the* **Federal Register.** (1) A notice shall be published in the **Federal Register** of any record system meeting the definition of a system of records in DoD 5400.11–R.

(2) Regarding new or revised records systems, each OSD Component shall provide the Chief, Directives and Records Division with 90 days advance notice of any anticipated new or revised system of records. This material shall be submitted to the OMB and to Congress at least 60 days before use and to the Federal Register at least 30 days before being put into use, to provide an opportunity for interested persons to submit written data, views, or arguments to the OSD Components. Instructions on content and preparation are outlined in DoD 5400.11–R.

(b) *Access to information on records systems.* (1) Upon request, and as provided by the Privacy Act, records shall be disclosed only to the individual they pertain to and under whose individual name or identifier they are filed, unless exempted by provisions stated in DoD 5400.11–R.

(2) There is not requirement under 5 U.S.C. 552a that a record be created or that an individual be given access to records that are not in a group of records that meet this definition of a system of records in 5 U.S.C. 552a.

(3) Granting access to a record containing personal information shall not be conditioned upon any requirement that the individual state a reason or otherwise justify the need to gain access.

(4) No verification of identity shall be required of an individual seeking access to records that are otherwise available to the public.

(5) Individuals shall not be denied access to a record in a system of records about themselves because those records are exempted from disclosure under DoD 5400.7–R. Individuals may only be denied access to a record in a system of records about themselves when those records are exempted from the access provisions of the Privacy Act under DoD 5400.11–R, Chapter 5.

(6) Individuals shall not be denied access to their records for refusing to disclose their Social Security Numbers

[3] See footnote 2 to § 311.1.

[4] See footnote 2 to § 311.1.

(SSNs), unless disclosure of the SSN is required by statute, by regulation adopted before January 1, 1975, or if the record's filing identifier and only means of retrieval is by SSN.

(7) Individuals may request access to their records, in person or by mail, in accordance with the procedures outlined in paragraph (b)(8) of this section.

(8) Information necessary to identify a record is: the individual's name, date of birth, place of birth, identification of the records system as listed in the **Federal Register**, or sufficient information to identify the type of records being sought, and the approximate date the records might have been created. Any individual making a request for access to records in person shall come to the Directorate for Freedom of Information and Security Review (DFOISR), Room 2C757, Pentagon, Washington, DC 20301–1155; and shall provide personal identification acceptable to the Director, DFOISR, to verify the individual's identity (e.g., driver's license, other licenses, permits, or passes used for routine identification purposes).

(9) If an individual wishes to be accompanied by a third party when seeking access to records or wishes to have the record released directly to a third party, the individual may be required to furnish a signed access authorization granting the third party access.

(10) Any individual submitting a request by mail for access to information shall address such request to the Directorate for Freedom of Information and Security Review, Pentagon, Room 2C757, Washington, DC 20301–1155. To verify the identity of the individual, the request shall include either a signed notarized statement or an unsworn declaration in the format specified by 28 U.S.C. 1746.

(11) The following procedures shall apply to requests for access to records or information complied for law enforcement purposes:

(i) Individuals requesting access to records or information about themselves and complied for law enforcement purposes are processed under DoD 5400.11–R and DoD 5400.7–R to give them the greater degree of access.

(ii) Individual requests for access to records or information about themselves and compiled for law enforcement purposes (and in the custody of law enforcement activities) that have been incorporated into the records system, exempted from the access provisions of 5 U.S.C. 552a, will be processed in accordance with subsection C1.5.13 and Chapter 5, DoD 5400.7–R. Individuals shall not be denied access to records solely because they are in the exempt system, but they will have the same access that they would receive under DoD 5400.7–R. (Also see subsection A.10., Chapter 3, DoD 5400.11–R).)

(iii) Requests by the individuals for access to records or information about themselves and compiled for law enforcement purposes that are in records systems exempted from access provisions will be processed under subsection C.1., Chapter 5 of DoD 5400.11–R or DoD 5400.7–R, depending upon which regulation gives the greater degree of access. (See also subsection A. 10., Chapter 3, DoD 5400.1–R)

(iv) Individual requests for access to records or information about themselves and complied for law enforcement purposes exempted from access under Section B, Chapter 5 of DoD 54.11–R, that are temporarily in the hands of a non-law enforcement element for adjudicative or personnal actions, shall be referred to the originating agency. The requester will be informed in writing of these referrals.

(12) The following procedures shall apply to requests for illegible, incomplete, or partially exempt records:

(i) An individual shall not be denied access to a record or a copy of a record solely because the physical condition or format of the record does not make it readily available (e.g., deteriorated state or on magnetic tape). The document will be prepared as an extract, or it will be exactly recopied.

(ii) If a portion of the record contains information that is exempt from access, an extract or summary containing all of the information in the record that is releasable shall be prepared.

(iii) When the physical condition to the record makes it necessary to prepare an extract for release, the extract shall be prepared so that the requester will understand it.

(iv) The requester shall be informed of all deletions or changes to records.

(13) Medical records shall be disclosed to the individual they pertain to, unless a determination is made in consultation with a medical doctor, that the disclosure could have adverse effects on the individual's physical or mental health. Such information may be transmitted to a medical doctor named by the individual concerned. If the named medical doctor declines to provide the record to the individual, the OSD Components shall take positive action to ensure that the requested records are provided the individual.

(14) The individual may be charged reproduction fees for copies or records as outlined in DoD 5400.11–R.

(c) *Requested to amend personal information in records systems and disputes.* (1) The Head of an OSD Component, or the designated official, shall allow individuals to request amendment to their records to the extent that such records are not accurate, relevant, timely, or complete. Requests should be as brief and as simple as possible and should contain, as a minimum, identifying information to locate the record, as description of the items to be amended, and the reason for a change. A request shall not be rejected nor required to be resubmitted unless additional information is essential to process the request. Requesters shall be required to provide verification of their identify as stated in paragraph (b)(8) of this section, to ensure that they are seeking to amend records about themselves, and not, inadvertently or intentially, the records of others.

(1) The appropriate system manager shall mail a written acknowledgement to an individual's request to amend a record within 10 days after receipt, excluding Saturdays, Sundays, and legal public holidays. Such acknowledgement shall identify the request and may, if necessary, request any additional information needed to make a determination. No acknowledgment is necessary if the request can be reviewed, processed, and if the individual can be notified of compliance or denial within the 10–day period. Whenever practical, the decision shall be made within 30 working days. For requests presented in person, written acknowledgment may be provided at the time the request is presented.

(3) The Head of an OSD Component, or designated official, shall promptly take one of the following actions on requests to amend the records:

(i) If the OSD Component official agrees with any portion or all of an individual's request, he or she will proceed to amend the records in accordance with existing statutes, requlations, or administrative procedures, and inform the requester of the action taken. The OSD Component official shall also notify all previous holders of the record that the amendment has been made, and shall explain the substance of the correction.

(ii) If the OSD Component official disagrees with all or any portion of a request, the individual shall be informed promptly of the refusal to amend a record, the reason for the refusal, and the procedure established by OSD for an appeal as outlined in paragraph (c)(6) of this section.

(iii) If the request for an amendment pertains to a record controlled and maintained by another Federal Agency,

the request shall be referred to the appropriate Agency, and the requester advised of this:

(4) The following procedures shall be used when reviewing records under dispute:

(i) In response to a request for an amendment to records, officials shall determine whether the requester has adequately supported their claim that the record is inaccurate, irrelevant, untimely, or incomplete.

(ii) The Head of an OSD Component, or designated official, shall limit the review of a record of those items of information that clearly bear on any determination to amend the records and shall ensure that all those elements are present before determination is made.

(5) If the Head of an OSD Component, or designated official, after an initial review of a request to amend a record, disagrees with all or any portion of a record, he or she shall:

(i) Advise the individual of the denial and the reason for it.

(ii) Inform the individual that he or she may appeal the denial.

(iii) Describe the procedures for appealing the denial including the name and address of the official to whom the appeal should be directed. The procedures should be as brief and simple as possible.

(iv) Furnish a copy of the justification of any denial to amend a record to the DA&M, OSD.

(6) If an individual disagrees with the initial OSD determination, he or she may file an appeal. The request should be sent to the Director of Administration and Management, Office of the Secretary of Defense (DA&M, OSD), 1950 Defense Pentagon, Washington, D.C. 20301–1950, if the record is created and maintained by an OSD Component.

(7) If, after review, the DA&M, OSD further refuses to amend the record as requested, he shall advise the individual:

(i) Of the refusal and the reason and authority for the denial.

(ii) Of his or her right to file a statement of the reason for disagreeing with the DA&M's decision.

(iii) Of the procedures for filing a statement of disagreements.

(iv) That the statement filed shall be made available to anyone the record is dislosed to, together with a brief statement, at the discretion of the OSD Component, summarizing its reasons for refusing to amend the records.

(v) That prior recipients of copies of disputed records by provided by a copy of any statement of dispute to the extent that an accounting of disclosure is maintained.

(vi) Of his or her right to seek judicial review of the DA&M's refusal to amend a record.

(8) If, after the review, the DA&M, OSD, determines that the record should be amended in accordance with the individual's request, the OSD Component shall amend the record, advise the individual, and inform previous recipients where an accounting of disclosure has been maintained.

(9) All appeals should be processed within 30 days (excluding Saturdays, Sundays, and legal public holidays) after receipt by the proper office. If the DA&M determines that a fair and equitable review cannot be made within that time, the individual shall be informed in writing of the reasons for the delay and of the approximate date the review is expected to be completed.

(d) *Disclosure of disputed information.* (1) If the DA&M, OSD, has refused to amend a record and the individual has filed a statement under paragraph (c)(7) of this section, the OSD Component shall clearly annotate the disputed record so that it is apparent to any person to whom the record is disclosed that a statement has been filed. Where feasible, the notation itself shall be integral to the record. Where an accounting of a disclosure has been made, the OSD Component shall advise previous recipients that the record has been disputed and shall provide a copy of the individual's statement.

(i) This statement shall be maintained to permit ready retrieval whenever the disputed portion of the record is to be disclosed.

(ii) When information that is the subject of a statement of dispute is subsequently disclosed, the OSD Component's designated official shall note which information is disputed and provide a copy of the individual's statement.

(2) The OSD Component shall include a brief summary of its reasons for not making a correction when disclosing disputed information. Such statement shall normally be limited to the reasons given to the individual for not amending the record.

(3) Copies of the OSD Component's summary will be treated as part of the individual's record; however, it will not be subject to the amendment procedure outlined in paragraph (c)(3)(iii) of this section.

(e) *Penalties*—(1) *Civil action.* (i) An individual may file a civil suit against the United States and may recover damages, for:

(A) Refusal to amend a record.

(B) Improper denial of the access to a record.

(C) Failure to maintain an accurate, relevant, timely, and complete record that is used to make determinations adverse to the individual.

(ii) An individual may also file a suit against the United States for failure to implement a provision of the Privacy Act when such failure leads to an adverse determination.

(iii) If the individual's suit is upheld, the court may direct the United States to pay the court costs and attorney's fees.

(2) *Criminal action.* (i) Criminal penalties may be imposed against an OSD officer or employee for certain offenses listed in section (i) of the Privacy Act, as follows: willful unauthorized disclosure of protected information in the records; failure to publish a notice of the existence of a record system in the **Federal Register**; requesting or gaining access to the individual's record under false pretenses.

(ii) An OSD officer or employee may be fine up to $5,000 for a violation as outlined in paragraph (e)(2)(i) of this section.

(3) *Litigation status sheet.* Whenever a complaint citing 5 U.S.C. 552a is filed in a U.S. District Court against the Department of Defense, a DoD component, or any DoD employee, the responsible system manager shall promptly notify the Defense Privacy Office. The litigation status sheet in DoD 5400.II–R provides a standard format for this notification. (The initial litigation status sheet shall, as a minimum, provide the information required by items 1. through 6.) A revised litigation status sheet shall be provided at each stage of the litigation. When a court renders a formal opinion or judgment, copies of the judgment or opinion shall be provided to the Defense Privacy Office with the litigation status sheet reporting that judgment or opinion.

(f) *Computer matching programs.* Paragraph B of Chapter 11 of DoD 5400.11–R prescribes that all requests for participation in a matching program (either as a matching agency or a source agency) be submitted to the Defense Privacy Office for review and compliance. OSD Components shall submit these request through the Directives and Records Division.

§ 311.7 Information requirements.

The Defense Privacy Office shall establish requirements and deadlines for DoD privacy reports. These reports shall be licensed in accordance with DoD Directive 8910.1.[5]

[5] See footnote 2 to § 311.1.

Dated: April 22, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–10570 Filed 4–27–99; 8:45 am]

BILLING CODE 5001–10–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA024–5042; FRL–6318–5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Reasonably Available Control Technology for Major Sources of Nitrogen Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision establishes and requires the implementation of reasonably available control technology (RACT) on major sources of nitrogen oxides (NO_X) in the Virginia portion of the Metropolitan Washington D.C. serious ozone nonattainment area. The intended effect of this action is to grant conditional limited approval of Virginia's regulations to impose RACT on major sources of NO_X.

EFFECTIVE DATE: This final rule is effective on May 28, 1999.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, (215) 814–2092. Or by e-mail at gaffney.kristeen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On January 26, 1999 (64 FR 3891), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed conditional limited approval of Virginia's NO_X RACT regulations for the Virginia portion of the Metropolitan Washington D.C. serious ozone nonattainment area. No comments were received on the proposal.

I. Background

The Clean Air Act requires states to submit rules to implement RACT on major sources of NO_X in ozone nonattainment areas designated as moderate or above and throughout the Ozone Transport Region. The definition of major source is determined by the classification of the nonattainment area and whether or not it is located in the Ozone Transport Region. A portion of Virginia is part of the Metropolitan Washington D.C. serious ozone nonattainment area and that same portion of Virginia is in the Ozone Transport Region. Therefore, sources in the Virginia portion of the Washington D.C. nonattainment area which emit or have the potential to emit 50 tons or more of NO_X per year are considered major and are subject to the NO_X RACT requirements of the Act.

On November 9, 1992, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its SIP consisting of adopted regulations to impose NO_X RACT on major sources in the nonattainment area, known in state regulations as the Northern Virginia Emissions Control Area. The VADEQ supplemented its November 1992 submittal on December 11, 1992. On August 11, 1998, the VADEQ made another submittal to EPA withdrawing certain provisions of the November 9, 1992 submittal, and forwarding revisions that corrected typographical errors and recodified and renumbered one of the relevant regulations, Appendix T (now 9 VAC 5–40–311).

The November 9, 1992 submittal consisted of revisions to Virginia Regulation 120–01, Part IV, Emission Standards for General Process Operations (Rule 4–4) and Appendix T, entitled "Reasonably Available Control Technology Guidelines for Stationary Sources of Nitrogen Oxides". Rule 4–4 was amended to insert a new section, 120–04–0408, entitled "Standard for nitrogen oxides". To accommodate the insertion of section 120–04–0408, the revision also renumbered the previously existing sections 120–04–0408 through 120–04–0418, inclusive, as sections 120–04–0409 through 120–04–0419, inclusive. On April 11, 1998, the VADEQ submitted a revised version of Appendix T to correct a technical error in the *Virginia Register* version of the final rule dated November 30, 1992. This error was corrected by Virginia in the *Virginia Register* on June 23, 1997. On April 11, 1998, the Commonwealth submitted the corrected version of Appendix T. In addition to the typographical correction, the Commonwealth also recodified Appendix T and renumbered it as 9 VAC 5–40–311.

Virginia's rule 120–04–0408 requires certain sources to comply with the applicable emission limits established in Appendix T (now known as 9 VAC 5–40–311); or to apply for an alternative emission limit through a source-specific RACT determination process. The emission limits of section C of 9 VAC 5–40–311 do not cover all categories of NO_X sources. Section C specifically enacts emission limits for boilers/steam generating units, process heaters and gas turbines. Other source categories, such as incinerators, reciprocating internal combustion engines, cement manufacturing and iron/steel manufacturing are not covered in 9 VAC 5–40–311. Therefore, not all potential major NO_X sources are subject to specific, presumptive "up-front" (i.e. immediately ascertainable) emission limits. Instead, the regulations establish a process for the Commonwealth to review and approve individual RACT emission limitations proposed by the sources, which are then to be submitted to EPA as SIP revisions. Additionally, subsection 120–04–0408(B) of Virginia's rule allows sources subject to the presumptive limits in Appendix T (now known as 9 VAC 5–40–311) to propose alternative RACT on a case-by-case basis provided they submit the proposal by January 1, 1994. The proposal must include technical and economic support documentation for the proposed RACT and include a schedule for compliance as expeditiously as practical but no later than May 31, 1995.

The Clean Air Act requires states to implement RACT on all major stationary sources. Process-oriented generic regulations, such as those submitted by Virginia, which do not include specific and ascertainable emission limits for all major sources, do not by themselves provide standards for EPA to approve or disapprove as satisfying the definition of RACT. Therefore, the Act's RACT requirements are satisfied only after the specific limits imposed by the Commonwealth on its major sources have been submitted to EPA as SIP revisions and approved by EPA as RACT for the subject sources.

In a November 7, 1996 policy memo from Sally Shaver, Director, Air Quality Strategies and Standards Division of the Office of Air Quality Planning and Standards, EPA issued guidance for approving state generic RACT regulations, like Virginia's, provided certain criteria are met. This guidance does not exempt any major source from RACT requirements but instead

provides for a *de minimis* deferral of RACT only for the purposes of approving the state's generic RACT regulation. The *de minimis* deferral level is determined by using the 1990 NO_X emissions, excluding the utility boiler NO_X emissions. The remaining 1990 non-utility boiler emissions are then compared with the amount of non-utility NO_X emissions that have yet to have RACT approved into the SIP. Generally, EPA expects that all utility boiler RACTs will be approved prior to application of this *de minimis* deferral policy and possible conversion of the generic RACT conditional approval to full approval. EPA does not expect to defer more than 5 percent of the emissions calculated in this manner in order to fully approve Virginia's generic NO_X RACT regulation. In accordance with the November 1996 policy, EPA is requiring that all utility boiler RACT determinations be approved by EPA and all but a *de minimis* level of non-utility boiler RACT determinations be approved into the SIP before the limited approval can be converted to full approval. Full approval of a generic RACT regulation under this policy does not change the Commonwealth's statutory obligation to implement RACT for all major sources. No major NO_X source is being exempted from RACT requirements through this policy or today's rulemaking.

Because EPA has not received SIP revisions from the Commonwealth for all source-specific RACT determinations, EPA can at best, according to the November 7, 1996 policy memorandum, grant conditional limited approval of Virginia's NO_X RACT generic rule. In a letter to EPA dated April 11, 1998, the VADEQ committed to submit, as SIP revisions, RACT determinations for all sources either not subject to the presumptive emission limits in Appendix T or electing alternative source-specific RACT requirements. The VADEQ committed to submit these RACT determinations within 12 months of EPA's final conditional limited approval of its generic rule.

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by federal law to maintain program delegation, authorization or approval," since Virginia must "enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. . . ." The opinion concludes that "[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval."

Virginia's Immunity Law, Va. Code Sec. 10.1–1199, provides that "[t]o the extent consistent with requirements imposed by Federal law," any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since "no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity."

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

II. Terms of and Rationale for Conditional Limited Approval

EPA is conditionally approving Virginia's NO_X RACT regulations based upon VADEQ's April 11, 1998 commitment to submit, as SIP revisions, RACT determinations for all currently known major sources subject to source-specific NO_X RACT requirements. In accordance with section 110(k)(4) the Act (and consistent with the VADEQ's commitment letter of April 11, 1998), these RACT determinations must be submitted by May 30, 2000.

EPA is also granting limited approval of Virginia's NO_X RACT regulations, rule 120–08–0408, and the provisions of 9 VAC 5–40–311 (formerly Appendix T) as submitted by the VADEQ. The current Virginia SIP does not contain a general requirement that all major sources of NO_X in the nonattainment area must implement RACT. While EPA does not believe that the Virginia NO_X RACT regulations fully satisfy the requirements of the Act because of the generic provisions allowing for source-specific determinations, EPA is limitedly approving portions of Virginia's NO_X RACT regulations on the basis that they strengthen the SIP. The purpose of the limited approval of the requirement to implement RACT and the presumptive emission limits on certain categories of sources is because they strengthen the Virginia SIP by adding RACT standards for sources of NO_X in the Virginia portion of the Metropolitan Washington D.C. ozone nonattainment area where none existed before.

Other specific requirements of Virginia's NO_X RACT requirements and the rationale for EPA's action are explained in the Notice of Proposed Rulemaking and will not be restated here. No public comments were

received on the Notice of Proposed Rulemaking.

III. Final Action

EPA is granting conditional limited approval of the Commonwealth's November 9, 1992 NO_X RACT SIP submittal, as modified on December 11, 1992 and April 11, 1998. EPA's conditional approval is based upon the April 11, 1998 commitment made by VADEQ to submit, within 12 months of EPA's final rulemaking of this NO_X RACT SIP, source-specific RACT determinations for all currently known major sources subject to source-specific NO_X RACT requirements. EPA is also granting limited approval because adding RACT standards for major sources of NO_X in the Northern Virginia Emissions Control Area where none existed before strengthens the SIP.

To fulfill the conditions of this approval, the Commonwealth must, by May 30, 2000: (1) Certify that it has submitted, as SIP revisions, RACT proposals for all sources subject to source-specific NO_X RACT requirements; or (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions (as described above). Once EPA has determined that the Commonwealth has satisfied this condition, EPA shall remove the conditional nature of its approval and the Virginia NO_X RACT regulations will, at that time, retain limited approval status. Should the Commonwealth fail to meet the conditions specified above, the final conditional limited approval of the NO_X RACT regulations SIP revision shall convert to a disapproval.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals and conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, I certify that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995

("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to conditionally limitedly approve Virginia's NO_X RACT regulations must be filed in the United States Court of Appeals for the appropriate circuit by June 28, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 24, 1999.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraphs (c)(131) and (c)(132) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(131) Limited approval of revisions to the Virginia State Implementation Plan submitted on November 9, 1992 by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) Letters of November 9, 1992 and December 11, 1992 from the Virginia Department of Environmental Quality transmitting Virginia rule 120–04–0408 to implement major source NO_X RACT requirements in the Northern Virginia Emissions Control Area.

(B) Virginia regulation 120–04–0408, "Standard for Nitrogen Oxides", pertaining to major source NO_X RACT requirements, effective on January 1, 1993.

(C) Renumbering of previously SIP approved sections in rule 120–04: –0408 and –0409 to 120–04–0409 and –0410, respectively and previously SIP approved sections –0412 through –0418 to –0413 through –0419, respectively, effective January 1, 1993.

(ii) Additional Material—Remainder of November 9, 1992 submittal and supplemental information submitted by the Virginia Department of Environmental Quality on December 11, 1992 and August 11, 1998 pertaining to 120–04–0408.

(132) Limited approval of revisions to the Virginia State Implementation Plan submitted on November 9, 1992 and August 11, 1998 by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) Letters of November 9, 1992, December 11, 1992 and August 11, 1998 from the Virginia Department of Environmental Quality transmitting Virginia regulation 9 VAC 5–40–311 (formerly Appendix T) establishing RACT requirements on major sources in the Northern Virginia Emissions Control Area.

(B) Addition of Virginia regulation 9 VAC 5–40–311, sections A, B, C.1, C.2, C.3.b, and C.3.d–g and Errata pages, establishing RACT requirements for major sources of NO_X in the Northern Virginia Emissions Control Area, effective on July 1, 1997.

(ii) Additional Material—Remainder of November 9, 1992 submittal and supplemental information submitted by the Virginia Department of Environmental Quality on December 11, 1992 and August 11, 1998 pertaining to VAC 5–40–311.

3. Section 52.2450 is amended by adding paragraph (f) to read as follows:

§ 52.2450 Conditional approval.

* * * * *

(f) Revisions to the Virginia State Implementation Plan, pertaining to NO_X RACT requirements on major sources in the Northern Virginia Emissions Control Area, Virginia regulations 120–04–0408 and 9 VAC 5–40–311, submitted on November 9, 1992, December 11, 1992, and August 11, 1998 by the Virginia Department of Environmental Quality are conditionally approved. Virginia must meet the following conditions by no later than May 30, 2000, in accordance with criteria defined in the EPA Memorandum dated November 7, 1996 from the Director of the Air Quality Strategies and Standards Division of the Office of Air Quality Planning and Standards, entitled "Approval Options for Generic RACT Rules Submitted to Meet the Non-CTG VOC RACT Requirement and Certain NO_X RACT Requirements." This memorandum is available at the office of the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. These conditions are:

(1) The VADEQ must certify, in writing, that it has submitted, as SIP revisions, RACT determinations for all sources subject to source-specific NO_X RACT requirements; or

(2) The VADEQ must demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions.

[FR Doc. 99–9603 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300821; FRL–6068–7]

RIN 2070–AB78

Beauveria bassiana (ATCC #74040); Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the *Beauveria bassiana* (ATCC #74040) in or on all food commodities when applied or used as ground and aerial foliar sprays for use only on terrestrial crops. TROY Biosciences, Incorporated, 2620 North 37th Drive, Phoenix, Arizona 85009, submitted an amended petition PP 5F4483 to EPA under the Federal Food, Drug and Cosmetic Act as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170) requesting the exemption from tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Beauveria bassiana* (ATCC #74040) in or on all food commodities.

DATES: This regulation is effective April 28, 1999. Objections and requests for hearings must be received by EPA on or before June 28, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300821], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP ("Tolerance Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300821], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300821]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 902W34, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8097; e-mail: bacchus.shanaz@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 10, 1998, 63 FR 31771) (FRL–5793–4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide tolerance petition by TROY Biosciences, Incorporated, 2620 North 37th Drive, Phoenix, Arizona 85009. This notice included a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the Food Quality Protection Act (FQPA) of 1996.

The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the microbial insecticidal agent *Beauveria bassiana* (ATCC #74040) in or on all food commodities.

A comment was received in response to the notice of filing regarding the potential for *Beauveria bassiana* (*B. bassiana*) to colonize corn and infect lungs of wild rodents and nasal passages of humans. The comment also referred to the potentially hazardous effects of beauvericin, a metabolite associated with this microbial pesticide. While *Beauveria bassiana* may infect corn, the acute oral toxicity/pathogenicity studies indicate no undue risk to humans, children and infants from dietary exposure. The data submitted in support of guideline requirements for plants suggest that other plants, including corn, are not likely to be at risk if the pesticide is used as labeled. Also, the acute oral and pulmonary toxicity/pathogenicity studies of the technical grade active ingredient indicate that it is neither toxic nor pathogenic to mammals or humans. The registrant has provided analytical methods and quality assurance procedures to control beauvericin, a potential metabolite, within regulatory levels. The data which were submitted for this petition were evaluated by the Agency and are sufficient to support the exemption from the requirement of a tolerance in or on all food commodities. A summary discussion of the reviews of the data submitted in support of this petition follows.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(c)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue..." Additionally, section 408 (b)(2)(D) requires that the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

II. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed most of the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Results of the following studies support the lack of toxicity/pathogenicity of the Technical Grade Active Ingredient (TGAI), *Beauveria bassiana* (ATCC #74040).

A. Product Chemistry

The data submitted for product identity of the active ingredient, *Beauveria bassiana* (ATCC #74040), and end use product, are sufficient to support the request for the proposed exemption from the requirement of a tolerance. The active ingredient is a naturally-occurring fungus which can be found in the United States and in the environment worldwide.

The registrant proposed sufficient quality assurance methods to control unintentional ingredients and contaminants in the proposed products within regulatory levels. Batches containing human pathogens are to be destroyed. Beauvericin levels in the technical grade active ingredient are not likely to exceed 60 ppm. The registrant has voluntarily withdrawn the registration of an old formulation, which had potential aflatoxin contamination present in an inert ingredient. The proposed new formulation has met the Agency's guideline requirements for microbial pesticides for food use.

B. Toxicology

1. *Acute oral toxicity/pathogenicity in rats, (Technical).* No animal mortality or overt toxic effects were noted in rats dosed orally with 1.9×10^8 colony forming units (cfu)/animal of *B. bassiana* (ATCC #74040). Red foci were noted on the lungs of three of the treated animals indicating possible pulmonary toxicity. However, the acute pulmonary toxicity/pathogenicity study confirmed clearance from the lungs as discussed below. Based on these studies, and the nature of the inerts in the sole registered microbial end use product (EP) containing this active ingredient, the EP can be considered a Toxicity Category IV pesticide.

2. *Acute dermal toxicity in rabbits, (Naturalis-L 225). B. bassiana* (ATCC #74040) was not pathogenic, infective or toxic in rabbits dosed dermally at 2 gm per animal containing 4.2×10^7 cfu/ml. It was therefore considered Toxicity Category IV for dermal toxicity.

3. *Acute pulmonary toxicity/pathogenicity in rats, (Technical).* No mortality or toxic or pathogenic effects were found in the test animals dosed intratracheally with 2.5×10^9 cfu *B. bassiana* (ATCC #74040)/animal. Clearance was complete from the lungs within 15 days of dosing. No significant clinical signs were observed. Brown or tan lesions were noted in the lungs of all treated animals starting on day 4 and an inflammatory response was evident in microscopic examination until day 22. The presence of an inflammatory response is expected as a component of the normal recognition and clearance of microbes by the immune system. No inflammation was evident on tissues examined at the end of the study.

4. *Acute intraperitoneal toxicity/pathogenicity testing in rats, (Technical). B. bassiana* (ATCC #74040) was not pathogenic, infective or toxic in rats when dosed intraperitoneally with 2×10^7 cfu/animal. No animals had the test microbe recovered from their blood or had visible lesions on their internal organs at gross necropsy.

5. *Primary eye irritation in rabbits, (Naturalis-L 225).* Rabbits displayed minimal ocular irritation when given a single 0.1 ml ocular dose containing 2×10^6 cfu. Based on these data, the pesticide was considered acute Toxicity Category III for eye irritation.

6. *Primary dermal irritation in rabbits, (Naturalis-L 225).* There was no mortality or significant toxic effects in animals singly dosed and exposed for four hours with 5 ml *B. bassiana* (ATCC #74040) containing 5.5×10^7 cfu. Based on these data, microbial pesticide was considered Toxicity Category IV for primary dermal irritation effects.

7. *Dermal sensitization.* Data provided to the Agency show that Naturalis-L is a dermal sensitizer. In several animals, the severity of irritation required relocation of test site for inductions 8 and 9. In addition, two animals died during the study - one prior to the challenge phase and one prior to the 48–hour challenge scoring interval. No cause for death was determined. This test was conducted with a test material at 100% concentration rather than at the 50% concentration recommended by the OPPTS harmonized guidelines. The label for this product must state that it is a dermal sensitizer and proper protection equipment should be worn.

8. *Hypersensitivity incidents.* No incidents of hypersensitivity have been reported for this microbial pesticide.

III. Aggregate Exposures and Risk

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure and Risk

Dietary exposure to the microbial pesticide is likely to occur. The lack of acute oral toxicity/pathogenicity, and the ubiquitous nature of the microbial, support the exemption from the requirement of a tolerance for this active ingredient.

1. *Food.* The microbial pesticide can be easily removed from foods by washing, peeling, cooking and processing. Even if ingested, the low acute oral toxicity potential indicates minimal risk. Consequently, dietary exposure to the microbial and the risk posed by ingestion of foods treated with the microbial pesticide, are likely to be minimal for adults, infants and children by the oral route.

2. *Drinking water exposure.* The microorganism *Beauveria bassiana* is common in the soil. It is not known as an aquatic microorganism, and therefore is not expected to proliferate in aquatic habitats. Drinking water is not being screened for *Beauveria bassiana* (ATCC #74040) as a potential indicator of microbial contamination. Both percolation through soil and municipal treatment of drinking water would reduce the possibility of exposure to *Beauveria bassiana* (ATCC #74040) through drinking water. Therefore, the potential of significant transfer to drinking water is minimal to nonexistent. However, even if negligible oral exposure should occur through drinking water, the Agency concludes that such exposure would present no risk due to the lack of toxicity and the ubiquitous nature of the microbe.

B. Other Non-Occupational Exposure

Dermal and inhalation exposure and risk to adults, infants and children via treated lawns or recreational areas are likely if the pesticide is used as labeled. However, the pesticide is a naturally occurring microbe and is ubiquitous in the environment. Based on the low toxicity potential as evidenced by the data submitted, the microbial pesticide active ingredient is likely to pose a minimal to non-existent dermal or inhalation hazard if used as labeled.

IV. Cumulative Effects

There is one other strain of *Beauveria bassiana* registered at this time. While the two strains may produce similar metabolites, the likelihood of adverse dietary effects via a common mechanism of toxicity is likely to be minimal based on the lack of toxicity/pathogenicity potential of the active ingredients.

V. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. In this instance, EPA believes there are reliable data to support the conclusion that there are no threshold effects of concern to infants, children and adults when *Beauveria bassiana* (ATCC #74040) is used as labeled. As a result, the provision requiring an additional margin of exposure does not apply.

There is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to *Beauveria bassiana* (ATCC #74040) from the proposed uses. This includes all anticipated dietary exposures and all other exposures for which there is reliable information.

VI. Other Considerations

A. Endocrine Disruptors

EPA does not have any information regarding endocrine effects of this microbial pesticide at this time. The Agency is not requiring information on the endocrine effects of this pesticide at this time; and Congress allowed 3 years after August 3, 1996, for the Agency to implement a screening and testing program with respect to endocrine effects.

B. Analytical Method(s)

The registrant has submitted data in support of the Agency requirements to identify the active ingredient and potential metabolites and contaminants. Analytical methods are available and sufficient to identify metabolites and contaminants within regulatory levels. All batches containing potential human pathogens are to be destroyed.

C. Codex Maximum Residue Level

There are no Codex tolerances or exemption from tolerances for the microbial active ingredient *Beauveria bassiana* ATCC #74040.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d)and as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 28, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300821] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia

address in "ADDRESSES" at the beginning of this document.

IX. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes an exemption from the tolerance requirement under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

X. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 12, 1999.

Susan B. Hazen,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a), and 371.

2. Section 180.1205 is added to read as follows:

§ 180.1205 Beauveria bassiana ATCC #74040; exemption from the requirements of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the insecticide *Beauveria bassiana* (ATCC #74040) in or on all food commodities when applied or used as ground and aerial foliar sprays for use only on terrestrial crops.

[FR Doc. 99–10093 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300845; FRL–6073–7]

RIN 2070–AB78

Fluroxypyr 1-Methylheptyl Ester; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for the combined residues of the herbicide fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr in or on corn, sweet, K + CWHR at 0.05 ppm; corn, sweet, forage at 2.0 ppm; corn, sweet, stover at 2.5 ppm; corn, field, grain at 0.05 ppm; corn, field, forage at 2.0 ppm; corn, field, stover at 2.5 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 1, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on field corn and sweet corn. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective April 28, 1999. Objections and requests for hearings must be received by EPA, on or before June 28, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP-300845], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300845], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP-300845]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location , telephone number, and e-mail address: Rm. 280, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)308-9367; ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of August 5, 1998 (63 FR 41727) (FRL–6018–4), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established time-limited tolerances for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr in or on corn, sweet, K + CWHR at 0.05 ppm; corn, sweet, forage at 2.0 ppm; corn, sweet, stover at 2.5 ppm; corn, field, grain at 0.05 ppm; corn, field, forage at 2.0 ppm; corn, field, stover at 2.5 ppm, with an expiration date of December 1, 1999. EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of fluroxypyr on field corn and sweet corn to control volunteer potatoes for this year's growing season due to the continuation of the emergency condition. The applicants stated that volunteer potatoes are one of the main sources for overwintering of obligate pests of potatoes including late blight and leafroll virus. The populations of volunteer potatoes in are closely related to the severity of winter temperature conditions. When soil temperatures reach levels low enough to freeze tubers remaining in the soil after harvest, volunteer potatoes are generally not a problem. However, following mild winters, volunteer potatoes are always present in crops following potatoes in the rotation. Sustained temperatures of 28°F or less are required to kill the tubers and prevent emergence of volunteers.

The applicants stated that volunteer potato populations will be high in 1999 and that volunteer potato plants will act as a source of infection from both late blight and leafroll virus. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of fluroxypyr on field corn and sweet corn for control of volunteer potatoes in Oregon and Washington.

EPA assessed the potential risks presented by residues of fluroxypyr in or on field corn and sweet corn. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of August 5, 1998 (63 FR 41727) (FRL–6018–4). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended for an additional 2-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on December 1, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on field corn and sweet corn after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will

take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 28, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP-300845] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

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E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government,

unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 16, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a, and 371.

§180.535 [Amended]

2. In §180.535, by amending the table in paragraph (b), by revising the date "12/01/99" to read "12/01/01."

[FR Doc. 99–10521 Filed 4-27-99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300852; FRL–6077–5

RIN 2070–AB78

Bifenthrin; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for residues of the insecticide bifenthrin and its metabolites in or on cucurbits at 1.0 part per million (ppm) for an additional 1½–year period. This tolerance will expire and is revoked on October 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on cucurbits. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective April 28,1 999. Objections and requests for hearings must be received by EPA, on or before June 28, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300852], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300852], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300852]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and

hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 271, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9356, beard.andrea@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of June 6, 1997 (62 FR 30996) (FRL–5719–3), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established a time-limited tolerance for the residues of bifenthrin and its metabolites in or on cucurbits at 1.0 ppm, with an expiration date of April 30, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. On April 1, 1998 (63 FR 15763) (FRL–5779–1), EPA publised a document extending this tolerance to April 30, 1999.

EPA received a request to extend the use of Bifenthrin on cucurbits for this years growing season due to the silverleaf whitefly, a recently-introduced pest in California, which can have devastating effects on the cucurbit crop, and is resistant to registered alternatives. An exemption has also been issued for another material, imidacloprid, to provide early season control. However, bifenthrin is also needed for control later in the season. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of bifenthrin on cucurbits for control of the silverleaf whitefly in cucurbits.

EPA assessed the potential risks presented by residues of bifenthrin in or on cucurbits. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of June 6, 1997 (62 FR 30996) (FRL–5719–3). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1½–year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on October 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on cucurbits after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 28, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300852] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs,

Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 20, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a), and 371.

§ 180.442 [Amended]

2. In § 180.442, by amending paragraph (b) by revising the expiration/revocation date for the commodity

Vegetables, curcubits, to read "10/31/00".

[FR Doc. 99–10625 Filed 4–27–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300849; FRL–6076–1]

RIN 2070–AB78

Sulfosate; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerances for residues of sulfosate in or on wheat and pome fruit and increases tolerances in milk. In addition, for cattle, goat, hog, sheep, and horse commodities, this regulation establishes tolerances in liver and meat-by products except liver and increases the tolerance in meat. Zeneca Ag Products requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective April 28, 1999. Objections and requests for hearings must be received by EPA on or before June 28, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300849], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300849], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300849]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–305–5697, tompkins.jim@epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 20, 1999 (64 FR 3099) (FRL–6053–5), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170 announcing the filing of a pesticide petition (PP 5F4554) for tolerance by Zeneca Ag. Products, 1800 Concord Pike, P. O. Box 15458, Wilmington, DE 19850–5458. This notice included a summary of the petition prepared by Zeneca Ag Products, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.489 be amended by establishing a tolerance for residues of the herbicide sulfosate, in or on wheat bran at 2.5 parts per million (ppm) (of which no more than 0.75 ppm is trimethylsulfonium (TMS)), wheat grain at 0.75 ppm (of which no more than 0.25 ppm is TMS), wheat forage at 35 ppm (of which no more than 30 ppm is TMS), wheat hay at 85 ppm (of which no more than 80 ppm is TMS), wheat shorts at 1.5 ppm (of which no more than 0.5 ppm is TMS), wheat straw at 1.0 ppm (of which no more than 0.5 ppm is TMS), the pome fruit group at 0.05 ppm; in cattle, goat, hog, sheep, and horse liver at 0.5 ppm, in cattle, goat, hog, sheep, and horse meat by-products, except liver at 2.5 ppm; to increase the tolerance in cattle, goat, hog, sheep, and horse meat from 0.2 to 0.4 ppm and in milk from 0.2 to 0.5 ppm.

In the **Federal Register** of September 11, 1998 (63 FR 48597) (FRL–6026–6), EPA issued a final rule for establishment of tolerances for sulfosate on corn, soybean eggs, milk, cattle, goat, hog, sheep, and horse commodities. Sulfosate residues, at the above levels, resulting from consumption of wheat, pome fruit, meat, milk, poultry, and eggs were included in the dietary and risk assessments conducted to establish these tolerances.

I. Background and Statutory Findings

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of sulfosate and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of sulfosate on wheat bran at 2.5 parts per million (ppm) (of which no more than 0.75 ppm is trimethylsulfonium (TMS)), wheat grain at 0.75 ppm (of which no more than 0.25 ppm is TMS), wheat forage at 35 ppm (of which no more than 30 ppm is TMS), wheat hay at 85 ppm (of which no more than 80 ppm is TMS), wheat shorts at 1.5 ppm (of which no more than 0.5 ppm is TMS), wheat straw at

1.0 ppm (of which no more than 0.5 ppm is TMS), the pome fruit group at 0.05 ppm; in cattle, goat, hog, sheep, and horse liver at 0.5 ppm, in cattle, goat, hog, sheep, and horse meat by-products, except liver at 2.5 ppm; to increase the tolerance in cattle, goat, hog, sheep, and horse meat from 0.2 to 0.4 ppm and in milk from 0.2 to 0.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by sulfosate are discussed in Unit II. A. of the **Federal Register** notice of September 11, 1998 (63 FR 48597). Please note that this unit included a typographical error. In the discussion of the feeding carcinogenicity study in mice, "79" should have been "7.9" in the following phrase: "In addition, there was increased incidence of white matter degeneration in the lumbar region of the spinal cord (males only) (2, 3, 4, 4, 79% response, controls to high dose)..."

B. Toxicological Endpoints

The toxicological endpoints for sulfosate are discussed in Unit II. B. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

C. Exposures and Risks

The exposures and risks due to consumption of sulfosate, including residues in wheat and pome fruit, are discussed in Unit II. C. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

D. Aggregate Risks and Determination of Safety for U.S. Population

The aggregate risks and determination of safety for the U.S. population resulting from use of sulfosate are discussed in Unit II. D. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

E. Aggregate Risks and Determination of Safety for Infants and Children

The aggregate risks and determination of safety for infants and children resulting from use of sulfosate are discussed in Unit II. E. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

III. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residues in plants and animals is understood. EPA has determined that the tolerance expression for sulfosate must include both of the parent ions.

B. Analytical Enforcement Methodology

Analytical enforcement methodology for sulfosate is discussed in Unit III. B. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

C. Magnitude of Residues

The crop field trial data are adequate to support these tolerances.

D. International Residue Limits

There are no Codex, Canadian or Mexican tolerances or maximum residue limits for residues of sulfosate in the subject crops. Therefore, a compatibility issue is not relevant to the proposed tolerances.

E. Rotational Crop Restrictions

EPA has previously reviewed two confined rotational crop studies for sulfosate and concluded that rotational crop restrictions were not required.

IV. Conclusion

Therefore, the tolerances are established for residues of sulfosate on wheat bran at 2.5 parts per million (ppm) (of which no more than 0.75 ppm is trimethylsulfonium (TMS)), wheat grain at 0.75 ppm (of which no more than 0.25 ppm is TMS), wheat forage at 35 ppm (of which no more than 30 ppm is TMS), wheat hay at 85 ppm (of which no more than 80 ppm is TMS), wheat shorts at 1.5 ppm (of which no more than 0.5 ppm is TMS), wheat straw at 1.0 ppm (of which no more than 0.5 ppm is TMS), the pome fruit group at 0.05 ppm; in cattle, goat, hog, sheep, and horse liver at 0.5 ppm, in cattle, goat, hog, sheep, and horse meat by-products, except liver at 2.5 ppm. Further, the tolerances are increased tolerance in cattle, goat, hog, sheep, and horse meat from 0.2 to 0.4 ppm and in milk from 0.2 to 0.5 ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 28, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this regulation. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking

any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300849] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at: opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the [tolerance/exemption] in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 14, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321q, 346a, and 371.

2. Section 180.489 is revised to read as follows:

§ 180.489 Sulfosate (Sulfonium, trimethyl-salt with *N*- (phosphonomethyl)glycine (1:1)); tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide sulfosate (sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1)) in or on the following raw and processed agricultural commodities:

Commodity	Parts per million
Almond, hulls (of which no more than 0.30 ppm is trimethylsulfonium (TMS))	1.00
Aspirated grain fractions (of which no more than 60 ppm is TMS)	210.00
Bananas (imported only) [1]	0.05
Cattle, fat	0.10
Cattle, liver	0.5
Cattle, mbyp except liver	2.5
Cattle, meat	0.4
Citrus fruit group	0.05
Corn, field, forage	0.10
Corn, field and pop, grain (of which no more than 0.10 ppm is TMS)	0.20
Corn, field and pop, stover (of which no more than 0.20 ppm is TMS)	0.30
Eggs	0.02
Goats, fat	0.10
Goats, liver	0.5
Goats, mbyp, except liver	2.5
Goats, meat	0.4
Grape	0.10
Hogs, fat	0.10
Hogs, liver	0.5
Hogs, mbyp except liver	2.5
Hogs, meat	0.4
Horses, fat	0.10
Horses, liver	0.5
Horses, mbyp except liver	2.5
Horses, meat	0.4
Milk	0.5
Pome fruit group	0.05
Poultry, fat	0.05
Poultry, liver	0.05
Poultry, mbyp (except liver)	0.10
Poultry, meat	0.05
Prune (of which no more than 0.05 ppm is TMS)	0.20
Raisin (of which no more than 0.05 ppm is TMS)	0.20
Sheep, fat	0.10
Sheep, liver	0.5
Sheep, mbyp except liver	2.5
Sheep, meat	0.5
Soybean, forage (of which no more than 1 ppm is TMS)	2.0
Soybean, hay (of which no more than 2 ppm is TMS)	5.0
Soybean, hulls (of which no more than 2 ppm is TMS)	7.0
Soybean, seed (of which no more than 1 ppm is TMS)	3.0
Stone fruit group	0.05
Tree nut group	0.05
Wheat bran (of which no more than 0.75 ppm is TMS	2.5
Wheat grain (of which no more than 0.25 ppm is TMS)	0.75
Wheat forage (of which no more than 30 ppm is TMS	35
Wheat hay (of which no more than 80 ppm is TMS	85
Wheat shorts (of which no more than 0.5 ppm is TMS)	1.5
Wheat straw (of which no more than 0.5 ppm is TMS)	1.0

[1] There are no U.S. registrations as of the date of publication of the tolerance in the FEDERAL REGISTER

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 99–10520 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 99–46]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, we take steps designed to ensure that eligible schools, libraries, and rural health care providers gain access to, and receive, discounted services throughout the first funding cycle. Specifically, we amend our rules to allow schools, libraries, and rural health care providers with existing contracts that expired prior to December 31, 1998 to extend or renew voluntarily these existing contracts without engaging in competitive bidding through June 30, 1999. As a result, we will permit schools and libraries to be eligible for additional discounts on recurring services covered by such contracts for the period from January 1, 1999 through June 30, 1999. We also amend our rules to allow schools and libraries to use nonrecurring services for which the Administrator has approved a request for a discount for this funding year, 1998–1999, through September 30, 1999. This specific action will not result in increased funding amounts from the schools and libraries universal service support mechanism because this change in our rules will merely allow schools and libraries a longer period of time in which to complete receipt of non-recurring services.

DATES: Effective April 28, 1999.

FOR FURTHER INFORMATION CONTACT: Sharon Webber, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document released on April 2, 1999. The full text of this document is available for public inspection during regular business hour in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C. 20554.

Summary of Tenth Order on Reconsideration in CC Docket No. 96–45.

1. By this Order, we take steps designed to ensure that eligible schools, libraries, and rural health care providers gain access to, and receive, discounted services throughout the first funding cycle. We note that our actions address concerns raised by various schools and libraries in light of the Commission's extension of the 1998–99 funding year.

I. Limited Exemption From Competitive Bidding

2. On our own motion, we find that it is in the public interest to reconsider the portion of the *Fifth Reconsideration Order and the Ninth Reconsideration Order*, 63 FR 43088 (August 12, 1998), 64 FR 0259 (January 15, 1999), relating to the limited exemption from competitive bidding. After further reflection, informed by the Council of Chief State School Officers (CCSSO's) letter, we conclude that it is necessary to modify sections 54.511 and 54.604 of our rules, so that eligible applicants that filed during the initial filing window and were approved for discounts, are exempt from our competitive bidding rules for voluntary extensions or renewals of existing contracts to a date no later than June 30, 1999. This modification is necessary in light of the Commission's decision in the *Fifth Reconsideration Order* to change the funding year from a calendar year to a fiscal year that begins July 1st and ends June 30th of each year. The modification applies only to the 1998 funding year.

3. When the Commission changed the funding cycle for schools and libraries on June 22, 1998, and for rural health care providers on December 31, 1998, the initial filing windows had already closed, and some schools, libraries, and rural health care providers had existing contracts that were set to end before December 31, 1998. We decided in the *Fifth Reconsideration Order and the Ninth Reconsideration Order* to allow exemption from our competitive bidding requirements for voluntary extensions of existing contracts expiring between December 31, 1998 and June 30, 1999, because it would be "administratively and financially unworkable" for them to participate in competitive bidding for only a six month service period. The Commission did not foresee, however, that some applicants that were approved to receive universal service discounts had existing contracts that would expire before December 31, 1998, and would consequently be unable, without engaging in competitive bidding for only a six month period, to receive discounts for the following six months from January 1, 1999 through June 30, 1999. For example, applicants that filed during the filing window and had existing contracts expiring between the 1998 filing window closing date and December 31, 1998 may have been willing, under the old calendar year funding cycle, to forego a month or two of discounts in anticipation of discounts for the following year (starting in January). Under the new fiscal year funding cycle (starting in July) implemented in our orders, however, these applicants would be required to engage in competitive bidding for only a six-month period or be left without discounts for a period of greater than six months. An unintended consequence of the two orders, therefore, was that applicants with contracts expiring before December 31, 1998 were treated less favorably than applicants with contracts expiring between December 31, 1998 and June 30, 1999.

4. We further note that the policy interest we articulated in the *Fifth Reconsideration Order and the Ninth Reconsideration Order* (*i.e.*, eliminating the administrative burden of bidding for only a six-month period) exists equally for applicants with existing contracts expiring between the closing dates of their filing windows and December 31, 1998, and those with existing contracts expiring between December 31, 1998 and June 30, 1999. In light of these considerations, and those raised by the CCSSO and various schools, we reconsider our holding in the *Fifth Reconsideration Order and the Ninth Reconsideration Order* and find herein that all schools, libraries, and rural health care providers that have applied and been approved for discounts for eligible services subject to existing contracts that expire between the respective closing dates of their 1998 filing window and June 30, 1999, are exempt from our competitive bidding requirements for voluntary extensions or renewals of these contracts to a date no later than June 30, 1999. As we noted previously in the *Fifth Reconsideration Order* it would be administratively and financially unworkable for schools, libraries, and rural health care providers to participate in competitive bidding for only a six-month service period.

5. In extending this exemption from our competitive bidding requirements, we make clear that additional discounts for these contracts will only be available for recurring services for the period January 1, 1999 through June 30, 1999. With respect to the limited time period, we recognize that parties to these contracts were unintentionally treated

differently from those applicants with existing contracts expiring after December 31, 1998, but we do not intend to place them in a better position than they would have been had we not changed the funding year. That is, if applicants were willing to forego a month or two of discounted services, in anticipation of a funding year beginning on January 1, 1998, we will not now provide discounts for that period in which the applicant made such a conscious decision. Therefore, recurring services in these approved existing contracts expiring between the closing dates of the 1998 filing window and June 30, 1999, will be eligible for universal service discounts only for the period from January 1, 1999 through June 30, 1999, pursuant to sections 54.501, 54.511(c) and (d), 54.601, and 54.611 of our rules. Consistent with our decision in the *Fifth Reconsideration Order and the Ninth Reconsideration Order* additional discounts will be funded at the monthly level approved by the Administrator, as established by letters sent to eligible schools and libraries, and rural health care providers, through June 30, 1999. We conclude that this approach is reasonable because telecommunications services and Internet access are generally provided at regular, monthly intervals and are billed on a monthly, recurring basis.

II. Nonrecurring Services

6. We also reconsider on our own motion, for the 1998–1999 funding year, the requirement that schools and libraries use nonrecurring, discounted services within the funding year for which the discounts were received. Specifically, we amend our rules to allow schools and libraries to use nonrecurring services for which discounts have been committed by the Administrator until September 30, 1999, three months beyond the end of this first funding year.

7. As previously explained, in June 1998, we changed the funding year for the schools and libraries universal services support mechanism to begin July 1 of a given year and to end June 30 of the following year. In addition, we extended our first funding year to coincide with this new funding year rule, resulting in an eighteen-month implementation funding year (January 1, 1998–June 30, 1999). When we changed this first funding year, we explicitly noted that this change would ameliorate concerns by applicants that they would be unable to receive services of a nonrecurring nature, such as internal connections, prior to the close of the funding year. Indeed, we recognized that the delay in providing schools and libraries with information on the discounts that they were approved to receive from service providers pursuant to their requests under section 254 could contribute to applicants' inability to receive discounted services within the original funding year deadline. We note that this rule change applies only to the 1998–99 funding year, and is not applicable to subsequent funding cycles.

8. Since that time, the Administrator has begun to inform schools and libraries about their eligibility to receive discounted services and the availability of funds to cover such discounted services. Although the Administrator proceeded at a reasonable pace, we are concerned that some schools and libraries that will be approved to receive discounted services may have been informed by the Administrator rather late in the funding year. Because the schools and libraries support mechanism was first implemented in this 1998–99 funding year, we did not anticipate these initial delays. Indeed, the Administrator continued to notify schools of their eligibility to receive discounted services and the availability of funds to cover the provision of such services through February of this year.

9. As recently highlighted by the CCSSO, such schools and libraries quite reasonably may not be able to complete the prerequisites necessary to receive nonrecurring discounted services by June 30, 1999, the end of this funding year. For example, some schools and libraries may have been reluctant to initiate the installation of internal connections without first being notified by the Universal Service Administrator of approval of their requested discounts for these nonrecurring services. We believe it would be unduly harsh to insist that those schools and libraries forgo these nonrecurring discounted services, solely because they were not notified of their eligibility for such discounted services, within a time frame that would allow them to take advantage of such services. Such schools and libraries should not be penalized for merely being cautious about taking such services without full information as to how they would pay for the services.

10. In addition, as we noted in the *Fifth Reconsideration Order* many nonrecurring services may need to be performed while children are not in school. Thus, schools notified in February of their qualification for these discounted services have little opportunity to receive such services between now and the end of this funding year. Indeed, for many schools, the only time available to receive nonrecurring services may be at the close of school, which may run close to the end of the funding year. Moreover, although schools and libraries should have contracts in place to begin the work necessary to ensure service can be taken, actually having the necessary personnel on site to complete the contract by June 30, 1999, could prove difficult, if not impossible. Giving schools and libraries additional time in which to complete delivery of nonrecurring services will address these concerns. We note that, with respect to this change, we are not increasing the amount of discounts that schools and libraries may receive for nonrecurring services in 1998–99 beyond those already anticipated by the Administrator; we are merely providing schools and libraries with additional time in which to complete their receipt of these discounted nonrecurring services. Such nonrecurring services must have been requested within the initial filing window and approved by the Administrator for this funding year, 1998–1999.

11. In order to ensure equitable treatment for recipients of discounts for nonrecurring services, we also adopt a limited extension of our exemption from competitive bidding for existing contracts with respect to these *nonrecurring* services. Contracts exempt from competitive bidding that will expire by June 30, 1999, may be voluntarily extended with respect to nonrecurring services for which discounts have been approved by the Administrator for the funding year 1998–1999, until September 30, 1999. This extension applies only to the period during which schools and libraries may receive nonrecurring services for which discounts have been approved by the Administrator for the first funding year; it does not provide additional discount funds. Thus, parties to such contracts may extend to September 30, 1999 the date by which nonrecurring services approved for discounts may be received without complying with the competitive bidding process. Parties may not, however, extend other provisions beyond the dates established by our rules without complying with the competitive bidding process.

12. We believe these actions will ensure that schools and libraries are provided the ability to access "advanced telecommunications and information services." At the same time, these changes will not undermine the efficacy of the schools and libraries universal service support mechanism, because they will not adversely affect the administration of that mechanism. Nor

will these actions financially overburden the schools and libraries universal support mechanism because they require no additional funding; rather, they merely allow collected funds to be used within a reasonable time period.

III. Effective Date of Rules

13. In this Order, as noted, we adopt amendments to our exemption from competitive bidding requirements (sections 54.511 and 54.604 of our rules) so that schools, libraries, and rural health care providers that filed applications within the 75-day initial filing window may be exempt from competitive bidding requirements for voluntary extensions or renewals of existing contracts to a date no later than June 30, 1999. The limited exemption from competitive bidding for voluntary extensions or renewals of existing contracts that would otherwise expire between the closing dates of the 1998 filing window and June 30, 1999, will be available only through June 30, 1999. Further, we adopt amendments to sections 54.507(b) and 54.511(d), with respect to nonrecurring services. These rule changes will make it less difficult for schools and libraries to receive eligible, discounted services pursuant to section 254 of the Communications Act of 1934, as amended. Pursuant to the Administrative Procedure Act, we find that we should depart from the general requirement that final rules take effect not less than thirty days after their publication in the **Federal Register**, because these substantive rule changes grant an exemption and "relieve[. . .] a restriction." We conclude that these new rules will take effect upon the date of their publication in the **Federal Register**.

IV. Supplemental Final Regulatory Flexibility Analysis

14. In compliance with the Regulatory Flexibility Act (RFA), and the Initial Regulatory Flexibility Analysis (IRFA) that accompanied the *Collection Public Notice*, 63 FR 27542 (May 19, 1998), in the **Federal Register**, this Supplemental Final Regulatory Flexibility Analysis (SFRFA) supplements the Final Regulatory Flexibility Analysis (FRFA) included in the *Universal Service Order*, 62 FR 32862 (June 17, 1997), and the Supplemental Final Regulatory Flexibility Analyses in the *Fifth Reconsideration Order* and the *Ninth Reconsideration Order* only to the extent that changes to the Order adopted here on reconsideration require changes in the conclusions reached in the FRFA in the *Universal Service Order* and the Supplemental Final Regulatory Flexibility Analyses in the *Fifth Reconsideration Order and Ninth Reconsideration Order*. This FRFA was preceded by an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Notice of Proposed Rulemaking and Order Establishing the Joint Board (NPRM), prepared in connection with the Recommended Decision, which sought written public comment on the proposals in the NPRM and the Recommended Decision.

15. To the extent that any statement contained in this Supplemental Final Regulatory Flexibility Analysis is perceived as creating ambiguity with respect to our rules or statements made in preceding sections of this Order, the rules and statements set forth in those preceding sections shall be controlling.

A. Need for and Objectives of this Report and Order

16. The Commission is required by section 254 of the Act to promulgate rules to implement promptly the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules intended, *inter alia*, to reform our system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. In this Order, we reconsider one aspect of those rules. Specifically, in order to give consistent treatment to all schools, libraries, and rural health care providers that applied for discounts during the 75-day initial filing window, we amend sections 54.511(d) and 54.604 of our rules, so that all applicants that filed for support during the initial filing window may be exempt from our competitive bidding rules for voluntary extensions or renewals of existing contracts to a date no later than June 30, 1999. This, we find, is in the public interest.

17. In addition, in order to avoid penalizing schools and libraries for any caution they exhibited in using nonrecurring services without full information as to how they would pay for them, we amend section 54.507 of our rules to allow schools and libraries for which the Administrator approved discounts on eligible nonrecurring services to receive such services through September 30, 1999. To provide equitable treatment, we amend section 54.511(d) of our rules to allow a limited extension of our exemption from the competitive bidding rules for voluntary extensions on existing contracts with respect to nonrecurring services. Contracts exempt from competitive bidding that will expire by June 30, 1999 may be voluntarily extended with respect to nonrecurring services for which discounts have been approved by the Administrator for the funding year 1998–1999 until September 30, 1999. As explained above, we find these actions will ensure that schools and libraries are provided the ability to access "advanced telecommunications and information services," consistent with section 254.

B. Summary and Analysis of the Significant Issues Raised by Public Comments in Response to the IRFA

18. The Commission received several letters from various small governmental entities encouraging us to reconsider our rules regarding the exemption of contracts from competitive bidding, and the application of discounts to nonrecurring services beyond the first funding period. As a result, in this Order, we have reconsidered our limited exemption from competitive bidding and have determined that all schools, libraries, and rural health care providers that have applied and been approved for discounts in this initial funding cycle, may be exempt from competitive bidding for voluntary extensions or renewals of existing contracts to a date no later than June 30, 1999, where such contracts otherwise would expire between the closing date of their 1998 filing windows and June 30, 1999. We further amend our rules to allow schools and libraries to receive nonrecurring services for which they applied and have received approval for discounts from the Administrator for the funding year 1998–1999, through September 30, 1999.

C. Description and Estimates of the Number of Small Entities to Which the Rules Adopted in This Order Will Apply

19. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small

governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

20. As noted in the FRFA at paragraphs 890–925 of the *Universal Service Order*, there are a number of small entities that would be affected by the new universal service rules. The rules adopted in this Order, however, would affect primarily only schools, libraries, and rural health care providers. Moreover, because the rules would relieve restrictions on these entities, we believe these rules would not have a significant impact on these small entities. We further describe and estimate, however, the number of small governmental jurisdictions, small businesses, and small organizations that may potentially be affected by the rules adopted in this Order.

21. The Commission specifically noted in the *Universal Service Order* that the SBA defined small elementary and secondary schools and small libraries as those with under $5 million in annual revenues. The Commission further estimated that there are fewer than 86,221 public and 26,093 private schools and fewer than 15,904 libraries that may be affected by the decisions and rules adopted in the Universal Service Order. We believe that these same small entities may be affected potentially by the rules adopted in this Order.

22. In addition, the Commission noted in the *Universal Service Order* that neither the Commission nor the SBA has developed a definition of small, rural health care providers. Section 254(h)(5)(B) defines the term "health care provider" and sets forth the seven categories of health care providers eligible to receive universal service support. We estimated that there are fewer than 12,296 health care providers potentially affected by the rules in the *Universal Service Order*. We note that these small entities may potentially be affected by the rules adopted in this Order.

D. Summary Analysis of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

23. In the FRFA to the *Universal Service Order*, we described the projected reporting, recordkeeping, and other compliance requirements associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order*. We provide the following analysis of the new requirements adopted in this present Order.

24. Under the rule changes adopted herein, those schools, libraries, and rural health care providers that filed applications within the 75-day initial filing window, are exempt through June 30, 1999 from our competitive bidding rules for voluntary extensions or renewals of their existing contracts for telecommunications and Internet access services. This revised rule is in the public interest because it provides consistent treatment to all applicants that filed during the 75-day initial filing window, regardless of when their existing contracts were set to expire. Further, as noted, this revised rule also eliminates the administrative burden for schools, libraries, and rural health care providers, of bidding for only a six month period. This change will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools, libraries, and rural health care support mechanisms, and may reduce paperwork for some schools, libraries, rural health care providers, and other entities.

25. In addition, we adopt rule changes to allow schools and libraries for which the Administrator approved discounts on eligible nonrecurring services to receive such services through September 30, 1999. We also allow a limited extension of our exemption from the competitive bidding rules for voluntary extensions on existing contracts with respect to nonrecurring services. Contracts exempt from competitive bidding that will expire by June 30, 1999 may be voluntarily extended with respect to nonrecurring services for which discounts have been approved by the Administrator for the funding year 1998–1999 until September 30, 1999. These rule changes will allow schools and libraries additional time in which to receive discounted, nonrecurring services. These changes also will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools and libraries, and may reduce paperwork for some schools and libraries, and other entities.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

26. In the FRFA to the *Universal Service Order*, the Commission described the steps taken to minimize the significant economic impact on a substantial number of small entities consistent with stated objectives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order*. As described above, our current action to amend our rules regarding exemptions from competitive bidding will benefit schools, libraries, and rural health care providers, by eliminating the administrative burden of bidding for services for only a six-month period through June 30, 1999. In addition, our decision to amend our rules to allow schools and libraries for which the Administrator approved discounts on eligible nonrecurring services to receive such services through September 30, 1999 will benefit schools and libraries because it will provide them additional time in which to receive such services. Moreover, our decision to allow a limited extension of our exemption from the competitive bidding rules for voluntary extensions on existing contracts with respect to nonrecurring services will also provide additional time in which to receive such services without the potential administrative burden of bidding for such services. We believe that these amended rules fulfill the statutory mandate to enhance access to telecommunications services for schools, libraries, and rural health care providers, and fulfill the statutory principle of providing quality services at "just, reasonable, and affordable rates," without imposing unnecessary burdens on schools, libraries, rural health care providers, or service providers, including small entities.

V. Ordering Clauses

27. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, 303(r), 403, and 405, and 47 CFR 1.108 of the Commission's rules, the Tenth Order on Reconsideration in CC Docket No. 96–45 is adopted.

28. It is further ordered that, pursuant to the authority contained in sections 1–4, 201–205, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205,

254, 303(r), 403, and 405, and 47 CFR 1.108 of the Commission's rules, part 54 of the Commission's rules, 47 CFR part 54, are amended, as set forth.

29. It is further ordered that, because the rule changes set forth below grant an exemption and relieve a restriction, the rule changes are effective immediately upon publication in the **Federal Register**.

30. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Tenth Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Healthcare providers, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 54 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Revise § 54.507(b) to read as follows

§ 54.507 Cap.

* * * * * *

(b) A funding year for purposes of the schools and libraries cap shall be the period July 1 through June 30. For the initiation of the mechanism only, the eighteen month period from January 1, 1998 to June 30, 1999 shall be considered a funding year. For the 1998–99 funding year:

(1) Schools and libraries filing applications within the initial 75-day filing window, and receiving approval for discounts on recurring services, shall receive funding for requested recurring services through June 30, 1999; and

(2) Schools and libraries filing applications within the initial 75-day filing window, and receiving approval for discounts on eligible nonrecurring services, may receive those nonrecurring services subject to the approved discount amounts through September 30, 1999.

* * * * * *

3. Revise § 54.511(d) to read as follows

§ 54.511 Ordering services.

* * * * * *

(d)(1) The exemption from the competitive bid requirements set forth in paragraph (c) of this section shall not apply to voluntary extensions or renewals of existing contracts, with the exception that an eligible school or library as defined under § 54.501 or consortium that includes an eligible school or library, that filed an application within the 75-day initial filing window for 1998 (January 30, 1998–April 15, 1998), may voluntarily extend or renew, to a date no later than June 30, 1999, an existing contract that otherwise would terminate between April 15, 1998 and June 30, 1999.

(2) For the 1998–1999 funding year, a contract exempt from the competitive bid requirement, as described in paragraph (c) of this section, may be voluntarily extended to September 30, 1999 only to the extent necessary to permit delivery of the nonrecurring services subject to that contract and for which discounts have been approved.

4. Revise § 54.604(d) to read as follows

§ 54.604 Existing contracts.

* * * * * *

(d) The exemption from competitive bid requirements set forth in paragraph (a) of this section shall not apply to voluntary extensions or renewals of existing contracts, except to the extent that an eligible rural health care provider as defined in § 54.601 or consortium that includes an eligible health care provider, and that filed an application within the 75-day initial filing window for 1998 (May 1, 1998—July 14, 1998), may voluntarily extend or renew, to a date no later than June 30, 1999, an existing contract that otherwise would terminate between July 14, 1998 and June 30, 1999.

[FR Doc. 99–10702 Filed 4–27–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 981204297–8091–02; I.D. 110698B]

RIN 0648–AK21

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Bottomfish Fishery; Amendment 5

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 5 to the Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). This rule implements a permanent limited access program for the Mau Zone bottomfish fishery in the Northwestern Hawaiian Islands (NWHI). The intent of this action is to conserve and support the long-term productivity of the bottomfish stocks by preventing the potential for excessive harvest capacity and to improve the low economic returns in the fishery.

DATES: Effective May 28, 1999.

ADDRESSES: Copies of Amendment 5 may be obtained from Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813. Comments on the modifications to approved collection-of-information requirements should be sent to the Pacific Island Area Office (PIAO), NMFS, 2570 Dole Street, Honolulu, HI 96813 and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, Fishery Management Specialist, PIAO, NMFS, at 808–973–2985 or Kitty Simonds at 808–522–8220.

SUPPLEMENTARY INFORMATION: NMFS is issuing this rule to implement FMP Amendment 5, as recommended by the Western Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This rule implements a limited access program for the Mau Zone bottomfish fishery in the NWHI. The Mau Zone is located north of Kauai between 161°20′ W. and 165°00′ W. longitude in the U.S.

exclusive economic zone around the Hawaiian Islands. The amendment is intended to prevent biological overfishing and improve poor economic returns that are plaguing the open access bottomfish fishery in the Mau Zone. The history of the Mau Zone bottomfish fishery, including the establishment of a control date and a 2-year moratorium on issuance of new Mau Zone open access permits, is summarized in the preamble to the proposed rule (64 FR 823, January 6, 1999) and is not repeated here.

This rule: (1) restricts participation in the Mau Zone bottomfish fishery to vessel owners who hold limited access permits; (2) adopts 10 as the long-term target number of vessels that would be allowed to fish for bottomfish in the Mau Zone; (3) establishes qualifying criteria for allocating initial Mau Zone limited access permits based on historic participation in the fishery (December 17, 1991, control date) and landing of bottomfish from the Mau Zone up to December 31, 1996; (4) prohibits the transfer, lease, charter, or sale of permits to reduce the number of vessels in the fishery to achieve the target number; (5) provides that Mau Zone limited access permits issued to partnerships or corporations will expire (and must surrendered to NMFS) upon a change in more than 50 percent ownership in the vessel, partnership or corporation; (6) limits the amount of time a permit holder may register a limited access permit for use with a leased or chartered vessel; (7) limits the length of replacement vessels to no longer than 60 ft (18.3 m); (8) requires permit holders to make a minimum of five landings of at least 500 lb (227 kg) each of bottomfish management unit species each year from the Mau Zone to qualify for permit renewal; (9) states that the Council will undertake a 5-year comprehensive review of the limited access program to determine its effectiveness in meeting the objectives of the FMP; (10) requires the Council to develop criteria to allow new entry into the Mau Zone when the number of permitted vessels falls below 10; and (11) reserves 20 percent of the long-term target number of limited access permits, i.e., two permits, for a Western Pacific Community Development Program. The rule establishes a fee for processing Mau Zone permits, specifies an appeals process for permit actions, and prohibits the retention of incidentally caught bottomfish in the Mau Zone without a limited access permit are described in Amendment 5. Also, certain provisions governing the Ho'omalu Zone bottomfish limited access program are revised for housekeeping purposes only, such as moving the description of "qualifying landing" for initial Ho'omalu Zone permit eligibility points and permit renewal from the *Definitions* section (§ 660.12) of subpart B (Western Pacific Fisheries - General) to subpart E (Bottomfish and Seamount Groundfish Fisheries). Section 660.67(d)(3) of the current bottomfish regulations that refer to 1985 and 1986 "control dates" for limiting access to the fisheries off the NWHI, Guam, and American Samoa is removed since it is unlikely that the Council and NMFS will use such old control dates.

Comments and Response

NMFS received three comments from the public during the comment period on the proposed rule which ended February 22, 1999.

Comment: Three commenters expressed their support for setting aside two permits for a Western Pacific Community Development Program.

Response: NMFS agrees.

Changes to the Proposed Rule

Except for insertion of specific dates in § 660.61(a)(3) and (b)(3), no changes were made to the proposed rule. The regulatory text of this final rule is the same as the regulatory text of the proposed rule.

Classification

The Administrator, Southwest Region, NMFS, determined that FMP Amendment 5 is necessary for the conservation and management of the bottomfish and seamount groundfish fisheries of the Western Pacific region and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted as proposed, would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. The collection of this information has been approved by OMB, under OMB control number 0648–0204 for Federal fishing permits.

The public reporting burden for these requirements is estimated to be 45 minutes for a Mau Zone limited access permit application, 2 hours for a permit appeal submission, and 1 hour for permit renewal exemption request per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This rule also restates an information collection requirement already approved by OMB under control number 0648–0204. An application for a Ho'omalu Zone limited access permit is estimated to take 2 hours for an initial application and 1 hour for an application for renewal. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: April 22, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660 - FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 660.12 is amended by removing the definitions of "Pacific Area Office," and "Qualifying landing", revising the definition of "Owner" and adding a definition of "Pacific Islands Area Office" to read as follows:

§ 660.12 Definitions.

* * * * *

Owner, as used in subparts C and D of this part and § 660.61(i)through (m),

means a person who is identified as the current owner of the vessel as described in the Certificate of Documentation (Form CG–1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state, a territory, or the USCG for an undocumented vessel. As used in subpart F of this part and § 660.61(c) through (h), the definition of "owner" in § 600.10 of this chapter continues to apply.

Pacific Islands Area Office means the Pacific Islands Area Office, (PIAO) Southwest Region, NMFS, located in Honolulu, Hawaii. The address and phone number may be obtained from the Regional Administrator, whose address is in Table 1 to § 600.502 of this chapter.

* * * * *

3. Section 660.13 is amended by revising paragraphs (f), (g), and (i) to read as follows:

§ 660.13 Permits and fees.

* * * * *

(f) *Fees.* (1) PIAO will not charge a fee for a permit issued under subpart D or F of this part, or for a Ho'omalu Zone limited access permit issued under § 660.61.

(2) PIAO will charge a fee for each application for a Hawaii longline limited access permit (including permit transfers and permit renewals) and Mau Zone limited access permit (including permit renewals). The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of a Hawaii longline or Mau Zone limited access permit.

(g) *Expiration.* (1) Permits issued under subparts C, D, and F of this part are valid for the period specified on the permit unless transferred, revoked, suspended, or modified under 15 CFR part 904.

(2) Permits issued under subpart E of this part expire at 2400 local time on December 31.

* * * * *

(i) *Transfer.* An application for a permit transfer under §§ 660.21(h), 660.41(e), or 660.61(e), or for registration of a permit for use with a replacement vessel under § 660.61(k), must be submitted to the PIAO as described in paragraph (c) of this section.

* * * * *

4. Section 660.61 is revised to read as follows:

§ 660.61 Permits.

(a) *Applicability.* (1) The owner of any vessel used to fish for bottomfish management unit species in the Northwestern Hawaiian Islands Subarea must have a permit issued under this section and the permit must be registered for use with the vessel.

(2) The PIAO will not register a single vessel for use with a Ho'omalu Zone permit and a Mau Zone permit at the same time.

(3) Mau Zone permits issued before June 14, 1999 become invalid June 14, 1999, except that a permit issued to a person who submitted a timely application under paragraph (i) of this section is valid until the permit holder either receives a Mau Zone limited entry permit or until final agency action is taken on the permit holder's application. The Ho'omalu Zone and the Mau Zone limited entry systems described in this section are subject to abolition, modification, or additional effort limitation programs.

(b) *Submission.* (1) An application for a permit required under this section must be submitted to the PIAO as described in § 660.13. (2) *Ho'omalu Zone limited access permit.* In addition to an application under § 660.13(c), each applicant for a Ho'omalu Zone permit must also submit a supplementary information sheet provided by the PIAO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) A copy of landings receipts or other documentation, with a certification from a state or Federal agency that this information is accurate, to demonstrate participation in the NWHI bottomfish fishery; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentages of ownership of the partnership or corporation.

(3) *Mau Zone limited access permit.* The PIAO will not accept applications for a new Mau Zone permit after June 14, 1999. In addition to an application under § 660.13(c), each applicant for a Mau Zone permit must also submit a supplementary information sheet provided by the PIAO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) Copy of State of Hawaii catch report(s) to demonstrate that the permitted vessel had made qualifying landings of bottomfish from the Mau Zone; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentage of ownership of the partnership or corporation.

(c) *Sale or transfer of Ho'omalu limited access permits to new vessel owners.* (1) A Ho'omalu zone permit may not be sold or otherwise transferred to a new owner.

(2) A Ho'omalu zone permit or permits may be held by a partnership or corporation. If 50 percent or more of the ownership of the vessel passes to persons other than those listed in the original application, the permit will lapse and must be surrendered to the Regional Administrator.

(d) *Transfer of Ho'omalu Zone limited access permits to replacement vessels.* (1) Upon application by the owner of a permitted vessel, the Regional Administrator will transfer that owner's permit to a replacement vessel owned by that owner, provided that the replacement vessel does not exceed 60 ft (18.3 m) in length. The replacement vessel must be put into service no later than 12 months after the owner applies for the transfer, or the transfer shall be void.

(2) An owner of a permitted vessel may apply to the Regional Administrator for transfer of that owner's permit to a replacement vessel greater than 60 ft (18.3 m) in length. The Regional Administrator may transfer the permit upon determining, after consultation with the Council and considering the objectives of the limited access program, that the replacement vessel has catching power that is comparable to the rest of the vessels holding permits for the fishery, or has catching power that does not exceed that of the original vessel, and that the transfer is not inconsistent with the objectives of the program. The Regional Administrator shall consider vessel length, range, hold capacity, gear limitations, and other appropriate factors in making determinations of catching power equivalency and comparability of the catching power of vessels in the fishery.

(e) *Ho'omalu Zone limited access permit renewal.* (1) A qualifying landing for Ho'omalu Zone permit renewal is a landing of at least 2,500 lb (1,134 kg) of bottomfish management unit species from the Ho'omalu Zone or a landing of at least 2,500 lb (1,134 kg) of fish from the Ho'omalu Zone, of which at least 50

percent by weight was bottomfish management unit species. A permit is eligible for renewal for the next calendar year if the vessel covered by the permit made three or more qualifying landings during the current calendar year.

(2) The owner of a permitted vessel that did not make three or more qualifying landings of bottomfish in a year may apply to the Regional Administrator for waiver of the landing requirement. If the Regional Administrator finds that failure to make three landings was due to circumstances beyond the owner's control, the Regional Administrator may renew the permit. A waiver may not be granted if the failure to make three landings was due to general economic conditions or market conditions, such that the vessel operations would not be profitable.

(f) *Issuance of new Ho'omalu Zone limited access permits.* The Regional Administrator may issue new Ho'omalu Zone limited access permits under § 660.13 if the Regional Administrator determines, in consultation with the Council, that bottomfish stocks in the Ho'omalu Zone are able to support additional fishing effort.

(g) *Eligibility for new Ho'omalu Zone limited access permits.* When the Regional Administrator has determined that new permits may be issued, they shall be issued to applicants based upon eligibility, determined as follows:

(1) *Point system.* (i) Two points will be assigned for each year in which the applicant was owner or captain of a vessel that made three or more of any of the following types of landings in the NWHI:

(A) Any amount of bottomfish management unit species, regardless of weight, if made on or before August 7, 1985;

(B) At least 2,500 lb (1,134 kg) of bottomfish management unit species, if made after August 7, 1985; or

(C) At least 2,500 lb (1,134 kg) of any fish lawfully harvested from the NWHI, of which at least 50 percent by weight was bottomfish, if made after August 7, 1985.

(ii) One point will be assigned for each year in which the applicant was owner or captain of a vessel that landed at least 6,000 lb (2,722 kg) of bottomfish from the main Hawaiian Islands.

(iii) For any one year, points will be assigned under either paragraph (g)(1)(i) or (g)(1)(ii) of this section, but not under both paragraphs.

(iv) Before the Regional Administrator issues an Ho'omalu zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) *Restrictions.* An applicant must own at least a 25–percent share in the vessel that the permit would cover, and only one permit will be assigned to any vessel.

(3) *Order of issuance.* New permits shall be awarded to applicants in descending order, starting with the applicant with the largest number of points. If two or more persons have an equal number of points, and there are insufficient new permits for all such applicants, the new permits shall be awarded by the Regional Administrator through a lottery.

(4) *Notification.* The Regional Administrator shall place a notice in the *Federal Register* and shall use other means to notify prospective applicants of the opportunity to file applications for new permits under this program.

(h) *Eligibility for new Mau Zone limited access permits* (1) The PIAO will issue an initial Mau Zone permit to a vessel owner who qualifies for at least three points under the following point system:

(i) An owner who held a Mau Zone permit on or before December 17, 1991, and whose permitted vessel made at least one qualifying landing of bottomfish management unit species on or before December 17, 1991, shall be assigned 1.5 points.

(ii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1991, shall be assigned 0.5 point.

(iii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1992, shall be assigned 1.0 point.

(iv) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1993, shall be assigned 1.5 points.

(v) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1994, shall be assigned 2.0 points.

(vi) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1995, shall be assigned 2.5 points.

(vii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1996, shall be assigned 3.0 points.

(viii) Before the PIAO issues a Mau Zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) For purposes of this paragraph § 660.61(h), a "qualifying landing" means any amount of bottomfish management unit species lawfully harvested from the Mau Zone and offloaded for sale. No points shall be assigned to an owner for any qualifying landings reported to the State of Hawaii more than 1 year after the landing.

(3) More than one Mau Zone permit may be issued to an owner of two or more vessels, provided each of the owner's vessels for which a permit will be registered for use has made the required qualifying landings for the owner to be assigned at least three eligibility points.

(4) A Mau Zone permit holder who does not own a vessel at the time initial permits are issued must register the permit for use with a vessel owned by the permit holder within 12 months from the date the permit was issued. In the interim, the permit holder may register the permit for use with a leased or chartered vessel. If within 12 months of initial permit issuance, the permit holder fails to apply to the PIAO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(5) For each of paragraphs (h)(1)(i) through (h)(1)(viii) of this section, the PIAO shall assign points based on the landings of one permitted vessel to only one owner if the vessel did not have multiple owners during the time frame covered by the subordinate paragraphs. If a vessel had multiple owners during a time frame covered by any of paragraphs (h)(1)(i) through (h)(1)(viii) of this section (including joint owners, partners, or shareholders of a corporate owner), the PIAO will assign the points for that subordinate paragraph to a single owner if only one owner submits an application with respect to the landings of that vessel during that time frame. If multiple owners submit separate applications with respect to the same landings of the same vessel during the same time frame, then the PIAO shall:

(i) Adhere to any written agreement between the applicants with respect to who among them shall be assigned the aggregate point(s) generated by landings during such time frame(s), or

(ii) If there is no agreement:

(A) Shall issue the applicants a joint permit provided the vessel's landings during such time frames generated at least three points, or

(B) In the event the vessel's landings during such time frame(s) generated less than three points, shall not assign any

points generated by the vessel's landings during such time frame(s).

(i) *Ownership requirements and registration of Mau Zone limited access permits for use with other vessels.* (1) A Mau Zone permit may be held by an individual, partnership, or corporation. No more than 49 percent of the underlying ownership interest in a Mau Zone permit may be sold, leased, chartered, or otherwise transferred to another person or entity. If more than 49 percent of the underlying ownership of the permit passes to persons or entities other than those listed in the original permit application supplemental information sheet, then the permit expires and must be surrendered to the PIAO.

(2) A Mau Zone permit holder may apply under § 660.13 to the PIAO to register the permit for use with another vessel if that vessel is owned by the permit holder, and is no longer than 60 ft (18.3 m).

(3) If a Mau Zone permit holder sells the vessel, for which the permit is registered for use, the permit holder must within 12 months of the date of sale apply to the PIAO to register the permit for use with a vessel owned by the permit holder. If the permit holder has not applied to register a replacement vessel within 12 months, then the permit expires.

(4) If a permitted vessel owned by the permit holder is sold or becomes unseaworthy, the Mau Zone permit with which the vessel was registered may be registered for use with a leased or chartered vessel for a period not to exceed 12 months from the date of registration of the leased or chartered vessel. If by the end of that 12-month period the permit holder fails to apply to the PIAO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(j) *Mau Zone limited access permit renewal.* (1) A Mau Zone permit will be eligible for renewal if the vessel for which the permit is registered for use made at least five separate fishing trips with landings of at least 500 lb (227 kg) of bottomfish management unit species per trip during the calender year. Only one landing of bottomfish management unit species per fishing trip to the Mau Zone will be counted toward the landing requirement.

(2) If the vessel for which the permit is registered for use fails to meet the landing requirement of paragraph (j)(1) of this section, the owner may apply to the Regional Administrator for a waiver of the landing requirement. Grounds for a waiver are limited to captain incapacitation, vessel breakdowns, and the loss of the vessel at sea if the event prevented the vessel from meeting the landing requirement. Unprofitability is not sufficient for waiver of the landing requirement.

(3) Failure of the permit holder to register a vessel for use under the permit does not exempt a permit holder from the requirements specified in this paragraph.

(k) *Appeals of permit actions.* (1) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or a permit holder may appeal the granting, denial, or revocation of his or her permit to the Regional Administrator.

(2) In order to be considered by the Regional Administrator, such appeal must be in writing, must state the action appealed, and the reasons therefore, and must be submitted within 30 days of the appealed action. The appellant may request an informal hearing on the appeal.

(3) The Regional Administrator, in consultation with the Council, will decide the appeal in accordance with the FMP and implementing regulations and based upon information relative to the application on file at NMFS and the Council, the summary record kept of any hearing, the hearing officer's recommended decision, if any, and any other relevant information.

(4) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose. The applicant or permit holder may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. The Regional Administrator's decision on the application is the final administrative decision of the Department of Commerce, and is effective on the date the Administrator signs the decision.

5. Section 660.62 is amended by revising paragraph (b), removing paragraph (c), and redesignating paragraphs (d) through (f) as paragraphs (c) through (e), respectively, to read as follows:

§ 660.62 Prohibitions.

* * * * *

(b) Fish for, or retain on board a vessel, bottomfish management unit species in the Ho'omalu Zone or Mau Zone without the appropriate permit, registered for use with that vessel, issued under § 660.13.

* * * * *

6. Section 660.67 is amended by removing paragraph (d)(3) and adding new paragraph (e) to read as follows:

§ 660.67 Framework for regulatory adjustments.

* * * * *

(e) *Five-year review.* The Council will conduct a comprehensive review on the effectiveness of the Mau Zone limited access program 5 years following implementation of the program. The Council will consider the extent to which the FMP objectives have been met and verify that the target number of vessels established for the fishery is appropriate for current fishing activity levels, catch rates, and biological condition of the stocks. The Council may establish a new target number based on the 5-year review.

[FR Doc. 99–10635 Filed 4–27–99; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 042399B]

Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fisheries by Vessels using Hook-and-Line Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for sablefish or demersal shelf rockfish. This action is necessary because the first seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish, other than sablefish or demersal shelf rockfish, in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 24, 1999, until 1200 hrs, A.l.t., May 18, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) established the Pacific halibut bycatch mortality allowance for groundfish included in the other hook-and-line fishery, which is defined at § 679.21(d)(4)(iii)(C), for the first season, the period January 1, 1999, through May 17, 1999, as 250 metric tons. The other hook-and-line fishery includes all groundfish, except sablefish and demersal shelf rockfish.

In accordance with § 679.21(d)(7)(ii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal apportionment of the 1999 Pacific halibut bycatch mortality allowance specified for the hook-and-line groundfish fisheries, other than sablefish or demersal shelf rockfish, in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for groundfish, other than sablefish or demersal shelf rockfish, by vessels using hook-and-line gear in the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the first seasonal apportionment of the 1999 Pacific halibut bycatch mortality allowance specified for the groundfish fisheries, other than sablefish or demersal shelf rockfish, by vessels using hook-and-line gear in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The first seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish, other than sablefish or demersal shelf rockfish, in the GOA has been caught. Further delay would only result in overharvest which would disrupt the FMP's objective of apportioning Pacific halibut bycatch allowances throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 23, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10633 Filed 4–23–99; 1:56 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 042399A]

Fisheries of the Exclusive Economic Zone Off Alaska; Deep-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified to the deep-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 25, 1999, until 1200 hrs, A.l.t., July 4, 1999.

FOR FURTHER INFORMATION CONTACT: Tom Pearson, 907–481–1780 or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) established the Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), for the second season, the period April 1, 1999, through July 3, 1999, as 300 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: All rockfish of the genera *Sebastes* and *Sebastolobus*, deep-water flatfish, rex sole, arrowtooth flounder, and sablefish.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the second seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The second seasonal apportionment of the Pacific halibut bycatch allowance has been caught. Further delay would only result in overharvest which would disrupt the FMP's objective of apportioning Pacific halibut mortality allowances throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 23, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10632 Filed 4–23–99; 1:56 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 81
Wednesday, April 28, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–17–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 series airplanes. This proposal would require repetitive inspections to detect cracked or broken support brackets of the upper wing-to-fuselage fairings, and replacement of any discrepant support brackets with new brackets. This proposal also would require replacement of the fairing seals with new, improved seals; modification of the fairing panels; and installation of new bulkheads; which would constitute terminating action for the repetitive inspections. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the fairing support brackets, which could result in loss of the wing-to-fuselage fairings during flight, and consequent structural damage to the airplane.

DATES: Comments must be received by May 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–17–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–17–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–17–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A310 series airplanes.

The DGAC advises that it has received several reports of loss of the upper wing-to-fuselage fairings during flight. The loss of these fairings is attributed to cracked or broken support brackets that attach the three wing-to-fuselage fairings located between fuselage frame (FR) 40 and FR54.2. Investigation revealed that the cracking of the support brackets occurred because of bending of the forward and aft panels caused by a lack of stiffness along the lower edge of the panels, due to a step in the center fairing panel at FR47.

To prevent such discrepancies, a new center fairing panel with no step, together with new support brackets (in a location closer to the upper edge of the panel), was installed on certain other Airbus Model A310 series airplanes. Subsequently, additional reports were received of cracked or broken support brackets, again resulting in loss of the wing-to-fuselage fairings during flight. Further investigation revealed the ultimate cause of the loss of the fairings to be vibration induced by ram air penetrating between the fairing and the fuselage, which caused the aft fairing support brackets to break. Such conditions, if not detected and corrected, could result in loss of the wing-to-fuselage fairings during flight, and consequent structural damage to the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997, which describes procedures for repetitive inspections to detect cracked or broken support brackets of the upper wing-to-fuselage fairing, and replacement of any discrepant support brackets with new brackets.

The manufacturer also has issued Airbus Service Bulletin A310–53–2083, Revision 02, dated May 5, 1998, which describes procedures for replacement of the fairing seals with new, improved seals; modification of the fairing panels;

and installation of new bulkheads; which eliminates the need for the repetitive inspections.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified Airbus Service Bulletin A310–53–2078, Revision 1, as mandatory; and Airbus Service Bulletin A310–53–2083, Revision 02, as recommended; and issued French airworthiness directives 97–175–228(B) R1 and 98–450–261(B), both dated November 18, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletins

Operators should note that, unlike the procedures described in Airbus Service Bulletin A310–53–2078, Revision 1, this proposed AD would not permit further flight if cracks are detected in the support brackets of the wing-to-fuselage fairing. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject support bracket of the wing-to-fuselage fairing that is found to be cracked must be replaced prior to further flight.

Cost Impact

The FAA estimates that 47 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $5,640, or $120 per airplane, per inspection cycle.

It would take approximately 6 work hours per airplane to accomplish the proposed replacement, modification, and installation, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,690 per airplane. Based on these figures, the cost impact of the replacement, modification and installation proposed by this AD on U.S. operators is estimated to be $96,350, or $2,050 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 99–NM–17–AD.

Applicability: Model A310–200 series airplanes, on which Airbus Modification 4800 or 4906 has been accomplished; and Model A310–300 series airplanes on which Airbus Modification 11758 has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the support brackets of the upper wing-to-fuselage fairing, which could result in loss of the wing-to-fuselage fairings during flight, and consequent structural damage to the airplane, accomplish the following:

Initial/Repetitive Inspections

(a) Prior to the accumulation of 5,000 total flight hours or within 1,200 flight hours after the effective date of this AD, whichever occurs later: Perform a detailed visual inspection to detect cracked or broken support brackets of the upper wing-to-fuselage fairings, in accordance with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997. Repeat the detailed visual inspection thereafter at intervals not to exceed 2,500 flight hours.

Corrective Action

(b) If any discrepancy is detected during any inspection required by paragraph (a) of this AD, prior to further flight, replace the discrepant support bracket with a new bracket in accordance with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997. Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 2,500 flight hours.

Terminating Action

(c) Within 2 years after the effective date of this AD, accomplish the requirements of paragraphs (c)(1) and (c)(2) of this AD.

(1) Perform the initial inspection required by paragraph (a) of this AD in accordance

with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997.

(2) Replace the fairing seals with new, improved seals; modify the fairing panels; and install new bulkheads; in accordance with Airbus Service Bulletin A310–53–2083, Revision 02, dated May 5, 1998. Accomplishment of these actions constitutes terminating action for the repetitive inspection requirements of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directives 97–175–228(B) R1 and 98–450–261(B), both dated November 18, 1998.

Issued in Renton, Washington, on April 21, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10604 Filed 4–27–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–42–AD]

Airworthiness Directives; McDonnell Douglas Helicopter Systems Model MD–900 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede an existing airworthiness directive (AD), applicable to McDonnell Douglas Helicopter Systems (MDHS) Model MD–900 helicopters, that currently requires applying specified serial numbers and establishing life limits for certain parts. This proposal is prompted by additional analysis that supports an increase in the life limits of certain parts. The actions specified by this AD are intended to increase the life limits for various parts.

DATES: Comments must be received on or before June 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Greg DiLibero, Aerospace Engineer, Aircraft Certification Office, Airframe Branch, FAA, 3960 Paramount Blvd., Lakewood, CA 90712, telephone 562–627–5231, fax number 562–627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–SW–42–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On June 17, 1997, the FAA issued AD 97–13–09, Amendment 39–10056 (62 FR 34163), applicable to MDHS Model MD–900 helicopters. The AD required applying a specified serial number (S/N) to the following parts: For helicopters with S/N 0002 through 0012, to the mid-forward truss assembly, Part Number (P/N) 900F2401200–102, and to the forward and aft deck fitting assemblies, P/N 900F2401500–103 and 900F2401600–103; for helicopters with S/N 0002 through 0048, to the vertical stabilizer control system (VSCS) bellcrank assemblies, P/N 900F2341712–101, 900FP341712–103, and to the mid-aft truss strut assembly, P/N 900F2401300–103. The AD required reducing the life limits for the nonrotating swashplate assembly, P/N 900C2010192–105, –107, –109, and –111, to 554 hours time-in-service (TIS); the collective drive link assembly, P/N 900C2010207–101, to 1,480 hours TIS; and the self-aligning, spherical/slider main rotor bearing P/N 900C3010042–103, to 480 hours TIS. The AD required establishing life limits for the VSCS bellcrank assembly, P/N 900FP341712–103, and the bellcrank arm, P/N 900F2341713–101 (used in the VSCS bellcrank assembly, P/N 900F2341712–101), of 2,700 hours TIS. That action was prompted by the need to establish life limits for various parts and to reduce the life limits on other parts to prevent fatigue failure of those parts and subsequent loss of control of the helicopter.

Since the issuance of that AD, additional analysis supports an increase in the life limits for certain parts. The action in that AD of applying S/N's to certain parts and establishing a life limit for the VSCS bellcrank assembly, P/N 900FP341712–103, of 2,700 hours TIS remains the same except that the correct P/N for the bellcrank arm is P/N 900F2341712–101. This document proposes increasing the life limits for the nonrotating swashplate, P/N 900C2010192–105, –107, –109, and –111, to 1,800 hours TIS; the collective drive link assembly, P/N 900C2010207–101, to 3,307 hours TIS; and the self-aligning, spherical/slider main rotor bearing, P/N 900C3010042–103, to 2,030 hours TIS. The new life limits are based on modified fatigue spectrums, fatigue tests, and flight strain data. The actions specified in this proposal would increase the life limits for various parts.

Since an unsafe condition has been identified that is likely to exist or

develop on other MDHS Model MD–900 helicopters of the same type design, the proposed AD would supersede AD 97–13–09 to increase the life limits for certain parts and correct the P/N for the bellcrank, and, as in AD 97–13–09, require applying S/N's to certain parts and establishing a life limit for the VSCS bellcrank assembly,

The FAA estimates that 27 helicopters would be affected by this proposed AD, that it would take approximately 2.5 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,050.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10056 (62 FR 34163, June 25, 1997), and by adding a new airworthiness directive (AD) to read as follows:

McDonnell Douglas Helicopter Systems: Docket No. 98–SW–42–AD. Supersedes AD 97–13–09, Amendment 39–10056, Docket No. 96–SW–35–AD.

Applicability: McDonnell Douglas Helicopter Systems (MDHS) MD–900 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously. To establish appropriate life limits for various parts, accomplish the following:

(a) On or before attaining the following life limits, remove from service:

(1) The nonrotating swashplate assembly, part number (P/N) 900C2010192–105, –107, –109, or –111, on or before 1,800 hours TIS.

(2) The collective drive link assembly, P/N 900C2010207–101, on or before 3,307 hours TIS.

(3) The self-aligning, spherical/slider main rotor bearing, P/N 900C3010042–103, on or before 2,030 hours TIS.

(4) The vertical stabilizer control system (VSCS) bellcrank assembly, P/N 900FP341712–103, and bellcrank arm, P/N 900F2341712–101, on or before 2,700 hours TIS.

(b) On or before 100 hours TIS after July 10, 1997, or before October 31, 1999, whichever occurs first:

(1) For Model MD–900 helicopters with serial numbers (S/N) 900–00002 through 900–00012, apply the appropriate S/N to the mid-forward truss assembly, P/N 900F2401200–102, and the forward and aft deck-fitting assemblies, P/N 900F2401500–103 and 900F2401600–103.

(2) For Model MD–900 helicopters with S/N 900–00002 through 900–00048, apply S/N to the left and right VSCS bellcrank assemblies, P/N 900F2341712–101 and 900FP341712–103, and the mid-aft truss strut assembly, P/N 900F2401300–103.

(3) Apply the S/N as specified in paragraphs (b)(1) and (b)(2) of this AD adjacent to the existing P/N in accordance with the Accomplishment Instructions of MDHS Service Bulletin No. 900–039, Revision 2, dated March 12, 1997.

(c) This AD revises the Airworthiness Limitations Section of the MD–900 Maintenance Manual by increasing the retirement lives for certain parts.

Note 2: The Airworthiness Limitations Section of the MD–900 Rotorcraft Maintenance Manual, Reissue 1, Revision 2, dated July 24, 1998, pertains to the subject of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on April 21, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–10619 Filed 4–27–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 49

[REG–118620–97]

RIN 1545–AV63

Communications Excise Tax; Prepaid Telephone Cards; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under section 4251 containing proposed rules for the application of the communications excise tax to prepaid telephone cards (PTCs).

DATES: The public hearing originally scheduled for Wednesday, May 5, 1999, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: LaNita Van Dyke of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and/or notice of

public hearing that appeared in the **Federal Register** on Thursday, December 17, 1998, (63 FR 69585), announced that a public hearing was scheduled for Wednesday, May 5, 1999, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 4251 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Wednesday, March 17, 1999. The outlines of topics to be addressed at the hearing were due on Wednesday, April 14, 1999.

The notice of proposed rulemaking and/or notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Wednesday, April 21, 1999, no one has requested to speak. Therefore, the public hearing scheduled for Wednesday, May 5, 1999, is cancelled.

Cynthia Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 99–10566 Filed 4–27–99; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL–6331–9]

Availability of Report to Congress on Fossil Fuel Combustion; Request for Comments and Announcement of Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency ("we" or EPA) is today making available the Agency's Report to Congress on Fossil Fuel Combustion that is required by section 8002(n) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6982(n). The Report to Congress contains a detailed study of fossil fuel combustion wastes not previously studied (the "remaining wastes"), including oil, natural gas, and certain coal combustion wastes. Its purpose is to determine whether the remaining fossil fuel combustion wastes should retain their exemption from hazardous waste regulations as provided by section 3001(b)(3)(A)(i) of RCRA and codified at 40 CFR 261.4(b)(4). This exemption is often referred to as the Bevill Exemption. The report presents the Agency's study methods, findings and tentative recommendations regarding the exemption from hazardous waste regulation for the remaining fossil fuel combustion wastes. A brief summary of the tentative recommendations appears in the **SUPPLEMENTARY INFORMATION** section below.

Information submitted in public comments and at a public hearing will be used by EPA in conjunction with the Report to Congress to make a final determination on the regulatory status of these remaining fossil fuel combustion wastes.

DATES: EPA will accept public comments on the Report to Congress until June 14, 1999. The Agency will hold a public hearing on the Report to Congress on May 21, 1999.

ADDRESSES: Those persons wishing to submit public comments must send an original and two copies of their comments referencing EPA docket number F–1999–FF2P–FFFFF to: RCRA Docket Information Center (5305W), U.S. Environmental Protection Agency Headquarters (EPA,HQ), 401 M Street, SW., Washington, DC, 20460. Hand deliveries of comments should be made to the Arlington, VA address below.

Comments may also be submitted electronically through the Internet to: rcra-docket@epa.gov. Comments in electronic format should also identify the docket number F–1999–FF2P–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Docket Information Center (RIC), located at Crystal Gateway I Building, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15 per page. The Report to Congress is also available electronically. See the Supplemental Information section below for information on electronic access.

Requests to speak at the public hearing should be submitted in writing to the Public Hearing Officer—Fossil Fuel Combustion, Office of Solid Waste, Industrial & Extractive Wastes Branch (5306W), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The May 21, 1999 public hearing will be held at the Environmental Protection Agency Auditorium, Waterside Mall, 401 M Street, SW, Washington, DC. The hearing will begin at 9:30 a.m. with registration beginning at 9:00 a.m. The hearing will end at 3 p.m. but may be concluded earlier. Oral and written statements may be submitted at the public hearing. Persons who wish to make oral presentations must restrict them to 15 minutes maximum, and are requested to provide written comments for inclusion in the record.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (hearing impaired) (800) 553–7672. In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of today's action, contact Dennis Ruddy, U.S. Environmental Protection Agency (5306W), 401 M Street, SW., Washington, DC 20460, at (703) 308–8430, or e-mail: ruddy.dennis@epa.gov.

SUPPLEMENTARY INFORMATION:

Customer Service

In developing the Report to Congress, we tried to address the concerns of all our stakeholders. Your comments will help us improve this regulatory action. We invite you to provide different views on options we propose, new approaches we have not considered, new data, how this regulatory action may affect you, or other relevant information. We welcome your views on all aspects of this action, but we request comments in particular on the items discussed in the Report to Congress. Your comments will be most effective if you follow the suggestions below:

- Explain your views as clearly as possible and why you feel that way.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell us which parts you support, as well as those you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the report.
- Make sure to submit your comments by the deadline in this notice.

• Be sure to include the name, date, and docket number with your comments.

Copies of the full report, titled Report to Congress: Wastes from the Combustion of Fossil Fuels; Volume 2—Methods, Findings, and Recommendations (EPA publication number EPA 530–R–99–010), are available for inspection and copying at the EPA Headquarters library, at the RCRA Docket (RIC) office identified in **ADDRESSES** above, at all EPA Regional Office libraries, and in electronic format at the following EPA Web site: http://www.epa.gov/osw/special.htm. Printed copies of Volume 2 and the executive summary, titled Report to Congress: Wastes from the Combustion of Fossil Fuels; Volume 1—Executive Summary (EPA publication number EPA 530–S–99–010), can also be obtained by calling the RCRA/Superfund Hotline at (800) 424–9346 or (703) 412–9810. The Executive Summary is also available in electronic format at the EPA Web site identified above.

I. Background

RCRA section 3001(b)(3) (hereafter referred to as the Bevill Exemption) exempts, among other things, fossil fuel combustion wastes from regulation under RCRA subtitle C, pending completion of a Report to Congress and a subsequent determination of whether such regulation is warranted. In RCRA section 8002(n), Congress directed EPA to conduct a detailed and comprehensive study based on eight study factors (discussed below) and submit a Report to Congress on "the adverse effects on human health and the environment, if any, of the disposal and utilization of fossil fuel combustion wastes." RCRA section 3001(b)(3)(C) then requires that EPA determine, within six months of the date of submission of the Report to Congress, either to promulgate regulations for fossil fuel combustion wastes under subtitle C or determine that subtitle C regulation is unwarranted.

The Bevill Exemption was added to RCRA on October 12, 1980, as part of the 1980 Solid Waste Disposal Act Amendments. In response to the 1980 RCRA amendments, EPA published an interim final amendment to its hazardous waste regulations to reflect the provisions of the Bevill Exemption (40 CFR 261.4(b)(4)). In 1991, a suit was filed against EPA for failure to complete a regulatory determination on fossil fuel combustion (FFC) wastes. Gearhart v. Reilly Civil No. 91–2345 (D.D.C.). On June 30, 1992, the Agency entered into a Consent Decree which established a schedule for EPA to complete the regulatory determinations for all fossil fuel combustion (FFC) wastes. FFC wastes were divided into two categories: (1) fly ash, bottom ash, boiler slag, and flue gas emission control waste from the combustion of coal by electric utilities and independent commercial power producers, and (2) all remaining wastes subject to RCRA Sections 3001(b)(3)(A)(i) and 8002(n). On August 9, 1993, EPA published a determination for the first category of wastes, concluding that regulation under subtitle C for these wastes was not warranted. To make an appropriate determination for the second category, or "remaining wastes," EPA decided that additional study was necessary. Under the current court-ordered deadlines, the Agency was to complete this Report to Congress by March 31, 1999, and issue a regulatory determination by October 1, 1999.

II. Report to Congress

EPA has completed its study of the remaining wastes for fossil fuel combustion and prepared the Report to Congress on Wastes from the Combustion of Fossil Fuels. In keeping with the statutory requirements, the report addresses the following factors (hereafter "study factors") required under section 8002(n) of RCRA:

- The source and volumes of such materials generated per year;
- Present disposal practices;
- Potential danger, if any, to human health and the environment from the disposal of such materials;
- Documented cases in which danger to human health or the environment has been proved;
- Alternatives to current disposal methods;
- The costs of such alternatives;
- The impact of those alternatives on the use of natural resources; and
- The current and potential utilization of such materials.

In addition, RCRA section 8002(n) directs the Agency to review other federal and state studies and actions (e.g., regulations) to avoid duplication of effort.

The resulting review and discussion of EPA's analysis is organized into seven chapters in Volume 2 of the Report to Congress; Volume 1 is an Executive Summary. The first chapter of Volume 2 briefly summarizes the purpose and scope of the report, general methods and information sources used, and EPA's decision making methodology. The second chapter provides an overview of industry sectors that practice fossil fuel combustion. The third chapter addresses comanaged wastes at coal-fired utilities. The fourth chapter addresses non-utility coal combustion wastes. The fifth chapter addresses combustion wastes from the use of fluidized bed technology. The sixth chapter addresses wastes from oil combustion. The seventh chapter addresses natural gas combustion. Each of chapters 3 through 7 addresses the study factors identified above followed by a summary of findings, and concludes with recommendations. The recommendations are EPA's tentative conclusions regarding exemption from RCRA Subtitle C for the respective remaining wastes.

Briefly, the Agency has tentatively concluded to retain the exemption for the disposal of: comanaged and co-burning coal combustion wastes at utilities; coal combustion wastes at non-utilities; petroleum coke combustion wastes; and for fluidized bed combustion wastes. The Agency has also tentatively concluded to retain the exemption for natural gas combustors. The Agency has tentatively concluded that, for the beneficial use of coal combustion wastes in agricultural applications and for the disposal of oil combustion wastes, some form of regulation or voluntary controls may be appropriate. The Agency currently has insufficient information on managing fossil fuel combustion wastes in surface and underground mines in order to assess the potential for risks associated with this practice, whether for disposal or beneficial uses such as mine reclamation. The Agency is seeking additional information on this practice from all potential sources, including those commenting on the Report to Congress, in order to determine whether additional controls are appropriate.

Finally, the Agency has tentatively concluded to retain the exemption for all other beneficial uses of fossil fuel combustion wastes.

Interested parties should obtain the full text of the tentative recommendations, which appears in both Volume 1 and Volume 2 of the Report to Congress.

Dated: March 31, 1999.

Matthew Hale,

Acting Deputy Director, Office of Solid Waste.

[FR Doc. 99–10523 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Parts 201 and 204

[DFARS Case 97–D033]

Defense Federal Acquisition Regulation Supplement; Uniform Procurement Instrument Identification

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with respect for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise procedures for assigning procurement instrument identification numbers to contracts, agreements, modifications, and orders. The existing procedures do not provide a sufficient number of identifiers for those activities that place a high volume of orders under another activity's contract or agreement. The proposing changes would increase the number of available identifiers by incorporating the issuing activity's six-digit code into the instrument identification number.

DATES: Comments on the proposed rule should be submitted in writing to the address specified below on or before June 28, 1999, to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Melissa Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite DFARS Case 97–D033.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite DFARS Case 97–D033 in all correspondence related to this issue. E-mail correspondence should cite DFARS Case 97–D033 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, (703) 602–0131. Please cite DFARS Case 97–D033.

SUPPLEMENTARY INFORMATION:

A. Background

An advance notice of proposed rulemaking (ANPR) was published in the **Federal Register** on December 16, 1997 (62 FR 65782). The ANPR solicited comments on a contemplated revision of DFARS guidance pertaining to uniform procurement instrument identification numbers (PIINs). As a result of comments received in response to the ANPR and further DoD review of this issue, a proposed rule has been developed to include the following DFARS changes:

1. The Director, Defense Procurement, will be the approving authority for any deviation from the uniform PIIN policy. Consistent application of the PIIN policy will facilitate the generation of reliable contract data.

2. The PIIN will consist of a linkage of a basic number, the code assigned by the agency to the activity issuing the contract action, and, if necessary, a supplementary number. The issuing activity code is the same code that already appears in the "Issued by" block of most contracting forms. No new information is needed to support this concept. The three linked fields will form a unique identification number.

3. The two-digit alpha identifiers will be removed from the DFARS Appendix G activity address listings. The codes presently are used in the first two positions or an order number to identify an activity that is placing an order under another activity's contract or agreement. Use of the six-digit issuing activity code in the PIIN will eliminate the need for the Appendix G two-digit identifier code in the order number. This will increase the number of available positions in most order numbers from two to four, thereby greatly expanding the available number of identifiers.

4. The six-digit issuing activity code will also be used to identify the contracting office in Block A3 of DD Form 350, Individual Contracting Action Report, replacing the existing five-digit coding system.

5. The ninth-position alpha codes are revised as follows:

a. Given the new linkage concept, less alpha codes will be needed to cover the number of requests for quotations and purchase orders issued in a fiscal year. Therefore, only two ninth-position alpha codes will be assigned to each category. They are designated as Series I and Series II to permit agency designation of certain blocks of basic numbers for different types of instruments (e.g., electronic commerce, paper-based, computer-generated).

b. Code "F" will no longer be used for orders placed with or through other departments or agencies. Instead, the alpha code indicating the type of instrument will be used (e.g., a purchase order issued under a GSA Federal Supply Schedule contract will be coded "M").

c. Code "Y" will be used for blanket purchase agreements (BPAs) established under contracts issued by another agency, such as a BPA established under a GSA Federal Supply Schedule contract.

d. Code "K" will no longer be used to identify short form research contracts, as this type of contract is no longer addressed in the DFARS.

Amendments to the DD Form 250, Material Inspection and Receiving Report, will also be needed, as that form presently does not use the issuing activity code as a data element. DD Form 250 changes will be addressed in a future DFARS case.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule employs information that already exists in DoD contracts, agreements, modifications, and orders. It is anticipated that little or no programming effort will be required for contractors to accommodate the new numbering system. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97–D033 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of the Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 201 and 204

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 201 and 204 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 201 and 204 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 201.402 is amended by revising paragraph (1) to read as follows:

201.402 Policy.

(1) The Director of Defense Procurement, Office of the Under

Secretary of Defense (Acquisition and Technology), USD (A&T) DP, is the approval authority within DoD for—

(i) Any individual deviation from—

(A) FAR 3.104, Procurement Integrity, or DFARS 203.104, Procurement Integrity;

(B) FAR Subpart 27.4 Rights in Data and Copyrights, or DFARS Subpart 227.4, Rights in Data and Copyrights;

(C) DFARS Subpart 204.70, Uniform Procurement Instrument Identification Numbers;

(D) FAR Part 30, Cost Accounting Standards Administration, or DFARS Part 230, Cost Accounting Standards Administration;

(E) FAR Subpart 31.1, Applicability, or DFARS Subpart 231.1, Applicability (contract cost principles);

(F) FAR Subpart 31.2, Contracts with Commercial Organizations, or DFARS Subpart 231.2, Contracts with Commercial Organizations; or

(G) FAR Part 32, Contract Financing (except Subparts 32.7 and 32.8 and the payment clauses prescribed by Subpart 32.1), or DFARS Part 232, Contract Financing (except Subparts 232.7 and 232.8); or

(ii) Any class deviation.

* * * * *

PART 204—ADMINISTRATION MATTERS

3. Subpart 204.7 is revised to read as follows:

Subpart 204.7—Uniform Procurement Instrument Identification Numbers

Sec.

204.7000 Scope.
204.7001 General.
204.7002 Basic number.
204.7003 Activity code.
204.7004 Supplementary numbers.
204.7004–1 Amemdments to solicitations.
204.7004–2 Orders and calls under contracts and agreements.
204.7004–3 Modifications.

Subpart 204.7—Uniform Procurement Instrument Identification Numbers

204.7000 Scope.

This Subpart—

(a) Prescribes procedures for uniform assignment of identification numbers to procurement instruments; and

(b) Applies to all DoD procurement instruments except communication service authorization issued by the Defense Information Technology Contracting Organization.

204.7001 General.

(a) The procurement instrument identification number (PIIN) consists of the linkage of basic number, the issuing activity's code, and, if necessary, a supplementary number.

(b) When establishing a PIIN—

(1) Use alpha-numeric characters as prescribed in this subpart; and

(2) Do not use the letter I or O.

(c) Separate the major elements of a basic number entered on a paper instrument (e.g., N00023–00–B–0120. If there is no assigned space on the instrument, enter the basic number in the upper right corner and identify the type of instrument (e.g., Solicitation Number N00023–00–B–0120).

(d) If department or agency procedures require additional numbers on procurement instruments, keep the additional numbers clearly separate from the identification numbers prescribed in this subpart.

(e) Retain the same identification numbers for the life of the instrument.

(f) When establishing a blanket purchase agreement (BPA) under a Federal Supply Schedule (see FAR 8.404(b)(4)) or other contract—

(1) Develop a PIIN for the BPA in accordance with this subpart; and

(2) Identify the Federal Supply Schedule or other contract number in the BPA and in each order placed under the BPA.

(g) When placing an order under another agency's contract or agreement, use the basic number assigned by the other agency.

204.7002 Basic number.

Assign a 13-character basic number to an instrument as follows:

(a) *Positions 1 through 6.* The first six positions contain the activity identifier shown in Appendix G.

(1) The first part of this series identifies the department or agency as follows:

(i) Department of the Army—DA

(ii) Department of the Navy (except Marine Corps)—N

(iii) Department of the Air Force—F

(iv) Defense Information Systems Agency—DCA

(v) Defense Logistics Agency—S

(vi) Defense Threat Reduction Agency—DTRA

(vii) National Imagery and Mapping Agency—NMA

(viii) Miscellaneous Defense Activities—MDA

(ix) Marine Corps—M

(x) Ballistic Missile Defense Organization—HQ0006

(xi) Defense Commissary Agency—(DECA)

(xii) United States Special Operations Command—USZA

(xiii) Defense Micro-Electronic Agency—DMEA

(2) The last part of this series identifies the office issuing the instrument.

(3) Use all six positions. If necessary, enter zeros between the department or agency identifier and the issuing office identifier.

(b) *Positions 7 and 8.* The seventh and eight positions are the last two digits of the fiscal year in which the basic number is assigned.

(c) *Position 9.* Indicate the type of instrument by entering one of the following upper case letters in position nine. (For contracting actions for listed or non-listed items with Javits-Wagner-O'Day participating non-profit agencies or Federal Prison Industries, and contracting actions with other Government agencies, select the code for the type of instrument being issued.)

(1) Blanket purchase agreement, except a blanket purchase agreement established under a Federal Supply Schedule or another agency's contract—A

(2) Invitation for bids— B

(3) Contract other than identifinite-delivery contract, facilities contract, or sales contract—C

(4) Indefinite-delivery contract—D

(5) Facilities contract—E

(6) [Reserved]—F

(7) Basic ordering agreement—G

(8) Agreement, including basic agreement and loan agreement, but excluding blanket purchase agreement, basic ordering agreement, and lease agreement—H

(9) Do not use—I

(10) [Reserved]—J

(11) [Reserved]—K

(12) Lease agreement—L

(13) Purchase order—Series I—M*

(14) Notice of intent to purchase—N

(15) Do not use—O

(16) Purchase order—Series II—P*

(17) Request for quotations-Series I—Q*

(18) Request for proposals—R

(19) Sales contract—S

(20) Request for quotations-Series II—T*

(21) [Reserved]—U

(22) [Reserved]—V

(23) [Reserved]—W

(24) Reserved for departmental use—X

(25) Blanket purchase agreement under a Federal Supply Schedule or another agency's contract—Y

(26) Reserve for departmental use—Z

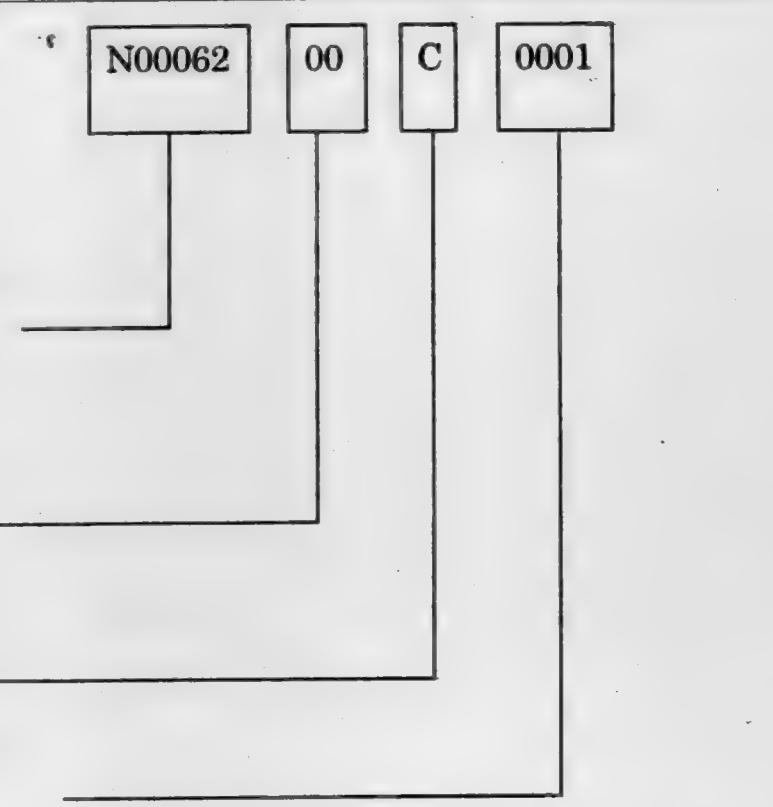
*Agencies may authorize the use of different series numbers to accommodate automated systems.

(d) *Position 10 through 13.*

Enter the serial number of the instrument in these positions. A separate series of serial numbers may be used for any type of instrument listed in paragraph (c) of this section. Ensure that serial numbers within the same PIIN are not duplicated within an activity.

(e) *Illustration of basic number.* The following illustrates a properly configured basic number:

BILLING CODE 5000–04–M



BILLING 5000–04–C

204.7003 Activity code.

A six-digit code follows the basic number in a PIIN. This is the code for the activity issuing the instrument. '

204.7004 Supplementary numbers.

204.7004–1 Amendments to solicitations.

Use of four-position number to identify amendments to solicitations (solicitations have code B, N, Q, R, or T in the ninth position of the basic number). Number amendments sequentially beginning with 0001, e.g., RFP N00062–00–R–1234, Activity Code N00062, Amendment 0001.

204.7004–2 Orders and calls under contracts and agreements.

Assign numbers to orders and calls under contracts and agreements, except orders under lease or ship repair agreements, as follows (contracts and agreements have code A, D, G, or H in the ninth position of the basic number):

(a) *Order or call placed by the activity that awarded the contract or agreement.* Use a four-position serial number for the order to call.

(1) First use numeric identifiers, beginning with 0001, e.g., Indefinite delivery contract N00383–00–D–0001, Activity Code N00383, Order 0001.

(2) When the numbers exceed 9999, use alpha characters in the second, third, and fourth positions.

(3) Do not use alpha characters in the first position.

(b) *Oder or call placed by an activity under another activity's contract or agreement.* Use a four-position serial number for the order or call.

(1) For an order under a Federal schedule—

(i) Use an F in the first position if the order is being placed under a GSA Federal Supply Schedule;

(ii) Use a J in the first position if the order is being placed under any other type of Federal schedule; and

(iii) In the second, third, and fourth positions—

(A) First use numeric identifiers, beginning with 001; and

(B) When the numbers exceed 999, use alpha or alpha-numeric characters.

(2) For an order under a contract that is not a Federal schedule—

(i) First use numeric identifiers, beginning with 0001;

(ii) When the numbers exceed 9999, use alpha or alpha-numeric characters; and

(iii) Do not use the letter, A, F, J, or P in the first position.

204.7004–3 Modifications.

(a) *Modifications to contracts, agreements, and purchase orders.* (This policy applies to instruments coded C, E, L, M, P, or S in the ninth position of the basic number.)

(1) Use a six-position modification number as follows:

(i) *Position 1.* Identify the office issuing the modification as follows:

(A) Contract administration office A

(B) Contracting office P

(ii) *Positions 2 and 3.* These are the first two digits in a serial number. They may be either alpha or numeric. Use the letter K, L, M, N, P, Q, S, T, U, V, W, X, Y, or Z only in the second position and only in the following circumstances:

(A) Use K, L, M, N, P, or Q in the second position if the modification is issued by the Air Force and is a provisioned item order. The Navy also may use K in the second position to identify a provisioned item order.

(B) Use S in the second position to identify modifications issued to provide initial or amended shipping instructions when—

(1) The contract has either FOB origin or destination delivery terms; and

(2) The price changes.

(C) Use T, U, V, W, X, or Y in the second position to identify modifications issued to provide initial or amended shipping instructions when—

(1) The contract has FOB origin delivery terms; and

(2) The price does not change.

(D) Use Z in the second position to identify a modification that definitizes a letter contract or other unpriced action.

(iii) *Positions 4 through 6.* These positions are always numeric. Use a separate series of serial numbers for each type of modification listed in paragraph (a)(1)(ii) of this subsection. Examples of proper numbering for positions 2–6 (the first position will be either A or P) are as follows:

Normal modification	Provisioned items order (Reserved for use by Air Force or Navy only)	Shipping instructions
00001–99999	K0001–K9999	S0001–S9999
then	KA001–KZ999	SA001–SZ999
A0001–A9999	L0001–L9999	T0001–T9999
B0001–B9999	LA001–LZ999	TA001–TZ999
and so on to	M0001–M9999	U0001–U9999
H0001–H9999	MA001–MZ999	UA001–UZ999
then	N0001–N9999	V0001–V9999
J0001–J9999	NA001–NZ999	VA001–VZ999
then	P0001–P9999	W0001–W9999
R0001–R9999	PA001–PZ999	WA001–WZ999
then	Q0001–Q9999	X0001–X9999
AA001–HZ999	QA001–QZ999	XA001–XZ999
then		Y0001–Y9999
JA001–JZ999		YA001–YZ999
RA001–RZ999.		

(2) If a contract administration office is changing the contract administration or disbursement office for the first time and is using computer-generated modifications to notify many offices, use the six-position identification number ARZ999. If either office is changed again during the life of the contract, use the identification number ARZ998, and on down as needed.

(3) Each office authorized to issue modifications must assign the identification numbers in sequence. Do not assign a number until it has been determined that a modification will be issued.

(b) *Modifications to orders and calls.*

(This policy applies to instruments coded A, D, G, or H in the ninth position of the basic number, orders placed under a Federal Supply Schedule, and orders placed under a contract or agreement awarded by a non-DoD agency.) Use a two-position modification number as follows:

(1) Modifications issued by a purchasing office begin wit 01, 02, and so on through 99, then B1 through B9, BA through BZ, C1 through C9, and so on through ZZ (e.g., Contract F04611–01–D–0125, Activity Code FA9300, Order 0002, Modification 01).

(2) Modifications issued by a contract administration office begin with 1A, 1B, and so on through 9Z, followed by A1, A2, and so on to A9, then AA, BB, and so on through AZ.

[FR Doc. 99–10547 Filed 4–27–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 225

[DFARS Case 99–D005]

Defense Federal Acquisition Regulation Supplement; Foreign Military Sales Customer Observation of Negotiations

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisitions Regulations Supplement (DFARS) to specify that, if requested by a foreign military sales (FMS) customer, the contracting officer should permit the FMS customer to observe contract price negotiations and should provide the FMS customer with information regarding price reasonableness.

DATES: Comments on the proposed rule should be submitted in writing to the address specified below on or before June 28, 1999, to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3061. Telefax (703) 602–0350. Please cite DFARS Case 99–D005.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 99–D005 in all correspondence related to this issue. E-mail correspondence should cite DFARS Case 98–D005 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131. Please cite DFARS Case 99–D005.

SUPPLEMENTARY INFORMATION:

A. Background

FMS customers have expressed an interest in becoming more involved in the preparation of contracts that DoD awards on their behalf. They have requested the opportunity to observe price negotiations and to receive assurances that their contract prices are reasonable. This rule proposes revisions to DFARS 225.7304 to specify that, if requested by an FMS customer, the contracting officer should provide the FMS customer with an explanation of the reasonableness of the negotiated price of its contract; and should permit thee FMS customer to observe price negotiations if the prospective contractor consents and the FMS customer provides certain written assurances.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because involvement of FMS customers in the contracting process should have no significant effect on offerors or contractors. The contracting officer must obtain permission from a prospective contractor before permitting an FMS customer to observe price negotiations. In addition, the FMS customer must provide written assurance that it will not disclose any proprietary or other contract or data except as specifically authorized by the contractor. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities

concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 99–D005 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 225 is proposed to be amended as follows:

1. The authority citation for 48 CFR Part 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

2. Section 225.7304 is revised to read as follows:

225.7304 Source selection and contract pricing.

(a) FMS customers may request that a defense article or defense service by obtained from a particular contractor. In such cases, FAR 6.302–4 provides authority to contract without full and open competition. the FMS customer also may request that a subcontract be placed with a particular firm. The contracting officer shall honor such requests from the FMS customer only is the LOA or other written direction sufficiently fulfills the requirements of FAR Subpart 6.3.

(b) Do not allow representatives of the FMS customer to—

(1) Direct the deletion of names of firms from bidders mailing lists or slates of proposed architect-engineer firms. (They may suggest the inclusion of certain firms); or

(2) Interfere with a contractor's placement of subcontracts.

(c) Do not accept directions from the FMS customer on source selection decisions or contract terms (except that, upon timely notice, the contracting officer may attempt to obtain any special contract provisions and warranties requested by the FMS customer).

(d) Do not honor any request by the FMS customer to reject any bid or proposal.

(e) If requested by the FMS customer—

(1) The contracting officer should provide the FMS customer with an explanation of the reasonableness of the negotiated price of its contract. This may include briefings or tailored reports, such as top-level pricing summaries, historical pricing trends, or an explanation of any price differential between DoD and FMS contracts; and

(2) Representatives of the FMS customer may observe price negotiations between the U.S. Government and the prospective contractor if—

(i) The contractor provides written permission consenting to the observation of price negotiations by the FMS customer. The contractor's written permission must include any restrictions on the disclosure of proprietary or other data; and

(ii) The FMS customer provides written assurances that it will not—

(A) Disclose any proprietary or other contractor data except as specifically authorized by the contractor; or

(B) Discuss with the contractor any issue related to the negotiation of price, either during or separate from negotiations.

[FR Doc. 99–10546 Filed 4–27–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 99041610–9199–01; I.D. 031999C]

RIN 0648–AL18

Pacific Halibut Fisheries; Local Area Management Plan for the Halibut Fishery in Sitka Sound

AGENCY: National Marine Fisheries Service (NMFS); National Oceanic and Atmospheric Administration (NOAA); Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would establish a Local Area Management Plan (LAMP) for the halibut fishery in Sitka Sound, in the Gulf of Alaska. This action would affect persons fishing from commercial and charter vessels. This action would implement the North Pacific Fishery Management Council (Council) recommendation to prohibit halibut fishing in Sitka Sound by commercial fishing vessels greater than 35 ft (10.7 meters(m)) and, during June, July, and August, by commercial fishing vessels less than or equal to 35 ft (10.7 m) and charter vessels. This action is necessary to address the decreased availability of halibut in Sitka Sound (currently attributed to too many harvesters of halibut within a relatively small area) and is intended to promote the goals and objectives of the Council with respect to management of halibut in and off Alaska.

DATES: Comments must be received by May 28, 1999.

ADDRESSES: Comments must be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this action may be obtained from the above address.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bering Sea (Convention), signed at Ottawa, Ontario, Canada, on March 2, 1953, and amended by a Protocol Amending the Convention, signed at Washington, D.C., United States of America, on March 29, 1979, authorizes the International Pacific Halibut Commission (Commission) to promulgate regulations for the conservation and management of the Pacific halibut fishery. Before these regulations would have any effect on U.S. fishermen, they must be approved by the Secretary of State of the United States pursuant to section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773–773k) that executes the above Convention. The Halibut Act, in section 5, gives the Secretary of Commerce (Secretary) the general responsibility to carry out the Convention between the United States and Canada, and requires the Secretary to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the Assistant Administrator for Fisheries, NOAA. Section 5 of the Halibut Act also provides that the regional fishery management council having authority for the geographical area concerned may recommend management measures governing Pacific halibut catch in U.S. Convention waters that are in addition

to, but not in conflict with, regulations of the Commission.

The Sitka (Alaska) Fish and Game Advisory Committee began the process necessary to develop a LAMP in 1995 to address the concerns of local residents about the decreased availability of halibut in Sitka Sound. The Chairman of the Sitka Fish and Game Advisory Committee appointed representatives of all major sectors participating in the Sitka Sound halibut fishery, including the commercial, sport, charter, and personal use fishermen, to the Sitka Halibut Task Force (Task Force).

The Task Force determined that too many harvesters targeted halibut in Sitka Sound. The Commission has no data that support or refute localized depletion; however, local or anecdotal information indicates the opportunity for an individual fisherman to catch a halibut has greatly decreased due to increased competition. This increased competition among users is due to an increase in the number of guided charter vessels and the Individual Fishing Quota (IFQ) fishery that allows commercial fishing vessels to operate throughout the summer. The Task Force unanimously agreed to a statement of findings and a list of voluntary actions in May 1995.

The Task Force was reconvened in January 1997 in response to Proposal 270 submitted by the Sitka Tribe of Alaska to the State of Alaska Board of Fisheries (BOF). Proposal 270 requested the BOF to take action to prohibit commercial and charter fishing for halibut, ling cod, rockfish, and other bottomfish in the Sitka Sound area. In February 1997, the BOF deferred the halibut proposal to the Council as the responsible body for developing regulations having domestic allocation of Pacific halibut as a primary purpose. The Council assigned the Task Force with the duty of developing a LAMP for halibut for Council action.

The Task Force determined that the decreased availability of halibut in Sitka Sound due to excessive competition was diminishing the quality of life for local residents. The Task Force identified the following areas of concern: Status of the halibut stocks; increasing charter fishing effort; decreasing non-charter sport catch; decreasing commercial catches; and changes in commercial fishing patterns due to the IFQ program. The Task Force then created a proposed LAMP for Sitka Sound and submitted it to the Council.

The Council directed its staff to prepare an EA/RIR/IRFA analyzing the Task Force's LAMP proposal. The Council approved the Task Force's proposal as the preferred alternative in February 1998. The Council's preferred alternative is the basis of this proposed rule. The following summarizes the preferred alternative.

First, commercial vessels greater than 35 ft (10.7 m) overall length targeting halibut would be prohibited in the Sitka Sound area, defined as a line across Kakul Narrows at the Green Buoy and from a point on Chichagof Island to Kruzof Island adjacent to Sinitsin Island on the North, to the Sitka Salmon Derby Boundaries on the South.

Second, commercial vessels less than or equal to 35 ft (10.7 m) in overall length targeting halibut would be prohibited from fishing for halibut in the Sitka Sound area during June, July, and August. A trip limit of 2000 lb (0.91 metric tons (mt)) of halibut would be in effect for commercial vessels less than or equal to 35 ft (10.7 m) in overall length targeting halibut in the Sitka Sound area during the designated IFQ season as specified in 15 CFR 300.26, except during the closed period of June, July, and August. The Sitka Sound area in this case is the same as that defined for commercial vessels greater than 35 ft (10.7 m) in overall length, except that the southern boundary would be a line from Sitka Point to Hanus Point, from Hanus Point to the Green Marker in Dorothy Narrows, and across to Baranof Island.

Finally, during June, July, and August, charter vessels would be prohibited from fishing for halibut in the Sitka Sound area, defined the same as the closed area for commercial vessels less than or equal to 35 ft (10.7 m) in overall length. Operators of charter vessels could retain halibut harvested outside Sitka Sound when they are fishing for other species within Sitka Sound from June 1 through August 31. The charter vessel fleet considers the ability to retain halibut caught outside the closed area necessary because of the difficulties in off-loading catch during a charter fishing trip. NMFS is particularly interested in receiving comments on this aspect of the proposed rule because of the difficulty in distinguishing between halibut caught outside the closed area and halibut that may have been caught within the closed area.

The less restrictive southern boundary for charter vessels and commercial fishing vessels less than or equal to 35 ft (10.7 m) in overall length would allow them to fish in more protected waters during inclement weather. Also, it would allow the smaller vessels access to the halibut fishing grounds around Biorka Island. The southern boundary for commercial fishing vessels greater than 35 ft (10.7 m) in overall length would exclude the larger vessels from fishing around Biorka Island.

NMFS prepared an EA/RIR/IRFA for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the environmental and the socio-economic impacts of the alternatives. A copy of the EA/RIR/IRFA can be obtained from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

This proposed action is being considered because local residents of Sitka Sound are concerned about the decreased availability of halibut. The objective is to allocate halibut fishing opportunities in Sitka Sound among fishermen fishing with commercial vessels, anglers fishing from charter vessels, subsistence/personal use fisheries, and sport fishermen. Section 5 of the Halibut Act authorizes the Council to recommend management measures governing Pacific halibut catch in Sitka Sound.

There were 192 registered charter vessels and 74 commercial longline vessels with allocations of halibut in Area 2C that fished in Sitka Sound in 1996.

This rule does not contain reporting, recordkeeping, or compliance requirements and there are no relevant Federal rule which may duplicate, overlap, or conflict with this proposed rule.

The alternative of not having a LAMP for Sitka Sound would not have a negative impact on the halibut resource but would increase competition for the resource in Sitka Sound. Creation of an alternative LAMP for Sitka Sound, which would (1) prohibit halibut commercial vessels greater than 35 ft (10.7 m) from harvesting halibut in Sitka Sound, (2) prohibit halibut commercial vessels less than or equal to 35 ft (10.7 m) from harvesting halibut in Sitka Sound during July, July, and August with a 1,000 lb (0.45 mt) trip limit during the remainder of the IFQ fishing season, and (3) during July, June, and August only allow for a subsistence/personal use fishery, and a non-guided sport fishery in Sitka Sound, would protect the interests of non-guided anglers but restrict the retention of halibut caught outside Sitka Sound by charter vessels while fishing inside the Sound.

None of the alternatives discussed in the EA/RIR/IRFA is likely to significantly affect the quality of the human environment, or are expected to have significant impacts on endangered or threatened species, or marine mammals.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: April 20, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 300 is proposed to be amended to read as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for 50 CFR part 300, subpart E continues to read as follows:

Authority: 16 U.S.C. 773–773k

2. In § 300.61, the definitions for "Charter vessel", "Fishing", "Individual Fishing Quota", "IFQ fishing trip", "IFQ halibut", "Overall length", "Setline gear", and "Sport fishing" are added in alphabetical order to read as follows:

§ 300.61 Definitions.

* * * * *

Charter vessel means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator.

Fishing means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area.

Individual Fishing Quota (IFQ), for purposes of this subpart, means the annual catch limit of halibut that may be harvested by a person who is lawfully allocated a harvest privilege for a specific portion of the TAC of halibut.

IFQ fishing trip, for purposes of the subpart, means the period beginning when a vessel operator commences harvesting IFQ halibut and ending when the vessel operator lands any species.

IFQ halibut means any halibut that is harvested with fixed gear in any IFQ regulatory area.

Overall length of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments).

* * * * *

Setline gear means one or more stationary, buoyed, and anchored lines with hooks attached.

Sport fishing means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing.

* * * * *

3. In § 300.63, the heading is revised, introductory text of § 300.63 is revised, and paragraph (d) is added to read as follows:

§ 300.63 Catch sharing plans, local area management plans, and domestic management measures.

Catch sharing plans (CSP) and local area management plans (LAMP) may be developed by the appropriate regional fishery management council, and approved by NMFS, for portions of the fishery. Any approved CSP or LAMP may be obtained from the Administrator, Northwest Region, or the Administrator, Alaska Region.

* * * * *

(d) The LAMP for Sitka Sound provides guidelines for participation in the halibut fishery in Sitka Sound.

(1) For purposes of § 300.63(d), Sitka Sound means (See Figure 1) to subpart E of the part:

(i) With respect to § 300.63(d)(2), that part of the Commission regulatory area 2C that is enclosed on the north and east by a line from Kruzof Island at 57°20'30" N. lat., 135°45'10" W. long. to Chichagof Island at 57°22'03" N. lat., 135°43'00" W. long., and a line from Chichagof Island at 57°22'35" N. lat., 135°41'18" W. long. to Baranof Island at 57°22'17" N. lat., 135°40'57" W. long.; and is enclosed on the south and west by a line from Cape Edgecumbe at 57°59'54" N. lat., 135°51'27" W. long. to Vasilief Rock at 56°48'56" N. lat., 135°32'30" W. long. to the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

(ii) With respect to § 300.63(d)(3) and (4), that part of the Commission regulatory area 2C that is enclosed on the north and east by a line from Kruzof Island at 57°20'30" N. lat., 135°45'10" W. long. to Chichagof Island at 57°22'03" N. lat., 135°43'00" W. long., and a line from Chichagof Island at 57°22'35" N. lat., 135°41'18" W. long. to Baranof Island at 57°22'17" N. lat., 135°40'57" W. lat.; and is enclosed on the south and west by a line running from Sitka Point at 56°59'23" N. lat., 135°49'34" W. long., to Hanus Point at 56°51'55" N. lat., 135°30'30" W. long., to the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

(2) A person using a vessel greater than 35 ft (10.7 m) in overall length, as defined in 50 CFR 300.61, is prohibited from fishing for IFQ halibut with setline gear, as defined in 50 CFR 300.61, within Sitka Sound as defined in paragraph (d)(1)(i) of this section.

(3) A person using a vessel less than or equal to 35 ft (10.7 m) in overall length, as defined in 50 CFR 300.61:

(i) Is prohibited from fishing for IFQ halibut with setline gear within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31; and

(ii) Is prohibited, during the remainder of the designated IFQ season, from retaining more than 2,000 lbs. (0.91 mt) of IFQ halibut within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, per IFQ fishing trip, as defined in 50 CFR 300.61.

(4) No charter vessel, as defined in 50 CFR 300.61, shall engage in sport fishing as defined in 50 CFR 300.61, for halibut within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

(i) No charter vessel shall retain halibut caught while engaged in sport fishing, as defined in 50 CFR 300.61, for other species, within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

(ii) Notwithstanding paragraphs (d)(4) and (d)(4)(i) of this section, halibut harvested outside Sitka Sound, as defined in (d)(1)(ii) of this section, may be retained onboard a charter vessel engaged in sport fishing as defined in 50 CFR 300.61,for other species within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section from June 1 through August 31.

3. In subpart E of part 300, Figure 1 is added following § 300.65.

BILLING CODE 3510–22–F

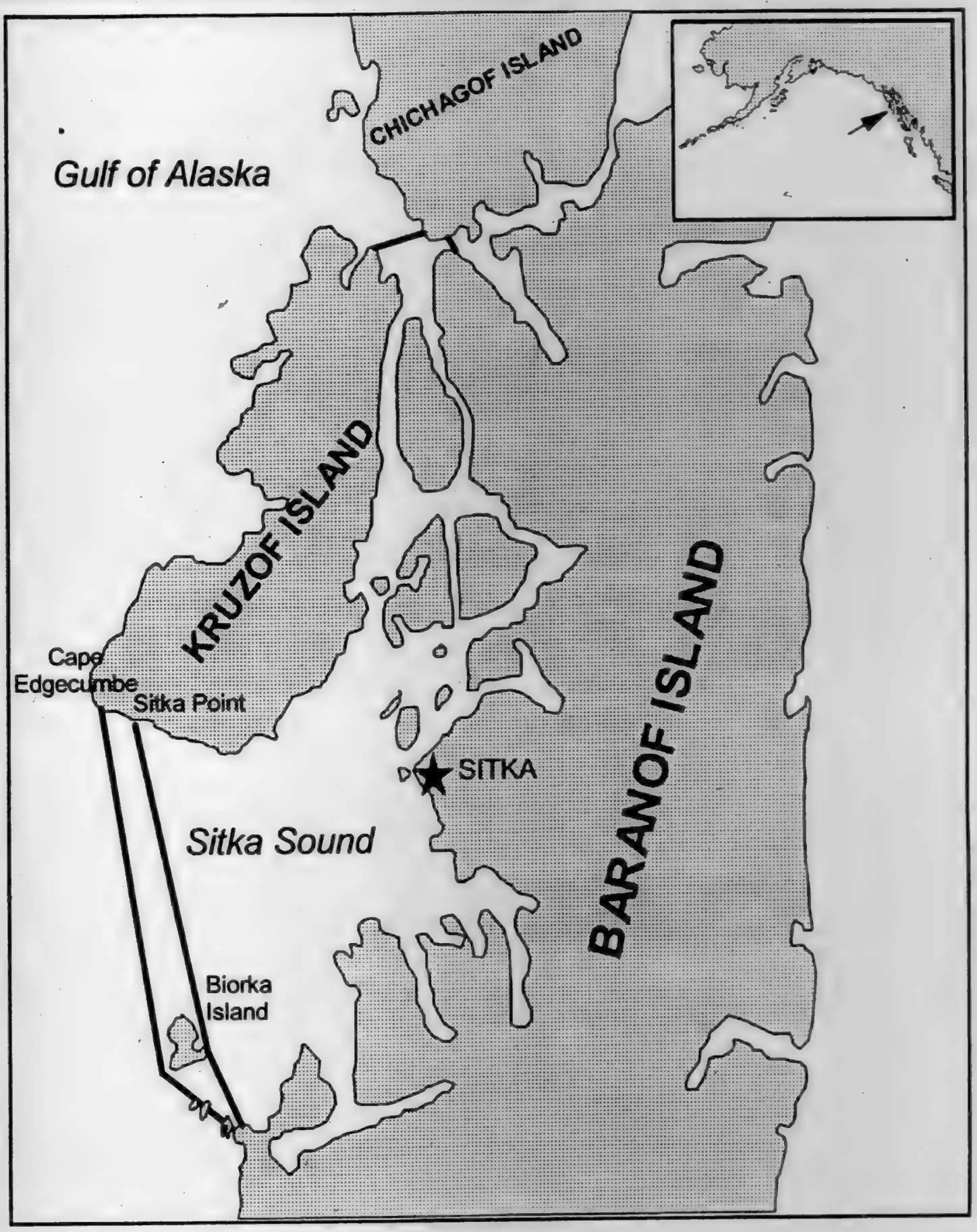


Figure 1. Sitka Local Area Management Plan
a. Map

Figure 1. Sitka Sound Local Area Management Plan Boundaries
b. Coordinates

Northern Boundary:

A line from Kruzof Island at 57°20'30" N. lat., 135°45'10" W. long. to Chichagof Island at 57°22'03" N. lat., 135°43'00" W. long., and a line from Chichagof Island at 57°22'35" N. lat., 135°41'18" W. long. to Baranof Island at 57°22'17" N. lat., 135°40'57" W. long.

Southern Boundaries:

(1) A line from the southernmost tip of Cape Edgecumbe at 57°59'54" N. lat., 135°51'27" W. long. to Vasilief Rock at 56°48'56" N. lat., 135°32'30" W. long. to the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

(2) A line from the southernmost tip of Sitka Point at 56°59'23" N. lat., 135°49'34" W. long., to Hanus Point at 56°51'55" N. lat., 135°30'30" W. long., to the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

[FR Doc. 99-10541 Filed 4-27-99; 8:45 am]
BILLING CODE 3510-22-C

Notices

Federal Register

Vol. 64, No. 81

Wednesday, April 28, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

East Side Project, McKean, Elk and Forest Counties, Pennsylvania

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: Reference is made to our notice of intent to prepare an environmental impact statement for the East Side Project (FR Document 98–10895 filed 4/23/98) published in the **Federal Register**, Volume 63, No. 79, Friday, April 24, 1998, pages 20368–69.

In accordance with Forest Service Environmental Policy and Procedures handbook 1909.15, part 21.2—*Revision of Notices of Intent,* we are revising the date that the Draft Environmental Impact Statement is expected to be filed with the Environmental Protection Agency and be available for public review and comment to July 1, 1999. Subsequently, the date the final EIS is scheduled to be completed is revised to be November 1, 1999.

FOR FURTHER INFORMATION CONTACT: Gary W. Kell, Allegheny National Forest at P.O. Box 847, Warren, PA 16365 or by telephone at 814/723–5150.

Dated: April 19, 1999.

John E. Palmer,

Forest Supervisor.

[FR Doc. 99–10575 Filed 4–27–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Transfer of Administrative Jurisdiction; Table Rock Lake Reservoir Project; Mark Twain National Forest, Missouri

AGENCY: Forest Service, USDA.

ACTION: Notice of land interchange.

SUMMARY: On August 25, 1998, and December 24, 1998, the Secretary of the Army and the Secretary of Agriculture, respectively, signed a joint interchange order authorizing the transfer of administrative jurisdiction of 4,556.81 acres, more or less, lying within and adjacent to the Mark Twain National Forest in Stone and Barry Counties, Missouri, from the Department of Agriculture to the Department of the Army. Further, the order transfers from the Department of the Army to the Department of Agriculture 68.32 acres, more or less, within and adjacent to the exterior boundaries of the Mark Twain National Forest, Stone County, Missouri, for inclusion in the Mark Twain National Forest. The 45-day Congressional oversight requirement of the Act of July 26, 1956 (70 Stat. 656, 16 U.S.C. 505a, 505b) has been met. A copy of the Joint Order, as signed, and Exhibits A and C, which describe the lands being conveyed, are set out at the end of this notice.

EFFECTIVE DATE: The order is effective April 28, 1999.

FOR FURTHER INFORMATION CONTACT: David M. Sherman, Lands Staff, 4 South, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, Telephone: (202) 205–1362.

Dated: April 20, 1999.

Gloria Manning,

Acting Deputy Chief, National Forest Systems.

Department of the Army

Department of Agriculture

Table Rock Lake, Missouri

Joint Order Interchanging Administrative Jurisdiction of Department of the Army Lands and National Forest Lands

By virtue of the authority vested in the Secretary of the Army and the Secretary of Agriculture by the Act of July 26, 1956, (70 Stat. 656; 16 U.S.C. 505a, 505b) it is ordered as follows:

(1) The lands under the jurisdiction of the Department of the Army, described in Exhibit A and shown on Exhibit B (maps are on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.), which lie within and adjacent to the Mark Twain National Forest, Missouri are hereby transferred from the jurisdiction of the Secretary of the Army to the jurisdiction of the Secretary of Agriculture subject to outstanding rights or interests of record and to such flooding as may occur from the operation of the Table Rock Lake Project.

(2) The lands under the jurisdiction of the USDA Forest Service, described in Exhibit C and shown on Exhibit D (maps are on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.) which lie within and adjacent to the Table Rock Lake Project, Missouri, are hereby transferred from the Secretary of Agriculture to the jurisdiction of the Secretary of the Army.

(3) Pursuant to Section 2 of the aforementioned Act of July 26, 1956, the National Forest lands transferred to the Secretary of the Army by this order are hereafter subject only to the laws applicable to the Department of the Army lands comprising the Table Rock Lake Project, Missouri. The Department of Army lands transferred to the Secretary of Agriculture by this order are hereafter subject only to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended.

This order will be effective as of the date of publication in the **Federal Register**.

Dated: August 25, 1998.

Louis Caldera,

Secretary of the Army.

Dated: December 24, 1998.

Dan Glickman,

Secretary of Agriculture.

Exhibit A—Description of Corps of Engineers Lands Affected by Piney Creek Wilderness

Acres of Corps of Engineers ownership in the following described sectional subdivisions and acres of Corps of Engineers ownership within Piney Creek Wilderness to be conveyed to the Mark Twain National Forest:

	COE acres owned	COE acres to convey to USFS	COE segment map
Stone County, Missouri:			
T 23 N, R 24 W			
Sec. 19: SW¼	17.5	17.5	U
Barry County, Missouri:			
T 23 N, R 25 W			
Sec. 24: SW NE, N½ SE	25.32	25.32	U

Acres over which the Corps of Engineers possesses a flowage easement in the following described sectional subdivisions and acres of flowage easement within Piney Creek Wilderness to be conveyed to the Mark Twain National Forest:

	COE acres easement	COE acres easement to USFS	COE segment map
Barry County, Missouri:			
T 23 N, R 25 W			
Sec. 24: N½ SE, N½ SW, S½ NW, SW NE	25.5	25.5	U

Total COE acres in fee	42.82
Total COE acres of flow easement	25.50
Total COE acres involved	68.32

Exhibit C—Description of National Forest Lands Affected by Table Rock Reservoir Project

Acres of National Forest ownership in the following described sectional subdivisions and acres of National Forest ownership on or below the 936-foot m.s.l. contour and within the Cow Creek Area to be conveyed to the Corps of Engineers:

	N.F. acres owned	N.F. acres to convey to COE	COE segment map
Stone County, Missouri:			
T 21 N, R 23 W			
Sec. 5: NW NW	40.0	2.0	I
T 22 N, R 23 W			
Sec. 1: E½ Lot 1 & 2 NW, NW SW, NW SE	159.33	18.9	B
Sec. 5: W½ LOT 2 NW	38.54	2.6	G
Sec. 6: NW¼ (north of James River), NW SE, N½ SW (north of James River), plus all that part of the above sectional subdivisions lying above the 936-foot m.s.l. contour and described as exceptions in the attached Exchange Deed labeled McGuire, dated April 18, 1986 and filed for record in Book 181, at Page 1860, Stone County Recorder's Office.	76.2	76.2	H
Sec. 12: W½ NW, N½ SW, SW SW, plus all that part of the above sectional subdivisions lying above the 936-foot m.s.l. contour and described as exceptions in the attached Exchange Deed labeled Plaster, dated April 17, 1990 and filed for record in Book 198, at Page 1629, Stone County Recorder's Office.	48.4	48.4	B
Sec. 24: NE NE, S½ NE	120.0	17.0	D
Sec. 25: NE NE, SW NE	80.0	16.9	D
Sec. 27: SW NW	40.0	.1	E
Sec. 31: SW NW, NW SW	95.25	92.25	I
T 23 N, R 23 W			
Sec. 19: Lot 1 NW, Lot 2 SW, N½ Lot 1 SW, W½ NE	278.7	22.2	G
Sec. 20: N½ SE	80.0	4.6	G
Sec. 21: N½ NW including that part of the NE NW lying above the 936 foot m.s.l. contour and south of Aunt's Creek.	80.0	3.2	G
Sec. 32: SW SW	40.0	2.5	G
Sec. 34: SE¼, including that part of the SE¼ lying above the 936-foot m.s.l. contour and below the Corps of Engineers Management line, which is more particularly described in the attached legal description labeled Collins Ranch.	81.57	81.57	F
Sec. 35: NW SW, including that part of the NW SW lying above the 936-foot m.s.l. contour and below the Corps of Engineers Management line, which is more particularly described in the attached legal description labeled Collins Ranch.	.2	.2	F
T 21 N, R 24 W			
Sec. 1: SW NW as described in the attached legal description labeled KK Kamps, which includes lands above and below the 936 foot m.s.l. contour.	12.82	12.82	I
T 22 N, R 24 W			
Sec. 3: SW¼, SW SE	200.0	28.9	S

	N.F. acres owned	N.F. acres to convey to COE	COE segment map
Sec. 4: E½ Lot 1 NE, W½ Lot 2 NE, Lot 1 NW	159.85	49.5	S
Sec. 5: Lot 1 NE, Lot 2 NW	162.41	10.2	S
Sec. 6: S½ Lots 1 & 2 SW	80.39	3.0	CC
Sec. 7: W½ NE, S½ Lot 1 NW, N½ Lot 2 NW, S½ Lot 1 SW, Lot 2 SW	280.44	79.1	CC
Sec. 8: S½ NE, E½ SE, SW NW	200.0	64.0	S
Sec. 9: N½ SE SE, NW SW	60.0	13.0	S
Sec. 10: SE NE	40.0	3.7	S
Sec. 11: S½ NW, SW NE	120.0	15.5	S
Sec. 15: NW SE, W½ NW	120.0	10.6	R
Sec. 18: N½ NE, SE NE	120.0	50.8	CC
Sec. 21: Lot 1 SE as described in the attached legal description labeled McFarlin, which includes lands above and below the 936 foot m.s.l. contour.	20.67	20.67	R
Sec. 25: NE NE	40.0	15.0	I
Sec. 32: W½ SE, SW¼, S½ NW, W½ NW NW	340.0	72.4	DD
Sec. 36: SE SE	40.0	40.0	I
T 23 N, R 24 W			
Sec. 20: NW NE, S½ SE, NE SW	160.0	16.7	U
Sec. 23: NE NE, SW NE, NE SE, SE NW	160.0	81.25	T
Sec. 24: W½ SE, SW¼ W½ NW	240.0	92.0	G
	80.0	80.0	T
Sec. 27: W½ SE	80.0	7.2	T
Sec. 28: NE NE	40.0	8.6	T
Sec. 29: NE¼	158.0	50.0	U
Total—Stone County, other than Cow Creek block	.....	1213.56	
Barry County, Missouri:			
T 21 N, R 25 W			
Sec. 13: Lot 1	7.56	7.56	GG
T 22 N, R 25 W			
Sec. 1: W½ SE, SE SW	120.0	4.8	CC
Sec. 12: SE¼	160.0	14.8	CC
Sec. 13: NE NE, SW¼	127.7	15.4	CC
T 21 N, R 26 W			
Sec. 29: NE NE	40.0	2.1	MM
T 22 N, R 26 W			
Sec. 26: SE SE	40.0	3.8	JJ
Total—Barry County	.....	48.46	

Stone County Lands (Less Cow Creek)	1213.56
Barry County Lands	48.46
Grand Total (acres)	1262.02

Description of National Forest Lands Within the Cow Creek Block

	N.F. acres acquired	N.F. acres to be conveyed to COE	COE segment map
Stone County, Missouri, Cow Creek:			
T 21 N, R 23 W			
Sec. 1: All except NW SW	600.0	600.0	E
Sec. 2: All except N½ NE, NW NW, NE SE & except 1 square acre in the NE corner of the SW NE.	479.0	479.0	E
Sec. 3: E½ SE, S½ NE, NW NE, NW NW	240.0	240.0	E
Sec. 4: NW NE	40.0	40.0	
Sec. 10: NE NE	40.0	40.0	E
Sec. 11: N½ N½	160.0	160.0	E
Sec. 12: NE¼ north of 86, E½ NW, NW NW	276.0	276.0	E
T 22 N, R 23 W			
Sec. 26: SW SW	40.0	40.0	E
Sec. 27: S½ SW, part E½ SE	105.0	105.0	E
Sec. 33: SE¼ except NW SE	120.0	120.0	
Sec. 34: All except SE SW, SW, SE, part E½ SE	523.19	523.19	E
Sec. 35: NW¼, S½ NE, E½ SW	320.0	320.0	E
Sec. 36: S½ & part SE NE	351.6	351.6	E
Total—Cow Creek	3,294.79	3,294.79	

[FR Doc. 99–10620 Filed 4–27–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011999A]

Small Takes of Marine Mammals Incidental to Specified Activities; La Jolla Children's Pool Beach Management and Water Quality Project

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of withdrawal of a request for a small take exemption authorization.

SUMMARY: On April 8, 1999, NMFS was notified by the City of San Diego's Park and Recreation Department that it was withdrawing its request for an authorization under the Marine Mammal Protection Act (MMPA) to take small numbers of Pacific harbor seals by harassment incidental to excavating and removing beach sand at the La Jolla Children's Pool, La Jolla, CA.

ADDRESSES: A copy of the application and/or the letter of withdrawal may be obtained by writing to Donna Wieting, Acting Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225 or by telephoning one of the contacts listed in **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources at 301–713–2055, or Joe Cordaro, Southwest Regional Office at 562–980–4017.

SUPPLEMENTARY INFORMATION: On December 28, 1998, NMFS received a request from the City of San Diego for authorization under section 101(a)(5)(D) of the MMPA (16 U.S.C. 1371(a)(5)(D)) to take small numbers of Pacific harbor seals (*Phoca vitulina*) and possibly 1 to 2 California sea lions (*Zalophus californianus*) and northern elephant seals (*Mirounga angustirostris*) by harassment incidental to excavating and removing 3,000 yd^3 (2,295 m^3) of beach sand at the La Jolla Children's Pool. The La Jolla Children's Pool was constructed in 1931 to provide a sheltered swimming area for children in La Jolla. Over time, the beach behind the breakwater has gradually widened as sand has accumulated in the sheltered pool. By 1998, the shoreline had advanced to near the end of the breakwater, at the mouth of the pool, leaving very little area for recreational swimming. The lack of a protected swimming area and the proximity to dangerous rip current conditions near the breakwater opening have created significant safety concerns.

In addition to the restricted use and associated dangers due to sand accretion, recreational use has been further compromised by a population of harbor seals that regularly use the Children's Pool area as a haul-out area. Seal feces from the concentrated harbor seal population have resulted in fecal coliform bacteria counts that significantly exceed State water quality standards for bathing beaches and body contact areas. DNA testing has confirmed the harbor seal population as the source of the bacterial contamination. As a result, the Children's Pool has been determined unsafe for human contact and has been closed to the public for all water contact since September 4, 1997. Moreover, the presence of the large seal population attracts large numbers of non-bathing observers to the beach area. This interaction has raised additional safety concerns for both humans and the seals.

The La Jolla Children's Pool Beach Management and Water Quality Project proposed to restore a safe swimming area and acceptable water quality to the pool by reducing the beach width. Out of 4,200 yd^3 (3,213 m^3) of sand in the pool area, approximately 3,000 yd^3 (2,295 m^3) was to have been excavated and removed to narrow the beach. The City of San Diego expected that, by excavating and enlarging the area available for recreational swimming, it would provide a safe region for the public away from the dangerous rip currents, and, by reducing the area available for harbor seals, water quality levels are expected to return to former levels that were acceptable and safe for human contact.

A notice of receipt of the application and proposed incidental harassment authorization issued under the MMPA was published on February 22, 1999 (64 FR 8548), and a 30-day public comment period was provided on the application and proposed authorization. Several comments were received during the comment period.

Subsequent to the close of the comment period, on April 8, 1999, NMFS was notified by the Park and Recreation Department that it was withdrawing its request for an authorization under section 101(a)(5)(D) of the MMPA to take small numbers of Pacific harbor seals by harassment incidental to excavating and removing beach sand at the La Jolla Children's Pool, La Jolla, CA. The letter noted that the City will be evaluating alternatives to sand removal in order to reduce the level of fecal contamination in the pool waters and may submit a renewed application in the future.

Dated: April 22, 1999.

Hilda Diaz-Soltero,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–10641 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042199G]

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) will hold a series of fact-finding meetings in Puerto Rico and the U.S. Virgin Islands.

DATES: See **SUPPLEMENTARY INFORMATION** for specific dates.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION:

Tuesday May 11, 1999 — 7:00 p.m. to 10:00 p.m.

Location: Conference Room, Legislature Building, Charlotte Amalie, St. Thomas, U.S.V.I.

Wednesday, May 12, 1999 — 7:00 p.m. to 10:00 p.m.

Location: Conference Room, Legislature Building, St. John, U.S.V.I.

Thursday, May 13, 1999 — 7:00 p.m. to 10:00 p.m.

Location: Conference Room, Caravelle Hotel, 44A Queen Cross Street, Christinasted, St. Croix, U.S.V.I.

Monday, May 17, 1999 — 7:00 p.m. to 10:00 p.m.

Location: Refugio Las Marias, Vieques, PR

Tuesday, May 18, 1999 — 1:00 p.m. to 4:00 p.m.

Location: El Meson Criollo, Carr. 987, Km. 3.2, Fajardo, PR

Tuesday May 18, 1999 — 7:00 p.m. to 10:00 p.m.

Location: Conference Room, Casa Alcaldia of Naguabo, Naguabo, PR

Wednesday, May 19, 1999 — 7:00 p.m. to 10:00 p.m.

Location: Conference Room, Ponce Hilton Hotel, 1150 Ave. Caribe, Ponce, PR

Thursday, May 20, 1999 — 1:00 p.m. to 4:00 p.m.

Location: Conference Room, Villa Parguera Hotel, 304 St., Km. 3.3, La Parguera, Lajas, PR

Thursday, May 20, 1999 — 7:00 p.m. to 10:00 p.m.

Location: Conference Room, Joyuda Beach Hotel, Rd. 102, Bo. Joyuda, Cabo Rojo, PR

Friday, May 21, 1999 — 6:00 p.m. to 9:00 p.m.

Location: Centro Comunal of Barrio Jarealito, Arecibo, PR

The Caribbean Fishery Management Council will hold a series of fact finding meetings in Puerto Rico and the U.S. Virgin Islanda to obtain input from fishery and the general public on possible management measures proposed by, among others, Project Reef Keeper and some concerned citizens. The first of the proposed measures is the phasing out of fish traps in around ten years. The idea here is to avoid the damage to the reef and fish species when traps are deployed on top of reefs, and when these are lost continuing killing fish for a long time. The Council has not taken a position on this or any of the measures that are to be discussed at the meetings. The other two measures the Council need comments on are the banning of gill nets and the prohibition to use SCUBA gear to fish for queen conch, lobster and some reef fishes, the commercial and/or recreational fisheries. The proponents of these measures believe that the use of gill nets is jeopardizing the recovery of the already over-exploited resources. Furthermore, there is the notion that SCUBA is the main reason why the stocks of queen conch and lobster are so depleted. The Council wishes to find more information on these important and drastic measures before the preparation of an option paper that could initiate the process of development of amendments to the fishery management plans to ban any of these methods of fishing written statements regarding agenda issues.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Carribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: April 22, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10637 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042199E]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Oversight Committee and Groundfish Advisory Panel in May, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on May 11, 1999. See **SUPPLEMENTARY INFORMATION** for specific times.

ADDRESSES: The meeting will be held in Peabody, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agenda

Tuesday, May 11, 1999, 9:30 a.m.— Groundfish Oversight Committee and Groundfish Advisory Panel Joint Meeting

Location: Holiday Inn, One Newbury Street (Route 1 North), Peabody, MA 01960; telephone: (978) 535–4600.

The committee and panel will review draft proposals and analysis for Framework Adjustment 31 to the Northeast Multispecies Fishery Management Plan (FMP), and recommend a preferred alternative for consideration by the Council at its

May 26–27 meeting. Framework Adjustment 31 would modify the FMP regulations pertaining to the Georges Bank cod fishery, including: a proposal for vessels to take a 30-day block out of the multispecies fishery during each quarter; reductions in the allowable number of hooks used by hook vessels and gillnets used by Day Gillnet category vessels; increasing the minimum size of cod to 21 inches; and eliminating the "running clock" provision of the Gulf of Maine cod trip limit program. The committee and panel will also discuss and advise the Council on issues and measures to be included in a public hearing document for Amendment 13 to the FMP, including but not limited to: management of the recreational and party/charter fishery, management policy and strategy for the commercial fishery, action to rebuild all stocks in the fishery management unit as needed under new overfishing definitions; managing fleet fishing capacity, including possible implementation of a two-tier permit system to address latent fishing permits; proposals for industry support systems involving scientific research and conservation engineering programs; modification of the annual adjustment schedule and possible change to the fishing year; the use of electronic vessel monitoring systems (VMS); and other issues that may be identified during the scoping process.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least five days prior to the meeting dates.

Dated: April 22, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10636 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042199F]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in May, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between May 13 and May 24, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Meetings will be held in Peabody and E. Boston, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, May 13, 1999, 10:00 a.m.—Joint NEFMC/ASMFC Herring Advisors Committee Meeting

Location: Holiday Inn, One Newbury Street, Route 1, Peabody, MA 01960; telephone: (978) 535–4600; fax: (978) 535–8238

Development of advisory panel recommendations on limited entry, controlled access, and recommendations on the establishment of a control date for the Atlantic herring fishery; other business.

Monday, May 24, 1999, 9:30 a.m.—Scallop Committee Meeting.

Location: Holiday Inn Boston Logan Airport, 225 McClellan Highway, East Boston, MA 02128, telephone: (617) 569–5250; fax: (617) 561–0971

The committee will identify problems and issues to be addressed by Amendment 10 and evaluate research proposals that would utilize the scallop TAC set-aside from Closed Area II.

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, these issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: April 22, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10638 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041699C]

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting to coordinate with state artificial reef program coordinators on the review and consideration of establishing artificial reefs as marine fishery reserves, or "artificial refugia" in the South Atlantic.

DATES: The meeting will be held on May 13, 1999 from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Florida Marine Research Institute, 100 8th Avenue, SE, St. Petersburg, FL 33701; telephone: 717-896-8626.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (843) 571-4366; fax: (843) 769-4520; email: susan.buchanan@noaa.gov.

SUPPLEMENTARY INFORMATION: Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by May 6, 1999.

Dated: April 22, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10640 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042199D]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council's (Council) Pelagics Plan Team (PPT) members will hold a meeting.

DATES: The meeting will be held May 12–14, 1999, from 8:30 a.m. to 5:00 p.m. each day.

ADDRESSES: The meeting will be held at the Council office.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The PPT meeting will discuss and may make recommendations to the Council on the following agenda items:

1. Pelagic fisheries annual report modules;
2. 1st quarter 1999 Hawaii and American Samoa longline fishery report;
3. Shark incidental catch in the Hawaii longline fishery, and issues related to shark finning and commercial gears used to catch sharks;

4. Status of Council and NMFS projects concerning mitigation of longline-seabird interactions in the Hawaii longline fishery;

5. Status of NMFS research on bycatch of turtles in the Hawaii longline fishery, and issues relating to the complaint filed against NMFS concerning the current biological opinion for turtles and compliance with National Environmental Protection Act requirements;

6. Marine debris: sources and impacts on habitat and protected species;

7. Status of the area closure for large pelagic fishing vessels around the islands of American Samoa, and area closures for other island areas in the Western Pacific;

8. Progress of the Multi-lateral High Level Conference process to implement a management convention for tunas in the Central-West Pacific;

9. Fisheries data issues including recreational fishery reporting and formation of a recreational fisheries data task force;

10. Review of Pelagics Advisory Panel recommendations;

11. Status report on High Seas Fishing Compliance Act licensing of Hawaii-based longline vessels;

12. Review of Council program plan;

13. Other business as required.

Although other issues not contained in this agenda may come before this Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not the subject of formal discussion during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: April 22, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10639 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on May 28, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Division, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 588–0159.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety.

Dated: April 22, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHA 08

SYSTEM NAME:

Health Affairs Survey Data Base *(April 12, 1999, 64 FR 17627).*

CHANGE:

* * * * *

RETRIEVABILITY:

Delete the first paragraph under *Annual Beneficiary Survey:* and replace with '1. Beneficiary Records: Records of beneficiaries who have or have not responded to the survey may be retrieved by patient identifiers such as name, address, sponsor Social Security Number, family member prefix code, and demographic categories such as age, sex, military rank group (officer/enlisted/civilian).'

Delete the first paragraph under *Customer Satisfaction Survey:* and replace with '1. Beneficiary Records: Records of beneficiaries who have been mailed a survey may be retrieved by name and address for purposes of initiating follow-up contacts to obtain a response to the survey; but after 90 days, the name and address are permanently deleted so that the survey respondent cannot be identified.'

* * * * *

DHA 08

SYSTEM NAME:

Health Affairs Survey Data Base

SYSTEM LOCATION:

Primary location: Directorate of Information Management, Fort Detrick, MD 21702–5020.

Secondary locations: Survey distribution and response tracking files are located at the contractor facilities.

Survey result data files are located at the Office of the Assistant Secretary of Defense (Health Affairs), the Commanders and Intermediate Commanders of the Services Medical Treatment Facilities, the Surgeons General of the Military Services and Regional Managers of TRICARE facilities. The addresses for the secondary locations may be obtained from the Deputy Assistant Secretary of Defense (Health Budgets and Programs), Five Skyline Place, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Annual Beneficiary Survey: Individuals eligible for health care under Title 10 (including active duty personnel, reserve personnel and their family members (dependents); retired Armed Forces personnel and their family members; surviving dependents of deceased active duty and retired personnel; and certain others including individuals and their dependents affiliated with the U.S. Coast Guard, U.S. Public Health Service and the National Oceanic and Atmospheric Administration.

Customer Satisfaction Survey: Active duty members of the Armed Forces, civilian personnel, and contract personnel serving as health care providers for individuals eligible for health care under Title 10 in military medical and dental treatment facilities and other treatment settings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Annual Beneficiary Survey: Name, rank, age, gender, race, address, sponsor Social Security Number and family member prefix code of individuals who will be surveyed; verification that a survey has been completed and returned by the individual; and response data from the completed surveys.

Customer Satisfaction Survey: Medical and dental care provider name,

provider type, specialty and rank; medical treatment facility, and clinic where care was provided; and response data from the completed surveys.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 138, Assistant Secretaries of Defense; 10 U.S.C. 1071 (NOTE); 10 U.S.C. Chapter 55; and E.O. 9397 (SSN).

PURPOSE(S):

Annual Beneficiary Survey: The survey collects information concerning beneficiary attitudes, perceptions, and opinions about their individual health and health care (including access to care, health status, use of care, familiarity with programs and services available, and satisfaction with care received) in order to assess, plan, evaluate, and improve quality, efficiency, convenience and cost effectiveness of health care services. This process includes analyses of information related to special interest health care subjects, including health status, in order to validate current and/or forecast future health care needs or to implement plans in response to new health care requirements. Retaining beneficiary specifics allows for individual follow-up to improve response rates; scientific analysis of the data; and to validate survey responses by comparing responses to independent sources of data.

Customer Satisfaction Survey: The survey collects information concerning beneficiary attitudes, perceptions, and opinions about health care provided during specific visits (including access to care, quality of care, satisfaction with how care was delivered, satisfaction with the specific care provider, and satisfaction with care received) in order to assess, plan, evaluate, and improve quality, efficiency, convenience and cost effectiveness of health care services. This process includes analyses of information related to special interest health care subjects, including health status, in order to validate current and/or forecast future health care needs or to implement plans in response to new health care requirements. Specific care provider information is analyzed in order to alert medical authorities to potential problem areas where additional educational and corrective measures may be required in order to improve customer satisfaction.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records stored on magnetic and/or optical media.

RETRIEVABILITY:

Annual Beneficiary Survey:

1. Beneficiary Records: Records of beneficiaries who have or have not responded to the survey may be retrieved by patient identifiers such as name, address, sponsor Social Security Number, family member prefix code, and demographic categories such as age, sex, military rank group (officer/enlisted/civilian).

2. Response Records: Survey data is normally retrieved using demographic or other non-personalized elements.

3. The beneficiary and response records contain a randomly generated code which permits the identification of the survey respondent.

Customer Satisfaction Survey:

1. Beneficiary Records: Records of beneficiaries who have been mailed a survey may be retrieved by name and address for purposes of initiating follow-up contacts to obtain a response to the survey; but after 90 days, the name and address are permanently deleted so that the survey respondent cannot be identified.

2. Response Records: Records of care providers who furnished care at a specific facility/clinic may be retrieved only by the facility/clinic commander by name, rank (if military), provider type (e.g., physician, clinical nurse, etc.) and specialty (e.g., pediatrician.

SAFEGUARDS:

Media at the primary location are stored in a locked cage in a controlled access area when not in use; when maintained at the contract location, media are stored in cabinets or storage areas when not being used and are placed in a locked container or space within a building that is secured after hours. Result data that includes patient or provider identification is maintained in locked storage cabinets or locked areas in buildings that are secured after hours. Only authorized personnel who have received Privacy Act training are permitted access to information in the system.

Specific instructions are provided MTF commanders on the safeguards required in handling and maintaining Customer Satisfaction Survey information.

RETENTION AND DISPOSAL:

Hard copy surveys are destroyed after the information contained in survey responses is entered into a computer system.

Annual Beneficiary Survey: Data files with beneficiary specifics and results will be retained until an appraisal and schedule is obtained from the National Archives and Records Administration.

Customer Satisfaction Survey: Data files with results and provider specifics will be retained until an appraisal and schedule is obtained from the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary of Defense (Health Budgets and Programs), Five Skyline Place, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the Deputy Assistant Secretary of Defense (Health Budgets and Programs)/Program Review and Evaluation, Five Skyline Place, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

Annual Beneficiary Survey: A beneficiary should provide full name, sponsor's Social Security Number, family member prefix, and current address and telephone number of the individual.

Customer Satisfaction Survey: A health care provider should provide name, current address, telephone number, and name of the medical facility and clinic should be supplied.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Deputy Assistant Secretary of Defense (Health Budgets and Programs), Five Skyline Place, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

Annual Beneficiary Survey: A beneficiary should provide full name, sponsor's Social Security Number, family member prefix, and current address and telephone number of the individual.

Customer Satisfaction Survey: A health care provider should provide name, current address, telephone number, and name of the medical facility and clinic should be supplied.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records and for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Sources include Services medical and dental treatment facilities and facilities contracted by DoD to perform medical care for Military members, former members and dependents. Survey information is provided by the individual patient or a parent or guardian of the individual patient. Demographic information that may be related to the patient is provided by the Defense Enrollment Eligibility Reporting System (DEERS), the Ambulatory Data System (ADS), and the Composite Health Care System (CHCS).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–10572 Filed 4–27–99; 8:45 am]
BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.
ACTION: Notice to amend system of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.
DATES: This proposed action will be effective without further notice on May 28, 1999, unless comments are received which result in a contrary determination.
ADDRESSES: Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop C55, Ft. Belvoir, VA 22060–5576.
FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.
SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 22, 1999.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0065 TAPC

SYSTEM NAME:

Postal and Mail Service System (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

After 'military' add 'and civilian'.

* * * * *

STORAGE:

Delete entry and replace with 'Paper records, microfiche and electronic storage media.'

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Records are located in secured buildings, accessible only to designated persons having an official need for the information. Electronic information is password controlled.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Total Army Personnel Command, ATTN: TAPC-PDO-IP, Army Postal Officer, 200 Stovall Street, Alexandria, VA 22332–0474.'

* * * * *

A0065 TAPC

SYSTEM NAME:

Postal and Mail Service System.

SYSTEM LOCATION:

Postal facilities at Army headquarters offices, commands, and installations. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons designated as postal clerks; military and civilian personnel assigned/attached to Army installations who require mail handling service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Designating Army postal clerks/NCO's/supervisors/orderlies (DD Form 285); locator cards (DA Form 3955) comprising a directory of individuals assigned, en route, and/or departing given installation, showing individual's full name, grade, current mailing address, date of assignment/detachment, and Social Security Number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; DoD 4525.6-M, DoD Postal Manual; and E.O. 9397 (SSN).

PURPOSE(S):

To designate persons authorized to perform Army postal functions; to maintain current addresses of persons arriving/departing units for the purpose of handling personal mail.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the U.S. Postal Service.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, microfiche and electronic storage media.

RETRIEVABILITY:

By individual's surname and/or Social Security Number.

SAFEGUARDS:

Records are located in secured buildings, accessible only to designated persons having an official need for the information. Electronic information is password controlled.

RETENTION AND DISPOSAL:

Documents designating postal personnel are destroyed two years from the termination/revocation date of designation. Directory locator cards (DA Form 3955) are retained for 12 months after member's departure from unit and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Total Army Personnel Command, ATTN: TAPC-

PDO-IP, Army Postal Officer, 200 Stovall Street, Alexandria, VA 22332–0474.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Installation Postal Director at the unit where assigned or employed.

Individual should provide the full name, Social Security Number, current address, and signature to assist in locating the records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Installation Postal Director at the unit where assigned or employed.

Individual should provide the full name, Social Security Number, current address, and signature to assist in locating the records

Personal visits may be made; individual must furnish proof of identity.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, unit commanders and Army postal officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–10571 Filed 4–27–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records Notice

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend records systems.

SUMMARY: The Department of the Navy proposes to amend 12 systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on May 28, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09P30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to amend 13 systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the systems of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The records systems being amended are set forth below, as amended, published in their entirety.

Dated: April 22, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01001–5

SYSTEM NAME:

MSC Masters and Chief Engineers Date File (February 22, 1993, 58 FR 10694).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'MSC Masters/Chief Engineers Biographical Data File.'

SYSTEM LOCATION:

Delete entry and replace with 'Afloat Personnel Management Center, Military Sealift Command, P.O. Box 120, Virginia Beach, VA 23458–0120.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Biographical and professional information containing name, date and place of birth, home address and phone numbers, education, training for sea, maritime licenses held, military experience, shore employment, commercial shipboard status, spouse's name, number of children and their names and ages, highlights of merchant marine career, special skills and accomplishments, hobbies, special interests, community activities and association membership.'

PURPOSE(S):

Delete entry and replace with 'To maintain background information on MSC Masters and Chief Engineers. The electronic version of the biographical data (MSC 12330/8) is completed after selection. The information is used to identify location and provide biographical information on Masters and Chief Engineers to the promotion board, media and internal requests for information prior to public appearances, press releases, or courtesy calls to MSC ships by MSC personnel and members of other organizations or commands.

* * * * *

SAFEGUARDS:

Delete entry and replace with 'The biographical data is maintained in areas accessible to authorized personnel only. The Afloat Personnel Management Center is physically located at Camp Pendleton, Virginia. Access to buildings on this state military reservation is by clearance of 24-hour security guards.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'The biographical data on Masters and Chief Engineers is updated annually. Outdated files are destroyed when updated information is received and the entire file is destroyed immediately upon the Masters or Chief Engineers separation or retirement from the Command.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Director, Afloat Personnel Management Center, Military Sealift Command, P.O. Box 120, Virginia Beach, VA 23458–0120.'

* * * * *

N01001–5

SYSTEM NAME:

MSC Masters/Chief Engineers Biographical Data File.

SYSTEM LOCATION:

Military Sealift Command, Washington Navy Yard, Building 210, 901 M Street, SE, Washington, DC 20398–5540.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

MSC Masters and Chief Engineers aboard civil service manned ships.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical and professional information containing name, data and place of birth, home address and phone number, education, training for sea, maritime licenses held, military experience, shore employment,

commercial shipboard status, spouse's name, number of children and their names and ages, highlights of merchant marine career, special skills and accomplishments, hobbies, special interests, community activities and association membership.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations.

PURPOSE(S):

To maintain background information on MSC Masters and Chief Engineers. The electronic version of the biographical data (MSC 12330/8) is completed after selection. The information is used to identify location and provide biographical information on Masters and Chief Engineers to the promotion board, media and internal requests for information prior to public appearances, press releases, or courtesy calls to MSC ships by MSC personnel and members of other organizations or commands.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine used pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and computerized records.

RETRIEVABILITY:

Name.

SAFEGUARDS:

The biographical data is maintained in areas accessible to authorized personnel only. The Afloat Personnel Management Center is physically located at Camp Pendleton, Virginia. Access to buildings on this state military reservation is by clearance of 24-hour security guards.

RETENTION AND DISPOSAL:

The biographical data on Masters and Chief Engineers is updated annually. Outdated files are destroyed when updated information is received and the entire file is destroyed immediately upon the Masters or Chief Engineers separation or retirement from the Command.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Afloat Personnel Management Center, Military Sealift Command, PO Box 120, Virginia Beach, VA 23458–0120.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contained information about themselves should address written inquiries to the Director, Afloat Personnel Management Center, Military Sealift Command, PO Box 120, Virginia Beach, VA 23458–0120.

Written requests should contain full name of the individual, military grade or rate, and date of birth. For personal visits, the individual should be able to provide some acceptable means of identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Director, Afloat Personnel Management Center, Military Sealift Command, PO Box 120, Virginia Beach, VA 23458–0120.

Written requests should contain full name of the individual, military grade or rate, and date of birth. For personal visits, the individual should be able to provide some acceptable means of identification.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records and contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N01710–1

SYSTEM NAME:

Recreation Association Membership Files (September 9, 1996, 61 FR 47483).

CHANGES:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete first paragraph and replace with 'Policy Official: Commander, Navy Personnel Command (NPC–658), 5720 Integrity Drive, Millington, TN 38055–6580.'

* * * * *

N01710–1

SYSTEM NAME:

Recreation Association Membership Files.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Name, rank, Social Security Number, room and telephone number, membership care number and dates purchased.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record lists the names, internal codes, room and telephone numbers of each membership card and dates purchased.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations and E.O. 9397 (SSN).

PURPOSE(S):

To indicate income from sale of membership cards; to provide an audit trial for the auditors; and to confirm memberships, upon request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files, magnetic tape, personal computer.

RETRIEVABILITY:

Name, Social Security Number, Case number, organization.

SAFEGUARDS:

Password control system, file, and element access based on predefined need-to-know. Physical access is controlled by locked terminals and rooms, guards, personnel screening and visitor control.

RETENTION AND DISPOSAL;

Records are destroyed one year after individual terminates membership.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Personnel Command (NPC–658), 5720

Integrity Drive, Millington, TN 38055–6580.

System Manager: Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Nary Instruction 5211.5; 32CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N01740–1

SYSTEM NAME:

Family Dependent Care Program (February 10, 1997, 62 FR 5963).

CHANGES:

* * * * *

PURPOSE:

In paragraph 2, line 2, after 'Centers,' add 'Child Development Programs,'.

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N01740–1

SYSTEM NAME:

Family Dependent Care Program.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Navy personnel serving on active duty or in the Ready Reserve who are single parents of members of dual military couples, that have custodial responsibility (i.e., housing, medical, logistical, financial, food, clothing, transportation, etc.) for family members or other dependents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Family Care Plan package which includes NAVPERS 1740.6—Family Care Plan Certificate, NAVPERS 1740.7—Family Care Plan Arrangements, Family Care Plan Checklist, copies of powers of attorney, legal documents, allotment information, financial information, counseling forms, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations, E.O. 9397 (SSN), OPNAVINST 1740.4A, U.S. Navy Family Care Policy.

PURPOSE(S):

To ensure family members are cared for during deployments, reserve mobilizations, temporary duty, etc. and that arrangements are in place for the financial well-being of family members covered by the Family Care Plan during separations.

Utilized by command financial specialists, Family Service Centers, Child Development Programs, and legal assistance offices for providing guidance and assistance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Files are maintained in file cabinets under the control of authorized personnel during working hours; the office space in which the file cabinets are located is locked outside official working hours. Automated records are password protected.

RETENTION AND DISPOSAL:

Records are maintained by the commanding officer or his designated representative for the period the individual is assigned to the organization. Records are updated annually or when family circumstances or other personal status changes. File follows member with each new assignment. Once affiliation with the Navy is complete, record is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Chief of Naval Personnel, Bureau of Naval Personnel (Pers-2WW), 2 Navy Annex, Washington, DC 20370–5001.

Record Holder: Commanding officer or designated representative of the naval activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commanding Officer of the activity where assigned.

Request should include full name, Social Security Number, and dates assigned at that activity.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commanding Officer of the activity where assigned.

Request should include full name, Social Security Number, and dates assigned at that activity.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and contesting contents, and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N01752–1

SYSTEM NAME:

Family Advocacy Program System (December 5, 1997, 62 FR 64367).

CHANGES:

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PURPOSE(S):

Delete paragraph 2. In paragraph 10, line 2, delete 'non-identifying' and in line 3, delete 'data tapes'.

* * * * *

RETRIEVABILITY:

In paragraph 3, line one, after 'by' add 'Social Security Number or'.

* * * * *

RETENTION AND DISPOSAL:

Replace paragraph 2 with 'Navy Central Registry data base is retained permanently at the Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.'

* * * * *

N01752–1

SYSTEM NAME:

Family Advocacy Program System.

SYSTEM LOCATION:

Navy Case Files: Family Service Center, Family Advocacy Center, and/or Medical Treatment Facilities at the local naval activity that services the local beneficiaries. Official mailing addresses for naval activities are published as an appendix to the Department of the Navy's compilation of systems of records notices.

Marine Corps Family Advocacy Program Records: Marine Corps installations with a Family Service Center. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of records notices.

Navy Central Registry: Navy Personnel Command (NPC–661), 5720 Integrity Drive, Milington, TN 38055–6610.

Marine Corps Central Registry: Commandant of the Marine Corps; Head, Family Advocacy Program (MHF–25), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All beneficiaries entitled to care at Navy medical and dental facilities whose abuse or neglect is brought to the attention of appropriate authorities.

All beneficiaries reported for abusing or neglecting such victims.

Victims/offenders not associated with the Department of the Navy and who are not generally entitled to care at Navy medical and dental facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Navy Family Advocacy Case Files:

(a) Victim's file consists of risk assessment which includes the following forms: incident report, eligibility decision, demographics, safety assessment, safety response, risk focused assessment reports (DOMAINS I, II, IV, V, VI, VII), risk assessment matrix, risk assessment summary, risk assessment findings, intervention plan, and Case Review Committee presentation; video/audio tapes of contact with victim; case notes about victim; Family Advocacy Program generated correspondence regarding abuse or neglect of victim; Original copy of DD Form 2486; Privacy Act Statement signed by victim; contacts with children who are not victims of abuse or neglect, and other supporting data assembled relevant to the abuse or neglect and generated by FAP staff that are specific to the victim.

(b) Offender's file consists of assessment with offender; demographics; video-audio tapes of contacts with offender; case notes on contacts with offender; case notes about offender; risk focused assessment report DOMAIN III (alleged offender characteristics); Family Advocacy Program (FAP) generated correspondence regarding offender; Privacy Act Statement signed by offender; and other supporting data assembled relevant to the abuse or neglect and generated by the FAP staff that are specific to the offender.

(c) Documentation generated outside of the Family Advocacy Program (Naval Criminal Investigative Service reports; local police reports; Base Security Incident Complaint Reports; psychiatric and substance abuse evaluations; treatment reports; copies of pertinent medical entries; Child Protective Service reports; shelter reports; photographs; correspondence generated outside the Family Advocacy Program; and other supporting data assembled relevant to the abuse or neglect and generated outside the FAP that are specific to either the victim(s) or offender(s) (e.g., Military Protective Orders, barring letters, and civilian temporary restraining orders) are maintained in a separate folder and are retrieved by case number.

Marine Corps Program Family Advocacy Program Files:

(a) Victim's file consists of client's fact sheet (demographics); Privacy Act Statement signed by victim; Limits of Privacy Statement signed by victim; initial assessment; CRC Case Assessment with risk assessment; audio/video tapes of contact with victim; safety plan; notes on collateral contacts about victim; case notes; CRC case status determination; CRC generated correspondence; Command's Case disposition and recommendation approval letter; original copy of DD Form 2486 and other relevant supporting data generated by the FAP staff that is specific to the victim.

(b) Offender's file consists of client's fact sheet (demographics); Privacy Act Statement signed by offender; Limits of Privacy Statement signed by offender; initial assessment; CRC Case Assessment; audio/video tapes of contacts with offender; case notes on collateral contacts regarding offender; case notes; CRC case status determination; CRC generated correspondence; Command's Case disposition and recommendation approval letter; copy of DD Form 2486 and other relevant supporting data generated by the FAP staff that is specific to the offender.

(c) Documentation generated outside of the Family Advocacy Program (Naval Criminal Investigative Service reports; local police reports; Base Security Incident Complaint Reports; psychiatric and substance abuse evaluations; treatment reports; copies of pertinent medical entries; Child Protective Service reports; shelter reports; photographs; correspondence generated outside the family advocacy Program; and other supporting data assembled relevant to the abuse or neglect and generated outside the FAP that are specific to either the victim(s) or offender(s) (e.g., Military Protective Orders, barring letters, and civilian temporary restraining orders) are maintained in a separate folder and are retrieved by case number.

Both the Navy and Marine Corps Central Registries contain data elements extracted from DD 2486, Child/Spouse Abuse Incident Report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DoD Directive 6400.1, 6400.1–M, 6400.2; Secretary of the Navy Instruction 1752.3A; OPNAVINST 1752.2A; BUMEDINST 6302.22; and MCO 1752.3B (FAP SOP); and E.O. 9397 (SSN).

PURPOSE(S):

To collect information pertaining to the identification, prevention, evaluation, intervention, treatment and rehabilitation of beneficiaries involved in abuse or neglect.

To provide pertinent case-related information to DoD and DON officials, other than Commanding Officers, responsible for specific case interventions in abuse and/or neglect incidents (e.g., clinical counselors providing counseling/treatment to

victims and/or offenders, medical personnel providing medical treatment to victims and/or offenders).

To provide specific data on assessed risk, safety needs, case status, and recommended actions to commanding officers of FAP involved service members.

To provide case specific information to headquarters personnel for necessary review and oversight.

Purposes of the Central Registries: To support local FAP case management to include tracking of individuals, identification of prior FAP involvement, and monitoring of caseloads.

To support FAP budget and staffing requirements and policy changes.

To support the Navy Personnel Command flagging and assignment control process for FAP involved service members.

To provide information in support of the 'Installation Records Check (IRC)' required by OPNAVINST 1700.9D for screening applicants for any position which involves the care and/or supervision of children.

To provide the Defense Manpower Data Center (DMDC) with data from the Navy Central Registry.

To support FAP research efforts.

To respond to public and/or other government agencies' requests for aggregate data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Executive Branch of government in the performance of their official duties relating to the coordination of family advocacy programs, medical care, and research concerning family member abuse or neglect.

To federal, state or local government agencies when it is deemed appropriated to utilize civilian resources in the counseling and treatment of individuals or families involved in abuse or neglect or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement.

To contractors, private and public individuals/organizations for authorized health research in the interest of the federal government and the public. When not considered necessary, client identification data shall be eliminated from records used for research studies.

To officials and employees of federal, state, and local governments and agencies when required by law and/or regulation in furtherance of local communicable disease control, family abuse prevention programs, preventive medicine and safety programs, and other public health and welfare programs.

To officials and employees of local and state governments and agencies in the performance of their official duties relating to professional certification, licensing, and accreditation of health care providers.

To law enforcement officials to protect the life and welfare of third parties. This release will be limited to necessary information. Consultation with the hospital or regional judge advocate is advised.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices also apply to this system.

Note: Records of identity, diagnosis, prognosis or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in 42 U.S.C. 290dd-2, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-2. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The 'Blanket Routine Uses' do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, microfilm, magnetic tape, machine lists, discs, and other computerized or machine readable media.

RETRIEVABILITY:

Victim's file is retrieved by name of victim, case number, their Social Security Number, and/or year of incident.

Alleged offender's file is retrieved by alleged offender's name, case number, their Social Security Number and/or year of incident.

Central registry data is retrieved by Social Security Number or any identifying data element on the DD Form 2486.

SAFEGUARDS:

These files are highly sensitive and must be protected form unauthorized disclosure. While records may be maintained in various kinds of filing equipment, specific emphasis is given to ensuring that the equipment areas are monitored or have controlled access. Access to records of information or the central registry is limited to those officials who have been properly screened and trained and/or have a need to know consistent with the purpose for which the information was collected. The threshold for 'need to know' is strictly limited to those officials who are responsible for the identification, prevention, evaluation, intervention, treatment and rehabilitation of beneficiaries involved in abuse or neglect. Also pertinent information is limited to DoD and DON officials responsible for intervening in abuse and/or neglect incidents.

Information maintained on a computer requires password protection. Computer terminals are located in supervised areas with access controlled system.

Family Advocacy Program Staff will ensure that the in-take assessment and clinical notes are not duplicated and placed in both the victim and alleged offender's files.

RETENTION AND DISPOSAL:

Family Advocacy Program case records are maintained at the activity 4 years after the last entry in the file. If there is no subsequent activity 4 years after closure, the records are transferred to the National Personnel Records Center, 9600 Page Boulevard, St. Louis, MO 63132–5100, where they are retained for 50 years and then destroyed.

Navy Central Registry data base is retained permanently at the Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

Marine Corps Central Registry data is retained permanently by the Commandant of the Maine Corps (MHF–20), Headquarters. U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

SYSTEM MANAGER(S) AND ADDRESS:

Navy Central Registry: Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

Marine Corps Central Registry: data is retained permanently by the Commandant of the Maine Corps (MHF–25), Headquarters. U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

Navy Centralized Child Sexual Abuse Case Files: Chief of Naval Personnel

(Pers-661), 2 Navy Annex, Washington, DC 20370–6610.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information in the case files about themselves should address written inquiries to the commanding officer of the naval activity from which they received treatment. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records.

Request should contain the full name and Social Security Number of the individual, and/or year of the incident.

Individuals seeking to determine whether this system of records contains information in the Navy Central Registry about themselves shall address written inquiries for Navy case to the Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

For the Marine Corps Central Registry address written inquiries to the Commandant of the Maine Corps (MHF–25), Headquarters. U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

Requests should contain the full name and Social Security Number of the individual.

RECORD ACCESS PROCEDURE:

Individuals seeking to access records about themselves in the case files should address written inquiries to the commanding officer of the naval activity form which they received treatment. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records.

Requests should contain the full name and Social Security Number of the individual, and/or year of an incident.

Individuals seeking to access information from the Navy Central Registry about themselves shall address written inquiries for Navy Central Registry to the Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

For the Marine Corps Central Registry address written inquiries to the Commandant of the Maine Corps (MHF–25), Headquarters. U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

Requests should contain the full name and Social Security Number of the individual.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Victim; offender; other DoD component Central Registries; medical and dental records; educational institutions; medical facilities; private practitioners; law enforcement agencies; public and private health and welfare agencies, and witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in the accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

N01754–1

SYSTEM NAME:

Navy Family Support Clinical Counseling Records. (April 24, 1997, 62 FR 19994).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Replace '(QOLMIS–66)' with '(QDLMISNET) Network.'

* * * * *

STORAGE:

Delete entry and replace with 'File folders, microfilm, magnetic tapes, machine lists, discs, and other computerized or machine readable media.'

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N01754–1

SYSTEM NAME:

Navy Family Support Clinical Counseling Records.

SYSTEM LOCATION:

Navy Family Service Centers, Navy Family Advocacy Centers/Departments located at various Navy and Marine Corps activities. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military service members and their dependents, retirees and their dependents, and spouses of POW's and MIA's and their eligible dependents. In certain overseas locations and certain remote CONUS locations, civilian DOD overseas employees may be eligible for services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical Counseling Records and/or Family in Need of Services (FINS) Counseling Records. File could contain personal information such as name, Social Security Number, case number, home address, telephone number, marriage counseling information, parent-child relationship information, family relations, financial data, developmental disability information, and Quality of Life Management Information System (QDLMISNET) Network.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations and E.O. 9397 (SSN).

PURPOSE(S):

The Family Service Centers (FSC) offer information, conduct referral services, and directly deliver services for a wide array of personal and family matters, counseling, assistance and crisis intervention to those eligible.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfilm, magnetic tapes, machine lists, discs, and other computerized of machine readable media.

RETRIEVABILITY:

Name and FSC/Family Advocacy Program generated number.

SAFEGUARDS:

Access is limited to professional FSC staff and as delegated by the FSC Director at each location on a need-to-know basis. Paper records are stored in locked file cabinets. Automated records may be controlled by limiting physical access to data entry terminals or use of passwords. Access to computer information, and tape and disc storage, is strictly controlled. Work areas are sought-controlled during normal working hours. Building access is controlled and doors are locked during non-duty hours.

RETENTION AND DISPOSAL:

Paper records are retained for two years and then destroyed. Automated records are maintained for five years, then tapes/discs are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

Record Holder for FSC and/or FINS Cases: Commanding officers of installations with Navy Family Service Centers or Navy Family Advocacy Centers/Departments. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the commanding officer of the naval activity from which they were seen for counseling. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records notices.

Marine Corps individuals seeking to determine whether information about themselves is contained in this system should address written inquiries for FSC files to the Commandant of the Marine Corps (MHF), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

Individuals should provide proof of identity, full name, rank, Social Security Number, dates of counseling, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the commanding officer of the naval activity from which they were seen for counseling. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records notices.

Marine Corps individuals seeking access to information about themselves contained in this system should address written inquiries for FSC files to the Commandant of the Marine Corps (MHF), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

Individuals should provide proof of identity, full name, rank, Social Security Number, dates of counseling, etc.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is normally obtained directly from the individual applying for counseling/assistance, however, there may be instances when the FSC/Family Advocacy Program counselor obtains information from mental health officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N01754–2

SYSTEM NAME:

Navy/USMC Family Service Centers Volunteers (April 24, 1997, 62 FR 19994).

CHANGES:

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.'

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N01754–2

SYSTEM NAME:

Navy/USMC Family Service Centers Volunteers.

SYSTEM LOCATION:

Navy Family Service Centers located at various Naval and Marine Corps activities. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who volunteers to assist at one of the Navy/USMC Family Service Centers (FSC).

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains information such as name, home address, home telephone number, date of birth, age and number of children, experience, education, professional qualifications, interests, hobbies, assignments at the FSC, and any other information essential for placing the volunteer in the most appropriate position at the FSC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and 10 U.S.C. 1588.

PURPOSE(S):

To supervise the performance of individuals who have volunteered to assist in the Navy and Marine Corps Family Service Center Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically by disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By name or skill of volunteer.

SAFEGUARDS:

Records are maintained in monitored or controlled areas accessible only to authorized personnel that are properly cleared and trained. Building/rooms locked outside regular working hours.

RENTENTION AND DISPOSAL:

Records are retained for 3 years from the date the individual departs from the Center, and then destroyed.

SYSTEM MANAGERS(S) AND ADDRESS:

Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

NOTIFICATION PROCEDURE:

Individuals seeks to determine whether information about themselves is contained in this system should address written inquiries to the Naval or Marine Corps activity concerned. Individuals should provide proof of identity, full name, dates of volunteer service, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Naval or Marine Corps activity concerned. Individuals should provide proof of identity, full name, dates of volunteer service, etc.

CONTESTING RECORD PROCEDURES

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained and periodically updated directly from the volunteer FSC employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N01754–3

SYSTEM NAME:

Navy Child Development Services Program (October 15, 1997, 62 FR 53604).

CHANGES:

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SYSTEM MANAGERS(S) AND ADDRESS:

Delete paragraph 1, and replace with 'Policy Official: Commander, Navy Personnel Command (NPC–659), 5720 Integrity Drive, Millington, TN 38055–6590.'

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N01754–3

SYSTEM NAME:

Navy Child Development Services Program.

SYSTEM LOCATION:

Navy Child Development or Family Service Centers located at various Navy and Marine Corps activities both in CONUS and overseas. Official mailing addresses of Navy and Marine Corps activities are published as an appendix to the Department of the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps service members and their families or dependents. In certain locations, DOD civilian employees may be eligible for services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; Social Security Number; case number; home address and telephone number; insurance coverage; names of parents and children; performance rating; complaints; background information, including medical, educational references, and prior work experience, information from the Naval Criminal Investigative Service (NCIS), the family advocacy program, base security, and state and local agencies; information related to screening, training, and implementation of the Family Child Care program; and reports of fire, safety, housing, and environmental health inspections. Children's records will also include developmental profiles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5013, Secretary of the Navy; and E.O. 9397 (SSN).

PURPOSE(S):

To develop child care programs that meet the needs of children and families, provide child and family program eligibility and background information; verify health status of children and verify immunizations, note special program requirements; consent for access to emergency medical care; data required by USDA programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained herein may specially be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal officials involved in Child Care Services, including child abuse for the purpose of investigation and litigation.

To State and local officials involved with Child Care Services if required in the performance of their official duties relating to investigations.

The 'Blanket Route Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

By last name of member and Social Security Number.

SAFEGUARDS:

Records are maintained in monitored or controlled areas accessible only to authorized personnel. Building or rooms are locked outside regular working hours. Computer files are protected by software programs that are password protected.

RETENTION AND DISPOSAL:

Records are kept for two years after individual is no longer in the Child Development Program and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Personnel Command (NPC–659), 5720 Integrity Drive, Millington, TN 38055–6590.

Record Holder: Navy Child Development or Family Service Centers located at various Navy and Marine Corps activities both in CONUS and overseas. Official mailing addresses of Navy and Marine Corps activities are published as an appendix to the Department of the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate Navy or Marine Corps activity concerned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Individuals should provide proof of identity and full name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the appropriate Navy or Marine Corps activity concerned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Individuals should provide proof of identity and full name.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations

are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes from individuals either applying as child care providers or participant of the Family Child Care program; background checks from State and local authorities; housing officers; information from the Family Advocacy program; base security officers and base fire, safety and health officers; and local family child care monitors and parents of children enrolled.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

N01770–2

SYSTEM NAME:

Casualty Information Support System (February 22, 1993, 58 FR 10725).

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with 'Primary System-Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600; the local activity for which individual is assigned; and the Washington National Records Center, Suiteland, MD. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

In line 5, after the word 'reported' delete the remainder of the entry and replace with 'seriously ill/injured in an active duty status.'

* * * * *

STORAGE:

In line 2, delete the words 'Magnetic tapes, disc, and drums.' and replace with 'media.'

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600.'

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N01770–2

SYSTEM NAME:

Casualty Information Support System.

SYSTEM LOCATION:

Primary System-Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600; the local activity for which individual is assigned; and the Washington National Records Center, Suitland, MD. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Navy military personnel who are reported missing, Missing in Action, Prisoner of War or otherwise detained by armed force; deceased in either an active or inactive duty status; reported seriously ill/injured in an active duty status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, reports, and records in both automated and nonautomated form concerning circumstances of casualty, next-of-kin data, survivor benefit information, personal and service data, and casualty program data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; OPNAVINST 1770.1, Casualty Assistance Calls and Funeral Honors Support Program Coordination; and E.O. 9397 (SSN).

PURPOSE(S):

To assist in the management of the casualty assistance program and to provide swift accurate responses to beneficiaries and survivors of Navy military personnel; to aid in the efficient settlement of the service member's estate and other affairs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of the Social Security Administration in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of the Department of Veterans Affairs and the Selective Service Administration in connection with eligibility, notification and assistance in obtaining benefits due.

To officials of other federal, state, and local government agencies in connection with eligibility, notification and assistance in obtaining benefits due.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on media. Manual records may be stored in paper files, microfiche or microfilm.

RETRIEVABILITY:

Records may be retrieved by name and/or Social Security Number.

SAFEGUARDS:

Computer files are accessible only to authorized persons that are properly screened, trained and cleared.

Manual records and computer printouts are available only to authorized personnel having a need-to-know.

RETENTION AND DISPOSAL:

Records are maintained for seven years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Naval Personnel (PERS 06), Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001.

NOTIFICATION AND PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600; or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of system of records notices.

The letter should contain full name, Social Security Number (and/or enlisted service number/officer file number), rank/rate, military status, date of casualty and status at time of casualty, and signature of the requester.

The individual may visit the Commander, Navy Personnel Command

(NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600 for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600, or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

The letter should contain full name, Social Security Number (and/or enlisted service number/officer file number), rank/rate, military status, date of casualty and status at time of casualty, and signature of the requester.

The individual may visit the Commander, Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600, for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Officials and employees of the Department of the Navy, Department of Defense, Public Health Service, Department of Veterans Affairs and components, in performance of their official duties as specified by current instructions and regulations promulgated by competent authority; casualty reports may also be received from state and local agencies, hospitals and other agencies having knowledge of casualties to Navy personnel; general correspondence concerning member.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N03834–1

SYSTEM NAME:

Special Intelligence Personnel Access File (March 2, 1994, 59 FR 9965).

CHANGES:

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PURPOSE(S):

In paragraph 1, line 1, delete 'a determination' and replace with 'continuing evaluation of an'. In paragraph 2, lines 3 and 4, delete 'Special Compartmented Intelligence' and replace with 'Sensitive Compartmented Information'.

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Access provided on a need-to-know basis only. Manual records are maintained in locked file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is in a locked, limited access room.'

* * * * *

N03834–1

SYSTEM NAME:

Special Intelligence Personnel Access File.

SYSTEM LOCATION:

Office of Naval Intelligence, National Maritime Intelligence Center, ATTN: ONI–OCB2, 4251 Suitland Road, Washington, DC 20395–5720.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian and military personnel of the Department of the Navy and contractors and consultants of the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to the eligibility of Department of the Navy personnel (civilian, military, contractor and consultant) to the be granted access to Special Intelligence which include documents of nomination, personal history statements, background investigation date and character, narrative memoranda of background investigation, eligibility documents for access to special intelligence, proof of indoctrination and debriefings as applicable and record of hazardous activity restrictions assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended; 5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 503, Department of the Navy; 10 U.S.C. 6011, Navy Regulations; 44 U.S.C. 3101, Records Management by Federal Agencies; E.O. 9397 (SSN); and E.O. 12958, Classified National Security Information.

PURPOSE(S):

To permit continuing evaluation of an individual's eligibility for access to Special Intelligence information.

This information may be provided to the Department of Defense and all its components to certify Sensitive Compartmented Information (SCI) access status of naval personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, the Department of Energy, the Department of Treasury, and to any other federal agency in the performance of their official duties, to certify SCI access status of Naval personnel.

The "Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active files consist of paper and computerized records. Inactive files are retained on microfiche and optical storage.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Access provided on a need-to-know basis only. Manual records are maintained in locked file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is in a locked, limited access room.

RETENTION AND DISPOSAL:

Records are retained indefinitely. Inactive files are retained on microfiche.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Office of Naval Intelligence, National Maritime Intelligence Center, ATTN: ONI–OCB2, 4251 Suitland Road, Washington, DC 20395–5720.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Office of Naval Intelligence, National Maritime Intelligence Center, ATTN: ONI–OCB2, 4251 Suitland Road, Washington, DC 20395–5720.

The request should contain the full name of the requester, home address and date and place of birth. An unsworn declaration in accordance with 28 U.S.C. 1746 or a notarized statement may be required for identity verification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Commander, Office of Naval Intelligence, National Maritime Intelligence Center, ATTN: ONI–OCB2, 4251 Suitland Road, Washington, DC 20395–5720.

The request should contain full name, residence address and date and place of birth. An unsworn declaration in accordance with 28 U.S.C. 1746 or a notarized statement may be required for identity verification.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Personal History Statement and related forms from the individual. Access forms and documents prepared by the system manager. Correspondence between system manager and activities requesting access status.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempted pursuant to 5 U.S.C. 552a(k)(1).

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2) and (3), and (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

N05100–2

SYSTEM NAME:

Scheduled Parachute Jump Program (February 22, 1993, 58 FR 10746).

CHANGES:

* * * * * *

SYSTEM NAME:

Delete 'Scheduled'.'

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'All Navy and Marine Corps personnel and trainees who participate in the premeditated parachute jumping and air drop activities.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Unit reports of each jump performed, which includes name of parachutist, Social Security Number, Unit Identification Code (UIC), and model of parachute; total jump activity survey reports; and annual jump activity reports.''

* * * * *

PURPOSE(S):

In first line of first paragraph, delete 'scheduled'. In third paragraph, first line, after the word 'provide' add 'upon request'.

* * * * *

N05100–2

SYSTEM NAME:

Parachute Jump Program.

SYSTEM LOCATION:

Naval Safety Center, 375 A Street, Norfolk, VA 23511–4399.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Navy and Marine Corps personnel and trainees who participate in the premeditated parachute jumping and air drop activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Unit reports of each jump performed, which includes name of parachutist, Social Security Number, Unit Identification Code (UIC), and model of parachute; total jump activity survey reports; and annual jump activity reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397 (SSN).

PURPOSE(S):

To track jump activities date for specific individuals or types of parachutes and correlate the information with parachute jump mishap data; analyze information to determine the relationship between various categories and combinations of jump experience and accident involvement.

To provide results of these studies to all echelons within the Navy and Marine Corps having responsibility for jump operations, parachute training, and allocation of resources to and within the parachute jump program.

To provide, upon request, an annual summary of jump activity by parachute type to each reporting individual for his/her verification and personnel records. Upon request, a detailed by jump report for a specified time frame is also provided.

To provide records to the Chief of Naval Personnel for promotional screening, detailing, and compliance with minimum standards.

To provide summaries of jump activity for Marine Corps personnel to the Commandant of the Marine Corps.

To provide records of specific jump designated personnel to contractors, if required, for projects either funded by or deemed potentially valuable to the Department of the Navy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and computer printouts.

RETRIEVABILITY:

Name, Social Security Number, Unit Identification Code (UIC), and model of parachute.

SAFEGUARDS:

Computer area is locked after hours and access is strictly controlled. Hard drive locked to preclude unauthorized access. Only two individuals have a key to access hard drive. Building is under 24 hour watch.

RETENTION AND DISPOSAL:

Permanent. Magnetic tape files contain all available records and are never purged.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Shore Safety Programs, Naval Safety Center, 375 A Street, Norfolk, VA 23511–4399.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director of Shore Safety Programs, Naval Safety Center, 375 A Street, Norfolk, VA 23511–4399.

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director of Shore Safety Programs, Naval Safety Center, 375 A Street, Norfolk, VA 23511–4399.

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Navy and Marine Corps jumpers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05350–1

SYSTEM NAME:

Navy Drug and Alcohol Program System (September 9, 1996, 61 FR 47483).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary location: Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

Decentralized locations: Navy Alcohol Rehabilitation Centers, Navy Alcohol Rehabilitation Departments in Naval Hospitals, Counseling and Assistance Centers, Personal Responsibility and Values Education and Training Program Offices, Navy Drug Screening Laboratories, Navy Personnel Command (Drug and Alcohol Program Management Activity), and local activities to which an individual is assigned. Addresses are contained in a directory which is available from the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delte entry and replace with 'Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.'

* * * * *

N05350–1

SYSTEM NAME:

Navy Drug and Alcohol Program System.

SYSTEM LOCATION:

Primary location: Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

Decentralized locations: Navy Alcohol Rehabilitation Centers, Navy Alcohol Rehabilitation Departments in Naval Hospitals, Counseling and Assistance Centers, Personal Responsibility and Values Education and Training Program Offices, Navy Drug Screening Laboratories, Navy Personnel Command (Drug and Alcohol Program Management Activity), and local activities to which an individual is assigned. Addresses are contained in a directory which is available from the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy personnel (officers and enlisted) who have been identified as drug or alcohol abusers or who are out of Navy body fat standards and may be obese/compulsive over eaters, and who are subsequently screened or referred for remedial education, outpatient counseling, or residential rehabilitation; counselors, counselor interns, and counselor applicants; Navy personnel who attend the Personal Responsibility and Values Education and Training Program for preventive education; dependents and civilians, where authorized, who participate in preventive and remedial education programs, outpatient counseling, and residential rehabilitation; and officer, enlisted, and civilian rehabilitation, and drug testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation containing demographic data, screening and assessment information, progress notes, medical and laboratory data, narrative summaries of treatment, aftercare plans, and other information pertaining to a member's participation in substance abuse education, counseling, and rehabilitation programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. para 1090; 42 U.S.C. 290dd–2; and E.O. 9397 (SSN).

PURPOSE(S):

To train, educate, identify, screen, counsel, rehabilitate, and monitor the progress of individuals in drug and alcohol abuse programs and programs for those members who are obese/compulsive over eaters.

Information is used to screen and evaluate the certified counselors, counselor interns, and counselor applicants throughout the course of their duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

In order to comply with the provisions of 42 U.S.C. 290dd–2, the Navy's 'Blanket Routine Uses' do not apply to this system of records.

Specifically, records of the identity, diagnosis prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be client/patient, maintained in connection with the performance of any alcohol or drug abuse or obesity/compulsive overeating prevention, education, training, treatment, rehabilitation or research which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974 in regard to accessibility of such records, except to the individual to whom the record pertains.

The content of any record may be disclosed in accordance with prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under such prescribed regulations.

Information from records may be released without the member's consent in the following situations:

To medical personnel to the extent necessary to meet a bona fide medical emergency.

To qualified personnel for the purpose of conducting scientific

research, management audits, or program evaluation, but such personnel may not identify, directly, or indirectly any individual patient in any report of such research, audit or evaluation, or otherwise disclose patient identities in any manner.

If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good case therefore. In accessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosures.

The above prohibitions foe not apply to any interchange of records within the Armed Forces or within those components of the Department of Veterans Affairs furnishing health care to veterans or between such components and the Armed Forces.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be on computer disks (both hard drive and floppy), magnetic tapes, and drums.

Manual records may be stored in paper file folders, computer printouts, microfiche, or microfilm.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Computer facilities are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained.

Manual records and computer printouts are available only to authorized personnel having a need-to-know.

RETENTION AND DISPOSAL:

Manual records are maintained for two years (Level I/II) or three years (Level III) and then retired to the nearest Federal Records Center. Automated records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000, or to the naval activity providing treatment. Addresses are contained in a directory which is available from the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 389055–6000.

The letter should contain full name, Social Security Number, rank/rate, military status, and signature of the requester.

The individual may visit the Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proff of identification will consist of Military Identification Card for persons having such cards, or other picture-hearing identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000 or to the naval activity providing treatment. Addresses are contained in a directory which is available from the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

The letter should contain full name, Social Security Number, rank/rate, military status, and signature of the requester.

The individual may visit the Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000 for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

DOD/DON officials; notes and documents from Service Jackets and Medical Records; and general correspondence concerning the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N07401–1

SYSTEM NAME:

Bingo Winners (March 2, 1994, 59 FR 13943).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete the second paragraph and replace with 'A list of Navy system managers is available from the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–0000; and a list of Marine Corps activities is available from the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301, Departmental Regulations; Section 6041, Internal Revenue Code; BUPERS Instruction 1710.13A, Regulations, Policies and Procedures for Navy Food, Beverage and Entertainment Operations 1996; MCOP–1700.27, Ch1; NAVSO P–3520; and E.O. 9397 (SSN).'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Policy Officials: For Navy activities—Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500; For Marine Corps activities—Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.

Record Holder: Navy and Marine Corps stateside and overseas bases where bingo is authorized and played. A list of Navy system managers for bingo locations is available from the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500; a list of Marine Corps systems managers is available from the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.'

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N07401–1

SYSTEM NAME:

Bingo Winners.

SYSTEM LOCATION:

Navy and Marine Corps stateside and overseas bases where bingo is authorized and played.

A list of Navy system managers is available from the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–0000; and a list of Marine Corps activities is available from the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens 18 years of age and older who are paid monies/prizes of $1,200 or more for one-time winnings associated with bingo.

CATEGORIES OF RECORDS IN THE SYSTEM:

Bingo payout control sheet indicating individual name, grade, Social Security Number, duty station, dates and amounts of bingo monies paid, and DOT/IRS Forms W2–G and 5754.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; section 6041, Internal Revenue Code; BUPERS Instruction 1710.13A, Regulations Policies and Procedures for Navy Food, Beverage and Entertainment Operations 1996; MCOP–1700.27, Ch1; NAVSO P–3520; and E.O. 9397 (SSN).

PURPOSE(S):

To notify the Internal Revenue Service of all monies and items of merchandise paid to individual winners of bingo games, whose one-time winnings are $1,200 or more.

To provide a means of paying, recording, accounting, reporting, and controlling expenditures and merchandise inventories associated with bingo games.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specially be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records in file cabinets and electronic records on backup discs.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Records are kept in occupied rooms which are located during non-working hours.

RETENTION AND DISPOSAL:

Records are maintained on site for three years and then shipped to a Federal Records Center for storage for four additional years. After seven years, records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Officials: For Navy activities—Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500; For Marine Corps activities—Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.

Record Holder: Navy and Marine Corps stateside and overseas bases where bingo is authorized and played. A list of Navy system managers for bingo locations is available from the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500; a list of Marine Corps systems managers is available from the Commandant of the Marine Corps, Personnel and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.

NOTIFICATION PROCEDURE:

Individuals are routinely notified via DOT/IRS Form W–2G if their one-time bingo winnings are $1,200 or more. However, individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer at the location where the bingo game was played or to the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500 (for Navy sponsored bingo games) or the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099 (for Marine Corps sponsored bingo games). A list of system managers by activity is also available from these officials.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the commanding officer at the location where the bingo game was played or to the Commander. Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500 (for Navy sponsored bingo games) or the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099 (for Marine Corps sponsored bingo games). A list of system managers by activity is also available from these officials.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual and bingo payout control sheets.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–10573 Filed 4–27–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 28, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address Pat__*Sherrill@ed.gov, or should be faxed to 202–708–9346.*

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of

1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: April 22, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Revision.
Title: Safe and Drug-Free Schools and Communities National Programs—Federal Activities—State and Regional Coalition Grant Competition to Prevent High-Risk Drinking Among College Students.
Frequency: Annually.
Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden: Responses: 50; Burden Hours: 1,600.
Abstract: This program supports the implementation and evaluation of State or regional coalitions to develop strategies for reducing and preventing high-risk drinking and related problems among college students.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: William D. Ford Federal Direct Loan Program: Loan Deferment and Permanent Total Disability Cancellation Request Documents.
Frequency: On occasion.
Affected Public: Individuals or households.
Reporting and Recordkeeping Burden: Responses: 259,000; Burden Hours: 51,800.
Abstract: These documents will serve as the means of collecting the information needed by the Department of Education to determine whether a Direct Loan borrower qualifies for a loan discharge based on permanent total disability or a loan deferment.

Office of Postsecondary Education

Type of Review: Revision.
Title: Federal Family Education Loan (FFEL) Program Loan Deferment Applications.
Frequency: Annually.
Affected Public: Individuals or households.
Reporting and Recordkeeping Burden: Responses: 1,148,818; Burden Hours: 183,811.
Abstract: These forms will serve as the means of collecting the information necessary to determine whether a FFEL borrower qualifies for a specific type of loan deferment.

[FR Doc. 99–10603 Filed 4–27–99; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–327–000]

Equitrans, L.P.; Notice of Request Under Blanket Authorization

April 22, 1999.

Take notice that on April 20, 1999, Equitrans, L.P. (Equitrans), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed a request with the Commission in Docket No. CP99–327–000, pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install 300 feet of three inch pipeline, a tap, metering, electronic flow measurement, and appurtenant facilities, authorized in blanket certificate issued in Docket No. CP86–676–000, all as more fully set forth in the request on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Equitrans proposes to install and operate a tap connection, measuring, and appurtenant facilities for the delivery of gas to Equitable Gas Company in Peters Township, Washington County, Pennsylvania. The estimated annual volume of delivery would be approximately 1,050,000 Dth with a peak day volume of 4,800 Dth. The estimated cost of construction would be approximately $22,700.00, which would be reimbursed by Equitable to Equitrans.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Secretary.

[FR Doc. 99–10586 Filed 4–27–99; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–326–000]

Florida Gas Transmission Co.; Notice of Request Under Blanket Authorization

April 22, 1999.

Take notice that on April 20, 1999, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP99–326–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate delivery facilities in St. Landry Parish, Louisiana to permit the delivery of gas to Riverside Pipeline Company (Riverside) for gas lift operations, under the blanket certificate issued in Docket No. CP82–553–000, pursuant to Section 7(c) of the Natural

Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

FGT states that Riverside has requested a connection and measurement instrumentation for gas lift operations at an existing well connect, Vermilion Resources Meter Station. It is indicated that two check valves will be added to the existing flange on the riser to connect Riverside's 2-inch delivery meter to measure volumes into Riverside. FGT states that it would also install 15 feet of connecting pipe to be installed from the riser to Riverside's meter station. It is stated that the gas lift gas will fuel Riverside's compressors when their pressure is too low to deliver gas into FGT's system at the existing receipt point. It is further indicated that, when well pressure is high enough to allow gas to enter FGT's system, the proposed delivery point will close, allowing the delivery into the FGT system through the existing meter.

FGT indicates that it will be able to deliver to Riverside up to 250 Mcf per day. FGT estimates that the proposed facilities will cost $30,000, which would be reimbursed by Riverside. FGT also states that the proposed delivery point is not prohibited by the existing tariff.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. if no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–10585 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–139–001]

KN Interstate Gas Transmission Co.; Notice of Tariff Filing

April 22, 1999.

Take notice that on April 19, 1999, KN Interstate Gas Transmission Co. (KNI) tendered for filing to be part of its FERC Gas Tariff, Third Revised Volume No. 1–B, Substitute Fourth Revised Sheet No. 6, with an effective date of December 5, 1998.

KNI states that this filing is being submitted pursuant to the Commission Staff's request to correct a pagination error. This filing does not modify or change any tariff provision already approved by the Commission.

KNI states that copies of this filing has been served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10581 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–324–000]

Northern Natural Gas Company; Notice of Application

April 22, 1999.

Take notice that on April 16, 1999, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP99–324–000, an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations, seeking authorization to revise the certificated capacities of the Cunningham, Lyons and Redfield storage fields as more fully described in the Amendment on file with the Commission and open to public inspection. The Application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance).

Northern states that it is filing to amend its existing certificates pursuant to the Settlement of its rate case in Docket Nos. RP98–203, *et al.* filed concurrently herewith. Northern says that the settlement provides that Northern will file a Section 7(c) certificate to revise the certificate level for Cunningham and Lyons storage fields to reflect current operations. Northern states it is also requesting authority to amend its certificate of public convenience and necessity to remove the maximum inventory restriction by reservoir at its Redfield underground storage field, while maintaining the total inventory level, in order to provide additional operational flexibility of the field.

Any person desiring to be heard or making any protest with reference to said application should on or before May 13, 1999 file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as

well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–10583 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RG99–18–000]

Northern Natural Gas Company; Notice of Filing

April 22, 1999.

Take notice that on March 4, 1999, Northern Natural Gas Company (Northern Natural) submitted a report that states that it is re-establishing its Pipeline Sales Division. Northern Natural states that it may sell gas pursuant to Rate Schedule SF due to the imbalance cashout mechanism, excess gas on the system or other economic reasons.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before May 7, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–10587 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–325–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

April 22, 1999.

Take notice that on April 19, 1999, Tennessee Gas Pipeline Company (Tennessee), a Delaware corporation, P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP99–325–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to convert an existing receipt point in Crawford County, Pennsylvania, to a delivery point in order to make deliveries of natural gas to Range Energy Resources, under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance.

Tennessee proposes to remove an exiting 6-inch orifice meter, install in its place a 4-inch orifice meter, and turn around the existing check valve to allow gas flow from Tennessee's mainline. Range Energy estimates that its average day and peak day requirements are 1,500 Mcf and 5,000 Mcf per day, respectively. The volumes to be delivered to this point will be within the contract quantity and therefore within the certificated entitlements for Range Energy.

Tennessee further states that the facilities will be converted in compliance with 18 CFR, Part 157, Subpart F, and that the proposed activities will not affect Tennessee's ability to service its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–10584 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–181–000]

Trunkline Gas Company; Notice of Motion To Vacate

April 22, 1999.

Take notice that on April 16, 1999, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP98–181–000 a request seeking to vacate the authority that Trunkline received in Docket No. CP98–181–000 (prior notice filing) which was filed pursuant to 157.205 and 157.211 on January 13, 1998. This filing may be viewed on the web at www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

The prior notice filing involved a request for authorization to install a 2"

hot tap, check valve, insulating flange and associated facilities on Trunkline's 24" Line 100–1 in Harris County at milepost 1.53, and install electronic gas measurement equipment to establish a delivery point to Cypress Public Service, L.P. (Cypress), under Trunkline's blanket certificate issued in Docket No. CP83–84–000. The prior notice filing was noticed January 23, 1998, and no protests were filed during the notice period which expired March 9, 1998.

Trunkline states that at the request of the customer, Cypress, Trunkline will not be installing the tap and other associated facilities to establish the new interconnect. Trunkline states that since the requested interconnect is not going to be installed and that the 45-day notice period has expired, Trunkline requests that the authorization filed for in Docket CP98–181–000 be vacated.

Any person desiring to be heard or to make any protest with reference to said motion to vacate should on or before May 13, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

David P. Boergers,

Secretary.

[FR Doc. 99–10582 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–316–000]

Williams Gas Pipelines Central, Inc.; Notice of Application

April 21, 1999.

Take notice that on April 15, 1999, Williams Gas Pipelines Central, Inc., (Williams), formerly named Williams Natural Gas Company, P.O. Box 3288, Tulsa, Oklahoma, 74101, filed an application pursuant to Section 7(b) and Section 7(c) of the Natural Gas Act (NGA) for an order permitting and approving (1) the abandonment by reclaim of two 230 horsepower Ajax compressor units and appurtenant facilities and (2) the installation of a replacement 310 horsepower compressor unit and appurtenant facilities at the South Welda booster station located in Anderson County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Specifically, Williams seeks authority to abandon by reclaim the two 230 horsepower compressor units and replace them with a 310 horsepower compressor unit on the existing station site. The project cost is estimated to be approximately $257,414.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before May 12, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Williams to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–10672 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 22, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11704–000.

c. *Date filed:* March 15, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Boyd Dam Hydro Project.

f. *Location:* At the existing Boyd Dam located on the East Branch of Fish Creek, near the Towns of Point Rock, Tabert, and West Leyden, Lewis County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules and Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Description of Project:* The proposed run-of-river project would consist of the following facilities: (1) an 83.5-foot-high existing combination concrete gravity and earth embankment dam; (2) a 210-acre reservoir with pool elevation of 1280 feet msl; (3) two 180-foot-long steel penstocks; (4) a new powerhouse to be constructed on the downstream side of the dam housing two generating units for a total installed capacity of 2.6 megawatts; (5) a new 4-mile-long, 14.7-kilovolt transmission line; and (6) appurtenant facilities. The proposed average annual generation is estimated to be 16 gigawatthours. The cost of the studies under the permit will not exceed $1,000,000.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–10588 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 22, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11705–000.

c. *Date filed:* March 15, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Rome Dam Hydro Project.

f. *Location:* At the existing Rome Dam located on the West Branch of Ausable

River, near the Town of Ausable Forks, Clinton and Essex Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 2808 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *This application is not ready for environmental analysis at this time.*

l. *Description of Project:* The proposed run-of-river project would consist of the following facilities: (1) a 29-foot-high existing concrete dam; (2) a 150 acre-feet reservoir with pool elevation of 657 feet msl; (3) four 80-foot-long steel penstocks; (4) a new powerhouse to be constructed on the downstream side of the dam housing four generating units for a total installed capacity of 7.75 megawatts; (5) a new 300-foot-long, 14.7-kilovolt transmission line; and (6) appurtenant facilities. The proposed average annual generation is estimated to be 46 gigawatt hours. The cost of the studies under the permit will not exceed $1,500,000.

m. *Available Locations at Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. *Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.*

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a) (b), and (c).

Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENT", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION" "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–10589 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

April 22, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11716–000.

c. *Date Filed:* April 5, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Brookville Lake Dam Hydroelectric Project.

f. *Location:* On the East Fork of the Whitewater River near the town of Brookville, in Franklin County, Indiana. The project would utilize the U.S. Army Corps of Engineers Brookville Lake Dam and reservoir.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Tom Dean, thomas.dean@ferc.fed.us, 202–219–2778.

j. *Deadline for filing comments, motions to intervene, and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *The project would be located at the existing U.S. Army Corps of Engineers Brookville Lake Dam and would consist of the following proposed facilities:* (1) A 220-foot-long, 108-inch-diameter penstock; (2) a powerhouse on the tailrace side of the dam housing three turbine generating units with a total installed capacity of 9.0 MW; (3) a 400-foot-long, 14.7 kV transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 55,000 MWh and that the cost of the studies under the permit would be $2,000,000.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32 (a) and (b)(1).

Preliminary Permit—Any qualified development application desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32 (a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–10590 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

April 22, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11717–000.

c. *Date Filed:* April 5, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Mississinewa Lake Dam Hydroelectric Project.

f. *Location:* On the Mississinewa River near the town of Peru, in Miami County, Indiana. The project would utilize the U.S. Army Corps of Engineers Mississinewa Lake Dam and reservoir.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Tom Dean, thomas.dean@ferc.fed.us, 202–219–2778.

j. *Deadline for filing comments, motions to intervene, and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the

Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The project would be located at the existing U.S. Army Corps of Engineers Mississinewa Lake Dam and would consist of the following proposed facilities: (1) a 130-foot-long, 78-inch-diameter penstock; (2) a powerhouse on the tailrace side of the dam housing two turbine generating units with a total installed capacity of 3.0 MW; (3) a 800-foot-long, 14.7 kV transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 18,000 MWh and that the cost of the studies under the permit would be $1,000,000.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–10591 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6332–2]

Agency Information Collection Activities: Continuing Collection; Comment Request; Pre-award Compliance Review Report for all Applicants Requesting Federal Financial Assistance, Agency Information Collection Activities up for Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Pre-award Compliance Review Report for all Applicants Requesting Federal Financial Assistance, EPA ICR No. 0275.07, EPA Form 4700–4, OMB Control No. 2090–0014, expiration date 30 April 1999. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before June 28, 1999.

ADDRESSES: Office of Civil Rights, Mail Code 1201, U.S. EPA, Waterside Mall (WSM), 401 M Street, SW, Washington, DC 20460. Interested parties may receive a copy of the ICR without charge by writing to this address or by calling the Office of Civil Rights at (202) 260–4575.

FOR FURTHER INFORMATION CONTACT: Office of Civil Rights, at the above address, by telephone at (202) 260–4575, or by fax at (202) 260–4580.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are all grant and loan applicants, including state, local and tribal governments, universities; associations, and non-profits, which must complete a simple form with the requested data when applying for financial assistance.

Title: Pre-award Compliance Review Report for all Applicants Requesting Federal Financial Assistance, EPA ICR No. 0275.07, EPA Form 4700–4, OMB Control No. 2090–0014, expiration date 30 April 1999.

Abstract: The information request and gathering is part of the requirement of 40 CFR part 7, "Nondiscrimination in Programs Receiving Federal Assistance from the Environmental Protection

Agency," at 40 CFR 7.80. The regulation implements statutes which prohibit discrimination on the bases of race, color, national origin, sex and handicap. This information is also required, in part, by the Department of Justice regulations, 28 CFR 42.406 and 28 CFR 42.407. The information is collected on a short form from grant and loan applicants as part of the application. The EPA Director of Civil Rights manages the data collection through a regional component or delegated state, both of whom also carry out the data analysis and make the recommendation on the respondent's ability to meet the requirements of the regulation, as well as the respondent's current compliance with the regulation. The information and analysis is of sufficient value for the Director to determine whether the applicant is in compliance with the regulation. Analysis of the data allows EPA to determine:

(1) Whether there appears to be discrimination in the provision of program or activity services between the minority and non-minority population. This allows EPA to determine whether any action is necessary by it before the award of the grant or loan.

(2) Whether the respondent is designing grant or loan financed facilities to be accessible to handicapped individuals or whether a regulatory exemption is applicable. This allows EPA to determine whether design changes are necessary prior to the award of the grant or loan, which can save the respondent a significant amount of money, e.g., ensuring a facility is accessible to the handicapped is much less costly if this requirement is included in the design rather than after construction has begun.

(3) Whether the respondent receives or has applied for financial assistance from other Federal agencies. This information allows EPA to canvass these other agencies to avoid conducting duplicate compliance audits, reviews, or complaint investigations and is a reduction of burden on respondents. Responses to the collection of information are required to obtain a grant or loan and are kept on file by the state distributing the funds.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 40 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The form is part of the grant or loan application package. The information currently exists in the respondent's operation. The data collected on this form is compiled and reported from the applicant's existing information. The information as gathered and reported on the form specifically applies to the grant or loan application. The only burden experienced by the respondent is that of completing the form. The Agency's past experience has shown that it requires one half-hour to complete the form. The form is usually completed by the applicant's packager or a clerk assistant. The average salary range of the combined or single individual has historically been about $30,000.00 per year. The Agency's information comes from direct experience in carrying out the task. Therefore the capital cost would be $0 and the labor for ½ hour would be about $7.21 per year. At about 13,100 applications per year, the total cost for all applicants combined would be about $94,300.00 per year. Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose, or provide information to or for a Federal agency. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 20, 1999.

Ann E. Goode,

Director, Office of Civil Rights.

[FR Doc. 99–10628 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6332–4]

Regional Workshops on Performance-Based Measurement System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: With the assistance of EPA, the Global Institute of Environmental Scientists (GIES) will be holding a series of one-day workshops on implementing the Performance-Based Measurement System (PBMS) approach to environmental compliance monitoring. The workshops are designed to assist the public in learning about this new regulatory initiative.

DATES: Workshops will be held in the following cities:

- Philadelphia, PA, May 6, 1999.
- Atlanta, GA, June 8, 1999.
- Kansas City, MO, June 9, 1999.
- Seattle, WA, June 15, 1999.
- Las Vegas, NV, June 17, 1999.

FOR FURTHER INFORMATION CONTACT: Workshop arrangements are being made by GIES. For information on registration and hotel rates call the GIES coordinator, Sheila Way, at (202) 887–0457 (email: gies@acil.org). If you have questions regarding the conference program, contact the GIES Program Coordinators, Jerry Parr at (303) 670–7823 (email: catalyst@eazy.net) or Anthony Pagliaro at (202) 887–5872 (tpagliaro@acil.org).

SUPPLEMENTARY INFORMATION: In the United States, historical approaches to environmental compliance monitoring have: not fully capitalized on opportunities to reduce the cost for laboratory analysis and compliance monitoring; may have served as barriers to the development and use of innovative, faster, less costly measurement technologies and methods; and sometimes may have resulted in data of less than desired quality or defensibility. The United States Environmental Protection Agency (EPA) plans to address some of these problems by incorporating the Performance Based Measurement System (PBMS) into its regulatory programs. On October 6, 1997 (62 FR 52098), EPA announced its plans to implement the PBMS approach to the

extent feasible in all of its media programs.

PBMS is an approach where the regulated facility may use any scientifically appropriate analytical technique to demonstrate compliance with regulatory levels. The facility, however, must demonstrate that their technique meets the performance requirements that have been established for the application. Under PBMS, the regulations focus on the quality of data needed for the particular program or project (the system performance) rather than on what measurement method should be used (the technology). Where performance requirements can be met or exceeded by more than one method, PBMS allows selection of the least costly, simplest or most practical method, limited only by the programmatic data needs.

The workshops will explain how PBMS will work and how it differs from EPA's current regulatory approach. They will review what EPA is doing to implement the change and the status of these efforts under the various regulatory programs. With PBMS, EPA expects: improved data quality, reduced cost of compliance and enforcement monitoring, and stimulation of the development and use of new technology.

The PBMS Regional Workshops have been designed to bring together representatives of regulated industry, commercial environmental laboratories, state and federal regulators, and environmental consultants and contractors that they may better understand EPA's plans.

Participants will obtain information on:

- The status of EPA's PBMS implementation efforts;
- How PBMS can result in high quality, legally defensible data;
- Concepts of method validation, on-going quality control and documentation processes under PBMS;
- How to audit laboratories who have implemented PBMS;
- How PBMS will affect State regulatory agencies, the regulated community, and laboratories; and
- The cost of doing business under PBMS.

Dated: April 22, 1999.

Henry L. Longest II,

Deputy Assistant Administrator for Management, Office of Research and Development.

[FR Doc. 99–10629 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00580; FRL–6055–1]

Pesticides; Request for Comment on Pesticide Registration Proposal for Isomeric Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This **Federal Register** notice solicits comments on how the Agency should handle the registration of pesticide active ingredients (AI's) that are composed of chemical isomers. In particular the Agency intends to clarify its approach on how it will determine whether a particular isomeric pesticide is a new active ingredient or not. This **Federal Register** notice describes issues associated with the registration of pesticide active ingredients that are composed of chemical isomers and how you can submit your comments to the Agency.

DATES: Written comments, identified by the docket control number "OPP–00580", must be received on or before June 28, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IV. of the "SUPPLEMENTARY INFORMATION" section of this notice.

FOR FURTHER INFORMATION CONTACT: Alan Dixon, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 703–305–7237, Fax: 703–305–6920, e-mail: dixon.alan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

You may be potentially affected by this notice if you are applying for a registration or amended registration of a pesticide product that contains isomeric active ingredients and in particular a product purified for one or more (usually more chemically active) isomers. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

II. Why is EPA Issuing this Notice?

The Office of Pesticide Program (OPP) is soliciting comments on how the Agency should handle the registration of pesticide active ingredients that are composed of chemical isomers. In particular, OPP is interested in learning the various opinions on the question of whether an AI originally registered at a particular proportion of isomers should be subsequently registered as a new AI when purified for one or more (usually more chemically active) isomers.

In the past the Agency has treated some purified isomeric compounds as new formulations and some purified isomeric compounds as new AI's. Examples of purified isomeric compounds treated as new formulations are: Fluazifop butyl and fluazifop-p-butyl, fenoxaprop-ethyl and fenoxaprop-p-ethyl, 2,4-DP and 2,4-DP-p, and MCPP to MCPP-p. Examples of purified isomeric compounds treated as new AI's are: Metolachlor and alpha-metolachlor, and metalaxyl and mefenoxam. Some recent regulatory decisions caused the Agency to re-evaluate its policy on isomeric active ingredients.

The Agency is considering three options:

1. To continue determining case by case whether an isomeric compound is a new AI.
2. To consider all purified isomeric compounds not as new AI's but as new formulations.
3. To consider all purified isomeric compounds as new active ingredients.

III. How Can I Get Additional Information or Copies of this Document or Other Documents?

A. Electronic Availability

You may obtain electronic copies of this document from the EPA internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register** - Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. In Person or By Phone

If you have any questions or need additional information about this action, you may contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this notice, including the public version, has been established under docket control number "OPP–00580". A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal

holidays. The Public Information and Records Integrity Branch telephone number is 703–305–5805.

IV. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number, "OPP–00580", in your correspondence.

A. By Mail

Submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

B. In Person or By Courier

Deliver written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

C. Electronically

Submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Submit electronic comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "OPP–00580". Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

V. How Should I Handle CBI Information that I Want to Submit to the Agency?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section.

VI. What Should I Consider as I Prepare My Comments for EPA?

A. General Tips for Preparing Your Comments

We invite you to provide your views on the various options we propose, new approaches we haven't considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide solid technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.
- Tell us what you support, as well as what you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the rule or collection activity.
- Make sure to submit your comments by the deadline in this notice.
- At the beginning of your comments (e.g., as part of the "Subject" heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket control number assigned to the notice, along with the name, date, and **Federal Register** citation.

B. Specific Issues for Your Consideration

In answering the specific questions in Unit VI.C., you might consider the following:

1. There are substantial benefits for the registration holder of a new active ingredient. With a new active ingredient the registrant has 10 years exclusive use of the data used to support the chemical. In practice this likely amounts to several more years of exclusive distribution or sale of the pesticide given the time it may take subsequent applicants to develop their own data. If potential follow-on applicants do not generate their own data this exclusive period is obviously much longer.

2. One of Congress's intentions on giving preferential status to data submitted on new AI's was to reward innovation that provides significant benefits to agriculture, the environment, and the public. There may be cases where a modified isomeric mixture may truly be innovative and provide substantial benefits to agriculture, the environment, and the public. On the other hand, if new AI status was granted to purified isomers, economic competition might be reduced by creating a regulatory barrier to other companies wishing to enter the market by registering competing products.

3. The public, growers, and environment stand to benefit from new active ingredients if the pesticide is effective against pests that no other pesticide controls, and/or substantially outperforms alternative pesticides, and/or is safer for human health and the environment than alternative pesticides, and/or is substantially less expensive than alternative pesticides. Some purified isomeric mixtures may have these benefits.

4. In some instances a purified isomeric mixture may reduce environmental burden by reducing the total pesticide application rate. Take for example the case of a 50–50 racemic mixture purified to 95 percent of the active isomer and 5 percent of the less active isomer and then applied at one-half the rate. If both isomers present some risk concerns, the new formulation would reduce the risk associated with the product since there is half the total pounds of product applied. On the other hand, if there is little risk concern for the less active isomer, only the environmental burden (pounds product applied) will be reduced since there is half the total pounds of product applied.

5. The reduction in risk in for purified isomeric compounds may be negligible if there is little concern for the less active isomer. In this case there is no change in the amount of the active isomer (isomer of risk concern) applied. For this instance, the risk of using the purified isomeric mixture remains the essentially the same as the original unpurified isomeric mixture.

6. There are other environmental benefits from a significant reduction in the total use of pesticides. The environmental burden from transportation is reduced as is the environmental burden associated with packaging and disposal.

7. Some companies have requested and been granted reduced risk status for their purified isomeric compounds citing arguments similar to items 4. and 6.

8. The Agency may determine that additional types of information on the isomeric composition of active ingredients is necessary prior to registration of the product. Information that might be necessary could include:

- Isomers present and their percentages.

- Relative activity of each isomer.
- Relative toxicology of each isomer (human health and environmental effects).
- Relative environmental fate of each isomer.

C. Specific Questions for Commenters

1. Under what circumstances should the Agency register an isomeric AI purified for one or more (usually more chemically active isomers) as a new AI?
2. Under what circumstances should the Agency not register an isomeric AI purified for one or more (usually more chemically active isomers) as a new AI?
3. What would be the advantages or disadvantages to the regulated community, the Agency, growers, the environment, the general public, and other interest groups from your answer to questions 1. and 2.?
4. If isomerically purified AI's were not treated as new AI's but as new formulations, what incentives could the Agency create to promote these innovations?
5. What information might the Agency need for initial and subsequent registrations of isomeric AI's?
6. Under what circumstances should the Agency grant reduced risk pesticide status to an isomeric AI purified for one or more (usually more chemically active isomers)?

List of Subjects

Environmental protection, Pesticides.

Dated: April 19, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–10522 Filed 04–27–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30476; FRL–6076–6]

Uniroyal Chemical Inc.; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by May 28, 1999.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30476] and the file symbols to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: George Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 203, CM #2, 703–308–9397, e-mail: tompkins.george@epamail.epa.gov.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 400–UIR. Applicant: Uniroyal Chemical, Inc., 74 Amity Road, Bethany, CT 06524–3402. Product Name: Floramite. Miticide. Active ingredient: Bifenazate: hydrazine carboxylic acid, 2-(4-methoxy-[1,1-biphenyl]-3-yl)-1 methylethyl ester at 50%. Proposed classification/Use: None. For use to control a variety of mite pests on greenhouse, shadehouse, nursery, field, landscape and interiorscape grown ornamentals.

2. File Symbol: 400–UIN. Applicant: Uniroyal. Product Name: Bifenazate Technical. Miticide. Active ingredient: Bifenazate: hydrazine carboxylic acid, 2-(4-methoxy-[1,1-biphenyl]-3-yl)-1 methylethyl ester at 91.7%. Proposed classification/Use: None. For formulation into end-use miticides.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30476] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30476]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: April 13, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–10389 Filed 4–27–99; 8:45 am]
BILLING CODE 6560–50–F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SES Performance Review Board Members

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the SES Performance Review Board of EEOC for FY 1998 and 1999.

FOR FURTHER INFORMATION CONTACT: Patricia Cornwell Johnson, Director, Office of Human Resources, Equal Employment Opportunity Commission, 1801 L Street, NW, Washington, DC, 20507, (202) 663–4306.

SUPPLEMENTARY INFORMATION: Pursuant to the requirement of section 4314(c)(1), Chapter 43 Title 5 U.S.C., membership of the SES Performance Review Board is as follows: Ms. Gwendolyn Reams, Associate General Counsel, Appellate Services, Equal Employment Opportunity Commission (Chairperson); Mr. Spencer H. Lewis, Director, New York District Office, Equal Employment Opportunity Commission; Mr. Federico Costales, Director, Miami District Office, Equal Employment Opportunity Commission; Ms. Peggy Mastrioanni, Associate Legal Counsel, Coordination and Guidance Programs, Equal Employment Opportunity Commission (Alternate).

Signed at Washington, D.C. on this 19th day of April 1999.

For the Commission.

Ida L. Castro,

Chairwoman.

[FR Doc. 99–10569 Filed 4–27–99; 8:45 am]

BILLING CODE 6570–06–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 24, 1999.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. First Interstate BancSystem, Inc., Billings, Montana;to acquire 100 percent of the voting shares of Security State Bank Shares, Polson, Montana, and thereby indirectly acquire Security State Bank and Trust Company, Polson, Montana.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. FirstBank Holding Company of Colorado ESOP, Lakewood, Colorado, and FirstBank Holding Company of Colorado, Lakewood, Colorado; to acquire 100 percent of the voting shares of FirstBank of Adams County, Thorton, Colorado.

Board of Governors of the Federal Reserve System, April 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10643 Filed 4–27–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Nonbanking Activities or to Acquire Companies that are Engaged in Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or indirectly, in a nonbanking activity. These activities will be conducted worldwide.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 21, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001, and **Federal Reserve Bank of Chicago** (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Barclays PLC and Barclays Bank PLC, both of London, England; Bayerische Hypo- und Vereinsbank AG, Munich, Germany; Deutsche Bank AG, Frankfurt, Germany; and Stichting Prioriteit ABN AMRO Holding, Stichting Administratiekantoor ABN AMRO Holding, ABN AMRO Holding N.V., and ABN AMRO Bank N.V., all of Amsterdam, The Netherlands (collectively, Notificants) to engage *de novo* in digital certification and data processing and data transmission activities, as described below. Notificants also propose to engage in activities that they maintain are incidental to permissible digital certification and data processing and data transmission activities.

Notificants propose to acquire more than 5 percent of the outstanding voting interests in Global Trust Organization, LLC, New York, New York (Company), a *de novo* limited liability company. Other investors in Company would include national banks and state member banks. Company would serve as the rulemaking authority for a network of participating financial institutions (Network), which would include Notificants, future equity investors in Company, and other financial institutions that elect to participate in the Network (collectively, Participants). The Network is designed to allow Participants to certify electronically the identity of parties conducting business or communicating electronically through the internet or otherwise. Participants in the Network would, among other things, issue to customers "digital certificates" that authenticate messages electronically sent by the customer, and confirm the validity of digital certificates issued by Participants. Participants also may issue warranties to customers who request

verification of digital certificates issued by Participants, and post collateral to secure claims under any warranty issued by the Participant.

Company would develop, maintain, and enforce the rules governing the operation of, and participation in, the Network, and provide other services designed to facilitate the certification activities of Participants and operation of the Network. These activities would include issuing digital certificates to Participants and maintaining a current database of digital certificates that have been issued. Company and Participants would engage in a wide range of data processing and data transmission activities in connection with their proposed activities. A more complete description of the proposed activities of Company, Notificants, and other Participants is contained in the notices.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity that the Board has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. The Board previously has determined that certain data processing and data transmission services are closely related to banking for purposes of section 4(c)(8) of the BHC Act, pursuant to § 225.28(b)(14) of Regulation Y. Notificants contend that all of the proposed activities are so closely related to banking as to be a proper incident thereto, or are activities that are incidental to permissible activities, pursuant to § 225.21(a)(2) of Regulation Y.

In determining whether the proposal satisfies the proper incident to banking standard of section 4(c)(8) of the BHC Act, the Board must consider whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. 1843(c)(8). Notificants contend that consummation of the proposal will facilitate the development of electronic commerce and will have a beneficial effect on competition for identity certification and related services.

In publishing the proposal for comment, the Board does not take a position on the issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the proposal and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act. The notices are available for immediate inspection at the Federal Reserve Banks indicated above and at the offices of the Board of Governors. Any request for a hearing on the notices must be accompanied by a statement of reasons explaining why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Board of Governors of the Federal Reserve System, April 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10642 Filed 4–27–99; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Appointments to the Medicare Payment Advisory Commission

AGENCY: General Accounting Office.

ACTION: Notice of appointments.

SUMMARY: The Balanced Budget Act of 1997 establishes the Medicare Payment Advisory Commission, with members to be appointed by the Comptroller General. A recent amendment to the Act expanded the membership of the Commission from 15 to 17. This notice announces five appointments to fill the vacancies occurring this year, and two appointments to carry out the expansion.

DATES: Appointments effective May 1, 1999.

ADDRESSES: The General Accounting Office is at 441 G St. NW, Washington, DC 20548. The Office of the Chairman of the Medicare Payment Advisory Commission is at Suite 800, 1730 K St., NW, Washington DC 20006.

FOR FURTHER INFORMATION CONTACT: General Accounting Office: Paul T. Wagner, 202–512–7257; Medicare Payment Advisory Commission: Murray N. Ross, 202–653–7220.

SUPPLEMENTARY INFORMATION: This announces the appointment of seven members of the Medicare Payment Advisory Commission, effective May 1, 1999.

The Commission originally comprised 15 members, appointed by the Comptroller General. A recent amendment expanded the membership of the Commission to 17. Members are generally appointed to 3-year terms, except that some terms of members are staggered in order to spread term expiration dates.

All terms now end on April 30 of the year in which they expire. This year, the terms of five of the original members will expire.

To fill the five impending vacancies, expand the Commission's membership to 17, and to comply with the requirement for staggered terms, we announce the following seven appointments, effective May 1, 1999:

Beatrice S. Braun, M.D.; Floyd D. Loop, M.D.; Janet Newport; Carol Raphael; and Mary K. Wakefield, Ph.D.; to 3-year terms, which expire April 30, 2002; Spencer Johnson, to a 2-year term, which expires April 30, 2001; and Donald T. "Ted" Lewers, M.D., to a 1-year term, which expires April 30, 2000.

David M. Walker,

Comptroller General of the United States.

[FR Doc. 99–10621 Filed 4–27–99; 8:45 am]

BILLING CODE 1610–02–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of Health and Human Services (DHHS), has submitted to the Office of Management and Budget (OMB) the following request for emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320 and is essential to the mission of the Department. The Balanced Budget Act of 1997 authorized the Department of Labor (DoL) to implement a new grant program to fund state and local efforts to get the hardest-to-serve welfare recipients into employment. The statute directs the Secretary of the Department of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, to develop a plan to evaluate how Welfare-to-Work (WtW) grants to states and tribes have been used. An interim evaluation report is due to Congress by January 1, 1999, and a final report is due by January 1, 2001.

Implementation of the WtW programs among grantees has proven slower than

expected. This has delayed early exploratory site visits under the evaluation, which in turn has delayed development of the protocols for in-depth site visits which draw on information gathered from exploratory visits. Following normal clearance procedures would affect later phases of contract work and cause delays in the delivery of future reports.

DHHS is requesting that OMB grant 180 day emergency approval by May 14, 1999.

Title and Description of Information Collection: Site Visit Protocols for the Multi-site Evaluation of the Welfare-to-Work Grants Program—NEW—As required by the Balanced Budget Act of 1997, DHHS is conducting an evaluation of the effectiveness of welfare-to-work initiatives undertaken through competitive and formula grants awarded by the US Department of Labor (DoL). DHHS' Office of the Assistant Secretary for Planning and Evaluation, in conjunction with DoL and the US Department of Housing and Urban Development (HUD), has designed an evaluation that will involve several rounds of data collection from grantees, affiliated agencies and grant program participants. The information collection instruments in this request for OMB approval consist of discussion protocols and focus group guides for site visits to WtW grantees that are part of the core evaluation's process and implementation analysis, and protocols for the tribal component of the evaluation. *Respondents:* State, Local, or Tribal Governments, Not-for-profit Institutions; Burden Information for the Discussion Protocols—*Number of Respondents:* 300; *Number of Responses per Respondent:* one; *Average Burden per Response:* one hour; *Total Burden for Discussion Protocols:* 300 hours—Burden Information for Focus Groups—*Number of Respondents:* 360; *Number of Responses per Respondent:* one; *Average Burden per Response:* 1.5 hours; *Total Burden for Focus Groups:* 540 hours. Burden Information for the Tribal Evaluation Instruments—*Number of Respondents:* 220; *Number of Responses per Respondent:* one; *Average Burden per Response:* .86 hour; *Total Burden for Tribal Evaluation Instruments:* 190 hours. Total Burden: 1,030 hours.

To request more information or a copy of the proposed data collection, please contact Alana Landey on 202–401–6636.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Written comments and recommendations for the proposed information collections should be immediately sent directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503. Comments may be faxed to Ms. Eydt at 202–395–5167.

Please send a copy of your comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW, Washington, DC, 20201.

Dated: April 21, 1999.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 99–10568 Filed 4–27–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99088]

State Grants To Support the Evaluation of 5 A Day Nutrition Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) in partnership with the National Cancer Institute (NCI) announces the availability of fiscal year (FY) 1999 funds for a grant program to support the evaluation of 5 A Day Nutrition Programs. This program addresses the "Healthy People 2000" priority area of Nutrition (please see background section included in appendix).

The purpose of the program is to support State efforts to evaluate 5 A Day nutrition intervention programs.

B. Eligible Applicants

Eligible applicants are the official public health agencies of States or their bona fide agents. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments, that are licensed by NCI for the 5 A Day Program; and have established, clearly-defined, measurable, long-range 5 A Day for Better Health projects in a specific community channel (e.g., supermarkets, schools, etc.).

C. Availability of Funds

Approximately $535,000 is available in FY 1999, to fund approximately 7 awards. It is expected that the average award will be $75,000, ranging from $55,000 to $90,000. It is expected that the awards will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to 1 year. Funding estimates may change.

Recipient Financial Participation

Awards under this announcement will not be sufficient to fully support an applicant's proposed activities, but are meant to be used in conjunction with other resources—whether direct funding or in-kind contributions—that the applicant may have available.

D. Program Requirements

Applicants should propose an evaluation plan for a clearly defined, established, long-range effort (e.g., sustainable after program funding under this announcement ends) in one or more specific community channels in accordance with the following definitions:

1. Clearly Defined Objectives

Intervention objectives are clearly stated; activities necessary to accomplish objectives are described, to include who is responsible for each activity and when they will be accomplished; and work is done within a specific channel with a defined target audience.

2. Established 5 A Day Program

The applicant has a developed, ongoing 5 A Day Program. Evaluating pretested or piloted interventions is desirable.

3. Evaluation Plan

Clear, measurable evaluation objectives and expected outcomes are defined with appropriate statistical power. Use of current theoretical frameworks to guide the evaluation study is desirable. A combination of process and impact objectives is also desirable, with outcome objectives where feasible. In designing the study, consideration should be given to the

number of individuals or groups needed to detect realistic changes in post-intervention outcome measures when compared with pre-intervention measures. Sample sizes should give adequate power (80 percent) to detect these changes. If the appropriate design expertise does not exist within the State health department, inclusion of an organization with the necessary design expertise on the project team, such as a university affiliate, is recommended.

4. Long Range Sustainability

The program is not just a single activity at one point in time, but sustained effort and on-going program plans involving appropriate behavior change strategies that are capable of continuing after funding under this announcement ends. Programs including environmental approaches and administrative changes are encouraged.

5. Program Emphasis Will be Placed on

(a) Evaluation of a community intervention's impact on knowledge, attitude, awareness and behavioral change in minority-based population groups (such as elderly, young children or low-income groups, and ethnic groups such as, but not exclusive to, American Indians, Asians, Pacific Islanders, African Americans or Hispanics) which have low fruit and vegetable intakes or have a disproportionately greater risk for cancer;

(b) Testing the effects of culturally sensitive and linguistically appropriate strategies within a community intervention designed to increase the consumption of fruits and vegetables in minority population subgroups and promote other related lifestyle behaviors which are recognized covariates that influence fruit and vegetable consumption; or

(c) Evaluation of communication channels (radio, tv, print media) which target the specific minority population subgroups identified as part of 5 A Day-based community intervention campaigns.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 10 double-spaced pages, printed on one side, with one inch margins, and unreduced font and must contain the following information:

1. Background

Provide a brief but clear description of a current project in one or more specific community channels including project goals and objectives, target group, methodology of intervention, and length of time of the current project.

2. Program Plan

Provide a realistic, time phased, and specific work plan including evaluation goals, objectives, methods, and outcomes to be achieved during the 12-month period; and a clear plan to evaluate the current long-range effort in a particular channel or channels and assess the impact of those activities with measures of process and outcomes related to the targeted audience. Examples of potential evaluation projects might include but are not limited to the following:

a. Evaluation of the process and impact of instituting a community neighborhood 5 A Day project targeting for example minority, elderly, youth, or low-income groups and its effect on perceived barriers, attitudes, beliefs, dietary behaviors and fruit and vegetable consumption.

b. Evaluation of innovative measurement techniques appropriate for targeted minority audiences and their perceptions/response to the current 5 A Day Program recommendations of 5 to 9 servings of fruits and vegetables daily.

c. Evaluate the impact of a 5 A Day media and/or education campaign on knowledge, attitudes, and behaviors of targeted minority community members, with a focus on issues of awareness translating to action/behavioral stages of change and changes in fruit and vegetable consumption. (e.g. food assistance program like Women Infant Children (WIC) or other community-based program combined with a media intervention).

d. Evaluate an intervention that promotes healthy dietary choices (5 A Day) and physical activity in a defined community setting with a focus on the effect of affiliated environmental change(s) on behavior.

3. Capacity

Document the expertise of the evaluation team by including the curriculum vitae (limited to 1 page attachment per person) for key members of the team. If sufficient evaluation expertise is not available in the State health department, States are strongly encouraged to work with an academic institution in the design, data collection, and analysis activities for this evaluation. For interventions involving administrative changes, describe the infrastructure that is or will be in place to support the administrative change once made in the defined setting.

4. Human Subjects

Documentation that human subject assurances are met, either through copies of approved protocols or notation of the institutional review committee that will review the project. Should human subjects review be required, the proposed work plan should incorporate time lines for such development and review activities.

5. Women, Racial, and Ethnic Minorities

Describe and provide for the inclusion of women, ethnic, and racial groups in the proposed research to include:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representations.

b. The proposed justification when representation is limited or absent.

c. A statement whether the design of the study is adequate to measure differences when warranted.

6. Budget

Provide a detailed budget and line-item justification that is consistent with the stated objectives, purpose, and planned activities of the project. (Not to be counted as part of the 10 page narrative.)

An original and two copies of the application are required. Pages should be numbered, and an index to the application and appendix must be included. The original and each copy of the application must be submitted unstapled and unbound. Materials that should be part of the basic plan will not be accepted if placed in the appendix. Appendix material should not exceed 25 pages. Please do not include reports (or portions thereof), journal articles, mass media articles, or presentations of national statistical data.

F. Submission and Deadline

Application

Submit the original and two copies of CDC Form 0.1246(E). Forms are in the application kit. On or before June 28, 1999, submit the application to: Lucy Picciolo, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99088, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the review panel. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Applications will be reviewed and evaluated according to the following criteria:

1. Background: (25 Points)

The degree to which the applicant clearly describes a long-range, clearly defined, measurable project, including a description of the intervention targeted population, method, and community channel(s).

2. Program Plan: (40 Points)

The adequacy of the applicant's plan to carry out the evaluation within the 12-month time period, including the specific objectives, methods, and measures to be used in the evaluation.

3. Capacity: (30 Points)

The capabilities of the personnel (including consultants where appropriate) to carry out the evaluation.

4. Women, Racial, and Ethnic Minorities (5 Points)

The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research.

This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representations.

b. The proposed justification when representation is limited or absent.

c. A statement whether the design of the study is adequate to measure differences when warranted.

5. Human Subjects: (Not Weighted)

Whether or not exempt from the Department of Health and Human Services (HHS) regulations, are procedures adequate for the protection of human subjects? Recommendations on the adequacy of protections include: (1) Protections appear adequate and there are no comments to make or concerns to raise, (2) protections appear adequate, but there are comments regarding the protocol, (3) protections appear inadequate and there are concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

____Yes ____No

Comments: _____

6. Budget: (Not Weighted)

The extent to which the applicant provides a detailed budget and line-item justification that is consistent with the evaluation plan.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Annual progress report; The progress reports must include the following for each program, function, or activity involved: (1) A comparison of the actual accomplishments to the goals established for the period; (2) the reasons for slippage if established goals were not met; and (3) other pertinent information including, when appropriate, analysis and explanation of unexpectedly high costs for performance.

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Lucy Picciolo, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301 (a) and 317(k)(2) [42 U.S.C. 241 (a) and 247b (k)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where to Obtain Additional Information

Please refer to Program Announcement [99088] when you request information. For a complete program description, information on application procedures and business management assistance, contact: Lucy Picciolo, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99088, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone (770) 488–2757, Email address lip6@cdc.gov.

See also the CDC home page on the Internet in order to find information on application procedures and an application package: http://www.cdc.gov.

For program technical assistance, contact: Sarah Kuester, MS, RD, Public Health Nutritionist, Division of Nutrition and Physical Activity, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 3005 Chamblee-Tucker Road, Room 5157, Atlanta, GA, 30341–4133, Telephone (770) 488–6019, Fax (770) 488–6000, Email address: sak2@cdc.gov.

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

Dated: April 22, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–10616 Filed 4–27–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Notice of Hearing: Reconsideration of Disapproval of Minnesota State Plan Amendment (SPA) 98–10

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on June 9, 1999; 10:00 a.m.; Twenty-First floor; 105 W. Adams Street; Chicago, Illinois 60603 to reconsider our decision to disapprove Minnesota State Plan Amendment (SPA) 98–10.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the presiding officer by May 13, 1999.

FOR FURTHER INFORMATION CONTACT: Stanley Katz, Hearings Officer, HCFA, C1–09–13, 7500 Security Boulevard, Baltimore, Maryland 21244, Telephone: (410)–786–2661

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider HCFA's decision to disapprove Minnesota State Plan Amendment 98–10 submitted March 30, 1998.

Section 1116 of the Social Security Act (the Act) and 42 CFR Part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. These requirements are made applicable under Title XIX. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to the State that informs the State of the time and place of the hearing and the issues to be considered. If we subsequently notify the State of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

Minnesota submitted this State Plan Amendment (SPA) on March 30, 1998. The issue is whether the State's proposal to adopt several less restrictive Medicaid financial eligibility methodologies for the group of low income families with children under section 1931 of the Social Security Act comports with the requirements of section 1902(a)(17)of the Act that a state use reasonable standards which are comparable for all groups in determining eligibility for and the amount of medical assistance.

Specifically, the State proposed to disregard earned income and resources used to determine a grant under the Temporary Assistance for Needy Families (TANF) program. If these proposals mean that the types of income and resources which TANF would count will be disregarded in determining the eligibility of all individuals under Section 1931, HCFA would have no objections. However, HCFA understands that the intent of these provisions was to disregard the earned income and resources only in situations in which the family receives a TANF grant. Given this understanding, these proposed disregards are not in accordance with Federal law. HCFA concluded that these provisions violate the requirement in Section 1902 (a)(17).

Section 1931(b)(2)(C)of the Act permits a State to use less restrictive income and resource methodologies in determining eligibility than it used under its Aid to Families with Dependent Children (AFDC) State plan in effect on July 16, 1996. Nevertheless, HCFA believes this language must be read in context of other title XIX requirements rather than in a vacuum. Therefore, the requirements of section 1902 (a)(17) apply.This section requires States to have reasonable standards for determining eligibility for Medicaid assistance which are "comparable for all groups." A disregard which treats the same types of income or the same amounts of resources differently whether or not an individual participates in the TANF program, does not result in comparable treatment of income and resources for all individuals under the 1931 group. If two individuals have identical amounts of income from the same source, that income would be counted in determining the eligibility of an individual who applied only for Medicaid but would be disregarded if the individual received a TANF grant in addition to applying for Medicaid. This does not comport with the comparability requirements of Section 1902(a)(17). Therefore, the proposal to disregard earned income used in determining a TANF grant and to disregard resources used in determining a TANF grant was disapproved by HCFA. The deficiencies described above left HCFA no choice but to recommend disapproval of Minnesota SPA 98–10.

The notice to Minnesota announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mary B. Kennedy, State Medicaid Director, Assistant Commissioner Health Care Administration, Minnesota Department of Health Services, 444 Lafayette Road North, Saint Paul, Minnesota 55155.

Dear Ms. Kennedy: I am responding to your request for reconsideration of the decision to disapprove Minnesota State Plan Amendment (SPA) 98–10. The issue is the State's proposal to adopt several less restrictive methodologies for the group of low income families with children eligible under Section 1931 of the Social Security Act.

Specifically, the State proposed to disregard earned income and resources used in determining a grant under the Temporary Assistance for Needy Families (TANF) program. If these proposals mean that the types of income and resources which TANF would count will be disregarded in determining the eligibility of all individuals under section 1931, HCFA would have no objections. However, HCFA understands that the intent of these provisions is to disregard the earned income and the resources only in situations in which the family receives a TANF grant. Given this understanding, these proposed disregards are not in accordance with Federal law. These provisions violate the requirement in section 1902(a)(17) that all individuals in a group be subject to comparable standards for determining eligibility.

Section 1931(b)(2)(C) of the Act permits a State to use less restrictive income and resource methodologies in determining eligibility than it used under its Aid to Families with Dependent Children (AFDC) State plan in effect on July 16,1996. Nevertheless, this language must be read in context of other title XIX requirements rather than in a vacuum. The comparability requirements of Section 1902(a)(17) must apply. This section requires States to have reasonable standards for determining eligibility for Medicaid assistance which are "comparable for all groups." A disregard which treats the same types of income or the same amounts of resources differently whether or not an individual participates in the TANF program, does not result in comparable treatment of income and resources for all individuals under the 1931 group. If two individuals have identical amounts of income from the same source, that income would be counted in determining the eligibility of an individual who applied only for Medicaid but would be disregarded if the individual received a TANF grant in addition to applying for Medicaid. This does not comport with the comparability requirements of section 1902(a)(17). Therefore, the proposal to disregard earned income used in determining a TANF grant and to disregard resources used in determining a TANF grant was disapproved by HCFA. The deficiencies described above left HCFA no choice but to

recommend disapproval of Minnesota SPA 98–10.

I am scheduling a hearing on your request for reconsideration to be held on June 9, 1999 on the Twenty-First Floor; 105 W. Adams Street; Chicago, Illinois 60603. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410)-786–2661.

Sincerely,

Nancy-Ann Min DeParle,

Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18) (Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: April 22, 1999.

Nancy Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99–10610 Filed 4–27–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1073–N]

Medicare Program; May 13, 1999, Meeting of the Competitive Pricing Advisory Committee

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Competitive Pricing Advisory Committee (the CPAC) on May 13, 1999. Section 4012 of the Balanced Budget Act of 1997 requires the Secretary of the Department of Health and Human Services (the Secretary) to create the CPAC. The CPAC meets periodically and makes recommendations to the Secretary, including the designation of areas for inclusion in the Medicare+Choice competitive pricing demonstration project and suggests appropriate research designs for implementing the project. This meeting is open to the public.

DATES: The meeting is scheduled for May 13, 1999, from 10 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Ramada Hotel at the Metropolitan Airport in Detroit, 8270 Wickham Road, Romulus, Michigan 48174, (734) 729–6300.

FOR FURTHER INFORMATION CONTACT: Sharon Arnold, Ph.D., Executive Director, Competitive Pricing Advisory Committee, Health Care Financing Administration, 7500 Security Boulevard C4–14–17, Baltimore, Maryland 21244–1850, (410) 786–6451.

SUPPLEMENTARY INFORMATION: Section 4011 of the Balanced Budget Act of 1997, (BBA) (Public Law 105–33) requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology. Section 4012(a) of the BBA requires the Secretary to appoint a Competitive Pricing Advisory Committee (the CPAC) to meet periodically and make recommendations to the Secretary concerning the designation of areas for inclusion in the project and appropriate research designs for implementing the project. In previous meetings, the CPAC designated the Kansas City metropolitan area and Maricopa County in Arizona as demonstration sites.

Section 4012(b) of the BBA requires the Secretary to appoint an Area Advisory Committee (AAC) in each demonstration site included in the project to advise the Secretary on the implementation of the demonstration. The Kansas City metropolitan area AAC met on March 26, 1999, and April 8, 1999. The Maricopa County AAC met on March 31, 1999. Additional meetings are scheduled for the Kansas City metropolitan area AAC on April 22, 1999, and May 12, 1999, and for the Maricopa County AAC on April 20, 1999, and May 20, 1999.

The CPAC consists of 15 individuals who are independent actuaries; experts in competitive pricing and the administration of the Federal Employees Health Benefit Program; and representatives of health plans, insurers, employers, unions, and beneficiaries. In accordance with section 4012(a)(5) of the BBA, the CPAC will terminate on December 31, 2004.

The CPAC held meetings on May 7, 1998, June 24 and 25, 1998, September 23 and 24, 1998, October 28, 1998, and January 6, 1999. The CPAC members are: James Cubbin, Executive Director, General Motors Health Care Initiative; Robert Berenson, M.D., Director, Center for Health Plans and Providers, HCFA; John Bertko, CEO and Senior Actuary, PM-Squared Inc.; Dave Durenberger, Senior Health Policy Fellow, University of St. Thomas and Founder of Public Policy Partners; Gary Goldstein, M.D., CEO, The Oschner Clinic; Samuel Havens, Healthcare Consultant and Chairman of Health Scope/United; Margaret Jordan, President and CEO, The Margaret Jordan Group; Chip Kahn, CEO, The Health Insurance Association of America; Cleve Killingsworth, President, Health Alliance Plan; Nancy Kichak, Director, Office of Actuaries, Office of Personnel Management; Len Nichols, Principal Research Associate, The Urban Institute; Robert Reischauer, Senior Fellow, The Brookings Institute; John Rother, Director, Legislation and Public Policy, American Association of Retired Persons; Andrew Stern, President, Service Employees International Union, AFL–CIO; and Jay Wolfson, Director, The Florida Information Center, University of South Florida. The Chairperson of the CPAC is James Cubbin and the Co-Chairperson is Robert Berenson, M.D.

The agenda for May 13, 1999, CPAC meeting will include—

- A discussion of a letter to the Congress requesting a change in the demonstration's budget neutrality provision; and
- An update and discussion of decisions made by the two local AACs. This will include a discussion and decision on a request from the Maricopa County AAC to delay the demonstration for one year and a discussion and decision on a request from the Kansas City metropolitan area AAC to permit an additional year to consider alternative methods of risk adjustment.

Individuals or organizations that wish to make 5-minute oral presentations on the agenda issues should contact Sharon Arnold, CPAC Executive Director, by 12 noon, May 6, 1999, to be scheduled. The number of oral presentations may be limited by the time available. A written copy of the oral remarks should be submitted to the Executive Director no later than 12 noon, May 11, 1999. Anyone who is not scheduled to speak may submit written comments to the Executive Director by 12 noon, May 11, 1999.

The meeting is open to the public, but attendance is limited to the space available.

(Section 4012 of the Balanced Budget Act of 1997, Public Law 105–33 (42 U.S.C.1395w–23 note) and section 10(a) of Public Law 92–463 (5 U.S.C. App.2, section 10(a))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital

Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 22, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99–10609 Filed 4–27–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board of the Center for Substance Abuse Prevention in June 1999.

The first day (June 7) of the Drug Testing Advisory Board meeting will be closed from 8:30 a.m. until 4:30 p.m. and involves the review of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, this portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. App.2, § 10(d).

The second day (June 8) of the Drug Testing Advisory Board meeting will be open from 8:00 a.m. until 3:30 p.m. The open session will include a roll call, general announcements, and a discussion of the information submitted by industry representatives regarding the use of alternative matrices (hair, sweat, oral fluids) and on-site tests to test for drugs of abuse. A public comment period will be scheduled during the open session. If anyone needs special accommodations for persons with disabilities please notify the Contact listed below.

An agenda for this meeting and a roster of board members may be obtained from: Ms. Giselle Hersh, Division of Workplace Programs, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, MD 20857, Telephone: (301) 443–6014.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date: June 7—8, 1999.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Closed: June 7, 1999; 8:00 a.m.—4:30 p.m.

Open: June 8, 1999; 8:00 a.m.—3:30 p.m.

Contact: Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014 and FAX: (301) 443–3031.

Sandi Stephens,

Team Leader, Division of Extramural Activities, Policy, and Review, Extramural Activities Team, SAMHSA.

[FR Doc. 99–10617 Filed 4–27–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–24]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: May 28, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

This Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 21, 1999.

David S. Cristy,

Director, ISP and Management.

Title of Proposal: Housing Counseling Services.

Office: Housing.

OMB Approval Number: 2502–0261.

Description of the Need for the Information and Its Proposed Use: The information to be collected is used to determine the qualifications of grant applications and to monitor the continued performance of grantees as Housing Counseling Services providers under Housing Counseling Grants to Fiscal Year 1997 through the present.

Form Number: HUD–9900–A, 9900–B, 9900–C, 9902, 9903, 9908, and 9921.

Repondents: State, Local or Tribal Government Not-For-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting burden	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–9900A	75		1		2		150
HUD–9900B	75		1		8		600
HUD–9900C	10		1		2		20
HUD–9902	650		1		1.17		761
HUD–9903	15,000		1		5		1,200

Reporting burden	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–9908	1,500		1		10		240
HUD–9921	431		200		10		12,930
Total Estimated Burden Hours	15,901						

Status: Reinstatement, with changes.

Contact: Alan R. Staley, HUD, (202) 708–0317 and Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 21, 1999.

[FR Doc. 99–10577 Filed 4–27–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4488–D–01]

Redelegation of Authority to Housing-Federal Housing Administration Comptroller

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: The Assistant Secretary for Housing-Federal Housing Commissioner is redelegating to the Housing-Federal Housing Administration Comptroller certain responsibilities that pertain to the financial operations administered by the Assistant Secretary. Under this legislation, the Housing-FHA Comptroller will be able to designate disbursing officials, within the Office of Housing, who may, in turn, disburse public money in connection with federal obligations under HUD's single family property disposition program.

EFFECTIVE DATE: March 5, 1999.

FOR FURTHER INFORMATION CONTACT: Victoria L. Bateman, Housing-FHA Comptroller, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., room 5132, Washington, DC 20410. Telephone (202) 401–8800. Persons with hearing or speech impairments may call HUD's TTY number (202) 708–1455 or the Federal Information Relay Service's TTY number at (800) 877–8339. Other than the "800" number, the telephone and TTY numbers listed are not toll-free.

SUPPLEMENTARY INFORMATION: In the routine administration of the single family property disposition program, the Office of Housing must make a broad range of expenditures in connection with the properties that it owns. Payees include utility companies, taxing authorities, and individual vendors that provide maintenance services.

Authority to disburse public money is vested in the United States Treasury Department, which authority may be delegated to officers and employees of other executive agencies. To facilitate and promote the efficiency of HUD's property disposition program, on February 24, 1999, the Treasury Department issued a delegation of disbursing authority to the Housing Assistant Secretary. On March 5, 1999, the Assistant Secretary signed the delegation instrument, thereby indicating his acceptance and making it effective. The delegation is set forth as an appendix to this **Federal Register** notice.

The disbursing authority, set forth in the delegation instrument, is subject to limitations. For example, disbursements can only be made from a particular account that is identified in the delegation and utilized for the single family property disposition program. The account must be in the name of the FHA, and can only be drawn upon by the disbursing officials designated under the delegation. The disbursing authority may be redelegated to the Housing-FHA Comptroller, who can designate disbursing officials. However, authority to make disbursements cannot be redelegated to non-federal personnel, including contractors.

Accordingly, the Assistant Secretary for Housing-Federal Housing Commissioner redelegates the following authority:

Section A. Authority Redelegated

The Assistant Secretary for Housing-Federal Housing Commissioner redelegates to the Housing-Federal Housing Administration Comptroller the authority to disburse public money, and to designate disbursement officials from within the Office of Housing-Federal housing Administration, subject to the following terms and limitations:

This delegation of disbursing authority is limited to disbursements currently being made from the Controlled Disbursement Account authorized by the Financial Management Service on January 30, 1989, due to the unique administrative program processes of the single family property disposition program involving the payment requirements of utility companies and taxing authorities to be paid in a certain manner and the high number of individual vendors. Funds held outside of the U.S. Treasury must be approved by the Federal Management Service in accordance with 31 CFR Part 202. The Controlled Disbursement Account shall be in the name of the Federal Housing Administration, U.S. Department of Housing and Urban Development, and shall be drawn upon only by the disbursing official specifically designated by the Housing-Federal Housing Administration Comptroller pursuant to this delegation.

Section B. Authority Excepted

The authority delegated in section A does not include the authority to issue regulations.

Section C. No Further Redelegation

The authority delegated in Section A may not be further redelegated by the Housing-FHA Comptroller.

Section D. Revocation of Delegation

The authority delegated in Section A may be revoked by the Assistant Secretary for Housing-Federal Housing Commissioner at any time. In addition, however, the authority shall be automatically revoked (1) at such time as the FHA has effected changes to the single family property disposition program that eliminate the need for the Controlled Disbursement Account or (2) upon a determination of the U.S. Chief Disbursing Officer, Department of the Treasury, to revoke, for any reason, the delegation of authority issued to the Assistant Secretary for Housing-Federal Housing Commissioner. Notice of any revocation of this authority will be published in the **Federal Register**.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Section 3321, "Money and Finance", Enactment as title 31, United States Code, 31 U.S.C. 3321.

Dated: March 5, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–10578 Filed 4–27–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability for Comments of a Draft Comprehensive Conservation Plan (CCP) and Associated Draft Environmental Assessment for Deep Fork National Wildlife Refuge, Okmulgee, OK

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) has prepared the Draft Comprehensive Conservation Plan (CCP) and associated Draft Environmental Assessment for the Deep Fork National Wildlife Refuge, Okmulgee, Oklahoma, pursuant to the National Wildlife Refuge System Improvement Act of 1997, and National Environmental Policy Act of 1969, and its implementing regulations.

DATES: The Service will be open to written comments through May 30, 1999.

ADDRESSES: Copies may be obtained by writing to: April Fletcher, Refuge Program Specialist, Division of Refuges, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103–1306. Comments on the draft documents should be submitted to Mr. Tom Baca, Chief of Refuge Planning, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103–1306.

SUPPLEMENTARY INFORMATION: It is Service policy to have all lands within the National Wildlife Refuge System managed in accordance with an approved CCP. The CCP guides management decisions and identifies refuge goals, objectives, and strategies for achieving refuge purposes. The planning process has considered many elements, including habitat and wildlife management, habitat protection and acquisition, public and recreational uses, and cultural resources. Public input into this planning process has assisted in the development of the draft document. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the refuge and how the Service will implement management strategies.

The Service intends to consider comments and advice generated in response to the draft document prior to the preparation of a final CCP. The Service is furnishing this notice in compliance with Service CCP policy: (1) to advise other agencies and the public of the availability of the draft document, and (2) to obtain suggestions and recommendations for consideration in preparation of the final document.

The Service anticipates that the final CCP document and any associated NEPA documents will be available by September 1, 1999.

Dated: April 16, 1999.

Geoffrey L. Haskett,

Acting Regional Director.

[FR Doc. 99–10574 Filed 4–27–99; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Five Permits for Incidental Take of Threatened and Endangered Species

SUMMARY: Between October 1, 1998, and March 31, 1999, Region 2 of the Fish and Wildlife Service issued five permits for the incidental take of threatened and endangered species, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). Of the five permits issued, two are associated with the Balcones Canyonlands Preserve. Copies of the five permits and associated decision documents are available upon request. Four additional permits had minor administrative amendments between October 1, 1998, and March 31, 1999.

ADDRESSES: If you would like copies of any of the above documents, please contact the U.S. Fish and Wildlife Service, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Leslie Dierauf, Habitat Conservation Plan Coordinator, at the above address, 505–248–6651.

SUPPLEMENTARY INFORMATION: Section 9 of the Act and Federal Regulation prohibits the "take" of wildlife species listed as threatened or endangered species. Under the Act, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife, or to attempt to engage in any such conduct. The Service may, under limited circumstances, issue permits to authorize incidental take, i.e. that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing permits for endangered species are at 50 CFR 17.22.

TWO INCIDENTAL TAKE PERMITS ISSUED ASSOCIATED WITH THE BALCONES CANYONLANDS PRESERVE

Permittee	Permit No.	Date of issuance
BRE/Baldwin Ranch, L.P. (TX)	TE–003593–0	03/31/99
Hogan (TX)	TE–005497–0	02/26/99

THREE INCIDENTAL TAKE PERMITS ISSUED IN OTHER LOCATIONS IN THE SOUTHWEST REGION

Permittee	Permit No.	Date of issuance
Misstex Properties, L.C. (TX)	TE–003596–0	03/01/99
Lazy K Bar Ranch, LKB, LLC (AZ)	TE–003597–0	12/03/98
City of Austin (Barton Springs) (TX)	PRT–839031	10/05/98

THREE MINOR ADMINISTRATIVE AMENDMENTS WERE MADE TO THE FOLLOWING INCIDENTAL TAKE PERMITS

Permittee	Permit No.	Date of amendment
Yaupon Great Hills	PRT–782832	3/5/99

THREE MINOR ADMINISTRATIVE AMENDMENTS WERE MADE TO THE FOLLOWING INCIDENTAL TAKE PERMITS—Continued

Permittee	Permit No.	Date of amendment
Volente	PRT–806831	12/22/98
Spicewood	PRT–783564	11/19/98

Dated: April 22, 1999.

Geoffery L. Haskett,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 99–10618 Filed 4–27–99; 8:45 am]

BILLING CODE 4510–55–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–99–017]

Emergency Notice of Rescheduling of Meeting and Additional Agenda Item; Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

ORIGINAL TIME AND DATE: April 26, 1999 at 2:00 p.m.

NEW DATE AND TIME: April 29, 1999 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

ADDITIONAL AGENDA ITEM: 6. Inv. No. 731–TA–787 (Final)(Extruded Rubber Thread from Indonesia)—briefing and vote.

Note: Outstanding action jackets becomes agenda item 7.

Under 19 C.F.R. 201.35 (c)(1) of the Commission's rules, the Commission has determined to reschedule the meeting of Monday, April 26, 1999 to Thursday, April 29, 1999. Thus, the meeting of April 26, 1999 is rescheduled and the additional agenda item schedule for April 29, 1999 is as listed above. The deadline for transmission of the Commission's determination and views to Commerce is hereby changed from the administrative deadline of Monday, May 3, 1999 to the statutory deadline of Friday, May 7, 1999. In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 26, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10784 Filed 4–26–99; 3:46 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–99–018]

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 10, 1999 at 2:00 p.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–326 (Review)(Frozen Concentrated Orange Juice from Brazil)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on May 17, 1999.)
5. Inv. Nos. 731–TA–781–786 (Final)(Stainless Steel Round Wire from Canada, India, Japan, Korea, Spain, and Taiwan)—briefing and vote.
6. Outstanding action jackets:

(1) Document No. GC–99–027: Approval of initial determination terminating the investigation based on withdrawal of the complaint in Inv. No. 337–TA–411 (Certain Organic Photoconductor Drums and Products Containing Same).

(2) Document No. GC–99–030: Approval of annual *Federal Register* notice on investigations of Administrative Protective Order (APO) violations.

(3) Document No. ID–99–007: Approval of 1999 annual report in Inv. No. 332–345 (Recent Trend in U.S. Services Trends).

(4) Document No. INV–99–062: Approval of staff report in Inv. No. TA–204–1 (Broom Corn Brooms: Evaluation of the Effectiveness of Import Relief).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 26, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10785 Filed 4–26–99; 3:48 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–99–019]

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 12, 1999 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. TA–201–69 (Certain Steel Wire Rod)(Injury Phase)—briefing and vote.
5. Outstanding action jackets:

(1) Document No. GC–99–027: Approval of initial determination terminating the investigation based on withdrawal of the complaint in Inv. No. 337–TA–411 (Certain Organic Photoconductor Drums and Products Containing Same).

(2) Document No. GC–99–030: Approval of annual **Federal Register** notice on investigations of Administrative Protective Order (APO) violations.

(3) Document No. ID–99–007: Approval of 1999 annual report in Inv. No. 332–345 (Recent Trend in U.S. Services Trends).

(4) Document No. INV–99–062: Approval of staff report in Inv. No. TA–204–1 (Broom Corn Brooms: Evaluation of the Effectiveness of Import Relief).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 26, 1999.

By order of the Commission.
Donna R. Koehnke,
Secretary.
[FR Doc. 99–10786 Filed 4–26–99; 3:50 pm]
BILLING CODE 7020–02–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting Notice

AGENCY HOLDING MEETING: National Science Foundation, National Science Board.

DATE AND TIME: May 6, 1999: 11:30 a.m. Closed Session; 1:15 p.m. Open Session. May 7, 1999: 8:30 a.m. Open Session; 10:30 a.m. Closed Session.

PLACE: The National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, VA 22230.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, May 6, 1999

Executive Closed Session (11:30 a.m.–11:45 a.m.)

Closed Session Minutes
Personnel
Election of Executive Committee

Closed Session (12:45 p.m.–1:15 p.m.)

Awards and Agreements

Open Session (1:15 p.m.–5:30 p.m.)

Swearing in NSB nominees
Minutes, February, March 1999
Closed Session Items for July 1999
Chairman's Report
Director's Report
COSEPUP Report on GPRA
Presentations by Honorary Award Recipients
Discussion of NSB Committee Structure
Planning and Budget—FY2001
NSB Commendation to U.S. Navy for Antarctic Support

Friday, May 7, 1999

Open Session (8:30 a.m.–10:30 a.m.)

Annual NSB Business:
NSB Calendar for 2000
Executive Committee Annual Report
Cost-Sharing Policy
Committee Reports
Report of the NSB/CPP Task Force on the Environment

Closed Session (10:30 a.m.–11:00 a.m.)

NSF Long Range Planning and FY 2001 Budget

Marta Cehelsky,
Executive Officer.
[FR Doc. 99–10679 Filed 4–26–99; 12:54 pm]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of April 26, May 3, 10, and 17, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 26

Monday, April 26

2:00 p.m.—Affirmation Session (Public Meeting)
a. Shieldalloy Metallurgical Corp. (Cambridge, Ohio Facility), Docket No. 40–8948–MLA, Memorandum and Order (Denying Petition to Intervene), LBP–99–12 (Feb. 23, 1999)
b. International Uranium (USA) Corporation Petition for Review of LBP–99–5
c. Aharon Ben-Haim, Ph.D., Docket No. IA–97–068, LBP–99–4, Initial Decision (Affirming Enforcement Order with Modifications) (Feb. 8, 1999)
d. Proposed License to Export High Enriched Uranium (HEU) for Production of Medical Isotopes at the Canadian Maple Reactors
e. North Atlantic Energy Service Corp. (Seabrook Station, Unit 1), Docket No. 50–443, Draft Commission Memorandum and Order Terminating the Proceeding
f. Boston Edison Company and Energy Nuclear Generation Company (Pilgrim Nuclear Power Station), Docket No. 50–293, Draft Commission Memorandum and Order Terminating the Proceeding

Week of May 3—Tentative

Tuesday, May 4

9:00 a.m.—**Meeting on NRC Response to Stakeholders' Concerns (Public Meeting)

**Please Note: The room location for the Meeting on NRC Response to Stakeholders' Concerns, scheduled for Tuesday, May 4, is in the NRC auditorium, Bldg 2, NRC Headquarters, Rockville, MD.

2:00 p.m.—Meeting on Planning, Budgeting and Performance Management Process (PBPM) And Institutionalizing Change (Public Meeting) (Contact: Jim Blaha, 201–415–1703)

Wednesday, May 5

10:00 a.m.—Briefing on Safeguards Performance Assessment (Public Meeting)
1:30 p.m.—Discussion of Intragovernmental Issues (Closed-ex. 9b)
2:30 p.m.—Briefing on Status of Maintenance Rule (Public Meeting)

Thursday, May 6

9:30 a.m.—Briefing on Operating Reactors and Fuel Facilities (Public Meeting) (Contact: Glenn Tracy, 301–415–1725)
11:30 a.m.—Affirmation Session (Public Meeting) (if needed)

Week of May 10—Tentative

There are no meetings scheduled for the week of May 10.

Week of May 17—Tentative

There are no meetings scheduled for the Week of May 17.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292. Contact person for more information: Bill Hill, (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/SECY/smj/schedule.htm.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or *dkw@nrc.gov.*

Dated: April 26, 1999.
William M. Hill, Jr.,
Secy, Tracking Officer, Office of the Secretary.
[FR Doc. 99–10677 Filed 4–26–99; 11:37 am]
BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

April 1, 1999.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget

authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of April 1, 1999, of three rescission proposals that have been pending for less than 45 days and three deferrals contained in two special messages for FY 1999. These messages were transmitted to Congress on October 22, 1998, and February 1, 1999.

Rescissions (Attachments A and C)

As of April 1, 1999, three rescission proposals totaling $35 million have been transmitted to the Congress. Attachment C shows the status of the FY 1999 rescission proposals.

Deferrals (Attachments B and D)

As of April 1, 1999, $1.0 billion in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1999.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the editions of the **Federal Register** cited below:

63 FR 63949, Tuesday, November 17, 1998

64 FR 6721, Wednesday, February 10, 1999

Jacob J. Lew,

Director.

Attachments.

BILLING CODE 3110–01–P

ATTACHMENT A

STATUS OF FY 1999 RESCISSIONS
(in millions of dollars)

	Budgetary Resources
Rescissions proposed by the President	35.0
Rejected by the Congress	---
Currently before the Congress	35.0

ATTACHMENT B

STATUS OF FY 1999 DEFERRALS
(in millions of dollars)

	Budgetary Resources
Deferrals proposed by the President	1,680.7
Routine Executive releases through March 1999. (OMB/Agency releases of $651.2 million, partially offset by a cumulative positive adjustment of $0.9 million)	-650.3
Overturned by the Congress	---
Currently before the Congress	1,030.4

ATTACHMENT C
Status of FY 1999 Rescission Proposals - As of April 1, 1999
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of Lands and Resources	R99-1	6,800		2-1-99	*			
EXECUTIVE OFFICE OF THE PRESIDENT								
Unanticipated Needs								
Unanticipated Needs for Natural Disasters	R99-2	10,000		2-1-99	*			
INTERNATIONAL ASSISTANCE PROGRAMS								
International Security Assistance								
Foreign Military Financing Loan Program Account	R99-3	18,240		2-1-99	*			
TOTAL, RESCISSIONS		35,040						

* No funds are being withheld.

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ATTACHMENT D
Status of FY 1999 Deferrals - As of April 1, 1999
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 4-1-99
DEPARTMENT OF STATE									
Other									
United States Emergency Refugee and Migration Assistance Fund	D99-1	82,858	17,724	10-22-98	32,724				67,858
INTERNATIONAL ASSISTANCE PROGRAMS									
International Security Assistance									
Economic Support Fund	D99-2	94,777	1,310,376	10-22-98 2-1-99	500,478			881	895,557
Agency for International Development									
International Disaster Assistance	D99-3	185,000		2-1-99	118,000				67,000
TOTAL, DEFERRALS		362,635	1,328,100		651,201			881	1,030,415

[FR Doc. 99-10608 Filed 4-27-99; 8:45 am]
BILLING CODE 3110-01-C

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23808; 812–11522]

The Gabelli Equity Trust Inc., et al.; Notice of Application

April 23, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act and for an order under section 17(d) of the Act and rule 17d–1 under the Act.

APPLICANTS: The Gabelli Equity Trust Inc. (the "Trust"), the Gabelli Utility Fund (the "Utility Fund"), and Gabelli Funds, LLC ("Gabelli").

SUMMARY OF APPLICATION: Applicants seek an order to permit the Trust to transfer a portion of its assets to the Utility Fund, a newly formed, wholly-owned subsidiary that is a registered closed-end investment company and to distribute to the Trust's shareholders the shares of the Utility Fund.

FILING DATES: The application was filed on February 26, 1999, and amended on April 23, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 13, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, One Corporate Center, Rye, New York 10580.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, at (202) 942–0634, or Michael W. Mundt, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. no. 202–942–8090.

Applicants' Representations

1. The Trust is a non-diversified, closed-end management investment company registered under the Act. The Utility Fund was formed on February 25, 1999, and filed a notification of registration on Form N–8A on February 26, 1999, to register under the Act as a non-diversified, closed-end management investment company. The Utility Fund will file a registration statement under the Act on Form N–2 on or before May 21, 1999. Application will be made to list the Utility Fund's shares for trading on the New York Stock Exchange. Gabelli is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as the investment adviser to the Trust and the Utility Fund.

2. The Trust owns 10,000 shares of the Utility Fund's common stock. These shares were issued in respect of the Trust's contribution to the Utility Fund of $100,000 of initial capital. The persons who currently serve as the Trust's directors are also the Utility Fund's directors, and the Trust's principal executive officers hold the same offices with the Utility Fund.

3. The Board of Directors of the Trust ("Board") has approved, subject to the requested relief and subsequent shareholder approval, the contribution of a segment of the Trust's net assets having a value of approximately $75 million to the Utility Fund in exchange for additional shares of common stock of the Utility Fund, which together with the 10,000 shares currently held by the Trust will constitute all of the shares of common stock of the Utility Fund. It is anticipated that the contributed assets will consist largely or exclusively of cash and short-term fixed income instruments. All the shares of the common stock of the Utility Fund then will be distributed by the Trust as a dividend to its shareholders at a rate of one share of the Utility Fund common stock for every fourteen shares held of the Trust. The contribution of the Trust assets to the Utility Fund and the subsequent distribution of the Utility Fund shares to the Trust shareholders are referred to as the "Transaction."

4. The Board, including all of its directors who are not "interested persons" as defined by section 2(a)(19) of the Act (the "Disinterested Directors"), found, among other things, that the Transaction will result in the following benefits to Trust shareholders: (a) shareholders will receive shares of an investment company with a different risk-return profile than the Trust; (b) shareholders will acquire the Utility Fund shares at a much lower cost than is typically the case for a newly-organized closed-end equity fund since there will be no underwriting discounts or commissions; and (c) shareholders will be able to seek income and capital appreciation opportunities presented by the Utility Fund market segment.

5. The Trust does not expect that it will recognize significant taxable gain on its contribution of cash and securities to the Utility Fund in exchange for shares of the Utility Fund. The Utility Fund has been advised by counsel that the distribution of shares of the Utility Fund to Trust shareholders likely will be a taxable event for Trust shareholders and, under certain circumstances, will be a taxable event for the Trust. However, the Transaction is not expected to increase significantly the total amount of taxable distributions received by the Trust's shareholders for the year in which the Transaction is consummated and is not expected to result in the recognition of significant taxable gain by the Trust. The Board, including all of the Disinterested Directors, considered the tax consequences of the Transaction and found that the benefits of the Transaction outweigh any adverse tax consequences to the Trust and its shareholders.

6. The costs of organizing the Utility Fund and effecting the distribution of the Utility Fund's shares to the Trust's shareholders, including the fees and expense of counsel and accountants and printing, listing, and registration fees, are estimated to be approximately $330,000 and will be borne by the Trust. The Trust will bear the costs of soliciting its shareholders' approval of the Transaction and the costs incurred in connection with this application for exemptive relief. In addition, the Utility Fund will incur operating expenses on an ongoing basis, including legal, auditing, transfer agency, and custodian expenses that, when aggregated with the fees payable by the Trust for similar services after the distribution, will likely exceed the fees currently payable by the Trust for those services. The Board, including the Disinterested Directors, found that it is appropriate for the Trust to bear the Transaction's cost inasmuch as the benefits of the Transaction will be for the Trust's shareholder and because absorption of such expenses will eliminate any decrease in the net asset value of the Utility Fund's shares in comparison to the amount of the distribution, which may assist in the pricing of the Utility Fund shares on the New York Stock

Exchange. It is not expected that the Transaction will have significant effect on the annual expenses of the Trust as a percentage of its assets.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person. The Trust may be viewed as an affiliated person of the Utility Fund under section 2(a)(3) since the Trust will own 100 percent of the Utility Fund's voting securities until the consummation of the Transaction. The Utility Fund may similarly be considered an affiliated person of the Trust since 100 percent of the Utility Fund's voting securities will be owned by the Trust. The Trust and the Utility Fund also may be viewed as an affiliated persons of each other to the extent that they may be deemed to be under the common control of Gabelli and because the same persons serve as the directors and officers of both companies. As a result of the affiliation between the Trust and the Utility Fund, section 17(a) would prohibit the Transaction.

2. Applicants request an exemption pursuant to section 17(b) of the Act from the provisions of section 17(a) in order to permit the Trust to effect the Transaction. Section 17(b) authorizes the SEC to issue such an exemptive order if the SEC finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any persons concerned, and the proposed transaction is consistent with the policy of each registered investment company and the general purposes of the Act.

3. Applicants assert that the terms of the Transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching by any person concerned. Applicants state that the proposed sale by the Trust of a portion of its assets to the Utility Fund in exchange for the securities of the Utility Fund will be based on the fair value of those assets computed on the day of the proposed transfer in the same manner as for purposes of the daily net asset valuation for the Trust. Applicants further state that such assets are anticipated to consist largely or exclusively of cash and short-term fixed income instruments and thus will likely pose few, if any, issues with respect to valuation. The Utility Fund stock distributed by the Trust in the Transaction will be valued based on the value of the Utility Fund's assets. "Value" for those purposes will be determined in accordance with the provisions of section 2(a)(41) of the Act and rule 2a–4 under the Act.

4. With respect to the Transaction, the Board, including a majority of the Disinterested Directors, found that the participation in the Transaction is in the best interests of the Trust and that the interests of the existing shareholders of the Trust will not be diluted as a result of the Transaction. These findings, and the basis upon which the findings were made, will be recorded fully in the minutes book of the Trust.

5. Applicants state that the Transaction will be consistent with the stated investment policies of the Trust and the Utility Fund as disclosed to shareholders. The distribution of the Utility Fund shares will not change the position of the Trust's shareholders with respect to the underlying investments that they then own. A proxy statement/prospectus of the Trust and the Utility Fund is being used to solicit the approval of the Trust's shareholders of the Transaction following the issuance of the exemptive relief. The Trust's shareholders will have the opportunity to vote on the Transaction after having received disclosure concerning the Transaction.

6. Applicants also seek an order under section 17(d) of the Act and rule 17d–1 under the Act. Section 17(d) and rule 17d–1 prohibit affiliated persons from participating in joint arrangements with a registered investment company unless authorized by the SEC. In passing on applications for these orders, rule 17d–1 provides that the SEC will consider whether the participation of the investment company is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of the other participants. Applicants request an order pursuant to rule 17d–1 to the extent that the participation of the applicants in the Transaction may be deemed to constitute a prohibited joint transaction.

7. Applicants state that the Transaction will not place any of the Trust, the Utility Fund, or existing shareholders of the Trust in a position less advantageous than that of any other of such persons. As noted, the value of the Trust's assets transferred to the Utility Fund (and the shares received in return) will be based on their fair value as computed on the day of the transfer in accordance with the requirements of the Act. The shares of the Utility Fund will be distributed as a dividend to the shareholders leaving the shareholders in the same investment posture immediately following the Transaction as before, subject only to changes in market price of the underlying assets subsequent to the Transaction.

8. Applicants assert that the Transaction has been proposed in order to benefit the shareholders of the Trust as well as the Utility Fund, and neither Gabelli nor any other affiliated person of the Trust or the Utility Fund will receive fees solely as a result of the Transaction. The fee indirectly payable to Gabelli by the Utility Fund's shareholders will be the same as the fee currently indirectly payable to Gabelli by the Trust's shareholders. In addition, by creating the Utility Fund through the Transaction, the Trust is effectively enabling its shareholders to receive securities without the costs associated with a public offering.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10645 Filed 4–27–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23807; 812–11496]

Nations Fund Trust, et al.; Notice of Application

April 22, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 ("Act") for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to permit certain series of Nations Fund Trust ("NFT"), Nations Fund, Inc. ("NFT"), Nations Institutional Reserves ("NIR") and Nations Master Investment Trust ("NMIT") to acquire all of the assets and liabilities of all of the series of Pacific Horizon Funds, Inc. ("Pacific Horizon") and Master Investment Trust, Series ("MIT").

APPLICANTS: NFT, NFI, NIR, and NMIT, NationsBanc Advisors, Inc. ("NBAI"), Pacific Horizon, and MIT.

FILING DATES: The application was filed on February 3, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 12, 1999 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants: NFT, NFI, NIR, NMIT and NBAI, One Bank of America Plaza, 101 South Tryon Street, Charlotte, NC 28255; Pacific Horizon and MIT, P.O. Box 8968, Wilmington, DE 19899.

FOR FURTHER INFORMATION CONTACT: Janet M. Grossnickle, Attorney-Adviser, (202) 942–0526, or Mary Kay Frech, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. Pacific Horizon, a Maryland corporation, and MIT, a Delaware business trust, are open-end management series investment companies registered under the Act. Pacific Horizon currently offers shares in seventeen series (the "Pacific Horizon Funds"), and MIT currently consists of two master portfolios (together with the Pacific Horizon Funds, the "Acquired Funds").

2. NFT and NIR, each a Massachusetts business trust, NFI, a Maryland corporation, and NMIT, a Delaware business trust, are open-end management investment companies registered under the Act. Each company offers shares in certain series, some of which constitute the "Acquiring Funds" (together with the Acquired Funds, the "Funds"). NFT offers shares in thirty-nine series, three of which are Acquiring Funds. NFI offers shares in nine series, three of which are Acquiring Funds. NIR offers shares in five series, four of which are Acquiring Funds. NIR is organizing six new shell series, which also will be Acquiring Funds.[1] NMIT has established two shell master portfolios which are Acquiring Funds.

3. Bank of America National Trust and Savings Association ("Bank of America") is the investment adviser to the Acquired Funds. Bank of America, a national bank, is exempt from registration under the Investment Advisers Act of 1940 ("Advisers Act") pursuant to section 202(a)(11)(A) of the Advisers Act. Bank of America is a wholly-owned subsidiary of BankAmerica Corporation.

4. NBAI is registered under the Advisers Act and is the investment adviser for the Acquiring Funds. NBAI is a wholly-owned subsidiary of BankAmerica Corporation. As of the date of the publication, NBAI, Bank of America and their affiliates, all of which are part of a common control group (the "BankAmerica Group"), held of record, in their name and in the names of their nominees, more than 5% (and with respect to certain of the Funds more than 25%) of the outstanding voting securities of certain of the Funds. All of these securities are held for the benefit of others in trust, agency, custodial, or other fiduciary or representatives capacity, except that certain companies of the BankAmerica Group may, from time to time, own economic interests in certain money market Funds for its own account.

5. On December 2, 1998, and January 14, 1999, respectively, the boards of directors and trustees of NFT, NFI, NIR, and NMIT (the "Acquired Funds' Boards") and the boards of directors and trustees of Pacific Horizon and MIT (the "Acquired Funds' Boards"), including their disinterested directors and trustee ("Disinterested Trustees"), unanimously approved Agreements and Plans of Reorganization Between each of Pacific Horizon and MIT and each of NFT, NFI, NIR, and NMIT (each a "Reorganization Plan" and collectively, the "Reorganization Plans"). Pursuant to the Reorganization Plans, each Acquiring Fund will acquire all of the assets and liabilities[2] of the corresponding Acquired Fund in exchange for shares of designated classes of the Acquiring Fund (the "Reorganizations").[3] The number of Acquiring Fund shares to be issued to shareholders of the Acquired Fund will be determined by dividing the aggregate net assets of each Acquired Fund class by the net asset value per share of the corresponding Acquiring Fund class, each computed as of the close of business on the closing date ("Closing Date"). The Reorganization Plans provide that these Acquiring Fund shares will be distributed *pro rata* to the shareholders of record in the applicable Acquired Fund class, determined as of the close of business on the closing date("Closing Date"). The Reorganization Plans provide that these Acquiring Fund shares will be distributed *pro rata* to the shareholders of record in the applicable Acquired Fund class, determined as of the close of business on the Closing Date. This distribution will be accomplished by issuing the Acquiring Fund shares to open accounts on the share records of the Acquiring Funds in the names of the Acquired Fund shareholders. Simultaneously, all issued and outstanding shares of the Acquired Funds will be canceled on the books of the Acquired Funds. Each Acquired Fund, Pacific Horizon, and MIT

[1] A registration statement for the six shell Acquiring Funds was filed with the SEC on February 17, 1999 and it is anticipated that it will be declared effective on or about May 3, 1999. These Acquiring Funds are expected to commerce operations upon the consummation of the Reorganization (as defined below).

[2] Prior to implementation of the Reorganization Plans, the Acquired Funds intend to discharge substantially all of their liabilities. Each Acquiring Fund will assume all remaining liabilities of its corresponding Acquired Fund.

[3] The Acquired Funds and the corresponding Acquiring Funds are: (i) Pacific Horizon Flexible Income Fund and Nations Diversified Income Fund; (ii) Pacific Horizon Short-Term Government Funds and Nations Short-Intermediate Government Fund; (iii) Pacific Horizon National Municipal Bond Fund and Nations Municipal Income Fund; (iv) Pacific Horizon Aggressive Growth Fund and Nations Small Company Growth Fund; (v) Pacific Horizon International Equity Fund and Nations International Equity Fund; (vi) Pacific Horizon U.S. Government Securities Fund and National Government Securities Fund; (vii) Pacific Horizon Prime Fund and Nations Cash Reserves; (viii) Pacific Horizon Government Fund and Nations Government Reserves; (ix) Pacific Horizon Treasury Fund and Nations Treasury Reserves; (x) Pacific Horizon Treasury Only Fund and Nations Government Reserves; (xi) Pacific Horizon Tax-Exempt Money Fund and Nations Municipal Reserves; (xii) Pacific Horizon California Municipal Bond Fund and Nations California Municipal Bond Fund (shell); (xiii) Pacific Horizon California Tax-Exempt Money Market Fund and Nations California Tax-Exempt Reserves (shell); (xiv) Pacific Horizon Asset Allocation Fund and Nations Asset Allocation Fund (shell); (xv) Pacific Horizon Capital Income Fund and Nations Capital Income Fund (shell); (xvi) Pacific Horizon Intermediate Bond Fund and Nations Intermediate Bond Fund (shell); (xvii) Pacific Horizon Blue Chip and Nations Blue Chip Fund (shell); (xviii) Blue Chip Master Portfolio and Nations Blue Chip Master Portfolio (shell); and (xix) Investment Grade Master Portfolio and Nations Intermediate Bond Master Portfolio (shell).

thereafter will be dissolved. Applicants anticipate that the Closing Date will be on or around May 14, 1999.

6. The Acquiring Funds fall into two categories. First, there are five money market Acquiring Funds that offer or, after the Reorganizations, will offer shares in some or all of eight classes (Adviser, Capital, Liquidity, Market, Trust, Service, Investor, and Daily) ("Nations Money Market Funds"). Second, there are eleven non-money market Acquiring Funds that offer or, after the Reorganizations, will offer shares in some or all of six classes (Primary A, Primary B, Investor A, Investor B, Investor C, and Seafirst) ("Nations Non-Money Market Funds"). Shares in the following classes will be issued in the reorganizations: Daily, Service, Adviser, Capital, and Investor shares in the Nations Money Market Funds; Investor A, Investor B, Investor C, and Seafirst shares in Nations Non-Money Market Funds. The NMIT master portfolios will consist of an unlimited number of units of beneficial interest representing an interest in NMIT.

7. The Daily, Service, and Investor shares in the Nations Money Market Funds are subject to distribution and shareholder servicing fees under rule 12b–1 plans. Adviser shares in the Nations Money Market Funds are subject to shareholder servicing fees under a rule 12b–1 plan, but no distribution fees. No distribution or shareholder servicing fees are paid by the Capital shares in the Nations Money Market Funds. Investor A, Investor B, and Investor C shares in the Nations Non-Money Market Funds are subject to distribution and shareholder servicing fees under rule 12b–1 plans. Seafirst shares in the Nations Non-Money Market Funds also are subject to shareholder servicing fees, but not distribution fees. None of the Nations Money Market Funds is subject to a front-end or contingent deferred sales charge. Investor A shares in the Nations Non-Money Market Funds are subject to a maximum sales load of 5.75%, and certain holders of Investor A shares are subject to a maximum contingent deferred sales charge of 1.00%. Investor B shares in the Nations Non-Money Market Funds are subject to a maximum contingent deferred sales charge of 5.00%. Investor C shares in the Nations Non-Money Market Funds are subject to a maximum contingent deferred sales charge of 1.00%. Seafirst shares of the Nations Non-Money Market Funds are not subject to front-end or contingent deferred sales charges.

8. The Acquired Funds also fall into two categories. First, there are six money market Acquired Funds that offer shares in some or all of six classes (S, X, Y, Horizon, Pacific Horizon, and Horizon Service) ("Pacific Horizon Money Market Funds"). Second, there are eleven non-money market Acquired Funds that offer shares in some or all of four classes (A, B, K, and SRF) ("Pacific Horizon Non-Money Market Funds"). The MIT master portfolios consist of an unlimited number of units of beneficial interest representing an interest in MIT.

9. The S, X, and Y shares in the Pacific Horizon Money Market Funds are subject to distribution and servicing fees. Horizon Service and Pacific Horizon shares in the Pacific Horizon Money Market Funds are subject to servicing fees, but no distribution fees. No distribution or servicing fees are paid by the Horizon shares in the Pacific Horizon Money Market Funds. B and K shares in the Pacific Horizon Non-Money Market Funds are subject to distribution and shareholder servicing fees. A and SRF shares in the Pacific Horizon Non-Money Market Funds also are subject to servicing fees, but not distribution fees. None of the Pacific Horizon Money Market Funds is subject to a front-end or contingent deferred sales charge. A shares in the Pacific Horizon Non-Money Market Funds are subject to maximum sales loads ranging from 3.25% to 5.75%, and a maximum contingent deferred sales charge of 1.00%. B shares in the Pacific Horizon Non-Money Market Funds are subject to a maximum contingent deferred sales charge of 5.00%. K and SRF shares of the Pacific Horizon Non-Money Market Funds are not subject to front-end or contingent deferred sales charges.

10. As a result of the Reorganizations, holders of the S and X shares of the Pacific Horizon Money Market Funds will become holders of the Daily shares of the Nations Money Market Funds. Holders of the Y, Horizon, Pacific Horizon, and Horizon Service shares of the Pacific Horizon Money Market Funds will become holders, respectively, of Service, Capital, Investor, and Adviser shares of the Nations Money Market Funds. Holders of the A, B, K, and SRF shares of the Pacific Horizon Non-Money Market Funds will become holders, respectively, of Investor A, Investor B, Investor C, and Seafirst shares of the Nations Non-Money Market Funds. Applicants state that the rights and obligations of each class of shares of the Acquired Funds are substantially similar to those of the corresponding class of shares of the Acquiring Funds. No sales load or contingent deferred sales charge will be imposed with respect to the shares of the Acquiring Funds to be issued in the Reorganizations. For purposes of calculating contingent deferred sales charges, shareholders of the A and B shares of the Acquired Funds will be deemed to have held Investor A and Investor B shares of the corresponding Acquiring Fund since the date the shareholders initially purchased the shares of the Acquired Fund. No contingent deferred sales charges will apply to Investor C shares issued in the Reorganizations.

11. Applicants state that the investment objectives, policies, and restrictions of each Acquired Fund and its corresponding Acquiring Fund are substantially similar.

12. The Acquiring Funds' Boards and the Acquired Funds' Boards (collectively, the "Boards"), including all of their Disinterested Trustees, found that participation in the Reorganizations is in the best interest of each Fund and that the interests of existing shareholders in the Funds will not be diluted as a result of the Reorganizations. In approving the Reorganizations, the Boards considered, among other things: (a) the terms and conditions of the Reorganization Plans; (b) the capabilities, practices, and resources of NBAI and other service providers to the Acquiring Funds; (c) the expected cost savings for certain of the Acquired Funds; (d) the relative performance of the Funds and the compatibility of their investment objectives, policies, and limitations; (e) the anticipated tax-free status of the Reorganizations; (f) the number of investment portfolio options that would be available to shareholders after the Reorganizations; (g) the shareholder services of the Acquiring Funds; and (h) the investment advisory and other fees paid by the Acquiring Funds, and the historical and projected expense ratios of the Acquiring Funds as compared with those of the Acquired Funds. In addition, the Acquired Funds' Boards considered that the Acquired Funds' shareholders would benefit from the distribution and shareholder servicing plans of the Acquiring Funds, as well as their shareholder services. Further, the Acquired Funds' Boards considered that, as a result of the Reorganizations, Acquired Fund shareholders should benefit from improved economies of scale and will have access to a larger and more diverse family of mutual funds. NBAI will assume all customary expenses incurred by the Funds in connection with the Reorganizations.

13. The Reorganization Plans may be terminated by mutual written consent of the Acquiring Fund and the respective Acquired Fund at any time prior to the Closing Date. In addition, either party

may terminate the Reorganization Plan if: (a) The closing has not occurred prior to December 31, 1999; (b) the other party materially fails to perform its obligations; (c) the other party materially breaches its representations, warranties, or covenants; or (d) a condition precedent to the party's obligations cannot be met.

14. Registration statements on Form N–14 ("N–14 Registration Statements") were filed with the SEC on December 23, 1998 and December 31, 1998, and became effective on January 23, 1999 and January 30, 1999, respectively. Applicants mailed prospectus/proxy statements to shareholders of the Acquired Funds on or about February 8, 1999. A special meeting of the Acquired Fund shareholders will be held on or about May 3, 1999.

15. The consummation of the Reorganizations is subject to the following conditions, as set forth in the Reorganization Plans: (a) The N–14 Registration Statements with regard to the Acquiring Funds, other than two master portfolios, will have become effective; (b) the Acquired Fund shareholders will have approved the Reorganization Plans; (c) applicants will have received exemptive relief from the SEC with respect to the issues in the application; (d) the applicants will have received an opinion of counsel concerning the federal income tax aspects of the Reorganizations; and (e) each Acquired Fund will have declared a dividend or dividends to distribute substantially all of its investment company taxable income and net capital gain, if any, to its shareholders. Applicants agree not to make any material changes to the Reorganization Plans that affect the applicant without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of that person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 because the Funds may be affiliated for reasons other than those set forth in the rule. First, the BankAmerica Group holds of record more than 5% of the outstanding voting securities of certain of the Funds. Because of this ownership, certain of the Funds may be deemed an affiliated person of Bank America under section 2(a)(3)(B). Second, NBAI and Bank of America are under the common ownership and control of Bank-America Corporation. Because of this ownership, each Acquiring Fund may be deemed an "affiliated person of an affiliated person" of each Acquired Fund under sections 2(a)(3)(C) and (E) of the Act. Third, BankAmerica Group holds of record, with power to vote, more than 25% of certain Funds. These Funds may be deemed to be under common control, and thus affiliated persons under section 2(a)(3)(C). Accordingly, the Reorganizations may not meet the "solely by reason of" requirement of rule 17a-8. Applicants thus are requesting an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganizations.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganizations satisfy the standards set forth in section 17(b). Applicants note that the Boards, including a majority of the Disinterested Trustees, found that participation in the Reorganizations is in the best interest of each Fund and that the interests of the existing shareholders of each Fund will not be diluted as a result of the Reorganizations. Applicants also note that the exchange of the Acquired Funds' assets for shares in the Acquiring Funds will be based on the Fund's relative net asset values.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10624 Filed 4–27–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23809; 812–11488]

STI Classic Funds, et al.; Notice of Application

April 23, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to permit certain series of STI Classic Funds to acquire all of the assets and liabilities of certain series of CrestFunds, Inc. and The Arbor Fund (the "Reorganization"). Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: STI Classic Funds ("STI"), CrestFunds, Inc. ("CrestFunds"), the Arbor Fund ("Arbor") and SunTrust Banks, Inc. ("Adviser").

FILING DATES: The application was filed on February 1, 1999. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 13, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C.

20549–0609. Applicants, c/o W. John McGuire, Esq., Morgan Lewis & Bockius LLP, 1800 M Street, N.W., Washington, DC 20036–5869.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney-Advisor, at (202) 942–0569 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. STI, a Massachusetts business trust, is registered under the Act as an open-end management investment company comprised of 34 series, 17 of which (the "Acquiring Funds") will participate in the Reorganization. CrestFunds, a Maryland corporation, is registered under the Act as an open-end management investment company and is currently comprised of 15 series, all of which will participate in the Reorganization. Arbor is a Massachusetts business trust registered under the Act as an open-end management investment company and is currently comprised of 13 series, 2 of which will participate in the Reorganization (participating series of the CrestFunds and Arbor are referred to as the "Selling Funds").

2. The adviser is a Georgia corporation and a bank holding company. STI Capital Management, N.A. ("STI Capital"), Trusco Capital Management, Inc. ("Trusco"), and SunTrust Bank, Atlanta ("SunTrust Bank"), each an indirect wholly-owned subsidiary of the Adviser, are investment advisers to the STI Funds. Trusco is registered under the Investment Adivsers Act of 1940 (the "Advisers Act"). STI Capital and SunTrust Bank are banks and are not required to register under the Advisers Act. Crestar Asset Management Company ("CAMCO") is an indirect, wholly-owned subsidiary of the Adviser and is registered under the Advisers Act. CAMCO is the investment adviser to the CrestFunds and the Arbor Selling Funds. On the Closing Date, as defined below, the Adviser, through its bank subsidiaries, as fiduciary for its customers, may own of record more than 5% (in some cases 25% or more) of the Acquiring and Selling Funds.

3. On February 17, 19, and 22, 1999, the boards of trustees/directors of STI, CrestFunds, and Arbor Funds, respectively, (together, the "Boards"), including all of the trustees/directors who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Directors"), unanimously approved an agreement and plan of reorganization ("Plan"). Under the Plan, on one of the dates of the exchange (each a "Closing Date" and collectively, the "Closing Dates"), which are currently anticipated to be May 17 and 24, 1999, each Acquiring Fund will acquire all of the assets and liabilities of the respective Selling Fund in exchange for shares of the Acquiring Fund that have an aggregate net asset value ("NAV") equal to the aggregate NAV of the Selling Fund as of the close of business on the business day preceding the Closing Date.[1] As soon as practical after the applicable Closing Date, each Selling Fund will liquidate and distribute *pro rata* the shares of the corresponding Acquiring Fund to the shareholders of the Selling Fund. The value of the assets of the Funds will be determined in the manner set forth in the Funds' then-current prospectuses and statements of additional information.

4. Applicants state that the investment objectives, restrictions, and limitations of each Acquiring Fund are substantially similar or identical to those of each corresponding Selling Fund. STI offers shares in four classes: Trust Shares, Investor Shares, Flex Shares, and Institutional Shares. Trust Shares are not subject to a front end sales load, contingent deferred sales charge ("CDSC"), or asset-based distribution fee ("12b–1 Fee"). Certain Investor Shares are subject to a front end load and/or a 12b–1 Fee but none are subject to a CDSC. Flex shares are subject to a CDSC and a 12b–1 Fee but no front end load. Institutional Shares are not subject to a front end load, CDSC, or 12b–1 Fee. CrestFunds offers shares in three classes: Trust Class Shares, Investor Class A Shares ("A Shares"), and Investor Class B Shares ("B Shares"). Certain Trust Class Shares are subject to a 12b–1 Fee and none are subject to a front end load or CDSC. Certain A Shares are subject to a front end load; all A shares are subject to a 12b–1 Fee; and no A Shares are subject to a CDSC. B Shares are subject to CDSC and 12b–1 Fees, but are not subject to a front end load. The participating series of Arbor offer a single class that is not subject to a 12b–1 Fee, a front end load, or a CDSC. Holders of Trust Class Shares will receive Trust Shares; holders of A Shares will receive Investor Shares (except for holders of A Shares of the Special Equity Fund who will receive Trust Shares of the corresponding STI Fund); holders of B Shares will receive Flex Shares (Except for holders of B Shares of the Cash Reserve Fund who will receive Investor Shares of the corresponding STI Fund); and holders of Arbor shares will receive Institutional Shares. No front end load or CDSC will be imposed in connection with the Reorganization.

5. Reorganization expenses will be borne by the CrestFunds and the STI, as determined by their respective Boards. The Arbor Board determined that the payment of reorganization expenses by Arbor would not be appropriate. The Adviser and its affiliates will pay Reorganization expenses that the respective Boards did not authorize Selling Funds or Acquiring Funds to pay.

6. The Boards, including all of the Independent Trustees, determined that the Reorganization is in the best interests of the shareholders of each Selling Fund and its respective Acquiring Fund, and that the interests of the existing shareholders of each Selling Fund and its respective Acquiring Fund would not be diluted by the Reorganization. In assessing the Reorganization, the Boards considered various factors including: (a) the terms and conditions of the Reorganization; (b) compatibility of the Funds' objectives and policies; (c) performance of the corresponding Acquiring Funds; (d) experience and resources of the advisers for the corresponding Acquiring Funds; (e) expense ratios of the combined Funds; (f) potential economies of scale to be gained from the Reorganization; (g) advantages of increased investment opportunities for the Selling Funds' shareholders; (h) tax-

[1] Selling Funds and the corresponding Acquiring Funds are: 1. CrestFund Capital Appreciation Fund and STI Capital Appreciation Fund, 2. CrestFund Special Equity Fund and STI Small Cap Growth Stock Fund, 3. CrestFund Intermediate Bond Fund and STI Investment Grade Bond Fund, 4. CrestFund Cash Reserve Fund and STI Prime Quality Money Market Fund, 5. CrestFund Government Bond Fund and STI U.S. Government Securities Fund, 6. CrestFund Limited Term Bond Fund and STI Short-Term Bond Fund, 7. CrestFund U.S. Treasury Money Fund and STI U.S. Treasury Money Market Fund, 8. CrestFund Tax Free Money Fund and STI Tax-Free Money Market Fund, 9. CrestFund Value Fund and STI Growth and Income Fund, 10. CrestFund Virginia Municipal Bond Fund and STI Virginia Municipal Bond Fund, 11. CrestFund Virginia Intermediate Municipal Bond Fund and STI Virginia Intermediate Municipal Bond Fund, 12. CrestFund Maryland Municipal Bond Fund and STI Maryland Municipal Bond Fund, 13. CrestFund Maximum Growth Portfolio and STI Life Vision Maximum Growth Portfolio, 14. CrestFund and Income Portfolio and STI Life Vision Growth and Income Portfolio, 15. CrestFund Balanced Portfolio and STI Life Vision Balanced Portfolio, 16. Arbor Prime Obligations Fund and STI Classic Institutional Cash Management Money Market Fund, and 17. Arbor U.S. Government Securities Money Fund and STI Classic Institutional U.S. Government Securities Money Market Fund.

free nature of the Reorganization; (i) service features available to shareholders of the respective Acquiring Funds and Selling Funds; and (j) the assumption by the Acquiring Funds of the identified liabilities of the Selling Funds. The Board of each Selling Fund that is a series of CrestFunds also considered that the Fund will be required to pay its pro-rata portion of the Reorganization expenses.

7. The Reorganization is subject to a number of conditions precedent, including that: (a) the Reorganization is approved by the Boards and each of the Selling Funds' shareholders in the manner required by applicable law; (b) the Acquiring and Selling Funds receive opinions of counsel that the Reorganization will not result in federal income taxes for each Fund or its shareholders; and (c) applicants receive from the Commission an exemption from section 17(a) of the Act for the Reorganization. The plan may be terminated and the Reorganization abandoned by mutual consent of the Boards or by either party in case of a breach of the Plan. Applicants agree not to make any material changes to the Plan without prior Commission approval.

8. Definitive proxy solicitation materials have been filed with the Commission and were mailed to shareholders of the Selling Funds on April 7, 1999. A special meeting of shareholders is scheduled for May 7, 1999.

Applicant's Legal Analysis

1. Section 17(a) generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganization because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that at the Closing Date, the Adviser, through its bank subsidiaries, as fiduciary for its customers, may own of record more than 5% (in some cases 25% or more) of the Acquiring and Selling Funds.

4. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(a) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(a) of the Act. Applicants believe that the terms of the Reorganization are fair and reasonable and do not involve overreaching. Applicants state that the Reorganization will be based on the relative NAVs of the corresponding Acquiring and Selling Funds' shares. Applicants also state that the investment objectives, policies and restrictions of the corresponding Selling and Acquiring Funds are identical or substantially similar. In addition, applicants state that the Boards, including all of the Independent Trustees, have made the requisite determinations that the participation of the corresponding Acquiring and Selling Funds in the Reorganization is in the best interests of each Fund and that such participation will not dilute the interests of shareholders of the Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10646 Filed 4–27–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41304; File No. SR–PCX–99–06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to a Consolidated Limit Order Book for Equity Securities

April 16, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 1999, as amended on April 16, 1999,[3] the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change to implement a consolidated limit order book ("CLOB") as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to implement a CLOB for orders for equity securities that are entered into the Exchange's P/COAST trading system. Proposed new language is italicized; proposed deletions are in brackets.[4]

* * * * *

¶ 3995 Orders: Other Floor

Rule 5.8(a). [Should an order to buy or sell be received from the other Floor for entering in the specialist's book] *When an order is entered into the Consolidated Limit Order Book* at the same price at which a floor bid or offer is being made at the specialist's post, the floor bid or offer shall maintain priority so long as the bidder or offeror remains within the immediate vicinity of the post to which the security involved is assigned or the order is

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Michael Pierson, Director, Regulatory Policy, PCX to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, dated April 16, 1999 ("Amendment No. 1"). Amendment No. 1 made technical changes to the filing and further described the functioning of the CLOB.

[4] On August 17, 1998, the Exchange filed an earlier version of this proposal with the Commission. *See* File No. SR–PCX–98–39. Since that time, the Exchange modified the original proposal in several respects and accordingly, the Exchange has determined to withdraw SR–PCX–98–39 and refile it as modified.

entered with the specialist. The order in the Consolidated Limit Order Book will [from the other Floor entered with the specialist shall] obtain priority should the bidder or offeror leave the immediate vicinity of the Post without entering the order with the specialist. Where a security is traded *by more than one specialist* [on both floors], the specialist *who received the order* will be responsible for properly coordinating and synchronizing orders (and executions) with the specialist on the other Floor.

* * * * *

¶ 3999 Priority of Bids and Offers

Rule 5.8(c). When a bid or offer is clearly established as the first made at a particular price [regardless of the floor], the maker shall be entitled to priority and shall have precedence on the next sale at that price, up to the number of shares of stock or principal amount of bonds specified in the bid or offer irrespective of the number of shares of stock or principal amount of bonds specified in such bid or offer.

A member having priority on the floor with a bid or offer may not increase the size of his bid or offer if objection is made by another member. By placing his order with the specialist he may maintain his priority, but in an amount no greater than originally bid for or offered by him on the Floor. Orders so placed may be accepted as and retain the status of open orders if so designated at the time of placement but shall not gain priority over orders existing in the *Consolidated Limit Order Book* [specialist's book] at the time the member secured the Floor with his original bid or offer.

Commentary

.01 No Change.

* * * * *

P/COAST

¶4153 Pacific Computerized Order Access[s] SysTem

Rule 5.25(a)–(f) No change.

Consolidated Limit Order Book

Rule 5.25(g). Incoming Equity orders entered into the Exchange's P/COAST trading system will be maintained in and executed through the Exchanges Consolidated Limit Order Book ("CLOB"). Incoming market and marketable limit orders are immediately executed against orders in the CLOB based on price and time priority, once they have been displayed for possible price improvement. Incoming orders other than market and marketable limit orders will be maintained in the CLOB, but will be represented by a particular PCX specialist.

(1) Manual-Ex Window. A specialist may not permit an order to remain in the Manual-Ex Window of P/COAST for more than two minutes unless:

(a) the order is designated: (i) market-on-close; (ii) all-or-none; (iii) a "tick sensitive" order (including buy minus, sell plus, sell short, or sell short exempt); (iv) stop; or (v) stop limit; or

(b) execution of the order would result in a double-uptick (or double-downtick) or would result in a new high (or new low) price for the day; or

(c) the specialist stops the order; or

(d) there are extraordinary market conditions or systems problems.

* * * * *

¶ 4229 Disclosure of Specialists' Orders Prohibited

Rule 5.29(d). No specialist shall directly or indirectly, disclose to any person other than *a* [the] co-specialist [on the other Floor], a member of the Floor Trading Committee, or an official of the Exchange, any information in regard to orders entrusted to him as a specialist, except that the specialist may disclose the size of the bid or offer, and may disclose information contained in [his book] *the Consolidated Limit Order Book:*

(i) for the purpose of demonstrating the methods of trading to visitors to the Floor; or

(ii) to other market centers in order to facilitate the operation of ITS or any other Application of the System provided, in either case, that at the same time he makes the information so disclosed available to all members.

Commentary

.01 No change.

* * * * *

¶ 4253 Specialists' Coordination

Rule 5.30(b). Specialists registered in the same security which is traded *by more than one specialist will* [on both Floors shall] be responsible for establishing a unified opening sale in such security and thereafter throughout each trading session shall maintain such degree of contact with each other as will [insure] *ensure* the interchange of such information respecting existing or indicated potential bids and offers as may be necessary to maintain fair, orderly and integrated markets in such securities.

[¶ 4255 Responsibility for Coordination

Rule 5.30(c). Whenever a specialist's market or the market on his respective Floor equals or betters a competitive market, he will immediately inform the specialist on the other Floor, if technically possible.]

¶ 4257 Orders *Represented by Specialists* [in the Specialist's Book on One Floor]

Rule 5.30(d). (1) *A specialist holding manual orders must notify the other specialists trading the security in order for those orders to have standing.* [A specialist on one Floor holding orders in his book shall notify the specialist on the other Floor of such orders to have any standing on the other Floor.]

(2) *If a specialist notifies a contra specialist of orders in P/COAST, or if there are orders in the CLOB, the contra specialist may not execute orders at or through the limit of such orders in P/COAST or the CLOB without all such orders being filled.* [If the specialist on one Floor notifies the specialist on the other Floor of orders in his book, there can be no transactions on the other floor by the specialist for his own account at or through the limit of such orders without all such orders being filled.]

(3) *If a specialist fails to notify the contra specialist of manual orders or orders in P/COAST and the contra specialist executes a transaction at or through the limit of such orders, the specialist failing to notify the contra specialist will be responsible for an execution of the orders in P/COAST. For purpose of this rule, a specialist will be deemed to have notified the contra specialist of the manual orders or orders in P/COAST if they are being represented in the CLOB.* [If the specialist on one Floor fails to notify the specialist on the other Floor of orders in his book and transactions take place on the other Floor at or through the limit of such orders, the specialist failing to notify the specialist on the other Floor will be responsible for an execution of the orders in his book.]

* * * * *

¶ 4271 Suspend Trading

Rule 5.31(b)(1). When the flow of orders in a security traded *by more than one specialist* [on both Floors] does not allow [either] *a* specialist to maintain an orderly market in such security, *such* [either] specialist may suspend trading, and he shall announce such suspension:

(i) on his respective Floor,

(ii) to the *other* specialists *in the security* [on the other Floor] who also shall suspend trading,

(iii) on the ticker,

(iv) to *the* ITS Control Center (ICC) for ITS eligible securities.

The specialist first taking action shall immediately notify the Floor Trading Committee Members of his respective Floor of the suspension and trading may

be resumed only at the direction of the Floor Trading Committee.

Rule 5.31(b)(2). When the flow of orders in a security traded *by only one specialist* [only on one Floor] does not allow the specialist to maintain an orderly market in such security, the specialist may suspend trading, and he shall announce such suspension:

(i) on his respective Floor,

(ii) to the other Floor,

(iii) on the ticker,

(iv) to *the* ITS Control Center (ICC) for ITS eligible securities.

The specialist shall immediately notify the Floor Trading Committee Members of his respective Floor of the suspension and trading may be resumed only at the direction of such Committee members.

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¶ 4279 Guaranteeing PMP[5] on Portion of Multiple Orders

Rule 5.32(b)(1). When a specialist *is representing an order in the Consolidated Limit Order Book* [has an order in his book] and subsequently guarantees the primary market price on a partial of a multiple order, if the effective price on the partial is equal to or through the limit of the order in *the Consolidated Limit Order Book* [his book], the following shall apply:

(i) If the effective price on the partial order is equal to the limit of the order in *the Consolidated Limit Order Book* [his book], the specialist shall give up to the order in *the Consolidated Limit Order Book* [his book];

(ii) If the effective price on the partial order is through the limit of the order in *the Consolidated Limit Order Book* [his book], the specialist shall fill the order in *the Consolidated Limit Order Book* [his book] and record the transaction when a price through the limit appears on the tape, after which when the member for whom he guaranteed the partial reports the execution price on the balance of the multiple order, the specialist shall complete and record the transaction on the partial of the multiple order he has guaranteed.

Rule 5.32(b)(2). No change.

Rule 5.32(b)(3). When a specialist is requested to execute on a PMP basis all or part of a multiple order, he shall notify *all other PCX* [the] specialists [on the other Floor] *registered to trade that issue* if technically possible prior to relinquishing part of the order to other markets.

Rule 5.32(b)(4). No change.

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¶ 4287 Specialists Placing Orders in [Own Book] the *Consolidated Limit Order Book* for Own Account

Rule 5.33(b). No specialist may place orders in *the Consolidated Limit Order Book* [his own book] for any account in which he or his firm or any participant therein is directly or indirectly interested, except in special situations (e.g., when rights or arbitrage is involved) in which the Floor Trading Committee grants such permission on specific issues.

[¶ 4289 Specialist's Own Orders in Other Specialist Book Prohibited

Rule 5.33(c). No specialist on one Floor may place orders for any account in which he or his firm or any participant therein is directly or indirectly interested in the book of the specialist on the other Floor in any security in which he is registered as specialist.]

¶ 4291 Specialist Options

[Rule 5.33(d)] *Rule 5.33(c).* No change.

¶ 4293 Specialist Joint Accounts

[Rule 5.33(e)] *Rule 5.33(d).* No change.

¶ 4295 Specialist—Puts—Calls

[Rule 5.33(f)] *Rule 5.33(e).* No change.

[¶ 4297 Specialist Stopping Stock for His Own Account

Rule 5.33(g). A specialist may stop stock in his own book for his own account only under the following conditions:

(1) When he is making the highest bid or the lowest offer if the difference between the bid and offer is more than one applicable trading differential, he may "stop" stock for his own account in his own book up to 50% of the number of shares bid for or offered in his book.]

¶ 4299 Effecting Executions of Stop Orders Held by Specialists

[Rule 5.33(h)] *Rule 5.33(f).* No specialist shall make a transaction for his own account in a stock in which he is registered that would result in putting into effect any stop order he may have *in the Consolidated Limit Order Book;* [on his book;] provided, however, a specialist may be party to the election of a stop order when (a) his bid or offer, made with the approval of a Floor Official, has the effect of bettering the market, and (b) he guarantees that the stop order will be executed at the same price as the electing sale.

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Minor Rule Plan

Rule 10.13(a)–(h) No change.

(i) Minor Rule Plan: Equity Floor Decorum and Minor Trading Rule Violations

(1)–(12) No change.

(13) Specialist kept an order in the Manual-Ex Window of P.COAST for more than two minutes (and there is no applicable exemption to this requirement under Rule 5.25(g)(1)).

* * * * *

(k) Minor Rule Plan: Recommended Fine Schedule

(i) No changes.

(iii) Equity Floor Decorum and Minor Trading Rule Violation[3]

(1)–(12) No change.

	No. of Violations	Fine Amount
*"(13) Specialist kept an order in the Manual-Ex Window of P/COAST for more than two minutes (and there is no applicable exemption to this requirement under Rule 5.25(g)(1)).	*1–5*	*Official Warning*
	6–10	*$50*
	11+	*$100*

[5] "PMP" means Primary Market Protection.

[3] Fines for multiple violations of Equity Floor Decorum and Minor Trading Rules are calculated on a running two-year basis, except that violations denoted with an asterisk are calculated on a running one-year basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

a. *Background.* The Exchange is proposing to change its rules to implement a CLOB for orders for equity securities that are entered into the Exchange's P/COAST [6] trading system. The CLOB has been designed to facilitate the execution of customer orders in time priority pursuant to Exchange Rules.[7]

The Exchange currently operates two equity trading floors, one in San Francisco and one in Los Angeles. For most of the equity securities traded on the Exchange, there are two Registered Specialists continuously making two-sided markets. The Exchange disseminates a consolidated best bid and offer reflecting orders held by both specialists as well as any interest of the specialists for their own proprietary accounts.

The Exchange route orders to a specialist in one city or the other based on arrangements that the specialists have previously made with firms that send orders to the Exchange. For orders for which neither specialist has made specific arrangements with the firm sending the order, the Exchange will generally assure that the orders are transmitted to the two specialists on an alternating basis (*e.g.*, the first order goes to Specialist A, the next order to Specialist B, the next to Specialist A, and so on).

Prior to the CLOB's implementation, if an incoming limit order was sent through the P/COAST system, it would either be placed in a specialist's limit order book or be executed by the specialist who received the order. If a specialist in one city received an order, and if a specialist in the other city held a limit order with time priority that matched against the newly received order, the specialists would be responsible for assuring that the two orders were executed in accordance with PCX's priority rules.[8]

The Exchange developed the CLOB as part of its continuing effort to enhance communication between PCX's two trading floors. All round-lot orders sent to the Exchange through the P/COAST system are initially displayed to the specialist designated to receive them (based on prior arrangements or designation on an alternating basis). Limit orders that are not immediately executed by the designated specialist will be maintained in the CLOB, subject to the exceptions discussed below. Orders in the CLOB continue to be represented by the designated specialist. The CLOB eliminates the need for each specialist to manually match incoming orders against limit orders with priority that are represented by another specialist.

b. *Order Handling Under the CLOB.* 1. *Overview.* Under the P/COAST system, all incoming orders in an equity security are specified for representation by one of the specialists in that issue, and appear on that specialist's computer screen on the automatic-execution ("auto-ex") window for up to 15 seconds. When market or marketable limit orders appear on the auto-ex window, the specialist will have 15 seconds to move the order to the manual-ex window, where the specialist may improve the execution price.[9] If the specialist does not move the order to the manual-ex window within 15 seconds, the order, in most cases, will automatically execute against any limit orders in the CLOB that are at or better than the National Best Bid or Offer ("NBBO") according to price and time priority.[10] If there are no limit orders in the CLOB at the NBBO, then the order may execute against a specialist's proprietary quote at the NBBO. A specialist may also cause an incoming market or marketable limit order to execute immediately against a limit order in the CLOB, without waiting for 15 seconds to pass.[11]

Non-marketable limit orders (*i.e.*, orders to buy that are priced below the national best offer and orders to sell that are priced above the national best bid) that arrive through the P/COAST system [12] will move from the auto-ex window into the CLOB after 15 seconds unless the specialist executes the order or moves it to the computer screen's

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[6] P/COAST, the "Pacific Computerized Order Access System," is the Exchange's communication, order routing and execution system for equity securities. It operates on a dual processing system, with mainframe computers in San Francisco and Los Angeles. The system allows trading to be integrated from two separate trading floors. *See* PCX Rule 5.25.

[7] *See* PCX Rule 5.8(c).

[8] *See* PCX Rules 5.30(b)-(c). Rule 5.30(b) provides that specialists registered in the same security which is traded on both floors are responsible for establishing a unified opening sale in such security. Moreover, throughout each trading session the specialists must stay in contact with one another to ensure that they maintain fair, orderly and integrated markets in such securities. Rule 5.30(c) provides that whenever a specialist's market or the market on his respective floor equals or betters a competitive market, he will immediately inform the specialist on the other floor, if technically possible.

[9] The practice of moving orders to the manual-ex window, and proposed rule changes associated with that practice, are discussed below.

[10] Generally, if executing an order at the NBBO would result in a double-uptick, double-downtick, new high for the day, or new low for the day, the P/COAST system will send the order to the specialist's manual-ex window for further handling, instead of automatically executing the order at the NBBO. The system will not prevent a specialist from then manually executing the order at the NBBO in those circumstances.

The P/COAST system also uses a "background execution parameter" that allows the specialist to program the system to execute all market and marketable limit orders that are smaller than a certain designated size, at the disseminated market price, without first being displayed for price improvement. This feature is typically used for very small orders (generally, those under 100 shares). Currently, the size of the background parameter can only be activated for all securities at a given specialist post and cannot be activated security-by-security. Orders smaller than the background execution parameter will receive an automatic execution at the NBBO, even if that would result in a double-uptick, double-downtick, new high for the day, or new low for the day.

[11] The specialist is also able to cause a market or marketable limit order to execute against orders in the CLOB while simultaneously preventing an execution against the specialist's proprietary account. For example, if there are orders in the CLOB to buy 800 shares at $60, and orders to buy 200 shares at 59^{15}/_{16}$, and a market order to sell 1,000 shares is entered, the specialist can cause the orders in the book at $60 to match against the incoming order to sell, with the remainder of the incoming order (200 shares) sent to the manual-ex window, without causing an execution against the specialist's proprietary account.

[12] Although most orders arrive in the Exchange through the P/COAST system, some orders are sent to floor brokers on the Exchange. Floor brokers currently may enter these orders into the CLOB from a workstation at the floor broker's booth. Because the CLOB has not yet been developed to fully accommodate the processing of manual orders received by floor brokers, the system has limitations that make it difficult for floor brokers to track orders and receive reports on them. The PCX is currently implementing a systems change to facilitate the entry and processing of manual limit orders in the CLOB. The change will allow floor brokers to track their orders more efficiently and to receive reports on their orders directly from the system. The Exchange anticipates that the systems change will be implemented by the end of April 1999. The Exchange currently does not require floor brokers to place limit orders in the CLOB, however.

manual-execution ("manual-ex") window for further handling.[13]

2. *Execution of Incoming Market Orders.* The CLOB's automatic execution feature executes incoming market orders in the following manner. Assume that Specialist A and Specialist B are both representing non-marketable limit orders in the CLOB to buy XYZ stock at $20, which is the national best bid, and further assume that the orders were entered in the following sequence: one order for Specialist A (100 shares), one order for Specialist B (100 shares), and ten orders for Specialist A (100 shares per order), so that the two specialists are collectively representing 12 orders to buy 1,200 shares of XYZ stock. If an incoming market order to sell 2,000 shares of stock is received for representation by Specialist A, that order will be displayed for 15 seconds on Specialist A's auto-ex window, giving Specialist A the opportunity to improve the price, and then will be executed in time priority sequence against the various orders in the CLOB—*i.e.*, it will first execute against the first order being represented by Specialist A, then against the order being represented by Specialist B, and finally, against the 10 orders being represented by Specialist A. The remaining 800 shares would either be executed at $20, against Specialist A's proprietary account, or be placed in Specialist A's manual-ex window for further handling. If the remainder of the order is placed in Specialist A's manual-ex window, it may be executed against other orders that may be in the CLOB at a lower price (or prices), if that lower price now constitutes the NBBO.

3. *Manual Execution of Limit Orders.* Once a limit order is in the CLOB, the specialist who represents it may manually execute it through the specialist's Limit Order Book Window. The specialist may do this if, for example, there is a trade on the primary market at the limit order price. The P/COAST system will notify both PCX specialists in an issue of the first print on the primary market that occurs at a price equal to the limit price of an order (or orders) in the CLOB. It will also notify both PCX specialists of the first print from another market that trades through the PCX market. If a specialist decides to execute a "limit alert" [14] at a price based on an execution in the primary market, the CLOB will assure that the order (or orders) will be executed in accordance with time priority. For example, assume that Specialist A and Specialist B are both representing orders to buy XYZ stock at $20, and those orders were entered in the following sequence: one order for Specialist A, one order for Specialist B, and ten orders for Specialist A. If a print at $20 occurs on the primary market and Specialist A attempts to execute all limit orders in his or her custody to buy XYZ stock at $20, the CLOB will allow the first order to be executed, but will prevent the next 10 orders from also being executed simultaneously because the order held by Specialist B has time priority. If Specialist B manually executes the order with priority that he or she is representing from the limit order book, prior to Specialist A's execution of the "limit alert," Specialist A would then be permitted to execute simultaneously all of the other orders at that price. However, Specialist A would immediately receive a CLOB "violation" message that Specialist B had executed an order out of time priority sequence. If that occurs, Exchange Surveillance personnel would receive a report that this time or price priority violation had occurred.[15]

4. *Opening of Trading.* At the opening of trading, all market orders that a specialist is representing are executed at the opening price on the primary market. In addition, the P/COAST system electronically checks the limit order file and executes all buy orders priced above the primary market opening price and all sell orders priced below the primary market opening price. These orders are executed at the opening price on the primary market. The system also provides a limit alert to advise the specialists that there are limit orders in the book priced equal to the opening price on the primary market.

c. *Manual Handling of Orders.* The manual-ex window of P/COAST provides specialists with flexibility that is needed in the special handling of customer orders. Specialists may place orders in the manual-ex window for a number of reasons. For instance, doing so allows the specialist greater flexibility in providing price improvement for customer orders and conducting price discovery in other markets when handling market orders on the PCX. Placing an order on the manual-ex window also allows the specialist to continue to work in order that cannot be placed in the CLOB. The practice also allows the specialist to process orders with special instructions from the customer.

The P/COAST system automatically routes certain types of incoming orders from the auto-ex window to the manual-ex window for manual handling. These include:

(a) Marketable limit orders whose execution would result in a double-uptick (or double-downtick),[16] or a new high (or new low) for the day (but only if the firm that entered the order has specifically requested that such executions do not occur on their orders); [17]

(b) Orders that cannot be placed in the book at all (*e.g.*, market, marketable limit, market-on-close, fill or kill, or sell-short at the market);

(c) Market and marketable limit orders that have been partially executed from the auto-ex window (but limit orders in the book that receive a partial execution will not go to the manual-ex window because no orders in the book can go to the manual-ex window); and

(d) Large orders, for more than a number of shares that has been designated by the specialist.[18]

At times, a specialist may place a limit order that would match or improve

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[13] A specialist's handling of non-marketable limit orders in the manual-ex window is discussed in more detail below.

Motreover, specialists may reject limit orders that appear clearly erroneous. For example, if the last sale is 122, an order to trade at 22 could be rejected. If an order has been rejected, then depending on the entering firm's previous instructions to the Exchange, the order will be routed: (a) to the contra specialist (*i.e.*, the other specialist in that issue); (b) to the firm that entered the order; or (c) to the Exchange's P/COAST Service Center. If a specialist is in the process of executing an order, the specialist may reject a subsequent request to "cancel" or "CFO" ("cancel former order") that order.

[14] A "limit alert" is a proxy that groups together all orders in the CLOB that are then being represented by a specialist at a given price. A specialist who executes a "limit alert" will, in effect, be attempting to execute all of the limit orders covered by the proxy, without committing a priority violation. Upon the execution of the "limit alert," the CLOB will only allow the execution of orders that may be executed without causing a priority violation to occur. If there are unexecuted limit orders remaining in the CLOB at the same price, the specialist who executed the limit alert will be so notified.

[15] Out of priority executions are further discussed below.

[16] A "double-uptick" on the PCX means that a trade has been executed on the PCX at a price that is more than one trading differential away from the last print on the primary market. For example, if the last execution price on the primary market is $20, then a double uptick would occur on the PCX if an order were executed on the PCX at $20 1/8, because currently, the minimum trading differential in 1/16. Conversely, a trade on the PCX at 19 7/8 would be a "double-downtick" if the last execution price on the primary market is $20.

[17] When orders are automatically sent to the manual-ex window for one of these reasons, a message is sent to the customer stating that the customer is guaranteed to receive a certain price or better.

[18] The P/COAST system accepts all orders for 10,099 shares or less. The system also provides automatic executions of all market orders for 1,099 shares or less, although order flow providers may set higher parameters for the automatic execution of market orders they send. All non-marketable limit orders, including those over the size designated by an order flow provider, are routed to the CLOB upon time-down or acceptance by the specialist. If an incoming market or marketable limit order exceeds the automatic execution parameter set by an order flow provider, the order will be routed automatically, upon time-down or acceptance, to the specialist's manual-ex window.

the NBBO, into the manual-ex window, rather than placing it into the CLOB. The specialist may do this when conducting price discovery. If the price of a stock is changing rapidly during a busy market, it may be unclear at the time the order is entered what the true market really is. A specialist may not want to execute the order until those conditions have changed, so that the specialist can determine the best price. A specialist may manually change the PCX quote to reflect the limit order. Alternatively, in the course of conducting price discovery, the specialist may lay off a limit order of equal size onto the primary market, in which case the initial limit order would not be reflected in the Exchange"s disseminated quote, but should be reflected in the quote on the primary market.

Exchange rules currently do not require that orders in the manual-ex window to executed within a set period of time. In fact, certain types of orders cannot be placed in the book and, unless executed, will remain in the manual-ex window throughout the trading day. However, the Exchange evaluates specialists on their "turnaround time" and the amount of time during which they "hold orders without action." [19] Specialists are subject to remedial action by the Equity Allocation Committee if they have substandard scores on their quarterly performance evaluations.[20]

To assure that orders do not remain in the manual-ex window for undue periods of time, the Exchange is proposing to adopt new Rule 5.25(g)(1) stating that an order may remain in the manual-ex window for a maximum of two minutes, unless:

(a) The order is designated: (i) market-on-close; (ii) all-or-one; (iii) a "tick sensitive" order (including buy minus, sell plus, sell short, or sell short exempt); (iv) stop; or (v) stop limit;

(b) Execution of the order would result in a double-uptick (or double-downtick) or would result in a new high (or new low) price for the day;

(c) The specialist stops the order;[21] or

(d) There are extraordinary market conditions or systems problems.

If an order remains in the manual-ex window for more than two minutes, Exchange staff will be altered and will follow up with the specialist. If there is no immediate resolution, Surveillance staff will follow up with the specialist. In any event, a specialist who violates the two minute limit will first be warned and subsequently fined.[22] An order may not remain in a specialist's manual-ex window after the close of a trading day under any circumstances. At the close of trading, the P/COAST system notifies the PCX customer service staff of any orders that are remaining in any specialists' manual-ex windows, and the staff will then notify the specialist so that appropriate action can be taken. If there is a rare circumstance in which an order remains in a specialist's manual-ex window after such notification, due to oversight or error, P/COAST will purge the order from the manual-ex window (but will retain a record of it within the system).

d. *Contra-Specialist Interaction with Orders.* 1. *Incoming Market and Marketable Limit Orders.* If an incoming market or marketable limit order arrives on a specialist's auto-ex window at a time when the contra specialist is representing an order in the CLOB with priority, the contra specialist will receive a "shadow" notification of the entry of the new order on the contra specialist's window. Although the P/COAST system does not permit the contra specialist to interact directly with the new order, the "shadow" message will serve to notify the contra specialist of the potential execution against the order with priority that he or she is representing. The shadow message will disappear from the specialists' auto-ex window after either a 15-second timedown occurs or the specialist interacts to delete the message. If an order is taken into the manual-ex window, no shadow message is generated.[23] However, if the receiving specialist executes the order out of time priority sequence, both the contra specialist and the Exchange's Surveillance Department will be notified of the priority violation.

2. *View of CLOB.* The CLOB's Limit Order Display Widow allows specialists to view summaries of limit orders residing in the CLOB. Currently, a specialist can view limit orders that the contra specialist represents only to the extent they are priced at or better than the primary market. The PCX intends to effect a systems change [24] to allow all specialists in an issue to view summaries of all orders in the CLOB via the Limit Order Display Window.

3. *Executing Orders in CLOB.* The CLOB does not currently permit a specialist unilaterally to execute an order being represented by a contra specialist. If a specialist seeks to execute an order represented by the contra specialist, the specialist must contact the contra specialist (generally by telephone) and vocalize a bid or offer. The contra specialist may then execute one or more orders on the other specialist's behalf by typing in that specialist's acronym and pressing the "execute" key. The Exchange's "firm quote" rule would require the contra specialist to effect an execution for the other specialist's account upon that other specialist's request.[25]

The Exchange intends to modify P/COAST to allow a specialist to have direct electronic access to orders represented by a contra specialist. The change will allow the specialist to send an electronic order to the contra specialist that may execute against any order being represented by the contra specialist. Once an order is sent, the contra specialist will be notified electronically. The order that has been sent will be executed after a 15-second time-down, unless the contra order has already been executed. If the order that has been sent is not executed, it will expire after the 15-second time-down

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[19] *See* PCX Rule 5.37(a).

[20] *See* PCX Rule 5.37(g).

[21] The term "stop" refers to the practice in which a specialist guarantees that an order will receive a specific price or better. At a minimum, the order must receive a price equal to the NBBO at the time the specialist received the order for execution; however, the specialist may also provide an improved price. If an order has been stopped, the customer must always receive the better of: (a) the current NBBO or (b) the stop price. At the PCX when a specialist stops an order, a message is automatically sent to the customer stating that the customer is guaranteed to receive a specific price (*i.e.*, the stopped price) or better. In addition, at the PCX, if an order has been stopped, it must be executed by the end of the trading day.

[22] Specifically, the Exchange is proposing to modify its Minor Rule Plan to add new Rule 10.13(i)(13) to the list of rules eligible for adjudication pursuant to PCX Rule 10.13. The violation will be codified as: "Specialist kept an order in the Manual-Ex Window of P/COAST for more than two minutes (and there is no applicable exemption to this requirement under Rule 5.25(g)(1))." The Exchange is also proposing to modify its Recommended Fine Schedule to add the following sanctions for violations of this provision: For the first five violations, official warnings will be issued; for the sixth through tenth violations, a fine of $50 (per violation); and for eleven or more violations, a $100 fine (per violation). Fines for multiple violations will be calculated on a running one-year basis.

[23] Modifying P/COAST to allow the contra specialist to view orders whenever they are in the receiving specialist's manual-ex window would not be practical due to technology constraints. Specifically, there is a difficulty in maintaining synchronization between the shadow message and the original order due to executions, cancellations and modifications to the order that may occur while it is in the manual-ex window. Accordingly, as an alternative to such a modification of P/COAST, the Exchange intends to place a limit on the amount of time certain orders may remain in the manual-ex window, as discussed above.

[24] The Exchange intends to implement all of the system changes referred to in this filing within one year from the date that the Commission approves this filing.

[25] *See* PCX Rule 5.8(c).

and the specialist who entered the order will be notified electronically.

e. *Out of Priority Executions.* The P/COAST system has been designed to prevent orders from being executed out of time priority sequence, or in cases where they are not electronically prevented, to report the violation to the contra specialist and the Exchange's Surveillance Department. Specifically, if either specialist elects manually to execute a limit order out of priority sequence, the Exchange's Surveillance Department will receive a report of the time or price priority violations. The contra specialist will also receive a report of the violation, if the contra specialist is representing a limit order that had priority over an executed limit order.

The CLOB currently has a "global execution" feature that allows a specialist to execute multiple orders simultaneously, including all orders at a specific price that the specialist is representing. However, the Exchange intends to modify its existing "global execution" feature so that its use will not result in multiple executions that are out of priority sequence. The P/COAST system also currently has a function (the "Control Execute E" function) that allows a specialist to execute a manual order ahead of an order in the CLOB that does not have priority. It was designed, initially, to provide specialists with greater flexibility to execute orders when there are system problems and errors to be resolved. The Exchange surveils all use of the function to detect any priority rule violations. The Exchange now believes that the function is superfluous and intends to disable it.

With the change to the Global Execution function and the elimination of the Control-E function, specialists will be unable to execute individual orders in the CLOB out of priority sequence, and will be unable to execute orders for their own accounts ahead of orders in the CLOB. If there is a limit order in the CLOB with priority, the modified system will not allow another order in P/COAST to be executed ahead of it.

In rare circumstances, some orders in the P/COAST system can be executed out of priority sequence, but only if there are no orders with priority in the CLOB. If multiple orders are being represented by one or more specialists in the auto-ex or manual-ex windows, they may not be executed in the same sequence in which they were received, although they will generally be executed within seconds of one another.

The Exchange notes that whenever orders in P/COAST are executed out of priority sequence, a surveillance report will be generated (although this may depend on certain time parameters). Moreover, to prevent such out-of-priority executions from occurring in the first place, the Exchange is proposing to modify P/COAST to provide a shadow message to a specialist whenever an order is taken into a contra specialist's manual-ex window. Currently, the contra specialist receives a shadow notification when the other specialist receives an order in his or her auto-ex window that could execute against a limit order with priority in the CLOB that the contra specialist is representing.

Moreover, the Exchange believes that specialists currently have little or no incentive to use their manual-ex windows to hide orders from their contra specialists, and that there are financial incentives for not doing so. For example, assume the NBBO is 19⅞–20⅛. If Specialist A is representing a limit order to buy stock at $20 but does not quote it and places it in the manual-ex window, and if Specialist B, in the meantime, executes a sell order in the same stock at 19⅞. Specialist A will be obligated to execute the buy limit order and can only cover the position at a worse price.[26]

f. *Impact of OptiMark.* In January 1999, the Exchange implemented the PCX Application of the OptiMark System.[27] Orders in the CLOB may be placed in the OptiMark System for a potential match against an OptiMark profile. If an order in the CLOB matches against an OptiMark profile, then the Exchange anticipates that in most instances, the response will occur in less than 3 seconds. The system has been designed so that in no event will an order be delayed for more than 12 seconds.

g. *Emergency Deactivation of CLOB.* The CLOB has been designed to allow Floor Operations staff to deactivate the combined book functionality for the entire Exchange. This feature is intended to be a systems safeguard. The Exchange does not anticipate deactivating the CLOB in the absence of highly unusual circumstances such as a disaster or other situation where the Exchange's mainframe computers go out of synchronization.

H. *Rule Text Changes.* The Exchange is proposing to modify the text of the rules on equities trading in several respects so that they will be consistent with the operation of the CLOB. First, the proposal would codify new PCX Rule 5.25(g), entitled "Consolidated Limit Order Book," which provides that incoming Equity orders entered into the Exchange's P/COAST trading system will be maintained in and executed through the CLOB, that incoming market and marketable limit orders are immediately executed against orders in the CLOB based on price and time priority once they have been displayed for possible price improvement, and that incoming orders other than market and marketable limit orders will be maintained in the CLOB, but represented by a particular PCX specialist.

Second, the Exchange is proposing to change several rules by adding references to the CLOB in place of references to individual specialist's books.[28] For example, while Rule 5.33(b) currently refers to placing orders in a specialist's book, the Exchange is proposing to change it so that it refers to placing orders in the CLOB.

Third, the Exchange is proposing to eliminate certain references in the rules to "Floors" to make those rules consistent with the operation of the CLOB.[29] For example, in Rule 5.8(a) the Exchange is replacing the phrase "where a security is traded on both floors" with the phrase "where a security is traded by more than one specialist." Likewise, the phrase "regardless of the floor" in Rule 5.8(c) would be eliminated as superfluous. These changes are being proposed to clarify that the location of orders will be

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[26] The Exchange acknowledges that the Commission's "Display rule," 17 CFR 240.11Ac1–4, requires PCX specialists to "publish immediately" certain bids and offers as specified in subsection (b)(1)(i)–(ii) of that Rule.

[27] *See generally* Securities Exchange Act Release No. 39086 (September 17, 1997), 62 FR 50036 (September 24, 1997); *see also* Securities Exchange Act Release No. 40551 (October 14, 1998), 63 FR 56282 (October 21, 1998) (order approving PCX rule requiring PCX specialists to ensure that their best bids and offers will be represented in the OptiMark System).

[28] These include amendments to PCX Rule 5.8(a) (priority rules applicable to orders received from the other floor for entering in the specialist's book and order handing procedure for situations where a security is traded on both floors); Rule 5.8(c) (general rule on priority of bids and offers); Rule 5.29(d) (rule on disclosure of information respecting orders in a specialist's custody); Rule 5.31(b)(1) (procedures to follow when a specialist suspends trading of a security); Rule 5.32(b)(1) (procedure for when a specialist has on order in the book and guarantees the primary market price on a partial of a multiple order); Rule 5.33(b) (prohibition of specialists' placing orders in the book for accounts in which they or their firms are interested); Rule 5.33(g) (condition under which specialists may stop stock for their own accounts); and Rule 5.33(h) (prohibition on specialist making a transaction for its own account that puts into effect a stop order in the book).

[29] These include amendments to Rule 5.8(a); Rule 5.8(c); Rule 5.29(d); Rule 5.30(b) (specialist's duty to coordinate markets); Rule 5.31(b)(1)–(2); and Rule 5.32(b)(3) (confirmation price when a specialist guarantees Primary Market Protection on a portion of multiple orders).

in the CLOB rather than on a particular floor.

Fourth, the Exchange is proposing to eliminate Rule 5.30(c), which provides that whenever a specialist's market or the market on his respective floor equals or betters a competitive market, that specialist will immediately inform the specialist on the other floor, if technically possible. PCX believes that this rule is unnecessary because the CLOB allows specialists to view orders being represented by the contra specialist.

Fifth, the Exchange is proposing to replace the text of Rule 5.30(d), which currently requires a specialist to notify the specialist on the floor it has received an order so that the receiving specialist's order can have standing on the other specialist's floor.[30] As modified, proposed Rule 5.30(d)(1) would provide that specialists holding "manual orders"—meaning orders provided to the specialist by a floor broker—must notify other specialists trading the same security to obtain standing with the other specialists. Proposed Rule 5.30(d)(2) would provide that a specialist may not execute orders at or through (inferior to) the limit price of orders in the CLOB or other limit orders in P/COAST that another specialist is representing (*i.e.*, orders in the other specialist's manual-ex window or auto-ex window), without those limit orders first being filled. Proposed Rule 5.30(d)(3) would provide that if a specialist representing manual orders or orders in P/COAST fails to notify the contra specialist of such orders, and the contra specialist executes a transaction at or through the limit price of those orders, the specialist who failed to notify the contra specialist will be required to execute those orders. A specialist will be deemed to have notified the contra specialist of orders in P/COAST if they are being represented in the CLOB.

Sixth, the Exchange is proposing to eliminate Rule 5.33(c), which provides that no specialist on one floor may place orders for any account in which he or his firm or any participant therein is directly or indirectly interested in the book of the specialist on the other floor in any security in which he is registered as specialist. The Exchange believes that this rule is overly broad and inconsistent with the Exchange's proposal, discussed above, to permit specialists to send orders that would execute against orders being represented by the contra specialists after a 15-second time-down. The Exchange also believes that this rule is unnecessary because PCX Rule 4.5 prohibits specialists from placing orders in the book ahead of customer orders.

Finally, the Exchange is proposing to eliminate Rule 5.33(g), which provides that a specialist may stop stock in his own book for his own account only when he is making the highest bid or the lowest offer and if the difference between the bid and offer is more than one applicable trading differential, in which case he may stop stock for his own account in his own book up to 50 percent of the number of shares bid for or offered in his book. The Exchange believes that this rule is both inconsistent with the operation of the CLOB and currently serves on legitimate purpose.

(2) Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[31] in general, and furthers the objectives of Section 6(b)(5),[32] in particular, in that it is designed to perfect the mechanisms of a free and open market, to promote just and equitable principles of trade, to facilitate transactions in securities, and in general, to protect investors and the public interest. Specifically, the proposal is intended to promote just and equitable principles of trade by facilitating the execution of customer orders promptly and in order of priority. The proposal will facilitate transactions in securities by automating the trading process for specialists, in general, and by eliminating the need for PCX specialists to manually match incoming orders against limit orders with priority that are represented by another specialist. The proposal will protect investors and the public interest by ensuring that their orders will be processed efficiently, in accordance with Exchange rules, and in accordance with the needs and expectations of PCX customers. Finally, the proposal will ensure that PCX members will be appropriately disciplined for violations of PCX rules, as required by Section 6(b)(6) of the Act.[33]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–99–06 and should be submitted by June 25, 1999.

[30] As currently written, the rule also provides that if the specialist on one floor fails to notify the specialist on the other floor of orders in his book and if transactions take place on the other floor at or through the limit price of such orders, the specialist failing to notify the specialist on the other floor will be responsible for an execution of the orders in his book.

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(5).

[33] 15 U.S.C. 78f(b)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10671 Filed 4–27–99; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before May 28, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer*, Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and *OMB Reviewer*, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–6629.

SUPPLEMENTARY INFORMATION:

Title: Disaster Home Loan.

Form No's: 5C and 739.

Frequency: On Occasion.

Description of Respondents: Applicants requesting Disaster Home Loans.

Annual Responses: 56,418.

Annual Burden: 89,140.

Dated: April 14, 1999.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–10613 Filed 4–27–99; 8:45 am]

BILLING CODE 8025–01–P

[34] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before May 28, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer*, Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and *OMB Reviewer*, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–6629.

SUPPLEMENTARY INFORMATION:

Title: One Stop Capital Shop Customer Satisfaction Comment Card.

Form No's: N/A.

Frequency: On Occasion.

Description of Respondents: SBA Participants.

Annual Responses: 1,500.

Annual Burden: 4,367.

Dated: April 14, 1999.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–10614 Filed 4–27–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 01/71–0360]

RFE VI SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that RFE VI SBIC, L.P. ("RFE VI SBIC"), 36 Grove Street, New Canaan, CT 06840, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the proposed financing of a small concern is seeking an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730 (1998)). An exemption may not be granted by SBA until Notices of this transaction have been published. RFE VI SBIC proposes to provide equity financing to Advanced Technology Services, Inc. ("ATS"), 8201 N. University, Peoria, IL, 61615. The financing is contemplated to fund the redemption of shareholders' (which are not Associates of RFE VI SBIC) interests and to provide a capital base for continued growth. There is no contemplated change in the ATS senior management team as a result of this transaction.

The financing is brought within the purview of section 107.730 (a) (1) of the Regulations because RFE Investment Partners V, L.P., an Associate of RFE VI SBIC, owns greater than 10 percent of ATS and therefore ATS is considered an Associate of RFE VI SBIC as defined in section 107.50 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

A copy of this Notice shall be published, in accordance with section 107.730 (g), in the Peoria Journal Star, in Peoria, Illinois by RFE VI SBIC.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: April 15, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–10612 Filed 4–27–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5461; Notice 1]

General Motors Corporation; Application for Determination of Inconsequential Noncompliance With Federal Motor Vehicle Safety Standard 108—Lamps, Reflective Devices and Associated Equipment

General Motors Corporation (GM) determined that some of the GM 1997 EV1 electric passenger cars fail to meet the turn signal requirements found in Federal Motor Vehicle Safety Standard (FMVSS) No. 108—Lamps, Reflective Devices and Associated Equipment. In accordance with 49 CFR 556.4(b)(6), GM submitted a 49 CFR Part 573.5 noncompliance notification to the agency. Pursuant to 49 U. S. C., sections 30118 and 30120, GM petitioned the National Highway Traffic Safety Administration (NHTSA) for a decision that the noncompliance is inconsequential to motor vehicle safety.

GM states that the EV1 is equipped with an electronic turn signal module that controls turn signal operation. A subset of the module population can be affected by random inputs that cause the internal timing of the electronic circuit to become un-synchronized. If this occurs, it can cause the left turn signal circuit on affected vehicles to operate improperly and not in compliance with FMVSS No. 108. The left front turn signal lamp may flash at a rapid rate while the left rear turn signal lamp illuminates but does not flash. These conditions can continue after the turn signal lever automatically returns to the off position, but stop if the driver manually cancels the turn signal or turns the car off. The right turn signal is not affected.

GM believes that this noncompliance is inconsequential to motor vehicle safety for these reasons:

- The potential for this condition is confined to a very small population of vehicles, 558.
- The condition is not found on every vehicle. Only a subset of vehicles are affected, based on the build variation of the turn signal module.
- GM knows of only eight customers who have reported the condition. The turn signal module in these vehicles has been replaced.
- While it has not been able to determine the exact percentage of affected vehicles (the anomaly is not readily repeatable in the laboratory, and the small production run has severely limited the number of parts available for testing), the likelihood of experiencing the condition is extremely rare. The worst case part, found in laboratory testing, exhibited the anomaly 16 times in 40,000 cycles (0.0004 times per cycle). Other tested parts did not exhibit the condition as often, or at all.
- The left turn signal does not fail completely. An oncoming driver would see the front turn signal flashing at a rapid rate. A following driver would see the left turn signal lamp on, although it would not be flashing. Both of these results are similar to a vehicle that has a burned out turn signal lamp.
- Like a vehicle with a burned out lamp, a driver experiencing this condition is alerted that the turn signal system is not functioning properly because the turn signal indicator light does not flash.
- A turn signal with this condition does not self-cancel, but it can easily be canceled manually.
- GM knows of no accidents or injuries associated with this condition.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401 Seventh Street, SW, Washington, DC 20590. It is requested but not required that two copies be submitted. Docket hours are 10:00 a.m. to 5:00 p.m.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extend possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: May 28, 1999.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: April 21, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–10495 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33737]

Rio Grande Pacific Corporation—Continuance in Control Exemption—New Orleans & Gulf Coast Railway Company

Rio Grande Pacific Corporation (Rio Grande), a noncarrier, has filed a verified notice of exemption to continue in control of New Orleans & Gulf Coast Railway Company (NOGC), upon its becoming a Class III rail carrier.

The transaction was scheduled to be consummated on or shortly after April 15, 1999.

This transaction is related to STB Finance Docket No. 33736, *New Orleans & Gulf Coast Railway Company—Acquisition Exemption—New Orleans Lower Coast Railroad Company, Inc.*, wherein NOGC seeks to acquire rail lines from New Orleans Lower Coast Railroad Company, Inc. (NOLR).

In addition to NOGC,[1] Rio Grande controls three Class III rail carriers. These carriers are Idaho Northern & Pacific Railroad Company, operating in the states of Idaho and Oregon, Nebraska Central Railroad Company, operating in the state of Nebraska, and Wichita, Tillman & Jackson Railway Company, Inc., operating in the states of Texas and Oklahoma.

Rio Grande states that: (i) the rail lines operated by NOGC do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect NOGC's lines with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption

[1] NOGC is a noncarrier corporation formed for the purpose of acquiring 23.688 miles of rail line from NOLR. NOGC will be the exclusive operator of the line.

is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33737, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morrell, Esq., Ball Janik LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: April 20, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–10417 Filed 4–27–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33736]

New Orleans & Gulf Coast Railway Company—Acquisition Exemption—New Orleans Lower Coast Railroad Company, Inc.

New Orleans & Gulf Coast Railway Company (NOGC),[1] a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from New Orleans Lower Coast Railroad Company, Inc. (NOLR), 23.688-miles of rail line currently owned and operated by NOLR, between milepost 0.312 at Gouldsboro Yard, LA, and milepost 24.0 at Myrtle Grove, LA.[2]

The transaction was scheduled to be consummated on or shortly after April 15, 1999.

This transaction is related to STB Finance Docket No. 33737, *Rio Grande Pacific Corporation—Continuance in Control Exemption—New Orleans & Gulf Coast Railway Company*, wherein Rio Grande Pacific Corporation will continue in control of NOGC, upon its becoming a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33736, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morrell, Esq., Ball Janik LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: April 20, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–10416 Filed 4–27–99; 8:45 am]

BILLING CODE 4915–00–P

[1] NOGC will be the exclusive operator of the rail line.

[2] NOGC states that its projected revenues will not exceed those that would qualify it as a Class III rail carrier and its revenues are not projected to exceed $5 million.

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0027]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0027."

SUPPLEMENTARY INFORMATION:

Title: Application for Accrued Benefits by Veteran's Surviving Spouse, Child, or Dependent Parent, VA Form 21–551.

OMB Control Number: 2900–0027.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: The form is used to apply for accrued benefits withheld during a veteran's hospitalization or domiciliary care. The information is used by VBA to determine a claimant's entitlement to such benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 71189.

Affected Public: Individuals or households.

Estimated Annual Burden: 33 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: One time for most beneficiaries.

Estimated Number of Respondents: 100.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0027" in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10592 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0052]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the

nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0052."

SUPPLEMENTARY INFORMATION:

Title: Report of Medical Examination for Disability Evaluation, VA Form 21–2545.

OMB Control Number: 2900–0052.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The data collected is from a claimant prior to undergoing a VA examination and also findings of the examining physician.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 71192.

Affected Public: Individuals or households.

Estimated Annual Burden: 45,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 180,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0052" in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10593 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0057]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0057."

SUPPLEMENTARY INFORMATION:

Title: School Attendance Report, VA Form 21–674b.

OMB Control Number: 2900–0057.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: The form is used to confirm the school attendance of a child for whom VA compensation or pension benefits are being received. The information is used by VBA to determine continued entitlement to benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at pages 71192–71193.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,292 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: One time for most beneficiaries.

Estimated Number of Respondents: 39,500.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0057" in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10594 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0075]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0075."

SUPPLEMENTARY INFORMATION:

Title: Statement in Support of Claim, VA Form 21–4138.

OMB Control Number: 2900–0075.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The data collected is used by claimants to provide self-certified statements in support of various types of claims processed by the agency.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 71193.

Affected Public: Individuals or households.

Estimated Annual Burden: 188,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 752,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0075" in any correspondence.

Dated: April 20, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10596 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0115]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0115."

SUPPLEMENTARY INFORMATION:

Title: Supporting Statement Regarding Marriage, VA Form 21–4171.

OMB Control Number: 2900–0115.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The data collected is used to determine if a marital relationship has been established and benefits are payable based on a claim of common law marriage.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at pages 71193–71194.

Affected Public: Individuals or households.

Estimated Annual Burden: 800 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 2,400.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0115" in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10597 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0324]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0324."

SUPPLEMENTARY INFORMATION:

Title: Supplemental Physical Examination Report.

Form Numbers:

a. Supplemental Physical Examination Report (Gall Bladder or Gastrointestinal), VA Form 29–8137.

b. Supplemental Physical Examination Report (Neurological—Psychological), VA Form 29–8142.

c. Supplemental Physical Examination Report, VA Form 29–8146.

d. Supplemental Physical Examination Report (Three Day Urinalyses Series), VA Form 29–8148.

e. Supplemental Physical Examination Report (Tumor or Cyst), VA Form 29–8152.

f. Supplemental Physical Examination Report (Arthritis or Rheumatism), VA Form 29–8155.

g. Attending Physician's Statement, VA Form 29–8158.

h. Supplemental Physical Examination Report (Diabetes—Physicians Report), VA Form 29–8160.

OMB Control Number: 2900–0324.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The forms are used by VBA to obtain complete information as to the physical and/or mental condition of a veteran who has submitted an application for Government Life Insurance or reinstatement of eligibility. The information is used to process the insured's request.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at pages 71189–71190.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,080 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 1,440.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0324" in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10598 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0383]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0383."

SUPPLEMENTARY INFORMATION:

Title: Application for Educational Assistance Test Program Benefits, VA Form 22–8889.

OMB Control Number: 2900–0383.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected is used to determine eligibility for and entitlement to Educational Assistance Test Program benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 29, 1999 at page 4747.

Affected Public: Individuals or households.

Estimated Annual Burden: 100 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 200.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0383" in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10599 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0501]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0501."

SUPPLEMENTARY INFORMATION:

Title and Form Number: Veterans Mortgage Life Insurance Inquiry, VA Form 29–0543.

OMB Control Number: 2900–0501.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The information collected from the veteran is used by VBA in the maintenance of Veterans Mortgage Life Insurance accounts.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 18, 1998 at pages 70183–70184.

Affected Public: Individuals or households.

Estimated Annual Burden: 45 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 540.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0501" in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10600 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0503]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0503."

SUPPLEMENTARY INFORMATION:

Title and Form Numbers: Veterans Mortgage Life Insurance Change of Address Statement, VA Form 29–0563.

OMB Control Number: 2900–0503.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used to inquire about a veteran's continued ownership of the property issued under Veterans Mortgage Life Insurance when an address change for the veteran is received. The information collected is used in determining whether continued Veterans Mortgage Life Insurance coverage is applicable since the law granting this insurance provides that coverage terminate if the veteran no longer owns the property.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 18, 1998 at page 70184.

Affected Public: Individuals or households.

Estimated Annual Burden: 20 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 240.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0503" in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10601 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0545]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0545."

SUPPLEMENTARY INFORMATION:

Title: Report of Medical, Legal, and Other Expenses Incident to Recovery for Injury or Death, VA Form 21–8416b.

OMB Control Number: 2900–0545.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The data collected is used to report expenses incident to recovery of benefits for injury or death.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 711935.

Affected Public: Individuals or households.

Estimated Annual Burden: 7,500 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 10,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0545" in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–10602 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 64, No. 81
Wednesday, April 28, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

Social Security Administration

20 CFR Parts 404 and 416

[Regulations No. 4 and 6]

RIN 0960-AE98

Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Substantial Gainful Activity Amounts

Correction

In rule document 99–9427 beginning on page 18566 in the issue of Thursday, April 15, 1999, make the following correction(s):

§ 404.1574 [Corrected]

1.On page 18570, second column, § 404.1574 (b)(3), the heading in the second column of the table is corrected and the table is reprinted in its entirety:

For months	Your monthly earnings averaged less than:
In calendar years before 1976	$130
In calendar year 1976	150
In calendar year 1977	160
In calendar year 1978	170
In calendar year 1979	180
In calendar years 1980–1989	190
After December 1989	300

§ 416.974 [Corrected]

1.On page 18570, third column, § 416.974 (b)(4), the heading in the second column of the table is corrected and the table is reprinted in its entirety:

For months	Your average monthly earnings are not greater than:
In calendar years before 1976	$200
In calendar year 1976	230
In calendar year 1977	240
In calendar year 1978	260
In calendar year 1979	280
In calendar years 1980–1989	300
In January 1990–June 1999	500
After June 1999	700

[FR Doc. C9–9427 Filed 4–27–99; 8:45 am]
BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[IB Docket No. 98-118, FCC 99-51]

Biennial Review of International Common Carrier Regulations

Correction

In rule document 99–9480, beginning on page 19057, in the issue of Monday, April 19, 1999, make the following correction:

§ 63.11 [Corrected]

On page 19063, in the first column, in amendatory instruction 10., in the sixth line, after "(c)(1)" remove "and" and add ", newly redesignated (c)(4), and (d)".

[FR Doc. C9–9480 Filed 4–27–99; 8:45 am]
BILLING CODE 1505–01–D

federal register

Wednesday
April 28, 1999

Part II

Department of the Treasury

Fiscal Service

31 CFR Part 285

Transfer of Debts to Treasury for Collection; Final Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 285

RIN 1510–AA68

Transfer of Debts to Treasury for Collection

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule; adoption of interim rule with changes.

SUMMARY: The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to transfer any nontax debt that is over 180 days delinquent to the Department of the Treasury for debt collection action. This is known as "cross-servicing." On April 2, 1998, the Financial Management Service (FMS) published an interim rule, with request for comments, which established the procedures and criteria for transferring delinquent debt to the Department of the Treasury for cross-servicing, explained the statutory exceptions to this requirement, and established standards by which the Secretary of the Treasury will determine whether to grant exemptions. The interim rule also required that agencies refer debts to private collection contractors and to debt collection centers in accordance with procedures established by the FMS. This final rule adopts the interim rule, with changes, and addresses issues raised in the comments received in response to the interim rule. In addition, this rule includes a technical amendment to the final rule published on May 6, 1998 concerning administrative wage garnishment.

EFFECTIVE DATE: May 28, 1999.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Financial Program Specialist, at (202) 874–6859; or James J. Regan, Attorney-Advisor, at (202) 874–6680. A copy of this rule is being made available for downloading from the Financial Management Service web site at the following address: http://www.fms.treas.gov/debt.

SUPPLEMENTARY INFORMATION:

Background

Section 31001(m)(1) of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104–134, 110 Stat. 1321–358 (1996), codified at 31 U.S.C. 3711(g), requires Federal agencies to transfer to the Secretary of the Treasury any nontax debt that has been delinquent for a period of 180 days, subject to certain exemptions. This centralized collection of government-wide debt is known as "cross-servicing." Under the DCIA, the Secretary is authorized to prescribe regulations to carry out this requirement. Additionally, the DCIA authorizes the Secretary to designate other Federal agencies as debt collection centers, and to maintain a schedule of private collection contractors eligible for referral of debts owed to the United States.

On April 2, 1998, the Financial Management Service (FMS), a bureau of the Department of the Treasury responsible for promulgating the regulations governing this and other provisions of the DCIA, issued an interim rule, with a request for comments, governing the transfer of debts to Treasury for collection (63 FR 16354).

Summary of Comments

FMS received comments from five (5) Federal agencies (executive departments). Following is a discussion of the substantive issues raised in the comments.

Relationship Between Cross-Servicing and Administrative Offset

Several of the commenters failed to differentiate between (1) the requirement that agencies *transfer* debts for general collection purposes (referred to as "cross-servicing") under this rule and (2) the requirement that agencies *notify* Treasury of delinquent debts for the limited purpose of administrative offset.

The DCIA includes separate provisions governing the requirements that agencies (1) transfer delinquent debts to Treasury for general collection purposes (cross-servicing) in accordance with 31 U.S.C. 3711(g)(1), and (2) notify Treasury of delinquent debts for the purpose of administrative offset in accordance with 31 U.S.C. 3716(c)(6). Section 3711(g)(1) requires an agency to transfer to Treasury all collection activity for a given debt. Under section 3711(g), Treasury will use all appropriate debt collection tools to collect the debt including referral to a designated debt collection center or private collection agency and administrative offset. Once a debt has been transferred to Treasury the creditor agency must cease all collection activity related to that debt. This rule specifies when creditor agencies are required to transfer debts and when debts are exempt from the general transfer requirement.

In contrast, administrative offset is one of many debt collection tools available to Federal agencies for the collection of delinquent debt. Under section 3716(c)(6), creditor agencies are required to notify Treasury of debts that are over 180 days delinquent for purposes of administrative offset. As a practical matter, agencies are required to notify Treasury of such debts for administrative offset only when a debt has not been transferred to Treasury pursuant to section 3711(g)(1), i.e., when a debt is exempt from transfer to Treasury under section 3711(g)(1) and this rule. Since offset is one of the collection tools used by Treasury for all eligible debts referred to Treasury pursuant to section 3711(g)(1), referral of a debt to Treasury for cross-servicing also satisfies the requirement under section 3716(c)(6). With respect to debts that are not referred to Treasury pursuant to section 3711(g)(1), creditor agencies are required to continue to collect the delinquent debts using all appropriate debt collection tools, including administrative offset. Rules governing the use of administrative offset are being published in separate regulations in this part, and, as a consequence, questions regarding administrative offset are not addressed in this rule.

Section 285.12(a)—Definitions

In response to a comment by one agency, a definition for the term "debt collection center" was moved to section 285.12(a) from section 285.12(f) of the interim rule.

Section 285.12(c)—Mandatory Transfer of Debts to FMS

FMS received several comments regarding the mandatory transfer of debts and the use of designated debt collection centers (DCCs) and private collection agencies (PCAs). In particular, the comments related to whether, and when, agencies may refer debts directly to DCCs and PCAs, and whether the debts must be referred to such entities through FMS.

Section 285.12(c) applies only to debts that are more than 180 days delinquent. Therefore, agencies are not required to refer debts to FMS during the initial 180 days of delinquency (the pre-180 day period). During the pre-180 day period agencies should take all appropriate actions to collect delinquent debts, including referring such debts to DCCs and PCAs. Agencies may, with the consent of FMS, refer debts directly to DCCs during the pre-180 day period. Similarly, agencies may refer debts to PCAs during the pre-180 day period either pursuant to a contract entered into by the agency directly with a PCA, or by referring the debts to FMS for referral to PCAs under existing FMS

contracts (a process known as "pass-through"). Unlike when debts are transferred to Treasury as required by section 3711(g)(1), FMS takes no collection action when debts are referred to FMS for pass-through, other than referring the debts to a PCA. The pass-through process is necessary to allow FMS to assess and monitor fully the performance of its PCA contractors. FMS will provide additional procedural guidance to agencies regarding use of the "pass-through" referral process.

Another agency suggested that section 285.12(c)(3) be clarified with respect to the transfer of debts that are under appeal. Specifically, the agency asked FMS to define whether the 180 day period begins to run on the date the debt was originally due prior to the filing of the appeal, or the date of the decision of the reviewing official at which time the amount of the debt is made final. Alternatively, the agency suggested that the regulation be revised to allow agencies 60 days, following the date of the appeal decision, to collect a debt prior to referring amounts to Treasury for cross-servicing.

FMS agrees that immediate transfer of a debt to FMS following a decision on an appeal might, in some cases, be impractical. Therefore, section 285.12(c)(3) has been revised to allow agencies up to 30 days following a decision on an appeal to transfer debts over 180 days delinquent to FMS. A 30 day period provides debtors with an opportunity to pay the debt or to enter into a repayment plan with the creditor agency before further collection action is taken. Debts should be transferred to FMS immediately following a decision on an appeal when the agency determines that it is unlikely that the debtor will pay or enter into a repayment plan within the 30 day period.

In section 285.12(c)(1) of the final rule, FMS incorporated a suggestion by one agency that the mandatory requirement to transfer debts be limited to debts having a balance of more than $25. The commenter suggested that transferring debts having a balance of less than $25 would not be cost-effective. Under this final rule, agencies may, after consulting with FMS, transfer debts in amounts less than $25 when failure to transfer such debts to FMS for collection would weaken the creditor agency's ability to enforce compliance with the program (*see* section 285.12(c)(4) of the final rule). The final rule provides that agencies may combine small debts owed by the same debtor to meet the $25 threshold, and that FMS may change the threshold amount from time to time.

Section 285.12(d)—Exceptions to Mandatory Transfer

One agency questioned whether the foreclosure provisions in paragraph (d)(2) cover debts referred to private counsel (when an agency has specific authority to use private counsel) for non-judicial foreclosure proceedings. The rule has not been revised because paragraph (d)(2)(ii)(A)(1) of the rule, which provides that a debt is in foreclosure if pre-foreclosure notice has been issued in a non-judicial proceeding, does not exclude notices issued by private counsel on behalf of an agency.

One commenter questioned whether the recent Supreme Court decision in *Cohen* v. *Cruz,* 118 S.Ct. 1212 (1998), affects this rule. The case holds that punitive damages, attorney fees and costs related to an amount awarded as actual fraud, are not dischargeable under the fraud exception of the Bankruptcy Code. Since the rule does not address whether or not a particular debt or class of debts is dischargeable in bankruptcy, the *Cohen* case does not affect this rule. Creditor agencies are not required to transfer debts to FMS that are the subject of pending bankruptcy proceedings regardless of whether the debt is dischargeable (*see* section 285.12(d)(2)(i)(B)).

In response to a comment, paragraph (d)(4) has been revised to clarify that a debt is in the process of being collected by internal offset (and, therefore, exempt from the mandatory transfer provisions of the DCIA and this rule) so long as the required pre-offset notice has been issued by the creditor agency whether issued before or after the 180 day delinquency period. Note, however, the creditor agency is required to transfer to Treasury for collection debts over 180 days delinquent that are not subject to collection by internal offset (or another exemption). If the creditor agency determines that internal offset is available after a debt has been transferred to Treasury, the debt will be returned to the creditor agency for collection by internal offset.

In response to an agency's request for clarification, paragraph (d)(5)(i) has been revised. In recognition of the Congressional mandate to centralize delinquent debt collection at Treasury, requests for exemption require consideration by a creditor agency's top officials. Under paragraph (d)(5)(i) of the final rule, an exemption request will be considered only if it is made by the head of the creditor agency, the creditor agency's Chief Financial Officer (CFO), or the agency's Deputy CFO. Heads of subordinate agencies or organizations, such as the head of a bureau within a department, are not considered heads of agencies for purposes of this paragraph (d)(5)(i).

One commenter suggested that agencies be permitted to seek exemptions for individual debts or small groups of debts within a class of debts. The DCIA limits exemptions to specific classes of debts or claims (*see* 31 U.S.C. 3711(g)(2)(B)). As a consequence, requests for the exemption of individual debts or claims, or small groups of debts or claims within a specific program or discrete activity, will not be considered.

Paragraph 285.12(d)(6) was added to the final rule to provide additional guidance on debts being collected by third parties. Several agencies, in accordance with statutory or contractual requirements, have debts more than 180 days past due that are being collected by third parties such as private lenders or guaranty agencies. In accordance with the provisions of 31 U.S.C. 3711(g)(2)(B) and this rule, the Secretary has determined that it is in the best interest of the Government that debts being collected by third parties be exempt from the provisions of paragraph 285.12(c)(1) because the transfer of such debts would interfere with the program goals and requirements of the subject debts. Debts more than 180 days past-due must be transferred to FMS for collection under paragraph 285.12(c)(1) upon their return to a creditor agency by a third party.

Section 285.12(f)—Debt Collection Centers

In response to comments received from one agency, paragraph (f) is revised to state that debt collection centers may charge and collect fees (*see* 31 U.S.C. 3711(g)(6)), and to include a reference to paragraph (j) which provides additional information on fees that may be charged.

Section 285.12(i)—Certification

One agency asked whether agencies are required, under the certification provision, to maintain contact with all debtors to determine whether the debtor has filed a bankruptcy petition. Agencies are not required to maintain such contact. However, agencies are required to notify FMS immediately when they receive notice that a debtor has filed for bankruptcy protection so that FMS can immediately take action to stop collection proceedings that would be in violation of the automatic stay.

Section 285.12(j)—Fees

One agency asked whether FMS or the creditor agency will be responsible for

notifying the debtor that fees charged for collecting delinquent debt will be added, as an administrative cost, to the debt balance. Under paragraph (i), creditor agencies are required to certify to FMS that they have complied with all prerequisites to various collection actions, including any applicable requirements to notify the debtor regarding the agency's policies with respect to the addition of interest, penalties, and administrative costs to the principal amount of the debt if the debt is not paid by the due date.

Technical Amendment to Section 285.11 (Administrative Wage Garnishment)

On May 6, 1998, FMS published a final rule implementing the administrative wage garnishment provisions of section 31001(o) of the DCIA, codified at 31 U.S.C. 3720D. This rule amends section 285.11(g)(2) by deleting the words "on the agency's letterhead." This non-substantive, technical amendment allows Federal agencies to use the form to be prescribed by the Secretary for the issuance of an administrative wage garnishment order without preparing the form on agency letterhead. The requirement that agencies issue the order on agency letterhead was impractical and interfered with the requirement that agencies use a standard form prescribed by Treasury. The agency issuing the wage garnishment order will be clearly identified on the form without the use of agency letterhead.

Regulatory Analysis

This final rule is not a significant regulatory action as defined in Executive Order 12866. It is hereby certified that this rule will not have a significant impact on a substantial number of small entities. The basis for this certification is that the DCIA requires agencies to transfer debts that have been delinquent for more than 180 days to Treasury for further collection action unless the debts have been granted an exemption by the Secretary of the Treasury. This rule establishes the procedures and criteria for transferring such debts, explains the statutory exceptions to this requirement, and establishes the required standards under which the Secretary of the Treasury will grant exemptions. Therefore a regulatory flexibility analysis is not required.

Authority and Issuance

Accordingly, the interim rule amending 31 CFR part 285 which was published at 63 FR 16354 on April 2, 1998, is adopted as a final rule with the following changes:

PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

1. The authority citation for part 285 continues to read as follows:

Authority: 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3720A, 3720B, 3720D; E.O. 13019; 3 CFR, 1996 Comp., p. 216.

2. Section 285.11 is amended by revising paragraph (g)(2) to read as follows:

§ 285.11 Administrative wage garnishment.

* * * * *

(g) Wage garnishment order.

* * * * *

(2) The withholding order sent to the employer under paragraph (g)(1) of this section shall be in a form prescribed by the Secretary of the Treasury and signed by the head of the agency or his/her delegatee. The order shall contain only the information necessary for the employer to comply with the withholding order. Such information includes the debtor's name, address, and social security number, as well as instructions for withholding and information as to where payments should be sent.

* * * * *

3. Section 285.12 is amended to correct the heading; to revise the definition for "debt" and add a definition for "debt collection center" in paragraph (a); to revise paragraphs (b) and (c)(3); to add paragraphs (c)(4), (d)(5)(iii) and (d)(6); and to revise paragraphs (d)(4), (f), (g), (h), and (j) to read as follows:

§ 285.12 Transfer of debts to Treasury for collection.

(a) * * *

Debt means any amount of money, funds or property that has been determined by an appropriate official of the Federal government to be owed to the United States by a person. As used in this section, the term "debt" does not include debts arising under the Internal Revenue Code of 1986.

Debt collection center means an agency or a unit or subagency within an agency that has been designated by the Secretary of the Treasury to collect debt owed to the United States. FMS is a debt collection center.

* * * * *

(b) *In general.* Cross-servicing means that FMS or another debt collection center is taking appropriate debt collection action on behalf of one or more Federal agencies or a unit or subagency thereof.

(c) * * *

(3)(i) A debt is considered 180 days delinquent for purposes of this section if it is 180 days past due and is legally enforceable. A debt is past-due if it has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made. A debt is legally enforceable if there has been a final agency determination that the debt, in the amount stated, is due and there are no legal bars to collection action. Where, for example, a debt is the subject of a pending administrative review process required by statute or regulation and collection action during the review process is prohibited, the debt is not considered legally enforceable for purposes of mandatory transfer to FMS and is not to be transferred even if the debt is more than 180 days past-due.

(ii) When a final agency determination is made after an administrative appeal or review process, the creditor agency must transfer such debt to FMS, if more than 180 days delinquent, within 30 days after the date of the final decision.

(iii) Nothing in this section is intended to impact the date of delinquency of a debt for other purposes such as for purposes of accruing interest and penalties.

(4) Agencies are not required to transfer to FMS debts which are less than $25 (including interest, penalties, and administrative costs), or such other amount as FMS may determine. Agencies may transfer debts less than $25 to FMS if the creditor agency, in consultation with FMS, determines that transfer is important to ensure compliance with the agency's policies or programs. Agencies may combine individual debts of less than $25 owed by the same debtor for purposes of meeting the $25 threshold.

(d) * * *

(4) A debt is being collected by internal offset if a creditor agency expects the debt to be collected in full within three (3) years from the date of delinquency through internal offset. A debt is being collected by internal offset if the creditor agency is withholding funds payable to the debtor by the creditor agency, or if the creditor agency has issued notice to the debtor of the creditor agency's intent to offset such funds.

(5) * * *

(iii) Requests for exemption must be made by the head of the agency requesting the exemption, the Chief Financial Officer of the agency, or the Deputy Chief Financial Officer of the

agency. For purposes of this section, the head of an agency does not include the head of a subordinate organization within a department or agency.

(6) In accordance with paragraph (d)(5)(i) of this section, debts being serviced and/or collected in accordance with applicable statutes and/or regulations by third parties, such as private lenders or guaranty agencies are exempt from the requirements in paragraph (c)(1) of this section.

* * * * *

(f) *Debt collection centers.* A creditor agency may transfer debt that has not been transferred to FMS, such as debt less than 180 days delinquent, to a Treasury-designated debt collection center, with the consent of, and in accordance with procedures established by FMS. Debt collection centers will take action upon a debt in accordance with the statutory or regulatory requirements and other authorities that apply to the debt or to the particular action being taken. Debt collection centers may, on behalf of the creditor agency and subject to the terms under which the debt collection center has been designated as such by the Secretary, take any action to collect, compromise, suspend or terminate collection action on debts, in accordance with terms and conditions agreed upon in writing by the creditor agency and the debt collection center or FMS. Debt collection centers may charge fees for the debt collection services in accordance with the provisions of paragraph (j) of this section.

(g) *Administrative offset.* As described in paragraph (c) of this section, under the DCIA, agencies are required to transfer all debts over 180 days delinquent to FMS for purposes of debt collection (i.e., cross-servicing). Agencies are also required, under the DCIA, to notify the Secretary of all debts over 180 days delinquent for purposes of administrative offset. Administrative offset is one type of collection tool used by FMS and Treasury-designated debt collection centers to collect debts transferred under this section. Thus, by transferring debt to FMS or to a Treasury-designated debt collection center under this section, Federal agencies will satisfy the requirement to notify the Secretary of debts for purposes of administrative offset and duplicate referrals are not required. A debt which is not transferred to FMS for purposes of debt collection, however, such as a debt which falls within one of the exempt categories listed in paragraph (d) of this section, nevertheless may be subject to the DCIA requirement of notification to the Secretary for purposes of administrative offset.

(h) *Voluntary referral of debts less than 180 days delinquent.* A creditor agency may refer any debt that is less than 180 days delinquent to FMS or, with the consent of FMS, to a Treasury-designated debt collection center for debt collection services.

* * * * *

(j) *Fees.* FMS and other debt collection centers (as defined in paragraph (a) of this section) may charge fees sufficient to cover the full cost of providing debt collection services authorized by this section. Fees paid to recover amounts owed may not exceed amounts collected. Nothing in this rule precludes a creditor agency from agreeing to pay fees for debt collection services which are not based on amounts collected. FMS and debt collection centers are authorized to retain fees from amounts collected and may deposit and use such fees in accordance with 31 U.S.C. 3711(g). Fees charged by FMS and other debt collection centers may be added to the debt as an administrative cost if authorized under 31 U.S.C. 3717(e).

Dated: November 2, 1998.

Kenneth R. Papaj,

Acting Commissioner.

[FR Doc. 99–10136 Filed 4–27–99; 8:45 am]

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April 28, 1999

Part III

Federal Emergency Management Agency

The National Board Fiscal Year 1999 Plan for Carrying Out the Emergency Food and Shelter Program (EFSP); Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

The National Board Fiscal Year 1999 Plan for Carrying Out the Emergency Food and Shelter Program (EFSP)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice sets out the plan by which the Emergency Food and Shelter Program National Board (National Board) is conducting a program during FY 1999 to distribute $100,000,000 to private voluntary organizations and local governments for delivering emergency food and shelter to needy individuals. The distribution formula for selecting organizations and localities, and the award amount for each, follow the Plan text.

DATES: The award to the National Board was made October 28, 1998.

FOR FURTHER INFORMATION CONTACT: Carol Coleman, Preparedness, Training and Exercise Directorate, Federal Emergency Management Agency, (202) 646–3107, or Yolanda L. Jones, Program Specialist, (202) 646–4543, of the Preparedness, Training and Exercise Directorate, Federal Emergency Management Agency.

SUPPLEMENTARY INFORMATION: Title III of the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. 11301 *et seq.*, authorizes use of funds appropriated by the Congress to supplement and expand ongoing efforts to provide shelter, food, and supportive services to homeless, needy individuals.

As in past phases, grant awards from this program address temporary emergency needs. This program is not to address or correct structural poverty or long-standing problems. Rather, this appropriation is to purchase food and shelter to supplement and expand current available resources and not to substitute or reimburse ongoing programs and services.

Use this funding to target special emergency needs. And when we discuss emergency needs we are referring to economic, not disaster-related, emergencies. The funding should supplement feeding and sheltering efforts in ways that make a difference. What that means is: EFSP is not to make up for budget shortfalls or to be just a line item in an annual budget; funds should not go to the same agencies for the exact same purposes every year; and, the funding is open to all organizations helping hungry and homeless people and not that the funds should go only to Local Board member agencies or local government agencies.

Having stated what it is not, what does the National Board want this program to be? As we read the law, EFSP should:

- Create inclusive local coalitions that meet regularly to determine the best use of funds and to monitor their use in their respective communities;
- Treat every program year as a fresh opportunity to reassess what particular community needs (e.g., on-site feeding or utility assistance, mass shelter or homelessness prevention, etc.) should be addressed;
- Encourage agencies to work together to emphasize their respective strengths, work out common problems, and prevent duplication of effort; and,
- Ensure that the program is helping to meet the needs of special populations such as minorities, Native Americans, veterans, families with children, the elderly, and the handicapped.

We re-emphasize that this program has a commitment to emergency services. We continue to view it as an opportunity for building a cohesive emergency structure that can, for example:

- Coordinate the assistance provided, across agencies, to families and individuals applying for rental, mortgage, or utility assistance;
- Enhance a food banking network that is economical in its cost and broad in its coverage; reinforce creative cooperation among feeding; and sheltering sites to ensure help for street populations most in need; and
- Establish or maintain a system that complements rather than supplants existing private and governmental efforts to provide rent, mortgage, or utility assistance.

The National Board is aware that we ask much of our voluntary Local Boards and LROs, and that we provide very little administrative funding. But the cooperative model that EFSP helps create can be a useful vehicle for many governmental and community-based programs. As a group, local providers can accomplish much:

- Initiating a dialogue with local offices of Federal entities such as the U.S. Department of Agriculture to take full advantage of excess commodities and its other programs or with the U.S. Department of Labor's Job Training Partnership Act (JTPA);
- Working with Federal programs that require the input of local providers such as the Department of Housing and Urban Development's Community Development Block Grant or Emergency Shelter Grant and the Department of Health and Human Services' Health Care for the Homeless;
- Pooling agency efforts to gain Federal (for example, HUD's Transitional Housing Program) and private foundation grants;
- Leveraging EFSP funds within the community by encouraging matches of local EFSP allocations from State and local governments and private resources; and,
- Exchanging ideas on administrative and accounting methods that can improve delivery of services and focus on the collaborative rather than the competitive aspects of agency relations.

Sixteen years ago this program began as a one-time effort to help address urgent needs. The survival of this public-private partnership is not only a testament to needs, but also to the effectiveness of EFSP as an example of local decision-making and community responsibility in attempting to meet those needs.

EFSP is a reminder of this nation's willingness to confront difficult problems within the society in new ways. But most importantly, EFSP feeds and shelters homeless and hungry people, it maintains homes and the families in those homes, and it creates useful public-private partnerships within communities.

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1.0 Background and Introduction

The Emergency Food and Shelter Program was established on March 24, 1983, with the signing of the "Jobs Stimulus Bill," Public Law 98–8. That legislation created a National Board, chaired by FEMA, which consisted of representatives of the American Red Cross; Catholic Charities, USA; the Salvation Army; Council of Jewish Federations, Inc.; United Way of America; and the National Council of Churches of Christ in the U.S.A.

From the first appropriation in 1983, through its authorization under the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77—signed into law on July 24, 1987, subsequently reauthorized under Pub. L. 100–628, signed into law on November 7, 1988), the Emergency Food and Shelter Program has distributed $1.8 billion to over 11,000 social service agencies in more than 2,500 communities across the country.

From its inception, the unique features of this program are the partnerships it establishes. At the national level, the Federal government and National Board member organizations have the legal responsibility to work together to set allocations criteria and establish program guidelines. Such coalitions, as set forth in the law, are even more vital on the local level. In each community Local Boards make the most significant decisions on their own make-up and operation, the types of services most in need of supplemental help, what organizations should be funded and for what purpose and amount. These portions of the law remain unchanged and are the core of this unique public-private partnership.

1.1 Purpose.

This publication outlines the roles, responsibilities, and implementation procedures that will be followed by the National Board, FEMA Local Boards, LROs, and SSA Committees, in the distribution and use of these funds.

National in scope, EFSP will provide food and shelter assistance to individuals in need through local private voluntary organizations and local governments in areas the National Board designates as being in highest need. The intent of EFSP is to meet emergency needs by supplementing and expanding food and shelter assistance currently available to individuals. Individuals who received assistance under previous programs may again be recipients, providing they meet local eligibility requirements.

2.0 FEMA's Role and Responsibilities

FEMA will perform the following EFSP activities:

(a) Constitute a National Board consisting of individuals affiliated with United Way of America; The Salvation Army; the National Council of Churches of Christ in the USA; Catholic Charities, USA; the Council of Jewish Federations, Inc.; the American Red Cross; and FEMA;

(b) Chair the National Board, using parliamentary procedures and consensus by the National Board as the mode of operation;

(c) Provide policy guidance, management oversight, Federal coordination, and staff assistance to the National Board;

(d) Award the grant to the National Board;

(e) Assist the Secretariat in implementing the National Board Program;

(f) Report to Congress on the year's program activities through the Interagency Council on the Homeless Annual Report;

(g) Conduct audits of the program;

(h) Monitoring program compliance with current Federal and program guidelines; and

(i) Initiate Federal collection procedures to collect funds or documentation due when the efforts of the National Board have not been successful.

3.0 National Board's Role and Responsibilities

(a) *National Board's EFSP activities*

The National Board will perform the following EFSP activities:

(1) Select jurisdictions of highest need for food and shelter assistance and determine amount to be distributed to each;

(2) Notify national organizations interested in emergency food and shelter to publicize the availability of funds;

(3) Develop the operational manual for distributing funds and establish criteria for expenditure of funds;

(4) In jurisdictions that received previous awards, notify the former Local Board chair that new funds are available. In areas newly selected for funding, notify the local United Way, American Red Cross, Salvation Army, or local government official. The National Board will notify qualifying jurisdictions of award eligibility within 60 days following allocation by FEMA;

(5) Provide copies of award notification materials to National Board member affiliates and other interested parties;

(6) Secure board plan, certification forms and board rosters from Local Boards. Ensure Local Board compliance with established guidelines;

(7) Distribute funds to selected LROs;

(8) Hear appeals and grant waivers;

(9) Establish an equitable system to accomplish the reallocation of unclaimed or unused funds. Unused or recaptured funds will be reallocated by the National Board, except in the case of State Set-Aside counties whose funds may be reallocated by the respective State Set-Aside Committees;

(10) Ensure that funds are properly accounted for, and that funds due are collected;

(11) Provide consultation and technical assistance to local jurisdictions as necessary to monitor program compliance;

(12) Compile the reports it receives from the Local Boards and submit a detailed accounting of use of all program monies in the form of a report to FEMA;

(13) Conduct a compliance review of food and shelter expenditures made under this program for specified LROs. The National Board, FEMA, the independent accounting firm selected by the National Board, or the Inspector General's office may also conduct an audit of these funds; and

(14) Monitor LRO compliance with OMB Circular A–133.

(b) *Secretariat and Fiscal Agent.*

The National Board has selected the United Way of America as the Secretariat and fiscal agent to perform necessary administrative duties for the Board. An administrative allowance of one percent of the total award may be used for National Board administration.

3.1 Client Eligibility

(a) *Eligibility criteria.*

The National Board does not set client eligibility criteria. If the Local Board does not set eligibility criteria, the LRO may use its existing criteria or set criteria for assistance under this award. However, the LRO's criteria must provide for assistance to needy individuals without discrimination (age, race, sexual orientation, religion, national origin, or disability).

(b) *Where funds may be used.*

Funds allocated to a jurisdiction are intended for use within that jurisdiction. Residents of or transients in a specific jurisdiction should seek service within that jurisdiction.

(c) *Citizenship eligibility.*

Citizenship is not an eligibility requirement to receive assistance from EFSP. The National Board does not mandate nor recommend the use of any particular existing criteria such as food stamp guidelines, welfare guidelines, or income guidelines.

4.0 State Set-Aside (SSA) Committee Role and Responsibilities

(a) *SSA Committee's role.*

(1) The SSA process allows flexibility in selection of jurisdictions to target pockets of homelessness or poverty in non-qualifying jurisdictions (refer to

Supplementary Information, above, on qualifying criteria), areas experiencing drastic economic changes such as plant closings, areas with high levels of unemployment or poverty that do not meet the minimum level of unemployment, or jurisdictions that have documented measures of need that are not adequately reflected in unemployment and poverty data.

(2) The distribution of funds to SSA Committees will be based on a ratio calculated as follows: the State's average number of unemployed in non-funded jurisdictions divided by the average number of unemployed in non-funded jurisdictions nationwide equals the State's percentage of the total amount available for SSA awards.

(b) *SSA responsibilities.*

(1)(i) An SSA Committee in each State will recommend high-need jurisdictions and award amounts to the National Board. The SSA will give priority consideration to jurisdictions not meeting criteria for direct funding, from the National Board, although funded jurisdictions may receive additional funding. SSA Committees should also consider the special circumstances of jurisdictions that qualified in previous funding phases but are not eligible in the current phase. The State Committees may wish to provide these jurisdictions with an allocation so that the abrupt change in funding status does not disrupt local providers. We ask SSA Committees to consider current and significant State or local data in their deliberations. Although the National Board staff provides national data to the SSA Committees, it does *not* require any particular formula.

(ii) In each State, we will notify the chair of the previous phase's SSA Committee of the award amount available to the SSA Committee. In a State where there are affiliates of the voluntary organizations represented on the National Board, the State affiliates must be invited to serve on the State Committee. If no single State affiliate exists, an appropriate representative should be invited. The Governor or his/her representative will replace the FEMA member. State Committees are encouraged to expand participation by inviting or notifying other private non-profit organizations on the State level. The National Board encourages the inclusion of Native Americans, minorities, and other appropriate representatives should be invited on the State Committee.

(2) Members of the SSA Committee will elect a person to chair the committee.

(3) The SSA Committees are responsible for the following:

(i) recommending high-need jurisdictions and award amounts within the State. When selecting jurisdictions with demonstrated need, the National Board encourages the consideration of counties incorporating or adjoining Indian reservations. The SSA Committee has 25 working days to notify the National Board in writing of its selections and the appropriate contact person for each area. Note: The minimum award amount for a single jurisdiction is $1,000 and only whole-dollar amounts can be allocated.

(ii) notifying the National Board of selection criteria that were used to determine which jurisdictions within the State were selected to receive funds. The National Board will then notify these jurisdictions directly. If SSA jurisdictions do not claim funds, SSA Committees may recommend other jurisdictions to receive the unclaimed funds.

(4) The SSA Committee may use an administrative allowance of one-half of one percent (0.5%) of the total SSA award to each State for its administration.

5.0 Local Boards' Role and Responsibilities

(a) *Local Boards' role and responsibilities.*

(1) *Constituting Local Boards.* Each area designated by the National Board to receive funds will constitute a Local Board. In a local community where there are affiliates of the United Way of America; The Salvation Army; the National Council of Churches of Christ in the U.S.A.; Catholic Charities, U.S.A; Council of Jewish Federations; and the American Red Cross that are represented on the National Board, they *must* be invited to serve on the Local Board. An agency's own governing board may not serve as a Local Board. The National Board requires that if a jurisdiction is located within or encompasses a federally recognized Indian reservation, the Local Board *must* invite a Native American representative to serve on the Board. All Local Boards *must* include in their membership a homeless or formerly homeless person. Local Boards should seek recommendations from LROs for an appropriate representative. Local Boards that cannot have homeless or formerly homeless representation must still consult with homeless or formerly homeless individuals, or former or current clients of food or housing services for their input. The County Executive/Mayor, appropriate head of local government or his or her designee will replace the FEMA member. We encourage Local Boards to expand participation and membership by inviting minority populations, other private non-profit organizations and government organizations. The Local Board's jurisdiction should be geographically represented as well.

(2) *Chair of the Local Board.* The members of each Local Board will elect a chair.

(3) *Active Board Memberships.* Local Board membership is not honorary; there are specific duties the board must perform. If a member cannot regularly attend meetings, the member should be replaced by another representative of the member's designated agency. If a member must be absent from a meeting, the member's organization may designate an alternate.

(4) *Localities not previously funded.* If a locality has not received funding previously and is now designated as being in high need, the National Board designates the local United Way to constitute and convene a Local Board as described above. If there is no local United Way, or it does not convene the board, the local American Red Cross, the local Salvation Army, or a local government official will be responsible for convening the initial meeting of the Local Board.

(5) *Localities previously funded.* If a locality has previously received National Board funding, the National Board will contact the former chairman of the Local Board about any new funding the locality is to receive.

(6) *Each award phase new.* Each award phase is new. Therefore, the Local Board is a new entity in every phase. The convenor of the Local Board must ask each agency to designate or redesignate a representative every program year.

(7) *Local Board meeting options.* The National Board requires Local Boards to select one of the following options for meetings:

(i) *Quarterly Meetings:* We encourage Local Boards to meet quarterly to ensure that LROs are implementing the program according to guidelines. Meetings may be conducted via conference calls.

(ii) *Semiannual Meetings:* Local Boards meeting twice a year must also ensure that LROs are implementing the program according to guidelines. Ongoing monitoring activities must take place. Local Boards electing to hold meetings semiannually must submit copies of their meeting minutes with the jurisdiction's final report.

(8) *Quorum; minutes.* A majority of members must be present for the meeting to be official. Attendance and decision-making minutes must be kept. Meeting minutes must be voted on and approved by the Local Board at the next meeting. They must also be available to the National Board, Federal authorities, and the public on request.

(9) *Advertising and promoting the program.* The Local Board will have 25 working days after the notification of the award selection by the National Board to advertise and promote the program to give any organization capable of providing emergency services an opportunity to apply for funds. Advertising *must* take place before the Local Board allocates funds. Failure to advertise properly will delay processing of the jurisdiction's board plan and subsequent payment of funds. Local Boards should allow at least one week for interested organizations to apply for funding. (Local Boards do not have to re-advertise fund availability for supplemental allocations within the same spending period.)

(10) *Local Board grant recommendations.* The Local Board recommends which local organizations should receive grants and the amounts of the grants. Local Boards *must* have a written application process and consider all private voluntary and public organization applicants. In selecting LROs to receive funds, the Local Board must consider the demonstrated ability of an organization to provide food, shelter assistance or both. Local Board members should strive to use consistent criteria, sound judgment and fairness in their approach. Local Board membership must have no relationship to funding. Local Board members must abstain from voting on their own grant awards. Local Boards should select LROs to receive funds to supplement and expand eligible on-going services, and should not fund LROs before a needed service (i.e., fire victims, floods, tornadoes, etc.). Nor should Local Board select agencies for funding due to budget shortfalls or for cuts in other funding sources. Agencies on Indian reservations are eligible to receive EFSP monies if they meet LRO requirements.

(11) *Grant allocations.* The minimum grant per LRO is $300 and only whole-dollar amounts may be allocated. The Local Board should be prepared to justify an allocation of one-third (⅓) or more of its total award to a single LRO.

(12) *Monitoring LROs.* Local Boards are responsible for monitoring LROs that receive over $100,000 in Federal funds and ensuring that they comply with OMB Circular A–133.

(13) *Required forms.* Local Boards must complete and return all required forms to the National Board. (Local Board Plan, Local Board Certification Form, and Local Board Roster.)

(14) *Certifications.* Local Boards will secure and retain signed forms from each LRO certifying that each LRO has read and understands the program guidelines and that the LROs will comply with cost eligibility and reporting requirements.

(15) *Duplication of assistance.* Local Boards *must* establish a system to ensure that no duplication of service occurs within the expenditure categories of rent, mortgage or utility assistance (RMU). Local Boards are free to establish any system as long as no duplication of rent/mortgage or utility assistance can take place under reasonable circumstances.

(16) *Client eligibility.* Establish client eligibility, at Local Board's discretion. Local Boards may determine client eligibility for EFSP or use established LRO eligibility. LROs may develop and use separate needs test for assistance under EFSP but should first get Local Board approval. The Local Board should communicate eligibility criteria for assistance under EFSP to LROs.

(17) *Personnel changes.* Local Boards must notify the National Board of changes in the Local Board chair, staff contact, or LRO contacts, including complete addresses and phone numbers.

(18) *Merging Local Boards.* Local Boards that determine they can better use their resources by merging with neighboring boards may do so. The head of government or his or her designee for each jurisdiction must sit on the merged board, along with agency representatives from each jurisdiction. The merged Local Board must ensure that the award amount designated for each civil jurisdiction is used to provide assistance to individuals within that jurisdiction.

(19) *Guidelines and technical assistance.* Local Boards *must* be familiar with current guidelines and provide technical assistance to service providers. National Board staff can provide advice and counsel.

(20) *Appeals.* Local Boards *must* establish an appeals process to address participation or funding, to hear and resolve appeals made by funded or non-funded organizations, and to investigate complaints made by individuals or organizations. Local Boards should handle appeals promptly. If a Local Board cannot handle an appeal locally, the case should be referred in writing to the National Board and should include details on action that the Local Board has taken. Only when there is significant question of misapplication of guidelines, fraud, or other abuse on the part of the Local Board will the National Board consider action. Report cases involving fraud or other misuse of Federal funds to the Office of the Inspector General, FEMA, in writing or by telephone at 1–800–323–8603.

(21) *National Board/Local Board point of contacts.* The chair of the Local Board or his or her designated staff will be the central coordination point of contact between the National Board and the LRO selected to receive assistance from EFSP.

(22) *Surplus food.* If FEMA requests, the Local Board should nominate an appropriate feeding organization to receive surplus food from Department of Defense commissaries.

(23) *Monitoring programs.*

(i) *Monitoring programs; reports.* Boards will be responsible for monitoring programs carried out by the LROs they select to receive funds. Local Boards should work with LROs to ensure that funds LROs use to meet immediate food and shelter needs on an ongoing basis. Local Boards may not alter or change National Board cost eligibility or approve expenditures outside the National Board's criteria without National Board permission.

(ii) *Reports.*

(A) An interim report of expenditures is due to the National Board with each LRO's second check request. A final report (accompanied by financial documentation for specified LROs) is due 45 days after the end of each jurisdiction's program.

(B) The National Board will provide forms for all required reports.

(C) Local Boards may request other reports from their LROs at an appropriate time (e.g., monthly or quarterly updates).

(24) *Funds reallocations.* The Local Board should reallocate funds whenever it determines that the original allocation plan does not reflect the actual need for services or if an LRO is unable to use its full award effectively. The Local Board must recover funds and reallocate them if an LRO makes ineligible expenditures or uses funds for items that have clearly not been approved by the Local Board. The National Board can reallocate funds held in escrow for LROs that have unresolved compliance problems or may reclaim the funds. The deadline to reallocate any funds held in escrow is July 30, 1999.

(i) The Local Board may approve reallocation of funds between LROs that

are already participating in the program. However, the Local Board must inform the National Board in writing. The Local Board may also return funds to the National Board for reissuance to another LRO or request reallocation of remaining funds before the National Board releases the second or third payments.

(ii) If the Local Board wishes to reallocate funds to an agency that it did not approve on the original board plan, the Local Board must make a written request for approval to the National Board. The National Board must approve an LRO before receipt of funds.

(iii) Local Boards can reallocate funds from one service to another (e.g., from food to shelter) without National Board approval if the transfer is within an individual LRO.

(iv) If a Local Board cannot satisfy the National Board that it can use funds in accordance with this plan, the National Board may reallocate the funds to other jurisdictions.

(25) *Misuse of EFSP funds.*

(i) Should anyone have reason to suspect that EFSP funds are being used for purposes contrary to the law and guidelines governing the program, the National Board recommends taking action to assist in bringing such practices to a halt.

(ii) The National Board requires that whenever anyone suspects fraud, theft, or other criminal activity in connection with the use of EFSP funds, the Office of the Inspector General, (OIG), FEMA, should be immediately contacted. The Inspector General's Hotline number to call is 1–800–323–8603 or the complainant can write to: Office of the Inspector General, FEMA, 500 C Street SW, Washington, DC 20472. The complainant should include as much information as possible to support the allegation and preferably furnish his/her name and telephone number so that the special agent assigned to that office may make a follow-up contact. Federal law protects the confidentiality of any communication made with the OIG.

(iii) A complainant desiring to remain totally anonymous should make a follow-up phone call to the OIG within 30 days from the date of the original complaint so that the OIG may ask any follow-up questions. Follow-up calls should be made to 1–202–646–3894 during normal business hours, Eastern Standard Time (charges may be reversed). The caller should advise that he/she is making a follow-up call regarding a prior anonymous complaint. The Office of the Inspector General, FEMA, will appropriately notify both local law enforcement authorities and the National Board concerning the substance of the allegations and the results of the investigation.

(26) *Expenditure Reports.* Local Boards must submit reports to the National Board on LRO's expenditures as of the date they request each LRO's second/third check and should submit a final report within 45 days after the jurisdiction's end-of-program date.

(27) *Review of reports and documentation.*

(i) After the close of the program, Local Boards must review the accuracy of all LROs reports and documentation. Local Boards should forward documentation for specified LROs to the National Board on request. If expenditures violate the eligible costs under this award, the Local Board must require reimbursement to the National Board.

(ii) Local Boards must remain in operation until they satisfy all program and compliance requirements of the National Board. Local Boards must retain all records for three (3) years from the end-of-program date.

(28) *Extension of spending periods.* Each jurisdiction will be granted the option to extend its spending period by 30, 60, or 90 days. This option will be offered during the summer of each phase. The extension applies to the entire jurisdiction. Should the jurisdiction receive a grant in the next phase, that phase's spending period will begin the day after the chosen end-date.

5.1 Variances and Waivers

(a) *Variances.* Local Boards may receive requests for variances in the budgets that they approve for LROs. Local Boards may allow such changes provided that the requested items are eligible under this program. If there is any doubt on the part of the Local Board as to eligibility, it should contact the National Board for clarification. If an LRO requests an expenditure that falls outside the program guidelines, the Local Board, if in accord, must request in writing a waiver from the National Board before making the expenditure.

(b) *Waivers.* Waivers requested by a LRO because of a compliance exception must be submitted to the Local Board. The Local Board will submit the waiver to the National Board for review. National Board staff will evaluate waiver requests and use discretion to approve or deny requests. In general, the National Board considers waiver requests that are not within the guidelines, but address the program's intent.

The waiver request from the Local Board should clearly state the need for this exception, approximate costs, timelines or any other pertinent information that the National Board may need to make their decision.

6.0 Local Recipient Organizations' Roles and Responsibilities

(a) *Local Recipient Organizations' roles and responsibilities.*

(1) In selecting LROs to receive funds, the Local Board must consider the demonstrated ability of an organization to provide food and shelter assistance. Local Boards should select LROs to receive funds to supplement and expand eligible ongoing services, but not to fund in anticipation of a needed service (i.e., fire, flood, or tornado victims); nor should Local Boards select agencies for funding due to budget shortfalls or for cuts in other funding sources. Local participation in the program is not limited to organizations that are part of any State or national organization. Agencies on Indian reservations are eligible to receive EFSP funds if they meet LRO requirements set out in the EFSP program manual. Organizations that received awards under previous legislation may be eligible again provided that the organization still meets eligibility requirements.

(2) For a local organization to be eligible for funding it must:

(i) be nonprofit or an agency of government;

(ii) have an accounting system or an approved fiscal agent;

(iii) have a Federal employer identification number (FEIN), or be in the process of securing an FEIN (Note: contact local IRS office for more information on securing an FEIN and the necessary form [SS–4];

(iv) conduct an independent annual audit if receiving $25,000 or more from EFSP;

(v) practice nondiscrimination (those agencies with a religious affiliation that wish to participate in the program must agree not to refuse services to an applicant based on religion or require attendance at religious services as a condition of assistance, nor will such groups engage in any religious proselytizing in any program receiving EFSP funds); and,

(vi) for private voluntary organizations, have a voluntary board.

(3) Each LRO will be responsible for certifying in writing to the Local Board that it has read and agrees to abide by the cost eligibility and reporting standards of this publication and any other requirements made by the Local Board.

(4) An LRO may not operate as a vendor for itself or other LROs except for the shared maintenance fee for food banks.

(5) LROs selected for funding must:

(i) Maintain records according to the guidelines stated in the EFSP program manual. Consult the Local Board chair/staff on matters requiring interpretation or clarification prior to incurring an expense or entering into a contract. It is important to have a thorough understanding of these guidelines to avoid ineligible expenditures and consequent repayment of funds. National Board staff can answer LROs' questions at (703) 706–9660 or (202) 646–3107.

(ii) Provide services within the intent of the program. Funds are to be used to supplement and expand food and shelter services, not as a substitute for other program funds. LROs should take the most cost-effective approach in buying or leasing eligible items/services, and should limit purchases to essential items within the $300 limit for equipment, unless the National Board has granted prior approval.

(iii) Deposit funds for this program in a federally insured bank account. LROs must maintain proper documentation for all expenditures under this program according to the guidelines. Agencies should ensure that selected banks will return canceled checks. LROs' expenditures and documentation will be subject to review for program compliance by the Local Board, National Board or Federal authorities. LROs must maintain records for three years and any interest income must be put back into program expenditures.

6.1 Independent Annual Audit Requirements

(a) *LROs receiving $25,000 or less in EFSP funding.* We will not require an independent annual audit for these LROs.

(b) *LROs receiving $25,000 or more in EFSP funding.*

(i) We will require an independent annual audit in accordance with Government Auditing Standards for these LROs. The National Board will accept an LROs national/regional annual audit if the LROs meet the following conditions:

(i) The LRO is truly a subsidiary of the national organization (i.e., shares a single Federal tax exemption).

(ii) The LRO is audited by the national/regional office internal auditors or other person designated by the national/regional office AND the national/regional office is audited by an independent certified public accountant or public accounting firm, which includes the parent organization's review of the LRO in a larger audit review.

(iii) A copy of the local audit review by the parent organization along with a copy of the independent audit of the national/regional office will be made available by the parent organization to the National Board upon request.

(2) In addition to the above requirements, any LRO receiving $100,000 or more in combined federal funds must have an audit made in accordance with OMB Circulars A–128 or A–133, as applicable.

(3) Audits of units of government will be made annually unless State or local government had, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments that have biennial audits, we permit audits covering both years.

6.2 Fiscal Agent/Fiscal Conduit Relationship

(a) For National Board purposes, a fiscal agent is an agency that maintains all EFSP financial records for another agency. A fiscal conduit is an EFSP-funded agency that maintains all EFSP financial records on behalf of one or more agencies under a single grant. If any one agency in a jurisdiction is making bulk purchases for other agencies not funded directly, it must serve as a fiscal conduit and follow all the applicable rules.

(b) The fiscal agent/fiscal conduit is the organization responsible for the receipt of funds, disbursement of funds to vendors, and documentation of funds received. The fiscal agent/fiscal conduit must meet all of the requirements of an LRO.

(c) Local Boards may wish to use a fiscal agent/fiscal conduit when they desire to fund an agency that does not have an adequate accounting system nor conducts an annual audit, but nevertheless meets all other criteria. The Local Board may authorize funds to be channeled through another agency that is a designated fiscal agent/conduit. Fiscal agents/conduits are accountable for compliance with program requirements.

(d) Any agency benefiting from funds received by a fiscal agent/fiscal conduit must meet all of the criteria to be an LRO except the accounting system and annual audit requirements and must sign the Fiscal Agent/Fiscal Conduit Relationship Certification Form. For tracking purposes, all agencies funded through fiscal agents or fiscal conduits must secure a Federal Employer's Identification Number.

(e) Fiscal agents/fiscal conduits may cut checks to vendors only. They may not cut checks to the agencies on whose behalf they are acting or to agencies/sites under their "umbrella." The exception to this is when an agency is using the per diem allowance for mass shelters or the per meal allowance for served meals.

(f) Fiscal agents must submit individual interim and final reports for each agency. Fiscal conduits will file a single interim report on their awards along with a breakdown of agencies and spending with the final report.

(g) Any LRO with an outstanding compliance exception may not be funded under a fiscal agent/fiscal conduit. If a fiscal agent has an unresolved compliance exception, any other funds awarded to the fiscal agent (either as a grant for its own program or as fiscal agent for another agency) will be held in escrow until all compliance exceptions are resolved. Fiscal conduits will be audited as a single award, and will be handled as any other LRO.

6.3 Financial Terms and Conditions

(a) *Definitions.*

"Local Recipient Organization" refers to the local private or public organizations that will receive any award of funds from the National Board.

"Award" refers to the award of funds made by the National Board to a local private or public organization on the recommendation of a Local Board.

"End-of-program date" refers to the date, as agreed upon by Local and National Board, by which a given jurisdiction must spend or return all monies.

(b) *Amendments.*

The National Board may amend an award at any time based on written information provided by a Local Board. Both the National Board and the Local Board must execute amendments that reflect the rights and obligations of either party. The National Board may unilaterally issue administrative amendments such as changes in accounting data.

(c) *Local Board Authority Related to LROs.*

(1) The Local Board is responsible for monitoring expenditures of LROs providing food and/or shelter services, authorizing the adjustment of funds between food and shelter programs, and reallocating funds from one LRO to another.

(2) Local Boards *may not* alter or change National Board cost eligibility or approve expenditures outside the National Board's criteria without

National Board permission. (Refer to Section 3.1 on Variances and Waivers.)

(3) A Local Board can call back funds from an LRO and reallocate to another LRO in the case of gross negligence, inadequate use of funds, failure to use funds, failure to use funds for purposes intended, or for any other violation of the National Board guidelines, or in cases of critical need in the community. The Local Board must advise, in writing, all concerned LROs of any reallocation of their original award.

(4)(i) If the Local Board discovers ineligible expenditures by an LRO, the Local Board must send to the organization a written request for reimbursement of the amount and must notify the National Board. If the LRO is unwilling or unable to reimburse the National Board for the ineligible expenditures, the Local Board must refer the matter to the National Board. The National Board may ask the Local Board to take further action to see that the LRO reimburses the National Board for any ineligible expenditures or the National Board may refer the matter to FEMA.

(ii) If the Local Board suspects that an LRO has committed fraud, the Local Board must contact the Office of the Inspector General, FEMA, in writing or by telephone at 1–800–323–8603 with details of suspected fraud or misuse of Federal funds.

(5) If an LRO received an award under previous phases, it must not include those funds in any reporting for the present awards. Reports should be confined to the amount granted by the National Board under the new appropriations legislation.

(d) *Cash Depositories.*

(1) Any money advanced to the LRO under the terms of this award *must* be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) or Federal Savings & Loan Insurance Corporation (FSLIC) insurance coverage (whose responsibility has been taken over by FDIC), and the balance exceeding the FDIC or FSLIC coverage must be secured collaterally. LROs must put back into program costs any interest income earned on these monies.

(2) LROs are encouraged to use minority banks (a bank owned at least 50 percent by minority group members). This is consistent with the national goal of expanding the opportunities for minority business enterprises. A list of minority-owned banks is available from the Office of Minority Business Enterprises, U.S. Department of Commerce, Washington, DC 20203.

(e) *Retention and Custodial Requirements for Records.*

(1) LROs *must* retain financial records, supporting documentation, statistical records, and all other records pertinent to the award for three years, with the following exceptions:

(i) If any litigation, claim or audit begins before the expiration of the three-year period, the LRO must retain the records until resolution of all litigation, claims or audit findings involving the records.

(ii) LROs must retain records for nonexpendable property, if any, acquired in part with Federal funds for three years after submission of a final report. "Non-expendable property" means tangible property having a useful life of more than one year and an acquisition cost of more than $300 per unit.

(2) The retention period starts from the date the LRO submits the final expenditure report.

(3) The National Board may request transfer of certain records to its custody from the LRO when it determines that the records possess long-term retention value. The LRO must make such transfers as requested.

(4) The Director of FEMA, the Comptroller General of the United States, and the National Board, or any of their authorized representatives, will have access to any pertinent books, documents, papers, and records of the recipient organization, and its subgrantees to make audits, examinations, excerpts and transcripts.

(f) *Financial management systems.* The LRO/fiscal agent or fiscal conduit must maintain a financial management system that provides for the following:

(1) Accurate, current and complete disclosures of the financial results of this program.

(2) Records that identify adequately the source and application of funds for federally supported activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, and incomes.

(3) Effective control over and accountability for all funds, property, and other assets.

(4) Procedures for determining eligibility of costs in accordance with the provisions of the EFSP manual.

(5) Accounting records supported by source documentation. The LRO must maintain and retain a register of cash receipts and disbursements and original supporting documentation such as purchase orders, invoices, canceled checks, and whatever other documentation is necessary to support its costs under the program.

(6) A systematic method to ensure timely and appropriate resolution of audit findings and recommendations.

(7) In cases where more than one civil jurisdiction (e.g., a city and a balance of county, or several counties) recommends awards to the same LRO, the organization can combine these funds in a single account. However, separate program records for each civil jurisdiction award must be kept.

(h) *Payment.*

A first payment will be made to the LRO by the Secretariat upon recommendation of the Local Board and approval by the National Board. Second check requests include an interim report that each LRO must complete. The Local Board Chair signs the request and mails it to the National Board. Second/third installments will be held back until the National Board reviews and clears the jurisdiction's final Local Board report and documentation for the previous year.

(i) *Financial reporting requirements.*

(1) LROs must submit a financial status report to the Local Board; the Local Board will forward to the National Board 45 days after the jurisdiction's program ending date.

(2) The National Board will provide the LRO, through the Local Board, with the necessary report forms well in advance of report deadlines.

(j) *Closeout procedures.*

The following definitions apply to closeout procedures:

"Close-out" is the process by which the National Board determines that all applicable administrative actions and all required work of the award are complete.

"Disallowed costs" are those charges that the National Board determines are unallowable under the legislation, National Board requirements, applicable Federal cost principles, or other conditions in the award. The applicable cost principles for Private Voluntary Organizations are contained in OMB Circular A–133, "Audit of States, Local Governments, and Non-Profit Organizations," and OMB Circular A–110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." The applicable cost principles for Public Organizations are contained in OMB Circular A–87, "Cost Principles for State Agencies and Units of Local Governments." If you are unsure of where to find these circulars, check with your local Congressional Representative.

(k) *Suspension and Termination Procedures.*

The following definitions apply to suspensions and termination procedures:

"Local Board Authority" is authority to suspend/reallocate all or a portion of an LRO's award at its discretion for any cause (i.e., inability to deliver services, suspected fraud, violation of eligible costs, changing need in the community, etc.).

"Suspension" of the award is an action by the Local Board or National Board that temporarily suspends Federal assistance under the award pending corrective action by the LRO or pending a decision by the National Board to terminate the award.

"Termination" of the award means the cancellation of Federal assistance, in whole or in part, under the award at any time prior to the date of completion.

(l) *Lobbying.*

(1) Pub. L. 101–121, section 319, states that an LRO will not use Federally appropriated grant funds for lobbying activities. This condition bars the use of Federal money for political activities, but does not in any way restrict lobbying or political activities paid for with non-Federal funds. This condition prohibits the use of Federal grant funds for the following activities:

(i) Federal, State or local electioneering and support of such entities as campaign organizations and political action committees;

(ii) Direct lobbying of the Congress and State legislatures to influence legislation;

(iii) Grassroots lobbying concerning either Federal or State legislation;

(iv) Lobbying of the Executive branch in connection with decisions to sign or veto enrolled legislation; and,

(v) Efforts to use State or local officials to lobby the Congressional or State Legislatures.

(2) Any LRO that will receive more than $100,000 in EFSP funds must submit the following before grant payment:

(i) a certification form that the LRO will not use EFSP funds for lobbying activities; and,

(ii) a disclosure of lobbying activities (if applicable).

6.4 Grant Payment Process

(a) United Way of America is the fiscal agent for the National Board and will process all Local Board plans. Payments will be made to organizations recommended by Local Boards for funding.

(b) The National Board offers two methods of payment to LROs: direct deposit (electronic funds transfer) or checks. The National Board encourages LROs to take advantage of direct deposit where possible.

(c) The National Board will pay all awards totaling less than $100,000 in two equal installments. They will pay awards totaling $100,000 or more in two equal installments upon submission of lobbying certification and disclosure.

(d) The National Board will distribute second payments once it completes the jurisdiction's compliance review for the previous program period. Second payments will be held in escrow until the LRO satisfies all compliance exceptions. The deadline to request all second payments under Phase XVII is July 31, 1999. Therefore, for those LROs ineligible to receive their second checks due to unresolved compliance exceptions, Local Boards must reallocate their escrowed awards by July 31, 1999.

(e) The National Board will mail all payments directly to the LRO, and will mail second payments to the LRO only upon the written request of the Local Board Chair, together with the LRO's interim report. The Local Board will authorize second payments once they are assured that the LRO is implementing the current program as intended and according to these guidelines.

6.5 Eligibility of Costs

(a)(1) The intent of this appropriation is to purchase food and shelter to supplement and expand current available resources and not to substitute or reimburse ongoing programs and services. The LRO should clear questions regarding interpretation of the program's guidelines with the Local Board before action. Local Boards unsure of the meaning of these guidelines should contact the National Board at (703) 706–9660 for clarification before advising the LRO. If an LRO requests an expenditure request that is not listed below as eligible, the Local Board may request a waiver from the National Board.

(2) No individual or family may be charged a fee for service or assistance under EFSP.

(b) *Eligible Program Costs.* Eligible program costs include, but are not limited to:

(1) *For food banks/pantries, eligible costs include:*

(i) *Groceries, food vouchers, vegetable seeds, gift certificates for food.* Documentation required: receipts/invoices for food purchased and canceled checks.

(ii) *The Local Board may allow for maintenance fees charged by food banks at the prevailing rate.* EFSP funds cannot be used to pay such a maintenance fee twice: by a food bank and by the food pantry/agency it is serving. Food banks may operate as both a vendor and LRO. Documentation required: receipts/invoices for food purchased and canceled checks.

(iii) *Transportation expenses related to the delivery of purchased and donated food; limited to actual fuel costs.* Documentation required: (1) mileage log at the current Federal rate (30 cents per mile), with departure, destination and trip purpose; or, (2) receipts/invoices from contracted services or public transportation, receipts for actual fuel costs; and canceled checks.

(iv) *Purchase of small equipment not exceeding $300 per item and essential to operation of food bank or pantry (e.g., shelving, and storage containers).* Documentation required: receipts/invoices for equipment purchased and canceled checks.

(v) *Purchase of consumable supplies essential to distribution of food (e.g., bags, boxes).* Documentation required: receipts/invoices for supplies purchased and canceled checks.

(2) *For mass shelters (five or more beds) or mass feeding sites, eligible expenditures include:*

(i) *Food (hot meals, groceries, food vouchers).* Limited amounts of dessert items (i.e., cookies, ice cream, candy, etc.) used as a part of a daily diet plan may be purchased. Also allowable are vegetable seeds and vegetable plants cultivated in an agency's garden on-site and canning supplies. Documentation required: receipts/invoices for food purchased and canceled checks or served meals per diem schedule).

(ii) *Local transportation expenses for picking up/delivery of food; transporting clients to mass shelter or feeding site.* Limited to actual fuel costs, a mileage log at the current Federal rate (30 cents per mile) contracted services or public transportation. Documentation required: (1) mileage log, or (2) receipts/invoices from contracted services or public transportation, receipts for actual fuel costs, and canceled checks.

(iii) *Purchase of consumable supplies essential to mass feeding (i.e., plastic cups, utensils, detergent, etc.) or mass shelters of five or more beds (i.e., soap, toothbrushes, toothpaste, cleaning supplies, etc.)* Documentation required: receipts/invoices for supplies purchased and canceled checks.

(iv) *Purchase of small equipment not exceeding $300 per item and essential to mass feeding (i.e., pots, pans, toasters, blenders, etc.) or mass shelters*

(i.e., cots, blankets, linens, etc.). Documentation required: receipts/invoices for equipment purchased and canceled checks.

(v) *Leasing, only for the program period, of capital equipment associated with mass feeding or mass shelter (e.g., stoves, freezers, or vans with costs over $300 per item) only if the Local Board approves in advance.* Documentation required: written Local Board approval, copy of lease agreement, and canceled checks.

(vi) *With prior Local Board approval, minor emergency repair of small equipment essential to mass feeding or sheltering not exceeding $300 in repair costs per item.* Equipment eligible for repairs are any that if not repaired would force the LRO to terminate or curtail services (e.g., stove, refrigerator, and hot water heater). Routine maintenance and service contracts are not eligible expenses. Documentation required: receipts or bills for equipment repair and canceled checks.

(vii) *Limited amounts of basic first-aid supplies (e.g., aspirin, band-aids, cough syrup) for mass shelter providers and mass feeding sites only.* Documentation required: receipts/invoices for first-aid supplies and canceled checks.

(3) *Emergency repairs/building code of a mass feeding facility or mass shelter,* provided:

(i) The facility is owned by a not-for-profit organization (profit-making facilities, leased facilities, government facilities, and individual residences are not eligible); and,

(ii) The emergency repair/building code plan and the contract detailing work to be done and material and equipment to be used or purchased is approved by the Local Board before the start of the emergency repair/building code project; and

(iii) The emergency repair/building code is limited to:

(A) Bring facility into compliance with local building codes; or,

(B) An emergency repair essential to keep the facility open for the current program phase.

(C) Maximum expenditure: $2,500.

(D) No award funds are used for decorative or non-essential purposes or routine maintenance/repairs.

(E) All emergency repair work is completed and paid for by the end of the jurisdiction's award phase. (Expenses which occur after that date will not be accepted as eligible costs.) Documentation required: letter from Local Board indicating approval and amount approved, copy of contract including cost or invoices for supplies and contract labor, document citing building code violation requiring the repair (for building code repairs) and canceled checks.

(14) *Expenses incurred from accessibility improvements for the disabled are eligible for mass feeding or mass shelter facilities up to a limit of $2,500.*

(i) These improvements may include those required by the Americans with Disabilities Act of 1990. A building code citation is not necessary for accessibility improvements. Note: All social service providers are mandated to comply with the Americans with Disabilities Act of 1990. Documentation required: copy of contract describing work to be done including cost, letter from Local Board indicating approval and amount approved, and canceled checks.

(ii) For mass shelter providers, there are two options for eligible costs. One option must be selected at the beginning of the program year and continued throughout the entire year. Note the documentation requirements for each option.

(15) *Reimbursement of actual direct eligible costs;* in which case the LRO must keep and vendor invoices for supplies/equipment essential to the operation of the mass shelter (e.g., cots, mattresses, soap, linens, blankets, cleaning supplies). Documentation required: receipts/invoices from vendor relating to operation of facility and canceled checks.

(16) *Per diem allowance of exactly $5 per person or exactly $10 per person per night for mass shelter (five beds or more) providers, only if:*

(i) Approved in advance by the Local Board; and,

(ii) LROs total mass shelter award is expended in this manner. Note: It is the decision of the Local Board to choose between the $5/$10 rate. This rate may vary from agency to agency.

(A) The $5/$10 per diem, if elected, may be expended by the LRO for any cost related to the operation of the mass shelter; it is not limited to otherwise eligible items. The per diem allowance does not include the additional costs associated with food. Documentation required: schedule showing daily rate of $5 or $10 and number of persons sheltered by date with totals. Supporting documentation must be retained on-site, e.g., checks, invoices and service records.

(B) For mass feeding programs, there are two options for eligible costs. The LRO must select one option at the beginning of the program year and continue it throughout the entire year. Note the documentation requirements for each option.

(17) *Reimbursement of actual direct eligible costs;* in which case the LRO must keep canceled checks and vendor invoices for supplies/equipment essential to the operation of the mass feeding programs (e.g., food, paper products, cleaning products, pots and pans, etc.). Documentation required: receipts/invoices from vendor relating to operation of facility and canceled checks.

(18) *Per meal allowance of $1.50 per meal served* only if:

(i) Approved in advance by the Local Board; and,

(ii) LRO's total mass feeding award is expended in this manner.

The $1.50 per meal allowance, if elected, may be expended by the LRO for any related cost; it is not limited to otherwise eligible items. The per-meal allowance does not include the additional costs associated with shelter. Documentation required: schedule showing meal rate of $1.50 and number of meals served by date with totals. Supporting documentation must be retained on-site, e.g., checks/invoices and service records.

(19) *For all agencies, eligible costs include the purchase of diapers for distribution to individuals/families.* Vouchers to grocery stores may include diapers. Note: Local Boards should use discretion in selecting LROs to provide this service, taking into consideration the cost effectiveness of bulk purchasing. Documentation required: receipts/invoices for diapers purchased and canceled checks.

(c) *For rent/mortgage assistance, eligible program costs include:*

(1) *Limited emergency rent or mortgage assistance for individuals or families,* provided that:

(i) Payment is in arrears or due within 5 days; and,

(ii) All other resources have been exhausted; and,

(iii) The client is primary resident of the home in which rent/mortgage is being paid and responsible for the rent/mortgage on the home or apartment where the rent/mortgage assistance is to be paid;

(iv) Payment is limited to one month's cost for each individual or family. Assistance can be provided for a full month's rent/mortgage all at one time, or in separate payments over a period of up to 90 consecutive days so long as the total amount paid does not exceed one month's costs;

(v) Assistance is provided only once in each award phase for each individual or family; and,

(vi) Payment must guarantee an additional 30 days service.

Note: Late fees, legal fees, and deposits are ineligible. Payments for trailers and lots are eligible and can be paid to a mortgage company or to a private landlord. Documentation required: letters from landlords (must include amount of one month's rent and statement that rent is past due), mortgage letters and/or copy of loan coupon showing mortgage amount and date due and canceled checks.

(2) *First month's rent may be paid when an individual or family:*

(i) Is transient and plans to stay in the area for an extended period of time; or,

(ii) Is moving from a temporary shelter to a more permanent living arrangement; or,

(iii) Is being evicted because one-month payment will not forestall eviction.

The LRO cannot provide the first month's rent in addition to emergency rent/mortgage payment under Item 20 above, but can provide in addition to assistance provided for off-site and mass shelter. Documentation required: letters from landlords [must include amount of first month's rent] and canceled checks.

(d) *For utility assistance, eligible program costs include:*

(1) *Limited utility assistance (includes gas, coal, electricity, oil, water, firewood) for individuals or families,* provided that:

(i) Payment is in arrears;

(ii) All other resources have been exhausted (e.g., State's Low Income Home Energy Assistance Program);

(iii) Payment is limited to one month's cost for each utility for each individual or family;

(iv) Month paid is part of the arrearage and from current phase or for continuous service; and,

(v) Each utility can be paid only once in each award phase for any individual or family.

(vi) Payment must guarantee an additional 30 days service.

(2) *Other utility assistance.*

(i) Reconnects are eligible.

(ii) Late fees and deposits are ineligible.

(iii) Utility assistance can be provided in addition to eligible rent/mortgage assistance.

(iv) The National Board encourages the use of the metered utility verification form (along with a copy of the past due utility bill) as the preferred method for verifying eligible utility assistance. Documentation required:

(A) nonmetered utilities [e.g., propane, firewood], receipts/invoices for fuel including due date and canceled checks;

(B) metered utilities [e.g., electricity, water], copy of past due utility bill showing one month's charges including due date and canceled checks.

Note: Utility disconnects and termination notices often do not show amount owed by month. Verify this information with the utility company and write it on the notice or meter utility verification form if not included.

(d) *For other shelter assistance, eligible program costs include:*

(1) Off-site emergency lodging in a hotel or motel, or other off-site shelter facility provided:

(i) No appropriate on-site shelter is available; and,

(ii) It is limited to 30-days' assistance per individual or family during the program period. Note: Assistance may be extended in extreme cases with prior Local Board written approval. A copy of this approval should accompany LRO's documentation. Note: An LRO may not operate as a vendor for itself or other LROs, except for shared maintenance fee for food banks. Documentation required: receipts/invoices from off-site shelter (hotel/motel) and canceled checks.

(e) *Ineligible Program Costs.*

Purposes for which funds CANNOT BE USED include, but are not limited to:

(1) Cash payments of any kind including checks made out to cash or reimbursements to staff, volunteers or clients for program purchases.

(2) Deposits of any kind.

(3) Payment of more than one month's rent amount.

(4) Payment of more than one month's mortgage, first month's mortgage, or down payment on mortgage.

(5) Transportation of people not related to the direct provision of food or shelter (e.g. to another agency, another city, relative's home, transportation to jobs, health care, etc.).

(6) Payment of more than one month's portion of an accumulated utility bill.

(7) Payments made directly to a client.

(8) Rental security; deposits; revolving loan accounts.

(9) Real property (land or buildings) costing more than $300.

(10) Property taxes of any kind.

(11) Equipment costing more than $300 per item (e.g., vehicles, freezers, and washers).

(12) Emergency repairs/building code or rehabilitation to government-owned or profit-making facilities or leased facilities.

(13) Routine maintenance of agency facilities; routine maintenance or service contracts on equipment.

(14) Rehabilitation for expansion of service.

(15) Repairs of any kind to an individual's house or apartment.

(16) Purchase of supplies or equipment for an individual's home or private use.

(17) Lease-purchase agreements.

(18) Administrative cost reimbursement to State or regional offices of governmental or voluntary organizations.

(19) Lobbying efforts.

(20) Expenditures made prior to beginning of jurisdiction's program.

(21) Expenditures made after end of jurisdiction's program.

(22) Gas or repairs for client-owned transportation. Repairs to LRO-owned vehicles.

(23) Prescription medication or medical supplies.

(24) Clothing (except underwear/diapers for clients of mass shelters, if necessary).

(25) Payments for expenses not incurred (i.e., where no goods or services have been provided during new program period).

(26) Emergency assistance for natural disaster victims, e.g., supplies bought for and in anticipation of a natural disaster.

(27) Telephone costs, except as administrative allowance and limited to the total allowance (2 percent).

(28) Salaries, except as administrative allowance and limited to the total allowance (2 percent).

(29) Office equipment, except as administrative allowance and limited to the total allowance (2 percent).

(30) LRO may not operate as a vendor for itself or other LROs, except for shared maintenance fee for food banks.

(31) Direct expenses associated with new or expanded services or to prevent closing.

(32) Increased utility costs due to expansion of service.

(33) Encumbrance of funds for shelter, emergency repairs, utilities, that is, payments for goods or services that are purchased and are to be delivered at a later date. Also, withholding assistance in anticipation of a future need (e.g., holiday events, special programs).

(34) Supplementing foster care costs, where an LRO has already received payment for basic boarding of a client. Comprehensive foster care costs beyond food and shelter are not allowed.

(35) No fee for service may be charged to individuals or families in order to receive service.

(f) *Administrative allowance.*

(1) There is an administrative allowance limitation of two percent (2%) of total funds received by the Local Board, excluding any interest earned. This allowance is a part of the total award, not in addition to the award. The local administrative allowance is intended for use by LROs or Local Boards and not for reimbursement of the program or administrative costs that a recipient's parent organization (its State or regional offices) might incur as a result of this additional funding.

(2) The Local Board may elect to use, for its own administrative costs, all or any portion of the 2 percent allowance. The decision on distribution of the allowance among LROs rests with the Local Board. No LRO may receive an allowance greater than 2 percent of that LRO's award amount unless the LRO is providing the administrative support for the Local Board and it is approved by the National Board.

(3) The SSA Committee, when in operation, may use a maximum of one-half of one percent (0.5%) for its administrative costs in allocating the SSA grant. As with Local Board awards, this administrative allowance is part of the total award, not in addition to the award.

(4) Any of the administrative allowance not used must be put back into program funds for additional services. Note: The administrative allowance may only be allocated in whole-dollar amounts.

Required Documentation: None with the final report; LROs receiving funds for administration must retain documentation that the funds were spent on the direct administration of EFSP.

6.6 Required Documentation

(a) *Documentation.* LRO documentation of EFSP expenditures requires copies of canceled checks (both sides) and itemized vendor invoices. An acceptable invoice has the following characteristics:

(1) It must be vendor originated;

(2) It must have name of vendor;

(3) It must have name of purchaser;

(4) It must have date of purchase;

(5) It must be itemized; and,

(6) It must have total cost of purchase.

(b) Documentation may also include: per diem schedule, per meal allowance schedule, and mileage logs.

(c) All LROs must periodically submit documentation to the National Board to ensure continued program compliance. Any LRO receiving over $100,000 in Federal funds must comply with OMB Circular A–133.

(d) *Reports.* (1) In addition to the aforementioned documentation, LROs must submit reports to the Local Board by their due date. Interim report/second and third check request forms will be enclosed in the LROs' first check package. When the LRO is ready to request its second/third check it must complete and sign the interim report and forward it to the Local Board for its review and approval. The Local Board chair should complete the reverse side (second/third check request) and mail it to the National Board. LROs must complete all portions of the final report form, return two copies to the Local Board, including one copy of documentation if requested, and retain a copy for their records.

(2) The LRO must work with the Local Board to clear up quickly any problems related to compliance exception(s) at the end of the program.

7.0 Local Appeals Process

(a) *Fairness and openness.* An appeals process is a statement to eligible agencies and to the community at large that the Local Board is interested in fairness and openness.

(1) A good appeals process begins with prevention. If the Local Board includes both representatives of affiliates of the National Board and representatives of other groups involved with assisting hungry and homeless people, it is less likely to experience an appeal. Similarly, if the Local Board's decision-making process is open, thorough, and even-handed, appeals are less likely.

(2) It is the responsibility of the Local Board to establish a written appeals process. That process may be simple or elaborate, depending on the needs of the community.

(b) *Appeals guidelines.* The appeal process should meet the following guidelines:

(1) It should be available to agencies and to the public upon request;

(2) It should be timely, without undue delay;

(3) It should include the basis for appeal (e.g., Provision of information not previously available to the group making the appeal or to the Local Board; correction of erroneous information; violation of Federal or National Board guidelines; or allegation of bias, fraud, or misuse of Federal funds on the part of the Local Board may be cause for appeal);

(4) The decision should be communicated to the organization making the appeal in a timely manner. In the case of an appeal on the basis of fraud or other abuse of Federal funds, the Local Board must inform the agency making the appeal of the right of referral to the National Board;

(c) *Primary decision-maker.* Except for cost and LRO eligibility, the Local Board is the primary decision-maker. Only when there is significant question of misapplication of guidelines, fraud, or other abuse on the part of the Local Board will the National Board consider action.

(d) *Common appeals practices.* The National Board does not mandate any particular appeals process. However, some Local Boards have developed processes that work well for them and may offer some help to other communities. Common practices include the following:

(1) Set a time period of not more than 30 days for agencies or organizations to appeal a funding decision;

(2) Require written notice of appeal, signed by the Chief Volunteer Officer of the organization making the appeal;

(3) The first level of appeal is usually to the Local Board, or to an executive committee of the board;

(e) *Appeals board; delegations.* Some boards appoint one or more members to act as a liaison with the organization making the appeal:

(1) In the case of an appeal for the purpose of providing previously unavailable information or correction of erroneous information, the process usually ends with prompt notification of decision (within ten working days of appeal).

(2) In the case of appeals for the purpose of contesting alleged prejudice, violation of law or National Board guidelines, fraud, or misuse of Federal funds, some Local Boards have allowed appeals to a group other than the Local Board itself. This practice is not required but the National Board permits it. Such groups may simply be composed of different individuals representing the same organizations that make up the Local Board. They may also include an entirely different group of persons who have knowledge of the program and the Local Board deems them to be both responsible and unbiased, and to hold the trust of the community at large.

(3) If the board chooses to delegate authority to any third party in an appeals process, the power and authority of that body should be clear. Is it simply advisory to the Local Board? Will the board abide by the decisions of this body as long as they are consistent with the law and the National Board guidelines?

(4) The disposition of appeals is often communicated by telephone to the chief

professional and volunteer officers of the organization appealing immediately after a decision is made. In such cases, a written communication is sent as soon as possible confirming the action taken. The written communication is, of course, the official notification.

(f) *National Board role.* It is important to reaffirm that the National Board does not require or advise any single appeals process.

8.0 Allocations Formula

(a) *Designation of Target Areas.*

(1) The National Board will select local jurisdictions to receive funds based on average unemployment statistics from the U.S. Department of Labor for the most current 12-month period (August 1, 1997—July 31, 1998) available. The National Board also uses poverty statistics from the 1990 Census. The Board uses this approach in order to target funds for high-need areas more effectively. Funds designated for a particular jurisdiction must be used to provide services within that jurisdiction.

(2) The National Board bases its determination of high-need jurisdictions on four factors:

(i) Most current twelve-month national unemployment rates;

(ii) Total number of unemployed within a civil jurisdiction;

(iii) Total number of individuals below the poverty level within a civil jurisdiction; and,

(iv) The total population of the civil jurisdiction.

(3) In addition to unemployment, the National Board uses poverty to qualify a jurisdiction for receipt of an award.

(b) *Fiscal Year 1999 Formula.* (1) The National Board selected jurisdictions under Phase XVII (PL 105–276) according to the following criteria:

(i) Jurisdictions, including balance of counties, with 18,000+ unemployed and a 3.6% rate of unemployment.

(ii) Jurisdictions, including balance of counties, with 400 to 17,999 unemployed and a 5.6% rate of unemployment.

(iii) Jurisdictions, including balance of counties, with 400 or more unemployed and an 11.7% rate of poverty.

(2) Jurisdictions with a minimum of 400 unemployed may qualify for an award based upon their rate of unemployment or their rate of poverty. Once a jurisdiction's eligibility is established, the National Board will determine its fund distribution based on a ratio calculated as follows: the average number of unemployed within an eligible area divided by the average number of unemployed covered by the national program equals the area's portion of the award (less National Board administrative costs, and less that portion of program funds required to fulfill designated awards).

$$\frac{\text{Area's avg. no. unemployed}}{\text{Avg. no. unemployed in all eligible areas}} = \begin{array}{c}\text{Area's percent of the award}\\ \text{(less National Board's administrative}\\ \text{costs and designated awards)}\end{array}$$

(3) Puerto Rico and U.S. territories will receive a designated percentage of the total award based on the decision of the National Board.

9.0 Amendments to Plan

The National Board reserves the right to amend this Plan at any time.

Dated: April 21, 1999.

Kay C. Goss,

Associate Director, Preparedness, Training and Exercise Directorate.

The following is a list of Phase XVII (fiscal year 1999) allocations. These jurisdictions were notified in October 1998 about this award.

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17

Alabama:		
17–0006–01	Birmingham/Jefferson, Shelby Counties	$203,581
17–0030–00	Autauga County	11,176
17–0032–00	Baldwin County	33,494
17–0034–00	Barbour County	11,225
17–0036–00	Bibb County	9,612
17–0038–00	Blount County	11,669
17–0040–00	Bullock County	7,555
17–0042–00	Butler County	15,949
17–0044–00	Calhoun County	45,180
17–0046–00	Chambers County	12,377
17–0048–00	Cherokee County	6,880
17–0050–00	Chilton County	13,809
17–0052–00	Choctaw County	12,311
17–0054–00	Clarke County	22,713
17–0060–00	Coffee County	14,188
17–0062–00	Colbert County	33,132
17–0064–00	Conecuh County	10,221
17–0068–00	Covington County	18,023
17–0070–00	Crenshaw County	7,242
17–0072–00	Cullman County	23,306
17–0074–00	Dale County	16,722
17–0076–00	Dallas County	32,803
17–0078–00	De Kalb County	23,141
17–0080–00	Elmore County	14,879
17–0082–00	Escambia County	16,525
17–0084–00	Etowah County	36,226
17–0086–00	Fayette County	8,756

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–0088–00	Franklin County	22,796
17–0090–00	Geneva County	8,937
17–0092–00	Greene County	8,279
17–0094–00	Hale County	8,806
17–0098–00	Houston County	27,042
17–0102–00	Jackson County	28,458
17–0108–00	Lamar County	10,748
17–0110–00	Lauderdale County	44,801
17–0112–00	Lawrence County	14,599
17–0114–00	Lee County	32,112
17–0116–00	Limestone County	18,418
17–0118–00	Lowndes County	8,625
17–0120–00	Macon County	10,797
17–0126–00	Marengo County	15,784
17–0128–00	Marion County	20,689
17–0130–00	Marshall County	34,037
17–0132–00	Mobile County	147,719
17–0136–00	Monroe County	20,919
17–0138–00	Montgomery County	69,852
17–0142–00	Morgan County	37,444
17–0144–00	Perry County	6,896
17–0146–00	Pickens County	10,715
17–0148–00	Pike County	12,163
17–0150–00	Randolph County	6,814
17–0152–00	Russell County	18,006
17–0154–00	St. Clair County	15,044
17–0158–00	Sumter County	9,908
17–0160–00	Talladega County	32,852
17–0162–00	Tallapoosa County	15,175
17–0164–00	Tuscaloosa County	39,765
17–0168–00	Walker County	32,869
17–0170–00	Washington County	14,171
17–0172–00	Wilcox County	8,740
17–0174–00	Winston County	14,023
17–0176–00	State Set-Aside Committee, AL	42,731
	Alabama Total	1,543,429
Alaska:		
17–0190–00	Bethel Census Area	8,114
17–0196–00	Fairbanks North Star Borough	45,361
17–0200–00	Juneau Borough	16,311
17–0202–00	Kenai Peninsula Borough	41,263
17–0204–00	Ketchikan Gateway Borough	10,567
17–0206–00	Kodiak Island Borough	10,024
17–0210–00	Matanuska-Susitna Census	39,929
17–0216–00	Prince of Wales-Outer Ketchikan	7,028
17–0224–00	Valdez-Cordova Census Area	8,542
17–0232–00	State Set-Aside Committee, AK	87,530
	Alaska Total	274,669
Arizona:		
17–0242–00	Apache County	51,994
17–0244–00	Cochise County	46,925
17–0246–00	Coconino County	72,271
17–0248–00	Gila County	22,401
17–0250–00	Graham County	14,780
17–0254–00	La Paz County	9,842
17–0256–00	Maricopa County	609,723
17–0268–00	Mohave County	44,209
17–0270–00	Navajo County	69,901
17–0272–00	Pima County	179,321
17–0276–00	Pinal County	40,818
17–0278–00	Santa Cruz County	42,711
17–0280–00	Yavapai County	38,547
17–0282–00	Yuma County	289,826
17–0284–00	State Set-Aside Committee, AZ	2,944
	Arizona Total	1,536,213
Arkansas:		
17–0304–00	Arkansas County	9,842
17–0306–00	Ashley County	14,862
17–0308–00	Baxter County	11,258
17–0312–00	Boone County	15,175
17–0314–00	Bradley County	9,102

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–0318–00	Carroll County	10,534
17–0320–00	Chicot County	8,625
17–0322–00	Clark County	6,946
17–0324–00	Clay County	8,312
17–0326–00	Cleburne County	7,209
17–0330–00	Columbia County	13,101
17–0332–00	Conway County	8,937
17–0334–00	Craighead County	28,112
17–0336–00	Crawford County	18,286
17–0338–00	Crittenden County	17,315
17–0340–00	Cross County	9,151
17–0344–00	Desha County	9,892
17–0346–00	Drew County	14,731
17–0348–00	Faulkner County	35,189
17–0354–00	Garland County	27,635
17–0358–00	Greene County	15,965
17–0360–00	Hempstead County	13,628
17–0362–00	Hot Spring County	12,064
17–0366–00	Independence County	16,574
17–0370–00	Jackson County	13,332
17–0372–00	Jefferson County	46,711
17–0376–00	Johnson County	6,649
17–0380–00	Lawrence County	9,612
17–0382–00	Lee County	7,160
17–0388–00	Logan County	8,065
17–0390–00	Lonoke County	13,513
17–0396–00	Miller County	12,805
17–0398–00	Mississippi County	44,456
17–0408–00	Ouachita County	18,977
17–0412–00	Phillips County	13,990
17–0416–00	Poinsett County	12,871
17–0420–00	Pope County	23,388
17–0424–00	Pulaski County	122,142
17–0430–00	Randolph County	13,431
17–0432–00	St. Francis County	18,171
17–0440–00	Sebastian County	40,407
17–0446–00	Sharp County	6,699
17–0450–00	Union County	22,039
17–0452–00	Van Buren County	8,608
17–0454–00	Washington County	42,036
17–0456–00	White County	28,293
17–0460–00	Yell County	7,127
17–0462–00	State Set-Aside Committee, AR	91,608
	Arkansas Total	974,535
California:		
17–0634–00	Alameda County	283,885
17–0646–00	Oakland City	201,129
17–0652–00	Amador County	12,706
17–0654–00	Butte County	120,579
17–0656–00	Calaveras County	21,249
17–0658–00	Colusa County	30,383
17–0660–00	Contra Costa County	306,351
17–0668–00	Del Norte County	17,348
17–0464–00	Fresno City/County	867,899
17–0676–00	Glenn County	24,096
17–0678–00	Humboldt County	74,098
17–0680–00	Imperial County	242,605
17–0682–00	Inyo County	9,233
17–0684–00	Kern County	564,922
17–0688–00	Kings County	97,519
17–0690–00	Lake County	38,810
17–0692–00	Lassen County	17,907
17–0695–00	Los Angeles City/County	4,827,667
17–0760–00	Madera County	113,419
17–0766–00	Mariposa County	9,036
17–0768–00	Mendocino County	55,895
17–0770–00	Merced County	214,411
17–0772–00	Modoc County	7,670
17–0774–00	Mono County	9,497
17–0776–00	Monterey County	332,109
17–0784–00	Nevada County	40,226
17–0786–00	Orange County	699,342
17–0818–00	Plumas County	16,870

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–0820–00	Riverside County	757,755
17–0824–00	Sacramento County	487,565
17–0828–00	San Benito County	47,204
17–0830–00	San Bernardino County	706,140
17–0840–00	San Diego County	808,235
17–0858–00	San Francisco City/County	266,339
17–0860–00	San Joaquin County	435,126
17–0864–00	San Luis Obispo County	78,608
17–0866–00	San Mateo County	160,870
17–0876–00	Santa Barbara County	151,225
17–0880–00	Santa Clara County	454,729
17–0892–00	Santa Cruz County	176,539
17–0896–00	Shasta County	111,707
17–0900–00	Siskiyou County	37,691
17–0902–00	Solano County	179,189
17–0912–00	Stanislaus County	418,750
17–0916–00	Sutter County	91,759
17–0918–00	Tehama County	35,848
17–0920–00	Trinity County	11,669
17–0922–00	Tulare County	413,598
17–0926–00	Tuolumne County	27,536
17–0928–00	Ventura County	384,317
17–0938–00	Yolo County	82,213
17–0940–00	Yuba County	47,303
17–0942–00	State Set-Aside Committee, CA	209,754
	California Total	15,838,530
Colorado:		
17–0968–00	Adams County	86,426
17–0978–00	Alamosa County	7,489
17–0990–00	Boulder County	74,411
17–1010–00	Delta County	8,295
17–1012–00	Denver City/County	160,821
17–1026–00	Fremont County	10,122
17–1056–00	La Plata County	17,414
17–1058–00	Larimer County	67,416
17–1066–00	Logan County	7,044
17–1068–00	Mesa County	39,205
17–1074–00	Montezuma County	11,472
17–1076–00	Montrose County	14,681
17–1078–00	Morgan County	6,814
17–1080–00	Otero County	7,012
17–1092–00	Pueblo County	57,771
17–1116–00	Weld County	49,196
17–1122–00	State Set-Aside Committee, CO	270,384
	Colorado Total	895,973
Connecticut:		
17–1422–01	Fairfield Census/Bridgeport	124,613
17–1422–02	Fairfield Census/Danbury	37,926
17–1422–03	Fairfield Census/Norwalk	46,053
17–1422–04	Fairfield Census/Stamford	62,306
17–1438–00	Hartford Census County	324,226
17–1458–00	New Haven Census County	314,663
17–1472–00	New London Census County	109,255
17–1478–00	State Set-Aside Committee, CT	135,176
	Connecticut Total	1,154,218
Delaware:		
17–1480–00	Kent County	46,167
17–1482–00	New Castle County	146,222
17–1488–00	State Set-Aside Committee, DE	21,691
	Delaware Total	214,080
District of Columbia:		
17–1492–00	District of Columbia	358,510
	District of Columbia Total	358,510
Florida:		
17–1556–00	Alachua County	46,925
17–1562–00	Bay County	73,341
17–1566–00	Brevard County	149,727
17–1570–00	Broward County	612,027
17–1586–00	Citrus County	35,091
17–1592–00	Columbia County	18,878

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–1594–00	Dade County	1,195,433
17–1604–00	De Soto County	11,077
17–1608–00	Duval County	229,735
17–1612–00	Escambia County	83,085
17–1620–00	Gadsden County	15,192
17–1626–00	Gulf County	9,003
17–1630–00	Hardee County	20,146
17–1632–00	Hendry County	35,453
17–1636–00	Highlands County	37,839
17–1638–00	Hillsborough County	271,968
17–1644–00	Indian River County	60,388
17–1646–00	Jackson County	16,640
17–1654–00	Lee County	93,602
17–1656–00	Leon County	61,112
17–1660–00	Levy County	9,349
17–1666–00	Manatee County	55,286
17–1668–00	Marion County	69,408
17–1670–00	Martin County	48,883
17–1674–00	Nassau County	15,718
17–1678–00	Okeechobee County	22,269
17–1680–00	Orange County	249,321
17–1684–00	Osceola County	45,789
17–1686–00	Palm Beach County	493,901
17–1694–00	Pinellas County	257,846
17–1702–00	Polk County	196,866
17–1706–00	Putnam County	26,483
17–1710–00	St Lucie County	130,306
17–1712–00	Santa Rosa County	32,128
17–1714–00	Sarasota County	64,091
17–1718–00	Seminole County	102,934
17–1720–00	Sumter County	9,316
17–1722–00	Suwannee County	9,513
17–1724–00	Taylor County	9,991
17–1728–00	Volusia County	109,156
17–1734–00	Walton County	10,830
17–1736–00	Washington County	7,802
17–1738–00	State Set-Aside Committee, FL	247,589
	Florida Total	5,301,437
Georgia:		
17–1741–00	Atlanta and College Park/Clayton, Dekalb, Fulton Counties	572,904
17–1742–00	Macon/Bibb, Jones Counties	75,069
17–1772–00	Appling County	12,657
17–1776–00	Bacon County	6,600
17–1780–00	Baldwin County	13,463
17–1784–00	Barrow County	12,229
17–1788–00	Ben Hill County	8,509
17–1800–00	Brooks County	6,798
17–1804–00	Bulloch County	14,797
17–1806–00	Burke County	19,800
17–1816–00	Carroll County	33,132
17–1818–00	Catoosa County	15,784
17–1822–00	Chatham County	80,616
17–1828–00	Chattooga County	8,822
17–1832–00	Clarke County	24,639
17–1840–00	Cobb County	149,250
17–1842–00	Coffee County	17,825
17–1844–00	Colquitt County	14,352
17–1854–00	Crisp County	10,600
17–1860–00	Decatur County	9,513
17–1866–00	Dodge County	9,349
17–1870–00	Dougherty County	57,656
17–1880–00	Effingham County	8,394
17–1882–00	Elbert County	12,213
17–1884–00	Emanuel County	12,361
17–1888–00	Fannin County	9,727
17–1892–00	Floyd County	32,885
17–1896–00	Franklin County	6,649
17–1902–00	Gilmer County	8,476
17–1906–00	Glynn County	18,977
17–1910–00	Grady County	11,620
17–1920–00	Hancock County	6,781
17–1922–00	Haralson County	10,073
17–1926–00	Hart County	7,044

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–1932–00	Houston County	31,107
17–1936–00	Jackson County	13,184
17–1940–00	Jeff Davis County	6,649
17–1942–00	Jefferson County	14,698
17–1956–00	Laurens County	22,236
17–1958–00	Lee County	8,476
17–1960–00	Liberty County	19,899
17–1966–00	Lowndes County	25,775
17–1970–00	McDuffie County	13,118
17–1974–00	Macon County	10,237
17–1976–00	Madison County	7,275
17–1980–00	Meriwether County	7,933
17–1984–00	Mitchell County	15,718
17–1986–00	Monroe County	8,904
17–1994–00	Muskogee County	68,453
17–1998–00	Newton County	20,261
17–2006–00	Peach County	11,357
17–2014–00	Polk County	14,978
17–2026–00	Richmond County	93,899
17–2032–00	Screven County	9,447
17–2036–00	Spalding County	22,302
17–2038–00	Stephens County	10,896
17–2042–00	Sumter County	23,075
17–2052–00	Telfair County	7,225
17–2054–00	Terrell County	8,625
17–2056–00	Thomas County	14,632
17–2058–00	Tift County	17,595
17–2060–00	Toombs County	17,891
17–2066–00	Troup County	24,047
17–2068–00	Turner County	8,575
17–2074–00	Upson County	7,719
17–2076–00	Walker County	24,935
17–2078–00	Walton County	14,319
17–2080–00	Ware County	12,245
17–2084–00	Washington County	15,850
17–2086–00	Wayne County	13,036
17–2102–00	Worth County	10,024
17–2104–00	State Set-Aside Committee, GA	379,998
	Georgia Total	2,376,157
Hawaii:		
17–2106–00	Honolulu City/County	350,840
17–2108–00	Hawaii County	107,115
17–2112–00	Kauai County	46,957
17–2114–00	Maui County	76,337
	Hawaii Total	581,249
Idaho:		
17–2134–00	Bannock County	33,938
17–2138–00	Benewah County	7,439
17–2140–00	Bingham County	18,401
17–2146–00	Bonner County	22,285
17–2156–00	Canyon County	52,224
17–2160–00	Cassia County	11,406
17–2164–00	Clearwater County	8,526
17–2168–00	Elmore County	9,102
17–2174–00	Gem County	7,127
17–2178–00	Idaho County	10,929
17–2180–00	Jefferson County	6,995
17–2182–00	Jerome County	7,110
17–2184–00	Kootenai County	71,580
17–2186–00	Latah County	8,460
17–2196–00	Minidoka County	14,007
17–2198–00	Nez Perce County	13,924
17–2204–00	Payette County	12,739
17–2208–00	Shoshone County	11,604
17–2212–00	Twin Falls County	25,692
17–2218–00	State Set-Aside Committee, ID	99,675
	Idaho Total	453,163
Illinois:		
17–2342–00	Adams County	22,582
17–2346–00	Bond County	7,275
17–2356–00	Carroll County	7,834

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–2360–00	Champaign County	43,797
17–2364–00	Christian County	15,998
17–2366–00	Clark County	7,571
17–2368–00	Clay County	7,719
17–2372–00	Coles County	17,200
17–2374–00	Cook County	842,174
17–2378–00	Chicago City	1,243,838
17–2398–00	Crawford County	12,015
17–2402–00	DeKalb County	26,038
17–2414–00	Edgar County	7,407
17–2420–00	Fayette County	11,439
17–2424–00	Franklin County	29,659
17–2426–00	Fulton County	16,558
17–2430–00	Greene County	6,814
17–2432–00	Grundy County	20,179
17–2436–00	Hancock County	8,197
17–2446–00	Jackson County	22,253
17–2448–00	Jasper County	7,769
17–2450–00	Jefferson County	21,512
17–2458–00	Kane County	138,848
17–2464–00	Kankakee County	48,225
17–2468–00	Knox County	20,722
17–2470–00	Lake County	187,386
17–2474–00	La Salle County	59,960
17–2476–00	Lawrence County	9,283
17–2484–00	McDonough County	7,258
17–2488–00	McLean County	34,975
17–2490–00	Macon County	60,273
17–2494–00	Macoupin County	20,738
17–2496–00	Madison County	101,535
17–2498–00	Marion County	26,005
17–2502–00	Mason County	9,135
17–2512–00	Montgomery County	18,944
17–2520–00	Peoria County	66,231
17–2524–00	Perry County	13,595
17–2528–00	Pike County	7,983
17–2536–00	Randolph County	14,731
17–2538–00	Richland County	8,345
17–2540–00	Rock Island County	48,406
17–2542–00	St. Clair County	114,719
17–2546–00	Saline County	14,797
17–2548–00	Sangamon County	68,716
17–2560–00	Stephenson County	21,495
17–2562–00	Tazewell County	44,291
17–2564–00	Union County	10,040
17–2566–00	Vermilion County	44,966
17–2568–00	Wabash County	7,933
17–2574–00	Wayne County	8,674
17–2576–00	White County	9,349
17–2580–00	Will County	162,812
17–2586–00	Williamson County	37,526
17–2588–00	Winnebago County	107,296
17–2594–00	State Set-Aside Committee, IL	351,332
	Illinois Total	4,312,352
Indiana:		
17–2640–00	Clark County	26,812
17–2642–00	Clay County	9,777
17–2648–00	Daviess County	7,275
17–2656–00	Delaware County	41,789
17–2662–00	Elkhart County	46,398
17–2668–00	Floyd County	17,068
17–2678–00	Grant County	22,615
17–2680–00	Greene County	16,426
17–2690–00	Henry County	18,566
17–2692–00	Howard County	22,960
17–2708–00	Knox County	12,986
17–2714–00	Lake County	95,660
17–2716–00	Gary City	67,712
17–2720–00	La Porte County	31,437
17–2724–00	Madison County	39,288
17–2728–00	Marion County	228,484
17–2738–00	Monroe County	25,215
17–2752–00	Orange County	9,941

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–2754–00	Owen County	7,472
17–2758–00	Perry County	9,349
17–2770–00	Randolph County	14,978
17–2776–00	St. Joseph County	70,181
17–2780–00	Scott County	8,279
17–2786–00	Starke County	9,003
17–2790–00	Sullivan County	10,336
17–2794–00	Tippecanoe County	27,898
17–2800–00	Vanderburgh County	57,508
17–2804–00	Vermillion County	8,806
17–2806–00	Vigo County	46,645
17–2816–00	Washington County	10,188
17–2818–00	Wayne County	23,355
17–2826–00	State Set-Aside Committee, IN	345,559
	Indiana Total	1,389,966
Iowa:		
17–2858–00	Blackhawk County	37,872
17–2890–00	Clayton County	8,048
17–2892–00	Clinton County	13,595
17–2902–00	Delaware County	6,863
17–2904–00	Des Moines County	12,739
17–2946–00	Jackson County	7,357
17–2952–00	Johnson County	23,701
17–2962–00	Lee County	14,040
17–3006–00	Polk County	76,765
17–3010–00	Pottawattamie County	22,154
17–3020–00	Scott County	37,131
17–3028–00	Story County	18,385
17–3038–00	Wapello County	12,262
17–3046–00	Webster County	10,221
17–3050–00	Winneshiek County	7,110
17–3052–00	Woodbury County	26,548
17–3060–00	State Set-Aside Committee, IA	202,246
	Iowa Total	537,037
Kansas:		
17–3061–00	Manhattan/Pottawatamie, Riley Counties	25,725
17–3084–00	Atchison County	7,900
17–3088–00	Barton County	7,834
17–3100–00	Cherokee County	9,941
17–3116–00	Crawford County	14,007
17–3124–00	Douglas County	35,551
17–3132–00	Ellis County	6,962
17–3140–00	Franklin County	10,205
17–3142–00	Geary County	11,587
17–3182–00	Labette County	9,316
17–3194–00	Lyon County	11,521
17–3208–00	Montgomery County	14,204
17–3222–00	Osage County	9,283
17–3238–00	Reno County	19,290
17–3252–00	Saline County	17,035
17–3256–00	Sedgwick County	118,834
17–3262–00	Shawnee County	66,511
17–3296–00	Wyandotte County	89,109
17–3300–00	State Set-Aside Committee, KS	176,536
	Kansas Total	661,351
Kentucky		
17–3316–00	Adair County	22,532
17–3318–00	Allen County	8,065
17–3324–00	Barren County	13,381
17–3328–00	Bell County	11,521
17–3334–00	Boyd County	25,001
17–3336–00	Boyle County	7,390
17–3342–00	Breckinridge County	7,324
17–3350–00	Calloway County	14,698
17–3358–00	Carter County	21,084
17–3360–00	Casey County	9,233
17–3362–00	Christian County	20,212
17–3364–00	Clark County	10,122
17–3366–00	Clay County	9,316
17–3374–00	Daviess County	38,563
17–3384–00	Fayette County	50,035

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–3386–00	Fleming County	7,983
17–3388–00	Floyd County	17,595
17–3390–00	Franklin County	12,015
17–3398–00	Grant County	7,933
17–3400–00	Graves County	15,702
17–3402–00	Grayson County	12,377
17–3404–00	Green County	10,534
17–3406–00	Greenup County	17,233
17–3410–00	Hardin County	29,215
17–3412–00	Harlan County	19,471
17–3416–00	Hart County	6,880
17–3418–00	Henderson County	22,104
17–3424–00	Hopkins County	16,854
17–3428–00	Jefferson County	236,516
17–3434–00	Johnson County	10,468
17–3436–00	Kenton County	44,225
17–3440–00	Knott County	6,913
17–3442–00	Knox County	12,245
17–3446–00	Laurel County	20,343
17–3448–00	Lawrence County	8,509
17–3454–00	Letcher County	9,694
17–3456–00	Lewis County	12,295
17–3462–00	Logan County	9,069
17–3466–00	McCracken County	24,886
17–3468–00	McCreary County	8,756
17–3472–00	Madison County	15,159
17–3474–00	Magoffin County	10,517
17–3476–00	Marion County	10,353
17–3478–00	Marshall County	14,731
17–3484–00	Meade County	7,176
17–3494–00	Montgomery County	8,625
17–3496–00	Morgan County	7,110
17–3498–00	Muhlenberg County	14,319
17–3500–00	Nelson County	16,574
17–3504–00	Ohio County	11,834
17–3514–00	Perry County	12,509
17–3516–00	Pike County	32,144
17–3520–00	Pulaski County	23,125
17–3528–00	Russell County	20,936
17–3538–00	Taylor County	28,178
17–3546–00	Union County	6,979
17–3548–00	Warren County	37,181
17–3552–00	Wayne County	11,818
17–3556–00	Whitley County	13,826
17–3562–00	State Set-Aside Committee, KY	168,141
	Kentucky Total	1,339,527
Louisiana		
17–3564–00	Shreveport/Bossier, Caddo Parishes	166,631
17–3574–00	Acadia Parish	22,631
17–3576–00	Allen Parish	9,925
17–3578–00	Ascension Parish	27,091
17–3580–00	Assumption Parish	8,262
17–3582–00	Avoyelles Parish	19,800
17–3584–00	Beauregard Parish	13,661
17–3586–00	Bienville Parish	13,052
17–3598–00	Calcasieu Parish	80,320
17–3606–00	Catahoula Parish	7,522
17–3608–00	Claiborne Parish	8,016
17–3610–00	Concordia Parish	18,483
17–3612–00	De Soto Parish	13,315
17–3614–00	East Baton Rouge Parish	152,904
17–3618–00	East Carroll Parish	7,209
17–3620–00	East Feliciana Parish	7,423
17–3622–00	Evangeline Parish	10,748
17–3624–00	Franklin Parish	16,920
17–3626–00	Grant Parish	8,690
17–3628–00	Iberia Parish	32,177
17–3630–00	Iberville Parish	14,978
17–3632–00	Jackson Parish	6,649
17–3634–00	Jefferson Parish	159,488
17–3638–00	Jefferson Davis Parish	12,657
17–3640–00	Lafayette Parish	62,297
17–3644–00	Lafourche Parish	20,146

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–3648–00	Lincoln Parish	9,020
17–3650–00	Livingston Parish	36,638
17–3652–00	Madison Parish	11,258
17–3654–00	Morehouse Parish	23,174
17–3656–00	Natchitoches Parish	18,862
17–3658–00	New Orleans City/Orleans Parish	201,738
17–3660–00	Ouachita Parish	64,700
17–3664–00	Plaquemines Parish	7,933
17–3666–00	Pointe Coupee Parish	12,245
17–3668–00	Rapides Parish	53,525
17–3672–00	Red River Parish	11,324
17–3674–00	Richland Parish	13,793
17–3676–00	Sabine Parish	10,748
17–3678–00	St Bernard Parish	27,454
17–3680–00	St Charles Parish	15,652
17–3684–00	St James Parish	9,958
17–3686–00	St John Baptist Parish	18,813
17–3688–00	St Landry Parish	40,143
17–3690–00	St Martin Parish	27,190
17–3692–00	St Mary Parish	23,964
17–3694–00	St Tammany Parish	55,022
17–3696–00	Tangipahoa Parish	53,541
17–3700–00	Terrebonne Parish	25,709
17–3702–00	Union Parish	10,814
17–3704–00	Vermilion Parish	23,487
17–3706–00	Vernon Parish	17,167
17–3708–00	Washington Parish	20,491
17–3710–00	Webster Parish	27,190
17–3712–00	West Baton Rouge Parish	8,180
17–3714–00	West Carroll Parish	13,233
17–3720–00	State Set-Aside Committee, LA	16,900
	Lousiana Total	1,830,861
Maine:		
17–3726–00	Androscoggin County	49,657
17–3728–00	Aroostook County	49,081
17–3730–00	Cumberland County	62,297
17–3734–00	Franklin County	17,052
17–3738–00	Kennebec County	54,101
17–3740–00	Knox County	12,953
17–3744–00	Oxford County	27,042
17–3746–00	Penobscot County	62,495
17–3748–00	Piscataquis County	9,908
17–3752–00	Somerset County	34,778
17–3754–00	Waldo County	18,895
17–3756–00	Washington County	27,750
17–3760–00	State Set-Aside Committee, ME	49,831
	Maine Total	475,840
Maryland:		
17–3774–00	Allegany County	49,937
17–3776–00	Anne Arundel County	155,834
17–3778–00	Baltimore County	320,029
17–3782–00	Caroline County	12,147
17–3786–00	Cecil County	48,208
17–3790–00	Dorchester County	27,207
17–3794–00	Garrett County	30,894
17–3800–00	Kent County	11,604
17–3806–00	Prince Georges County	354,592
17–3812–00	Somerset County	18,878
17–3816–00	Washington County	53,574
17–3818–00	Wicomico County	45,147
17–3820–00	Worcester County	44,505
17–3822–00	Baltimore City	483,203
17–3824–00	State Set-Aside Committee, MD	298,670
	Maryland Total	1,954,429
Massachusetts:		
17–4476–00	Barnstable County	93,339
17–4482–00	Bristol County	246,424
17–4490–00	Essex County	232,269
17–4502–00	Hampden County	159,619
17–4510–00	Middlesex County	364,945
17–4540–00	Plymouth County	160,278

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–4550–00	Suffolk County	220,616
17–4554–00	Worcester County	224,007
17–4558–00	State Set-Aside Committee, MA	149,436
	Massachusetts Total	1,850,933
Michigan:		
17–4561–00	Holland/Allegan, Ottawa Counties	82,970
17–4560–00	Lansing/Eaton, Ingham Counties	108,086
17–4638–00	Alpena County	19,339
17–4640–00	Antrim County	9,530
17–4642–00	Arenac County	9,118
17–4648–00	Bay County	42,464
17–4650–00	Benzie County	7,703
17–4652–00	Berrien County	64,190
17–4654–00	Branch County	12,673
17–4656–00	Calhoun County	47,139
17–4660–00	Cass County	18,451
17–4664–00	Cheboygan County	21,166
17–4666–00	Chippewa County	24,030
17–4668–00	Clare County	12,854
17–4674–00	Delta County	21,281
17–4682–00	Emmet County	21,561
17–4684–00	Genesee County	177,971
17–4688–00	Gladwin County	11,719
17–4690–00	Gogebic County	11,752
17–4694–00	Gratiot County	17,068
17–4696–00	Hillsdale County	13,694
17–4698–00	Houghton County	15,636
17–4700–00	Huron County	12,641
17–4710–00	Iosco County	14,780
17–4714–00	Isabella County	16,294
17–4716–00	Jackson County	51,451
17–4718–00	Kalamazoo County	59,631
17–4722–00	Kalkaska County	8,180
17–4724–00	Kent County	156,163
17–4744–00	Mackinac County	11,818
17–4758–00	Manistee County	12,394
17–4760–00	Marquette County	29,577
17–4762–00	Mason County	15,373
17–4764–00	Mecosta County	12,048
17–4766–00	Menominee County	12,459
17–4774–00	Montcalm County	23,981
17–4776–00	Montmorency County	6,732
17–4778–00	Muskegon County	62,577
17–4780–00	Newaygo County	24,754
17–4782–00	Oakland County	285,481
17–4796–00	Oceana County	16,772
17–4798–00	Ogemaw County	10,501
17–4802–00	Osceola County	11,357
17–4810–00	Presque Isle County	11,291
17–4812–00	Roscommon County	10,402
17–4814–00	Saginaw County	73,654
17–4818–00	St. Clair County	61,886
17–4822–00	Sanilac County	18,895
17–4824–00	Schoolcraft County	6,847
17–4828–00	Tuscola County	22,631
17–4830–00	Van Buren County	28,474
17–4832–00	Washtenaw County	53,195
17–4836–00	Wayne County	215,284
17–4844–00	Detroit City	478,512
17–4854–00	Wexford County	20,656
17–4856–00	State Set-Aside Committee, MI	321,698
	Michigan Total	2,948,784
Minnesota:		
17–4856–05	Mankato/Blue Earth, Nicollette Counties	18,599
17–4857–00	St. Cloud City/Benton, Sherburne, Stearns Counties	67,992
17–4898–00	Aitkin County	7,917
17–4902–00	Becker County	13,974
17–4904–00	Beltrami County	16,788
17–4914–00	Carlton County	13,595
17–4918–00	Cass County	12,361
17–4924–00	Clay County	11,949
17–4926–00	Clearwater County	7,555

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–4982–00	Crow Wing County	22,664
17–4988–00	Douglas County	9,201
17–4990–00	Hennepin County	231,249
17–4994–00	Hubbard County	7,571
17–4998–00	Itasca County	24,376
17–5002–00	Kanabec County	7,522
17–5004–00	Kandiyohi County	10,846
17–5008–00	Koochiching County	7,752
17–5010–00	Lyon County	7,127
17–5016–00	Marshall County	7,176
17–5022–00	Mille Lacs County	10,205
17–5024–00	Morrison County	15,521
17–5032–00	Nobles County	7,308
17–5040–00	Otter Tail County	20,261
17–5044–00	Pine County	12,509
17–5048–00	Polk County	12,805
17–5052–00	Ramsey County	109,880
17–5068–00	St. Louis County	74,592
17–5086–00	Todd County	9,398
17–5092–00	Winona County	12,295
17–5098–00	State Set-Aside Committee, MN	249,324
	Minnesota Total	1,040,312
Mississippi:		
17–5089–00	Hattiesburg/Forrest, Lamar Counties	26,762
17–5089–02	Jackson/Hinds, Madison, Rankin Counties	126,240
17–5090–00	Adams County	22,071
17–5092–00	Alcorn County	18,467
17–5096–00	Attala County	12,097
17–5100–00	Bolivar County	26,087
17–5102–00	Calhoun County	7,621
17–5106–00	Chickasaw County	13,793
17–5112–00	Clarke County	8,114
17–5114–00	Clay County	16,525
17–5116–00	Coahoma County	19,339
17–5118–00	Copiah County	14,467
17–5120–00	Covington County	7,670
17–5128–00	George County	10,830
17–5130–00	Greene County	6,617
17–5132–00	Grenada County	11,291
17–5134–00	Hancock County	10,484
17–5136–00	Harrison County	53,936
17–5142–00	Holmes County	13,875
17–5144–00	Humphreys County	9,184
17–5146–00	Itawamba County	10,188
17–5150–00	Jackson County	48,389
17–5152–00	Jasper County	6,798
17–5156–00	Jefferson Davis County	7,143
17–5158–00	Jones County	17,216
17–5166–00	Lauderdale County	30,910
17–5170–00	Leake County	8,164
17–5172–00	Lee County	28,622
17–5174–00	Leflore County	23,652
17–5176–00	Lincoln County	12,608
17–5178–00	Lowndes County	35,551
17–5182–00	Marion County	10,155
17–5184–00	Marshall County	13,628
17–5186–00	Monroe County	29,939
17–5190–00	Neshoba County	10,040
17–5194–00	Noxubee County	7,407
17–5196–00	Oktibbeha County	9,217
17–5198–00	Panola County	19,504
17–5200–00	Pearl River County	14,616
17–5204–00	Pike County	13,595
17–5206–00	Pontotoc County	8,575
17–5208–00	Prentiss County	14,978
17–5214–00	Scott County	10,468
17–5218–00	Simpson County	11,999
17–5224–00	Sunflower County	24,211
17–5226–00	Tallahatchie County	10,484
17–5228–00	Tate County	8,131
17–5230–00	Tippah County	10,369
17–5232–00	Tishomingo County	15,982
17–5236–00	Union County	7,555

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–5238–00	Walthall County	6,682
17–5240–00	Warren County	22,088
17–5242–00	Washington County	41,526
17–5244–00	Wayne County	9,892
17–5250–00	Winston County	12,344
17–5254–00	Yazoo County	12,624
17–5256–00	State Set-Aside Committee, MS	67,939
	Mississippi Total	1,088,659
Missouri:		
17–5257–00	Joplin/Jasper, Newton Counties	52,274
17–5258–00	Kansas City/Clay, Jackson, Platte Counties	342,199
17–5278–00	Audrain County	7,143
17–5280–00	Barry County	12,278
17–5284–00	Bates County	7,456
17–5290–00	Boone County	20,590
17–5294–00	Buchanan County	34,827
17–5298–00	Butler County	15,932
17–5304–00	Camden County	15,883
17–5306–00	Cape Girardeau County	22,862
17–5332–00	Crawford County	11,192
17–5344–00	Douglas County	9,135
17–5346–00	Dunklin County	16,327
17–5354–00	Greene County	64,157
17–5362–00	Henry County	7,505
17–5370–00	Howell County	16,788
17–5384–00	Johnson County	8,740
17–5388–00	Laclede County	14,846
17–5390–00	Lafayette County	10,583
17–5392–00	Lawrence County	14,912
17–5396–00	Lincoln County	13,579
17–5398–00	Linn County	8,213
17–5402–00	McDonald County	7,390
17–5404–00	Macon County	6,699
17–5410–00	Marion County	11,752
17–5414–00	Miller County	12,262
17–5416–00	Mississippi County	7,357
17–5422–00	Montgomery County	6,913
17–5424–00	Morgan County	7,818
17–5426–00	New Madrid County	10,633
17–5438–00	Pemiscot County	12,937
17–5442–00	Pettis County	16,459
17–5444–00	Phelps County	11,850
17–5446–00	Pike County	6,699
17–5452–00	Polk County	8,921
17–5454–00	Pulaski County	10,649
17–5460–00	Randolph County	9,365
17–5474–00	St. Francois County	26,367
17–5476–00	St. Louis County	291,258
17–5480–00	Saline County	7,407
17–5486–00	Scott County	17,200
17–5492–00	Stoddard County	17,611
17–5494–00	Stone County	26,005
17–5498–00	Taney County	41,592
17–5500–00	Texas County	13,068
17–5506–00	Washington County	13,184
17–5510–00	Webster County	8,954
17–5514–00	Wright County	9,250
17–5516–00	St. Louis City	199,977
17–5518–00	State Set-Aside Committee, MO	231,963
	Missouri Total	1,778,961
Montana:		
17–5530–00	Big Horn County	7,407
17–5540–00	Cascade County	32,967
17–5558–00	Flathead County	46,694
17–5560–00	Gallatin County	20,475
17–5564–00	Glacier County	12,410
17–5570–00	Hill County	8,378
17–5576–00	Lake County	12,871
17–5578–00	Lewis and Clark County	22,862
17–5582–00	Lincoln County	15,290
17–5592–00	Missoula County	37,839
17–5596–00	Park County	9,102

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–5610–00	Ravalli County	15,982
17–5618–00	Sanders County	6,814
17–5622–00	Silver Bow County	15,175
17–5640–00	Yellowstone County	51,187
17–5644–00	State Set-Aside Committee, MT	49,138
	Montana Total	364,591
Nebraska:		
17–5686–00	Buffalo County	8,987
17–5722–00	Douglas County	94,458
17–5782–00	Lincoln County	8,904
17–5828–00	Scotts Bluff County	11,143
17–5858–00	State Set-Aside Committee, NE	104,013
	Nebraska Total	227,505
Nevada:		
17–5866–00	Churchill County	9,003
17–5868–00	Clark County	414,766
17–5886–00	Lyon County	13,628
17–5904–00	Carson City	22,499
17–5906–00	State Set-Aside Committee, NV	91,905
	Nevada Total	551,801
New Hampshire:		
17–5942–00	State Set-Aside Committee, NH	165,008
	New Hampshire Total	165,008
New Jersey:		
17–5948–00	Atlantic County	167,190
17–5950–00	Bergen County	297,332
17–5954–00	Camden County	203,153
17–5960–00	Cape May County	83,496
17–5962–00	Cumberland County	97,207
17–5966–00	Essex County	374,804
17–5978–00	Hudson County	362,262
17–5988–00	Mercer County	123,623
17–5994–00	Middlesex County	272,215
17–6004–00	Monmouth County	216,732
17–6012–00	Ocean County	183,254
17–6018–00	Passaic County	244,679
17–6034–00	Union County	230,969
17–6042–00	State Set-Aside Committee, NJ	312,067
	New Jersey Total	3,168,983
New Mexico:		
17–6044–00	Bernalillo County	210,478
17–6050–00	Chaves County	33,445
17–6052–00	Cibola County	18,056
17–6054–00	Colfax County	6,929
17–6056–00	Curry County	16,656
17–6060–00	Dona Ana County	97,733
17–6064–00	Eddy County	25,906
17–6066–00	Grant County	14,286
17–6074–00	Lea County	20,096
17–6076–00	Lincoln County	6,830
17–6080–00	Luna County	50,973
17–6082–00	McKinley County	35,041
17–6086–00	Otero County	23,075
17–6090–00	Rio Arriba County	31,272
17–6094–00	Sandoval County	31,058
17–6096–00	San Juan County	74,263
17–6098–00	San Miguel County	19,586
17–6100–00	Santa Fe County	40,917
17–6106–00	Socorro County	6,929
17–6108–00	Taos County	30,531
17–6114–00	Valencia County	24,919
17–6116–00	State Set-Aside Committee, NM	19,013
	New Mexico Total	837,992
New York:		
17–6120–00	Albany County	88,302
17–6126–00	Allegany County	30,778
17–6130–00	Broome County	69,868
17–6136–00	Cattaraugus County	50,825
17–6138–00	Cayuga County	34,284

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–6140–00	Chautauqua County	64,108
17–6142–00	Chemung County	33,461
17–6144–00	Chenango County	24,623
17–6146–00	Clinton County	42,826
17–6150–00	Cortland County	26,943
17–6152–00	Delaware County	17,595
17–6154–00	Dutchess County	74,181
17–6156–00	Erie County	411,195
17–6168–00	Essex County	25,758
17–6170–00	Franklin County	31,157
17–6172–00	Fulton County	31,157
17–6176–00	Greene County	21,397
17–6180–00	Herkimer County	33,280
17–6182–00	Jefferson County	70,724
17–6186–00	Lewis County	17,710
17–6192–00	Monroe County	237,832
17–6200–00	Montgomery County	25,544
17–6202–00	Nassau County	387,988
17–6212–00	Niagara County	120,447
17–6216–00	Oneida County	88,352
17–6220–00	Onondaga County	148,641
17–6228–00	Orange County	102,622
17–6230–00	Orleans County	21,808
17–6232–00	Oswego County	61,573
17–6234–00	Otsego County	27,898
17–6240–00	Rensselaer County	59,894
17–6254–00	St. Lawrence County	69,901
17–6258–00	Schenectady County	54,496
17–6264–00	Schuyler County	9,102
17–6268–00	Steuben County	53,475
17–6270–00	Suffolk County	487,071
17–6282–00	Sullivan County	33,247
17–6286–00	Tompkins County	26,055
17–6290–00	Warren County	36,309
17–6296–00	Westchester County	272,577
17–6308–00	Wyoming County	25,133
17–6310–00	Yates County	9,332
17–6314–00	New York City	4,763,411
17–6312–00	State Set-Aside Committee, NY	262,312
	New York Total	8,585,192
North Carolina:		
17–6316–00	High Point City/Davidson, Guilford Counties	167,388
17–6315–00	Kannapolis/Cabarrus, Rowan Counties	59,005
17–6317–00	Rocky Mount/Edgecombe, Nash Counties	82,673
17–6326–00	Anson County	11,867
17–6328–00	Ashe County	14,632
17–6332–00	Beaufort County	26,680
17–6334–00	Bertie County	8,016
17–6336–00	Bladen County	17,743
17–6338–00	Brunswick County	27,338
17–6340–00	Buncombe County	44,028
17–6360–00	Cherokee County	11,274
17–6368–00	Columbus County	27,026
17–6370–00	Craven County	26,696
17–6372–00	Cumberland County	77,752
17–6378–00	Dare County	16,294
17–6386–00	Duplin County	17,891
17–6388–00	Durham County	41,131
17–6394–00	Forsyth County	68,222
17–6398–00	Franklin County	10,155
17–6400–00	Gaston County	59,516
17–6406–00	Graham County	7,044
17–6408–00	Granville County	9,793
17–6418–00	Halifax County	34,054
17–6420–00	Harnett County	20,442
17–6422–00	Haywood County	21,676
17–6426–00	Hertford County	6,830
17–6428–00	Hoke County	8,575
17–6434–00	Jackson County	11,637
17–6436–00	Johnston County	22,894
17–6440–00	Lee County	15,570
17–6442–00	Lenoir County	25,874
17–6448–00	Macon County	9,332

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–6452–00	Martin County	16,015
17–6458–00	Mitchell County	8,295
17–6460–00	Montgomery County	9,810
17–6466–00	New Hanover County	50,183
17–6468–00	Northampton County	9,941
17–6470–00	Onslow County	26,631
17–6472–00	Orange County	14,435
17–6476–00	Pasquotank County	11,620
17–6478–00	Pender County	12,756
17–6482–00	Person County	13,266
17–6484–00	Pitt County	48,982
17–6490–00	Richmond County	28,309
17–6492–00	Robeson County	65,293
17–6494–00	Rockingham County	41,510
17–6498–00	Rutherford County	24,458
17–6500–00	Sampson County	18,023
17–6502–00	Scotland County	21,841
17–6510–00	Swain County	13,743
17–6518–00	Vance County	19,850
17–6520–00	Wake County	88,961
17–6524–00	Warren County	7,456
17–6526–00	Washington County	7,110
17–6528–00	Watauga County	7,538
17–6530–00	Wayne County	34,580
17–6532–00	Wilkes County	15,685
17–6534–00	Wilson County	43,797
17–6536–00	Yadkin County	8,789
17–6540–00	State Set-Aside Committee, NC	304,499
	North Carolina Total	1,982,424
North Dakota:		
17–6576–00	Cass County	12,443
17–6596–00	Grand Forks County	10,846
17–6642–00	Rolette County	7,752
17–6664–00	Ward County	9,991
17–6670–00	State Set-Aside Committee, ND	108,968
	North Dakota total	150,000
Ohio:		
17–6672–00	Columbus/Fairfield, Franklin Counties	281,877
17–6678–00	Adams County	20,524
17–6680–00	Allen County	43,337
17–6684–00	Ashtabula County	47,320
17–6686–00	Athens County	21,249
17–6690–00	Belmont County	31,058
17–6692–00	Brown County	17,035
17–6694–00	Butler County	98,342
17–6698–00	Carroll County	11,126
17–6702–00	Clark County	49,706
17–6708–00	Clinton County	11,999
17–6710–00	Columbiana County	47,007
17–6712–00	Coshocton County	17,529
17–6714–00	Crawford County	20,952
17–6716–00	Cuyahoga County	516,746
17–6734–00	Erie County	34,844
17–6740–00	Fayette County	10,468
17–6748–00	Gallia County	19,208
17–6752–00	Greene County	39,880
17–6754–00	Guernsey County	23,520
17–6756–00	Hamilton County	254,571
17–6762–00	Hardin County	10,814
17–6764–00	Harrison County	6,979
17–6768–00	Highland County	17,150
17–6770–00	Hocking County	12,147
17–6772–00	Holmes County	9,546
17–6774–00	Huron County	40,078
17–6776–00	Jackson County	18,549
17–6778–00	Jefferson County	44,390
17–6780–00	Knox County	18,500
17–6784–00	Lawrence County	30,153
17–6786–00	Licking County	44,752
17–6790–00	Lorain County	123,163
17–6796–00	Lucas County	201,919
17–6802–00	Mahoning County	119,575

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–6806–00	Marion County	26,334
17–6810–00	Meigs County	15,389
17–6816–00	Monroe County	9,447
17–6818–00	Montgomery County	182,234
17–6824–00	Morgan County	10,616
17–6826–00	Morrow County	13,414
17–6828–00	Muskingum County	47,780
17–6832–00	Ottawa County	22,318
17–6836–00	Perry County	16,229
17–6838–00	Pickaway County	14,517
17–6840–00	Pike County	18,056
17–6842–00	Portage County	51,566
17–6848–00	Richland County	58,824
17–6852–00	Ross County	34,251
17–6854–00	Sandusky County	32,622
17–6856–00	Scioto County	56,504
17–6858–00	Seneca County	29,824
17–6862–00	Stark County	135,852
17–6866–00	Summit County	193,821
17–6870–00	Trumbull County	100,449
17–6880–00	Vinton County	7,456
17–6884–00	Washington County	32,029
17–6886–00	Wayne County	35,815
17–6890–00	Wood County	35,305
17–6894–00	State Set-Aside Committee, OH	319,240
	Ohio Total	3,815,905
Oklahoma:		
17–6896–00	Oklahoma City/Canadian, McLain, Oklahoma Counties	197,689
17–6897–00	Tulsa/Osage, Tulsa Counties	156,410
17–6902–00	Adair County	8,197
17–6914–00	Bryan County	6,781
17–6916–00	Caddo County	9,036
17–6922–00	Carter County	17,858
17–6924–00	Cherokee County	11,933
17–6926–00	Choctaw County	9,283
17–6930–00	Cleveland County	44,406
17–6938–00	Comanche County	30,136
17–6946–00	Creek County	19,175
17–6948–00	Custer County	7,012
17–6950–00	Delaware County	11,472
17–6956–00	Garfield County	14,632
17–6960–00	Garvin County	9,629
17–6962–00	Grady County	13,974
17–6972–00	Haskell County	8,657
17–6976–00	Jackson County	8,526
17–6982–00	Kay County	22,170
17–6988–00	Latimer County	8,361
17–6990–00	Le Flore County	21,644
17–6992–00	Lincoln County	10,221
17–6994–00	Logan County	7,028
17–7002–00	McCurtain County	19,158
17–7004–00	McIntosh County	8,411
17–7010–00	Mayes County	9,859
17–7014–00	Muskogee County	29,067
17–7028–00	Okmulgee County	19,372
17–7034–00	Ottawa County	14,221
17–7038–00	Payne County	9,513
17–7040–00	Pittsburg County	20,409
17–7042–00	Pontotoc County	12,213
17–7044–00	Pottawatomie County	20,623
17–7054–00	Seminole County	13,266
17–7056–00	Sequoyah County	21,890
17–7058–00	Stephens County	11,702
17–7068–00	Wagoner County	12,641
17–7078–00	State Set-Aside Committee, OK	66,478
	Oklahoma Total	943,053
Oregon:		
17–7080–00	Portland/Clackamas, Multnomah, Washington Counties	532,349
17–7082–00	Salem/Marion, Polk Counties	147,275
17–7088–00	Baker County	10,846
17–7090–00	Benton County	17,776
17–7096–00	Clatsop County	17,348

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–7098–00	Columbia County	21,676
17–7100–00	Coos County	43,748
17–7102–00	Crook County	11,604
17–7104–00	Curry County	12,328
17–7106–00	Deschutes County	63,696
17–7108–00	Douglas County	64,058
17–7112–00	Grant County	9,020
17–7116–00	Hood River County	16,805
17–7118–00	Jackson County	97,684
17–7120–00	Jefferson County	8,295
17–7122–00	Josephine County	40,720
17–7124–00	Klamath County	44,752
17–7126–00	Lake County	6,781
17–7128–00	Lane County	138,947
17–7132–00	Lincoln County	27,865
17–7134–00	Linn County	65,490
17–7136–00	Malheur County	19,981
17–7142–00	Morrow County	6,798
17–7154–00	Tillamook County	11,176
17–7156–00	Umatilla County	39,518
17–7158–00	Union County	14,286
17–7162–00	Wasco County	15,093
17–7170–00	Yamhill County	31,980
17–7172–00	State Set-Aside Committee, OR	7,413
	Oregon Total	1,545,308
Pennsylvania:		
17–7174–00	Bethlehem/Lehigh, Northampton Counties	206,083
17–7180–00	Allegheny County	440,294
17–7184–00	Armstrong County	37,329
17–7186–00	Beaver County	67,844
17–7188–00	Bedford County	27,371
17–7190–00	Berks County	124,446
17–7194–00	Blair County	53,821
17–7198–00	Bradford County	23,701
17–7208–00	Cambria County	78,246
17–7212–00	Carbon County	31,107
17–7214–00	Centre County	30,466
17–7218–00	Clarion County	17,644
17–7220–00	Clearfield County	51,270
17–7222–00	Clinton County	20,261
17–7224–00	Columbia County	34,498
17–7226–00	Crawford County	34,021
17–7230–00	Dauphin County	75,794
17–7234–00	Delaware County	186,464
17–7242–00	Erie County	123,623
17–7246–00	Fayette County	70,708
17–7252–00	Fulton County	8,312
17–7254–00	Greene County	22,713
17–7256–00	Huntingdon County	28,935
17–7258–00	Indiana County	46,085
17–7260–00	Jefferson County	23,997
17–7262–00	Juniata County	12,213
17–7264–00	Lackawanna County	111,312
17–7268–00	Lancaster County	119,163
17–7272–00	Lawrence County	38,596
17–7274–00	Lebanon County	35,601
17–7282–00	Luzerne County	175,338
17–7284–00	Lycoming County	58,693
17–7286–00	McKean County	22,499
17–7288–00	Mercer County	41,312
17–7290–00	Mifflin County	22,730
17–7292–00	Monroe County	60,437
17–7306–00	Northumberland County	46,233
17–7310–00	Philadelphia City/County	683,706
17–7314–00	Potter County	10,089
17–7316–00	Schuylkill County	77,143
17–7320–00	Somerset County	42,201
17–7324–00	Susquehanna County	18,072
17–7326–00	Tioga County	19,734
17–7330–00	Venango County	24,639
17–7334–00	Washington County	80,781
17–7336–00	Wayne County	22,384
17–7338–00	Westmoreland County	158,665

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–7340–00	Wyoming County	19,405
17–7342–00	York County	119,361
17–7344–00	State Set-Aside Committee, PA	429,663
	Pennsylvania Total	4,315,003
Rhode Island:		
17–7354–00	Providence Census County	255,806
17–7368–00	State Set-Aside Committee, RI	96,772
	Rhode Island Total	352,578
South Carolina:		
17–7370–00	Abbeville County	9,102
17–7372–00	Aiken County	51,698
17–7376–00	Anderson County	34,844
17–7378–00	Bamberg County	7,950
17–7380–00	Barnwell County	11,883
17–7382–00	Beaufort County	15,965
17–7384–00	Berkeley County	28,441
17–7388–00	Charleston County	77,127
17–7394–00	Cherokee County	13,858
17–7396–00	Chester County	18,714
17–7398–00	Chesterfield County	22,680
17–7400–00	Clarendon County	13,184
17–7402–00	Colleton County	9,744
17–7404–00	Darlington County	31,173
17–7406–00	Dillon County	15,373
17–7410–00	Edgefield County	6,633
17–7412–00	Fairfield County	11,554
17–7414–00	Florence County	45,756
17–7416–00	Georgetown County	32,194
17–7418–00	Greenville County	57,047
17–7422–00	Greenwood County	23,207
17–7424–00	Hampton County	6,584
17–7426–00	Horry County	59,450
17–7430–00	Kershaw County	17,167
17–7432–00	Lancaster County	21,463
17–7434–00	Laurens County	13,628
17–7436–00	Lee County	12,196
17–7442–00	Marion County	20,360
17–7444–00	Marlboro County	22,993
17–7446–00	Newberry County	12,937
17–7450–00	Orangeburg County	43,452
17–7452–00	Pickens County	23,783
17–7454–00	Richland County	59,335
17–7460–00	Spartanburg County	66,017
17–7462–00	Sumter County	34,218
17–7464–00	Union County	15,521
17–7466–00	Williamsburg County	29,231
17–7468–00	York County	47,287
17–7470–00	State Set-Aside Committee, SC	49,769
	South Carolina Total	1,093,518
South Dakota		
17–7486–00	Brown County	7,160
17–7580–00	Pennington County	20,508
17–7614–00	State Set-Aside Committee, SD	122,332
	South Dakota	150,000
Tennessee:		
17–7616–00	Anderson County	27,404
17–7618–00	Bedford County	15,982
17–7620–00	Benton County	10,106
17–7624–00	Blount County	30,136
17–7626–00	Bradley County	34,399
17–7628–00	Campbell County	19,405
17–7632–00	Carroll County	18,813
17–7634–00	Carter County	28,852
17–7640–00	Claiborne County	10,863
17–7642–00	Clay County	9,513
17–7644–00	Cocke County	22,401
17–7646–00	Coffee County	19,685
17–7648–00	Crockett County	8,345
17–7650–00	Cumberland County	20,475
17–7652–00	Davidson County	152,492

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–7656–00	Decatur County	8,657
17–7658–00	De Kalb County	9,826
17–7660–00	Dickson County	14,303
17–7662–00	Dyer County	14,961
17–7664–00	Fayette County	10,731
17–7666–00	Fentress County	10,764
17–7668–00	Franklin County	14,171
17–7670–00	Gibson County	22,384
17–7672–00	Giles County	12,361
17–7674–00	Grainger County	9,415
17–7676–00	Greene County	44,044
17–7678–00	Grundy County	7,291
17–7680–00	Hamblen County	26,581
17–7682–00	Hamilton County	108,712
17–7688–00	Hardeman County	18,319
17–7690–00	Hardin County	16,656
17–7692–00	Hawkins County	22,055
17–7694–00	Haywood County	15,027
17–7696–00	Henderson County	19,734
17–7698–00	Henry County	16,969
17–7700–00	Hickman County	6,847
17–7702–00	Houston County	7,110
17–7704–00	Humphreys County	10,962
17–7708–00	Jefferson County	21,199
17–7710–00	Johnson County	9,842
17–7712–00	Knox County	101,848
17–7718–00	Lauderdale County	14,402
17–7720–00	Lawrence County	35,930
17–7722–00	Lewis County	9,908
17–7724–00	Lincoln County	17,743
17–7726–00	Loudon County	13,118
17–7728–00	McMinn County	25,972
17–7730–00	McNairy County	13,957
17–7732–00	Macon County	9,777
17–7734–00	Madison County	31,025
17–7736–00	Marion County	13,875
17–7740–00	Marshall County	10,040
17–7742–00	Maury County	28,787
17–7744–00	Meigs County	6,946
17–7746–00	Monroe County	21,792
17–7748–00	Montgomery County	38,382
17–7754–00	Morgan County	8,789
17–7756–00	Obion County	15,702
17–7758–00	Overton County	13,612
17–7764–00	Polk County	7,900
17–7766–00	Putnam County	27,799
17–7768–00	Rhea County	17,644
17–7770–00	Roane County	28,178
17–7774–00	Rutherford County	55,483
17–7776–00	Scott County	10,731
17–7780–00	Sevier County	41,263
17–7782–00	Shelby County	312,194
17–7786–00	Smith County	7,407
17–7788–00	Stewart County	6,699
17–7790–00	Sullivan County	47,583
17–7794–00	Tipton County	18,994
17–7798–00	Unicoi County	8,361
17–7804–00	Warren County	24,935
17–7806–00	Washington County	34,169
17–7808–00	Wayne County	15,965
17–7810–00	Weakley County	16,574
17–7812–00	White County	14,435
17–7816–00	State Set-Aside Committee, TN	85,709
	Tennessee Total	2,121,420
Texas:		
17–7820–00	Abilene/Jones, Taylor Counties	40,933
17–7822–00	Amarillo/Potter, Randall Counties	65,852
17–7824–00	Austin/Travis, Williamson Counties	258,093
17–7826–00	Dallas/Collin, Dallas, Denton Counties	929,752
17–7828–00	Houston/Ft Bend, Harris Counties	1,389,089
17–7830–00	Longview/Gregg, Harrison Counties	101,749
17–7856–00	Anderson County	18,220
17–7860–00	Angelina County	33,083

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–7862–00	Aransas County	9,991
17–7868–00	Atascosa County	12,789
17–7870–00	Austin County	6,979
17–7876–00	Bastrop County	14,286
17–7880–00	Bee County	9,629
17–7882–00	Bell County	72,387
17–7886–00	Bexar County	436,624
17–7896–00	Bowie County	55,928
17–7900–00	Brazoria County	113,880
17–7902–00	Brazos County	21,742
17–7912–00	Brown County	14,994
17–7916–00	Burnet County	8,279
17–7918–00	Caldwell County	10,056
17–7920–00	Calhoun County	10,600
17–7924–00	Cameron County	261,978
17–7934–00	Cass County	19,257
17–7938–00	Chambers County	8,641
17–7940–00	Cherokee County	14,731
17–7964–00	Comal County	17,085
17–7970–00	Cooke County	9,892
17–7972–00	Coryell County	16,755
17–8004–00	Deaf Smith County	9,250
17–8020–00	Dimmit County	10,056
17–8024–00	Duval County	7,752
17–8026–00	Eastland County	6,633
17–8028–00	Ector County	57,096
17–8034–00	Ellis County	33,329
17–8036–00	El Paso County	494,165
17–8040–00	Erath County	7,275
17–8044–00	Fannin County	9,299
17–8060–00	Freestone County	6,732
17–8062–00	Frio County	8,838
17–8066–00	Galveston County	147,818
17–8080–00	Gray County	7,341
17–8084–00	Grayson County	34,942
17–8090–00	Grimes County	6,765
17–8092–00	Guadalupe County	17,940
17–8094–00	Hale County	17,891
17–8104–00	Hardin County	24,392
17–8122–00	Hays County	22,467
17–8126–00	Henderson County	22,253
17–8128–00	Hidalgo County	564,625
17–8132–00	Hill County	10,698
17–8134–00	Hockley County	9,447
17–8138–00	Hopkins County	12,311
17–8142–00	Howard County	9,365
17–8146–00	Hunt County	25,215
17–8148–00	Hutchinson County	8,888
17–8158–00	Jasper County	29,429
17–8162–00	Jefferson County	134,486
17–8170–00	Jim Wells County	19,158
17–8180–00	Kaufman County	25,166
17–8188–00	Kerr County	6,798
17–8196–00	Kleberg County	13,924
17–8200–00	Lamar County	19,306
17–8202–00	Lamb County	7,374
17–8214–00	Liberty County	32,984
17–8216–00	Limestone County	7,917
17–8226–00	Lubbock County	74,823
17–8234–00	McLennan County	75,810
17–8248–00	Matagorda County	34,547
17–8250–00	Maverick County	80,665
17–8252–00	Medina County	11,357
17–8256–00	Midland County	38,070
17–8260–00	Milam County	8,197
17–8268–00	Montgomery County	77,637
17–8272–00	Morris County	9,250
17–8276–00	Nacogdoches County	22,335
17–8278–00	Navarro County	17,825
17–8280–00	Newton County	11,834
17–8282–00	Nolan County	7,719
17–8284–00	Nueces County	165,512
17–8292–00	Orange County	62,380
17–8294–00	Palo Pinto County	11,982

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–8296–00	Panola County	11,785
17–8302–00	Pecos County	6,830
17–8304–00	Polk County	14,616
17–8310–00	Presidio County	17,183
17–8324–00	Reeves County	9,052
17–8336–00	Rusk County	20,854
17–8344–00	San Patricio County	34,333
17–8354–00	Shelby County	10,616
17–8358–00	Smith County	85,982
17–8364–00	Starr County	97,092
17–8376–00	Tarrant County	413,483
17–8402–00	Titus County	13,019
17–8404–00	Tom Green County	28,458
17–8414–00	Tyler County	9,546
17–8416–00	Upshur County	17,134
17–8420–00	Uvalde County	20,261
17–8422–00	Val Verde County	29,067
17–8424–00	Van Zandt County	13,891
17–8426–00	Victoria County	32,111
17–8430–00	Walker County	8,262
17–8432–00	Waller County	9,382
17–8438–00	Webb County	110,456
17–8442–00	Wharton County	18,269
17–8446–00	Wichita County	47,139
17–8452–00	Willacy County	25,281
17–8458–00	Wilson County	7,160
17–8462–00	Wise County	11,785
17–8464–00	Wood County	12,641
17–8468–00	Young County	8,526
17–8470–00	Zapata County	6,995
17–8472–00	Zavala County	16,805
17–8474–00	State Set-Aside Committee, TX	220,434
	Texas Total	7,970,990
Utah:		
17–8480–00	Cache County	17,200
17–8482–00	Carbon County	7,489
17–8496–00	Iron County	7,703
17–8510–00	Salt Lake County	212,140
17–8518–00	Sanpete County	7,094
17–8526–00	Uintah County	8,460
17–8528–00	Utah County	64,931
17–8536–00	Washington County	17,842
17–8540–00	Weber County	62,923
17–8544–00	State Set-Aside Committee, UT	67,242
	Utah Total	473,024
Vermont:		
17–8552–00	Caledonia County	12,509
17–8554–00	Chittenden County	33,692
17–8566–00	Orleans County	14,780
17–8568–00	Rutland County	22,829
17–8576–00	State Set-Aside Committee, VT	66,190
	Vermont Total	150,000
Virginia:		
17–8584–00	Accomack County	19,290
17–8610–00	Buchanan County	24,096
17–8616–00	Caroline County	10,600
17–8618–00	Carroll County	9,349
17–8634–00	Dickenson County	17,973
17–8652–00	Giles County	10,501
17–8658–00	Grayson County	7,324
17–8664–00	Halifax County	29,396
17–8674–00	Isle of Wight County	9,908
17–8684–00	Lancaster County	9,233
17–8686–00	Lee County	14,385
17–8690–00	Louisa County	9,563
17–8698–00	Mecklenburg County	13,562
17–8702–00	Montgomery County	13,068
17–8710–00	Northumberland County	8,411
17–8716–00	Page County	10,649
17–8720–00	Pittsylvania County	28,309
17–8724–00	Prince Edward County	9,332

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–8730–00	Pulaski County	13,398
17–8742–00	Russell County	24,392
17–8744–00	Scott County	11,258
17–8748–00	Smyth County	18,648
17–8760–00	Tazewell County	31,700
17–8764–00	Washington County	23,635
17–8766–00	Westmoreland County	8,164
17–8768–00	Wise County	28,375
17–8770–00	Wythe County	13,348
17–8778–00	Bristol City	6,863
17–8792–00	Danville City	28,326
17–8810–00	Hopewell City	8,690
17–8814–00	Lynchburg City	16,870
17–8822–00	Newport News City	63,729
17–8824–00	Norfolk City	86,080
17–8828–00	Petersburg City	18,911
17–8832–00	Portsmouth City	51,072
17–8836–00	Richmond City	70,938
17–8838–00	Roanoke City	29,708
17–8846–00	Suffolk City	22,713
17–8856–00	State Set-Aside Committee, VA	605,986
	Virginia Total	1,437,751
Washington:		
17–8858–00	Adams County	14,978
17–8860–00	Asotin County	7,225
17–8862–00	Benton County	73,588
17–8864–00	Chelan County	43,616
17–8866–00	Clallam County	30,169
17–8868–00	Clark County	99,346
17–8872–00	Cowlitz County	47,649
17–8874–00	Douglas County	19,257
17–8878–00	Franklin County	33,346
17–8882–00	Grant County	49,196
17–8884–00	Grays Harbor County	41,263
17–8888–00	Jefferson County	10,188
17–8890–00	King County	489,836
17–8896–00	Kitsap County	77,045
17–8898–00	Kittitas County	14,616
17–8900–00	Klickitat County	14,764
17–8902–00	Lewis County	40,555
17–8906–00	Mason County	21,117
17–8908–00	Okanogan County	36,358
17–8910–00	Pacific County	12,476
17–8912–00	Pend Oreille County	8,016
17–8914–00	Pierce County	233,553
17–8920–00	Skagit County	52,636
17–8922–00	Skamania County	6,600
17–8924–00	Snohomish County	162,434
17–8928–00	Spokane County	145,020
17–8932–00	Stevens County	24,277
17–8934–00	Thurston County	78,625
17–8938–00	Walla Walla County	26,466
17–8940–00	Whatcom County	71,745
17–8944–00	Yakima County	180,390
17–8948–00	State Set-Aside Committee, WA	20,440
	Washington Total	2,186,790
West Virginia:		
17–8950–00	Huntington/Cabell, Wayne Counties	54,463
17–8954–00	Barbour County	11,916
17–8956–00	Berkeley County	22,088
17–8958–00	Boone County	11,966
17–8960–00	Braxton County	9,135
17–8962–00	Brooke County	13,101
17–8970–00	Clay County	7,802
17–8974–00	Fayette County	26,318
17–8978–00	Grant County	7,999
17–8980–00	Greenbrier County	19,389
17–8982–00	Hampshire County	8,443
17–8984–00	Hancock County	16,327
17–8988–00	Harrison County	41,213
17–8990–00	Jackson County	14,418
17–8994–00	Kanawha County	80,698

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–8998–00	Lewis County	10,007
17–9000–00	Lincoln County	12,756
17–9002–00	Logan County	22,779
17–9004–00	McDowell County	13,924
17–9006–00	Marion County	35,173
17–9008–00	Marshall County	17,546
17–9010–00	Mason County	16,492
17–9012–00	Mercer County	25,018
17–9014–00	Mineral County	10,254
17–9016–00	Mingo County	19,010
17–9018–00	Monongalia County	25,100
17–9024–00	Nicholas County	16,706
17–9026–00	Ohio County	19,372
17–9034–00	Preston County	16,541
17–9036–00	Putnam County	19,652
17–9038–00	Raleigh County	41,279
17–9040–00	Randolph County	19,339
17–9042–00	Ritchie County	7,884
17–9044–00	Roane County	11,604
17–9048–00	Taylor County	8,806
17–9050–00	Tucker County	7,176
17–9054–00	Upshur County	12,344
17–9062–00	Wetzel County	11,324
17–9066–00	Wood County	40,522
17–9068–00	Wyoming County	11,801
17–9070–00	State Set-Aside Committee, WV	38,201
	West Virginia Total	835,886
Wisconsin:		
17–9072–00	Eau Claire/Chippewa, Eau Claire Counties	43,550
17–9098–00	Ashland County	8,838
17–9102–00	Bayfield County	7,703
17–9104–00	Brown County	60,668
17–9120–00	Clark County	15,406
17–9126–00	Dane County	65,869
17–9134–00	Douglas County	17,101
17–9136–00	Dunn County	11,291
17–9148–00	Grant County	18,385
17–9158–00	Jackson County	7,538
17–9162–00	Juneau County	12,377
17–9164–00	Kenosha County	42,119
17–9170–00	La Crosse County	26,499
17–9176–00	Langlade County	8,674
17–9182–00	Marathon County	40,884
17–9184–00	Marinette County	18,171
17–9190–00	Milwaukee County	300,344
17–9198–00	Monroe County	15,373
17–9200–00	Oconto County	12,970
17–9214–00	Polk County	13,727
17–9216–00	Portage County	24,047
17–9220–00	Racine County	60,404
17–9226–00	Rock County	47,254
17–9230–00	Rusk County	7,686
17–9236–00	Sawyer County	9,201
17–9242–00	Taylor County	8,312
17–9246–00	Vernon County	9,497
17–9248–00	Vilas County	8,229
17–9252–00	Washburn County	7,275
17–9264–00	Waushara County	8,822
17–9266–00	Winnebago County	42,333
17–9272–00	State Set-Aside Committee, WI	311,854
	Wisconsin Total	1,292,401
Wyoming:		
17–9288–00	Fremont County	21,676
17–9302–00	Natrona County	27,898
17–9326–00	State Set-Aside Committee, WY	100,426
	Wyoming Total	150,000
American Samoa:		
17–9328–00	American Samoa	105,525
	American Samoa Total	105,525
Guam:		

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

17–9330–00 Guam	100,500
Guam Total	100,500
Northern Marianas:	
17–9332–00 Northern Mariana Islands	65,325
Northern Marianas Total	65,325
Puerto Rico:	
17–9334–00 Puerto Rico	2,509,650
Puerto Rico Total	2,509,650
Virgin Islands:	
17–9340–00 Virgin Islands	140,700
Virgin Islands Total	140,700

[FR Doc. 99–10528 Filed 4–27–99; 8:45 am]
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federal register

Wednesday
April 28, 1999

Part IV

Department of Education

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Inviting Nominations for Individuals To Serve as Peer Reviewers on Standing Panels; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Nominations for Individuals to Serve as Peer Reviewers on Standing Panels

Purpose: The purpose of this notice is to invite interested parties to nominate qualified individuals to serve three-year terms as peer reviewers on standing panels.

FOR FURTHER INFORMATION CONTACT: Robert Jaeger, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3422, Switzer Building, Washington, DC. 20202–2645. Telephone: (202) 205–8061. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: Robert_Jaeger@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: Section 202(f)(1) of the Rehabilitation Act, as amended, requires the Director of NIDRR to provide for scientific review of all applications for financial assistance for research, training, and demonstration projects. The scientific peer review must be conducted by individuals who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals representatives, who are not Federal employees, and who are competent to review applications for the financial assistance.

NIDRR's current peer review process uses *ad hoc* panels that are selected on a competition by competition basis. Many constituents have criticized the *ad hoc* panel system, and the Institute of Medicine, in its report Enabling America, recommended that NIDRR establish a standing panel review process in order to enhance its peer review process. One of the recommendations from the steering committee for NIDRR's long-range planning process was that NIDRR devise improvements to its research application review process. In 1997–1998, NIDRR formed a Standing Panel Working Group (SPWG) to evaluate NIDRR's existing peer review procedures and compare them to practices of other Federal agencies. Representatives from the National Institutes of Health, the National Science Foundation, the Department of Veterans Affairs, and the Department of Health and Human Services, all with direct experience with peer review systems served on the SPWG. The SPWG produced a report on current practices at other agencies, and a recommendation for NIDRR to establish standing panels aligned with the objectives in the proposed Long-Range Plan (LRP). The proposed LRP can be accessed on the World Wide Web at:

http://www.ed.gov/legislation/FedRegister/announcements/1998–4/102698a.html

NIDRR plans to use standing panels of peer reviewers to evaluate Field Initiated Project (FIP) applications and applications for Small Business Innovative Research (SBIR) projects. NIDRR receives approximately 200 FIP applications and 200 SBIR applications per year. NIDRR plans to use standing panels in order to enhance continuity, provide for more extensive feedback, and obtain the services of better qualified reviewers, including those with disabilities and those from diverse backgrounds.

NIDRR plans for peer reviewers to serve for three-year terms on the standing panels, with two meetings to be held per year: one for FIP reviews and one for SBIR reviews. Because NIDRR plans to have staggered terms, there will be an ongoing need for candidates for appointment. The nomination process will remain open on a continuous basis, and nominations may be made at any time.

The format for submitting nominations for the new standing panels is in the Appendix. Individuals should review the list of standing panels NIDRR intends to form, and nominate *ONE* individual to serve as a member of *ONE* of these standing panels. Individuals may not nominate more than one person or nominate the same person for more than one panel. The nominator should be well acquainted with the nominee and have insight as to the nominee's abilities as a peer reviewer. Individuals may be qualified to be peer reviewers on the basis of education and training or some combination of personal and professional experience with disability. Nominators must contact the individual they wish to nominate to determine if the prospective nominee is willing to serve, and to avoid multiple nominations. Nominators must obtain the nominee's resume or curriculum vitae for submission to NIDRR. Individuals may not nominate themselves.

The standing panels NIDRR intends to form are based on the research agenda stated in the proposed LRP. They are as follows: (1) Employment Outcomes; (2) Health and Function; (3) Technology for Access and Function; (4) Independent Living and Community Integration; and (5) Statistics, Outcomes Research, Disability Studies, Rehabilitation Science, and Policy.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.html
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) at (202) 512–1530 or, toll free at 1–888–293–6498.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

http://www.access.gpo.gov/nara/index.html

Applicable Program Regulations: 34 CFR Part 350.

Program Authority: 29 U.S.C. 760–764.

Dated: April 22, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix—Nomination Procedure

Prospective panel members must be nominated by an individual who is well acquainted with the nominee and has insight as to the nominee's abilities as a peer reviewer. Nominators must contact the individual they wish to nominate to determine if the prospective nominee is willing to serve, and to avoid multiple nominations. If multiple nominations for a single individual are received, only the first nomination received by NIDRR will be processed. Individuals may not nominate themselves. The nominator should forward two items to NIDRR:

1. One Page Cover Letter

This is prepared by the nominator, and should include:

(1) The name of the nominee, mailing address, and other contact information for both nominator and nominee; (2) the name of the panel the individual is being nominated to; (3) a brief description of the qualifications of the nominee to serve as a member of that

standing panel; and (4) a brief statement as to how the nominator is acquainted with the nominee.

2. Complete Resume or Curriculum Vitae of Nominee

This may be in any format and length, but must include sufficient information to evaluate the nominee's credentials, including their education and experience.

These documents should be sent by mail to: Robert J. Jaeger, Ph.D., Standing Panel Nominations, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3422, Switzer Building, Washington, DC. 20202–2645.

If the documents are sent by courier service, the following address should be used: Robert J. Jaeger, Ph.D., Standing Panel Nominations, U.S. Department of Education; 330 C St., SW.; Room 3422, Switzer Building, Washington, DC. 20202–2645. Telephone 202–205–8061.

Nominations by fax, e-mail, or other electronic versions will not be accepted. Confirmation of receipt of nomination will be sent by regular mail to all nominators and nominees.

[FR Doc. 99–10607 Filed 4–27–99; 8:45 am]

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federal register

Wednesday
April 28, 1999

Part V

Department of Education

Community Technology Centers Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.341]

Community Technology Centers Program; Notice Inviting Applications for New Awards for Fiscal year (FY) 1999

Note to Applicants: This notice is a complete application package. Together with the statute authorizing these grants and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition. These grants are authorized by Title III, section 3122 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Improving America's Schools Act of 1994 (20 U.S.C. 6832).

Purpose of Program: The purpose of the Community Technology Centers program is to increase access to technology and promote the use of technology in education through the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities.

Eligible Applicants: State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit or for-profit agencies and organizations are eligible to receive grants under this program. A group of eligible entities is also eligible to receive a grant if the group follows the procedures for group applications in 34 CFR 75.127–129 of EDGAR.

Deadline for Transmittal of Applications: June 14, 1999.

Note: See information on Technical Assistance Workshops under **SUPPLEMENTARY INFORMATION**.

Deadline for Intergovernmental Review: August 13, 1999.

Estimated Available Funds: $9,250,000.

Matching Requirement: Recipients of grants under this program must share in the cost of the activities assisted under the grant. Grant recipients must make available non-Federal contributions in cash or in kind in the following percentages, as authorized under section 3122(d) of ESEA:

First year: Non-federal contribution—30 percent of the cost of activities assisted under the grant.

Second year: Non-federal contribution—40 percent of the cost of activities assisted under the grant.

Third year: Non-federal contribution—50 percent of the cost of activities assisted under the grant.

Estimated Range of Awards: $75,000–$300,000 each year.

Estimated Average Size of Awards: $180,000.

Estimated Number of Awards: 40 to 60.

Project Period: 36 months.

Please note that all applicants for multi-year awards are required to provide detailed budget information for the total grant period requested. The Department will determine at the time of the initial award the funding levels for each year of the grant award.

Note: The Department of Education is not bound by any estimates in this notice.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86.

SUPPLEMENTARY INFORMATION: A 1998 Department of Commerce study, Falling through the Net II: New Data on the Digital Divide, showed that although more Americans now own computers, minority and low-income households are still far less likely to have computers or online access to the Internet than more affluent households. The report showed that the "digital divide" between the technology "have's" and "have not's"—especially low-income individuals, minorities and the young in rural areas and central cities—is significant. In view of the time that it will take to connect these individuals to online access at home, the report advocated that schools, libraries, postsecondary institutions, and community organizations make computers and technology accessible to them.

Description of Program

The Community Technology Centers program is established to provide access to computers and technology, particularly educational technology, to adults and children in low-income communities who otherwise would lack that access. The program is authorized under section 3122 of ESEA. Under section 3122, the Secretary may carry out a variety of activities that promote the use of technology in education. These activities include the development of model programs, such as community technology centers, that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities. Under the Community Technology Centers program, the Secretary will award grants to establish or expand community technology centers that provide access to computers and technology for individuals in economically distressed urban and rural communities.

Applicants under this program are encouraged to propose an array of services and activities that provide access to computers and information technology for local community residents, such as:

1. *After-school Activities* for children of all ages to use software that provides homework help and academic enrichment, exploration of the Internet, and multimedia activities, including web page design and creation.

2. *Adult Education and Family Literacy*, including GED, English as a second Language, and adult basic education classes or programs, introduction to computers, intergenerational activities, and lifelong learning opportunities through technology and the Internet.

3. *Career Development and Job Preparation*, such as computer skills training (basic and advanced), resume writing workshops, and access to databases of employment opportunities, career information, and other online materials.

4. *Small Business Activities*, such as computer-based training for basic entrepreneurial skills and electronic commerce, as well as access to information on business start-up programs.

5. *Home Access* to computers and technology, such as assistance and services to promote the acquisition, installation, and use of information technology in the home through web-based television, network PCs, or other computer technology.

Although a single eligible applicant may apply for a grant under this program, the Secretary encourages applications from partnerships that include local community organizations or agencies. The Secretary will give a competitive preference to applications from eligible applicants that demonstrate substantial community support and commitment to the establishment or expansion of a community technology center or centers.

As indicated in the discussion of matching above, recipients of grants under this program must share in the cost of activities assisted under the grants through non-Federal contributions. The non-Federal share of activities may be in the form of cash or in-kind contributions, fairly valued.

Technical Assistance Workshops

We will hold four technical assistance workshops to assist applicants in preparing grant applications for the Community Technology Centers

program. The dates, times, and locations of the workshops are as follows:

1. May 7, 1999, 9:00 a.m. to 12:00 noon, Dallas County Community College District, Bill J. Priest Institute for Economic Development, 1402 Corinth Street, Rooms A and B (seating capacity 150), Dallas, Texas.

2. May 10, 1999, 1:00 p.m. to 4:00 p.m., Olive Harvey College, 10001 South Woodlawn Avenue, Bruce Cherry Theater (seating capacity 250), Chicago, Illinois.

3. May 10, 1999, 9:00 a.m. to 12:00 noon, Medgar Evers College, 1650 Bedford Avenue, Auditorium (seating capacity 400), Brooklyn, New York.

4. May 12, 1999, 9:00 a.m. to 12:00 noon, Los Angeles Community College District, Southwest College, 1600 West Imperial Highway, Little Theatre (seating capacity 350), Los Angeles, California.

Assistance to Individuals With Disabilities at the Technical Assistance Workshops

The technical assistance workshop sites are accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the workshop (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled workshop date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Waiver of Proposed Rulemaking: In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Ordinarily, this practice would have applied to the priorities and selection criteria in this notice. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts rules that apply to the first competition under a new or substantially revised program from this requirement. Although statutory authorization for this program has existed since 1994, the program was funded for the first time under the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, enacted October 22, 1998. As this competition is the first competition under the program, it therefore qualifies as a new competitive grants program. The Secretary, in accordance with section 437(d)(1) of GEPA, to ensure timely awards, has decided to forego public comments with respect to the competitive priorities and selection criteria. The competitive priorities and selection criteria will apply only to the fiscal year 1999 grant competition.

Competitive Priorities:

The Secretary will give preference to applications that meet one or both of the competitive priorities in the next two paragraphs. (34 CFR 75.105 (b)(2)(iii) and (c)(2)(i)).

Competitive Priority 1

Projects that demonstrate substantial community support of, and commitment to, the establishment or expansion of a community technology center or centers. The Secretary will award up to three additional points depending on how well an application meets this priority. These points would be in addition to any points the applicant earns under the selection criteria.

Competitive Priority 2

Projects that use the program funds to establish or expand a community technology center or centers in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture. The Secretary will award three additional points to an application that meets this priority. These points would be in addition to any points the applicant earns under the selection criteria.

Note: A list of areas that have been designated as Empowerment Zones and Enterprise Communities is published in the Appendix to this notice.

Definition: In addition to definitions in the statute and EDGAR, the following definition applies:

Economically distressed means a county or equivalent division of local government of a State in which, according to the most recent available data from the United States Bureau of the Census, a significant percentage of the residents have an annual income that is at or below the poverty level.

Selection Criteria: (a)(1) The Secretary uses the following selection criteria to evaluate applications for grants under this competition. In all instances where the word "project" appears in the selection criteria, the reference to a community technology center should be made.

(2) The maximum composite score for all of these criteria is 100 points.

(3) The maximum score for each criterion and factor is indicated in parentheses.

(b) *Meeting the purposes of the authorizing statute.* (10 points) The Secretary considers how well the project meets the purposes of section 3122(a) and (c)(10) of ESEA by developing a model project that demonstrates the educational effectiveness of technology and expands access to information technology and related services in an economically distressed urban or rural community.

(c) *Need for project.* (30 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (15 points)

(ii) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (15 points)

(d) *Quality of project design.* (20 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (10 points)

(ii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (10 points)

(e) *Quality of project personnel.* (10 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the qualifications, including relevant training and experience, of the project director or principal investigator. (10 points)

(f) *Quality of the management plan.* (10 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (5 points)

(ii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate. (5 points)

(g) *Adequacy of resources.* (10 points) (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization. (5 points)

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits. (5 points)

(h) *Quality of project evaluation.* (10 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (5 points)

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (5 points)

Note: In accordance with EDGAR 34 CFR 75.118, 75.590, 75.720, and 80.40, grant recipients must submit an annual performance report that provides the most current performance and financial expenditure information on project activities, including the recipient's progress in achieving the objectives in its approved application. If a recipient fails to submit a performance report that meets these requirements, the Secretary denies continued funding for the grant.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedures established in each State under the Executive order. The address of each State Single Point of Contact is in the Appendix to this notice.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372-CFDA #84.341, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW, Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice. PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant must-

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.341) Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.341), Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes

(1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice contains the following forms and instructions, a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), various assurances and certifications, and a checklist for applicants.

a. Instructions for the Application Narrative.

b. Estimated Public Reporting Burden Statement.

c. Notice to All Applicants (compliance with section 427 of GEPA).

d. Checklist for Applicants.

e. An excerpt of Public Law 103–382.

f. Application for Federal Assistance (ED 424, Exp. 06/30/2001) and instructions.

g. Budget Information-Non-construction Programs (ED Form No. 524) and instructions.

h. Assurances-Non-Construction Programs (Standard Form 424B) and instructions.

i. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

j. Certifications regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

k. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

An applicant may submit information on photostatic copies of the application, budget forms, assurances, and certifications as printed in this notice in the **Federal Register**. However, the application form, assurances, and certifications must each have an original signature. All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application, one bound and one unbound copy suitable for photocopying. Please mark each application as "original" or "copy". No grant may be awarded unless a completed application form, including the signed assurances and certifications, has been received.

FOR FURTHER INFORMATION CONTACT: Norris Dickard, Community Technology Centers Program, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4076, Switzer Building, Washington, DC 20202–7240. Telephone: (202) 205–9873. E-mail: norris__dickard@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

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To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

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Program Authority: 20 U.S.C. 6832.

Dated: April 22, 1999.

Robert Muller,

Acting Assistant Secretary for Vocational and Adult Education.

Appendix—Instructions for the Application Narrative

The narrative is the section of the application where the selection criteria used by reviewers in evaluating the application are addressed. The narrative must encompass each function or activity for which funds are being requested. Before preparing the Application Narrative, an applicant should read carefully the description of the program and the selection criteria the Secretary uses to evaluate applications.

The Secretary strongly requests the applicant to limit the Application Narrative (not including the Abstract) to no more than 20 double-spaced, typed pages (on one side only). The Department has found that successful applications for similar programs generally meet this page limit.

1. Begin with a one-page Abstract summarizing the proposed community technology center project, including a short description of the population to be served by the project, project objectives, and planned project activities;

2. Include a table of contents listing the parts of the narrative in the order of the selection criteria and the page numbers where the parts of the narrative are found. Be sure to number the pages.

3. Describe how the applicant meets the competitive priority(ies), if applicable.

4. Describe fully the proposed project in light of the selection criteria in the order in which the criteria are listed in the application package. Do not simply paraphrase the criteria.

5. In the application budget, include a description of the non-federal contributions that the applicant will make for each year of the project in amounts not less than the non-federal contributions as required in this notice. Budget line items must support the goals and objectives of the proposed project.

6. Provide the following in response to the attached "Notice to all Applicants": (1) a reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.

7. Attach copies of all required assurances and forms.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB Control Number for this information collection is 1830–0539 (Expiration Date: 04/30/2002). The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, DC 20202–4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Community Technology Centers Program, Division of Adult Education and Literacy, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–7240.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance (ED 424).

2. Budget Information—Non-construction Programs ED Form No. 524).

3. Application Narrative, including information that addresses section 427 of the General Education Provisions Act. (See the section entitled "NOTICE TO ALL APPLICANTS").

4. Assurances—Non-Construction Programs (SF 242B).

5. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

6. Disclosure of Lobbying Activities (Standard Form LLL).

BILLING CODE 4000–01–P

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES
(as of January 13, 1999)

EMPOWERMENT ZONES

California: Los Angeles, Oakland, Santa Ana, Riverside County*
Connecticut: New Haven+
Florida: Miami+
Georgia: Atlanta, Cordele*+
Illinois: Chicago, East St. Louis+, Ullin*
Indiana: Gary, East Chicago
Kentucky: Kentucky Highlands* (Clinton, Jackson, and Wayne Counties)
Maryland: Baltimore
Massachusetts: Boston+
Michigan: Detroit
Minnesota: Minneapolis+
Mississippi: Mid-Delta* (Bolivar, Holmes, Humphreys, LeFlore, Sunflower, Washington Counties)
Missouri/Kansas: Kansas City, Kansas City
Missouri: St. Louis+
New Jersey: Cumberland County
New York: Harlem, Bronx
North Dakota: Lake Agassiz*
Ohio: Cleveland, Cincinnati, Columbus+
Ohio/West Virginia: Ironton/Huntington+
Pennsylvania/New Jersey: Philadephia/ Camden
South Carolina: Columbia/Sumter
South Dakota: Oglala Sioux Reservation in Pine Ridge*
Tennessee: Knoxville
Texas: Houston, El Paso+, Rio GrandeValley* (Cameron, Hidalgo, Starr, and Willacy Counties)
Virginia: Norfolk+/Portsmouth

ENTERPRISE COMMUNITIES

Alabama: Birmingham
Alabama: Chambers County* Greene County*, Sumter County*
Alaska: Juneau*
Arizona: Arizona Border* (Cochise, Santa Cruz and Yuma Counties), Phoenix, Window Rock*
Arkansas: East Central* (Cross, Lee, Monroe, and St. Francis Counties), Mississippi County*, Pulaski County
California: Imperial County*, Los Angeles, Huntington Park, San Diego, San Francisco, Bayview, Hunter's Point, Watsonville*, Orange Cove*
Colorado: Denver
Connecticut: Bridgeport, New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County*, Miami, Dade County, Tampa, Immokalee*
Georgia: Albany, Central Savannah River*(Burke, Hancock, Jefferson, McDuffie, Tallafero, and Warren Counties), Crisp County*, Dooley County*
Hawaii: Kaunakakai*
Illinois: East St. Louis, Springfield
Indiana: Indianapolis, Austin*
Iowa: Des Moines
Kansas: Leoti*
Kentucky: Louisville, Bowling Green*
Louisiana: Macon Ridge* (Catahoula, Concordia, Franklin, Morehouse, and Tensas Parishes), New Orleans, Northeast Louisiana Delta* (Madison Parish), Ouachita Parish
Maine: Lewiston*
Massachusetts: Lowell, Springfield
Michigan: Five Cap*, Flint, Muskegon, Harrison*
Minnesota: Minneapolis, St. Paul
Mississippi: Jackson, North Delta Area* (Panola, Quitman, and Tallahatchie Counties)
Missouri: East Prairie*, St. Louis
Montana: Poplar*
Nebraska: Omaha
Nevada: Clarke County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque, La Jicarita* (Mora, Rio Arriba, Taos Counties), Deming*
New York: Albany, Schenectady, Troy
New York: Buffalo, Rochester
New York: Newburgh, Kingston
North Carolina: Charlotte
North Carolina: Edgecombe, Halifax, Robeson, Wilson Counties*
Ohio: Akron, Columbus, Greater Portsmouth* (Scioto County)
Oklahoma: Choctaw, McCurtain Counties*, Oklahoma City, Ada*
Oregon: Josephine County*, Portland
Pennsylvania: Harrisburg, Lock Haven*, Pittsburgh, Uniontown*
Rhode Island: Providence
South Carolina: Charleston, Williamsburg, Florence County*, Hallandale*
South Dakota: Beadle, Spink Counties*
Tennessee: Fayette, Haywood Counties*, Memphis, Nashville, Rutledge*
Tennessee/Kentucky: Scott, McCreary Counties*
Texas: Dallas, El Paso, San Antonio, Waco, Uvalde*
Utah: Ogden
Vermont: Burlington
Virginia: Accomack (Northampton County)*, Norfolk
Washington: Lower Yakima County*, Seattle, Tacoma, Collie*
West Virginia: Charleston*, Huntington, McDowell County*, West Central Appalachia* (Braxton, Clay, Fayette, Nicholas, and Roane)
Wisconsin: Milwaukee, Keshena*

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* Denotes rural designee
+Also an Enterprise Community, Round One

For further information consult the following Internet site: http://www.ezec.gov

STATE SINGLE POINT OF CONTACT
(As of April 22, 1999)

Note: In accordance with Executive Order 12372, Intergovernmental Review of Federal Programs, this listing represents the designated State Single Points of Contact (SSPOCs). Because participation is voluntary, some States and Territories no longer participate in the process. These include: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

The jurisdictions not listed no longer participate in the process. However, an applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a SSPOC.

ARIZONA
Ms. Joni Saad
Arizona State Clearinghouse
3800 N. Central Avenue
Fourteenth Floor
Phoenix, Arizona 85012
Telephone:(602) 280-1315
FAX:(602) 280-8144
jonis@ep.state.az.us

ARKANSAS
Mr. Tracy L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Services
Department of Finance and Administration
1515 W. 7th St., Room 412
Little Rock, Arkansas 72203
Telephone: (501) 682-1074
FAX: (501) 682-5206
tlcopeland@dfa.state.ar.us

CALIFORNIA
Grants Coordination
State Clearinghouse
Office of Planning and Research
1400 10th Street, Room 121
Sacramento, California 95814
Telephone: (916) 445-0613
FAX: (916) 323-3018
No e-mail address

DELAWARE
Executive Department
Office of the Budget
540 S. Dupont Highway
Suite 5
Dover, Delaware 19901
Telephone: (302) 739-3326
FAX: (302) 739-5661
No e-mail address

DISTRICT OF COLUMBIA
Mr. Charles Nichols
State Single Point of Contact
Office of Grants Management and Development
717 14th Street, N.W. - Suite 1200
Washington, D.C. 20005
Telephone: (202) 727-1700 (direct)
(202) 727-6537 (secretary)
FAX: (202) 727-1617
No e-mail address

FLORIDA
Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399-2100
Telephone: (850) 922-5438
FAX: (850) 414-0479
Contact: Ms. Cherie Trainor
(850) 414-5495
cherie.trainor@dca.state.fl.us

GEORGIA
Ms. Deborah Stephens
Coordinator
Georgia State Clearinghouse
270 Washington Street, S.W. - 8th Floor
Atlanta, Georgia 30334
Telephone: (404) 656-3855
FAX: (404) 656-7901
ssda@mail.opb.state.ga.us

ILLINOIS
Ms. Virginia Bova, Single Point of Contact
Illinois Department of Commerce and
Community Affairs
James R. Thompson Center
100 West Randolph, Suite 3-400
Chicago, IL 60601
Telephone: (312) 814-6028
FAX: (312) 814-1800

INDIANA
Ms. Allison Becker
State Budget Agency
212 State House
Indianapolis, Indiana 46204-2796
Telephone: (317) 232-7221 (direct line)
FAX: (317) 233-3323
No e-mail address

IOWA
Mr. Steven R. McCann
Division for Community Assistance
Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, Iowa 50309
Telephone: (515) 242-4719
FAX: (515) 242-4809
steve.mccann.@ided.state.ia.us

KENTUCKY
Mr. Kevin J. Goldsmith, Director
Sandra Brewer, Executive Secretary
Intergovernmental Affairs
Office of the Governor
700 Capitol Avenue
Frankfort, Kentucky 40601
Telephone: (502) 564-2611
FAX: (502) 564-0437
kgoldmkgosmith@mail.state.ky.us
sbrewer@mail.state.ky.us

MAINE
Ms. Joyce Benson
State Planning Office
184 State Street
38 State House Station
Augusta, Maine 04333
Telephone: (207) 287-3261
FAX: (207) 287-6489
joyce.benson@state.me.us

MARYLAND
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Maryland Office of Planning
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linda@mail.op.state.md.us

MICHIGAN
Mr. Richard Pfaff
Southeast Michigan Council of Governments
660 Plaza Drive - Suite 1900
Detroit, Michigan 48226
Telephone: (313) 961-4266
FAX: (313) 961-4869
pfaff@semcog.org

MISSISSIPPI
Ms. Cathy Mallette
Clearinghouse Officer
Department of Finance and Administration
550 High Street
303 Walters Sillers Building
Jackson, Mississippi 39201-3087
Telephone: (601) 359-6762
FAX: (601) 359-6758
No e-mail address

MISSOURI
Ms. Lois Pohl
Federal Assistance Clearinghouse
Office of Administration
P.O. Box 809
Jefferson Building, Room 915
Jefferson City, Missouri 65102
Telephone: (573) 751-4834
FAX: (573) 522-4395
pohll_@mail.oa.state.mo.us

NEVADA
Department of Administration
State Clearinghouse
209 E. Musser Street, Room 200
Carson City, Nevada 89710
Telephone: (702) 684-0222
FAX: (702) 684-0260
Contact: Ms. Heather Elliot
(702) 684-0209
helliot@govmail.state.nv.us

NEW HAMPSHIRE
Mr. Jeffrey H. Taylor
Director, New Hampshire Office of State Planning
Attn: Intergovernmental Review Process
Mr. Mike Blake
2 ½ Beacon Street
Concord, New Hampshire 03301
Telephone: (603) 271-4991
FAX: (603) 271-1728
No e-mail address

NEW MEXICO
Mr. Nick Mandell
Local Government Division
Room 201 Bataan Memorial Building
Santa Fe, New Mexico 87503
Telephone: (505) 827-4991
FAX: (505) 827-4984
No e-mail address

NEW YORK
New York State Clearinghouse
Division of the Budget
State Capitol
Albany, New York 12224
Telephone: (518) 474-1605
Fax: (518) 486-1217
No e-mail address

NORTH CAROLINA
Ms. Jeanette Furney
North Carolina Department of Administration
116 West Jones Street - Suite 5106
Raleigh, North Carolina 27603-8003
Telephone: (919) 733-7232
FAX: (919) 733-9571
jeanette_furney@mail.doa.state.nc.us

NORTH DAKOTA
North Dakota Single Point of Contact
Office of Intergovernmental Assistance
600 East Boulevard Avenue
Department 105
Bismarck, North Dakota 58505-0170
Telephone: (701) 328-2094
FAX: (701) 328-2308
No e-mail address

RHODE ISLAND
Mr. Kevin Nelson
Review Coordinator
Department of Administration
Division of Planning
One Capitol Hill, 4th Floor
Providence, Rhode Island 02908-5870
Telephone: (401) 222-1220 (secretary)
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knelson@planning.state.ri.us

SOUTH CAROLINA
Ms. Omeagia Burgess
State Single Point of Contact
Budget and Control Board
Office of State Budget
1122 Ladies Street - 12th floor
Columbia, South Carolina 29201
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FAX: (803) 734-0645
No e-mail address

TEXAS
Mr. Tom Adams
Governors Office
Director, Intergovernmental Coordination
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UTAH
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WEST VIRGINIA
Mr. Fred Cutlip, Director
Community Development Division
W. Virginia Development Office
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fcutlip@wvdo.org

WISCONSIN
Mr. Jeff Smith
Section Chief, Federal/State Relations
Wisconsin Department of Administration
101 East Wilson Street - 6th Floor
P.O. Box 7868
Madison, Wisconsin 53707
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FAX: (608) 267-6931
sjt@doa.state.wi.us

WYOMING
Ms. Sandy Ross
State Single Point of Contact
Department of Administration and Information
2001 Capitol Avenue, Room 214
Cheyenne, WY 82002
Telephone: (307) 777-5492
FAX: (307) 777-3696
sross1@missc.state.wy.us

TERRITORIES
GUAM*
Mr. Joseph Rivera
Acting Director
Bureau of Budget and Management Research
Office of the Governor
P.O. Box 2950
Agana, Guam 96932
Telephone: (671) 475-9411 or 9412
FAX: (671) 472-2825

PUERTO RICO
Ms. Elsa Luis
Director
Federal Proposals Division
1100 17th Street, N.W.
Suite 800
Washington, D.C. 20036
Telephone: (202) 778-0750
FAX: (202) 530-5559

NORTH MARIANA ISLANDS
Mr. Alvaro A. Santos, Executive Officer
Office of Management and Budget
Office of the Governor
Saipan, MP 96950
Telephone: (670) 664-2256
FAX: (670) 664-2272
Contact person: Ms. Jacoba T. Seman
Federal Programs Coordinator
Telephone: (670) 664-2289
FAX: (670) 664-2272

VIRGIN ISLANDS*
Nellon Bowry
Director, Office of Management and Budget
#41 Norregade Emancipation Garden Station
Second Floor
Saint Thomas, Virgin Islands 00802
Please direct all questions and correspondence about intergovernmental review to: Linda Clarke
Telephone: (809) 774-0750
FAX: (809) 776-0069

Note: This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to Sherron Duncan at the Office of Management and Budget (202) 395-3914 and to the State in question. Changes to the list will only be made upon formal notification by the State. The list is updated every six months and is also published biannually in the Catalog of Federal Domestic Assistance. The last changes made were to Delaware, Indiana, Missouri, New Mexico, Puerto Rico, Rhode Island, Utah, and Wisconsin.

*Guam and the Virgin Islands are not confirmed.

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved OMB No. 1875-0106 Exp. 06/30/2001

Applicant Information

1. Name and Address

Legal Name: _____

Address: _____

_____

_____ ____ _____ _____-_____

City State County ZIP Code + 4

Organizational Unit

2. Applicant's D-U-N-S Number [ ][ ][ ][ ][ ][ ][ ][ ][ ]

3. Catalog of Federal Domestic Assistance #: 8 4 . 3 4 1 ➡ Title: Community Technology Centers Program.

4. Project Director: _____

Address: _____

_____ ____ _____-_____

City State ZIP Code + 4

Tel. #: ( )_____-_____ Fax #: ( )_____-_____

E-Mail Address: _____

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)* ☐

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*: _____

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☒ Non-Construction

9. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

10. Proposed Project Dates:

Start Date:	End Date:
___/___/_____	___/___/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #: _____ *OR* b. Assurance of Compliance #: _____

c. IRB approval date: _____ { ☐ Full IRB or ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a.	Federal	$	.00
b.	Applicant	$	.00
c.	State	$	.00
d.	Local	$	.00
e.	Other	$	.00
f.	Program Income	$	.00
g.	**TOTAL**	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( )_____-_____ Fax #: ( )_____-_____

d. E-Mail Address:

e. **Signature of Authorized Representative** Date: ___/___/_____

REV. 1/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12 Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders; regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application ____ b. initial award c. post-award	**3. Report Type:** a. initial filing ____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____

4. Name and Address of Reporting Entity: ____ Prime ____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:**_____ **Title:**_____ **Telephone No.:** _____ **Date:** _____
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

EXCERPT FROM PUB.L. 103-382

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED BY

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

TITLE III. TECHNOLOGY FOR EDUCATION

``SEC. 3122. FEDERAL LEADERSHIP.

``(a) Program Authorized.--In order to provide Federal leadership in promoting the use of technology in education, the Secretary, in consultation with the National Science Foundation, the Department of Commerce, the United States National Commission on Libraries and Information Sciences, and other appropriate Federal agencies, may carry out activities designed to achieve the purposes of this part directly or by awarding grants or contracts competitively and pursuant to a peer review process to, or entering into contracts with, State educational agencies, local educational agencies, institutions of higher education, or other public and private nonprofit or for-profit agencies and organizations.

``(b) Assistance.--

``(1) In general.--The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 317 of the Goals 2000: Educate America Act.

``(2) Other federal agencies.--For the purpose of carrying out coordinated or joint activities consistent with the purposes of this part, the Secretary may accept funds from, and transfer funds to, other Federal agencies.

``(c) Uses of Funds.--The Secretary shall use funds made available to carry out this section for activities designed to carry out the purpose of this part, such as--

``(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the uses of technology for education, including professional development;

``(2) providing development grants to technical assistance providers, to enable such providers to improve substantially the services such providers offer to educators on the educational uses of technology, including professional development;

``(3) consulting with representatives of industry, elementary and secondary education, higher education, adult and family education, and appropriate experts in technology and educational applications of technology in carrying out activities under this subpart;

``(4) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

``(5) research on, and the development of, applications for education of the most advanced and newly emerging technologies which research shall be coordinated, when appropriate, with the Office of Educational Research and Improvement, and other Federal agencies;

``(6) the development, demonstration, and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians, and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents, and local communities and in other such areas as the Secretary deems appropriate;

``(7) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

``(8) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals, State content standards and State student performance standards;

``(9) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

``(10) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

``(11) research on, and the evaluation of, the effectiveness and benefits of technology in education;

``(12) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, tribal, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, which assessment and report shall use, to the extent possible, existing information and resources;

``(13) conferences on, and dissemination of information regarding, the uses of technology in education;

``(14) the development of model strategies to promote gender equity concerning access to, and the use of, technology in the classroom;

``(15) encouraging collaboration between the Department and other Federal agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

``(16) such other activities as the Secretary determines will meet the purposes of this subpart.

``(d) Non-Federal Share.--

``(1) In general.--Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

``(2) Increase.--The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this section after the first year such recipient receives funds under such grant or contract.

``(3) Maximum.--The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this section.

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April 28, 1999

Part VI

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone; Listing of Substitutes for Ozone-Depleting Substances; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6332–3]

RIN 2060–AG12

Protection of Stratospheric Ozone; Listing of Substitutes for Ozone-Depleting Substances

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action imposes restrictions or prohibitions on substitutes for ozone-depleting substances (ODSs) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the Clean Air Act, as amended in 1990, which requires EPA to evaluate substitutes for the ODSs to reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. The intended effect of the SNAP program is to expedite movement away from ozone-depleting compounds while avoiding a shift into substitutes posing other environmental problems.

On March 18, 1994, EPA promulgated a final rulemaking setting forth its plan for administering the SNAP program, and has since issued decisions on the acceptability and unacceptability of a number of substitutes. In this Final Rule (FRM), EPA is issuing its decisions on the acceptability of certain substitutes included in a May 21, 1997 notice of proposed rulemaking. Specifically, this action clarifies the criteria for unique fittings used in motor vehicle air-conditioning systems, and addresses the acceptability of certain substitutes in the fire suppression, solvent, and aerosol sectors, and the unacceptability of substitutes in the refrigeration and air conditioning, solvents, aerosols, fire suppression, and adhesives, coatings, & inks sectors.

EFFECTIVE DATE: May 28, 1999.

ADDRESSES: Written comments and data are available in Docket A–91–42, U.S. Environmental Protection Agency, OAR Docket and Information Center, 401 M Street, SW, Room M–1500, Mail Code 6102, Washington, DC 20460. The docket may be inspected between 8 a.m. and 5:30 p.m. on weekdays. Telephone (202) 260–7548; fax (202) 260–4400. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Protection Hotline at (800) 296–1996. Kelly Davis at (202) 564–2303 or fax (202) 565–2096, Analysis and Review Branch, Stratospheric Protection Division, Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to 501 3rd Street, NW, Washington, DC, 20001. EPA's Ozone World Wide Web site at "http://www.epa.gov/ozone/title6/snap/".

SUPPLEMENTARY INFORMATION: This action is divided into four sections:

I. Section 612 Program
  A. Statutory Requirements
  B. Regulatory History
II. Listing of Substitutes
III. Administrative Requirements
IV. Additional Information

I. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act (CAA) authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA is referring to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

- *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.
- *Listing of Unacceptable/Acceptable Substitutes*—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.
- *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substitute to or delete a substitute from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.
- *90-day Notification*—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's health and safety studies on such substitutes.
- *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.
- *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consumed large volumes of ozone-depleting compounds.

The Agency defines a "substitute" as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to chemical manufacturers, but may include importers, formulators or end-users when they are responsible for introducing a substitute into commerce.

II. Listing of Substitutes

To develop the lists of unacceptable and acceptable substitutes, EPA conducts screens of health and environmental risk posed by various substitutes for ozone-depleting compounds in each use sector. The outcome of these risk screens can be found in the public docket, as described above in the **ADDRESSES** portion of this document.

Under section 612, the Agency has considerable discretion in the risk

management decisions it can make in SNAP. The Agency has identified five possible decision categories: acceptable; acceptable subject to use conditions; acceptable subject to narrowed use limits; unacceptable; and pending. Fully acceptable substitutes, *i.e.*, those with no restrictions, can be used for all applications within the relevant sector end-use. Conversely, it is illegal to replace an ODS with a substitute listed by SNAP as unacceptable. A pending listing represents substitutes for which the Agency has not received complete data or has not completed its review of the data.

After reviewing a substitute, the Agency may make a determination that a substitute is acceptable only if certain conditions of use are met to minimize risk to human health and the environment. Such substitutes are described as "acceptable subject to use conditions." Use of such substitutes without meeting associated use conditions renders these substitutes unacceptable and subjects the user to enforcement for violation of section 612 of the Clean Air Act.

Even though the Agency can restrict the use of a substitute based on the potential for adverse effects, it may be necessary to permit a narrowed range of use within a sector end-use because of the lack of alternatives for specialized applications. Users intending to adopt a substitute acceptable with narrowed use limits must ascertain that other acceptable alternatives are not technically feasible. Companies must document the results of their evaluation, and retain the results on file for the purpose of demonstrating compliance. This documentation shall include descriptions of substitutes examined and rejected, processes or products in which the substitute is needed, reason for rejection of other alternatives, *e.g.*, performance, technical or safety standards, and the anticipated date other substitutes will be available and projected time for switching to other available substitutes. Use of such substitutes in applications and end-uses which are not specified as acceptable in the narrowed use limit renders these substitutes unacceptable.

In this final rule, EPA is issuing its decision on the acceptability of certain substitutes not previously reviewed by the Agency. Today's rule incorporates decisions proposed on May 21, 1997, at 62 FR 27873 (referred to hereinafter as "the proposal"). As described in the final rule for the SNAP program (59 FR 13044), EPA believes that notice-and-comment rulemaking is required to place any alternative on the list of prohibited substitutes, to list a substitute as acceptable only under certain use conditions or narrowed use limits, or to remove an alternative from either the list of prohibited or acceptable substitutes.

Parts A–E below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing listing decisions in this Final Rule are in Table 1 and Appendix H. Appendix H will appear in the Code of Federal Regulations (CFR) at 40 CFR part 82. Listings in Table 1 will not appear in the CFR and add to the list of alternatives acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substitute. The comments contained in Appendix H provide additional information on substitutes determined to be either unacceptable, acceptable subject to narrowed use limits, or acceptable subject to use conditions. Since comments are not part of the regulatory decision, they are not mandatory for use of a substitute. Nor should the comments be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of substitutes to apply all comments in their application of these substitutes, regardless of any regulatory requirements. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning—Class I

1. Acceptable Subject to Use Conditions

a. CFC–12 Automobile and Non-automobile Motor Vehicle Air Conditioners, Retrofit and New

(1) Criteria for Uniqueness of Fittings

Current SNAP regulations require that each refrigerant used in motor vehicle air conditioning may only be used with a set of fittings that is unique to that refrigerant. This final rule clarifies minimum criteria for uniqueness of fittings.

In the course of retrofitting a motor vehicle air-conditioning (MVAC) system, servicers of these systems, whether professional technicians or do-it-yourselfers, must affix fittings that are designed to work only with that refrigerant. To meet that goal, servicers must install fittings that satisfy the requirements set forth below.

- High-side screw-on fittings for each refrigerant must differ from high-side screw-on fittings for all other refrigerants, including CFC–12, and from low-side screw-on fittings for CFC–12;
- Low-side screw-on fittings for each refrigerant must differ from low-side screw-on fittings for all other refrigerants, including CFC–12;
- High-side screw-on fittings for a given refrigerant must differ from low-side screw-on fittings for that refrigerant, to protect against connecting a low-pressure system to a high-pressure one;
- High-side quick-connect fittings for each refrigerant must differ from high-side quick-connect fittings for all other refrigerants, including CFC–12 (if they exist);
- Low-side quick-connect fittings for each refrigerant must differ from low-side quick-connect fittings for all other refrigerants, including CFC–12 (if they exist);
- High-side quick-connect fittings for a given refrigerant must differ from low-side quick-connect fittings for that refrigerant, to protect against connecting a low-pressure system to a high-pressure one;
- For each type of container, the fitting for each refrigerant must differ from the fitting-for that type of container for all other refrigerants, including CFC–12.

For screw-on fittings, "differ" means that either the diameter must differ by at least 1/16 inch or the thread direction must be reversed (i.e. right-handed vs. left-handed). Simply changing the thread pitch is not sufficient. For quick-connect fittings, "differ" means that a person using normal force and normal tools (including wrenches) must not be able to cross-connect fittings. Following are some examples:

- a 3/8 (6/16) inch outside diameter screw-on fitting with a right-hand thread differs from a 5/16 inch outside diameter screw-on fitting with a right-hand thread;
- a 3/8 inch outside diameter screw-on fitting with a left-hand thread differs from a 3/8 inch outside diameter screw-on fitting with a right-hand thread;
- a 3/8 inch outside diameter screw-on fitting with a right-hand thread pitch of 18 threads/inch does not differ from a 3/8 inch outside screw-on diameter fitting with a right-hand thread pitch of 24 threads/inch;
- a quick-connect fitting differs from another quick-connect fitting if all combinations of the same type male and female parts (high, low, small can, 30-lb. cylinder) will not connect using normal tools.

The sole exception to the 1/16 inch difference requirement is the difference between the small can fittings for GHG–X4 and R–406A. The GHG–X4 small can fitting uses a metric measurement, and is slightly less than 1/16 inch larger than the small can fitting for R–406A. EPA has concluded that these fittings will not cross-connect, and therefore they may be used. No other exception exists, although EPA will consider any requests on a case-by-case basis.

2. Response to Comments

A commenter noted that the fittings for small cans of GHG–X4 are not 1/16 inch different from those of other refrigerants, and expressed concern that the fittings would be disallowed under the criteria for uniqueness in today's rule. The commenter further suggested that because the fittings were metric and EPA had confirmed they would not cross-thread with other fittings, that an exception be granted. EPA agrees and discusses this above.

B. Refrigeration and Air Conditioning—Class II

1. Unacceptable Substitutes

a. NARM–22

NARM–22, which consists of HCFC–22, HFC–23, and HFC–152a, is unacceptable as a substitute for HCFC–22 in all new and retrofitted end-uses.

NARM–22 contains HCFC–22, which is a class II ozone-depleting substance. EPA does not believe it is appropriate to replace a class II refrigerant with a blend containing a class II refrigerant. Listing this blend as acceptable would be a barrier to a smooth transition away from ozone-depleting refrigerants. Other alternatives to HCFC–22 are already acceptable that do not contain any ozone-depleting refrigerants.

In addition, HFC–23 has a lifetime of 250 years, and its 100-year global warming potential (GWP) is 11,700.[1] Both of these characteristics are considerably higher than other HFCs and HCFCs. Other acceptable HCFC–22 substitutes do not contain such high global warming components. The 1993 Climate Change Action Plan directs EPA to narrow the scope of uses allowed for HFCs with high global warming potentials where better alternatives exist. For this reason, and the fact that NARM–22 contains HCFC–22, the use of this blend as an HCFC–22 substitute is unacceptable.

C. Solvents Cleaning

1. Acceptable Substitutes

a. Metals Cleaning

(1) HFC–4310mee

HFC–4310mee is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in metals cleaning. This chemical does not deplete the ozone layer since it does not contain chlorine or bromine. Review under the SNAP program and the Toxic Substances Control Act premanufacture notification program determined that a time-weighted average workplace exposure standard of 200 ppm and a workplace exposure ceiling of 400 ppm established by the submitting company would adequately protect human health and that the industry can meet these exposure limits using the types of equipment specified in the product safety information provided by the chemical manufacturer. The ceiling limit, established by the submitting company, was set based on a potential acute central nervous system effect above 1500 ppm.

2. Unacceptable Substitutes

a. Chlorobromomethane

Chlorobromomethane (CBM) is unacceptable as a substitute for CFC–113, methyl chloroform (MCF), and HCFC–141b in metals cleaning, electronics cleaning and precision cleaning. CBM, also called Halon 1011, has been used as a fire suppressant. EPA has received notification that it can also be used as a solvent and that it is a potential substitute for the ozone-depleting solvents CFC–113, methyl chloroform and HCFC–141b. EPA received a SNAP submission requesting consideration of CBM as an acceptable substitute for CFC–113 and MCF in solvents cleaning of metals, electronics, and in precision cleaning.

Recent model analyses establish a best estimate for the ozone depletion potential (ODP) for CBM in the range of 0.07 to 0.15. Numerous other alternatives exist with either zero or much lower ODP that do not pose a comparable risk.

3. Response to Comments

Commenters identified six issues related to the proposed determination for chlorobromomethane:

- Ozone depletion potential of chlorobromomethane;
- Uncertainty in ODP calculation;
- CBM as a substitute for HCFC–141b;
- Comparison of CBM with CFC–113;
- CBM under the Montreal Protocol phaseout;
- Toxicological issues regarding CBM.

a. Ozone Depletion Potential of Chlorobromomethane

A number of the comments questioned the science employed in calculating the ODP of CBM. Other comments included studies to determine ODP conducted by separate groups. As these studies were completed, they were added to the docket during the comment period. The differences in estimates from the studies resulted in a conference among the modelers to compare results, and two of the modelers were found to have made miscalculations that affected their initial ODP estimates. Because the commenters were not privy to these collaborative conversations amongst the modelers, the Agency offers the following chronology to clarify the sequence of events leading to the agreement on ODP values.

The initial studies performed on CBM were the following: "Estimates of the Atmospheric Lifetime and ODP of CBM," (Ko and Chang, 1994); Calculation of the ODP of CBM (Pyle and Bekki, 1994); "Evaluation of ODP for CBM and 1-Bromo-Propane," (Wuebbles, Jain, and Patten, 1997). These studies produced ODP estimates for CBM ranging from 0.05 to 0.28. Because of inconsistencies between the models, Pyle, Bekki and Wuebbles met in the spring of 1997 to discuss the proper modeling procedures and appropriate variables to be used. The Pyle/Bekki model had not taken into account several key factors used in the standard assessments for determining ODP in international forums (*e.g.*, WMO, 1995). The meeting resulted in a clarification of various model parameters (*e.g.*, atmospheric lifetimes and atmospheric transport of different ozone-depleting compounds, relative reactivity of bromine, losses to the ocean sink), and recalculation of the original values. Based on their reanalyses, the group estimated the ODP for CBM, including the ocean sink, to be in the range of 0.07–0.15.

Based on additional sensitivity analyses on the potential effects of the ocean sink and the nearly negligible effects of the soil sink, Wuebbles et al. (1997) determined an ODP range of 0.11–0.13. Subsequently, extensive revisions were made to the underlying two-dimensional model to reflect recent data on various parameters including tropospheric chemistry and kinetic

[1] GWPs and atmospheric lifetimes cited in this document are from the Intergovernmental Panel on Climate Change (IPCC) report entitled *Climate Change 1995—The Science of Climate Change*, IPCC Second Assessment Report. More recent values for GWPs and atmospheric lifetimes published in the *Scientific Assessment of Ozone Depletion: 1998*, World Meteorological Organization Global Ozone Research and Monitoring Project—Report No. 44, may be somewhat different than the values cited here but do not alter any of the technical or policy determinations by EPA in this rule.

rates, atmospheric transport rates, and ozone hole processes. Based on these changes, Wuebbles et al. (1998) derived an ODP for CBM in the range of 0.08–0.1, with the range reflecting uncertainty in the ocean sink for CBM. A semi-empirical model used by a researcher in the NOAA Aeronomy Laboratory generated an ODP range comparable to the range derived in the analyses described above (Solomon, 1997).

Considering all available model results, EPA concludes that the best estimate for the ODP of CBM lies in the range 0.07 to 0.15 when an estimate for the ocean sink is included. This range is similar to the ODP for HCFC–141b, a compound also unacceptable for use as a solvent or adhesive, and whose use as a solvent is allowed only for specific aerosol applications exempted from the nonessential products prohibition under section 610 of the Clean Air Act.

b. Uncertainty in ODP Calculation

One commenter suggested that EPA should not make decisions until all areas of uncertainty are resolved and areas of disagreement among researchers have been understood. In fact, the Agency has attempted to gather and assess all available information from the full range of experts on the ODP of chlorobromomethane. Under section 612 of the CAA, the Agency has the obligation to reduce the overall risk to human health and the environment associated with substitutes to ozone-depleting substances. If new data become available after final rulemaking that are contrary to the current scientific understanding, section 612 of the CAA allows the Agency to reconsider its SNAP decision in response to either a petition or additional information.

c. CBM as a substitute for HCFC–141b

A commenter stated that in the past, the Agency has approved HCFC–141b while expressing concern for its ODP of 0.11, but that such approval was warranted to assist in the goal of the Montreal Protocol and section 612 of the CAA to move usage away from other compounds with higher ODPs (e.g., CFCs). The commenter believed that the same analysis applies to CBM as a substitute for HCFC–141b. The Agency disagrees with this comparison. In the case of HCFC–141b, there were no other viable alternatives for specific end-uses, and consequently HCFC–141b was deemed acceptable despite its relatively high ODP. HCFC–141b is scheduled for a production phaseout in 2003, and has been listed as unacceptable in many specific end-uses, including solvent end-uses, because available alternatives exist with a lower ODP. HCFC–141b use is banned under section 610 of the Clean Air Act (the nonessential products ban) for many uses, with exemptions limited to aerosol applications of wasp and hornet sprays, mold release agents, solvent cleaners for electronics applications, lubricants, aircraft maintenance products, and spinnerette cleaner lubricants. Considering that the ODP range for CBM is comparable to that of HCFC–141b and HCFC–141b is unacceptable as a substitute solvent in all end-uses, the Agency sees no environmental benefit to approving CBM.

d. Comparison of CBM with CFC–113

One commenter declared that the U.S. EPA must compare the ODP of CBM only to that of CFC–113, and not to the ODP of other substitutes. The Agency disagrees; under section 612(c) of the Clean Air Act (CAA), the Agency is required to compare substitutes to each other when they are available:

> "* * * it shall be unlawful to replace any class I or class II substance with any substitute substance which the Administrator determines may present adverse effects to human health or the environment, when the Administrator has identified an alternative that reduces the overall risk to human health and the environment and is currently or potentially available."

Recent model analyses establish a best estimate for the ODP for CBM in the range of 0.07 to 0.15. Numerous other alternatives exist with either zero or a much lower ODP that do not pose a comparable risk. Therefore, while the Agency does compare the substitute to the substance being replaced, if there are alternatives that pose a lower overall risk, EPA cannot list the substitute as acceptable.

e. CBM under the Montreal Protocol Phaseout

A commenter stated that the Montreal Protocol does not require the phaseout of CBM. While Parties to the Protocol have agreed to phase out many ozone-depleting substances, many other chemicals that pose risks to the ozone layer, including CBM, have not yet been addressed. Nevertheless, the CAA gives EPA authority to take actions more stringent than the Montreal Protocol, and the Agency believes that section 612 of the Act requires EPA to list CBM as an unacceptable substitute because of the environmental and health effect risks that it poses.

f. Toxicological Issues regarding CBM

Many commenters submitted comments regarding toxicological issues related to CBM. EPA is not addressing comments raised on toxicity issues at this time because the SNAP decision is based solely on the ODP of CBM.

D. Fire Suppression and Explosion Protection

1. Acceptable Subject to Use Conditions

a. Total Flooding Agents

(1) C_3F_8

C_3F_8 is acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.

See the discussion under "Response to Comments" (section II.D.4) of the changes made to the use limits on this agent. See Appendix H for a complete statement of the use conditions (unchanged) which apply to this agent in this end-use.

(2) C_4F_{10}

C_4F_{10} is acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.

See the discussion under "Response to Comments" (section II.D.4) of the changes made to the use limits on this agent. See Appendix H for a complete statement of the use conditions (unchanged) which apply to this agent in this end-use.

(3) HFC–236fa

HFC–236fa is acceptable as a Halon 1301 substitute when manufactured using any process that does not convert perfluoroisobutylene directly to HFC–236fa in a single step. HFC–236fa may be used in explosion suppression and explosion inertion applications without use limits, and may be used in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements: (a) because their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.

As discussed in the initial SNAP rulemaking (59 FR 13044, March 18, 1994), total flooding agents are acceptable for use in occupied areas only under the following conditions:

1. Where egress from an area cannot be accomplished within one minute, the employer shall not use the agent in

concentrations exceeding its "no observed adverse effect level" (NOAEL);

2. Where egress takes greater than 30 seconds but less than one minute, the employer shall not use the agent in a concentration greater than its "lowest observed adverse effect level" (LOAEL);

3. Agent concentrations greater than the LOAEL are only permitted in areas not normally occupied by employees provided that any employee in the area can escape within 30 seconds.

4. The employer shall assure that no unprotected employees enter the area during agent discharge.

These conditions were derived from an OSHA safety and health standard governing fire protection systems used in all workplaces (29 CFR part 1910, subpart L). This OSHA standard is designed to limit employee exposures to toxic levels of gaseous agents used in fixed total flood systems. Because OSHA had not set specific workplace standards for halon substitutes, EPA adopted the relevant provisions of 29 CFR part 1910, subpart L to govern the general use of halon substitute gaseous agents. As stated in the original SNAP rulemaking, EPA specifically defers to OSHA and has no intention to assume responsibility for regulating workplace safety in regard to fire protection (59 FR 13099 and 13101; also see discussion directly below).

The cardiac sensitization NOAEL of HFC–236fa is 10.0% (by volume) and its LOAEL is 15%. Cup burner tests with heptane indicate that the extinguishment concentration for this agent is 5.3%, thus making its calculated design concentration 6.4%. Compared to the cardiac sensitization values, these concentrations provide a sufficient margin of safety for use in a normally occupied area. HFC–236fa can replace Halon 1301 at a ratio of 1.3 by weight and 1.5 by volume. Due to its relatively high boiling point of minus 1.6 degrees centigrade, this agent may not be suitable in a low temperature environment.

The exposure concentration limits referred to here, set as conditions of acceptability under SNAP, are intended to protect worker safety in the absence of OSHA or other workplace limits established under voluntary consensus bodies. As suggested by the court in *Southern Pacific Transp. Co.* v. *Usery*, 539 F.2nd 386 (5th Cir.1976), "the scope of the exemption created by [OSHA] § 4(b)(1) is determined by the [Agency's] intent." EPA wishes to clarify that it has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to EPA's regulation of halon substitutes. In accordance with the National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d), EPA will work in consultation with OSHA to encourage development of technical standards to be adopted by voluntary consensus standards bodies. Once applicable consensus standards are established, EPA will rescind the workplace standards established under this rulemaking.

In the original March 18, 1994 SNAP rulemaking (59 FR 13099), the Agency made clear that in cases like this (where EPA finds acceptable the use of an agent only under certain conditions), we have sought to avoid overlap with other existing regulatory authorities. In setting conditions for the safe use of halon substitutes in the workplace under SNAP, EPA has specifically deferred to OSHA's other regulations that govern workplace safety. As stated in the preamble to the original SNAP rule at 59 FR 13099, "EPA has no intention to assume responsibility for regulating workplace safety especially with respect to fire protection, nor does the Agency intend SNAP regulations to bar OSHA from regulating under its Public Law 91–596 authority."

In the March 18, 1994 final SNAP rule (59 FR 13044), EPA required manufacturers to submit information on manufacturing processes to allow an assessment of the risks posed to the general public and workers. EPA clarified in that action that acceptability determinations made on the basis of one company's submission would apply to the same chemical produced by other manufacturers, obviating the need for duplicative reporting requirements and review. However, manufacturers who believe a given manufacturing process may pose additional risks beyond those posed by other processes involving the same chemical were required to alert EPA to that increased hazard. The February 8, 1996 (61 FR 4736) Notice of Acceptability specifically discussed the manufacturing process used in making HFC–236fa, and that discussion is repeated below.

EPA is aware of several methods for manufacturing HFC–236fa, including one that produces HFC–236fa directly from perfluoroisobutylene (PFIB). PFIB is an extremely toxic substance that could pose risks in very small concentrations. Thus, EPA believes it is appropriate to distinguish among the different methods for producing HFC–236fa. This acceptability determination does not prohibit the manufacture of HFC–236fa directly from PFIB. Rather, it finds acceptable the production of HFC–236fa in processes that do not convert PFIB directly to HFC–236fa in a single step. If a manufacturer wishes to produce HFC–236fa directly from PFIB, it must submit that process to EPA for review under SNAP.

HFC–236fa does not deplete stratospheric ozone. However, it has an atmospheric lifetime of 209 years and a 100-year GWP of 6300. Concerns have been raised about this agent's potential atmospheric effects. Please see discussion in the "Response to Comments" section II.D.4 on this issue. This agent should be handled so as to minimize unnecessary emissions, including: avoiding discharge testing and training; providing a high level of maintenance to avoid leaks and accidental discharges; recovering HFC–236fa from fire protection equipment in conjunction with testing or servicing; and destroying HFC–236fa or recycling it for later use. In addition, EPA encourages manufacturers to develop aggressive product stewardship programs to help users avoid such unnecessary emissions.

While HFC–236fa may be used without "last resort" use restrictions in explosion protection applications, this is not so for other total flooding applications, see section II.D.2 below. Before users adopt it for general fire suppression applications in the total flooding end-use, they must first ascertain that other non-PFC substitutes or alternatives are not technically feasible due to performance or safety requirements. In contrast, if a PFC is the only other substitute that is technically feasible due to performance or safety requirements, then this agent may be used in a general fire suppression application. Potential users are expected to evaluate the technical feasibility of other non-PFC substitutes or alternatives to determine their adequacy to control the particular fire risk. Such assessment may include an evaluation of the performance or functional effectiveness of the non-PFC agents for the intended applications as well as the risk to personnel potentially exposed to the agent. Similarly, use of HFC–236fa would be appropriate where use of other non-PFC substitutes or alternatives would violate the workplace safety use conditions set forth in the SNAP rulemakings and thus pose risks of adverse health effects.

To assist users in their evaluation for general fire suppression applications, EPA has prepared a list of vendors manufacturing halon substitutes and alternatives. Although users are not required to report the results of their investigation to EPA, companies must

retain these results for five years for future reference.

2. Acceptable Subject to Narrowed Use Limits

a. Total Flooding Agents

(1) C_3F_8

C_3F_8 is acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.

See the discussion under "Response to Comments" (section II.D.4) of the changes made to the use limits on this agent. See Appendix H for a complete statement of the use conditions (unchanged) which apply to this agent in this end-use.

(2) C_4F_{10}

C_4F_{10} is acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.

See the discussion under "Response to Comments" (section II.D.4) of the changes made to the use limits on this agent. See Appendix H for a complete statement of the use conditions (unchanged) which apply to this agent in this end-use.

(3) HFC–236fa

HFC–236fa is acceptable as a Halon 1301 substitute when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC–236fa in a single step. HFC–236fa may be used in explosion suppression and explosion inertion applications, and may be used in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions. Please see the section on "Acceptable Subject to Use Conditions" (II.D.1) for a complete discussion of this agent. This agent is subject to the use conditions stated in that section.

b. Streaming Agents

(1) C_6F_{14}

C_6F_{14} is acceptable as a Halon 1211 substitute in nonresidential applications where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.

See the discussion under "Response to Comments" (section II.D.4) of the changes made to the use limits on this agent. No applicable use conditions exist for this agent in the streaming agent end-use.

(2) HFC–236fa

HFC–236fa is acceptable as a Halon 1211 substitute in nonresidential applications when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC–236fa in a single step. The cardiac sensitization NOAEL of HFC–236fa is 10.0% and its LOAEL is 15%. (See preceding discussion regarding OSHA, HFC–236fa, and voluntary consensus workplace standards in section II.D.1) Cup burner tests with heptane indicate that the extinguishment concentration for this agent is 5.3%. Compared to Halon 1211, HFC–236fa has a weight equivalence of 1.08 to 2.15.

As discussed above, HFC–236fa does not deplete stratospheric ozone. However, it has an atmospheric lifetime of 209 years and a 100-year GWP of 6300. Concerns have been raised about this agent's potential atmospheric effects. Please see discussion in "Response to Comments" section II.D.4 regarding this issue. This agent should be handled so as to minimize unnecessary emissions, including: avoiding discharge testing and training; providing a high level of maintenance to avoid leaks and accidental discharges; recovering HFC–236fa from the fire protection equipment in conjunction with testing or servicing; and destroying HFC–236fa or recycling it for later use. In addition, EPA encourages manufacturers to develop aggressive product stewardship programs to help users avoid such unnecessary emissions.

Further, this agent may not be used in residential applications, e.g., by a private individual in applications in or around a permanent or temporary household, during recreation, or for any personal use or enjoyment. Use in watercraft or aircraft is excluded from the definition of residential use. As discussed in the "Response to Comments" section II.D.4, the use of this agent in local application extinguishing systems in textile process machinery is considered to be a streaming agent application.

(3) HFC–227ea

HFC–227ea is acceptable as a Halon 1211 substitute in nonresidential applications. The weight equivalence of this agent is 1.66 pounds per pound of Halon 1211. It has a cardiac sensitization NOAEL of 9.0%, and a LOAEL of 10.5%. (See preceding discussion regarding OSHA and voluntary consensus workplace standards in section II. D.1) Its cup burner extinguishment value is 5.8%.

This agent has no ozone depletion potential, a 100-year GWP of 2,900 relative to carbon dioxide, and an atmospheric lifetime of 36.5 years. It is already listed as acceptable subject to use conditions for use in total flooding applications as an alternative to Halon 1301 (See 59 FR 13107, March 18, 1994).

3. Unacceptable Substitutes

a. Total Flooding Agents

(1) Chlorobromomethane

Chlorobromomethane (CBM) is unacceptable as a substitute for Halon 1301 in total flooding applications. Recent analyses establish an ODP range for CBM of 0.07 to 0.15. Other alternatives exist for total flooding applications with lower or no ODP and do not pose a comparable risk. For example, HFC–227ea, as well as several inert gases, have no ODP. Additionally, current OSHA regulations prohibit the use of CBM as an extinguishing agent in fixed fire extinguishing systems where employees may be exposed. See 29 CFR 1910.160(b)(11).

4. Response to Comments

EPA received 197 letters with comments related to proposed halon substitute listings in the NPRM. Many of the letters were identical. This section summarizes the major comments and provides EPA's response to those comments. A supplemental response to comments document that addresses the remaining comments is available in the public docket for this rulemaking. The comments addressed in this document are grouped into the following four major categories:

- Limits on PFCs and other long-lived gases;
- HFC–236fa;
- Unrelated issues;
- Chlorobromomethane.

a. Limits on PFCs and Other Long-lived Gases

(1) Description of Use Limits

In the May 21, 1997 proposal, EPA proposed a change in the description of the use limits (often referred to as "last resort" use limits, first described in the June 13, 1995 final rule, 60 FR 31100) applicable to PFCs and other long-lived gases. Two commenters supported EPA's stated purpose in clarifying the

language but disagreed with the proposed change in language. One of the commenters opposed the proposed change because it eliminates the existing reference to cardiac sensitization. The commenter suggests that, despite EPA's statement that it is not changing but only clarifying policy, this change could be viewed by fire protection professionals, who might not read the preamble discussion, as a reduced concern by EPA for cardiac sensitization and therefore a change in policy. This commenter proposed alternative language, as follows:

"[X] is proposed acceptable as a Halon [1211/1301] substitute where other alternatives are not technically feasible due to performance or safety requirements. (a) due to their chemical or physical properties or (b) where human exposure may result in exposure to agent concentrations at or above established cardiac sensitization levels or below safe oxygen levels, in a failure to meet other applicable use conditions or in other unacceptable health effects under normal operating conditions."

In response, EPA reiterates that the proposed change in language is indeed a clarification of, not a change in, policy and that reference to "failure to meet applicable use conditions" is the most precise way to refer to the existing use conditions for any halon substitute. Existing SNAP use conditions for "clean agent" halon substitutes (meaning they dissipate rapidly, leaving no residue thereby avoiding secondary damage to the property they are protecting) are generally based on two measurements of exposure to health risks: the concentration and the length of time a person is exposed to the agent. To describe the applicable use conditions as "exposure to agent concentrations at or above established cardiac sensitization levels or below safe oxygen levels" is imprecise (as is the original language, "may approach cardiac sensitization levels") because it refers only to the exposure concentration, i.e., a "NOAEL," "LOAEL," "no effect level," or "lowest effect level," and not to the length of exposure.

The applicable use conditions for each SNAP-listed acceptable halon substitute are listed in the Code of Federal Regulations chart in a column immediately adjacent to the decision column containing the narrowed use limit language, if applicable. See 40 CFR part 82, subpart G, appendices A through G. It is easy for any fire protection professional to check the applicable use conditions to see the cardiac sensitization NOAEL or LOAEL, or the oxygen deprivation "no effect level" or "lowest effect level" by simply reading the next column of the chart for a particular halon substitute. Thus, EPA believes the commenter's concerns are addressed by EPA's proposed revised language and therefore rejects the proposed alternative language suggested by this commenter.

A second commenter supported EPA's proposed change in language, with one exception. The exception is EPA's proposed decision not to change the phrase "or result in other unacceptable health effects under normal operating conditions." The commenter suggests that this language may still allow for too much latitude regarding ability to select PFCs as an acceptable alternative. The commenter recommends deleting the phrase or, if that is not possible, changing the phrase to specify the type of unacceptable health effects, i.e., hypoxia for inert gases or cardiac sensitization for halocarbons. This would prevent system designers or specifiers from using theoretical or potentially insignificant health effects to justify the use of PFCs.

EPA acknowledges that the phrase "or result in other unacceptable health effects under normal operating conditions" is vague, and leaves open the possibility of citing unnamed health effects as reasons for using otherwise unacceptable halon substitutes. EPA's use of this phrase in the original language was intended to refer to hypoxia for inert gases. Other than halocarbon clean agents for which cardiac sensitization is the health effect of concern, inert gases were the only type of clean agents for which use conditions were imposed. In making the proposed change to "failure to meet applicable use conditions," EPA no longer needs the phrase "or result in other unacceptable health effects under normal operating conditions" because both specified health effects, i.e., cardiac sensitization and hypoxia, are incorporated by reference to the "applicable use conditions" of halon substitutes. EPA's proposal should have made a corresponding change to delete the phrase "or result in other unacceptable health effects under normal operating conditions," or it should have specifically identified other health effects that would be the basis of proposed use conditions for particular agents. The phrase adds no information without identifying specific health concerns, and contributes to the imprecision of the original language. Thus, EPA accepts the commenter's suggestion to delete this phrase, which EPA neglected to do in the proposal. The final language reads as follows:

"[X] is proposed acceptable as a Halon [1211/1301] substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions."

(2) Changes to "Comments" Column in CFR

Each substitute reviewed under SNAP and found unacceptable, acceptable subject to narrowed use limits, or acceptable subject to use conditions is listed in charts in the Code of Federal Regulations by end-use. For each substitute, "comments" may be listed in a separate column, and they provide additional information on a substitute intended to help users apply sound operating practices (e.g., existing industry standards) for listed substitutes. EPA proposed a change to the "comments" which apply to halon substitutes for which the "last resort" use limits apply. One comment was received that opposed changing the language from "making reasonable effort to undertake the following measures" to "taking the following measures." The commenter cites SNAP regulations at § 82.180(b)(2), where the users intending to adopt a restricted substitute are directed as follows:

—82.180(b)(2) Acceptable subject to use conditions. . . . Where users intending to adopt a substitute acceptable to use conditions must make reasonable efforts to ascertain that other alternatives are not feasible due to safety, performance or technical reasons, documentation of this assessment must be retained on file for the purpose of demonstrating compliance.

The commenter objects that EPA has not provided any basis for making the change, and that any changes to an existing regulation must be justified and explained. The commenter states this change unfairly singles out PFCs, and could confuse the user community in light of the regulatory language cited above.

EPA may have caused some confusion by incorrectly indicating in the preamble of the proposed rule that the "last resort" use limits at issue here are "use conditions," when in fact they are not; instead, they are "narrowed use limits." The instructions to users are worded differently in the regulatory text for these two different types of listing decisions.

"Narrowed use limits" are described in § 82.180(b)(3) of the SNAP regulations, which provides that:

–82.180(b)(3) Acceptable subject to narrowed use limits. . . . Users intending to adopt a substitute acceptable with narrowed use limits must ascertain that other alternatives are not technically feasible. Companies must document the results of

their evaluation, and retain the results on file for the purpose of demonstrating compliance."

The "comments" language, as proposed, that users must observe the limits by "taking" certain steps, conforms to the regulatory language that users "must ascertain" that other alternatives are not technically feasible. Thus, EPA is not changing the regulatory language but rather providing "comment" language that is consistent with the existing regulations. Although these instructions are contained in the "comments" column of the appendix to the final rule, the source of the instructions is the SNAP regulation itself. The only change is in the summary of this regulatory language which appears in the "comments" column as a convenience to users of substitutes.

This change in wording does not "unfairly single out" PFCs. EPA notes that the same "last resort" use restrictions apply to a non-PFC substitute, HFC–236fa, which is listed in this final rule as acceptable as a total flooding agent subject to these narrowed use limits.

(3) Procedural Aspects of EPA's review

The May 21, 1997 proposal discussed a petition that EPA received asking for reconsideration of the wording of use conditions for PFCs and other long-lived gases. EPA received one comment expressing concern that the procedure for EPA's review of this petition might be used in the future as a way to urge changes in proposed use conditions without providing sufficient technical justification for those changes. Specifically, the commenter raises a concern that it did not receive notice from EPA of the petition, as § 82.184(d)(1) of the SNAP regulations requires. Although, it is the original submitter of the substitutes which were the subject of the petition. Additionally, the commenter notes that the SNAP rule allows EPA to submit the petition for review by appropriate experts inside and outside EPA prior to proceeding to a proposed rule. The commenter recommends that EPA should rely on this provision in the future to engage in technical dialogue with affected companies and other stakeholders to ensure that any proposed rule resulting from the petition reflects such technical input.

In response, EPA regrets any concerns that may have been raised by the Agency's process in reviewing this petition, and assures the public that the Agency does not view the petition process as a way for interested parties to urge changes in SNAP regulatory conditions without providing sufficient technical justification for those changes. EPA acknowledges that the Agency failed to formally notify the commenter upon receipt of the petition, and EPA apologizes for this failure. EPA notes, however, that the commenter did contact the Agency to discuss the petition. This initial contact was followed by several discussions between representatives of EPA and representatives of the commenter over several months, as well as a letter from the commenter to EPA discussing the merits of the petition.

Although EPA failed to meet the required notice provision of § 82.184(d)(1) of the SNAP regulations, the purpose of the notice requirement—to provide the opportunity to communicate on the merits of the petition—was in fact fulfilled. EPA did not deny any opportunity to the commenter to participate in discussing the merits of the petition. EPA has placed in the docket for this rulemaking a description of the contacts between EPA staff and the commenter's staff on this subject; it is EPA's belief that the commenter fully participated in the process of commenting on the merits of the petition.

EPA agrees that in certain cases it may be appropriate to engage in technical dialogue with affected companies and other stakeholders to ensure that any proposed rule resulting from a petition reflects such technical input. However, the Agency notes that the SNAP regulations do not require such dialogue; rather, the regulations provide EPA with the discretion to allow internal or external experts an opportunity to review the petition. The Agency will determine on a case-by-case basis if and when to seek review by outside experts and whether additional dialogue with others is appropriate. In addition, § 82.184(d)(5) of the SNAP regulations requires EPA to follow standard rulemaking procedures whenever the Agency grants a petition to change an acceptable listing by imposing or deleting use conditions or limits, among other actions. Such rulemaking procedures require public notice and comment, which afford interested parties the opportunity to comment on the merits of EPA's decision on a petition, or to recommend that EPA consult with outside experts or others in a particular case. EPA has followed that process in this case.

In any event, EPA notes that it did engage in dialogue with stakeholders, including the commenter, on the merits of this petition prior to publishing the proposed rule, and the description in the docket explains EPA's contacts with the commenter in this regard. Further, as described above in discussing its response to the comments on the substance of the proposed changes, EPA believes there is sufficient technical justification for these changes, and that the justification was discussed with affected parties and adequately explained in the preamble to the proposed rule. Both commenters who provided written comments on EPA's proposed language, including this commenter, stated they supported EPA's purpose in clarifying the language.

b. HFC–236fa

(1) Use Conditions and Limits

EPA proposed various use conditions and use limits for HFC–236fa as a streaming agent and as a total flooding agent. Many comments objected to the lack of proposed "last resort" use limits to the streaming agent end-use of HFC–236fa. One commenter also specifically objected to the lack of proposed "last resort" use limits to explosion protection applications within the total flooding end-use of HFC–236fa. These comments were based on concerns that since this substitute's global warming potential (GWP) is high and its atmospheric lifetime is long, it should be subject to the same "last resort" use restrictions in all end-use categories and applications.

One commenter stated that the GWP of HFC–236fa is between 6,300 and 8,000 and that its atmospheric lifetime is 250 years; others stated that the GWP of HFC–236fa is more than three times that of HFC–227ea. For HFC–236fa, the 1995 IPCC Second Assessment Report lists a GWP of 6,300 (on a 100-year basis) not a range from 6,300 to 8,000, and an atmospheric lifetime of 209 years not 250 years. (Based on information available at the time, EPA listed the atmospheric lifetime of HFC–236fa as 250 years in the preamble to the May 21, 1997 proposed rule.) By comparison, the GWP (on a 100-year basis) for HFC–227ea is listed in the 1995 IPCC Report as 2,900, which is roughly one-half the listed value for HFC–236fa.

Several commenters stated that the GWP of HFC–236fa is higher than those of the PFCs. In fact, the GWP of HFC–236fa for the 100-year time horizon is comparable to the GWP of many PFCs. This is not the case, however, when comparisons are made in terms of GWPs integrated over a longer time horizon that reflects the significantly longer atmospheric lifetimes of PFCs. Because PFCs have atmospheric lifetimes at least an order of magnitude longer than HFC–236fa (2,600 to 50,000 years for PFCs versus 209 years for HFC–236fa), a more relevant comparison is in terms of

GWPs integrated over 500 years. As such, the GWP of HFC–236fa for the 500-year time horizon (4700 according to the 1995 IPCC report) is significantly lower than the 500-year GWP for any of the listed PFCs (which range between 10,000 and 14,000).

These commenters supported their concerns with both general statements regarding the need to limit use of greenhouse gases, and specific statements designed to show that the streaming agent end-use would be highly emissive, and/or that the streaming agent end-use would be at least as, if not more, emissive than the total flooding end-use. The general statements include the following: (a) HFC–236fa is 6,300 times more effective than carbon dioxide in its global warming potential; (b) HFC–236fa is not a byproduct or feedstock of another chemical's production, which was the justification for SNAP listing of HFC–23, another potent greenhouse gas, as a total flooding agent; (c) the unrestricted use of HFC–236fa as a streaming agent is tantamount to a decision to do nothing about global warming; and (d) the unrestricted use of HFC–236fa contradicts President Clinton's 1993 Climate Change Action Plan (CCAP), which directs EPA (in Action 40) to reduce the use of greenhouse gases as substitutes for ozone-depleting substances.

EPA appreciates the concerns for both global warming potential and atmospheric lifetime. EPA does not disagree with the first two general statements regarding the potency of HFC–236fa as a greenhouse gas and this agent's lack of status as a byproduct or feedstock in another chemical process.

With respect to the final two general statements, EPA disagrees that the lack of "last resort" restrictions on HFC–236fa in its use as a streaming agent is tantamount to a decision to do nothing about global warming, and that it contradicts Action 40 of the CCAP. In discussing HFCs generally as a halon substitute in the preamble to the original SNAP rule (59 FR 13100), EPA noted that, because HFCs can contribute to global warming, they are included in the CCAP, and EPA is directed to limit uses of gases with high global warming potentials as substitutes for ozone-depleting substances where better substitutes exist. EPA noted further that, because EPA is simultaneously also interested in promoting the broader shift away from ozone-depleting substances, any limits on use will be imposed in ways that preserve as much flexibility as possible for those trying to move to alternatives.

EPA evaluates substitutes within a comparative risk framework in order to fulfill both the mandate under Clean Air Act section 612 to identify alternatives to ozone-depleting substances which reduce overall risk to human health and the environment, and the President's direction under the CCAP. In evaluating a potential substitute by comparing risks, EPA compares the substitute to the original ODS it would replace and to other substitutes *by use*. Although it may be desirable to compare restrictions between end-uses such as streaming agents and total flooding agents, EPA's SNAP determinations require a relative comparison among all substitutes available for a particular end-use, as well as to the original ODS, at the time the comparison is made. See discussion in the preamble to the original SNAP rule, 59 FR 13044 (March 18, 1994), at pages 13046 and 13067–13069.

Thus, in evaluating the use of HFC–236fa as a streaming agent, EPA compared its use to that of other SNAP-listed and proposed streaming agent substitutes currently available. Of clean agent substitutes for Halon 1211, there are no commercially available alternatives for general fire protection use with both zero ozone depletion potential and low toxicity. HFC–236fa meets these criteria and thus can serve a unique role as a streaming agent, aiding in the transition from halons. Although some of the commercially available streaming agent substitutes which are not clean agents have no ozone depletion potential and are low in toxicity, they are not as widely applicable as halocarbon clean agent alternatives and thus are not suitable for general fire protection use.

EPA made a similar comparison of SNAP-listed and proposed halon substitutes which are commercially available in the total flooding agent end-use. By contrast to the streaming agent end-use, there are commercially available clean agent alternatives in the flooding agent end-use for general fire suppression which have both zero ozone depletion potential and low toxicity, such as HFC–227ea and the inert gases. In the explosion protection application, however, which is a type of total flooding use, the required design concentration is much higher than for general fire suppression. As a practical matter, this eliminates most of the SNAP-listed total flooding clean agent substitutes for use in explosion protection except for HFC–23 and the PFCs, some of which have even higher GWPs, and all of which have longer atmospheric lifetimes, than that of HFC–236fa. By comparison to the commercially available clean agent substitutes, HFC–236fa can serve a unique role in the explosion protection application of the total flooding agent end-use, but not in the general fire suppression applications of this end-use.

Responses are given below to each of the specific comments that emissions from streaming end-uses are high and are at least as great, if not greater, compared to total flooding end-uses. EPA notes that most of these statements were made without any specific supporting data.

(a) Expected discharge in a streaming application would be greater than if used in a flooding system.

As noted previously, EPA's SNAP determinations require a relative comparison among all substitutes available for a particular end-use, as well as to the original ODS, at the time the comparison is made. Nevertheless, streaming agent uses in fire extinguishers, whether handheld, wheeled, or vehicular, typically use many fewer pounds of agent than total flooding systems, which are piped into an enclosed space to flood the enclosure upon discharge. One would expect, therefore, that discharges from streaming applications would be less per discharge than those from a flooding system. It is not clear whether the commenters who claimed that "expected discharge in a streaming application would be greater than if used in a flooding system" (without any supporting data) meant discharges per unit or total discharges, which would require data on the total number of units in each end-use and/or the rates of discharge for each end-use.

(b) Both streaming and flooding systems are intended to be discharged, and are not closed systems.

EPA notes that all fire extinguishing uses are emissive by their nature, even though the cylinder or container which holds the agent is a "closed system" in the sense that the chemical is contained in equipment that precludes full emission unless emission is triggered. In order to extinguish a fire, however, the agent must be emitted from its container.

The emission of fire extinguishing agents is usually only done in case of fire, a life-threatening emergency. Other possible sources of emissions are leakage, accidental discharge, maintenance losses during servicing, and discharge during testing and training. EPA estimates the total amount of losses for leakage and discharges other than for fire protection is less than 5% per year. Of this amount, virtually none is due to testing and training. In response to the phaseout of halon and

concerns over atmospheric impacts of both halon and halocarbon substitutes, the fire protection community has greatly decreased the use of fire extinguishing agents in testing and training (formerly the single largest use of halon fire extinguishers). There is also a financial incentive to conserve halocarbon fire extinguishing agents which serve as clean agent substitutes for halon because they are more expensive than traditional fire extinguishing agents such as dry chemical and foam.

(c) Portable fire extinguishers are more numerous than flooding systems, and are discharged more often.

EPA has no data on the number of portable fire extinguishers versus flooding systems, nor on relative discharge rates of portables versus flooding systems. No data were offered by the commenters who claimed portables are more numerous, and are discharged more often. EPA believes that this type of comparison is not relevant to the risk comparison of particular substitutes within a particular end-use, but EPA refers to its earlier estimate of 5% total losses (not related to fire suppression) from all fire extinguishers as support for the statement that non-emergency emissions of halocarbon fire extinguishing agents in both streaming agent and total flooding agent end-uses is relatively small.

(d) This agent should be restricted to the "original design concept" of a closed system such as refrigeration substitutes for CFC–114 in heat pumps, which are subject to venting prohibitions.

This comment reflects concern about possible emissions from any fire extinguishing system, whether streaming or flooding. As noted above, fire extinguishing systems are by nature emissive but serve a valuable purpose in preventing or mitigating danger to human health and property. Fire extinguisher emission rates are relatively low and, when balanced against the risks of fire emergencies, are extremely valuable. Comparing refrigeration uses to fire suppression uses is not relevant to the risk comparison of particular fire suppression substitutes within a particular end-use. Previous decisions in another SNAP industrial sector are not relevant to decisions in a different SNAP industrial sector, just as decisions for a particular end-use within a single sector are not relevant to a different end-use in the same sector.

(e) This agent has a lower weight equivalence to Halon 1301 than to Halon 1211, is more effective as a Halon 1301 substitute than as a Halon 1211 substitute, and is probably more efficient as a flooding agent than as a streaming agent.

Weight equivalence relates the number of pounds of substitute required to replace each pound of halon to achieve the same fire extinguishing capability. A substitute's weight equivalence to halon is not the only measure of a substitute's efficiency or effectiveness in extinguishing fires. A substitute's extinguishing (or design) concentration is important as well as its storage volume equivalence to halon. Additional factors, which would be tested in full-scale performance fire testing by independent testing laboratories in order to rate particular products, include the extinguisher configurations, pressurization, nozzle and valve assembly as well as other characteristics. EPA notes that several portable fire extinguishing products using this agent have received performance ratings from an independent testing laboratory which could not have happened without satisfactory performance test results. These commenters provided no further information to support their statements that this agent may be more efficient and more effective as a replacement for halon 1301 in flooding systems than as a replacement for halon 1211 as a streaming agent. EPA is not aware of any evidence to support these statements.

Nevertheless, EPA notes that the reported weight equivalencies in the preamble to the proposed rule were based on information in the SNAP submission, which has become outdated due to further commercial development of portable fire extinguishing equipment using this agent as a replacement for halon 1211. EPA requested and obtained current information from the system designer regarding this agent's weight equivalence to halon 1211, and has placed in the public docket for this rulemaking the memo from the system designer providing this information, as well as information from Underwriters Laboratories, Inc., showing its current listing information for portable fire extinguishing products containing this agent.

The commenters are correct in identifying the weight equivalence of this agent to halon 1211 as 2.4 in the portable fire extinguishing product containing 6.0 pounds of this agent, since it apparently replaced a product with equivalent fire extinguishment ratings containing 2.5 pounds of halon 1211. However, there are three other sizes of portable extinguishers containing this agent which have weight equivalencies to halon 1211 ranging from 1.08 to 2.15. The product with 6.0 pounds of this agent, although it is still listed by UL, has been replaced by the system designer with a product containing 4.75 pounds of this agent, with the same UL rating, resulting in a weight equivalence to halon 1211 of 2.15. Thus, this agent's weight equivalence to halon 1211 currently ranges from 1.08 to 2.15, rather than a range of 1.1 to 1.5 as indicated in the preamble to the proposed rule.

Even if this agent's efficiency and effectiveness as a halon replacement were in doubt, these characteristics are not the only factors involved in making a SNAP determination on the substitute's acceptability. As stated in the preamble to the original SNAP rule, at 59 FR 13101 (March 18, 1994), EPA believes that efficacy of a substitute is a consideration in decision making in the fire suppression sector in order to help assess the risks of using a substitute, its health effects, and its potential to fill various niche markets. However, this is only one of many characteristics of a substitute that are evaluated in making a SNAP determination which fulfills the section 612 mandate to "reduce overall risk to human health and the environment." See discussion in preamble to the original SNAP rule, 59 FR 13044 (March 18, 1994) at pages 13054–13056, and at pages 13068–13069, for more information on the characteristics to be evaluated.

(f) Since there are fewer limits on testing and training for streaming agents, and more testing and training is done with portable fire extinguishers than with flooding systems, the discussion in the preamble regarding the need to minimize emissions during such activities should be equally as strict for streaming agent uses as for total flooding agent uses.

EPA agrees that the discussion in the preamble regarding the need to minimize emissions during testing and training should be equally as strict for streaming agents as for total flooding agents; these two discussions in the preamble to the final rule are now the same. EPA notes that it has no information to support or oppose the statements made by these commenters that there are fewer limits on testing and training for streaming agents, and that more testing and training is done with portable fire extinguishers than with flooding systems.

(2) Use in Local Application Systems

Under the SNAP program, halon substitutes have been categorized as either those used in streaming applications (manually dispensed from

a hand-held or portable fire extinguisher), or in total flooding and explosion protection applications (a predetermined quantity of the gas is dispensed into an enclosed space and maintained at a certain concentration for a period of time throughout the entire protected space). Another well-recognized type of fire protection product, referred to as "local application" or "pre-engineered" local application extinguishing systems, is not clearly considered either a streaming agent system or a total flooding agent system. Local application extinguishers are designed to release a set amount of an extinguishing agent from a fixed nozzle or nozzles directly onto burning material. They have been used to provide fire protection for specialized industrial uses such as textile processing machinery.

The Agency received several comments, discussed below, that HFC–236fa be listed acceptable for use in a newly created category of local application or pre-engineered systems. Elsewhere in today's action, HFC–236fa is being listed as acceptable for use as a substitute for halon 1211 and halon 1301 in fire suppression and explosion protection; the Agency does not believe it is necessary or appropriate at this time, however, to designate under SNAP a new category of fire protection specifically for local application systems.

Although the vast majority of fire protection systems using halon and halon substitutes can be classified as streaming agents or total flooding agent systems, the local application systems defy easy classification in either category. Unlike total flooding systems, they are not designed to distribute the extinguishing agent evenly at a specific design concentration maintained throughout the entire volume of the protected space and, unlike streaming agents, they are not designed to allow a person to manipulate the discharge direction or quantity of the extinguishing agent. Local application or pre-engineered systems are mentioned in and may be subject to parts of National Fire Protection Association (NFPA) standards which apply to total flooding systems (NFPA 12, 12A, and 2001, for example). However, as mentioned by two commenters referred to below, local application systems primarily use halon 1211 (which is more commonly associated with streaming agents), rather than halon 1301 (which is more commonly associated with total flooding agents), as the fire extinguishant.

Five commenters urged EPA to list HFC–236fa acceptable for use in a third, distinct category—"local application" systems. Three of the five commenters specifically urged acceptability of this agent as a replacement for halon 1211 in local application systems; two of these three commenters specifically urged acceptability of this agent as a replacement for halon 1211 in textile process machinery, and indicated that this type of use could be considered a streaming agent application.

The remaining two commenters urged EPA to list HFC–236fa acceptable for use in local application systems as a replacement for either halon 1211 or halon 1301. One of these commenters urged EPA to create an additional category for "pre-engineered systems" or "local application systems" or "pre-engineered local application systems," which would be distinct from engineered total flooding systems.

The other commenter urged that EPA list HFC–236fa acceptable for use in local application systems as a type of streaming agent application, presumably as a replacement for halon 1211, and acceptable for use in local application systems as a type of total flooding agent application, presumably as a replacement for halon 1301. This commenter specifically urged EPA to consider such local application uses in the total flooding agent category as "without prejudice" (similar to the proposal for use in explosion suppression and explosion inertion applications in the total flooding agent category) and therefore not subject to the "last resort" restrictions which EPA proposed for general fire suppression applications in the total flooding agent category.

Based on the description from the commenters of local application systems generally, and local application systems for textile process machinery specifically, neither of EPA's existing risk assessment methodologies for halon substitutes are relevant to local application systems. The existing methodology for evaluating end-use exposure to streaming agent substitutes assumes the discharged extinguishing agent will be completely released into the protected space immediately following its discharge, resulting in a high concentration of extinguishing agent which eventually disperses throughout the space at lower concentrations. Local application systems for textile process machinery, by contrast, discharge the extinguishing agent at a very high concentration into the localized protected space, inside the machinery. The extinguishing agent is eventually released outside the machinery by dissipating into the rest of the space where the machinery is located. In neither case is there an alarm before discharge or is the extinguishing concentration maintained at a constant level in an enclosed space as for total flooding systems.

EPA's evaluation of the characteristics of local application systems, particularly in the case of textile process machinery (which is the only case presented to EPA with actual design specifications for use of this agent in a local application system) shows that exposure patterns for this type of use are more similar to streaming agents than total flooding agent systems. Evaluating the exposure risk of persons who are near the textile process machinery when a local application system is discharged requires modifying the streaming agent methodology to account for the different rate of release of the extinguishing agent. Based on relevant system and exposure specifications provided by one of the commenters, EPA has made these modifications. The Agency's analyses project that local application extinguishing systems using HFC–236fa located inside textile process machinery would maintain worker exposures below the cardiotoxicity NOAEL and LOAEL concentrations.

In summary, EPA agrees with the suggestion of some of the commenters that the use of HFC–236fa in local application systems inside textile process machinery as a replacement for halon 1211 is covered by the acceptability listing of this agent in the streaming agent end-use. Local application systems other than those used inside textile process machinery are not included in the streaming agent end-use since EPA's review is based solely on the specifications for such systems in textile process machinery. Thus, EPA rejects suggestions by some of the commenters that this agent be listed acceptable as a replacement for halon 1211 in local application systems generally.

Since EPA has no specific information on the potential use of this agent in local application systems as a replacement for halon 1301, and since the methodology for evaluating exposure to total flooding agents is not appropriate for the textile processing machinery system, EPA does not agree that local application systems using this agent as a replacement for halon 1301 are covered by the total flooding agent end-use. Thus, EPA is rejecting suggestions by some of the commenters that this agent be listed acceptable as a replacement for halon 1301 in local application systems, either as a separate end-use or as part of the total flooding

end-use. EPA welcomes information about potential uses of this agent and other halon substitutes in local application systems as a replacement for either halon 1211 or halon 1301, and may consider creating a separate end-use for local application extinguishing systems in the future. EPA notes the potential for environmental benefit if more use is made of these systems since they may require relatively small amounts of extinguishing agent and pose less risk of occupational exposure than other types of fire extinguishing systems, such as total flooding systems.

(3) "Grandfathering" Existing Uses of HFC–236fa

One commenter took issue with the following paragraph, which appeared in Section III.D.3 of the preamble to the proposed rule and was incorporated by reference in the proposed listing of HFC–236fa acceptable subject to use conditions in the total flooding agent end-use:

> "In the event of the development of acceptable alternatives which EPA finds should not only replace halon 1301 and HFC–236fa in new systems, EPA may grandfather existing uses but only to the extent warranted by cost and timing as outlined in the original SNAP rule discussion of grandfathering of unacceptable substitutes (59 FR 13057)."

The commenter requested that this paragraph be modified and relocated. The commenter believes that such discussion is inappropriate when specifically isolated to comments about one particular substitute; to the extent this may be consistent with EPA's mandate under the Act, the commenter states it should be clear to potential end-users that the comments apply to all alternatives or to all members of a defined class of alternatives.

EPA has included similar language in the preamble discussion of specific listings of substitutes in previous rulemakings. (See discussion of PFCs as acceptable subject to narrowed use limits in the Solvents sector in the original SNAP rule (March 18, 1994) at 59 FR 13095-13096). This commenter suggests this statement by EPA is consistent with the scope of EPA's authority to permit the continuation of activities otherwise restricted where the balance of equities supports such grandfathering. See discussion in the preamble of the original SNAP rule (59 FR 13057).

EPA believes, since this language is merely a statement of the Agency's authority and not a stated intention to take such action, it is appropriate to include this statement in discussion of listings of any substitute, even if this statement is not included in its discussion of listings of all substitutes in a particular rulemaking. EPA can use its grandfathering authority, within the limits described above, any time it changes a listing of a substitute. EPA did not intend, however, to create confusion by including this language in the listing of this particular substitute alone; thus, EPA is deleting any reference in this final rule to potential grandfathering in this sector and refers end-users to the discussion of grandfathering in the original SNAP rule as described above.

c. Unrelated Issues

EPA received one letter with comments purportedly relating to this proposal but which actually are unrelated. This commenter asked that EPA modify the use conditions and/or change to unacceptable several halon substitutes currently listed as acceptable by SNAP. Since none of these listings was proposed to be changed in this rulemaking, the comments are not relevant to this final rule. In any event, the commenter did not provide adequate information to justify re-opening the listings which were made through notice-and-comment rulemakings in the past. A more complete discussion of this comment and EPA's response is contained in the Supplemental Response to Comments which is available in the public docket for this rulemaking.

d. Chlorobromomethane

As described in the response to comments received under the Solvents; Aerosols; and Adhesives, Coatings, and Inks sectors, EPA received several comments on its proposal listing of chlorobromomethane as unacceptable in those sectors. The same comments apply to the proposed listing of CBM as unacceptable in the total flooding end-use in the Fire Suppression and Explosion Protection sector with respect to its ozone depletion potential. See the discussion of the ODP of CBM under the solvents section, II.C.3. Specific information related to flooding systems is discussed under the unacceptable determination for CBM, II.D.3.

E. Aerosols

1. Acceptable Substitutes

a. Solvents

(1) HFC–4310mee

HFC–4310mee is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in aerosols. For further information, see the discussion of HFC–4310mee in section II.C.1 above in the metals cleaning end-use within the solvents cleaning sector.

(2) HCFC–225 ca/cb

HCFC–225 ca/cb is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in aerosols. HCFC–225 ca/cb blend is offered as a 45%-ca/55%-cb blend. The company-set exposure limit for the -ca isomer is 25 ppm. The company-set exposure limit for the -cb isomer is 250 ppm. Based on the results of exposure assessment studies, it is EPA's opinion that companies can meet the 25 ppm limit of the HCFC–225 ca isomer in defluxing and cleaning providing that the standard operating procedures and employee work habits are conducted in accordance with the procedures specified in the product safety information provided by the chemical manufacturer.

2. Unacceptable

a. Chlorobromomethane

Chlorobromomethane is unacceptable as a substitute for CFC–113, methyl chloroform, and HCFC–141b in aerosols. See the discussion of CBM in section II.C.2 above in the metals cleaning end-use within the solvents cleaning sector.

3. Response to Comments

EPA incorporates by reference the response to comments on chlorobromomethane in the solvents cleaning sector, II.C.3.

F. Adhesives, coatings, and inks

1. Unacceptable

a. Chlorobromomethane

Chlorobromomethane is unacceptable as a substitute for CFC–113, methyl chloroform, and HCFC–141b in adhesives, coatings and inks. See the discussion of CBM in section II.C.2 above in the metals cleaning end-use within the solvents cleaning sector.

2. Response to Comments

EPA incorporates by reference the response to comments on chlorobromomethane in the solvents cleaning sector, II.C.3.

III. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of

the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB notified EPA that it considers this a "significant regulatory action" within the meaning of the Executive Order and EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations have been documented in the public record.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule. Section 204 requires the Agency to develop a process to allow elected state, local, and tribal government officials to provide input in the development of any action containing a significant Federal intergovernmental mandate. Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement is prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. Finally, because this FRM does not contain a significant intergovernmental mandate, the Agency is not required to develop a process to obtain input from elected state, local, and tribal officials.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule would not have a significant impact on a substantial number of small entities because costs of the SNAP requirements as a whole are expected to be minor. In fact, this rule offers regulatory relief to small businesses by providing alternatives to phased-out ozone-depleting substances. EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The actions herein may well provide benefits for small businesses anxious to examine potential substitutes to any ozone-depleting class I and class II substances they may be using, by requiring manufacturers to make information on such substitutes available. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

EPA has determined that this final rule contains no information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, that are not already approved by the Office of Management and Budget (OMB). OMB has reviewed and approved two Information Collection Requests (ICRs) by EPA which are described in the March 18, 1994 rulemaking (59 FR 13044, at 13121, 13146–13147) and in the October 16, 1996 rulemaking (61 FR 54030, at 54038–54039). These ICRs included five types of respondent reporting and record-keeping activities pursuant to SNAP regulations: submission of a SNAP petition, filing a SNAP/TSCA Addendum, notification for test marketing activity, record-keeping for substitutes acceptable subject to narrowed use limits, and record-keeping for small volume uses. The OMB Control Numbers are 2060–0226 and 2060–0350.

E. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

F. Executive Order 13045: "Protection of Children From Environmental Health Risks and Safety Risks"

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children, as the exposure limits and acceptability listings in this final rule primarily apply to the workplace.

G. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance

costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

H. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments, because this regulation applies directly to facilities that use these substances and not to governmental entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d), Public Law 104–113, requires federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. If use of such technical standards is inconsistent with applicable law or otherwise impractical, a federal agency or department may elect to use technical standards that are not developed or adopted by voluntary consensus standards bodies if the head of the agency or department transmits to the Office of Management and Budget an explanation of the reasons for using such standards. This rule does not mandate the use of any technical standards; accordingly, the NTTAA does not apply to this rule.

IV. Additional Information

For copies of the comprehensive SNAP lists or additional information on SNAP, contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday-Friday, between the hours of 10:00 a.m. and 4:00 p.m. (EST).

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). Notices and rulemakings under the SNAP program, as well as EPA publications on protection of stratospheric ozone, are available from EPA's Ozone Depletion World Wide Web site at "http://www.epa.gov/ozone/title6/snap/" and from the Stratospheric Protection Hotline number as listed above.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: April 21, 1999.

Carol M. Browner,

Administrator.

Note: The following Table 1 will not appear in the Code of Federal Regulations.

Table 1: Summary of Acceptable Decisions

SOLVENTS CLEANING—ACCEPTABLE SUBSITUTES

End-use	Substitute	Decision	Comments
Metals cleaning w/CFC–113	HFC–4310mee	Acceptable	Company-set time-weighted average workplace exposure standard of 200 ppm, and a workplace exposure ceiling of 400 ppm.
Metals cleaning w/MCF	HFC–4310mee	Acceptable	Company-set time-weighted average workplace exposure standard of 200 ppm and a workplace exposure ceiling of 400 ppm.

AEROSOLS—ACCEPTABLE SUBSTITUTES

End-use	Substitute	Decision	Comments
Solvent in aerosols w/CFC–113	HFC–4310mee	Acceptable	Company-set time-weighted average workplace exposure standard of 200 ppm, and a workplace exposure ceiling of 400 ppm.
Solvent in aerosols w/MCF	HFC–4310mee	Acceptable	Company-set time-weighted average workplace exposure standard of 200 ppm, and a workplace exposure ceiling of 400 ppm.
Solvent in aerosols w/CFC–113	HCFC–225ca/cb	Acceptable	Company-set time weighted average exposure limit of 25 ppm for the HCFC–225 ca isomer.
Solvent in aerosols w/MCF	HCFC–225ca/cb	Acceptable	Company-set time weighted average exposure limit of 25 ppm for the HCFC–225 ca isomer.

For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for Part 82 continues to read as follows:

Authority: 42 U.S.C. Sec. 7414, 7601, 7671–7671q.

2. Subpart G is amended by adding the following Appendix H to read as follows:

Subpart G—Significant New Alternatives Policy Program

* * * * *

Appendix H to Subpart G—Substitutes Subject to Use Restrictions and Unacceptable Substitutes, Effective May 28, 1999.

CFC–12 Automobile and Non-automobile Motor Vehicle Air Conditioners, Retrofit and New

Criteria for Uniqueness of Fittings

(a) All fittings for alternative motor vehicle refrigerants must meet the following requirements:

(1) high-side screw-on fittings for each refrigerant must differ from high-side screw-on fittings for all other refrigerants, including CFC–12, and from low-side screw-on fittings for CFC–12;

(2) low-side screw-on fittings for each refrigerant must differ from low-side screw-on fittings for all other refrigerants, including CFC–12;

(3) high-side screw-on fittings for a given refrigerant must differ from low-side screw-on fittings for that refrigerant, to protect against connecting a low-pressure system to a high-pressure one;

(4) high-side quick-connect fittings for each refrigerant must differ from high-side quick-connect fittings for all other refrigerants, including CFC–12 (if they exist);

(5) low-side quick-connect fittings for each refrigerant must differ from low-side quick-connect fittings for all other refrigerants, including CFC–12 (if they exist);

(6) high-side quick-connect fittings for a given refrigerant must differ from low-side quick-connect fittings for that refrigerant, to protect against connecting a low-pressure system to a high-pressure one;

(7) for each type of container, the fitting for each refrigerant must differ from the fitting for that type of container for all other refrigerants, including CFC–12.

(b) For screw-on fittings, "differ" means that either the diameter must differ by at least 1/16 inch or the thread direction must be reversed (i.e. right-handed vs. left-handed). Simply changing the thread pitch is not sufficient. For quick-connect fittings, "differ" means that a person using normal force and normal tools (including wrenches) must not be able to cross-connect fittings.

(c) The sole exception to the 1/16 inch difference requirement is the difference between the small can fittings for GHG–X4 and R–406A. The GHG–X4 small can fitting uses a metric measurement, and is slightly less than 1/16 inch larger than the small can fitting for R–406A. EPA has concluded that these fittings will not cross-connect, and therefore they may be used.

REFRIGERATION AND AIR CONDITIONING—UNACCEPTABLE SUBSTITUTES

	End-use	Substitute	Decision	Comments
All HCFC–22 end-uses, retrofit and new.		NARM–22	Unacceptable	This blend contains HCFC–22, and it is inappropriate to use such a blend as a substitute for HCFC–22. In addition, this blend contains HFC–23, which has an extremely high GWP and lifetime. Other substitutes for HCFC–22 exist that do not contain either HCFC–22 or HFC–23.

SOLVENTS CLEANING—UNACCEPTABLE SUBSTITUTES

	End-use	Substitute	Decision	Comments
Metals, Electronic, and Precision cleaning with CFC–113, methyl chloroform, and HCFC–141b.		Chlorobromo-methane.	Unacceptable	Other alternatives exist with zero or much lower ODP.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO USE CONDITIONS

End-use	Substitute	Decision	Conditions	Comments
Halon 1301 replacement.	C3F8	Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions	For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 30%; Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e., for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL. All personnel must be evacuated before concentration of C3F8 exceeds 30%. Design concentration must result in oxygen levels of at least 16%. See additional comment 5	The comparative design concentration based on cup burner values is approximately 8.8%. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions. Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 final rule (59 FR 13044.) See additional comments 1, 2, 3, 4.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO USE CONDITIONS—Continued

End-use	Substitute	Decision	Conditions	Comments
Halon 1301 replacement.	C4F10	Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions	For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 40%; Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e., for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL. All personnel must be evacuated before concentration of C4F10 exceeds 40%. Design concentration must result in oxygen levels of at least 16%. See additional comment 5	The comparative design concentration based on cup burner values is approximately 6.6%. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions. Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 final rule (59 FR 13044.) See additional comments 1, 2, 3, 4.
Halon 1301 replacement.	HFC–236fa	Acceptable when manufactured using any process that does not convert perfluoroiso-butylene (PFIB) directly to HFC–236fa in a single step: —for use in explosion suppression and explosion inertion applications, and —for use in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions	For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 10%; For occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL of 15%; All personnel must be evacuated before concentration of HFC–236fa exceeds 15%. Design concentration must result in oxygen levels of at least 16%. See additional comment 5	The comparative design concentration based on cup burner values is approximately 6.4%. Users should observe the limitations on HFC–236fa acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions. Documentation of such measures should be available for review upon request. Feasible for use in a normally occupied area. See additional comments 1, 2, 3, 4.
Additional comments				

1—Should conform with OSHA requirements, 29 CFR 1910, Subpart L, Section 1910.160.
2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.
3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.
4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO USE CONDITIONS—Continued

End-use	Substitute	Decision	Conditions	Comments
5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to EPA's regulation of halon substitutes.				

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO NARROWED USE LIMITS—

End-use	Substitute	Decision	Conditions	Comments
Halon 1301 replacement.	C3F8	Acceptable for non-residential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions	For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 30%; Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e., for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL. All personnel must be evacuated before concentration of C3F8 exceeds 30%. Design concentration must result in oxygen levels of at least 16%. See additional comment 5	The comparative design concentration based on cup burner values is approximately 8.8%. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions. Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 final rule (59 FR 13044.) See additional comments 1, 2, 3, 4.
Halon 1301 replacement.	C4F10	Acceptable for non-residential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions	For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 40%; Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e., for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL. All personnel must be evacuated before concentration of C4F10 exceeds 40%. Design concentration must result in oxygen levels of at least 16%. See additional comment 5	The comparative design concentration based on cup burner values is approximately 6.6%. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions. Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 Final Rule (59 FR 13044.) See additional comments 1, 2, 3, 4.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO NARROWED USE LIMITS——Continued

End-use	Substitute	Decision	Conditions	Comments
Halon 1301 replacement.	HFC–236fa	Acceptable when manufactured using any process that does not convert perfluoroiso-butylene (PFIB) directly to HFC-236fa in a single step: -for use in explosion suppression and explosion inertion applications, and -for use in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions	For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 10%; For occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL of 15%; All personnel must be evacuated before concentration of HFC–236fa exceeds 15%. Design concentration must result in oxygen levels of at least 16%. See additional comment 5	The comparative design concentration based on cup burner values is approximately 6.4%. Users should observe the limitations on HFC–236fa acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions. Documentation of such measures should be available for review upon request. Feasible for use in a normally occupied area. See additional comments 1, 2, 3, 4.

Additional comments:

[1] Should conform with OSHA requirements, 29 CFR 1910, Subpart L, Section 1910.160.

[2] Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.

[3] Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.

[4] The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

[5] EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to EPA's regulation of halon substitutes.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—STREAMING AGENTS—ACCEPTABLE SUBJECT TO NARROWED USE LIMITS

End-use	Substitute	Decision	Conditions	Comments
Halon 1211 ..... replacement	C6F14	Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.		Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 Final Rule (59 FR 13044.) See comments 1, 2.
Halon 1211 replacement.	HFC–236fa	Acceptable in nonresidential uses when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC–236fa in a single step		See comments 1, 2, 3.
Halon 1211 replacement.	HFC–227ea	Acceptable in nonresidential uses only		See comments 1, 2.
Additional comments:				

1—Discharge testing and training should be strictly limited only to that which is essential to meet safety or performance requirements.
2—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.
3—Acceptable for local application systems inside textile process machinery.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—UNACCEPTABLE SUBSTITUTES

End-use	Substitute	Decision	Comments
Halon 1301 replacement	Chlorobromomethane.	Unacceptable	Other alternatives exist with zero or lower ODP; OSHA regulations prohibit its use as extinguishing agent in fixed extinguishing systems where employees may be exposed. See 29 CFR 1910.160(b)(11).

AEROSOLS—UNACCEPTABLE SUBSTITUTES

End-use	Substitute	Decision	Comments
Solvent in aerosols with CFC–113, MCF, or HCFC–141b.	Chlorobromomethane.	Unacceptable	Other alternatives exist with zero or much lower ODP.

ADHESIVES, COATINGS, AND INKS—UNACCEPTABLE SUBSTITUTES

End-use	Substitute	Decision	Comments
Solvent in adhesives, coatings, and inks with CFC–113.	Chlorobromomethane.	Unacceptable	Other alternatives exist with zero or much lower ODP.
Solvent in adhesives, coatings, and inks with MCF.	Chlorobromomethane.	Unacceptable	Other alternatives exist with zero or much lower ODP.
Solvent in adhesives, coatings and inks with HCFC–141b.	Chlorobromomethane.	Unacceptable	Other alternatives exist with zero or much lower ODP.

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federal register

Wednesday
April 28, 1999

Part VII

The President

Proclamation 7188—National Science and Technology Week, 1999

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Title 3—

The President

Proclamation 7188 of April 23, 1999

National Science And Technology Week, 1999

By the President of the United States of America

A Proclamation

The American experience is deeply rooted in the desire to expand our frontiers and increase our knowledge about ourselves and our world. We stand at the end of a century marked by wondrous advances in science and technology—advances that have immeasurably improved the lives of our citizens. As recently as 100 years ago, space travel, genetic engineering, and telecommunications existed only in the realms of imagination and science fiction. Today, the nascent International Space Station, the nearly complete Human Genome Project, and the flourishing Internet attest to the great strides our civilization and our Nation have made. The scope and speed of our discoveries are truly breathtaking, and each day new applications of science and technology enrich our lives in fields as diverse as medicine, communications, engineering, and the arts.

Recognizing the importance of maintaining America's scientific and technological leadership, my Administration is seeking increased funding in areas like biomedical research and in earth and space sciences. My fiscal year 2000 budget also proposes a 28 percent increase in information technology research to finance a new initiative—Information Technology for the Twenty-First Century (IT^2). This initiative will support long-term information technology research that will lead to fundamental advances in communications and improvements in computing.

During National Science and Technology Week, in communities large and small, engineers, scientists, educators, business people, and community leaders will lead observances to help their fellow citizens appreciate the world's scientific and technological wonders. I encourage all Americans—and especially our young people—to participate in the many educational activities taking place across our Nation. The more we understand and appreciate the extraordinary tools that science and technology place at our fingertips, the more we can accomplish in our efforts to create a cleaner environment, healthier families, better schools, and a brighter future. The only limit on our achievements is our imagination.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 25 to May 1, 1999, as National Science and Technology Week. I call upon educators and students, the business community, and all the people of the United States to work this week and throughout the year to learn more about the contributions science and technology make to our lives and our future.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of April, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

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H.R. 1376/P.L. 106–21

To extend the tax benefits available with respect to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes. (Apr. 19, 1999; 113 Stat. 34)

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The President

Executive Order 13120 of April 27, 1999

Ordering the Selected Reserve and Certain Individual Ready Reserve Members of the Armed Forces to Active Duty

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operations in and around the former Yugoslavia related to the conflict in Kosovo. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, under their respective jurisdictions, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve, or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, and to terminate the service of those units and members ordered to active duty.

This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

William J. Clinton

THE WHITE HOUSE,
April 27, 1999.

[FR Doc. 99–10901
Filed 4–28–99; 8:45 am]
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV99–932–2 FIR]

Olives Grown in California; Modification to Handler Membership on the California Olive Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule modifying the handler membership on the California Olive Committee (committee). The committee locally administers the California olive marketing order (order) which regulates the handling of olives grown in California. The committee is composed of 16 industry members of which 8 are producers and 8 are handlers. Previously, handler membership was allocated between cooperative marketing organizations and independent handlers (handlers not affiliated with cooperatives), and the number of handler members who may have been affiliated with any one handler was limited to two. This rule continues in effect the removal of the distinction between cooperative and independent handlers, continues in effect the removal of the limitation on handler affiliation, and continues in effect the reallocation of handler membership on the basis of the total quantity of olives handled. These modifications will allow two vacant handler member positions on the committee to be filled. This rule was unanimously recommended by the committee.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Section 932.25 of the order provides for the establishment of the committee to locally administer the terms and provisions of the order. The committee is composed of 16 industry members, each with an alternate. Of the 16 industry members, 8 are producers and 8 are handlers. This section also specifies how the handler membership on the committee is allocated. Authority is provided for the committee, with the approval of the Secretary, to change the allocation of both producer and handler members as may be necessary to assure equitable representation.

Section 932.159 of the administrative rules and regulations provides that two members shall represent cooperative marketing organizations and six members shall represent handlers who are not cooperative marketing organizations. In addition, § 932.160 limits to two the number of handler members that may be affiliated with the same handler.

The committee met on December 10, 1998, and unanimously recommended modifying the rules and regulations to remove the distinction between cooperative and independent handlers, and increase the limitation on the number of handler members that may be affiliated with the same handler. It also unanimously recommended that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations are made and the preceding crop year be represented by three members each, and that the third largest handler be represented by two members. This rule continues in effect the modification of the committee's handler membership to reflect changes within the handler segment of the industry, and to enable the committee to operate at full strength; i.e., with all eight handler and producer positions filled.

The structure of the olive industry has changed over the years and the number of handlers, both cooperative and independent, has decreased. At one time, there were a number of cooperative marketing organizations and independent handlers and the committee's structure was designed so that four of the eight handler seats were held by cooperatives and four were held by independents. This representation was also weighted by the volume of olives handled so that if one group, either cooperatives or independents, handled 65 percent or more of the total industry's volume handled during the nominating crop year and the preceding crop year, that group would have five seats on the committee and the other group would have three seats.

In 1993, handler membership on the committee was reallocated to reflect changes within the industry. The number of industry handlers declined to only five handlers—one cooperative and four independents. At that time, § 932.159 of the order's rules and regulations was modified to reapportion handler membership to provide cooperative handlers with two seats on the committee and independent handlers with six seats.

Since 1993, the number of handlers in the olive industry has continued to decline. Today there are three handlers remaining—one cooperative and two independents. Because there is only one existing cooperative, the committee believes that the distinction regarding cooperative and independent handlers on the committee is no longer appropriate or necessary.

Additionally, prior to the issuance of the interim final rule, § 932.160 specified that no more than two nominees for member and alternate member positions may be affiliated with the same handler. Because there are only three handlers remaining in the industry, this restriction resulted in two vacant handler positions on the committee that could not be filled.

To allow these positions to be filled and enable the committee to operate at full strength, the committee recommended that § 932.159 be revised to eliminate the distinction between cooperative marketing organizations and independent handlers (or handlers not affiliated with a cooperative marketing organization). It also recommended that the eight handler seats on the committee be reallocated based on the total volume of olives handled during the crop year in which nominations are made and the preceding crop year, with the handlers handling the first and second largest volume being represented with three members each, and the remaining handler being represented with two members.

The reallocation of handler membership in § 932.159 makes the two-nominee limitation on affiliation with the same handler specified in § 932.160 unnecessary, and that section is continued to be removed.

These changes are designed to modify the committee's handler membership to reflect structural changes within the handler segment of the industry, and to remove the former barriers to filling the two vacant handler positions on the committee.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 3 handlers of California olives who are subject to regulation under the marketing order and approximately 1,200 olive producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. None of the olive handlers may be classified as small entities.

Based on a review of historical and preliminary price and marketing information, total grower revenue for the 1998–99 crop year (August 1 through July 31) is estimated to be approximately $39,500,000, and the average grower revenue will be approximately $33,000. Thus, it can be concluded that the majority of producers of California olives may be classified as small entities.

This rule continues in effect the modification of the order's administrative rules and regulations regarding the structure of handler membership on the committee. The committee locally administers the order and is composed of 16 industry members. Eight of the 16 industry members are producers and 8 are handlers. Previously, handler membership provisions distinguished between cooperative marketing organizations and independent handlers specifying that two members shall represent cooperative marketing organizations and six members shall represent handlers who are not cooperative marketing organizations. The handler nominee provisions also specified that no more than two nominees for handler member and alternate member positions may be affiliated with the same handler.

This rule also continues in effect the modification of the order's rules and regulations to remove the distinction between cooperative and independent handlers, and to specify that the number of members representing each of the three currently existing industry handlers shall be based on the total volume of olives handled during the nominating crop year and the preceding crop year, with the two handlers handling the largest and second largest volume of olives represented by three members and alternates each, and the remaining handler represented by two members and alternates. In addition, this rule continues in effect the removal of provisions limiting the number of members to which each handler is entitled because the limitation is no longer necessary. The changes were unanimously recommended by the committee and are intended to modify the committee's handler membership to reflect structural changes within the handler segment of the industry, and to remove former barriers to filling two vacant handler positions on the committee. Authority for this rule is provided in § 932.25 which allows the committee, with the approval of the Secretary, to reallocate the committee's producer or handler membership as necessary to assure equitable representation.

Continuing in effect the removal of the distinction between cooperative and independent handlers will not have any impact on handlers or producers in the California olive industry.

One alternative to this rule discussed at the meeting was to leave the language in § 932.159 unchanged; however, the committee believed that the distinction between cooperative and independent was no longer appropriate, because there is only one existing cooperative in the industry and two independent handlers. Another alternative discussed at the meeting was to leave § 932.160 of the order's rules and regulations unchanged so that only two members may be affiliated with the same handler, but with only three handlers currently in the industry that would have resulted in uneven representation between growers with eight members and

handlers with six members, and would have failed to assure equitable representation on the committee as is required pursuant to § 932.25.

This rule will not impose any additional reporting or recordkeeping requirements on any of the three olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the committee's meeting was widely publicized throughout the olive industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the December 10, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. All three industry handlers are currently represented on the committee and participated in the deliberations.

An interim final rule concerning this action was published in the **Federal Register** on January 28, 1999. The committee staff advised each handler of such publication by personal contact. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided a 60-day comment period, which ended March 29, 1999. No comments were received.

After consideration of all relevant material presented, including the committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (64 FR 4286), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

PART 932—OLIVES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 932 which was published at 64 FR 4286 on January 28, 1999, is adopted as a final rule without change.

Dated: April 21, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–10773 Filed 4–28–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV99–982–1 FIR]

Hazelnuts Grown in Oregon and Washington; Establishment of Final Free and Restricted Percentages for the 1998–99 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which established interim and final free and restricted percentages for domestic inshell hazelnuts for the 1998–99 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, 1220 SW. Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202)720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Order No. 982, both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this rule apply to all merchantable hazelnuts handled during the 1998–99 marketing year (July 1, 1998, through June 30, 1999). This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect marketing percentages which allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts that handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three "normal"

years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine the percentages are specified in § 982.40 of the order.

The National Agricultural Statistics Service (NASS) estimated hazelnut production at 16,500 tons for the Oregon and Washington area. The majority of domestic inshell hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

The quantity marketed is broken down into free and restricted percentages to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which must be exported, shelled, or otherwise disposed of by handlers (restricted). The preliminary free percentage releases 80 percent of the adjusted inshell trade demand. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate.

At its August 27, 1998, meeting, the Board computed and announced preliminary free and restricted percentages of 18 percent and 82 percent, respectively. The Board used the NASS crop estimate of 16,500 tons. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage was to guard against an underestimate of crop size. The preliminary free percentage released 2,763 tons of hazelnuts from the 1998 supply for domestic inshell use. The preliminary restricted percentage of the 1998 supply for export and kernel markets totaled 12,623 tons.

Under the order, the Board must meet a second time, on or before November 15, to recommend interim final and final percentages. The Board uses current crop estimates to calculate interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season; (i.e., desirable carryout). The final free and restricted percentages must be effective by June 1, at least 30 days prior to the end of the marketing year, June 30. The final free and restricted percentages can be made effective earlier, if recommended by the Board and approved by the Secretary. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with § 982.40(e).

The Board met on November 12, 1998, and reviewed and approved an amended marketing policy and recommended the establishment of final free and restricted percentages. The Board decided that market conditions were such that immediate release of an additional 15 percent for desirable carryout would not adversely affect the 1998–99 domestic inshell market. Accordingly, no interim final free and restricted percentages were recommended. Final percentages were recommended at 30 percent free and 70 percent restricted. The final percentages released 4,115 tons of inshell hazelnuts from the 1998 supply for domestic use.

The final marketing percentages are based on the Board's final production estimate (14,500 tons) and the following supply and demand information for the 1998–99 marketing year:

	Tons
Inshell Supply:	
(1) Total production (Board's estimate)	14,500
(2) Less substandard, farm use (disapperarance)	1,077
(3) Merchantable production (Board's adjusted crop estimate; Item 1 minus Item 2)	13,423
(4) Plus undeclared carryin as of July 1, 1997, subject to regulation	120
(5) Supply subject to regulation (Item 3 plus Item 4)	13,543
Inshell Trade Demand:	
(6) Average trade acquisitions of inshell hazelnuts for three prior years	4,408
(7) Less declared carryin as of July 1, 1997, not subject to regulation	954
(8) Adjusted Inshell Trade Demand	3,454
(9) Desirable carryout on August 31, 1999 (15 percent of Item 6)	661
(10) Adjusted Inshell Trade Demand plus desirable carryout (Item 8 plus Item 9)	4,115

Percentages	Free	Restricted
(11) Final percentages (Item 10 divided by Item 5) × 100	30	70

In addition to complying with the provisions of the order, the Board also considered the Department's 1982 "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. The established final percentages are based on the final inshell trade demand, and will make available an additional 661 tons for desirable carryout. The total free supply for the 1998–99 marketing year is 5,069 tons of hazelnuts, which is the final trade demand of 4,408 tons plus the 661 tons for desirable carryout. This amount is 115 percent of prior years' sales and exceeds the goal of the Guidelines.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 800 producers of hazelnuts in the production area and approximately 22 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Using these criteria, virtually all of the producers are small agricultural producers and an estimated 19 of the 22 handlers are small agricultural service firms. In view of the foregoing, it can be concluded that the majority of hazelnut producers and handlers may be classified as small entities.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. The current volume control procedures fully supply the domestic inshell market while preventing oversupplies in that market.

Inshell hazelnuts sold to the domestic market provide higher returns to the industry than are obtained from shelling. The inshell market is inelastic and is characterized as having limited demand and being prone to oversupply.

Industry statistics show that total hazelnut production has varied widely over the last 10 years, from a low of 13,000 tons in 1989 to a high of 47,000 tons in 1997. Average production has been around 27,000 tons. While crop size has fluctuated, the volume regulations contribute toward orderly marketing and market stability, and help moderate the variation in returns for all producers and handlers, both large and small. For instance, production in the shortest crop year (1989) was 48 percent of the 10-year average (1988–1997). Production in the biggest crop year (1997) was 173 percent of the 10-year average. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic inshell market. That market is available to all handlers, regardless of handler size.

NASS statistics show that the producer price per pound has increased over the last 5 years, from $.32 in 1993 to $.45 in 1997.

The Board discussed the only alternative to volume regulation percentages which was not to regulate. Without any regulations in effect, the Board believes that the industry would oversupply the inshell domestic market. Although the 1998 hazelnut crop is much smaller than last year, the release of 14,500 tons on the domestic inshell market would cause producer returns to decrease drastically, and completely disrupt the market.

While the level of benefits of this rulemaking is difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the United States. This production represents, on average, less than 5 percent of total U.S. tree nut production, and less than 5 percent of the world's hazelnut production.

This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the United States. Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to the Secretary the release of preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Currently, U.S. hazelnut production can be successfully allocated between the inshell domestic and secondary markets. One of the best secondary markets for hazelnuts is the export market. Inshell hazelnuts produced under the marketing order compete well in export markets because of quality. Europe, and Germany in particular, is historically the primary world market for U.S. produced inshell hazelnuts, although China was the largest importer in 1997–98. A third market is for shelled hazelnuts sold domestically. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand secondary markets, especially the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large hazelnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Board's meeting was widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meeting and encouraged to participate in Board deliberations. Like all Board meetings, the November 12, 1998, meeting was a public meeting held in a location central to the production area and all entities, both large and small, were able to express their views on this issue. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry. The Board itself is composed of 10 members, of which four are handlers, five are growers, and one is a public member.

An interim final rule concerning this action was published in the **Federal Register** on January 14, 1999. Copies of the rule were mailed by the Board's staff to all Board members and hazelnut handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended March 15, 1999. No comments were received.

After consideration of all relevant material presented, including the Board's recommendation and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (64 FR 2422, January 14, 1999) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 982 which was published at 64 FR 2422 on January 14, 1999, is adopted as a final rule without change.

Dated: April 21, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–10772 Filed 4–28–99; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 960

[No. 99–25]

RIN 3069–AA–73

Amendment of Affordable Housing Program Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adopting as final, with several changes, the Interim Final Rule which amended its regulation governing the operation of the Affordable Housing Program (AHP or Program) to make certain technical revisions clarifying Program requirements and improving the operation of the AHP.

EFFECTIVE DATE: The final rule shall be effective on June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Richard Tucker, Deputy Director, (202) 408–2848, or Janet M. Fronckowiak, Associate Director, (202) 408–2575, Program Assistance Division, Office of Policy, Research and Analysis; or Sharon B. Like, Senior Attorney-Advisor, (202) 408–2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Regulatory Background

On August 4, 1997, the Finance Board published a final rule adopting comprehensive revisions to the AHP regulation, *see* 12 CFR part 960, which, among other changes, authorized the 12 Federal Home Loan Banks (Banks), rather than the Finance Board, to approve applications for AHP subsidies beginning January 1, 1998. *See* 62 FR 41812 (Aug. 4, 1997) (1997 AHP Regulation). On May 20, 1998, the Finance Board published an Interim Final Rule amending the 1997 AHP Regulation to make certain technical revisions clarifying Program requirements and improving the operation of the AHP. *See* 63 FR 27668 (May 20, 1998). The Interim Final Rule provided for a 60-day comment period.

The Finance Board received nine comment letters on the Interim Final Rule. Commenters included: three Banks, two Bank Advisory Councils, one Bank member, and one financial institutions trade association. Because the purpose of the Interim Final Rule was to make certain technical clarifying revisions, comments that raised issues beyond the scope of the Interim Final Rule changes are not addressed in this final rule, but will be considered by the Finance Board in any future rulemaking under the AHP. The provisions of the Interim Final Rule on which significant comments were received are discussed below.

II. Analysis of Final Rule

A. Minimum Credit Product Usage Limit—§§ 960.5(b)(10)(i)(C), (ii)

Section 960.5(b)(10)(i)(C) of the 1997 AHP Regulation authorized a Bank, in its discretion, after consultation with its Advisory Council, to establish a requirement that a member submitting an AHP application have made use of "a credit product" offered by the Bank, other than AHP or Community Investment Program (CIP) credit products, within the previous 12 months (single credit product usage limit). One of the arguments the Finance Board considered in determining to allow imposition of such a limit was that AHP subsidies are derived from a Bank's earnings and, therefore, fairness suggests that availability of subsidies may be linked to the extent to which a member contributes to the Bank's earnings through the single purchase of a Bank credit product. The Finance Board determined, after weighing the arguments, that giving the Banks the discretion, after consultation with their Advisory Councils, to adopt a single credit product usage limit would enable the Banks to be most responsive to the needs and views in their Districts. However, in the course of the Banks' implementation of this change under the AHP, the Banks indicated to the Finance Board that a member's single use of a Bank credit product does not make a meaningful contribution to Bank earnings, from which AHP subsidies are derived. The Banks argued instead for authority to adopt a credit product usage limit based on the member's use of a *minimum amount* of a Bank's credit product. The Banks also proposed that the required level of credit product usage be linked to a member's asset size.

In response to these arguments, the Interim Final Rule revised § 960.5(b)(10)(i)(C) to permit a Bank, after consultation with its Advisory Council, to establish a requirement that a member submitting an AHP application must have made use of a minimum amount of a credit product offered by the Bank, other than AHP or CIP credit products, within the previous 12 months, provided that such a minimum threshold for credit product usage established by a Bank shall not exceed 1.5 percent of the member's total assets, and all members shall have access to some amount of AHP subsidy, as determined by the Bank, regardless of whether they meet the Bank's minimum threshold for credit product usage (minimum credit product usage limit).

Two commenters opposed this change, for some of the same reasons evaluated and discussed by the Finance Board in the 1997 AHP rulemaking. *See* 61 FR 57799, 57808–09 (Nov. 8, 1996); 62 FR 41812, 41819 (August 4, 1997); *see also,* 60 FR 55487, 55490–91 (Nov. 1, 1995). The commenters have not presented new arguments that were not considered by the Finance Board in the 1997 AHP rulemaking. The Finance Board continues to believe that the Banks should have the discretion, after consultation with their Advisory Councils, to adopt a minimum credit product usage limit as appropriate based on the needs and views in the Bank's District. Accordingly, the minimum credit product usage limit provision contained in the Interim Final Rule is adopted without change in the final rule.

The Interim Final Rule also clarified in § 960.5(b)(10)(ii) that "[a]ny limit on the amount of AHP subsidy available per member must result in equal amounts of AHP subsidy available to all members." This requirement is intended to ensure that such limits are not structured or applied in a discriminatory manner. A commenter pointed out that, under a technical reading of this language, a Bank would have to make an equal amount of AHP subsidy available to all members, regardless of whether the member meets the minimum threshold requirement for credit product usage. This was not the intent of the amended language in § 960.5(b)(10)(ii). Accordingly, the language has been clarified in the final rule to provide that any limit on the amount of AHP subsidy available per member must result in equal amounts of AHP subsidy available to all members receiving subsidy pursuant to such limit.

B. Procedure for Approval of Applications for Funding—§ 960.6

1. Scoring Criterion for Use of Donated Government-Owned or Other Properties—§ 960.6(b)(4)(iv)(A)

Under § 960.6(b)(4)(iv)(A) of the Interim Final Rule, an application may

receive scoring points if it involves the creation of housing using a significant proportion of units or land donated or conveyed for a nominal price by the federal government or any agency or instrumentality thereof, or by any other party. The Interim Final Rule added language to § 960.6(b)(4)(iv)(A) clarifying that a "nominal price" is a small, negligible amount, most often one dollar, and may be accompanied by modest expenses related to the conveyance of the property.

A commenter objected to the definition of "nominal price," stating that it should be defined as up to 10 percent of the fair market value of the units or land. By defining "nominal price" as "most often one dollar," the Interim Final Rule left some discretion to the Banks to determine, on a case-by-case basis, whether a price higher than one dollar may qualify as nominal. The Finance Board continues to believe that this case-specific approach is preferable to establishing a general standard in the regulation that would apply to all transactions anywhere in the country, regardless of possible variances in what may be considered nominal from region to region and transaction to transaction. Accordingly, the comment is not adopted in the final rule.

Another commenter stated that the term "modest expenses" should be defined. Again, the Finance Board believes that a case-specific approach is more appropriate than establishing a national standard for the definition of "modest expenses." Accordingly, the final rule does not define the term, leaving it to the discretion of each Bank to determine what are modest conveyance expenses for particular transactions in its District.

2. Scoring Criterion for Housing for Homeless Households—§ 960.6(b)(4)(iv)(D)

Under § 960.6(b)(4)(iv)(D) of the Interim Final Rule, an application may receive scoring points if it involves "[t]he creation of rental housing reserving at least 20 percent of the units for homeless households, or the creation of transitional housing for homeless households permitting a minimum of six months occupancy." *See* 12 CFR 960.6(b)(4)(iv)(D). The Interim Final Rule omitted the express exclusion of overnight shelters contained in the 1997 AHP Regulation, because it is clear that overnight shelters do not come within the category of housing permitting a minimum of six months occupancy. The Interim Final Rule also clarified that "rental projects," as defined in § 960.1, include overnight shelters. The intention was to make clear that while overnight shelters are eligible for AHP funding, they may not receive scoring points under § 960.6(b)(4)(iv)(D). However, by defining "rental projects" to include overnight shelters, the Interim Final Rule unintentionally made overnight shelters eligible for such scoring points under the first clause dealing with rental projects. Accordingly, the final rule revises the first clause in § 960.6(b)(4)(iv)(D) to expressly exclude overnight shelters for homeless households.

3. Scoring Criterion for Economic Diversity—§ 960.6(b)(4)(iv)(F)(8)

The Interim Final Rule revised the second alternative requirement in § 960.6(b)(4)(iv)(F)(*8*) to provide that applications may receive scoring points for "Economic Diversity" if they involve the creation of housing that provides very low- or low- or moderate-income households with housing opportunities in neighborhoods or cities where the median income *exceeds* the median income for the larger surrounding area—such as the city, county, or Primary Metropolitan Statistical Area—in which the neighborhood or city is located. The general intent of this requirement is to promote housing opportunities for very low- and low- or moderate-income households in areas that are wealthier relative to the surrounding areas to avoid isolation of such households.

A commenter suggested allowing scoring points to be awarded under this criterion for housing in areas where the median income *equals* or exceeds the median income for the larger surrounding area. The Finance Board believes that this change would meet the general intent of the requirement and, therefore, has revised the language in the final rule accordingly.

C. Modifications of Applications After Project Completion—§ 960.9

The Interim Final Rule amended § 960.9 of the AHP regulation to clarify the types of changes to an approved AHP project after project completion that would justify a modification to the terms of the approved AHP application. *See id.* § 960.9. The amendment inadvertently omitted the language limiting such modifications to changes "other than an increase in the amount of subsidy approved for the project." This limiting language has been restored in the final rule.

III. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Moreover, the final rule applies only to the Banks, which do not come within the meaning of "small entities," as defined in the Regulatory Flexibility Act. *See id.* section 601(6).

IV. Paperwork Reduction Act

This final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 960

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements. Accordingly, the Interim Final Rule amending 12 CFR part 960, published at 63 FR 27668 (May 20, 1998), is adopted as final with the following changes:

PART 960—AFFORDABLE HOUSING PROGRAM

1. The authority citation for part 960 continues to read as follows:

Authority: 12 U.S.C. 1430(j).

2. Section 960.5 is amended by revising paragraph (b)(10)(ii) to read as follows:

§ 960.5 Minimum eligibility standards for AHP projects.

* * * * *

(b) * * *

(10) *District eligibility requirements.*

(ii) Any limit on the amount of AHP subsidy available per member must result in equal amounts of AHP subsidy available to all members receiving subsidy pursuant to such limit.

3. Section 960.6 is amended by revising paragraphs (b)(4)(iv)(D) and (b)(4)(iv)(F)(*8*) to read as follows:

§ 960.6 Procedure for approval of applications for funding.

* * * * *

(b) * * *

(4) * * *

(iv) * * *

(D) *Housing for homeless households.* The creation of rental housing, excluding overnight shelters, reserving at least 20 percent of the units for homeless households, or the creation of transitional housing for homeless households permitting a minimum of six months occupancy.

* * * * *

(F) * * *

(*8*) *Economic diversity.* The creation of housing that is part of a strategy to end isolation of very low-income households by providing economic diversity through mixed-income housing in low- or moderate-income

neighborhoods, or providing very low- or low- or moderate-income households with housing opportunities in neighborhoods or cities where the median income equals or exceeds the median income for the larger surrounding area—such as the city, county, or Primary Metropolitan Statistical Area—in which the neighborhood or city is located;

* * * * *

4. Section 960.9 is amended by revising the introductory text to read as follows:

§ 960.9 Modifications of applications after project completion.

Modification procedure. If, after final disbursement of funds to a project from all funding sources, there is or will be a change in the project that would change the score that the project application received in the funding period in which it was originally scored and approved, had the changed facts been operative at that time, a Bank, in its discretion, may approve in writing a modification to the terms of the approved application, other than an increase in the amount of subsidy approved for the project, provided that:

* * * * *

By the Board of Directors of the Federal Housing Finance Board.

Dated: April 13, 1999.

Bruce A. Morrison,

Chairman.

[FR Doc. 99–10160 Filed 4–28–99; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–49–AD; Amendment 39–11153; AD 99–09–20]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 222, 222B, and 222U Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to BHTC Model 222, 222B, and 222U helicopters. This action requires initial and repetitive visual inspections and verification of the torque of the bolts on the main rotor hub. This amendment is prompted by a report of fatigue cracks around the bolt holes of the main rotor pitch horn (pitch horn) and a cracked main rotor flapping bearing assembly (flapping bearing assembly) on a BHTC Model 222 helicopter. This condition, if not corrected, could result in fretting-induced fatigue cracking of the flapping bearing assembly and around the bolt holes of the pitch horn, loss of the rotor system, and subsequent loss of control of the helicopter.

DATES: Effective May 14, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–49–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Harry Edmiston, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5158, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION: Transport Canada, which is the airworthiness authority for Canada, has notified the FAA that an unsafe condition may exist on BHTC Model 222, 222B, and 222U helicopters. Transport Canada advises that fatigue cracks at the bolt holes of the pitch horn and in the flapping bearing assembly can lead to loss of control of the helicopter.

BHTC issued Alert Service Bulletin Nos. 222–98–81 and 222U–98–52, both dated April 23, 1998 (ASB), which specify inspecting the main rotor hub in the areas between the pitch horn and main rotor grip tangs (grip tangs) and between the flapping bearing assembly and the main rotor yoke assembly for fretting. The ASB's also specify torque verification procedures for the main rotor grip retaining bolts and the flapping bearing assembly. Transport Canada classified these ASB's as mandatory and issued Transport Canada AD CF–98–16, dated July 15, 1998, in order to assure the continued airworthiness of these helicopters in Canada.

These helicopter models are manufactured in Canada and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

The FAA estimates that 88 helicopters will be affected by this proposed AD, that it will take approximately 1 work hour to accomplish the inspection and retorque of bolts, if necessary, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $15,840 per year, assuming three inspections and retorques per year and assuming that no parts will need to be replaced.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 222, 222B, and 222U helicopters of the same type design registered in the United States, this AD is being issued to prevent fretting induced fatigue cracking of the flapping bearing assembly and around the bolt holes of the pitch horn, loss of the rotor system, and subsequent loss of control of the helicopter. This AD requires recurring inspections of the main rotor hub in the areas between the pitch horn and grip tangs and between the flapping bearing assembly and the main rotor yoke assembly for fretting. If fretting is found on any part, replacing that part with an airworthy part is required. This AD also requires verifying the torque on the main rotor grip retaining bolts and the flapping bearing assembly retaining bolts. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, a visual inspection of the main rotor hub between the pitch horn and grip tangs and the flapping bearing assembly and the main rotor yoke assembly for fretting is required. A torque check of the main rotor grip retaining bolts and the flapping bearing assembly retaining bolts is also required. These actions are required within 10 hours TIS and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are

invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–SW–49–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

99–09–20 Bell Helicopter Textron Canada: Amendment 39–11153. Docket No. 98–SW–49–AD.

Applicability: Model 222 helicopters, serial numbers (S/N) 47006 through 47089, Model 222B helicopters, S/N's 47131 through 47156, and Model 222U helicopters, S/N's 47501 through 47574, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fretting induced fatigue cracking of the main rotor flapping bearing assembly (flapping bearing assembly) and around the bolt holes of the main rotor pitch horn (pitch horn), loss of the rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), and thereafter at intervals not to exceed 150 hours TIS:

(1) Perform a visual inspection of the main rotor hub for fretting between the pitch horn and main rotor grip tangs (grip tangs) and between the flapping bearing assembly and the main rotor yoke assembly. If fretting is found on any part, replace it with an airworthy part.

(2) Verify the torque of the main rotor grip retaining bolts and the flapping bearing assembly bolts in the tightening direction, minimum 100 foot-pounds. If 100 foot-pounds torque is reached without movement of the bolts, torque bolts to 125 foot-pounds.

(3) If any bolt moves before 100 foot-pounds torque is reached, remove the pitch horn or the flapping bearing assembly, as applicable, from the main rotor hub assembly for further inspection. Inspect the pitch horn or flapping bearing assembly, as applicable, and all faying surfaces of the pitch horn, flapping bearing assembly, buffers, main rotor yoke assembly, and the grip tangs for fretting. If fretting is found on any part, replace it with an airworthy part.

(4) Apply corrosion preventive compound to the exposed portions of the bolts and nuts.

Note 2: Bell Helicopter Textron Alert Service Bulletin Nos. 222–98–81 and 222U–98–52, both dated April 23, 1998, pertain to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on May 14, 1999.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF–98–16, dated July 15, 1998.

Issued in Fort Worth, Texas, on April 22, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–10669 Filed 4–28–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 556

Oral Dosage Form New Animal Drugs; Piperazine

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Fleming Laboratories, Inc. The supplemental NADA provides for the safe and effective use of piperazine in chickens, turkeys, and swine for the treatment of certain parasitic infections. The approval reflects compliance with the results of the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation (DESI) evaluation of the effectiveness of piperazine and FDA's conclusions concerning that evaluation. FDA also is amending the regulations to provide tolerances for piperazine residues.

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0212.

SUPPLEMENTARY INFORMATION: Fleming Laboratories, Inc., P.O. Box 34384, Charlotte, NC 28234, filed a supplement to its approved NADA 10–005 for use of piperazine soluble powder and liquid for oral treatment of chickens and turkeys for roundworm infections and swine for roundworm and nodular worm infections. NADA 10–005 was originally approved on June 9, 1955. The drug was the subject of a NAS/NRC evaluation of effectiveness under FDA's DESI program (DESI 10–005V). The findings of the evaluation were published in the **Federal Register** of February 14, 1969 (34 FR 2213). The NAS/NRC DESI report concluded that the drug is effective as an anthelmintic for dogs, cats, chickens, turkeys, horses, swine, sheep, and cattle. FDA concurred with the conclusions of the report. Fleming Laboratories, Inc., filed a supplemental NADA providing revised labeling that brought its drug into compliance with the results of the NAS/NRC DESI evaluation and FDA's conclusions based on that evaluation.

The supplemental NADA provides for treatment of animals for parasitic infections as follows: (1) Chickens and turkeys, for *Ascaridia* spp., chickens at 50 milligrams (mg)/bird under 6 weeks and 100 mg/bird over 6 weeks; turkeys at 100 mg/bird up to 12 weeks and 200 mg/bird over 12 weeks according to size, at 0.2 to 0.4 percent in feed or 0.1 to 0.2 percent in water for 1 to 2 days; and (2) swine, for *Ascaris suum and Oesophagostomum* spp., at 50 mg/pound (lb) body weight, at 0.2 to 0.4 percent in feed or 0.1 to 0.2 percent in water for 1 to 2 days.

The supplement is approved as of March 23, 1999, and the regulations are amended by adding 21 CFR 520.1807 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, tolerances for residues of piperazine in edible tissues of food-producing animals have been established. The regulations are amended by adding 21 CFR 556.513 to establish the residue tolerances.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has previously informed manufacturers of piperazine products for food-producing animals not covered by approved applications that such products may be subject to regulatory action. FDA advised sponsors of DESI-reviewed piperazine products to pursue finalization of their NADA's at the earliest possible time. FDA now is providing public notice that it is prepared to take regulatory action against unapproved piperazine products for food-producing animals. In order to provide for an orderly phaseout, the manufacture of piperazine powder and liquid that is not the subject of an approved NADA or abbreviated new animal drug application (ANADA) shall cease by August 27, 1999, and the distribution of said products not manufactured under an approved application shall also cease by that date.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 556 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1807 is added to read as follows:

§ 520.1807 Piperazine.

(a) *Specifications.* A soluble powder or liquid containing piperazine dihydrochloride or dipiperazine sulfate, equivalent to 17, 34, or 230 grams of piperazine per pound or 100 milliliters.

(b) *Sponsor.* See 015565 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.513 of this chapter.

(d) *Conditions of use*—(1) *Chickens*—(i) *Amount.* 50 milligrams per bird under 6 weeks, 100 milligrams per bird over 6 weeks.

(ii) *Indications for use.* For removal of large roundworm (*Ascaridia* spp.).

(iii) *Limitations.* For use in drinking water or feed. Use as sole source of drinking water. Prepare fresh solution daily. Use as 1-day single treatment. Withdraw 14 days prior to slaughter. Do not use for chickens producing eggs for human consumption. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(2) *Turkeys*—(i) *Amount.* 100 milligrams per bird up to 12 weeks and 200 milligrams per bird over 12 weeks.

(ii) *Indications for use.* For removal of large roundworm (*Ascaridia* spp.).

(iii) *Limitations.* For use in drinking water or feed. Use as sole source of drinking water. Prepare fresh solution daily. Use as 1-day single treatment. Withdraw 14 days prior to slaughter. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(3) *Swine*—(i) *Amount.* 50 milligrams per pound of body weight.

(ii) *Indications for use.* For removal of large roundworm (*Ascaris suum*) and nodular worms (*Oesophagostomum* spp.).

(iii) *Limitations.* For use in drinking water or feed. Use as sole source of drinking water. Prepare fresh solution daily. Use as 1-day single treatment. Withdraw 21 days prior to slaughter. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

4. Section 556.513 is added to subpart B to read as follows:

§ 556.513 Piperazine.

A tolerance of 0.1 part per million piperazine base is established for edible tissues of poultry and swine.

Dated: April 19, 1999.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–10696 Filed 4–28–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

28 CFR Part 16

Production or Disclosure of Material or Information

CFR Correction

At 63 FR 51300, Sept. 25, 1998, the correction document published should have stated paragraphs (a) and (b) of § 16.41 were being corrected.

[FR Doc. 99–55516 Filed 4–28–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Equal Employment Opportunity Commission

29 CFR Part 1601

Procedural Regulations

CFR Correction

In Title 29 of the Code of Federal Regulations, parts 900 to 1899, revised as of July 1, 1998, page 154, § 1601.74 is corrected by adding footnote four as follows:

§ 1601.74 Designated and notice agencies.

(a) * * *

[FR Doc. 99–55517 Filed 4–28–99; 8:45 am]

BILLING CODE 1505–01–D

[4] The Colorado State Personnel Board has been designated as a FEP agency for only those charges which relate to appointments, promotions, and other personnel actions that take place in the State personnel system. In addition, it has been designated as a FEP agency for all of the above mentioned charges except charges which allege a violation of section 704(a) of title VII. For this type of charge it shall be deemed a "Notice Agency" pursuant to 29 CFR 1601.71(b).

FEDERAL MARITIME COMMISSION

46 CFR Parts 510, 515 and 583

[Docket No. 98–28]

Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries

AGENCY: Federal Maritime Commission.

ACTION: Confirmation of interim final rule and correction.

SUMMARY: This rule confirms as final the interim rule published on March 8, 1999, which added a provision to the Federal Maritime Commission's licensing requirements to allow foreign non-vessel-operating common carriers the opportunity to seek to obtain a license. In addition, this document contains a correction to the final regulations which were published in the same document on March 8, 1999.

DATES: Effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Austin L. Schmitt, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573–0001, (202) 523–5796

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573–0001, (202) 523–5740

SUPPLEMENTARY INFORMATION:

On February 26, 1999, the Federal Maritime Commission ("FMC" or "Commission") adopted new regulations at 46 CFR part 515 to implement changes made by the Ocean Shipping Reform Act of 1998 ("OSRA"), Pub. L. 105–258, 112 Stat. 1902, to the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. section 1701 *et seq.*, relating to ocean freight forwarders and non-vessel-operating common carriers ("NVOCCs"), 64 FR 11155–11183, March 8, 1999.

As part of the final rule, the Commission published as an interim final rule a provision to allow foreign NVOCCs the opportunity to seek to obtain a license under the provisions of 46 CFR part 515. We explained that pursuant to the definition of "in the United States" in 46 CFR 515.3 adopted by the Commission, a foreign NVOCC could choose to establish a presence in the United States for licensing purposes in accordance with 515.3 and secure financial responsibility applicable to NVOCCs in the United States. To establish a presence in the United States necessary to obtain a license under this part, a foreign NVOCC must set up an unincorporated office that is resident in the United States. We would not consider the foreign NVOCC's primary location in the United States to be a separate branch office subject to additional licensing and financial responsibility requirements of this part. However, in the event that the licensee seeks to establish other branch offices in addition to its primary United States office, those other offices would be subject to the licensing and financial responsibility requirements applicable to separately incorporated and unincorporated branch offices.

We further limited the option of a foreign entity becoming licensed under this part to NVOCCs, and not freight forwarders, because an "ocean freight forwarder" is defined in § 515.2(o)(1) as a person who dispatches shipments "from the United States." Moreover, a freight forwarder has a fiduciary relationship with its customer, and a foreign freight forwarder, by its very nature, would be performing services for its customers in a foreign country beyond the reach of the Commission. Finally, in order to better assist foreign NVOCCs who seek to become licensed under this part, we amended § 515.11(a)(1) to provide that a foreign NVOCC's experience in ocean transportation intermediary ("OTI") services need not be in the United States.

We sought comments on those aspects of the rule that were implemented as an interim final rule. We received comments from North American Van Lines, Inc., t/a North American International, who supports the Commission's proposal to permit foreign NVOCCs to obtain a license, believing it will result in enhanced compliance with the 1984 Act. No other comments were received, and, therefore, we implement as final those provisions which allow foreign NVOCCs to seek to obtain a license under 46 CFR part 515.

As the Commission is preparing to implement the licensing and financial responsibility requirements of this part, several issues have been raised which we will now address.

With respect to the licensing requirements of § 515.11, in the supplementary information to the final rule, we stated that an NVOCC with a tariff and financial responsibility in effect as of April 30, 1999, would be permitted to continue operating without the requisite three years' experience and character requirement. 64 FR 11158–59. However, in § 515.11(a)(3), the reference to the character requirement was inadvertently omitted. Therefore, § 515.11(a)(3) is corrected to reflect that an NVOCC with a tariff and financial

responsibility in effect as of April 30, 1999 will be permitted to continue operating without satisfying the requisite qualifications of three years' experience and necessary character to render OTI services.

In addition, we stated that an applicant will be provisionally licensed while the Commission reviews its application. Concerns have been raised as to what the Commission intends by the term "provisionally." The Commission will issue licenses to those NVOCCs who have tariffs and financial responsibility in effect on April 30, 1999 and who file license applications and increase their financial responsibility by May 1, 1999. These entities are permitted to continue operating while the Commission processes their applications. Should the review and investigation of applications reveal that an applicant is otherwise unqualified or unsuitable to retain a license, the regular procedures set forth at § 515.16 for revocation or suspension of a license would apply.

OSRA and 46 CFR part 515 require, for the first time, that NVOCCs obtain a license. Consistent with the licensing provisions applicable to freight forwarders under current regulations at 46 CFR part 510, and applicable to all licensed OTIs effective May 1, 1999 under 46 CFR part 515, separately incorporated branch offices are treated as separate entities. Section 515.3 requires a separate license for separately incorporated branch offices. Branch office is defined at § 515.2(c) as "any office in the United States established by or maintained by or under the control of a licensee for the purpose of rendering intermediary services, which is located at an address different from that of the licensee's designated home office. This term does not include a separately incorporated entity." Similarly, subpart C of 46 CFR part 515 requires that separately incorporated branch offices obtain their own financial responsibility. Unincorporated branch offices are not required to obtain their own licenses, but the licensee is required to increase its financial responsibility by $10,000 for each unincorporated branch office.

Section 515.25(a), in conjunction with the licensing requirements of this part, could be read to require that a separately incorporated branch office of an NVOCC publish its own tariff, because an applicant who seeks to obtain a license to operate as an NVOCC must establish its financial responsibility and publish a tariff. We wish to clarify that a separately incorporated branch office of an NVOCC is not required to publish its own tariff. An NVOCC branch office which provides intermediary services is required to satisfy the licensing and financial responsibility requirements applicable to unincorporated and separately incorporated branch offices, as freight forwarders previously have been, and continue to be, so required. To the extent that a separately incorporated branch office of an NVOCC is issuing, processing, or otherwise handling, the designated home office's bills of lading, based on the rates published in the designated home office's tariff, it is not required to publish its own tariff.

An office under the corporate umbrella that does not provide intermediary services under this part, but for example provides air freight forwarding, does not fall under the branch office requirements of this part, as it is not established or maintained by or under the control of the licensee for the purpose of rendering intermediary services within the meaning of the 1984 Act or this part. Similarly, a licensed OTI is allowed to use an agent, say for sales work on behalf of the licensed principal, and the agent is not required to obtain its own license and financial responsibility, so long as the agent is not, in actuality, operating as a branch office of the licensee, whether unincorporated or separately incorporated.

The Commission has received OMB approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. The valid control number for this collection of information is 3072–0012.

The Commission is not aware of any other federal rules that duplicate, overlap, or conflict with the new rule.

List of Subjects in 46 CFR Part 515

Exports, Freight forwarders, Non-vessel-operating common carriers, Ocean transportation intermediaries, Licensing requirements, Financial responsibility requirements, Reports and recordkeeping requirements.

Accordingly, the second sentence of § 515.11(a)(1), which was published as an interim final rule within the final rule adding part 515 at 64 FR 11173 on March 8, 1999, is adopted as a final rule without change.

In addition, the following corrections are made:

1. At the end of the preamble on page 11171 in the first column, in the fourth line above the heading for part 510, the words "proposes to remove" are corrected to read "removes", and in the following line, the word "add" is corrected to read "adds'.

2. In § 515.11(a)(3), which was published at 64 FR 11173 in the third column on March 8, 1999, make the following correction: in the first sentence after the word "experience" and before the word "and" add the phrase "and necessary character to render ocean transportation intermediary services'.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10755 Filed 4–28–99; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

46 CFR Part 520

[Docket No. 98–29]

Carrier Automated Tariff Systems

AGENCY: Federal Maritime Commission.

ACTION: Adoption of final rule.

SUMMARY: This rule adopts as final, with certain clarifying modifications, the interim rule published on February 26, 1999, which added a definition for motor vehicles to the Federal Maritime Commission's regulations concerning automated tariff systems.

DATES: Effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Austin L. Schmitt, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street, NW, Room 940, Washington, DC 20573, (202) 523–5796

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW, Room 1018, Washington, DC 20573, (202) 523–5740

SUPPLEMENTARY INFORMATION: On March 8, 1999, the Federal Maritime Commission ("FMC" or "Commission") published a final rule establishing requirements for carrier automated tariff systems in accordance with the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. section 1702 *et seq.*, as amended by the Ocean Shipping Reform Act of 1998 ("OSRA"), Public Law 105–258, 112 Stat. 1902, 64 FR 11218. At the same time, the Commission adopted a new definition for the term "motor vehicle." Because this term was not included in the proposed rule, it went into effect as an interim final rule, and interested parties were given an opportunity to comment on it.

The Commission's proposed definition in § 520.2 stated:

Motor vehicle means an automobile, truck, van, or other motor vehicle used for the transportation of passengers and cargo; but does not include equipment such as farm or road equipment which has wheels, but whose primary purpose is other than transportation.

The Commission explained that although the proposed rule did not contain a definition for "motor vehicle," the appearance of the term in OSRA may have created some confusion in the industry. The Commission concluded that the proposed definition appears consistent with the discussion in the Senate Report on S. 414, S. Rep. No. 61, 105th Cong., 1st Sess. (1997) ("Report").

The Commission received only one comment on the definition of "motor vehicle," from Wallenius Lines AB ("Wallenius"), a common carrier engaged in the transportation of vehicles. Wallenius contends that it was involved in the process that led to the elimination of the tariff publishing requirement for "new assembled motor vehicles." It further submits that those involved in this process were clear as to the intent and reach of this exception, and that the legislative history of OSRA would be adequate to reflect that intention. It contends, however, that the Commission's proposed definition has upset this balance by adding to the definition of "motor vehicles" vehicles used for transportation of cargo.

Wallenius believes that the legislative history of OSRA indicates that the commodity described as "new assembled motor vehicles" is substantially narrower than that defined by the Commission. It contends that the Report refers to motor vehicles in terms of automobiles that move in "* * * specialized, roll-on, roll-off vessels, usually in very large quantity, single shipment lots pursuant to a * * * (service) contract." Report at 22. Wallenius submits that this type of service is understood in the automobile manufacturing industry and by its transportation providers as referring to "new, fully assembled automobile manufacturer products the primary purpose of which is the non-commercial transportation of passengers." Wallenius contends that this includes vehicles such as automobiles, sport utility vehicles, passenger minivans and pickup trucks, which move in large quantities, in single shipment lots, for the manufacturer under contract with a carrier.

In this regard, Wallenius notes that the Report refers to prior petitions for exemption before the Commission that related exclusively to automotive manufacturers' products. It also notes that the Report states that the reason for the excepted treatment under OSRA is the nature of the "new, assembled automobile shipper market," which is described as very concentrated and employing unique shipping practices.

Wallenius believes that the market encompassed by the Commission's proposed definition of "motor vehicles" is significantly broader than the market intended to be reached by the exception. It interprets the Commission's proposed definition as including vehicles solely for the transportation of cargo, including commercial trucks and vans (including "18-wheelers"), and buses and trolleys. It argues, however, that such cargoes are not part of the new, assembled automobile shipper market that OSRA intended to address. Wallenius further asserts that such an extension flies in the face of the general rule of statutory construction that exceptions to statutory provisions should not be expanded by implication. Wallenius, therefore, suggests that the Commission adopt the following definition for "new assembled motor vehicles":

a new, assembled passenger vehicle product which is an automobile, a sport utility vehicle, minivan, pickup truck or other wheeled vehicle, the primary purpose of which is the non-commercial transportation of passengers, and which is tendered for shipment by the manufacturer or the manufacturer's authorized representative.

As an initial matter, Wallenius has overstated the breadth of the Commission's proposed definition for motor vehicle. The definition refers to automobiles, trucks, vans, or other motor vehicles used for the transportation of passengers and cargo. The latter portion of this provision is written in the conjunctive and does not, therefore, include vehicles used solely for the transportation of cargo, *e.g.* "18-wheelers." It covers simply vehicles used for the transportation of passengers *and* cargo—for example, automobiles. It was not the intent of the Commission to carve out such a broad exception, as indicated by the further explication that motor vehicle does not include wheeled equipment such as farm or road equipment whose primary purpose is other than transportation.

Wallenius' proposed definition has four distinct elements for a motor vehicle: (1) It must be new and assembled; (2) it must be a passenger vehicle product—*i.e.* an automobile, a sport utility vehicle, minivan, pickup truck or other wheeled vehicle; (3) its primary purpose must be the non-commercial transportation of passengers; and (4) it must be tendered by the manufacturer or the manufacturer's authorized representative. This particular definition may be somewhat narrower than that intended by Congress, although, as Wallenius points out, Congress did reference the fact that common carriers of automobiles using specialized roll-on, roll-off vessels did previously petition the Commission for an exemption from tariff filing under the 1984 Act. Moreover, the discussion of the motor vehicle exemption was limited to the common carriage of automobiles and the new, assembled automobile shipper market, and concluded that common carriage requirements are not necessary for that particular market. Report at 22.

Nonetheless, Congress chose the term "motor vehicles" rather than "automobiles" in the statute, and that term must be given its full and proper meaning. The term "motor vehicle" is necessarily broader than the term "automobile." At the very least, "motor vehicle" includes automobiles, but it must include more. In addition, there is nothing in the legislative history that indicates that new, assembled motor vehicles are only excepted if they are tendered by a manufacturer or a manufacturer's authorized representative. Accordingly, the Commission is adopting a compromise definition that should meet most of Wallenius' concerns and still comport with Congress' intent.

The Commission has received OMB approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. The valid control number for the collection is 3072–0064.

The Commission is not aware of any other federal rules that duplicate, overlap, or conflict with the new rule.

List of Subjects in 46 CFR Part 520

Common carriers; Freight; Intermodal transportation; Maritime carriers; Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 46 CFR part 520 which was published at 64 FR 11218 on March 8, 1999, is adopted as a final rule with the following change:

PART 520—CARRIER AUTOMATED TARIFFS

1. The authority citation for part 520 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1702, 1707–1709, 1712, 1716; Pub. L. 105–258, 112 Stat. 1902; and sec. 424 of Pub. L. 105–383, 112 Stat. 3411.

2. Amend § 520.2 by revising the definition of motor vehicle to read as follows:

§ 520.2 Definitions.

* * * * *

Motor vehicle means a wheeled vehicle whose primary purpose is ordinarily the non-commercial transportation of passengers, including an automobile, pickup truck, minivan, or sport utility vehicle.

* * * * *

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10783 Filed 4–28–99; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–173; RM–9361]

Radio Broadcasting Services; Condon, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of John L. Zolkoske, allots Channel 228A to Condon, OR, as the community's first local aural service. *See* 63 FR 53008, October 2, 1998. Channel 228A can be allotted to Condon in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 45–14–18 NL; 120–11–06 WL. With this action, this proceeding is terminated.

DATES: Effective May 24, 1999. A filing window for Channel 228A at Condon, OR, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–173, adopted March 31, 1999, and released April 9, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Condon, Channel 228A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10751 Filed 4–28–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN 1018–AE08

Importation, Exportation, and Transportation of Wildlife (User Fee Exemptions for Qualified Fur Trappers)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) are revising our regulations providing for user fee collections from commercial importers and exporters of wildlife and wildlife products. We provide a fee exemption to trappers of fur-bearing wildlife operating small, low volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow, to individuals who trap fur-bearing wildlife from the wild as a hobby or to supplement their income and who do not deal in manufactured products or live animals as a primary means of income. The exemption from our inspection fee will apply to commercial importers and exporters based upon specific criteria, including country of origin, numbers of items, and permitting requirements. We therefore modify our user fee regulations to grant this relief to certain individuals and small businesses, meeting the outlined criteria, from the designated port inspection fees, non-designated port administrative fees, and hourly minimums only. This rule still allows us to continue to collect data on fee collections in order to analyze the impact of user fees on small business for future decision making.

DATES: This rule is effective June 1, 1999.

ADDRESSES: Send correspondence concerning this rule to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203–3247. The complete file for this final rule is available for public inspection, by appointment, during normal business hours.

FOR FURTHER INFORMATION CONTACT: Kevin R. Adams, Chief, Office of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, (703) 358–1949.

SUPPLEMENTARY INFORMATION:

Background

Summary of Public Participation

We received 39 comments on the proposed rule published on January 22, 1998 (63 FR 3298) 13 of which were submitted by individuals who we classified as non-consumptive users, i.e., those that do not hunt or trap wildlife. In addition, 11 comments were received from non-consumptive organizations such as the Animal Welfare Institute, Animal Protection Institute, International Primate Protection League, The Humane Society of the United States, and The American Society For The Prevention Of Cruelty To Animals.

We received four comments from individuals who were consumptive users of wildlife and four from consumptive user organizations such as the International Association of Fish and Wildlife Agencies, the Safari Club International, the Alaska Trappers Association, and the National Trappers Association. The states of Alaska, Illinois, Louisiana, and Nebraska also sent in comments to the proposed rule. We received three comments soliciting exemptions for tropical fish imports, and commercially raised quail and pheasant imports from Canada. We did not address these comments; they did not pertain to this rule.

Issues Raised in Public Comments, and Service Responses

Comment: The Service needs the current fee structure as it is designed to allow the Service to pay for the inspection program. Any exemptions would begin to erode the Service's ability to conduct critical inspections of wildlife being imported and exported.

Response: We acknowledge that the Service utilizes collected fees to support

its inspection program. However, the amounts charged for inspections on certain small businesses, such as low volume subsistence trappers in Alaska, may be prohibitive and cause an undue burden. We believe that proposed exemptions will allow low volume trappers to continue their business without undue hardship.

Comment: Giving an exemption to low volume trappers of fur-bearing wildlife will only "open the door" for other small businesses to demand an exemption, thereby jeopardizing further the Service's ability to recoup inspection costs.

Response: It is likely that other people who have businesses may feel the need to also ask for an exemption. We believe, however, that in the case of the low-volume trapper, the exemptions may be warranted due to:

- The nature of their small low-volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow;
- Individuals who trap fur-bearing wildlife from the wild as a hobby or to supplement their income;
- Those who do not deal in manufactured products or live animals as a primary means of income.

Comment: The Service's criteria of 100 skins or less is meaningless because large volume shippers will manipulate numbers of furs and skins per shipment to illegally qualify for the exemption.

Response: We have the ability to monitor the volume of importing and exporting by a business or individual and feel that we will be able to detect attempts to subvert the fee system by manipulating shipments.

Comment: Why does the Service inspect Convention on International Trade of Endangered Species (CITES) furs that have already been inspected and tagged by the State of Alaska. Inspecting shipments of these furs upon export is redundant and does not need to be done.

Response: We inspect shipments containing wildlife protected under CITES upon export and import to ensure that the proper permits are present, the shipment is properly declared, and for record keeping and reporting purposes. The State of Alaska places CITES tags on pelts taken in Alaska because most pelts are exported to Canada. However, having a CITES tag affixed to a pelt and the act of exporting are two separate issues requiring different actions. We also inspect imports and exports to ensure compliance with Service regulations.

Comment: Why doesn't the Service maintain the old system of a $25,000 dollar value exemption for small businesses?

Response: Since 1988, there have been four major studies of our import/export user fee policies. One recommendation consistently made in these studies was to revise our user fee policies and rates to recover the full cost of services provided to individuals and businesses. We therefore adjusted our fees for certain activities in order to recover the actual costs of services provided for all commercial import/export activities.

Comment: The Service's proposed rule does not go far enough in exempting user fees. The Service should also remove the commercial import/export license requirement for trappers.

Response: The studies that analyzed our import/export policies also recommended that we license all commercial importers and exporters of wildlife and wildlife products. As a result, we decided to license all commercial importers and exporters. We believe the $50 per year licensing requirement is fair and affordable and will not be waived.

Comment: The upper limit of 100 furs per shipment is arbitrary and should be increased to 1000 per shipment because the price a trapper gets for furs and pelts is not high enough to offset the costs of inspection.

Response: We chose the upper limit of 100 furs per shipment because we feel this number adequately represents a low volume of shipping activity. Accordingly, small businesses and individuals who qualify will not have to pay inspection fees in certain situations. Therefore, we believe the upper limit of 100 furs per shipment is appropriate.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 establishes as a principle of regulatory issuance that "* * * agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." Therefore, in order to address the immediate concerns of small business and maintain consistency with the Regulatory Flexibility Act, we will initiate a new licensing and inspection fee system that will accomplish two objectives. First, the new system contained in this rule would grant immediate relief from the economic burden of the increased inspection fees, and/or administrative fees and hourly minimums, to importers and exporters of wildlife and wildlife products at designated ports, border or special ports, and nondesignated ports that meet specific criteria. Second, by continuing to require that all commercial importers and exporters be licensed, the new system would allow the Service to continue to monitor wildlife import/export activity in order to gather the data necessary to make future decisions on the true impact of our user fees on small businesses and certain individuals.

Authority Citation

We will update the authority citation for this part to delete an obsolete reference at 31 U.S.C. 483(a) and to reflect the current United States Code citation of 31 U.S.C. 9701 regarding fees and charges for Government services.

Inspection Fee Exemption Criteria

We amend the inspection fee system to establish specific criteria that we will use to determine if the inspection fee applies at the time of import or export. The revision uses distinctions that are already established in the regulation. We will use these distinctions to establish if the inspection fee applies to wildlife shipments at the time of import to or export from the United States. Shipments will have to meet several basic criteria in order to qualify for the inspection fee exemption.

The basic exemption criteria are outlined as follows:

- The inspection fee exemption will only apply to shipments that do NOT require permits under 50 CFR parts 16 (Injurious wildlife), 17 (Endangered and threatened wildlife and plants), 18 (Marine mammals), 21 (Migratory bird permits), or 23 (Endangered species convention). Those shipments that contain wildlife that require permits will not be eligible for any inspection fee exemption.
- The wildlife must have been lawfully taken from the wild in the United States, Canada, or Mexico, and imported or exported between the United States and Canada or Mexico. Shipments containing wildlife taken in any other country and imported or exported between any countries other than the United States, Canada, or Mexico will not be eligible for the inspection fee exemption. The wildlife shipment must be imported or exported by the person who took the wildlife from the wild, or by a member of that person's immediate family, provided, that the importer or exporter of record is licensed in accordance with 50 CFR 14.91.
- The shipment must consist of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, and the shipment cannot exceed 100 raw furs,

raw, salted, crusted, hides or skins or separate parts thereof. We intend that this rulemaking provide financial relief from the burden of the inspection fees for small business and certain individuals who may be disproportionately affected.

We believe a cutoff point of 100 raw furs, raw, salted, or crusted hides or skins, or separate parts thereof will adequately distinguish between small shippers disproportionately affected and those commercial wildlife dealers less impacted by the user fee.

All of the primary criteria for the user fee exemption outlined above serve as a means of limiting the exemption application to certain individuals or small business, while at the same time maintaining the integrity and intent of the user fee rulemaking published on June 21, 1996 (62 FR 31850). By using distinctions already drawn in the regulation, we believe that the criteria represent a balance between maintaining user fee revenues and providing small business economic relief.

In addition to the primary criteria, we will use additional criteria, outlined below, to ensure that the user fee exemption is utilized by those intended and to allow for statistical tracking of the exemption's use. As stated, the importer or exporter of record who is shipping wildlife that otherwise meets the inspection fee exemption criteria will still have to obtain an Import/Export License from the Service at a cost of $50 annually (see 50 CFR part 14, subpart I). The raw fur, raw, salted or crusted hides or skins, or separate parts thereof cannot have been previously bought or sold if the inspection fee exemption is to apply. The fee exemption will not apply to manufactured products or live animals of any kind.

The reason for the latter two criteria is that the fee exemption is intended to apply to small, low volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow, or to individuals who take wildlife from the wild as a hobby or to supplement their income and who do not deal in manufactured products or live animals as a primary means of income. We believe that wildlife traders buying and selling imported wildlife in the United States and those dealing in manufactured products or live animals require a higher level of oversight and are less impacted by the inspection fee.

The importer or exporter whose wildlife shipments meet the user fee exemption criteria will still be required to pay overtime fees or designated port exception permit fees if applicable. If wildlife being shipped requires a Convention on International Trade in Endangered Species (CITES) permit, we will not exempt the shipment from the user fee due to the higher level of oversight we require on these shipments.

Certification

In order for us to have some means of verifying that the raw furs, raw, salted or crusted hides or skins, or separate parts thereof are, in fact, taken from the wild by the licensee who is acting as importer/exporter of record, or taken from the wild by a member of his or her immediate family, the licensee must sign a certification statement supplied by us at the time clearance is requested. The certification statement will ask that the licensee certify, subject to the penalties provided for under 18 U.S.C. 1001 for false or fraudulent statements, that he or she took the raw furs, raw, salted, or crusted hides or skins, or separate parts thereof from the wild or that they were taken from the wild by a member of that person's immediate family. We will consider the term "immediate family" to mean a licensee's spouse, parents, siblings, and children. We believe that extending the meaning to include grandparents, cousins, aunts, or uncles would compromise the intent of this rule. This signed certification statement will have to be presented to a Service officer at the time clearance is requested.

We intend that this inspection fee exemption framework utilize existing regulatory language that grants various exemptions to 50 CFR part 14, including § 14.15 and § 14.62. In addition, 50 CFR part 14 already exempts certain "classes" of wildlife from various regulatory requirements, including farm-raised fish from the designated port requirement on export, aquatic invertebrates of the Class Pelecypoda from the designated port and declaration requirement, and captive-bred furbearers from the marking requirement. We believe that these distinctions are consistent with the intent of the regulation.

In summary, we will exempt commercial wildlife shipments from the designated port inspection fee and/or the nondesignated port administrative fee and hourly minimums, whichever applies, for shipments meeting the following criteria: no permits are required under 50 CFR parts 16, 17, 18, 21, or 23; imports or exports are between the United States and Canada or Mexico of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, lawfully taken from the wild in the United States, Canada, or Mexico; imported or exported by the person taking the wildlife from the wild, or taken from the wild by a member of the importer or exporters' immediate family; provided, the importer or exporter of record is licensed; the shipment or any part thereof has not been previously bought or sold; the shipment does not exceed 100 raw furs, raw, salted, or crusted, hides or skins, or separate parts thereof; the shipment does not contain any manufactured products or live animals; overtime fees, if applicable, have been paid; and the importer or exporter has attached a certification statement stating that the shipment contains items taken from the wild by the importer/exporter of record or by a member of that person's immediate family.

The following chart illustrates the commercial user fee charges at designated and nondesignated ports during normal working hours before the June 21, 1996, final rule, after the August 1, 1996, effective date of that final rule, and under this final rule, for comparison:

Fees	Prior to June 21, 1996 Final Rule	After August 1, 1996 effective date	After September 1, 1998 effective date
Designated Port	Under 25k/year No Charge ..... $125/year License Fee ..... $25/Shipment Inspection Fee	$50/year License Fee ..... $55/shipment Inspection Fee	$50/year License Fee. $55/shipment Inspection Fee if criteria not met. No Charge if criteria met.
Nondesignated Port	Under 25K/year No Charge ..... $125/year License Fee ..... $25/shipment Administrative Fee plus 2 hour minimum at $25/hr ($50).	$50/year License Fee ..... $55 Administrative Fee plus 2 hour minimum at $20/hr ($40).	$50/year License Fee. $55 Administrative Fee plus 2 hour minimum at $20/hr ($40) if criteria not met. No Charge if criteria met.

Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq

This final rule affects only the requirement to pay an inspection fee for shipments and contains no information collections for which Office of Management and Budget approval is required under the Paperwork Reduction Act (44 U.S.C. 3501). Importers/exporters subject to this rule may be subject to the requirement to file a Declaration for Importation or Exportation of Fish or Wildlife (FWS form 3–177; OMB approval number 1018-0012; expiration date August 31, 2000). This rule does not change or affect the information collection requirements associated with the declaration form 3–177. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Required Determinations

The Service has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988. They do not unduly burden the judicial system. The regulations promote simplification and provide immediate relief from the economic burden of the increased inspection fees, and/or administrative fees and hourly minimums, to importers and exporters of wildlife and wildlife products at designated ports, border or special ports, and nondesignated ports that meet specific criteria.

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1501 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. In 1996, the total value of all wildlife shipments which may be eligible for the exemption was $700,734. Fees payable to the Service on these shipments would be reduced between $22,935 and $39,615 under the rule. Therefore, although user fees will be effected we anticipate that they will not be substantial. The rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency because it affects only Service actions.

Economic Effects

The Service conducted an economic analysis of this rule. The declared value of all wildlife shipments requiring Service clearance in Fiscal Year 1995 was approximately $860,000,000. In 1996, the total value of all wildlife shipments which may be eligible for the proposed exemption was $700,734. Fees payable to the Service on these shipments would be reduced between $22,935 and $39,615 under the rule. The effect of this rule is much less than $100 million annually. We anticipate no substantial indirect economic effects so the effect of this rule is much less than $100 million annually. We do not expect the shipment volume to rise to a level that would generate a $100 million annual impact. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866.

Accordingly, under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), this rulemaking will not have a significant economic effect on a substantial number of small entities, which include businesses, organizations, or governmental jurisdictions. This rule exempts small shippers from the Fish and Wildlife Service inspection fee and so represents an adaptation of the current fee structure to provide relief for small shippers, therefore, this rule will have a beneficial effect on such entities.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Service amends Title 50, Chapter I, subchapter B of the Code of Federal Regulations as set forth below:

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

1. Revise the authority citation for Part 14 to read as follows:

Authority: 16 U.S.C. 668, 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701.

2. Amend § 14.4 by revising the section heading and adding alphabetically the definitions "we" and "you" to read as follows:

§ 14.4 What terms do I have to understand?

* * * * *

We means Fish and Wildlife Service or Service.

You means licensee, or importer/exporter of record.

3. Amend § 14.94 by revising the section heading and revising paragraph (a) and adding paragraph (e) to read as follows:

§ 14.94 What fees apply to me?

(a) *License and inspection fees.* We will impose a yearly fee for a license pursuant to § 14.93. In addition, you must pay an inspection fee for each wildlife shipment imported into or exported from the United States at a designated port. If you import into or export from the United States wildlife shipments meeting the criteria outlined in paragraph (e) of this section, you are exempt from the designated port inspection fee, or nondesignated port administrative fee and hourly minimums, whichever apply. However, you must pay applicable overtime fees and permit fees.

* * * * *

(e) Your wildlife shipments meeting all of the following criteria are exempt from the designated port inspection fee or nondesignated port administrative fee and hourly minimums:

(1) The wildlife you are shipping does not require permits under parts 16, 17, 18, 21, 22, or 23 of this subchapter;

(2) You are importing or exporting wildlife between the United States and Canada or Mexico;

(3) The wildlife you are shipping consists of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, lawfully taken from the wild in the United States, Canada, or Mexico;

(4) You, as the importer or exporter of record, or a member of your immediate family (your spouse, parents, siblings, and children), took the wildlife from the wild;

(5) You are licensed in accordance with § 14.91;

(6) You have not previously bought or sold the wildlife or any part thereof being shipped;

(7) Your shipment does not exceed 100 raw furs, raw, salted, or crusted hides or skins, or separate parts thereof;

(8) Your shipment does not contain any manufactured products or live animals.

(9) You certify that your shipment meets the criteria in this paragraph.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–10543 Filed 4–28–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 042399D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the initial portion of the annual commercial quota for red snapper was reached on April 15, 1999. This closure is necessary to protect the red snapper resource.

DATES: Closure is effective noon, local time, April 15, 1999, until noon, local time, September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Crabtree, 727–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 1999. Those regulations split the red snapper commercial fishing season into two time periods, the first commencing at noon on February 1 with two-thirds of the annual quota (3.06 million lb (1.39 million kg)) available, and the second commencing at noon on September 1 with the remainder of the annual quota available. During the commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 15th of each month, until the applicable commercial quotas are reached.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 3.06 million lb (1.39 million kg) for red snapper was reached when the fishery closed at noon on April 15, 1999. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed until noon, local time, on September 1, 1999. The operator of a vessel with a valid reef fish permit having red snapper aboard must have landed and bartered, traded, or sold such red snapper prior to noon, local time, April 15, 1999.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of red snapper in or from the EEZ in the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. In addition, the bag and possession limits for red snapper apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, without regard to where such red snapper were harvested. However, the bag and possession limits for red snapper apply only when the recreational quota for red snapper has not been reached and the bag and possession limit has not been reduced to zero. The prohibition on sale or purchase does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to noon, local time, April 15, 1999, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

Dated: April 23, 1999.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10701 Filed 4–26–99; 2:08 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 82
Thursday, April 29, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 114

Administrative Claims Under the Tort Claims Act and Representations and Indemnification of SBA Employees

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA is revising a portion of its rules governing Administrative Claims under the Tort Claims Act. Presently a claim must be presented to the SBA District Counsel for the SBA District Office in the same State as the claim. The SBA District Counsel has the authority to deny a tort claim of $5,000 or less or to recommend any other action to the SBA General Counsel. This proposed rule will provide the same authority to Disaster Area Counsel when the claim is based on the acts or omissions of employees of SBA's Disaster Assistance Program. It will also vest authority to approve or deny a tort claim of $25,000 or less with SBA's Associate General Counsel for Litigation, rather than the General Counsel.

DATES: Submit comments must on or before June 1, 1999.

ADDRESSES: Address comments Timothy Treanor, Chief Counsel to the Disaster Assistance Program, U.S. Small Business Administration, 409 3rd Street, SW., Suite 7500, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Timothy Treanor, (202) 205–6885.

SUPPLEMENTARY INFORMATION: Under the Disaster Assistance Program, SBA makes direct loans to individual and business victims of natural disasters. SBA makes these loans through an organizational structure that is separate and distinct from other SBA lending programs. The Disaster Assistance Program operates from four permanent Area Offices and from temporary local offices that are from time to time established to handle such disasters. SBA's Disaster Area Office employees and local office employees are located in different offices from other SBA employees and report to different managers.

Currently, SBA's District Counsels who are not located in disaster offices have exclusive authority to investigate any claim arising within the jurisdiction covered by their Districts, including claims based on acts or omissions of Disaster Assistance employees. District Counsels also have the authority to deny or recommend approval of a claim for $5,000 or less. Currently, for claims exceeding $5,000 but less than $25,000, District Counsels investigate claims and forward them with a recommendation to SBA's General Counsel.

Under this proposed regulation, a claimant could file a tort claim against SBA for the acts or omissions of an employee of SBA's Disaster Assistance Program either at the State's District Office (the one closest to the site of the injury if there are more than one District Offices) or at the nearest Disaster Area Office. The proposed regulation would provide authority identical to that of the District Counsel to the Disaster Area Counsel to investigate and make recommendations concerning claims arising from a Disaster Assistance employee's acts or omissions. It would also vest the Associate General Counsel for Litigation with the authority to decide claims of $25,000 or less, which is in line with the Agency's current practice.

The proposed regulation also removes inaccurate language from § 114.105 concerning the requirement that District Counsel consult with the General Counsel before approving claims for less than $5,000 (the District Counsel does not have the authority to approve such claims).

The proposed regulation also removes unnecessary language from §§ 114.106 and 114.108 which purports to characterize § 114.107, and makes other minor, technical changes.

Compliance with Executive Orders 12612, 12778, 12866, the Regulatory Flexibility Act (5 U.S.C. § 601 et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this proposed rule is not a significant rule within the meaning of Executive Order 12866; it is not likely to have an annual economic effect of $100 million or more, result in a major increase in cost or prices, or have a significant adverse effect on competition or the United States economy. SBA also certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.* This rule provides for the more efficient administration of SBA's responsibilities under the Federal Tort Claims Act and imposes neither fees or additional administrative responsibilities on small businesses. For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this final rule contains no new reporting or record keeping requirements.

For purposes of Executive Order 12612, SBA certifies that this rule has no federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

List of Subjects in 13 CFR Part 114

Claims.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 114 as follows:

PART 114—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND REPRESENTATION AND INDEMNIFICATION OF SBA EMPLOYEES

1. The authority citation for part 114 continues to read as follows:

Authority: 15 U.S.C. 634(b)(1), (b)(6); 28 U.S.C. 2672; 28 CFR 14.11.

2. Revise § 114.102 to read as follows:

§ 114.102. When, where, and how do I present a claim?

(a) *When.* You must present your claim within 2 years of the date of accrual.

(b) *Where.* You may present your claim at the SBA District Office nearest to the site of the action giving rise to the claim and within the same State as the site. If you claim is based on the acts or omissions of an employee of SBA's Disaster Assistance Program, you may present your claim either to the appropriate SBA District Office or to the Disaster Assistance Office nearest to the site of the action giving rise to the claim.

(c) *How.* You must use an official form which can be obtained from the SBA office where you file the claim or give other written notice of your claim,

stating the specific amount of your alleged damages and providing enough information to enable SBA to investigate your claim. You may present your claim in person or by mail, but your claim will not be considered presented until SBA receives the written information.

3. Revise § 114.105 (b) and (c) to read as follows:

§ 114.105 Who investigates and considers my claim?

* * * * *

(b) In those cases in which SBA investigates your claim, and which arise out of the acts or omissions of employees other than employees of the Disaster Assistance program, the SBA District Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or determination with respect to your claim. In those cases in which SBA investigates your claim, and which arise out of acts or omissions of Disaster Assistance Program employees, the SBA Disaster Area Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or a determination with respect to your claim. The District Counsel, or Disaster Area Counsel, where appropriate, may negotiate with you, and is authorized to use alternative dispute resolution mechanisms, which are non-binding on SBA, when they may promote the prompt, fair, and efficient resolution of your claim.

(c) If your claim is for $5,000 or less, the District Counsel or Disaster Area Counsel who investigates your claim may deny the claim, or may recommend approval, compromise, or settlement of the claim to the Associate General Counsel for Litigation, who will in such a case take final action.

4. Revise § 114.106 to read as follows:

§ 114.106 What if my claim exceeds $5,000?

The District Counsel or Disaster Area Counsel, as appropriate, must review and investigate your claim and forward it with a report and recommendation to the Associate General Counsel for Litigation or designee, who may approve or deny an award, compromise, or settlement of claims in excess of $5,000, but not exceeding $25,000.

5. Revise § 114.108 to read as follows:

§ 114.108 What if my claim is approved?

SBA will notify you in writing if it approves your claim. The District Counsel or Disaster Area Counsel investigating your claim will forward to you, your agent, or legal representative the forms necessary to indicate satisfaction of your claim and your acceptance of the payment. Acceptance by you, your agent, or your legal representative of any award, compromise, or settlement releases all your claims against the United States under the Federal Tort Claims Act. This means that it binds you, your agent, or your legal representative, and any other person on whose behalf or for whose benefit the claim was presented. It also constitutes a complete release of our claim against the United States and its employees. If you are represented by counsel, SBA will designate you and your counsel as joint payees and will deliver the check to counsel. Payment is contingent upon the waiver of your claim and is subject to the availability of appropriated funds.

Aida Alvarez,

Administrator.

[FR Doc. 99–10680 Filed 4–28–99; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–6]

Proposed Amendment to Class D and Class E Airspace; San Juan, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The notice proposes to amend Class D airspace at Fernando Luis Ribas Dominicci Airport, San Juan, PR, and Class E5 airspace at Luis Munoz Marin International Airport, San Juan, PR. A Global Positioning System (GPS) Runway (RWY) 9 Standard Instrument Approach Procedure (SIAP) has been developed for Fernando Luis Ribas Dominicci Airport As a result, additional Class D controlled airspace for the Fernando Luis Ribas Dominicci Airport extending upward from the surface and additional Class E5 controlled airspace for the Luis Munoz Marin International Airport, extending upward from 700 feet above the surface is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Fernando Luis Ribas Dominicci Airport. The Class D airspace would be increased from a 3 mile to a 3.9-mile radius of Fernando Luis Ribas Dominicci Airport and within 1 mile each side of the 275 degree bearing from the Fernando Luis Ribas Dominicci Airport, extending from the 3.9-mile radius to 5.3 miles west of the airport. The Class E5 airspace area for the Luis Munoz Marin International Airport would be increased within 1 mile each side of the 275 degree bearing from the Fernando Luis Ribas Dominicci Airport, extending 2.5 miles west of the 13-mile radius of the Luis Munoz Marin International Airport. The operating status of the Fernando Luis Ribas Dominicci Airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

DATES: Comments must be received on or before June 1, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99–ASO–6, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–ASO–6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments.

A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amehd Class D airspace at the Fernando Luis Ribas Dominicci Airport, San Juan, PR, and Class E5 airspace at the Luis Munoz Marin International Airport, San Juan, PR. A GPS RWY 9 SIAP has been developed for Fernando Luis Ribas Dominicci Airport. As a result, additional controlled airspace extending upward from the surface and additional controlled airspace extending upward from 700 feet above the surface is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Fernando Luis Ribas Dominicci Airport. Class D airspace designations are published in Paragraph 5000 and Class E5 airspace designations are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E5 airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 5000. Class D airspace.

* * * * *

ASO PR D San Juan, PR [Revised]

Fernando Luis Ribas Dominicci Airport
(Lat. 18°27′25″ N., long. 66°05′54″ W.)
Luis Munoz Marin International Airport
(Lat. 18°26′22″ N., long. 66°00′07″ W.)

That airspace extending upward from the surface, to but not including 1,200 feet MSL, within a 3.9-mile radius of San Juan Fernando Luis Ribas Dominicci Airport and within 1 mile each side of the 275 degree bearing from the Fernando Luis Ribas Dominicci Airport, extending from the 3.9-mile radius to 5.3 miles west of the airport; excluding that portion within the San Juan Luis Munoz Marin International Airport, PR, Class C airspace area. This Class D airspace area is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005. Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO PR E5 San Juan, PR [Revised]

Luis Munoz Marin International Airport
(Lat. 18°26′22″ N. long. 66°00′07″ W.)
Fernando Luis Ribas Dominicci Airport
(Lat. 18°27′25″ N, long. 66°05′54″ W.)

That airspace extending upward from 700 feet above the surface south of lat. 18°23′00″ N., within a 17-mile radius of Luis Munoz Marin International Airport and that airspace north of lat. 18°23′00″ N., within a 13-mile radius of Luis Munoz Marin international Airport and within one mile each side of the 275 degree bearing from the Fernando Luis Ribas Dominicci Airport, extending 2.5 miles west from the 13-mile radius point.

* * * * *

Issued in College Park, Georgia, on April 19, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 99–10735 Filed 4–28–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Training of Lessee and Contractor Employees Engaged in Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop that MMS will conduct to discuss our proposed revision of the training regulations at 30 CFR Part 250, Subpart O. This workshop will provide the public an opportunity to comment on the proposed rule.

DATES: The date of the public workshop is June 10, 1999, from 8:30 a.m. to 12:30 p.m., at the location listed in the address section.

ADDRESSES: The workshop will be held in the ballroom of the Sheraton Crown Hotel, 15700 John F. Kennedy Boulevard, Houston, Texas 77032. For directions, please call Ms. Donna Daniels of the Sheraton at (281) 442–5100.

FOR FURTHER INFORMATION CONTACT: Mr. Wilbon Rhome, MMS, Operations Analysis Branch, telephone (703) 787–1587, Fax (703) 787–1555, or email wilbon.rhome@mms.gov.

SUPPLEMENTARY INFORMATION: The goal of this workshop is to give the public an opportunity to provide MMS input on our proposal and to discuss our plans to use a series of performance measures to periodically assess lessee and contractor training programs. These measures may include the following: (1) audits; (2) written testing; (3) hands-on testing; and/or (4) employee interviews. Under the proposed rule, MMS would allow lessees and contractors to develop and implement their own training programs. They will also have the flexibility to

develop alternative training programs. The MMS published the proposed rule in the **Federal Register** on April 20, 1999 (63 FR 19318). We will be accepting comments throughout the 90-day comment period, which closes on July 19, 1999.

Registration

The workshop will not have a registration fee. However, to assess the probable number of participants, MMS asks participants to register by contacting Wilbon Rhome by June 1, 1999, at the phone numbers or email address provided for further information.

Proceedings

Proceedings will be transcribed and copies will be available for purchase. We will provide details for obtaining copies of the proceedings during the workshop.

Dated: April 21, 1999.

E. P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 99–10737 Filed 4–28–99; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 83

[FRL–6332–8]

Extension of Comment Period for Control of Emissions of Air Pollution From New Nonroad Spark-Ignition Engines Rated Above 19 Kilowatts and New Land-Based Recreational Spark-Ignition Engines; Notice of Proposed Finding

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed finding; notice of extension of comment period.

SUMMARY: EPA is extending the comment period for the Notice of Proposed Finding for new nonroad spark-ignition engines rated above 19 kilowatts and new land-based recreational spark-ignition engines. The Notice of Proposed Finding was published in the **Federal Register** on February 8, 1999 (64 FR 6008). The close of the comment period for the proposed finding is April 12, 1999. EPA is extending the closure of the comment period to June 11, 1999.

DATES: Comments regarding all issues related to the notice of proposed finding will be accepted until June 11, 1999.

ADDRESSES: Comments on this proposal should be sent to Public Docket A–98–01 at the U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington DC 20460. EPA requests that a copy of comments also be sent to Alan Stout, U.S. EPA, Engine Programs and Compliance Division, 2000 Traverwood Dr., Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Ines Storhok, U.S. EPA, Engine Programs and Compliance Division, (734) 214–4575; storhok.ines@epa.gov.

SUPPLEMENTARY INFORMATION: On February 8, 1999, EPA published a notice of proposed finding for an emission control program for new nonroad spark-ignition engines rated above 19 kilowatts and new land-based recreational spark-ignition engines (64 FR 6008). In this proposal, EPA proposed a finding that nonroad spark-ignition engines rated above 19 kilowatts, as well as all land-based recreational nonroad spark-ignition engines, cause or contribute to air quality nonattainment in more than one ozone or carbon monoxide nonattainment area. The comment period ended April 12, 1999. EPA has received several requests to extend the comment period by 60 days to give affected parties more time to address the issues raised in the notice of proposed finding. EPA agrees that an extension of the comment period may be beneficial. Therefore, EPA is extending the comment period to June 11, 1999.

Dated: April 22, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99–10728 Filed 4–28–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–6320–3]

Ocean Dumping; Amendment of Site Designation

AGENCY: Environmental Protection Agency EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to amend the site designation for the San Francisco Deep Ocean Disposal Site (SF-DODS), an existing deep ocean dredged material disposal site located off San Francisco, California, by setting a permanent annual disposal volume limit and clarifying conditions and requirements for use of the site.

Use of the SF-DODS, at the proposed annual volume limit of 4.8 million cubic yards, is consistent with, and is an important component of the regional Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS). Clarifications to the original site designation Rule, developed from experience with and monitoring of site use since designation, include addition of management measures and other site use requirements to further minimize the potential for any adverse environmental impacts.

DATES: Comments must be received on or before Jnue 1, 1999.

ADDRESSES: Send questions or comments to: Ms. Kathleen Dadey, Dredging and Sediment Management Team, U.S. Environmental Protection Agency, Region IX (WTR–8), 75 Hawthorne Street, San Francisco, CA 94105, telephone (415) 744–1995.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Dadey, Dredging and Sediment Management Team, U.S. Environmental Protection Agency, Region IX (WTR–8), 75 Hawthorne Street, San Francisco, CA 94105, telephone (415) 744–1995 or Mr. Allan Ota, telephone (415) 744–1980.

SUPPLEMENTARY INFORMATION: The primary supporting documents for this designation amendment are the Final EIS for the Designation of a Deep Water Ocean Dredged Material Disposal Site off San Francisco, California (August 1993), the Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region Final Policy EIS/Programmatic EIR (October, 1998), and the SF-DODS designation Final Rule (40 CFR 228.15(l)(3)). All are available for public inspection at the following locations:

1. EPA Region IX, Library, 75 Hawthorne Street, 13th Floor, San Francisco, California 94105.
2. EPA Public Information Reference Unit, Room 2904, 401 M Street, S.W., Washington, DC 20460.
3. ABAG/MTC Library, 101 8th Street, Oakland, California 94607.
4. Alameda County Library, 835 C Street, Hayward, California 94541.
5. Bancroft Library, University of California, Berkeley, California 94720.
6. Berkeley Public Library, 2090 Kittredge Street, Berkeley, California 94704.
7. Daly City Public Library, 40 Wembley Drive, Daly City, California 94015.
8. Environmental Information Center, San Jose State University, 125 South 7th Street, San Jose, California 95192.
9. Half Moon Bay Library, 620 Correas Street, Half Moon Bay, California 94019.

10. Hayward Public Library, 835 C Street, Hayward, California 94541.
11. Hoover Institute, Stanford University, Stanford, California 94305.
12. Marin County Library, Civic Center, 3501 Civic Center Drive, San Rafael, California 94903.
13. North Bay Cooperative Library, 725 Third Street, Santa Rosa, California 95404.
14. Oakland Public Library, 125 14th Street, Oakland, California 94612.
15. Richmond Public Library, 325 Civic Center Plaza, Richmond, California 94804.
16. San Francisco Public Library, Civic Center, Larkin & McAllister, San Francisco, California 94102.
17. San Francisco State University Library, 1630 Holloway Avenue, San Francisco, California 94132.
18. San Mateo County Library, 25 Tower Road, San Mateo, California 94402.
19. Santa Clara County Free Library, 1095 North Seventh Street, San Jose, California 95112.
20. Santa Cruz Public Library, 224 Church Street, Santa Cruz, California 95060.
21. Sausalito Public Library, 420 Litho Street, Sausalito, California 94965.
22. Stanford University Library, Stanford, California 94305.

Additional supporting documentation is contained in the draft SF-DODS Site Management and Monitoring Plan Implementation Manual, the LTMS EIS/R administrative record, and related documents, available from the EPA Region IX Library (number 1 in the list above).

A. Regulated Entities

Entities potentially regulated by this action are persons, organizations, or government bodies seeking to dispose of dredged material in ocean waters at the SF–DODS, under the Marine Protection Research and Sanctuaries Act, 33 U.S.C. 1401 *et seq*. The Rule would be primarily of relevance to parties in the San Francisco area seeking permits from the U.S. Army Corps of Engineers to transport dredged material for the purpose of disposal into ocean waters at the SF–DODS, as well as the U.S. Army Corps of Engineers itself (when proposing to dispose of dredged material at the SF–DODS). Potentially regulated categories and entities seeking to use the SF–DODS and thus subject to this Rule include:

Category	Examples of potentially regulated entities
Industry and General Public	• Ports. • Marinas and Harbors. • Shipyards and Marine Repair Facilities. • Berth owners.
State, local and tribal governments	• Governments owning and/or responsible for ports, harbors, and/or berths. • Government agencies requiring disposal of dredged material associated with public works projects.
Federal government	• U.S. Army Corps of Engineers Civil Works projects. • Other Federal agencies, including the Department of Defense.

This table lists the types of entities that EPA is now aware could potentially be regulated. EPA notes, however, that nothing in this amendment alters in any way, the jurisdiction of EPA, or the types of entities regulated under the Marine Protection Research and Sanctuaries Act. To determine if you or your organization is potentially regulated by this action, you should carefully consider whether you expect to propose ocean disposal of dredged material, in accordance with the Purpose and Scope provisions of 40 CFR 220.1, and if you wish to use the SF–DODS. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the proceeding **FOR FURTHER INFORMATION** section.

B. Background

Section 102(c) of the Marine Protection Research and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq*., gives the Administrator of EPA authority to designate sites where ocean disposal may be permitted. On October 1, 1986, the Administrator delegated authority to designate ocean dredged material disposal sites to the Regional Administrator of the EPA Region in which the site(s) is located. Today's action, proposing to amend the 40 CFR 228.15(l)(3) SF–DODS designation Rule, is being made pursuant to that authority.

By publication of a Final Rule in the **Federal Register** on August 11, 1994 (59 FR 41243), EPA Region IX designated the SF–DODS as an ocean dredged material disposal site. The center of the SF–DODS is located approximately 49 nautical miles (91 kilometers) west of the Golden Gate and occupies an area of approximately 6.5 square nautical miles (22 square kilometers). Water depths within the SF–DODS range from approximately 8,200 to 9,840 feet (2,500 to 3,000 meters). The center coordinates of the oval-shaped site are: 37°39.0′ North latitude by 123°29.0′ West longitude (North American datum, dated 1983). The north-south axis is approximately four nautical miles (7.5 kilometers); the east-west axis is 2.5 nautical miles (4.5 kilometers).

The SF–DODS is an important component of the LTMS. The LTMS is a cooperative interagency planning process for dredged material management that incorporates concerns and issues of a wide range of stakeholders, including navigation and fishing interests, environmental organizations and the general public. The LTMS seeks to develop a comprehensive, technically feasible, environmentally suitable, and economically prudent long-range approach to meeting the region's dredged material disposal needs.

In its August 11, 1994 Final Rule, EPA designated the SF–DODS for use for a period of 50 years, with an interim capacity of six million cubic yards per calendar year until December 31, 1996. Because the LTMS regional planning effort was not completed by that date, the SF–DODS designation was subsequently extended (by Final Rule dated December 30, 1996, 61 FR 68964) at an interim annual volume limit of 4.8 million cubic yards until December 31, 1998. The reason for revising the volume limit from six to 4.8 million cubic yards was the revised and substantially decreased estimate of the long term need for ocean disposal of dredged material, resulting primarily from military base closures in the region.

Since the August 11, 1994 and December 30, 1996 Final Rules, substantial effort has been made toward development of a comprehensive dredged material management approach for the region. The federal and state LTMS agencies have prepared the Final LTMS EIS/R which was published in October 1998. The LTMS EIS/R

evaluates dredged material management options for the San Francisco Bay Region over the next 50 years, and contains a comprehensive evaluation of alternatives for dredged material disposal in the San Francisco Bay area, including ocean disposal, in-Bay disposal (placement at designated sites within the San Francisco Bay Estuary that are managed under section 404 of the Clean Water Act), and upland disposal or beneficial reuse. The alternatives evaluated in the LTMS EIS/R include varying levels of dredged material disposal or reuse in each of these three placement environments. The potential environmental and socioeconomic effects of each alternative were evaluated in the EIS/R. Based on these analyses, the environmentally preferred alternative (and the selected action) calls for significantly reducing in-Bay disposal and significantly increasing beneficial reuse and/or upland disposal. Specifically, the LTMS selected alternative includes a long-term goal of 20% in-Bay disposal, 40% beneficial reuse (and/or upland disposal), and 40% ocean disposal, primarily at the SF–DODS.

The LTMS EIS/R recognized, however, that beneficial reuse of dredged material, especially in the earlier years of LTMS implementation, will not always be a practicable alternative. Currently, only limited opportunities for beneficial use of dredged material exist in the Bay area. Although several reuse projects are in the planning stages, their specific capacities and the time frames of their availability are uncertain. In addition, the costs associated with reuse options may render them not practicable for certain projects or entities. For these reasons, a relatively higher proportion of aquatic (ocean plus in-Bay) disposal than called for as the long term goal under the LTMS selected alternative is expected to be necessary until substantial new upland disposal or reuse capacity becomes available.

EPA has determined that disposal of suitable dredged material at the SF–DODS presents less risk of adverse environment impact than does in-Bay disposal (see for example, Section 6.1 of the LTMS Final EIS/R). Therefore, to the extent that disposal at the SF–DODS is practicable, it may be the least environmentally damaging alternative, and in-Bay disposal of dredged material may not be permitted under the Clean Water Act section 404(b)(1) Guidelines (40 CFR part 230). Consequently, EPA has determined that there is a need for continued availability of the SF–DODS for dredged material disposal at the annual volume limit of 4.8 million cubic yards, and that this disposal volume limit is an important aspect of the regional LTMS planning effort and necessary for its success. Today's action is primarily intended to set a permanent annual volume limit that will allow the SF–DODS to accommodate dredging projects for which beneficial reuse (and/or upland disposal) is not practicable, while minimizing the amount of dredged material disposed in-Bay. In addition, EPA is also proposing several changes that clarify the Site Management and Monitoring Plan (SMMP) for the SF–DODS, and that provide enhanced environmental protection.

C. Disposal Volume Limit

The proposed annual disposal limit for the SF–DODS (as a permanently designated site) is 4.8 million cubic yards. This volume is considerably less than the 6 million cubic yards per year originally determined to be environmentally acceptable for the SF–DODS. To date, project-specific, annual, and confirmatory monitoring efforts have indicated that disposal at the SF–DODS has not resulted in significant adverse environmental impacts, consistent with the conclusions of the original (1993) site designation EIS.

A number of disposal violations have occurred since the SF–DODS was designated in 1994. However, considering that nearly 2,500 barge loads have been disposed at the site over the past three years [1], violations have been relatively rare. Furthermore, EPA has vigorously pursued enforcement of permit violations and will continue to do so.

Public comments on the LTMS EIS/R and on the draft SF–DODS Site Management and Monitoring Plan Implementation Manual expressed the concern that the original SF–DODS site designation EIS (EPA, 1993) contained an inaccurate evaluation of potential impacts due to increased disposal-related vessel traffic to and from the SF–DODS. Specifically, the original site designation EIS concluded that vessel traffic in the area would increase by only approximately two percent as a result of trips to the SF–DODS. (The 1998 LTMS EIS/R assumed a worst-case situation of approximately three times the average disposal frequency evaluated in the SF–DODS EIS.) One commenter, using vessel traffic information summarized in the SF–DODS EIS, calculated that worst-case overall vessel traffic increases in the Western Traffic Lane due to dredged material transport could be as great as 77 percent of the existing traffic. The commenter was concerned that this vessel traffic increase could result in significant disturbance-related impacts, especially to seabirds and marine mammals.

EPA has re-evaluated the potential vessel traffic increase, and the potential for this increase to result in adverse environmental impacts. This evaluation, which is presented in detail in the response to comments on the LTMS EIS/R, corroborates the EIS/R commenter's calculations and suggests that overall traffic increases may be between 110 and 162 percent. Nevertheless, EPA has determined that significant adverse impacts are unlikely to result from even the worst-case vessel traffic increases potentially associated with the proposed 4.8 million cubic yard annual disposal volume limit, for the following reasons:

- The worst-case increase in vessel traffic is significant in terms of absolute numbers. However, the majority of other vessels using the Western Traffic Lane (i.e., the one used by dredged material disposal-related vessels) are considerably larger in size, travel faster, carry cargo that is likely to be more dangerous to the aquatic environment if spilled or otherwise discharged, and generally are expected to result in a greater potential for disturbance to birds and mammals along the route to the SF–DODS than do the relatively small and slow-moving tugs and barges transporting dredged material. For example, as documented in the LTMS Final EIS/R, large commercial ships (56%) and tankers (13.3%) comprised the majority of the vessels using the Western Transit Lane during the period of 1980 through 1991.[2]
- Monitoring to date, including regional environmental monitoring and observers on dredged material disposal vessels, particularly during years of high disposal activity, has confirmed that no adverse effects to seabirds and marine mammals have occurred in terms of distraction, stress or alteration of behavior. Furthermore, seabird and marine mammal monitoring during transits to the SF–DODS will continue, and in some cases may increase, as a result of proposed changes to Mandatory Condition #12 (see below).

[1] For example, during the Oakland Harbor 42 foot deepening project, EPA noted approximately 10 disposal incidents outside the original target area, but within the SF–DODS site, two incidents outside the disposal site, but also outside of the Marine Sanctuaries, and two disposal incidents within the Gulf of the Farallones National Marine Sanctuary. Two incidents resulted, at least in part, from weather- or equipment-related emergencies. Similarly, EPA is aware of only two disposal incidents arising from the recent Richmond Harbor deepening project which were both the result of mechanical failures.

[2] Data are from the Final Environmental Impact Statement for Designation of a Deep Water Ocean Dredged material Disposal Site off San Francisco, California (August 1993).

D. Other Technical Changes to the SF–DODS SMMP

SMMP Implementation Manual: EPA proposes to clarify the SF–DODS Rule to ensure that permittees use the most current information available regarding site management and monitoring by explicitly directing them to adhere to requirements contained in the current version of the SMMP Implementation Manual. EPA intends to use the Implementation Manual as the primary vehicle for addressing new technology, making changes resulting from site monitoring, and incorporating other improvements. In this way, EPA can effect necessary modifications in the most expedient and efficient manner.

Surface Target Area: EPA is proposing modifications to Mandatory Condition #5 to reduce the surface target area of the SF–DODS from the existing radius of 1,000 meters to a circle with a radius of 600 meters. EPA's intent is to ensure that dredged material deposition outside of the SF–DODS boundary is minimized.

Acceptable Sea State: A number of commenters to the SF–DODS SMMP Implementation Manual and the LTMS EIS/R expressed concern regarding the maximum acceptable sea state for transit to the SF–DODS. They felt that the existing limits of "gale warning" and seas "over 18 feet" were not restrictive enough to minimize spillage and accidents. The Corps has incorporated revised acceptable sea states in its contracts for recent dredging projects and EPA has clarified sea states in the SMMP Implementation Manual to address these concerns. EPA proposes to codify a more restrictive sea state limit by modifying Mandatory Condition #1 to specifically limit the acceptable wave height to a maximum of 16 feet. Improvements in technology may result in changes to particular characteristics of the acceptable sea state (e.g., wave period). EPA will update the SMMP Implementation Manual to incorporate these changes, as appropriate.

Scow Loading and Certification: EPA and the Corps have implemented several other modifications to dredging and disposal operations as a result of experience gained from monitoring and managing the SF–DODS to date. We are proposing revisions to Mandatory Condition #2 to clarify dredged material disposal vessel loading limitations and to include more specific provisions for inspections and written certification of each disposal vessel.

Distance from Farallon Islands: The U.S. Coast Guard has noted that EPA does not have authority to restrict vessel traffic within already existing designated marine traffic lanes. A portion of the existing traffic lane used to transport material to the SF–DODS overlaps the three mile limit around the Farallon Islands. Therefore, EPA is proposing a change to Mandatory Condition #4 to reflect that the permittee must be at all times within the traffic lane, but is encouraged to remain at least three miles from the Farallon Islands whenever possible, consistent with safe navigation practices.

Navigation Systems: Previous experience with disposal at SF–DODS has indicated to EPA that some permittees and/or their contractors may not be interpreting the details of this condition as EPA intended. Therefore, we propose to clarify our intent by providing more specific information in the condition.

Monitoring During Transit: EPA proposes to clarify Mandatory Condition #12 to ensure continued and representative monitoring of birds and marine mammals during transit of dredged material vessels to the SF–DODS and to focus monitoring effort during times when transport of material is high. We intend to ensure that observers are present on a sufficient number of disposal vessel trips to characterize fully the potential impact of disposal site use and transit on seabirds and marine mammals, taking into account, to the extent feasible, seasonal variations in such potential impacts.

Violation Notification: In response to a request from the National Oceanic and Atmospheric Administration, EPA is proposing to modify Mandatory Condition #11 to specifically require permittees to notify the Sanctuary Manager within 24 hours of any permit violation which occurs within the boundaries of either the Gulf of the Farallones National Marine Sanctuary or the Monterey Bay National Marine Sanctuary. Furthermore, EPA will continue to inform the Sanctuary Managers of all violations, both within and outside of the Sanctuaries.

Reporting Requirements: EPA is proposing to modify Mandatory Condition #13 to specifically require permittees to provide all pertinent information related to the dredging and dredged material disposal to the agencies. This will ensure that EPA and the Corps of Engineers have adequate data to determine if permit violations have occurred and to correct such violations at the earliest possible time.

E. Ocean Dumping Site Designation Criteria

Five general criteria and 11 specific site selection criteria are used in the selection and approval of ocean disposal sites for continued use (40 CFR 228.5 and 40 CFR 228.6(a)). As described in the site designation EIS, the SF–DODS was specifically selected as the alternative which best complies with these criteria.

Monitoring activities conducted pursuant to the requirements of the SF–DODS SMMP have shown that the SF–DODS is in compliance with the site designation criteria and is performing as predicted in the site designation EIS. For example, seafloor mapping indicates that bulk of the dredged material has landed within the site boundary and has not been transported offsite thereafter. Deposits exceeding 17 centimeters in thickness have been identified only at the center of the SF–DODS and no deposits thicker than the five centimeter threshold established in the site designation Final Rule have been detected at or outside of the site boundary. No apparent changes in the basic successional stage of the native benthic communities attributable to dredged material disposal have been observed outside the site boundary. Therefore, any significant disturbances associated with dredged material disposal are limited to within the site boundary. In addition, water column studies have confirmed that plumes resulting from disposal operations dissipate rapidly and that the suspended sediment concentration of plumes decreases to ambient levels shortly after disposal.

Vessel traffic associated with disposal operations has not interfered with overall navigation in the region and has had no significant impact on marine mammals, birds, fish or other flora or fauna in the general region of the SF–DODS. Moreover, management actions taken by EPA and codified in today's proposed Rule further reduce the potential for adverse impacts.

EPA has determined that, in general, disposal of suitable dredged material at the SF–DODS is less environmentally damaging than in-Bay disposal (see for example, Section 6.1 in the LTMS Final EIS/R). Therefore, use of the SF–DODS for disposal of suitable dredged material has reduced potential cumulative adverse impacts to the aquatic environment. Use of the SF–DODS during 1996, 1997 and 1998 resulted in a total of approximately 5.7 million cubic yards of dredged material not being disposed at in-Bay sites.

Taken together, the evaluations presented in the site designation EIS and Final Rule, and the site monitoring results to date, confirm that the SF–DODS is performing as predicted and that it continues to meet the general and

specific site designation criteria of 40 CFR 228.5 and 228.6. Furthermore, EPA Region IX has determined that it is appropriate to designated a permanent annual disposal volume limit of 4.8 million cubic yards for the SF–DODS.

Management of the site continues to be the responsibility of the Regional Administrator of EPA Region IX, in cooperation with the Corps South Pacific Division Engineer and the San Francisco District Engineer, based on the requirements defined in the Final Rule. The requirement for compliance with the Ocean Dumping Criteria of the MPRSA may not be superseded by the provisions of the LTMS or any future comprehensive regional management plan for dredged material. EPA also emphasizes that ocean disposal site designation does not constitute or imply EPA Region IX's or the Corps San Francisco District's approval of ocean disposal of dredged material from any project. Before disposal of any dredged material at the SF–DODS may occur, EPA Region IX and the Corps San Francisco District must evaluate the proposed project according to the Ocean Dumping Criteria (40 CFR part 227) adopted pursuant to the MPRSA. EPA Region IX or the Corps San Francisco District will not allow ocean disposal of material if either agency determines that the Ocean Dumping Criteria are not met.

F. Regulatory Requirements

1. Consistency with the Coastal Zone Management Act

EPA prepared a Coastal Zone Consistency Determination (CCD) document based on information presented in the site designation EIS (August 1993). The CCD evaluated whether the proposed action—designation of "Alternative Site 5" (now SF–DODS) as described in the site designation EIS as an ocean disposal site for up to 50 years, with an annual capacity of six million cubic yards of dredged material meeting ocean disposal criteria—would be consistent with the provisions of the Coastal Zone Management Act. The CCD was formally presented to the California Coastal Commission (Commission) at their public hearing April 12, 1994. The Commission staff report recommended that the Commission concur with EPA's CCD, which the Commission did by a unanimous vote. Because the approved CCD was based on 50 years of site use at up to six million cubic yards of material annually, and none of the provisions in this proposed amendment exceed these parameters, the effects of today's proposal are well within the scope of the prior review and do not require further Commission review.

2. Endangered Species Act Consultation

During development of the site designation EIS, EPA consulted with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) pursuant to the provisions of the Endangered Species Act (ESA), regarding the potential for designation and use of any of the alternative ocean disposal sites under study to jeopardize the continued existence of any federally listed species. This consultation process is fully documented in the August 1993 site designation EIS. NMFS and FWS concluded that none of the three alternative disposal sites, including the SF–DODS, if designated and used for disposal of dredged material meeting the criteria for ocean disposal, would likely jeopardize the continued existence of any federally listed species.

The results of over four years of monitoring data indicate that disposal of dredged material at the SF–DODS has not had an adverse impact on federally listed or candidate species, nor their designated critical habitat.

The ESA consultation was based on site use of up to six million cubic yards of dredged material per year, for 50 years. Since the action now proposed does not exceed these parameters and because conditions have not changed for any of the listed or candidate threatened or endangered species potentially affected by disposal site use, the effects of today's proposal are well within the scope of the original consultation and do not require further Endangered Species Act consultation.

G. Administrative Review

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant", and therefore subject to OMB review and other requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to lead to a rule that may:

(a) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(b) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(c) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(d) Raise novel legal or policy issues arising out of legal mandates, the Presidents priorities, or the principles set forth in the Executive Order.

This proposed amendment should have minimal impact on permittees. Clarifications contained herein do not substantively alter the intent of the Rule nor its interpretation, and in general, codify actions that are already being taken. The annual volume limitation merely makes permanent the temporary volume set in the December 30, 1996 Rule amendment (61 FR 68964). Consequently, EPA has determined that this proposed Rule is not a "significant regulatory action" under the terms of Executive Order 12866.

2. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) provides that whenever an agency promulgates a final rule under 5 U.S.C. 553, the agency must prepare a regulatory flexibility analysis (RFA) unless the head of the agency certifies that the proposed Rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 604 and 605). The amended site designation would only have the effect of clarifying an existing Rule and setting a permanent annual disposal volume, providing a continuing disposal option for dredged material. Consequently, EPA's proposed action will not impose any additional economic burden on small entities. For this reason, the Regional Administrator certifies, pursuant to section 605(b) of the RFA, that the proposed Rule will not have a significant economic impact on a substantial number of small entities.

3. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and record-keeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by OMB. Since the proposed Rule would not establish or modify any information or record-keeping requirements, but only clarifies existing requirements, it is not subject to the provisions of the Paperwork Reduction Act.

4. The Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L.

104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any year.

This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. As described elsewhere in this preamble, today's proposed Rule would only have the effect of clarifying an existing Rule and setting a permanent annual disposal volume, providing a continuing disposal option for dredged material. Consequently, it imposes no new enforceable duty on any State, local or tribal governments or the private sector. Similarly, EPA has also determined that this Rule contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, the requirements of section 203 of the UMRA do not apply to this Rule.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: March 24, 1999.

Alexis Strauss,

Acting Regional Administrator, Region IX.

In consideration of the foregoing, chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

§ 228.15 [Amended]

2. Section 228.15 is amended in paragraph (l)(3)(vi) by adding a sentence before the last sentence; by revising paragraph (l)(3)(vii); and revising paragraphs (l)(3)(viii)(A)(*1*), (*2*), (*4*), (*5*), (*7*), (*11*), (*12*), and (*13*) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(l) * * *

(3) * * *

(vi) * * * Adherence to the provisions of the most current SMMP Implementation Manual, including mandatory permit conditions, site monitoring activities, and any other condition(s) EPA or the Corps have required as part of the project authorization or permit, is a requirement for use of the SF–DODS.

* * *

(vii) *Type and capacity of disposed materials.* Site disposal capacity is 4.8 million cubic yards of suitable dredged material per year for the remaining period of site designation. This limit is based on considerations in the regional Long Term Management Strategy for the placement of dredged material within the San Francisco Bay region, and on monitoring of site use since the SF–DODS was designated in 1994.

(viii) * * *

(A) * * *

(*1*) Transportation of dredged material to the SF–DODS shall only be allowed when weather and sea state conditions will not interfere with safe transportation and will not create risk of spillage, leak or other loss of dredged material in transit to the SF–DODS. No disposal trips shall be initiated when the National Weather Service has issued a gale warning for local waters during the time period necessary to complete dumping operations, or when wave heights are 16 feet or greater. The permittee must consult the most current version of the SMMP Implementation Manual for additional restrictions and/or clarifications regarding other sea state parameters, including, but not limited to wave period.

(*2*) All vessels used for dredged material transportation and disposal must be loaded to no more than 80 percent by volume of the vessel. Before any disposal vessel departs for the SF–DODS, an independent quality control inspector must certify in writing that the vessel meets the conditions and requirements of a certification checklist that contains all of the substantive elements found in the example contained in the most current SMMP Implementation Manual. For the purposes of paragraph (l)(3)(viii) of this section, "independent" means not an employee of the permittee or dredging contractor; however, the Corps of Engineers may provide inspectors for Corps of Engineers dredged material disposal projects.

* * * * *

(*4*) Disposal vessels in transit to and from the SF–DODS should remain at least three nautical miles from the Farallon Islands whenever possible. Closer approaches should occur only in situations where the designated vessel traffic lane enters the area encompassed by the 3-mile limit, and where safety may be compromised by staying outside of the 3-mile limit. In no case may disposal vessels leave the designated vessel traffic lane.

(*5*) When dredged material is discharged within the SF–DODS, no portion of the vessel from which the materials are to be released (e.g., hopper dredge or towed barge) can be further than 1,900 feet (600 meters) from the center of the target area at 37°39′ N, 123°29′ W.

* * * * *

(*7*) Disposal vessels shall use an appropriate navigation system capable of indicating the position of the vessel carrying dredged material (for example, a hopper dredged vessel or towed barge) with a minimum accuracy and precision of 100 feet during all disposal operations. The system must also indicate the opening and closing of the doors of the vessel carrying the dredged material. If the positioning system fails, all disposal operations must cease until the navigational capabilities are restored. The back-up navigation system, with all the capabilities listed in this condition, must be in place on the vessel carrying the dredged material.

* * * * *

(*11*) The permittee shall report any anticipated or actual permit violations to the District Engineer and the Regional Administrator within 24 hours of discovering such violation. If any anticipated or actual permit violations occur within the Gulf of the Farallones or the Monterey Bay National Marine Sanctuaries, the permittee must also report any such violation to the respective Sanctuary Manager within 24 hours. In addition, the permittee shall prepare and submit reports, certified accurate by the independent quality control inspector, on a frequency that shall be specified in permits, to the District Engineer and the Regional Administrator setting forth the information required by Mandatory Conditions in paragraphs (l)(3)(viii)(A)(*8*) and (*9*) of this section.

(*12*) Permittees, and the Corps in its Civil Works projects, must make arrangements for independent observers to be present on disposal vessels for the purpose of conducting shipboard surveys of seabirds and marine mammals. Observers shall employ standardized monitoring protocols, as referenced in the most current SMMP Implementation Manual. At a minimum, permittees shall ensure that independent observers are present on at least one disposal trip during each calendar month that disposal occurs, AND on average at least once every 25 vessel trips to the SF–DODS.

(13) At the completion of short-term dredging projects, at least annually for ongoing projects, and at any other time or interval requested by the District Engineer or Regional Administrator, permittees shall prepare and submit to the District Engineer and Regional Administrator a report that includes complete records of all dredging, transport and disposal activities, such as navigation logs, disposal coordinates, scow certification checklists, and other information required by permit conditions. Electronic data submittals may be required to conform to a format specified by the agencies. Permittees shall include a report indicating whether any dredged material was dredged outside the areas authorized for dredging or was dredged deeper than authorized for dredging by their permits.

* * * * *

[FR Doc. 99–10729 Filed 4–28–99; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–116, RM–9536]

Radio Broadcasting Services; Angel Fire, Chama, Taos, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Alpine Broadcasting Limited Partnership seeking the substitution of Channel 256C for Channel 260C at Taos, NM, the modification of Station KHYF's construction permit to specify the alternate Class C channel, the substitution of Channel 260C2 for Channel 256C2 at Angel Fire, NM, the modification of Station KKIT's license to specify the alternate Class C2 channel, the substitution of Channel 221A for Channel 255A at Chama, NM, and the modification of the new station's construction permit (BPH–961115MM) to specify the alternate Class A channel. Channel 256C can be allotted to Taos in compliance with the Commission's minimum distance separation requirements with a site restriction of 60.3 kilometers (37.4 miles) northwest, at coordinates 36–47–33 NL; 106–02–49 WL, to accommodate petitioner's desired transmitter site. Channel 260C2 can be allotted to Angel Fire at Station KKIT's licensed transmitter site, at coordinates 36–22–33; 105–14–12. Channel 221A can be allotted to Chama at the transmitter site specified in the outstanding construction permit, at coordinates 36–54–11; 106–34–35.

DATES: Comments must be filed on or before June 1, 1999, and reply comments on or before June 16, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard A. Helmick, Cohn and Marks, 1920 N Street, NW, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, MM Docket No. 99–116, adopted March 31, 1999, and released April 9, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10750 Filed 4–28–99; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–114, RM–8902]

Television Broadcasting Services; Lake Havasu City, AZ and Laughlin, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mojave Broadcasting Company (formerly Meridian Communications Company), permittee of television Station KMCC, Channel 34+, Lake Havasu City, Arizona, requesting the reallotment of NTSC Channel 34+ from Lake Havasu City to Laughlin, Nevada, as that community's first local television transmission service and the modification of its authorization accordingly, pursuant to the provisions of Section 1.420(i) of the Commmission's Rules. Additionally, Mojave's request also seeks the reallotment of its DTV Channel 32 from Lake Havasu City, Arizona, to Laughlin, Nevada. Coordinates used for NTSC Channel 34+, as well as DTV Channel 32 at Laughlin, Nevada, are 35–01–57 NL and 114–21–56 WL. As Laughlin, Nevada, is located within 320 kilometers (199 miles) of the United States-Mexico border, the Commission must obtain concurrence of the Mexican government to this proposal.

DATES: Comments must be filed on or before May 31, 1999, and reply comments on or before June 15, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard E. Wiley and James R. Bayes, Esqs., Wiley, Rein & Fielding, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–114, adopted March 31, 1999, and released April 9, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service,

Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10752 Filed 4–28–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4167; Notice 1]

Federal Motor Vehicle Safety Standards; Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking requesting that NHTSA amend Standard 213, "Child Restraint Systems," to delete the head excursion requirement for rear-facing convertible restraints. Petitioners believe that infants should be rear-facing until at least 1 year of age, and that the head excursion limit in Standard 213 makes it unnecessarily difficult for manufacturers to recommend their restraints be used rear-facing for children of at least that age. NHTSA is denying the petition because the head excursion limit serves a safety need and there are unknown safety consequences to the petitioners' requested action. Second, more and more manufacturers are able to meet the head excursion requirement and certify rear-facing restraints for children older than 1 year in age. Further, the petitioners did not provide—and NHTSA has not identified—any data which indicate that injuries could have been prevented by the requested amendment.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Mike Huntley, Office of Crashworthiness Standards, Special Vehicle and Systems Division (telephone 202–366–0029).

For legal issues: Deirdre Fujita, Office of the Chief Counsel (202–366–2992). Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Petitioners' Request

On March 1, 1997, Stephanie Trombello and Deborah Stewart, Executive Director and Technical Consultant, respectively, of SafetyBeltSafe U.S.A., Inglewood, California, petitioned NHTSA to amend Federal Motor Vehicle Safety Standard No. 213, "Child Restraint Systems" (49 CFR 571.213), concerning certain labeling and occupant excursion requirements in the standard. Petitioners believe that infants should be rear-facing until at least 1 year of age, and that the head excursion limit in Standard 213 makes it unnecessarily difficult for manufacturers of convertible [1] child restraint systems to recommend that their restraints be used rear-facing until the child is at least that age.

Standard 213 specifies performance requirements that a child restraint must meet when tested with dummies representing the range of children for which that child restraint is recommended. Under Standard 213's requirements, child restraints recommended for use by children weighing over 22 lb are tested with a test dummy representing a 3-year-old child. So tested, they must meet all performance requirements of the standard, including limits on how far they allow the rear-facing dummy's head to extend beyond and above the top of the child restraint in a 30-mph dynamic test. (This document refers to these limits as the head excursion limits.) The head excursion limits are set forth in S5.1.3.2 of Standard 213, as follows:

S5.1.3.2. *Rear-facing child restraint systems.* In the case of each rear-facing child restraint system, all portions of the test dummy's torso shall be retained within the system and neither of the target points on either side of the dummy's head and on the transverse axis passing through the center of mass of the dummy's head and perpendicular to the head's midsagittal plane, shall pass through the transverse orthogonal planes whose intersection contains the forward-most and top-most points on the child restraint system surfaces.

The petitioners request that Standard 213 be amended to exclude convertible child restraints from the head excursion limit when the restraint is tested rear-facing with the 33 lb dummy. Petitioners state that, but for the head excursion limit,

> (S)ome currently available convertible safety seats have performed well in crash tests with the 33-pound dummy in the rear-facing position. (However, we) understand that the reason the manufacturers have hesitated to change their instructions to encourage rear-facing use for heavier babies is that the child's head could ramp up and over the top edge of the car seat in a head-on collision.

Petitioners believe that injuries will be prevented if NHTSA amends the standard as they request. Twenty-two (22) lb is the weight of a 50th percentile 12-month-old. Petitioners state that many babies reach 22 lb at six months of age or even earlier. They believe that current labeling on convertible child restraints results in parents of "heavy" infants turning the child forward when the child is less than 1 year.

Petitioners believe that the head excursion limit is unnecessary because a heavy one-year-old is much shorter than the 33 lb (3-year-old) dummy. They suggest that in lieu of the head excursion requirement, parents can be instructed, by way of a label, to limit use of the rear-facing child restraint based on the child's height. They suggest a statement such as "This safety seat may be used in the rear-facing position until the child weighs 30 pounds if the child's head is below the top edge (or within __ inches of the top edge) of the seat."

II. Evaluation of Petition

NHTSA is denying the petition for the reasons set forth below.

1. Rear-Facing Restraints Certified Above 22 Lb

Infants should be transported rear-facing until the child's skeletal and muscular structure can develop to where they can more safely withstand crash forces in a forward-facing position, which typically occurs at around age 1. Transporting infants rear-facing spreads crash forces evenly across the infant's back and shoulders, the strongest part of the child's body.

[1] A convertible restraint is used to restrain children from birth to about 40 lb. When restraining an infant, the restraint is positioned so that it faces the rear of a vehicle. When restraining a toddler, the restraint is positioned so that it faces the front of a vehicle.

Further, the infant's head will be supported by the seating surface in a crash, which helps reduce the likelihood of severe neck injuries in a crash. To better enable child restraint manufacturers to produce rear-facing child restraints for children up to age 1, Standard 213 specifies that child restraints will not be tested with the 3-year-old child test dummy unless the restraint is recommended for use by a child weighing more than the 50th percentile 12-month-old (which weighs 22 lb) (see July 6, 1995 final rule, 60 FR 50477).[2]

While positioning an infant rear-facing is generally preferable to facing the child forward, that may not be the case if the child restraint system is unable to adequately limit the head excursion of the child, or otherwise meet the performance requirements of Standard 213. If the head excursion limit were deleted, that would negate the agency's ability to evaluate the restraint's ability to limit the upwards ramping of a child's head in a crash and would hamper the evaluation of the restraint's ability to prevent the partial or full ejection of the dummy.

Petitioners state that a "heavy" 1-year-old is much shorter than the 33 lb dummy, but do not provide any values quantifying the height difference. Available data indicate only a 3.5 centimeter (cm) difference in height. NHTSA evaluated data in a 1975 report by the University of Michigan, "Physical Characteristics of Children as Related to Death and Injury for Consumer Product Safety Design," May 1975 (UM–HSRI–BI–75–5, HS 017743), to determine the difference in sitting heights between a 95th percentile 1-year-old and a 50th percentile 3-year-old child. The sitting height (crown-rump) of the 95th percentile 1-year-old (combined sexes) is approximately 50 cm, while that of the 50th percentile 3-year-old (combined sexes) is 53.5 cm.[3] The agency believes that the 3.5 cm height difference is not of a magnitude to render the 3-year-old dummy inappropriate as a test device for evaluating the restraint's ability to limit the head excursion of a 95th percentile 12-month-old child. To the contrary, the difference between the two may be unsubstantial.

Petitioners have also not provided data showing that a "heavy" 1-year-old would have adequate head support in a crash without a head excursion limit in the standard. They believe that a child whose head is "below the top edge (or within __ inches of the top edge) of the seat" will be adequately protected, but do not specify what value should be specified in the blank. They also do not provide data supporting their belief that a child restraint will adequately support a child's head which is "below the top edge" or below that unspecified location on the child restraint. NHTSA is concerned that not enough is known about the safety consequences of reducing the stringency of the head excursion requirement for rear-facing child restraints.

In addition to the above consideration, the current requirement is practicable. Some manufacturers have been able to develop convertible child restraints that they have certified as meeting Standard 213 when tested rear-facing with the 33 lb dummy. NHTSA is aware of at least three manufacturers who currently market convertible child restraints that are certified for children weighing more than 22 lb, in the rear-facing position. Century, Evenflo and Britax have all developed products which they certify meet all requirements of Standard 213 when tested in the rear-facing position with the 33 lb dummy. Thus, NHTSA believes that rear-facing restraints are available to families with "heavy" infants that exceed 22 lb prior to 1 year of age.

In summary, petitioners state that "although the 3-year-old dummy may be too tall for full head support in the rear-facing position, a heavy 1-year-old is much shorter," but did not provide any technical rationale to support eliminating the excursion requirements of the standard when testing convertible restraints in the rear facing position with the 3-year-old dummy. Petitioners did not explain why the head excursion limit should be relaxed given the insubstantial sitting height difference between an average 3-year-old child and a "heavy" 1-year-old child, nor did they explain the extent to which the head excursion limit could be relaxed given that height difference. These factors, in conjunction with the knowledge that various manufacturers have developed convertible restraints that meet the current requirements of the standard while tested rear-facing with the 33 lb, 3-year-old dummy, lead the agency to believe that the current excursion requirement does not impose an unreasonable impediment to restraint manufacturers in the design of rear-facing restraints for children over 22 lb.

2. Excursion Requirements; Total Height Considerations

Petitioners also recommend that Standard 213's labeling requirements should be amended such that "references to the total height of the child should be deleted, since the only significant measurements are the child's weight and the length of the torso." (The standard currently requires that manufacturers label their child restraints with information on both the height and weight of children for whom the restraint is recommended.) The agency discussed at length the relevancy of height as a significant criterion in the development, evaluation, and certification of child restraints in a 1995 rulemaking to incorporate the new set of test dummies into Standard 213 for compliance testing.

In the notice of proposed rulemaking (NPRM) for that regulation, NHTSA had proposed that Standard 213 should require that manufacturers base their height recommendations on the sitting height of the child (51 FR 12225, March 16, 1994). In response to the NPRM, commenters generally agreed that the height of a child is an important factor in the certification and proper use of child restraint systems. While some supported the use of a sitting height criterion as had been proposed by the agency in the NPRM, others objected to its use because of concerns regarding the complexity and potential misinterpretation of information by users of these child restraint systems. Those who opposed adoption of a sitting height criterion proposed incorporation of a sitting height limit which references a readily identifiable body landmark (such as the top of the ears or top of the head) in relation to the top of the head restraint in conjunction with modified labeling requirements to convey information about the proper use of the child restraint to the consumer to prevent whiplash-type injuries.

In the final rule (July 6, 1995, 60 FR 35127), the agency reconfirmed that information about the suitability of a restraint for children of certain heights serves a useful purpose in that it helps ensure the proper fit of a restraint to the child. At the same time, the agency acknowledged that consumers may not know the sitting height of their child as well as they know standing height. The latter is routinely measured by pediatricians and provided to parents during the child's medical examinations. Because standing height is more familiar to parents, the final rule specified recommended standing height,

[2] The interrelationship of weight, height, and age as they relate to positioning an infant rear facing in a child restraint system was discussed at length in the development of this rule, which amended FMVSS No. 213 to add a greater array of sizes and weights of test dummies for use in the standard's compliance tests.

[3] The agency's 3-year-old dummy represents a 50th percentile male child. Data on the sitting height of a 50th percentile male are not available.

rather than sitting height, to be on the label.

Since the existing Standard 213 required manufacturers to label each child restraint with recommendations for the maximum height of children who can safely occupy the system, and because NHTSA was unconvinced of a need to change to sitting height, the final rule maintained the status quo. Petitioners have not provided any information supporting their request to change to sitting height and the agency is unaware of any reason to amend the standard as they suggest. Accordingly, the agency is denying this request.

3. Crash Data

Underlying the petition is the implication that infants weighing over 22 lb are being injured because parents position them forward-facing in a vehicle before the infants are 1 year of age. Petitioners did not provide any data or statistics indicating a greater incidence of neck and spinal cord injuries for this segment of the population. NHTSA examined the agency's National Automotive Sampling System (NASS) General Estimates System (GES) [4] records for the years 1988–1996 for those crashes (1) involving an infant under 1 year of age, and (2) where both the child's weight and the child restraint orientation (rear or forward facing) were known. In 328 total cases investigated by NASS , there were no reported incidences of serious spine or other neck-related injuries. Seventeen (17) percent of the 328 cases (55 of 328) involved infants weighing between 23 and 30 lb who were positioned forward facing in his/her child restraint at the time of the crash, but in only one case did the child receive a serious (AIS level 3 or greater) injury. Injuries to heavy infants placed forward-facing in vehicles have not occurred with any frequency.[5]

[4] Data for the General Estimates System (GES) come from a nationally representative sample of police reported motor vehicle crashes of all types, from minor to fatal. The system began operation in 1988, and was created to identify traffic safety problem areas, provide a basis for regulatory and consumer initiatives, and form the basis for cost and benefit analyses of traffic safety initiatives. The information is used to estimate how many motor vehicle crashes of different kinds take place, and what happens when they occur. Although various sources suggest that about half the motor vehicle crashes in the country are not reported to the police, the majority of these unreported crashes involve only minor property damage and no significant personal injury. By restricting attention to police-reported crashes, the GES concentrates on those crashes of greatest concern to the highway safety community and the general public.

[5] The vast majority (273 of 328, or 83 percent) of reported cases involved infants weighing 22 lb or less. Nearly one half (47 percent) of these infants were positioned forward-facing in their child restraints. This clearly suggests that nearly one half of the adults placing the infants in the child restraints either: (1) Were unaware that infants are safest rear-facing in child restraints, or (2) chose to ignore the manufacturer's recommendations and placed their child forward-facing in the restraint. This suggests a need to better inform parents about the need to properly position infants weighing less than 22 lb in vehicles.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. For the aforementioned reasons, the agency has decided not to amend Standard 213 at this time to afford child restraint manufacturers greater latitude in certifying rear-facing convertible restraints. NHTSA has concluded that there is no reasonable possibility that the amendment requested by the petitioners would be issued at the conclusion of the rulemaking proceeding. Accordingly, the petition is denied.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50

Issued on April 20, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990330083–9083–01; I.D. 031999B]

RIN 0648–AK32

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Certification of Bycatch Reduction Devices

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), NMFS proposes procedures for the testing and certification of bycatch reduction devices (BRDs) for use in shrimp trawls in the exclusive economic zone (EEZ) in the Gulf of Mexico. The intended effect is to foster the development and provide for the certification of additional BRDs.

DATES: Written comments must be received on or before May 14, 1999.

ADDRESSES: Comments on the proposed rule and requests for copies of the regulatory impact review (RIR) must be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Requests for copies of the *Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual* should be sent to the Southeast Regional Office, NMFS.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, NMFS, 727–570–5305.

SUPPLEMENTARY INFORMATION: The fishery for shrimp in the EEZ of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Amendment 9 to the FMP mandated, with limited exceptions, the use of BRDs in shrimp trawls fished in the EEZ of the Gulf of Mexico shoreward of the 100-fathom (fm) (183-m) depth contour west of 85°30′ W. longitude. Excluded from the requirement to use BRDs are vessels trawling for royal red shrimp beyond the 100-fm (183-m) depth contour, vessels trawling for butterfish or groundfish, and vessels trawling for shrimp with no more than two rigid-frame roller trawls that are 16 ft (4.9 m) or less in length. In addition, a vessel may use a single trynet without a BRD installed if the headrope length is 16 ft (4.9 m) or less. The fisheye, Gulf fisheye, and Jones-Davis BRDs are currently certified for use in shrimp trawls in the EEZ of the Gulf of Mexico (63 FR 18139, April 14, 1998; 63 FR 27449, May 19, 1998).

Amendment 9 to the FMP specified that a testing protocol and administrative procedures for conducting tests on additional BRDs would be developed by NMFS, and implemented via a regulatory amendment (framework procedure). In accordance with the framework procedures of the FMP, the Regional Administrator (RA), Southeast Region, NMFS, referred to as the RD in the

codified text, has developed a testing protocol and administrative procedures to be used to certify additional BRDs for use in shrimp trawls in the Gulf of Mexico.

Amendment 9 set forth as the criterion for certification of an additional BRD for use in shrimp trawls in the EEZ of the Gulf of Mexico, that it must reduce the mortality of juvenile (age 0 and age 1) red snapper by a minimum of 44 percent compared to the average level of bycatch mortality on these age groups during 1984–1989. The testing protocol is a standardized scientific procedure to be followed to demonstrate whether a BRD meets the certification criterion.

There are two phases to the proposed procedure—an optional pre-certification phase, and a required certification phase. The pre-certification phase would allow a person to experiment with and gather data on non-certified BRD designs for up to 60 days, without having to carry an observer on the testing vessel or having to comply with a rigorous testing schedule. Thus, this phase would allow a person to experiment with different BRD designs and configurations to improve them and to determine whether they would be likely to meet the certification criterion. A person who wishes to conduct pre-certification phase testing would have to submit an application to the RA for a letter of authorization (LOA). The application would have to set forth basic information about the applicant and testing vessel's owner/operator; the purpose, scope, dates, and location of the requested BRD evaluation; scale diagrams of the BRD design; a description of how the BRD is intended to function; and a copy of the testing vessel's documentation or state registration. Upon receipt of a complete application, the RA would determine whether to issue an LOA to conduct pre-certification testing from the vessel specified in the application. The RA would issue a pre-certification phase LOA if the BRD design is substantially unlike any BRD design previously determined not to meet the BRD certification criterion or, if the design is substantially similar, the application demonstrates that the design could meet the certification criterion through design revision or upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as using a larger sample size than that previously used). If a pre-certification LOA is denied, the RA would send the applicant a letter of explanation, together with relevant recommendations to address the deficiencies resulting in the denial. If an LOA were issued, it would grant a limited exemption from the requirement that a certified BRD be installed in each trawl that is rigged for fishing, for those trawls that are being used in the pre-certification phase testing (i.e., experimental and control trawls). All other trawls under tow must be equipped with certified BRDs. All trawls including those being used in the pre-certification phase testing must be equipped with approved Turtle Excluder Devices (TEDs), unless operating under an authorization issued under 50 CFR 227.72(e)(5)(ii). The letter of authorization would be valid for no more than 60 days and must be onboard the vessel during the tests. For additional details, see the *Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual* (Manual) which is published as an appendix to this proposed rule.

All persons desiring to conduct certification phase testing of a BRD design would be highly encouraged to first conduct pre-certification phase testing. The pre-certification phase allows the BRD design to be adjusted or otherwise optimized and for data to be gathered showing that the design could meet the certification criterion upon certification phase testing. The submission of pre-certification phase data to provide a scientific basis for the conduct of certification testing is not an absolute requirement for the issuance of a certification phase LOA. For example, a request to conduct certification phase testing of a minor modification of a certified BRD design would not need to include pre-certification phase data. Similarly, a request for certification phase testing of a previously failed design that under a different test plan (e.g., larger sample sizes) could yield improved statistical results would likewise not need pre-certification phase data. However, pre-certification phase data would normally be needed to establish a reasonable scientific basis for conducting certification phase testing (e.g., that the BRD could meet the certification criterion upon certification testing).

A person wishing to conduct certification phase testing would also have to submit an application for an LOA. The Manual sets forth what the application for a certification LOA must contain. Unlike the application for a pre-certification phase LOA, this application must set forth a plan meeting the certification testing protocol, must identify who would be the observer (from the list of individuals maintained by the RA as being qualified to be an observer) and that has no current or prior financial relationship with the entity seeking BRD certification, and that a reasonable scientific basis exists for conducting certification phase testing.

Upon receipt of a complete application for a certification LOA, the RA would determine whether to issue an LOA to conduct certification testing from the vessel specified in the application. The RA would issue the LOA if he/she determines that: (1) The test plan meets the requirements of the protocol; (2) the observer in the application is qualified and has no current or prior financial relationship with any entity seeking BRD certification; (3) the BRD candidate is substantially unlike any BRD previously determined not to meet the current bycatch reduction criterion, or the applicant has shown good cause for retesting (such as the likelihood of improved statistical results yielded from a larger sample size than that previously used); and (4) for BRDs not previously tested for certification, the results of any pre-certification testing indicating a reasonable scientific basis for certification testing. If a certification LOA is denied, the RA would send a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. The approved observer would have to be on board the vessel during all test tows. Any change in information or testing circumstances, such as replacement of the observer, would have to be reported to the RA within 30 days. Application forms and standardized forms for recording the tests and for reporting the results are contained in the Manual and its appendices. Additional details and specifications are contained in the Manual. (See **ADDRESSES** for availability.)

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities as follows:

NMFS prepared a regulatory impact review (RIR) that describes the economic outcomes expected if the proposed rule is implemented. The basic finding of the RIR was that the economic changes are largely in terms of the costs for participants in the certification testing program to apply for the program and complete the pre-certification and certification testing requirements. These

costs are estimated at about $398,000. Government costs related to developing the testing Manual, issuing permits, processing testing data and making certification decisions are estimated to total about $86,000. Potential future benefits to the red snapper and shrimp fisheries were attributed to the prospect that the certification of new BRD designs would provide for an enhancement to red snapper stocks and new BRD designs have the potential of lower shrimp loss rates relative to shrimp loss rates of BRDs currently in use. These benefits were not quantified because the size of the benefits depends on how the BRDs to be tested will perform in terms of bycatch reduction and shrimp loss rates. It was determined that the proposed action is not significant under E.O. 12866 because the annual economic impact is much less than $100 million and none of the other criteria for significance will be met.

The basic determination included a finding that a substantial number of small entities, estimated to comprise most of the offshore Gulf of Mexico fleet of about 4,000 vessels, could be positively impacted, but at a level that is far below the criteria for a significant gross revenue impact. It was also determined that there are no annual compliance costs except for 24 small entities that may be involved in the testing, there are no differential small versus large business impacts, capital costs will not change, and no small entities are expected to cease operations if the proposed rule is implemented.

As a result, a regulatory flexibility analysis was not prepared. Copies of the RIR are available (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule contains collection-of-information requirements subject to the PRA—namely, the BRD certification process, consisting of applications for pre-certification or certification of a new BRD, pre-certification adjusting, the testing itself, the submission of the test results, application for observer position, and references for observers. This requirement has been submitted to OMB for approval. The public reporting burden for this collection of information is estimated to average 211 hours per application, pre-certification phase, testing, and submission of results. The public reporting burden for applying for an observer position will average 1 hour per response and the burden for obtaining references will average 1 hour per response. The collection consists of an Application Form, Vessel Information Form, Gear Specification Form, TED/BRD Specification Form, Station Sheet Form, Species Characterization Form, Length Frequency Form, and Condition and Fate Form. The average response time for each of these forms is 20 minutes, except for the Species Characterization Form which has a 5 hour response time and the Application Form which has a 2.3 hour response time. In addition, 4 hours will be needed to prepare the final report. Send comments regarding these burden estimates or any other aspect of the collection of information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: April 22, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.7, paragraph (bb) is reserved and paragraph (aa) is added to read as follows:

§ 622.7 Prohibitions.

* * * * *

(aa) Falsify information submitted on the testing of a BRD or the results of such testing, as specified in § 622.41(g)(3)(i) or (h)(4)(i).

(bb) [Reserved]

3. In § 622.41, the first sentence of paragraph (h)(1)(i) is revised and paragraph (h)(4) is added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(h) * * *

(1) * * *

(i) Except as exempted in paragraphs (h)(1)(ii) through (iv) and paragraph (h)(4)(iii) of this section, on a shrimp trawler in the Gulf EEZ shoreward of the 100-fathom (183-m) depth contour west of 85°30′ W. long., each net that is rigged for fishing must have a certified BRD installed. * * *

* * * * *

(4) *Procedures for certification of additional BRDs.* The process for the certification of additional BRDs consists of two phases—an optional pre-certification phase, and a required certification phase.

(i) *Pre-certification.* The pre-certification phase allows a person to test and evaluate a new BRD design for up to 60 days without being subject to the observer requirements and rigourous testing requirements specified for certification testing in the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual.*

(A) A person who wants to conduct pre-certification phase testing must submit an application, as specified in the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual,* to the RD. The *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual,* which is available from the RD, upon request, contains the application forms.

(B) After reviewing the application, the RA will make a determination whether to issue a letter of authorization to conduct pre-certification trials upon the vessel specified in the application. The RA would issue a pre-certification phase LOA if the BRD design is substantially unlike any BRD design previously determined not to meet the BRD certification criterion or, if the design is substantially similar, the application demonstrates that the design could meet the certification criterion through design revision or upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as using a larger sample size than that previously used). If the RD authorizes pre-certification, the RD's letter of authorization must be on board the vessel during any trip involving the BRD testing.

(ii) *Certification.* A person who proposes a BRD for certification for use in the Gulf EEZ must submit an application to test such BRD, conduct the testing, and submit the results of the test in accordance with the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual.* The RA will make a determination whether to issue a letter of authorization to conduct

certification trials upon the vessel specified in the application. The determination will be based upon a finding that: The test plan meets the requirements of the protocol; the observer identified in the application is qualified and has no current or prior financial relationship with the entity seeking BRD certification; the application presents a BRD candidate substantially unlike BRDs previously determined not to meet the current bycatch reduction criterion, or the applicant has shown good cause for reconsideration (such as the likelihood of improved statistical results yielded from a larger sample size than that previously used); and for BRDs not previously tested for certification, the results of any pre-certification trials conducted have been reviewed and deemed to indicate a reasonable scientific basis for conducting certification testing. If authorization to conduct certification trials is denied, the RA will provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. A BRD that meets the certification criterion, as determined under the testing protocol, will be added to the list of certified BRDs in paragraph (h)(2) of this section by publication of a final rule, technical amendment, in the **Federal Register**. The final rule will provide the specifications for the newly certified BRD, including any special conditions deemed appropriate based on the certification testing results.

(iii) A shrimp trawler that is authorized to participate in the pre-certification phase, or to test a BRD in the EEZ for possible certification, has such written authorization on board and is conducting such test in accordance with the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual* is granted a limited exemption from the BRD requirement specified in paragraph (h)(1) of this section. The exemption from the BRD requirement is limited to those trawls that are being used in the certification trials. All other trawls rigged for fishing must be equipped with certified BRDs.

Note: The *Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual* and appendixes H and I to the Manual are published as appendixes to this document. These appendixes will not appear in the Code of Federal Regulations.

Appendix—Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual

Definitions

Bycatch reduction criterion is that the BRD reduces the mortality of juvenile (age 0 and age 1) red snapper by a minimum of 44 percent from the average level of bycatch mortality (F=2.06) on these age classes during the years 1984–1989.

Bycatch reduction device (BRD) is any gear or trawl modification designed to allow finfish to escape from a shrimp trawl.

BRD candidate is a bycatch reduction device to be tested for certification for use in the commercial shrimp fishery of the Gulf of Mexico.

Catch per unit of effort (CPUE) means the number or pounds of fish (e.g., red snapper) or shrimp taken during a pre-defined measure of fishing activity (e.g., per hour).

Certification phase is a required testing phase whereby an individual so authorized by the RA may conduct a discrete testing program, with a sample size adequate for statistical analysis (no less than 30 tows), to determine whether a BRD candidate meets the bycatch reduction criterion.

Certified BRD is a BRD that has been tested according to this protocol and documented to meet the bycatch reduction criterion.

Control trawl means a trawl used during the certification testing that is not equipped with a BRD. The catch of this trawl is compared to the catch of the experimental trawl.

Experimental trawl means the trawl used during the certification tests that is equipped with the BRD candidate.

Evaluation and oversight personnel includes scientists, observers, and other technical personnel who, by reason of their occupational or other experience, scientific expertise or training, are approved by the Regional Administrator (RA) as qualified to evaluate and oversee the application and testing process. Scientists and other technical personnel will (1) review a BRD certification test application for its merit, and (2) critically review the scientific validity of the certification test results.

Observer means a person on the list maintained by the RA of individuals qualified to supervise and monitor a BRD certification test. Applicants may obtain the list of individuals qualified to be an observer from the RA. The individual chosen by the applicant to be the observer may not have any current or prior financial relationship with the entity seeking BRD certification. For information on observer qualification criteria and the observer application process, see Appendix I.

Pre-certification phase is an optional testing phase whereby an individual, so authorized by the RA, can experiment with the design, construction, and configuration of a BRD and gather data.

Regional Administrator means the Southeast Regional Administrator, National Marine Fisheries Service, 9721 Executive Center Drive North, St. Petersburg, Florida 33702, phone 727–570–5301.

Required measurements refers to the quantification of the dimensions and configuration of the trawl, the BRD candidate, the doors, the location of the BRD in relation to other parts of the trawl gear, and other quantifiable criteria used to assess the performance of the BRD candidate.

Sample size means the number of successful tows (a minimum of 30 tows per test are required).

Shrimp loss means the percent difference in average CPUE (e.g. kg/hr) between the amount of shrimp caught in the control trawl and the amount of shrimp caught in the experimental trawl.

Successful tow means that the control and experimental trawl were fished in accordance with the requirements set forth in the protocol and the terms and conditions of the letter of authorization, that the control or experimental net caught at least five red snapper during the tow, and that no indication exists that problematic events, such as those listed in Appendix D–5, occurred during the tow which would impact or influence the fishing efficiency (catch) of one or both nets.

Tow time means the total time (hours and minutes) an individual trawl was fished while being towed (i.e., the time between "dog-off" and start of haul back).

Trawl means a net and associated gear and rigging, as illustrated in Appendix B–5 of this manual, used to catch shrimp. The terms trawl and net are used interchangeably throughout the manual.

Tuning a net means adjusting the trawl and its components to minimize the differences in shrimp catch between the two nets that will be used as the control and experimental trawls during the certification tests.

I. Introduction

Purpose of the Protocol

This protocol sets forth a standardized scientific procedure for the testing of a BRD candidate and for the evaluation of its ability to meet the bycatch reduction

criterion. For a BRD candidate to be certified by the RA, the BRD candidate must meet the bycatch reduction criterion.

There are two phases to this procedure: An optional, but recommended, pre-certification phase and a required certification phase. An applicant is encouraged to take advantage of the pre-certification phase which allows experimentation with different BRD designs and configurations prior to certification phase testing (see below for details). The certification phase requires the applicant to conduct a discrete testing program, with a sample size of no less than 30 tows to determine whether the BRD candidate meets the bycatch reduction criterion. There is no cost to the applicant for the RA's administrative expenses such as preparing applications, issuing LOAs, or evaluating test results or certifying BRDs. However, all other costs associated with either phase (such as field testing) are at the applicant's expense.

II. Pre-Certification Phase (Optional)

The pre-certification phase provides a mechanism whereby an individual can experiment with the design, construction, and configuration of a prototype BRD for up to 60 days to improve the design's effectiveness at reducing the bycatch of red snapper and to determine whether it is likely to meet the bycatch reduction criterion. To conduct pre-certification phase evaluations of a prototype BRD, the applicant must apply for, receive, and have on board the vessel during testing, a letter of authorization (LOA) from the RA.

A. Application

In order to obtain an LOA to conduct pre-certification phase evaluations of a prototype BRD, an individual must submit a complete application to the RA. A complete application consists of a completed application form, Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (the form is appended as Appendix J–1), and the following: (1) A brief statement of the purpose and goal of the activity for which the LOA is requested; (2) a statement of the scope, duration, dates, and location of the testing; (3) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD design; (4) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD and approved TED in the shrimp trawl; (5) a description of how the BRD is supposed to work; and (6) a copy of the testing vessel's documentation or its state registration.

An applicant requesting a pre-certification LOA of an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to 50 CFR 227.72(e)(5)(ii). The pre-certification phase LOA application must also append a copy of that authorization.

B. Issuance

The RA will review the application for completeness. If the application is incomplete, the RA will inform the applicant of the incompleteness and give the applicant an opportunity to cure. If incompleteness is not cured within 30 days, it will be returned to the applicant. Upon receipt of a complete application, the RA will issue a LOA to conduct pre-certification phase testing upon the vessel specified in the application if the BRD design is substantially unlike BRD designs previously determined not to meet the current performance criterion, or if the design is substantially similar, if the application demonstrates that the design could meet the bycatch reduction criterion through design revision or upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as a larger sample size than that previously used). If a pre-certification phase LOA is denied, the RA will return the application to the applicant along with a letter of explanation including relevant recommendations as to curing the deficiencies which caused the denial. In arriving at a decision, the RA may consult with evaluation and oversight personnel. Issuance of a LOA allows the applicant to remove or disable the existing BRD in one net (to create a control net), and to place the prototype BRD in another net in lieu of a certified BRD (to create an experimental net). All other trawls under tow during the test must be equipped with a certified BRD. All trawls under tow during the pre-certification phase tests must be equipped with an approved TED unless operating under an authorization issued pursuant to 50 CFR 227.72(e)(5)(ii). The LOA, and experimental TED authorization if applicable, must be on board the vessel while the pre-certification phase tests are being conducted. The term of the LOA will be 60 days.

C. Applicability

The pre-certification phase allows an individual to compare the catches of a control net to the catches of the experimental net (net equipped with the prototype BRD) to estimate the potential efficiency of the prototype BRD. If that individual subsequently applies for a certification phase LOA to test this design he/she must include the results of the pre-certification phase evaluation with the certification application. The RA will use this information to determine if there is a reasonable scientific basis to conduct certification phase testing. Therefore, for each paired tow, the applicant should keep a written record of the weight of the shrimp catch, the weight of the finfish catch, and the total catch (in numbers) of red snapper of each net. The form contained in Appendix D should be used to record this information.

III. Certification Phase (Required)

In order to have a BRD certified, it must under certification phase testing, be consistent with requirements of the testing protocol and LOA, and be determined by the RA to meet the bycatch reduction criterion.

A. Application

In order to conduct certification phase testing, an individual must obtain a certification phase LOA. In order to obtain a certification phase LOA, an individual must submit a complete application to the RA. The complete test application consists of an Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (Appendix J–1), a copy of the vessel's current Coast Guard certificate of documentation or, if not documented, its state registration certificate; the name of a qualified observer who will be on board the vessel during all certification test operations (see Appendix I); and a test plan showing: (1) An 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD candidate; (2) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD candidate and approved TED in the shrimp trawl; (3) a description of how the BRD candidate is supposed to work; (4) the results of previous pre-certification phase tests; (5) the location, time, and area where the certification phase tests would take place; and (6) the identity of the observer from the list of qualified individuals maintained by the RA and certification that the observer has no current or prior financial relationship with the applicant or entity seeking BRD certification.

An applicant requesting a certification phase LOA to test an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to requirements of 50 CFR part

227.72(e)(5)(ii). The application for the certification phase LOA also must append a copy of that authorization.

A.1 Special Circumstances Not Covered By Protocol

Because actual testing conditions may vary, it may be necessary to deviate from the prescribed protocol to determine if a BRD candidate meets the bycatch reduction criterion. Any foreseeable deviations from the protocol must be described and justified in the application, and if scientifically acceptable will be approved by the RA in the LOA. The RA may consult with evaluation personnel to determine whether the deviations are scientifically acceptable. Without the RA's approval in the LOA, results from any tests deviating from the protocol may be rejected as scientifically unacceptable, and could result in a denial of certification.

B. Observer Requirement

A qualified observer must be on board the vessel during all certification testing operations (See Appendix I). A list of qualified observers is available from the RA. Observers may include employees or individuals acting on behalf of NMFS, state fishery management agencies, universities, or private industry who meet the minimum requirements outlined in Appendix I, but the individual chosen may not have a current or prior financial relationship with the entity seeking BRD certification. It is the responsibility of the applicant to ensure that a qualified observer is on board the vessel during the certification tests. Compensation to the observer, if necessary, must be paid by the applicant. Any change in information or testing circumstances, such as replacement of the observer, would have to be reported to the RA. within 30 days. Under 50 CFR 600.746, the owner and operator of any fishing vessel required to carry an observer as part of a mandatory observer program under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*) is required to comply with guidelines, regulations, and conditions to ensure their vessel is adequate and safe to carry an observer, and to allow normal observer functions to collect scientific information as described in this protocol. A vessel owner is deemed to meet this requirement if the vessel displays one of the following: (i) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter I, and 46 CFR, chapter I; (ii) a certificate of compliance issued pursuant to 46 CFR 28.710; or (iii) a valid certificate of inspection pursuant to 46 U.S.C. 3311.

C. Issuance

The RA will review the application for completeness. If the application is not complete, the RA will notify the applicant of the incompleteness and give the applicant an opportunity to cure. If the incompleteness is not cured within 30 days, the RA will return the application to the applicant. Upon receipt of a complete application, the RA will issue a LOA to conduct certification phase testing of the BRD candidate specified in the application if: (1) The test plan meets the requirements of the protocol; (2) the qualified observer named in the application has no current or prior financial relationship with the entity seeking BRD certification; (3) the BRD candidate design is substantially unlike BRD designs previously determined not to meet the current bycatch reduction criterion, or if the BRD candidate design is substantially similar, the application demonstrates that the design could meet the bycatch reduction criterion upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as a larger sample size than that previously used); and (4) the results of any pre-certification phase testing conducted indicate a reasonable scientific basis for further testing. The submission of pre-certification phase data to provide a scientific basis for the conduct of certification testing is not an absolute requirement for the issuance of a certification phase LOA. For example, a request to conduct certification phase testing of a minor modification of a certified BRD design would not need to include pre-certification phase data. Similarly, a request for certification phase testing of a previously failed design that under a different test plan (e.g., larger sample sizes) could yield improved statistical results would likewise not need pre-certification phase data. However, pre-certification phase data would normally be needed to establish a reasonable scientific basis for conducting certification phase testing (e.g., that the BRD could meet the certification criterion upon certification testing). In arriving at a decision, the RA may consult with evaluation and oversight personnel. If a LOA to conduct certification phase testing is denied, the RA would provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. Issuance of a LOA allows the applicant to remove or disable the existing certified BRD in one net (to create a control net) and to place the BRD candidate in another net in lieu of a certified BRD (to create an experimental net). All other trawls under tow during the tests must be equipped with a BRD. All trawls under tow during the certification tests must be equipped with an approved TED unless operating under an authorization issued pursuant to 50 CFR 227.72(e)(5)(ii). The LOA will specify the date when the applicant may begin to test the BRD candidate, the observer who will conduct the onboard data collection, and the vessel to be used during the test. The LOA and experimental TED authorization, if applicable, must be onboard the vessel while the certification phase tests are being conducted.

D. Testing Protocol

Certification testing must be conducted in areas and at times when commercial shrimp trawling normally occurs, and when juvenile red snapper (age 0 and age 1) are available to the gear. The best time for testing a BRD candidate is July and August (July 1–August 31) due to the availability of red snapper on the penaeid shrimp commercial grounds located shoreward of the 100-fm (183-m) depth contour west of 85°30′ W. longitude, the approximate longitude of Cape San Blas, FL. Data should be recorded on the forms found in Appendices B through G, using the instructions provided for each form.

D.1. Tuning the Control and Experimental Trawls Prior to BRD Certification Trials

The primary assumption in assessing the bycatch reduction efficiency of the BRD candidate during paired-net tests is that the inclusion of the BRD candidate in the experimental net is the only factor causing a difference in catch from that of the control net. Therefore, it is imperative that the fishing efficiency of the two nets be as similar as possible prior to starting the certification tests. Catch data from no more than 20 tuning tows should be collected on nets that will be used as control and experimental trawls to determine if there is a between-net or between-side (port vs. starboard) difference in fishing efficiency (bias). Any net/side bias will be reflected as differing catch rates of shrimp and red snapper between two nets that were towed simultaneously. During the tuning tows, these nets should be equipped with identical approved hard TEDs, without the BRD candidate being installed. Using this information, the applicant should

identify and minimize the causes for any net/side bias, to the extent practicable, by making appropriate trawl gear adjustments. Form D–1 from Appendix D should be used to record the net/side bias data collected from these tows. These data will enable the RA to determine if any net/side bias existed in either trawl in assessing the BRD candidate's performance.

If the applicant is testing a soft TED as a BRD, it will be imperative that little or no position or side bias with the trawl nets be demonstrated before the certification trials are initiated. Once any net/side bias is corrected using identical approved hard TEDs in both nets, any alterations in catch rate following the substitution of the soft TED into the experimental net can then be attributed to that TED's influence.

D.2. Retention of Data Collected During Tuning Trials

All data collected during tuning trials and used for minimizing the net/side bias must be documented and submitted to the RA along with the testing data for evaluation. Additional information on tuning shrimp trawls is available from the Harvesting Technology Branch, Mississippi Laboratories, Pascagoula Facility, 3209 Frederic Street, Pascagoula, Mississippi 39568–1207; phone (601) 762–4591.

D.3. Certification Tests

The certification tests must follow the testing protocol where paired identical trawls are towed by a trawler in areas west of Cape San Blas, Florida, where shrimp and juvenile red snapper occur. For tests of BRD candidates that do not encompass testing a hard or soft TED as the BRD candidate, identical approved hard TEDs are required in each trawl and one of the trawls must be equipped with a functioning BRD candidate. To test a hard of soft TED as a BRD candidate, the control net must be equipped with an approved hard TED, and the experimental net must be equipped with the TED that is acting as the BRD candidate.

A minimum sample size of 30 successful tows per test is required. Additional tows may be necessary for sufficient statistical evidence, especially if red snapper catch is highly variable. A gear change (i.e., changing nets, doors, or rigging) during a test constitutes the beginning of a new test. All certification tows must be no less than 2 hours and no more than 8 hours in duration. The applicant may select any tow time within this range. Once a tow time is selected, no tow time during a series of tests may vary by more than 10 percent.

To avoid potential biases associated with trynet catches, the outside trawls on quad-rigged vessels must be used as the control and experimental trawls, and for double-rigged vessels, the use of a trynet is prohibited.

The functioning BRD candidate must be switched every 4–6 tows (approximately every 2 days) between the two trawl nets. This process must be repeated, ensuring that an equal number of successful tows are made with the BRD candidate employed in both the port and starboard nets, until a minimum of 30 successful tows have been completed. For BRDs incorporated in the codend of the net, this process can be facilitated by the use of zippers, or other quick-connection devices, to more easily move the codends between nets; however, simply switching the entire net will not satisfy this requirement because doing so would not resolve net bias. Such quick-connection devices must be attached behind the TED. The TED must not be moved unless the BRD is actually incorporated into the TED portion of the net. Where a hard TED is being tested as a BRD candidate, that portion of the net including the TEDs must be moved, and again, quick-connection devices located in front of the TEDs may be used.

A different procedure must be followed to conduct tests of an approved or experimental soft TED as a BRD candidate. To conduct these tests, the applicant must first demonstrate that little or no side/net bias exists between the two nets to be used in the test (see D.1.). Removing the soft TED from one trawl net and installing it in the other net is not required. For these tests, the control (with a hard TED) and experimental (with the soft TED) nets must be disconnected from the doors and their positions switched from one side of the vessel to the other. The first switch must be made after successfully completing approximately 25 percent of the total number of intended tows. This process must be repeated, at 25 percent intervals, until at least 30 successful tows are completed (i.e., every 7–8 successful tows).

Following each paired tow, the catches from the control and experimental nets must be examined separately. This requires that the catch from each net be kept separate from each other, as well as from the catch taken in other nets fished during that tow. First, the observer must weigh the total catch of each test net (control and experimental nets). If the catch in a net does not fill one standard 1-bushel [ca. 10 gallon] (30 liters) polyethylene shrimp basket (ca. 70 pounds) (31.8 kg), but the tow is otherwise considered successful, data must be collected on the entire catch of that net, and recorded as a "select" sample (see Appendix E). If the catch in a net exceeds 70 pounds (31.8 kg), a well-mixed sample consisting of one standard 1-bushel [ca. 10 gallon] (30 liters) polyethylene shrimp basket must be taken from the total catch of that net.

Data must be collected on Form E–1 for the following species or general groups found in each of the samples: (1) Penaeid shrimp—brown, white and pink shrimp from each sample must be separated by species, counted and weighed; in addition, the weight for those penaeid shrimp species caught in each test net, but that were not included in the sample, must be recorded so that a total shrimp catch for each net (by weight) is documented; (2) crustacea—mantis shrimp, sugar shrimp, seabobs, crabs, lobsters and other similar species—must be weighed as an aggregate; (3) other invertebrates—squid, jellyfish, starfish, sea pansies, shells, and other similar species—must be weighed as an aggregate; (4) each finfish species or species group listed in Appendix E must be weighed and counted; (5) other finfish—including all other fish not listed on the above-referenced form must be weighed as an aggregate; and (6) debris (mud, rocks, and related matter) must be weighed as an aggregate.

"Select" finfish species (page E–3) (i.e., particular species to be quantified from the total catch and not just the sample) are red snapper, Spanish mackerel, and king mackerel. All individuals of the "Select" species from each test net (control and experimental net) must be collected, counted, weighed, and recorded. Lengths for as many as 30 individuals of each select species must be recorded on Form F–1. These data are necessary to robustly determine age-class composition, and specific mortality reductions attributable to each of the age classes.

Applicants must also collect qualitative information, using Form G–1, on the condition (alive or dead) and fate (floated off, swam down, eaten) of the discards whenever possible, and note the presence of any predator species such as sharks, porpoises, and jacks that are observed. The condition and fate of the bycatch is important for determining the fishing mortality and waste associated with this discard.

E. Reports

A report on the BRD candidate test results must be submitted for certification. The report must contain a comprehensive description of the tests, copies of all completed data forms used

during the certification trials, and photographs, drawings, and similar material describing the BRD. The captain or owner must sign and submit the cover form (Appendix A). The report must include a description and explanation of any unforseen deviations from the protocol which occurred during the test. Applicants must provide information on the cost of materials, labor, and installation of the BRD candidate. In addition, any unique or special circumstances of the tests, including special operational characteristics or fishing techniques which enhance the BRD's performance, should be described and documented as appropriate.

F. Certification

The RA will determine whether the required reports and supporting materials are sufficient to evaluate the BRD candidate's efficiency. The RA also will determine whether the applicant adhered to the prescribed testing protocol, and whether the BRD candidate meets the bycatch reduction criterion for juvenile red snapper. In arriving at a decision, the RA may consult with evaluation and oversight personnel.

Final determination of the effectiveness of the BRD candidate will be determined by the RA. The statistical protocol in Appendix H provides the methodology that the RA will use to estimate the reduction in bycatch mortality on age-1 juvenile red snapper if the test is conducted during the primary period (July or August). Tests conducted during other parts of the year will, most likely, catch both age 0 and age 1 red snapper. To evaluate the overall reduction in mortality rate of these juvenile age classes attributable to the BRD candidate will require alternative extensive analysis, involving use of the Goodyear (1995) stock assessment model to assign mortality reductions by specific size classes within the age 0 and age 1 red snapper catch.

Following a favorable determination of these criteria, the RA will certify the BRD (with any appropriate conditions as indicated by test results) and announce the certification in the **Federal Register**, via a final rule, technical amendment, amending the list of certified BRDs.

IV. BRDs Not Certified and Resubmission Procedures

The RA will advise the applicant, in writing, if a BRD is not certified. This notification will explain why the BRD was not certified and what the applicant may do to either modify the BRD or the testing procedures to improve the chances of having the BRD certified in the future. If certification was denied because of insufficient information, the RA will explain what information is lacking. The applicant must provide the additional information within 60 days from receipt of such notification; thereafter, the applicant must re-apply. If the RA subsequently certifies the BRD, the RA will announce the certification in the **Federal Register**, via a final rule, technical amendment, amending the list of certified BRDs.

V. Decertification of BRDs

The RA will decertify a BRD whenever it is determined that it no longer satisfies the bycatch reduction criterion for juvenile red snapper. Before determining whether to decertify a BRD, the Council and public will be advised and provided an opportunity to comment on the advisability of any proposed decertification. The RA will consider any comments from the Council and public, and if the RA elects to proceed with decertification of the BRD, the RA will publish proposed and final rules in the **Federal Register** with a comment period of not less than 15 days on the proposed rule.

VI. Interactions With Sea Turtles

The following section is provided for informational purposes. Sea turtles are listed under the Endangered Species Act as either endangered or threatened. The following procedures apply to incidental take of sea turtles under 50 CFR 227.72(e)(1):

"(i) Any specimen so taken must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

(A) Sea turtles that are dead or actively moving must be released over the stern of the boat. In addition, they must be released only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

(B) Resuscitation must be attempted on sea turtles that are comatose or inactive but not dead by:

(1) Placing the turtle on its back (carapace) and pumping its breastplate (plastron) with hand or foot; or

(2) Placing the turtle on its breastplate (plastron) and elevating its hindquarter several inches for a period from 1 to 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Sea turtles being resuscitated must be shaded and kept wet or moist. Those that revive and become active must be released over the stern of the boat only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Similarly, sea turtles that fail to move within several hours (up to 24, if possible) must be returned to the water in the same manner.

(ii) Any specimen so taken must not be consumed, sold, landed, off-loaded, transshipped, or kept below deck."

References

Gulf of Mexico Fishery Management Council, 1997. Amendment 9 to the Fishery Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, Including a Final Supplemental Environmental Impact Statement and Regulatory Impact Review and Social Impact Assessment. Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619, 153 p.-

Goodyear, C. P.; 1995. Red snappers in U.S. waters of the Gulf of Mexico. National Marine Fisheries Service, Southeast Fisheries Science Center, Miami Laboratory, Miami, FL. Laboratory Report, Contribution # MIA 95/96–05, 171 p.

Hoese, H. Dickson and Richard H. Moore; 1977. Fishes of the Gulf of Mexico, Texas, Louisiana, and Adjacent Waters. Texas A&M University Press. College Station, TX, 327 p.

SAFMC; 1997. Final Bycatch Reduction Device Testing Protocol Manual. South Atlantic Fishery Management Council, 1 Southpark Cir., Ste 306, Charleston, S.C. 29407, 34 p.

Ward, John M., Teofilo Ozuma and Wade Griffen; 1995 Cost and Revenues in the Gulf of Mexico Shrimp Fishery. NOAA Tech. Mem. NMFS–SEFSC–371, 76 p.

Appendix H Statistical Procedures for Analyzing BRD Evaluation Data

NMFS will calculate the reduction in bycatch mortality (F) based on data gathered during the testing. Both age 0 and age 1 red snapper, ranging in length from 10 mm to 200 mm, occur frequently in shrimp trawls. During the July/August (July 1–August 31) period, the most recently spawned year class of fish have not fully recruited to the shrimp grounds; thus the catch is represented by a relatively narrow length range of individuals, all of which are considered to be age 1. The numerical reduction in catch-per-unit-effort (CPUE) of this specific age class is expected to be a good predictor of fishing mortality (F) reduction, although the size composition data will be checked for any particular test. The analysis of the data collected under this testing protocol will be based on a modified paired t-test. Because of the varying age and size composition of the red snapper catch taken at other times of the year, more detailed analyses

through use of a stock assessment model (Goodyear 1995) incorporating the size-specific reduction performance of the device and the seasonal progression of F must be conducted to determine if the BRD candidate will meet the bycatch reduction criterion. Based on the time of the year that the test is conducted, NMFS will utilize the appropriate technique to assess the performance of the BRD candidate as a service for the BRD sponsor.

All experimental tows must be conducted in conformance with the requirements of the BRD testing protocol. Data collected from the no than 20 tuning tows of the control and experimental trawls (without the BRD candidate installed) must be included to determine if any net bias exists prior to beginning certification phase testing. To further reduce problems caused by no or low catches, a tow must contain a minimum catch of 5 red snapper in at least one trawl for inclusion in the analysis. Once conducted, the tow and the corresponding collected data become the permanent part of the record and cannot be discarded. Only the successful tows will count toward the minimum required; however, information from other tows, if appropriate, will be used in the analysis.

Statistical Approach for Calculation of Bycatch Mortality (F) Reduction for Devices Tested in July/August

The statistical approach assumes that the BRD to be tested does not achieve the minimum required reduction rate, (R_o). The hypotheses to be tested are as follows:

H_o: BRD does not achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} \leq R_o, \text{ i.e. } (1-R_o)\,\mu_c - \mu_b \leq 0.$$

H_a: BRD does achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} > R_o, \text{ i.e. } (1-R_o)\,\mu_c - \mu_b > 0.$$

R denotes the actual reduction rate (unknown), R_o denotes the minimum required reduction rate, μ_c denotes the actual mean CPUE with the control, and μ_b denotes the actual mean CPUE with the BRD.

With any hypothesis testing, there are two risks involved known as type I error (a true H_a is rejected as being an H_o) and type II error (a true H_o is accepted as being an H_a). The probabilities of committing these errors are denoted by alpha and beta, respectively. The probabilities are inversely related to each other. As alpha increases, beta decreases and vice versa. An alpha of 10 percent will be used. The two hypotheses are tested using a 'modified' paired t-test.

The CPUE values for the control and BRD trawls for each successful tow is computed first and is used in the following computations:

$$t = \frac{(1-R_o)\bar{x} - \bar{y}}{s_{d0}/\sqrt{n}},$$

where:

$\bar{x}$ is the observed mean CPUE for the control,

$\bar{y}$ is the observed mean CPUE for the BRD,

s_{d0} is the standard deviation of $d_i = \{(1-R_o)X_i - Y_i\}$ values,

n is the number of successful tows used in the analysis, and

$i = 1, 2, \ldots, n$.

The H_o will be rejected if $t > t_{alpha,n-1}$ where $t_{alpha,n-1}$ denotes the (1 − alpha) 100th percentile score in the t distribution with (n − 1) degrees of freedom.

A (1 − alpha)100% two-sided confidence interval on R consists of all values of R_o for which $H_o : R = R_o$ (versus H_a $R \neq R_o$) cannot be rejected at the level of significance of alpha. One-sided confidence intervals on R could also be computed appropriately.

Appendix I—Qualifications of Observer

An observer:

1. Must have a Bachelor's degree in fisheries biology or closely related field from an accredited college, have at least 6 months experience working with a university, college, state fisheries agency, NMFS, or private research organization such as the Gulf and South Atlantic Fisheries Development Foundation as an observer on a trawler (including research trawlers) in the southeast region, or have successfully completed a training course conducted or approved by the Director of the NMFS Southeast Fisheries Science Center.

2. Must not have a current or prior financial relationship with the entity seeking BRD certification. In addition, any individual:

1. Applying to serve as an observer must provide the names, addresses, and telephone numbers of at least three references who can attest to the applicant's background, experiences, and professional ability. These references will be contacted; unsatisfactory references may be a basis for disapproval of an applicant as an observer.

2. Wishing to serve as an observer should submit a resume and supporting documents to the Director, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149. The Center will use this information to determine which names will be included on a list of qualified observers. If an applicant is not approved as an observer, the RA will notify the applicant of the disapproval and will provide an explanation for the denial.

[FR Doc. 99–10634 Filed 4–28–99; 8:45 am]
BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 64, No. 82
Thursday, April 29, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV99–905–2 NC]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Oranges, Grapefruit, Tangerines, and Tangelos grown in Florida, Marketing Order No. 905.

DATES: Comments on this notice must be received by June 28, 1999.

ADDITIONAL INFORMATION OR COMMENTS: Contact Tershirra T. Yeager, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; Telephone: (202) 720–5127 or Fax: (202) 720–5698, or E-mail: moabdocket_clerk@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905.

OMB Number: 0581–0094.

Expiration Date of Approval: December 31, 1999.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the Florida citrus marketing order program, which has been operating since 1939.

The Florida citrus marketing order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order". The order authorizes the issuance of grade, size, container, and pack regulations. It also authorizes the limitation of shipments of certain grades or sizes. Regulatory provisions apply to oranges, grapefruit, tangerines and tangelos shipped outside of the production area, except for those shipments specifically exempt.

The order, and rules and regulations issued thereunder, authorize the Citrus Administrative Committee (committee), the agency responsible for local administration of the order, to require handlers and producers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions.

The committee has developed forms as a means for persons to file required information with the committee relating to citrus supplies, shipments, dispositions, and other information needed to effectively carry out the purpose of the Act and order. As shipments occur throughout the year, these forms are utilized accordingly. A USDA form is used to allow producers to vote on amendments to the order and whether the order should be continued. In addition, producers and handlers who are nominated by their peers to serve as representatives on the committee must file nomination forms with the Secretary.

Formal rulemaking amendments to the order must be approved in referenda conducted by the Secretary. Also, the Secretary may conduct a continuance referendum to determine industry support for continuation of the order. Handlers are asked to sign an agreement to indicate their willingness to abide by the provisions of the order whenever the order is amended. These forms are included in this request.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA as expressed in the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs regional and headquarter's staff, and authorized employees of the committee. AMS is the primary user of the information and authorized committee employees are the secondary user.

Estimate of Burden: Public reporting burden for this proposed collection of information is estimated to average 0.16915 hours per response.

Respondents: Florida citrus producers and for-profit businesses handling fresh citrus.

Estimated Number of Respondents: 1176.

Estimated Number of Responses per Respondent: 1.02.

Estimated Total Annual Burden on Respondents: 204 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0094 and the Florida Citrus

Marketing Order No. 905, and be mailed to Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moabdocket_clerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Avenue, SW., Washington, DC, room 2525–S.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 21, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–10774 Filed 4–28–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request Form FCS–42, Annual Report of the Nutrition Education and Training Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's (FNS) intention to request Office of Management and Budget (OMB) approval of the FCS–42, Annual Report of the Nutrition Education and Training Program.

DATES: Written comments on this notice must be received on or before June 28, 1999.

ADDRESSES: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Robert Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1008, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION: Requests for additional information or copies of the proposed information form should be directed to Robert Eadie (703) 305–2618.

SUPPLEMENTARY INFORMATION:

Title: Form FCS–42, Annual Report of the Nutrition Education and Training Program.

OMB Number: 0584–0062.

Expiration Date: 03/31/99.

Type of Request: Renewal of information collection approval by OMB.

Abstract: Section 19(g)(2) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1788(g)(2)), requires that "State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe." Section 227.30(f)(3) of the Nutrition Education and Training (NET) program regulations further require State agencies to submit to FNS an annual performance report. This information is captured on the FCS–42, Annual Report of the Nutrition Education and Training Program.

The information provided by the FCS–42 is used by the Department and the State agency to assess NET implementation status, monitor program accomplishments, and evaluate each State's progress in achieving the goals and objectives in the national strategic plan and the State agency implementation plan. Data from the FCS–42 is also entered into the Special Nutrition Programs Integrated Information System from which regional and national totals are derived.

Affected Public: State and territorial governments, FNS regional offices administering NET Program.

Estimated Number of Respondents: 56.

Estimated Time per Response: Twelve hours for reporting and 4 hours for recordkeeping for a total of 16 hours.

Estimated Total Annual Burden on Respondents: 896.

Dated: April 16, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–10674 Filed 4–28–99; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Export Materials, Inc. and TIC Ltd.

In the matters of: Export Materials, Inc., 3727 Greenbrier Drive, No. 108, Stafford, Texas 77477; and TIC Ltd., Suite C, Regent Centre, Explorers Way, P.O. Box F–40775, Freeport, The Bahamas, Respondents.

Decision and Order on Renewal of Temporary Denial Order

On October 23, 1998, I issued a Decision and Order on Renewal of Temporary Denial Order (hereinafter "Order" or "TDO"), renewing for 180 days a May 5, 1997 Order naming, *inter alia*, Export Materials, Inc. and Thane-Coat International Ltd. (hereinafter collectively referred to as the "Respondents"), as persons temporarily denied all U.S. export privileges. 63 FR 58706–58707 (November 2, 1998).[1] The Order will expire on April 21, 1999.

On April 1, 1999, pursuant to Section 766.24 of the Export Administration Regulations (15 CFR Parts 730–774 (1998)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) (hereinafter the "Act"),[2] the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), requested that I renew the Order against TIC Ltd.[3] and

[1] The May 5, 1997 Order also named Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; and Preston John Engebretson, vice-president, Thane-Coat, Inc., as persons temporarily denied all U.S. export privileges. I am issuing a separate Decision and Order today renewing the TDO against Thane-Coat, Ford, and Engebretson in a "non-standard" format.

[2] The Act explored on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp;. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)), August 13, 1997 (3 CFR, 1997 Comp. 306 (1998)), and August 13, 1998 (63 FR 44121, August 17, 1998, continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A §§ 1701–1706 (1991 & Supp. 1998)).

[3] In its initial request for the issuance of a TDO and its October, 1997 and April, 1998 renewal requests, BXA identified this company as Thane-Coat International, Ltd. The company is incorporated in the Bahamas as TIC Ltd.

Export Materials, Inc. for an additional 180 days.

In its request, BXA stated that, as a result of an ongoing investigation, it had reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, TIC Ltd. and Export Materials, Inc., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts to the Dong Ah Consortium in Benghazi, Libya. These items were for use in coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project.[4] Moreover, BXA's investigation gave it reason to believe that the Respondents and the affiliated parties employed a scheme to export U.S.-origin products from the United States, through the United Kingdom, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law, including the Regulations. The approximate value of the 100 shipments at issue was $35 million. In addition, the Respondents and the affiliated parties undertook several significant and affirmative actions in connection with the solicitation of business on another phase of the Great Man-Made River Project.

BXA has stated that it believes that the matters under investigation and the information obtained to date in that investigation support renewal of the TDO issued against the Respondents.[5] BXA believes that a temporary denial order is necessary to give notice to companies in the United States and abroad that they should cease dealing with TIC Ltd. and Export Materials, Inc. in export-related transactions involving U.S.-origin goods.

Based on BXA's showing, I find that it is appropriate to renew the order temporarily denying all U.S. export privileges of TIC Ltd. and Export Materials, Inc. I find that such renewal is necessary in the public interest to prevent an imminent violation of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these persons in any commodity, software, or technology exported or to be exported from the United States and subject to the Export Administration Regulations, or in any other activity subject to the Regulations. Moreover, I find such renewal is in the public interest in order to reduce the substantial likelihood that TIC Ltd. and Export Materials, Inc. will engage in activities which are in violation of the Regulations.

Accordingly, it is therefore ordered:

First, that TIC Ltd., Suite C, Regent Centre, Explorers Way, P.O. Box F–40775, Freeport, the Bahamas, and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf, and Export Materials, Inc., 3727 Greenbriar Drive, No. 108, Stafford, Texas 77477, and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf (hereinafter referred to collectively as the "denied persons"), may not directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported, or to be exported, from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of any denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition, or attempted acquisition, by any denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby any denied person acquires, or attempts to acquire, such ownership, possession or control;

C. Take any action to acquire from, or to facilitate the acquisition or attempted acquisition from any denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from any denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by any denied person, or service any item, of whatever origin, that is owned, possessed or controlled by any denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment, as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to any denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade of related services, may also be made subject to the provisions of the Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S. origin technology.

Fifth, that, in accordance with the provisions of Section 766.24(e) of the Regulations, TIC Ltd. or Export Materials, Inc. may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

Sixth, that this Order is effective immediately and shall remain in effect for 180 days.

Seventh, that, in accordance with the provisions of Section 766.24(d) of the Regulations, BXA may seek renewal of this Order by filing a written request not later that 20 days before the expiration date. Any respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order

[4] BXA understands that the ultimate goal of this project is to bring fresh water from wells drilled in southwest and southwest Libya through prestressed concrete cylinder pipe to the coastal cities of Libya. This multibillion dollar, multiphase engineering endeavor is being performed by the Dong Ah Construction Company of Seoul, South Korea.

[5] On April 1, 1999, BXA requested that I renew the October 23, 1998 TDO against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson in a "non-standard" format.

A copy of this Order shall be served on each Respondent and this Order shall be published in the **Federal Register**.

Entered this 20th day of April 1999.

F. Amanda DeBusk,

Assistant Secretary for Export Enforcement.

[FR Doc. 99–10739 Filed 4–28–99; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Thane-Coat, Inc., Jerry Vernon Ford and Preston John Engebretson; Decision and Order on Renewal of Temporary Denial Order

In the Matters of: Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477; Jerry Vernon Ford, President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and with an address at 7707 Augustine Drive, Houston, Texas 77036; and Preston John Engebretson, Vice-President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and with an address at 8903 Bonhomme Road, Houston, Texas 77074, Respondents.

On October 23, 1998, I issued a Decision and Order on Renewal of Temporary Denial Order (hereinafter "Order" or "TDO"), renewing for 180 days, in a "non-standard" format, a May 5, 1997 Order naming, *inter alia,* Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; and Preston John Engebretson, vice-president, Thane-Coat, Inc. (hereinafter referred to collectively as the "Respondents"), as persons temporarily denied all U.S. export privileges. 63 FR. 58707–58709 (November 2, 1998).[1] The Order will expire on April 21, 1999.

On April 1, 1999, pursuant to Section 766.24 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730–774 (1998)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app §§ 2401–2420 (1991 & Supp. 1998)) (hereinafter the "Act"),[2] the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter BXA"), requested that I renew the Order against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson for 180 days in a non-standard format, consistent with the terms agreed to by and between the parties in April 1998.

In its request, BXA stated that, as a result of an ongoing investigation, it had reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, TIC Ltd. and Export Materials, Inc., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts to the Dong Ah Consortium in Benghazi, Libya. These items were for use in coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project.[3] Moreover, BXA's investigation gave it reason to believe that the Respondents and the affiliated companies employed a scheme to export U.S.-origin products from the United States, through the United Kingdom, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law, including the Regulations. The approximate value of the 100 shipments at issue was $35 million. In addition, the Respondents and the affiliated companies undertook several significant and affirmative actions in connection with the solicitation of business on another phase of the Great Man-Made River Project.

BXA has stated that it believes that the matters under investigation and the information obtained to date in that investigation support renewal of the TDO issued against the Respondents.[4] In that regard, in April 1998, BXA and the Respondents reached an agreement, whereby BXA sought a renewal of the TDO in a "non-standard" format, denying all of the Respondents' U.S. export privileges to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority. In return, the Respondents agreed that, among other conditions, at least 14 days in advance of any export that any of the Respondents intends to make of any item from the United States to any destination world-wide, the Respondents will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder. BXA has sought renewal of the TDO in a "non-standard" format.

Based on BXA's showing, I find that it is appropriate to renew the order temporarily denying the export privileges of Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson in a "non-standard" format, incorporating the terms agreed to by and between the parties in April 1998. I find that such renewal is necessary in the public interest to prevent an imminent violation of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these persons in any commodity, software, or technology subject to the Regulations and exported or to be exported to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority, or in any other activity subject to the Regulations with respect to these specific countries. Moreover, I find such renewal is in the public interest in order to reduce the substantial likelihood that Thane-Coat, Inc., Ford and Engebretson will engage in activities which are in violation of the Regulations.

Accordingly, it is therefore ordered:

First, that Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf; Jerry Vernon Ford, President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and with an address at 7707 Augustine Drive, Houston, Texas 77036, and all of his successors, or assigns, representatives, agents and employees when acting on his behalf; and Preston John Engebretson, Vice-President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and with an

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[1] The May 5, 1997 Order also named Thane-Coat International, Ltd. and Export Materials, Inc. as persons temporarily denied all U.S. export privileges. I am issuing a separate Decision and Order today renewing the TDO against Thane-Coat International, Ltd. (under its legal name of TIC Ltd.) and Export Materials in a "standard" format.

[2] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 FR 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1998)).

[3] BXA understands that the ultimate goal of this project is to bring fresh water from wells drilled in southeast and southwest Libya through prestressed concrete cylinder pipe to the coastal cities of Libya. This multibillion dollar, multiphase engineering endeavor is being performed by the Dong Ah Construction Company of Seoul, South Korea.

[4] On April 1, 1999, BXA requested that I renew the TDO against TIC Ltd. and Export Materials, Inc. in a "standard" format.

address at 8903 Bonhomme Road, Houston, Texas 77074, and all of his successors, or assigns, representatives, agents, and employees when acting on his behalf (all of the foregoing parties hereinafter collectively referred to as the "denied persons"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") subject to the Export Administration Regulations (hereinafter the "Regulations") and exported or to be exported from the United States to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, or Iran, or to any other country or countries that may be made subject in the future to a general trade embargo pursuant to proper legal authority (hereinafter the "Covered Countries"), or in any other activity subject to the Regulations with respect to the Covered Countries, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item that is subject to the Regulations and that is exported or to be exported from the United States to any of the Covered Countries, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States to any of the Covered Countries that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of any of the denied persons any item subject to the Regulations to any of the Covered Countries;

B. Take any action that facilitates the acquisition, or attempted acquisition by any of the denied persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, including financing or other support activities related to a transaction whereby any of the denied persons acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any of the denied persons of any item subject to the Regulations that has been exported from the United States to any of the Covered Countries;

D. Obtain from any of the denied persons in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States to any of the Covered Countries; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, and which is owned, possessed or controlled by any of the denied persons, or service any item, of whatever origin, that is owned, possessed or controlled by any of the denied persons if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, at least 14 days in advance of any export that any of the denied persons intends to make of any item from the United States to any destination world-wide, the denied person will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physicially the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder.

Fourth, that, after notice and opportunity for comment, as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to any of the denied persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services, may also be made subject to the provisions of this Order.

Fifth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Sixth, that, in accordance with the provisions of Section 766.24(e) of the Regulations, Thane-Coat, Ford, or Engebretson may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

Seventh, that this Order is effective immediately and shall remain in effect for 180 days.

Eighth, that, in accordance with the provisions of Section 766.24(d) of the Regulations, BXA may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on each Respondent and shall be published in the **Federal Register**.

Entered this 20th day of April, 1999.

F. Amanda DeBusk,

Assistant Secretary for Export Enforcement.

[FR Doc. 99–10738 Filed 4–28–99; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1034]

Expansion of Foreign-Trade Zone 87; Lake Charles, LA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Lake Charles Harbor & Terminal District, grantee of Foreign-Trade Zone 87, submitted an application to the Board for authority to expand FTZ 87 to include sites at the Lake Charles Harbor & Terminal District Industrial Park East (Site 5) and the Chennault Airpark (Site 6) in Calcasieu Parish, Louisiana, within the Lake Charles Customs port of entry (FTZ Docket 23–98; filed 4/22/98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 24155, 5/1/98) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 87 is approved, subject to the Act and the

Board's regulations, including Section 400.28.

Signed at Washington, DC, this 7th day of April 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–10767 Filed 4–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–007]

Carbon Steel Wire Rod From Argentina; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the preliminary results of the antidumping duty administrative review of Carbon Steel Wire Rod from Argentina. This review covers the period November 1, 1997 through October 31, 1998.

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0405 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION: Owing to the complexity of model match issues in this case, it is not practicable to complete this review within the original time limit. See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated April 20, 1999. Therefore, the Department is extending the time limit for completion of the preliminary results until September 30, 1999, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994.

Dated: April 20, 1999.

Roland MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–10769 Filed 4–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839, A–583–833]

Initiation of Antidumping Duty Investigations: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai and Marian Wells, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4087 and (202) 482–6309, respectively.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 as amended ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR part 351 (1998).

The Petition

On April 2, 1999, the Department of Commerce ("the Department") received a petition filed in proper form by E.I. DuPont de Nemours, Inc.; NanYa Plastics Corporation, America; Arteva Specialities S.a.r.l., d/b/a KoSa; Wellman, Inc.; and Intercontinental Polymers, Inc., hereinafter collectively referred to as "the petitioners." (However, NanYa Plastics Corporation, America is not a petitioner in the Taiwan case.)

In accordance with section 732(b) of the Act, the petitioners allege that imports of certain polyester staple fiber ("polyester fiber") from the Republic of Korea ("Korea") and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are both materially injuring and threatening further material injury to an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated that they account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition (*see* "Determination of Industry Support for the Petition" section, below).

Scope of the Investigations

For purposes of these investigations, the product covered is certain polyester staple fiber. Certain polyester staple fiber is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut-to-lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to these investigations may be coated, usually with a silicon or other finish, or not coated. Certain polyester staple fiber is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) classified under the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 5503.20.00.20 is specifically excluded from these investigations. Also specifically excluded from these investigations are polyester staple fibers of 10 to 18 denier that are cut-to-lengths of 6 to 8 inches (fibers used in the manufacture of carpeting).

The merchandise subject to these investigations is classified in the HTSUS at subheadings 5503.20.00.40 and 5503.20.00.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that the scope language accurately reflects the product for which they are seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by May 12, 1999. Comments should be addressed to Import Administration's

Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as: "the producers as a whole of a domestic like product." Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1] Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the "Scope of Investigations" section, above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this domestic like product definition.

In this case, the Department has determined that the petition and supplemental information contained adequate evidence of sufficient industry support; therefore, polling was not necessary. *See* Initiation Checklists dated April 22, 1999 (public versions on file in the Central Records Unit of the Department of Commerce, Room B–099). To the best of the Department's knowledge, the producers who support the petition account for more than 50 percent of the production of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to section 771(b)(A), (C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following is a description of the allegations of sales at less than fair value upon which our decision to initiate these investigations is based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

Korea

The petitioners identified Daehan Synthetic Fiber Co., Ltd. (also known as Tae Kweng); Kohap, Ltd.; Saehan Industries, Inc.; Sam Yang Co.; and SK Chemicals as producers and exporters of polyester fiber to the United States. The petitioners have based U.S. price on export price ("EP") because information obtained by the petitioners indicates that Korean producers sold polyester fiber to unaffiliated importers in the United States. As a basis for its EP calculation, the petitioners have used multiple offers for sale of the subject merchandise to unaffiliated purchasers in the United States between December 1998 and February 1999. The terms of some of these sales offers were FOB whereas other sales were offered on a delivered basis. Where applicable, the petitioners calculated a net U.S. price by subtracting the estimated cost of foreign inland freight to the port of export, using information obtained through foreign market research. Where applicable, the petitioners then subtracted ocean freight expenses, which were calculated as the difference between the CIF and the U.S. customs values reported in the U.S. import statistics for January through December 1998, and estimated U.S. inland freight costs. U.S. import duties were estimated by the petitioners using the HTSUS schedule and then subtracted from the prices. Where applicable, the petitioners also subtracted amounts for U.S. merchandise processing fees and U.S. harbor maintenance fees in accordance with section 772(c)(2)(A) of the Act. (The Department corrected the petitioners' calculations of U.S. import duties, U.S. merchandise processing fees, and U.S. harbor maintenance fees.) Finally, the petitioners calculated imputed credit expenses based on average payment terms of 60 days and the average U.S. prime lending rate for December 1998, as published in the *International Financial Statistics*, and added this amount to normal value ("NV").

The petitioners obtained gross unit prices and multiple offers for sale in Korea during the period contemporaneous with the U.S. sales offers for products which were either identical or similar to those sold to the United States. The petitioners used the market research information which indicated that the volume of home market sales is sufficient to form a basis for normal value. Since the home market prices and offers for sale were based on delivered terms, the petitioners subtracted the estimated transportation costs to home market customers. Next, the petitioners deducted a discount offered to Korean customers who pay cash. The resulting home market net prices were then converted from kilograms to pounds and to U.S. dollar prices using the official exchange rate in effect for the month of the comparison U.S. sale. Lastly, the petitioners added the imputed credit expenses incurred in the U.S. market (*see* above). The petitioners did not adjust for packing because they assumed that packing costs were the same for the home market and for U.S. sales.

Taiwan

The petitioners identified Far Eastern Textile Ltd. ("Far Eastern"); Nan Ya Plastics Corporation; Shinkong Synthetic Fibers Corp.; and Tuntex Distinct Corp. as producers and

[1] *See Algoma Steel Corp. Ltd.*, v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

exporters of polyester fiber to the United States. The petitioners have based U.S. price on export price ("EP") because information obtained by the petitioners indicates that Taiwanese producers sold polyester fiber to unaffiliated importers in the United States. As a basis for its EP calculation, the petitioners have used multiple offers for sale of the subject merchandise to unaffiliated purchasers in the United States between December 1998 and February 1999. The terms of some of these sales offers were FOB Taiwan whereas other sales were offered on a delivered basis. The petitioners calculated net U.S. prices by subtracting estimated costs incurred to transport polyester fiber from the port of export to the U.S. port, and from the U.S. port to the customer's location in the U.S., where applicable. No adjustment for transportation costs from the factory to the port of export were made because this information was not available to the petitioners. The petitioners deducted international freight and insurance costs which were calculated as the difference between the CIF and the U.S. customs values reported in the U.S. import statistics for January through December 1998. The petitioners also subtracted U.S. import duties, U.S. harbor maintenance fees, and U.S. merchandise processing fees, where applicable. (The Department corrected the petitioners' calculations of U.S. import duties, U.S. harbor maintenance fees, and U.S. merchandise processing fees.) The petitioners calculated imputed credit expenses based on average payment terms reported in the market research report and the average U.S. prime lending rate for the month of the U.S. sales as published in the *International Financial Statistics*. The petitioners adjusted for the difference in imputed credit expenses by subtracting home market credit expenses and by adding U.S. imputed credit expenses to the home market prices found through foreign market research.

With respect to NV, the petitioners provided information on sales prices in Taiwan and constructed value ("CV") for one type of polyester staple fiber. The petitioners received prices for actual recent sales or offers for sale to unaffiliated customers in Taiwan by the four Taiwanese companies which produce subject merchandise. The petitioners used market research information which indicated that the volume of home market sales is sufficient to form a basis for normal value. Since the home market prices were inclusive of delivery charges, the petitioners subtracted estimated delivery costs. The petitioners used average inland freight costs incurred to deliver in the U.S. as a proxy for delivery costs. We accepted this proxy because this information was reasonably available to the petitioners and this is a conservative methodology since average delivery distances are greater in the U.S. and delivery costs are determined by weight and distance. The petitioners did not adjust for packing because they assumed that packing costs were the same for the home market and for U.S. sales. The petitioners converted home market prices and quantities to U.S. dollars and to pounds, respectively.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of polyester fiber from Korea and Taiwan are being, or are likely to be, sold at less than fair value. Based on a comparison of EP to home market prices, the petitioners' calculated dumping margins range from 48.14 to 84.03 percent for Korea and from 8.03 to 23.62 percent for Taiwan. In addition, for Taiwan, the estimated dumping margin based on a comparison of EP to CV is 70.70 percent.

Allegation of Sales Below Cost in Taiwan

Pursuant to section 773(b) of the Act, the petitioners alleged that home market sales of the foreign like product in Taiwan were made at prices below the cost of production ("COP") and requested that the Department initiate a country-wide investigation of sales below cost. The petitioners calculated COP for six denier, non-conjugated and non-silicon coated polyester fiber by using the CV for one company, Far Eastern. According to the petitioners, six denier is one of the most common denier categories and is, therefore, representative of the foreign like product to be compared to subject merchandise sold in the United States. In addition, petitioners selected Far Eastern because it is the largest and, hence, probably the most efficient, producer of polyester fiber in Taiwan and accounted for the largest share of exports to the United States. Based on the foregoing, costs for Far Eastern, according to petitioners, are representative of the costs of other producers of polyester fiber.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing ("COM"), selling, general and administrative expenses ("SG&A") and packing. The petitioners used the product-specific costs reported by a U.S. producer as a starting point to calculate the COM. The petitioners made adjustments to the U.S. producer's manufacturing cost to account for known differences in costs between the United States and Taiwan. To calculate SG&A, the petitioners took the ratio of SG&A to the costs of sales from Far Eastern's 1997 audited financial statements and applied this ratio to the calculated COM. In accordance with section 773(e) of the Act, the petitioners added an amount for profit calculated from the 1997 audited financial statements of Far Eastern. The petitioners then compared this cost to Far Eastern's home market price for this product as reported in the market research report and found that the home market price was below the COP.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The petitioners explained that the industry's injured condition is evident in the declining trends in net operating profits and income, net sales volumes and values, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklists.

Initiation of Antidumping Investigations

Based upon our examination of the petition, we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of polyester fiber from Korea and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations by September 9, 1999.

Initiation of Cost Investigations

Pursuant to section 773(b) of the Act, petitioners provided information demonstrating reasonable grounds to believe or suspect that sales in the home market of Taiwan were made at prices below the COP and, accordingly, requested the Department to conduct a country-wide sales-below-COP

investigation in connection with the requested antidumping investigation in Taiwan. The Statement of Administrative Action ("SAA"), accompanying the URAA, H.R. Doc. No. 103–316, vol. 1 at 833 (1994), states that an allegation of sales below COP need not be specific to individual exporters or producers. The SAA also states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation." Id.

Further, the SAA provides that "new section 773(b)(2)(A) retains the current requirement that Commerce have 'reasonable grounds to believe or suspect' that below-cost sales have occurred before initiating such an investigation." Reasonable grounds will "exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices." Id. Based upon the comparison of the price from the petition for the representative foreign like product to its adjusted costs of production, in accordance with section 773(b)(2)(A)(i) of the Act, we find the existence of "reasonable grounds to believe or suspect" that sales of the foreign like product in Taiwan were made below COP. Accordingly, the Department is initiating the requested country-wide cost investigation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Governments of Korea and Taiwan. We will attempt to provide a copy of the public version of the petition to the exporters named in the petition.

International Trade Commission Notification

We have notified the ITC of our initiation of these investigations, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by May 17, 1999 whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury by reason of imports of polyester fiber from Korea and Taiwan. A negative ITC determination will result in the investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is published in accordance with section 777(i) of the Act.

Dated: April 22, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–10770 Filed 4–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–804]

Silicon Metal From Argentina; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the preliminary results of the antidumping duty administrative review of Silicon Metal from Argentina. This review covers the period September 1, 1997 through August 31, 1998.

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0405 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION: Owing to the complexity of cost issues in this case, it is not practicable to complete this review within the original time limit. See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated April 20, 1999. Therefore, the Department is extending the time limit for completion of the preliminary results until September 30, 1999, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994.

Dated: April 20, 1999.

Roland MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–10768 Filed 4–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instrument shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. The application may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 99–004. Applicant: U.S. Department of Commerce, Pacific Marine Center, 7600 Sand Point Way N.E., Seattle, WA 98115–0700. Instrument: Multibeam Echosounder (Sonar). Manufacturer: ELAC NAUTIK, Germany. Intended Use: The instrument will be used for the survey and mapping of coastal ocean waters for the detection, location and identification of 2 wrecks and other obstructions on the sea floor. The objective in the surveys will be to determine depths of hazards to aid in the safety of navigation and general bathymetry. Application accepted by Commissioner of Customs: April 9, 1999.

Docket Number: 99–005. Applicant: University of Connecticut, Department of Psychology, 406 Babbidge Road, Storrs, CT 06269–1020. Instrument: Fiber Electrode Manipulator System. Manufacturer: Thomas Recording, Germany. Intended Use: The instrument will be used for studies of the electrical activity of brain cells (neurons) of the cerebral cortex. Two sets of experiments will be conducted in fully awake rabbits. The first set is aimed at understanding the transformations performed upon inputs to the cortex by the intracortical circuitry and how these transformations lead to parallel and distinct efferent outflows. The second set of experiments examines the nature of a large population of neurons throughout sensory cortex that have no demonstrable (supra-threshold) receptive fields. Application accepted

by Commissioner of Customs: April 13, 1999.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–10766 Filed 4–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North Carolina State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 99–002. Applicant: North Carolina State University, Raleigh, NC 27695. Instrument: Lifetime Measurement System, Model JANUS 200–M. Manufacturer: Amecon Messtechnik, Germany. Intended Use: See notice at 64 FR 10991.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides laser excitation/microwave detection of the photoconduction decay for contactless measurement of the carrier lifetime and lifetime mapping of silicon wafers from 15 to 300 mm diameter. The National Institute of Standards and Technology advised April 8, 1999 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–10765 Filed 4–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–817, C–533–818, C–560–806, C–475–827, C–580–837]

Certain Cut-to-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea: Postponement of Time Limit for Countervailing Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Postponement of Time Limit for Preliminary Determination of Countervailing Duty Investigations

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Eric Greynolds (France), at (202) 482–6071; Robert Copyak (India), at (202) 482–2209; Kathleen Lockhard (Indonesia), at (202) 482–1168; Kristen Johnson (Italy), at (202) 482–4406; and Stephanie Moore (Republic of Korea), at (202) 482–3692, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

POSTPONEMENT OF PRELIMINARY DETERMINATIONS: On March 8, 1999, the Department initiated the countervailing duty investigations on certain cut-to-length carbon-quality steel plate from France, India, Indonesia, Italy, and the Republic of Korea. See Notice of Initiation of Countervailing Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy and the Republic of Korea, 64 FR 12996 (March 16, 1999). The preliminary determinations currently must be issued by May 12, 1999.

On April 19, 1999, Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Gulf States Steel, Inc., IPSCO Steel Inc., and Tuscaloosa Steel Corporation (petitioners) made a timely request pursuant to 19 CFR 351.205(e) of the Department's regulations for a postponement of the preliminary determinations in accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). Petitioners requested a postponement because of the extraordinarily complicated nature of these cases, the large number of foreign producers involved, and to allow time for the Department to determine the extent to which particular subsidies are being used.

For reasons identified by petitioners, we see no compelling reason not to postpone the preliminary determinations. Therefore, we are postponing the preliminary determinations under section 703(c)(1)(A) of the Act. *See* Memorandum from Holly Kuga to Robert S. LaRussa, dated April 21, 1999 (on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). We will make our preliminary determinations in these investigations no later than July 16, 1999.

This notice of postponement is published pursuant to section 703(c)(2) of the Act.

Dated: April 21, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–10771 Filed 4–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearing and Availability of the Draft Environmental Impact Statement (DEIS) for Disposal and Reuse of Naval Air Station (NAS) Alameda and the Fleet and Industrial Supply Center (FISC), Alameda Annex and Facility, Alameda, CA

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a DEIS for disposal and reuse of NAS Alameda and FISC Alameda Annex and Facility. A public hearing will be held for the purpose of receiving oral and written comments on the DEIS. Federal, State and local agencies and interested individuals are invited to be present at the hearing.

DATES: The meeting will be held on May 18, 1999, at 7:00 p.m.

ADDRESSES: Alameda High School, Little Theatre; 2200 Central Avenue; Alameda, California (at the corner of Central Avenue and Walnut Street).

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Hemstock (Code 7032JH), Engineering Field Activity, West, Naval Facilities Engineering Command, 900 Commodore Drive, San Bruno, California, telephone (650) 244–3023, facsimile (650) 244-3206.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department

of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency (EPA) the DEIS for Disposal and Reuse of NAS Alameda and FISC Alameda Annex and Facility in Alameda, California. A public hearing will be held for the purpose of receiving oral and written comments on the DEIS. Federal, State and local agencies, as well as interested individuals and organizations are invited to be present or represented at the hearing.

A Notice of Intent (NOI) to prepare the DEIS was published in the **Federal Register** on February 22, 1996 (61 FR 36).

Public scoping meeting announcements were published in four local newspapers: the San Leandro Times on February 29, 1996; the Alameda Journal on March 1 and 5, 1996; the Oakland Tribune and the Alameda Times-Star on March 3 and 5, 1996. A public scoping meeting was held on March 13, 1996 at the Alameda High School Cafeteria, 2200 Central Avenue, Alameda, California.

The proposed action is the disposal of Navy property for subsequent reuse and redevelopment, in accordance with the 1990 Defense Base Closure and Realignment Act, and the 1993 and 1995 Base Realignment and Closure Commission recommendations. Approximately 1,693 acres (685 hectares) of land (1,102 acres (446 hectares) of dry land and 591 acres (239 hectares) of submerged land) are available for disposal and are the focus of this DEIS. NAS Alameda was operationally closed on April 30, 1997 and FISC Alameda Annex and Facility (FISC Alameda) was operationally closed on September 30, 1998. Approximately 969 acres (392 hectares) of the total 2,662 acres (1,076 hectares) of dry and submerged land at NAS Alameda and FISC Alameda are being transferred to other Federal agencies.

The DEIS evaluates four reuse alternatives: the Reuse Plan (Preferred Alternative), Seaport Alternative, Residential Alternative and Reduced Density Alternative. A fifth alternative, no action, assumes no disposal of property and retention of the property by Navy in caretaker status. Under the No Action Alternative, the operation of Miller Elementary School at NAS Alameda would continue through an existing lease agreement. All other current leases of NAS Alameda property to the Alameda Reuse and Redevelopment Authority (ARRA) and FISC Alameda property to the City of Alameda would continue until their expiration.

The Reuse Plan Alternative is based on the NAS Alameda Community Reuse Plan (Reuse Plan) that was developed by the ARRA, the Local Redevelopment Authority. The Reuse Plan envisions a mixed use for the properties that includes industrial, commercial residential and community uses within six distinct planning areas. Community uses would include public parks and open space, schools, a golf course and a recreational vehicle park. Industrial uses would include office, marine-related light industry and research and development businesses. Residential housing would include reuse of existing housing as well as new construction. Commercial uses would include neighborhood shopping districts, offices, hotels and a conference facility. No decision on the proposed action will be made until the NEPA process has been completed.

Potential impacts evaluated in the DEIS include, but are not limited to: land use, visual resources, socioeconomics, public services, utilities, cultural resources, biological resources, geology and soils, water resources, traffic and circulation, air quality, noise, and hazardous materials and waste. With two exceptions, potentially significant impacts under all of the reuse alternatives can be mitigated to nonsignificant levels. Potentially significant but mitigable impacts include: traffic impacts on-site, at key local intersections and on some roadway and freeway segments under all alternatives; traffic impacts on the Webster/Posey Tubes under the Reuse Plan Alternative; and air quality impacts at two local intersections under the Reuse Plan, Seaport, and Residential Alternatives where carbon monoxide concentrations would exceed Federal and State standards. The two significant impacts that cannot be mitigated are visual impacts from cargo cranes and port facilities under the Seaport Alternative that would disrupt existing views, and increased predation of the endangered California least tern under the Seaport and Residential Alternatives. The DEIS has been distributed to affected Federal, State and local agencies and other interested parties. In addition, copies of the DEIS are available for review at the Alameda Public Library (Main Library, West End Branch and Bay Farm Island Branch) and the Oakland Public Library (Main Library and Eastmont Branch).

A public hearing will be held to inform the public of the DEIS findings and to solicit and receive oral and written comments. The hearing will be held at 7:00 p.m. on May 18, 1999, at the Alameda High School, Little Theatre, 2200 Central Avenue, Alameda, California (at the corner of Central Avenue and Walnut Street). Federal, State and local agencies and interested parties are invited to be present at the hearing. Oral comments will be heard and transcribed by a court recorder; written comments are also requested to ensure accuracy of the record. All comments, both oral and written, will become part of the official record. In the interest of available time, each speaker will be asked to limit oral comments to three minutes. Longer comments should be summarized at the public hearing and submitted in writing either at the hearing or mailed to Mr. Jerry Hemstock at the address given above. Written comments are requested not later than June 1, 1999.

Dated: April 19, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–10746 Filed 4–28–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Final Programmatic Environmental Impact Statement for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the Final Programmatic Environmental Impact Statement (PEIS) for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride (DOE/EIS–0269). This Final PEIS, prepared pursuant to the National Environmental Policy Act (NEPA), assesses the potential environmental impacts of reasonable alternatives to manage DOE's nearly 700,000 metric tons of depleted uranium hexafluoride (UF_6) stored in 57,634 steel cylinders at the East Tennessee Technology Park (formerly known as the K–25 facility) on the Oak Ridge Reservation, and the gaseous diffusion plant sites at Portsmouth, Ohio, and Paducah, Kentucky. The Final PEIS also includes analyses of the impacts of an additional 11,212 cylinders recently transferred to DOE from the United States Enrichment Corporation under two recent memoranda of agreement.

The management strategies considered in the Final PEIS include continuation of depleted UF_6 storage at

the current locations, two long-term storage alternatives (one as UF_6 and one as an oxide, after conversion) at a consolidated location, two alternatives to convert and use the material (one as uranium oxide and one as uranium metal), and a disposal alternative.

DOE has identified a preferred alternative in the Final PEIS. DOE's preferred alternative for the long-term management and use of depleted UF_6 is to begin conversion of the UF_6 inventory as soon as possible, either to uranium oxide, uranium metal, or a combination of both, while allowing for future use of as much of this inventory as possible. The preferred alternative in the Final PEIS was revised based in part on public comments on the Draft PEIS. The Record of Decision, to be issued no sooner than 30 days after the Environmental Protection Agency's Notice of Availability of the Final PEIS, will identify DOE's decision for the long-term management and use of depleted UF_6.

ADDRESSES: Copies of this Final PEIS are available at the Office of Environment, Safety and Health National Environmental Policy Act home page at *http://www.eh.doe.gov/nepa*, or on the Office of Nuclear Energy, Science and Technology home page at *http://www.ne.doe.gov*. You may request copies of this Final PEIS by calling the toll-free number 1–800–517–3191, by faxing requests to (301) 903–4905, or by mailing them to: Scott Harlow, Depleted Uranium Hexafluoride Program, Office of Nuclear Energy, Science and Technology (NE), U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874. You may also request copies of this Final PEIS via the Depleted Uranium Hexafluoride home page at *http://www.ead.anl.gov/uranium.html*, or via electronic mail to: *scott.harlow@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Carol Borgstrom, Director, Office of NEPA Policy and Assistance, Office of Environment, Safety and Health, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20545, (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

On January 25, 1996, DOE issued a Notice of Intent (61 FR 2239) to prepare a programmatic environmental impact statement on alternative strategies for the long-term management and use of depleted UF_6. The unique properties and value of depleted UF_6, such as its high purity and density, as well as the large volume (nearly 700,000 metric tons) in storage, made it appropriate to evaluate, analyze, and decide the long-term management of this material separately from other DOE materials in storage or awaiting disposition.

The purpose of this PEIS was to assess and consider the potential environmental impacts of a range of reasonable alternative strategies for the long-term management and use of depleted UF_6 currently stored at sites near Paducah, Kentucky; Portsmouth, Ohio; and Oak Ridge, Tennessee. The Final PEIS addresses the potential environmental impacts of the activities for each strategy.

During February 1996, public scoping meetings were held in Paducah, Piketon, and Oak Ridge. The Draft PEIS incorporates the public comments received during the scoping period. During February and March 1998, public hearings on the draft PEIS were held in Paducah, Kentucky; Piketon, Ohio; Oak Ridge, Tennessee; and Washington, DC. All comments submitted by the public were considered by DOE in preparing the Final PEIS.

The Final PEIS and related documents prepared by DOE are available for review at the following locations:

Kentucky

U.S. Department of Energy, Environmental Information Center, 175 Freedom Boulevard, Kevil, KY 42053, (502) 462–2550

Ohio

U.S. Department of Energy, Environmental Information Center, 3930 U.S. Route 23, Piketon, OH 45661, (740) 289–3317

Tennessee

U.S. Department of Energy, Information Resource Center, 105 Broadway Avenue, Oak Ridge, TN 37830, (423) 241–4582; and, U.S. Department of Energy, Public Reading Room, Building 1916–T2, Suite 300, 230 Warehouse Road, Oak Ridge, Tennessee 37830

Washington, DC

U.S. Department of Energy, Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–3142

Subsequent Document Preparation

Following issuance of the Final PEIS and Record of Decision, DOE will prepare additional project-specific NEPA documents as appropriate.

Issued in Washington, D.C. April 16, 1999.

William D. Magwood, IV,

Director, Office of Nuclear Energy, Science and Technology.

[FR Doc. 99–10764 Filed 4–28–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–6–003]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

April 23, 1999.

Take notice that on March 25, 1999, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to that filing to become effective March 16, 1999. The tariff sheets implement the first Revised Volume no. 1 of DIGP's FERC Gas Tariff, with the exception of rate sheets previously filed on March 15, 1999. DIGP states the filing is in compliance with the Commission's Order issued February 13, 1998.

Further, DIGP proposes a change to Section 21.2 of its tariff provisions to limit the annual maintenance allocation to no more than 48 hours per calendar month.

DIGP states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 of 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed no later than April 30, 1999 in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the web at http://www.ferc. fed.us/online/rims.htm

(please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10651 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–7–001]

Destin Pipeline Company, L.L.C., Notice of Tariff Filing

April 23, 1999.

Take notice that on April 19, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, Substitute Second Revised Sheet No. 123, to become effective on May 1, 1999.

Destin states that the purpose of this filing is to correct a pagination error in Destin's March 30, 1999, filing.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10656 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP85–221–109]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement in Compliance With Commission Order

April 23, 1999.

Take notice that on April 21, 1999, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., NW, Suite 800, Washington, DC 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.* and the Commission's April 2, 1999 ORDER ADDRESSING COMPLIANCE FILING AND PROTESTS (87 FERC ¶61,015) (1999) in Docket No. CP85–221–105, resubmitted an executed Service Agreement, dated May 8, 1998 under Rate Schedule LVS–1, that was previously filed May 12, 1998, together with an addendum to such Service Agreement which states the sales price of the gas to be sold to Prairielands Energy Marketing, Inc.

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10650 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–120–000]

Geysers Statutory Trust; Notice of Application for Commission Determination of Exempt Wholesale Generator Status and Request for Expedited Consideration

April 23, 1999.

Take notice that on April 22, 1999, Geysers Statutory Trust (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant is a Connecticut statutory trust which was formed for the benefit of Steam Heat LLC, a Delaware limited liability company, to purchase from Geysers Power Company LLC (Geysers Power) and hold legal title to the Geysers geothermal generating facilities, fifteen geothermal power electric generating plants totaling approximately 766 MW, and to lease the Geysers geothermal generating facilities to Geysers Power under a long-term lease.

Applicant states that fourteen of these generating facilities were part of Pacific Gas and Electric Company's integrated system. Therefore, a rate or charge in connection with these generating facilities was in effect under the laws of California on October 24, 1992. On April 6, 1999, the Public Utilities Commission of the State of California (CPUC) mailed a final Opinion Granting Requested Authorization, D.99–04–026, which concluded that allowing these facilities to be an exempt wholesale generator within the meaning of PUCHA would benefit consumers, would be in the public interest, and would not violate California law. Applicant attached a copy of the CPUC D.99–04–026 to its application.

Applicant further states that copies of the application were served upon the California Independent System Operator Corporation, the California Power Exchange Corporation, the Securities and Exchange Commission, and the CPUC.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before May 4, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection or on the Internet at http://www.ferc.fed.us/online/rims.htm. (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10653 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–280–001]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 23, 1999.

Take notice that on April 12, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, with an effective date of May 10, 1999:

Fourth Revised Sheet No. 157

Mid Louisiana states that the purpose of this filing is to comply with Commission regulations (18 CFR 375.307(e)(4)) and to correct a pagination error on Sheet 157 as originally submitted in this proceeding. This repaginated sheet references provisions which incorporate GISB Standard 1.3.32 as adopted by the Commission in Docket RM96–1–008.

Mid Louisiana requests that the Commission grant a waiver of the filing deadline as stipulated in the Order thereby allowing the indicated tariff sheet(s) be accepted to be effective May 10, 1999.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10659 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL95–71–002]

Public Service Company of New Hampshire v. New Hampshire Electric Cooperative, Inc.; Notice of Amendment to Refund Report

April 23, 1999.

Take notice that on April 12, 1999, the Public Service Company of New Hampshire tendered for filing an Amendment to Refund Report in the above captioned matter. On October 6, 1998, the Commission ordered Public Service Company of New Hampshire (PSNH) to recalculate bills and to refund with interest certain charges it had made to the New Hampshire Electric Cooperative, Inc. and to file a refund report with the Commission (85 FERC ¶ 61,044). PSNH filed its refund report on October 26, 1998. By letter dated March 12, 1998, the Commission's Division of Rate Applications requested additional information from PSNH regarding its Amended Refund Report filed on January 13, 1999. PSNH provided that explanation by a letter addressed to the Secretary of the Commission on April 9, 1999.

Copies of this filing were served upon the New Hampshire Electric Cooperative, Inc., Bio Energy Corporation and the Executive Director and Secretary of the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 3, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10655 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–328–000]

Sabine Pipe Line Company; Notice of Request Under Blanket Authorization

April 23, 1999.

Take notice that on April 20, 1999, Sabine Pipe Line Company (Sabine), P.O. Box 4781, Houston, Texas 77210–4781, filed in Docket No. CP99–328–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to install and operate two sales taps under its blanket certificate to deliver gas to Equilon Enterprises LLC (Equilon), under Sabine's banket certificate issued in Docket No. CP83–199–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

The sales taps will connect Sabine's 22-inch mainline to Equilon's crude pump stations in Vermilion and Calcasieu Parishes, Louisiana. The taps will be located in Section 17, Township 12 South, Range 1 East in Vermilion Parish, Louisiana, and Section 3, Township 11 South, Range 7 West in Calcasieu Parish, Louisiana.

Sabine states that it will construct and be reimbursed for the connections, including meter stations and approximately 150 feet of 4-inch pipeline, that will connect Equilon's facilities and Sabine's existing mainline piping. Sabine states that it will own and operate instrumentation and telemetry for flow control, the control valve assemblies and the connections to Sabine's mainline pipling. Sabine states that Equilon will own and operate facilities downstream of the measurement and flow control stations. Sabine states that the maximum quantity of gas that will be delivered through each of the proposed taps is 4,000 Dth per day. Sabine also states that the proposed delivery points will be available to all existing and potential shippers receiving service under Sabine's FT–1 and IT–1 rate schedules set forth in Sabine's FERC Gas Tariff. The estimated cost to construct each sales tap is $85,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the

Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–10652 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–121–000]

Steam Heat LLC, Notice of Application for Commission Determination of Exempt Wholesale Generator Status and Request for Expedited Consideration

April 23, 1999.

Take notice that on April 22, 1999, Steam Heat LLC (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant is a Delaware limited liability company formed to hold the beneficial ownership interest in Geysers Statutory Trust, a Connecticut statutory trust that was formed to purchase from Geysers Power Company, LLC (Geysers Power) and hold legal title to the Geysers geothermal generating facilities, fifteen geothermal power electric generating plants totaling approximately 766 MW, and to lease the Geysers geothermal generating facilities to Geysers Power under a long-term lease.

Applicant states that fourteen of these generating facilities were part of Pacific Gas and Electric Company's integrated system. Therefore, a rate or charge in connection with these facilities was in effect under the laws of California on October 24, 1992. On April 6, 1999, the Public Utilities Commission of the State of California (CPUC) mailed a final Opinion Granting Requested Authorization, D.99–04–026, which concluded that allowing these facilities to be an exempt wholesale generator within the meaning of PUHCA would benefit consumers, would be in the public interest, and would not violate California law. Applicant attached a copy of the CPUC D.99–04–026 to its application.

Applicant further states that copies of he application were served upon the California Independent System Operator Corporation, the California Power Exchange Corporation, the Securities and Exchange Commission, and the CPUC.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before May 4, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection or on the Internet at http://www.ferc.fed.us/online/rims/htm (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10654 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–18–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

April 23, 1999.

Take notice that on April 13, 1999, Transcontinental Gas Pipe Line Corporation (Transco) filed a report reflecting the flow through of refund received from CNG Transmission Corporation (CNG).

On April 2, 1999, in accordance with Section 4 of its Rate Schedule LSS and Section 3 of its Rate Schedule GSS, Transco states that it refunded to its LSS and GSS customers $797,567.00 resulting from the final refund of CNG Transmission Corporation Docket No. RP97–406, et al. The refund covers the period from January 1998 to December 1998.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 4, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10657 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1886–000, et al.]

Virginia Electric and Power Company, et al.; Electric Rate and Corporate Regulation Filings

April 22, 1999.

Take notice that the following filings have been made with the Commission:

1. Virginia Electric and Power Company

[Docket No. ER99–1886–000]

Take notice that on April 20, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a refund report to amend its February 22, 1999, filing of a Service Agreement for Long Term Firm Point-to-Point Transmission Service with The Wholesale Power Group under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Refund Report, Virginia Power demonstrated the process by which the Company refunded the time value of money collected for the respective service from the date of receipt of the funds until 60 days after the filing.

Virginia Power requests an effective date of April 20, 1999.

Copies of the filing were served upon The Wholesale Power Group, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Montaup Electric Company

[Docket Nos. ER97–4691–001 and ER98–861–0010]

Take notice that on April 2, 1999, Montaup Electric Company filed a compliance refund report, as directed by the Commission's letter order approving settlement issued March 6, 1998, in the above-docketed proceedings.

Comment date: May 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Cleco Energy LLC, Northwest Natural Gas Company, Wolverine Power Supply Corporative, Inc., Northeast Energy Services, Inc., Equitable Power Services Co., Oceanside Energy, Inc., Rocky Mountain Natural Gas & Electric LLC

[Docket Nos. ER98–1170–003, ER97–683–004, ER98–411–008, ER97–4347–006, ER94–1539–020, ER97–181–005, and ER98–3108–002]

Take notice that on April 19, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

4. Merrill Lynch Capital Services, Inc., PacifiCorp, Union Electric Development Corporation, DePere Energy Marketing, Inc., PEC Energy Marketing, Inc., SkyGen Energy Marketing LLC, Stand Energy Corporation

[Docket Nos. ER99–830–003, ER97–3926–002, ER97–3927–002, ER97–3928–002, ER97–3929–002, ER97–3930–002, ER97–3931–002, ER97–3663–007, ER97–1432–008, ER97–1431–008, ER99–972–001, and ER95–362–017]

Take notice that on April 20, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

5. The Montana Power Company

[Docket No. ER99–2370–000]

Take notice that on April 20, 1999, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission an amendment to its original filing in the above referenced docket. The original filing, and this amendment, pertain to unexecuted Network Integration Transmission Service Agreements and Network Operating Agreements with Golden Sunlight Mines, Inc. (Golden Sunlight), Cenex Harvest States Cooperatives (Cenex), Illinova Energy Partners, Inc. (Illinova), and Energy West Resources, Inc. (Energy West), Ash Grove Cement Company (Ash Grove), and Montana Refining Company (Montana Refining) under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Golden Sunlight, Cenex, Illinova, Energy West, Ash Grove and Montana Refining.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. FirstEnergy Trading Services, Inc.

[Docket No. ER99–2516–000]

Take notice that on April 16, 1999, FirstEnergy Trading Services, Inc. (FirstEnergy Trading), tendered for filing a Notice of Succession to Rate Schedule FERC No. 1—Market-Based Rate Schedule, and Supplement No. 1, to Rate Schedule FERC No. 1—Code of Conduct, of FirstEnergy Trading & Power Marketing, Inc. FirstEnergy Trading also notified the FERC that it had become affiliated with a fully-integrated natural gas company.

FirstEnergy Trading has asked that the Notice of Succession be permitted to become effective on May 1, 1999.

Comment date: May 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER99–2534–000]

Take notice that on April 20, 1999, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Mutual Netting/Closeout Agreements between PacifiCorp and Modesto Irrigation District, Puget Sound Energy, and Public Utility District No. 1 of Snohomish County, Washington.

Copies of this filing were supplied the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. PP&L, Inc.

[Docket No. ER99–2535–000]

Take notice that on April 20, 1999, PP&L, Inc. (PP&L), tendered for filing an Interconnection Agreement and Addendum to Interconnection Agreement between PP&L and Cinergy Capital & Trading, Inc.

PP&L also requests waiver of the notice provisions necessary to permit the Interconnection Agreement and the Addendum to be made effective as of April 21, 1999, a date one day after the date of filing.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Company Services, Inc.

[Docket No. ER99–2536–000]

Take notice that on April 20, 1999, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company (MPC), and Savannah Electric and Power Company (collectively referred to as Southern Company), tendered for filing a service agreement for network integration transmission service between SCS, as agent for Southern Company, and Southern Wholesale Energy (SWE), a Department of SCS, as agent for MPC, under the Open Access Transmission Tariff of Southern Company.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Navitas, Inc.

[Docket No. ER99–2537–000]

Take notice that on April 20, 1999, Navitas, Inc. (Navitas), petitioned the Commission for acceptance of Navitas Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Navitas intends to engage in wholesale electric power and energy purchases and sales as a marketer. Navitas may also engage in other nonjurisdictional activities, such as facilitating the purchase and sale of wholesale energy without taking title to the electricity, selling electricity to retail customers in states in which retail electric power competition has been implemented, and arranging services in related areas such as transmission and fuel supplies. Navitas is not in the business of generating or transmitting electric power. Navitas is a wholly-owned subsidiary of Northern Alternative Energy, Inc., which through its affiliates, develops wind-driven

generation facilities, the power from which is dedicated under long-term contracts.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp

[Docket No. ER99–2538–000]

Take notice that on April 20, 1999, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, an umbrella Service Agreement with Salt River Project Agricultural Improvement and Power District under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 12.

PacifiCorp requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that the Commission accept for filing the enclosed Service Agreements and assign an effective date of April 21, 1999.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Edison Company

[Docket No. ER99–2539–000]

Take notice that on April 20, 1999, Commonwealth Edison Company (ComEd), tendered for filing two revised Firm Service Agreements with Commonwealth Edison Company, in its wholesale merchant function, (WMD), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of March 22, 1999, for the revised service agreements, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on WMD.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Full Power Corporation

[Docket No. ER99–2540–000]

Take notice that on April 19, 1999, Full Power Corporation tendered for filing pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an application for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, to be effective June 18, 1999, or the date that the Commission issues an order in this proceeding, whichever is earlier. Full Power intends to engage in electric energy and capacity transactions as a marketer.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Carthage Energy, LLC

[Docket No. ER99–2541–000]

Take notice that on April 19, 1999, Carthage Energy, LLC (Carthage Energy), tendered for filing with the Federal Energy Regulatory Commission Carthage Energy's Electric Power Sales Tariff, FERC Electric Rate Schedule No. 1, which permits Carthage Energy to make wholesale power sales at market-based rates.

Carthage Energy requests an effective date of April 20, 1999.

Notice of said filing has been served upon the New York State Public Service Commission.

Any person desiring to be heard or to protest such filing

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Vermont Yankee Nuclear Power Corporation

[Docket No. ER99–2542–000]

Take notice that on April 19, 1999, Vermont Yankee Nuclear Power Corporation (Vermont Yankee), tendered for filing a proposed modification to its wholesale electric rates to reduce the annual expense allowance for post-retirement benefits other than pensions.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. PacifiCorp

[Docket No. ER99–2543–000]

Take notice that on April 20, 1999, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Non-Firm and Short-Term Firm Point-To-Point Transmission Service Agreements with (DukeSolutions) and Western Area Power Administration (WAPA) and Utah Municipal Power Agency. (UMPA) under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

PacifiCorp requests pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that an effective date of April 21, 1999, be assigned to the enclosed Service Agreements.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Old Dominion Electric Cooperative, Central Hudson Gas & Electric Corporation

[Docket Nos. ER99–2547–000 and [ER99–2549–000]

Take notice that on April 19, 1999, the above-mentioned public utilities filed their quarterly transaction report for the first quarter ending March 31, 1999.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Kincaid Generation L.L.C. Ameren Services Company, Pacific Northwest Generating Cooperative

[Docket Nos. ER99–2548–000 ER99–2550–000 and ER99–2551–000]

Take notice that on April 20, 1999, the above-mentioned public utilities filed their quarterly transaction report for the first quarter ending March 31, 1999.

Comment date: May 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10681 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[FERC Docket Nos. CP99–163–000 CA State Clearinghouse No. 99041103 CSLC EIR No. 696]

California State Lands Commission; Questar Southern Trails Pipeline Company; Notice of Intent/Preparation to Prepare a Joint Environmental Impact Statement/Report for the Proposed Questar Southern Trails Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings and Route Inspection

April 26, 1999.

The staffs of the Federal Energy Regulatory Commission (FERC) and the California State Lands Commission (CSLC) will jointly prepare an environmental impact statement/report (EIS/EIR) that will analyze and present the environmental impacts of the construction and operation of facilities proposed in Questar Southern Trails Pipeline Company's (QST) Southern Trails Pipeline Project.[1] The FERC will use this EIS/EIR in its decision-making process, i.e., whether or not to issue a Certificate of Public Convenience and Necessity for the proposed project. The CSLC will use the document to consider QST's application for leasing the State's Sovereign and School Lands for the pipeline.

The FERC will be the lead Federal agency in the preparation of this EIS/EIR while the CSLC will be the State Lead Agency for California. The document, which will avoid much duplication of environmental analyses, will satisfy the requirements of both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

Additionally, with this notice the FERC is inviting other Federal agencies and two Native American Tribes to participate (see appendix 1) in the preparation of the EIS/EIR.[2] These entities may choose to become cooperating agencies once they have evaluated QST's proposal relative to their respective responsibilities.

If you are a landowner receiving this notice, you may be contacted by a QST representative about the acquisition of an easement to construct, operate, and maintain the Southern Trails Pipeline System. QST would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, QST could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically-asked questions, including the use of eminent domain, is attached to this notice as appendix 2.

Summary of the Proposed Facilities

QST acquired Four Corners Line 90 and portions of Line 91 and 92 from ARCO Pipeline Company. This existing crude oil pipeline network extends from the Four Corners area of New Mexico, into southern Utah, and across Arizona to Long Beach, California. Southern Trails requests FERC authorization to convert the existing pipeline from crude oil to natural gas service, and to operate these pipeline and additional compression facilities as a new natural gas transmission system. QST proposes to construct five new pipeline extensions and interconnects, realign/reroute five existing pipeline segments, replace a number of short segments of existing pipeline, and construct seven compressor stations. The conversion and construction of these facilities would enable QST to transport 80 to 90 million cubic feet of natural gas per day (MMcfd) to customers in New Mexico and Arizona, and 120 MMcfd to customers in southern California.

Overall, the proposed Southern Trails Pipeline Project consists of the following facilities:

- About 693 miles of existing pipeline, to be converted from crude oil to natural gas service (610 miles of 16-inch, 80 miles of 12-inch, and 3 miles of 20-inch-diameter pipeline);
- Five new pipeline extensions and interconnects totaling about 59.8 miles (36.1 miles in New Mexico; 17.4 miles in Arizona; 6.8 miles in California) with diameters of 20 and 22 inches (only one 0.6-mile segment would be 22 inches in diameter);
- Five reroutes/realignments of the existing pipeline totaling about 8.7 miles of 16-inch-diameter pipe in California.
- 41 replacement segments of the existing pipeline totaling about 9.5 miles (4.6 miles in California; 4.9 miles in Arizona) of 16-inch-diameter pipe;
- Seven new compressor stations (6 of which would be located on existing oil pump station sites), with a total of 17,356 horsepower of compression (3 sites in California; 2 sites in Arizona; 1 site in Utah; 1 site in New Mexico); and
- Construction of 9 new meter stations, about 50 new block valves and related appurtenant facilities.

The general locations of the facilities proposed by QST are shown in appendix 3. A detailed listing of the facilities is presented in table 1.

Land Requirements for Construction

QST proposes to build its new pipeline extensions, reroutes, and replacement segments in construction rights-of-way ranging from 24 to 60 feet wide. After construction, 0 to 60 feet of new right-of-way would be maintained as permanent easement. Specific widths of the rights-of-way would vary, depending on the proposed pipeline diameter for each location. The extensions would be built generally parallel and adjacent to existing pipelines, using as much of the existing rights-of-way as possible during construction. Of the seven compressor stations to be constructed, only the one proposed for a new site (in Mohave Valley, Arizona) would require additional acreage (1.7 acres). The other six compressor stations would be located on existing oil pump station sites.

Additional temporary work space may be required at river, road, or railroad crossings, or where similar obstacles are encountered. QST would purchase the temporary and permanent easements necessary for constructing and operating the project.

Construction of the pipeline extensions and reroute segments would normally follow standard pipeline construction methods: right-of-way clearing and grading; trenching; pipe stringing, bending, welding, joint coating, and lowering in; backfilling of the trench; and cleanup and restoration. QST would implement site-specific erosion control and revegetation measures and use special construction techniques for wetland and water crossings and for construction in residential/urban areas. These construction procedures and mitigation plans will be presented and their adequacy assessed in the Draft EIS/EIR. Where necessary, the joint FERC–CSLC staffs will make appropriate recommendations to avoid or mitigate potential impact.

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[1] QST's application was filed with the FERC pursuant to section 7 of the Natural Gas Act and Part 157 of the FERC's regulations.

[2] "We, "us," and "our" refer to the staffs of the CSLC and the FERC's Office of Pipeline Regulation. The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the FERC's Public Reference and Files Maintenance Branch, 888 First Street, NE, Washington, DC 20462, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

TABLE 1.—FACILITIES ASSOCIATED WITH THE QUESTAR SOUTHERN TRAILS PIPELINE PROJECT

Proposed facilities	Pipe diameter (inches)	Pipe length (miles)	New compression (horsepower)	County
New Mexico:				
TransColorado Extension	20	35.4		San Juan.
Shiprock Compressor Station	N/A	N/A	2,350	San Juan.
Utah:				
Red Mesa Compressor Station	N/A	N/A	2,195	San Juan.
Arizona:				
Replacement (Mohave County)	16	.50		Mohave.
Replacement (Mohave County)	16	.24		Mohave.
Replacement at Kayenta	16	1.80		Navajo.
Replacement at Dennehotso	16	1.61		Apache.
Transwestern Extension	16	.40		Mohave.
Topock Extension	20	17.14		Mohave.
Chaco Extension	22	.50		San Juan.
Mohave Valley Compressor Station	N/A	N/A	3,936	Mohave.
Cameron Compressor Station	N/A	N/A	1,770	Coconino.
Cameron Tap Site	N/A	N/A		Coconino.
Tuba City Tap Site	N/A	N/A		Coconino.
Kayenta Tap Site	N/A	N/A		Navajo.
Red Mesa Tap Site	N/A	N/A		Apache.
California:				
Replacement (Danby—Ward Valley)	16	.07		San Bernardino.
Replacement (Danby—Ward Valley)	16	.17		San Bernardino.
Replacement (Danby—Ward Valley)	16	.33		San Bernardino.
Replacement (Danby—Ward Valley)	16	.15		San Bernardino.
Replacement (Danby—Ward Valley)	16	.08		San Bernardino.
Replacement (Danby—Ward Valley)	16	.48		San Bernardino.
Replacement (Danby—Ward Valley)	16	.41		San Bernardino.
Replacement (Danby—Ward Valley)	16	.09		San Bernardino.
Replacement (Danby—Ward Valley)	16	.30		San Bernardino.
Replacement (Danby—Ward Valley)	16	.44		San Bernardino.
Replacement (Danby—Ward Valley)	16	.07		San Bernardino.
Replacement (Danby—Ward Valley)	16	.16		San Bernardino.
Replacement (Danby—Ward Valley)	16	.01		San Bernardino.
Replacement (Danby—Ward Valley)	16	.42		San Bernardino.
Replacement (Danby—Ward Valley)	16	.36		San Bernardino.
Reroute at City of Orange	16	.76		Orange.
Realignment at Corona #1 (Rincon Street & Sheridan Street)	16	.06		Riverside.
Realignment at Corona #2 (San Miguel Drive & Laguna Drive)	16	.06		Riverside.
Realignment at Corona #3 (Mariposa Drive)	16	.06		Riverside.
Reroute at Cabazon	16	8.0		Riverside.
Del Amo Extension	20	6.50		Los Angeles.
Beaumont Compressor Station	N/A	N/A	1,934	Riverside.
Morongo Valley Compressor Station	N/A	N/A	2,372	San Bernardino.
Danby Compressor Station	N/A	N/A	2,372	San Bernardino.

All components of the proposed pipeline system would be designed and tested in accordance with U.S. Department of Transportation safety standards and specifications found at Title 49 of the Code of Federal Regulations, Part 192 (49 CFR 192), Transportation of Natural and other Gas by Pipeline; Minimum Federal Safety Standards. The existing pipeline would be cleaned and the entire system hydrostatically tested before being placed in service. QST would be required to obtain appropriate Federal, state, and/or Tribal discharge permits prior to pipeline cleaning and hydrostatic testing.

The EIS/EIR Process

NEPA requires the FERC to take into account the environmental impacts that could result from a major Federal action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. The CSLC, as State Lead Agency for California, is required to consider the same potential impacts within the State of California under CEQA. The EIS/EIR we are preparing will give both the CSLC and the FERC the information we need to do that.

NEPA and CEQA also require us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EIS/EIR on the important environmental issues, and to separate those issues that are insignificant and do not require detailed study. By this NOI/NOP, we are requesting public comments on the scope of the issues to be analyzed and presented in the EIS/EIR. All comments received will be considered during the preparation of the document. State and local government representatives are encouraged to notify their constituents of QST's proposal and encourage them to comment on their areas of concern.

The EIS/EIR will discuss impacts that could occur as a result of the construction and operation of the proposed project. These impacts may include, but are not limited to:

Geology and Soils
- —Landslide and seismic hazards
- —Erosion and sedimentation control
- —Right-of-way restoration

Water Resources
- —Impact on wetland hydrology
- —Effect of pipeline crossings on streams and canals

Biologic Resources
—Short- and long-term effects of right-of-way clearing and maintenance on wetlands and riparian areas
—Effects of habitat alteration
—Impact on threatened and endangered species
—Impact on fisheries
Cultural Resources
—Impact on historic and prehistoric sites
—Native American and tribal concerns
Socioeconomics
—Effects of construction workforce demands on public services
—Effects of increased employment and taxes on local economy
Air quality
—Effect of compressor station emissions on air quality
Noise
—Effect of compressor station operation on nearby noise-sensitive receptors
Reliability and Safety
—Assessment of hazards associated with natural gas transmission pipelines
Land Use
—Impact on the Havasu National Wildlife Refuge
—Effect of right-of-way clearing and construction of aboveground facilities on visual aesthetics in residential and scenic areas
—Consistency with city and county land use plans
—Impact on residences
—Construction impact on urban traffic flow
Paleontology
—Impact on significant fossil resources encountered during pipeline construction
Cumulative Impacts
—Identification of projects likely to take place in the time frame and/or proximity of the proposed project
—Analysis of cumulative impact and mitigation measures

We will also evaluate possible alternatives to the project, including the No-Action/Project alternative. The EIS/EIR will include recommendations for specific mitigation measures to lessen or avoid impacts on the various resource areas, as well as a Mitigation Monitoring Program.

Our independent analysis of the issues will result in the publication of a Draft EIS/EIR which will be mailed to Federal, state, and local agencies, reservations crossed by the pipeline or disturbed by construction, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the FERC's official service list for these proceedings. A 45-day comment period will be allocated for the review of the Draft EIS/EIR. We will consider all comments on the Draft EIS/EIR and revise the document, as necessary, before issuing a Final EIS/EIR. The Final EIS/EIR will include our response to each comment received.

Public Participation and Scoping Meetings

You can help us by sending a letter with your specific environmental comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded.

- Send your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Room 1A, Washington, DC 20426;
- Reference Docket No. CP99–163–000;
- Send a copy of your letter to the following individuals:

Branch Chief, PR–11.1, Environmental Review & Compliance Branch, Federal Energy Regulatory Commission, 888 First Street, NE, Room 72–50, Washington, DC 20426
Daniel Gorfain, EIR Project Manager, California State Lands Commission, 100 Howe Avenue, Suite 100 South, Sacramento, CA 95825–8202; and

- Mail your comments so that they will be received in Washington, DC on or before May 26, 1999.

In addition to asking for written comments, we invite you to attend any of the joint public scoping meetings the FERC and CSLC will conduct. The purpose of the scoping meetings is to provide state and local agencies, interested groups, landowners, and the general public with an opportunity to learn more about the project and another chance to prevent us with environmental issues or concerns they believe should be addressed in the EIS/EIR. QST representatives will be present at the meetings to describe the proposed project, both in general and for the specific area where each meeting is held.

The locations and times for these meetings are listed on the next page. Priority will be given to commenters who represent groups, and a transcript of each meeting will be made so that your comments will be accurately recorded.

Route Inspection

On May 3–13, 1999, we will also be conducting an inspection of the existing and proposed routes and locations of facilities associated with QST's proposal. This inspection will include both aerial and ground components. Anyone interested in participating in the inspection activities may contact the FERC's Office of External Affairs (identified at the end of this notice) for more details and must provide their own transportation.

Becoming an Intervenor

In addition to involvement in the EIS/EIR scoping process, you may want to become an official party to the FERC proceeding by becoming an "intervenor." Among other things, intervenors have the right to receive copies of case-related FERC documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor, you must file a Motion to Intervene according to Rule 214 of the FERC's Rules of Practices and Procedure (18 CFR 385.214) which is attached as appendix 4.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered or to speak at a meeting.

SCHEDULE FOR EIS/EIR PUBLIC SCOPING MEETINGS

[NOTE: All meetings will last for 1 hour, or until the submission of public comments is concluded (whichever occurs later)]

Date and time	Community	Location
Tuesday, May 4, 1999, 7:00 pm	Farmington, NM	Holiday Inn, 600 East Broadway, Animas Room.

SCHEDULE FOR EIS/EIR PUBLIC SCOPING MEETINGS—Continued

[NOTE: All meetings will last for 1 hour, or until the submission of public comments is concluded (whichever occurs later)]

Date and time	Community	Location
Wednesday, May 5, 1999, 5:00 pm	Kayenta, AZ	Kayenta Chapter House.
Thursday, May 6, 1999, 7:00 pm	Kingman, AZ	Kingman Area Office, Bureau of Land Management, Conference Room.
Monday, May 10, 1999, 7:00 pm	Anaheim, CA	Embassy Suites Hotel, 3100 East Frontera, (junc. state highways 91 & 57), Cresent Court Room.
Tuesday, May 11, 1999, 6:30 pm	Norco, CA (Corona)	Norco Board Council Chamber, 2820 Clark Street.
Wednesday, May 12, 1999, 6:30 pm	Long Beach, CA	Los Cerritos Elementary School, 515 West San Antonio Drive.
Thursday, May 13, 1999, 4:00 pm–7:00 pm	Banning, CA	Council Chambers, 99 East Ramsey Street.
	Orange, CA	DoubleTree Inn, 100 The City Drive.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all individuals who own property crossed by the existing pipeline, individuals who own property adjacent to the existing pipeline (where the pipeline is in a utility right-of-way and construction/disturbance is proposed within 50 feet of the adjacent property), and identified potential right-of-way grantors. Overall, the notice will be delivered to more than 2,100 individual parties.

Everyone who responds to this notice or comments on the environmental document will be retained on our mailing list. If you don't want to send comments at this time but still want to keep informed and receive copies of the Draft and Final EIS/EIR, you must return the attached mailer (see appendix 5). Given the size of our initial mailing list and our desire to be responsible (both fiscally and with the use of resources), You Must Send Comments or Return the Attached Mailer for Your Name to Remain on the Mailing List.

Additional Questions?

Further information about the proposed project is available from Mr. Paul McKee of the FERC's Office of External Affairs at (202) 208–1088.

QST's application and other supplemental filings are also available for viewing on the FERC Internet website (www.ferc.fed.us). Click on the "RIMS" link, select "Docket No. CP99–163" from the RIMS menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222. Similarly, the "CIPS" link on the FERC website provides access to the texts of formal documents issued by the FERC, such as orders, notices, and rulemakings. From the FERC website, click on the "CIPS" link, select the "Docket #" of interest from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Information concerning the involvement of the CSLC in the EIS/EIR process may be obtained from Dan Gorfain, EIR Project Manager, at (916) 574–1889.

Information regarding the involvement of the U.S. Department of the Interior's Bureau of Land Management as a cooperating agency in the environmental analysis process may be obtained from Mr. Steven Johnson, California Desert District Office, at (909) 697–5233.

Daniel Gorfain,

Project Manager, CSLC.

David P. Boergers,

Secretary, FERC.

[FR Doc. 99–10682 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Accepted for Filing And Soliciting Motions To Intervene and Protest

April 23, 1999.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* Two New Major Licenses and Three Subsequent Licenses.

b. *Project Nos.:* 2897–003, 2931–002, 2932–003, 2941–002, and 2942–005.

c. *Date filed:* January 22, 1999.

d. *Applicant:* S.D. Warren Company.

e. *Names of Projects:* Saccarappa Project, Gambo Project, Mallison Falls Project, Little Falls Project, and Dundee Project.

f. *Location:* On the Presumpscot River, near the towns of Windham, Gorham, and Westbrook, in Cumberland County, Maine. These projects do not utilize any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas Howard, S.D. Warren Company, 89 Cumberland Street, P.O. Box 5000, Westbrook, ME 04098–1597, 207–856–4286.

i. *FERC Contact:* Bob Easton, robert.easton@ferc.fed.us, 202–219–2782.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: These applications are not ready for environmental analysis at this time.

l. Description of the Projects:

Saccarappa: The project consists of the following existing facilities: (1) a 322-foot-long diversion dam consisting of two concrete overflow structures separated by an island; (2) two bypassed reaches measuring 475 and 390 feet long; (3) a 380-foot-long and 36-foot-wide intake canal; (4) a 49-foot-wide by 71-foot-long masonry powerhouse; (5) three turbine generator units, each with a rated capacity of 450 kilowatts (kW) for a total project installed capacity of 1,350 kW; (6) a 345-foot-long tailrace formed by a 33-foot-high guard wall; (7) a 1-mile-long 2.3 kilovolt (kV)

transmission line/generator lead; and (8) other appurtenances.

Gambo: The project consists of the following existing facilities: (1) a 250-foot-long, 24-foot-high concrete overflow section and 50-foot-long intake structure; (2) a 737-foot-long and 15-foot-deep concrete lined intake canal; (3) a 47-foot-wide by 78-foot-long reinforced concrete and brick powerhouse; (4) two turbine generator units, each with a rated capacity of 950 kW for a total project installed capacity of 1,900 kW; (5) a 300-foot-long bypassed reach; (6) an 8-mile-long 11 kV transmission line; and (7) other appurtenances.

Mallison Falls: The project consists of the following existing facilities: (1) a 358-foot-long and 14-foot-high reinforced concrete, masonry, and cut granite diversion dam; (2) a 70-foot-long headgate structure; (3) a 675-foot-long, 41-foot-wide, and 6-foot-deep bedrock lined intake canal; (4) a 33-foot-wide by 51-foot-long reinforced concrete and masonry powerhouse; (5) two turbine generator units, each with a rated capacity of 400 kW for a total project installed capacity of 800 kW; (6) a 675-foot-long bypassed reach; (7) an 11 kV transmission line tied into the Gambo Project transmission line; and (8) other appurtenances.

Little Falls: The project consists of the following existing facilities: (1) a 330-foot-long and 14-foot-high reinforced concrete and masonry dam incorporating a 70-foot-long intake structure; (2) a 25-foot-wide by 95-foot-long masonry powerhouse which is integral to the dam; (3) four turbine generator units, each with a rated capacity of 250 kW for a total project installed capacity of 1,000 kW; (4) a 300-foot-long bypassed reach; (5) an 11 kV transmission line tied into the Gambo Project transmission line; and (6) other appurtenances.

Dundee: The project consists of the following existing facilities: (1) a 1,492-foot-long dam, consisting of a 150-foot-long, 42-foot-high concrete spillway section flanked by two 50-foot-high earthen embankments, a 90-foot-long and 50-foot-high non-overflow section, and a 27-foot-long gate section; (2) a 44-foot-wide by 74-foot-long reinforced concrete powerhouse which is integral to the spillway section of the dam; (4) three turbine generator units, each with a rated capacity of 800 kW for a total project installed capacity of 2,400 kW; (5) a 1,075-foot-long bypassed reach; (6) a 1,075-foot-long, 30-foot-wide, and 11-foot-deep tailrace; (3) two 10-mile-long 11 kV transmission lines; and (7) other appurtenances.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly form the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's Regulations to: The Secretary and an additional copy must be sent to the Director, Division of Project Review, Office of Hydropower Licensing, at the above-mentioned address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 99–10658 Filed 4–28–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6332–7]

Agency Information Collection Activities: Proposed Collection; Comment Request; Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program, EPA ICR Number 1654.02, OMB Control Number 2040–0164, expiring October 31, 1999. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 28, 1999.

ADDRESSES: Environmental Protection Agency, Office of Wastewater Management, WAVE ICR Docket, Municipal Assistance Branch (Mail Code 4204), 401 M Street, SW, Washington, DC 20460. Interested persons may obtain a copy of the ICR amendment and supporting analysis without charge by contacting the individual listed below.

FOR FURTHER INFORMATION CONTACT: Valerie Martin, Telephone: (202) 260–7259. Facsimile Number: (202) 260–1827. E-mail: martin.valerie@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments

Comments shall be submitted to WAVE ICR Comment Clerk, Mail Code 4204, Environmental Protection Agency, Office of Wastewater Management, 401 M Street, SW, Washington, DC 20460. Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed stamped

envelope. Comments may also be submitted electronically to *martin.valerie@epa.gov.*

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and forms of encryption. Electronic comments must be identified by the use of words "WAVE ICR Comments." No confidential Business Information (CBI) should be submitted through e-mail. Comments and data will also be accepted on disks in Corel WordPerfect 8 format or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. The record for this proposed ICR renewal has been established in the Office of Wastewater Management, Municipal Assistance Branch and includes supporting documentation as well as printed, paper versions of electronic comments. It does not include any information claimed as CBI. The record is available for inspection from 9 am to 4 pm, Monday through Friday, excluding legal holidays, at the Municipal Assistance Branch, Northeast Mall Room 2606–46, 401 M Street, SW, Washington, DC 20460. For access to the docket materials, please call (202) 260–5856 to schedule an appointment.

Affected Entities

Entities potentially affected by this action are commercial businesses, medical facilities, educational institutions, state and local governments, and multi-family housing units that voluntarily join EPA's WAVE Program. Major respondents are lodging establishments, office buildings, educational institutions, medical facilities, and state and local governments.

Title

Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program (OMB Control No. 2040–0164; EPA ICR No. 1654.02) expiring October 31, 1999.

Abstract

EPA initially collects facility information and thereafter annually collects water, energy, and cost savings information from participants in the WAVE program. WAVE Partners are commercial businesses or institutions that voluntarily agree to implement cost-effective water efficiency measures in their facilities. Initially the WAVE Program targeted the lodging industry, but is expanding to include office buildings, educational institutions and medical facilities. Another type of participant, "Supporters," will work with EPA to promote water efficiency. Supporters are equipment manufacturers, water management companies, utilities, state and local governments, or the like.

The purpose of the WAVE Program is pollution prevention. As defined by EPA, pollution prevention means "source reduction" as defined under the Pollution Prevention Act, and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or through protection of natural resources by conservation. By promoting water efficiency, WAVE prevents pollution in two basic ways. First, wastewater flows are reduced which can increase treatment efficiency at wastewater treatment plants resulting in reduced pollutant loads. Second, less water used means that less energy will be used to treat, transport, and heat drinking water and to transport and treat wastewater. To the extent that the reduced energy use so achieved is electrical energy, power plant emissions are reduced. Water efficiency also causes less water to be withdrawn and helps preserve streamflow to maintain a healthy aquatic environment; in addition, less pumping of groundwater lowers the chance that pollutants that may be in the groundwater will be drained into a water supply well.

EPA uses the information to maintain a profile of program membership and to monitor the success of the program, demonstrate that pollution prevention can be accomplished with a non-regulatory approach, and to promote the program to potential partners. Participation in the WAVE Program is voluntary; however, a participant joins the program by signing and submitting a Membership Agreement and an annual Results Report to EPA to receive and retain program benefits, such as software and publicity. No participant is required to submit confidential business information. EPA maintains and distributes a list of program participants, and presents aggregated data only in its program progress reports. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 49 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement

The annual public reporting and record keeping burden for this collection of information is estimated to average three hours and three minutes per Membership Agreement response, and five hours and 54 minutes per Results Report response. Approximately 870 facilities will be subject to this information collection for an estimated annual burden of 2,556 hours. The total estimated burden for this information collection activity, including the Agency, is 3,037 hours nationally; the estimated total annualized cost burden is $187,282. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 23, 1999.

Michael B. Cook,

Director, Office of Wastewater Management.

[FR Doc. 99–10731 Filed 4–28–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6332–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Modification of Secondary Treatment Requirements for Discharges Into Marine Waters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Modification of Secondary Treatment Requirements for Discharges into Marine Waters, EPA ICR Number 0138.06, OMB Control Number 2040–0088, expiring July 31, 1999. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260-2740, by email at farmer.sandy@epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 0138.06.

SUPPLEMENTARY INFORMATION:

Title: Modification of Secondary Treatment Requirements for Discharges into Marine Waters (EPA ICR Number 0138.06; OMB Control Number 2040–0088) expiring July 31, 1999. This is a request for extension of a currently approved collection.

Abstract: The Clean Water Act (CWA) 301(h) program involves collecting information from two sources: (1) The municipal wastewater treatment facility, commonly called a publicly owned treatment works (POTW); and (2) the State in which the POTW is located. Municipalities had the opportunity to apply for a waiver from secondary treatment requirements, but that opportunity closed in December 1982. A POTW seeking to obtain a 301(h) waiver, holding a current waiver, or reapplying for a waiver, provides application, monitoring, and toxic control program information. The State provides information on its determination whether the proposed conditions of the waiver ensure the protection of water quality, biological habitats, and beneficial uses of receiving waters, and whether the discharge will result in additional treatment, pollution control, or any other requirement for any other point or nonpoint sources. The State also provides information to certify that the discharge will meet all applicable State laws and that the State accepts all permit conditions. EPA requires updated information on the discharge to: (1) determine whether the section 301(h) criteria are still being met and whether the section 301(h) waiver should be reissued; (2) determine whether the water quality, biological habitats, and beneficial uses of the receiving waters are protected; and (3) ensure that the permittee is effectively minimizing industrial and nonindustrial toxic pollutant and pesticide discharges into the treatment works. EPA needs information from the State to: (1) allow the State's views to be taken into account when EPA reviews the section 301(h) application and develops permit conditions; and (2) ensure that all State laws are met and that the State accepts all permit conditions. This information is the means by which the State can non-concur with a section 301(h) approval decision made by the EPA Regional office. Responses to the collection of information are required to obtain or retain a benefit. Regulations implementing CWA section 301(h) are found at 40 CFR part 125, subpart G. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on December 23, 1998 (63 FR 71112); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 568 hours per response for POTWs and 111 hours per response for States. The average annual reporting burden varies depending on the size of the respondent and the category of the information collection. There are 7 categories of information collection in this ICR renewal. The frequency of response varies from 1 time to once every 5 years, to case-by-case, as the individual permit specifies, depending on the category. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information, and transmit or otherwise disclose the information.

Respondents/Affected Entities: Municipalities with publicly owned treatment works (POTW) that currently have section 301(h) waivers from secondary treatment, who have applied for a renewal of a section 301(h) waiver, or have a pending section 301(h) waiver, and the States within which these municipalities are located.

Estimated Number of Respondents: 55.

Frequency of Response: Varies from 1 time to once every 5 years, to case-by-case, depending on the category of information collection.

Estimated Total Annual Hour Burden: 71,049 hours.

Estimated Total Annualized Cost Burden (capital/startup and O&M costs only): $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0138.06 and OMB Control No. 2040–0088 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: April 22, 1999.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 99–10732 Filed 4–28–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6332–9]

Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Public Review of a Notification of Intent To Certify Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of EPA receipt of a notification of intent to certify equipment and initiation of 45-day public review and comment period.

SUMMARY: Engelhard Corporation (Engelhard) has submitted to EPA a notification of intent to certify urban bus retrofit/rebuild equipment pursuant to 40 CFR part 85, subpart O. EPA is making the notification (application) available for public review and comment for a 45-day period.

Engelhard intends that this equipment, referred to as the ETX-Plus rebuild kit, be certified to the 0.10 grams per brake-horsepower-hour (g/bhp-hr) particulate matter standard for 1988–1993 model year Detroit Diesel Corporation (DDC) 6V92TA engines equipped with Detroit Diesel Electronic Control (DDEC).

No life cycle cost information has been provided with the application. If certified to the 0.10 g/bhp-hr standard, then the candidate equipment would not "trigger" the 0.10 g/bhp-hr standard for the applicable engines. (The 0.10 g/bhp-hr PM standard is already in effect for these engines.) The application describes equipment that is based upon a 6V92TA DDEC II engine that is rebuilt to a standard 1991 to 1993 DDC specification of either 253 or 277 horsepower (hp). However, when the engine is rebuilt it will utilize an improved turbocharger and a CMX'–6 catalytic muffler. As described in the application, Engelhard would provide the improved turbocharger, catalytic muffler, specific blower drive gear, and electronic programming upgrade (only for 1988 through 1990 model year engines). To complete an engine upgrade, an operator would have to acquire on its own, other required engine rebuild parts, such as cylinder heads, cylinder kits, fuel injectors, blower, and camshafts.

Pursuant to section 85.1407(a)(7), today's **Federal Register** notice announces that the information is available for public review and comment, and initiates a 45-day period during which comments can be submitted. EPA will review the information submitted by Engelhard, as well as comments received during the public review period, to determine whether the candidate Engelhard equipment should be certified. If certified, then the equipment can be used by urban bus operators to reduce the particulate matter (PM) of urban bus engines.

Comments should be provided in writing to Public Docket A–93–42, Category XXV, at the address below. An identical copy should be submitted to William Rutledge, also at the address below.

Category XXV of Public Docket A–93–42, entitled "Certification of Urban Bus Retrofit/Rebuild Equipment" contains Engelhard's notification of intent to certify and other materials specifically relevant to it. This docket is located at the address below.

DATES: Comments must be submitted on or before June 14, 1999.

ADDRESSES: Submit separate copies of comments to each of the two following addresses:

1. U.S. Environmental Protection Agency, Public Docket A–93–42 (Category XXV–A), Room M–1500, 401 M Street S.W., Washington, DC 20460.

2. William Rutledge, Engine Compliance Programs Group, Engine Programs and Compliance Division (6403J), U.S. Environmental Protection Agency, 401 "M" Street S.W., Washington, DC 20460.

The Engelhard application and other materials specifically relevant to it are contained in the public docket indicated above. Docket items may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: William Rutledge, Engine Programs and Compliance Division (6403J), U.S. Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460. Telephone: (202) 564–9297.

SUPPLEMENTARY INFORMATION:

I. Program Background

On April 21, 1993, EPA published final Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses (58 FR 21359). The retrofit/rebuild program is intended to reduce the ambient levels of PM in urban areas and is limited to 1993 and earlier model year (MY) urban buses operating in metropolitan areas with 1980 populations of 750,000 or more, whose engines are rebuilt or replaced after January 1, 1995. Operators of the affected buses are required to choose between two compliance options: Option 1 sets particulate matter emissions requirements for each urban bus engine in an operator's fleet which is rebuilt or replaced; Option 2 is a fleet averaging program that sets out a specific annual target level for average PM emissions from urban buses in an operator's fleet.

A key aspect of the program is the certification of retrofit/rebuild equipment. To meet either of the two compliance options, operators of the affected buses must use equipment which has been certified by EPA. Emissions requirements under either of the two options depend on the availability of retrofit/rebuild equipment certified for each engine model. To be used for Option 1, equipment must be certified as meeting a 0.10 g/bhp-hr PM standard or as achieving a 25 percent reduction in PM. Equipment used for Option 2 must be certified as providing some level of PM reduction that would in turn be claimed by urban bus operators when calculating their average fleet PM levels attained under the program.

Under Option 1, additional information regarding cost must be submitted in the application for certification, in order for certification of that equipment to initiate (or trigger) program requirements for a particular engine model. In order for the equipment to serve as a trigger, the certifier must guarantee that the equipment will be offered to affected operators for $7,940 or less at the 0.10 g/bhp-hr PM level, or for $2,000 or less for the 25 percent or greater reduction in PM. Both of the above amounts are based on 1992 dollars and include life cycle costs incremental to the cost of a standard rebuild.

II. Application for Certification

In an application of intent to certify signed November 17, 1998, and clarified in a letter dated December 14, 1998, Engelhard Corporation applied for certification of the ETX-Plus rebuild kit under the urban bus program. The equipment is applicable to 1988 through 1993 model year Detroit Diesel Corporation 6V92TA diesel engines equipped with Detroit Diesel Electronic Control (DDEC). The application states that the candidate equipment achieves a PM level of 0.10 g/bhp-hr. No life cycle cost information is provided. The use of the equipment by transit operators to meet program requirements is discussed further below.

The CMX™–6 catalytic converter in the candidate kit is improved compared to the CMX–5 converter of the kit that EPA certified earlier to the 0.10 g/bhp-hr standard for Detroit Diesel Corporation (DDC) 6V92TA model

engines with DDEC II (see 63 FR 50225; September 21, 1998).

The application states that the candidate rebuild kit is designed to update all electronically controlled DDC 6V92TA DDEC II engines to either a standard 253 or 277 Hp ETX configuration. The candidate kit incorporates an improved CMX–6 integrated catalytic converter muffler, a coated turbocharger, a specific blower drive gear, and an engine specified parts list. The specified parts of the list are not an integral part of the ETX Plus kit, but are standard components for a 6V92TA DDEC II 1991 through 1993 engine that are normally replaced during an engine rebuild. The CMX–6 is intended to replace the standard muffler previously installed in the engine exhaust system. The turbocharger is a standard 6V92 unit modified for improved response and airflow. Engines of model years 1988 through 1990 would receive an upgraded control program for the electronic control module. Engelhard states that the candidate kit will require no additional maintenance compared to a standard engine.

Engelhard indicates that the improved turbocharger operates like a typical turbocharger, but with improved efficiency and airflow. The improved airflow improves combustion efficiency which reduces engine-out PM. The CMX–6 catalytic muffler incorporates Engelhard's oxidation catalyst technology to reduce PM emissions in the exhaust.

The CMX–6 used in this equipment package is different from the catalytic converter that is part of the kit previously certified by EPA to the 0.10 g/bhp-hr PM standard for the applicable engines (63 FR 50225; September 21, 1998). Therefore, the converter of the previously-certified kit cannot be used in place of the new converter in the candidate kit.

Engelhard presents emissions data from a certification test performed on an engine after being rebuilt with the ETX-Plus Rebuild Kit. Transient testing was performed in accordance with the federal test procedure of 40 CFR Part 86, subparts N and I. The data of the application are summarized below in Table 1, and document PM emissions of 0.10 g/bhp-hr and hydrocarbon (HC), carbon monoxide (CO), oxides of nitrogen (NOx), and smoke emissions within the applicable standards. Based on this testing demonstration, it appears that all ETX Plus-equipped engines would meet the 0.10 g/bhp-hr PM standard because installation of the kit results in the replacement of all emissions related parts with a specific set of parts, the combination of which results in a documented PM level of 0.10 g/bhp-hr. The PM emissions level of an original engine, prior to installation of the Engelhard kit, may be irrelevant since all emissions-related parts are required to be replaced upon installation of the kit. EPA requests comments on whether or not all engines for which certification is intended will meet the 0.10 g/bhp-hr PM standard.

TABLE 1.—SUMMARY OF ENGELHARD TESTING

Gaseous and particulate test	g/bhp-hr			
	HDDE standards			6V92TA DDEC II with ETX-plus kit
	1988	1990	1991	
HC	1.3	1.3	1.3	0.02
CO	15.5	15.5	15.5	0.4
NO_x	10.7	6.0	5.0	5.0
PM	0.60	0.60	0.25	0.10
BSFC[1]	.....	.....	.....	0.488
Hp (R/O)[2]	.....	.....	.....	277/278

Smoke test	Standards (percent)	Percent
ACCEL	20	3
LUG	15	1
PEAK	50	6

[1] Brake Specific Fuel Consumption (BSFC) is measured in units of lb/bhp-hr.
[2] Horsepower (Rated/Observed during testing).

Engelhard's application includes no life cycle cost information. Such information is required, pursuant to 40 CFR 85.1407, only to trigger the program standard of 0.10 g/bhp-hr for applicable engines. That 0.10 g/bhp-hr PM standard was triggered with the certification of the Engelhard ETX–2002 rebuild kit described in the **Federal Register** on September 21, 1998 (63 FR 50225).

In accordance with program requirements, Engelhard's application includes emissions defect and emissions performance warranties.

The candidate kit requires particular engine rebuild parts that are specified by Engelhard in order to upgrade applicable engines to a 1991 to 1993 model year configuration of either 253 or 277 Hp. As proposed in the application, Engelhard would provide certain engine components (the improved turbocharger, a particular blower drive gear and the CMX–6 catalytic converter muffler). The remaining required parts (cylinder heads, cylinder kits, fuel injectors, camshafts, and blower) would be purchased elsewhere or supplied separately by the transit operator, as long as such parts were the Engelhard-specified OEM components. Engelhard proposes that the candidate kit include a specified parts list, but not provide these "standard" parts. Additionally, EPA understands that Engelhard does not intend that the warranties provided by them would cover these parts, because these parts are normally replaced during a standard rebuild.

EPA expects to evaluate this supply method and whether it is appropriate pursuant to program requirements (such as 40 CFR 85.1403(a)(1)]. Also, EPA will evaluate whether this supply method would compromise the ability of the Engelhard kit to achieve 0.10 g/bhp-hr PM standard in the field. EPA requests comment on this supply method.

EPA also notes that the upgraded software programs for the electronic control module that controls the fuel injection timing, which is to be

provided with the candidate kit if necessary for 1988 through 1990 model year engines, are the original programs developed by DDC for 1991 through 1993 engines. As discussed in the **Federal Register** notice describing the certification of the Engelhard ETX 2002 rebuild kit (63 FR 50225; September 21, 1998), EPA expressed concern with programs designed to decrease fuel consumption during driving modes not substantially included in the federal test procedure, that have the effect of substantially increasing NOx during these modes. Prior to certification of the candidate kit, EPA expects these concerns to be addressed.

If EPA certifies the candidate application to the 0.10 g/bhp-hr PM standard, then urban bus operators who choose to comply with compliance Option 1 of this program may use this equipment, or other equipment certified to the 0.10 g/bhp-hr standard, when applicable engines are rebuilt or replaced. Further, operators who chose to comply under compliance Option 2 of this program may also use the Engelhard equipment. They would claim the PM certification level for the kit when calculating their fleet level attained.

The date of today's notice initiates a 45-day period during which EPA will accept written comments relevant to whether or not the equipment described in the Engelhard application should be certified. Interested parties are encouraged to review this application, and provide comments related to whether or not the equipment described in it should be certified pursuant to the urban bus retrofit/rebuild program. Comments should be provided in writing to the address listed under the Addresses section of this document.

EPA will review this application of intent to certify, along with comments received from the interested parties, and attempt to resolve or clarify issues as necessary. During the review process, EPA may add additional documents to the docket as a result of the review process. These documents will also be available for public review and comment.

Dated: April 22, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation

[FR Doc. 99–10730 Filed 4–28–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–009548–052.

Title: United States Atlantic and Gulf Ports/Eastern Mediterranean and North African Freight Conference.

Parties: Farrell Lines, Inc., Waterman Steamship Corporation.

Synopsis: The proposed Amendment restates the Agreement, as well as, revising it to bring it into compliance with the requirements of the Ocean Shipping Reform Act and the requirements of the European Union.

Agreement No.: 202–011284–033.

Title: Equipment Interchange Discussion Agreement ("EIDA").

Parties: APL Co. Pte Ltd; American President Lines, Ltd.; A.P. Moller-Maersk Line; Hapag Lloyd Container Linie GmbH; Mitsui O.S.K. Lines Ltd.; Orient Overseas Container Line, Inc.; Orient Overseas Container Line (UK) Ltd.; P&O Nedlloyd B.V.; P&O Nedlloyd Limited; Nippon Yusen Kaisha Line; Sea-Land Service, Inc.

Synopsis: The proposed amendment would restate the Agreement and clarify the authority of the members to discuss and agree on various matters related to the interchange of equipment. It also authorizes two or more of the parties to meet with rail and motor carrier operators to discuss and agree upon matters pertaining to the use and interchange of equipment, it would permit the members to establish voluntary guidelines for service contracts, and makes other non-substantive changes to the Agreement.

Agreement No.: 224–201003–002.

Title: Los Angeles—Matson Terminals Terminal Agreement.

Parties: City of Los Angeles: Board of Harbor Commissioners Matson Terminals, Inc.

Synopsis: The proposed amendment extends the agreement through January 31, 2002.

Dated: April 26, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10757 Filed 4–28–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89–777 (46 U.S.C. 87(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Celebrity Cruises Inc., 1050 Caribbean Way, Miami, FL 33132,Vessels: Century, Galaxy, Horizon, Mercury and Xenith

Clipper Cruise Line, Inc., 7711 Bonhomme Avenue, St. Louis, MO 63105–1965, Vessel: Nantucket Clipper

Premier Cruises, 901 S. America Way, Pier 7, Miami, FL 33132–2073, Vessels: Oceanbreeze, Oceanic, Rembrandt and Seabreeze I

Radisson Seven Seas Cruises, Inc., 600 Corporate Drive, Suite 410, Ft. Lauderdale, FL 33334, Vessel: Seven Seas Navigator

Royal Caribbean International, 1050 Caribbean Way, Miami, FL 33132, Vessels: Enchantment of the Seas, Grandeur of the Seas, Legend of the Seas, Majesty of the Seas, Monarch of the Seas, Nordic Empress, Rhapsody of the Seas, Sovereign of the Seas. Splendour of the Seas, Viking Serenade, Vision of the Seas and Voyager of the Seas

Silversea Cruises, Ltd. and Silver Wind Shipping Company S.A., 110 East Broward Blvd., Ft. Lauderdale, FL 33301, Vessel: Silver Wind

Dated: April 26, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10756 Filed 4–28–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Cunard Line Limited (d/b/a Seabourn Cruise Line), 6100 Blue Lagoon Drive, #400 Miami, FL 33126. Vessel: SEABOURN LEGEND, SEABOURN PRIDE and SEABOURN SPIRIT

Norwegian Cruise Line Limited (d/b/a Norwegian Cruise Line), 7665 Corporate Center Drive, Miami, FL 33126, Vessel: NORWEGIAN MAJESTY

Silversea Cruises, Ltd. and Silver Wind Shipping Company S.A., 110 East Broward Blvd., Ft. Lauderdale, FL 33301. Vessel: SILVER WIND

Dated: April 26, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10758 Filed 4–28–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 14, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Charlotte L. Collins; D. Conner Collins; Benjamin A. Dismukes; Cornelia L. Savage; Montezuma, Georgia; Carla T. Toal; Robert D. Toal; Laurie Turner; Robert E. Turner; and Michelle B. Turner, all of Edison, Georgia; to each collectively acquire additional voting shares of BOE Bancshares, Inc., Edison, Georgia, and thereby indirectly acquire Bank of Edison, Edison, Georgia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Larry Dale Wernsing, Raymond, Illinois; to retain voting shares of Raymond Bancorp, Inc., Raymond, Illinois, and thereby indirectly retain voting shares of The First National Bank of Raymond, Raymond, Illinois.

Board of Governors of the Federal Reserve System, April 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10779 Filed 4–28–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99-10133) published on page 20003 of the issue for Friday, April 23, 1999.

Under the Federal Reserve Bank of Kansas City heading, the entry for Amoret Bancshares, Butler, Missouri, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Amoret Bancshares, Butler, Missouri; to acquire 100 percent of the voting shares of C.J. Bancshares, Inc., Harrisonville, Missouri, and thereby indirectly acquire Citizens Bank of Missouri, Harrisonville, Missouri.

Comments on this application must be received by May 17, 1999.

Board of Governors of the Federal Reserve System, April 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10778 Filed 4–28–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 24, 1999.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Ipswich Bancshares, Inc., Ipswich, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Ipswich Savings Bank, Ipswich, Massachusetts.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. City Holding Company, Charleston, West Virginia; to merge with Frontier Bancorp, Redondo Beach, California, and thereby indirectly acquire Frontier State Bank, Redondo Beach, California.

Board of Governors of the Federal Reserve System, April 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10780 Filed 4–28–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 9:00 a.m. (EDT), May 10, 1999.

PLACE: 4th Floor, Conference Room, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. National Finance Center record keeping and New TSP System.
2. Congressional/agency/participant liaison.
3. Benefits administration.
4. Investments.
5. Participant communications.
6. Approval of the minutes of the April 12, 1999, Board member meeting.
7. Thrift Savings Plan activity report by the Executive Director.
8. Approval of the update of the FY 1999 budget and FY 2000 estimates.
9. Approval of revised minimum qualifications for S Fund manager selection.
10. Investment policy review.
11. Status of audit recommendations.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director Office of External Affairs, (202) 942–1640

John J. O'Meara

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 99–10870 Filed 4–27–99; 3:31 pm]

BILLING CODE 6760–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99092]

Community Based Human Immunodeficiency Virus (HIV) Prevention Projects for African Americans; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program to support community-based organizations (CBOs) to develop and implement effective community-based HIV prevention programs for African American populations. These CBOs should have evolved from and be located within the communities they serve. This program addresses the "Healthy People 2000" priority areas of Educational and Community Based Programs, HIV Infection, and Sexually Transmitted Diseases (STDs).

The goals of this program are to:

1. Provide financial and technical assistance to CBOs so they can provide HIV prevention services to African American populations for which gaps in services are demonstrated;
2. Support HIV prevention programs that are consistent with the HIV prevention priorities outlined in the jurisdiction's comprehensive HIV prevention plan or adequately justify addressing other priorities;
3. Promote collaboration and coordination of HIV prevention efforts among CBOs; HIV prevention community planning groups; and other local, State, Federal, and privately funded programs.

B. Eligible Applicants

Eligible applicants are CBOs that meet the following criteria (also see Proof of Eligibility section):

1. Have been granted tax-exempt status under section 501(c)(3), as evidenced by an Internal Revenue Service (IRS) determination letter.
2. Have a board or governing body composed of greater than 50 percent African Americans.
3. Be located and provide services for African Americans in any of the following 20 high AIDS prevalence metropolitan statistical areas (MSAs) [1] with more than 1000 estimated African Americans living with AIDS at the end of 1997:[2] (Please see Attachment 1 for a complete listing of counties included in each MSA)

a. Atlanta, GA; Baltimore, MD; Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH; Chicago, IL; Dallas, TX; Detroit, MI; Fort Lauderdale, FL; Houston, TX; Jacksonville, FL; Los Angeles-Long Beach, CA; Miami, FL; Newark, NJ; New Haven-Bridgeport-Stamford-Danbury-Waterbury, CT; New Orleans, LA; New York City, NY; Oakland, CA; Philadelphia, PA–NJ; San Francisco, CA; Washington, DC–MD–VA–WV; and West Palm Beach-Boca Raton, FL.

OR

b. Be located or provide services for African Americans in any of the following counties or independent city, not included in the list of MSAs above, that had the most syphilis cases in 1997. The counties are: Cumberland, NC; Cuyahoga, OH; Davidson, TN; Forsyth, NC; Franklin, OH; Fresno, CA; Guilford, NC; Hinds, MS; Jefferson, AL; Jefferson, KY; Maricopa, AZ; Marion, IN; Milwaukee, WI; Oklahoma, OK; Shelby, TN; and Tuscaloosa, AL. The independent city is St. Louis, MO.

4. African Americans must serve in greater than 50 percent of key positions, including management, supervisory, administrative, and service provision positions (for example, executive director, program director, fiscal director, outreach worker, prevention case manager, counselor, group facilitator, or trainer).

5. Documentation of an established record of services to the target population is required. An established record is defined as a minimum of two years serving the target population.

6. African American CBOs currently funded under program announcement 704 that meet criteria one through five above are eligible to apply for funding under this program announcement. However, awards to these currently funded CBOs will not exceed $100,000 and no more than 10 such awards will be made.

7. Faith-based community organizations that meet criteria one through six above are eligible to apply. For the purpose of this program announcement, a faith-based community organization is an organization which has a religious, faith, or spiritual focus or constituency, and has access to local religious, faith, and spiritual leaders. Examples of eligible organizations include individual churches, mosques, or temples, or networks of same; or CBOs whose primary constituency is faith, spiritual, or religious communities, organizations, or leaders thereof.

8. Two or more CBOs may apply as a collaborative partnership. In a collaborative contractual partnership, one CBO must be the legal applicant and will function as the lead organization. The lead organization must meet criteria one through five specified above. Collaborating organizations must meet criteria 3.a. or 3.b. above.

Note: A CBO can only submit one application under this announcement; that is, it may apply as an individual organization or as part of a collaboration, but not both.

9. Local affiliates, chapters, or programs of national and regional organizations are eligible to apply. The local affiliate, chapter, or program applying must meet criteria one through eight above.

10. Governmental or municipal agencies, their affiliate organizations or agencies (e.g., health departments, school boards, public hospitals), and

[1] OMB Bulletin 98–06 available at http://www.census.gov/population/www/estimates/metrodef.html.

[2] HIV/AIDS Surveillance Supplemental Reports: Characteristics of Persons Living with AIDS at the End of 1997. Volume 5, Number 1 available at http://www.cdc.gov/nchstp/hiv_aids/stats/hasrlink.htm.

private or public universities and colleges are not eligible for funding under this announcement.

Note: Pub. L. 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately $9,000,000 is available in FY 1999 to fund approximately 45 awards. It is expected that awards will begin on or about September 30, 1999 and will be made for a 12-month budget period within a project period of up to 4 years.

1. Approximately $7,200,000 will be awarded to CBOs which are located and provide services for African Americans in the 20 high AIDS prevalence MSAs with more than 1000 estimated African Americans living with AIDS at the end of 1997 (see Section B.3.a., above). It is expected that the average award will be $200,000, ranging from $150,000 to $300,000. Applications requesting more than $300,000, including indirect costs, will not be considered.

2. Approximately $1,800,000 will be awarded to CBOs located OR providing services for African Americans in the counties and independent city with the most syphilis cases in 1997 but not included in the top 20 MSAs (See Section B.3.b., above). It is expected that the average award will be $200,000, ranging from $150,000 to $250,000. Applications for more than $250,000 will not be considered.

3. Approximately $900,000 of the funds in Sections C.1 and C.2 above (which total $9,000,000), may be awarded to CBOs currently funded under Program Announcement 704 that (a) are located and provide services for African Americans in any of the 20 high AIDS prevalence 20 MSAs listed in Section B.3.a., above; or (b) are located OR provide services in the counties and one independent city listed in Section B.3.b., above. Awards for CBOs currently funded under Program Announcement 704 will not exceed $100,000. Applications for more than $100,000 will not be considered. In addition, the total individual awards including funds provided under Program Announcement 704 and this announcement will not exceed a combined total of $300,000. Funds awarded to currently funded CBOs must be used to enhance or expand existing activities and not to supplant funds from other sources.

Funding estimates may change based on the availability of funds.

Continuation awards within an approved project period will be made on the basis of availability of funds and the applicant's satisfactory progress toward achieving objectives. Satisfactory progress toward achieving objectives will be determined by progress reports and site visits conducted by CDC representatives. Proof of continued eligibility is required with noncompeting continuation applications.

Note: Funds to support CBOs to provide HIV prevention services to African American communities are also available under Program Announcement 99091—Community Based HIV Prevention Services and Capacity Building Assistance to Organizations Serving Gay Men of Color at Risk for HIV Infection, and Program Announcement 99096— HIV Prevention Projects for African American Faith Based Organizations. Eligible organizations may apply for and receive funding under more than one of these announcements; however, the total combined funding provided to any organization under these three announcements will not exceed $300,000.

Use of Funds

Funds provided under this announcement must support activities directly related to primary HIV prevention. However, intervention activities which involve preventing other STDs or substance abuse as a means of reducing or eliminating the risk of HIV transmission may also be supported. No funds will be provided for direct patient medical care (including substance abuse treatment, medical treatment, or medications) or research.

Applicants may contract with other organizations under these cooperative agreements; however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services) for which funds are requested. Applications requesting funds to support only administrative and managerial functions will not be accepted.

Funding Priorities

In making awards, priority for funding will be given to:

Ensuring a distribution of CBO awards in terms of targeted risk behaviors, based on AIDS morbidity in African Americans.

Interested persons are invited to comment on the proposed funding priority. All comments received within 30 days after publication in the **Federal Register** will be considered before the final funding priority is established. If the funding priority changes because of comments received, a revised announcement will be published in the **Federal Register**, and revised applications will be accepted before the final selections are made. Address comments to: Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office 2920 Brandywine Road, Room 3000, Mailstop E–15, Atlanta, Georgia 30341–4146.

Funding Preference

In making awards, preference for funding will be given to:

Ensuring a geographic distribution of CBO awards, based on AIDS morbidity in African Americans.

D. Program Requirements

HIV prevention interventions are specific activities (or set of related activities)using a common method of delivering the prevention messages to reach persons at risk of becoming HIV-infected or, if already infected, of transmitting the virus to others. The goal of HIV prevention interventions is to bring about HIV risk reduction in a particular population.

In order to maximize the effective use of CDC funds, each applicant must conduct at least one of the following priority HIV prevention interventions: (1) HIV Counseling, Testing, and Referral Services; (2) Individual Level Interventions; (3) Group Level Interventions; (4) Community Level Interventions; and (5) Street and Community Outreach. A brief description of these priority interventions is provided in Attachment 2. Also, please reference the materials included in the tool kit for additional information about these interventions. The tool kit will be sent with the application packet.

Although activities may overlap from one type of intervention to another (e.g., individual or group level interventions may be a part of a community-level intervention), each applicant must indicate which one of the five interventions is the primary focus.

Because of the resources, special expertise, and organizational capacities needed for success, applicants should carefully consider the feasibility of undertaking more than two of the priority interventions listed. Recipients proposing to conduct more than two of these priority prevention interventions must demonstrate the capacity to implement them effectively.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under number 1. (Recipient Activities) and CDC will be responsible for

activities under number 2. (CDC Activities) below.

1. Recipient Activities

a. Use epidemiologic data, needs assessments, and prioritization of groups and interventions to design program activities.

b. Develop program activities which are consistent with applicable State and local comprehensive HIV prevention plans or adequately justify addressing other priorities.

c. Provide—or assist high risk clients in gaining access to—HIV counseling, testing, and referral for other needed services.

d. Conduct health education and risk reduction interventions for persons at high risk of becoming infected or transmitting HIV to others.

e. Assist HIV-positive persons in gaining access to appropriate HIV treatment and other early medical care, substance abuse prevention services, STD screening and treatment, reproductive and perinatal health services, partner counseling and referral services, psychosocial support, mental health services, TB prevention and treatment, primary HIV prevention such as health education and risk reduction services, and other supportive services. High-risk clients who test negative should be referred to appropriate health education and risk reduction services and other appropriate prevention and treatment services.

f. Ensure adequate protection of client confidentiality.

g. Coordinate and collaborate with health departments, community planning groups, and other organizations and agencies involved in HIV prevention activities, especially those serving the target population.

h. Participate in the HIV prevention community planning process. Participation may include involvement in workshops; attending meetings; if nominated and selected, serving as a member of the group; reporting on program activities; or reviewing and commenting on plans.

i. Incorporate cultural competency and linguistic and developmental appropriateness into all program activities and prevention messages.

j. Coordinate program activities with relevant national, regional, State, and local HIV prevention programs to prevent duplication of efforts.

k. Monitor and evaluate major program and intervention activities and services supported with CDC HIV prevention funds under this cooperative agreement. This should include assessing client satisfaction periodically via quantitative (e.g., periodic surveys) and qualitative methods (e.g., focus groups).

l. Compile "lessons learned" from the project and facilitate the dissemination of "lessons learned" and successful prevention interventions and program models to other organizations and CDC through peer-to-peer interactions, meetings, workshops, conferences, internet, communications with project officers, and other capacity-building and technology transfer mechanisms.

m. Work with CDC-funded capacity-building assistance programs to meet your and other organizations' capacity-building needs.

n. Develop and implement a plan for obtaining additional resources from non-CDC sources to supplement the program conducted through this cooperative agreement and to enhance the likelihood of its continuation after the end of the project period.

o. Adhere to CDC policies for securing approval for CDC sponsorship of conferences.

p. Before using funds awarded through this cooperative agreement to develop HIV prevention materials, recipients must check with the CDC National Prevention Information Network (NPIN) to determine if suitable materials are already available. Also, materials developed by recipients must be made available for dissemination through the CDC NPIN.

CDC's National Prevention Information Network (NPIN) maintains a collection of HIV, STD and TB resources for use by organizations and the public. Successful applicants may be contacted by NPIN to obtain information on program resources for use in referrals and resource directories. Also, grantees should send three copies of all educational materials and resources developed under this grant for inclusion in NPIN's databases.

NPIN also makes available information and technical assistance services for use in program planning and evaluation. For further information on NPIN services and resources, contact NPIN at 1–800–458–5231 (TTY users: 1–800–243–7012). NPIN's web site is www.cdcnpin.org; the fax number is 1–888–282–7681.

2. CDC Activities

a. Coordinate a national capacity building and technology transfer network.

b. Provide consultation and technical assistance in planning, implementing, and evaluating prevention activities. CDC may provide consultation and technical assistance both directly and indirectly through prevention partners such as health departments, national and regional minority organizations (NRMOs), contractors, and other national organizations.

c. Provide up-to-date scientific information on risk factors for HIV infection, prevention measures, and program strategies for prevention of HIV infection.

d. Assist in the design and implementation of program evaluation activities, including provision of evaluation forms, if appropriate.

e. Assist recipients in collaborating with State and local health departments, community planning groups, and other federally supported HIV/AIDS recipients.

f. Facilitate the transfer of successful prevention interventions, program models, and "lessons learned" through convening meetings of grantees, workshops, conferences, newsletters, use of the internet, and communications with project officers. Also facilitate exchange of program information and technical assistance among community organizations, health departments, and national and regional organizations.

g. Monitor the recipient's performance of program activities, protection of client confidentiality, and compliance with other requirements.

h. Conduct an overall evaluation of this cooperative agreement program.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Application Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 33 double-spaced pages (not including the budget or attachments).

Number each page clearly, and provide a complete Table of Contents to the application and its appendices. Please begin each separate section of the application on a new page. The original and each copy of the application set must be submitted unstapled and unbound. All material must be typewritten, single spaced, with unreduced 12 point or 10 pitch font on 8½" by 11" paper, with at least 1" margins, headings and footers, and printed on one side only. Materials which should be part of the basic narrative will not be accepted if placed in the appendices.

In developing the application, you must follow the format and instructions below:

Format

1. Abstract

2. Assessment of Need and Justification for Proposed Activities
3. Long-term Goals
4. Organizational History and Capacity
5. Program Plan
6. Program Evaluation Plan
7. Communications and Dissemination Plan
8. Plan for Acquiring Additional Resources
9. Budget and Staffing Breakdown and Justification
10. Training and Technical Assistance Plan
11. Attachments

Instructions

1. Abstract

(Not to exceed 2 pages): Summarize which intervention category of the five priority HIV prevention interventions—(1) HIV Counseling, Testing, and Referral Services; (2) Individual Level Interventions; (3) Group Level Interventions; (4) Community Level Interventions; and (5) Street and Community Outreach)—you intend to implement and your proposed intervention activities. Include the following:

a. Brief summary of the need for the proposed activities;

b. Long-term goals;

c. Brief summary of proposed plan of operation, including the population(s) to be served, activities to be undertaken, and services to be provided; and

d. Brief summary of plans for evaluating the activities of this project.

2. Assessment of Need and Justification for Proposed Activities

(Not to exceed 5 pages):

a. Describe the population(s) for which your proposed intervention(s) will provide services.

b. Describe the impact of the AIDS epidemic on the priority population and their community and any specific environmental, social, cultural, or linguistic characteristics of the priority populations which you have considered and addressed in developing prevention strategies, such as:

(1) HIV prevalence and incidence (if available), reported AIDS cases, and the proportion that engages in specific risk behaviors (sexual behaviors, substance use, etc.) in the target population;

(2) HIV/AIDS-related baseline knowledge, attitudes, beliefs, and behaviors;

(3) Patterns of substance use and rates of STDs and tuberculosis (TB); and

(4) Other relevant information. (Specify)

c. Identify the need that will be addressed by your proposed intervention(s), and describe how you assessed the need. Include epidemiologic and other data that were used to identify the need. Include a description of existing HIV prevention and risk-reduction efforts provided by other organizations to address the needs of the target population(s), and an analysis of the gap between the identified need and the resources currently available to address the need (i.e., How will the proposed intervention(s) address an important unmet HIV prevention need?).

d. Describe the specific behaviors and practices that the proposed intervention(s) is designed to promote and prevent (e.g., increases in correct and consistent condom use, knowledge of serological status, not sharing needles, and enrollment in drug treatment and other preventive programs).

e. Describe how your proposed intervention(s) complements the HIV prevention priority populations and interventions identified in the applicable State or local comprehensive HIV prevention plan(s). If the comprehensive HIV prevention plan does not prioritize the needs that you have identified, justify the need and the priority of your proposed intervention activities and summarize how the activities address prevention gaps and complement ongoing prevention efforts. State why the funds being applied for in this application are necessary to address the need. A list of the names and telephone numbers of State health department contacts from whom you may obtain a copy of the jurisdiction's comprehensive HIV prevention plan is provided with the application kit;

f. Explain any specific barriers to the implementation of your proposed intervention(s) and how you will overcome these barriers.

3. Long-Term Goals

(Not to exceed 2 pages): Describe the broad HIV prevention goals that your proposed intervention(s) aims to achieve by the end of the project period (four years).

4. Organizational History and Capacity

(Not to exceed 4 pages) Describe the following:

a. Organizational structure, including the role, responsibilities, and racial/ethnic composition of board of directors; committee structure of board of directors; organizational management, administrative and program components; constituent or affiliate organizations or networks; how the organizational structure will support the proposed intervention activities; and how the structure offers the capacity to reach targeted populations. Describe how the organizational structure includes, or has the ability to obtain meaningful input and representation from, members of the target population(s) (for example, men who have sex with men, youth at risk, women at risk, transgender populations, HIV-positive individuals, substance abusers).

b. Past and current experience in developing and implementing effective HIV prevention strategies and activities, and in developing and implementing interventions similar to the one(s) proposed in this application.

c. The process in your organization for making major programmatic decisions.

d. Mechanisms used by your organization to monitor program implementation and quality assurance.

e. Experience in working or collaborating with governmental and non-governmental organizations, including State and local health departments, local and State non-governmental organizations, national agencies or organizations, community planning groups, and other groups that provide HIV prevention services.

f. Capacity to provide the proposed interventions in a manner that is culturally competent and linguistically and developmentally appropriate, and which responds effectively to the gender, environmental, and social characteristics of the target populations.

g. For any of the above areas in which you do not have direct experience or current capacity, describe how you will ensure that your organization will gain capacity (e.g., through staff development, collaboration with other organizations, or a contract).

5. Program Plan

(Not to exceed 10 pages): Use this section to describe the specific characteristics of your proposed intervention(s).

a. Involvement of the target population: Describe how the target population is, or will be, involved in planning, implementing, and evaluating activities and services throughout the project period.

b. Intervention Objectives: Develop process objectives that are specific, measurable, appropriate, realistic, and time-based. Process objectives focus on the projected amount, frequency, and duration of the intervention activities and the number and characteristics of the target population to be served. If applicable, describe how the objectives are related to the prevention priorities outlined in the jurisdiction's comprehensive HIV prevention plan. Describe potential barriers to or facilitators for reaching these objectives.

c. Plan of Operation:

(1) Describe the specific activities to be conducted or services to be provided to accomplish the objectives and where these activities or services will take place. Make certain that your proposal addresses all required activities. The following four HERR interventions will be funded: Individual level (including prevention case management (PCM)), group level, community level interventions, and street and community outreach. Each recipient must conduct at least one of these interventions. Applicants should not apply for more interventions than they can conduct effectively.

(2) Describe your mechanisms for soliciting clients into the program and obtaining informed consent.

(3) Describe your staffing plan and the responsibilities each staff position will have in conducting the proposed activities. Describe how the proposed program will be managed, including the location of the program within your organization.

(4) Describe the potential for volunteer involvement in your program. If volunteers will be involved, describe plans to recruit, train, place, and retain volunteers.

(5) Describe how you will market and promote your program in the community.

(6) Describe how you will prioritize the program activities to place emphasis on populations or communities that are at high risk for HIV infection.

d. Appropriateness of Interventions:

Describe mechanisms that will be used to ensure client satisfaction. Describe how you will ensure that the proposed interventions and services are culturally competent; sensitive to issues of sexual orientation; developmentally, educationally, and linguistically appropriate; and targeted to the needs of the target populations.

e. Scientific, Theoretical, Conceptual, or Program Experience Foundation for Proposed Activities: Provide a detailed description of the program experience or scientific, theoretical, or conceptual foundation on which the proposed activities are based and which support the potential effectiveness of these activities for addressing the stated needs.

f. Collaborations, Linkages, and Coordination:

(1) Describe any formal collaborations with State or local health departments, community planning groups, and other appropriate service groups or organizations that will be used in the development and implementation of your program. Describe the respective roles and responsibilities of each collaborating entity in developing and implementing the program.

(2) Specify any and all organizations and agencies with which you will establish linkages and coordinate activities, and describe the activities that will be coordinated with each listed organization. These may include, as appropriate, the following:

(a) Community groups and organizations, including churches and religious groups;

(b) HIV/AIDS service organizations;

(c) Ryan White CARE Title I and Title II planning bodies;

(d) Schools, boards of education, and other State or local education agencies;

(e) State and local substance abuse agencies, community-based and other drug treatment or detoxification programs;

(f) Federally funded community projects, such as those funded by the Substance Abuse and Mental Health Services Administrations' (SAMSHA) Center for Substance Abuse Treatment (CSAT) and Center for Substance Abuse Prevention (CSAP), the Health and Human Services' Health Resource Services Administration (HRSA), Office of Minority Health (OMH), and other Federal entities;

(g) Providers of services to youth in high risk situations (e.g., youth in shelters);

(h) State or local departments of mental health;

(i) Juvenile and adult criminal justice, correctional, or parole systems and programs;

(j) Family planning and women's health agencies; and

(k) STD and TB clinics and programs.

(3) Describe how referrals to other service providers will be initiated.

(4) Provide a timeline that identifies major implementation steps and assigns approximate dates for the inception and completion of each.

6. Quality Assurance and Program Evaluation Plan

(Not to exceed 5 pages): The plan should describe when and how evaluation activities will be implemented. At a minimum, the plan should outline strategies for implementing process evaluation of interventions to determine if the process objectives are being achieved. Indicate which member(s) of the staff will be responsible for implementing the evaluation plan.

Your process evaluation plan should include the following:

a. A list of resources available to the organization to carry out process evaluation (e.g., provider staff, health department staff, data experts to design a system for managing information about proposed interventions, evaluation consultants, NRMOs, etc).

b. A list of who will be involved in implementing the evaluation and identify their roles. Describe who will collect, report, enter, and analyze data.

c. A description of the data that will be collected. To assure valid data are collected, established instruments should be used when feasible. Established instruments include those that have been either science-based or previously administered in effective HIV prevention interventions. In addition, data sources should be verifiable through appropriate documentation (such as storing original data for the duration of the cooperative agreement). Examples of data that could be collected include:

(1) Detailed information on the specific intervention service(s).

(2) The number of persons who received the service(s) by (a) risk categories (MSM, IDU, etc.) and (b) demographics, such as age, race and ethnicity, gender, and if appropriate and available, sexual orientation.

(3) When and how often the intervention service was provided.

(4) Where the intervention service was provided (e.g., CTRPN site, STD clinic, street corner, housing project).

(5) Documents referral systems, including the number of persons referred; how you intend to determine the success of referral systems (e.g., the number actually receiving services by referral sites); and how well the system functions in identifying referral services.

(6) Describe client satisfaction with HIV prevention intervention services.

d. Discuss how data will be collected, managed, and monitored over time. Address ways to collect, report, enter, and analyze data as well as how you would use data for program improvement. Describe how often data will be collected. Discuss how data security will be maintained and client confidentiality assured.

e. Discuss how you will assess the performance of staff to ensure that they are providing information and services accurately and effectively.

Because of the additional cost and need for scientific support beyond the scope of these cooperative agreements, you may not be able to conduct outcome evaluations (i.e., long-term effects of the program in terms of changes in behavior or health status, such as changes in HIV incidence after the intervention) with funds provided through this cooperative agreement. CDC will continue to support special projects to evaluate the behavioral and other outcomes of

interventions commonly used by CBOs and other organizations, and disseminate information and lessons learned from this research to CBOs, health departments, community planning groups, and other organizations and agencies involved in HIV prevention programs.

7. Communications and Dissemination Plan

(Not to exceed 2 pages): Describe how you will share successful approaches and "lessons learned" with other organizations.

8. Plan for Acquiring Additional Resources

(Not to exceed 1 page): Describe how you will develop and implement a plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and to increase the likelihood of its continuation after the end of the project period.

9. Budget/Staffing Breakdown and Justification

a. Detailed Budget: Provide a detailed, separate budget for each intervention proposed (i.e., CTR, individual level, group level, community level, or street and community outreach), with accompanying justification of all operating expenses that is consistent with the stated objectives and planned priority activities. CDC may not approve or fund all proposed activities. Be precise about the program purpose of each budget item and itemize calculations wherever appropriate.

For contracts, applicants should name the contractor, if known; describe the services to be performed which justifies the use of a contractor; provide a breakdown of and justification for the estimated costs of the contracts; the period of performance; the method of selection; and method of monitoring the contract.

b. Staffing Plan: Provide a job description for each position specifying job title; function, general duties, and activities; salary range or rate of pay; and the level of effort and percentage of time spent on activities funded through this cooperative agreement. If the identity of any key personnel who will fill a position is known, her/his name and resume should be attached. Experience and training related to the proposed project should be noted. If the identity of staff is not known, describe your recruitment plan. If volunteers are involved in the project provide job descriptions.

10. Training and Technical Assistance Plan

(Not to exceed 2 pages): Describe areas in which you anticipate needing technical assistance in designing, implementing, and evaluating your program and discuss how you will obtain needed technical assistance. Also, describe anticipated staff training needs related to the proposed program and how these needs will be met. Describe your plan for providing ongoing training to ensure that staff are knowledgeable about HIV and STD risks and prevention measures. This information will assist CDC to better address your needs and help you to identify technical assistance and training providers.

11. Attachments

a. Proof of Eligibility

Each applicant must provide documentation that they comply with all eligibility requirements specified under the "Eligible Applicants" section of this program announcement. Applicants should provide a separate section within this Attachments section that is entitled Proof of Eligibility to include the documents listed below. Failure to provide the required documentation will result in disqualification.

(1) IRS determination letter of your organization's 501(c)(3) tax-exempt status.

(2) A list of the members of your organization's governing body along with their positions on the board, their expertise in working with or providing services to the proposed target population, and their racial/ethnic backgrounds. (Submission of information regarding the HIV status or other confidential information regarding the board is optional, and must not be linked to a specific individual.)

(3) Documentation that your organization is located and provides services in one of the 20 eligible MSAs or eligible counties or independent city. This documentation could include letters of support, news articles, brochures or flyers, annual reports, memoranda of agreement, or client surveys.

(4) A Table of Organization of existing and proposed staff, including the board of directors, volunteer staff, and their racial/ethnic backgrounds.

(5) Documentation that your organization has an established record of providing services to the target population for at least two years, and a description of the specific services that have been provided.

(6) Affiliates of national organizations must include with the application an original, signed letter from the chief executive officer of the national organization assuring their understanding of the intent of this program announcement and the responsibilities of recipients.

(7) A separate sheet of paper stating if your organization is currently funded under CDC Program Announcement 704, Community Based HIV Prevention Projects.

b. Other Attachments

(1) A list of all collaborating or coordinating entities and memoranda of understanding or agreement as evidence of these established or agreed-upon collaborative or coordinating relationships. Memoranda of agreement should specifically describe the proposed collaborative activities. Evidence of continuing collaboration must be submitted each year to ensure that the collaborative relationships are still in place. Memoranda of agreement from health departments should include a statement that they have reviewed your application for these funds.

(2) A list of major community resources and health care providers to which referrals will be made;

(3) Protocols to guide and document training, activities, services, and referrals (e.g., applicants seeking funds for Street and Community Outreach Interventions must provide a description of the policies and procedures that will be followed to assure the safety of outreach staff).

(4) Samples of data collection tools that will be used in performing, monitoring, or evaluating program activities, if available.

(5) A description of funds received from any source to conduct HIV/AIDS programs and other similar programs targeting the population proposed in the program plan. This summary must include: (1) The name of the sponsoring organization/source of income, amount of funding, a description of how the funds have been used, and the budget period; (2) a summary of the objectives and activities of the funded program(s); and (3) an assurance that the funds being requested will not duplicate or supplant funds received from any other Federal or non-Federal source. CDC awarded funds can be used to expand or enhance services supported with other Federal or non-Federal funds. In addition, identify proposed personnel devoted to this project who are supported by other funding sources and the activities they are supporting.

(6) Independent audit statements from a certified public accountant for the previous 2 years.

(7) A copy of your organization's current negotiated Federal indirect cost rate agreement, if applicable.

Note: Materials submitted as attachments should be printed on one side of 8½ x 11 paper. Please do not attach bound materials such as booklets or pamphlets. Rather, submit copies of the materials printed on one side of 8½ x 11 paper. Bound materials may not be reviewed.

F. Submission and Deadline

Submit the original and two copies of PHS 5161 (OMB Number 0937–0189). Forms are in the application kit. On or before June 28, 1999, submit the application to: Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Program Announcement (99092), Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Mailstop E–15, Atlanta, Georgia 30314–4146.

Applicants should simultaneously submit a copy of the application to their State HIV/AIDS Directors.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Evaluation Criteria

1. Abstract (not scored)
2. Assessment of Need and Justification for the Proposed Activities (15 points)

a. The extent to which the applicant soundly and convincingly documents a substantial need for the proposed program and activities; and the degree to which the proposed activities are consistent with the Recipient Activities described in the Program Requirements Section. (5 points)

b. The degree to which the applicant describes the specific behaviors and practices that the interventions are designed to promote and prevent (i.e., increases in correct and consistent condom use, knowledge of serological status, not sharing needles, and enrollment in drug treatment and other preventive programs). (5 points)

c. The quality of the applicant's plan to ensure consistency with the State and local comprehensive HIV prevention plans and, if applicable, the adequacy with which the applicant demonstrates the rational for deviating from the jurisdiction's comprehensive HIV prevention plan. (5 points)

3. Long-term Goals (5 points) The quality of the applicant's stated goals and the extent to which they are consistent with the purpose of this cooperative agreement, as described in this program announcement.

4. Organizational History and Capacity. (15 points) The extent of the applicant's documented experience, capacity, and ability to address the identified needs and implement the proposed activities, including:

a. How the applicant's organizational structure and planned collaborations (including constituent or affiliated organizations or networks) will support the proposed program activities, and how the proposed program will have the capacity to reach targeted populations; (3 points)

b. Applicant's past and current experience in developing and implementing effective HIV prevention strategies and activities, and in developing and implementing programs similar to those proposed in this application; (3 points)

c. Applicant's experience and ability in collaborating with governmental and non-governmental organizations, including other national agencies or organizations, State and local health departments, community planning groups, and State and local non-governmental organizations that provide HIV prevention services; (3 points)

d. Applicant's capacity to obtain meaningful input and representation from members of the target population(s) and to provide culturally competent and appropriate services which respond effectively to the cultural, gender, environmental, social, and multilingual character of the target audiences, including documentation of any history of providing such services; (3 points) and

e. Plans to ensure capacity to implement proposed program where no direct experience or capacity currently exists within the applicant organization. (3 points)

5. Program Plan (45 total points)

a. Involvement of the target population (5 points) The degree to which the applicant describes the involvement of the target population in planning, implementing, and evaluating activities and services throughout the project period.

b. Intervention Objectives. (5 points) Degree to which the proposed process objectives are specific, measurable, appropriate, realistic, and time-based, related to the proposed activities, and consistent with the program's long-term goals; and the extent to which the applicant identifies possible barriers to or facilitators for reaching these objectives.

c. Plan of Operation (15 points) The quality of the applicant's plan for conducting program activities, and the potential effectiveness of the proposed activities in meeting objectives.

d. Appropriateness of Interventions: (5 points) The degree to which the applicant describes how the proposed priority interventions and services are culturally competent, sensitive to issues of sexual orientation, developmentally appropriate, linguistically-specific, and educationally appropriate.

e. Scientific, Theoretical, Conceptual, or Program Experience Foundation for Proposed Activities (5 points) The degree to which the applicant provides a detailed description of the scientific, theoretical, conceptual, or program experience foundation on which the proposed activities are based and which support the potential effectiveness of these activities for addressing the stated need.

f. Collaborations, Linkages, and Coordination (5 points) Appropriateness of collaboration and coordination with other organizations serving the same priority population(s). At minimum, the applicant provides a description of the collaboration or coordination and a signed memoranda of agreement for each agency with which collaborative activities are proposed, and other evidence of collaboration that describe previous, current, as well as future areas of collaboration.

g. Timeline: (5 points) The extent to which the applicant's proposed timeline is specific and realistic.

6. Quality Assurance and Program Evaluation Plan (10 points) The potential of the evaluation plan to describe when and how evaluation activities will be implemented by the applicant; the extent to which the evaluation plan is realistic and feasible, taking into account the applicant's unique needs, resources, capabilities, and priorities; and the extent to which a plan has been created that will guide

the collection of data for improving HIV prevention efforts and informing stakeholders of the progress made in HIV prevention.

7. Communication and Dissemination Plan (5 points) The degree to which the applicant describes how successful approaches and "lessons learned" will be documented and shared with other organizations.

8. Plan for Acquiring Additional Resources (5 points) The degree to which the applicant describes plans to develop and implement a plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and to increase the likelihood of its continuation after the end of the project period.

9. Budget and Staffing Breakdown and Justification (not scored)

a. Budget Appropriateness of the budget for the proposed project.

b. Personnel Appropriateness of the staffing pattern for the proposed project.

10. Training and Technical Assistance Plan (not scored)

The extent to which the applicant describes areas in which technical assistance is anticipated in designing, implementing, and evaluating the proposed program and how the applicant will obtain this technical assistance. The extent to which the applicant describes anticipated staff training needs related to the proposed program and how these needs will be met. The extent to which the applicant describes a plan for providing ongoing training to staff.

Before final award decisions are made, CDC will either make predecisional site visits to CBOs whose applications are highly ranked or review the items below with the local or State health department and applicant's board of directors.

a. The organizational and financial capability of the applicant to implement the proposed program.

b. The special programmatic conditions and technical assistance requirements of the applicant.

A business management and fiscal recipient capability assessment may be required of some applicants prior to the award of funds.

H. Other Requirements

1. Technical Reporting Requirements.

Provide CDC with the original plus two copies of:

a. Progress reports quarterly, no more than 30 days after the end of each 3 month period;

b. Financial status report, no more than 90 days after the end of each budget period; and

c. Final financial report and performance report, no more than 90 days after the end of the project period.

2. Send all reports to: Ron Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention 2920 Brandywine Road, Room 3000, Mailstop E–15, Atlanta, GA 30341–4146.

3. The following additional requirements are applicable to this program. For a complete description of each, see Attachment 3 in the application kit.

AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317 of the Public Health Service Act, 42 U.S.C. 241(a) and 247b as amended. The Catalog of Federal Domestic Assistance Number is 93.939, HIV Prevention Activities—Nongovernmental Organization Based.

J. Where To Obtain Additional Information

To receive additional written information and to request an application and tool kit, call NPIN at 1–800–458–5231 (TTY users: 1–800–243–7012); visit their web site: www.cdcnpin.org/program; send requests by fax to 1–888–282–7681 or send requests by e-mail: application-cbo@cdcnpin.org. This information is also posted on Division of HIV/AIDS Prevention (DHAP) website at http://www.cdc.gov/nchstp/hiv_aids/funding/toolkit/.

CDC maintains a Listserv (HIV–PREV) related to this program announcement. By subscribing to the HIV–PREV Listserv, members can submit questions and will receive information via e-mail with the latest news regarding the program announcement. Frequently asked questions on the Listserv will be posted to the Web site. You can subscribe to the Listserv on-line or via e-mail by sending a message to: listserv@listserv.cdc.gov and writing the following in the body of the message: subscribe hiv-prev first name last name.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants, Office Program Announcement [99092], Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone (770) 488–2735, E-mail ayc1@cdc.gov.

For program technical assistance, contact: Tomas Rodriguez, Community Assistance, Planning, and National Partnerships Branch, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, M/S E–58, Atlanta, GA 30333, Telephone number (404) 639–5240, Email address: trr0@cdc.gov ("0" is the number, not the letter "o").

See also the CDC home page on the Internet: http://www.cdc.gov.

Dated: April 23, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–10700 Filed 4–28–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–1109]

Mercury Compounds in Drugs and Food; Request for Data and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; followup request for data and information.

SUMMARY: The Food and Drug Administration (FDA) is announcing a followup to its call-for-data, which was published in the **Federal Register** of December 14, 1998 (63 FR 68775), to identify food and drug products that contain intentionally introduced mercury compounds, e.g., mercurous chloride, mercuric chloride, phenylmercuric acetate, thimerosal (hereinafter referred to as the December 1998 call-for-data notice). The agency is seeking both quantitative and qualitative information about the mercury compounds in these food and drug products. The agency is requesting this information as part of the implementation of the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit data and information by June 1, 1999. Submit written general comments by June 1, 1999.

ADDRESSES: Submit written comments and information to the particular subject office as follows:

1. General comments on this call-for-data to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
2. Information on human drug products to the Division of Over-the-Counter (OTC) Drug Products (HFD–560), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.
3. Information on human biological products to the Division of Vaccine and Related Products Applications (HFM–475), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852.
4. Information on veterinary drug products to the Division of Epidemiology and Surveillance (HFV–210), Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.
5. Information on food products, including dietary supplements, to the Office of Special Nutritionals (HFS–456), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT:

For human drug products: Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

For human biological products: Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville, MD 20852, 301–827–0373.

For veterinary drug products: William C. Keller, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6641.

For food and dietary supplement products: Sharon A. Ross, Center for Food Safety and Applied Nutrition (HFS–456), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5343.

SUPPLEMENTARY INFORMATION:

I. Background

FDAMA (Pub. L. 105–115) was enacted on November 21, 1997. Section 413 of FDAMA, entitled "Food and Drug Administration Study of Mercury Compounds in Drugs and Food," requires FDA to: (1) Compile a list of drugs and foods that contain intentionally introduced mercury compounds, and (2) provide a quantitative and qualitative analysis of the mercury compounds in this list. FDAMA requires the agency to compile the list and provide the analysis within 2 years after the date of its enactment. The statute does not differentiate whether the mercury compound is present in the products as an active or an inactive ingredient. Therefore, FDA is requesting data and information on any mercury compounds, present as active or as inactive ingredients, in any human or veterinary drug (prescription or OTC) product, any human biological products, or any food product, including dietary supplements.

II. Mercury Compounds in Human Drug Products

There are several different types of mercury compounds that have been used in human drug products. Inorganic mercury salts used include mercurous chloride (calomel) and mercuric chloride (bichloride of mercury). Organic aryl mercury compounds used include phenylmercuric acetate and phenylmercuric nitrate. Some of these mercury compounds (e.g., phenylmercuric acetate and phenylmercuric nitrate) have been used as both active and inactive ingredients. Some mercury-containing drug products have been marketed by prescription and others have been marketed OTC only.

FDA has already evaluated the safety and effectiveness of many of the OTC uses of mercury compounds as part of its OTC drug review. Many mercury compounds used as active ingredients in OTC drug products have been found to be not generally recognized as safe (GRAS) and effective and are classified as new drugs. These mercury ingredients are listed in § 310.545(a) (21 CFR 310.545(a)). FDA included a table of these ingredients in the December 1998 call-for-data notice (see Table 1, 63 FR 68775 at 68776).

FDA has also considered mercury compounds as inactive ingredients in OTC ophthalmic drug products. Section 349.50(c)(3) of the final monograph for OTC ophthalmic drug products (21 CFR 349.50(c)(3)) states:

For ophthalmic drug products containing mercury compounds used as a preservative. "This product contains (name and quantity of mercury-containing ingredient) as a preservative. Do not use this product if you are sensitive to" (select one of the following: "mercury" or "(insert name of mercury-containing ingredient) or any other ingredient containing mercury)."

The agency is aware that mercury compounds (e.g., phenylmercuric acetate and thimerosal) are used as a preservative in OTC nasal solution products, prescription ophthalmic drug products, and biological products including vaccines, immunoglobulins, antivenins, and skin test antigens. Phenylmercuric nitrate is also present in some oral homeopathic drug products and may be present in other homeopathic drug products. Therefore, homeopathic drug products are included in this call-for-data.

III. Mercury Compounds in Veterinary Drug Products

Currently, there are no approved veterinary drug products that contain a mercury compound as an active ingredient. There is some limited use, however, of mercury compounds in veterinary drug products. These products are all unapproved OTC products for use in nonfood species. For instance, older textbooks may contain an indication for red mercuric iodide petrolatum as a compounded counterirritant. An aqueous formulation of red mercuric iodide is commercially marketed with that indication. Mercurochrome is currently marketed for treating bacterial diseases of ornamental fish. The potential exists for some limited use of mercury compounds as inactive ingredients, such as preservatives, particularly in unapproved products.

IV. Mercury Compounds in Food Products

The agency has limited information on the intentional addition of mercury-containing compounds to food products. Under section 201(s) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(s)), an ingredient used in food or as food must be an approved food additive or it must be GRAS for its intended food use. Currently, FDA has not approved any mercury-containing compounds as food additives and does not consider any mercury-containing compounds to be GRAS.

Substances that are "dietary ingredients" as defined in section 201(ff) of the act are exempt from the food additive provisions of the act under section 201(s)(6). Under the act, dietary supplement ingredients subject to section 201(ff) do not require FDA's premarket scrutiny or approval. Additionally, ingredients subject to this section of the act do not need to be registered with FDA. Consequently, FDA has no listing of mercury-containing compounds that are used as dietary ingredients in dietary supplements.

The agency is aware that some categories of products marketed as dietary supplements in the United States may contain a source of added mercury. Products similar to those that are used as traditional medicines in other countries may sometimes be marketed as dietary supplements in the United States. For example, mercury-containing compounds are used in traditional Chinese medicines. The Chinese Herbal Materia Medica (Ref. 1) reports that cinnabar (mercuric sulfide; cinnabaris or zhu sha in Mandarin Chinese) and calomel (mercurous chloride; calomelas or qing fen in Mandarin Chinese) have been widely used as a sedative and detoxicant and to treat constipation and edema, respectively. The California Department of Health Services reported that 5 of 260 traditional Chinese medicines available in the retail marketplace, which they examined, listed cinnabar as an ingredient on the label (Ref. 2). In this study, 35 of 251 products that were screened for mercury content were found to contain significant quantities of mercury (Refs. 2 and 3). Additionally, the study showed that most of the products that contained significant quantities of mercury did not list mercury sources on the label. Therefore, it is not possible to determine whether the mercury in these products is intentionally added or is present as an unintended ingredient or contaminant. Other than this limited information, FDA is not aware of other uses of mercury in dietary supplements.

V. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Bensky, D., A. Gamble, and T. Kaptchuk, *Chinese Herbal Medicine Materia Medica*, 8th Ed., Eastland Press, Inc., Seattle, pp. 573–574 and 638–639, 1992.

2. Ko, R. J., and A. Au, *1997–1998 Compendium of Asian Patent Medicines*, California Department of Health Services, Food and Drug Branch, Sacramento, 1998.

3. Ko, R. J., "Adulterants in Asian Patent Medicines," *New England Journal of Medicine*, 339:847, 1998.

VI. Call-for-Data and Information

In order to prepare the list and provide the analysis required by section 413 of FDAMA, the agency is requesting all manufacturers of any food, including dietary supplement, and human or veterinary drug product (prescription or OTC), and human biological products containing any intentionally introduced mercury compounds, whether used as an active or inactive ingredient, to provide FDA the following information for each product:

1. The commercial name of the product that contains the mercury compound;

2. The chemical name (USAN or established name, if one exists) of the mercury compound(s) present in the drug product; the Chemical Abstract Service (CAS) registry (Reg.) number (No.) and the CAS preferred chemical name of the mercury compound(s) present in the food or dietary supplement product;

3. The quantitative amount of the mercury compound present in the product. State as either quantity per dosage unit or per quantity of product (e.g., ounce or gram). State whether amount is calculated on a weight to weight (w/w) or weight to volume (w/v) basis, where applicable;

4. State the purpose of the mercury compound in the product. If an active ingredient, state the pharmacologic use(s) of the product. If an inactive ingredient, state the function (e.g., preservative).

5. Provide a copy of the product's labeling; and

6. Estimate the amount of the mercury compound used annually in manufacturing the product.

VII. Response to Date and Need for Additional Information

To date, FDA has received a limited number of responses to the December 1998 call-for-data notice. The information received indicates that mercury compounds are being used as a preservative at very low concentrations: (1) Phenylmercuric acetate in three nasal spray products, (2) phenylmercuric nitrate in one water for injection product and in one veterinary ophthalmic ointment, and (3) thimerosal in 10 nose drop/spray products, 5 eye products, 2 ear products, and 20 injectable products (e.g., toxoids, vaccines, and antivenins). The information also indicates that various mercury compounds are being used as active ingredients in over 200 oral homeopathic drug products.

The agency is aware that mercury compounds are present in many other drug products. The agency's Drug Listing System (DLS) identifies over 200 nasal spray/solution products and 5 eye products containing phenylmercuric acetate; over 20 rectal (ointment and suppository) products, 1 eye product. and 3 oral homeopathic products containing phenylmercuric nitrate; over 100 nasal spray/solution, eye, and topical products containing thimerosal; and several hundred oral homeopathic drug products containing ammoniated mercury, mercurius chloride, mercuric chloride, mercuric sulfide red, mercuric sulfate, mercury, mercurius auratus, and mercurius solubilis. The information submitted to date indicates that other mercury compounds are also being used in oral homeopathic drug products, e.g., black mercuric sulfide, mercuric cyanide, mercurous iodide, mercuric iodide, mercury ammonium chloride, mercuric oxide, and Hahnemann's soluble mercury.

The agency is especially concerned about the amount of phenylmercuric nitrate that has been present in some rectal products and needs to be informed whether these products still contain this preservative or have been reformulated. The agency is aware that some of the information in its DLS system is outdated because some of the listed products may have been reformulated to delete the mercury preservative. In the absence of updated information, the agency will have to use the information available to it to compile the list of drugs that contain intentionally introduced mercury compounds and to do the quantitative and qualitative analysis of the mercury compounds in this list. Some products in the DLS may no longer be marketed, while manufacturers have not provided information to DLS on other products. Accordingly, the agency is again requesting all affected manufacturers to provide the information requested in section VI of this document. This information is needed for the agency to provide accurate information in response to FDAMA.

The agency has received inquiries about the applicability of this information request to biological products. This request encompasses all human biological products. To date, the agency has received five responses concerning biological products.

VIII. Followup Request for Data and Information

Affected manufacturers should, on or before June 1, 1999, submit the data and information requested in section VI of this document. Two copies of the data and information are to be submitted, except that individuals may submit one copy. Data and information should be addressed to the appropriate FDA centers (Drug Evaluation and Research, Biologics Evaluation and Research, Veterinary Medicine, or Food Safety and Applied Nutrition) (addresses above). All submitted data and information on the quantitative amount of the mercury compound present in the product (unless the information appears in product labeling) and the amount of the

mercury compound used annually in manufacturing the product will be handled as confidential by the agency under 21 CFR 20.61. General comments on this call-for-data should be addressed to the Dockets Management Branch (address above). General comments are to be identified with the docket number found in brackets in the heading of this document. Received general comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 21, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10697 Filed 4–28–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0614]

Determination of Regulatory Review Period for Purposes of Patent Extension; Amerge™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Amerge™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061; Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Amerge™ (naratriptan hydrochloride). Amerge™ is indicated for the acute treatment of migraine attacks with or without aura in adults. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Amerge™ (U.S. Patent No. 4,997,841) from Glaxo Wellcome, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 28, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Amerge™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Amerge™ is 953 days. Of this time, 519 days occurred during the testing phase of the regulatory review period, 434 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: July 5, 1995. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 5, 1995.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: December 4, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for Amerge™ (NDA 20–763) was initially submitted on December 4, 1996.

3. *The date the application was approved*: February 10, 1998. FDA has verified the applicant's claim that NDA 20–763 was approved on February 10, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 693 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 28, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 26, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the ¶docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–10698 Filed 4–28–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Radiological Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Radiological Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 17, 1999, 9 a.m. to 5:30 p.m.

Location: Corporate Bldg., conference rm. 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Robert J. Doyle, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1212, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12526. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss bone strength assessment, with a focus on the use of gender-specific and race-specific data bases in assessing fracture risk and their applicability to bone densitometry and sonometry device labeling.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 6, 1999. Oral presentations from the public will be scheduled between approximately 9:45 a.m. and 10:15 a.m., and for an additional 30 minutes near the end of the committee deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 6, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On May 17, 1999, from 12:15 p.m. to 12:45 p.m., the meeting will be closed to the public to permit discussion and review of trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) relating to present and future agency issues.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 23, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–10695 Filed 4–28–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0280]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320. This is necessary to prevent public harm. Last year, the volatile nature of the Medicare market created a critical need for plan-specific Medigap data. The unanticipated event of numerous health plans terminating their Medicare contract surprised everyone. The plan-specific Medigap information was, and continues to be, essential for beneficiaries who are in health plans that terminate their Medicare contract. Last year, when the volume of health plan terminations occurred, no one had national plan-specific Medigap data to provide to beneficiaries affected by the mass terminations. By providing this plan-specific Medigap data, beneficiaries will be able to make a more realistic comparison of their costs and benefits under each option available to them. This will prevent harm to the beneficiaries caught in a difficult situation with a relatively short period of time to make an informed decision. We cannot reasonably comply with the normal clearance procedures because we must have the necessary data collected and able to be published in July, when Medicare health plan terminations are announced.

HCFA is requesting OMB review and approval of this collection within 11 working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within 10 working days. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: New collection.

Title of Information Collection: Medigap Compare.

HCFA Form Number: HCFA–R–0280 (OMB approval #: 0938–NEW).

Use: HCFA will collect plan-specific Medigap data, including but not limited to premiums charged and additional benefits offered, from each insurer offering Medigap plans. The data collection will occur electronically. The data will be provided on www.medicare.gov to assist beneficiaries in obtaining accurate information on all their health care coverage options.

Frequency: Annually, and semi-annually if needed.

Affected Public: Business or other for-profit, Federal Government, State, Local,

or Tribal Government, Not-for-profit institutions.

Number of Respondents: 300.

Total Annual Responses: 450.

Total Annual Burden Hours: 175.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, and HCFA form number(s) referenced above, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, within 10 working days:

Health Care Financing Administration,
Office of Information Services,
Security and Standards Group,
Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–1415, Attn: Louis Blank HCFA–R–280

and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, HCFA Desk Officer

Dated: April 21, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–10740 Filed 4–28–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Novel Technologies for Noninvasive Detection, Diagnosis and Treatment of Cancer.

Date: May 17–18, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: C.M. Kerwin, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN–630, Rockville, MD 20892–7405, 301/496–7421.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 21, 1999.

Ann Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–10692 Filed 4–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes Of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific counselors, NHLBI.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL HEART, LUNG, AND BLOOD INSTITUTE, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NHLBI.

Date: June 3–4, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7S235, Bethesda, MD 20892.

Contact Person: Edward D. Korn, PhD, Director, Intramural Research, National Heart, Lund, and Blood Institutes, National Institutes of Health, Building 10, Room 7N214, Bethesda, MD 20892, 301/496–2116.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 22, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10690 Filed 4–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Communication Disorders Review Committee.

Date: June 9–10, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Governor's Inn, 1615 Rhode Island Ave., NW, Washington, DC 20036.

Contact Person: Melissa Stick, PhD, MPH, Scientific Review Administrator, NIH/

NIDCD/DEA/SRB, 6120 Executive Blvd (EPS/400), Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: April 22, 1999.

Ann Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10689 Filed 4–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: May 4, 1999.

Time: 10:00 AM to 1:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ronald Suddendorf, PhD, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2926.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: June 17–18, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Elsie D. Taylor, MS, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–9787.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel Alcohol Syndrome.

Date: June 17, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, Versailles III, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Elsie D. Taylor, MS, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–9787.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: July 1, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Fess Parker's Doubletree Hotel, 633 East Cabrillo Blvd, Santa Barbara, CA 93103.

Contact Person: Elsie D. Taylor, MS, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–9787.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93–272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 21, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–10693 Filed 4–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contact proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council, Agenda Available: http://www.niehs.nih.gov/dert/c-agenda.htm.

Date: May 13–14, 1999.

Open: May 13, 1999, 8:30 am to 5:45 pm.

Agenda: Discussion of program policies and issues.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Open: May 14, 1999, 9:00 am to 9:50 am.

Agenda: Continuation of program policy discussions.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Closed: May 14, 1999, 9:50 am to 1:30 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Anne P. Sassaman, PhD, Director, Division of Extramural Research and Training, Executive Secretary, National Institute of Environmental Health Sciences, NIH/PHS, P.O. Box 12233, Research Triangle Park, NC 27709, 919/541–7723.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: April 23, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–10694 Filed 4–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–BDCN–1 (06)S.
Date: April 26, 1999.
Time: 2:00 PM to 2:45 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Joe Marwah, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, (301) 435–1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–BDCN–1 (05)S.
Date: April 26, 1999.
Time: 12:00 PM to 1:45 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: David L. Simpson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–BDCN–1 (05)S.
Date: April 26, 1999.
Time: 12:00 PM to 1:45 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Joe Marwah, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 VACC 05.
Date: April 29, 1999.
Time: 1:30 PM to 3:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN–8 (3) M.
Date: April 29, 1999.
Time: 1:30 PM to 3:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Samuel Rawlings, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5160, MSC 7844, Bethesda, MD 20892, (301) 435–1243.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 30, 1999.
Time: 1:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: David Monsees, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3199, MSC 7816, Bethesda, MD 20892, (301) 435–0684.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 VACC–04.
Date: April 30, 1999.
Time: 3:30 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 VACC (03).
Date: April 30, 1999.
Time: 4:00 PM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: May 3, 1999.
Time: 10:00 AM to 11:30 AM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: William C. Branche, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435–1148.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BDCN 2 (02).
Date: May 4–5, 1999.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Herman Teitelbaum, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, (301) 435–1254.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: May 4, 1999.
Time: 10:30 AM to 11:30 AM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: William C. Branche, PHD, Scientific Review Administrator, Center for

Scientific Review, National institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435–1148.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 4, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anita Corman Weinblatt, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7778, Bethesda, MD 20892, (301) 435–1124.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 5, 1999.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcia Litwack, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 6, 1999.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: David Monsees, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3199, MSC 7816, Bethesda, MD 20892, (301) 435–0684.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, IFCN 6 SBIR Meeting.

Date: May 6, 1999.

Time: 1:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street, NW, Washington, DC 20037.

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 6, 1999.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. Mac Stiles, DDS, PHD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7816, Bethesda, MD 20892, 301–435–1785.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 7, 1999.

Time: 10:00 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William C. Branche, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435–1148.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 7, 1999.

Time: 10:00 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 22, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–10691 Filed 4–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Supplemental Grant To Continue Cooperative Agreements With 10 Predictor Variables Grantees and Their Research Coordinating Center

AGENCY: Center for Substance Abuse Prevention (CSAP), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Supplement to support an additional year of intervention follow-up and data collection among the Predictor Variables by Developmental Stage grantees and their Research Coordinating Center.

SUMMARY: This notice is to inform the public that an estimated $1.65 million will be available to support up to 11 supplemental awards to 10 existing Predictor Variables Study Sites and one existing Research Coordinating Center in FY 1999. The purpose of the award is to support enhancement of current programs and allow the collection and analyses of additional follow-up data for children currently included in these studies. CSAP will make the awards based on the recommendations of the initial review group and the CSAP National Advisory Council. Supplemental awards will be made in Fiscal Year 1999, by September 30, 1999. The studies funded under this supplement are projected to end September 30, 2000.

Eligibility is limited to existing SAMHSA/CSAP's Predictor Variables by Developmental Stage study sites, and their Research Coordinating Center. All currently active Predictor Variables grantees are eligible to apply for supplemental funds under this GFA. Given the short implementation time frame and limited funds available for this activity, as well as existing research protocols that limit the scope of new activities that could be introduced at this point in the study, the existing Predictor Variables projects are the only projects that can effectively implement the required booster sessions and follow-up data collection activities. These studies have already demonstrated that they can make a positive impact on children within selected developmental parameters. It is important to document that this impact on these same children can be maintained as they enter the next developmental stages.

The Research Coordinating Center has put considerable effort into developing

cross-site rapport and collecting process data from the individual sites; an effort that would be redundant and not cost-effective if attempted by another entity at this point in the project. Additionally, it is important to the continuity of the study that the Research Coordinating Center be able to continue its' current analyses and be able to conduct secondary analyses based on the totality of the data submitted throughout the life of the study.

Authority: These supplemental awards will be made under the authority of Section 501(d)(5) of the Public Health Service Act, as amended (42 USC) 290aa). The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.230.

CONTACT: Soledad Sambrano, Ph.D., Division of Knowledge Development and Evaluation, Center for Substance Abuse Prevention, substance Abuse and Mental Health Services Administration, Rockwall II, suite 740, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9110.

Dated: April 23, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–10699 Filed 4–28–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4443–N–05]

Notice of Proposed Information Collection: Comment Request; Public Housing Construction Report

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: June 28, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW, Room 4238, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3462, extension 4128, for copies of other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public Housing Construction Report.

OMB Control Number: 2577–0037.

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) are responsible for contract administration for low-income housing projects. The architect, or other person licensed under State law, prepares the report and submits it to the PHA from the date of contract execution to final inspection. The report provides information on contractors, contract amount, starting/completing dates, progress on site improvements and buildings, inspection forecast and acceptance for occupancy. HUD uses the information to track the progress of construction to ensure that contract and inspection dates comply with HUD procedures.

Aency Form Number: Form HU–5378.

Members of the affected public: State, Local or Tribal Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency or response, and hours of response: 158 (projects), 12 months average construction period × two reports a month = 24 for each project totaling 3,792 responses, 15 minutes per response, 568 hours total reporting burden, 152 hours total recordkeeping burden.

Status of the proposed information collection: Reinstatement, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 22, 1999.

Harold Lucus,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Public Housing Construction Report

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0027 (exp.7/31/96)

See Instructions on Back

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect or sponsor, and you are not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This information is required by Section 6(c)(4) of the U.S. Housing Act of 1937 and 24 CFR Part 941 HUD regulations. PHAs are responsible for contract administration for low-income housing projects. The architect, or other person licensed under State law, prepares the report and submits it to the PHA from the date of contract execution to final inspection. The report provides information on contractors, contract amount, starting/completing dates, progress on site improvements and buildings, inspection forecast and acceptance for occupancy. HUD uses the information to track the progress of construction to ensure that contract and inspection dates comply with HUD procedures. Responses to the collection of information are required to obtain a benefit. The information requested does not lend itself to confidentiality.

Name of Public Housing Agency	Development Number	Total Number of Buildings
Development Name	Report Number	Total Dwelling Units Scheduled
Development Address and Telephone number of Project Office	Period Ended	Dwelling Units Scheduled Elderly

1. Contract Data — **Scheduled Completion:** % — **Actual Completion:** %

Prime Contractors	Division of Work	Adjusted Contract Amount	Adjusted Value of Work in Place	Contract Starting Date	Contract Completion Date
		$	$		
		$	$		
		$	$		
		$	$		
		$	$		
		$	$		
	Totals	$	$		

2. Average Effective Employment During Reporting Period:

3. Dwelling Buildings Progress	Not Started	In Progress	Completed	4. Site Improvements Progress	Not Started	In Progress	Completed
a. Foundations				a. Utilities			
b. Mechanical Roughing				b. Streets and Walks			
c. Interior Finish				c. Lawns and Planting			
d. Punch List				d. Other			

5. Supervisory and Inspection Force Employed by: (1) Local Authority: — **(2) Architect:**

Duty	Full Time	Part Time	Duty	Full Time	Part Time
a.			c.		
b.			d.		

6. Inspection Forecast

Item	No. of Units	Date to beReady
a. Final - First Group		
b. Final - Second Group		
c. Final - Third Group		

7. Acceptance for Occupancy and Use

Item	No. of Units
a. Dwelling Units Previously Accepted	
b. Dwelling Units Accepted this Period	
c. Total Dwelling Units Accepted to Date	

8. Narrative Report: Special Circumstances, Construction Delays, Problems, etc., if Project includes Other Facilities, such as Community M and M Building. Show the Percent Completion under this heading, also include Status of Off-Site Work. Continue on back if necessary.

Contracting Officer's Name & Signature & Date:

x

Previous edition is obsolete

form HUD - 5378 (2/94)
ref Handbooks 7417.1 & 7450.1

8. Narrative Report: (continued)

Instructions for Preparation of form HUD - 5378, Public Housing Construction Report

1. General. Form HUD - 5378 shall be prepared and mailed on the 1st and 16th day of each calendar month of the construction period. Each report shall be numbered in serial order, commencing with No. 1 and continuing through the final report. All spaces must be filled on each report, including the street address of the project and the telephone number of the project office.

2. Body of Report.
   a. Item 1: Contract Data
   Completion Percentages: Fill in accurately the scheduled and the actual completion percentages.
   Prime Contractors: Arrange Prime Contracts in the order of award.
   Division of Work: Enter the division of the work awarded to each.
   Adjusted Contract Amount: For each contract, enter the contract amount as adjusted by all approved Change Orders.
   Adjusted Value of Work in Place: Each Contractor's latest periodical estimate for partial payment shall be utilized.
   Contract Starting Date: Enter the effective starting date established by Notice to Proceed for each of the Contractors listed.
   Contract Completion Date: Enter the contract completion date established by Notice to Proceed for each of the Contractors listed.

   b. Item 2: Average Effective Employment During Reporting Period: This is intended to show the approximate size of the productive labor force.

   c. Item 3: Dwelling Building Progress: Enter the number of dwelling buildings under each appropriate heading.

   d. Item 4: Site Improvements Progress: This covers all on-site non-dwelling construction. Enter an "X" under each appropriate heading. If "In Progress," show the percentage of completion.

   e. Item 5: Supervisory and Inspection Force: This should show the current composition of these forces and by whom they are employed.
   Employment: Indicate with an "X" by whom these forces are employed.
   Duty: Enter the active duty assignments for the period. Do not use individual's names.
   Time Classification: Enter the number of persons performing the duty under each time classification.

   f. Item 6: Inspection Forecast: This forecast is to provide HUD with advance information for planning itineraries of Construction Representatives and should be revised in successive reports as necessary.

   g. Item 7: Acceptance of Occupancy and Use: These items are self-explanatory.

   h. Item 8. Narrative Report: The report should be the historical record of the construction of the project, written in conversational style, and should include the names and titles of all official visitors, including the Architects.

3. Signatures: The original and all copies must be signed and dated by the Contracting Officer, with the name typed below the signature.

Previous edition is obsolete

form HUD - 5378 (2/94)
ref Handbooks 7417.1 & 7450.1

[FR Doc. 99–10782 Filed 4–28–99; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–010426

Applicant: National Aviary in Pittsburgh, Pittsburgh, PA

The applicant requests a permit to export captive-born eggs from red-crowned (*Grus japonensis*) and white-naped cranes (*Grus vipio*) to Khingansky Nature Reserve, Russia, for scientific research and for the enhancement of the survival of the species through captive breeding.

PRT–008122

Applicant: Wildlife Conservation Society, Bronx, NY

The applicant requests a permit to import two female captive-bred leopards (*Panthera pardus*) from the Basil Zoo in Switzerland for enhancement of the survival of the species.

PRT–010248

Applicant: University of Alabama, Birmingham, AL

The applicant requests a permit to import blood and other body fluid samples from chimpanzees (*Pan troglodytes schweinfurthii*) and bonobos (*Pan paniscus*) captive-held in the Democratic Republic of Congo for the purpose of scientific research and enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–010249

Applicant: Hubbs-Sea World Research Institute, San Diego, CA

Permit Type: Take for scientific research.

Name and Number of Animals: West Indian manatee (*Trichechus manatus*), 10.

Summary of Activity to be Authorized: The applicant requests a permit to conduct research on West Indian manatee behavior in the presence of fishing gear to determine method of entanglement and to devise appropriate mitigation.

Source of Marine Mammals: Manatees currently undergoing rehabilitation at Sea World facilities in Florida and California.

Period of Activity: Up to 5 years, if issued.

PRT–010434

Applicant: Roger Berube, Springville, ME

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010433

Applicant: Raymond N. Berube, Scarborough, ME

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010430

Applicant: Carl W. Reinsel, Kutztown, PA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010432

Applicant: Normand Berube, Saco, ME

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010369

Applicant: Dan Meske, Bloomsburg, PA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010367

Applicant: Donald Meske, Berwick, PA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010493

Applicant: Derin Kartak, Bothell, WA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010260

Applicant: David Petrella, Mt. Pleasant, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

PRT–010261

Applicant: Aldrege Fabian, Steubenville, OH

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010262

Applicant: Catherine Rondeau, Rochester Hills, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Western Hudson Bay polar bear population, Canada for personal use.

PRT–010287

Applicant: Robert Rondeau, Jr., Rochester Hills, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Western Hudson Bay polar bear population, Canada for personal use.

PRT–010653

Applicant: Edward Belkin, Syosset, NY

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

PRT–010655

Applicant: Wales Wilcox, Springfield, MO

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

PRT–010657

Applicant: Otto Cerni, Jr. New Boston, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

PRT–010660

Applicant: Dube Viateur, Biddeford, ME

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010661

Applicant: Ronnie May, Bedford, TX

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–010662

Applicant: Leslie Barnhart, Houston TX

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 22, 1999.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–10660 Filed 4–28–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendments to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. § 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amendments to the Menominee Indian Tribe of Wisconsin and the State of Wisconsin Gaming Compact, which were executed on March 2, 1999.

DATES: This action is effective April 29, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4066.

Dated: April 21, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–10676 Filed 4–28–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Closure of Public Land Between Sunset and Sunrise

AGENCY: Bureau of Land Management—Interior.

ACTION: Closure of public land between sunset and sunrise.

SUMMARY: Public land located in Owyhee County, known as the Jump Creek Recreation Site, is closed to public use between sunset and sunrise, year round.

The closed area is generally described as: West of State Highway 95, South of State Highway 55, adjacent to Jump Creek, Jump Creek Recreation Site, T. 2 N., R. 5 W., Section 27, SE¼SW¼NW¼, S½SE¼NW¼, E½NW¼SW¼, W½NE¼SW¼, NE¼NE¼SW¼.

The described area is the site of growing crime, especially during evening hours. Reported incidents of illegal dumping, drug transactions, under-age parties involving drug and alcohol consumption, use of firearms, theft, and destruction of public property, have increased steadily over past years. The purpose of the closure is to provide for public safety and resource protection. The area will be signed to identify the closure. Law enforcement personnel will enforce the closure regularly.

Exceptions to this closure may be approved by the Authorized Officer. Exemptions may be approved for federal, state, and local government personnel on official duty, emergency service personnel including medical, search and rescue, utility services, and other licensed or permitted individuals.

This closure order is effective 30 days after publication and public review unless otherwise rescinded. It will remain in effect until rescinded or modified by the authorized officer.

The authority for this closure is 43 CFR 8364.1, Closure and Restriction Orders. Failure to comply with this order will subject violators to the penalties provided in 43 CFR 8360.0–7, punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION AND APPLICATION FOR EXCLUSION APPROVAL CONTACT: Daryl L. Albiston, Owyhee Resource Area Manager, 3948 Development Ave., Boise, Idaho, 83705. Telephone (208) 384–3300.

Darly L. Albiston,

Owyhee Area Manager.

[FR Doc. 99–10749 Filed 4–28–99; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–050–1610–00]

Notice

AGENCY: Bureau of Land Management.

ACTION: Notice of intent to amend the Henry Mountain Management Framework Plan of the Richfield Field Office, Bureau of Land Management, Utah.

SUMMARY: This notice is intended to inform the public that the Bureau of Land Management intends to consider a proposed amendment to the Henry Mountain Management Framework Plan. This proposed amendment will consider the voluntary, partial relinquishment and retirement of grazing privileges associated with the Robbers Roost Grazing Allotment #0901.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management (in coordination with the permittee in the Robbers Roost Allotment and a land conservation group) is proposing to relinquish and permanently retire 4,077 Animal Unit Months (AUMs) within the allotment for the long term benefit of land and wildlife resources. Preliminary issues/impacts that have been identified to be addressed include the following: (1) Economic impacts as a result of the partial elimination of grazing; (2) impact to watershed values as a result of partial elimination of grazing; (3) impacts to wildlife and associated habitat resulting from the re-allocation of AUMs from

livestock to wildlife and burros; and (4) consistency with the Interim Management Policy (IMP) for lands under wilderness review. In order to implement the partial relinquishment of grazing privileges it will be necessary to construct two separate segments of fence in the Horseshoe Canyon (South) Wilderness Study Area (WSA). Public participation is being sought at this time to ensure that the proposed amendment and associated environmental analysis considers all reasonable issues, alternatives, problems, and concerns relative to the proposed action.

DATES: The comment period for this proposed amendment will commence with the publication of this notice. Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION CONTACT: Gary L. Hall, Assistant Field Manager, Henry Mountains Field Station, Richfield Field Office, 150 East 900 North, Richfield, Utah 84701 telephone number 435–542–3461 or 435–896–1564.

Mike Pool,

Acting State Director, Utah.

[FR Doc. 99–10668 Filed 4–28–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

[OR–084–6332–00; GP–0063]

Off-Highway Vehicle Designations for the Cascades Resource Area, Salem District, OR

AGENCY: Bureau of Land Management, Interior, Salem District.

ACTION: This notice supplements the, "Availability of the Resource Management Plan and Record of Decision, Salem, Oregon" notice published in the July 20, 1995, edition of the **Federal Register** (60 FR 37464) and establishes the final Off-Highway Vehicle (OHV) designations on all public lands administered by the Bureau of Land Management (BLM) within the Cascades Resource Area, Salem District, Oregon. This notice supersedes all other previous notices related to OHV designations or closures pertaining to BLM-administered lands in the Cascades Resource Area. Authority for this action is contained in 43 CFR 8342.1.

SUPPLEMENTARY INFORMATION: The BLM-administered lands in the Cascades Resource Area lie within Clackamas, Multnomah, Marion, and Linn Counties in northwest Oregon. The Salem District Resource Management Plan (Salem District RMP, May 1995) allocated acres in each of the three major OHV designations (Closed, Limited, or Open) and indicated that designations would be mapped in subsequent planning efforts. Areas and acres of land with unique and sensitive resource values were designated in the RMP as "Closed" to use of OHV's. Acreage where OHV's could be used with certain restrictions was listed as "Limited." The remaining area was listed as "Open." The OHV designations completed by BLM-administered lands in the Cascades Resource Area are based on an interdisciplinary team review. Other general information of OHV designation definitions may be found in 43 CFR 8340.0–5.

SUMMARY: Additional information and maps showing the OHV designations can be obtained from the Salem District Office. The OHV designations for the Cascades Resource Area have been completed and are as follows:

Closed

Approximately 11,010 acres are "Closed," to OHV use. These areas include: Carolyn's Crown ACEC/RNA, 261 acres; Larch Mountain Environmental Education Site, 183 acres; Middle Santiam ACEC/ONA, 108 acres; North Santiam ACEC, 31 acres; Sandy River Gorge ACEC/RNA, 400 acres; Soosap Meadows ACEC, 343 acres; Molalla Non-Motorized Shared-Use Trail System, 2,634 acres; White Rock Fen ACEC, 51 Acres; Wilhoit Springs ACEC, 170 acres; Willamette River ACEC, 76 acres; Williams Lake ACEC, 98 Acres; and Table Rock Wilderness, 6,350 acres. There are also 36 progeny test sites totaling 305 acres that are closed to OHV use.

Limited

Approximately 87,300 acres of BLM-administered lands in the Cascades Resource Area are designated as "Limited to Existing Roads and Designated Trails." The remaining 70,700 acres are designated as "Limited to Designated Roads." This includes Riparian Reserves that were listed as "Limited" in the Salem District RMP to help address concerns about erosion and water quality. OHV organizations and users will have the opportunity to propose the designation of existing trails and the development of new trails on BLM-administered lands designated as "Limited to Existing Roads and Designated Trails."

Open

No acres were designated as "Open" for BLM-administered lands in the Cascades Resource Area. When Riparian Reserves were mapped, they significantly fragmented BLM-administered lands with a potential "Open" designation. Further fragmentation occurs with the ownership pattern of alternating sections of private and BLM-administered lands. An overall "Limited" designation more accurately reflects the current situation, rather than designating very small areas as "Open" in between Riparian Reserves designated as "Limited."

Penalties

Pursuant to the penalties contained in 43 CFR 8340.0–7, any person who violates or fails to comply with the designations set forth in this notice are subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than $1,000 or imprisonment for not longer than 12 months, or both.

Exemptions

The following persons, operating in their official duties, are exempt from the provisions of the OHV designations: BLM employees; state, local, and federal law enforcement, fire protection, or emergency personnel; holders of BLM road use permits that included roads within a closed area; and purchasers of BLM timber within the closure area including their employees and subcontractors. Access by additional parties may be allowed, but must be approved in advance by the Authorized Officer.

EFFECTIVE DATES: This order is in effect June 1, 1999, and is permanent until canceled, amended or replaced.

FOR FURTHER INFORMATION CONTACT: Richard Prather, Cascades Area Manager, Bureau of Land Management, Salem District, 1717 Fabry Road SE, Salem, Oregon 97306, (503) 375–5683.

Dated: April 19, 1999.

Richard Prather,

Cascades Area Manager.

[FR Doc. 99–10745 Filed 4–28–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Assessment Prepared for Proposed Western Gulf Sale 174 on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the environmental assessment on proposed Western Gulf of Mexico Lease Sale 174.

SUMMARY: The Minerals Management Service (MMS) has prepared an environmental assessment (EA) for the proposed annual Lease Sale 174 for the Western Planning Area of the Gulf of Mexico Outer Continental Shelf.

In this EA, MMS has reexamined the potential environmental effects of the proposed action and alternatives based on any new information regarding potential impacts and issues that were not available at the time the Final Environmental Impact Statement (FEIS) for Lease Sales 171, 174, 177, and 180 was prepared.

In summary, no new significant impacts were identified for proposed Lease Sale 174 that were not already assessed in the FEIS for Lease Sales 171, 174, 177, and 180. As a result, MMS determined that a supplemental EIS is not required and prepared a Finding of No New Significant Impact.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at number below. You may obtain single copies of the EA from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, LA 70123–2394 or by calling 1–800–200–GULF.

Dated: April 23, 1999.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 99–10670 Filed 4–28–99; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–380 Enforcement Proceeding]

Certain Agricultural Tractors Under 50 Power Take-Off Horsepower; Notice of Schedule for the Submission of Petitions for Review and Comments on Remedy

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission will permit parties in the above-captioned enforcement proceeding to submit petitions for review of the initial determination to be issued by the administrative law judge on or before April 28, 1999. In addition, parties, interested government agencies, and other interested persons are invited to submit comments on the appropriate remedy.

FOR FURTHER INFORMATION CONTACT: Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3090.

SUPPLEMENTARY INFORMATION: On February 25, 1997, at the conclusion of the original investigation, the Commission issued, inter alia, cease and desist orders directed to respondents Gamut Trading Co., Inc. and Gamut Imports. The cease and desist orders prohibit Gamut Trading Co., Inc. and Gamut Imports, as well as their "principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors and assigns," from importing or selling for importation in to the United States, or selling, marketing, distributing, offering for sale, or otherwise transferring (except for exportation) in the United States agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe the KUBOTA trademark.

On July 16, 1998, Kubota Corporation, Kubota Tractor Corporation, and Kubota Manufacturing of America Inc. (collectively "Kubota"), complainants in the original investigation, filed a complaint seeking institution of a formal enforcement proceeding against Gamut Trading Co., Inc., Gamut Imports, Ronald A. DePue (Chief Executive Officer and Chairman of the Board of Directors of Gamut Trading), and Darrell J. DuPuy (Chief Financial Officer, President, and member of the Board of Directors of Gamut Trading) (collectively "the Gamut respondents"), alleging that they are violating the cease and desist orders directed to them. Kubota supplemented its complaint on August 26, 1998. On September 28, 1998, the Commission issued an order instituting a formal enforcement proceeding and instructing the Secretary to transmit the enforcement proceeding complaint to the Gamut respondents and their counsel for a response. On October 19, 1998, the Gamut respondents filed a joint response to the enforcement complaint denying violation of any of the Commission's remedial orders and infringement of the KUBOTA trademark, and asserting that the Commission lacks jurisdiction to address the enforcement complaint.

On October 28, 1998, the Commission issued an order referring the formal enforcement proceeding to the presiding administrative law judge (ALJ) for discovery, a hearing, and issuance of an initial determination (ID) concerning whether any of the Gamut respondents are in violation of the Commission's cease and desist orders. In the event that he found a violation, the order also directed the ALJ to issue a recommended determination (RD) on remedy. The ALJ is due to issue his ID and RD, if any, on or before April 28, 1999.

In order to allow the parties to express their views concerning whether the Commission should review the ID, the Commission is providing parties with the opportunity to file petitions for review of the ID and responses thereto. If the Commission finds a violation of one of more of its cease and desist orders, it will also consider the appropriate remedy (i.e., civil penalty). The Commission is therefore interested in receiving written submissions that address the appropriate remedy.

Written Submissions

Any party of record to this enforcement proceeding may file a petition for review of the ID and/or comments on the appropriate remedy with the Commission no later than fourteen (14) days after service of the ID. A reply to any such petition for review or comments may be filed within seven (7) days after service of the petition or comments. Any other interested person, including any interested government agency, may file comments on the appropriate remedy with the Commission no later than twenty-one (21) days after the date of issuance of the ID. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.75 of the Commission's

Rules of Practice and Procedure (19 CFR 210.75).

Copies of the Commission's Order, public versions of the ID and RD, and all other nonconfidential documents filed in connection with this enforcement proceeding are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: April 26, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10781 Filed 4–28–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. 99–0715]

United States v. SBC Communications Inc. and Ameritech Corporation; Proposed Final Judgment and Competitive Impact Statement

Filed: March 23, 1999.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *SBC Communications Inc. and Ameritech Corporation,* Civil No. 99–0715 (D.D.C.). The proposed Final Judgment is subject to approval by the court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b)–(h).

On March 23, 1999, the United States filed a Complaint alleging that the proposed acquisition of Ameritech Corporation by SBC Communications Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that if this merger is consummated, competition in the markets for wireless mobile telephone services in seventeen areas in Illinois, Indiana and Missouri would be lessened substantially. The areas affected include fourteen markets where SBC and Ameritech are the two providers of cellular mobile telephone services, including Chicago and St. Louis, and three markets where Ameritech is one of the providers of cellular mobile telephone services and Comcast Cellular Corporation, which SBC has entered into an agreement to acquire, owns the other cellular telephone system. The Complaint also alleges that competition would be lessened in the St. Louis area because, as a result of this merger, Ameritech would not provide local exchange and long distance telephone services bundled with its cellular mobile telephone services, as it had planned to do in St. Louis before agreeing to merge with SBC.

The proposed Final Judgment, filed at the same time as the Complaint, requires SBC and Ameritech to divest one of the two overlapping cellular telephone systems in each of the seventeen market areas. In the areas presently served by Comcast, and in the areas in Missouri, the Ameritech cellular systems must be divested, while in the other SBC and Ameritech may choose which of the two systems will be divested. The assets Ameritech planned to use to provide local exchange and long distance telephone services together with its cellular mobile telephone services in the St. Louis area must also be divested. The proposed Final Judgment requires that the assets of these cellular telephone systems be divested no later than 180 days following the earlier of: (1) all final regulatory approvals needed for SBC and Ameritech to consummate their merger; or (2) the consummation of the merger of SBC and Ameritech. Before the merger can be consummated, any assets required to be divested that have not been sold must be transferred to a trustee, who will complete the divestiture during whatever part of the 180-day period remains.

On April 7, 1999, SBC and Ameritech notified the Department of Justice, pursuant to the provisions of the proposed Final Judgment, that they have entered into an agreement to sell all of the assets of these cellular telephone systems required to be divested to a venture owned 93% by GTE and 7% by Georgetown Partners. This agreement is contingent on the consummation of the merger between SBC and Ameritech.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Donald J. Russell, Chief, Telecommunications Task Force, Antitrust Division, Department of Justice, 1401 H St, NW, Suite 8000, Washington, DC 20530 (telephone: (202) 514–5621).

The Competitive Impact Statement, filed by the United States on April 16, 1999, describes the Complaint, the proposed Final Judgment, the alleged violations, and the remedies available to private litigants. Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the United States Department of Justice, Antitrust Division, 325 7th St, NW, Washington DC 20530 (telephone (202) 514-2841) and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations and Merger Enforcement, Antitrust Division.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in this Court.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

(3) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

(4) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted in the Court.

(5) In the event plaintiff withdraws its consent, as provided in paragraph (2) above, or in the event that the Court declines to enter the proposed Final

Judgment pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

(6) Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Dated: March 23, 1999.

For Plaintiff United States of America.

Joel I. Klein,

Assistant Attorney General.

A. Douglas Melamed,

Principal Deputy Assistant Attorney General.

Constance K. Robinson,

Director of Operations and Merger Enforcement.

Donald J. Russell,

Chief, Telecommunications Task Force.

Laury Bobbish,

Assistant Chief, Telecommunications Task Force.

Carl Willner,

D.C. Bar No. 412841.

Michael Chaleff,

Attorneys, Telecommunications Task Force.

U.S. Department of Justice, Antitrust Division, 1401 H Street, NW, Suite 8000, Washington, DC 20530

Date Signed: March 23, 1999.

For SBC Communications Inc.

Donald L. Flexner,

D.C. Bar No. 343269, Crowell & Moring LLP, 1001 Pennsylvania Avenue, NW, Washington, DC 20004-2595.

Date Signed: March 17, 1999.

For Ameritech Corporation.

Richard J. Favretto,

D.C. Bar No. 156588.

Mark W. Ryan,

D.C. Bar No. 359098, Mayer, Brown & Platt, 2000 Pennsylvania Avenue NW, Washington, DC 20006-1882.

Date Signed: March 17, 1999.

Stipulation Approved for Filing

Done this ____ day of ____, 1999

United States District Judge

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint on March 23, 1999;

And whereas, plaintiff and defendants, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication on any issue of fact or law;

And whereas, entry of this Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of law or fact;

And whereas, defendants have further consented to be bound by the provisions of the Final Judgment pending its approval by the Court;

And whereas, plaintiff the United States believes that entry of this Final Judgment is necessary to protect competition in markets for mobile wireless telecommunications services in Illinois, Indiana and Missouri;

And whereas, the essence of this Final Judgment is prompt and certain divestiture of certain cellular wireless systems that would otherwise be commonly owned and controlled, including their licenses and all relevant assets of the cellular systems, and the imposition of related injunctive relief to ensure that competition is not substantially lessened;

And whereas, plaintiff the United States requires that defendants make certain divestitures of such licenses and assets for the purpose of ensuring that competition is not substantially lessened in any relevant market for mobile wireless telecommunications services in Illinois, Indiana or Missouri;

And whereas, defendants have represented to plaintiff that the divestitures ordered herein can and will be made and that defendants will not raise any claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained herein below;

Therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged and Decreed:*

I

Jurisdiction

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting to this Final Judgment. The Complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Clayton Act, 15 U.S.C. 18, as amended.

II

Definitions

A. Ameritech means Ameritech Corporation, a corporation with its headquarters in Chicago, Illinois, and includes its successors and assigns, its subsidiaries and affiliates, and its directors, officers, managers, agents and employees acting for or on behalf of any of the foregoing entities.

B. Cellular System Assets means, for each cellular system to be divested under this Final Judgment, all types of assets, tangible and intangible, used by defendants in the operation of each of the cellular systems to be divested (including the provision of long distance telecommunications services for wireless calls), and with respect to the divested cellular system in the St. Louis Area (defined to mean the St. Louis MO–IL Metropolitan Statistical Area and the Missouri 8, Missouri 12, Missouri 18, and Missouri 19 Rural Service Areas), shall also include those assets acquired, developed, used or intended for use in connection with the provision of local exchange telecommunications services and long distance telecommunications services by such system. "Cellular System Assets" shall be construed broadly to accomplish the complete divestitures of the entire business of one of the two cellular systems in each of the Overlapping Cellular Markets required by this Final Judgment and to ensure that the divested cellular systems remain viable, ongoing businesses. In the Overlapping Cellular Markets in the St. Louis Area, and in the Comcast Overlapping Cellular Markets (defined as the Joliet, IL, Aurora-Elgin, IL, and Kankakee, IL Metropolitan Statistical Areas), the Cellular System Assets to be divested shall be those currently owned and used by Ameritech. In the remaining Overlapping Cellular Markets, the Cellular System Assets to be divested shall be either those currently owned and used by Ameritech or those currently owned and used by SBC, but not both. These divestitures of the Cellular System Assets as defined in this Section II.B shall be accomplished by: (i) transferring to the purchaser the complete ownership and/or other rights to the assets (other than those assets used substantially in the operations of either defendant's overall cellular business that must be retained to continue the existing operations of the cellular properties defendants are not required to divest, and that either are not capable of being divided between the divested cellular systems and those that are not divested or are assets that the divesting defendant and the purchaser(s) agree shall not be divided); and (ii) granting to the purchaser an option to obtain a non-exclusive, transferable license from defendants for

a reasonable period at the election of the purchaser to use any of the divesting defendant's assets used in the operation of the cellular system being divested, so as to enable the purchaser to continue to operate the divested cellular systems without impairment, where those assets are not subject to complete transfer to the purchaser under (i). The assets acquired, developed, used or intended for use in connection with the provision of local exchange telecommunications services and long distance telecommunications services by the cellular system in the St. Louis Area are all subject to complete transfer of ownership and/or other rights under (i). Assets shall include, without limitation, all types of real and personal property, monies and financial instruments, equipment, inventory, office furniture, fixed assets and furnishings, supplies and materials, contracts, agreements, leases, commitments, spectrum licenses issued by the Federal Communications Commission ("FCC") and all other licenses, permits and authorizations, operational support systems, customer support and billing systems, interfaces with other service providers, business and customer records and information, customer lists, credit records, accounts, and historic and current business plans, as well as any patents, licenses, sub-licenses, trade secrets, know-how, drawings, blueprints, designs, technical and quality specifications and protocols, quality assurance and control procedures, manuals and other technical information defendants supply to their own employees, customers, suppliers, agents, or licensees, and trademarks, trade names and service marks (except for trademarks, trade names and service marks containing "SBC," "Southwestern Bell," "Ameritech," or "Cellular One") or other intellectual property, including all intellectual property rights under third party licenses that are capable of being transferred to a purchaser either in their entirety, for assets described above under (i), or through a license obtained through or from the divesting defendant, for assets described above under (ii). Defendants shall identify in a schedule submitted to plaintiff and filed with the Court, as expeditiously as possible following the filing of the Complaint in this case and in any event prior to any divestitures and before the approval by the Court of this Final Judgment, any intellectual property rights under third party licenses that are used by the cellular systems being divested but that defendants could not transfer to a purchaser entirely or by license without third party consent, and the specific reasons why such consent is necessary and how such consent would be obtained for each asset.

C. Overlapping Cellular Markets means the following Metropolitan Statistical Areas and Rural Service Areas used to define cellular license areas by the FCC, in which Ameritech and SBC each held ownership interests in one of the cellular wireless licenses issued by the FCC as of the date of the filing of the Complaint in this action, or in which Comcast Cellular Corporation (which SBC has entered into an agreement to acquire as of January 19, 1999) and Ameritech each held ownership interests in one of the cellular wireless licenses issued by the FCC as of the date of the filing of the Complaint in this action:

Metropolitan Statistical Areas Served by SBC and Ameritech

Chicago, IL
St. Louis, MO–IL
Gary-Hammond-East Chicago, IN
Springifeld, IL
Champaign-Urbana-Rantoul, IL
Bloomington-Normal, IL
Decatur, IL

Rural Service Areas Served by SBC and Ameritech

Illinois 2—Bureau
Illinois 5—Mason
Illinois 6—Montgomery
Missouri 8—Callaway
Missouri 12—Maries
Missouri 18—Perry
Missouri 19—Stoddard

Metropolitan Statistical Areas Served by Comcast and Ameritech

Joliet, IL
Aurora-Elgin, IL
Kankakee, IL (Comcast 10.07% interest)

D. SBC means SBC Communications Inc., a corporation with its headquarters in San Antonio, Texas, and includes its successors and assigns, its subsidiaries and affiliates, and its directors, officers, managers, agents and employees acting for or on behalf of any of the foregoing entities.

E. SBC/Ameritech Merger means the merger of SBC and Ameritech, as detailed in the Agreement and Plan of Merger entered into by SBC and Ameritech on May 10, 1998, for which defendants have filed a notification pursuant to the Hart-Scott-Rodino Antitrust Improvements Act on July 20, 1998.

III

Applicability and Effect

A. The provisions of this Final Judgment shall be applicable to each of the defendants, its affiliates, subsidiaries, successors, and assigns, and its directors, officers, managers, agents, employees, attorneys, and shall also be applicable to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition to an Interim Party, which shall be defined to mean any person other than a purchaser approved by the plaintiff pursuant to Section IV.C, of all or substantially all of their assets, or of a lesser business unit containing the Cellular System Assets required to be divested by this Final Judgment, that the Interim Party agrees to be bound by the provisions of this Final Judgment, and shall also require that any purchaser of the Cellular System Assets agree to be bound by Section X of this Final Judgment.

IV

Divestiture of Cellular Interests

A. Defendants Ameritech and SBC shall divest themselves, at or before the time of consummation of the SBC/Ameritech Merger, of the Cellular System Assets as defined above in each of the Overlapping Cellular Markets, including both any direct or indirect financial ownership interests and any direct or indirect role in management or participation in control, to a purchaser or purchasers acceptable to plaintiff in its sole discretion, or to a trustee designated pursuant to Section V of this Final Judgment. Divestiture of the Cellular System Assets in each of the Overlapping Cellular Markets to a purchaser or purchasers acceptable to plaintiff in its sole discretion, as required in Section IV.C of this Final Judgment, shall occur no later than one hundred eighty (180) calendar days after the earlier of the following events: (i) issuance of all final authorizations by the FCC and state regulatory commissions that are necessary preconditions to the consummation of the SBC/Ameritech Merger, or (ii) the consummation of the SBC/Ameritech Merger; provided, however, that if applications have been filed with the FCC within the one hundred eighty day period seeking approval to assign or transfer licenses to the purchaser(s) of the Cellular System Assets but approval of such applications has not been granted before the end of the one hundred eighty day period, the period shall be extended with respect to the divestiture of those Cellular System Assets for which final FCC approval has

not been granted until five (5) days after such approval is received.

B. Defendants agree to use their best efforts to accomplish the divestitures set forth in this Final Judgment (i) as expeditiously as possible, including obtaining all necessary regulatory approvals, and (ii) to a purchaser or purchasers at or before consummation of the SBC/Ameritech Merger. The divestitures carried out under the terms of this decree shall also be conducted in compliance with the applicable rules of the FCC, including 47 CFR 20.6 (spectrum aggregation) and 47 CFR 22.942 (cellular cross-ownership). Authorization by the FCC to conduct divestiture of a cellular system in a particular manner will not modify any of the requirements of this decree.

C. Unless plaintiff otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of the Final Judgment, shall be accomplished by (1) divesting all of the Cellular System Assets in any individual Overlapping Cellular Market entirely to a single purchaser (but Cellular System Assets in different Overlapping Cellular Markets may be divested to different purchasers), and (2) selling or otherwise conveying the Cellular System Assets to the purchaser(s) in such a way as to satisfy plaintiff, in its sole discretion, that each cellular system can and will be used by the purchaser(s) as part of a viable, ongoing business engaged in the provision of cellular mobile telephone service. The divestitures pursuant to this Final Judgment shall be made to a purchaser(s) for whom it is demonstrated to plaintiff's sole satisfaction that (1) purchaser(s) has the capability and intent of competing effectively in the provision of cellular mobile telephone service using the Cellular System Assets, (2) the purchaser(s) has the managerial, operational and financial capability to compete effectively in the provision of cellular mobile telephone service using the Cellular System Assets, (3) with respect to the purchaser of the Cellular System Assets in the St. Louis Area, if such Cellular System Assets are divested to the purchaser by Ameritech rather than by the trustee, the purchaser has the capability of competing effectively in the provision of local exchange telecommunications services and long distance telecommunications services in the St. Louis Area, and (4) none of the terms of any agreement between the purchaser(s) and either of the defendants shall give defendants the ability unreasonably (i) to raise the purchaser(s) costs, (ii) to lower the purchaser(s)'s efficiency, (iii) to limit any line of business which a purchaser(s) may choose to pursue using the Cellular System Assets (including, but not limited, to entry into local telecommunications services on a resale or facilities basis or long distance telecommunications services on a resale or facilities basis), or otherwise to interfere with the ability of the purchaser(s) to compete effectively.

D. If they have not already done so, defendants shall make known the availability of the Cellular System Assets in each of the Overlapping Cellular Markets by usual and customary means, sufficiently in advance of the time of consummation of the SBC/Ameritech Merger reasonably to enable the required divestitures to be carried out at or before the consummation of the SBC/Ameritech Merger. Defendants shall inform any person making an inquiry regarding a possible purchase of the Cellular System Assets that the sale is being made pursuant to the requirements of this Final Judgment, as well as the rules of the FCC, and shall provide such person with a copy of the Final Judgment.

E. Defendants shall offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, access to personnel, the ability to inspect the Cellular System Assets, and all information and any financial, operational, or other documents customarily provided as part of a due diligence process, including all information relevant to the sale and to the areas of business in which the cellular system has been engaged or has considered entering, except documents subject to attorney-client or work product privileges, or third party intellectual property that defendants are precluded by contract from disclosing and that has been identified in a schedule pursuant to Section II.B. Defendants shall make such information available to the plaintiff at the same time that such information is made available to any other person.

F. Defendants shall not interfere with any negotiations by any purchaser to retain any employees who work or have worked since May 11, 1998 (other than solely on a temporary assignment basis from another part of Ameritech or SBC) with, or whose principal responsibility relates to, the divested Cellular System Assets.

G. To the extent that the cellular systems to be divested use intellectual property, as required to be identified by Section II.B, that cannot be transferred or assigned without the consent of the licensor or other third parties, defendants shall cooperate with the purchaser(s) and trustee to seek to obtain those consents.

H. Defendants shall preserve all records of all efforts made to preserve and divest any or all of the Cellular System Assets required to be divested until the termination of this Final Judgment.

V

Appointment of Trustee

A. If, at or before the consummation of the SBC/Ameritech Merger, the defendants have not divested all of the Cellular System Assets required to be divested to a purchaser or purchasers that have been approved by plaintiff pursuant to Section IV.C, then, before defendants consummate the SBC/Ameritech Merger:

1. Defendants shall notify plaintiff in writing whether the remaining Cellular System Assets to be divested in the Overlapping Cellular Markets, other than those in the St. Louis Area (the St. Louis, MO–IL Metropolitan Statistical Area and the Missouri 8, Missouri 12, Missouri 18, and Missouri 19 Rural Service Areas), and the Comcast Overlapping Cellular Markets (the Joliet, IL, Aurora-Elgin, IL, and Kankakee, IL Metropolitan Statistical Areas), shall be those currently owned and used by Ameritech, or those currently owned and used by SBC (in the St. Louis Area and the Comcast Overlapping Cellular Markets, the divested Cellular System Assets must be those owned by Ameritech), and this written notification shall also be provided to the trustee promptly upon his or her appointment by the Court;

2. The Court shall, on application of plaintiff, appoint a trustee selected by the plaintiff, who will be responsible for (a) accomplishing a divestiture of all Cellular System Assets transferred to the trustee from defendants, in accordance with the terms of this Final Judgment, to a purchaser or purchaser(s) approved by the plaintiff under Section IV.C, and (b) exercising the responsibilities of the licensee and controlling and operating the transferred Cellular System Assets, to ensure that the cellular systems remains ongoing, economically viable competitors in the provision of cellular mobile wireless telecommunications services in the Overlapping Cellular Markets, until they are divested to a purchaser or purchasers, and the trustee shall agree to be bound by this Final Judgment;

3. Defendants shall submit a form of trust agreement ("Trust Agreement") to the plaintiff, which must be consistent with the terms of this Final Judgment and which must have received approval

by the plaintiff, who shall communicate to defendants within ten (10) business days approval or disapproval of that form; and

4. After obtaining any necessary approval from the FCC for the transfer of control of the licenses of the remaining cellular systems to the trustee, defendants shall irrevocably divest the remaining Cellular System Assets to the trustee, who will own such assets (or own the stock of the entity such assets, if divestiture is to be effected by the creation of such an entity for sale to purchaser(s)) and control such assets, subject to the terms of the approved Trust Agreement.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the cellular system(s) to be divested, which shall be done within the time periods set forth in this Final Judgment. Those assets shall be the Cellular System Assets for the Ameritech cellular operations in the St. Louis Area (the St. Louis MO–IL Metropolitan Statistical Area and the Missiouri 8, Missouri 12, Missouri 18, and Missouri 19 Rural Service Areas) and the Comcast Overlapping Cellular Markets (the Joliet, IL, Aurora-Elgin, IL, and Kankakee, IL Metropolitan Statistical Areas) and the Cellular System Assets as designated by defendants prior to the consummation of the SBC/Ameritech Merger as set forth in Section V.A.1 for the remaining Overlapping Cellular Markets. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment. Subject to Section V.C of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture and in the management of the Cellular System Assets transferred to the trustee, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to the plaintiff in its sole discretion, and shall have such other powers as this Court shall deem appropriate. The defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by the defendants must be conveyed in writing to plaintiff and the trustee within ten (10) days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of the defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the cellular system(s) sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of such trustee and of professionals and agents retained by the trustee shall be reasonable in light of the value of the divested cellular system(s) and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. The defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture, including their best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilties of the cellular system(s) to be divested, and the defendants shall develop financial or other information relevant to the business to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. As required and limited by Sections IV.E and F of this Final Judgment, the defendants shall permit prospective purchaser(s) of the cellular system(s) to have reasonable access to personnel and to make such inspection of the Cellular System Assets to be sold and any and all financial, operational, or other documents and other information as may be relevant to the divestiture required by this Final Judgment.

E. After being appointed and until the divestiture of the Cellular System Assets is complete, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided, however, that, to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring the Cellular System Assets to be sold, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the Cellular System Assets.

F. If the trustee has not accomplished the divestiture of all of the Cellular System Assets within the time specified for completion of divestiture to a purchaser or purchaser(s) under Section IV.A of this Final Judgment, the trustee thereupon shall file promptly with this Court a report setting forth: (1) the trustee's efforts to accomplish the required divestiture; (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished; and (3) the trustee's recommendations; provided, however, that, to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it deems appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period agreed to by the plaintiff.

G. After defendants transfer the Cellular System Assets to the trustee, and until those Cellular System Assets have been divested to a purchaser or purchaser(s) approved by plaintiff pursuant to Section IV.C, the trustee shall have sole and complete authority to manage and operate the Cellular System Assets and to exercise the responsibilities of the licensee, and shall not be subject to any control or direction by defendants. Defendants shall not retain any economic interest in the Cellular System Assets transferred to the trustee, apart from the right to receive the proceeds of the sale or other disposition of the Cellular System Assets. The trustee shall operate the cellular system(s) as a separate and independent business entity from SBC or Ameritech, with sole control over operations, marketing and sales. SBC and Ameritech shall not communicate with, or attempt to influence the business decisions of, the trustee concerning the operation and management of the cellular systems, and shall not communicate with the trustee concerning the divestiture of the Cellular System Asset or take any action to influence, interfere with, or impede

the trustee's accomplishment of the divestitures required by this Final Judgment, except that defendants may communicate with the trustee to the extent necessary for defendants to comply with this Final Judgment and to provide the trustee, if requested to do so, with whatever resources or cooperation may be required to complete the divestitures of the Cellular System Assets and to carry out the requirements of this Final Judgment. In no event shall defendants provide to, or receive from, the trustee or the cellular systems under the trustee's control any non-public or competitively sensitive marketing, sales, or pricing information relating to their respective cellular mobile wireless telecommunications service businesses.

VI

Notification

A. Within two (2) business days following execution of a binding agreement to effect, in whole or in part, any proposed divestiture required by this Final Judgment, whichever defendant is divesting the cellular system, or the trustee if the trustee is divesting the cellular system, shall notify plaintiff of the proposed divestiture. If the trustee is responsible for the divestiture, the trustee shall similarly notify the defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who theretofore offered to, or expressed an interested in or a desire to, acquire any ownership interest in the Cellular System Assets that are the subject of the binding agreement, together with full details of same.

B. Within fifteen (15) calendar days of receipt by plaintiff of such notice, plaintiff may request from defendants, the proposed purchaser(s), any other third party, or the trustee (if applicable), additional information concerning the proposed divestiture and the proposed purchaser(s) or any other potential purchasers. Defendants and the trustee shall furnish any such additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice, or within twenty (20) calendar days after plaintiff has been provided the additional information requested from defendants, the proposed purchaser(s), any third party, or the trustee, whichever is later, plaintiff shall provide written notice to defendants and the trustee, if there is one, stating whether or not plaintiff objects to the proposed divestiture. If plaintiff provides written notice to defendants and the trustee, if there is one, that it does not object, then the divestiture may be consummated subject only to defendants' limited right to object to the sale under Section V.B of this Final Judgment. Absent written notice that plaintiff does not object to the proposed purchaser(s) or in the event of an objection by plaintiff, a divestiture shall not be consummated. Upon objection by a defendant under the proviso of Section V.B. a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII

Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed, defendants shall deliver to plaintiff an affidavit as to the fact and manner of defendants' compliance with this Final Judgment. With respect to the period preceding the consummation of the SBC/Ameritech Merger, each such affidavit shall (i) include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any or all of the Cellular System Assets required to be divested, (ii) describe in detail each contact with any such person during that period, and (iii) include a summary of the efforts that defendants have made to solicit a purchaser(s) for the Cellular System Assets to be divested in the Overlapping Cellular Markets pursuant to this Final Judgment and to provide required information to prospective purchasers.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to plaintiff an affidavit which describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to preserve the Cellular System Assets to be divested pursuant to this Final Judgment. Defendants shall deliver to plaintiff another affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to Section VII.B of this Final Judgment within fifteen (15) calendar days after the change is implemented.

VIII

Financing

Defendants shall not finance all or any part of any purchase by an acquirer made pursuant to Sections IV or V of this Final Judgment.

IX

Hold Separate Order

A. Until accomplishment of the divestitures of the Cellular System Assets to purchaser(s) approved by plaintiff pursuant to Section IV.C, each defendant shall take all steps necessary to ensure that each of the cellular systems that it owns or operates in the Overlapping Cellular Markets shall continue to be operated as a separate, independent, ongoing, economically viable and active competitor to the other cellular system and mobile wireless telecommunications providers operating in the same license area; and that except as necessary to comply with this Final Judgment, the operation of said cellular systems (including the performance of decision-making functions relating to marketing and pricing) will be kept separate and apart from, and not influenced by, the operation of the other cellular system, and the books, records, and competitively sensitive sales, marketing, and pricing information associated with said cellular systems will be kept separate and apart from the books, records, and competitively sensitive sales, marketing, and pricing information associated with the other cellular system.

B. Until the Cellular System Assets in each Overlapping Cellular Market have been divested to purchaser(s) approved by the plaintiff, or transferred to a trustee pursuant to Section V of this Final Judgment, defendants shall in accordance with past practices, with respect to the Cellular System Assets in the Overlapping Cellular Markets (including the assets of both cellular systems in any Overlapping Cellular Market where the cellular system that will be divested has not yet been decided):

1. Use all reasonable efforts to maintain and increase sales of cellular mobile telephone services, and maintain and increase promotional, advertising, sales, and marketing support for the cellular mobile telephone services sold by the cellular systems;

2. Take all steps necessary to ensure that the Cellular System Assets are fully maintained in operable condition and shall maintain and adhere to normal maintenance schedules;

3. Provide and maintain sufficient lines of sources of credit and working

capital to maintain the Cellular System Assets as viable ongoing businesses;

4. Be prohibited from, except as part of a divestiture approved by plaintiff, removing or selling any of the Cellular System Assets, other than sales in the ordinary course of business;

5. Be prohibited from terminating, transferring, or reassigning any employees who work with the Cellular System Assets, except (a) in the ordinary course of business, (b) for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, or (c) as necessary to promote accomplishment of defendants' obligations under this Final Judgment; and

6. Take no action that would impede in any way or jeopardize the sale of the Cellular System Assets.

C. Following consummation of the SBC/Ameritech Merger, defendants shall take no action that would impede in any way or jeopardize the sale of the Cellular System Assets.

D. Defendants shall, during the period before all Cellular System Assets have been divested to a purchaser(s) or transferred to the trustee pursuant to Section V of this Final Judgment, each appoint a person or persons to oversee the Cellular System Assets owned by that defendant, who will be responsible for defendants' compliance with the requirements of Sections VII and IX of this Final Judgment. Such person(s) shall not be an officer, director, manager, employee, or agent of the other defendant.

X

Compliance Inspection

For the purposes of determining or securing compliance of defendants with this Final Judgment, and subject to any legally recognized privilege, from time to time.

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the relevant defendant made to its principal office, shall be permitted without restraint or interference from defendants.

1. to have access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, and to take sworn testimony from the officers, directors, employees, or agents of defendants, who may have counsel present, relating to any matters contained in this Final Judgment.

B. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to defendants at their principal offices, defendants shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment.

C. No information or documents obtained by the means provided in this section X or sections VI and VII shall be divulged by the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, or to the FCC (pursuant to a customary protective order or a waiver of confidentiality by defendants), except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If, at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the material in any such information or documents as to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and mark each pertinent page of such material, "Subject to claim of protection under rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) calendar days' notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendants are not a party.

XI

Retention of Jurisdiction

Jurisdiction is retained by this Court for the purposes of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII

Further Provisions and Termination

A. The entry of this judgment is in the public interest.

B. Unless this Court grants an extension, this Final Judgment shall expire on the tenth anniversary of the date of its entry.

United States District Judge.

Competitive Impact Statement

The United States, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) ("APPA"), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States filed a civil antitrust Complaint on March 23, 1999, alleging that the proposed acquisition of Ameritech Corporation ("Ameritech") by SBC Communications, Inc. ("SBC") would violate Section 7 of the Clayton Act, 15 U.S.C. 18 by lessening competition in the markets for wireless mobile telephone services in seventeen cellular license areas in Illinois, Indiana and Missouri. In these seventeen areas, which are identified in the Complaint as the "Overlapping Markets", Ameritech is one of two providers of cellular mobile telephone services. The other provider of cellular mobile telephone services in the Overlapping Markets is either SBC or Comcast Cellular Corporation ("Comcast"), which SBC has entered into an agreement to acquire.

Shortly before the Complaint in this matter was filed, the Department and the defendants reached agreement on the terms of a proposed Final Judgment, which requires SBC and Ameritech to divest one of the cellular telephone systems in each of the Overlapping Markets.[1] In nine of the Overlapping Markets in Illinois and Indiana, the defendants can choose which cellular system to divest, but in the five Overlapping Markets in Missouri in the St. Louis area, as well as the three Overlapping Markets in Illinois where Comcast and Ameritech both own cellular systems, the Ameritech cellular systems must be the ones divested. The proposed Final Judgment also contains provisions, explained below, designed to minimize any risk of competitive harm that otherwise might arise pending completion of the divestiture. The proposed Final Judgment embodying the settlement, and a Stipulation by plaintiff and defendants consenting to

[1] The proposed Final Judgment describes the seventeen license areas containing overlapping cellular systems as the "Overlapping Cellular Markets." That term has the same meaning as the "Overlapping Markets" referred to in the Complaint, and the two terms are used interchangeably herein.

its entry, were filed simultaneously with the Complaint.

The United States and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 ("APPA"). Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof. The United States and the defendants have also stipulated that the defendants will comply with the terms of the proposed Final Judgment from the date of signing of the Stipulation, pending entry of the Final Judgment by the Court, permitting the required divestitures to be carried out and the acquisition to be consummated prior to completion of the APPA procedures. Should the Court decline to enter the Final Judgment, the defendants have also committed to continue to abide by its requirements until the expiration of time for any appeals of such ruling.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

SBC and Ameritech are two of the remaining five Regional Bell Operating Companies ("RBOCs") created in 1984 by the consent decree settling the United States' antitrust case against American Telephone & Telegraph Co. SBC and Ameritech each provide local exchange telephone services indistinct regions, and also provide wireless mobile telephone services, including cellular mobile telephone services, both within and outside of their local exchange service regions.

SBC, with headquarters in San Antonio, Texas, is the second largest RBOC in the United States, with approximately 43 million total local access lines. In 1998, SBC had revenues in excess of $28 billion. SBC provides local telephone services to retail customers in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas as well as cellular mobile telephone services or other wireless mobile telephone services in those states. SBC also provides cellular mobile telephone services or other wireless mobile telephone services in some areas outside its local exchange service region, including the District of Columbia and areas within the states of Illinois, Indiana, Maryland, Massachusetts, Rhode Island, New York, Virginia, and West Virginia. SBC, through its Cellular One cellular systems out of region and its in-region Southwestern Bell, Pacific Bell, Nevada Bell and SNET cellular or other wireless mobile systems, is the nation's third largest wireless mobile telephone service provider, serving areas with a total population of about 82 million, and it has about 6.5 million subscribers nationwide.

Ameritech, with headquarters in Chicago, Illinois, is the fourth largest RBOC in the United States, with approximately 24 million total local access lines. In 1998, Ameritech had revenues in excess of $17 billion. Ameritech provides local telephone service to retail customers in Illinois, Indiana, Michigan, Ohio, and Wisconsin, and also provides cellular mobile telephone service in these states, as well as in some states outside its local exchange service region including Missouri and Hawaii. Ameritech is a major wireless mobile telephone service providers, serving areas with a total population of about 30 million, and it has about 3.2 million subscribers nationwide.

On May 10, 1998, SBC and Ameritech entered into a purchase agreement, the Agreement and Plan of Merger, whereby SBC would acquire Ameritech in exchange for SBC stock valued at approximately $58 billion dollars at the time of the agreement. Defendants filed a notification of this transaction pursuant to the Hart-Scott-Rodino Antitrust Improvements Act, 15 U.S.C. 18a, on July 20, 1998.

SBC has also entered into an agreement as of January 19, 1999, to acquire Comcast Cellular Corporation for $1.67 billion, which would give SBC all of Comcast's cellular telephone systems. Notification of this transaction also was filed pursuant to the Hart-Scott-Rodino Antitrust Improvements Act. By acquiring Comcast's cellular telephone systems, SBC would become a provider of cellular mobile telephone services in additional areas in Delaware, Illinois, Indiana, New Jersey and Pennsylvania. The acquisition of the Comcast cellular systems would add about 800,000 subscribers to SBC's total of wireless subscribers nationwide.

If both transactions were consummated, the combined total of SBC's and Ameritech's cellular and other wireless mobile telephone service subscribers would be 10.5 million, including the number of subscribers SBC would receive from its acquisition of Comcast.

B. Wireless Mobile Telephone Services

Wireless mobile telephone services permit users to make and receive telephone calls, using radio transmissions, while traveling by car or by other means. The mobility afforded by this service is a valuable feature to consumers, and cellular and other wireless mobile telephone services are commonly priced at a substantial premium above landline services. In order to provide this capability, wireless carriers must deploy an extensive network of switches and radio transmitters and receivers, and interconnect this network with the networks of local and long distance landline carriers, and with the networks of other wireless carriers. In 1998, revenues from the sale of wireless mobile telephone services totaled approximately $30 billion in the United States.

Initially, wireless mobile telephone services were provided principally by two cellular systems in each license area, as was the case in the Overlapping Markets. Cellular licenses were awarded by the Federal Communications Commission ("FCC") beginning in the early 1980s, within any given Metropolitan Statistical Area ("MSA") or Rural Service Area ("RSA").[2] Providers of Specialized Mobile Radio ("SMR") services typically were also authorized to operate with some additional spectrum in these areas, including the Overlapping Markets.

In 1995 the FCC allocated (and subsequently issued licenses for) additional spectrum for the provisions of PCS, a category of services which includes wireless mobile telephone services comparable to those offered by cellular carriers. In 1996 one SMR spectrum licensee began to use its SMR spectrum to offer wireless mobile telephone services, comparable to that offered by cellular providers and bundled with dispatch services, in a number of areas including some of the Overlapping Markets. The areas for which PCS providers are licensed differ from the cellular MSAs and RSAs but overlap with them.[3] However, in many areas, including the Overlapping Markets, not all of the PCS license holders have started to offer services or

[2] 25 MHZ of spectrum was allocated to each cellular system in an MSA or RSA. MSAs are the 306 urbanized areas in the United States defined by the federal government, used by the FCC to define the license areas for urban cellular systems. RSAs are the 428 areas defined by the FCC used to define the license areas for rural cellular systems outside of MSAs.

[3] There can be as many as three PCS providers, with 30 MHZ of spectrum each, authorized to serve areas considerably larger than a single MSA or RSA. In addition, there can be as many as three PCS providers, with 10 MHZ of spectrum each, licensed to provide service in smaller areas that overlap more closely with a given MSA or RSA.

have even begun to construct the facilities necessary to begin offering service. The PCS providers have tended to enter first in the largest cities, entering in smaller markets only later and not to as great an extent. Moreover, even in those are where one or more PCS providers have constructed their networks and have started to offer service or some SMR spectrum is also used for wireless mobile telephone services, including the Overlapping Markets, the incumbent cellular providers, such as SBC and Ameritech, still typically control the great majority of the market.

C. Anticompetitive Consequences of the Proposed Acquisition

SBC and Ameritech are the sole providers of cellular mobile telephone services, and the two primary providers of all wireless mobile telephone services, in fourteen cellular license areas in the states of Illinois, Indiana, and Missouri. These fourteen areas are referred to in the Complaint as the "SBC/Ameritech Overlapping Markets." SBC and Ameritech are direct competitors in the markets for wireless mobile telephone services in the SBC/Ameritech Overlapping Markets.

In three cellular license areas in the state of Illinois, the cellular systems owned entirely or in part by Ameritech and Comcast are the sole providers of cellular mobile telephone services, and the two primary providers of all wireless mobile telephone services. These three areas, which are in addition to the fourteen cellular license areas where Ameritech and SBC own overlapping cellular systems, are referred to in the Complaint as the "Comcast/Ameritech Overlapping Markets." Comcast and Ameritech are direct competitors in the markets for wireless mobile telephone services in the Comcast/Ameritech Overlapping Markets. SBC already manages the Comcast cellular systems in the Comcast/Ameritech Overlapping Markets. When the Comcast acquisition is consummated, SBC and Ameritech will own, entirely or in part, the overlapping cellular systems in these additional three cellular license areas in the state of Illinois.

In the Overlapping Markets, the population potentially addressable by cellular mobile telephone systems totals about 11 million, including over 10.8 million in the SBC/Ameritech Overlapping Markets and nearly 200,000 in the Comcast/Ameritech Overlapping Markets. The Overlapping Markets are listed below:

SBC/Ameritech Overlapping Markets

MSAs

Chicago, IL
St. Louis, MO–IL
Gary-Hammond-East Chicago, IN
Springfield, IL
Champaign-Urbana-Rantoul, IL
Bloomington-Normal, Il
Decatur, IL

RSAs

Illinois 2—Bureau
Illinois 5—Mason
Illinois 6—Montgomery
Missouri 8—Callaway
Missouri 12—Maries
Missouri 18—Perry
Missouri 19—Stoddard

Comcast/Ameritech Overlapping Markets

MSAs

Joliet, IL
Aurora-Elgin, IL
Kankakee, IL (Comcast has a 10.07% interest in this cellular system)

If SBC's plan to acquire Ameritech were consummated, only one provider of cellular mobile telephone services would remain available to consumers in the Overlapping Markets. SBC would own both cellular systems in the SBC/Ameritech Overlapping Markets. In addition, because SBC already manages the Comcast cellular systems in Illinois, SBC would operate both of the cellular systems in the Comcast/Ameritech Overlapping Markets if SBC were to acquire Ameritech. If both the Comcast and Ameritech acquisitions were consummated, SBC would own, entirely or in part, both of the cellular systems in the Comcast/Ameritech Overlapping Markets.

Therefore, SBC's acquisition of Ameritech would cause the level of concentration among firms providing wireless mobile telephone services in the Overlapping Markets to increase significantly. Already a high level of concentration in the provision of wireless mobile telephone services exists in the Overlapping Markets. In the SBC/Ameritech Overlapping Markets, the individual market shares of SBC and Ameritech, measured on the basis of the numbers of subscribers or wireless lines served, range from 30% to over 50%. The combined market share of SBC and Ameritech in the provision of wireless mobile telephone services is in the range of 80 to 90%, taking into account other operational wireless mobile competitors.[4] As measured by the Herfindahl-Hirschman Index (HHI), which is commonly employed by the Department of Justice in merger analyses and is explained in more detail in Appendix A to the Complaint, concentration in these markets is already in the range of 3200 to 4100, well above the 1800 threshold at which the Department normally considers a market to be concentrated. After the merger, the HHI in these markets will greatly increase and will range from 6400 to 8100. In the Comcast/Ameritech Overlapping Markets, the combined market share of Comcast and Ameritech similarly is much larger than that of all other wireless mobile competitors, and the merger would similarly lead to large increases in concentration.

Competition between SBC and Ameritech, and between Comcast and Ameritech, as the two largest providers of wireless mobile telephone services in the Overlapping Markets, has resulted in lower prices and higher quality of service in these markets than would otherwise have existed absent such competition. If SBC and Ameritech were to merge, the competition between SBC and Ameritech and between Comcast and Ameritech in wireless mobile telephone services in these markets would be eliminated, and competition overall for wireless mobile telecommunications services would be substantially lessened in the Overlapping Markets by SBC's acquisition of Ameritech. As a result of the loss in competition between SBC and Ameritech, and between Comcast and Ameritech, there would be an increased likelihood both of unilateral actions by the combined firm in these markets to increase prices, diminish the quality or quantity of service provided, or refrain from making investments in network improvements, and of coordinated interaction among the limited number of remaining competitors that could lead to similar anticompetitive results.

Competition would also be adversely affected in another, related way by the consummation of SBC's acquisition of Ameritech. In the SBC/Ameritech Overlapping Markets in the St. Louis area, including the St. Louis MSA and the four RSAs in Missouri, Ameritech planned, prior to its announcement of its agreement to be acquired by SBC, to

[4] The United States has used subscriber data here to estimate market shares because those data are more readily available. In some contexts, however, other measures of market share may provide a more precise indication of market concentration or a firm's competitive significance. The use of subscriber data here is reasonable, given that measuring market share in other ways would not affect the Department's conclusions. The market shares of SBC and Ameritech would also be very high if measured on a variety of dimensions other than subscribers or lines served, such as revenues or volumes of traffic handled.

provide local exchange and long distance telephone services in SBC's local telephone service area. Ameritech would have competed with SBC primarily by selling bundled packages of such local exchange and long distance telephone services, together with its cellular mobile telephone service, to existing Ameritech residential cellular customers. There is no alternative source of such a bundled product in the St. Louis area at present. Ameritech expected that its plan would enhance its ability to retain existing cellular customers. Ameritech had made extensive preparations for entry, over the course of more than a year, and was ready to begin providing local exchange and long distance telephone services to its cellular mobile telephone customers at the time it agreed to be acquired by SBC. Shortly thereafter, because it was being acquired by SBC, Ameritech decided not to implement its local exchange and long distance entry plans in the St. Louis area. The consummation of SBC's acquisition of Ameritech thus would preclude such competition by Ameritech.

It is unlikely that entry within the next two years into wireless mobile telephone services in the Overlapping Markets would be sufficient to mitigate the competitive harm resulting from this acquisition, if it were to be consummated.

For these reasons, the United States concluded that the merger as proposed may substantially lessen competition, in violation of Section 7 of the Clayton Act, in the provision of wireless mobile telephone services in the Overlapping Markets.

III. Explanation of the Proposed Final Judgment

A. The Divestiture Requirement

The proposed Final Judgment will preserve competition in the sale of mobile wireless services in the Overlapping Markets by requiring the defendants to divest one of their two cellular telephone systems in each of the Overlapping Markets. This divestiture will eliminate the change in market structure caused by the merger.

The divestiture requirements of the proposed Final Judgment, as stated in Sections IV.A and II.B, direct Ameritech to divest its cellular telephone systems in St. Louis and other markets in Missouri, as well as its cellular telephone systems in the three markets in Illinois where is overlaps with Comcast. In the remaining markets in Illinois and Indiana where SBC's and Ameritech's cellular telephone systems overlap, SBC and Ameritech may choose which of the two systems in each market must be divested. Section IV.C permits the different cellular systems in separate Overlapping Cellular Markets to be divested to different purchasers, but requires that, for any individual cellular system, the Cellular System Assets be divested entirely to a single purchaser, unless the United States otherwise consents in writing.

In the Comcast/Ameritech Overlapping Markets, because Comcast is not a party to the consent decree, the necessary divestitures to avoid loss of competition between the overlapping cellular systems could be effected only through Ameritech. Comcast was not considered a necessary party to this action because SBC's acquisition of Comcast, standing alone, is not a competitive problem. A violation of Section 7 of the Clayton Act only arises in the three Comcast/SBC Overlapping Markets when the Comcast acquisition is considered together with SBC's merger with Ameritech.

The reason for requiring the divestiture of the five Ameritech cellular systems in the St. Louis area is different, arising from Ameritech's plans prior to the merger to compete with SBC in providing local exchange and long distance telephone services together with its cellular mobile telephone services in St. Louis. Ameritech had made extensive preparations to provide local exchange and long distance services in SBC's local telephone service area, over the course of the year preceding the announcement of the merger, and was ready to launch its bundled offering of these services together with cellular telephone service at the time the merger was announced. In contrast, the SBC cellular systems in the St. Louis area, being owned by the incumbent local telephone service provider, had made no preparations to offer local exchange telephone service competition in any of the relevant markets in Missouri.

The loss of competition in cellular mobile telephone services between the Ameritech and SBC cellular systems in Missouri, standing alone, required one of the two cellular systems to be divested, as in the other Overlapping Markets. However, a buyer of the Ameritech cellular systems would be much more favorably positioned to enter rapidly into local exchange and long distance telephone services in St. Louis and provide a bundled product together with its cellular services than would a buyer of the SBC cellular systems in the St. Louis area. Therefore, in order to remedy this aspect of the competitive harm arising from the merger, the United States concluded that the divestiture of the Ameritech cellular systems in the St. Louis area, together with "those assets acquired, developed, used or intended for use in connection with the provision of local exchange telecommunications services and long distance telecommunications services by such system[s]," would be necessary, as required by Section II.B of the proposed Final Judgment.

The proposed Final Judgment's divestiture provisions are intended to accomplished the "complete divestiture of the entire business of one of the two cellular systems in each of the Overlapping Cellular Markets," as Section II.B states. Section II.B also specifies in detail the types of assets to be divested, which collectively are described throughout the consent decree as "Cellular System Assets," and addresses some special circumstances concerning the divestiture of those assets. In all of the Overlapping Markets, Cellular System Assets means all types of assets, tangible and intangible, used by defendants in the operation of each of the cellular systems to be divested, including the provision of long distance telecommunications service for wireless calls. For the five Ameritech cellular systems to be divested in the St. Louis area, additional types of assets related to Ameritech's plans for providing local exchange and long distance telecommunications services are also included, as described above. Section II.B enumerates in detail, without limitation, particular types of assets covered by the divestiture requirement.

For the most part, the divesting defendant is required to transfer to the purchaser the complete ownership and/or other rights to the Cellular System Assets. However, the merged firm will retain a number of other cellular systems in areas that do not overlap, and prior to the merger each defendant may have had certain assets that were used substantially in the operations of its overall cellular business and that must be retained to some extent to continue the exiting operations of the cellular properties not being divested. Section II.B permits special divestiture arrangements for such assets either if they are not capable of being divided between the divested and retained cellular systems, or if the divesting defendant and the purchaser agree not to divide them. For these assets, the divestiture requirement is satisfied if the divesting defendant grants to the purchaser, at the election of the purchurer, an option to obtain a non-exclusive, transferable license for a reasonable period to use the assets in

the operation of the cellular system being divested, so as to enable the purchaser to continue to operate the divested cellular systems without impairment. None of the Cellular System Assets associated with Ameritech's plans to provide local exchange and long distance telecommunications service in the St. Louis are covered by this licensing requirement, because all of those assets are required to be transferred completely to the purchaser.

The definition of Cellular system Assets in section II.B contains the special provisions relating to intellectual property. One addresses intellectual property rights that defendants may have under third-party licenses that could not be transferred to a purchaser entirely or by license without the consent of the third-party licensor. If any such assets are used by the cellular systems being divested, defendants must identify them in a schedule submitted to plaintiff and filed with the Court as expeditiously as possible following the filing of the Complaint, in any event, prior to any divestiture and before the Court approves the proposed Final Judgment. Defendants must explain the necessary consents and how a consent would be obtained for each asset. This proviso is not intended to afford defendants any opportunity to withhold intellectual property rights over which they have any control, which could impair the ability of a purchaser to use the divested cellular system to compete effectively. It relates only to intellectual property assets that defendants have no power to transfer themselves, and defendants must do all that is possible to transfer the entire business of the divested cellular systems. To make this clear, section IV.G obligates defendants to cooperate with any purchaser as well as a trustee, if any, to seek to obtain the necessary third-party consents, if any assets require such consents before they may be transferred to a purchaser.

The second proviso relates to certain specific trademarks, trade names and service marks. Section II.B, defining the Cellular System Assets to be divested, generally requires the divestiture of trademarks, trade names and service marks, with the four specified exceptions of ones containing "SBC", "Southwestern Bell", "Ameritech", or "Cellular One," which are the names under which the defendants' retained cellular systems, or their corporate parents, do business. Such trademarks, trade names and service marks, like other assets, are either to be divested in their entirety or in the case of such marks and names that must be retained to continue the existing operations of defendants' remaining cellular properties, and that are not capable of being divided or that the divesting defendant and purchaser agree not to divide, are to be made available to the purchaser through a non-exclusive, transferable license. Section II.B therefore creates an obligation on the part of SBC and Ameritech to license the "Clearpath" trade name, currently used in connection with Ameritech's digital cellular services, to a purchaser of Cellular System Assets currently owned by Ameritech. The Department has been advised by Ameritech, and recognizes on that basis, that (1) Ameritech's use of the trade name "Clearpath" is subject to a letter agreement between Ameritech and Unisys Corporation, (2) any use by a purchaser of Ameritech Cellular System Assets would be pursuant to a license agreement which the purchaser would need to enter into with SBC and/or Ameritech; and (3) such a license agreement would need to contain terms and conditions that would protect SBC and Ameritech from claims by Unisys related to the use of that trade name.

Section IV contains other provisions to facilitate divestiture, including notification of the availability of the Cellular System Assets for purchase in Section IV.D, access to information about the Cellular System Assets in Section IV.E, and preservation of records in Section IV.H. In addition, to ensure that a purchaser will be able to operate the divested cellular systems without impairment, section IV.F prohibits defendants from interfering with a purchaser's negotiations to retain any employees who work or have worked since the date of the announcement of the merger with the Cellular System Assets, or whose principal responsibility relates to the Cellular System Assets.[5]

B. Timing of Divestiture

In antitrust cases involving mergers in which the United States seeks a divestiture remedy, it requires completion of the divestiture within the shortest time period reasonable under the circumstances. The proposed Final Judgment in this case requires, in section IV.A, that the divestitures of the Cellular System Assets in the seventeen Overlapping Cellular Markets to a purchaser or purchasers approved by the United States must be completed within 180 days of the time that SBC and Ameritech consummate their merger, or the time that they receive the final regulatory approvals from the FCC and state regulatory commissions that are necessary preconditions to consummation of the merger, whichever is earlier. These alternative starting dates were chosen because, at the time SBC and Ameritech entered into the Stipulation and agreed to the proposed Final Judgment, the FCC and two state regulatory commissions, the Illinois Commerce Commission and the Ohio Public Utilities Commission, were still reviewing SBC's acquisition of Ameritech. The approval of these three regulatory bodies is necessary for the acquisition to be consummated.[6] If SBC's acquisition of Ameritech were not consummated because any of those regulatory bodies denied the necessary approval, defendants would not be required to divest their cellular systems in the Overlapping Markets.

Even though approval by these three regulatory bodies is a necessary precondition for the merger to be consummated, after an initial favorable decision by any of those regulatory bodies, a brief period of time would exist for reconsideration before the decision would become final Defendants could agree to consummate their merger based on the initial decisions, before the period for reconsideration has run. Therefore, the time for divestiture has been linked to the first event that would allow the acquisition to take place, either the last of the three necessary final regulatory approvals or a decision by the defendants to consummate the merger without any or all of these final regulatory approvals.

Defendants are also required by Section IV.B to use their best efforts to accomplish the divestitures of the Cellular System Assets in the Overlapping Cellular Markets to a purchaser or purchasers at or before the consummation of the merger of SBC and Ameritech, and to do so as expeditiously as possible, including obtaining all required regulatory approvals.

In addition, the proposed Final Judgment requires in Section IV.B that defendants comply with all of the applicable rules of the FCC in carrying out the divestitures. These rules include 47 CFR 20.6 (spectrum aggregation) and 47 CFR 22.942 (cellular cross-

[5] There is a limited exception for employees working with the Cellular System Assets solely on a temporary basis from another part of SBC or Ameritech.

[6] The merger is also being reviewed by other state telecommunications regulators, e.g., in Indiana, but the United States understands that prior approval by other state regulators is not necessary for the merger to proceed.

ownership).[7] These FCC requirements may add to, but cannot subtract from or impair, the requirements of this proposed Final Judgment, since Section IV.B specifies that authorization by the FCC to conduct divestiture of a cellular system in a particular manner will not modify any of the requirements of the decree. The provisions of the proposed Final Judgment have been designed to avoid any conflict with the FCC's rules. In particular, the inclusion of the trusteeship requirements discussed below ensures that impermissible control of both cellular systems by the merged company should not arise even if defendants were to consummate their merger during the 180-day period authorized for divestiture, at a time when some of the cellular systems have not yet been sold to any purchaser approved by the Department of Justice. Since the FCC's approval is required for the transfer of the cellular system licenses to a purchaser, Section IV. A provides one exception to the 180-day divestiture period. If applications for transfer of a cellular license have been filed by the FCC within the 180 day period, but the FCC has not granted approval before the end of that time, the period for divestiture of the specific Cellular System Assets covered by the license that cannot yet be transferred shall be extended until five days after FCC's approval is received. This extension is to be applied only to the individual cellular system affected by the delay in approval of the license transfer and does not entitle defendants to delay the divestiture of any other Cellular System Assets for which license transfer approval has been granted.

C. Use of a Trustee Subsequent to Consummation of the Acquisition

The proposed Final Judgment provides in Section IV.A that, at or before the time that SBC and Ameritech consummate their merger, they must divest the Cellular System Assets in each of the Overlapping Cellular Markets, either to purchasers acceptable to plaintiff in its sole discretion, or to a trustee designated pursuant to Section V of the Final Judgment. As part of this divestiture, SBC and Ameritech must relinquish any direct or indirect financial ownership interests and any direct or indirect role in management or participation in control. Thus, if SBC and Ameritech want to consummate their merger before they have completed the divestitures of Cellular System Assets to approved purchasers, by the time of consummation, they must have transferred any remaining Cellular System Assets to a trustee chosen by the Department of Justice. Pursuant to Section V of the proposed Final Judgment, the trustee will own and control the systems until they are sold to a final purchaser, subject to safeguards to prevent SBC and Ameritech from influencing their operation.

This trust arrangement is an option available to defendants, to enable them to consummate their merger once all regulatory approvals have been received, even if the 180-day period for divestitures has not yet run and some Cellular System Assets that must be divested have not yet been purchased. It is not the preferred option, however, as indicated by the requirement in Section IV.B that defendants use their best efforts to accomplish the divestitures before consummation of the merger. The overall period of 180 days to complete the divestitures continues to apply, whether the divestitures are made by SBC and Ameritech or by the trustee. In other words, the transfer of any Cellular System Assets to the trustee does not extend the time to complete the divestitures. The trustee simply has whatever part of the 180-day period remains from the time SBC and Ameritech transfer the cellular systems. If, for any reason, the trustee has not completed all of the required divestitures to purchasers within this period, the trustee is required, under Section V.F, to report to the Court on the efforts made and the reasons why divestiture has not been accomplished, but the trust period may be extended by the Court only if plaintiff agrees to the period involved.

Section V details the requirements for the establishment of the trust, the selection and compensation of the trustee, the responsibilities of the trustee in connection with divestiture and operation of the Cellular System Assets, and the termination of the trust. If defendants have not divested all of their Cellular System Assets in the Overlapping Cellular Markets to approved purchasers by the time of consummation of the merger, Section V.A requires that before consummating the merger: (1) defendants must have notified the United States which Cellular System Assets in each Overlapping Market will be divested; (2) the Court must have appointed a trustee, which shall be selected by the United States; (3) defendants must have submitted a form of Trust Agreement consistent with the terms of the Final Judgment, and the form agreement must have received approval by the United States; and (4) after receiving FCC approval for the license transfers, defendants must irrevocably divest the unsold Cellular System Assets to the trustee. As a practical matter, the process of establishing a trust arrangement for any Cellular System Assets will take some time, so if defendants plan to make use of this option, they will need to begin preparations for it soon after the 180 days has begun to run.

The trustee will have the obligation and the sole responsibility, under Section V.B, for the divestiture of any transferred Cellular System Assets. The trustee has the authority to accomplish divestitures at the earliest possible time and "at the best price then obtainable upon a reasonable effort by the trustee." The defendants are not entitled to object to divestiture based on the adequacy of the price the trustee obtains or any other ground, unless the trustee's conduct amounts to malfeasance. The terms of the trustee's compensation, under Section V.C, will provide incentives based on the price and terms of the divestiture and the speed with which it is accomplished. As provided by Sections V.B and V.C., defendants will pay the compensation and expenses of the trustee, and of any investment bankers, attorneys or other agents that the trustee finds reasonably necessary in his judgment to assist in the divestiture and the management of the Cellular System Assets.

The trusteeship mechanism has been used by the FCC, in a variety of contexts, to provide a short period of time in which to complete a sale of a spectrum licensee that must be divested, while permitting the broader merger or acquisition that necessitates the divestiture to go forward. In this context, the critical feature of the trusteeship arrangement is that the trustee will not only have responsibility for sale of the Cellular System Assets, but will also be the authorized holder of the cellular system license, with full responsibility for the operations, marketing and sales of the cellular system to be divested, and will not be subject to any control or direction by defendants. The defendants will no longer have any role in the ownership, operation or management of the Cellular

[7] The FCC's spectrum aggregation rules, in 47 CFR 20.6, do not permit a licensee to have an attributable interest in more than 45 MHz of spectrum licensed for cellular, PCS or SMR with significant overlap in any geographic area. The FCC will attribute an interest if it is controlling, or if in most cases it is 20% or more of the equity, outstanding stock or voting stock of the licensee. The FCC's cellular cross-ownership rules, in 47 CFR 22.942, also prohibit a licensee or any person controlling a licensee from having a direct or indirect ownership interest of more than 5% in both cellular systems in an overlapping cellular geographic service area, unless such interests pose "no substantial threat to competition."

System Assets to be divested following consummation of their merger, as provided by Section V.G, other than the right to receive the proceeds of the sale, and certain obligations to provide cooperation to the trustee in order to complete the divestiture, as indicated in Section V.D. Defendants are precluded under Section V.G from communicating with the trustee, or seeking to influence the trustee, concerning the divestiture or the operation and management of the cellular systems transferred, apart from the limited communications necessary to carry out the Final Judgment and to provide the trustee with the necessary resources and cooperation to complete the divestitures. Defendants and the trustee are subject to an absolute prohibition on exchanging any non-public or competitively sensitive marketing, sales or pricing information relating to either of the cellular system businesses in the Overlapping Markets. These safeguards will protect against any competitive harm that could arise from coordinated behavior or information sharing between the two cellular systems after the merger, during the limited period while sale of the Cellular System Assets is not yet complete. They ensure that the trusteeship arrangement is consistent with the FCC's rules.

D. Criteria for the United States' Approval of Purchasers

Under the proposed Final Judgment, the United States has an important role in the approval of purchasers for each of the divested cellular systems, to ensure that the purchasers chosen by the defendants or the trustee are adequate from a competitive viewpoint. The United States' approval or rejection of a purchaser is at its sole discretion, as Section IV.A specifies, but the consent decree also embodies certain criteria that the United States will apply in making the approval decision.

Specifically, Section IV.C of the proposed Final Judgment requires that the divestitures of Cellular System Assets be made to a purchaser or purchasers for whom it is demonstrated to plaintiff's sole satisfaction that: (1) the purchaser(s) has the capability and intent of competing effectively in the provision of cellular mobile telephone service using the Cellular System Assets; (2) the purchaser(s) has the managerial, operational and financial capability to compete effectively in the provision of cellular mobile telephone service using the Cellular System Assets; (3) with respect to the purchaser of the Cellular System Assets in the St. Louis Area, if such Cellular System Assets are divested to the purchaser by Ameritech rather than by the trustee, the purchaser has the capability of competing effectively in the provision of local exchange telecommunications services and long distance telecommunications services in the St. Louis Area, and (4) none of the terms of any agreement between the purchaser(s) and either of the defendants shall give defendants the ability unreasonably (i) to raise the purchaser(s)'s costs, (ii) to lower the purchaser(s)'s efficiency, (iii) to limit any line of business which a purchaser(s) may choose to pursue using the Cellular System Assets (including, but not limited, to entry into local telecommunications services on a resale or facilities basis or long distance telecommunications services on a resale or facilities basis), or otherwise to interfere with the ability of the purchaser(s) to compete effectively.

All of these criteria must be satisfied whether the divestiture is accomplished by defendants or the trustee, with the exception of (3), which applies only to divestitures made by defendants and not if the trustee assumes control over the Cellular System Assets in the St. Louis Area. In the case of any divestiture, by defendants or the trustee, it is important to ensure that the ongoing cellular businesses go to purchasers with the capability and intent of operating them as effective competitors in the lines of business they already serve, and that there are no conditions restricting competition in the terms of the sale. The United States, however, viewed the issue of potential competition in local exchange and long distance telecommunications services in the St. Louis Area somewhat differently. Defendants have incentives to divest Ameritech's Missouri cellular properties in a way that could minimize the risk of their use for such competition to SBC, while a trustee charged with seeking the best price obtainable would not have similar incentives. Also, the United States has sought only to ensure that the purchaser of Ameritech's St. Louis-area cellular systems would have the capability to compete effectively in these additional lines of business; it has not insisted on proof of intent to compete. Such claims of intent are inherently less subject to verification when dealing with a new line of business, and, unlike the situation with an ongoing profitable business, a purchaser could reasonably decide to enter local exchange and long distance telecommunications services in St. Louis in a somewhat different way than Ameritech had planned to do, or not to pursue those lines of business, depending on their economic attractiveness.

In exercising its sole discretion to approve a purchaser under Section IV.C, the United States will take into account the following considerations. In evaluating the capability of a purchaser to provide cellular mobile telephone service under (1) or (2), or local exchange telecommunications services and long distance telecommunications services under (3), the United States will consider the capabilities not only of the immediate purchaser of Cellular System Assets, but also of any parent, subsidiary, corporate affiliate or partner of the immediate purchaser, to the extent that the United States is satisfied that such capabilities of related entities would actually be available to the immediate purchaser to provide the services. Moreover, in evaluating a purchaser's capability to provide services under (1), (2), or (3), the United States will consider all of the assets and capabilities of the purchaser (including their affiliated entities where it is appropriate to take these into account, as discussed above) that are actually available at present to provide the relevant services, including, without limitation, financial assets, the assets being acquired from SBC and/or Ameritech, and the experience of members of the purchaser's management team. The capability to compete effectively in providing both local exchange service and long distance service under (3) can be on either a resale or facilities basis. The United States would look most favorably, in assessing capability, on those purchasers (including their affiliated entities where these are appropriate to take into account, as discussed above) that have significant experience in providing cellular mobile telephone service for purposes of (1) and (2), and on those purchasers that have significant experience in providing local exchange and long distance services for purposes of (3). Conversely, a purchaser without such experience would need to make a more compelling demonstration to satisfy the United States. The United States' evaluation of a purchaser with limited or no experience in providing the relevant services would take into account the nature and extent of efforts made by the defendants (or trustee, if applicable) to find purchasers with more substantial experience. A conclusion by the United States that a purchaser satisfies (1) and (2) is relevant to whether (3) is also satisfied, but not determinative, since (3) represents an additional requirement that must be met by a purchaser of the St. Louis Area

Cellular System Assets. No single factor or group of factors is determinative in the United States' exercise of its sole discretion in evaluation of a purchaser, and none of these considerations necessarily predetermines the outcome of the United States' review of any particular purchaser.

E. Other Provisions of the Decree

Section III specifies the persons to whom the Final Judgment is applicable, and provides for the Final Judgment to be applicable to certain Interim Parties to whom defendants might transfer the Cellular System Assets, other than purchasers approved by the United States.

Section VI obliges defendants, or the trustee if applicable, to notify the United States of any planned divestiture of Cellular System Assets within two business days of executing a binding agreement with a purchaser. It enables the United States to obtain information to evaluate the chosen purchaser as well as other prospective purchasers who expressed interest and establishes procedure for the United States to notify defendants and the trustee whether it objects to a divestiture. The United States' notification of its lack of objection is necessary for a divestiture to proceed. This section also provides for an objection by defendants to a sale by the trustee under the limited situation of alleged malfeasance, but in that case it is possible for the Court to approve a sale over defendants' objection.

Section VII establishes affidavit requirements for defendants to report to the United States on their compliance with the proposed Final Judgment, their activities in seeking to divest the Cellular System Assets prior to consummating their merger, and their actions to preserve the Cellular System Assets to be divested. Under V.E, the trustee also has monthly reporting obligations concerning the efforts made to divest the Cellular System Assets.

Section VIII prohibits defendants from financing all or any part of a purchase made by an acquirer of the Cellular System Assets, whether the divestiture is carried out by defendants or by the trustee.

Section IX, the Hold Separate Order, contains important requirements concerning the operation of the cellular systems before divestiture is complete, and the preservation of the Cellular System Assets as a viable, ongoing business. The obligations of Section IX.A fall on both defendants and both cellular systems in any Overlapping Market, obliging them to ensure that such cellular systems continue to be operated as separate, independent, ongoing, economically viable and active competitors to the other cellular system and all other wireless mobile telecommunications providers in the same area. Section IX.A requires separation of the operations of the two cellular systems and their books, records and competitively sensitive information. The requirements of Section IX.A both serve to ensure that defendants maintain their two cellular systems in the Overlapping Markets as fully separate competitors prior to consummating their merger, notwithstanding their expectations that the merger will take place, and reinforce the provisions of Section V.G concerning the separation of defendants and the trustee after the merger is consummated but while there are still Cellular System Assets awaiting sale.

Because SBC already operates the three Comcast systems in the Comcast/Ameritech Overlapping Markets, and the hold separate requirements of Section IX.A of the Final Judgment apply to "each of the cellular systems" that either defendant "owns or operates" in the Overlapping Markets, SBC is obliged to ensure that the three Comcast systems are operated in a way that complies with Section IX.A, pending divestiture of the Ameritech systems in these areas to purchasers approved by the Department of Justice.

Section IX.B, in contrast, applies only to the Cellular System Assets to be divested and to the period before consummation of the merger, while defendants still control those assets. It requires the defendant whose assets will be divested (or both, if it has not yet been decided which system will be divested in a particular market) to take certain specified steps to preserve the assets in accordance with past practices. These steps include maintaining and increasing sales, maintaining the assets in operable condition, providing sufficient credit and working capital, not removing the assets, not terminating, transferring or reassigning employees who work with the assets (with certain limited exceptions), and not taking any actions to impede or jeopardize the sale of the assets. Section IX.C similarly obliges defendants not to take any actions that would impede or jeopardize the sale of the assets after the merger has been consummated but while Cellular System Assets remain in the control of a trustee. Finally, Section IX.D obliges each defendant, during the period while they still control Cellular System Assets, to appoint persons not affiliated with the other defendant to oversee the Cellular System Assets to be divested and to be responsible for compliance with the Final Judgment.

In order to ensure compliance with the Final Judgment, Section X gives the United States various rights, including inspection of defendants' records, the ability to conduct interviews and take sworn testimony of defendants' officers, directors, employees and agents, and to require defendants to submit written reports. These rights are subject to legally recognized privileges, and information the United States obtains using these powers is protected by specified confidentiality obligations, which do permit sharing of information with the FCC under a customary protective order issued by that agency or a waiver of confidentiality. Under Section III.B, purchasers of the Cellular System Assets must also agree to give the United States similar access to information.

The Court retains jurisdiction under Section XI, and Section XII provides that the proposed Final Judgment will expire on the tenth anniversary of the date of its entry, unless extended by the Court. Although the required divestitures will be accomplished in a considerably shorter time, defendants are also precluded from reacquiring the divested properties within the term of the decree.

F. Divestiture-Related Developments Since the Complaint Was Filed

On April 5, 1999, Ameritech announced that it has agreed to sell 20 of its cellular telephone systems to a venture owned 97% by GTE and 7% by Georgetown Partners, for $3.27 billion. The systems being sold, according to Ameritech, cover a population of 11.4 million, and have nearly 1.5 million subscribers.[8] This agreement, of which the United States was notified on April 7, 1999, pursuant to Section VI.A of the proposed Final Judgment, is contingent on the closing of the merger between SBC and Ameritech. It is intended to eliminate all of the cellular overlaps alleged in the complaint and to satisfy all of the divestiture requirements of the proposed Final Judgment.[9] Ameritech

[8] GTE's announcement of the sale estimated that the cellular systems being transferred were slightly larger, covering a population of 12.9 million and having 1.7 million subscribers.

[9] In addition to the 17 cellular telephone systems in Overlapping Markets that are specified in the proposed Final Judgment, Ameritech and the purchasers agreed to include in the sale three other cellular telephone systems, in parts of the Indiana 1, Illinois 4, and Illinois 7 RSAs, which have been operated in close association with the other properties being sold. The inclusion of these additional properties in the agreement also has the effect of eliminating a limited overlap between Ameritech and SBC in part of the area of the Illinois 4 RSA.

will continue to provide services to its cellular customers until the closing of the merger. Up to 1,700 Ameritech employees of the cellular systems will be transferred to GTE as a result of the sale.

The United States will evaluate this proposal for sale of the cellular systems, pursuant to Section IV and VI of the proposed Final Judgment. Under the schedule specified by Section VI, the United States' evaluation of the acceptability of this proposal is likely to be completed before the 60-day period for comments pursuant to the APPA has expired.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages that the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the United States, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the responses of the United States will be filed with the Court and published in the **Federal Register.**

Written comments should be submitted to: Donald J. Russell, Chief, Telecommunications Task Force, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 8000, Washington, D.C. 20530.

The proposed Final Judgment provides, in Section XI, that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate to carry out or construe the Final Judgment, to modify any of its provisions, to enforce compliance, and to punish any violations of its provisions.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, seeking an injunction to block consummation of the merger and a full trial on the merits. The United States is satisfied, however, that the divestiture of cellular system assets and other relief contained in the proposed Final Judgment will preserve competition in the provision of wireless mobile telephone services in the Overlapping Markets. This settlement will also avoid the substantial costs and uncertainty of a full trial on the merits on the violations alleged in the complaint. Therefore, the United States believes that there is no reason under the antitrust laws to proceed with further litigation if the divestitures of the cellular system assets are carried out in the manner required by the proposed Final Judgment.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court *may* consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the United States Court of Appeals for the D.C. Circuit recently held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, "[t]he Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." [10] Rather,

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied, 454 U.S. 1083 (1981)*); see also Microsoft, 56 F.3d at 1460–62. Precedent requires that

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is

[10] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93d Cong 2d Sess. 8–9 (1974), reprinted in U.S.C.C.A.N. 6535, 6538.

the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[11]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States* v. *American Tel. & Tel Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), aff'd sub nom., *Maryland* v. *United States*, 460 U.S. 1001 (1983) (quoting Gillett Co., 406 F. Supp. at 716); *United States* v. *Alcon Aluminum, Ltd.* 605 F. Supp. 619, 622 (W.D. Ky. 1985).

Moreover, the court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." Microsoft, 56 F.3d at 1459. Since "[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that the court "is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States might have but did not pursue. Id.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment. Consequently, the United States has not attached any such materials to the proposed Final Judgment.

[11] *Bechtel*, 648 F.2d at 666 (emphasis added); see BNS, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (D.C. Cal. 1978); Gillette, 406 F. Supp. at 716. See also Microsoft, 56 F.3d at 1561 (whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'").

Respectfully submitted.

Joel I. Klein,
Assistant Attorney General.
A. Douglas Melamed,
Principal Deputy Assistant Attorney General.
Constance K. Robinson,
Director of Operations and Merger Enforcement.
Donald J. Russell,
Chief, Telecommunications Task Force.
Laury E. Bobbish,
Assistant Chief, Telecommunications Task Force.
Carl Willner,
D.C. Bar #412841.
Michael D. Chaleff,
Juanita Harris,
John M. Lynch,
D.C. Bar #418313.
Anne M. Purcell,
Trial Attorneys, Department of Justice, Antitrust Division, Telecommunications Task Force, 1401 H Street, NW, Suite 8000, Washington, DC 20530, (202) 514–5813.

Dated: April 16, 1999.

Certificate of Service

I hereby certify that copies of the foregoing Competitive Impact Statement in the matter of *United States* versus *SBC Communications Inc. and Ameritech Corp.*, Civ. No. 99–0715, were served on April 16, 1999 by hand and/or first-class U.S. mail, postage prepaid, upon each of the parties listed below:

Donald L. Flexner, Esq., Crowell & Moring LLP, 1001 Pennsylvania Avenue, NW, Washington, DC 20004–2595, Counsel for SBC Communications Inc.
Richard Favretto, Mayer, Brown, & Platt, 1909 K Street, NW, Washington, DC 20006–1101, Counsel for Ameritech Corporation.

Carl Willner,
Counsel for Plaintiff.

[FR Doc. 99–10678 Filed 4–28–99; 8:45 am]
BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 21, 1999, Mallinckrodt Chemical, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Levo-alphacetylmethadol (9648)	II
Oxymorpone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture the controlled substances for distribution as bulk products to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 28, 1999.

Dated: April 16, 1999.

John H. King,
Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–10763 Filed 4–28–99; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,414]

Baker Oil Tools, Baker Hughes Inc. Headquartered in Houston, TX; Notice of Negative Determination Regarding Application for Reconsideration

Including workers in the following states:

TA-W-35,414A Arkansas
TA-W-35,414B California
TA-W-35,414C Illinois
TA-W-35,414D Kansas
TA-W-35,414E Louisiana
TA-W-35,414F Mississippi
TA-W-35,414G Missouri
TA-W-35,414H New Mexico
TA-W-35,414I North Dakota
TA-W-35,414J Oklahoma
TA-W-35,414K Pennsylvania
TA-W-35,414L Tennessee
TA-W-35,414M Wyoming

By application dated April 9, 1999, Labor Counsel (hereafter referenced as the petitioner) for the subject firm requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of the subject firm headquartered in Houston, Texas, including workers in multiple States, signed on March 8, 1999, will soon be published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Findings of the initial investigation showed that workers of the subject firm were primarily engaged in the production of oilfield tools and equipment. Workers were denied eligibility to apply for TAA based on the finding that criteria (2) and (3) of the group eligibility requirements of Section 223 of the Trade Act of 1974, as amended, were not met.

The petitioner asserts that sales and employment at Baker Oil Tools decreased in the relevant time periods. Data submitted to the Department by Baker Oil Tools show increases in sales and employment from 1997 to 1998. Even if criterion (2) was met, further investigation would serve no purpose because criterion (3) has not been met. Aggregate U.S. imports of oil and gas field machinery are negligible.

The petitioner also asserts that specific consideration was not given to field marketing employees, particularly technical specialists and fishing tool supervisors providing services at the rig site. The petition was filed by a company official on behalf of workers of the subject firm manufacturing oilfield tools and service equipment at various U.S. locations. The investigation concluded that the predominant portion of the workforce at Baker Oil Tools were engaged in employment related to the production of oilfield tools and equipment.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C. this 13th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10719 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,586]

Buckeye, Inc. Midland, TX; Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers of Buckeye, Inc., Midland, Texas, which was published in the **Federal Register** on April 6, 1999 (64 FR 16752) in FR Document 99-8383.

This revises the subject firm TA-W number on page 16752 to read TA-W-35,586 instead of TA-W-35,486.

Signed in Washington, D.C. this 12th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10710 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,152]

Buster Brown Apparel, Inc., Chilhowie, VA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on January 19, 1999, applicable to workers of Buster Brown Apparel Inc. located in Chilhowie, Virginia. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9354).

At the request of a State representative, the Department reviewed the certification for workers of the subject firm. The certification limited the coverage to workers engaged in employment related to the embroidering of children's apparel. New information provided by a company official reveal that subsequent layoffs have occurred for those workers engaged in sewing children's apparel.

The intent of the Department's certification is to cover all workers of Buster Brown Apparel, Inc., Chilhowie, Virginia, who were adversely affected by increased imports of children's apparel. Accordingly, the Department is amending the certification to expand coverage to all workers of the subject firm.

The amended notice applicable to TA-W-35,152 is hereby issued as follows:

All workers of Buster Brown Apparel, Inc., Chilhowie, Virginia, who became totally or partially separated from employment on or after October 19, 1997 through January 19, 2001, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 12th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10718 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,483]

Computalog U.S.A., Inc. Forth Worth, Texas; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Computalog U.S.A., Inc., Forth Worth, Texas. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,4583; Computalog U.S.A., Inc. Fort Worth, Texas (April 16, 1999)

Signed at Washington, DC this 20th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance

[FR Doc. 99–10717 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,571]

Double EE Service, Inc., Williston, ND; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Double EE Service, Inc., Williston, North Dakota. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,571; Double EE Service, Inc., Williston, North Dakota (April 20, 1999)

Signed at Washington, D.C. this 20th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance

[FR Doc. 99–10716 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,820]

General Electric Company, Power Systems Plant, Fitchburg, MA; Notice of Revised Determination on Reconsideration

On November 18, 1998, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on December 4, 1998 (63 FR 67142).

The Department initially denied TAA to workers of General Electric Company, Power Systems Plant, Fitchburg, Massachusetts, producing steam turbines because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department surveyed for additional bids lost by the subject facility. The survey revealed that the subject firm lost significant bids to foreign sources and that the steam turbines being build under those lost bids were manufactured offshore and imported into the U.S.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with steam turbines contributed importantly to the declines in sales or production and to the total or partial separation of workers of General Electric Company, Power Systems Plant, Fitchburg, Massachusetts. In accordance with the provisions of the Act, I make the following certification:

All workers of General Electric Company, Power Systems Plant, Fitchburg, Massachusetts who became totally or partially separated from employment on or after July 22, 1997 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 16th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10722 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–32,712]

Johnson & Johnson Medical, Incorporated, a/k/a Ethicon, Inc., Including Temporary Workers of Kelly Services, Incorporated, El Paso, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on October 10, 1996, applicable to workers of Johnson & Johnson Medical, Inc., located in El Paso, Texas. The notice was published in the **Federal Register** on October 29, 1996 (61 FR 55821). The certification was amended on January 10, 1997, to include temporary workers of Kelly Services, Incorporated, engaged in employment related to the production of surgical gowns, drapes and sheets at Johnson & Johnson Medical's El Paso plant. The notice was published in the **Federal Register** on January 31, 1997 (62 FR 4799).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by a company official and the State agency reveal that as of January 1, 1998, Johnson and Johnson Medical Inc., and Ethicon, Inc. merged. Some of the workers at the El Paso plant have had their wages reported to the Unemployment Insurance (UI) tax account for Ethicon, Inc.

The intent of the Department's certification is to cover all workers of Johnson & Johnson Medical, Incorporated, El Paso, Texas who were adversely affected by increased imports. Accordingly, the Department is amending the certification to include workers of Ethicon, Inc.

The amended notice applicable to TA–W–32,712 is hereby issued as follows:

All workers of Johnson & Johnson Medical, Incorporated, also known as Ethicon, Inc., El Paso, Texas, including temporary workers of Kelly Services, Incorporated engaged in employment related to the production of surgical gowns, drapes and sheets for Johnson & Johnson Medical, Incorporated, El Paso, Texas, who became totally or partially separated from employment on or after August 29, 1995 through October 10, 1998, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 7th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10721 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,617]

Longview Fiber Company, Leavenworth Wood Products, Leavenworth, WA, Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 8, 1999 in response to a worker petition which was filed on behalf of workers at Longview Fiber Company, Leavenworth Wood Products, Leavenworth, Washington.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 7th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10705 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 10, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 10, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 29th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 03/29/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,916	Mitel, Inc (Comp)	Ogdensburg, NY	03/08/1999	Telephone Systems.
35,917	Compaq—Network Products (Wkrs)	Irving, TX	02/11/1999	Computer Components
35,918	Rexford Paper Co (UPIU)	Greebay, WI	03/10/1999	Pressure Sensitive Tape.
35,919	Dales Sportwear (Wkrs)	Hartford, AL	03/18/1999	Men's shirts.
35,920	Soniform (Comp)	El Cason, CA	03/08/1999	Jackets for Scubadiving.
35,921	Prentiss Manufacturing Co (Comp)	Tupelo, MS	03/11/1999	Men's Shirts
35,922	Odessa Packer Service (Wkrs)	Odessa, TX	03/02/1999	Sales, Service Repair Down Hole Equip.
35,923	BF Goodrich Aerospace (Wkrs)	Sheridan, AR	03/01/1999	Inlet Cowls and Exit Nozzles.
35,924	Deloit—Harnischfeger	Beloit, WI	03/11/1999	Paper Making Machines.
35,925	Ansell Protective Product (Comp)	Tarboro, NC	03/12/1999	Liners—Work Gloves.
35,926	Packwood Lumber (WCIW)	Randle, WA	03/09/1999	Softwood Dimension Lumber.
35,927	Nemanco, Inc. (Wkrs)	Oak Grove, LA	03/01/1999	Men's Jeans.
35,928	Murata Electronics (Wkrs)	State College, PA	03/01/1999	Ceramic Chip Capacitors.
35,929	United Foundries, Inc. (Wkrs)	Youngstown, OH	03/10/1999	Cast Iron and Steel Rolls.
35,930	Mueller Industries (Wkrs)	Wynne, AR	03/01/1999	Copper Tubing.
35,931	Power Resources, Inc. (Wkrs)	Douglas, WY	03/11/1999	Uranium.
35,932	Lenox Crystal, Inc. (Wkrs)	Mt. Pleasant, PA	03/01/1999	Crystal Stemware.
35,933	Boise Cascade Corp. (Wkrs)	Boise, ID	03/01/1999	White Paper, Bleached Pulp.
35,934	Torrington Company (The) (Comp)	Elberton, GA	03/11/1999	Camshafts.
35,935	Suckle Corp. (IUE)	Scranton, PA	03/17/1999	Metal Fabricator.
35,936	Senior Flexonics—QSI (Wkrs)	Allison Park, PA	03/08/1999	Automotive Tubing Products.
35,937	Lee Sportswear, Inc. (Comp)	Plantersville, MS	03/18/1999	Medical Uniforms.
35,938	Day Timers, Inc. (Comp)	East Texas, PA	03/17/1999	Business Planners/Calendars.
35,939	Dame Manufacturing (Comp)	Greenville, KY	03/16/1999	Levi Strauss Denim Jackets.
35,940	Sanchez Oil and Gas (Comp)	Laredo, TX	03/19/1999	Oil and Gas.
35,941	Master Slack Corp. (Wkrs)	Bolivar, TN	03/16/1999	Men's and Boys' Trousers.
35,942	Rainier West Sportswear (Wkrs)	Centralia, WA	03/09/1999	Sportswear.
35,943	Greif Bros. Corp (Comp)	Baltimore, MD	03/15/1999	Steel Drums.
35,944	Wabash Technologies (Comp)	Huntington, IN	03/12/1999	Engine Timing Sensors.
35,945	World Class Processing (USWA)	Ambridge, PA	03/10/1999	Steel Coils.
35,946	Plaid Clothing Co (UNITE)	Knoxville, TN	03/16/1999	Men's Tailored Suits.
35,947	Flair Fold Corp (Wkrs)	Hiawatha, KS	03/08/1999	Solid Wood Interior Shuters.

APPENDIX—Continued

[Petitions Instituted on 03/29/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,948	F. Schumacher & Co. (Wkrs)	Richburg, SC	03/10/1999	Draperies, Pillows, Comforters.
35,949	Bonnell Manufacturing (UNITE)	Mount Laurel, NJ	03/08/1999	Carbon Steel Products.
35,950	Komatsu Silicon America (Comp)	Hillsboro,OR	03/12/1999	Silicon Wafers.
35,951	Plymouth Stitching, Inc. (Comp)	Ashland, NH	03/15/1999	Ladies' Sportswear.
35,952	Atlas Cylinders—Parker (Wkrs)	Eugene, OR	03/16/1999	Hydraulic, Pnuematic cylinders.
35,953	Siemens Fossil Power (Comp)	West Allis, WI	03/16/1999	Gas Turbines.
35,954	SNS (Wkrs)	Odessa, TX	03/17/1999	Wrist Pins.
35,955	Mowad Apparel, Inc. (Comp)	El Paso, TX	03/15/1999	Apparel—Sewing.
35,956	Pennsylvania Steel Tech (USWA)	Steelton, PA	03/06/1999	Carbon Steel Products.
35,957	Stroh Brewery Co. (Comp)	Detroit, MI	03/15/1999	Beer.
35,958	Jencraft Corp. (Wkrs)	McAllen, TX	03/16/1999	Window Blinds.
35,959	Bonney Forge Corp. (Wkrs)	Allentown, PA	03/15/1999	Pipe Fittings.
35,960	Columbia Sportswear Co. (Comp)	Portland, OR	03/17/1999	Inspection of Imported Garments.
35,961	Dupont—Cooper River (Wkrs)	Charleston, SC	03/11/1999	Dacron Yarn.

[FR Doc. 99–10711 Filed 4–28–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,275]

Motorola, Tempe, AZ; Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers of Motorola, Tempe, Arizona, which was published in the **Federal Register** on April 6. 1999 (64 FR 16752) in FR Document 99–8383.

This revises the subject firm TA–W number on page 16752 to read TA–W–35,275 instead of TA–W–275.

Signed in Washington, D.C.

Grant D. Beale,

Acting Director, Office of Adjustment Assistance.

[FR Doc. 99–10709 Filed 4–28–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,630]

Motorola Inc. Semiconductor Products Sector, Semiconductor Components Group, Phoenix, AZ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 8, 1999, in response to a worker petition which was filed by the company on behalf of its workers at MOTOROLA INC., Semiconductor Products Sector, Semiconductor Components Group, located in Phoenix, Arizona.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 12th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc 99–10707 Filed 4–28–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,172]

National Oilwell, McAlester, OK; Notice of Revised Determination on Reconsideration

On March 18, 1999, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on April 6, 1999 (64 FR 16757).

The Department initially denied TAA to workers of National Oilwell, McAlester, Oklahoma, because the "contributed importantly" group eligibility requirement of section 223(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department obtained additional information from the company concerning imports of liners such as those manufactured at the subject facility. The company provide information which referred a reduction of liner production at the subject facility while the facility increased its reliance on imports of liners.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with liners contributed importantly to the declines in sales or production and to the total or partial separation of workers of National Oilwell, McAlester, Oklahoma. In accordance with the provisions of the Act, I make the following certification:

All workers of National Oilwell, McAlester, Oklahoma engaged in the production of liners who became totally or partially separated from employment on or after October 22, 1997 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974;

Signed in Washington, DC, this 19th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10720 Filed 4–28–99 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,498]

Notice of Termination of Investigation

Patterson Drilling Company, Snyder, Texas and operating in the following States:

TA–W–35,498A, Texas
TA–W–35,498B, Louisiana
TA–W–35,498C, New Mexico
TA–W–35,498D, Mississippi

Pursuant to Section 221 of the Trade Act of 1974, an investigation was

initiated on January 4, 1999 in response to a worker petition which was filed on behalf of workers and former workers at Patterson Drilling Company, located in Snyder, Texas (TA–W–35,498); and operating in the following States (1) Texas (TA–W–35,498A); (2) Louisiana (TA–W–35,498B); (3) New Mexico (TA–W–35,498C); and (4) Mississippi (TA–W–35,498D).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA–W–35,699 and TA–W–35,699A–D). Consequently, further investigation in this matter would serve no purpose and the investigation has been terminated.

Signed at Washington, D.C. this 13th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10708 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Schlumberger Technology Corporation, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 26, 1999, applicable to all workers of Schlumberger Oilfield Services, a/k/a Dowell Schlumberger and a/k/a Anadrill Schlumberger, headquartered in Sugarland, Texas. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9354).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that Schlumberger Technology Corporation is the parent corporation of Schlumberger Oilfield Services, also known as numerous firm entities cited above and operating at various locations in the above cited states. The workers provide oilfield and gas drilling and exploration services, as well as related support and warehouse duties.

The intent of the Department's certification is to include all workers of Schlumberger Technology Corporation, Schlumberger Oilfield Services, a/k/a/ Dowell Schlumberger, a/k/a/ Anadrill Schlumberger, A/k/a/ Geco-Prakla, a/k/a IPM, a/k/a Product Centers, a/k/a GeoQuest, a/k/a Sedco-Forex, a/k/a Wireline and a/k/a Shared Services adversely affected by imports. Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–35, 463, TA–W–35, 060, TA–W–35, 144 and TA–W–35, 145 is hereby issued as follows:

All workers of Schlumberger Technology Corporation, Schlumberger Oilfield Services, a/k/a/ Dowell Schlumberger, a/k/a/ Anadrill Schlumberger, a/k/a Geco-Prakla, a/k/a IPM, a/k/a Product Centers, a/k/a GeoQuest, a/k/a Sedco-Forex, a/k/a Wireline, and a/k/a Shared Services, headquartered in Sugarland, Texas (TA–W–35,463) and operating at various locations in the following States cited below:

TEXAS TA–W–35,463A
WYOMING TA–W–35,463B
CALIFORNIA TA–W–35463C
ALASKA TA–W–35, 463D
COLORDO TA–35–463E
ARKANSAS TA–W–35,463F
ALABAMA TA–W–35,463G
NORTH DAKOTA TA–W–35,463H
WEST VIRGINIA TA–W–35,463I
ILLINOIS TA–W–35,463J
KANSAS TA–W–35,463K
MICHIGAN TA–W–35,463L
MISSISSIPPI TA–W–35,463M
UTAH TA–W–35,463N
VIRGINIA TA–W–35,463O
NEW JERSEY TA–W–35,463P
PENNSYLVANIA TA–W–35,463Q

who became totally or partially separated from employment on or after December 21, 1997 through January 26, 2001; all workers located in Rosewell, New Mexico (TA–W–35,060) and operating at various locations in the State of New Mexico (TA–W–35,060A) who became totally or partially separated from employment on or after September 15, 1997 through January 26, 2001; all workers located in Youngsville, Louisiana (TA–W–35,144) and operating at various locations in the State of Louisiana (TA–W–35,144A) who became totally or partially separated from employment on or after October 13, 1997 through January 26, 2001; and all workers located in Ducan, Oklahoma (TA–W–35,145) and operating at various locations in the State of Oklahoma (TA–W–35,145A) who became totally or partially separated from employment on or after October 1, 1997 through January 26, 2001, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10723 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,697]

Wood Group Pressure Control, Williston, ND; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 22, 1999, in response to a petition filed on the same date on behalf of workers at Wood Group Pressure Control, Williston, North Dakota.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 12th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10706 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

NAFTA–02977; Ansell Edmont D.B.A. Ansell Protective Products, Haynesville, Louisiana; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on March 1, 1999 in response to a petition filed on behalf of workers at Ansell Edmont, d.b.a. Ansell Protective Products, Haynesville, Louisiana.

Currently, there is a petition investigation (NAFTA–2948) in progress for the workers at the subject plant. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed at Washington, DC, this 13th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10714 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

NAFTA–03060; Ithaca Industries, Incorporated, Cairo, GA; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on April 12, 1999 in response to a petition filed on behalf of workers at Ithaca Industries, Incorporated, Cairo, Georgia.

The petitioning group of workers are eligible for NAFTA/Transitional Adjustment Assistance benefits under an existing certification that is still active (NAFTA–2851A). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 15th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–10715 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–2909]

Motorola Inc., Semiconductor Products Sector, Semiconductor Components Group, Phoenix, AZ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 5, 1999, in response to a worker petition which was filed by the company on behalf of its workers at MOTOROLA INC., Semiconductor Products Sector, Semiconductor Components Group, located in Phoenix, Arizona.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 12th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 10713 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply For NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Acting Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Acting Director of OTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Acting Director of OTAA not later than May 10, 1999.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Acting Director of OTAA at the address shown below not later than May 10, 1999.

Petitions filed with the Governors are available for inspection at the Office of the Acting Director, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC, this 9th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Siebe Appliance COntrols (Co.)	Winterset, IA	03/09/1999	NAFTA–2,990	Electronic range controls.
Exide Electronics (Co.)	Leland, NC	02/25/1999	NAFTA–2,991	Electronic system back-up.
World Class Processing (USWA)	Ambridge, PA	03/15/1999	NAFTA–2,992	Hot rolled steel coils.
Wells Lamont (Co.)	McGehee, AR	03/09/1999	NAFTA–2,993	Leather work gloves.
USA Venturcraft (Wkrs)	Abilene, TX	03/16/1999	NAFTA–2,994	Fiberglass trailors.
Mountain Alloys (Wkrs)	Grants Pass, OR	03/15/1999	NAFTA–2,995	Speciality metal, oil well pump.
Active Products—Active Marion (UAW).	Marion, IN	01/13/1999	NAFTA–2,996	Metal stampings.
Mine Service and Supply (PJO)	Battle Mountain, NV	03/15/1999	NAFTA–2,997	Barile—mining.
Siemens Fossil Power (UAW)	West Allis, WI	03/17/1999	NAFTA–2,998	Gas turbine component.
Senior Flexonics (Wkrs)	Allison Park, PA	03/17/1999	NAFTA–2,999	Flexible steel tubing.
Phoenix Production (Co.)	Cody, Wy	03/15/1999	NAFTA–3,000	Crude oil.
Charles Komar and Sons (Co.)	McAlester, OK	03/17/1999	NAFTA–3,001	Women's sleepwear.
Rainier West Sportswear (Wkrs)	Centralia, WA	03/17/1999	NAFTA–3,002	Sportswear.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Packwood Lumber Sales (Wkrs)	Packwood, WA	03/17/1999	NAFTA–3,003	Lumber.
MacWhyte Wire Rope (UAW)	Kenosha, WI	02/18/1999	NAFTA–3,004	Wire rope.
Florida Canyon Mining—Pegasus Gold (PJO).	Spokane, WA	03/18/1999	NAFTA–3,005	Gold bullion.
High Desert Mineral Resources (PJO).	Elko, NV	03/18/1999	NAFTA–3,0306	Gold mine.
Impact Equipment (PJO)	Sparks, NV	03/18/1999	NAFTA–3,007	Heavy equipment.
Cashman Equipment (PJO)	Elko, NV	03/18/1999	NAFTA–3,008	Heavy equipment.
Canyon Construction (PJO)	Elko, NV	03/18/1999	NAFTA–3,009	Construction of facilities.
Romarco Minerals (PJO)	Reno, NV	03/18/1999	NAFTA–3,010	Gold.
Stroh Brewing (IBS)	LaCrosse, WI	03/19/1999	NAFTA–3,011	Brewery production.
Controlled Recovery (Co.)	Hobbs, NM	03/19/1999	NAFTA–3,012	Crude oil.
Controlled Environments (Co.)	Penbina, ND	03/19/1999	NAFTA–3,013	Parts—environmental growth chambers.
Master Slack (Wkrs)	Boliver, TN	03/18/1999	NAFTA–3,014	Men's and Boy's trousers.
Quest Petroleum (CBO)	Reno, NV	03/14/1999	NAFTA–3,015	Crude oil and natural gas.
Day Timers (Co.)	East Texas, PA	03/22/1999	NAFTA–3,016	Paper based calendar products.
Bonney Forge (Wkrs)	Allentown, PA	03/22/1999	NAFTA–3,017	Raw unmachined pipe fittings.
Heinz Frozen Food—H.J. Heinz (Wkrs).	Poratello, ID	03/15/1999	NAFTA–3,018	Frozen food entrees.
Parsons Industries (Wkrs)	Ashland, OR	03/22/1999	NAFTA–3,019	Edge-glued panels.
Harnischfeger Industries—Beloit Corp (IAMAW).	Beloit, WI	03/17/1999	NAFTA–3,020	Pump and paper.
Smith Food and Vending (Wkrs)	Joplin, MO	03/19/1999	NAFTA–3,021	Food services.
Dowell Schlumberger (Wkrs)	Mt. Carmel, IL	03/17/1999	NAFTA–3,022	Oil.
Peninsula Group (Co.)	Tumwater, WA	03/22/1999	NAFTA–3,023	Hotel management services.
Sanchez Oil and Gas (Co.)	Laredo, TX	03/23/1999	NAFTA–3,024	Oil and natural gas.
Standard Motor Products (Co.)	Dallas, TX	03/12/1999	NAFTA–3,025	Ignitiion wire sets.
Mowad Apparel (Co.)	El Paso, TX	03/22/1999	NAFTA–3,026	Cut and sew garments.
M. Wile—Whiteville Apparel (UNITE)	Whiteville, NC	03/23/1999	NAFTA–3,027	Men's tailored suitend sport coats.
Cascade Corporation (IW)	Vancouver, WA	03/22/1999	NAFTA–3,028	Welded heel forks.
3M—Electrical Products (Co.)	Thorofare, NJ	03/23/1999	NAFTA–3,029	Electrical crimp terminals, cable ties.
Key Energy Services—Rocky Mountain (Co).	Casper, WY	03/22/1999	NAFTA–3,030	Oil and natural gas.
International Steel Wool (Co.)	Springfield, OH	03/11/1999	NAFTA–3,031	Chopped steel wool fibers.
Dame Manufacturing (Co.)	Greenville, KY	03/23/1999	NAFTA–3,032	Denim jackets.
Morrow Snowboards (Wkrs)	Salem, OR	03/25/1999	NAFTA–3,033	Snowboards, boots, binding.
Mishy Sportwear (Co.)	Opa Locka, FL	03/24/1999	NAFTA–3,034	Women apparel.
A and M Manufacturing (Wkrs)	Cosby, MO	03/26/1999	NAFTA–3,035	Machined parts (cherry pickers).
Stroh Brewery Company (The) (Wkrs).	Detroit, MI	03/16/1999	NAFTA–3,036	Beer.
Jencraft Corporation (Wkrs)	McAllen, TX	03/26/1999	NAFTA–3,037	Distribution.
Triple D Services (Co.)	Gastonia, NC	03/24/1999	NAFTA–3,038	Womens clothing.
Intertape Polymer Group—Rexford Paper (UPIP).	Mikwaukee, WI	03/24/1999	NAFTA–3,039	Pressure sensitive and gummed tape.
Homestake Mining (Co.)	Sparks, NV	03/24/1999	NAFTA–3,040	Gold.
Atlas Cylinders—Parker Hannafin (Wkrs).	Eugene, OR	03/25/1999	NAFTA–3,041	Industrial commercial hydraulic.
CMS Oila and Gas (Co.)	Traverse City, MI	03/22/1999	NAFTA–3,042	Natural gas and liquid natural gas.
Dekko Automotive Technologies (Co.).	Osceola and Murray, IA	03/18/1999	NAFTA–3,043	Wiring harnesses for vehicles.
Vanity Fair Intimates, Inc (Comp)	Milton, FL	03/26/1999	NAFTA–3,044	Ladies' Intimate Apparel.
EST (Wrks)	Pittsfield, MO	03/29/1999	NAFTA–3,045	Duct Detector Smoke Alarms.
Mid Oregon Industries (Comp)	Bend, OR	03/29/1999	NAFTA–3,046	Wood Working Machinery.
Fleming Potter (GUIU)	Peoria, IL	03/29/1999	NAFTA–3,047	Lables.
D.B. Riley Storker (BMU)	Erie, PA	04/02/1999	NAFTA–3,048	Metal products.
Murata Electronics (Wkrs)	State College, PA	04/01/1999	NAFTA–3,049	Microwave.
Mead (PACE)	St. Joseph, MO	04/06/1999	NAFTA–3,050	Notebook cases.
Ansewn Shoe (Co.)	Bangor, NE	04/01/1999	NAFTA–3,051	Footwear.
Augusta Sportswear (Co.)	Metter, GA	04/01/1999	NAFTA–3,052	Women's tops.
O Cedar Brands (Co.)	South Lancaster, MA	03/30/1999	NAFTA–3,053	Corn brooms, wet mops.
Avery Dennison (Co.)	Rancho Cucamonga, CA	03/30/1999	NAFTA–3,054	Coated paper and film.
World Color (Wkrs)	Dresden, TN	03/31/1999	NAFTA–3,055	Paperback books.
Quicksilver Confracting (Co.)	Bend, OR	03/31/1999	NAFTA–3,056	Wood chips, saw logs.
Hirsh Company (IABSO)	Skokie, IL	03/31/1999	NAFTA–3,057	Metal and wood shelving.
Winona Knitting Mills (Wkrs)	LaCrescent, MN	03/31/1999	NAFTA–3,058	Sweaters.
International Paper (Co.)	Corinth, NY	03/31/1999	NAFTA–3,059	Publication paper.
Ithaca Industries (Co.)	Cario, GA	03/31/1999	NAFTA–3,060	Underwear.
Mark Steel Soffe (Wkrs)	Spring City, UT	03/25/1999	NAFTA–3,061	Jewelry.
Safariland (Wkrs)	Ontario, CA	03/29/1999	NAFTA–3,062	Leather holstons, belts and gear.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Logistix (Wkrs)	Hillsboro, OR	03/30/1999	NAFTA–3,063	Media duplication and electronic printing.
Uniroyal Chemical (Co.)	Painesville, OH	03/26/1999	NAFTA–3,064	Nitrile rubber.
E.I. du Pont de Nemours (Wkrs)	Rochester, NY	03/30/1999	NAFTA–3, 065	Medical x-ray processing chemistries.
Precision Circuits (IAM)	Eatontown, NJ	03/25/1999	NAFTA–3, 066	Printed circuits boards.
Plaid Clothing (UNITE)	Knoxville, TN	03/30/1999	NAFTA–3, 067	Mens tailored suits.
Paris Fashions (Wkrs)	Paris, TN	04/01/1999	NAFTA–3, 068	Men's and women's clothing.
Crescent—U.S. Mat (Co.)	Rapdi City, SD	03/31/1999	NAFTA–3, 069	Picture frmaes.
Oneita Industries (Co.)	Andrew, SC	04/05/1999	NAFTA–3, 070	T-shirts.
Blitz Weinbard Brewery (Co.)	Portland, OR	04/05/1999	NAFTA–3, 071	Beer and ale.
Bengie Manufacturing (Co.)	Stuart, VA	04/05/1999	NAFTA–3, 072	Fleece garments and t-shirts.
Gray Bec Lime (BMU)	Bellefeste, PA	04/06/1999	NAFTA–3, 073	Lime.
Stand Lumsden Farm (Co.)	Bloomfield, MO	04/06/1999	NAFTA–3, 074	Corn and cotton.
BASF (Wkrs)	Detroit, MI	03/29/1999	NAFTA–3, 075	Paint, resins and colorants.

[FR Doc. 99–10712 Filed 4–28–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1994 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This problem helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "National Compensation Survey." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressed section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before June 28, 1999.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue N.E., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The National Compensation Survey (NCS) is an ongoing survey of earnings and benefits among private firms, and State and Local government. The survey resulted from the integration of three surveys: the Occupational Compensation Survey Program (OCSP); the Employment Cost Index (ECI); and the Employee Benefits Survey (EBS). Data from these surveys are critical for setting Federal white-collar salaries, determining monetary policy (as a Principal Federal Economic Indicator), and providing data for compensation administrators and researchers in the private sector.

Data are collected from a sample of employers. These data consist of information about the duties, responsibilities, and compensation for a sample of occupations for each sampled employer.

Data are updated on either an annual or quarterly basis. The updates allow for production of data on change in earnings and total compensation.

II. Current Actions

In 1996, BLS began the National Compensation Survey (NCS) with the collection of occupational earnings by locality and by job duties and responsibilities. Since that time, BLS has published compilations of these data for 65 separate localities.

In 1998, BLS began the collection of benefits data in the NCS. BLS collected information on the cost, provisions, and incidence of all the major employee benefits through the ECI and EBS. The change to the NCS sample reduces total respondent burden and increases possible ways BLS can provide data.

NCS data on benefit costs will continue to be used to produce the Employment Cost Index and Employer Expenditures for Employee Compensation Series. The data provided will be the same, and the series will be continuous.

The NCS also will provide much of the data now provided by the EBS. These data include estimates of how many workers receive the various employer-sponsored benefits and the common features of those benefit plans.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics

Title: National Compensation Survey.

Affected Public: Business or other for-profit; not-for-profit institutions; and State, Local or Tribal Government.

Total Respondents: 40,116 (3-year average).

Frequency: Annually in some establishments, and quarterly in others.

Total Responses: 71,607 (3-year average).

Average Time Per Response: 45 minutes (3-year average).

Estimated Total Burden Hours: 54,262 hours (3-year average).

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

All figures in the chart below are based on a 3-year average. The sum of total respondents and the sum of total responses are greater on the chart below than the figures listed above; many respondents are asked to provide information relating to more than one form.

Collection forms can have multiple purposes. The chart below shows the average collection time for the predominant use of the form, and the weighted average time for all uses of the form. The benefit initiation forms, for example, are used both for initial collection of benefits from an establishment, and for technical review of the initial collection. The initial collection takes an average of 180 minutes, while the records check takes about eight minutes. The weighted average collection time in 156 minutes.

Form	Total respondents	Frequency	Total annual responses	Average minutes per response	Average time for the predominant form use	Total annual burden
Earnings Initiation (NCS 99–1)	5,640	Annual or Quarterly	6,204	76	82	7,821
Earnings Update (NCS 99–2)	24,106	Annual or Quarterly	54,368	19	20	17,477
Benefits Initiation (NCS 99–3)[1]	2,240	Annual or Quarterly	2,593	156	180	6,748
Benefits Update (NCS 99–4)	10,686	Annual or Quarterly	37,807	20	20	12,464
Informed Consent (NCS 99–5)	(*)	Unknown	Unknown	Negligible	Negligible	Negligible
Collection Not Tied to a Specific Form.	10,370	Annual	10,370	56	82	9,752
Total	53,041		111,342			54,262

[1] Form 3038D will continue to be used until the NCS data capture system is completed at the end of FY 2000.
* Unknown; dependent upon number of respondents who elect to have third parties provide data.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; the comments also will become a matter of public record.

Signed at Washington, D.C., this 23rd day of April 1999.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–10724 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "Mass Layoff Statistics (MLS) Program Survey."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 28, 1999. The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue NE., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 309(2)(a)(1)(A)(iii) of the Workforce Investment Act (WIA) states that the Secretary of Labor shall oversee development, maintenance, and continuous improvements of the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings. Prior to the WIA, Section 462(e) of PL 97–300, the Job Training Partnership Act (JTPA), provided that the Secretary of Labor develop and maintain statistical data relating to permanent mass layoffs and plant closings and issue an annual report. The report includes, at a minimum, the number of plant closings

and mass layoffs, and the number of workers affected. The data are summarized by geographic area and industry.

The Mass Layoff Statistics (MLS) program uses a standardized, automated approach to identify, describe, and track the impact of major job cutbacks. The program utilizes, to the greatest degree possible, existing Unemployment Insurance (UI) records and computerized data files, supplemented by direct employer contact. Its major features include:

- The identification of major layoffs and closings through initial UI claims filed against the identified employer;
- The use of existing files on claimants to obtain basic demographic and economic characteristics on the individual;
- The telephone contact of those employers meeting mass layoff criteria to obtain specific information on the nature of the layoff and characteristics of the establishment;
- The identification of the continuing impact of the mass layoff on individuals by matching affected initial claimants with persons in claims status; and,
- The measurement of the incidence of the exhaustion of regular state UI benefits by affected workers.

In the program, State Employment Security Agencies (SESAs) submit seven comprehensive reports each quarter, and a preliminary, summary report each month. These computerized reports contain information from State administrative files and information obtained from those employers meeting the program criteria of a mass layoff.

Congress has provided for the implementation of the MLS program by the Bureau of Labor Statistic (BLS) through the Fiscal Years 1984–1992 appropriations for the Department of Labor, Health and Human Services, Education, and related agencies. The program was not operational in Fiscal Years 1993 and 1994. Program operation resumed in Fiscal Year 1995 with funds provided by the Employment and Training Administration (ETA).

At the present time, all states (including the District of Columbia and Puerto Rico) are participating in the program.

II. Current Actions

The information collected and compiled in the MLS program is used to satisfy legislative reporting requirements mandated by Section 309(2)(a)(1)(A)(iii) of the Workforce Investment Act (WIA), enacted on August 7, 1998. That section requires the Secretary of Labor to oversee the development, maintenance, and continuous improvement of a nationwide employment statistics systems that includes the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings.

In addition to the BLS uses of MLS data, such data are used by Congress, the Executive Branch, the business, labor, and academic communities, SESAs, and the U.S. Department of Labor for both macro- and microeconomic analysis, including specific labor market studies geared towards manpower assistance and development. Congress used these data in conjunction with the findings from a supplemental study of layoff actions in the development of the Worker Adjustment and Retraining Notification (WARN) Act, which was enacted in August 1988. Furthermore, the ETA uses MLS microdata in the evaluation of dislocated worker programs to assess the effectiveness of those activities and services.

A Congressionally mandated use of mass layoff data includes the WIA, which replaces Title III of the JTPA. Section 133 of the WIA encourages the use of MLS data in substate allocations relating the dislocated worker employment and training activities.

State agencies use of the MLS data in various ways, including the identification of geographic areas in need of special manpower services; ailing or troubled industries; specific employers needing assistance; outreach activities for the unemployed; and workers in need of temporary health care services.

There is no other comprehensive source of statistics on either establishments or workers affected by mass layoffs and plant closings; therefore, none of the aforementioned data requirements could be fulfilled if this data collection did not occur.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Mass Layoff Statistics Program.

OMB Number: 1220–0090.

Affected Public: Business or other for profit; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Total Respondents: 15,652.

Frequency: SESAs report quarterly and annually. Affected employers report on occasion.

Total Responses: 16,432.

Average Time Per Response: 60 minutes for SESAs and 30 minutes for employers.

Estimated Total Burden Hours: 73,570 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 23rd day of April 1999.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–10725 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement, with change, of the "National Longitudinal Survey of Youth 79." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 28, 1999 The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kruz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE, Washington, DC 20212. Ms. Kruz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Conducted since 1979, the National Longitudinal Survey of Youth 79 (NLSY79) consists of a nationally representative sample of individuals who were ages 14 to 21 in 1979. The cohort members were interviewed annually from 1979 to 1994. After the 1994 interview, the survey was moved to a biennial cycle.

The data collected in the NLSY79 will contribute to the knowledge about labor market processes involved in transitions between jobs, job searches, and hierarchies within jobs. Survey data will contribute to the knowledge about individuals' ability to succeed in the job market and how levels of success relate to educational attainment, vocational training, prior occupational experiences, and general and job-specific experiences.

The NLSY79 research contributes to the formation of national policy in the areas of education, training and employment programs, and unemployment compensation. In addition, members of the academic community publish articles and reports based on these NLSY79 data for the Department of Labor (DOL) and other funding agencies. The DOL uses the changes measured in the labor market to design programs that would ease employment and unemployment problems. The survey design provides data gathered over time to form the only data set that contains this information. Without the collection of these data, an accurate longitudinal data set could not be provided to researchers and policy-makers, and the DOL could not perform its policy- and report-making activities, as described above.

II. Current Actions

This proposed collection covers wave 19 of this longitudinal study of individuals who were age 14 through 21 on December 31, 1978. The DOL will interview these youths in the year 2000 to study how young adults make the transition from full-time schooling through the establishment of their families and careers, and into the prime earning years that precede retirement. The longitudinal focus of this survey requires the collection of information on the same individuals over many years in order to trace their education, training, work experience, fertility, income and program participation. This detail makes the NLSY79 a unique national resource, unmatched by existing programs. Participation in the survey by other government agencies is encouraged as the omnibus nature of the survey makes it an efficient, low-cost data set. Recent rounds of the survey increasingly incorporate items needed for program and policy purposes by agencies other than the DOL.

Information about the aptitudes of the children of the female respondents in the youth data set will be collected. For the most part, this is a repetition of instruments already administered biennially to these children in 1986. This will permit medical and social science researchers to uniquely consider a large number of basic research issues relating to the associations between family background, federal program activities, infant and maternal health and outcomes from early childhood through adolescence. Thus, while the principal focus of the survey remains the collection of data for labor force analysis, the questionnaires administered to these children include items needed by other agencies that are not always directly related to employment and training studies. However, as these children reach adolescence the focus of the surveys on these "young adults" returns to the school-to-work transition.

The specific objectives of the study are to:

(1) Explore the early labor market activity and family formation of individuals in this age group;

(2) Explore in greater depth than has until now been possible the complex economic, social, and psychological factors responsible for variation in the labor market experience of this cohort;

(3) Analyze the impact of a changing socio-economic environment on the educational and labor market experiences of this cohort by comparing data from the present study with those yielded by the surveys of the earlier NLS cohorts of young men (1966) and young women (1968) as well as the NLS cohort of young men and women interviewed for the first time in 1997;

(4) Consider how employment-related activities of women impact the subsequent cognitive and emotional development of their children; and

(5) Meet the data collection and research needs of various government agencies that have been interested in the relationships between child and maternal health, other child outcomes, drug and alcohol use, juvenile deviant behavior and education, employment, and family experiences.

Type of Review: Reinstatement, with change, of a previously approved collection.

Agency: Bureau of Labor Statistics.

Title: National Longitudinal Survey of Youth 79.

OMB Number: 1220–0109.

Affected Public: Individuals or households.

Frequency: Biennially.

Form	Total number of respondents	Total annual responses	Average minutes per response	Total estimated annual burden hours
Pretest	50	50	60	50
Young Adults	8,300	8,300	60	8,300
Reinterview	1,250	1,250	6	125
Children of Female Respondents	6,390	6,390	52	5,538
Totals	15,990	15,990	.....	14,013

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or

included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 23rd day of April 1999.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–10726 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until June 28, 1999.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0141.

Form Number: N/A

Type of Review: Extension of a currently approved collection.

Title: 12 CFR 701.22. Organization and Operation of Credit Unions.

Description: NCUA has authorized federal credit unions to engage in loan participation, provided they establish written policies and enter into a written loan participation agreement. NCUA believes written policies are necessary to ensure a plan is fully considered before being adopted by the Board.

Respondents: All Federal Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 1,000.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annual Cost: $100,000.

By the National Credit Union Administration Board on April 22, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–10647 Filed 4–28–99; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collections; Comment Request.

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collections to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. Chapter 35). These information collection are published to obtain comments from the public.

DATES: Comments will be accepted until June 28, 1999.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0143.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R. 760 Loans in Areas Having Special Flood Hazards.

Description: Federally insured credit unions are required by statute and by proposed 12 CFR Part 760 to file reports, make certain disclosures and keep records. Borrowers use this information to make valid purchase decisions. The NCUA uses the records to verify compliance.

Respondents: All federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 5,500.

Estimated Burden Hours Per Response: 7 minutes.

Frequency of Response: Recordkeeping and on occasion.

Estimated Total Annual Burden Hours: 101,333.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0121.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R. 701.14 Notice of Change of Officials and Senior Executive Officers.

Description: The regulation directs newly chartered and troubled credit unions to provide NCUA with 30 days notice before making a management change.

Respondents: Troubled and newly chartered credit unions.

Estimated No. of Respondents/ Recordkeepers: 534.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Reporting and on occassion.

Estimated Total Annual Burden Hours: 1,068.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0108.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R. 748.2 Monitoring Bank Secrecy Act Compliance.

Description: The collection is needed to allow NCUA to determine whether credit unions have established a program reasonably designed to assure and monitor their compliance with currency recordkeeping and reporting requirements established by Federal statute and Department of the Treasury regulations.

Respondents: Federally insured credit unions.

Estimated No. of Respondents/ Recordkeepers: 11,127.

Estimated Burden Hours Per Response: 3 hours.

Frequency of Response: Recordkeeping.

Estimated Total Annual Burden Hours: 33, 477.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0068.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R. 701.31 Non Discrimination Policy.

Description: This regulation requires a federal credit union (FCU) to keep a copy of the property appraisal. It also requires that a FCU using geographical factors in evaluating real estate loan applications must disclose such facts on the appraisal and state for justification. This regulation insures compliance with the Fair Housing anti-redlining requirements.

Respondents: Federally credit unions.

Estimated No. of Respondents/ Recordkeepers: 4,000.

Estimated Burden Hours Per Response: 1 hours.

Frequency of Response: Recordkeeping on occasion.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0142.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R 741.6(c) Requirements for Insurance.

Description: Credit Unions that submit late or inaccurate call reports are required to submit a proposal that describes how if will avoid another late or inaccurate report.

Respondents: Federally insured credit unions.

Estimated No. of Respondents/ Recordkeepers: 630.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Reporting and on occasion.

Estimated Total Annual Burden Hours: 1,260.

Estimated Total Annual Cost: $21,186.60.

By the National Credit Union Administration Board on April 22, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–10648 Filed 4–28–99; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until June 28, 1998.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0004.

Form Number: NCUA 5300

Type of Review: Revision to the currently approved collection.

Title: Semi-Annual and Quarterly Call Report.

Description: The financial and statistical information is essential to NCUA in carrying out its responsibility for the supervision of federally insured credit unions. The information also enables NCUA to monitor all federally insured credit unions whose share accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

Respondents: All Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 11,000.

Estimated Burden Hours Per Response: 8 hours.

Frequency of Response: Quarterly and Semi-Annually.

Estimated Total Annual Burden Hours: 200,000.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on April 21, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–10649 Filed 4–28–99; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Biological Infrastructure (#1215).

Date and Time: Tuesday, May 4, 1999 at 8:30 am–5:00 pm, Wednesday, May 5, 1999 at 8:30 am–Adjourn.

Place: National Science Foundation at 4201 Wilson Boulevard, Arlington, VA 22230, Room 680.

Type of Meeting: Closed.

Contact Person: Paul Gilna, Program Director; Computational Biology Activities Program in Biological Sciences; National Science Foundation; 4201 Wilson Boulevard, Room 615N; Arlington, Virginia 22230, Telephone: (703) 306–1469.

Purpose of Meeting: To provide advice and recommendation concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for acquisition of Computational Biology Activities Program in Biological Sciences as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–10662 Filed 4–28–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Biological Infrastructure (#1215).

Date and Time: Tuesday, May 4, 1999 at 8:30 a.m.–5p.m.—Wednesday, May 5, 1999 at 8:30a.m.—Adjourn.

Place: National Science Foundation at 4201 Wilson Boulevard, Arlington, VA 22230, Room 380.

Type of Meeting: Closed.

Contact Person: Carter Kimsey, Program Coordinator; Postdoctoral Research Fellowships in Biological Informatics Program in Biological Sciences; National Science Foundation; 4201 Wilson Boulevard, Room 615N; Arlington, Virginia 22230 Telephone: (703) 306–1469.

Purpose of Meeting: To provide advice and recommendation concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for acquisition of Postdoctoral Research Fellowships in Biological Informatics Program in Biological Sciences as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–10663 Filed 4–28–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Processes; Notice of Sunshine Act Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Biomolecular Processes (5138) (Panel B).

Date and Time: Thursday and Friday, April 29–30, 1999, 9:00 A.M. to 5:00 P.M.

Place: National Science Foundation, 4201 Wilson Boulevard, Rm. 630, Arlington, VA 22230.

Ttpe of Meeting: Closed.

Contact Person: Dr. Christopher Greer, Program Director, or Dr. Susan Porter Ridley, Assistant Program Manager for Biochemistry of Gene Expression, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1441.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Biochemistry of Gene Expression Program as pat of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–10665 Filed 4–28–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Processes

Sunshine Meeting Notice

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Biomolecular Processes—(5138) (Panel A).

Date and Time: Wednesday, Thursday, and Friday, May 5–7, 1998 9 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 340, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Alison M. Berry, Program Director, or Dr. Susan Porter Ridley, Assistant Program Manager, for Metabolic Biochemistry, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306–1441).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Metabolic Biochemistry Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–10667 Filed 4–28–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Committee of Visitors CISE Instrumentation Program Panel in Experimental and Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 920463, as amended), the National Science Foundation announces the following meeting.

Name: Committee of Visitors in Experimental and Integrative Activities (1193).

Date and Time:

April 27, 1999; 8:30–5:00 p.m. (Closed)
April 28, 1999; 8:30–10:30 p.m. (Closed)
April 28, 1999; 10:30–5:00 p.m. (Open)

Place: Room 1105.17.

Type of Meeting: Part Open.

Contact Person(s): Dr. Michael Foster, Acting Division Director, Division of Experimental and Integrative Activities, National Science Foundation, Room 1160, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1980.

Purpose of Meeting: To assess program-level technical and managerial matters pertaining to proposal decisions.

Agenda: To assess program-level technical and managerial matters pertaining to proposal decisions. The review will address the integrity and efficacy of processes used to solicit, review, recommend, and document proposal actions, and the relationship between award decisions and program goals. The Open portion of the meeting will include consideration of the results of NSF investment.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b.(c)(4) and (6) of the Government in the Sunshine Act.

Dated April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–10666 Filed 4–28–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Infrastructure, Methods and Science Studies; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following three meetings.

Name: Advisory Panel for Infrastructure, Methods & Science Studies (#1760).

1. Date & Time: April 23–24, 1999; 8:30 a.m.–5:00 p.m.

Place: Loyola University, Chicago, IL.

Contact Person: Dr. Michael Sokal, Program Director for Science and Technology Studies, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1742.

Agenda: To review and evaluate Science and Technology Studies proposals as part of the selection process for awards.

2. Date & Time: May 3–4, 1999; 8:30 a.m.–5:00 p.m.

Room: 310.

Contact Person: Dr. Cheryl L. Eavey, Program Director for Methods, Measurement and Statistics, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1729.

Agenda: To review and evaluate Methods, Measurement and Statistics proposals as part of the selection process for awards.

3. Date & Time: May 6–7, 1999; 8:30 a.m.–5:00 p.m.

Room: 370.

Contact Person: Dr. Rachelle Hollander, Program Director for Societal Dimensions of Engineering, Science and Technology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1743.

Agenda: To review and evaluate Societal Dimensions of Engineering, Science and Technology proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–10661 Filed 4–28–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Physics (1208) DOE/NSF Nuclear Science Advisory Committee.

Date and Time: Friday, April 30, 1999; 9 a.m. to 5 p.m.

Place: LBL Washington, DC Project Office; Suite 500, 1250 Maryland Ave, SW, Washington, DC.

Type of Meeting: Opened.

Contact Person: Dr. Bradley D. Keister, Program Director for Nuclear Physics, Room 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1891.

Purpose of Meeting: To advise the National Science Foundation and the Department of Energy on scientific priorities within the field of basic nuclear science research.

Agenda:

- Presentation of Interim Report of the ISOL Task Force.
- Presentations by agencies representatives.
- Public Comment*.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–10664 Filed 4–28–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Indiana Michigan Power Company

[Docket Nos. 50–315 and 50–316]

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–58 and Facility Operating License No. DPR–74 issued to Indiana Michigan Power Company (the licensee) for operation of the Donald C. Cook Nuclear Power Plant, Units 1 and 2 located in Berrien County, Michigan.

The proposed license amendment would revise Technical Specification section 3/4.8.1.2, "Electrical Power Systems, Shutdown," and its associated bases to provide a one-time extension of the 18-month surveillance interval for specific surveillance requirements for Units 1 and 2. This surveillance will be performed prior to the first entry into Mode 4 subsequent to receipt of the requested T/S amendment. In addition, for Unit 2 only, a minor administrative change is included to delete a reference to T/S 4.0.8, which is no longer applicable. For Unit 1 only, an editorial change is made to add the word "or" to action statement 3.8.1.2.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the Change Involve a Significant Increase in the Probability of Occurrence or Consequences of an Accident Previously Evaluated?

A discussion of each of the applicable accidents follows.

Fuel Handling Accident

The only time a fuel handling accident could occur is during the handling of a fuel assembly. The design of fuel handling equipment is such that an interruption of A.C. power would not cause a fuel element to be inadvertently dropped. Therefore, an interruption or loss of A.C. power does not significantly increase the probability of a fuel handling accident.

At present, fission product activities in the fuel assembly pellet-to-cladding gaps are greatly reduced. The fuel handling accident analysis considers the thyroid dose at the site boundary and in the low population zone. This dose is dominated by the isotope iodine 131, which also decays more slowly than the other iodine contributors to the dose. The activity of iodine 131 decreases by one-half every 8.05 days. The current shutdown period of approximately 18 months represents over 70 half-lives. Activity of a radioactive material is generally considered to be negligible after 7 half-lives (a reduction in activity of $1/128$). By contrast, the accident analysis assumes an iodine reduction of less than $1/10$ (from activated charcoal filtration) in the fuel handling building, and no reduction in the containment, prior to release. Therefore, the consequences of a fuel handling accident are clearly bounded by the existing safety analysis without taking credit for any iodine removal by charcoal filtration. The greatly reduced fission product activity at the current time provides assurance that the consequences of this event are bounded by the existing analysis. Therefore, the consequences are not significantly increased.

Accidental Release of Radioactive Liquids

The inadvertent release of radioactive liquid wastes to the environment was evaluated for the waste evaporator condensate and monitor tanks, condensate storage tank, primary water storage tank,

* Persons wishing to speak should make arrangement through the Contact Person identified above.

refueling water storage tank (RWST), the auxiliary building storage tanks and the chemical and volume control system (CVCS) holdup tanks. It was concluded, in the UFSAR Chapter 14 evaluation, that loss of liquid from these tanks to the environment is not a credible accident. This conclusion does not depend on operating mode , hence, further evaluation of this event is not required.

Waste Gas Release

Radioactive gases are introduced into the reactor coolant by the escape of fission products if defects exist in the fuel cladding. The processing of the reactor coolant by auxiliary systems results in the accumulation of radioactive gases in various tanks. The two main sources of any significant gaseous radioactivity that could occur would be the volume control tank (VCT) and the gas decay tanks. It is assumed that a tank ruptures by an unspecified mechanism after the reactor has been operating for one core cycle with 1% defects in the fuel cladding. There is no identified mechanism by which an interruption or loss of power could result in a tank rupture. Therefore, it is concluded that the probability of occurrence of a tank rupture would not be significantly increased by an interruption or loss of A.C. power. The greatly reduced fission product activities at the current time provides assurance that the consequences of this event are bounded by the current analysis and would, therefore, not be significantly increased.

Uncontrolled Rod Cluster Control Assembly (RCCA) Withdrawal From a Subcritical Condition

This event can only occur with the reactor trip breakers elosed and the control rod drive mechanisms (CRDMs) energized. With the exception of testing or special maintenance, the rod drive motor generator set remains tagged out until Mode 3 and this alone would preclude rod movement. If the conditions for rod withdrawal are met, two operable source range instruments and two reactor trip channels and trip breakers must be operable. An interruption or loss of power would preclude CRDM movement and release the control rods. The source range instruments would remain available. Therefore, it is concluded that the probability of occurrence of an uncontrolled RCCA withdrawal would not be significantly increased by an interruption or loss of A.C. power in Modes 5 or 6. Acceptable consequences for this event rely on precluding its occurrence.

Uncontrolled Boron Dilution

This event requires a malfunction of the CVCS. The CVCS is designed to limit, even under various postulated failure modes, the potential rate of dilution to a value which provides the operator sufficient time to correct the situation in a safe and orderly manner. The rate of addition of unborated water makeup to the reactor coolant system is limited by the capacity of the primary water pumps. The maximum addition rate in this case is 225 gpm with both primary water pumps running. An interruption or loss of A.C. power would preclude pump operation and accidental dilution. The RWST is not a credible dilution source as recognized by a footnote to T/S 3/4.8.1.2. Therefore, the possibility of an uncontrolled boron dilution is not significantly increased. Acceptable consequences for this event rely on precluding its occurrence and by detection with the source range nuclear instrumentation required by the T/S in Modes 5 and 6.

The proposed revision involves deferral of certain surveillance requirements when shut down but does not reduce the required operable power sources of the Limiting Condition for Operation (LCO), does not increase the allowed outage time of any required operable power supplies and does not reduce the requirement to know that the deferred SRs [surveillance requirements] could be met at all times. Deferral of the testing does not by itself increase the potential that the testing would not be met and the previously evaluated accidents described above do not rely on automatic starting or loading of the single operable EDG [emergency diesel generator] permitted in Modes 5 and 6. The monthly EDG starts, fuel level checks, and fuel transfer pump checks will continue to be performed to provide adequate confidence that the required EDG will be available if needed. Therefore, it is concluded that the required A.C. sources will remain available and the previously evaluated consequences will not be increased.

The proposed administrative change for unit 2 deletes a reference to T/S 4.0.8 that is no longer applicable and, thus, does not increase the probability or consequences of an accident. The editorial change to unit 1 corrects a typographical error. The correction is not intended to change the meaning.

Therefore, based on the above discussion, it is concluded that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the Change Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated?

The proposed changes do not involve operation of the required electrical power sources in a manner or configuration different than those previously recognized or evaluated. No new failure mechanisms of the A.C. power supplies are introduced by extension of the subject surveillance intervals.

The proposed administrative change for unit 2 deletes a reference to T/S 4.0.8 that is no longer applicable and, thus, does not create the possibility of a new or different kind of accident. The editorial change to unit 1 corrects a typographical error. The correction is not intended to change the meaning. Therefore, it is concluded that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the Change Involve a Significant Reduction in a Margin of Safety?

The required operable power supplies have not been reduced. Deferral of the specified SRs does not by itself introduce a failure mechanism, and past performance of the SRs has demonstrated reliability in passing the deferred surveillances. Therefore, the availability of power supplies assumed for accident mitigation is not significantly reduced and previous margins of safety are maintained.

The proposed administrative change for unit 2 deletes a reference to T/S 4.0.8 that is no longer applicable and thus, does not increase the probability or consequences of an accident. The editorial change to unit 1 corrects a typographical error. The correction is not intended to change the meaning. Therefore, these changes do not involve a significant reduction in the margin of safety.

In summary, based upon the above evaluation, I&M has concluded that these changes involve no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92 are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received

may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 26, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jeremy J. Euto, Esquire, 500 Circle Drive, Buchanan, MI 49107, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 3, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085.

Dated at Rockville, Maryland, this 22nd day of April 1999.

For the Nuclear Regulatory Commission.

John F. Stang, Sr.,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10687 Filed 4–28–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282 and 50–306]

Northern States Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses DPR–42 and DPR–60 Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses DPR–42 and DPR–60 issued to Northern States Power Company (the licensee) for operation of the Prairie Island Nuclear Generating Plant, Units 1 and 2, located in Goodhue County, Minnesota.

The proposed amendments would change the implementation date for the

relocation of the requirements specified in Technical Specification Sections 3.1.E and 5.1 to the Updated Final Safety Analysis Report. On December 7, 1998, the NRC had previously issued license amendments 141 and 132 for Units 1 and 2, respectively, approving the relocation of aforementioned requirements by June 1, 1999. The proposed amendments would postpone the implementation date to September 1, 1999.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does operation of the facility with the proposed amendment[s] involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change is administrative in nature and does not significantly affect any system that is a contributor to initiating events for previously evaluated accidents. Neither does the change significantly affect any system that is used to mitigate any previously evaluated accidents. Therefore, the proposed change does not involve any significant increase in the probability or consequence of an accident previously evaluated. Current Technical Specification requirements will remain in place.

2. Does operation of the facility with the proposed amendment[s] create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change is administrative in nature and does not alter the design, function, or operation of any plant component and does not install any new or different equipment, therefore a possibility of a new or different kind of accident from those previously analyzed has not be created.

3. Does operation of the facility with the proposed amendment[s] involve a significant reduction in a margin of safety?

The proposed change is administrative in nature and does not involve a significant reduction in the margin of safety associated with the fuel cladding, reactor coolant boundary, containment, or any safety limit. Current Technical Specification requirements will remain in place.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 26, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise

statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 20, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 22nd day of April 1999.

For the Nuclear Regulatory Commission.

George F. Dick,

Acting Chief, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10684 Filed 4–28–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Florida Power & Light Company, Inc.

[Docket No. 50–389]

St. Lucie Plant, Unit 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–16, issued to Florida Power & Light Company, Inc., (the licensee), for operation of the St. Lucie Plant, Unit 2, located in St. Lucie County, Florida.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would modify the St. Lucie Plant, Unit 2, Technical Specifications by changing the criticality requirements for the design of the spent fuel storage racks, referencing new tables that specify the reactivity effects of fuel assembly burnup and decay time, and increasing the listed capacity of the spent fuel pool. These changes would allow the use of credit for soluble boron in the spent fuel criticality analyses. This would allow Florida Power & Light to increase the capacity of the spent fuel storage pool. The proposed action is in accordance with the licensee's application for amendment dated December 31, 1997, as supplemented May 15, September 15, November 25, 1998, and January 28, 1999.

The Need for the Proposed Action

The proposed action would increase the allowed storage capacity of the St. Lucie Plant, Unit 2, spent fuel pool (SFP) to 1360 fuel assemblies, allowing the licensee to continue to operate beyond 2001. The Unit 2 SFP at St. Lucie Plant contains 1584 spent fuel storage cells, of which 1076 are currently allowed for storage by the technical specifications. The licensee estimates that, by the year 2001, St. Lucie Plant, Unit 2, will have filled all SFP storage locations not reserved for a full-core off-load of fuel. The projected loss of capability to store spent fuel from future operation of St. Lucie Plant, Unit 2, would affect the licensee's ability to operate St. Lucie Plant, Unit 2. The proposed amendment is needed in order to ensure the capability to perform a full-core off-load to the SFP until approximately 2007.

Environmental Impacts of the Proposed Action

Thermal Impact

The licensee's thermal analysis on the effects of the proposed change revealed that the proposed increase in storage capacity will change the maximum decay heat load for a partial core offload from 16.9E6 Btu/hr to 19.76E6 Btu/hr and for full core offload conditions from 31.7E6 Btu/hr to 35.22E6 Btu/hr. This increased heat load results in an increase of approximately 3°F in the maximum fuel pool water temperature for the partial core offload case, and an increase of approximately 5°F in water temperature for storage of the limiting full core offload (note: maximum fuel pool temperature will be maintained less than or equal to 150°F). The total heat load rejected to the environment by St. Lucie Plant, Unit 2, is about 6.2E9 Btu/hr. The percentage increase in the heat rejected to the environment due to the increase in spent fuel storage capacity is on the order of 0.05% for partial core discharges and 0.06% for fuel storage following a full core offload. This heat rejection to the environment is not considered a significant increase from current heat rejection levels.

Radiological Evaluation

Solid Radioactive Waste. The net effect of increasing the St. Lucie, Unit 2, spent fuel pool storage capacity is that

older fuel elements will be retained in wet storage beyond the time when they would have otherwise been loaded into casks for dry storage on-site. Retaining already-aged fuel in wet storage for an additional period of time will not appreciably increase the activity in the fuel pool water or the amount of solid radioactive waste which must be disposed of because the short-lived isotopes associated with these fuel bundles will have had an opportunity to decay. Therefore, increasing the fuel pool storage capacity as proposed for St. Lucie, Unit 2, will have no significant effect on the quantity of radioactive waste collected.

Gaseous Radioactive Waste. Storage of additional quantities of spent fuel in the SFP will not significantly increase the release of gaseous fission products such as Krypton-85 and Iodine-131. Experience has demonstrated that during the period between refueling outages, there is no longer a significant release of fission products, including Krypton-85, from stored spent fuel containing cladding defects. Iodine-131 released from spent fuel assemblies to the SFP water will not be significantly increased as a result of the expansion of the fuel storage capacity since the Iodine-131 inventory in the fuel will decay to negligible levels in the period between refueling outages. The licensee has stated that fuel rod integrity at St. Lucie, Unit 2, has been very good, with most fuel cycles evidencing no leaking fuel rods. Additionally, the rod pressure, which tends to act as driving force for fission product release, is substantially decreased after long periods of fuel cooling.

The increased heat load on the SFP from the storage of additional spent fuel assemblies could potentially result in an increase in the SFP evaporation rate, which may result in a slight increase in the amount of gaseous tritium released from the pool. However, the overall release of radioactive gases from St. Lucie Plant, Unit 2, will remain a small fraction of the limits of 10 CFR Part 20, and is therefore considered insignificant.

Radioactive Releases Due to Accidents. The existing analyses of record pertaining to the radiological consequences of a fuel handling accident within the St. Lucie Plant, Unit 2, Fuel Handling Building (FHB) and the postulated drop of a spent fuel cask just outside the FHB have been examined to assess the impact of the proposed license amendment. The assumptions and parameters previously employed in evaluating the fuel mishandling accident were consistent with NRC Regulatory Guides 1.13 and 1.25. The previously analyzed consequences of dropping a spent fuel cask were based on the guidelines provided in Section 15.7.5 of the Standard Review Plan. The licensee's review of the existing analysis of the fuel handling accident has concluded that the gap activities provided in the analysis of record for the fuel handling accident conservatively bound those values expected to occur at assembly discharge burnups of up to 60,000 MWD/MTU. As defined by Section 15.7.4 of the Standard Review Plan, calculated dose values are well within the guidelines if the calculated whole body dose is less than or equal to 6 rem and the calculated thyroid dose is less than or equal to 75 rem.

The proposed license amendment does not involve any changes to the method of operating or range of motion of the spent fuel cask handling crane. No movement of loads in excess of the nominal weight of a fuel assembly, control element assembly, and associated handling tool is permitted over other fuel assemblies in the storage pool. Protection against dropping the spent fuel cask into the spent fuel storage pool is provided by the basic layout of the FHB. As noted in updated final safety analysis report, Section 9.1.4.3.2, additional protection is afforded by the trolley bumpers and a set of limit switches that work together with bridge and trolley brakes to prevent movement of the crane hook into the restricted area.

The proposed amendment will not involve any changes in the operation or range of motion of the spent fuel handling machine. During movement of a fuel assembly, the load on the hoist cable is monitored to ensure that movement is not restricted. Installed interlocks will continue to restrict movement of the handling machine when the hoist is withdrawing or inserting an assembly.

The licensee has also examined the existing analysis of an accident involving the drop of a spent fuel cask containing ten irradiated fuel assemblies. This review has determined that conservative input assumptions were used and that the results of the existing analysis are well within the acceptance criteria for a Limiting Fault-2 event.

Increasing the storage capacity of the St. Lucie, Unit 2, SFP as described in this proposed license amendment will have no effect on the radiological consequences of an assumed fuel mishandling event or on the consequences of dropping a loaded spent fuel cask. For each of these events, the calculated doses are small relative to the guideline values.

The impact of the proposed increase in St. Lucie, Unit 2, spent fuel storage capacity and the implications of the use of reactivity credit for fuel pool soluble boron have been examined in the above discussion. Each of the impacts of the proposed change has been quantified and determined to be within acceptable limits by comparison to established acceptance criteria.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Summary

The Commission has completed its evaluation of the proposed action. The proposed action will not increase the probability or consequences of accidents, no changes will be made in the types of any effluents that may be released off-site, and there will be no significant increase in occupational or public radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It will not affect non-radiological plant effluents and has no other environmental impact. The proposed action does not involve any historic sites. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action. Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed action

Shipping Fuel to a Permanent Federal Fuel Storage/Disposal Facility

Shipment of spent fuel to a high-level radioactive storage facility is an alternative to increasing the onsite spent fuel storage capacity. However, the U.S. Department of Energy's (DOE's) high-level radioactive waste repository is not expected to begin receiving spent fuel until approximately 2010 at the earliest. In October 1996, the Administration did commit DOE to begin storing waste at a centralized location by January 31, 1998. However, no location has been identified and an interim federal storage facility has yet to be identified in advance of a decision on a permanent repository. Therefore, shipping spent fuel to the DOE repository is not considered an alternative to increased

onsite spent fuel storage capacity at this time.

Shipping Fuel to a Reprocessing Facility

Reprocessing of spent fuel from the St. Lucie Plant, Unit 2, is not a viable alternative since there are no operating commercial reprocessing facilities in the United States. Spent fuel would have to be shipped to an overseas facility for reprocessing. This approach has never been used and it would require approval by the U.S. Department of State as well as other entities. Additionally, the cost of spent fuel reprocessing is not offset by the salvage value of the residual uranium and reprocessing represents an added cost. Therefore, this alternative is considered unacceptable.

Shipping Fuel to Another Utility or Site or to St. Lucie, Unit 1, for Storage

Shipment of irradiated fuel from St. Lucie, Unit 2, to Turkey Point or to the St. Lucie, Unit 1, fuel pool would provide short-term relief from the storage problem at St. Lucie, Unit 2, but this transfer of fuel between units would create no additional storage locations for irradiated fuel. As a result, any fuel transfer would accelerate the loss of fuel pool storage at the receiving unit and give no benefit to the facility. Currently, the Turkey Point site has installed fuel pool storage capacity sufficient to handle site requirements for irradiated fuel storage until approximately the end of licensed life in 2012 (for Unit 3) and 2013 (for Unit 4). Further expansion of the storage capacity of the Turkey Point spent fuel pools is not feasible. Unlike the situation at Turkey Point, the St. Lucie site will require development of an Independent Spent Fuel Storage Facility (ISFSI) to permit operation to the end of licensed life. As a result, shipment of irradiated fuel from St. Lucie to Turkey Point would require the early development of an ISFSI at Turkey Point without eliminating the requirement to subsequently develop an ISFSI at the St. Lucie site. Additionally, the design of the Turkey Point fuel pool storage racks has been optimized for storage of fuel with a different lattice and different reactivity characteristics than that used at St. Lucie, Unit 2; thus, storage of Unit 2 fuel at Turkey Point would both limit storage of future discharged Turkey Point fuel and represent a less than optimal use of the existing Turkey Point storage capability.

Likewise, the shipment of irradiated fuel from St. Lucie, Unit 2, to St. Lucie, Unit 1, for storage does not eliminate the need to develop additional spent fuel storage capability at the St. Lucie site in the future. FPL knows of no other utility that is prepared to accept shipments of irradiated fuel from St. Lucie, Unit 2, for long-term storage at its site.

For these reasons, and considering the increased fuel handling and additional occupational radiation exposure incurred during the shipment of irradiated fuel, the alternative of shipping St. Lucie, Unit 2, fuel to Turkey Point or to St. Lucie, Unit 1, for storage is not an acceptable alternative to the proposed action.

Alternatives Creating Additional Storage Capacity

A variety of alternatives to increase the storage capacity of the St. Lucie, Unit 2, spent fuel pool were considered prior to developing the proposed license amendment based on soluble boron credit. Fuel rod consolidation was examined as a potential alternative and was eliminated because of the limited industry experience in disassembling irradiated fuel and because of the potential for fission product release due to rod breakage during disassembly. Additionally, because the Department of Energy (DOE) considers consolidated fuel to be a non-standard waste form, FPL was concerned that the presence of fuel in this form would cause the DOE to delay its acceptance of waste from St. Lucie, Unit 2.

The addition of poison inserts to the Unit 2 fuel pool was examined and later rejected because the large quantity of inserts necessary to adequately control the fuel pool reactivity had a significantly greater initial cost that the alternative selected. Additionally, use of poison inserts increases the volume of radioactive waste that must be disposed of or decontaminated during decommissioning of the spent fuel pool, making this alternative unacceptable.

The early implementation of dry cask storage for irradiated fuel at the St. Lucie site was also considered. Dry cask storage involves transferring irradiated fuel, after several years of storage in the Unit 2 fuel pool, to high capacity casks with passive heat dissipation features. After loading, these casks would be placed on a concrete pad at an outdoor location on the St. Lucie site. This alternative was rejected by FPL because each of the alternatives discussed above would provide additional storage locations for irradiated fuel at lower cost and with less environmental impact.

As a result, FPL concluded that none of the alternative technologies that could create additional spent fuel storage capacity at St. Lucie, Unit 2, could do so with an environmental impact less than the impacts associated with the chosen option.

Reduction of Spent Fuel Generation

To minimize the quantities of irradiated fuel generated during full power operation at St. Lucie, FPL has developed efficient fuel loading patterns that maximize the utilization of fissile material within each assembly consistent with license limits on the integrated fuel rod exposure. Batch discharge burnups for St. Lucie, Unit 2, fuel regularly approximate 45 GWD/MTU with peak assembly burnups reaching 50 GWD/MTU by the time of discharge. St. Lucie, Unit 2, consistently depletes fuel assemblies to these burnups without experiencing cladding perforations so that the fission product inventory present in the spent fuel pool water remains low. The high values of batch average and peak assembly discharge burnup ensure that the electricity generated by St. Lucie, Unit 2, yields the minimum possible amount of spent fuel.

The fuel assembly design used at St. Lucie, Unit 1, and at Turkey Point is not compatible with the St. Lucie, Unit 2, core. As a result, partially irradiated fuel from other FPL nuclear units can not be used at Unit 2 (or vice versa) to reduce the rate of spent fuel discharge.

Operation of St. Lucie, Unit 2, at a reduced power level for long periods of time would extend the existing spent fuel pool storage capacity. However, to compensate for the reduced generation by St. Lucie, Unit 2, another power generation facility would be required to increase its power output, possibly resulting in an increase in airborne pollution and greenhouse gas emissions. The adverse environmental impact of increased airborne pollution and greenhouse gas emissions resulting from a long-term derate of St. Lucie, Unit 2, generating capacity is significantly greater than the environmental impact associated with increasing the storage capacity of the existing Unit 2 spent fuel pool.

The No-Action Alternative

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no significant change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for St. Lucie, Unit 2.

Agencies and Persons Consulted

By Letter dated March 8, 1991, Mary E. Clark of the State of Florida, Department of Health and Rehabilitative Services, informed Deborah A. Miller, Licensing Assistant, U.S. NRC, that the State of Florida does not desire notification of issuance of license amendments. Thus, the State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 31, 1997, as supplemented May 15, 1998, September 15, 1998, November 25, 1998, and January 28, 1999. The May 15, 1998 supplement was a result of an U.S. Nuclear Regulatory Commission request for additional information dated April 8, 1998. All of these documents are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

Dated at Rockville, Maryland, this 23rd day of April 1999.

For the Nuclear Regulatory Commission.

William C. Gleaves,

Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10685 Filed 4–28–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Facility Operating License No. NPF–42, issued to Wolf Creek Nuclear Operating Corporation (WCNOC), for operation of the Wolf Creek Generating Station, located in Coffey County, Kansas.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt WCNOC from certain requirements of 10 CFR 50.60 and 10 CFR Part 50, Appendix G. The proposed exemption would allow WCNOC to apply American Society for Mechanical Engineers (ASME) Code Case N–514 for determining Wolf Creek Generating Station's cold overpressurization mitigation system (COMS) pressure setpoint.

The proposed action is in accordance with the licensee's application for exemption dated December 29, 1998.

The Need for the Proposed Action

The proposed exemption is needed to support an amendment to the Wolf Creek Technical Specifications which will revise the heatup, cooldown and COMS curves. The use of ASME Code Case N–514 would allow an increased operating band for system makeup and pressure control to allow operational flexibility.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that application of Code Case N–514 represents a special circumstance in accordance with 10 CFR 50.12(a)(2)(ii) on specific exemptions, such that the specific requirements of 10 CFR 50.60 and Appendix G are "* * * not necessary to achieve the underlying purpose of the rule," which in this case is to protect the reactor vessel from brittle fracture.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Wolf Creek Generating Station dated June 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on March 5, 1999, the staff consulted with the Kansas State official, Mr. Vick Cooper, of the Kansas Department of Health and Environment, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 29, 1998, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 22nd day of April 1999.

For the Nuclear Regulatory Commission.

Kristine M. Thomas,

Project Manager, Section 2, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10686 Filed 4–28–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Material

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, N.W., Washington, D.C..

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the applications for licenses to export nuclear grade graphite and heavy water as defined in 10 CFR Part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning the application follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, Date of application, Date received, application No.	Description of items to be exported	Country of destination
Aldrich Chemical Co., 03/15/99, 03/18/99, XMAT0397	Heavy Water to Canada for upgrading and return to U.S. ...	Canada.

Dated this 22nd day of April 1999 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Director, Division of Nonproliferation, Exports and Multilateral Relations, Office of International Programs.

[FR Doc. 99–10683 Filed 4–28–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443; License No. NPF–86]

North Atlantic Energy Service Corporation, et al. Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated March 31, 1999, David A. Lochbaum (Petitioner), acting on behalf of the Union of Concerned Scientists (UCS), has requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to the Seabrook Station, Unit No. 1, operated by North Atlantic Energy Service Corporation. Petitioner requests three specific actions: (1) That the NRC take enforcement action against individuals alleged to have unlawfully discriminated against a contract electrician in violation of 10 CFR 50.7; (2) that the NRC take enforcement action against individuals alleged to have created a false record in violation of 10 CFR 50.9; and (3) that the Petitioner be granted permission to attend an upcoming predecisional enforcement conference between the NRC and the licensee on these matters. The Petitioner specifically requested that the NRC ban any individuals who engaged in wrongdoing in the above matters from working in licensed activities for a period of at least 5 years.

As the basis for the request, the petitioner states that the NRC notified the owner of the Seabrook Station, in a letter dated March 16, 1999, that an NRC investigation documented in Office of Investigation Report No. 1–98–005 concluded that (1) an electrician was terminated as a result of raising a safety concern and (2) a false record was created.

The Petitioner's request for enforcement action is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request for enforcement action has been referred to the Director of the Office of Enforcement. As provided by section 2.206, appropriate action will be taken on this petition within a reasonable time.

The Petitioner's request to attend the upcoming predecisional enforcement conference with the licensee is not considered to be a request for enforcement action pursuant to 10 CFR 2.206, and it is denied. As stated in Section V of the Commission's "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), predecisional enforcement conferences are a meeting between the NRC staff and the licensee. As stated in the Enforcement Policy, these meetings will normally be closed to public observation when the enforcement action being contemplated by the NRC staff is based on the findings of an OI investigation report that has not been publically disclosed or when the enforcement action being contemplated may be taken against an individual. I find no reason in this case to make an exception to the Commission's stated policy of keeping these types of meetings closed to public observation.

A copy of the petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555–0001.

Dated at Rockville, Maryland, this 20th day of April, 1999.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 99–10688 Filed 4–28–99; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection: Request for Review of Part B Medicare Claim; OMB 3220–0100 Under Section 7(d) of the Railroad Retirement Act (RRA), the RRB administers the

Medicare program for persons covered by the railroad retirement system.

The RRB utilizes Forms G–790 and G–791 to provide railroad retirement beneficiaries who are claimants for Part B Medicare benefits with the means for requesting the United Healthcare Insurance Company, the RRB's current Medicare carrier, to review claims determinations or to hold hearings on the review determinations. Completion is required to obtain a benefit. One response is requested of each respondent.

The RRB proposes no changes to RRB Forms G–790 and G–791. The completion time for both the G–790 and the G–791 is estimated at 15 minutes.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–10741 Filed 4–28–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41322; International Series Release No. 1192; File No. SR–Amex–98–49]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC. Relating to Listing Additional Series of World Equity Benchmark Shares™

April 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 23, 1998, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change. The Exchange submitted Amendment No. 1 to its proposal on February 24, 1999,[3] and Amendment No. 2 on April 9, 1999.[4] The proposal rule change, as amended, is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade under Amex Rules 1000A *et seq.* Index Fund Shares based on the following MSCI Indices: Brazil, Greece, Indonesia (Free), South Korea, Portugal, South Africa, Taiwan, Thailand (Free), Turkey, United States and EMU. The MSCI EMU Index is comprised of companies from countries participating in the EMU.[5]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In Securities Exchange Act Release No. 36947,[6] the Commission approved Amex's listing and trading of Index Fund Shares under Amex Rules 1000A *et seq.* Index Fund Shares are shares issued by an open-end management investment company that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index.

The first Index Fund Shares listed on the Exchange were seventeen series of World Equity Benchmark Shares™ ("WEBS™") issued by Foreign Fund, Inc. (now WEBS Index Fund, Inc.) ("Fund"), based on the following Morgan Stanley Capital International ("MSCI") indices: Australia, Austria, Belgium, Canada, France, Germany, Hong Kong, Italy, Japan, Malaysia, Mexico (Free), Netherlands, Singapore (Free), Spain, Sweden, Switzerland and the United Kingdom.[7] These WEBS Index Series, which the Commission specifically approved for Amex listing and trading in Securities Exchange Act Release No. 36947,[8] have been trading on the Amex since March 18, 1996.

The Exchange proposes to list additional WEBS Index Series based on the following MSCI indices: MSCI Brazil Index, MSCI Greece Index, MSCI Indonesia (Free) Index, MSCI South Korea Index, MSCI Portugal Index, MSCI South Africa Index, MSCI Taiwan Index, MSCI Thailand (Free) Index, MSCI Turkey Index, MSCI United States Index and MSCI EMU Index.[9] Descriptions of the eleven specific indices referenced above have been prepared by the Fund and are available in the public file.

The MSCI EMU Index is comprised of stocks of companies from countries participating in the EMU. Currently, eleven countries are participating in the EMU: Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain. The MSCI EMU is currently comprised of stocks of companies from ten of these EMU countries (*e.g.*, all of the EMU countries except Luxembourg). MSCI has advised that it may, in accordance with its methodology, change the composition of MSCI EMU in the future, such changes could include adding stock(s) of companies from Luxembourg or from any other

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange generally added a new Morgan Stanley Capital International ("MSCI") Index based on the European Economic and Monetary Union ("EMU"), added references to Amex Rules 127 and 190, analogized the minimum number of shares per Creation Unit for the proposed WEBS to the number needed for Portfolio Depository Receipts and Index Fund Shares, and described the Exchange's prospectus delivery requirements. *See* Restated 19b–4 Filing marked Amendment No. 1 ("Amendment No. 1").

[4] In Amendment No. 2, the Exchange provided a description of the methodology used to calculate the MSCI Indices, discussed the requirements of Amex Rule 411 and the disclosure of the procedure for making purchases and redemption of WEBS, revised its tracking error discussion, and lowered the minimum number of shares needed for Creation Unit. *See* Letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, to Katherine England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 8, 1999 ("Amendment No. 2").

[5] *See* Amendment No. 1, *supra* note 3.

[6] Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996).

[7] "World Equity Benchmark Shares" and "WEBS" are service marks of Morgan Stanley Group, Inc. "MSCI" and "MSCI Indices" are service marks of Morgan Stanley & Co. Incorporated.

[8] *See* Securities Exchange Act Release No. 36947, *supra* note 6.

[9] The Fund has filed with the Commission an Application for Orders under Sections 6(c) and 17(b) of the Investment Company Act of 1940 ("1940 Act") as amended, for the purpose of exempting the eleven additional WEBS Index Series referenced herein from various provisions of the 1940 Act and rules thereunder (File No. 812–10756).

country that becomes a participant in EMU.[10]

Issuances of WEBS by the Fund are made only in Creation Unit size aggregations or multiples thereof. The size of the applicable Creation Unit size aggregation will be set forth in the Fund's prospectus and varies from one WEBS Index Series to another, but is generally substantial (*e.g.*, value in excess of $450,000 per Creation Unit). The Fund issues and sells WEBS through Funds Distributor, Inc. ("Distributor"), the distributor and principal underwriter, on a continuous basis at the net asset value per share next determined after an order to purchase WEBS in Creation Unit size aggregations is received in proper form. Following issuance, WEBS are traded on the Exchange like other equity securities by professionals, as well as retail and institutional investors.

Creation Unit size aggregations of WEBS are generally issued in exchange for the "in kind" deposit of a specified portfolio of securities, together with a cash payment representing, in part, the amount of dividends accrued up to the time of issuance. Such deposits are made primarily by institutional investors, arbitrageurs and the Exchange specialist. Redemption of WEBS is generally made on an in-kind basis, with a portfolio of securities and cash exchanged for WEBS that have been tendered for redemption. Issuances or redemptions could also occur for cash under specified circumstances (*e.g.*, if it is not possible to effect delivery of securities underlying the specific series in a particular foreign country) and at other times in the discretion of the Fund.

The Fund makes available on a daily basis a list of the names and the required number of shares of each of the securities to be deposited in connection with the issuance of a particular WEBS Index Series in Creation Unit size aggregations, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends.

A WEBS Index Series may make periodic distributions of dividends from net investment income, including net foreign currency gains, if any, in an amount approximately equal to accumulated dividends on securities held by the WEBS Index Series during the applicable period, net of expenses and liabilities for such period.

The net asset value for each WEBS Index Series is calculated by the Fund's administrator, PFPC Inc. ("Administrator"). After calculation, such net asset values are available to the public from the Fund's Distributor via a toll free telephone number, and are also available to National Securities Clearing Corporation ("NSCC") participants through data made available from NSCC.

WEBS are registered in book entry form through The Depository Trust Company. Trading in WEBS on the Exchange is effected until 4:00 p.m. (ET) each business day. The minimum trading increment for WEBS is 1/16 of $1.00, pursuant to Amex Rule 127, Commentary .02.[11]

a. *MSCI Indices.* A description of the methodology used to calculate the MSCI Indices was prepared by MSCI. The methodology is substantially similar to the procedures previously submitted to the Commission in connection with the Exchange's initial proposal to list WEBS. The current description varies from the original description submitted in connection with the Exchange's initial WEBS proposal. As to the changes, the current description expands upon the reasons MSCI believes full market capitalization weighting is preferable to other weighting schemes; expands upon the description of calculating the foreign MSCI "Free" Indices (indices that exclude companies and share classes not purchasable by foreigners based on certain countries' restrictions on foreign ownership); provides specific reasons for excluding large new issues from an Index; and provides factors to be considered in determining which companies should be deleted from an Index.[12] MSCI generally seeks to have 60% of the capitalization of a country's stock market reflected in the MSCI Index for such country, although in some cases, other considerations may result in an MSCI Index reflecting less or more than this percentage.[13]

b. *Shares Per Creation Unit.* It is anticipated that the number of WEBS shares constituting a Creation Unit for each WEBS Index Series will range from 50,000 to 500,000[14] and that the value of a Creation Unit at start of trading for these series will be in excess of $500,000. The fund will establish a minimum number of WEBS shares per Creation Unit for each Index Series prior to commencement of trading, which minimum will be disclosed in the Fund's prospectus. It is further anticipated that the net asset value[15] of an individual share will initially range from $7 to $25.

Each MSCI Index on which a WEBS Index Series is based is calculated by MSCI for each trading day in the applicable foreign exchange markets based on official closing prices of the applicable foreign exchange markets. For each trading day, MSCI publicly disseminates each index value for the previous day's close. MSCI Indices are reported periodically in major financial publications worldwide, and are also available through vendors of financial information.

There are two broad categories of changes to the MSCI Indices. The first consists of market-driven changes, including mergers, acquisitions and bankruptcies. These are announced and implemented as they occur. The second category consists of structural changes to reflect the evolution of a market that may occur due to changes in industry composition or regulations, among other reasons. Structural changes to MSCI Indices may occur only on four dates throughout the year: the first business day of March, June, September and December. The changes are announced at least two weeks in advance.

As noted in the WEBS prospectus for the initial seventeen WEBS Index Series (Registration No. 33–97598), the investment objective of each WEBS Index Series is to seek to provide investment results that correspond generally to the price and yield performance of public securities traded in the aggregate in particular markets, as represented by specific MSCI benchmark indices. Each WEBS Index Series utilizes a "passive" or indexing investment approach which attempts to approximate the investment performance of its benchmark index through quantitative analytical procedures. Each Index Series has the policy to remain as fully invested as practicable in a pool of securities the performance of which will approximate the performance of the benchmark MSCI Index taken in its entirety.

A WEBS Index Series will normally invest at least 95% of its total assets in stocks that are represented in the relevant MSCI Index and will at all times invest at least 90% of its total assets in such stocks, subject to certain limited exceptions.[16] A WEBS Index

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[10] *See* Amendment No. 1, *supra* note 3.

[11] *Id.*

[12] *See* Amendment No. 2, *supra* note 4.

[13] Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Marc McKayle, Attorney, Division, Commission, on April 14, 1999.

[14] *Id.*

[15] The Exchange expanded the term "NVA." Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Attorney, Division, Commission, on March 10, 1999.

[16] The WEBS prospectus states that, in order to permit the Advisor additional flexibility to comply

Continued

Series does not hold all of the issues that comprise the subject MSCI Index, but attempts to hold a representative sample of the securities in the Index utilizing a technique known as "portfolio sampling." As noted in the WEBS prospectus, it is expected that, over time, the "expected tracking error" of a WEBS Index Series relative to the performance of the relevant MSCI Index will be less that 5%.[17] An expected tracking error of 5% means that there is a 68% probability that the net return on the asset values for the Index Series (including dividends and without reflecting expenses) will be between 95% and 105% of the return of the subject MSCI Index after one year without rebalancing the portfolio composition.[18] While no particular level of tracking error is assured, the Fund's advisor, Barclays Global Fund Advisors ("Advisor"), monitors the tracking error of each Index Series on an ongoing basis and seeks to minimize tracking error to the maximum extent possible. Semi-annual and annual reports of the Fund disclose tracking error over the previous six month periods, and in the event that tracking error exceeds 5%, the Fund Board of Directors will consider what action might be appropriate.

c. *Criteria for Initial and Continued Listing.* WEBS are subject to the criteria for initial and continued listing of Index Fund Shares in Amex Rule 1002A. For each of the eleven WEBS Index Series,[19] it is anticipated that a minimum of two Creation Units will be required to be outstanding at the start of trading, with the exception of the United States WEBS Index Series, for which one Creation Unit will be required to be outstanding at commencement of trading (in light of the large size of a Creation Unit of the United States WEBS Index Series in comparison with the others). It is anticipated that a Creation Unit will consist of 50,000 WEBS except for the United States WEBS Index Series and EMU WEBS Index Series, for which the anticipated minimums are 500,000 and 200,000 WEBS, respectively. The value of a Creation Unit at the start of trading would in all cases be in excess of $500,000. The proposed minimum number of Creation Units is identical to the minimum applied in connection with the listing of the initial seventeen WEBS Index Series in 1996, except for the Japan WEBS Index Series, for which one Creation Unit was required to be outstanding.[20] For the initial WEBS Index Series, the number of shares per Creation Unit ranged from 40,000 (for the Belgium Index Series) to 600,000 (for the Japan Index Series).[21] The Exchange believes that the proposed minimum number of WEBS outstanding at the start of trading of each WEBS Index Series is sufficient to provide market liquidity and to further the Fund's objective to seek to provide investment results that correspond generally to the price and yield performance of a specified MSCI Index.[22]

d. *Dissemination of Indicative Optimized Portfolio Value.* As noted above, MSCI disseminates values for each MSCI Index once each trading day, based on closing prices in the relevant exchange market. In addition, the Fund makes available on a daily basis the names and required number of shares of each of the securities to be deposited in connection with the issuance of WEBS in Creation Unit size aggregations for each WEBS Index Series, as well as information relating to the required cash payment representing, in part, the amount of accurued dividends appliable to such WEBS Index Series. This information is made available by the Fund's Advisor to any NSCC participant requesting such information. In addition, other investors can request such information directly from the Fund's Distributor. The net asset value for each WEBS Index Series is calculated daily by the Fund's Administrator.

In order to provide updated informaiton relating to each WEBS Index Series for use by investors, professionals and persons wishing to create or redeem WEBS,[23] the Exchange disseminates through the facilities of the Consolidated Tape Association ("CTA") an updated "indicative optimized portfolio value" ("Value") for each of the seventeen WEBS Index Series cureently traded as calculated by Bloomberg, L.P. The Exchange will also disseminate a Value for the proposed eleven new WEBS Index Series[24] over CTA facilities (Network B) as calculated by a securities information provider ("Value calaclator"). It is anticipated that the methodology utilized in connenction with the seventeen WEBS Index Series currently traded will also be utilitzed for the proposed eleven new series. The Value is disseminated on a per-WEBS basis every 15 seconds during regular Amex trading hours of 9:30 a.m. to 4:00 p.m. (ET). The equity securities values included in the Value are the values of the designated portfolio of equity securities ("Deposit Securities") constituting an optimized representation of the benchmark MSCI foreign index for each WEBS Index Series, which is the same as the portfolio that is to be utilized generally in connection with creations and redemptios of WEBS in Creation Unit size aggregations on that day. The equity securities included in the Value reflect the same market capitalization weighting as the Deposit Securities in the optimized portfolio for the particular WEBS Index Series. In addition to the value of the Deposit Securities of each WEBS Index Series, the Value includes a cash component consisting of estimated accured dividend and other income, less expenses. The Value also reflects changes in currency exchange rates between the U.S. dollar and the applicable home country currency.

The Value does not reflect the value of all securities included in the applicable benchmark MSCI index. In addition, the Value does not necessarily reflect the precise composition of the current portfolio of securities held by the Fund for each WEBS Index Series at

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with the requirements of the Internal Revenue Code of 1986, as amended, and other regulatory requirements and to manage future corporate actions and index changes in the smaller markets, each of the Australia, Austria, Belgium, Hong Kong, Italy, Mexico (Free), Netherlands, Singapore (Free), Spain, Sweden and Switzerland WEBS Index Series will at all times invest at least 80% of its total assets in such stocks and at least half of the remaining 20% of its total assets in such stocks or in stocks included in the relevant market, but not in the relevant MSCI Index. *See* Amendment No. 1, *supra* note 3.

[17] This expected tracking error applies to all WEBS Index Series, including the proposed eleven WEBS Index Series and existing WEBS Index Series. *See* Amendment No. 2, *supra* note 4.

[18] This applies to all WEBS Index Series. *See* Amendment No. 2, *supra* note 4. The Exchange clarified that there is only a 68%, not 69% as described in Amendment No. 2, probability that the net return on the asset value of the Index Series will be between 95% and 105%. Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Attorney, Division, Commission, on April 13, 1999.

[19] *See* Amendment No. 1, *surpa* note 3.

[20] *See* Securities Exchange Act Release No. 36947, *supra* note 6.

[21] *See* Amendment No. 2, *supra* note 4. The Commission notes that number of shares per Creation Unit for the original WEBS were as follows: Australia—200,000, Austria—100,000, Belgium—40,000, Canada—100,000, France—200,000, Germany—300,000, Hong Kong—75,000, Italy—150,000, Japan—600,000, Malaysia—75,000, Mexico—100,000, Netherlands—50,000, Singapore (Free)—100,000, Spain—75,000, Sweden—75,000, Switzerland—125,000 and United Kingdom—200,000. *See* Securities Exchange Act Release No. 36947, *supra* note 6.

[22] *See* Amendment No. 2, *supra* note 4.

[23] WEBS cannot be redeemed individually but must be redeemed in Creation Unit size aggregations applicable to the specific WEBS Index Series.

[24] Telephone conversation between Michael Cavalier, Assistant General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Attorney, Division, Commission, on March 10, 1999.

a particular point in time. Therefore, the Value on a per WEBS basis disseminated during Amex trading hours should not be viewed as a real time update of the net asset value of the Fund, which is calculated only once a day. While the Value disseminated by the Amex at 9:30 a.m. is generally very close to the most recently calculated Fund net asset value on a per WEBS basis,[25] it is possible that the value of the portfolio of securities held by the Fund for a particular WEBS Index Series may diverge from the Deposit Securities Values during any trading day. In such case, the Value will not precisely reflect the value of the Fund portfolio. Following calculation of net asset value by the Fund's Administrator as of 4:00 p.m. (ET), the Value on a per WEBS basis can be expected to be the same as the net asset value of the Fund on a per WEBS basis.

However, during the trading day, the Value can be expected to closely approximate the value per WEBS share of the portfolio of securities for each WEBS Index Series except under unusual circumstances (*e.g.*, in the case of extensive rebalancing of multiple securities in a WEBS Index Series at the same time by the Fund Advisor). The circumstances that might cause the Value to be based on calculations different from the valuation per WEBS share of the actual portfolio of an Index Series would not be different than circumstances causing any index fund or trust to diverge from an underlying benchmark index.

The Exchange believes that dissemination of the Value based on the Deposit Securities providing additional information regarding each WEBS Index Series that is not otherwise available to the public and is useful to professionals and investors in connection with WEBS trading on the Exchange or the creation or redemption of WEBS.

• Greece, Indonesia (Free), South Korea, Taiwan, Thailand (Free)

For Greece, Indonesia (Free), South Korea, Taiwan, Thailand (Free), there is no overlap in trading hours between the foreign markets and the Amex. Therefore, for each Index Series, the Value calculator will utilize closing prices (in applicable foreign currency prices) in the principal foreign market for securities in the WEBS portfolio, and convert the price to U.S. dollars. This Value will be updated every 15 seconds during Amex trading hours to reflect changes in currency exchange rates between the U.S. dollar and the applicable foreign currency. The Value will also include the applicable estimated cash component for each WEBS Index Series.

• Brazil, Portugal, South Africa, Turkey, EMU

For Brazil, Portugal, South Africa, Turkey, and countries included in the WEBS EMU Index,[26] which have trading hours overlapping regular Amex trading hours, the Value calculator will update the applicable Value every 15 seconds to reflect price changes in the applicable foreign market or markets,[27] and convert such prices into U.S. dollars based on the current currency exchange rate. When the foreign market or markets [28] are closed but the Amex is open, the Value will be updated every 15 seconds to reflect changes in currency exchange rates after the foreign markets close. [29] The Value will also include the applicable estimated cash component for each Index Series.

• United States

For United States WEBS Index Series, the Value calculator will update the Value at least every 15 seconds, and such Value will include the applicable estimated cash component.

e. *Original and Annual Listing Fees.* The Amex original listing fee applicable to the listing of WEBS Index Series is $5,000 per WEBS Index Series (*i.e.*, $55,000 for the eleven WEBS Index Series listed above). [30] In addition, the annual listing fee applicable to WEBS Index Series under Section 141 of the Amex *Company Guide* will be based upon the year-end aggregate number of outstanding WEBS in all series, including the seventeen existing series and the additional series proposed herein.

f. *Stop and Stop Limit Orders.* Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i–v). The Exchange has designated Index Fund Shares, including WEBS, as eligible for this treatment.[31]

g. *Amex Rule 190.* Amex Rule 190, Commentary .04, applies to Index Fund Shares listed on the Exchange, including WEBS. Commentary. 04 states that nothing in Amex Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market.[32]

h. *Prospectus Delivery.* The Exchange, in an Information Circular to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, that investors purchasing WEBS are required to receive a Fund prospectus prior to or concurrently with the confirmation of a transaction therein.[33]

i. *Purchases and Redemption in Creation Unit Size.* In the Information Circular, members and member organization will be informed that procedures for purchases and redemptions of WEBS in Creation Unit Size are described in the Fund prospectus and Statement of Additional Information, and that WEBS are not individually redeemable but are redeemable only in Creation Unit Size aggregations or multiples thereof.[34]

j. *Suitability.* Prior to commencement of trading, the Exchange will issue an Information Circular informing members and member organizations of the characteristics of the specific series and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).[35]

k. *Trading Halts.* In addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Amex Rule 918C(b) in exercising its discretion to halt or suspend trading in Index Fund Shares, including WEBS. These factors would include, but are not limited to: (1) the extent to which trading is not occurring in stocks underlying the index; or (2) whether other unusual conditions or circumstances determental to the maintenance of a fair and orderly market are present.[36] In addition, trading in WEBS will be halted if the

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[25] A slight difference between the Value disseminated at 9:30 a.m. and the most recently calculated Fund net asset value can be expected because the Value will include an estimated cash amount consisting principally of any dividend accruals for the Deposit Securities going "ex-dividend" on that day.

[26] *See* Amendment No. 1, *supra* note 3.

[27] *Id.*

[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] *See* Securities Exchange Act Release No. 29063 note 9 (April 10, 1991) 56 FR 15652 (April 17, 1991) (regarding Exchange designation of equity derivative securities as eligible for such treatment under Rule 154, Commentary .04(c)).

[32] *See* Amendment No. 1, *supra* note 3.

[33] *Id.*

[34] *See* Amendment No. 2, *supra* note 4.

[35] *Id.*

[36] *See* Amex Rule 918C.

circuit breaker parameters under Amex Rule 117 have been reached.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [37] in general and furthers the objectives of Section 6(b)(5) [38] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, and, in general to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–98–49 and should be submitted by May 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[39]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10760 Filed 4–28–99; 8:45 am]

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[37] 15 U.S.C. 78f.

[38] 15 U.S.C. 78f(b)(5).

[39] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41315; File No. SR–NYSE–98–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the New York Stock Exchange, Inc. To Amend MOC/LOC Order Entry and Cancellation Procedures During a Regulatory Halt

April 20, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 25, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On March 19, 1999, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Donald Siemer, Director, Market Surveillance, NYSE to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), SEC, dated March 15, 1999 ("Amendment No. 1"). In Amendment No. 1, the Exchange provided information regarding the Exchange's regulatory trading halt policy and clarified that the Exchange does not seek to amend its regulatory trading halt policy in this proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the market-on-close ("MOC") and limit-on-close ("LOC") procedures permitting entry and cancellation of MOC/LOC orders after 3:40 p.m. when a regulatory trading halt is in effect.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Cancellation of MOC/LOC Orders During a Regulatory Halt. Under Exchange policy, a trading halt in an Exchange-listed stock may be put into effect when the Exchange determines that a regulatory condition exists in that stock.[4] The purpose of a regulatory halt is to allow the market the time to absorb and react to the news or market conditions. Trading halts may also be instituted when non-regulatory conditions exist.[5]

Current Exchange procedures [6] utilized for MOC and LOC orders prohibit Exchange members from

[4] A regulatory condition may exist if news is pending about the stock or if time is needed for new dissemination about the stock. When instituting a regulatory halt, the Exchange follows procedures contained in the section on Trading Halt and Suspension Procedures of the Consolidated Tape Association Plan, which was filed with the Commission. *See* Securities Exchange Act Release No. 10787 (May 10, 1994), 39 FR 17799; and Securities Exchange Act Release No. 16983 (July 16, 1980), 45 FR 49414 (July 24, 1980).

[5] A non-regulatory condition may exist if a stock has an order imbalance of significant size or when there are equipment problems affecting the trading in a stock. *See* Securities Exchange Act Release No. 38225 (January 31, 1997), 62 FR 5875 (February 7, 1997) and Exchange Information Memo No. 97–23 (May 8, 1997).

[6] For a description of the Exchange's current procedures *see* Securities Exchange Act Release No. 40094 (June 15, 1998), 63 FR 38230 (July 15, 1998) and Exchange Information Memo No. 98–20 (June 22, 1998).

canceling MOCs and LOCs after 3:40 p.m., except in the case where the member entering the order made a legitimate error or the member must cancel the order to comply with the provisions of Exchange Rule 80A(c).[7] Therefore, if a regulatory halt for a particular stock is in effect at 3:40 p.m. or occurs after that time, market participants are not permitted to cancel their MOC and LOC orders in that stock, even if the stock reopens at a price substantially different from the last sale.

The Exchange is proposing that when a regulatory halt is in effect at 3:40 p.m. or occurs after that time, members may cancel MOC and LOC orders until 3:50 p.m. or until the stock reopens, whichever occurs first. The Exchange is not proposing any changes in the case of a *non*-regulatory halt with respect to this position.

The Exchange believes that this exception to the no-cancellation policy for MOC/LOC orders is appropriate because of the need of market participants to be able to respond to information that was not available before 3:40 p.m. Furthermore, by limiting the period of time for canceling MOC and LOC orders to 3:50 p.m. at the latest, specialists will have sufficient time to arrange an orderly close.

Entry of MOC/LOC Orders During a Regulatory Halt. Current Exchange procedures prohibit members from entering MOC and LOC orders after 3:40 p.m. except to offset a published imbalance. If any type of halt is in effect at 3:40 p.m., no imbalance of MOC or LOC orders would be published,[8] and, therefore, no MOC or LOC orders could be entered after 3:40 p.m. If a regulatory halt occurs after an imbalance has been published at 3:40 p.m., market conditions may differ substantially from those that existed at the time of the imbalance publication.

Therefore, the Exchange is proposing that if a regulatory halt is in effect at 3:40 p.m. or occurs after that time, members may enter MOC and LOC orders on either side of the market until 3:50 p.m. or until the stock reopens, whichever occurs first. If an order imbalance is published following a regulatory halt, MOC and LOC order entry would be permitted only to offset the published imbalance.

Order Imbalance Publication After Any Trading Halt. Finally, under current Exchange policy, if a stock reopens at or before 3:50 p.m. following any type of halt, the specialist in that stock will publish an imbalance of 50,000 shares or more (or less than 50,000 shares with the approval of a Floor Official) as soon as practicable after 3:50 p.m. The Exchange is proposing that if the stock opens after 3:50 p.m., the specialist must publish an imbalance of 50,000 shares or more (or less than 50,000 shares with the approval of a Floor Official), if practicable.[9] If a halt occurs after 3:50 p.m., the stock will not reopen on that day and MOC and LOC orders will not be executed.

The Exchange intends to issue an Information Memo to inform its members of the revised MOC/LOC proceures.

2. Statutory Basis

The Exchange believes the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[10] that the rules of an Exchange be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–98–42 and should be submitted by May 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10761 Filed 4–28–99; 8:45 am]

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[7] For example, Exchange Rule 80A(c) requires index arbitrage orders in any stock in the Standard & Poor's 500 Stock Price Index entered on the Exchange to be stabilizing (*i.e.*, the order must be marked either buy minus or sell plus) when the Dow Jones Industrial Average advances or declines by the 2% point level determined by the Exchange each quarter. *See* Securities Exchange Act Release No. 41041 (February 11, 1999), 64 FR 8424 (February 19, 1999). When Rule 80A(c) goes into effect, a MOC index arbitrage order without the appropriate tick restriction must be canceled unless it is related to an expiring derivative index product.

[8] A specialist is required to publish tape indications to reopen a stock after a trading halt. The Exchange's policy on tape indications requires a minimum of ten minutes to elapse between the first indication and the reopening of a stock and a minimum of five minutes to elapse between the last indication and the reopening of a stock, provided that a minimum of ten minutes has elapsed since the first indication. *See* Securities Exchange Act Release No. 38225 (January 31, 1997), 62 FR 5875 (February 7, 1997) and Exchange Information Memo No. 97–23 (May 8, 1997).

[9] The decision of whether an imbalance shall be published for a stock opening after 3:50 p.m. will be made by an Exchange Floor Director or other Exchange Floor Official. Telephone call between Betsy Lampert Minkin, Senior Project Specialist, NYSE and Kelly McCormick, Attorney, Division, SEC, on January 13, 1999.

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41317; File No. SR–Phlx–99–09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Modify Fees for Option Transactions

April 21, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain fees charged to customers [3] for operations transactions. In addition, the Exchange will raise certain transaction fees charged to the membership, the floor facilities fee, and charges for trading post/booth space and shelf space. The text of the proposed rule change is available at the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange represents that the equity option transaction charge is paid by member organizations for execution on behalf of their customers. Telephone conversation between Nadita Yagnik, Counsel, Exchange, and Joseph P. Morra, Attorney, Division of Market Regulation, Commission, on April 12, 1999. Thus, the Exchange filed this proposal under Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(2) thereunder. 15 U.S.C. 78s(b)(3)(A), 17 CFR 420.19b–4(f)(2).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reduce certain transaction fees for options, to attract customer order flow to the Phlx options market, and to remain competitive. Specifically, equity option customer execution fees for contracts with a market value less than $1.00 are being reduced from $.15 per contract to $.10 per contract. Equity option customer execution fees for contracts with a market value greater than or equal to $1.00 are being reduced from $.30 to $.10 per contract. Fees for equity options transactions automatically executed by AUTO–X,[4] currently charged at $.15 per contract where the market value of the contract is less than $1.00, and at $.30 per contract for execution where the market value of the contract is greater than equal to $1.00, are being waived for equity options. The contra-side to such orders (specialists or Registered Options Traders ("ROTs")) will continue to be charged the application transaction charge as discussed below.

In turn, the Exchange will increase fees to options specialists and ROTs from $.07 per contract to $.14 per contract for transactions in equity and index options.[5] Fees for transactions in Value Line options will be increased from $.09 to $.14 per contract. Foreign currency options charges imposed on ROTs and specialists will be raised from $.07 per contract to $.14 per contract. In addition, the Exchange proposes to raise the trading post/booth/controller fee from $375 per quarter to $750 per quarter, the floor facility fee from $187.50 per quarter to $375 per quarter, and the fee charged for shelf space on all three trading floors—equity, option, and foreign currency option, from $187.50 per quarter to $375 per quarter. The Exchange proposes these changes to counterbalance revenues lost from the customer execution transaction charges.

The proposed fees will be effective April 1, 1999.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(4) of the Act [6] in that it provides for the equitable allocation of reasonable dues, fees and other charges among Exchange members and persons using the Exchange facilities.

[4] AUTO–X is the automatic execution feature of AUTOM, the Phlix Automated Options Market System.

[5] For clarity, the Exchange is renaming the index option transaction charge to emphasize that it applies to all index options except the Value Line index options.

[6] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange represents that the proposed rule change should not impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received by the Exchange with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and subparagraph (f)(2) of Rule 19b–4 under the Act because it involves a due, fee, or other charge.[8] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies of thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

[9] In viewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

the principal office of the Exchange. All submissions should refer to file number SR–Phlx–99–09, and should be submitted by May 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10762 Filed 4–28–99; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Comment Request

In compliance with Pub. L. 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed after this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

[10] 17 CFR 200.30–3(a)(12).

1. Employee Work Activity Report—0960–0483. The data collected by the Social Security Administration on Form SSA–3033 is reviewed and evaluated to determine if the claimant meets the disability requirements of the law, when the claimant returns to work after the alleged or established onset date. When a possible unsuccessful work attempt or nonspecific subsidy is involved (and the information cannot be obtained through telephone contact), Form SSA–3033 will be used to request a description, by mail, of the employee's work effort. The respondents are employers of Old-Age, Survivors and Disability Insurance and Supplemental Security Income disability applicants and beneficiaries.

Number of Respondents: 12,500.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 3,125 hours.

2. Public Information Campaign Collections—0960–0544. The Social Security Administration uses the information collected through feedback cards to determine media interest in broadcasting public information materials. The respondents are radio, television stations and publications.

Number of Respondents: 24,000.

Frequency of Response: 1.

Average Burden Per Response: 1 minute.

Estimated Annual Burden: 400 hours.

(SSA Address): Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235

(OMB Address): Office of Management and Budget, OIRA, Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503

Dated: April 23, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–10759 Filed 4–28–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice No. 3038]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the two (2) letters.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State [(703) 875–6644].

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: April 21, 1999.

William J. Lowell,

Director, Office of Defense Trade Controls.

BILLING CODE 4710–25–P

United States Department of State

Washington, D.C. 20520

APR 13 1999

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the sale of F-16 major airframe items, subassemblies, subcomponents and subsystems to Turkey for production of the F-16.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 60-99

The Honorable
J. Dennis Hastert
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

APR 16 1999

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification concerns a joint venture, in which Norway, Ukraine, Russia, and the United Kingdom will also participate, to provide commercial space launch services for communications satellites from a modified oil platform in the Pacific Ocean.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 6-99

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

[FR Doc. 99-10753 Filed 4-28-99; 8:45 am]
BILLING CODE 4710-25-C

DEPARTMENT OF STATE

[Public Notice 3039]

Bureau of Nonproliferation; Imposition of Lethal Military Equipment Sanctions Against the Government of Russia and Partial Waiver of These Sanctions

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The United States Government has determined that the Government of Russia transferred lethal military equipment to a country determined by the Secretary of State to be a state sponsor of terrorism. The United States Government determined that, despite the transfers, furnishing assistance to the Government of Russia, other than assistance furnished to the three Russian entities specifically involved in the transfer of lethal military equipment, is important to the national interests of the United States. Further, it is the policy of the United States Government to deny U.S. Government assistance to these three entities.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Joseph Smaldone, Office of Export Controls and Conventional Arms Nonproliferation Policy, Bureau of Nonroliferation, Department of State, (202–647–4231).

SUPPLEMENTARY INFORMATION: Pursuant to section 620H of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2378), section 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103–87), section 563 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Pub. L. 103–306), section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Pub. L. 104–107), section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Pub. L. 104–208), section 550 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Pub. L. 105–118), section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (Pub. L. 105–277), and Executive Order 12163, as amended, on March 29, 1999, the United States Government determined that the Government of Russia has provided lethal military equipment to a country determined by the Secretary of State to be a state sponsor of terrorism. Also on March 29, 1999 and pursuant to the aforementioned provisions of law, the United States Government determined furnishing assistance restricted by these provisions to the Government of Russia (other than assistance furnished to the three entities named below) is important to the national interests of the United States. Further, it is the policy of the United States Government to deny all types of U.S. Government assistance to the following three entities:

(1) Tula Instrument Design Bureau (including at Tula 300001, Russia);
(2) Volsk Mechanical Plant (including at Saratov Region, 412013, Volsk, Russia);
(3) TZNII Central Scientific Research Institute of Precision Machine-Building (a/k/a Tzniitochmash) (including at 142080 Klimovsk, Russia).

These measures shall remain in place until further notice.

Dated: April 21, 1999.

John P. Barker, Jr.,

Deputy Assistant Secretary of State for Nonproliferation Controls.

[FR Doc. 99–10754 Filed 4–28–99; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5550]

Towing Safety Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Towing Safety Advisory Committee (TSAC). TSAC provides advice and makes recommendations to the Department of Transportation on matters relating to shallow-draft inland and coastal waterway navigation and towing safety.

DATES: Application must reach the Coast Guard on or before July 6, 1999.

ADDRESSES: You may request an application form by writing to Commandant (G–MSO–1), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593–0001; by calling 202–267–0229; or by faxing 202–267–4570. Submit application forms to the same address. This notice and the application form are available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Minate, Assistant Executive Director, telephone 202–267–0229, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: The Towing Safety Advisory Committee (TSAC) is a Federal advisory committee constituted under 5 U.S.C. App. 2. It provides advice and makes recommendations to the Secretary of Transportation on matters relating to shallow-draft inland and coastal waterway navigation and towing safely. The advice and recommendations also assist the Coast Guard in formulating the position of the United States in advance of meetings of the International Maritime Organization.

TSAC meets at least once a year at Coast Guard Headquarters, Washington, DC, or another location selected by the Coast Guard. It may also meet for extraordinary purposes. Its subcommittees and working groups may meet to consider specific problems as required.

The Coast Guard will consider application for six positions that expire or become vacant in October 1999 as follows: Three members from the barge and towing industry, reflecting a geographical balance; one member from port districts, authorities, or terminal operators; one member from maritime labor; and one member from shippers who are engaged in the shipment of oil or hazardous materials by barge.

To be eligible, applicants should have experience in towing operations, marine transportation, occupational safety and health, environmental protection, or business operations associated with the towing industry. Each member serves for a term of three years. A few members may serve consecutive terms. All members serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the policy of the Department of Transportation on gender and ethnic diversity, the Coast Guard encourages applications form qualified women and members of minority groups.

Applicants selected may be required to complete a Confidential Financial Disclosure Report (OGE Form 450). Neither the report nor the information it contains may be released to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: April 19, 1999.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 99–10722 Filed 4–28–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

Environmental Impact Statement: Pitkin, Eagle and Garfield Counties, Colorado

AGENCY: Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA and FTA are jointly issuing this revised notice to advise the public that the project limits have been extended from the Pitkin County Airport to the City of Aspen, a distance of 3.7 miles; and from Glenwood Springs to West Glenwood, a distance of 2 miles. These extensions are in response to comments received at the public scoping meetings held in February 1998 and subsequent public meetings.

FOR FURTHER INFORMATION CONTACT: Eva LaDow, FHWA Colorado Division, 555 Zang Street, Room 250; Lakewood, Colorado 80228. Telephone (303) 969–6730 Extension 341. Dave Beckhouse, FTA Region VIII, 216 16th Street, Suite 650; Denver, Colorado 80202, Telephone (303) 844–3242. Joe Tempel, Colorado Department of Transportation, 4201 East Arkansas; Denver, Colorado 80222, Telephone (303) 757–9771.

SUPPLEMENTARY INFORMATION: The FHWA and FTA in cooperation with the Federal Railroad Administration (FRA), the Colorado Department of Transportation (CDOT) and the Roaring Fork Railroad Holding Authority (RFRHA) will prepare an environmental impact statement (EIS) and Section 4(f) evaluation on a proposal to make major transportation improvements in the Roaring Fork Valley from West Glenwood Springs to the City of Aspen, a distance of approximately 44.2 miles. The purpose of these improvements is to accommodate current and projected travel demands through the corridor. The proposed improvements will be identified in a Corridor Investment Study which will be combined with the EIS. The alternatives to be considered in detail in the EIS/4(f) evaluation include the following:

(1) The No Build Alternative—This alternative will include transportation improvements that are "committed" or currently approved transportation projects.

(2) An Improved Bus/Transportation System Management (TSM) Alternative—This alternative will include an optimal bus alternative on the existing SH 82 alignment and improvements beyond the No Build Alternative that enhance the utility of the existing and committed transportation improvements. A valley wide trail is also included from Glenwood Springs to Aspen.

(3) The Build Alternative—This alternative consists of rail improvements in the corridor, a feeder bus service to the rail stations and TSM improvements. A valley wide trail is also included from Glenwood Springs to Aspen.

Comments or questions concerning this proposed action and the CIS/EIS/4(f) evaluation should be directed to the Colorado Department of Transportation at the address provided above.

Issued on April 9, 1999.

Ronald A. Speral,

Environmental/ROW Program Manager, Colorado Division, Federal Highway Administration, Lakewood, Colorado.

Louis F. Mraz, Jr.,

Regional Administrator, Federal Transit Administration, Region VIII, Denver, Colorado.

[FR Doc. 99–10747 Filed 4–28–99; 8:45 am]

BILLING CODE 4910–22–M AND 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Automotive Fuel Economy Program, Report to Congress

The attached document, 23rd Annual Report to Congress on the Automotive Fuel Economy Program, was prepared pursuant to 49 U.S.C. 32916 et seq. which requires that "the Secretary shall transmit to each House of Congress, and publish in the **Federal Register**, a review of the average fuel economy standards under this part."

The 23rd Annual Report to Congress on the Automotive Fuel Economy Program summarizes the fuel economy performance of the vehicle fleet and the activities of the National Highway Traffic Safety Administration (NHTSA) during 1998. Included in this report is a section summarizing rulemaking activities during 1998. This report is available on the Internet at: *http://www.nhtsa.dot.gov/cars/problems/studies/fuelecon/index.html*. To obtain paper copies of this document, you may contact NHTSA's Publications Ordering and Distribution Services on (202) 366–1566.

Issued on: April 20, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

U.S. Department of Transportation

Automotive Fuel Economy Program

National Highway Traffic Safety Administration

Twenty-third Annual Report to Congress Calendar Year 1998

This publication is distributed by the United States Department of Transportation, National Highway Traffic Safety Administration, in the interest of information exchange. The opinions, findings, and conclusions expressed in this publication are those of the author(s) and not necessarily those of the Department of Transportation or the National Highway Traffic Safety Administration. The United States Government assumes no liability for its contents or use thereof. If trade or manufacturers' name or products are mentioned, it is because they are considered essential to the object of the publication and should not be construed as an endorsement. The United States Government does not endorse products or manufacturers.

AUTOMOTIVE FUEL ECONOMY PROGRAM

TWENTY-THIRD ANNUAL REPORT TO CONGRESS

CALENDAR YEAR 1998

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- C. Characteristics of the MY 1998 Light Truck Fleet
- D. Passenger Car and Light Truck Fleet Economy Averages
- E. Domestic and Import Fleet Fuel Economy Averages

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- B. Low Volume Petitions
- C. Enforcement
- D. Contract Activities

Section I: Introduction

The 23rd Annual Report to Congress on the Automotive Fuel Economy Program summarizes the fuel economy performance of the vehicle fleet and the activities of the National Highway Traffic Safety Administration (NHTSA) during 1998, in accordance with 49 U.S.C. 32916 *et seq.*, which requires the submission of a report each year. Included in this report is a section

summarizing rulemaking activities during 1998.

The Secretary of Transportation is required to administer a program for regulating the fuel economy of new passenger cars and light trucks in the United States market. The authority to administer the program was delegated by the Secretary to the Administrator of NHTSA. 49 CFR 1.50(f).

NHTSA's responsibilities in the fuel economy area include:

(1) Establishing and amending average fuel economy standards for manufacturers of passenger cars and light trucks, as necessary;

(2) Promulgating regulations concerning procedures, definitions, and reports necessary to support the fuel economy standards;

(3) Considering petitions for exemption from established fuel economy standards by low volume manufacturers (those producing fewer than 10,000 passenger cars annually worldwide) and establishing alternative standards for them;

(4) Preparing annual reports to Congress on the fuel economy program;

(5) Enforcing fuel economy standards and regulations; and

(6) Responding to petitions concerning domestic production by foreign manufacturers, and other matters.

Passenger car fuel economy standards were established by Congress for Model Year (MY) 1985 and thereafter at a level of 27.5 miles per gallon (mpg). NHTSA is authorized to amend the standard above or below that level. Standards for light trucks were established by NHTSA for MYs 1979 through 2000. NHTSA set a combined standard of 20.7 mpg for light truck fleets for MY 2000. All current standards are listed in Table I–1.

TABLE I–1.—FUEL ECONOMY STANDARDS FOR PASSENGER CARS AND LIGHT TRUCKS MODEL YEARS 1978 THROUGH 1999

[In MPG]

Model years	Passenger cars	Light Trucks [1]		
		Two-wheel drive	Four-wheel drive	combined [2 3]
1978	[4] 18.0	.....	.....	.....
1979	[4] 19.0	17.2	15.8	.....
1980	[4] 20.0	16.0	14.0	[5]
1981	22.0	[6] 16.7	15.0	[5]
1982	24.0	18.0	16.0	17.5
1983	26.0	19.5	17.5	19.0
1984	27.0	20.3	18.5	20.0
1985	[4] 27.5	[7] 19.7	[7] 18.9	[7] 9.5
1986	[8] 26.0	20.5	19.5	20.0
1987	[9] 26.0	21.0	19.5	20.5
1988	[9] 26.0	21.0	19.5	20.5
1989	[10] 26.5	21.5	19.0	20.5
1990	[4] 27.5	20.5	19.0	20.0
1991	[4] 27.5	20.7	19.1	20.2
1992	[4] 27.5			20.2
1993	[4] 27.5			20.4
1994	[4] 27.5			20.5
1995	[4] 27.5			20.6
1996	[4] 27.5			20.7
1997	[4] 27.5			20.7
1998	[4] 27.5			20.7
1999	[4] 27.5			20.7
2000	[4] 27.5			20.7

[1] Standards for MY 1979 light trucks were established for vehicles with a gross vehicle weight rating (GVWR) of 6,000 pounds or less. Standards for MY 1980 and beyond are for light trucks with a GVWR of 8,500 pounds or less.

[2] For MY 1979, light truck manufacturers could comply separately with standards for four-wheel drive, general utility vehicles and all other light trucks, or combine their trucks into a single fleet and comply with the standard of 17.2 mpg.

[3] For MYs 1982–1991, manufacturers could comply with the two-wheel and four-wheel drive standards or could combine all light trucks and comply with the combined standard.

[4] Established by Congress in Title V of the Act.

[5] A manufacturer whose light truck fleet was powered exclusively by basic engines which were not also used in passenger cars could meet standards of 14 mpg and 14.5 mpg in MYs 1980 and 1981, respectively.

[6] Revised in June 1979 from 18.0 mpg.

[7] Revised in October 1984 from 21.6 mpg for two-wheel drive, 19.0 mpg for four-wheel drive, and 21.0 mpg for combined.

[8] Revised in October 1985 from 27.5 mpg.

[9] Revised in October 1986 from 27.5 mpg.

[10] Revised in September 1988 from 27.5 mpg.

Section II: Vehicle Fuel Economy Performance and Characteristics

A. Fuel Economy Performance by Manufacturer

The fuel economy achievements for domestic and foreign-based manufacturers in MY 1997 were updated to include final Environmental Protection Agency (EPA) calculations, where available, since the publication of the *Twenty-second Annual Report to the Congress.* These fuel economy achievements and current projected data for MY 1998 are listed in Tables II–1 and II–2.

Overall fleet fuel economy for passenger cars was 28.7 mpg in MY 1998, an increase of 0.1 mpg from the MY 1997 level. For MY 1998, Corporate Average Fuel Economy (CAFE) values increased above MY 1997 levels for ten of 23 passenger car manufacturers' fleets. (See Table II–1.) These ten

companies accounted for more than 51 percent of the total MY 1998 production. Twelve manufacturers declined below their MY 1997 levels due to increased market demand for heavier and high performance passenger cars, while one manufacturer remained at its MY 1997 level. Manufacturers generally continued to introduce new technologies and more fuel-efficient models, and some larger, less fuel-efficient models. For MY 1998, the overall domestic manufacturers' fleet average fuel economy was 28.0 mpg. For MY 1998, Chrysler, and Ford/Mazda domestic passenger cars CAFE values rose 1.2 mpg and 0.4 mpg from their 1997 levels, while General Motors, Honda, and Toyota fell 0.4 mpg, 0.4 mpg, and 0.2 mpg, respectively, from their MY 1997 levels. Overall, the domestic manufacturers' combined CAFE increased 0.1 mpg above MY 1997 level.

TABLE II–1.—PASSENGER CAR FUEL ECONOMY PERFORMANCE BY MANUFACTURER*

[Model years 1997 and 1998]

Manufacturer	Model year cafe (MPG)	
	1997	1998
DOMESTIC:		
Chrysler	27.5	28.7
Ford/Mazda	27.2	27.6
General Motors	28.2	27.8
Honda	29.9	29.5
Nissan	.....	29.9
Toyota	28.8	28.6
Sales Weighted Average (Domestic)	27.9	28.0
IMPORT:		
BMW	25.7	25.2
Chrysler	26.4	25.8
Fiat	13.7	13.4
Ford/Mazda	31.1	29.5
General Motors	31.3	28.9
Honda	34.4	34.6
Hyundai	30.9	31.5
Kia	30.6	30.6
Mercedes-Benz	25.2	27.1
Mitsubishi	30.0	29.7
Nissan	29.9	30.7
Porsche	23.2	24.5
Subaru	28.0	27.6
Suzuki	33.9	35.8
Toyota	30.1	30.7
Volvo	25.8	25.7
Volkswagen	28.6	28.7
Sales Weighted Average (Import)	29.8	29.9
Total Fleet Average	28.6	28.7
Fuel Economy Standards	27.5	27.5

*Manufacturers with low volume alternate fuel economy standards are not listed.

TABLE II–2.—LIGHT TRUCK FUEL ECONOMY PERFORMANCE BY MANUFACTURER *

[Model years 1997 and 1998]

Manufacturer	Model year CAFE (MPG)	
	Combined	
	1997	1998
Domestic:		
Chrysler	20.2	20.5
Ford/Mazda	20.0	20.1
General Motors	20.2	21.1
Sales Weighted Average (Domestic)	20.1	20.5
Foreign Based:		
Honda	27.1	27.1
Isuzu	19.4	21.4
Kia	23.8	23.7
Land Rover	17.2	17.2
Mercedes-Benz	.....	21.3
Mitsubishi	22.3	22.5
Nissan	22.1	22.2
Suzuki	27.4	27.2
Toyota	22.6	23.5
Sales Weighted Average (Foreign Based)	22.1	22.9
Total Fleet Average	20.4	20.9

TABLE II–2.—LIGHT TRUCK FUEL ECONOMY PERFORMANCE BY MANUFACTURER *—Continued

[Model Years 1997 and 1998]

Manufacturer	Model year CAFE (MPG)	
	Combined	
	1997	1998
Fuel Economy Standards	20.7	20.7

*Mercedes-Benz began introducing light trucks in MY 1998.

In MY 1998, the fleet average fuel economy for import passenger cars increased by 0.1 mpg from the MY 1997 CAFE level to 29.9 mpg. Eight of the 17 import car manufacturers increased their CAFE values between MYs 1997 and 1998, while eight others decreased and one was unchanged.

Figure II–1 illustrates the changes in total new passenger car fleet CAFE from MY 1978 to MY 1998.

The total light truck fleet CAFE increased 0.5 mpg above the MY 1997 CAFE level of 20.4 mpg (see Table II–2). Figure II–2 illustrates the trends in total light truck fleet CAFE from MY 1979 to MY 1998.

Six passenger car manufacturers (BMW, Chrysler Import, Fiat, Mercedes-Benz, Porsche, and Volvo) and three light truck manufacturers (Chrysler, Ford/Mazda, and Land Rover) are projected to fail to achieve the levels of the MY 1998 CAFE standards. However, NHTSA is not yet able to determine which of these manufacturers may be liable for civil penalties for non-compliance. Some MY 1998 CAFE values may change when final figures are provided to NHTSA by EPA, in mid-1999. In addition, several manufacturers are not expected to pay civil penalties because the credits they earned by exceeding the fuel economy standards in earlier years offset later shortfalls. Other manufacturers may file carryback plans to demonstrate that they anticipate earning credits in future model years to offset current deficits.

Beginning in MY 1998, Nissan reported a domestic passenger car fleet consisting of its Altima model vehicle which is built in Smryna, Tennessee. This fleet had the highest CAFE of the domestic passenger car fleets, but it was also the smallest fleet.

BILLING CODE 4910–59–P

Figure II-1

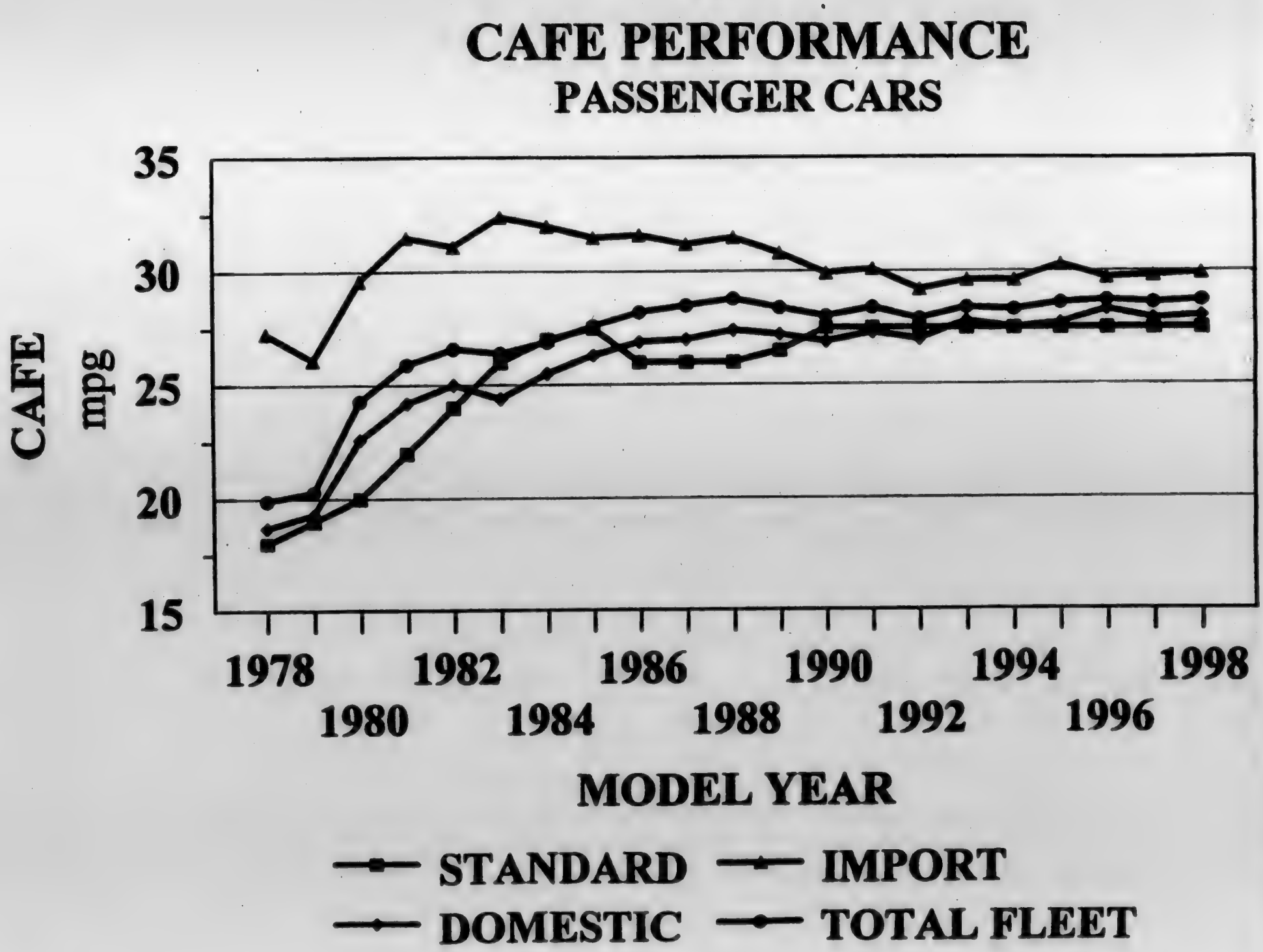
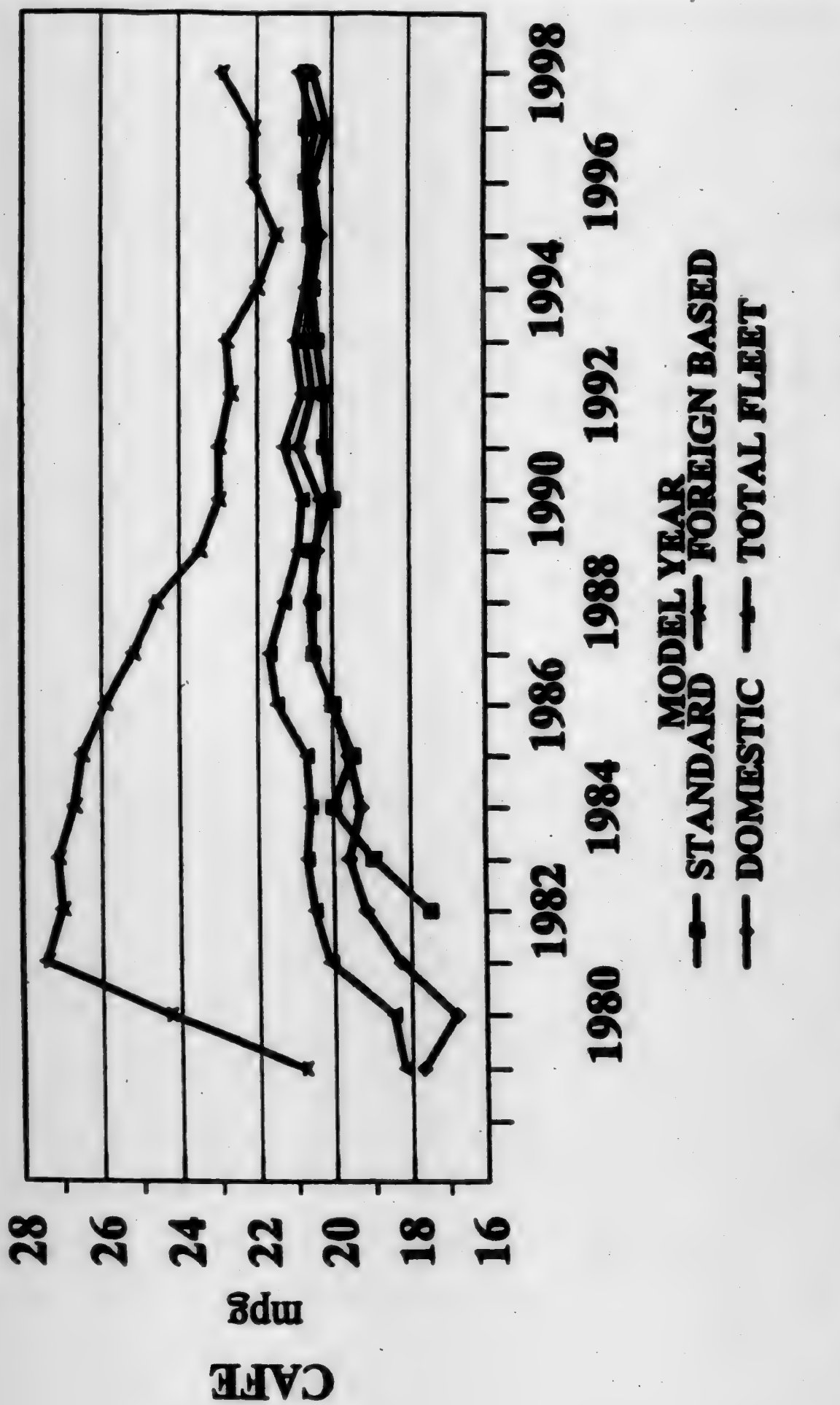

CAFE PERFORMANCE
PASSENGER CARS
CAFE mpg
35
30
25
20
15
1978
1980
1982
1984
1986
1988
1990
1992
1994
1996
1998
MODEL YEAR
STANDARD
IMPORT
DOMESTIC
TOTAL FLEET

Figure II-2



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B. Characteristics of the MY 1998 Passenger Car Fleet

The characteristics of the MY 1998 passenger car fleet reflect a continuing trend toward satisfying consumer demand for higher performance cars. (See Table II–3.) From MY 1997 to MY 1998, horsepower/100 pounds, a measure of vehicle performance, increased from 5.02 to 5.11 for domestic passenger cars and from 4.82 to 4.93 for import passenger cars. The total fleet average for passenger cars increased from 4.95 horsepower/100 pounds in MY 1997 to 5.05 in MY 1998, the highest level in the 42 years for which the agency has data. Compared with MY 1997, the average curb weight for MY 1998 decreased by 24 pounds for the domestic fleet and increased by 48 pounds for the import fleet. The total new passenger car fleet weight increased only from 3,071 pounds in MY 1997 to 3,075 pounds in MY 1998, primarily because of the larger share held by the domestic fleet. Average engine displacement decreased from 180 to 174 cubic inches for domestic passenger cars and increased from 135 to 137 cubic inches for import passenger cars, from MY 1997 to MY 1998.

The 0.1 mpg fuel economy improvement for the MY 1998 domestic passenger car fleet may be attributed in part to weight reduction and mix shifts.

The size/class breakdown shows an increased trend primarily toward mid-size passenger cars with the reduction of two-seater, minicompact, subcompact, compact, and large passenger cars for the overall fleet. The size/class mix in the domestic fleet shifted from two-seater, compact, and large passenger cars to subcompact and mid-size passenger cars. The size/class mix in the import fleet shifted from two-seater, minicompact, subcompact, and large passenger cars to compact and mid-size passenger cars. The import share of the passenger car market declined in MY 1998, as more foreign-based manufacturers achieved 75 percent domestic content for their U.S. and Canadian-assembled passenger cars.

The share of turbocharged and supercharged engines increased by 0.5 percentage points in MY 1998. Diesel engine shares increased in MY 1998. Diesel engines were offered on certain Mercedes and Volkswagen models during MY 1998.

Passenger car fleet average characteristics have changed significantly since MY 1978 (the first year of fuel economy standards). (See Table II–4.) After substantial initial weight loss (from MY 1978 to MY 1982, the average passenger car fleet curb weight decreased from 3,349 to 2,808 pounds), the curb weight stabilized between 2,800 and 3,075 pounds. Table II–4 shows that the MY 1998 passenger car fleet has nearly equal interior volume and higher performance, but with more than 44 percent better fuel economy, than the MY 1978 fleet. (See Figure II–3.)

C. Characteristics of the MY 1998 Light Truck Fleet

The characteristics of the MY 1998 light truck fleet are shown in Table II–5. Light truck manufacturers are not required to divide their fleets into domestic and import fleets based on the 75-percent domestic content threshold used for passenger car fleets. In Table II–5, the light truck fleet is subdivided according to two-wheel drive or four-wheel drive.

TABLE II–3.—PASSENGER CAR FLEET CHARACTERISTICS FOR MYS 1997 AND 1998

	Total fleet		Domestic fleet		Import fleet	
	1997	1998	1997	1998	1997	1998
Characteristics:						
Fleet Average Fuel Economy, mpg	28.6	28.7	27.9	28.0	29.8	29.9
Fleet Average Curb Weight, lbs.	3071	3075	3143	3119	2944	2992
Fleet Average Engine Displacement, cu. in.	164	161	180	174	135	137
Fleet Average Horsepower/Weight ratio, HP/100 lbs.	4.95	5.05	5.02	5.11	4.82	4.93
Pecent of Fleet	100	100	63.6	65.7	36.4	34.3
Segmentation by EPA Size Class, Percent:						
Two-Seater	1.0	0.7	0.3	0.2	2.3	1.7
Minicompact	0.6	0.4	0.0	0.0	1.6	1.2
Subcompact*	17.6	16.7	7.2	10.4	35.9	28.7
Compact*	37.4	35.8	39.3	35.8	33.9	35.8
Mid-Size*	30.3	34.1	33.3	35.4	25.2	31.6
Large*	13.1	12.3	19.9	18.2	1.2	1.0
Diesel Engines	0.08	0.19	0.0	0.0	0.2	0.6
Turbo or Supercharged Engines	1.5	2.0	1.3	1.2	1.8	3.6
Fuel Injection	100	100	100	100	100	100
Front-Wheel Drive	85.8	87.0	87.8	90.9	82.2	79.5
Automatic Transmissions	86.1	86.4	91.4	90.4	77.0	78.9
Automatic Transmissions with Lockup Clutches	97.7	99.2	100	99.0	93.1	99.8
Automatic Transmissions with Four or more Forward Speeds	92.1	92.0	90.6	90.8	95.2	94.8
percent Electric	0.02	0.0	0.04	0.0	0.0	0.0

*Includes associated station wagons.

TABLE II–4.—NEW PASSENGER CAR FLEET AVERAGE CHARACTERISTICS

[Model years 1978–1998]

Model year	Fuel economy (mpg)	Curb weight (lb.)	Interior space (cu. ft.)	Engine size (cu. in.)	Horsepower/ weight (hp/100 lb.)
1978	19.9	3349	112	260	3.68
1979	20.3	3180	110	238	3.72
1980	24.3	2867	105	187	3.51
1981	25.9	2883	108	182	3.43
1982	26.6	2808	107	173	3.47
1983	26.4	2908	109	182	3.57
1984	26.9	2878	108	178	3.66
1985	27.6	2867	108	177	3.84
1986	28.2	2821	106	169	3.89
1987	28.5	2805	109	162	3.98
1988	28.8	2831	107	161	4.11
1989	28.4	2879	109	163	4.24
1990	28.0	2908	108	163	4.53
1991	28.4	2934	108	164	4.42
1992	27.9	3007	108	169	4.56
1993	28.4	2971	109	164	4.62
1994	28.3	3011	109	169	4.79
1995	28.6	3047	109	166	4.87
1996	28.7	3047	109	164	4.92
1997	28.6	3071	109	164	4.95
1998	28.7	3075	109	161	5.05

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TABLE II–5.—LIGHT TRUCK FLEET CHARACTERISTICS FOR MYS 1997 AND 1998

	Total fleet		Two-wheel drive		Four-wheel drive	
	1997	1998	1997	1998	1997	1998
Characteristics:						
Fleet Average Fuel Economy, mpg	20.4	20.9	21.7	22.4	19.0	19.1
Fleet Average Equivalent Test Weight, lbs.	4471	4435	4283	4255	4703	4679
Fleet Average Engine Displacement, cu. in.	249	243	235	228	266	263
Fleet Average Horsepower/Weight ratio, HP/100 lbs.	4.20	4.23	4.18	4.20	4.23	4.26
Percent of Fleet	100	100	55.3	57.4	44.7	42.6
Percent of Fleet from Foreign-based Manufacturers	14.2	15.5	9.6	11.4	19.8	21.1
Segmentation by Type, Percent:						
Passenger Van	16.4	18.5	28.1	31.4	1.9	1.3
Cargo Van	3.9	3.3	6.9	5.6	0.3	0.2
Small-Pickup:						
Two-Wheel Drive	6.0	7.3	10.8	12.8	0.0	0.0
Large Pickup:						
Two-Wheel Drive	20.8	17.1	37.6	29.7	0.0	0.0
Four-Wheel Drive	14.8	13.3	0.0	0.0	33.1	31.3
Special Purpose:						
Two-Wheel Drive	9.2	11.8	16.6	20.6	0.0	0.0
Four-Wheel Drive	28.9	28.7	0.0	0.0	64.7	67.3
Diesel Engines	0.03	0.02	0.01	0.01	0.04	0.04
Turbo/Supercharged Engines	0.11	0.25	0.13	0.01	0.10	0.56
Fuel Injection	100	100	100	100	100	100
Automatic Transmissions	85.1	86.1	83.1	85.0	87.7	87.6
Automatic Transmissions with Lockup Clutches	95.5	99.3	99.1	99.1	100	100
Automatic Transmissions with Four or More Forward Speeds	99.5	95.1	92.2	92.2	98.5	94.6
Precent Electric	0.0	0.01	0.0	0.02	0.0	0.00

The MY 1998 average test weight of the total light truck fleet decreased by 36 pounds under that for MY 1997. The average fuel economy of the fleet increased by 0.5 mpg to 20.9 mpg. Diesel engine usage declined slightly in light trucks to 0.02 percent in MY 1998 from 0.03 percent in MY 1997. The share of the MY 1998 two-wheel drive fleet increased by 2.1 percentage points over that for the MY 1997 level of 55.3 percent.

CAFE levels for light trucks in the 0–8,500 pounds gross vehicle weight (GVW) class increased from 18.5 mpg in MY 1980 to 21.7 mpg in MY 1987, before declining to 20.9 mpg in MY 1998, influenced by an increase in performance. Light truck production increased from 1.9 million in MY 1980 to 6.5 million in MY 1998. Light trucks comprised 44 percent of the total light duty vehicle fleet production in MY 1998, more than 2.5 times the share in MY 1980.

D. Passenger Car and Light Truck Fleet Economy Averages

Figure II–4 illustrates an increase in the light duty fleet (combined passenger cars and light trucks) average fuel economy through MY 1987, followed by a gradual decline. (See also Table II–6). Passenger car average fuel economy remained relatively constant for MYs 1987–1998. The overall decline in fuel economy illustrates the growing influence of light trucks and their significant impact on the light duty fleet.

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Figure II-4

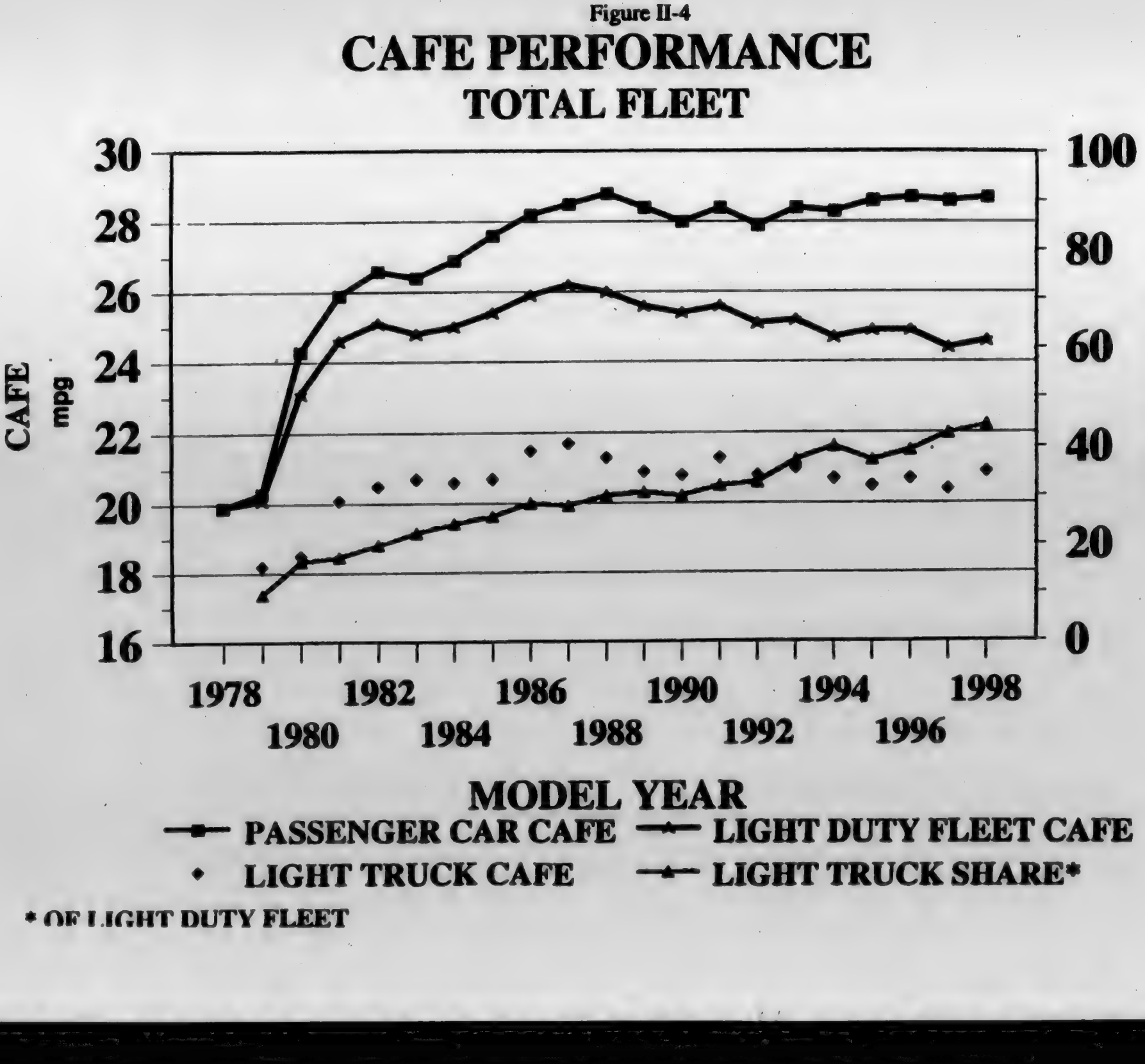

TABLE II–6.—DOMESTIC AND IMPORT PASSENGER CAR AND LIGHT TRUCK FUEL ECONOMY AVERAGES FOR MODEL YEARS 1978–1998

[In MPG]

Model year	Domestic			Import			All cars	All light trucks	Total fleet	Light truck share of fleet (%)
	Car	Light truck	Combined	Car	Light truck*	Combined				
1978	18.7			27.3			19.9			
1979	19.3	17.7	19.1	26.1	20.8	25.5	20.3	18.2	20.1	9.8
1980	22.6	16.8	21.4	29.6	24.3	28.6	24.3	18.5	23.1	16.7
1981	24.2	18.3	22.9	31.5	27.4	30.7	25.9	20.1	24.6	17.6
1982	25.0	19.2	23.5	31.1	27.0	30.4	26.6	20.5	25.1	20.1
1983	24.4	19.6	23.0	32.4	27.1	31.5	26.4	20.7	24.8	22.5
1984	25.5	19.3	23.6	32.0	26.7	30.6	26.9	20.6	25.0	24.4
1985	26.3	19.6	24.0	31.5	26.5	30.3	27.6	20.7	25.4	25.9
1986	26.9	20.0	24.4	31.6	25.9	29.8	28.2	21.5	25.9	28.6
1987	27.0	20.5	24.6	31.2	25.2	29.6	28.5	21.7	26.2	28.1
1988	27.4	20.6	24.5	31.5	24.6	30.0	28.8	21.3	26.0	30.1
1989	27.2	20.4	24.2	30.8	23.5	29.2	28.4	21.0	25.6	30.8
1990	26.9	20.3	23.9	29.9	23.0	28.5	28.0	20.8	25.4	30.1
1991	27.3	20.9	24.4	30.1	23.0	28.4	28.4	21.3	25.6	32.2
1992	27.0	20.5	23.8	29.2	22.7	27.9	27.9	20.8	25.1	32.9
1993	27.8	20.7	24.2	29.6	22.8	28.1	28.4	21.0	25.2	37.4
1994	27.5	20.5	23.5	29.7	22.1	27.8	28.3	20.8	24.7	40.2
1995	27.7	20.3	23.8	30.3	21.5	27.9	28.6	20.5	24.9	37.4
1996	28.3	20.5	24.1	29.7	22.2	27.7	28.7	20.7	24.9	39.4
1997	27.9	20.1	23.3	29.8	22.1	27.5	28.6	20.4	24.4	42.8
1998	28.0	20.5	23.3	29.9	22.9	27.6	28.7	20.9	24.6	44.5

*Light trucks from foreign-based manufacturers.

While passenger car and light truck fleet fuel economies increased from MY 1997 to MY 1998 by 0.1 mpg and 0.5 mpg, respectively, the total fleet fuel economy for MY 1998 increased by 0.2 mpg to 24.6 mpg. The shift to light trucks for general transportation is an important trend in consumers' preference and has a significant fleet fuel consumption effect.

E. Domestic and Import Fleet Fuel Economy Averages

Domestic and import passenger car fleet average fuel economies have improved since MY 1978, although the increase is far more dramatic for the domestic fleet. The domestic passenger car fleet CAFE has continued to increase gradually since MY 1978, but the import passenger car fleet CAFE peaked in MY 1984 and has declined since then. In MY 1998, the domestic passenger car fleet average fuel economy was 28.0 mpg. The import passenger car fleet average fuel economy was 29.9 mpg. Compared with MY 1978, this reflects an increase of 9.3 mpg for domestic cars and 2.6 mpg for import cars.

Since MY 1980, the total light truck fleet average fuel economy and the average for domestic light truck manufacturers have improved overall, but both have remained below the fuel economy level for the foreign based light truck fleet. The foreign based light truck average fuel economy has decreased significantly since its highest level of 27.4 mpg for MY 1981 to 22.9 mpg for MY 1998. For MY 1998, the domestic light truck fleet has an average fuel economy level of 20.5 mpg, which is 2.4 mpg lower than the foreign based light truck fleet. For MY 1998, the foreign based light truck fleet fuel economy increased 0.8 mpg above the MY 1997 level to 22.9 mpg. The domestic manufacturers continued to dominate the light truck market, comprising 84 percent of the total light truck fleet.

The disparity between the average CAFEs of the import and domestic manufacturers has declined in recent years as domestic manufacturers have maintained relatively stable CAFE values while the import manufacturers moved to larger vehicles and more four-wheel drive light trucks, thus lowering their CAFE values.

Section III: 1998 Activities

A. Light Truck CAFE Standards

On April 6, 1998, NHTSA published a final rule establishing a combined standard of 20.7 mpg for light trucks for MY 2000. The Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1998, Pub. L. 105–66, precludes the agency from setting the MY 2000 standard at a level other than the level for MY 1999.

B. Low Volume Petitions

49 U.S.C. 32902(d) provides that a low volume manufacturer of passenger cars may be exempted from the generally applicable passenger car fuel economy standards if these standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for that manufacturer at its maximum feasible level. A low volume manufacturer is one that manufactured fewer than 10,000 passenger cars worldwide, in the model year for which the exemption is sought (the affected model year) and in the second model year preceding that model year.

In 1998, NHTSA acted on three low volume petitions filed by DeTomaso, Lamborghini and Vector, and Rolls-Royce.

DeTomaso filed a low volume petition for its high performance exotic vehicle, Mangusta. DeTomaso requested alternative standards for its passenger cars for MYs 2000 and 2001. NHTSA is reviewing this petition and will respond in early 1999.

Lamborghini and Vector submitted a joint petition requesting that each company be exempted from the generally applicable average fuel economy standard and requested that lower alternative standards for their passenger cars for MYs 1998 and 1999. The agency published a proposal

announcing NHTSA's tentative conclusion that Lamborghini and Vector should be exempted from the MY 1998 and 1999 passenger automobile average fuel economy standard of 27.5 mpg, and that alternative standards of 12.4 mpg for MYs 1998 and 1999 be established for Lamborghini and Vector (63 FR 5774; February 4, 1998). Thereafter, on July 24, 1998, Audi AG, a wholly owned subsidiary of Volkswagen, acquired full ownership of Lamborghini. This acquisition causes Lamborghini to be ineligible for an exemption under 49 U.S.C. Section 32902(d) for MYs 1998 and 1999. However, Vector remains eligible for an exemption from the generally applicable average fuel economy standard. A final decision will be issued in early 1999.

NHTSA also witnessed the acquisition of another low volume manufacturer by an import manufacturer. On July 3, 1998, Volkswagen AG (Volkswagen) purchased Rolls-Royce Motor Cars. Volkswagen's acquisition of Rolls-Royce renders this low volume manufacturer ineligible for an exemption under 49 U.S.C. Section 32902(d) for MY 1998 and thereafter. Together, Audi and Volkswagen have an annual worldwide production of more than 10,000 vehicles.

C. Enforcement

49 U.S.C. 32912(b) imposes a civil penalty of $5.50 for each tenth of a mpg by which a manufacturer's CAFE level falls short of the standard, multiplied by the total number of passenger automobiles or light trucks produced by the manufacturer in that model year. Credits earned for exceeding the standard in any of the three model years immediately prior to or subsequent to the model years in question can be used to offset the penalty.

Table III–1 shows CAFE fines paid by manufacturers in calendar year 1998. In calendar year 1998, manufacturers paid civil penalties totaling $55,293,202 for failing to comply with the fuel economy standards of 27.5 mpg for passenger cars in MYs 1996 and 1997.

TABLE III–1.—CAFE FINES COLLECTED DURING CALENDAR YEAR 1998

Model year	Manufacturer	Amount fined	Date paid
1996	BMW	$289,840	11/98
	Fiat	194,480	10/98
	Mercedes-Benz	6,825,610	11/98
	Porsche	2,127,600	11/98
	Land Rover	4,329,850	11/98
	Volvo	5,534,550	11/98
1997	BMW	11,834,910	11/98
	Fiat	542,340	10/98
	Mercedes-Benz	11,731,035	11/98
	Porsche	2,525,820	11/98
	Land Rover	4,195,032	11/98
	Volvo	5,162,135	11/98

D. Contract Activities

- Database Maintenance: Products and Production Capabilities of North American Automobile Manufacturing Plants.

This program was initiated to provide NHTSA with reliable information on industry product development and financing to assist in the analysis of fuel economy rulemaking activities. After calendar year 1998, NHTSA will terminate its contract for the maintenance of the database. This is because of funding reductions. In FY 1999, NHTSA will compile and maintain some of this information in-house. The agency has requested funds in the FY 2000 budget to restore contract support for maintenance of the database.

- Technology Study of Fuel Economy Benefits of Continuously Variable Transmissions (CVTs).

In fiscal year 1997, NHTSA initiated a study with a consultant to the Volpe National Transportation Systems Center to evaluate the fuel economy and emissions benefits and cost implications of continuously variable transmissions that may be feasible for vehicles larger than those vehicles that are currently employing this technology (e.g., mid-size passenger cars and compact light trucks with an equivalent test weight of 3,625 pounds and a 3-liter engine). The study concluded that such an application would improve the vehicle fuel economy by 6 to 11 percent with no increase in cost or weight over a conventional 4-speed automatic transmission with lockup torque converter. The NO_x emissions, however, would be higher. The final report will be published in early 1999.

[FR Doc. 99–10562 Filed 4–28–99; 8:45 am]
BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–41]

Revocation of Customs Broker's License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker's license revocation.

I, as Commissioner, hereby pursuant to section 641(b)(5), Tariff Act of 1930, as amended (19 U.S.C. 1641(b)(5)) and section 111.45(a) of the Customs Regulations (19 CFR 111.45(a)), revoke the following Customs broker license.

Port	Individual	License No.
New York	Trimodal International, Inc.	7405

Dated: April 21, 1999.

Raymond W. Kelly,

Commissioner.

[FR Doc. 99–10742 Filed 4–28–99; 8:45 am]
BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–42]

Cancellations of Customs Brokers' Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Brokers' Licenses Cancellations.

I, as Commissioner, hereby pursuant to section 641(f), Tariff Act of 1930, as

amended (19 U.S.C. 1641(f)) and § 111.51(a) of the Customs Regulations (19 CFR 111.51(a)), cancel the following Customs brokers' licenses without prejudice.

Port	Individual	License No.
New York	World Freight Forwarders, Inc.	13055
New York	A F International—A Division of Big Apple Customs Brokers, Inc.	9568
New York	Person & Weidhorn, Inc.	3661
New York	Leyden Customs Expediters, Inc.	3149
Wilmington	Janice Carter Wilson.	7440
Los Angeles	Pui Ching Company, Inc.	16232

Dated: April 21, 1999.

Raymond W. Kelly,

Commissioner.

[FR Doc. 99–10743 Filed 4–28–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of Customs duties. Due to recent legislation, the interest rate applicable to overpayments by corporations is now different than the interest rate for overpayments by non-corporations. For the quarter beginning April 1, 1999, the interest rates for overpayments will be 7 percent for corporations and 8 percent for non-corporations, and the interest rate for underpayments will be 8 percent. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1200, extension 1349.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was recently amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub.L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations. The interest rate applicable to underpayments is not so bifurcated.

The interest rates are based on the short-term Federal rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 99–16 (*see,* 1999–13 IRB 5, dated March 29, 1999), the IRS determined the rates of interest for the third quarter of fiscal year (FY) 1999 (the period of April 1—June 30, 1999). The interest rate paid to the Treasury for underpayments will be the short-term Federal rate (5%) plus three percentage points (3%) for a total of eight percent (8%). For corporate overpayments, the rate is the Federal short-term rate (5%) plus two percentagepoints (2%) for a total of seven percent (7%). For overpayments made by non-corporations, the rate is the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). These interest rates are subject to change for the fourth quarter of FY–1999 (the period of July 1—September 30, 1999).

For the convenience of the importing public and Customs personnel the following list of Internal Revenue Service interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of Customs duties, is published in summary format.

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate Overpay-ments (Eff. 1–1–99) (percent)
Prior to:				
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate Overpay-ments (Eff. 1–1–99) (percent)
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	063999	8	8	7

Dated: April 26, 1999.

Raymond W. Kelly,

Commissioner of Customs.

[FR Doc. 99–10675 Filed 4–28–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer program matching Social Security Administration (SSA) records with VA pension and parents' dependency and indemnity compensation (DIC) records, and records of those veterans receiving total compensation benefits because of unemployability.

The goal of this match is to provide VA with data from income tax return information disclosed to SSA.

VA plans to match records of VA beneficiaries receiving income dependent benefits and to adjust VA income dependent benefits. VA will also use SSA's wage and self employment income records to determine the continued eligibility for VA compensation benefits of those individuals who are receiving disability compensation at the 100 percent rate because of unemployability.

VA will use this information to adjust VA benefit payments as prescribed by law. The proposed matching program will enable VA to ensure accurate reporting of income.

RECORDS TO BE MATCHED: The VA records involved in the match are the VA system of records, Compesnation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) first published at 41 FR 9294, March 3, 1976 and last amended at 63 FR 37941 (July 14, 1998). The SSA records consist of return information with respect to net earnings from self employment and wages, to Federal, State and local agencies administering certain benefit programs from the system of records identified as Earnings Recording and Self Employment System, HHS/SSA/OSR, 09–60–0059. In accordance with Title 5 U.S.C. subsection 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget (OMB).

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Pub. L. 100–503.

DATES: The match will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties is submitted to Congress and OMB, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs within three months of the ending date of the original match that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

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Approved: April 26, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

[FR Doc. 99–10824 Filed 4–28–99; 8:45 am]

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H.R. 911/P.L. 106–23
To designate the Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, as the "Terry Sanford Federal Building". (Apr. 27, 1999; 113 Stat. 38)

S. 388/P.L. 106–24
To authorize the establishment of a disaster mitigation pilot program in the Small Business Administration. (Apr. 27, 1999; 113 Stat. 39)

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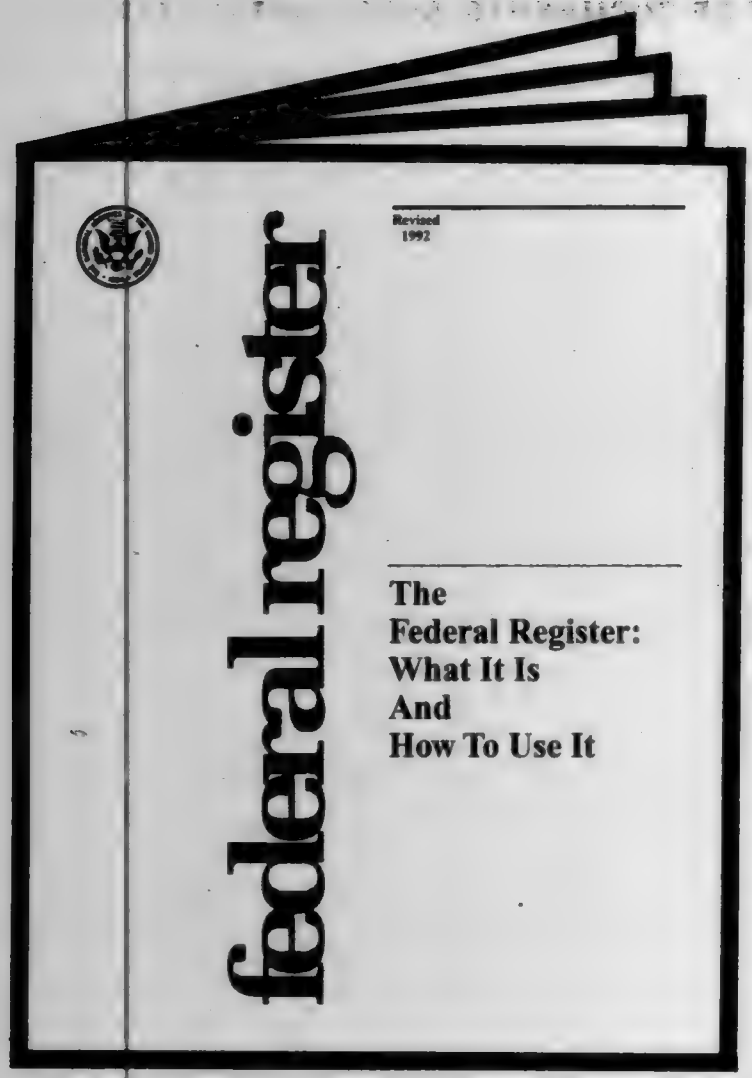

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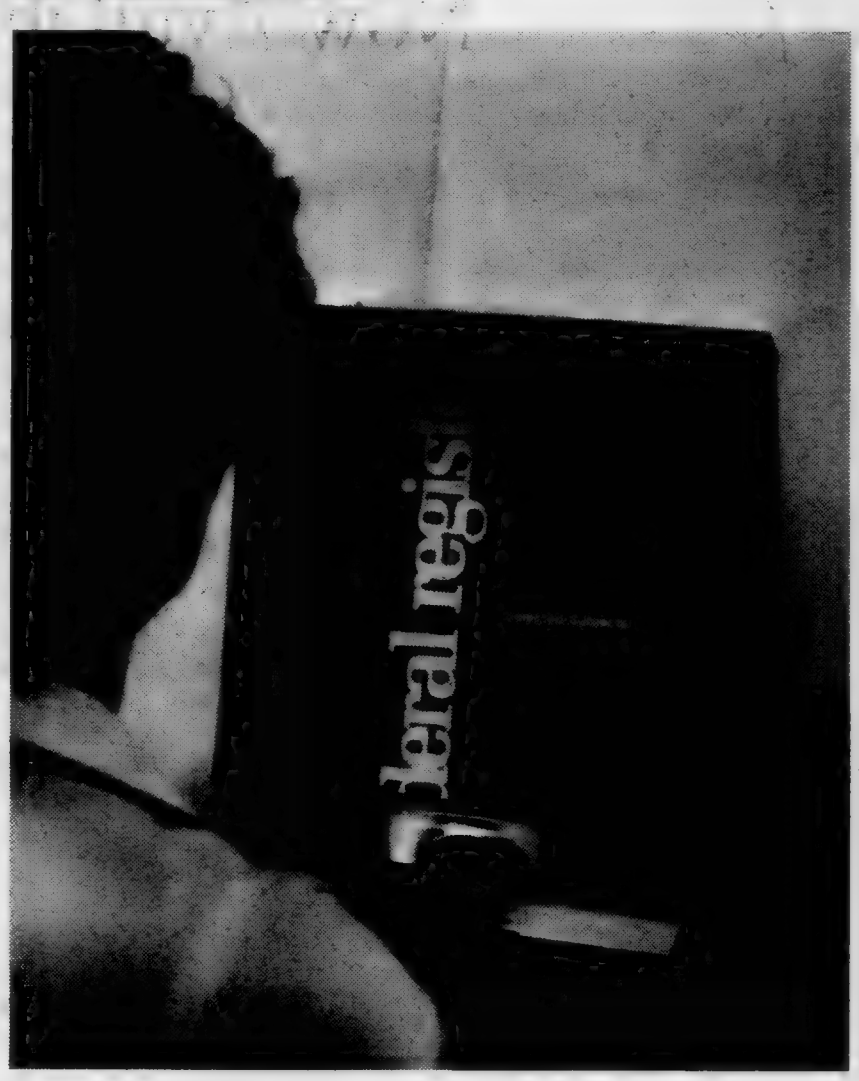

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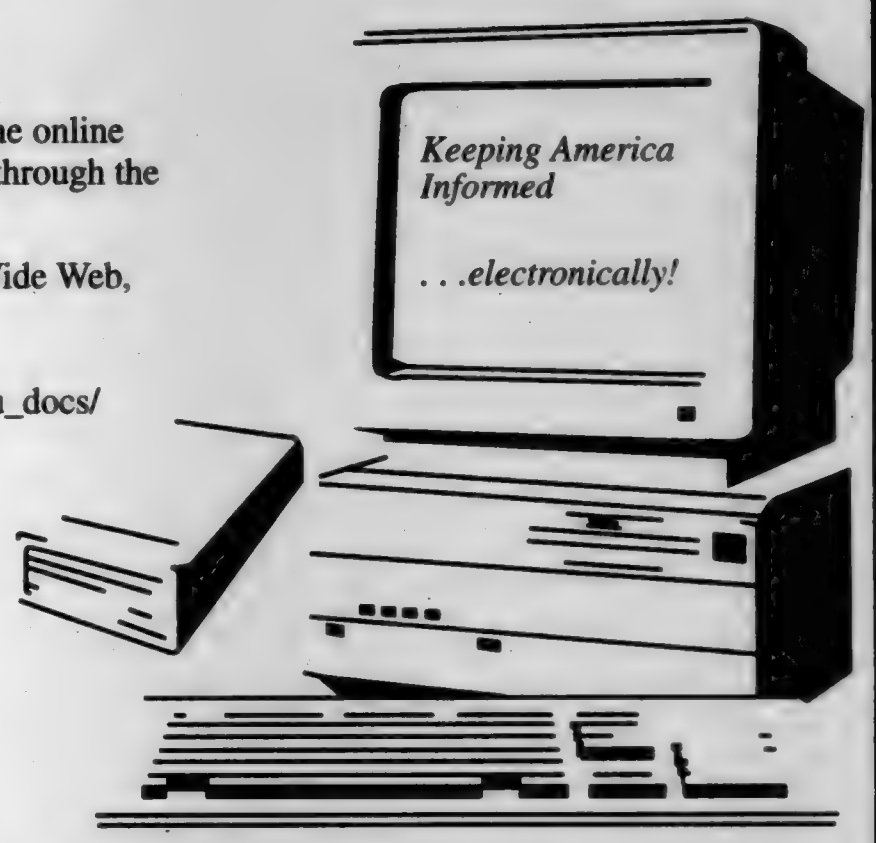

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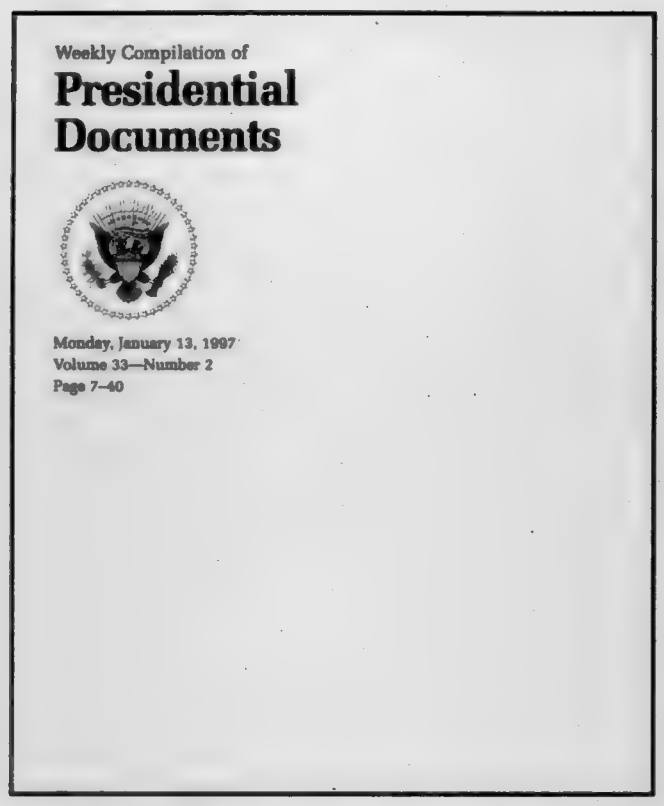

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 278 and 279

RIN 0584–AC46

Food Stamp Program: Retailer Integrity, Fraud Reduction and Penalties

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to implement the Food Stamp Program retailer provisions included in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as well as the retailer provision included in the Federal Agriculture Improvement and Reform Act. This rule also contains a number of amendments to the current regulations to streamline the regulations. Most of the provisions in this final rule are nondiscretionary and required by law. The intent of this rule is to strengthen integrity and eliminate fraud in the Food Stamp Program by: ensuring that only legitimate stores participate in the program; improving the Department's ability to monitor authorized firms; and strengthening the penalties against firms which violate program rules.

EFFECTIVE DATES: The amendments in this rule at § 271.2, § 278.6(a), § 278.6(b)(2)(i), § 278.6(c), § 278.8(a), § 279.7(a), and § 279.10(d) were effective August 22, 1996. All other amendments in this rule are effective June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Questions regarding this final rule should be addressed to Thomas O' Connor, Director, Benefit Redemption Division, Food Stamp Program, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302, or by telephone at (703) 305–2418.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant under Executive Order 12866.

Executive Order 12372

The Food Stamp Program (FSP) is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related notice(s) to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Samuel Chambers, Jr., the Administrator of the Food and Nutrition Service (FNS), has certified that this rule does not have a significant economic impact on a substantial number of small entities. This rule may have an effect on a limited number of retail food stores and other entities that are shown to be negligent in effectuating the purposes of the FSP by committing violations or fraud in the program. However, we do not believe this will have a significant effect on most small businesses.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the proposed rule included a notice that announced our intent to submit revised application procedures and associated burden estimates to OMB for approval relative to the application(s) completed by retail food stores and meal service providers to request authorization and/or continued authorization to participate in the FSP.

There are three application forms used by firms that wish to participate in the program. These are the FNS–252, Food Stamp Application For Stores; the FNS–252R, Food Stamp Program Application for Stores-Reauthorization; and the FNS–252–2, Application to Participate in the Food Stamp Program for Communal Dining Facility/Others. These forms and associated burden hours have been approved by OMB under OMB No. 0584–0008 through October 31, 1999. The revisions to the authorization process contained in § 278.1(a) of this final rule do not impose new information collection, reporting or recordkeeping requirements.

The existing burden estimates, as approved by OMB through October 1999, are shown on the following chart:

Affected Public: Food Retail and Wholesale Firms, Meal Service Programs, certain types of Group Homes, Shelters, and State-contracted Restaurants.

Estimated Number of Respondents: 68,770.

Estimated Number of Responses per respondent: 1.

Estimated Time per Response: 0.229416; rounded to .23.

Estimated Total Annual Burden: 15,777.

APPROVED BURDEN FOR FORMS FNS–252, 252–2 AND 252R

Title	Number of respondents	Responses per respondent	Total annual responses	Burden hours per response	Total annual burden hours
FORM FNS–252	22,807	1	22,807	.4500	10,263
FORM FNS–252–2	1,803	1	1,803	.2000	361
FORM FNS–252R	44,160	1	44,160	.1167	5,153
Totals	68,770		68,770	.23	15,777

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect except as specified in the "Effective Date" paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the FSP, the administrative procedures are as follows: (1) for Program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020 (e)(10) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to non-quality control (QC) liabilities) or 7 CFR part 283 (for rules related to QC liabilities); (3) for program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments, and the private sector. Under section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This final rule contains no Federal mandates under the regulatory provision of Title II of the UMRA for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, (PRWORA) was enacted on August 22, 1996, and contained a number of provisions directly affecting the participation of retailers, wholesalers and other entities eligible to be authorized to participate in the FSP. All of the provisions of the law addressed in this rulemaking were effective on the date of enactment. Five of the provisions are nondiscretionary and were immediately implemented in the program through an implementing memorandum issued on September 16, 1996. These five provisions are incorporated into this final rule and they are identified as nondiscretionary in this preamble. Such nondiscretionary provisions are statutory requirements that the Secretary has no authority to change; therefore, such provisions or their implementation may not be modified by public comment. PRWORA provides discretion in the implementation of the remaining provisions of the law, and these provisions were proposed for public comment in the rule published on May 6, 1998. The Department encouraged all interested parties to comment on the discretionary provisions as set forth in the proposed rule. Four substantive comments were received from retail trade/interest groups, WIC State administering agencies and the headquarters of a large retail food chain. In addition, 187 identical letters referring to and expressing agreement with the comment sent by the aforementioned retail food chain headquarters were received.

This final rulemaking includes the following discretionary and nondiscretionary provisions:

- Revision in the definition of "coupon" (nondiscretionary);
- Establishment of a minimum six month waiting period before stores that initially fail to meet authorization criteria can reapply to participate in the program (nondiscretionary), and the establishment of longer periods of time, including permanent prohibition from participation, which reflects the severity of the basis for the denial of the firm's application or a firm's reauthorization in the program (discretionary);
- Authority for USDA, or its designees, to conduct preauthorization visits to applicant firms as specified by the Secretary (discretionary);
- Authority for USDA to disqualify firms based on inconsistent redemption data and suspicious account activity as documented through EBT system data (nondiscretionary);
- Authority to suspend the program participation of violating firms subject to a permanent disqualification pending the outcome of administrative or judicial review (nondiscretionary);
- Authority for USDA to establish authorization periods for the participation of retailers in the program (discretionary);
- Authority to disqualify retailers who intentionally submit falsified applications, including permanent disqualification of such retailers (discretionary); and,
- Authority to disqualify retailers that have been disqualified by State agencies responsible for the administration of USDA's Special Supplemental Nutrition Program for Women, Infants and Children (WIC) (discretionary), extension of the periods for disqualification of such FSP retailers and elimination of the FSP administrative and judicial review rights of such retailers (nondiscretionary).

This final rulemaking also includes a provision of the Federal Agriculture Improvement and Reform Act, Pub. L. 104–127, (FAIR), which provides a limitation on the mandatory permanent disqualification actions that may be taken by USDA for retailers found to be trafficking. Conforming and minor editorial revisions in response to the National Performance Review Regulatory Planning and Reform Initiative are also included in this rule.

FAIR Provision—Eligibility for Trafficking Civil Money Penalties

Section 401 of the FAIR limits mandatory permanent disqualifications for food coupon trafficking (with no possibility of avoiding disqualification by paying a trafficking civil money penalty) to instances in which: (1) owners are aware of violations or participate in the conduct of such food coupon trafficking violations or (2) it is the second investigation in which a trafficking violation was committed by firm management.

This provision amends the current automatic ineligibility of a firm for a civil money penalty (CMP) in lieu of permanent disqualification if the ownership or management of the firm was aware of, approved, benefited from or was involved in the conduct of the food coupon trafficking violations (§ 278.6(i)). The FAIR amendment expands the number of firms that may be eligible for such a CMP in lieu of permanent disqualification. The law provides that if such a violation represents first-time management food coupon trafficking, the firm may be considered eligible for the imposition of a CMP, if the firm documents that it meets all of the eligibility requirements for the CMP as specified in § 278.6 (i).

However, the expansion of eligibility for a CMP in lieu of permanent disqualification, as stipulated in the FAIR, does not apply to firms where it is shown that ownership or management was involved in trafficking in ammunition, firearms, explosives or controlled substances.

The May 6,1998 rule proposed that the provision be applicable to firm management in general, regardless of whether or not the same individual manager committed trafficking violations previously. For example, if an individual manager previously was dismissed from the position for committing trafficking violations, but a different manager of the same firm subsequently commits food coupon trafficking violations, the firm would not be eligible for a second CMP in lieu of permanent disqualification.

This provision was effective on April 4,1996, the date of enactment of the statute. It was implemented upon the date on which FNS offices received the implementing memorandum, and is applicable to all firms issued a final determination letter subsequent to receipt of the implementing memorandum by FNS offices. The implementing memorandum was issued on September 16,1996. The amendment made to § 278.6(i) of this regulation reflects this change. Comments were invited, however, on the proposed restriction which prohibits a CMP in lieu of permanent disqualification the second time management personnel of a firm commit trafficking violations, regardless of whether it was the same person in the management position that committed the previous violation(s). No comments were received on this issue; therefore, this provision of the rule is finalized as proposed.

One commentor did, however, indicate that if the owner/operator or firm management was unaware and uninvolved with the trafficking violations, the firm should be eligible for a CMP in lieu of permanent disqualification. Firms are currently provided this opportunity in accordance with the Food Stamp Act of 1977, as amended (FSA), and the criteria outlined in § 278.6(i) of the regulations, and will continue to be provided this opportunity. Therefore, it appears that the commentor misunderstood the amendment made to the current provision. Moreover, the Department wishes to reiterate that the nondiscretionary provision included here expands eligibility of participating firms for a CMP in lieu of permanent disqualification for trafficking in the program.

Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)

The provisions of PRWORA related to retailer participation in the FSP represent a three-tiered approach to enhancing retailer compliance and integrity in order to further the purposes of the FSP and to reduce fraud in this critically important domestic food program. The provisions greatly reinforce USDA's efforts to effectively administer the FSP by improving the ability of the Department to screen applicant retailers prior to authorization, to control retailer performance subsequent to FSP authorization and to impose stiffer penalties against those firms found to be violating the public trust by committing FSP violations and defrauding the program. All commentors expressed agreement with these premises.

Pre-Authorization Screening

The participation of retailers in the FSP is a privilege, not a right. The PRWORA and the provisions of this final rulemaking will serve to increase the Department's ability to cut off fraud and abuse at the source by allowing more in-depth preauthorization screening of applicant firms and verification of the qualifications and continued eligibility of currently authorized firms to participate in the FSP.

Condition Precedent for Approval of Retail Food Stores and Wholesale Food Concerns

Section 831 of the PRWORA provides authority for USDA, its designee or State or local government officials designated by the Department, to conduct preauthorization visits to selected firms. This provision also gives discretion to the Secretary to designate such firms on the basis of size, location and types of items sold. Amendments to § 278.1(a) of the regulation reflect the Secretary's authority to conduct such preauthorization visits as contained in the statute.

Two comments were received on this provision. One commentor urged that history and longevity in the FSP should also be considered when making decisions regarding store visits. The Department agrees that other factors, such as those suggested with regard to history and longevity in the program, are appropriate to consider when prioritizing the conduct of store visits. The Department agrees that such factors will be taken into consideration when establishing store visit priorities.

A second commentor took exception with the provision as written in that they felt the regulation should be more prescriptive with regard to store visit criteria. The commentor suggested that the Department annually provide for a notice and comment rulemaking on how it intends to implement its authority to conduct store visits.

The Department has long had the authority to visit authorized and applicant firms in order to assess the eligibility of such firms for authorization in the program. The Department also has the discretion to prioritize the types of firms that will be visited based on its own assessment of Departmental resources, as well as upon review of areas of vulnerability in the operation of the program as defined by management information sources. Therefore, the provisions of this final rule with regard to the store visit provision remain as proposed.

Waiting Period for Firms That Fail To Meet Authorization Criteria

Section 834 of the PRWORA amends section 9(d) of the Food Stamp Act to require that a firm that does not qualify for authorization because the firm fails to meet the eligibility criteria for approval be prohibited from submitting a new application to participate in the FSP for a minimum period of 6 months. The statute also allows the Secretary to establish longer time periods, including a permanent prohibition from participation, that is reflective of the severity of the basis for the denial of the application.

Section 278.1(k) of the regulation was proposed to be revised to include the minimum 6-month prohibition from reapplication, which applies to those firms that are shown not to meet Criterion A or of the eligibility requirements of the FSA, (7 U.S.C. 2012(k)) and, for co-located wholesale/retail firms, the requirements of § 278.1(b)(1)(iv). Criteria A and B were incorporated into the definition of "retail food store" in the FSA, as amended by the Food Stamp Program Improvements Act of 1994, Pub. L. 103–225. While this change in the definition was effective immediately upon enactment of the law and has been implemented, a final rule incorporating this statutory change specifically in the regulations is currently in Departmental clearance.

As discussed in the preamble to the rule proposed on May 6,1998, prior to the passage of PRWORA, there was no waiting period for stores that wished to reapply to participate in the FSP after their application was denied because the stores failed to meet basic eligibility criteria for authorization. Such stores could adjust the types of staple food

items that they offered for sale in order to meet minimal standards and reapply immediately, and then decrease their inventory after obtaining authorization. Such firms tend to be stores that do not effectuate the purpose of the FSP. As proposed, this final rule provision applies to initial applicants as well as to those firms being reviewed for the purpose of reauthorization, or any other purpose, that are found not to meet program eligibility requirements. At the time of initial application and reauthorization, firms will be provided notice of this provision. The 6-month minimum prohibition is nondiscretionary.

One commentor asserted that such waiting periods should not be applicable to firms seeking reauthorization in the program, indicating that the statute does not extend the authority to apply such periods to such firms. The Department disagrees with the commentor. The waiting periods apply to all firms that apply to participate or apply to continue to participate in the program.

The proposed rule also included provisions to implement the Secretary's authority to establish longer periods of time during which a firm would be restricted from reapplying for program authorization. Section 834 of PRWORA provides that the Secretary may establish these time periods, including permanent denial of a firm's ability to be authorized in the program, depending upon the severity of the reason for the denial of such a firm's initial or subsequent application for authorization or reauthorization. Section 278.1(b)(3) of this final rule sets out the criteria that are to be used by FNS to make determinations regarding reapplication restrictions against firms that are denied authorization or reauthorization, or are otherwise withdrawn from the program. In addition, § 278.1(k) details the periods of time for which a firm will be denied authorization in the program in response to the criteria set out in § 278.1(b)(3). These provisions are applicable to denials of initial authorization and reauthorization in the FSP, as well as to the continued authorization of a firm for participation in the program.

Section 9 of the FSA provides the Secretary with the authority to consider the business integrity and reputation of program applicants when determining the qualifications of such applicants for participation in the program. The business integrity of a firm is critically important to the effective operation of the FSP.

Two comments were received on the proposed provision dealing with the business integrity standards. These comments expressed concern that the standards proposed in the May 6, 1998 rule were very broad. In particular, the commentors suggested that applying business integrity standards to non-managerial employees of participating firms was, in essence, "casting too wide a net" in terms of corporate responsibility and liability. These commentors further suggested that the FNS proposal assumes that store owners have inexpensive, efficient means of discovering past misconduct of non-managerial employees, which they do not. Commentors indicated that discharging employees or not hiring a prospective employee for a non-company, non-FSP related issue could subject the employer to FNS penalties if the employee is kept on board, but could lead to potential lawsuits or union problems if the employee is discharged. Finally, commentors noted that the proposed business integrity standards were too broad, too vague and offer too much discretion to FNS Officers in Charge to interpret.

In response to these comments, the provisions have been revised in this final rule. First, the standards no longer include references to the business integrity of non-owner or non-managerial personnel. However, the criteria in this final rulemaking still focus on the business integrity and reputation of the ownership and management of those firms seeking authorization or reauthorization in the program. Fraudulent activity in the FSP or other government programs, or in business-related activities in general, reflects on the ability of a firm to effectuate the purposes of the FSP and abide by the rules governing the program. The Department has refined the business integrity criteria in this final rule and believes that the standards included here are appropriate when assessing the business integrity of a firm.

This rulemaking provides that a firm be permanently denied the opportunity for reapplication if a firm is denied authorization or reauthorization in the program on the basis of criminal convictions or a finding of civil liability of the ownership or management of an applicant firm for reasons that affect the business integrity of such firms. As provided in this final rule, business integrity matters that fall under this category include conviction or civil judgment for offenses such as: embezzlement, theft, forgery, bribery, false statements, receiving stolen property, false claims, or obstruction of justice; commission of fraud in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; and violation of Federal, State and/or local consumer protection laws or other laws relating to alcohol, tobacco, firearms, controlled substances and/or gaming licenses.

This final rule retains the proposed provision that firms removed for administrative reasons from Federal, State or local programs shall be prohibited from applying for the FSP during the period of removal from such programs. Such action in the FSP would be taken, for example, if a firm is removed from another federal program, or had their State or local liquor or lottery license suspended.

In response to two comments received, the final rule has been revised to refine the proposal in that firms which have administrative findings brought against them by Federal, State or local officials that do not give rise to removal from such programs, but for which FNS determines a pattern exists evidencing a lack of business integrity, shall be prohibited from applying for the FSP for one year, effective from the date of denial in the program. The proposed rule originally stipulated that such firms would be denied authorization in the FSP for 3 years and included violations committed by personnel of the firm. This final rule applies this provision only if such violations are committed by the owner, officer, or manager of a firm. Moreover, this final rule provides that a "pattern evidencing a lack of business integrity" means 3 or more instances of noncompliance with other Federal, State or local program requirements. For example, if a firm was fined for liquor license infractions committed by an owner, officer or manager, and 3 such fines were imposed over a period of time, action to suspend the firm from applying to the FSP would be taken.

The final rule retains the proposed provision that firms that attempt to circumvent a period of disqualification, a civil money penalty, or a fine imposed for FSP violations shall be denied the opportunity to apply for the program for a period of 3 years.

Further, this rulemaking at § 278.1(b)(3)(iv) retains the provision of the proposed rule that firms in which violations of the FSP have been administratively and/or judicially established but a sanction has not been served, shall be denied the opportunity to apply for the program for a period of time equivalent to the appropriate sanction period that should have been served. This provision would apply, for

example, when a firm goes out of business prior to FNS' sanctioning the firm for FSP violations that were uncovered prior to its going out of business. If the same owner seeks authorization for a different store, such a store would not be immediately authorized in the FSP and would be subject to a waiting period equivalent to the period of time that the previously-investigated firm under that ownership would have been disqualified. This waiting period would be applicable whether or not the previously-investigated firm was authorized in the FSP or was an unauthorized firm found to be violating the FSP.

This provision also applies to persons who are owners or officers of multi-unit firms, as well as managers who are employed by the owner of a multi-unit firm. If an owner or officer of a multi-unit firm personally committed FSP violations at one unit of a multi-unit firm, and a sanction was not served, this rule finalizes that an applicant firm under that same ownership would be denied authorization for a period of time that should have been served for the previously committed violations. Moreover, as currently provided in the FSP regulations, the authorization of other units of such multi-unit firms may be withdrawn in response to violations of the FSP by ownership.

If management personnel of such multi-unit firms commit sanctionable violations at more than one location, this would indicate that such actions are reflective of the overall operating practice of the firm, thus indicating a lack of business integrity on the part of ownership. If such violations occur and an appropriate penalty was not served, the applicant firm will be denied or restricted from applying for authorization in the FSP for the period of time that should have been served by the firm for violations committed at these other locations under the same ownership. The period would be equivalent to the longest sanction period that would have been served for the most serious of violations committed by any one of the associated firms.

Finally, this final rule modifies the proposed rule with regard to other evidence reflecting on business integrity. One commentor believed that the provision as proposed was very broad. Therefore, this final rule refines the provision by stipulating that a one year period of denial in the program would result from the commission of any other offense (other than convictions, judgments, removal or patterns of noncompliance) which: (1) Reflects negatively on the business integrity or business honesty of the owners, officers or managers of a firm; and (2) seriously and directly affects the present responsibility of a person.

The proposal also made an editorial change, unrelated to PRWORA's provisions, to conform the language of § 278.1(k), *Denying authorization* and § 278.1(l), *Withdrawing authorization*. A further editorial change was made to § 278.1(m) so as to conform this section with § 278.1(k) and § 278.1(l). These revisions do not result in any substantive change in the program, but simply clarify the intent that the provisions are applicable to both denials and withdrawals in the program. In addition, language was added in § 278.1(k) and § 278.1(l) of this rule to reflect the current prohibition against participation in the program as specified in the current rule at § 278.6(f)(4), which prohibits authorization for participation of firms that have outstanding transfer of ownership civil money penalties owed to FNS. This final rule implements these changes as proposed.

Authority To Establish Authorization Periods

Section 832 of PRWORA provides authority for the Secretary to establish specific time periods during which a firm may be authorized to accept food stamps. The intent of this provision is to eliminate the current open-ended authorization of firms in the program.

It was proposed that no firm be assigned an authorization period for participation in the FSP for longer than five years. Moreover, the proposal provided that the FNS Officer in Charge may assign a lesser period of authorization, depending on the circumstances of the particular firm.

Two comments were received on this proposed provision. One commentor favored the provision, while the second disagreed in general with the proposed five year maximum authorization period, particularly with regard to firms that are longstanding participants in the program. In addition, this commentor voiced concerns with providing general discretion to FNS Officers in Charge to authorize firms for less than the five year period on the basis of undefined circumstances surrounding a firm's participation or approval in the program.

The final rule has been revised to comply with the intent of the statute that authorization periods be specified in the program. The Department agrees with the comment discussed above, and, therefore, this final rule provides that all firms will be authorized for a maximum period of five years. This final rule does not provide FNS Officers in Charge the discretion to authorize firms for lesser periods of time.

The Department believes that the five year authorization period is reasonable and necessary for the effective administration of the program. Moreover, the specification of an authorization period in no way precludes FNS from periodically requesting information from a firm or concern for purposes of reauthorization in the program or from withdrawing or terminating the authorization of a firm in accordance with program regulations. The Department will develop administrative procedures to ensure that, prior to the time of expiration of a firm's authorization period, the firm is provided with authorization materials and given the opportunity to submit such materials and information to enable FNS to evaluate the firm's qualifications for continued participation in the FSP. This provision is included in § 278.1(j) of the regulation.

Post-Authorization Controls and Stiffer Penalties in the Program

Retailers that abuse the privilege of authorization in the FSP will have that privilege revoked. The PRWORA includes a number of significant tools that will enhance the Department's ability to enforce the effectiveness of the FSP and the monitoring of retailers.

Authority To Suspend Stores Violating Program Requirements Pending Administrative and Judicial Review

Section 845 of PRWORA amends section 14 of the FSA to require that a permanent disqualification of a firm from the FSP be effective from the date of the firm's receipt of the notice of disqualification. The PRWORA also provides that if such an administrative action by FNS is reversed through administrative or judicial review, the Secretary is not liable for the value of any revenues lost by the firm during such a disqualification period. This nondiscretionary provision was effective upon the date of enactment of the law, and affects firms that are subject to permanent disqualification for trafficking in the program, as well as those firms subject to permanent disqualification for having been sanctioned twice before for violations of the program. These changes are found at § 278.6(b) of the final rule. Editorial revisions have also been made to §§ 278.8(a), 279.7(a) and 279.10(d). Since this provision is nondiscretionary, its implementation cannot be affected by public comment.

It is important to note that the statute specifically refers only to permanent

disqualification actions. Therefore, firms which request and are found to be eligible for a civil money penalty in lieu of permanent disqualification for trafficking are not affected by the immediate suspension requirement of the statute. Further, such firms would not be expected to pay the civil money penalty pending appeal and may continue to participate in the program pending appeal. One commentor agreed with the Department's assertion that immediate disqualification refers only to those firms not eligible for a civil money penalty in lieu of permanent disqualification, but pointed out that the preamble discussion in the proposed rule was not reflected in the regulatory language itself. In response to this comment, the language at §§ 278.6(b)(2)(i) and 278.6(c) has been clarified to account for this.

In addition, the commentor requested clarification as to how the period between receipt of the notice of immediate disqualification and the 10-day period for a firm to submit a request and documentation for a trafficking CMP is handled. The immediate disqualification pending appeal is effective upon the date of receipt of the *determination* letter by the firm. The current regulations at § 278.6(b)(1) provide that, prior to such a determination, the firm receives a letter of charges to which it may respond. It is at that time, subsequent to receipt of the charge letter, that the firm would be indicating whether or not it desires a CMP in lieu of permanent disqualification and would submit documentation in support of such a request. If it is determined that the firm is eligible for a trafficking CMP, the determination letter that follows would acknowledge that the firm has requested and documented its eligibility for a trafficking CMP, and thus could continue to participate in the program pending any appeal of the trafficking finding itself. However, once the determination is made that the firm is not eligible for a CMP in lieu of trafficking, the firm receives a determination letter that indicates the firm has been found to be ineligible for a CMP in lieu of permanent disqualification for trafficking and that the permanent disqualification is effective upon receipt of the determination letter. The firm, while disqualified, is eligible to appeal the determination. However, in those cases, the disqualification action cannot be held pending appeal because the firm has been permanently disqualified.

Investigations

Section 278.6(a) of the regulation was proposed to be amended in accordance with section 841 of PRWORA to make an editorial change stipulating that findings of program violations and the subsequent suspension or disqualification of a firm may be made based on evidence established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system. This editorial change supports current program practice and USDA authority to enforce program compliance. The provision is nondiscretionary and is finalized in this rule.

Disqualification of Retailers Disqualified From the WIC Program

Section 843 of PRWORA amends section 12 of the FSA to require the Secretary to develop standards by which firms disqualified from the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) are to be reciprocally *disqualified* from participation in the FSP. Currently, the regulations provide for the withdrawal of such firms from the FSP in response to WIC disqualification action. Such withdrawals must run for a concurrent period of time. This has proven to be problematic in that it is sometimes difficult for the Food Stamp withdrawal action to catch up to the WIC disqualification, particularly if the WIC disqualification is for a 6 month period or less. Under the current regulations, a firm has the right to appeal the FSP action, and often, by the time the firm has appealed the FSP withdrawal, the WIC disqualification period is ending.

The change in the law provides that the FSP disqualification period (1) shall be for the same period of time as the WIC disqualification period; (2) may run consecutive to the WIC disqualification; and (3) shall not be subject to FSP administrative or judicial review. These provisions of the statute are nondiscretionary and are finalized in this rule.

In addition, the law stipulates that the Secretary establish criteria for such reciprocal disqualification actions. Current regulations at § 278.1(o) set forth the types of WIC violations that will result in withdrawal of a firm from participation in the FSP. The Department proposed to retain these same criteria, now found at § 278.6(e)(8), with some editorial changes to ensure that trafficking violations are fully covered in the listed violations. The WIC violations included here, therefore, represent very serious violations of the WIC Program that are comparable to serious violations of the FSP. These violations best represent the potential risk of violations of a similar nature being committed by unscrupulous firms in the FSP, thus necessitating reciprocal FSP action to protect the integrity of the FSP.

The Department solicited comments on the reciprocal disqualification standards set out in § 278.6(e)(8). One comment was received on these specific provisions. The commentor indicated concern that some WIC State agencies may be misinterpreting the standards set forth in the regulation, and that without the opportunity to appeal to the FSP to dispute such misinterpretations, the firm's reciprocal disqualification would be erroneous. Section 12(g) of the FSA does not allow a firm to appeal a reciprocal disqualification action taken by FNS. Editorial changes to this final rule have been made to conform to the language of the WIC program final rule, which provides some clarification to WIC State agencies. In addition, the preamble to that rule provides WIC State agencies with further clarification regarding WIC Program sanctions and guidance to assist those State agencies in appropriately classifying WIC Program violations.

Conforming changes to restrict those firms subject to reciprocal disqualification from eligibility for FSP administrative and judicial review are made to § 278.6(n), § 278.8(a), § 279.3(a)(2) and § 279.10(a) of this regulation. The changes made to these sections are nondiscretionary and are not subject to public comment.

Disqualification of Retailers Who Intentionally Submit Falsified Applications

Section 842 of the PRWORA amends section 12(b) of the FSA to authorize the Secretary to disqualify, including permanently disqualify, participating retailers who knowingly submit applications that contain false information about substantive issues. The May 6, 1998 rule proposed to permanently disqualify a firm if it is found that false information directly related to the firm's eligibility for authorization is knowingly submitted on the application. In addition, the rule proposed that in cases in which any false information is knowingly submitted that would impact on the ability of FNS to monitor and identify potentially violative firms, the firm shall be disqualified for three years.

The proposed rule outlined examples of the type of information that would be considered "substantive" for the purpose of determining eligibility, as

well as the type of information that is considered to be substantive from a monitoring standpoint. These examples, however, are not inclusive of all of the information that, if fraudulently submitted, may result in disqualification of a firm.

The rule also proposed to deny authorization of any such firm which is found to have knowingly submitted false information on the application at the time of initial application processing. It was proposed that such firms be denied for the same period of time for which they would be disqualified under § 278.6(e). The Department encouraged comments on this discretionary provision; however, no comments were received. Therefore, the revisions as proposed are finalized in § 278.6(e) and § 278.1(k) of this rule.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs—social programs.

7 CFR Part 278

Administrative practice and procedure, Banks, banking, Claims, Food stamps, Groceries—retail, Groceries, General line—wholesaler, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, Groceries—retail, Groceries, General line—wholesaler.

Accordingly, 7 CFR Parts 271, 278 and 279 are amended as follows:

1. The authority citation for parts 271, 278 and 279 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2, the definition of "coupon" is revised to read as follows:

§ 271.2 Definitions.

* * * * *

Coupon means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food Stamp Act of 1977, as amended, for the purchase of eligible food.

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

3. In § 278.1:

a. Paragraph (a) is revised;

b. Paragraph (b)(3) is revised;

c. Paragraph (j) is revised;

d. Paragraph (k) is amended by revising the first sentence of paragraph (k)(2) and redesignating the paragraph (k)(2) as paragraph (k)(7), and adding new paragraphs (k)(2), (k)(3), (k)(4), (k)(5) and (k)(6);

e. Paragraph (l) is amended by redesignating paragraphs (l)(1)(iii) through (l)(1)(v) as (l)(1)(v) through (l)(1)(vii), respectively, revising newly redesignated paragraph (l)(1)(vi), and adding new paragraphs (l)(1)(iii) and (l)(1)(iv);

f. The introductory text of paragraph (m) is revised;

g. Paragraph (o) is removed, and paragraphs (p) through (t) are redesignated as paragraphs (o) through (s), respectively; and

h. Newly redesignated paragraph (o) is revised and newly redesignated paragraph (q) is amended by removing references to (r)(2), (r)(3), (r)(1)(ii), (r)(1)(i), (r)(1)(iv), (r)(2)(ii), (r)(2)(iv), (r)(3)(iv) and (r), wherever they appear, and adding in their place references to (q)(2), (q)(3), (q)(1)(ii), (q)(1)(i), (q)(1)(iv), (q)(2)(ii), (q)(2)(iv), (q)(3)(iv) and (q), respectively.

The revisions and additions read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

(a) *Application.* Any firm desiring to participate or continue to be authorized in the program shall file an application as prescribed by FNS. Such an application shall contain information which will permit a determination to be made as to whether such an applicant qualifies, or continues to qualify, for authorization under the provisions of the program. FNS may require that a retail food store or wholesale food concern be visited to confirm eligibility for program participation prior to such store or concern being authorized or reauthorized in the program. Required visits shall be conducted by an authorized employee of the Department, a designee of the Secretary, or an official of the State or local government designated by the Secretary. FNS shall deny or approve the application, or request additional information from the applicant firm, within 30 days of receipt of the initial application.

(b) *Determination of authorization.*

* * *

(3) *The business integrity and reputation of the dpplicant.* FNS shall deny the authorization of any firm from participation in the program for a period of time as specified in paragraph (k) of this section based on consideration of information regarding the business integrity and reputation of the firm as follows:

(i) Conviction of or civil judgment against the owners, officers or managers of the firm for:

(A) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

(B) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or

(C) Violation of Federal, State and/or local consumer protection laws or other laws relating to alcohol, tobacco, firearms, controlled substances, and/or gaming licenses;

(ii) Administrative findings by Federal, State or local officials that do not give rise to a conviction or civil judgment but for which a firm is removed from such a program, or the firm is not removed from the program but FNS determines a pattern exists (3 or more instances) evidencing a lack of business integrity on the part of the owners, officers or managers of the firm;

(iii) Evidence of an attempt by the firm to circumvent a period of disqualification, a civil money penalty or fine imposed for violations of the Food Stamp Act and program regulations;

(iv) Previous Food Stamp Program violations administratively and/or judicially established as having been committed by owners, officers, or managers of the firm for which a sanction had not been previously imposed and satisfied;

(v) Evidence of prior Food Stamp Program violations personally committed by the owner(s) or the officer(s) of the firm at one or more units of a multi-unit firm, or evidence of prior Food Stamp Program violations committed by management at other units of multi-unit firms which would indicate a lack of business integrity on the part of ownership and for which sanctions had not been previously imposed and satisfied; or

(vi) Commission of any other offense indicating a lack of business integrity or business honesty of owners, officers or managers of the firm that seriously and

directly affects the present responsibility of a person.

* * * * *

(j) *Authorization.* Upon approval, FNS shall issue a nontransferable authorization card to the firm. The authorization card shall be valid only for the time period for which the firm is authorized to accept and redeem food stamp benefits. The authorization card shall be retained by the firm until such time as the authorization period has ended, authorization in the program is superseded, or the card is surrendered or revoked as provided in this part. All firms will be authorized in the program for a period of 5 years. The specification of an authorization period in no way precludes FNS from periodically requesting information from a firm for purposes of reauthorization in the program or from withdrawing or terminating the authorization of a firm in accordance with this part.

(k) *Denying authorization.* * * *

(2) The firm has failed to meet the eligibility requirements for authorization under Criterion A or Criterion B, as specified in the Food Stamp Act of 1977, as amended; or, for co-located wholesale/retail firms, the firm fails to meet the requirements of paragraph (b)(1)(iv) of this section. Any firm that has been denied authorization on these bases shall not be eligible to submit a new application for authorization in the program for a minimum period of six months from the effective date of the denial;

(3) The firm has been found to lack the necessary business integrity and reputation to further the purposes of the program. Such firms shall be denied authorization in the program for the following period of time:

(i) Firms for which records of criminal conviction or civil judgment exist that reflect on the business integrity of owners, officers, or managers as stipulated in § 278.1(b)(3)(i) shall be denied authorization permanently;

(ii) Firms which have been officially removed from other Federal, State or local government programs through administrative action shall be denied for a period equivalent to the period of removal from any such programs; or, if the firm is not removed from the program, but FNS determines a pattern (3 or more instances) exists evidencing a lack of business integrity on the part of the owners, officers or managers of the firm, such firm shall be denied for a one year period effective from the date of denial;

(iii) Firms for which evidence exists of an attempt to circumvent a period of disqualification, a civil money penalty, or fine imposed for violations of the Food Stamp Act of 1977, as amended, and program regulations shall be denied for a period of three years from the effective date of denial;

(iv) Firms for which evidence exists of prior Food Stamp Program violations by owners, officers, or managers of the firm for which a sanction had not been previously imposed and satisfied shall be denied for a period of time equivalent to the appropriate disqualification period for such previous violations, effective from the date of denial;

(v) Firms for which evidence exists of prior Food Stamp Program violations at other units of multi-unit firms as specified in § 278.1(b)(3)(v) for which a sanction had not been previously imposed and satisfied shall be denied for a period of time equivalent to the appropriate disqualification period for such previous violations, effective from the date of denial;

(vi) Firms for which any other evidence exists which reflects negatively on the business integrity or business honesty of the owners, officers or managers of the firm as specified in § 278.1(b)(3)(vi) shall be denied for a period of one year from the effective date of denial;

(4) The firm has filed an application that contains false or misleading information about a substantive matter, as specified in § 278.6(e). Such firms shall be denied authorization for the periods specified in § 278.6(e)(1) or § 278.6(e)(3);

(5) The firm's participation in the program will not further the purposes of the program;

(6) The firm has been found to be circumventing a period of disqualification or a civil money penalty through a purported transfer of ownership;

(7) The firm has failed to pay in full any fiscal claim assessed against the firm under § 278.7, any fines assessed under §§ 278.6(l) or 278.6(m), or a transfer of ownership civil money penalty assessed under § 278.6(f). * * *

(l) *Withdrawing authorization.* (1) * * *

(iii) The firm fails to meet the requirements for eligibility under Criterion A or B, as specified in the Food Stamp Act of 1977, as amended, or, for co-located wholesale/retail firms, the firm fails to meet the requirements of paragraph (b)(1)(iv) of this section, for the time period specified in paragraph (k)(2) of this section;

(iv) The firm fails to maintain the necessary business integrity to further the purposes of the program, as specified in paragraph (b)(3) of this section. Such firms shall be withdrawn for lack of business integrity for periods of time in accordance with those stipulated in paragraph (k)(3) of this section for specific business integrity findings;

* * * * *

(vi) The firm has failed to pay in full any fiscal claim assessed against the firm under § 278.7 or any fines assessed under §§ 278.6(l) or 278.6(m) or a transfer of ownership civil money penalty assessed under § 278.6(f); or

* * * * *

(m) *Refusal to accept correspondence or to respond to inquiries.* FNS may withdraw or deny the authorization of any firm which:

* * * * *

(o) *Applications containing false information.* The filing of any application containing false or misleading information may result in the denial of approval for participation in the program, as specified in paragraph (k) of this section, or disqualification of a firm from participation in the program, as specified in § 278.6, and may subject the firm and persons responsible to civil or criminal action.

* * * * *

4. In § 278.6:

a. Paragraph (a) is revised;

b. Paragraph (b)(1) is amended by adding one new sentence to the end of the paragraph;

c. Paragraph (b)(2)(i) is amended by adding three new sentences to the end of the paragraph;

d. Paragraph (c) is amended by adding four new sentences to the end of the paragraph;

e. Paragraph (e) is amended by adding new paragraphs (e)(1)(iii), (e)(3)(vi) and (e)(8);

f. Paragraph (i) is amended by removing the first sentence of Criterion 4 and adding three new sentences in its place, and by removing the words "or management" in paragraph (i)(1)(v); and

g. Paragraph (n) is revised.

The revisions and additions read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) *Authority to disqualify or subject to a civil money penalty.* FNS may disqualify any authorized retail food store or authorized wholesale food concern from further participation in the program if the firm fails to comply with the Food Stamp Act of 1977, as amended, or this part. Such disqualification shall result from a

finding of a violation on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, evidence obtained through a transaction report under an electronic benefit transfer system, or the disqualification of a firm from the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), as specified in paragraph (e)(8) of this section. Disqualification shall be for a period of 6 months to 5 years for the firm's first sanction; for period of 12 months to 10 years for a firm's second sanction; and disqualification shall be permanent for a disqualification based on paragraph (e)(1) of this section. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification, or at any later time, shall file a new application under § 278.1 so that FNS may determine whether reauthorization is appropriate. The application may be filed no earlier than 10 days before the end of the period of disqualification. FNS may, in lieu of a disqualification, subject a firm to a civil money penalty of up to $10,000 for each violation if FNS determines that a disqualification would cause hardship to participating households. FNS may impose a civil money penalty of up to $20,000 for each violation in lieu of a permanent disqualification for trafficking, as defined in § 271.2 of this chapter, in accordance with the provisions of paragraphs (i) and (j) of this section.

(b) *Charge letter.* (1) * * * In the case of a firm for which action is taken in accordance with paragraph (e)(8) of this section, the charge letter shall inform such firm that the disqualification action is not subject to administrative or judicial review, as specified in paragraph (e)(8) of this section.

(2) *Charge letter for trafficking.* (i) * * * The charge letter shall also advise the firm that the permanent disqualification shall be effective immediately upon the date of receipt of the notice of determination, regardless of whether a request for review is filed in accordance with § 279.5 of this chapter. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period. Firms that request and are determined eligible for a civil money penalty in lieu of permanent disqualification for trafficking may continue to participate in the program pending review and shall not be required to pay the civil money penalty pending appeal of the trafficking determination action.

* * * * *

(c) * * * In the case of a firm subject to permanent disqualification under paragraph (e)(1) of this section, the determination shall inform such a firm that action to permanently disqualify the firm shall be effective immediately upon the date of receipt of the notice of determination from FNS, regardless of whether a request for review is filed in accordance with § 279.5 of this chapter. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period. Firms that request and are determined eligible to a civil money penalty in lieu of permanent disqualification for trafficking may continue to participate in the program pending review and shall not be required to pay the civil money penalty pending appeal of the trafficking determination action. In the case of a firm for which action is taken in accordance with paragraph (e)(8) of this section, the determination notice shall inform such firm that the disqualification action is not subject to administrative or judicial review, as specified in paragraph (e)(8) of this section.

* * * * *

(e) *Penalties.* * * *

(1) * * *

(iii) It is determined that personnel of the firm knowingly submitted information on the application that contains false information of a substantive nature that could affect the eligibility of the firm for authorization in the program, such as, but not limited to, information related to:

(A) Eligibility requirements under § 278.1(b), (c), (d), (e), (f), (g) and (h);

(B) Staple food stock;

(C) Annual gross sales for firms seeking to qualify for authorization under Criterion B as specified in the Food Stamp Act of 1977, as amended;

(D) Annual staple food sales;

(E) Total annual gross retail food sales for firms seeking authorization as co-located wholesale/retail firms;

(F) Ownership of the firm;

(G) Employer Identification Numbers and Social Security Numbers;

(H) Food Stamp Program history, business practices, business ethics, WIC disqualification or authorization status, when the store did (or will) open for business under the current ownership, business, health or other licenses, and whether or not the firm is a retail and wholesale firm operating at the same location; or

(I) Any other information of a substantive nature that could affect the eligibility of a firm.

* * * * *

(3) * * *

(vi) Personnel of the firm knowingly submitted information on the application that contained false information of a substantive nature related to the ability of FNS to monitor compliance of the firm with FSP requirements, such as, but not limited to, information related to:

(A) Annual eligible retail food sales;

(B) Store location and store address and mailing address;

(C) Financial institution information; or

(D) Store name, type of ownership, number of cash registers, and non-food inventory and services.

* * * * *

(8) FNS shall disqualify from the Food Stamp Program any firm which is disqualified from the WIC Program:

(i) Based in whole or in part on any act which constitutes a violation of that program's regulation and which is shown to constitute a misdemeanor or felony violation of law, or for any of the following specific program violations:

(A) A pattern of claiming reimbursement for the sale of an amount of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time;

(B) Exchanging WIC food instruments for cash, credit or consideration other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances, as defined in section 802 of title 21 of the United States Code, for food instruments;

(C) A pattern of receiving, transacting and/or redeeming WIC food instruments outside of authorized channels;

(D) A pattern of exchanging non-food items for a WIC food instrument;

(E) A pattern of charging WIC customers more for food than non-WIC customers or charging WIC customers more than the current shelf price; or

(F) A pattern of charging for food items not received by the WIC customer or for foods provided in excess of those listed on the food instrument.

(ii) FNS shall not disqualify a firm from the Food Stamp Program on the basis of a WIC disqualification unless:

(A) Prior to the time prescribed for securing administrative review of the WIC disqualification action, the firm was provided individual and specific notice that it could be disqualified from the Food Stamp Program based on the WIC violations committed by the firm;

(B) A signed and dated copy of such notice is provided to FNS by the WIC administering agency; and

(C) A determination is made in accordance with paragraph (a) of this section that such action will not cause a hardship for participating Food Stamp households.

(iii) Such a Food Stamp disqualification:

(A) Shall be for the same length of time as the WIC disqualification;

(B) May begin at a later date than the WIC disqualification; and

(C) Shall not be subject to administrative or judicial review under the Food Stamp Program.

* * * * *

(i) *Criteria for eligibility for a civil money penalty in lieu of permanent disqualification for trafficking.* * * *

Criterion 4. Firm ownership was not aware of, did not approve, did not benefit from, or was not in any way involved in the conduct or approval of trafficking violations; or it is only the first occasion in which a member of firm management was aware of, approved, benefited from, or was involved in the conduct of any trafficking violations by the firm. Upon the second occasion of trafficking involvement by any member of firm management uncovered during a subsequent investigation, a firm shall not be eligible for a civil money penalty in lieu of permanent disqualification. Notwithstanding the above provision, if trafficking violations consisted of the sale of firearms, ammunition, explosives or controlled substances, as defined in 21 U.S.C. § 802, and such trafficking was conducted by the ownership or management of the firm, the firm shall not be eligible for a civil money penalty in lieu of permanent disqualification.* * *

* * * * *

(n) *Review of determination.* The determination of FNS shall be final and not subject to further administrative or judicial review unless a written request for review is filed within the period stated in § 279.5 of this chapter.

Notwithstanding the above, any FNS determination made on the basis of paragraph (e)(8) of this section shall not be subject to further administrative or judicial review.

* * * * *

5. In § 278.8, paragraph (a) is revised to read as follows:

§ 278.8 Administrative review—retail food stores and wholesale food concerns.

(a) *Requesting review.* A food retailer or wholesale food concern aggrieved by administrative action under §§ 278.1, 278.6 or 278.7 may, within the period stated in § 279.5 of this chapter, file a written request for review of the administrative action with the review officer. However, disqualification actions taken against firms in accordance with § 278.6(e)(8) shall not be subject to administrative or judicial review. On receipt of the request for review, the questioned administrative action shall be stayed pending disposition of the request for review by the review officer, except in the case of a permanent disqualification as specified in § 278.6(e)(1). A disqualification for failure to pay a civil money penalty shall not be subject to administrative review.

* * * * *

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

6. In § 279.3, paragraph (a)(2) is revised to read as follows:

§ 279.3 Authority and jurisdiction.

(a) *Jurisdiction.* * * *

(2) Imposition of a fine under §§ 278.6(l) or 278.6(m) of this chapter or disqualification from participation in the program or imposition of a civil money penalty under § 278.6 of this chapter, except for disqualification actions imposed under § 278.6(e)(8) of this chapter;

* * * * *

7. In § 279.7, paragraph (a) is amended to add two new sentences after the first sentence to read as follows:

§ 279.7 Action upon receipt of a request for review.

(a) *Holding action.* * * * However, in cases of permanent disqualification under § 278.6(e)(1) of this chapter, the administrative action shall not be held in abeyance pending such a review determination. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be held liable for the value of any sales lost during the disqualification period. * * *

* * * * *

8. In § 279.10, the first sentence of paragraph (a) and paragraph (d) are revised to read as follows:

§ 279.10 Judicial review.

(a) *Filing for judicial review.* Except for firms disqualified from the program in accordance with § 278.6(e)(8) of this chapter, a firm aggrieved by the determination of the administrative review officer may obtain judicial review of the determination by filing a complaint against the United States in the U.S. district court for the district in which the owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. * * *

* * * * *

(d) Stay of action. During the pendency of any judicial review, or any appeal therefrom, the administrative action under review shall remain in force unless the firm makes a timely application to the court and after hearing thereon, the court stays the administrative action after a showing that irreparable injury will occur absent a stay and that the firm is likely to prevail on the merits of the case. However, permanent disqualification actions taken in accordance with § 278.6(e)(1) of this chapter shall not be subject to such a stay of administrative action. If the disqualification action is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.

Dated: April 21, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–10736 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS 1979–99]

RIN 1115–AF43

Additional Authorization to Issue Certificates for Foreign Health Care Workers

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The interim rule amends the regulations of the Immigration and Naturalization Service (Service) to grant, on a temporary basis, authorization to the Commission on Graduates of Foreign Nursing Schools (CGFNS) to issue certificates to foreign health care workers in the occupations of occupational therapy and physical therapy. This rule also grants the Foreign Credentialing Commission on Physical Therapy (FCCPT) the authority to issue certificates to foreign-trained physical therapists. The rule is written in response to formal requests by CGFNS and FCCPT to obtain permission to issue certificates to foreign-trained workers coming to the United States in the occupations of occupational therapy and physical therapy on a permanent basis. This rule ensures that foreign-trained occupational therapists and physical therapists have the same training, education, and licensure as similarly employed Unifed States workers.

This interim rule applies only to aliens seeking admission as immigrants to perform services in these two health care occupations. Aliens seeking temporary admission to the United States as nonimmigrant aliens to perform services in these or other health care occupations are not covered by this interim rule. The Service and the Department of State temporarily have waived the certification requirement of section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) for aliens coming to the United States as nonimmigrant health care workers. This policy will continue until a final rule is published which fully implements section 343.

DATES: *Effective date:* This interim rule is effective June 29, 1999.

Comment date: Written comments must be submitted on or before June 29, 1999.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference the INS No. 1979–99 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: John W. Brown, Adjudications Officer, Benefits Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION:

What is Section 343 of IIRIRA?

On September 30, 1996, President Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. L. 104–208. Section 343 of IIRIRA created new ground of inadmissibility at section 212(a)(5)(C) of the Immigration and Nationality Act (Act) for aliens coming to the United States to perform labor in certain health care occupations.

Pursuant to section 343, any alien coming to the United States for the purpose of performing labor as a health care worker, other than as a physician, is inadmissible unless the alien presents to the consular officer, or, in the case of adjustment of status, the Attorney General, a certificate from the CGFNS, or an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services (HHS).

Under section 343, the certificate must verify that: (1) the alien's education, training, license, and experience meet all applicable statutory and regulatory requirements for admission into the United States under the classification specified in the application; are comparable with that required for an American health care worker; are authentic and, in the case of a license, is unencumbered; (2) the alien has the level of competence in oral and written English considered by the Secretary of HHS, in consultation with the Secretary of Education (DOE), to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write English; and, finally, (3) if a majority of states licensing the profession in which the alien intends to work recognize a test predicting the alien's success on the profession's licensing or certification examination, the alien has passed such a test, or has passed such an examination.

On October 14, 1998, the Service published an interim rule in the **Federal Register** at 63 FR 55007 that implemented certain portions of section 343 of IIRIRA as it related to occupational therapists and nurses coming to the United States on a permanent basis. For purposes of this discussion, the interim rule published on October 14, 1998, is referenced as "the first interim rule."

What provisions were contained in the Service's interim rule published on October 14, 1998?

In the first interim rule, which became effective on December 14, 1998, the Service granted authorization to CGFNS and the National Board for Certification in Occupational Therapy (NBCOT) to issue certificates to foreign-trained health care workers in the fields of nursing and occupational therapy, respectively. the rule, however, limited the authority of CGFNS and the NBCOT to the issuance of certificates to aliens coming permanently to the United States. In addition, the authority granted to CGFNS and NBCOT to issue certificates was granted on a temporary basis until the Service published a final rule implementing all the provisions of section 343 of IIRIRA.

What criteria did the Service use in the first interim rule to grant authorization to CGFNS and NBCOT to issue certificates?

The first interim rule provided that an organization must meet two criteria in order to be granted authorization to issue certificates pursuant to section 343 of IIRIRA. First, the organization had to establish that there was a sustained level of demand for foreign-trained workers in the occupation and, second, the organization has to show that it had an established track record in providing credentialing services in the occupation.

For purposes of the first interim rule, the Service defined the term "sustained level of demand" as the presence of an existing demand for foreign health care workers in a particular occupation that is expected to continue in the foreseeable future.

The first interim rule defined the term "organization with an established track record" as an organization that has a record of issuing actual certificates, or documents similar to a certificate, that are generally accepted by the state regulatory bodies as certifying that an individual has met certain minimal qualifications.

The rule also provided that, during the period of time that the first interim rule was in effect, the Service would entertain any requests to issue certificates from an organization that could demonstrate that it met the two criteria.

What is the purpose of this interim rule?

The purpose of this interim rule is to provide notice that the Service has granted CGFNS the authority to issue certificates pursuant to section 343 of IIRIRA, on a temporary basis, to foreign-trained health care workers coming to the United States as immigrants or applicants for adjustment of status to work in the occupations of occupational therapist and physical therapist. This rule also provides notice that the Service has granted FCCPT the authority to issue certificates pursuant to section 343 of IIRIRA, on a temporary basis, to foreign-trained health care workers coming to the United States as immigrants, or applicants for adjustment of status to work in the occupation of physical therapist.

This rule does not give authorization to CGFNS or FCCPT to issue certificates to aliens seeking temporary admission to the United States as nonimmigrant aliens to perform services in these or other health care occupations. Aliens' applications for admission as nonimmigrants will be processed pursuant to the Service's temporary policies that were described in the preamble to the Service's first interim rule. The authorization provided for in this interim rule remains in effect until the publication of a final rule.

This interim rule also lists the passing scores for the English language tests for the occupation of physical therapist.

Have CGFNS and FCCPT met the criteria to obtain authorization described in the first interim rule?

Pursuant to the criteria described in the first interim rule, CGFNS and FCCPT have made formal applications to the Service seeking authorization to issue certificates to foreign health care workers. CGFNS has applied for authorization to issue certificates to foreign-trained health care workers in the occupations of occupational therapist and physical therapist. FCCPT has applied for authorization to issue certificates in the occupation of physical therapist. The applications were supported by evidence addressing the two criteria described in the first interim rule.

In order to secure more current and detailed information relating to issues in the field of health care, the Service sought the opinion of the Secretary of HHS as to whether CGFNS and FCCPT met the two criteria described in the first interim rule. Based on the Secretary's opinion and the evidence submitted, the Service finds CGFNS has met the two criteria discussed in the rule for the occupations of occupational therapist and physical therapist. Likewise, FCCPT has met the two criteria for the occupation of physical therapist.

Does CGFNS have a proven track record?

The Service finds that CGFNS has an established track record in issuing certificates because it has experience in administering the examination that predicted success of foreign-trained educated nurses under the previous H–1A visa category. In addition, CGFNS has experience beyond nursing with regard to educational comparability and credentials evaluation. CGFNS, through their credential evaluation service, has evaluated foreign credentials, including educational degrees and foreign licenses, for psychiatric technicians, physician assistants, emergency medical technicians, and other occupations.

The CGFNS has an extensive database covering health-related academic programs in foreign countries, much of which is applicable beyond nursing. Finally, with the establishment of "Professional Standards Committees," CGFNS has developed certification standards that may be used to assess comparability for the occupation of physical therapy and occupational therapy.

Does FCCPT have a proven track record?

The FCCPT is the credentialing organization of the Federation of State Boards of Physical Therapy (the Federation). The membership of the Federation, established 1986, includes all of the state regulatory bodies responsible for the examination and licensure of physical therapist in all 50 states. The Federation develops and recommends educational, English language proficiency, and other standards adopted by state regulatory agencies.

The FCCPT currently performs credential evaluations for individuals entering on temporary visas that are accepted by 17 states. As part of the evaluation, the organization reviews English language proficiency, licensure status and proof that a current license is in good standing with the licensure authorities, and, finally, equivalency of education. Based on the credentials evaluation provided by FCCPT, these states will issue temporary licenses pending the taking of the National Physical Therapy Examination.

Further, the Federation developed the Course Work Evaluation Tool to establish educational standards for credentialing foreign-educated physical therapists that are currently used by 19 states. The Federation worked with the NBCOT to jointly develop common English language proficiency standards, including the identification of necessary examinations and passing scores for English language proficiency examinations administered by the Educational Testing Service. HHS adopted these standards in its recommendation to the Attorney General regarding appropriate English language proficiency tests scores for physical therapists and occupational therapists as set forth in the first interim rule.

Is There a Sustained Level of Demand for Physical Therapists?

According to data compiled by the Department of Labor, the number of job openings for physical therapists continues to remain high. The second highest number of job openings certified under the H–1B program is for the occupation of therapist. Physical therapists, in turn, comprise the largest component of this occupation. Based on these findings, the Service has determined that the second criteria relating to the demand of foreign-trained workers for the occupation of physical therapists has been met.

The Service previously determined in the first interim rule that there was a sustained level of demand in the field of occupational therapy for foreign-trained health care workers.

Based on the foregoing, it is the decision of the Service that CGFNS should be granted authorization to issue certificates to foreign health care workers in the fields of occupational therapist and physical therapist subject to the terms and conditions of the first interim rule. Further, the FCCPT, as the credentialing unit associated with the Federation, is granted the authority to issue certificates to foreign health care workers in the field of physical therapist.

What are the Passing English Test Scores for Physical Therapists?

The HHS has determined that physical therapists must obtain the following scores on the English tests administered by the Educational Testing Service (ETS): Test of English as a Foreign Language (TOEFL): paper-based 560, computer-based 220; Test of Written English (TWE): 4.5; Test of Spoken English (TSE): 50.

HHS has advised that the Michigan English Language Assessment Battery (MELAB) is not an appropriate test for physical therapists or occupational therapists. HHS has advised that MELAB scores are not acceptable to the licensing and accrediting organizations involved with these two occupations. In addition, the exemptions for the English language tests described in § 212.15(g)(2) apply to the occupation of physical therapy.

Does this Interim Rule Alter any of the Service's Policies With Respect to the Admission of Nonimmigrant Health Care Workers?

No. This rule merely grants authorization to CGFNS and the FCCPT to issue certificates to foreign-trained health care workers seeking admission as immigrants or adjustment of status in two additional occupations. It does not alter any of the Service's policies with respect to the admission of nonimmigrant aliens coming to perform services in health care occupations that were described in the first interim rule.

How ddoes This Rule Amend the Existing Regulation?

This interim rule amends the regulation at § 212.15(c) by adding the occupation of physical therapist to the list of occupations.

This interim rule also amends the regulation at § 212.15(e) to add the occupations of physical therapist and occupational therapist to the list of occupations for which CGFNS can issue certificates. This rule also adds FCCPT

as an organization authorized to issue certificates in the occupation of physical therapist.

Finally, this regulation amends the regulation at § 212.15(g) to list the passing English scores for the occupation of physical therapist.

Good Cause Exception

This interim rule is effective 60 days from the date of publication in the **Federal Register**. The Service invites post-promulgation comments and will address any such comments in a proposed rule or the resulting final rule. For the following reasons, the Service finds that good cause exists for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553. Although section 343 went into effect on September 30, 1996, due to the complexities of the requirements of section 343, and the need to coordinate the interests and concerns of a great number of Federal agencies, the health care sector, and members of the affected public, the Service is still in the process of developing a more comprehensive proposed rule to implement section 343 in order to solicit comment from the public. A continued delay in the implementation of this provision in the particular manner set out in this interim rule, however, could have a negative effect on the availability of health care in this country, particularly in medically under-served areas for nursing and occupational therapy, and will create a further backlog with respect to pending applications filed by aliens seeking to immigrate to perform labor in a health care occupation.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule has been drafted in a way to minimize the economic impact that it has on small business while meeting its intended objective. The health care workers who will be issued certificates are not considered small entities as the term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget (OMB) for review.

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

List of Subjects 8 CFR Part 212

Administrative practice and procedures, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. Section 212.15 is amended by:
   a. Revising paragraph (c) introductory text;
   b. Adding a new paragraph (c)(3);
   c. Revising paragraph (e); and by
   d. Revising paragraph (g)(4)(i), to read as follows:

§ 212.15 Certificates for foreign health care workers.

* * * * *

(c) *Occupations affected by this provision.* With the exception of the aliens described in paragraph (b) of this section, any alien seeking admission to the United States as an immigrant or any alien applying for adjustment of status to a permanent resident to perform labor in one of the following health care occupations, regardless of where he or she received his or her education or training, is subject to this provision:

* * * * *

(3) Physical Therapists.

* * * * *

(e) *Organizations approved by the Service to issue certificates for health care workers.*

(1) The Commission on Graduates of Foreign Nursing Schools is authorized to issue certificates under section 343 for the occupations of nurse, physical therapist, and occupational therapist.

(2) The National Board for Certification in Occupational Therapy is authorized by the Service to issue certificates under section 343 for the occupation of occupational therapist.

(3) The Foreign Credentialing Commission on Physical Therapy is authorized by the Service to issue certificates under section 343 for the occupation of physical therapist.

* * * * *

(g) * * *

(4) *Passing scores for various occupations.* (i) *Occupational and physical therapists.* An alien seeking to perform labor in the United States as an occupational therapist or physical therapist must obtain the following scores on the English tests administered by ETS: Test Of English as a Foreign Language (TOEFL), Paper-Based 560, Computer-Based 220; Test of Written English (TWE): 4.5; Test of Spoken English (TSE): 50. Certifying organizations shall not accept the results of the MELAB for the occupation of occupational therapist or physical therapist. Aliens seeking to obtain a certificate to work as an occupational or physical therapist must take the test

offered by the ETS. The MELAB scores are not acceptable for these occupations.

* * * * *

Dated: April 27, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99–10819 Filed 4–27–99; 4:39 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 98

[Docket No. 98–102–1]

Limited Ports; Memphis, TN

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the animal importation regulations by adding Memphis, TN, to the list of limited ports of entry for semen, embryos, and products of horses, ruminants, and swine. We have determined that this port has inspection facilities for this purpose and that Animal and Plant Health Inspection Service personnel are available to provide service at this location. This action will provide importers with an alternative port of entry for semen, embryos, and products of horses, ruminants, and swine.

DATES: This rule will be effective on June 29, 1999 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 1, 1999.

ADDRESSES: Please send your comment and three copies to: [Docket No. 98–102–1], Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 98–102–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Morley H. Cook, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–8686; or e-mail: morley.h.cook@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as the regulations) restrict the importation of specified animals and animal products into the United States to prevent the introduction of communicable animal diseases. Subpart C—Horses, §§ 93.300 through 93.326 of the regulations, covers the importation of horses. Section 93.303 designates ports approved for the importation of horses. Section 93.303, paragraph (d), lists limited ports that have inspection facilities for the importation of horses and horse products, such as horse test specimens, that do not appear to require restraint and holding facilities for inspection at the port of entry.

Subpart D—Ruminants, 93.400 through 93.435 of the regulations, covers the importation of ruminants. Section 93.403 designates ports approved for the importation of ruminants. Section 93.403, paragraph (e), lists limited ports that have inspection facilities for the entry of ruminants and ruminant products, such as ruminant test specimens, that do not appear to require restraint and holding inspection facilities for inspection at the port of entry.

Subpart E—Swine, 93.500 through 93.523 of the regulations, covers the importation of swine. Section 93.503 designates ports approved for the importation of swine. Section 93.503, paragraph (e), lists limited ports that have inspection facilities for the entry of swine and swine products, such as swine test specimens, that do not appear to require restraint and holding inspection facilities for inspection at the port of entry.

The regulations in 9 CFR part 98 restrict the importation of certain animal embryos and animal semen. Subpart C—Certain Animal Semen, 98.30 through 98.37 of the regulations, covers the importation of certain animal semen. Section 98.33 designates ports for the importation of certain animal semen. Section 98.33, paragraph (d), lists limited ports that have inspection facilities for the entry of animal semen.

This rule will amend 93.303(d), 93.403(e), 93.503(e), and 98.33(d), in accordance with the procedures explained below under "Dates," by adding Memphis, TN, to the list of limited ports set forth in each of those paragraphs. However, the Memphis, TN, entry in each of the amended paragraphs in part 93 will specify that the port is not designated a limited port for the entry of live animals (98.33 deals only with animal semen). This is because, although the port has inspection facilities and Animal and Plant Health Inspection Service (APHIS) personnel to provide service for the entry of semen, embryos, and products, it does not have adequate facilities for the entry of any live animals covered by the regulations. Other ports already designated in part 93 as limited ports are able to handle some live animals, but not those animals requiring restraint and holding facilities.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This rule adds Memphis, TN, to the list of limited ports of entry for semen, embryos, and products of horses, ruminants, and swine. We have determined that Memphis, TN, meets the requirements for being designated as a limited port of entry that has inspection facilities for semen, embryos, and products of horses, ruminants, and swine. However it does not have the facilities necessary to be designated as a port of entry for live animals.

Adding and removing limited ports, according to need, is a continuing program in APHIS. In this case, the designation of Memphis, TN, as a new limited port of entry will facilitate small U.S. importers of semen, embryos, and products of horses, ruminants, and swine in the surrounding area by making it logistically easier for them. Until now, the closest limited ports of entry to Tennessee and the surrounding States were in Chicago, IL, and Toledo, OH, to the north; Atlanta, GA, New Orleans, LA, and Tampa, FL, to the south; and nothing in between.

Memphis, TN, serves as the first point of entry for Federal Express, which is a major international carrier of air freight. By designating Memphis, TN, as a new limited port, U.S. importers of semen, embryos, and products of horses, ruminants, and swine in a broader area of the United States will be connected by air.

This rule will produce no significant budgetary effect on the Federal Government, since APHIS will assign personnel to the port of Memphis, TN, on an "as needed" basis only.

The Regulatory Flexibility Act requires that agencies consider the economic effect of rules on small businesses, organizations, and governmental jurisdictions. Businesses and organizations affected by this addition of a limited port of entry will be livestock producers in the area of Tennessee and the surrounding States. It is not known how many of those entities are small under the U.S. Small Business Administration's standards; however the effects will only be positive due to the closer distance, faster service, and the direct connection with an international air freight carrier.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 98

Animal diseases, Imports.

Accordingly, we are amending 9 CFR parts 93 and 98 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 93.303 [Amended]

2. In § 93.303, paragraph (d) is amended by adding "Memphis, Tennessee (no live animals);" immediately after "Puerto Rico;".

§ 93.403 [Amended]

3. In § 93.403, paragraph (e) is amended by adding "Memphis, Tennessee (no live animals);" immediately after "Puerto Rico;".

§ 93.503 [Amended]

4. In § 93.503, paragraph (e) is amended by adding "Memphis, Tennessee (no live animals);" immediately after "Puerto Rico;".

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

5. The authority citation for part 98 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 103–105, 111, 134a, 134b, 134c, 134d, 134f, 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 98.33 [Amended]

6. In § 98.33, paragraph (d) is amended by adding "Memphis, Tennessee;" immediately after "Puerto Rico;".

Done in Washington, DC, this 26th day of April 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–10872 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–100–AD; Amendment 39–11154; AD 99–09–51]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 99–09–51 that was sent previously to all known U.S. owners and operators of certain McDonnell Douglas Model MD–11 series airplanes by individual notices. This AD requires visual inspections under the floorboards in the lower center cargo compartment at frame 1681 to verify that a certain bracket and a certain open face nylon clamp are installed to a specific support wire bundle and to detect damage of the subject wire bundle; repair of damaged wiring; and installation of certain silicone rubber coated with a glass cloth protective wrap around the wire bundle, if necessary. This action is prompted by an incident in which the insulation

blanket between frames 1661 and 1681 in the lower center cargo compartment was found to be burnt due to a missing wiring harness support bracket/clamp on the wire bundle at frame 1681. The actions specified by this AD are intended to ensure that such a wire harness support bracket/clamp is installed; a missing bracket/clamp could cause the wire bundle to chafe against the frame, which could result in sparks, smoke, and possible fire in the lower center cargo compartment.

DATES: Effective May 5, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–09–51, issued on April 16, 1999, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before June 29, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–100–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On April 16, 1999, the FAA issued emergency AD 99–09–51, which is applicable to certain McDonnell Douglas Model MD–11 series airplanes.

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident in which the insulation blanket between frames 1661 and 1681 in the lower center cargo compartment was found to be burnt. This incident occurred on a McDonnell Douglas Model MD–11 series airplane.

Investigation revealed that a wiring harness (including wires with a 115 volt alternating current) of the aft cargo loader control unit was contacting the insulation blanket and rubbing against frame 1681 above stringer R46. A wire was cut, and three other wires were missing insulation. In addition, frame 1681 had signs of arcing damage. Furthermore, the exposed moisture barrier material of the insulation blanket was burnt, and a hole was detected on the insulation blanket where the wiring harness was chafing against frame 1681. Further investigation revealed that a wiring harness support bracket/clamp on the wire bundle at frame 1681 may not have been installed during production of the airplane.

This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.

A missing wiring harness support bracket/clamp on the wire bundle at frame 1681 could cause the wire bundle to chafe against the frame, which could result in sparks, smoke, and possible fire in the lower center cargo compartment.

Other Related Rulemaking

On April 9, 1999, the FAA issued a similar action (AD 99–08–51), which applies only to airplanes that are equipped with a 72-inch cargo door and use the light-weight cargo handling system. However, since the issuance of AD 99–08–51, the FAA has determined that the wire routing on airplanes that are equipped with a 72-inch cargo door and use any cargo handling system must also be inspected. Therefore, the FAA has determined that these additional airplanes also are subject to the unsafe condition identified in AD 99–08–51, and that the actions required by that AD must be accomplished on those airplanes to ensure an adequate level of safety of the affected fleet. Those airplanes are listed in the applicability of this new AD.

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this airworthiness directive is issued to require a visual inspection to verify that, under the floorboards in the lower center cargo compartment at frame 1681, a certain bracket and a certain open face nylon clamp are installed to a specific support wire bundle. This AD also requires a visual inspection to detect damage of the subject wire bundle; repair of damaged wiring; and installation of certain silicone rubber coated with a glass cloth protective wrap around the subject wire bundle, if necessary. In addition, this AD requires that operators submit a report of the inspection results to the FAA. The repairs are required to be accomplished in accordance with the procedures specified in Chapter 20–30–01 of the McDonnell Douglas MD–11 Airplane Maintenance Manual, and Chapter 20–10–01 of the McDonnell Douglas MD–11 Wiring Diagram Manual.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on April 16, 1999, to all known U.S. owners and operators of certain McDonnell Douglas Model MD–11 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–100–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–51 McDonnell Douglas: Amendment 39–11154. Docket 99–NM–100–AD.

Applicability: Model MD–11 series airplanes, certificated in any category; having the following fuselage/factory serial numbers:

Fuselage No.	Serial No.
447	48401
448	48402
449	48458
453	48411
454	48412
455	48449
456	48407
457	48408
461	48495
466	48416
467	48417
470	48459
475	48461
476	48434
478	48435
479	48450
484	48484
486	48499
488	48413
491	48414
492	48489
493	48500
495	48410
496	48496
497	48460
501	48418
502	48485
505	48451
506	48437
509	48486
512	48497
515	48514
516	48523
517	48547
518	48468
519	48469
520	48502
521	48548
523	48404
524	48405
525	48518
528	48503
529	48512
533	48538
539	48519
541	48520
450	48419
451	48420
452	48421
462	48505
469	48487
480	48472
481	48473
482	48481
483	48436
485	48474
489	48475
499	48490
503	48491
504	58527
507	48528
510	48476
511	48477
513	48501
514	48478
522	48498
526	48550
527	48551
530	48552
531	48553
535	48554
536	48479
537	48596
538	48480
540	48597
550	48598

Note 1: This AD only affects Model MD–11 series airplanes equipped with a 72-inch cargo door. Model MD–11 series airplanes equipped with a 104-inch cargo door are not subject to the unsafe condition addressed by this AD due to the configuration of the wire bundles.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that a wire harness support bracket/clamp is installed on the wire bundle at frame 1681, accomplish the following:

(a) Within 5 days after the effective date of this AD: Perform a one-time visual inspection under the floorboards in the lower center cargo compartment at frame 1681 (approximately one inch outboard of longeron R46) to verify that a bracket having part number P/N 9D0062–3–16–24 (or equivalent), and an open face nylon clamp having P/N NMC1001–1 or 383–1 (see Figure 1, Item 14/267), are installed to support wire bundle No. AGS9110. (The nylon clamp specified in this paragraph may be a larger size, depending on the size of the wire bundle.)

(1) If the bracket and clamp are installed: Prior to further flight, perform a visual inspection to detect damage of the subject wire bundle. If any damage is detected, prior to further flight, accomplish paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Repair in accordance with Chapter 20–30–01 of the McDonnell Douglas MD–11 Airplane Maintenance Manual. And

(ii) Install a silicone rubber coated with a glass cloth protective wrap [Douglas Material Specification (DMS) 2109 or equivalent] around the wire bundle(s) in the area over frame 1681 above stringer R46 in accordance with Chapter 20–10–01 of the McDonnell Douglas MD–11 Wiring Diagram Manual.

(2) If the bracket or clamp is not installed: Prior to further flight, perform a visual inspection to detect damage (i.e., chafing, damage, or missing wire insulation) of the subject wire bundle(s).

(i) If no damage is detected: Prior to further flight, install a silicone rubber coated with a glass cloth protective wrap (DMS 2109 or equivalent) around the wire bundle(s) in the area over frame 1681 above stringer R46 in accordance with Chapter 20–10–01 of the McDonnell Douglas MD–11 Wiring Diagram Manual.

(ii) If any damage is detected: Prior to further flight, accomplish the actions required by paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(b) Within 10 days after accomplishing the inspection required by paragraphs (a) and (a)(1) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on May 5, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–09–51, issued on April 16, 1999, which contained the requirements of this amendment.

BILLING CODE 4910–13–P

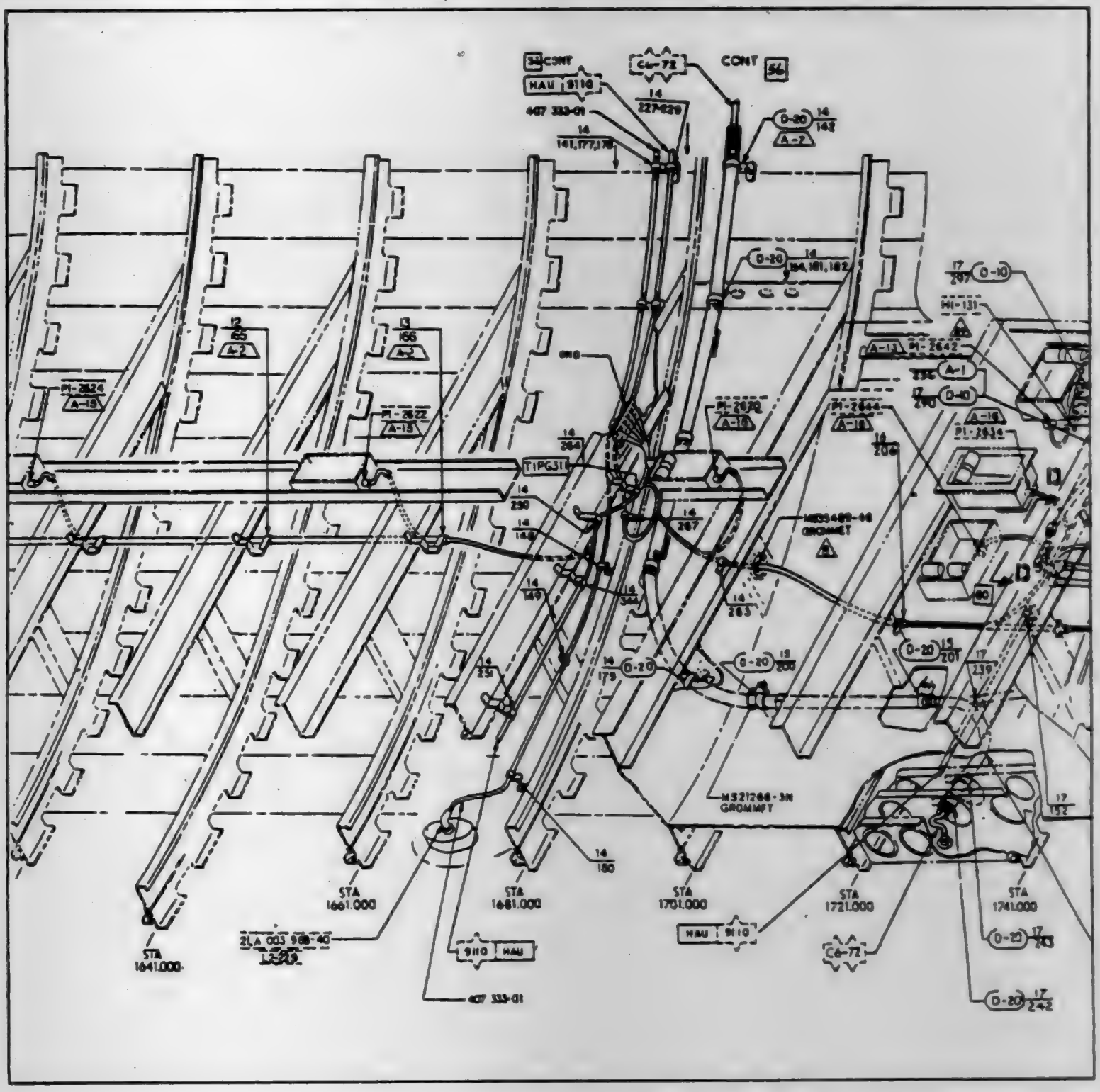

Figure 1

Issued in Renton, Washington, on April 23, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10815 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWA–4]

RIN 2120–AA66

Establishment of Class C Airspace and Revocation of Class D Airspace, Austin-Bergstrom International Airport, TX; and Revocation of Robert Mueller Municipal Airport Class C Airspace; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: On February 11, 1999, the FAA published a final rule establishing a Class C airspace area and revoking the Class D airspace area for the Austin-Bergstrom International Airport, TX. The rule also revoked the Class C airspace area for the Robert Mueller Municipal Airport, TX. In view of the delay in the opening date of the new Austin-Bergstrom International Airport, TX, this action delays the rule's effective date until May 23, 1999.

EFFECTIVE DATE: Effective April 30, 1999, the effective date of the Final Rule at 64 FR 6793 is delayed until 0601 UTC, May 23, 1999.

FOR FURTHER INFORMATION CONTACT: Sheri Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION: On February 11, 1999, the FAA published a final rule establishing a Class C airspace area and revoking the Class D airspace area for Austin-Bergstrom International Airport, TX (64 FR 6793). The rule also revoked the Class C airspace area for Robert Mueller Municipal Airport, TX. Due to construction delays, the official opening of the Austin-Bergstrom International Airport has been delayed until May 23, 1999. Accordingly, the effective date of the establishment and revocation of the related Class C and Class D airspace areas is postponed until the opening of the new airport.

Because the public needs to be made aware of this postponement immediately, notice and public procedure are impracticable and good cause exists for making the postponement effective in less than 30 days.

In consideration of the foregoing, effective April 30, 1999, the effective date of the final rule establishing the Class C airspace area and revoking the Class D airspace area for Austin-Bergstrom International Airport; and revoking the Class C airspace area for Robert Mueller Municipal Airport (64 FR 6793; February 11, 1999) is delayed from May 2, 1999, to May 23, 1999.

Issued in Washington, DC, on April 20, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–10964 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegation of Authority and Organization; Center for Veterinary Medicine; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulation to reflect a redelegation of authority with respect to approval of supplemental new animal drug applications to the Director, Division of Manufacturing Technology, Office of New Animal Drug Evaluation, Center for Veterinary Medicine (CVM). This action is necessary to ensure the continued accuracy of the regulation.

EFFECTIVE DATE: December 22, 1998.

FOR FURTHER INFORMATION CONTACT:

Carol Haley, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1682;

Donna G. Page, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4816.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 22, 1998 (63 FR 70650), FDA amended the regulation for redelegations of authority to incorporate provisions for feed mill licensing and to update positions and component titles associated with the authorities under § 5.83 (21 CFR 5.83). The regulation in § 5.83(c)(1) reflected a redelegation with respect to approval of certain supplemental new animal drug applications to the position title "Director, Division of Human Food Safety, Office of New Animal Drug Evaluation, CVM." The correct position title to which these functions should have been redelegated is the "Director, Division of Manufacturing Technologies, Office of New Animal Drug Evaluation, CVM," because that office is responsible for supplemental applications for manufacturing. Therefore, the redelegation to the "Director, Division of Human Safety Office of New Animal Drug Evaluation, CVM" has been amended and a new redelegation made to the "Director, Division of Manufacturing Technologies, Office of New Animal Drug Evaluation, CVM." The regulation in § 5.83(c)(1) has been revised to reflect this redelegation. Further redelegation of authorities is not authorized at this time. Authority delegated to a position may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; 15 U.S.C. 1451–1461; 21 U.S.C. 41–50, 61–63, 141–149, 321–394, 467f, 679(b), 801–886, 1031–1309; 35 U.S.C. 156; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1; 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11921, 41 FR 24294, 3 CFR 1977 Comp., p. 124–131; E.O. 12591, 52 FR 13414, 3 CFR, 1988 Comp., p. 220–223.

2. Section 5.83 is amended by revising paragraph (c)(1) to read as follows:

§ 5.83 Approval of new animal drug applications, medicated feed mill license applications, and their supplements.

* * * * *

(c) * * *

(1) The Director, Division of Manufacturing Technologies, Office of New Animal Drug Evaluation, CVM.

* * * * *

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10847 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 98C–0041]

Listing of Color Additives for Coloring Sutures; [Phthalocyaninato(2-)] Copper

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of [phthalocyaninato(2-)] copper in coloring nonabsorbable sutures for general and ophthalmic surgery made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene). This action responds to a petition filed by Ethicon, Inc.

DATES: This regulation is effective June 2, 1999; except as to any provisions that may be stayed by the filing of proper objections; written objections and requests for a hearing by June 1, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS–215), 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of February 2, 1998 (63 FR 5387), FDA announced that a color additive petition (CAP 8C0253) had been filed by Ethicon, Inc., P.O. Box 151, Somerville, NJ 08876–0151. The petition proposed to amend the color additive regulations in § 74.3045 *[Phthalocyaninato(2-)] copper* (21 CFR 74.3045) to provide for the safe use of [phthalocyaninato(2-)] copper in coloring nonabsorbable sutures for general and ophthalmic surgery made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene). The petition was filed under section 721(d)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379e(d)(1)).

II. Applicability of the Act

With the passage of the Medical Device Amendments of 1976 (Pub. L. 94–295), Congress mandated the listing of color additives for use in medical devices when the color additive in the device comes into direct contact with the body for a significant period of time (section 721(d)(1) of the act). [Phthalocyaninato(2-)] copper is added to nonabsorbable sutures made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene) in such a way that at least some of the color additive will come into contact with the body when the sutures are in place. In addition, the sutures are intended to remain in the body at least until healing is complete. Thus, the color additive will be in direct contact with the body for a significant period of time. Consequently, the petitioned use of the color additive is subject to the statutory listing requirement.

III. Safety of the Petitioned Use of the Additive

Based on data submitted in the petition and from other relevant information, FDA concludes that the petitioned use of the additive, [phthalocyaninato(2-)] copper, will result in exposure to no greater than 7.5 milligrams (mg) per person over a 70-year lifetime or 0.31 microgram per person per day (Ref. 1).

To establish that the color additive [phthalocyaninato(2)-] copper is safe for use in coloring sutures made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene), the petitioner conducted eight biocompatibility tests on the colored sutures or their extracts to evaluate the toxicity of the subject color additive. Based on an evaluation of these tests, the agency concludes that the colored sutures or their extracts are noncytotoxic, nonpyrogenic, and nonirritating.

Based on the available toxicity data, the small amount of [phthalocyaninato(2)-] copper used to the color sutures, and the agency's exposure calculation for the proposed use of the subject additive, FDA finds that [phthalocyaninato(2)-] copper is safe for use in coloring sutures made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene).

IV. Specifications and Certification

[Phthalocyaninato(2-)] copper is currently produced as a certified color additive for use in coloring contact lenses and certain sutures for general and ophthalmic surgery in accordance with 21 CFR part 80. The agency concludes that the specifications listed in § 74.3045 for these uses are adequate to ensure the safe use of this color additive in sutures for general and ophthalmic surgery that are made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene).

V. Conclusions on Safety

FDA has evaluated the data and information in the petition and other relevant material. Based on this information the agency concludes that: (1) The proposed use of [phthalocyaninato(2-)] copper, at a level not to exceed 0.5 percent by weight of the suture material, for coloring sutures made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene) is safe; and (2) the color additive will achieve its intended coloring effect, and thus, is suitable for this use. Further, the agency concluded that the color additive regulations in § 74.3045 should be amended as set forth below.

VI. Inspection of Documents

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VII. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by

the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Objections

Any person who will be adversely affected by this regulation may at any time on or before June 1, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

X. Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from the Division of Product Manufacture and Use, Chemistry Review Team, FDA, to the Division of Petition Control, FDA, concerning "CAP 8C0253 (MATS M2.0 & 2.1): Ethicon, Inc. (Submission of November 26, 1997). Petition for the safe use of use of [sic] phthalocyaninato(2-) copper as a colorant for nonabsorbable sutures," dated January 26, 1998.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 74 is amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 74 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

2. Section 74.3045 is amended by revising the introductory text of paragraph (c)(1) to read as follows:

§ 74.3045 [Phthalocyaninato(2-)] copper.

* * * * *

(c) *Uses and restrictions.* (1) The color additive [phthalocyaninato(2-)] copper may be safely used to color polypropylene sutures, polybutester (the generic designation for the suture fabricated from 1,4-benzenedicarboxylic acid, polymer with 1,4-butanediol and *alpha*-hydro-*omega*- hydroxypoly(oxy-1,4-butanediyl), CAS Reg. No. 37282–12–5) nonabsorbable sutures for use in general and ophthalmic surgery, polybutylene terephthalate nonabsorbable monofilament sutures for general and ophthalmic surgery, nonabsorbable sutures made from poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene) for general and ophthalmic surgery, and polymethylmethacrylate monofilament used as supporting haptics for intraocular lenses, subject to the following restrictions:

* * * * *

Dated: April 23, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–10917 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Pliva d.d. The ANADA provides for intramuscular use of oxytetracycline injection in swine and intramuscular and intravenous use in cattle for treatment of bacterial infections susceptible to oxytetracycline.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Pliva d.d., Ulica grada Vukovara 49, 10000 Zagreb, Croatia, filed ANADA 200–232 that provides for the use of Geomycin 200 (oxytetracycline injection) for treatment of diseases caused by oxytetracycline susceptible organisms as follows: Intramuscular use in swine for treatment of bacterial enteritis (scours, colibacillosis) caused by *Escherichia coli*, pneumonia caused by *Pasteurella multocida*, and leptospirosis caused by *Leptospira pomona*, and in sows as an aid in the control of infectious enteritis (baby pig scours, colibacillosis) in suckling pigs caused by *E. coli*; intramuscular and intravenous use in cattle for the treatment of bacterial pneumonia and shipping fever complex associated with *Pasteurella* spp. and *Haemophilus* spp., infectious bovine keratoconjunctivitis (pinkeye) caused by *Moraxella bovis*, foot rot and diptheria caused by *Fusobacterium necrophorum*, bacterial enteritis (scours) caused by *E. coli*, wooden tongue caused by *Actinobacillus lignieresi*, leptospirosis caused by *L. pomona*, and wound infections and acute metritis caused by strains of streptococcal and staphylococcal organisms.

Approval of Pliva d.d.'s ANADA 200–232 for oxytetracycline injection is as a generic copy of Pfizer, Inc.'s NADA 113–232 for Liquamycin® LA–200® (oxytetracycline injection). ANADA 200–232 is approved as of February 12, 1999, and the regulations are amended in 21 CFR 522.1660(b) and (d) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Because Pliva d.d. has not been previously listed in the animal drug regulations as the sponsor of an approved application, 21 CFR 510.600 is amended in paragraphs (c)(1) and (c)(2) to add entries for the firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9

a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practices and procedures, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for "Pliva d.d." and in the table in paragraph (c)(2) by numerically adding an entry for "011722" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Pliva d.d., Ulica grada Vukovara 49, 10000 Zagreb, Croatia	011722
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
011722	Pliva d.d., Ulica grada Vukovara 49, 10000 Zagreb, Croatia
* * * * * * *	

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.1660 [Amended]

2. Section 522.1660 *Oxytetracycline injection* is amended in paragraphs (b) and (d)(2)(iii) by adding the number "011722," after "000069".

Dated: April 21, 1999.

George A. Mitchell,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 99–10793 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25

[TD 8819]

RIN 1545–AX14

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations relating to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests. These regulations are necessary because section 7520(c)(3) directs the Secretary to update the actuarial tables to reflect the most recent mortality experience available. These regulations will effect the valuation of inter vivos and testamentary transfers of interests dependent on one or more measuring lives. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject elsewhere in this issue of the **Federal Register.**

DATES: These regulations are effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, William L. Blodgett, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the regulations revising certain tables used for the valuation of partial interests in property under section 7520 of the Internal Revenue Code of 1986 (Code) to reflect the most recent mortality experience available.

In General

Section 7520, effective for transfers for which the valuation date is after

April 30, 1989, provides that the value of an annuity, an interest for life or a term of years, and a remainder or reversionary interest is to be determined under tables published by the Internal Revenue Service based on a discount rate (rounded to the nearest two-tenths of one percent) equal to 120 percent of the applicable Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls. Section 7520(c)(3) directed the Secretary to issue tables not later than December 31, 1989, utilizing the then most recent mortality experience. Thereafter, the Secretary is directed to revise the tables used in valuing interests dependent on mortality experience not less frequently than once each 10 years to take into account the most recent mortality experience available as of the time of the revision.

These regulations incorporate revised Table S (Single Life Remainder Factors) and Table U(1) (Unitrust Single Life Remainder Factors) based on data compiled from the 1990 census as set forth in Life Table 90CM, and make conforming amendments to various sections to reflect the revised tables. The current tables are moved to sections containing actuarial material for historical reference. Table B, Table D, Tables F(4.2) through F(14.0), Table J, and Table K, which are not based on mortality experience, are not changed. Internal Revenue Service Publications 1457 "Actuarial Values, Book Aleph" (forthcoming 1999), 1458 "Actuarial Values, Book Beth" (forthcoming 1999), and 1459 "Actuarial Values, Book Gimel" (forthcoming 1999) will contain a complete set of actuarial tables that include factors not contained in the regulations (for example, annuity and life interest factors). Although not available on May 1, 1999, IRS anticipates these publications will be available by July 1, 1999. These publications will be available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

The following chart summarizes the applicable interest rates and the citations to textual materials and tables for the various periods covered under the regulations:

CROSS REFERENCE TO REGULATION SECTIONS

Valuation period	Interest rate	Regulation section	Table
Section 642:			
Valuation, in general		1.642(c)–6	
Before 01/01/52	4%	1.642(c)–6A(a)	
01/01/52–12/31/70	3.5%	1.642(c)–6A(b)	
01/01/71–11/30/83	6%	1.642(c)–6A(c)	
12/01/83–04/30/89	10%	1.642(c)–6A(d)	Table G.
05/01/89–04/30/99	§7520	1.642(c)–6A(e)	Table S (5/1/89–4/30/99).
After 04/30/99	§7520	1.642(c)–6T(e)	Table S (after 04/30/99).
Section 664:			
Valuation, in general		1.664–4	
Before 01/01/52	4%	1.664–4A(a)	
01/01/52–12/31/70	3.5%	1.664–4A(b)	
01/01/71–11/30/83	6%	1.664–4A(c)	
12/01/83–04/30/89	10%	1.664–4A(d)	Table E, Table F(1).
05/01/89–04/30/99	§7520	1.664–4A(e)	Table U(1) (5/1/89–4/30/99).
After 04/30/99	§7520	1.664–4T(e)	Table U(1) (after 04/30/99).
		1.664–4(e)	Table D and Tables F(4.2)–F(14.0).
Section 2031:			
Valuation, in general		20.2031–7	
Before 01/01/52	4%	20.2031–7A(a)	
01/01/52–12/31/70	3.5%	20.2031–7A(b)	
01/01/71–11/30/83	6%	20.2031–7A(c)	
12/01/83–04/30/89	10%	20.2031–7A(d)	Table A, Table B, Table LN.
05/01/89–04/30/99	§7520	20.2031–7A(e)	Table S (5/1/89–4/30/99) Life Table 80CNSMT.
After 04/30/99	§7520	20.2031–7T(d)	Table S (after 04/30/99) and Life Table 90CM.
		20.2031–7(d)	Table B, Table J, Table K.
Section 2512:			
Valuation, in general		25.2512–5	
Before 01/01/52	4%	25.2512–5A(a)	
01/01/52–12/31/70	3.5%	25.2512–5A(b)	
01/01/71–11/30/83	6%	25.2512–5A(c)	
12/01/83–04/30/89	10%	25.2512–5A(d)	
05/01/89–04/30/99	§7520	25.2512–5A(e)	
After 04/30/99	§7520	25.2512–5T(d)	

Effective Dates

These regulations are applicable in the case of annuities, interests for life or terms of years, and remainder or reversionary interests created after April 30, 1999.

Transitional Rules

The regulations provide certain transitional rules intended to alleviate any adverse consequences resulting from the proposed regulatory change. For gift tax purposes, if the valuation date of a transfer is after April 30, 1999, but before July 1, 1999, the donor may determine the value of the gift (and/or any applicable charitable deduction) under tables based on either Life Table 80CNSMT or Table 90CM (at the donor's option). Similarly, for estate tax purposes, if the decedent dies after April 30, 1999, but before July 1, 1999, the value of any interest (and/or any applicable charitable deduction) may be determined under tables based on either Table 80CNSMT or Table 90CM, at the option of the decedent's executor. However, the section 7520 interest rate utilized is the appropriate rate for the month in which the valuation date occurs. In accordance with this transitional rule and those contained in

§§ 1.7520–2(a)(2), 20.7520–2(a)(2) and 25.7520–2(a)(2), in cases involving a charitable deduction, if the valuation date occurs after April 30, 1999, and before July 1, 1999, and the executor or donor elects under section 7520(a) to use the section 7520 interest rate for March 1999 or April 1999, then the mortality experience contained in 80CNSMT must be used. If the executor or donor uses the section 7520 interest rate for May 1999 or for June 1999, then the tables based on either Table 80CNSMT or Table 90CM may be used. However, if the valuation date occurs after June 30, 1999, the executor or donor must use the new mortality experience contained in Table 90CM even if a prior month interest rate election under section 7520(a) is made.

In addition, for estate tax purposes, the estate of a mentally incompetent decedent may elect to value the property interest included in the gross estate under the mortality table and interest rate in effect at the time the decedent became mentally incompetent or the mortality table and interest rate in effect on the decedent's date of death if the decedent was under a mental incapacity that existed on May 1, 1999, and continued uninterrupted until the decedent's death, or the decedent died within 90 days of regaining competency after April 30, 1999.

Special Analysis

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting information. The principal author of these regulations is William L. Blodgett, Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, and 25 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.170A–12 also issued under 26 U.S.C. 170(f)(4). * * *

Section 1.642(c)–6 also issued under 26 U.S.C. 642(c)(5).

Section 1.642(c)–6T also issued under 26 U.S.C. 642(c)(5).

Section 1.642(c)–6A also issued under 26 U.S.C. 642(c)(5).

Section 1.664–1 also issued under 26 U.S.C. 664(a).

Section 1.664–2 also issued under 26 U.S.C. 664(a).

Section 1.664–3 also issued under 26 U.S.C. 664(a).

Section 1.664–4 also issued under 26 U.S.C. 664(a).

Section 1.664–4T also issued under 26 U.S.C. 664(a).

Section 1.664–4A also issued under 26 U.S.C. 664(a). * * *

Section 1.7520–1T also issued under 26 U.S.C. 7520(c)(2). * * *

Par. 2. Section 1.170A–6 is amended by revising paragraph (c)(5), *Example (2)*(b) introductory text to read as follows:

§ 1.170A–6 Charitable contributions in trust.

* * * * *

(c) * * *

(5) * * *

Example 2. * * *

(b) The section 7520 rate at the time of the transfer was 6.0 percent. By reference to Table F(6.0) in § 1.664–4(e)(6), the adjusted payout rate is 4.717% (5% × 0.943396). The present value of the reversion is $6,473.75, computed by reference to Table D in § 1.664–4(e)(6), as follows:

* * * * *

Par. 3. Section 1.170A–12T is added to read as follows:

§ 1.170A–12T Valuation of a remainder interest in real property for contributions made after July 31, 1969 (temporary).

(a) through (b)(1) [Reserved] For further guidance see § 1.170A–12(a) through (b)(1).

(b)(2) *Computation of depreciation factor after April 30, 1999.* If the valuation of the remainder interest in depreciable property is dependent upon the continuation of one life, a special factor must be used. The factor determined under this paragraph (b)(2) is carried to the fifth decimal place. The special factor is to be computed on the basis of the interest rate and life contingencies prescribed in § 20.2031–7T (or for certain prior periods, § 20.2031–7A) of this chapter (Estate Tax Regulations) and on the assumption that the property depreciates on a straight-line basis over its estimated useful life. For transfers for which the valuation date is after April 30, 1999, special factors for determining the present value of a remainder interest following one life and an example describing the computation are contained in Internal Revenue Service Publication 1459, "Actuarial Values, Book Gimel," (1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Otherwise, in the case of the valuation of a remainder interest following one life, the special factor may be obtained through use of the following formula:

$$\left(1+\frac{i}{2}\right)\sum_{t=0}^{n-1} v^{(t+1)}\left[\left(1-\frac{1_{x+t+1}}{1_x}\right)-\left(1-\frac{1_{x+t}}{1_x}\right)\right]\left(1-\frac{1}{2n}-\frac{t}{n}\right)$$

Where:
n=the estimated number of years of useful life,
i=the applicable interest rate under section 7520 of the Internal Revenue Code,
v=1 divided by the sum of 1 plus the applicable interest rate under section 7520 of the Internal Revenue Code,
x=the age of the life tenant, and
lx=number of persons living at age x as set forth in Table 90CM of § 20.2031–7T (or, for prior periods, the tables set forth under § 20.2031–7A) of this chapter.

(3) The following example illustrates the provisions of this paragraph (b):

Example. A, who is 62, donates to Y University a remainder interest in a personal residence, consisting of a house and land, subject to a reserved life estate in A. At the time of the gift, the land has a value of $30,000 and the house has a value of $100,000 with an estimated useful life of 45 years, at the end of which the value of the house is expected to be $20,000. The portion of the property considered to be depreciable is $80,000 (the value of the house ($100,000) less its expected value at the end of 45 years ($20,000)). The portion of the property considered to be nondepreciable is $50,000 (the value of the land at the time of the gift ($30,000) plus the expected value of the house at the end of 45 years ($20,000)). At the time of the gift, the interest rate prescribed under section 7520 is 8.4 percent. Based on an interest rate of 8.4 percent, the remainder factor for $1.00 prescribed in § 20.2031–7T(d) of this chapter for a person age 62 is 0.27925. The value of the nondepreciable remainder interest is $13,962.50 (0.27925 times $50,000). The value of the depreciable remainder interest is $16,148.80 (0.20186, computed under the formula described in paragraph (b)(2) of this section, times $80,000). Therefore, the value of the remainder interest is $30,111.30.

(c) through (e) [Reserved]. For further guidance see § 1.170A–12 (c) through (e).

Par. 4. Section 1.642(c)–6 is amended as follows:

1. Revise the section heading.
2. Paragraph (d) is removed.
3. Paragraph (e) is redesignated as paragraph (e) of § 1.642(c)–6A.
4. New paragraphs (d) and (e) are added.
5. Paragraph (f) is revised.

The revisions and addition read as follows:

§ 1.642(c)–6 Valuation of a remainder interest in property transferred to a pooled income fund.

* * * * *

(d) and (e) [Reserved]. For further guidance, see § 1.642(c)–6T(d) and (e).

(f) *Effective dates.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 5. Section 1.642(c)–6T is added to read as follows:

§ 1.642(c)–6T Valuation of a remainder interest in property transferred to a pooled income fund (temporary).

(a) through (c) [Reserved]. For further guidance, see § 1.642(c)–6(a) through (c).

(d) *Valuation.* The present value of the remainder interest in property transferred to a pooled income fund after April 30, 1999, is determined under paragraph (e) of this section. The present value of the remainder interest in property transferred to a pooled income fund for which the valuation date is before May 1, 1999, is determined under the following sections:

Valuation Dates		Applicable regulations
After	Before	
	01–01–52	1.642(c)–6A(a).
12–31–51 ...	01–01–71	1.642(c)–6A(b).
12–31–70 ...	12–01–83	1.642(c)–6A(c).
11–30–83 ...	05–01–89	1.642(c)–6A(d).
04–30–89 ...	05–01–99	1.642(c)–6A(e).

(e) *Present value of the remainder interest in the case of transfers to pooled income funds for which the valuation date is after April 30, 1999*—(1) *In general.* In the case of transfers to pooled income funds for which the valuation date is after April 30, 1999, the present value of a remainder interest is determined under this section. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). The present value of a remainder interest that is dependent on the termination of the life of one individual is computed by the use of Table S in paragraph (e)(6) of this section. For purposes of the computations under this section, the age of an individual is the age at the individual's nearest birthday.

(2) *Transitional rules for valuation of transfers to pooled income funds.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after April 30, 1999, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency after April 30, 1999, the present value of a remainder interest is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 1999, or after April 30, 1999, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a pooled income fund for which the valuation date is after April 30, 1999, and before July 1, 1999, the present value of the remainder interest under this section is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (See §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(6) of this section or § 1.642(c)–6A(e)(5), at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (e)(2)(i) and (ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(6) of this section or § 1.642(c)–6A(e)(5), the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (e.g., gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Present value of a remainder interest.* The present value of a remainder interest in property transferred to a pooled income fund is computed on the basis of—

(i) Life contingencies determined from the values of *lx* that are set forth in Table 90CM in § 20.2031–7T(d)(7) of this chapter (Estate Tax Regulations) (See § 20.2031–7A of this chapter for certain prior periods); and

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. For purposes of this paragraph (e), the yearly rate of return of a pooled income fund is determined as provided in § 1.642(c)–6(c) unless the highest rate of return is deemed to be the rate described in paragraph (e)(4) of this section for funds in existence less than 3 taxable years. For purposes of this paragraph (e)(3)(ii), the first taxable year of a pooled income fund is considered a taxable year even though the taxable year consists of less than 12 months. However, appropriate adjustments must be made to annualize the rate of return earned by the fund for that period. Where it appears from the facts and circumstances that the highest yearly rate of return of the fund for the 3 taxable years immediately preceding

the taxable year in which the transfer of property is made has been purposely manipulated to be substantially less than the rate of return that would otherwise be reasonably anticipated with the purpose of obtaining an excessive charitable deduction, that rate of return may not be used. In that case, the highest yearly rate of return of the fund is determined by treating the fund as a pooled income fund that has been in existence for less than 3 preceding taxable years.

(4) *Pooled income funds in existence less than 3 taxable years.* If a pooled income fund has been in existence less than 3 taxable years immediately preceding the taxable year in which the transfer is made to the fund and the transfer to the fund is made after April 30, 1989, the highest rate of return is deemed to be the interest rate (rounded to the nearest two-tenths of one percent) that is 1 percent less than the highest annual average of the monthly section 7520 rates for the 3 calendar years immediately preceding the calendar year in which the transfer to the pooled income fund is made. The deemed rate of return for transfers to new pooled income funds is recomputed each calendar year using the monthly section 7520 rates for the 3-year period immediately preceding the calendar year in which each transfer to the fund is made until the fund has been in existence for 3 taxable years and can compute its highest rate of return for the 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made in accordance with the rules set forth in the first sentence of paragraph (e)(3)(ii) of this section.

(5) *Computation of value of remainder interest.* The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor from Table S in paragraph (e)(6) of this section under the appropriate yearly rate of return opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based (See § 1.642(c)–6A for certain prior periods). The tables in paragraph (e)(6) of this section include factors for yearly rates of return from 4.2 to 14 percent. Many actuarial factors not contained in the tables in paragraph (e)(6) of this section are contained in Table S in Internal Revenue Service Publication 1457, "Actuarial Values, Book Aleph," (1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. For other situations, see § 1.642(c)–6(b). If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the fair market value of the property on the valuation date by the appropriate remainder factor. This paragraph (e)(5) may be illustrated by the following example:

Example. A, who is 54 years and 8 months, transfers $100,000 to a pooled income fund, and retains a life income interest in the property. The highest yearly rate of return earned by the fund for its 3 preceding taxable years is 9.47 percent. In Table S, the remainder factor opposite 55 years under 9.4 percent is .17449 and under 9.6 percent is .17001. The present value of the remainder interest is $17,292.00, computed as follows:

Factor at 9.4 percent for age 55	.17449
Factor at 9.6 percent for age 55	.17001
Difference	.00448

Interpolation adjustment:

$$\frac{9.47\% - 9.4\%}{0.2\%} = \frac{\times}{.00448}$$

$$\times = .00157$$

Factor at 9.4 percent for age 55	.17449
Less: Interpolation adjustment	.00157
Interpolated factor	.17292
Present value of remainder interest: ($100,000 × .17292)	$17,292.00

(6) *Actuarial tables.* In the case of transfers for which the valuation date is after April 30, 1999, the present value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is determined by use of the following Table S:

TABLE S.—SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1999 BASED ON LIFE TABLE 90CM

[Interest rate]

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06752	.06130	.05586	.05109	.04691	.04322	.03998	.03711	.03458	.03233
1	.06137	.05495	.04932	.04438	.04003	.03620	.03283	.02985	.02721	.02487
2	.06325	.05667	.05088	.04580	.04132	.03737	.03388	.03079	.02806	.02563
3	.06545	.05869	.05275	.04752	.04291	.03883	.03523	.03203	.02920	.02668
4	.06784	.06092	.05482	.04944	.04469	.04048	.03676	.03346	.03052	.02791
5	.07040	.06331	.05705	.05152	.04662	.04229	.03845	.03503	.03199	.02928
6	.07310	.06583	.05941	.05372	.04869	.04422	.04025	.03672	.03357	.03076
7	.07594	.06849	.06191	.05607	.05089	.04628	.04219	.03854	.03528	.03236
8	.07891	.07129	.06453	.05853	.05321	.04846	.04424	.04046	.03709	.03407
9	.08203	.07423	.06731	.06115	.05567	.05079	.04643	.04253	.03904	.03592
10	.08532	.07734	.07024	.06392	.05829	.05326	.04877	.04474	.04114	.03790
11	.08875	.08059	.07331	.06683	.06104	.05587	.05124	.04709	.04336	.04002
12	.09233	.08398	.07653	.06989	.06394	.05862	.05385	.04957	.04572	.04226
13	.09601	.08748	.07985	.07304	.06693	.06146	.05655	.05214	.04816	.04458
14	.09974	.09102	.08322	.07624	.06997	.06435	.05929	.05474	.05064	.04694
15	.10350	.09460	.08661	.07946	.07303	.06725	.06204	.05735	.05312	.04930
16	.10728	.09818	.09001	.08268	.07608	.07014	.06479	.05996	.05559	.05164
17	.11108	.10179	.09344	.08592	.07916	.07306	.06755	.06257	.05807	.05399
18	.11494	.10545	.09691	.08921	.08227	.07601	.07034	.06521	.06057	.05636
19	.11889	.10921	.10047	.09259	.08548	.07904	.07322	.06794	.06315	.05880
20	.12298	.11310	.10417	.09610	.08881	.08220	.07622	.07078	.06584	.06135
21	.12722	.11713	.10801	.09976	.09228	.08550	.07935	.07375	.06866	.06403
22	.13159	.12130	.11199	.10354	.09588	.08893	.08260	.07685	.07160	.06682
23	.13613	.12563	.11612	.10748	.09964	.09250	.08601	.08009	.07468	.06975
24	.14084	.13014	.12043	.11160	.10357	.09625	.08958	.08349	.07793	.07284

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
25	.14574	.13484	.12493	.11591	.10768	.10018	.09334	.08708	.08135	.07611
26	.15084	.13974	.12963	.12041	.11199	.10431	.09728	.09085	.08496	.07956
27	.15615	.14485	.13454	.12513	.11652	.10865	.10144	.09484	.08878	.08322
28	.16166	.15016	.13965	.13004	.12124	.11319	.10580	.09901	.09279	.08706
29	.16737	.15567	.14497	.13516	.12617	.11792	.11035	.10339	.09699	.09109
30	.17328	.16138	.15048	.14047	.13129	.12286	.11510	.10796	.10138	.09532
31	.17938	.16728	.15618	.14599	.13661	.12799	.12004	.11272	.10597	.09974
32	.18568	.17339	.16210	.15171	.14214	.13333	.12520	.11769	.11076	.10435
33	.19220	.17972	.16824	.15766	.14790	.13889	.13058	.12289	.11578	.10920
34	.19894	.18627	.17460	.16383	.15388	.14468	.13618	.12831	.12102	.11426
35	.20592	.19307	.18121	.17025	.16011	.15073	.14204	.13399	.12652	.11958
36	.21312	.20010	.18805	.17691	.16658	.15701	.14814	.13990	.13225	.12514
37	.22057	.20737	.19514	.18382	.17331	.16356	.15450	.14608	.13825	.13096
38	.22827	.21490	.20251	.19100	.18031	.17038	.16113	.15253	.14452	.13705
39	.23623	.22270	.21013	.19845	.18759	.17747	.16805	.15927	.15108	.14344
40	.24446	.23078	.21805	.20620	.19516	.18487	.17527	.16631	.15795	.15013
41	.25298	.23915	.22626	.21425	.20305	.19259	.18282	.17368	.16514	.15715
42	.26178	.24782	.23478	.22262	.21125	.20062	.19069	.18138	.17267	.16450
43	.27087	.25678	.24360	.23129	.21977	.20898	.19888	.18941	.18053	.17220
44	.28025	.26603	.25273	.24027	.22860	.21766	.20740	.19777	.18873	.18023
45	.28987	.27555	.26212	.24953	.23772	.22664	.21622	.20644	.19724	.18858
46	.29976	.28533	.27179	.25908	.24714	.23591	.22536	.21542	.20606	.19725
47	.30987	.29535	.28171	.26889	.25682	.24546	.23476	.22468	.21518	.20621
48	.32023	.30563	.29190	.27897	.26678	.25530	.24447	.23425	.22460	.21549
49	.33082	.31615	.30234	.28931	.27702	.26543	.25447	.24412	.23434	.22509
50	.34166	.32694	.31306	.29995	.28756	.27586	.26479	.25432	.24441	.23502
51	.35274	.33798	.32404	.31085	.29838	.28658	.27541	.26482	.25479	.24528
52	.36402	.34924	.33525	.32200	.30946	.29757	.28630	.27561	.26547	.25584
53	.37550	.36070	.34668	.33339	.32078	.30882	.29746	.28667	.27643	.26669
54	.38717	.37237	.35833	.34500	.33234	.32031	.30888	.29801	.28766	.27782
55	.39903	.38424	.37019	.35683	.34413	.33205	.32056	.30961	.29918	.28925
56	.41108	.39631	.38227	.36890	.35617	.34405	.33250	.32149	.31099	.30097
57	.42330	.40857	.39455	.38118	.36844	.35629	.34469	.33363	.32306	.31297
58	.43566	.42098	.40699	.39364	.38089	.36873	.35710	.34600	.33538	.32522
59	.44811	.43351	.41956	.40623	.39350	.38133	.36968	.35855	.34789	.33768
60	.46066	.44613	.43224	.41896	.40624	.39408	.38243	.37127	.36058	.35033
61	.47330	.45887	.44505	.43182	.41914	.40699	.39535	.38418	.37347	.36318
62	.48608	.47175	.45802	.44485	.43223	.42011	.40848	.39732	.38660	.37629
63	.49898	.48478	.47115	.45807	.44550	.43343	.42184	.41069	.39997	.38966
64	.51200	.49793	.48442	.47143	.45895	.44694	.43539	.42427	.41357	.40326
65	.52512	.51121	.49782	.48495	.47255	.46062	.44912	.43805	.42738	.41709
66	.53835	.52461	.51137	.49862	.48634	.47449	.46307	.45206	.44143	.43118
67	.55174	.53818	.52511	.51250	.50034	.48860	.47727	.46633	.45576	.44556
68	.56524	.55188	.53899	.52654	.51452	.50291	.49168	.48083	.47034	.46020
69	.57882	.56568	.55299	.54071	.52885	.51737	.50627	.49552	.48513	.47506
70	.59242	.57951	.56703	.55495	.54325	.53193	.52096	.51034	.50004	.49007
71	.60598	.59332	.58106	.56918	.55767	.54651	.53569	.52520	.51503	.50516
72	.61948	.60707	.59504	.58338	.57206	.56108	.55043	.54009	.53004	.52029
73	.63287	.62073	.60895	.59751	.58640	.57561	.56513	.55495	.54505	.53543
74	.64621	.63435	.62282	.61162	.60073	.59015	.57985	.56984	.56009	.55061
75	.65953	.64796	.63671	.62575	.61510	.60473	.59463	.58480	.57523	.56591
76	.67287	.66160	.65063	.63995	.62954	.61940	.60952	.59989	.59050	.58135
77	.68622	.67526	.66459	.65419	.64404	.63415	.62450	.61509	.60590	.59694
78	.69954	.68892	.67856	.66845	.65858	.64895	.63955	.63036	.62140	.61264
79	.71278	.70250	.69246	.68265	.67308	.66372	.65457	.64563	.63690	.62836
80	.72581	.71588	.70618	.69668	.68740	.67833	.66945	.66077	.65227	.64396
81	.73857	.72899	.71962	.71045	.70147	.69268	.68408	.67566	.66741	.65933
82	.75101	.74178	.73274	.72389	.71522	.70672	.69840	.69024	.68225	.67441
83	.76311	.75423	.74553	.73700	.72864	.72044	.71240	.70451	.69678	.68919
84	.77497	.76645	.75809	.74988	.74183	.73393	.72618	.71857	.71110	.70377
85	.78665	.77848	.77047	.76260	.75487	.74728	.73982	.73250	.72530	.71823
86	.79805	.79025	.78258	.77504	.76764	.76036	.75320	.74617	.73925	.73245
87	.80904	.80159	.79427	.78706	.77998	.77301	.76615	.75940	.75277	.74624
88	.81962	.81251	.80552	.79865	.79188	.78521	.77865	.77220	.76584	.75958
89	.82978	.82302	.81636	.80980	.80335	.79699	.79072	.78455	.77847	.77248
90	.83952	.83309	.82676	.82052	.81437	.80831	.80234	.79645	.79064	.78492
91	.84870	.84260	.83658	.83064	.82479	.81902	.81332	.80771	.80217	.79671
92	.85716	.85136	.84563	.83998	.83441	.82891	.82348	.81812	.81283	.80761
93	.86494	.85942	.85396	.84858	.84326	.83801	.83283	.82771	.82266	.81767
94	.87216	.86690	.86170	.85657	.85149	.84648	.84153	.83664	.83181	.82704
95	.87898	.87397	.86902	.86412	.85928	.85450	.84977	.84510	.84049	.83592
96	.88537	.88060	.87587	.87121	.86659	.86203	.85751	.85305	.84864	.84427
97	.89127	.88672	.88221	.87775	.87335	.86898	.86467	.86040	.85618	.85200
98	.89680	.89245	.88815	.88389	.87968	.87551	.87138	.86730	.86326	.85926

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
99	.90217	.89803	.89393	.88987	.88585	.88187	.87793	.87402	.87016	.86633
100	.90738	.90344	.89953	.89567	.89183	.88804	.88428	.88056	.87687	.87322
101	.91250	.90876	.90504	.90137	.89772	.89412	.89054	.88699	.88348	.88000
102	.91751	.91396	.91045	.90696	.90350	.90007	.89668	.89331	.88997	.88666
103	.92247	.91912	.91579	.91249	.90922	.90598	.90276	.89957	.89640	.89326
104	.92775	.92460	.92148	.91839	.91532	.91227	.90924	.90624	.90326	.90031
105	.93290	.92996	.92704	.92415	.92127	.91841	.91558	.91276	.90997	.90719
106	.93948	.93680	.93415	.93151	.92889	.92628	.92370	.92113	.91857	.91604
107	.94739	.94504	.94271	.94039	.93808	.93579	.93351	.93124	.92899	.92675
108	.95950	.95767	.95585	.95404	.95224	.95045	.94867	.94689	.94512	.94336
109	.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.03034	.02857	.02700	.02559	.02433	.02321	.02220	.02129	.02047	.01973
1	.02279	.02094	.01929	.01782	.01650	.01533	.01427	.01331	.01246	.01168
2	.02347	.02155	.01983	.01829	.01692	.01569	.01458	.01358	.01268	.01187
3	.02444	.02243	.02065	.01905	.01761	.01632	.01516	.01412	.01317	.01232
4	.02558	.02349	.02163	.01996	.01846	.01712	.01590	.01481	.01382	.01292
5	.02686	.02469	.02275	.02101	.01945	.01804	.01677	.01562	.01458	.01364
6	.02825	.02600	.02398	.02217	.02053	.01906	.01773	.01653	.01544	.01445
7	.02976	.02742	.02532	.02343	.02172	.02019	.01880	.01754	.01640	.01536
8	.03137	.02894	.02675	.02479	.02301	.02140	.01995	.01864	.01744	.01635
9	.03311	.03059	.02832	.02627	.02442	.02274	.02122	.01985	.01859	.01745
10	.03499	.03237	.03001	.02788	.02595	.02420	.02262	.02118	.01987	.01867
11	.03700	.03428	.03183	.02961	.02760	.02578	.02413	.02262	.02125	.02000
12	.03913	.03632	.03377	.03146	.02937	.02748	.02575	.02418	.02275	.02144
13	.04135	.03843	.03579	.03339	.03122	.02924	.02744	.02580	.02431	.02294
14	.04359	.04057	.03783	.03534	.03308	.03102	.02915	.02744	.02587	.02444
15	.04584	.04270	.03986	.03728	.03493	.03279	.03083	.02905	.02742	.02593
16	.04806	.04482	.04187	.03919	.03674	.03452	.03248	.03063	.02892	.02736
17	.05029	.04692	.04387	.04108	.03855	.03623	.03411	.03218	.03040	.02877
18	.05253	.04905	.04588	.04299	.04036	.03795	.03574	.03373	.03187	.03017
19	.05484	.05124	.04796	.04496	.04222	.03972	.03742	.03532	.03339	.03161
20	.05726	.05354	.05013	.04702	.04418	.04158	.03919	.03700	.03498	.03313
21	.05980	.05595	.05242	.04920	.04625	.04354	.04105	.03877	.03667	.03473
22	.06246	.05847	.05482	.05147	.04841	.04559	.04301	.04063	.03844	.03642
23	.06524	.06112	.05734	.05387	.05069	.04777	.04508	.04260	.04032	.03821
24	.06819	.06392	.06001	.05642	.05312	.05008	.04728	.04470	.04232	.04012
25	.07131	.06690	.06285	.05913	.05570	.05255	.04964	.04695	.04447	.04218
26	.07460	.07005	.06586	.06200	.05845	.05518	.05215	.04936	.04677	.04438
27	.07810	.07340	.06907	.06508	.06140	.05800	.05485	.05195	.04925	.04676
28	.08179	.07693	.07246	.06833	.06451	.06098	.05772	.05469	.05189	.04929
29	.08566	.08065	.07603	.07176	.06780	.06414	.06075	.05761	.05469	.05198
30	.08973	.08456	.07978	.07536	.07127	.06748	.06396	.06069	.05766	.05483
31	.09398	.08865	.08372	.07915	.07491	.07098	.06733	.06394	.06078	.05785
32	.09843	.09294	.08785	.08313	.07875	.07468	.07089	.06737	.06409	.06103
33	.10310	.09745	.09220	.08732	.08279	.07858	.07466	.07100	.06759	.06441
34	.10799	.10217	.09676	.09173	.08705	.08269	.07862	.07483	.07129	.06796
35	.11314	.10715	.10157	.09638	.09155	.08704	.08283	.07890	.07522	.07179
36	.11852	.11236	.10662	.10127	.09628	.09162	.08726	.08319	.07938	.07581
37	.12416	.11783	.11193	.10641	.10126	.09645	.09194	.08772	.08377	.08006
38	.13009	.12359	.11751	.11183	.10652	.10155	.09689	.09253	.08843	.08459
39	.13629	.12962	.12338	.11753	.11206	.10693	.10212	.09761	.09337	.08938
40	.14281	.13597	.12955	.12355	.11791	.11262	.10766	.10299	.09860	.09447
41	.14966	.14264	.13606	.12989	.12409	.11864	.11352	.10870	.10417	.09989
42	.15685	.14966	.14291	.13657	.13061	.12500	.11972	.11475	.11006	.10564
43	.16437	.15702	.15010	.14360	.13747	.13171	.12627	.12115	.11631	.11174
44	.17224	.16472	.15764	.15098	.14469	.13876	.13317	.12789	.12290	.11819
45	.18042	.17274	.16550	.15867	.15223	.14615	.14040	.13496	.12982	.12496
46	.18893	.18110	.17370	.16671	.16011	.15387	.14796	.14238	.13708	.13207
47	.19775	.18975	.18220	.17505	.16830	.16190	.15584	.15010	.14466	.13950
48	.20688	.19873	.19102	.18373	.17682	.17027	.16406	.15817	.15258	.14727
49	.21633	.20804	.20018	.19274	.18568	.17898	.17262	.16658	.16084	.15539
50	.22612	.21769	.20969	.20210	.19490	.18805	.18155	.17536	.16948	.16388
51	.23625	.22769	.21955	.21182	.20448	.19749	.19084	.18452	.17849	.17275
52	.24669	.23799	.22973	.22186	.21438	.20726	.20047	.19400	.18784	.18196
53	.25742	.24861	.24022	.23222	.22461	.21735	.21043	.20383	.19753	.19151
54	.26845	.25952	.25101	.24290	.23516	.22777	.22072	.21399	.20756	.20140
55	.27978	.27074	.26212	.25389	.24604	.23853	.23136	.22450	.21793	.21166
56	.29140	.28227	.27355	.26522	.25725	.24963	.24233	.23535	.22867	.22227
57	.30333	.29411	.28529	.27686	.26879	.26106	.25365	.24656	.23976	.23324
58	.31551	.30621	.29731	.28878	.28061	.27278	.26528	.25807	.25116	.24453
59	.32790	.31854	.30956	.30095	.29269	.28477	.27716	.26986	.26284	.25610

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
60	.34050	.33107	.32202	.31334	.30500	.29699	.28929	.28190	.27478	.26794
61	.35331	.34384	.33473	.32598	.31757	.30948	.30170	.29422	.28701	.28007
62	.36639	.35688	.34772	.33892	.33044	.32229	.31443	.30687	.29958	.29255
63	.37974	.37020	.36101	.35216	.34363	.33542	.32750	.31986	.31250	.30539
64	.39334	.38378	.37456	.36568	.35711	.34884	.34087	.33317	.32574	.31857
65	.40718	.39761	.38838	.37947	.37087	.36257	.35455	.34681	.33932	.33208
66	.42128	.41172	.40249	.39357	.38496	.37663	.36858	.36079	.35326	.34597
67	.43569	.42616	.41694	.40803	.39941	.39107	.38299	.37518	.36761	.36028
68	.45038	.44089	.43170	.42281	.41419	.40585	.39777	.38994	.38235	.37499
69	.46531	.45587	.44672	.43786	.42927	.42094	.41286	.40503	.39743	.39006
70	.48040	.47103	.46194	.45312	.44456	.43626	.42820	.42038	.41278	.40540
71	.49558	.48629	.47727	.46851	.46000	.45174	.44371	.43591	.42832	.42095
72	.51082	.50162	.49268	.48399	.47554	.46733	.45934	.45157	.44401	.43666
73	.52607	.51697	.50813	.49952	.49114	.48299	.47506	.46733	.45981	.45249
74	.54139	.53241	.52367	.51515	.50686	.49879	.49092	.48325	.47578	.46849
75	.55683	.54798	.53936	.53095	.52276	.51477	.50698	.49938	.49197	.48474
76	.57243	.56373	.55524	.54696	.53888	.53100	.52330	.51579	.50846	.50130
77	.58819	.57965	.57132	.56318	.55523	.54747	.53988	.53247	.52523	.51815
78	.60408	.59572	.58755	.57957	.57177	.56414	.55668	.54939	.54225	.53527
79	.62001	.61184	.60385	.59604	.58840	.58092	.57360	.56644	.55943	.55256
80	.63582	.62786	.62007	.61244	.60497	.59765	.59048	.58347	.57659	.56985
81	.65142	.64367	.63608	.62864	.62135	.61421	.60721	.60034	.59361	.58701
82	.66673	.65920	.65182	.64458	.63748	.63052	.62368	.61698	.61041	.60395
83	.68175	.67444	.66728	.66024	.65334	.64656	.63991	.63338	.62696	.62066
84	.69657	.68950	.68256	.67574	.66904	.66246	.65599	.64964	.64340	.63727
85	.71128	.70446	.69775	.69116	.68467	.67830	.67204	.66587	.65982	.65386
86	.72576	.71919	.71272	.70636	.70010	.69394	.68789	.68193	.67606	.67029
87	.73981	.73349	.72726	.72114	.71511	.70917	.70333	.69757	.69190	.68632
88	.75342	.74735	.74137	.73548	.72968	.72396	.71833	.71279	.70732	.70194
89	.76658	.76076	.75503	.74938	.74381	.73832	.73290	.72757	.72231	.71712
90	.77928	.77371	.76823	.76281	.75748	.75221	.74702	.74190	.73684	.73186
91	.79131	.78600	.78075	.77557	.77046	.76542	.76044	.75553	.75068	.74589
92	.80246	.79737	.79235	.78740	.78250	.77767	.77290	.76818	.76353	.75893
93	.81274	.80788	.80307	.79832	.79363	.78899	.78441	.77989	.77542	.77100
94	.82232	.81766	.81306	.80850	.80401	.79956	.79517	.79082	.78653	.78228
95	.83141	.82695	.82254	.81818	.81387	.80961	.80539	.80122	.79710	.79302
96	.83996	.83569	.83147	.82729	.82316	.81907	.81503	.81103	.80707	.80315
97	.84787	.84378	.83973	.83573	.83176	.82784	.82396	.82012	.81632	.81255
98	.85530	.85138	.84750	.84366	.83985	.83609	.83236	.82867	.82502	.82140
99	.86255	.85880	.85508	.85140	.84776	.84415	.84057	.83703	.83353	.83005
100	.86960	.86601	.86246	.85894	.85546	.85200	.84858	.84519	.84183	.83849
101	.87655	.87313	.86974	.86638	.86305	.85975	.85648	.85324	.85003	.84684
102	.88338	.88012	.87689	.87369	.87052	.86738	.86426	.86116	.85809	.85505
103	.89015	.88706	.88399	.88095	.87793	.87494	.87197	.86903	.86611	.86321
104	.89737	.89446	.89157	.88871	.88586	.88304	.88024	.87745	.87469	.87195
105	.90443	.90170	.89898	.89628	.89360	.89094	.88830	.88568	.88307	.88049
106	.91351	.91101	.90852	.90605	.90359	.90115	.89873	.89632	.89392	.89154
107	.92452	.92230	.92010	.91791	.91573	.91356	.91141	.90927	.90714	.90502
108	.94161	.93987	.93814	.93641	.93469	.93298	.93128	.92958	.92790	.92622
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01906	.01845	.01790	.01740	.01694	.01652	.01613	.01578	.01546	.01516
1	.01098	.01034	.00977	.00924	.00876	.00833	.00793	.00756	.00722	.00691
2	.01113	.01046	.00986	.00930	.00880	.00834	.00791	.00753	.00717	.00684
3	.01155	.01084	.01020	.00962	.00909	.00860	.00816	.00775	.00737	.00702
4	.01211	.01137	.01069	.01008	.00952	.00900	.00853	.00810	.00770	.00733
5	.01279	.01201	.01130	.01065	.01006	.00952	.00902	.00856	.00814	.00775
6	.01356	.01274	.01199	.01131	.01068	.01011	.00959	.00910	.00865	.00824
7	.01442	.01356	.01277	.01205	.01140	.01079	.01023	.00972	.00925	.00881
8	.01536	.01446	.01363	.01287	.01218	.01154	.01096	.01041	.00991	.00945
9	.01641	.01546	.01460	.01380	.01307	.01240	.01178	.01120	.01068	.01019
10	.01758	.01659	.01567	.01484	.01407	.01336	.01270	.01210	.01154	.01103
11	.01886	.01781	.01686	.01598	.01517	.01442	.01373	.01310	.01251	.01196
12	.02024	.01915	.01814	.01721	.01636	.01558	.01485	.01419	.01357	.01299
13	.02168	.02054	.01948	.01851	.01762	.01679	.01603	.01533	.01467	.01407
14	.02313	.02193	.02083	.01981	.01887	.01801	.01721	.01646	.01578	.01514
15	.02456	.02330	.02214	.02107	.02009	.01918	.01834	.01756	.01684	.01617
16	.02593	.02462	.02340	.02229	.02126	.02030	.01942	.01860	.01785	.01714
17	.02728	.02590	.02463	.02346	.02238	.02138	.02046	.01960	.01880	.01806
18	.02861	.02717	.02584	.02462	.02348	.02243	.02146	.02056	.01972	.01894
19	.02998	.02847	.02708	.02580	.02461	.02351	.02249	.02154	.02066	.01984
20	.03142	.02984	.02839	.02704	.02580	.02465	.02357	.02258	.02165	.02079

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
21	.03295	.03130	.02978	.02837	.02706	.02585	.02473	.02368	.02271	.02180
22	.03455	.03283	.03124	.02976	.02839	.02712	.02594	.02484	.02382	.02286
23	.03626	.03446	.03279	.03124	.02981	.02847	.02723	.02608	.02500	.02400
24	.03809	.03620	.03446	.03283	.03133	.02993	.02863	.02741	.02628	.02522
25	.04005	.03808	.03625	.03456	.03298	.03151	.03014	.02887	.02768	.02656
26	.04216	.04010	.03819	.03641	.03476	.03322	.03178	.03044	.02919	.02802
27	.04444	.04229	.04029	.03843	.03670	.03508	.03357	.03217	.03085	.02962
28	.04687	.04463	.04254	.04059	.03877	.03708	.03550	.03402	.03263	.03133
29	.04946	.04712	.04493	.04289	.04099	.03922	.03756	.03600	.03455	.03318
30	.05221	.04976	.04748	.04534	.04335	.04149	.03975	.03812	.03659	.03515
31	.05511	.05255	.05017	.04794	.04585	.04390	.04208	.04037	.03876	.03725
32	.05818	.05551	.05302	.05069	.04851	.04647	.04455	.04276	.04107	.03948
33	.06144	.05866	.05606	.05363	.05135	.04921	.04720	.04532	.04355	.04188
34	.06489	.06200	.05928	.05674	.05436	.05212	.05002	.04805	.04619	.04444
35	.06857	.06555	.06273	.06007	.05758	.05524	.05304	.05097	.04902	.04718
36	.07246	.06932	.06638	.06361	.06101	.05856	.05626	.05409	.05205	.05012
37	.07659	.07332	.07025	.06737	.06466	.06210	.05969	.05742	.05528	.05325
38	.08098	.07758	.07439	.07138	.06855	.06588	.06336	.06099	.05874	.05662
39	.08563	.08210	.07878	.07565	.07270	.06992	.06729	.06480	.06245	.06023
40	.09059	.08692	.08347	.08021	.07714	.07423	.07149	.06889	.06643	.06411
41	.09586	.09206	.08848	.08509	.08189	.07886	.07600	.07329	.07072	.06828
42	.10147	.09753	.09381	.09029	.08696	.08381	.08083	.07800	.07531	.07277
43	.10742	.10334	.09948	.09583	.09237	.08909	.08598	.08304	.08024	.07758
44	.11373	.10950	.10551	.10172	.09813	.09472	.09148	.08841	.08549	.08272
45	.12035	.11599	.11185	.10792	.10420	.10066	.09730	.09410	.09106	.08817
46	.12732	.12281	.11853	.11447	.11061	.10694	.10345	.10013	.09696	.09395
47	.13460	.12995	.12553	.12133	.11733	.11353	.10991	.10646	.10317	.10004
48	.14223	.13743	.13287	.12853	.12439	.12046	.11671	.11313	.10972	.10646
49	.15020	.14526	.14056	.13608	.13181	.12774	.12385	.12015	.11661	.11322
50	.15855	.15347	.14862	.14401	.13960	.13540	.13138	.12754	.12388	.12037
51	.16727	.16205	.15707	.15232	.14777	.14344	.13929	.13532	.13153	.12789
52	.17634	.17098	.16587	.16097	.15630	.15183	.14755	.14345	.13953	.13577
53	.18576	.18027	.17501	.16999	.16518	.16057	.15616	.15194	.14789	.14400
54	.19552	.18990	.18451	.17935	.17441	.16968	.16514	.16078	.15661	.15260
55	.20564	.19989	.19437	.18908	.18402	.17915	.17449	.17001	.16571	.16157
56	.21613	.21025	.20461	.19919	.19400	.18901	.18422	.17962	.17519	.17093
57	.22698	.22098	.21522	.20968	.20436	.19925	.19434	.18961	.18507	.18069
58	.23816	.23204	.22616	.22051	.21507	.20984	.20481	.19996	.19530	.19080
59	.24962	.24339	.23740	.23163	.22608	.22073	.21558	.21062	.20584	.20123
60	.26136	.25502	.24892	.24304	.23738	.23192	.22666	.22158	.21669	.21196
61	.27339	.26695	.26075	.25477	.24900	.24343	.23806	.23288	.22787	.22304
62	.28578	.27925	.27295	.26687	.26100	.25533	.24985	.24456	.23945	.23451
63	.29854	.29192	.28553	.27935	.27339	.26762	.26205	.25666	.25145	.24641
64	.31164	.30494	.29846	.29221	.28615	.28030	.27463	.26915	.26384	.25870
65	.32508	.31831	.31177	.30543	.29930	.29336	.28761	.28203	.27663	.27140
66	.33891	.33208	.32547	.31906	.31285	.30684	.30101	.29536	.28987	.28456
67	.35318	.34630	.33963	.33316	.32689	.32081	.31491	.30918	.30363	.29823
68	.36785	.36093	.35422	.34770	.34138	.33524	.32928	.32349	.31787	.31240
69	.38290	.37595	.36920	.36265	.35628	.35009	.34408	.33824	.33256	.32703
70	.39823	.39127	.38450	.37791	.37151	.36529	.35924	.35335	.34762	.34204
71	.41378	.40681	.40003	.39343	.38701	.38076	.37467	.36875	.36298	.35736
72	.42950	.42253	.41575	.40914	.40271	.39644	.39034	.38438	.37858	.37293
73	.44535	.43840	.43162	.42502	.41858	.41231	.40619	.40022	.39440	.38872
74	.46139	.45446	.44771	.44112	.43469	.42842	.42230	.41632	.41049	.40479
75	.47769	.47080	.46408	.45752	.45111	.44485	.43874	.43277	.42693	.42123
76	.49430	.48747	.48079	.47427	.46790	.46167	.45558	.44963	.44380	.43811
77	.51123	.50447	.49786	.49139	.48506	.47888	.47282	.46690	.46111	.45543
78	.52845	.52177	.51523	.50884	.50257	.49645	.49044	.48457	.47881	.47317
79	.54584	.53926	.53282	.52650	.52032	.51426	.50833	.50251	.49681	.49122
80	.56325	.55678	.55044	.54423	.53813	.53216	.52630	.52056	.51492	.50939
81	.58054	.57419	.56797	.56186	.55587	.54999	.54422	.53856	.53300	.52754
82	.59762	.59140	.58530	.57931	.57343	.56766	.56198	.55641	.55094	.54557
83	.61448	.60840	.60243	.59657	.59081	.58515	.57958	.57411	.56874	.56346
84	.63124	.62531	.61949	.61376	.60813	.60259	.59715	.59179	.58652	.58134
85	.64800	.64224	.63657	.63099	.62550	.62010	.61478	.60955	.60441	.59934
86	.66461	.65902	.65351	.64810	.64276	.63751	.63233	.62724	.62222	.61728
87	.68083	.67541	.67008	.66483	.65965	.65455	.64953	.64458	.63970	.63489
88	.69663	.69140	.68624	.68116	.67615	.67121	.66634	.66154	.65680	.65213
89	.71201	.70696	.70199	.69708	.69224	.68747	.68276	.67811	.67353	.66900
90	.72694	.72209	.71730	.71257	.70791	.70330	.69876	.69427	.68984	.68547
91	.74117	.73650	.73190	.72735	.72286	.71842	.71404	.70972	.70545	.70123
92	.75439	.74991	.74548	.74110	.73678	.73251	.72829	.72412	.72000	.71593
93	.76664	.76233	.75806	.75385	.74969	.74557	.74150	.73748	.73350	.72957
94	.77809	.77394	.76983	.76578	.76177	.75780	.75388	.75000	.74616	.74237

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
95	.78899	.78500	.78106	.77715	.77329	.76947	.76569	.76195	.75826	.75460
96	.79928	.79544	.79165	.78790	.78418	.78050	.77686	.77326	.76970	.76617
97	.80883	.80514	.80149	.79787	.79430	.79075	.78725	.78377	.78033	.77693
98	.81781	.81427	.81075	.80727	.80382	.80041	.79703	.79368	.79036	.78708
99	.82661	.82320	.81982	.81648	.81316	.80988	.80662	.80340	.80020	.79704
100	.83519	.83192	.82868	.82547	.82228	.81913	.81600	.81290	.80982	.80678
101	.84368	.84055	.83744	.83437	.83131	.82829	.82529	.82231	.81936	.81643
102	.85203	.84904	.84607	.84313	.84021	.83731	.83444	.83159	.82876	.82596
103	.86034	.85748	.85465	.85184	.84906	.84629	.84355	.84082	.83812	.83544
104	.86923	.86653	.86385	.86119	.85855	.85593	.85333	.85074	.84818	.84563
105	.87792	.87537	.87283	.87032	.86782	.86534	.86287	.86042	.85799	.85557
106	.88918	.88683	.88450	.88218	.87987	.87758	.87530	.87304	.87079	.86855
107	.90291	.90082	.89873	.89666	.89460	.89255	.89051	.88849	.88647	.88447
108	.92455	.92288	.92123	.91958	.91794	.91630	.91468	.91306	.91145	.90984
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01488	.01463	.01439	.01417	.01396	.01377	.01359	.01343	.01327	.01312
1	.00662	.00636	.00612	.00589	.00568	.00548	.00530	.00513	.00497	.00482
2	.00654	.00626	.00600	.00576	.00554	.00533	.00514	.00496	.00479	.00463
3	.00670	.00641	.00613	.00588	.00564	.00542	.00522	.00502	.00484	.00468
4	.00699	.00668	.00639	.00612	.00587	.00563	.00542	.00521	.00502	.00484
5	.00739	.00706	.00675	.00646	.00620	.00595	.00571	.00550	.00529	.00510
6	.00786	.00751	.00718	.00687	.00659	.00633	.00608	.00585	.00563	.00543
7	.00841	.00803	.00769	.00736	.00706	.00678	.00652	.00627	.00604	.00582
8	.00902	.00863	.00826	.00791	.00759	.00730	.00702	.00675	.00651	.00628
9	.00973	.00931	.00892	.00856	.00822	.00790	.00760	.00733	.00706	.00682
10	.01055	.01010	.00969	.00930	.00894	.00861	.00829	.00799	.00772	.00746
11	.01146	.01099	.01055	.01014	.00976	.00940	.00907	.00875	.00846	.00818
12	.01246	.01196	.01150	.01106	.01066	.01028	.00993	.00960	.00928	.00899
13	.01351	.01298	.01249	.01204	.01161	.01121	.01084	.01049	.01016	.00985
14	.01455	.01400	.01348	.01300	.01255	.01213	.01173	.01136	.01102	.01069
15	.01555	.01497	.01443	.01392	.01345	.01300	.01259	.01220	.01183	.01148
16	.01648	.01587	.01530	.01477	.01427	.01380	.01336	.01295	.01257	.01220
17	.01737	.01673	.01612	.01556	.01504	.01455	.01408	.01365	.01324	.01286
18	.01822	.01754	.01691	.01632	.01576	.01525	.01476	.01430	.01387	.01347
19	.01908	.01837	.01770	.01708	.01650	.01595	.01544	.01495	.01450	.01407
20	.01999	.01924	.01854	.01788	.01726	.01669	.01615	.01564	.01516	.01471
21	.02096	.02017	.01943	.01874	.01809	.01748	.01691	.01637	.01586	.01539
22	.02197	.02114	.02036	.01963	.01895	.01830	.01770	.01713	.01660	.01610
23	.02306	.02218	.02136	.02059	.01987	.01919	.01855	.01795	.01739	.01686
24	.02424	.02331	.02245	.02163	.02087	.02016	.01948	.01885	.01825	.01769
25	.02552	.02455	.02364	.02278	.02197	.02122	.02051	.01984	.01920	.01861
26	.02692	.02589	.02493	.02403	.02318	.02238	.02162	.02091	.02025	.01961
27	.02846	.02738	.02636	.02541	.02451	.02367	.02287	.02212	.02141	.02074
28	.03012	.02898	.02791	.02690	.02595	.02506	.02422	.02342	.02267	.02196
29	.03190	.03070	.02957	.02851	.02751	.02656	.02567	.02483	.02404	.02329
30	.03381	.03254	.03135	.03023	.02917	.02817	.02723	.02634	.02551	.02471
31	.03583	.03450	.03324	.03206	.03094	.02989	.02890	.02796	.02707	.02623
32	.03799	.03659	.03527	.03402	.03284	.03173	.03068	.02968	.02874	.02785
33	.04031	.03883	.03744	.03612	.03488	.03371	.03260	.03155	.03055	.02961
34	.04279	.04123	.03976	.03838	.03707	.03583	.03465	.03354	.03249	.03149
35	.04545	.04382	.04227	.04081	.03943	.03812	.03688	.03571	.03459	.03354
36	.04830	.04658	.04495	.04341	.04196	.04058	.03927	.03803	.03685	.03573
37	.05134	.04953	.04782	.04620	.04467	.04321	.04183	.04052	.03928	.03809
38	.05462	.05272	.05092	.04921	.04760	.04606	.04461	.04322	.04191	.04066
39	.05812	.05613	.05424	.05245	.05075	.04913	.04760	.04614	.04475	.04343
40	.06190	.05981	.05782	.05594	.05415	.05245	.05083	.04929	.04783	.04643
41	.06597	.06378	.06170	.05972	.05784	.05605	.05435	.05272	.05118	.04970
42	.07035	.06806	.06587	.06380	.06182	.05994	.05815	.05644	.05481	.05326
43	.07505	.07265	.07036	.06818	.06611	.06414	.06225	.06045	.05874	.05710
44	.08008	.07757	.07518	.07290	.07072	.06865	.06667	.06478	.06298	.06125
45	.08542	.08279	.08029	.07791	.07563	.07346	.07138	.06940	.06750	.06569
46	.09108	.08834	.08573	.08324	.08085	.07858	.07640	.07432	.07233	.07043
47	.09705	.09419	.09147	.08886	.08637	.08399	.08172	.07954	.07745	.07545
48	.10335	.10038	.09754	.09482	.09222	.08973	.08735	.08507	.08288	.08078
49	.10999	.10690	.10394	.10111	.09840	.09581	.09332	.09093	.08864	.08644
50	.11701	.11380	.11073	.10778	.10496	.10225	.09965	.09716	.09477	.09247
51	.12441	.12108	.11789	.11482	.11189	.10907	.10636	.10376	.10126	.09886
52	.13217	.12871	.12540	.12222	.11916	.11623	.11341	.11071	.10810	.10560
53	.14028	.13670	.13327	.12997	.12680	.12375	.12082	.11801	.11529	.11268
54	.14875	.14505	.14150	.13808	.13480	.13163	.12859	.12566	.12284	.12012
55	.15760	.15378	.15011	.14657	.14317	.13989	.13674	.13370	.13077	.12794

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
56	.16684	.16290	.15911	.15546	.15194	.14855	.14528	.14213	.13909	.13615
57	.17648	.17242	.16851	.16474	.16111	.15760	.15422	.15096	.14781	.14477
58	.18647	.18229	.17827	.17438	.17064	.16702	.16353	.16015	.15689	.15374
59	.19678	.19249	.18835	.18435	.18049	.17676	.17316	.16968	.16631	.16305
60	.20740	.20300	.19875	.19464	.19066	.18682	.18311	.17952	.17604	.17268
61	.21837	.21385	.20949	.20527	.20119	.19724	.19341	.18971	.18613	.18266
62	.22973	.22511	.22064	.21631	.21212	.20807	.20414	.20033	.19664	.19306
63	.24152	.23680	.23222	.22779	.22350	.21934	.21530	.21139	.20760	.20392
64	.25372	.24890	.24422	.23969	.23529	.23103	.22690	.22289	.21899	.21521
65	.26633	.26141	.25664	.25201	.24752	.24316	.23893	.23482	.23083	.22695
66	.27940	.27439	.26953	.26481	.26023	.25577	.25145	.24724	.24316	.23918
67	.29299	.28790	.28296	.27815	.27348	.26894	.26453	.26024	.25606	.25200
68	.30709	.30193	.29691	.29202	.28728	.28265	.27816	.27378	.26952	.26537
69	.32166	.31643	.31134	.30639	.30157	.29687	.29230	.28785	.28351	.27928
70	.33661	.33133	.32618	.32116	.31628	.31152	.30688	.30235	.29794	.29364
71	.35188	.34654	.34134	.33627	.33133	.32651	.32181	.31722	.31275	.30838
72	.36742	.36204	.35679	.35168	.34668	.34181	.33706	.33241	.32788	.32345
73	.38317	.37776	.37248	.36733	.36229	.35738	.35257	.34788	.34330	.33882
74	.39923	.39380	.38849	.38330	.37823	.37328	.36844	.36370	.35908	.35455
75	.41566	.41021	.40489	.39968	.39459	.38961	.38474	.37997	.37531	.37074
76	.43254	.42709	.42176	.41655	.41144	.40645	.40156	.39677	.39208	.38749
77	.44988	.44444	.43912	.43391	.42880	.42380	.41891	.41411	.40940	.40479
78	.46765	.46224	.45694	.45174	.44665	.44166	.43677	.43197	.42726	.42265
79	.48574	.48037	.47510	.46993	.46487	.45990	.45502	.45024	.44554	.44094
80	.50397	.49865	.49343	.48830	.48327	.47834	.47349	.46873	.46406	.45947
81	.52219	.51693	.51176	.50669	.50171	.49682	.49201	.48729	.48265	.47809
82	.54029	.53510	.53000	.52499	.52007	.51523	.51047	.50580	.50120	.49667
83	.55826	.55315	.54813	.54319	.53834	.53356	.52886	.52424	.51969	.51522
84	.57624	.57123	.56629	.56144	.55666	.55195	.54732	.54277	.53828	.53386
85	.59435	.58944	.58460	.57984	.57516	.57054	.56599	.56151	.55710	.55275
86	.61241	.60762	.60289	.59824	.59365	.58913	.58468	.58029	.57596	.57170
87	.63015	.62548	.62087	.61633	.61185	.60744	.60309	.59880	.59456	.59039
88	.64753	.64299	.63851	.63409	.62973	.62543	.62118	.61700	.61287	.60879
89	.66454	.66013	.65579	.65150	.64726	.64308	.63895	.63488	.63086	.62689
90	.68115	.67689	.67268	.66853	.66442	.66037	.65637	.65241	.64851	.64465
91	.69706	.69294	.68887	.68486	.68089	.67696	.67309	.66925	.66547	.66173
92	.71190	.70792	.70399	.70011	.69627	.69247	.68872	.68501	.68134	.67771
93	.72569	.72184	.71804	.71429	.71057	.70689	.70326	.69967	.69611	.69259
94	.73861	.73490	.73123	.72759	.72400	.72044	.71692	.71344	.71000	.70659
95	.75097	.74739	.74384	.74033	.73686	.73342	.73002	.72665	.72331	.72001
96	.76267	.75922	.75579	.75240	.74905	.74572	.74243	.73917	.73595	.73275
97	.77356	.77022	.76691	.76363	.76039	.75718	.75399	.75084	.74772	.74463
98	.78382	.78059	.77740	.77423	.77110	.76799	.76491	.76186	.75884	.75584
99	.79390	.79079	.78771	.78465	.78162	.77862	.77565	.77270	.76978	.76688
100	.80376	.80076	.79779	.79485	.79193	.78904	.78617	.78333	.78051	.77771
101	.81353	.81066	.80780	.80497	.80217	.79938	.79662	.79388	.79117	.78847
102	.82318	.82042	.81768	.81496	.81227	.80960	.80694	.80431	.80170	.79911
103	.83278	.83014	.82752	.82491	.82233	.81977	.81723	.81470	.81220	.80971
104	.84310	.84059	.83810	.83563	.83317	.83073	.82831	.82591	.82352	.82115
105	.85318	.85079	.84843	.84607	.84374	.84142	.83911	.83682	.83455	.83229
106	.86633	.86413	.86193	.85975	.85758	.85543	.85329	.85116	.84904	.84694
107	.88247	.88049	.87852	.87656	.87460	.87266	.87073	.86881	.86690	.86500
108	.90825	.90666	.90507	.90350	.90193	.90037	.89881	.89727	.89572	.89419
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.01298	.01285	.01273	.01261	.01250	.01240	.01230	.01221	.01212	.01203
1	.00468	.00455	.00443	.00431	.00420	.00410	.00400	.00391	.00382	.00374
2	.00448	.00435	.00421	.00409	.00398	.00387	.00376	.00366	.00357	.00348
3	.00452	.00437	.00423	.00410	.00398	.00386	.00375	.00365	.00355	.00345
4	.00468	.00452	.00437	.00423	.00410	.00397	.00386	.00375	.00364	.00354
5	.00493	.00476	.00460	.00445	.00431	.00418	.00405	.00393	.00382	.00371
6	.00524	.00506	.00489	.00473	.00458	.00444	.00430	.00418	.00406	.00394
7	.00562	.00543	.00525	.00508	.00492	.00477	.00462	.00449	.00436	.00423
8	.00606	.00586	.00566	.00548	.00531	.00515	.00499	.00485	.00471	.00458
9	.00659	.00637	.00616	.00597	.00579	.00561	.00545	.00529	.00514	.00500
10	.00721	.00698	.00676	.00655	.00636	.00617	.00600	.00583	.00567	.00552
11	.00792	.00767	.00744	.00722	.00701	.00682	.00663	.00645	.00628	.00612
12	.00871	.00845	.00821	.00797	.00775	.00754	.00735	.00716	.00698	.00681
13	.00955	.00928	.00902	.00877	.00854	.00831	.00810	.00790	.00771	.00753
14	.01038	.01009	.00981	.00955	.00930	.00907	.00885	.00864	.00843	.00824
15	.01116	.01085	.01056	.01028	.01002	.00977	.00954	.00932	.00910	.00890
16	.01186	.01153	.01123	.01094	.01066	.01040	.01015	.00992	.00969	.00948

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
17	.01250	.01215	.01183	.01152	.01124	.01096	.01070	.01045	.01022	.00999
18	.01308	.01272	.01238	.01206	.01175	.01147	.01119	.01093	.01068	.01044
19	.01367	.01329	.01293	.01259	.01227	.01196	.01167	.01140	.01113	.01088
20	.01428	.01388	.01350	.01314	.01280	.01248	.01217	.01188	.01161	.01134
21	.01494	.01451	.01411	.01373	.01337	.01303	.01271	.01240	.01211	.01183
22	.01562	.01517	.01475	.01435	.01397	.01361	.01326	.01294	.01263	.01233
23	.01635	.01588	.01543	.01501	.01460	.01422	.01386	.01351	.01319	.01287
24	.01716	.01665	.01618	.01573	.01530	.01489	.01451	.01415	.01380	.01347
25	.01804	.01751	.01701	.01653	.01608	.01565	.01524	.01485	.01448	.01413
26	.01902	.01845	.01792	.01741	.01693	.01648	.01604	.01563	.01524	.01487
27	.02011	.01951	.01895	.01841	.01790	.01742	.01696	.01652	.01610	.01571
28	.02129	.02066	.02006	.01949	.01895	.01844	.01795	.01748	.01704	.01662
29	.02258	.02191	.02127	.02067	.02009	.01955	.01903	.01853	.01806	.01762
30	.02396	.02325	.02257	.02193	.02132	.02074	.02019	.01966	.01916	.01869
31	.02543	.02467	.02396	.02328	.02263	.02201	.02143	.02087	.02034	.01983
32	.02701	.02621	.02545	.02472	.02404	.02338	.02276	.02217	.02160	.02106
33	.02871	.02786	.02706	.02629	.02556	.02487	.02420	.02357	.02297	.02240
34	.03054	.02964	.02879	.02797	.02720	.02646	.02576	.02509	.02445	.02383
35	.03253	.03158	.03067	.02981	.02898	.02820	.02745	.02674	.02606	.02541
36	.03467	.03366	.03269	.03178	.03090	.03007	.02928	.02852	.02779	.02710
37	.03697	.03590	.03488	.03391	.03298	.03209	.03125	.03044	.02967	.02893
38	.03947	.03833	.03725	.03622	.03524	.03430	.03340	.03254	.03172	.03094
39	.04217	.04096	.03982	.03873	.03768	.03669	.03573	.03482	.03395	.03312
40	.04510	.04383	.04262	.04146	.04035	.03930	.03828	.03732	.03639	.03550
41	.04830	.04695	.04567	.04445	.04327	.04215	.04108	.04005	.03907	.03812
42	.05177	.05035	.04900	.04770	.04646	.04527	.04413	.04304	.04200	.04100
43	.05553	.05404	.05261	.05123	.04992	.04866	.04746	.04630	.04520	.04413
44	.05960	.05802	.05651	.05506	.05368	.05235	.05107	.04985	.04867	.04754
45	.06395	.06229	.06069	.05917	.05770	.05630	.05495	.05365	.05241	.05121
46	.06860	.06685	.06517	.06356	.06202	.06053	.05911	.05774	.05643	.05516
47	.07353	.07169	.06992	.06823	.06660	.06504	.06353	.06209	.06070	.05936
48	.07877	.07684	.07498	.07320	.07149	.06984	.06826	.06673	.06527	.06385
49	.08433	.08231	.08036	.07849	.07669	.07495	.07329	.07168	.07013	.06864
50	.09026	.08814	.08609	.08413	.08224	.08042	.07867	.07698	.07535	.07378
51	.09655	.09433	.09219	.09013	.08815	.08624	.08440	.08262	.08091	.07926
52	.10318	.10086	.09863	.09647	.09439	.09239	.09046	.08860	.08680	.08506
53	.11017	.10774	.10541	.10315	.10098	.09888	.09686	.09491	.09302	.09120
54	.11750	.11498	.11254	.11019	.10792	.10572	.10361	.10156	.09958	.09767
55	.12522	.12258	.12005	.11759	.11522	.11294	.11072	.10859	.10652	.10451
56	.13332	.13059	.12794	.12539	.12292	.12054	.11823	.11599	.11383	.11174
57	.14183	.13899	.13624	.13359	.13102	.12853	.12613	.12380	.12154	.11936
58	.15070	.14775	.14490	.14215	.13948	.13689	.13439	.13197	.12962	.12734
59	.15990	.15685	.15389	.15103	.14826	.14558	.14298	.14046	.13801	.13564
60	.16942	.16626	.16321	.16024	.15737	.15459	.15189	.14927	.14673	.14426
61	.17929	.17603	.17287	.16981	.16684	.16395	.16115	.15844	.15580	.15324
62	.18960	.18623	.18297	.17980	.17673	.17375	.17085	.16803	.16530	.16264
63	.20035	.19688	.19352	.19025	.18708	.18400	.18100	.17809	.17525	.17250
64	.21154	.20797	.20451	.20114	.19787	.19469	.19159	.18859	.18566	.18281
65	.22318	.21951	.21595	.21249	.20912	.20584	.20265	.19955	.19652	.19358
66	.23532	.23156	.22790	.22434	.22088	.21751	.21422	.21102	.20791	.20487
67	.24804	.24419	.24044	.23679	.23324	.22977	.22640	.22311	.21990	.21678
68	.26133	.25740	.25356	.24983	.24618	.24263	.23917	.23579	.23250	.22929
69	.27516	.27114	.26723	.26341	.25969	.25605	.25251	.24905	.24567	.24237
70	.28945	.28536	.28137	.27747	.27367	.26996	.26633	.26279	.25934	.25596
71	.30412	.29996	.29590	.29193	.28806	.28427	.28057	.27696	.27343	.26998
72	.31913	.31491	.31078	.30675	.30281	.29895	.29519	.29150	.28790	.28438
73	.33444	.33016	.32597	.32188	.31788	.31396	.31013	.30638	.30271	.29913
74	.35012	.34579	.34155	.33741	.33335	.32938	.32549	.32168	.31795	.31430
75	.36628	.36190	.35762	.35343	.34932	.34530	.34136	.33750	.33372	.33001
76	.38299	.37858	.37427	.37004	.36589	.36183	.35784	.35394	.35011	.34636
77	.40028	.39585	.39151	.38725	.38307	.37898	.37496	.37103	.36716	.36337
78	.41812	.41368	.40933	.40506	.40086	.39675	.39271	.38874	.38485	.38103
79	.43641	.43198	.42762	.42334	.41914	.41502	.41096	.40698	.40308	.39924
80	.45496	.45054	.44619	.44192	.43772	.43360	.42954	.42556	.42164	.41779
81	.47360	.46920	.46487	.46061	.45643	.45231	.44827	.44429	.44038	.43653
82	.49223	.48785	.48355	.47932	.47516	.47106	.46703	.46307	.45916	.45532
83	.51081	.50648	.50221	.49802	.49388	.48982	.48581	.48187	.47799	.47416
84	.52951	.52523	.52101	.51686	.51277	.50874	.50477	.50086	.49701	.49321
85	.54847	.54425	.54009	.53600	.53196	.52798	.52406	.52019	.51638	.51262
86	.56749	.56335	.55926	.55523	.55126	.54734	.54348	.53966	.53591	.53220
87	.58627	.58221	.57820	.57425	.57035	.56650	.56270	.55895	.55526	.55161
88	.60477	.60079	.59688	.59301	.58919	.58542	.58170	.57802	.57439	.57081
89	.62297	.61909	.61527	.61149	.60776	.60408	.60044	.59685	.59330	.58979
90	.64084	.63707	.63335	.62968	.62604	.62246	.61891	.61540	.61194	.60851

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
91	.65803	.65437	.65076	.64719	.64366	.64017	.63672	.63330	.62993	.62659
92	.67412	.67058	.66707	.66360	.66017	.65678	.65342	.65010	.64682	.64357
93	.68911	.68567	.68227	.67890	.67557	.67227	.66901	.66578	.66258	.65942
94	.70321	.69988	.69657	.69330	.69006	.68686	.68369	.68055	.67744	.67437
95	.71674	.71351	.71031	.70713	.70399	.70088	.69781	.69476	.69174	.68875
96	.72959	.72646	.72335	.72028	.71724	.71422	.71123	.70828	.70534	.70244
97	.74156	.73853	.73552	.73254	.72959	.72666	.72376	.72089	.71804	.71522
98	.75287	.74993	.74702	.74413	.74126	.73842	.73561	.73282	.73006	.72732
99	.76401	.76117	.75834	.75555	.75277	.75002	.74730	.74459	.74191	.73926
100	.77494	.77219	.76946	.76676	.76408	.76142	.75878	.75616	.75357	.75099
101	.78580	.78315	.78052	.77791	.77532	.77275	.77021	.76768	.76517	.76268
102	.79654	.79399	.79146	.78894	.78645	.78397	.78152	.77908	.77666	.77426
103	.80724	.80479	.80236	.79994	.79755	.79517	.79280	.79046	.78813	.78582
104	.81879	.81646	.81413	.81183	.80954	.80726	.80501	.80276	.80054	.79832
105	.83005	.82782	.82560	.82340	.82121	.81904	.81688	.81474	.81260	.81049
106	.84485	.84277	.84071	.83866	.83662	.83459	.83257	.83057	.82857	.82659
107	.86311	.86124	.85937	.85751	.85566	.85382	.85199	.85017	.84835	.84655
108	.89266	.89114	.88963	.88812	.88662	.88513	.88364	.88216	.88068	.87922
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

(f) Effective dates. This section applies after April 30, 1999.

PAR. 6. Immediately following § 1.643(d)-2, the undesignated centerheading is revised to read as follows:

POOLED INCOME FUND ACTUARIAL TABLES APPLICABLE BEFORE MAY 1, 1999

PAR. 7. Section 1.642(c)-6A is amended by:

1. Revising the section heading.
2. Amending newly designated paragraph (e) as follows:
   a. Paragraph (e) heading is revised.
   b. Paragraph (e)(1), first sentence is revised.
   c. Paragraph (e)(2)(ii) is revised.
   d. Paragraph (e)(3) is revised.
   e. Paragraph (e)(4) is revised.
   f. Paragraph (e)(5) introductory text is revised.
   g. Paragraph (e)(5), the heading for Table S is revised.

The revisions read as follows:

§ 1.642(c)-6A Valuation of charitable remainder interests for which the valuation date is before May 1, 1999.

* * * * *

(e) *Present value of the remainder interest in the case of transfers to pooled income funds for which the valuation date is after April 30, 1989, and before May 1, 1999—(1) In general.* In the case of transfers to pooled income funds for which the valuation date is after April 30, 1989, and before May 1, 1999, the present value of a remainder interest is determined under this section. * * *

(2) * * *

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. The provisions of § 1.642(c)-6(c) apply for determining the yearly rate of return. However, where the taxable year is less than 12 months, the provisions of § 1.642(c)-6T(e)(3)(ii) apply for the determining the yearly rate of return.

(3) *Pooled income funds in existence less than 3 taxable years.* The provisions of § 1.642(c)-6T(e)(4) apply for determining the highest yearly rate of return when the pooled income fund has been in existence less than three taxable years.

(4) *Computation of value of remainder interest.* The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor from Table S in paragraph (e)(5) of this section under the appropriate yearly rate of return opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based. Table S in paragraph (e)(5) of this section includes factors for yearly rates of return from 4.2 to 14 percent. Many actuarial factors not contained in Table S in paragraph (e)(5) of this section are contained in Table S in Internal Revenue Service Publication 1457, "Actuarial Values, Alpha Volume," (8–89). Publication 1457 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. However, pertinent factors in this publication may be obtained by a written request to: CC:DOM:CORP:R (IRS Publication 1457), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. For other situations, see § 1.642(c)-6(b). If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the fair market value of the property on the valuation date by the appropriate remainder factor. For an example of a computation of the present value of a remainder interest requiring a linear interpolation adjustment, see § 1.642(c)-6T(e)(5).

(5) *Actuarial tables.* In the case of transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, the present value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is determined by use of the following tables:

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS

[Applicable After April 30, 1989, and Before May 1, 1999]

* * * * *

PAR. 8. Section 1.664–4 is amended as follows:

1. Paragraph (a)(1) is revised.
2. Paragraph (d) is removed.
3. Paragraphs (e) heading, (e)(1) through (e)(5), and (e)(6) heading, introductory text , and Table U(1) are redesignated as § 1.664–4A(e) heading, (e)(1) through (e)(5) and (e)(6) heading, introductory text, and Table U(1), respectively.
4. New paragraphs (d) through (e)(5) are added.
5. New paragraph heading and introductory text are added to remaining paragraph (e)(6) preceding Table D.
6. Paragraph (f) is revised.

The additions and revision read as follows:

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) * * *

(1) [Reserved]. For further guidance, see § 1.664–4T(a)(1).

* * * * *

(d) through (e)(5) [Reserved]. For further guidance, see § 1.664–4T(d) through (e)(5).

(6) *Actuarial Table D and F (4.2 through 14.0) for transfers for which the valuation date is after April 30, 1989.* For transfers for which the valuation date is after April 30, 1989, the present value of a charitable remainder unitrust interest that is dependent upon a term of years is determined by using the section 7520 rate and the tables in this paragraph (e)(6). For transfers for which the valuation date is after April 30, 1999, where the present value of a charitable remainder unitrust interest is dependent on the termination of a life interest , see § 1.664–4T(e)(7). See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Many actuarial factors not contained in the following tables are contained in Internal Revenue Service Publication 1458, "Actuarial Values, Book Beth," (1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

* * * * *

(f) *Effective dates.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 9. Section 1.664–4T is added to read as follows:

§ 1.664–4T Calculation of the fair market value of the remainder interest in a charitable remainder unitrust (temporary).

(a) [Reserved] For further guidance, see § 1.664–4(a).

(1) Life contingencies determined as to each life involved, from the values of *lx* set forth in Table 90CM contained in § 20.2031–7T(d)(7) of this chapter (Estate Tax Regulations) in the case of transfers for which the valuation date is after April 30, 1999; or from Table 80CNSMT contained § 20.2031–7A(e)(4) of this chapter in the case of transfer for which the valuation date is after April 30, 1989, and before May 1, 1999. See § 20.2031–7A(a) through (d) of this chapter, whichever is applicable, for transfers for which the valuation date is before May 1, 1989;

(a)(2) through (c) [Reserved] For further guidance, see § 1.664–4(a)(2) through (c).

(d) *Valuation.* The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is after April 30, 1999, is its present value determined under paragraph (e) of this section. The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is before May 1, 1999, is its present value determined under the following sections:

Valuation dates		Applicable regulations
After	Before	
	01–01–52	1.664–4A(a).
12–31–51 ...	01–01–71	1.664–4A(b).
12–31–70 ...	12–01–83	1.664–4A(c).
11–30–83 ...	05–01–89	1.664–4A(d).
04–30–89 ...	05–01–99	1.664–4A(e).

(e) *Valuation of charitable remainder unitrusts having certain payout sequences for transfers for which the valuation date is after April 30, 1999—* (1) *In general.* Except as otherwise provided in paragraph (e)(2) of this section, in the case of transfers for which the valuation date is after April 30, 1999, the present value of a remainder interest is determined under paragraphs (e)(3) through (e)(6) of this section, provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664–3(a)(1)(v) if the taxable year of the trust were to end on such date. See, however, § 1.7520–3(b) (relating to exceptions to the use of the prescribed tables under certain circumstances).

(2) *Transitional rules for valuation of charitable remainder unitrusts.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after April 30, 1999, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency after April 30, 1999, the present value of a remainder interest under this section is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 1999, or after April 30, 1999, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a charitable remainder unitrust for which the valuation date is after April 30, 1999, and before July 1, 1999, the present value of a remainder interest based on one or more measuring lives is determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (See §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(7) of this section or § 1.664–4A(e)(6), at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (e)(2)(i) and (ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(7) of this section or § 1.664–4A(e)(6), the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (e.g., gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Adjusted payout rate.* For transfers for which the valuation date is after April 30, 1989, the adjusted payout rate is determined by using the appropriate Table F in § 1.664–4(e)(6), for the section 7520 interest rate applicable to the transfer. If the interest rate is between 4.2 and 14 percent, see § 1.664–4(e)(6). If the interest rate is below 4.2 percent or greater than 14 percent, see § 1.664–4(b). The adjusted payout rate is determined by multiplying the fixed percentage described in § 1.664–3(a)(1)(i)(*a*) by the factor describing the payout sequence of the trust and the number of months by which the valuation date for the first full taxable year of the trust precedes the first payout date for such taxable year. If the governing instrument does not prescribe when the distribution or distributions shall be made during the taxable year of the trust, see § 1.664–4(a). In the case of a trust having a payout sequence for which no figures have been provided by the appropriate table, and in the case of a trust that determines the fair market value of the trust assets by taking the average of valuations on more than one date during the taxable year, see § 1.664–4(b).

(4) *Period is a term of years.* If the period described in § 1.664–3(a)(5) is a term of years, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after November 30, 1983, is the factor under the appropriate adjusted payout rate in Table D of § 1.664–4(e)(6) corresponding to the number of years in the term. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in Table D,

a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph. For purposes of this section, the valuation date is, in the case of an inter vivos transfer, the date on which the property is transferred to the trust by the donor. However, if an election is made under section 7520 and § 1.7520–2(b) to compute the present value of the charitable interest by use of the interest rate component for either of the 2 months preceding the month in which the date of transfer falls, the month so elected is the valuation date for purposes of determining the interest rate and mortality tables. In the case of a testamentary transfer under section 2055, 2106, or 2624, the valuation date is the date of death, unless the alternate valuation date is elected under section 2032, in which event, and within the limitations set forth in section 2032 and the regulations thereunder, the valuation date is the alternate valuation date. If the decedent's estate elects the alternate valuation date under section 2032 and also elects, under section 7520 and § 1.7520–2(b), to use the interest rate component for one of the 2 months preceding the alternate valuation date, the month so elected is the valuation date for purposes of determining the interest rate and mortality tables. The application of this paragraph (e)(4) may be illustrated by the following example:

Example. D transfers $100,000 to a charitable remainder unitrust on January 1. The trust instrument requires that the trust pay 8 percent of the fair market value of the trust assets as of January 1st for a term of 12 years to D in quarterly payments (March 31, June 30, September 30, and December 31). The section 7520 rate for January (the month that the transfer occurred) is 9.6 percent. Under Table F(9.6) in § 1.664–4(e)(6), the appropriate adjustment factor is .944628 for quarterly payments payable at the end of each quarter. The adjusted payout rate is 7.557 (8% X .944628). Based on the remainder factors in Table D in § 1.664–4(e)(6), the present value of the remainder interest is $38,950.30, computed as follows:

Factor at 7.4 percent for 12 years	.397495
Factor at 7.6 percent for 12 years	.387314
Difference	.010181

Interpolation adjustment:

$$\frac{7.557\% - 7.4\%}{0.2\%} = \frac{\times}{.010181}$$

$$\times = .007992$$

Factor at 7.4 percent for 12 years	.397495
Less: Interpolation adjustment	.007992
Interpolated factor	.389503
Present value of remainder interest: ($100,000 X .389503)	$38,950.30

(5) *Period is the life of one individual.* If the period described in § 1.664–3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after April 30, 1999, is the factor in Table U(1) in paragraph (e)(7) of this section under the appropriate adjusted payout. For purposes of the computations described in this paragraph, the age of an individual is the age of that individual at the individual's nearest birthday. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in the appropriate table, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the valuation date as determined in paragraph (e)(4) of this section) of the property placed in trust by the factor determined under this paragraph (e)(5). If the adjusted payout rate is between 4.2 and 14 percent, see paragraph (e)(7) of this section. If the adjusted payout rate is below 4.2 percent or greater than 14 percent, see § 1.664–4(b). The application of this paragraph (e)(5) may be illustrated by the following example:

Example. A, who is 44 years and 11 months old, transfers $100,000 to a charitable remainder unitrust on January 1st. The trust instrument requires that the trust pay to A semiannually (on June 30 and December 31) 9 percent of the fair market value of the trust assets as of January 1st during A's life. The section 7520 rate for January is 9.6 percent. Under Table F(9.6) in § 1.664–4(e)(6), the appropriate adjustment factor is .933805 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 8.404 (9% X .933805). Based on the remainder factors in Table U(1) in this section, the present value of the remainder interest is $10,109.00, computed as follows:

Factor at 8.4 percent at age 45	.10117
Factor at 8.6 percent at age 45	.09715
Difference	.00402

Interpolation adjustment:

$$\frac{8.404\% - 8.4\%}{0.2\%} = \frac{\times}{.00402}$$

$$\times = .00008$$

Factor at 8.4 percent at age 45	.10117
Less: Interpolation adjustment	.00008
Interpolated Factor	.10109
Present value of remainder interest: ($100,000 X .10109)	$10,109.00

(6) [Reserved].

(7) *Actuarial Table U(1) for transfers for which the valuation date is after April 30, 1999.* For transfers for which the valuation date is after April 30, 1999, the present value of a charitable remainder unitrust interest that is dependent on a term of years or the termination of a life interest is determined by using the section 7520 rate, Table U(1) in this paragraph (e)(7), and Table D and Table F(4.2) through (14.0) in § 1.664–4(e)(6). See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Many actuarial factors not contained in the following tables are contained in Internal Revenue Service Publication 1458, "Actuarial Values, Book Beth," (1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

TABLE U(1).—UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE FOR TRANSFERS AFTER APRIL 30, 1999 BASED ON LIFE TABLE 90CM

[Adjusted payout rate]

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06177	.05580	.05061	.04609	.04215	.03871	.03570	.03307	.03075	.02872
1	.05543	.04925	.04388	.03919	.03509	.03151	.02838	.02563	.02321	.02109
2	.05716	.05081	.04528	.04045	.03622	.03252	.02927	.02642	.02391	.02170
3	.05920	.05268	.04699	.04201	.03765	.03382	.03046	.02750	.02490	.02260
4	.06143	.05475	.04889	.04376	.03926	.03530	.03182	.02876	.02605	.02366
5	.06384	.05697	.05095	.04567	.04103	.03694	.03334	.03016	.02735	.02487
6	.06637	.05933	.05315	.04771	.04292	.03870	.03497	.03168	.02876	.02618

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%	Age
7	.06905	.06183	.05547	.04987	.04494	.04058	.03673	.03332	.03029	.02761	81
8	.07186	.06445	.05792	.05216	.04708	.04258	.03859	.03506	.03192	.02914	82
9	.07482	.06722	.06052	.05460	.04936	.04471	.04060	.03694	.03369	.03079	83
10	.07793	.07015	.06327	.05718	.05179	.04700	.04274	.03896	.03559	.03259	84
11	.08120	.07323	.06617	.05991	.05435	.04942	.04502	.04111	.03762	.03450	85
12	.08461	.07645	.06920	.06277	.05706	.05197	.04744	.04339	.03978	.03655	86
13	.08812	.07976	.07234	.06574	.05985	.05461	.04993	.04576	.04202	.03867	87
14	.09168	.08313	.07552	.06874	.06269	.05729	.05247	.04815	.04428	.04081	88
15	.09527	.08652	.07872	.07176	.06554	.05999	.05501	.05055	.04655	.04296	89
16	.09886	.08991	.08192	.07478	.06839	.06267	.05754	.05294	.04880	.04508	90
17	.10249	.09334	.08515	.07782	.07126	.06537	.06008	.05533	.05105	.04720	91
18	.10616	.09680	.08842	.08090	.07415	.06809	.06264	.05774	.05332	.04933	92
19	.10994	.10037	.09178	.08407	.07714	.07091	.06529	.06023	.05566	.05153	93
20	.11384	.10406	.09527	.08737	.08025	.07383	.06805	.06283	.05811	.05384	94
21	.11790	.10790	.09891	.09080	.08349	.07690	.07094	.06555	.06068	.05626	95
22	.12208	.11188	.10267	.09436	.08686	.08008	.07395	.06839	.06336	.05879	96
23	.12643	.11601	.10659	.09808	.09038	.08342	.07710	.07138	.06618	.06146	97
24	.13095	.12031	.11069	.10197	.09408	.08692	.08042	.07452	.06915	.06427	98
25	.13567	.12481	.11497	.10605	.09795	.09060	.08392	.07784	.07230	.06726	99
26	.14058	.12950	.11945	.11032	.10202	.09447	.08760	.08134	.07563	.07042	100
27	.14571	.13442	.12415	.11481	.10631	.09856	.09149	.08505	.07916	.07379	101
28	.15104	.13953	.12904	.11949	.11078	.10284	.09558	.08895	.08288	.07733	102
29	.15656	.14484	.13414	.12438	.11546	.10731	.09986	.09304	.08679	.08106	103
30	.16229	.15034	.13943	.12946	.12034	.11198	.10433	.09732	.09089	.08498	104
31	.16821	.15605	.14493	.13474	.12541	.11685	.10900	.10179	.09517	.08909	105
32	.17433	.16196	.15063	.14023	.13069	.12193	.11387	.10647	.09966	.09339	106
33	.18068	.16810	.15655	.14595	.13620	.12723	.11897	.11137	.10437	.09791	107
34	.18724	.17446	.16270	.15189	.14193	.13275	.12430	.11650	.10930	.10265	108
35	.19405	.18107	.16910	.15808	.14791	.13853	.12987	.12187	.11448	.10764	109
36	.20109	.18791	.17574	.16451	.15414	.14456	.13569	.12749	.11990	.11287	
37	.20838	.19500	.18263	.17120	.16062	.15083	.14177	.13337	.12558	.11835	
38	.21593	.20236	.18979	.17816	.16739	.15739	.14813	.13953	.13154	.12412	
39	.22374	.20998	.19723	.18540	.17443	.16423	.15477	.14597	.13779	.13017	0
40	.23183	.21789	.20496	.19294	.18177	.17138	.16172	.15272	.14434	.13653	1
41	.24021	.22611	.21299	.20079	.18943	.17885	.16899	.15980	.15123	.14322	2
42	.24889	.23463	.22134	.20896	.19741	.18665	.17660	.16721	.15845	.15025	3
43	.25786	.24344	.23000	.21744	.20572	.19477	.18453	.17496	.16601	.15762	4
44	.26712	.25257	.23896	.22625	.21435	.20322	.19281	.18305	.17391	.16534	5
45	.27665	.26196	.24821	.23534	.22328	.21198	.20139	.19145	.18213	.17338	6
46	.28644	.27163	.25774	.24472	.23251	.22105	.21028	.20018	.19068	.18174	7
47	.29647	.28155	.26754	.25438	.24201	.23040	.21947	.20919	.19952	.19041	8
48	.30676	.29173	.27760	.26431	.25181	.24004	.22896	.21852	.20868	.19941	9
49	.31729	.30217	.28794	.27453	.26190	.24999	.23876	.22817	.21817	.20873	10
50	.32808	.31289	.29856	.28505	.27229	.26026	.24889	.23814	.22799	.21839	11
51	.33912	.32387	.30946	.29585	.28299	.27083	.25933	.24845	.23815	.22840	12
52	.35038	.33507	.32060	.30691	.29395	.28168	.27005	.25904	.24861	.23872	13
53	.36185	.34651	.33198	.31821	.30517	.29280	.28106	.26993	.25937	.24934	14
54	.37352	.35815	.34358	.32976	.31664	.30418	.29234	.28110	.27042	.26026	15
55	.38539	.37002	.35542	.34155	.32836	.31583	.30390	.29256	.28177	.27149	16
56	.39746	.38209	.36748	.35358	.34034	.32774	.31574	.30431	.29342	.28303	17
57	.40971	.39437	.37976	.36584	.35257	.33992	.32785	.31634	.30536	.29488	18
58	.42212	.40682	.39222	.37829	.36500	.35231	.34019	.32862	.31756	.30699	19
59	.43464	.41939	.40482	.39090	.37759	.36488	.35272	.34109	.32996	.31932	20
60	.44726	.43207	.41754	.40364	.39034	.37761	.36542	.35375	.34257	.33186	21
61	.45999	.44488	.43041	.41655	.40326	.39053	.37833	.36662	.35540	.34463	22
62	.47286	.45785	.44345	.42964	.41639	.40367	.39146	.37974	.36848	.35767	23
63	.48589	.47098	.45667	.44293	.42972	.41703	.40484	.39311	.38184	.37100	24
64	.49903	.48426	.47005	.45638	.44324	.43060	.41843	.40671	.39544	.38458	25
65	.51229	.49766	.48357	.47001	.45694	.44435	.43223	.42054	.40927	.39841	26
66	.52568	.51121	.49726	.48381	.47084	.45833	.44626	.43461	.42337	.41252	27
67	.53924	.52495	.51115	.49784	.48498	.47256	.46056	.44898	.43778	.42696	28
68	.55293	.53883	.52521	.51205	.49932	.48701	.47511	.46360	.45246	.44169	29
69	.56671	.55283	.53940	.52640	.51382	.50165	.48985	.47844	.46738	.45666	30
70	.58052	.56687	.55365	.54084	.52843	.51639	.50473	.49342	.48245	.47181	31
71	.59431	.58091	.56791	.55529	.54306	.53118	.51966	.50847	.49761	.48707	32
72	.60804	.59490	.58213	.56973	.55768	.54598	.53461	.52357	.51283	.50239	33
73	.62168	.60881	.59629	.58411	.57227	.56076	.54955	.53866	.52806	.51774	34
74	.63528	.62268	.61042	.59848	.58686	.57555	.56453	.55380	.54335	.53316	35
75	.64887	.63657	.62458	.61290	.60151	.59041	.57959	.56904	.55875	.54872	36
76	.66249	.65049	.63880	.62739	.61625	.60538	.59478	.58443	.57432	.56446	37
77	.67612	.66446	.65307	.64194	.63108	.62046	.61009	.59995	.59005	.58037	38
78	.68975	.67843	.66736	.65654	.64596	.63561	.62548	.61558	.60590	.59643	39
79	.70330	.69233	.68160	.67109	.66081	.65074	.64088	.63123	.62178	.61253	40
80	.71666	.70605	.69566	.68548	.67550	.66573	.65615	.64676	.63755	.62853	41

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
81	.72975	.71950	.70946	.69961	.68995	.68047	.67117	.66205	.65310	.64433
82	.74250	.73263	.72293	.71342	.70407	.69490	.68589	.67705	.66837	.65984
83	.75493	.74542	.73608	.72690	.71788	.70902	.70031	.69175	.68333	.67506
84	.76712	.75798	.74900	.74016	.73147	.72292	.71451	.70624	.69810	.69010
85	.77913	.77037	.76175	.75326	.74491	.73668	.72859	.72061	.71276	.70503
86	.79086	.78248	.77423	.76610	.75808	.75019	.74241	.73474	.72719	.71974
87	.80218	.79418	.78628	.77850	.77083	.76326	.75580	.74844	.74118	.73402
88	.81307	.80544	.79790	.79047	.78313	.77589	.76874	.76169	.75473	.74786
89	.82355	.81628	.80909	.80200	.79500	.78808	.78125	.77450	.76783	.76125
90	.83360	.82668	.81985	.81309	.80642	.79982	.79330	.78685	.78048	.77418
91	.84308	.83650	.83000	.82357	.81721	.81092	.80470	.79855	.79246	.78645
92	.85182	.84556	.83937	.83325	.82718	.82119	.81525	.80937	.80356	.79780
93	.85985	.85390	.84800	.84215	.83637	.83064	.82497	.81936	.81379	.80829
94	.86732	.86164	.85601	.85044	.84491	.83944	.83402	.82865	.82333	.81806
95	.87437	.86895	.86359	.85827	.85300	.84778	.84260	.83746	.83237	.82733
96	.88097	.87582	.87070	.86563	.86060	.85561	.85066	.84575	.84088	.83605
97	.88708	.88216	.87727	.87243	.86762	.86285	.85811	.85341	.84875	.84413
98	.89280	.88810	.88343	.87880	.87420	.86964	.86511	.86061	.85614	.85171
99	.89836	.89388	.88943	.88501	.88062	.87626	.87193	.86763	.86336	.85911
100	.90375	.89948	.89525	.89103	.88685	.88269	.87856	.87445	.87037	.86632
101	.90905	.90500	.90097	.89696	.89298	.88902	.88509	.88118	.87729	.87342
102	.91424	.91040	.90658	.90278	.89900	.89524	.89150	.88778	.88408	.88040
103	.91939	.91575	.91214	.90854	.90496	.90139	.89785	.89432	.89081	.88732
104	.92485	.92144	.91805	.91467	.91131	.90796	.90463	.90131	.89800	.89471
105	.93020	.92701	.92383	.92067	.91751	.91437	.91125	.90813	.90502	.90193
106	.93701	.93411	.93122	.92834	.92546	.92260	.91974	.91689	.91405	.91122
107	.94522	.94268	.94013	.93760	.93507	.93254	.93002	.92750	.92499	.92249
108	.95782	.95583	.95385	.95187	.94989	.94791	.94593	.94396	.94199	.94002
109	.97900	.97800	.97700	.97600	.97500	.97400	.97300	.97200	.97100	.97000

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.02693	.02534	.02395	.02271	.02161	.02063	.01976	.01898	.01828	.01765
1	.01922	.01756	.01610	.01480	.01365	.01263	.01171	.01090	.01017	.00951
2	.01975	.01802	.01650	.01514	.01393	.01286	.01190	.01104	.01028	.00959
3	.02056	.01876	.01717	.01575	.01449	.01336	.01235	.01145	.01064	.00992
4	.02155	.01967	.01800	.01652	.01520	.01401	.01296	.01201	.01116	.01039
5	.02266	.02071	.01896	.01741	.01603	.01479	.01368	.01269	.01179	.01098
6	.02389	.02184	.02003	.01841	.01696	.01566	.01450	.01345	.01251	.01166
7	.02522	.02309	.02120	.01950	.01799	.01663	.01540	.01431	.01332	.01242
8	.02665	.02444	.02246	.02069	.01910	.01768	.01640	.01524	.01420	.01326
9	.02821	.02590	.02384	.02199	.02033	.01884	.01750	.01629	.01520	.01421
10	.02990	.02750	.02535	.02342	.02169	.02013	.01872	.01745	.01631	.01526
11	.03172	.02922	.02698	.02497	.02316	.02153	.02006	.01872	.01752	.01643
12	.03365	.03106	.02872	.02663	.02474	.02303	.02149	.02010	.01884	.01769
13	.03566	.03297	.03054	.02835	.02638	.02460	.02299	.02154	.02021	.01901
14	.03770	.03490	.03237	.03010	.02804	.02619	.02450	.02298	.02159	.02033
15	.03973	.03682	.03419	.03182	.02968	.02775	.02599	.02439	.02294	.02162
16	.04173	.03871	.03598	.03352	.03129	.02926	.02743	.02576	.02424	.02286
17	.04372	.04059	.03775	.03519	.03287	.03076	.02884	.02710	.02551	.02406
18	.04573	.04248	.03953	.03686	.03444	.03224	.03024	.02842	.02676	.02524
19	.04780	.04443	.04137	.03859	.03607	.03378	.03169	.02978	.02804	.02646
20	.04997	.04647	.04329	.04040	.03778	.03539	.03321	.03122	.02940	.02773
21	.05226	.04862	.04532	.04232	.03958	.03709	.03481	.03274	.03083	.02909
22	.05465	.05088	.04745	.04432	.04148	.03888	.03650	.03433	.03234	.03052
23	.05716	.05325	.04969	.04645	.04348	.04077	.03830	.03603	.03394	.03203
24	.05983	.05578	.05208	.04871	.04562	.04280	.04021	.03784	.03566	.03367
25	.06266	.05846	.05463	.05112	.04791	.04497	.04227	.03980	.03752	.03543
26	.06566	.06131	.05734	.05369	.05035	.04729	.04448	.04189	.03951	.03732
27	.06887	.06436	.06024	.05646	.05298	.04979	.04686	.04416	.04168	.03939
28	.07225	.06758	.06331	.05938	.05577	.05245	.04940	.04658	.04398	.04159
29	.07581	.07099	.06656	.06248	.05873	.05528	.05210	.04916	.04645	.04394
30	.07956	.07457	.06998	.06575	.06186	.05827	.05495	.05189	.04906	.04644
31	.08348	.07833	.07358	.06920	.06515	.06142	.05797	.05478	.05182	.04908
32	.08761	.08228	.07736	.07282	.06863	.06475	.06116	.05783	.05475	.05189
33	.09195	.08645	.08136	.07666	.07231	.06828	.06454	.06108	.05786	.05488
34	.09651	.09082	.08557	.08070	.07619	.07200	.06812	.06452	.06117	.05805
35	.10131	.09545	.09002	.08498	.08030	.07596	.07193	.06818	.06469	.06144
36	.10635	.10031	.09470	.08949	.08465	.08015	.07596	.07206	.06842	.06503
37	.11165	.10542	.09963	.09424	.08923	.08457	.08022	.07617	.07238	.06885
38	.11722	.11081	.10484	.09927	.09409	.08926	.08475	.08054	.07661	.07293
39	.12308	.11648	.11032	.10458	.09922	.09422	.08955	.08518	.08109	.07726
40	.12925	.12246	.11612	.11020	.10466	.09949	.09465	.09011	.08587	.08189
41	.13575	.12877	.12225	.11614	.11043	.10508	.10007	.09537	.09097	.08683

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
42	.14259	.13542	.12871	.12243	.11654	.11101	.10583	.10097	.09640	.09210
43	.14977	.14242	.13552	.12905	.12298	.11729	.11193	.10690	.10217	.09771
44	.15731	.14976	.14269	.13604	.12979	.12391	.11838	.11318	.10828	.10367
45	.16516	.15743	.15017	.14334	.13691	.13086	.12516	.11979	.11472	.10994
46	.17334	.16544	.15800	.15099	.14438	.13816	.13228	.12674	.12150	.11656
47	.18184	.17375	.16613	.15895	.15217	.14576	.13972	.13400	.12860	.12349
48	.19066	.18240	.17461	.16724	.16029	.15371	.14749	.14161	.13604	.13077
49	.19981	.19138	.18342	.17588	.16875	.16201	.15562	.14956	.14383	.13839
50	.20931	.20072	.19259	.18489	.17759	.17067	.16412	.15790	.15199	.14639
51	.21917	.21042	.20212	.19426	.18679	.17971	.17299	.16660	.16054	.15477
52	.22933	.22043	.21198	.20395	.19633	.18909	.18220	.17566	.16943	.16350
53	.23981	.23076	.22216	.21399	.20621	.19881	.19176	.18506	.17867	.17258
54	.25060	.24141	.23267	.22434	.21642	.20886	.20166	.19480	.18826	.18201
55	.26171	.25239	.24351	.23504	.22697	.21927	.21192	.20491	.19821	.19182
56	.27313	.26369	.25468	.24608	.23787	.23003	.22254	.21538	.20854	.20199
57	.28487	.27531	.26618	.25746	.24912	.24114	.23351	.22621	.21923	.21254
58	.29688	.28722	.27798	.26914	.26067	.25257	.24481	.23738	.23025	.22343
59	.30913	.29937	.29002	.28107	.27249	.26427	.25639	.24882	.24157	.23461
60	.32159	.31175	.30231	.29325	.28457	.27623	.26823	.26055	.25317	.24608
61	.33429	.32437	.31485	.30571	.29692	.28848	.28037	.27257	.26507	.25786
62	.34728	.33730	.32770	.31847	.30960	.30106	.29285	.28495	.27734	.27001
63	.36057	.35053	.34087	.33157	.32262	.31400	.30569	.29769	.28998	.28255
64	.37412	.36404	.35433	.34498	.33596	.32726	.31887	.31078	.30298	.29545
65	.38794	.37783	.36809	.35868	.34961	.34085	.33239	.32422	.31633	.30871
66	.40205	.39193	.38216	.37272	.36361	.35479	.34628	.33804	.33008	.32238
67	.41650	.40639	.39661	.38715	.37800	.36915	.36059	.35230	.34428	.33651
68	.43126	.42117	.41139	.40193	.39277	.38390	.37530	.36697	.35890	.35108
69	.44628	.43622	.42648	.41703	.40787	.39898	.39037	.38201	.37391	.36604
70	.46150	.45149	.44178	.43236	.42321	.41433	.40571	.39735	.38922	.38132
71	.47683	.46689	.45723	.44785	.43873	.42987	.42126	.41290	.40476	.39685
72	.49225	.48238	.47279	.46346	.45439	.44556	.43697	.42862	.42048	.41257
73	.50770	.49793	.48841	.47915	.47013	.46135	.45280	.44447	.43635	.42844
74	.52324	.51358	.50416	.49498	.48603	.47731	.46880	.46051	.45242	.44454
75	.53894	.52939	.52008	.51100	.50214	.49349	.48505	.47681	.46877	.46092
76	.55483	.54543	.53624	.52728	.51852	.50996	.50160	.49344	.48546	.47766
77	.57091	.56167	.55263	.54380	.53516	.52671	.51845	.51038	.50247	.49475
78	.58716	.57809	.56922	.56053	.55203	.54372	.53557	.52760	.51980	.51216
79	.60346	.59459	.58590	.57738	.56904	.56086	.55286	.54501	.53732	.52978
80	.61969	.61102	.60252	.59419	.58601	.57800	.57014	.56243	.55487	.54745
81	.63571	.62726	.61897	.61082	.60283	.59499	.58729	.57974	.57232	.56503
82	.65146	.64324	.63515	.62722	.61942	.61176	.60423	.59683	.58957	.58242
83	.66693	.65893	.65108	.64335	.63575	.62828	.62093	.61371	.60660	.59962
84	.68222	.67447	.66684	.65934	.65195	.64468	.63753	.63049	.62356	.61674
85	.69742	.68993	.68255	.67528	.66812	.66106	.65411	.64727	.64053	.63389
86	.71241	.70517	.69805	.69102	.68410	.67727	.67054	.66390	.65736	.65091
87	.72696	.72000	.71313	.70635	.69967	.69307	.68656	.68014	.67381	.66756
88	.74108	.73438	.72777	.72125	.71480	.70845	.70217	.69597	.68985	.68380
89	.75475	.74832	.74198	.73571	.72951	.72339	.71734	.71137	.70547	.69963
90	.76796	.76180	.75572	.74971	.74376	.73788	.73207	.72633	.72065	.71503
91	.78049	.77460	.76878	.76302	.75732	.75168	.74610	.74058	.73512	.72972
92	.79211	.78647	.78089	.77537	.76990	.76449	.75913	.75383	.74858	.74338
93	.80283	.79743	.79208	.78679	.78154	.77634	.77119	.76610	.76105	.75604
94	.81283	.80765	.80253	.79744	.79240	.78741	.78247	.77756	.77270	.76789
95	.82233	.81737	.81245	.80757	.80274	.79795	.79320	.78849	.78382	.77918
96	.83126	.82651	.82180	.81712	.81248	.80788	.80332	.79880	.79431	.78985
97	.83953	.83498	.83046	.82597	.82152	.81710	.81271	.80836	.80404	.79976
98	.84731	.84294	.83860	.83429	.83002	.82577	.82155	.81737	.81321	.80908
99	.85490	.85071	.84656	.84243	.83832	.83425	.83020	.82618	.82219	.81822
100	.86229	.85828	.85431	.85035	.84642	.84252	.83864	.83478	.83095	.82714
101	.86958	.86575	.86195	.85818	.85442	.85069	.84698	.84329	.83962	.83597
102	.87674	.87310	.86947	.86587	.86229	.85873	.85518	.85166	.84815	.84466
103	.88384	.88038	.87694	.87351	.87010	.86671	.86334	.85998	.85663	.85331
104	.89143	.88817	.88492	.88169	.87847	.87526	.87207	.86889	.86573	.86258
105	.89885	.89578	.89272	.88967	.88664	.88361	.88060	.87760	.87461	.87163
106	.90840	.90559	.90278	.89999	.89720	.89442	.89165	.88888	.88613	.88338
107	.91999	.91750	.91501	.91253	.91005	.90758	.90511	.90265	.90019	.89774
108	.93805	.93609	.93412	.93216	.93020	.92824	.92629	.92434	.92239	.92044
109	.96900	.96800	.96700	.96600	.96500	.96400	.96300	.96200	.96100	.96000

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01709	.01658	.01612	.01570	.01532	.01497	.01466	.01437	.01410	.01386
1	.00892	.00839	.00791	.00747	.00708	.00672	.00639	.00609	.00582	.00557
2	.00896	.00840	.00790	.00744	.00702	.00664	.00629	.00598	.00569	.00542

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
3	.00926	.00867	.00814	.00765	.00721	.00681	.00644	.00611	.00580	.00552
4	.00970	.00908	.00851	.00800	.00753	.00711	.00672	.00636	.00604	.00574
5	.01026	.00960	.00900	.00846	.00796	.00751	.00710	.00672	.00637	.00606
6	.01089	.01019	.00956	.00899	.00846	.00799	.00755	.00715	.00678	.00644
7	.01161	.01088	.01021	.00960	.00905	.00854	.00808	.00765	.00726	.00690
8	.01241	.01163	.01093	.01029	.00970	.00917	.00867	.00822	.00781	.00743
9	.01331	.01249	.01175	.01107	.01045	.00988	.00936	.00889	.00845	.00804
10	.01432	.01346	.01268	.01196	.01131	.01071	.01016	.00965	.00918	.00875
11	.01543	.01453	.01370	.01295	.01226	.01162	.01104	.01051	.01001	.00956
12	.01664	.01569	.01482	.01403	.01330	.01263	.01202	.01145	.01093	.01045
13	.01791	.01691	.01600	.01516	.01440	.01369	.01304	.01245	.01190	.01139
14	.01918	.01813	.01717	.01629	.01548	.01474	.01406	.01343	.01285	.01231
15	.02041	.01931	.01831	.01738	.01653	.01576	.01504	.01437	.01376	.01320
16	.02160	.02044	.01938	.01841	.01752	.01670	.01595	.01525	.01460	.01401
17	.02274	.02152	.02041	.01940	.01846	.01760	.01680	.01607	.01539	.01476
18	.02386	.02258	.02142	.02035	.01936	.01846	.01762	.01685	.01613	.01547
19	.02500	.02367	.02245	.02132	.02029	.01933	.01845	.01764	.01689	.01619
20	.02621	.02481	.02353	.02235	.02126	.02025	.01933	.01847	.01768	.01694
21	.02749	.02603	.02468	.02344	.02229	.02124	.02026	.01936	.01852	.01774
22	.02884	.02730	.02589	.02458	.02338	.02227	.02124	.02029	.01940	.01859
23	.03028	.02867	.02718	.02581	.02454	.02337	.02229	.02128	.02035	.01949
24	.03183	.03013	.02857	.02713	.02580	.02456	.02342	.02236	.02138	.02047
25	.03350	.03172	.03008	.02857	.02717	.02587	.02467	.02355	.02251	.02155
26	.03530	.03344	.03172	.03013	.02865	.02729	.02602	.02484	.02375	.02273
27	.03727	.03532	.03351	.03183	.03028	.02885	.02751	.02627	.02511	.02404
28	.03937	.03732	.03543	.03367	.03204	.03052	.02911	.02780	.02658	.02545
29	.04162	.03947	.03748	.03564	.03392	.03233	.03084	.02946	.02818	.02698
30	.04401	.04176	.03967	.03773	.03593	.03425	.03269	.03124	.02988	.02861
31	.04654	.04419	.04200	.03996	.03807	.03630	.03466	.03312	.03169	.03035
32	.04923	.04676	.04447	.04233	.04034	.03849	.03676	.03514	.03363	.03221
33	.05210	.04952	.04711	.04487	.04278	.04083	.03901	.03731	.03571	.03422
34	.05515	.05245	.04993	.04758	.04538	.04333	.04142	.03962	.03794	.03637
35	.05841	.05558	.05295	.05048	.04818	.04603	.04401	.04212	.04035	.03869
36	.06187	.05892	.05616	.05358	.05116	.04890	.04678	.04480	.04293	.04118
37	.06555	.06247	.05958	.05688	.05435	.05198	.04975	.04766	.04570	.04385
38	.06949	.06627	.06325	.06043	.05777	.05528	.05295	.05075	.04868	.04674
39	.07368	.07032	.06717	.06421	.06143	.05882	.05637	.05406	.05189	.04984
40	.07816	.07465	.07137	.06827	.06537	.06263	.06006	.05764	.05535	.05320
41	.08295	.07930	.07587	.07264	.06960	.06674	.06405	.06150	.05910	.05683
42	.08807	.08427	.08069	.07733	.07415	.07116	.06833	.06567	.06315	.06077
43	.09352	.08957	.08585	.08233	.07902	.07589	.07294	.07014	.06750	.06500
44	.09932	.09521	.09134	.08768	.08423	.08096	.07787	.07495	.07218	.06956
45	.10543	.10117	.09715	.09334	.08974	.08634	.08311	.08005	.07716	.07441
46	.11189	.10747	.10329	.09933	.09559	.09204	.08867	.08548	.08245	.07958
47	.11866	.11408	.10974	.10564	.10174	.09805	.09454	.09121	.08805	.08504
48	.12577	.12103	.11654	.11228	.10823	.10439	.10074	.09727	.09397	.09083
49	.13323	.12833	.12368	.11926	.11506	.11107	.10728	.10366	.10022	.09695
50	.14107	.13601	.13120	.12663	.12228	.11813	.11419	.11043	.10685	.10344
51	.14928	.14407	.13910	.13437	.12987	.12558	.12149	.11758	.11386	.11031
52	.15785	.15248	.14735	.14247	.13781	.13337	.12913	.12508	.12122	.11752
53	.16678	.16124	.15597	.15093	.14612	.14153	.13714	.13294	.12893	.12509
54	.17606	.17037	.16493	.15974	.15478	.15004	.14550	.14116	.13700	.13302
55	.18570	.17986	.17428	.16893	.16382	.15893	.15424	.14976	.14546	.14134
56	.19573	.18974	.18400	.17851	.17325	.16821	.16338	.15875	.15430	.15004
57	.20613	.20000	.19412	.18848	.18307	.17789	.17291	.16814	.16355	.15914
58	.21688	.21060	.20458	.19880	.19325	.18792	.18280	.17788	.17316	.16861
59	.22793	.22151	.21535	.20943	.20374	.19827	.19301	.18795	.18309	.17840
60	.23927	.23272	.22642	.22036	.21454	.20893	.20354	.19834	.19334	.18851
61	.25092	.24425	.23782	.23163	.22567	.21993	.21440	.20907	.20393	.19898
62	.26295	.25616	.24961	.24329	.23721	.23134	.22568	.22021	.21494	.20985
63	.27538	.26847	.26180	.25537	.24916	.24316	.23738	.23179	.22639	.22117
64	.28817	.28116	.27438	.26783	.26150	.25539	.24949	.24377	.23825	.23291
65	.30134	.29423	.28735	.28069	.27426	.26803	.26201	.25618	.25054	.24508
66	.31493	.30772	.30075	.29399	.28746	.28113	.27500	.26906	.26331	.25774
67	.32899	.32170	.31464	.30780	.30118	.29475	.28852	.28248	.27663	.27095
68	.34349	.33614	.32901	.32209	.31538	.30887	.30256	.29643	.29047	.28469
69	.35841	.35100	.34381	.33683	.33005	.32346	.31707	.31085	.30481	.29894
70	.37366	.36620	.35896	.35193	.34509	.33844	.33197	.32568	.31957	.31362
71	.38916	.38167	.37440	.36732	.36043	.35372	.34720	.34084	.33466	.32864
72	.40486	.39736	.39006	.38295	.37602	.36927	.36270	.35629	.35005	.34396
73	.42074	.41323	.40591	.39878	.39182	.38504	.37843	.37198	.36568	.35955
74	.43685	.42934	.42202	.41488	.40791	.40110	.39446	.38798	.38165	.37547
75	.45326	.44577	.43846	.43132	.42435	.41754	.41088	.40438	.39802	.39181
76	.47004	.46259	.45530	.44818	.44122	.43442	.42776	.42125	.41488	.40865

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
77	.48718	.47979	.47255	.46547	.45853	.45175	.44511	.43861	.43225	.42601
78	.50467	.49735	.49017	.48314	.47626	.46951	.46290	.45643	.45008	.44386
79	.52239	.51515	.50806	.50110	.49427	.48758	.48102	.47459	.46828	.46209
80	.54018	.53304	.52603	.51916	.51242	.50580	.49930	.49292	.48666	.48052
81	.55788	.55085	.54396	.53718	.53053	.52399	.51757	.51126	.50507	.49898
82	.57540	.56851	.56173	.55506	.54851	.54207	.53574	.52951	.52339	.51737
83	.59274	.58598	.57933	.57279	.56635	.56001	.55378	.54765	.54161	.53567
84	.61002	.60341	.59690	.59049	.58418	.57796	.57184	.56582	.55988	.55403
85	.62734	.62090	.61454	.60828	.60211	.59603	.59004	.58414	.57832	.57258
86	.64455	.63828	.63210	.62600	.61999	.61406	.60821	.60244	.59675	.59113
87	.66139	.65531	.64930	.64337	.63752	.63175	.62605	.62043	.61488	.60939
88	.67783	.67194	.66612	.66037	.65469	.64908	.64354	.63807	.63267	.62733
89	.69387	.68817	.68254	.67698	.67148	.66605	.66068	.65537	.65012	.64493
90	.70947	.70398	.69855	.69318	.68786	.68261	.67742	.67228	.66719	.66217
91	.72437	.71908	.71385	.70867	.70354	.69847	.69345	.68848	.68357	.67870
92	.73823	.73314	.72810	.72310	.71816	.71326	.70841	.70361	.69886	.69415
93	.75109	.74618	.74132	.73650	.73173	.72700	.72232	.71768	.71308	.70852
94	.76312	.75839	.75370	.74905	.74445	.73988	.73536	.73087	.72643	.72202
95	.77459	.77004	.76552	.76104	.75660	.75220	.74783	.74350	.73920	.73494
96	.78543	.78105	.77670	.77238	.76810	.76386	.75964	.75546	.75131	.74720
97	.79550	.79128	.78709	.78293	.77880	.77470	.77063	.76659	.76258	.75860
98	.80498	.80091	.79687	.79286	.78888	.78492	.78099	.77709	.77322	.76937
99	.81428	.81036	.80647	.80261	.79877	.79496	.79117	.78741	.78367	.77995
100	.82336	.81959	.81586	.81214	.80845	.80478	.80113	.79751	.79390	.79032
101	.83234	.82873	.82515	.82158	.81804	.81451	.81101	.80753	.80406	.80062
102	.84119	.83774	.83431	.83089	.82750	.82412	.82076	.81742	.81409	.81078
103	.84999	.84670	.84342	.84016	.83691	.83368	.83046	.82726	.82408	.82091
104	.85944	.85632	.85321	.85011	.84703	.84396	.84090	.83786	.83483	.83182
105	.86866	.86570	.86276	.85982	.85690	.85399	.85109	.84820	.84532	.84245
106	.88065	.87792	.87520	.87248	.86978	.86708	.86440	.86172	.85905	.85638
107	.89530	.89286	.89042	.88799	.88557	.88315	.88073	.87833	.87592	.87352
108	.91849	.91654	.91460	.91266	.91072	.90879	.90685	.90492	.90299	.90106
109	.95900	.95800	.95700	.95600	.95500	.95400	.95300	.95200	.95100	.95000

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01363	.01342	.01323	.01305	.01288	.01272	.01258	.01244	.01231	.01219
1	.00534	.00512	.00493	.00474	.00458	.00442	.00427	.00414	.00401	.00389
2	.00518	.00495	.00474	.00455	.00437	.00421	.00405	.00391	.00377	.00365
3	.00526	.00502	.00480	.00459	.00440	.00422	.00406	.00391	.00376	.00363
4	.00546	.00521	.00497	.00475	.00455	.00436	.00419	.00402	.00387	.00373
5	.00576	.00549	.00524	.00501	.00479	.00459	.00440	.00423	.00406	.00391
6	.00613	.00584	.00557	.00532	.00509	.00488	.00468	.00449	.00432	.00415
7	.00657	.00626	.00598	.00571	.00547	.00524	.00502	.00482	.00464	.00446
8	.00707	.00675	.00644	.00616	.00590	.00565	.00542	.00521	.00501	.00482
9	.00766	.00732	.00699	.00669	.00641	.00615	.00591	.00568	.00547	.00527
10	.00835	.00798	.00764	.00732	.00702	.00675	.00649	.00624	.00602	.00580
11	.00913	.00874	.00838	.00804	.00772	.00743	.00715	.00689	.00665	.00642
12	.01000	.00959	.00920	.00884	.00851	.00819	.00790	.00762	.00737	.00712
13	.01091	.01048	.01007	.00969	.00933	.00900	.00869	.00840	.00813	.00787
14	.01181	.01135	.01092	.01052	.01014	.00979	.00947	.00916	.00887	.00860
15	.01267	.01218	.01173	.01130	.01091	.01054	.01019	.00987	.00956	.00928
16	.01345	.01294	.01246	.01201	.01160	.01121	.01084	.01050	.01018	.00988
17	.01418	.01364	.01313	.01266	.01222	.01181	.01143	.01107	.01073	.01041
18	.01486	.01429	.01375	.01326	.01279	.01236	.01196	.01158	.01122	.01088
19	.01554	.01494	.01438	.01385	.01336	.01291	.01248	.01208	.01170	.01135
20	.01626	.01562	.01503	.01448	.01396	.01348	.01303	.01260	.01220	.01183
21	.01702	.01635	.01573	.01514	.01460	.01409	.01361	.01316	.01274	.01235
22	.01782	.01711	.01645	.01584	.01526	.01472	.01422	.01374	.01330	.01288
23	.01868	.01793	.01724	.01658	.01597	.01540	.01487	.01437	.01390	.01345
24	.01962	.01883	.01809	.01740	.01675	.01615	.01558	.01505	.01455	.01408
25	.02065	.01981	.01903	.01830	.01762	.01698	.01638	.01581	.01528	.01478
26	.02178	.02089	.02006	.01929	.01856	.01789	.01725	.01665	.01609	.01556
27	.02303	.02209	.02122	.02040	.01963	.01891	.01824	.01760	.01700	.01644
28	.02439	.02339	.02247	.02160	.02079	.02002	.01931	.01863	.01800	.01740
29	.02585	.02480	.02382	.02290	.02204	.02123	.02047	.01976	.01908	.01845
30	.02742	.02631	.02527	.02430	.02339	.02253	.02172	.02096	.02025	.01957
31	.02910	.02793	.02683	.02579	.02482	.02391	.02306	.02225	.02149	.02077
32	.03089	.02965	.02849	.02739	.02636	.02540	.02449	.02363	.02282	.02206
33	.03282	.03151	.03028	.02912	.02803	.02701	.02604	.02513	.02427	.02346
34	.03489	.03350	.03220	.03097	.02982	.02873	.02771	.02674	.02583	.02497
35	.03713	.03567	.03429	.03299	.03177	.03061	.02953	.02850	.02753	.02661
36	.03953	.03798	.03653	.03515	.03386	.03263	.03148	.03039	.02936	.02838
37	.04211	.04048	.03894	.03748	.03611	.03481	.03359	.03243	.03134	.03030

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
38	.04490	.04318	.04155	.04001	.03856	.03719	.03589	.03466	.03350	.03239
39	.04791	.04609	.04437	.04274	.04120	.03975	.03837	.03707	.03583	.03466
40	.05116	.04924	.04742	.04571	.04408	.04254	.04108	.03970	.03839	.03714
41	.05469	.05267	.05075	.04894	.04722	.04559	.04405	.04258	.04119	.03987
42	.05851	.05638	.05436	.05245	.05063	.04891	.04728	.04573	.04425	.04285
43	.06263	.06039	.05827	.05625	.05433	.05252	.05079	.04915	.04759	.04610
44	.06707	.06472	.06248	.06035	.05834	.05642	.05459	.05286	.05121	.04963
45	.07180	.06933	.06698	.06474	.06262	.06059	.05867	.05684	.05509	.05342
46	.07685	.07425	.07178	.06943	.06720	.06507	.06304	.06110	.05926	.05750
47	.08218	.07946	.07687	.07440	.07205	.06981	.06768	.06564	.06369	.06183
48	.08784	.08499	.08228	.07969	.07722	.07487	.07262	.07047	.06842	.06646
49	.09382	.09085	.08801	.08530	.08271	.08024	.07788	.07562	.07346	.07140
50	.10018	.09707	.09410	.09127	.08856	.08597	.08349	.08112	.07885	.07667
51	.10691	.10367	.10057	.09761	.09477	.09206	.08946	.08697	.08459	.08231
52	.11399	.11061	.10738	.10429	.10132	.09849	.09577	.09316	.09066	.08826
53	.12142	.11791	.11454	.11132	.10823	.10526	.10242	.09969	.09707	.09456
54	.12921	.12556	.12206	.11870	.11548	.11239	.10942	.10657	.10383	.10120
55	.13738	.13359	.12995	.12646	.12311	.11989	.11679	.11382	.11096	.10820
56	.14595	.14202	.13824	.13462	.13113	.12778	.12456	.12146	.11847	.11560
57	.15491	.15084	.14693	.14317	.13955	.13607	.13272	.12949	.12638	.12338
58	.16424	.16004	.15599	.15209	.14834	.14473	.14125	.13789	.13465	.13153
59	.17390	.16955	.16537	.16134	.15746	.15371	.15010	.14662	.14325	.14001
60	.18387	.17939	.17507	.17091	.16689	.16302	.15927	.15566	.15217	.14880
61	.19420	.18958	.18513	.18084	.17669	.17268	.16881	.16506	.16145	.15795
62	.20494	.20020	.19561	.19119	.18691	.18277	.17877	.17490	.17115	.16753
63	.21613	.21126	.20654	.20199	.19758	.19331	.18918	.18518	.18131	.17757
64	.22774	.22274	.21791	.21322	.20869	.20429	.20004	.19592	.19192	.18805
65	.23979	.23467	.22971	.22490	.22025	.21573	.21135	.20710	.20299	.19899
66	.25233	.24709	.24202	.23709	.23231	.22767	.22318	.21881	.21457	.21045
67	.26543	.26009	.25489	.24985	.24496	.24021	.23560	.23111	.22676	.22252
68	.27908	.27363	.26833	.26319	.25819	.25332	.24860	.24400	.23954	.23519
69	.29324	.28769	.28230	.27705	.27195	.26699	.26216	.25746	.25288	.24843
70	.30783	.30219	.29671	.29137	.28618	.28112	.27619	.27139	.26672	.26216
71	.32277	.31706	.31150	.30608	.30079	.29564	.29063	.28573	.28096	.27631
72	.33803	.33225	.32661	.32112	.31575	.31052	.30542	.30044	.29559	.29084
73	.35356	.34772	.34201	.33645	.33101	.32571	.32053	.31547	.31053	.30571
74	.36943	.36354	.35778	.35215	.34666	.34129	.33604	.33091	.32590	.32100
75	.38574	.37980	.37400	.36833	.36278	.35735	.35205	.34686	.34178	.33681
76	.40256	.39660	.39076	.38505	.37947	.37400	.36864	.36340	.35827	.35324
77	.41991	.41394	.40808	.40235	.39674	.39124	.38585	.38056	.37539	.37032
78	.43777	.43180	.42594	.42020	.41457	.40906	.40365	.39834	.39314	.38803
79	.45602	.45007	.44422	.43849	.43287	.42735	.42193	.41661	.41139	.40627
80	.47449	.46856	.46275	.45704	.45143	.44592	.44051	.43519	.42997	.42484
81	.49300	.48712	.48134	.47566	.47008	.46460	.45921	.45391	.44870	.44357
82	.51145	.50563	.49990	.49427	.48873	.48328	.47792	.47265	.46746	.46235
83	.52983	.52407	.51841	.51284	.50735	.50195	.49663	.49139	.48624	.48116
84	.54828	.54261	.53702	.53151	.52609	.52075	.51549	.51030	.50519	.50015
85	.56693	.56135	.55586	.55044	.54510	.53983	.53464	.52952	.52447	.51949
86	.58560	.58013	.57474	.56943	.56418	.55901	.55390	.54886	.54389	.53898
87	.60398	.59864	.59337	.58817	.58303	.57795	.57294	.56799	.56310	.55828
88	.62206	.61685	.61170	.60662	.60159	.59663	.59173	.58688	.58209	.57736
89	.63980	.63474	.62972	.62477	.61987	.61503	.61024	.60551	.60083	.59620
90	.65719	.65227	.64741	.64259	.63783	.63312	.62846	.62385	.61928	.61477
91	.67388	.66912	.66440	.65973	.65511	.65053	.64600	.64152	.63708	.63269
92	.68949	.68487	.68030	.67577	.67129	.66685	.66245	.65809	.65378	.64950
93	.70401	.69954	.69511	.69072	.68637	.68205	.67778	.67355	.66935	.66519
94	.71765	.71332	.70902	.70477	.70055	.69636	.69222	.68810	.68403	.67998
95	.73072	.72653	.72237	.71825	.71416	.71010	.70608	.70209	.69813	.69421
96	.74311	.73906	.73504	.73105	.72709	.72316	.71926	.71539	.71155	.70774
97	.75465	.75073	.74684	.74297	.73914	.73533	.73155	.72780	.72407	.72037
98	.76555	.76175	.75798	.75424	.75052	.74683	.74317	.73953	.73591	.73232
99	.77626	.77260	.76895	.76534	.76174	.75817	.75462	.75109	.74759	.74411
100	.78676	.78323	.77971	.77622	.77274	.76929	.76586	.76245	.75906	.75569
101	.79719	.79379	.79040	.78703	.78368	.78035	.77704	.77375	.77048	.76722
102	.80749	.80422	.80096	.79772	.79450	.79130	.78811	.78494	.78178	.77864
103	.81775	.81461	.81149	.80838	.80529	.80221	.79914	.79609	.79306	.79003
104	.82881	.82582	.82284	.81988	.81693	.81399	.81106	.80815	.80525	.80236
105	.83959	.83674	.83391	.83108	.82826	.82546	.82267	.81988	.81711	.81435
106	.85373	.85108	.84844	.84581	.84319	.84058	.83797	.83537	.83278	.83020
107	.87113	.86875	.86636	.86399	.86161	.85925	.85689	.85453	.85218	.84984
108	.89913	.89721	.89529	.89337	.89145	.88953	.88762	.88571	.88380	.88189
109	.94900	.94800	.94700	.94600	.94500	.94400	.94300	.94200	.94100	.94000

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.01208	.01197	.01187	.01177	.01168	.01159	.01151	.01143	.01135	.01128
1	.00378	.00367	.00358	.00348	.00340	.00331	.00323	.00316	.00309	.00302
2	.00353	.00342	.00331	.00322	.00312	.00304	.00295	.00288	.00280	.00273
3	.00350	.00339	.00327	.00317	.00307	.00298	.00289	.00281	.00273	.00265
4	.00359	.00347	.00335	.00324	.00313	.00303	.00294	.00285	.00276	.00268
5	.00377	.00363	.00351	.00339	.00327	.00317	.00306	.00297	.00288	.00279
6	.00400	.00386	.00372	.00359	.00347	.00335	.00325	.00314	.00305	.00295
7	.00430	.00414	.00400	.00386	.00373	.00360	.00349	.00338	.00327	.00317
8	.00465	.00448	.00432	.00417	.00403	.00390	.00378	.00366	.00354	.00344
9	.00508	.00490	.00473	.00457	.00442	.00428	.00414	.00402	.00389	.00378
10	.00560	.00541	.00523	.00506	.00490	.00475	.00460	.00446	.00433	.00421
11	.00620	.00600	.00581	.00563	.00546	.00529	.00514	.00499	.00485	.00472
12	.00689	.00668	.00647	.00628	.00610	.00593	.00576	.00560	.00545	.00531
13	.00763	.00740	.00718	.00698	.00678	.00660	.00642	.00626	.00610	.00595
14	.00834	.00810	.00787	.00766	.00745	.00726	.00707	.00689	.00673	.00657
15	.00901	.00875	.00851	.00828	.00807	.00786	.00767	.00748	.00730	.00714
16	.00959	.00932	.00907	.00883	.00860	.00839	.00818	.00799	.00780	.00762
17	.01011	.00983	.00956	.00930	.00907	.00884	.00862	.00842	.00822	.00804
18	.01057	.01027	.00999	.00972	.00947	.00923	.00900	.00879	.00858	.00839
19	.01101	.01070	.01040	.01012	.00985	.00960	.00936	.00914	.00892	.00871
20	.01148	.01115	.01083	.01054	.01026	.00999	.00974	.00950	.00927	.00905
21	.01197	.01162	.01129	.01098	.01068	.01040	.01014	.00988	.00964	.00941
22	.01249	.01211	.01176	.01143	.01112	.01082	.01054	.01027	.01002	.00978
23	.01304	.01264	.01227	.01192	.01159	.01127	.01098	.01069	.01042	.01017
24	.01364	.01322	.01283	.01246	.01210	.01177	.01145	.01115	.01087	.01060
25	.01431	.01387	.01345	.01306	.01268	.01233	.01199	.01168	.01137	.01109
26	.01506	.01459	.01415	.01373	.01333	.01295	.01260	.01226	.01194	.01163
27	.01591	.01541	.01494	.01449	.01407	.01367	.01329	.01293	.01259	.01226
28	.01684	.01631	.01580	.01533	.01488	.01445	.01405	.01367	.01330	.01296
29	.01785	.01728	.01675	.01624	.01577	.01531	.01488	.01447	.01408	.01372
30	.01893	.01833	.01776	.01723	.01672	.01623	.01578	.01534	.01493	.01453
31	.02010	.01946	.01885	.01828	.01773	.01722	.01673	.01627	.01582	.01540
32	.02134	.02066	.02002	.01940	.01883	.01828	.01776	.01726	.01679	.01634
33	.02270	.02197	.02128	.02063	.02002	.01943	.01887	.01835	.01784	.01736
34	.02415	.02338	.02265	.02195	.02130	.02067	.02008	.01951	.01897	.01846
35	.02574	.02492	.02414	.02340	.02270	.02203	.02140	.02080	.02022	.01967
36	.02746	.02658	.02575	.02496	.02422	.02350	.02283	.02218	.02157	.02098
37	.02932	.02838	.02750	.02666	.02586	.02510	.02438	.02369	.02303	.02241
38	.03135	.03035	.02941	.02851	.02766	.02685	.02608	.02534	.02464	.02397
39	.03355	.03249	.03149	.03053	.02962	.02876	.02793	.02715	.02640	.02568
40	.03596	.03484	.03377	.03275	.03178	.03086	.02998	.02914	.02833	.02757
41	.03861	.03742	.03628	.03520	.03416	.03318	.03224	.03134	.03048	.02966
42	.04152	.04025	.03903	.03788	.03678	.03573	.03473	.03377	.03285	.03198
43	.04468	.04333	.04205	.04082	.03965	.03853	.03746	.03644	.03546	.03453
44	.04813	.04670	.04533	.04403	.04278	.04159	.04045	.03936	.03832	.03732
45	.05183	.05032	.04887	.04748	.04616	.04489	.04368	.04252	.04141	.04034
46	.05582	.05421	.05267	.05121	.04980	.04846	.04717	.04593	.04475	.04362
47	.06006	.05836	.05673	.05518	.05369	.05226	.05089	.04958	.04832	.04711
48	.06459	.06279	.06107	.05943	.05785	.05634	.05488	.05349	.05216	.05087
49	.06942	.06752	.06571	.06397	.06230	.06070	.05916	.05768	.05626	.05490
50	.07459	.07259	.07068	.06884	.06708	.06538	.06376	.06219	.06069	.05924
51	.08012	.07801	.07599	.07406	.07220	.07041	.06869	.06703	.06544	.06391
52	.08596	.08375	.08163	.07959	.07763	.07574	.07392	.07218	.07049	.06887
53	.09214	.08982	.08759	.08544	.08338	.08139	.07948	.07763	.07586	.07415
54	.09867	.09623	.09389	.09164	.08946	.08737	.08536	.08342	.08154	.07974
55	.10556	.10301	.10055	.09819	.09591	.09371	.09159	.08955	.08757	.08567
56	.11283	.11016	.10759	.10511	.10272	.10042	.09819	.09605	.09397	.09197
57	.12050	.11771	.11502	.11243	.10993	.10751	.10518	.10293	.10075	.09864
58	.12852	.12562	.12281	.12011	.11749	.11496	.11252	.11016	.10787	.10567
59	.13687	.13385	.13092	.12810	.12537	.12273	.12017	.11770	.11531	.11299
60	.14554	.14240	.13935	.13641	.13356	.13080	.12813	.12555	.12305	.12063
61	.15457	.15130	.14813	.14507	.14210	.13923	.13644	.13375	.13113	.12860
62	.16402	.16063	.15734	.15415	.15107	.14808	.14518	.14237	.13964	.13699
63	.17393	.17042	.16700	.16370	.16049	.15738	.15437	.15144	.14860	.14584
64	.18429	.18065	.17712	.17369	.17036	.16714	.16400	.16096	.15800	.15513
65	.19511	.19135	.18769	.18415	.18070	.17735	.17410	.17094	.16787	.16488
66	.20645	.20257	.19880	.19513	.19157	.18810	.18473	.18146	.17827	.17517
67	.21841	.21441	.21052	.20673	.20305	.19947	.19599	.19259	.18929	.18608
68	.23096	.22685	.22284	.21895	.21515	.21146	.20786	.20436	.20094	.19762
69	.24409	.23987	.23575	.23175	.22784	.22404	.22033	.21672	.21320	.20976
70	.25772	.25339	.24918	.24507	.24106	.23715	.23333	.22961	.22598	.22244
71	.27178	.26735	.26304	.25882	.25471	.25070	.24679	.24296	.23923	.23559
72	.28622	.28170	.27729	.27298	.26877	.26467	.26065	.25673	.25290	.24915
73	.30100	.29639	.29189	.28749	.28320	.27899	.27489	.27087	.26694	.26310

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
74	.31621	.31152	.30694	.30246	.29807	.29378	.28959	.28548	.28146	.27753
75	.33195	.32719	.32253	.31797	.31351	.30914	.30486	.30067	.29657	.29255
76	.34832	.34350	.33877	.33415	.32961	.32517	.32082	.31656	.31238	.30828
77	.36535	.36047	.35570	.35101	.34642	.34192	.33750	.33317	.32892	.32475
78	.38302	.37811	.37329	.36856	.36392	.35937	.35490	.35051	.34621	.34198
79	.40124	.39630	.39145	.38669	.38201	.37742	.37291	.36848	.36413	.35985
80	.41980	.41485	.40998	.40520	.40050	.39588	.39134	.38688	.38249	.37818
81	.43854	.43358	.42871	.42392	.41921	.41457	.41001	.40553	.40112	.39678
82	.45733	.45238	.44752	.44273	.43802	.43338	.42881	.42431	.41989	.41553
83	.47616	.47123	.46638	.46161	.45690	.45227	.44770	.44320	.43877	.43441
84	.49519	.49030	.48548	.48073	.47604	.47143	.46688	.46239	.45797	.45361
85	.51458	.50974	.50496	.50025	.49560	.49102	.48650	.48204	.47763	.47329
86	.53413	.52935	.52463	.51998	.51538	.51084	.50636	.50194	.49758	.49327
87	.55351	.54881	.54416	.53957	.53503	.53055	.52613	.52176	.51744	.51317
88	.57268	.56806	.56349	.55898	.55451	.55010	.54574	.54144	.53718	.53296
89	.59162	.58710	.58262	.57819	.57382	.56949	.56520	.56097	.55678	.55263
90	.61030	.60588	.60151	.59718	.59290	.58866	.58447	.58032	.57621	.57214
91	.62834	.62403	.61977	.61554	.61136	.60722	.60312	.59907	.59505	.59107
92	.64527	.64107	.63692	.63280	.62872	.62468	.62068	.61672	.61279	.60890
93	.66107	.65699	.65294	.64893	.64495	.64101	.63711	.63323	.62940	.62559
94	.67597	.67200	.66806	.66415	.66027	.65643	.65262	.64884	.64509	.64138
95	.69031	.68645	.68262	.67881	.67504	.67130	.66759	.66390	.66025	.65662
96	.70396	.70021	.69648	.69279	.68912	.68548	.68186	.67828	.67471	.67118
97	.71670	.71305	.70943	.70584	.70227	.69872	.69520	.69171	.68824	.68480
98	.72875	.72521	.72169	.71819	.71472	.71127	.70784	.70444	.70106	.69770
99	.74065	.73721	.73379	.73040	.72703	.72368	.72035	.71704	.71375	.71048
100	.75234	.74901	.74570	.74241	.73914	.73589	.73265	.72944	.72625	.72307
101	.76399	.76077	.75757	.75438	.75122	.74807	.74494	.74183	.73873	.73565
102	.77552	.77241	.76932	.76625	.76319	.76015	.75712	.75411	.75111	.74813
103	.78703	.78404	.78106	.77809	.77514	.77221	.76929	.76638	.76348	.76060
104	.79948	.79662	.79377	.79093	.78810	.78528	.78248	.77969	.77691	.77414
105	.81159	.80885	.80612	.80340	.80069	.79799	.79530	.79262	.78995	.78729
106	.82763	.82506	.82250	.81995	.81741	.81488	.81235	.80983	.80732	.80482
107	.84749	.84516	.84283	.84051	.83819	.83587	.83356	.83126	.82896	.82666
108	.87999	.87808	.87618	.87428	.87238	.87049	.86859	.86670	.86481	.86293
109	.93900	.93800	.93700	.93600	.93500	.93400	.93300	.93200	.93100	.93000

(f) *Effective dates.* This section applies after April 30, 1999.

Par. 10. The undesignated center heading immediately preceding § 1.664–4A is revised to read as follows:

Unitrust Actuarial Tables Applicable Before May 1, 1999

Par. 11. Section 1.664–4A is amended as follows:

1. The section heading is revised.
2. In paragraph (d)(4), the first sentence is revised.
3. In paragraph (d)(6), the introductory text is revised and Table D is removed.
4. The heading of newly designated paragraph (e) is revised.
5. In newly designated paragraph (e)(1), the first sentence is revised.
6. Newly designated paragraphs (e)(3) through (e)(5) are revised.
7. In newly designated paragraph (e)(6), the heading and the first sentence of the introductory text are revised and the last sentence of introductory text is removed and two new sentences are added in its place.
8. The heading of Table U(1) is revised.

The addition and revisions read as follows:

§ 1.664–4A Valuation of charitable remainder interests for which the valuation date is before May 1, 1999.

* * * * *

(d) * * *

(4) *Period is a term of years.* If the period described in § 1.664–3(a)(5) is a term of years, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in Table D in § 1.664–4(e)(6) that corresponds to the number of years in the term. * * *

* * * * *

(6) *Actuarial tables for transfers for which the valuation date is after November 30, 1983, and before May 1, 1989.* Table D in § 1.664–4(e)(6) and the following tables shall be used in the application of the provisions of this section:

* * * * *

(e) *Valuation of charitable remainder unitrusts having certain payout sequences for transfers for which the valuation date is after April 30, 1989, and before May 1, 1999*—(1) *In general.* Except as otherwise provided in paragraph (e)(2) of this section, in the case of transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, the present value of a remainder interest is determined under paragraphs (e)(3) through (e)(6) of this section, provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664–3(a)(1)(v) if the taxable year of the trust were to end on such date. * * *

* * * * *

(3) *Adjusted payout rate.* For transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, the adjusted payout rate is determined by using the appropriate Table F, contained in § 1.664–4(e)(6), for the section 7520 interest rate applicable to the transfer. If the interest rate is between 4.2 and 14 percent, see § 1.664–4(e)(6). If the interest rate is below 4.2 percent or greater than 14 percent, see § 1.664–4(b). See § 1.664–4(e) for rules applicable in determining the adjusted payout rate.

(4) *Period is a term of years.* If the period described in § 1.664–3(a)(5) is a term of years, the factor that is used in

determining the present value of the remainder interest for transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, is the factor under the appropriate adjusted payout rate in Table D in § 1.664–4(e)(6) corresponding to the number of years in the term. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in Table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph. Generally, for purposes of this section, the valuation date is, in the case of an inter vivos transfer, the date on which the property is transferred to the trust by the donor, and, in the case of a testamentary transfer under sections 2055, 2106, or 2624, the valuation date is the date of death. See § 1.664–4T(e)(4) for additional rules regarding the valuation date. See § 1.664–4T(e)(4) for an example that illustrates the application of this paragraph (e)(4).

(5) *Period is the life of one individual.* If the period described in § 1.664–3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, is the factor in Table U(1) in paragraph (e)(6) of this section under the appropriate adjusted payout. For purposes of the computations described in this paragraph (e)(5), the age of an individual is the age of that individual at the individual's nearest birthday. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in the appropriate table, a linear interpolation must be made. The rules provided in § 1.664–4T(e)(5) apply for determining the present value of the remainder interest. See § 1.664–4T(e)(5) for an example illustrating the application of this paragraph (e)(5)(using current actuarial tables).

(6) *Actuarial tables for transfers for which the valuation date is after April 30, 1989, and before May 1, 1999.* For transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, the present value of a charitable remainder unitrust interest that is dependent on a term of years or the termination of a life interest is determined by using the section 7520 rate and Table D, Tables F(4.2) through F(14.0) in § 1.664–4(e)(6) and Table U(1) of this paragraph (e)(6), as applicable. * * * Publication 1458 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. However, pertinent factors in this publication may be obtained by a written request to: CC:DOM:CORP:R (IRS Publication 1458), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044.

TABLE U(1).—UNITRUST SINGLE LIFE REMAINDER FACTORS—BASED ON LIFE TABLE 80CNSMT

[Applicable for Transfers After April 30, 1989, and Before May 1, 1999]

* * * * *

Par. 12. Section 1.7520–1 is amended by:

1. Revising the last two sentences of paragraph (b)(2).
2. Revising the headings for paragraphs (c)(1) and (c)(2).
3. Revising the introductory text of paragraph (c)(2).
4. Removing the first two sentences of paragraph (c)(2)(iii) and adding one sentence in their place.
5. Revising paragraph (d).

The revisions and addition read as follows:

§ 1.7520–1 Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) * * * For transactions with valuation dates after April 30, 1989, and before May 1, 1999, the mortality component table (80CNSMT) is contained in § 20.2031–7A(e)(4) of this chapter. See § 20.2031–7A(a) through (d) of this chapter for mortality component tables applicable to transactions for which the valuation date falls before May 1, 1989.

(c) * * *

(1) *Regulations sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1989, and before May 1, 1999.* * * *

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 26 percent for valuation dates after April 30, 1989, and before May 1, 1999.* The following publications are no longer available for purchase from the Superintendent of Documents, however, they may be obtained from CC:DOM:CORP:R, room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044:

* * * * *

(iii) Internal Revenue Service Publication 1459, "Actuarial Values, Gamma Volume," (8–89). * * *

(d) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 13. Section 1.7520–1T is added to read as follows:

§ 1.7520–1T Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests (temporary).

(a) through (b)(1) [Reserved] For further guidance, see § 1.7520–1(a) through (b)(1).

(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the revised mortality component tables will be published in the regulations at that time. For transactions with valuation dates after April 30, 1999, the mortality component table (Table 90CM) is contained in § 20.2031–7T(d)(7) of this chapter. See § 20.2031–7A of this chapter for mortality component tables applicable to transactions for which the valuation date falls before May 1, 1999.

(c) [Reserved]. For further guidance, see § 1.7520–1(c).

(1) *Regulation sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1999.* Section 1.642(c)–6T(e)(6) contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5. See § 1.642(c)–6A for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 1.664–4(e)(6) contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section1.664–4T(e)(7) contains Table U(1) (actuarial factors for one life). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3. See § 1.664–4A for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 20.2031–7(d)(6) of this chapter contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), and Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7T(d)(7) of this chapter contains Table

S (actuarial factors for one life), and Table 90CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A of this chapter for actuarial factors for one life and mortality components applicable to valuation dates before May 1, 1999.

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 26 percent for valuation dates after April 30, 1999.* The following documents are available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402:

(i) Internal Revenue Service Publication 1457, "Actuarial Values, Book Aleph," (1999). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 and a pooled income fund as defined in § 1.642(c)–5.

(ii) Internal Revenue Service Publication 1458, "Actuarial Values, Book Beth," (1999). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3.

(iii) Internal Revenue Service Publication 1459, "Actuarial Values, Book Gimel," (1999). This publication includes tables for computing deprecation adjustment factors. See § 1.170A–12T.

(d) *Effective date.* This section applies after April 30, 1999.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 14. The authority citation for part 20 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 20.2031–7T also issued under 26 U.S.C. 7520(c)(2). * * *

Section 20.7520–1T also issued under 26 U.S.C. 7520(c)(2). * * *

Par. 15. Section 20.2031–0 is revised to read as follows:

§ 20.2031–0 Table of contents.

This section lists the section headings and undesignated center headings that appear in the regulations under section 2031.

§ 20.2031–1 Definition of gross estate; valuation of property.
§ 20.2031–2 Valuation of stocks and bonds.
§ 20.2031–3 Valuation of interests in businesses.
§ 20.2031–4 Valuation of notes.
§ 20.2031–5 Valuation of cash on hand or on deposit.
§ 20.2031–6 Valuation of household and personal effects.
§ 20.2031–7 Valuation of annuities, interests for life or term of years, and remainder or reversionary interests.
§ 20.2031–7T Valuation of annuities, interests for life or term of years, and remainder or reversionary interests (temporary).
§ 20.2031–8 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.
§ 20.2031–9 Valuation of other property.

Actuarial Tables Applicable Before May 1, 1999

§ 20.2031–7A Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before May 1, 1999.

Par. 16. The undesignated centerheading immediately following § 20.2046–1 is revised to read as follows:

Actuarial Tables Applicable Before May 1, 1999

Par. 17. Section 20.2031–7A is amended by:

1. Revising the section heading.
2. Adding paragraph (e).

The revision and addition read as follows:

§ 20.2031–7A Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before May 1, 1999.

* * * * *

(e) *Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is after April 30,1989, and before May 1, 1999*—(1) *In general.* Except as otherwise provided in § 20.2031–7(b) and § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date for the gross estate of the decedent is after April 30, 1989, and before May 1, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversionary interests is the present value of the interests determined by use of standard or special section 7520 actuarial factors and the valuation methodology described in § 20.2031–7T(d). These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 20.7520–1 through 20.7520–4. See paragraph (e)(4) of this section for determination of the appropriate table for use in valuing these interests.

(2) *Transitional rule.* (i) If the valuation date is after April 30, 1989, and before June 10, 1994, a taxpayer can rely on Notice 89–24 (1989–1 C.B. 660), or Notice 89–60 (1989–1 C.B. 700). See § 601.601(d)(2)(ii)(*b*) of this chapter.

(ii) If a decedent dies after April 30, 1989, and if on May 1, 1989, the decedent was mentally incompetent so that the disposition of the decedent's property could not be changed, and the decedent dies without having regained competency to dispose of the decedent's property or dies within 90 days of the date on which the decedent first regains competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the gross estate of the decedent is their present value determined either under this section or under the corresponding section applicable at the time the decedent became mentally incompetent, at the option of the decedent's executor. For example, see paragraph (d) of this section.

(3) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in paragraph (e)(4) of this section or in § 20.2031–7(d)(6) are included in Internal Revenue Service Publication 1457, "Actuarial Values, Alpha Volume," (8–89). Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. Publication 1457 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. However, pertinent factors in this publication may be obtained from: CC:DOM:CORP:R (IRS Publication 1457), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. If a special factor is required in the case of an actual decedent, the Internal Revenue Service may furnish the factor to the executor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent's death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A

request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(4) *Actuarial tables.* Except as provided in § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), Life Table 80CNSMT and Table S (Single life remainder factors applicable where the valuation date is after April 30, 1989, and before May 1, 1999), contained in this paragraph (b)(4), and Table B, Table J, and Table K set forth in § 20.2031–7(d)(6) must be used in the application of the provisions of this section when the section 7520 interest rate component is between 4.2 and 14 percent. Table S and Table 80CNSMT are as follows:

Par. 17a. Section 20.2031–7A is further amended by redesignating Table S and Table 80CNSMT in § 20.2031–7(d)(6) as Table S and Table 80CNSMT in § 20.2031–7A(e)(4) and revising the table headings to read as follows:

* * * * *

(e) * * *

(4) * * *

TABLE S.—BASED ON LIFE ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS

[Applicable After April 30, 1989, and Before May 1, 1999]

* * * * *

TABLE 80CNSMT.—APPLICABLE AFTER APRIL 30, 1989, AND BEFORE MAY 1, 1999

* * * * *

Par. 18. Section 20.2031–7 is amended by:

1. Revising the section heading.
2. Revising paragraphs (c) through (d)(5).
3. Revising paragraph (d)(6) heading and introductory text.
4. Revising paragraph (e).

The revisions read as follows:

§ 20.2031–7 Valuation of annuities, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) through (d)(5) [Reserved]. For further guidance, see § 20.2031–7T(c) through (d)(5).

(d)(6) *Actuarial Table B, Table J, and Table K where the valuation date is after April 30, 1989.* Except as provided in § 20.7520–3(b) (pertaining to certain limitations on prescribed tables), the tables in this paragraph (d)(6) and either Table S and Table 80CNSMT in § 20.2031–7A(e)(4) (for valuation dates after April 30, 1989, and before May 1, 1999), or Table S and Table 90CM in § 20.2031–7T(d)(7) (for valuation dates after May 1, 1999) must be used in the application of the provisions of this section when the section 7520 interest rate component is between 4.2 and 14 percent.

* * * * *

(e) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 19. Section 20.2031–7T is added to read as follows:

§ 20.2031–7T Valuation of annuities, interests for life or term of years, and remainder or reversionary interests (temporary).

(a) through (b) [Reserved]. For further information see § 20.2031–7(a) through (b).

(c) *Actuarial valuations.* The present value of annuities, life estates, terms of years, remainders, and reversions for estates of decedents for which the valuation date of the gross estate is after April 30, 1999, is determined under paragraph (d) of this section. The present value of annuities, life estates, terms of years, remainders, and reversions for estates of decedents for which the valuation date of the gross estate is before May 1, 1999, is determined under the following sections:

Valuation date	Applicable	
	After	Before section
	01–01–52	20.2031–7A(a).
12–31–51 ...	01–01–71	20.2031–7A(b).
12–31–70 ...	12–01–83	20.2031–7A(c).
11–30–83 ...	05–01–89	20.2031–7A(d).
04–30–89 ...	05–01–99	20.2031–7A(e).

(d) *Actuarial valuations after April 30, 1999*—(1) *In general.* Except as otherwise provided in paragraph (b) of this section and § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date for the gross estate of the decedent is after April 30, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversionary interests is the present value determined by use of standard or special section 7520 actuarial factors. These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 20.7520–1 through 20.7520–4.

(2) *Specific interests*—(i) *Charitable remainder trusts.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5 of this chapter, is its value determined under § 1.642(c)–6T(e) of this chapter. The fair market value of a remainder interest in a charitable remainder annuity trust, as defined in § 1.664–2(a) of this chapter, is the present value determined under § 1.664–2(c) of this chapter. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3 of this chapter, is its present value determined under § 1.664–4T(e) of this chapter. The fair market value of a life interest or term of years in a charitable remainder unitrust is the fair market value of the property as of the date of valuation less the fair market value of the remainder interest on that date determined under § 1.664–4T(e)(4) and (5) of this chapter.

(ii) *Ordinary remainder and reversionary interests.* If the interest to be valued is to take effect after a definite number of years or after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder interest actuarial factor (that corresponds to the applicable section 7520 interest rate and remainder interest period) in Table B (for a term certain) or the appropriate Table S (for one measuring life), as the case may be. Table B is contained in § 20.2031–7(d)(6) and Table S (for one measuring life when the valuation date is after April 30, 1999) is contained in paragraph (d)(7) of this section and in Internal Revenue Service Publication 1457. For information about obtaining actuarial factors for other types of remainder interests, see paragraph (d)(4) of this section.

(iii) *Ordinary term-of-years and life interests.* If the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable section 7520 interest rate and term-of-years or life interest period). Internal Revenue Service Publication 1457 includes actuarial factors for an interest for a term of years in Table B and for the life of one individual in Table S (for one measuring life when the valuation date is after April 30, 1999). However, term-of-years and life interest actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in paragraph (d)(7) of this section. If Internal Revenue Service Publication

1457 (or any other reliable source of term-of-years and life interest actuarial factors) is not conveniently available, an actuarial factor for the interest may be derived mathematically. This actuarial factor may be derived by subtracting the correlative remainder factor (that corresponds to the applicable section 7520 interest rate and the term of years or the life) in Table B (for a term of years) in § 20.2031–7(d)(6) or in Table S (for the life of one individual) in paragraph (d)(7) of this section, as the case may be, from 1.000000. For information about obtaining actuarial factors for other types of term-of-years and life interests, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount payable annually by the appropriate annuity actuarial factor (that corresponds to the applicable section 7520 interest rate and annuity period). Internal Revenue Publication 1457 includes actuarial factors in Table B (for an annuity payable for a term of years) and in Table S (for an annuity payable for the life of one individual when the valuation date is after April 30, 1999). However, annuity actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in paragraph (d)(7) of this section. If Internal Revenue Service Publication 1457 (or any other reliable source of annuity actuarial factors) is not conveniently available, a required annuity factor for a term of years or for one life may be mathematically derived. This annuity factor may be derived by subtracting the applicable remainder factor (that corresponds to the applicable section 7520 interest rate and annuity period) in Table B (in the case of a term-of-years annuity) in § 20.2031–7(d)(6) or in Table S (in the case of a one-life annuity when the valuation date is after April 30, 1999) in paragraph (d)(7) of this section, as the case may be, from 1.000000 and then dividing the result by the applicable section 7520 interest rate expressed as a decimal number.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor as contained in Table K in § 20.2031–7(d)(6) for payments made at the end of the specified periods. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the following example:

Example. At the time of the decedent's death, the survivor/annuitant, age 72, is entitled to receive an annuity of $15,000 a year for life payable in equal monthly installments at the end of each period. The section 7520 rate for the month in which the decedent died is 9.6 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 9.6 percent for an individual aged 72 is .38438. By converting the remainder factor to an annuity factor, as described above, the annuity factor at 9.6 percent for an individual aged 72 is 6.4127 (1.00000 minus .38438, divided by .096). Under Table K in § 20.2031–7(d)(6), the adjustment factor under the column for payments made at the end of each monthly period at the rate of 9.6 percent is 1.0433. The aggregate annual amount, $15,000, is multiplied by the factor 6.4127 and the product multiplied by 1.0433. The present value of the annuity at the date of the decedent's death is, therefore, $100,355.55 ($15,000 x 6.4127 x 1.0433).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained is then multiplied by the adjustment factor in Table J in § 20.2031–7(d)(6) at the appropriate interest rate component for payments made at the beginning of specified periods. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in this paragraph (d)(2)(iv).

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual.* See § 25.2512–5T(d)(2)(v) of this chapter for examples explaining how to compute the present value of an annuity or unitrust interest that is payable until the earlier of the lapse of a specific number of years or the death of an individual.

(3) *Transitional rule.* (i) If a decedent dies after April 30, 1999, and if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the decedent's property could not be changed, and the decedent dies without having regained competency to dispose of the decedent's property or dies within 90 days of the date on which the decedent first regains competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the gross estate of the decedent is their present value determined either under this section or under the corresponding section applicable at the time the decedent became mentally incompetent, at the option of the decedent's executor. For example, see § 20.2031–7A(e)(2).

(ii) If a decedent dies after April 30, 1999, and before July 1, 1999, the fair market value of annuities, life estates, remainders, and reversions based on one or more measuring lives included in the gross estate of the decedent is their present value determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (See §§ 20.7520–1(b) and 20.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (d)(7) of this section or § 20.2031–7A(e)(4), at the option of the decedent's executor.

(iii) For purposes of paragraphs (d)(3)(i) and (ii) of this section, where the decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (d)(7) of this section or § 20.2031–7A(e)(4), the decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (e.g., gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(4) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in § 20.2031–7(d)(6) or in paragraph (d)(7) of this section are included in Internal Revenue Service Publication 1457, "Actuarial Values, Book Aleph," (1999). Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. If a special factor is required in the case of an actual decedent, the Internal Revenue Service may furnish the factor to the executor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent's death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal

Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(5) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. Remainder payable at an individual's death. The decedent, or the decedent's estate, was entitled to receive certain property worth $50,000 upon the death of A, to whom the income was bequeathed for life. At the time of the decedent's death, A was 47 years 5 months old. In the month in which the decedent died, the section 7520 rate was 9.8 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 9.8 percent for determining the present value of the remainder interest due at the death of a person aged 47, the number of years nearest A's actual age at the decedent's death, is .10317. The present value of the remainder interest at the date of the decedent's death is, therefore, $5,158.50 ($50,000 × .10317).

Example 2. Income payable for an individual's life. A's parent bequeathed an income interest in property to A for life, with the remainder interest passing to B at A's death. At the time of the parent's death, the value of the property was $50,000 and A was 30 years 10 months old. The section 7520 rate at the time of the parent's death was 10.2 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 10.2 percent for determining the present value of the remainder interest due at the death of a person aged 31, the number of years closest to A's age at the decedent's death, is .03583. Converting this remainder factor to an income factor, as described in paragraph (d)(2)(iii) of this section, the factor for determining the present value of an income interest for the life of a person aged 31 is .96417. The present value of A's interest at the time of the parent's death is, therefore, $48,208.50 ($50,000 × .96417).

Example 3. Annuity payable for an individual's life. A purchased an annuity for the benefit of both A and B. Under the terms of the annuity contract, at A's death, a survivor annuity of $10,000 a year payable in equal semiannual installments made at the end of each interval is payable to B for life. At A's death, B was 45 years 7 months old. Also, at A's death, the section 7520 rate was 9.6 percent. Under Table S in paragraph (d)(7) of this section, the factor at 9.6 percent for determining the present value of the remainder interest at the death of a person age 46 (the number of years nearest B's actual age) is .10013. By converting the factor to an annuity factor, as described in paragraph (d)(2)(iv)(A) of this section, the factor for the present value of an annuity payable until the death of a person age 46 is 9.3736 (1.00000 minus .10013, divided by .096). The adjustment factor from Table K in § 20.2031–7(d)(6) at an interest rate of 9.6 percent for semiannual annuity payments made at the end of the period is 1.0235. The present value of the annuity at the date of A's death is, therefore, $95,938.80 ($10,000 × 9.3736 × 1.0235).

Example 4. Annuity payable for a term of years. The decedent, or the decedent's estate, was entitled to receive an annuity of $10,000 a year payable in equal quarterly installments at the end of each quarter throughout a term certain. At the time of the decedent's death, the section 7520 rate was 9.8 percent. A quarterly payment had just been made prior to the decedent's death and payments were to continue for 5 more years. Under Table B in § 20.2031–7(d)(6) for the interest rate of 9.8 percent, the factor for the present value of a remainder interest due after a term of 5 years is .626597. Converting the factor to an annuity factor, as described in paragraph (d)(2)(iv)(A) of this section, the factor for the present value of an annuity for a term of 5 years is 3.8102. The adjustment factor from Table K in § 20.2031–7(d)(6) at an interest rate of 9.8 percent for quarterly annuity payments made at the end of the period is 1.0360. The present value of the annuity is, therefore, $39,473.67 ($10,000 × 3.8102 × 1.0360).

(6) [Reserved]. For further guidance, see § 20.2031–7(d)(6).

(7) *Actuarial Table S and Table 90CM where the valuation date is after April 30, 1999.* Except as provided in § 20.7520–2(b) (pertaining to certain limitations on the use of prescribed tables), the following Table 90CM and Table S (single life remainder factors applicable where the valuation date is after April 30, 1999) and Table B, Table J, and Table K contained in § 20.2031–7(d)(6), must be used in the application of the provisions of this section when the section 7520 interest rate component is between 4.2 and 14 percent.

TABLE S.—SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1999 BASED ON LIFE TABLE 90CM

[Interest rate]

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06752	.06130	.05586	.05109	.04691	.04322	.03998	.03711	.03458	.03233
1	.06137	.05495	.04932	.04438	.04003	.03620	.03283	.02985	.02721	.02487
2	.06325	.05667	.05088	.04580	.04132	.03737	.03388	.03079	.02806	.02563
3	.06545	.05869	.05275	.04752	.04291	.03883	.03523	.03203	.02920	.02668
4	.06784	.06092	.05482	.04944	.04469	.04048	.03676	.03346	.03052	.02791
5	.07040	.06331	.05705	.05152	.04662	.04229	.03845	.03503	.03199	.02928
6	.07310	.06583	.05941	.05372	.04869	.04422	.04025	.03672	.03357	.03076
7	.07594	.06849	.06191	.05607	.05089	.04628	.04219	.03854	.03528	.03236
8	.07891	.07129	.06453	.05853	.05321	.04846	.04424	.04046	.03709	.03407
9	.08203	.07423	.06731	.06115	.05567	.05079	.04643	.04253	.03904	.03592
10	.08532	.07734	.07024	.06392	.05829	.05326	.04877	.04474	.04114	.03790
11	.08875	.08059	.07331	.06683	.06104	.05587	.05124	.04709	.04336	.04002
12	.09233	.08398	.07653	.06989	.06394	.05862	.05385	.04957	.04572	.04226
13	.09601	.08748	.07985	.07304	.06693	.06146	.05655	.05214	.04816	.04458
14	.09974	.09102	.08322	.07624	.06997	.06435	.05929	.05474	.05064	.04694
15	.10350	.09460	.08661	.07946	.07303	.06725	.06204	.05735	.05312	.04930
16	.10728	.09818	.09001	.08268	.07608	.07014	.06479	.05996	.05559	.05164
17	.11108	.10179	.09344	.08592	.07916	.07306	.06755	.06257	.05807	.05399
18	.11494	.10545	.09691	.08921	.08227	.07601	.07034	.06521	.06057	.05636
19	.11889	.10921	.10047	.09259	.08548	.07904	.07322	.06794	.06315	.05880
20	.12298	.11310	.10417	.09610	.08881	.08220	.07622	.07078	.06584	.06135
21	.12722	.11713	.10801	.09976	.09228	.08550	.07935	.07375	.06866	.06403
22	.13159	.12130	.11199	.10354	.09588	.08893	.08260	.07685	.07160	.06682
23	.13613	.12563	.11612	.10748	.09964	.09250	.08601	.08009	.07468	.06975
24	.14084	.13014	.12043	.11160	.10357	.09625	.08958	.08349	.07793	.07284
25	.14574	.13484	.12493	.11591	.10768	.10018	.09334	.08708	.08135	.07611
26	.15084	.13974	.12963	.12041	.11199	.10431	.09728	.09085	.08496	.07956
27	.15615	.14485	.13454	.12513	.11652	.10865	.10144	.09484	.08878	.08322
28	.16166	.15016	.13965	.13004	.12124	.11319	.10580	.09901	.09279	.08706
29	.16737	.15567	.14497	.13516	.12617	.11792	.11035	.10339	.09699	.09109

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
30	.17328	.16138	.15048	.14047	.13129	.12286	.11510	.10796	.10138	.09532
31	.17938	.16728	.15618	.14599	.13661	.12799	.12004	.11272	.10597	.09974
32	.18568	.17339	.16210	.15171	.14214	.13333	.12520	.11769	.11076	.10435
33	.19220	.17972	.16824	.15766	.14790	.13889	.13058	.12289	.11578	.10920
34	.19894	.18627	.17460	.16383	.15388	.14468	.13618	.12831	.12102	.11426
35	.20592	.19307	.18121	.17025	.16011	.15073	.14204	.13399	.12652	.11958
36	.21312	.20010	.18805	.17691	.16658	.15701	.14814	.13990	.13225	.12514
37	.22057	.20737	.19514	.18382	.17331	.16356	.15450	.14608	.13825	.13096
38	.22827	.21490	.20251	.19100	.18031	.17038	.16113	.15253	.14452	.13705
39	.23623	.22270	.21013	.19845	.18759	.17747	.16805	.15927	.15108	.14344
40	.24446	.23078	.21805	.20620	.19516	.18487	.17527	.16631	.15795	.15013
41	.25298	.23915	.22626	.21425	.20305	.19259	.18282	.17368	.16514	.15715
42	.26178	.24782	.23478	.22262	.21125	.20062	.19069	.18138	.17267	.16450
43	.27087	.25678	.24360	.23129	.21977	.20898	.19888	.18941	.18053	.17220
44	.28025	.26603	.25273	.24027	.22860	.21766	.20740	.19777	.18873	.18023
45	.28987	.27555	.26212	.24953	.23772	.22664	.21622	.20644	.19724	.18858
46	.29976	.28533	.27179	.25908	.24714	.23591	.22536	.21542	.20606	.19725
47	.30987	.29535	.28171	.26889	.25682	.24546	.23476	.22468	.21518	.20621
48	.32023	.30563	.29190	.27897	.26678	.25530	.24447	.23425	.22460	.21549
49	.33082	.31615	.30234	.28931	.27702	.26543	.25447	.24412	.23434	.22509
50	.34166	.32694	.31306	.29995	.28756	.27586	.26479	.25432	.24441	.23502
51	.35274	.33798	.32404	.31085	.29838	.28658	.27541	.26482	.25479	.24528
52	.36402	.34924	.33525	.32200	.30946	.29757	.28630	.27561	.26547	.25584
53	.37550	.36070	.34668	.33339	.32078	.30882	.29746	.28667	.27643	.26669
54	.38717	.37237	.35833	.34500	.33234	.32031	.30888	.29801	.28766	.27782
55	.39903	.38424	.37019	.35683	.34413	.33205	.32056	.30961	.29918	.28925
56	.41108	.39631	.38227	.36890	.35617	.34405	.33250	.32149	.31099	.30097
57	.42330	.40857	.39455	.38118	.36844	.35629	.34469	.33363	.32306	.31297
58	.43566	.42098	.40699	.39364	.38089	.36873	.35710	.34600	.33538	.32522
59	.44811	.43351	.41956	.40623	.39350	.38133	.36968	.35855	.34789	.33768
60	.46066	.44613	.43224	.41896	.40624	.39408	.38243	.37127	.36058	.35033
61	.47330	.45887	.44505	.43182	.41914	.40699	.39535	.38418	.37347	.36318
62	.48608	.47175	.45802	.44485	.43223	.42011	.40848	.39732	.38660	.37629
63	.49898	.48478	.47115	.45807	.44550	.43343	.42184	.41069	.39997	.38966
64	.51200	.49793	.48442	.47143	.45895	.44694	.43539	.42427	.41357	.40326
65	.52512	.51121	.49782	.48495	.47255	.46062	.44912	.43805	.42738	.41709
66	.53835	.52461	.51137	.49862	.48634	.47449	.46307	.45206	.44143	.43118
67	.55174	.53818	.52511	.51250	.50034	.48860	.47727	.46633	.45576	.44556
68	.56524	.55188	.53899	.52654	.51452	.50291	.49168	.48083	.47034	.46020
69	.57882	.56568	.55299	.54071	.52885	.51737	.50627	.49552	.48513	.47506
70	.59242	.57951	.56703	.55495	.54325	.53193	.52096	.51034	.50004	.49007
71	.60598	.59332	.58106	.56918	.55767	.54651	.53569	.52520	.51503	.50516
72	.61948	.60707	.59504	.58338	.57206	.56108	.55043	.54009	.53004	.52029
73	.63287	.62073	.60895	.59751	.58640	.57561	.56513	.55495	.54505	.53543
74	.64621	.63435	.62282	.61162	.60073	.59015	.57985	.56984	.56009	.55061
75	.65953	.64796	.63671	.62575	.61510	.60473	.59463	.58480	.57523	.56591
76	.67287	.66160	.65063	.63995	.62954	.61940	.60952	.59989	.59050	.58135
77	.68622	.67526	.66459	.65419	.64404	.63415	.62450	.61509	.60590	.59694
78	.69954	.68892	.67856	.66845	.65858	.64895	.63955	.63036	.62140	.61264
79	.71278	.70250	.69246	.68265	.67308	.66372	.65457	.64563	.63690	.62836
80	.72581	.71588	.70618	.69668	.68740	.67833	.66945	.66077	.65227	.64396
81	.73857	.72899	.71962	.71045	.70147	.69268	.68408	.67566	.66741	.65933
82	.75101	.74178	.73274	.72389	.71522	.70672	.69840	.69024	.68225	.67441
83	.76311	.75423	.74553	.73700	.72864	.72044	.71240	.70451	.69678	.68919
84	.77497	.76645	.75809	.74988	.74183	.73393	.72618	.71857	.71110	.70377
85	.78665	.77848	.77047	.76260	.75487	.74728	.73982	.73250	.72530	.71823
86	.79805	.79025	.78258	.77504	.76764	.76036	.75320	.74617	.73925	.73245
87	.80904	.80159	.79427	.78706	.77998	.77301	.76615	.75940	.75277	.74624
88	.81962	.81251	.80552	.79865	.79188	.78521	.77865	.77220	.76584	.75958
89	.82978	.82302	.81636	.80980	.80335	.79699	.79072	.78455	.77847	.77248
90	.83952	.83309	.82676	.82052	.81437	.80831	.80234	.79645	.79064	.78492
91	.84870	.84260	.83658	.83064	.82479	.81902	.81332	.80771	.80217	.79671
92	.85716	.85136	.84563	.83998	.83441	.82891	.82348	.81812	.81283	.80761
93	.86494	.85942	.85396	.84858	.84326	.83801	.83283	.82771	.82266	.81767
94	.87216	.86690	.86170	.85657	.85149	.84648	.84153	.83664	.83181	.82704
95	.87898	.87397	.86902	.86412	.85928	.85450	.84977	.84510	.84049	.83592
96	.88537	.88060	.87587	.87121	.86659	.86203	.85751	.85305	.84864	.84427
97	.89127	.88672	.88221	.87775	.87335	.86898	.86467	.86040	.85618	.85200
98	.89680	.89245	.88815	.88389	.87968	.87551	.87138	.86730	.86326	.85926
99	.90217	.89803	.89393	.88987	.88585	.88187	.87793	.87402	.87016	.86633
100	.90738	.90344	.89953	.89567	.89183	.88804	.88428	.88056	.87687	.87322
101	.91250	.90876	.90504	.90137	.89772	.89412	.89054	.88699	.88348	.88000
102	.91751	.91396	.91045	.90696	.90350	.90007	.89668	.89331	.88997	.88666
103	.92247	.91912	.91579	.91249	.90922	.90598	.90276	.89957	.89640	.89326

	Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
104		.92775	.92460	.92148	.91839	.91532	.91227	.90924	.90624	.90326	.90031
105		.93290	.92996	.92704	.92415	.92127	.91841	.91558	.91276	.90997	.90719
106		.93948	.93680	.93415	.93151	.92889	.92628	.92370	.92113	.91857	.91604
107		.94739	.94504	.94271	.94039	.93808	.93579	.93351	.93124	.92899	.92675
108		.95950	.95767	.95585	.95404	.95224	.95045	.94867	.94689	.94512	.94336
109		.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

	Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0		.03034	.02857	.02700	.02559	.02433	.02321	.02220	.02129	.02047	.01973
1		.02279	.02094	.01929	.01782	.01650	.01533	.01427	.01331	.01246	.01168
2		.02347	.02155	.01983	.01829	.01692	.01569	.01458	.01358	.01268	.01187
3		.02444	.02243	.02065	.01905	.01761	.01632	.01516	.01412	.01317	.01232
4		.02558	.02349	.02163	.01996	.01846	.01712	.01590	.01481	.01382	.01292
5		.02686	.02469	.02275	.02101	.01945	.01804	.01677	.01562	.01458	.01364
6		.02825	.02600	.02398	.02217	.02053	.01906	.01773	.01653	.01544	.01445
7		.02976	.02742	.02532	.02343	.02172	.02019	.01880	.01754	.01640	.01536
8		.03137	.02894	.02675	.02479	.02301	.02140	.01995	.01864	.01744	.01635
9		.03311	.03059	.02832	.02627	.02442	.02274	.02122	.01985	.01859	.01745
10		.03499	.03237	.03001	.02788	.02595	.02420	.02262	.02118	.01987	.01867
11		.03700	.03428	.03183	.02961	.02760	.02578	.02413	.02262	.02125	.02000
12		.03913	.03632	.03377	.03146	.02937	.02748	.02575	.02418	.02275	.02144
13		.04135	.03843	.03579	.03339	.03122	.02924	.02744	.02580	.02431	.02294
14		.04359	.04057	.03783	.03534	.03308	.03102	.02915	.02744	.02587	.02444
15		.04584	.04270	.03986	.03728	.03493	.03279	.03083	.02905	.02742	.02593
16		.04806	.04482	.04187	.03919	.03674	.03452	.03248	.03063	.02892	.02736
17		.05029	.04692	.04387	.04108	.03855	.03623	.03411	.03218	.03040	.02877
18		.05253	.04905	.04588	.04299	.04036	.03795	.03574	.03373	.03187	.03017
19		.05484	.05124	.04796	.04496	.04222	.03972	.03742	.03532	.03339	.03161
20		.05726	.05354	.05013	.04702	.04418	.04158	.03919	.03700	.03498	.03313
21		.05980	.05595	.05242	.04920	.04625	.04354	.04105	.03877	.03667	.03473
22		.06246	.05847	.05482	.05147	.04841	.04559	.04301	.04063	.03844	.03642
23		.06524	.06112	.05734	.05387	.05069	.04777	.04508	.04260	.04032	.03821
24		.06819	.06392	.06001	.05642	.05312	.05008	.04728	.04470	.04232	.04012
25		.07131	.06690	.06285	.05913	.05570	.05255	.04964	.04695	.04447	.04218
26		.07460	.07005	.06586	.06200	.05845	.05518	.05215	.04936	.04677	.04438
27		.07810	.07340	.06907	.06508	.06140	.05800	.05485	.05195	.04925	.04676
28		.08179	.07693	.07246	.06833	.06451	.06098	.05772	.05469	.05189	.04929
29		.08566	.08065	.07603	.07176	.06780	.06414	.06075	.05761	.05469	.05198
30		.08973	.08456	.07978	.07536	.07127	.06748	.06396	.06069	.05766	.05483
31		.09398	.08865	.08372	.07915	.07491	.07098	.06733	.06394	.06078	.05785
32		.09843	.09294	.08785	.08313	.07875	.07468	.07089	.06737	.06409	.06103
33		.10310	.09745	.09220	.08732	.08279	.07858	.07466	.07100	.06759	.06441
34		.10799	.10217	.09676	.09173	.08705	.08269	.07862	.07483	.07129	.06798
35		.11314	.10715	.10157	.09638	.09155	.08704	.08283	.07890	.07522	.07179
36		.11852	.11236	.10662	.10127	.09628	.09162	.08726	.08319	.07938	.07581
37		.12416	.11783	.11193	.10641	.10126	.09645	.09194	.08772	.08377	.08006
38		.13009	.12359	.11751	.11183	.10652	.10155	.09689	.09253	.08843	.08459
39		.13629	.12962	.12338	.11753	.11206	.10693	.10212	.09761	.09337	.08938
40		.14281	.13597	.12955	.12355	.11791	.11262	.10766	.10299	.09860	.09447
41		.14966	.14264	.13606	.12989	.12409	.11864	.11352	.10870	.10417	.09989
42		.15685	.14966	.14291	.13657	.13061	.12500	.11972	.11475	.11006	.10564
43		.16437	.15702	.15010	.14360	.13747	.13171	.12627	.12115	.11631	.11174
44		.17224	.16472	.15764	.15098	.14469	.13876	.13317	.12789	.12290	.11819
45		.18042	.17274	.16550	.15867	.15223	.14615	.14040	.13496	.12982	.12496
46		.18893	.18110	.17370	.16671	.16011	.15387	.14796	.14238	.13708	.13207
47		.19775	.18975	.18220	.17505	.16830	.16190	.15584	.15010	.14466	.13950
48		.20688	.19873	.19102	.18373	.17682	.17027	.16406	.15817	.15258	.14727
49		.21633	.20804	.20018	.19274	.18568	.17898	.17262	.16658	.16084	.15539
50		.22612	.21769	.20969	.20210	.19490	.18805	.18155	.17536	.16948	.16388
51		.23625	.22769	.21955	.21182	.20448	.19749	.19084	.18452	.17849	.17275
52		.24669	.23799	.22973	.22186	.21438	.20726	.20047	.19400	.18784	.18196
53		.25742	.24861	.24022	.23222	.22461	.21735	.21043	.20383	.19753	.19151
54		.26845	.25952	.25101	.24290	.23516	.22777	.22072	.21399	.20756	.20140
55		.27978	.27074	.26212	.25389	.24604	.23853	.23136	.22450	.21793	.21166
56		.29140	.28227	.27355	.26522	.25725	.24963	.24233	.23535	.22867	.22227
57		.30333	.29411	.28529	.27686	.26879	.26106	.25365	.24656	.23976	.23324
58		.31551	.30621	.29731	.28878	.28061	.27278	.26528	.25807	.25116	.24453
59		.32790	.31854	.30956	.30095	.29269	.28477	.27716	.26986	.26284	.25610
60		.34050	.33107	.32202	.31334	.30500	.29699	.28929	.28190	.27478	.26794
61		.35331	.34384	.33473	.32598	.31757	.30948	.30170	.29422	.28701	.28007
62		.36639	.35688	.34772	.33892	.33044	.32229	.31443	.30687	.29958	.29255
63		.37974	.37020	.36101	.35216	.34363	.33542	.32750	.31986	.31250	.30539
64		.39334	.38378	.37456	.36568	.35711	.34884	.34087	.33317	.32574	.31857

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
65	.40718	.39761	.38836	.37947	.37087	.36257	.35455	.34681	.33932	.33208
66	.42128	.41172	.40249	.39357	.38496	.37663	.36858	.36079	.35326	.34597
67	.43569	.42616	.41694	.40803	.39941	.39107	.38299	.37518	.36761	.36028
68	.45038	.44089	.43170	.42281	.41419	.40585	.39777	.38994	.38235	.37499
69	.46531	.45587	.44672	.43786	.42927	.42094	.41286	.40503	.39743	.39006
70	.48040	.47103	.46194	.45312	.44456	.43626	.42820	.42038	.41278	.40540
71	.49558	.48629	.47727	.46851	.46000	.45174	.44371	.43591	.42832	.42095
72	.51082	.50162	.49268	.48399	.47554	.46733	.45934	.45157	.44401	.43666
73	.52607	.51697	.50816	.49952	.49114	.48299	.47506	.46733	.45981	.45249
74	.54139	.53241	.52367	.51515	.50686	.49879	.49092	.48325	.47578	.46849
75	.55683	.54798	.53936	.53095	.52276	.51477	.50698	.49938	.49197	.48474
76	.57243	.56373	.55524	.54696	.53888	.53100	.52330	.51579	.50846	.50130
77	.58819	.57965	.57132	.56318	.55523	.54747	.53988	.53247	.52523	.51815
78	.60408	.59572	.58755	.57957	.57177	.56414	.55668	.54939	.54225	.53527
79	.62001	.61184	.60385	.59604	.58840	.58092	.57360	.56644	.55943	.55256
80	.63582	.62786	.62007	.61244	.60497	.59765	.59048	.58347	.57659	.56985
81	.65142	.64367	.63608	.62864	.62135	.61421	.60721	.60034	.59361	.58701
82	.66673	.65920	.65182	.64458	.63748	.63052	.62368	.61698	.61041	.60395
83	.68175	.67444	.66728	.66024	.65334	.64656	.63991	.63338	.62696	.62066
84	.69657	.68950	.68256	.67574	.66904	.66246	.65599	.64964	.64340	.63727
85	.71128	.70446	.69775	.69116	.68467	.67830	.67204	.66587	.65982	.65386
86	.72576	.71919	.71272	.70636	.70010	.69394	.68789	.68193	.67606	.67029
87	.73981	.73349	.72726	.72114	.71511	.70917	.70333	.69757	.69190	.68632
88	.75342	.74735	.74137	.73548	.72968	.72396	.71833	.71279	.70732	.70194
89	.76658	.76076	.75503	.74938	.74381	.73832	.73290	.72757	.72231	.71712
90	.77928	.77371	.76823	.76281	.75748	.75221	.74702	.74190	.73684	.73186
91	.79131	.78600	.78075	.77557	.77046	.76542	.76044	.75553	.75068	.74589
92	.80246	.79737	.79235	.78740	.78250	.77767	.77290	.76818	.76353	.75893
93	.81274	.80788	.80307	.79832	.79363	.78899	.78441	.77989	.77542	.77100
94	.82232	.81766	.81306	.80850	.80401	.79956	.79517	.79082	.78653	.78228
95	.83141	.82695	.82254	.81818	.81387	.80961	.80539	.80122	.79710	.79302
96	.83996	.83569	.83147	.82729	.82316	.81907	.81503	.81103	.80707	.80315
97	.84787	.84378	.83973	.83573	.83176	.82784	.82396	.82012	.81632	.81255
98	.85530	.85138	.84750	.84366	.83985	.83609	.83236	.82867	.82502	.82140
99	.86255	.85880	.85508	.85140	.84776	.84415	.84057	.83703	.83353	.83005
100	.86960	.86601	.86246	.85894	.85546	.85200	.84858	.84519	.84183	.83849
101	.87655	.87313	.86974	.86638	.86305	.85975	.85648	.85324	.85003	.84684
102	.88338	.88012	.87689	.87369	.87052	.86738	.86426	.86116	.85809	.85505
103	.89015	.88706	.88399	.88095	.87793	.87494	.87197	.86903	.86611	.86321
104	.89737	.89446	.89157	.88871	.88586	.88304	.88024	.87745	.87469	.87195
105	.90443	.90170	.89898	.89628	.89360	.89094	.88830	.88568	.88307	.88049
106	.91351	.91101	.90852	.90605	.90359	.90115	.89873	.89632	.89392	.89154
107	.92452	.92230	.92010	.91791	.91573	.91356	.91141	.90927	.90714	.90502
108	.94161	.93987	.93814	.93641	.93469	.93298	.93128	.92958	.92790	.92622
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01906	.01845	.01790	.01740	.01694	.01652	.01613	.01578	.01546	.01516
1	.01098	.01034	.00977	.00924	.00876	.00833	.00793	.00756	.00722	.00691
2	.01113	.01046	.00986	.00930	.00880	.00834	.00791	.00753	.00717	.00684
3	.01155	.01084	.01020	.00962	.00909	.00860	.00816	.00775	.00737	.00702
4	.01211	.01137	.01069	.01008	.00952	.00900	.00853	.00810	.00770	.00733
5	.01279	.01201	.01130	.01065	.01006	.00952	.00902	.00856	.00814	.00775
6	.01356	.01274	.01199	.01131	.01068	.01011	.00959	.00910	.00865	.00824
7	.01442	.01356	.01277	.01205	.01140	.01079	.01023	.00972	.00925	.00881
8	.01536	.01446	.01363	.01287	.01218	.01154	.01096	.01041	.00991	.00945
9	.01641	.01546	.01460	.01380	.01307	.01240	.01178	.01120	.01068	.01019
10	.01758	.01659	.01567	.01484	.01407	.01336	.01270	.01210	.01154	.01103
11	.01886	.01781	.01686	.01598	.01517	.01442	.01373	.01310	.01251	.01196
12	.02024	.01915	.01814	.01721	.01636	.01558	.01485	.01419	.01357	.01299
13	.02168	.02054	.01948	.01851	.01762	.01679	.01603	.01533	.01467	.01407
14	.02313	.02193	.02083	.01981	.01887	.01801	.01721	.01646	.01578	.01514
15	.02456	.02330	.02214	.02107	.02009	.01918	.01834	.01756	.01684	.01617
16	.02593	.02462	.02340	.02229	.02126	.02030	.01942	.01860	.01785	.01714
17	.02728	.02590	.02463	.02346	.02238	.02138	.02046	.01960	.01880	.01806
18	.02861	.02717	.02584	.02462	.02348	.02243	.02146	.02056	.01972	.01894
19	.02998	.02847	.02708	.02580	.02461	.02351	.02249	.02154	.02066	.01984
20	.03142	.02984	.02839	.02704	.02580	.02465	.02357	.02258	.02165	.02079
21	.03295	.03130	.02978	.02837	.02706	.02585	.02473	.02368	.02271	.02180
22	.03455	.03283	.03124	.02976	.02839	.02712	.02594	.02484	.02382	.02286
23	.03626	.03446	.03279	.03124	.02981	.02847	.02723	.02608	.02500	.02400
24	.03809	.03620	.03446	.03283	.03133	.02993	.02863	.02741	.02628	.02522
25	.04005	.03808	.03625	.03456	.03298	.03151	.03014	.02887	.02768	.02656

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
26	.04216	.04010	.03819	.03641	.03476	.03322	.03178	.03044	.02919	.02802
27	.04444	.04229	.04029	.03843	.03670	.03508	.03357	.03217	.03085	.02962
28	.04687	.04463	.04254	.04059	.03877	.03708	.03550	.03402	.03263	.03133
29	.04946	.04712	.04493	.04289	.04099	.03922	.03756	.03600	.03455	.03318
30	.05221	.04976	.04748	.04534	.04335	.04149	.03975	.03812	.03659	.03515
31	.05511	.05255	.05017	.04794	.04585	.04390	.04208	.04037	.03876	.03725
32	.05818	.05551	.05302	.05069	.04851	.04647	.04455	.04276	.04107	.03948
33	.06144	.05866	.05606	.05363	.05135	.04921	.04720	.04532	.04355	.04188
34	.06489	.06200	.05928	.05674	.05436	.05212	.05002	.04805	.04619	.04444
35	.06857	.06555	.06273	.06007	.05758	.05524	.05304	.05097	.04902	.04718
36	.07246	.06932	.06638	.06361	.06101	.05856	.05626	.05409	.05205	.05012
37	.07659	.07332	.07025	.06737	.06466	.06210	.05969	.05742	.05528	.05325
38	.08098	.07758	.07439	.07138	.06855	.06588	.06336	.06099	.05874	.05662
39	.08563	.08210	.07878	.07565	.07270	.06992	.06729	.06480	.06245	.06023
40	.09059	.08692	.08347	.08021	.07714	.07423	.07149	.06889	.06643	.06411
41	.09586	.09206	.08848	.08509	.08189	.07886	.07600	.07329	.07072	.06828
42	.10147	.09753	.09381	.09029	.08696	.08381	.08083	.07800	.07531	.07277
43	.10742	.10334	.09948	.09583	.09237	.08909	.08598	.08304	.08024	.07758
44	.11373	.10950	.10551	.10172	.09813	.09472	.09148	.08841	.08549	.08272
45	.12035	.11599	.11185	.10792	.10420	.10066	.09730	.09410	.09106	.08817
46	.12732	.12281	.11853	.11447	.11061	.10694	.10345	.10013	.09696	.09395
47	.13460	.12995	.12553	.12133	.11733	.11353	.10991	.10646	.10317	.10004
48	.14223	.13743	.13287	.12853	.12439	.12046	.11671	.11313	.10972	.10646
49	.15020	.14526	.14056	.13608	.13181	.12774	.12385	.12015	.11661	.11322
50	.15855	.15347	.14862	.14401	.13960	.13540	.13138	.12754	.12388	.12037
51	.16727	.16205	.15707	.15232	.14777	.14344	.13929	.13532	.13153	.12789
52	.17634	.17098	.16587	.16097	.15630	.15183	.14755	.14345	.13953	.13577
53	.18576	.18027	.17501	.16999	.16518	.16057	.15616	.15194	.14789	.14400
54	.19552	.18990	.18451	.17935	.17441	.16968	.16514	.16078	.15661	.15260
55	.20564	.19989	.19437	.18908	.18402	.17915	.17449	.17001	.16571	.16157
56	.21613	.21025	.20461	.19919	.19400	.18901	.18422	.17962	.17519	.17093
57	.22698	.22098	.21522	.20968	.20436	.19925	.19434	.18961	.18507	.18069
58	.23816	.23204	.22616	.22051	.21507	.20984	.20481	.19996	.19530	.19080
59	.24962	.24339	.23740	.23163	.22608	.22073	.21558	.21062	.20584	.20123
60	.26136	.25502	.24892	.24304	.23738	.23192	.22666	.22158	.21669	.21196
61	.27339	.26695	.26075	.25477	.24900	.24343	.23806	.23288	.22787	.22304
62	.28578	.27925	.27295	.26687	.26100	.25533	.24985	.24456	.23945	.23451
63	.29854	.29192	.28553	.27935	.27339	.26762	.26205	.25666	.25145	.24641
64	.31164	.30494	.29846	.29221	.28615	.28030	.27463	.26915	.26384	.25870
65	.32508	.31831	.31177	.30543	.29930	.29336	.28761	.28203	.27663	.27140
66	.33891	.33208	.32547	.31906	.31285	.30684	.30101	.29536	.28987	.28456
67	.35318	.34630	.33963	.33316	.32689	.32081	.31491	.30918	.30363	.29823
68	.36785	.36093	.35422	.34770	.34138	.33524	.32928	.32349	.31787	.31240
69	.38290	.37595	.36920	.36265	.35628	.35009	.34408	.33824	.33256	.32703
70	.39823	.39127	.38450	.37791	.37151	.36529	.35924	.35335	.34762	.34204
71	.41378	.40681	.40003	.39343	.38701	.38076	.37467	.36875	.36298	.35736
72	.42950	.42253	.41575	.40914	.40271	.39644	.39034	.38438	.37858	.37293
73	.44535	.43840	.43162	.42502	.41858	.41231	.40619	.40022	.39440	.38872
74	.46139	.45446	.44771	.44112	.43469	.42842	.42230	.41632	.41049	.40479
75	.47769	.47080	.46408	.45752	.45111	.44485	.43874	.43277	.42693	.42123
76	.49430	.48747	.48079	.47427	.46790	.46167	.45558	.44963	.44380	.43811
77	.51123	.50447	.49786	.49139	.48506	.47888	.47282	.46690	.46111	.45543
78	.52845	.52177	.51523	.50884	.50257	.49645	.49044	.48457	.47881	.47317
79	.54584	.53926	.53282	.52650	.52032	.51426	.50833	.50251	.49681	.49122
80	.56325	.55678	.55044	.54423	.53813	.53216	.52630	.52056	.51492	.50939
81	.58054	.57419	.56797	.56186	.55587	.54999	.54422	.53856	.53300	.52754
82	.59762	.59140	.58530	.57931	.57343	.56766	.56198	.55641	.55094	.54557
83	.61448	.60840	.60243	.59657	.59081	.58515	.57958	.57411	.56874	.56346
84	.63124	.62531	.61949	.61376	.60813	.60259	.59715	.59179	.58652	.58134
85	.64800	.64224	.63657	.63099	.62550	.62010	.61478	.60955	.60441	.59934
86	.66461	.65902	.65351	.64810	.64276	.63751	.63233	.62724	.62222	.61728
87	.68083	.67541	.67008	.66483	.65965	.65455	.64953	.64458	.63970	.63489
88	.69663	.69140	.68624	.68116	.67615	.67121	.66634	.66154	.65680	.65213
89	.71201	.70696	.70199	.69708	.69224	.68747	.68276	.67811	.67353	.66900
90	.72694	.72209	.71730	.71257	.70791	.70330	.69876	.69427	.68984	.68547
91	.74117	.73650	.73190	.72735	.72286	.71842	.71404	.70972	.70545	.70123
92	.75439	.74991	.74548	.74110	.73678	.73251	.72829	.72412	.72000	.71593
93	.76664	.76233	.75806	.75385	.74969	.74557	.74150	.73748	.73350	.72957
94	.77809	.77394	.76983	.76578	.76177	.75780	.75388	.75000	.74616	.74237
95	.78899	.78500	.78106	.77715	.77329	.76947	.76569	.76195	.75826	.75460
96	.79928	.79544	.79165	.78790	.78418	.78050	.77686	.77326	.76970	.76617
97	.80883	.80514	.80149	.79787	.79430	.79075	.78725	.78377	.78033	.77693
98	.81781	.81427	.81075	.80727	.80382	.80041	.79703	.79368	.79036	.78708
99	.82661	.82320	.81982	.81648	.81316	.80988	.80662	.80340	.80020	.79704

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
100	.83519	.83192	.82868	.82547	.82228	.81913	.81600	.81290	.80982	.80678
101	.84368	.84055	.83744	.83437	.83131	.82829	.82529	.82231	.81936	.81643
102	.85203	.84904	.84607	.84313	.84021	.83731	.83444	.83159	.82876	.82596
103	.86034	.85748	.85465	.85184	.84906	.84629	.84355	.84082	.83812	.83544
104	.86923	.86653	.86385	.86119	.85855	.85593	.85333	.85074	.84818	.84563
105	.87792	.87537	.87283	.87032	.86782	.86534	.86287	.86042	.85799	.85557
106	.88918	.88683	.88450	.88218	.87987	.87758	.87530	.87304	.87079	.86855
107	.90291	.90082	.89873	.89666	.89460	.89255	.89051	.88849	.88647	.88447
108	.92455	.92288	.92123	.91958	.91794	.91630	.91468	.91306	.91145	.90984
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01488	.01463	.01439	.01417	.01396	.01377	.01359	.01343	.01327	.01312
1	.00662	.00636	.00612	.00589	.00568	.00548	.00530	.00513	.00497	.00482
2	.00654	.00626	.00600	.00576	.00554	.00533	.00514	.00496	.00479	.00463
3	.00670	.00641	.00613	.00588	.00564	.00542	.00522	.00502	.00484	.00468
4	.00699	.00668	.00639	.00612	.00587	.00563	.00542	.00521	.00502	.00484
5	.00739	.00706	.00675	.00646	.00620	.00595	.00571	.00550	.00529	.00510
6	.00786	.00751	.00718	.00687	.00659	.00633	.00608	.00585	.00563	.00543
7	.00841	.00803	.00769	.00736	.00706	.00678	.00652	.00627	.00604	.00582
8	.00902	.00863	.00826	.00791	.00759	.00730	.00702	.00675	.00651	.00628
9	.00973	.00931	.00892	.00856	.00822	.00790	.00760	.00733	.00706	.00682
10	.01055	.01010	.00969	.00930	.00894	.00861	.00829	.00799	.00772	.00746
11	.01146	.01099	.01055	.01014	.00976	.00940	.00907	.00875	.00846	.00818
12	.01246	.01196	.01150	.01106	.01066	.01028	.00993	.00960	.00928	.00899
13	.01351	.01298	.01249	.01204	.01161	.01121	.01084	.01049	.01016	.00985
14	.01455	.01400	.01348	.01300	.01255	.01213	.01173	.01136	.01102	.01069
15	.01555	.01497	.01443	.01392	.01345	.01300	.01259	.01220	.01183	.01148
16	.01648	.01587	.01530	.01477	.01427	.01380	.01336	.01295	.01257	.01220
17	.01737	.01673	.01612	.01556	.01504	.01455	.01408	.01365	.01324	.01286
18	.01822	.01754	.01691	.01632	.01576	.01525	.01476	.01430	.01387	.01347
19	.01908	.01837	.01770	.01708	.01650	.01595	.01544	.01495	.01450	.01407
20	.01999	.01924	.01854	.01788	.01726	.01669	.01615	.01564	.01516	.01471
21	.02096	.02017	.01943	.01874	.01809	.01748	.01691	.01637	.01586	.01539
22	.02197	.02114	.02036	.01963	.01895	.01830	.01770	.01713	.01660	.01610
23	.02306	.02218	.02136	.02059	.01987	.01919	.01855	.01795	.01739	.01686
24	.02424	.02331	.02245	.02163	.02087	.02016	.01948	.01885	.01825	.01769
25	.02552	.02455	.02364	.02278	.02197	.02122	.02051	.01984	.01920	.01861
26	.02692	.02589	.02493	.02403	.02318	.02238	.02162	.02091	.02025	.01961
27	.02846	.02738	.02636	.02541	.02451	.02367	.02287	.02212	.02141	.02074
28	.03012	.02898	.02791	.02690	.02595	.02506	.02422	.02342	.02267	.02196
29	.03190	.03070	.02957	.02851	.02751	.02656	.02567	.02483	.02404	.02329
30	.03381	.03254	.03135	.03023	.02917	.02817	.02723	.02634	.02551	.02471
31	.03583	.03450	.03324	.03206	.03094	.02989	.02890	.02796	.02707	.02623
32	.03799	.03659	.03527	.03402	.03284	.03173	.03068	.02968	.02874	.02785
33	.04031	.03883	.03744	.03612	.03488	.03371	.03260	.03155	.03055	.02961
34	.04279	.04123	.03976	.03838	.03707	.03583	.03465	.03354	.03249	.03149
35	.04545	.04382	.04227	.04081	.03943	.03812	.03688	.03571	.03459	.03354
36	.04830	.04658	.04495	.04341	.04196	.04058	.03927	.03803	.03685	.03573
37	.05134	.04953	.04782	.04620	.04467	.04321	.04183	.04052	.03928	.03809
38	.05462	.05272	.05092	.04921	.04760	.04606	.04461	.04322	.04191	.04066
39	.05812	.05613	.05424	.05245	.05075	.04913	.04760	.04614	.04475	.04343
40	.06190	.05981	.05782	.05594	.05415	.05245	.05083	.04929	.04783	.04643
41	.06597	.06378	.06170	.05972	.05784	.05605	.05435	.05272	.05118	.04970
42	.07035	.06806	.06587	.06380	.06182	.05994	.05815	.05644	.05481	.05326
43	.07505	.07265	.07036	.06818	.06611	.06414	.06225	.06045	.05874	.05710
44	.08008	.07757	.07518	.07290	.07072	.06865	.06667	.06478	.06298	.06125
45	.08542	.08279	.08029	.07791	.07563	.07346	.07138	.06940	.06750	.06569
46	.09108	.08834	.08573	.08324	.08085	.07858	.07640	.07432	.07233	.07043
47	.09705	.09419	.09147	.08886	.08637	.08399	.08172	.07954	.07745	.07545
48	.10335	.10038	.09754	.09482	.09222	.08973	.08735	.08507	.08288	.08078
49	.10999	.10690	.10394	.10111	.09840	.09581	.09332	.09093	.08864	.08644
50	.11701	.11380	.11073	.10778	.10496	.10225	.09965	.09716	.09477	.09247
51	.12441	.12108	.11789	.11482	.11189	.10907	.10636	.10376	.10126	.09886
52	.13217	.12871	.12540	.12222	.11916	.11623	.11341	.11071	.10810	.10560
53	.14028	.13670	.13327	.12997	.12680	.12375	.12082	.11801	.11529	.11268
54	.14875	.14505	.14150	.13808	.13480	.13163	.12859	.12566	.12284	.12012
55	.15760	.15378	.15011	.14657	.14317	.13989	.13674	.13370	.13077	.12794
56	.16684	.16290	.15911	.15546	.15194	.14855	.14528	.14213	.13909	.13615
57	.17648	.17242	.16851	.16474	.16111	.15760	.15422	.15096	.14781	.14477
58	.18647	.18229	.17827	.17438	.17064	.16702	.16353	.16015	.15689	.15374
59	.19678	.19249	.18835	.18435	.18049	.17676	.17316	.16968	.16631	.16305
60	.20740	.20300	.19875	.19464	.19066	.18682	.18311	.17952	.17604	.17268

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
61	.21837	.21385	.20949	.20527	.20119	.19724	.19341	.18971	.18613	.18266
62	.22973	.22511	.22064	.21631	.21212	.20807	.20414	.20033	.19664	.19306
63	.24152	.23680	.23222	.22779	.22350	.21934	.21530	.21139	.20760	.20392
64	.25372	.24890	.24422	.23969	.23529	.23103	.22690	.22289	.21899	.21521
65	.26633	.26141	.25664	.25201	.24752	.24316	.23893	.23482	.23083	.22695
66	.27940	.27439	.26953	.26481	.26023	.25577	.25145	.24724	.24316	.23918
67	.29299	.28790	.28296	.27815	.27348	.26894	.26453	.26024	.25606	.25200
68	.30709	.30193	.29691	.29202	.28728	.28265	.27816	.27378	.26952	.26537
69	.32166	.31643	.31134	.30639	.30157	.29687	.29230	.28785	.28351	.27928
70	.33661	.33133	.32618	.32116	.31628	.31152	.30688	.30235	.29794	.29364
71	.35188	.34654	.34134	.33627	.33133	.32651	.32181	.31722	.31275	.30838
72	.36742	.36204	.35679	.35168	.34668	.34181	.33706	.33241	.32788	.32345
73	.38317	.37776	.37248	.36733	.36229	.35738	.35257	.34788	.34330	.33882
74	.39923	.39380	.38849	.38330	.37823	.37328	.36844	.36370	.35908	.35455
75	.41566	.41021	.40489	.39968	.39459	.38961	.38474	.37997	.37531	.37074
76	.43254	.42709	.42176	.41655	.41144	.40645	.40156	.39677	.39208	.38749
77	.44988	.44444	.43912	.43391	.42880	.42380	.41891	.41411	.40940	.40479
78	.46765	.46224	.45694	.45174	.44665	.44166	.43677	.43197	.42726	.42265
79	.48574	.48037	.47510	.46993	.46487	.45990	.45502	.45024	.44554	.44094
80	.50397	.49865	.49343	.48830	.48327	.47834	.47349	.46873	.46406	.45947
81	.52219	.51693	.51176	.50669	.50171	.49682	.49201	.48729	.48265	.47809
82	.54029	.53510	.53000	.52499	.52007	.51523	.51047	.50580	.50120	.49667
83	.55826	.55315	.54813	.54319	.53834	.53356	.52886	.52424	.51969	.51522
84	.57624	.57123	.56629	.56144	.55666	.55195	.54732	.54277	.53828	.53386
85	.59435	.58944	.58460	.57984	.57516	.57054	.56599	.56151	.55710	.55275
86	.61241	.60762	.60289	.59824	.59365	.58913	.58468	.58029	.57596	.57170
87	.63015	.62548	.62087	.61633	.61185	.60744	.60309	.59880	.59456	.59039
88	.64753	.64299	.63851	.63409	.62973	.62543	.62118	.61700	.61287	.60879
89	.66454	.66013	.65579	.65150	.64726	.64308	.63895	.63488	.63086	.62689
90	.68115	.67689	.67268	.66853	.66442	.66037	.65637	.65241	.64851	.64465
91	.69706	.69294	.68887	.68486	.68089	.67696	.67309	.66925	.66547	.66173
92	.71190	.70792	.70399	.70011	.69627	.69247	.68872	.68501	.68134	.67771
93	.72569	.72184	.71804	.71429	.71057	.70689	.70326	.69967	.69611	.69259
94	.73861	.73490	.73123	.72759	.72400	.72044	.71692	.71344	.71000	.70659
95	.75097	.74739	.74384	.74033	.73686	.73342	.73002	.72665	.72331	.72001
96	.76267	.75922	.75579	.75240	.74905	.74572	.74243	.73917	.73595	.73275
97	.77356	.77022	.76691	.76363	.76039	.75718	.75399	.75084	.74772	.74463
98	.78382	.78059	.77740	.77423	.77110	.76799	.76491	.76186	.75884	.75584
99	.79390	.79079	.78771	.78465	.78162	.77862	.77565	.77270	.76978	.76688
100	.80376	.80076	.79779	.79485	.79193	.78904	.78617	.78333	.78051	.77771
101	.81353	.81066	.80780	.80497	.80217	.79938	.79662	.79388	.79117	.78847
102	.82318	.82042	.81768	.81496	.81227	.80960	.80694	.80431	.80170	.79911
103	.83278	.83014	.82752	.82491	.82233	.81977	.81723	.81470	.81220	.80971
104	.84310	.84059	.83810	.83563	.83317	.83073	.82831	.82591	.82352	.82115
105	.85318	.85079	.84843	.84607	.84374	.84142	.83911	.83682	.83455	.83229
106	.86633	.86413	.86193	.85975	.85758	.85543	.85329	.85116	.84904	.84694
107	.88247	.88049	.87852	.87656	.87460	.87266	.87073	.86881	.86690	.86500
108	.90825	.90666	.90507	.90350	.90193	.90037	.89881	.89727	.89572	.89419
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.01298	.01285	.01273	.01261	.01250	.01240	.01230	.01221	.01212	.01203
1	.00468	.00455	.00443	.00431	.00420	.00410	.00400	.00391	.00382	.00374
2	.00448	.00435	.00421	.00409	.00398	.00387	.00376	.00366	.00357	.00348
3	.00452	.00437	.00423	.00410	.00398	.00386	.00375	.00365	.00355	.00345
4	.00468	.00452	.00437	.00423	.00410	.00397	.00386	.00375	.00364	.00354
5	.00493	.00476	.00460	.00445	.00431	.00418	.00405	.00393	.00382	.00371
6	.00524	.00506	.00489	.00473	.00458	.00444	.00430	.00418	.00406	.00394
7	.00562	.00543	.00525	.00508	.00492	.00477	.00462	.00449	.00436	.00423
8	.00606	.00586	.00566	.00548	.00531	.00515	.00499	.00485	.00471	.00458
9	.00659	.00637	.00616	.00597	.00579	.00561	.00545	.00529	.00514	.00500
10	.00721	.00698	.00676	.00655	.00636	.00617	.00600	.00583	.00567	.00552
11	.00792	.00767	.00744	.00722	.00701	.00682	.00663	.00645	.00628	.00612
12	.00871	.00845	.00821	.00797	.00775	.00754	.00735	.00716	.00698	.00681
13	.00955	.00928	.00902	.00877	.00854	.00831	.00810	.00790	.00771	.00753
14	.01038	.01009	.00981	.00955	.00930	.00907	.00885	.00864	.00843	.00824
15	.01116	.01085	.01056	.01028	.01002	.00977	.00954	.00932	.00910	.00890
16	.01186	.01153	.01123	.01094	.01066	.01040	.01015	.00992	.00969	.00948
17	.01250	.01215	.01183	.01152	.01124	.01096	.01070	.01045	.01022	.00999
18	.01308	.01272	.01238	.01206	.01175	.01147	.01119	.01093	.01068	.01044
19	.01367	.01329	.01293	.01259	.01227	.01196	.01167	.01140	.01113	.01088
20	.01428	.01388	.01350	.01314	.01280	.01248	.01217	.01188	.01161	.01134
21	.01494	.01451	.01411	.01373	.01337	.01303	.01271	.01240	.01211	.01183

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
22	.01562	.01517	.01475	.01435	.01397	.01361	.01326	.01294	.01263	.01233
23	.01635	.01588	.01543	.01501	.01460	.01422	.01386	.01351	.01319	.01287
24	.01716	.01665	.01618	.01573	.01530	.01489	.01451	.01415	.01380	.01347
25	.01804	.01751	.01701	.01653	.01608	.01565	.01524	.01485	.01448	.01413
26	.01902	.01845	.01792	.01741	.01693	.01648	.01604	.01563	.01524	.01487
27	.02011	.01951	.01895	.01841	.01790	.01742	.01696	.01652	.01610	.01571
28	.02129	.02066	.02006	.01949	.01895	.01844	.01795	.01748	.01704	.01662
29	.02258	.02191	.02127	.02067	.02009	.01955	.01903	.01853	.01806	.01762
30	.02396	.02325	.02257	.02193	.02132	.02074	.02019	.01966	.01916	.01869
31	.02543	.02467	.02396	.02328	.02263	.02201	.02143	.02087	.02034	.01983
32	.02701	.02621	.02545	.02472	.02404	.02338	.02276	.02217	.02160	.02106
33	.02871	.02786	.02706	.02629	.02556	.02487	.02420	.02357	.02297	.02240
34	.03054	.02964	.02879	.02797	.02720	.02646	.02576	.02509	.02445	.02383
35	.03253	.03158	.03067	.02981	.02898	.02820	.02745	.02674	.02606	.02541
36	.03467	.03366	.03269	.03178	.03090	.03007	.02928	.02852	.02779	.02710
37	.03697	.03590	.03488	.03391	.03298	.03209	.03125	.03044	.02967	.02893
38	.03947	.03833	.03725	.03622	.03524	.03430	.03340	.03254	.03172	.03094
39	.04217	.04096	.03982	.03873	.03768	.03669	.03573	.03482	.03395	.03312
40	.04510	.04383	.04262	.04146	.04035	.03930	.03828	.03732	.03639	.03550
41	.04830	.04695	.04567	.04445	.04327	.04215	.04108	.04005	.03907	.03812
42	.05177	.05035	.04900	.04770	.04646	.04527	.04413	.04304	.04200	.04100
43	.05553	.05404	.05261	.05123	.04992	.04866	.04746	.04630	.04520	.04413
44	.05960	.05802	.05651	.05506	.05368	.05235	.05107	.04985	.04867	.04754
45	.06395	.06229	.06069	.05917	.05770	.05630	.05495	.05365	.05241	.05121
46	.06860	.06685	.06517	.06356	.06202	.06053	.05911	.05774	.05643	.05516
47	.07353	.07169	.06992	.06823	.06660	.06504	.06353	.06209	.06070	.05936
48	.07877	.07684	.07498	.07320	.07149	.06984	.06826	.06673	.06527	.06385
49	.08433	.08231	.08036	.07849	.07669	.07495	.07329	.07168	.07013	.06864
50	.09026	.08814	.08609	.08413	.08224	.08042	.07867	.07698	.07535	.07378
51	.09655	.09433	.09219	.09013	.08815	.08624	.08440	.08262	.08091	.07926
52	.10318	.10086	.09863	.09647	.09439	.09239	.09046	.08860	.08680	.08506
53	.11017	.10774	.10541	.10315	.10098	.09888	.09686	.09491	.09302	.09120
54	.11750	.11498	.11254	.11019	.10792	.10572	.10361	.10156	.09958	.09767
55	.12522	.12258	.12005	.11759	.11522	.11294	.11072	.10859	.10652	.10451
56	.13332	.13059	.12794	.12539	.12292	.12054	.11823	.11599	.11383	.11174
57	.14183	.13899	.13624	.13359	.13102	.12853	.12613	.12380	.12154	.11936
58	.15070	.14775	.14490	.14215	.13948	.13689	.13439	.13197	.12962	.12734
59	.15990	.15685	.15389	.15103	.14826	.14558	.14298	.14046	.13801	.13564
60	.16942	.16626	.16321	.16024	.15737	.15459	.15189	.14927	.14673	.14426
61	.17929	.17603	.17287	.16981	.16684	.16395	.16115	.15844	.15580	.15324
62	.18960	.18623	.18297	.17980	.17673	.17375	.17085	.16803	.16530	.16264
63	.20035	.19688	.19352	.19025	.18708	.18400	.18100	.17809	.17525	.17250
64	.21154	.20797	.20451	.20114	.19787	.19469	.19159	.18859	.18566	.18281
65	.22318	.21951	.21595	.21249	.20912	.20584	.20265	.19955	.19652	.19358
66	.23532	.23156	.22790	.22434	.22088	.21751	.21422	.21102	.20791	.20487
67	.24804	.24419	.24044	.23679	.23324	.22977	.22640	.22311	.21990	.21678
68	.26133	.25740	.25356	.24983	.24618	.24263	.23917	.23579	.23250	.22929
69	.27516	.27114	.26723	.26341	.25969	.25605	.25251	.24905	.24567	.24237
70	.28945	.28536	.28137	.27747	.27367	.26996	.26633	.26279	.25934	.25596
71	.30412	.29996	.29590	.29193	.28806	.28427	.28057	.27696	.27343	.26998
72	.31913	.31491	.31078	.30675	.30281	.29895	.29519	.29150	.28790	.28438
73	.33444	.33016	.32597	.32188	.31788	.31396	.31013	.30638	.30271	.29913
74	.35012	.34579	.34155	.33741	.33335	.32938	.32549	.32168	.31795	.31430
75	.36628	.36190	.35762	.35343	.34932	.34530	.34136	.33750	.33372	.33001
76	.38299	.37858	.37427	.37004	.36589	.36183	.35784	.35394	.35011	.34636
77	.40028	.39585	.39151	.38725	.38307	.37898	.37496	.37103	.36716	.36337
78	.41812	.41368	.40933	.40506	.40086	.39675	.39271	.38874	.38485	.38103
79	.43641	.43198	.42762	.42334	.41914	.41502	.41096	.40698	.40308	.39924
80	.45496	.45054	.44619	.44192	.43772	.43360	.42954	.42556	.42164	.41779
81	.47360	.46920	.46487	.46061	.45643	.45231	.44827	.44429	.44038	.43653
82	.49223	.48785	.48355	.47932	.47516	.47106	.46703	.46307	.45916	.45532
83	.51081	.50648	.50221	.49802	.49388	.48982	.48581	.48187	.47799	.47416
84	.52951	.52523	.52101	.51686	.51277	.50874	.50477	.50086	.49701	.49321
85	.54847	.54425	.54009	.53600	.53196	.52798	.52406	.52019	.51638	.51262
86	.56749	.56335	.55926	.55523	.55126	.54734	.54348	.53966	.53591	.53220
87	.58627	.58221	.57820	.57425	.57035	.56650	.56270	.55895	.55526	.55161
88	.60477	.60079	.59688	.59301	.58919	.58542	.58170	.57802	.57439	.57081
89	.62297	.61909	.61527	.61149	.60776	.60408	.60044	.59685	.59330	.58979
90	.64084	.63707	.63335	.62968	.62604	.62246	.61891	.61540	.61194	.60851
91	.65803	.65437	.65076	.64719	.64366	.64017	.63672	.63330	.62993	.62659
92	.67412	.67058	.66707	.66360	.66017	.65676	.65342	.65010	.64682	.64357
93	.68911	.68567	.68227	.67890	.67557	.67227	.66901	.66578	.66258	.65942
94	.70321	.69988	.69657	.69330	.69006	.68686	.68369	.68055	.67744	.67437
95	.71674	.71351	.71031	.70713	.70399	.70088	.69781	.69476	.69174	.68875

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
96	.72959	.72646	.72335	.72028	.71724	.71422	.71123	.70828	.70534	.70244
97	.74156	.73853	.73552	.73254	.72959	.72666	.72376	.72089	.71804	.71522
98	.75287	.74993	.74702	.74413	.74126	.73842	.73561	.73282	.73006	.72732
99	.76401	.76117	.75834	.75555	.75277	.75002	.74730	.74459	.74191	.73926
100	.77494	.77219	.76946	.76676	.76408	.76142	.75878	.75616	.75357	.75099
101	.78580	.78315	.78052	.77791	.77532	.77275	.77021	.76768	.76517	.76268
102	.79654	.79399	.79146	.78894	.78645	.78397	.78152	.77908	.77666	.77426
103	.80724	.80479	.80236	.79994	.79755	.79517	.79280	.79046	.78813	.78582
104	.81879	.81646	.81413	.81183	.80954	.80726	.80501	.80276	.80054	.79832
105	.83005	.82782	.82560	.82340	.82121	.81904	.81688	.81474	.81260	.81049
106	.84485	.84277	.84071	.83866	.83662	.83459	.83257	.83057	.82857	.82659
107	.86311	.86124	.85937	.85751	.85566	.85382	.85199	.85017	.84835	.84655
108	.89266	.89114	.88963	.88812	.88662	.88513	.88364	.88216	.88068	.87922
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

TABLE 90 CM.—LIFE TABLE APPLICABLE AFTER APRIL 30, 1999

Age x (1)	1(x) (2)	Age x (1)	1(x) (2)	Age x (1)	1(x) (2)
0	100000	37	95969	74	62852
1	99064	38	95780	75	60449
2	98992	39	95581	76	57955
3	98944	40	95373	77	55373
4	98907	41	95156	78	52704
5	98877	42	94928	79	49943
6	98850	43	94687	80	47084
7	98826	44	94431	81	44129
8	98803	45	94154	82	41091
9	98783	46	93855	83	37994
10	98766	47	93528	84	34876
11	98750	48	93173	85	31770
12	98734	49	92787	86	28687
13	98713	50	92370	87	25638
14	98681	51	91918	88	22658
15	98635	52	91424	89	19783
16	98573	53	90885	90	17046
17	98497	54	90297	91	14466
18	98409	55	89658	92	12066
19	98314	56	88965	93	9884
20	98215	57	88214	94	7951
21	98113	58	87397	95	6282
22	98006	59	86506	96	4868
23	97896	60	85537	97	3694
24	97784	61	84490	98	2745
25	97671	62	83368	99	1999
26	97556	63	82169	100	1424
27	97441	64	80887	101	991
28	97322	65	79519	102	672
29	97199	66	78066	103	443
30	97070	67	76531	104	284
31	96934	68	74907	105	175
32	96791	69	73186	106	105
33	96642	70	71357	107	60
34	96485	71	69411	108	33
35	96322	72	67344	109	17
36	96150	73	65154	110	0

(e) *Effective dates.* This section applies after April 30, 1999.

Par. 20 Section 20.2055–2 is amended by revising paragraph (f)(4) to read as follows:

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(f) * * *

(4) *Other decedents.* The present value of an interest not described in paragraph (f)(2) of this section is to be determined under § 20.2031–7T(d) in the case of decedents where the valuation date of the gross estate is after April 30, 1999, or under § 20.2031–7A in the case of decedents where the valuation date of the gross estate is before May 1, 1999.

* * * * *

Par. 21. Section 20.7520–1 is amended as follows:

1. Paragraph (b)(2), last two sentences are revised.

2. Headings for paragraphs (c)(1) and (c)(2) are revised.

3. Paragraph (c)(2) introductory text is revised.

4. Paragraph (c)(2)(iii) is amended by removing the first two sentences and adding one sentence in their place.

5. Paragraph (d) is revised.

The revised and added provisions read as follows:

§ 20.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) * * * For decedents' estates with valuation dates after April 30, 1989, and before May 1, 1999, the mortality component table (Table 80CNSMT) is included in § 20.2031–7A(e)(4). See § 20.2031–7A(a) through (d) for mortality component tables applicable to decedents' estates with valuation dates before May 1, 1989.

(c) * * *

(1) *Regulations sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1989, and before May 1, 1999.* * * *

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2. and 26 percent for valuation dates after April 30, 1989, and before May 1, 1999.* The following publications are no longer available from the Superintendent of Documents, however, they may be obtained from: CC:DOM:CORP:R, room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044:

* * * * *

(iii) Internal Revenue Service Publication 1459, "Actuarial Values, Gamma Volume," (8–89). * * *

(d) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 22. Section 20.7520–1T is added to read as follows:

§ 20.7520–1T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).

(a)(1) [Reserved]. For further guidance, see § 20.7520–1(a)1.

(2) In the case of a transfer to a pooled income fund with a valuation date after April 30, 1999, see § 1.642(c)–6T(e) (or, for certain prior periods, § 1.642(c)–6A) of this chapter (Income Tax Regulations) with respect to the valuation of the remainder interest.

(a)(3) through (b)(1) [Reserved]. For further guidance, see § 20.7520–1(a)(3) through (b)(1).

(b)(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States Census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the mortality component tables will be published in the regulations at that time. For decedents' estates with valuation dates after April 30, 1999, the mortality component table (Table 90CM) is included in § 20.2031–7T(d)(7). See § 20.2031–7A for mortality component tables applicable to decedent's estates with valuation dates before May 1, 1999.

(c) [Reserved]. For further guidance, see § 20.7520–1(c).

(1) *Regulation sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1999.* Section 1.642(c)–6T(e)(6) of this chapter contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5 of this chapter. See § 1.642(c)–6A of this chapter for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 1.664–4(e)(6) of this chapter contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section 1.664–4T(e)(7) of this chapter contains Table U(1) (actuarial factors for one life). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3 of this chapter. See § 1.664–4A of this chapter for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 20.2031–7(d)(6) contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), and Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7T(d)(7) contains Table S (actuarial factors for one life) and Table 90CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A for actuarial factors for one life and mortality components applicable to valuation dates before May 1, 1999.

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 26 percent for valuation dates after April 30, 1999.* The following documents are available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402:

(i) Internal Revenue Service Publication 1457, "Actuarial Values, Book Aleph," (1999). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 of this chapter (Income Tax Regulations) and a pooled income fund as defined in § 1.642(c)–5 of this chapter.

(ii) Internal Revenue Service Publication 1458, "Actuarial Values, Book Beth," (1999). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3 of this chapter.

(iii) Internal Revenue Service Publication 1459, "Actuarial Values, Book Gimel," (1999). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12T of this chapter.

(d) *Effective date.* This section applies after April 30, 1999.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 23. The authority citation for part 25 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 25.2512–5T also issued under 26 U.S.C. 7520(c)(2). * * *

Section 25.7520–1T also issued under 26 U.S.C. 7520(c)(2). * * *

Par. 24. Section 25.2512–0 is revised to read as follows:

§ 25.2512–0 Table of contents.

This section lists the section headings that appear in the regulations under section 2512.

§ 25.2512–1 Valuation of property; in general.
§ 25.2512–2 Stocks and bonds.
§ 25.2512–3 Valuation of interest in businesses.
§ 25.2512–4 Valuation of notes.
§ 25.2512–5 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.
§ 25.2512–5T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).
§ 25.2512–6 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.

§ 25.2512–7 Effect of excise tax.
§ 25.2512–8 Transfers for insufficient consideration.

Actuarial Tables Applicable Before May 1, 1999

§ 25.2512–5A Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred before May 1, 1999.

Par. 25. Section 25.2512–5 is amended as follows:

1. The section heading is revised.
2. Paragraphs (c) and (d) are revised.
3. Paragraph (e) is revised.

The revised provisions read as follows:

§ 25.2512–5 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) and (d) [Reserved]. For further guidance, see § 25.2512–5T(c) and (d).

(e) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 26. Section 25.2512–5T is added to read as follows:

§ 25.2512–5T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).

(a) and (b) [Reserved]. For further guidance, see § 25.2512–5(a) and (b).

(c) *Actuarial valuations.* The present value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift after April 30, 1999, is determined under paragraph (d) of this section. The present value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift before May 1, 1999, is determined under the following sections:

Transfers		Applicable regulations
After	Before	
	01–01–52	25.2512–5A(a).
12–31–51 ...	01–01–71	25.2512–5A(b).
12–31–70 ...	12–01–83	25.2512–5A(c).
11–30–83 ...	05–01–89	25.2512–5A(d).
04–30–89 ...	05–01–99	25.2512–5A(e).

(d) *Actuarial valuations after April 30, 1999*—(1) *In general.* Except as otherwise provided in paragraph (b) of this section and § 25.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances), if the valuation date for the gift is after April 30, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversions transferred after April 30, 1999, is the present value of such interests determined under paragraph (d)(2) of this section and by use of standard or special section 7520 actuarial factors. These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 25.7520–1 through 25.7520–4. The fair market value of a qualified annuity interest described in section 2702(b)(1) and a qualified unitrust interest described in section 2702(b)(2) is the present value of such interests determined under § 25.7520–1(c).

(2) *Specific interests.* When the donor transfers property in trust or otherwise and retains an interest therein, generally, the value of the gift is the value of the property transferred less the value of the donor's retained interest. However, if the donor transfers property after October 8, 1990, to or for the benefit of a member of the donor's family, the value of the gift is the value of the property transferred less the value of the donor's retained interest as determined under section 2702. If the donor assigns or relinquishes an annuity, life estate, remainder, or reversion that the donor holds by virtue of a transfer previously made by the donor or another, the value of the gift is the value of the interest transferred. However, see section 2519 for a special rule in the case of the assignment of an income interest by a person who received the interest from a spouse.

(i) *Charitable remainder trusts.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5 of this chapter, is its value determined under § 1.642(c)–6T(e) of this chapter (see § 1.642(c)–6A for certain prior periods). The fair market value of a remainder interest in a charitable remainder annuity trust, as described in § 1.664–2(a) of this chapter, is its present value determined under § 1.664–2(c) of this chapter. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3 of this chapter, is its present value determined under § 1.664–4T(e) of this chapter. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of transfer less the fair market value of the remainder interest, determined under § 1.664–4T(e)(4) and (5) of this chapter.

(ii) *Ordinary remainder and reversionary interests.* If the interest to be valued is to take effect after a definite number of years or after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder interest actuarial factor (that corresponds to the applicable section 7520 interest rate and remainder interest period) in Table B (for a term certain) or the appropriate Table S (for one measuring life), as the case may be. Table B is contained in § 20.2031–7(d) of this chapter and Table S (for one measuring life when the valuation date is after April 30, 1999) is included in § 20.2031–7T(d)(7) of this chapter and Internal Revenue Service Publication 1457. See § 20.2031–7A(e)(4) of this chapter containing Table S and Life Table 80CNSMT for valuation of interests after April 30, 1989, and before May 1, 1999. For information about obtaining actuarial factors for other types of remainder interests, see paragraph (d)(4) of this section.

(iii) *Ordinary term-of-years and life interests.* If the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable section 7520 interest rate and term-of-years or life interest period). Internal Revenue Service Publication 1457 includes actuarial factors for an interest for a term of years in Table B and for the life of one individual in Table S (for one measuring life when the valuation date is after April 30, 1999). However, term-of-years and life interest actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in § 20.2031–7T(d)(7) (or in § 20.2031–7A(e)(4)) of this chapter. If Internal Revenue Service Publication 1457 (or any other reliable source of term-of-years and life interest actuarial factors) is not conveniently available, an actuarial factor for the interest may be derived mathematically. This actuarial factor may be derived by subtracting the correlative remainder factor (that corresponds to the applicable section 7520 interest rate and the term of years or the life) in Table B (for a term of years) in § 20.2031–7(d)(6) of this chapter or in Table S (for the life of one individual) in § 20.2031–7T(d)(7) of this chapter, as the case may be, from 1.000000. For information about obtaining actuarial factors for other types of term-of-years and life interests, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount

payable annually by the appropriate annuity actuarial factor (that corresponds to the applicable section 7520 interest rate and annuity period). Internal Revenue Service Publication 1457 includes actuarial factors in Table B (for an annuity payable for a term of years) and in Table S (for an annuity payable for the life of one individual when the valuation date is after April 30, 1999). However, annuity actuarial factors are not included in Table B in § 20.2031–7(d)(6) of this chapter or Table S in § 20.2031–7T(d)(7) (or in § 20.2031–7A(e)(4)) of this chapter. If Internal Revenue Service Publication 1457 (or any other reliable source of annuity actuarial factors) is not conveniently available, an annuity factor for a term of years or for one life may be derived mathematically. This annuity factor may be derived by subtracting the applicable remainder factor (that corresponds to the applicable section 7520 interest rate and annuity period) in Table B (in the case of a term-of-years annuity) in § 20.2031–7(d)(6) of this chapter or in Table S (in the case of a one-life annuity) in § 20.2031–7T(d)(7) of this chapter, as the case may be, from 1.000000 and then dividing the result by the applicable section 7520 interest rate expressed as a decimal number. See § 20.2031–7T(d)(2)(iv) of this chapter for an example that illustrates the computation of the present value of an annuity.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor set forth in Table K in § 20.2031–7(d)(6) of this chapter at the appropriate interest rate component for payments made at the end of the specified periods. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the following example:

Example. In July, the donor agreed to pay the annuitant the sum of $10,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each December 31st and June 30th. The annuity is payable until the annuitant's death. On the date of the agreement, the annuitant is 68 years and 5 months old. The donee annuitant's age is treated as 68 for purposes of computing the present value of the annuity. The section 7520 rate on the date of the agreement is 10.6 percent. Under Table S in § 20.2031–7T(d)(7) of this chapter, the factor at 10.6 percent for determining the present value of a remainder interest payable at the death of an individual aged 68 is .29691. Converting the remainder factor to an annuity factor, as described above, the annuity factor for determining the present value of an annuity transferred to an individual age 68 is 6.6329 (1.00000 minus .29691 divided by .106). The adjustment factor from Table K in § 20.2031–7(d)(6) of this chapter in the column for payments made at the end of each semiannual period at the rate of 10.6 percent is 1.0258. The aggregate annual amount of the annuity, $10,000, is multiplied by the factor 6.6329 and the product multiplied by 1.0258. The present value of the donee's annuity is, therefore, $68,040.29 ($10,000 × 6.6329 × 1.0258).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained is then multiplied by the adjustment factor in Table J in § 20.2031–7(d)(6) of this chapter at the appropriate interest rate component for payments made at the beginning of specified periods. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraph (d)(2)(iv)(B) of this section.

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual*—(A) *Annuity interests.* The present value of an annuity interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with values from the tables in §§ 20.2031–7(d)(6) and 20.2031–7T(d)(7) of this chapter as described in the following example:

Example. The donor transfers $100,000 into a trust and retains the right to receive an annuity from the trust in the amount of $6,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each June 30th and December 31st. The annuity is payable for 10 years or until the donor's prior death. At the time of the transfer, the donor is 59 years and 6 months old. The donor's age is taken as 60 for purposes of computing the present value of the retained annuity. The section 7520 rate for the month in which the transfer occurred is 9.8 percent. The present value of the donor's retained interest is $35,709.13, determined as follows:

TABLE S value at 9.8 percent, age 60	.21669
TABLE S value at 9.8 percent, age 70	.34762
TABLE 90CM value at age 70	71357
TABLE 90CM value at age 60	85537
TABLE B value at 9.8 percent, 10 years	.392624
TABLE K value at 9.8 percent	1.0239

Factor for donor's retained interest at 9.8 percent:

$$\frac{(1.00000-.21669)-(.392624\times(71357/85537)\times(1.00000-.34762))}{.098}=5.8126$$

Present value of donor's retained interest: ($6,000 × 5.8126 × 1.0239)	$35,709.13

(B) *Unitrust interests.* The present value of a unitrust interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with values from the tables in §§ 1.664–4(e)(6) and 1.664-4T(e)(7) of this chapter as described in the following example:

Example. The donor who, as of the nearest birthday, is 60 years old, transfers $100,000 to a unitrust on January 1st. The trust instrument requires that each year the trust pay to the donor, in equal semiannual installments on June 30th and December 31st, 6 percent of the fair market value of the trust assets, valued as of January 1st each year, for 10 years or until the prior death of the donor. The section 7520 rate for the January in which the transfer occurred is 9.8 percent. Under Table F(9.8) in § 1.664–4(e)(6) of this chapter, the appropriate adjustment factor is .932539 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 5.595 percent (6% × .932539). The present value of the donor's retained interest is $40,848.00 determined as follows:

TABLE U(1) value at 5.6 percent, age 60	.35375
TABLE U(1) value at 5.6 percent, age 70	.49342
TABLE 90CM value at age 70	71357
TABLE 90CM value at age 60	85537
TABLE D value at 5.6 percent, 10 years	.561979

Factor for donor's retained interest at 5.6 percent:

(1.000000 − .35375) − (.561979 × (71357/85537) × (1.000000 − .49342)) = .40876

TABLE U(1) value at 5.4 percent, age 60	.36542
TABLE U(1) value at 5.4 percent, age 70	.50473
TABLE 90CM value at age 70	71357
TABLE 90CM value at age 60	85537
TABLE D value at 5.4 percent, 10 years	.573999

Factor for donor's retained interest at 5.4 percent:

$$(1.000000 - .36542) - (.573999 \times (71357/85537) \times (1.000000 - .50473)) = \underset{\text{Difference...}}{\frac{.39742}{.01134}}$$

Interpolation adjustment:

$$\frac{5.595\% - 5.4\%}{0.2\%} = \frac{\times}{.01134}$$

$$\times = .01106$$

Factor at 5.4 percent, age 60	.39742
Plus: Interpolation adjustment	.01106
Interpolated Factor	.40848
Present value of donor's retained interest: ($100,000 × .40848)	$40,848.00

(3) *Transitional rule.* If the valuation date of a transfer of property by gift is after April 30, 1999, and before July 1, 1999, the fair market value of the interest transferred is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (See §§ 25.7520–1(b) and 25.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (d)(2) of this section or § 25.2512–5A(e), at the option of the donor. However, with respect to each individual transaction and with respect to all transfers occurring on the valuation date, the donor must use the same actuarial tables (e.g., gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all transfers made on the same date must be valued based on the same tables).

(4) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in § 20.2031–7(d)(6) or § 20.2031–7T(d)(7) of this chapter are included in Internal Revenue Service Publication 1457, "Actuarial Values, Book Aleph," (1999). Internal Revenue Service Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. If a special factor is required in the case of a completed gift, the Service may furnish the factor to the donor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(e) *Effective dates.* This section applies after April 30, 1999.

Par. 27. The undesignated centerheading immediately following § 25.2518–3 is revised to read as follows:

Actuarial Tables Applicable Before May 1, 1999

Par. 28. Section 25.2512–5A is amended by:

1. Revising the section heading.
2. Adding paragraph (e).

The revision and addition read as follows:

§ 25.2512–5A Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred before May 1, 1999.

* * * * *

(e) *Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred after April 30, 1989, and before May 1, 1999*—(1) *In general.* Except as otherwise provided in §§ 25.2512–5(b) and 25.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date of the transferred interest is after April 30, 1989, and before May 1, 1999, the fair market value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift is the present value of the interests determined by use of standard or special section 7520 actuarial factors and the valuation methodology described in § 25.2512–5T(d). Sections 20.2031–7(d)(6) and 20.2031–7A(e)(4) of this chapter and related sections provide tables with standard actuarial factors and examples that illustrate how to use the tables to compute the present value of ordinary annuity, life, and remainder interests in property. These sections also refer to standard and special actuarial factors that may be necessary to compute the present value of similar interests in more unusual fact situations. These factors and examples are also generally applicable for gift tax purposes in computing the values of taxable gifts.

(2) *Transitional rule.* (i) If the valuation date of a transfer of an interest in property by gift is after April 30, 1989, and before June 10, 1994, a donor can rely on Notice 89–24 (1989–1 C.B. 660), or Notice 89–60 (1989–1 C.B. 700), in valuing the transferred interest. (See § 601.601(d)(2)(ii)(*b*) of this chapter.)

(ii) If a donor transferred an interest in property by gift after December 31, 1988, and before May 1, 1989, retaining an interest in the same property, and after April 30, 1989, and before January 1, 1990, transferred the retained interest in property, the donor may, at the option of the donor, value the transfer of the retained interest under this paragraph (e) or paragraph (d) of this section.

(3) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in §§ 20.2031–7(d)(6) and 20.2031–7A(e)(4) of this chapter are included in Internal Revenue Service Publication 1457, "Actuarial Values, Alpha Volume," (8–89). Internal Revenue Service Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. Publication 1457 is

no longer available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. However, pertinent factors in this publication may be obtained from: CC:DOM:CORP:R (IRS Publication 1457), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. If a special factor is required in the case of a completed gift, the Internal Revenue Service may furnish the factor to the donor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

Par. 29. Section 25.7520–1 is amended as follows:

1. Paragraph (b)(2), the last two sentences are revised.

2. The headings for paragraphs (c)(1) and (c)(2) are revised.

3. Paragraph (c)(2) introductory text is revised.

4. Paragraph (c)(2)(iii) is amended by removing the first two sentences and adding one sentence in their place.

5. Paragraph (d) is revised.

The revised and added provisions read as follows:

§ 25.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) * * * For gifts with valuation dates after April 30, 1989, and before May 1, 1999, the mortality component table (Table 80CNSMT) is included in § 20.2031–7A(e)(4) of this chapter. See § 20.2031–7A(a) through (d) of this chapter for mortality component tables applicable to decedents' estates with valuation dates before May 1, 1989.

(c) * * *

(1) *Regulations sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1989, and before May 1, 1999.* * * *

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2. and 26 percent for valuation dates after April 30, 1989, and before May 1, 1999.* The following publications are no longer available from the Superintendent of Documents, however, they may be obtained from: CC:DOM:CORP:R, room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044:

* * * * *

(iii) Internal Revenue Service Publication 1459, "Actuarial Values, Gamma Volume," (8–89). * * *

(d) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 30. Section 25.7520–1T is added to read as follows:

§ 25.7520–1T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).

(a) through (b) (1) [Reserved]. For further guidance, see § 25.7520–1(a) through (b)(1).

(b)(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States Census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the mortality component tables will be published in the regulations at that time. For gifts with valuation dates after April 30, 1999, the mortality component table (Table 90CM) is included in § 20.2031–7T(d)(7) of this chapter. See § 20.2031–7A of this chapter for mortality component tables applicable to decedent's estates with valuation dates before May 1, 1999.

(c) [Reserved]. For further guidance, see § 25.7520–1(c).

(1) *Regulation sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1999.* Section 1.642(c)–6T(e)(6) of this chapter contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5 of this chapter. See § 1.642(c)–6A for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 1.664–4(e)(6) of this chapter contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section 1.664–4T(e)(7) of this chapter contains, Table U(1) (actuarial factors for one life). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3 of this chapter. See § 1.664–4A for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 20.2031–7(d)(6) of this chapter contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7T(d)(7) of this chapter contains Table S (actuarial factors for one life) and Table 90CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A of this chapter for actuarial factors for one life and mortality components applicable to valuation dates before May 1, 1999.

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 26 percent for valuation dates after April 30, 1999.* The following documents are available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402:

(i) Internal Revenue Service Publication 1457, "Actuarial Values, Book Aleph," (1999). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 of this chapter (Income Tax Regulations) and a pooled income fund as defined in § 1.642(c)–5 of this chapter.

(ii) Internal Revenue Service Publication 1458, "Actuarial Values, Book Beth," (1999). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3 of this chapter.

(iii) Internal Revenue Service Publication 1459, "Actuarial Values, Book Gimel," (1999). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12T of this chapter.

(d) *Effective date.* This section applies after April 30, 1999.

Par. 31. Section 25.7520–3 is amended as follows:

1. In paragraph (b)(2)(v), *Example 5* is revised.

2. In paragraph (b)(4), the *Example* is revised.

The revised examples read as follows:

§ 25.7520–3 Limitation on the application of section 7520.

* * * * *

(b) * * *

(2) * * *

(v) * * *

Example 5. Eroding corpus in an annuity trust. (i) The donor, who is age 60 and in normal health, transfers property worth $1,000,000 to a trust. The trust will pay a 10 percent ($100,000 per year) annuity to a charitable organization for the life of the donor, payable annually at the end of each period, and the remainder will be distributed to the donor's child. The section 7520 rate for the month of the transfer is 6.8 percent. First, it is necessary to determine whether the annuity may exhaust the corpus before all annuity payments are made. Because it is assumed that any measuring life may survive until age 110, any life annuity could require payments until the measuring life reaches age 110. Based on a section 7520 interest rate of 6.8 percent, the determination of whether the annuity may exhaust the corpus before the annuity payments are made is computed as follows:

Age to which life annuity may continue	110
less: Age of measuring life at date of transfer	60
Number of years annuity may continue	50
Annual annuity payment	$100,000.00
Times: Annuity factor for 50 years derived from Table B	14.1577
Present value of term certain annuity	$1,415,770.00

(ii) Since the present value of an annuity for a term of 50 years exceeds the corpus, the annuity may exhaust the trust before all payments are made. Consequently, the annuity must be valued as an annuity payable for a term of years or until the prior death of the annuitant, with the term of years determined by when the fund will be exhausted by the annuity payments.

(iii) Using factors based on Table 90CM at 6.8 percent (see § 20.2031–7T(d)(7) of this chapter), it is determined that the fund will be sufficient to make 17 annual payments, but not to make the entire 18th payment. Specifically, the initial corpus will be able to make payments of $67,287.26 per year for 17 years plus payments of $32,712.74 per year for 18 years. The annuity is valued by adding the value of the two separate temporary annuities.

(iv) Based on Table H of Publication 1457 (a copy of this publication may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402), the present value of an annuity of $67,287.26 per year payable for 17 years or until the prior death of a person aged 60 is $588,016.64 ($67,287.26 × 8.7389). The present value of an annuity of $32,712.74 per year payable for 18 years or until the prior death of a person aged 60 is $292,196.74 ($32,712.74 × 8.9322). Thus, the present value of the charitable annuity interest is $880,213.38 ($588,016.64 + $292,196.74).

* * * * *

(4) * * *

Example. Terminal illness. The donor transfers property worth $1,000,000 to a child in exchange for the child's promise to pay the donor $103,000 per year for the donor's life, payable annually at the end of each period. The donor is age 60 but has been diagnosed with an incurable illness and has at least a 50 percent probability of dying within 1 year. The section 7520 interest rate for the month of the transfer is 10.6 percent, and the standard annuity factor at that interest rate for a person age 60 in normal health is 7.5590. Thus, if the donor were not terminally ill, the present value of the annuity would be $778,577 ($103,000 × 7.5590). Assuming the presumption provided in paragraph (b)(3) of this section does not apply, because there is at least a 50 percent probability that the donor will die within 1 year, the standard section 7520 annuity factor may not be used to determine the present value of the donor's annuity interest. Instead, a special section 7520 annuity factor must be computed that takes into account the projection of the donor's actual life expectancy.

* * * * *

Par. 32. In the list below, for each section indicated in the left column, remove the language in the middle column and add the language in the right column:

Section	Remove	Add
1.170A–6(c)(5), *Example (1)*, first and last sentence	1970	1971.
1.170A–6(c)(5), *Example (2)(a)*, first sentence	1970	
1.170A–6(c)(5), *Example (3)(a)*, first, sixth, seventh and eighth sentences	1970	1971.
1.170A–6(c)(5), *Example (3)(a)*, seventh and eighth sentences	1971	1972.
1.170A–6(c)(5), *Example (3)(a)*, seventh and eighth sentences	1972	1973.
1.170A–6(c)(5), *Example (3)(b)*, introductory text	1970	1971.
1.170A–6(c)(5), *Example (3)(b)*, Table headings	Jan. 1, 1970	Jan. 1, 1971.
1.170A–6(c)(5), *Example (3)(b)*, column 1 of table	Dec. 31, 1970	Dec. 31, 1971.
1.170A–6(c)(5), *Example (3)(b)*, column 1 of table	Dec. 31, 1971	Dec. 31, 1972.
1.170A–6(c)(5), *Example (3)(b)*, column 1 of table	Dec. 31, 1972	Dec. 31, 1973.
1.170A–6(c)(5), *Example (3)(c)*	1972	1973.
1.170A–6(c)(5), *Example (3)(d)*	1972	1973.
1.170A–12(b)(2), paragraph heading	Factor	Factor before May 1, 1999.
1.170A–12(b)(2), fourth sentence	April 30, 1989,	April 30, 1989, and before May 1, 1999.
1.170A–12(b)(2), sixth sentence	CC:DOM:CORP:T:R	CC:DOM:CORP:R.
1.170A–12(b)(2), sixth sentence	Room 5228	Room 5226.
1.170A–12(c), first sentence	Paragraph (f) of such sections	§ 20.2031–7(d)(6) of this chapter.
1.170A–12(e)(2), following the formula	Table 80CNSMT in § 20.2031–7	Table 90CM in § 20.2031–7T.
1.170A–12(e)(3), last sentence	E:A:G	OP:E:EP:A:1.
1.170A–14(h)(4), *Example 2*, fourth sentence	December 1, 1983	May 1, 1999.
1.642(c)–6(e)(2)(i)	§ 20.2031–7(d)(6)	§ 20.2031–7A(e)(4).
1.664–1(a)(5)(ii)(*b*)(*1*)	Column 2 of Table D in § 1.664–4A(d)(6).	Table D in § 1.664–4(e)(6).
1.664–1(a)(5)(iv), introductory text	(iii) of this section:	(ii) of this section.

Section	Remove	Add
1.664–1(a)(6), introductory text	§ 1.664–4(e), § 1.664–4(A) (d), and former § 1.664–4 (d) (as contained in the 26 CFR part 1 edition revised as of April 1, 1994).	§§ 1.664–4T(e), 1.664–4T(e) and 1.664–4A(d) and (e).
1.664–2(c)	April 30, 1989	April 30, 1999.
1.664–2(c), sixth sentence	§ 20.2031–7A(a) through (d)	§ 20.2031–7A (a) through (e).
1.664–2(c), sixth sentence	May 1, 1989	May 1, 1999.
1.664–2(c)	Last sentence.	
1.7520–1(a)(2)	1989, see § 1.642(c)–6(e)	1999, see § 1.642(c)–6T(e).
1.7520–1(a)(3), last sentence	(Or, for certain prior periods, § 1.664–4A).	
1.7520–1(c)(1), first sentence	Section 1.642(c)–6(e)(4)	Section 1.642(c)–6A(e)(5).
1.7520–1(c)(1), second sentence	Section 1.664–4(e)(6) contains	Sections 1.664–4(e)(6) and 1.664–4A(e)(6) contain.
1.7520–1(c)(1), third sentence	Section 20.2031–7(d)(6) of this chapter (Estate Tax Regulations) contains.	Sections 20.2031–7(d)(6) and 20.2031–7A(e)(4) of this chaptercontain.
20.2032–1(f)(1), fourth sentence	Paragraph (d) of § 20.2031–7(A)(d).	§ 20.2031–7A(d)(4).
20.2055–2(f)(2)(iv), *Example (1)*, second sentence	§ 20.2031–10(f)	§ 20.2031–7A(d).
20.2055–2(f)(2)(iv) *Example (2)*, second sentence	§ 20.2031–10(f)	§ 20.2031–7A(d).
20.2055–2(f)(2)(iv), *Example (3)*, second sentence	§ 20.2031–10(e)	§ 20.2031–7A(c).
20.2055–2(f)(2)(iv), *Example (3)*, third sentence	§ 20.2031–10(f)	§ 20.2031–7A(d).
20.2056A–4(c)(4)(ii)(B), penultimate sentence	Alpha Volume	Book Aleph.
20.2056A–4(d), *Example 4(iii)*, second sentence	Alpha Volume	Book Aleph.
20.7520–1(a)(2)	1989, see § 1.642(c)–6(e)	1999, see § 1.642(c)–6T(e).
20.7520–1(a)(3), second sentence	(Or, for certain prior periods, § 1.664–4A)..	
20.7520–1(c)(1), first sentence	Section 1.642(c)–6(e)(4)	Section 1.642(c)–6A(e)(5).
20.7520–1(c)(1), second sentence	Section 1.664–4(e)(6) of this chapter contains.	Sections 1.664–4(e)(6) and 1.664–4A(e)(6) of this chapter contain.
20.7520–1(c)(1), third sentence	Section 20.2031–7(d)(6) contains	Sections 20.2031–7(d)(6) and 20.2031–7A(e)(4) contain.
25.7520–1(a)(2)	1989, see § 1.642(c)–6(e)	1999, see § 1.642(c)–6T(e).
25.7520–1(a)(3), last sentence	(Or, for certain prior periods, § 1.664–4A).	
25.7520–1(c)(1), first sentence	Section 1.642(c)–6(e)(4)	Section 1.642(c)–6A(e)(5).
25.7520–1(c)(1), second sentence	Section 1.664–4(e)(6) of this chapter contains.	Sections 1.664–4(e)(6) and 1.664–4A(e)(6) of this chapter contain.
25.7520–1(c)(1), third sentence	Section 20.2031–7(d)(6), (Estate Tax Regulations) contains.	Sections 20.2031–7(d)(6) and 20.2031–7A(e)(4) contain.

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved: April 21, 1999.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 99–10533 Filed 4–29–99; 8:45 am]
BILLING CODE 4830–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 98–147; FCC 99–48]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts several measures designed to promote competition in the advanced services markets. The intended effect is to remove barriers to competition so that competing providers are able to compete effectively with incumbent local exchange carriers (LECs) and their affiliates in the provision of advanced services. An additional effect of the First Report and Order is to ensure that incumbent LECs are able to make their decisions to invest in, and deploy, advanced telecommunications services based on market demand and their own strategic business plans, rather than on regulatory requirements.

DATES: Effective June 1, 1999, except for 47 CFR 51.321(f) and 51.321(h) and 51.323(b) and (i)(3), which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for those sections. Written comments regarding the Paperwork Reduction Act requirements should be submitted on or before May 13, 1999.

FOR FURTHER INFORMATION CONTACT: Staci Pies, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580 or via the Internet at spies@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order adopted March 18, 1999, and released March 31, 1999. The full text of this First Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY–A257, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9948.wp, or may be purchased from the Commission's copy

contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036. This First Report and Order contains information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. The general public and other federal agencies are invited to comment on the information collections contained in this proceeding. The Commission has requested an emergency review of the collections with an approval by May 13, 1999.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, the First Report and Order contains a Final Regulatory Flexibility Analysis which is set forth in the First Report and Order. A brief description of the analysis follows. Pursuant to section 604 of the Regulatory Flexibility Act, the Commission performed a comprehensive analysis of the Order with regard to small entities. This analysis includes: (1) a succinct statement of the need for, and objectives of, the Commission's decisions in the Order; (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the Commission's assessment of these issues, and a statement of any changes made in the Order as a result of the comments; (3) a description of and an estimate of the number of small entities to which the Order will apply; (4) a description of the projected reporting, recordkeeping and other compliance requirements of the Order, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for compliance with the requirement; (5) a description of the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the Order and why each one of the other significant alternatives to each of the Commission's decisions which affect small entities was rejected.

Paperwork Reduction Act

This Report and Order contains new and modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law 104–12. Persons wishing to comment on the information collections should submit comments on or before May 13, 1999. Comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0848.

Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability.

Form No.: N/A.

Type of Review: Revised collection.

Information collection	No. of respondents (approx.)	Estimated time per response	Total annual burden (hours)
List of Equipment	1400	1 hour	1400
Report of Available Collocation Space	1400	1 hour	1400
Information on Security Training	1400	30 minutes	700
Access to Spectrum Management Procedures and Policies	1400	30 minutes	700
Rejection and Loop Information	1400	1 hour	1400
Notification of Performance Degradation	1400	30 minutes	700

Total Annual Burden: 6300 hours.

Respondents: Businesses or other for-profit.

Estimated costs per respondent: $0.

Needs and Uses: The Commission seeks to implement Congress's goal of promoting innovation and investment by all participating in the telecommunications marketplace, in order to stimulate competition for all services, including advanced services. In fulfillment of this goal, the Commission imposes certain collections of information on all incumbent local exchange carriers. Among other things, ILECs must provide a list of equipment to competitive LECs, submit to requesting carriers a report concerning collocation space, provide the specific type of security training a competitive LEC's employees must complete, etc. All of the requirements will be used by the Commission and by competitive carriers to facilitate the deployment of advanced data services and to implement section 706 of the Communications Act of 1934, as amended.

Synopsis of Order

I. Introduction

1. One of the fundamental goals of the Telecommunications Act of 1996 (1996 Act) is to promote innovation and investment by all participants in the telecommunications marketplace, in order to stimulate competition for all services, including advanced services. In this order, we take important steps towards implementing Congress' goals with respect to advanced services.

2. The market for advanced telecommunications is a nascent one. Today, both incumbent local exchange carriers (LECs) and new entrants are at the early stages of developing and deploying innovative new technologies to meet the ever-increasing demand for high-speed, high-capacity advanced services. Because it is in the early stages of development, the advanced services market is ripe for competition to develop in a robust fashion. In order to encourage competition among carriers to develop and deploy new advanced services, it is critical that the marketplace for these services be conducive to investment, innovation, and meeting the needs of consumers.

3. To this end, we are committed to removing barriers to competition so that competing providers are able to compete effectively with incumbent LECs and their affiliates in the provision of advanced services. We are also committed to ensuring that incumbent LECs are able to make their decisions to invest in, and deploy, advanced telecommunications services based on market demand and their own strategic business plans, rather than on regulatory requirements. We intend to

take deregulatory steps towards meeting this goal in a subsequent order.

4. In this order, we adopt several measures that we believe will promote competition in the advanced services markets. We fully expect that these measures will create incentives for providers of advanced services to innovate and to develop and deploy new technologies and services on a more efficient and expeditious basis. As a result, consumers will ultimately benefit through lower prices and increased choices in advanced services.

II. Overview and Executive Summary

A. Overview

5. Increasingly, electronic communications are becoming digital and are transmitted by means of "packet switching." Packet-switched transmission of information promises a revolution in information, communications services, and entertainment by offering businesses, residential users, schools and libraries, and other end users of information the ability to access and send large amounts of information very quickly across the street or across the globe. Moreover, for wireline carriers, digital subscriber line technologies are making it possible for ordinary citizens to access various networks, such as the Internet, corporate networks, and governmental networks, at high speeds through the existing copper telephone lines that connect their residences or businesses to the incumbent LEC's central office. The existing infrastructure is being used in new ways that make available to average citizens a variety of new services and vast improvements to existing services.

6. We adopt, in this order, additional measures to further facilitate the development of competition in the advanced services market. First, we strengthen our collocation rules to reduce the costs and delays faced by competitors that seek to collocate equipment in an incumbent LEC's central office. For example, we require incumbent LECs to make available to requesting competitive LECs shared cage and cageless collocation arrangements. Moreover, when collocation space is exhausted at a particular LEC location, we require incumbent LECs to permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. Second, we adopt certain spectrum compatibility rules and adopt a Further Notice of Proposed Rulemaking (Further NPRM) to explore issues related to developing long-term standards and practices for spectrum compatibility and management. Finally, in the Further NPRM, we consider whether we should require LECs to allow competitors to offer advanced services to end users over the same line on which the LEC is offering voice service.

7. We intend to address, in a future order, other specific forms of regulatory relief that may be needed to stimulate investment and deployment of advanced services by incumbents or new entrants, or whether other changes to the Commission's local competition rules may facilitate deployment of advanced services by competing carriers. For example, in the *Advanced Services Order and NPRM*, 63 FR 45134, August 24, 1998, we had proposed an option under which incumbent LECs would be free to establish separate affiliates to provide advanced services that would not be subject to section 251(c) obligations if those affiliates were structured in a fashion so as not to be deemed a successor or assign of the incumbent. We also sought comment on the applicability of section 251(c)(4) resale obligations to advanced services to the extent such services are exchange access services. In addition, the NPRM proposed limited modifications of LATA boundaries. We also had set forth proposals in the *Advanced Services Order and NPRM* relating to incumbent LEC loop unbundling obligations. We are deferring action on those issues and proposals.

B. Executive Summary

8. In the Order, we take the following steps:

Collocation

- Incumbent LECs must make available to requesting competitive LECs shared cage and cageless collocation arrangements. Moreover, when collocation is exhausted at a particular LEC location, incumbent LECs must permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible.
- A collocation method used by one incumbent LEC or mandated by a state commission is presumptively technically feasible for any other incumbent LEC.
- Incumbent LECs may adopt reasonable security measures to protect their central office equipment.
- Incumbent LECs may not require competitive LEC equipment to meet more stringent safety requirements than those the incumbent LEC imposes on its own equipment.
- Incumbent LECs must permit competitors to collocate all equipment used for interconnection and/or access to unbundled network elements (UNEs), even if it includes a "switching" or enhanced services function, and incumbent LECs cannot require that the switching or enhanced services functionality of equipment be disengaged.
- Incumbent LECs must permit a competitive LEC to tour the entire central office in which that competitive LEC has been denied collocation space. Incumbent LECs must provide a list of all offices in which there is no more space. Incumbent LECs must remove obsolete, unused equipment, in order to facilitate the creation of additional collocation space within a central office.
- The collocation rules set forth in the Order serve as minimum standards, and permit any state to adopt additional requirements.

Spectrum Compatibility

- We adopt certain spectrum compatibility and management rules to allow competitive providers to deploy innovative advanced services technology in a timely manner. Specifically, any loop technology that complies with existing industry standards, has been successfully deployed by any carrier without significantly degrading the performance of other services, or has been approved by this Commission, any state commission, or an industry standards body is presumed acceptable for deployment. A LEC may not deny a carrier's request to deploy technology that is presumed acceptable for deployment, unless the LEC demonstrates to the state commission that deployment of the particular technology within the LEC network will significantly degrade the performance of other services.
- We also seek comment in the Further NPRM on measures that would facilitate timely development of long-term industry standards and practices on spectrum compatibility and management to facilitate deployment of new and innovative loop technologies.

Line Sharing

- In the Further NPRM, we tentatively conclude line sharing is technically feasible, and we seek comment on the operational, pricing, and policy ramifications to determine whether or not to mandate line sharing nationally.

III. Background

A. Advanced Services Technologies

9. In circumstances in which the xDSL-equipped line carries both POTS ("plain old telephone service") and data

channels, the carrier must separate those two streams when they reach the telephone company's central office. This is generally done by a device known as a digital subscriber line access multiplexer, or DSLAM. The DSLAM and central office xDSL modem send the customer's POTS traffic to the public, circuit-switched telephone network. The DSLAM sends the customer's data traffic (combined with that of other xDSL users) to a packet-switched data network. Thus, the data traffic, after traversing the local loop, avoids the circuit-switched telephone network altogether.

10. Once on the packet-switched network, the data traffic is routed to the location selected by the customer, for example, a corporate local area network or an Internet service provider. That location may itself be a gateway to a new packet-switched network or set of networks, like the Internet.

B. Statutory Framework

11. In the 1996 Act, Congress established a "pro-competitive, deregulatory national policy framework" for telecommunications, opening all telecommunications markets to competition so as to make advanced telecommunications and information technologies and services available to all Americans. At the core of the Act's market-opening provisions is section 251. In section 251, Congress sought to open local telecommunications markets to competition by, among other things, reducing economic and operational advantages possessed by incumbents.

12. Section 251 requires incumbent LECs to share their networks in a manner that enables competitors to choose among three methods of entry—the construction of new networks, the use of unbundled elements of the incumbent's network, and resale of the incumbent's retail services. Section 251(a) requires all "telecommunications carriers" to "interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers." Section 251(c)(3) requires incumbent LECs to provide nondiscriminatory access to unbundled network elements. In addition, section 251(c)(6) imposes an obligation on incumbent LECs "to provide, on rates, terms and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements. * * *" Finally, for competitors that seek to compete by reselling the incumbent LEC's services, section 251(c)(4) requires incumbent LECs to offer for resale at wholesale rates "any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers."

C. Procedural History

13. On August 7, 1998, we released the *Advanced Services Order and NPRM*, in response to six petitions suggesting action we should take to speed the deployment by wireline carriers of advanced services. In that order, we concluded, *inter alia*, that the pro-competitive provisions of the 1996 Act are technology-neutral and thus apply equally to advanced services and to circuit-switched voice services. We therefore concluded that incumbent LECs are subject to section 251(c) in their provision of advanced services. Specifically, we found that incumbent LECs are subject to the interconnection obligations of sections 251(a) and 251(c)(2) with respect to both their circuit-switched and packet-switched networks. We also clarified that the facilities and equipment used by the incumbent LECs to provide advanced services are network elements and generally subject to the obligations in section 251(c)(3). In response to the petitions of Ameritech, Bell Atlantic, SBC and US WEST requesting us to forbear from applying the requirements of section 251(c), or section 271, or both with respect to their provision of advanced services, we concluded that we lacked the statutory authority to do so and therefore denied those petitions.

14. In the *Advanced Services Order and NPRM*, we proposed, in relevant part, to strengthen collocation requirements to foster timely, cost-effective, competitive deployment of advanced services. We also proposed to establish spectrum compatibility and management guidelines so that multiple carriers could deploy advanced technologies on common facilities.

15. On January 25, 1999, the Supreme Court released an opinion in *AT&T Corp.* v. *Iowa Utilities Board* in which it addressed the Commission's rule setting forth those network elements that incumbent LECs must make available to competitors. The Court held that the Commission did not adequately consider the standards of section 251(d)(2) in determining which network elements must be unbundled pursuant to section 251(c)(3). The Court stated that the Commission's rule setting forth the network elements that incumbent LECs must make available to requesting carriers should be vacated, and it remanded the matter for further proceedings. We are currently reviewing the section 251(d)(2) standard consistent with the Supreme Court opinion in *Iowa Utilities Board*, and will seek further comment on the issue of whether network elements used in the provision of advanced services should be unbundled.

IV. First Report and Order

A. Measures to Encourage Competitive LEC Deployment of Advanced Services

1. Overview

16. In this section we adopt additional measures that we expect will further facilitate competitive deployment of advanced services. In order to enable competitive LECs to compete effectively with incumbents in the advanced services marketplace, we establish additional standards and rules that will strengthen our collocation requirements, thereby reducing costs and delays associated with competitors collocating in an incumbent LEC's central office. We also adopt certain spectrum compatibility and management rules to allow competitive providers to deploy innovative advanced services technology in a timely manner. We acknowledge that the rules we adopt in this Order focus on the provision of advanced services, but we emphasize that the actions we take today pursuant to the Act apply to all telecommunications services, whether traditional voice services or advanced services.

2. Collocation Requirements

a. Background

17. In 1992, in the *Expanded Interconnection* proceeding, the Commission adopted rules pursuant to section 201 of the Act that required certain incumbent LECs to offer physical and virtual collocation for parties seeking to locate interstate special access and switched transport transmission facilities at LEC premises.

18. Section 251(c)(6) of the 1996 Act requires incumbent LECs to "provide, on rates terms and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations." In the *Local Competition First Report and Order*, 61 FR 45476, August 29, 1996, the Commission adopted specific rules to implement the collocation requirements of section 251(c)(6). In the *Advanced Services Order and NPRM*, we tentatively concluded that we

should adopt additional collocation rules to ensure that competing providers have access to the physical collocation space they need in order to offer advanced services.

b. Adoption of National Standards

(1) Background: 19. In the *Local Competition First Report and Order*, the Commission adopted minimum requirements for nondiscriminatory collocation arrangements. The Commission adopted rules for, among other things, space allocation and exhaustion, types of equipment that could be collocated, and LEC premises where parties could collocate equipment. The Commission also concluded that state commissions should have the flexibility to adopt additional collocation requirements that are otherwise consistent with the Act and the Commission's regulations. In the *Advanced Services Order and NPRM*, we sought comment on the extent to which we should establish additional national rules for collocation pursuant to sections 201 and 251 in order to remove barriers to entry and speed the deployment of advanced services.

(2) Discussion: 20. We adopt our tentative conclusion to establish additional national rules for collocation. We emphasize that the collocation measures we adopt in this order apply to all telecommunications services, including advanced services and traditional voice services. The standards and rules we implement in this proceeding will serve as minimum requirements. We note that state commissions commenting in this proceeding generally support our proposal to adopt additional national rules. We conclude that states will continue to have the flexibility to respond to specific issues by imposing additional requirements.

21. There are numerous problems that remain with provisioning of collocation space, and we believe that there are concrete steps we can take, in conjunction with the ongoing work of state commissions, to further the pro-competitive goals of the 1996 Act.

c. Collocation Equipment

(1) Background: 22. Section 251(c)(6) requires incumbent LECs to allow collocation of "equipment necessary for interconnection or access to unbundled network elements . . . ." In the *Local Competition First Report and Order*, the Commission concluded that section 251(c)(6) requires collocation of equipment used for: (1) interconnection for "the transmission and routing of telephone exchange service and exchange access" pursuant to section 251(c)(2); and (2) access to unbundled network elements for "the provision of a telecommunications service" pursuant to section 251(c)(3). The Commission interpreted section 251(c)(6) as requiring incumbent LECs to permit competitors to collocate equipment that is "used and useful" for either interconnection or access to unbundled network elements.

23. The Commission concluded in the *Local Competition First Report and Order* that new entrants may collocate transmission equipment, including optical terminating equipment and multiplexers, on incumbent LEC premises. The Commission further concluded, at the time, that incumbent LECs need not permit the collocation of other types of equipment, including switching equipment and equipment used to provide enhanced services. With respect to switching equipment, however, the Commission recognized that "modern technology has tended to blur the line between switching equipment and multiplexing equipment." This trend in manufacturing has benefited service providers and their customers by reducing costs, promoting efficient network design, and expanding the range of possible service offerings. As a consequence of this integration, certain equipment that competing carriers need to collocate to provide advanced services efficiently may also perform switching functions. Because incumbent LECs are currently not required by our rules to permit collocation of switching equipment, competing providers argue that incumbent LECs have delayed competitive entry by contesting, on a case-by-case basis, the functionality of a particular piece of equipment (which may perform switching functions in addition to its other functions) and whether it may be collocated.

(2) Discussion: 24. *Equipment with switching and enhanced services functionality.* In the *Advanced Services Order and NPRM*, we tentatively concluded that incumbent LECs should not be permitted to impede competing carriers from offering advanced services by imposing unnecessary restrictions on the type of equipment that competing carriers may collocate. We sought comment on whether we should require incumbent LECs to allow new entrants to collocate any equipment that is used for interconnection and access to unbundled network elements, even if such equipment also includes a switching functionality. Specifically, we asked if collocation of equipment that performs both switching and other functions would encourage competitive LECs to use integrated equipment that otherwise might not be allowed in incumbent LEC premises.

25. Our existing rules, correctly read, require incumbent LECs to permit collocation of all equipment that is necessary for interconnection or access to unbundled network elements, regardless of whether such equipment includes a switching functionality, provides enhanced services capabilities, or offers other functionalities. Our rules obligate incumbent LECs to "permit the collocation of any type of equipment used for interconnection or access to unbundled network elements." Stated differently, an incumbent LEC may not refuse to permit collocation of any equipment that is "used or useful" for either interconnection or access to unbundled network elements, regardless of other functionalities inherent in such equipment. Rather, our rules require incumbent LECs to permit collocation of any equipment required by the statute unless they first "prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements." This rule requires incumbent LECs to permit competitors to collocate such equipment as DSLAMs, routers, ATM multiplexers, and remote switching modules. Nor may incumbent LECs place any limitations on the ability of competitors to use all the features, functions, and capabilities of collocated equipment, including, but not limited to, switching and routing features and functions.

26. We consider this clarification of our existing rules to be particularly important given the rapid pace of technological change in the telecommunications equipment marketplace. By clarifying that incumbent LECs must permit advanced services equipment to be collocated on their premises, we take an important step towards elimination of obstacles to competition. In order to compete effectively in the advanced services marketplace, competitive telecommunications providers must be permitted to collocate integrated equipment that lowers costs and increases the services they can offer their customers.

27. We continue to decline, however, to require incumbent LECs to permit the collocation of equipment that is not necessary for either access to UNEs or for interconnection, such as equipment used exclusively for switching or for enhanced services. Although we may explore requiring such collocation in the future, we do not find sufficient

support in the record at this time for such a requirement. We reiterate that incumbent LECs are obligated, pursuant to section 251(c)(6), to permit competitors to collocate multi-functional equipment, even equipment that includes switching or enhanced services functionalities, if such equipment is necessary for access to UNEs or for interconnection with the incumbent LEC's network.

28. *Cross-Connects.* In the *Advanced Services Order and NPRM*, we sought comment on any additional steps we might take so that competitive LECs are able to establish cross-connects to the equipment of other collocated competitive LECs.

29. We now revise our rules to require incumbent LECs to permit collocating carriers to construct their own cross-connect facilities between collocated equipment located on the incumbent's premises.

30. *Equipment Safety Requirements.* In the *Advanced Services Order and NPRM*, we tentatively concluded that incumbent LECs may require that all equipment that a new entrant places on its premises meet safety requirements to avoid endangering other equipment and the incumbent LECs' networks. Certain performance and reliability requirements, however, may not be necessary to protect LEC equipment. Such requirements may increase costs unnecessarily, which would lessen the ability of new entrants to serve certain markets and thereby harm competition. We tentatively concluded that, to the extent that incumbent LECs use equipment that does not satisfy the Bellcore Network Equipment and Building Specifications (NEBS) requirements, competitive LECs should be able to collocate the same or equivalent equipment. We further tentatively concluded that incumbent LECs should be required to list all approved equipment and all equipment they use.

31. We conclude that, subject to the limitations described herein, an incumbent LEC may impose safety standards that must be met by the equipment to be collocated in its central office.

32. Second, we conclude that, although an incumbent LEC may require competitive LEC equipment to satisfy NEBS safety standards, the incumbent may not impose safety requirements that are more stringent than the safety requirements it imposes on its own equipment that it locates in its premises.

d. Alternative Collocation Arrangements

(1) Background

33. In the *Advanced Services Order and NPRM*, we made several tentative conclusions and sought comment on issues raised by ALTS in its petition contending that the practices and policies that incumbent LECs employed in offering physical collocation impeded competition by imposing substantial costs and delays on competing carriers for space and construction of collocation cages. Based on the record submitted in this proceeding, we now adopt several of our tentative conclusions related to the provisioning of collocation space in incumbent LEC premises.

34. In the *Advanced Services Order and NPRM*, we tentatively concluded that we should require incumbent LECs to offer collocation arrangements to new entrants that minimize the space needed by each competing provider in order to promote the deployment of advanced services to all Americans. Such alternative collocation arrangements include: (1) the use of shared collocation cages, within which multiple competing providers' equipment could be either openly accessible or locked within a secure cabinet; (2) the option to request collocation cages of any size without any minimum requirement, so that competing providers will not use any more space than is reasonably necessary for their needs; and (3) physical collocation that does not require the use of collocation cages ("cageless" collocation).

(2) Discussion

35. We now adopt our tentative conclusion that incumbent LECs must provide specific collocation arrangements, consistent with the rules we outline below, at reasonable rates, terms, and conditions as are set by state commissions in conformity with the Act and our rules.

36. We now adopt new rules requiring incumbent LECs to make certain collocation arrangements available to requesting carriers. In adopting new rules, we reject the arguments of incumbent LEC commenters that additional national collocation rules are not necessary.

37. First, we require incumbent LECs to make shared collocation cages available to new entrants. A shared collocation cage is a caged collocation space shared by two or more competitive LECs pursuant to terms and conditions agreed to by the competitive LECs. In making shared cage arrangements available, incumbent LECs may not increase the cost of site preparation or nonrecurring charges above the cost for provisioning such a cage of similar dimensions and material to a single collocating party. In addition, the incumbent must prorate the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation cage or condition the space for collocation use, regardless of how many carriers actually collocate in that cage, by determining the total charge for site preparation and allocating that charge to a collocating carrier based on the percentage of the total space utilized by that carrier. In other words, a carrier should be charged only for those costs directly attributable to that carrier. The incumbent may not place unreasonable restrictions on a new entrant's use of a collocation cage, such as limiting the new entrant's ability to contract with other competitive carriers to share the new entrant's collocation cage in a sublease-type arrangement. In addition, if two or more competitive LECs who have interconnection agreements with an incumbent LEC utilize a shared collocation arrangement, the incumbent LEC must permit each competitive LEC to order UNEs to and provision service from that shared collocation space, regardless of which competitive LEC was the original collocator.

38. Second, we require incumbent LECs to make cageless collocation arrangements available to requesting carriers. While we do not prevent incumbent LECs from offering caged collocation arrangements, we require incumbent LECs to make cageless collocation available so as to offer competitors a choice of arrangements. Subject only to technical feasibility and the permissible security parameters outlined below, incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a room, cage, or similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. Incumbent LECs may require competitors to use a central entrance to the incumbent's building, but may not require construction of a new entrance for competitors' use, and once inside the building incumbent LECs must permit competitors to have direct access to their equipment. Incumbent LECs may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible, because such intermediate points of interconnection

simply increase collocation costs without a concomitant benefit to incumbents. In addition, an incumbent LEC must give competitors the option of collocating equipment in any unused space within the incumbent's premises, to the extent technically feasible, and may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment. The incumbent LEC may take reasonable steps to protect its own equipment, such as enclosing the equipment in its own cage, and other reasonable security measures as discussed below. The incumbent LEC may not, however, require competitors to use separate rooms or floors, which only serves to increase the cost of collocation and decrease the amount of available collocation space. The incumbent LEC may not utilize unreasonable segregation requirements to impose unnecessary additional costs on competitors.

39. Incumbent LECs must also ensure that cageless collocation arrangements do not place unreasonable minimum space requirements on collocating carriers. Thus, a competitive LEC must be able to purchase collocation space sufficient, for example, to house only one rack of equipment, and should not be forced to purchase collocation space that is much larger than the carrier requires. We require incumbent LECs to make collocation space available in single-bay increments, meaning that a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment. We conclude that this requirement serves the public interest because it would reduce the cost of collocation for competitive LECs and it will reduce the likelihood of premature space exhaustion. We rely on state commissions to ensure that the prices of these smaller collocation spaces are appropriate given the amount of space in the incumbent LEC's premises actually occupied by the new entrants.

40. Finally, we require incumbent LECs, when space is legitimately exhausted in a particular LEC premises, to permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. Such a requirement is, we believe, the best means suggested by commenters, both incumbents and new entrants, of addressing the issue of space exhaustion by ensuring that competitive carriers can compete with the incumbent, even when there is no space inside the LEC's premises. Because zoning and other state and local regulations may affect the viability of adjacent collocation, and because the incumbent LEC may have a legitimate reason to exercise some measure of control over design or construction parameters, we rely on state commissions to address such issues. In general, however, the incumbent LEC must permit the new entrant to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscrimination requirements as traditional collocation arrangements.

41. In the *Advanced Services Order and NPRM*, we also asked whether, if an incumbent LEC offers a particular collocation arrangement, such an arrangement should be presumed to be technically feasible at other LEC premises. We recognize that different incumbent LECs make different collocation arrangements available on a region by region, state by state, and even central office by central office basis. We now conclude that the deployment by any incumbent LEC of a collocation arrangement gives rise to a rebuttable presumption in favor of a competitive LEC seeking collocation in any incumbent LEC premises that such an arrangement is technically feasible. Such a presumption of technical feasibility, we find, will encourage all LECs to explore a wide variety of collocation arrangements and to make such arrangements available in a reasonable and timely fashion. We believe this "best practices" approach will promote competition.

e. Security

42. In the *Advanced Services Order and NPRM*, we sought comment on the security and access issues that may arise from a requirement that incumbent LECs provide alternative collocation arrangements, including cageless collocation. We noted that, in the *Local Competition First Report and Order*, the Commission concluded that incumbent LECs should be permitted reasonable security arrangements to protect their equipment and ensure network security and reliability. We recognized that adequate security for both incumbent LECs and competitive LECs is important to encourage deployment of advanced services.

43. We conclude, based on the record, that incumbent LECs may impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their own premises either for their own employees or for authorized contractors. To the extent existing security arrangements are more stringent for one group than for the other, the incumbent may impose the more stringent requirements. Except as provided below, we conclude that incumbent LECs may not impose more stringent security requirements than these. Stated differently, the incumbent LEC may not impose discriminatory security requirements that result in increased collocation costs without the concomitant benefit of providing necessary protection of the incumbent LEC's equipment.

44. We agree with commenting incumbent LECs that protection of their equipment is crucial to the incumbents' own ability to offer service to their customers. Therefore, incumbent LECs may establish certain reasonable security measures that will assist in protecting their networks and equipment from harm. The incumbent LEC may not, however, unreasonably restrict the access of a new entrant to the new entrant's equipment. We permit incumbent LECs to install, for example, security cameras or other monitoring systems, or to require competitive LEC personnel to use badges with computerized tracking systems. Incumbent LEGs may not use any information they collect in the course of implementing or operating security arrangements for any marketing or other purpose in aid of competing with other carriers. We expect that state commissions will permit incumbent LECs to recover the costs of implementing these security measures from collocating carriers in a reasonable manner. We further permit incumbent LECs to require competitors' employees to undergo the same level of security training, or its equivalent, that the incumbent's own employees, or third party contractors providing similar functions, must undergo. The incumbent LEC may not, however, require competitive LEC employees to receive such training from the incumbent LEC itself, but must provide information to the competitive LEC on the specific type of training required so the competitive LEC's employees can complete such training by, for example, conducting their own security training.

45. Incumbent LECs must allow collocating parties to access their equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the incumbent LEC's premises by requiring, for example, an incumbent LEC employee to be present. We also require incumbent LECs to provide competitors reasonable access to basic facilities, such as restroom facilities and parking, while at the incumbent LEC's premises.

f. Space Preparation Cost Allocation

46. In the *Advanced Services Order and NPRM*, we sought comment on ALTS' proposal that we establish rules for the allocation of up-front space preparation charges. One approach we noted, which had been adopted by Bell Atlantic in its pre-filing statement in the New York Commission's section 271 docket, was that the competing provider would be responsible only for its share of the cost of conditioning the collocation space, whether or not other competing providers were immediately occupying the rest of the space. In addition, Bell Atlantic committed to allowing smaller competing providers to pay on an installment basis. We sought comment on whether we should adopt Bell Atlantic's approach, or any other approach, as a national standard in order to speed the deployment of advanced telecommunications capability to all Americans.

47. We conclude, based on the record, that incumbent LECs must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocator in a particular incumbent premises will not be responsible for the entire cost of site preparation. In order to ensure that the first entrant into an incumbent's premises does not bear the entire cost of site preparation, the incumbent must develop a system of partitioning the cost by comparing, for example, the amount of conditioned space actually occupied by the new entrant with the overall space conditioning expenses. We expect state commissions will determine the proper pricing methodology to ensure that incumbent LECs properly allocate site preparation costs among new entrants. We also conclude that these standards will serve as minimum requirements, and that states should continue to have flexibility to adopt additional collocation requirements, consistent with the Act.

g. Provisioning Intervals

48. In the *Advanced Services Order and NPRM*, we sought comment on how to address the entry barrier posed by delays between the ordering and provisioning of collocation space. Specifically, we sought comment on ALTS' proposal that we should establish presumptive reasonable deployment intervals for new collocation arrangements and expansion of existing arrangements. Currently, some incumbent LECs require a new entrant to obtain state competitive LEC certification before it can begin to negotiate an interconnection agreement. In addition, competitive LECs asserted that some incumbent LECs will not allow a requesting carrier to order collocation space until an interconnection agreement becomes final.

49. We conclude that an incumbent LEC may not impose unreasonable restrictions on the time period within which it will consider applications for collocation space. Specifically, we conclude that an incumbent LEC may not refuse to consider an application for collocation space submitted by a competitor while that competitor's state certification is pending, or before the competitor and incumbent LEC have entered into a final interconnection agreement. There is no legitimate reason for an incumbent LEC to refuse to begin processing a collocation application, especially given that competitors pay an application fee to the incumbent to cover the costs associated with consideration of the application.

50. We do not adopt specific provisioning intervals at this time. We have adopted several new collocation rules in this Order, and we do not yet have sufficient experience with the implementation of these new collocation arrangements to suggest time frames for provisioning. While we do not at this time adopt specific intervals, we retain authority to adopt specific time frames in the future as we deem necessary. We emphasize the importance of timely provisioning, and we are confident that state commissions recognize the competitive harm that new entrants suffer when collocation arrangements are unnecessarily delayed. The record in this proceeding reflects the significant competitive harm suffered by new entrants whose collocation space is not ready for as long as six to eight months after their initial collocation request is submitted to the incumbent LEC. Several state commissions have taken significant steps to lessen the time periods within which incumbent LECs provision collocation space. The Texas PUC has required Southwestern Bell Telephone Company (SWBT) to provide competitive LECs with information on space availability in a SWBT premises within ten days of receipt of a collocation request. Because of the importance of ensuring timely provisioning of collocation space, we encourage state commissions to ensure that incumbent LECs are given specific time intervals within which they must respond to collocation requests.

51. The practices of several carriers suggest that provisioning intervals can be short. Both GTE and Ameritech state that they respond to physical collocation requests within ten days by advising the requesting carrier whether space is available or not. We view ten days as a reasonable time period within which to inform a new entrant whether its collocation application is accepted or denied. Even with a timely response to their applications, however, new entrants cannot compete effectively unless they have timely access to provisioned collocation space. We urge the states to ensure that collocation space is available in a timely and pro-competitive manner that gives new entrants a full and fair opportunity to compete.

h. Space Exhaustion

52. In the *Advanced Services Order and NPRM*, we noted that one of the major barriers facing new entrants that seek to provide advanced services on a facilities basis is the lack of collocation space in many incumbent LEC premises. Pursuant to the Act, incumbent LECs must provide physical collocation unless they demonstrate to the state commission's satisfaction that "physical collocation is not practical for technical reasons or because of space limitations." Because incumbent LECs have the incentive and capability to impede competition by reducing the amount of space available for collocation by competitors, the Commission, in the *Local Competition First Report and Order*, required incumbent LECs that deny requests for physical collocation on the basis of space limitations to provide the state commission with detailed floor plans or diagrams of their premises. The Commission concluded that such submissions would aid the state commission in evaluating whether the denial of physical collocation was justified.

53. We now adopt our tentative conclusion that an incumbent LEC that denies a request for physical collocation due to space limitations should, in addition to providing the state commission with detailed floor plans, allow any competing provider that is denied physical collocation at the incumbent LEC's premises to tour the premises. Specifically, we require the incumbent LEC to permit representatives of a requesting telecommunications carrier that has been denied collocation due to space constraints to tour the entire premises in question, not just the room in which space was denied, without charge, within ten days of the denial of space. As we noted in the *Advanced Services NPRM*, allowing competing providers to walk through a LEC's premises will enable those providers to identify space that they believe could be used for physical collocation. If, after the tour of

the premises, the incumbent LEC and competing provider disagree about whether space limitations at that premise make collocation impractical, both carriers could present their arguments to the state commission. Incumbent LECs are permitted to assign their own personnel to such tours, thus offering sufficient protection against harm to the network and proprietary information.

54. We also adopt our tentative conclusion that an incumbent LEC must submit to a requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. The report must also include measures that the incumbent LEC is taking to make additional space available for collocation. In addition to this reporting requirement incumbent LECs must maintain a publicly available document, posted for viewing on the Internet, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space. Such requirements will allow competitors to avoid expending significant resources in applying for collocation space in an incumbent LEC's premises where no such space exists. We expect that state commissions will permit incumbent LECs to recover the costs of implementing these reporting measures from collocating carriers in a reasonable manner.

55. For network planning purposes, new entrants need to know what incumbent LEC offices are available for collocation. Each new entrant cannot be required to apply for collocation space in every central office in order to find out if there is space available in that office, when such information is readily available to the incumbent LEC that occupies that office.

56. Finally, we conclude that in order to increase the amount of space available for collocation, incumbent LECs must remove obsolete unused equipment from their premises upon reasonable request by a competitor or upon the order of a state commission. We rely on state commissions to settle disputes between carriers as to which incumbent equipment is truly obsolete and unused and can be removed from the LEC's premises. We also note that carriers may utilize the complaint provisions of section 208 of the Act in the case of collocation disputes that fall within the Commission's jurisdiction.

B. Spectrum Compatibility

57. *Background.* Spectrum compatibility refers generally to the ability of various loop technologies to reside and operate in close proximity while not significantly degrading each other's performance. Our discussion of spectrum compatibility includes spectral compatibility standards issues, such as setting the signal power densities so as to minimize interference, and spectrum management issues, such as establishing binder group administration and deployment practices. The development of spectral compatibility standards should help to minimize crosstalk, the noise caused by extraneous signals combining with the intended signal. This noise can result in the degradation of the intended signal. Compatibility becomes a significant concern with the introduction of new high-speed services in a multiple provider environment. For example, if an incumbent LEC and a competitive LEC offer DSL services that use different line encoding technologies, and if their respective customers' loops are located adjacent to each other within a binder group, the two technologies may unintentionally interfere with one another and interrupt the signals travelling over each loop. One method of ensuring spectral compatibility is through the use of power spectral density (PSD) masks. PSD masks are represented as graphical templates that define the limits on signal power densities across a range of frequencies so as to minimize interference. The goal of PSD mask standards is to permit divergent technologies to coexist in close proximity within the same binder groups. Standards bodies, such as T1E1.4, define these masks as technology develops. The development of spectrum management rules and practices should help enable multiple technologies to coexist within binder groups.

58. In the *Advanced Services Order and NPRM,* we sought comment on how to address the host of loop spectrum compatibility issues. In particular, we asked commenters to consider how we should address interference concerns that may result from provision of advanced services using different signal formats on copper pairs in the same bundle. We asked parties to suggest ways to determine when a particular service, technology, or piece of equipment causes network interference such that the use of the particular service, technology, or piece of equipment should be prohibited. We also asked commenters to suggest ways to distinguish between legitimate claims that particular services, technologies, or equipment create spectrum interference and claims raised simply to impede competition. We sought comment on whether we should adopt any industry standards as the basis for national spectrum compatibility requirements. We also sought comment on how any requirements should evolve over time so as to encourage and not stifle innovation. In addition, we sought comment on other approaches to spectrum management that would foster pro-competitive use of the loop plant by incumbent LECs and new entrants, while providing necessary network protection.

59. *Discussion.* We acknowledge that clear spectral compatibility standards and spectrum management rules and practices are necessary both to foster competitive deployment of innovative technologies and to ensure the quality and reliability of the public telephone network. We find, however, that incumbent LECs should not unilaterally determine what technologies LECs, both competitive LECs and incumbent LECs, may deploy. Nor should incumbent LECs have unfettered control over spectrum management standards and practices.

60. We find that we do not have a sufficient record with which we can adequately address all of the long-term spectrum compatibility issues. Thus, we adopt below a Further NPRM through which we hope to resolve, in a timely manner, the long-term spectrum compatibility issues. In the Further NPRM, we seek comment on additional measures we can take to encourage deployment of innovative technology while simultaneously ensuring the integrity of the network. In this Order, we adopt certain rules on spectrum compatibility and management which we believe will enable reasonable and safe deployment of advanced services prior to development of industry standards and resolution of all the issues raised in the Further NPRM.

a. Existing Power Spectral Density Masks

61. Commenters generally agree that the process of establishing power spectral density masks best occurs within the industry standards setting bodies. Such standards bodies possess the combined knowledge and expertise of a broad sector of the industry.

62. We conclude, however, that we should establish certain rules on spectrum compatibility that will immediately facilitate the deployment of advanced services, until long-term

standards and practices can be established. Although we believe that the development of power spectral density masks is best left to standards bodies such as the T1E1.4, we also believe the Commission can take certain immediate steps to encourage the deployment of advanced services. Rather than setting forth in this Order specific standards for the new technologies, we establish certain rules to foster deployment of advanced services while maintaining network integrity, until the standards bodies adopt comprehensive standards for the new technologies. We find that any equipment deployed consistent with the rules adopted here can be connected to the public switched telephone network with reasonable confidence that this technology will not significantly degrade the performance of other advanced services, and with reasonable confidence that this technology will not impair traditional voice band services.

63. We conclude that any loop technology that complies with existing industry standards is presumed acceptable for deployment. Specifically, we conclude that technology that complies with any of the following standards is presumed acceptable for deployment: T1.601, T1.413, and TR28. Furthermore, any technology which has been successfully deployed by any carrier without significantly degrading the performance of other services or has been approved by this Commission, any state commission, or an industry standards body is presumed acceptable for deployment.

64. We conclude that a LEC may not deny a carrier's request to deploy technology that is presumed acceptable for deployment, unless the LEC demonstrates to the state commission that deployment of the particular technology within the LEC network will significantly degrade the performance of other advanced services or traditional voice band services. We conclude further that industry standards are not upper limits on what technology is deployable; incumbent LECs and competitive LECs are free to mutually agree to deploy new technologies that may exceed these standards. We encourage cooperation between incumbents and competitors to establish agreements on the deployment of non-standard xDSL-based and other advanced services technology. We expect that as standards are ratified for new technologies, carriers will recognize these as deployable technologies and will not deny competitors the ability to deploy these technologies. In the event that a LEC subsequently demonstrates to this Commission or the relevant state commission that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, the carrier deploying the technology shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of other such services.

65. We further conclude that incumbent LECs cannot deny requesting carriers the right to deploy a new technology that does not conform to the standards cited in the preceding paragraph and has not yet been approved by a standards body (or otherwise authorized by this Commission or any state commission), if the requesting carrier can demonstrate to the state commission that this particular technology will not significantly degrade the performance of other advanced services or traditional voice band services. In this situation, there would be no presumption in favor of deployment and the burden would be on the requesting carrier to make the appropriate showing.

b. Spectrum Management

66. In order to encourage deployment of innovative technology and allow competitors the same opportunity as incumbent LECs to deploy advanced services, while simultaneously ensuring the integrity of the network, we establish certain spectrum management rules.

67. We define spectrum management to include binder/cable administration as well as the broader issue of deployment practices (e.g., the rules for testing and implementing xDSL-based and other advanced services). We believe that the industry must develop a simpler and more open approach to spectrum management. Currently, each incumbent LEC defines its own spectrum management specifications. These measures vary from provider to provider and from state to state, thereby requiring competitive LECs to conform to different specifications in each area. We find that uniform spectrum management procedures are essential to the success of advanced services deployment. As such, we adopt the following spectrum management rules.

68. We conclude that the incumbent LEC must provide competitive LECs with nondiscriminatory access to the incumbent LEC's spectrum management procedures and policies. The procedures and policies that the incumbent LEC uses in determining which services can be deployed must be equally available to competitive LECs intending to provide service in an area. We believe that competitive LECs need nondiscriminatory access to such information so that the competitive LEC can independently and expeditiously determine what services and technologies it can deploy within the incumbent LEC's territory.

69. We conclude that incumbent LECs must disclose to requesting carriers information with respect to the rejection of the requesting carrier's provision of advanced services, together with the specific reason for the rejection. The incumbent LEC must also disclose to requesting carriers information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops. We believe that such disclosure will allow for a more open and accessible environment, foster competition, and encourage deployment of advanced services.

70. We strongly believe that industry should discontinue deployment of well recognized disturbers, such as AMI T1. We further believe carriers should, to the fullest extent possible, replace AMI T1 with new and less interfering technologies. In the accompanying Further NPRM, we seek comment on methods by which to reduce or eliminate the deployment of AMI T1.

71. We conclude that if a carrier claims a service is significantly degrading the performance of other advanced services or traditional voice band services, then that carrier must notify the causing carrier and allow that carrier a reasonable opportunity to correct the problem. Any claims of network harm must be supported with specific and verifiable supporting information.

72. We recognize that there may be a limit to the number of lines delivering advanced services that can share a binder group without interfering with other customers' services. We conclude that the incumbent LEC shall bear the burden of demonstrating to the relevant state commission when a requested advanced service will significantly degrade the performance of existing services, such that the incumbent can deny the competitor's request. We do not believe this will be a problem until advanced services penetrate a significant portion of the market and expect incumbents to manage binder groups in such a manner so as to maximize the number and types of advanced services that can be deployed.

73. We recognize further that the standards development process may delay the deployment of new technologies. To address this difficulty, we encourage the industry to apply a

"test and see" strategy, which would allow competitive LECs and incumbent LECs to cooperate in testing and deployment of new services. We find that this strategy will encourage innovation and allow for the more rapid deployment of new technologies. Our hope is that all providers recognize that cooperation is essential in this future shared environment.

5. Further Information

74. For further information regarding this proceeding, contact Michael Pryor, Deputy Division Chief, Policy and Program Planning Division, Common Carrier Bureau, at 202–418–1580 or mpryor@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

VI. Ordering Clauses

75. Accordingly, it is ordered that, pursuant to sections 1–4, 10, 201, 202, 251–254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 201, 202, 251–254, 256, 271, and 303(r), the First Report and Order is hereby adopted. The requirements adopted in this Order shall be effective 30 days after publication in the **Federal Register**, except for 47 CFR 51.321 (f) and (h) and 51.323 (b) and (i)(3) which contain information collection requirements that are not effective until approved by the Office of Management and Budget.

76. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this First Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Advanced Services Order and NPRM*. The Commission sought written public comment on the proposals in the *Advanced Services Order and NPRM*, including comment on the IRFA. [The comments received are discussed below.] This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

I. Need for and Objectives of This First Report and Order and the Rules Adopted Herein

2. In order to encourage competition among carriers to develop and deploy new advanced services, it is critical that the marketplace for these services be conducive to investment, innovation, and meeting the needs of consumers. In this *First Report and Order*, we seek to ensure that all carriers have economic incentives to innovate and invest in new technologies.

3. We also adopt additional measures to further facilitate the development of competition in the advanced services market. First, we strengthen our collocation rules to reduce the costs and delays faced by competitors that seek to collocate equipment in an incumbent LEC's central office. We also adopt certain spectrum compatibility guidelines and adopt a *Further Notice of Proposed Rulemaking (FNPRM)* to explore issues related to developing long-term standards and practices for spectrum compatibility and management and line sharing. The issues which are the subject of the *FNPRM* will be discussed in a separate Initial Regulatory Flexibility Analysis.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

4. In the IRFA, we stated that any rule changes would impose minimum burdens on small entities. We indicated that the collocation section of the *NPRM* proposed reporting requirements. The IRFA solicited comment on alternatives to our proposed rules that would minimize the impact they may have on small entities. In response we received comments from the Office of Advocacy, United States Small Business Administration (SBA) specifically directed to the IRFA. Specifically, SBA contends that the Commission's IRFA was inadequate because it failed to consider the effect of its proposed rules on small incumbent LECs. While we continue to believe that incumbent LECs are dominant and therefore not "small" businesses within the meaning of the SBA, we include a discussion of the effect of the actions taken in this order on small incumbent LECs in order to remove any possible issue of RFA compliance. As noted in Part V of this FRFA, in making the determinations reflected in this order, we have given consideration to the SBA's comments, as well as comments of parties that generally addressed the impact of our proposed rules on small entities. We also do not agree with SBA's contention that our IRFA was not sufficiently detailed to generate "meaningful comments on the impact of the proposed rules." The comments of the SBA, the National Rural Telecom Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, among others, provided more than sufficient detail for us to prepare this FRFA.

III. Description and Estimates of the Number of Small Entities Affected by the First Report and Order

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the actions taken in this *First Report and Order*. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

6. Below, we further describe and estimate the number of small entities that may be affected by the decisions in this *First Report and Order*.

7. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia*, local exchange carriers (LECs), wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

8. The SBA has defined establishments engaged in providing "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees. Below, we discuss the total estimated number of telephone companies and small businesses in this category, and we then attempt to refine further those estimates.

9. Although some affected incumbent LECs may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not

independently owned and operated, and therefore by definition not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term "small incumbent LECs" to refer to any incumbent LECs that arguably might be defined by the SBA as "small business concerns."

10. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small LECs. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed rules, if adopted.

11. *Competitive LECs.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive LECs. The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of competitive LECs nationwide is the data that we collect annually in connection with the TRS Worksheet. According the most recent *Telecommunications Industry Revenue* data, 109 companies reported that they were engaged in the provision of either competitive local exchange service or competitive access service, which are placed together in the data. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of competitive LECs that would qualify as small business concerns under the SBA definition. Consequently, we estimate that there are fewer than 109 small competitive LECs or competitive access providers.

IV. Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

A. Collocation

12. We establish additional national rules for collocation. We require incumbent LECs to permit collocating carriers to construct their own cross-connect facilities between collocated equipment located on the incumbent's premises. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days a list of all equipment that the incumbent LEC locates within the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet. Incumbent LECs must provide specific collocation arrangements, consistent with the rules we outline below, at reasonable rates, terms, and conditions as are set by state commissions in conformity with the Act and our rules.

13. Incumbent LECs must make shared collocation cages, cageless collocation, and adjacent controlled environmental huts, each with single-bay collocation arrangements, available to new entrants. Subject only to technical feasibility and certain security parameters, incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a cage or similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. Incumbent LECs may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible, because such intermediate points of interconnection simply increase collocation costs without a concomitant benefit to incumbents. Incumbent LECs must allow competitive LECs to have access to their collocated equipment 24 hours a day, seven days a week, without requiring a security escort or delaying a competitor's employees' entry into the incumbent LEC's premises.

14. Incumbent LECs must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocator in a particular incumbent premises will not be responsible for the entire cost of site preparation. An incumbent LEC may not refuse to consider an application for collocation space submitted by a competitor while that competitor's state certification is pending, or before the competitor and incumbent LEC have entered into a final interconnection agreement. Incumbent LECs must permit representatives of a requesting telecommunications carrier that has been denied collocation due to space constraints to tour the entire premises in question. Upon request from a competitive LEC, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report should specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. The report should also include measures that the incumbent LEC is taking to make additional space available for collocation. In addition to this reporting requirement, incumbent LECs must maintain a publicly available document, posted for viewing on the Internet, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space. Finally, incumbent LECs must remove obsolete unused equipment from their premises to increase the amount of space available for collocation.

B. Spectrum Compatibility

15. We establish certain spectrum compatibility guidelines in order to permit the safe deployment of xDSL and other advanced technologies. We determine that complying with these rules may require use of engineering, technical, operational, accounting, billing, and legal skills. However, we believe that incumbent LECs will already have these skills.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Alternatives Considered

A. Collocation

16. Incumbent LECs that deny competitive LECs collocation of certain equipment in a central office must provide the requesting carrier, within five business days, a list of all equipment the incumbent locates within the premises in question, together with an affidavit attesting that all the incumbent's equipment meets the safety standards that the incumbent contends the competitor's equipment fails to

meet. In addition, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. These requirements allow competitive LECs, who would otherwise have be unable to discover if incumbent LECs are imposing discriminatory standards, to determine what type of equipment incumbents will accept to be collocated, and further will allow competitive LECs to determine if incumbent LECs are discriminating in enforcing equipment requirements on competitive LECs but not on themselves. The burden in preparing these reports in minimum, because incumbent LECs already know what equipment they have in their offices, how much space they have available, and the way in which they apply their collocation standards.

17. Incumbent LECs that deny collocation for space reasons must allow competitive LECs to tour facilities. This requirement again provides proof of lack of space, and allows competitive LECs to gather evidence for presentation to state commission if there is a factual dispute regarding space availability. The burden on the incumbent LEC is minimum, because it can schedule tours when an employee is on site and available to give one.

18. An incumbent LEC must make public a document available on Internet that lists all its premises that have no more collocation space available, within 10 days of the time that the space fills up completely. This serves competitive LECs by telling them when an incumbent LEC office is full, so they need not apply for space. The burden on incumbent LECs is minimal, because an Internet site is easy and cheap to maintain, and all they are doing is making available information that they already know themselves.

19. An incumbent LEC must submit a report, within 10 days of receipt of a request for such a report, to a requesting competitive LEC indicating how much space is available in a particular incumbent LEC premises. This benefits competitive LECs by allowing them to find out if space is available without having to go through the lengthy and expensive application process. There is minimal burden on the incumbents because they already know the design of their own central offices and should be able to easily state how much space is available for collocation.

20. Incumbent LECs must remove obsolete unused equipment from their premises to create more collocation space. Such a requirement can result in the creation of more collocation space in central offices that were previously without space. The burden on incumbent LECs is minimal, because if the equipment is obsolete and unused, the removal of such equipment will not affect the network operations of the incumbent.

B. Spectrum Compatibility

21. Incumbent LECs must make public the spectrum management guidelines and policies that they use to determine what services competitive LECs can provide over unbundled loops. This requirement benefits competitive LECs by ensuring they know what services they can provide over unbundled loops. There is a minimal burden to incumbent LECs, because they already know what spectrum management guidelines they are applying to their own network, and they are now simply required to make such information public.

VI. Report to Congress

22. The Commission will send a copy of the First Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the First Report and Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the First Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

List of Subjects in 47 CFR Part 51

Communications common carriers, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Amendments to the Code of Federal Regulations

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 51 as follows:

PART 51—INTERCONNECTION

1. The authority citation for Part 51 continues to read as follows:

Sections 1–5, 7, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, unless otherwise noted.

2. Section 51.5 is amended by adding the following definition to read as follows:

§ 51.5 Terms and definitions.

* * * * *

Advanced services. The term "advanced services" is defined as high speed, switched, broadband, wireline telecommunications capability that enables users to originate and receive high-quality voice, data, graphics or video telecommunications using any technology.

* * * * *

3. Section 51.321 is amended by revising paragraphs (c) and (f) and adding new paragraphs (h) and (i) to read as follows:

§ 51.321 Methods of obtaining interconnection and access to unbundled elements under section 251 of the Act.

* * * * *

(c) A previously successful method of obtaining interconnection or access to unbundled network elements at a particular premises or point on any incumbent LEC's network is substantial evidence that such method is technically feasible in the case of substantially similar network premises or points. A requesting telecommunications carrier seeking a particular collocation arrangement, either physical or virtual, is entitled to a presumption that such arrangement is technically feasible if any LEC has deployed such collocation arrangement in any incumbent LEC premises.

* * * * *

(f) An incumbent LEC shall submit to the state commission, subject to any protective order as the state commission may deem necessary, detailed floor plans or diagrams of any premises where the incumbent LEC claims that physical collocation is not practical because of space limitations. An incumbent LEC that contends space for physical collocation is not available in an incumbent LEC premises must also allow the requesting carrier to tour the entire premises in question, not just the area in which space was denied, without charge, within ten days of the receipt of the incumbent LEC's denial of space.

* * * * *

(h) Upon request, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. This report must also include measures that the incumbent LEC is taking to

make additional space available for collocation. The incumbent LEC must maintain a publicly available document, posted for viewing on the incumbent LEC's publically available Internet site, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space.

(i) An incumbent LEC must, upon request, remove obsolete unused equipment from their premises to increase the amount of space available for collocation.

4. Section 51.323 is amended by revising paragraphs (b), (c), (h), and (i) and adding new paragraph (k) to read as follows:

§ 51.323 Standards for physical collocation and virtual collocation.

* * * * *

(b) An incumbent LEC shall permit the collocation of any type of equipment used or useful for interconnection or access to unbundled network elements. Whenever an incumbent LEC objects to collocation of equipment by a requesting telecommunications carrier for the purposes within the scope of section 251(c)(6) of the Act, the incumbent LEC shall prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements. An incumbent LEC may not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that the incumbent LEC applies to its own equipment. An incumbent LEC may not object to the collocation of equipment on the ground that the equipment fails to comply with National Equipment and Building Specifications performance standards. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days of the denial a list of all equipment that the incumbent LEC locates within the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet. Equipment used for interconnection and access to unbundled network elements includes, but is not limited to:

(1) Transmission equipment including, but not limited to, optical terminating equipment and multiplexers, and

(2) Equipment being collocated to terminate basic transmission facilities pursuant to §§ 66.1401 and 64.1402 of this chapter as of August 1, 1996.

(3) Digital subscriber line access multiplexers, routers, asyncronous transfer

(c) Nothing in this section requires an incumbent LEC to permit collocation of equipment used solely for switching or solely to provide enhanced services; provided, however, that an incumbent LEC may not place any limitations on the ability of requesting carriers to use all the features, functions, and capabilities of equipment collocated pursuant to paragraph (b) of this section, including, but not limited to, switching and routing features and functions and enhanced services functionalities.

* * * * *

(h) An incumbent LEC shall permit a collocating telecommunications carrier to interconnect its network with that of another collocating telecommunications carrier at the incumbent LEC's premises and to connect its collocated equipment to the collocated equipment of another telecommunications carrier within the same premises provided that the collocated equipment is also used for interconnection with the incumbent LEC or for access to the incumbent LEC's unbundled network elements.

(1) An incumbent LEC shall provide, at the request of a collocating telecommunications carrier, the connection between the equipment in the collocated spaces of two or more telecommunications carriers. The incumbent LEC must permit any collocating telecommunications carrier to construct its own connection between the carrier's equipment and that of one or more collocating carriers, if the telecommunications carrier does not request the incumbent LEC's construction of such facilities. The incumbent LEC must permit the requesting carrier to construct such facilities using copper or optical fiber equipment.

(2) An incumbent LEC shall permit collocating telecommunications carriers to place their own connecting transmission facilities within the incumbent LEC's premises outside of the actual physical collocation space, subject only to reasonable safety limitations.

(i) As provided herein, an incumbent LEC may require reasonable security arrangements to protect its equipment and ensure network reliability. An incumbent LEC may only impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their own premises for their own employees or authorized contractors. An incumbent LEC must allow collocating parties to access their collocated equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the incumbent LEC's premises. Reasonable security measures that the incumbent LEC may adopt include:

(1) Installing security cameras or other monitoring systems; or

(2) Requiring competitive LEC personnel to use badges with computerized tracking systems; or

(3) Requiring competitive LEC employees to undergo the same level of security training, or its equivalent, that the incumbent's own employees, or third party contractors providing similar functions, must undergo; provided, however, that the incumbent LEC may not require competitive LEC employees to receive such training from the incumbent LEC itself, but must provide information to the competitive LEC on the specific type of training required so the competitive LEC's employees can conduct their own training.

* * * * *

(k) An incumbent LEC's physical collocation offering must include the following:

(1) *Shared collocation cages.* A shared collocation cage is a caged collocation space shared by two or more competitive LECs pursuant to terms and conditions agreed to by the competitive LECs. In making shared cage arrangements available, an incumbent LEC may not increase the cost of site preparation or nonrecurring charges above the cost for provisioning such a cage of similar dimensions and material to a single collocating party. In addition, the incumbent must prorate the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation cage or condition the space for collocation use, regardless of how many carriers actually collocate in that cage, by determining the total charge for site preparation and allocating that charge to a collocating carrier based on the percentage of the total space utilized by that carrier. An incumbent LEC must make shared collocation space available in single-bay increments or their equivalent, i.e., a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment.

(2) *Cageless collocation.* Incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a cage or

similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. An incumbent LEC may require collocating carriers to use a central entrance to the incumbent's building, but may not require construction of a new entrance for competitors' use, and once inside the building, incumbent LECs must permit collocating carriers to have direct access to their equipment. An incumbent LEC may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible. In addition, an incumbent LEC must give competitors the option of collocating equipment in any unused space within the incumbent's premises, and may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment. An incumbent LEC must make cageless collocation space available in single-bay increments, meaning that a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment.

(3) *Adjacent space collocation.* An incumbent LEC must make available, where space is legitimately exhausted in a particular incumbent LEC premises, collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. The incumbent LEC must permit the new entrant to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscrimination requirements as applicable to any other physical collocation arrangement. The incumbent LEC must permit the requesting carrier to place its own equipment, including, but not limited to, copper cables, coaxial cables, fiber cables, and telecommunications equipment, in adjacent facilities constructed by either the incumbent LEC or by the requesting carrier itself.

[FR Doc. 99–10832 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–187; RM–9371]

Radio Broadcasting Services; Des Moines, IA; Bennington, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the joint request of Triathlon Broadcasting of Omaha Licensee, Inc., licensee of Station KTNP, Bennington, NE, and Saga Communications of Iowa, Inc., licensee of Station KIOA–FM, Des Moines, IA, substitutes Channel 227C3 for Channel 227A at Bennington, NE, modifies the license of Station KTNP to specify the higher powered channel, substitutes Channel 227C1 for Channel 227C at Des Moines, IA, and modifies the license of Station KIOA–FM to specify the lower class channel. *See* 63 FR 57637, October 27, 1998. Channel 227C1 can be allotted to Des Moines in compliance with the Commission's minimum distance separation requirements and can be used at Station KIOA–FM's licensed site, at coordinates 41–37–54 NL; 93–27–24 WL. Channel 227C3 can be allotted to Bennington, NE, with a site restriction of 15.2 kilometers (9.4 miles) east, at coordinates 41–20–43 NL; 95–58–33 WL, to accommodate Triathlon Broadcasting's desired site. With this action, this proceeding is terminated.

EFFECTIVE DATE: Effective June 7, 1999.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–187, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 227C and adding Channel 227C1 at Des Moines.

3. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 227A and adding Channel 227C3 at Bennington.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10906 Filed 4–29–99; 8:45 am].

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–27; RM–9188]

Radio Broadcasting Services; Munds Park, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This documents allots Channel 291A to Munds Park, Arizona, as that community's first local aural transmission service, in response to a petition filed by Dancing Terrapin Broadcasting. *See* 63 FR 12427, March 13, 1998. Coordinates used for Channel 291A at Munds Park are 34–56–44 NL and 111–38–22 WL. With this action, the proceeding is terminated.

DATES: Effective June 7, 1999. A filing window for Channel 291A at Munds Park, Arizona, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner Mass Media Bureau, (202) 418–2180. Questions related to the application filing process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–27, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY A–257),

445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Munds Park, Channel 291A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10907 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 042799B]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock sole/Flathead sole/"Other flatfish" Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 27, 1999, until 1200 hrs, A.l.t., July 4, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish (64 FR 12103, March 11, 1999) established the second seasonal apportionment of halibut bycatch mortality, specified for the BSAI trawl rock sole/flathead sole/"other flatfish" fishery category, which is defined at § 679.21(e)(3)(iv)(B)(*2*), as 123 metric tons.

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1999 halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the second seasonal apportionment of the 1999 halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the apportionment. Further delay would only result in the second seasonal apportionment of the 1999 halibut bycatch allowance being exceeded. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C. 553(d), a delay in the effective date is hereby waived.

Classification

This action is required by 50 CFR 679.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 27, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10863 Filed 4–27–99; 3:25 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 83
Friday, April 30, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25

[REG–103851–99]

RIN 1545–AX07

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: These proposed regulations relate to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests. These regulations are necessary because section 7520(c)(3) directs the Secretary to update the actuarial tables to reflect the most recent mortality experience available. These regulations will effect the valuation of inter vivos and testamentary transfers of interest dependent on one or more measuring lives. The text of the temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** also serves as the text of these proposed regulations.

DATES: Written and electronic comments and requests for a public hearing must be received by July 29, 1999.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG–103851–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–103851–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at *http://www.irs.ustreas.gov/prod/taxregs/comments.html*.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, William L. Blodgett, (202) 622–3090; concerning submissions, Guy Traynor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend Income Tax Regulations (26 CFR part 1) under sections 642(c)(5) and 664, Estate Tax Regulations (26 CFR part 20) under section 2031, and Gift Tax Regulations (26 CFR part 25) under section 2512. These regulations revise actuarial tables used for the valuation of partial interests in property under section 7520 to reflect the mortality experience based on the 1990 United States census, the most recent mortality experience available:

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analysis

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Proposed Effective Date

The regulations are proposed to apply to the valuation of annuities, interests for life or terms of years, and remainder or reversionary interests for valuation dates after April 30, 1999.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and 8 copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting information. The principal author of these regulations is William L. Blodgett, Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.170A–12 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 1.170A–12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

* * * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 1.170A–12T(b)(2) published elsewhere in this issue of the **Federal Register**].

(3) [The text of this proposed paragraph (b)(3) is the same as the text of § 1.170A–12T(b)(3) published elsewhere in this issue of the **Federal Register**].

* * * * *

Par. 3. Section 1.642(c)–6 is amended by revising paragraphs (d), (e) and (f) to read as follows:

§ 1.642(c)–6 Valuation of a remainder interest in property transferred to a pooled income fund.

* * * * *

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.642(c)–6T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 1.642(c)–6T(e) published elsewhere in this issue of the **Federal Register**].

(f) [The text of this proposed paragraph (f) is the same as the text of § 1.642(c)–6T(f) published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 1.664–4 is amended by revising paragraphs (a)(1), (d), (e) and (f) to read as follows:

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) * * *

(1) [The text of this proposed paragraph (a)(1) is the same as the text of § 1.664–4T(a)(1) published elsewhere in this issue of the **Federal Register**].

* * * * *

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.664–4T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 1.664–4T(e) published elsewhere in this issue of the **Federal Register**].

(f) [The text of this proposed paragraph (f) is the same as the text of § 1.664–4T(f) published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 1.7520–1 is amended by revising paragraphs (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 1.7520–1 Valuation of annuities, unitrust interest, interests for life or terms of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 1.7520–1T(b)(2) published elsewhere in this issue of the **Federal Register**].

(c) * * *

(1) [The text of this proposed paragraph (c)(1) is the same as the text of § 1.7520–1T(c)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (c)(2) is the same as the text of § 1.7520–1T(c)(2) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.7520–1T(d) published elsewhere in this issue of the **Federal Register**].

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 5. The authority citation for part 20 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 6. Section 20.2031–7 is amended by revising paragraphs (c), (d) and (e) to read as follows:

§ 20.2031–7 Valuation of annuities, interests for life or term of years , and remainder or reversionary interests.

* * * * *

(c) [The text of this proposed paragraph (c) is the same as the text of § 20.2031–7T(c) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 20.2031–7T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 20.2031–7T(e) published elsewhere in this issue of the **Federal Register**].

Par. 7. Section 20.7520–1 is amended by revising paragraphs (a)(2), (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 20.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

(a) * * *

(2) [The text of this proposed paragraph (a)(2) is the same as the text of § 20.7520–1T(a)(2) published elsewhere in this issue of the **Federal Register**].

* * * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 20.7520–1T(b)(2) published elsewhere in this issue of the **Federal Register**].

(c) * * *

(1) [The text of this proposed paragraph (c)(1) is the same as the text of § 20.7520–1T(c)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (c)(2) is the same as the text of § 20.7520–1T(c)(2) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 20.7520–1T(d) published elsewhere in this issue of the **Federal Register**].

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 8. The authority citation for part 25 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 9. Section 25.2512–5 is amended by revising paragraphs (c), (d) and (e) to read as follows:

§ 25.2512–5 Valuation of annuities, unitrust interest, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) [The text of this proposed paragraph (c) is the same as the text of § 25.2512–5T(c) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 25.2512–5T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 25.2512–5T(e) published elsewhere in this issue of the **Federal Register**].

Par. 10. Section 25.7520–1 is amended by revising paragraphs (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 25.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 25.7520–1T(b)(2) published elsewhere in this issue of the **Federal Register**].

(c) * * *

(1) [The text of this proposed paragraph (c)(1) is the same as the text of § 25.7520–1T(c)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (c)(2) is the same as the text of § 25.7520–1T(c)(2) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 25.7520–1T(d) published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–10534 Filed 4–29–99; 8:45 am]

BILLING CODE 4830–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 98–147, FCC 99–48]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, we propose to establish certain spectrum compatibility and management rules in order to promote the timely deployment of advanced services without significantly degrading the performance of other advanced services or traditional voice band services. These rules rest upon currently established technical standards and practices. We recognize that, in the long term, more comprehensive standards and practices must be developed. The Commission is therefore issuing this Further Notice of Proposed Rulemaking (FNPRM) seeking comment on proposed regulations to resolve, in a timely manner, the host of long-term spectrum compatibility and management issues. In addition, the FNPRM tentatively concludes that it is technically feasible for two different carriers sharing a single line to provide traditional voice service and advanced services. The FNPRM seeks comment on a host of issues associated with the ramifications of mandating such line sharing.

DATES: Comments are due on or before June 15, 1999 and Reply Comments are due on or before July 15, 1999. Written comments by the public on the proposed information collections are due June 15, 1999.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW–A325, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 445 12th Street, S.W., Room 5–C327, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th St., N.W., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Staci Pies, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking adopted March 18, 1999 and released March 31, 1999. The full text of this FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th St., S.W., Room CY–A257, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9948.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Synopsis of Further Notice of Proposed Rulemaking

A. Spectrum Compatibility—Long-Term Standards and Practices

1. Overview

1. In the *Advanced Services Order and NPRM* 63 FR 45134, August 24, 1998, we requested comment on loop spectrum issues. We asked commenters to address any degradation of service that may result from provision of advanced services using different signal formats on copper pairs in the same bundle. In the Order, we establish spectrum compatibility and management rules to the extent currently feasible in order to promote the timely deployment of advanced services without significantly degrading the performance of other advanced services or traditional voice band services. These rules rest upon currently established technical standards and practices. We recognize that, in the long term, more comprehensive technical standards and practices must be developed. We therefore adopt this Further NPRM, through which we hope to resolve, in a timely manner, the host of long-term spectrum compatibility and management issues.

2. Discussion

2. In the companion Order, we find that incumbent LECs may not unilaterally set spectrum compatibility and spectrum management policies. In place of incumbent LEC-determined standards and practices, we found in the companion Order that there should be a competitively neutral spectrum standards setting process to investigate the actual level of interference between technologies to determine what technologies are deployable and under what circumstances. In this Further NPRM, we tentatively conclude that this process should include the active participation of the incumbent LECs, competitive LECs, equipment suppliers, and the Commission. We further tentatively conclude the following: the process should be competitively neutral in both structure and procedure; representation should be equitably spread over all segments of the industry; and representatives should have equal authority, with no party or groups of parties presuming to have greater weight or "veto" power. We seek comment on these tentative conclusions and how to establish such a process to develop long-term standards and practices. We also seek comment on our authority to direct industry bodies to engage in the process of developing spectrum compatibility and management policies, and our authority to compel industry bodies to adhere to any requirements we establish for the functioning of such bodies.

3. In this Further NPRM we seek comment on two broad and interrelated issues: spectrum compatibility and spectrum management. With regard to spectral compatibility, we generally believe, as indicated in the Order, that the industry, via its standards bodies, can create acceptable standards for xDSL and other advanced services. Much of the standards development process is continuous in nature, and our hope is that the industry will fairly and expeditiously develop standards beyond completion of this proceeding. Future technologies will require the T1E1.4, or other standards bodies, to develop these compatibility standards in a timely, fair, and open manner. We believe, however, that the Commission can play a role in fostering timely, fair, and open development of standards for current and future technologies.

4. We seek comment on the best process or forum for developing future power spectral density (PSD) masks. We tentatively conclude that T1E1.4 is the best choice for this task. Commenters have expressed concern, however, that T1E1.4 is not representative of the developing advanced services industry as a whole and may be overly represented by incumbent carriers and large manufacturers. We seek comments on how to foster broader representation and participation in this standards body. We also ask commenters to suggest other forums or methods of guaranteeing fair and timely resolution of spectrum compatibility problems.

5. We seek comment on whether generic masks would be an appropriate means to address spectrum compatibility. We seek comment on whether this approach might restrict deployment of technologies that otherwise would not harm the network.

6. We seek comment on whether a calculation-based approach, in addition

to a power spectral density mask-based approach, provides a better tool for defining spectral compatibility We specifically seek comment whether such an approach provides a more accurate predictor of spectrum compatibility.

7. With regard to spectrum management, we believe that comments in response to this Further NPRM can provide the information necessary to establish long-term spectrum management rules. Our goal is that the rules developed as a result of the Further NPRM will encourage technical innovation while preserving network reliability. Although we believe that T1E1.4 could serve as the common ground where industry resolves these issues, we think the Commission can facilitate industry development of fair standards through this Further NPRM. We seek specific comment and clarification on the following items initially raised in the NPRM, but not sufficiently explicated in the record.

8. We seek comment on methods to encourage the industry to develop fair and open practices for the deployment of advanced services technologies. We tentatively conclude that T1E1.4 should serve as the forum to establish fair and open deployment practices. This conclusion is premised on the assumption that a method will be developed by which to ensure the active participation of all segments of the industry in T1E1.4. What role should the Commission play in facilitating broad participation in this process?

9. We ask commenters to consider how to maximize the deployment of new technologies within binder groups while minimizing interference. We seek comment on the development of xDSL binder group administration practices, including specifications on the types and numbers of technologies that can be deployed within a binder group. This should include procedures allowing for deployment of various xDSL-based services in a nonrestrictive manner. We seek comment on the procedures for maintaining and updating these administrative practices so as to minimize interference with future technologies. We seek comment on the practice of segregating services based on the technology. For example, we recognize AMI T1 as a potential disturber and understand that incumbent LECs currently assign AMI T1 to separate binder groups. Competitive LECs have expressed concern that incumbent LECs might apply a similar segregation practice to xDSL technology—a practice competitive LECs claim is not necessary or beneficial. We seek comment on whether to allow incumbent LECs to segregate xDSL technology in such a manner.

10. We seek comment on whether we should establish a grandfathering process for interfering technologies. For example, should the Commission establish a sunset period for services such as AMI T1? As noted above, we recognize that carriers have a substantial base of AMI T1 in deployment and that in some areas AMI T1 provides the only feasible high-speed transmission capability. We seek comment on whether carriers should be required to replace AMI T1 with new and less interfering technologies, and, if so, what time frame would be reasonable. We ask commenters to propose rules for a possible grandfathering process which will not disrupt the network and simultaneously encourage investment in, and deployment of, new technology.

11. We seek comment on whether to develop a dispute resolution process regarding the existence of disturbers in shared facilities. Specifically, we ask commenters to suggest how best to resolve disputes arising out of claims that a technology is "significantly degrading" the performance of other services. We also seek comment on whether, and if so, how we should define "significantly degrade" so as to ensure that consumers have the broadest selection of services from which to choose without harming the network. If we develop a dispute resolution process, should it rely on an outside party as an arbitrator, such as the state commission, the FCC, or a neutral third party, or should the procedures simply provide the rules by which players must conform?

12. We seek comment to determine whether the Commission should solicit the assistance of a third party in developing loop spectrum management policies. What role could such a third party serve in facilitating communication between the industry and regulatory bodies? Should it serve a role similar to the role served by the administrator for local number portability? Should it be empowered to develop binder group management procedures, facilitate the development of future PSD masks, and resolve disputes between carriers over the existence of disturbers in shared facilities? We also ask parties to comment on whether a voluntary industry effort could effectively address loop management issues.

13. We acknowledge that the industry, via the T1E1.4, is currently engaged in developing standards for various varieties of xDSL technologies. We recognize further that the industry can best address many of the details concerning spectral compatibility. Furthermore, we acknowledge that many of the spectral compatibility issues will require on-going analysis and oversight beyond the completion of this proceeding. Although we have initiated this Further NPRM in order to develop rules to address long-term spectrum management concerns, we expect that the industry, via the T1E1.4 or other bodies, will continue to develop standards and procedures to promote deployment of advanced services and resolve the problems that arise when multiple carriers deploy multiple technologies over the same facilities. We encourage the industry, through its standards bodies, to continue its independent efforts to develop long-term standards and practices for spectrum management. We expect that the industry will conduct this ongoing role in a expeditious, fair and open manner.

14. We ask commenters to address any additional measures the Commission could take to ensure that spectrum compatibility and management concerns are resolved in a fair and expeditious manner. We also ask commenters to consider what measures the Commission could take to ensure that spectral compatibility requirements are forward-looking and able to evolve over time to encourage, rather than stifle, innovation and deployment of advanced services.

B. Line Sharing

1. Overview

15. In the *Advanced Services Order and NPRM*, we sought comment on whether two different service providers should be allowed to offer services over the same line, with each provider utilizing different frequencies to transport voice or data over that line. We asked commenters whether we should mandate such line sharing, specifically whether the competitive LEC should have the right to run high frequency data signals, or other advanced services, over the same line as the incumbent LEC's voice signal.

16. Shared line access makes it possible for a competing carrier to offer advanced services over the same line that a consumer uses for voice service without requiring the competing carrier to take over responsibility for providing the voice service. Such shared line access would enable new entrants to focus solely on the advanced services market without having to acquire the resources or the expertise to provide other types of telecommunications services, such as analog voice service. Shared line access could also remove

any cost disadvantage that an advanced services only provider might face if it had to provide advanced services over a stand-alone line. A competitive LEC, therefore, may want to take advantage of the ability of advanced services technology, such as ADSL, to run on the frequency above the analog voice channel by providing only high-speed data service, without voice service, over a loop.

17. We believe each end user customer should be able to choose from a broad array of services and from whom to obtain these services. In particular, we believe allowing consumers to keep their voice service provider while allowing them to obtain advanced services on the same line from a different provider will foster consumer choice and promote innovation and competitive deployment of advanced services.

18. Line sharing assumes that a requesting carrier will have access to the incumbent LEC's local loop. While the Supreme Court, in *Iowa Utilities Board*, has directed the Commission to reevaluate the standard for defining the local loop as an unbundled network element, we see no reason to delay seeking comment in this proceeding on whether competing carriers may have access to the high frequency portion on an incumbent LEC's loop. To the extent that any redefinition of the local loop, or other network elements, affects any conclusions drawn from this proceeding, we will revise our analysis and conclusions accordingly.

2. Discussion

19. The existing record indicates that incumbent LECs have denied competitors the option of offering advanced services over the same line on which the incumbent LEC provides voice service.

20. We decline, however, to mandate line sharing at the federal level at this time under the accompanying Report and Order. Although we find no evidence that line sharing is not technically feasible, we find that the record does not sufficiently address the operational, pricing, and other practical issues that may arise if LECs are compelled to share lines with competitors. We acknowledge that the Commission has concluded that a "determination of technical feasibility does not include consideration of economic, accounting, billing, space, or site, concerns." Several incumbent LECs have raised, however, billing, accounting, and other operational issues, that we would like to consider before we determine whether to mandate line sharing nationwide. While none of the issues raised by the incumbents challenge the technical feasibility of line sharing, we believe that there may be practical considerations that have not been adequately addressed in the existing record. Moreover, there may be policy considerations that weigh against line sharing, even if the Commission were to conclude that technical and operational concerns could be met. As a result, we seek additional comments in the Further NPRM in order to develop a more comprehensive record on the policy and practical ramifications of federally mandated line sharing, including any policy considerations that weigh against line sharing.

a. Authority to Require Line Sharing

21. In *Iowa Utilities Board*, the Supreme Court held that we have jurisdiction to implement the local competition provisions of the Act and that our rulemaking authority extends to sections 251 and 252. We therefore tentatively conclude that we have authority to require line sharing. We seek comment on this tentative conclusion. Finally, we tentatively conclude that nothing in the Act, our rules, or caselaw precludes states from mandating line sharing, regardless of whether the incumbent LEC offers line sharing to itself or others, and regardless of whether it offers advanced services. We seek comment on these tentative conclusions.

b. Access to "High-Frequency Portion" of the Loop

22. We tentatively conclude that incumbent LECs must provide requesting carriers with access to the transmission frequencies above that used for analog voice service on any lines that LECs use to provide exchange service when the LEC itself provides both exchange and advanced services over a single line. We tentatively conclude that, without such a ruling, competitive LECs will be hampered in their ability to compete in providing advanced services to end users because the competitive LEC would have to obtain a new line from the incumbent LEC in order to provide advanced services whereas the incumbent LEC could provide advanced services far less expensively by using the existing line. We seek comment on these tentative conclusions. Moreover, in the absence of line sharing, the competing carrier effectively may be forced to provide both voice and data over the local loop it leases from the incumbent. This means that the competing carrier potentially must invest in two technologies—circuit switched technology for voice transmissions and packet switched technologies for data. The competing carrier may need to make this investment in circuit technology even though that technology may become obsolete over time. We seek comment on the extent to which the absence of line sharing requires such dual investment and the competitive effect of such dual investment.

23. We also seek comment in this proceeding on whether we should more precisely define what constitutes the frequency above that used for analog voice service, so that it is clear to all parties what the incumbent must unbundle, in the event we require line sharing. We ask commenters to address whether setting a specific dividing line between a low frequency channel and a high frequency channel on the loop would arbitrarily freeze technological development and deny carriers opportunities to use the loop to provision services that rely on different frequencies bands within the loop.

24. We also tentatively conclude that any rules we adopt on line sharing should not mandate a particular technological approach to the use of a line for multiple services. We believe that shared line access is a rapidly evolving technology and any rules we adopt must be forward-looking and flexible enough to stimulate, rather than stifle, technological innovation. We ask commenters to address how we can construct regulations that promote local competition and technological innovation so that American consumers can take full advantage of the line's features, functionalities, and capabilities.

c. Technical, Operational, Economic, Pricing, and Cost Allocation Issues Associated with Line Sharing

25. The current record in this proceeding reveals that incumbent LECs have opposed line-sharing with xDSL-based providers on the grounds that simultaneous provision of advanced service and voice service over a single line by separate providers is not technically feasible. These parties broadly argue that allowing new entrants to acquire rights to the high frequency channel of the line, while declining to purchase the voice channel of the line, would harm the network. We find that incumbent LECs have placed nothing on the record in this proceeding demonstrating that a competitor's advanced services equipment is likely to cause any network problems.

26. *Technical Issues.* We find nothing in the existing record to persuade us that line sharing is not technically feasible. In fact, incumbent LECs are

already sharing the line for the provision of both voice and advanced services. Because incumbent LECs are already using single lines to provide both voice and advanced services and are even sharing lines with other providers for the provision of both voice and advanced services, it appears that there exists no bona fide issue of technical infeasibility. As such, we tentatively conclude that line sharing is technically feasible. We seek comment on this tentative conclusion.

27. Although not set forth in the record, we can conceive of some circumstances in which advanced services cannot share a line with analog voice service. We tentatively conclude that such isolated situations can be remedied and should not interfere with the incumbent's general obligation to share the line. We tentatively conclude that, to the extent that an incumbent LEC can demonstrate to the state commission that digital loop conditioning would interfere with the analog voice service of the line, line sharing is not technically feasible on that particular line, and the incumbent is not obligated to share that line. We tentatively conclude that incumbent LECs would be required to perform other sorts of conditioning, such as removing bridge taps or cleaning up splices along the loop, that would not interfere with the analog voice signal. We seek comment on these tentative conclusions. We ask commenters to address any other technical problems that may arise in line sharing arrangements and to suggest remedies for such problems.

28. *Operational Issues.* In addition to technical feasibility concerns, commenters raise concerns about operational barriers to line sharing. We ask commenters to discuss the operational issues that may arise with line sharing. For example, what effect will line sharing have on existing analog voice service? Should carriers be allowed to request just the voice channel of a line? Should carriers be allowed to request any unused portion of a line? How will line sharing affect existing and evolving operations support systems? To what extent will LEC operations support systems needed to be modified in order to allow two carriers to share a line? Which entity should manage the multiplexing equipment if two carriers are offering services over the same loop? Should different customers be allowed on the same physical loop? How and by whom should problems on the line be handled? What happens if conditioning a loop for advanced services requires removal of repeaters or load coils, which are needed to preserve the quality of the analog voice signal? These examples are merely illustrative of issues that may arise from two carriers providing services over the same line. We ask commenters to address these issues and any other operational, administrative, and pricing concerns with specificity.

29. *Economic, Pricing, and Cost Allocation Issues.* We also seek comment on the economic, pricing, and cost allocation issues that may arise from line sharing. For example, how might line sharing affect federal and state access charge regimes and universal service mechanisms? What are the pricing consequences of requiring line sharing (*e.g.*, what consequences will line sharing have on the price of the unbundled local loop)? Should the entire cost of the loop be imputed to the voice channel or divided equally or otherwise between the two services sharing the facility? What cost allocation issues, if any, are raised by line sharing? What effect will line sharing have on new entrants' ability to compete with incumbents? How will line sharing stimulate or retard innovation? How will line sharing affect investment in local exchange facilities?

30. Finally, we ask commenters to address the continued viability of line sharing arrangements as telecommunications network architectures migrate from a circuit to a packet environment. As carriers deploy ATM and other packet technologies, and as voice traffic moves from the circuit-switched network to Internet Protocol (IP) or ATM networks, is a line sharing requirement commercially or technically feasible? Commenters should address whether a competitive LEC's ability to deliver voice service over a packet-switched network obviates the need to share a loop with the incumbent LEC.

C. Procedural Matters

1. Ex Parte Presentations

31. The matter in Docket No. 98–147, initiated by the Further NPRM portion of this item, shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.

2. Initial Paperwork Reduction Act Analysis

32. The Further NPRM contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Notice; OMB comments are due June 29, 1999. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

3. Initial Regulatory Flexibility Analysis

33. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible impact on small entities of the proposals suggested in this document. The IRFA is set forth in the Appendix. Written public comments are requested with respect to the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the NPRM, but they must have a separate and distinct heading, designating the comments as responses to the IRFA. The Office of Public Affairs, Reference Operations Division, will send a copy of this NPRM , including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

4. Comment Filing Procedures

34. The proceeding, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147, is initiated by the Further NPRM portion of this item. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 15, 1999 and reply comments on or before July

15, 1999. All filings should refer *only* to Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CC Docket No. 98–147. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address." A sample form and directions will be sent in reply.

35. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th St. S.W., Room TW–A325, Washington, D.C. 20554.

36. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C., 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY–A257, Washington, DC 20554.

37. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage that parties track the organization set forth in this NPRM in order to facilitate our internal review process.

38. Written comments by the public on the proposed information collections are due on or before June 15, 1999 and reply comments on or before July 15, 1999. Written comments must be submitted by the OMB on the proposed information collections on or before 60 days after date of publication in the **Federal Register**. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

5. Further Information

39. For further information regarding this proceeding, contact Michael Pryor, Deputy Division Chief, Policy and Program Planning Division, Common Carrier Bureau, at 202–418–1580 or mpryor@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

VI. Ordering Clauses

40. It is ordered that, pursuant to sections 1–4, 10, 201, 202, 251–254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 201, 202, 251–254, 256, 271, and 303(r), the Further Notice of Proposed Rulemaking is hereby adopted.

41. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Initial Regulatory Flexibility Analysis

1. As required by Section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (Further NPRM). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice. The Commission will send a copy of the Further NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Admininistration in accordance with section 603(a) of the Flexibility Act.

I. Need for and Objectives of the Proposed Rule

2. The Commission is issuing the Further NPRM to seek comment on issues related to spectral compatibility and spectral management. We ask commenters to consider whether the Commission should establish rules for deployment of central office equipment similar to those set forth in part 68 of our rules. We also ask commenters to address the technical, operational, pricing, legal or policy ramifications of line sharing. We tentatively conclude that there are no technical, legal, regulatory or policy obstacles to line sharing among competing carriers. Further, we seek comment on our tentative conclusions that incumbent LECS must provide requesting carriers with unbundled access to the transmission frequencies above that used for analog voice service on any loops that LECs use to provide exchange service when the LEC itself provides both exchange and advanced services over a single loop. We ask commenters to address any other technical problems that may arise in line sharing arrangements and to suggest remedies for such problems.

II. Legal Basis

3. The legal basis for any action that may be taken pursuant to the Further NPRM is contained in sections 1–4, 10, 201, 202, 251–254, 271, and 303(r) of the Communications Act as amended, 47 U.S.C. 151–154, 160, 201, 202, 251–254, 271, and 303(r).

III. Description and Estimates of the Number of Small Entities Affected by the Further Notice of Proposed Rulemaking

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposals in this Further NPRM, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any

additional criteria established by the Small Business Administration (SBA).

5. Below, we further describe and estimate the number of small entities that may be affected by the proposals in this Further NPRM, if adopted.

6. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia*, local exchange carriers (LECs), wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

7. The SBA has defined establishments engaged in providing "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees. Below, we discuss the total estimated number of telephone companies and small businesses in this category, and we then attempt to refine further those estimates.

8. Although some affected incumbent LEC may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term "small incumbent LECs" to refer to any incumbent LECs that arguably might be defined by the SBA as "small business concerns."

9. Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small LECs. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed rules, if adopted.

10. *Competitive LECs.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive LECs. The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of competitive LECs nationwide is the data that we collect annually in connection with the TRS Worksheet. According the most recent *Telecommunications Industry Revenue* data, 109 companies reported that they were engaged in the provision of either competitive local exchange service or competitive access service, which are placed together in the data. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of competitive LECs that would qualify as small business concerns under the SBA definition. Consequently, we estimate that there are fewer than 109 small competitive LECs or competitive access providers.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

11. We were unable to gather a sufficient record on the development of rules relating to procedures for equipment testing and compliance, so we seek additional comments on this issue. We are seeking comments on whether the Commission should establish rules for deployment of central office equipment similar to those set forth in Part 68 of our rules. We also ask commenters to address whether the Commisison should be involved with the actual testing and compliance procedures or whether the industry is better suited to serve this function through the use of independent and accredited labs. We ask commenters to address any additional measures the Commission could take to ensure that spectrum compatibility and management concerns are resolved in a fair and expeditious manner. We seek comment on the level of demand for line sharing, and on technical and operational obstacles to sharing a single loop between two service providers.

V. Significant Alternatives to Proposed Rule Which Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Accomplish Stated Objectives

12. In this Further NPRM, we seek to develop a record sufficient enough to adequately address issues related to developing long-term standards and practices for spectral compatibility and management. In addressing these issues, we seek to ensure that competing carriers, including small entity carriers, obtain access to inputs necessary to the provision of advanced services. We tentatively conclude that our proposals in the Further NPRM would impose minimum burdens on small entities. We seek comment on these proposals and the impact they may have on small entities.

VI. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule

13. None.

[FR Doc. 99–10833 Filed 4–29–99; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–125, RM–9542]

Radio Broadcasting Services; Huntington, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 296C2 at Huntington, Utah, as the community's first local broadcast service. The channel can be allotted to Huntington without a site restriction at coordinates 39–19–36 NL and 110–57–50 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the

petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–125, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10908 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–126, RM–9518]

Radio Broadcasting Services; Hurricane, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting, proposing the allotment of Channel 275C3 to Hurricane, Utah, as the community's first local broadcast service. The channel can be allotted to Hurricane without a site restriction at coordinates 37–10–30 NL and 113–17–24 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–126, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10909 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–123, RM–9502]

FM Broadcasting Services; Commerce and Royston, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comment on a petition filed by Southern Broadcasting of Athens, Inc., licensee of Station WPUP(FM), Channel 279C3, Royston, Georgia, proposing the reallotment of Channel 279C3 from Royston to Commerce, Georgia, and modification of the license for Royston Station WPUP(FM) to specify Commerce as its new community of license. Channel 279C3 can be allotted to Commerce without changing the Royston transmitter site for Station WPUP in compliance with the Commission's minimum distance separation requirements at North Latitude 34°14′13″ and West Longitude 83°16′03″.

DATES: Comments must be filed on or before June 8, 1999, and reply comments on or before June 23, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: James Weitzman, Counsel for Southern Broadcasting of Athens, Inc., 901 15th Street, N.W., Suite 1100, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the *Notice of Proposed Rulemaking*, MM Docket 99–123, adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (room 239), 1919 M Street, N.W., Washington, DC 20554. The complete text of this decision may be also purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is

no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10910 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–127, RM–9521]

Radio Broadcasting Services; Kanarraville, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 268C2 at Kanarraville, Utah, as the community's first local broadcast service. The channel can be allotted to Kanarraville without a site restriction at coordinates 37–32–18 NL and 113–11–06 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–127, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10911 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–124, RM–9519]

Radio Broadcasting Services; Castle Dale, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting, proposing the allotment of Channel 237C3 to Castle Dale, Utah, as the community's first local broadcast service. The channel can be allotted to Castle Dale without a site restriction at coordinates 39–12–48 NL and 111–01–18 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–124, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10912 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–128, RM–9520]

Radio Broadcasting Services; Mona,UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 225A to Mona, Utah, as the community's first local broadcast service. The channel can be allotted to Mona with a site restriction 4.4 kilometers (2.7 miles) south of the community at coordinates 39–46–39 NL and 111–51–41 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–128, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch,

Policy and Rules Division,

Mass Media Bureau.

[FR Doc. 99–10913 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–129, RM–9541]

Radio Broadcasting Services; Monticello, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 291C1 to Monticello, Utah, as the community's first local broadcast service. The channel can be allotted to Monticello without a site restriction at coordinates 37–52–17 NL and 109–20–32 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–129, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch,

Policy and Rules Division,

Mass Media Bureau.

[FR Doc. 99–10914 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–130, RM–9517]

Radio Broadcasting Services; Wellington, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 221C3 to Wellington, Utah, as the communitys first local broadcast service. The channel can be allotted to Wellington without a site restriction at coordinates 39–32–33 NL and 110–44–05 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–130, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10915 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. RSPA–98–4868, Notice 1]

RIN 2137–AB15

Gas Gathering Line Definition

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Extension of Internet Public Discussion Forum and Public Comment Period.

SUMMARY: This notice announces an extension of the Research and Special Programs Administration's Internet discussion forum and the public comment period for regulations concerning gas gathering lines.

DATES: The Internet public discussion forum will be open until May 17, 1999. Submit comments to the docket on or before July 7, 1999.

ADDRESSES: The Internet address for the electronic discussion forum is http://ops.dot.gov/forum. Address written comments to the Dockets Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify the Docket No. RSPA–98–4868. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. Comments may be submitted by e-mail to rules@rspa.dot.gov. The Dockets Management System is located on the Plaza Level of the Department of Transportation's Nassif Building at 400 Seventh Street, SW, Washington, DC. Public dockets may be reviewed in person between the hours of 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. In addition, the public may also review comments by accessing the Docket Management System's home page at http://dms.dot.gov. An electronic copy of any document may be downloaded from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661.

FOR FURTHER INFORMATION CONTACT: L.E. Herrick, (202) 366–5523, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: On March 11, 1999, we published a notice in the **Federal Register** announcing an Internet public discussion forum on gas gathering for the purposes of pipeline safety regulation (64 FR 12147, March 11, 1999). This Internet discussion forum was scheduled from April 13, 1999 through May 3, 1999. In addition to the Internet discussion forum, RSPA provided the opportunity for interested persons to submit comment to a rulemaking docket. This rulemaking docket was scheduled to close on April 28, 1999.

In 1991, we proposed a definition of gas gathering. A change to the pipeline safety laws in 1992 requires us to revisit that proposal and to consider whether and to what extent we should regulate gathering lines in rural areas. This opportunity for public input will allow us to decide whether and how to modify the regulations. The comments may also inform the process when we consider developing a separate proposal on regulating gas gathering lines in rural areas.

Issued in Washington, DC, on April 27, 1999.

Richard B. Felder,

Associate Administrator for Pipeline Safety, Research and Special Programs Administration.

[FR Doc. 99–10848 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990422103–9103–01; I.D. 031099B]

RIN 0648–AL75

Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 1999 Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; proposed interim measures to implement conservation equivalency in the summer flounder fishery; request for comments.

SUMMARY: NMFS proposes recreational measures for the 1999 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources. In addition, NMFS proposes interim measures to allow states to implement conservation equivalent measures for the summer flounder recreational fishery.

DATES: Public comments must be received on or before June 1, 1999.

ADDRESSES: Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, including the Initial Regulatory Flexibility Analysis, are available from: Dan Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790.

Comments on the proposed specifications should be sent to: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope, "Comments - 1999 Summer Flounder, Scup, and Black Sea Bass Recreational Measures."

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9326.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) outlines the process for specifying annual recreational measures. The FMP has established Monitoring Committees (Committees) for each of the three fisheries comprised of representatives from the Atlantic States Marine Fisheries Commission (Commission), the Mid-Atlantic Fishery Management Council (Council), the New England and South Atlantic Management Councils, and NMFS. The Committees are required to review annually scientific and other relevant information and to recommend measures necessary to achieve the recreational harvest limits for the summer flounder, scup, and black sea bass fisheries. These recommended measures are limited to minimum fish sizes, possession limits, and closed seasons. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) then consider the Monitoring Committees' recommendations and any public comment in making their recommendations. The Council reviews the Demersal Committee recommendations, makes its own decision, in turn, and forwards its recommendation to NMFS.

Final specifications for the 1999 summer flounder, scup, and black sea bass fisheries were published on December 31, 1998 (63 FR 72203), and included a coastwide recreational harvest limit of 7.41 million lb (3.361 million kg) for summer flounder; 1.24 million lb (0.562 million kg) for scup; and 3.14 million lb (1.42 million kg) for black sea bass. Recreational measures for 1999 were not included in the final specifications because not enough recreational catch data for 1998 were available for the Committees to use in evaluating the effectiveness of the 1998 measures. Shortly after preliminary data became available, each Committee met to review the data and to recommend measures for the 1998 recreational fisheries. Based on those recommendations, the Council submitted the following recreational measures for consideration.

Summer Flounder

At the November 1998 Monitoring Committee meeting, the Committee recommended that the Council consider a 15–inch (38–cm) minimum fish size, an 8–fish possession limit, and a closure from August 8, 1999, to September 30, 2000. Preliminary recreational landings data for 1998 indicated that a 55–percent reduction in recreational landings would be required in 1999 to avoid exceeding that fishing year's harvest limit of 7.41 million lb (3.36 million kg).

During the time between the Committee meeting in November and the Council/Board meeting in December, additional recreational data for the 1998 fishing year became available. Analysis of these data showed that a 40–percent reduction in fishing effort in 1999 (compared to 1998), instead of the 55–percent reduction discussed at the November 1998 Committee meeting, would be required to keep the recreational landings in 1999 from exceeding the 1999 harvest limit. The Council and Board reviewed this analysis and the Committee's recommendation and recommended a 15–inch (38–cm) minimum fish size, an 8–fish possession limit, and a closed season from September 12, 1999, through May 28, 2000.

In addition, the Council requested that NMFS publish an interim rule that would allow the states to implement alternative measures that are equivalent to the recreational measures NMFS proposes for the summer flounder fishery. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) states that if a Council finds that interim measures are needed to reduce overfishing for any fishery within its jurisdiction, it may recommend to the Secretary of Commerce the promulgation of interim measures to address the overfishing. The interim action would remain in effect for not more that 180 days after the date of publication, and may be extended by publication in the **Federal Register** for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the interim measure. In the case of a Council recommendation for interim measures, the Council must be actively preparing a fishery management plan, plan amendment, or proposed regulations to address the overfishing on a permanent basis. Interim measures addressing overfishing may be implemented even if they are not sufficient in and of themselves to stop overfishing.

Under this proposed interim rule, states would have the option of implementing alternative measures that would result in the 40–percent reduction that is required to achieve the harvest limit in any year. The states could select a combination of minimum fish sizes, possession limits, and closed seasons. States that wished to implement equivalent measures would have to submit those proposed alternative measures to the Commission's Summer Flounder Technical Committee for approval. The states would be responsible for providing all analyses required to prove that the alternative measures would achieve the required reduction. If the Commission finds that the proposed alternative measures would achieve the required reduction, the state could then implement those alternative measures. Once a state equivalency proposal is approved by the Commission, the Commission would recommend to NMFS that a notification be published to waive the default measure and notify the public of the state's equivalent measures.

It is possible that a state could decide to implement its equivalent measures while the EEZ measures are still in the proposed rule stage of rulemaking. The interim regulations clarify that, if the EEZ measures were modified in an interim final rule, a state would be required to provide additional analysis to the Technical Committee to establish that its current measures achieve the 40–percent reduction.

This proposed interim rule responds to concerns voiced about the inappropriateness of certain coastwide measures for some states. For example, the summer flounder stock migrates north during the summer months, resulting in differences in seasonal availability. This differential in availability impacts on equitable choice of a season. Conservation equivalency will give these states the option of implementing a different closed season, as well as a different possession limit or minimum fish size, if they can prove that the combination of measures will achieve the required reduction. The default measures would be those coastwide measures that are proposed by NMFS as part of the recreational specification process. While the coastwide measures may result in some states reducing the recreational fishery more or less than the Monitoring Committee has recommended, the average coastwide reduction would achieve the harvest limit.

Although permanent measures by the Council are being developed to address overfishing, it will take several months to complete and to implement these measures if they are approved. This proposed interim rule is consistent with the Magnuson-Stevens Act because it would form part of an overall management strategy to end overfishing and rebuild the summer flounder resource while recognizing variations and contingencies in the stock that demand flexibility among the states to achieve the fishing reduction target.

Scup

At the November 1998 Monitoring Committee meeting, the Committee recommended that the Council consider an 8–inch (20.32– cm) minimum fish size, and a 35–fish possession limit. This recommendation would achieve the 1999 harvest limit of 1.24 million lb (0.562 million kg).

The Council and Board reviewed the Committee's recommendation and recommended a 7–inch (17.78–cm) minimum fish size with no possession limit and no closed season for 1999. Because the 1998 harvest limit is not projected to be achieved, and, in fact, projected landings are also below the 1999 harvest limit, the Council and Board believe that the existing 7–inch (17.78–cm) minimum fish size would prevent the recreational catch from exceeding the harvest limit for 1999.

Black Sea Bass

At the November 1998 Monitoring Committee meeting, the Committee recommended that the Council maintain the minimum fish size at 10–inches (25.4–cm). This recommendation would achieve the 1999 harvest limit of 3.14 million lb (1.43 million kg).

The Council and Board reviewed the Committee's recommendation and recommended the 10–inch (25.4–cm) minimum fish size. Because the recreational fishery is not projected to achieve its harvest limit for 1998, neither the Committee nor the Council and Board felt it was necessary to maintain the 2-week closed season implemented in 1998. The Council and Board believe that maintaining the 10–inch (25.4–cm) minimum fish size would prevent the recreational catch exceeding the 1999 harvest limit.

NMFS requests public comments on all of the proposed specification measures. In addition, NMFS requests public comments on the proposed interim rule to allow states to implement measures in the summer flounder fishery that constitute equivalency.

Classification

This proposed rule and proposed interim rule have been determined to be not significant for purposes of E.O. 12866.

The Council prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule, pursuant to 5 U.S.C. 603(a) of the RFA. A copy of this analysis is available from the Council (see ADDRESSES). The IRFA describes the impact this proposed rule, if adopted, would have on small entities. The proposed rule would implement 1999 recreational measures for the summer flounder, scup, and black sea bass fisheries. The proposed interim rule would provide states with the authority to implement conservation measures in state waters that constitute equivalency. The 1999 harvest limit for summer flounder is 7.41 million lb (3.36 million kg)—the same level specified for 1997 and 1998. However, landings in 1997 were 11.86 million lb (5.38 million kg) and projected recreational landings in 1998 are 12.51 million lb (5.68 million kg). Based on the 1998 projection and the upward trend of recreational landings, the more stringent measures proposed in this rule are required to achieve a 40–percent reduction in the recreational fishery and to prevent the harvest limit from being exceeded again. It is probable that proposed management measures would restrict the recreational summer flounder fishery for 1999 and that these measures may cause some decrease in recreational satisfaction (i.e., the proposed closed season).

Staff at the Northeast Fisheries Science Center estimated that 3.25 percent of party/charter trips could be affected by the implementation of the summer flounder preferred measures. In other words, 74,490 angler trips taken aboard party/charter boats in 1997 landed at least one summer flounder that was less than 15 inches (38 cm), or landed more than 8 summer flounder, or landed at least 1 summer flounder during the proposed season.

Assuming angler effort in 1999 would be similar to 1997, party/charter boat revenues associated with these trips can be estimated by multiplying the number of potentially affected trips in 1999 by the average fee ($57.92) paid by anglers. This results in party and charter boat earnings of $4,314,461. Analysis of the vessel trip report (VTR) data indicated that 309 party/charter vessels participated in the summer flounder fishery in 1997. Assuming that the same number of vessels will participate in 1999, the potential impact could be up to $13,963 per vessel ($4,314,461/309 = $13,963). As such, if the regulations proposed under the preferred alternative result in a decrease in the number of recreational fishing trips, on average, each party/charter vessel could lose up to $13,963 or 3.25 percent of their revenue in 1999 compared to 1997. However, losses of this magnitude are not likely to occur given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder, and because of the numerous alternative target species available to anglers. Unfortunately, the lack of data makes it impossible to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. The fact that the proposed regulations affect the number and size of the fish that can be kept or landed and do not prohibit anglers from engaging in catch and release fishing, means that overall losses are likely to be lower.

The Steinback and O'Neil (In-press) study suggest that at least some of the potentially affected anglers would not reduce their effort when faced with the landings restrictions proposed under the preferred alternative. Therefore, party/charter revenue losses per boat could range anywhere from no revenue loss up to 3.25 percent, on average, of total expected boat revenue in 1999 (given the assumptions regarding compliance rates and release mortality). Due to some uncertainty regarding the assumptions made to estimate the anticipated impacts of the proposed measures, an IRFA was prepared to analyze potential impacts and to seek public comment on the proposed measures and their impact on small entities.

Alternatives Considered But Rejected by the Council

1. The implementation of the first rejected summer flounder alternative would reduce the possession limit from 8 to 6 fish in addition to closing the fishing season from August 1 to August 31. These measures could potentially reduce effort aboard party/charter boats by up to 8.04 percent assuming angler effort in 1999 would be similar to 1997. In other words, 184,277 (8.04 percent) angler trips taken aboard party/charter boats in 1997 landed at least one summer flounder that was less than 15 inches (38 cm), or landed more than 6 summer flounder, or landed at least one summer flounder during the proposed closed season.

Assuming angler effort in 1999 would be similar to 1997, multiplying the number of potentially affected trips in 1999 (184,277) by the average fee paid by anglers ($57.92) results in associated party/charter boat earnings of $10,673,324. Analysis of VTR data indicated that 309 party/charter vessels participated in the summer flounder fishery in 1997. Assuming that the same number of vessels will participate in 1999, the potential impact could be up to $34,542 per vessel (10,673,324/309). As such, if the regulations proposed under the preferred alternative result in a decrease in the number of recreational fishing trips, on average, each party/charter vessel could lose up to $34,542 or 8.04 percent of their revenue in 1999 compared to 1997. However, losses of this magnitude are not likely to occur

given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder, and because of the numerous alternative target species available to anglers. Unfortunately, very little information is available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. The fact that the proposed regulations affect the number and size of the fish that can be kept or landed and do not prohibit anglers from engaging in catch and release fishing, the overall losses are likely to be somewhat lower. Therefore, party/charter revenue losses per boat could range anywhere from no revenue losses up to 8.04 percent, on average, of total expected boat revenue in 1999 (given the above assumptions regarding compliance rates and release mortality).

2. The implementation of the second rejected summer flounder alternative will reduce the possession limit from 8 to 4 fish in addition to closing the fishing season from January through June. These measures could potentially reduce effort aboard party/charter boats by up to 5.69 percent assuming angler effort in 1999 would be similar to 1997. In other words, 130,415 (5.69 percent) angler trips taken aboard party/charter boats in 1997 landed at least one summer flounder that was less than 15 inches (38 cm), or landed more than 4 summer flounder, or landed at least one summer flounder during the proposed closed season.

Assuming angler effort in 1999 would be similar to 1997, multiplying the number of potentially affected trips in 1999 (130,415) by the average fee paid by anglers ($57.92) results in associated party/charter boat earnings of $7,553,637. Analysis of VTR data indicated that 309 party/charter vessels participated in the summer flounder fishery in 1997. Assuming that the same number of vessels will participate in 1999, the potential impact could be up to $24,445 per vessel (7,553,637/309). As such, if the regulations proposed under the preferred alternative result in a decrease in the number of recreational fishing trips, on average, each party/charter vessel could lose up to $24,445 or 5.69 percent of their revenue in 1999 compared to 1997. However, losses of this magnitude are not likely to occur given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder, and because of the numerous alternative target species available to anglers. Unfortunately, very little information is available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. The fact that the proposed regulations affect the number and size of the fish that can be kept or landed and do not prohibit anglers from engaging in catch and release fishing, the overall losses are likely to be somewhat lower. Therefore, party/charter revenue losses per boat could range anywhere from no revenue losses up to 5.69 percent, on average, of total expected boat revenue in 1999 (given the above assumptions regarding compliance rates and release mortality).

The 1999 scup recreational harvest limit of 1.24 million lb (0.562 million kg) is a 25–percent reduction from the 1998 level of 1.552 million lb (0.70 million kg). However, recreational scup landings for 1998 were projected to be 0.869 million lb (0.39 million kg), well below the 1998 harvest limit. Given the declining trends in both catch and trips, it is unlikely that the 1999 harvest limit would result in a decline in the demand of party/charter boat trips, the only entities shown in Council analysis to be affected by these measures, despite the reduction from the 1998 harvest limit. Like summer flounder, it is likely that anglers would target other species when faced with potential reductions in the amount of scup they can catch. As such, it is unlikely that the 1999 scup harvest limit would have a substantial impact on the number of party/charter fishing trips. The 1999 black sea bass recreational harvest limit of 3.15 million lb (1.43 million kg) is unchanged from the 1998 harvest limit. In 1997, 3.15 million lb (1.43 million kg) of black sea bass were landed and in 1998, 1.146 million lb (0.51 million kg) were projected to be landed. Because the recreational fishery is not anticipated to land the entire harvest limit for 1998, the 1999 harvest limit is not anticipated to alter the demand for party/charter trips, the only entities shown in Council analysis to be affected by these measures. Therefore, it is unlikely that the 1999 black sea bass harvest limit would have a substantial impact on the number of party/charter fishing trips.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 27, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 648.102 is revised to read as follows:

§ 648.102 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(3) and any person subject to the possession limit may fish for summer flounder only from May 29 through September 11. This time period may be adjusted pursuant to the procedures in § 648.100.

3. Section 648.107 is added to subpart G to read as follows:

§ 648.107 Conservation equivalent measures.

(a) States may implement on an annual basis conservation equivalent measures that reduce the recreational catch to the same extent as the annual Federal summer flounder measures specified under § 648.100(c) to achieve the recreational harvest limit in any year. These measures would be a different combination of minimum fish sizes, possession limits, and closed seasons that are the conservation equivalent of those Federal summer flounder measures specified on an annual basis.

(b) A determination of equivalency would be made annually for any state proposing alternative recreational measures by the Summer Flounder Technical Committee of the Commission. Conservation equivalent measures may be implemented without Summer Flounder Technical Committee review, but only if states use the state-specific tables provided by the Commission and maintain a 15–inch (38–cm) TL minimum fish size.

(1) Once a state receives a determination of equivalency from the Summer Flounder Technical Committee, the Commission will recommend to the Regional Administrator that a notification be published in the **Federal Register** to waive the annual Federal summer flounder measures specified under § 648.100(c) and notify vessel permit holders of the equivalent measures approved by the Summer Flounder Technical Committee for landing summer flounder in that state.

(2) States electing not to implement conservation equivalent measures or states that did not receive a determination of equivalency from the Summer Flounder Technical Committee would be required to implement the annual Federal summer flounder

measures specified under § 648.100(c) in accordance with the provisions of the Interstate Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries.

[FR Doc. 99–10900 Filed 4–29–99; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 041599B]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Amendment 1 to the Fishery Management Plan for Atlantic Bluefish (FMP); request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 1 to the Atlantic Bluefish FMP for Secretarial review and is requesting comments from the public. Amendment 1 would establish new management measures to control fishing mortality on Atlantic bluefish (bluefish) while addressing the new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act (SFA). The intent of Amendment 1 is to eliminate overfishing and rebuild the Atlantic bluefish stock.

DATES: Comments must be received on or before June 29, 1999.

ADDRESSES: Send comments to Jon C. Rittgers, Acting Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, Massachusetts 01930-3799. Mark the outside of the envelope: "Comments on Amendment 1 to the Atlantic Bluefish Plan."

Copies of Amendment 1, including the final environmental impact statement and regulatory impact review, are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 978–281–9104.

SUPPLEMENTARY INFORMATION: Amendment 1 would: revise the overfishing definition for Atlantic bluefish; implement a 9-year stock rebuilding schedule based on a staggered reduction of fishing mortality rate (F); specify a commercial quota with state allocations and a coastwide recreational harvest limit for the first year of the rebuilding schedule; implement permit and reporting requirements for commercial fishermen, dealers, and party/charter boat operators; establish a Bluefish Monitoring Committee; establish an annual adjustment process to meet fishing mortality rate objectives of the FMP; establish a framework adjustment process to change measures such as minimum fish size, gear restrictions, recreational seasons or bag limits, closed areas or commercial seasons; specify a *de minimus* commercial quota for certain states; and identify and describe essential fish habitat (EFH) of bluefish.

This amendment is intended to bring the Atlantic Bluefish FMP into conformance with the Magnuson-Stevens Act as amended by the SFA. The provisions in section 108(a) of the SFA require that Fishery Management Councils either add to or revise the required provisions of any fishery management plan prepared by a Council or the Secretary of Commerce to include the following provisions on: (1) bycatch reports (standardize reporting methods to assess the type and amount of bycatch in a fishery); (2) bycatch measures (develop management measures to minimize bycatch and mortality of bycatch); (3) commercial, recreational, and charter fishing sectors (specify data for each sector); (4) EFH (describe and identify EFH, minimize to the extent practicable adverse impacts from fishing, and identify other actions to encourage the conservation of such habitat); (5) fishing communities (assess in a fishery impact statement the likely effects of measures on fishing communities); (6) and overfishing (specify objective and measurable criteria for identifying whether a fishery is overfished, and include measures to prevent overfishing). Public comment is invited on the adequacy of Amendment 1 in meeting the requirements of section 108(a) of the SFA.

Overfishing Definition

Amendment 1 would revise the overfishing definition so that it is composed of two reference points to bring it into accordance with the new national standards of the Magnuson-Stevens Act, as amended by the SFA. The proposed overfishing definition for bluefish is: Overfishing occurs whenever F is greater than the F threshold = F_{msy} = 0.4; bluefish is overfished when biomass is less than 1/2B_{msy}=118.5 mil lb (53,750 mt). The long-term F target is 90 percent of Fmsy and the B_{target} is B_{msy}. No change to the regulatory text is necessary to change the overfishing definition.

Rebuilding Strategy

An additional requirement of the SFA is that stocks identified as overfished (i.e., stock biomass is less than minimum biomass threshold) must be rebuilt to the level that will produce B_{MSY} in as short a period as possible. The Council and Commission propose to rebuild the bluefish stock to the B_{MSY} level over a 9-year rebuilding period. The 9-year rebuilding schedule would eliminate overfishing and rebuild the stock through a graduated reduction in the F. The current F associated with MSY is F_{MSY}=0.4. In 1997, the F was estimated at F=0.51, so that overfishing was occurring.

For the first 2 years of the rebuilding plan (1999–2000), F would remain at the current level, F=0.51 and then would be reduced to F=0.41 in years 3–5 (2001–2003), and finally to F=0.31 in years 6–9 (2004–2007). During the rebuilding period, the target F for the next fishing year would be set at the level specified in the rate reduction schedule *or* the level estimated for the most recent year, whichever is less. Based on the overfishing definition, target F would continue to be at 90% F_{MSY} (F=0.36), once rebuilding is achieved. Amendment 1 proposes that commercial landings quotas and a recreational harvest limit are the chief measures to achieve these goals.

Essential Fish Habitat Designation

The Council identified and described EFH for various stages of the life cycle of bluefish, fishing impacts on EFH, non-fishing threats on EFH, and research recommendations relevant to a better understanding of EFH. The Council intends that the EFH designations for bluefish under this Amendment be reviewed and, if needed, updated at least every 5 years. Amendment 1 would authorize the revision of EFH components of the FMP through the FMP's framework process.

Management Measure Considered for Disapproval

De minimus Status

De minimus has been defined as a situation in which, under existing conditions of the stock and scope of the fishery, conservation and enforcement actions taken by an individual state

would be expected to contribute insignificantly to a coastwide conservation program required by a FMP or amendment. Amendment 1 proposes that any state that has commercial landings less than 0.1 percent of the total coastwide commercial landings in the last preceding year for which data are available would be eligible for *de minimus* status. The *de minimus* status would only apply to the commercial fishery, and any state granted *de minimus* status would be allocated 0.1 percent of the coastwide commercial quota. Further, Amendment 1 proposes that the sum of the allocation to *de minimus* states would be deducted from the coastwide commercial quota before the remainder of the quota is allocated to other states. The proposed measure to establish *de minimus* quota specifications is identical to the measure that NMFS disapproved in Amendment 8 and Amendment 10 to the Fishery Management Plan for Summer Flounder, Scup, and Black Sea Bass.

This measure would require an annual examination of state landings to determine if landings in that state during the preceding year for which data are available were less than 0.1 percent of the overall annual quota. If a state met this criterion, it would be granted *de minimus* status. This provision raises a number of concerns: the burdens of administering this provision could well outweigh its benefits; and lack of any clear obligation on the part of a *de minimus* state to close its fishery (i.e., prohibit landings) once its quota is harvested, could result in overfishing. These concerns will be considered in determining the approvability of this provision.

If *de minimus* status does not, at the very least, require a state to impose landing constraints, the provision may encourage owners of vessels that have not traditionally landed in that state to land amounts of bluefish much greater than they could land in their home port states. This could result in the state's *de minimus* quota being rapidly exceeded and compound the overfishing situation if a *de minimus* state is not required to close its fishery when its *de minimus* quota is harvested.

A proposed rule that would implement Amendment 1 may be published in the **Federal Register** for public comment, following an evaluation of the proposed rule by NMFS under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 1 (see **DATES**) in order to be considered in the decision concerning approval or disapproval of the Amendment. All comments received by June 29, 1999, whether specifically directed to Amendment 1 or the proposed rule, will be considered in the approval/disapproval decision on Amendment 1. Comments received after that date will not be considered in the approval/disapproval decision on Amendment 1.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 26, 1999.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10903 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 83
Friday, April 30, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commission on 21st Century Production Agriculture; Meeting

AGENCY: Office of the Secretary, DOA.

ACTION: Notice of meeting.

SUMMARY: The U.S. Department of Agriculture (USDA) has established the Commission on 21st Century Production Agriculture. In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (FACA), notice is hereby given of the fifth meeting of the Commission on 21st Century Production Agriculture. The purpose of this meeting is to prepare for the Commission's final report on the effects of the Federal Agriculture Improvement and Reform Act of 1996, plan for public listening sessions to be held in 1999, and any other necessary business. This meeting will be open to the public.

PLACE, DATE, AND TIME OF MEETING: The meeting will be at the Kansas City Airport Marriott Hotel, 775 Brasilia, Kansas City, Missouri, 64153, from 9:00–5:00 CST on May 10, 1999, from 8:30–5:00 CST on May 11, 1999, and from 8:30–2:00 CST on May 12, 1999.

FOR FURTHER INFORMATION CONTACT: Tim Peters (202–720–4860), Assistant Director, Commission on 21st Century Production Agriculture, c/o Office of the Chief Economist, or Keith J. Collins (202–720–5955), Chief Economist, Room 112–A Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW, Washington, DC 20250–3810.

Dated: April 23, 1999.

Keith J. Collins,

*Chief Economist.**

[FR Doc. 99–10864 Filed 4–29–99; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension for and revision to a currently approved information collection in support of the CCC/ Export Credit Guarantee Program (GSM–102) and the CCC/ Intermediate Export Credit Guarantee Program (GSM–103) based on re-estimates.

DATES: Comments on this notice must be received by June 29, 1999 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact L. T. McElvain, Director, Commodity Credit Corporation Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, AgBox 1035, Washington, DC 20250–1035, telephone (202) 720–6211.

SUPPLEMENTARY INFORMATION:

Title: CCC/Export Credit Guarantee Program (GSM–102) and CCC/ Intermediate Export Credit Guarantee Program (GSM–103).

OMB Number: 0551–0004.

Expiration Date of Approval: September 30, 1999.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The primary objective of the GSM–102 and GSM–103 programs is to expand U.S. agricultural exports by making available export credit guarantees to encourage U.S. private sector financing of foreign purchases of U.S. agricultural commodities on credit terms. These CCC programs are currently available with respect to exporters to more than 25 countries and 12 country regions with more than 1,500 exporters currently eligible to participate. Under 7 CFR Part 1493, exporters are required to submit the following: (1) Information required for program participation as outlined in section 1493.30, (2) export sales information in connection with applying for a payment guarantee under section 1493.40, (3) evidence of export in section 1493.80, (4) notice of default and claims for loss under section 1493.110, and (5) miscellaneous provisions, including assignment of the proceeds and review of the regulations found in section 1493.140. In addition, each exporter and exporter's assignee (U.S. financial institution) must maintain records on all information submitted to CCC and in connection with sales made under the GSM–102 and GSM–103 programs as set forth in section 1493.140. The information collected is used by CCC to manage, plan, evaluate and account for Government resources. The reports and records are required to ensure the proper and judicious use of public funds.

Estimate of Burden: The public reporting burden for these collections is estimated to average 2.62 hours per response.

Respondents: U.S. Exporters of U.S. agricultural commodities, U.S. banks or other financial institutions, producer associations, U.S. export trade associations, and U.S. Government agencies.

Estimated Number of Respondents: 227 per annum.

Estimated Number of Responses per Respondent: 117 per annum.

Estimated Total Annual Burden of Respondents: 5,440.48 hours.

Copies of this information collection can be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568.

Requests for comments: Comments are requested regarding: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to L.T. McElvain, Director, Commodity Credit Corporation Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, AgBox 1035, Washington, DC 20250–1035.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC April 21, 1999.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service and Acting Vice President, Commodity Credit Corporation.

[FR Doc. 99–10812 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

White Pine Creek Project; Kootenai National Forest, Sanders County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA- Forest Service will prepare an Environmental Impact Statement (EIS) for the White Pine Creek Project to disclose the effects of timber harvest, prescribed fire, road management including construction, reconstruction and obliteration, fish habitat improvement, steam channel reconstruction, trailhead parking area improvement, and aspen restoration, in the White Pine and Little Trout Creek drainages located approximately 5 air miles south of Trout Creek, Montana. The purpose and need for action is to: (1) Enhance and maintain vegetative communities within the project area that promote overall forest health. Focus management activities on stands which have high levels of mortality due to root disease and white pine blister rust. Focus on stands that need management activities in order to perpetuate old growth ponderosa pine ecosystems. Create forage openings for big game animals and other wildlife; (2) Maintain habitat for big game, specifically wildlife security; (3) Maintain, enhance and restore hydrologic function and fisheries habitat, within the White Pine Project Area; (4) Maintain or enhance visual resources as seen from critical viewpoints within the Trout Creek community; and (5) Provide a transportation system that maintains road and trail access to meet recreational and other public needs.

The DEIS is expected to be filed with the EPA and available for public review by September, 1999.

DATES: Written comments and suggestions should be received on or before June 1, 1999.

ADDRESSES: Written comments and suggestions concerning the scope of the analysis should be sent to James I. Mershon, District Ranger, Cabinet Ranger District, 2693 Hwy 200, Trout Creek, Montana, 59874.

FOR FURTHER INFORMATION CONTACT: Contact Dave Clay, Interdisciplinary Team Leader, Cabinet Ranger District, Phone: (406) 827–3533.

SUPPLEMENTARY INFORMATION: The decision area contains approximately 40,000 acres within the Kootenai National Forest in Sanders County, Montana. All of the proposed projects are located in the White Pine and Little Trout Creek drainages, which are tributaries to the Clark Fork River, near Trout Creek, Montana. The legal location of the National Forest lands within the decision area are as follows: all or portions of Section 4–5, T22N, R32W; Sections 3–11, 14–24, 27–30, T23N, R31W; Section 1–3, 10–17, 20–29, 31–34, T23N, R32W; Sections 31–33, T24N, R31W; Section 24–26, 35–36, T24N, R32W, Principal Montana Meridian.

The Forest Service proposes to harvest approximately 33,000 hundred cubic feet (equivalent to 15 million board feet, MMBF) of timber through the application of a variety of harvest methods on approximately 2,300 acres of forest land. Approximately 1,200 acres would be logged with a helicopter, 700 acres with a skyline yarder, and 400 acres by a tractor. Silviculture systems include 1,200 acres of regeneration harvest and 1,100 of commercial thinning. Vegetation management also includes approximately 5 acres of aspen regeneration. An estimated 5 miles of new permanent road, 12 miles of new temporary roads and 33 miles of road reconstruction would be needed to access timber harvest areas. All temporary roads would be obliterated following completion of sale activities. The proposal also includes prescribed burning on approximately 1,000 acres to reduce natural fuels and enhance wildlife habitat. An estimated 19 miles of road would be obliterated by the timber purchaser and another 31 miles of road would be obliterated with watershed funding by rehabilitation of stream crossings, recontouring, scarification and seeding. The Forest Service also proposes to improve fish habitat through the placement of instream structures and large woody debris on 4 miles of White Pine Creek, stabilize stream channels in 6.7 miles by placing large woody debris and large rock structures in damaged sections to protect the stream channel and provide fish habitat. Reconstruct the stream channel in 2.7 miles of White Pine Creek and plant riparian vegetation along streamcourses. The watershed and fisheries work would be based on site specific conditions and is contingent on the availability of funding.

Improvement in trailhead parking along the White Pine Creek Road #215 is proposed for both the Reader Gulch trail #749 and the Grays Gulch trail #756. Trailhead work would include providing suitable parking and signing.

Lynx habitat would also be created by small regeneration units in high elevation lodgepole pine stands on approximately 10 acres.

The Kootenai Forest Plan provides guidance for management activities within the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The proposed projects includes activities in several management areas (MAs): 5, 10, 11, 12, 13, 15, 16, 17, and 19. A portion of the Trout Creek Inventoried Roadless Area #664, is included within the project area. No activities are proposed within this roadless area. This proposal includes 4 openings greater than 40 acres (size range is 60 to 150 acres), to treat and regenerate areas experiencing heavy root disease induced mortality (Regional Forester approval for exceeding the forty acre regeneration harvest would be required prior to signing the Record of Decision); and three Forest Plan project specific amendments for: (1) open road density in MA 12 (big game summer range); (2) removal of snag habitat in MA 10 (big game winter range); and (3) timber harvest in MA 13 (old growth). Forest Plan amendments are allowed when it is determined during project design that the best way to meet the goals of the Forest Plan conflicts with a Forest plan standard (Forest Plan Volume II–20).

White Pine Creek has been designated by the State of Montana as a Water Quality Limited Segment (WQLS), because of stream alterations due to agricultural uses.

Range of Alternatives

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative in which none of the proposed activities will be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site-specific mitigation measures, if needed, and their effectiveness.

Preliminary Issues

Tentatively, several preliminary issues of concern have been identified. These issues are briefly described below:

Transportation Systems

The implementation of the proposed action would change the overall transportation system within the White Pine Analysis Area which may affect the public's ability to use traditional access routes.

Visual Resources

Implementation of the proposed action may alter the existing scenic resource within the project area. Even though the proposed action is planned to improve the visuals of the past harvest activities, some members of the public may feel that it will have additional scenic impacts.

Watershed

Past management activities and those associated with the implementation of the Proposed Action may result in increased peak flows and sediment production.

Wildlife

The proposed action could potentially reduce security for wildlife species by constructing new roads in wildlife security areas and the reopening of existing roads.

Old Growth

The implementation of the Proposed Action may have short term effects on old growth characteristics, specifically the snag components of those stands.

Decisions To Be Made

The Kootenai Forest Supervisor will decide the following:

- Whether or not to harvest timber and, if so, identify the selection of, and site-specific location of, appropriate timber management practices (silvicultural prescription, logging system, fuels treatment, and reforestation), road construction/reconstruction necessary to provide access and to achieve other resource objectives, and appropriate mitigation measures.
- Whether or not water and fish rehabilitation projects (including road obliteration) and other project area improvements (including trailhead parking area enlargement and control of noxious weeds, etc.) should be implemented and, if so, to what extent.
- Whether or not wildlife enhancement projects (including prescribed burning) should be implemented and, if so, to what extent.
- Whether road access restrictions or other actions are necessary to meet big game wildlife security needs.
- Whether or not project specific Forest Plan amendments for MA 10, 12 and 13 are necessary to meet the specific purpose and need of this project, and whether those amendments are significant under NFMA.
- What, if any, specific project monitoring requirements would be needed to assure mitigation measures are implemented and effective.

Public Involvement and Scoping

In December of 1998 and April of 1999, preliminary efforts were made to involve the public in looking at management opportunities within the White Pine Creek area. Comments received prior to this notice will be included in the documentation for the EIS. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action. This input will be used in preparation of the draft and final EIS. The scoping process will include:

- Identifying potential issues.
- Identifying major issues to be analyzed in depth.
- Identify alternatives to the proposed action.
- Explore additional alternatives which will be derived from issues recognized during scoping activities.
- Identify potential environmental effects of this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

Estimated Dates for Filing

While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September, 1999. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by January, 2000. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day commend period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

Bob Casteneda Forest, Supervisor, Kootenai National Forest, 1101 US Highway 2 West; Libby, MT 59923 is the Responsible Official. As the Responsible Official he will decide if the proposed project will be implemented. He will document the decision and reasons for the decision in the Record of Decision.

I have delegated the responsibility to prepare the EIS to James I. Mershon, District Ranger, Cabinet Ranger District.

Dated: April 17, 1999.

Bob Castenada,

Forest Supervisor, Kootenai National Forest.

[FR Doc. 99–10808 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Delaware

AGENCY: Natural Resources Conservation Service, Delaware.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG for review and comment.

SUMMARY: It is the intention of NRCS in Delaware to issue the following new and revised conservation practice standards in Section IV of the FOTG: Wetland Creation (Code 658), Field Border (Code 386), Wetland Restoration (Code 657), Shallow Water Area for Wildlife (Code 646), Riparian Herbaceous Cover (Code 390), Conservation Cover (Code 327), Riparian Forest Buffer (Code 391), Residue Management: No Till and Strip Till (Code 329A), Residue Management: Mulch Till (Code 329B), Residue Management: Ridge Till (Code 329C), Conservation Crop Rotation (Code 328).

FOR FURTHER INFORMATION CONTACT: Elesa K. Cottrell, State Conservationist, Natural Resources Conservation Service (NRCS), Suite 101, 1203 College Park Dr., Dover, Delaware 19904–8713, telephone (302) 678–4160. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Delaware will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Delaware regarding disposition of those comments and a final determination of change will be made.

Dated: April 20, 1999.

Elesa K. Cottrell,

State Conservationist.

[FR Doc. 99–10811 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–66–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Electronic and Information Technology Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established an advisory committee to assist it in developing a proposed rule on accessibility standards for electronic and information technology covered by the Rehabilitation Act Amendments of 1998. This document gives notice of the dates, times, and location of the next meeting of the Electronic and Information Technology Access Advisory Committee (Committee).

DATES: The next meeting of the Committee is scheduled for May 11 and 12, 1999, beginning at 9:30 a.m. and ending at 5:00 p.m. on May 11. On May 12, the Committee will present its final report to the Board beginning at 2:00 p.m. and ending at 4:00 p.m.

ADDRESSES: The meeting on May 11 will be held at 1331 F Street, NW, Washington, DC, in the third floor training room. The presentation of the Committee's final report to the Board will take place at the Grand Hyatt Washington, 1000 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Wakefield, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 39 (Voice); (202) 272–5449 (TTY). E-mail address: wakefield@access-board.gov. This document is available in alternate formats (cassette tape, Braille, large print, or computer disk) upon request. This document is also available on the Board's Internet Site at http://www.access-board.gov/notices/eitaacmtg.htm.

SUPPLEMENTARY INFORMATION: On September 29, 1998, the Access Board published a notice appointing members to its Electronic and Information Technology Access Advisory Committee (Committee). 63 FR 51891 (September 29, 1998). The Committee will make recommendations to the Access Board on accessibility standards for electronic and information technology covered by the Rehabilitation Act Amendments of 1998. The Committee is composed of representatives of Federal agencies and Federal contractors; the electronic and information technology industry; organizations representing the access needs of individuals with disabilities; and other persons affected by accessibility standards for electronic and information technology.

The Committee has met five times since October 1998. This will be the Committee's last meeting. During the meeting in May, the Committee will finalize its recommendations. The Committee will make a presentation to the Access Board at the Board's regular business meeting on May 12th.

The Committee will meet on the dates and at the locations announced in this notice. The meetings are open to the public. The facilities are accessible to individuals with disabilities. Sign language interpreters, assistive listening systems and real-time transcription will be available.

James J. Raggio,

General Counsel.

[FR Doc. 99–10791 Filed 4–29–99; 8:45 am]

BILLING CODE 8150–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: June 1, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On February 19, March 5 and 22, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 8291, 10620, 13767 and 13768) of proposed additions to and deletions from the Procurement List:

Additions

The Following Comments Pertain to Line, Multi-Loop, 1670–01–062–6307

Comments were received from the holder of the most recent contract for this multi-loop line. The contract was completed in February 1996. The contractor indicated that it is a small business which is very heavily dependent on Government contracts for this type of item. It also indicated that its business has declined markedly in the past year and competition for business has greatly increased, so any loss of business will have a noticeable impact on the company. The contractor noted that, while the value of contracts for this multi-loop line is not large, the line is one of a family of items which it can produce more efficiently if all the members of the family are available for competitive bidding, as their manufacture requires similar components and processes which allow the contractor to spread its costs out among the members of the family. The contractor also indicated that the nature of the manufacturing process made it unsuitable for blind persons to make the line.

The value of its most recent contract for the line is only a small percentage of the company's total annual sales. This percentage is well below the level which the Committee normally considers to constitute probable severe adverse impact. Even if the contractor's general business situation is taken into account, the Committee does not believe the addition of this multi-loop line to the Procurement List is likely to have a severe adverse impact on the contractor. This item is in fact one of a family of related products. However, there are at least 17 other multi-loop lines procured by this contracting activity. In addition, there are other products that also fit within the same family of products as the multi-loop line. Therefore, the Committee does not believe that it has severely reduced the contractor's ability to efficiently manufacture products in this family of products.

The nonprofit agency designated to produce the line already produces several other multi-loop lines, using people with severe disabilities other than blindness (mainly mental retardation). The agency's production line has been modified to allow people with severe disabilities to produce the lines. The modifications would allow individuals who are blind to produce the lines as well. Consequently, the Committee does not agree with the contractor's contention concerning the suitability of this work for individuals who are blind.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Line, Multi-Loop
1670–01–062–6307
1670–01–062–6311

Meal Kits
8970–01–E59–0239A
8970–01–E59–0240A
8970–01–E59–0241A
8970–01–E59–0242A
8970–01–E59–0243A
8970–01–E59–0244A
8970–01–E59–0245A
8970–01–E59–0239B
8970–01–E59–0240B
8970–01–E59–0241B
8970–01–E59–0242B
8970–01–E59–0243B
8970–01–E59–0244B
8970–01–E59–0239C
8970–01–E59–0240C
8970–01–E59–0241C
8970–01–E59–0242C
(100% of the requirement of the USPFO for Louisiana, New Orleans, Louisiana)

Services

Janitorial/Custodial, MG William Weigel USARC, Edison, New Jersey
Janitorial/Custodial, Wheeling Courthouse, 12th and Chaplin Streets Wheeling, West Virginia

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action may result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Starter Rope, Engine
2990–00–972–7950
2990–00–961–3692

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–10888 Filed 4–29–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 1, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action will result in authorizing small entities to furnish the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial

INS Detention Center, 1115 N. Imperial Highway, El Centro, CA
NPA: Association for Retarded Citizens—Imperial Valley, El Centro, California

Janitorial/Custodial, Santa Ana Federal Building, 34 Civic Center Plaza, Santa Ana, California
U.S. Customhouse, 300 S. Ferry Street, Terminal Island, California
NPA: Goodwill Industries of Orange County, Santa Ana, California

Security Services

Air Passenger Terminal, Travis Air Force Base, California
NPA: PRIDE Industries, Roseville, California

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will result in authorizing small entities to furnish the commodities to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Pencil, Mechanical

7520–00–164–8950
7520–00–268–9916

Beverly L. Milkman,
Executive Director.

[FR Doc. 99–10889 Filed 4–29–99; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Electronic Commerce Working Group

AGENCIES: National Economic Council, Office of Science and Technology Policy, National Science Foundation and the Department of Commerce.

ACTION: Notice of a public conference.

SUMMARY: Leaders from industry, academia, and government will convene at the U.S. Department of Commerce in the first public conference to discuss methods to measure the impact of the Internet, the World Wide Web and electronic commerce on the US economy and society. This conference, UNDERSTANDING THE DIGITAL ECONOMY—DATA, TOOLS AND RESEARCH, is a direct result of the President's November 1998 directive to analyze the economic implications of the Internet and electronic commerce. Sessions will focus on the state of research on the digital economy and what is needed to monitor its future development.

Further information on the conference schedule, speakers, and registration is posted at: *wwwdigitaleconomy.gov*

DATES: May 25–26, 1999.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: The U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230. This program is physically accessible to people with disabilities. Request for sign language interpretation should be submitted no later than May 5, 1999 to Ronald Levin , Room 2815, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230. Seating is limited and registration is on a first come first serve basis.

FOR FURTHER INFORMATION: Ronald Levin, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. (*Ronald—Levin@ita.doc.gov*) 202–482–1678.

Dated: April 26, 1999.

Ronald Levin,
Office of Trade and Economic Analysis.

[FR Doc. 99–10862 Filed 4–29–99; 8:45 am]
BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census 2000 Partnership and Marketing Program Evaluation (PMPE)

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c) (2) (A)).

DATES: Written comments must be submitted on or before June 29, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Sherri Norris, Bureau of

the Census, Room BH–120–2, Washington, DC 20233; (301) 457–8081.

SUPPLEMENTARY INFORMATION:

I. Abstract

As part of Census 2000, the Census Bureau is conducting a comprehensive program of evaluations designed to measure how well our programs, operations, and procedures perform. The Census 2000 Partnership and Marketing Program is included in this evaluation program. This evaluation will focus attention on the paid advertising and partnership components.

The promotional advertising strategy will be implemented in three phases. The first will occur in November 1999-January 2000 and is referred to as the Educational Phase. The intent is to familiarize the public with the census and educate them about its purposes. The Educational Phase will include national television, radio, and magazine advertising aimed at the least likely to respond segment of the general public. This phase will also contain extra efforts concentrated on educating four targeted audiences (African Americans, Hispanics, Asians, and American Indians) through television, radio, magazine and newspaper advertising.

The second phase will be launched in January 2000. This is the largest component of the advertising strategy and is known as the Motivational Phase. The advertising will again utilize a variety of media (English and non-English) including national television, local targeted television, local radio, magazines, newspapers, out-of-home advertisements, and the Internet. This phase will address both the general public and targeted populations. It also will include some non-traditional media (e.g., posters in convenience stores). The primary message of the Motivational Phase is to participate in the Census by mailing back a census form. This phase will conclude in April 2000.

The final advertising phase will commence shortly before the Census Bureau begins its Nonresponse Follow-up operation. The advertising messages during this phase will stress the importance of cooperating with personal visit enumerators for those who failed to return a census form. This phase will last until June 2000 and will address both the general public and targeted audiences through radio and television advertising.

The Partnership Program will build partnerships with state, local, and tribal governments, community-based organizations, and the private sector. The Program has both a national and regional focus to develop awareness about Census 2000. On the national level, the Program is designed to implement promotional activities that may be sponsored by national umbrella government and nongovernmental organizations. In addition, the Census Bureau is partnering with Fortune 500 companies to promote the importance of the census through the services and products they provide.

The Census 2000 Partnership and Marketing Program has two goals: (1) To increase the awareness of the census, and (2) to increase mailback response rates, especially among historically undercounted populations. The program combines public awareness, promotion, and outreach activities to generate clear, consistent, repeated messages about the importance of participating in Census 2000.

To evaluate these goals, the Census Bureau plans to hire a contractor to conduct an impact assessment of the marketing and advertising campaign using before and after research design. This design will allow the Census Bureau to measure change in awareness to the decennial census by conducting a survey before the marketing campaign has begun and then again after the campaign has been launched. In all, the contractor will develop three survey instruments implemented in three waves. The contractor will increase the sample in the last wave to perform additional analysis of the Partnership Program. Even though the Partnership evaluation will be based upon the last wave, the questionnaires for waves 1 and 2 will contain partnership-related questions to avoid possible context effects and bias across the different data collections.

The questionnaires will consist of different sections including questions related to: media use, awareness of government agencies and programs, awareness of community agencies and programs, free recall of exposure to the paid advertising, free recall of exposure to partnership-sponsored activities, aided recall about source of information, knowledge and attitudes about the census, aided recall of specific advertising, aided recall of specific partnership activities, and census form receipt, handling, mailback behavior, and demographic information.

The first wave of interviews will be conducted in September-October 1999 before the Educational Phase of advertising is launched. A total of 2500 interviews will be completed nationally. The sample will be drawn so that it is sufficient to yield statistically reliable results for the total population and for the four targeted populations(African Americans, Hispanics, Asians, and American Indians). These interviews will reflect a selected oversampling of the four subpopulations. The second wave of interviews will be conducted in February-mid-March 2000. A total of 2500 interviews will be conducted with similar oversampling. The final wave of interviews will be conducted during April 9–May 9, 2000. This survey will contain the larger number of questions for the assessment of census form mailback behavior and the Partnership Program to measure recall and exposure to partnership-related events and activities. A total of 4000 interviews with oversampling of the four targeted groups will be completed. Both Computer-Assisted Telephone Interviewing (CATI) and personal visit interviewing will be conducted in all three waves. Where valid phone numbers cannot be obtained for a sample case, a personal visit interview will be conducted.

The survey instruments will be modeled after previous Census Bureau surveys of a similar nature. In order to carry out historical comparisons to the 1990 publicity campaign, the instrument will replicate, at least in part, questions from the 1990 Outreach Evaluation Survey.

II. Method of Collection

The collection methodology for all three waves of the Census 2000 Partnership and Marketing Program Evaluation (PMPE) will consist of CATI with follow-up by personal interview using a paper form.

III. Data

OMB Number: Not available.
Form Number: Forthcoming.
Type of Review: Regular submission.
Affected Public: Individuals or households.
Estimated Number of Respondents:

WAVE 1 = 2,500
WAVE 2 = 2,500
WAVE 3 = 4,000
Total = 9,000 respondents

Estimated Time Per Response:

Wave 1

- 15 minutes for the telephone interview with a human operator.
- 20 minutes for the personal follow-up interview completion of a paper questionnaire.

Wave 2

- 15 minutes for the telephone interview with a human operator.
- 20 minutes for the personal follow-up interview completion of a paper questionnaire

Wave 3

- 20 minutes for the telephone interview with a human operator.
- 25 minutes for the personal follow-up interview completion of a paper questionnaire.

Estimated Total Annual Burden Hours:

Wave 1 = 730 hours
Wave 2 = 730 hours
Wave 3 = 1,500 hours
Total = 2,960 annual burden hours

Estimated Total Annual Cost: There is no cost to the respondent other than the time to complete the information requested.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have a practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents; including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 20, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–10905 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and requests for revocations in part.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with MARCH anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department of Commerce also received requests to revoke three antidumping duty orders in part.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(1997), for administrative reviews of various antidumping and countervailing duty orders and findings with MARCH anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on Steel Wire Rope from South Korea and Mexico and Fresh Cut Flowers from Colombia.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than MARCH 31, 2000.

	Period to be reviewed
Antidumping Duty Proceedings	
Brazil: Ferrosilicon, A–351–820	3/1/98–2/28/99
Companhia Ferroligas Minas Gerais-Minasligas	
Companhia de Ferro Ligas da Bahia	
Colombia: Fresh Cut Flowers, A–301–602	3/1/98–2/28/99
Abaco Tulipanex de Colombia	
Achalay	
Aga Group	
Agricola la Celestina	
Agricola la Maria	
Agricola Benilda Ltda.	
Agrex de Oriente	
Agricola Acevedo	
Agricola Altiplano	
Agricola Arenales Ltda.	
Agricola Bonanza Ltda.	
Agricola Circasia Ltda.	
Agricola de Los Alisos Ltda.	
Agricola De Occident	
Agricola Del Monte	
Agricola El Cactus S.A.	
Agricola El Castillo S.A.C.I.	
Agricola El Pacayal Ltda.	
Agricola El Redil	
Agricola El Rocio	
Agricola Guali S.A.	
Agricola La Corsaria C.I. Ltda.	
Agricola El Socaire Ltda.	
Agricola La Floresta Ltda.	
Agricola La Montana Ltda.	

	Period to be reviewed
Agricola La Siberia	
Agricola las Cuadras Group	
Agricola las Cuadras Ltda.	
Flores de Hacaritama	
Agricola Malqui Ltda.	
Agricola Megaflor Ltda.	
Agricola Yuldama	
Agrocaribu Ltda.	
Agro de Narino	
Agrodex Group	
Agricola el Retiro Ltda.	
Agrodex Ltda.	
Degaflores Ltda.	
Flores Camino Real Ltda.	
Flores de la Comuna Ltda.	
Flores de las Mercedes	
Flores de los Amigos Ltda.	
Flores de los Arrayanes Ltda.	
Flores de Mayo Ltda.	
Flores del Gallinero Ltda.	
Flores del Potrero Ltda.	
Flores dos Hectareas Ltda.	
Flores de Pueblo Viejo Ltda.	
Flores el Trentino Ltda.	
Flores la Conejera Ltda.	
Flores Manare Ltda.	
Florlinda Ltda.	
Horticola el Triunfo	
Horticola Montecarlo Ltda.	
Inversiones Santa Rosa ARW Ltda.	
Agroindustrial Don Eusebio Ltda. Group	
Agroindustrial Don Eusebio Ltda.	
Celia Flowers	
Passion Flowers	
Primo Flowers	
Temptation Flowers	
Agroindustrial Madonna S.A.	
Agroindustrial Teucali Ltda.	
Agroindustrias de Narino Ltda.	
Agrokoralia Ltda.	
Agromec Ltda.	
Agromonte Ltda.	
Agropecuria Cuernavaca Ltda.	
Agropecuaria la Marcela	
Agropecuaria Mauricio	
Agrorosas	
Agrotabio Kent	
Aguacarga	
Alcala	
Alstroflores Ltda.	
Amoret	
Ancas Ltda.	
Andes Group	
Cultivos Buenavista Ltda.	
Flores de los Andes Ltda.	
Flores Horizonte Ltda.	
Inversiones Penas Blancas Ltda.	
Anselmo Luna Pena (Luna Pena Anselmo)	
A.Q.	
Arboles Azules Ltda.	
Aristizaval Bernal Sonia M. (Flor Y Color)	
Aspen Gardens Ltda.	
Astro Ltda.	
Azulejos Flowers Y Cia Ltda.	
Becerra Castellanos y Cia.	
Blum y Bouquets Ltda.	
Bogota Flowers Ltda.	
Bojaca Group	
Agricola Bojaca	
Universal Flowers	
Flores y Plantas Tropicales	
Flores del Neusa Nove Ltda.	
Tropiflora	

	Period to be reviewed
C.I. Agroindustria Del Rio Frio Ltda.	
Caico Group (Caicedo Group)	
Agrobosque S.A.	
Andalucia S.A.	
Corsorcio Agroindustrial Colombiano S.A. (CAICO)	
Exportaciones Bochica S.A.	
Flores del Cauca S.A.	
Aranjuez S.A.	
Floral Ltda.	
Inversiones Targa Ltda.	
Productos el Zorro	
Via el Rosal	
Cantarrana Group	
Cantarrana Ltda.	
Agricola los Venados Ltda.	
Carcol Ltda.	
Cegalo Flawers (Gamboa Lozano Celmira)	
Cia. Andina De Textiles Ltda. "Ciatex"	
Ciba Geigy Colombiana S.A. (Flores De Tenjo)	
Cienfuegos Group	
Cienfuegos Ltda.	
Flores la Conchita	
Cigarral Group	
Flores Cigarral	
Flores Tayrona	
Classic	
Claveles Colombianos Group (Clavecol Group)	
Claveles Colombianos Ltda.	
Elegant Flowers Ltda.	
Fantasia Flowers Ltda.	
Splendid Flowers Ltda.	
Sun Flowers Ltda.	
Claveles de los Alpes Ltda.	
Clavelez	
Coexflor	
Coflexpo Ltda.	
Colibri Flowers Ltda.	
Color Explosion	
Combiflor	
Comercializadora Caribbean	
Conflores Ltda.	
Consiflor	
Cota	
Crest D'or	
Crop S.A.	
Crop Floresa S.A.	
Cultiflores Ltda.	
Cultivos El Lago Ltda	
Cultivas El Rosal Ltda.	
Cultivos Guameru	
Cultivos Medellin Ltda.	
Cultivos Miramonte Group	
C.I. Colombiana de Bouquets S.A.	
Cultivos Miramonte S.A.	
Flores Mocari S.A.	
Cultivos Tahami Ltda.	
Cypress Valley	
Daflor Ltda.	
Degaflor	
De Harvaez Baldwin	
De la Pava Guevara E. Hijos Ltda.	
Del Monte	
Del Tropico Ltda.	
Dianticola Colombiana Ltda.	
Disagro	
Diveragricola	
Dynasty Roses Ltda.	
Edir Ltda.	
El Antelio S.A.	
El Dorado	
Elite Flowers (The Elite Flower/Rosen Tantau)	
El Milaro	
El Rancho, S.A.	

	Period to be reviewed
El Tambo	
El Timbul Ltda.	
Enrique Pineres (Pineros Putman Enrique)	
Envy Farms Group	
Envy Farms	
Flores Marandua Ltda.	
Escobar Restrepo Mauricio De Jesus (Florena)	
Euroflora	
Exoticas	
Exotic Flowers	
Exotico	
Expoflora Ltda.	
Exporosas	
Exportadora	
Falcon Farms de Colombia S.A.	
Fantsia Flowers	
Farm Fresh Flowers Group	
Agricola de la Fontana	
Flores de Hunza	
Flores Tibati	
Inversiones Cubivan	
Ferson Trading	
Finca La Paz Llano Grand. (Gyorfi Istvan)	
Flamingo Flowers	
Flexport De Colombia & Cia S.A. C.I.	
Flor Colombiana S.A.	
Flora Ltda.	
Flora Bellisima	
Flora Intercontinental	
Floraday	
Florafresh International	
Floralex Group	
Agricola Los Gaques	
Floralex Ltda.	
Flores El Puente Ltda.	
Florandia Herrera Camacho y Cia.	
Floraterra Group	
Floraterra S.A.	
Flores Casa Blanca S.A.	
Flores Novaterra Ltda.	
Flores San Mateo S.A.	
Siete Flores S.A.	
Floreales Group	
Floreales Ltda.	
Kimbaya	
Florecer Ltda.	
Florenal (Flores el Arenal) Ltda.	
Flores S.A. "Floresa"	
Flores Abaco S.A.	
Flores Acuarela S.A.	
Flores Agromonte	
Flores Aguila	
Flores Ainsuca Ltda.	
Flores Ainsus	
Flores Alcala Ltda.	
Flores Alfaya Ltda.	
Flores Andinas	
Flores Aurora	
Flores Balu Ltda.	
Flores Bachue Ltda.	
Flores C. Fagua, Ltda.	
Flores Cajibio Ltda.	
Flores Calichana	
Flores Carmel S.A.	
Flores Casablanca	
Flores Catalina, Ltda. (Kathleen FLW)	
Flores Cerezangos	
Flores Chibchala Ltda.	
Flores Colon Ltda.	
Flores Comercial Bellavista Ltda.	
Flores Corinto	
Flores Corola	
Flores de Aposentos Ltda.	

	Period to be reviewed
Flores de Guasca	
Flores de Iztari	
Flores de Memecon/Corinto	
Flores De Nemocon Ltda.	
Flores de la Cuesta	
Flores de la Hacienda	
Flores de la Maria	
Flores de la Montana	
Flores de la Parcelita	
Flores De La Pradera, Ltda.	
Flores de la Vega Ltda.	
Flores de la Vereda	
Flores de la Campo Ltda.	
Flores del Cielo Ltda.	
Flores del Cortijo	
Flores del Lago Ltda.	
Flores de Serrezuela S.A.	
Flores del Rio Group	
Agricola Cardenal S.A.	
Flores del Rio S.A.	
Indigo S.A.	
Flores del Tambo	
Flores de Oriente	
Flores de Suba	
Flores de Suesca Group (Toto Flowers Group)	
Flores de Suesca S.A.	
Toto Flowers	
Flores de Tenjo Ltda.	
Flores Depina Ltda.	
Flores Del Pinar Ltda.	
Flores Del Prado, Ltda.	
Flores Delray S.A.	
Flores Ebenezer Ltda.	
Flores El Chircal Piedrahita Y Mon.	
Flores El Danubia Ltda.	
Flores el Lobo	
Flores el Molino S.A.	
Flores el Rosal Ltda.	
Flores El Talisman Ltda.	
Flores el Talle Ltda.	
Flores El Vino Ltda.	
Flores el Zorro Ltda.	
Flores Envy Farms Ltda.	
Flores Escocia Ltda.	
Flores Estrella Ltda.	
Flores Flamingo Ltda.	
Flores Fusu	
Flores Galia Ltda.	
Flores Generales Ltda.	
Flores Gicor Group	
Flores Gicro Ltda.	
Flores de Colombia	
Flores Gloria	
Flores Guaicata Ltda.	
Flores Hacienda Bejucol	
Flores Internacionales Ltda.	
Flores Juanambu Ltda.	
Flores Juncalito Ltda.	
Flores la Cabanuela	
Flores la Fragancia	
Flores la Gioconda	
Flores la Lucerna	
Flores la Macarena	
Flores la Pampa	
Flores la Union/Gomez Arango & Cia. Group	
Flores la Union/Santana	
Flores las Caicas	
Flores las Mesitas	
Flores Llano Grande Ltda. (Florita)	
Flores los Sauces	
Flores Los Pantanos Ltda.	
Flores Los Rosales Ltda.	
Flores Magara	

	Period to be reviewed
Flores Maria Elisa Ltda.	
Flores Mocari S.A.	
Flores Monserrate Ltda.	
Flores Montecarlo	
Flores Monteverde	
Flores Mountgar Ltda. (Flores Moungar Ltda.)	
Flores Palimana	
Flores Petaluna Ltda.	
Flores Primavera S.A.	
Flores Ramo Ltda.	
Flores Rio Negro Ltda.	
Flores Ruizort Ltda.	
Flores Sagaro	
Flores Saint Valentine	
Flores Sairam Ltda.	
Flores San Andres	
Flores San Carlos	
Flores San Ernesto Ltda.	
Flores Santa Lucia	
Flores San Juan S.A.	
Flores Santa Maria Ltda.	
Flores Santa Fe Ltda.	
Flores Santana	
Flores Sausalito	
Flores Selectas	
Flores Silvestres	
Flores Sindamanoi	
Flores Suasuque	
Flores Tairona Ltda.	
Flores Tecnicas Flortec	
Flores Tejaqs Verdes Ltda.	
Flores Tenerife Ltda.	
Flores Tiba S.A.	
Flores Tocarinda	
Flores Tomine Ltda.	
Flores Tropicales (Happy Candy) Group	
Flores Tropicales Ltda.	
Happy Candy Ltda.	
Mercedes Ltda.	
Rosas Colombianos Ltda.	
Flores Urimaco	
Flores Violette	
Flores Xue S.A.	
Florex Group	
Agricola Guacari S.A.	
Flores Altamira S.A.	
Flores de Exportacion S.A.	
Santa Helena S.A.	
Flores del Salitre Ltda.	
S.B. Talee de Colombia	
Floresa S.A., (Flores De La Yareda)	
Florexpo	
Floricola	
Floricola la Gaitana S.A.	
Floricola la Ramada Ltda.	
Floricultores Asociados Lorena Ltda.	
Florimex Colombia Ltda.	
Florisol	
Florpacifico	
Flor y Color	
Floval	
Flower Factory	
Flowers of the World/Rosa	
Four Seasons	
Fracolsa	
Fresh Flowers	
F. Salazar	
Funza Group	
Flores Alborada	
Flores de Funza.	
Flores del Bosque	
Florexport de Colombia	
FMX Ltda.	

	Period to be reviewed
Gamboa Lozano Celmira (Cegalo Flowers)	
Garden and Flowers Ltda.	
German Ocampo	
German Osario Jaramillo	
Granja	
Green Flowers	
Groex S.A.	
German Osario Jaramillo	
German Osario Jaramillo	
Grupo el Jardin	
Agricola el Jardin Ltda.	
La Marotte S.A.	
Orquideas Acatayma Ltda.	
Guacatay Group	
Agricola Guacatay S.A.	
Jardines Bacata Ltda.	
Agricola Cunday S.A.	
Agricola Ventura Ltda.	
Multiflora C.I.S.A.	
Gypso Flowers	
Hacienda Curubital Ltda.	
Hacienda la Embarrada	
Hacienda Matute	
Hacienda Montecarlo	
Hana/Hisa Group	
Flores Hana Ichi de Colombia Ltda.	
Flores Tokai Hisa	
Happy Flowers Ltda.	
Hernando Monroy	
Hill Crest Gardens	
Holland Flowers Ltda. (Hollan Flowers Ltda.)	
Horticultura de la Sasan	
Horticultura el Molino	
Horticultra Montecarlo	
Hosa Group	
Horticultura de la Sabana S.A.	
HOSA Ltda.	
Innovacion Andina S.A.	
Minispray S.A.	
Prohosa Ltda.	
Hurtado Mejia Ltda.	
Illusion Flowers	
Industria Santa Clara	
Industrial Agricola	
Industrial Terwengel Ltda.	
Industria Santa Clara	
Ingro Ltda.	
Internacional De Flores Ltda.	
Inverfloral Ltda., (Invertlores Ltda.)	
Invernavas Ltda.	
Inverpalmas	
Inversiones Agricolas Ltda.	
Inversiones Agricolas M.T. Ltda.	
Inversiones Bucarelia	
Inversiones Cota	
Inversiones el Bambu Ltda.	
Inversiones Floracol Ltda..	
Inversiones Flores del Alto	
Inversiones Kluar Ltda.	
Inversiones La Bonita	
Inversiones Lasser, Ltda.	
Inversiones Maria Alejandra	
Inversiones Maya	
Inversiones Morcote	
Inversiones Morrosquillo	
Inversiones Nativa, Ltda.	
Inversiones Patxi Ltda.	
Inversiones Playa	
Inversiones & Producciones Tecnica	
Inversiones Rodaz, Ltda.	
Inversiones Santa Rita Ltda.	
Inversiones Silma	
Inversiones Sima	

	Period to be reviewed
Inversiones Supala S.A.	
Inversiones Valley Flowers Ltda.	
Invs. Y Praductos Technicos Ltda.	
Inv. Mejia Landicci y Cia (Inverwel)	
Iturrama S.A.	
Jaime Eduardo Valencia, (Agrabarbo)	
Jardin de Carolina	
Jardines Chuntame Ltda.	
Jardines de America	
Jardines Del Muna	
Jardines Choconta	
Jardines Darpu	
Jardines de Timana	
Jardines Del Valle S.A.	
Jardines La Aurora S. en C.	
Jardines La Florida Ltda.	
Jardines Natalia Ltda.	
Jardines Piracanta	
Jardines Tocarema	
Jose Luis Maldonaldo E. (Luis Maldanada Espincua)	
Jose Visente Celedonio Putman	
J.M. Torres	
J.P. Lizarazo Y Cia	
Karla Flowers	
Kingdom S.A.	
La Colina	
La Embairada	
La Flores Ltda.	
La Floresta	
La Marfotte, S.A.	
La Nueva Rosa, Ltda.	
La Plazoleta Ltda.	
Las Amalias Group	
Las Amalias S.A.	
Pompones Ltda.	
La Fleurette de Colombia Ltda.	
Ramiflora Ltda.	
Las Flores	
Laura Flowers	
L.H.	
Linda Colombiana Ltda.	
Loma Linda	
Lopez Cardona Luis (Colibri Flowers)	
Loreana Flowers	
Los Geranios Ltda.	
Luisa Flowers	
Luna Pena Anselmo	
M. Alejandra	
Mac Flowers Ltda.	
Manjui Ltda.	
Marketing and Trade Company Ltd	
Martinez Zurbuchen Y Cia S en C.	
Mauricio Uribe	
Maxima Group	
Agricola los Arboles S.A.	
Colombian D.C. Flowers	
Polo Flowers	
Rainbow Flowers	
Maxima Farms Inc.	
Mejia Sendoya Y Cia (Vergel)	
Merastec	
Monika Farms, Ltda.	
Monserrate Ltda., Repr. E. Inversiones	
Monte Molino Ltda.	
Monte Verde Bouquet (Monteverde S.A.)	
Monteverde Ltda.	
Morcoto	
Multiflores Ltda.	
Nasino	
Natuflora Ltda./San Martin Bloque B	
Olga Rincon	
Oro Verde Group	
Inversiones Miraflores S.A.	

	Period to be reviewed
Inversiones Oro Verde S.A.	
Otono	
Papagayo Group	
Agricola Papagayo	
Inversiones Calypso S.A.	
Petalos de Colombia Ltda.	
Pinar Guameru	
Pineros Putnam Enrique	
Piracania	
Pisochago Ltda.	
Plantaciones Delta Ltda.	
Plantas S.A.	
Plantas Ornamentales de Colombia	
Prismaflor	
Productos El Rosal, Ltda.	
Proflores Ltda.	
Propagar Plantas S.A.	
Queens Flowers Group	
C.I. Agroindustrial del Rio Frio	
C.I. Flora Nova Ltda.	
C.I. Pardo Carrizosa Navas y Cia. S.A.	
Cultivos Generales Ltda.	
Flores Atlas Ltda.	
Flores Calima S.A.	
Flores Canelon Ltda.	
Flores De Bojaca Ltda.	
Flores Del Cacique	
Flores Del Hato	
Flores El Aljibe S.A.	
Flores El Cipres Ltda.	
Flores El Pino Ltda.	
Flores El Tandil Ltda.	
Flores El Trigal S.A.	
Flores Jayvana Ltda.	
Flores La Mana S.A.	
Flores La Valvanera Ltda.	
Flores Las Acacias Ltda.	
Flores Ubate Ltda.	
Jardines De Chia Ltda.	
Jardines Del Rosal Ltda.	
Jardines Fredonia Ltda.	
Florval S.A.	
M.G. Consultores Ltda.	
Mountain Roses S.A.	
Quality Flowers S.A.	
Queens Flowers de Colombia Ltda.	
Reme Salamanca	
Rosa Bella	
Rosaflor	
Rosales de Colombia Ltda.	
Rosales de Suba Ltda.	
Rosalinda Ltda.	
Rosamina	
Rosas Del Pinar Ltda.	
Rosas El Juncal Ltda.	
Rosas Sauzalito Ltda.	
Rosas Sabanilla Group	
Flores la Colmena Ltda.	
Rosas Sabanilla Ltda.	
Inversiones la Serena	
Agricola la Capilla	
Rosas Tesalia	
Rosas Y Flores Del Tropico Ltda. (Rosas Y Jardines Del Tropico Ltda.)	
Rosas y Jardines	
Rose	
Roses De Colombia, Ltda.	
Roses Y Flora Ltda.	
Rosex Ltda.	
Rosicler Ltda.	
Sabana Group	
Flores de la Sabana S.A.	
Roselandia S.A.	
San Ernesto	

	Period to be reviewed
San Flor Y cia S en C	
San Valentine	
Sandra Patricia Rey S	
Sansa Flowers	
Santa Rosa Group	
Flores Santa Rosa Ltda.	
Floricola la Ramada Ltda.	
Santa Monica Flowers Ltda.	
Santana Flowers Group	
Santana Flowers	
Hacienda Curibital Ltda.	
Inversiones Istra Ltda.	
Sarena	
Select Pro	
Senda Brava Ltda.	
Shasta Flowers y Compania Ltda.	
Shila	
Siempreviva	
Soagro Group	
Agricola el Mortino Ltda.	
Flores Aguaclara Ltda.	
Flores del Monte Ltda.	
Flores la Estancia	
Jaramillo y Daza	
Sociedad Agricola El Jardin Ltda.	
Solo Flores	
Solor Flores Ltda.	
Sonia Alvrez De Buchelli	
Splendor Flowers Ltda.	
Starlight	
Suata Plants Ltda.	
Sunbelt Florals	
Sunset Farms, Ltda.	
Super Rosas Ltda.	
Super Rosas Ltda.	
Superflora Ltda.	
Susca	
Sweet Farms	
Sweet Flowers Ltda.	
Tag Ltda.	
Taganga Ltda.	
Tara Flowers	
Technica Agricola Ganadera TAG Ltda.	
Tecnica Agricola Tag Ltda.	
Techniflores S.A.	
Tejeiro (Tegeiro) Repr. Internales. Ltda. (Terinter Ltd)	
Terraflor Ltda.	
The Beall Company	
The Rose	
Tikiya Flowers	
Tinzuque Group	
Tinzuque Ltda.	
Catu S.A.	
Tomino	
Tropical Garden	
Tuchany Group	
Tuchany S.A.	
Flores Sibate	
Flores Tikaya	
Flores Munya	
Turflor S.A.	
Uniflor Ltda.	
Universal De Flores Ltda.	
Valencia Botero Jaime E. (Agrosarbo)	
Vegaflor	
Velez de Monchaux Group	
Velez de Monchaux e Hijos y Cia S. en C.	
Agroteusa	
Victoria Flowers	
Villa Cultivos Ltda.	
Villa Diana	
Vuelven Ltda.	
Zipa Flowers	

	Period to be reviewed
The following exporters/growers have requested revocation from the antidumping duty order:	
Queens Flowers Group	
C.I. Agroindustrial del Rio Frio	
C.I. Flora Nova Ltda.	
C.I. Pardo Carrizosa Navas Cia. S.A.	
Cultivos Generales Ltda.	
Flores Atlas Ltda.	
Flores Calima S.A.	
Flores Canelon Ltda.	
Flores De Bojaca Ltda.	
Flores Del Cacique	
Flores Del Hato	
Flores El Aljibe S.A.	
Flores El Cipres Ltda.	
Flores El Pino Ltda.	
Flores El Tandil Ltda.	
Flores El Trigal S.A.	
Flores Jayvana Ltda.	
Flores La Mana S.A.	
Flores La Valvanera Ltda.	
Flores Las Acacias Ltda.	
Flores Ubate Ltda.	
Jardines De Chia Ltda.	
Jardines Del Rosal Ltda.	
Jardines Fredonia Ltda.	
Florval S.A.	
M.G. Consultores Ltda.	
Mountain Roses S.A.	
Quality Flowers S.A.	
Queens Flowers de Colombia Ltda.	
Ecuador: Fresh Cut Flowers, A–331–602	3/1/98–2/28/99
Florisol Cia. Ltda.	
Argicola Flores La Antonia	
Agroflora C. Ltda.	
Denmar	
Ecuarosas Cia. Ltda.	
Flores De Alcobendas	
Flores De Cayambe	
Flores De La Montana	
Flores Del Ecuador, Florestrade, Quinche, Puembo, Ibsarra, Picincha	
Florinsa (Cotopaxi)	
Florinsa (Tabacundo)	
Guaisa Farms	
Hilsea	
Inlandes	
Inversions Floricolas	
Jardine de Cayambe	
Mudiflor	
Rosas Bemani	
Rosas del Educator	
Velvet	
Flores del Qinche, S.A.	
Agricola Landwork	
Agritab	
Agroindustrial Espialmor	
Armizo	
Claveles de la Montana	
Empagri	
Florequisa	
Flores Barragan-Rodriguez	
Flores Mitad del Mundo	
Floricultura Ecuaclavel	
Guala Import	
Illiniza Flowers	
Nerita Flowers	
San Alfonso	
Flores del Quinche	
Flores la Antonia	
Florisol	
Plantaciones Malima	
Americflowers	
Arco Valeno	
Biocare Limited	

	Period to be reviewed
Colorsfromtheworld	
Comedinsa	
Comercializadora Agricola Caribe	
Comprinz	
Ecoflowers	
Ecuaflor	
Ecuaplanet Trading	
Ecuaplanta	
Florimex Verwaltung GMBH	
Incaflor	
Maximafarms Ecuador	
Miliflowers	
Nevado Naranjo Ecuador	
Noeliaflowers	
Panorama Roses	
Quito Inor Flowers	
Trevis	
U.S. Floral Corp.	
Flores del Cotopaxi, La Clenoga	
Flores del Ecuador	
Arnizo Cia. Ltda.	
Germany: Lead & Bismuth Steel, A–428–811	3/1/98–2/28/99
Saarstahl A.G. i.K.	
Mexico: Steel Wire Rope, A–201–806	3/1/98–2/28/99
Aceros Camesa, S.A. de C.V.	
South Korea: Steel Wire Rope, A–580–811	3/1/98–2/28/99
Boo Kook Corporation	
Dae Heung Industrial Co.	
Dae Kyung Metal	
Dong-Il Steel Mfg. Co., Ltd.	
Dong Young	
Hanboo Wire Rope, Inc.	
Jinyang Wire Rope, Inc.	
Korea Sangsa Co.	
Kumho Wire Rope Mfg. Co., Ltd.	
Kwangshin Rope	
Myung Jin Co.	
Seo Hae Industrial	
Sungsan Special Steel Processing	
Yeonsin Metal	
The People's Republic of China: Ferrosilicon,* A–570–819	3/1/98–2/28/99
Zunyi Ferroalloy Imp. & Exp. Company	
The United Kingdom: Lead & Bismuth Steel, A–412–810	3/1/98–2/28/99
British Steel Engineering Steels, Ltd.	
Countervailing Duty Proceedings	
Germany: Lead & Bismuth Steel, C–428–812	1/1/98–12/31/98
Saarstahl A.G.i.K	
Turkey: Welded Carbon Steel Line Pipe, C–489–502	1/1/98–12/31/98
Borusan Boru Birlesik Fabrikalari	
The United Kingdom: Lead & Bismuth Steel, C–412–811	1/1/98–12/31/98
British Steel Engineering Steels Ltd.	
Suspension Agreements	
None.	

*If one of the above named companies does not qualify for a separate rate, all other exporters of ferrosilicon from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: April 22, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Group II, AD/CVD Enforcement.

[FR Doc. 99–11014 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042699B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications to modify permits (1056, 1118); issuance of a permit (1189); and modifications to an existing permit (1119).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement:

NMFS has received applications for modifications to existing permits from NMFS Northwest Fisheries Science Center in Seattle, WA (NWFSC)(1056) and U.S. Fish and Wildlife Service in Leavenworth, WA (FWS)(1118); NMFS has issued a permit to Dr. James Kirk, of the Corps of Engineers Waterways Experiment Station (COE-WES) (1189); and NMFS has issued modifications to a scientific research permit held by the U.S. Fish and Wildlife Service (FWS) (1119).

DATES: Written comments or requests for a public hearing on the new modification requests must be received on or before June 1, 1999.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permits 1056, 1118, 1119: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

For permit 1189: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (301–713–1401).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT:

For permits 1056: Leslie Schaeffer, Portland, OR (503–230–5433).

For permits 1118, 1119: Tom Lichatowich, Portland, OR (503–230–5438).

For permit 1189: Terri Jordan, Silver Spring, MD (301–713–1401).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Snake River (SnR) spring/summer, upper Columbia River (UCR) spring.

Steelhead trout (*Oncorhynchus mykiss*): UCR.

Shortnose sturgeon (*Acipenser brevirostrum*).

Modification Requests Received

NWFSC requests a modification to scientific research permit 1056. Permit 1056 authorizes NWFSC annual direct takes of juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon associated with studies designed to monitor wild salmon smolt migration timing, genetic change, and population structure over time. For the modification, NWFSC requests an increase in the annual take of juvenile, threatened, naturally produced, SnR spring/summer chinook salmon and an additional take of adult, threatened, SnR spring/summer chinook salmon carcasses associated with the research. The additional take is requested to determine the importance of salmon carcasses (marine derived nutrients) on the growth, production, and survival of wild juvenile Snake River chinook salmon. NWFSC also requests that an additional capture method, rotary screw traps, be used to collect juvenile fish. ESA-listed juvenile fish are proposed to be lethally taken from additional sites except in low abundance years, when lethal take will be suspended. Tissue samples will be collected from ESA-listed adult, naturally deceased (post-spawning), salmon carcasses found along stream banks, or in the event that few carcasses of naturally spawning fish are located, samples will be taken from carcasses obtained from nearby hatcheries following spawning. The modification is requested to be valid for the duration of the permit, which expires on January 31, 2003.

FWS requests a modification to scientific research/enhancement permit 1118. Permit 1118 authorizes FWS annual direct takes of adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with an enhancement program at Winthrop Hatchery on the Methow River. Incidental takes of ESA-listed species resulting from hatchery produced fish releases are also authorized by the permit. For the modification, FWS requests an annual incidental take of adult and juvenile, endangered, UCR spring chinook salmon associated with the program. FWS has provided a revised conservation plan designed to minimize and mitigate the potential incidental take of the ESA-listed species. The modification is requested to be valid for the duration of the permit, which expires on May 31, 2003.

Permits and Modifications Issued

Notice was published on February 4, 1999 (64 FR 5640), that an application had been filed by the U.S. Fish and Wildlife Service (FWS), for a modification to permit 1119. Permit 1119 authorizes annual takes of juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with research studies. For Modification 1, FWS is authorized an increase in annual takes of adult and juvenile, endangered,

naturally produced and artificially propagated, UCR steelhead associated with two new studies, Study 3 and Study 4. Study 3 involves routine spawning ground surveys in the Entiat River Basin designed to estimate the numbers of adult salmonids utilizing the basin. Study 4 is designed to evaluate the feasibility of restoring endangered UCR steelhead above barriers in Icicle Creek, a tributary to the Wenatchee River. Modification 1 was issued on April 22, 1999, and is valid for the duration of the permit, which expires on December 31, 2002.

Notice was published on January 4, 1999 (64 FR 148), that COE-WES applied for a 3-year permit to take and conduct research on endangered shortnose sturgeon to characterize the Ogeechee River system shortnose sturgeon population size, age, structure and growth; document seasonal movement and habitat preferences; identify, if possible, spawning and rearing sites and develop population models to evaluate anthropogenic effects, population trends, and define a recovering or steady-state population. Permit 1189 was issued on April 22, 1999, and expires on December 31, 2002.

Dated: April 26, 1999.

Margaret Lorenz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–10902 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Cambodia

April 26, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: May 3, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 64 FR 6050, published on February 8, 1999.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 26, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 1, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Cambodia and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on May 3, 1999, you are directed to increase the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Cambodia:

Category	Adjusted twelve-month limit [1]
334/634	180,200 dozen.
335/635	68,900 dozen.
338/339	2,650,000 dozen.
340/640	795,000 dozen.
345	99,640 dozen.
347/348/647/648	3,180,000 dozen.
352/652	636,000 dozen.
438	95,400 dozen.
445/446	116,600 dozen.
638/639	954,000 dozen.
645/646	265,000 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–10827 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Korea

April 26, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 3, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryforward used in 1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 56005, published on October 20, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 26, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive

issued to you on October 14, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the period January 1, 1999 through December 31, 1999.

Effective on May 3, 1999, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Group I	
200–223, 224–V [2], 224–O [3], 225, 226, 227, 300–326, 360–363, 369pt. [4], 400–414, 464, 469pt. [5], 600–629, 666, 669–P [6], 669pt. [7], and 670–O [8], as a group.	392,632,795 square meters equivalent.
Sublevels within Group II	
338/339	1,266,505 dozen.
340	671,544 dozen of which not more than 341,957 dozen shall be in Category 340–D [9].
342/642	229,041 dozen.
347/348	473,217 dozen.
435	35,353 dozen.
633/634/635	1,342,874 dozen of which not more than 154,735 dozen shall be in Category 633 and not more than 576,650 dozen shall be in Category 635.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[3] Category 224–O: all remaining HTS numbers in Category 224.

[4] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091, 6307.90.9905, (Category 369–L); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[6] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[7] Category 669pt.: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040.

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[9] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–10829 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

April 21, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: May 4, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota reopenings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used in 1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 58369, published on October 30, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 21, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the period which began on January 1, 1999 and extends through December 31, 1999.

Effective on May 4, 1999, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
200	1,282,774 kilograms.
363	21,589,272 numbers.
369–D [2]	237,200 kilograms.
603	2,301,579 kilograms.
619	7,465,454 square meters.
620	7,357,099 square meters.
Sublevels in Group II	
338/339	1,932,196 dozen.
345	327,069 dozen.
347/348/847	859,352 dozen.
638/639	2,269,173 dozen.
647/648	1,202,106 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–10828 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Announcement of Intent To Grant an Exclusive License for a U.S. Army-Owned Patent

AGENCY: U.S. Army, Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces that, unless there is objection, in sixty days it will grant an Exclusive license for European and Near Eastern countries to Reinmetall Industries AG, Dusseldorf, Germany, on U.S. Army Patent 5,328,130 issued on July 12, 1994, entitled "Stabilizer For A Cannon Projectile" by Stewart Gilman and Anthony Farina, Army docket no. DAR–49–91, together with all foreign counterpart patents or patent applications.

FOR FURTHER INFORMATION CONTACT: Mr. John Moran, Chief, Intellectual Property Law Division, AMSTA–AR–GCL, U.S. Army, TACOM–ARDEC, Picatinny Arsenal, NJ 07806–5000, telephone: (973) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed within 60 days from publication date of this notice in the **Federal Register.**

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–10860 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Announcement of Intent To Grant an Exclusive License for a U.S. Army-Owned Patent

AGENCY: U.S. Army, Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces that, unless there is objection, in sixty days it will grant an Exclusive license in European and Near Eastern countries to Rheinmetall Industries, AG, Dusseldorf, Germany, on U.S. Army Patent 5,070,791, issued on December 10, 1991 entitled "Projectile Tail Cone" by John J. Dineen, Winfred T. Watson, and Gary Fleming, Army docket no. DAR–1–88.

FOR FURTHER INFORMATION CONTACT: Mr. John Moran, Chief, Intellectual Property Law Division, AMSTA–AR–GCL, U.S. Army, TACOM–ARDEC, Picatinny Arsenal, NJ 07806–5000, telephone: (973) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed within 60 days from the publication date of this notice in the **Federal Register.**

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–10861 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Vaccine Against Gram Negative Bacteria

AGENCY: U.S. Army Medical Research and Material Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, and 404.7, announcement is made of the availability for licensing of U.S. Patent Application Serial Number 08/749,592 filed November 15, 1996, and entitled "Vaccine Against Gram Negative Bacteria." This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: MCMR–JA, Fort Detrick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. Charles H. Harris, Patent Attorney, (301) 619–2065 or telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The invention describes a mucosal vaccine and methods of producing a vaccine or vaccines that can be used to immunize an individual against meningococcal disease (infections with Neisseria) based on native outer membrane vesicles (NOMV) prepared from a genetically engineered vaccine strain. In an extended application, methods for extending this vaccine approach to other Gram negative bacteria such as Shigella, Brucella, Pseudomonas, Excherichia coli, and Haemophilus are also described.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–10858 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Withdrawal of Preparation of a Draft Environmental Impact Statement for the Baltimore Metropolitan Water Resources Feasibility Study—Deep Run and Tiber-Hudson Watersheds, Howard County, MD

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of withdrawal.

SUMMARY: The U.S. Army Corps of Engineers, Baltimore District, is withdrawing its intent to prepare a Draft Environmental Impact Statement (DEIS) for environmental restoration in the Deep Run and Tiber-Hudson watersheds, Howard County, Maryland. The Corps environmental analyses have not identified any significant impacts associated with the proposed action, therefore, intent to prepare a DEIS is hereby terminated. The Corps is preparing a draft Environmental Assessment (EA) for the proposed environmental restoration. The draft EA will evaluate environmental effects of restoring riverine, wetland, and riparian habitat at seven sites in the Deep Run watershed and five sites in the Tiber-Hudson watershed. Howard County is the cost-sharing partner and is participating in the feasibility study and draft EA development. The goal of this project is to provide site specific restoration measures to enhance, preserve, and restore portions of the watershed that have been degraded by urban development pressures. Formulation of the restoration measures focuses on examining existing conditions and determining the feasibility of restoring portions of degraded ecosystem structure, function, and dynamic processes to a less degraded condition.

FOR FURTHER INFORMATION CONTACT: Questions about the termination of the DEIS can be addressed to Ms. Kathryn J. Conant, Study Manager, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB–PL–P, P.O. Box 1715, Baltimore, Maryland 21203–1715, telephone (410) 962–5175. E-mail address: kathryn.j.conant@usace.army.mil.

SUPPLEMENTARY INFORMATION: A DEIS was in the process of being prepared by the Corps. During the National Environmental Policy Act (NEPA) process, it became apparent that the set of alternatives chosen as the final restoration plan did not produce any significant, long-term, or adverse

impacts to the environment or its surroundings. Therefore, the DEIS process has been terminated. A draft feasibility report and draft EA have been prepared, and will be available for public review and comment.

Dated: April 20, 1999.

Robert W. Lindner,

Chief, Planning Division.

[FR Doc. 99–10857 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF DEFENSE

Department of the Army Corps of Engineers

Draft Environmental Impact Statement For Proposed Open-Water Placement of Dredged Material At Site 104 Queen Anne's County, Maryland

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Extension of comment period (July 1, 1999).

SUMMARY: Reference previous **Federal Register** notice, Volume 64, Number 69, page 17644, dated April 12, 1999, announcing the Baltimore District's extension of comment period to June 1, 1999. The Baltimore District is now extending the public comment period for an additional 30 days (July 1, 1999). This is based on the District's preparation of additional information on sediment quality and nutrients which will be distributed by May 15, 1999.

DATES: Comments must be submitted on or before July 1, 1999 to be evaluated and considered in the final environmental impact statement.

ADDRESSES: Questions, comments, or requests for copies of the Draft Environmental Impact Statement should be directed to Mr. Wesley E. Coleman, Jr. at the Corps of Engineers, Baltimore District (ATTN: CENAB–PL–P), P.O. Box 1715, Baltimore, MD 21203–1715. Or e-mail wesley.e.coleman@usace.army.mil

FOR FURTHER INFORMATION CONTACT: Mr. Wesley E. Coleman, Jr. at facsimile (410) 962–4698 or 1–800–295–1610.

SUPPLEMENTARY INFORMATION: Additional information on sediment quality and nutrients will be distributed by May 15, 1999. This information will be placed in the libraries listed below and will be distributed to parties on the Site 104 mailing list.

A Notice of Availability (NOA) and a summary of the proposed action was published in the **Federal Register** (64 FR 9480) on February 26, 1999. The U.S. Army Corps of Engineers, Baltimore District is evaluating the potential use of Site 104 as an open-water placement area. Site 104 is located in the Chesapeake Bay one-half mile north of the Chesapeake Bay Bridge and one mile west of Kent Island. Open-water placement is proposed for approximately 18 million cubic yards of dredged material from the mainstem Chesapeake Bay channels leading to the part of Baltimore. The Maryland Port Administration has recommended the use of Site 104 for open-water placement of clean sediment beginning in 1999. No decision has been made to use the site. The Baltimore District will analyze and incorporate all public comments on this Draft Environmental Impact Statement before making a final decision.

The DEIS and associated technical appendices are available at the following area libraries: Anne Arundel County Public Library, North County Branch, 1010 Eastway Drive, Glen Burnie, MD 21060; Queen Anne's County Free Library, 121 South Commerce Street, Centreville, MD 21617; Kent County Public Library, 408 High Street, Chestertown, MD 21620; Frederick Douglas Library. University of MD, Eastern Shore, Backbone Road, Princess Anne, MD 21853; Miller Library, Washington College, 300 Washington Avenue, Chestertown, MD 21620; MD State Law Library, Court of Appeals Building, 361 Rowe Boulevard, Annapolis, MD 21401; Queen Anne's County Public Library, Kent Island Branch, 200 Library Circle, Stevensville, MD 21666; Annapolis Library, 1410 West Street Annapolis, MD 21401; Broadneck Library, 1275 Green Holly Drive, Annapolis, MD 21401; Reference Library, State Department of Legislation, 90 State Circle, Annapolis, MD 21401.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–10859 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Open Meeting of the Board of Advisors to the Superindent, Naval Postgraduate School, Monterey, CA

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 5 USC App.2), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, Monterey, California will meet. All sessions will be open to the public.

DATES: The meeting will be on 2–3 June 1999, 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held in Hermann Hall (Building 220) at the Naval Postgraduate School, 1 University Circle, Monterey, CA 93943.

FOR FURTHER INFORMATION CONTACT: Ms. Jaye Panza, Naval Postgraduate School, Monterey, CA 93943–5001, telephone (831) 656–2514.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to elicit the advice of the board on the Navy's Postgraduate Education Program. The board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent.

Dated: April 19, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–10810 Filed 4–29–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 29, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Pat__Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339

between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 26, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: IEA Civics Education Project—Pilot Test and Full Scale.
Frequency: One time.
Affected Public: Individuals or households; State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 3,900.
Burden Hours: 3,150.
Abstract: The Civics Education Project is a multi-national project coordinated by the International Association for the Evaluation of Educational Achievement (IEA). More than 20 countries are involved in this collaborative effort to conduct a comparative analysis of civic education around the world. The IEA study has two phases. Phase 1 involves documenting what participating countries believe is important for 14-year-olds to know about a wide range of civic and political topics. Phase 2 involves a student assessment to assess their civic knowledge, skills, attitudes, and actions.

[FR Doc. 99–10816 Filed 4–29–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 1, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: April 27, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Extension.
Title: Student Right-to-Know.
Frequency: Annually.
Affected Public: Business or other for-profit; Not-for-profit institutions.
Reporting and Recordkeeping Burden:
Responses: 8,000.
Burden Hours: 240,100.
Abstract: These regulations require institutions that participate in a Title IV, Higher Education Act of 1965 program to make available to students and prospective students the graduation rates of full-time undergraduates, and institutions that also are attended by students receiving athletically related student aid to make available to prospective student-athletes, and their parents, coaches, and counselors the graduation rates of students, and student athletes, by race, gender, and sport.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Protection and Advocacy of Individual Rights (PAIR) Program Assurances.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 57.

Burden Hours: 9.

Abstract: Section 509 of the Rehabilitation Act of 1973 as amended (Act), and its implementing Federal Regulations at 34 CFR part 381, require the PAIR grantees to submit an application to the RSA Commissioner in order to receive assistance under section 509 of the Act. The Act requires that the application contain Assurances to which the grantee must comply. Section 509(f) of the Act specifies the Assurances. There are 57 PAIR grantees. All 57 grantees are required to be part of the protection and advocacy system in each State established under the Developmental Disabilities Assistance and Bill of Rights Act (42 USC 6041 *et seq.*).

[FR Doc. 99–10842 Filed 4–29–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Student Financial Assistance, William D. Ford Federal Direct Loan Program and Federal Family Education Loan Program.

AGENCY: Department of Education.

ACTION: Notice of interest rates for the period October 1, 1998, through June 30, 1999, for new loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program and the Federal Family Education Loan (FFEL) Program.

SUMMARY: The Chief Operating Officer for the Office of Student Financial Assistance Programs announces the interest rates for the period October 1, 1998, through June 30, 1999, for loans first disbursed on or after October 1, 1998, under the William D. Ford Federal Direct Loan (Direct Loan) Program and the Federal Family Education Loan (FFEL) Program.

FOR FURTHER INFORMATION CONTACT: For the Federal Family Education Loan Program: Brian Smith, Program Specialist. For the William D. Ford Federal Direct Loan Program: Barbara F. Grayson, Program Specialist, Mailing Address: Policy Development Division, Office of Student Financial Assistance,U.S. Department of Education, Room 3045, ROB–3, 400 Maryland Avenue, SW, Washington, DC 20202–5345. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person.

SUPPLEMENTARY INFORMATION: General—The formulas for determining the interest rates for Direct Loan and FFEL Program loans are provided in sections 455(b), 427A, and 428C of the Higher Education Act of 1965, as amended (HEA). These provisions are amended by sections 452 and 416 of the Higher Education Amendments of 1998 (Pub. L. 105–244), which were enacted on October 7, 1998. The 1998 Amendments extend to July 1, 2003, the interest rate formulas for student and parent loans that have been in effect since July 1, 1998.

The interest rate calculations for all student and parent loans in the Direct Loan and FFEL programs for which the first disbursement is made on or after October 1, 1998, are based on the bond equivalent rate of the 91-day Treasury bills auctioned a the final auction held before June 1.

The Amendments change the formulas for setting interest rates on Consolidation loans under both the Direct Loan and the FFEL programs. However, the bill sets different effective dates for each program. The interest rate for new Consolidation loans is calculated by taking the weighted average of the loans being consolidated, and rounding up to the nearest higher ⅛th of 1 percent. Except as noted below under Federal Family Education Loan Program, it is a fixed rate and may not exceed 8.25 percent. This interest rate formula applies to FFEL Consolidation loans for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003. The same formula applies to Direct Loan Consolidation loans for which the application is received on or after February 1, 1999,and before July 1, 2003. The 1998 Amendments establish temporary rules for calculating the interest rate for Direct Loan Consolidation loans (both student and parent) for which the application is received on or after October 1, 1998, and before February 1, 1999. For these loans, the interest rate is determined annually and equals the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held before June 1st plus 2.3 percent. The interest rate is capped at 8.25 percent.

The bond equivalent rate of 91-day Treasury bills auctioned on may 26, 1998, is 5.155 percent, which round to 5.16 percent.

William D. Ford Federal Direct Loan Program

1. Direct Subsidized and Direct Unsubsidized loans, first disbursed on or after October 1, 1998:

(a) During the in-school, grace, and deferment periods:

The interest rate for the period October 1, 1998, through June 30, 1999, is 6.86 percent (5.16 percent plus 1.7 percent equals 6.86 percent).

(b) During all other periods:

The interest rate for the period October 1, 1998, through June 30, 1999, is 7.46 percent (5.16 percent plus 2.3 percent equals 7.46 percent).

2. Direct PLUS loans first disbursed on or after October 1, 1998:

The interest rate for the period October 1, 1998, through June 30, 1999, is 8.26 percent (5.16 percent plus 3.1 percent equals 8.26 percent).

3. Direct Consolidation loans for which the application is received on or after October 1, 1998, and before February 1, 1999:

The interest rate for the period October 1, 1998, through June 30, 1999, is 7.46 percent (5.16 percent plus 2.3 percent equal 7.46 percent).

4. Direct Consolidation loans for which the application is received on or after February 1, 1999:

The interest rate is the weighted average of the interest rates on loans and being consolidated, rounded to the nearest higher 1/8th of one percent, but may not exceed 8.25 percent. The rate does not vary annually; it is established for the life of the loan.

Federal Family Education Loan Program

1. FFEL Stafford loans, first disbursed on or after October 1, 1998:

(a) During the in-school, grace, and deferment periods:

The interest rate for the October 1, 1998, through June 30, 1999, is 6.86 percent (5.16 percent plus 1.7 percent equals 6.86 percent.

(b) During all other periods:

The interest rate for the period October 1, 1998, through June 30, 1999, is 7.46 percent plus 2.3 percent equals 7.46 percent).

2. FFEL PLUS loans first disbursed on or after October 1, 1998:

The interest rate for the October 1, 1998, through June 30, 1999, is 8.26 percent (5.16 percent plus 3.1 percent equals 8.26 percent).

3. FFEL Consolidation loans for which the consolidation loan

application was received by the lender on or after October 1, 1998:

The interest rate is the weighted average of the interest rates on the loans being consolidated, rounded to the nearest higher ⅛th of one percent, but may not exceed 8.25 percent. This rate does not vary annually. It is established for the life of the loan, unless portion of the Consolidation loan is attributable to a loan made under subpart I and part A of title VII of the Public Health Service Act. The interest rate on that portion of a Consolidation loan is determined annually and equals the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1st plus 3 percent. For the period October 1, 1998, through June 30, 1998, the interest rate for that portion of a Consolidation loans is 8.13 percent (5.13 percent plus 3.0 percent equals 8.13 percent).

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.hmt
http://www.ed.gov/fedreg.hmtl

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free 1–888–293–6498.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1077a, 20 U.S.C. 1087e, and Pub. L. 105–244.

Dated: April 27, 1999.

Greg Woods,

Chief Operating Officer, Office of Student Financial Assistance.

[FR Doc. 99–10885 Filed 4–29–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Wetland Involvement

AGENCY: Chicago Operations Office, DOE.

ACTION: Notice.

SUMMARY: DOE is conducting a corrective action program at Argonne National Laboratory-East (ANL-E) as required by the Resource Conservation and Recovery Act (RCRA). As part of the corrective action program, DOE proposes to reroute a portion of a drainage ditch in order to place a protective cap on a former landfill. This action would eliminate small wetland areas along the edges of the drainage ditch. In accordance with DOE regulations for Compliance with Floodplains/Wetlands Environmental Review Requirements (10 CFR 1022), DOE will prepare a wetlands assessment for this proposed action and will consider options to enhance the ecological functioning of the drainage ditch.

DATES: Comments are due to the address below no later than May 17, 1999.

ADDRESSES: Comments should be addressed to Timothy S. Crawford, Manager, Argonne Group, U.S. Department of Energy, Chicago Operations Office, 9800 S. Cass Avenue, Argonne, IL 60439. (630) 252–2436.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT: Timothy S. Crawford, Manager, Argonne Group, U.S. Department of Energy, 9800 S. Cass Avenue, Argonne, IL 60439, Phone: (630) 252–2264, Fax: (630) 252–2361.

FOR FURTHER INFORMATION ON GENERAL DOE WETLAND ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Dr. W. Sedgefield White, Chicago Operations Office, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, Illinois 60439, Phone (630) 252–2101, Fax: (630) 252–2835.

SUPPLEMENTARY INFORMATION: Remediation at the former 319 Landfill requires construction of an access road and two new channels to improve storm water drainage and reduce erosion in the area. This proposed action would impact the northern edge of a small storm water ditch with a total area between 270 and 450 square feet (about 90 feet long and three to five feet wide). Water is retained in the ditch during and after storm events and this area fosters the growth of three common wetland species that typically grow in disturbed sites and poor quality wetlands: cattail (*Typha angustifolia*), bulrush (*Scirpus atrovirens*), and spike rush (*Eleocharis erythropoda*). The effect of the proposed action on the storm water drainage ditch will be assessed and options to enhance the ecological functioning of the drainage ditch will be considered.

Issued in Argonne, Illinois on 21st day of April, 1999

Robert L. San Martin,

Manager, Chicago Operations Office.

[FR Doc. 99–10890 Filed 4–29–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

Orders Granting, Amending, and Vacating Authorizations To Import and Export Natural Gas, Including Liquefied Natural Gas

POCO MARKETING LTD. (Formerly Poco Petroleum, Inc.), THE MEAD CORPORATION, PROGAS U.S.A., INC., CMS MARKETING SERVICES, AND TRADING COMPANY, PRODUCERS MARKETING CORPORATION (Formerly CU Energy Marketing Inc.), PRODUCERS MARKETING CORPORATION (Formerly CU Energy Marketing Inc.), MIDCON GAS SERVICES CORP., MIDCON GAS SERVICES CORP., MIDCON TEXAS GAS SERVICES CORP., RELIANT ENERGY SERVICES, INC. (Formerly NorAm Energy Services, Inc.), TRANSALTA ENERGY MARKETING (U.S.) INC., AVISTA ENERGY, INC., FE DOCKET NO. 90–93–NG, 99–17–NG, 99–16–NG, 99–18–LNG, 96–34–NG, 88–27–NG, 96–71–NG, 97–50–NG, 91–49–NG, 97–31–NG, 99–21–NG, 99–20–NG.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting, amending, and vacating natural gas, including liquefied natural gas, import and export authorizations. These Orders are summarized in the attached appendix.

These Orders may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853.

They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on April 8, 1999.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

Attachment

APPENDIX—ORDERS GRANTING, AMENDING AND VACATING IMPORT/EXPORT AUTHORIZATIONS

[DOE/FE authority]

Order No.	Date Issued	Importer/Exporter FE Docket No.	Two-year maximum		Comments
			Import volume	Export volume	
507–B	03/01/99 ..	Poco Marketing LTD. (Formerly Poco Petroleum, Inc.) 90–93–NG.	.....	.....	Name change.
1467 ...	03/01/99 ..	The Mead Corporation 99–17–NG.	60 Bcf	.....	Import from Canada beginning on the date of first delivery.
1468 ...	03/01/99 ..	ProGas U.S.A., Inc. 99–16–NG.	800 Bcf	200 Bcf	Import and Export from and to Canada beginning on the date of first import or export after March 31, 1999.
1469 ...	03/12/99 ..	CMS Marketing Services, and Trading Company 99–18–LNG.	440 Bcf	.....	Import from various international sources, beginning on date of first shipment.
1174–A	03/16/99 ..	Producers Marketing Corporation (Formerly CU Energy Marketing Inc.) 96–34–NG.	.....	.....	Name change.
259–A	03/16/99 ..	Producers Marketing Corporation (Formerly CU Energy Marketing Inc.) 88–27–NG.	.....	.....	Name change.
1208–A	03/18/99 ..	MidCon Gas Services Corp. 96–71–NG.	.....	.....	Vacate import authority.
1285–A	03/18/99 ..	MidCon Gas Services Corp. 97–50–NG.	.....	.....	Vacate export authority.
832–A	03/19/99 ..	MidCon Texas Gas Services Corp. (Formerly UTRADE Gas Company) 91–49–NG.	.....	.....	Vacate import authority.
1270–A	03/19/99 ..	Reliant Energy Services, Inc. (Formerly NorAm Energy Services, Inc.) 97–31–NG.	.....	.....	Name change.
1471 ...	03/23/99 ..	Transalta Energy Marketing (U.S.) Inc. 99–21–NG.	400 Bcf		Import and export a combined total from and to Canada beginning on the date of first import or export delivery.
1472 ...	03/25/99 ..	Avista Energy, Inc. 99–20–NG	.....	219 Bcf	Export to Canada beginning on the date of first delivery.

[FR Doc. 99–10891 Filed 4–29–99; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99–17–000]

Arkansas Western Pipeline, L.L.C.; Notice of Filing

April 26, 1999.

Take notice that on April 13, 1999, Arkansas Western Pipeline, L.L.C. (Arkansas) filed standards of conduct under Order Nos. 497 *et seq.*,[1] Order Nos. 566 *et seq.*[2] and Order No. 599.[3]

Arkansas states that it served copies of the standards of conduct on all Arkansas customers and interested state commissioners.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before May 11, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–10874 Filed 4–29–99; 8:45 am]
BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), *rehearing denied*, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date*, 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing*, 59 FR 65707 (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

[3] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. ¶ 31,064 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–290–000]

Boundary Gas, Inc., Notice of Application

April 15, 1999.

Take notice that on April 7, 1999, Boundary Gas, Inc. (Boundary), 100 Cummings Center, Suite 457G, Beverly, Massachusetts 01915–6132, filed an application in Docket No. CP99–290–000 pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations, for authority to abandon gas service to Yankee Gas Services Company (Yankee) effective July 2, 19998, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Boundary states that by letter dated June 26, 1997, Boundary and Yankee reached an agreement permitting Yankee to terminate its contractual relationship with Boundary and to enter into a separate agreement to purchase directly from TransCanada Pipelines Limited (TransCanada), Boundary's supplier, the volumes of gas Yankee has previously taken from Boundary, effective the date that Yankee was to specify in a Notice of Termination (Notice). Boundary also states that Yankee served the Notice on June 25, 1998 to Boundary stating that Yankee was terminating its contract effective July 1, 1998. Boundary further states that Yankee implemented its termination on July 2, 1998.

Boundary says that on January 28, 1999, Boundary and TransCanada entered into a letter agreement. Boundary and all of the other Repurchasers [1] entered into the Amendment to Phase 2 Gas Sales Agreement and the Eighth Amendment to Memorandum of Agreement (copies are included in Exhibit U of the application), all of which provide, *inter alian*, for the departure of Yankee effective July 2, 1998. Boundary also says that prior to Yankee's withdrawal, its stock ownership in Boundary was 10.23 percent, which entitled it to purchase 9,463 Mcf per day.

[1] Boundary is a close corporation wholly owned by its fourteen stockholders who are referred to as Repurchasers and all of them are local distribution companies located in New York, New Jersey and New England, plus they are Boundary's only customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 6, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Boundary to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10928 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1875–000]

Canadian Niagara Power Company, Limited; Notice of Issuance of Order

April 26, 1999.

Canadian Niagara Power Company, Limited (Canadian Niagara), filed an application seeking Commission authorization to engage in the sale of energy and capacity at market-based rates, and for certain waivers and authorizations. In particular, Canadian Niagara requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Canadian Niagara. On April 15, 1999, the Commission issued an Order Accepting For Filing Proposed Rate Schedules for Sales Of Capacity, Energy And Ancillary Services At Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's April 15, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Canadian Niagara should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Canadian Niagara is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Canadian Niagara, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Canadian Niagara's issuances of securities or assumptions of liabili ties. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 17, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–10883 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–297–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

April 15, 1999.

Take notice that on April 12, 1999, Florida Gas Transmission Company, (Applicant), 1400 Smith Street, Suite 3963, P.O. Box 1188, Houston, Texas, 77251–1188, filed in Docket No. CP99–297–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for approval to construct, own, and operate a new bi-directional interconnect on Applicant's 12-inch Chacahoula Lateral to accommodate natural gas deliveries to and from the Napoleonville Gas Storage Facilities Napoleonvilee Facility), under Applicant's blanket certificate issued in Docket No. CP82–553–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to construct, own, and operate a 12-inch tee and side valve.[1] Applicant states that Enron Storage Company (Enron Storage) will construct, own, and operate a new meter station and short connecting pipe to the Napoleonville Facility. Applicant asserts that the maximum gas quantity that it will deliver/receive into the subject meter station is 100,000 MMBtu per day or 36,5000,000 MMBtu per year. Applicant further assets that Enron Storage and Applicant will each be responsible for fifty per cent of the total combined costs for all facilities up to one-hundred-twenty per cent of the estimate of cost of $1,050,000.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10929 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

[1] Applicant also intends to construct a 4,200 foot 12-inch lateral pursuant to Section 157.208(a) of the Commission's Regulations and Applicant's blanket certificate.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99–14–000]

Michigan Gas Storage Company; Notice of Filing

April 26, 1999.

Take notice that on April 13, 1999, Michigan Gas Storage Company (Michigan Gas) filed revised standards of conduct to incorporate Standard L (to be codified at 18 CFR 161.3(1)) under Order No. 599.[1]

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before May 11, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–10877 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

[1] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. ¶ 31,064 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–160–001]

National Fuel Gas Supply Corporation; Notice of Amendment

April 26, 1999.

Take notice that on April 22, 1999, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP99–160–001 to amend its pending application filed January 19, 1999, in Docket CP99–160–000 to uprate a compressor unit at its Ellisburg Compressor Station to provide additional firm transportation service from Ellisburg, Pennsylvania to Leidy, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–0400 for assistance).

National Fuel states that in its application, it estimated the cost of the proposed uprating to be $101,600. National Fuel asserts that it has since learned that it will be required to purchase emission reduction credits in order to obtain a modified emissions permit for Unit 1A from the Pennsylvania Department of Environmental Protection. National Fuel estimates that the cost of these credits and related expenses will be approximately $122,000, increasing the estimated project cost to $233,600. National Fuel indicates that it has reviewed the Environmental Report included with the application (Exhibit Z–1) and Resource Report No. 9 in particular, and has determined that no changes are necessary to this report.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 4, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's

Rules. Any person who filed to intervene in Docket No. CP99–160–000 need not file again.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed certificate and abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–10876 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–1829–000, ER99–1936–000, ER99–1940–000 (Not consolidated)]

Northeast Utilities Service Company, PDI New England, Inc. and PDI Canada, Inc., Penobscot Hydro, LLC; Notice of Issuance of Order

April 26, 1999.

Northeast Utilities Service Company, PDI New England, Inc. and PDI Canada, Inc., and Penobscot Hydro, LLC (hereinafter, "the Applicants") filed with the Commission rate schedules in the above-captioned proceedings, respectively, under which the Applicants will engage in wholesale electric power and energy transactions at market-based rates, and for certain waivers and authorizations. In particular, certain of the Applicants may also have requested in their respective applications that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liabilities by the Applicants. On April 15, 1999, the Commission issued an order that accepted the rate schedules for sales of capacity and energy at market-based rates (Order), in the above-docketed proceedings.

The Commission's April 15, 1999 Order granted, for those Applicants that sought such approval, their request for blanket approval under part 34, subject to the conditions found in Appendix B in ordering paragraphs (2), (3), and (5):

(2) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilies by the Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures, 18 CFR 395.211 and 398.214.

(3) Absent a request to be heard within the period set forth in Ordering Paragraph (2) above, if the Applicants have requested such authorization, the Applicants are hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(5) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of the applicant's issuance of securities or Assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 17 1999.

Copies of the full text of the Order are available from the Commission's Public Referenece Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers.

Secretary.

[FR Doc. 99–10881 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99–16–000]

Ozark Gas Transmission System and Ozark Gas Transmission L.L.C.; Notice of Filing

April 26, 1999.

Take notice that on April 13, 1999, Ozark Gas Transmission System and Ozark Gas Transmission L.L.C. (Ozark) filed standards of conduct under Order Nos. 497 *et seq.*,[1] Orders Nos. 566 *et seq.*[2] and Orders No. 599.[3]

Ozark states that it served copies of the standards of conduct on all Ozark customers and interested state commissioners.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before May 11, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), *rehearing denied*, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas & FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date*, 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994) FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 497–566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B. *order on rehearing*, 59 FR 65707 (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

[3] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. ¶ 31,064 (1998).

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc 99–10873 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–104–000]

PDI Canada, Inc.; Notice of Amended Application for Commission Determination of Exempt Wholesale Generator Status

April 26, 1999.

Take notice that on April 23, 1999, PDI New England, Inc., d/b/a WPS New England Generation, Inc., a Wisconsin corporation with its headquarters at 677 Baeten Road, Green Bay, WI 54304, filed with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

PDI New England, Inc. is a wholly-owned subsidiary of WPS Power Development, Inc., which in turn is a wholly-owned, indirect subsidiary of WPS Resources Corporation, headquartered in Green Bay, Wisconsin. WPS Resources Corporation is an exempt public utility holding company. Its subsidiaries include Wisconsin Public Service Corporation, an electric and natural gas public utility serving portions of northeastern Wisconsin and the upper peninsula of Michigan. PDI New England, Inc. will be taking title to and operating certain assets located in Maine being divested by Maine Public Service Company (MPS). These assets include generating facilities with total capacity of approximately 36 MW and related assets located in northern Maine, and a 3.3455% interest in the Wyman No. 4 Unit, a generating facility in southern Maine.

The amendment to the application notes that the Maine Public Utilities Commission, by Order of April 5, 1999 in Docket 98–584, has determined that allowing PDI New England, Inc. to acquire the facilities to be transferred will benefit consumers, is in the public interest, and does not violate State law.

Any person desiring to be heard concerning the amended application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application. All such motions and comments should be filed on or before May 3, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection or on the internet at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10879 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–105–000]

PDI New England, Inc.; Notice of Amended Application for Commission Determination of Exempt Wholesale Generator Status

April 26, 1999.

Take notice that on April 23, 1999, WPS New England Generation, Inc., A Wisconsin corporation with its headquarters at 677 Baeten Road, Green Bay, WI 54304, filed with the Federal Energy Regulation Commission an amendment to its application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

PDI New England, Inc. is a wholly-owned subsidiary of WPS Power Development, Inc., which in turn is a wholly-owned, indirect subsidiary of WPS Resources Corporation, headquartered in Green Bay, Wisconsin. WPS Resources Corporation is an exempt public utility holding company. Its subsidiaries include Wisconsin Public Service Corporation, an electric and natural gas public utility serving portions of northeastern Wisconsin and the upper peninsula of Michigan. PDI New England, Inc. will be taking title to and operating certain assets located in Maine being divested by Maine Public Service Company (MPS). These assets include generating facilities with total capacity of approximately 36 MW and related assets located in northern Maine, and a 3.3455% interest in the Wyman No. 4 Unit, a generating facility in southern Maine.

The amendment to the application notes that the Maine Public Utilities Commission, by Order of April 5, 1999 in Docket 98–584, has determined that allowing PDI New England, Inc. to acquire the facilities to be transferred will benefit consumers, is in the public interest, and does not violate State law.

Any person desiring to be heard concerning the amended applicant for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application. All such motions and comments should be filed on or before May 3, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection or on the internet at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boerger,

Secretary.

[FR Doc. 99–10880 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9974–040]

Rough and Ready Hydro, Inc.; Notice of Intent To Conduct Public Meetings for the Upper Watertown Project on Rock River in Wisconsin

April 26, 1999.

The Federal Energy Regulatory Commission (Commission) is proposing revocation of the exemption from licensing for the Upper Watertown Project located on the Rock River in Jefferson County, Wisconsin. The Commission will hold public meetings on May 20, 1999, in preparation for completing the Final Environmental Assessment (FEA).

The Commission staff will hold the public meetings in the vicinity of the Upper Watertown Project. The purpose of the public meetings are to entertain further comments on the Draft Environmental Assessment (DEA),

issued April 12, 1999, and to ensure that any outstanding environmental issues are included in the FEA. We invite all interested resources agencies, non-governmental organizations (NGO's), and individuals to attend one of the meetings. The time and location of the public meetings are shown below:

Date: Thursday, May 20, 1999.

Time: 10:00 a.m. to 12:00 noon or 7:00–9:00 p.m.

Place: Watertown Municipal Building, Common Council Chambers, 106 Jones Street, Watertown, WI 53094.

At the public meetings, the Commission staff will: (1) summarize the status of the revocation proceeding(s) and the environmental issues identified in the DEA; (2) receive any statements or comments on the environmental issues that should be analyzed in the FEA; and (3) answer any questions asked of the Commission.

Before the meetings start, all individuals who attend, will be asked to identify themselves by signing in. Individuals that intend to make statements during the meetings will be asked to clearly identify themselves prior to speaking. Interested parties who choose not to speak, or who are unable to attend the public meetings, may provide written comments to the Commission by June 11, 1999. Written comments should be submitted to: Mr. David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426. Please affix the caption "Upper Watertown Project, FERC No. 9974–040" to the top of all comments. For further information, please contact the environmental coordinator, Bob Fletcher at (202) 219–1206.

David P. Boergers,

Secretary.

[FR Doc. 99–10875 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

SCC–L1, L.L.C. [Docket No. ER99–1914–000]; SCC–L2, L.L.C. [Docket No. ER99–1915–000]; SCC–L3, L.L.C. [Docket No. ER99–1942–000]; Notice of Issuance of Order

April 26, 1999.

SCC–L1, L.L.C., SCC–L2, L.L.C., and SCC–L3, L.L.C. (collectively, Applicants) filed respective applications requesting that the Commission accept market-based rate tariffs, power purchases agreements (PPA's), and Interconnection Agreements, (IA's). Under the PPAs, the Applicants will make wholesale power sales at market-based rates to Enron Power Marketing, Inc. (EPMI), a power-marketer. In addition, under the tariffs, the applicants requested blanket authorization to sell at market-based rates electric energy generated in excess of the amounts scheduled by EPMI, and for certain waivers and authorizations. In particular, Applicants requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liabilities by Applicants. On April 15, 1999, the Commission issued an Order Conditionally Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's April 15, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, the Applicants are hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of the Applicants's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 17, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–10882 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP93–151–026]

Tennessee Gas Pipeline Company; Notice of GSR Reconciliation Report

April 15, 1999.

Take notice that on March 31, 1999, in accordance with Article VI, Section C of the February 28, 1997 GSR Stipulation and Agreement (Stipulation), Tennessee Gas Pipeline Company (Tennessee) tendered for filing its GSR Reconciliation Report.

In accordance with Article VI, Section (c)(2) of the Stipulation, Tennessee states that the Reconciliation Report also reflects a refund by Tennessee to UGI Utilities, Inc. (UGI) in the amount of $477,642 which fully resolves all issues regarding UGI's contribution to Restructuring Costs.

Tennessee states that copies of the Reconciliation Report has been served on all parties on the service list in the referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 22, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10930 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–333–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

April 26, 1999.

Take notice that on April 22, 1999, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in

Docket No. CP99–333–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct a new delivery point on Texas Eastern's existing 30-inch Line No. 16 in Harris County, Texas, to make natural gas deliveries to Reliant Energy HL&P (Reliant Energy), a local distribution company, under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Specifically, Texas Eastern requests authorization to construct, install, own, operate and maintain a 12-inch tap valve and a 12-inch check valve on its existing 30-inch Line No. 16, at approximate Mile Post 337.32 in Harris County, Texas; a 12-inch ultrasonic meter run plus associated piping; approximately 100 feet of 16-inch pipeline, and electronic gas measurement equipment. Texas Eastern states that the maximum daily delivery capacity of this proposed delivery point will be approximately 200 MMcf/Day. Texas Eastern states that the estimated cost of the project facilities is $886,000.

Texas Eastern states that it will render the transportation service at the proposed delivery point pursuant to Texas Eastern's open-access rate schedules included in its FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern states that its existing tariff does not prohibit the addition of this facility. Texas Eastern submits that its proposal herein will be accomplished without detriment or disadvantage to Texas Eastern's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–10878 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 26, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2055–010.

c. *Date filed:* November 24, 1998.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* C.J. Strike Hydroelectric Project.

f. *Location:* On the Snake River, in Owyhee County, Idaho between the towns of Grandview and Bruneau. The project is partially located within federal lands administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* L. Lewis Wardle, Idaho Power Company, 1221 West Idaho Street, P.O. Box 70, Boise, ID 83707, (208) 388–2964.

i. *FERC Contact:* John Blair, john.blair@ferc.fed.us, 202–219–2845.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

l. The project consists of the following existing facilities: (1) the existing reservoir impounding 32 miles of the Snake River and 7 miles of the Bruneau River; (2) the existing 3,220-foot-long dam with a height of 115 feet; (3) a powerhouse containing three generating units having an installed capacity of 82.8 megawatts; (4) 3,019 acres of Bureau of Land Management land; (5) two 138-kv transmission lines spanning a total of 90 miles.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. This notice also consists of the following standard paragraphs: B1 and E1.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions. When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions. All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application

directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's Regulations to: The Secretary and an additional copy must be sent to the Director, Division of Project Review, Office of Hydropower Licensing, at the above-mentioned address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers

Secretary.

[FR Doc. 99–10884 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6333–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Standards of Performance for Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Standards of Performance for Petroleum Refineries OMB Control No. 2060–0022, expiring 6/30/99. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1054.07.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Petroleum Refineries (OMB No. 2060–0022; EPA ICR No. 1054.07, expiration 6/30/99). This is a request for revision of a currently approved collection.

Abstract: In the Administrator's judgement, particulate matter, carbon monoxide, and sulfur oxides emissions from petroleum refineries cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. In order to assure compliance with the emissions standards, adequate monitoring and recordkeeping is necessary. If the information required by the standards were not collected, the Agency would have no means for ensuring that compliance with the NSPS is achieved and maintained by sources subject to the regulation. The information collected is also used for targeting inspections, and is of sufficient quality to be used as evidence in court. The information collected is required under 40 CFR part 60, subpart J and records of the information are required to be maintain for at least two years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 9/04/98 (63 FR 47280). No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 0.25 hours per response (normal data collection) and 346 (performance test burden). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of Petroleum Refineries.

Estimated Number of Responses: 197.

Frequency of Response: Quarterly, Semi-annually.

Estimated Annual Hour Burden: 19,045.

Estimated Total Annualized Capital/O&M Cost Burden: $123,500.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses: (Please refer to EPA ICR No. 1054.07 and OMB Control No. 2060–0022 in any correspondence.)

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: April 26, 1999.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 99–10855 Filed 4–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6242–2]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed April 19, 1999 Through April 23, 1999.

Pursuant to 40 CFR 1506.9.

EIS No. 990134, Draft EIS, FHW, WI, WI–113, Wisconsin River Crossing at Merrimac, Improvements, US Coast Guard and COE Section 10 and 404 Permits, Columbia and Sauk Counties, WI, Due: June 14, 1999, Contact: Peter Garcia (608) 839–7513.

EIS No. 990135, Final EIS, FHW, WI, US 141, Highway Transportation Project, Improvement between WI–22 and WI–64 (LeMere Road—6th Road), Funding and COE Section 4 Permit, Marinette and Oconto Counties, WI, Due: June 01, 1999, Contact: Peter Garcia (608) 829–7500.

EIS No. 990136, Revised Final EIS, AFS, AK, Canal Hoya Timber Sale, Implementation, Stikine Area, Tongass National Forest, Value Comparison Unit (VCU), AK, Due: June 01, 1999, Contact: Scott Posner (907) 874–2323.

EIS No. 990137, Final EIS, FAA, MD, VA, DC, Potomac Consolidated Terminal (PCT) Radar Approach Control Facility (TRACON), To consolidated four TRACON in Baltimore-Washington Metro Terminal Area, Possible Site is Vint

Hill Farms, VA, DC and MD , Due: June 1, 1999, Contact: Joseph Champley (800) 762–9531.

EIS No. 990138, Draft EIS, COE, CA, Tule River Basin Investigation Project, Plan to Increase Flood Protection Downstream of Success Dam and Increase Storage Space in Lake Success for Irrigation Water, Tule River Tulace and King Counties, CA, Due: June 15, 1999, Contact: Mario Parker (916) 557–6701.

EIS No. 990139, Draft Supplement, FTA, OR, WA, South/North Corridor Project, Additional Information on New Alignment Alternative, Improvements to the Existing Urban Transportation, Funding, Multnomah, Clackamas and Washington Counties, OR and Clark County, WA, Due: June 14, 1999, Contact: Ross Roberts (503) 797–1752.

EIS No. 990140, Draft EIS, BLM, WY, Continental Divide/Wamsutter II Natural Gas Project, Implementation of Natural Gas Exploration and Development, Sweetwater and Carbon Counties, WY, Due: July 01, 1999, Contact: Clare Miller (307) 328–4245.

EIS No. 990141, Final EIS, COE, FL, Programmatic EIS—Central and Southern Florida Multi-Purpose Project, Comprehensive Review Study, Everglades National Park, Orlando to Florida Bay, FL, Due: June 01, 1999, Contact: Russell Reed (904) 232–3967.

EIS No. 990142, Final EIS, AFS, MT, Ash and Iron Mountain Grazing Permit Reissuance, Allotment Gallatin National Forest, Park County, MT , Due: June 01, 1999, Contact: Pat Hoppe (406) 848–7375.

EIS No. 990143, Draft Supplement, TPT, CA, Presidio of San Francisco General Management Plan, Implementation, New Development and Uses within the Letterman Complex, Golden Gate National Recreation Area, City and County of San Francisco, CA, Due: June 14, 1999, Contact: John Pelka (415) 561–5300.

Dated: April 27, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–10916 Filed 4–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6334–1]

Announcement of Stakeholders Meetings on Arsenic in Drinking Water

AGENCY: Environmental Protection Agency.

ACTION: Notice of stakeholders meetings.

SUMMARY: The U.S. Environmental Protection Agency (EPA) will be holding a day-and-a-half public meeting on June 2–3, 1999 in Washington, DC; and a one-half-day conference call on June 3. The purpose of these meetings is to present an update on EPA's work to develop a proposed National Primary Drinking Water Regulation (NPDWR) for arsenic under the Safe Drinking Water Act (SDWA) as amended, and solicit public input on major technical and implementation issues. These two meetings will present an update on the regulatory and research processes for arsenic, similar to the last three arsenic stakeholders meetings. EPA is again seeking input from State and Tribal drinking water programs, the regulated community (water systems), public health organizations, academia, environmental and public interest groups, engineering firms, and other stakeholders on a number of issues related to developing the NPDWR for arsenic. EPA encourages the full participation of stakeholders throughout this process.

DATES: The District of Columbia stakeholders meeting on arsenic in drinking water will be held on Wednesday, June 2, 1999 from 8:30 a.m. to 5:00 p.m. Eastern Daylight Time (EDT), and Thursday, June 3, 1999 from 8:30 am to 12 noon EDT. The stakeholders conference call will be held 10:00 am to 2:00 pm Pacific Daylight Time (PDT).

ADDRESSES: The meetings will be held in 6226 Ario Rios Building, which is at 1200 Pennsylvania Avenue, NW. To register for the meeting or conference call, please contact the Safe Drinking Water Hotline at 1–800–426–4791 or 703–285–1093 between 9:00 a.m. and 5:30 p.m. EDT. Members of the public who cannot attend the meeting in person may choose to participate via conference call in either the day-and-a-half or the half-day meeting and should register with the Safe Drinking Water Hotline by Monday, May 24, 1999 in order to receive copies of the overheads in advance. The limited numbers of available lines will be given on a first-come, first-served basis to people who register with the Hotline. Please provide your name, organization, title, mailing address, telephone number, facsimile number, e-mail address and telephone number for EPA to connect the caller via conference call [if applicable] for the "Arsenic meeting."

FOR FURTHER INFORMATION CONTACT: For general information on meeting logistics, to register, and to submit comments on the half-day agenda, please contact the Safe Drinking Water Hotline at 1–800–426–4791. EPA is planning to make short presentations during the half-day conference call, leaving time for facilitated discussion of issues. Registrants can submit suggested changes to the half-day format or topics to the Hotline. For information on the activities related to developing the NPDWR for arsenic, contact the Safe Drinking Water Hotline at 1–800–426–4791, or visit the EPA Office of Ground Water and Drinking Water's drinking water standards webpage at http://www.epa.gov/safewater/ars/arsenic.html, which contains electronic copies of the discussion papers from the previous stakeholders meetings. Registrants must take care of their own hotel arrangements. The Holiday Inn National Airport at 1489 Jefferson Davis Highway in Arlington, Virginia will hold a block of 30 rooms until May 10th at the rate of $131.70. Call the Holiday Inn at (703)–416–1600 by May 10, to reserve a room and mention "EPA Arsenic" to get the special rate.

SUPPLEMENTARY INFORMATION:

A. Background

Arsenic is a naturally occurring element found in the human body and is present in food, water, and air. Arsenic in drinking water occurs in ground water and surface water and is associated with certain natural geologic conditions, as well as with contamination from human activities. Arsenic ingestion is linked to skin cancer, internal cancers, and non-cancer effects such as cardiovascular effects and diabetes.

In 1975 EPA issued a National Interim Primary Drinking Water Regulation for arsenic at 50 parts per billion (ppb; micrograms per liter, μg/L). Under the 1986 amendments to SDWA, Congress converted the interim values into National Primary Drinking Water Regulations (NPDWRs) for 83 contaminants, including arsenic, that were to be revised by 1989. EPA held internal workgroup meetings throughout 1994, addressing risk assessment, treatment, analytical methods, arsenic occurrence, exposure, costs, implementation issues, and regulatory options before deciding in early 1995 to defer the regulation in order to better characterize health effects.

On August 6, 1996, Congress amended the SDWA, adding section 1412(b)(12)(A) which requires, in part, that EPA propose a NPDWR for arsenic by January 1, 2000 and issue a final regulation by January 1, 2001. The current maximum contaminant level

(MCL) of 50 µg/L remains in effect until the effective date of the revised rule.

The 1996 amendments to the SDWA also directed EPA to develop by February, 1997, a comprehensive arsenic research plan to assess health risks associated with exposure to low levels of arsenic. In December 1996, EPA announced the availability of the draft arsenic research plan, and the public had an opportunity to comment on the draft plan at a scientific peer review meeting in January, 1997. EPA's final arsenic research plan responded to the comments of the peer review, and it is available on the Office of Research and Development (ORD) webpage at *www.epa.gov/ORD/WebPubs/final/arsenic.pdf*. In conducting the studies in the arsenic research plan, EPA is consulting with the National Academy of Sciences, other Federal agencies, and other interested public and private parties.

EPA asked the National Research Council (NRC) of the National Academy of Sciences (NAS) to review the current state of the science for estimating risks associated with arsenic in drinking water. NAS released the prepublication version of the NRC report, "Arsenic in Drinking Water" on March 23, 1999. The NRC report recommends lowering the current drinking water standard of 50 µg/L. This recommendation is based on NRC assessments of the risks of skin, lung, and bladder cancer from drinking water containing inorganic arsenic. NAS has put up their press statement and the full NRC report on its website.

Press release: http://www2.nas.edu/whatsnew/29e6.html

Full report: *http://www.nap.edu/readingroom/enter2.cgi?0309063337.html*

B. Request for Stakeholder Involvement

EPA intends for the proposed NPDWR for arsenic to incorporate the best available science, risk assessment, treatment technologies, occurrence data, cost/benefit analyses, and stakeholder input on technical and implementation issues.

The stakeholders meetings will cover a broad range of issues including: (1) regulatory process, including risk management decisions; (2) arsenic risk assessment and characterization (exposure, health assessment, NRC report, national occurrence); (3) key technical analyses (treatment technologies, treatment residuals, cost, analytical methods, co-occurrence of contaminants); (4) small system concerns; and (5) stakeholder involvement. Background materials on arsenic in drinking water issues will be sent in advance of the meetings to those who register with the Safe Drinking Water Hotline by Monday, May 24, 1999.

EPA has announced these public meetings to hear the views of stakeholders on EPA's plans for activities to develop a NPDWR for arsenic. The public is invited to provide comments on the issues listed above and other issues related to the arsenic in drinking water regulation during the June 2–3, 1999 meetings, via comments submitted to the Hotline, and during future opportunities for stakeholder participation.

C. Draft Agenda for the Arsenic in Drinking Water Meeting (Meeting Times Shown in EDT)

Wednesday, June 2, 1999

8:00–8:45 Registration & Phone Linkups
8:45–9:00 Introductions & Meeting Logistics—facilitator
9:00–9:15 Welcome and Opening Remarks—Bill Diamond, Director, Standards and Risk Management Division, Office of Ground Water and Drinking Water
9:15–9:35 Arsenic Regulatory Review
Presentation and Questions—Irene Dooley, Office of Ground Water and Drinking Water (OGWDW)
9:35–10:05 Analytical Methods and Development of the PQL
Presentation—Wynne Miller, OGWDW
Facilitated Discussion for Stakeholder Input
10:05–10:20 Break
10:20–12:00 National Research Council/National Academy of Sciences (NRC/NAS) Report Findings and Application
Presentation—Dr. Jeanette Wiltse, Director, Health and Ecological Criteria Division, OST
Facilitated Discussion for Stakeholder Input
12:00–1:00 LUNCH (on your own)
1:00–1:45 Risk Characterization and MCLG Development
Presentation—Dr. Charles Abernathy, Office of Science & Technology (OST)
Facilitated Discussion for Stakeholder Input
1:45–2:15 Arsenic Research Plan Update
Presentation and Questions—Lynn Papa, National Center for Environmental Assessment (NCEA), ORD
2:15–2:30 Break
2:30–3:15 EPA's Health Effects Research
Presentations—Dr. Herman Gibb, NCEA, ORD
Dr. Fred Hauchman, National Health and Environmental Effects Research Laboratory (NHEERL), ORD
Facilitated Discussion for Stakeholder Input
3:15–4:15 National Occurrence Estimate
Presentation—Jennifer Wu, OGWDW
Facilitated Discussion for Stakeholder Input
4:15–5:00 Arsenic Treatment Technologies and Residuals
Presentation—Tom Sorg, EPA's National Risk Management Research Laboratory (NRMRL), Office of Research and Development (ORD)
5:00 End of first day's session

Thursday, June 3, 1999

8:30–8:40 Phone Linkups
8:40–9:40 EPA's Approach to Compliance Forecasts—Decision Tree
Presentations—Amit Kapadia and Jeff Kempic, OGWDW
Facilitated Discussion for Stakeholder Input
9:40–10:00 Treatment Variances and Exemptions
Presentations—Amit Kapadia and Jeff Kempic, OGWDW
Facilitated Discussion for Stakeholder Input
10:00–10:15 Break
10:15–11:15 Cost-Benefit Regulatory Issues
Presentations—Ben Smith, Dr. John Bennett, OGWDW
Facilitated Discussion for Stakeholder Input
11:15–11:45 Monitoring and State Implementation Issues
Presentation—Ed Thomas, OGWDW
Facilitated Discussion for Stakeholder Input
11:45–12:00 Next Steps
Presentation—Jim Taft, OGWDW
12:00 EDT Adjourn

D. Draft Agenda for the Arsenic in Drinking Water Conference Call (Conference call times listed in Pacific Daylight Time (PDT), and bracketed in Eastern Daylight Time (EDT))

Thursday, June 3, 1999

10:00–10:10 PDT Phone linkups (1pm EDT)
10:10–10:20 PDT Introductions and negotiated changes to agenda (1:10–1:20 EDT)
10:20–10:40 PDT Arsenic regulatory review (1:20–1:40 EDT)
10:40–11:40 PDT National Research Council/National Academy of Sciences Report Findings and Application (1:40–2:40 pm EDT)
11:40–12:00 PDT Arsenic Research Plan and EPA Health Effects Research (2:40–3 pm EDT)

12:00–12:15 PDT Break (3 pm EDT)
12:15–12:45 PDT National Occurrence Estimate (3:15–3:45 pm EDT)
12:45–1:15 PDT Compliance Forecasts (3:45–4:15 pm EDT)
1:15–1:45 PDT Cost-Benefit Issues (4:15–4:45 pm EDT)
1:45–2:00 PDT Monitoring and Implementation (4:45–5:00 pm EDT)
2:00 PDT Adjourn (5 pm EDT)

Dated: April 26, 1999.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 99–10856 Filed 4–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6331–5]

Proposed CERCLA Administrative Agreement; Li Tungsten Superfund Site, Glen Cove, Nassau County, NY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: Consistent with EPA's May 24, 1995 "Guidance on Agreements with Prospective Purchasers of Contaminated Property," notice is hereby given of a proposed prospective purchaser agreement ("agreement") with the Glen Cove Industrial Development Agency ("IDA") concerning parcels of real property which include the Li Tungsten Superfund Site in Glen Cove, Nassau County, New York (the "Properties"). The IDA intends to purchase the Properties. Under the agreement, the IDA will make an initial payment of $100,000 to the Hazardous Substances Superfund, to be followed by possible subsequent payment(s) to the Superfund in an amount to be determined based on future proceeds received by the IDA from disposition of the Properties. These payments will be made in exchange for a covenant not to sue pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a). By publication of this Notice, a fifteen (15) day period has been established in which the United States will accept written comments relating to the agreement. The United States will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations which indicate that the agreement is inappropriate, improper, or inadequate. The United States' response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region II, Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007–1866.

DATES: Comments must be submitted on or before May 17, 1999.

ADDRESSES: The proposed agreement is available for public inspection at the U.S. Environmental Protection Agency, Region II, Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007–1866. A copy of the proposed agreement may also be obtained from the individual listed below. Comments should reference the Li Tungsten Superfund Site, Glen Cove, New York and EPA Index No. CERCLA–02–99–2008, and should be addressed to the individual listed below.

FOR FURTHER INFORMATION CONTACT: James Doyle, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, Region II, 290 Broadway, 17th Floor, New York, NY 10007–1866, Telephone: (212) 637–3165.

Dated: April 13, 1999.

William J. Muszynski,

Regional Administrator, Region II.

[FR Doc. 99–10626 Filed 4–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6332–5]

Notice of Proposed Administrative Order on Consent Pursuant to Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Osage Metals Superfund Site, Kansas City, KS, Docket No. CERCLA–7–99–0014

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative order on consent, Osage Metals Superfund Site, Kansas City, Kansas.

SUMMARY: Notice is hereby given that a proposed administrative order on consent regarding the Osage Metals Superfund Site, was signed by 40 private parties, approved by the United States Department of Justice (DOJ) on March 23, 1999, and signed by the United States Environmental Protection Agency (EPA) on March 31, 1999.

DATES: EPA will receive, comments relating to the proposed agreement and covenant not to sue until June 1, 1999.

ADDRESSES: Comments should be addressed to Audrey Asher, Senior Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 and should refer to *the Osage Metals Superfund Site Administrative Order on Consent, EPA Docket No. CERCLA–7–99–0014.*

The proposed agreement may be examined or obtained in person or by mail at the office of the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, KS 66101 (913) 551–7255.

SUPPLEMENTARY INFORMATION: The proposed agreement concerns the 1.7-acre Osage Metals Superfund Site ("Site"), located at 120 Osage Avenue in Kansas City, Kansas. The Site was the location of metals salvage and reclamation facilities between 1948 and 1993. Samples taken at the Site in 1994 found polychlorinated biphenyls ("PCBs") in surface soils at levels as high as 334 mg/kg, and lead contamination in levels as high as 56,600 mg/kg. The EPA approved a removal action at the Site on February 13, 1995, and began cleanup in March of 1995. EPA completed its work in October 1995. No further response action is anticipated.

As of May 31, 1998 EPA and DOJ had incurred costs in excess of $1.3 million exclusive of interest. Each of the proposed settlors arranged for disposal of capacitors contaminated with PCBs with PCB Treatment, Inc. PCB Treatment, Inc., then arranged for disposal at the Site of scrap metal from the capacitors.

EPA has determined that any party who arranged for disposal of between 206 and 89.387 pounds of capacitors contributed a *de minimis* volume of waste to the Site and that such wastes are not more toxic than any other hazardous substance at the Site.

Each settlor will pay a share of costs based on its volumetric share of capacitor weight compared to all capacitor weight with an additional premium.

Through this settlement EPA will recover over $30,000. EPA has recovered $80,000 through a consent decree with the former owner/operator and over $233,399 through Administrative Orders on Consent with other potentially responsible parties at the Site. Negotiations of other settlements with potentially responsible parties are pending.

Dated: April 14, 1999.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 99–10627 Filed 4–29–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

April 22, 1999.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 29, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, 445 12th Street, SW, Room 1-A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0329.

Title: Equipment Authorization—Verification, 47 CFR 2.955.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 5,655.

Estimated time per response: 18 hours.

Total Annual Burden: 101,790.

Total Annual Cost: $200.

Needs and Uses: The commission rules require verification of compliance to established technical standards for certain Part 15 and Part 18 devices. Technical data is gathered and retained by the equipment manufacturers in order to verify compliance with these regulations. The information may be used to determine that the equipment marketed complies with the applicable Commission rules and that the operation of the equipment is consistent with the initially documented test results. The information is essential to controlling potential interference to radio communications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–10800 Filed 4–29–99; 8:45 am]

BILLING CODE 5712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1271–DR]

Georgia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–1271–DR), dated April 20, 1999, and related determinations.

EFFECTIVE DATE: April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 20, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Georgia, resulting from severe storms and tornadoes on April 15, 1999, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act").

I, therefore, declare that such a major disaster exists in the State of Georgia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs.

If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael J. Polny of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Georgia to have been affected adversely by this declared major disaster:

Dooly County for Individual Assistance.

All counties within the State of Georgia are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (GFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–10839 Filed 4–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1270–DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1270–DR), dated April 20, 1999, and related determinations.

EFFECTIVE DATE: April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 20, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Missouri, resulting from severe storms and flooding on April 3, 1999, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P. L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Curtis D. Musgrave of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster:

Madison County for Individual Assistance.

All counties within the State of Missouri are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–10837 Filed 4–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1270–DR]

Missouri; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri (FEMA–1270–DR), dated April 20, 1999, and related determinations.

EFFECTIVE DATE: April 14, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective April 14, 1999.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–10838 Filed 4–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

[Docket No. 99–08]

Classic International, Inc. Young Hee Ko d/b/a World Transport, Young Hee Ko, Individually, and Chris Miller, Individually; Notice of Filing of Complaint And Assignment

Notice is given that a complaint filed by Classic International, Inc., ("Complaint") against Young Hee Ko d/b/a World Transport, Young Hee Ko, and Chris Miller ("Respondents"), was served April 22, 1999. Complainant alleges that Respondents violated sections 10(a)(1) and (d)(1) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709(a)(1) and (d)(1), by refusing to remit payment for ocean shipping charges and inducing Complainant to release its lien by presenting a check, which was subsequently returned for insufficient funds.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 24, 2000, and the final decision of the Commission shall be issued by August 22, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10825 Filed 4–29–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

AOT Freight Systems, Ltd., 5430 West Rosecrans Avenue, Hawthorne, CA 90250, Officers: Rolf Bruns, President, Kenji Nishizawa, Vice President

BM&P International, Inc., 2150 B East College Avenue, Cudahy, WI 53110, Officers: William C. Brumder, President, James P. Connelly, Secretary.

Dated April 27, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10826 Filed 4–29–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573

Certified Transportation Group, Inc. 195 Oval Drive, Islandia, NY 11722; Officers: William McNamara, President, Joseph McNamara, Vice President

Inter-Maritime Forwarding Co. (San Francisco), Inc. d/b/a Cosdel, 55 New Montgomery Street, Suite 400, San Francisco, CA 94105; Officers: Robert B. Mann, Chairman & CEO, Howard B. Mann, President.

Dated: April 27, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10886 Filed 4–29–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 27, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. BB&T Corporation, Winston-Salem, North Carolina; to merge with Mason-Dixon Bancshares, Inc., Westminster, Maryland, and thereby indirectly acquire Carroll County Bank and Trust Company, Westminster, Maryland, and Bank of Maryland, Towson, Maryland.

In connection with this application, Applicant also has applied to acquire Bay Insurance, LLC, Baltimore, Maryland, and thereby engage in credit related insurance, pursuant to §§ 225.28(b)(11)(i) and 225.28(b)(11)(ii) of Regulation Y, Rose Shanis Financial Services, LLC, Baltimore, Maryland, and thereby engage in lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

In connection with this application, Applicant also has requested permission to exercise an option that would enable BB&T Corporation to acquire up to 19.9 percent of the voting securities of Mason-Dixon Bancshares, Inc., under certain circumstances.

Board of Governors of the Federal Reserve System, April 27, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10904 Filed 4–29–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, May 5, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 28, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10965 Filed 4–28–99; 10:33 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will address (1) research involving human embryonic stem cells

and (2) the use of human biological materials in research. Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for statements by the public will be provided on May 11, 1999 from 11:30 am to 12 noon.

Dates/Times	Location
May 11, 1999, 8:00 am–5:00 pm.	The Grand Ballroom, Hilton Northbrook Hotel, 2855 N. Milwaukee Avenue, Northbrook, IL.
May 12, 1999, 8:00 am–12 Noon.	Same Location as Above.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1995 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President, and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral statements should contact Ms. Patricia Norris by telephone, fax machine, or mail as shown below and as soon as possible at least 4 days before the meeting. The Chair will reserve time for presentations by persons requesting to speak and asks that oral statements be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. The Commission also accepts general comments at its website at bioethics.gov. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Norris, National Bioethics Advisory Commission, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Dated: April 26, 1999.

Eric M. Meslin,

Executive Director, National Bioethics Advisory Commission.

[FR Doc. 99–10817 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 64 FR 17674–17675, dated April 12, 1999) is amended to reflect the restructuring of the Human Resources Management Office, Office of Program Support, Centers for Disease Control and Prevention (CDC).

Section C–B, Organization of Functions, is hereby amended as follows:

Delete the functional statement for the *Human Resources Management Office (CA57)* and insert the following:

(1) Provides service, support, advice, and assistance to CDC organizations, management, and employees in all areas of human resources management; (2) conducts and coordinates personnel management for CDC's civil service and Commissioned Corps personnel; (3) conducts CDC's fellowship programs; (4) develops and issues policies and procedures; conducts recruitment, special emphasis, staffing, position classification, position management, pay administration, performance management systems, employee training and development, and labor relations programs; (5) maintains personnel records and reports, and processes personnel actions and documents; (6) administers the Federal life and health insurance programs; (7) administers the employee recognition, suggestion, and incentive awards programs; (8) furnishes advice and assistance in the processing of Office of Workers' Compensation Program claims; (9) conducts CDC's personnel security and substance abuse programs; (10) develops, maintains, and supports information systems to conduct personnel activities and provide timely information and analyses of CDC personnel and staffing to CDC management and employees; (11) maintains liaison with the Department of Health and Human Services (HHS) and the U.S. Office of Personnel Management (USOPM) in the area of human resources management; and (12) administers the National Performance Review and Human Resources initiatives to meet current and future requirements.

Delete the functional statement for the *Office of the Director (CA571)* and insert the following:

(1) Provides leadership and technical guidance to CDC in planning, coordinating, and conducting an effective personnel program for civil service (including the Senior Biomedical Research Service [SBRS] and the Senior Executive Service [SES]), Title 38, Commissioned Corps, and fellowship program personnel; (2) plans, directs, and evaluates the activities of the Human Resources Management Office (HRMO); (3) advises the Director, CDC, and other CDC management staff on all matters relating to human resources management; (4) administers the National Performance Review and Human Resources initiatives; (5) develops, coordinates, and disseminates personnel policies, programs, and procedures in position management, classification, compensation, and staffing; (6) establishes objectives, standards, and internal controls; evaluates, analyzes, and makes recommendations to improve personnel authorities, policies, systems, operations, and procedures; (7) develops and monitors proposals and plans related to the implementation of CDC diversity personnel programs and projects; assists with monitoring progress and the success of existing diversity recruitment and placement programs; and (8) provides all administrative/management support as required in HRMO.

Delete in its entirety the title and functional statement for the *Administrative Services Activity (CA5712).*

Delete in its entirety the title and functional statement for the *Information Management Staff (CA5713).*

Delete in its entirety the title and functional statement for the *Policy and Executive Management Staff (CA5714).*

Delete the title and functional statement for the *Work Force Relations Branch (CA572)* and insert the following:

Work Force Relations and Partnership Branch (CA572). (1) Plans, develops, and provides consultation, guidance, and technical advice on available employee services and assistance; performance, award, and conduct

issues; leave administration; on-the-job injuries and exposures to infectious diseases; debt complaints; and other job-related issues; (2) develops and administers labor-management and employee relations program including disciplinary actions, grievances and appeals, labor negotiations, collective bargaining, management representation before third parties, and partnership activities; (3) serves as liaison with the Office of Health and Safety and other CDC staff for personnel matters relating to substance abuse and other employee assistance programs; (4) coordinates the Fare Share and Dependent Care programs; (5) coordinates all Family Friendly programs; (6) administers the incentive and suggestion awards programs; (7) coordinates and processes garnishment, child support, and other collection actions for CDC employees; (8) serves as the primary agency contact on all matters associated with labor-management relations; (9) plans, directs, coordinates, and conducts contract negotiations on behalf of agency management with labor organizations holding exclusive recognition; (10) represents management in third party proceedings involving labor and employee relations issues; (11) serves as the authority to ensure validity, consistency, and legality of employee relations matters concerning grievances (both negotiated and agency procedures), disciplinary actions, adverse actions, and resultant third party hearings; (12) plans and coordinates all programmatic activities to include preparation of disciplinary and adverse action letters and all final agency decisions in grievances and appeals; (13) provides technical advice, consultation, and training on matters of employee conduct and performance and provides personnel services on debt complaints; (14) serves as the authority and primary agency contact on all matters associated with labor-management partnership activities; (15) provides consultation, guidance, and technical advice to personnel generalists, managers, and employees on all family programs; (16) develops, implement, and coordinates CDC Quality of Work Life initiatives; (17) provides personnel services relating to on-the-job injuries and exposures to infectious diseases; and (18) develops, implements, and coordinates performance management systems for civil service employees other than SES and SBRS.

Delete in its entirety the title and functional statement for the *Performance Management and Incentive Awards Section (CA5724).*

Delete in its entirety the title and functional statement for the *Employee and Labor Relations Section (CA5725).*

Delete in its entirety the title and functional statement for the *Employee Assistance and Payroll Liaison Section (CA5726).*

Delete the title and functional statement for the *Training and Career Development Branch (CA573)* and insert the following:

Organizational Development Branch (CA573). (1) Develops, designs, and implements an accredited comprehensive strategic human resource leadership development and career management program for all occupational series throughout CDC; (2) develops and implements training strategies and activities that contribute to the agency's mission, accomplishments, and organizational performance; (3) integrates a variety of learning methods to provide training; (4) provides consultation, guidance and technical assistance to managers and employees in organizational development, career management, employee development, and training; (5) coordinates the research and acquisition of external training and educational opportunities for CDC employees; (6) conducts the career counseling program; (7) administers special career management programs including the career development program, the long-term training program, cooperative programs, the worker trainee development program, and the mentoring program; (8) conducts comprehensive training needs assessment of CDC employees nationwide; and (9) conducts new employee orientation.

Career Management Section (CA5732). (1) Develops and administers agency intern and professional development programs; (2) provides consultation, guidance, and technical assistance to managers and employees regarding career management and employee development; (3) implements and provides advice on distance-learning programs nationwide; (4) acquires, develops, and supports technology-based training; (5) manages the Learning Resource Center including establishing policy, scheduling room usage, providing technical and audio visual support, and maintaining a Learning Library with individualized learning options; (6) creates marketing tools for the Organizational Development Branch; (7) implements and monitors the CDC Training Management System for compliance with the Government Employees Training Act; (8) maintains employee training records; (9) collaborate with the CDC Corporate University Section to develop, implement, and administer the human resources leadership development and career management program for all occupational series throughout CDC; (10) manages formal career development and mentoring programs; (11) procures and/or instructs training courses as part of existing functional area curriculum; (12) establishes partnerships with professional organizations and academic institutions for the formalization and recognition of CDC programs and the offering of academic programs onsite and through distance learning; and (13) manages the use of technology to offer desktop instruction through web-based training, e.g., interactive CD–ROM.

CDC Corporate University Section (CA5733). (1) Develops, designs, and implements a comprehensive strategic human resources leadership development and career management program for all occupational series throughout CDC; (2) develops formal organizational and individual needs assessment tools to identify core competency requirements for each occupational series throughout the agency; (3) designs curricula that address specified competencies to inculcate continuous learning; (4) develops program plans and evaluates progress toward program goals and objectives; (5) conducts performance measurement, organizational climate surveys, and survey/focus group assessments; (6) develops internal instructor capacity; (7) provides analysis and data to correlate individual training with corporate strategic plans; (8) maximizes economies of scale through systematic planning and evaluation of agency-wide training initiatives; (9) develops new methodology to determine return on investment on human capital and intellectual investment; (10) designs executive leadership programs in collaboration with CDC C/I/Os; (11) develops agency-wide intern programs for succession planning of staffing requirements; and (12) develops and maintains continuing education unit accreditation for school curricula.

Field Operations Branch (CA574). (1) Plans, develops, directs, coordinates, implements, and evaluates human resources management programs, policies, procedures, and systems; (2) participates in the development of CDC HRMO policy, strategic, long- and short-range plans, programs, and resource allocations; (3) serves as the primary contact for HRMO remote/field operations providing a full range of personnel management, advisory consulting, and information services; (4)

provides leadership, technical direction, and guidance in human resource utilization, program development and evaluation; organizational development, position management, classification and pay administration; employment, recruitment, and staffing; employee/labor/partnership relations; benefits and services; performance management, awards, training and employee development; transactions, personnel records, and files management; (5) coordinates HRMO remote/field operations with Headquarter's staff and other CDC, HHS, Federal, State, local, and private organizations; (6) develops annual staffing and recruitment plans, special recruitment campaigns, crediting plans, announcements, advertisements, and special information materials; (7) conducts position management studies, desk audits, qualifications analyses, peer review panels, training assessments, and reductions-in-force; (8) determines title, series, and grade of positions; qualifications, rating, and ranking of applicants; and (9) executes performance, awards, training, labor relations, merit promotion, delegated examining, summer student, fellowship and special emphasis plans; appointing and classification authority; keys, journalizes and files transactions.

Delete the title and functional statement for the *Central Staffing Activity (CA5756)* and insert the following:

Central Staffing Section (CA5756). (1) Implements a centralized staffing and placement program; (2) administers the delegated examining authority, the direct hiring authority, and the temporary limited appointment authority granted by USOPM; (3) oversees the overall staffing process and insures quality control; (4) reviews, evaluates, and makes recommendations on the application and implementation of the USOPM delegated authorities and merit promotion program rules and regulations; (5) provides guidance and consultation in job analyses and in development of knowledge/skills/abilities (KSAs) crediting plans; and (6) manages various staffing programs such as the CDC summer program, the Voluntary Employee Referral Program, the Interagency Career Transition Assistance Program, and the Career Transition Assistance Program.

Delete the functional statement for the *Technical Services Section (CA5757)* and insert the following:

(1) Provides central personnel services and assistance in the areas of employee benefits, personnel action processing, data quality control/assessment, and files/records management; (2) serves as liaison between CDC and the HHS payroll office resolving discrepancies with pay and leave; (3) administers the leave donor program and processes time and attendance amendments; (4) provides policy guidance and technical advice and assistance on retirement, the Thrift Savings Plan, health/life insurance, and savings bonds; (5) codes and finalizes all personnel actions in the automated personnel data system; (6) assists with new employee orientation; (7) establishes and maintains the official personnel files system and administers personnel records storage and disposal program; (8) responds to employment verification inquiries; (9) administers the personnel security program; (10) initiates suitability background checks and fingerprints for all CDC personnel; and (11) provides assistance in the implementation of the HHS Plan for a Drug Free Workplace.

Information Technology and Analysis Branch (CA576). (1) Develops strategic plans for information technology and information systems to support CDC's and HRMO's personnel information requirement; (2) acquires and implements appropriate technology and develops information systems to meet CDC-wide information needs on personnel, staffing, and work force characteristics and trends; (3) provides support to HRMO organizations and users in achieving automation of functions and use of information technology and systems; (4) develops, manages, and supports centralized information technology and systems in support of personnel activities, including the HHS personnel system; (5) researches and develops new sources of personnel information and access methods including computer-based CDC-wide surveys; (6) coordinates HRMO information resource management activities with IRMO and CDC information resource management committees; (7) conducts demographic analysis of the CDC work force and publishes results in management reports; and (8) develops methodologies to assess the impact of revised personnel policies and practices on the work force.

Delete the title and functional statement for the *Recruitment Branch (CA577)* and insert the following:

Outreach and Marketing Branch (CA577). (1) Develops and implements human resource management marketing campaigns; (2) provides leadership in identifying the Centers/Institute/Offices' (CIOs) recruiting needs, and assesses, analyzes, and develops CDC's short- and long-range recruitment plans to meet these needs; (3) provides consultation, guidance, and technical advice on recruitment and special emphasis policies, practices, and procedures, including search committees; (4) strategizes on the best approach to recruitment at specific events, and designs and develops recruitment materials for events; (5) maintains and manages the Automated Applicant Listing System (AALS/Resumix) for storage and retrieval of applications of those individuals with education and experience appropriate for commonly needed and hard-to-fill positions; coordinates, with CIOs, the referral of appropriate candidates from the applicant pool for position vacancies; (6) provides leadership on recruitment activities through the development of policies and practices for effective communication of HRMO programs, coordinates the development and dissemination of information among HRMO and the CIOs, provides training and technical assistance to CIO staff; (7) manages and operates the CDC Job Information Center, including the automated telephone job line; (8) markets and manages special emphasis programs including the Program for Persons with Disabilities and the Disabled Veterans Affirmative Action Program, the Veterans Readjustment Appointment Program, the Federal Equal Opportunity Recruitment Program, and college relations and student employment programs; and (9) provides leadership in assessing progress in achieving overall staffing, EEO, and Affirmative Action goals.

Dated: April 19, 1999.

Jeffrey P. Koplan,

Director.

[FR Doc. 99–10820 Filed 4–29–99; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACF/ACYF/RHYP 99–1]

Administration on Children, Youth and Families; Runaway and Homeless Youth Program (RHYP): Fiscal Year (FY) 1999 Final Program Priorities, Availability of Financial Assistance for Fiscal Year 1999 and Request for Applications for FY 1999

AGENCY: Family and Youth Services Bureau (FYSB), Administration on Children, Youth and Families (ACYF), Administration for Children and

Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of fiscal year 1999 Final Runaway and Homeless Youth (RHY) Program Priorities, announcement of availability of financial assistance and request for applications for FY 1999 Basic Center Program for Runaway and Homeless Youth (BCP), FY 1999 Training and Technical Assistance Cooperative Agreements (T&TA) and FY 2000 Transitional Living Program for Homeless Youth (TLP).

SUMMARY: The Administration on Children, Youth and Families is publishing final program priorities and announcing the availability of funds for the Basic Center Program for Runaway and Homeless Youth; Transitional Living Program for Homeless Youth and Training and Technical Assistance Cooperative Agreements.

Deadlines: The deadlines for RECEIPT by DHHS of applications for new grants under this announcement are as follows:

Competitive grant area	Deadline dates	Deadline times
BCP	June 25, 1999	4:30 p.m. (EDT).
TLP	June 28, 1999	4:30 p.m. (EDT).
T&TA	June 25, 1999	4:30 p.m. (EDT).

Mailing and Delivery Instructions: Mailed applications and applications hand delivered by applicants, applicant couriers, overnight/express mail couriers or any other method of hand delivery shall be considered as meeting an announced deadline if they are received on or before the deadline, at the: ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209, Telephone: 1–800–351–2293.

Applications may be hand delivered to the above address between the hours of 8:00 a.m. and 4:30 p.m. (EDT), Monday through Friday (excluding Federal Holidays).

Applicants are responsible for mailing and delivering applications well in advance of deadlines to ensure that the applications are received on time. Applications received after 4:30 p.m. (EDT) on the deadline date will be classified as late. Postmarks and other similar documents do not establish receipt of an application.

ACF will not accept applications delivered by fax, regardless of date or time of submission and receipt.

Late Applications. Applications which do not meet the criteria stated above and are not received by the deadline date and time are considered late applications. The Administration for Children and Families (ACF) will notify each late applicant that its application will not be considered in the current competition.

Extension of Deadline. ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is widespread disruption of the mails. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

FOR FURTHER INFORMATION: This program announcement contains all the necessary information and application materials to apply for funds. Additional information and copies of this announcement can be obtained by contacting the Administration on Children, Youth and Families, Family and Youth Services Bureau, Program Announcement, 1815 North Fort Myer Drive, Suite 300, Arlington, VA. 22209; Telephone: 1–800–351–2293. You may also locate a copy of this program announcement on the FYSB website at http://www.acf.dhhs.gov/programs/FYSB under Policy and Funding Announcements. Copies of the announcement have been sent to all current FYSB grantees, all organizations that applied for FYSB grant awards in FY 98 and all individuals and organizations that asked to be placed on the mailing list for FY 99. Information about all the programs funded by FYSB may be found on the FYSB homepage under Programs and on the National Clearinghouse on Families and Youth website at http://www.ncfy.com.

SUPPLEMENTARY INFORMATION: Grant awards of FY 1999 funds will be made by September 30, 1999 for the Basic Center Program and the Training and Technical Assistance Cooperative Agreements. The awards for the Transitional Living Program will be made with FY 2000 funds after October 1, 1999.

The estimated funds available for new starts and the approximate number of new grants that may be awarded under this program announcement are as follows:

Competitive grant area	New start funds available ($ millions)	Estimated number of new grants
BCP	$10.4	105)
TLP	7	35
T&TA	2	10

In addition to the new start grants, the Administration for Children and Families has provided for 11 Street Outreach Program supplements and non-competitive continuation funds to current grantees in the following programs:

Program	Funds available ($ millions)	Number of grants
BCP	$28.4	243
SOP	13.3	128
TLP	6.7	43

Applicants are advised to read all parts of this announcement prior to developing a grant application. This outline is provided to assist in the review of the program announcement:

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B. Legislative Authority
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D. ACF Hub/Regional Structure
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2. Final Program Priorities for Fiscal Year 1999
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b. Street Outreach Program Grants
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d. Support Services for Runaway and Homeless Youth Programs
(1) National Communication System
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A. Basic Center Program for Runaway and Homeless Youth
B. Transitional Living Program for Homeless Youth
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A. Basic Center Program Performance Standards
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Part I. General Information

A. Background on Runaway and Homeless Youth

The Family and Youth Services Bureau (FYSB), within the Administration on Children, Youth and Families (ACYF), administers programs that support services to an adolescent population of runaway, homeless and street youth. Estimates of this population vary from 500,000 to 1.3 million. Many of these youth have left home to escape abusive situations or because their parents could not meet their basic needs for food, shelter and a safe supportive environment. Many live on the streets.

While living on the streets or away from home without parental supervision, these youth are highly vulnerable. They may be exploited by dealers of illegal drugs, or become victims of street violence or members of gangs which provide protection and a sense of extended family. They may be drawn into shoplifting, survival sex or dealing drugs in order to earn money for food, shelter, clothing and other daily expenses. They often drop out of school, forfeiting their opportunities to learn and to become independent, self-sufficient, contributing members of society.

On the street, these youth may try to survive with little or no contact with medical professionals, the result being that health problems may go untreated and worsen. Without the support of family, schools and other community institutions, they may not acquire the personal values and work skills that will enable them to enter or advance in the world of work. Finally, as street people, they may create substantial law enforcement problems and endanger themselves. All these problems, real and potential, call for a comprehensive, nationwide, community-based program approach to address the needs of runaway, homeless and street youth.

B. Legislative Authority

Grants for the Basic Center Program for Runaway and Homeless Youth are authorized by Part A of the Runaway and Homeless Youth Act (RHY Act), 42 U.S.C. 5701 *et seq.* Grants for the Transitional Living Program for Homeless Youth are authorized under Part B of the Runaway and Homeless Youth Act. Part B was established in 1988 as part of Public law 100–690. The RHY Act was originally enacted as Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93–415) and amended by the Juvenile Justice Amendments of 1977 (Pub. L. 95–115), the Juvenile Justice Amendments of 1980 (Pub. L. 96–509), the Juvenile Justice Amendments of 1984 (Pub. L. 98–473) and the Juvenile Justice and Delinquency Prevention Act Amendments of 1992 (Pub. L. 102–586). Grants for Training and Technical Assistance are authorized under section 342 of the Runaway and Homeless Youth Act, as amended. Grants for the Street Outreach Program are authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103–322, Sec. 40155) which amended Part A of the Runaway and Homeless Youth Act (42 USC 5711 *et seq.*) by creating Section 316, Grants for Prevention of Sexual Abuse and Exploitation.

C. Definitions

1. The term "homeless youth," as defined under Part A of the RHY Act, means a person under 18 years of age who is in need of services and without a place of shelter where he or she receives supervision and care. This definition applies to all Basic Center projects and can be found in 45 CFR 1351.1(f).

2. The term "homeless youth," as defined under Part B of the RHY Act, means an individual who is not less than 16 years of age and not more than 21 years of age for whom it is not possible to live in a safe environment with a relative and who has no other safe alternative living arrangement. This definition applies to all Transitional Living programs and can be found in section 321(b)(1) of the RHY Act.

3. The term "public agency" means any State, unit of local government, Indian tribes and tribal organizations, combination of such States or units, or any agency, department, or instrumentality of any of the foregoing. This definition applies to all runaway and homeless youth programs funded under this announcement.

4. The term "runaway youth" means a person under 18 years of age who absents himself or herself from home or place of legal residence without the permission of parents or legal guardian. This definition applies to all Basic Center program grantees and can be found in 45 CFR 1351.1(k).

5. The term "shelter" includes host homes, group homes and supervised apartments. This definition applies to all RHY program grantees and is referenced in Section 322(1) of the RHY Act. As currently understood in the field:

"Host homes" are facilities providing shelter, usually in the home of a family, under contract to accept runaway and/or homeless youth assigned by the RHY service provider and are licensed according to State or local laws.

"Group homes" are single-site residential facilities designed to house RHY clients who may be new to the program or may require a higher level of supervision. These dwellings operate in accordance with State or local housing codes and licensure.

"Supervised apartment" is a single unit dwelling or multiple unit apartment house operated under the auspices of the TLP service provider for the purpose of housing program participants.

6. The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Marianas. This definition can be found in Section 3601(10) of the Anti-Drug Abuse Act, incorporating by reference Section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

7. The term "street-based outreach and education" includes education and prevention efforts directed at youth that are victims of offenses committed by offenders who are and are not known to the victim.

8. The term "street youth" means a juvenile who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.

9. The term "temporary shelter" means the provision of short-term (maximum of 15 days) room and board and core crisis intervention services on a 24-hour basis. This definition applies to all Basic Center Program grantees and can be found in 45 CFR 1351.1(o).

10. The term "training" means the provision of local, State, or regionally based instruction to runaway and homeless youth service providers in skill areas that will directly strengthen service delivery.

11. The term "technical assistance" means the provision of expertise,

consultation and/or support for the purpose of strengthening the capabilities of grantee organizations to deliver services.

12. The term "transitional living youth project" means a project that provides shelter and services designed to promote the transition to self-sufficient living and to prevent long-term dependency on social services. This definition applies to all TLP program grantees and is found in Section 321(b)(2) of the RHY Act.

13. The term "cooperative agreement" means a financial assistance award used if substantial Federal involvement with the grantee during the performance is anticipated by the awarding office.

D. ACF Hub/Regional Structure

On April 24, 1996, the Administration for Children and Families (ACF) published notice in the **Federal Register** of the change in its ten-region organizational structure into a five-region Hub structure: the Northeast (Regions I, II, and III), the Southeast (Region IV), the Midwest (Regions V and VII), the West Central (Regions VI and VIII) and the Pacific-West (Regions IX and X). The five Hub sites, headed by a Hub Director, are located in the five ACF Regional Offices with the largest caseloads and that serve the nation's largest population centers (New York, Atlanta, Chicago, Dallas and San Francisco). Each of the remaining five regions is part of a Hub (Boston, Philadelphia, Kansas City, Denver and Seattle). All Regional Offices represent ACF to State, county, city or town and tribal governments, grantees, and public and private local organizations in the administration of programs in the region which assist vulnerable children and families to achieve independence, stability, and self-reliance. For a complete overview of the Hub structure see Appendix H.

E. Final Priorities

Section 364 of the Runaway and Homeless Youth Act (RHY Act) requires the Department to publish annually for public comment a proposed plan specifying priorities the Department will follow in awarding grants and contracts under the RHY Act. The proposed plan for FY 1999 was published in the **Federal Register** on Thursday, February 4, 1999.

1. Public Comments

The Family and Youth Services Bureau (FYSB) received 116 responses, constituting a total of 220 comments. The overall comments were supportive of the proposed priorities and youth development philosophy. Of the 220 comments received, 95 percent support maintaining a nationally-administered and regionally delivered system for the Training and Technical Assistance Cooperative Agreements. To the extent feasible, ACYF has taken these comments into account in preparation of this announcement.

Approximately 98 percent of the comments received support shifting from three-year to five-year project periods. Because this is not within the parameters of the current regulations governing the Runaway and Homeless Youth Programs, revisions will be proposed to the current regulations to extend project periods to up to five years.

2. Final Program Priorities for Fiscal Year 1999

The Department will award new and continuation grants and contracts as specified below and will continue to support and emphasize a comprehensive youth development approach to services to youth and their families.

a. *Basic Center Program Grants.* Approximately 65 percent of the Basic Center grants awarded in FY 1999 will be non-competing continuation grants and approximately 35 percent will be competitive new awards. Eligible applicants for new awards are current grantees with project periods ending in FY 1999 and otherwise eligible applicants who are not current grantees. Applications will be competed by State, and awards will be made during the last quarter of FY 1999 (July–September 1999).

We estimate that 348 Basic Center grants will be funded in FY 1999. Approximately 105 will be competitive new starts and 243 will be non-competitive continuations.

Section 385(a)(2) of the Act requires that 90 percent of the funds appropriated under Part A (The Runaway and Homeless Youth Grant Program) be used to establish and strengthen Runaway and Homeless Youth Basic Centers. Total funding for FY 1999 under Part A of the Act is $43.7 million. This sum triggers the provision in the Act calling for a minimum award of $100,000 to each State, the District of Columbia and Puerto Rico, and a minimum award of $45,000 to each of the four insular areas: the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Marianas.

b. *Street Outreach Program Grants.* All FY 1999 funds for Street Outreach Program Grants will be noncompetitive continuations and supplements. Funding for Street Outreach Program grants in FY 1999 will be approximately $13.3 million.

c. *Transitional Living Program.* There will be a competition for new-start TLP applications in FY 1999. Funds for approximately 35 new start grants are expected to be awarded in FY 2000, after October 1, 1999. Non-competitive continuation funding will be awarded to 43 TLP grantees in FY 1999.

d. *Support Services for Runaway and Homeless Youth Programs.*

(1) *National Communication System.* Part C, Section 331 of the Runaway and Homeless Youth Act, as amended, mandates support for a National Communication System to assist runaway and homeless youth in communicating with their families/guardians and with service providers. In FY 1999, a three-year grant was awarded to the National Runaway Switchboard, Inc., in Chicago, Illinois, to operate the system.

(2) *Training and Technical Assistance.* Part D, Section 342 of the Act authorizes the Department to make grants to statewide and regional nonprofit organizations to provide training and technical assistance (T&TA) to organizations that are eligible to receive service grants under the Act. The purpose of T&TA is to strengthen programs and enhance the knowledge and skills of youth service workers.

In FY 1994, the Family and Youth Services Bureau awarded ten Cooperative Agreements, one in each of the ten Federal Regions, to provide T&TA to agencies funded by the Family and Youth Services Bureau to provide services to runaway and homeless youth. Each Cooperative Agreement is unique, being based on the characteristics and different T&TA needs in the respective Regions. The present cooperative agreements expire in September 1999.

Applications for new Cooperative Agreements for training and technical assistance are being solicited in this announcement (see Part II, Competitive Grant Area C).

(3) *National Clearinghouse on Families and Youth.* In 1997, The Family and Youth Services Bureau awarded a contract to continue operations of the National Clearinghouse on Families and Youth (NCFY). The purpose of the Clearinghouse is to serve as a central information point for professionals and agencies involved in the development and implementation of services to runaway and homeless youth. To this end, the Clearinghouse:

Collects, evaluates and maintains reports, materials and other products

regarding service provision to runaway and homeless youth;

Develops and disseminates reports and bibliographies useful to the field;

Identifies areas in which new or additional reports, materials and products are needed; and

Carries out other activities designed to provide the field with the information needed to improve services to runaway and homeless youth.

Subject to availability of funds, non-competitive continuation funds will be awarded to the Clearinghouse in Fiscal Year 1999.

(4) *Runaway and Homeless Youth Management Information System (RHYMIS).* The Family and Youth Services Bureau awarded a contract in FY 1997 for continued development and implementation of the Runaway and Homeless Youth Management Information System (RHYMIS) for FYSB programs. The data generated by the system are used to produce reports and information regarding the programs, including information for the required reports to Congress. The RHYMIS also serves as a management tool for FYSB and for individual programs.

In addition, the Year 2000 (Y2K) computer problem is an area of concern for all computer users. RHYMIS 4.0 is a Y2K compliant management information system. To meet reporting requirements, all of FYSB's grantees are required to have a computer system that is Y2K compliant to support RHYMIS. Below is the recommended minimum computer configuration capable of running RHYMIS:

Intel Pentium 166MHz processor
32 Mbytes of memory
8 speed CD–ROM drive
2.1 gbyte system hard disk drive
1.44 Mbytes diskette drive
Anti-Virus system installed
1.44 Mbytes diskette drive
33.6 data/fax modem
SVGA video card and Color Monitor
Windows 97 installed
Microsoft Access 7.0

Subject to availability of funds, non-competitive continuation funds will be awarded in FY 1999 to continue this work.

(5) *Monitoring Support for FYSB Programs.* The Family and Youth Services Bureau uses a standardized, comprehensive monitoring instrument and site visit protocol, including a pre-review component for monitoring runaway and homeless youth programs.

The Bureau awarded a new contract in FY 1997 to continue to provide logistical support for the peer review monitoring process, including nationwide distribution of the monitoring instrument. The findings from the monitoring visits are used by the Regional Offices and the T&TA providers as a basis for their activities.

Subject to availability of funds, non-competing continuation funds will be awarded in FY 1999 to continue this work.

(6) *Research, Demonstration and Management Initiatives.* Section 315 of the Act authorizes the Department to make grants to States, localities and private nonprofit entities to carry out research, demonstration and service projects designed to increase knowledge concerning and improve services for runaway and homeless youth. These activities serve to identify emerging issues and to develop and test models which address such issues. In FY 1998, the Family and Youth Services Bureau awarded grants to support Youth Development State Collaboration Demonstration Projects in nine States. The purpose of these demonstration grants is to create partnerships between States and FYSB in order to establish and support effective youth development program strategies at the State and local levels.

Subject to the availability of funds, the nine grantees will receive continuation funding in FY 1999.

e. *Comprehensive Youth Development Framework.* A youth development approach is central to all FYSB activities. In Fiscal Year 1995, a contract was awarded to develop a youth development framework from a theoretical perspective. This framework is intended to enhance the capacity of policy and program developers, program managers and youth services professionals to develop service models and approaches that direct youth toward positive pathways of development.

It is our hope and expectation that this framework will serve as a basis for securing consensus on a working definition of youth development and for increasing awareness of the importance and benefits of a youth development perspective in serving youth.

The reports, *Understanding Youth Development: Promoting Positive Pathways of Growth and Reconnecting Youth and Community: A Youth Development Approach,* are widely distributed as source documents for individuals and organizations interested in gaining a working knowledge of youth development, both its theoretical underpinnings and practical applications. Both publications are currently available from the National Clearinghouse on Families and Youth.

f. *Administrative Changes.* To support the increased emphasis on youth development, the following management and administrative efforts will continue:

- FYSB will continue to support a youth development approach to the provision of services, both from theoretical and practical perspectives;
- Regions/Hubs will continue to play a significant role in the assessment of grant applications. This role includes Regional staff involvement (1) as chairpersons for peer review panels and (2) in the conduct of administrative reviews of new start applications that take into account knowledge about the applicants' experience, effectiveness, potential and of the geographic distribution of the grantees in their respective States and Regions. Final funding decisions will remain the responsibility of the Commissioner of the Administration on Children, Youth and Families;
- FYSB will continue to explore the potential for successful collaborations among federal government agencies, state governments and local community-based youth services organizations; and
- FYSB will pursue the development of youth development performance-based indicators and outcome measures as a method of evaluating the effectiveness of youth services funded by FYSB.

F. General Instructions for the Uniform Project Description

The following ACF Uniform Project Description has been approved under OMB Control Number 0970–0139. This format is to be used to submit an application for the three programs covered under this announcement.

1. Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions. The pages of the project description must be numbered and are limited to 40 typed pages, double spaced, printed on only one side, with at least ½ inch margins. Pages over the limit will be removed from the application and will not be reviewed. In addition, please note that previous attempts by applicants to circumvent space limitations or to exceed page limits by using small print have resulted in negative responses from reviewers because of the difficulty in reviewing the application.

Applicants should use the evaluation criteria listed in Part II under the appropriate competitive grant area as a way to organize the uniform project description, providing specific information that addresses all components of each criterion.

It is in the applicant's best interest to ensure that the project description is easy to read, logically developed in accordance with evaluation criteria and adhere to page limitations. In addition, applicants should be mindful of the importance of preparing and submitting applications using language, terms, concepts and descriptions that are generally known both to the runaway and homeless youth and broader youth services field.

2. Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

3. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

4. Results or Benefits Expected

Identify the results and benefits to be derived. For example, when applying for a grant to serve adolescents and their families, describe who will receive services, where and how these services will be provided, and how the services will benefit the youth families and the community it will serve.

5. Approach

Outline a plan of action, which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of youth to be served and the results of those services. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. Note that clearance from the U.S. Office of Management and Budget might be needed prior to a "collection of information" that is "conducted or sponsored" by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

6. Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

7. Additional Information

A. *Staff and Position Data:* Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

B. *Plan for Project Continuance Beyond Grant Support:* Provide a plan for securing resources and continuing project activities after Federal assistance has ceased.

C. *Organization Profiles:* Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information.

Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

D. *Third-Party Agreements:* Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

E. *Letters of Support:* Provide statements from community, public and commercial leaders that support the project proposed for funding.

F. *Budget and Budget Justification:* Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

More detailed information on each of the competitive grant areas and specific criteria for evaluation of applications is presented in Part II, Sections A-D and in Part III.

Part II. Competitive Grant Areas and Evaluation Criteria

An application responding to one of the three competitive grant areas in Part II must have a project description which is organized and presented according to the related evaluation criteria contained in section F, items 1–7, of the OMB-approved ACF Uniform Project Description. The evaluation criteria specific to each competitive grant area can be found below in this Part.

Competitive Area A: Basic Center Program for Runaway and Homeless Youth

Eligible Applicants: Any State, unit of local government, combination of units of local government, public or private agency, organization or institution is eligible to apply for these funds. Federally recognized Indian Tribes are eligible to apply for Basic Center grants. Indian Tribes that are not federally recognized and urban Indian organizations are also eligible to apply for grants as private agencies.

Current Basic Center grantees with project periods ending by September 30, 1999 and all other eligible applicants not currently receiving Basic Center funds may apply for a new competitive Basic Center grant under this announcement.

Current Basic Center Program grantees (including subgrantees) with one or two years remaining on their current grant and the expectation of continuation funding in FY 1999 may not apply for a new Basic Center grant for the community they currently serve. These grantees will receive instructions from their respective ACF Regional Offices on the procedures for applying for non competitive continuation grants. Current grantees, which have questions regarding their eligibility to apply for new funds, should consult with the appropriate Regional Office Youth Contact, listed in Part V, Appendix D, to determine if they are eligible to apply for a new grant award.

Program Purpose, Goals and Objectives: The Administration for Children and Families expects to award approximately $10.4 million for approximately 105 new competitive Basic Center Program grants.

The purpose of Part A of the RHY Act is to establish or strengthen locally-controlled, community-based programs that address the immediate needs of runaway and homeless youth and their families. Services must be delivered outside of the law enforcement, child welfare, mental health and juvenile justice systems. The program goals and objectives of the Basic Center Program of Part A of the RHY Act are to:

a. Alleviate problems of runaway and homeless youth,

b. Reunite youth with their families and encourage the resolution of intrafamily problems through counseling and other services,

c. Strengthen family relationships and encourage stable living conditions for youth, and

d. Help youth decide upon constructive courses of action.

Background: The Runaway and Homeless Youth Act of 1974 was a response to widespread concern regarding the alarming number of youth who were leaving home without parental permission, crossing State lines and who, while away from home, were exposed to exploitation and other dangers of street life.

Each Basic Center program is required to provide outreach to runaway and homeless youth; temporary shelter for up to fifteen days; food; clothing; individual, group and family counseling; aftercare and referrals, as appropriate. Many Basic Center programs provide their services in residential settings for no more than 20 youth. Some programs also provide some or all of their shelter services through host homes (usually private homes under contract to the centers), with counseling and referrals being provided from a central location.

In FY 1998, approximately 75,000 youth received shelter and non-shelter services through ACYF-funded Basic Centers. The primary presenting problems of these youth include: (1) conflict with parents or other adults, including physical, sexual and emotional abuse; (2) other family crises such as divorce, death, or sudden loss of income; and (3) personal problems such as drug use, or problems with peers, school attendance and truancy, bad grades, inability to get along with teachers and learning disabilities. Slightly more than half gave an indication of clinical depression and 14 percent reported having made at least one suicide attempt.

After receiving services from Basic Center programs, approximately 66.5 percent of the youth return to their families; 25 percent go to a variety of other situations such as Job Corps, independent living programs, drug treatment programs and other institutional programs; and 8.5 percent return to the streets or to an unknown living situation after service.

In accordance with the RHY Act, the funds will be divided among the States in proportion to their respective populations under the age of 18, according to the latest census data. A minimum of $100,000 will be awarded to each State, the District of Columbia and Puerto Rico. A minimum of $45,000 will be awarded to each of the four insular areas: Guam, American Samoa, the Commonwealth of the Northern Marianas and the Virgin Islands.

The funds available for continuations and new starts in each State and insular area is listed in the Table of Allocations by State (Part V, Appendix G). In this Table, the amounts shown in the column labeled "New Starts" are the amounts available for competition under this announcement. The number of new awards made within each State depends upon the amount of the State's total allotment less the amount required for non-competing continuations, as well as on the number of acceptable applications. Therefore, where the amount required for non-competing continuations in any State equals or exceeds the State's total allotment, it is possible that no new awards will be made.

All applicants under this competitive grant area will compete with other applicants in the State in which they propose to deliver services. In the event that there are insufficient numbers of applications approved for funding in any State or jurisdiction, the Commissioner of ACYF will reallocate the unused funds.

Duration of Project: This announcement solicits applications for Basic Center programs of up to three years duration (36-month project periods). Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for non competitive continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be entertained in subsequent years, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Priority will be given to applicants which apply for less than $200,000 per year. The maximum Federal share for a 3-year project period is $600,000.

Applicant Share of Project Costs: Basic Center grantees must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project costing $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $30,000 ($10,000 per budget period).

Evaluation Criteria for BCP: The five criteria that follow will be used to review and evaluate each application under the Basic Center competitive grant area. Each of these criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. Note that the highest possible score an application can receive under this competitive grant area is 105 points.

Criterion 1. Objectives and Need for Assistance (15 Points)

1. Applicant must specify the goals and objectives of the project and how implementation will fulfill the purposes of the legislation identified above.

2. Applicant must state the need for assistance by describing the conditions of youth and families in the area to be served and the incidence and characteristics of runaway and homeless youth and their families. The discussion

must include matters of family functioning and the health, education, employment and social conditions of the youth, including at-risk conditions or behaviors such as drug use, school failure and delinquency. Applicants proposing to focus services on a specific RHY population (e.g., single sex programs, gay and lesbian youth, a particular ethnic group, etc.) must explain and justify why the population requires focused services.

3. Applicant must indicate need for assistance by discussing the existing support systems for at-risk youth and families in the area, with specific references to law enforcement, health and mental health care, social services, schools and child welfare. In addition, other agencies providing shelter and services to runaway and homeless youth in the area must be identified. Supporting documentation of need from other community groups may be included.

4. Applicant must describe the area to be served, indicate the precise locations of program services and demonstrate that the services will be located in an area which is frequented by and/or easily accessible by runaway and homeless youth. Maps or other graphic aids may be attached.

Criterion 2. Results and Benefits Expected (20 Points)

1. Applicant must specify the number of runaway and homeless youth and their families to be served, the number of beds available for runaway and homeless youth and the types and quantities of services to be provided.

2. Applicant must describe the anticipated changes in attitudes, values and behavior of the youth served and improvements in individual and family functioning that will occur as a consequence of the services provided.

3. Applicant must discuss the expected impact of the program on the organization's capacity to effectively provide services to runaway and homeless youth in the community.

4. Applicant must describe the criteria to be used to evaluate the results and success of the program.

Criterion 3. Approach (35 Points)

1. Applicant must describe the program's youth development approach or philosophy and indicate how it underlies and integrates all proposed activities, including provision of services to runaway and homeless youth and involvement of the youth's parents or legal guardians. Specific information must be provided on how youth will be involved in the design, operation and evaluation of the program.

2. Applicant must describe how runaway and homeless youth and their families will be reached and how services will be provided in compliance with the Program Performance Standards listed in Part V, Appendix A. Applicants proposing to serve a specific RHY population (e.g. single sex programs, gay and lesbian youth, a particular ethnic group, etc.) must explain how the services provided will meet the special needs of this population and how the applicant will make referrals or otherwise provide for the needs of RHY youth who are not in the specific population the applicant will serve.

3. Applicant must include a detailed plan for implementing direct services based upon a youth development approach and identified goals and objectives. The plan must clearly state how the proposed work will be accomplished.

4. Applicant must identify the strategies that will be employed and the activities that will be implemented, including innovative or unusual features or approaches for involving family members as an integral part of the services provided, for periodic review and assessment of individual cases and for encouraging awareness of and sensitivity to the diverse needs of runaway and homeless youth who represent particular ethnic and racial backgrounds, sexual orientations, or who are street youth.

5. Applicant must describe how the program has established or will establish formal service linkages with other social service, law enforcement, educational, housing, vocational, welfare, legal service, drug treatment and health care agencies in order to ensure appropriate referrals for the program clients when needed.

6. Applicant must describe plans for conducting an outreach program that, where applicable, will attract members of ethnic and racial minorities and/or persons with limited ability to speak English.

7. Applicant must describe plans and procedures for intake and assessment of the youth upon arrival at the center.

8. Applicant must describe plans for contacting parents, relatives or guardians of the youth they serve; for ensuring the safe return of youth to their parents, relatives or legal guardians if it is in their best interests; for contacting local governments pursuant to formal or informal arrangements established with such officials; and for providing alternative living arrangements when it is not safe or appropriate for youth to return home.

9. Applicant must describe the type, capacity and staff supervision of the shelter that will be available for youth.

10. Applicant must describe plans for ensuring proper coordination with law enforcement, health and mental health care, social service and welfare agencies.

11. Applicant must describe the plans for ensuring coordination with schools to which runaway and homeless youth will return and for assisting the youth to stay current with the curricula of these schools.

12. Applicant must describe procedures for dealing with youth who have run from foster care placements and from correctional institutions and must show that procedures are in accordance with Federal, State and local laws.

13. Applicant must describe plans and procedures for providing aftercare services and ensuring, whenever possible, that aftercare will also be provided to those youth who return beyond the State in which the program is located.

14. Applicant must agree to gather and submit program and client data required by FYSB through the Runaway and Homeless Youth Management Information System (RHYMIS). If applicant is a current FYSB grantee, describe the data currently collected and submitted under the RHYMIS system. Current recipients of a FYSB grant who are not submitting the required data are at risk of not being considered for a new grant award.

15. Applicant must agree to cooperate with any research or evaluation efforts sponsored by the Administration for Children and Families.

16. Applicant must describe how the activities implemented under this project will be continued by the agency once Federal funding for the project has ended and must describe specific plans for accomplishing program phase-out in the event the applicant cannot obtain new operating funds at the end of the 36-month project period.

17. Applicant must describe procedures for maintaining confidentiality of records on the youth and families served. Procedures must insure that no information on the youth and families is disclosed without the consent of the individual youth, parent or legal guardian. Disclosures without consent can be made to another agency compiling statistical records if individual identities are not provided or to a government agency involved in the disposition of criminal charges against an individual youth.

Criterion 4. Staff and Position Data and Organization Profiles (20 Points Plus 5 Possible Bonus Points)

1. Applicant must discuss staff and organizational experience in working with runaway, homeless and street youth populations. As required by the RHY Act, priority for funding will be given to organizations with experience in providing direct services to runaway, homeless and street youth in a manner that is in concert with the Basic Center Program Performance Standards found below in Part V, Appendix A. Applicant must document the services it provides to this specific population and the length of time the applicant has been involved in the provision of these services. Five bonus points may be awarded to applicants who have at least three years of experience providing direct services to runaway, homeless and street youth.

2. Applicant must include information on skills, knowledge and experience of the project director and key project staff. Brief resumes of current and proposed staff, as well as job descriptions, should be included. Resumes must indicate what position the individual will fill and position descriptions must specifically describe the job as it relates to the proposed project. Applicants must also list organizations and consultants who will work on the program along with a short description of the nature of their effort or contribution. Applicant must provide information on plans for training project staff as well as staff of cooperating organizations and individuals.

3. Applicant must demonstrate the ability of the organization to effectively manage the program.

4. Applicant must provide a short description of the applicant agency's organization; the types, quantities and costs of services it provides and must identify and discuss the role of other organizations or multiple sites of the agency that will be involved in direct services to runaway and homeless youth through this grant. List all these sites, including addresses, phone numbers and staff contact names if different than those on the SF 424. If the agency is a recipient of funds from the Administration on Children, Youth and Families for services to runaway and homeless youth for programs other than that applied for in this application, show how the services supported by these funds are or will be integrated with the existing services. Organizational charts may be provided.

5. Applicant must provide an annotated listing of its funding sources and contractual agreements and other relationships which support or complement the provision of mandated services to runaway, homeless and street youth.

Criterion 5. Budget (10 Points)

1. Applicant must show that costs of the proposed program are reasonable and justified in terms of numbers of youth and families to be served, types and quantities of services to be provided and the anticipated results and benefits. Discussion should refer to (1) the budget information presented on Standard Forms 424 and 424A and the applicant's budget justification and (2) the results or benefits identified under Criterion 2 above.

2. Applicant must describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement and accurate accounting of funds received under this program announcement. For-profit applicants for Basic Center Program grants are reminded that no grant funds may be paid as profit to any recipient of a grant or sub-grant (45 CFR 74.705).

3. While computer software and training for program data collection through the RHYMIS will be provided by FYSB to grantees, applicant should include a request for funds in its budget (within the maximum Federal funds allowed) for any computer equipment needed for implementation of the RHYMIS. The estimated cost of such equipment is approximately $2000, and information regarding the kind of equipment needed will be provided to successful applicants.

Competitive Area B: Transitional Living Program for Homeless Youth

Eligible Applicants: Any State, units of local government (or a combination of units of local government), public or non profit, private agency organizations, institutions or other non profit entities. Federally recognized Indian Tribes are eligible to apply for TLP grants. Indian Tribes that are not federally recognized and urban Indian organizations are also eligible to apply for grants as private, non profit agencies.

Current TLP grantees with project periods ending by December 31, 1999 and all other eligible applicants not currently receiving TLP funds may apply for a new competitive TLP grant under this announcement.

Current TLP grantees (including subgrantees) with one or two years remaining on their current awards and the expectation of continuation funding in Fiscal Year 1999 may not apply for a new TLP grant under this announcement. These grantees will receive instructions from their respective ACF Region/Hub Offices on the procedures for applying for non-competitive continuation grants. Current grantees, which have questions regarding their eligibility to apply for new funds, should consult with the appropriate Regional Hub Office Youth contact, listed in Part V, Appendix D, to determine if they are eligible to apply for a new grant award.

Program Purpose, Goals and Objectives: The Administration for Children and Families expects to award approximately $7 million for approximately 35 new service grants in FY 2000 to provide shelter, skill training and support services to assist homeless youth in making a smooth transition to self-sufficiency and to prevent long-term dependency on social services.

The overall purpose of TLP for homeless youth is to establish and operate transitional living projects for homeless youth. This program is structured to help older, homeless youth achieve self-sufficiency and avoid long-term dependency on social services. Transitional living projects provide shelter, skills training, and support services to homeless youth ages 16 through 21 for a continuous period not exceeding 18 months. Transitional Living Program funds are to be used for the purpose of enhancing the capacities of youth-serving agencies in local communities to effectively address the service needs of homeless, older adolescents and young adults. Goals, objectives and activities that may be maintained, improved and/or expanded through a TLP grant must include, but are not necessarily limited to:

- Providing stable, safe living accommodations while a homeless youth is a program participant;
- Providing the services necessary to assist homeless youth in developing both the skills and personal characteristics needed to enable them to live independently;
- Providing education, information and counseling aimed at preventing, treating and reducing substance abuse among homeless youth;
- Providing homeless youth with appropriate referrals and access to medical and mental health treatment;
- Providing the services and referrals necessary to assist youth in preparing for and obtaining employment; and
- Providing the services and referrals necessary to assist youth in preparing for and obtaining secondary, and where feasible, post-secondary education and/or vocational training.

Background: It is estimated that about one-fourth of the youth served by all runaway and homeless youth programs are homeless. This means that the youth

cannot return home or to another safe living arrangement with a relative. Other homeless youth have "aged out" of the child welfare system and are no longer eligible for foster care.

These young people are often homeless through no fault of their own. The families they can no longer live with are often physically and sexually abusive and involved in drug and alcohol abuse. They cannot meet the youth's basic human needs (shelter, food, clothing), let alone provide the supportive and safe environment needed for the healthy development of self-image and the skills and personal characteristics which would enable them to mature into a self-sufficient adult.

Homeless youth, lacking a stable family environment and without social and economic supports, are also at high risk of being involved in dangerous lifestyles and problematic or delinquent behaviors. More than two-thirds of homeless youth served by ACF-funded programs report using drugs or alcohol and many participate in survival sex and prostitution to meet their basic needs.

Homeless youth are in need of a support system that will assist them in making the transition to adulthood and independent living. While all adolescents are faced with adjustment issues as they approach adulthood, homeless youth experience more severe problems and are at greater risk in terms of their ability to successfully make the transition to self-sufficiency and to become a productive member of society.

The Transitional Living Program for Homeless Youth specifically targets services to homeless youth and affords youth service agencies with an opportunity to serve homeless youth in a manner which is comprehensive and geared towards ensuring a successful transition to self-sufficiency. The TLP also improves the availability of comprehensive, integrated services for homeless youth, which reduces the risks of exploitation and danger to which these youth are exposed while living on the streets without positive economic or social supports.

Duration of Project: This announcement solicits applications for Transitional Living projects of up to three years (36-month project periods). Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for non competing continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be entertained in subsequent years, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Applicants may apply for up to $200,000 per year, which equals a maximum of $600,000 for a 3-year project period.

Applicant Share of Project Cost: Transitional Living grantees must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project costing $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $30,000 ($10,000 per budget period).

Evaluation Criteria for TLP: The five criteria that follow will be used to review and evaluate each application under the TLP competitive grant area. Each of these criteria should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. Note that the highest possible score an application can receive under this competitive grant area is 105 points.

Criterion 1. Objectives and Need for Assistance (15 Points)

1. Applicant must specify the goals and objectives of the project and how implementation will fulfill the purposes of the legislation identified above, ultimately a successful transition to self-sufficiency.

2. Applicant must discuss the issue of youth homelessness in the community to be served, the present availability of services for homeless youth and provide documentation of the incidence of homeless youth.

3. Applicant must describe the system that will be used to ensure that individual clients will meet the eligibility criteria of need for service as established by the Act. This should include, but not limited to, a discussion of the intake and assessment activities which will be conducted with a client prior to acceptance into the TLP project. The applicant is encouraged to include samples of any forms to be used to determine eligibility and appropriate services.

Criterion 2. Results and Benefits (20 Points)

1. Applicant must describe how homeless youth will be reached and identify the number who will be served annually on both a residential and non-residential basis.

2. Applicant must provide information on the expected results and benefits of the program in terms of the number of youth who will successfully complete the program as well as potential problems or barriers to program implementation that might be possible reason(s) for failure. Applicant must also discuss the organization's policy on termination and re-entry of youth out of and into the program.

3. Applicant must discuss the expected impact of the project on the availability of services to homeless youth in the local community and indicate how the project will enhance the organization's capacity to provide services to address youth homelessness in the community.

Criterion 3. Approach (35 Points)

Applicant must discuss how they will implement the statutory requirements of the Act. Specifically, the applicant must describe plans for the provision of shelter and services and for program administration. In addition, the applicant must describe the program's youth development approach or philosophy and indicate how it underlies and integrates all proposed activities. Specific information must be provided on how youth will be involved in the design, operation and evaluation of the program.

1. *Shelter:* Applicant must:

Assure that shelter is provided through one or a combination of the following:

(a) A group home facility;
(b) Family host homes; or
(c) Supervised apartments.

Applicant must indicate if the shelter will be provided directly or indirectly. When shelter will be provided indirectly, applicant must submit copies of formal written agreements with service providers regarding the terms under which shelter is provided.

Assure that the facilities used for housing, whether a shelter, host family home and/or supervised apartments, shall accommodate no more than 20 youth at any given time; shall have a sufficient number of staff to ensure on-site supervision at each shelter option that is not a family home including periodic, unannounced visits from project staff; and is in compliance with State and local licensing requirements.

Assure, if applicable, that the applicant meets the requirements of the RHY Act for the lease of surplus Federal facilities for use as transitional living housing facilities. Each surplus Federal facility used for this purpose must be

made available for a period not less than two years, and no rent or fee shall be charged to the applicant in connection with use of such a facility. Any structural modifications or additions to surplus Federal facilities become the property of the government of the United States. All such modifications or additions may be made only after receiving prior written consent from the appropriate Department of Health and Human Services official.

2. *Services:* Applicant must include a description of the core services to be provided. The description must include the purpose and concept of the service, its role in both the overall program design and the individual client TLP plan. The services to be provided must include, but are not necessarily limited to, the following:

- Basic life skills information, counseling, and training including budgeting, money management, use of credit, housekeeping, menu planning and food preparation, consumer education, leisure-time activities, transportation, and obtaining vital documents (Social Security card, birth certificate).
- Interpersonal skill building, such as developing positive relationships with peers and adults, effective communication, decision making, and stress management.
- Educational advancement, such as GED preparation and attainment, post-secondary training (college, technical school, military, etc.), and vocational education.
- Job preparation and attainment, such as career counseling, job preparation training, dress and grooming, job placement and job maintenance.
- Mental health care, such as counseling (individual and group), drug abuse education, prevention and referral services, and mental health counseling.
- Physical health care, such as routine physicals, health assessments, family planning/parenting skills, and emergency medical treatment.
- The substantive participation of youth in the assessment and implementation of their needs, including the development and implementation of the individual transitional living plan and in decisions about the services to be received.
- Programmatic efforts planned and/or implemented to encourage awareness of and sensitivity to the particular needs of homeless youth who are members of ethnic, racial and sexual minority groups and/or who are street youth.

3. *Administration:* Applicant must:

- Describe the procedures to be employed in the development, implementation and monitoring of an individualized, written transitional living plan for each program participant which addresses the provision of services, and is appropriate to the individual developmental needs of the client.
- Assure that the participant will substantively participate in the assessment of his or her needs and in decisions about the services to be received.
- Assure that the outreach programs to be established are designed to attract individuals who are eligible to participate in the project.
- Provide an assurance that housing and services will be available to a participant for a continuous period not to exceed 540 days (18 months).
- Describe the methods to be employed in collecting statistical records and evaluative data and for submitting annual reports on such information to the Department of Health and Human Services.
- Describe how the applicant will ensure the confidentiality of participant's records.
- Describe how the activities implemented under this project will be continued by the agency once Federal funding for the project has ended, with specific plans for accomplishing program phase-out for the last two quarters of program project period in the event that the applicant would not receive a new award.
- Agree to gather and submit program and client data required by FYSB through the Runaway and Homeless Youth System (RHYMIS). If applicant is a current FYSB grantee, describe the data currently collected and submitted under the RHYMIS system. Current recipients of a FYSB grant who are not submitting the required data are at risk of not being considered for a new grant award.
- Agree to cooperate with any research or evaluation efforts sponsored by the Administration for Children and Families.

Criterion 4. Staff and Position Data and Organization Profiles (20 Points Plus 5 Possible Bonus Points)

1. Applicant must discuss staff and organizational experience in working with runaway, homeless and street youth populations. As required by the RHY Act, priority for funding will be given to organizations with experience in providing direct services to runaway, homeless and street youth in a manner that is in concert with the Basic Center Program Performance Standards found below in Part V, Appendix A. Applicant must document the services it provides to this specific population and the length of time the applicant has been involved in the provision of these services. Five bonus points may be awarded to applicants who have at least three years of experience providing direct services to runaway, homeless and street youth.

2. Applicant must include information on skills, knowledge and experience of the project director and key project staff. Brief resumes of current and proposed staff, as well as job descriptions, should be included. Resumes must indicate what position the individual will fill and position descriptions must specifically describe the job as it relates to the proposed project. Applicants must also list organizations and consultants who will work on the program along with a short description of the nature of their effort or contribution. Applicant must provide information on plans for training project staff as well as staff of cooperating organizations and individuals.

3. Applicant must describe how the project has established or will establish formal service linkages with other social service, law enforcement, educational, housing, vocational, welfare, legal service, drug treatment and health care agencies in order to ensure appropriate referrals for the project participants where and when needed.

4. Applicant must demonstrate the ability of the organization to effectively manage the program.

5. Applicant must provide a short description of the applicant agency's organization: the types, quantities and costs of services it provides and must identify and discuss the role of other organizations or multiple sites of the agency that will be involved in direct services to runaway and homeless youth through this grant. List all these sites, including addresses, phone numbers and staff contact names if different than those on the SF 424. If the agency is a recipient of funds from the Administration on Children, Youth and Families for services to runaway and homeless youth for programs other than that applied for in this application, show how the services supported by these funds are or will be integrated with the existing services. Organizational charts may be provided.

6. Applicant must provide an annotated listing of its funding sources and contractual agreements and other relationships which support or complement the provision of mandated services to runaway, homeless and street youth.

Criterion 5. Budget (10 Points)

1. Applicant must show that costs of the proposed program are reasonable and justified in terms of numbers of youth and families to be served, types and quantities of services to be provided and the anticipated results and benefits. Discussion should refer to (1) the budget information presented on Standard Forms 424 and 424A and the applicant's budget justification and (2) the results or benefits identified under Criterion 2 above.

2. Applicant must describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement and accurate accounting of funds received under this program announcement.

3. While computer software and training for program data collection through the RHYMIS will be provided by FYSB to grantees, applicant should include a request for funds in its budget (within the maximum Federal funds allowed) for any computer equipment needed for implementation of the RHYMIS. The estimated cost of such equipment is approximately $2000, and information regarding the kind of equipment needed will be provided to successful applicants.

4. Applicant must describe how cost-effective use of TLP funds will be ensured by taking maximum advantage of existing resources within the State which would help in the operation or coordination of a TLP, including those resources which are supported by Federal Independent Living Initiatives funds. Also, applicant must describe efforts to be undertaken over the length of the project which may increase non-Federal resources available to support the TLP.

Competitive Area C: Training and Technical Assistance Cooperative Agreements

Eligible Applicants: Nonprofit organizations and combinations of such organizations with demonstrated capacity to provide services to runaway and homeless youth service providers on a Statewide or regional basis.

Program Purpose, Goals and Objectives: FYSB supports a national T&TA effort designed to enhance and promote the continuous quality improvement of the services available to runaway, homeless and street youth and their families. FYSB expects to award approximately $2 million to fund up to ten cooperative agreements to enhance the programmatic and administrative capacities of public and private agencies to provide services to the targeted populations. Applications to provide such assistance may cover one or more of the ten Federal Regions or one or more of the five Regional Hubs and may include subcontracts to cover specific regional or multi-State areas. Applications, whether covering a Hub or a Region, must provide assurance that staff will be accessible to the Central and Regional offices. Applicants covering a region should discuss coordination with other potential providers in a Hub. Applicants must show how they intend to provide service to all customers in their service area regardless of geographic location. (See Appendix H for listing of Federal regions and Hubs and the number of grantees by region.)

The successful applicants are expected to provide the following services and activities as core elements:

1. Provide program specific technical assistance through consultation. Consultation may be on-site, via telephone or any combination of strategies, which address and/or correct programmatic and administrative concerns. Technical assistance designed and/or provided to grantees for this purpose must be accessible and individualized, must provide concrete information and skill building and must include follow-up efforts. The TA delivered will be based upon the specific needs of the grantee(s) requesting the assistance. However, the TA must conform to the intent of the law.

2. Provide a mechanism such as, but not limited to a newsletter, list serve and/or electronic bulletin board for sharing information for the purpose of improving and increasing resources and information available to RHY grantees and, for sharing new and emerging information concerning service provision issues and best practices obtained through interaction with grantees and other youth serving agencies through workshops, conferences and other activities associated with the provision of T&TA.

3. Provide intensive, skill-based training and technical assistance to newly funded and inexperienced RHY grantees, when requested by the grantee and/or the ACF Regional Hub office as a direct outcome of on-site monitoring and/or analysis of MIS data.

4. Use monitoring reports, MIS data and corrective action reports for the purpose of providing technical assistance to address the grantees program specific needs. Delivery of T/A will be made in consultation with the Central and Regional Offices and approved by the Federal Project Officer.

5. Provide staff training focused on quality skill development that: (a) provides opportunities for hands-on participation, direct observation, practices and expert feedback: (b) analyzes, integrates and transmits knowledge obtained from research findings, curricula, and models of greatest interest to grantees: and (c) recognizes new and emerging youth issues and provides intensive skills training in these areas.

6. Promote cooperative relationships among training and technical assistance providers, the National Clearinghouse on Families and Youth, and other FYSB support contractors for the exchange of information regarding identified technical assistance and training needs, emerging youth issues, research findings, curricula and model programs. FYSB strongly encourages the establishment of an advisory board with representation at a minimum from the regional office, a representative sample of each type of FYSB program in the regional area, the Executive Director of the organization funded under this competitive grant, the Project Director(s) of the State Collaboration Grantees (where applicable) and other State and local youth service providers.

The award of these cooperative agreements (see definition section) will include a delineation of the responsibilities of the successful applicants and the Administration on Children, Youth and Families. The responsibilities contained in each cooperative agreement may be geared toward the unique needs of the RHY programs in the geographic area(s) to be served with a description of the uniqueness of the program, as well as incorporating the core elements, described above, consistent to all RHY programs regardless of geographic area.

At a minimum, the responsibilities of the successful applicants will include development and implementation of a work-plan (including TA capacity inventory forms, procedures, evaluation strategies/forms, site-visit plans, schedules, etc.), provision of training and technical assistance to grantees, and coordination with other grantee support efforts and T&TA providers. Responsibilities of the Federal staff will include, at a minimum, consultation in the development of workplans; review and approval of workplans; coordination and sharing of monitoring data, as appropriate; identification of technical assistance needs; and sponsorship of a national meeting of T&TA providers.

Background: Since 1975, many State and local agencies and community-based programs have been established and/or strengthened to provide needed short and long-term services to

runaway, homeless and street youth. These agencies are both public and private, profit making and nonprofit. Some focus on a single concern, such as crisis intervention or substance abuse prevention, while others are comprehensive or all-purpose agencies, with specific components that deal with the physical health, mental health, family reunification and functioning, employment, education and transitional living needs of these young people.

Notwithstanding the significant numbers of effective agencies and competent professional staff dedicated to assisting runaway, homeless and street youth across the country, services in some geographic areas are inadequate or non-existent. In other cases, existing programs lack staff resources with the full range of skills required to carry out the ever changing responsibilities with which the individual programs are charged. Also, many of the developed and tested curricula and models are little known or understood, even among programs and staff where they could be of the greatest use. Further, as a youth development approach has gradually emerged that focuses on a young person's competence, connection to community, altruism, control, autonomy and identity as an alternative to adolescent health and behavioral risks; there is a need to partner with states, local, government, foundations, and community based organizations to establish and support effective long range youth development strategies, funding and policy information. In addition, as new issues emerge, even experienced staff and agency leadership need to enhance their existing skills and develop new ones.

To address these issues, Section 342 of the Runaway and Homeless Youth Act, administered by the Youth and Family Services Bureau, authorizes support to nonprofit organizations for the purpose of providing training and technical assistance (T&TA) to runaway, homeless and street youth service providers.

To effectively provide such assistance, extensive interaction with grantees, integration and sharing of knowledge, coordination with other components supporting the runaway and homeless service system such as RHYMIS and program monitoring, and a cooperative relationship among training and technical assistance providers is needed. FYSB is supporting a national T&TA effort designed to support the continuous improvement of all RHY grantees as they work to deliver high quality and effective services to youth, young adults and their families. Our T&TA system reflects a national commitment to quality improvement and capacity-building at the local and Regional Hub level.

Duration of Project: This announcement solicits applications for Training and Technical Assistance grants up to three years (36 month project periods). Grant awards, made on a competitive basis, will be for a one year (12-month) budget period. Applications for continuation grants beyond the one-year budget period, but within the 36 month project period, will be considered in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

Anticipated Federal Funding: The anticipated Federal funding for the first 12-month budget period will range from $150,000–$400,000 per grant, contingent on the identified service area.

Applicant Share of Project Costs: Training and Tehnical Assistance grantees must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project costing $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $30,000 ($10,000 per budget period).

Evaluation Criteria for Training and Technical Assistance Cooperative Agreements: The five criteria that follow will be used to review and evaluate each application under the Training and Technical Assistance competitive grant area. Each of these criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. Note that the highest possible score an application can receive under this competitive grant area is 100 points.

Criterion 1. Objectives and Need for Assistance (15 Points)

1. Identify the exact geographic area(s) to be served in terms of its distinctive features, including the States topography, economic condition etc.

2. Discuss youth well-being and homelessness in the geographic area(s) to be served. Provide recent documentation of the incidence of homeless youth and other youth in crisis.

3. Demonstrate an understanding of the incidence and conditions of runaway and homeless youth in the geographic area(s) to be served; and current issues, special problems and needs associated with runaway and homeless youth such as substance abuse, sexual abuse, learning disabilities, lack of independent living skills and risky behavior.

4. Discuss services in the geographic area(s) for runaway and homeless youth (Basic Centers, Transitional Living Programs, Street Outreach Programs and related demonstration service grants).

5. Indicate an understanding of the capacities and management systems necessary to establish and operate runaway and homeless youth agencies. Discuss the knowledge, skills, abilities and experience required by individual youth service professionals at both the administrative and direct service levels.

6. Discuss and justify the need for short-term training and technical assistance in the geographic area to be served.

7. Discuss barriers to services in the geographic area and greatest training and technical assistance needs of runaway and homeless youth service providers. Evidence consideration of the distinctive features identified in #1 above.

8. Demonstrate an understanding of relevant research and youth development findings and products, and knowledge of available curricula, models and experts.

Criterion 2. Results and Benefits (20 Points)

1. Discuss the goals and objectives of the proposed training and technical assistance effort and how it builds and/or improves upon past efforts in terms of learning goals and objectives for individuals trained and technical assistance provided to agencies.

2. Project the number of agencies and individuals that would receive training and technical assistance services.

3. Describe how the training and technical assistance effort will increase the programmatic and administrative capacities of RHY grantees to deliver effective and quality services to runaway and homeless youth.

4. Describe in measurable terms how specific agency competencies will be enhanced by the training and technical assistance provided. Provide examples such as: (1) number of staff to be certified in short-term family mediation counseling; (2) number of staff to be trainod in FYSB?s youth development approach; (3) number of staff to be trained in assessment based case management; and (4) number of

additional trainings to be provided by the receiving grantee after being trained by the T/TA provider., etc.

5. Describe how training and technical assistance to be provided will build on current program strengths and promote continuous program improvement.

Criterion 3. Approach (35 Points)

1. Describe the approach, philosophy, strategies, methodologies and models that would be used to assess and address the unique training and technical assistance needs of runaway and homeless youth service providers in the geographic area(s) to be served. Describe the proposed effort and activities in detail.

2. Describe the perceived types of interaction with grantees to support an inventory of training needs, development of training plan and design of training and technical assistance strategies.

3. Discuss the approach that will be used to provide quality staff training which focuses on skill development that provides opportunities for hands-on participation, direct observation, practice and expert feedback; which analyzes, integrates and transmits knowledge obtained from research findings, curricula, and models of greatest interest to grantees; and recognizes new and emerging youth issues and provides intensive skills training in these areas.

4. Describe the approach that will be used for the collaborative exchange of monitoring and MIS information for runaway and homeless youth programs for the purpose of planning training and technical assistance for the geographic area to be served. Include a discussion of training and technical assistance that is a follow-up to monitoring and responsive to the needs of individual grantees.

5. Describe the approach that would be used to promote the transmittal of knowledge and skills from highly skilled youth service providers to less experienced staff.

6. Describe the approach for establishing a cooperative relationship with other training and technical assistance providers, Federal offices, state officials, Foundations, national contractors and city governments.

7. Provide a detailed description of the efforts that will be carried out by the applicant directly and those efforts to be carried out in conjunction with other agencies or consultants. Discuss how these efforts will enhance training and technical assistance provision.

8. Describe the methodology that will be used to evaluate the effectiveness of the training and technical assistance provided to runaway and homeless youth service providers in the geographic area(s).

9. Discuss the approach that would be used and sample events and activities to be sponsored or co-sponsored to encourage cultural competency of runaway and homeless youth service providers in areas such as outreach, program design, staffing and board development. Include proposed time frames for accomplishing major milestones, levels of effort, letters of commitment and support.

Criterion 4. Staff and Position Data and Organization Profiles (20 Points)

1. Describe the organizational history, structure, and experience providing training and technical assistance. Discuss operating principles with respect to the development and implementation of training and technical assistance.

2. Clearly define roles and provide job descriptions of key project positions.

3. Provide resumes of current and proposed staff. Include skills, experience, and qualifications working with runaway and homeless youth, and developing and designing training and technical assistance for youth service providers, incorporating the youth development approach.

4. Describe facilities, equipment, and other resources that would be available to the project.

5. Describe the administrative and organizational structure and linkages established with other relevant organizations (e.g. subcontractors, other projects). Provide charts summarizing these structures and linkages and written agreements defining them (include in appendices).

6. Describe how the organization plans to ensure that consultants/subcontractors and other staff are culturally diverse and representative of the same ethnic backgrounds of the youth being served.

7. Applicant must provide an annotated listing of its funding sources and contractual agreements and other relationships which support or complement the provision of mandated services to runaway, homeless and street youth.

Criterion 5. Budget (10 Points)

1. Discuss and justify the cost of the proposed project in terms of types and quantities of services to be provided.

2. Describe the fiscal control and accounting procedures that will be used to ensure the prudent use, proper disbursement, and accurate accounting of funds received.

3. Describe how additional resources necessary to carry out this project would be obtained and integrated into the work of the project.

4. Provide assurance that one key person from the project would attend an annual 2–3 day FYSB sponsored meeting in Washington, D.C.

Part III. Application Process

A. Assistance to Prospective Grantees

Potential grantees can direct questions about program requirements or application forms to the Administration on Children, Youth and Families, Family and Youth Services Bureau, Program Announcement, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209; Telephone: 1–800–351–2293; electronic mail: FYSB@lcgnet.com. Further general information may be obtained from the Training and Technical Assistance Providers listed in Part V, Appendix E for those interested in BCP and TLP.

B. Application Requirements

To be considered for a grant, each application must be submitted on the forms provided at the end of this announcement (Part V, Section H) and in accordance with the guidance provided below. The application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by terms and conditions of the grant award. If more than one agency is involved in submitting a single application, one entity must be identified as the applicant organization which will have legal responsibility for the grant.

C. Paperwork Reduction Act of 1995 (Public Law 104–13)

The Uniform Project Description information collection within this Program Announcement is approved under Uniform Project Description (0970–0139), Expiration Date 10/31/2000.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

D. Notification Under Executive Order 12372

This program is covered under Executive Order (E.O.) 12372,

"Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of September 1997, the following jurisdictions have elected not to participate in the Executive Order Process. Applicants from these jurisdictions or for projects administered by Federally-recognized Indian tribes need take no action in regard to E.O. 12372: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia and Washington. All remaining jurisdictions participate in the Executive Order process and have established Single Points of Contacts (SPOCs). Applicants from participating jurisdictions should contact their SPOC as soon as possible to alert them to the prospective application and receive any necessary instructions.

Applicants must submit any required material to the SPOCs as early as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule. When comments are submitted directly to ACYF, they must be addressed to: Department of Health and Human Services, Administration on Children, Youth and Families, Family and Youth Services Bureau, Room 2038, 330 C Street SW, Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Part V, Appendix F, of this announcement.

E. Availability of Forms and Other Materials

A copy of the forms that must be submitted as part of each application for a runaway and homeless youth grant and instructions for completing the application are provided in Part V, Appendix H. Legislation referenced in Part I, section B, of this announcement may be found in major public libraries, and the appendices at the end of this announcement contain other relevant information regarding RHY programs. Additional copies of this announcement may be obtained by calling 1–800–351–2293. Many standard forms can also be downloaded and printed from the following ACF webpage: http://www.acf.dhhs.gov/programs/oa/form.htm.

F. Application Consideration

All applications which are complete and conform to the requirements of this program announcement will be subject to a competitive review and evaluation against the specific competitive grant area criteria outlined in Part II of this announcement. This review will be conducted in Washington, D.C., by panels of non-Federal experts knowledgeable in the areas of youth development and human services. Applications for Basic Center Program grants will be reviewed competitively only with other applications from the same State.

Application review panels will assign a score to each application, identifying its strengths and weaknesses. Both Central and Regional Hub office staff will conduct administrative reviews of the applications and the results of the competitive review panels and will recommend applications for funding to the Commissioner, ACYF. The Commissioner will make the final selection of the applications to be funded.

In addition to scores assigned by non-Federal reviewers and Federal administrative reviews, the Commissioner may approve applications proposing services in unserved or inadequately served areas in an effort to make sure there is a geographic distribution of services. The Commissioner may also elect not to fund any applicants having known management, fiscal, reporting, program, or other problems which make it unlikely that they would be able to provide effective services.

Successful applicants will be notified through the issuance of a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided and the total project period for which support is contemplated. As part of the award process, a cooperative agreement must be jointly developed which includes an explicit statement of the nature, character, and extent of anticipated Federal agency and grantee involvement.

Organizations whose applications will not be funded will be notified in writing by the Commissioner of the Administration on Children, Youth and Families. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made.

Part IV. Application Content and Submission Instructions

A. Application Content

Each application must contain the following items in the order listed:

1. Application for Federal Assistance (Standard Form 424, REV 4–92). Follow the instructions in Part V, Appendix I. In Item 8 of Form 424, check "New." In Item 10 of the 424, clearly identify the *Catalog of Federal Domestic Assistance (CFDA) Program* title and number for the program for which funds are being requested:

Program title	CFDA program No.
Basic Center Program	93.623
Transitional Living Program	93.550
Training and Technical Assistance	93.623

In Item 11 of the 424, identify which Competitive Grant Area (IIA: Basic Center Program (BCP), IIB: Transitional Living Program (TLP) or IIC: Training and Technical Assistance Cooperative Agreements (T&TA) the application addresses.

In item 12, identify the specific geographic area to be served.

2. Budget and Budget Justification (Standard Form 424A, REV 4–92). Follow the instructions in Part V, Appendix I. The budget justification should be typed on standard size plain white paper, provide breakdowns for major budget categories and justify significant costs. List amounts and sources of all funds, both Federal and non-Federal, to be used for this project. Federal funds provided to States and services or other resources purchased with Federal funds may not be used to match project grants. Applicants, which do not provide the required percentage of non-Federal share, will not be funded.

3. Project Summary/Abstract (one page maximum). Clearly mark this page with the applicant name as shown on item 5 of the SF 424, identify the competitive grant area and the title of the proposed project as shown in item 11 and the service area as shown in item 12 of the SF 424. The summary description should not exceed 300 words.

Care should be taken to produce a summary which accurately and concisely reflects the proposed project. It should describe the objectives of the project, the approach to be used and the results and benefits expected.

4. Assurances/Certifications. Applicants are required to sign and return a SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbing forms and return them with the application. Copies of the assurances and certifications are reprinted at the end of this announcement and may be reproduced as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances and certifications. In addition, applicants must certify their compliance with: (1) Drug-Free Workplace Requirements; (2) Debarment and Other Responsibilities; and (3) Pro-Children Act of 1994 (Certification Regarding Environmental Tobacco Smoke). A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, Debarment and Other Responsibilities and Environmental Tobacco Smoke Certifications. A signature on the application constitutes an assurance that the applicant will comply with the pertinent Departmental regulations contained in 45 CFR Part 74.

5. Documents of Support. The maximum number of pages for supporting documentation is 10 pages, double-spaced, exclusive of letters of support or agreement. These documents must be numbered and might include resumes, photocopies of news clippings, evidence of the program's efforts to coordinate youth services at the local level, etc. Documentation over the ten-page limit will not be reviewed. Applicants may, however, include as many letters of support or agreement as are appropriate.

B. Application Submission

To be considered for funding, each applicant must submit one signed original and two additional copies of the application, including all attachments, to the application receipt point specified above. The original copy of the application must have original signatures, signed in *black* ink. Each copy must be stapled (back and front) in the upper left corner. All copies of an application must be submitted in a single package.

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate subsections of the application, including supporting documentation. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the Federal government for review.

A separate application must be submitted for each competitive grant area and applications that combine two or more competitive grant areas will not be reviewed or funded. Envelopes containing an application must clearly indicate the specific competitive grant area that the application is addressing: Basic Center Program, Transitional Living Program, or Training and Technical Assistance Cooperative Agreements.

(Catalog of Federal Domestic Assistance: Number 93.623, Basic Center Program for Runaway and Homeless Youth; Number 93.550, Transitional Living Program for Homeless Youth; Number 93.623 Training and Technical Assistance Cooperative Agreements.)

Dated: April 25, 1999.

Patricia Montoya,

Commissioner, Administration on Children, Youth and Families.

Part V. Appendices

Appendix A. Basic Center Program Performance Standards

Program Performance Standards

I. Purpose

The Program Performance Standards established by the Bureau for its funded centers relate to the basic program components enumerated in Section 317 of the Runaway and Homeless Youth Act and as further detailed in the Regulations and Program Guidance governing the implementation of the Act. They address the methods and processes by which the needs of runaway and homeless youth and their families are being met, as opposed to the outcome of the services provided on the clients served.

The terms "program performance standard," "criterion," and "indicators" are used throughout both the instrument and the instructions. These terms are defined as follows:

Program Performance Standard: The general principle against which a judgment can be made to determine whether a service or an administrative component has achieved a particular level of attainment.

Criterion: A specific dimension or aspect of a program performance standard which helps to define that standard and which is amenable to direct observation or measurement.

Indicator: The specific documentation which demonstrates whether a criterion (or an aspect of a criterion) is being met and thereby the extent to which a specific aspect of a standard is being met.

Fourteen program performance standards, with related criteria, are established by the Bureau for the projects funded under the Runaway and Homeless Youth Act. Nine of these standards relate to service components (outreach, individual intake process, temporary shelter, individual and group counseling, family counseling, service linkages, aftercare services, recreational programs, and case disposition), and five to administrative functions or activities (staffing and staff development, youth participation, individual client files, ongoing project planning, and board of directors/advisory body).

Although fiscal management is not included as a program performance standard, it is viewed by FYSB as being an essential element in the operation of its funded projects. Therefore, as validation visits are made, the Regional ACF specialist and/or staff from the Office of Fiscal Operations will also review the project's financial management activities.

FYSB views these program performance standards as constituting the minimum standards to which its funded projects should conform. The primary assumption underlying the program performance standards is that the service and administrative components which are encompassed within these standards are integral (but not sufficient in themselves) to a program of services which effectively addresses the crisis and long-term needs of runaway and homeless youth and their families.

The program performance standards are designed to serve as a developmental tool, and are to be employed by both the project staff and the Regional ACF staff specialists in identifying those service and administrative components and activities of individual projects which require strengthening and/or development either through internal action on the part of staff or through the provision of external technical assistance.

II. Program Performance Standards and Criteria

The following constitute the program performance standards and criteria established by the Bureau for its funded centers. Each standard is numbered, and each criterion is listed after a lower case letter.

1. Outreach

The project shall conduct outreach efforts directed towards community agencies, youth and parents.

2. Individual Intake Process

The project shall conduct an individual intake process with each youth seeking services from the project. The individual intake process shall provide for:

a. Direct access to project services on a 24-hour basis.

b. The identification of the emergency service needs of each youth and the provision of the appropriate services either directly or through referrals to community agencies and individuals.

c. An explanation of the services which are available and the requirements for participation, and the securing of a voluntary commitment from each youth to participate in project services prior to admitting the youth into the project.

d. The recording of basic background information on each youth admitted into the project.

e. The assignment of primary responsibility to one staff member for coordinating the services provided to each youth.

f. The contact of the parent(s) or legal guardian of each youth provided temporary shelter within the timeframe established by State law or, in the absence of State requirements, preferably within 24 but within no more than 72 hours following the youth's admission into the project.

3. Temporary Shelter

The project shall provide temporary shelter and food to each youth admitted into the project and requesting such services.

a. Each facility in which temporary shelter is provided shall be in compliance with State and local licensing requirements.

b. Each facility in which temporary shelter is provided shall accommodate no more than 20 youth at any given time.

c. Temporary shelter shall normally not be provided for a period exceeding two weeks during a given stay at the project.

d. Each facility in which temporary shelter is provided shall make at least two meals per day available to youth served on a temporary shelter basis.

e. At least one adult shall be on the premises whenever youth are using the temporary shelter facility.

4. Individual and Group Counseling

The project shall provide individual and/or group counseling to each youth admitted into the project.

a. Individual and/or group counseling shall be available daily to each youth admitted into the project on a temporary shelter basis and requesting such counseling.

b. Individual and/or group counseling shall be available to each youth admitted into the project on a non-residential basis and requesting such counseling.

c. The individual and/or group counseling shall be provided by qualified staff.

5. Family Counseling

The project shall make family counseling available to each parent or legal guardian and youth admitted into the project.

a. Family counseling shall be provided to each parent or legal guardian and youth admitted into the project and requesting such services.

b. The family counseling shall be provided by qualified staff.

6. Service Linkages

The project shall establish and maintain linkages with community agencies and individuals for the provision of those services which are required by youth and/or their families but which are not provided directly by the centers.

a. Arrangements shall be made with community agencies and individuals for the provision of alternative living arrangements, medical services, psychological and/or psychiatric services, and the other assistance required by youth admitted into the project and/or by their families which are not provided directly by the project.

b. Specific efforts shall be conducted by the project directed toward establishing working relationships with law enforcement and other juvenile justice system personnel.

7. Aftercare Services

The project shall provide a continuity of services to all youth served on a temporary shelter basis and/or their families following the termination of such temporary shelter both directly and through referrals to other agencies and individuals.

8. Recreational Program

The project shall provide a recreational-leisure time schedule of activities for youth admitted to the project for residential care.

9. Case Disposition

The project shall determine, on an individual case basis, the disposition of each youth provided temporary shelter, and shall assure the safe arrival of each youth home or to an alternative living arrangement.

a. To the extent feasible, the project shall provide for the active involvement of the youth, the parent(s) or legal guardian, and the staff in determining what living arrangement constitutes the best interest of each youth.

b. The project shall assure the safe arrival of each youth home or to an alternative living arrangement, following the termination of the crisis services provided by the project, by arranging for the transportation of the youth if he/she will be residing within the area served by the project; or by arranging for the meeting and local transportation of the youth at his/her destination if he/she will be residing beyond the area served by the project.

c. The project shall verify the arrival of each youth who is not accompanied home or to an alternative living arrangement by the parent(s) or legal guardian, project staff or other agency staff within 12 hours after his/her scheduled arrival at his/her destination.

10. Staffing and Staff Development

Each center is required to develop and maintain a plan for staffing and staff development.

a. The project shall operate under an affirmative action plan.

b. The project shall maintain a written staffing plan which indicates the number of paid and volunteer staff in each job category.

c. The project shall maintain a written job description for each paid and volunteer staff function which describes both the major tasks to be performed and the qualifications required.

d. The project shall provide training to all paid and volunteer staff (including youth) in both the procedures employed by the project and in specific skill areas as determined by the project.

e. The project shall evaluate the performance of each paid and volunteer staff member on a regular basis.

f. Case supervision sessions, involving relevant project staff, shall be conducted at least weekly to review current cases and the types of counseling and other services which are being provided.

11. Youth Participation

The center shall actively involve youth in the design and delivery of the services provided by the project.

a. Youth shall be involved in the ongoing planning efforts conducted by the project.

b. Youth shall be involved in the delivery of the services provided by the project.

12. Individual Client Files

The project shall maintain an individual file on each youth admitted into the project.

a. The client file maintained on each youth should, at a minimum, include an intake form which minimally contains the basic background information needed by FYSB; counseling notations; information on the services provided both directly and through referrals to community agencies and individuals; disposition data; and, as applicable, any follow-up and evaluation data which are compiled by the center.

b. The file on each client shall be maintained by the project in a secure place and shall not be disclosed without the written permission of the client and his/her parent(s) or legal guardian except to project staff, to the funding agency(ies) and its(their) contractor(s), and to a court involved in the disposition of criminal charges against the youth.

13. Ongoing Center Planning

The center shall develop a written plan at least annually.

a. At least annually, the project shall review the crisis counseling, temporary shelter, and aftercare needs of the youth in the area served by the center and the existing services which are available to meet these needs.

b. The project shall conduct an ongoing evaluation of the impact of its services on the youth and families it serves.

c. At least annually, the project shall review and revise, as appropriate, its goals, objectives, and activities based upon the data generated through both the review of youth needs and existing services (13a) and the follow-up evaluations (13b).

d. The project's planning process shall be open to all paid and volunteer staff, youth, and members of the Board of Directors and/or Advisory Body.

14. Board of Directors/Advisory Body (Optional)

It is strongly recommended that the centers have a Board of Directors or Advisory Body.

a. The membership of the project's Board of Directors or Advisory Body shall be composed of a representative cross-section of the community, including youth, parents, and agency representatives.

b. Training shall be provided to the Board of Directors or Advisory Body designed to orient the members to the goals, objectives, and activities of the project.

c. The Board of Directors or Advisory Body shall review and approve the overall goals, objectives, and activities of the project, including the written plan developed under standard 13.

Appendix B. National Runaway Switchboard (National Communications System)

The National Runaway Switchboard—Toll-free: 1–800–621–4000

- Facilitates communication among youth, their families and youth and community-based resources through conference calling services.
- Provides crisis intervention counseling and message delivery services to at-risk youth and their families.
- Provides information and referral services to at-risk youth and their families on youth serving agencies using a computerized national resource directory.
- Conducts an annual conference for local switchboard service providers.

The Switchboard distributes information brochures, posters, a newsletter, and public service announcements. For more information, contact the National Runaway Switchboard, 3080 North Lincoln, Chicago, IL 60657, (312) 880–9860.

Appendix C. National Clearinghouse on Families and Youth

The National Clearinghouse on Families and Youth (NCFY) is a resource for communities interested in developing new and effective strategies for supporting young people and their families. The Family and Youth Services Bureau (FYSB) within the U.S. Department of Health and Human Services, established NCFY to serve as a central information source on family and youth issues. As a national resource for youth service professionals, policymakers and the general public, NCFY offers the following services:

Information Sharing

Through a professionally staffed information line, databases, and special mailings, NCFY actively distributes information about effective program approaches, available resources, and current activities relevant to the family and youth services fields.

Issue Forums

NCFY facilitates FYSB-sponsored forums, bringing together experts in the field to discuss critical issues and emerging trends and develop strategies for improving services to families and youth. NCFY shares forum outcomes with the field.

Materials Development

NCFY produces information on FYSB and its programs, as well as reports on critical issues, best practices, and promising approaches.

Networking

NCFY supports FYSB's efforts to collaborate with other Federal agencies, State and local governments, national organizations, and communities to address the full range of issues facing young people and their families today.

To find out more about the National Clearinghouse on Families and Youth, please call or write: National Clearinghouse on Families and Youth, P.O. Box 13505, Silver Spring, Maryland 20911–3505, (301) 608–8098, Fax: (301) 608–8721.

Appendix D. Administration for Children and Families

Regional Office Youth Contacts

Region I: Bill Jackson, Administration for Children and Families, John F. Kennedy Federal Building, Room 2011, Boston, Massachusetts 02203 (CT, MA, ME, NH, RI, VT), (617) 565–1118

Region II: Junius Scott, Administration for Children and Families, 26 Federal Plaza, Room 1239, New York, NY 10278 (NJ, NY, PR, VI), (212) 264–1329

Region III: Dick Gilbert, Administration for Children and Families, 150 S. Independence Mall West, Suite 864, Philadelphia, PA 19104–3499 (DC, DE, MD, PA, VA, WV), (215) 861–4031

Region IV: Frank McBeth, Administration for Children and Families, 61 Forsyth Street, S.W., Suite #4M60, Atlanta, GA 30303 (AL, FL, GA, KY, MS, NC, SC, TN), (404) 562–2844

Region V: Katie Williams, Administration for Children and Families, 105 West Adams, 23rd Floor, Chicago, IL 60603 (IL, IN, MI, MN, OH, WI), (312) 353–9675

Region VI: Ralph Rogers, Administration for Children and Families, 1301 Young Street, Dallas, TX 75202 (AR, LA, NM, OK, TX), (214) 767–2977

Region VII: Dale Scott, Administration for Children and Families, Federal Office Building, Room 384, 601 East 12th Street, Kansas City, MO 64106 (IA, KS, MO, NE), (816) 426–5401, Ext. 181

Region VIII: Vicki Wright, Administration for Children and Families, Federal Office Building, 1961 Stout Street, 9th Floor, Denver, CO 80294 (CO, MT, ND, SD, UT, WY), (303) 844–3100, Ext. 361

Region IX: Deborah Oppenheim, Administration for Children and Families, 50 United Nations Plaza, San Francisco, CA 94102 (AZ, CA, HI, NV, American Samoa, Guam, Northern Mariana Islands, Marshall Islands, Federated States of Micronesia), (415) 437–8426

Region X: Steve Ice, Administration for Children and Families, 2201 Sixth Avenue, RX 32, Seattle, WA 98121 (AK, ID, OR, WA), (206) 615–2558, Ext. 3075

Appendix E. Training and Technical Assistance Providers

FYSB funds ten regionally based organizations to provide training and technical assistance to programs funded under the Basic Center, Transitional Living and Street Outreach Programs, and to other agencies serving runaway and homeless youth.

Each of the training and technical assistance providers offers on-site consultations; regional, State and local conferences; information sharing and skill-based training.

For more information, contact the training and technical assistance provider in your region.

New England Network for Child, Youth and Family Services, 25 Stow Road, Boxborough, MA 01719, Contact: Nancy Jackson, (508) 266–1998, NENNJ@ma.ultranet.com

Empire State Coalition of Youth and Family Services, 121 Avenue of the Americas, New York, NY 10013, Contact: Margo Hirsch, (212) 966–6477, EMPSTACOAL@aol.com

Mid-Atlantic Network of Youth and Family Services, 9400 McKnight Road, Pittsburgh, PA 15237, Contact: Nancy Johnson, (412) 366–6562, NancyJMANY@aol.com

Southeastern Network of Youth and Family Services, 1761 South Lumpkin Street, Athens, GA 30606, Contact: Gail Kurtz, (706) 354–4568, KLKURTZ@senetwork.org

Youth Network Council, 59 East Van Buren Street, Chicago, IL 60605, Contact: Denis Murstein, (312) 427–2710, Dmurstein@aol.com

Southwest Network of Youth Services, 2525 Wallingwood Drive, Austin, TX 78746, Contact: Theresa Tod, (512) 328–6860, TheresaTod@aol.com

M.I.N.K., A Network of Runaway and Youth Serving Agencies, c/o Youth in Need, 516 Jefferson Street, St. Charles, MO 63301, Contact: Theresa Jenkins, (314) 946–0101, YINLH@aol.com

Mountain Plains Youth Services, 221 West Rosser, Bismarck, ND 58501, Contact: Linda Wood, (701) 255–7229, MTNPLAINS@aol.com

Western States Youth Services Network, 1309 Ross Street, Petaluma, CA 94954, Contact: Nancy Fastenau, (707) 763–2213, WSYSN@aol.com

Northwest Network for Youth, 603 Steward Street, Seattle, WA 98101, Contact: Andrew Estep, (206) 628–3760, Northwstnw@aol.com

Appendix F. State Single Points of Contact (SPOCS)

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Admin., 515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

California

Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone: (916) 445–0613, FAX: (916) 322–3018

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Office of the Budget, 540 S. Dupont Hwy., Ste. 5, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. and Dev.,

717 14th Street, N.W.—Suite 1200, Washington, D.C. 20005, Telephone: (202) 727–1700 (direct), FAX: (202) 727–1617, (202) 727–6537 (secretary)

Florida

Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399–2100, Telephone: (850) 922–5438, FAX: (850) 414–0479, Contact: Cherie Trainor, (850) 414–5495

Georgia

Deborah Stephens, Coordinator, Georgia State Clearinghouse, 270 Washington Street, S.W., 8th Floor, Atlanta, Georgia 30334, Telephone: (404) 656–3855, FAX: (404) 656–7901

Illinois

Virginia Bova, State Single Point of Contact, Illinois Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800

Indiana

Renee Miller. State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–2971 (direct line), FAX: (317) 233–3323

Iowa

Steven R. McCann, Div. for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4809

Kentucky

Kevin J. Goldsmith, Director, Sandra Brewer, Executive Secretary, Intergovernmental Affairs, Office of the Governor, 700 Capitol Avenue, Frankfort, Kentucky 40601, Telephone: (502) 564–2611, FAX: (502) 564–0437

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

Linda Janey, Manager, Plan and Project Review, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 767–4490, FAX: (410) 767–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 660 Plaza Drive—Suite 1900, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 550 High Street, 303 Walters Sillers Bldg., Jackson, Mississippi 39201–3087, Telephone: (601) 359–6762, FAX: (601) 359–6758

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Jefferson Building, 9th Floor, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, 209 E. Muser Street, Room 220, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983, Contact: Heather Elliot, (702) 687–6367

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2 1/2 Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Mexico

Nick Mandell, Local Government Division, Room 201, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640, FAX: (505) 827–4984

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605, FAX: (518) 486–5617

North Carolina

Jeanette Furney, North Carolina Department of Administration, 116 West Jones Street—Suite 5106, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083

South Carolina

Omeagia Burgess, State Single Point of Contact, Budget and Control Board, Office of State Budget, 1122 Ladies Street, 12th Floor, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0645

Texas

Tom Adams, Governors Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–2681

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1027, FAX: (801) 538–1547

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Jeff Smith, Section Chief, Federal/State Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, FAX: (608) 267–6931

Wyoming

Sandy Ross, State Single Point of Contact, Dept. of Administration and Information, 2001 Capital Avenue, Room 214, Cheyenne, Wyoming 82002, Telephone: (307) 777–5492, FAX: (307) 777–3696

Territories

Guam

Joseph Rivera, Acting Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96932, Telephone: (671) 475–9411 or 9412, FAX: (671) 472–2825

Puerto Rico

Jose Caballero-Mercado, Chairman, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (787) 727–4444, (787) 723–6190, FAX : (787) 724–3270, (809) 724–3103

Northern Mariana Islands

Office of Management and Budget, Mr. Alvaro A. Santos, Executive Officer, Office of the Governor, Saipan, MP 96950, Telephone: (670) 664–2256, FAX: (670) 664–2272, Contact Person: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 644–2289, FAX: (670) 644–2272

Virgin Islands

Nellon Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovermental review to:

Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069

Appendix G. Basic Center Program Allocations by State

BASIC CENTER PROGRAM FOR RUNAWAY AND HOMELESS YOUTH—TABLE OF ALLOCATIONS BY STATE

[Fiscal Year 1999]

Regions and states	Continuations	New starts	Totals
Region I:			
Connecticut	$338,000	$46,439	$384,439
Maine	167,310	.....	167,310
Massachusetts	395,000	337,081	732,081
New Hampshire	126,713	49,466	176,179
Rhode Island	135,666	17,195	152,861
Vermont	100,000	.....	100,000
Region II:			
New Jersey	860,000	190,024	1,050,024
New York	1,666,138	780,564	2,446,702
Puerto Rico	337,786	195,912	533,698
Virgin Islands	.....	45,000	45,000
Region III:			
Delaware	100,000	.....	100,000
District of Columbia	100,000	.....	100,000
Maryland	519,040	200,000	719,040
Pennsylvania	1,332,859	252,293	1,585,152
Virginia	592,649	308,996	901,645
West Virginia	235,577	.....	235,577
Region IV:			
Alabama	477,091	116,056	593,147
Florida	1,439,666	433,383	1,873,049
Georgia	871,050	274,330	1,145,380
Kentucky	541,658	25,035	566,693
Mississippi	97,299	346,318	443,617
North Carolina	714,632	354,720	1,069,352
South Carolina	.....	528,908	528,908
Tennessee	200,000	435,217	635,217
Region V:			
Illinois	1,481,273	79,386	1,560,659
Indiana	585,018	300,000	885,018
Michigan	950,659	435,622	1,386,281
Minnesosta	531,637	160,566	692,203
Ohio	1,254,480	316,592	1,571,072
Wisconsin	630,675	56,990	687,665
Region VI:			
Arkansas	368,193.00	.....	368,193
Louisiana	280,448	359,152	639,600
New Mexico	283,151	.....	283,151
Oklahoma	424,838	71,577	496,415
Texas	2,138,344	967,817	3,106,161
Region VII:			
Iowa	254,463	149,605	404,068
Kansas	234,684	139,879	374,563
Missouri	621,106	157,293	778,399
Nebraska	146,768	105,979	252,747
Region VIII:			
Colorado	410,000	157,054	567,054
Montana	129,819	.....	129,819
North Dakota	86,337	23,663	110,000
South Dakota	62,143	37,857	100,000
Utah	.....	380,822	380,822
Wyoming	100,000	.....	100,000
Region IX:			
America Samoa	.....	45,000	45,000
Arizona	467,206	240,150	707,356
California	3,964,961	900,367	4,865,328
Guam	.....	45,000	45,000
Hawaii	171,844	26,587	198,431
Northern Marianas	.....	45,000	45,000
Nevada	232,779	13,682	246,461
Region X:			
Alaska	102,400	50,000	152,400
Idaho	194,728	50,000	244,728
Oregon	424,727	23,962	448,689
Washington	602,219	202,873	805,092
Totals	28,483,034	10,479,412	38,962,446

Appendix H. ACF Hub Regional Listing

Northeast Hub	Region I	Region II	Region III
Number of FYSB Grantees Per Region: Region I—42 Region II—60 Region III—55	Connecticut Maine Massachusetts New Hampshire Rhode Island Vermont	New Jersey New York Puerto Rico Virgin Islands	Delaware. District of Columbia. Maryland. Pennsylvania. Virginia. West Virginia.

Southeast Hub	Region IV
Number of FYSB Grantees Per Region: Region IV—78	Alabama Florida Georgia Kentucky Mississippi North Carolina South Carolina Tennessee

North Central Hub	Region V	Region VII
Number of FYSB Grantees Per Region: Region V—108 Region VII—29	Illinois Indiana Michigan Minnesota Ohio Wisconsin	Iowa Kansas Missouri Nebraska

West Central Hub	Region VI	Region VIII
Number of FYSB Grantees Per Region: Region VI—57 Region VIII—32	Arkansas Louisiana New Mexico Oklahoma Texas	Colorado Montana North Dakota South Dakota Utah Wyoming

West Pacific Hub	Region IX	Region X
Number of FYSB Grantees Per Region: Region IX—82 Region X—38	Arizona California Hawaii Nevada America Samoa Guam Northern Marianas Marshall Islands Micronesia	Alaska Idaho Oregon Washington

BILLING CODE 4184-01-P

Appendix I. Forms and Instructions

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

	2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code)*:	Name and telephone number of person to be contacted on matters involving this application *(give area code)*
6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*: ☐☐ – ☐☐☐☐☐☐☐	**7. TYPE OF APPLICANT:** *(enter appropriate letter in box)* ___ A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify) _____
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) ___ ___ A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other *(specify)*: _____	**9. NAME OF FEDERAL AGENCY:**
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ – ☐☐☐ TITLE	**11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:**
12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*.	

13. PROPOSED PROJECT		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		**16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?**
a. Federal	$ .00	a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____
b. Applicant	$ .00	
c. State	$ .00	
d. Local	$ .00	b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
e. Other	$ .00	
f. Program Income	$ .00	**17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?** ☐ Yes If "Yes," attach an explanation. ☐ No
g. TOTAL	$ .00	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

Instructions for the SF–424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).

3.State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g. State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–M

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-004

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-10

SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET, SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one of or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function of activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4 Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and(d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which include the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown (in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4) enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Line 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are include, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Colmn (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year to existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Administration for Children and Families, U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free

Workplace Act of 1988: 45 CFR Part 76, Subpart F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central pint is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment Common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact of involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The Grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about——

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will——

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted——

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f);

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Alternate II (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Administration for Children and Families
U.S. Department of Health and Human Services

Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination

whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not present indicted for or otherwise criminally or civilly charged by a governmental entity (Federal State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter in any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded for covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or

voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Administration for Children and Families U.S. Department of Health and Human Services

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Administration for Children and Families, U.S. Department of Health and Human Services

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

[FR Doc. 99–10895 Filed 4–29–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0926]

Agency Information Collection Activities: Proposed Collection; Comment Request; Regulations Under the Federal Import Milk Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements implementing the Federal Import Milk Act.

DATES: Submit written comments on the collection of information by June 29, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an

existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Regulations Under the Federal Import Milk Act—21 CFR Part 1210 (OMB Control Number 0910–0212—Extension)

Under the regulations (part 1210 (21 CFR part 1210)) implementing the Federal Import Milk Act (21 U.S.C. 141–149), milk or cream may be imported into the United States only by the holder of a valid import milk permit. Before such permit is issued: (1) All cows from which import milk or cream is produced must be physically examined and found healthy; (2) if the milk or cream is imported raw, all such cows must pass a tuberculin test; (3) the dairy farm and each plant in which the milk or cream is processed or handled must be inspected and found to meet certain sanitary requirements; (4) bacterial counts of the milk at the time of importation must not exceed specified limits; and (5) the temperature of the milk or cream at time of importation must not exceed 50 °F. In addition, the regulations require that dairy farmers and plants maintain pasteurization records (§ 1210.15) and that each container of milk or cream imported into the United States bear a tag with the product type, permit number, and shipper's name and address.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
FDA 1815/Permits granted on certificates	1210.23	4	1	4	0.5	2.0
FDA 1993/Application of permit	1210.20	4	1	4	0.5	2.0
FDA 1994/Tuberculin test[2]	1210.13	-	-	-	-	-
FDA 1995/Physical examination of cows[2]	1210.12	-	-	-	-	-
FDA 1996/Sanitary inspection of dairy farms	1210.11	4	1	800	1.5	1200.0
FDA 1997/Sanitary inspections of plants	1210.14	4	1	4	2.0	8.0
Total						1212.0

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] No burden has been estimated for Forms FDA 1994 and 1995 because they are not currently being used.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
1210.15	4	1	4	0.05	0.20

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

No burden has been estimated for the tagging requirement in § 1210.22 because the information on the tag is either supplied by FDA (permit number) or is disclosed to third parties as a usual and customary part of the shipper's normal business activities (type of product, shipper's name and address). No burden has been estimated for Forms FDA 1994 and 1995 because they are not currently being used. The Secretary of Health and Human Services has the discretion to allow Form FDA 1815, a duly certified statement signed by an accredited official of a foreign Government, to be submitted in lieu of Forms FDA 1994 and 1995. To date, Form FDA 1815 has been submitted in lieu of these forms.

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10796 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0780]

Agency Information Collection Activities: Proposed Collection; Comment Request for Food Canning Establishment Registration, Process Filing and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995, (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements for firms that process acidified foods and thermally processed low-acid foods in hermetically sealed containers.

DATES: Submit written comments on the collection of information by June 29, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C.3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Canning Establishment Registration, Process Filing and Recordkeeping for Acidified Foods and Thermally Processed Low–Acid Foods in Hermetically Sealed Containers (21 CFR 108.25(c)(1) and (c)(2), (d), (e), (g); 108.35(c)(1), (c)(2), (d), (e), (f), (h); 113.60(c); 113.83; 113.87; 113.89; 113.100; 114.80(b); 114.89; 114.100(a) through (d)) (OMB Control Number 0910–0037—Extension).

Under section 402 of the Federal Food, Drug and Cosmetic Act (the act), FDA is authorized to prevent the interstate distribution of food products that may be injurious to health or that are otherwise adulterated (21 U.S.C. 342). Under the authority granted to FDA by section 404 of the act (21 U.S.C. 344), FDA's regulations require registration of food processing establishments, filing of process or other data, and maintenance of processing and production records for acidified foods and thermally processed low-acid foods in hermetically sealed containers. These requirements are intended to ensure safe manufacturing, processing, and packing procedures and to permit FDA to verify that these procedures are being followed. Improperly processed low-acid foods present life-threatening hazards if contaminated with foodborne microorganisms, especially *Clostridium botulinum*. The spores of *C. botulinum* must be destroyed or inhibited to avoid production of the deadly toxin that causes botulism. This is accomplished with good manufacturing procedures, which must include the use of adequate heat processes or other means of preservation.

To protect the public health, FDA's regulations require that each firm that manufactures, processes or packs acidified foods or thermally processed low-acid foods in hermetically sealed containers for introduction into interstate commerce register the establishment with the agency using Form FDA 2541 (§§ 108.25(c)(1) and 108.35(c)(2)) (21 CFR 108.25(c)(1) and 108.35(c)(2))). In addition to registering the plant, each firm is required to provide data on the processes used to produce these foods, using Form FDA 2541a for all methods except aseptic processing, or Form FDA 2541c for aseptic processing of low-acid foods in hermetically sealed containers §§ 108.25(c)(2) and 108.35(c)(2)). Plant registration and process filing may be accomplished simultaneously. Process data must be filed prior to packing any new product and operating processes and procedures must be posted near the processing equipment or made available to the operator (21 CFR 113.87(a)).

Regulations in parts 108, 113, and 114 (21 CFR parts 108, 113, and 114) require firms to maintain records showing adherence to the substantive requirements of the regulations. These records must be made available to FDA on request. Firms are also required to document corrective actions when process controls and procedures do not fall within specified limits (§§ 113.89, 114.89, and 114.100(c)); to report any instance of potential health-endangering spoilage, process deviation, or contamination with microorganisms where any lot of the food has entered distribution in commerce (§§ 108.25(d) and 108.35(d) and (e)); and to develop and keep on file plans for recalling products that may endanger the public health (§§ 108.25(e) and 108.35(f)). To permit lots to be traced after distribution, acidified foods and thermally processed low-acid foods in hermetically sealed containers must be marked with an identifying code (§§ 113.60(c) (thermally processed foods) and 114.80(b) (acidified foods)).

FDA estimates the burden of complying with the information collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form No.	CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 2541 (Registration)	108.25 (c)(1) and 108.35(c)(1)	300	1	300	.17	51

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

Form No.	CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 2541a (Process Filing)	108.25 (c)(2) and 108.35(c)(2)	1,000	6.5	6,500	.333	2,165
Form FDA 2541c (Process Filing)	[illegible] c)(2)	1,000	.50	500	.75	375
Total						2,591

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Part	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
108, 113, and 114	5,865	1	5,865	250	1,466,250

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for §§ 108.25(d) and 108.35(d) and (e) is insignificant because notification of spoilage, process deviation, or contamination of product in distribution occurs less than once a year. Most firms discover these problems before the product is distributed and, therefore, are not required to report the occurrence. To avoid double counting, estimates for §§ 108.25(g) and 108.35(h) have not been included because they merely cross-reference recordkeeping requirements contained in parts 113 and 114.

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10797 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0320]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notification of a Health Claim or a Nutrient Content Claim Based on an Authoritative Statement

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by June 1, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Notification of a Health Claim or a Nutrient Content Claim Based on an Authoritative Statement (OMB Control Number 0910–0374—Extension)

Section 403(r)(2)(G) and (r)(3)(C) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)(2)(G) and (r)(3)(C)), as amended by the FDA Modernization Act of 1997, provides that a food producer may market a food product whose label bears a nutrient content claim or a health claim that is based on an authoritative statement of certain scientific bodies of the Federal Government or of the National Academy of Sciences or any of its subdivisions. Under these sections of the act, a food producer may use such a claim in the labeling of an appropriate product 120 days after a complete notification of the claim is submitted to FDA.

In the **Federal Register** of June 11, 1998 (63 FR 32102), FDA announced the availability of a guidance entitled "Guidance for Industry: Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body" (hereinafter referred to as "the guidance"). As stated in that guidance, under section 403(r)(2)(G) and (r)(3)(C) of the act, a notification is to include: (1) The exact words used in the claim, (2) a concise description of the basis upon which the submitter relied for determining that the requirements for an authoritative statement have been satisfied, (3) a copy of the statement upon which the submitter relied in making the claim, and (4) for a health claim, a balanced representation of the scientific literature relating to the relationship between a nutrient and a disease or health-related condition to which the claim refers, or, for a nutrient content claim, a balanced representation of the scientific literature relating to the nutrient level to which the claim refers.

The guidance provides the agency's interpretation of terms central to the submission of a notification and the agency's views on the information that should be included in such a notification. In addition to the information specifically required by the act to be such a notification, the guidance states that a notification should also contain information on analytical methodology for the nutrient that is the subject of a claim based on an authoritative statement. Further, the guidance explains that to present a balanced representation of the scientific literature, as required by statute, a bibliography of the scientific literature on the topic of the claim should be compiled. The guidance also states that

a brief, balanced account or analysis of how this literature either supports or fails to support that authoritative statement should be submitted.

The information collection provisions contained in the guidance received emergency approval from OMB under control number 0910–0374. The emergency approval expires on June 30, 1999. FDA is now seeking an extension of the OMB approval.

As part of this process, the agency requested comments on the proposed collection of information in the **Federal Register** of August 13, 1998 (63 FR 43400; corrected at 63 FR 49130, September 14, 1998).

One comment was submitted by a food industry association. This comment addressed several points, only some of which were relevant to the information collection provisions contained in the guidance. Most of the other points were relevant to a group of interim final rules the agency issued in June 1998 in response to a notification for nine claims based on authoritative statements; these points will be addressed in the rulemakings to which they pertain. The points in the comment that are relevant to the information collection provisions in the guidance are discussed in the following paragraphs.

The comment first stated that the guidance goes further than provided by the statute in two respects: First, in the guidance's request that notifications include a "potentially burdensome" account or analysis of how the scientific literature relating to the relationship between a nutrient and a disease or health-related condition or to the nutrient level to which the claim refers either supports or fails to support the authoritative statement, and second, in the guidance's request that information on analytical methodology for the nutrient that is the subject of the claim be submitted. The comment expressed the opinion that, although the kind of information identified by the guidelines may be useful to FDA and could be submitted voluntarily, the information should not be a mandatory element of a notification; moreover, the lack of such information should not be the basis for prohibiting a health claim based on an authoritative statement. The comment stated that notifications should not impose any significant regulatory burden on manufacturers, adding that, as a general matter, it would object to any expansion of information required as part of a notification.

First, the agency notes that neither the account of the scientific literature relating to the claim nor the information about analytical methodology is described in the guidance as a mandatory element of a notification. In both cases, the agency uses the term "should" to convey its view that the inclusion of such information is desirable. Further, the guidance states explicitly, "An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both."

Second, the agency does not believe that providing the account of the relevant scientific information and the analytical methodology are overly burdensome. FDA believes that most companies would prepare an account of the scientific literature that supports or fails to support a claim in the normal course of evaluating potential claims based on authoritative statements and making the business decision of whether to use such claims in the marketing of their products. Similarly, FDA believes that most companies would be knowledgeable about the analytical methodologies that might be used to determine the amount of a nutrient or other substance present in their products. The agency recognizes that including such information in a notification causes some burden. The agency provided an estimate of this burden in the August 13, 1998, notice. This estimate also appears in Table 1 of this document. No comments were submitted addressing the accuracy of this estimate.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Guidance for Notification	12	5	60	1	60

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The agency believes that this guidance will enable food producers to meet the criteria for notifications that are established in section 403(r)(2)(G) and (r)(3)(C) of the act during the interim period while the agency is initiating notice-and-comment rulemaking to implement those sections of the act. FDA intends to review the notifications it receives to ensure that they comply with the criteria established for them by the act.

These estimates are based on FDA's experience with health claims and nutrient content claims and with other similar notification procedures that fall under its jurisdiction. Because the claims are based on authoritative statements of certain scientific bodies of the Federal Government or the National Academy of Sciences or one of its subdivisions, FDA believes that the information submitted with a notification will be either provided as part of the authoritative statement or readily available to firms wishing to make claims.

The hour burden estimates contained in Table 1 of this document are for the information collection requests in the guidance only and do not include statutory requirements specifically mandated by the act.

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10792 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–1074]

Life Technologies, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Life Technologies, Inc. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of quaternary amine cellulose ion exchange resins in the isolation and purification of protein

concentrates and isolates from aqueous process streams for food processing.

FOR FURTHER INFORMATION CONTACT: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9A4659) has been filed by Life Technologies, Inc., 9800 Medical Center Dr., Rockville, MD 20850–3321. The petition proposes to amend the food additive regulations in § 173.25 *Ion-exchange resins* (21 CFR 173.25) to provide for the safe use of quaternary amine cellulose ion exchange resins in the isolation and purification of protein concentrates and isolates from aqueous process streams for food processing.

The agency has determined under 21 CFR 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: April 19, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10918 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90F–0018]

Rohm and Haas Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 0B4189) proposing that the food additive regulations be amended to provide for the expanded use of n-alkylglutarimide/acrylic copolymers as articles or components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 9, 1990 (55 FR 4690), FDA announced that a food additive petition (FAP 0B4189) had been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105 (currently c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001). The petition proposed to amend the food additive regulations in § 177.1060 *n-Alkylglutarimide/acrylic copolymers* (21 CFR 177.1060) to provide for the expanded use of *n*-alkylglutarimide/acrylic copolymers as articles or components of articles intended for use in contact with food also under the conditions of use A, B, and C described in Table 2 of 21 CFR 176.170(c). Rohm and Haas Co. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 2, 1999.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10794 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0488]

Determination of Regulatory Review Period for Purposes of Patent Extension; Gonal–F®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Gonal–F® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Gonal–F® (follitropin alpha/beta). Gonal–F® is indicated for the induction of ovulation and pregnancy in the anovulatory infertile patient in whom he cause of infertility is functional and not due to primary ovarian failure; and for the development of multiple follicles in the ovulatory patient participating in an Assisted Reproductive Technology (ART) program. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Gonal–F® (U.S. Patent No. 5,156,957) from Genzyme Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 14, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Gonal–F® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office

requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Gonal–F® is 2,044 days. Of this time, 569 days occurred during the testing phase of the regulatory review period, while 1,475 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: February 26, 1992. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on February 26, 1992.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: September 16, 1993. FDA has verified the applicant's claim that the new drug application (NDA) for Gonal–F® (NDA 20–378) was initially submitted on September 16, 1993.

3. *The date the application was approved*: September 29, 1997. FDA has verified the applicant's claim that NDA 20–378 was approved on September 29, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,605 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 29, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–10846 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0846]

Determination of Regulatory Review Period for Purposes of Patent Extension; Apligraf™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Apligraf™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device Apligraf™. Apligraf™ is indicated for use with standard therapeutic compression in the treatment of uninfected partial and/or full-thickness skin loss ulcers due to venous insufficiency of greater than 1 month duration and which have not adequately responded to conventional ulcer therapy. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Apligraf™ (U.S. Patent No. 4,485,096) from Organogenesis, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 16, 1998, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of Apligraf™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Apligraf™ is 4,013 days. Of this time, 3,051 days occurred during the testing phase of the regulatory review period, while 962 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun*: May 29, 1987. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) for human tests to begin became effective on July 2, 1987. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on May 29, 1987, which represents the IDE effective date.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: October 4, 1995. FDA has verified the applicant's claim that the

premarket approval application (PMA) for Apligraf™ (PMA P950032) was initially submitted on October 4, 1995.

3. *The date the application was approved*: May 22, 1998. FDA has verified the applicant's claim that PMA P950032 was approved on May 22, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 29, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–10795 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Subcommittee Meeting of the Advisory Committee for Reproductive Health Drugs; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Subcommittee of the Advisory Committee for Reproductive Health Drugs, Pregnancy Labeling.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 3, 1999, 8 a.m. to 5 p.m..

Location: Holiday Inn, Kennedy Grand Ballroom, 8777 Georgia Ave., Silver Spring, MD 20910–3763.

Contact Person: Kimberly L. Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD, 301–827–7001, FAX 301–827–6776, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12537. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will discuss possible changes to pregnancy labeling as a result of the September 12, 1997, part 15 (21 CFR part 15) public hearing (see 62 FR 41061), the development of various draft guidance documents, and risk communications.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 21, 1999. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 21, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 23, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–10799 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0872]

Revocation of Office of Generic Drug's Interim Policy Statement on Inactive Ingredients

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking an interim policy statement on inactive ingredients in parenteral, ophthalmic, otic, and topical generic drug products (Interim Inactive Ingredient Policy). These generic drug products are the subjects of abbreviated new drug applications (ANDA's). The Interim Inactive Ingredient Policy was issued as a memorandum from the Acting Director of the Center for Drug Evaluation and Research's (CDER's) Office of Generic Drugs, FDA, to CDER's Associate Director for Science and Medical Affairs, FDA. FDA is taking this action because the Interim Inactive Ingredient Policy no longer represents current agency policy.

EFFECTIVE DATE: April 30, 1999.

ADDRESSES:

Address questions about individual applications to the Regulatory Support Branch, Center for Drug Evaluation and Research (HFD–615), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5862.

Address questions about the use of inactive ingredients in a drug product for which you plan to submit an ANDA to the Office of Generic Drugs, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5845.

FOR FURTHER INFORMATION CONTACT: Rita R. Hassall, Office of Generic Drugs (HFD–600), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5845.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. No. 98–417) (the Hatch-Waxman Amendments) established procedures for approval of ANDA's for drug products that are generic versions of previously approved drug products. In the **Federal Register** of April 28, 1992 (57 FR 17950), FDA

published regulations implementing provisions of the Hatch-Waxman Amendments. After publication of these regulations, FDA's Office of Generic Drugs issued the Interim Inactive Ingredient Policy on November 17, 1994, to provide additional guidance on inactive ingredients in drug products that were the subjects of ANDA's. (This policy statement was issued as a memorandum and was not published in the **Federal Register**.)

After 4 years of experience and new considerations raised by both the agency and regulated industry, FDA has concluded that the policies contained in the Interim Inactive Ingredient Policy no longer represent current agency thinking on many of the issues discussed in the document. Therefore, FDA has decided to revoke the Interim Inactive Ingredient Policy.

The Office of Generic Drugs is developing a draft guidance regarding inactive ingredients in drug products that are the subject of ANDA's. This guidance will be issued under FDA's good guidance practices described in a notice published in the **Federal Register** of February 27, 1997 (62 FR 8961). Until the guidance is issued, applicants who have questions about the use of inactive ingredients in a drug product for which they plan to submit an ANDA should contact the Office of Generic Drugs (address above).

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10798 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Preclinical Pharmacology Studies of Anti-Tumor and Anti-AIDS Agents.

Date: May 20–21, 1999.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Lalita D. Palekar, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN–622B, Rockville, MD 20892–7405, 301/496–7575.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Committee Management Officer, National Institutes of Health.

[FR Doc. 99–10926 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel—The Hepatitis Animal Model Network.

Date: May 27–28, 1999.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Gaithersburg, Washington Room, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

Contact Person: Lucia I. Gonzalez, PhD., Scientific Review Administrator, Division of Extramural Activities, NIAID, Scientific Review Program, Solar Building, Room 4C20, 6003 Executive Boulevard, Bethesda, MD 20892, 301–496–8424, lg122e@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, National Institutes of Health.

[FR Doc. 99–10920 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–7 (M1)P.

Date: May 6–7, 1999.

Time: May 6, 1999, 8:30 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–D C2.

Date: May 20, 1999.
Time: 1:00 p.m. to Adjournment.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Richard A. Pledger, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS37F, National Institutes of Health, Bethesda, MD 20892, (301) 594–8886.
(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)
Dated: April 26, 1999.

Anna Snouffer,
Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10921 Filed 4–29–99; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Computerized Neuropsychological Testing Software.
Date: April 28, 1999.
Time: 10:30 a.m. to 12:30 p.m.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.
Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Development of a Management Information System on Ethnic Specific Factors in the Etiology of Drug Abuse.
Date: May 14, 1999.
Time: 2:00 p.m.to 4:00 p.m.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.
(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)
Dated: April 26, 1999.

Anna Snouffer,
Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10922 Filed 4–29–99; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel—National Cooperative Drug Discovery Groups—Opportunistic Infections.
Date: June 4–5, 1999.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Gaithersburg, The Washington Room, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.
Contact Person: Vassil S. Georgiev, PhD, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C04, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–496–8206.
(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)
Date: April 26, 1999.

Anna Snouffer,
Acting Director, Office of Federal Advisory Committee Policy, National Institutes of Health.

[FR Doc. 99–10923 Filed 4–29–99; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel National Cooperative Drug Discovery Groups-Opportunistic Infections-R01.
Date: June 10–11, 1999.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Gaithersburg, the Goshen Room, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.
Contact Person: Vassil S Georgiev, PhD., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C04, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–496–8206.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, National Institute of Health.

[FR Doc. 99–10924 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: May 13, 1999.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: May 14, 1999.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10927 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel IFCN 6.

Date: April 27, 1999.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–BDCN–1 (08)S.

Date: April 28, 1999.

Time: 12 p.m. to 12:45 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joe Marwah, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, (301) 435–1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel IFCN 6.

Date: April 29, 1999.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 7, 1999.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Dated: April 26, 1999.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Anna Snouffer,

Acting Committee Management Officer, National Institutes of Health.

[FR Doc. 99–10925 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–17]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 22, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 99–10485 Filed 4–29–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4434–N–02]

Quality Housing and Work Responsibility Act of 1998; Update on Initial Guidance and Clarification and Technical Corrections

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On February 18, 1999, HUD published a Notice of Initial Guidance on the Quality Housing and Work Responsibility Act of 1998. This new statute, part of HUD's fiscal year 1999 HUD Appropriations Act, embodies many of the reforms of the HUD 2020 Management Reform Plan that are directed at revitalizing and improving HUD's public housing and Section 8 assistance programs. The February 18, 1999 Notice advised the public of those public and assisted housing statutory provisions that are effective immediately and action that may or should be taken immediately. The February 18, 1999 Notice also provided guidance on certain other provisions in the FY 1999 HUD Appropriations Act that impact public housing programs and Section 8 assistance.

This second Notice provides clarification and corrections for certain guidance provided in the February 18, 1999 Notice, and provides guidance on a statutory provision not addressed in the February 18, 1999 Notice.

FOR FURTHER INFORMATION CONTACT: For further information regarding public housing and the Section 8 certificate, voucher and moderate rehabilitation programs contact Rod Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4116, Washington, DC, 20410; telephone (202) 708–0713 (this is not a toll-free number). For further information regarding other Section 8 programs contact Willie Spearmon, Director, Office of Multifamily Business Products; telephone (202) 708–3000. Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Program specialists for more specific HUD program areas are listed on the HUD web page at http://hudweb.hud.gov/offices.html.

SUPPLEMENTARY INFORMATION: The Quality Housing and Work Responsibility Act of 1998 (title V of the FY 1999 HUD Appropriations Act; Pub. L. 105–276, 112 Stat. 2461, approved October 21, 1999) (QHWRA)) enacts landmark measures that include transforming public housing, deconcentrating poverty, creating additional housing assistance vouchers, merging the Section 8 certificate and voucher programs, and enabling more families to obtain FHA mortgages to become homeowners. Although the QHWRA makes significant and numerous amendments to the United States Housing Act of 1937 (USHA), the USHA remains in effect except as amended by the QHWRA.

On February 18, 1999 (64 FR 8192), HUD published a Notice of Initial Guidance on the QHWRA. The purpose of the February 18, 1999 Notice was to advise HUD's public housing and Section 8 program partners, as well as members of the public, of certain provisions of the QHWRA that are effective immediately and to provide guidance with respect to actions that may now be taken or should be taken by PHAs and owners of Section 8 assisted projects. The February 18, 1999 Notice, however, did not provide guidance on all QHWRA sections. The February 18, 1999 Notice addressed those key statutory sections that are effective immediately, and which HUD believed would be helpful to PHAs and others to receive early guidance.

This second Notice provides clarification on and corrections to certain provisions in the February 18, 1999 Notice, and provides guidance on a QHWRA statutory provision not addressed in the February 18, 1999 Notice.

Section I. Corrections and Clarifications to the February 18, 1999 Notice

Section 507—Minimum Rent for Public Housing and Section 8 Assistance

Section 507 amends section 3(a) of the USHA which addresses minimum rents for public housing and section 8 assistance. In the guidance provided for section 507 at page 8197 (last column), HUD advised that as soon as practicable, the PHA must notify all families of the right to request a minimum rent hardship exemption under the law, and that determinations are subject to the grievance procedure.

Clarification. This Notice clarifies that the notification to be provided to families regarding hardship exemptions (which should have occurred already) can be to families subject to minimum rents or subject to minimum rents at some time since enactment of the QHWRA, but not literally to "all" families as stated in the February 18, 1999 Notice. Families who become subject to minimum rents also must receive this notification. In addition, the title "Action Guidance for Section 8 Certificate, Voucher and Moderate Rehabilitation Programs" is revised to read: "Action Guidance for the Section 8 Programs" to correct an inadvertent error. The minimum rent guidance applicable to the tenant-based and moderate rehabilitation programs also applies to all the other Section 8 programs.

Section 513—Public Housing Income Targeting

Section 513 amends section 16 of the USHA to establish, among other things, public housing deconcentration requirements, annual requirements for admitting families with incomes below thirty percent (30%) of area median income, and related income targeting requirements. The guidance for this section was provided at pages 8199 to 8200.

In the guidance provided for Section 513, HUD noted in paragraph (1)(b) on page 8200 (first column) that there are three further limitations on a PHA's use of fungibility with respect to income targeting for public housing. ("Fungibility" refers to the fact that to a certain extent, the PHA can credit section 8 tenant-based admissions above the minimum targeting requirements to satisfy its public housing targeting requirements.) The February 18, 1999 guidance provided that fungibility "credits" only can be used to drop the annual requirement for housing very poor families, as described above, below 40 percent of newly available units in public housing, by the lowest of three amounts. These three amounts were described in the notice at page 8200, under paragraphs designated (1)(a), (b) and (c). The amount provided by paragraph (1)(b) was the number of units that (i) are in projects located in census tracts having a poverty rate of 30% or more, and (ii) are made available for occupancy by and actually occupied by very poor families.

Correction. Paragraph (1)(b) in the first column of page 8200 should have read as follows:

(b) The number of public housing units that (i) are in public housing projects located in census tracts having a poverty rate of 30% or more, and (ii) are made available for occupancy by, and actually occupied in that year by, families other than very poor families.

Section 514—Repeal of Federal Preferences in the Public Housing and Section 8 Programs

Section 514 provides for the permanent repeal of Federal preferences, including the permanent repeal of the right of certain public housing residents to retain federal preference status on the Section 8 certificate and voucher waiting list; and also authorizes local preferences. (The elimination of the previous statutory preference for the admission of elderly, disabled and displaced persons before other single persons in the public housing and Section 8 programs was accomplished by section 506 rather than section 514.)

In the guidance for this section on page 8201 (first column) HUD advised, among other things, that because there is no indication in the QHWRA that Congress intended to disrupt existing local preferences, existing local preferences may remain without further immediate PHA action or may be altered in the manner authorized before enactment of the QHWRA.

Clarification. HUD wishes to clarify that with respect to the manner in which existing local preferences were authorized to be altered before the enactment of QHWRA, HUD is referring to the manner authorized under prior HUD appropriations acts. For the purposes of selecting families from the waiting list, prior HUD appropriations acts provided that a PHA may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy (consolidated plan) of either the State or local general government of the PHA's jurisdiction.

Section 535—Demolition, Site Revitalization, Replacement Housing, and Tenant-Based Assistance Grants for Public Housing Projects

Section 535 amends section 24 of the USHA and provides the continued authority for the HOPE VI program, and establishes application selection and grant requirements.

In the guidance for this section on page 8204 (first column), HUD noted the exemption from the requirements of section 18 of the USHA for severely distressed public housing that is demolished in accordance with a revitalization plan.

Clarification. HUD wishes to clarify that where HOPE VI funds are awarded for demolition only, no revitalization plan is required, and therefore there is no exemption from the requirements of section 18 of the USHA.

Section II—New Guidance

Section 564—Public Housing Management Assessment Program

Section 564 makes several amendments to section 6(j) of the USHA. One of these amendments excludes small PHAs (PHAs with less than 250 units) from an independent assessment that otherwise would be required once a small PHA has been designated as troubled. Section 6(j)(2)(B)(i) limits this independent assessment to PHAs with more than 250 units.

Action Guidance. Section 6(j)(2)(B)(i) is effective immediately

Section III—Future Guidance

As HUD noted in the February 18, 1999 Notice, the QHWRA makes significant changes to HUD's public housing and Section 8 programs. With many of the changes immediately effective, substantial responsibility is placed on PHAs and Section 8 owners to implement these changes promptly. HUD remains committed to working closely with its public housing and Section 8 partners to make the changes in its public housing and Section 8 programs a success. HUD will continue to provide any additional guidance that may be needed through direct notices to PHAs and Section 8 owners, additional **Federal Register** notices, or through other means that may be determined appropriate.

Dated: April 22, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–10733 Filed 4–29–99; 8:45 am]
BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Renewal Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We have submitted the information collection requirements to evaluate visitor responses to the recreation fee demonstration program in our National Wildlife Refuges to OMB for approval under the provisions of the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before June 1, 1999.

ADDRESSES: Send comments and suggestions on specific requirements directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of the Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503; and a copy to our Information Collection Clearance Officer, U.S. Fish and Wildlife Service [MS 222 ARLSQ], 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Doug Staller, Chief, Branch of Visitor Services, Division of Refuges, (703) 358–2029; or Dr. Jonathan G. Taylor, Research Social Scientist, U.S.

Geological Survey, Fort Collins, CO (970) 226–9438.

SUPPLEMENTARY INFORMATION: We submitted the following proposed information collection clearance requirement to OMB for review and approval under the Paperwork Reduction Act of 1995, Pub. L. 104–13. OMB has up to 60 days to approve or disapprove information collection. To ensure maximum consideration, OMB should receive public comments by June 1, 1999. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We previously published a 60-day notice inviting public comment on this information collection in the **Federal Register** on February 16, 1999 (64 FR 7661).

We invite comments on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Congress authorized a recreation fee demonstration program in Pub. L. 104–134. We were one of the four agencies mandated to implement the program and evaluate its impact on the visiting public. We designed this study to scientifically evaluate visitor reactions and impact of the fees on visitation to the national wildlife refuges (NWR); U.S. Geological Survey, Biological Resources Division, Social Economic and Institutional Analysis Section will conduct the survey under a cooperative agreement with us.

Although we planned to end this survey on December 15, 1998 with a joint report issued on March 31, 1999, a November, 1998 GAO report (GAO-RCED–99–7) recommended that only one year of data collection for the recreation fee demonstration program was insufficient. GAO concluded that this collection should continue for further evaluation. Section 328 of H.R. 4193 (subsequently in FY 1999 Interior appropriations) authorized extension of the program through FY 2001.

To represent the various types of fee changes as well as fee demonstration refuges, we selected six distinct fee programs and nine refuges for inclusion in the study. These include (1) New entrance fees [Sacramento NWR, CA and Aransas NWR, TX]; (2) increased entrance fees [Dungeness NWR, WA]; (3) new annual passes [Chincoteague NWR, VA and Crab Orchard NWR, IL]; (4) new hunt fees [St. Catherine's Creek NWR, MS and Balcones Canyonlands NWR, TX]; (5) non-hunt use permits [Buenos Aires NWR, AZ] and (6) non-fee adjustments [Piedmont NWR, GA]. We will survey random samples of individuals using these refuges. We plan to use as part of the evaluation process a survey questionnaire to assess the different fee programs. We will distribute an on-site questionnaire during the peak season to a random sample of the visiting public and obtain a minimum of 400 completed surveys for each fee type. We will obtain additional information from Sacramento NWR to allow for examination of credit card entrances as well as new entrance fees in general. We will ask no questions of the participants, simply note payment by credit card. Overall, this will result in a total sample of 2,400 respondents. The margin of error for each fee type is ±5% at the 95% confidence level. The information gained from this survey will provide a viability of the fee program among the visiting public. The lead project officer is Dr. Jonathan G. Taylor, Research Social Scientist, phone 970/226/9438, 4512 McMurry Avenue, Fort Collins, CO 80525–3400.

Title: Evaluation of visitor responses to recreation fee demonstration program.

Bureau for number: None.

Frequency of collection: On Occasion.

Description of the respondents: Individuals and Households.

Number of respondents: 2,400.

Estimated completion time: 10 minutes.

Burden estimate: 400 hours.

Dated: April 6, 1999.

Allyson Rowell,

Assistant Director for Refuges and Wildlife.

[FR Doc. 99–10804 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On December 28,1998, a notice was published in the **Federal Register**, Vol. 63, No. 248, Page 71497, that an application had been filed with the Fish and Wildlife Service by Dennis Leistico for a permit (PRT–006163) to import one polar bear (*Ursus maritimus*) trophy taken from the M'Clintock Channel population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19,1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Walter Prothero for a permit (PRT–004450) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Thomas LaBarge for a permit (PRT–003976) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Danny Sardella for a permit (PRT–004449) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Jerry Rubenstein for a permit (PRT–004001) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Leonard Guldman for a permit (PRT–007981) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Daniel Smith for a permit (PRT–004453) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 26, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 38, Page 9522, that an application had been filed with the Fish and Wildlife Service by Alberto De Jongh for a permit (PRT–008115) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 15, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On January 22, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 14, Page 3539, that an application had been filed with the Fish and Wildlife Service by Alaska Zoo for a permit (PRT–844696) to take one orphaned polar bear (*Ursus maritimus*) from Barrow, Alaska for the purpose of public display.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by James Doyle for a permit (PRT–002160) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 8, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Ken Trudell for a permit (PRT–004729) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Roger Ebnet for a permit (PRT–003974) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by John Walchli for a permit (PRT–004732) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 15, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Eugene Giscombe for a permit (PRT–843163) to import one polar bear (*Ursus maritimus*) trophy taken from the McClintock Channel population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Henry P. Anderson, III for a permit (PRT–004877) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Grant Medlin for a permit (PRT–840855) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Dean E. Wilkie for a permit (PRT–840282) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No.33, Page 8397, that an application had been filed with the Fish and Wildlife Service by William Joseph

Haley for a permit (PRT–004879) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by William G. Wilson for a permit (PRT–004767) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Lee E. Bernson for a permit (PRT–006591) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Dennis D. Brownley for a permit (PRT–003835) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by George R. Koebel for a permit (PRT–007081) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Lawrence T. Epping for a permit (PRT–004769) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Kenneth Barr for a permit (PRT–004730) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 6, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 26, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 38, Page 9522, that an application had been filed with the Fish and Wildlife Service by Jeff C. Neal for a permit (PRT–008116) to import one polar bear (*Ursus maritimus*) trophy taken from the Davis Strait population, Canada, prior to April 30, 1994, for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Robert G. Gegenheimer for a permit (PRT–843446) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 19, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: April 26, 1999.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–10803 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–065–1220–00]

Upper Columbia-Salmon Clearwater Districts, Idaho; Notice of Closure and Restriction Order for BLM Lands in Short's Bar and Island Bar Areas, Order No. ID–060–15

SUMMARY: By order, the following closures and restrictions apply to the areas known as "Short's Bar," described as all public land administered by the Bureau of Land Management in T.24N., R.1E., section 14, Idaho County, Idaho and "Island Bar," described as all public land administered by the Bureau of Land Management in T.24N., R.2E., section 18.

(1) The possession or consumption of alcoholic beverages to a person under 21 years of age is prohibited.

(2) The sale or gift of an alcoholic beverage to a person under 21 years of age is prohibited.

The authority for establishing these closures and restrictions is 43 CFR 8364.1.

The closures and restrictions are in effect from April 30, 1999 through May 3, 1999.

The closures and restrictions are necessary to protect persons, property, public lands and resources. Persons abusing alcohol cause a public disturbance and create a risk to other persons on public lands.

Violation of this order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed one year.

FOR FURTHER INFORMATION CONTACT: Greg Yuncevich, Area Manager, Bureau of Land Management, Cottonwood Field Office, Route 3, Box 181, Cottonwood, ID 83522.

Dated: April 23, 1999.

Ted Graf,

Acting District Manager.

[FR Doc. 99–10813 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–030–1310–00]

Continental Divide/Wamsutter II Natural Gas Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Continental Divide/Wamsutter II (CD/WII) Natural Gas Project Draft Environmental Impact Statement (DEIS) which analyzes the environmental consequences of the CD/WII proposed natural gas development and production operation. Expansion of natural gas exploration and development is proposed in and adjacent to other oil and gas developments including the Greater Wamsutter Area II, Creston/Blue Gap, Table Rock field, Hay Reservoir, Patrick Draw, and Mulligan Draw. The 1,061,200 acre CD/WII project area is located within the administrative jurisdictions of the BLM Rawlins and Rock Springs Field Offices, approximately 25 miles west of Rawlins and 40 miles east of Rock Springs along Interstate Highway 80 in Townships 15–23 North, Ranges 91–99 West, Sixth Principal Meridian, Sweetwater and Carbon Counties, Wyoming. Most of the 531,400 acres of Federal land in the project area lie within the "checkerboard"—a land ownership pattern created when the United States conveyed alternate sections of land to the Union Pacific Railroad along their railroad right-of-way. Currently there are approximately 845 oil and gas wells drilled within the project area and up to 3,000 additional wells could be drilled over the next 20 years.

DATES: Written comments on the DEIS will be accepted for 60 days following the date that the Environmental Protection Agency (EPA) publishes their notice of availability of the DEIS in the **Federal Register**. The EPA notice is expected to be published April 30, 1999.

Two public meetings are scheduled to obtain public comments on the proposed project and the DEIS: May 24, 1999, 7 p.m., at the BLM Rock Springs Field Office conference room, 280 Highway 191 North, Rock Springs, Wyoming; and May 25, 1999, 7 p.m., at the BLM Rawlins Field Office conference room, 1300 North Third Street, Rawlins, Wyoming. Also, the above field offices will hold open houses on the respective public meeting dates from 1:30 p.m. to 4:00 p.m. to answer any questions interested parties may have regarding the proposed project.

ADDRESSES: Send written comments to: Clare Miller, Team Leader, Rawlins Field Office, Bureau of Land Management, 1300 N. Third Street, P.O. Box 2407, Rawlins, Wyoming 82301, or e-mail to Clare_Miller@blm.gov.

FOR FURTHER INFORMATION CONTACT: Clare Miller, phone 307–328–4245, or Teresa Deakins, phone 307–352–0211.

SUPPLEMENTARY INFORMATION: Amoco Production Company, Union Pacific Resources, Snyder Oil Corporation, Yates Petroleum Corporation, and other companies (Operators) propose to drill up to 3,000 wells over the next 20 years exploring and developing their existing leases within the CD/WII project area. Well density would range from one well per 640 acres to eight wells per 640 acres.

The CD/WII DEIS analyzes the impacts of the Proposed Action—full field development of 3,000 wells, along with access roads, pipelines, and other ancillary facilities (gas processing plant, compressor stations, water disposal sites, etc.). Alternative A is similar to the Proposed Action, but would limit disturbance on Federal lands in Sensitive Resource Areas (SRA)—areas containing high value resources—to no more than 14 acres of additional disturbance per section. Alternative B also is similar to the Proposed Action, but would limit disturbance to no more than 30 acres of additional disturbance per section on Federal lands within SRAs. The No Action Alternative analyzes the current, ongoing level of development (845 wells) in the CD/WII area and continuation of that activity into the future. The Proposed Action would be denied under the No Action Alternative.

Based upon issues and concerns identified during the scoping process, this DEIS focuses on the impacts to air quality, biological and physical resources, transportation, socio-economics, and cumulative effects. The DEIS, in compliance with Section 7(c) of the Endangered Species Act, as amended, includes the Biological Assessment for the purpose of identifying endangered or threatened species which may be affected by the proposed action.

Comments, including the names and street addresses of respondents, will be available for public review at the BLM offices listed above during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except for Federal holidays. Your comments may be published as part of the EIS process. Individual respondents may request confidentiality. If you wish to withhold your name and/or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspections in their entirety.

Dated: April 26, 1999.

Alan R. Pierson,

State Director.

[FR Doc. 99–10822 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–070–99–5101–00; J–508; UTU–77149, UTU–77164]

San Juan County, NM; La Plata, Montezuma, Dolores, and San Miguel Counties, CO; and San Juan, Grand, Emery, Carbon, Sanpete, Utah, and Salt Lake Counties, UT; EIS for Pipeline Transportation of Refined Petroleum Products and Natural Gas

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) and notice of EIS scoping meetings for construction of pipeline facilities and transportation of refined petroleum products via underground pipeline in San Juan County, New Mexico; La Plata, Montezuma, Dolores, and San Miguel Counties, Colorado; and San Juan, Grand, Emery, Carbon, Sanpete, Utah, and Salt Lake Counties, Utah; and the construction of pipeline facilities and transportation of natural gas via

underground pipeline in Carbon, Sanpete and Utah Counties, Utah.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, the Bureau of Land Management (BLM), Price Field Office, will be directing the preparation of an EIS on the impacts of proposed transportation of *refined petroleum products* through a pipeline located on public, National Forest System, and private lands in northwest New Mexico, southwest Colorado, and southeast to north-central Utah. In addition, the EIS will analyze the impacts of proposed transportation of *natural gas* through a pipeline located on public and private lands in southeast to north-central Utah. The Federal Energy Regulatory Commission (FERC) and U.S. Forest Service, Manti-LaSal and Uinta Forests, will be participating in the EIS preparation as cooperating agencies in accordance with 40, CFR 1501.6. Because these separate proposed actions would share approximately 102 miles of utility corridor, the BLM and cooperating agencies will analyze the impacts in a single EIS process. The EIS may also address the impacts of other potential utility projects proposed for portions of the corridor in Utah.

SUPPLEMENTARY INFORMATION: Williams Pipe Line Company has proposed to transport *refined petroleum products* to the Wasatch Front area of Utah using a combination of existing pipelines in New Mexico and Colorado, and a new segment of pipeline in Utah from near Thompson Springs to a terminal on the Wasatch Front. The *refined petroleum products* would include diesel fuel, fuel oil, jet fuel, and gasoline. Questar Pipeline Company has proposed to increase its transportation of *natural gas* from the Price area by installing a parallel pipeline along its existing Main Line (ML) 40/41 Pipeline from Price to Payson, Utah, and then west to a new interconnect point with Kern River Pipeline in the vicinity of Elberta, Utah, and north to a terminus near Lehi, Utah. The BLM is preparing an EIS to analyze the effects of the proposed pipelines and appurtenant facilities.

Summary Description of Williams Pipe Line Company's Proposed Action

Transportation of *refined petroleum products* through underground pipeline from west Texas to a terminal site along the Wasatch Front of Utah is proposed. Williams Pipe Line Company would use the pipeline network to distribute products to distinct markets in New Mexico, western Colorado, and the growing Wasatch Front area of Utah. The northern portion of the project serving markets in northwestern New Mexico, western Colorado and southeast Utah would involve re-engineering of existing natural gas pipeline. A new 237-mile pipeline would be constructed to connect the re-engineered, existing pipeline network from near Thompson Springs, Utah to the Wasatch Front. Terminals would be constructed adjacent to I–70 near Green River, Utah and near Salt Lake City along the Wasatch Front. Other appurtenant pipeline facilities may include check valves approximately every 10 to 15 miles, a cathodic protection system, aerial markers, and scraper launchers and traps. Existing pump stations near Ignacio, Dolores and Dove Creek, Colorado, and Lisbon and Moab Utah, would have pumping units added for the project. New pump stations would be constructed at one location in northwest New Mexico, one location in southwest Colorado, and two locations in Utah.

The southern segment of the project extending from west Texas to northwest New Mexico would include the use of existing or new terminals in Albuquerque and Bloomfield, New Mexico and other facilities. However, because the northern and southern segments of the pipeline project would serve separate and distinct markets and have substantial independent utility, the BLM will undertake separate NEPA analyses for the segments. The Price Field Office of BLM will be the lead office to assess effects of the proposed pipeline and appurtenant facilities within Utah, existing pipeline re-engineering and appurtenant facilities in Colorado, and the existing pipeline re-engineering north of Bloomfield, New Mexico. BLM staff in New Mexico will assess effects of the portions of the project serving markets in Texas and most of New Mexico.

Summary Description of Questar Pipeline Company's Proposed Action

In order to service the current and future transportation needs of natural gas development in central Utah south of Price to markets along the Wasatch Front and existing Kern River Pipeline, Questar Pipeline Company proposes to increase its system capacity by installing a new 102-mile, 20-inch outside diameter natural gas pipeline loop from Price to Lehi, Utah. The ML 40/41 Loop would be installed parallel to Questar Pipeline Company's existing ML 40/41 Pipeline from Price to Payson. From the Payson Meter Station, the pipeline would continue due west approximately 18 miles through the Goshen Valley and tie into the Kern River Pipeline near Elberta, Utah. From the tie-in with Kern River, the pipeline would continue within the existing Kern River corridor approximately 30 miles north to a termination point due west of Lehi, Utah.

Preliminary Issues

Tentatively identified issues of concern may include: cultural resources, wildlife, water resources, land use, socioeconomics and visual resources.

Possible Alternatives

The EIS will analyze the Proposed Actions and No-Action Alternatives. Other alternatives may include different routes for portions of each pipeline, fewer but larger pipelines in the corridor, and optional sites for pipeline facilities, as well as mitigating measures to minimize impacts.

Decisions To Be Made

Separate Records of Decision would be issued for the Williams and Questar proposals. Questar Pipeline Company's proposed action is regulated by the FERC, and the FERC will review Questar Pipeline Company's Application for a Certificate of Public Convenience and Necessity under the Natural Gas Act.

Tentative Project Schedule

The tentative project schedule is as follows:

- Begin Public Comment Period—April 1999.
- Hold Scoping Meetings—May 1999.
- File Draft EIS—January 2000.
- File Final EIS—June 2000.
- Record of Decision—July 2000.

Public Scoping Meetings

Eight public scoping meetings will be held, each one beginning at 7:00 p.m. All locations except for Durango, Colorado, are in Utah. The meeting locations include:

- May 18 *Green River:* John Wesley Powell Hall of Fame Museum.
- May 19 *Moab:* Moab Civic Center Senior Citizens Center.
- May 20 *Price:* Holiday Inn.
- May 25 *Salt Lake City:* Wyndham Hotel.
- May 26 *Payson:* Payson City Hall Banquet Room.
- May 27 *Lehi:* Lehi High School.
- June 2 *Dolores:* Anasazi Heritage Center.
- June 3 *Durango:* Doubletree Hotel.

Public Input Requested

Comments concerning the Proposed Action and EIS should address issues to be considered, feasible alternatives to examine, possible mitigation, and

information relevant to or having bearing on the Proposed Action.

DATES: The comment period for scoping of the EIS will commence with publication of this notice. Written comments must be submitted on or before June 11, 1999. Eight public scoping meetings will be held to receive oral comment on May 18, 19, 20, 25, 26, and 27, and June 2 and 3, 1999, at the times and locations listed under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Comments should be sent to Mark Mackiewicz, Williams Aspen Pipeline EIS Team Leader, Bureau of Land Management, 125 South 600 West, Price, Utah 84501 or at e-mail: *mmackiew@ut.blm.gov*

FOR FURTHER INFORMATION CONTACT: Mark Mackiewicz, (435) 636–3616 or at e-mail: *mmackiew@ut.blm.gov*

Dated: April 22, 1999.

Linda S. Colville,

Acting State Director.

[FR Doc. 99–10821 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–960–99–1990–00]

Resource Advisory Council Meeting, Butte, MT

AGENCY: Butte Field Office, Bureau of Land Management, DOI.

ACTION: Notice of meeting.

SUMMARY: The Western Montana Resource Advisory Council will convene at 9 a.m., Monday, June 7, 1999, at the Butte Field Office, 106 North Parkmont, Butte, Montana. Issues to be discussed will include the Whitetail-Pipestone (TailPipe) Environmental Impact Statement review and an update on the progress of the new members' nominations.

On Sunday, June 6, a Field trip to the TailPipe area is planned. This trip is optional to members and will not be an officially sanctioned tour.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 11 a.m. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting, or who need special assistance, such as sign language or other reasonable accommodations, should contact the Butte Field Office, 106 North Parkmont (P.O. Box 3388), Butte, Montana 59702–3388, telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT: BLM Butte Field Manager Merle Good at the above address or telephone number.

Dated: April 22, 1999.

Merle Good,

Butte Field Manager.

[FR Doc. 99–10868 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–DN–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–99–1990–00; MTM–68606]

Amendment of Commercial Lease To Include Additional Public Lands for Expansion of a Ski Area in Lewis and Clark County, MT

AGENCY: Butte Field Office, Bureau of Land Management, DOI.

ACTION: Notice of realty action.

SUMMARY: Great Divide Ski Area, Inc., has requested use of the following described lands to accommodate expansion of the Great Divide Ski Area.

Principal Meridian, Montana

T. 12 N., R. 6 W.,
- Sec. 26: SW¼—Patent #34463
- Sec. 27: Lot 6 (remainder unlotted), Lot 7, Lot 8 (remainder unlotted), Lot 11, NE ¼ SW¼ (remainder unlotted), Unlotted parcel in SE¼SE¼, Mineral Survey 1782B
- Sec. 34: Lot 1 (remainder unlotted), Lot 2 (remainder unlotted), Lot 3, Lot 6, Lot 7 (remainder unlotted), Lot 8 (remainder unlotted), Lot 9 (two small unlotted parcels), Lot 14 (remainder of unlotted area)

These lands are comprised of about 396.71 acres.

The lands are located on Mt. Belmont, approximately 15 air miles northwest of Helena. The amendment would be issued under section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1732, and would be issued noncompetitively to the above lessee. The term of this lease is through September 30, 2016. Fair market rental will be collected for these additional lands, as well as reasonable administrative and monitoring costs for processing the amendment. The amendment will be subject to the terms and conditions of the existing lease. Final determination on the lease of these additional lands will be made upon completion of an environmental assessment.

DATES: On or before June 14, 1999, interested parties may submit comments to the Field Manager, Butte Field Office, P.O. Box 3388, Butte, Montana 59702–3388.

FOR FURTHER INFORMATION CONTACT: Bob Rodman at 406–494–5059 or at the above address.

Dated: April 22, 1999.

Merle Good,

Butte Field Manager.

[FR Doc. 99–10865 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–62813]

Notice of Realty Action; Nevada

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The following described land in Elko County, Nevada has been examined and found suitable for classification for purchase under the Recreation and Public Purposes Act (R&PP) of June 14, 1926, as amended (43 U.S.C. 869 et. seq.). The lands will not be offered for purchase until at least 60 days after the date of publication of this Notice in the **Federal Register**.

Mount Diablo Meridian, Nevada

T. 33 N., R. 69 E.,
- Sec 26, S½N½NE¼¼SE¼, S½NE¼SE¼, SE¼NE¼NW¼SE¼, E½SE¼NW¼SE¼, E½E½SW¼SE¼, SE¼SE¼.

Containing 87.5 acres, more or less.

DATES: The land will become segregated on April 30, 1999. Comments are due in this office by June 14, 1999.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, Nevada.

SUPPLEMENTARY INFORMATION: The City of West Wendover intends to use the land for a Class 1 landfill. The patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act, applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereof for ditches and canals constructed by the authority of the United States; Act of August 30, 1890 (43 U.S.C. 945).

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same under applicable laws and regulations to be established by the

Secretary of Interior. The grant of the herein described lands is subject to any other reservations, provisions or covenants provided by the Recreation and Public Purposes Act that the authorized officer deems appropriate, including the following provision: A statement from the City of West Wendover indemnifying the United States harmless against any legal liability or future costs directly or indirectly attributable to the disposal of solid waste or release of hazardous substances on the subject land. Upon publication of this Notice of Realty Action in the **Federal Register**, the subject lands will be segregated from all forms of appropriation under the public land laws, including locations under the mining laws, except for recreation and public purposes. The segregative effect shall terminate upon issuance of a patent or as specified in an opening order to be published in the **Federal Register**, whichever occurs first. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Elko Field Office, 3900 Idaho Street, Elko, NV 89801. Any objections will be evaluated by the State Director, who may sustain, vacate or modify this realty action. In the absence of timely filed objections, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

Classification Comments

Interested parties may submit comments involving the suitability of the land for conveyance under the Recreation and Public Purposes Act. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a Class 1 landfill.

Dated: April 20, 1999.

David L. Stout,

Acting Field Manager.

[FR Doc. 99–10809 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plats of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., on the date the plat was accepted.

The plat representing the dependent resurvey of portions of the south and west boundaries, the subdivisional lines, and the original 1891 meanders of the Salmon River in section 30, and the subdivision of sections 29, 30, and 33, and the survey of lots 2 and 5 in section 33, the 1994–1997 meanders of the Salmon River in section 30, and an island in the Salmon River, designated as lots 16 and 17 in section 30, T. 23 N., R. 22 E., Boise Meridian, Idaho, Group 909, was accepted March 17, 1999.

The plat representing the dependent resurvey of portions of the west boundary, subdivisional lines, and the original 1897 meanders of the Snake River, and the subdivision of section 30, T. 10 S., R. 21 E., Boise Meridian, Idaho, Group 1029, was accepted March 17, 1999.

The supplemental plat prepared to amend lottings created by the cancellation of Mineral Survey No. 2443, T. 10 S., R. 21 E., Boise Meridian, Idaho, was accepted March 18, 1999.

These surveys were executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 S. Vinnell Way, Boise, Idaho, 83709–1657.

Dated: March 18, 1999.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 99–10867 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment for Proposed Lease Sale 175 in the Central Gulf of Mexico (2000)

AGENCY: Minerals Management Service.

ACTION: Preparation of an Environmental Assessment.

SUMMARY: The Minerals Management Service (MMS) is beginning preparation of an environmental assessment (EA) for proposed lease Sale 175 (scheduled for March 2000) in the Central Gulf of Mexico Planning Area. In August 1996, MMS issued a Call for Information and Nominations/Notice of Intent to Prepare an EIS (Call/NOI) for the five proposed Central Gulf of Mexico sales in the current 5-year leasing program. In 1997, MMS prepared a single environmental impact statement (EIS) for all five sales. The multisale Final EIS, filed in November 1997, included an analysis of a single, "typical" sale, and a cumulative analysis that included the effects of holding all five sales, as well as the cumulative effects of the long-term development of the planning area. The MMS stated in the EIS that an EA would be prepared for each lease sale after the first sale covered in the EIS (Sale 169).

The preparation of this EA is the first step in the prelease decision process for Sale 175. The proposal and alternatives for Sale 175 were identified by the Director of MMS in November 1996 following the Call/NOI and were analyzed in the Central Gulf multisale EIS, which is available from the Gulf of Mexico OCS Region's Public Information Office at 1–800–200–GULF. The proposed action analyzed in the multisale EIS was the offering of all available unleased acreage in the Central Gulf of Mexico Planning Area. The EA will also analyze alternatives to defer blocks south and within 15 miles of Baldwin County, Alabama, and to defer blocks containing topographic features with sensitive biological resources, as well as the no action alternative. The analysis in the EA will reexamine the potential environmental effects of the proposal and alternatives based on any new information regarding potential impacts and issues that was not available at the time the Final EIS was prepared.

The MMS requests interested parties to submit comments regarding any such new information or issues that should be addressed in the EA to Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5410), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 by May 31, 1999. After completion of the EA, MMS will determine whether to prepare a Finding of No New Significant Impact (FONNSI) or a supplemental EIS. The MMS will then prepare and send consistency determinations to the affected States to determine whether the proposed sale is consistent with federally-approved State coastal zone management programs, and will send a proposed Notice of Sale to

the Governors for their comments on the size, timing, and location of the proposed sale. The tentative schedule for the steps in the prelease decision process for Sale 175 is listed below:

Comments due to MMS, May 31, 1999;
EA/FONNSI or Supplemental EIS, October 1999;
Proposed Notice of Sale sent to Governors, October 1999;
Consistency Determinations sent to States, October 1999;
Final Notice of Sale in **Federal Register**, February 2000;
Sale, March 2000.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. George Hampton, telephone (504) 736–2465).

Dated: April 26, 1999.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 99–10823 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS Mineral Proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR Section 1501.4 and Section 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA's) and Findings of No Significant Impact (FONSI's), prepared by the MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Activity/operator	Location	Date
William's Gas Pipeline—Transco, G&G Activity, SEA No. M99–3	Pensacola Area, offshore the Florida coast	03/23/99
Fugro Geoservices, Inc., Remote Sensing Activity, SEA No. M99–2.	Mobile Bay Area, and from Alabama to Tampa, Florida, offshore the Alabama and Florida coast.	03/19/99
Exxon Pipeline Company, Pipeline Activity, SEA No. G–20551 ..	Alaminos Canyon Area, Block 25, to Brazos Area, Block 341, Lease OCS–G 20551, 137 miles southeast of Matagorda County, Texas.	02/08/99
Murphy Exploration & Production Company, Exploration Activity, SEA Nos. N–6081 and S–4938.	High Island Area, East Addition, South Extension, Block A–383, Lease OCS–G 17220, 110 miles south of the Texas coast.	04/02/99
British-Borneo Exploration, Inc., Development Activity, SEA No. N–6222UA.	Green Canyon Area, Blocks 254 and 298, Leases OCS–G 7049 and 8010, 90 miles south of Lafourche Parish, Louisiana.	02/03/99
Shell Deepwater Development, Inc., Development Activity, SEA No. N–6230UA.	Mississippi Canyon Area, Blocks 809, 853, 810, and 854; Leases OCS–G 5868, 5871, 9873, and 9883; 56 miles south of Plaquemines Parish, Louisiana.	12/16/98
Conoco, Inc., Exploration Activity, SEA No. N–6277	Green Canyon Area Block 819, Lease OCS–G 16804, 133 miles south of the shoreline of Terrebonne Parish, Louisiana.	11/19/98
Union Oil Company of California, Exploration Activity, SEA No. N–6297.	Mobile Area, Block 826, Lease OCS–G 19800, 4 miles south of Baldwin County, Alabama.	03/12/99
Tri-Union Development Corporation, Development Activity, SEA No. N–6325.	High Island Area, East Addition, Block A–253, Lease OCS–G 14186, 70 miles south of the Texas coast.	01/06/99
Oryx Energy Company, Development Activity, SEA No. S–4589U.	Viosca Knoll Area, Block 825, Lease OCS–G 5778, 58 miles south of the Mississippi coast.	07/22/98
Oryx Energy Company, Development Activity and Pipeline Activity, SEA Nos. S–4749UA and P–12098.	High Island Area, East Addition, South Extension, Blocks A–378 and A–379, Leases OCS–G 13807 and 13808, 110 miles south of the Texas coast.	02/03/99
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 99–01S.	South Timbalier Area, Block 135, Lease OCS 0472, 30 miles south of Lafourche Parish, Louisiana.	02/26/99
Ocean Energy, Inc., Structure Removal Operations, SEA No. ES/SR 99–005.	Eugene Island Area, Block 243, Lease OCS–G 2899, 36 miles south of Vermilion Parish, Louisiana.	01/29/99
Ocean Energy Company, Structure Removal Operations, SEA No. ES/SR 99–006.	Eugene Island Area, Block 245, Lease OCS–G 12922, 36 miles south of Vermilion Parish, Louisiana.	01/29/99
Energy Resource Technology, Inc., Structure Removal Operations, SEA No. ES/SR 99–007.	High Island Area, Block 199, Lease OCS–G 3747, 31 miles southeast of Galveston County, Texas.	03/03/99
Taylor Energy Company, Structure Removal Operations, SEA No. ES/SR 99–008.	South Marsh Island Area, Block 51, Lease OCS 0789, 51 miles southwest of Terrebonne, Louisiana.	01/29/99
Forest Oil Corporation, Structure Removal Operations, SEA No. ES/SR 99–009.	High Island Area, Block 115, Lease OCS–G 6155, 25 miles south of Jefferson County, Texas.	01/15/99
Sonat Exploration Company, Structure Removal Operations, SEA Nos. ES/SR 99–012 thorugh 99–014.	Sabine Pass Area, Block 9, Lease OCS–G 4146, 9 miles south of Cameron Parish, Louisiana.	02/18/99
W&T Offshore, Inc., Structure Removal Operations, SEA No. ES/SR 99–015.	Main Pass Area, Block 234, Lease OCS–G 12100, 33 miles east of Venice, Louisiana.	02/24/99
Samedan Oil Corporation, Structure Removal Operations, SEA No. ES/SR 99–016.	High Island Area, Block A–417, Lease OCS–G 9114, 79 miles south of Galveston County, Texas.	03/04/99
Samedan Oil Corporation, Structure Removal Operations, SEA Nos. ES/SR 99–017 through 99–020.	High Island Area, Block 105, Lease OCS–G 4076, 12 miles southeast of Galveston County, Texas.	03/04/99
Samedan Oil Corporation, Structure Removal Operations, SEA Nos. ES/SR 99–021 and 99–022.	West Delta Area, Blocks 18 and 20, Leases OCS–G 5669 and 7789, 10 miles south of Plaquemines Parish, Louisiana.	03/10/99
Newfield Exploration Company, Structure Removal Operations, SEA No. ES/SR 99–023.	West Cameron Area, Block 609, Lease OCS–G 2850, 93 miles south of Cameron Parish, Louisiana.	03/11/99

Activity/operator	Location	Date
Texaco Exploration & Production Inc., Structure Removal Operations, SEA Nos. ES/SR 99–024 and 99–025.	Eugene Island Area, Block 315, Lease OCS–G 2608, 74 miles south of St. Mary Parish, Louisiana.	03/12/99
Coastal Oil and Gas Corporations, Structure Removal Operations, SEA Nos. ES/SR 99–026 and 99–027.	High Island Area, Blocks A–245 and A–518, Leases OCS–G 13334 and 11389, 79 miles south of Cameron Parish, Louisiana.	03/12/99
Seneca Resources Corporation, Structure Removal Operations, SEA No. ES/SR 99–028.	West Cameron Area, Block 293, Lease OCS–G 4398, 29 miles south of Cameron Parish, Louisiana.	03/24/99
PennzEnergy Exploration and Production Company, L.L.C., Structure Removal Operations, SEA No. ES/SR 99–030.	South Marsh Island Area, Block 23, Lease OCS–G 0778, 38 miles southwest of Terrebonne Parish Louisiana.	04/01/99
Seneca Resources Corporation, Structure Removal Operations, SEA No. ES/SR 99–031.	Brazos Area, Block 375, Lease OCS–G 9010, 10 miles southeast of Matagorda County, Texas.	04/08/99
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 99–032.	Bay Marchand Area, Block 3, Lease OCS–G 0370, 8 miles south of Lafourche Parish, Louisiana.	04/09/99
BP Amoco, Structure Removal Operations, SEA No. ES/SR 99–033.	Vermilion Area, Block 359, Lease OCS–G 5446, 92 miles south of Vermilion Parish, Louisiana.	04/13/99
Forcenergy Inc., Structure Removal Operations, SEA No. ES/SR 99–034.	Main Pass Area, Block 98, Lease OCS–G 5694, 19 miles east of Plaquemines Parish, Louisiana.	04/14/99
IP Petroleum Company, Inc., Structure Removal Operations, SEA No. ES/SR 99–035.	High Island Area, Block 37, Lease OCS–G 15769, 12 miles south of Jefferson County, Texas.	04/08/99

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: April 23, 1999.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 99–10814 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of an Environmental Assessment Pertaining to a Request by the City of New Orleans to the Secretary of the Interior for Approval To Relocate the Place de France, the Jeanne d'Arc Statue and Two Bronze Cannons Within the City of New Orleans

SUMMARY: Due to the construction adjacent to the Place de France, the City, Mayor Marc H. Morial, has requested the Secretary of the Interior to approve relocation of the Place de France (also known as the Joan of Arc Plaza), a statue of Jeanne d'Arc and two bronze cannons from the current location in the median between the International Trade Mart buildings and the former Rivergate to the Decatur/North Peters Street Triangle in the Vieux Carre (the French Quarter), a National Historic Landmark District. Using a grant received under the Housing and Urban Development Act of 1970, Pub. L. 91–609, the City developed the Place de France as a park for the statue and two bronze cannons donated to the City by the French Government. This law provides that "no open-space land involving historic or architectural purposes for which assistance has been granted under this title shall be converted to use for any other purposes without the prior approval of the Secretary of the Interior." In *Louisiana Landmarks Society, Inc.* v. *City of New Orleans*, No. 94–3880 (E.D. La. 1995) the court reiterated the necessity for prior approval of the Secretary, but provided no standard by which to evaluate the historic purposes of the Place de France. The court, however, found that the term "historic" is not limited to property listed on, or eligible for listing on, the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966.

DATES: Comments on this Environmental Assessment will be received on or before June 1, 1999.

ADDRESSES: Comments should be mailed to: Regional Director, Southeast Region, National Park Service, Atlanta Federal Center, 1924 Building, 100 Alabama Street, SW, Atlanta, Georgia 30303.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act, this Environmental Assessment is intended to identify and analyze the potential environmental effects of the proposed action, which is the approval by the Secretary of the proposed conversion and relocation of the Place de France, together with statue and cannons as proposed by the City of New Orleans. Concurrent with this NEPA process, the Department of the Interior has also initiated the Section 106 compliance process of the National Historic Preservation Act of 1966 and 36 CFR 800, Protection of Historic Properties.

Dated: April 22, 1999.

Charlie Powell,

Acting Regional Director, Southeast Region.

[FR Doc 99–10801 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

Summary of Commission Practice Relating to Administrative Protective Orders

AGENCY: U.S. International Trade Commission

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: Since February 1991, the U.S. International Trade Commission ("Commission") has issued an annual report on the status of its practice with respect to violations of its administrative protective orders ("APOs") in investigations under Title VII of the Tariff Act of 1930 in response to a direction contained in the Conference Report to the Customs and Trade Act of 1990. Over time, the Commission has added to its report discussions of APO breaches in Commission proceedings other than Title VII and violations of the Commission's rule on bracketing business proprietary information ("BPI")(the "24-hour rule"), 19 CFR 207.3(c). This notice provides a summary of investigations of breaches in Title VII investigations for the period ending December 31, 1998. There were no investigations of breaches for other Commission proceedings or for 24-hour rule violations during that period. The Commission intends that this report educate representatives of parties to Commission proceedings as to some specific types of APO breaches encountered by the Commission and the corresponding types of actions the Commission has taken.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3088. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission can also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: Representatives of parties to investigations conducted under Title VII of the Tariff Act of 1930 may enter into APOs that permit them, under strict conditions, to obtain access to BPI of other parties. See 19 U.S.C. 1677f; 19 CFR 207.7. The discussion below describes APO breach investigations that the Commission has completed including a description of actions taken in response to breaches. The discussion covers breach investigations completed during calendar year 1998.

Since 1991, the Commission has published annually a summary of its actions in response to violations of Commission APOs and the 24-hour rule. See 56 *FR* 4846 (Feb. 6, 1991); 57 *FR* 12335 (Apr. 9, 1992); 58 *FR* 21991 (Apr. 26, 1993); 59 *FR* 16834 (Apr. 8, 1994); 60 *FR* 24880 (May 10, 1995); 61 *FR* 21203 (May 9, 1996); 62 *FR* 13164 (March 19, 1997); 63 *FR* 25064 (May 6, 1998). This report does not provide an exclusive list of conduct that will be deemed to be a breach of the Commission's APOs. APO breach inquiries are considered on a case-by-case basis.

As part of the effort to educate practitioners about the Commission's current APO practice, the Commission Secretary issued in April 1996 a revised edition of *An Introduction to Administrative Protective Order Practice in Antidumping and Countervailing Duty Investigations* (Pub. No. 2961). This document is available upon request from the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, tel. (202) 205–2000.

I. In General

The current APO form for antidumping and countervailing duty investigations, which the Commission has used since March 1995, requires the applicant to swear that he or she will:

(1) Not divulge any of the BPI obtained under the APO and not otherwise available to him, to any person other than—

(i) Personnel of the Commission concerned with the investigation,

(ii) The person or agency from whom the BPI was obtained,

(iii) A person whose application for disclosure of BPI under this APO has been granted by the Secretary, and

(iv) Other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decisionmaking for the interested party which is a party to the investigation; and (d) have submitted to the Secretary a signed Acknowledgment for Clerical Personnel in the form attached hereto (the authorized applicant shall sign such acknowledgment and will be deemed responsible for such persons' compliance with the APO);

(2) Use such BPI solely for the purposes of the Commission investigation [or for binational panel review of such Commission investigation or until superceded by a judicial protective order in a judicial review of the proceeding];

(3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under this APO without first having received the written consent of the Secretary and the party or the representative of the party from whom such BPI was obtained;

(4) Whenever materials (*e.g.*, documents, computer disks, etc.) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of BPI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of the APO);

(5) Serve all materials containing BPI disclosed under this APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;

(6) Transmit such document containing BPI disclosed under this APO:

(i) With a cover sheet identifying the document as containing BPI,

(ii) With all BPI enclosed in brackets and each page warning that the document contains BPI,

(iii) If the document is to be filed by a deadline, with each page marked "Bracketing of BPI not final for one business day after date of filing," and

(iv) If by mail, within two envelopes, the inner one sealed and marked "Business Proprietary Information—To be opened only by [name of recipient]", and the outer one sealed and not marked as containing BPI;

(7) Comply with the provision of this APO and section 207.7 of the Commission's rules;

(8) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (*e.g.*, change in personnel assigned to the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of the APO; and

(10) Acknowledge that breach of the APO may subject the authorized applicant and other persons to such sanctions or other actions as the Commission deems appropriate

including the administrative sanctions and actions set out in this APO.

The APO further provides that breach of protective order may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association;

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of or striking from the record any information or briefs submitted by, or on behalf of, such person or the party he represents; denial of further access to business proprietary information in the current or any future investigations before the Commission; and issuance of a public or private letter of reprimand; and

(5) Such other actions, including but not limited to, a warning letter, as the Commission determines to be appropriate.

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI through APO procedure. Consequently, they are not subject to the requirements of the APO with respect to the handling of BPI. However, Commission employees are subject to strict statutory and regulatory constraints concerning BPI, and face potentially severe penalties for noncompliance. *See* 18 U.S.C. 1905; Title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission's authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

An important provision of the Commission's rules relating to BPI is the "24-hour" rule. This rule provides that parties have one business day after the deadline for filing documents containing BPI to file a public version of the document. The rule also permits changes to the bracketing of information in the proprietary version within this one-day period. No changes—other than changes in bracketing—may be made to the proprietary version. The rule was intended to reduce the incidence of APO breaches caused by inadequate bracketing and improper placement of BPI. The Commission urges parties to make use of the rule. If a party wishes to make changes to a document other than bracketing, such as typographical changes or other corrections, the party must ask for an extension of time to file an amendment document pursuant to section 201.14(b)(2) of the Commission's rules.

II. Investigations of Alleged APO Breaches

Upon finding evidence of a breach or receiving information that there is a reason to believe one has occurred, the Commission Secretary notifies relevant offices in the agency that an APO breach investigation file has been opened. Upon receiving notification from the Secretary, the Office of General Counsel (OGC) begins to investigate the matter. The OGC prepares a letter of inquiry to be sent to the alleged breacher over the Secretary's signature to ascertain the alleged breacher's views on whether a breach has occurred. If, after reviewing the response and other relevant information, the Commission determines that a breach has occurred, the Commission often issues a second letter asking the breacher to address the questions of mitigating or aggravating circumstances and possible sanctions or other actions. The Commission then determines what action to take in response to the breach. In some cases, the Commission has determined that although a breach has occurred, sanctions are not warranted, and therefore has found it unnecessary to issue a second letter concerning what sanctions might be appropriate. Instead, it issues a warning letter to the individual. The Commission retains sole authority to determine whether a breach has occurred and, if so, the appropriate action to be taken.

The records of Commission investigations of alleged APO breaches in antidumping and countervailing duty cases are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, section 135(b) of the Customs and Trade Act of 1990, and 19 U.S.C. 1677f(g).

The breach most frequently investigated by the Commission involves the APO's prohibition on the dissemination of BPI to unauthorized persons. Such dissemination usually occurs as the result of failure to delete BPI from public versions of documents filed with the Commission or transmission of proprietary versions of documents to unauthorized recipients. Other breaches have included: the failure to properly bracket BPI in proprietary documents filed with the Commission; the failure to immediately report known violations of an APO; and the failure to adequately supervise non-legal personnel in the handling of BPI.

Sanctions for APO violations serve two basic interests: (a) Preserving the confidence of submitters of BPI in the Commission as a reliable protector of BPI; and (b) disciplining breachers and deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed, "the effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which private parties have confidence that there are effective sanctions against violation." H.R. Conf. Rep. No. 576, 100th Cong., 1st Sess. 623 (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the Commission generally considers mitigating factors such as the unintentional nature of the breach, the lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, and the promptness with which the breaching party reported the violation to the Commission. The Commission also considers aggravating circumstances, especially whether persons not under the APO actually read the BPI. The Commission considers whether there are prior breaches within the previous two-year period and multiple breaches by the same person or persons in the same investigation.

The Commission's rules permit economists or consultants to obtain access to BPI under the APO if the economist or consultant is under the direction and control of an attorney under the APO, or if the economist or consultant appears regularly before the Commission and represents an interested party who is a party to the investigation. 19 CFR 207.7(a)(3)(B) and (C). Economists and consultants who obtain access to BPI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document. This is so even though the attorney exercising direction or control over the economist or

consultant may also be held responsible for the breach of the APO.

III. Specific Investigations in Which Breaches Were Found

The Commission presents the following case studies to educate users about the types of APO breaches found by the Commission. The case studies provide the factual background, the actions taken by the Commission, and the factors considered by the Commission in determining the appropriate actions. The Commission has not included some of the specific facts in the descriptions of investigations where disclosure of such facts could reveal the identity of a particular breacher. Thus, in some cases, apparent inconsistencies in the facts set forth in this notice result from the Commission's inability to disclose particular facts more fully.

Case 1—Counsel in an investigation notified the Commission that they were unable to locate certain documents containing BPI which were obtained under the Commission's APO. Counsel presumed that the documents had been intentionally discarded by a discharged clerical employee. Counsel instructed an office manager who was not subject to the APO to review certain APO documents in the possession of an attorney covered by the APO to identify the missing documents. The Commission determined that three attorneys breached the APO by failing to properly safeguard materials under the APO and to prevent the disclosure of BPI to unauthorized persons. The attorney who had signed the acknowledgments for clerical personnel breached the APO because, as the person responsible for ensuring that the fired employee complied with the APO, he failed to safeguard the documents. In addition, he and a second attorney breached the APO when they instructed an employee not covered by the APO to review copies of APO documents of a third attorney to determine which documents were missing. The third attorney was found to breach the APO by permitting the employee not covered by the APO to review the documents in his possession. The Commission issued private letters of reprimand to all three attorneys. Certain aggravating factors existed with regard to the breach involving the disposal of the documents. The clerical employee apparently committed an intentional breach of the APO; efforts to identify and recover the documents were not effective; a large volume of the APO information was involved; and since the fate of the materials will likely never be known, it is impossible to determine whether they have been reviewed by any person not subject to the APO. There were also mitigating factors in that the attorney responsible for supervising the breaching clerical worker had no prior breaches; the breach was reported shortly after counsel became aware of it; and steps were taken to identify and recover the missing documents.

All three attorneys were found to have committed the second breach, *i.e.*, the direction to an individual not covered by the APO to review APO documents and the release of those APO documents to that individual. Two aggravating circumstances were that the Commission, not the attorneys, discovered the breach, and the BPI was viewed by an unauthorized person. The Commission also considered as mitigating factors that this breach was inadvertent and the attorneys involved had no prior breaches.

Case 2—Counsel in an investigation filed with the Commission a proprietary version of a submission which contained unbracketed BPI and filed the public version of the document without deleting the unbracketed BPI. Counsel became aware of the potential breach, notified the Commission and the parties to the investigation, and retrieved and destroyed all copies of the offending document. The Commission determined that three attorneys breached the APO by failing to bracket BPI in the proprietary version of the document and by failing to delete that BPI from the public version. In reaching its decision to issue warning letters, the Commission considered that this was the only breach in which these attorneys were involved in the prior two-year period generally examined by the Commission for purposes of considering sanctions, the breach was unintentional, and counsel promptly notified the Commission of the breach and took action to remedy it. There was no information in the record suggesting that any non-APO signatories had viewed the BPI. The Commission determined that two attorneys did not breach the APO because they were not responsible for drafting the section of the document containing the unbracketed BPI or for reviewing the document for BPI or proper bracketing.

Case 3—Counsel filed a public version of a document which contained unredacted BPI. The document was prepared by economists at an economic consulting firm which had an arrangement with the law firm to assure that documents they prepared would go through three levels of review for APO compliance. The consulting firm was responsible for the first two levels of review and the law firm was responsible for the final APO review of all materials prepared by the consulting firm. Those responsible for the reviews failed to notice the offending information. The potential breach was identified by the Commission Secretary, who notified an attorney with the law firm who took immediate action to retrieve the offending documents. In response to the Commission inquiry, the law firm asserted that no breach occurred because the bracketed information which was not deleted was publicly available from other sources and was a non-numerical characterization of the prices of one producer which is generally allowed to be publicly disclosed under Commission rules. The Commission did not agree with the law firm's assertions and determined that the APO had been breached because the information was derived from a questionnaire response which is always treated as confidential in its entirety. Further, the information was not available from a public source at the time that it was revealed and was not a non-numerical characterization of aggregate trends as provided for in the Commission rules.

The Commission found that the two economists and two attorneys who were responsible for the final APO review of the submission breached the APO. In issuing warning letters to the two economists and two attorneys, the Commission considered the mitigating factors that the breach was unintentional, resulting from a collective oversight on the part of the economists and the attorneys. The law firm took prompt corrective action as soon as it learned of the breach, and all copies of the offending document were retrieved or destroyed. There was no evidence that persons not subject to the APO actually reviewed the document in question. In reaching its decision, the Commission also considered the aggravating factor that the potential breach was first identified by the Commission Secretary.

The Commission did not find the lead attorney responsible because he had delegated the responsibility for performing the final APO review of the public version of the brief to associates who were experienced in such tasks. Thus, this does not appear to be a case of negligent supervision. In addition, the Commission did not hold responsible for the breach one economist, a legal assistant, and a secretary who were on the APO because they did not have responsibility for the preparation or review of the document.

Case 4—Counsel in an investigation distributed a document which contained unbracketed BPI. The BPI at

issue was contained in a questionnaire response. The potential breach was brought to counsel's attention by an attorney representing another party to the investigation. Counsel immediately informed the Secretary of the potential breach and supervised efforts by law firm personnel to retrieve copies of the document from those who had access to it. Many, but not all, of the copies of the document were retrieved. In responding to the Commission inquiry, counsel asserted that the information was publicly available and that the information was "innocuous" and not BPI because it revealed nothing about the substance of the questionnaire response. The Commission was not persuaded by counsel's assertions and determined that the APO had been breached because questionnaire responses are treated as confidential in their entirety unless the responses contain information that is otherwise publicly available. The Commission determined that the economist responsible for preparing the document and the attorney charged with final APO review of materials breached the APO by circulating the document which contained BPI. In issuing private letters of reprimand, the Commission considered the facts that the decision by the attorney and the economist not to bracket and delete the BPI at issue was not inadvertent, the breach was first identified by counsel for another party, and the attorney and economist were unable to account for numerous copies of the document at issue which may remain in the hands of parties not covered by the APO. In reaching its determination, the Commission also considered the mitigating factors that neither the attorney nor the economist had previously breached an APO, and the attorney reported the breach promptly after learning of it.

Case 5—Counsel in an investigation filed a public version of a document containing bracketed but unredacted BPI in footnotes. The information in question was submitted in a questionnaire response and was not publicly available at the time it was revealed in the public version of the document. The Commission Secretary discovered the possible breach and advised counsel, who took prompt measures to retrieve all copies of the relevant document. Although one party not entitled to access to BPI received a copy of the document, there is no evidence that that person actually reviewed the unredacted BPI.

The Commission determined that the attorney responsible for reviewing the document to assure APO compliance had breached the APO by failing to redact bracketed BPI from a public submission. The lead attorney and two paralegals were not found responsible for the breach because the sole responsibility for assuring APO compliance was delegated to the non-lead attorney who was experienced in such matters. In reaching its determination to issue a warning letter, the Commission considered the mitigating factors that this was the attorney's first breach of an APO, the breach was inadvertent, and the attorney took immediate action to retrieve the document in question apparently before any non-signatory to the APO reviewed the BPI at issue. The Commission considered as an aggravating factor the fact that it was the Commission Secretary who discovered the breach.

IV. Investigation in Which No Breach Was Found

During 1998, the Commission completed one investigation in which no breach was found. An attorney attempted to discuss information protected under the APO with a person not on the APO. The Commission determined that the attorney did not breach the APO because the information revealed was inaccurate and was not the information protected under the APO. In advising the attorney that he had not breached the APO on technical grounds, the Commission urged him to exercise greater caution in the future.

Issued: April 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10871 Filed 4–29–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Notice of Charter Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2), and Title 41, Code of Federal Regulations, Section 101–6.1015, the Director, FBI, with the concurrence of the Attorney General, has determined that the continuance of the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB) is in the public interest, in connection with the performance of duties imposed upon the FBI by law, and hereby gives notice of the renewal of its charter, effective December 31, 1998.

The APB recommends to the Director, FBI, general policy with respect to the philosophy, concept, and operational principles of the various criminal justice information systems managed by the FBI's CJIS Division.

The APB includes representatives from state and local criminal justice agencies; members of the judicial, prosecutorial, and correctional segments of the criminal justice community; a representative of federal agencies participating in the CJIS systems; and representatives of criminal justice professional associations (i.e., the International Association of Chiefs of Police, the Major Cities Chiefs, Major County Sheriffs' Association, the National Sheriffs' Association, the National District Attorneys Association, and the American Probation and Parole Association). All members of the APB are appointed by the FBI Director.

The APB functions solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. The charter has been filed in accordance with the provisions of the Act.

Dated: April 21, 1999.

Louis J. Freeh,

Director.

[FR Doc. 99–10866 Filed 4–29–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 26, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Acting Departmental Clearance Officer, Pauline Perrow ({202} 219–5096 ext. 165) or by E-Mail to Perrow-Pauline@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), on or before June 1, 1999.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Assistant Secretary for Policy (ASP).

Title: National Agricultural Workers Survey (NAWS)—Child Labor Supplement.

OMB Number: 1225–0044 (Revision).

Frequency: Annually.

Affected Public: Individuals or households, Farms.

Number of Respondents: 7,850.

Estimated Time Per Respondent: ½ hour.

Total Burden Hours: 5,925.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The NAWS provides data to public and private service programs and data analysis which are used for the planning, implementing and evaluation of farm workers programs. Analysis provides an understanding of the manpower resources available to the U.S. agriculture and the importance of immigrants in the labor market. It is the only national sources of data on the demographic and employment characteristics of farm workers.

Pauline Perrow,

Acting Departmental Clearance Officer.

[FR Doc. 99–10887 Filed 4–29–99; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determination, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and related Acts" are listed by Volume and States:

Volume V

Kansas
KS9900070 (Apr. 30, 1999)

Modications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage determinations Issued Under the Davis—Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Maryland
MD990025 (Mar. 12, 1999)

Volume III

Florida
FL990014 (Mar. 12, 1999)
Tennessee
TN990001 (Mar. 12, 1999)

Volume IV

None

Volume V

Kansas
KS990012 (Mar. 12, 1999)
KS990069 (Mar. 12, 1999)

Volume VI

Alaska
AK990001 (Mar. 12, 1999)

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 22 day of April 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage

[FR Doc. 99–10606 Filed 4–29–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. H–372]

RIN 1218–AB58

Metalworking Funds Standards Advisory Committee: Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Metalworking Fluids Standards Advisory Committee: Notice of meeting.

SUMMARY: The Metalworking Fluids Standards Advisory Committee (MWFSAC), established under Section 7 of the Occupational Safety and Health At of 1970 to advise the Secretary of Labor on appropriate actions to protect workers from the hazards associated with occupational exposure to metalworking fluids, will meet in the Baltimore area on Tuesday and Wednesday, May 18, and May 19, 1999.

DATES: The meeting will be held May 18, 1999, from 10 a.m. to approximately 6:00 p.m.; on May 19, from 8:00 a.m. to approximately 4:00 p.m.

ADDRESSES: The Committee will meet at the Baltimore Marriott Hunt Valley Inn, 245 Shawan Road, Hunt Valley, MD 21031–1099. Telephone: (410) 785–7000.

Mail comments, views, or statements in response to this notice to Dr. Peter Infante, U.S. Department of Labor, OSHA, Directorate of Health Standards Programs, Metalworking Fluids Standards Advisory Committee, Room N–3718, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, Office of Information and Consumer Affairs, OSHA, (202) 693–1999.

SUPPLEMENTARY INFORMATION: All interested persons are invited to attend the public meeting of the Metalworking Fluids Standards Advisory Committee at the times and location indicated above. Individuals with disabilities wishing to attend should contact Theresa Berry at (202) 693–1999 (Fax: 202–693–1634) no later than May 13, 1999, to obtain appropriate accommodations.

Meeting Agenda

The Committee will discuss best practices related to using metalworking fluids and clarify criteria on systems management, medical surveillance, and training. The Committee may also consider the issues of health effects, regulatory versus voluntary approaches to limit exposure, and economic feasibility.

Public Participation

Written data, views, or comments for consideration by the MWFSAC on the various agenda items listed above may be submitted, preferably with 25 copies, to Dr. Peter Infante. Submissions received by May 12, 1999, will be provided to the members of Committee. Anyone wishing to make an oral presentation to the Committee on any of the agenda items listed above should notify Dr. Peter Infante at the address listed above. The request to speak should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Requests to make oral presentations to the Committee may be granted if time permits.

Authority: This notice is issued under the authority of Sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), and 29 CFR Part 1912.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–10869 Filed 4–29–99; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–062)]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration (SSES); Subcommittee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, SSES Subcommittee.

DATES: Tuesday, May 18, 1999, 12:30 p.m. to 5:00 p.m.; Wednesday, May 19, 1999, 8:00 a.m. to 5:00 p.m.

ADDRESSES: NASA Headquarters, Conference Room MIC–5, Room 5H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Carl B. Pilcher, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0291.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—New Initiative and Strategic Plan Missions
—Technology Roadmaps with Strategic Plan Missions
—Mars Discussion and Recommendations
—Mars Outposts and the Future Mars Program: Strategic Plan Input

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 22, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–10834 Filed 4–29–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request approval of an information collection currently in use without an OMB Control Number, used when former Federal civilian employees and other authorized individuals request information from or copies of documents in Official Personnel Folder's or Employee Medical Folder's from the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) . The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before June 29, 1999 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Returned Request Form, Reply to Request Involving Relief Agencies, Walk-In Request for OPM Records or Information.

OMB number: New.

Agency form number: NA Forms 13022, 13064, 13068.

Type of review: Regular.

Affected public: Former Federal civilian employees, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 4,500.

Estimated time per response: 5 Minutes.

Frequency of response: On occasion, when individuals desire to acquire information from civilian personnel or medical records.

Estimated total annual burden hours: 375 hours.

Abstract: In accordance with rules issued by the Office of Personnel Management, the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers Official Personnel Folders (OPF) and Employee Medical Folders (EMF) of former Federal civilian employees. When former Federal civilian employees and other authorized individuals request information from or copies of documents in OPF's or EMF's, they must provide in forms or in letters certain information about the employee and the nature of the request. The NA Form 13022, Returned Request Form, is used to request additional information about the former Federal employee. The NA Form 13064, Reply to Request Involving Relief Agencies, is used to request additional information about the former relief agency employee. The NA Form 13068, Walk-In Request for OPM Records or Information, is used by members of the public, with proper authorization, to request a copy of a Personnel or Medical record.

Dated: April 26, 1999.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 99–10831 Filed 4–29–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts

President's Committee on the Arts and the Humanities; Meeting XLV

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L 92–463), as amended, notice is hereby given that a meeting of the President's Committee on the Arts and the Humanities will be held on May 21, 1999 from (9:00 a.m. to approximately 2:30 p.m. The meeting will be held in the Third Floor Library of the Smithsonian Institution Building (The Castle), 1000 Jefferson Drive, SW, Washington, DC.

The Committee meeting will begin at (9:00 a.m. with a welcome from a representative of the Smithsonian Institution and Chairman's remarks by Dr. John Brademas. This will be followed by the Executive Director's Update from Harriet Mayor Fulbright, including a status report on the Coming Up Taller awards program. The Committee will hear presentations from Bill Ivey, Chairman of the National Endowments for the Arts, Bill Ferris, Chairman of the National Endowment for the Humanities, and Beverly Sheppard, Acting Director of the Institute of Museum & Library Services. In addition, there will a briefing and discussion about the work of the PCAH Planning Committee. The meeting will conclude with an informal lunch for members, including a presentation on "Technology and the Humanities," by Professor Edward L. Ayers, University of Virginia.

The President's Committee on the Arts and the Humanities was created by Executive Order in 1982 to advise the President, the two Endowments, and the Institute of Museum and Library Services on measures to encourage private sector support for the Nation's cultural institutions and to promote public understanding of the arts and the humanities.

If, in the course of discussion, it becomes necessary for the Committee to discuss non-public commercial or financial information of intrinsic value, the Committee will go into closed session pursuant to subsection (c)(4) of

the Government in the Sunshine Act, 5 U.S.C. 552b.

Any interested persons may attend as observers, on a space available basis, but seating is limited. Therefore, for this meeting, individuals wishing to attend must contact Regina Ayquia of the President's Committee in advance at (202) 682–5409 or write to the Committee at 1100 Pennsylvania Avenue, NW, Suite 526, Washington, DC 20506. Further information with reference to this meeting can also be obtained from Ms. Syquia.

If you need special accommodations due to a disability, please contact Ms. Syquia through the Office of Access Ability, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Dated: April 22, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–10843 Filed 4–29–99; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Meeting

AGENCY: National Gambling Impact Study Commission.

ACTION: Notice of public meeting

SUMMARY: At its thirteenth regular meeting the National Gambling Impact Study Commission, established under Public Law 104–169, dated August 3, 1996, will hear possible presentations from one or more subcommittees; continue its ongoing review of Commission research on economic and social gambling impacts; and deliberate on possible findings and recommendations for the Final Report.

DATES: Monday, May 17, 8:30 a.m. to 5:30 p.m. and Tuesday, May 18, 8:30 a.m. to 5:30 p.m.

ADDRESSES: The meeting site will be: Federal North, Holiday Inn on the Hill, 415 New Jersey Avenue, NW, Washington, D.C. 20001.

Written comments can be sent to the Commission at 800 North Capitol Street, N.W., Suite 450, Washington, D.C. 20002.

STATUS: The meeting will be open to the public both days.

CONTACT PERSONS: For further information contact Craig Stevens at (202) 523–8217 or write to 800 North Capitol St., N.W., Suite 450, Washington, D.C. 20002.

SUPPLEMENTARY INFORMATION: For a complete agenda, please contact the Commission. This information will also be faxed to all individuals on the Commission's fax list and posted on the Commission's web site, *www.ngisc.gov.*

Craig Stevens,

Communications and Logistics Coordinator.

[FR Doc. 99–10919 Filed 4–29–99; 8:45 am]

BILLING CODE 6802–ET–P

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974; Publication of Revised System of Records Notice

AGENCY: National Labor Relations Board (NLRB).

ACTION: Revised publication of System of Records Notice NLRB–2, Applicant Files for Attorney and Field Examiner Positions.

SUMMARY: The Privacy Act of 1974, as amended, requires that each agency publish a notice of a proposed new System of Records, as well as proposals to revise existing Systems of Records. This notice alters an existing Privacy Act System of Records Notice NLRB–2, Applicant Files for Attorney and Field Examiner Positions, by deleting two routine uses, dividing one routine use into two distinct uses for purposes of clarity, amending the language of four routine uses, updating the addresses of system locations, and updating the citations referring to 29 CFR 102.117; as well as making several insignificant administrative language revisions.

All persons are advised that in the absence of submitted comments, views, or arguments considered by the NLRB as warranting modification of the notice as herewith to be published, it is the intention of the NLRB that the notice shall be effective upon expiration of the comment period without further action by this Agency.

DATES: The amended System of Records Notice will become effective without further notice 30 days from the date of this publication (June 1, 1999) unless comments are received on or before that date which result in a contrary determination.

ADDRESSES: All persons who desire to submit written comments, views, or arguments for consideration by the NLRB in connection with the proposed revised System of Records Notice shall file them with the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

Copies of all such communications will be available for examination by interested persons during normal business hours in the Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

SUPPLEMENTARY INFORMATION: The following changes have been made to the existing NLRB System of Records Notice NLRB–2, Applicant Files for Attorney and Field Examiner Positions.

1. Routine uses 1 and 2 have been deleted because the specified "need to know" in them is authorized by 5 U.S.C. 552a(b)(1) and (5). Routine use 3 has been renumbered 1.

2. The language of routine use 4 has been amended to specify that on disclosure to an inquiring congressional office, the subject individual must be a constituent about whom the records are maintained. Routine use 4 has been renumbered 2.

3. Routine use 5 has been divided into two distinct uses 3 and 4 for purposes of clarity, one dealing solely with arbitrators and the other with officials of labor organizations. The language has been amended to conform to the intent of routine use (e) in the Government-wide System of Records OPM/GOVT–2, Employee Performance File System Records, to eliminate the NLRB requirement that the information that may be disclosed to a labor organization "shall be furnished in depersonalized form, i.e., without personal identifiers." Routine use (e) is a Government-wide System of Records OPM/GOVT–2 which provides that the information will be "disclosed to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation." The NLRB is deleting the requirement that "[W]henever feasible and consistent with the responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers," a requirement not contained in OPM–GOVT–2 routine use (e).

4. Routine use 7 has been amended by changing reference from "Agency" to "NLRB" for more specificity. Routine use 7 has been renumbered 6.

5. Routine use 8 is amended to specify more exactly the information that may be disclosed to a court or an adjudicative body in the course of presenting evidence or argument

including disclosure to opposing counsel or witnesses in the course of civil discovery. Routine use 8 has been renumbered 7.

6. The address of system locations and manages in NLRB–2 has been changed from "NLRB, 1717 Pennsylvania Avenue, NW, Washington, DC 20570–0001" to "NLRB, 1099 14th Street, NW, Washington, DC 20570–0001."

7. Reference to 29 CFR 102.117 citations have been changed to read as follows for the paragraphs in Notifications Procedures, 29 CFR 102.117(f); Records Access Procedures, 29 CFR 102.117(g) and (h); and Contesting Records Procedures, 29 CFR 102.117(i).

A report of the proposal to revise this system of records was filed pursuant to 5 U.S.C. 552(r) with Congress and the Office of Management and Budget.

Dated: Washington, DC, April 21, 1999.

By direction of the Board.

John J. Toner,

Executive Secretary.

NLRB–2

SYSTEM NAME:

Applicant Files for Attorney and Field Examiner Positions.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Office of Executive Assistant, Division of Operations Management; Office of the Executive Secretary, NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.

Washington and Field Offices are authorized to maintain the records or copies of the records in connection with processing of applications for employment in the Agency. See the attached appendix for addresses of the Washington and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Attorney or Field Examiner positions in offices under the general supervision of the General Counsel; applicants for Attorney positions on Board Member's staffs, in the Office of the Solicitor, and in the Office of Representation Appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include copies of employment applications; educational transcripts, resumes, employment interview reports, and other information related to employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301 *et seq.*; 29 U.S.C. 153(d), 154, 159, and 160.

PURPOSE(S):

These records document the skills and background of applicants for attorney and field examiner positions within the NLRB.

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records or information contained therein may be disclosed to:

1. Individuals who need the information in connection with the processing of an appeal, grievance, or complaint.

2. A Member of Congress or to a Congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the records are maintained.

3. Officials of labor organizations recognized under 5 U.S.C. Chapter 71, when disclosure is not prohibited by law; and the data is normally maintained by the Agency in the regular course of business and is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining. The foregoing shall have the identical meaning as 5 U.S.C. 7114(b)(4) as interpreted by the FLRA and the courts.

4. An arbitrator is resolve disputes under a negotiated grievance arbitration procedure.

5. Other agencies, offices, establishments, and authorities, whether Federal, state, or local, authorized or charged with responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information, indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

6. The Department of Justice for use in litigation when either: (a) The NLRB of any component thereof, (b) any employee of the NLRB in his or her official capacity, (c) any employee of the Agency in his or her individual capacity, where the Department of Justice has agreed to represent the employee, or (d) the United States Government where the NLRB determines that litigation is likely to affect the NLRB or any of its components, is a party to litigation or has interest in such litigation, and the use of such records by the Department of Justice is deemed by the NLRB to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

7. A court, magistrate, administrative tribunal, or other adjudicatory body in the course of presenting evidence or argument, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, when: (a) The NLRB or any component thereof, or (b) any employee of the NLRB in his or her official capacity; or (c) any employee of the NLRB in his or her individual capacity, where the NLRB has agreed to represent the employee, or (d) the United States Government is a party to litigation or has an interest in such litigation, and determines that such disclosure is relevant and necessary to the litigation and that the use of such records is therefore deemed by the NLRB to be for a purpose that is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper including forms, letters, and memoranda.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file cabinets. During duty hours cabinets are under surveillance of personnel charged with custody of the records and after duty hours are behind locked doors. Access to the cabinets is limited to personnel having a need for access to perform their official functions.

RENTENTION AND DISPOSAL:

Employment applications not resulting in appointment are destroyed when 2 years old.

SYSTEM MANAGER(S) AND ADDRESS:

1. To those applicants for positions under supervision of the General Counsel—Executive Assistant, Division of Operations Management, NLRB, 1099 14th Street, NW, Washington, DC 20570.

2. To those applicants for positions under the supervision of a Board

Member, the Director of the Office of Representation Appeals, and the Solicitor—Executive Secretary, NLRB, 1099 14th Street, NW., Washington, DC 20570–0001.

See the attached appendix for titles and addresses of officials at other locations responsible for this system at their location.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether this system contains a record pertaining to him or her by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(f).

RECORD ACCESS PROCEDURE:

An individual seeking to gain access to records in this system pertaining to him or her should contact the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117 (g) and (h).

CONTESTING RECORD PROCEDURES:

An individual may request amendment of a record pertaining to him or her maintained in this system by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(i).

RECORD SOURCE CATEGORIES:

Applicants, educational institutions, interviewers, evaluators, personnel specialists, references, previous employers.

Appendix

Names and Addresses of NLRB Offices referenced in Notice of Records System shown above.

NLRB HEADQUARTERS OFFICES, 1099 14th Street, NW, Washington, DC 20570–0001

OFFICES OF THE BOARD

Members of the Board

Executive Secretary, Office of the Executive Secretary

Director, Office of Representation Appeals

Director, Division of Information

Solicitor

Inspector General, Office of Inspector General

Chief Administrative Law Judge, 1099 14th Street, NW, Room 5400 East, Washington, DC 20570–0001

Associate Chief Administrative Law Judge, San Francisco Judges, 901 Market Street, Suite 300, San Francisco, California 94103–1779

Associate Chief Administrative Law Judge, New York Judges, 120 West 45th Street, 11th Floor, New York, New York 10036–5503

Associate Chief Administrative Law Judge, Atlanta Judges, Peachtree Summit Building, 401 W. Peachtree Street, NW, Suite 1708, Atlanta, Georgia 30308–3510

OFFICES OF THE GENERAL COUNSEL

General Counsel

Associate General Counsel, Division of Operations Management

Associate General Counsel, Division of Advice

Associate General Counsel, Division of Enforcement Litigation

Director, Division of Administration

Director, Equal Employment Opportunity

NLRB FIELD OFFICES

Regional Director, Region 1, Thomas P. O'Neal Jr. Federal Office Building, 10 Causeway Street, 6th Floor, Boston, Massachusetts 02222–1072

Regional Director, Region 2, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 3614, New York, New York 10278–0104

Regional Director, Region 3, Thaddeus J. Dulski Federal Building, 111 West Huron Street, Room 901, Buffalo, New York 14202–2387

Resident Officer, Albany Resident Office, Leo W. O'Brien Federal Building, Clinton Avenue at N. Pearl Street, Room 342, Albany, New York 12207–2350

Regional Director, Region 4, One Independence Mall, 615 Chestnut Street, 7th Floor, Philadelphia, Pennsylvania 19106–4404

Regional Director, Region 5, The Appraisers Store Building, 103 South Gay Street, 8th Floor, Baltimore, Maryland 21202–4026

Resident Officer, Franklin Court Building, 1099 14th Street, NW, Suite 5530, Washington, DC 20570–0001

Regional Director, Region 6, William S. Moorehead Federal Building, 1000 Liberty Avenue, Room 1501, Pittsburgh, Pennsylvania 15222–4173

Regional Director, Region 7, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Room 300, Detroit, Michigan 48226–2569

Resident Officer, Grand Rapids Resident Office, The Furniture Company Building, 82 Ionia Northwest, Room 330, Grand Rapids, Michigan 49503–3022

Regional Director, Region 8, Anthony J. Celebrezze Federal Building, 1240 East 9th Street, Room 1695, Cleveland, Ohio 44199–2086

Regional Director, Region 9, John Weld Peck Federal Building, 550 Main Street, Room 3003, Cincinnati, Ohio 45202–3271

Regional Director, Region 10, Harris Tower, 233 Peachtree Street, NE, Suite 1000, Atlanta, Georgia 30303–1504

Resident Officer, The Burger-Phillips Centre, 1900 3rd Avenue North, Suite 311, Birmingham, Alabama 35203–3511

Regional Director, Region 11, Republic Square, Suite 200, 4035 University Parkway, Winston-Salem, North Carolina 27106–3325

Regional Director, Region 12, South Trust Plaza, Suite 530, 201 East Kennedy Boulevard, Tampa, Florida 33602–5824

Resident Officer, Jacksonville Resident Office, Federal Building, 400 West Bay Street, Room 214, Box 35091, Jacksonville, Florida 32202–4412

Resident Officer, Miami Resident Office, Federal Building, 51 Southwest 1st Avenue, Room 1320, Miami, Florida 33130–1608

Regional Director, Region 13, 200 West Adams Street, Suite 800, Chicago, Illinois 60606–5208

Regional Director, Region 14, 1222 Spruce Street, Room 8.302, Saint Louis, Missouri 63103–2829

Regional Director, Region 15, 1515 Poydras Street, Room 610, New Orleans, Louisiana 70112–3723

Regional Director, Region 16, Federal Office Building, 819 Taylor Street, Room 8A24, Forth Worth, Texas 76102–6178

Resident Officer, Houston Resident Office, 440 Louisiana Street, Suite 550, Houston, Texas 77002–2649

Resident Officer, San Antonio Resident Office, 615 E. Houston Street, Room 565, San Antonio, Texas 78205–2040

Regional Director, Region 17, 8600 Farley Street, Suite 100, Overland Park, Kansas 66212–4677

Resident Officer, Tulsa Resident Office, 224 South Boulder Avenue, Room 318, Tulsa, Oklahoma 74103–3027

Regional Director, Region 18, 234 Federal Courts Building, 110 South 4th Street, Room 234, Minneapolis, Minnesota 55401–2291

Resident Officer, Des Moines Resident Office, 210 Walnut Street, Room 439, Des Moines, Iowa 50309–2116

Regional Director, Region 19, Henry M. Jackson Federal Building, 915 Second Avenue, Room 2948, Seattle, Washington 98174–1078

Resident Officer, Anchorage Resident Office, 222 West 7th Avenue, Box 21, Anchorage, Alaska 99513–3546

Officer in Charge, Subregion 36, 222 SW Columbia Street, Room 401, Portland, Oregon 97201–6604

Regional Director, Region 20, 901 Market Street, Suite 400, San Francisco, California 94103–1735

Officer in Charge, Subregion 37, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Room 7–245, Honolulu, Hawaii 96850–4980

Regional Director, Region 21, 888 South Figueroa Street, 9th Floor, Los Angeles, California 90017–5449

Resident Officer, San Diego Resident Office, Pacific Professional Center, 555 West Beech Street, Suite 302, San Diego, California 92101–2939

Regional Director, Region 22, 20 Washington Place, 5th Floor, Newark, New Jersey 07102–2570

Regional Director, Region 24, La Torre de Plaza, 525 F.D. Roosevelt Avenue, Suite 1002, San Juan, Puerto Rico 00918–1002

Regional Director, Region 25, Minton-Capehard Federal Building, 575 North Pennsylvania Street, Room 238, Indianapolis, Indiana 46204–1577

Regional Director, Region 26, Mid-Memphis Tower Building, 1407 Union Avenue, Suite 800, Memphis, Tennessee 38104–3627

Resident Officer, Little Rock Resident Office, TCBY Tower, 425 West Capitol Avenue, Suite 375, Little Rock, Arkansas 72201–3489

Resident Officer, Nashville Resident Officer, 810 Broadway, 3rd Floor, Nashville, Tennessee 37203–3816
Regional Director, Region 27, Dominion Plaza, North Tower, 600 17th Street, 7th Floor, Denver, Colorado 80202–5433
Regional Director, Region 28, Security Building, 234 North Central Avenue, Suite 440, Phoenix, Arizona 85004–2212
Resident Officer, Albuquerque Resident Office, Western Bank Plaza, 505 Marquette Avenue, NW, Room 1820, Albuquerque, New Mexico 87102–2181
Resident Officer, Las Vegas Resident Office, Alan Bible Federal Building, 600 Las Vegas Boulevard South, Suite 400, Las Vegas, Nevada 89101–6637
Resident Officer, El Paso Resident Office, P.O. Box 23159, El Paso, Texas 79923–3159
Regional Director, Region 29, One Metro Tech Center, Jay Street and Myrtle Avenue, 10th Floor, Brooklyn, New York 11201–4201
Regional Director, Region 30, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 700, Milwaukee, Wisconsin 54203–2211
Regional Director, Region 31, 11150 W. Olympic Boulevard, Suite 700, Los Angeles, California 90064–1824
Regional Director, Region 32, Breuner Building, 2nd Floor, 1301 Clay Street, Room 300N, Oakland, California 94612–5211
Regional Director, Region 33, Hamilton Square Building, 300 Hamilton Boulevard, Suite 200, Peoria, Illinois 61602–1246
Regional Director, Region 34, One Commercial Plaza, 280 Trumbull Street, 21st Floor, Hartford, Connecticut 06103–3599

[FR Doc. 99–10748 Filed 4–29–99; 8:45 am]
BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Number 40–3453]

Atlas Corporation; Notice of Availability of Supplement to the Final Technical Evaluation Report for the Proposed Revised Reclamation Plan for the Atlas Corporation Moab Mill

AGENCY: Nuclear Regulatory Commission.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) announces the availability of a Supplement to the Final Technical Evaluation Report for the Proposed Revised Reclamation Plan for the Atlas Corporation Moab Mill.

FOR FURTHER INFORMATION CONTACT: Dr. Myron Fliegel, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6629.

SUPPLEMENTARY INFORMATION: A Supplement to the Final Technical Evaluation Report (FTER), which provides updated information developed at the Atlas Moab Mill since the publication of the FTER in March 1997, is being made available for public inspection at NRC's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC 20555.

The Supplement to the FTER, pertaining to the proposed revised reclamation plan submitted by Atlas Corporation, summarizes NRC staff's review of additional site data developed for the U.S. Fish and Wildlife Service (FWS), as a part of the Section 7 Endangered Species Act (ESA) consultation process, and additional analyses performed by the Center for Nuclear Waste Regulatory Analyses (CNWRA) regarding performance of the proposed reclamation. The additional data was developed by the FWS in order for it to issue a Final Biological Opinion in accordance with the ESA. The results and conclusions of the Section 7 consultation are presented in the Final Environmental Impact Statement (FEIS). The FTER was issued in March 1997 and contained staff's analysis and conclusions that the proposed on-site reclamation of the existing uranium mill tailings pile complies with the requirements contained in Title 10 Code of Federal Regulations (CFR) part 40. The additional data and analyses did not conflict with staff's analysis or conclusion of acceptability contained in the FTER; however, a supplement is needed to update the information contained in the FTER.

Dated at Rockville, Maryland, this 26th day of April, 1999.

For the Nuclear Regulatory Commission.

N. King Stablein,

Acting Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–10835 Filed 4–29–99; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–309]

Maine Yankee Atomic Power Company, Maine Yankee Atomic Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the Appendix A Technical Specifications (TS) to Facility Operating License No. DPR–36, a license held by the Maine Yankee Atomic Power Company (MYAPCo or the licensee). The amendment would apply to the Maine Yankee Atomic Power Station (Maine Yankee), a permanently shutdown plant located at the MYAPCo site in Lincoln County, Maine.

Environmental Assessment

Identification of Proposed Action

The proposed action would change the liquid and gaseous release rate limits included in the Radioactive Effluent Control Program portion of the TS to reflect revisions to 10 CFR part 20, "Standards for Protection Against Radiation." The proposed action is in accordance with the licensee's application dated July 14, 1998.

The Need for the Proposed Action

The proposed action is needed to update the license to incorporate revised requirements of 10 CFR Part 20 (i.e., the need for the proposed action was created by a change in the regulatory requirements).

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed amendment to the Maine Yankee TS and concludes that issuance of the proposed amendment will not cause an increase in individual or cumulative occupational radiation exposures. The proposed change in TS effluent release rates will allow the licensee to retain operational flexibility consistent with the design objectives for radioactive effluent releases in Appendix I to 10 CFR Part 50 and will not have a negative impact on the licensee's ability to continue to operate within as low as reasonably achievable (ALARA) criteria.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant

environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to Operation of Maine Yankee Atomic Power Station (July 1972).

Agencies and Persons Consulted

In accordance with its stated policy, on March 29, 1999, the NRC staff consulted with the Maine State Official, Mr. Patrick Dostie, Department of Human Services, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee's letter dated July 14, 1998, which is available for public inspection at the Commission Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Wiscasset Public Library, High Street, Post Office Box 367, Wiscasset, Maine, 04578.

Dated at Rockville, Maryland, this 23rd day of April 1999.

For the Nuclear Regulatory Commission.

Michael T. Masnik,

Chief, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10836 Filed 4–29–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of May 3, 1999.

A closed meeting will be held on Monday, May 3, 1999, at 12:00 noon.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Carey, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Monday, May 3, 1999, at 12:00 noon, will be:

Institution of injunctive actions.

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: April 27, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10980 Filed 4–28–99; 11:20 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41326; File No. SR–NASD–98–96]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NASD, Inc. Relating to Amendments to Forms U–4 and U–5

April 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary NASD Regulation, Inc. ("NASD Regulation" or "NASDR"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. On March 30, 1999, NASD Regulation submitted Amendment No. 1 to the proposed rule change.[3] NASD Regulation submitted Amendment No. 2 to the proposed rule change on April 7, 1999.[4] On April 15, 1999, NASD Regulation submitted Amendment No. 3 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDR is proposing to amend the Form U–4, the Uniform Application for Securities Industry Registration or Transfer, and the Form U–5, the Uniform Termination Notice for Securities Industry Termination

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from John M. Ramsay, Vice President and Deputy General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 30, 1999. In Amendment No. 1, NASD Regulation amended the rule filing by adding information about changes to four disclosure questions on Forms U–4 and U–5 ("Amendment No. 1").

[4] *See* letter from John M. Ramsay, Vice President and Deputy General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 7, 1999. In Amendment No. 2, NASD Regulation added information about the implementation and effective dates of the WEB CRD system and made minor changes to clarify some of the text ("Amendment No. 2").

[5] *See* letter from John M. Ramsay, Vice President and Deputy General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 15, 1999. In Amendment No. 3, NASD Regulation made a minor textual change ("Amendment No. 3").

(collectively "Proposed Forms").[6] Proposed changes to disclosure questions on the Proposed Forms are set forth below.[7] Additions are italicized; deletions are bracketed.

1996 Form U–4 Question 22I(2)

Have you ever been the subject of an investment-related, consumer-initiated [written] complaint, not otherwise reported under question 22I(1) above, which alleged that you were involved in one or more sales practice violations, and which complaint was settled for an amount of $10,000 or more?

1996 Form U–5 Question 14

While employed by or associated with your firm, *or in connection with events that occurred while the individual was employed by or associated with your firm,* was the individual:

A. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, or foreign or military court to any felony?

B. charged with any felony?

C. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, foreign or military court to a misdemeanor involving: investments or an investment-related business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?

D. charged with a misdemeanor specified in 14(C)?

1996 Form U–5 Question 15

While employed by or associated with your firm, *or in connection with events that occurred while the individual was employed by or associated with your firm,* was the individual involved in any disciplinary action by a domestic or foreign governmental body or self-regulatory organization (other than those designated as a "minor rule violation" under a plan approved by the U.S. Securities and Exchange Commission) with jurisdiction over the investment-related businesses?

1996 Form U–5 Question 17

A: In connection with events that occurred while the individual was employed *by* or associated with your firm, was the individual:

(1) named as a respondent/defendant in an investment-related, consumer-initiated arbitration or civil litigation which alleged that the individual was inyolved in one or more sales practice violations and which:

(a) is still pending, or;

(b) resulted in an arbitration award or civil judgment against the individual, regardless of amount, or,

(c) was settled for an amount of $10,000 or more?[, or;]

(2) the subject of an investment-related, consumer-initiated [written] complaint, not otherwise reported under question 17(A)(1) above, which alleged that the individual was involved in one or more sales practice violations, and which complaint was settled for an amount of $10,000 or more?

B. In connection with events that occurred while the individual was employed by or associated with your firm, [but for a period not to exceed the most recent twenty-four (24) months of employment,] was the individual the subject of an investment-related, consumer-initiated written complaint, not otherwise reported under question 17(A) above, which:

[(1) alleged that the individual was involved in one or more sales practice violations and contained a claim for compensatory damages of $5,000 or more (if no damage amount is alleged, the complaint must be reported unless the firm has made a good faith determination that the damages from the alleged conduct would be less than $5,000), or];

(1) would be reportable under question 22I(3)(a) on Form U–4, if the individual were still employed by your firm, but which has not previously been reported on the individual's Form U–4 by your firm; or

[(2) alleged that the individual was involved in forgery, theft, misappropriation or conversion of funds or securities?]

(2) would be reportable under question 22I(3)(b) on Form U–4, if the individual were still employed by your firm, but which has not previously been reported on the individual's Form U–4 by your firm.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDR included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDR has prepared summaries, set forth in Sections A, B, C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 5, 1996, the Commission approved amendments to Forms U–4 and U–5 ("1996 Forms").[8] These amendments were developed by a task force of representatives from the NASD the Commission, the North American Securities Administrators Association ("NASAA"), the securities industry, and other self-regulatory organizations ("SROs"). The 1996 Forms were to become effective with the implementation of a redesigned CRD system that used a network-based architecture and proprietary software developed by the NASD; members would submit the 1996 Forms electronically.[9] The 1996 Forms included both technical and formatting changes to accommodate the CRD redesign and substantive changes to the instructions and disclosure questions.

In 1997, NASDR determined to proceed with a Web-based approach to the CRD system rather than using a network-based architecture and proprietary software. This "Web CRD" system, which will permit members to submit the Proposed Forms electronically via NASD Regulation's World Wide Web site, is currently in development. In 1997, NASDR and NASAA also determined that it was possible to implement the changes to the disclosure questions and some of the new instructions while Web CRD was being developed. Therefore, NASDR submitted Interim Forms U–4 and U–5 to the Commission in October 1997.[10] The Interim Forms included all of the substantive changes to the disclosure questions and some of the changes to the instructions that were approved in 1996 and reformatted them in a manner that is compatible with the current CRD system. In January 1998, the Commission approved the Interim

[6] Copies of the Proposed Forms are attached as Exhibit 4 to Amendment No. 1 and are available in the Commission's Public Reference Room and from NASDR by calling 301–590–6142.

[7] The proposed disclosure questions reflect changes to the questions on the Forms U–4 and U–5 that were approved by the Commission on July 5, 1996. In addition, conforming changes were made to the Disclosure Reporting Pages ("DRPs") for these questions.

[8] Securities Exchange Act Release No. 37407 (July 5, 1996), 61 FR 36595 (July 11, 1996) (File No. SR–NASD–96–19).

[9] *Id.*

[10] Securities Exchange Act Release No 39322 (Nov. 13, 1997), 62 FR 62391 (Nov. 21, 1997)(File No SR–NASD–97–78).

Forms for use until Web CRD is completed.[11]

Due to the differences between the network-based and Web-based approaches to the CRD system, NASDR proposes additional formatting and technical changes to the 1996 Forms. These changes are needed to fully implement the Web CRD system. NASDR believes that the Proposed Forms will be simpler for member firms to complete than the 1996 Forms. NASAA approved all of the proposed changes described below at its October 4, 1998, membership meeting.[12]

NASDR has reformatted several sections of the 1996 Forms to simplify data entry and minimize errors in completing the Forms. First, the DRPs for the Proposed Forms have been simplified. The 1996 DRPs elicited more detailed information about reportable events than previously elicited on DRPs. Regulators had indicated that they needed this additional detail to make informed licensing and registration decisions and that the revised DRPs would reduce regulatory requests for additional information, which invariably prolonged the registration review and licensing process. However, the 1996 DRPs required that the additional detail be entered into numerous discrete fields.

While this approach was intended to provide all CRD users with the additional benefits of maximum flexibility in making queries to and deriving customized reports from the system, it resulted in unanticipated practical drawbacks. The most significant drawback was that the more complex data structure required to support the 1996 DRPs would cause the system to operate too slowly to meet users' needs. Theoretically, the 1996 DRP data structure provided the ability to sort on and create reports using all of the discrete data fields; as a practical matter, however, the time required to process those queries and produce those reports was unacceptable. The demands placed on the system by the generation of routine reports, ad hoc reports containing numerous discrete data fields, and routine user queries would not allow for acceptable response times for users. Therefore, following discussions with NASAA, industry representative, and other regulators, NASDR reformatted the DRPs by reducing the number of discrete fields and adding text blocks to simplify the data structure and the data relationships.

NASDR believes that all of the information necessary for regulators to make informed registration and licensing decisions will be available through this revised format. In this regard, the reformatted DRPs request all of the information requested on the 1996 DRPs. In addition, this revised format will significantly enhance regulators' ability to use the Web CRD for regulatory purposes and allow for more efficient processing of registration-related filings.

Second, the "other business activities" DRP on the 1996 Form U–4 is replaced with a separate attachment sheet, which also can be used to provide additional information about residential history or employment and personal history. The other business activity section of Question 20B on the 1996 Form U–4 is renumbered as Question 21. (All subsequent questions are likewise renumbered.) The instructions to Question 21 on the Proposed Form U–4 list the types of information that must be provided on the attachment sheet, and includes all of the information that would have been reported through the DRP.

Third, Sections 11 and 12 on the 1996 Form U–4 and Section 11 on the 1996 Form U–5 have been reformatted to ensure more accurate selection of registration categories. The Proposed Forms use matrices that link SROs and their related registration categories, which will reduce erroneous requests for registrations that are not available for a particular SRO. In addition, the instructions on the Proposed Forms clarify that CRD does not process Investment Adviser Representative and Agent of the Issuer registrations, although the paper Proposed Forms contain boxes for such registration. When an individual views the electronic version of the Proposed Forms on the Web CRD system, the boxes for these registrations will be shaded and the individual will not be allowed to select these options. The boxes for these registrations are included on the paper Proposed Forms solely for the convenience of states that wish to use the paper Proposed Forms for these registrations.

The General Instructions regarding the submission of documents on the 1996 Forms provide that documents are not required to be submitted, but that the applicant may submit them because documents may be requested as part of the review process. The Proposed Forms amend this instruction slightly to conform to the current practice of the states and SROs by stating that, although documents are not generally required to be filed with the Forms, it may be necessary to provide them to clarify or support responses on the Forms.

Finally, the Proposed Forms retain the definitions of "investigation" and "sales practice violations" that were adopted with the Interim Forms, with slight changes to punctuation. These definitions are more precise than the corresponding definitions used in the 1996 Forms and generally have worked well in practice. In addition, other technical and conforming amendments are listed in the rule filing.[13]

The rule filing also contains the DRP "pick lists" that will appear for users making electronic filings of the Proposed Forms.[14] The pick lists will appear for certain discrete fields on the DRPs so that there will be more consistency in the data entered in those fields. For example, on the Customer Complaint DRP, when the firm clicks on the field for "Litigation Disposition" the following choices will appear on the screen: Decision for Applicant, Decision for Customer, Denied, Dismissed, Judgment (other than monetary), Monetary Judgment to Applicant, Monetary Judgment to Customer, No Action, Other, Settled, Withdrawn. The individual submitting the electronic form will click on one of these choices to fill in the field, rather than having to manually type in a description of the disposition. Pick lists will also appear for other fields on the electronic Proposed Forms. In all pick lists (except states of residence and types of judgments/liens), a firm may select "Other" if none of the choices presented in the pick list is applicable. The pick lists were developed by NASDR, NASAA, the Commission, and others. NASDR expects that refinements to the pick lists will occur in the future, but will not file every change with the Commission because of the inclusion of the "Other" option.

Four disclosure questions on the Proposed Forms also are amended. These substantive amendments involve: (1) an expansion of the Form U–4 question eliciting information on settled customer complaints to include those oral complaints involving sales practice allegations that are settled for $10,000 or more; (2) a modification of the Form U–5 question eliciting information on

[11] Securities Exchange Act Release No 39562 (Jan. 20, 1998), 63 FR 3942 (Jan. 27, 1998)(File No. SR–NASD–97–78).

[12] At this meeting, NASAA also approved changes to certain disclosure questions on the Proposed Forms. The NASD submitted the proposed disclosure question changes to its membership for comment. *See* Notice To Members 98–101.

[13] The technical and conforming amendments are listed in Exhibit 2 of the proposed rule change.

[14] The DRP "Pick Lists" are contained in Exhibit 3 of the proposed rule change.

customer complaints to make that reporting requirement consistent with the parallel question on the Form U–4 (effectively eliminating the reporting requirement for and permitting the archiving of customer complaints that are over 24 months old and are not otherwise reportable); and (3) an expansion of the reporting requirement on the Form U–5 to include criminal or regulatory actions initiated on the basis of events that occurred while an individual was employed by the firm, even if the actions were initiated after the individual had been terminated.

As NASDR transitions from the current CRD system to Web CRD, there will be a two week period beginning July 31 and ending August 15, 1999 (the "System Transition Period"), when neither system will be available to process Forms.[15] The System Transition Period is necessary to complete the final data conversions from current CRD to Web CRD and to make final preparations for the deployment of Web CRD. NASDR will not accept the Interim Forms U–4 or U–5 after July 30, 1999.

Although Web CRD will not be operational until August 16, 1999, NASDR is requesting an effective date of August 1, 1999, for Proposed Forms U–4 and U–5. NASDR is requesting this date principally because it will accept paper Proposed Forms U–5 submitted during the two week period beginning August 1, and ending August 15, 1999, provided those Forms U–5 are submitted to report full terminations (*i.e.*, a termination of an individual's registration with all SROs and jurisdictions). In addition, NASDR wants broker-dealers and their associated persons to have an opportunity to familiarize themselves with the new forms prior to the deployment of Web CRD on August 16, 1999. NASDR will review all paper Forms U–5 reporting full terminations that are submitted during the System Transition Period and will provide notice to appropriate regulators/jurisdictions of any such Forms U–5 that contains disclosure information. This interim measure is necessary to protect investors (*e.g.*, to help prevent persons who have been terminated from continuing to engage in securities business) and provide necessary information to regulators.[16]

NASDR will not accept Proposed Form U–4 applications requesting registration/licensing until Web CRD becomes operational on August 16, 1999 (even though they will be "effective" August 1, 1999). Firms already have been informed that they must submit new applications for registration before July 30, 1999, or hold them until August 16, 1999.[17] Beginning August 16, 1999, all Forms U–4 and U–5 must be submitted electronically. NASD Regulation has developed a plan to allow registered persons to transfer their registrations during the System Transition Period that is based upon the current Temporary Agent Transfer ("TAT") program. NASDR has discussed this plan with firms and with the NASAA and expects to issue a Notice To Members on the specifics of the program and on other issues relating to the System Transition Period not later than June 1, 1999.

2. Statutory Basis.

NASD Regulation believes that the Proposed Forms are consistent with the provisions of Section 15A(b)(6)[18] of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the Proposed Forms are consistent with the NASD's authority to adopt appropriate qualifications and registration requirements for persons associated with NASD members or applicants for NASD membership. Article V, Section 2 of the NASD By-Laws authorizes the Board to prescribe the form used by any person who wishes to make application for registration with the NASD. NASD Regulation believes that the Proposed Forms will make the filing of information with CRD easier and more efficient while continuing to provide complete information for use by regulators, SROs, and firms conducting pre-hire checks.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD Regulation solicited member comment on the substantive changes to Form U–4 and U–5 disclosure questions in Notice To Members 98–101.[19] NASD Regulation received 15 comments in response to the Notice.[20]

Five commenters were in favor of or had no objection to the proposed rule change requiring the reporting of settlements of oral sales practice complaints and eight were opposed. The Securities Industry Association's ("SIA") Self-Regulations and Supervisory Practices Committee was among the eight commenters opposing the proposed change. The SIA expressed concern about the proposed change on the basis that: (1) it is inconsistent with the Commission's revised proposed books and records rules, which only require the reporting of customer-initiated complaints that are written; (2) a firm may be more vulnerable to a defamation claim brought by a former employee if there is no writing to substantiate the oral customer complaint that resulted in the settlement of $10,000 or more; and (3) it is currently unclear which types of disputes would give rise to a reportable offense and therefore, some execution adjustments might unintentionally be characterized as a sales practice matter.

While NASDR appreciates the SIA's concern, it disagrees with the SIA's argument that the proposed change requires reporting of oral *complaints*. On the contrary, the proposed change would require the reporting of *settlements* of $10,000 or more of a customer complaint (written or oral) alleging a sales practice violation. NASDR believes that this proposed change is consistent with the Commission's proposed books and

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[15] The Commission is in the process of amending the Forms BD and BDW so that these forms will be compatible with the Web CRD system. The Forms BD and BDW will be subject to the same transition period as the Forms U–4 and U–5.

[16] NASDR's Public Disclosure Program, which provides disciplinary and other information about NASD members and their associated persons, will continue to be available to the public and regulators during the System Transition Period. Regulators also will continue to have query access (*i.e.*, read only access) to the current CRD system during the System Transition Period.

[17] For more information concerning the CRD Modernization Update, System Transition Period and electronic filing, use the NASDR's web site at www.nasdr.com and review the *CRD/PD Bulletin*, March 1999, Vol. 6, No. 5.

[18] 15 U.S.C. 78o–3(b)(6).

[19] A copy of the Notice is attached at Exhibit 5 to Amendment No. 1.

[20] The commenters are American Express Financial Advisors, Inc.; AmSouth Investment Services, Inc.; Daniel Barba; Charles Schwab & Co., Inc.; Martin L. Feinberg; William E. Graeff; John G. Kinnard & Co.; Ted S. Meilke; Merrill Lynch; Metropolitan Life Insurance Company; National Association of Investment Professionals; Paine Webber; Raymond James Financial Services, Inc.; Regional Investment Bankers Association; Securities Industry Association Self-Regulation and Supervisory Practices Committee. The comments from persons associated with the John G. Kinnard & Co. are treated as one comment because they are identical. Copies of the letters are attached as Exhibit 6 to Amendment No. 1.

records rules [21] because the question addresses the reporting of the settlement and not the oral complaint. Moreover, the NASD staff believes that settlements of such amounts may be indicative of potential sales practice abuses (regardless of whether the complaint is made orally or in writing) and is therefore consistent with one of the purposes underlying the Commission's proposed rules, which is to assist regulators in determining whether an associated person has engaged or is continuing to engage in securities violations such as abusive sales practices. In addition, as the SIA acknowledges, firms are unlikely to settle a customer sales practice complaint for $10,000 or more without something in writing. Finally, NASDR staff and representatives of NASAA are prepared to issue interpretive guidance that would provide greater clarity in the area of what constitutes a sales practice violation (as opposed, for example, to a disagreement over an execution that does not involve an alleged rule violation) and to provide guidance to firms on procedures they should follow to support the reporting of these items.

Eight commenters addressed the proposed changes to the Form U–5 questions regarding the expanded reporting of regulatory and criminal actions. Under the revised question, firms would be required to report regulatory and criminal actions that were initiated after a registered person has left the firm, if the firm receives actual notice of such actions. The current question requires the reporting of these matters only while the registered person is employed by the firm. Commenters generally expressed concern about having to continually monitor former employees to meet this reporting requirement. Comments therefore requested that "actual notice" of the initiation of a criminal or regulatory event be defined through interpretive guidance before or in conjunction with the question change. Three commenters also requested that the proposed change be limited to criminal or regulatory events that are directly related to the former employee's employment with the member and that actual notice be defined as written notice to a principal responsible for making regulatory filings or other appropriate person in the legal or compliance department. Two commenters stated that reporting under these questions should be time limited, *e.g.*, to two years after termination.

[21] Securities Exchange Act Release No. 40518 (Oct. 2, 1998), 63 FR 54404 (Oct 9, 1998).

NASDR agrees that the issuance of interpretive guidance is appropriate. NASDR staff has discussed such interpretive guidance with NASAA and has reached an agreement in principle regarding an interpretation. This interpretation will state that firms are not obligated to report events unless they receive actual notice. In this context, actual notice would mean express notice—That is, a communication by the responsible agency/authority regarding the initiation of a criminal or regulatory action directly to a representative of the firm who is aware of the Form U–5 reporting requirement or should be aware of such requirement because such person has official responsibility for receiving such notice. This interpretation would address a majority of commenters' concerns; however, it does not address the time limit on Form U–5 reporting that was suggested by some commenters. Nevertheless, NASDR staff agrees that the establishment of an outside time limit for reporting on Form U–5 should be explored and has begun discussions with NASAA on this issue.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications elating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–96 and should be submitted by May 17, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10807 Filed 4–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41327; File No. SR–PCX–99–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to its Competing Specialist Program

April 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 1999, as amended on April 22, 1993,[3] the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to establish a Competing Specialist Program on the Exchange. The proposal includes specific procedures for Competing Specialists, including procedures for registration, withdrawal and participation in the Competing Specialist Program. Proposed new

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Michael Pierson, Director, Regulatory Policy, PCX to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, dated April 22, 1999 ("Amendment No. 1"). Amendment No. 1 made numerous technical and descriptive changes to the filing.

language is italicized: proposed deletions are in brackets.[4]

* * * * *

¶3999 Priority of Bids and Offers

Rule 5.8(c)*(1)*. When a bid or offer is clearly established as the first made at a particular price [regardless of the floor], the maker shall be entitled to priority and shall have precedence on the next sale at that price, up to the number of shares of stock or principal amount of bonds specified in the bid or offer irrespective of the number of shares of stock or principal amount of bonds specified in such bid or offer. *Specialist bids and offers must always yield to agency orders being represented at the same price, unless otherwise provided in Exchange Rules.*

A member having priority on the floor with a bid or offer may not increase the size of his bid or offer if objection is made by another member. By placing his order with the specialist he may maintain his priority, but in an amount no greater than originally bid for or offered by him on the Floor. Orders so placed may be accepted as and retain the status of open orders if so designated at the time of placement but shall not gain priority over orders existing in the *Consolidated Limit Order book* [specialist's book] at the time the member secured the Floor with his original bid or offer.

Priority Among Specialists

Rule 5.8(c)(2) If two or more specialists are quoting at the NBBO and there are no agency orders being represented at the same price, the earliest specialist bid or offer at that price will have time priority and will be eligible for an execution first up to its specified size. When no specialists are quoting at the NBBO, a specialist who is representing an order may execute that order in the same security at the NBBO or better.

Commentary

.01—No change.

.02 The term "NBBO," as used in Rule 5.8(c), refers to the national best bid or offer made by an Intermarket Trading System (ITS) participant.

.03 Temporary Rule Applicable to Securities Traded on a Competing Specialist Basis. The Exchange intends to reprogram its P/COAST system to assure that incoming orders will execute first against any matching agency orders in the book and then against any specialist interest at the NBBO. Until that systems change has been effected, Exchange specialists will be required to manually intervene with orders in their custody to assure that quotes for a contra specalist's proprietary account with time priority at the NBBO will be honored. If a specialist receives an order and is aware that another specialist is disseminating a quote for his own account at the NBBO, the specialist receiving the order must provide the other specialist with an execution, up to the specified size. A specialist whose time priority has been violated may demand an execution, up to the quoted size, but must make that demand within two minutes after the trade-through has occurred. Otherwise, the specialist's right to an execution will be deemed to have been waived.

* * * * *

P/COAST

¶4153 Pacific Computerized Order Access sysTem

Rule 5.25(a). P/COAST, a securities . . . [No change to remainder of this paragraph]

Member organizations wishing to participate in P/COAST may do so by entering, through direct connections between member firms and the Exchange or through a floor member on the Exchange floor, market and limit orders up to the maximum number of shares in securities traded under P/COAST as shall be fixed by the Exchange from time to time. *The Exchange routes orders to a specialist in one city or the other based on arrangements that the specialists have previously made with firms that send orders to the Exchange. For orders for which neither specialist has made specific arrangements with the firm sending the order, the Exchange will generally assure that the orders are transmitted to the two specialists on an alternating basis (e.g., the first order goes to Specialist A, the next order to Specialist B, the next to Specialist A, etc.) Specialists who accept orders pursuant to these routing procedures are obligated to represent those orders pursuant to Rule 5.29(f).*

* * * * *

Rule 5.25(h). Future Modification of P/COAST. The Exchange intends to reprogram P/COAST to assure that incoming orders will execute first against any matching agency orders with priority and then against any specialist interest with priority. Unfilled portions of such orders will default to the specialist who receives them according to previously-established routing procedures. P/COAST will continue to designate orders for representation by the specialist who has been specified to represent them according to pre-defined routing parameters (such as because the order-sending firm designated the specialist), even if another specialist has priority under Rule 5.8(c). Once P/COAST receives a market or marketable limit order, if another specialist in that security has a bid or offer with priority at the NBBO, the system will "lock in" the execution match so that the contra specialist will be guaranteed an execution, unless the receiving specialist executes the order at a price superior to the NBBO. If the receiving specialist moves the order into his or her manual-ex window, then the other specialist in the issue will receive a 30-second "shadow" message of the order on their manual-ex windows if they either have a matching limit order or proprietary quote with priority at the NBBO. The contra specialists can interact with the receiving specialist's order by seeking an execution either by sending an electronic order or calling the specialist and vocalizing a bid or offer. For example, assume that there are five PCX specialists (A, B, C, D and E) each bidding $20 for 500 shares for their own accounts. The specialists' quotes have time priority in the following order: A, B, C, D, E. There are no agency orders to buy at 20 on the PCX, and 20 is the national best bid. E's customers sends a market order to the PCX to sell 5,000 shares. The order will be represented by E. The order will be displayed for up to 15 seconds on E's auto-ex window. E may execute the entire order at 20–1/16. However, the system will lock in A's, B's, C's, D's and E's bids, so that if any trades at $20 occur on the PCX, they will be executed in time priority order. If E moves the order into the manual-ex window, then A, B, C and D will receive a 30-second shadow message of the order. Their outstanding bids remain locked in, unless updated so that they no longer match with the original order. However, A, B, C and D can improve the price or size of their proprietary quotes, and these will become locked in, as long as the original order remains in E's manual-ex window. To change the example, if A were bidding $20 for 5,000 shares (with priority, and B, C and D were bidding $19–7/8), E can keep the order by filing it at 20–1/16; otherwise, if the order is filled at $20, A can fill the entire order. If E moves the order into his manual-ex

[4] On August 21, 1998, the Exchange filed an earlier version of this proposal with the Commission. *See* File No. SR–PCX–98–40. Since that time, the Exchange modified the original proposal in several respects and accordingly, the Exchange has determined to withdraw SR–PCX–98–40 and refile it as modified.

window, A will receive a shadow message (but B, C and D will not).

* * * * *

¶4271 Suspend Trading

Rule 5.31(b)(1)—No change.

(i)—No change.

(ii) to *all other specialists trading the security* [the specialist on the other Floor] who also shall suspend trading,

(iii)–(iv)—No change.

Rule 5.31(b)(2)—No change.

(i)—No change.

(ii) to *all other specialists trading the security* [the specialist on the other Floor] who also shall suspend trading,

(iii)–(iv)—No change.

Commentary

.01 Competing Specialist in an issue may not suspend trading pursuant to this rule. All suspensions of trading must be coordinated through a regular Specialist

* * * * *

¶4319 Procedures for the Competing Specialist Program

Rule 5.35(a) The following are procedures for the Competing Specialist Program.

(1) Only Registered Specialists may act as Competing Specialists. For purposes of this Rule, a "regular Specialist" is a Registered Specialist who is not a Competing Specialist.

(2) Applications for Registration as a Competing Specialist must be directed to the Equity Floor Trading Committee ("EFTC") in writing and must list in order of preference the issue(s) in which the applicant intends to compete. The EFTC will consider the following factors in reviewing an application:

(A) financial capability;

(B) adequacy of staffing on the Floor;

(C) current recent performance evaluations of the applicant;

(D) whether the allocation will result in increased competition in the issue and/or increased order flow to the Exchange; and

(E) objections, if any, of the regular Specialists in the issue as to whether the issue should be traded on a Competing specialist basis.

(3) All applicants must be registered as members with the Exchange and must meet the net capital requirements of SEC Rule 15c3–1 and the capital requirements set forth in Rule 2.2(b) of the Rules of the Exchange, and must conform to all other performance requirements and standards set forth in the Rules of the Exchange. All applicants who control, are controlled by, or are under common control with another person engaged in a securities or related business must have and maintain appropriate information barriers, pursuant to Rule 4.20, as approved by a self-regulatory organization. A Competing Specialist will be subject to all the rules and policies applicable to a regular Specialist, unless otherwise indicated.

(4) All applicant organizations, existing or newly created, must satisfy the Equity Floor Trading Committee that they have sufficient staffing to enable them to fulfill the functions of a specialist in all of the issues in which the applicant will be registered as a Competing Specialist.

(5) Order flow not specifically designated for a Competing Specialist must be routed to a regular Specialist. However, a firm that is affiliated with a Competing Specialist in an issue must designate all PCX order flow to that Competing Specialist in that issue.

(6) In a competitive situation, if the Competing Specialist organization that received approval to compete desires to terminate the competition by requesting that it be relieved of the stock that is the subject of the competition, it must so notify the EFTC at least three (3) business days prior to the desired effective date of such withdrawal, except in those situations when such notice is not practicable.

(7) Any Competing Specialist that withdraws its registration in an issue will be barred from applying to compete in that same issue for a period of ninety (90) days following the effective date of withdrawal.

(8) Notwithstanding the existence of Competing Specialist situations, there is only one Exchange market in a security subject to competition. Competitors must cooperate with the regular Specialists regarding openings and reopenings to ensure that they are unitary.

(9) All limit orders not immediately executable that are sent a Competing Specialist must be entered directly into the Consolidated Limit Order Book and be executed according to the Exchange's rules on time priority.

(10) Competing Specialists in an issue may not suspend trading pursuant to Rule 5.31(b)(1). All suspensions of trading made must be coordinated through a regular Specialist.

(11) The registration of any Competing Specialist may be suspended or terminated by the EFTC upon a determination of any substantial or continued failure by such Competing Specialist to engage in dealing in accordance with the Constitution and Rules of the Exchange.

(12) The Exchange will establish an effective date for competition to commence. Since the Exchange cannot know what the impact of competition will be on its marketplace, it will limit competition during the initial phase as follows:

(A) Any Registered Specialist may apply to become a Competing Specialist in a number of issues, not to exceed ten, that has been previously established for the program by the EFTC and the Board of Governors.

(B) The EFTC and the Board of Governors will determine the total number of Competing Specialists permitted on the Exchange.

(C) The Exchange will conduct a quarterly review of each Competing Specialist on the Exchange. In conducting such reviews, the Exchange may consider, among other things, the factors set forth in subsection (2), above.

(13) Once the program has operated for one year, the EFTC will evaluate it and make a recommendation to the Board of Governors as to whether to continue the program or to modify its terms.

Commentary

.01 If a particular Specialist is not specified by the P/COAST order routing parameters for the receipt of an order, the order must be directed to a regular Specialist. However, if a routing firm is affiliated with a Competing Specialist, that firm may not route orders to another specialist, but must route them to that member firms's affiliated specialist, thereby preventing member firms affiliated with a specialist from routing non-profitable orders to another specialist when market conditions are unfavorable.

.02 All limit orders must be represented and executed in accordance with the rules on time priority on the Exchange. Incoming orders are first executed against any contra-side limit orders on the Exchange. All market and marketable limit orders are exposed to the Specialist for possible price improvement before execution. Specialists may execute their designated order flow unless there is contra-side limit order eligible for executive on the Exchange or another Specialist has a bid or offer with time priority at the NBBO.

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[¶4319 Securities Traded on a Competing Specialist Basis

RULE 5.35(a). The Board of Governors may from time to time designate securities to be traded on a competing specialist basis. Securities traded on a competing specialist basis will be traded in accordance with the provisions of Rule 5.27 through 5.38.]

[¶4321 Competing Specialist—Definition and Procedure for Appointment

RULE 5.35(b). A competing specialist is a member who is registered with the Exchange for the purpose of making transactions as dealer-specialist on the floor of the Exchange, in securities traded on a competing specialist basis, in accordance with the Rules of the Exchange. Appointment as a competing specialist shall be made by the Floor Trading Committee pursuant to an application which shall include such information as is required by the Floor Trading Committee. In making such appointments the Floor Trading Committee shall satisfy itself as to the applicant's ability to perform the duties of a competing specialist and the applicant's financial resources. The Floor Trading Committee shall not appoint any person as a competing specialist in a security if such person is associated with a member firm with which the book broker in such security is also associated. The registration of any person as a competing specialist may be suspended or terminated by the Floor Trading Committee upon a determination of any substantial or continued failure by such competing specialist to engage in dealings in accordance with the Constitution and Rules of the Exchange.]

[¶4323 Book Broker—Definition and Procedure for Appointment

RULE 5.35(c). A book broker is a member of the Exchange who has been selected by the Floor Trading Committee to operate the book of limit orders and to execute odd lot orders and COMEX routed orders in securities traded on the Exchange on a competing specialist basis. For each security traded on the Exchange on a competing specialist basis, the Floor Trading Committee may appoint one book broker on the Los Angeles floor of the Exchange and one book broker on the San Francisco floor of the Exchange. Application for appointment as a book broker shall be made on such form, and shall include such information, as is prescribed by the Floor Trading Committee. The appointment of any person as book broker may be suspended or terminated by the Floor Trading Committee upon a determination that, in its judgment, the interest of a fair and orderly market are best served by such action.]

[¶4325 Responsibilty of Book Broker

RULE 5.35(d). A book broker shall accept any limited order from members for placement in the book, including limited orders placed by members on a principal basis. All principal orders must be so marked. Public orders in the book (agency orders) shall at all times have priority and precedence over principal orders in the book at the same price of at inferior prices.]

[¶4327 Book Broker Prohibited from Engaging in Principal Transactions

RULE 5.35(e).

(1). A book broker is prohibited from executing transactions for his own account or for the account of his firm. The prohibition of this Rule 5.35(e), however, shall not apply to odd lot transactions effected to fill odd lot orders, or to round lot transactions to decrease a position acquired as a result of the book broker's odd lot transactions or error account transactions.

(2). When a book broker acting as odd lot dealer determines to sell a round lot, he shall give the order a competing specialist or another member not associated with him for execution, if the transaction would establish the price for the execution of odd lot orders the book broker holds and make the book broker a buyer on balance.

(3). When a book broker acting as odd lot dealer determines to buy a round lot, he shall give the order to a competing specialist or another member not associated with him for execution, if the transaction would establish the price for the execution of odd lot orders the book broker holds and made the book broker a seller on balance.

(4). If unusual circumstances exist, such as unusual activity in a stock with a corresponding increase in the number of orders being received and a need for effecting an unusual number of off-setting round lot transactions, the off-setting orders may, with the approval of a Floor official, despite the provisions of subparagraphs (2) and (3) above, be handled by the book broker acting as odd lot dealer. A record shall be kept of the circumstances.

(5). The approval of a Floor Official is required for transactions described in paragraphs (2) and (3) when a competing specialist acts as a principal on the opposite side of the transaction and such transaction is at a price more than one-eight point away from the previous sale.

(6). A book broker acting as odd lot dealer may not, without the approval of a Floor Official, effect a transaction or cause a transaction to be effected for the account of the book broker which would effect any odd lot stop order held by such book broker.]

[¶4329 Maintaining Fair, Orderly, and Competitive Market

RULE 5.35(f). At the request of a floor broker who holds an order for purchase or sale of a security trading on a competing specialist basis, or whenever in the book broker's opinion the interests of a fair and orderly and competitive market are best served by such action, a book broker shall call upon those competing specialists appointed to act as such in that security or as many of such competing specialists as deemed necessary by the book broker to make bids and/or offers or to narrow spreads in existing bids and offers or to take other appropriate action, so as to contribute to meeting the standards set forth in Rule 5.35(g). Whenever called upon by a book broker in accordance with Rule 5.35(f), a competing specialist shall take reasonable action under the circumstances to respond to the book broker's call by providing a market or improving upon the market. To the extent practicable, and in a form prescribed by the Exchange, the book broker will shall keep a record of the responses of competing specialists that provide or improve upon a market commensurate with these standards. If satisfactory responses are not forthcoming promptly, the book broker shall make a record of this fact. Copies of all records kept in accordance with this Section shall be forwarded to the Floor Trading Committee and the Division of Member Organizations. In addition, in the interests of maintaining a fair and orderly and competitive market, a request for a quotation may be made at any time of any competing specialist by Exchange personnel for the purposes of dissemination over any quote reporting system.

Commentary

.01 Maximum Spreads.

Without limiting the standards expressed in Rules 5.35(f) and 5.35(g) a competing specialist, in the course of maintaining a fair and orderly market, is expected to conform to the following specific standards relating to maximum spreads in the following securities.

(a) BankAmerica Corporation Common Stock-

Bidding and/or offering so as to create differences of no more than 1/2 of $1; provided that, the book broker with the consent of a Floor Official, or the Exchange, because of unusual market conditions, may determine to increase or decrease the maximum spreads specified above.

The stated maximum spread is not intended as a limit on the book broker's

power to call for narrower spreads between bids and offers. Depending upon market conditions, a book broker may well call for bids and/or offers that provide narrower spreads than those stated, and competing specialists may be considered to be in derogation of their responsibilities under Rules 5.35(f) and 5.35(g) if they do not make bids and/or offers that provide narrower spreads.]

[¶ 4331 Responsibility of Competing Specialist

RULE 5.35(g). Transactions of a competing specialist should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and no competing specialist should enter into transactions or make bids or offers that are inconsistent with such a course of dealings. With respect to securities in which he is registered as a competing specialist, a competing specialist shall have a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and the demand for a particular security, or a temporary distortion of the price relationships between the Exchange and other markets.]

[¶ 4333 Acting as Competing Specialist and Floor Broker in Same Day

RULE 5.35(h). A competing specialist is prohibited from acting as a floor broker and a competing specialist on the same trading day in any security in which the competing specialist is so registered.]

[¶ 4335 Applicability of Other Exchange Rules

RULE 5.35(i). The following Rules of the Exchange relating to Dealings upon the Exchange shall apply to book brokers: Rule 1.1, Rule 4.2, 4.3, Rule 5.1–5.16, 5.20–5.23, 5.27–5.38 (except 5.30(e), 5.32(a), 5.32(b), 5.33(g), and 5.34(b)) which shall not apply to book brokers, and Rule 4.4–4.13, and Rule 5.18, 5.25. The following Rules of the Exchange relating to Dealings Upon the Exchange shall apply to competing specialists: Rules 1.1; 4.2–4.13; 5.1–5.9; 5.11–5.16; 5.18; 5.20–5.23; 5.25; 5.27; 5.28(b), (c), (d), (f); 5.29(e); 5.30(a), (d); 5.33(a), (d), (e), (f); 5.35(a); 5.36; and 5.37. All other Exchange Rules shall be applicable to transactions on the Exchange in securities traded on a competing specialist basis and to the activities of book brokers and competing specialists unless the context clearly indicates otherwise.]

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B. and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

a. Current Practices

The Exchange currently operates two equity trading floors, one in Los Angeles and one in San Francisco. For most of the equity securities traded on the Exchange, there are two Registered Specialists [5] continuously making two-sided markets. An order sent to the Exchange is routed to a specialist in one city or the other based on arrangements that the specialist has previously made. If no specific arrangements have been made, the Exchange will generally assure that orders are transmitted to the two specialists on an alternating bases (*e.g.*, the first order goes to Specialist A, the next order goes to Specialist B, the next to Specialist A, and so on).

The Exchange disseminates a single two-sided quote on the Consolidated Quote System ("CQS") in each security traded on the PCX, based on the combined best bids and offers from each city. If the Los Angeles specialist is disseminating a bid of $30 for 5,000 shares of XYZ and the San Francisco specialist is disseminating a bid of $30 for 3,000 shares of XYZ, then the Exchange will disseminate a combined bid of $30 for 8,000 shares of XYZ.

The Exchange developed its Consolidated Limit Order Book ("CLOB") in August 1998 for orders that are entered into the Exchange's P/COAST trading system.[6] Incoming orders other than market and marketable limit orders are maintained in the CLOB and are represented by the specialist designated to represent them. Incoming market and marketable limit orders are executed against orders in the CLOB based on price and time priority. Before any orders are executed, P/COAST will display them to the specialist designated to receive the order for up to 15 seconds to provide an opportunity for price improvement.[7] If a specialist manually executes a limit order that does not have priority, P/COAST will generate a message that a priority violation has been committed so that corrective action may be taken. In addition, the Exchange's Surveillance Department will receive a report of the priority violation.

b. Proposed Competing Specialist Program

The purpose of the proposed rule change is to expand the Exchange's two-specialist system for equity securities by establishing a Competing Specialist Program on the Exchange. Under the proposal, Competing Specialists will be permitted to compete with Regular Specialists on the floor of the Exchange. Like Regular Specialists, Competing Specialists in a security will be required to make a two-sided market and will be subject to the rights and responsibilities of Regular Specialist, subject to certain exceptions discussed below.

The Exchange's P/COAST system will electronically route each incoming order for an equity security to a Regular Specialist or a Competing Specialist in that security based on instructions of the firm submitting the order. As specified in the Exchange's proposed amendment to Rule 5.25(a), specialists who accept orders via P/COAST will be obligated to represent those orders pursuant to PCX Rule 5.29(f), which states that a specialist is repsonsible for the execution of all orders it has accepted.

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[5] For purposes of this rule filing, a "Registered Specialist" is a PCX member who has been appointed and registered pursuant to Rule 5.27 to act as a Specialist on the Exchange. A "Competing Specialist" is a Registered Specialist who has been approved by the Equity Floor Trading Committee to trade securities on a Competing Specialist basis pursuant to proposed PCX Rule 5.35. A "Regular Specialist" is a Registered Specialist who is not a Competing Specialist.

[6] *See generally* File No. SR–PCX–99–06. The Commission notes that the proposal to implement the CLOB is still pending with the Commission.

P/COAST, the "Pacific Computerized Order Access SysTem," is the Exchange's communication, order routing and execution system for equity securities. *See* PCX Rule 5.25(a)–(f).

[7] When P/COAST displays an order for possible price improvement, the order will appear on the recipient specialist's automatic execution window. If another specialist in the issue is simultaneously representing an order in the CLOB that is priced at the national best bid or offer made by an Intermarket Trading System ("ITS") participant, or "NBBO," that specialist will see a "shadow" record of the order being represented by the other specialist and can interact with that order by calling the other specialist and vocalizing a bid or offer.

Specialists on the Exchange will be required to execute all orders received—whether via the P/COAST system or from a floor broker—in accordance with the Exchange's rules on priority. Accordingly, as discussed below, a specialist cannot execute incoming market and marketable limit orders against its own account until after all limit orders priced at or better than the NBBO have been executed, and all specialist quotes with time priority at the NBBO have been filled.

In a few respects, the Regular Specialists in a security will have rights and obligations not shared by Competing Specialists. Regular Specailists will continue to be responsible for coordinating openings and reopenings to ensure they are unitary. Also, Computing Specialists who wish to use the ITS to send preopening indications of interest to the primary market in a security must send those preopening indications through a Regular Specialist (but during trading hours Competing Specialists will be able to send outbound ITS commitments and execute incoming ITS commitments independently and without the need for a Regular Specialist to clear the activity).

Like Regular Specialists, Competing Specialists will be able to enter two-sided quotes into the P/COAST system. The Exchange will continue to disseminate a single CQS quote.

The Exchange believes that having a Competing Specialist Program will result in greater competition, tighter bid-ask spreads, and greater depth and liquidity on the PCX. As a result, the Exchange expects to improve its competitive posture in the industry and expects that members' customers will send more order flow to the PCX for execution than they currently send.

c. Priority Rule Changes

The Exchange is also proposing to modify its Priority Rule for equity securities, Rule 5.8(c). The existing rule, which will be renumbered as Rule 5.8(c)(1), will be amended to provide that specialist bids or offers must always yield to agency orders being represented at the same price, unless otherwise provided for by rule. The exceptions to this general principle would include odd lot oders, orders that provide for settlement other than in three days (non-regular way) and conditional orders (such as all-or-none orders, stop orders and market-on-close orders).

Proposed Rule 5.8(c)(2) will provide that if two or more specialists are quoting at the NBBO and there are no agency orders being represented at the same price, the earliest bid or offer at that price will have time priority and will be eligible for execution first up to its specified size. It will further provide that when no specialists are quoting at the NBBO, the specialist who is representing an order may execute the order in the same security at the NBBO or better. The Exchange is also proposing to add a new Commentary .02 to the rule, which will provide that the term "NBBO," as used in Rule 5,8(c), will refer to the national best bid or offer made by an ITS participant.

The provisions of Rules 5.8(c)(1) and 5.8(c)(2) will apply to trading in all securities in which there is more than one specialist on the PCX. This incudes all securities in which two Regular Specialists make a market, whether or not one or more Competing Specialist trades the security.[8]

If a particular specialist is not specified within the P/COAST routing parameters for the receipt of an order (such as because the specialist has not made prior arrangements with an order-sending firm), the order will be directed to a Regular Specialist. However, if a routing firm is affiliated with a Competing Specialist, that firm may not route orders to another specialist, but must route them to the member firm's affiliated specialist, thereby preventing member firms affiliated with a specialist from routing non-profitable orders to another specialist when market conditions are unfavorable.[9]

Under the Competing Specialist Program, all limit orders are required to be represented and executed according to the rules on time priority on the Exchange.[10] All market and marketable limit orders will be exposed to the specialist representing the order for possible price improvement before execution. Specialists may execute their designated order flow unless there is a matching limit order with priority being represented on the Exchange or another specialist has a superior quote (with time priority) at the NBBO.

[8] For example, assume that the NBBO is 20 bid to 20⅛ offered, and Specialist A is bidding 19¾, while Specialist B is bidding 19½. A market order to sell may be directed to specialist B for execution, even though Specialist A has a better bid, because neither specialist is bidding at the NBBO. Under the Competing Specialist Program, Specialist B would execute the order at 20 (the national best bid) or better. If Specialist A has been bidding 20 (the national best bid), Specialist A would have had priority to execute the order, even though it was directed to Specialist B.

[9] As noted above, however, Rule 5.8(c)(2) will provide that if another Specialist is quoting at the NBBO and clearly has established priority on the PCX floors, then that Specialist will have priority to fill the order despite the fact that the order was designated for the affiliated Competing Specialist.

[10] Time priority is required to be maintained among all orders received by the PCX.

d. Order Handling

(1) Routing Mechanism

The Exchange proposes to add new Rule 5.25(h) to reflect that the Exchange intends to reprogram P/COAST to assure that incoming orders will execute first against any matching agency orders with priority and then against any specialist interest with priority. Unfilled portions of such orders will default to the specialist who receives them according to previously established routing procedures.

P/COAST will continue to designate orders for representation by the specialist who has been specified to represent them according to pre-defined routing parameters (such as because the order-sending firm designated the specialist), even if another specialist has priority under Rule 5.8(c)(2). Once P/COAST receives a market or marketable limit order, if another specialist in that security has a bid or offer with priority at the NBBO, the system will "lock in" the execution match so that the contra specialist will be guaranteed an execution unless the receiving specialist executes the order at a price superior to the NBBO. If the receiving specialist moves the order into his or her manual-ex window, then the other specialists in the issue will receive a 30-second "shadow" message of the order on their manual-ex windows if they either have a matching limit order or proprietary quote with priority at the NBBO. The contra specialists can interact with the receiving specialist's order by seeking an execution either by sending an electronic order or calling the specialist and vocalizing a bid or offer.

For example, assume that there are five PCX specialists (A, B, C, D and E) each bidding $20 for 500 shares for their own accounts. The specialists' quotes have time priority in the following order: A, B, C, D, E. There are no agency orders to buy at 20 on the PCX, and 20 is the national best bid. E's customer sends a market order to the PCX to sell 5,000 shares. The order will be represented by E. The order will be displayed for up to 15 seconds on E's auto-ex window. E may execute the entire order if E improves the price to 20$\frac{1}{16}$. However, the system will lock in A's, B's, C's, D's and E's bids, so that if any trades at $20 occur on the PCX, they will be executed in time priority order.

If E moves the order into the manual-ex window, then A, B, C and D will receive a 30-second shadow message of the order. Their outstanding bids remain locked in, unless updated so that they

no longer match with the original order. However, A, B, C and D can improve the price or size of their proprietary quotes, and these improvements in price or size will become locked in, as long as the original order remains in E's manual-ex window.

To change the example, if A were bidding $20 for 5,000 shares (with priority, and B, C and D were bidding $19⅞), E can keep the order by filling it at 20⅛; otherwise, if the order is filled at $20, a can fill the entire order. If E moves the order into his manual-ex window, A will receive a shadow message (but B, C and D will not).

The Exchange believes that this proposed modification to P/COAST will better assure that incoming orders will be executed against PCX bids and offers in priority sequence because specialists bids and offers at the NBBO will be "locked in" systemically. The proposal will encourage quote competition among specialists. If specialists are quoting at the NBBO with time priority, they will be eligible to trade with any incoming order, regardless of who is receiving it. The proposal will encourage price improvement because the Competing Specialists will be required to quote a letter prices in order to retain the order flow received by the Exchange.

The Exchange has considered changing P/COAST to route orders to the specialist with priority at the NBBO, but has concluded that splitting orders up into multiple partial orders or routing orders to various specialists other than the receiving specialist would not be in the customers' best interest. The Exchange further believes that implementing such changes would place the Exchange at a competitive disadvantage. The Exchange represents that its customers are placing a higher premium on turnaround time for executions of their orders. With the significant growth of the Exchange's base of on-line customers, the PCX anticipates that speed of execution will continue to be a high priority for PCX customers. The PCX contends that it is imperative that the Exchange devise an order handling method that facilities quick executions, avoids unnecessary errors from occurring, and does not place PCX specialists at a competitive disadvantage to other exchanges and alternative trading systems.

(2) Interim Methodology

The Exchange proposes to add Commentary .03 to Rule 5.8(c), to reflect that until the Exchange has reprogrammed P/COAST to implement order routing for the competing specialist program, as described in proposed Rule 5.25(h), specialists will need to rely on manual procedures to assure that any quotes for a specialist's proprietary account with time priority at the NBBO will be honored. In particular, if a specialist receives an order.an is aware that another specialist is disseminating a quote for his own account at the NBBO, the specialist receiving the order will be required to provide the other specialist with an execution, up to the specified size.[11]

The Exchange believes that in some cases, due to system limitations, a specialist will be unable to know, at the time of receipt of an order, whether a contra specialist has time priority at the same price being quoted by the order specialist. As a result, the Exchange is proposing to adopt a new Commentary .03 to Rule 5.8(c), stating that when two specialists are quoting for their own accounts at the NBBO, a specialist whose time priority has been violated may demand an execution, up to the quoted size, but must make that demand within two minutes after thee trade-through has occurred.[12] Otherwise, the specialist's right to an execution will be deemed to have been waived.[13] Having a two-minute window will assure that members will not request relief well after the market has moved and a reasonable time to research a trade has passed. It will also serve to ensure that PCX specialists trading the same issue will keep each other apprised of bids and offers for their own accounts that they intend to invoke when competing for the same order flow.

e. Procedures for Competing Specialist Program

The Exchange is proposing to adopt new Rule 5.35(a) for the Competing Specialist Program.[14] Specifically, proposed Rule 5.35(a)(1) will provide that only Registered Specialists may act as Competing Specialist. This requirements is intended to assure that Competing Specialists meet the same standards as Registered Specialists as required under PCX Rule 5.27. The rule also clarifies that the term "regular Specialists" is a Registered Specialist who is not a Competing Specialist.

Proposed Rule 5.35(a)(2) states that applications for Registration as a Competing Specialist must be directed to the Equity Floor Trading Committee ("EFTC") in writing and must list in order of preference the issue(s) in which the applicant intends to compete. The EFTC will consider the following factors in reviewing an application: (a) financial capability; (b) adequacy of staffing on the Floor; (c) current and recent performance evaluations of the applicant; (d) whether the allocation will result in increased competition in the issue and/or increased order flow to the Exchange; and (e) objections, if any, of the Regular Specialists in the issue as to whether the issue should be traded on a competing specialist basis.[15]

Proposed Rule 5.35(a)(3) states that all applicants must be registered as members with the Exchange, must meet the net capital requirements of SEC Rule 15c3–1 and the capital requirements of PCX Rule 2.2(b), and must conform to all other performance requirements and standards set forth in the Rules of the Exchange. All applicants who control, are controlled by, or are under common control with another person engaged in a securities or related business will be required to have and maintain appropriate information barriers as approved by a self-regulatory organization. A Competing Specialist will be subject to to all the rules and policies applicable to a Regular Specialist, unless otherwise indicated.

Proposed Rule 5.35(a)(4) states that all applicant organizations, existing or newly created, must satisfy the EFTC that they have sufficient staffing to enable them to fulfill the functions of a specialist in all of its issues in which the applicant will be registered as a Competing Specialist.

Proposed Rule 5.35(a)(5) states that order flow are specially designated for a Competing Specialist must be routed to a Regular Specialist. However, a firm that is affiliated with a Competing Specialist in an issue must designate all PCX order flow to that Competing Specialist in that issue. Commentary .01 to proposed Rule 5.35 explains that this

[11] For example, if Specialist A is bidding $75 (the nations best bid, with price and time priority) for 100 shares for his own account, and Specialist B receives a market order to sell 5,000 shares, Specialist B will be required to execute 100 shares of that order for Specialist A's account by entering Specialist A's post number as the contra side of the trade. Specialist A will then receive a report of the executed trade through P/COAST.

[12] The Exchange intends to codify this provision as a temporary rule that will expire upon the implementation of the P/COAST changes discussed above. The Exchange anticipates that from the time of commencement of programming, these system changes will take approximately one year to implement.

[13] A similar provision exists in the ITS Rules for orders executed out of price priority (but not for orders out of time priority at the same price). *See, e.g.*, PCX Rule 5.21(b).

[14] Most of these procedures are similar to those set forth in the Boston Stock Exchange ("BSE") Rules, Chapter XV, Section 18, which were approved in Exchange Act Release No. 37045 (March 29, 1996), 61 FR 15318 (April 5, 1996).

[15] PCX Rule 11 provides a right of appeal for members or member organizations aggrieved by a decision of the EFTC regarding the competing specialist program.

is designed to prevent member firms affiliated from a Competing Specialist from routing non-profitable orders to another (unaffiliated) specialist when market conditions are unfavorable.

Proposed Rule 5.35(a)(6) states that if the Competing Specialist organization that received approval to compete desires to terminate the competition by requesting that it be relieved of the stock in which it is competing, it must so notify the EFTC as least three business days prior to the desired effective date of such withdrawal, except when such notice is not practicable.

Proposed Rule 5.35(a)(7) states that any Competing Specialist that withdraws its registration in an issue will be barred from applying to compete in that same issue for a period of 90 days following the effective date of withdrawal.

Proposed Rule 5.35(a)(8) states that Competing Specialists must cooperate with the Regular Specialists regarding openings and reopenings to ensure that they are unitary. In this regard, the procedures note that, notwithstanding the existence of Competing Specialist situations, there is only one Exchange market in a security subject to competition, meaning that the Exchange will disseminate a single quote onto the CQS.

Proposed Rule 5.35(a)(9) states that all limit orders not immediately executable that are sent to a Competing Specialist must be entered directly into the CLOB and be executed according to the Exchange's rules on time priority. Commentary .02 to proposed Rule 5.35 further states that incoming orders are first executed against any matching limit orders on the Exchange, that all market and marketable limit orders are exposed to the specialist for possible price improvement before execution, and that specialists may execute their designated order flow unless there is a matching limit order eligible for execution on the Exchange or another specialist has a bid or offer with time priority at the NBBO.

Proposed Rule 5.35(a)(10) states that all suspensions of trading must be coordinated through a Regular Specialist.[16]

Proposed Rule 5.35(a)(11) states that the registration of any Competing Specialist may be suspended or terminated by the EFTC upon a determination of any substantial or continued failure by that Competing Specialist to engage in dealing in accordance with the Constitution and Rules of the Exchange.

Proposed Rule 5.35(a)(12) states that the Exchange will establish an effective date for competition to commence, but since the Exchange cannot know what the impact of competition will be on its marketplace, it will limit competition during the initial phase as follows: (a) any Registered Specialist may apply to become a Competing Specialist in a number of issues, not to exceed ten, that has been previously established for the program by the EFTC and the Board of Governors: (b) the EFTC and the Board of Governors will determine the total number of Competing Specialists permitted on the Exchange; and (c) the Exchange will conduct a quarterly review of each Competing Specialist on the Exchange, and in conducting such reviews, the Exchange may consider, among other things, the five factors the EFTC considers when reviewing an application for registration under the Competing Specialist Program.[17]

Proposed Rule 5.35(a)(13) states that once the program has operated for one year, the EFTC will evaluate it and made a recommendation to the Board of Governors as to whether to continue the program or to modify its terms.

f. Trading Halts and Circuit Breakers

PCX Rule 5.31(b)(1) currently provides, in part, that when the flow of orders in a security traded on both Floors does not allow either specialist to maintain an orderly market in such security, either specialist may suspend trading, and the specialist who suspends trading must notify the specialist on the other Floor who shall also suspend trading. Rule 5.31(b)(2) contains similar provisions for securities traded only on one Floor. The Exchange is proposing to amend both rules to require notification of all specialists trading the security. The Exchange also is proposing to add a Commentary to this Rule stating that Competing Specialists in an issue may not suspend trading pursuant to this Rule, and further that all suspensions of trading must be coordinated through a Regular Specialist. The Exchange further proposes to add a similar provision to the Procedures for the Competing Specialist Program, as new Rule 5.35(a)(11). Finally, the Exchange is also proposing to extend its rules on circuit breakers, previously approved by the Commission,[18] to Competing Specialists.

g. Elimination of Current Rules on Competing Specialists

In 1976, the Exchange adopted its existing rules on Competing Specialists (PCX Rules 5.35(a)—(i)). The Exchange is proposing to eliminate those rules and replace them with provisions set forth in this proposal, which the Exchange believes to be consistent, in general, with the rules of the BSE on Competing Specialists.[19] The Exchange has not applied its existing rules on Competing Specialists since approximately 1977.

(2) Basis

The proposed rule change is consistent with Section 6(b) of the Act,[20] in general, and furthers the objectives of Section 6(b)(5),[21] in particular, in that it is designed to promote just and equitable principles of trade, to reflect the mechanism of a free and open market and a national market system, and to protect investors and the public interest. Specifically, the Exchange believes that the proposal, when implemented, will result in greater competition, tighter bid-ask spreads, and greater depth and liquidity on the PCX, and thereby, will promote those three objectives. The Exchange further believes that the proposed rule change and will serve to permit the Exchange to compete more effectively for order flow, and thereby will serve to promote greater industry-wide competition, and help to perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

[16] Trading halts are discussed in more detail *infra*.

[17] The purpose of these reviews is to assure that the new program will be operating appropriately, particularly in its early phase, so that any problems can be identified and corrected. The Exchange anticipates that its staff will provide the EFTC with objective data for the EFTC's review and that floor members and others will have an opportunity to raise their concerns, if any, in the context of these reviews.

[18] *See* PCX Rule 4.22; Securities Exchange Act Release No. 40418 (September 9, 1998), 63 FR 49624 (September 16, 1998).

[19] *See* Chapter XV, Section 18, of the BSE Rules; Securities Exchange Act Release No. 37045, note 14, *supra*.

[20] 15 U.S.C. 78f(b)

[21] 15 U.S.C. 78f(b)(5)

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will—

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–99–07 and should be submitted by June 25, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10806 Filed 4–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGED COMMISSION

[Release No. 34–41323; File No. SR–PHLX–99–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to an Extension of a Pilot Program for a System Enhancement to the X.Station Electronic Book on the Options Floor

April 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 22, 1999,[3] the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule changed from interested persons.

I. *Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule*

Phlx proposes to extend its pilot program for a system enhancement to the X.Station electronic book on the options floor for an additional six months, until October 23, 1999.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

1. Purpose

On May 7, 1998, the Commission approved, on a pilot basis, the implementation of the X.Station enhancement to the electronic book on the options floor of the Phlx.[4] The pilot was extended for an additional six months, until April 23, 1999.[5] As described in Rule 1080, Commentary .02, the electronic order book is automated mechanism for specialists to hold and display orders based on price/priority time. The X.Station[6] provides certain improvements such as expedited non-AUTO–X order execution and expedited cancel replacement processing.

AUTO-X is the automatic execution feature of the Automated Options Market ("AUTOM") System, the electronic order delivery and routing system for options orders. Previously, AUTO–X orders were executed against a "shadow account" for which the specialist was ultimately responsible. The execution was immediately reported back to the sending firm, and then, specialist manually input the contra-side interest representing the booked order that became due as a result of the AUTO–X trade.

At this time, the Exchange proposes to extend the X.Station pilot for an additional six months, until October 23, 1999. The pilot program is a system enhancement to the X.Station electronic book that match incoming AUTO–X orders with booked orders. The enhancement allows the specialist to match two participants directly, without the specialist participating in the trade, by dropping the order to manual status. The match is not automatic, as the specialist must ensure that crowd participation under current parity/priority rules in not due before executing the trade; thus, the specialist must "select" the orders to execute the trade. Because the AUTO–X order has dropped to manual, the sending firm will not receive and execution report until the specialist selects and executes the trade.

The enhancement affords specialists relief from the manual burden of inserting trade participant and clearing information by writing an order ticket for the booked order. An extension of the proposed enhancement should continue to reduce the amount of paper processed on the options floor; this in turn, should continue to reduce handling and processing time, including the likelihood of errors, thereby facilitating more prompt and accurate trade reporting.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The filing was submitted April 14, 1999, however it was not accurate. Therefore, the Phlx consented to changes to the filing to make it accurate on April 22, 1999.

[4] Securities Exchange Act Release No. 39972 (May 7, 1998), 63 FR 26666 (May 13, 1998).

[5] Securities Exchange Act Release No. 40625 (November 2, 1998), 63 FR 60435 (November 9, 1998).

[6] The X.Station has been deployed floor wide.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with Section 6(b)[7] of the Act in general and furthers the objectives of Section 6(b)(5)[8] in particular, because it fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by enhancing efficiency through automation in the options market.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(5) thereunder.[11] The proposal effects a change in an existing order-entry or trading system of a self-regulatory organization that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–99–13 and should be submitted by May 21, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10805 Filed 4–29–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] In reviewing the proposed rule change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3165]

State of Louisiana (Amendment #2)

In accordance with a notice received from the Federal Emergency Management Agency dated April 16, 1999, the above-numbered Declaration is hereby amended to include Claiborne and DeSoto Parishes in the State of Louisiana as a disaster area as a result of damages caused by severe storms, tornadoes, and flooding that occurred on April 3–7, 1999.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties or parishes may be filed until the specified date at the previously designated location: Lincoln, Natchitoches, Sabine, and Union Parishes in Louisiana; Columbia and Union Counties in Arkansas; and Shelby County, Texas.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 7, 1999, and for economic injury the deadline is January 7, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 19, 1999.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 99–10789 Filed 4–29–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3170]

Commonwealth of Massachusetts (and a Contiguous County in the State of New Hampshire)

Middlesex County and the contiguous Counties of Essex, Norfolk, Suffolk, and Worcester in Massachusetts, and Hillsborough County, New Hampshire constitute a disaster area as a result of damages caused by a fire that occurred on April 9–10, 1999 in the Town of Belmont. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 18, 1999 and for economic injury until the close of business on January 19, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.875
Homeowners without credit available elsewhere	3.437
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned for physical damages are 317005 for Massachusetts and 317105 for New Hampshire. For economic injury the numbers are 9C5300 for Massachusetts and 9C5400 for New Hampshire.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 19, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–10788 Filed 4–29–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3172]

State of Mississippi

Jones County and the contiguous counties of Covington, Forrest, Jasper, Perry, Smith, and Wayne in the State of Mississippi constitute a disaster area as a result of damages caused by severe storms and tornadoes that occurred on April 14, 1999. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on June 21, 1999 and for economic injury until the close of business on January 20, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.875
Homeowners without credit available elsewhere	3.437
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster are 317212 for physical damage and 9C6200 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 20, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–10790 Filed 4–29–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3175]

State of Texas

Polk County and the contiguous Counties of Angelina, Hardin, Liberty, San Jacinto, Trinity, and Tyler in the State of Texas constitute a disaster area as a result of damages caused by severe storms and flooding that occurred on April 3, 1999. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 21, 1999 and for economic injury until the close of business on Jan. 21, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.375
Homeowners without credit available elsewhere	3.188
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster are 317506 for physical damage and 9C6500 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 21, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–10787 Filed 4–29–99; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling, SSR 99–2p.; Titles II and XVI: Evaluating Cases Involving Chronic Fatigue Syndrome (CFS)

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 99–2p. This Ruling clarifies disability policy for the evaluation and adjudication of disability claims invo1ving Chronic Fatigue Syndrome (CFS). This Ruling explains that, when it is accompanied by appropriate medical signs or laboratory findings, CFS is a medically determinable impairment that can be the basis for a finding of "disability." This Ruling ensures that all adjudicators will use the same policies and procedures in evaluating disability claims involving CFS, and provides a consolidated statement of these policies and procedures.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Carolyn Kiefer, Office of Disability, Division of Medical and Vocational Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–9104.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.006 Supplemental Security Income)

Dated: April 23, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

Policy Interpretation Ruling Titles II and XVI: Evaluating Cases Involving Chronic Fatigue Syndrome (CFS)

Purpose

To restate and clarify the policies of the Social Security Administration for developing and evaluating title II and title XVI claims for disability on the basis of Chronic Fatigue Syndrome (CFS), also frequently known as Chronic Fatigue and Immune Dysfunction Syndrome.

Citations (Authority)

Sections 216(i), 223(d), 223(f), 1614(a)(3) and 1614(a)(4) of the Social Security Act, as amended; Regulations No. 4, subpart P, sections 404.1505, 40404.1508–404.1513, 404.1520, 404.1520a, 404.1521, 404.1523, 404.1526–404.1529, 404.1560–404.1569a and 404.1593–404.1594;

and Regulations No. 16, subpart I, sections 416.905, 416.906, 416.908–416.913, 416.920, 416.920a, 416.921, 416.923, 416.924, 416.924b, 416.924c, 416.926, 416.926a, 416.927–416.929, 416.960–416.969a, 416.987, 416.993, 416.994, and 416.994a.

Introduction

CFS is a systemic disorder consisting of a complex of symptoms that may vary in incidence, duration, and severity. The current case criteria for CFS, developed by an international group convened by the Centers for Disease Control and Prevention (CDC) as an identification tool and research definition, include a requirement for four or more of a specified list of symptoms. These constitute a patient's complaints as reported to a provider of treatment.

However, the Social Security Act (the Act) and our implementing regulations require that an individual establish disability based on the existence of a medically determinable impairment; i.e., one that can be shown by medical evidence, consisting of medical signs, symptoms and laboratory findings. Disability may not be established on the basis of an individual's statement of symptoms alone.

This Ruling explains that CFS, when accompanied by appropriate medical signs or laboratory findings, is a medically determinable impairment that can be the basis for a finding of "disability." It also provides guidance for the evaluation of claims involving CFS.

Policy Interpretation

CFS constitutes a medically determinable impairment when it is accompanied by medical signs or laboratory findings, as discussed below. CFS may be a disabling impairment.

Definition of CFS

CFS is a systemic disorder consisting of a complex of symptoms that may vary in incidence, duration, and severity. It is characterized in part by prolonged fatigue that lasts 6 months or more and that results in substantial reduction in previous levels of occupational, educational, social, or personal activities. In accordance with criteria established by the CDC, a physician should make a diagnosis of CFS "only after alternative medical and psychiatric causes of chronic fatiguing illness have been excluded" (Annals of Internal Medicine, 121:953–9, 1994). CFS has been diagnosed in children, particularly adolescents, as well as in adults.

Under the CDC definition, the hallmark of CFS is the presence of clinically evaluated, persistent or relapsing chronic fatigue that is of new or definite onset (*i.e.*, has not been lifelong), cannot be explained by another physical or mental disorder, is not the result of ongoing exertion, is not substantially alleviated by rest, and results in substantial reduction in previous levels of occupational, educational, social, or personal activities. Additionally, the current CDC definition of CFS requires the concurrence of 4 or more of the following symptoms, all of which must have persisted or recurred during 6 or more consecutive months of illness and must not have pre-dated the fatigue:

- Self-reported impairment in short-term memory or concentration severe enough to cause substantial reduction in previous levels of occupational, educational, social, or personal activities;
- Sore throat;
- Tender cervical or axillary lymph nodes;
- Muscle pain;
- Multi-joint pain without joint swelling or redness;
- Headaches of a new type, pattern, or severity;
- Unrefreshing sleep; and
- Postexertional malaise lasting more than 24 hours.

Within these parameters, an individual with CFS can also exhibit a wide range of other manifestations, such as muscle weakness, swollen underarm (axillary) glands, sleep disturbances, visual difficulties (trouble focusing or severe photosensitivity), orthostatic intolerance (*e.g.*, lightheadedness or increased fatigue with prolonged standing), other neurocognitive problems (*e.g.*, difficulty comprehending and processing information), fainting, dizziness, and mental problems (*e.g.*, depression, irritability, anxiety).

Requirement for a Medically Determinable Impairment

Sections 216(i) and 1614(a)(3) of the Act define "disability" [1] as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment (or combination of impairments) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.[2]

Sections 223(d)(3) and 1614(a)(3)(D) of the Act, and 20 CFR 404.1508 and 416.908 require that an impairment result from anatomical, physiological, or psychological abnormalities that can be shown by medically acceptable clinical and laboratory diagnostic techniques. The Act and regulations further require that an impairment be established by medical evidence that consists of signs, symptoms, and laboratory findings, and not only by an individual's statement of symptoms.

Under the CDC definition, the diagnosis of CFS can be made based on an individual's reported symptoms alone once other possible causes for the symptoms have been ruled out. However, the foregoing statutory and regulatory provisions require that, for evaluation of claims of disability under the Act, there must also be medical signs or laboratory findings before the existence of a medically determinable impairment may be established.

Establishing the Existence of a Medically Determinable Impairment

The following medical signs and laboratory findings establish the existence of a medically determinable impairment in individuals who have CFS. Although no specific etiology or pathology has yet been established for CFS, many research initiatives continue, and some progress has been made in ameliorating symptoms in selected individuals. With continuing scientific research, new medical evidence may emerge that will further clarify the nature of CFS and provide greater specificity regarding the clinical and laboratory diagnostic techniques that should be used to document this disorder.

Because of this, the medical criteria discussed below are only examples of signs and laboratory findings that will establish the existence of a medically determinable impairment; they are not all-inclusive. As progress is made in medical research into CFS, additional signs and laboratory findings may also be found that can be used to establish that individuals with CFS have a medically determinable impairment. The existence of CFS may be documented with medical signs or laboratory findings other than those listed below, provided that such documentation is consistent with medically accepted clinical practice and is consistent with the other evidence in the case record.

[1] Except for statutory blindness.

[2] For individuals under age 18 claiming benefits under title XVI, disability will be established if the individual is suffering from a medically determinable physical or mental impairment (or combination of impairments) that results in "marked and severe functional limitations." See section 1614(a)(3)(C) of the Act and 20 CFR 416.906. However, for clarity, the following discussions refer only to claims of individuals claiming disability benefits under title II and individuals age 18 or older claiming disability benefits under title XVI. The concepts in this ruling, however, are also intended to apply in determining disability based on CFS for individuals under age 18 under title XVI.

Examples of Medical Signs That Establish the Existence of a Medically Determinable Impairment

For purposes of Social Security disability evaluation, one or more of the following medical signs clinically documented over a period of at least 6 consecutive months establishes the existence of a medically determinable impairment for individuals with CFS:

- Palpably swollen or tender lymph nodes on physical examination;
- Nonexudative pharyngitis;
- Persistent, reproducible muscle tenderness on repeated examinations, including the presence of positive tender points;[3] or,
- Any other medical signs that are consistent with medically accepted clinical practice and are consistent with the other evidence in the case record.

Examples of Laboratory Findings That Establish the Existence of a Medically Determinable Impairment

At this time, there are no specific laboratory findings that are widely accepted as being associated with CFS. However, the absence of a definitive test does not preclude reliance upon certain laboratory findings to establish the existence of a medically determinable impairment in persons with CFS. Therefore, the following laboratory findings establish the existence of a medically determinable impairment in individuals with CFS:[4]

- An elevated antibody titer to Epstein-Barr virus (EBV) capsid antigen equal to or greater than 1:5120, or early antigen equal to or greater than 1:640;
- An abnormal magnetic resonance imaging (MRI) brain scan;
- Neurally mediated hypotension as shown by tilt table testing or another clinically accepted form of testing; or,
- Any other laboratory findings that are consistent with medically accepted clinical practice and are consistent with the other evidence in the case record; for example, an abnormal exercise stress test or abnormal sleep studies, appropriately evaluated and consistent with the other evidence in the case record.

[3] There is considerable overlap of symptoms between CFS and Fibromyalgia Syndrome (FMS), but individuals with CFS who have tender points have a medically determinable impairment. Individuals with impairments that fulfill the American College of Rheumatology criteria for FMS (which includes a minimum number of tender points) may also fulfill the criteria for CFS. However, individuals with CFS who do not have the specified number of tender points to establish FMS, will still be found to have a medically determinable impairment.

[4] It should be noted that standard laboratory test results in the "normal" range are characteristic for many individuals with CFS, and should not be relied upon to the exclusion of all other clinical evidence in decisions regarding the presence and severity of a medically determinable impairment.

Mental Findings That Establish the Existence of a Medically Determinable Impairment

Some individuals with CFS report ongoing problems with short-term memory, information processing, visual-spatial difficulties, comprehension, concentration, speech, word-finding, calculation, and other symptoms suggesting persistent neurocognitive impairment. When ongoing deficits in these areas have been documented by mental status examination or psychological testing, such findings constitute medical signs or (in the case of psychological testing) laboratory findings that establish the presence of a medically determinable impairment.

Individuals with CFS may also exhibit medical signs, such as anxiety or depression, indicative of the existence of a mental disorder. When such medical signs are present and appropriately documented, the existence of a medically determinable impairment is established.

Evaluation

1. *General.* Claims involving CFS are adjudicated using the sequential evaluation process, just as for any other impairment. Once a medically determinable impairment has been found to exist (see discussion above), the severity of the impairment(s) must be established. The severity of an individual's impairment(s) is determined based on the totality of medical signs, symptoms, and laboratory findings, and the effects of the impairment(s), including any related symptoms, on the individual's ability to function.

Also, several other disorders (including, but not limited to, FMS, multiple chemical sensitivity, and Gulf War Syndrome, as well as various forms of depression, and some neurological and psychological disorders) may share characteristics similar to those of CFS. When there is evidence of the potential presence of another disorder that may adequately explain the individual's symptoms, it may be necessary to pursue additional medical or other development.

2. *Step 2.* When an adjudicator finds that an individual with CFS has a medically determinable impairment, he or she must consider that the individual has an impairment that could reasonably be expected to produce the individual's symptoms associated with CFS, as required in 20 CFR 404.1529(b) and 416.929(b), and proceed to evaluate the intensity and persistence of the symptoms. Thus, if an adjudicator concludes that an individual has a medically determinable impairment, and the individual alleges fatigue, pain, symptoms of neurocognitive problems, or other symptoms consistent with CFS, these symptoms must be considered in deciding whether the individual's impairment is "severe" at step 2 of the sequential evaluation process and at any later steps reached in the sequential evaluation process. If fatigue, pain, neurocognitive symptoms, or other symptoms are found to cause a limitation or restriction having more than a minimal effect on an individual's ability to perform basic work activities, the adjudicator must find that the individual has a "severe" impairment. See SSR 96–3p, "Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe."

3. *Step 3.* When an individual is found to have a severe impairment, the adjudicator must proceed with the sequential evaluation process and must next consider whether the individual's impairment is of the severity contemplated by the Listing of Impairments contained in appendix 1, subpart P of 20 CFR 404. Inasmuch as CFS is not a listed impairment, an individual with CFS alone cannot be found to have an impairment that meets the requirements of a listed impairment; however, the specific findings in each case should be compared to any pertinent listing to determine whether medical equivalence may exist.[5]

Further, in cases in which individuals with CFS have psychological manifestations related to CFS, consideration should always be given to whether the individual's impairment meets or equals the severity of any impairment in the mental disorders listings in 20 CFR, part 404, subpart P, appendix 1, sections 12.00 ff. or 112.00 ff.

4. *Steps 4 and 5.* For those impairments that do not meet or equal the severity of a listing, an assessment of residual functional capacity (RFC) must be made, and adjudication must proceed to the fourth and, if necessary, the fifth step of the sequential evaluation process.[6] In assessing RFC, all of the individual's symptoms must be considered in deciding how such symptoms may affect functional capacities. See SSR 96–7p, "Titles II and

[5] In evaluating title XVI claims for disability benefits for individuals under age 18, consideration must also be given to the possibility of functional equivalence. See 20 CFR 416.926a.

[6] These steps of the sequential evaluation process are not applicable to claims for benefits under title XVI for individuals under age 18. See 20 CFR 416.924.

XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements" and SSR 96–8p, "Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims."

If it is determined that the individual's impairment(s) precludes the performance of past relevant work (or if there was no past relevant work), a finding must be made about the individual's ability to perform other work. The usual vocational considerations (see 20 CFR 404.1560–404.1569a and 416.960–416.969a) must be applied in determining the individual's ability to perform other work.

Many individuals with CFS are "younger individuals," ages 18 through 49 (see 20 CFR 404.1563 and 416.963). Age, education, and work experience are not usually considered to limit significantly the ability of individuals under age 50 to make an adjustment to other work, including unskilled sedentary work.[7] However, a finding of "disabled" is not precluded for those individuals under age 50 who do not meet all of the criteria of a specific rule and who do not have the ability to perform a full range of sedentary work. The conclusion about whether such individuals are disabled will depend primarily on the nature and extent of their functional limitations or restrictions. Thus, if it is found that an individual is able to do less than the full range of sedentary work, refer to SSR 96–9p, "Titles II and XVI: Determining Capability to Do Other Work—Implications of a Residual Functional Capacity for Less Than a Full Range of Sedentary Work." As explained in that Ruling, whether the individual will be able to make an adjustment to other work requires adjudicative judgment regarding factors such as the type and extent of the individual's limitations or restrictions and the extent of the erosion of the occupational base for sedentary work.

5. *Duration.* The medical signs and symptoms of CFS fluctuate in frequency and severity and often continue over a period of many months or years. Thus, appropriate documentation should include a longitudinal clinical record of at least 12 months prior to the date of application, unless the alleged onset of CFS occurred less than 12 months in the past, or unless a fully favorable determination or decision can be made without additional documentation. The record should contain detailed medical observations, treatment, the individual's response to treatment, and a detailed description of how the impairment limits the individual's ability to function over time.

When the alleged onset of disability secondary to CFS occurred less than 12 months before adjudication, the adjudicator must evaluate the medical evidence and project the degree of impairment severity that is likely to exist at the end of 12 months.[8] Information about treatment and response to treatment as well as any medical source opinions about the individual's prognosis at the end of 12 months are helpful in deciding whether the medically determinable impairment(s) is expected to be of disabling severity for at least 12 consecutive months.

6. *Continuing Disability Reviews.* In those cases in which an individual is found to have a disability based on CFS but medical improvement is anticipated, an appropriate continuing disability review should be scheduled based on the probability of cessation under the Medical Improvement Review Standard. This standard takes into account relevant individual case facts such as the combined severity of other chronic or static impairments and the individual's vocational factors.

Documentation

1. *General.* As with all claims for disability under both title II and title XVI, documentation of medical signs or laboratory findings in cases involving CFS is critical to establishing the presence of a medically determinable impairment. In cases in which CFS is alleged, longitudinal clinical records reflecting ongoing medical evaluation and treatment from the individual's medical sources, especially treating sources, are extremely helpful in documenting the presence of any medical signs or laboratory findings, as well as the individual's functional status over time. Every reasonable effort should be made to secure all available, relevant evidence in cases involving CFS to ensure appropriate and thorough evaluation.

Generally, evidence for the 12-month period preceding the month of application should be requested unless there is reason to believe that development of an earlier period is necessary, or unless the alleged onset of disability is less than 12 months before the date of the application.

2. *Recontacting Medical Sources/Consultative Examinations.* If the adjudicator finds that the evidence is inadequate to determine whether the individual is disabled, he or she must first recontact the individual's treating or other medical source(s) to determine whether the additional information needed is readily available, in accordance with 20 CFR 404.1512 and 416.912.[9] Only after the adjudicator determines that the information needed is not readily available from the individual's health care provider(s), or that the necessary information or clarification cannot be sought from the individual's health care provider(s), should the adjudicator proceed to arrange for a consultative examination(s) in accordance with 20 CFR 404.1519a and 416.919a. The type of consultative examination(s) purchased will depend on the nature of the individual's symptoms and the extent of the evidence already in the case record.

3. *Resolution of Conflicts.* It should be noted that conflicting evidence in the medical record is not unusual in cases of CFS due to the complicated diagnostic process involved in these cases. Clarification of any such conflicts in the medical evidence should be sought first from the individual's treating or other medical sources.

Medical opinions from treating sources about the nature and severity of an individual's impairment(s) are entitled to deference and may be entitled to controlling weight. If we find that a treating source's medical opinion on the issue(s) of the nature and severity of an individual's impairment(s) is well-supported by medically acceptable clinical and laboratory diagnostic techniques and is not inconsistent with the other substantial evidence in the case record, the adjudicator will give it controlling weight. (See SSR 96–2p, "Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions," and SSR 96–5p, "Titles II and XVI: Medical Source Opinions on

[7] However, "younger individuals" ages 45–49 who are illiterate in English or unable to communicate in English, whose past work was unskilled (or who had no past relevant work), or who have no transferable skills, and who are limited to a full range of sedentary work, must be found disabled under rule 201.17 in Table No. 1 of appendix 2 of the Medical-Vocational Guidelines in 20 CFR part 404.

[8] To meet the statutory requirement for "disability," an individual must have been unable to engage in any SGA by reason of any medically determinable physical or mental impairment which is expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Thus, the existence of an impairment for 12 continuous months is not controlling; rather, it is the existence of a disabling impairment which has lasted or can be expected to last for at least 12 months that meets the duration requirement of the Act.

[9] We may not seek additional evidence or clarification from a medical source when we know from past experience that the source either cannot or will not provide the necessary findings.

Issues Reserved to the Commissioner.") [10]

4. *Assessing Credibility.* In accordance with SSR 96–7p, if the existence of a medically determinable impairment that could reasonably be expected to produce the symptoms has been established, as outlined above, but an individual's statements about the intensity, persistence, or functionally limiting effects of symptoms are not substantiated by objective medical evidence, the adjudicator must consider all of the evidence in the case record, including any statements by the individual and other persons concerning the individual's symptoms. The adjudicator must then make a finding on the credibility of the individual's statements about symptoms and their functional effects. When additional information is needed to assess the credibility of the individual's statements about symptoms and their effects, the adjudicator must make every reasonable effort to obtain available information that could shed light on the credibility of the individual's statements.

Treating and other medical sources. In evaluating credibility, the adjudicator should ask the treating or other medical source(s) to provide information about the extent and duration of an individual's impairment(s), including observations and opinions about how well the individual is able to function, the effects of any treatment, including side effects, and how long the impairment(s) is expected to limit the individual's ability to function. Opinions from an individual's medical sources, especially treating sources, concerning the effects of CFS on the individual's ability to function in a sustained manner in performing work activities or in performing activities of daily living are important in enabling adjudicators to draw conclusions about the severity of the impairment(s) and the individual's RFC. In this regard, any information a medical source is able to provide contrasting the individual's impairment(s) and functional capacities since the alleged onset of CFS with the individual's status prior to the onset of CFS will be helpful in evaluating the individual's impairment(s) and its functional consequences.

Third-party information, including evidence from medical sources who are not "acceptable medical sources" for the purpose of establishing the existence of a medically determinable impairment, but who have provided services to the individual, may be very useful in deciding the individual's credibility. Information other than an individual's allegations and reports from the individual's treating sources helps to assess an individual's ability to function on a day-to-day basis and to depict the individual's capacities over a period of time. Such evidence includes, but is not limited to:

- Information from neighbors, friends, relatives, or clergy;
- Statements from such individuals as past employers, rehabilitation counselors, or school teachers about the individual's impairment(s) and the effects of the impairment(s) on the individual's functioning in the work place, rehabilitation facility, or educational institution;
- Statements from other practitioners with knowledge of the individual, e.g., nurse-practitioners, physicians' assistants, naturopaths, therapists, social workers, and chiropractors;
- Statements from other sources with knowledge of the individual's ability to function in daily activities; and
- The individual's own record (such as a diary, journal, or notes) of his or her own impairment(s) and its impact on function over time.

The adjudicator should carefully consider this information when making findings about the credibility of the individual's allegations regarding functional limitations or restrictions.

EFFECTIVE DATE: This Ruling is effective on April 30, 1999.

CROSS-REFERENCES: SSR 96–2p, "Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions," SSR 96–3p, "Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe," SSR 96–4p, "Titles II and XVI: Symptoms, Medically Determinable Physical and Mental Impairments, and Exertional and Nonexertional Limitations," SSR 96–5p, "Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner," SSR 96–7p, "Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements," SSR 96–8p, "Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims," and SSR 96–9p, "Titles II and XVI: Determining Capability to Do Other Work—Implications of a Residual Functional Capacity for Less Than a Full Range of Sedentary Work."

[FR Doc. 99–10840 Filed 4–29–99; 8:45 am]

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[10] A medical source opinion that an individual is "disabled" or "unable to work," has an impairment(s) that meets or is equivalent in severity to the requirements of a listing, has a particular residual functional capacity (RFC), that concerns whether an individual's RFC prevents him or her from doing past relevant work, or that concerns the application of vocational factors, is an opinion on an issue reserved to the Commissioner. Every such opinion must still be considered in adjudicating a disability claim; however, the adjudicator will not give any special significance to such an opinion because of its source. See SSR 96–5p, "Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner."

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting

The Federal Aviation Administration (FAA) Satellite Operational Implementation Team (SOIT) hosted forum on the capabilities of the Global Positioning System (GPS/Wide Area Augmentation System (WAAS) and Local Area Augmentation System (LAAS).

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

Name: FAA SOIT Forum on GPA/WAAS/LAAS Capabilities.

Time and date: 9:00 a.m.–5:00 p.m., May 17–18, 1999.

Place: The Holiday Inn Fair Oaks Hotel, 11787 Lee Jackson Memorial Highway, Fairfax, Virginia 22033.

Status: Open to the aviation industry with attendance limited to space available.

Purpose: The FAA SOIT will be hosting a public forum to discuss the FAA's GPS approvals and WAAS/LAAS operational implementation plans. This meeting will be held in conjunction with a regularly scheduled meeting of the FAA SOIT and in response to aviation industry requests to the FAA Administrator. Formal presentations by the FAA will be followed by a question and answer session. Those planning to attend are invited to submit proposed discussion topics.

Registration: Participants are requested to register their intent to attend this meeting by May 3, 1999. Names, affiliations, telephone and facsimile numbers should be sent to the point of contact listed below.

Point of Contact: Registration and submission of suggested discussion topics may be made to Mr. Steven Albers, phone (202) 267–7301, fax (202) 267–5086, or email at steven.CTR.albers@faa.gov.

Issued in Washington, DC on March 22, 1999.

Hank Cabler,

SOIT Co-Chairman.

[FR Doc. 99–10849 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activity. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than June 29, 1999.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 17, Washington, DC 20590, or Ms. Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, "Comments on OMB control number 2130–0517." Alternatively, comments may be transmitted via facsimile to (202) 493–6265 or (202) 493–6170, or E-mail to Mr. Brogan at robert.brogan@fra.dot.gov, or to Ms. Deal at dian.deal@fra.dot.gov. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a "user friendly" format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of the currently approved information collection activity that FRA will submit for clearance by OMB as required under the PRA:

Title and Form Number: Supplemental Qualifications Statement for Railroad Safety Inspector Applicants, FRA–F–120.

OMB Control Number: 2130–0517.

Abstract: The Supplemental Qualifications Statement for Railroad Safety Inspector Applicants is an information collection instrument used by FRA to gather additional background data so that FRA can evaluate the qualifications of applicants for the position of Railroad Safety Inspector. The questions cover a wide range of general and specialized skills, abilities, and knowledge of the five types of railroad safety inspector positions.

Affected Public: Individuals or Households.

Frequency of Submission: On occasion.

Estimated Number of Respondents: 2,000 Applicants.

Estimated Average Burden per Respondent: 3 hours.

Estimated Total Annual Burden: 6,000 hours.

Status: Extension of a currently approved collection.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on April 27, 1999.

Marie S. Savoy,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 99–10893 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreements To Assist in the Development of Crash Outcome Data Evaluation Systems

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of availability—Discretionary cooperative agreements to assist in the development and use of Crash Outcome Data Evaluation Systems.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary cooperative agreement program to assist states in the development and use of Crash Outcome Data Evaluation Systems (CODES) and solicits applications for projects under this program from states that have not previously been funded to develop CODES. Under this program states will link their existing statewide traffic

records with medical outcome and charge data. The linked data will be used to support highway safety decision-making at the local, regional, and state levels to reduce deaths, non-fatal injuries, and health care costs resulting from motor vehicle crashes.

DATES: Applications must be received at the office designated below on or before July 2, 1999.

ADDRESSES: Applications must be submitted to DOT/National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Debra J. Crites, 400 7th Street, SW, Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. DTNH 22–99-H–07159. Interested applicants should contact Ms. Crites to obtain the application packet. Included in the application packet are reports about data linkage and applications for linked data developed by the CODES project.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Debra J. Crites, Office of Contracts and Procurement. All questions and requests for copies may be directed by e-mail at *dcrites@nhtsa.dot.gov* or, if necessary, at (202) 366–9547. Programmatic questions relating to this cooperative agreement program should be directed to Dennis Utter, CODES Contracting Officer's Technical Representative (COTR), NHTSA, Room 6125, (NRD–31) 400 7th Street SW, Washington, DC 20590 or by e-mail at *dutter@nhtsa.dot.gov* or, if necessary, at (202) 366–5351.

SUPPLEMENTARY INFORMATION:

Statement of Work

Background

Crash data alone are unable to convey the magnitude of the medical and financial consequences of the injuries resulting from motor vehicle crashes or the success of highway safety decision-making to prevent them. Outcome information describing what happens to all persons involved in motor vehicle crashes, regardless of injury, is needed.

Person-specific outcome information is collected at the crash scene and en route by EMS personnel, at the emergency department, in the hospital, and after discharge. When these data are computerized and merged statewide, they generate a source of population-based data that is available for use by state and local traffic safety and public health professionals. Linking these records to statewide crash data collected by police at the scene is the key to developing relationships among specific vehicles, crash, and occupant behavior characteristics and their medical and financial outcomes.

The feasibility of linking crash and medical outcome (EMS, emergency department, hospital discharge, death certificate, claims, etc.) data was demonstrated by the CODES project. This project evolved from the Intermodal Surface Transportation Efficiency Act of 1991, which mandated that NHTSA prepare a Report to Congress about the benefits of safety belt and motorcycle helmet use. NHTSA provided funding to the States of Hawaii, Maine, Missouri, New York, Pennsylvania, Utah, and Wisconsin to link their state data and use the linked data to analyze the effectiveness of safety belts and motorcycle helmets. The Report was delivered to Congress in February 1996. In 1996, three CODES states (New York, Pennsylvania, Wisconsin) and three states which linked crash and medical data without CODES funding (Alaska, Connecticut, New Mexico) were awarded NHTSA research funds to develop state-specific applications for linked data. In 1997, NHTSA awarded CODES grants for linkage to Connecticut, New Hampshire, Maryland, North Dakota, South Dakota, Oklahoma, and Nevada. Iowa, Kentucky, Massachusetts, Nebraska, and South Carolina which were funded to implement the CODES linkage in 1998.

The CODES project also demonstrated that linked data have many uses for decision-making related to highway safety and injury control. In addition to demonstrating the effectiveness of safety belts and motorcycle helmets in preventing death, injury, and costs, the linked data were used to identify populations at risk for increased severity or high health care costs, the impact of different occupant behaviors on outcome, the safety needs at the community level, the allocation of resources for emergency medical services, the injury patterns by type of roadway and geographic location, and the benefits of collaboration on data quality. When crash, vehicle, and behavior characteristics were linked to outcome information, decision-makers could identify those prevention programs that had the most impact on preventing or reducing the medical and financial costs associated with motor vehicle crashes.

Data linkage fulfills expanded data needs without the additional expense and delay of new data collection. The linkage process itself provides feedback about data quality and content problems which leads to improvement in the state data. Thus, it is in NHTSA's interest to encourage states to qualify for CODES funding. NHTSA benefits from the improved quality of the state data while the states benefit from state-specific medical and financial outcome information about motor vehicle crashes.

Objective

The objective of this Cooperative Agreement is to provide resources to the applicant to:

1. Coordinate the development and institutionalization of the capability to link state crash and medical outcome data to identify the medical and financial consequences of motor vehicle crashes.

2. Utilize this information in crash analysis, problem identification, and program evaluation to improve decision-making at the local, state, and national levels related to preventing or reducing deaths, injuries, and direct medical costs associated with motor vehicle crashes.

3. Provide NHTSA with population-based linked crash and injury data to analyze specific highway safety issues of interest to NHTSA in collaboration with the CODES states.

4. Develop data linkage capabilities as a means of improving the quality of state data which support NHTSA's national data.

This cooperative agreement is not intended to fund basic development of data systems. However, it is hoped that this project will inspire States to develop and improve their state data and to expedite these activities in order to become eligible for CODES funding.

General Project Requirements

1. Link statewide population-based crash to injury data for any two calendar years available since 1995, to produce a linked data file that, if not statewide, reflects a contiguous geographical area that contains at least three (3) million residents in which the residents obtain all levels of emergency medical care without the need to be transferred elsewhere, except in rare occurrences, when involved in motor vehicle crashes. The linked data must be representative and generalizable for highway traffic safety purposes in the state/area. All applicants must be able to clearly document what data are available and what data are missing and the significance of the missing data for highway traffic safety planning efforts.

a. Develop a state/area-wide CODES that includes outcome information for all persons, injured and uninjured, involved in police reported motor vehicle crashes.

(1) The CODES should consist of crash data linked to hospital, and either

EMS or emergency department data, preferably both. States without EMS or emergency department data are eligible if this type of outpatient information can be obtained from insurance claims data for everyone involved in a crash who is treated at an outpatient center.

(2) Additional state/area-wide data (driver licensing, vehicle registration, citation/conviction records, insurance claims, HMO/managed care/etc. outpatient records, etc.) should be linked as necessary to meet state/area wide objectives.

b. Set up processes for collaboration among the technical experts who manage the data files being linked.

c. Assign an agency to be responsible for:

(1) Obtaining a computer and AutoMatch software to be dedicated to CODES activities (the computer and software resources may not be permanently tied to existing computer network in such a way as to preclude their movement in the future, as directed by the CODES Board of Directors, to another organization more interested in continuing the linkage and application for the linked data);

(2) Implementing probabilistic linkage methodology to facilitate tracking the crash victim from the scene to final disposition/recovery using existing computerized state/area-wide, population-based databases;

(3) Validating the linkage results by evaluating the rate of false positives and false negatives among the linked and unlinked records;

(4) Analyzing the linked data; and

(5) Cross-training sufficient staff to ensure continuation of the linkage capability in spite of changes in organizational priorities or personnel during or after the project period.

d. Document the file preparation, linkage and validation processes so that the linkage can be repeated efficiently during subsequent years after Federal funding ends and provide evidence of this documentation.

e. Provide NHTSA a version of the linked data file with supporting documentation that conforms to State laws and regulations governing patient/provider confidentiality, yet satisfies minimum NHTSA data needs.

2. Use the linked data to influence highway traffic safety and injury control decision-making by implementing at least one application of linked data that is expected to have a positive impact on reducing death, injury, and direct medical costs.

3. Develop the computer programs needed to translate the linked data into information useful for highway traffic safety and injury control at the local, regional, or state/area-wide level.

a. Develop for access within the State a public-use version of the linked data, copies of which will be distributed upon request.

b. Develop the resources necessary to produce and distribute routine reports, respond to data requests, and provide access to the linked data for analytical, management, planning, and other purposes after Federal funding ends.

c. Use the Internet and other electronic mechanisms to efficiently distribute and share information generated from the linked data.

4. Promote collaboration between the owners and users of the state/area-wide data to facilitate data linkage and applications for linked data.

a. Establish a state/area-wide CODES collaborative network.

(1) Convene a Board of Directors consisting of the data owners and major users of the state/area-wide data. The CODES Board of Directors will be responsible for managing and institutionalizing the linked data, establishing the data release policies for the linked data, supporting the activities of the grantee, ensuring that data linkage and application activities are appropriately coordinated within the state/area, and resolving common issues related to data accessibility, availability, completeness, quality, confidentiality, transfer, ownership, fee for service, management etc. The CODES Board of Directors will meet monthly.

(2) Convene a CODES Advisory Group consisting of the CODES Board of Directors and other stakeholders interested in the use of linked data to support highway safety, injury control, EMS, etc. The CODES Advisory Group will be informed of the results of the data linkage, application of the data for decision-making, the quality of the state/area-wide data for linkage and the quality of the linked data for analysis. The CODES Advisory Group will meet twice a year.

b. Promote coordination of the various stakeholders through use of the Internet, teleconferencing, joint meetings, and other mechanisms to ensure frequent communication among all parties to minimize the expense of travel.

5. Work collaboratively with NHTSA to implement the Cooperative Agreement.

a. Attend Initial Briefing Meeting: Each grantee shall attend a briefing meeting (date and time to be scheduled within 30 days after the award) in Washington, D.C. with NHTSA staff. The purpose of the meeting will be to review the goals and objectives of the project, discuss implementation of the linkage software, review the tasks to be specified in the action plan for the data linkage and applications of the linked data for highway safety or injury control decision-making and discuss the agendas for the Board of Directors and Advisory Group.

b. Submit Detailed Action Plan and Schedule. Within 30 days after the briefing meeting, the grantee shall deliver a detailed action plan and schedule, covering the remaining funding period, for accomplishing the data linkage and incorporating information generated from linked data into the processes for highway safety or injury control decision-making. The action plan shall be subject to the technical direction and approval of NHTSA.

c. Attend Technical Workshops. All grantees together shall attend two technology transfer workshops during project performance at locations convenient to the majority of CODES grantees. The first meeting, to be scheduled during the ninth month of funding, will be organized to share data linkage experiences, review the proposed state-specific highway safety applications of linked data, and resolve common problems. The second meeting will be scheduled at the end of the funding period for the purpose of sharing results and making recommendations for future CODES projects.

d. Attend National Meeting. At the direction of the COTR, Grantee shall attend one national Meeting to report on progress or results from their CODES project.

e. Progress Report. Grantee shall submit quarterly progress reports. During the period of performance, the grantee will provide letter-type written reports to the COTR. These reports will compare what was proposed in the Action Plan with actual accomplishments during the past quarter; what commitments have been generated; what follow up and state-level support is expected; what problems have been experienced and what may be needed to overcome the problems; and what is specifically planned to be accomplished during the next quarter. These reports will be submitted seven days after the end of each quarter.

f. Develop a plan to institutionalize the data linkage and applications for linked data after Federal funding ends. By the end of the 15th month of funding, each grantee shall submit a long-range plan and schedule to institutionalize data linkage and the use of linked data for highway safety and

injury control decision-making within the state.

g. Final Report. The grantee shall deliver to NHTSA, at the end of the project, a final report describing the results of the data linkage process, and the applications of the linked data generated during the project.

NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the Cooperative Agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of the Cooperative Agreement and coordinate activities between the grantee and NHTSA.

2. Provide, at no cost to the grantee, training and technical assistance by a CODES expert for up to two weeks on-site and off-site during the project to assist the grantee in preparing the files for linkage, implementing probabilistic linkage techniques, validating the linkage results, developing applications for the linked data, and organizing the CODES Board of Directors and Advisory Group.

3. Develop a format in which the linked data and supporting documentation will be delivered to NHTSA.

4. Conduct Initial Briefing at NHTSA Headquarters in Washington, D.C. (Date and time to be scheduled within 30 days after the award.) The purpose of the meeting will be to review the goals and objectives of the project, discuss implementation of the linkage software, identify the tasks to be specified in the action plan for the data linkage and applications of the linked data for highway safety or injury control decision-making, and discuss agendas for the Board of Directors and Advisory Group.

5. Conduct two Technical Assistance meetings for the purpose of technology transfer. The first meeting to be scheduled during the ninth month of funding, will be organized to share data linkage experiences, review the proposed state-specific highway traffic safety applications of linked data, and resolve common problems. The second meeting will be scheduled at the end of the funding period for the purpose of sharing results and making recommendations for future CODES projects. Locations for the Workshops will be determined based on the location of the Grantees. However, for the purpose of cost estimation, assume the workshops will be held in Washington, D.C.

6. Collaboratively work with the state when using the state's linked data to analyze and report on specific highway safety issues and report on them.

Period of Support

The project study effort described in this announcement will be supported through the award of up to four (4) Cooperative Agreements, depending upon the merit of the applications received and the availability of funding. It is anticipated that individual award amounts will range from $250,000—$300,000. Project efforts involving linkage of the state/area-wide data and applications for the linked data must be completed within twenty-one months after funding.

Eligibility Requirements

The grantee must be a State Highway Safety Office, Department of Transportation or other State agency involved with highway traffic safety to ensure active involvement by highway traffic safety stakeholders. States which have previously been funded to develop CODES are not eligible. Only one application should be submitted for a state/area. Because this Cooperative Agreement program requires extensive collaboration among the data owners in order to achieve the program objectives, it is envisioned that the State Highway Traffic Safety Office will need to actively involve the data owners in the development of the formal application and may need to sub-contract activities with at least one of them to implement a successful CODES.

While the general eligibility requirements are broad, applicants are advised that this Cooperative Agreement program is not designed to support basic developmental efforts. Although no single organization within any state/area has all of the required data capabilities, the application should demonstrate strong collaborative agreements with the data owners and access to at least the state/area-wide crash, hospital, and either EMS or emergency department data, or both, by the time of the award. States/areas that collect at least the date of birth and zip code of residence on their crash data and have state/area-wide health and/or vehicle insurance claims information may be eligible, in spite of the lack of EMS or emergency department information, if the claims data include everyone involved in motor vehicle crashes. In addition, it is important that the applicant indicate the level of commitment, with state/area funding and/or shared resources, by the data owners to meet program objectives, particularly institutionalization of the data linkage and applications for linked data.

Application Procedure

Each applicant must submit one original and two (2) copies of the application package to: DOT/National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Debra J. Crites, 400 7th Street, S.W., Room 5301, Washington, D.C. 20590. Applications must be typed on one side of the page only. An additional three (3) copies will facilitate the review process, but are not required. Applications must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–99-H–07159. Only complete application packages received on or before 2 p.m., July 2, 1999 will be considered.

Application Contents

1. The application package must be submitted with OMB Standard Form 424(REV. 4–88, including 424A and 424B), Application for Federal Assistance, with the required information filled in and assurances signed (SF 424B). While the Form 424A deals with budget information and Section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed total costs. A supplemental sheet shall be provided which presents a detailed breakdown of the proposed costs (direct labor, including labor category, level of effort, and rate; direct materials including itemized equipment; travel and transportation, including projected trips and number of people traveling; subcontractors/subgrants, with similar detail, if known; and overhead), as well as any costs the applicant proposes to contribute or obtain from other sources in support of the project. Applicants shall assume that awards will be made during September 1999 and should prepare their applications accordingly.

2. The application shall include a program narrative statement of not more than 20 pages which addresses the following as a minimum:

a. A brief description of the state/area in terms of its highway safety and injury control decision-making processes for planning, performance monitoring and other functions aimed at reducing death, injury, and costs of injuries resulting from motor vehicle crashes. This description should indicate how linked data will make a difference to the decision-making processes.

b. A brief description of the existing crash and medical outcome data files. pplicants will link state/area-wide

population-based crash data to EMS (and/or emergency department or insurance claims) and hospital discharge data to obtain medical and financial outcomes for persons injured in motor vehicle crashes for any two calendar years of data available since 1995. Linkages to census, other traffic records (vehicle registration, driver licensing, roadway, conviction/citation, etc.), insurance claims, etc., are encouraged to meet priorities for highway safety and injury control decision-making. The following information should be included describing the state/area-wide data:

(1) The total crashes, total persons involved in crashes, total victims with injuries caused by a motor vehicle crash as identified or estimated and a descriptive profile of the total injuries by severity level, if available, state/area-wide.

(2) Information about the current status of the data files to be linked, recorded using the format below:

Data files	Reporting threshold (A)	Rate of compliance with (A)	Data year(s) for computerized data available	Month and year when computerized data available for linkage	Percent of records state/area wide which need to be computerized for linkage
Crash					
EMS					
ED					
Hosp					
Other:					

(3) The data elements chosen to identify persons and crashes and, for each, the missing data rate.

(4) The data elements indicating type of injury, severity of injury, total charges, a payer source and, for each, the missing data rate.

c. A brief description of the proposed sequence for linking the data files.

d. A brief description of how staff from the various data owners will be cross-trained in the CODES linkage to compensate for potential future changes in organizational priorities and personnel.

e. A brief description of the process to be used to ensure adequate documentation of the data files and linkage process.

f. A brief description of how the linked data will be converted into information useful for the highway safety and injury control decision-making processes for the purpose of reducing death, injury, and costs resulting from motor vehicle crashes.

Describe:

(1) The different types of decision-making processes, currently being utilized in the state/area, that identify highway traffic safety and injury control objectives and prioritize prevention programs that have the most impact on reducing death, injury and direct medical costs associated with motor vehicle crashes; and

(2) Why linked data are needed to make these decision-making processes more effective and how the data will be incorporated.

g. A brief description of each member of the CODES Board of Directors and the proposed arrangements describing the management and use of the linked data.

3. The application shall include an appendix. A large appendix is strongly discouraged. Additional material should be included only if it is necessary to support information about data linkage, applications for linked data or institutionalization discussed in the application. Do not send copies of brochures, documents, etc., developed as the result of a collaborative effort in the state/area. The appendix should include the following:

a. Letters of support from each proposed member of the CODES Board of Directors. A letter of support should reflect the signer's level of commitment to the CODES project and thus should not be a form letter. The letter of support should document:

(1) Why linked data are important to the agency.

(2) The priority assigned by the agency to obtain linked data compared to other responsibilities.

(3) The agency's level of commitment in terms of the number of staff and the dollars or shared resources which will be available to support and institutionalize CODES.

(4) The agency's willingness to collaborate with other data owners to support shared ownership of the linked data.

(5) The agency's permission to release the linked data (or description of policies which would restrict transfer) to NHTSA at the end of the project.

b. A brief description or letters of support should be included for the other stakeholders to be represented on the CODES Advisory Group. The letters of support should indicate the stakeholder's need for the linked data, and willingness to facilitate the linkage of state/area-wide data or use of linked data for decision-making.

c. A list of activities in chronological order and a time line to show the expected schedule of accomplishments and their target dates.

d. Descriptions of the proposed project personnel as follows:

(1) Project Director: Include a resume along with a description of the director's leadership capabilities to make the various stakeholders work together.

(2) Key personnel proposed for the data linkage and applications of linked data, and other personnel considered critical to the successful accomplishment of this project: include a brief description of qualifications, employment status (permanent, temporary) in the organization, and respective organizational responsibilities. The proposed level of effort in performing the various activities should also be identified.

e. A brief description of the applicant's organizational experience in performing similar or related efforts, and the priority that will be assigned to this project compared to the organization's other responsibilities.

f. Data Use Agreement. A description of the existing State laws and regulations governing patient/provider confidentiality in the data files being linked that would restrict use of the data for linkage and/or for transfer of the CODES linked data to NHTSA and conditions under which the linked data file may be used by NHTSA.

Application Review Process and Evaluation Factors

Initially, all application packages will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application contains all of the items specified in the Application Content section of this announcement.

Each complete application from an eligible recipient will then be evaluated by an Evaluation committee. The applications will be evaluated using the following criteria which are listed in descending order of importance:

1. *Understanding the intent of the program* (30%). The applicant's recognition of the importance of CODES to obtain medical and financial outcome data which are necessary for a comprehensive evaluation of the impact of highway safety and injury control countermeasures. The applicant's understanding of the importance of developing CODES as a meaningful and appropriate strategy for improving traffic records capabilities and ensuring the continuation of CODES after completion of this project.

2. *Technical approach for project completion* (30%). The reasonableness and feasibility of the applicant's approach for successfully achieving the objectives of the project within the required time frame. The appropriateness and feasibility of the applicant's proposed plans for data linkage and applications for the linked data. Evidence that the applicant has the necessary authorization and support from data owners to access medical and non-medical state/area-wide data, particularly total charges and information about type and severity of injury which are not routinely available for highway safety analyses and release data.

3. *Project personnel* (20%). The adequacy of the proposed personnel to successfully perform the project study, including qualifications and experience (both general and project related), the various disciplines represented, and the relative level of effort proposed for the professional, technical and support staff.

4. *Organizational capabilities* (20%). The adequacy of organizational resources and experience to successfully manage and perform the project, particularly to support the collaborative network and respond to the increasing demand for access to the linked data. The proposed coordination with and use of other organizational support and resources, including other sources of financial support.

Depending upon the results of the evaluation process, NHTSA may choose to alter the number of awards. In addition, NHTSA may suggest revisions to applications as a condition of further consideration to ensure the most efficient and effective performance consistent with the objectives of the project. An organizational representative of the National Association of Governors' Highway Safety Representatives will be assisting in NHTSA's technical evaluation process.

Special Award Selection Factors

After evaluating all applications received, in the event that insufficient funds are available to award to all meritorious applicants, NHTSA may consider the following special award factors in the award decision:

1. Priority may be given to those applicants that have statewide data available for linkage.

2. Priority may be given to applicants who have the highest probability of maintaining the collaborative network of data owners and users, of institutionalizing the linkage of the crash and medical outcome data on a routine basis, and of continuing to respond to data requests after the project is completed.

3. Priority may be given to an applicant on the basis that the application fits a profile of providing NHTSA with a broad range of population densities (rural through metropolitan) with different highway safety needs.

Terms and Conditions of the Award

1. Prior to award, each grantee must comply with the certification requirements of 49 CFR part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR part 29, Department of Transportation Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug Free Workplace (Grants). In addition, grantees must certify that data release agreements have been signed by the owners of the data files being linked to transfer the CODES linked database according to NHTSA specifications to NHTSA.

2. Reporting requirements and Deliverables:

a. Detailed Action Plan and Schedule. Within 30 days after the briefing meeting, the grantee shall deliver a detailed action plan and schedule for accomplishing the data linkage and applications of linked data for decision-making, showing any revisions to the approach proposed in the grantee's application. This detailed action plan will be subject to the technical direction and approval of NHTSA and will describe the following:

(1) The personnel and hardware resources required to perform the data linkage.

(2) The process for obtaining the different files required for linkage.

(3) The process for accelerating the data processing schedule, if necessary, so that the state/area-wide data are available in a timely manner for the linkage.

(4) The process for verifying the data and performing additional edits on the linkage variables.

(5) The process for resolving problems expected during linkage and their proposed solutions.

(6) The process for documenting the content of the various linked data files, programs used for editing, and the linkage process itself.

(7) The milestones for completing the various phases of the probabilistic linkage and validation processes.

(8) The milestones for proposed meeting schedules and actions by the Board of Directors and Advisory Group.

(9) Date(s) for providing the linked data to NHTSA.

(10) The process for identifying the limitations of the final linked database or applications of the linked data, if any.

(11) The process for ensuring access to the linked data as demand for information increases.

(12) The process for choosing those applications of linked data that will have the most impact on reducing death, injury, and costs of injuries related to motor vehicle crashes.

(13) The milestones for implementing the applications.

(14) The benefits expected from the applications of the linked data.

b. Quarterly Progress Report. During the performance, the grantee will provide letter-type written reports to the NHTSA COTR. These reports will compare what was proposed in the Plan of Action with actual accomplishments during the past quarter; what commitments have been generated; what follow-up and state-level support is expected; what problems have been experienced and what may be needed to overcome the problems; and what is specifically planned to be accomplished during the next quarter. These reports will be submitted seven days after the end of each quarter.

c. Board of Directors and Advisory Group Meetings. Copies of the agenda and minutes for each Board of Directors and Advisory Group Meeting will be attached to the Progress Report submitted to NHTSA immediately following the meeting.

d. Institutionalization Plan. The grantee shall deliver to NHTSA by the end of the 15th month of funding, a long-range plan and schedule to institutionalize data linkage and the use of linked data for highway safety and injury control decision-making within the state.

e. Final Report. The grantee shall deliver to NHTSA, at the end of the

project, a final report describing the results of the data linkage process, and the applications of the linked data. The report shall include the following:

(1) A description of the state/area wide linked crash and injury data,

(2) A description of the file preparation,

(3) A description of the linkage, validation processes and results,

(4) A description of the extent of the documentation and how the documentation will facilitate linkage in subsequent years,

(5) A discussion of the limitations of the linked data and subsequent applications of these data,

(6) A description of the applications of linked data implemented for decision-making and results of the decision-making,

(7) A description of how the data linkage and use of linked data for decision making has been institutionalized for decision-making,

(8) A description of the documentation created to facilitate repeating of the linkage process and an estimate of how much time is needed to repeat the linkage in subsequent years, and

(9) A copy of the public-use formats that were successful for incorporating linked data into the decision-making processes for highway safety and injury control.

e. CODES Linked Database. The grantee shall deliver to NHTSA after linkage, at the date specified in the Action Plan, the CODES linked databases. NHTSA will use the data to help facilitate the development of data linkage capabilities at the state/area-wide level and to encourage use of the linked data for decision making.

The deliverables will include:

(1) The database in an electronic media and format acceptable to NHTSA, including all persons, regardless of injury severity (none, fatal, non-fatal), involved in a reported motor vehicle crash for any two calendar years of available data since 1995 and including medical and financial outcome information for those who are linked.

(2) A copy of the file structure for the linked data file.

(3) Documentation of the definitions and file structure for each of the data elements contained in the linked data files.

(4) An analysis of the quality of the linked data and a description of any data bias which may exist based on an analysis of the false positive and false negative linked records.

3. During the effective performance period of Cooperative Agreements awarded as a result of this announcement, the agreement as applicable to the grantee shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreements, dated July 1995.

Issued: April 26, 1999.

Patricia Breslin,

Director, National Center for Statistics and Analysis, National Highway Traffic Safety Administration.

[FR Doc. 99–10851 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33735]

Great Western Railway of Colorado, L.L.C.—Acquisition Exemption—The Burlington Northern and Santa Fe Railway Company

Great Western Railway of Colorado, L.L.C. (GWR), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire approximately 6.12 miles of rail lines owned by The Burlington Northern and Santa Fe Railway Company (BNSF) located: (1) between milepost 76.5 and milepost 75.48, near Riverside Avenue in Fort Collins, CO; (2) between milepost 74.57, near Linden Street, and milepost 74.3, at Willow Street, in Fort Collins; (3) all of the tracks, except Track No. 398, in BNSF's North Yard, in Fort Collins; (4) BNSF's Black Hollow Line located between BNSF's main line at milepost 77.36 and the end of the Black Hollow Line at milepost 79.53 near Fort Collins; and (5) BNSF's Busch Spur located between milepost 78.8 and milepost 79.9 in Busch, CO.[1] GWR will operate the property.

In conjunction with the acquisition of these rail lines, GWR will acquire approximately 7.1 miles of incidental overhead trackage rights over BNSF's rail line between milepost 74.5, in Fort Collins, and milepost 80.2, near Busch, and over Track No. 398, in BNSF's North Yard, in Fort Collins. GWR will also acquire by assignment from BNSF approximately .91 miles of overhead trackage rights over the Union Pacific Railroad Company's rail line located between Mullberry Street and Linden Street, in Fort Collins.

The earliest the transaction could be consummated was April 16, 1999, the effective date of the exemption (7 days after the exemption was filed).

[1] GWR certifies that its annual revenue will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.

If this notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33735 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, BALL JANIK LLP, Suite 225, 1455 F Street, NW, Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: April 20, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–10775 Filed 4–29–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33738]

Rock & Rail, Inc.—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Rock & Rail, Inc. (R&R), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire The Burlington Northern and Santa Fe Railway Company's (BNSF) ownership interest in, and to acquire from BNSF a permanent and exclusive rail freight easement to operate over, and thus to operate, approximately 41.31 miles of rail line in Pueblo and Canon City, CO. The lines or rights intended to be acquired by R&R are as follows: (1) From milepost 160.30 in Canon City extending westerly for a distance of approximately 252 feet in Fremont County, CO; (2) from milepost 160.80 in Canon City extending easterly approximately 256 feet to serve the power plant at or near Canon City, in Fremont County, CO; (3) BNSF's trackage rights over Union Pacific Railroad Company's (UP) rail line between milepost 160.30 in Canon City and milepost 120.73 in Pueblo, a distance of 39.57 miles in Fremont and Pueblo Counties, CO; and (4) all of BNSF's connecting sidings, spurs, sidetracks and yard, industrial, team and switching tracks that are owned or

leased by BNSF between the end of BNSF's track, approximately 252 feet west of milepost 160.30 in Canon City, and the connection between BNSF's line and UP's line at milepost 120.73 in Pueblo. In addition, BNSF will grant R&R incidental trackage rights over BNSF's rail line extending easterly from the connection between BNSF's line and UP's line at milepost 120.73 in Pueblo and approximately 2,243 feet over Track No. 254, approximately 2,240 feet over Track No. 256, and approximately 4,200 feet over BNSF's main line track to milepost 619.75, for the purpose of interchanging with BNSF in Pueblo, for a total distance of approximately 1.64 miles in Pueblo County, CO.[1]

The transaction was scheduled to be consummated on or after April 14, 1999. R&R has subsequently advised the Board that the transaction has been consummated and that R&R will shortly commence operations on the Canon City-Pueblo Line.[2]

The purpose of the transaction is to permit R&R, rather than BNSF, to serve the shippers at Canon City, Florence, and Portland, and to conduct overhead operations between Canon City and Pueblo.

If this notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33738, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, NW, Washington, DC 20005–3934.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: April 26, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–10852 Filed 4–29–99; 8:45 am]

BILLING CODE 4915–00–P

[1] R&R certifies that its annual revenue will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.

[2] On April 14, 199, UP submitted a letter stating that it was not objecting to the requested exemption because it is permissive in nature and would not give BNSF the ability to transfer rights that it has no legal right to transfer. UP went on to assert that BNSF's trackage rights between milepost 147.01, near Portland, CO, and milepost 160.30, near Canon City, are not assignable by BNSF without UP's consent and that UP's consent has neither been sought nor granted. UP also asserted that, while there is a small power plant at Canon City, neither BNSF's solely owned track nor its trackage rights over UP in the vicinity of Canon City actually reach the power plant. UP thus disputes that R&R would have a right to serve the power plant.

In issuing this notice, the Board is making no ruling on the contractual rights of the parties. Therefore, by invoking the class exemption, R&R has the right to perform common carrier service to the extent that it has or obtains the property rights to enable it to carry out the service.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 26, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0012.
Form Number: TD F 90–22.53.
Type of Review: Extension.
Title: Designation of Exempt Person.
Description: Bank and other financial institutions will use the form to exempt certain customers from the requirement to report Treasury a customer's cash transactions exceeding $10,000.
Respondents: Business or other for-profit, Not-for-profit institutions.
Estimated Number of Respondents/ Recordkeepers: 19,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 10 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 291,667 hours.
Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110 , 1425 New York Avenue, NW, Washington, DC 20220.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–10844 Filed 4–29–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 22, 1999.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L.104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0723.
Regulation Project Number: LR–115–72 Final.
Type of Review: Extension.
Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes.
Description: Chapters 31 and 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Section 6416 allows a credit or refund of the tax to manufacturers in certain cases. Sections 6420, 6421, and 6427 allow credits or refunds of the tax to certain users of the articles.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, State, Local or Tribal Government.
Estimated Number of Respondents/ Recordkeepers: 1,500,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 19 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 475,000 hours.
OMB Number: 1545–0808.
Form Number: IRS Form 5074.
Type of Review: Extension.
Title: Allocation of Individual Income Tax to Guam or the Commonwealth of Northern Mariana Islands (CNMI).
Description: Form 5074 is used by U.S. citizens or residents as an

attachment to Form 1040 when they have $50,000 or more in adjusted gross income from U.S. sources and $5,000 or more in gross from Guam or the Commonwealth of the Northern Mariana Islands (CNMI). The data is used by IRS to allocate income tax due to Guam or CNMI as required by 26 U.S.C. 7654.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 50.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—2 hr., 57 min.
Learning about the law or the form—8 min.
Preparing the form—49 min.
Copying, assembling, and sending the form to the IRS—17 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 210 hours.

OMB Number: 1545–0863.

Regulation Project Number: LR–218–78 Final.

Type of Review: Extension.

Title: Product Liability Losses and Accumulations for Product Liability Losses.

Description: Generally, a taxpayer who sustains a product liability loss must carry the loss back 10 years. However, a taxpayer may elect to have such loss treated as a regular net operating loss under section 172. If desired, such election is made by attaching a statement to the tax return. This statement will enable the IRS to monitor compliance with a statutory.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,500 hours.

OMB Number: 1545–0879.

Regulation Project Number: IA–195–78 Final.

Type of Review: Extension.

Title: Certain Returned Magazines, Paperbacks or Records.

Description: The regulations provide rules relating to an exclusion from certain returned merchandise. The regulations provide that in addition to physical return of the merchandise, a written statement listing certain information may constitute evidence of the return. Taxpayers who receive physical evidence of the return may, in lieu of retaining physical evidence, retain documentary evidence of the return. Taxpayers in the trade or business of selling magazines, paperbacks, or records, who elect to use a certain method of accounting.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 19,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 25 minutes.

Estimated Total Recordkeeping Burden: 8,125 hours.

OMB Number: 1545–1011.

Notice Number: Notice 87–61.

Type of Review: Extension.

Title: Long-Term Contracts; Methods of Accounting Under Tax Return.

Description: These reporting requirements are necessary to permit taxpayers to change their methods of accounting for long-term contracts to comply with section 460 of the Internal Revenue Code.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Respondent: 5 hours.

Frequency of Response: Other (For the first taxable year the taxpayer changes it method).

Estimated Total Reporting Burden: 25,000 hours.

OMB Number: 1545–1100.

Regulation Project Number: REG–209106–89 NPRM (formerly EE–84–89).

Type of Review: Extension.

Title: Changes With Respect to Prizes and Awards and Employee Achievement Awards.

Description: This regulation requires recipients of prizes and awards to maintain records to determine whether a qualifying designation has been made. The affected public are prize and award recipients who seek to exclude the cost of a qualifying prize or award.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5,100.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,275 hours.

OMB Number: 1545–1135.

Regulation Project Numbers: INTL–121–90, INTL–292–90, and INTL–361–89 Final.

Type of Review: Extension.

Title: Treaty-Based Return Positions.

Description: Regulations section 301.6114–1 sets forth the reporting requirement under § 6114. Persons or entities subject to this reporting requirement must make the required disclosure on a statement attached to their return, in the manner set forth, or be subject to a penalty. Regulations section 301.770(b)–7(a)(4)(iv)(C) sets forth the reporting requirement for dual requirement for dual resident S corporation shareholders who claim treaty benefits as nonresidents of the United States.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 6,020.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 6015 hours.

OMB Number: 1545–1244.

Regulation Project Number: PS–39–89 NPRM.

Type of Review: Extension.

Title: Limitation on Passive Activity Losses and Credits-Treatment of Self-Charged Items of Income and Expense.

Description: The IRS will use this information to determine whether the entity has made a proper timely election and to determine that taxpayers are complying with the election in the taxable year of the election and subsequent tax years.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 6 minutes.

Frequency of Response: Other (First taxable year that entity seeks to make election.).

Estimated Total Reporting Burden: 100 hours.

OMB Number: 1545–1269.

Regulation Project Number: PS–7–90 Final.

Type of Review: Extension.

Title: Nuclear Decommissioning Fund Qualification Requirements.

Description: If a taxpayer requests, in connection with a request for a schedule of ruling as to the classification of certain unincorporated organizations, the taxpayer is required to submit a copy of the documents establishing or governing the organization.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Burden Hours Per Respondent: 3 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 150 hours.

OMB Number: 1545–1393.

Regulation Project Number: EE–14–81 NPRM.

Type of Review: Extension.

Title: Deductions and Reductions in Earnings and Profits (for Accumulated

Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations.

Description: The regulation provides guidance regarding the limitations on deductions and adjustments to earnings and profits (or accumulated profits) for certain foreign deferred compensation plans. Respondents will be multinational corporations.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,250.

Estimated Burden Hours Per Respondent/Recordkeeper: 508 hours.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 634,450 hours.

OMB Number: 1545–1435.

Form Number: EE–45–93 Final.

Type of Review: Extension.

Title: Electronic Filing of Form W–4.

Description: Information is required by the Internal Revenue Service to verify compliance with section 31.3402(f)(2)–1(g)(1), which requires submission to the Service of certain withholding exemption certificates. The affected respondents are employers that choose to make electronic filing of Forms W–4 available to their employees.

Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 2,000.

Estimated Burden Hours Per Respondent: 20 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 40,000 hours.

OMB Number: 1545–1486.

Regulation Project Number: PS–4–96 Final.

Type of Review: Extension.

Title: Sale of Residence From Qualified Personal Residence Trust.

Description: Internal Revenue Code section 202(a)(3) provides special favorable valuation rules for valuing the gift of a personal residence trust. Regulation section 25.2702–5(a)(2) provides that if the trust fails to comply with the requirements contained in the regulations, the trust will be treated as complying if a statement is attached to the gift tax return reporting the gift stating that a proceeding has been commenced to reform the instrument to comply with the requirements of the regulations.

Respondents: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Respondent: 3 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 625 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–10845 Filed 4–29–99; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 64, No. 83
Friday, April 30, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–98–162]

RIN 2115–AE46

Special Local Regulations: Empire State Regatta, Albany, New York

Correction

In rule document 99–10115, beginning on page 19715, in the issue of Thursday, April 22, 1999, make the following correction:

§ 100.104 [Corrected]

On page 19717, in the second column, in § 100.104(c)(7), in the third line, "vessem" should read "vessel".

[FR Doc. C9–10115 Filed 4–29–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 29508; Special Federal Aviation Regulation (SFAR) No. 84]

RIN 2120–AG78

Prohibition Against Certain Flights Within the Territory and Airspace of Serbia-Montenegro

Correction

In rule document 99–7784, beginning on page 15120, in the issue of Monday, March 29, 1999, make the following corrections:

1. On page 15120, in the second column, under the heading **Small Entity Inquiries**, in the first paragraph, in the sixth line, "statues" should read "statutes".

2. On the same page, in the same column, under the heading **Background**, in the second paragraph, in the third line from the bottom, "overslight" should read "overflight".

PART 91 [CORRECTED]

3. On page 15121, in the third column, in Special Federal Aviation Regulation (SFAR) No. 84, paragraph 4, in the 16th line, "ad" should read "and".

[FR Doc. C9–7784 Filed 4–29–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Friday
April 30, 1999

Part II

Environmental Protection Agency

40 CFR Parts 141 and 142
Revisions to the Unregulated Contaminant Monitoring Regulation for Public Water Systems; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–6329–3]

RIN 2040–AD15

Revisions to the Unregulated Contaminant Monitoring Regulation for Public Water Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Safe Drinking Water Act (SDWA), as amended in 1996, requires the Environmental Protection Agency (EPA) to establish criteria for a monitoring program for unregulated contaminants and, by August 6, 1999, to publish a list of contaminants to be monitored. To conform to the Amendments, EPA is proposing the Unregulated Contaminant Monitoring Regulation for Public Water Systems (UCMR) to substantially revise the current regulations for unregulated contaminant monitoring.

Under a separate action on January 8, 1999, EPA published a Direct Final Rule suspending the existing monitoring requirements for systems serving 10,000 or fewer persons, effective March 9, 1999. Prior to March 9, 1999, the unregulated contaminant monitoring regulations required public water systems to monitor for unregulated contaminants during one year every five years. EPA promulgated the direct final rule to allow systems serving 10,000 or fewer persons to save the cost of a third monitoring round under the previous regulations, which if performed as scheduled would have overlapped with monitoring requirements expected to be promulgated in the UMCR in August 1999.

This proposed rule includes a new list of contaminants to be monitored, procedures for selecting a national representative sample of public water systems serving 10,000 or fewer persons that will be required to monitor, the frequency and schedule for monitoring, and procedures for placement of the monitoring data in the National Drinking Water Contaminant Occurrence Data Base, as required under section 1445 of SDWA, as amended. The data in the database will be used to identify contaminants for the Drinking Water Contaminant Candidate List (CCL), to support the Administrator's determination of whether or not to develop drinking water standards for a particular contaminant, and in developing standards for the contaminants the Administrator selects.

DATES: The proposed rule is open to public comment until June 14, 1999.

ADDRESSES: Send written comments to the Comment Clerk, docket number W–98–02, U.S. Environmental Protection Agency, Water Docket (MC 4101), 401 M Street, SW, Washington, DC 20460. Please submit an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

Comments may also be submitted electronically to ow-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments must be identified by the docket number W–98–02. Comments and data will also be accepted on disks in WordPerfect in 5.1 format or ASCII file format. Electronic comments on this proposal may be filed online at many Federal Depository Libraries.

The full record for this proposal has been established under docket number W–98–02 and includes supporting documentation as well as printed, paper versions of electronic comments. The full record is available for inspection from 9 a.m. to 4 p.m. Monday through Friday, excluding legal holidays at the Water Docket, East Tower Basement, USEPA, 401 M Street, SW, Washington DC. For access to docket materials, please call (202) 260–3027 between 9 a.m. and 3:30 p.m, Eastern Time, Monday through Friday, to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Charles Job, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MC–4607), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460, (202) 260–7084. General information may also be obtained from the EPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791. The Hotline is open Monday through Friday, excluding federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

Regional Contacts

I. Anthony De Palma, JFK Federal Bldg., Room 2203, Boston MA 02203, Phone: 617–565–3610.
II. Walter Andrews, 290 Broadway, Room 2432, New York, NY 10007–1866, Phone: 212–637–3880.
III. Michelle Hoover, 1650 Arch Street, Philadelphia PA 19103–2029, Phone: 215–814–5258.
IV. Janine Morris, 345 Courtland Street, NE, Atlanta GA 30365, Phone: 404–562–9480.
V. Kim Harris, 77 West Jackson Blvd., Chicago, IL 60604–3507, Phone: 312–886–4239.
VI. Larry Wright, 1445 Ross Avenue, Dallas, TX 75202, Phone: 214–665–7150.
VII. Stan Calow, 726 Minnesota Ave., Kansas City, KS 66101, Phone: 913–551–7410.
VIII. Rod Glebe, One Denver Place, 999 18th Street, Suite 500, Denver, CO 80202, Phone: 303–312–6627.
IX. Bruce Macler, 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415–744–1884.
X. Larry Worley, 1200 Sixth Avenue, Seattle, WA 98101, Phone: 206–553–1893.

Abbreviations and Acronyms Used in the Preamble and Proposed Rule

2,4-DNT—2,4-dinitrotoluene
2,6-DNT—2,6-dinitrotoluene
4,41′-DDE—degradation product of DDT
Alachlor ESA—alachlor ethanesulfonic acid, a degradation product of alachlor
AOAC—Association of Official Analytical Chemist
ASDWA—Association of State Drinking Water Administrators
ASTM—American Society for Testing and Materials
BGM—Buffalo Green Monkey cells, a specific cell line used to grow viruses
CAS—Chemical Abstract Service
CASRN—Chemical Abstract Service Registry Number
CCL—Contaminant Candidate List
CCR—Consumer Confidence Reports
CERCLA—Comprehensive Environmental Response, Compensation and Liability Act
CFR—Code of Federal Regulations
CFU—Colony forming unit
CFU/mL—Colony forming units per milliliter
CWS—Community water system
DCPA—dimethyl tetrachloroterephthalate, chemical name of the herbicide dacthal
DCPA di- and mono-acid degradates —Degradation products of DCPA
DDE—Degradation product of DDT
DDT—Dichloro diphenyl trichloroethane, a general insecticide
EDL—Estimated detection limit
EPA—Environmental Protection Agency
EPTC—s-ethyl-dipropylthiocarbamate, an herbicide
EPTDS—Entry Point to the Distribution System
FACA—Federal Advisory Committee Act
FTE—Full-time-equivalent
GC—Gas chromatography, a laboratory method
GLI method—Great Lakes Instruments method
GW—Ground water
GWUDI—Ground water under the direct influence of surface water
HLPC—High performance liquid chromatography, a laboratory method
ICR—Information Collection Request
IFRA—Initial regulatory flexibility analysis
IMS—Immunomagnetic separation

IRIS—Integrated Risk Information System
IS—Internal standard
LLE—Liquid/liquid extraction, a laboratory method
MAC—Mycobacterium avium intracellulare
MCL—Maximum contaminant level
MDL—Method detection limit
MRL—Minimum reporting level
MS—Mass spectrometry, a laboratory method
MS—Sample matrix spike
MSD—Matrix spike duplicate
MTBE—Methyl-tert-butyl-ether, a gasoline additive
NAWQA—National Water Quality Assessment Program
NCOD—National Drinking Water Contaminant Occurrence Data Base
NDWAC—National Drinking Water Advisory Council
NERL—National Environmental Research Laboratory
NPS—National Pesticide Survey
NTIS—National Technical Information Service
NTNCWS—Non-transient non-community water system
NTTAA—National Technology Transfer and Advancement Act
OGWDW—Office of Ground Water and Drinking Water
OMB—Office of Management and Budget
PBMS—Performance-Based Measurement System
pCi/L—Picocuries per liter
PCR—Polymerase chain reaction
PWS—Public Water System
PWSF—Public Water System Facility
QA—Quality assurance
QC—Quality control
RDX—Hexahydro-1,3,5-trinitro-1,3,5-triazine
RFA—Regulatory Flexibility Act
RPD—Relative percent difference
RSD—Relative standard deviation
SBREFA—Small Business Regulatory Enforcement Fairness Act
SD—Standard deviation
SDWA—Safe Drinking Water Act
SDWIS—Safe Drinking Water Information System
SDWIS FED—the Federal Safe Drinking Water Information System
SM—Standard Methods
SMF—Standard Compliance Monitoring Framework
SOC—Synthetic organic compound
SPE—Solid phase extraction, a laboratory method
SRF—State Revolving Fund
STORET—Storage and Retrieval System
SW—surface water
TBD—to be determined
TNCWS—Transient non-community water system
UCMR—Unregulated Contaminant Monitoring Regulations/Rule
UCM—Unregulated Contaminant Monitoring
ug/L—Micrograms per liter
UMRA—Unfunded Mandates Reform Act of 1995
USEPA—United States Environmental Protection Agency
UV—Ultraviolet
VOC—volatile organic compound

Preamble Outline

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Potentially Regulated Entities

The regulated entities are public water systems. All large community and non-transient non-community water systems serving more than 10,000 persons would be required to monitor. A community water system means a public water system which serves at least 15 public service connections used by year-round residents or regularly serves at least 25 year-round residents. Non-transient non-community water system means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year. Only a national representative sample of community and non-transient non-community systems serving 10,000 or fewer persons would be required to monitor. Transient non-community systems (i.e., systems that do not regularly serve at least 25 of the same persons over six months per year) would not be required to monitor. States, Territories, and Tribes with primacy to administer the regulatory program for public water systems under the Safe Drinking Water Act, sometimes conduct analyses to measure for contaminants in water samples and would be regulated by this action. Categories and entities that may ultimately be regulated include the following:

Category	Examples of potentially regulated entities	SIC
State, Tribal and Territorial Governments.	States, Territories, and Tribes that analyze water samples on behalf of public water systems required to conduct such analysis; States, Territories, and Tribes that themselves operate community and non-transient non-community water systems required to monitor.	9511
Industry	Private operators of community and non-transient non-community water systems required to monitor	4941
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	9511

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Why the Unregulated Contaminant Monitoring Regulation Is Changing

The current Unregulated Contaminant Monitoring Program operating under the Safe Drinking Water Act (SDWA, the Act) requires public water systems to monitor for unregulated contaminants during one year every five years. Under section 1445(a)(2) of the Act, as amended in 1996, the Environmental Protection Agency (EPA) is required to establish criteria for a monitoring program for unregulated contaminants and, by August 6, 1999, to publish a list of contaminants to be monitored. To conform to the 1996 Amendments, EPA is proposing substantial revisions to the Unregulated Contaminant Monitoring (UCM) Program, currently described in 40 CFR 141.40. The purpose of the Unregulated Contaminant Monitoring Program is to collect occurrence data to help determine which contaminants EPA should regulate based on their concentrations in public water systems and their adverse health effects levels.

This proposed rule will take the place of the regulations currently in 40 CFR 141.35, 141.40, and 142.15(c)(3) and modify § 142.16. The revisions cover the following: (1) The frequency and schedule for monitoring based on public water system (PWS) size, water source, and likelihood of finding the contaminants; (2) a new shorter list of contaminants to be monitored, (3) procedures for selecting and monitoring a national representative sample of public water systems serving 10,000 or fewer people, and (4) procedures for placing the monitoring data in the National Drinking Water Contaminant Occurrence Data Base (NCOD), as required under Section 1445. The data generated by this rule, when adopted, will be used to identify contaminants for the Contaminant Candidate List (CCL), to support the Administrator's determination of whether or not to regulate a contaminant under the drinking water program, and to support the development of drinking water regulations. The proposed revised UCM Program is a cornerstone of the sound science approach to future drinking water regulation, which is one of the aims of the SDWA Amendments.

In a separate action, EPA has published a Direct Final Rule (64 FR 1494, January 8, 1999) which will cancel the existing monitoring requirements for systems serving 10,000 or fewer persons effective January 1, 1999. The Direct Final Rule will modify the existing regulations ahead of this Proposed Rule to revise the existing unregulated contaminant monitoring regulations. The Direct Final Rule's purpose is to allow the systems serving 10,000 or fewer persons to save the cost of a third monitoring round under the existing regulation, which if performed would overlap with monitoring under the proposed revised rule. EPA believes that it has sufficient data from the previous monitoring rounds to make decisions concerning the status of the contaminants on the existing monitoring list (see Table 1).

II. Current Unregulated Contaminant Monitoring

A. Current Program

The current Unregulated Contaminant Monitoring Program was established in the SDWA, as amended in 1986, and implemented by regulation in 1987 (52 FR 25720, July 8, 1987). The program was revised three times thereafter (56 FR 3526, January 30, 1991; 57 FR 22178, May 27, 1992; and 57 FR 31776, July 17, 1992). Under 40 CFR 141.40, public water systems are required to monitor for up to 48 unregulated contaminants and under 40 CFR 141.35, to report monitoring results to the States, or to EPA if a State does not have primacy to administer the State Drinking Water Program. These 48 contaminants are listed in Table 1 of this Preamble, along with their regulatory status. Under 40 CFR 142.15, primacy States must report monitoring results to EPA. Repeat monitoring and reporting are required during one year every 5 years. Systems serving fewer than 150 service connections may make their facilities available for the States to monitor, rather than perform their own monitoring.

B. Status of Unregulated Contaminants on the Current Monitoring List

Based on the results of the current Unregulated Contaminant Monitoring

Program, EPA analyzed each of the 48 contaminants on the current list. The status of the 48 contaminants as a result of that analysis is summarized below in Table 1.

TABLE 1.—LIST AND STATUS OF THE CURRENT UNREGULATED CONTAMINANTS

	In regulation development [1]	On contaminant candidate list [2]	Did not occur at significant levels [3]	Covered by other regulatory action [4]	Did not meet health effects level [5]
Aldicarb	X				
Aldicarb sulfone	X				
Aldicarb sulfoxide	X				
Aldrin		X			
Bromobenzene		X			
Bromochloromethane	X				
Bromodichloromethane	X				
Bromoform	X				
Bromomethane (methyl bromide)		X			
Butachlor			X		
sec-Butylbenzene					X
n-Butylbenzene					X
tert-Butylbenzene					X
Carbaryl			X		
Chlorodibromomethane	X				
Chloroethane	X				
Chloroform	X				
Chloromethane	X				
o-Chlorotoluene			X		
p-Chlorotoluene			X		
Dibromomethane	X				
Dicamba			X		
m-Dichlorobenzene			X		
Dichlorodifluoromethane			X		
1,1-Dichloroethane		X			
2,2-Dichloropropane		X			
1,3-Dichloropropane		X			
1,1-Dichloropropene		X			
1,3-Dichloropropene		X			
Dieldrin		X			
Fluorotrichloromethane			X		
Hexachlorobutadiene		X			
3-Hydroxycarbofuran				X	
Isopropylbenzene			X		
p-Isopropyltoluene		X			
Methomyl			X		
Metolachlor		X			
Metribuzin		X			
Naphthalene		X			
Propachlor			X		
n-Propylbenzene			X		
Sulfate		X			
1,1,1,2-Tetrachloroethane			X		
1,1,2,2-Tetrachloroethane		X			
1,2,3-Trichlorobenzene				X	
1,2,3-Trichloropropane			X		
1,2,4-Trimethylbenzene		X			
1,3,5-Trimethylbenzene					X

[1] In Regulation Development means that EPA is currently working on regulations affecting the contaminant in drinking water.
[2] On Contaminant Candidate List means that the contaminant is on the CCL for EPA to determine whether or not to regulate it in the future.
[3] Did Not Occur at Significant Levels means that unregulated contaminant monitoring results and other data did not indicate widespread occurrence or concentrations that would warrant further action.
[4] Covered By Other Regulatory Action means that the contaminant is addressed through regulation of other contaminants.
[5] Did Not Meet Health Effects Level means that the concentrations reported in unregulated contaminant monitoring results or other data were not at or above health effects levels established by EPA or other organizations that have such health indicators.

III. Proposed Changes in the Unregulated Contaminant Monitoring Program

A. Revised List of Unregulated Contaminants To Be Monitored

1. Criteria for Selecting Contaminants for the UCMR

(a) Revising the Monitoring List

Section 1445(a)(2)(B) requires EPA to list not more than 30 unregulated contaminants to be monitored by public water systems. Today EPA is proposing to use the Contaminant Candidate List (CCL), established under section 1412(b)(1)(B) of SDWA, as the primary basis for selecting contaminants for future monitoring under the UCMR. The criteria used in the CCL for identifying contaminants for which occurrence data are needed are:

(i) Whether sufficient data exist on the occurrence or likely occurrence of the contaminant in drinking water, including production, release, and use to warrant further confirming data; and

(ii) Whether sufficient data exist to indicate the occurrence of the contaminant in two or more States, or in ten or more public water systems.

The other criterion is whether an analytical method exists for the contaminant. The other mechanism for selecting contaminants for UCMR monitoring is through the petition of seven or more State governors to EPA, described below under III.A.2.(c), Modifying the Monitoring List through the Governors' Petition.

The CCL was developed with the advice of the Working Group on Contaminant Occurrence and Selection of the National Drinking Water Advisory Council (NDWAC), formed pursuant to the Federal Advisory Committee Act (FACA). The group developed criteria, adopted by EPA, for deciding which contaminants to include on the CCL.

Criteria for selecting contaminants for the CCL focused on occurrence in water at levels of health concern, or indications of occurrence (production or release, coupled with contaminant properties). EPA used health effects concentrations to determine the significance of occurrence levels. When developing the CCL, EPA used the previous unregulated contaminant monitoring data from States as one of the many sources of occurrence data. The term "occurrence" as used here means the measured observation of a substance in drinking water or potential source of drinking water. The 1998 CCL contains 50 chemical contaminants and 10 microbiological contaminants. The process for developing the CCL is described in more detail in the March 2, 1998, **Federal Register** containing the list (63 FR 10273).

When EPA began the process of choosing contaminants for the CCL, EPA and NDWAC experts worked from a compendium of 8 lists containing approximately 262 chemical contaminants. The lists used in this process included the 1991 Drinking Water Priority List, health advisories, Integrated Risk Information System, Non-Target Analytes in Public Water Supply Samples, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Priority List, stakeholder responses, Toxic Release Inventory, and pesticides identified by the Office of Pesticide Programs. Contaminants not among the 262 chemical contaminants initially identified were not considered in developing the CCL.

Table 2 lists all of the contaminants on the CCL and indicates whether they are priorities for consideration under three categories—regulation, research (health, treatment, and analytical methods), and occurrence. (Contaminants may appear in more than one column of Table 2.) The groupings in Table 2 are based on current (1998) information, and some movement of contaminants between categories can be expected as more information is evaluated and analyzed. In Table 2, "Regulation Determination Priorities" means that for the contaminants listed, EPA believes it has or will soon have sufficient data to determine whether or not to regulate these contaminants. "Research Priorities" means that before EPA could make any regulatory determination, EPA would need health effects data, treatment technology results, or analytical methods development to test for the contaminants. "Occurrence Priorities" indicates that EPA needs data to determine whether the contaminant occurs or is likely to occur in drinking water of public water systems. The "Occurrence Priorities" identify the contaminants that EPA is focusing on in the Unregulated Contaminant Monitoring Program proposed today. EPA believes that the purpose of this program is to compile data concerning the occurrence of unregulated contaminants in drinking water so that, together with health effects information, EPA can determine which unregulated contaminants are priorities for future regulation.

TABLE 2.—CONTAMINANT CANDIDATE LIST (CCL)

Regulatory determination priorities	Research priorities			Occurrence priorities
	Health research	Treatment research	Analytical methods research	
Acanthamoeba (guidance) 1,1,2,2-tetrachloroethane 1,1-dichloroethane 1,2,4-trimethylbenzene 1,3-dichloropropene 2,2-dichloropropane Aldrin Boron Bromobenzene Dieldrin Hexachlorobutadiene p-Isopropyltoluene Manganese Metolachlor Metribuzin Naphthalene Organotins Triazines and degradation products (incl., but not limited to Cyanazine and atrazine-desethyl) Sulfate Vanadium	Aeromonas hydrophila Cyanobacteria (Blue-green algae), other freshwater algae, and their toxins Caliciviruses Helicobacter pylori Microsporidia Mycobacterium avium intercellulare (MAC) 1,1-dichloropropene 1,3-dichloropropane Aluminum DCPA mono-acid and di-acid degradates Methyl bromide MTBE Perchlorate Sodium (guidance)	Adenoviruses Aeromonas hydrophila Cyanobacteria (Blue-green algae), other freshwater algae, and their toxins Caliciviruses Coxsackieviruses (ICR data) Echoviruses (ICR data) Helicobacter pylori Microsporidia Mycobacterium avium intracellulare (MAC) Aluminum MTBE Perchlorate	Adenoviruses Cyanobacteria (Blue-green algae), other freshwater algae, and their toxins Caliciviruses Helicobacter pylori Microsporidia 1,2-diphenylhydrazine 2,4,6-trichlorophenol 2,4-dichlorophenol 2,4-dinitrophenol 2-methyl-Phenol Acetochlor Alachlor ESA Fonofos Perchlorate RDX	Adenoviruses Aeromonas hydrophila Cyanobacteria (Blue-green algae), other freshwater algae, and their toxins Caliciviruses Coxsackieviruses (ICR data) Echoviruses (ICR data) Helicobacter pylori Microsporidia 1,2-diphenylhydrazine 2,4,6-trichlorophenol 2,4-dichlorophenol 2,4-dinitrophenol 2,4-dinitrotoluene 2,6-dinitrotoluene 2-methyl-phenol Alachlor ESA Acetochlor DCPA mono-acid and di-acid degradates DDE Diazinon Disulfoton Diuron EPTC Fonofos Linuron Molinate MTBE Nitrobenzene Perchlorate Prometon RDX Terbacil Terbufos

The CCL lists 26 chemical and 8 microbiological contaminants as occurrence priorities because additional data on their occurrence in drinking water are needed to help decide whether or not to regulate them. Today's proposal does not address the two contaminants identified in the preparation of the CCL as highly localized in occurrence: Perchlorate and RDX (hexahydro-1,3,5-trinitro-1,3,5-triazine). During the process of identifying contaminants for the CCL and subsequently for the UCMR, perchlorate had only been detected at a few sites in the western U.S. However, perchlorate is increasingly being detected in other parts of the country. A total of nine States have detected perchlorate and as monitoring increases, other States are likely to detect it. EPA seeks public comment on whether perchlorate and RDX should be included in the UCM List.

For the remaining 32 contaminants on the CCL Occurrence Priorities List, EPA has evaluated the availability of analytical methods published by EPA or voluntary consensus standards organizations such as the American Society for Testing and Materials (ASTM) and Standard Methods (SM). In addition, EPA prioritized analytical methods development activities for those compounds and microbiological parameters for which suitable analytical methods are not currently available. As listed in List 1 of Table 3 below, EPA identified 10 organic chemical contaminants and one microbiological contaminant for which analytic methods are now available. List 1 contaminants are those that are proposed today to be monitored beginning on the effective date of this rule, as explained in 2., List of Contaminants to be Monitored. List 2 of Table 3 lists 14 organic chemical contaminants for which methods are being refined. List 3 of Table 3 identifies seven microbiological contaminants for which methods are being researched. Contaminants on Lists 2 and 3 are not proposed to be monitored until EPA promulgates revisions to this rule to specify analytical methods and related sampling requirements.

In addition, EPA requests comment on the addition to the unregulated contaminant monitoring List 1 of two naturally occurring radionuclides with health concerns at low levels, Lead-210 (Pb-210), and Polonium-210 (Po-210). Both nuclides are in the uranium decay series along with radium-226 and radon-222. Lead-210 with a half life of 22 years, and one of its progeny, polonium-210, with a half life of 138 days, have been found in drinking water. EPA is aware of the occurrence of these contaminant in shallow aquifers in Florida (Harada, et al., 1989; Upchurch, 1991), and in at least two other states. Because of potential occurrence and consequent health risks, EPA is considering adding these contaminants to the monitoring list.

(b) Regulatory Options

EPA proposes in § 141.40(a)(3) that the contaminants listed in Lists 1–3 be used for the UCMR program monitoring list and be categorized based on the availability of analytical methods. List 1 is the basis for "Assessment Monitoring." EPA proposes that "Assessment Monitoring" occur at all 2,774 large community and non-transient non-community systems serving more than 10,000 persons and a representative sample of approximately 800 systems serving less than 10,000 or fewer persons in State Monitoring Plans. List 2 will be the basis of a "Screening Survey" of approximately 300 of the systems required to do Assessment Monitoring. List 3 will be used for "Pre-Screen Testing" at up to 200 systems selected because of potential vulnerability to the specific contaminants. This monitoring approach is described in detail under III.C. "Type of Monitoring Required of Public Water Systems Based on Listing Group." Assessment Monitoring would include only those contaminants in List 1 for which analytical methods are included in this regulation. Assessment Monitoring (and associated "index site" monitoring described below) is the only monitoring that would be required by today's proposal. This includes contaminants for which EPA expects to have developed reference analytical methods by the year 2000.

For contaminants in List 2 for which analytical methods are developed by the time of initial monitoring in 2001, EPA would amend this rule to require the Screening Survey to be conducted at selected systems. For those contaminants in List 2 and List 3 that do not have well developed methods by the time of initial monitoring in 2001, EPA would issue a revision to this regulation to activate the contaminants at the time when the methods are considered implementable, up to the limit of 30 contaminants to be monitored within the five-year contaminant listing cycle. Monitoring for those contaminants would then begin at a specified effective date in that prospective regulation. Therefore, monitoring of contaminants on Lists 2 and 3 would not be required by today's proposal and would only occur when EPA publishes a revision to this regulation specifying the methods to be used and the dates for monitoring to begin, at which time EPA would request public comment on the methods. EPA solicits public comment on the selection of these contaminants using the CCL priorities for contaminants needing occurrence data before regulatory determination and the activation for monitoring based on methods availability.

EPA believes that the CCL process already uses the best available information on contaminants of concern and emerging contaminants that may need regulation. SDWA section 1445 (a)(2)(B)(ii) provides for the Governors of seven or more states to petition the Agency to add contaminants to the Monitoring List. This petition process allows for the flexibility to include contaminants that are emerging as concerns between the five-year listing cycles. EPA, however, does request public comment on other criteria that the Agency may use to include contaminants of concern on the UCM List that are not on the CCL and may not be identified through a Governors' Petition, such as Polonium-210, noted above.

(c) Analytical Methods Applicable to the Monitoring List

The Monitoring List is developed around the availability to analytical methods for the listed contaminants and the level of information available for them at this time. The discussion below highlights analytical methods considerations in listing the contaminants for monitoring. Only the contaminants identified on List 1 will be monitored as a result of today's proposal. Contaminants on Lists 2 and 3 below are proposed for the Unregulated Contaminant Monitoring List, but will not be activated for monitoring until EPA believes that the analytical methods can be applied to obtain reliable results. At that time, EPA will propose List 2 and 3 contaminants for monitoring.

(i) Chemical Analytical Methods

The ability to correctly identify a chemical contaminant is directly related to the type of chemical and the analytical method used. Compounds such as disinfection byproducts are far less likely to be misidentified than pesticides because they are typically present at relatively high concentrations in disinfected waters, while pesticides are much less likely to occur, or occur at lower concentrations. The analytical method selected will determine the accuracy of the qualitative identification. In general, the most reliable qualitative identifications will come from methods that use mass spectral data for contaminant identification. However, these methods are typically less sensitive than methods that rely on less selective detectors.

Before EPA establishes a Maximum Contaminant Level (MCL), the Agency relies on a analytical method suitable for routine monitoring. It is likely that analytical methods in general use by laboratories performing drinking water analyses may not exist for some of the compounds proposed to be measured in the UCMR program. Complex analytical methods or methods requiring special handling often require more experienced laboratories than the laboratories performing routine compliance monitoring. Even when analytical methods that are in general use by analytical laboratories are available, limiting the analyses to a small number of laboratories operating under strict quality control requirements improves the precision and accuracy of the analyses, thereby increasing the usefulness of the data.

The option favored by many stakeholders and proposed today by EPA for conducting the chemical laboratory analyses is the following:

For PWSs serving more than 10,000 people, the PWS would be responsible for sample collection and analyses for unregulated contaminant Assessment Monitoring. This monitoring could be conducted at the same time as the required compliance monitoring. For unregulated contaminant Assessment Monitoring, however, EPA is proposing in § 141.40(a)(3) to require quality control procedures for both sampling and testing to ensure that the data collected under this regulation are of sufficient quality to meet the requirements of the related regulatory decisions. Thus, today's proposal specifies the analytical methods and procedures to be used in obtaining these data. The sampling and associated quality control requirements cover time frame, frequency, sample collection and submission, and review and reporting of results. The laboratory testing quality control requirements address use of a certified laboratory, sample collection/preservation, analytical methods, method detection limit, calibration, quality control sample, method performance test, detection confirmation, and reporting.

The purpose for these quality control requirements is to ensure that since EPA will only be able to obtain results from 3,574 systems (2,774 large systems and a representative sample of 800 systems from 65,600 systems serving 10,000 or fewer persons), the Agency obtains the most reliable data possible. EPA will provide a guidance manual to further explain these quality control measures that would need to be performed for all unregulated contaminant monitoring. For systems that are part of State Plans for representative samples, the sampling guidance, "UCMR Guidance for Operators of Public Water Systems

Serving 10,000 or Fewer Persons" is available. Drafts of the guidance and manual "UCMR Analytical Methods and Quality Control Manual" are available for public comment with this proposed rule through the EPA Safe Drinking Water Hotline at 800–426–4791, or through EPA's Office of Ground Water and Drinking Water Homepage at www.epa.gov/ogwdw. EPA would apply these same testing and quality control procedures to the samples of all monitored systems. These proposed procedures are discussed in more detail in section 5, Monitoring Requirements under the Proposed UCMR.

EPA is specifying the use of certain analytical methods that are currently available for UCM (see Table 5, Unregulated Contaminant Monitoring List, III A.2(a) column 3). While these methods are routinely used by commercial and public water system laboratories (including some that are currently used for compliance monitoring), they have not been routinely used for the contaminants on the UCM List. Note that, as shown in § 141.40(a)(3), Table 1, methods other than those that EPA has developed may be approved for use but quality control procedures must also be followed, as specified in § 141.40(a)(4) and (5), and appendix A. EPA is requesting comments on the methods which have been specified for the contaminants on the UCM List.

The data quality needs associated with drinking water chemical compliance monitoring and the evaluation and use of occurrence data are different. The purpose of compliance monitoring is to determine whether a compound is present currently in the drinking water above the established MCL. However, the purpose of the UCM is to obtain occurrence data to support future regulatory decisions. The data required to make regulatory decisions must be of high quality. All analytical methods are subject to false negatives (not detecting a contaminant when it is present), false positives (either incorrectly identifying or detecting a contaminant, or introducing a contaminant into a sample when it is not present), and errors in the accuracy and precision of quantitative results.

The control of false negatives is important for both compliance and occurrence monitoring. However, using analytical methods which inherently have fewer false positives or requiring quality control elements that control false positives, is more critical in occurrence than in compliance monitoring. There are much greater incentives inherent in compliance monitoring (e.g., the possibility of enforcement actions, the potential need to install expensive treatment systems, etc., to confirm that the contaminant detected is indeed present) than in occurrence data gathering.

For occurrence monitoring, the precision of the analyses is more critical than in compliance monitoring. Unless the concentration of the contaminant closely approaches the MCL, even relatively imprecise data can be used to ensure the data user that the compound is not present at a concentration above the MCL. However, the usefulness of occurrence data is much more dependent upon the precision of the measurement. The ability to perform meaningful statistical analysis, e.g., to determine the percentage of waters in the United States that have compound X at or above the minimum reporting level (MRL), or to determine whether compound X occurs more frequently or at higher concentrations in one type of water or geographical region of the country, is directly dependent on the precision of the data.

The Agency has evaluated analytical methods developed by both EPA and other voluntary consensus standards organizations that publish analytical methods, such as Standard Methods and the American Society for Testing and Materials. The Agency has not approved analytical methods published only in analytical journals or methods that use techniques that cannot routinely be used by all drinking water analysis laboratories (e.g., acid, base/neutral fractionation, or packed column gas chromatography). Because control of "false negatives" is essential to the quality of the data collected under this proposed regulation, documentation of the contaminants' stability under the sample and extract holding conditions specified in the analytical method were also evaluated.

For the compounds selected to be included in this regulation, the following summary, Table 3, Status of Analytical Methods for Chemical Contaminants on the UCM List, presents a brief assessment of methods availability for each chemical contaminant. EPA requests public comment on this assessment of methods availability.

TABLE 3.—STATUS OF ANALYTICAL METHODS FOR CHEMICAL CONTAMINANTS ON THE UCM LIST

List 1—Organic chemical contaminant	CAS No.	Analytical Methods	Status of availability
2,4-dinitrotoluene	121–14–2	EPA 525.2	Method is adequate for monitoring.
2,6-dinitrotoluene	606–20–2	EPA 525.2	Method is adequate for monitoring.
DCPA mono acid degradates.	887–54–7	EPA 515.1 EPA 515.2, D5317–93 AOAC 992.32	No method is available to measure the mono and di acid forms separately. All of the approved methods identify total mono and di acid forms.
DCPA di acid degradates	2136–79–0	EPA 515.1 EPA 515.2 D5317–93 AOAC 992.32	No method is available to measure the mono and di acid forms separately. All of the approved methods identify total mono and di acid forms.
4,4'-DDE	72–55–9	EPA 508 EPA 508.1 EPA 525.2 D5812–96 AOAC 990.06	Methods are adequate for monitoring.
EPTC	759–94–4	EPA 507 EPA 525.2 D5475–93 AOAC 991.07	Methods are adequate for monitoring.

TABLE 3.—STATUS OF ANALYTICAL METHODS FOR CHEMICAL CONTAMINANTS ON THE UCM LIST—Continued

List 1—Organic chemical contaminant	CAS No.	Analytical Methods	Status of availability
Molinate	2212–67–1	EPA 507 EPA 525.2 D5475–93 AOAC 991.07	Methods are adequate for monitoring.
MTBE	1634–04–4	EPA 524.2 D5790–95 SM6210D	Methods are adequate for monitoring.
Nitrobenzene	98–95–3	EPA 524.2 D5790–95 SM6210D	Methods are adequate for monitoring.
Terbacil	5902–51–2	EPA 507 EPA 525.2 D5475–93 AOAC 991.07	Methods are adequate for monitoring.

List 2—Organic chemical contaminant	CAS No.	Availability of analytical methods	Status of availability
1,2-diphenylhydrazine	122–66–7	In development	Some methods evaluated but inadequate. Priority for analytical method development. Anticipate that contaminant will be added to EPA Method 525.2.
2,4,6-trichlorophenol	88–06–2	In development	EPA Method 552 evaluated but subject to false positives from interferences of the derivitized byproduct of the contaminant. Anticipate that contaminant will be included in a new solid phase extraction/GC/MS method currently under development.
2,4-dichlorophenol	120–83–2	In development	EPA Method 552 evaluated but subject to quantitative uncertainty due to inadequate derivatization of the contaminant. Anticipate that contaminant will be included in a new solid phase extraction/GC/MS method currently under development.
2,4-dinitrophenol	51–28–5	In development	Some methods evaluated but inadequate. Anticipate that contaminant will be included in a new solid phase extraction/GC/MS method currently under development.
2-methy -phenol	95–48–7	In development	Some methods evaluated but inadequate. Anticipate that contaminant will be included in a new solid phase extraction/GC/MS method currently under development.
Alachlor ESA and degradation byproducts of acetanilide pesticides.		To be determined	EPA is evaluating which specific contaminants will be included within this group of compounds. Analytical methods will be determined for the targeted contaminants.
Acetochlor	34256–82–1	In development	No adequate method available. Anticipate that this compound can be added to the scope of EPA Method 525.2
Diazinon	333–41–5	In development	Diazinon is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation. Preservation research currently being conducted to develop preservation technique that would permit adding this compound to EPA Method 525.2.
Disulfoton	298–04–4	In development	Disulfoton is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation. Preservation research currently be conducted to develop preservation technique that would permit adding this compound to EPA Method 525.2.
Diuron	330–54–1	In development	While this compound is included in the scope of NPS Method 4 (LLE/HLPC/UV) and EPA Method 553(SPE/HPLC/MS), these methods are not adequate for this monitoring. Anticipate that this compound can be included in a new SPE/HPLC/UV method currently being developed.
Fonofos	944–22–9	In development	Fonofos is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation. Preservation research is currently being conducted to develop preservation technique that would permit adding this compound to EPA Method 525.2.
Linuron	330–55–2	In development	While this compound is included in the scope of NPS Method 4 (LLE/HLPC/UV) and EPA Method 553(SPE/HPLC/MS), these methods are not adequate for this monitoring. Anticipate that this compound can be included in a new SPE/HPLC/UV method currently being developed.
Prometon	1610–18–0	In development	Prometon is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation in non-acidified samples and is not readily extracted in acidified samples. Preservation research is currently being conducted to add neutralizing the pH of acidified samples just prior to extraction. This would permit adding this compound to EPA Method 525.2.

List 2—Organic chemical contaminant	CAS No. #	Availability of analytical methods	Status of availability
Terbufos	13071–79–9	In development	Terbufos is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation. Preservation research is currently being conducted to develop a preservation technique that would permit adding this compound to EPA Method 525.2.

(ii) Microbiological Analytical Methods

The discussion of data quality for chemical analytical methods will also apply to microbiological testing when analytical methods are developed for CCL microorganisms. When microorganisms were proposed for the CCL, EPA recognized that analytical methods were not well developed for the majority of them. Because of the lack of available analytical methods, some of the CCL microorganisms were grouped either into one category where sufficient information was available about methodologies to consider regulating them, or another category where more research, including research on detection methods and occurrence, was needed. At the present time, *Aeromonas* is the only one of these microorganisms for which more occurrence data are needed that also has an analytical method that is likely to be sufficiently developed for monitoring in time for implementation in the first round of Assessment Monitoring, List 1, under this proposed program. Three other microorganisms have methods available, but EPA is presently refining these methods. These microorganisms may be candidates for the Screening Survey if methods development proceeds expeditiously (§ 141.40(a)(3), Table 1, List 2), but are currently identified for Pre-Screen Testing (Table 1, List 3). The remaining four microorganisms currently lack satisfactory methods and will be evaluated for Pre-Screen Testing.

Several microorganisms on the CCL are actually groups of microorganism taxa. In some cases, the taxa have so many members that, given the limited resources available for UCMR monitoring, EPA may have to prioritize which strains, species, or serotypes are the most important to consider and target for monitoring or further study. Decisions will have to be made on the basis of health risk, disinfection resistance, occurrence in water, and other factors. To address the need to prioritize which microorganisms should be targeted for monitoring, EPA's Office of Research and Development is assisting the Office of Ground Water and Drinking Water in establishing a research program for health effects, treatment and analytical methods. EPA is requesting public comment on the assessment of methods availability and related issues presented below in Table 4.

TABLE 4.—STATUS OF ANALYTICAL METHODS FOR MICROBIOLOGICAL CONTAMINANTS ON THE UCM LIST

List 1—Microbiological contaminant	Availability of analytical method	Status of availability
Aeromonas hydrophila	Analytical method likely to be available for monitoring.	Current modification and evaluation of a published membrane filtration method (Havelaar et al., 1987) indicates that this method will be suitable for the monitoring program.
List 3—Microbiological contaminant		
Cyanobacteria (blue-green algae, other freshwater algae and their toxins).	Methods available but not standardized.	Methods are available for counting cyanobacteria but new, standardized methods are needed for direct counts of targeted species with filtration methods or a counting chamber. Standardized analytical methods are also needed to detect the more important cyanobacterial toxins.
Echoviruses	Methods available but not standardized.	With care to control overgrowths, echoviruses can be cultured on BGM cells and detected by ICR method but need methods such as serological typing to distinguish from other viruses. Cost of cell culture assays plus serotyping can be high. PCR methods, which are not available, are subject to interferences and do not demonstrate infectivity.
Coxsackieviruses	Methods available but not standardized.	Group B coxsackieviruses are easy to grow in tissue culture but group A coxsackieviruses are variable. Culturable coxsackieviruses can be detected with the ICR method but serotyping is needed to distinguish coxsackie from other viruses. Other detection methods such as immunoassay or PCR do not exist. New, standardized methods are needed.
Helicobacter pylori	No method currently available	Helicobacter pylori is difficult to grow due to slow growth and the need for a low oxygen environment. No selective medium exist that will discriminate H. pylori from background bacteria. A culturable method that demonstrates viability is preferred. Methods are needed for selective growth and identification. IMS has been used to concentrate Helicobacter pylori. PCR methods have been used but are not preferred due to interferences and the inability to demonstrate viability.

TABLE 4.—STATUS OF ANALYTICAL METHODS FOR MICROBIOLOGICAL CONTAMINANTS ON THE UCM LIST—Continued

List 1—Microbiological contaminant	Availability of analytical method	Status of availability
Microsporidia	No method currently available	No methods are available for the monitoring of the two species of human microspordia which have a waterborne route of transmission (*Enterocytozoon bienuesi* and *Septata intestinalis*). Oocysts could possibly be detected by methods similar to those being developed for *Cryptosporidium*. Potential methods may utilize water filtration, clean-up with immunomagnetic separation (IMS) and detection using microscopy with either fluorescent antibody or gene probe procedures. Due to the small size of microsporidia, problems could be encountered during filtration.
Adenoviruses	No method currently available	Adenoviruses serotypes 1 to 39 can be grown in tissue culture but enteric adenoviruses 40 to 41 are difficult to grow. Several selective tissue culture methods and detection methods have been reported. A selective, standardized method is needed for monitoring. PCR methods are not preferred because of interferences and inability to demonstrate infectivity.
Caliciviruses	No method currently available	No tissue culture methods exist for the two caliciviruses on the CCL (Norwalk and Snow Mountain). No sensitive or fully developed detection methods exist. PCR methods are not preferred due to interferences and the inability to demonstrate infectivity.

(d) Screening Methods

SDWA section 1445(i) requires EPA to review new analytical methods that may be used for regulated contaminants screening and analysis. After this review, EPA may approve such methods that are deemed "more accurate or cost-effective than established reference methods for use in compliance monitoring." Section 1445(a)(2)(G) also allows States to use screening methods approved by the Administrator for unregulated contaminant monitoring. These methods are expected to provide flexibility in compliance monitoring to water systems and laboratories performing analysis on behalf on these systems. They are expected to be "better and/or faster" than existing analytical methods. EPA is developing a framework for the use of screening procedures for monitoring drinking water contaminants, and determining how the Agency will approve or recommend screening procedures for specific contaminants.

2. List of Contaminants To Be Monitored

(a) Proposed Monitoring List

Table 5, Unregulated Contaminant Monitoring List (Proposed), presents EPA's proposal for the initial list of unregulated contaminants for monitoring under section 1445(a)(2)(B)(i). The monitoring program that EPA proposes for these contaminants is a three-tiered approach based on the availability of information about each contaminant and the availability of analytical methods for each contaminant. This approach is described in section C., Type of Monitoring Required of Public Water Systems Based on Listing Group. The proposed monitoring program divides the listed unregulated contaminants into three lists: List 1, for which Assessment Monitoring will be required, List 2, designated for the Screening Survey; and List 3, designated for Pre-screen Testing. Today's proposed regulation only requires Assessment Monitoring for List 1 contaminants beginning on the proposed effective date of January 1, 2001. The monitoring for contaminants on Lists 2 and 3 will only be required after EPA promulgates further rules.

EPA proposes requiring Assessment Monitoring for those contaminants for which methods exist at the time this regulation is promulgated; as a result, some contaminants from List 2 may move to List 1 if EPA considers their methods reliable by promulgation of the final regulation. Also, by future rulemaking, EPA plans to implement the Screening Survey (List 2) monitoring in groups or batches of contaminants, rather than one contaminant at a time, to minimize sampling and testing costs since some of the contaminants may be tested by the same method. EPA proposes to take a similar approach with the contaminants in the Pre-Screen Testing (List 3) category. EPA plans to require, through future rulemaking Pre-Screen Testing for contaminants for which EPA needs to determine that new analytical methods can measure their existence in locations most likely to be found. All analytical methods for contaminants on Lists 2 and 3 would be peer reviewed, following EPA's policy for peer review, before the Agency proposes regulations which would require public water systems to monitor for them. EPA is seeking comment on the approach of a three-tiered monitoring program for unregulated contaminants and on the proposed list of contaminants to be monitored.

In Table 5, List 1 contaminants, for Assessment Monitoring, are organic chemicals and one microbiological contaminant for which analytical methods capable of generating the quantity and quality of data required under the UCMR are currently available, or expected to be available by promulgation of the final rule (August 1999). Monitoring for these contaminants would be required under today's proposed UCMR. These contaminants are in today's proposed rule, § 141.40(a)(3), Table 1, Unregulated Contaminant Monitoring List, List 1.

List 2 contaminants (all organic chemicals, at this time), contaminants for the Screening Survey, are those for which EPA is currently refining analytical methods. Development of these methods should be sufficient for a Screening Survey to be conducted in the first three years of the listing cycle, but may occur in the later years of the cycle. If methods are available for any of these contaminants before promulgation of the final rule, they will be added to Assessment Monitoring, List 1. These contaminants are characterized in today's proposed rule at Table 1, Unregulated Contaminant Monitoring List, List 2.

List 3 contaminants (all microbiological contaminants, at this time), contaminants for Pre-screen Testing, are those for which EPA has begun or shortly will begin analytical methods development, but completion of those efforts is not expected prior to the Assessment Monitoring or Screening Survey required under implementation

of this regulation. Instead, these contaminants would be tested for in Pre-Screen Testing. These contaminants are in today's proposed rule at § 141.40(a)(3) as Table 1, Unregulated Contaminant Monitoring List, List 3.

The column headings of Table 5 include:

1—Chemical or microbiological contaminant: the name of the contaminants to be analyzed.

2—CAS No. (Chemical Abstract Service Number): a unique number identifying the chemical contaminants.

3—Analytical Methods: method numbers identifying the methods that could be used to test the contaminants.

4—Minimum Reporting Level: the value and unit of measure at or above which the concentration or density of the contaminant must be measured using the Approved Analytical Methods.

5—Sampling Location: the locations within a PWS at which samples must be collected.

6—Date Monitoring to Begin: The years during which the sampling and testing are to occur for the indicated contaminant.

TABLE 5.—UNREGULATED CONTAMINANT MONITORING LIST (PROPOSED)

1—Contaminant	2—CAS identification No.	3—Analytical methods	4—Minimum reporting level	5—Sampling location	6—Date monitoring to begin
List 1—Assessment Monitoring: Organic Chemical Contaminants					
2,4-dinitrotoluene	121–14–2	EPA 525.2[a]	2.4 ug/L[e]	EPTDS[f]	2001–2003
2,6-dinitrotoluene	606–20–2	EPA 525.2[a]	2.0 ug/L[e]	EPTDS[f]	2001–2003
DCPA mono acid degradate	887–54–7	EPA 515.1[a] EPA 515.2[a] 5317–93[b] AOAC 992.32[c]	1.0 ug/L[e]	EPTDS[f]	2001–2003
DCPA di acid degradate	2136–79–0	EPA 515.1[a] EPA 515.2[a] D5317–93[b] AOAC 992.32[c]	1.0 ug/L[e]	EPTDS[f]	2001–2003
4,4'-DDE	72–55–9	EPA 508[a] EPA 508.1[a] EPA 525.2[a] D5812–96[b]	0.75 ug/L[e]	EPTDS[f]	2001–2003
EPTC	759–94–4	EPA 507[a]	1.2 ug/L[e]	EPTDS[f]	2001–2003
Molinate	2212–67–1	EPA 507[a] EPA 525.2[a] D5475–93[b] AOAC 991.07[c]	0.87 ug/L[e]	EPTDS[f]	2001–2003
MTBE	1634–04–4	EPA 524.2[a] 5790–95[b] SM6210D[d]	5.0 ug/L[g]	EPTDS[f]	2001–2003
Nitrobenzene	98–95–3	EPA 524.2[a] D5790–95[b] SM6210D[d]	12 ug/L[g]	EPTDS[f]	2001–2003
Terbacil	5902–51–2	EPA 507[a] EPA 525.2[a] 5475–93[b] AOAC 991.07[c]	23 ug/L[e]	EPTDS[f]	2001–2003
List 1—Assessment Monitoring: Microbiological Contaminants					
Aeromonas Hydrophila	Reserved[h]	Membrane filter, in review	1 colony forming unit	(1) Near end of distribution line with longest residence time; (2) at a representative site in the distribution system	2001–2003

Chemical contaminant	CAS identification No.	Anticipated analytical methods	Minimum reporting level[e]	Sampling location
List 2—Screening Survey: Organic Chemical Contaminants (To Be Sampled After Notice of Analytical Methods Availability)				
1,2-diphenylhydrazine	122–66–7	EPA 525.2[i]	TBD[h]	EPTDS[f]
2-methyl-phenol	95–48–7	SPE/GC/MS[l]	TBD[h]	EPTDS[f]
2,4-dichlorophenol	120–83–2	SPE/GC/MS[l]	TBD[h]	EPTDS[f]
2,4-dinitrophenol	51–28–5	SPE/GC/MS[l]	TBD[h]	EPTDS[f]
2,4,6-trichlorophenol	88–06–2	SPE/GC/MS[l]	TBD[h]	EPTDS[f]
Acetochlor	34256–82–1	EPA 525.2[i]	TBD[h]	EPTDS[f]
Alachlor ESA	.....	TBD[h]	TBD[h]	EPTDS[f]
Diazinon	333–41–5	EPA 525.2[k]	TBD[h]	EPTDS[f]
Disulfoton	298–04–4	EPA 525.2[k]	TBD[h]	EPTDS[f]

Chemical contaminant	CAS identification No.	Anticipated analytical methods	Minimum reporting level [e]	Sampling location
Diuron	330–54–1	SPE/HPLC/UV [j]	TBD [h]	EPTDS [f]
Fonofos	944–22–9	EPA 525.2 [i]	TBD [h]	EPTDS [f]
Linuron	330–55–2	SPE/HPLC/UV [j]	TBD [h]	EPTDS [f]
Prometon	1610–18–0	EPA 525.2 [k]	TBD [h]	EPTDS [f]
Terbufos	13071–79–9	EPA 525.2 [k]	TBD [h]	EPTDS [f]

[a] The version of the EPA methods being approved will be dependent upon the status of the approval of new versions for compliance monitoring. If appropriate regulations approving new versions of EPA compliance monitoring methods are completed prior to the promulgation of this regulation, the following versions of the above methods will be approved. *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III,* EPA–600/R–95–131, August 1995. NTIS PB95–261616. Copies are also available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847.

If new regulations changing the versions of methods being approved for compliance monitoring are not completed prior to the promulgation of this regulation, then the following versions of the EPA methods are being approved for monitoring under the Unregulated Contaminant Monitoring Rule. Methods 507, 508, and 515.1 are in *Methods for the Determination of Organic Compounds in Drinking Water,* EPA–600/4–88–039, December 1988, Revised, July 1991. Methods 515.2 and 524.2 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II,* EPA/600/R–92/129, August 1992. These documents are available from the National Technical Information Service, (NTIS) U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 (800) 553–6847. Methods 508.1 and 525.2 are available from US EPA NERL—Cincinnati, Cincinnati, Ohio 45268, (513) 569–7586.

[b] *Annual Book of ASTM Standards,* 1996 and 1998, Vol. 11.02, American Society for Testing and Materials. Method D5812–96 is located in the *Annual Book of ASTM Standards,* 1998, Vol. 11.02. Methods D5790–95, D5475–93, and D5317–93 are located in the *Annual Book of ASTM Standards,* 1996 and 1998, Vol 11.02. Copies may be obtained from the American Society for Testing and Materials, 101 Barr Harbor Drive, West Conshohocken, PA 19428.

[c] Official Methods of Analysis of AOAC (Association of Official Analytical Chemist) International, Sixteenth Edition, 4th Revision, 1998, Volume I, AOAC International, First Union National Bank Lockbox, PO Box 75198, Baltimore, MD 21275–5198. 1–800–379–2622.

[d] 18th and 19th editions of *Standard Methods for the Examination of Water and Wastewater,* 1992 and 1995, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

[e] Minimum Reporting Level determined by multiplying by 10 the least sensitive method's minimum detection limit (MDL=standard deviation times the Student's T value for 99% confidence level with n–1 degrees of freedom), or when available, multiplying by 5 the least sensitive method's estimated detection limit (where the EDL equals the concentration of compound yielding approximately a 5 to 1 signal to noise ratio or the calculated MDL, whichever is greater).

[f] Entry Points to the Distribution System, After Treatment.

[g] Minimum Reporting Levels (MRL) for Volatile Organic Compounds (VOC) determined by multiplying either the published Method Detection Limit (MDL) or 0.5 µg/L times 10, whichever is greater. The MDL of 0.5 ug/L (0.0005 mg/L) was selected to conform to VOC MDL requirements of 40 CFR 141.24(f)(17(E).

[h] To be Determined.

[i] Compound currently not listed as a contaminant in this method. Methods development currently being conducted in an attempt to add it to the scope of this method.

[j] Methods development currently in progress to develop a solid phase extraction/high performance liquid chromatography/ultraviolet method for the determination of this compound.

[k] Compound listed as being a contaminant using EPA Method 525.2; however, adequate sample preservation is not available. Preservation studies currently being conducted to develop adequate sample preservation.

[l] Methods development currently in progress to develop a solid phase extraction/gas chromatography/mass spectrometery method for the determination of this compound.

Microorganism	Identification No.	Anticipated analytical methods	Minimum reporting level	Anticipated sampling location
List 3—Pre-screen Testing: Contaminants With Analytical Methods Not Anticipated (To Be Available by Regulation Implementation)				
Cyanobacteria (blue-green algae, other freshwater algae and their toxins).	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Echoviruses	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Coxsackieviruses	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Helicobacter pylori	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Microsporidia	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Caliciviruses	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Adenoviruses	Reserved [a]	TBD [a]	TBD [a]	TBD [a]

[a]=To Be Determined.

Tables 3 and 4, in III.A.1.(c), Analytical Methods Applicable to the Monitoring List, present a summary of the status of the methods for all the contaminants on this list.

EPA believes that this three-tiered approach to the Monitoring List and program, which was recommended by stakeholders, reflects a balance between the implementability of current analytical methods and the need to obtain data in time frames that are useful for responding to concerns about the contaminants identified.

(b) Number of Contaminants on the Monitoring List

Thirty-two contaminants are on the UCM List, as proposed. SDWA Section 1445 (a)(2)(B)(i) indicates that the List shall not have more than 30 contaminants required to be monitored by public water systems. EPA interprets this to mean that the List may contain more than 30 contaminants, as long as monitoring is not required for more than 30 contaminants during the five-year listing cycle. EPA proposes that the 32 contaminants identified in the CCL Occurrence Priorities remain on the UCM List, with monitoring required for no more than 30 contaminants in any five-year UCM cycle. Furthermore, EPA proposes that future UCM Lists may include additional contaminants beyond 30, but the UCMR Program would only

require monitoring for up to 30 contaminants during any listing cycle.

The contaminants beyond 30 are ones for which PWSs might voluntarily provide data if they monitored for them for their own purposes. These additionally identified contaminants might also be ones for which PWSs might send EPA samples to be tested and analyzed (by EPA) if the Agency is developing or recently developed a provisional analytical method for them. EPA is preparing a guidance document specifying the procedures for voluntary submission of such data in the future to the National Contaminant Occurrence Database (NCOD). EPA requests public comment on maintaining a UCM List of more than 30 contaminants, but limiting PWS monitoring to 30 contaminants in any five-year UCMR listing cycle.

(c) Modifying the Monitoring List through the Governors' Petition

Section 1445(a)(2)(B)(ii) of SDWA provides that the Administrator shall include in the UCM List each contaminant recommended in a petition signed by the Governor of each of seven or more States, unless the Administrator determines that the action would prevent the listing of contaminants of a higher public health concern.

The statutory provision acknowledges the roles of States in setting priorities for developing health-based drinking water standards. The Governors' petition also provides a formal mechanism for addressing drinking water contaminants of concern that are identified between the periodic updating of the Unregulated Contaminant Monitoring Rule and the parallel five-year cycle of the Contaminant Candidate List.

(i) Circumstances Affecting the Governors' Petition

Given the requirement that the petition be signed by seven Governors, the petition process is likely to be used only when a contaminant has been identified in drinking water or sources of drinking water that appear to necessitate prompt action to determine its extent of occurrence. Under EPA's present approach to preparing the Contaminant Candidate List, with States and other stakeholders providing input for setting health-based priorities for research and standard-setting, contaminants of concern are likely to be addressed, at least initially, by special studies to determine the significance of their occurrence. One example of an emerging contaminant would be methyl tert butyl ether (MTBE). EPA is working with the U.S. Geological Survey to collect information on the occurrence of MTBE in northeastern States. Perchlorate is another example of an emerging contaminant of concern; the CCL notes that occurrence information is needed and will likely be obtained through special studies. California is studying perchlorate occurrence by requesting all water utilities with vulnerable sources to monitor for it and other States are also monitoring for this contaminant.

Given the necessary resources, EPA expects that well-designed studies will, in many cases, more expeditiously determine the significance of a critical new contaminant's occurrence than the regulatory process of requiring monitoring through the UCMR. However, today's proposal includes a codification of this statutory petition process.

(ii) Response to Governors' Petition

EPA proposes the following approach to contaminants contained in a Governors' petition. If the UCMR List contains fewer than 30 contaminants, the Administrator would add the recommended contaminant(s) to the UMCR list as expeditiously as the regulatory process and the availability of (an) acceptable analytical method(s) allow. Representative monitoring of small systems, however, could be delayed if EPA is devoting all the resources authorized by statute or appropriated to UCMR Assessment Monitoring and Screening Survey, and the monitoring of the State-recommended contaminant(s) would prevent monitoring of other contaminants of a higher health concern by directly replacing them or by making the collection and testing of the remaining contaminants more difficult to conduct, adding costs not anticipated. The other possibility is to conduct Pre-Screen Testing for the contaminant if a method was at the stage of development to allow its application in a highly controlled laboratory setting. This testing would focus on PWSs that might be more likely locations for the contaminant to occur.

If the UCMR list is at the statutory maximum of 30 contaminants for which monitoring is required, the Administrator must determine whether a State-recommended contaminant is of a higher public health concern than one of the contaminants already on the list. The ideal approach would be to compare the contaminant's occurrence weighted by the degree to which populations are exposed to levels above a health-based criterion. Although not required, the Governors' petition would likely cite State and/or other evidence of widespread contamination or potential for contamination. Health effects information may be minimal, particularly for probable drinking water exposures. In such a case, the Administrator would need to compare all the information available on the State-recommended contaminant(s) related to public health concerns, including special concerns for children and other sensitive subpopulations, and the availability of analytical methods to that of the contaminants on the UCMR list, to determine which, if any, contaminant(s) on the list of contaminants for which monitoring is required it/they should replace.

B. Public Water Systems Subject to the UCMR

The monitoring in these proposed revisions focuses ultimately on determining, on a national basis, the occurrence or likely occurrence of contaminants in drinking water of community water systems (CWS) and non-transient non-community water systems (NTNCWS). For regulatory purposes, public water systems are categorized as "community water systems," or "non-community water systems." Community water systems are specifically defined as "public water systems which serve at least 15 service connections used by year-round residents or regularly serve at least 25 year-round residents." (40 CFR 141.2) A "non-community water system" means any other public water system. Non-community water systems include nontranisent non-community water systems and transient non-community water systems. Non-community water systems are available to serve the public, but are not used on a year-round basis in most cases. Non-transient systems regular serve at least 25 of the same persons over six months per year (e.g., schools). Transient systems do not regularly serve at least 25 of the same persons over six months per year.

One of the factors to be considered in establishing the revised UCM program under the 1996 SDWA Amendments is the number of persons served by a system. With respect to size, about 2,774 large systems (each serving more than 10,000 persons) provide drinking water to about 80 percent of the U.S. population served by public water systems. Under today's proposed regulation, all large systems would be required to monitor the unregulated contaminants specified in § 141.40(a)(3).

Section 1445(a)(2)(A) requires that the UCMR ensure that only a representative sample of systems serving 10,000 or fewer persons be required to monitor unregulated contaminants. The small community water systems, each serving

10,000 or fewer persons, and the non-transient, non-community water systems total 65,636 systems. EPA proposes that these systems be the set from which the national representative sample of systems is selected. EPA proposes that transient non-community systems be excluded from unregulated contaminant monitoring requirements. The variation in the 97,000 transient systems would be difficult to reflect in a national representative sample and could be very costly. Furthermore, projecting contaminant exposure results from such systems would be complex and inconclusive because of the transient nature of the population that uses them. The results from the very small community and non-transient, non-community systems (NTNCWS) could be extrapolated to these systems.

EPA will pay for the reasonable costs of monitoring for this representative sample, as long as the systems are part of a State Monitoring Plan. The Agency proposes that each system be selected through the use of a random number generator and monitored according to a nationally representative sample plan developed on the basis of population served by PWSs in each State. This is necessary to ensure the validity of the sample nationally and because EPA typically has the least information about these systems and needs a consistent base of data for program development. EPA proposes that a national sample of approximately 800 systems serving 10,000 or fewer persons would be statistically drawn from the national population served by PWSs. Section F, "Representative Sample of Systems Serving 10,000 or Fewer Persons," provides the basis for this sample size. The number of systems selected within each size range of small systems will be based on the proportion of the State's population served by that size range within water source type. The State-based component of this national representative sample, called a State Monitoring Plan (or State Plan), would be reviewed and if necessary modified by a State. The resulting State Plans would then be part of a national sample framework, providing the representative national sample requisite to drawing national conclusions.

Additionally, to provide an improved understanding of contaminants and conditions affecting small systems, and additional quality assurance for this small sample, EPA proposes to statistically select up to 30 small public water systems from the systems in State Monitoring Plans using a random number generator as "index" sites at which contaminants would be monitored for every year during the five year listing cycle. EPA would conduct the sampling and testing for systems selected as index sites. At the time of sampling, EPA would also gather other data to characterize the environmental setting affecting the system including precipitation, land and water resource use and environmental data (such as soil type and geology).

Also, up to 150 additional small systems might be selected for the Pre-Screen Testing. The systems for the Pre-Screen Testing will be selected on the basis of their representativeness of systems most vulnerable to the particular List 3 contaminants. The statistical selection of the 800 systems for the national representative sample may not include the systems deemed most vulnerable to these contaminants, hence, the States and EPA may need to select additional systems for this targeted testing.

C. Type of Monitoring Required of Public Water Systems Based on Listing Group

At the Unregulated Contaminant Monitoring Regulation Stakeholders Meeting on June 3–4, 1998, a range of stakeholders suggested that the UCMR monitoring program be developed through a progression of monitoring levels based on contaminant groups that reflect current information about both the occurrence of the contaminants and method development. Current information and methods availability would determine the extent of monitoring. Both EPA and stakeholders are concerned about contaminants that may be "emerging" as contaminants of concern because they have not been monitored before but have the potential to be found near or in drinking water supplies or have been identified as potential health problems. An "emerging contaminant of concern" would not likely be covered by an approved EPA analytical method. Typically, "research" methods are used to detect such emerging contaminants and may be expensive. EPA would have to either develop an approved method for inclusion in a regulatory approach, or perhaps substitute a regulatory approach with a study using a single laboratory and a "research" method. The need to develop an approved analytical method would "compete" against other contaminants on the CCL that also require analytical method development. In recognition of these considerations, EPA proposed an approach with three monitoring levels, referred to as "Assessment Monitoring," "Screening Survey," and "Pre-screen Testing," described below. EPA is seeking public comment on this approach.

1. Assessment Monitoring

The first type of monitoring in the three-tiered monitoring program that EPA proposes today pertains to the group of contaminants for which analytical methods are specified in § 141.40(a)(3), Table 1, List 1, Assessment Monitoring and in today's Preamble in Table 5, List 1. Importantly, these contaminants are ones for which initial data for PWSs indicate that the contaminants occur in at least two States or ten public water systems and should be monitored to assess national occurrence through UCM.

In § 141.40, EPA is proposing that each system conduct UCMR "Assessment Monitoring" of List 1 contaminants for a twelve-month period in the first three years of a five year UCMR contaminant listing cycle. Large systems would complete this monitoring in any twelve month period beginning in the years 2001 to 2003. Small systems in State Monitoring Plans would complete the monitoring according to the scheduled monitoring identified in those plans within the period of 2001 to 2003. Section F, "Representative Sample of Systems Serving 10,000 or fewer persons," describes in detail the subset of small systems required to monitor. The State could specify in the State Monitoring Plans the schedule that would correlate with compliance monitoring. This arrangement should enable systems to complete UCMR sampling coincident with their compliance monitoring for regulated contaminants during one of the years when compliance monitoring is required. However, EPA recognizes that some large systems may not be required to monitor for any regulated contaminants to allow compliance within the five years after the effective date of this rule. In such a case, such large systems could monitor for the unregulated contaminants for any twelve-month period with in the five years they choose.

EPA is proposing that surface water systems monitor for four consecutive quarters and ground water systems two times six months apart. Under Assessment Monitoring, systems serving more than 10,000 persons would conduct and pay for their own sample collection and testing. Small systems included in State Monitoring Plans would collect the samples with EPA-supplied equipment and send the samples to EPA-specified laboratories. EPA would pay for the testing and reporting. The system would still have overall reporting responsibility to the

primacy agency. Frequency and location of monitoring are discussed in section D, "Monitoring Requirements under the Proposed UCMR."

2. Screening Survey

The contaminants that EPA is considering for the Screening Survey are listed in Table 5, List 2 and consist of those for which analytical methods are under development and for which EPA has less occurrence data than for the contaminants on List 1. The purpose of the Screening Survey is to analyze for contaminants where the use of newly developed, non-routine analytical methods are required. To do this, EPA would maximize the quality of the occurrence data obtained by using only a select, controlled group of laboratories. In addition, the Screening Survey might allow EPA to maximize occurrence data gathering resources by having a structure in place that would obtain scientifically defensible occurrence data for emerging contaminants of concern, more quickly than could be obtained through standard unregulated contaminant monitoring efforts. The Screening Survey could, for example, be useful where questions concerning whether a contaminant of concern is in fact occurring in drinking water. The Screening Survey is also intended to allow EPA to screen contaminants to see if they occur frequently enough to justify inclusion in future unregulated contaminant Assessment Monitoring or so frequently as not to require further monitoring but allow the Agency to begin to develop standards.

The contaminants in List 2 would be tested for in drinking water of a smaller, statistically valid sample of all (large and small) community and non-transient, noncommunity water systems (for example, about 300 systems), selected through a random number generator used to identify specific PWSs. The sample size needed for estimating frequencies of contaminant occurrence are smaller if the actual frequencies are close to 0, or to 100, percent. When a contaminant is consistently present, or consistently absent, it requires fewer samples to determine its frequency with adequate statistical confidence than if it occurs about half the time. Only 300 PWSs are needed to determine if a contaminant is present 5 percent or less frequently, at a 99 percent confidence level and with a 3 percent margin of error. (The same criteria require 1,844 samples when the frequency could be any number.) If the contaminant occurrence were over the threshold established for the Screening Survey, EPA would include the contaminant in the next Assessment Monitoring round (projected to begin in 2006) of the UCM program. The statistical threshold for positive results from this testing to determine if further testing is warranted might be 1 to 2 percent of systems having detections. If the contaminant occurrence were under the threshold, then no further testing would be required, and the contaminant may be removed from the list in a future UCM rulemaking. EPA is requesting public comment on whether the statistical threshold of 1 to 2 percent of systems is adequate to make a determination that further Assessment Monitoring should be conducted to determine the extent of contaminant occurrence, and, if not, what percent should be used as the threshold for such a determination .

The analytical methods that might be used are identified in Table 5, List 2, Screening Survey, as "Anticipated Analytical Methods." These methods are being refined for the particular contaminants on List 2 and are not expected to be ready for use in an Assessment Monitoring program. Therefore, as groups of contaminants from List 2 have analytical methods that can be applied, EPA will publish a rule modification for public comment indicating the analytical methods and minimum reporting levels applicable to the contaminants and the location and timeframe for sampling.

Comments on the "Screening Survey" should address both the rationale for the contaminants identified for the Screening Survey and the monitoring program for them. Additionally, EPA is requesting public comment on two potential outcomes from the "Screening Survey": (1) As noted previously, if the contaminant is observed at very few or no PWSs (i.e., less than the threshold of 1 to 2 percent of systems), then the contaminant would be dropped from the UCM List 2 and no further monitoring for it would occur, and (2) if the contaminant is observed extensively (i.e., in a higher percentage of PWSs, such as 5 to 10 percent) and EPA has health effects data on it that indicate a significant concern, then it may move directly to the regulation development stage. In that case, there may be no Assessment Monitoring to provide additional occurrence data for that contaminant, depending on the urgency of the situation and existing data sufficiency.

With respect to funding the Screening Survey, EPA proposes that it pay for the testing and reporting (as described in Preamble section III.G., Reporting of Monitoring Results) for systems serving 10,000 or fewer persons. Systems serving 10,000 or fewer persons would be responsible for sample collection and preparing the samples for shipment. EPA would pay for the shipment of these samples to an EPA designated laboratory for testing.

For large systems serving more than 10,000 persons, EPA requests public comment on which alternative testing approach it would follow: (1) The large system would collect the samples, and submit them to a laboratory approved for testing List 2 contaminants based on EPA's evaluation of the laboratory's capability, blind sample test results, experience with similar methods, willingness to test samples from any PWS regulated under this regulation, and reasonableness of offered service price. The approved laboratory would report the results to the system. These large systems would be responsible for paying for the costs of testing by the EPA approved laboratory. (2) EPA would specify a strict protocol and performance criteria, that must be followed for this Screening Survey testing, including possible additional reporting requirements to allow comparison of the results with results from EPA's laboratory. Large systems could submit data from the test results for the List 2 contaminants as long as the laboratory doing the testing could document that it followed the protocol. These protocol and criteria would need to be published when the EPA publishes the rulemaking for public comment that contaminants in List 2 have methods ready for use in the UCMR program. EPA's concerns about this alternative testing approach are: (1) Increasing the number of laboratories participating would adversely impact the precision of the resulting data therefore, requiring a substantial increase in the number of utilities sampled to compensate, (2) A laboratory certification system would need to be established, causing considerable additional burden for both the States and EPA, and (3) no common analytical standards are available. EPA requests public comment on whether other options exist that would have low administrative burden for the States and EPA, have reasonable costs for testing List 2 contaminants by large systems, and allow EPA to obtain the scientific and defensible data it needs to make regulatory decisions.

EPA believes that one of these two arrangements for conducting the Screening Survey monitoring at large systems is necessary because strict quality assurance/quality control are essential for methods that are not fully developed for the contaminants being tested because of the small sample size. It is important to note that this testing

would be from a limited number of systems and, for any particular system, would only be done over a one-year timeframe in the five year contaminant listing cycle. If the contaminant occurrence were frequent enough or in sufficiently high concentrations to warrant regulation, future testing for the contaminant might not occur for another three to five years (i.e., after promulgation of a final regulation for that contaminant.

The Screening Survey would occur one or two times during the five-year listing cycle. EPA expects that this Screening Survey monitoring would occur for groups of contaminants, rather than for one contaminant at a time. Systems selected for the Screening Survey would monitor at the same frequency as for contaminants under Assessment Monitoring. Should implementation of the analytical method for a particular contaminant become a problem, the contaminant might move into the category of Pre-Screen Testing, described below.

3. Pre-Screen Testing

The third tier of the proposed monitoring program is "Pre-Screen Testing" for contaminants with analytical methods in an early stage of development. Pre-Screen Testing means sampling, testing, and reporting of the listed contaminants that may have newly emerged as drinking water concerns and, in most cases, for which methods are in an early stage of development. Pre-screen testing will be performed to determine whether a listed contaminant occurs in sufficient frequency in the most vulnerable systems or sampling locations to warrant its being included in future Assessment Monitoring or Screening Surveys. Pre-Screen Testing requirements will only apply to a contaminant through additional rulemaking.

EPA will select a limited number of systems (up to 200) to conduct Pre-Screen Testing, through the use of a random number generator, selected from up to 25 most vulnerable systems identified by each State. Up to 200 systems, a smaller sample size than under the Screening Survey or Assessment Monitoring, are considered sufficient for this type of monitoring because monitoring would occur at systems anticipated to have the contaminants, based on the characteristics of the contaminants, system operation, climatic conditions, and land and water resource use. This monitoring is to determine whether the contaminant can be found in any public water system under most likely occurrence conditions specific to the contaminant, and not to determine the extent of occurrence. The portion (e.g., 100 to 150) of these 200 systems may be a different subset of small systems serving 10,000 or fewer persons than those selected for the national representative sample. The reason for this different subset is that States should identify the systems that are representative of the most vulnerable conditions for the contaminants specified for Pre-Screen Testing. These most vulnerable systems may not be those conducting Assessment Monitoring or the Screening Survey. It is possible, though, that some overlap of systems doing Assessment Monitoring and Pre-Screen Testing could occur.

EPA is proposing under Pre-Screen Testing that the selected systems use EPA's designated or approved (as indicated above for the Screening Survey testing of samples from large systems) laboratory or laboratories to conduct this testing. The reason for this proposed testing approach is that the analytical methods expected to be used will have just emerged from research development and other laboratories will not have had the opportunity to use them, which could involve extensive investment in equipment and training. Rather than cause this investment to occur for contaminants which have uncertain occurrence in public water systems, EPA would develop the initial methods sufficiently to test for the contaminants and actually apply them to samples that are most likely to have the contaminants to determine whether further action is warranted and additional method development is needed.

The Pre-Screen Testing option might include (1) contaminants on List 3, for which EPA has limited data on occurrence in drinking water and does not expect to have methods developed by the time this regulation is promulgated, or (2) contaminants not on the CCL that become a concern, such as through the Governors' petition process. The purpose of Pre-Screen Testing would be to determine whether the methods in early development will provide positive results in conditions under which the contaminants are most likely to occur.

Under this approach, once EPA has a method sufficiently developed, it would require States to identify at least 5 and not more than 25 systems which might be most vulnerable to the listed contaminants. States would select these systems from all community and non-transient noncommunity systems serving less than 10,000 persons and systems serving more than 10,000 persons. Selection criteria for these systems include States determination of systems most vulnerable to the specified contaminants and numbers of systems per State based on the number of persons served in each size category of system. The States would send the list of systems, the modification of their State Monitoring Plans for systems serving 10,000 or fewer persons to add the selected systems of this size, and the reasons for their selection, considering the characteristics of the contaminants, precipitation, system operation, and environmental conditions, to the EPA Regional Office. EPA would select up to 200 PWSs nationwide from this pool of State-identified vulnerable systems that must submit samples of the specified contaminants. Some small systems selected may not be part of the national representative sample of 800 systems selected for Assessment Monitoring. Hence, some small systems may only be required to assist with Pre-Screen Testing. States or the EPA Regional Office would provide instructions to the systems for the necessary sampling and subsequent shipping to the EPA laboratory. At this time, EPA believes that the contaminants to which Pre-Screen Testing is likely to apply are those listed in this Preamble in Table 5, List 3, and in the proposed rule at § 141.40(a)(3) Table 1, List 3: Sampling and testing done for Pre-Screen Testing would most likely occur in the later years of the five-year contaminant listing cycle. This approach will assist EPA in refining the methods for these contaminants. If EPA finds any substantial frequency of occurrence, the contaminants could either become part of the Screening Survey or part of Assessment Monitoring in future UCM lists. Since these methods could only be applied under highly controlled test conditions and EPA would be refining the methods, EPA would pay for the shipping and testing of these samples for small monitored systems selected to participate and large systems would pay for the shipping and testing of samples at EPA approved laboratories.

4. Option to the Three-Tiered Approach

The principal option considered in developing this proposal for the type of monitoring required was to require all large systems and small systems included in State Monitoring Plans to monitor for all the contaminants on the UCM Monitoring List, phasing in the contaminants as their respective methods became approved for testing by certified laboratories. This approach had the problem of attempting to use recently developed methods in an extensive monitoring program without

multi-matrix, multi-laboratory testing of the methods. This option would cost $50 million more annually than the proposed three-tiered approach because the high cost of the methods, especially on List 3. Also, the large PWSs with laboratories as well as independent laboratories would have potentially large investments in testing equipment that it might not have made for just a one year monitoring activity, especially if EPA decided not to regulate the particular contaminant. Alternatively, waiting until an analytical method had been thoroughly evaluated and refined for broad use in testing at reasonable cost to all systems would result in few of the contaminants on Lists 2 or 3 ever being monitored for during the five year listing cycle. This would postpone the collection of useful data with which decisions might be made relative to whether to regulate the contaminants.

D. Monitoring Requirements Under the Proposed UCMR

1. Monitoring Frequency

(a) Systems Serving More Than 10,000 Persons

Chemical Contaminants. The number of persons served affects exposure to contaminants and resources necessary to undertake a monitoring activity. The proposed UCMR program requires large systems serving more than 10,000 persons to monitor at each entry point to the distribution system whether or not the system applies treatment, but if it does, then it must monitor after treatment. EPA is also to consider the source of water relative to these monitoring requirements (SDWA section 1445(a)(2)(A)). Over the twelve-month period of monitoring, EPA proposes that systems sample from all entry points representing all sources of water used over the monitoring period. Surface water-supplied systems would monitor each of these points every three months within a twelve-month period and ground water-supplied systems would monitor each of these points two times, six months apart. Today's proposed monitoring frequency for surface water systems is the same as in the current program. For ground water systems, the proposed two samples must be six months apart, increasing this monitoring from one sample under the current program. The reasons for this increase are that while ground water typically moves slowly, one sample is insufficient to characterize water quality at any particular location and would not provide evidence of any changes over a longer period of time. From a statistical standpoint, one sample is not representative and would not allow the data to be used for exposure assessment which uses an average annual rate. At State discretion, this monitoring may be coordinated with compliance monitoring for regulated contaminants. This proposed frequency applied to the average of 6.2 entry points to the distribution system for this system size will provide sufficient data for an adequate statistical analysis of the varied conditions in which these systems are located.

One of the monitoring events for both surface water and ground water systems must occur at the most vulnerable time of year for the PWS. The rationale for this approach is that it provides results representing potential variation in contaminant concentration over a year. This variation of concentration is necessary to evaluate exposure related to contaminant occurrence results. While some systems that perform compliance monitoring on a quarterly basis could collect UCMR samples coincident with their compliance samples and would therefore provide data on the range of variation, other systems may only conduct compliance monitoring once every third year and for one year every five years only, and would therefore have to collect additional samples under the UCMR. While one UCMR sample could be collected coincident with this compliance sample, EPA is proposing for ground water-supplied systems that a second sample be taken six months later to provide the necessary data on seasonal variation over a year to allow consistent exposure assessment to be done with a range of concentrations. Stakeholders supported this option. EPA proposes that all systems serving more than 10,000 persons and a representative sample of systems (about 800) serving 10,000 or fewer persons monitor under this frequency and schedule.

Microbiological Contaminants. For microbiological contaminants, the sampling frequency would be two times, with samples collected each time at two different locations in the distribution system after treatment: a site representative of water in the distribution line received by the general population that the system serves and a site near the end of the distribution line representing the longest residence time. The frequency should capture the most vulnerable time as well as a time six months later to provide an average exposure. Furthermore, precipitation patterns may be a major factor in contaminant occurrence. Thus, frequency should be tailored to times of the year of significant vulnerability because increased seasonal precipitation may carry these contaminants at higher concentrations than other times during the year.

(b) Systems Serving 10,000 or Fewer Persons

EPA proposes that approximately one third of the systems serving 10,000 or fewer persons in the representative sample described below, be sampled each year over a three year period at the frequencies indicated in (a) above to allow a relatively even submission of samples to be managed and tested by the EPA laboratory. Since EPA will pay for the reasonable costs of monitoring (i.e., containers, shipping, and testing) for this representative sample, including Assessment Monitoring, Screening Survey, and Pre-Screen Testing, at its designated laboratories, it would need to be able to manage the number of samples being received at any time.

2. Monitoring Time for Vulnerable Period

Water quality studies and monitoring throughout the United States have clearly shown that contaminant occurrence and/or concentration vary over time, both seasonally as well as from year to year. The seasonality of occurrence, or period of peak concentration of contaminants commonly varies with seasonal changes in the hydrologic cycle in relation to the source of contaminants and their fate and transport characteristics. Particularly for land-applied or land-disposed contaminants, the increased flux of water mobilizes the contaminants and moves them into surface or ground water flow systems. For the most vulnerable of water systems, such as surface waters, unconfined shallow ground water and karst flow systems, for example, contaminant occurrence or peak concentrations typically occur during annual runoff and recharge periods. For much of the eastern United States, east of the Rocky Mountains, many studies have shown the season of greatest vulnerability for contaminant occurrence is the late-spring, early-summer runoff-recharge period, particularly for contaminants such as pesticides and nitrate (e.g., Larson et al., 1997; Barbash and Resek, 1996; Hallberg, 1989a, b). For deeper, more confined ground water systems, defining vulnerable periods is much more difficult. The exact flow path and time of travel are much greater and more complex and are dependent upon many factors unique to a particular well and aquifer setting (e.g., Hallberg and Keeney, 1993). There is no generality

that can be applied to these latter settings.

Because occurrence may vary seasonally, it is important to try to capture these vulnerable periods in a one-time survey of contaminant occurrence such as the UCMR. Statistical studies of sampling strategies in surface water (e.g., Battaglin and Hay, 1996) have shown that incorporating sampling during spring and early summer runoff periods provides a more accurate representation of annual occurrence than random quarterly sampling (that can avoid these months). Ground water studies (e.g., Pinsky et al., 1997) suggest that the more vulnerable ground water settings also show peaks during these periods. The default vulnerable period for sampling for the UCMR has been designated to coincide with this period of peak vulnerability for much of the United States: one sample must be collected during May, June, or July, unless the State has better information to designate another period. Also, for surface waters, three additional samples will be collected throughout the year, and for ground water systems, one additional sample will be collected six months later. This additional sampling would also capture the winter recharge and runoff period that may be more vulnerable in the western coastal regions or warmer southern climates for some contaminants. In the case of some deeper ground water systems, States or systems may have additional knowledge of seasonal vulnerability patterns, in which case the State can designate an alternative period for sampling. EPA requests public comment on the specification of the most vulnerable time for monitoring and how it should be determined.

3. Monitoring Location

In § 141.40(a)(3), today's proposal identifies entry points to the distribution system after any treatment representative of each water source in use over the twelve-month period of Assessment Monitoring as the sampling locations for organic chemicals and the distribution system (a site representative of water in the distribution line received by the general population that the system serves and a site near the end of the distribution line representing the longest residence time) for the microbiological contaminant. Sampling at entry points to the distribution system after any treatment follows the existing regulatory approach for currently regulated contaminants and provides data for exposure assessment.

(a) Chemical Contaminants

The chemicals in this proposed rule are all compounds that would enter a public water supply from the external environment (in contrast to disinfection byproducts, for example) and the proposed monitoring location is at the entry point to the distribution system after treatment, representing all sources of water used over the twelve-month monitoring period to ensure a nationally consistent data set and to provide consistent data for exposure assessment.

(b) Microbiological Contaminants

The sampling locations for microbiological contaminants are different from those for chemical contaminants because the most likely locations to observe microbiological contaminants may be in the distribution system, or, for some, in source water. This is, in part, because of the difficulty of testing to isolate many microbiological contaminants. Two sampling locations are proposed in this regulation. One of the samples would be at the site below a representative entry point to the distribution system that is used for taking total coliform samples; this sample would represent general exposure. The second sample would be near the end of the distribution line that has the longest residence time, representing the extreme exposure of the population at this point in the distribution system. Over the twelve-month period of monitoring, EPA proposes that systems sample at locations representing all sources of water used over the monitoring period, to the extent possible.

Currently, it is not possible to assess whether or not all of the microorganisms (including those on List 3) are likely to be found at any one sampling location, or that one sampling location is the best place to sample for them all. The occurrence information needs differ for different microorganisms. Different parts of the water supply and distribution system may be more likely locations to find particular microbiological contaminants. Therefore, the sampling location for monitoring each microorganism may need to be tailored in the future to the individual organism and the relative ease of finding it in the water of concern.

As a result, for the microbiological contaminants being proposed for Lists 2 and 3 today, EPA has not identified a sampling location or locations. For some of the microbiological contaminants, source water may be the most appropriate sampling location because of the capability of the methods available. In any case, EPA would specify a sampling location at the time a microbiological contaminant would be proposed to become a required monitoring contaminant and ask for public comment at that time.

4. Quality Control Procedures for Sampling and Testing

To assure that the data collected under this proposed regulation are of sufficient quality to meet the requirements for the uses of the resulting data, EPA is proposing the analytical methods and procedures to be used in obtaining the monitoring data in § 141.40(a)(3) and appendix A. Also, additional guidance for quality control and contaminant confirmation are specified in the "UCMR Analytical Methods and Quality Control Manual." This proposed regulation covers quality control steps for all sampling and testing under this program. In addition, the draft guidance manual is available for review and public comment with this proposed regulation. Today's proposed rule would require that all monitored systems follow these methods and procedures in organizing and conducting their unregulated contaminant monitoring and testing. Systems would also have to ensure that the laboratories they use to test samples use the proposed methods and procedures. The specific quality control requirements addressed in § 141.40(a)(3) and appendix A of the proposed rule are: sample collection/preservation; sample transport; sample and sample extract holding time and storage; sample analyses/quality control requirements, including quality control (QC) requirements, calibration, calibration verification, laboratory reagent (method) blank, quality control sample, laboratory duplicates, sample matrix spike (MS) and matrix spike duplicate (MSD), internal standard, surrogate standard, method detection limit determination, minimum reporting level; confirmation; and reporting requirements. EPA believes that requiring the quality control requirements for unregulated contaminant sampling and testing in the proposed rule will enable the Agency to have higher confidence in determining the extent and range of concentrations for the contaminants on the UCM List, since they are not regularly tested for nationally.

5. Monitoring of Routinely Tested Water Quality Parameters

In addition to the contaminants to be monitored, several chemical and physical parameters are important indicators of water quality and may contribute to the likelihood of the

contaminants being found in drinking water. EPA requests public comment on whether it should require the monitoring and reporting of these routinely tested parameters, usually associated with water quality analyses, to provide for a more thorough scientific understanding of the occurrence of unregulated contaminants. It is not EPA's intent to add these chemical and physical parameters to the unregulated contaminant monitoring list, but rather as supplementary data about the sample results which will facilitate their interpretation and use in regulatory decisions. The water quality parameters and their methods for which EPA seeks comment are specified in Table 6, Analytes Approved for Water Quality Parameters.

ANALYTES APPROVED FOR WATER QUALITY PARAMETERS

Analyte	Methodology		
	EPA method	Standard methods [1]	Other
pH	[2]150.1	4500–H^+ B	ASTM D1293–84 [3]
	[2]150.2		ASTM D1293–95 [3]
Turbidity	[4,5]180.1	2130 B [4]	GLI Method 2 [4,6]
Temperature		2550	
Free Residual Chlorine		4500–Cl D	ASTM D 1253–86 [3]
		4500–Cl F	
		4500–Cl G	
		4500–Cl H	
Total Residual Chlorine		4500–Cl D	ASTM D 1253–86 [3]
		4500–Cl E [4]	
		4500–Cl F	
		4500–Cl G [4]	
		4500–Cl I	
Chlorine Dioxide Residual		4500–ClO_2 C	
		4500–ClO_2 D	
		4500–ClO_2 E	
Ozone Residual		4500–O_3 B	

[1] The 18th and 19th Editions of *Standard Methods for the Examination of Water and Wastewater*, 1992 and 1995, American Public Health Association, 1015 Fifteenth St. NW, Washington D.C., 20005.

[2] Methods 150.1 and 150.2 are available from US EPA, NERL, 26 W. Martin Luther King Dr., Cincinnati, Ohio 45268. The identical methods are also in "Methods for Chemical Analysis of Water and Wastes," EPA–600/4–79–020, March 1983, available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Virginia 22161, PB84–128677. (Note: NTIS toll-free number is 800–553–6847.)

[3] *Annual Book of ASTM Standards*, Editions 1994 and 1996, Volumes 11.01, American Society for Testing and Materials, 1015 Fifteenth Street NW, Washington, DC 20005. Version D1293–84 is located in the *Annual Book of ASTM Standards*, 1994, Volumes 11.01. Version D1293–95 is located in the *Annual Book of ASTM Standards*, 1996, Volumes 11.01.

[4] "Technical Notes on Drinking Water," EPA–600/R–94–173, October 1994, Available at NTIS, PB95–104766.

[5] "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA–600/R–93–100, August 1993. Available at NTIS, PB94–121811

[6] GLI Method 2, "Turbidity," November 2, 1992, Great Lakes Instruments Inc., 8855 North 55th St., Milwaukee, Wisconsin 53223.

6. Relation to Compliance Monitoring Requirements

Currently, compliance monitoring for regulated contaminants is coordinated on a three-year cycle, with all public water systems that are required to monitor sampling for specific contaminants at a minimum of one year every three, six, or nine years, depending on the contaminant and its occurrence in the system. The current and proposed Unregulated Contaminant Monitoring Regulations require monitoring during one year every five years. While these may seem out-of-cycle with one another, EPA is proposing to implement UCMR so that public water systems only have to monitor for unregulated contaminants during one twelve-month period every five years, unless the State determines that PWSs should conduct more frequent monitoring. Hence, the compliance monitoring and the UCMR monitoring can be coordinated, to the extent practical, by conducting UCMR monitoring during a coincident year during which compliance monitoring is required. The years within which the unregulated contaminant monitoring are proposed to occur are specified in § 141.40(a)(3), Table 1, column 6.

7. Previous Monitoring of the Contaminants Proposed for the Monitoring List

Some PWSs may have previously monitored for some of the contaminants identified on the proposed UCM List because of local or State concerns about the possibility of those contaminants occurring in drinking water. While this monitoring may have provided adequate results for their purposes, such results may not be comparable to results under this revised UCM regulation because of differences in sampling and analytical protocols, as well as the sampling period. Other factors compound the problem of comparability, such as: (1) Monitoring methods may have improved; (2) water quality changes over time; and (3) today's proposal requires reporting of a net increase of eight additional data elements, which would allow various, consistent comparisons to be made and data to be aggregated nationally based on current science and quality assurance/quality control consistency. Therefore, EPA is not proposing that monitoring results from previous monitoring be used in place of the monitoring under this revised regulation.

8. Regulatory Options Considered for Large Systems

Regulatory options considered for large systems (small systems are addressed under III.F., "Representative sample of systems serving 10,000 or fewer persons"):

(a) Which Large Systems Should Monitor

Today's proposal at § 141.40(a)(1)(ii) requires all large systems to monitor under the UCMR. The rationale is that the 1996 SDWA amendments only set aside a subset of small systems to

monitor, but did not do so for large systems. Public input resulting from two Stakeholders meetings (Washington, DC; Dec.2–3, 1997; June 3–4, 1998) on this proposed rule supported the option that all large PWSs should monitor.

The only option considered by EPA was a representative sample of large systems. Stakeholders at the two Stakeholders meetings indicated above generally opposed this. Furthermore, the large system representatives at the meeting indicated that to ensure public health protection, they would monitor for all contaminants on any EPA drinking water unregulated contaminant monitoring list.

(b) Monitoring Frequency

Other monitoring frequencies for the UCMR were considered and rejected:

Ground water: Remaining at one time for one year every five years for ground water systems, as under the current program, was rejected because one sample is not considered representative and does not provide sufficient data about a system that can be averaged to develop a national exposure estimate. Four samples every three months were rejected because most ground water does not change that much over shorter periods of time and the results would, therefore, not provide additional useful information cost-effectively.

Surface water: One or two samples in a year were considered, but rejected because these numbers of samples are too few to reflect the seasonal changes in this source of water. Furthermore, seasonal variation is different in different parts of the country. More frequent sampling of surface water is important to capture the duration of time that higher or lower concentrations of contaminants are observed to apply those results in developing an average concentration over a year for conducting exposure assessment.

Compliance Monitoring Schedule: Another option EPA considered is quarterly monitoring for one year every three years for both surface and ground water systems, in complete coincidence with the standard compliance cycles. However, the compliance cycles (with three, six, and nine year components) are not in synchrony with the new UCMR and CCL five-year cycles. This option was rejected because of the implementation difficulties in adjusting a staggered three-year cycle of monitoring to fit into a five-year UCM listing cycle. This approach would result in some systems having one monitoring year and others having two monitoring years. Also, for many ground-water systems not on a quarterly compliance monitoring schedule, a minimum of two samples six months apart is adequate to address variation in concentrations and to provide an average annual concentration for exposure assessment.

(c) Monitoring Location

Some States currently require source water monitoring as a more stringent requirement for chemical contaminants because it requires the testing of samples before any treatment that might reduce concentrations of contaminants. If the objective is exposure assessment (after treatment), source water monitoring would provide information for assessing potential exposure to acute contaminants should treatment fail. Source water monitoring would also provide useful information for treatment and source water protection analysis in future regulatory analyses that would examine a full range of control alternatives including contaminant treatments or controls in the watershed. Source water monitoring would give an indication of concentrations of contaminants that would need to be treated, of a measure of benefits from existing treatment if the occurrence of an unregulated contaminant is linked with a regulated contaminant being treated, and of the types of locations at which watershed management practices might be targeted. However, additional expense would be involved to monitor source water nationally. Other means of obtaining source water quality data exist, such as State or U.S. Geological Survey data for ambient water quality in watersheds and aquifers. At this time, EPA is not requiring source water monitoring because of the existence of other sources of information and the need to focus the available resources of the Agency on exposure after drinking water treatment for the contaminants on List 1.

During rule development, stakeholders suggested that an alternative location for *Aeromonas* and other microbiological contaminants might be the sampling point used for coliforms. The coliform sampling point, however, may not be representative for testing *Aeromonas hydrophilla*, which tends to be found further into distribution systems at low disinfection residual levels. A low chlorine residual provides the environment for the surviving organisms to recolonize and grow. To enable a balanced assessment of *Aeromonas* occurrence, EPA is proposing to require sampling at both a representative site in the distribution system and a site near the end of the distribution line with the longest residence time.

E. Waivers

1. Waivers for Systems Serving More Than 10,000 Persons

Section 1445(a)(2)(F) of SDWA allows a State to obtain a waiver of UCM for specific contaminants if the State demonstrates that the UCM listing criteria do not apply in that State. These criteria are:

(a) The criteria for listing a contaminant in the occurrence priorities list in the CCL; and

(b) Whether an analytical method exists for the contaminant.

When a State makes such a demonstration for a specific contaminant on the monitoring list, EPA is proposing to waive monitoring for that contaminant in that State for large systems (serving more than 10,000 persons) only.

Stakeholders indicated that waiver requirements should be sufficiently stringent to obtain the most representative national data possible, including non-detections of contaminants on the UCM List. Since only the UCM listing criteria in (a) are relevant to a State-specific waiver and based on stakeholders' concern that the waiver be narrowly applied, EPA is proposing that this waiver be applied only where the State can demonstrate that the contaminant has not been used, applied, stored, released, or disposed of, or does not occur through natural processes (such as growth in a system or air deposition) in the State for the past fifteen years. Source Water Assessments provided for under sections 1453 and 1428(b) of SDWA may be used as the basis for these waivers if the Assessments specifically address the contaminant(s) on the UCM List for which a waiver is sought. Table 7, Uses and Environmental Sources of Contaminants Proposed for the Monitoring List, presents the uses and sources of the contaminants being proposed for the Unregulated Contaminant Monitoring List. A State would need to apply for a waiver from monitoring for specific contaminants and receive EPA approval to waive the monitoring.

While some chemical contaminants may only be discharged into the environment in regional or local areas, microbiological contaminants may be ubiquitous. However, previous monitoring + results over time may provide information useful to waiver determinations for microbiological contaminants.

2. Waivers for Small Systems in State Plans

EPA is proposing that no waivers be granted for small systems serving 10,000 or fewer persons in State Plans for the national representative sample. Stakeholders also supported this position. The systems in State Plans will be statistically selected with the assumption that all systems in a particular size category and water source type have an equal probability of being selected. Non-detections are just as important as detections of contaminants for national analysis. Waiving contaminants to be monitored in certain States not expecting to have such contaminants biases the representative sample toward detections. Selecting the small systems to be included in the State Monitoring Plans for the representative sample through a statistical process effectively waives ninety-seven percent of the systems from the proposed monitoring requirements (based on using 99 percent confidence level with three percent allowable error). Therefore, EPA rejected waivers for systems serving fewer than 10,000 persons because this option would be contradictory to obtaining a scientifically sound data set that provides the basis for a scientific statistical analysis.

TABLE 7.—USES AND ENVIRONMENTAL SOURCES OF CONTAMINANTS PROPOSED FOR THE MONITORING LIST

Contaminant name	CASRN	Use or environmental source
Proposed Chemical Contaminants		
1,2-diphenylhydrazine	122–66–7	Used in the production of benzidine and anti-inflammatory drugs.
2-methyl-phenol	95–48–7	Released in automobile and diesel exhaust, coal tar and petroleum refining, and wood pulping.
2,4-dichlorophenol	120–83–2	Chemical intermediate in herbicide production.
2,4-dinitrophenol	51–28–5	Released from mines, metal, petroleum, and dye plants.
2,4-dinitrotoluene	121–14–2	Used in the production of isocyanate, dyes, and explosives.
2,4,6-trichlorophenol	88–06–2	By-product of fossil fuel burning, used as bactericide and wood/glue preservative.
2,6-dinitrotoluene	606–20–2	Used as mixture with 2,4-DNT (similar uses).
Acetochlor	34256–82–1	Herbicide used with cabbage, citrus, coffee, and corn crops.
Alachlor ESA		Degradation product of alachlor, an herbicide used with corn, bean, peanut, and soybean crops to control grasses and weeds.
DCPA di-acid degradate.	2136–79–0	Degradation product of DCPA, an herbicide used on grasses and weeds with fruit and vegetable crops.
DCPA mono-acid degradate.	887–54–7	Degradation product of DCPA, an herbicide used on grasses and weeds with fruit and vegetable crops.
DDE	72–55–9	Degradation product of DDT, a general insecticide.
Diazinon	333–41–5	Insecticide used with rice, fruit, vineyards, and corn crops.
Disulfoton	298–04–4	Insecticide used with cereal, cotton, tobacco, and potato crops.
Diuron	330–54–1	Herbicide used on grasses in orchards and wheat crops.
EPTC	759–94–4	Herbicide used on annual grasses, weeds, in potatoes and corn.
Fonofos	944–22–9	Soil insecticide used on worms and centipedes.
Linuron	330–55–2	Herbicide used with corn, soybean, cotton, and wheat crops.
Molinate	2212–67–1	Selective herbicide used with rice, controls watergrass.
MTBE	1634–04–4	Octane booster in unleaded gasoline.
Nitrobenzene	98–95–3	Used in the production of aniline, which is used to make dyes, herbicides, and drugs.
Prometon	1610–18–0	Herbicide used on annual and perennial weeds and grasses.
Terbacil	5902–51–2	Herbicide used with sugarcane, alfalfa, and some fruit, etc.
Terbufos	13071–79–9	Insecticide used with corn, sugar beet, and grain sorghum crops.
Microbiological Contaminants		
Adenoviruses	N/A	Fecal sources; hand to mouth transmission.
Aeromonas hydrophila	N/A	Present in all freshwater and brackish water.
Cyanobacteria (Blue-green algae), other freshwater algae and their toxins.	N/A	Blooms in surface water bodies; produce toxins.
Caliciviruses	N/A	Contaminated food and water, raw shellfish.
Coxsackieviruses	N/A	Fecal sources; hand to mouth transmission.
Echoviruses	N/A	Fecal sources; hand to mouth transmission.
Helicobacter pylori	N/A	Fecal sources; hand to mouth transmission.
Microsporidia	N/A	Occurs in rivers, ponds, lakes, and unfiltered water.

F. Representative Sample of Systems Serving 10,000 Persons or Fewer

As required by section 1445(a)(2) (A) and (C), the regulation proposes that only a representative sample of public water systems serving 10,000 or fewer persons would have to monitor. As previously explained, only community and non-transient non-community systems would be required to monitor for unregulated contaminants under this proposal. Therefore, the representative sample would include only community and non-transient non-community systems serving 10,000 or fewer persons. The representative sample would need to be of sufficient size to gather the necessary information on occurrence of unregulated contaminants to determine whether or not to regulate them, while not burdening every water system with the expense of monitoring. The number of systems selected within each of three size ranges of small systems would be based on the proportion of the State's population served by systems in that size range. (An example appears below under (5)(a), State Plans for the Representative Sample.) The small systems in the national representative sample would be selected using a statistical random

sampling process. This process would utilize a random number generator to choose a statistically determined number of systems in each State and Tribe having "treatment as a State" status, considering the number of systems served by water source type (e.g., ground or surface water) and then system size category (i.e., 25 to 500 persons, 501 to 3,300, and 3,301 to 10,000) within the water source type. EPA is proposing that the national representative sample become the basis for the State Monitoring Plan in each state. The use of this statistical approach is designed to take into account different system sizes, types of systems, the source of supply, contaminants likely to be found, and geographic location in each State. EPA believes that the end product of this statistical process applied to selecting systems to monitor must be data that are sufficient to answer questions about occurrence of contaminants on a national scale for use in exposure assessments and technology evaluations of alternative treatments at a PWS and in its watershed. These data should also be sufficient to answer questions at a broad multi-state scale, such as systems classified by size or source of water, particularly when combined with data for the 2,774 large systems.

Under this proposal, small system monitoring would be too sparse to answer questions about occurrence at the scale of a single State. The number of systems required for evaluation of occurrences in a single state are far greater than, and thus more costly than, those needed for the broader national evaluations required under the Act to determine whether or not to regulate a contaminant.

1. System Size

Based on statistics reported in the Safe Drinking Water Information System (SDWIS), the following numbers of systems (1997 data) by size will approximate the universe from which a representative sample of systems serving 10,000 or fewer people will be taken for this proposed national representative sample plan. These system size categories are proposed because they are used in other statutory and regulatory characterizations of systems, and are applied under the existing rule for unregulated contaminant monitoring for the scheduling of sampling. The relevant system and population information (1997) for systems serving 10,000 or fewer persons is:

Number of people served in PWS size range	Number of PWSs in size range	Population served nationally	
		CWS	NTNCWS
25 to 500	48,100	5,249,577	2,379,034
501 to 3,300	14,126	19,918,106	2,724,728
3,301 to 10,000	3,410	25,236,059	401,579
Total	65,636	50,403,742	5,505,341

Considering all community water systems and NTNCWS that do not purchase their water supplies, 65,636 PWSs are in the size range for small systems as defined in section 1445. Systems purchasing water from other systems are proposed to be excluded from this rule because they could bias results by potentially causing double counting of contaminant occurrence. EPA seeks public comment on whether systems purchasing water from other systems should be included in the representative sample, particularly for monitoring at the location of the longest residence time within a water distribution system.

2. System Type

(a) Public Water System Monitoring

Under today's proposal, all public water systems serving 10,000 or fewer persons, except transient non-community systems, would be considered for monitoring, but only a subset would be selected for the national representative sample. Public water systems owned and/or operated on Tribal lands by Tribes would be treated as a separate group for the representative sample, rather than counting them within the State boundaries as systems in a particular State. EPA is proposing that the size of the representative sample and the specific systems required to monitor will be identified by EPA and sent to the States for review and inclusion in State Monitoring Plans (discussed below).

(b) Non-Transient Non-Community Water Systems

Non-Transient Non-Community Water Systems (NTNCWS) represent schools, hospitals and other facilities in communities that serve the resident population but have their own water supply systems. Approximately 20,000 systems of this type exist in the United States. Today's proposed regulation at § 141.40(a)(1)(iii) would include NTNCWS as a separate type of water system to be included in the representative sample for monitoring. Typically, these systems are closely associated with a local resident population and may be a significant source of water consumed by that population over a lifetime. Indeed, these systems may be a major source of water consumed by individuals resident in a community. The selection of NTNCWS will use the same statistical process as for community water systems (CWS), with systems grouped within a State by water source type and size category. The reason for a separate category for NTNCWS is to avoid double-counting of population served when doing exposure assessments of both small CWS and NTNCWS, while allowing weighting of lifetime water consumption by system type.

(c) Transient Non-Community Systems

Transient non-community water systems represent systems providing drinking water to transient populations such as at a restaurant in a rural location or a highway roadside rest area. About 97,000 of these systems exist in the United States; their location and type are highly variable. It would be difficult to extrapolate exposure from monitoring results, given the very short-term nature of the systems' use by individuals who may not be in the area for more than a few hours or days. Because of problems with implementation and cost for sampling such a large and highly variable set of typically very small systems, EPA is proposing to exclude transient systems from all unregulated contaminant monitoring requirements. In this regard, this proposal is consistent with the current UCM program. EPA seeks public comment on excluding transient non-community systems from State Monitoring Plans for the representative sample of systems to be monitored.

3. Geographic Location Within the State

SDWA section 1445 specifies that State plans should consider "geographic location" when selecting a representative sample. This is accomplished at the broadest level by selecting systems from each State. Yet within a State, the sources of water may not be evenly distributed across that State, especially surface waters. Cities transfer water across watershed boundaries, or move water from one State to another. To best represent water being consumed by individuals, EPA proposes to define "geographic location" in the representative sample proposed today as the location of the source of water, rather than as an even distribution of points across the State. For example, if 40 percent of the persons in a State obtain their water from one water source type (e.g., surface water), 40 percent of the systems selected as representative should be from that source type, even if this results in points unevenly distributed across the State. This distribution should be accommodated by the population-weighted statistical sample selection.

4. Likelihood of Finding Contaminants

Section 1445(a)(2)(A) requires that the UCMR program take into account the likelihood of finding a contaminant in establishing variable monitoring requirements for systems. This proposal is intended to allow the UCMR program to focus on monitoring for contaminants that are expected to be found nationally or among several regions of the United States. Therefore, the expectation of finding the contaminants nationally is fundamental to the approach of the representative sample and its statistical method of random selection. However, the "likelihood of finding contaminants" factor is accommodated by the step-wise three-tiered approach of Pre-Screen Testing, Screening Survey and Assessment Monitoring.

5. State Plans for the Representative Sample

As discussed above, section 1445 (a)(2)(C) allows States to develop State Monitoring Plans (also referred to as "State Plans") to assess the occurrence of unregulated contaminants for small systems in the State. EPA believes that the development of State Plans is affected by two other considerations: (i) The State plans must fit together into a national representative sample so that it is, in fact, nationally "representative," and (ii) EPA will pay for the reasonable costs of testing and laboratory analysis necessary to carry out monitoring under State Plans, pursuant to section 1445(a)(2)(C)(ii).

(a) Representative State Plans

To have representativeness at the national level while at the same time allowing each State to develop a "State Plan," the testing for which will be funded by EPA, the Agency proposes the following approach: Based on a statistical random selection process applied to all CWS and NTNCWS nationally using the average population served by systems and water source type (surface or ground water to ensure geographic coverage) within service-size category (25–500, 501–3,300, 3,301–10,000 persons), EPA will select at least twice as many CWS and NTNCWS as required for the national representative sample to allow for replacements of systems, if necessary. EPA will use a random number generator to select these systems. These systems will be divided into an "initial plan" list and a "replacement list." The representative sample will be allocated on a State basis, considering the number of persons served by each service size category and water source type. The "initial plan" list of systems will identify those systems tentatively selected by EPA for each State. For the State plan, the State can adopt the EPA-selected systems on the "initial plan" as its plan, or review the list to determine which systems should be removed from the list because of such factors as closure, merger, or water purchase arrangement and submit a modified plan. The State would then select the next water system(s) from the "replacement list" to replace the system(s) removed, thus creating a "modified plan." The State, in either case, would inform the EPA Regional Office of the State's choice of plan (i.e., "initial" plan or "modified" plan) along with reasons for removing and replacing systems on the "initial plan" within 60 days of receiving the "initial plan." If EPA has not received a response from the State, the EPA Regional Office will consult with the State before adopting the "initial plan" for that State as its State Plan. The State Plan would include a process for the State to inform the public water systems of their selection for the representative sample once the State has accepted the initial plan or prepared the modified plan and informed the EPA Regional Office of this action. The EPA Regional Office would inform systems if the State chooses not to accept or modify the initial plan. This approach ensures a nationally representative set of systems and allows a State flexibility to modify EPA's "initial plan" with minimal burden. EPA would develop and provide initial plans to States and Tribes in the first half of year 2000 to allow sufficient time for State/Tribal review and modification, and for informing systems selected for the State Plans.

Statistical Approach. Under today's proposal, the representative sample of small public water systems would be composed of a subset of systems which, in the aggregate, represent the public water systems of the three small system size categories within the United States. Within a State, public water systems would need to be selected so that the proportion of persons served by the systems sampled is as close as possible to the proportion of persons served by that system size category within that State. The portion of the national representative sample within a State's boundaries would become that State's Monitoring Plan, after review and possible adjustment by the State. The number of systems to be sampled in each State would be proportional to the percentage of persons served by public water systems of that size in the United States who reside within that State.

For the small systems considered, a representative sample size of approximately 800 systems would provide a confidence level of 99 percent with an allowable error of plus or minus 1 percent. This number of systems is statistically derived to allow population weighting for exposure assessment, with results being useful for analysis of contaminant occurrence at small systems, as well as a national analysis of all system sizes. EPA would allocate systems to each State, water source type and system size using an average number of persons served divided into the population served by systems serving 10,000 or fewer persons in each system size category. This approach ensures that each State has systems allocated to it for its State Plan. To accomplish this distribution of systems to each State, EPA would add to the statistically derived number for the representative sample a sufficient number of systems to allow this allocation for each State to have a plan that would then fit into the national representative sample. EPA would also add systems for NTNCWSs to be represented as a distinct group for the purposes of exposure assessment. Once monitored, the results of the representative sample of small systems would then be combined with large system results in an overall national analysis of contaminant occurrence in systems. EPA believes that this sample size would provide an adequate level of confidence, considering size, type

(community and non-transient non-community water systems), and location. EPA also believes that this approach provides sufficient information for the decision processes drawing on UCMR monitoring data for systems serving 10,000 or fewer persons, while keeping testing costs at a manageable level for the contaminants in List 1 for Assessment Monitoring. This number of systems should be sufficient to evaluate statistically whether a contaminant occurs in a specified number of systems, such as 2 or 3 percent. This number of systems, confidence level and allowable error will enable EPA to: (1) Evaluate the statistical significance of contaminant occurrence with low frequency and (2) compute the percent of systems for occurrence nationally, combining the results of both small and large systems.

Further rationale for using a small estimate of the number of systems and small allowable error (confidence interval) in calculating the number of systems to be included in the representative sample is provided in the monitoring results from previous unregulated contaminant monitoring under the existing program. EPA has results from over 28,000 systems from the unregulated contaminant monitoring activities of 1988 to 1992 (the first round of unregulated contaminant monitoring under the current program) that indicate that of the 34 contaminants required to be monitored at that time, 30 had occurrence at less that 2 percent of systems and, of those, 27 had occurrence at less than 1 percent of systems. Ten of these contaminants were selected for the Contaminant Candidate List "Regulatory Priorities" (see Table 2) and all of these contaminants had occurrence at less than 2 percent of systems and eight, at less than 1 percent. Of the eight occurring at less than one percent of systems, four have health effects values within the concentration range of contaminant occurrence (Bromomethane (a pesticide), 1,3-dichloropropene (a pesticide), Hexachlorobutadiene (a solvent), and 1,1,2,2-Tetrachloroethane (a solvent)), and consequently may be considered for future regulation. These data point up the need to focus at the low end of occurrence. It also points to using a small allowable error (confidence interval) to ensure that based on statistics, EPA comes to the right decision on whether or not to regulate these contaminants, once the Agency has compared the results to health effects data.

EPA also proposes that State Monitoring Plans include a representative sample of systems for Screening Survey monitoring of List 2 contaminants. The number of these systems, selected through the same statistical process from the systems used to conduct Assessment Monitoring, would be smaller (perhaps about 300) because the purpose of the Screening Survey is to test for contaminant presence in systems rather than testing for concentrations in an established percentage (such as 2 or 3 percent) of systems, as is the case for Assessment Monitoring. For the Screening Survey, if any low percent (e.g., 0.5 percent) of systems have an occurrence of a contaminant, then the contaminant would be considered to occur at a level that would indicate that it should be included in the next round of Assessment Monitoring.

If, based on prior information (e.g., from a Screening Survey or Pre-screen Testing), EPA determines that a more likely percent of systems with occurrence, another statistical confidence level and/or allowable error can provide scientifically defensible monitoring results, then EPA may apply a different likely percent of systems, confidence level, and/or allowable error to determine a smaller representative sample size. The statistical approach for specifying the number of systems by water source type (ground water, surface water or ground water under the direct influence of surface water) is as follows.

The number of systems, n, required in the representative sample is determined by the allowable error (±d) around the estimate for p, the proportion of systems which exceed a criteria (e.g., detection level) of interest. Based on the binomial distribution in statistics, the number of systems n which must be sampled for a likely proportion p of systems with contaminant occurrence within the allowable error d with confidence (1 − a) is:

$$n = \frac{z^2_{(a/2)} p(1-p)}{d^2} \qquad (1)$$

The number of systems to be sampled, n, does not depend on the total number of systems available. The number from the standard normal distribution, z, is obtained from a table of the standard normal distribution, representing a collection of data following a "bell-shaped curve" which have a (standardized) mean of zero and standard deviation of one. The significance level, a, is the chance of the statistical interval of interest not containing the true value of the number being estimated, which, in this case, is the percent of systems having occurrence of the contaminants of concern on the UCM List. The true value for the percentage of systems having occurrence of the contaminants of concern can only be known if all systems are sampled, which is not proposed since section 1445(a)(2)(A) requires that only a representative subset of small systems be required to monitor for unregulated contaminants. Using this equation (1), the matrix below presents the required sample sizes for several values of allowable error and confidence level. For the national representative sample, an allowable error of ±.01 at a confidence level of 99% and a likely proportion of systems with contaminant occurrence of 1% was chosen. The possibilities for sample size, confidence level and allowable error considered in developing this approach are:

SAMPLE SIZES FROM A UNIVERSE OF 65,600 SYSTEMS BASED ON—

Confidence level (1 − a)	d, Allowable error			
	.03	.02	.01	.005
90 percent	30	67	266	1,065
95 percent	42	95	380	1,521
99 percent	73	165	659	2,636

EPA believes that a representative sample size of 659 systems to be sufficient to draw conclusions about contaminant occurrence for small systems, based on 99% (.99) confidence level, 1% (.01) allowable error (confidence interval), and target percent of systems having occurrence of 1%. EPA chose a confidence level of 99% because it wanted to be that certain that the true proportion was included in its sample results. A 5% chance that the window of error did not include the true proportion was considered too unacceptable, given the amount of money invested in monitoring and regulatory decisions. Based on the monitoring program, a 1% risk (100–99% confidence) that EPA missed the target was more acceptable.

A small allowable error (narrow confidence interval), such as ±1% (±0.01), is important for evaluating the expected low percentages of systems having occurrence of any of the contaminants because EPA wants to be able to determine when the results of monitoring show that the percent of systems is distinguishable from zero or some other small value close to zero. Determining this outcome will help EPA decide which contaminants should receive primary focus for possible regulation after the results are evaluated with health effects data.

To further consider the implications of the table above, suppose that after sampling these 659 systems, the proportion p which equaled or exceeded a detection level was 4% (0.04). The estimate of the true (unknown) proportion would be 0.04 ±0.01, or 3 to 5 percent. This interval has a 99% likelihood of containing the true proportion of systems having an occurrence of the contaminant of concern. There is a 1% (0.01) chance (a) that the true proportion is outside this estimated interval. A larger allowable error, d, (e.g., 3%) results in a wider estimate window. Knowing only that the proportion is somewhere within a window of 6% (e.g., between 1 and 7 percent) was too large a window of error if the percent of systems having occurrence of the UCM List contaminants is less than 3 percent, which may be possible based on information from previous unregulated contaminant monitoring. In such a situation, it would be difficult to determine whether the percent of systems with occurrence was significantly different than zero or some small number.

Additionally, EPA would increase the representative sample size to 710 to 720 (711 used for calculation purposes here) to ensure that each State received an allocation of small systems, using an average population served (approximately 70,770) divided into the population of each source type and size category within each State, for the representative sample. (The example average population of 70,770 is close to the average population served by large systems.) EPA would also add approximately 80 to 90 systems to the sample size to address occurrence at non-transient noncommunity water systems (using the same average population to allocate systems), with the total number of systems then equaling 790 to 810, rounded to 800. This comparable population allocation facilitates assigning the number of systems to each State in the representative sample.

EPA invites public comment on the use of different confidence levels and/or allowable error (confidence interval) to determine the representative sample size, and the allocation of systems by state, water source type and system size using an average population served should occur, and if so, why and how. EPA also invites public comment on whether and how to allocate proportionally more systems in the representative sample to the size category of 25 to 500 persons served, which represents only two percent of the total population served by community water systems, but includes 64 percent of all community water systems. Since these smaller systems vary considerably in location and access to a water source, allocating more systems to this category may improve EPA's understanding of contaminant occurrence in them.

Initially, EPA had identified 1,800 to 2,000 systems as the sample size for the representative sample. EPA first focused on this sample size considering that the percent of contaminant occurrence could be any value. In particular, requiring a narrow confidence interval around the occurrence level of 50 percent leads to this larger sample size. Upon further reflection and analysis of the results of earlier unregulated contaminant monitoring, it was realized that EPA's primary concern is accurate estimation of low occurrence levels. As a result, the sample size was based on requiring a narrow confidence interval (0.01) with a high confidence (0.99) for occurrences as low as 1 percent (p=0.01). This leads to a sample size of 659 systems. As noted above, EPA proposes to increase the sample size to 800 to incorporate non-transient noncommunity water systems and to have at least 2 sampled systems per State. If higher percentages of systems with contaminant occurrence are observed, the sample size of 800 systems provides a wider confidence interval. For example, if 30 percent of systems having occurrence of a contaminant, this sample size results in a confidence interval of about ±4 percent. Even though the confidence interval is relatively wide, the statistics clearly demonstrate a high rate of occurrence, and if health data indicated major acute or chronic effects for this contaminant, EPA would likely decide to regulate it. With small percentages of systems having occurrence (e.g., 1 to 2%), EPA believes that the statistical approach of using a 99% confidence level and 1% confidence interval will provide sufficient results for decisionmaking for the representative sample of small systems. Furthermore, when the results are combined with those of the 2,774 large systems and evaluated using a 99% confidence level and assuming 1 to 2 percent of systems have occurrence, a confidence interval of 0.4% results, allowing EPA to distinguish very low percentages of systems with occurrence from a zero percent of systems. This circumstance may be important for contaminants with important health effects when deciding whether to regulate them. For the example mentioned above, if 30 percent of systems have occurrence for a contaminant, when the results are combined with those of large systems, the resulting confidence interval is ±2 percent.

The representative sample of 711 systems will be disaggregated to the State level, and further disaggregated by water source type (ground water or surface water) and system size (the three size categories of 25–500, 501–3,300, and 3,301–10,000 persons). The disaggregation by State, water source type and system size is described in the following example.

Example. To determine the number of PWSs to be randomly selected for unregulated contaminant monitoring as part of the national representative sample, the following figures are used as the starting point and are approximations for the purposes of example only:

U.S. population: 265,000,000

U.S. population served by small PWSs serving ≤ 10,000 persons: 50,000,000

U.S. population served by small PWSs divided by 711 (the statistically derived number of 659 systems plus 52 systems for the national representative sample to allow allocation of systems to each State, water source and size category, to the extent possible),

50,000,000/711 = 70,300 persons, the average number or persons that each system selected will represent in the allocation to each state in the representative sample (i.e., the number that EPA would divide into the population served by small systems serving 10,000 or fewer persons to determine the number of systems of that size that must be monitored in the State)

State A population served by small PWSs serving 10,000 or fewer persons equals 1,251,340 persons, which divided by 70,300 persons from the previous step equals 17 systems, the number of systems serving 10,000 or fewer persons that must be included in the State Plan.

State A population served by small PWSs supplied by surface water (SW) or ground water under the direct influence of surface water (GWUDI) equals 449,920 persons.

State A population served by small PWSs supplied by ground water (GW) equals 801,420 persons.

For each water source type (surface or ground water), the population served by small systems is further divided into the size category. The next step is to divide the population in each size category by 70,300 to obtain the number of systems in that size category for the water source type that would be in the State Plan (identified

below as "State Plan Systems Allocation"). For each water source type, the example results for State A are:

SW/GWUDI SYSTEMS IN STATE A

System size (persons served)	Population served by size category	State plan systems allocation
10,000 to 3,301	281,200 persons	4 systems.
3,300 to 501	154,660 persons	2 systems.
500 or fewer	14,060 persons	0 systems.
Total		6 systems.

GW SYSTEMS IN STATE A

System size (persons served)	Population served by size category	State plan systems allocation
10,000 to 3,301	421,800 persons	6 systems.
3,300 to 500	239,020 persons	3 systems.
500 or fewer	140,600 persons	2 systems.
Total		11 systems.

The total of 6 surface water and 11 ground water systems equals 17 systems, the number in State A's Plan. The replacement list of systems would also be developed and provided at this level of detail.

EPA has prepared a background document titled "National Representative Sample and State Plans for Unregulated Contaminant Monitoring for Public Water Systems Serving 10,000 or Fewer Persons" to describe in more detail this selection process presented above and its relation to the State Plans. EPA requests public comment on this proposal and its supporting background document and other approaches that EPA could consider. The background document is available today by calling the EPA Safe Drinking Water Hotline at (800) 426–4791, or by viewing on EPA's Internet Homepage for the Office of Ground Water and Drinking Water (www.epa.gov/ogwdw). Public comments on the background document should be sent to EPA with the heading "Representative Sample Background Document Comments" along with comments on this proposed rule.

(b) Systems Selected for Pre-Screen Testing

For Pre-Screen Testing, States would need to specify from 5 up to 25 systems as being representative of systems most vulnerable to the contaminants on List 3. EPA proposes to determine the number of systems to be selected in any State based on the number of persons served by community and non-transient noncommunity water systems in a State. For the systems in this selection that serve 10,000 or fewer persons, EPA proposes that the States modify their State Plans at the time of their selection and notify the EPA Regional Office of their addition to those Plans.

(c) Tribal Water Systems as a Separate Group

Public water systems serving less than 10,000 persons that are located in Indian country would be treated as a single, separate group for the representative sample. The random selection process described above weights systems within water source and size category by population served; as a result, a PWS in Indian country would have the same probability of being selected as any other water system. Because no State has jurisdiction over such systems, EPA will consult with the appropriate tribal government concerning whether any initially selected system should be replaced due to merger, closure, or purchase of water from another system. The resulting set of systems will be the "state plan" for Indian country.

(d) "Index" Systems

EPA generally has less information about systems serving 10,000 or fewer persons. This lack of information on these systems and their operation affects EPA's ability to tailor regulations to systems of this size. To provide an improved understanding of small systems, EPA proposes to select up to 30 small public water systems as "index" sites and conduct Assessment Monitoring at these systems during each of the five years for which the UCM List and national representative sample are established. Index sites would be selected from the systems designated in State Monitoring Plans using a random number generator. EPA would pay for this monitoring, including provision of sample equipment, shipment of samples, testing, and support help to collect samples by sending a field technician to each index system to obtain the samples. The purpose of this sampling would be to provide quality assurance in collection of the samples for the thirty systems, to provide information on the temporal variability that may be encountered during a monitoring cycle, and enhanced understanding of these systems so that their treatment in future regulations would be more reflective of the conditions under which they operate. Owners/operators of index sites would be required to provide data on well and screen depth (if applicable), wells or intakes used at the time of sampling and pumping rates for each well or intake at the time of sampling for unregulated contaminants for use in characterizing the UCM results without monitoring the entire representative sample with this same frequency and schedule. EPA or its representative would collect further information on precipitation, land use and other environmental factors (e.g., soils and geology) to provide the Agency with information on other conditions potentially affecting drinking water quality of small systems. This "index" site monitoring will facilitate extrapolation of Assessment Monitoring

results nationally for systems of this size.

A description of the selection process for the "index" systems using a random number generator and their monitoring is presented in the background document, noted above, titled "National Representative Sample and State Plans for Unregulated Contaminant Monitoring for Public Water Systems Serving 10,000 or Fewer Persons." EPA invites public comment on this "index" system aspect of the proposed UCM program described here.

(e) Other State Data

Any additional sites sampled by States should not be combined with those of the EPA approved State Plan for the purpose of computing national estimates of contamination. While providing useful information for protecting the health of persons using drinking water from these sites, these additional sites would bias the results of the nationally representative set of systems if included with those systems selected using the stated national criteria. However, if the State desired to report the results of such monitoring, EPA could receive the data through the Safe Drinking Water Information System (SDWIS) for input to the NCOD. EPA plans to develop acceptance criteria to allow such data to be placed in the NCOD.

6. Regulatory Options

With respect to the size of the national representative sample, EPA needs to balance the number of systems required for validity with the cost of paying for the testing. EPA believes that the proposed approach balances the number of systems to be tested with the cost and also balances a national representative sample with the allowance for State plans. The proposed approach also relieves States from having to develop the statistical design and specify the systems to be monitored.

EPA has studied and rejected a second option of a regulation that would specify the conditions and criteria under which the States could select the systems in their State. Such an option might have included criteria such as specific numbers of systems for the State Plan by water source type and system size category, operation of a random number generator, and the list of systems to be used. From a scientific perspective, this would not result in a consistent representative sample because implementation of the criteria would likely vary from State to State. The value of the resulting estimates would thus be jeopardized. This would also be more burdensome for the States.

A third option which EPA also studied and rejected is to weight monitoring based on prior knowledge of contaminant use or occurrence, system operation, or other locational information. The concern with this approach is the larger number of systems required to provide the results. If any prior knowledge of the proportion of conditions in each of several categories is known, allotting unequal numbers of samples to each category (or "strata") can provide the same overall level of confidence and allowable error while requiring fewer samples for that strata. This is called stratified random sampling. For example, suppose VOCs are known to largely occur in ground waters and not surface waters. This information can be used to apportion samples unequally between ground water and surface water systems such that the overall proportion of contamination can be estimated with fewer samples for those contaminants. Fewer samples would be needed in surface systems where contamination is low because the proportion of contamination does not change much.

Other contaminants such as certain pesticides may occur more frequently in surface waters. Using the same design as for VOCs would result in very poor estimates of the proportion contaminated because few samples would be taken from the conditions where pesticide contamination occurs. So "tailoring" designs to reduce the number of systems needed would result in a different set of systems to be sampled for each contaminant group. Some systems would sample for some contaminants, but not others. The total number of systems involved in a sampling design stratified for different contaminants would be greater than for a simpler design, such as the proposal. At this point, not enough is known about some contaminants to adequately stratify a sample. Reactions to stratified designs have been largely negative at Stakeholder meetings. Therefore, one set of representative systems for all contaminants is proposed here, even though it is not "optimal" for any single contaminant.

Additionally, some pesticides (e.g. diazinon) on Lists 1 and 2 have been observed to exceed acute human toxicity levels. Although the Agency is proposing a nationwide random survey of small CWS, the Agency notes that such a monitoring program may underestimate pesticide occurrence because of the non-random spatial nature of pesticide use patterns and its relationship to population.

An alternative approach that could address this potential underestimation would be to stratify sampling based on contaminants or contaminant groups (e.g., pesticides, volatile organic compounds and microorganisms) and to target sampling to areas of high pesticide use or expected contaminant occurrence considering available information. Sampling could then be targeted to randomly selected systems in the expected use or most vulnerable areas. Separate statistical designs would need to be developed for each contaminant or contaminant group. Such an approach has the downside, however, of eliminating the capability of having State and size based stratifications for small system sampling. Nevertheless, between the targeted "upper bound" type samples and the more geographically representative large system samples, this approach would provide a more sensitive indicator of the potential threat posed by a particular contaminant.

Public comment is specifically requested on this alternative approach to sample site selection.

Another issue with respect to sampling relates to the timing of quarterly samples for surface water supplied systems. Quarterly sampling, even with a targeted vulnerable quarter as proposed, may not capture periods of peak pesticide occurrence in every case and, therefore, may underestimate exposure. An alternative to quarterly sampling for surface water supplied systems would be to sample monthly in the three most vulnerable months (e.g., May, June and July, as in today's proposal) and in one month that is representative of the rest of the year. While this approach might provide a more reliable picture of pesticide occurrence, it may be incompatible with peak occurrence of other contaminants (such as volatile organic compounds) during other months of the year. Furthermore, events of an extremely ephemeral nature may not be of public health significance. EPA requests public comment on the adequacy of the quarterly monitoring approach suggested in this rule and the efficacy of alternative approaches considering representativeness, implementability and cost. Comment is also requested on all aspects relating to the timing and frequency of monitoring, system selection, and targeted monitoring relative to contaminants.

G. Reporting of Monitoring Results

Under the current unregulated contaminant monitoring program, reporting requirements exist at 40 CFR

141.35. Today's proposed regulation replaces those requirements to make the reported results more useful for sound scientific analyses of the occurrence of unregulated contaminants.

1. PWS and State Reporting to EPA

Unregulated contaminant monitoring data is one of four types of data that will potentially be reported to the National Drinking Water Contaminant Occurrence Data Base (NCOD) as required by section 1445(g). The other types of data that may be included in the NCOD are: (1) Regulated Contaminant Occurrence Data below the maximum contaminant level (MCL) but above the minimum reporting level (MRL) (a regulation may be developed to obtain this data during 1999); (2) source water monitoring data; and (3) other data from special studies and research. Since these data will come from varying sources, they may have different reporting requirements. The PWS data from unregulated contaminant monitoring may have the smallest number of data elements to be reported because of the greater level of control over the quality of the data through the laboratory certification programs and the monitoring and quality control requirements proposed today. The uses of UCM program data that support the need for the data elements proposed today are: (a) Identification contaminants for the Contaminant Candidate List, (b) selection of contaminants for future regulation, and (c) development of new national primary drinking water regulations for the selected contaminants.

Under the current UCM program, the State Reporting Guidance for Unregulated Contaminant Monitoring, EPA–812–B–94–001, August 1994, identifies the 12 data elements in Table 8 that should be reported by PWSs to States, and by States to EPA, for each unregulated contaminant sample test result.

TABLE 8.—CURRENT UCMR REPORTING REQUIREMENTS

Data Element	Definition
Public Water System (PWS) Identification Number.	The code used to identify each PWS. The code begins with the standard two-character postal State abbreviation; the remaining seven characters are unique to each PWS.
Sampling Point Identification Number.	An ID number established by the State, or, at the State's discretion, the PWS, and unique to the system for a sampling point. Within each PWS, each sampling point must receive a unique ID number, including entry points to the distribution system as well as other locations within the public water system, such as wellhead, intake, or within the distribution system. The same Sampling Point Identification Number must be used consistently throughout the history of unregulated contaminant monitoring to represent the sampling point. NOTE: This data element is proposed to be combined under "Water system facility identification number."
Sampling Point (Station) Type.	The water type represented by the sample. The valid choices are: (a) Finished/treated water. Note: expanded in this proposal to include: (i) Finished Water from treatment system. (ii) Entry Point to the distribution system after treatment. (iii) Within the Distribution System. (iv) End of the Distribution line with longest residence time. (v) Household/drinking water tap. (vi) Unknown. (vii) Other. (b) Raw/untreated water.
Water Source Type	The source type represented by the sample. The valid choices are: (a) Surface water or purchased surface water. NOTE: Expanded in this proposal to include: (i) Stream, and (ii) Lake Reservoir. (b) Ground water under the direct influence of surface water or purchased Ground water under the direct influence of surface water. (c) Ground water or purchased ground water.
Sample Identification Number.	A unique identifier assigned by the PWS for each sample.
Sample Collection Date	The date the sample is collected.
Contaminant	The unregulated contaminant for which the sample is being analyzed.
Analytical Results—Sign	An alphanumeric value indicating whether the sample analysis result was: (a) (<) "less than" means the contaminant was not detected or was detected at a level "less than" the MRL. (b) (=) "equal to" means the contaminant was detected at a level "equal to" the value reported in "Analytical Result—Value."
Analytical Result—Value	The actual numeric value of the analysis for chemical and microbiological results.
Analytical Result—Unit of Measure.	The unit of measurement for the analytical results reported. (e.g., micrograms per liter, "µg/L; colony-forming units per milliliter, CFU/mL, etc.)
Analytical Method Number ...	The method number of the analytical method used.
Composite	NOTE: "Composite" is on the current UCM Data Element list but is proposed to be deleted from the future UCM Data Element List because compositing is not consistent with contaminant occurrence monitoring.

EPA engaged in an extensive process of stakeholder and technical review when developing the NCOD to identify information reporting requirements that allow data from different sources to be adequately evaluated, compared, and interpreted. The NCOD information requirements process has identified additional data elements that must be considered for UCM reporting with unregulated contaminant sample test results. These data elements are especially important because many of the contaminants may not be routinely tested for and will need sample test data quality indicators to assist in interpreting the results. These additional data elements for the unregulated contaminants, and the reasons EPA is proposing to add them to the reporting requirements, are explained briefly below. EPA is requesting public comment on these additional reporting requirements

identified in Table 7, Proposed Data Elements for the UCMR.

Proposed data element	Definition	Reason for reporting
Public Water System Facility Identification Number—Source Intake/Well, Treatment Plant and Sampling Station.	An identification number established by the State, or, at the State's discretion, the PWS, and unique to the system for an intake for each source of water, a treatment plan and a sampling station. Within each PWS, each intake, treatment plant and sampling point must receive a unique identification number, including, for intake, surface water intake, ground water well or wellfield centroid; and, for sampling station, entry points to the distribution system, wellhead (or wellfield), intake, or locations within the distribution system. The same identification number must be used consistently through the history of unregulated contaminant monitoring to represent the facility.	Identify source water, treatment plant and sampling location for use in evaluating contaminant source controls in regulation development. The source intake/well identification number can be related to latitude and longitude for use in geographic analysis of land use, soils, geology and precipitation for alternative treatment and control analysis. Treatment plant identification number can be related to treatment information for that plant to use in analysis of alternative treatments. Sampling Station identification number will allow the sample test result to be consistently associated with the same sample location over time for trend analysis.
Public Water System Facility Type ..	The facility type represented by the water system facility identification number: (i) Intake (for surface water sources); (ii) Well or wellfield (for ground water sources); (iii) Treatment Plant; (iv) Sampling Station; (v) Entry Point to Distribution System; (vi) Reservoir; (vii) Booster Pumping Station; and (viii) Unknown.	Indicates the type of facility associated with the water system facility identification number to allow appropriate analysis of the results of each sample being taken and tested for alternative treatment analysis.
Latitude of the Public Water System Facility for Source Intake/Well and Treatment Plant.	The east-west coordinate of each source intake, well or wellfield centroid, and treatment plant associated with a sample expressed as decimal degrees.	Used to indicate location of the facility in the watershed to allow analysis of alternative treatments and in relation to the population being served.
Longitude of the Public Water System Facility for Source Intake/Well and Treatment Plant.	The north-south coordinate of each source intake, well or wellfield centroid, and treatment plant associated with a sample expressed as decimal degrees.	Do.
Sample Type	The type of sample collected. Permitted values include: (a) Reference Sample—calibration or QC samples. (b) Field Sample—sample collected and submitted for analysis under this rule. (c) Confirmation Sample—a sample analyzed to confirm an initial contaminant detection. (d) Field Blank—reagent water or other blank matrix placed in a sample container in the laboratory and treated as a sample in all respects, including shipment to the sampling site, storage, preservation, and all analytical procedures. (e) Equipment Blank—samples generated by processing reagent water through the equipment using the same procedures used in the field to demonstrate that the equipment is free from contamination. (f) Split Sample—sample divided into sub-samples submitted to different laboratories or analysts for analysis.	Indicates reference field, confirmation, etc. sample type to ensure that the sample test result is used for the appropriate analysis (e.g., contaminant concentration trends, sample test performance, etc.).
Detection Level	"Detection level" is referring to the detection limit applied to both the method and equipment. Detection limits are the lowest concentration of a target contaminant that a given method or piece of equipment can reliably ascertain and report as greater than zero (i.e., Instrument Detection Limit, Method Detection Limit, Estimated Detection Limit).	Indicates lowest quantifiable measurement level applied through the method to the sample to allow comparison with other sample test results.
Detection Level Unit of Measure	The unit of measure to express the concentration, count, or other value of a contaminant level for the detection level reported. (e.g., µg/L, colony forming units/mL (CFU/mL), etc.)	Indicates the reporting unit for the detection limit.

Proposed data element	Definition	Reason for reporting
Analytical Precision	For purposes of the UCMR, Analytical Precision is defined as the relative percent difference (RPD) between spiked matrix duplicates. The RPD for the spiked matrix duplicates analyzed in the same batch of samples as the analytical result being reported is to be entered in this field. Precision is calculated as Relative Percent Difference (RPD) between spiked matrix duplicates using, $RPD=[(X_1-X_2)/\{(X_1+X_2)/2\}]\times100$	Indicates variability among laboratory results as measured by testing replicate field or duplicate spiked samples, and is a key measure of sample test performance.
Analytical Accuracy	For purposes of the UCMR accuracy is defined as the percent recovery of the contaminant in the spiked matrix sample analyzed in the same analytical batch as the sample result being reported and calculated using; %recovery=[(amt. found in Sp—amt. found in sample)/amt. spiked]×100.	Indicates whether test results are within a group of measurements corresponding to the true value of the results, and is a key measure of sample test performance.
Presence/Absence	*Chemicals:* Presence—a response was produced by the analysis (i.e., greater than or equal to the MDL but less than the minimum reporting level)/ Absence—no response was produced by the analysis (i.e., less than the MDL) *Microbiologicals:* Presence—indicates a response was produced by the analysis/Absence—indicates no response was produced by the analysis	Chemicals: Indicates results that do not have a quantifiable value. Microbiologicals: Allows measure under conditions and for microorganisms that are not able to be counted.

Note that "composite" is proposed to be deleted from the original set of data elements since the proposed rule would not allow compositing. Since this program is designed to measure actual occurrence of contaminants, compositing (the combining of samples from several sampling points of a water system) would dilute concentrations of contaminants to be measured. Stakeholders supported deletion of compositing as contrary to the objective of UCM.

Also note that "Public Water System Facility source intake identification number" is currently required to be reported under existing reporting requirements for the Safe Drinking Water Information System (SDWIS). This proposal would continue this requirement and expand it to include treatment plant and sampling station, but the definition makes specific that it cannot change over time. EPA is not requiring through today's proposal the reporting of treatment data (treatment objectives and processes) since these data are already required to be reported by January 1, 2000, for all systems. (Safe Drinking Water Information System FACT SHEET, Revised Inventory Reporting Requirements, June 1998). Additionally, the source of water in this case is associated with each sample so that the data can be used in evaluating contaminant source controls in a watershed or over an aquifer. An alternative would be to report the "River Reach" or "Aquifer" for each sample, but that approach would require data to be reported that is not currently required, or not readily available, in the case of aquifers.

The rationale for proposing the inclusion of these data elements is that EPA needs the detailed information concerning the sample test, location, and treatment that would allow the results to be used in making a determination of whether or not to regulate the contaminant. The specific reasons are identified in Table 9. To avoid duplicative and costly resampling efforts, EPA believes that systems should obtain and report the most complete information the first time a sample is tested.

The information requirements process for development of the NCOD identified technical questions that need to be answered in the regulatory process that the UCMR is to support. These data elements are associated with these questions. While the list of data elements would increase by eight (from 12 to 20) if all the data elements are included in today's proposed UCMR (as compared to the existing UCMR), reporting them the first time precludes the need to obtain the information through another process. Because the 1996 SDWA Amendments expanded the determinations and types of analyses that need to be conducted to develop a rule, including these data elements is responsive to the new regulatory environment in which drinking water regulations must be developed.

Because reporting of locational and treatment data may be one time or infrequent, these new data elements will not be a major burden for a PWS. The anticipated reporting frequency for the data elements is as follows:

TABLE 9.—ANTICIPATED REPORTING FREQUENCY FOR DATA ELEMENTS

Current and proposed data element	Proposed frequency of reporting
Public Water System Identification Number	With each sample.
Public Water System Facility (PWSF) Identification Number-Source Intake/Well, Treatment Plant, and Sampling Station.	With each sample.
Public Water System Facility Type	One time, associated with PWSF Identification Number.
Sampling Station Type	One time, associated with PWSF Identification Number for Sampling Station.
Water Source Type	One time, associated with PWSF Identification Number for Source Intake.
Sample Identification Number	With each sample.
Sample Collection Date	With each sample.

TABLE 9.—ANTICIPATED REPORTING FREQUENCY FOR DATA ELEMENTS—Continued

Current and proposed data element	Proposed frequency of reporting
Latitude of Water System Facility for Source Intake/Well and Treatment Plant.	One time, associated with PWSF Identification Number for Source Intake/Well and Treatment Plant.
Longitude of Water System Facility for Source Intake/Well and Treatment Plant.	One time, associated with PWSF Identification Number for Source Intake/Well and Treatment Plant.
Contaminant	With each sample (from the laboratory testing).
Analytical Results—Sign	With each sample (from the laboratory testing).
Analytical Result—Value	With each sample (from the laboratory testing).
Unit of Measure	With each sample (from the laboratory testing).
Analytical Method Number	With each sample (from the laboratory testing).
Sample Type	With each sample.
Detection Level	With each sample (from the laboratory testing).
Detection Level Unit of Measure	With each sample (from the laboratory testing).
Analytical Precision	With each sample (from the laboratory testing).
Analytical Accuracy	With each sample (from the laboratory testing).
Presence/Absence	With each sample (from the laboratory testing).

Three of the additional nine proposed data elements would be one-time or infrequently updated information: Water system facility type, Latitude and Longitude. These three data elements do not need to be reported with each sample once they have been reported by the PWS and State to SDWIS. Water system facility identification number-source intake/well is already required to be reported to SDWIS under other authority. Five of the remaining elements will be supplied by the laboratory and the ninth is the sample type identifier (e.g., field sample, confirmation sample, spiked sample, etc.).

Additionally, EPA proposes to require owners/operators of index sites that are part of State Plans for the national representative sample to provide data concerning well casing and screen depths and pumping rates at each well or intake at the time of monitoring. The reason for this reporting is that it will allow EPA to tailor regulations to systems serving 10,000 or fewer persons by relating sample test results to conditions that affect capture of contaminants by ground water supplied systems.

2. Regulatory Options

Following are the four regulatory options EPA considered for data elements in the proposed UCMR.

(a) Use the existing set of twelve UCMR data elements in the new rule. EPA studied and rejected this option because it is not responsive to the current regulatory needs. With the current data elements, it is not possible to evaluate the performance parameters of the test result that should be compared to other test results from other laboratories or PWSs, at least when considering and reporting detection levels. The locational information not in the existing data elements is important in conducting exposure assessments and evaluating alternative treatment and control measures. Similarly, associating treatment plant information with the sample test results is critical in considering treatment and control alternatives.

(b) Add only the sample analysis data elements. This option would improve the ability to evaluate and compare the results among themselves, but would not facilitate exposure, technical, and implementation considerations being addressed in this effort. The drawback of this option for contaminants of concern is that additional information would need to be obtained through special studies or surveys, which can be expensive. This would slow the regulatory process for a contaminant that needs to be regulated.

(c) Add the sample analysis and locational data elements. This option would allow better evaluation and comparison of test results and facilitate exposure assessments, but not allow treatment evaluations to be done.

(d) Use all the data elements identified above. EPA has selected this option because it would allow better evaluation and comparison of test results, as well as facilitate exposure assessments and regulation development. The capability of associating treatment information with sample test results through the Public Water System Facility Identification Number would be included in the reporting, with the expectation that no or only minor treatment studies targeted to the specific contaminants would need to be conducted. The locational information (Latitude and Longitude) associated with the Public Water System Facility Identification Number for intakes and wells (or wellfield centroids) and treatment plants would enable analysis of alternatives for treatment and control measures at the facility or in the watershed for contaminant best management practices. This option is fully responsive to the current regulatory environment.

Options (a) through (c) were rejected because they would require EPA to return to the PWS to obtain additional information necessary to meet the objectives of unregulated contaminant monitoring. This second action would increase the burden of EPA and the PWS. Attempting to associate information with a sample after the original monitoring event does not ensure that the correct data is properly obtained and associated with the sample, jeopardizing any subsequent analyses.

3. Timing of Reporting

EPA proposes in this rule in § 141.35(c) that PWSs report to States or the primacy agency the monitoring results within ten days of their receipt. This proposal is consistent with compliance reporting requirements under § 141.31. EPA also proposes that States report electronically to the National Drinking Water Contaminant Occurrence Database (NCOD) (§ 142.15(c)(3)) to be maintained by EPA by the quarter following their receipt of the data from PWSs.

4. Method of Reporting

SDWA section 1445 (a)(2)(D) states that each PWS that conducts monitoring of unregulated contaminants must provide the results of the monitoring to the primary enforcement authority for the system. Today's proposed rule requires electronic reporting by PWSs to States (§ 141.35(b)) or the primary enforcement authority, and by States to EPA (§ 142.15(c)(3)). The proposal does allow the primary enforcement authority to specify another method for reporting by a PWS. Stakeholders

supported this approach. Note that EPA will pay for the testing and laboratory analysis of samples for small systems in State Monitoring Plans. Since EPA intends to establish electronic recordkeeping of the results from systems in State Plans, electronic reporting for these systems would be done through the assistance of EPA. A State might consider specifying another method for reporting when a system serving over 10,000 persons has not developed the capability to report electronic results. However, most laboratories have this capability and could probably provide this service for the PWS.

With respect to electronic reporting by States to EPA, the Agency has determined that ninety percent of the States now have the current unregulated contaminant monitoring data in electronic format and could provide it in that form. Since most States rely on electronic reporting to manage the significant amount of data they possess, EPA proposes that all States report electronically. EPA will consult with States that do not have this capability to determine other options for obtaining electronic reports of their data to comply with this proposed requirement.

5. Public Notification of Availability of Results

SDWA section 1445 (a)(2)(E) requires notification of the results of the UCMR program to be made available to persons served by the system. The results of UCMR monitoring for CWSs will be reported through the Consumer Confidence Reports (CCR), pursuant to SDWA section 1414(c)(4)(B) and the final regulation recently published in the **Federal Register** and, for non-community systems, through the revised public notification rule to be proposed in mid-1999. Failure to monitor for unregulated contaminants required through the UCMR will also be reportable under the public notification rule.

The results that would be reported through the CCR and public notification rules should be based on the same monitoring data that the States would receive under the UCMR and would be required to be reported to the NCOD. Information in the NCOD will be available to the public.

6. Voluntary Reporting

EPA also requests public comment on establishing a voluntary reporting program for contaminants that may be monitored and tested for because of local concerns but for which EPA is not requiring monitoring or reporting as part of this rule. The reporting requirements for the contaminants on the proposed Monitoring List would not apply to voluntarily reported data for other unregulated contaminants. However, monitoring data related to contaminants of local or State concern and not on today's monitoring list could be voluntarily reported to the NCOD to assist in determining whether they may be a national problem and should be considered for establishing health-based standards (maximum contaminant levels) or advisories. EPA may consider providing reporting guidance for voluntary reporting of such results. EPA would be interested in integrating local and/or State data at the national level to see whether perceived local concerns have broader national occurrence implications. EPA would comply with the Paperwork Reduction Act in collecting such data.

By August 1999, EPA expects to have the capability to accept such additional data and store it in the NCOD. The data in the NCOD database will be accessible to the public. The voluntarily reported data on contaminants (chemical, microbiological and radiological) would assist EPA in determining which contaminants it should be concerned about nationally for developing the Contaminant Candidate Lists and UCMR Lists in the future. Comments on this proposed voluntary reporting program, separately identified as comments on "Voluntary Reporting of Other Unregulated Contaminants," may be submitted along with comments on today's proposed regulation.

IV. Implementation of Today's Proposal

The implementation of today's proposed regulation has several aspects that will be addressed here in approximate chronological order. These steps include the following: setting an effective date; program delegation; establishing the laboratory testing program; continued research on methods development; determining the national representative sample and associated State plans; conducting the sampling, analysis, and reporting; and modifying the monitoring list. The proposed revised UCMR program is described in Figure 1, "Proposed Unregulated Contaminant Monitoring Approach. Additionally, a critical part of this program is funding for the testing of the national representative sample of systems serving 10,000 or fewer persons.

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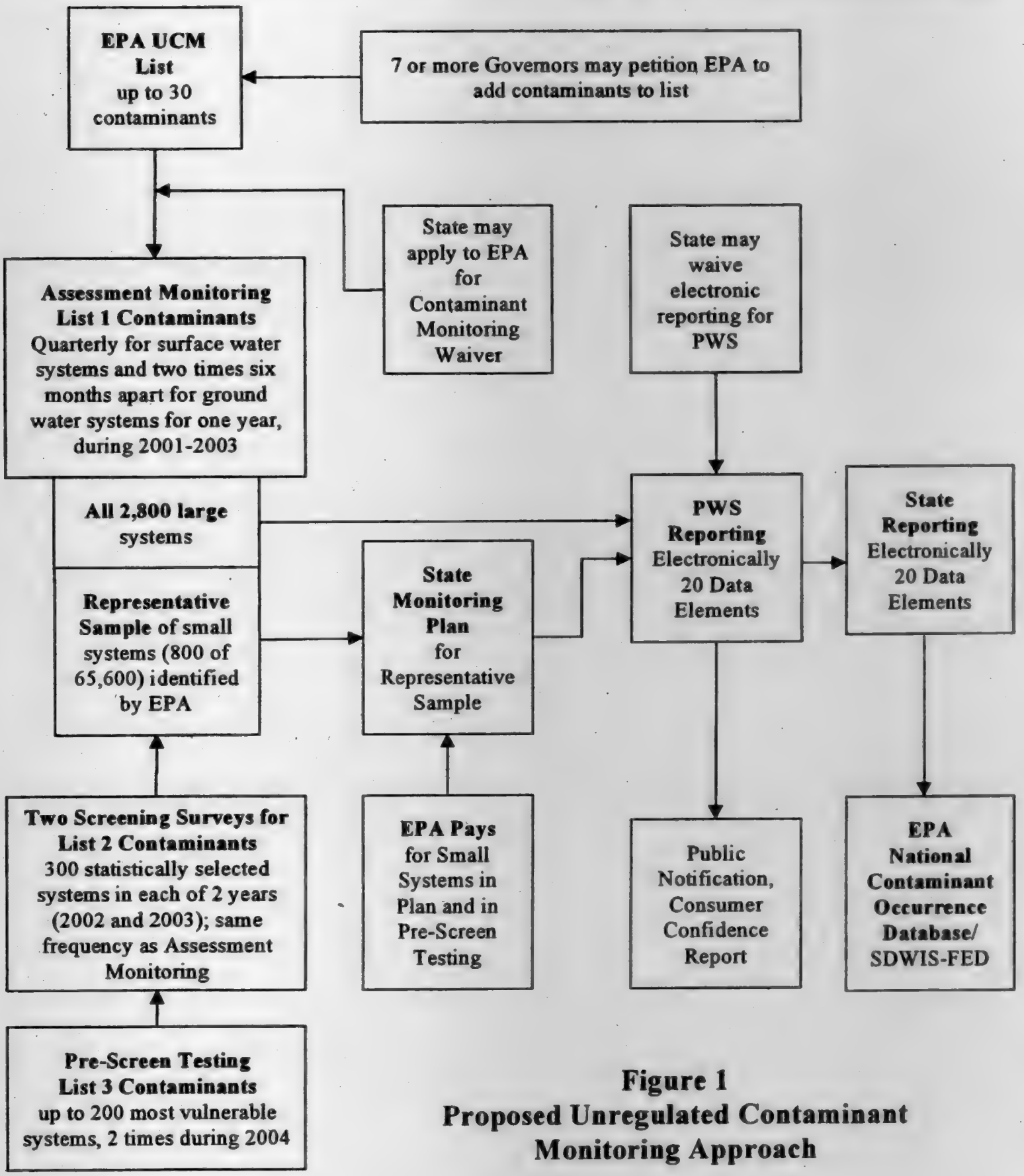

Figure 1
Proposed Unregulated Contaminant Monitoring Approach

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A. Setting an Effective Date

For eleven of the contaminants on the UCMR Monitoring List proposed to be tested under Assessment Monitoring, EPA already has methods for testing that are expected to give reliable and reproducible results. These methods are widely used with the exception of methods for *Aeromonas*, a microbiological contaminant, in the drinking water industry but not necessarily for these contaminants. Testing for these contaminants will, along with other information, help EPA determine whether or not to regulate these contaminants. Results of the UCMR testing should also be available for revising the CCL before the next CCL must be issued (February 2003). Therefore, EPA proposes that the effective date of the UCMR program be January 1, 2001, sixteen months after the expected promulgation of the final rule. This timeframe, sixteen months, is necessary for States to make changes in their programs to allow the testing to occur and for States to review the initial State Monitoring Plans and inform small PWSs of their selection and of their responsibilities for monitoring. EPA will also use this time to set up its laboratory program for testing samples from small systems. Because the contaminants in List 1 to be tested under Assessment Monitoring will have analytical methods currently in use (several methods for compliance monitoring), this timeframe of 16 months (in combination with the assistance provided by the methods and quality control manual) should be sufficient to allow laboratories serving large systems (those providing drinking water to more than 10,000 persons) adequate time to organize and implement the testing program. EPA is taking steps to ensure that methods and quality control manual and contaminant occurrence reporting guidances are in place to allow the program to be implemented at that time. The requirements for small systems and sampling and quality control procedures for all systems are specified in § 141.40(a)(3), (4) and (5) and Appendix A. Figure 2 describes the proposed timing for the implementation of the major components and activities supporting the UCMR program.

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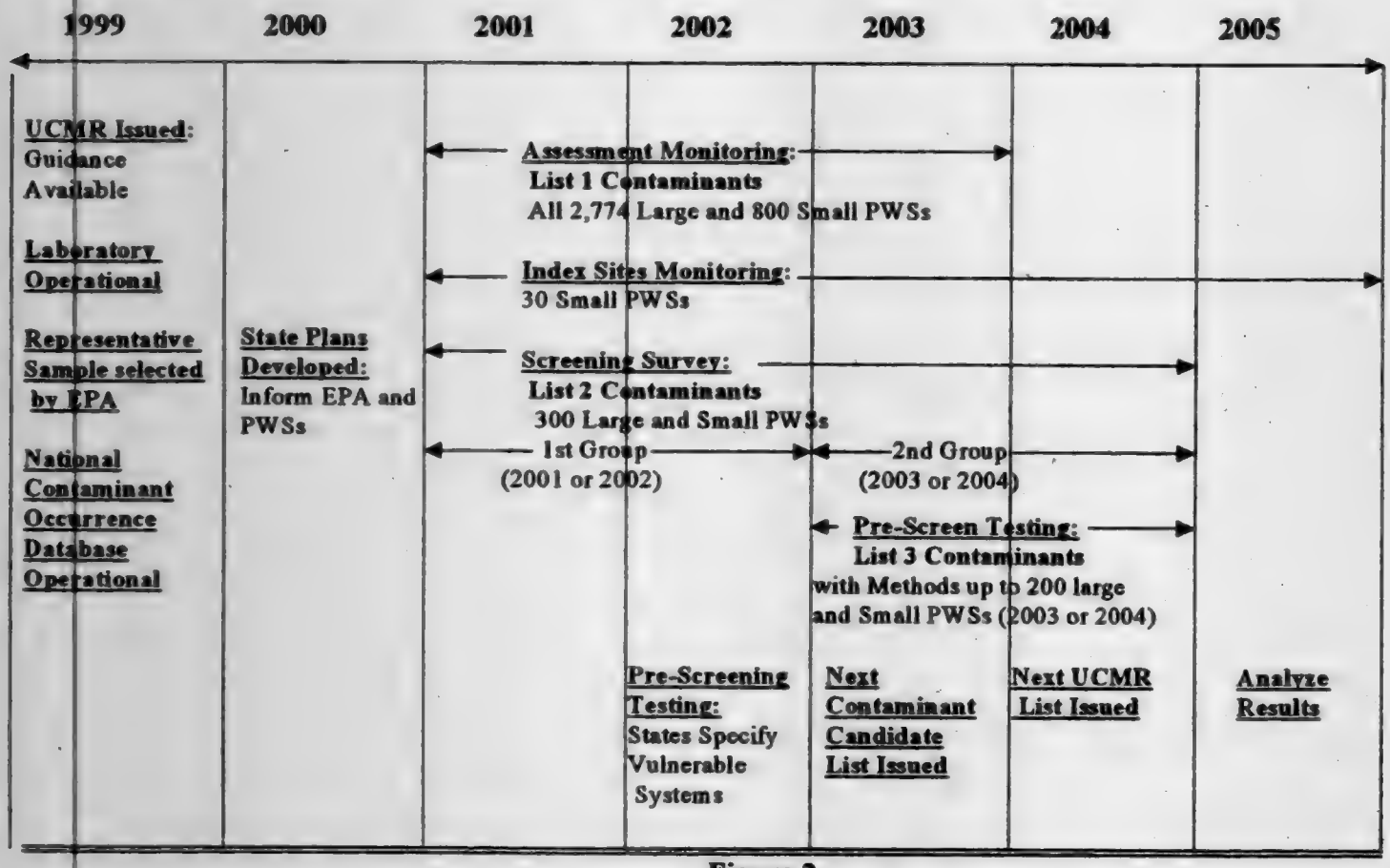

Figure 2
Proposed Implementation Timeline of UCMR and Related Activities

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B. Primacy Program Revision

The UCMR program has historically been a requirement for State assumption of primary enforcement authority ("primacy") for the PWS program under SDWA. Primacy allows a State to be the primary agency for administering and enforcing the PWS program in that State. EPA believes that today's revision of the UCMR, when final, should also become part of a States's primacy program. Therefore, each State that currently has PWS primacy will need to address any changes in the existing State authorities necessary to implement this revised rule. The procedure for revision of State programs is found in 40 CFR 142.12.

C. Implementation in Indian Country

This proposed rule has several provisions applying to State governments; this preamble section is intended to clarify how these provisions would apply in Indian country and to request comment on EPA's proposed approach. First, with respect to state plans, as explained earlier in the section on designation of the representative sample, EPA intends to include all small systems in Indian country together as a single, separate group. Just as small systems in each State will be selected at random for participation in the UCMR, small systems located

anywhere in Indian country will be selected at random. Instead of notifying the State and allowing the State to select alternative systems due to closure, merger or water purchase, however, EPA will contact the appropriate tribal governments to make sure that the selected systems have not closed or merged and do not buy water from another system. The resulting group of systems will be the "state plan" for all Indian country. The appropriate EPA regional office will notify the selected systems of their UCMR responsibilities.

Under the proposal, states can also participate in the UCMR by specifying "vulnerable" systems for pre-screen testing, notifying systems of their participation in the monitoring and instructions for testing in lieu of EPA, and petitioning EPA for a monitoring waiver for large systems. EPA requests comment on whether, and to what extent, Indian tribal governments should or want to have these authorities as well. EPA could treat Indian tribes as states for purposes of implementing these authorities under two separate approaches. First, because UCMR is part of the primacy program, tribes that have treatment as a state status for PWS primacy would be able to carry out these authorities for selected systems under their jurisdiction. Second, EPA could amend the treatment as a state regulations to allow tribes to have treatment as a state status for purposes of carrying out these provisions of the UCMR. Under this second approach, a tribe would not need to demonstrate that it qualified for treatment as a state for any other purpose (for example, primacy or grant administration) other than the UCMR provisions. Because these authorities are so limited, EPA doubts that Indian tribes would want to seek treatment as a state for these limited purposes and, as a result, believes option 1 to be preferable. However, if there is significant interest in obtaining this authority apart from primacy, EPA may in the final rule amend the treatment as a state regulations (40 CFR 142.72 and 40 CFR 142.78) to obtain treatment as a state status solely for the purpose of implementing these specific UCMR authorities.

Finally, the statute allows the governors of seven or more states to petition EPA to add contaminants to the UCMR list. EPA requests comment on whether Indian tribal governments should or desire to have the same authority. EPA believes that for this authority, a tribe that has treatment as a state status for either primacy or PWS grant administration should be deemed to have treatment as a state for purposes of petitioning EPA to add a contaminant to the UCMR list. Since the petitioning role is not system specific, a tribe that has demonstrated the capability to administer a PWS grant should also have the capability to assess whether they believe a contaminant should be added to the monitoring list. Therefore, EPA does not expect to make a regulatory amendment to the treatment as a state regulations in order to allow Indian tribal governments to petition EPA to add contaminants to the UCMR list. If EPA decides to treat tribes as states for these purposes, EPA would revise the rule language to provide that seven governors or tribal leaders could petition EPA to add contaminants to the list.

D. Establishing the Laboratory Testing Program

To ensure that sound data are provided for future regulatory decisions, EPA will take three steps in establishing the laboratory testing program: (1) Identifying the methods that must be used to test for the unregulated contaminants under Assessment Monitoring, (2) establishing the laboratory testing program for systems serving more than 10,000 persons, and (3) establishing the laboratory testing program for systems serving 10,000 or fewer persons.

1. Analytical Methods for the Testing Program

The methods to be required are identified in § 141.40(a)(3), Table 1 of the proposed regulation, List 1, Assessment Monitoring. Additional sampling and quality control requirements are identified in § 141.40(a)(4) and (5) and Appendix A. EPA has prepared a draft sampling guidance, "UCMR Guidance for Operators of Systems Serving 10,000 or Fewer Persons," which provides additional details on sampling requirements. EPA has also produced a draft methods and quality control manual, "Unregulated Contaminant Monitoring Regulation Analytical Methods and Quality Control Manual," that provides detailed guidance regarding specific method requirements related to the unregulated contaminants on the Monitoring List. This manual provides additional guidance covering quality control steps for all testing under this program, as described above in "Monitoring Requirement under the Proposed UCMR." These two draft guidance documents are available for review and public comment with this proposed regulation. Commenters can access the documents through Docket Number W–98–02, through the EPA Safe Drinking Water Hotline at 800–426–4791, or through the EPA Office of Ground Water and Drinking Water Internet Homepage. Today's proposed rule would require that systems serving more than 10,000 persons follow the methods and procedures in § 141.40(a)(3), (4), and (5). The draft methods and quality control manual referred to above would provide guidance to these large systems serving more that 10,000 persons in organizing and conducting their unregulated contaminant testing program. EPA will require laboratories that test samples of systems serving 10,000 or fewer persons to also comply with 40 CFR 141.40(a)(3), (4) and (5) and Appendix A.

2. Testing Program for Systems Serving More Than 10,000 Persons

Implementation of today's proposal would only cause Assessment Monitoring of List 1 contaminants. These contaminants have analytical methods currently in use and EPA plans to conduct reviews of laboratories' procedures for unregulated contaminant testing for Assessment Monitoring because of the high data quality requirements of this program.

EPA anticipates that contaminants proposed to be on List 2 for the Screening Survey may be monitored during the five-year listing cycle through separate rulemaking. Under today's proposal, EPA would statistically select approximately 150 large systems that would provide samples to laboratories that EPA has approved to conduct this testing. EPA's approval of a limited number of laboratories to do this testing would include, but may not be limited to, its evaluation of: (1) Laboratory capability, (2) test results of blind samples, (3) experience with similar methodologies, (4) willingness to accept samples from any public water system required to monitor under this regulation, and (5) provision of the testing for List 2 (and List 3) contaminants at a reasonable price to large systems required to do monitoring under this regulation. Large systems selected to be part of the Screening Survey (or Pre-Screen Testing for List 3 contaminants) will be notified by the State or primacy agency prior to the dates established for sample collection and submission for contaminants on List 2. EPA requests public comment on options for the testing of List 2 contaminants of (a) sending samples to laboratories that the Agency has approved for testing List 2 and List 3 contaminants or (b) EPA providing performance criteria for the testing of List 2 and List 3 contaminants

which these systems could use to decide to test at a laboratory of their choosing.

3. Testing Program for Systems Serving 10,000 or Fewer Persons

Based on a competitive selection process, EPA would designate one to five laboratories to conduct the testing for systems serving 10,000 or fewer persons. Under today's proposal, the selected laboratories would test Assessment Monitoring samples from the approximately 800 small systems included in State Monitoring Plans, along with the samples from the index systems, over the five-year cycle for the program. The laboratories would need to be able to provide all necessary sampling equipment to these systems, provide complete yet easy-to-follow instructions on use of the sampling equipment, coordinate the shipping of the equipment and receipt of the returned equipment and samples, provide appropriate sample preservation and testing, and report results to the public water systems, States, and EPA electronically following the reporting requirements of these proposed regulations. EPA will review and evaluate laboratory procedures to ensure that sufficient testing and data quality standards are met. The requirements proposed today and their supporting draft "UCMR Analytical Methods and Quality Control Manual" would also apply to these laboratories as conditions of the planned testing contracts that EPA expects to establish with the selected laboratories.

Once future rulemaking occur to implement the Screening Survey for List 2 contaminants, approximately 150 statistically selected small systems would provide samples during two to three years in the middle of the 5-year cycle. The same laboratories testing List 1 contaminants would then also test for List 2 contaminants.

E. Continued Analytical Methods Development

For the contaminants on the UCM Lists 2 and 3, EPA still needs to establish methods that can be widely used at reasonable cost. EPA is setting up a research program through its Office of Research and Development to identify additional methods. As methods are developed, EPA would publish for public comment an amendment to this regulation for the contaminants identified previously for the Screening Survey and Pre-Screen Testing to specify the analytical methods, sampling location, minimum reporting levels applicable to these contaminants, and sampling dates.

F. Determining the National Representative Sample and State Monitoring Plans

For systems serving 10,000 or fewer persons, EPA may only require a representative sample of such systems to monitor for unregulated contaminants in drinking water. Prior to the effective date of the program and not later than six months prior to the start of the Assessment Monitoring program, EPA would identify, through a statistical selection process using a random number generator, up to 800 systems (from a total of approximately 65,600 community and non-transient non-community water systems) serving 10,000 or fewer persons that must monitor and up to 800 alternate systems if replacements are needed. The selection process would allocate systems to each State, giving approximately equal probability to each person's water system being selected within water source type (ground water or surface water) and system size category (25 to 500 persons served, 501 to 3,300 persons, and 3,301 to 10,000 persons). Based on the appropriate number of systems in each State, Tribe or territory (identified by water source type and system size category), EPA would send these first system selections (i.e., the initial State Plan) and the replacement list of alternate systems to each State, Tribe, and territory, as appropriate.

The State, Tribe or territory would have 60 days to review the initial plan and (1) accept the initial plan as its State Monitoring Plan and inform the Regional Administrator of its acceptance of the initial plan along with its process for informing the selected systems of their responsibilities for monitoring; (2) propose deletions from and alternates to the initial plan as its State plan, including the reasons for the changes and the process it would use to inform the systems of their responsibilities, and inform the Regional Administrator of its proposal; or (3) take no action within 60 days allowing the Regional Administrator, after consulting with the State, to specify the final State plan. If a State, Tribe, or territory chooses option (1) or option (2) above, it must submit a description of the process it would use for informing the systems selected of their responsibilities for monitoring, when the process would be implemented, and any necessary modifications to the timing of sampling for each to coordinate with compliance monitoring at the State's discretion. However, a State that chooses no action in the initial plan may still choose to notify selected systems and provide the necessary information. States may also choose an alternate most vulnerable time for systems to sample if different from May through July, as proposed in the rule.

The PWSs which EPA selects through the use of a random number generator to be index sites would also be specified in the initial plan that EPA gives to the State. The replacement list for the initial plan would also be applied for the index sites that needed to be replaced. EPA expects to provide contractor support through the laboratories selected to conduct the testing for unregulated contaminants to collect, ship and test the samples and gather the additional data to support these "index" systems. EPA's procedure for selecting these index sites is described in a technical document titled "National Representative Sample and State Plans for Unregulated Contaminant Monitoring at Public Water Systems Serving 10,000 or Fewer Persons." This document can be accessed through Docket Number W–98–02, through the EPA Safe Drinking Water Hotline at 800–426–4791, or through the EPA Office of Ground Water and Drinking Water Internet Homepage at www.epa.gov/ogwdw. EPA requests comment on the selection procedure detailed above and in this document.

While monitoring for List 2 contaminants under the Screening Survey is not proposed by today's action and would not be implemented until a new rulemaking activated these contaminants for monitoring, EPA proposes that EPA provide with the State Plans a list of systems that would conduct monitoring for List 2 contaminants. EPA believes that the methods for the contaminants on List 2 will be ready for use during the first three years of the five year listing cycle and that the Screening Survey will be implemented during that time. EPA would select approximately 300 systems (approximately 150 large and 150 small systems) using a random number generator to specify them at the same time that EPA prepares the initial plan described above. If this survey list was not sent at the same time of the initial State Plan, then EPA would have to provide a second list to each State to implement the Screening Survey. EPA believes that the preparation of a second list is unnecessary. The EPA specification and State review of the Survey list can occur at the same time.

For Pre-Screen Testing, States would need to specify from 5 up to 25 systems as being representative of systems most vulnerable to the contaminants on List 3. The number of systems to be selected in any State would be determined by

EPA based on the number of persons served by community and non-transient noncommunity water systems in a State. For the systems in this selection that serve 10,000 or fewer persons, States would modify their State Plans at the time of their selection and notify the EPA Regional Office of their addition to those Plans.

G. Specifying the Vulnerable Monitoring Period

The State may modify the vulnerable monitoring period specified in § 141.40(5)(ii)(B) applicable to all monitored systems. The State may consider environmental, precipitation, and system factors in changing this vulnerable period. The vulnerable monitoring period may be changed for a single system, a subset of systems or all monitored systems.

H. Conducting the Sampling

(1) All Monitored Systems

All monitored systems must sample for the unregulated contaminants identified on the Monitoring List 1 and should coordinate, at State discretion and to the extent practical, with their compliance monitoring schedule for regulated chemicals. For chemical contaminants, surface water-supplied systems must monitor every three months during a twelve-month period and ground water-supplied systems, two times six months apart in a twelve-month period of the years indicated in column 6 of UCMR Table 1, List 1, § 141.40(a)(3), of every five-year listing cycle. One sample at each entry point to the distribution system after any treatment representing all water sources in use during the twelve-month period or at each distribution system sampling point must be taken during the May-June-July time of the monitoring period, unless the State identifies a more vulnerable time for a particular system, subset of systems, or all monitored systems in the State. In sampling microbiological contaminants, the PWS must monitor at a site in the distribution system representative of the water supplied to the system's service area and at a site near the end of the distribution line with the longest residence time. One sampling event must occur at the most vulnerable time for the system, proposed as May 1 through July 31, or another time designated by the State as the most vulnerable period, and six months later.

In preparing this proposed regulation, EPA sought input of stakeholders on the timing of the monitoring cycle. Their input indicated that most States are on a three-year compliance monitoring schedule, with approximately one third of the systems being monitored each year. EPA proposes to use this same schedule for unregulated contaminant monitoring. The five-year unregulated contaminant listing cycle can be coordinated with the three-year compliance monitoring schedule by starting the next five year monitoring round in January 2001 and taking the samples with any compliance sampling being done, regardless of where the three-year cycle is in a particular State. Sampling in the remainder of the State would be done in the next two years, following the State's compliance monitoring schedule. This proposal means that a system may not be sampling for regulated contaminants during the 5-year listing cycle and may be required to conduct unregulated contaminant monitoring during that time.

(2) Systems Serving More Than 10,000 Persons

For Assessment Monitoring, systems serving more that 10,000 persons would follow the sampling requirements in § 141.40. These requirements are explained further in the draft methods and quality control manual.

(3) Systems in State Monitoring Plans

EPA has drafted guidance, "UCMR Guidance for Operators of Public Water Systems Serving Less Than 10,000 People," on the responsibilities of the PWSs that are part of the representative sample and State Plans. This guidance further explains the requirements for operators of small systems proposed at § 141.40(a)(3), (4) and (5) and appendix A. This guidance addresses sampling instructions including frequency and location, receipt and use of sample equipment, sample shipping to laboratories, review of results, and reporting. States can use the guidance to give schedules and instructions to the systems as part of informing them of their responsibilities to participate in the representative sample and State plan. The draft guidance is available for public comment with this rule. Commenters can access the draft document through Docket Number W–98–02, through the EPA Safe Drinking Water Hotline at 800–426–4791, or through the EPA Office of Ground Water and Drinking Water Internet Homepage at www.epa.gov/ogwdw.

Systems serving 10,000 or fewer persons that are part of the State's representative sample plan must sample at the locations identified in the regulation, similar to the other systems described above. EPA would inform the competitively selected laboratories as to which systems are included in State Monitoring Plans and should, therefore, receive sampling equipment.

A statistically selected subset (ten percent) of systems in State Monitoring Plans would be required to collect duplicate samples for quality control purposes. These systems would follow the same procedures as for the first sample collection.

I. Screening Survey

The Screening Survey is not part of today's proposal, except to publish the List 2 contaminants that may be part of the Screening Survey as part of the EPA revised Unregulated Contaminant Monitoring List. When EPA develops methods for groups of contaminants on Monitoring List 2 for the Screening Survey, the Agency will by rule, after peer review of the analytical methods, require that samples for the List 2 contaminants be collected and submitted by small and large systems for testing. The rule would include a list of which contaminants PWSs would need to submit samples for the Screening Survey. EPA will pay for sample shipping and testing for systems serving 10,000 or fewer persons.

J. Pre-Screen Testing

Pre-Screen Testing is not part of today's proposal, except to publish the List 3 contaminants as part of revised UCM List. Pre-Screen Testing of List 3 contaminants would be implemented after EPA promulgates a rule, after peer review of the analytical methods, specifying the analytical methods, minimum reporting levels, and sample locations and dates for those contaminants. Pre-Screen Testing would be a limited sampling and testing activity, conducted under highly controlled conditions. The EPA Regional Office would send a letter to the State requesting the identification of the vulnerable systems for Pre-Screen Testing. The State would need to submit its selection of vulnerable systems within 60 days of receiving the EPA letter. States would identify, based on the population served by community water systems in the State and the vulnerability of the systems to the contaminant, 5 to 25 large and small systems that they determine to be most vulnerable to the contaminants specified from List 3 in order to identify a national set of up to 200 systems that may be sampled under Pre-Screen Testing. EPA wants to clarify that Pre-Screen Testing would only be representative of the most vulnerable systems and not of all systems in the nation. EPA intends to use these results to determine whether a more

representative monitoring effort should occur through Assessment Monitoring or a Screening Survey, not to generate a national occurrence estimate. However, EPA could elect to proceed directly to a determination to regulate one or more of these contaminants in the event of a clear and present public health threat, based on all available information.

For sampling contaminants that require specific training and skills to ensure the sample integrity, EPA may contract for the sampling, only requiring the PWS owner/operator to provide access to the sampling locations. EPA would pay for sample shipping and testing for the small and medium systems participating in Pre-Screening Testing, and would report the results to the PWS and State for review before allowing public access through the NCOD. Large systems would pay for the sampling, sample shipping and testing of these contaminants at EPA approved laboratories and report the results to the State for review and submission to the NCOD.

K. Testing

As discussed above, EPA has prepared a draft methods and quality control manual for the sampling and testing of the contaminants on the monitoring list that would, after public comment, be distributed to States and made generally available. This manual provides guidance on the requirements proposed in § 141.40(a)(3), (4) and (5) and appendix A. Laboratories that are conducting testing for these contaminants at the request of the public water systems would need to follow the requirements in § 141.40, Appendix A and the methods in the manual. EPA expects to set up a program to review methods implementation and performance of the participating laboratories.

For public water systems serving 10,000 or fewer persons that are included in State Plans, EPA would identify from one to five laboratories through a competitive process that would test for unregulated contaminants for this category of systems. EPA is doing this so it can pay the testing costs for small systems. EPA intends to issue a "request for bids" in 1999 for laboratories that desire to be considered for selection as one of the laboratories which will test the unregulated contaminant samples from these small systems. The first samples are expected to be available for testing after January 1, 2001.

L. Reporting Requirements

The results of the testing of any sample under the unregulated contaminant monitoring program would need to be reported along with the 20 data elements identified in the proposed regulation. EPA proposes that PWSs report electronically to States, unless the State, or EPA if the State does not have enforcement authority, specifies alternative reporting requirements. EPA also proposes that States report these results to EPA electronically. EPA encourages all laboratories that perform unregulated contaminant testing for public water systems to report results electronically. Under today's proposal, small PWSs included in State Plans will need to report the first nine data elements: PWS identification number; public water system facility identification number for source intake/well, treatment plant and sampling station; sampling station type; water source type; sample identification number; sample collection date; latitude of public water system facility for source intake/well, and treatment plant; and longitude of public water system facility for source intake/well and treatment plant to the EPA laboratory conducting the testing. The remaining data elements must be reported to the PWS by the laboratory. The State or EPA Regional Office may identify another reporting method for public water systems within its supervision, such as a standard hard copy or paper format that could be electronically scanned to put the data into an electronic format for computer storage, retrieval, and use. EPA requests public comment on alternative ways to report these data, instead of reporting electronically. EPA intends to provide States reporting guidance in "Unregulated Contaminant Monitoring Reporting Guidance," that may include a standard hard copy format that systems could use if the State or EPA Regional Office waives the requirement to report electronically. This draft guidance is available for public comment through Docket Number W–98–02, through the EPA Safe Drinking Water Hotline at 800–426–4791, or through the EPA Office of Ground Water and Drinking Water Internet Homepage at www.epa.gov/ogwdw. States would be able to report unregulated contaminant data electronically to the EPA Safe Drinking Water Information System (SDWIS). SDWIS would have a storage area for the National Contaminant Occurrence Database (NCOD) to which unregulated contaminant data would be routed electronically.

M. Record Keeping

The PWS and the State would continue to have responsibilities for record keeping for the data from unregulated contaminant monitoring as currently required under § 141.33 for the PWS and § 142.14(a) for the State.

N. Modifying the Monitoring List

As required in Section 1445, every five years, EPA will modify today's proposed Table 1, Unregulated Contaminant Monitoring List, to include contaminants of greatest concern at that time. If EPA still requires additional data for some previously listed contaminants, those contaminants may remain on the list. As discussed previously, EPA is requesting public comment on maintaining a monitoring list with more than 30 contaminants, but only requiring monitoring for 30 contaminants within a particular five-year contaminant listing cycle.

States can also request a change to the Monitoring List through petition by seven or more governors. Their petition must clearly show that the proposed contaminant should be considered a greater health concern than other contaminants on the Monitoring List. The petition should also provide any available information on known or expected occurrence of the contaminant in drinking water, analytical methods that are or could be used to test for the contaminant(s) and other information that would assist EPA in determining whether the contaminant(s) should be added to the List. The EPA Administrator would make a determination as to whether the contaminant proposed is of greater health concern to warrant putting it on the Monitoring List in place of another contaminant.

O. Funding for Testing of Samples for Systems in State Monitoring Plans and for Pre-Screen Testing

EPA will pay for small system costs of sample testing. Grants to pay for a system's sample testing can only be made for monitoring costs that are incurred pursuant to a State Monitoring Plan. EPA considers the public water systems serving 10,000 or fewer persons included in State Plans as the grantee (recipient of the grant). The Agency can contract to establish the necessary laboratory testing capability, then grant the laboratory's services to the public water systems. EPA proposes to make payments to a laboratory, several laboratories, or other testing organizations to conduct the testing and make a grant of their service to these systems. However, because these funds

are authorized within the context of a State Monitoring Plan, any payments to another entity for this testing service would have to be limited to small systems included in final State Plans. To achieve reliability, quality control and consistency of the testing, EPA would specify that samples produced under the State plan must be submitted to a laboratory that meets the requirements in § 141.40(a)(3), (4) and (5) and appendix A, and further described in the methods and quality control manual, and has been approved for this work by the Agency. EPA expects to save up to $2 million per year as compared to the current UCM program through this testing program.

There are two authorizations for funding to carry out SDWA section 1445(a)(2)(C), both of which could be used for testing costs of a State Monitoring Plan for small systems if appropriations are provided. Beginning in fiscal year 1998, the Agency is required to reserve $2 million each year from funds appropriated under SDWA section 1452 Drinking Water State Revolving Loan Fund set-aside to pay for the costs of unregulated contaminant testing. Section 1445(a)(2)(H) authorizes $10 million annually through fiscal year 2003 to carry out all the purposes of the unregulated contaminant monitoring program. This could also include paying for the costs of testing for small systems under State monitoring plans. At this time, $2 million from the set-aside of the Drinking Water State Revolving Fund appropriation for FY 1998 and for FY 1999 are available to be spent to support unregulated contaminant monitoring for small systems. EPA will continue to use this set-aside from the Drinking Water SRF appropriation under SDWA in future budget years to cover the costs of this testing, as well as small system testing under the Screening Survey and Pre-Screen Testing. Should funding levels change for the UCM program, EPA would need to consider how to accommodate reduced funding. In this event, for example, EPA could recalculate the representative sample size to a lower confidence level, commensurate with available resources.

Funding for the monitoring approach described previously is as follows:

(1) Assessment Monitoring—EPA will pay for the sample equipment and shipping, testing, and electronic reporting for systems serving 10,000 or fewer persons. Systems serving more than 10,000 persons would need to pay for their own sample equipment and shipping, testing, and electronic reporting.

(2) Screening Survey—Since the methods in a Screening Survey may not have been evaluated on a multi-laboratory basis but the results would be a representative survey of contaminant occurrence and be consistent with the approach of Assessment Monitoring, large systems would need to pay for testing at a laboratory that EPA has approved for testing the contaminants on List 2. These methods will be peer reviewed to ensure that they can perform adequately before EPA proposes a rule to implement the Screening Survey.

Funding options within the water industry for the Screening Survey may be possible and would need to be considered by the industry itself. EPA would only pay the costs of sample collection, shipping and testing samples from systems serving 10,000 or fewer persons .

(3) Pre-Screen Testing—EPA proposes to pay for the sample collection and testing for small systems only. Large systems would pay for the costs of testing for List 3 contaminants at a laboratory that EPA has approved for testing these contaminants.

V. Relation of the Proposed Regulation to the Existing Regulation

Under a separate action, EPA published a Direct Final Rule on January 8, 1999, which will suspend the existing monitoring requirements for systems serving 10,000 or fewer persons only, beginning January 1, 1999, and until the requirements in this proposed rule are effective. This action modifies the existing regulation ahead of the promulgation and implementation of the proposed unregulated contaminant monitoring rule. The Direct Final Rule's purpose is to allow the systems serving 10,000 or fewer persons to save the cost of a third monitoring round under the existing regulation, which if performed would overlap with monitoring under the proposed revised rule. Today's proposed regulation revisions will entirely replace the existing sections of the Code of Federal Regulations at 40 CFR 141.35, 141.40, and 142.15(c)(3), and modify 142.16. The large systems should already have completed their third round of monitoring, and their fourth round is not due to begin until this rule has been promulgated.

VI. Cost and Benefit of a Revised UCMR Program

A. Program Cost Estimates

Today's proposed regulation would only require that Assessment Monitoring for List 1 contaminants be conducted. The contaminants on Lists 2 and 3 would not be monitored until EPA promulgates rules to activate the monitoring for those contaminants. EPA has estimated the costs of complying with the requirements of the new unregulated contaminant monitoring program (including the List 1, List 2 and List 3 components) in terms of labor costs and non-labor costs. Labor costs pertain to systems, State/Primacy Agencies, and EPA, and include activities such as reading the regulation, notification, sample collection (e.g., at entry points or distribution system sites), reporting, record keeping, and analysis of data. Non-labor costs are primarily incurred by EPA and systems serving more than 10,000 people, and include costs for shipping these samples to laboratories and the sample testing. The Agency will also incur non-labor costs to procure services to conduct quality assurance surveys at contract laboratories and to collect samples at a select number of Index systems (and at small systems selected for Pre-Screen Testing if the full program is implemented). Some of these costs are initial program startup costs which may not need to be replicated in future monitoring cycles.

The details of the cost estimates and their assumptions are presented in the Information Collection Request (ICR) document (ICR No. 1882.01). The ICR document presents estimated costs and burdens for the 1999–2001 period. In addition, a background cost document, titled "Burden and Cost Calculations for the Unregulated Contaminant Monitoring Regulation" is attached as an appendix to the ICR, and presents the estimated costs and burdens for the first five-year cycle of the proposed rule. Copies may be obtained from Sandy Farmer by mail at: OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., SW; Washington, DC 20460, by email at: farmer.sandy@epamail.epa.gov, or by calling: (202) 260-2740. A copy may also be downloaded off the Internet at: http://www.epa.gov/icr.

While this proposed regulation would initially only require Assessment Monitoring, the cost estimates presented assume implementation of the full UCMR program. Full program cost estimates assume the Assessment Monitoring program will be supplemented by two one-year Screening Surveys and a more limited one-year Pre-Screen Testing program.

The Assessment Monitoring would be conducted for List 1 contaminants, which include 10 chemicals (i.e., all chemicals in List 1 in the Preamble) and one microbiological contaminant,

Aeromonas. The Assessment Monitoring would be performed over a three-year period and would be conducted by all 2,774 systems serving greater than 10,000 people and by the nationally representative sample of 800 systems serving 10,000 or fewer people.

Once regulations regarding the Screening Survey (List 2 contaminants) are promulgated, two Screening Surveys would be performed to monitor for the List 2 chemical contaminants specified in the UCMR regulations. The first Screening Survey would monitor for the List 2 contaminants for which preliminary sampling and analytical methods are now identified; the second Screening Survey would monitor the remaining List 2 chemicals (assuming suitable methods are available). Each Screening Survey would be conducted for one year and would include a separate representative sample of up to 300 public water systems selected from systems of all sizes. The two samples of 300 systems would be a subset of the systems conducting Assessment Monitoring. The Assessment Monitoring, together with the Screening Surveys, would provide information on the occurrence of all 24 chemical contaminants and one microbiological contaminant on the UCMR list.

The Pre-Screen Testing would be a smaller component of the UCMR program that will gather occurrence data and assess the viability of monitoring for at least three List 3 microbiological contaminants: Cyanobacteria (blue-green algae, other freshwater algae and their toxins), Coxsakieviruses, and Echoviruses. This monitoring would be conducted at a targeted sample of up to 200 systems identified as the most vulnerable to these microbiological contaminants. Again, these systems would be a subset of the systems conducting Assessment Monitoring. These systems would be identified as vulnerable by the States from all large and small systems (CWS and NTNCWS) in each State. From this listing, EPA would randomly select up to 200 systems to implement Pre-Screen Testing. It is estimated that this will be comprised of approximately 150 small systems and 50 large systems. As noted, EPA cannot pre-determine which of the most vulnerable small systems will coincide with those 800 systems selected for the national representative sample for Assessment Monitoring and Screening Surveys. Hence, it is possible that up to 150 additional small systems (for a total of 950) could be involved in the full implementation of the UCMR, if no Pre-Screen Testing systems came from the national sample selected for Assessment Monitoring. However, this situation is unlikely. For the cost and burden estimates discussed here and in Section VIII (Administrative Requirements), EPA assumes that only 800 small systems are included. The number of small Pre-Screen Testing systems does not affect the total cost estimates, but does affect some critical estimates of the cost and burden per system. Assuming only 800 systems presents a conservative, or worst-case, estimate because it evaluates the maximum total costs divided across a smaller number of systems.

Because existing sampling and analytical methods for the List 3 contaminants are problematic, all sampling at small systems would be done by EPA contractors, and all analyses will be performed at EPA selected laboratories. The sampling would be done during a one-year period, likely year four of the 5-year UCMR cycle. Large systems selected to conduct Pre-Screen Testing will be responsible for their own sample collection and for the costs of testing at an EPA approved laboratory.

Assessment Monitoring tasks and activities for monitoring chemicals contaminants follow proposal outlines: surface water systems would sample four times during one year and ground water systems would sample two times during one year in the UCMR cycle; EPA would pay for the testing costs (analytical services, shipping, etc.) for the representative sample of small systems, and these analyses would be performed by selected laboratories; large systems, serving more than 10,000 people, would pay for their own testing, using the laboratories of their choice (following UCMR quality control requirements), and; all systems would, to the extent practical, conduct their chemical sampling coincident with their standard compliance monitoring framework (SMF) to reduce labor burden and analytical costs where possible. The program would also include various quality assurance and quality control measures (e.g., ten percent duplicate samples from the representative systems). *Aeromonas* (a microbiological contaminant) would be sampled by both ground and surface water systems at a frequency of two times in the year of sampling, at two points in the distribution system. Additionally, a subset of 30 small systems, referred to as "Index Systems", would be sampled during all five years to assess any temporal occurrence trends, other data variability, or program problems.

Required monitoring frequencies and burden assumptions for the Screening Surveys are the same as those for Assessment Monitoring. Under Pre-Screen Testing, EPA contractors will conduct the sampling at each targeted small system twice during one year, at a maximum of four sampling points per system. Large systems will be required to follow the same monitoring schedule.

Standard assumptions and sources of information were utilized, which are the same as those used in other drinking water program ICR analyses, and include: public water system inventory, number of entry points, and labor rates. For State and some system activities, the labor burden was estimated using EPA's standard *State Resource Model*, which is documented in the *Resource Analysis Computer Program for State Drinking Water Agencies* (January 1993).

Analytical/laboratory services comprise approximately 80 percent of the national costs for a program such as the UCMR. These costs are generally calculated as follows: The number of systems multiplied by the number of entry or sampling points, multiplied by the sampling frequency, and multiplied by the analytical cost. (This calculation is repeated for each separate analytical method). Shipping costs are added to the calculated analytical/laboratory costs to derive the total direct analytical non-labor costs. Instead of assuming that large systems will pay the full analytical cost for Assessment Monitoring, systems are assumed to pay a smaller "incremental" analytical costs given UCMR monitoring coinciding with ongoing Phase II/V compliance monitoring. In some cases, UCMR analyses utilize the same laboratory analytical methods that are required for ongoing compliance monitoring. Therefore, when UCMR monitoring and Phase II/V monitoring are conducted concurrently, only incremental fees are charged for analysis of the additional UCMR compounds. With methods that are not currently in use, no cost savings can be realized. The full spectrum of assumptions are documented in the Information Collection Request, as noted.

The costs are averaged to an annual basis for the five-year UCMR cycle of 2001–2005. With this revised rule, the States and EPA would have some one-time start-up costs. Although start-up costs might be incurred before 2001, these costs are included and averaged as part of the five-year (2001–2005) program costs to simplify calculations. Systems will only incur costs during the five-year monitoring cycle. Full program (Assessment Monitoring, Screening Survey and Pre-Screen Testing) cost estimates appear first below. Following the full program costs are the costs for

Assessment Monitoring alone, which is the focus of this proposed rule.

Full Program. The Agency estimates that the average annual labor and non-labor costs associated with the required unregulated monitoring (with the assumptions noted above) are: EPA—$4.0 million, $3.0 million of which is for testing costs of the national representative sample and contractor site visits to Index and Pre-Screen Testing systems; States—$461,500; Systems serving 10,000 or fewer people (from the representative sample)—$19,860; all 2,774 systems serving greater than 10,000—$5.6 million. The total national average annual cost is approximately $10.1 million. Estimated average annual costs (labor plus non-labor) per system for systems serving 10,000 or fewer are approximately $25, and for systems serving more than 10,000 people are $2,000 per system.

Assessment Monitoring. EPA estimates that the average annual labor and non-labor costs of Assessment Monitoring for the 11 contaminants on List 1 are: EPA—$3.1 million, with $2.1 million for testing costs for the national representative sample; States—$461,500; Systems serving 10,000 or fewer people —$17,340; Systems serving greater than 10,000 persons—$4.8 million. The total national average annual cost, on this basis, is approximately $8.4 million. Average annual costs per system for systems serving 10,000 or fewer are approximately $22 per system and for systems serving greater than 10,000 persons are $1,730 per system. (Note that the total State cost is the same in the Assessment Monitoring program as it is in the Full Program. There would be some cost reductions to the States if no Screening Surveys or Pre-Screen Testing were conducted. However, these reductions would be minor since the majority of State UCMR activities will be necessary under the Assessment Monitoring component of the UCMR program. With Screening Survey and Pre-Screen Testing activities, States will need to manage some data additional to that generated by Assessment Monitoring activities. EPA estimates that, at most, Screening Survey and Pre-Screen Testing will account for 10 to 15 percent of State program costs. Thus, this estimate for the State Assessment Monitoring cost is conservative.)

Averaging costs over the entire cycle is not necessarily representative of peak costs, however. The majority of monitoring (and thus cost) is assumed to occur over a three-year time frame, allowing for follow-up work, data review, reporting and analysis. EPA peak year costs (e.g., during the 3 core years of Assessment Monitoring, primarily for the representative sample) are projected to be $4.7 million per year for the full program and $3.7 million for Assessment Monitoring only. Systems serving over 10,000 persons are projected to have peak year costs of about $9.5 million for the full program and $8.0 million for Assessment Monitoring only.

B. Net Costs

The net costs of the revised program were estimated by comparing the new program costs (stated above) with estimated costs for the existing program (baseline). The standard labor rates and activities that were used above were also used for estimating the burden of the existing program. For comparative purposes, the same water system inventory numbers were used. Complete UCMR program implementation was assumed. As a simplifying assumption, all systems serving over 500 people were assumed to conduct the monitoring during the same five-year interval. The existing regulation did not require systems serving 150 or fewer service connections to monitor for unregulated contaminants unless requested to do so by the State. Data in the unregulated contaminant monitoring information system suggest that States required about one third of systems serving 500 or fewer people to monitor; thus, one-third were included in the estimates. The other significant difference is in the list of contaminants.

The existing regulation requires monitoring of the 48 chemicals included in Table 1 of the Preamble. (While 14 of the chemicals in Table 1 were discretionary and not always included in the monitoring, their associated costs are derived from the same analytical method as required for the other unregulated contaminants and the regulated VOCs. Hence, they do not make a substantive difference in the cost estimates.) While there are more contaminants analyzed under the existing rule than under the proposed UCMR, monitoring requirements for the existing UCM program are derived from fewer analytical methods, and all are derived from standard methods used for routine compliance samples.

The proposed UCMR compared to the existing UCM Program—given the above assumptions and a full proposed UCMR implementation over five years—results in an estimated $35.8 million in savings to systems serving 10,000 or fewer. Annual per (small) system costs for those systems that participate in UCMR monitoring will be reduced by approximately $190 per year. Small systems will realize this savings because under the proposed program, none will be required to cover the cost of analysis for the unregulated chemicals (as many do under the existing program). Only those systems that are part of the national representative sample will incur any costs, and those costs will be labor costs only. Under full UCMR implementation, large system costs are increased by almost $14.0 million, primarily due to the increase in laboratory analytical costs. Annual per system costs for large systems are increased by approximately $1,000 per year under the UCM Program.

Baseline cost to the States is estimated to be $7.5 million over the analogous monitoring cycle of 2001 to 2005, plus year 2000 start-up costs. The total savings to States under the UCMR is estimated to be $5.2 million. For States, this savings is attributed to a decrease in required labor. States will be collecting and reporting monitoring data from many fewer water systems since only a representative sample of systems serving 10,000 or fewer people will be involved in the UCMR. EPA costs of running the existing program are estimated at $1.9 million for the analogous monitoring cycle of 2001 to 2005, plus start-up costs. EPA costs are significantly increased under the UCMR, primarily because, as proposed, it will fund all small system UCMR sample shipping and analytical costs.

EPA notes that reductions in costs can also be attributed to the "Suspension of Unregulated Contaminant Monitoring Requirements for Small Public Water Systems (Direct Final Rule)" (**Federal Register**, January 8, 1999), which is being issued in conjunction with the UCMR. The Direct Final Rule cancels the monitoring requirements (for systems serving less than 10,000 people) for another round of the existing list of unregulated contaminants, beginning January 1, 1999. This cancellation is being issued because monitoring for the existing contaminants would overlap with monitoring for the revised program. Approximately two-thirds of systems serving between 3,300 and 10,000 will save the costs of monitoring under the existing program (e.g., monitoring costs in 1999 and 2000) by the action of the Direct Final Rule, resulting an approximate system savings of $5.3 million.

C. Benefits

The revised Unregulated Contaminant Monitoring Regulation has significant burden reductions, particularly for small public water systems. The original Unregulated Contaminant Monitoring Program, initiated in 1988, required that all community water systems (CWSs)

monitor for the 48 contaminants listed in Table 1. The States had the authority to waive monitoring for systems serving150 or fewer service connections (although these systems were required to be available for monitoring under the regulation). Analysis of this first round of data (1988–1993) indicates that well over 25,000 public water systems are involved in the existing unregulated contaminant monitoring program. This revised program will involve only 3,574 systems: 2,774 large systems and up to 800 small systems in the nationally representative sample (or possibly up to 950 small systems, depending on the selection of the 150 most vulnerable systems for Pre-Screen Testing and the extent that they would overlap with the 800 systems in the national representative sample). Thus, many fewer systems will be required to monitor than in the past.

Additionally, for systems that will be regulated, fewer contaminants will be monitored; the number of contaminants are reduced by the UCMR rule from the current 48 to not more than 30. EPA will pay for the costs of the testing for the national representative sample, so that each small system selected will have minimal burden. EPA will not pay for the small system costs for collecting the samples and contacting the sample shipping service to pick up the samples. EPA anticipates that it will manage the laboratory testing program for these systems, minimizing time that the PWS will need to interact with the laboratories. Also, the laboratories contracted to perform the analyses will provide electronic reporting services for the small systems that do not have this capability. Thus, even those 800 small systems that are involved will have substantially reduced costs, compared to the past.

In considering the full program, cost savings can also be attributed to the use of the small sample numbers for the Screening Survey and Pre-Screen Testing. The Screening Survey of only 300 systems (across all sizes), and the Pre-Screen Testing of up to 200 systems (across all sizes), will allow statistical and targeted approaches to be applied to emerging contaminants. These early screening approaches will help to determine whether contaminants are occurring in public water systems and whether they should be included in future Assessment Monitoring in the subsequent contaminant sampling cycle. These steps, in place of an approach applying Assessment Monitoring for all 30 contaminants at *all* monitored systems, is projected to save over $50 million per year in future Assessment Monitoring costs for large systems and the EPA.

States will also see a reduction in burden. A substantial portion of State burden is related to the number of systems it must manage in a program. Even though there are some new elements to the revised UCMR, a burden reduction is apparent because there are significantly fewer systems involved, and thus a reduction in required oversight activity (e.g., record keeping, system notification).

Currently, twelve data elements must be reported with each sample. In the proposed rule, a net increase of eight new data elements (for a total of 20) will be required in reporting; the additional elements are included to make the data more useful for analysis. The additional burden to systems and States is minimal, however. Most of the additional elements would be provided by the laboratory, and many of these elements are already routinely recorded by laboratories. To date, EPA has not required that these additional elements be sent on to the State or EPA. The addition of data elements will not present an inordinate burden on the States or systems.

Database modifications will be minimal, since most States have electronic reporting. EPA plans to provide training to States on the review and interpretation of this data. Electronic reporting will facilitate minimal additional reporting burden. Once States have established electronic quality control of the data reported, State quality control review will also be minimal.

The long-term benefits of the revised unregulated contaminant monitoring regulation and program are:

1. Contaminants that do not have significant occurrence in drinking or source water will be identified early which will enable evaluations and decisions to minimize further monitoring and other resources otherwise committed to those contaminants;

2. Contaminants that do have significant occurrence will trigger additional research on health effects and treatment, as soon as practical, to protect the health of persons that may be sensitive to them; and

3. Use of a representative sample of small systems (which comprise the majority of public water systems), can provide a scientifically sound, statistically valid data set that can be used for improved analysis and program decisions at a reduced cost.

VII. Performance-Based Measurement System

In the near future, the Agency plans to implement a performance-based measurement system (PBMS) that would allow the option of either (A) using reference methods in its drinking water regulatory programs or (B) demonstrating and documenting "performance criteria." PBMS would specify performance criteria or objectives that must be met for an analytical method to be considered comparable to a reference method and used broadly by other testing organizations and laboratories. As a result, under PBMS, the requirement to use only Agency specified and approved methods for SDWA regulatory programs would be removed, except for certain method-defined contaminants (e.g., such as Total Coliform and asbestos), and for data gathering prospective to regulation, such as the contaminants in this proposed rule.

As noted above, many of the contaminants of interest for the Unregulated Contaminant Monitoring (UCM) program can be classified as "emerging" and thus do not have existing reference methods, much less, performance criteria to describe such methods. The unregulated contaminant monitoring program will enable development of a reference method and performance criteria, as well as collect information about contaminant occurrence. While EPA has gathered single-matrix, multi-laboratory data for the chemical contaminants on the UCM list, monitoring conducted by PWSs would provide additional multi-matrix, multi-laboratory data needed to develop the performance criteria necessary to implement PBMS for contaminants selected for standards setting in future regulations. The UCM testing is designed to develop performance criteria that would be proposed with the MCL, monitoring requirements, etc. for the contaminant. For these reasons, the Agency is proposing to specify the method to be used for UCM testing. Once a contaminant proceeds to standards development as an NPDWR, EPA should have sufficient data and method development information to be able to propose both a validated reference method as well as associated performance criteria, either of which could be used for compliance monitoring of the contaminant under PBMS.

VIII. Solicitation of Public Comment

EPA solicits public comment on all aspects of this proposed regulation and its preamble. EPA knows that the public

comment period (45 days) is shorter than normal because of the statutory deadline. Commenters should know that for this same reason, no extension of the public comment period will be granted.

IX. Administrative Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action." As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is part of the Agency's overall strategy for deciding whether to regulate the contaminants identified on the Contaminant Candidate List (63 FR 10273). The purpose of today's proposed rule is to ensure that EPA has data on the occurrence of contaminants on the CCL where those data are lacking. EPA is also taking steps to ensure that the Agency will have data on the health effects of these contaminants on children through its research program. The Agency will use these data—both contaminant occurrence and health effects—to decide whether or not to regulate any of these contaminants.

This proposed rule is not subject to E.O. 13045 because it is not economically significant as defined in E.O. 12866 and it does not establish environmental standards intended to mitigate health or safety risks. For the most part, this rule only establishes procedures for monitoring of unregulated contaminants on the Agency's Contaminant Candidate List. However, given EPA's interest in protecting children's health, as part of the provisions in the rule allowing State governors to petition EPA to add contaminants to the Unregulated Contaminant Monitoring List, EPA is specifically asking Governors to include any information that might be available regarding disproportional risks to the health or safety of children. Such information would help inform EPA's decision making regarding future lists.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Potential annual costs of today's action for small entities, including local and tribal governments, are $2.1 million for sample collection, shipping, testing and reporting for Assessment Monitoring, of which EPA will pay 99 percent. Average annual costs to States are projected to be $0.5 million for Assessment Monitoring oversight and reporting (over the 5-year implementation period). Thus, today's rule is not subject to the requirements of section 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirement that might significantly or uniquely affect small governments because EPA will pay for the reasonable costs of sample testing for the small public water systems required to sample and test for unregulated contaminants under this rule, including those owned and operated by small governments. While the covered small public water systems will be required to participate in the unregulated contaminant monitoring program, the most significant cost they would incur—the testing of the samples—will be paid by EPA. The only costs that small systems will pay would be the costs attributed to (1) the labor associated with reading the regulations, guidance and instructions to implement the monitoring requirements, (2) collecting the samples and packing them for shipping to the laboratory (EPA will pay for shipping), and (3) reporting and record keeping. Thus, today's rule is not subject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the

Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1882.01), which presents estimated costs and burdens for the 1999–2001 period. In addition, a background cost document "Burden and Cost Calculations for the Unregulated Contaminant Monitoring Regulation" is attached as an appendix to the ICR, and presents the estimated costs and burdens for the first five-year cycle of the proposed rule. A copy of these may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137), 401 M St., SW., Washington, DC 20460; by email at: farmer.sandy@epamail.epa.gov; or by calling: (202) 260–2740. A copy may also be downloaded off the Internet at: http://www.epa.gov/icr.

The information proposed to be collected under a revised UCM Regulation is to fulfill the statutory requirements of section 1445(a)(2) of the Safe Drinking Water Act, as amended in 1996. The data to be collected will describe the source water, location and UCMR test results for samples taken from public water systems. The concentrations of any identified UCMR contaminants will be evaluated regarding health effects and will be considered for future regulation accordingly. Reporting is mandatory. The data is not subject to confidentiality protection.

Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The annual burden and cost estimates described below are for the implementation assumptions described in Section VI, which include the Assessment Monitoring, Screening Survey and Pre-Screen Testing components of the UCMR Program. For this full UCMR Program, the respondents to the UCMR are the 800 small water systems (in the national representative sample of systems serving 10,000 or fewer people), the 2,774 large public water systems, and the 56 States and primacy agents (3,630 total respondents). (As noted, it is possible that up to 150 additional small systems could be involved if all small Pre-Screen Testing systems selected fall outside of the national representative sample. Using an assumption of only 800 systems, however, is a conservative, or worst case, assumption, when estimating the burden and cost per system. Hence, this assumption is used in the following estimates.) The frequency of response varies across respondents and years. System costs, (particularly laboratory analytical costs) vary depending on the number of entry or sampling points. Small systems will sample and report an average of 3.4 times over the 5-year implementation period. Large systems will sample and report an average of 3.0 times over the 5-year implementation period. On average, States will report quarterly. Over the UCMR Program cycle of 2001–2005, the annual average per respondent burden hours and costs are: small systems—1.2 hour burden at $25 per year; large systems—2.0 hours at $57, and $1,950 for analytical costs; and States—194 hours at $7,740 for labor and $500 for non-labor. In aggregate, the average respondent (e.g., small systems, large systems, and the States), incurs an annual average burden and cost of 4.8 hours per respondent, with a labor plus non-labor cost of $1,670 per respondent.

Burden and cost per response for the total program are estimated to be: for small systems—1.7 hour burden at $36 per response; large systems—3.4 hours at $95 for labor, and $ 3,280 for analytical costs; and States—40.3 hours at $1,700 for labor. In aggregate, the average response (e.g., responses from small systems, large systems, and the States) is associated with a burden of 7.0 hours, with a labor plus non-labor cost of $2,460 per response.

For Assessment Monitoring alone, the average burden and response are only slightly less because there is only a subset of the same systems involved in the Screening Survey and Pre-Screen sampling. In summary, for the Assessment Monitoring respondents to the UCMR are the 800 small water systems (in the national representative sample), the 2,774 large public water systems, and the 56 States and primacy agents (3,630 total respondents). The frequency of response varies across respondents and years. Small systems will sample and report an average of 3.0 times over the 5-year implementation period. Large systems will sample and report an average of 2.9 times over the 5-year implementation period. On average, States will report quarterly. Over the UCMR program cycle of 2001–2005, the annual average per respondent burden hours and costs are: Small systems—1.2 hour burden at $22 per year; large systems—2.0 hours at $56, and $1,680 for analytical costs; and States—194 hours at $7,740 for labor, and $500 for non-labor costs. In aggregate, the average respondent (e.g., small systems, large systems, and the States), incurs an annual average burden and cost of 4.7 hours per respondent, with a labor plus non-labor cost of $1,455 per respondent.

Burden and cost per response for Assessment Monitoring only are estimated to be: For small systems—1.7 hour burden at $36 per response; large systems—3.4 hours at $96 for labor, and $2,840 for analytical costs; and States—40.3 hours at $1,700 for labor. In aggregate, the average response (e.g., responses from small systems, large systems, and the States) is associated with a burden of 7.2 hours, with a labor plus non-labor cost of $2,210 per response.

The Agency estimates the annual burden to EPA for total proposed UCMR Program activities to be approximately 16,290 hours, at an annual labor cost of $651,600. EPA's annual non-labor costs are estimated to be $2.5 million for Assessment Monitoring only, or $ 3.4 million for the total UCMR program (Assessment Monitoring, Screening Surveys, and Pre-Screen Testing).

Non-labor costs are primarily attributed to the cost of sample testing for the 800 small systems. Annual burdens, as discussed, are based on a 5-year monitoring cycle.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR document to the Director, OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., SW., Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required

to make a decision concerning the ICR between 30 and 60 days after April 30, 1999, a comment to OMB is best assured of having its full effect if OMB receives it by June 1, 1999. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), EPA generally is required to prepare a regulatory flexibility analysis describing the impact of the rule on small entities as part of rulemaking. However, under section 605(b) of the RFA, if EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare a regulatory flexibility analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) and for the reasons set forth below, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

For purposes of RFA analyses for SDWA rulemakings, the Agency defines small entities as systems serving 10,000 or fewer customers. Because this is the system size category specified in SDWA as requiring special consideration with respect to small system flexibility, EPA established systems serving 10,000 or fewer persons an alternative small entity definition for SDWA drinking water rules for the purposes of regulatory flexibility analysis. This alternative definition was established for all drinking water rules in the Consumer Confidence Reports rulemaking (63 FR 44511–44536 (August 19, 1998)). EPA also consulted with the Small Business Administration about the alternative definition as it relates to small businesses. For further information on the establishment of this definition of small entities, see the referenced **Federal Register** notice.

EPA has determined that the UCMR will affect small water utilities, since it is applicable to a subset of small community and non-transient noncommunity water systems. However, the systems impacted limited to a representative sample of approximately 800 small public water systems serving 10,000 or fewer persons, or 1.2 percent of systems serving 10,000 or fewer persons. These systems will be required to conduct monitoring, as specified in the UCMR (i.e., collect and prepare samples for shipping). EPA will assume all costs for testing of the samples and for shipping the samples from these systems to specific certified laboratories located throughout the United States. EPA has set aside $2 million from the State Revolving Fund (SRF) in Fiscal Years 1998 and 1999, and plans to do so into the future with its authority to set aside SRF monies for the purposes of implementing this provision of SDWA.

EPA has estimated the impact of the proposed rule and concludes that the rule will not have a significant economic impact on a substantial number of small entities. The rationale for this conclusion is that EPA plans to pay the full costs of shipping and testing samples for small systems and does not plan, under any scenario, to ask systems to pay these costs. (The costs to these systems will be limited to the labor hours associated with collecting a sample and preparing it for shipping.) EPA will seek to implement an optimum and scientifically credible UCM program that will provide a firm basis for future regulatory decisions.

As noted, it is possible that up to 150 additional small systems could be involved in the unlikely event that all small Pre-Screen Testing systems selected fall outside of the national representative sample. Using an assumption of only 800 systems involved, however, is a conservative, or worst case, assumption, when estimating the burden and cost *per* system; i.e., this allocates the total cost and burden of the full implementation over 800 systems versus 950 systems. Hence, this assumption is used in the following estimates.

EPA evaluated the cost to small entities under two scenarios. Under either scenario, EPA will assume the cost of shipping and testing samples for small systems. The "full implementation" scenario assumes full funding from funds set aside from the Drinking Water SRF through the year 2005. The "limited implementation" scenario assumes that EPA will fund the costs of the testing with the funds already set aside for this program. Under either scenario, this rule will not have a significant economic impact on a substantial number or small entities. Accordingly, EPA certifies that this rule will not have a significant impact on a substantial number of small entities. Cost summaries for both scenarios are provided below.

Full Implementation Scenario

EPA analyzed the small entity impact for privately-owned and publicly-owned entities separately due to the different economic characteristics of these ownership types. For publicly-owned systems, EPA used the "revenue test", which compares annual system costs attributed to the rule to the system's annual revenues. EPA used a "sales test" for privately-owned systems which involves the analogous comparison of UCMR-related costs to a privately-owned system's sales. EPA assumes that the distribution of the national representative sample of small systems will reflect the proportions of publicly- and privately-owned systems in the national inventory. The estimated distribution of the representative sample, categorized by ownership type, source water, and system size, is presented below in Table 10.

TABLE 10.—NUMBER OF PUBLICLY- AND PRIVATELY-OWNED SYSTEMS TO PARTICIPATE IN ASSESSMENT MONITORING

Size category	Publicly-owned systems		Privately-owned systems		Total—all systems
	Non-index systems	Index systems	Non-index systems	Index systems	
GROUND WATER SYSTEMS					
500 and under	20	1	76	2	99
501 to 3,300	159	6	72	3	240
3,301 to 10,000	158	7	44	2	211
Subtotal Ground	337	14	192	7	550
SURFACE WATER SYSTEMS					
500 and under	3	0	8	0	11

TABLE 10.—NUMBER OF PUBLICLY- AND PRIVATELY-OWNED SYSTEMS TO PARTICIPATE IN ASSESSMENT MONITORING—Continued

Size category	Publicly-owned systems		Privately-owned systems		Total—all systems
	Non-index systems	Index systems	Non-index systems	Index systems	
501 to 3,300	56	2	25	1	84
3,301 to 10,000	116	5	33	1	155
Subtotal Surface	175	7	66	2	250
Total	512	21	258	9	800

The basis for the UCMR RFA certification under full UCMR implementation is as follows: the average annual compliance costs of the rule represent less than one percent of revenues/sales for the 800 small water systems that will be affected. The EPA estimates that Agency and system costs for implementing small system sampling for the full UCMR program (2001–2005) will be approximately $15.1 million. Since the Agency specifically structured the rule to avoid significantly impacting a substantial number of small entities by assuming all costs for laboratory analyses, shipping, and quality control for small entities, EPA costs comprise approximately 99 percent ($15.0 million) of the total costs. (Note that EPA's contribution to the small system program is assumed to include all small system analytical and shipping costs, as well as all non-labor program support costs.) Table 11 presents the annual costs to small systems and to EPA for the small system sampling program, along with the number of participating small systems during each of the five years of the program.

TABLE 11.—EPA COSTS FOR SMALL SYSTEMS UNDER FULL IMPLEMENTATION OF UCMR

Cost description [1]	2001 (AM)	2002 (AM & SS1)	2003 (AM & SS2)	2004 (AM for Index only & PST)	2005 (AM Index only)	Total
Costs to EPA for Small System Program (including Assessment Monitoring, Screening Survey, and Pre-Screen Testing): quality assurance, ongoing coordination, data analysis, analytical costs, shipping costs, and costs for contractor site visits to small Index and Pre-Screen Testing systems [2]						
	$3,392,183	$3,538,029	$3,533,202	$3,814,617	$752,537	$15,030,568
Costs to Small Systems (including Assessment Monitoring, Screening Survey, and Pre-Screen Testing): additional labor for monitoring or monitoring assistance						
	27,871	26,915	26,915	15,116	2,499	99,316
Total Costs to EPA and Small Systems for UCMR						
	3,420,054	3,564,944	3,560,117	3,829,733	755,036	$15,129,884
Number of Systems to be Monitoring each Year: Non-Index and Index in 2001–2003, Index only in 2004–2005 [3]						
Public	191	191	191	107	21	533
Private	96	96	95	81	9	267
Total	287	287	286	188	30	800

[1] AM = Assessment Monitoring; SS1 and SS2 = Screening Surveys Years One and Two; PST = Pre-Screen Testing.
[2] EPA costs during the year 2001 include some start-up costs that may actually be incurred during the year 2000.
[3] Total number of systems is 800. All 30 Index systems sample during each year 2001–2005. One-third of Non-Index systems sample during each year from 2001–2003. A total of 180 small systems conduct Screening Surveys during each year, 2002 and 2003. 158 small systems conduct the Pre-Screen Testing during 2004. The rows do not add across, because the same 30 Index systems sample during every year of 5-year implementation cycle, and because the Screening Survey systems are a subset of the original sample of 800 systems (e.g., they are conducting multiple types of sampling). Pre-Screen Testing systems may or may not be a subset of the original 800 Assessment Monitoring systems.

System costs are attributed to the additional labor required for reading State letters, monitoring, reporting, and record keeping. Assuming that systems will efficiently conduct UCMR sampling (e.g., coincident with other required monitoring), the estimated average annual per system labor burden for full UCMR implementation will be: $17 (0.8 hours) for ground water systems; and $31 (1.3 hours) for surface water systems. In total, ground water and surface water systems average 1.2 hour of burden per year with an average annual cost of $25. Average annual cost, in all cases, is less than 0.3 percent of system revenues/sales. Therefore, as stated above, the Administrator certifies that this proposed rule, as funded by EPA, will not have a significant economic impact on small entities. Tables 11a and 11b below present the estimated economic impacts in the form of revenue/sales tests for publicly- and privately-owned systems.

TABLE 12a.—UCMR FULL IMPLEMENTATION SCENARIO: ANALYSIS FOR PUBLICLY-OWNED SYSTEMS (2001–2005)

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005)		Average annual cost per system (2001–2005)		"Revenue test" [2]	
	Number	Percent of U.S. total	Non-index	Index	Non-index	Index	Non-index (percent)	Index (percent)
GROUND WATER SYSTEMS								
500 and under	5.8	0.01	0.8	3.0	$10.99	$42.78	0.07	0.26
501 to 3,300	41.4	0.34	0.8	3.8	11.44	54.38	0.01	0.05
3,301 to 10,000	42.5	1.77	1.0	4.6	29.29	128.80	0.01	0.03
SURFACE WATER SYSTEMS								
500 and under	2.3	0.12	2.9	0.0	42.49	0.00	0.15	0.00
501 to 3,300	17.9	0.98	1.6	5.2	22.66	75.40	0.01	0.04
3,301 to 10,000	30.5	3.03	1.3	5.0	35.28	140.00	0.00	0.02

[1] Calculated as 1/5 of the Non-Index sample, plus all Index systems for each year from 2001–2005; actual sampling for Non-Index systems takes place over three years, while that of Index systems occurs over each of five years. Since Screening Survey systems are a subset of the Assessment Monitoring systems, this does not affect the average annual number of systems (e.g., these systems are conducting monitoring for two components of the UCM Program at the same time).

[2] The "Revenue Test" was used to evaluate the economic impact of an information collection on small government entities (e.g., publicly-owned systems); costs are presented as a percentage of median annual revenue in each size category.

TABLE 12b.—UCMR FULL IMPLEMENTATION SCENARIO: ANALYSIS FOR PRIVATELY-OWNED SYSTEMS (2001–2005)

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005)		Average annual cost per system (2001–2005) [1]		Sales test [2]	
	Number	Percent of U.S. total	Non-index	Index	Non-Index	Index	Non-index (percent)	Index (percent)
GROUND WATER SYSTEMS								
500 and under	21.4	0.05	0.8	3.0	10.99	42.78	0.07	0.27
501 to 3,300	18.8	0.15	0.8	3.8	11.44	54.38	0.01	0.05
3,301 to 10,000	11.9	0.50	1.0	4.6	29.29	128.80	0.00	0.02
SURFACE WATER SYSTEMS								
500 and under	6.5	0.34	2.9	0.0	42.49	0.00	0.19	0.00
501 to 3,300	8.1	0.45	1.6	5.2	22.66	75.40	0.01	0.05
3,301 to 10,000	8.5	0.85	1.3	5.0	35.28	140.00	0.01	0.02

[1] Calculated as 1/5 of the Non-Index sample, plus all Index systems for each year from 2001–2005; actual sampling for Non-Index systems takes place over three years, while that of Index systems occurs over each of five years. Since Screening Survey systems are a subset of the Assessment Monitoring systems, this does not affect the average annual number of systems (e.g., these systems are conducting monitoring for two components of the UCM Program at the same time).

[2] The "Sales Test" was used to evaluate the economic impact of an information collection on small private entities (e.g., privately-owned systems); costs are presented as a percentage of median annual sales in each size category.

Limited Implementation Scenario

Despite the expected $2 million per year budget, EPA recognizes that funding levels vary from year to year and thus cannot guarantee the precise amount that will ultimately be available to implement its UCM program (although a considerable portion of those funds are currently on hand). In the event that an amount commensurate with funding the optimal UCM program (in terms of numbers of small systems sampled and numbers of contaminants analyzed) may not be available, the Agency will adjust the UCM program to accommodate the available funds. This adjustment may necessitate use of relatively fewer sample sites, testing of fewer contaminants, or both. EPA would use a random number generator select a representative sample of systems that would accommodate the available funds.

While the Agency considers the scenario of no additional funding to be unlikely, EPA also evaluated the scenario of "current funds only" for purposes of this RFA analysis. This "current available funds" scenario is the case in which EPA would receive no further funding for small system testing beyond the $4 million that is currently set aside from the State Revolving Funds from Federal Fiscal Years 1998 and 1999. EPA anticipates funding this program such that no small system would incur testing costs as intended in the legislation. Small systems would only be responsible for taking the sample. By analyzing small system impact under such a scenario, EPA can demonstrate that, regardless of funding levels, this rule will not have a significant economic impact on a substantial number of small entities. Given the flexibility of the proposed rule, EPA can ensure defensible results, balanced with available funding.

In the optimal anticipated program, the sample of 800 systems is derived by applying a 99 percent confidence level, with 1 percent error tolerance. To accommodate a $4 million budget, the representative sample of small systems would be reduced to approximately 390 systems. Although this smaller sample size would be less rigorous than the anticipated sample of 800 systems, the sample error would still remain within a range of plus or minus 5 percent. These 390 systems would incur only labor costs for collecting and packing

the samples, while EPA would pay the shipping and testing costs for these samples.

With the currently available $4 million, EPA will be able to fund approximately 48 percent of the planned Assessment Monitoring program for small systems. To estimate the costs under this scenario, it is assumed that only the Assessment Monitoring component of UCMR would be implemented. It is also assumed that the smaller representative sample would be allocated across system size categories in the same proportions as those in the sample of 800 systems, with ten of these systems being Index sites, as seen below in Table 13. Furthermore, preparations for the Screening Surveys, Pre-Screen Testing, and future UCMR cycles are assumed to be dropped, since with limited funds, current implementation would take precedence over planning for further monitoring. Finally, for the cost analysis of this current funds scenario, it is assumed that the national representative sample will reflect the proportions of publicly- and privately-owned systems in the national inventory of public water systems.[1] Because EPA's statistical approach utilizes a random selection process for systems in the national representative sample, publicly—and privately-owned systems should be selected in the same proportions for that sample as they occur in set of all community and non-transient, noncommunity water systems in the nation.

The Agency is concerned that a reduced sample size will reduce the statistical likelihood that the observed contaminant occurrence levels will be representative of actual occurrence across the nation. Because of this, the Agency will actively pursue funding for the full program described in this Preamble.

TABLE 13.—NUMBER OF PUBLICLY- AND PRIVATELY-OWNED SYSTEMS TO PARTICIPATE IN ASSESSMENT MONITORING, FOR LIMITED FUNDING PROGRAM [1]

Size category	Publicly- owned systems		Privately-owned systems		Total—all systems
	Non-index systems	Index systems	Non-index systems	Index systems	
GROUND WATER SYSTEMS					
500 and under	11	0	38	1	50
501 to 3,300	80	2	36	1	119
3,301 to 10,000	79	2	22	1	104
Subtotal Ground	170	4	96	3	273
SURFACE WATER SYSTEMS					
500 and under	1	0	4	0	5
501 to 3,300	28	1	13	0	42
3,301 to 10,000	58	2	16	0	76
Subtotal Surface	87	3	33	0	123
Total	257	7	129	3	396

[1] The Limited Funding Program assumes that the only funds available to run the program are those that are currently in hand—$4 million of set aside funds from Federal Fiscal Years 1998 and 1999. This is a "worst case" funding scenario.

Under the limited funding scenario, EPA costs for Assessment Monitoring would primarily be incurred from 2001 to 2003. Systems are assumed to sample during one year of the three-year period, with one-third of systems sampling during each year. However, Index systems are assumed to monitor during each of the three Assessment Monitoring years. The distribution of costs to EPA and small systems over the entire five years is presented below in Table 14.

TABLE 14.—EPA COSTS FOR SMALL SYSTEMS—LIMITED $4 MILLION PROGRAM

Cost description	2001	2002	2003	2004	2005	Total
Costs to EPA for Assessment Monitoring Program: Quality assurance, ongoing coordination, data analysis,						
	$1,367,947	$1,082,341	$1,082,341	$280,422	$186,948	$3,999,999
Costs to Small Systems (Assessment Monitoring): Including additional labor for monitoring or monitoring						
	13,405	11,756	11,756	0	0	36,917
Total Costs to EPA and Small Systems for Assessment Monitoring						
	1,381,352	1,094,097	1,094,097	280,422	186,948	4,036,916

[1] Publicly- and privately-owned systems allocations are estimated using data from the 1995 Community Water System Survey. Publicly owned systems are those that are owned by a city, town, township, village, municipal government, State or federal government, or any other publicly-owned or operated system. Privately-owned systems include those owned by private investors or homeowners' associations.

TABLE 14.—EPA COSTS FOR SMALL SYSTEMS—LIMITED $4 MILLION PROGRAM—Continued

Cost description	2001	2002	2003	2004	2005	Total
Number of Systems each Year: Assessment Monitoring and Index Systems in 2001–2003 [1]						
Public	92	92	92	0	0	264
Private	46	46	46	0	0	132
Total	138	138	138	0	0	396

[1] Rows do not add across because the 10 Index systems sample during each year 2001–2003. One-third of Non-Index systems sample during each year from 2001–2003.

Under this limited $4 million program, EPA costs represent approximately 98 percent of the national cost for the small system sampling program. As in full UCMR implementation, small system costs are attributed to the additional labor required for reading State letter, monitoring, reporting, and record keeping. It is estimated that under the limited program (e.g., Assessment Monitoring only), the average annual per system labor burden will be: $15 (0.7 hours) for ground water systems; and $27 (1.26 hours) for surface water systems. In total, ground water and surface water systems average 0.9 hours of burden per year, with an average annual cost of $19. System burdens here are lower than in the full implementation scenario primarily because no Screening Surveys or Pre-Screen Testing will occur under this scenario.

Through revenue and sales tests, determinations of economic impact are presented below in Tables 14a and 14b, respectively. Under this limited $4 million program, systems will be subject to *less* required monitoring than in the full UCMR program. For both full UCMR implementation and the limited funding scenario, average annual cost is in all cases lower than 1 percent of annual sales/revenues. Thus, even in this worst case, limited implementation scenario, EPA certifies that this proposed rule would not impose a significant economic impact on small entities.

TABLE 15A.—UCMR LIMITED IMPLEMENTATION SCENARIO: ANALYSIS FOR PUBLICLY-OWNED SYSTEMS (2001–2005)

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005) (percent)		Average annual cost per system (2001–2005)		"Revenue Test" [2] (percent)	
	Number	Percent of U.S. total	Non-Index	Index	Non-Index	Index	Non-Index	Index
GROUND WATER SYSTEMS								
500 and under	2.2	0.00	0.3	0.6	$4.48	$8.65	0.03	0.05
501 to 3,300	17.1	0.14	0.3	0.7	5.05	9.81	0.00	0.01
3,301 to 10,000	17.2	0.72	0.1	0.8	2.81	23.71	0.00	0.00
SURFACE WATER SYSTEMS								
500 and under	0.3	0.01	0.5	0.0	$7.97	$0.00	0.03	0.00
501 to 3,300	6.0	0.33	0.7	1.1	10.45	16.63	0.01	0.01
3,301 to 10,000	12.6	1.25	0.0	1.1	0.00	30.99	0.00	0.00

[1] Calculated as 1/5 of publicly-owned Non-Index sample, plus all public Index systems for each year from 2001–2003; actual sampling for Non-Index takes place over three years, Index over each of three years.

[2] The "Revenue Test" was used to evaluate the economic impact of an information collection on small governments (e.g., publicly-owned systems); costs are presented as a percentage of median annual revenue in each size category.

TABLE 15B.—UCMR LIMITED IMPLEMENTATION SCENARIO: ANALYSIS FOR PRIVATELY OWNED SYSTEMS (2001–2005)

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005) (percent)		Average annual cost per system (2001–2005) [1]		"Sales Test" [2] (percent)	
	Number	Percent of U.S. total	Non-Index	Index	Non-Index	Index	Non-Index	Index
GROUND WATER SYSTEMS								
500 and under	8.0	0.02	0.6	1.9	$8.06	$27.41	0.05	0.17
501 to 3,300	7.8	0.06	0.6	2.1	9.15	30.89	0.01	0.03
3,301 to 10,000	4.8	0.20	0.8	2.6	22.16	73.92	0.00	0.01
SURFACE WATER SYSTEMS								
500 and under	0.8	0.04	1.1	0.0	$15.41	$0.00	0.07	0.00
501 to 3,300	2.7	0.15	1.2	3.2	17.07	46.98	0.01	0.03

TABLE 15B.—UCMR LIMITED IMPLEMENTATION SCENARIO: ANALYSIS FOR PRIVATELY OWNED SYSTEMS (2001–2005)—Continued

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005) (percent)		Average annual cost per system (2001–2005) [1]		"Sales Test" [2] (percent)	
	Number	Percent of U.S. total	Non-Index	Index	Non-Index	Index	Non-Index	Index
3,301 to 10,000	3.5	0.35	1.1	3.1	31.35	87.36	0.01	0.02

[1] Calculated as 1/5 of the Non-Index sample, plus all Index systems for each year from 2001–2005; actual sampling for Non-Index systems takes place over three years, while that of Index systems occurs over each of three years.
[2] The "Sales Test" was used to evaluate the economic impact of an information collection on small private entities (e.g., privately-owned systems); costs are presented as a percentage of median annual sales in each size category.

F. National Technology Transfer and Advancement Act

Under § 12(d) of the National Technology Transfer and Advancement Act (NTTAA), the Agency is required to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, analytical methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget (OMB), an explanation of the reasons for not using such standards.

In preparing this proposal, EPA searched for consensus methods and the methods found were published by the three major voluntary consensus method organizations, Standard Methods, AOAC International, and American Society for Testing and Materials (ASTM), that would be acceptable for compliance determinations under SDWA for the UCM List. The voluntary consensus methods found are listed in preamble section III.A.1.(c), Analytical Methods Applicable to the Monitoring List. For the Assessment Monitoring portion of the proposed rule, EPA is approving the use of all of the non-EPA analytical methods, adopted by these voluntary consensus groups, that are applicable to the analyses of these unregulated contaminants, when used in conjunction with the required quality-control practices specified in the rule.

For those chemical and microbiological parameters not included in the Assessment Monitoring portion of this proposal, EPA was unable to find either an EPA or voluntary consensus method organization method that was applicable to the monitoring required. In those cases where the contaminant was listed in a consensus method organizations method, the method either used technology that EPA believes is not consistent with modern laboratory practices (large volume liquid-liquid acid base neutral extractions, and packed column chromatography), or the contaminant was subject to rapid degradation in samples stored under the specified conditions. Therefore, EPA is conducting the methods development necessary to establish acceptable methods for the determination of these parameters.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

G. Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (February 11, 1994), focuses federal attention on the environmental and human health conditions of minority populations and low-income populations with the goal of achieving environmental protection for all communities.

By seeking to identify unregulated contaminants that may pose health risks via drinking water from all Public Water Systems, the unregulated contaminant monitoring regulation furthers the protection of public health for all citizens, including minority and low-income populations using public water supplies. Using a statistically-derived set of systems for the national representative sample that is population-weighted within each system size category in each State, the proposed rule ensures that no group within the population is under represented.

H. Executive Order 12875—Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

EPA has concluded that this rule will create a mandate on State, local, and tribal governments and that the Federal government will not provide the funds necessary to pay the full direct costs incurred by these governments in complying with the mandate. However, EPA will pay for the sample testing costs of small systems serving 10,000 or fewer persons and has set aside funds in its budget to do so.

EPA consulted with State, local, and tribal governments to enable them to provide meaningful and timely input in the development of this rule. Specifically, EPA received input through its public stakeholder process from 21 States and eight large water systems serving more than 10,000 persons, as well as 62 other Federal, State and local government agencies, non-profit organizations, and associations and industry who attended

17 public meetings beginning in December 1996 and continuing through June 1998, in Washington, DC. EPA announced five of these meetings in the **Federal Register** to allow as broad as possible a representation at these meetings, with the remaining meetings being topical meetings of representatives from the public meetings. EPA also sent out nearly 400 targeted mailings directly to 360 tribes, tribal organizations, and small water system organizations to ensure that they were informed of the proposed rule's expected requirements and had an opportunity to comment on these requirements. The principal concerns raised were that: (1) EPA should fund the testing of samples from systems serving 10,000 or fewer persons, and that larger systems should provide their own testing. (2) EPA should implement a monitoring program commensurate with the information needed about and the analytical methods that could reliably be used for the contaminants of concern. (3) EPA should establish as full a list of 30 contaminants as possible to maximize the use of the program. EPA believes this proposal fully addresses these concerns. (4) EPA should consider targeted, rather than representative random, sampling for tribal water systems. EPA is asking for public comment on the issue of targeted monitoring. (5) EPA should consider the applicability of "treatment as a State" for Tribes for the purposes of this regulation. EPA is asking for public comment on this issue.

I. Executive Order 13084—Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Only one tribal water system serves more than 10,000 persons. All the other tribal water systems serve 10,000 or fewer persons and in today's proposal would have an equal probability of being selected in the national representative sample of systems of this size for which EPA will pay the costs of testing of unregulated contaminants. Thus, these tribal water systems would be treated the same as water systems of a State.

This rule will not impose substantial direct compliance costs on such communities either because the Federal government will provide most of the funds necessary to pay the direct costs incurred by the tribal governments in complying with the rule, with the exception of the one large tribal water system. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule. Nevertheless, in developing this rule, EPA consulted with representatives of tribal governments pursuant to both Executive Order 12875 and Executive Order 13084. The extent of EPA's consultation, the nature of the governments' concerns, and EPA's position supporting the need for this rule, are discussed in the preamble section that addresses compliance with Executive Order 12875. Tribes were consulted and raised issues concerning the utility of a targeted, rather than a representative random, sampling approach, and the applicability of "treatment as a State" under this proposed rule. The Agency is requesting public comment on these issues. Systems serving 10,000 or fewer persons on tribal lands will have the same opportunity to be selected for participation in the monitoring program as any other system of that size and EPA will pay for the testing costs.

X. Public Involvement in Regulation Development

EPA's Office of Ground Water and Drinking Water has developed a process for stakeholder involvement in its regulatory activities for the purpose of providing early input to regulation development. Activities related to the Unregulated Contaminant Monitoring Regulation included meetings for developing the Contaminant Candidate List (CCL) and the information requirements of the National Drinking Water Contaminant Occurrence Data Base (NCOD), as well as specific meetings focused on revising the unregulated contaminant monitoring program. During the development of the UCMR, stakeholders from a wide range of public and private entities provided key perspectives. Representatives from public water systems, States, industry, and other organizations attended two stakeholders meetings to discuss options directly related to the UCMR. An additional 17 meetings were held with stakeholders and the public concerning issues related to the UCMR. In total, twenty-one State health and environmental agencies, five water systems, six water associations, six health associations, five industrial associations, four environmental organizations, four community and consumer organizations, twenty-nine companies, and seven federal agency offices participated in meetings that were instrumental in the development of the proposed regulation.

As noted above, the CCL identifies contaminants for which EPA may take regulatory action and for which EPA needs additional data. The contaminants for which additional data are needed before EPA can determine their regulatory status include contaminants on the Unregulated Contaminant Monitoring List. The meetings to develop the CCL have included stakeholder meetings to discuss the list broadly and meetings focused on particular issues conducted through the National Drinking Water Advisory Council's (NDWAC) Working Group on Occurrence and Contaminant Selection, as follows:

December 2–3, 1996 Stakeholders Meeting
April 3–4, 1997 NDWAC Working Group
June 23, 1997 NDWAC Working Group
July 17, 1997 NDWAC Working Group
January 7, 1998 NDWAC Conference Call

These meetings resulted in the Drinking Water Contaminant Candidate List (63 FR 10274, March 2, 1998) The contaminants that are proposed in this rule for unregulated contaminant monitoring are taken from the CCL "Occurrence Priorities."

The NCOD development activities have included ten public meetings on information requirements that should be considered for inclusion in that data base. These meetings were held from October 1997 to February 1998. The work of the NCOD development team has been incorporated in the preparation of this proposed unregulated contaminant monitoring regulation as the reporting requirements

for sample testing. Several documents are included in the docket for this rule concerning the NCOD development which were used in the public meetings:

Options for the National Drinking Water Contaminant Occurrence Data Base, Background Document (Working Draft), EPA 815–D–97–001, May 1997;

National Drinking Water Contaminant Occurrence Data Base—Development Strategy, Background Document (Working Draft), EPA 815–D–97–005, December 1997; and

Options for Design of the National Drinking Water Contaminant Occurrence Data Base, Background Document (Working Draft), EPA 815–D–98–001, January 1998.

EPA held its first stakeholders meeting to discuss options for the development of the Unregulated Contaminant Monitoring Regulation on December 2–3, 1997, in Washington, DC. A range of stakeholders attended that meeting, including representatives of public water systems, States, industry, health and laboratory organizations, and the public. EPA prepared a background document for the meeting, *Options for Developing the Unregulated Contaminant Monitoring Regulation* (Working Draft), EPA 815–D–97–003, November 1997. A summary of the meeting is also available. Prior to preparation of this proposed regulation, EPA held a second stakeholders meeting on June 3–4, 1998, to obtain input from interested parties on significant issues evolving from drafting the regulation, which needed further public input. EPA prepared a public review document for that meeting, *Background Information and Draft Annotated Outline for a Proposed Unregulated Contaminant Monitoring Regulation*, Background Document, (Working Draft), May 1998. A meeting summary is available. EPA also sent special requests for review of stakeholder documents to more than 360 tribes (exclusive of the Alaskan native villages) and to small systems organizations to obtain their input.

In all, EPA has held 17 public meetings with stakeholders and interested parties related directly or closely to the proposed Unregulated Contaminant Monitoring Regulation.

XI. References

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List of Subjects

40 CFR Part 141

Analytical methods, Chemicals, Environmental protection, Intergovernmental relations, Microorganisms, Monitoring, Water supply.

40 CFR Part 142

Analytical methods, Chemicals, Environmental protection, Intergovernmental relations, Microorganisms, Monitoring, Water supply.

Dated: April 14, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 141.35 is revised to read as follows:

§ 141.35 Reporting of unregulated contaminant monitoring results.

(a) *Does this reporting apply to me?* This section applies to any owner or operator of a public water system required to monitor for unregulated contaminants under § 141.40. This rule requires you to report the results of this monitoring.

(b) *To whom must I report?* (1) You must report the results of unregulated contaminant monitoring to the primary enforcement authority for the public water system program for your state, which will usually be the State drinking water agency, but will, in some parts of the country, be the EPA Regional office. (The primary enforcement authority for a public water system is also known as the "primacy agency'.) You must also notify the public of the monitoring results as provided in Subpart O (Consumer Confidence Reports) and Subpart Q (Public Notification) of this part.

(2) Exception. You do not need to report results of the screening survey, if you are a system serving a population of 10,000 or less, or the results of a pre-screen test, since in both cases EPA will arrange for testing and reporting of the results. However, you will still need to comply with public notification requirements for these results.

(c) *When do I report monitoring results?* You must report the results of unregulated contaminant monitoring within ten (10) days of receiving the results from the laboratory or within the first ten (10) days following the end of the required monitoring period specified by the primacy agency, whichever comes first.

(d) *What information must I report?* You must report the information specified in the following table:

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS

Data element	Definition
1. Public Water System (PWS) Identification Number.	The code used to identify each PWS. The code begins with the standard two-character postal State abbreviation; the remaining seven characters are unique to each PWS.
2. Sampling Station Type	The sampling station type from which the sample came. The valid choices are: (a) Finished Water from treatment system. (b) Finished/treated water from Entry Point to the distribution system after treatment. (c) Finished/treated water from Within the Distribution System. (d) Finished/treated water from End of the Distribution line with longest residence time. (e) Finished/treated water from household/drinking water tap. (f) Finished/treated water from unknown location. (g) Other Finished/treated water. (h) Raw/untreated water.
3. Water Source Type	The source type represented by the sample. The valid choices are: (a) Surface water from a stream or purchased surface water from a stream. (b) Surface water from a lake or reservoir, or purchased surface water from a lake or reservoir. (c) Ground water under the direct influence of surface water or purchased Ground water under the direct influence of surface water. (d) Ground water or purchased ground water.
4. Sample Identification Number	A unique identifier assigned by the PWS for each sample.
5. Sample Collection Date	The date the sample is collected.
6. Contaminant	The unregulated contaminant for which the sample is being analyzed.
7. Analytical Results—Sign	An alphanumeric value indicating whether the sample analysis result was: (a) (<) "less than" means the contaminant was not detected or was detected at a level "less than" the MRL. (b) (=) "equal to" means the contaminant was detected at a level "equal to" the value reported in "Analytical Result—Value."
8. Analytical Result—Value	The actual numeric value of the analysis for chemical and microbiological results.
9. Analytical Result—Unit of Measure	The unit of measurement for the analytical results reported. (e.g., micrograms per liter, µg/L; colony-forming units per milliliter, CFU/mL, etc.)
10. Analytical Method Number	The method number of the analytical method used.
11. Public Water System Facility Identification Number—Source Intake/Well, Treatment Plant and Sampling Station.	An identification number established by the State, or, at the State's discretion, the PWS, and unique to the system for an intake for each source of water, a treatment plant and a sampling station. Within each PWS, each intake, treatment plant and sampling point must receive a unique identification number, including, for intake, surface water intake, ground water well or wellfield centroid, and including, for sampling station, entry points to the distribution system, wellhead, intake, or locations within the distribution system. The same identification number must be used consistently through the history of unregulated contaminant monitoring to represent the facility.
12. Public Water System Facility Type	The facility type represented by the water system facility identification number: (a) Intake (for surface water sources). (b) Well or wellfield (for ground water sources). (c) Treatment Plant. (d) Sampling Station. (e) Entry Point to Distribution System. (f) Reservoir. (g) Booster Station. (h) Unknown.
13. Latitude of the Public Water System Facility for Source Intake/Well and Treatment Plant.	The east-west coordinate of each source intake, well or wellfield centroid, and treatment plant associated with a sample expressed as decimal degrees.
14. Longitude of the Public Water System Facility for Source Intake/Well and Treatment Plant.	The north-south coordinate of each source intake, well or wellfield centroid, and treatment plant associated with a sample expressed as decimal degrees.
15. Sample Type	The type of sample collected. Permitted values include: (a) Reference Sample—calibration or QC samples. (b) Field Sample—sample collected and submitted for analysis under this rule. (c) Confirmation Sample—a sample analyzed to confirm an initial contaminant detection. (d) Field Blank—reagent water or other blank matrix placed in a sample container in the laboratory and treated as a sample in all respects, including shipment to the sampling site, storage, preservation, and all analytical procedures. (e) Equipment Blank—samples generated by processing reagent water through the equipment using the same procedures used in the field to demonstrate that the equipment is free from contamination. (f) Split Sample—sample divided into sub-samples submitted to different laboratories or analysts for analysis. (g) Duplicate Sample—two aliquots of the same sample analyzed separately with identical procedures. (h) Spiked Sample—a sample to which known quantities of the method analytes are added.
16. Detection Level	"Detection level" is referring to the detection limit applied to both the method and equipment. Detection limits are the lowest concentration of a target contaminant that a given method or piece of equipment can reliably ascertain and report as greater than zero (i.e., Instrument Detection Limit, Method Detection Limit, Estimated Detection Limit).

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS—Continued

Data element	Definition
17. Detection Level Unit of Measure	The unit of measure to express the concentration, count, or other value of a contaminant level for the detection level reported. (e.g., µg/L, colony forming units/mL (CFU/mL), etc.)
18. Analytical Precision	For purposes of the UCMR, Analytical Precision is defined as the relative percent difference (RPD) between spiked matrix duplicates. The RPD for the spiked matrix duplicates analyzed in the same batch of samples as the analytical result being reported is to be entered in this field. Precision is calculated as Relative Percent Difference (RPD) between spiked matrix duplicates using, RPD = $[(X_1 - X_2)/\{(X_1 + X_2)/2\}] \times 100$.
19. Analytical Accuracy	For purposes of the UCMR accuracy is defined as the percent recovery of the contaminant in the spiked matrix sample analyzed in the same analytical batch as the sample result being reported and calculated using; % recovery = [(amt. found in Sp—amt. found in sample) / amt. spiked] × 100.
20. Presence/Absence	*Chemicals:* Presence—a response was produced by the analysis (i.e., greater than or equal to the MDL but less than the minimum reporting level)/Absence—no response was produced by the analysis (i.e., less than the MDL). *Microbiologicals:* Presence—indicates a response was produced by the analysis /Absence—indicates no response was produced by the analysis.

(e) *How must I report this information?* You must report this information in the electronic or other format specified by the primacy agency.

(f) *Can the laboratory to which I send samples report the results for me?* Yes, as long as the laboratory sends you a copy for review and recordkeeping.

3. Section 141.40 is revised to read as follows:

§ 141.40 Monitoring requirements for unregulated contaminants.

(a) *Requirements for owners and operators of public water systems.*—(1) *Do I have to monitor for unregulated contaminants?*—(i) *Transient systems.* If you own or operate a transient non-community water system, you do not have to monitor for unregulated contaminants.

(ii) *Large systems.* If you own or operate a public water system (other than a transient system) that serves more than 10,000 persons and do not purchase your entire water supply from another public water system, you must monitor as follows:

(A) You must monitor for the unregulated contaminants on List 1 of the Unregulated Contaminant Monitoring List.

(B) You must monitor for the unregulated contaminants on List 2 of the Unregulated Contaminant Monitoring List if notified by your State or EPA regional office that you are part of the screening survey.

(C) You must monitor for the unregulated contaminants on List 3 of the Unregulated Contaminant Monitoring List if notified by your State or EPA regional office that you are part of the pre-screen testing.

(iii) *Small systems.* If you own or operate a public water system (other than a transient system) that serves 10,000 persons or fewer and do not purchase your entire water supply from another public water system, you must monitor as follows:

(A) You must monitor for the unregulated contaminants on List 1 of the Unregulated Contaminant Monitoring List if you are notified by your State or EPA regional office that you are part of the State Monitoring Plan for small systems.

(B) You must monitor for the unregulated contaminants on List 2 of the Unregulated Contaminant Monitoring List if you are notified by your State or EPA regional office that you are part of the screening survey.

(C) You must monitor for the unregulated contaminants on List 3 of the Unregulated Contaminant Monitoring List if you are notified by your State or EPA regional office that you are part of the pre-screen testing.

(2) *How would I be selected for the monitoring under the State Monitoring Plan, the screening survey, or the pre-screen testing?*—(i) *State Monitoring Plan.* Only a representative sample of small systems must monitor for unregulated contaminants. EPA will select a national representative sample of small public water systems in each state through the use of a random number generator. Selection will be weighted by population served within each system water source type (surface or ground water) and system size category (systems serving persons numbering 25–500, 501–3,300, and 3,301–10,000). EPA will also select a small group of systems to be "index sites." Systems selected as index sites provide information about their site and operation that will serve to allow extrapolation of their results to other systems of similar size, rather than collecting detailed information at every small system. Each State will have the opportunity to make some modifications to this selection. You will be notified by EPA or the State that your system is part of the final State Monitoring Plan.

(ii) *Screening Survey.* The purpose of the screening survey is to determine the occurrence of contaminants in drinking water or sources of drinking water for which analytical methods have recently been developed for unregulated contaminant monitoring. EPA will select up to 300 systems to participate in this survey by using a random number generator. You will be notified by EPA or the State that your system has been selected for monitoring under the screening survey.

(iii) *Pre-screen testing.* The purpose of pre-screen testing is to determine the occurrence of contaminants for which EPA needs to determine that new analytical methods can measure their existence in locations most likely to be found. EPA will select up to 200 systems to participate in this testing considering the characteristics of the contaminants, precipitation, system operation, and environmental conditions. You will be notified by EPA or the State that your system has been selected for monitoring under the pre-screen testing program.

(3) *For which contaminants must I monitor?* Lists 1, 2 and 3 of unregulated contaminants are as follows:

TABLE 1.—UNREGULATED CONTAMINANT MONITORING LIST

1—Contaminant	2—CAS Identification No.	3—Analytical methods	4—Minimum reporting level	5—Sampling location	6—Date monitoring to begin
List 1—Assessment Monitoring Organic Chemical Contaminants					
2,4-dinitrotoluene	121–14–2	EPA 525.2[a]	2.4 ug/L[e]	EPTDS[f]	2001–2003
2,6-dinitrotoluene	606–20–2	EPA 525.2[a]	2.0 ug/L[e]	EPTDS[f]	2001–2003
DCPA mono acid degradate	887–54–7	EPA 515.1[a] EPA 515.2[a] D5317–93[b] AOAC 992.32[c]	1.0 ug/L[e]	EPTDS[f]	2001–2003
DCPA di acid degradate	2136–79–0	EPA 515.1[a] EPA 515.2[a] D5317–93[b] AOAC 992.32[c]	1.0 ug/L[e]	EPTDS[f]	2001–2003
4,4'-DDE	72–55–9	EPA 508[a] EPA 508.1[a] EPA 525.2[a] D5812–96[b] AOAC 990.06[c]	0.75 ug/L[e]	EPTDS[f]	2001–2003
EPTC	759–94–4	EPA 507[a] EPA 525.2[a] D5475–93[b] AOAC 991.07[c]	1.2 ug/L[e]	EPTDS[f]	2001–2003
Molinate	2212–67–1	EPA 507[a] EPA 525.2[a] D5475–93[b] AOAC 991.07[c]	0.87 ug/L[e]	EPTDS[f]	2001–2003
MTBE	1634–04–4	EPA 524.2[a] D5790–95[b] SM6210D[d]	5.0 ug/L[g]	EPTDS[f]	2001–2003
Nitrobenzene	98–95–3	EPA 524.2[a] D5790–95[b] SM6210D[d]	12 ug/L[g]	EPTDS[f]	2001–2003
Terbacil	5902–51–2	EPA 507[a] EPA 525.2[a] D5475–93[b] AOAC 991.07[c]	23 ug/L[e]	EPTDS[f]	2001–2003
List 1—Assessment Monitoring Microbiological Contaminants					
Aeromonas Hydrophila	Reserved	Membrane filter, in review.	1 colony forming unit.	(1) Near end of distribution line with longest residence time; (2) at a representative site in the distribution system.	2001–2003

Chemical Contaminant	CAS identification No.	Anticipated analytical methods	Minimum reporting level[e]	Sampling location	Date monitoring to begin
List 2.—Screening Survey: Organic Chemical Contaminants To Be Sampled After Notice of Analytical Methods Availability					
1,2-diphenylhydrazine	122–66–7	EPA 525.2[i]	Reserved[h]	EPTDS[f]	Reserved.[h]
2-methyl-phenol	95–48–7	SPE/GC/MS[l]	Reserved	EPTDS[f]	Reserved.[h]
2,4-dichlorophenol	120–83–2	SPE/GC/MS[l]	Reserved[h]	EPTDS[f]	Reserved.[h]
2,4-dinitrophenol	51–28–5	SPE/GC/MS[l]	Reserved.[h]	EPTDS[f]	Reserved.[h]
2,4,6 trichlorophenol	88–06–2	SPE/GC/MS[l]	Reserved[h]	EPTDS[f]	Reserved.[h]
Acetochlor	34256–82–1	EPA 525.2[i]	Reserved[h]	EPTDS[f]	Reserved.[h]
Alachlor ESA		TBD[h]	Reserved[h]	EPTDS[f]	Reserved.[h]
Diazinon	333–41–5	EPA 525.2[k]	Reserved[h]	EPTDS[f]	Reserved.[h]
Disulfoton	298–04–4	EPA 525.2[k]	Reserved[h]	EPTDS[f]	Reserved.[h]
Diuron	330–54–1	SPE/HPLC/UV[j]	Reserved[h]	EPTDS[f]	Reserved.[h]
Fonofos	944–22–9	EPA 525.2[i]	Reserved[h]	EPTDS[f]	Reserved.[h]
Linuron	330–55–2	SPE/HPLC/UV[j]	Reserved[h]	EPTDS[f]	Reserved.[h]
Prometon	1610–18–0	EPA 525.2[k]	Reserved[h]	EPTDS[f]	Reserved.[h]
Terbufos	13071–79–9	EPA 525.2[k]	Reserved[h]	EPTDS[f]	Reserved.[h]

References:

[a] The version of the EPA methods being approved will be dependant upon the status of the approval of new versions for compliance monitoring. If appropriate regulations approving new versions of EPA compliance monitoring methods are completed prior to the promulgation of this regulation, the following versions of the above methods will be approved. *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III*, EPA–600/R–95–131, August 1995. NTIS PB95–261616. Copies are also available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847. If new regulations changing the versions of methods being approved for compliance monitoring are not completed prior to the promulgation of this regulation, then the following versions of the EPA methods are being approved for monitoring under the Unregulated Contaminant Monitoring Rule. Methods 507, 508, and 515.1 are in *Methods for the Determination of Organic Compounds in Drinking Water*, EPA–600/4–88–039, December 1988, Revised, July 1991. Methods 515.2 and 524.2 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II*, EPA/600/R–92/129, August 1992. These documents are available from the National Technical Information Service, (NTIS) U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 (800) 553–6847. Methods 508.1 and 525.2 are available from US EPA NERL-Cincinnati, Cincinnati, Ohio 45268, (513) 569–7586.

[b] *Annual Book of ASTM Standards*, 1996 and 1998, Vol. 11.02, American Society for Testing and Materials. Method D5812–96 is located in the *Annual Book of ASTM Standards*, 1998, Vol. 11.02. Methods D5790–95, D5475–93, and D5317–93 are located in the *Annual Book of ASTM Standards*, 1996 and 1998, Vol 11.02. Copies may be obtained from the American Society for Testing and Materials, 101 Barr Harbor Drive, West Conshohocken, PA 19428.

[c] Official Methods of Analysis of AOAC (Association of Official Analytical Chemist) International, Sixteenth Edition, 4th Revision, 1998, Volume I, AOAC International, First Union National Bank Lockbox, PO Box 75198, Baltimore, MD 21275–5198. 1–800–379–2622.

[d] 18th and 19th editions of *Standard Methods for the Examination of Water and Wastewater*, 1992 and 1995, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

[e] Minimum Reporting Level determined by multiplying by 10 the least sensitive method's minimum detection limit (MDL=standard deviation times the Student's T value for 99% confidence level with n-1 degrees of freedom), or when available, multiplying by 5 the least sensitive method's estimated detection limit (where the EDL equals the concentration of compound yielding approximately a 5 to 1 signal to noise ratio or the calculated MDL, whichever is greater).

[f] Entry Points to the Distribution System, After Treatment, representing each water source in use over the twelve-month period of monitoring.

[g] Minimum Reporting Levels (MRL) for Volatile Organic Compounds (VOC) determined by multiplying either the published Method Detection Limit (MDL) or 0.5 ug/L times 10, whichever is greater. The MDL of 0.5 ug/L (0.0005 mg/L) was selected to conform to VOC MDL requirements of 40 CFR 141.24(f)(17(E).

[h] To be Determined at a later time.

[i] Compound currently not listed as an contaminant in this method. Methods development currently being conducted in an attempt to add it to the scope of this method.

[j] Methods development currently in progress to develop a solid phase extraction/high performance liquid chromatography/ultraviolet method for the determination of this compound.

[k] Compound listed as being an contaminant using EPA Method 525.2; however, adequate sample preservation is not available. Preservation studies currently being conducted to develop adequate sample preservation.

[l] Methods development currently in progress to develop a solid phase extraction/gas chromatography/mass spectrometery method for the determination of this compound.

Microorganism	Identification No.	Sampling location	Date monitoring to begin
List 3.—Pre-Screen Testing: Contaminants with Analytical Methods Not Anticipated To Be Available by Regulation Implementation			
Cyanobacteria (blue-green algae, other freshwater algae and their toxins)	Reserved[a]	Reserved[a]	Reserved.[a]
Echoviruses	Reserved[a]	Reserved[a]	Reserved.[a]
Coxsackieviruses	Reserved[a]	Reserved[a]	Reserved.[a]
Helicobacter pylori	Reserved[a]	Reserved[a]	Reserved.[a]
Microsporidia	Reserved[a]	Reserved[a]	Reserved.[a]
Caliciviruses	Reserved[a]	Reserved[a]	Reserved.[a]
Adenoviruses	Reserved[a]	Reserved[a]	Reserved.[a]

[a] To be Determined at a later time

(4) *What general monitoring requirements must I follow for List 1 monitoring?*—(i) *All systems.* You must:

(A) Collect samples of the listed contaminants in accordance with paragraph (e) of this section and any other specific instructions provided to you by EPA or the State;

(B) Review the laboratory testing results to ensure reliability; and

(C) Report the results as specified in § 141.35.

(ii) *Large systems.* In addition to paragraph (d)(1) of this section, you must arrange for testing of the samples according to the methods specified for each contaminant in the Unregulated Contaminant Monitoring List and in Appendix A to this section.

(iii) *Small systems.* In addition to paragraph (d)(1) of this section, you must:

(A) Properly receive, store and use the sampling equipment sent to you from the laboratory;

(B) Sample at the times specified by the State or the EPA Regional office;

(C) Collect and pack samples in accordance with the instructions sent to you by the laboratory; and

(D) Send the samples to the laboratory designated by EPA.

(5) *What specific sampling and quality control requirements must I follow for monitoring of List 1 contaminants? (i) All systems.* You must comply with the following requirements:

(A) *Sample collection and shipping time.* If you must ship the samples for testing, you must collect the samples early enough in the day to allow adequate time to send the samples for overnight delivery to the laboratory since some samples must be processed at the laboratory within 30 hours of collection. You must not collect samples on Friday, Saturday or Sunday because sampling on these days would not allow samples to be shipped and received at the laboratory within 30 hours.

(B) *No compositing of samples.* You must not composite (that is, combine, mix or blend) the samples. You must collect, preserve and test each sample separately.

(C) *Review and reporting of results.* After you have received the laboratory results, you must review and confirm the system information and data regarding sample collection and test results. You must report the results as provided in § 141.35.

(ii) *Large systems.* In addition to paragraph (e)(1) of this section, you must comply with the following:

(A) *Timeframe.* You must collect the samples in one twelve-month period during the years indicated in column 6 of the Unregulated Contaminant Monitoring List.

(B) *Frequency.* You must collect the samples according to the following frequency specified by contaminant type and water source type:

Contaminant type	Water source type	Timeframe	Frequency
Chemical	Surface water	12 months	Every three months with one sampling event during the vulnerable time[a].
	Ground water	12 months	Vulnerable time[a] and six (6) months later.
Microbiological	Surface and ground water.	12 months	Vulnerable time[a] and six (6) months later.

[a] Vulnerable time means May 1 through July 31, unless the State or EPA Regional Office informs you that it has selected a different time period as your system's vulnerable time.

(C) *Location.* You must collect samples at the location specified for each listed contaminant in column 5 of the Unregulated Contaminant Monitoring List.

(D) *Sampling instructions.* You must follow the sampling procedure for the method specified in column 3 of the Unregulated Contaminant Monitoring List for each contaminant.

(E) *Testing and analytical methods.* You must use the analytical method specified for each listed contaminant in column 3 of the Unregulated Contaminant Monitoring List, the minimum reporting levels in column 4 of the Unregulated Contaminant Monitoring List, and the quality control procedures specified in appendix A to this section.

(F) *Sampling deviations.* If you do not sample according to the procedures specified for a listed contaminant, you must resample following the procedures specified for the method.

(G) *Testing.* You must arrange for the testing of the contaminants by a laboratory certified under § 141.28.

(iii) *Small systems that are part of the State Monitoring Plan.* In addition to paragraph (a)(5)(i) of this section, you must comply with the following:

(A) *Frequency.* You must collect samples at the times specified for you by the State or EPA regional office, following the frequency specified in paragraph (a)(5)(ii)(B) of this section for the contaminant type and water source type.

(B) *Location.* You must sample at the locations specified for you by the State or EPA regional office.

(C) *Sampling deviations.* If you do not collect a sample according to the instructions provided to you, then you must report the deviation on the sample reporting form that you send to the laboratory with the samples.

(D) *Sample kits.* You must store and maintain the sample collection kits sent to you by the laboratory in a secure place until used for sampling. If indicated in the kit's instructions, you must freeze the cold packs. The sample kit will include all necessary containers, packing materials and cold packs, instructions for collecting the sample and sample treatment (such as dechlorination or preservation), report forms for each sample, contact name and telephone number for the laboratory, and a prepaid return shipping docket and return address label. If any of the materials listed in the kit's instructions are not included or arrive damaged, you must notify the laboratory which sent you the sample collection kits.

(E) *Sampling instructions.* You must comply with the instructions sent to you by the State or EPA Regional office concerning use of containers, collection (how to fill the sample bottle), dechlorination and/or preservation, and sealing and preparing the sample and shipping containers for shipment. You must also comply with the instructions sent to you by the laboratory concerning the handling of sample containers for specific contaminants.

(F) *Duplicate samples.* EPA will select systems in the State Monitoring Plan that must collect duplicate samples for quality control. If your system is selected, you will receive two sample kits that you must use. You must use the same sampling protocols for both sets of samples, following the instructions in the duplicate sample kit.

(G) *Sampling forms.* You must completely fill out the sampling forms sent to you by the laboratory, including the data elements 1 through 9 listed in § 141.35 for each sample. You must sign and date the sampling forms.

(H) *Sample submission.* Once you have collected the samples and completely filled in the sampling forms, you must send the samples and the sampling forms to the laboratory designated in your instructions.

(6) *What additional requirements must I follow if my system is selected as an Index site?* If your system is selected as an index site in the State Monitoring Plan, you must assist EPA or the State in identifying appropriate sampling locations and provide information on which wells and intakes are in use at the time of sampling, well casing and screen depths (if known) for those wells, and the pumping rate of each well or intake at the time of sampling.

(7) *What must I do if my system is selected for the screening survey or pre-screen testing?*—(i) *Large systems.* If your system serves over 10,000 persons, you must collect and arrange for testing of the contaminants in List 2 and List 3 of the unregulated contaminant monitoring list in accordance with the requirements set out in paragraph (a)(4) and (5) of this section. You must send the samples to one of the laboratories designated by EPA in your notification. You must report the test results to the State.

(ii) *Small systems.* If your system serves 10,000 persons or fewer, you must collect samples in accordance with the instructions sent to you by the State or EPA, or, if informed by the State or EPA that the State or EPA will collect the sample, you must assist the State or EPA in identifying the appropriate sampling locations and in taking the samples. EPA will report the test results to you and the State.

(b) *Requirements for State and Tribal Participation*—(1) *How can I as the director of a State or Tribal drinking water program participate in the State Monitoring Plan and Screening Survey for small systems?* You may participate in the selection of systems for the State Monitoring Plan and the timing of monitoring as follows:

(i) *Initial plan.* EPA will first specify the number of systems serving 10,000 or fewer persons by water source and size in an initial plan for each State using a random number generator. EPA will also generate a replacement list of systems for systems that may not have been correctly specified on the initial plan. This initial plan will also indicate the week, month, and year that each system must monitor for the contaminants in List 1 of the

Unregulated Contaminant Monitoring List. EPA will provide you with the initial plan for your State or Tribe, including systems to be index sites and those small systems to be part of the screening survey.

(ii) *State acceptance or modification of the list of systems.* Within 60 days of receiving the initial plan, you may notify EPA that you either accept it as your State Monitoring Plan or request to modify the initial plan by removing systems closed, merged or purchasing water from another system. In place of any such systems, you must use systems from the replacement list in the order listed. Your request must include the modified plan and the reason for replacement of systems. You may also specify an alternative week, month and year in which the monitoring is to occur for each system in the State Plan as long as approximately one-third of the systems in the State Plan must monitor in each year specified in Table 1, column 6. This monitoring may be coordinated with regulated contaminant compliance monitoring at your discretion.

(iii) *State modification of the timing of monitoring.* Within 60 days of receiving the initial plan, you may also modify the plan by selecting an alternative week, month and year for monitoring for each system in the State Monitoring Plan as long as approximately one-third of the systems in the Plan monitor in each year specified in column 6 of the Unregulated Contaminant Monitoring List. This monitoring may be coordinated with regulated contaminant compliance monitoring at your discretion. You must send the modified plan to EPA.

(iv) *Determination of alternate vulnerable time.* Within 60 days of receiving the initial plan, you may also determine that the most vulnerable time of the year for any or all of the systems is different than the May 1 through July 31. If you make this determination, you must modify the State Monitoring Plan to indicate the alternate vulnerable time and to which systems the alternate vulnerable time applies. You must also notify the system(s) of the most vulnerable time of the year that you have specified for them to sample for one of their sampling events. You must notify them at least 90 days before their first unregulated contaminant sampling is to occur.

(v) *Notification of systems.* If you decide to accept or modify the initial plan, you must provide to EPA your plan for notifying each public water system of its selection for the plan and instructions for monitoring. You must provide notification to systems at least 90 days before sampling must occur.

(vi) *No modification.* If you do not accept the initial plan or submit a request to EPA to modify the initial plan within 60 days, the initial plan will become the State Monitoring Plan for your State or Tribe. In that case, you may still notify each public water system of its selection for the plan and instructions for monitoring as long as you notify EPA that you will be undertaking this responsibility.

(2) *What instructions do I provide to systems that are part of the State Monitoring Plan?* If you choose to notify systems that they are part of the State Monitoring Plan, you must send a monitoring schedule to each system listed in the State Monitoring Plan and instructions on location, frequency, timing of sampling, use of sampling equipment, and handling and shipment of samples based on these regulations. EPA will provide you with guidance for these instructions.

(3) *Can I also change the vulnerable time for monitoring of large systems?* Yes. If you desire to change the vulnerable time for monitoring at large systems, then not later than 120 days prior that monitoring, you must send written notification to the EPA Regional Office indicating your State is modifying the most vulnerable time of the year for any or all of the large systems to be different than the period of May 1 through July 31 and specify the vulnerable time for each system to which any modification applies. You must also notify the system(s) of the most vulnerable time of the year that you have specified for them to sample for one of their sampling events. You must notify them at least 90 days before their first unregulated contaminant sampling is to occur.

(4) *How can I participate in monitoring for the Screening Survey for large systems?* Within 120 days prior to sampling, EPA will notify you which systems have been selected to participate in the screening survey, the sampling dates, the designated laboratory for testing, and instructions for sampling. You may choose to notify the selected systems in your State of these screening survey requirements. If you choose to do so, you must notify EPA within 30 days of EPA's notification to you. You must provide the necessary screening survey information to the selected systems at least 90 days prior to the sampling date.

(5) *How can I participate in monitoring for Pre-Screen Testing?* You can participate in pre-screen testing in two ways.

(i) First, within 60 days of EPA's letter to you concerning initiation of Pre-screen testing for specific contaminants, you can identify from 5 up to 25 systems in your State that you determine to be representative of the most vulnerable systems to these contaminants, modify your State Monitoring Plan to include these most vulnerable systems, and notify the EPA Regional Office of the addition of these systems to the State Plan. These systems must be selected from all community and non-transient noncommunity water systems. EPA will use the State-identified vulnerable systems to select up to 200 systems nationally to be monitored considering the characteristics of the contaminants, precipitation, system operation, and environmental conditions.

(ii) Second, within 120 days prior to sampling, EPA will notify you which systems have been selected, sampling dates, the designated laboratory for testing of samples for systems serving 10,000 or fewer persons and approved laboratories for systems serving more than 10,000 persons, and instructions for sampling. You may choose to notify the owner or operator of the selected systems in your State of these pre-screen testing requirements. If you choose to do so, you must notify EPA within 30 days of EPA's notification to you. You must provide the necessary pre-screen testing information to the owner or operator at least 90 days prior to the sampling date.

(6) *Can I add contaminants to the Unregulated Contaminant Monitoring List?* Yes, the SDWA allows Governors of seven or more States to petition the EPA Administrator to add one or more contaminants to the Unregulated Contaminant Monitoring List. The petition must clearly identify the reason for adding the contaminant(s) to the monitoring list, including the potential risk to public health, particularly any information that might be available regarding disproportional risks to the health and safety of children, the expected occurrence documented by any available data, any analytical methods known or proposed to be used to test for the contaminant(s), and any other information that could assist the Administrator in determining which contaminants present the greatest public health concern and should, therefore, be included on the Unregulated Contaminant Monitoring List.

(7) *Can I waive monitoring requirements?* Only with EPA approval and under very limited conditions. Following are the procedures for requesting the only type of waiver available under these regulations.

(i) You may apply to EPA for a state-wide waiver from the monitoring requirements for public water systems serving more than 10,000 persons. To apply for such a waiver, you must submit an application to EPA that includes the following information:

(A) The list of contaminants on the Unregulated Contaminant List for which you request a waiver, and

(B) Documentation demonstrating, for each contaminant in your request, that during the past 15 years it has not been used, stored, disposed of, released, naturally present or detected in the source waters or distribution systems in the State.

(ii) EPA will notify you if EPA determines that you may waive monitoring requirements.

Appendix A to § 141.40—Quality Control Requirements for Testing All Samples Collected

Your system must ensure that the quality control requirements listed below for testing of samples collected and submitted under § 141.40 are followed:

(1) *Sample Collection/Preservation.* Follow the sample collection and preservation requirements for the specified method for each of the contaminants in Table 1. These requirements specify sample containers, collection, dechlorination, preservation, storage, sample holding time, and extract storage and/or holding time that the laboratory must follow. Samples with methods that specify storage at 4°C must be shipped in ice or frozen gel packs.

(2) *Method Detection Limit.* Calculate the laboratory method detection limit (MDLs) for each contaminant in Table 1, List 1, using the appropriate specified method according to procedures in 40 CFR part 136, appendix B with the exception that the contaminant concentration used to fortify reagent water must be less than or equal to the minimum reporting level (MRL) for the contaminants as specified in Table 1 of § 141.40(a)(3). The calculated MDL is equal to the standard deviation times the Student's T value for 99% confidence level with n-1 degrees of freedom. (The MDL must be less than or equal to one-half of the MRL.)

(3) *Calibration.* Perform a three to six point initial calibration depending on the method utilized. Calibration must be verified initially with a low-level standard at a concentration within ±10% of the MRL for each contaminant. Perform a continuing calibration verification following every 10th sample. The calibration verification must be performed by alternating low-level and mid-level calibration standards. The low-level standard is defined as a concentration within ±10% of the MRL with an acceptance range of ±40%. The mid-level standard is in the middle of the calibration range with an acceptance range of ±20%.

(4) *Reagent Blank Analysis.* Analyze one laboratory reagent (method) blank per sample set/batch that is treated exactly as a sample. The maximum allowable background concentration is one-half of the MRL for all contaminants. A field reagent blank is required only for EPA Method 524.2 (or equivalent listed methods, D5790.95 and SM6210D).

(5) *Quality Control Sample.* Obtain a quality control sample from an external source to check laboratory performance at least once each quarter.

(6) *Matrix Spike and Duplicate.* Prepare and analyze matrix spike (MS) for accuracy and matrix spike duplicate (MSD) samples for precision to determine method accuracy and precision for all contaminants in Table 1, List 1. MS/MSD samples must be prepared and analyzed at a frequency of 5% (or one MS/MSD set per every 20 samples) or with each sample batch whichever is more frequent. In addition, the MS/MSD spike concentrations must be alternated between a low-level spike and mid-level spike approximately 50% of the time. (For example: a set of 40 samples will require preparation and analysis of two MS/MSD sets. The first set must be spiked at either the low-level or mid level, and the second set must be spiked with the other standard, either the low-level or mid-level whichever was not used for the initial MS/MSD set). The low-level MS/MSD spike concentration must be within ±10% of the MRL for each contaminant. The mid-level MS/MSD spike concentration must be within ±10% of the mid level calibration standard for each contaminant. There are no acceptance criteria specified for MS/MSD recoveries.

(7) *Internal Standard Calibration.* As appropriate to a method's requirements to be used, test and obtain an internal standard for the methods for each chemical contaminant in Table 1, List 1, a pure contaminant of known concentration, for calibration and quantitation purposes. The methods specify the percent recovery or response that you must obtain for acceptance.

(8) *Method Performance Test.* As appropriate to a method's requirements to be used, test for surrogate compounds, a pure contaminant unlikely to be found in any sample, to monitor method performance. The methods specify the percent recovery that you must obtain for acceptance.

(9) *Detection Confirmation.* Confirm any chemical contaminant detected above the MRL by gas chromatographic/mass spectrometric (GC/MS) methods. If testing resulted in first analyzing the sample extracts via specified gas chromatographic methods, an initial confirmation by a second column dissimilar to the primary column may be performed. If the contaminant detection is confirmed by the secondary column, then the contaminant must be reconfirmed by GC/MS using 3 specified ion peaks for contaminant identification. Use one of the following confirming techniques: (i) perform single point calibration of the GC/MS system for confirmation purposes only as long as the calibration standard is at a concentration within ± 50% of the concentration determined by the initial analysis; or (ii) perform a three point calibration with single point daily calibration verification of the GC/MS system regardless of whether that verification standard concentration is within ± 50% of sample response. If GC/MS analysis confirms the initial contaminant detection, report results determined from the initial analysis.

(10) *Reporting.* Report the analytical results and other data, with the required data listed in § 141.35, Table 1. Report this data electronically to the State or EPA Regional Office, unless the State or EPA Regional Office specifies otherwise. Systems must coordinate with their laboratories for electronic reporting to the State or EPA Regional Office to ensure proper formatting and timely data submission.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 142.15 is amended by revising paragraph (c)(3) to read as follows:

§ 142.15 Reports by States.

* * * * *

(c) * * *

(3) *Unregulated contaminant monitoring.* The State must report the results from the unregulated contaminant monitoring required under 40 CFR 141.40, including the information identified in 40 CFR 141.35(b) to the National Drinking Water Contaminant Occurrence Data Base. This report must be in an electronic format and sent to EPA through the Safe Drinking Water Information System or other information system specified by the Agency not later than the quarter following receipt of the unregulated contaminant monitoring results from the public water system or its laboratory.

* * * * *

3. Section 142.16 is amended by revising paragraphs (e) introductory text, (e)(1) introductory text, and (e)(1)(i)(C) to read as follows:

§ 142.16 Special primacy requirements.

* * * * *

(e) An application for approval of a State program revision which adopts the requirements specified in 40 CFR 141.11, 141.23, 141.32, 141.61 and 141.62 must contain the following (in addition to the general primacy requirements enumerated elsewhere in this part, including the requirement that State regulations be at least as stringent as the federal requirements):

(1) If a State chooses to issue waivers from the monitoring requirements in 40 CFR 141.23 and 141.24, the State shall describe the procedures and criteria which it will use to review waiver applications and issue waiver determinations.

(i) * * *

(C) The State decision criteria, including the factors that will be considered in deciding to grant or deny waivers. The decision criteria must include the factors specified in 40 CFR 141.24(f)(8) and 141.24(h)(6).

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Friday
April 30, 1999

Part III

Department of Housing and Urban Development

24 CFR Parts 5, 960, 966, and 984
Changes to Admission and Occupancy Requirements in the Public Housing and Section 8 Housing Assistance Programs; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 960, 966, and 984

[Docket No. FR–4485–P–01]

RIN 2501–AC59

Changes to Admission and Occupancy Requirements in the Public Housing and Section 8 Housing Assistance Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule addresses several changes related to admission and occupancy requirements of public housing and section 8 assisted housing that were made by the Quality Housing and Work Responsibility Act of 1998 (referred to as the "1998 Act"). With respect to admission and occupancy, this rule includes important changes concerning choice of rent, community service and self-sufficiency in public housing. This rule also includes important changes concerning admission preferences and determination of income and rent in public housing and Section 8 housing assistance programs. Some of the provisions included in this rule are already in effect, as more fully discussed in HUD's Notice of Initial Guidance on the 1998 Act, published on February 18, 1999 ("Initial Guidance Notice"), and HUD's interim rule on the PHA Plan, also published on February 18, 1999 (PHA Plan interim rule). The provisions that are already in effect are identified in this rulemaking.

DATES: Comment due date: June 29, 1999.

ADDRESSES: Submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Please refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For the public housing and tenant-based Section 8 housing assistance programs—Patricia Arnaudo, Senior Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4112, Washington, DC 20410; telephone (202) 708–0744, or the Public and Indian Housing Resource Center at 1–800–955–2232.

For the Section 8 project-based programs—Willie Spearmon, Director, Office of Multifamily Business Products, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6138, Washington, DC 20410; telephone (202) 708–3000.

(With the exception of the telephone number for the PIH Resource Center, these are not toll-free telephone numbers.) Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background—the 1998 Act

Comprehensive Reforms to Public Housing and Section 8 Programs

The Quality Housing and Work Responsibility Act of 1998 (title V of the FY 1999 HUD appropriations Act, Pub.L. 105–276, 112 Stat. 2518, approved October 21, 1998) (referred to in this rule as "the 1998 Act" or "the Act") amended the United States Housing Act of 1937 (42 U.S.C. 1437, *et seq.*, "the 1937 Act") to make comprehensive changes to HUD's public housing, tenant-based assistance, and Section 8 project-based programs. Some of the reforms made by the 1998 Act affect public housing only, and some of the reforms affect Section 8 tenant-based and project-based programs as well. Throughout this preamble and in the provisions of 24 CFR part 5 addressed in this rule, HUD indicates where the matter under discussion applies only to one program or to more than one program.

This Proposed Rule

What This Rule Addresses

This rule addresses both provisions of the 1998 Act that are already in effect, and provisions that are being implemented by this rule. The chart provided in this preamble shows:

(1) Which sections of the 1998 Act are being addressed by this rule,

(2) Which of the 1998 Act changes being implemented in this rule apply to which HUD programs, and

(3) Which sections of the 1998 Act are effective now.

Several Conforming Amendments Included in This Rule

HUD will accept comments on any of the regulatory changes included in this rule. The provisions of the 1998 Act that are already in effect have been implemented directly from the statute, without exercise of discretion by HUD. In order to bring HUD's regulations up to date with the changes made by the 1998 Act, the final rule published after consideration of comments on this proposed rule will need to incorporate these changes. Therefore, the conforming regulatory changes that need to be made to the regulations in 24 CFR parts 5 and 960 have been included in this rule, so the reader can review the regulations in their amended and updated form. Since these changes do not reflect exercise of discretion, however, HUD is not likely to change these provisions in response to public comment.

Regulatory Location of Statutory Provisions

In some cases, a statutory provision being implemented could be placed either in specific program regulations, such as part 982 covering Section 8 tenant-based assistance, or in the regulations governing programs authorized by the 1937 Act, part 5. This proposed rule and other proposed rules being issued at approximately the same time may contain overlapping provisions. When the final rules are issued, we will make the final determination about the appropriate regulatory location of the provisions and place them in the appropriate part.

Program Changes That Require Appropriations Act Approval

Some of the 1998 Act provisions make changes to HUD programs that would take effect only upon approval in appropriations acts. These changes are not included in this rule. If approved in appropriations acts, they will be implemented by notice. Examples of provisions that are dependent upon appropriations act approval are the addition of exclusions from income for medical expenses of nonelderly families and for child and spousal support, and the addition of earned income disallowances in the Section 8 program for earned income.

Previous Proposed Rule on Admission and Occupancy

A proposed rule streamlining the admission and occupancy provisions applicable to public housing and making other changes was published in the **Federal Register** on May 9, 1997 (62 FR 25728). The May 9, 1997 proposed rule is withdrawn. HUD intends to issue a second proposed rule to implement the 1998 Act safety and security provisions for public and assisted housing and expects to make other streamlining changes similar to those

proposed in the May 9, 1997 rule at that time.

Again, the chart that follows presents a summary overview of what this rule addresses. In the chart, the term PBC refers to project-based certificates.

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Statutory Section	Applies to public housing?	Applies to Section 8 certificates & vouchers?	Applies to Section 8 PBC & moderate rehabilitation?	Applies to New Constr, Sub Rehab, & other project-based Sec.8 programs?	Effective Now?
Sec. 506 Definitions	Yes	Yes	Yes	Yes	No (except singles)
Sec. 507 Minimum Rent	Yes	Yes	Yes	Yes	Yes
Sec. 508 Adjusted Income					
a. Mandatory Deductions	Yes	Yes, subject to appropriations	Yes, subject to appropriations	Yes, subject to appropriations	No
b. Permissive Deductions	Yes	No	No	No	No
Sec. 509 Family Self-Sufficiency Program Amendments	Yes	Yes	No	No	Yes
Sec. 512 Community Service & Self-Sufficiency					
a. 8 hour require.	Yes	No	No	No	No
b. No reduction in rent for reduced welfare income for failure to comply	Yes	Yes	No	No	Yes
Sec. 513 Income Targeting	Yes	Yes	Yes	Yes	Yes
Sec. 514 & 545 Repeal of Federal Preferences	Yes	Yes	Yes	Yes	Yes
Sec. 523 Family Choice of Rental Payment	Yes	No	No	No	No
Sec. 524 & 548 Occupancy by					
a. Police Officers	Yes	Yes	Yes	Yes	Yes
b. Over income families	Yes	No	No	No	Yes

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Organization of Rule

While the rule is published for public comment, HUD may reconsider the organization of this rule, and not only this rule but the existing codified regulations. HUD may determine that the regulations proposed by this rule or proposed to be revised by this rule can be better organized. HUD also may determine that regulatory text can be worded more plainly and clearly, and some regulatory provisions can be consolidated with others, or if they are provisions that are likely to change frequently, these provisions (if not imposing binding requirements) may be better left to non-regulatory sources (such as notices, guidance documents, etc.) Accordingly, HUD may make organizational changes (including streamlining and plain language changes) at the final rule stage. Any comments on the organization of this rule or the existing regulations is welcome.

II. Specific Changes to Admission and Occupancy Requirements

This section of the preamble discusses the changes made to admission and occupancy requirements of the 1937 Act by the 1998 Act and the regulatory changes that will be made as a result of the statutory amendments. Some of these statutory sections were also discussed in the Initial Guidance Notice on the 1998 Act, published in the **Federal Register** on February 18, 1999 (64 FR 8192). For the convenience of any reader who would like a reference to the discussion of a certain section of the new statute provided in the Initial Guidance Notice, this section provides the applicable reference.

Using Computer Matching Results (24 CFR 5.211) (Section 508 of the 1998 Act Amending Section 3 of the 1937 Act)

For some time, HUD has conducted a computer matching initiative to provide one independent source for verifying resident income. HUD can disclose the matched information to the PHAs, in the case of information matched from Social Security records. Since HUD is precluded by law from disclosing Federal tax return data to PHAs, section 508 of the 1998 Act adds a requirement that when HUD notifies an assisted family of information regarding family income, earnings, wages, or unemployment compensation, the family must disclose the information to the public housing agency. This rule adds a new section, 24 CFR 5.211 to implement these provisions.

The rule provides that once the family discloses the information to the PHA, the PHA must review the information for accuracy and take appropriate action. Appropriate action may include review of the information with the tenant and changing the family's rent as needed. If the PHA verifies a case of documented fraud, it should take action to recover excess housing assistance received by the tenant due to unreported income, or evict the tenant or terminate assistance, and take other appropriate administrative or legal action. HUD will be providing additional information on its computer matching initiative.

Section 508 of the Act was discussed in the Initial Guidance Notice at 64 FR 8198, beginning in the middle column.

Change From HA to PHA (§ 5.214)

In the definitions provided in 24 CFR 5.214, HUD removes the definition of "HA." This acronym HA refers to a housing agency, which was the collective term used by HUD to refer to both a public housing agency and an Indian housing authority. The Native American Housing Assistance and Self-Determination Act (NAHASDA) (Pub.L. 104–330, approved October 26, 1996) eliminated several separate programs of Indian housing assistance and replaced them with a single block grant program. NAHASDA also provided that affordable housing assistance be made directly to Federally-recognized tribes, which in turn may designate a housing entity to act on their behalf by becoming the NAHASDA block grant program recipient. The practical consequence is that Indian housing authorities (or "tribally designated entities") are now governed by separate regulations, implementing NAHASDA. Therefore, the only remaining category of housing agency recognized under the 1937 Act is a Public Housing Agency or "PHA." HUD's rule amending part 982, published elsewhere in today's **Federal Register**, provides a broader definition for HA. At the final rule stage, the part 5 regulations may incorporate this definition.

Repeal of Preference for Elderly, Disabled, and Displaced Over Other Singles (24 CFR 5.405, 960.407) (Section 506 of the 1998 Act Amending Section 3(b) of the 1937 Act)

This rule removes the current regulatory giving preference to elderly, disabled, or displaced families over other single persons in all 1937 Act programs (§ 5.405(b)), in compliance with section 506 of the Act. In addition, this rule includes a conforming change to remove the outdated public housing provisions (§ 960.407(b), (c), and (d)). A PHA may continue to have this type of preference as part of its local preference policies. If a PHA does not keep as its highest preference a preference for elderly, disabled, or displaced families over other singles as a local preference, the PHA will have to rearrange its current waiting list.

Repeal of Federal Preferences in Admission and Selection for Assistance (24 CFR 5.410–5.430, 960.204, 960.407) (Sections 514 and 545 of the 1998 Act Amending Sections 6 and 8 of the 1937 Act)

The Federal preferences, which have long applied to public housing and Section 8 housing assistance payments programs, are repealed by the 1998 Act. The system of Federal preferences provided that some significant portion of applicants who are involuntarily displaced, living in substandard housing, or paying more than 50 percent of family income for rent, were to be given preference in admission and selection for assistance over other families. Congress had suspended this system of preferences on an annual basis in appropriations acts beginning on January 26, 1996, until this repeal.

Although the 1998 Act eliminates the Federal preferences, the Act continues to allow PHAs to establish their own system for making dwelling units or Section 8 assistance available to families having certain characteristics, now requiring this system of preferences to be linked to their PHA Annual Plan. Each PHA's system of preferences established must be based upon local housing needs and priorities, as determined by the PHA using generally accepted data sources, including waiting list data and any information obtained during public comment on the PHA Annual Plan and under the requirements applicable to the Consolidated Plan (see 24 CFR part 91, subpart B). These requirements are reflected in the PHA Plan interim rule.

The 1998 Act (in section 514) also includes a statement that a PHA should consider preferences for individuals who are victims of domestic violence, consistent with the PHA Annual Plan. Section 514(e) provides:

> It is the sense of the Congress that, each public housing agency involved in the selection of eligible families for assistance under the United States Housing Act of 1937 (including residency in public housing and tenant-based assistance under section 8 of such Act), should, consistent with the public housing agency plan of the agency, consider preferences for individuals who are victims of domestic violence.

Under the rule, PHA policies may provide preferences for veterans, as a needy population.

To implement the elimination of the Federal preferences, this rule removes §§ 5.415, 5.420, 5.425, and 5.430 and revises §§ 960.204 and 960.407 to remove references to the term "Federal preference." This rule also makes several changes to § 5.410:

—It reflects the new link of a PHA's local preferences with the PHA Annual Plan.

—For Section 8 programs other than the Certificate/Voucher, Project-based Certificate, and Moderate Rehabilitation, it gives project owners more flexibility in determining their own tenant selection plan. The rule does the following:

(1) Continues the prohibition on use of residency requirements;

(2) Removes reference to use of the PHA's local preferences (which was located in § 5.410(d)(2)(iii)); and

(3) Specifically authorizes the owner to use a preference for working families, providing it does not give greater weight to an applicant based on the amount of the employment income.

This last provision is included in the revised § 5.410(c)(1), which preserves a responsible entity's authority to adopt a preference for working families (currently found in § 4.415(b)(1)), retaining the reference to anti-skipping protections (currently found in § 5.410(e)(2)) in the revised § 5.410(g). This authority for working family preferences separate from any local preferences adopted by a PHA is derived from section 513(c)(4) of the Act, which describes the income targeting requirements for project-based Section 8 assisted housing.

Sections 514 and 545 were discussed in the Initial Guidance Notice at 64 FR 8200, beginning in the right hand column, and 64 FR 8207, middle column, respectively.

Income Targeting (24 CFR 5.607) (Section 513 of the 1998 Act Amending Section 16 of the 1937 Act)

The 1998 Act (section 513) completely revises the income targeting provisions formerly found in section 16 of the 1937 Act.

For Public Housing

The 1998 Act imposes a general rule that not less than 40 percent of admissions in any fiscal year must be families whose income does not exceed 30 percent of median income for the area—"extremely low-income families." The Act, however, allows a PHA to decrease the percentage of extremely low-income families admitted to public housing if the PHA has given new Section 8 tenant-based assistance to more than the required number of extremely low-income families, subject to several restrictions. Even in that event, the PHA cannot reduce the percentage of extremely low-income families in public housing below 30 percent.

For Section 8 Project-Based Assistance

For Section 8 project-based assistance, the percentages of units to which families with incomes higher than 50 percent of median income may be admitted and the anti-skipping restriction remain the same. This rule, however, adds a provision (§ 5.410(c)(1)) permitting owners to adopt a preference for working families, as discussed above. This rule also adds a new requirement for admission of at least 40 percent extremely low-income families to a particular project in a fiscal year. The income targeting requirements do not apply to project-based assistance made available to prevent or ameliorate the effects of displacement.

For Section 8 Tenant-Based Assistance

For Section 8 tenant-based assistance, PHAs must target 75 percent of new admissions to extremely low income families. A PHA may use admission of extremely low-income families in its section 8 tenant-based program that exceed 75 percent of it admissions in a fiscal year ("credit") to reduce the number of admissions of extremely low income families in its public housing program. This credit, however, must be the lesser of: (1) 10 percent of the families initially given section 8 tenant-based assistance during the year; or (2) the number of families who are not extremely low income and who have been admitted to public housing in projects located in census tracts having a poverty rate of 30 percent or more.

Section 8 tenant-based assistance targeting requirements do not apply to a low-income family that is "continuously assisted" under the 1937 Act or to a low-income or moderate income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing.

New Definition Added

Because of the importance of the term "extremely low-income family," this rule adds a definition for this term in § 5.603.

Facilitating Administration of Income Targeting

A PHA can facilitate administration of income targeting if it applies these requirements on the same annual basis as the fiscal year of its public housing or tenant-based program.

Section 513 was discussed in the Initial Guidance Notice at 64 FR 8199, right hand column.

Annual Income, Adjusted Income (24 CFR 5.603, 5.609, 5.611) (Section 508 of the 1998 Act amending Section 3 of the 1937 Act)

Exclusions Versus Deductions

HUD has long made a distinction between exclusions from income used to determine "annual income" for eligibility, and deductions for use in determining "adjusted income," and therefore rent. Section 508 of the 1998 Act changed the calculation of adjusted income by adding a number of mandatory deductions to determine adjusted income, which in some cases reflected HUD's exclusions from annual income. For example, HUD's regulations already exclude from "annual income" the earned income of minors. The Act adopted a mandatory deduction from income used to calculate "adjusted income" for earned income of minors. Given the statutory enactment of this as a deduction, this rule removes the exclusion from annual income and places earned income of minors as a deduction in calculating "adjusted income," to avoid providing a duplicate benefit on the same subject.

The 1998 Act adopted the requirement alaready found in HUD's regulatory definition of "child care expenses" (in 24 CFR 5.603) that they must be "reasonable." The Act revised the definition of dependents to include not only full-time students at traditional educational institutions, but also persons pursuing full-time vocational training. HUD's definition of "full-time student" (in 24 CFR 5.603) already included vocational training, but only in the context of certificate granting vocational schools. In this rulemaking, HUD revises the definition of "full-time student" (in § 5.603) to refer generally to "vocational training."

Permissive Deductions—Applicable to Public Housing Only

For public housing, the 1998 Act created deductions for PHAs to use, if they so choose, to promote self-sufficiency and for other purposes. A PHA that decides to provide permissive deductions must describe its deductions in the agency's written policies. HUD cannot assure the provision of additional subsidy to the PHA to cover reduced income resulting from such permissive deductions, however.

The 1998 Act lists a number of examples of permissive deductions: to

the extent these amounts have not already been deducted from annual income or reimbursed to the family from other sources:

(1) Excessive travel expenses, in an amount not to exceed $25 per family per week for travel related to employment, education, or training.

(2) An amount of a family's earned income, based on any of the following:

(i) All the earned income of the family;

(ii) The amount earned by particular members of the family;

(iii) The amount earned by families having certain characteristics; or

(iv) The amount earned by families or members during certain periods or from certain sources.

Other deductions include but are not limited to payroll deductions, such as social security taxes, income taxes and medical insurance premiums. In setting policies on permissive deductions, PHAs are encouraged to coordinate with their local Temporary Assistance for Needy Families (TANF) agencies to assure that assisted housing and TANF support one another. The permissive deductions replace the current optional exclusions from annual income for public housing. (The proposed rule removes the optional exclusions from the definition of annual income, 24 CFR 5.609.)

Section 508 was discussed in the Initial Guidance Notice at 64 FR 8198, middle column.

Minimum Rents (24 CFR 5.616) (Section 507 of the 1998 Act Amending Section 3(a) of the 1937 Act)

Section 507 follows the previous statutory authority of requiring minimum rents of up to $50 for public housing and the Section 8 certificate, voucher, and moderate rehabilitation programs. For section 8 project-based assistance, the minimum rent is $25. In the public housing and the Section 8 programs other than the vouchers, "minimum rent" refers to minimum total tenant payment (TTP) and not a minimum tenant rent (TR). As provided in § 5.613, the total tenant payment is the highest of several calculations, one of which is the minimum rent. So, for example, if 30 percent of a family's "monthly adjusted income" were $42, and 10 percent of the family's unadjusted "monthly income" were $20, and a PHA had set the minimum rent at $50, the amount of the "total tenant payment" would be $50. What the family paid ("tenant rent") might be less or more than that, depending on whether the family pays its own utilities. A family paying its own utilities would be entitled to a utility reimbursement, if the utility allowance were greater than the TTP.

Total Tenant Payment (TTP)

To remove current confusion in the old definition of TTP and clarify that it applies to all programs, this rule changes the current definition to include current statutory definitions and adding a definition of minimum rent.

Section 507 of the Act was discussed in the Initial Guidance Notice at 64 FR 8197, left hand column.

Self-Sufficiency Incentives—Public Housing Only (24 CFR 5.612) (Section 508 of the 1998 Act Amending Section 3 of the 1937 Act)

Disallowance of Earned Income

For public housing only, the 1998 Act exempts earned income for families who start work or self-sufficiency programs. The Act phases in the impact on rent of an increase in earned income of certain families. A PHA cannot increase a public housing family's rent for a period of 12 months if the increase in income results from (1) earnings of a previously unemployed family member; (2) earnings of a family member during participation in a self-sufficiency or job training program; or (3) earnings of a family member that had been receiving welfare in the previous six months. After the 12-month disallowance, a family's rent increase must be phased in. The phased-in rent cannot increase as a result of the earned income by more than 50 percent (50%) for an additional 12 months. HUD is implementing this statutory provision by directing PHAs not to increase the family's annual income, on which the income-based rent is based, to reflect such an increase in income. The actual change in family income will be recorded in the data system, however. (New § 5.612 reflects this change.)

As families move into the work force for the first time, they often experience periods of employment and unemployment. The rule as proposed does not place a limit on the number of times a family or an individual can benefit from the disallowance of earned income; the 1998 Act contains no specific limitations. HUD specifically asks for comments on this subject, including limits on the number of times a family or individual can take advantage of the disallowance.

Previous Earned Income Disregard

The income disregards formerly applicable only to public housing (under 24 CFR 5.609) are being removed. These include PHA optional exclusions from annual income. These exclusions are replaced with similar permissive deductions reflected in the new definition of adjusted income (24 CFR 5.611). Families who have been given optional income exclusions under the old rules must be permitted to retain those exclusions until the family's next annual reexamination.

The new 12-month disallowance (under 24 CFR 5.612) replaces the current 18-month earned income disregard for persons going from training programs to work (under 24 CFR 5.609(c)(13)). Families who currently have an 18-month disregard, or who qualify for such disregard on or before September 30, 1999, can continue that disregard for the 18 months or as long as they would have qualified under the old rule.

Individual Savings Account

Under the 1998 Act, PHAs may establish and maintain individual savings accounts for public housing residents who pay income-based rents. Where the PHA has a policy to offer individual savings accounts, a family may choose an individual savings account instead of being given the 12-month disallowance of earned income and phasing in of a rent increase. Families who choose individual savings accounts would pay the higher rent and the PHA would deposit the increased amount in the savings account. Once established, a family could access the account for purchasing a home, paying education costs, moving out of public housing, or other purposes promoting self-sufficiency. PHAs are not required to provide the savings account option. However, savings accounts are a good way to help families reach self-sufficiency. If a PHA offers savings accounts, the PHA needs to have written policies on management of the accounts. (See 24 CFR 5.612 and 5.614(a)(2).) These policies could be modeled after the Family Self-Sufficiency (FSS) escrow accounts found at 24 CFR part 984 or Turnkey III accounts at 24 CFR part 904. At a minimum, a PHA savings account policy must: (1) provide for payment of interest and annual notification to the resident of account status; and (2) provide that any balance in such an account when the family moves out is the property of the family.

Section 508 was discussed in the Initial Guidance Notice at 64 FR 8198, middle column.

Income Changes Resulting From Welfare Program Requirements (24 CFR 5.618) (Section 512 of the 1998 Act Amending Section 12 of the 1937 Act)

The 1998 Act addresses the interaction of welfare programs and HUD's treatment of income for purposes of determining rent in the public housing and Section 8 tenant-based assistance programs. The Act provides (in section 12(d) of the 1937 Act) that a family's rent must not be decreased as a result of a reduction in welfare benefits based on either (1) fraud by a member of the family; or (2) the family's failure to comply with the welfare program's requirement for work activities or participation in an economic self-sufficiency program. HUD is implementing this statutory provision by directing the responsible entities not to reduce the family's annual income, on which the income-based rent is based, to reflect such a reduction in welfare benefits. The actual change in family income will be recorded in the data system, however.

If a reduction in income results from the expiration of a lifetime limit on benefits or a loss of benefits because of a durational time limit on welfare benefits despite compliance with work requirements, the rule directs the responsible entity to reflect the reduced income in determination of the family's annual income.

In addition, when a family is adversely affected by reductions in welfare benefits as described in this section, the rule requires the responsible entity to notify families that they have the right to a review through a grievance hearing in accordance with § 966.55(e) for public housing, or through the use of an informal hearing under § 982.555(a)(i) for section 8 tenant-based certificate and voucher programs. (See the revision to § 966.55(e) to reflect this for public housing.)

The addition of a new § 5.618, which applies to public housing and Section 8 tenant-based programs, reflects treatment of welfare benefit reductions.

Section 512 was discussed in the Initial Guidance Notice at 64 FR 8199, left hand column.

Rents in Public Housing (24 CFR 5.603, 5.614) (Section 523 of the 1998 Act Amending Section 3(a) of the 1937 Act)

Section 523 of the 1998 Act makes significant changes to the rents charged for public housing units. Legislative history notes that the current rent policies provides disincentives to work and upward mobility. The Act gives PHAs significant flexibility to develop rent policies to encourage self-sufficiency. In addition, public housing residents can choose annually between paying an income-based rent or a flat rent. Rent policies also can be used to help PHAs provide for deconcentration of poverty and income mixing. Both income-based and flat rents must be determined by the PHAs in accordance with their written policies. (Rents are the subject of the new 24 CFR 5.614. In this rule, HUD revises the definition of "tenant rent" in § 5.603 to reflect the differences among the programs now that PHAs have flexibility in determining rents in public housing.)

Income-Based Rents

In general, the monthly rental amount, including any applicable utility allowance, calculated under this method must not exceed the highest of the following: 30 percent (30%) of the family's monthly adjusted income; 10 percent (10%) of the family's monthly income; or the welfare rent, if applicable. The monthly rental amount cannot be less than the minimum rent set by the PHA. The 1998 Act permits PHAs to set income-based rents at an amount less than the maximum of 30 percent of monthly adjusted income/10 percent of monthly income/welfare rent. This gives PHAs considerable flexibility in setting income-based rent structures. PHAs could set income-based rents at a fixed percentage below 30 percent, could have a rent schedule which sets the same rent amount for families whose income are within a certain income range, impose ceiling rents, etc. HUD cannot assure PHAs that it can provide additional subsidy to cover any reduced income resulting from such policies. Future operating subsidy distribution is the subject of negotiated rulemaking.

Flat Rents

Flat rents are intended as an incentive for residents to remain in public housing after they have attained a level of self-sufficiency. Working families will provide positive role models for other residents. The Act requires flat rent be set at "rental value," which HUD interprets to be reasonable market value. In establishing reasonable market value, PHAs should review rent of comparable units in the community. A PHA must document its means for establishing the reasonable market value. Methods that a PHA may consider in establishing reasonable market value include using the area's Section 8 rent reasonableness survey for comparable developments. PHAs should review their flat rents as often as necessary to assure they comply with the regulatory requirements, but at least annually. HUD cannot assure PHAs that it can provide additional subsidy to cover any reduced income resulting from such policies. Future operating subsidy distribution is the subject of negotiated rulemaking.

Family Choice

The 1998 Act requires PHAs to give families a choice among options for rents. The options provided must include at least a flat rent and an income-based rent. This choice must be given to each family annually. PHAs must provide residents with enough information to make an informed choice. For example, a PHA could provide the family both the income-based rent and the flat rent for the unit. If the PHA has not completed a current examination of the family's income (because the family has been on flat rent and the PHA's policy is not to conduct annual re-examinations on such families), the PHA should provide a worksheet or other information on how income-based rent is determined so the family could calculate its own income-based rent amount.

Switching Rent Methods to Lower Rent Because of Financial Hardship

The 1998 Act requires a PHA to immediately switch a family from a flat rent to an income-based rent if the PHA determines that the family has a financial hardship circumstance. The PHA must develop written policies stating what the PHA will consider a financial hardship. The PHA's policy must include situations in which the income of the family has decreased because of loss or reduction of employment; death in the family or loss of assistance; or increase in the family's expenses for medical costs, child care, transportation, or education. PHAs can include additional circumstances. Because the 1998 Act requires that PHAs immediately switch rents, a PHA will need to conduct an examination of the family's income in order to switch the rent as quickly as possible, but the rent should be lowered no later than the first of the month following the month the family reported the hardship.

Retaining Ceiling Rents

The 1998 Act permits PHAs that currently have ceiling rents to retain those rents instead of developing flat rents. HUD interprets this to mean that PHAs may retain ceiling rent instead of flat rents for three years, after which time those ceiling rents must be adjusted to the same levels as required for flat rents. Ceiling rents are subject to the limitations that a family cannot be required to pay more than its income-based rent. Therefore, families with ceiling rents must be given a reduced

rent if their income goes down. The PHA must continue to conduct annual reexaminations of income for families who choose ceiling rents, since the three year income review is not applicable to the ceiling rent provision.

Section 523 was discussed in the Initial Guidance Notice at 64 FR 8202, right hand column.

New Community Service and Self-Sufficiency Requirements for Public Housing (24 CFR 960.603–960.611) (Section 512 of the 1998 Act Amending Section 12 of the 1937 Act)

Section 512 of the 1998 Act adds a new requirement for non-exempt residents of public housing. Each non-exempt adult public housing resident must contribute eight (8) hours for each month of community service or participate in a self-sufficiency program for 8 hours in each month. (The exemptions are discussed later in this section.) Community service is service for which the individual volunteers. A new subpart F is added to 24 CFR part 960, establishing the community service and self-sufficiency requirements.

Each PHA Annual Plan must include a description of how the community service and self-sufficiency requirements will be implemented. The new subpart F of 24 CFR part 960 outlines basic parameters for implementing the community service and self-sufficiency requirement, while retaining flexibility for PHAs to develop initiatives responsive to local circumstances. PHAs are encouraged to partner with qualified resident councils or resident management corporations, community and volunteer groups, or other third party contractors to assist PHAs with program administration.

The Relationship of Community Service and Self-Sufficiency

Since community service is considered a tool to assist residents in becoming responsible and self-sufficient, a number of community service activities are considered self-sufficiency activities. A PHA policy may provide for combining or substituting community service hours with approved self-sufficiency hours to reach the 8 hour monthly requirement.

Community Service

Community service offers public housing residents an opportunity to contribute to the communities that support them. In establishing community service policies, PHAs should not limit community service to a single type of activity and/or a single location in which the activity is to be performed. A PHA could include as community service activities improving the physical environment of the resident's development, volunteer work in a local school, hospital or child care center, working with youth organizations, helping neighborhood groups on special projects, or participation in programs that develop and strengthen resident self-responsibility such as drug and alcohol abuse counseling and treatment, household budgeting and credit counseling, and English proficiency. The 1998 Act specifically prohibits political activity as community service.

A PHA can administer its own community service program, form cooperative relationships with other entities in order to make opportunities available for residents or contract the entire community service program to a third party, including qualified resident councils. A PHA may use a combination of these options. A PHA must ensure that its own community service programs as well as programs developed through cooperative relationships or contracts with third parties are accessible for persons with disabilities.

In administering its own program, a PHA or its authorized designee identifies the most appropriate community service opportunities for residents and directly supervises the performance of the community service. This approach might include developing a directory of eligible opportunities from which residents could select.

Instead of managing the entire process, a PHA could link residents with agencies seeking volunteers. Under this approach, the PHA's administrative duties would be limited to monitoring the appropriateness of the service and confirming a resident's participation.

Another alternative is for the PHA to contract with another entity to run the community service program. The contract entity would then perform all necessary administrative functions. The PHA would be responsible to assure contract compliance. PHAs must follow their procurement policies and 24 CFR 85.36 to contract out their community service programs.

When for-profit third party contractors are used, the PHA should ensure that the administrators overseeing the program do not have a financial interest in the entity where community service participants are assigned. The PHA also should ensure that the conditions under which the work is to be performed are not otherwise hazardous, that the work is not labor that would be performed by the PHA's employees responsible for essential maintenance and property services, or that the work is otherwise unacceptable. The Senate Committee Report on this provision noted that community service is not to be perceived as punitive or demeaning activity, but rather community service should be considered as rewarding activity that will assist residents in improving their own and their neighbors' economic and social well-being and give residents a greater stake in their communities. (Senate Report at pg 21).

Self-Sufficiency

Participation in self-sufficiency activities can satisfy part or all of a resident's requirement to perform community service. A non-exempt adult public housing resident may participate in an economic self-sufficiency program for 8 hours in each month. The 1998 Act defines economic self-sufficiency program to include activities that are designed to encourage, assist, train or facilitate economic independence. In setting policies for this requirement, PHAs are encouraged to look at a broad range of self-sufficiency activities. In addition to apprenticeships and job readiness training, such activities as substance abuse and mental health counseling and treatment, English proficiency, and household budgeting and credit counseling may be considered activities which promote economic self-sufficiency. As with community service, a PHA could operate its own economic self-sufficiency program, develop linkages with other agencies (e.g., TANF), or contract for services to be provided to its residents.

Geographic Location

The 1998 Act discusses the geographic location where the resident must perform the community service or participate in the economic self-sufficiency activity. The location includes PHA-owned property and the community at large. The Congressional intent is that residents provide service to their own communities. In rural areas, a resident's community may encompass a large geographic area, while in dense urban settings, the community may be a neighborhood. In its policy, a PHA should make clear the meaning of "community."

Exemptions

The 1998 Act provides a list of exemptions to the requirement for community services and economic self-sufficiency. These include adults who are 62 years of age or older, persons with disabilities, persons engaged in work activities (as defined by section

407(d) of the Social Security Act), and persons participating in a welfare to work program, or receiving assistance from and in compliance with a State program funded under part A, title IV of the Social Security Act. (For purposes of the community service requirement, an adult is a person 18 years or older.) PHAs need to develop policies and procedures for determining and documenting residents' exemptions. Generally PHAs should re-verify an adult's exemption status annually. There are, of course, obvious exceptions. For example, an individual exempt by being over 62 years in age would not need re-verification.

PHAs must establish policies that permit residents to change exemption status during the year if their situation changes. Unemployed residents, for example, must be able to request a determination of exemption if they find work or start a training program.

Persons eligible for a disability deduction are not necessarily automatically exempt from the community service, economic self-sufficiency requirement. The 1998 Act defines "disability" very narrowly for the purpose of the community service requirement. Further, the Act states that a person is exempt only to the extent the disability makes the person "unable to comply" with the community service requirement. The PHA must ensure that the community service and self-sufficiency programs are accessible to persons with disabilities.

The PHA must document all exemptions for the resident's file. Policies must identify what kinds of documentation the PHA will accept. Generally, PHAs should follow the same standards of documentation for exemptions as they do for other verifications.

While the 1998 Act exempts categories of persons based on their characteristics, such as age or employment, the Act does not exempt adult residents of particular developments or kind of units. Therefore, families who pay flat rent, live in public housing units within market rate developments, or families who are over income when they initially occupy a public housing unit are not automatically exempt.

Cooperative Relationships With Welfare Agencies

The 1998 Act calls upon all PHAs to make their best efforts to enter into cooperative relationships with the agencies that provide assistance to their clients. PHAs should seek and advocate for agreements to target assistance to PHA clients. Agreements with such agencies will not only facilitate exchange of information, they will expand the choice of community service and self-sufficiency programs available to PHA clients and facilitate coordination of those services. As noted in the Initial Guidance Notice, the 1998 Act amends the Public Housing Management Assessment Program (PHMAP) (and the successor program—the Public Housing Assessment System (PHAS)) to include the extent of a PHA's coordination, promotion or provision of effective self-sufficiency programs.

Lease Requirements

Under the 1998 Act, public housing leases must have 12 month terms. The lease must be automatically renewable except for noncompliance with the community service requirements. An annual signing process is not necessary. The public housing lease also must provide for termination and eviction for noncompliance with the community service requirements. Any lease changes (including addenda) must be made in accordance with the provisions of 24 CFR 966.3, including notice to tenants and opportunity for comment. The PHA must implement this provision for each family at the family's next regularly scheduled annual reexamination on or after October 1, 1999, and for families admitted after October 1, 1999. The PHA may not renew or extend the lease if a household contains a nonexempt adult who has failed to comply with the community service requirement.

Documentation

Reasonable documentation must be provided to verify the community service requirements. The documentation must be placed in the resident's file at the time of reexamination.

Noncompliance

Each PHA must determine, on an annual basis, if non-exempt residents are in compliance. The PHA must have a policy which permits noncompliant families to cure the noncompliance. Such a policy must require the noncompliant adult and the head of household to sign an agreement to make up the hours needed within the next 12-month period. Continued noncompliance will result in eviction of the entire family, unless the noncompliant family member is no longer a part of the household.

Section 512 was discussed in the Initial Guidance Notice at 64 FR 8199, left hand column.

Occupancy by Police Officers and Over-Income Families (24 CFR Parts 5 and 960) (Sections 524 and 548 of the 1998 Act Amending Sections 3 and 8 of the 1937 Act)

Section 524 of the 1998 Act amends section 3(a) of the 1937 Act to provide that PHAs and owners may allow police officers to reside in public housing or assisted housing under the requirements of the statute. Under this section, small PHAs may also rent units to over-income families on a month-to-month basis, in accordance with statutory requirements, if there are no eligible families applying for assistance for that month, provided that the over-income family agrees to vacate (with at least 30 days notice) when the unit is needed for an income-eligible family. Section 548 of the Act provides for law enforcement and security personnel in project-based section 8 housing assistance to increase security.

Section 524 of the Act was discussed in the Initial Guidance Notice at 64 FR 8202, right-hand column. Section 548 of the Act was discussed in the Initial Guidance Notice at 64 FR 8204, middle column.

Changes to Existing Self-Sufficiency Programs—Public Housing and Section 8 Certificate/Voucher Programs (24 CFR Part 984) (Section 509 of the 1998 Act Amending Section 23 of the 1937 Act)

Section 509 of the 1998 Act amended section 23 of the 1937 Act to make several changes to the Family Self-Sufficiency Program, which were effective on October 21, 1998. Section 509 provides that the mandatory minimum FSS program size will not increase when a PHA receives incremental Section 8 funding or public housing units on or after October 21, 1998. Section 509 also allows PHAs to reduce their mandatory minimum FSS program size obligation as families successfully complete their FSS contracts.

HUD's regulations (24 CFR part 984) are amended to clarify that for public housing, receipt of incremental housing units means reservation of funds to acquire or construct additional public housing units on or after October 21, 1998. Similarly, for Section 8 certificate and voucher funding, receipt of funds means reservation of funds for the Section 8 certificate and voucher programs. An expanded listing of excluded funding categories that did not increase a PHA's mandatory minimum program size is now included in 24 CFR 984.105. The regulations in part 984 are also amended to clarify that PHAs may continue to implement and administer

FSS programs larger than the required levels, and that HUD approval of the PHA's FSS action plan authorizes the PHA to implement a voluntary FSS program.

In addition, § 984.306(b)(1) has been revised so that PHAs can now approve a family's move outside the PHA's jurisdiction during the first 12 months of a family's FSS contract of participation. The regulatory definition of welfare assistance in § 984.103 also has been revised so that it does not disadvantage working families and families with persons with disabilities.

Section 509 was discussed in the Initial Guidance Notice at 64 FR 8198, right hand column:

III. Findings and Certifications

Public Reporting Burden

The information collection requirements contained in §§ 5.410, 5.612, 5.614, 5.616, 960.605, and 984.201 have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Comments regarding the information collections contained in the rule must be submitted by June 29, 1999. Comments on these information collections should refer to the title of this rule and must be sent to: Reports Liaison Officer, Mildred Hamman, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4238, Washington, DC 20410.

Specifically, comments are solicited from members of the public and affected entities concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The burden of the information collections is estimated as follows:

Section of 24 CFR	Number of respondents	Responses per resp.	Total ann. responses	Hours per response	Total ann. hours
5.410 (Resid. Prefs.)	3,400	1	3,400	16	54,400
5.611 New Deductions	3,400	1	3,400	8	27,000
5.612(c) Indiv Sav Accounts	8,000	1	8,000	2	16,000
5.614(c) Written Rent Options	3,400	1	3,400	16	54,400
5.618(b) Welf. Rent Verif.	3,400	1	3,400	3	10,200
5.618(c) Welf. Rent Notice	3,400	1	3,400	1	3,400
960.605(c) Comm Serv	3,400	1	3,400	1	3,400
984.201 FSS Action Plan 2577–0178 exp 7/31/99					
960.505 Over Inc Fams in Small PHAs	500	1	500	1	500
Total Burden					169,300

Regulatory Review

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this proposed rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed and approved this proposed rule and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities. The proposed rule begins the rulemaking process to implement changes to admission and occupancy requirements in public housing made by the Quality Housing and Work Responsibility Act of 1998. Although HUD has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities, HUD welcomes comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Federalism Impact

The General Counsel, as the Designated Official for HUD under Section 6(a) of Executive Order 12612, *Federalism*, has determined that this proposed rule would not have federalism implications concerning the division of local, State, and Federal responsibilities, and therefore review under the order is not required. The proposed rule is exclusively concerned with admission and occupancy requirements in public housing. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal government and State and local governments.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose a Federal mandate that will result in the expenditure by State, local, or tribal

governments, in the aggregate, or by the private secto, or $100 million or more in any one year.

Catalog

The Catalog of Federal Domestic Assistance numbers for these programs are 14.850, 14.855, and 14.857.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Public housing.

24 CFR Part 966

Grant programs—housing and community development, Public housing.

24 CFR Part 984

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, HUD proposes to amend parts 5, 960, and 966 of title 24 of the Code of Federal Regulations as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

Subpart B—Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information

2. Add a new § 5.211, to read as follows:

§ 5.211 Disclosure of income matching information to the public housing agency.

(a) Public housing residents and section 8 tenant-based participants must disclose the letter and other information they received from HUD regarding their income (under HUD's income verification initiative) to the PHA.

(b) The PHA must verify the accuracy of the income data, change rent amounts, or terminate assistance, as appropriate, when public housing residents or Section 8 tenant-based participants disclose income information, as described in paragraph (a) of this section.

§ 5.214 [Amended]

3. Amend § 5.214 by removing the definition of "HA".

Subpart D—Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937

§ 5.400 [Amended]

4. Amend § 5.400 by removing the parenthetical phrase.

5. Amend § 5.403 to add a definition of *responsible entity*, to read as follows:

§ 5.403 Definitions.

* * * * *

Responsible entity means:

(1) For the public housing program, the Section 8 tenant-based assistance program (part 982 of this title), the Section 8 project-based certificate assistance program (part 983 of this title), and the Section 8 moderate rehabilitation program (part 882 of this title), the responsible entity means the PHA administering the program under an ACC with HUD;

(2) For all other Section 8 programs, the responsible entity means the Section 8 owner.

§ 5.405 [Amended]

6. Amend § 5.405 as follows:

a. By removing from the last sentence of paragraph (a) the phrase: "who are not elderly persons, or displaced persons, or persons with disabilities";

b. By removing paragraphs (b) and (d); and

c. By redesignating paragraph (c) as paragraph (b).

7. Revise § 5.410, to read as follows:

§ 5.410 Selection preferences.

(a) *Applicability.* The preferences for admission to the various programs differ. For each program, the preferences are administered by the responsible entity.

(b) *Local preferences in public housing.* A PHA may establish a system for admitting or selecting families for assistance that provides preference to families having certain characteristics. A system of preferences must be based on local housing needs and priorities, as determined by the PHA using generally accepted data sources, including waiting list and any information obtained during public comment on the PHA Annual Plan and under the requirements applicable to the Consolidated Plan. Additionally, consistent with the PHA's Annual Plan, the PHA should consider preferences for individuals who are victims of domestic violence.

(c) *Preferences in project-based Section 8 assistance programs other than project-based certificates and moderate rehabilitation.* (1) The responsible entity may give preference to working families. In implementing a preference for working families, the responsible entity is subject to the anti-skipping provision of paragraph (g) of this section regarding income levels. (If a responsible entity adopts a preference for working families, the entity must not give greater weight to an applicant based on the amount of employment income, and an applicant household must be given the benefit of the preference if the head of the household, spouse, or sole member of the household is age 62 or older or is receiving social security disability benefits, supplemental security income disability benefits, or any other payments based on an individual's inability to work.) A responsible entity may give preference to graduates of, as well as active participants in, educational and training programs that are designed to prepare individuals for the job market.

(2) Owners must develop a written tenant selection plan in accordance with program requirements. Owners are permitted to use PHA local preferences in their tenant selection plan. If an owner elects to make use of local preferences established by a PHA, the tenant selection plan must describe how any preferences will be used.

(d) *Preference in the Section 8 tenant-based, project-based certificate, and moderate rehabilitation programs.* The PHA may establish a system of local preferences for selection of families admitted to the program that are consistent with the PHA Plan. (See §§ 982.207, 983.203, and 882.514 of this title.)

(e) *Residency preferences.* (1) *Public housing.* A preference for admission or selection for assistance of families who reside anywhere in a specified "residency preference area" is permitted to respond to local needs and priorities. Applicants who are working or who have been notified that they are hired to work in the residency preference area must be treated as residents of the residency preference area, and a residency preference may not be based on how long the applicant has resided in or worked in the residency preference area.

(2) *Section 8 programs other than tenant-based certificate/voucher, project-based certificate, and moderate*

rehabilitation programs. In these programs, local residency requirements are prohibited.

(3) *Section 8 certificate/voucher, project-based certificate, and moderate rehabilitation programs.* See §§ 982.207(b), 983.203(a), and 882.514(b) of this title.

(f) *Use of other factors in public housing and project-based Section 8 housing.* The responsible entity may, in selecting a family for a particular unit, match other characteristics of the applicant family with the type of unit available, for example, number of bedrooms. In selection of a family for a unit that has special accessibility features, the responsible entity must give preference to families who include persons with disabilities and can benefit from those features of the unit (see §§ 8.27 and 100.202 of this title). Also, in selection of a family for a unit in a public housing mixed population project, the responsible entity must give preference to elderly families and disabled families (see, for example, subpart D of part 960 of this title).

(g) *Section 8 income-based admission.* In Section 8 programs, the responsible entity may not select an applicant for admission in an order different from the order on the waiting list for the purpose of selecting a relatively higher income family for admission.

(h) *Informing applicants about admission preferences.* (1) The responsible entity must inform all applicants about available preferences and must give applicants an opportunity to show that they qualify for available preferences.

(2) If the responsible entity determines that the notification to all applicants on a waiting list required by paragraph (h)(1) of this section is impracticable because of the length of the list, the responsible entity may provide this notification to fewer than all applicants at any given time.

* * * * *

§§ 5.415, 5.420, 5.425, and 5.430 [Removed]

8. Remove §§ 5.415, 5.420, 5.425, and 5.430.

Subpart F—Income Limits, Annual Income, Rent and Examinations for the Public Housing and Section 8 Programs

9. Amend § 5.601 as follows:

a. Revise the heading of § 5.601;

b. Remove existing paragraphs (a)(2)(iii) and (b);

c. Redesignate the introductory text of paragraph (a) as new paragraphs (a) and (b), introductory text;

d. Redesignate paragraphs (a)(1) through (a)(3) as paragraphs (b)(1) through (b)(3);

e. Add new paragraphs (c) and (d).

The revised heading of § 5.601, revised paragraphs (a) and (b), introductory text, and new paragraphs (c) and (d) read as follows:

§ 5.601 Purpose, applicability and reporting.

(a) *Purpose.* This subpart provides the definitions and requirements for income limits for admission, annual income, adjusted income, total tenant payments, utility allowances and reimbursements, and reexamination of income and family composition for the programs listed in paragraph (b) of this section.

(b) *Programs covered.* This subpart covers the following HUD programs:

(1) * * *

* * * * *

(c) *Income eligibility for assistance.* No family other than a low-income family shall be eligible for admission to a program covered by this subpart, unless otherwise determined by HUD.

(d) *Reporting.* PHAs and owners must comply with HUD-prescribed reporting requirements that will permit HUD to maintain the data necessary to monitor compliance with the income eligibility restrictions of this subpart.

(Approved by the Office of Management and Budget under Control number 2502–0204)

10. In § 5.603, revise the definitions of *full-time student*, and *tenant rent*, and add definitions of *extremely low-income family* and *responsible entity*, to read as follows:

§ 5.603 Definitions.

* * * * *

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

* * * * *

Full-time student. A person who is attending school or vocational training on a full-time basis.

* * * * *

Responsible entity. For the public housing and the Section 8 tenant-based assistance (part 982 of this title), project-based certificate assistance (part 983 of this title) and moderate rehabilitation program (part 882 of this title), the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

* * * * *

Tenant rent. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing).

* * * * *

§ 5.605 [Removed]

11. Remove § 5.605.

12. Revise 5.607 to read as follows:

§ 5.607 Income Limits for Admission.

(a) *Public housing.*—(1) *Income mix.* For admission to a PHA's public housing unit, the PHA may establish and use criteria for selection of residents for units in public housing developments that will produce a mix of incomes in the developments, subject to the provisions of this section. (The PHA's admissions policies that are designed to deconcentrate poverty and to bring a mix of incomes into developments are an element of its PHA Plan, part 903 of this title.)

(2) *Targeting.*—(i) *General.* At least 40 percent of the admissions to the public housing program in each fiscal year must be extremely low income families, as defined in § 5.603.

(ii) *Exceptions.* "Credit" provisions of paragraph (d) of this section permit the level of extremely low income families admitted to other HUD programs in a given fiscal year to affect the general targeting requirement for admissions to public housing.

(3) *Prohibition.* In complying with paragraph (a)(2) of this section, the PHA must not concentrate very low-income families in one public housing development or one building within a development. For this purpose, very low-income families includes other families with relatively low incomes.

(4) *Effect of Section 8 tenant-based assistance on public housing targeting.* The PHA may reduce the required number of public housing units to which extremely low-income families must be admitted to the extent the PHA has credits, in the same fiscal year, for admissions of extremely low-income families to its Section 8 tenant-based assistance program beyond the number required for that program.

(i) *Maximum number of credits.* The PHA may not have more credits than the lesser of:

(A) Ten percent of the total number of families admitted to the Section 8 tenant-based assistance program during the fiscal year; or

(B) The number of the PHA's public housing units in projects located in census tracts with a poverty rate of 30 percent or more that are made available and filled by eligible families who are not extremely low-income families.

(ii) *Limitation on use of credits.* In any fiscal year, at least 30 percent of a PHA's admissions to public housing units must be extremely low-income families, despite the availability of credits.

(b) *Section 8 tenant-based assistance.* (1) *Targeting.* Not less than 75 percent of the families admitted to a PHA's tenant-based Section 8 program during the PHA fiscal year must be families whose annual income does not exceed the following amounts as determined by HUD:

(i) 30 percent of the area median income, with adjustments for smaller and larger families; or (ii) A higher or lower percent of the area median income, if HUD determines a higher or lower percent is necessary because of unusually high or low family incomes.

(2) *Conversion of assistance.* Conversion of assistance for a participant in the PHA certificate program to assistance in the PHA voucher program does not count as an "admission," and is not subject to targeting under paragraph (b)(1) of this section.

(3) *Inapplicability of targeting.* Admission of the following categories of families is not subject to targeting under paragraph (b)(1) of this section:

(i) A low-income family that is continuously assisted under the 1937 Act; or

(ii) A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, as defined at § 248.101 of this title.

(4) *Jurisdictions served by more than one PHA.* If two or more PHAs that administer Section 8 tenant-based assistance have an identical jurisdiction, these PHAs shall be treated as a single PHA for purposes of meeting the targeting requirements of this section. In such a case, the PHAs shall cooperate to assure that aggregate admissions by such PHAs comply with the targeting requirement under paragraph (b)(1) of this section. If such PHAs do not have a single fiscal year, HUD will determine which PHA's fiscal year is used for this purpose.

(5) *Use of family's income.* The annual income (gross income) of an applicant family is used both for determination of income-eligibility under § 5.601(c) and for PHA income-targeting under paragraph (b)(1) of this section.

(c) *Section 8 project-based assistance.* (1) *Applicability.* Income limits established by paragraph (c)(2) of this section apply to the following programs:

(i) Section 8 New Construction or Substantial Rehabilitation (parts 880 and 881 of this title);

(ii) Section 8 Property Disposition and Loan Management Set-Aside (part 886 of this title);

(iii) Section 8 Project-Based Certificate (part 983 of this title);

(iv) Section 8 Moderate Rehabilitation (part 882 of this title);

(v) Low-income housing preservation program (LIHPRA or ELIHPA, in effect before November 28, 1990); and

(vi) Section 8 following conversion from the Rent Supplement or Section 236 Rental Assistance Payments programs.

(2) *Targeting.* At least 40 percent of families admitted to a project in a fiscal year must be extremely low-income families.

(3) *Limitation on admission of non-very low-income families.*—(i) *Admission to units available before October 1, 1981.* Not more than 25 percent of the dwelling units that were available for occupancy under Annual Contributions Contracts (ACC) and Section 8 Housing Assistance Payments Contracts taking effect before October 1, 1981 and that are leased on or after that date shall be available for leasing by low-income families other than very low-income families. HUD reserves the right to limit the admission of low-income families other than very low-income families to these units.

(ii) *Admission to units available on or after October 1, 1981.* Not more than 15 percent of the dwelling units that initially become available for occupancy under Annual Contributions Contracts (ACC) and Section 8 Housing Assistance Payments (HAP) Contracts on or after October 1, 1981 shall be available for leasing by low-income families other than very low-income families. Except with the prior approval of HUD under paragraphs (d) and (e) of this section, no low-income family, other than a very low-income family shall be admitted to these units.

(iii) *Request for exception.* A request by a PHA or owner for approval of admission of low-income families other than very low-income families to units described in paragraph (c)(3)(ii) of this section must state the basis for requesting the exception and provide supporting data. Bases for exceptions that may be considered include the following:

(A) Need for admission of a broader range of tenants to preserve the financial or management viability of a project because there is an insufficient number of potential applicants who are very low-income families;

(B) Commitment of an owner to attaining occupancy by families with a broad range of incomes; and

(C) Project supervision by a State Housing Finance Agency having a policy of occupancy by families with a broad range of incomes supported by evidence that the Agency is pursuing this goal throughout its assisted projects in the community, or a project with financing through Section 11(b) of the 1937 Act (42 U.S.C. 1437i) or under Section 103 of the Internal Revenue Code (26 U.S.C. 103).

(iv) *Action on request for exception.* Whether to grant any request for exception is a matter committed by law to HUD's sole discretion, and no implication is intended to be created that HUD will seek to grant approvals up to the maximum limits permitted by statute, nor is any presumption of an entitlement to an exception created by the specification of certain grounds for exception that HUD may consider. HUD will review exceptions granted to owners at regular intervals. HUD may withdraw permission to exercise those exceptions for program applicants at any time that exceptions are not being used or after a periodic review, based on the findings of the review.

§ 5.609 [Amended]

13. Amend § 5.609 as follows:

a. Redesignate the introductory text of existing paragraph (b)(6) except heading as paragraph (b)(6)(ii) and redesignate existing paragraph (b)(6) (i) and (ii) as paragraphs (b)(6)(ii) (A) and (B).

b. Add, after the heading of paragraph (b)(6), a new paragraph (i) to read as follows:

* * * * *

(b) * * *

(6) * * * (i) The amount of reduced welfare income that is disregarded specifically because the family engaged in fraud or failed to comply with an economic self-sufficiency or work activities requirement.

* * * * *

c. Remove paragraphs (c)(1) and (c)(13) and renumber the remaining paragraphs as (c) (1) through (15).

d. Remove paragraph (d) and redesignate paragraph (e) as paragraph (d).

14. Revise § 5.611 to read as follows:

§ 5.611 Adjusted income.

Adjusted income means annual income (as determined by the PHA) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions.* In determining adjusted income, a PHA

must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family; and

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the member with a disability) to be employed;

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education; and

(5) The amount of any earned income of a family member (other than the family head or spouse) who is not 18 years of age or older.

(b) *Permissive deductions—for public housing only.* A PHA may establish other deductions from annual income. The PHA must identify these deductions in its written policies and must grant them to every family who qualifies.

15. Add a new § 5.612 to read as follows:

§ 5.612 Self-Sufficiency incentives—applicable to public housing only.

(a) *Limit on rent increases.* The PHA must not increase the annual income of an eligible family as a result of increased income due to employment during the 12-month period beginning on the date on which the employment is commenced. Eligible families are those that reside in public housing:

(1) Whose income increases as a result of employment of a family member who was previously unemployed for one or more years. For purposes of this section, "previously unemployed" includes a person who has earned, in the previous twelve months, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

(2) Whose employment income increases during the participation of a family member in any family self-sufficiency or other job training; or

(3) Who is or was, within 6 months, assisted under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local TANF agency, and whose earned income increases.

(b) *Phase-in of rent increases.* Upon expiration of the 12-month period described in paragraph (a) of this section, the rent payable by a family may be increased due to continued employment of a family member except that for the 12-month period following expiration of the 12 month disallowance, the increase may not be greater than 50 percent of the amount of the total rent increase.

(c) *Individual Savings Accounts.* As an alternative to the disallowance of earned income described in paragraph (a) of this section or the phase-in of rent increase described in paragraph (b) of this section, a PHA may provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) The PHA must advise the family that the savings account option is available;

(2) At the option of the family, the PHA must deposit in the savings accounts an amount equal to the total amount that otherwise would have been applied to the family's rent payment as a result of employment;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

(i) Purchasing a home;

(ii) Paying education costs of family members;

(iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing.

(4) The PHA must maintain the account in an interest bearing investment and must credit the family with the interest income; and

(5) At least annually the PHA must provide the family with a report on the status of the account.

(6) The PHA must provide that any balance in such an account when the family moves out is the property of the family unless the family is not in compliance with the lease.

16. Revise § 5.613 to read as follows:

§ 5.613 Total tenant payment.

(a) Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:

(1) 30 percent of the family's monthly adjusted income;

(2) 10 percent of the family's monthly income;

(3) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is designated for housing; or

(4) Minimum rent, in accordance with applicable provisions of § 5.616.

(b) If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under paragraph (a)(3) of this section is the amount resulting from one application of the percentage.

17. Add a new § 5.614 to read as follows:

§ 5.614 Choice of rent in public housing.

(a) The amount payable monthly by the family as rent to the PHA is the rent selected annually by the family from the options offered under the PHA's rent policies. The options must include:

(1) *Flat rent.* A flat rent is the amount of tenant rent based on the market value of the unit, as determined by the PHA. The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient. A PHA must take reasonable steps to determine market value, and generally should use a comparability study. The comparability study would analyze relevant factors for the community in which the unit is located, including unassisted rents for housing of similar age, location, condition, amenities, design and size. The PHA must maintain records regarding the calculation and establishment of flat rents; and

(2) *Income-based rent.* An income-based rent is the amount of tenant rent based on the family's income, as determined by the PHA, and the PHA's rent policies, which may specify a percentage of family income, a schedule of amounts, or some other feasible system. The income-based rent, including any applicable utility allowance, must not exceed the total tenant payment. A PHA may administer income-based rents in a way that involves depositing a portion of the tenant rent to an escrow or savings account, imposing a ceiling on tenant rents, adopting permissive income deductions (24 CFR 5.611(b)), or other reasonable amounts, as long as the tenant rent plus any utility allowance does not exceed total tenant payment. (See § 5.611(b).)

(b) *Ceiling rent.* A PHA may retain ceiling rents instead of flat rents for a period of three years from [*insert effective date of final rule*]. After this three year period, the PHA must adjust the ceiling rents to the same level as flat

rents under this section; however, ceiling rents are subject to paragraph (a) of this section, the annual reexamination requirements, and the limitation that the tenant rent plus any utility allowance may not exceed the total tenant payment.

(c) *Information for families.* For the family to make an informed choice about its rent options, the PHA must provide sufficient information for an informed choice. Such information must include at least the following information:

(1) The dollar amounts of tenant rent for the family under each option; and

(2) The PHA's policies on switching type of rent in circumstances of financial hardship.

(d) *Changing type of rental payment.* If the PHA determines that the family is unable to pay the flat rent because of financial hardship, the PHA must immediately switch the family's rental payment from flat rent to income-based rent.

(e) *Written policies on financial hardship.* The PHA must establish written policies for determining financial hardship circumstances. Policies must include situations in which the family:

(1) Has experienced a decrease in income because of changed circumstances, loss or reduction of employment, death in the family, and reduction in or loss of earnings or other assistance;

(2) Has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items; and

(3) Such other situations determined by the PHA to be appropriate.

18. Add a new § 5.616, to read as follows:

§ 5.616 Minimum rent.

(a) *Minimum rent.* A family must pay at least a minimum rent, established by the responsible entity. For public housing and the section 8 certificate, voucher and moderate rehabilitation programs, the PHA may establish a minimum rent of $0 to $50. For other section 8 programs, the amount is $25. This minimum rent includes tenant rent plus any utility allowance. The responsible entity must grant an exemption from payment of this minimum rent if the family is unable to pay that rent as a result of financial hardship, as described in the responsible entity's written policies.

(b) *Financial hardship.* The financial hardships that must be included are the following:

(1) When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;

(2) When the family would be evicted as a result of the imposition of the minimum rent requirement;

(3) When the income of the family has decreased because of changed circumstances, including loss of employment;

(4) When a death has occurred in the family; and

(5) Other circumstances determined by the responsible entity or HUD.

(c) *Request for hardship exemption.*—(1) *For public housing.* (i) If a family requests a hardship exemption, the PHA must suspend the minimum rent requirement immediately, until the PHA determines whether there is a qualifying financial hardship and whether the hardship is long-term.

(ii) If the PHA determines that there is a qualifying hardship, but that it is temporary, the PHA reinstates the minimum rent from the time of suspension. The PHA cannot evict the family for nonpayment of the amount of minimum rent in excess of tenant rent otherwise payable during the 90-day period beginning on the date the family requested an exemption. The PHA must offer the family a reasonable repayment agreement for the amount of back rent owed.

(2) *For section 8 certificate, voucher and moderate rehabilitation programs and project-based section 8 assistance.* (i) If a family requests a hardship exemption, the responsible entity must suspend the minimum rent requirement beginning the month following the family's hardship request until the responsible entity determines whether there is a qualifying financial hardship and whether it is temporary or long term.

(ii) If the responsible entity determines that there is a qualifying financial hardship, but that it is temporary, the responsible entity may not impose a minimum rent for a period of 90 days from the date of the family's request. At the end of the 90-day suspension period, a minimum rent is imposed retroactively to the time of suspension. The family must be offered a responsible repayment agreement for the amount of back rent owed.

(3) *For all programs.* (i) If the responsible entity determines there is no qualifying hardship exemption, the responsible entity must reinstate the minimum rent including the back payment for minimum rent from the time of suspension on terms and conditions established by the responsible entity.

(ii) If the responsible entity determines there is a qualifying long-term financial hardship, the responsible entity must exempt the family from the minimum rent requirements.

(d) *Appeal of financial hardship determination.* A family who appeals a financial hardship determination through the public housing grievance procedure is exempt from any escrow deposit that may be required by the regulations governing these procedures.

19. In § 5.617, revise paragraph (a); redesignate existing paragraph (b) as paragraph (c); and add a new paragraph (b), to read as follows:

§ 5.617 Redetermination and verification of family income and composition.

(a) *Initial determination and regular redeterminations.*—(1) *Section 8.* The responsible entity must conduct a redetermination of family income and composition at least annually.

(2) *Public housing.* (i) For families who pay an income-based rent, the PHA must conduct a redetermination of family income and composition at least annually and must make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

(ii) For families who choose flat rents, the PHA must review the income of the family in accordance with the PHA's established policies, at least once every three years.

(iii) For all families who include nonexempt individuals, as defined in 24 CFR 960.602, the PHA must determine compliance once each 12 months with community service and self-sufficiency requirements in 24 CFR 960, subpart F.

(iv) The PHA may use the results of these evaluations to require the family to move to an appropriate size unit.

(b) *Interim redeterminations.*—(1) *When the redetermination is conducted.* A family may request an interim redetermination of family income or composition because of any changes since the last determination. The responsible entity must make the interim redetermination within a reasonable time after the family request. The responsible entity may adopt policies prescribing when and under what conditions the family must report a change in family composition.

(2) *How the redetermination is conducted.* In the case of a PHA, interim redeterminations must be conducted consistent with policies in its PHA Annual Plan. The change in income is annualized, even if the income is not expected to last for a full year. If the income changes again, the new amount

of monthly income will be annualized again.

* * * * *

20. Add a new § 5.618, to read as follows:

§ 5.618 Treatment of income changes resulting from welfare program requirements for public housing and section 8 tenant-based programs.

(a) *General.* A responsible entity must not reduce the annual income of a family residing in public housing or reduce the contribution toward rent of a family receiving Section 8 tenant-based assistance because of a reduction in the family's welfare assistance specifically because of fraud or failure to participate in an economic self-sufficiency program or comply with a work activities requirement. A reduction in welfare assistance is not to be treated as failure to participate in an economic self-sufficiency program or to satisfy a work activities requirement if the reduction results from:

(1) The expiration of a lifetime limit on receiving benefits;

(2) When a family has sought but cannot find employment; or

(3) The family has complied with welfare program requirements but loses welfare because of a durational time limit such as a cap on welfare benefits for a period of no more than two years in a five-year period.

(b) *Verification.* When a family requests a rent reduction based on a reduction in family income from welfare, the responsible entity must obtain written verification from the welfare agency of the basis for the reduction. If the reduction is specifically the result of the family's failure to participate in an economic self-sufficiency program or comply with work activities requirements or fraud by the family, the responsible entity must not reduce the family's rent.

(c) *Notification to families.* Responsible entities must notify families who are adversely affected by the requirements of this section that they have the right to review through the PHA's grievance procedure (for public housing) without paying a deposit in escrow, or through use of the informal hearing procedure under 24 CFR 982.555(a)(i) (for Section 8 tenant-based certificate and voucher programs).

21. Add a new § 5.619, to read as follows:

§ 5.619 Occupancy by police officers in public housing and section 8 project-based housing.

(a) *Public housing*—(1) *Police officer.* A person determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

(2) *Occupancy in public housing.* For the purpose of increasing security for the residents of a public housing development, the PHA may allow police officers who would not otherwise be eligible for public housing, to reside in a public housing dwelling unit. The PHA must include in its PHA Annual Plan the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies.

(b) *Section 8 project-based housing*—(1) *Police officer (including security personnel).* To be considered eligible for occupancy in section 8 project-based housing, the police officer must be employed full time (not less than 35 hours per week) by a governmental unit or a private employer and compensated expressly for providing police or security services.

(2) *Occupancy in section 8 project-based housing.* (i) Owners must submit a written plan to their local HUD Field Office for authorization to lease an available unit to over-income police officers. The owner's application must include:

(A) A statement detailing existing social and physical conditions of the property and the owner's informed assessment of the need for crime deterrence for that property;

(B) A statement of the anticipated benefits that the presence of police officers will create at the property and in the community;

(C) A description of the proposed gross rent for the unit and any special conditions for occupancy, including the rent that would ordinarily be charged for the unit and the owner's annual maintenance cost for the unit (this rent may be a flat rent and not related to the income of the police officer);

(D) The terms of the lease including a provision that states that the police officer's right of occupancy is dependent on the continuation of the employment that qualified the officer for residency in the property under the plan;

(ii) An owner may not offer a unit to a police officer if the officer would displace an income eligible tenant from leasing the available unit, or would require an existing tenant to move to make the unit available to the officer.

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

22. The authority citation for part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, and 3535(d).

Subpart B—Admission, Rent and Reexamination

§ 960.204 [Amended]

23. Amend § 960.204 by removing from paragraph (a)(2)(iii) the phrase "federal preference, ranking preference, or local", in paragraph (a)(3)(ii) by adding a semicolon after the words "waiting list", and by removing the remainder of paragraph (a)(3)(ii).

24. Revise § 960.209 to read as follows:

§ 960.209 Regular and interim redeterminations and verification of family income and composition.

The PHA must conduct regular and interim redeterminations of family income and composition in accordance with § 5.617 of this title.

Subpart D—Preference for Elderly Families and Disabled Families in Mixed Population Projects

25. Revise § 960.407 to read as follows:

§ 960.407 Selection preference for mixed population projects.

(a) The PHA must give preference to elderly families and disabled families equally in determining priority for admission to mixed population projects. The PHA may not establish a limit on the number of elderly families or disabled families who may be accepted for occupancy in a mixed population projects.

(b) In offering available units to elderly families and disabled families in mixed population projects, the PHA should first offer units with accessible features to persons with disabilities who require the accessibility features of the unit, in accordance with the requirements of §§ 8.27 and 100.202(c)(3) of this title.

26. Revise subpart E to read as follows:

Subpart E—Occupancy by Over-Income Families

Sec.

960.503 Definitions.
960.505 Occupancy by over-income families in certain public housing.

Subpart E—Occupancy by Over-Income Families

§ 960.503 Definitions.

Eligible families. Families who are eligible for residence in public housing assisted under the United States Housing Act of 1937 (42 U.S.C. 1437).

Over-income family. An individual or family who is not a low-income family at the time of initial occupancy.

§ 960.505 Occupancy by over-income families in certain public housing.

A PHA that owns or operates fewer than two hundred fifty (250) units, may rent a unit in a public housing development to an over-income family, in accordance with its PHA Annual Plan, under the following circumstances.

(a) There are no eligible families on the waiting list; or

(b) There are no eligible families applying for assistance in that month;

(c) Before offering the unit to an over-income family, the PHA publicizes the availability of the unit for eligible families—including publishing a thirty (30) day notice in one newspaper of general circulation;

(d) The over-income family rents the unit on a month-to-month basis for a rent charge that is not less than the cost to operate the unit;

(e) The over-income family signs an agreement to vacate the unit when needed by an eligible family; and

(f) The PHA gives the over-income family notice to vacate the unit when the unit is needed for an eligible family, and this notice is given at least thirty (30) days before the over-income family is to vacate.

27. Add a new subpart F to read as follows:

Subpart F—Community Service and Self-Sufficiency Requirements

Sec.
§ 960.603 Definitions.
§ 960.605 General requirements.
§ 960.607 Determining resident noncompliance.
§ 960.609 Prohibition against replacement of employees.
§ 960.611 Third-party coordinating.

Subpart F—Community Service and Self-Sufficiency Requirements

§ 960.603 Definitions.

Exempt individual. An adult who is:

(1) 62 years or older;

(2) Is a person with vision impairment or other person with disabilities, as defined under 216(i)(l) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;

(3) Is engaged in a work activity as defined under section 407(d) of the Social Security Act (42 U.S.C.607(d), as in effect on and after July 1, 1997);

(4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program; or

(5) Is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the public Housing Agency is located, including a State-administered welfare to work program, and has not been found by the State or other administering entity to be in noncompliance with such a program.

Community Service. For purposes of this section, community service is the performance of voluntary work or duties in the public benefit that serve to improve the quality of life and/or enhance resident self-sufficiency, or/ and increase the self-responsibility of the resident within the community in which the resident resides. Political activity is excluded.

Economic Self-Sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants. These programs may include programs for job training, employment training, work placement, basic skills training, education, English proficiency, work fare, financial or household management, apprenticeship, and any program necessary to ready a participant to work (such as substance abuse or mental health treatment).

§ 960.605 General Requirements.

(a) *Participation.* Except for residents exempted in § 960.603 of this subpart, each adult resident of a public housing development shall:

(1) Contribute 8 hours per month of community service (not including political activities); or

(2) Participate in an economic self-sufficiency program for 8 hours per month.

(b) *Effective date of participation.* The requirement is effective for all nonexempt residents following execution of a lease, containing these provisions, by the family head of household.

(c) *PHA obligation.* PHAs must, at a minimum:

(1) Develop a local policy for administration of a community service and economic self-sufficiency program.

(2) Provide written notification of the provisions of the community service requirements to all residents. The notice should describe the requirement, identify who is exempt and how exemption will be verified. The PHA should state when the requirement is effective, as well as the obligations and responsibilities of adult family members, and the consequences of non-compliance.

(3) Determine for each public housing family which family members are subject to or exempt from the community service and self-sufficiency requirement and approves the resident's planned activities to fulfill the requirement.

(4) No more or less frequently than annually, review and determine the compliance of residents with the requirements at least 30 days before lease term expires. Determine any changes to each adult family members exempt or nonexempt status.

(5) Retain reasonable documentation of community service participation or exemption in participant files.

(6) Comply with the civil rights requirements in 24 CFR part 5.

§ 960.607 Determining resident noncompliance.

If the PHA determines that a resident who is not an "exempt individual" has not complied with the community service requirement, the PHA must notify the resident:

(a) Of the noncompliance;

(b) That the determination is subject to the PHA's administrative' grievance procedure;

(c) That unless the resident enters into an agreement under paragraph (d) of this section, the lease of the family of which the noncompliant adult is a member may not be renewed. However, if the noncompliant adult moves from the unit, the lease may be renewed;

(d) That before the expiration of the lease term, the PHA must offer the resident an opportunity to cure the noncompliance during the next twelve-month period; such a cure includes a written agreement by the noncompliant adult to complete as many additional hours of community service or economic self-sufficiency activity needed to make up the total number of hours required over the 12 month term of the lease.

§ 960.609 Prohibition against replacement of employees.

In implementing the community service requirement, the PHA may not

substitute community service for work ordinarily performed by public housing employees or replace a job at any location where community work requirements are performed.

§ 960.611 Third-party coordinating.

The PHA may administer the community service directly, or through partnerships with qualified organizations, including resident organizations, or agencies or institutions with a community mission. The PHA must ensure that community service programs that are based directly or through partnerships with qualified organizations or through contracts with such organizations are accessible to persons with disabilities.

PART 966—LEASE AND GRIEVANCE PROCEDURES

28. The authority citation for part 966 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437d note, and 3535(d).

29. In § 966.4, revise the introductory text and add a new paragraph (f)(13), to read as follows:

§ 966.4 Lease requirements.

Each public housing lease must have a 12-month term, which must be automatically renewed for all purposes except noncompliance by an adult member with the community service requirements of part 960, subpart F of this title.

* * * * *

(f) * * *

(13) To contribute 8 hours per month of community service (not including political activities), unless otherwise exempt. The 8 hour each month requirement can be a combination of PHA-approved community service or economic self-sufficiency activities. (See part 960, subpart F of this title.)

30. Revise § 966.55(e) to read as follows:

§ 966.55 Procedures to obtain a hearing.

* * * * *

(e) *Escrow deposit.* (1) Before a hearing is scheduled in any grievance involving the amount of rent (as defined in § 966.4(b) of subpart A of this part) that the PHA claims is due, the family must pay an escrow deposit to the PHA. When a family is required to make an escrow deposit, the amount is the amount of rent the PHA states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit, the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer or hearing panel.

(2) A PHA must waive the requirement for an escrow deposit where required by § 5.616 of this title (concerning financial hardship of minimum rent requirements) or § 5.618 of this title (concerning reduction in welfare benefits related to work requirements). Unless the PHA waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest in any appropriate judicial proceeding the PHA's disposition of the grievance.

* * * * *

PART 984—SECTION 8 AND PUBLIC HOUSING FAMILY SELF-SUFFICIENCY PROGRAM

31. The authority citation for part 984 continues to read as follows:

Authority: 42 U.S.C. 1437f, 1437u, and 3535(d).

32. Throughout part 984, remove the terms "an HA" and "HA" and add in their place the terms "a PHA" and "PHA".

33. Amend § 984.101 by removing paragraph (c) and revising paragraph (b)(3) to read as follows:

§ 984.101 Purpose, scope, and applicability.

* * * * *

(b) * * *

(3) Unless the PHA receives an exemption under § 984.105:

(i) Each PHA that receives funding for additional rental certificates or rental vouchers in FY 1993 through October 20, 1998, must operate a Section 8 FSS program. Receiving funding for additional certificates or vouchers means reservation of funds for the Section 8 certificate or voucher program.

(ii) Each PHA that receives funding for additional public housing units in FY 1993 through October 20, 1998, must operate a public housing FSS program. Receiving funding for additional public housing units means reservation of funds to acquire or construct additional public housing units.

34. In § 984.103, revise the definition of *welfare assistance* to read as follows:

§ 984.103 Definitions.

* * * * *

Welfare assistance means income assistance from Federal or State welfare programs, and includes assistance provided under the Temporary Assistance to Needy Families (TANF) program, and general assistance. Welfare assistance does not include assistance solely directed to meeting housing expenses, and does not include programs that provide health care, child care or other services for working families.

* * * * *

§ 984.105 [Amended]

35. Amend § 984.105 as follows:

a. Revise paragraph (a);

b. Redesignate paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) as paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), and (d)(1)(iv);

c. Redesignate the text of paragraph (d) as (d)(1) and add a new heading for redesignated paragraph (d)(1); and

d. Add a new paragraph (d)(2). The revised and added paragraphs of § 984.105 read as follows:

§ 984.105 Minimum program size.

(a) *General.* A PHA must operate an FSS program of the minimum size determined in this section. Paragraph (c) of this section prescribes the conditions under which HUD may grant an exception to this requirement, and paragraph (d) of this section states the conditions under which the minimum size calculated under this paragraph (a) may be reduced. A PHA may always operate a program of a larger size than the minimum.

(1) *Determining minimum program size.* The minimum size of an FSS program is equal to:

(i) *Public housing.* (A) The total number of public housing units reserved in FY 1993 through October 20, 1998; plus

(B) The number of public housing units reserved in FY 1991 and FY 1992 under the FSS incentive award competitions; minus

(C) The number of families that have graduated from the FSS program on or after October 21, 1998, by fulfilling their FSS contract of participation obligations.

(ii) *Section 8.* (A) The total number of applicable rental certificates and rental vouchers reserved in FY 1993 through October 20, 1998; plus

(B) The number of rental certificates and rental vouchers reserved under the combined FY 1991/1992 FSS incentive award competition; minus

(C) The number of families who have graduated from the FSS program on or after October 21, 1998, by fulfilling their contract of participation obligations.

(2) *Applicable public housing units.* In determining minimum program size, all additional public housing rental units reserved in FY 1993 through October 20, 1998 will be counted.

(3) *Inapplicable Section 8 certificates and vouchers.* (i) *Renewals.* Except for

the renewal of funding that initially carried an FSS program obligation, renewal funding for rental certificates and vouchers reserved in fiscal year 1993 through October 20, 1998 is not counted when determining the FSS minimum program size.

(ii) *PHAs with existing FSS obligation.* When determining the minimum FSS program size for a PHA that already had an FSS obligation, funding reserved in fiscal year 1993 through October 20, 1998 for the following categories is not counted:

(A) Funding for families affected by the termination, expiration or owner opt-outs under Section 8 project-based programs;

(B) Funding for families affected by demolition or disposition of a public housing project and replacement of public housing projects;

(C) Funding for families affected by conversion of assistance from the Section 23 leased housing or housing assistance payments program to the Section 8 program;

(D) Funding for families affected by the sale of a HUD-owned project; and (E) Funding for families affected by the prepayment of a mortgage or voluntary termination of mortgage insurance.

(iii) *PHAs with no existing FSS obligation.* If a PHA with no existing FSS obligation received certificate and voucher funding under the categories described in paragraph (a)(3)(ii) of this section in fiscal year 1993 through October 20, 1998, the first such funding counts towards the PHA's minimum FSS program size.

* * * * *

(d) * * *

(1) *Approval of exception.* * * *

(2) *Expiration of exception.* Full and partial exceptions to the minimum size of an FSS program will expire three years from the date of HUD's approval of the exceptions. If a PHA seeks to continue an exception after its expiration, the PHA must submit a new request and a new certification to HUD for consideration. Revised FSS Action Plan policies must be stated in the PHA's Annual Plan.

* * * * *

36. Revise paragraphs (a) and (c) of § 984.201 to read as follows:

§ 984.201 Action Plan.

(a) *Requirement for Action Plan.* A PHA must have a HUD-approved Action Plan that complies with the requirements of this section before the PHA implements an FSS program, whether the FSS program is a mandatory or voluntary program.

* * * * *

(c) *Plan submission.*—(1) *Initial submission.*

(i) *Mandatory program.* Unless the dates stated in paragraph (c) of this section are extended by HUD for good cause, a PHA that is establishing its first FSS program must submit an Action Plan to HUD for approval within 90 days after the PHA receives notice from HUD of:

(A) Approval of the PHA's application for incentive award units; or (B) Approval of other funding that establishes the obligation to operate an FSS program, if the PHA did not apply for FSS incentive award units.

(ii) *Voluntary program.* The PHA must submit its Action Plan and obtain HUD approval of the plan before the PHA implements a voluntary FSS program, including a program that exceeds the minimum size for a mandatory program.

(2) *Revision.* Following HUD's initial approval of the Action Plan, no further approval of the Action Plan is required unless the PHA proposes to make policy changes to the Action Plan or increase the size of a voluntary program, or HUD requires other changes. The PHA must submit any changes to the Action Plan to HUD for approval.

* * * * *

§ 984.301 [Amended]

37. Amend § 984.301 by redesignating paragraphs (a)(1), (a)(2), and (a)(3), as paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii); adding a new paragraph (a)(1) and a new heading for redesignated paragraph (a)(2) to read as follows:

§ 984.301 Program implementation.

(a) *Program implementation deadline.* (1) *Voluntary program.* There is no deadline for implementation of a voluntary program. A voluntary program, however, may not be implemented before the requirements of § 984.201 have been satisfied.

(2) *Mandatory program.* * * *

* * * * *

38. Revise § 984.306 (b) to read as follows:

§ 984.306 Section 8 residency and portability requirements.

* * * * *

(b) *Initial occupancy.*—(1) *First 12 months.* A family participating in the Section 8 FSS program must lease an assisted unit, for a minimum period of 12 months after the effective date of the contract of participation, in the jurisdiction of the PHA that selected the family for the FSS program. However, the PHA may approve a family's request to move outside of the PHA's jurisdiction during this period.

(2) *After the first 12 months.* After the first 12 months of the FSS contract of participation, the FSS family may move outside the jurisdiction of the initial PHA, consistent with applicable Section 8 program regulations (part 982 of this title).

* * * * *

Dated: April 8, 1999.

Andrew Cuomo,

Secretary.

[FR Doc. 99–10565 Filed 4–29–99; 8:45 am]

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April 30, 1999

Part IV

Department of Housing and Urban Development

24 CFR Parts 200, 203 and 234
Single Family Mortgage Insurance; Clarification of Floodplain Requirements Applicable to New Construction; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200, 203, and 234

[Docket No. FR–4323–P–01]

RIN 2502–AH16

Single Family Mortgage Insurance; Clarification of Floodplain Requirements Applicable to New Construction

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's Single Family Mortgage Insurance Minimum Property Standards concerning flood hazard exposure. The rule would clarify that it is the location of the dwelling and any related structures/equipment that determines whether the flood hazard exposure and National Flood Insurance purchase requirements apply. If the property improvements are located within the 100-year floodplain, the proposed rule would permit mortgagees to submit an Elevation Certificate in place of a final Letter of Map Amendment or a final Letter of Map Revision. The proposed rule would also remove obsolete provisions concerning subdivisions and improved area processing, and would make a number of clarifying revisions.

DATES: *Comments Due Date:* June 29, 1999.

ADDRESSES: Submit your comments about this proposed rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Your comments should refer to the above docket number and title. We do not accept facsimile (FAX) comments. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) at the above address.

FOR FURTHER INFORMATION CONTACT: Mark Holman, Chief, Mortgage Underwriting and Insurance Branch, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000, Room 9270; telephone (202) 708–2121 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number by calling the toll-free Federal Information Relay Service at (800) 877–8399.

SUPPLEMENTARY INFORMATION:

I. Background

a. Flood Hazard Requirements

HUD's Minimum Property Standards (MPS) for the Single Family Mortgage Insurance Program are set out at 24 CFR §§ 200.926 to 200.926e. The current regulations at § 200.926d(c)(4) (entitled "Drainage and flood hazard exposure") contain construction requirements covering drainage and flood hazard exposure. The current regulations at § 200.926d(c)(4)(vii), in particular, require a Direct Endorsement (DE) or Lender Insurance (LI) mortgagee to determine whether a property is located within a 100-year floodplain (as designated on maps issued by the Federal Emergency Management Agency (FEMA)). The DE or LI mortgagee must make this determination before seeking to insure a mortgage on a newly constructed one- to four-family dwelling.

If the DE or LI mortgagee determines that the property is located within a 100-year floodplain, the mortgagee must obtain, before the mortgage may be insured, a final Letter of Map Amendment (LOMA) or a final Letter of Map Revision (LOMR) from FEMA. In addition, HUD's insurance eligibility regulations (24 CFR 203.16a, entitled "Mortgagor and mortgagee requirement for maintaining flood insurance coverage") for these programs require the mortgagor and mortgagee to purchase and maintain insurance under the National Flood Insurance Program (42 U.S.C. 4001–4129).

This proposed rule would revise these provisions in two ways. First, the proposed rule would clarify that it is the location of the dwelling and related structures/equipment, and not simply any portion of the property, that triggers these requirements. To be considered related, structures/equipment must be essential to the value of the property and subject to flood damage. This clarification is consistent with HUD's interpretation of the provisions of the current regulations, as reflected in HUD's Mortgagee Letter 97–41, issued August 27, 1997.

Second, the proposed rule would amend § 200.926d(c)(4)(vii) (note: the proposed rule would redesignate this section as § 200.926d(c)(4)(iv); the current § 200.926d(c)(4)(iv) would be removed by the proposed rule—see section I.b. of this preamble) to add an alternative to obtaining a LOMA or LOMR. This amendment would allow a mortgagee to submit, in place of a LOMA or LOMR, an Elevation Certificate (EC) documenting that the lowest floor (including basement) of the property improvement is built at, or above, the 100-year flood elevation in compliance with National Flood Insurance Program criteria at 44 CFR 60.3 through 60.6. This alternative would provide more flexibility and, potentially, would have less impact on the floodplain than filling to the 100-year floodplain elevation as may be needed for a LOMA.

b. Obsolete Provisions

The proposed rule would remove obsolete provisions in § 203.12 (entitled "Mortgage insurance on proposed or new construction in a new subdivision") concerning subdivisions and improved areas and would make conforming amendments to other provisions to reflect the removal of these terms. The proposed rule would amend § 234.1 (entitled "Cross-reference") to reflect the new heading for § 203.12.

The proposed rule would also remove current § 200.926d(c)(4)(iv) (entitled "'Critical Actions'"). The term "Critical Actions" is defined at 24 CFR 55.2(b)(2). The proposed rule would remove this provision because the Single Family Mortgage Insurance Program does not involve the type of actions encompassed under the term "Critical Action". In addition, the first sentence in paragraph (c)(4)(iv) incorrectly provides that the lowest floor of a structure must be at or above the FEMA-designated "500-year" frequency flood elevation. The current § 200.926d(c)(4)(vii) would be redesignated as § 200.926d(c)(4)(iv).

c. Clarifications

The proposed rule would make the following revisions to correct exceptions from coverage that are drawn more broadly than intended in the current regulations. Section 200.926(a)(1) (entitled "Residential building code comparison items") would be revised to make it clear that all of the provisions of § 200.926d(c)(4) apply to four-unit homes. As currently drafted, only the provision on "Critical Actions" applies. The proposed rule would make a similar revision to § 200.926d(c)(1)(ii) so that all of 200.926d(c)(4) would apply to a community, whether or not the community has adopted criteria for site development.

Section 200.926d(c)(1)(iii), as currently drafted, appears to exempt residential structures without basements from the 100-year elevation requirement, if the dwelling is a single family detached house situated on an individual lot located on an existing street with utilities. This is incorrect. HUD intends these structures to be

subject to the same elevation requirements as are structures with basements. The proposed rule would correct this error by removing the reference to § 200.926d(c)(4)(ii) (entitled "Residential structures without basements located in FEMA-designated areas of special flood hazard") in § 200.926d(c)(1)(iii) (entitled "Residential structures located in FEMA-designated 'coastal high hazard areas.'").

II. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–190, 83 Stat. 852, 853, approved January 1, 1970, codified as amended at 42 U.S.C. 4321–4347, 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Paperwork Reduction Act Statement

The information collection requirement contained at § 203.12 of this rule has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 109 Stat. 163, approved May 22, 1995, codified at 44 U.S.C. 3501–3520), and assigned OMB control number 2502–0496. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, approved September 19, 1980, codified as amended at 5 U.S.C. 601–612), has reviewed this proposed rule before publication, and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would serve two primary purposes. First, it would allow mortgagees greater flexibility by allowing them to comply with floodplain requirements through the submission of an additional type of document. Second, the proposed rule would remove obsolete provisions and make clarifying amendments to the regulations. These changes reflect HUD's current interpretation of its regulations and would not increase the regulation's burden. These changes are being proposed in order to make the regulations clearer and more accurate.

While HUD has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities, HUD welcomes any comments regarding alternatives to this rule that would meet HUD's objectives, as described in this preamble, and would be less burdensome to small entities.

Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612 (entitled "Federalism"), has determined that the policies contained in this proposed rule would not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for part 203 is 14.117 and for part 234 is 41.112.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 200, 203, and 234 are amended as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

2. Revise § 200.926(a)(1) to read as follows:

§ 200.926 Minimum property standards for one and two family dwellings.

(a) * * * (1) *Applicable structures.* The standards identified or contained in this section, and in §§ 200.926a–200.926e, apply to single family detached homes, duplexes, three-unit homes, and to living units in a structure where the units are located side-by-side in town house fashion. Section 200.926d(c)(4) also applies to four-unit homes.

* * * * *

3. Amend § 200.926d as follows:

a. Revise paragraph (c)(1)(ii);

b. Revise paragraph (c)(1)(iii);

c. Revise paragraph (c)(4)(iv); and

d. Remove paragraph (c)(4)(vii).

The revisions read as follows:

§ 200.926d Construction requirements.

* * * * *

(c) * * *

(1) * * *

(ii) With the exception of paragraph (c)(4) of this section, these site design standards apply only in communities that have not adopted criteria for site development applicable to one and two family dwellings.

(iii) Single family detached houses situated on individual lots located on existing streets with utilities need not comply with the requirements of paragraphs (c)(2) and (c)(3) of this section.

* * * * *

(4) * * *

(iv)(A) In all cases in which a Direct Endorsement (DE) mortgagee or a Lender Insurance (LI) mortgagee seek to insure a mortgage on a newly constructed one- to four-family dwelling (including a newly erected manufactured home) that was processed by the DE or LI mortgagee, the DE or LI mortgagee must determine whether the property improvements (dwelling and related structures/equipment essential to the value of the property and subject to flood damage) are located in a 100-year floodplain, as designated on maps of the Federal Emergency Management Agency. If so, the DE mortgagee, before submitting the application for insurance to HUD, or the LI mortgagee, before submitting all the required data regarding the mortgage to HUD, must obtain:

(*1*) A final Letter of Map Amendment (LOMA);

(*2*) A final Letter of Map Revision (LOMR); or

(*3*) A signed Elevation Certificate documenting that the lowest floor

(including basement) of the property improvements is built at or above the 100-year flood elevation in compliance with National Flood Insurance program criteria 44 CFR 60.3 through 60.6.

(B) Under the DE program, these mortgages are not eligible for insurance unless the DE mortgagee submits the LOMA, LOMR, or Elevation Certificate to HUD with the mortgagee's request for endorsement.

* * * * *

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

4. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

5. Revise § 203.12 to read as follows:

§ 203.12 Mortgage insurance on proposed or new construction.

(a) *Applicability.* This section applies to an application for insurance of a mortgage on a one- to four-family dwelling, unless the mortgage will be secured by a dwelling that:

(1) Was completed more than one year before the date of the application for insurance or, under the Direct Endorsement Program was completed more than one year before the date of the appraisal; or

(2) Is being sold to a second or subsequent purchaser.

(b) *Procedures.* (1) Applications for insurance to which this section applies, will be processed in accordance with procedures prescribed by the Secretary. These procedures may only provide for endorsement for insurance of a mortgage covering a dwelling that is:

(i) Approved under the Direct Endorsement Program, or the Lender Insurance Program; or

(ii) Located in a subdivision approved by the Rural Housing Service.

(2) The mortgagee must submit a signed Builder's Certification of Plans, Specifications and Site (Builder's Certification). The Builder's Certification must be in a form prescribed by the Secretary and must cover:

(i) Flood hazards;

(ii) Noise;

(iii) Explosive and flammable materials storage hazards;

(iv) Runway clear zones/clear zones;

(v) Toxic waste hazards;

(vi) Other foreseeable hazards or adverse conditions (i.e., rock formations, unstable soils or slopes, high ground water levels, inadequate surface drainage, springs, etc.) that may affect the health and safety of the occupants or the structural soundness of the improvements. The Builder's Certification must be provided to the appraiser for reference before the performance of an appraisal on the property.

(3) If a builder (or developer) intends to sell five or more properties in a subdivision, an Affirmative Fair Housing Marketing Plan (AFHMP) that meets the requirements of 24 CFR part 200, subpart M must be submitted and approved by HUD no later than the date of the first application for mortgage insurance in that subdivision. Thereafter, applications for insurance on other properties sold by the same builder (or developer) in the same subdivision may make reference to the existing previously approved AFHMP.

6. Revise § 203.16a to read as follows:

§ 203.16a Mortgagor and mortgagee requirement for maintaining flood insurance coverage.

(a) If the mortgage is to cover property improvements (dwelling and related structures/equipment essential to the value of the property and subject to flood damage) that:

(1) Are located in an area designated by the Federal Emergency Management Agency (FEMA) as a floodplain area having special flood hazards; or

(2) Are otherwise determined by the Commissioner to be subject to a flood hazard, and if flood insurance under the National Flood Insurance Program (NFIP) is available with respect to these property improvements, the mortgagor and mortgagee shall be obligated, by a special condition to be included in the mortgage commitment, to obtain and to maintain NFIP flood insurance coverage on the property improvements during such time as the mortgage is insured.

(b) No mortgage may be insured that covers property improvements located in an area that has been identified by FEMA as an area having special flood hazards, unless the community in which the area is situated is participating in the National Flood Insurance Program and such insurance is obtained by the mortgagor. Such requirement for flood insurance shall be effective one year after the date of notification by FEMA to the chief executive officer of a flood prone community that such community has been identified as having special flood hazards.

(c) The flood insurance must be maintained during such time as the mortgage is insured in an amount at least equal to either the outstanding balance of the mortgage, less estimated land costs, or the maximum amount of the NFIP insurance available with respect to the property improvements, whichever is less.

PART 234—CONDOMINIUM OWNER MORTGAGE INSURANCE

7. The authority citation for 24 CFR part 234 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715y; 42 U.S.C. 3535(d). Section 234.520(a)(2)(ii) is also issued under 12 U.S.C. 1707(a).

§ 234.1 [Amended]

8. In § 234.1(a), remove the words "Mortgage insurance on proposed or new construction in a new subdivision" and add, in their place, the words "Mortgage insurance on proposed or new construction".

Dated: March 29, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–10892 Filed 4–29–99; 8:45 am]

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Friday
April 30, 1999

Part V

Department of Housing and Urban Development

24 CFR Part 968
Comprehensive Improvement Assistance Program; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 968

[Docket No. FR–4462–P–01]

RIN 2577–AB97

Comprehensive Improvement Assistance Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations for the Comprehensive Improvement Assistance Program (CIAP) to permit the non-competitive distribution of CIAP funds to all eligible public housing authorities (PHAs) based on two equally-weighted factors: a PHA's share of the total number of units eligible for CIAP; and a PHA's share of the total number of bedrooms in units eligible for CIAP (with studio units counted as one-bedroom units). The purpose of this amendment is to provide small PHAs the opportunity of a transition period to become familiar with a non-competitive, capital funding process in anticipation of formula funding in Federal Fiscal Year (FFY) 2000 under new statutory authority.

DATES: Comments due date: June 1, 1999.

ADDRESSES: Interested persons are invited to submit written comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: William J. Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4134, Washington, D.C. 20410. Telephone (202) 708–1640. (This is not a toll free number.) Persons with hearing or speech impediments may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Comprehensive Improvement Assistance Program (CIAP) is authorized under section 14 of the United States Housing Act of 1937 (1937 Act). CIAP provides modernization funds to public housing authorities (PHAs) that own or operate less than 250 units of public housing, to enable them to improve the physical condition and upgrade the management and operations of existing public housing developments to assure their continued availability for low-income families. In FFY 1999, a total of $2.895 billion is available for Modernization Programs (CIAP and Comprehensive Grant Program (CGP)), of which approximately $364 million will be available to CIAP PHAs. Modernization funds are allocated between CIAP and CGP PHAs based on the relative shares of backlog needs (weighted at 50%) and accrual needs (weighted at 50%), as determined by field inspections conducted for the HUD-funded Abt Associates study of modernization needs. This allocation results in CIAP PHAs receiving approximately 12.5% and CGP PHAs receiving approximately 87.5% of the total funds available. In previous years, an allocation of CIAP funds has been made for each Field Office based, in part, on the relative shares of backlog and accrual needs for CIAP PHAs. After the assignment of funds to Field Offices, CIAP funds were then distributed to PHAs pursuant to a competitive process, under which applications submitted to HUD were rated and ranked. Awards were then made in rank order to the extent that funds were available. Under this system of distribution, not every PHA that submitted an acceptable application was funded.

In lieu of the former distribution method, HUD proposes to continue to use the formula allocation for CIAP described in 24 CFR 968.103 (but not to assign CIAP funds to Field Offices and then distribute the CIAP funds to PHAs by a competitive method) and to amend the CIAP regulations to permit the distribution of funds after formula allocation to all eligible PHAs on a non-competitive basis. Section 519 of the Quality Housing and Work Responsibility Act of 1998 (Pub.L. 105–276, 112 Stat. 2461, approved October 21, 1998) (QHWRA), authorizes a new system of funding capital improvement needs for all PHAs, large and small, on a formula basis beginning in FFY 2000. The final year of CIAP funding will be FFY 1999. HUD will be working with housing industry and resident groups, and representatives of small, medium and large PHAs to develop, using the negotiated rulemaking process, an entirely new formula for capital funds distribution for all PHAs. Rather than have PHAs that own or operate less than 250 units continue to plan for and obtain capital funding on a competitive basis that will soon no longer be available, HUD wishes to provide these small PHAs the opportunity of a transition period in which funding is made available under a process that is closer to the formula-based capital program that will apply to all PHAs beginning in FFY 2000.

This rule would amend 24 CFR 968.210 to remove the provisions that require competitive funding and to add a provision that permits funding distributions on the basis described below. To initiate the distribution process, HUD will notify PHAs of their estimated dollar amount and the time frame for submission of the CIAP application and other pertinent information. Every eligible PHA (owning or operating less than 250 units) that responds to the notice would then receive a distribution based on two equally-weighted factors: (1) A PHA's share of the total number of units eligible for CIAP; and (2) a PHA's share of the total number of bedrooms in units eligible for CIAP (with studio units counted as one-bedroom units). HUD currently estimates that for a given PHA, each unit would receive between $1250 and $2250 per unit of CIAP funding under this proposed system, and that for most PHAs, the per unit funding will be between $1600 and $2000 per unit.

This proposed rule would also provide for the preferences under section 14(h) of the 1937 Act. Under section 14(h), preferences are given to small PHAs for projects having conditions which threaten the health or safety of the tenants (emergency modernization preference) or having a significant number of vacant, substandard units (vacancy preference), and that also have demonstrated modernization capability.

Under the competitive system of distributing CIAP funds, emergency modernization was funded as Group 1 during the competition or during the course of the year from the emergency reserve under 24 CFR 968.104. For the vacancy preference, HUD provided for extra points in the CIAP NOFAs to PHAs that demonstrated the high priority needs and modernization capability required for the vacancy preference.

The emergency modernization preference will be satisfied by processing all emergency modernization under existing procedures in 24 CFR 968.104. In addition, HUD will set-aside

from the CIAP distribution approximately $6.1 million for the East Texas housing authorities (those with less than 250 public housing units) involved in the *Young* v. *Cuomo* civil rights case, to meet the requirements of the settlement agreement, which is subject to judicial oversight.

Because CIAP funds would not be distributed competitively under this rule, the vacancy preference cannot be implemented by providing extra points. This rule applies the vacancy preference by providing an additional increment of funding to PHAs that have modernization capability and demonstrate that at least 25% of their units are vacant, substandard units (where vacancies are not due to insufficient demand). A PHA has modernization capability if it has previously received CIAP funding and meets the requirements of *Modernization capability* as defined at § 968.205. PHAs must apply for the vacancy preference incremental assistance as part of the CIAP application (to be provided by HUD under the notification required by 24 CFR 968.210(a)).

As an additional matter, this rule would make a technical correction to § 968.110(a), replacing a citation to "section 503 of the Rehabilitation Act of 1973" with "section 504 of the Rehabilitation Act of 1973".

II. Findings and Certifications

Justification for Shortened Comment Period

It is the general practice of the Department to provide a 60-day public comment period on all proposed rules. However, in order to provide a sufficient transition period for small PHAs to become familiar with working under a new statutory system of funding capital improvement needs on a formula basis rather than a competitive basis, the Department is shortening its usual 60-day public comment period to 30 days.

Paperwork Reduction Act Statement

The information collection requirements of the Comprehensive Improvement Assistance Program have been approved by the Office of Management and Budget under OMB Approval No. 2577–0044. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(2) of the HUD regulations, this rule amends an existing document, the regulations at 24 CFR part 968, which as a whole would not fall within an exclusion, but the amendment by itself would do so. Therefore, the actions proposed in this document are determined not to have the potential of having a significant impact on the quality of the human environment and further review under the National Environmental Policy Act is not necessary. A Finding of No Significant Impact (FONSI) is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under executive Order 12866, *Regulatory Planning and Review*. OMB determined that this proposed rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule would only modify the funding process for the final year of the CIAP to provide small PHAs with a transition period to become familiar with a non-competitive capital funding process. Small businesses are specifically invited, however, to comment on whether this rule will significantly affect them, and persons are invited to submit comments according to the instructions in the **DATES** and **COMMENTS** sections in the preamble of this proposed rule.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have federalism implications concerning the division of local, State, and Federal responsibilities. The rule would only modify the funding process for the final year of the CIAP to provide small PHAs with a transition period to become familiar with a non-competitive capital funding process.

Catalog of Domestic Assistance Numbers

The Catalog of Domestic Assistance numbers for the Comprehensive Improvement Assistance Program is 14.852.

List of Subjects in 24 CFR Part 968

Grant programs—housing and community development, Indians, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 968 is amended, as follows:

PART 968—PUBLIC HOUSING MODERNIZATION

1. The authority citation for 24 CFR part 968 continues to read as follows:

Authority: 42 U.S.C. 1437d, 1437l, and 3535(d).

2. In § 963.110, paragraph (a) is revised to read as follows:

§ 968.110 Other program requirements.

* * * * *

(a) *Nondiscrimination and equal opportunity.* The PHA shall comply with Title II of the Americans with Disabilities Act and 28 CFR part 35; section 504 of the Rehabilitation Act of 1973 and 41 CFR chapter 60–471; and the Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) and 24 CFR part 40.

* * * * *

3. Section 968.210 is revised to read as follows:

§ 968.210 Procedures for obtaining approval of a modernization program.

(a) *HUD notification.* After modernization funds for a particular FFY become available, HUD will notify PHAs of the time frame for submission of the CIAP application and other pertinent information.

(b) *Distribution of funding.* HUD will distribute the available funding under this subpart to every eligible PHA that

responds to the notice issued pursuant to paragraph (a) of this section based on two equally-weighted factors: A PHA's share of the total number of units eligible for CIAP; and a PHA's share of the total number of bedrooms in units eligible for CIAP (with studio units counted as one-bedroom units). HUD will also provide a vacancy preference, consisting of an additional increment of funding, to PHAs that have modernization capability and demonstrate that at least 25% of their units are vacant, substandard units (where vacancies are not due to insufficient demand). A PHA has modernization capability if it has previously received CIAP funding and meets the requirements of *Modernization capability* as defined at § 968.205.

(c) *ACC amendment.* HUD and the PHA shall enter into an ACC amendment in order for the PHA to draw down modernization funds. The ACC amendment shall require low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC). The PHA Executive Director, where authorized by the Board of Commissioners and permitted by State law, may sign the ACC amendment on behalf of the PHA. HUD has the authority to condition an ACC amendment (e.g., to require a PHA to hire a modernization coordinator or contract administrator to administer its modernization program).

(d) *Declaration of trust.* As HUD may require, the PHA shall execute and file for record a Declaration of Trust, as provided under the ACC, to protect the rights and interests of HUD throughout the 20-year period during which the PHA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.

Dated: March 25, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–10464 Filed 4–29–99; 8:45 am]

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April 30, 1999

Part VI

Department of Housing and Urban Development

24 CFR Part 982
Section 8 Homeownership Program; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR–4427–P–01]

RIN 2577–AB90

Section 8 Homeownership Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the regulations for the Section 8 tenant-based rental voucher program at 24 CFR part 982. These amendments implement Section 8(y) of the United States Housing Act of 1937, as amended by Section 555 of the Quality Housing and Work Responsibility Act of 1998. Section 8(y) authorizes a public housing agency to provide tenant-based assistance for an eligible family that purchases a dwelling unit that will be occupied by the family.

DATES: Comments due date: Comments on the proposed rule and the proposed information collection requirements are due on or before: June 29, 1999.

ADDRESSES: Interested persons are invited to submit written comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. General Description of Homeownership Option

This rule implements the "homeownership option" under Section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) (the "1937 Act"). Section 8(y) authorizes Section 8 tenant-based assistance for an eligible family that occupies a home purchased and owned by members of the family. Although Section 8(y) was originally enacted by section 185 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992; 106 Stat. 3672), Section 8 homeownership was never implemented because the program was unworkable without statutory change. Section 8(y) was amended by section 555 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, approved October 21, 1998; 112 Stat. 2461).

This rule implements the section 8(y) homeownership option by adding a new "special housing type" under 24 CFR part 982, subpart M, of the unified rule for the Section 8 tenant-based voucher and certificate programs. Subpart M describes program requirements for variants from the basic Section 8 tenant-based rental assistance programs.

Homeownership assistance offers a new option for families that receive Section 8 tenant-based assistance. As for other special housing types, HUD does not provide any additional or separate funding for homeownership assistance under Section 8(y). If a Public Housing Agency (PHA) chooses to offer Section 8 tenant-based assistance under the new homeownership option, a qualified family may freely choose whether to request rental assistance or to instead request homeownership assistance.

An applicant admitted to the tenant-based programs may receive Section 8 voucher assistance to purchase, rather than rent, a home. A participant receiving Section 8 tenant-based rental assistance may purchase a home with continued assistance under the homeownership option.

In general, a PHA that administers Section 8 tenant-based assistance has the choice whether to offer homeownership assistance as an option for qualified applicants and participants in its agency's Section 8 tenant-based program. The PHA may choose to make homeownership assistance freely available for any qualified applicant or participant, or to restrict homeownership assistance to families or purposes defined by the agency. (The PHA is only required to offer homeownership assistance if needed as a reasonable accommodation for a family member who is a person with disabilities.)

As required by law, the homeownership option is not available for units receiving Section 8 project-based assistance. By law, homeownership assistance under Section 8(y) may only be provided for families receiving "tenant-based assistance" (42 U.S.C. 1437f(y)(1)).

In implementing the homeownership option, HUD wishes to strike a balance that expands homeownership opportunities, while minimizing defaults that negatively impact assisted homeowners and their neighborhoods. HUD hopes to improve on past homeownership programs by learning from prior errors and building upon the successful features of similar programs. HUD believes the regulatory proposals contained in this rule achieve these goals, and welcomes public comment on ways to improve the implementation of the Section 8 homeownership option.

II. Overview of How the Section 8 Homeownership Program Works

An overview of how the Section 8 homeownership program works follows. Additional detail will be provided elsewhere in the preamble and regulation text.

PHA administration of the Section 8 homeownership program differs from the tenant-based rental program in many ways. A PHA may use the certificate and voucher program funding already under Annual Contributions Contract (ACC) or new tenant-based Section 8 funding for rental or homeownership purposes. The PHA may opt to limit the number of Section 8 homeownership vouchers or not implement the homeownership option. There is no separate or additional funding for the homeownership program.

At the briefing of families selected to participate in the tenant-based Section 8 program, the PHA must discuss any homeownership option. Family participation in the homeownership program is voluntary. Although the homeownership program is open to both Section 8 applicants and participants, not every Section 8 tenant-based family may receive homeownership assistance. The PHA may limit the number of homeownership families and there are statutory family eligibility requirements such as a minimum level of non-welfare income and a history of full-time employment. (The employment history requirement is not applicable to elderly and disabled families, and there is a modified income requirement for elderly and disabled families.) The program is generally limited to first-time homeowners. The PHA may add other local eligibility requirements such as participation in the FSS program.

Once a family has been determined by the PHA to be eligible for Section 8 homeownership assistance, the family must attend homeownership counseling sessions. The counseling may be done by PHA staff or another entity such as

a HUD-approved housing counseling agency.

The PHA must advise the family of any deadlines on locating a home, securing financing, and purchasing the home. The PHA does not issue a certificate or voucher to the family. If the family is unable to locate a home to purchase within the PHA established deadlines, the PHA may issue the family a rental certificate or voucher.

The family is free to select an existing (not under construction) home of their choice located within the PHA jurisdiction. If the family qualifies for portability, the family may also select a home in the jurisdiction of another PHA, if the receiving PHA is approving units under the Section 8 homeownership option. The receiving PHA may absorb the family into their Section 8 program or bill the initial PHA for the housing assistance payments. The receiving PHA will arrange for any necessary counseling. The receiving PHA homeownership policies will apply to the portable family.

The home chosen by the family must pass an initial PHA Housing Quality Standards (HQS) inspection. (The HQS used for the Section 8 rental program is applicable to the homeownership program.) In addition, the family must hire an independent, professional home inspector to inspect the home selected by the family to identify physical defects and the condition of the major building systems and components. A copy of the independent inspection report must be given to the PHA. The family and the PHA must determine if any prepurchase repairs are necessary.

The family will enter into a contract of sale with the seller. The family must secure their own financing for the home purchase. There is no prohibition against using local or State Community Development Block Grant (CDBG) or other subsidized financing in conjunction with the Section 8 homeownership program. The PHA may prohibit certain forms of financing, require a minimum cash downpayment, or determine that the family cannot afford the proposed financing. (There are no Section 8 funds for home purchase financing. Instead, the Section 8 housing assistance will be provided monthly to help the family meet homeownership expenses.)

It is anticipated that mortgage lenders will consider the Section 8 assistance as a source of family income when underwriting the loan. If purchase of the home is financed with Federal Housing Administration (FHA)-insured mortgage financing, such financing is subject to FHA mortgage insurance credit underwriting requirements. If purchase of the home is financed (in whole or in part) without FHA-insured mortgage financing, the PHA must require that the underwriting procedures used by the lender comply with the basic mortgage insurance credit underwriting requirements for FHA-insured single family mortgage loans. The FHA single family underwriting standards are described in HUD Handbook 4155.1 (titled "Mortgage Credit Analysis for Mortgage Insurance on One-to-Four Family Properties.") HUD specifically invites public comment on whether the final rule should require the use of the FHA underwriting standards, or whether this requirement would unduly restrict the homeownership option.

Homeownership housing assistance payments may be made directly to the family or to lender on behalf of the family. (Two-party checks to the family and lender are not authorized because such a practice is incompatible with typical lending documents and practices.) Before the housing assistance begins, the family and the PHA must execute a "statement of homeowner obligations." The Section 8 tenant-based housing assistance payments (HAP) contract, request for lease approval and lease addendum are not applicable to the Section 8 homeownership program.

The amount of the housing assistance payment will be calculated using a modified voucher program payment standard approach. The homeownership housing assistance payment will equal the lower of (1) the payment standard minus the total tenant payment or (2) the monthly homeownership expenses minus the total tenant payment. The family is responsible for the monthly homeownership expenses not reimbursed by the housing assistance payment. (Total tenant payment is higher of the minimum rent, 10 percent of monthly income, 30 percent of monthly adjusted income, or the welfare rent.) There is no shopping incentive in the homeownership option.

The PHA must use the utility allowance schedule and payment standard schedules applicable to the Section 8 voucher rental program.

After the homeownership housing assistance payments begin, the PHA will annually reexamine family income and composition and make appropriate adjustments to the amount of the monthly housing assistance payment. There is no requirement for the PHA to conduct an annual HQS inspection.

Except for elderly and disabled families, Section 8 homeownership assistance may only be paid for a maximum period of up to ten years. The PHA may establish a shorter maximum assistance term. Elderly and disabled families are exempt from subsidy time limits. HUD invites public comment on the reasonableness of the ten year limit on Section 8 homeownership assistance. Specifically, commenters are invited to submit their thoughts on whether HUD should lengthen or shorten the ten year limit proposed in this rule.

The head of household, and any spouse of the head of household, that has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future Section 8 homeownership assistance.

HUD specifically invites comments on whether, or under what conditions, a family that has defaulted on a mortgage securing debt to purchase a home under the homeownership option should be permitted to receive Section 8 rental assistance after the mortgage default. Such conditions may include requiring that the family be returned to the waiting list.

The PHA will earn the same administrative fees as in the tenant-based rental program. The administrative fee is earned for each month that homeownership assistance is paid.

A PHA opting to administer the Section 8 homeownership program must establish local homeownership policies. The following policies must be described in the PHA administrative plan: Any local eligibility criteria (§§ 982.626(b) and 982.627(a)(5)); any minimum income requirements (§ 982.627(b)); any minimum cash downpayment or equity requirements; any requirements for financing purchase of a home, including requirements concerning qualification of lenders (for example, prohibition of seller financing or case-by-case approval of seller financing), terms of financing (for example, a prohibition of balloon payment mortgages and establishment of a minimum homeowner equity requirement), and financing affordability (§ 982.631); the maximum homeownership assistance term (§ 982.633); PHA policy for payment of the HAP to the family or lender (§ 982.634(d); PHA policy about issuing the family a rental voucher if the family does not find a suitable house to buy, or defaults on the home mortgage loan (§§ 982.628(c) and 982.636); PHA maximum times to locate and purchase a home (§ 982.628); and any PHA requirements for continuation of homeownership assistance (§ 982.632(b)(7)).

III. Who Is Assisted

A. General

The homeownership option is used to assist families in two types of housing:

1. A unit owned by the family—One or more family members hold title to the home.

2. A cooperative unit—One or more family members hold membership shares in the cooperative.

B. Assistance for Homeowner

Before enactment of Section 8(y), Section 8 assistance could be paid on behalf of a renter or cooperative member, but not for a family that owns fee title to its home. Section 8 rental assistance terminates when the family takes title to the home. By contrast, Section 8(y) is specifically designed to authorize assistance for a "homeowner"—a family that owns title to the home.

The law provides that the public housing agency may provide assistance for:

1. A "first-time homeowner";

2. A family that owns or is acquiring shares in a cooperative; and

3. "Any other family, as the Secretary may prescribe." (In the law, this third, open-ended category is formally included in the definition of "first-time homeowner.")

By law and this rule, the homeownership option is designed to promote and support homeownership by a "first-time" homeowner—a family that moves for the first time from rental housing to a family-owned home. Section 8 payments supplement the family's own income to facilitate the transition from rental to homeownership. The initial availability of these assistance payments helps the family pay the costs of homeownership, and may provide additional assurance for a lender, so that the family can finance purchase of the home.

Section 8 homeownership assistance for cooperative homeowners is specifically authorized for both a family that is a first time cooperative homeowner and a family that owned their cooperative unit prior to receiving Section 8 assistance. Cooperative homeowners were eligible for tenant-based assistance prior to passage of the Quality Housing and Work Responsibility Act of 1998. Congress intends that cooperative homeowners continue to be eligible for tenant-based assistance regardless of their status as a first time homeowner.

To qualify as a "first-time homeowner," the assisted family may not include any person who owned a "present ownership interest" in the residence of any family member in the last three years (regulatory definition at § 982.4; statutory definition at 42 U.S.C. 1437f(y)(7)(A)). Such interest includes ownership of title or of cooperative membership shares. The restriction to "first-time" homeowners is intended to direct homeownership assistance to "new" homeowners who may be unable to purchase a home without this assistance, but to discourage use of Section 8 subsidy on behalf of families who have achieved homeownership independently, without benefit of the Federal Section 8 subsidy. In addition, the head of household, and any spouse of the head of household, that has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future Section 8 homeownership assistance.

Under the law, HUD is authorized to permit Section 8 homeownership assistance for "any other family" as the Secretary may prescribe " that is, for a family other than a first-time homebuyer. HUD requests comments concerning whether HUD should exercise the statutory authority to exempt any categories of families from the first-time homeowner requirement. For example, a possible exemption from the first-time homeowner eligibility requirement is a divorced spouse who does not currently own a home but had joint ownership of a home with their ex-spouse in the last three years.

C. Assistance for Cooperative Member

Section 8(y) authorizes homeownership assistance for a family that "owns or is acquiring shares in a cooperative." Thus, the law allows assistance for a family that already owns cooperative shares before commencement of Section 8 homeownership assistance, not just for a family that acquires cooperative shares for the first time with the support of such assistance. In this respect, the law treats ownership of cooperative membership different from ownership of title to the home. In the latter case, the law authorizes assistance for a first time homeowner only (and for additional families only in circumstances prescribed by the Secretary). The rule specifies that cooperative membership shares may be purchased at or before commencement of homeownership assistance (see the definition of "membership shares" at § 982.4).

Before this rule, HUD has provided essentially the same Section 8 rental assistance for a cooperative member as for a family that chooses to rent a unit in conventional rental housing. Since the origin of the Section 8 program, the law has provided that with respect to members of a cooperative, "rent" means the charges under the occupancy agreements between the members and the cooperative (42 U.S.C. 1437f(f)(5)). Thus Section 8 assistance is paid to cover the difference between the cooperative occupancy charges and the income-based tenant rent.

Under the existing rules for the Section 8 tenant-based program, assistance for a family that chooses to reside in a cooperative is largely subject to the same rules and contractual requirements as for a family that chooses a rental housing unit. Under these existing rules, the cooperative occupancy agreement (between the family and the cooperative) is treated like the lease between the family and the owner in standard rental housing. The cooperative occupancy agreement must include the requirements of the standard program "lease addendum," including requirements concerning lease term, grounds for eviction, and owner responsibility of unit maintenance. Cooperative carrying charges are treated like rent to owner (contract rent), and requirements including annual rent adjustments for units assisted in the certificate program are applicable.

In short, assistance for cooperative residents under the old rule is not designed from the ground up as a form of homeownership assistance. The old Section 8 requirements do not fit the normal structure of occupancy and responsibility in cooperative housing. In particular, while a cooperative member is normally responsible for maintenance of the individual unit, the Section 8 regulations and contracts provide that the "owner" " including a cooperative—is largely responsible for unit maintenance.

The mismatch between Section 8 rental program requirements and normal cooperative procedures reduces availability of cooperative units for occupancy by Section 8 families. Cooperatives may be unable or unwilling to grant separate and special treatment for Section 8 families that does not apply to other cooperative members, for example, differences concerning the amount of cooperative carrying charges, procedures or grounds for termination of cooperative membership, or enforcement of member maintenance obligations. Cooperatives are accustomed to use standard forms of occupancy agreement and other legal documentation governing the rights of members and of the cooperative entity. The cooperatives may decline to accommodate modifications to meet requirements of the Section 8 program,

or to enter into a contract with the PHA (the HAP contract), as required for the normal Section 8 rental program.

In the future, the PHA may provide assistance for a cooperative member either under the new homeownership option or under the special procedures for cooperative housing within the Section 8 tenant-based rental program (§ 982.619). Each form of assistance is designated as a separate special housing type under the Section 8 voucher program. The PHA may elect to offer either or both of these forms of cooperative assistance in its voucher program, and to define the appropriate role of each available form of cooperative assistance in the local Section 8 program.

In the new homeownership option, Section 8 assistance is paid on behalf of a cooperative member, but there is no requirement that the cooperative enter into any agreement or any direct relationship with the PHA that provides Section 8 assistance for the cooperative member. The cooperative is not asked to modify any ordinary requirement for cooperative membership or occupancy, nor asked to modify any requirement concerning assessment or collection of the cooperative carrying charge, maintenance of the unit or sanctions for violation of cooperative requirements.

For clarity, in describing requirements for homeownership assistance to a cooperative member, the new rule supplements existing definitions. As in the past, the term "cooperative" refers to housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing (§ 982.4). The rule also adds the following two new definitions:

1. *Cooperative member.* A family of which one or more members owns membership shares in a cooperative.

2. *Membership shares.* Shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular apartment in the cooperative, and the right to participate in management of the housing.

The existing HUD rules for cooperative housing in the tenant-based rental program were codified in April 1998. These rules provide that a family may only receive assistance in a cooperative that has adopted requirements to maintain continued affordability for lower income families after transfer of a member's interest. This affordability requirement was based on a provision of the prior voucher law that was removed in the October 1998 statutory amendments. There is now no such statutory affordability requirement for Section 8 tenant-based assistance to cooperative residents—whether such assistance is provided under the rental assistance program or under the new Section 8(y) homeownership option—and there is no such requirement under this rule.

HUD believes that such a continuing affordability requirement would restrict housing choice of Section 8 families among available cooperative units. Such a requirement would also diminish a major advantage of homeownership—the incentive for an assisted family to maintain and improve the housing and to receive full value upon a future sale of the home. This rule removes the federal mandate for existing continuing affordability requirements for rental assistance in cooperative housing.

In addition, this rule modifies the allocation of maintenance responsibility between the cooperative and the family. In the regular rental assistance program, the owner is responsible for most maintenance of a unit. Under the old rule, this principle also applies to rental assistance for Section 8 cooperative housing. However, in a conventional cooperative, the member is generally responsible for maintenance of the individual apartment, and the cooperative entity is only responsible for maintenance of common areas and systems. The cooperative agreement defines the division of maintenance obligations between the member and the cooperative.

The existing regulation is amended by this rule to reflect the normal division of maintenance responsibility in cooperative housing for which rental (not homeownership) assistance is being provided (§ 982.619(d)(3)). The revised rule provides that the family is responsible for a breach of the HQS caused by failure to perform maintenance in accordance with the cooperative occupancy agreement between the family and the cooperative. The PHA must take prompt and vigorous action to enforce the family maintenance obligation, and may terminate assistance for failure to perform maintenance in accordance with the cooperative occupancy agreement (§ 982.619(d)(4)).

During the term of the HAP contract between the PHA and the cooperative, the unit and premises must be maintained in accordance with the Section 8 HQS. If the contract unit and premises are not properly maintained, the PHA may exercise all available remedies, regardless of whether the family or the owner is responsible for such breach of the HQS. PHA remedies for breach of the HQS include recovery of overpayments, suspension of housing assistance payments, abatement or other reduction of housing assistance payments, termination of housing assistance payments and termination of the HAP contract (§ 982.619(d)(1)).

In the new homeownership cooperative option under Section 8(y), there is no HAP contract (between the PHA and the cooperative as unit "owner") and no lease (between the cooperative and the family). The unit is only inspected before the commencement of assistance. There is no requirement that the family or cooperative assure that the unit continues to satisfy HQS during the continuation of assisted occupancy. Consequently, there is no need to specify any allocation of maintenance responsibility between the cooperative and the family.

D. Lease-Purchase Agreement

The law and rule explicitly permit Section 8 homeownership assistance for a family that purchases a home that the family previously occupied under a "lease-purchase agreement"—generally a lease with option to purchase. Section 8(y) provides that the PHA may provide Section 8 homeownership assistance for an eligible family that purchases "a unit under a lease-purchase agreement" (42 U.S.C. 1437f(y)(1)).

Prior to enactment of the Quality Housing and Work Responsibility Act of 1998, a family that received Section 8 rental subsidy could exercise an option to purchase the unit under a lease-purchase agreement. However, there were problems in applying the rent reasonableness requirements and, as noted above, Section 8 rental subsidy terminated when the family took title to the home. Thus the prospective loss of subsidy discouraged the family from taking title, and moving from rental to homeownership. However, Section 8(y) now provides a vehicle for continuation of Section 8 assistance after the family takes title to the home.

To qualify as a first-time homeowner (as noted above) the family may not have owned title to a principal residence in the last three years. The rule specifies, however, that the right to purchase title under a lease-purchase agreement does not constitute a prohibited "present ownership interest." A family that holds an option to purchase may exercise the option and receive assistance under the new homeownership option.

A new § 982.317 is added to describe the requirements for lease-purchase agreements. The housing assistance payment for a lease-purchase unit may

not exceed the amount that would be paid on behalf of the family if the rental unit was not subject to a lease-purchase agreement. Any "homeownership premium" included in the rent to the owner that would result in a higher subsidy amount than would otherwise be paid by the PHA must be absorbed by the family. "Homeownership premium" is defined as an increment of value attributable to the value of the lease-purchase right or agreement such as an extra monthly payment to accumulate a downpayment or reduce the purchase price. Families are permitted to pay an extra amount out-of-pocket to the owner for purchase related expenses.

Section 982.317 also provides that in determining whether the rent to owner for a unit subject to a lease-purchase agreement is a reasonable amount, any "homeownership premium" paid by the family to the owner must be excluded when the PHA determines rent reasonableness.

Lease-purchase agreements are considered rental, and all the normal tenant-based Section 8 rental rules are applicable. The family will be subject to the homeownership regulatory requirements at the time the family is ready to exercise the homeownership option under the lease-purchase agreement. At that point in time, the PHA will determine whether the family is eligible for Section 8 homeownership assistance (e.g., whether the family meets the income and employment thresholds and any other criteria established by the PHA). If determined eligible for a homeownership voucher, the family will then arrange for an independent home inspection, attend counseling sessions, and obtain financing. Homeownership assistance will begin when the family purchases the home and after all of the requirements of the homeownership option are met.

HUD requests comments on whether the family should be subject to any of the homeownership requirements prior to entering into a lease-purchase arrangement, instead of delaying the requirements until the family is ready to purchase the home.

IV. How To Qualify for Homeownership Assistance

A. General

To qualify for assistance under the homeownership option, a family must meet the general requirements for admission to the PHA's Section 8 tenant-based voucher program, and additional special requirements for homeownership assistance (§ 982.627). At commencement of homeownership assistance, the family must meet homeownership assistance requirements concerning:

1. Any PHA minimum income requirements;
2. Family employment;
3. Prior default on a mortgage securing debt to purchase a home under the homeownership option; and
4. Other initial requirements established by the PHA.

B. Minimum Income Requirement

To enter the Section 8 voucher program, a family must be income-eligible (i.e., below the maximum income cutoff). However, to qualify for the homeownership option in the voucher program, a PHA may require the family to demonstrate sufficient income to meet a minimum income standard, which is intended to assure that a family will have sufficient income to pay homeownership and other family expenses not covered by the Section 8 subsidy.

Section 8(y) provides that a family may not receive homeownership assistance unless the family demonstrates that gross monthly income is at least two times the voucher "payment standard" or an "other amount" established by the Secretary (Section 8(y)(1)(B), 42 U.S.C. 1437f(y)(1)(B)). The rule provides that the family must demonstrate that the head of household and spouse have qualified monthly income of not less than any amount established in the PHA administrative plan. (§ 982.627(b)(1)).

The law does not specify whether the minimum income requirement is only applied at initial qualification for commencement of homeownership assistance, or is also a continuing requirement that must be maintained so long as the family is receiving assistance under the homeownership option. (By contrast, the law explicitly provides that the statutory employment requirement only applies at the time the family initially receives homeownership assistance.) HUD has decided that any minimum income requirement will only be applied to determine initial qualification to purchase a particular home, not as a continuing requirement. This policy gives assurance to the family, and possibly to a potential mortgage lender, that the stream of homeownership assistance payments will not be disrupted because of a drop in family income. Any minimum income requirement will only apply again if the family purchases a subsequent home with Section 8 homeownership assistance.

The law provides that the income counted in meeting any minimum income requirement under the homeownership option must come from sources other than "public assistance." Thus, PHAs may limit homeownership assistance to families with substantial non-welfare income available to pay housing and non-housing costs. However, the law provides that HUD may count public assistance in determining availability of voucher homeownership assistance for an elderly or disabled family (in which the household head or spouse is an elderly or disabled person). The rule defines the meaning of "public assistance" (§ 982.4), thereby identifying the types of income that may not be included in determining whether a family meets the homeownership minimum income standard.

The rule also clarifies that the requirement to disregard public assistance income (as defined in this proposed rule) only applies in determining whether a family has the minimum income to qualify for homeownership assistance. However, public assistance income is counted for other program purposes: in determining income-eligibility for admission to the voucher program, and in calculating the amount of the monthly homeownership assistance payment for a family assisted under the homeownership option (§ 982.627(b)(2)(ii)).

Under the law, HUD may permit PHAs to count public assistance income of an "elderly family" or a "disabled family"—a family whose head or spouse is elderly or disabled (definitions of these terms are found in section 3(b)(3)(B) of the 1937 Act; 42 U.S.C. 1437a(b)(3)(B))—in determining whether a family has the minimum income to qualify for homeownership assistance. On consideration of this issue, and recognizing the special needs of such families, the rule requires that the PHA count public assistance of an elderly or disabled family in determining whether the family meets the minimum income requirement for homeownership assistance (§ 982.627(b)(2)). This requirement to count public assistance incomes in determining whether a family has the minimum income to qualify for homeownership assistance only applies, however, to families which satisfy the statutory definition of an elderly or disabled family. In particular, as required by the law, the requirement to count public assistance income does not apply in the case of a family that includes a disabled person other than the household head or spouse (and

where the household head or spouse are not elderly or disabled).

C. Family Employment

Section 8(y) provides that, except as provided by HUD, the family must be able to demonstrate, at the time that the family initially receives homeownership assistance, that one or more adult members of the family have achieved employment for the time period established by HUD (42 U.S.C. 1437f(y)(1)(B)).

The rule provides at § 982.627(c) that a family seeking homeownership assistance must demonstrate that the head of household or spouse is currently employed on a full-time basis, and have been continuously so employed during the year before commencement of homeownership assistance. The one-year employment requirement, coupled with any minimum income requirement as discussed above indicate that the family is a good candidate for homeownership (i.e., that the family has the economic resources to handle the responsibilities of homeownership). HUD is requiring consideration of the employment history of the head of household or spouse, rather that any adult family member, to ensure that this important requirement is applicable to the family members who will be executing the contract of sale and mortgage or loan documents.

Under the law, HUD has broad authority to allow exceptions to the statutory employment requirement. As in the case of any minimum income requirement, the rule provides that the employment requirement does not apply to an elderly or disabled family (§ 982.627(c)(2)). In addition, the rule provides that if a family other than an elderly or disabled family includes a person with disabilities, the PHA must grant exemption from the employment requirement if required as a reasonable accommodation for a disabled person under HUD rules.

D. Discussion of Other Requirements

1. Homeownership Counseling

Section 8(y) provides that a family that receives assistance under the homeownership option must participate in a homeownership and housing counseling program provided by the PHA (42 U.S.C. 1437f(y)(1)(D)). The rule provides that before commencement of homeownership assistance the family must attend and satisfactorily complete the pre-assistance counseling program required by the PHA (§ 982.629(a)).

The PHA pre-assistance counseling program must cover: Home maintenance, budgeting and money management, credit counseling, how to negotiate the purchase price of a home, how to get homeownership financing (including pros and cons of different types of financing), how to find a home (including information about homeownership opportunities, schools, and transportation) and advantages of purchasing and how to locate a home in an area that does not have a high concentration of low-income families (§ 982.629(b)).

The extent of counseling may be tailored to each family's needs. For example, neither a cooperative member or a family exercising a lease-purchase option need counseling on how to find a home.

The counseling may be provided by the PHA, another entity such as a HUD-approved housing counseling agency, or by both the PHA and another entity. HUD-approved housing counseling agencies provide free counseling. The HUD field office will provide the PHA with a list of the HUD-approved counseling agencies.

Experience with low-income homeownership programs has demonstrated that quality counseling is imperative for successful homeownership and prevention of mortgage defaults. In addition, counseling will assist families in making informed decisions when selecting the home they wish to purchase.

2. Financing Purchase of Home

Families selected to participate in the Section 8 homeownership program must secure their own financing. If the family applies for a mortgage or loan (including an FHA mortgage), all regular lender underwriting and property inspection requirements apply.

The rule provides that a PHA may establish requirements for financing purchase of a home to be assisted under the homeownership option (§ 982.631). If purchase of the home is financed (in whole or in part) without FHA-insured mortgage financing, the PHA must require that the underwriting procedures used by the lender comply with the basic mortgage insurance credit underwriting requirements for FHA-insured single family mortgage loans (HUD Handbook 4155.1).

All PHA financing or affordability requirements must be described in the PHA administrative plan.

The PHA may set requirements concerning qualifications of lenders and terms of financing. For example, a PHA may determine that mortgages with balloon payments and certain kinds of variable interest rate loans are not in the best interest of the family because it is unlikely the family could afford the payments in a couple of years. In addition, the PHA could opt to prohibit seller financing, or to only allow seller financing in cases when the seller is a nonprofit or the purchase price can be clearly supported by an independent appraisal. Another purpose of the PHA financing review would be to determine whether the monthly mortgage or loan payment is affordable after considering other family expenses. PHAs may wish to establish minimum initial equity requirements to ensure that the family has a personal financial stake in the home, thus helping to minimize mortgage loan defaults (for example, the PHA may require that the family use its own resources to make the entire initial downpayment, or a percentage of the initial downpayment).

Although PHAs have local discretion in approving the home purchase financing arrangement, PHAs are cautioned not to use this discretion in a way that restricts the use of viable financing resources and unfairly penalizes the homebuyer. It is noted that variable interest rate loans are now commonplace and homeowners often refinance to later secure a fixed rate or a lower monthly payment.

3. Home Inspections

Two kinds of physical inspections are required in the homeownership option (in addition to, and separate from, any lender required inspections): (a) an HQS inspection by the PHA and (b) an "independent professional home inspection" by an inspector that is used in the private market by homebuyers. (§ 982.630).

The PHA inspection is the normal initial HQS inspection conducted by the PHA for the tenant-based rental assistance program. This inspection will indicate the current physical condition of the unit and any repairs necessary to ensure that the unit is safe and otherwise habitable. The PHA HQS inspection does not include an assessment of the adequacy and life span of the major building components, building systems, appliances and other structural components.

The only difference between the HQS inspection requirements for the tenant-based rental and homeownership programs is that the PHA will not conduct annual inspections. The exemption from annual HQS homeownership inspections is authorized by the statute. The initial (prior to the commencement of housing assistance) HQS inspection is the only PHA inspection required for homeownership units during the entire

time the family is receiving Section 8 homeownership assistance.

The other inspection required by this proposed rule is a statutory requirement that is consistent with private real estate practice. The "independent professional home inspection" is conducted by a private market home inspector (not PHA staff) that is experienced and qualified to conduct prepurchase inspections for homebuyers. The purpose of the home inspection is the identification of home defects and an assessment of the adequacy and life span of the major building components, building systems, appliances and other structural components. The requirement for an inspection arranged by the buyer and satisfactory to the buyer is a typical contingency clause in contracts of sale. The section 8 family selects the home inspector and pays the home inspector's fees. (The source of funds for family payment of the home inspection may be a gift, family savings or an inheritance, or sources other than family savings.) A copy of the inspection report is provided to the family and the PHA.

Although the PHA may not require the family to use a particular inspector, the PHA may establish standards for qualification of the home inspector selected by the family. For example, the PHA may require the use of a home inspector certified by the American Society of Home Inspectors, or a similar national organization.

The PHA must review the home inspector's report to determine whether repairs are necessary prior to purchase, and to generally assess whether the purchase transaction makes sense in light of the overall condition of the home and the likely costs of repairs and capital expenditures. For example, the home inspector's report might reveal foundation instability, and a defective roof and heating system that needs immediate replacement at great cost. Confronted with these facts the PHA would discuss the inspection results with the family and decide whether to disapprove the unit for assistance under the homeownership option because of the major physical problems and substantial correction costs, or whether it is feasible to have the necessary repairs accomplished prior to sale.

HUD specifically requests comments on whether a separate HQS and home inspector inspection should be required for the Section 8 homeownership program.

4. Switching From Section 8 Homeownership Voucher Assistance to Rental Voucher Assistance, and Vice-Versa, After a Mortgage Default and at Other Times

There are a number of circumstances under which a family may switch between rental and homeownership assistance under the voucher program. Various scenarios are described below.

a. A Section 8 participant receiving certificate or voucher assistance may request a PHA operating a homeownership program to determine whether the family is eligible for Section 8 homeownership assistance. If the family is determined eligible for homeownership assistance, the PHA may authorize the family to search for a home to purchase. The family would continue to receive rental assistance until the family vacates the rental unit (consistent with the lease).

b. A Section 8 applicant selected from the PHA waiting list goes to the briefing and learns of the homeownership option. The PHA determines the family is eligible for homeownership and the family is given two months to find a home to purchase. At the end of the two months the PHA extends the search period for an additional month because the family has found a unit. However, the purchase never occurs due to problems qualifying for a loan. The family opts to rent an apartment and try homeownership at a later time after they have increased their savings. The PHA issues the family a rental voucher.

c. The family purchases a home under the Section 8 homeownership option. After several years the family decides that they prefer to live in a rental apartment. If there is no mortgage loan default and the family has met all obligations under the Section 8 program, the PHA may issue the family a rental voucher. If there is a default on an FHA mortgage (and assuming the family has met all the family obligations under the Section 8 program other than not causing a mortgage default), the PHA may exercise the PHA option to issue the family a rental voucher only if the family vacates the home and conveys the title in accordance with § 982.636(b)(3). If there is a non-FHA mortgage loan default, the PHA has discretion to issue the family a rental voucher or terminate assistance.

As noted above, HUD is considering establishing conditions on the ability of a family to receive Section 8 rental assistance after a mortgage default. HUD invites public comment on what types of restrictions and conditions may be appropriate. Any such conditions will be described in the final rule. HUD also requests comments on whether the incentives provided for rapid possession and title conveyance for homes with FHA mortgage defaults should be extended to all lenders including secondary market agencies.

5. Portability

Families that are determined eligible for homeownership assistance may exercise the homeownership option outside of the initial PHA's jurisdiction if the receiving PHA is administering a Section 8 homeownership program, and is accepting new families into the receiving PHA's homeownership program. See § 982.635.

The receiving PHA may absorb the homeownership family or bill the initial PHA for the homeownership housing assistance using the normal portability billing process. Communications between the initial and receiving PHA are necessary. As is the case for Section 8 rental portable families, all of the receiving PHA's administrative policies are applicable to the homeownership family. The family will be required to attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA, not the initial PHA, will determine whether the financing for and the physical condition of the unit are acceptable.

6. Buying Another Home With Section 8 Assistance

A homeownership family may purchase another home with Section 8 assistance provided there is no mortgage loan default.

There are no Section 8 sale recapture provisions; the family may keep any profits or proceeds from the sale of the home (assuming there are no recapture provisions associated with the family's home financing). However, most of the homeownership requirements applicable to the first home purchase remain applicable to a subsequent purchase. For example, the family must once again meet the employment threshold. The necessity of any counseling will be determined by the PHA. An independent home inspection will be conducted and the PHA will determine the acceptability of the financing. The PHA established time limit for homeownership (10 years or less) applies to the cumulative time the family receives homeownership assistance. The only exception to eligibility requirements applicable to initial receipt of homeownership assistance is that the family need not meet the first-time homebuyer requirement. (See § 982.636(c).)

7. Applicability of the Section 8 Tenant-Based Certificate and Voucher Requirements to the Homeownership Option

Section 982.638 details the portions of the certificate and voucher regulations that apply to the homeownership special housing type. PHAs should carefully review this section of the regulations.

It is noted that all civil rights laws applicable to the Section 8 certificate and voucher programs are applicable to the homeownership program (see § 982.53 for a listing of the equal opportunity requirements applicable to the Section 8 tenant-based programs). PHAs must comply with all equal opportunity and nondiscrimination requirements imposed by contract or Federal law. In addition, PHAs are reminded that "finders-keepers" applies to homeownership assistance; PHAs may not steer families to particular units or neighborhoods. Further, as in the tenant-based rental voucher program, PHAs must provide assistance to expand housing opportunities. The PHA briefing for both rental and homeownership families must explain:

a. Where the family may lease or purchase a unit;

b. How portability works (if the family qualifies to lease or purchase a unit outside the PHA jurisdiction under portability procedures); and

c. The advantages of moving to an area that does not have a high concentration of poor families (if the family is currently living in a high poverty census tract within the jurisdiction of the PHA).

Further, if the family includes any person with disabilities, the PHA must take appropriate steps to ensure effective communication during the briefing in accordance with 24 CFR 8.6.

8. Link Between Section 8 Homeownership and the Family Self-Sufficiency (FSS) Program

PHAs may wish to link Section 8 homeownership with the FSS program. For example, participation in the FSS program could be a PHA eligibility requirement (see §§ 982.626(b) and 982.627(a)(5)). The PHA may also opt to incorporate the homeownership goal into the family's FSS contract of participation so any FSS escrow could be advanced for purchase of a home or home maintenance/improvement purposes. It is noted that FSS families must meet the homeownership income and employment thresholds.

9. PHA Determination of "Homeownership Expense"

Section 982.634(c) details the expenses that the PHA will include when determining the family's homeownership expenses. The principal and interest amount is the debt service amount for the initial (original) mortgage debt, any mortgage insurance premium, and any refinancing of such debt. HUD requests comments on whether homeownership expense should exclude any "owner cashout" associated with refinancing of the original mortgage debt.

The utility allowance is the same utility allowance schedule as used in the rental certificate and voucher programs.

The PHA allowance for maintenance expenses is the amount the PHA thinks is appropriate for routine maintenance for a home. The PHA allowance for major repairs and replacements is the amount the PHA thinks is appropriate for a replacement "reserve" for a home. These two maintenance allowances should not be based on the condition of the home, similar to how utility allowances work. It is recommended that a PHA contact counseling agencies, local realtors and relevant national organizations for advice on the appropriate level for these local allowances. (Families are not required to put the amount set aside for these two maintenance allowances in the bank or in escrow. Further, it is not expected that the monthly amounts for these allowances will cover all maintenance and capital expenditures.) Comments are requested on suggested ways to determine the allowance for maintenance expenses and the allowance for major repairs and replacements.

V. Findings and Certifications

Paperwork Reduction Act

The homeownership option is a special housing type under 24 CFR part 982, subpart M, of the unified rule for the Section 8 tenant-based voucher and certificate program. The information collection requirements of the Section 8 rental certificate and voucher programs approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) are not increased by the implementation of this new special housing type. While the rule substitutes several variations to existing requirements under the normal Section 8 tenant-based program, the homeownership option does not increase the total reporting and recordkeeping burden resulting from the collection of information for the Section 8 certificate and voucher programs.

As noted earlier in this preamble, the PHA does not issue the family a rental voucher or certificate or execute a housing assistance payment contract with an owner of rental property on behalf of the family participating in the homeownership option. Instead, the family and PHA execute a statement of homeowner obligations. Under the homeownership option the family provides the PHA with a copy of the contract of sale rather than submitting a Request for Lease Approval and a copy of the proposed lease. The homeownership option does require an independent pre-purchase inspection in addition to the initial HQS inspection; however, this burden is off-set by the removal of the requirement that the unit be subsequently inspected no less than annually.

The OMB approval number for the Section 8 tenant-based assistance program is 2577–0169, which expires on April 30, 2001. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under executive Order 12866, *Regulatory Planning and Review*. OMB determined that this proposed rule is a "significant regulatory action," as

defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

(1) A Substantial Number of Small Entities Will Not Be Affected

The proposed rule is exclusively concerned with public housing agencies that administer tenant-based housing assistance under section 8 of the United States Housing Act of 1937. Specifically, the proposed rule will permit a public housing agency to provide Section 8 tenant-based assistance to an eligible family that purchases a dwelling unit that will be occupied by the family. Under the definition of "Small governmental jurisdiction" in section 601(5) of the RFA, the provisions of the RFA are applicable only to those few public housing agencies that are part of a political jurisdiction with a population of under 50,000 persons. The number of entities potentially affected by this rule is therefore not substantial

(1) No Significant Economic Impact

The proposed regulatory amendments will not change the amount of funding available under the Section 8 voucher program. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble

Executive Order 12612, Federalism

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have federalism implications concerning the division of local, State, and Federal responsibilities. This proposed rule is exclusively concerned with the establishment of an alternative use of Section 8 rental voucher assistance. Specifically, the rule will authorize a public housing agency to provide tenant-based assistance for an eligible family that purchases a dwelling unit that will be occupied by the family. No programmatic or policy change will result from this rule that will affect the relationship between the Federal government and State and local governments.

Catalog of Domestic Assistance Numbers

The Catalog of Domestic Assistance numbers for the programs affected by this proposed rule are 14.146, 14.147, 14.850, 14.851, 14.852, and 15.141.

List of Subjects in 24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD proposes to amend 24 CFR parts 982 as follows:

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 VOUCHER PROGRAM

1. The authority citation for 24 CFR part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

2. Amend § 982.4(b) as follows:

a. Revise the definitions of *Cooperative*, and *Special housing types*;

b. Remove the definition of *Mutual housing*; and

c. Add the definitions of *Cooperative member*, *Family*, *First-time homeowner*, *Home*, *Homeowner*, *Homeownership assistance*, *Homeownership expenses*, *Homeownership option*, *Interest in the home*, *Membership shares*, *Public assistance*, and *Statement of homeowner obligations* in alphabetical order.

§ 982.4 Definitions.

* * * * *

(b) * * *

Cooperative. Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing.

Cooperative member. A family of which one or more members owns membership shares in a cooperative.

* * * * *

Family. A person or group of persons, as determined by the PHA, approved to reside in a unit with assistance under the program. See discussion of family composition at § 982.201(c).

* * * * *

First-time homeowner. In the homeownership option: A family of which no member owned any present ownership interest in a principal residence of any family member during the three years before commencement of homeownership assistance for the family. "Present ownership interest" in a residence includes title, in whole or in part, to a residence, or ownership, in whole or in part, of membership shares in a cooperative. "Present ownership interest" in a residence does not include the right to purchase title to the residence under a lease-purchase agreement.

* * * * *

Home. In the homeownership option: A dwelling unit for which the PHA pays homeownership assistance.

Homeowner. In the homeownership option: A family of which one or more members owns title to the home.

Homeownership assistance. In the homeownership option: Monthly homeownership assistance payments by the PHA. Homeownership assistance payment may be paid to the family, or to a mortgage lender on behalf of the family.

Homeownership expenses. In the homeownership option: A family's allowable monthly expenses for the home, as determined by the PHA in accordance with HUD requirements (see § 982.634).

Homeownership option. Assistance for a homeowner or cooperative member under § 982.625 to § 982.638. A special housing type.

* * * * *

Interest in the home. In the homeownership option (see § 982.632(b)(3)):

(1) In the case of assistance for a homeowner, "interest in the home" includes title to the home, any lease or other right to occupy the home, or any other present interest in the home.

(2) In the case of assistance for a cooperative member, "interest in the home" includes ownership of membership shares in the cooperative, any lease or other right to occupy the home, or any other present interest in the home.

* * * * *

Membership shares. In the homeownership option: shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular apartment in the cooperative, and the right to participate in management of the housing.

* * * * *

Public assistance. In the homeownership option (see § 982.627(b)): Income assistance from Federal, state or local welfare programs. Public assistance includes: Federal housing assistance or the housing component of a welfare grant; assistance under Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI) that is subject to an income eligibility test; food stamps; general assistance or other assistance provided under a Federal, state or local program that provides assistance available to meet Family living or housing expenses.

* * * * *

Special housing types. See subpart M of this part 982. Subpart M of this part states the special regulatory requirements for: SRO housing, congregate housing, group home, shared housing, manufactured home (including manufactured home space rental), cooperative housing (rental assistance for cooperative member) and homeownership option (homeownership assistance for cooperative member or first-time homeowner).

Statement of homeowner obligations. In the homeownership option: The family's agreement to comply with program obligations.

* * * * *

3. Add § 982.305(b)(4) to read as follows:

§ 982.305 PHA approval to lease a unit.

* * * * *

(b) * * *

(4) In the case of a unit subject to a lease-purchase agreement, the PHA must provide written notice to the family of the environmental requirements that must be met before commencing homeownership assistance for the family (see § 982.626(c)).

* * * * *

4. Add § 982.317 to read as follows:

§ 982.317 Lease-purchase agreements.

(a) A family leasing a unit with assistance under the program may enter into an agreement with an owner to purchase the unit. So long as the family is receiving such rental assistance, all requirements applicable to families otherwise leasing units under the tenant-based program apply. Any homeownership premium (e.g., increment of value attributable to the value of the lease-purchase right or agreement such as an extra monthly payment to accumulate a downpayment or reduce the purchase price) included in the rent to the owner that would result in a higher subsidy amount than would otherwise be paid by the PHA must be absorbed by the family.

(b) In determining whether the rent to owner for a unit subject to a lease-purchase agreement is a reasonable amount in accordance with § 982.503, any homeownership premium paid by the family to the owner must be excluded when the PHA determines rent reasonableness.

5. Revise 982.352(a)(6) to read as follows:

§ 982.352 Eligible housing.

(a) * * *

(6) A unit occupied by its owner or by a person with any interest in the unit.

* * * * *

Subpart M—Special Housing Types

6. Amend § 982.601 as follows:

a. Revise paragraphs (a), (b)(1), and (b)(2);

b. Redesignate paragraphs (c) and (d) as paragraphs (d) and (e) respectively; and

c. Add new paragraph (c).

§ 982.601 Overview.

(a) *Special housing types.* This subpart describes program requirements for special housing types. The following are the special housing types:

(1) Single room occupancy (SRO) housing;

(2) Congregate housing;

(3) Group home;

(4) Shared housing;

(5) Manufactured home;

(6) Cooperative housing (excluding families that are not cooperative members); and

(7) Homeownership option.

(b) *PHA choice to offer special housing type.* (1) The PHA may permit a family to use any of the following special housing types in accordance with requirements of the program: single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home when the family owns the home and leases the manufactured home space, cooperative housing or homeownership option.

(2) In general, the PHA is not required to permit families (including families that move into the PHA program under portability procedures) to use any of these special housing types, and may limit the number of families using special housing types.

* * * * *

(c) *Program funding for special housing types.* HUD does not provide any additional or designated funding for special housing types, or for a specific special housing type (e.g, the homeownership option). Assistance for special housing types is paid from program funding available for the PHA's tenant-based program under the consolidated annual contributions contract.

* * * * *

7. Amend § 982.619 as follows:

a. Revise paragraph (a);

b. Redesignate paragraph (d) as paragraph (e); and

c. Add new paragraph (d).

§ 982.619 Cooperative housing.

(a) *Assistance in cooperative housing.* This section applies to rental assistance for a cooperative member residing in cooperative housing. However, this section does not apply to:

(1) Assistance for a cooperative member under the homeownership option pursuant to § 982.625 through § 982.638; or

(2) Rental assistance for a family that leases a cooperative housing unit from a cooperative member (such rental assistance is not a special housing type, and is subject to requirements in other subparts of this part 982).

* * * * *

(d) *Maintenance.* (1) During the term of the HAP contract between the PHA and the cooperative, the dwelling unit and premises must be maintained in accordance with the HQS. If the dwelling unit and premises are not maintained in accordance with the HQS, the PHA may exercise all available remedies, regardless of whether the family or the cooperative is responsible for such breach of the HQS. PHA remedies for breach of the HQS include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments and termination of the HAP contract.

(2) The PHA may not make any housing assistance payments if the contract unit does not meet the HQS, unless any defect is corrected within the period specified by the PHA and the PHA verifies the correction. If a defect is life-threatening, the defect must be corrected within no more than 24 hours. For other defects, the defect must be corrected within the period specified by the PHA.

(3) The family is responsible for a breach of the HQS that is caused by any of the following:

(i) The family fails to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement between the cooperative member and the cooperative;

(ii) The family fails to pay for any utilities that the cooperative is not required to pay for, but which are to be paid by the cooperative member;

(iii) The family fails to provide and maintain any appliances that the cooperative is not required to provide, but which are to be provided by the cooperative member; or

(iv) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(4) If the family has caused a breach of the HQS for which the family is responsible, the PHA must take prompt and vigorous action to enforce such family obligations. The PHA may terminate assistance for violation of family obligations in accordance with § 982.552.

(5) Section 982.404 does not apply to assistance for cooperative housing under this section.

* * * * *

8. Add §§ 982.625 through 982.638 under a new undesignated heading "Homeownership Option" to read as follows:

Homeownership Option

982.625 Homeownership option: General.
982.626 Homeownership option: Initial requirements.
982.627 Homeownership option: Homeownership option: How to qualify for homeownership assistance.
982.628 Homeownership option: Additional PHA requirements for family search and purchase.
982.629 Homeownership option: Homeownership counseling.
982.630 Homeownership option: Home inspections and contract of sale.
982.631 Homeownership option: Financing purchase of home; affordability of purchase.
982.632 Homeownership option: Continued assistance requirements; Family obligations.
982.633 Homeownership option: Maximum term of homeownership assistance.
982.634 Homeownership option: Amount and distribution of monthly homeownership assistance payment.
982.635 Homeownership option: Portability.
982.636 Homeownership option: Move with continued tenant-based assistance.
982.637 Homeownership option: Administrative fees.
982.638 Homeownership option: Applicability of other requirements.

Homeownership Option

§ 982.625 Homeownership option: General.

(a) The homeownership option is used to assist a family residing in an existing home purchased and owned by one or more members of the family. The assisted family must be:

(1) A first-time homeowner; or

(2) A cooperative member.

(b) A family assisted under the homeownership option may be a newly admitted or existing participant in the program.

(c) The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and useable by persons with disabilities in accordance with 24 CFR part 8. (See § 982.316 concerning occupancy by a live-in aide.)

§ 982.626 Homeownership option: Initial requirements.

(a) *List of Federal requirements.* Before commencing homeownership assistance for a family, the PHA must determine that all of the following initial requirements have been satisfied:

(1) The family is qualified to receive homeownership assistance (see § 982.627).

(2) The family has satisfactorily completed the PHA program of required pre-assistance homeownership counseling (see § 982.629).

(3) The unit is eligible. (See § 982.352. Paragraphs (a)(6), (a)(7) and (b) of § 982.352 do not apply.)

(4) The unit has been inspected by a PHA inspector and by an independent inspector designated by the family (see § 982.630).

(5) The unit satisfies the HQS (see § 982.401 and § 982.630).

(6) The family is a first-time homeowner or cooperative member (see definitions of these terms at § 982.4) and neither the head of household or spouse has defaulted on a mortgage obtained through the homeownership option.

(7) Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, the family has entered a contract of sale in accordance with § 982.630(c).

(8) In the case of assistance for a cooperative member, the cooperative membership shares may be acquired at or before commencement of homeownership assistance.

(b) *Additional PHA requirements.* The PHA may prescribe additional initial requirements for commencement of homeownership assistance for a family. Any such additional requirements must be described in the PHA administrative plan.

(c) *Environmental requirements.* The PHA is responsible for complying with the authorities listed in 24 CFR 58.6 requiring the purchaser to obtain and maintain flood insurance for units in special flood hazard areas, prohibiting assistance for acquiring units in the coastal barriers resource system, and requiring notification to purchaser of units in airport runway clear zones and airfield clear zones.

(d) *PHA disapproval of seller.* The PHA may not commence homeownership assistance for occupancy of a home if the PHA has been informed (by HUD or otherwise) that the seller of the home is debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

§ 982.627 Homeownership option: How to qualify for homeownership assistance.

(a) *Determination whether family is qualified.* The PHA may not provide homeownership assistance for a family unless the PHA determines that the family satisfies all of the following initial requirements at commencement of homeownership assistance for the family:

(1) At admission to the voucher program, the family is eligible for assistance (determined in accordance with § 982.201).

(2) The family satisfies any minimum income requirement (described in paragraph (b) of this section).

(3) The family satisfies the employment requirements (described in paragraph (c) of this section).

(4) The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option (see paragraph (d) of this section).

(5) The family also satisfies any other initial requirements established by the PHA. Any such additional requirements must be described in the PHA administrative plan.

(b) *Minimum income requirements.* (1) At commencement of homeownership assistance for the family, the family must demonstrate that the head of household and spouse have qualified monthly income (gross income), as determined in accordance with § 5.609, that is not less than any minimum amount established by the PHA in accordance with the administrative plan.

(2)(i) Except in the case of an elderly family or a disabled family (see the definitions of these terms at 24 CFR 5.403(b)), the PHA shall not count any public assistance received by the family in determining qualified monthly income under this section.

(ii) The disregard of public assistance income under paragraph (b)(2)(i) of this section only affects the determination of minimum monthly income used to determine if a family initially qualifies for commencement of homeownership assistance in accordance with this section, but does not affect:

(A) The determination of income-eligibility for admission to the voucher program;

(B) Calculation of the amount of the family's total tenant payment (gross family contribution); or

(C) Calculation of the amount of homeownership assistance payments on behalf of the family.

(iii) In the case of an elderly family or a disabled family, the PHA shall count public assistance in determining qualified monthly income.

(c) *Employment requirements.* (1) Except as provided in paragraph (c)(2) of this section, the family must demonstrate that the head of household or spouse is currently employed on a full-time basis, and has been continuously so employed during the year before commencement of homeownership assistance for the family.

(2) The employment requirement in paragraph (c)(1) of this section does not apply to an elderly family or a disabled family (see the definitions of these terms at 24 CFR 5.403(b)). Furthermore, if a family, other than an elderly family or a disabled family, includes a person with disabilities, the PHA shall grant an exemption from the employment requirement if the PHA determines that an exemption is needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8.

(d) *Prohibition against mortgage defaults.* The PHA shall not commence homeownership assistance for a family if the head of household or spouse has previously received assistance under the homeownership option, and has defaulted on a mortgage securing debt incurred to purchase the home.

§ 982.628 Homeownership option: Additional PHA requirements for family search and purchase.

(a) The PHA may establish the maximum time for a family to locate a home to purchase, and to purchase the home.

(b) The PHA may require periodic family reports on the family's progress made to purchase in finding and purchasing a home.

(c) If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

§ 982.629 Homeownership option: Homeownership counseling.

(a) Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA (pre-assistance counseling).

(b) The PHA pre-assistance counseling program must cover these subjects:

(1) Home maintenance (including care of the grounds);

(2) Budgeting and money management;

(3) Credit counseling;

(4) How to negotiate the purchase price of a home;

(5) How to obtain homeownership financing and loan preapprovals, including a description of types of financing that may be available, and the pros and cons of different types of financing;

(6) How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction.

(7) Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas.

(c) The PHA may adapt pre-assistance counseling for a family to the family's needs.

(d) The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

§ 982.630 Homeownership option: Home inspections and contract of sale.

(a) *HQS inspection by PHA.* The PHA may not commence homeownership assistance for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

(b) *Independent inspection.* (1) The unit must also be inspected by an independent professional inspector selected by and paid by the family.

(2) The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

(3) The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor,or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

(4) The independent inspector must provide a copy of the inspection report both to the family and to the PHA. The PHA may not commence homeownership assistance for the family until the PHA has reviewed the inspection report of the independent inspector. Even if the unit otherwise complies with the HQS (and may qualify for assistance under the PHA's tenant-based rental voucher program), the PHA shall have discretion to disapprove the unit for assistance under the homeownership option because of information in the inspection report.

(c) *Contract of sale.* (1) Before commencement of homeownership assistance, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale (see also § 982.626(a)(7)).

(2) The contract of sale must specify:

(i) The price and other terms of sale by the seller to the purchaser.

(ii) That the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.

(iii) That the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser.

(iv) That the purchaser is not obligated to pay for any necessary repairs.

§ 982.631 Homeownership option: Financing purchase of home; affordability of purchase.

(a) The PHA may establish requirements for financing purchase of a home to be assisted under the homeownership option. Such PHA requirements may include requirements concerning qualification of lenders (for example, prohibition of seller financing or case-by-case approval of seller financing), or concerning terms of financing (for example, a prohibition of balloon payment mortgages, or establishment of a minimum homeowner equity requirement from personal resources).

(b) If purchase of the home is financed with FHA-insured mortgage financing, such financing is subject to FHA mortgage insurance credit underwriting requirements. If purchase of the home is

financed (in whole or in part) without FHA-insured mortgage financing, the PHA must require that the underwriting procedures used by the lender comply with the basic mortgage insurance credit underwriting requirements for FHA-insured single family mortgage loans.

(c) The PHA may disapprove proposed financing if the PHA determines that the debt for purchase of the home is unaffordable. In making this determination, the PHA may take into account other family expenses, such as child care, unreimbursed medical expenses, homeownership expenses, and other family expenses as determined by the PHA.

(d) All PHA financing or affordability requirements must be described in the PHA administrative plan.

§ 982.632 Homeownership option: Continued assistance requirements; Family obligations.

(a) *Occupancy of home.* Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

(b) *Family obligations.* To continue to receive homeownership assistance, a family must comply with the following family obligations:

(1) *Ongoing counseling.* To the extent required by the PHA, the family must attend and complete ongoing homeownership and housing counseling.

(2) *Compliance with mortgage.* The family must comply with the terms of any mortgage securing debt incurred to purchase the home, and any refinancing of such debt.

(3) *Prohibition against conveyance or transfer of home.* (i) So long as the family is receiving homeownership assistance, use and occupancy of the home is subject to § 982.551(h) and (i). The family may not sell, convey or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home.

(ii) In the case of assistance for a homeowner, the family may grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt.

(iii) Upon death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members in accordance with § 982.551(h).

(4) *Supplying required information.* (i) The family must supply required information to the PHA in accordance with § 982.551(b).

(ii) In addition to other required information, the family must supply any information as required by the PHA or HUD concerning:

(A) Any mortgage or other debt incurred to purchase the home, and any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default), and information on any satisfaction or payment of the mortgage debt;

(B) Any sale or other transfer of any interest in the home; or

(C) The family's homeownership expenses.

(5) *Notice of move-out.* The family must notify the PHA before the family moves out of the home.

(6) *Notice of mortgage default.* The family must notify the PHA if the family defaults on a mortgage securing any debt incurred to purchase the home.

(7) *Additional PHA requirements.* The PHA may establish additional requirements for continuation of homeownership assistance for the family. The family must comply with any such requirements.

(8) *Other family obligations.* The family must comply with the obligations of a participant family described in § 982.551. However, the following provisions do not apply to assistance under the homeownership option: § 982.551(c), (d), (e), (f), (g) and (j).

(c) *Statement of homeowner obligations.* Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the homeownership option.

§ 982.633 Homeownership option: Maximum term of homeownership assistance.

(a) Except in the case of an elderly family or a disabled family, the family shall not receive assistance under the homeownership option for more than ten years in total. If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the ten year maximum.

(b) At any time, the PHA may establish a shorter maximum term.

§ 982.634 Homeownership option: Amount and distribution of monthly homeownership assistance payment.

(a) *Amount of monthly homeownership assistance payment.* While the family is residing in the home, the PHA shall pay a monthly homeownership assistance payment on behalf of the family that is equal to the *lower* of:

(1) The payment standard minus the total tenant payment; or

(2) The family's monthly homeownership expenses minus the total tenant payment.

(b) *Payment standard for family.* (1) The payment standard for a family is the lower of:

(i) The payment standard for the family unit size; or

(ii) The payment standard for the size of the home.

(2) If the home is located in an exception rent area, the PHA must use the appropriate payment standard for the exception rent area.

(3) The payment standard for a family is the greater of:

(i) The payment standard (as determined in accordance with paragraphs (b)(1) and (b)(2) of this section) at the commencement of homeownership assistance for occupancy of the home; or

(ii) The payment standard (as determined in accordance with paragraphs (b)(1) and (b)(2) of this section) at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

(4) The PHA may not establish a separate payment standard for assistance under the homeownership option. The PHA must use the payment standards on the PHA payment standard schedule established pursuant to § 982.505.

(c) *Determination of homeownership expenses.* (1) The PHA shall adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

(2) Homeownership expenses for a homeowner may only include amounts allowed by the PHA to cover:

(i) Principal and interest on initial mortgage debt and any mortgage insurance premium incurred to finance purchase of the home and any refinancing of such debt;

(ii) Real estate taxes and public assessments on the home;

(iii) Home insurance;

(iv) The PHA allowance for maintenance expenses;
(v) The PHA allowance for costs of major repairs and replacements;
(vi) The PHA utility allowance for the home; and
(vii) Principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home.
(3) Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:
(i) The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
(ii) Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt or other mortgage debt;
(iii) Home insurance;
(iv) The PHA allowance for maintenance expenses;
(v) The PHA allowance for costs of major repairs and replacements;
(vi) The PHA utility allowance for the home; and
(vii) Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home.

(d) *Payment to lender or family.* The PHA must pay homeownership assistance payments either directly to the family or, at the discretion of the PHA, to a lender on behalf of the family.

(e) *Automatic termination of homeownership assistance.* Homeownership assistance terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

§ 982.635 Homeownership option: Portability.

A family may qualify to move outside the initial PHA jurisdiction with continued assistance under the voucher program in accordance with portability procedures in § 982.353 and § 982.355. However, § 982.354 is not applicable. Such continued assistance under portability procedures is subject to § 982.636.

§ 982.636 Homeownership option: Move with continued tenant-based assistance.

(a) *Move to new unit.* A family receiving homeownership assistance may move to a new unit with continued tenant-based assistance in accordance with this section. The family may move either with voucher rental assistance (in accordance with rental assistance program requirements) or with voucher homeownership assistance (in accordance with homeownership option program requirements).

(b) *When PHA may deny permission to move with continued assistance—(1) Lack of sufficient funding.* The PHA may deny permission to move with continued voucher assistance if the PHA does not have sufficient funding to provide continued assistance.

(2) *Termination of assistance.* At any time, the PHA may deny permission to move with continued voucher assistance in accordance with § 982.552 (grounds for denial or termination of assistance), including termination of assistance for violation of any family obligations described in § 982.632.

(3) *Default on FHA-insured mortgage.* If the family defaults on an FHA-insured mortgage, the PHA may deny the family permission to receive rental assistance, in accordance with the policies contained in the PHA administrative plan. Further, in the event of a default on an FHA-insured mortgage, the PHA must deny the family permission to move with continued voucher assistance unless the family demonstrates that:
(i) The family has conveyed title to the home, as required by HUD, to HUD or HUD's designee, and
(ii) The family has moved from the home within the period established or approved by HUD.

(c) *Continued homeownership assistance.* For each move to a new unit with continued voucher assistance under the homeownership option, the PHA must determine that all initial requirements listed in § 982.626 have been satisfied. However, the following requirements do not apply:
(1) The requirement for pre-assistance counseling (§ 982.626(a)(2) and § 982.629) is not applicable. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued assistance under the homeownership option).
(2) In the case of assistance for a homeowner, the requirement that a family must be a first-time homeowner (§ 982.625 and § 982.626) is not applicable.

§ 982.637 Homeownership option: Administrative fees.

The ongoing administrative fee described in § 982.152(b) is paid to the PHA for each month that homeownership assistance is paid by the PHA on behalf of the family.

§ 982.638 Homeownership option: Applicability of other requirements.

(a) *General.* The following types of provisions (located in other subparts of this part 982) do not apply to assistance under the homeownership option:
(1) Any provisions concerning the Section 8 owner or the HAP contract between the PHA and owner;
(2) Any provisions concerning the assisted tenancy or the lease between the family and the owner;
(3) Any provisions concerning PHA approval to lease a unit;
(4) Any provisions concerning rent to owner or reasonable rent; and
(5) Any provisions concerning the issuance or term of a certificate or voucher.

(b) *Subpart G requirements.* The following provisions of this part 982, subpart G do not apply to assistance under the homeownership option:
(1) Section 982.302 (Issuance of certificate or voucher);
(2) Section 982.303 (Term of certificate or voucher);
(3) Section 982.305 (PHA approval to lease);
(4) Section 982.306 (PHA disapproval of owner);
(5) Section 982.307 (Owner screening of tenants);
(6) Section 982.308 (Leases);
(7) Section 982.309 (Term of tenancy);
(8) Section 982.310 (Owner termination of tenancy);
(9) Section 982.311 (When assistance is paid) (except that § 982.311(c)(3) is applicable to assistance under the homeownership option);
(10) Section 982.313 (Security deposit); and
(11) Section 982.314 (Move with continued tenant-based assistance) (except that § 982.314(c) and (d)(2) are applicable).

(c) *Subpart H requirements.* The following provisions of this part 982, subpart H do not apply to assistance under the homeownership option:
(1) Section 982.352(a)(6) (Prohibition of owner-occupied assisted unit);
(2) Section 982.352(b) (PHA owned housing);
(3) Sections 982.353(b)(1), (2), and (3) (Where family can lease a unit); and
(4) Section 982.354 (Administration by initial PHA under portability).

(d) *Subpart I requirements.* The following provisions of this part 982, subpart I do not apply to assistance under the homeownership option:
(1) Section 982.403 (Unit too big or small);
(2) Section 982.404 (Responsibility for maintenance during assisted occupancy); and
(3) Section 982.405 (PHA periodic unit inspection).

(e) *Subpart J requirements.* The requirements of this part 982, subpart J (Housing Assistance Payments Contract and Owner Responsibility) (§§ 982.451–457) do not apply to assistance under the homeownership option.

(f) *Subpart K requirements.* Except for those sections listed below, the requirements of this part 982, subpart K (Rent and Housing Assistance Payment) (§§ 982.501–517) do not apply to assistance under the homeownership option:

(1) Section 982.504 (Maximum subsidy; FMR/exception rent limit);

(2) Section 982.516 (Examination of family income and composition); and

(3) Section 982.517 (Utility allowance).

(g) *Subpart L requirements.* The following provisions of this part 982, subpart L, do not apply to assistance under the homeownership option:

(1) Section 982.551(c) (HQS breach caused by family);

(2) Section 982.551(d) (Allowing HQS inspection); and

(3) Section 982.551(j) (Interest in unit).

Dated: April 7, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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Part VII

National Archives and Records Administration

36 CFR Parts 1220, 1222, and 1228
Agency Records Centers; Proposed Rules
Storage of Federal Records; Proposed Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095–AA81

Agency Records Centers

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: NARA proposes to issue revised regulations updating the standards that records center storage facilities must meet to store Federal records. Since the regulations were last updated in 1982, there have been a number of advances in sprinkler systems and other general facility standards that significantly improve the environment and general safeguards for Federal records. This proposed rule also reflects updated information on certain measures that may prevent fire and water damage to records. NARA also recognizes the authority of agencies to contract with private entities for the storage of Federal records. NARA provides agencies with standards, procedures and guidelines for the use of such commercial records storage facilities. The regulation will apply to all agencies, including NARA, that establish and operate records centers, and to agencies that contract for the services of commercial records storage facilities.

DATES: Comments must be received by June 29, 1999.

ADDRESSES: Comments must be sent to Regulation Comment Desk (NPOL), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Comments may be faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at (301) 713–7360, ext. 226.

SUPPLEMENTARY INFORMATION: Based upon advancements in technical knowledge and experience gained over the past two decades, NARA believes it is time to update the standards for the storage of Federal records in the legal custody of Federal agencies. For the first time, NARA's storage standards will be extended to cover NARA's records centers and commercial records storage facilities used by Federal agencies, as well as the currently covered centers operated and maintained by other Federal agencies. Regardless of where they are stored, it is the responsibility of each agency to ensure that records in their legal custody are stored in appropriate space. Agencies must ensure that any records storage facility they use meets these updated standards. Agencies must obtain NARA's approval before establishing an agency records center or using an agency records center operated by another agency, and must provide to NARA documentation of compliance with the standards before transferring any agency records to a commercial records storage facility.

Federal records provide essential documentation of the Federal Government's policies and transactions and protect rights of individuals. These records must be stored in appropriate space to ensure that they remain available for their scheduled life. The proposed facility standards specify the required storage conditions when an agency's records are no longer maintained in agency office space. These proposed standards, which apply to records still in the legal custody of the agency, ensure that permanent records will be stored under environmental conditions equal to the office environmental conditions in which they were created.

The proposed basic facility standards outlined in § 1228.228 will apply to existing NARA and agency records centers and to commercial records storage facilities that are currently storing records. Any new NARA records center, any new agency-operated records center, and any new commercial records storage facility must also meet the standards for new facilities in these regulations.

All records storage facilities must meet the proposed fire-safety requirements in § 1228.230 when the rule becomes effective to protect against the loss of essential government evidence. We recognize that it may not be feasible to implement certain other provisions in existing facilities that met the standards in effect before this proposed change. Existing facilities must comply with requirements that minimize the risk of water damage to records from roof leaks or broken pipes within 10 years. Existing facilities that store permanent records prior to their transfer to the National Archives of the United States, unscheduled records, or sample/select records must meet the proposed environmental control standards within 10 years.

Because we believe that all newly acquired records storage space for Federal records should provide appropriate environmental controls and the best possible protection against records disasters, we are requiring that all new facilities that are used to store Federal records after the effective date meet certain higher or additional standards that reflect current knowledge on protecting records from damage. For example, in proposed §§ 1228.230(b) and (e), we are proposing different fire protection specifications for walls and roofs that reflect experience over the past 15 years with fire suppression in records storage facilities. Professionally designed fire suppression systems function as designed in over 97 percent of all actual fires. However, in a small number of cases, either when the system has been deactivated, or the fire source far exceeded the design characteristics (e.g., arson with large quantities of gasoline), the suppression system may fail to contain the fire, resulting in a fire involving a full storage module. Since the contents of a 250,000 cubic foot module can burn at furnace heat for a day or more, venting a module that is totally involved in fire is necessary to prevent the spread of the fire to adjacent storage modules. Venting a fire which has involved an entire records storage module to the outside through an entire wall or roof relieves the heat and allows application of vast quantities of water directly to the fire, and allow firefighters to enter adjacent (protected) areas of the building to cool doors protecting wall openings with hose streams. Venting vast quantities of heat to the atmosphere and cooling with hose streams can enable a four hour fire wall to endure a fire that rages for many hours. For this reason, we require that new records storage facilities have one exterior wall of each stack area and the roof designed with a maximum fire rating of one-hour. The actual timing of wall or roof failure will depend on the specific fire characteristics: a one-hour wall may fail in 30 minutes in an extreme fire, or last several hours in a less extreme fire. However, it will fail substantially earlier than a four-hour wall, providing earlier venting and hose stream access. As the exterior walls and roofs play a significant role in protecting the contents from incursion of an exterior fire, we require, for new construction, walls and roofs rated at least 30-minutes but not more than one-hour.

NARA has developed the fire-related safety requirements in this proposed rule with the assistance of recognized experts in the field of fire suppression. These new performance-based standards for fire-suppression (sprinkler) systems limit the loss of records to a maximum of 300 cubic feet per incident. The standard has been set to reflect what current sprinkler technology can guarantee. The application of these performance-based standards offers significant protection for Federal records that are housed in records storage facilities. Our previously

established fire safety standards in Subpart K simply described the then-existing NARA-developed sprinkler fire suppression systems. The proposed rule describes a fire-suppression system that meets the new performance-based standard but allows the use of other systems if performance tests show they meet the new standard. See § 1228.232 which outlines the steps needed to certify a fire-safety detection and suppression system and § 1228.234 which outlines NARA's certified system.

Several new requirements reflect government-wide requirements imposed since the regulations were last updated in 1982. The building security requirements are those established by the Department of Justice for Level III Federal facilities. Seismic safety provisions are required by Executive orders and an integrated pest management program is mandated for Federal agencies by the Food Protection Act of 1996.

The proposed revision to subpart K also modifies the procedures for requesting NARA approval to establish or relocate an agency records center. The proposed procedures remove the requirement for agency justification of its choice of storage facility and provide that NARA will deny requests only if NARA determines that the proposed agency records center does not demonstrate full compliance with the standards in this subpart. No NARA approval is required for an agency to contract with a commercial records storage facility, but agencies must ensure that any such facility selected complies with NARA's requirements for the storage of Federal records. If an agency contracts with a commercial records storage facility, the agency must certify to NARA that the facility complies with Subpart K.

In a separate proposed rule published elsewhere in this separate part of the **Federal Register**, NARA is proposing to establish new definitions for "records center," "commercial records storage facility," and "records storage facility" that are referenced in this proposed rule. For the convenience of reviewers of this proposed rule, terms used in this regulation that are defined (or proposed for definition) elsewhere in NARA regulations are restated here:

Records storage facility is a facility used by a Federal agency to store Federal records, whether that facility is operated and maintained by the agency, by NARA, by another Federal agency, or by a private commercial entity. [proposed definition]

Commercial records storage facility is a private sector commercial facility that offers records storage, retrieval, and disposition services. [proposed definition]

Records center is defined in 44 U.S.C. 2901(6) as an establishment maintained and operated by the Archivist or by another Federal agency primarily for the storage, servicing, security, and processing of records which need to be preserved for varying periods of time and need not be retained in office equipment or space. [proposed definition]

Permanent record means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives of the United States. Permanent records include all records accessioned by NARA into the National Archives of the United States and later increments of the same records, and those for which the disposition is permanent on SF 115s, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973. [proposed definition]

Unscheduled records are records the final disposition of which has not been approved by NARA. Unscheduled records are those that have not been included on a Standard Form 115, Request for Records Disposition Authority, approved by NARA; those described but not authorized for disposal on an SF 115 approved prior to May 14, 1973; and those described on an SF 115 but not approved by NARA (withdrawn, canceled, or disapproved). [36 CFR 1220.14]

This rule is a significant regulatory action for the purposes of Executive Order 12866, and has been reviewed by OMB. As required by the Regulatory Flexibility Act, we certify that this proposed rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1228

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend part 1228 of title 36, Code of Federal Regulations, as follows:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. chs. 21, 29, and 33.

2. Revise subpart K to read as follows:

Subpart K—Facility Standards for Records Storage Facilities

Sec.

General

1228.220 What authority applies to this subpart?
1228.222 What does this subpart cover?
1228.224 Publications incorporated by reference.
1228.226 Definitions.

Facility Standards

1228.228 What are the facility requirements for all records storage facilities?
1228.230 What are the fire safety requirements that apply to records storage facilities?
1228.232 What does an agency have to do to certify a fire-safety detection and suppression system?
1228.234 What is NARA's certified fire-safety detection and suppression system for records storage facilities?
1228.236 What are the requirements for environmental controls for records storage facilities?

Approval and Inspection Requirements

1228.240 How does an agency request authority to establish or relocate records storage facilities?
1228.242 When may NARA conduct an inspection of a records storage facility?

Subpart K—Facility Standards for Records Storage Facilities

General

§ 1228.220 What authority applies to this subpart?

NARA is authorized to establish, maintain and operate records centers for Federal agencies under 44 U.S.C. 2907. NARA is authorized, under 44 U.S.C. 3103, to approve a records center that is maintained and operated by an agency. NARA is also authorized to promulgate standards, procedures, and guidelines to Federal agencies with respect to the storage of their records in commercial records storage facilities. See 44 U.S.C. 2104(a), 2904 and 3102. The regulations in this subpart apply to all records storage facilities Federal agencies use to store, service, and dispose of their records.

§ 1228.222 What does this subpart cover?

(a) This subpart covers the establishment, maintenance, and operation of records centers, whether Federally-owned and operated by NARA or another Federal agency, or Federally-owned and contractor operated. This subpart also covers an agency's use of commercial records storage facilities. Records centers and commercial records storage facilities are referred to collectively as records storage facilities. This subpart specifies the minimum structural, environmental, property, and life-safety standards that a records storage facility must meet when the facility is used for the storage of Federal records.

(b) Except where specifically noted, this subpart applies to all records storage facilities. Certain noted

provisions apply only to new records storage facilities.

§ 1228.224 Publications incorporated by reference.

(a) *General.* The following publications cited in this section are hereby incorporated by reference into this part 1228. They are available from the issuing organizations at the addresses listed in this section. They are also available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval, and a document indicating any change in these materials will be published in the **Federal Register**.

(b) *American Society of Testing and Materials (ASTM) standards.* The following ASTM standard is available from the American Society of Testing and Materials, 100 Barr Harbor Drive, West Conshocken, PA, 19428–2959, or on-line at www.astm.org:

E–119 (1998), Standard Test Methods for Fire Tests of Building Construction and Materials.

(c) *National Fire Protection Association (NFPA) standards.* The following NFPA standards are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269–9101, or on-line at www.catalog.nfpa.org:

NFPA 10 (1994), Standard for Portable Fire Extinguishers.

NFPA 13 (1996), Standard for the Installation of Sprinkler Systems.

NFPA 20 (1996), Standard for the Installation of Centrifugal Fire Pumps.

NFPA 40 (1997), Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film.

NFPA 42 (1997) Standard for Storage of Pyroxylin Plastics.

NFPA 72 (1996), National Fire Alarm Code.

NFPA 101 (1997), Life Safety Code.

NFPA 231 (1998), Standard for General Storage.

NFPA 231C (1998), Standard for the Rack Storage of Materials.

NFPA 232 (1995), Standard for the Protection of Records.

NFPA 232A (1995), Guide for Fire Protection of Archives and Records Centers.

(d) *Underwriters Laboratory (UL) Standards.* The following UL standards are available from the Underwriters Laboratory at www.ul.com or from Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112:

UL 611, Central Burglar Alarm Systems.

UL 827, Central Fire Alarm Stations.

UL 1076, Proprietary Burglar Alarm Units and Systems.

(e) *American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE) Standards.* The following ASHRAE standards are available from ASHRAE at ASHRAE Customer Service, 1791 Tullie Circle NE, Atlanta, GA 30329 or online at www.ASHRAE.org:

ASHRAE 55–1992, Thermal Environmental Conditions for Human Occupancy.

ASHRAE 62–1989, Ventilation for Acceptable Indoor Air Quality.

(f) *American National Standards Institute (ANSI) standards.* The following ANSI standards are available from the American National Standards Institute, 11 West 42nd St., New York, NY 10036:

ANSI/PIMA IT9.11–1998 Imaging Materials—Processed Safety Photographic Films—Storage

ANSI/PIMA IT9.18–1996 Imaging Materials—Processed Photographic Plates—Storage Practices.

ANSI /PIMA IT9.20–1996 Imaging Materials—Reflection Prints—Storage Practices.

ANSI/PIMA IT9.23–1997 Imaging Materials—Polyester Base Magnetic Material—Storage Practices.

ANSI/PIMA IT9.25–1998 Imaging Materials—Optical Disc Media—Storage.

§ 1228.226 Definitions.

The following definitions apply to this subpart:

(a) The terms *must* and *provide* indicate that a provision is mandatory.

(b) The terms *should* or *may* indicate that a provision is recommended or advised but not required.

(c) *Records center* has the meaning specified in § 1220.14 of this chapter.

(d) *Commercial records storage facility* has the meaning specified in § 1220.14 of this chapter.

(e) *Records storage facility* has the meaning specified in § 1220.14 of this chapter.

(f) *New records storage facility* means any records center or commercial records storage facility established or converted for use as a records center or commercial records storage facility on or after October 1, 1999.

(g) *Existing records storage facility* means any records center or commercial records storage facility used to store records on September 30, 1999, and has stored records continuously since that date.

(h) *Permanent record* has the meaning specified in § 1220.14 of this chapter.

(i) *Temporary record* has the meaning specified in § 1220.14 of this chapter.

(j) *Unscheduled records* has the meaning specified in § 1220.14 of this chapter.

(k) *Sample/Select records* means records whose final disposition requires an analytical or statistical sampling prior to final disposition authorization, in which some percentage of the original accession will be retained as permanent records.

Facility Standards

§ 1228.228 What are the facility requirements for all records storage facilities?

(a) The facility must be constructed with non-combustible materials and building elements, including walls, columns and floors. An agency may request a waiver of this requirement from NARA for an existing records storage facility with combustible building elements to continue to operate until October 1, 2009. In its request for a waiver, the agency must provide documentation that the facility has a fire suppression system specifically designed to mitigate this hazard and that the system has been certified in accordance with § 1228.232 to meet the requirements of § 1228.230(s). Requests must be submitted to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.

(b) A facility with two or more stories must be designed or certified by a licensed fire protection engineer to avoid catastrophic failure of the structure due to an uncontrolled fire on one of the intermediate floor levels.

(c) The building must be sited a minimum of five feet above and 100 feet from any 100 year flood plain areas, or be protected by an appropriate flood wall.

(d) The facility must be designed in accordance with regional building codes to provide protection from building collapse or failure of essential equipment from earthquake hazards, tornados, hurricanes and other potential natural disasters.

(e) Roads, fire lanes and parking areas must permit unrestricted access for emergency vehicles.

(f) A floor load limit must be established for the records storage area by a licensed structural engineer. The limit must take into consideration the height and type of the shelving or storage equipment, the width of the aisles, the configuration of the space, etc. The allowable load limit must be posted in a conspicuous place and must not be exceeded.

(g) All roof mounted equipment is prohibited. Place nothing on the roof that may cause damage to the roof membrane. The requirements in this paragraph are effective [effective date of final rule] in new records storage facilities. Existing facilities must meet this requirement no later than October 1, 2009.

(h) Piping (with the exception of fire protection sprinkler piping and storm water roof drainage piping) must not be run through records storage areas. If drainage piping from roof drains must be run though records storage areas, the piping must be run to the nearest vertical riser and must include a continuous gutter sized and installed beneath the lateral runs to prevent leakage into the storage area. Vertical pipe risers required to be installed in records storage areas must be fully enclosed by shaft construction with appropriate maintenance access panels. The requirements in this paragraph are effective [effective date of final rule] in new records storage facilities. Existing facilities must meet this requirement no later than October 1, 2009.

(i) The following standards apply to storage shelving:

(1) All storage shelving must be designed and installed to provide seismic bracing that meets the requirements of Executive Order 12941, Seismic Safety of Existing Federally Owned or Leased Buildings (3 CFR, 1994 Comp., p. 955), or Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction (3 CFR, 1990 Comp., p. 269);

(2) Steel shelving or other open-shelf records storage equipment must be braced to prevent collapse under full load. Each shelving unit must be industrial style shelving rated at least 50 pounds per cubic foot supported by the shelf;

(3) Compact mobile shelving systems (if used) must be designed to permit proper air circulation and fire protection (detailed specifications that meet this requirement can be provided by NARA by writing to Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.).

(j) The area occupied by the records storage facility must be equipped with an anti-intrusion alarm system, or equivalent, meeting the requirements of Underwriters Laboratory Standard 1076, Proprietary Burglar Alarm Units and Systems, level AA, to protect against unlawful entry after hours and to monitor designated interior storage spaces. This intrusion alarm system must be monitored in accordance with Underwriters Laboratory (UL) Standard 611, Central Burglar Alarm Systems.

(k) The facility must comply with the requirements for a Level III facility as defined in the Department of Justice, U.S. Marshals Service report Vulnerability Assessment of Federal Facilities dated June 28, 1995. These requirements are provided in Appendix A to this Part 1228.

(l) Records contaminated by hazardous materials, such as radioactive isotopes or toxins, infiltrated by insects, or exhibiting active mold growth must be stored in separate areas having separate air handling systems from other records.

(m) To eliminate damage to records and/or loss of information due to insects, rodents, mold and other pests that are attracted to organic materials under specific environmental conditions, the facility must have an Integrated Pest Management program as defined in the Food Protection Act of 1996 (Section 303, Public Law 104–170, 110 Stat. 1512). This states in part that Integrated Pest Management is a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks. The IPM program emphasizes three fundamental elements:

(1) *Prevention.* IPM is a preventive maintenance process that seeks to identify and eliminate potential pest access, shelter, and nourishment. It also continually monitors for pests themselves, so that small infestations do not become large ones;

(2) *Least-toxic methods.* IPM aims to minimize both pesticide use and risk through alternate control techniques and by favoring compounds, formulations, and application methods that present the lowest potential hazard to humans and the environment; and

(3) *Systems approach.* The IPM pest control contract must be effectively coordinated with all other relevant programs that operate in and around a building, including plans and procedures involving design and construction, repairs and alterations, cleaning, waste management, food service, and other activities.

(n) New records storage facilities also must meet the requirements in this paragraph (n):

(1) Do not install mechanical and/or electrical equipment within records storage areas (either floor mounted or suspended from roof support structures).

(2) A redundant source of primary electric service such as a second primary service feeder should be provided to ensure continuous, dependable service to the facility especially to the HVAC systems, fire alarm and fire protection systems.

(3) The facility must be kept under positive air pressure especially in the area of the loading dock. In addition, to prevent fumes from vehicle exhausts from entering the facility, air intake louvers must not be located in the area of the loading dock, adjacent to parking areas or in any location where a vehicle engine may be running for any period of time. Loading docks must have an air supply and exhaust system that is separate from the remainder of the facility.

§ 1228.230 What are the fire safety requirements that apply to records storage facilities?

(a) The fire detection and protection systems must be designed or certified by a licensed fire protection engineer.

(b) All walls separating records areas from each other and from other storage areas in the building must be 4-hour fire resistant. The records storage areas must not exceed a total capacity of 250,000 cubic feet of records each and must be constructed to prevent migration of fire and smoke to other spaces of the building.

(c) Fire walls that meet the following specifications must be provided:

(1) For existing records storage facilities, at least one-hour-rated fire walls must be provided between the records storage areas and other auxiliary spaces.

(2) For new records storage facilities, two-hour-rated fire walls must be provided between the records storage areas and other auxiliary spaces. One exterior wall of each stack area must be designed with a maximum fire resistive rating of 1 hour.

(d) Penetrations in the walls must not reduce the specified fire resistance ratings. The fire resistance ratings of structural elements and construction assemblies must be in accordance with American Society of Testing and Materials E–119, Standard Test Methods for Fire Tests of Building Construction and Materials.

(e) The fire resistive rating of the roof must be a minimum of ½ hour for all records storage facilities. For new records storage facilities, the fire resistive rating of the roof must also be a maximum of 1 hour.

(f) Openings in fire walls separating records storage areas must be avoided to the greatest extent possible but if openings are necessary they must be protected by self-closing or automatic

Class A fire doors, or equivalent, on each side of the wall openings.

(g) Roof support structures that cross or penetrate fire walls must be cut and supported independently on each side of the fire wall.

(h) If fire walls are erected with expansion joints, the joints must be protected to their full height.

(i) For new records storage facilities, building columns in the records storage areas must be 4-hour fire resistant from the floor to slab above or to the location where they connect to the roof framing system. For existing records storage facilities, the building columns must be at least 2-hour fire resistant.

(j) Automatic roof vents must not be designed into new records storage facilities.

(k) Where lightweight steel roof or floor supporting members (e.g., bar joists having top chords with angles 2 by 1½ inches or smaller, ¼-inch thick or smaller, and 13/16-inch or smaller web diameters) are present, they must be protected either by applying a 10-minute fire resistive coating to the top chords of the joists, or by retrofitting the sprinkler system with large drop sprinkler heads. If a fire resistive coating is applied, it must be a product that will not release (off gas) harmful fumes into the facility. If fire resistive coating is subject to air erosion or flaking, it must be fully enclosed in a drywall containment constructed of metal studs with fire retardant drywall. Retrofitting may require modifications to the piping system to ensure that adequate water capacity and pressure are provided in the areas to be protected with these large drop sprinkler heads.

(l) No open flame (oil or gas) unit heaters or equipment may be installed or used in any records storage area.

(m) For existing records storage facilities, boiler rooms or rooms containing equipment operating with a fuel supply (such as generator rooms) must be separated from records storage areas by 2-hour-rated fire walls with no openings directly from these rooms to the records storage areas. Such areas must be vented directly to the outside to a location where fumes will not be drawn back into the facility.

(n) For new records storage facilities, boiler rooms or rooms containing equipment operating with a fuel supply (such as generator rooms) must be separated from records storage areas by 4-hour-rated fire walls with no openings directly from these rooms to the records storage areas. Such areas must be vented directly to the outside to a location where fumes will not be drawn back into the facility.

(o) For new records storage facilities, fuel supply lines must not be installed in areas containing records and must be separated from such areas with 4-hour rated construction assemblies.

(p) Equipment rows running perpendicular to the wall must comply with the Life Safety Code (NFPA 101) with respect to egress requirements.

(q) No oil-type electrical transformers, regardless of size, except thermally protected devices included in fluorescent light ballasts, may be installed in the records storage areas. All electrical wiring must be in metal conduit, except that armored cable may be used where flexible wiring connections to light fixtures are required. Battery charging areas for electric forklifts must be separated from records storage areas with at least a 2 hour rated fire wall.

(r) Hazardous materials, including records on cellulose nitrate film, must not be stored in records storage areas. Nitrate motion picture film and nitrate sheet film may be stored in separate areas that meet the requirements of the appropriate NFPA standard, NFPA 40, Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film, or NFPA 42, Standard for Storage of Pyroxylin Plastics.

(s) All records storage and adjoining areas must be protected by a professionally-designed fire safety detection and suppression system that is designed to limit the maximum anticipated loss in any single fire event to a maximum of 300 cubic feet of records destroyed by fire. Sections 1228.232 and 1228.234 provide alternate means of complying with this requirement.

§ 1228.232 What does an agency have to do to certify a fire-safety detection and suppression system?

(a) The NARA fire-safety detection and suppression system specified in § 1228.234 has been tested and certified to meet the requirement in § 1228.230(s).

(b) Other automatic extinguishing systems or protective measures may meet the requirement in § 1228.230(s) depending upon specific conditions, such as the type and stacking height of the storage equipment used, or how the space is designed, controlled, and operated. Standards, such as those issued by the National Fire Protection Association (see NFPA 13, NFPA 231, NFPA 231C, NFPA 232 and NFPA 232A), may be used to design an alternative system. The effectiveness of alternative designs in meeting the requirements of § 1228.230(s) must be supported by independent testing (Factory Mutual, Underwriters Laboratories or equivalent).

(c) Send a description of the alternative fire-safety detection and suppression system and documentation of the independent testing results to the Director, Space and Security Management Division (NAS), 8601 Adelphi Road, College Park, MD 20740–6001. NARA will maintain a list of approved alternative systems.

§ 1228.234 What is NARA's certified fire-safety detection and suppression system for records storage facilities?

Fire-safety systems that incorporate all components specified in paragraphs (a) through (o) of this section have been tested and certified to meet the requirements in § 1228.230 for an acceptable fire-safety detection and suppression system for storage of Federal records.

(a) The records storage height must not exceed 15 feet.

(b) All records storage and adjoining areas must be protected by automatic wet-pipe sprinklers. Automatic sprinklers are specified herein because they provide the most effective fire protection for high piled storage of paper records on open type shelving.

(c) The sprinkler system must be rated at no higher than 285 degrees Fahrenheit utilizing quick response (QR) fire sprinkler heads and designed by a licensed fire protection engineer to provide 0.30 gpm per square foot for the most remote 2,000 square feet of floor area at the most remote sprinkler head in accordance with NFPA 13. For facilities with roofs rated at 15 minutes or greater, provide ½" QR sprinklers rated at no higher than 285 degrees Fahrenheit designed to deliver a density of 0.56 gpm per square foot. For unrated roofs, provide 0.64" QR "large drop" sprinklers rated at no higher than 285 degrees Fahrenheit. For facilities using 7 or 8 shelf track files, use QR sprinklers rated at no higher than 285 degrees Fahrenheit. For new construction and replacement sprinklers, NARA recommends that the sprinklers be rated at 165 degrees Fahrenheit. Installation of the sprinkler system must be in accordance with NFPA 13.

(d) Maximum spacing of the sprinkler heads must be on a 10-foot grid and the positioning of the heads must provide complete, unobstructed coverage, with a clearance of not less than 18-inches from the top of the highest stored materials.

(e) The sprinkler system must be equipped with a water-flow alarm connected to an audible alarm within the facility and to a continuously staffed fire department or an Underwriters

Laboratory approved central monitoring station (see UL 827, Central Fire Alarm Stations) with responsibility for immediate response.

(f) A manual fire alarm system must be provided with a Underwriters Laboratory approved (grade A) central monitoring station service or other automatic means of notifying the municipal fire department. A manual alarm pull station must be located adjacent to each exit. Supplemental manual alarm stations are permitted within the records storage areas.

(g) All water cutoff valves in the sprinkler system must be equipped with automatic closure alarm (tamper alarm) connected to a continuously staffed station, with responsibility for immediate response. If the sprinkler water cutoff valve is located in an area used by the public, in addition to the tamper alarm, the valves must be provided with frangible (easily broken) padlocks.

(h) A dependable water supply free of interruption must be provided including a continuous site fire loop connected to the water main and sized to support the facility with only one portion of the fire loop operational. This normally requires a backup supply system having sufficient pressure and capacity to meet both fire hose and sprinkler requirements for 2-hours. A fire pump connected to an emergency power source must be provided in accordance with NFPA 20 when adequate water pressure is not assured. In the event that public water mains are not able to supply adequate volumes of water to the site, on-site water storage must be provided.

(i) Interior fire hose stations equipped with a 1½ inch diameter hose may be provided in the records storage areas if required by the local fire department, enabling any point in the records storage area to be reached by a 50-foot hose stream from a 100-foot hose lay. If provided, these cabinets must be marked "For Fire Department Use Only."

(j) Where fire hose cabinets are not required, fire department hose outlets must be provided at each floor landing in the building core or stair shaft. Hose outlets must have an easily removable adapter and cap. Threads and valves must be compatible with the local fire department's equipment. Spacing must be so that any point in the record storage area can be reached with a 50-foot hose stream from a 100-foot hose lay.

(k) In addition to the designed sprinkler flow demand, 500 gpm must be provided for hose stream demand. The hose stream demand must be calculated into the system at the base of the main sprinkler riser.

(l) Fire hydrants must be located within 250 feet of each exterior entrance or other access to the records storage facility that could be used by firefighters. All hydrants must be at least 50 feet away from the building walls and adjacent to a roadway usable by fire apparatus. Fire hydrants must have at least two, 2½ inch hose outlets and a pumper connection. All threads must be compatible with local standards.

(m) Portable water-type fire extinguishers (2½ gallon stored pressure type) must be provided at each fire alarm striking station. The minimum number and locations of fire extinguishers must be as required by NFPA 10 (1994), Standard for Portable Fire Extinguishers.

(n) Single level catwalks without automatic sprinklers installed underneath may be provided in the service aisles if the edges of all files in the front boxes above the catwalks are stored perpendicular to the aisle (to minimize files exfoliation in a fire). Where provided, the walking surface of the catwalks must be of expanded metal at least .09-inch thickness with a 2-inch mesh length. The surface opening ratio must be equal or greater than 0.75. The sprinkler water demand for protection over bays with catwalks where records above the catwalks are not perpendicular to the aisles must be calculated hydraulically to give .30 gpm per square foot for the most remote 2,000 square feet.

§ 1228.236 What are the requirements for environmental controls for records storage facilities?

(a) *Paper-based temporary records.* Paper-based temporary records must be stored under environmental conditions that prevent the active growth of mold. Exposure to moisture through leaks or condensation, relative humidities in excess of 70%, extremes of heat combined with relative humidity in excess of 55%, and poor air circulation during periods of elevated heat and relative humidity are all factors that contribute to mold growth.

(b) *Nontextual temporary records.* Temporary nontextual records, including microforms and audiovisual and electronic records, must be stored in records storage space that will ensure their preservation for their full retention period. New records storage facilities that store nontextual temporary records must meet the following requirements [effective date of final rule]. Existing records storage facilities that store nontextual temporary records must meet the following requirements no later than October 1, 2009. At a minimum, temporary nontextual records must be stored in records storage space that meets the requirements for medium term storage set by the appropriate standard in this paragraph (b). In general, medium term conditions as defined by these standards are those that will ensure the preservation of the materials for at least 10 years with little information degradation or loss. Records may continue to be usable for longer than 10 years when stored under these conditions, but with an increasing risk of information loss or degradation with longer times. If temporary records require retention longer than 10 years, better storage conditions (cooler and drier) than those specified for medium term storage will be needed to maintain the usability of these records. The applicable standards are:

(1) ANSI/PIMA IT9.11–1998 Imaging Materials—Processed Safety Photographic Films—Storage;

(2) ANSI/PIMA IT9.23–1997 Imaging Materials—Polyester Base Magnetic Material—Storage Practices;

(3) ANSI/PIMA IT9.25–1998 Imaging Materials—Optical Disc Media—Storage;

(4) ANSI /PIMA IT9.20–1996 Imaging Materials—Reflection Prints—Storage Practices; and/or

(5) ANSI/PIMA IT9.18–1996 Imaging Materials—Processed Photographic Plates—Storage Practices.

(c) *Paper-based permanent, unscheduled and sample/select records.* Paper-based permanent, unscheduled, and sample/select records must be stored in records storage space that provides 24 hour/365 days per year air-conditioning equivalent to that required for office space. See ASHRAE Standard 55–1992, Thermal Environmental Conditions for Human Occupancy, and ASHRAE Standard 62–1989, Ventilation for Acceptable Indoor Air Quality, for specific requirements. New records storage facilities that store paper-based permanent, unscheduled, and/or sample/select records must meet this requirement [effective date of final rule]. Existing storage facilities that store paper-based permanent, unscheduled, and/or sample/select records must meet this requirement no later than October 1, 2009.

(d) *Nontextual permanent, unscheduled, and/or sample/select records.* All records storage facilities that store microfilm, audiovisual, and/or electronic permanent, unscheduled, and/or sample/select records must comply with the storage standards for permanent and unscheduled records in

parts 1230, 1232, and/or 1234 of this chapter, respectively.

Approval and Inspection Requirements

§ 1228.240 How does an agency request authority to establish or relocate records storage facilities?

(a) *General policy.* Agencies are responsible for ensuring that records in their legal custody are stored in appropriate space as outlined in this subpart. Under § 1228.156(a), agencies are responsible for removing records from space that does not meet these standards if deficiencies are not corrected within 6 months after initial discovery of the deficiencies by NARA or the agency.

(1) *Agency records centers.* Agencies must obtain prior written approval from NARA before establishing or relocating an agency records center. Each separate agency records center must be specifically approved by NARA prior to the transfer of any records to that individual facility. If an agency records center has been approved for the storage of Federal records of one agency, any other agency that proposes to store its records in that facility must still obtain NARA approval to do so.

(2) *Commercial records storage facilities.* An agency may contract for commercial records storage services. However, before any agency records are transferred to a commercial records storage facility, the transferring agency must ensure that the facility meets all of the requirements for an agency records storage facility set forth in this subpart and must submit the documentation required in paragraph (e) of this section.

(b) *Exclusions.* For purposes of this section, the term "agency records center" excludes NARA-owned and operated records centers. For purposes of this section and § 1228.242, the term "agency records center" also excludes agency records staging and/or holding areas with a capacity for containing less than 25,000 cubic feet of records. However, such records centers and areas, including records centers operated and maintained by NARA, must comply with the facility standards in §§ 1228.228 through 1228.236.

(c) *Content of requests for agency records centers.* Requests for authority to establish or relocate an agency records center must be submitted in writing to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. The request must identify the specific facility and must document compliance with the standards in this subpart.

(d) *Approval of requests for agency records centers.* NARA will review the submitted documentation to ensure the facility demonstrates full compliance with the standards in this subpart. NARA reserves the right to visit the facility, if necessary, to make the determination of compliance. NARA will inform the agency of its decision within 45 days after the request is received. Requests will be denied only if NARA determines that the facility does not demonstrate full compliance with the standards in this subpart. Approvals will be valid for a period of 10 years, unless the facility is materially changed before then or an agency or NARA inspection finds that the facility does not meet the standards in this subpart. Material changes require submission of a new request for NARA approval.

(e) *Documentation requirements for storing Federal records in commercial records storage facilities.* At least 45 days before an agency first transfers records to a commercial records storage facility, the agency must submit documentation to NARA that the facility complies with the standards in this subpart. The documentation may take the form of a copy of the agency's contract that incorporates this subpart in its provisions or a statement from the agency records officer that certifies that the facility meets the standards in this subpart. An agency must provide the documentation for each separate commercial records storage facility where its records will be stored. Documentation must be sent to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. The agency must submit updated documentation to NARA every 10 years if it continues to store records in that commercial records storage facility.

§ 1228.242 When may NARA conduct an inspection of a records storage facility?

(a) At the time an agency submits a request to establish an agency records center, pursuant to § 1228.240, NARA may conduct an inspection of the proposed facility to ensure that the facility complies fully with the standards in this subpart. NARA may also conduct periodic inspections of agency records centers so long as such facility is used as an agency records center. NARA will inspect its own records center facilities on a periodic basis to ensure that they are in compliance with the requirements of this subpart.

(b) Agencies must ensure, by contract or otherwise, that agency and NARA officials, or their delegates, have the right to inspect commercial records storage facilities to ensure that such facilities fully comply with the standards in this subpart. NARA may conduct periodic inspections of commercial records storage facilities so long as agencies use such facilities to store agency records. The using agency, not NARA, will be responsible for paying any fee or charge assessed by the commercial records storage facility for NARA's conducting an inspection.

3. Appendix A is added to part 1228 to read as follows:

Appendix A to Part 1228—Minimum Security Standards for Level III Federal Facilities

Note: The full text of this appendix will appear in the final rule. Copies of the appendix may be obtained from the person listed in **FOR FURTHER INFORMATION CONTACT.**

Dated: February 25, 1999.

John W. Carlin,

Archivist of the United States.

[FR Doc. 99–10703 Filed 4–29–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1220, 1222, and 1228

RIN 3095–AA86

Storage of Federal Records

AGENCY: National Archives and Records Administration.

ACTION: Proposed rule.

SUMMARY: NARA proposes to amend its records management regulations governing records creation, maintenance, and disposition to update provisions relating to the storage of Federal records. Current regulations focus on the use of NARA records centers for off-site storage and provide procedures for securing NARA approval of agency records centers. However, in addition to records centers operated by NARA and other Federal agencies, some agencies now use commercial records storage facilities for the storage of their records. Among the proposed changes is a new requirement that agencies maintain the same level of intellectual control over records stored in their own records centers and commercial records storage facilities, as is required for records stored in NARA records centers. As part of this requirement, agencies must report to NARA when permanent or unscheduled records are sent for storage to an agency records center or

commercial storage facility. The revised regulations specify that agencies must store Federal records in space with appropriate environmental controls to ensure their preservation until the expiration of their retention period (for temporary records) or until the date of transfer to the National Archives of the United States (for permanent records). In a separate related proposed rule published elsewhere in this separate part of the **Federal Register**, NARA is also proposing to update facilities standards for records storage facilities.

DATES: Comments must be received by June 29, 1999.

ADDRESSES: Comments should be sent to Regulation Comment Desk (NPOL), Room 4100, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Comments may also be faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at 301–713–7360.

SUPPLEMENTARY INFORMATION: The Federal Records Act assigns responsibility to NARA to provide guidance and assistance to Federal agencies regarding records creation, maintenance, and disposition, and to develop and issue standards, procedures, and guidelines for the proper management of Federal records (44 U.S.C. 2904). The law further charges NARA with responsibility for establishing standards for the identification of permanent records and assisting agencies in applying those standards (44 U.S.C. 2905). The law authorizes NARA to operate records centers (44 U.S.C. 2907) and requires NARA approval for records centers maintained and operated by Federal agencies (44 U.S.C. 3103). Finally, the law requires NARA approval for the disposal of records (44 U.S.C. 3303a).

Many agencies use the records centers operated by NARA for records storage. Some agencies operate their own records centers. In addition, some agencies may use commercial records storage facilities. NARA's oversight encompasses the protection and preservation of Federal records for as long as they are needed, wherever they are stored, in keeping with its statutory responsibility for records management oversight and for the identification and preservation of permanent records.

Over the past three months NARA has reviewed all of its records management regulations to identify provisions that related to records storage and is updating them here to reflect what agencies must do to manage their records wherever they are stored. These changes include:

- New definitions for "records storage facility" and "commercial records storage facility."
- Clarified definitions for "disposition," "permanent record," and "records center."
- A requirement that agencies maintain adequate records management controls over their records, wherever they are maintained. This requirement is implicit in current regulations. It is made explicit now because more agencies than in the past are operating large records centers, and other agencies are placing their records in commercial facilities for storage.
- A requirement that agencies report to NARA on permanent and unscheduled records transferred to storage. For records transferred to NARA records centers, the transfer documentation serves as the report. For records transferred to other records storage facilities, the agency must submit its report within 30 days of transferring the records.
- A requirement that agencies ensure that temporary records are destroyed according to schedule provisions and permanent records are transferred to NARA in accordance with schedule provisions, wherever the records may be at the time of final disposition. NARA takes responsibility for the proper disposition of records in NARA records centers under the provisions of records schedules, including initiating SF 258's for permanent records when they are eligible to be transferred to NARA's legal custody in the National Archives of the United States. Agencies need to ensure that records disposition is properly implemented for records that are not in NARA records centers.
- A requirement that agencies store records only in facilities that meet the standards specified in 36 CFR 1228 subpart K, as proposed for revision in a separate proposed rule published elsewhere in this separate part of the **Federal Register**. This requirement was implicit in the current subpart K and is emphasized here.
- A requirement that agencies obtain NARA approval to change the period of time permanent records will remain in the custody of the agency before transfer to the National Archives of the United States.
- Authorization for agencies to retain records for up to one year beyond their scheduled retention period if needed for administrative purposes such as audit or investigation without requesting formal approval from NARA. Currently, agencies must obtain approval from NARA for any temporary extension, but this approval has been handled informally when records are stored at NARA records centers.
- A requirement that permanent records be transferred to the National Archives of the United States as individual series spanning one or more years. This requirement will ensure that permanent records stored in facilities that control records at the box level will be transferred to the National Archives of the United States in series order.
- Modification of some restrictions on storing unscheduled, contingent, and "frozen" records at NARA records centers.

NARA also is proposing other minor clarifications to existing regulations. These changes are not substantive. In addition, NARA proposes to remove some of the detailed instructions for storing and accessing records in NARA records centers. These instructions will be addressed in NARA bulletins and other guidance issuances.

This proposed rule would completely revise subpart I of Part 1228, add a new subpart J to Part 1228, redesignate the current subpart J as subpart L, and revise individual sections or paragraphs of other records management regulations in 36 CFR Chapter XII, Subchapter B. We have written subparts I and J in the plain language format required by the Presidential memorandum of June 1, 1998, Plain Language in Government Writing. We intend to rewrite the other records management regulations included in this proposed rule in plain language format in a future rulemaking. At this time, we have determined that piecemeal reformatting of individual sections or paragraphs is not appropriate.

This rule is a significant regulatory action under E.O. 12866 of September 30, 1993, and has been reviewed by OMB. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Parts 1220, 1222, and 1228

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend 36 CFR parts 1220, 1222, and 1228 as follows:

PART 1220—FEDERAL RECORDS; GENERAL

1. The authority citation for part 1220 continues to read as follows:

Authority: 44 U.S.C. 2104(a) and chs. 29 and 33.

2. In § 1220.14, revise the definitions of "Disposition", "Permanent record"

and "Recordkeeping requirements'; and add new definitions in alphabetical order for "Commercial records storage facility", "Records center", and "Records storage facility" to read as follows:

§ 1220.14. General definitions.

* * * * *

Commercial records storage facility is a private sector commercial facility that offers records storage, retrieval, and disposition services.

* * * * *

Disposition means those actions taken regarding records no longer needed for the conduct of the regular current business of the agency.

* * * * *

Permanent record means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives of the United States. Permanent records include all records accessioned by NARA into the National Archives of the United States and later increments of the same records, and those for which the disposition is permanent on SF 115s, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973.

* * * * *

Recordkeeping requirements means all statements in statutes, regulations, and agency directives or authoritative issuances, that provide general and specific requirements for Federal agency personnel on particular records to be created and maintained by the agency.

* * * * *

Records center is defined in 44 U.S.C. 2901(6) as an establishment maintained and operated by the Archivist or by another Federal agency primarily for the storage, servicing, security, and processing of records which need to be preserved for varying periods of time and need not be retained in office equipment or space.

* * * * *

Records storage facility is a records center or a commercial records storage facility, as defined in this section, i.e., a facility used by a Federal agency to store Federal records, whether that facility is operated and maintained by the agency, by NARA, by another Federal agency, or by a private commercial entity.

* * * * *

3. In § 1220.18, revise the section heading, designate the existing text as paragraph (b), and add new paragraph (a) to read as follows:

§ 1220.18 Inspection of records.

(a) In order for NARA to conduct inspections and studies required in 44 U.S.C. Chapter 29 and records appraisals in 44 U.S.C. Chapter 33, agencies must provide access for authorized NARA staff members to records in the agency's legal custody, regardless of the physical location of the records.

* * * * *

4. Revise § 1220.36 to read as follows:

§ 1220.36 Maintenance and use of records.

(a) Agencies must institute adequate records management controls over the maintenance and use of records wherever they are located to ensure that all records, regardless of format or medium, are organized, classified, and described to promote their accessibility, and make them available for use by all appropriate agency staff for their authorized retention period. Agencies must also maintain permanent records in a format that will permit transfer to the National Archives of the United States.

(b) Agencies must ensure that they maintain adequate information about their records moved to an off-site records storage facility (see 36 CFR 1228.154). Agencies must also create and maintain records that document the destruction of temporary records and the transfer of permanent records to the National Archives of the United States. The disposition of records that provide such documentation is governed by General Records Schedule (GRS) 16.

(c) Agencies must also comply with GSA regulations on the maintenance and use of records found in 41 CFR part 101–11.

5. Revise § 1220.38 to read as follows:

§ 1220.38 Disposition of records.

(a) Agencies must ensure the proper, authorized disposition of their records, regardless of format or medium, so that permanent records are preserved and temporary records no longer of use to an agency are promptly deleted or disposed of in accordance with the approved records schedule when their required retention period expires. As an intermediate step when records are not needed for current day-to-day reference, they may be transferred to a records storage facility.

(b) Agencies must secure NARA approval of a records schedule or apply the appropriate General Records Schedule item before destroying any temporary records or transferring permanent records to the National Archives of the United States (see 36 CFR part 1228).

6. Revise § 1220.42 to read as follows:

§ 1220.42 Agency internal evaluations.

Each agency must periodically evaluate its records management programs relating to records creation and record keeping requirements, maintenance and use of records, and records disposition. These evaluations shall include periodic monitoring of staff determinations of the record status of documentary materials in all media, and implementation of these decisions. These evaluations should determine compliance with NARA regulations in this subchapter, including requirements for storage of agency records and records storage facilities in 36 CFR part 1228, subparts I and K, and assess the effectiveness of the agency's records management program.

PART 1222—CREATION AND MAINTENANCE OF FEDERAL RECORDS

7. In § 1222.20, remove the period at the end of paragraphs (b)(5), (b)(8), and (b)(9), and add a semicolon in its place, and add paragraph (b)(10) to read as follows:

§ 1222.20 Agency responsibilities.

* * * * *

(b) * * *

(10) Ensure that records storage facilities used to store the agency's records comply with the standards specified in 36 CFR part 1228, subpart K. The agency must also comply with 36 CFR 1228.240 by obtaining NARA approval of an agency records center or submitting documentation of compliance by a commercial records storage facility before the agency transfers records to that facility.

8. In § 1222.50, revise the section heading and add paragraph (c) to read as follows:

§ 1222.50 Records maintenance and storage.

* * * * *

(c) Agencies must ensure that records in their legal custody sent for off-site storage are maintained in facilities that meet the standards specified in 36 CFR part 1228, subpart K, and that the information requirements specified at 36 CFR 1228.154 are met. Agencies must remove their records from any records storage facility that is found to be non-compliant with the standards specified in 36 CFR part 1228, subpart K, if the facility is not brought into compliance within 6 months of initial discovery by NARA or the using agency.

PART 1228—DISPOSITION OF FEDERAL RECORDS

9. In § 1228.22, revise paragraph (d) to read as follows:

§ 1228.22 Developing records schedules.

* * * * *

(d) Based on agency need, develop specific recommended retention and disposition instructions for each records series or each part of an automated information system, including file breaks, retention periods for temporary records, transfer periods for permanent records, and instructions for the transfer of records to an approved records storage facility when appropriate.

* * * * *

10. In § 1228.24, revise paragraph (c)(2) to read as follows:

§ 1228.24 Formulation of agency records schedules.

* * * * *

(c) *Provisions of schedules.* * * *

(2) The removal to a records storage facility of records not eligible for immediate destruction or other disposition but which are no longer needed in office space. These records are maintained by the records storage facility until they are eligible for final disposition action;

* * * * *

11. In § 1228.32, add paragraph (c), to read as follows:

§ 1228.32 Request to change disposition authority.

* * * * *

(c) Agencies must secure NARA approval before changing the provision in a disposition instruction that specifies the period of time that permanent records will remain in agency legal custody prior to transfer to the National Archives of the United States.

12. In § 1228.50, revise paragraphs (a)(1) and (a)(3) to read as follows:

§ 1228.50 Application of schedules.

* * * * *

(a) * * *

(1) Published schedules do not include nonrecurring records for which NARA has granted authority for immediate disposal or transfer to the National Archives of the United States. They do include general instructions for transfer of records to a records storage facility, transfer of records to the National Archives of the United States, and other retention and disposition procedures.

* * * * *

(3) Prior to issuance, agencies may consult with NARA concerning directives or other issuances containing approved schedules, instructions for use of NARA records centers, transfer of records to the National Archives of the United States, or other matters covered by NARA procedures or regulations.

* * * * *

13. In § 1228.54, revise paragraphs (a), (c)(4), and (e) and remove paragraphs (g) and (h) to read as follows:

§ 1228.54 Temporary extension of retention periods.

(a) Approved agency records schedules and the General Records Schedules are mandatory (44 U.S.C. 3303a). Records series or systems eligible for destruction must not be maintained longer without the prior written approval of the National Archives and Records Administration (NWML) except when:

(1) The agency has requested a change in the retention period for the records series or system in accordance with § 1228.32; or

(2) Records are needed for up to one year beyond the date they are eligible for disposal. When such records are in a records storage facility, the agency must notify the facility of the need for continued retention of the records.

* * * * *

(c) * * *

(4) A statement of the current and proposed physical location of the records.

* * * * *

(e) Agencies must ensure that affected records storage facilities are notified when NARA approves an extension of the retention period beyond the period authorized in the records control schedule. Agencies must forward to NARA (NWML) two copies of all formally issued instructions which extend the retention periods.

* * * * *

14. In § 1228.100, revise paragraph (a) to read as follows:

§ 1228.100 Responsibilities.

(a) The Archivist of the United States and heads of Federal agencies are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Records may not be removed from the legal custody of Federal agencies or destroyed without regard to the provisions of agency records schedules (SF 115 approved by NARA or the General Records issued by NARA).

* * * * *

15. Revise subpart I to read as follows:

Subpart I—Transfer of Records to Records Storage Facilities

Sec.

1228.150 Where can a Federal agency transfer records for storage?
1228.152 Under what conditions may Federal records be stored in records storage facilities?
1228.154 What requirements must an agency meet when it transfers records to a records storage facility?
1228.156 What procedures must an agency follow to transfer records to an agency records center or commercial records storage facility?

Subpart I—Transfer of Records to Records Storage Facilities

§ 1228.150 Where can a Federal agency transfer records for storage?

Federal agencies may store records in the following types of records storage facilities, so long as the facilities meet the facility standards in subpart K of this part. Records transferred to a records storage facility remain in the legal custody of the agency.

(a) NARA records centers. NARA owns or operates records centers for the storage, processing, and servicing of records for Federal agencies under the authority of 44 U.S.C. 2907. These NARA records centers include a National Personnel Records Center which contains designated records of the Department of Defense and the Office of Personnel Management and other designated records pertaining to former Federal civilian employees. A list of NARA records centers is available from the NARA web site at http://www.nara.gov and also in the U.S. Government Manual, which is for sale from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402–9328, and is available on the Internet from http://www.access.gpo.gov/nara.

(b) Records centers operated by or on behalf of one or more Federal agencies other than NARA.

(c) Commercial records storage facilities operated by private entities.

§ 1228.152 Under what conditions may Federal records be stored in records storage facilities?

The following chart shows what records can be stored in a records storage facility and the conditions that apply:

Type of record	Conditions
(1) Permanent records	(i) Any storage facility that meets the provisions of subpart K of this part.
(2) Unscheduled records	(i) Any storage facility that meets the provisions of subpart K of this part. (ii) Also requires submission of SF 115 and its acceptance from NARA under the provisions of subpart B of this part.
(3) Temporary records (excluding Civilian Personnel Records and Military Personnel Records).	(i) Any storage facility that meets the provisions of subpart K of this part.
(4) Vital records	(i) Storage facility must meet the provisions of subpart K of this part and 36 CFR part 1236.
(5) Civilian Personnel Records and Military Personnel Records.	(i) May only be transferred to NPRC, St. Louis as required by this part.

§ 1228.154 What requirements must an agency meet when it transfers records to a records storage facility?

An agency must meet the following requirements when it transfers records to a records storage facility:

(a) Ensure that the requirements of subpart K of this part are met. Special attention must be paid to ensuring appropriate storage conditions for records on non-paper based media (e.g., film, audio tape, magnetic tape), especially those that are scheduled for long-term or permanent retention, as those records typically require more stringent environmental controls (see 36 CFR parts 1230 through 1234).

(b) To transfer unscheduled records, submit an SF 115 to NARA (NWML) prior to the transfer. The agency may transfer the records only after NARA has determined that the SF 115 meets the requirements specified in this part.

(c) Create documentation sufficient to identify and locate files.

(1) Such documentation must include for each individual records series spanning one or more consecutive years transferred to storage:

(i) Creating office;

(ii) Series title;

(iii) Description (in the case of permanent or unscheduled records, the description must include a folder title list of the box contents or equivalent detailed records description);

(iv) Date span;

(v) Physical form and medium of records (e.g., paper, motion picture film, sound recordings, photographs or digital images);

(vi) Volume;

(vii) Citation to NARA-approved schedule or agency records disposition manual (unscheduled records must cite the date the SF 115 was submitted to NARA);

(viii) Restrictions on access if applicable;

(ix) Disposition ("permanent," "temporary," or "unscheduled; SF 115 pending");

(x) Date of disposition action (transfer to the National Archives of the United States or destruction);

(xi) Physical location, including name and address of facility; and

(xii) Control number or identifier used to track records.

(2) In the case of permanent and unscheduled records, provide copies of such documentation to NARA.

(d) Ensure that NARA-approved retention periods are implemented properly and that records documenting final disposition actions (destruction or transfer to the National Archives of the United States) are created and maintained as required by 36 CFR 1220.36.

(1) Retain temporary records until the expiration of their NARA-approved retention period and no longer, except as provided for in § 1228.54.

(2) Transfer permanent records to the National Archives of the United States in accordance with § 1228.260.

(e) Provide access to appropriate NARA staff to records wherever they are located in order to conduct an evaluation in accordance with 36 CFR 1220.50 or to process a request for records disposition authority.

(f) Move temporary records that are subsequently reappraised as permanent to a facility that meets the environmental control requirements for permanent records in § 1228.236 within six months of their re-appraisal, if not already in such a facility. (Paper-based permanent records in an existing records storage facility that does not meet the environmental control requirements in § 1228.236(b) on October 1, 2009, must be moved from that facility no later than February 28, 2010.)

§ 1228.156 What procedures must an agency follow to transfer records to an agency records center or commercial records storage facility?

Federal agencies must use the following procedures to transfer records to an agency records center or commercial records storage facility:

(a) Agreements with agency records centers or contracts with commercial records storage facilities must incorporate the standards in subpart K of this part and allow for inspections by the agency and NARA to ensure compliance. An agency must remove records promptly from a facility if deficiencies identified during an inspection are not corrected within six months.

(b) For temporary records , the agency must make available to NARA on request the documentation specified in § 1228.154. For permanent or unscheduled records, the agency must transmit this documentation to NARA (NWML) no later than 30 days after records are transferred to the agency records center or commercial records storage facility.

(c) Agencies must establish procedures that ensure that temporary records are destroyed in accordance with NARA-approved schedules and that NARA-approved changes to schedules, including the General Records Schedules, are applied to records in agency records centers or commercial records storage facilities in a timely fashion. Procedures must include a requirement that the agency records center or commercial records storage facility notify agency records managers or the creating office prior to the disposal of temporary records unless disposal of temporary records is initiated by the agency.

(d) Agencies must establish procedures to ensure that the agency records centers or commercial records storage facilities transfer permanent records to the National Archives of the United States as individual series spanning one or more years and in accordance with the provisions of § 1228.272.

(e) Agencies must ensure that records that are restricted because they are security classified or exempt from disclosure by statute, including the Privacy Act (5 U.S.C. 552a), or regulation are stored and maintained in accordance with applicable laws, executive orders, or regulations.

(f) Agencies must ensure that disposable records, including restricted records (security classified or exempted from disclosure by statute, including the Privacy Act, or regulation), are

destroyed in accordance with the requirements specified in § 1228.58.

(g) Agencies must ensure that emergency operating vital records, as defined in 36 CFR 1236.14, that are transferred to an agency records center or commercial records storage facility are available in accordance with 36 CFR part 1236.

16. Redesignate subpart J of part 1228 as subpart L of part 1228 as set forth in the following redesignation table:

Old section subpart J	New section subpart L
1228.180	1228.260
1228.182	1228.262
1228.183	1228.264
1228.184	1228.266
1228.186	1228.268
1228.188	1228.270
1228.190	1228.272
1228.192	1228.274
1228.194	1228.276
1228.196	1228.278
1228.198	1228.280
1228.200	1228.282

17. Add a new subpart J to read as follows:

Subpart J—Transfer, Use, and Disposition of Records in a NARA Records Center

Sec.

1228.160 How does an agency transfer records to a NARA records center?
1228.162 How does an agency transfer vital records to a NARA records center?
1228.164 What records must be transferred to the National Personnel Records Center (NPRC)?
1228.166 How does an agency transfer records to the National Personnel Records Center (NPRC)?
1228.168 How can records be used in NARA records centers?
1228.170 How are disposal clearances managed for records in NARA records centers?

Subpart J—Transfer, Use, and Disposition of Records in a NARA Records Center

§ 1228.160 How does an agency transfer records to a NARA records center?

An agency transfers records to a NARA records center using the following procedures:

(a) General. NARA will ensure that its records centers meet the facilities standards in subpart K of this part, which meets the agency's obligation in § 1228.154(a).

(b) NARA records centers will not accept records that pose a threat to other records or to the health and safety of users including hazardous materials such as nitrate film, radioactive or chemically contaminated records, records exhibiting active mold growth, or untreated insect or rodent infiltrated records. Agencies may contact the NARA records center for technical advice on treating such records.

(c) Agencies may use any NARA records center (see § 1228.154(a)) if space is available for the storage of unclassified records. All NARA facilities are equipped to store classified records that have a national security classification up to Confidential, and certain NARA facilities can also accept Secret (or "Q") classified records. Only the Washington National Records Center is equipped to store records that have been assigned a national security classification of Top Secret, as defined in Executive Order 12958 (3 CFR, 1995 Comp., p. 333) and predecessor orders. For storage of restricted records requiring vault storage (regardless of the level of classification), agencies must contact the records center(s) they wish to use to find out if the center(s) can properly store the records.

(d) Transfers to NARA records centers must be preceded by the submission of a Standard Form 135, Records Transmittal and Receipt. Preparation and submission of this form will meet the requirements for records description provided in § 1228.154(c), except the folder title list required for permanent and unscheduled records. A folder title list is also required for records that are scheduled for sampling or selection after transfer.

(e) A separate SF 135 is required for each individual records series spanning one or more consecutive years with the same disposition authority and disposition date.

(f) For further guidance on transfer of records to a NARA records center, consult the NARA Records Management Web Site (http://www.nara.gov), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR), individual NARA regional facilities, or the Washington National Records Center (NWMW).

§ 1228.162 How does an agency transfer vital records to a NARA records center?

For assistance on selecting an appropriate site among NARA facilities for storage of vital records, agencies may contact NARA (NR), 8601 Adelphi Rd., College Park, MD 20740–6001. The actual transfers are governed by the general requirements and procedures in this subpart and 36 CFR part 1236.

§ 1228.164 What records must be transferred to the National Personnel Records Center (NPRC)?

General Records Schedules 1 and 2 specify that certain Federal civilian personnel, medical, and pay records must be centrally stored at the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118. An agency must transfer the following four types of records to the NPRC:

(a) Official personnel folders of separated Federal civilian employees;

(b) Service record cards of employees who separated or transferred on or before December 31, 1947;

(c) Audited individual earnings and pay cards and comprehensive payrolls; and

(d) Employee medical folders of separated Federal civilian employees.

§ 1228.166 How does an agency transfer records to the National Personnel Records Center (NPRC)?

(a) Agencies must use the following procedures when transferring records to the NPRC:

(1) Forward the official personnel folder (OPF) and the employee medical folder (EMF) to the National Personnel Records Center at the same time.

(2) Transfer EMFs and OPFs in separate folders.

(b) For further guidance consult the NPRC web site (http://www.nara.gov/regional/cpr.html).

(c) Consult the Office of Personnel Management web site (http://www.opm.gov/feddata/html/opf.htm) for the OPM publication The Guide to Personnel Recordkeeping for procedures on the transfer of OPFs and EMFs. (The Guide is also available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402–9328.)

§ 1228.168 How can records be used in NARA records centers?

(a) Agency records transferred to a NARA records center remain in the legal custody of the agency. NARA acts as the agency's agent in maintaining the records. NARA will not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with existing laws.

(b) Federal agencies must use Standard Form (SF) 180, Request Pertaining to Military Records, to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). Agencies may furnish copies of that form to the public to aid in inquiries. Members of the public and non-governmental organizations also may obtain copies of SF 180 by submitting a written request to the National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132. OMB

Control Number 3095–0029 has been assigned to the SF 180.

(c) Use Standard Form 127, Request for Official Personnel Folder (Separated Employee), to request transmission of personnel folders of separated employees stored at the National Personnel Records Center.

(d) Use Standard Form 184, Request for Employee Medical Folder (Separated Employee), to request medical folders stored at the National Personnel Records Center.

(e) Use Optional Form 11, Reference Request—Federal Records Center to request medical records transferred to other NARA records centers prior to September 1, 1984. The request must include the name and address of the agency's designated medical records manager.

(f) For any other requests, use the Optional Form 11, Reference Request—Federal Records Centers, a form jointly designated by that agency and NARA, or their electronic equivalents.

§ 1228.170 How are disposal clearances managed for records in NARA records centers.

(a) Records at the National Personnel Records Center covered by General Records Schedules 1 and 2 will be destroyed in accordance with those schedules without further agency clearance.

(b) Other records of Federal agencies held by NARA records centers will be destroyed only with the concurrence of the agency having legal custody of the records.

(c) Documentation on the final disposition of records, as required in 36 CFR 1220.36, will be maintained by NARA records centers for the period of time required by General Records Schedule 16.

(d) When NARA approves an extension of retention period beyond the time authorized in the records schedule for records stored in NARA records centers, NARA will notify those affected records centers to suspend disposal of the records (see § 1228.54(e)).

18. In newly redesignated subpart L, revise the subpart heading to read as follows:

Subpart L—Transfer of Records to the National Archives of the United States

19. In newly redesignated § 1228.272, revise the section heading and paragraph (a) to read as follows:

§ 1228.272. Transfer of records to the National Archives of the United States.

(a) *Policy.* (1) Federal records will be transferred to NARA's legal custody into the National Archives of the United States only if they are listed as permanent on an SF 115, Request for Records Disposition Authority, approved by NARA since May 14, 1973, or if they are accretions (continuations of series already accessioned) to holdings of the National Archives. Transfers are initiated by submission of an SF 258, Agreement to Transfer Records to the National Archives of the United States.

(2) Each SF 258 must relate to a specific records series, as identified on the SF 115, Request for Records Disposition Authority, in accumulations of one or more consecutive years.

* * * * *

Dated: February 25, 1999.

John W. Carlin,

Archivist of the United States.

[FR Doc. 99–10704 Filed 4–29–99; 8:45 am]

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federal register

Friday
April 30, 1999

Part VIII

Department of Commerce

National Telecommunications and Information Administration

Telecommunications and Information Infrastructure Assistance Program (TIIAP); Notices

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 981203295–9094–02]

RIN: 0660–ZA06

Telecommunications and Information Infrastructure Assistance Program(TIIAP)

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of applications received.

SUMMARY: On January 4, 1999, in the **Federal Register** (64 FR 332), the National Telecommunications and Information Administration (NTIA) announced the availability of funds for the Telecommunications and Information Infrastructure Assistance Program (TIIAP) to promote the widespread use of advanced telecommunications and information technologies in the public and non-profit sectors. By providing matching grants for information infrastructure projects, this program will help develop a nationwide, interactive, multimedia information infrastructure that is accessible to all citizens, in rural as well as urban areas. This Notice announces the applications that were received in response to the January 4, 1999, solicitation.

FOR FURTHER INFORMATION CONTACT: Stephen J. Downs, Director, Telecommunications and Information Infrastructure Assistance Program, Telephone: 202–482–2048. Fax: 202–501–5136. Email: tiiap@ntia.doc.gov.

SUPPLEMENTARY INFORMATION:

Applications Received: In all, 702 applications were received from all fifty states, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. The total amount requested by the applications is $278 million.

Notice is hereby given that the program received applications from the following organizations. The list includes all applications received. Identification of any application only indicates its receipt. It does not indicate that it has been accepted for review, that it has been determined to be eligible for funding, or that an application will receive an award.

Alabama

990092 Bevill State Community College (Sumiton)
990526 City of Opelika, Alabama (Opelika)
990511 Community Service Programs of West Alabama, Inc. (Tuscaloosa)
990565 Crisis Services of North Alabama, Inc. (Huntsville)
990008 Marion Baptist Medical Center (Hamilton)
990484 Rev. Peter James and Florence Lee Kirksey Foundation, Inc. (Boligee)
990016 St. John the Baptist Catholic Church (Montgomery)

Alaska

990089 Aleutians East Borough (Sand Point)
990332 Association of Village Council Presidents, Inc. (Bethel)
990288 Galena City School District (Galena)
990341 Matanuska-Susitna Borough (Palmer)
990054 Native Village of Port Graham, Alaska (Port Graham)
990320 Norton Sound Health Corporation (Nome)
990003 South Peninsula Hospital (Homer)
990633 Tanana Chiefs Conference, Inc. (Fairbanks)
990348 University of Alaska Southeast (Ketchikan)

Arizona

990031 City of Flagstaff, Arizona (Flagstaff)
990419 City of Phoenix (Phoenix)
990030 Lowell Observatory (Flagstaff)
990187 Maricopa Association of Governments (Phoenix)
990115 Mohave County Information Technology Roundtable (Kingman)
990702 Navajo Family Health Resource Network (Window Rock)
990460 Northern Arizona Academy (Show Low)
990161 Northern Arizona University (Flagstaff)
990127 Portable Practical Education Programs, Inc. (Tucson)
990208 Seba Dalkai Boarding School, Inc. (Winslow)
990468 University of Arizona (Tucson)
990372 University of Arizona (Tucson)
990044 Yavapai County Community College District (Prescott)

Arkansas

990403 Arkansas State University at Beebe (Beebe)
990204 Arkansas Tech University (Russellville)
990022 City of Murfreesboro, Arkansas (Murfreesboro)
990675 City of Ward, Arkansas (Ward)
990154 Nonprofit Resources (Little Rock)
990676 State of Arkansas (Little Rock)

California

990681 Ahmium Education, Inc. (San Jacinto)
990322 ARC Associates (Oakland)
990707 Arcata Economic Development Corporation (Arcata)
990153 Association of Monterey Bay Area Governments (Marina)
990602 Bay Area Black Consortium for Quality Health Care (Oakland)
990197 Bay Area School-to-Career Action Network (BaySCAN) (San Rafael)
990509 Bay Area Video Coalition (San Francisco)
990285 California Institute of Technology (Pasadena)
990583 California Institute of the Arts (Valencia)
990178 California State University (Fresno)
990411 Chicano Latino Academies Reaching Out (Brentwood)
990641 City of Agoura Hills, California (Agoura Hills)
990152 City of Calabasas, California (Calabasas)
990477 City of Fresno, California (Fresno)
990095 City of Hayward, California (Hayward)
990088 City of Long Beach, California (Long Beach)
990427 City of Los Angeles (Los Angeles)
990009 City of Oakland, California (Oakland)
990045 City of Petaluma, California (Petaluma)
990012 City of Redlands, California (Redlands)
990654 City of San Diego (San Diego)
990068 City of Turlock, California (Turlock)
990150 City of Turlock, California (Turlock)
990394 City of West Hollywood, California (West Hollywood)
990562 Community Technology Alliance (San Jose)
990497 County of Riverside, California (Riverside)
990684 Davis Community Network (Davis)
990207 Fresno County Economic Opportunities Commission (Fresno)
990469 Galef Institute (Los Angeles)
990685 Humboldt/Trinity Recreation Alliance (Kettenpom)
990686 Ink People, Inc. (Eureka)
990318 Internews Interactive, Inc. (San Rafael)
990692 League of Women Voters of California Education Fund (Sacramento)
990302 Los Angeles County, California (Downey)
990151 Los Angeles County, California (Monterey Park)
990361 Los Angeles Police Academy Magnets (Beverly Hills)
990109 Merced County, California (Merced)
990471 Northern California Council for the Community (San Francisco)
990437 Olive View-UCLA Medical Center Foundation (Sylmar)
990334 Orange County, California (Santa Ana)
990470 Orange County, California (Costa Mesa)
990586 Pangea Foundation (San Diego)
990104 Rolling Readers USA, Inc. (San Diego)
990561 San Diego County, California (San Diego)
990631 San Francisco League of Urban (San Francisco) Gardeners
990286 San Jose State University Foundation (San Jose)
990359 San Mateo County Health Center Foundation (San Mateo)
990706 Santa Clara County, California (San Jose)
990110 University of California at Los Angeles (Los Angeles)
990175 University of California at Santa Cruz (Santa Cruz)
990416 Visible Light, Inc. (Buellton)
990415 Visible Light, Inc. (Santa Barbara)
990512 Vista Community Clinic, Inc. (Vista)

990395 Weingart Center Association (Los Angeles)
990396 Youth Policy Institute (Manhattan Beach)

Colorado

990316 Community Health Center (Colorado Springs)
990423 Denver Juvenile Court (Denver)
990412 Denver Public Library (Denver)
990323 Denver VALE Board (Denver)
990338 Girls Education Advancement Project (Denver)
990482 National Technological University (Ft. Collins)
990431 Southwest Community Outreach Corporation (Denver)
990052 Weld County Regional Communications Center (Greeley)
990069 Western Governors' Association (Denver)
990056 Western State College (Gunnison)

Connecticut

990501 City of Bloomfield, Connecticut (Bloomfield)
990345 Connecticut Association for United Spanish Action, Inc. (Meriden)
990305 Connecticut Conference of Municipalities (New Haven)
990581 Connecticut Public Broadcasting, Inc. (Hartford)
990664 Save the Children Federation, Inc. (Westport)
990344 Town of Manchester, Connecticut (Manchester)
990007 Town of Plainfield, Connecticut (Plainfield)
990266 University of Connecticut at Farmington (Farmington)
990291 Western Connecticut Area Agency on Aging, Inc. (Waterbury)

Delaware

990521 City of Wilmington, Delaware (Wilmington)
990425 Delaware Technical and Community College (Wilmington)

District of Columbia

990390 American Public Health Association (Washington)
990522 Byte Back, Inc. (Washington)
990575 Community Preservation and Development Corporation (Washington)
990546 D.C. Agenda Support Corporation (Washington)
990557 District of Columbia Public Schools (Washington).
990573 Earth Conservation Corps (Washington)
990673 Federal Focus, Inc. (Washington)
990531 Friendship House Association (Washington)
990638 G2-Forward, Inc. (Washington)
990530 John F. Kennedy Center for the Performing Arts (Washington)
990533 National Association of Development Organizations Research Foundation (Washington)
990655 National Community Reinvestment Coalition (Washington)
990212 National Musical Arts (Washington)
990577 Public Education Network (Washington)
990541 Quality Education for Minorities Network (Washington)
990574 Self Reliance Foundation (Washington)
990643 Smithsonian Institution (Washington)
990618 Techworld Public Charter School (Washington)

Florida

990591 Artz-N-The Hood, Inc. (Miami)
990342 Bethune-Cookman College (Daytona Beach)
990337 Boynton Beach City Library (Boynton Beach)
990024 City of Casselberry, Florida (Casselberry)
990215 City of Fort Pierce, Florida (Fort Pierce)
990552 City of Leesburg, Florida (Leesburg)
990340 City of Stuart, Florida (Stuart)
990424 City of West Palm Beach, Florida (West Palm Beach)
990085 Daytona Beach Community College (Daytona Beach)
990017 Everglades Wildlife Sanctuary (La Belle)
990679 Florida Endowment Foundation for Vocational Rehabilitation Inc. (Tallahassee)
990329 Florida Gulf Coast University (Fort Myers)
990032 Florida Human Resources Development, Inc. (Winter Springs)
990384 Florida International University (Miami)
990385 Hendry County, Florida (LaBelle)
990276 Housing Authority of Brevard County, Florida (Merritt Island)
990611 Human Services Planning Association, Inc. (Sarasota)
990321 Jacksonville Children Commission (Jacksonville)
990362 Latin Americans United, Inc. (Pompano Beach)
990270 Miami/Miami-Dade Weed and Seed (Miami)
990026 Monroe County, Florida (Key West)
990035 Orange County, Florida (Winter Park)
990077 Palm Beach County, Florida (West Palm Beach)
990617 Palm Beach County, Florida (West Palm Beach)
990194 Palm Beach County Workforce Development Board, Inc. (Riviera Beach)
990446 Putman County, Florida (Palatka)
990037 Sixth Judicial Circuit of Florida (Clearwater)
990258 South Florida Water Management District (West Palm Beach)
990001 St. Johns County, Florida (St. Augustine)
990374 St. Lucie County, Florida (Fort Pierce)
990432 State of Florida (Tallahassee)
990290 State of Florida (Tallahassee)
990578 State of Florida (Tallahassee)
990454 State of Florida (Tallahassee)
990086 State of Florida (Tallahassee)
990308 Town of Welaka, Florida (Welaka)
990630 University of Central Florida (Orlando)
990162 University of North Florida (Jacksonville)
990483 Village of Bal Harbour, Florida (Bal Harbour)

Georgia

990508 City of Valdosta, Georgia (Valdosta)
990369 Community Resource Council of NEGA (Athens)
990132 Fulton County, Georgia (Atlanta)
990649 Georgia Environmental Organization, Inc. (Smyrna)
990464 Georgia State University Research Foundation (Atlanta)
990401 Metro Atlanta Task Force for the Homeless, Inc. (Atlanta)
990589 Mothers Rebuilding Atlanta (Atlanta)
990360 Richmond County, Georgia (Augusta)
990257 Shepherd Center, Inc. (Atlanta)
990160 Touch the Future, Inc. (Marietta)
990096 ZenSearch, Inc. (Tifton)

Hawaii

990435 ALU LIKE, Inc. (Honolulu)
990506 Kapiolani Medical Center for Women and Children (Honolulu)
990310 Kapiolani Medical Center for Women and Children (Honolulu)
990491 Maemae Elementary School (Honolulu)
990513 University of Hawaii (Kahului)

Idaho

990430 Idaho Public Television (Boise)
990114 Panhandle Health District (Coeur d'Alene)
990203 Tri-State Implementation Council (Sandpoint)

Illinois

990100 Adler Planetarium and Astronomy Museum (Chicago)
990015 Alliance Library System (Pekin)
990084 Cen Com E911 (Round Lake Beach)
990405 Chicago Jobs Council (Chicago)
990399 Christ Hospital and Medical Center (Oak Lawn)
990582 City of Chicago (Chicago)
990231 City of Joliet, Illinois (Joliet)
990145 City of Peoria, Illinois (Peoria)
990273 Community TV Network, Inc. (Chicago)
990241 ECA Meteor Communication Corporation (Bloomington)
990466 Future Teachers of Chicago (Chicago)
990456 Habilitative Systems, Inc. (Chicago)
990049 Hamilton and Jefferson Counties Educational Service Region (Mt. Vernon)
990144 Jackson County, Illinois (Carbondale)
990298 Kane County, Illinois (Geneva)
990601 Lake County, Illinois (Waukegan)
990198 Loyola University of Chicago (Chicago)
990492 LPE Foundation (Schaumburg)
990653 Neighborhood Learning Networks (Chicago)
990306 Quad County Urban League (Aurora)
990612 Research Development and Administration (Carbondale)
990407 Second Harvest (Chicago)
990122 University of Illinois at Chicago (Chicago)

Indiana

990036 Central Indiana Educational Service Center (Indianapolis)
990041 City of Hobart, Indiana (Hobart)

990171 CONNECT, Inc. (South Bend)
990445 Davies County Hospital (Washington)
990136 Family Connection of St. Joseph County, Inc. (South Bend)
990192 Honeywell Foundation, Inc. (Wabash)
990268 Indiana State University (Terre Haute)
990669 Indiana University (Indianapolis)
990690 Kankakee Valley Job Training Program, Inc. (Valparaiso)
990199 State of Indiana (Indianapolis)
990428 United Way of Saint Joseph County (South Bend)
990463 Vanderburgh County, Indiana (Evansville)
990514 Vigo County School Corporation (Terre Haute)
990149 Villages of Indiana, Inc. (Indianapolis)

Iowa

990070 Butler County, Iowa (Allison)
990243 Cass County Memorial Hospital (Atlantic)
990130 City of Fayette, Iowa (Fayette)
990146 Hamilton County, Iowa (Webster City)
990418 Kirkwood Community College (Cedar Rapids)
990417 MidAmerica Area Housing Partnership (Cedar Rapids)
990393 Warren County, Iowa (Indianola)

Kansas

990326 Association of Kansas Hospices (Wichita)
990662 Kansas City Neighborhood Alliance (Kansas City)
990613 Leavenworth County, Kansas (Leavenworth)
990494 Salina Area Chamber of Commerce (Salina)
990400 University of Kansas (Lawrence)
990297 University of Kansas (Lawrence)
990698 University of Kansas Medical School (Wichita)
990147 Urban League of Wichita, Inc. (Wichita)

Kentucky

990059 Appalachian College Association (Berea)
990255 Bowling Green Public Library (Bowling Green)
990455 Butler County, Kentucky (Morgantown)
990163 Center for Rural Development (Somerset)
990357 Daviess County, Kentucky (Owensboro)
990148 Fleming County, Kentucky (Flemingsburg)
990507 Jefferson County, Kentucky (Louisville)
990568 Jefferson County Public Schools (Louisville)
990170 Kentucky Commission on the Deaf and Hard of Hearing (Frankfort)
990365 Lost Squadron Museum, Inc. (Middlesboro)
990379 Seven Counties Services, Inc. (Louisville)
990183 United Way of the Bluegrass (Lexington)
990280 University of Louisville Research Foundation (Louisville)

Louisiana

990376 City of New Iberia, Louisiana (New Iberia)
990254 City of Shreveport, Louisiana (Shreveport)
990551 Dillard University (New Orleans)
990493 Jefferson Parish, Louisiana (Gretna)
990534 Louisiana State University (New Orleans)
990182 Louisiana State University (Shreveport)
990364 Ruach, Inc. (New Orleans)
990524 Shreveport Community Renewal (Shreveport)
990259 South Central Planning and Development Commission (Thibodaux)
990107 Southeastern Louisiana University (Hammond)
990665 Southern University at New Orleans (New Orleans)
990570 Southwest Louisiana Independence Center, Inc. (Lake Charles)

Maine

990671 Coastal Economic Development Corporation (Bath)
990211 Eastern Maine Development Corporation (Bangor)
990225 School Administrative District Number 68 (Dover-Foxcroft)
990169 Western Maine Community Action, Inc. (East Wilton)
990440 YES! To Youth (Portland)

Maryland

990634 City of Baltimore, Maryland (Baltimore)
990532 City of Baltimore, Maryland (Baltimore)
990610 City of Baltimore, Maryland (Baltimore)
990002 City of Takoma Park, Maryland (Takoma Park)
990592 Family League of Baltimore City, Inc. (Baltimore)
990560 Foundation for the Future of Youth (Rockville)
990226 Garrett County Community Action Committee, Inc. (Oakland)
990333 Garrett County Office for Children, Youth and Families (Oakland)
990558 George Meany Center for Labor Studies (Silver Spring)
990608 John Hopkins University (Baltimore)
990672 National Association for Equal Opportunity in Higher Education (Silver Spring)
990559 Network of Community Resources, Inc. (Rockville)
990667 Prince George's County, Maryland (Upper Marlboro)
990520 Second Genesis, Inc. (Bethesda)
990542 Soundprint Media Center, Inc. (Laurel)
990538 State of Maryland (Baltimore)
990616 State of Maryland (Pikesville)
990387 Town of Berlin, Maryland (Berlin)
990606 Towson University (Towson)
990240 Urban Health, Inc. (Kensington)
990539 YMCA of Central Maryland (Baltimore)
990166 Youth Achievers USA, Inc. (Landover)

Massachusetts

990380 Advocates, Inc. (Framingham)
990381 AIDS Housing Corporation (Boston)
990625 Boston College (Chestnut Hill)
990060 CCCC Educational Foundation (Dennis)
990693 Child Care Careers Institute (Jamaica Plain)
990414 Community Action, Inc. (Haverhill)
990598 Cooperative Development Institute, Inc. (Greenfield)
990300 Eunice Kennedy Shriver Center for Mental Retardation, Inc. (Waltham)
990073 Fitchburg State College (Fitchburg)
990595 General Hospital Corporation (Boston)
990284 Greater Lawrence Family Health Center (Lawrence)
990238 Harbor Point Community Task Force (Dorchester)
990074 Hispanic-American Chamber of Commerce (Boston)
990072 Holyoke Community College (Holyoke)
990281 Lynn Public Schools (Lynn)
990696 Madison Park Development Corporation (Roxbury)
990549 Merrimack College (Lawrence)
990635 Northeastern University (Boston)
990386 Plymouth County, Massachusetts (Plymouth)
990180 Town of Wayland, Massachusetts (Wayland)
990648 Tufts University (Boston)
990274 Visiting Nurse Association of Boston (Boston)
990368 YMCA of Greater Boston, Inc. (Boston)

Michigan

990677 Cheboygan Area Schools (Cheboygan)
990604 Commission on Law Enforcement Standards (Lansing)
990438 Focus: HOPE (Detroit)
990080 Huron County, Michigan (Bad Axe)
990525 Jackson Community College (Jackson)
990157 Macomb Intermediate School District (Clinton Township)
990213 Madonna University (Livonia)
990053 Michigan State University (East Lansing)
990632 Mott Community College (Flint)
990079 Northern Economic Initiatives Corporation (Marquette)
990039 Oakland County Community Mental Health Authority (Pontiac)
990220 Saginaw Cooperative Hospitals, Inc. (Saginaw)
990218 Think Detroit, Inc. (Detroit)
990200 University of Michigan (Ann Arbor)
990426 Wayne State University (Detroit)
990075 Western Upper Peninsula District Health Department (Hancock)
990356 Willow Run Community Schools (Ypsilanti)

Minnesota

990236 American Indian Opportunities Industrialization Center, Inc. (Minneapolis)
990091 Asian Media Access (Minneapolis)
990119 Ballet Arts Minnesota (Minneapolis)
990135 CHOICE, Unlimited (Duluth)

990063 City of Burnsville, Minnesota (Burnsville)
990515 City of Mankato, Minnesota (Mankato)
990389 City of Minneapolis (Minneapolis)
990230 City of Minneapolis (Minneapolis)
990313 City of South St. Paul, Minnesota (South St. Paul)
990242 City of West St. Paul, Minnesota (West St. Paul)
990314 DOORWAYS (St. Paul)
990609 Farmers' Legal Action Group, Inc. (St. Paul)
990670 Hermantown I.S.D. Number 700 (Hermantown)
990502 Housinglink (Minneapolis)
990650 Leech Lake Tribal Council (Cass Lake)
990252 Leech Lake Tribal College (Cass Lake)
990346 Metro North Adult Basic Education (Anoka)
990292 MIGIZ Communications, Inc. (Minneapolis)
990545 Minnesota American Indian Chamber of Commerce (Minneapolis)
990553 Minnesota State Agricultural Society (St. Paul)
990108 North Memorial Health Care (Robbinsdale)
990293 Opportunities in Science (Bemidji)
990094 Pine Technical College (Pine City)
990485 Ramsey County, Minnesota (St. Paul)
990269 Rural Health Services, Inc. (Alexandria)
990503 St. Paul Public Schools (St. Paul)
990081 Second Judicial District of Minnesota (St. Paul)

Mississippi

990475 North Mississippi Health Services, Inc. (Tupelo)
990704 Mississippi Action for Community Education, Inc. (Greenville)
990143 University of Mississippi (University)

Missouri

990098 Boone County, Missouri R–IV School District (Hallsville)
990495 City of Jennings, Missouri (Jennings)
990301 City of O'Fallon, Missouri (O'Fallon)
990156 City of Town and County, Missouri (Town and County)
990478 Frisco League Technology Consortium (Newburg)
990283 Green Hills Regional Planning Commission (Trenton)
990645 Heartland Regional Community Foundation (St. Joseph)
990422 Logan College of Chiropractic (Chesterfield)
990307 Northwest Missouri Regional Development Corporation (Maryville)
990137 Richland Medical Center, Inc. (Richland)
990118 St. Elizabeth School District (St. Elizabeth)
990605 St. Louis 2004 (St. Louis)
990367 St. Louis Community College (St. Louis)
990277 State of Missouri (Jefferson City)
990294 Storytellers, Inc. (Kansas City)
990140 Tri-County Mental Health Services, Inc. (Kansas City)

Montana

990239 Career Transitions, Inc. (Bozeman)
990517 Montana-Wyoming Tribal Leaders Council (Billings)
990028 University of Montana (Missoula)
990420 University of Montana (Missoula)

Nebraska

990173 City of South Sioux City, Nebraska (Dixon)
990172 Dixon County, Nebraska (Ponca)
990141 Heartland Health Alliance (Lincoln)
990566 LINKS for the Future Education Trust (Omaha)
990443 Long Pino Community Continuing Education Center (Long Pino)
990206 Nebraska Commission on Law Enforcement and Criminal Justice (Lincoln)
990564 North Platte Nebraska Hospital Corporation (North Platte)
990155 Omaha Community Playhouse (Omaha)
990121 University of Nebraska at Knox County (Lincoln)

New Hampshire

990006 City of Rochester, New Hampshire (Rochester)
990474 Claremont School District (Claremont)
990487 Community Health Institute (Concord)
990111 Concord Regional Visiting Nurse Association (Concord)
990499 Hopkinton School District (Contoocook)
990569 Institute on Gero-Technology (Peterborough)
990636 Manchester Neighborhood Housing Services, Inc. (Manchester)
990579 New Hampshire Community Technical College (Nashua)
990580 University of New Hampshire (Durham)

New Jersey

990498 Borough of North Plainfield, New Jersey (North Plainfield)
990223 Cape May County Technical School District (Cape May)
990398 Center for Food Action in New Jersey, Inc. (Englewood)
990123 Chesilhurst Coalition for Youth and Family Development (Chesilhurst)
990615 City of East Orange, New Jersey (East Orange)
990519 City of Vineland, New Jersey (Vineland)
990444 Civic League of Greater New Brunswick (New Brunswick)
990682 First Baptist Community Development Corporation (Somerset)
990623 Gloucester County, New Jersey (Woodbury)
990624 Harrison Board of Education (Harrison)
990050 Info-Line of Middlesex County (New Brunswick)
990406 New Jersey Institute of Technology Foundation (Newark)
990304 Town of West New York, New Jersey (West New York)
990627 Township of Irvington, New Jersey (Irvington)
990516 Township of Lakewood, New Jersey (Lakewood)
990185 Union County College (Cranford)
990279 Virtua Health (Camden)

New Mexico

990303 Arts New Mexico (Santa Fe)
990691 Branigan Cultural Center Foundation (Las Cruces)
990377 Ghost Ranch Conference Center (Abiquiu)
990354 La Casa de Buena Salud (Portales)
990335 New Mexico Second Judicial District Court (Albuquerque)
990034 NorthEastern New Mexico Educational Foundation, Inc. (Raton)
990265 Pueblo of Pojoaque (Santa Fe)
990014 St. Vincent Hospital (Santa Fe)
990018 Socorro Electric Cooperative, Inc. (Socorro)

Nevada

990142 City of Reno, Nevada (Reno)
990409 Nevada Rural Hospital Project Foundation (Reno)
990066 United Way of Northern Nevada and the Sierra (Reno)
990644 United Way of Southern Nevada (Las Vegas)
990047 University and Community College System of Nevada (Reno)

New York

990544 Abyssinian Development Corporation (New York)
990382 Adirondack Area Network (Troy)
990489 Art in Context Center for Communications (New York)
990548 Arts and Cultural Council for Greater Rochester, Inc. (Rochester)
990496 Association for the Development and Advancement of Sci-Tech, Inc. (Brooklyn)
990543 Black United Fund of New York, Inc. (New York)
990128 Chautauqua County, New York (Mayville)
990658 Children's Health Information and Technology Project (New York)
990229 City of New York (Brooklyn)
990352 City of New York (New York)
990355 City of New York (New York)
990452 City of Newburgh, New York (Newburgh)
990535 Congregations Linked in Urban Strategy to Effect Renewal, Inc. (Yonkers)
990607 Consortium for Worker Education (New York)
990106 Cornell University (Ithaca)
990488 CUNY Research Foundation (New York)
990343 Downtown Community Television Center, Inc. (New York)
990442 Erie County, New York (Buffalo)
990275 Forest Hills Community House, Inc. (Forest Hills)
990038 Fulton County Board of Supervisors (Johnstown)
990585 Fund for the City of New York (New York)
990090 Genesee County Job Development Bureau (Batavia)
990510 Harlem Legal Services, Inc. (New York)
990593 Home Aide Service of Eastern New York, Inc. (Troy)

990657 Homeless and Travelers Aid (Albany)
990209 Lutheran Medical Center (Brooklyn)
990040 Meadowbrook Medical Educational and Research Foundation (East Meadow)
990652 Miracle Makers, Inc. (Brooklyn)
990383 Museum for African Art (New York)
990351 National Multiple Sclerosis Society (New York)
990619 National Urban League (New York)
990353 New York County, New York (New York)
990067 Onondaga County, New York (Syracuse)
990687 Oswego Hospital (Oswego)
990087 Private Industry Council of Chautauqua, Inc. (Jamestown)
990176 Rensselaer Polytechnic Institute (Troy)
990600 Research Foundation of CUNY (Bronx)
990237 Research Foundation of SUNY (Albany)
990621 Rural Development Leadership Network (New York)
990410 Saint Nicholas Neighborhood and Housing Rehabilitation Corporation (Brooklyn)
990189 State of New York (Albany)
990278 State of New York (Albany)
990262 Town of Camillus, New York (Syracuse)
990023 Town of Clarkstown, New York (New City)
990235 Upper Hudson Primary Care Consortium (Glens Falls)
990647 Urban League of Onondaga County, Inc. (Syracuse)
990071 Via Health/Rochester General Hospital (Rochester)
990010 Virginia Fajardo (Oceanside)
990011 Westchester County, New York (Mt. Kisco)
990299 YMCA of Central and Northern Westchester (White Plains)

North Carolina

990473 City of Concord, North Carolina (Concord)
990245 City of Dunn, North Carolina (Dunn)
990523 City of Jacksonville, North Carolina (Jacksonville)
990244 City of Lenoir, North Carolina (Lenoir)
990061 Cumberland County Hospital System, Inc. (Fayetteville)
990247 Duke University (Durham)
990167 Guilford Technical Community College (Jamestown)
990093 Laurinburg Institute/Friends of Laurinburg Institute (Durham)
990500 Mecklenburg County, North Carolina (Charlotte)
990490 North Carolina Central University (Durham)
990195 North Carolina Justice and Community Development Center (Raleigh)
990336 North Carolina Museum of History (Raleigh)
990190 North Carolina State Museum of Natural Sciences (Raleigh)
990221 Stanly Community College (Albemarle)
990228 Stanly County, North Carolina (Albemarle)
990256 State of North Carolina (Raleigh)
990397 Triangle Residential Options for Substance Abusers (Durham)
990339 University of North Carolina at Greensboro (Greensboro)
990555 Wake Forest University (Winston-Salem)

North Dakota

990563 City of Maddock, North Dakota (Maddock)
990005 Grand Forks Public Library (Grand Forks)
990370 Greater Barnes County ITV Consortium (Valley City)
990603 Mayville State University (Mayville)
990505 Turtle Mountain Community College (Belcourt)

Ohio

990694 Children's Hospital of Columbus (Columbus)
990572 City of Akron, Ohio (Akron)
990158 City of Aurora, Ohio (Aurora)
990366 Cleveland Housing Network, Inc. (Cleveland)
990289 Corporation for Ohio Appalachian Development (Athens)
990117 COSI Toledo (Toledo)
990222 Educational Television Association of Metropolitan Cleveland (Cleveland)
990233 Metro Regional Transit Authority (Akron)
990184 Miami Valley Cable Council (Centerville)
990697 Shawnee State University (Portsmouth)
990373 Southern Consortium for Children (Athens)
990518 University of Toledo (Toledo)
990449 Wayne County, Ohio (Wooster)

Oklahoma

990193 Northern Oklahoma College (Tonkawa)
990205 Redlands Community College (El Reno)

Oregon

990317 Blue Mountain Community College (Pendleton)
990330 Intertribal GIS Council, Inc. (Pendleton)
990674 Lane Community College (Eugene)
990660 Lane Council of Governments (Eugene)
990251 Lane County, Oregon (Eugene)
990358 Metro (Portland)
990120 Mid-Columbia Economic Development District (The Dalles)
990646 NetCorps (Eugene)
990309 Northwest Portland Area Indian Health Board (Portland)
990590 ONABEN (Portland)
990076 Oregon Multimedia Institute (Medford)
990125 Portland State University (Portland)
990404 School District Number One (Portland)
990429 South Coast Health Alliance (Reedsport)
990363 Tillamook Bay Community College (Tillamook)

Pennsylvania

990327 Allegeny Heritage Development Corporation (Holidaysburg)
990102 Beaver College (Glenside)
990177 Borough of Jefferson Hills, Pennsylvania (Jefferson Hills)
990441 Cambria County Area Community College (Johnstown)
990174 Children's Hospital of Pittsburgh (Pittsburgh)
990248 City of Philadelphia (Philadelphia)
990656 City of Philadelphia (Philadelphia)
990264 City of Philadelphia (Philadelphia)
990099 Crawford County Regional Alliance (Meadville)
990113 Edinboro University of Pennsylvania (Edinboro)
990642 Fayette County Community Action Agency (Uniontown)
990596 Franklin Institute (Philadelphia)
990349 Keystone Community Network, Inc. (Lock Haven)
990179 Keystone Economic Development Corporation (Johnstown)
990129 King's College (Wilkes-Barre)
990246 Lackawanna County, Pennsylvania (Scranton)
990458 Luzerne County Community College (Nanticoke)
990347 Luzerne County, Pennsylvania (Wilkes-Barre)
990083 North Central Pennsylvania Regional Planning and Development Commission (Ridgway)
990413 Northwest Pennsylvania Regional Planning and Development Commission (Franklin)
990260 Pennsylvania College of Technology (Williamsport)
990296 Pennsylvania State University (University Park)
990556 Philadelphia Commercial Development Corporation (Philadelphia)
990311 Philadelphia Enterprise Center (Philadelphia)
990439 Philadelphia Geriatric Center (Philadelphia)
990201 Pike County, Pennsylvania (Milford)
990378 Please Touch Museum (Philadelphia)
990133 Three Rivers Employment Service, Inc. (Pittsburgh)
990055 Washington County, Pennsylvania (Canonsburg)
990481 Women's Opportunities Resource Center (Philadelphia)

Puerto Rico

990062 City of Cayey, Puerto Rico (Cayey)
990097 Commonwealth of Puerto Rico (San Juan)
990688 Commonwealth of Puerto Rico (San Juan)
990695 Inter American University of Puerto Rico (San Juan)
990138 Organizacion Para el Desarrollo Comunitario de Patillas (Patillas)

Rhode Island

990043 City of Harrisville, Rhode Island (Harrisville)
990433 Providence Plan (Providence)
990282 Town of Coventry, Rhode Island (Coventry)
990324 Town of Lincoln, Rhode Island (Lincoln)
990164 Town of Scituate, Rhode Island (Hope)

South Carolina

990700 Aiken County Emergency Services (Aiken)
990392 Benedict College (Columbia)
990465 Chesterfield-Marlboro Technical College (Cheraw)
990101 Clemson University (Clemson)
990529 Palmetto Baptist Medical Center (Columbia)
990325 State of South Carolina (Columbia)
990165 Technical College of the Lowcountry (Beaufort)
990680 Tri-County Technical College (Pendleton)
990191 Trident Technical College (Charleston)
990536 Voorhees College (Denmark)

South Dakota

990188 Bonesteel-Fairfax School District 26–5 (Bonesteel)
990350 Lake Region Vocational School (Webster)
990021 Mitchell Prehistoric Indian Village Preservation Society (Mitchell)
990659 Sisseton-Wahpeton Sioux Tribe (Agency Village)
990186 Southeast Technical College (Sioux Falls)
990689 Stanley County School District Number 57–1 (Ft. Pierre)
990550 University of South Dakota (Vermillion)

Tennessee

990168 City of Dyersburg, Tennessee (Dyersburg)
990547 Clinch-Powell Resource Conservation and Development Council (Rutledge)
990597 Community Health Cooperative (Newport)
990448 First Tennessee Human Resources Agency (Johnson City)
990703 Justis I, Inc. (Murfreesboro)
990319 McNairy County, Tennessee (Selmer)
990540 Memphis Housing Development Corporation (Memphis)
990048 Montgomery County, Tennessee (Clarksville)
990219 Tennessee State University (Nashville)
990388 United Way of Greater Chattanooga (Chattanooga)
990295 University of Tennessee at Chattanooga (Chattanooga)
990057 University of Tennessee at Knoxville (Knoxville)

Texas

990020 Alamo Area Council of Governments (San Antonio)
990678 American International University, Ltd. (East Bernard)
990453 Capital Area Planning Council (Austin)
990105 Center for Economic Opportunities, Inc. (San Juan)
990467 Centro de Salud Familiar La Fe, Inc. (El Paso)
990025 City of McGregor, Texas (McGregor)
990628 City of San Antonio (San Antonio)
990312 Concho Valley Council of Governments (San Angelo)
990013 Dallas Independent School District (Dallas)
990705 Disability Services of the Southwest (Fort Worth)
990227 Eastfield College (Mesquite)
990639 Houston Education Resource Network (Houston)
990567 InnerCity Community Development Corporation (Dallas)
990479 John C. Ford Program, Inc. (Dallas)
990701 Laredo State Center (Laredo)
990126 Midwestern State University (Wichita Falls)
990124 Our Lady of the Lake University (San Antonio)
990216 Region VII Education Service Center (Kilgore)
990436 Renaissance Cultural Center (Fort Worth)
990134 Rio Grande Valley Empowerment Zone Corporation (Mercedes)
990434 SER-Jobs for Progress National, Inc. (Irving)
990267 South Plains Community Action Association, Inc. (Levelland)
990051 Southwest Regional Communications Center (Duncanville)
990103 State of Texas (Austin)
990232 Texas A & M Research Foundation (College Station)
990214 Texas Mental Health Consumers (Austin)
990371 Texas Water Development Board (Austin)
990451 Texas Workforce Commission (Austin)
990159 Tropical Texas Center for MHMR (Edinburg)
990459 University of Houston-Downtown (Houston)
990447 University of North Texas (Denton)
990461 University of Texas at Arlington (Arlington)
990271 University of Texas at El Paso (El Paso)
990622 University of Texas at San Antonio (San Antonio)
990112 University of Texas at Tyler (Tyler)

Utah

990027 City of Clearfield, Utah (Clearfield)
990019 City of Logan, Utah (Logan)
990131 Davis County, Utah (Farmington)
990249 Sevier River Water Users Association (Delta)
990699 Southeast Education Service Center (Price)
990078 Springville City Corporation (Springville)
990663 Town of Alta, Utah (Alta)
990527 Western Governors University (Salt Lake City)

Vermont

990450 Chittenden Community Television (Burlington)
990472 United Way of Chittenden County (Burlington)
990139 University of Vermont and State Agricultural College (Burlington)

Virgin Islands

990210 Territory of the U.S. Virgin Islands (St. Thomas)
990594 Territory of the U.S. Virgin Islands (St. Thomas)

Virginia

990571 American Muslim Foundation, Inc. (Alexandria)
990421 Boys and Girls Club of Charlottesville (Charlottesville)
990637 Chesterfield County, Virginia (Chesterfield)
990554 City of Newport News, Virginia (Newport News)
990462 City of Norfolk, Virginia (Norfolk)
990537 City of Richmond, Virginia (Richmond)
990599 Colonial Williamsburg Foundation (Williamsburg)
990587 Community Hospital of Roanoke Valley (Roanoke)
990576 Fairfax County Public Library Foundation, Inc. (Fairfax)
990620 Hampton University (Hampton)
990651 Olivet Innovations, Inc. (Petersburg)
990584 Prince William County, Virginia (Prince William)
990668 Rockingham County, Virginia (Harrisonburg)
990661 United Negro College Fund, Inc. (Fairfax)
990588 Virginia Museum of Natural History (Martinsville)
990640 Virginia Polytechnic Institute and State University (Blacksburg)
990263 Westmoreland County, Virginia (Montross)

Washington

990375 Center for Civic Networking, Inc. (Friday Harbor)
990408 City of Seattle (Seattle)
990004 City of Tacoma, Washington (Tacoma)
990331 Health Improvement Partnership of Spokane County (Spokane)
990457 Lummi Indian Nation (Bellingham)
990042 Northwest Intertribal Court System (Edmonds)
990029 Service Corp of Retired Executives (Seattle)
990217 Suquamish Tribe (Suquamish)
990315 Washington Association of Area Agencies on Aging (Olympia)
990181 Washington Literacy (Seattle)
990480 Washington State University at Spokane (Spokane)
990486 Whitman County Hospital District Number 2 (Garfield)
990065 Yakima County, Washington (Yakima)

West Virginia

990033 Alderson-Broaddus College (Philippi)
990328 Campbell-Flannagan-Murrell House, Inc. (Hinton)
990683 Charleston Area Medical Center, Inc. (Charleston)
990528 Marshall University Research Corporation (Huntington)
990046 West Virginia Clearinghouse for Workforce Education (Institute)
990629 West Virginia Network (Morgantown)
990116 West Virginia University (Montgomery)
990234 West Virginia University Research Corporation (Morgantown)
990504 West Virginia Wise, Inc. (Morgantown)
990082 WVHTC Foundation (Fairmont)

Wisconsin

990626 City of Milwaukee, Wisconsin (Milwaukee)
990287 Edgewood High School (Madison)
990058 Northwest Regional Planning Commission (Spooner)
990064 School District of Phelps (Phelps)
990196 Sustainable Racine, Inc. (Racine)
990250 University of Wisconsin at Eau Claire (Eau Claire)
990253 University of Wisconsin System (Milwaukee)
990476 University of Wisconsin System (Madison)
990224 Wisconsin Chiefs of Police Association, Inc. (Shawano)

Wyoming

990666 Laramie County and City of Cheyenne, Wyoming (Cheyenne)
990202 Town of Pine Bluffs, Wyoming (Pine Bluffs)

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

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Friday
April 30, 1999

Part IX

Department of Transportation

Federal Aviation Administration

14 CFR Part 61

Alternative Means of Compliance for the Pilot-In-Command Night Takeoff and Landing Recent Flight Experience Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. FAA–1999–5584; Amendment No. 61–106]

RIN 2120–AG77

Alternative Means of Compliance for the Pilot-in-Command Night Takeoff and Landing Recent Flight Experience Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule establishes an alternative means of compliance for the pilot-in-command (PIC) night takeoff and landing recent flight experience requirements. A pilot who operates more than one type of airplane, certificated for more than one pilot flight crewmember, can meet the PIC night takeoff and landing recent flight experience requirements in one of the types of airplanes he/she operates. The pilot would then be considered qualified to perform night flights in the other types of airplanes he/she operates as PIC. In addition, this new alternative means of compliance establishes certain qualifications, aeronautical experience, and additional training. This action is needed to accommodate pilots employed by corporate operators and airplane manufacturers who operate diverse fleets of airplanes that are type certificated for more than one pilot flight crewmember. These operators and manufacturers require their pilots to meet a high level of aeronautical experience and training for qualification as a PIC. This final rule is intended to provide an additional means of compliance with the recent night flight experience requirements while maintaining an equivalent level of safety.

EFFECTIVE DATE: This final rule is effective on April 30, 1999.

FOR FURTHER INFORMATION CONTACT: John Lynch, Certification Branch, AFS–840, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339), the Government Printing Office's (GPO) electronic bulletin board service (telephone (202) 512–1661), or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: (800) 322–2722 or (202) 267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If your organization is a small entity and you have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM–27, Federal Aviation Administration, 800 Independence Avenue, S.W, Washington, PC 20591, telephone (888) 551–1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at http://www.Faa.gov and may send electronic inquiries to the following internet address: 9–AWA–SBREFA@Faa.gov.

Background

Statement of the Problem

The FAA has received numerous comments from corporate operators and airplane manufacturers on the requirements for PIC night takeoff and landing recent flight experience. Many of the comments disagreed with the requirement that aircraft of the same category, class, and type (if a rating is required), be used to perform mandatory night takeoffs and landings. They argue that the requirement to perform required takeoffs and landings in an aircraft of the same type (if a type rating is required) for all types of aircraft in the same category and class is not cost effective and provides an unnecessary burden on their pilots. The commenters requested that an alternative means of compliance for this requirement be granted for their pilots, taking into consideration the aircraft their pilots operate, their pilots' high level of aeronautical experience,and the additional training required of their pilots.

History

On April 4, 1997, the FAA amended 14 CFR part 61 (62 FR 16220), which became effective on August 4, 1997. In this amendment, 61.57(b) (14 CFR 61.57(b)) was revised to require that PIC night takeoffs and landing recent flight experience requirements be performed in not only the same category and class of aircraft but also the same type (if a type rating is required). Since the issuance of this amendment, the FAA has received many comments from corporate operators, airplane manufacturers, and the National Business Aircraft Association, Inc. Many of these commenters argue that they were not given adequate notice to the above amendment. While adequate notice and comment period was provided, the amendment was part of a large rulemaking project and easily could have been overlooked by the commenters.

The commenters state that requiring PIC night takeoff and landing recent flight experience to be in the same type of airplane (if a type rating is required), beyond the same category and class, is a burdensome requirement for their pilots. They argue that their pilots are very experienced and maintain type ratings for several models of airplanes within the same category and class. Furthermore, differences between types of turbojet aircraft are minimal, and the requirement that their pilots meet PIC night recent flight experience requirements in each type is an economic burden. They argue that to do touch and goes in turbojet aircraft is very costly, and as such, that maintaining night takeoff and landing currency is one type, category and class of aircraft should be sufficient for all types of turbojet aircraft. Additionally, they argue that during the summer months, when there are fewer hours of darkness, it is very difficult for their pilots to meet the night takeoff and

landing requirement in all the different types, but same category and class of aircraft they operate. finally, the commenters argue that the current requirement to perform night takeoffs and landings in all the types of turbojet aircraft they operate has the potential of increasing air traffic congestion and noise pollution.

As a result, these corporate operators and airplane manufacturers has asked the FAA to provide an alternative means of compliance to the PIC night takeoff and landing recent flight experience requirements for their pilots. They believe that their pilots should be allowed to meet the PIC night takeoff and landing recent flight experience requirements for all types of aircraft in the same category and class, once they have met this requirement in one type of aircraft in the same category and class.

On February 3, 1999, the FAA issued a grant of exemption to Gulfstream Aerospace Corporation (Gulfstream) from the PIC night takeoff and landing recent flight experience requirements based on the arguments described above. This grant of exemption gave Gulfstream pilots an alternative means of compliance to the night currency requirements, based on an earlier grant of exemption to the Boeing Commercial Airplane Group. After issuing this grant of exemption, the FAA received similar requests from other corporate operators and airplane manufacturers, which were denied. upon further review, the FAA has determined that this issue needs to be resolved through rulemaking and not through additional grants of exemption.

Accordingly, the FAA has determined that the alternative means of compliance for the PIC night takeoff and landing recent flight experience requirements granted to Gulfstream's PICs, also applies to other PICs who operate various types of airplanes requiring more than one pilot flight crewmember by the airplane's type certificate.

Alternative Means of Compliance

The final rule revises § 61.57 by adding a new paragraph (e)(3), which establishes an alternative means of compliance to the PIC night takeoff and landing recent flight experience requirements. this final rule neither lesson nor adds requirements to the present PIC night takeoff and landing currency requirement of § 61.57(b), but merely provides another alternative means for remaining current in night takeoffs and landings.

For years the FAA has permitted pilots who are employed by a certificate holder under 14 CFR parts 121, 125 or 135 an alternative means of compliance for the night takeoff and landing recent flight experience requirements of § 61.57(b). As previously mentioned, the FAA has issued grants of exemption that permit pilots employed by some corporate operators or as test pilots for some airplane manufacturers, an alternative means of compliance from the night takeoff and landing currency requirements of § 61.57(b).

In this final rule, a PIC who operates more than one type of an airplane, that is type certificated for more than one pilot flight crewmember, may meet the PIC night takeoff and landing recent flight experience requirements under the current requirements of § 61.57(b) or under this alternative. This alternative states that a pilot, who operates more than one type of airplane that is type certificated for more than one pilot flight crewmember, meets the PIC night takeoff and landing recent flight experience requirements for all of the different types of airplanes provided the pilot—

(i) Holds at least a valid commercial pilot certificate with the appropriate type rating for each airplane that the pilot seeks to operate under this alternative;

(ii) Has logged at least 1500 hours total time as a pilot;

(iii) Has accomplished at least 15 hours of flight time in the type of airplane that the pilot seeks to operate under this alternative within the preceding 90 days prior to the operation of that airplane; and

(iv) Has accomplished—

(A) At least three takeoffs and three landings to a full stop, during the period beginning 1 hour after sunset and ending 1 hour before sunrise as the sole manipulator of the flight controls in at least one of the types of airplanes that the pilot seeks to operate under this alternative, within the preceding 90 days prior to the operation of any of the types of airplanes that the pilot seeks to operate under this alternative; or

(B) Completion of an approved training program under part 142 of this chapter within the preceding 12 calendar months prior to the month of the flight, which requires the performance of at least 6 takeoffs and 6 landings to a full stop as the sole manipulator of the controls in a flight simulator that is representative of at least one of the types of airplanes that the pilot seeks to operate under this alternative, and the flight simulator's visual system was adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

The FAA anticipates that this final rule will apply primarily to pilots employed by corporate operators and airplane manufacturers of turbine powered and large airplanes that require more than one pilot crewmember by the airplane's type certification requirements. For example, business jets such as some CE–500 series jets, Learjets, operators of DC–3's, Martin–404's, DC–6's, DC–7's, and various other part 25 transport category airplanes.

Good Cause for Immediate Adoption

Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedures Act (APA)(5 U.S.C. Sections 553(b)(3)(B) and 553(d)(3)) authorize agencies to dispense with certain notice procedures for rules when they find "good cause" to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Section 553(d)(3) allows an agency, upon finding good cause, to make a rule effective immediately, thereby avoiding the 30-day delayed effective date requirement in section 553.

The FAA finds that notice and public comment to this final rule are impracticable, unnecessary, and contrary to the public interest. The provisions in this final rule provide an alternative means of compliance with the PIC night takeoff and landing recent flight experience requirements. This alternative means of compliance is applicable only to those PICs who fly two or more types of airplanes that require more than one pilot flight crewmember by the airplane's type certificate. However, these PICs still have the option to either meet the existing PIC night takeoff and landing recent flight experience requirements of § 61.57(b) or they can choose to comply with this alternative PIC night takeoff and landing provision. The FAA has determined that the addition of this alternative means of compliance will not have an adverse effect on PIC night takeoffs and landing proficiency. Furthermore, the requirements for the alternative means of compliance for PIC night takeoff and landing recency will not have an adverse effect on safety since they are equivalent in content and substance to the existing PIC night takeoff and landing recent flight experience requirements listed in § 61.57(b). The FAA has determined that notice and public comment are unnecessary since this rule is in the public interest and has no safety implications.

In addition, the FAA has determined that compliance with this alternative means of PIC night takeoff and landing

recent flight experience requirements is needed immediately, so as to relieve a burdensome and costly requirement for corporate operators, airplane manufacturers, and the pilots they employ. As discussed earlier, the FAA has granted exemptions previously, providing an alternative means of compliance for PIC night takeoff and landing recent flight experience requirements. These petitions for exemption were published in the **Federal Register**, and received no comments. Therefore, the FAA has determined notice and comment on this amendment to be unnecessary.

Paperwork Reduction Act Approval

Information collection requirements in the amendments to § 61.57 previously have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120–0021.

Compatibility With ICAO Standards

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Economic Summary

Four principal requirements pertain to the economic impacts of changes to the Federal Regulations. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations after consideration of the expected benefits to society and the expected costs. The order also requires Federal agencies to assess whether a final rule is considered a "significant regulatory action." Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. Finally, Public Law 194–4, Department of Transportation Appropriations Act (November 15, 1995), requires Federal agencies to assess the impact of any Federal mandates on State, Local, Tribal governments, and the private sector.

In conducting these analyses, the FAA has determined that this rule will be cost beneficial, and is not "significant" as defined under section 3(f) of Executive Order 12866 and Department of Transportation (DOT) policies and procedures (44 FR 11034, February 26, 1979). In addition, under the Regulatory Flexibility Determination, the FAA certifies that this proposal will not have a significant impact on a substantial number of small entities. Furthermore, this proposal will not impose restraints on international trade. Finally, the FAA has determined that the proposal will not impose a Federal mandate on State, Local, or Tribal governments, or the private sector of $100 million per year. These analyses are summarized below.

Executive Order 12866 and DOT's Policies and Procedures

Under Executive Order 12866, each Federal agency shall assess both the costs and the benefits of final regulations while recognizing that some costs and benefits are difficult to quantify. A final rule is promulgated only upon a reasoned determination that the benefits of the final rule justify costs.

The FAA's analysis of this final rule indicates that this amendment to part 61 will generally have a beneficial impact to corporate operators and airplane manufacturers that operate several different types of airplanes that are type certificated for more than one pilot flight crewmember and the pilots they employ. This final rule provides an alternative means of compliance for PICs to maintain night takeoff and landing currency. This alternative means for PICs to maintain their night take off and landing currency in all of the types of airplanes they operate will be permitted, provided the pilot meets the following:

(i) Holds at least a valid commercial pilot certificate with the appropriate type rating for each airplane that the pilot seeks to operate under this alternative;

(ii) Has logged at least 1,500 hours total time as a pilot;

(iii) Has accomplished at least 15 hours of flight time in the type of airplane that the pilot seeks to operate under this alternative within the preceding 90 days prior to the operation of that airplane; and

(iv) Has accomplished at least—

(A) three takeoffs and three landings to a full stop, during the period beginning 1 hour after sunset and ending 1 hour before sunrise as the sole manipulator of the flight controls in at least one of the types of airplanes that the pilot seeks to operate under this alternative, within the preceding 90 days prior to the operation of any of the types of airplanes that the pilot seeks to operate under this alternative; or

(B) completion of an approved training program under part 142 of this chapter within the preceding 12 calendar months prior to the month of the flight, which requires the performance or at least six takeoffs and six landings to a full stop as the sole manipulator of the controls in a flight simulator that is representative of at least one of the types of airplanes that the pilot seeks to operate under this alternative, and its visual system is adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

One of the major benefits to permitting this alternative means of compliance is that it will permit operators with multiple airplanes, that are type certificated for more than one pilot flight crewmember, to save on the costs of requiring their pilots to remain current in the pilot-in-command night takeoff and landing recent flight experience requirements in all of the operator's different types of airplanes. This benefit will provide cost savings on personnel, fuel, and maintenance on items such as wheel brakes, thrust reversers, and tires.

Additional benefits of this final rule include the following: the reduction in pilot and controller workload, which should reduce the chances for procedural errors; the reduction in training accidents and incidents; the reduction in noise for the surrounding communities; and reduction in air pollution; and the reduction in air traffic congestion and training costs. Finally, the FAA has determined that this alternative means of compliance will not diminish safety in any manner. Pilots who are eligible to take advantage of this alternative means of compliance must meet higher commercial experience requirements and other additional currency requirements.

The FAA has determined that there are no costs associated with complying with these alternative requirements since PICs will have the option to meet either the existing night takeoff and landing requirements in § 61.57(b) or they may comply with this alternative. The FAA has concluded that this final rule is cost beneficial.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (the Act) establishes "as principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and information requirements to the scale of the

business, organizations, and governmental jurisdictions subject to regulation." To achieve that and to explain the rationale for their actions, the Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a Regulatory Flexibility Analysis (RFA) as described in the Act. If an agency determines, however, that a final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this final rule and determined that it will not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities because the final rule imposes no additional cost on small entities. Small entities and their PICs will also benefit from this final rule, because they also have the choice to either comply with the existing PIC night takeoff and landing currency of paragraph (b) of § 61.57 or they can choose to operate under this new alternative means of compliance for meeting the night takeoffs and landings currency.

International Trade Impact Statement

The FAA has determined that the final rule will neither affect the sale of aviation products and services in the United States or the sale of U.S. products and services in foreign countries.

Federalism Implications

The regulation herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in an agency final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

Section 204(a) of the Reform Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year.

Section 203 of the Reform Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year, therefore the requirements of the Reform Act do not apply.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), regulations, standards and exemptions (excluding those, which if implemented may cause a significant impact on the human environment) qualify for a categorical exclusion. The FAA proposes that this rule qualifies for a categorical exclusion because no significant impacts to the environment are expected to result from its finalization or implementation.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (42 U.S.C. 6362). It has been determined that it is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 61

Aircraft, Airmen, Recreation and recreation areas, reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 61 of Chapter I of Title 14, Code of Federal Regulations as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation of part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45303.

2. Section 61.57 is amended by adding a new paragraph (e)(3) to read as follows:

§ 61.57 Recent flight experience: Pilot in command.

* * * * *

(e) * * *

(3) Paragraph (b) of this section does not apply to a pilot in command who operates more than one type of an airplane that is type certificated for more than one pilot flight crewmember, provided the pilot—

(i) Holds at least a valid commercial pilot certificate with the appropriate type rating for each airplane that the pilot seeks to operate under this alternative;

(ii) Has logged at least 1500 hours total time as a pilot;

(iii) Has accomplished at least 15 hours of flight time in the type of airplane that the pilot seeks to operate under this alternative within the preceding 90 days prior to the operation of that airplane; and

(iv) Has accomplished—

(A) At least three takeoffs and three landings to a full stop, during the period beginning 1 hour after sunset and ending 1 hour before sunrise as the sole manipulator of the flight controls in at least one of the types of airplanes that the pilot seeks to operate under this alternative, within the preceding 90 days prior to the operation of any of the types of airplanes that the pilot seeks to operate under this alternative; or

(B) Completion of an approved training program under part 142 of this chapter within the preceding 12 calendar months prior to the month of

the flight, which requires the performance of at least 6 takeoffs and 6 landings to a full stop as the sole manipulator of the controls in a flight simulator that is representative of at least one of the types of airplanes that the pilot seeks to operate under this alternative, and the flight simulator's visual system was adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

Issued in Washington, DC, on April 22, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–10850 Filed 4–29–99; 8:45 am]

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Animal and Plant Health Inspection Service

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COMMODITY FUTURES TRADING COMMISSION

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- Disclosure documents; two part documents for commodity pools; published 10-30-98

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- Alabama; published 3-1-99

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Food and Drug Administration

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Ocean freight forwarders, marine terminal operations, and passenger vessels:
- Marine terminal operator schedules; published 2-25-99

Ocean transportation intermediaries; licensing, financial responsibility requirements, and general duties; published 3-8-99
- Correction; published 4-29-99

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- Miscellaneous amendments; published 2-17-99
- Correction; published 3-1-99

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  - Agreements by ocean carriers and marine terminal operators; published 3-8-99
  - Service contracts between shippers and ocean common carriers; published 3-8-99

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H.R. 440/P.L. 106–22

Microloan Program Technical Corrections Act of 1999 (Apr. 27, 1999; 113 Stat. 36)

H.R. 911/P.L. 106–23

To designate the Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, as the "Terry Sanford Federal Building". (Apr. 27, 1999; 113 Stat. 38)

S. 388/P.L. 106–24

To authorize the establishment of a disaster mitigation pilot program in the Small Business Administration. (Apr. 27, 1999; 113 Stat. 39)

Last List April 22, 1999

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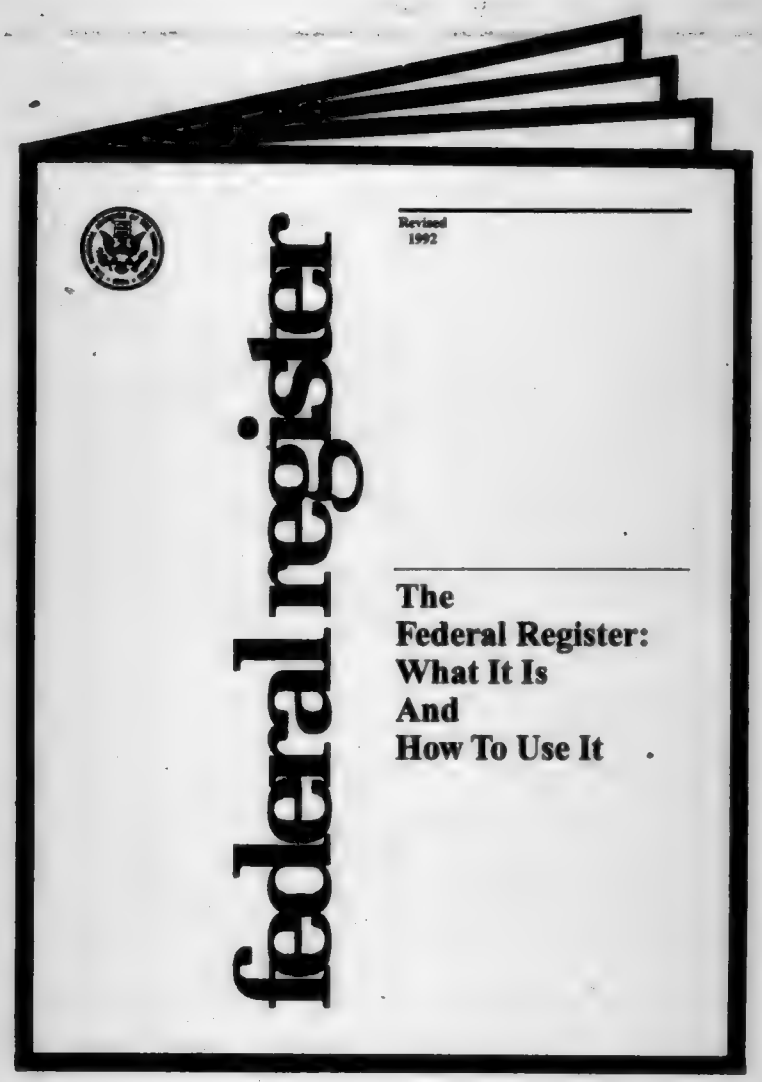

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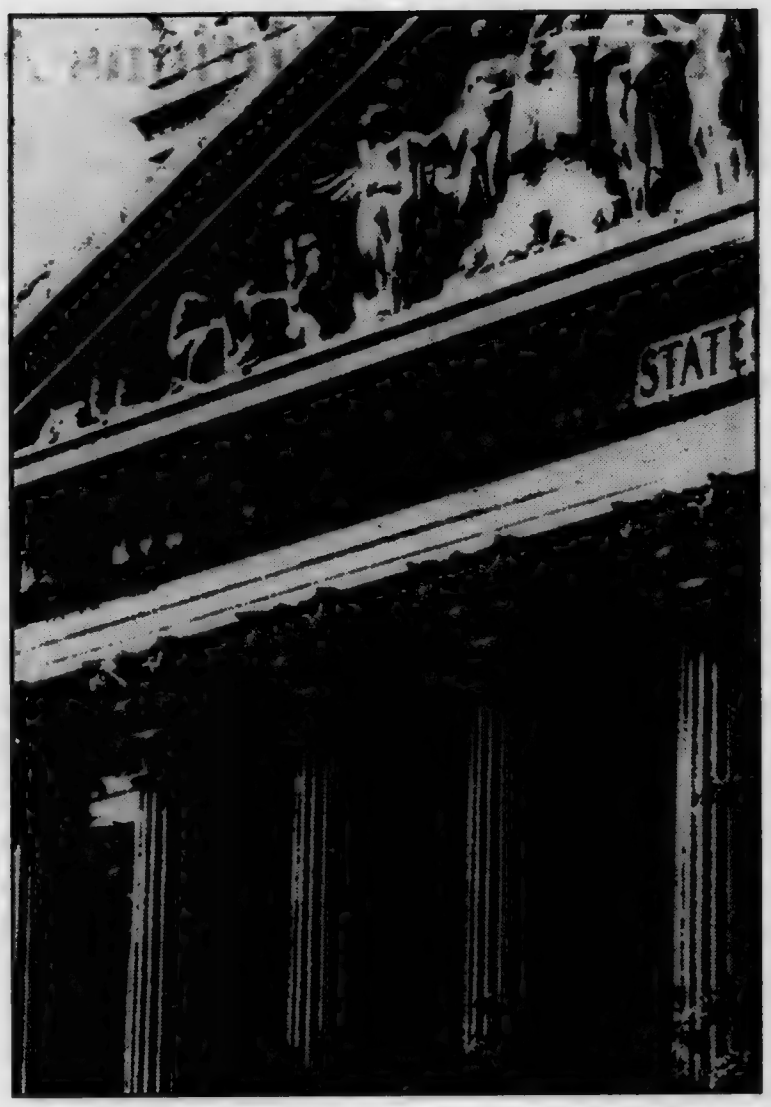

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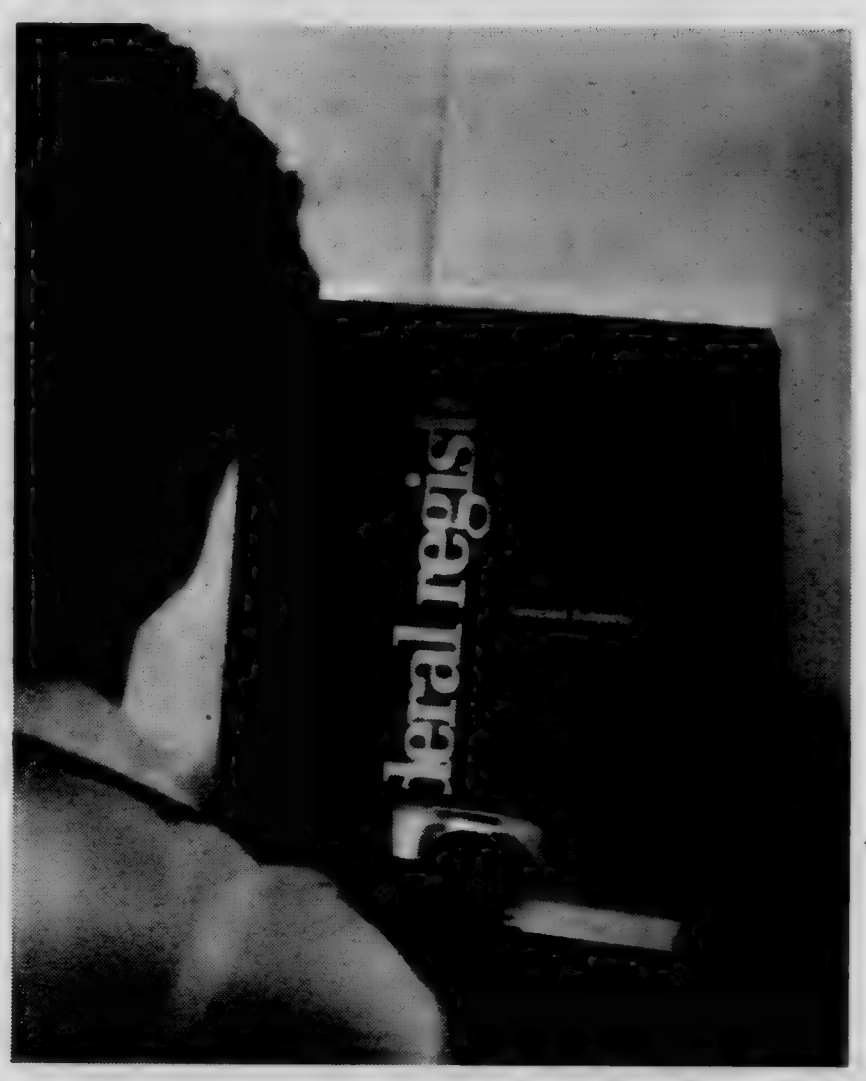

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Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐

☐ VISA ☐ MasterCard Account

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☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

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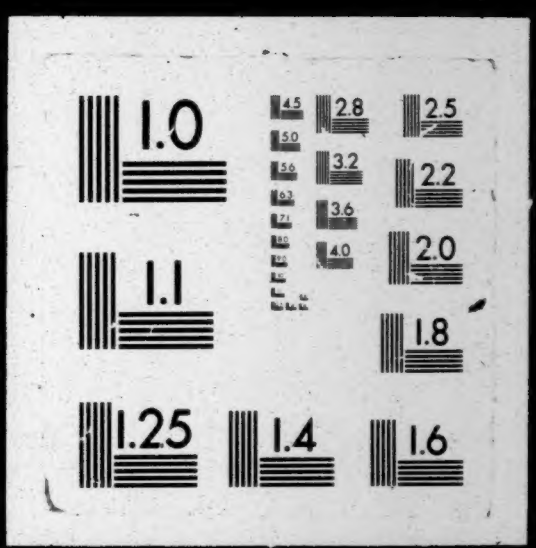
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